

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Georgetown County

SC Court of Appeals

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALEXANDER RHUE, JR.,

APPELLANT.

APPELLATE CASE NO. 2021-001306

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT IN
APPELLATE CASE NO. 2021-001306, STATE V. ALEXANDER RHUE, JR.:**

**STATE’S EXHIBIT #5 (3/15/17 RHUE SR. INTERVIEW) and
STATE’S EXHIBIT #28 (3/11/17 RHUE SR. INTERVIEW)**

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT IN
APPELLATE CASE NO. 2021-001275, STATE V. TIESH RHUE:**

**STATE’S EXHIBITS #9 (DISK), #10 (DISK), #21 (3/10/17 TIESH RHUE INTERVIEW),
#27 (3/11/17 TIESH RHUE INTERVIEW), #24 (FLASH DRIVE OF PHOTOGRAPHS),
#39 (FLASH DRIVE OF PHOTOGRAPHS), # 89 (MAP OF GEORGETOWN), #97
(3/13/17 RHUE JR. INTERVIEW), #101 (WALMART VIDEO DISK), #107 (3/22/17
TIESH RHUE INTERVIEW), and #115 (VOICEMAIL CD).**

BERT POWELL - DIRECT BY MS. RICHARDSON

1 address, [REDACTED] Highmarket Street, Georgetown.

2 Q. And did you collect those documents and the
3 medicine from the residence?

4 A. Yes, ma'am, and placed them into evidence at
5 Georgetown Police Department.

6 Q. And where did you find them?

7 A. They were found -- the documents were located in
8 the -- in their bedroom in the house in a two-drawer plastic
9 container.

10 MS. RICHARDSON: Your Honor, at this time, I move
11 these items, 22 and 23 into evidence.

12 THE COURT: Subject to prior objection?

13 MR. VOIGT: Yes, Your Honor.

14 THE COURT: Of all Counsel?

15 MR. HAZZARD: Yes, sir.

16 MR. EDGEWORTH: Yes, sir.

17 THE COURT: All right. Admitted subject to
18 objection.

19 (WHEREUPON, State's Exhibit Numbers 22 and 23 were
20 moved into evidence.)

21 BY MS. RICHARDSON:

22 Q. And were photographs taken while y'all were in --
23 the police department was in the residence?

24 A. Yes, ma'am.

25 Q. And who -- and you were present when those were

BERT POWELL - DIRECT BY MS. RICHARDSON

1 taken?

2 A. Yes, ma'am.

3 Q. And did you go into the residence on a subsequent
4 occasion?

5 A. Yes, ma'am.

6 Q. And that was on March 14th?

7 A. Yes, ma'am.

8 Q. And was the house in substantially the same
9 condition on the 10th as it was on the 14th?

10 A. Yes, ma'am.

11 Q. Let me show you -- let me show you what's been
12 previously marked as State's Exhibit Number 24 and see if
13 you recognize that.

14 A. That would be a thumb drive or flash drive that
15 has pictures on it of [REDACTED] Highmarket Street.

16 Q. Okay. And on what date?

17 A. 3/10.

18 Q. Okay. That would be the first time that y'all
19 were at the residence?

20 A. Yes, ma'am.

21 Q. Okay. And how do you know that's what it is?

22 A. I reviewed it yesterday.

23 Q. Okay. And you initialed the flash drive?

24 A. Yes, ma'am.

25 Q. And that's an accurate reflection of the pictures

BERT POWELL - DIRECT BY MS. RICHARDSON

1 that were taken?

2 A. Yes, ma'am.

3 MS. RICHARDSON: Your Honor, at this time, I'd
4 offer State's 24 into evidence.

5 THE COURT: Mr. Hazzard?

6 MR. HAZZARD: Subject to precious objection, Your
7 Honor.

8 THE COURT: Mr. Voigt?

9 MR. VOIGT: Subject to previous objection, Your
10 Honor.

11 THE COURT: Mr. Edgeworth?

12 MR. EDGEWORTH: Subject to the previous objection,
13 Your Honor.

14 THE COURT: All right. Admitted, subject to the
15 previous objection.

16 Thank you, Solicitor. Go ahead.

17 (WHEREUPON, State's Exhibit Number 24 was moved
18 into evidence.)

19 MS. RICHARDSON: Your Honor, I seek to publish
20 this to the Jury. We need to move the TV back out.

21 THE COURT: That will be fine. And, again, if
22 Counsel needs to move, feel free to do so.

23 MR. HAZZARD: Thank you, Your Honor.

24 MS. RICHARDSON: Your Honor, we're having some
25 technical difficulties. I think we pulled this drive out

BERT POWELL - DIRECT BY MS. RICHARDSON

1 without -- we'll work on it and I'll keep on questioning
2 him.

3 THE COURT: Okay. That would be excellent.

4 MS. RICHARDSON: I promise you we practiced it --
5 or we checked it out this morning.

6 THE COURT: Well, everybody just be careful around
7 the cords, okay?

8 MS. RICHARDSON: Okay. Thank you, Your Honor.

9 THE COURT: All right.

10 BY MS. RICHARDSON:

11 Q. All right. So when -- after you located the
12 documents ---

13 A. Yes, ma'am.

14 Q. Or when you were looking for the documents, did
15 you look in any other areas?

16 A. We checked the whole room and the house.

17 Q. And what was the condition of the room?

18 A. Not neat, it was kind of messy. Stuff in
19 different places and it wasn't, like, neatly stacked or
20 anything. It was just kind of disarray.

21 Q. And did you notice anything that was unusual? Or
22 you or one of your officers?

23 A. Repeat that, please.

24 Q. Did you notice anything else? When you were
25 searching the -- the house, did you notice anything else

BERT POWELL - DIRECT BY MS. RICHARDSON

1 that led to a subsequent search?

2 MR. VOIGT: Objection to the form of the question,
3 Your Honor.

4 THE COURT: Sustained.

5 BY MS. RICHARDSON:

6 Q. What happened next?

7 A. While we were searching the room, we found an area
8 in front of the closet that was just -- it looked -- it just
9 didn't look right. It looked like a -- like a rug and a
10 blanket on the floor like going into to walkway of the
11 closet.

12 Q. What kind of flooring was on the remainder of the
13 room?

14 A. Carpet.

15 Q. Okay. So at that point, what did y'all do?

16 A. So we found a -- when we found the rug, blanket,
17 whatever it was that was on the floor, it was lifted on --
18 it was lifted up from where it was placed at.

19 Q. And what was underneath?

20 A. It looked like the carpet had been cut and it was
21 just -- had like carpet padding, like the carpet that was on
22 top of the padding was removed.

23 Q. Okay. I believe the photos are up now. So I'm
24 going to the first photo, which is on the disk it's Photo
25 446.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Is that the residence at [REDACTED]

2 A. Yes, ma'am.

3 Q. I'm just going to scroll through these.

4 Can you describe what we're seeing here? This is
5 456.

6 A. That looks like coming into the front door and
7 going into the living room.

8 This is will be the kitchen.

9 Q. Okay. And this, Number 462?

10 A. That looks like the bedroom -- straight ahead
11 would be the bedroom door for Ms. Tiesh Rhue and Mr. Leon
12 Harrison Jr.'s bedroom.

13 Q. And in that there's some paperwork laying on the
14 floor?

15 A. Yes, ma'am.

16 Q. And the dresser or the drawer with the -- where
17 you found the paperwork, is that visible in that photo?

18 A. I think it's that -- right past where that paper's
19 laying on the right. I think that's the little container --
20 two-drawer container that the documents were found.

21 Q. And this is showing the other bedrooms in the
22 house?

23 A. Yes, ma'am.

24 Q. This bedroom, 468, with a bunk bed?

25 A. Yes, ma'am.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Q. All right. Now, I'm directing you to Photograph
2 478. Is that you?

3 A. Yes, ma'am.

4 Q. Okay. Describe what we're seeing here.

5 A. I am holding two cotton swabs that we use to do a
6 presumptive field blood test on a spot that's on the carpet
7 padding that we found under the flannel rug -- or the rug
8 and the flannel blanket.

9 Q. Okay. And in 479?

10 A. Those are the two swabs we used.

11 Q. And in 486?

12 A. That would be the -- the carpet padding where the
13 carpet was removed -- under where the carpet was removed.

14 Q. Okay.

15 A. And there's a stain right there.

16 Q. Okay. And at that point what did you do?

17 A. We stopped our search and had Investigator
18 Anderson get another search warrant.

19 Q. Okay. And I'm just going to scroll through this
20 real fast.

21 Just going to direct you back to that bedroom.

22 We are having some trouble with this disk. Let me
23 show you -- can you identify that?

24 A. It says Crime Scene Photos 3/10/2017 for the case
25 that we're hearing today and my initials are on the top of

BERT POWELL - DIRECT BY MS. RICHARDSON

1 the -- top side of the CD.

2 Q. And that is -- that's the same photos?

3 A. Yes, ma'am.

4 MS. RICHARDSON: Your Honor, at this time, I'd
5 offer 25 into evidence.

6 THE COURT: All right. Mr. Hazzard?

7 MR. HAZZARD: Subject to previous objection, Your
8 Honor.

9 THE COURT: Mr. Voigt?

10 MR. VOIGT: Subject to my previous objection.

11 THE COURT: Mr. Edgeworth?

12 MR. EDGEWORTH: Subject to the previous objection,
13 Your Honor.

14 THE COURT: I understand. Admitted subject to
15 previous objections.

16 (WHEREUPON, State's Exhibit Number 25 was moved
17 into evidence.)

18 MS. RICHARDSON: Your Honor, just to advise
19 everybody, we had an error message on this flash drive this
20 morning and thought it had been scanned and fixed,
21 apparently it is not.

22 BY MS. RICHARDSON:

23 Q. Okay. Now, I'm directing you to Photo 538.

24 Can you tell us what that is again?

25 A. That looks like the entrance to the bedroom for

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Ms. Tiesh Rhue and Mr. Leon Rhue [sic] Jr.

2 MS. RICHARDSON: Can you make sure to keep that
3 microphone up?

4 THE COURT: Be sure to keep that mic close to you.

5 THE WITNESS: Yeah.

6 BY MS. RICHARDSON:

7 Q. Okay. And now to Photo 540?

8 A. That will be the -- that will be in that same
9 room. That's the entrance to the hallway and over there by
10 the mirror is where the carpet was cut out and just some
11 exposed padding.

12 Q. And I will direct your attention -- if you can see
13 my mouse -- what -- what was over in this area?

14 A. Looks like a tote there. I remember there being
15 maybe a tote or a container there.

16 Q. Okay. And again, 541 is another photograph of
17 that?

18 A. Yes, ma'am. That's a photo of the carpet padding
19 where the carpet was cut away and then the blanket -- the
20 flannel blanket and rug was over that.

21 Q. And I'm just going to 542, 543. And then
22 directing your attention to 545.

23 Tell us what we're seeing there.

24 A. That was an item marker or, like, the evidence
25 marker and that would be marking where the stain -- the

BERT POWELL - DIRECT BY MS. RICHARDSON

1 stain is -- excuse me -- the stain is that we tested with
2 the presumptive field blood test kit.

3 Q. And I'm just scrolling through these. Okay.

4 And again on 556? Is this the same area by the
5 closet?

6 A. It looks to be the same blanket.

7 Q. And again over ---

8 A. In a tote -- in a tote nearby the -- kind of near
9 the foot of the bed.

10 Q. Okay. And tell me about that tote.

11 A. So the blanket and the -- or whatever it was that
12 was covering this one up, the tote was on top of it.

13 Q. Okay. So going back to 557, in the top of photo
14 this is the area by the closet; is that correct?

15 A. With that close up, I can't tell which one it is.
16 All I know is this tote -- this little green, whatever this
17 is, was over by the bed on top of that -- well, this -- in
18 this picture.

19 Q. Okay. And that's 558. And is that second area?

20 A. Yes, ma'am.

21 Q. Okay. And who discovered that?

22 A. I did.

23 Q. And this area, 561?

24 A. That's going to be the -- that would be the
25 entrance to the closet where we removed that carpet padding.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Q. And that's the first spot -- and who actually
2 removed the carpet padding?

3 A. I did. I cut it out.

4 Q. You cut it out on the first spot?

5 A. Ma'am?

6 Q. You cut it out on the first spot by the closet?

7 A. Yes, ma'am.

8 Q. Okay. And when you cut that, did you take any
9 precautions to avoid contamination?

10 A. Yes, ma'am. We had gloves on.

11 Q. And then another marker was placed on top of the
12 spot?

13 A. Yes, ma'am.

14 Q. Okay. And tell us what we're seeing here.

15 A. That spot is a -- that is what we believe to be
16 dry blood under the carpet padding.

17 Q. And these are just -- these other photos just
18 measurements of the -- the size of the area?

19 A. Yes, ma'am.

20 Q. 569.

21 Okay. And looking at Photo 575, it has Marker 3,
22 is that the second area that was located?

23 A. That was the second area, yes, ma'am, just in
24 front of the bed.

25 Q. Okay. And that's the one that had the tote over

BERT POWELL - DIRECT BY MS. RICHARDSON

1 it?

2 A. Yes, ma'am.

3 Q. And what did you to in reference to that area?

4 A. We also cut that carpet padding out as well.

5 Q. And you did that --

6 A. And we did a presumptive blood test on the stain
7 we found there as well. It also tested positive for
8 possible blood.

9 Q. Okay. And these are just more photos of that
10 second area with the padding on it?

11 A. Yes, ma'am.

12 Q. And this is Photo 593. Tell me about that.

13 A. This is -- this is that area that we just looked
14 at pictures of, but after the -- after the padding has been
15 removed. And then this is what we found under the padding
16 which we believed to be blood as well -- dried blood as
17 well.

18 Q. That had soaked into the subfloor?

19 A. Yes, ma'am.

20 Q. Okay. Now, when you cut this, how -- how did you
21 cut it?

22 A. We used a knife. Had gloves on and just used a
23 knife to cut it on the edges where you see it's trimmed or
24 cut out.

25 Q. And as far as the carpeting?

BERT POWELL - DIRECT BY MS. RICHARDSON

1 A. The carpeting, we didn't cut the carpet.

2 Q. Okay.

3 A. The carpet portion -- the carpet was gone. It was
4 just the blankets that were covering these spots, once those
5 were removed it was padding and the carpet had already been
6 removed from those square spots that you see or whatever
7 shape they are. And we actually removed the padding due to
8 the presumptive field blood test kits.

9 Q. And when you removed the padding, did you cut any
10 additional carpeting?

11 A. No, ma'am.

12 Q. Did you take any steps to prevent that?

13 A. Well, we went on -- as you can see went inside
14 where the carpet was already cut, so we didn't actually cut
15 the carpet.

16 Q. Okay. I'm going to show you and open what has
17 been marked as State's Exhibit 26. I do not have any
18 gloves, so we are going to...

19 Do you recognize the packaging? Is this what your
20 police department uses?

21 A. Yes, ma'am. And the bag ---

22 Q. All right. So if you'll open that and let's see
23 if you recognize this.

24 A. It's the carpet that we cut out.

25 MS. RICHARDSON: Talk into the microphone.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 THE COURT: Speak up.

2 THE WITNESS: I'm sorry. This would be the carpet
3 padding that we cut out from the house we were at.

4 MS. RICHARDSON: Your Honor, at this time, I'd
5 offer State's 26 into evidence.

6 THE COURT: Mr. Hazzard, any objection?

7 MR. HAZZARD: I'm sorry. What is State's 26?

8 THE COURT: This is 26. I believe it's the carpet
9 padding.

10 MR. HAZZARD: Subject to previous objection, Your
11 Honor.

12 THE COURT: Yes, sir. Mr. Voigt?

13 MR. VOIGT: Subject to previous objection, Your
14 Honor.

15 THE COURT: Mr. Edgeworth?

16 MR. EDGEWORTH: Subject to previous objection.

17 THE COURT: All right. It's admitted subject to
18 defense's previous objections.

19 (WHEREUPON, State's Exhibit Number 26 was moved
20 into evidence.)

21 BY MS. RICHARDSON:

22 Q. And would you hold that up for the Jury, please?

23 A. (Witness complied.)

24 Q. Thank you.

25 THE COURT: Is he going to need to continue to use

BERT POWELL - DIRECT BY MS. RICHARDSON

1 the gloves?

2 MS. RICHARDSON: Yes.

3 THE COURT: All right.

4 BY MS. RICHARDSON:

5 Q. And then you also cut the smaller section of
6 carpet as well?

7 A. Yes, ma'am.

8 Q. That was stained?

9 And what did you once you cut that?

10 A. We bagged it up in a bag.

11 Q. Okay.

12 A. We also sent samples off to be tested.

13 Q. And subsequent to this, did you meet with Ms. Rhue
14 again?

15 A. Yes, we did.

16 Q. And when was that?

17 A. The 11th, Saturday the 11th at 11:25 a.m. at the
18 Georgetown Police Department.

19 Q. And how did she get there that time?

20 A. I think we took her that time as well.

21 Q. And did you take her into custody or arrest her at
22 that point?

23 A. No, ma'am. We asked her if she'd come back down
24 and talk with us and she agreed to.

25 Q. Okay. Did you threaten her, promise her, or

BERT POWELL - DIRECT BY MS. RICHARDSON

1 coerce her, or anything to get her to do that?

2 A. No, ma'am.

3 Q. And did she appear to be under the influence?

4 A. No, ma'am.

5 MS. RICHARDSON: Your Honor, at this point, I
6 believe we are going to need a break like before.

7 THE COURT: All right. Ladies and gentlemen,
8 let's take a break at this point and I'll get you back in
9 here as soon as I can. Thank you.

10 Again, please don't talk about the case until I
11 instruct you to at the end of the evidence, arguments, and
12 the law. So just talk about whatever you want to talk
13 about, but not the case. Thank you and we'll get you back
14 in here as soon as we can.

15 (WHEREUPON, the jury exited the courtroom at 11:47
16 a.m.)

17 THE COURT: All right. Solicitor, is this where
18 you'll be playing the next video?

19 MS. RICHARDSON: And there will actually be two
20 more that Mr. -- that Officer Powell has done as well.

21 THE COURT: All right. Do we need to do the same
22 redaction or review of the documents -- the videos as we did
23 a few moments ago?

24 Mr. Hazzard, do we need to go back through the
25 videos -- these additional videos that they plan to

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1 anticipate playing? Or have you seen them?

2 MR. HAZZARD: I have not seen them. For the
3 purposes of these next two, are they with regard to
4 Ms. Rhue?

5 MS. RICHARDSON: And then your client as well.

6 MR. HAZZARD: Then, yes, sir.

7 THE COURT: All right. As it relates to Ms. Rhue,
8 do you want to go through videos just as we did ---

9 MR. EDGEWORTH: Yes, Your Honor, the next videos.

10 THE COURT: Let's go ahead and do that as quickly
11 as possible.

12 MS. RICHARDSON: Okay.

13 THE COURT: Because I want to continue.

14 MS. RICHARDSON: This would be premarked as
15 State's 27.

16 THE COURT: All right.

17 MS. RICHARDSON: All right. This is Tiesh Rhue,
18 March 11, 2017 the first redaction. Oh, sorry. I'm sorry.

19 THE COURT: All right. That's all right.

20 MS. RICHARDSON: All right. This is an interview
21 of Tiesh Rhue -- if everybody's ready -- March 11, 2017, the
22 first redaction is at the 6:20 mark. And it was -- what was
23 redacted is, Because we keep hearing his name coming up in
24 all this stuff. Everybody we talked to keeps saying that
25 he's responsible. He's responsible. That's 6:20.

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1 (WHEREUPON, video recording was played.)

2 MS. RICHARDSON: Okay. I 'm sorry. I quoted that
3 wrong. This is actually going to be two redactions back to
4 back. At the 6:20 mark and the 6:29 to 6:44 mark. And it
5 will be a sentence and then some things will come into the
6 next sentence.

7 So these redactions are around 6:20 and -- to
8 6:44, but there's a part that's not redacted in the middle.
9 And this is beginning at 6:10 for context.

10 (WHEREUPON, video recording was played.)

11 MS. RICHARDSON: Okay. That's the first
12 redaction. That's the first two, kind of back to back.

13 THE COURT: All right.

14 MS. RICHARDSON: Then the next one's at 7:13 to
15 7:21 and that's where the statement, Because we keep hearing
16 his name coming up.

17 (WHEREUPON, video recording was played.)

18 MS. RICHARDSON: Then the next redaction's at the
19 9:22 to 9:27 mark, and it's, You know about him getting on a
20 Greyhound bus and going back to D.C.

21 (WHEREUPON, video recording was played.)

22 MS. RICHARDSON: So that was a redaction back to
23 back. The portion that was redacted, you know, anything
24 about him getting on a Greyhound and going back to D.C and
25 then, I don't think that's possible.

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1 Unredacted, He hasn't had -- he hasn't had a job
2 or income. Redacted, Because we had somebody say that he
3 was -- what he did when you guys find out -- like, but,
4 that's a little conflicting, because of the fact that he
5 went to jail. That's the part we just redacted.

6 After that he went to jail, so yeah. On the 26th
7 or 27th when I came and picked him up, which was the day
8 after all this. So that part was redacted, that was through
9 9:47.

10 (WHEREUPON, video recording was played.)

11 MS. RICHARDSON: The next redaction was on 17:33
12 to 17:43. And that's the portion in reference to
13 Mr. Alexander Rhue having a gun.

14 (WHEREUPON, video recording was played.)

15 MS. RICHARDSON: That was the redaction involving
16 the gun, 17:33 to 17:43.

17 MR. EDGEWORTH: I have 19:33.

18 MS. RICHARDSON: I have 19:33, but I think there's
19 one in between we must have didn't write down. So I'm just
20 going to play it.

21 (WHEREUPON, video recording was played.)

22 MS. RICHARDSON: Okay. And that's been redacted.

23 (WHEREUPON, video recording was played.)

24 MS. RICHARDSON: And that's a redaction from, I
25 think it was 18...

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1 What was redacted is -- the first part is, How do
2 you think the relationship between Alex and Leon was? Be
3 honest now.

4 And then what's redacted is, Because what we've
5 been hearing, we've been hearing the same thing from
6 everybody. That's the part that's redacted.

7 Y'all need the very specific time?

8 So there's a short redaction there.

9 (WHEREUPON, video recording was played.)

10 MS. RICHARDSON: And then the next redaction's at
11 19:33 to 19:58. And, again, this is -- it begins with, What
12 we've been told is they hated each other. And there's sort
13 of a discussion about them hating each other's guts, People
14 are saying that -- nobody we talked to has told us that they
15 got along.

16 So that's from 19:33 to 19:58.

17 (WHEREUPON, video recording was played.)

18 MS. RICHARDSON: And then the vehicle -- where did
19 the vehicle come from? Then the video is cut off at 22:06
20 pursuant to the Court's ruling that it became custodial.

21 And I'll just show where it cuts off. And we just
22 ended the video at that point.

23 (WHEREUPON, video recording was played.)

24 MS. RICHARDSON: And that was the ending of the
25 first break.

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1 THE COURT: All right. Thank you, Solicitor.

2 I think that reflected the ruling as it relates to
3 what I ruled from the bench yesterday.

4 Mr. Edgeworth?

5 MR. EDGEWORTH: Yes, Your Honor, it appears so.

6 THE COURT: All right.

7 MS. RICHARDSON: Okay. Then the next one, which
8 would be State's 28, would be the interview of Alexander
9 Rhue, Sr. that occurred at a residence on Palm Street on
10 March 11th, it's captured on body camera. We're showing two
11 redactions.

12 THE COURT: All right.

13 MS. RICHARDSON: The first redaction will be at
14 8:35 to 8:42. I believe that is discussing Alexander Rhue
15 Jr. being taken into custody.

16 THE COURT: Okay.

17 (WHEREUPON, video recording was played.)

18 MS. RICHARDSON: And then the next redaction is at
19 10:22 when Jermayne Rhue is entering.

20 (WHEREUPON, video recording was played.)

21 MS. RICHARDSON: That's all the redactions on that
22 one.

23 THE COURT: Mr. Hazzard?

24 MR. HAZZARD: No objection if it is as stated,
25 yes, sir.

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1 THE COURT: All right. That's great. Anybody
2 else from the Defense? We good?

3 MR. EDGEWORTH: No, Your Honor.

4 THE COURT: Thank you, gentlemen.

5 So what I'd like to do is to take a four-minute
6 bathroom break and then let's get the jury back in here and
7 play these -- work through these videos.

8 MS. RICHARDSON: There's one more. You want to do
9 it later?

10 THE COURT: Yeah. Because the videos now are
11 going to add up to what time?

12 We've got -- well, let's just do those two. By
13 the time you get that done it's gone be -- it'll be one
14 o'clock.

15 MS. RICHARDSON: Okay.

16 THE COURT: All right.

17 (WHEREUPON, there was a break held from 12:10 p.m.
18 to 12:16 p.m.)

19 THE BAILIFF: All rise.

20 THE COURT: All right. I want to go back on the
21 record. And I do want to say, when I said four minutes,
22 that's kind of a joke. And so if people need a longer break
23 than that to go to the restroom, I don't want anybody to
24 think that I'm being serious about that. I want you to take
25 as much time as you need and be as comfortable as you need

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1 to be and I want to let you know that.

2 Is there anything further from the State before we
3 bring the jury back in?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: Anything from the Defense,
6 Mr. Hazzard?

7 MR. HAZZARD: No, sir.

8 THE COURT: Mr. Voigt?

9 MR. VOIGT: No, sir.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: No, sir.

12 THE COURT: All right. Let's go ahead and get the
13 jury back in here Mr. Bailiff. Thank you, sir.

14 (WHEREUPON, the jury entered the courtroom at
15 12:16 p.m.)

16 THE COURT: All right. Ladies and gentlemen,
17 thank you for being back here.

18 Solicitor, feel free to continue with this
19 witness.

20 BY MS. RICHARDSON:

21 Q. All right. So I believe where we left off, you
22 said that after you recovered those items and those
23 photographs were taken, you interviewed Ms. Rhue again?

24 A. Yes, ma'am. On Saturday the 11th around 11:25
25 a.m.

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1 Q. Okay. And I think we covered the fact that you
2 transported her there again?

3 A. Yes, ma'am.

4 Q. And was she in handcuffs or anything like that?

5 A. No, ma'am.

6 Q. And was she threatened, promised, anything to talk
7 with you?

8 A. No, ma'am.

9 Q. Okay. Coerced her in any way at that point?

10 A. No, ma'am.

11 Q. Okay. And didn't appear to be under the
12 influence?

13 A. No, ma'am.

14 Q. All right. Let me show you what has been marked
15 as State's Exhibit Number 3 for identification purposes
16 only. Is that a copy of that interview?

17 A. Yes, ma'am.

18 Q. And you initialed it?

19 A. Yes, ma'am.

20 Q. And that was an accurate reflection of the
21 interview from that day?

22 A. Yes, ma'am.

23 Q. And then State's Number 27, Your Honor, would be
24 the version pursuant to the court order that has some
25 redactions that we've already...

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1 THE COURT: All right.

2 MS. RICHARDSON: At this time I'd offer State's
3 Number 27 into evidence as the redacted version of State's
4 Number 3 and ask to publish it to the Jury.

5 THE COURT: All right. Mr. Hazzard?

6 MR. HAZZARD: No objection.

7 THE COURT: Mr. Voigt?

8 MR. VOIGT: No objection, Your Honor.

9 THE COURT: Mr. Edgeworth?

10 MR. EDGEWORTH: No objection, Your Honor.

11 THE COURT: All right. Admitted without
12 objection. You may publish it.

13 (WHEREUPON, State's Exhibit Number 27 was moved
14 into evidence.)

15 MS. RICHARDSON: Does anyone have any objection to
16 me skipping forward to where the officers come into the
17 room?

18 THE COURT: Mr. Hazzard? Mr. Voigt?

19 MR. HAZZARD: No objection.

20 MR. EDGEWORTH: No objection.

21 THE COURT: No objections. Go ahead.

22 (WHEREUPON, the video recording was played.)

23 MS. RICHARDSON: Your Honor, may we approach?

24 THE COURT: Yes, ma'am.

25 (WHEREUPON, a bench discussion was had.)

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1 THE COURT: Ladies and gentlemen, we will try to
2 work until one o'clock and then take a lunch. Okay? We'll
3 take lunch at one o'clock, but I want to try to see if we
4 can squeeze 20 more minutes in there, okay? Thank you.

5 BY MS. RICHARDSON:

6 Q. All right. And after you interviewed her, did you
7 go interview the father?

8 A. Yes, ma'am.

9 Q. Okay. And where was he?

10 A. He was at 509 Palm Street, Georgetown.

11 Q. And was this the first time that you had talked
12 with him about the case or about what was going on?

13 A. I think this is.

14 Q. Okay. And you went to -- you went to that
15 residence?

16 A. Yes, ma'am.

17 Q. Okay. And when you got there who all was there?

18 A. It was him, his grandson -- grandchild, and I
19 think a lady who lived there, I'm not sure what her name is.

20 Q. Okay. And did he agree to talk with you?

21 A. Yes, ma'am.

22 Q. All right. Did you threaten, promise, or coerce
23 him in any way?

24 A. No, ma'am.

25 Q. Did you handcuff him or take him into custody?

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1 A. No, ma'am.

2 Q. And did he appear to be under the influence of
3 anything?

4 A. No, ma'am.

5 Q. All right. Let me show you what's been marked as
6 State's Exhibit Number 4 for identification.

7 Do you recognize that?

8 A. Yes, ma'am.

9 Q. And what is it?

10 A. It says Alexander Rhue Sr., March 11th, it's my
11 initials on it.

12 Q. And how did you record that interview?

13 A. Body cam.

14 MS. RICHARDSON: Your Honor, at this time, the
15 State would offer State's 28, which is the redacted version
16 of State's Exhibit Number 4, pursuant to the Court's orders.

17 THE COURT: All right. Any objection,
18 Mr. Hazzard?

19 MR. HAZZARD: No, sir.

20 THE COURT: Mr. Voigt?

21 MR. VOIGT: No, sir.

22 MS. RICHARDSON: We would offer that into evidence
23 and publish it for the jury.

24 THE COURT: Mr. Edgeworth, any objection?

25 MR. EDGEWORTH: No objection, Your Honor.

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1 THE COURT: All right. Admitted into evidence
2 without objection and you're free to publish. Thank you.

3 (WHEREUPON, State's Exhibit Number 28 was moved
4 into evidence.)

5 MR. HAZZARD: Your Honor, may it please the Court.
6 For the record -- stand up right quick -- for the record,
7 Mr. Rhue Sr. says, again, he will listen to the video, but
8 he doesn't wish to -- he doesn't need to watch it.

9 THE COURT: That's absolutely fine. Thank you.

10 MR. HAZZARD: Okay. Yes, sir.

11 (WHEREUPON, video recording was played.)

12 THE COURT: All right.

13 Ladies and gentlemen, we're going to take a lunch
14 now and how about if y'all could be back at 2:15 in the jury
15 room?

16 And, in the meantime, I will tell you to please
17 don't talk about the case. I look forward to seeing
18 everybody at 2:15. If anybody approaches you about this,
19 you tell them you can't talk about it. If anybody bothers
20 you at all, you just let one of the Bailiffs know, I'll know
21 about it and we'll take care of it.

22 All right. So have a great lunch. We'll see you
23 back at 2:15. Thank you.

24 (WHEREUPON, the jury exited the courtroom at 1:05
25 p.m.)

1 THE COURT: All right. What I want to do is this,
2 I think -- there she is -- I think that there are some other
3 videos that we may need to look at or go over with these
4 folks, with the defense. How about if y'all plan on doing
5 that during lunch and/or sometime before say -- I'll be back
6 in here at two o'clock. And so, what I want to do is, is if
7 there is anything that we need to go over -- can y'all look
8 at these videos before then?

9 MS. RICHARDSON: If they've got copies of them,
10 Your Honor, they can.

11 THE COURT: It's been redacted? Okay.

12 So we'll be back in here at two o'clock, and if
13 there's any matters that we need to take up, we'll take them
14 up at that time before we bring the Jury back in at 2:15.

15 Is that okay, Mr. Hazzard?

16 MR. HAZZARD: Yes, sir, Your Honor. I might ask
17 that in order for me to not have to move all this stuff, if
18 they will -- if the court personnel will make the courtroom
19 available, say 1:30, 1:35, I would appreciate that.

20 THE COURT: The Clerk -- she is shaking her head
21 and I know she will do anything to accommodate you all.

22 Is that all right, Mr. Voigt?

23 MR. VOIGT: Yes, sir.

24 THE COURT: Mr. Edgeworth?

25 MR. EDGEWORTH: Yes, Your Honor.

1 THE COURT: Solicitor, is that fine?

2 MS. RICHARDSON: Yes.

3 THE COURT: All right. Great. Thank you. We'll
4 be at ease.

5 (WHEREUPON, there was a break for lunch held from
6 1:07 p.m. until 2:00 p.m.)

7 THE BAILIFF: All rise.

8 THE COURT: All right. Thank you. You can be
9 seated.

10 All right. By way of housekeeping, my clerk is
11 going to be forwarding to y'all the requested charge and the
12 verdict form. That's probably going to come to you around
13 five o'clock this afternoon some time or after we break. So
14 to that extent, I want you to be on the look out for that.

15 The other thing is -- and we -- not necessarily
16 discuss in the morning, but I just want you to have that so
17 you can take a look at it.

18 The other thing is I think the Clerk has
19 obstructed the Bailiffs -- I don't mind, of course, the
20 courtroom is an open proceeding and I don't mind people here
21 observing, but I would prefer that folks come in and leave
22 while we have a break in the action, that is, if we're
23 switching out a witness -- it's very distracting to me and
24 to the Jurors when people are getting up in the middle of
25 testimony and then going out and then coming in.

1 So what I'd like to do is try to minimize that.
2 So, you know, I'm happy to have them come in. And then,
3 what happens if they want to leave, then whenever we have,
4 again, a break in the testimony, we're switching somebody
5 out, if they want to put a new video in, that's fine. But
6 just not in the middle while people are testifying. Okay?

7 THE BAILIFF: No, sir.

8 THE COURT: All right. Thank you. Does anybody
9 got a problem with any of that?

10 MR. HAZZARD: No, sir.

11 MR. EDGEWORTH: No, sir.

12 THE COURT: All right. Great. Thank you very
13 much.

14 Solicitor, what do we have? Is there anything
15 that we need to discuss before we bring the jury back in?

16 MS. RICHARDSON: The attorneys were given copies
17 of the remainder of the statements and I guess we just see
18 if they want to go through that process or if they're
19 satisfied with them the way they are.

20 THE COURT: All right. Gentlemen. Mr. Hazzard?

21 MR. HAZZARD: Thank you, Your Honor. May it
22 please the Court.

23 THE COURT: Yes, sir.

24 MR. HAZZARD: With regard to Alexander Rhue Sr. I
25 was given two disks, one labeled March 11th of 2017 and I

1 reviewed it. It appears to be the one that has already been
2 published to the jury at the 509 Palm Street address on the
3 body camera where he goes and sits down in the kitchen with
4 Mr. Rhue.

5 And the other one is dated April 6th of 2017. And
6 that is Sergeant Powell, again, and it appears -- well, when
7 I play it, it appears to be a 12-second segment.

8 THE COURT: A 12-second what?

9 MR. HAZZARD: Segment.

10 THE COURT: Yes, sir.

11 MR. HAZZARD: It appears to be 12-seconds long and
12 it's my client saying words to the effect of, Basically,
13 look, I'm a straight up guy. I didn't tell you why I was
14 out that night, because I was out buying drugs. And so I'm
15 not clear as -- and I guess this is supposed to go to the
16 obstruction of justice charge, I guess.

17 And so I'm not -- I do not believe that not
18 telling the police why you left the house is in some way,
19 shape or form related to the underlying case or obstructing
20 justice. And, too, I would submit, obviously, that it's
21 well -- it has no probative value and is very prejudicial.

22 So, I guess the first thing is, is it actually a
23 12-second segment?

24 MS. RICHARDSON: This is the one we went over
25 yesterday where we were saying he admitted that he left the

1 house after he had told the officers that he hadn't.

2 You should also have a March 15 video.

3 MR. HAZZARD: No. What I was given is April 6,
4 2017, March 11, 2017.

5 MR. EDGEWORTH: Same here.

6 MR. VOIGT: Same.

7 MR. HAZZARD: And then, I guess, a Tiesh Rhue
8 March 10, 2017. Tiesh Rhue, March 11, 2017, is what I've
9 been provided this morning.

10 MR. VOIGT: Judge, in regards to my client's
11 statement, I was handed a post-it note with redaction times
12 and these mostly track what I provided the Solicitor's
13 office. I think they disagreed with me in one particular
14 area where the officer told my client that he was just doing
15 justice for JR. I had thought that perhaps that should be
16 redacted. Counsel disagreed.

17 THE COURT: All right.

18 MR. VOIGT: But I have not been provided a disk of
19 it, just these copies.

20 THE COURT: All right. Solicitor, where are we?

21 MS. RICHARDSON: Your Honor, the March 15th
22 interview of Mr. Rhue that we watched, the one where they're
23 outside the house.

24 THE COURT: Yes.

25 MS. RICHARDSON: We did not make any redactions to

1 that. So were there any requested? We didn't have any
2 redactions had been requested or needed in that.

3 MR. HAZZARD: As I recall, Your Honor, she is
4 correct.

5 THE COURT: All right. So as it relates to that,
6 we don't have anything to discuss concerning that one.
7 That's the one that he was outside and had the yellow shirt
8 on or vest or whatever it was; is that correct?

9 MR. HAZZARD: That's my understanding.

10 MS. RICHARDSON: Yes.

11 THE COURT: All right. So we're ready to play
12 that one?

13 MR. HAZZARD: Yes, sir.

14 THE COURT: Okay. All right. So what else?

15 MS. RICHARDSON: Was -- I guess, he's seeking to
16 exclude the April 6th statement regarding going to buy the
17 drugs.

18 THE COURT: All right. What's your position on
19 that? Because, I mean, it seems -- it seems to me that what
20 you're trying to do is to get it -- that he's just -- that
21 he didn't tell law enforcement that he left the house?

22 MS. RICHARDSON: Correct. And then when he did
23 tell them that he left the house, he had left to buy
24 peroxide, as well.

25 MR. HAZZARD: Well, actually, he didn't buy

1 anything.

2 MS. RICHARDSON: Or they went to the store.

3 MR. HAZZARD: He went to Walmart and went to the
4 bathroom.

5 THE COURT: So what does the 12-second clip say?

6 MS. RICHARDSON: He admits he lied to law
7 enforcement.

8 THE COURT: No, ma'am. No, he didn't. He doesn't
9 say ---

10 MS. RICHARDSON: I'm sorry.

11 THE COURT: What did he say? What did he say in
12 that 12-second clip?

13 MR. HAZZARD: That's the Cliff's Notes version.

14 MS. RICHARDSON: My version.

15 He said -- they were trying to find Alex Jr. and
16 he said words to the effect, We know you're a standup guy,
17 that kind of discussion like Mr. Hazzard ---

18 MR. HAZZARD: Can we just play it?

19 THE COURT: Yeah, let's play it. Excellent idea.

20 MR. HAZZARD: And you've got to listen from the
21 very beginning, because it's -- I don't know why it's
22 truncated, but it's -- and that's part of the problem, too,
23 is that it starts immediately. Like, he's talking as soon
24 as it starts playing.

25 THE COURT: All right.

1 MR. HAZZARD: Because I had to listen to it five
2 times to figure out what was being said.

3 MR. VOIGT: Was this after he invoked? Is that
4 what the ---

5 MR. HAZZARD: No. This is -- this was outside the
6 house in one of the many discussions with law enforcement.

7 (WHEREUPON, video recording was played.)

8 THE COURT: Play that again.

9 MS. RICHARDSON: Yes, sir.

10 THE COURT: That was it?

11 (WHEREUPON, video recording was played.)

12 THE COURT: Okay. So Mr. Hazzard, what is your
13 objection?

14 MR. HAZZARD: My objection is, first of all, it
15 has no relevance to anything having to do with this case.

16 My assumption, and maybe I'm incorrect, is that
17 the only relevance that they can perceive is that it goes to
18 the charge of obstruction of justice.

19 THE COURT: Right.

20 MR. HAZZARD: If that is the case, the question
21 then becomes, is him not telling them why he left the house
22 in some way impeding, materially, their investigation. I
23 don't see how.

24 THE COURT: Well, isn't that a jury question?

25 MR. HAZZARD: I would not submit that's a jury

1 question as to -- he said, I didn't tell you why I left the
2 house, not that I didn't tell you why I killed him. I
3 didn't tell you why somebody else killed him. I just didn't
4 tell you -- and not even that I didn't tell you that I
5 didn't leave the house. Because, as you heard on the
6 previous interviews, they never specifically asked him Did
7 he leave the house.

8 THE COURT: So what's the -- you talked about
9 something very -- I don't know if you used the word damning,
10 but you said something -- very prejudicial. What was that
11 about, sir?

12 MR. HAZZARD: Well, the prejudicial part of it
13 would be that he's saying, I left the house to buy drugs. I
14 would submit that there is no probative value to him saying,
15 I didn't tell you why I left the house. Which is actually
16 kind of a misstatement, because they never specifically
17 asked him if he left the house.

18 In the Palm Street interview on March 11th, they
19 asked him was he there, he said yes. They asked him was his
20 son there, he said yes. They asked him was his daughter
21 there, he said yes, she got home around 10:00.

22 They asked him was Leon Harrison Jr. there, he
23 said, I don't know, or something in the words of, I did not
24 see him.

25 He then said, I went to bed between 9:00 and 9:30

1 and I got up a little bit after 1:00, walked around and I
2 checked the house. They never specifically asked him, what
3 did you do after that?

4 So, but he just said, I didn't tell you why I left
5 the house, because I went to buy drugs. So I would submit,
6 A, it has absolutely no relevance to the charge of
7 obstruction of justice. And B, it is prejudicial.

8 THE COURT: All right. Talk to me about
9 relevance, Solicitor.

10 MS. RICHARDSON: Your Honor, part of the State's
11 theory of the case is that they just misled investigators
12 the entire time, to show guilty knowledge. That they would
13 say that they were at the house when they were not at the
14 house and when they were doing things like buying peroxide.
15 And that's big part of the State's theory of the case.

16 MR. HAZZARD: And I would submit that it would
17 possibly have some relevance had they asked him: Did you
18 leave the house? Did you go anywhere? Did you do anything?

19 They did not. They asked him, you know, Were you
20 at the house? Yes. I went to bed, got up around 1:00,
21 walked around, checked the house. And there were no
22 followup questions in that department.

23 THE COURT: Well, didn't he say he went back to
24 bed?

25 MR. HAZZARD: I don't know if -- I don't recall if

1 he said he went back to bed. He said, he checked the house,
2 went outside, checked the dogs.

3 MS. RICHARDSON: Your Honor, maybe we should just
4 listen to the 3/15 interview first, because he gives another
5 -- more details about that night.

6 THE COURT: I think that there is some relevance
7 and I -- I think that if there's any relevance, that it
8 comes in.

9 I'm concerned about the prejudicial effect as it
10 relates to the drugs and saying he's going to buy drugs.
11 That's what I hear you talking about as it -- yeah, he may
12 disagree as the relevance, I understand that.

13 But now, the drugs, your concern is the fact that
14 he's admitting to law enforcement that he left the house to
15 buy drugs, and the fact that he says that could -- the jury
16 certainly could take a negative view of that of leaving to
17 buy drugs; is that correct?

18 MR. HAZZARD: Yes, sir. That's our position.

19 THE COURT: Well, what about if we just let --
20 what if we leave the drugs out and he just left the house?

21 MR. HAZZARD: Well, my concern then is that it
22 leaves it to the jury's imagination as to what comes after
23 that. Such as, I didn't tell you I left the house to go
24 throw a body in the river.

25 THE COURT: Well, I -- I understand. So the drugs

1 may not be so bad. I mean, I think there's -- I think
2 there's relevance, sir. I think there's relevance to the
3 fact that he did not -- was not -- and I understand they
4 didn't ask a follow-up question, but I think it's relevant.

5 The question then becomes, in my mind, the --

6 All right. What is it, Solicitor, is there
7 another statement that's gonna be played or you wanna play
8 that you think will shed some additional light on that?

9 MS. RICHARDSON: Before that on March 15, again,
10 he doesn't mention leaving the house and he's asked a little
11 more about him being at home that night.

12 THE COURT: Well, let's --

13 All right. Are we ready to play that video?

14 MS. RICHARDSON: Yes, Your Honor.

15 THE COURT: Are we ready to play that video?

16 MR. HAZZARD: I'm ready to watch it.

17 THE COURT: I'll tell you what, let's go ahead and
18 we can watch that, whatever needs to be done on that. Let's
19 go ahead and do that, yes, sir.

20 MS. RICHARDSON: You want to watch it?

21 THE COURT: Well, I guess what I'm -- what do we
22 need to do before we bring the jury back in? I'm ready to
23 rock.

24 MS. RICHARDSON: I think we -- you can watch this
25 when the jury's in and then you can probably rule.

1 THE COURT: I guess --

2 MS. RICHARDSON: We can probably -- I don't think
3 you have to watch it twice. I think you could watch it, the
4 March 15th one, when the jury's in.

5 THE COURT: Okay.

6 MS. RICHARDSON: And then we can approach for a
7 ruling on the April 6th one.

8 THE COURT: So Solicitor, you're ready to play
9 what video?

10 MS. RICHARDSON: March -- March 15 interview of
11 Alexander Rhue Sr.

12 THE COURT: Okay. And I guess what I'm asking is,
13 are we ready to hear that video or do we have to go through
14 and talk about redaction or what do we need to do as it
15 relates to the defense concerning the video that she's ready
16 to play?

17 MS. RICHARDSON: It's my understanding, and we did
18 not make any redactions, but no redactions were needed on
19 that video.

20 MR. HAZZARD: Yes, sir. That is my understanding.

21 THE COURT: All right.

22 MR. HAZZARD: Based on what we reviewed on Monday.

23 THE COURT: All right. Well, then let's -- let's
24 go and play that -- let's get the jury in here and play that
25 video.

1 All right. Anything further before we bring the
2 jury in? From the State?

3 MS. RICHARDSON: No, Your Honor.

4 THE COURT: From the Defense?

5 MR. HAZZARD: Oh, no, sir, Your Honor. It can
6 wait until we discuss the ruling.

7 THE COURT: Yes, sir. Anything else, Mr. Voigt?

8 MR. VOIGT: No, Your Honor.

9 THE COURT: Mr. Edgeworth?

10 MR. EDGEWORTH: No, Your Honor.

11 THE COURT: All right. Great. Bring the jury,
12 please.

13 (WHEREUPON, the jury entered the courtroom at 2:20
14 p.m.)

15 THE COURT: All right. Ladies and gentlemen, I
16 hope you had a good lunch. I'm only starting five minutes
17 late and I hope y'all notice that and we will continue to
18 work and try to do better.

19 But, I believe the State now is ready to continue
20 with their direct examination.

21 MS. RICHARDSON: That's correct, Your Honor.

22 THE COURT: All right.

23 BY MS. RICHARDSON:

24 Q. So I believe the video that we last watched was
25 your interview of Mr. Rhue Sr.?

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1 A. Yes, ma'am.

2 Q. At Palm Street. And you began that interview,
3 that was on Saturday March 11 at 11:55?

4 A. Yes, ma'am.

5 Q. And at that time, when you began that interview,
6 did you know that a body had been discovered?

7 A. No, ma'am.

8 Q. And were you later advised that the Sheriff's
9 Office had discovered a body that day?

10 A. Yes, ma'am.

11 Q. Now, did you have any part in -- in the discovery
12 of the body?

13 A. No, ma'am.

14 Q. And did you even go out to the scene?

15 A. No, ma'am.

16 Q. And all of this was actually occurring while you
17 were interviewing Mr. Rhue?

18 A. Yes, ma'am.

19 Q. And after that -- after the body was recovered,
20 did y'all have any meetings with the Sheriff's Office
21 regarding that?

22 A. There was a meeting we set up after we went to the
23 autopsy. Us, the Georgetown Police Department CID,
24 Georgetown County Sheriff's Office, the coroner's office,
25 all had a meeting in reference to the body that was

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1 recovered from the Black River and it was determined that it
2 was the missing person, Leon Harrison Jr.

3 Q. Did you attend the autopsy?

4 A. Yes, ma'am.

5 Q. And describe, when you went to the autopsy, the
6 condition of the victim's body.

7 A. He was decayed. His hands -- or he was bound by
8 his wrists with speaker wire and bound by his ankles with
9 speaker wire.

10 Q. And at that point, did you request another search
11 of the house?

12 A. I think we did do a follow-up search warrant
13 because of that.

14 Q. And what were you looking for at that point?

15 A. We were looking for the speaker wire and any other
16 evidence that may -- would give us a lead as to whether he
17 was killed in the house or not in the house or any murder
18 weapons in the house or anything such as that.

19 Q. Okay. And when you went to the autopsy, were
20 there other injuries on the body?

21 A. Yes.

22 Q. And just briefly kind of tell about the condition
23 of the body.

24 A. There were some, what the -- what looked like to
25 be, I don't know if you call it bite marks or stab marks or

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1 whatever, like some animal activity on his body. One of his
2 hands looked -- had appeared to have had a cut or something
3 on it. And it was just a lot of decay.

4 There was a lot of stuff you couldn't tell what
5 was happening, whether it was an animal activity or if it
6 was an actual injury from some other kind of altercation.

7 His hands, the way the speaker wire was tied
8 around his wrists and around his ankles, it was -- it looked
9 like it was really tight, like it was, like, real tight,
10 like somebody tied it tight, because it was like it was
11 squeezing the flesh into, you know, down. And it was
12 wrapped. It wasn't like just one, like, it was tied up.

13 Q. Okay. Let me show what's been marked as State's
14 Exhibit Number 39.

15 Can you tell us what this is?

16 A. It's a flash drive of photos at [REDACTED] Highmarket
17 Street from 3/14/2017.

18 Q. Okay. And you reviewed that previously?

19 A. Yes, ma'am, and my initials are on it.

20 Q. Okay.

21 MS. RICHARDSON: All right. Your Honor, at this
22 time, I'd offer State's 39 into evidence and ask to publish
23 it to the jury.

24 THE COURT: All right. Any objection from
25 Mr. Hazzard?

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1 MR. HAZZARD: Subject to previous objection.

2 THE COURT: Yes, sir. Mr. Voigt?

3 MR. VOIGT: Subject to my previous objection.

4 THE COURT: And Mr. Edgeworth?

5 MR. EDGEWORTH: Subject to my previous objection.

6 THE COURT: All right. It's admitted subject to
7 Defense Counsel's objection, I understand. Please, feel
8 free to publish.

9 MS. RICHARDSON: Thank you, Your Honor.

10 (WHEREUPON, State's Exhibit Number 39 was moved
11 into evidence.)

12 BY MS. RICHARDSON:

13 Q. Okay. So, again, this is on the 14th and the
14 other pictures we saw were on the 10th; is that right?

15 A. Yes, ma'am.

16 Q. This is the front room of the house?

17 THE WITNESS: The TV is not on.

18 MS. RICHARDSON: Of course, it's not. Of course.
19 Oh, it went back on sleep. Good now?

20 THE WITNESS: Yes, it's on now.

21 BY MS. RICHARDSON:

22 Q. Let's go back. This is just an overview of the
23 house? This is the front door; is that right?

24 A. Yes, ma'am.

25 Q. Okay. And who's in this photo, 737?

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1 A. That would be Investigator Allen Morris.

2 Q. Okay. The TV area in the living room, 739?

3 A. Yes, ma'am.

4 Q. 744, can you tell us what that is?

5 A. That's one with the guitars in it. I think that
6 is Ms. Rhue's son's room.

7 Q. Let's go back to 745.

8 Can you tell us what's pictured in that?

9 A. Looks like some amplifiers for the guitars. Some
10 guitars and a little radio.

11 Q. This is all still in this room?

12 A. Yes, ma'am.

13 Q. Okay. And 753?

14 A. I think that is Mr. Alexander Rhue Sr.'s room and
15 I think Mr. Rhue and his son stayed in it as well.

16 Q. That's the room with the bunk beds?

17 A. Yes, ma'am.

18 Q. And this is 754. What is that?

19 A. It's a backpack with a bunch of speakers -- or I
20 say speakers, a bunch of wires, just different kind of
21 wires, cables, things like that.

22 Q. Okay. And then 755, did you move -- or you and
23 your officers move the mattress?

24 A. Yes, ma'am, we did. We picked it up to look
25 under.

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1 Q. Okay. And there was some evidence markers, this
2 is on 761?

3 A. Yeah, that's the gray backpack with the wires in
4 it.

5 Q. And so basically you just went through each room,
6 sort of searching?

7 A. Yes, ma'am.

8 Q. You also searched some vehicles as well?

9 A. Yes, ma'am.

10 Q. I'm going to refer you back to Photo 835.

11 And what room are we back in here?

12 A. That will be Ms. Tiesh Rhue and her husband's
13 room.

14 Q. Okay. All right. And in this room, this is the
15 room with the carpet padding sections removed?

16 A. Yes, ma'am.

17 Q. Okay. When you came back had any of the
18 flooring -- had the carpet been changed or any been replaced
19 in the room?

20 A. No, ma'am.

21 Q. And same -- basically the same condition it was on
22 the 10th?

23 A. Yes, ma'am.

24 Q. Okay. And who was assisting in this search?

25 A. Captain Pierce, Investigator Dawud Aswad from the

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1 County, Investigator Anderson, myself, and Investigator
2 Morris.

3 Q. All right. And as far as the actual crime scene
4 processing, who did that as far as testing and swabbing and
5 that sort of thing?

6 A. That would have been Captain Pierce.

7 Q. All right. And after this, did you interview
8 Mr. Rhue Sr. again on March 15, 2017?

9 A. We went out to the house to talk to Ms. Tiesh Rhue
10 again and Mr. Alex showed up. So we spoke to him while we
11 were in the yard there.

12 Q. And he just walked up when you were out there?

13 A. He drove up. I think he been at work or
14 something.

15 Q. And at that time you were going to ask him some
16 questions?

17 A. Well, we spoke with him in the yard concerning her
18 physical altercation that was in Maryland with some other
19 lady.

20 Q. And did you force him or coerce him to talk with
21 you on that day?

22 A. No, ma'am.

23 Q. Did you make him any promises or threats?

24 A. No, ma'am.

25 Q. And did he appear to be under the influence of

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1 anything at that time?

2 A. No, ma'am.

3 Q. Okay. And did -- and was he in custody? Did you
4 arrest him or anything of that nature?

5 A. No, ma'am.

6 Q. And he was free to speak with you or to not speak
7 with you?

8 A. Correct.

9 Q. And he did speak with you?

10 A. Yes, ma'am.

11 Q. And did you record that interaction?

12 A. It was on body cam.

13 Q. Let me show you what's been marked as State's
14 Exhibit Number 29.

15 A. It says A. Rhue Sr., March 15, 2017.

16 MS. RICHARDSON: Your Honor, at this time, I'd
17 offer to submit State's 29 into evidence and publish it to
18 the jury.

19 THE COURT: Any objections, Mr. Hazzard?

20 MR. HAZZARD: No, sir.

21 THE COURT: Mr. Voigt?

22 MR. VOIGT: No, sir.

23 THE COURT: Mr. Edgeworth?

24 MR. EDGEWORTH: No, sir.

25 THE COURT: All right. It's admitted without

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1 objection and feel free to publish.

2 (WHEREUPON, State's Exhibit Number 29 was moved
3 into evidence and played. Not transcribed
4 herein.)

5 MS. RICHARDSON: Your Honor, I believe we've
6 gotten these mixed up. I am so sorry.

7 Can we -- we may need to handle this outside the
8 presence of the jury, Your Honor.

9 THE COURT: All right. Ladies and gentlemen, I'm
10 going to have to send you back to the jury room. Please
11 don't talk about the case. We'll have you back in here as
12 soon as we can. I'm sorry.

13 (WHEREUPON, the jury exited the courtroom at 2:40
14 p.m.)

15 MS. RICHARDSON: Your Honor, I apologize. We
16 mislabeled that as the interview of Tiesh Rhue. I would ask
17 to withdraw that and put in the correct CD.

18 THE COURT: That's fine.

19 MS. RICHARDSON: We just mislabeled them, because
20 we were passing them around, but he usually would have
21 initialed it and the one that he initialed is already in
22 evidence, because when I handed it to him I noticed it
23 wasn't initialed.

24 THE COURT: I understand. That's no problem.

25 MS. RICHARDSON: So if we can just use the initial

1 number, because this is the one that had no redactions, it
2 just got mixed up with the one that did have redactions.

3 So the initial number would be State's Exhibit 5
4 and if we could just withdraw from evidence, State's 29.

5 THE COURT: Is there any objection?

6 MR. HAZZARD: No, sir, but I would like to, out of
7 an abundance of caution, maybe we could review Number 5
8 before the Jury sees it.

9 THE COURT: Yeah, let's just turn it on and make
10 sure that's what it is. I think that's fine. Yes, sir.

11 Any objection, Mr. Voigt? Is that good?

12 MR. VOIGT: No, sir.

13 MR. EDGEWORTH: No, Your Honor.

14 THE COURT: Okay. Great.

15 MS. RICHARDSON: So we can void that and withdraw
16 it from evidence?

17 THE COURT: That's fine.

18 MS. RICHARDSON: And then State's 5 is the correct
19 one.

20 THE COURT: And I'll instruct the Jury that there
21 was a mistake and just disregard the last video and we're
22 going to play this video now. Okay?

23 (WHEREUPON, State's Exhibit Number 29 was voided.)

24 MR. HAZZARD: For housekeeping purposes, and Madam
25 Court Reporter would know better than I, as would the Clerk.

1 Since we are voiding 29, there's not a replacement 29,
2 right? The next one -- the next in order would be 30 and we
3 simply would not have a 29; is that correct? Or how does
4 that work?

5 COURT REPORTER: That sounds like the most
6 appropriate, to keep 29 not coming as anything.

7 MR. HAZZARD: Okay.

8 MS. RICHARDSON: Your Honor, the State has no
9 objection to that.

10 Is everybody ready?

11 THE COURT: Yes.

12 (WHEREUPON, a video recording was played.)

13 THE COURT: All right. So that video, we're good
14 with that video, right?

15 MR. HAZZARD: Yes, sir.

16 THE COURT: But now we still have this issue --
17 that's the video you talked about playing as it relates to
18 Mr. Hazzard's prior -- all right.

19 I've done some thinking about that. I'm going to
20 tell you my concern, and you brought it up initially, and
21 that is it just cuts on and it's 10 or 12 seconds and it's
22 over. And what I will say is that that provides zero
23 context.

24 Every video that we've seen is a video that shows
25 sort of a start, leading up to intro into a conversation.

1 The video that the State just withdrew shows the body
2 camera's on as they are in the car and then approaching the
3 house. A video earlier when his client was interviewed
4 shows the officer -- I believe it was his client,
5 Mr. Hazzard's client -- it shows the officer with the body
6 camera on as he entered the house, sat down.

7 This clip, a snippet is what I would call it, has
8 absolutely no context, and as a result of that, I think the
9 video itself is prejudicial and it doesn't accurately
10 reflect -- it clearly just doesn't accurately reflect what
11 happened. That camera just didn't get turned on at that
12 second. There had to be some type of editing. I mean, it
13 just doesn't just magically cut on as somebody's saying
14 that. And I'm happy if that's not -- I don't understand
15 that.

16 MS. RICHARDSON: And I'm not sure if we played it
17 yesterday. The full video was part of the voluntariness
18 determinations yesterday, and I can't remember if that's one
19 that we didn't watch.

20 It is longer and there was some concern, because
21 Ms. Rhue was taken into custody. I think Mr. Edgeworth
22 didn't want that to be seen.

23 We just probably over-redacted that, but we can go
24 back a little. The whole -- we can just re-do those
25 redactions for the context.

1 I believe that was played for the Court yesterday,
2 but it might have been such a late hour that we just said --

3 THE COURT: I don't recall ever seeing the video
4 with his client in a brown shirt standing on the porch. I
5 don't think so. Unless that was the video where they
6 actually came to take her into custody ---

7 MS. RICHARDSON: It is.

8 THE COURT: And he had a brown shirt on then, I do
9 recall.

10 MS. RICHARDSON: That's -- it's where they
11 arrested her and then asked him -- asked Mr. Rhue Sr. where
12 Mr. Rhue Jr. was.

13 THE COURT: And, Mr. Hazzard, so you're saying
14 that because they didn't ask him a follow-up question, i.e.
15 You weren't there all night. And at that point if he'd
16 fibbed to them, then that could have been obstruction, but
17 because they didn't ask the follow-up question that's why
18 it's not obstruction and that's why then this is also just
19 consequently terribly prejudicial because he talks about
20 drugs?

21 I want to make sure I understand that, because I
22 think I have to look then also to what are the requirements
23 of -- what are the requirements? What are the elements of
24 this violation?

25 MR. HAZZARD: Well, as best I can tell through my

1 research, it's incredibly vague as is the indictment, which
2 basically says, Did or failed -- how does it go?

3 Provided false statements to law enforcement and
4 concealed evidence in the investigation of the murder of
5 Leon Harrison Jr. Intentionally do an act which prevented,
6 obstructed, impeded, or hindered the administration of
7 justice.

8 Now, they didn't ask him -- even if they had asked
9 him, Did you leave the house that night? And he said, No.
10 And then subsequently turned around and said, You know what,
11 I misspoke, I did. Since there, in my opinion, is
12 absolutely no significance or material -- materiality
13 between him leaving the house and this crime, I fail to see
14 the --

15 THE COURT: And this what? I'm sorry. He failed
16 to leave the house -- I'm sorry. I missed one of your
17 words, I apologize.

18 MR. HAZZARD: Okay. That there's no nexus, no
19 connection between him leaving the house and this alleged
20 crime. Now their argument is that they went to Walmart and
21 their allegation is that Jr. bought some peroxide while they
22 were there.

23 Even if the Court buys that very tenuous
24 materiality connection, they never asked him that. They
25 never -- they never said -- they just said, Were you here?

1 In other words, he was truthful in every response.
2 Were you here? Yes, I was. Okay. Was your son here? Yes,
3 he was.

4 And as you noticed in the video that we just
5 watched, he reiterates when he says, Yes, my son was here.
6 He was getting ready to go out. He had the -- he used the
7 iron, which was in my room, and so he probably left around
8 10:00 or 10:30. They never say or never ask, Did you go
9 anywhere after that?

10 So on April -- whatever day that is -- April 6th,
11 when he says, You know what, I failed to tell you that I
12 left the house that night. I do not see how him not having
13 said that before, in any way impeded the investigation.

14 THE COURT: But don't -- isn't the very fact that
15 he brought that up and said that is because he realized that
16 he was impeding the investigation?

17 MR. HAZZARD: Not necessarily. That's a very good
18 point, Your Honor, but not necessarily.

19 First of all, when they speak with him on March
20 11th, they are asking him about an incident two weeks prior,
21 on February 25th. Okay? And I know, and I believe most
22 people, if you ask them about, Hey, what did you do
23 two weeks ago? They may have a hard time coming up with
24 each and every specific point.

25 Two weeks from now if you ask me what I did

1 tonight, I would say, Well, I got off from work and I do
2 what I did every night. I went home, had dinner, watched
3 the game on TV, talked to my wife and I went to bed.

4 Now, at some point this evening, I may have to go
5 to the convenient store. But I guarantee you, I won't
6 remember that two weeks from now, not initially.

7 So I don't think it's that easy to say --

8 THE COURT: Yeah, but you're going remember if the
9 cops are talking to you.

10 MR. HAZZARD: Not necessarily.

11 THE COURT: If they're at your house, you're not
12 going to remember that?

13 MR. HAZZARD: Not necessarily.

14 THE COURT: All right. Well --

15 MR. HAZZARD: As to whether I left my house and
16 took a five-minute drive to the convenient store on a
17 specific day two weeks before?

18 THE COURT: You know, when I look at this, the
19 charge is the State must also prove beyond a reasonable
20 doubt that the defendant did act with the intent to obstruct
21 justice.

22 The defendant does not have to succeed in the
23 effort to obstruct justice. It's enough if some act is done
24 in the furtherance of the attempt to obstruct justice. I
25 need the context. Because -- I mean, I've got to have the

1 context.

2 MS. RICHARDSON: I can get it.

3 MR. HAZZARD: And also one thing for the Court's
4 consideration --

5 THE COURT: Yes, sir.

6 MR. HAZZARD: -- about context -- and maybe it
7 doesn't matter, I do not know -- but as the Court heard on
8 the interview that was excluded, the one where they brought
9 him in, in handcuffs -- that's the -- I believe that's the
10 March 31st interview where they brought him in, in
11 handcuffs, and they actually serve him with the obstruction
12 of justice warrant. And he says, You know, why are you
13 charging me with that?

14 My recollection is Investigator Morris says at
15 that point, We're charging you with obstruction of justice
16 because you misled us about your son's whereabouts. Had
17 nothing to do with anything he said about his whereabouts.

18 So it's this incredibly amorphous concept that
19 they keep kind of seem to just bandy about.

20 THE COURT: Well, it's a kind of an amorphous type
21 of statute.

22 MR. HAZZARD: Yes, it is.

23 THE COURT: All right. Solicitor, can we get
24 something played so I can see what -- I need the minute or
25 so before he made this statement.

1 MS. RICHARDSON: This is State's 9 from yesterday.

2 MR. EDGEWORTH: Your Honor, if I may?

3 THE COURT: Yes.

4 MR. EDGEWORTH: My client has informed me that she
5 desperately needs to take a quick break. Is it possible
6 that we can do that?

7 THE COURT: Yeah. That's fine. That's fine.

8 Let's get the Solicitor to pull that up, okay?
9 She can go take a break.

10 (WHEREUPON, video recording was played.)

11 THE COURT: Solicitor, how about fast -- fast
12 forward that a little bit.

13 MS. RICHARDSON: Do we need to wait for her to get
14 back though?

15 MR. EDGEWORTH: No, Your Honor.

16 MS. RICHARDSON: Okay.

17 THE COURT: No. I don't think so.

18 (WHEREUPON, video recording was played.)

19 MS. RICHARDSON: Is that enough context, Your
20 Honor?

21 THE COURT: Yes.

22 MS. RICHARDSON: We could --

23 THE COURT: So what's your position having now
24 shown that to me, Solicitor, what argument do you have?

25 MS. RICHARDSON: Your Honor, in -- the State's

1 position is not just to the obstruction of justice, it all
2 -- it also goes to the other charges, because it shows that
3 they were continually sort of adapting their story. And at
4 this point, you know, he was admitting he had lied, but he's
5 giving another story, I was out buying drugs, when we have
6 him and his son on video at Walmart with the peroxide. So,
7 it's just a different story for the same night.

8 And as for his memory of the night, Your Honor, on
9 that first interview on March 11th, he was very specific
10 about, At 5:55 I did this. At -- I mean, he was oddly
11 specific in his times.

12 THE COURT: All right. All right. Do you have
13 anything to say?

14 MR. VOIGT: I do Judge.

15 THE COURT: I'm ready to listen to you.

16 MR. VOIGT: It's going to be real brief.

17 The context, I believe is improper as regard to my
18 client, because without ever talking to him, they're ready
19 to give him a bond hearing, which kind of seems a little bit
20 prejudicial to me.

21 So in its short form, I agree with Mr. Hazzard, in
22 its longer form I'm going to object to it for that reason.

23 THE COURT: Okay. Anything?

24 MR. EDGEWORTH: Well, Your Honor, as to my client,
25 I think it was already agreed upon that the part, as it

1 relates to my client's out, so...

2 THE COURT: All right. I understand. I was just
3 trying some context as it relates to how that statement came
4 about.

5 All right. We'll be ease for two to
6 three minutes.

7 (WHEREUPON, there was a pause in the proceedings.)

8 THE COURT: All right. I have given deliberate
9 and careful consideration to this matter. I disagree with
10 Mr. Hazzard. I believe that this -- I believe that the
11 statement, that the video, is relevant. I think that it is
12 potentially relative evidence.

13 I believe that the needle only needed to move a
14 little bit as it relates to whether evidence is relative and
15 I think this moves the needle for lack of better words.

16 However, I do agree with him, I believe it's
17 extremely prejudicial. And, in my opinion, having looked at
18 the relevance and then examining that in the light of the
19 prejudicial effect, I think that the prejudicial effect
20 substantially outweighs the relevance and as a result I'm
21 going to exclude that 12-second statement. I'm also going
22 to not allow the witness to present any testimony as to --
23 as it relates to that statement. That will be my ruling.

24 All right. So as it relates to the statement that
25 we've just -- the statement that we want to go ahead and

1 play, are we ready to move forward with that, Solicitor?

2 MS. RICHARDSON: We are, Your Honor.

3 THE COURT: Is there anything else, Solicitor,
4 that needs to be brought up before we bring the jury back in
5 here?

6 MS. RICHARDSON: Not from the State, Your Honor.

7 THE COURT: All right. Anything from the Defense?

8 MR. HAZZARD: No, sir.

9 MR. VOIGT: No, sir.

10 MR. EDGEWORTH: No, sir.

11 THE COURT: All right. Let's get the jury. Thank
12 you.

13 (WHEREUPON, the Jury entered the courtroom at 3:15
14 p.m.)

15 THE COURT: Ladies and gentlemen, number --
16 evidence that was entered as Number 29, was mistakenly
17 entered. And so I just ask you to disregard the beginning
18 of that video that you saw. And I believe the State is now
19 ready to proceed. And I'm happy to hear from you,
20 Solicitor.

21 MS. RICHARDSON: Thank you, Your Honor.

22 THE COURT: Yes.

23 BY MS. RICHARDSON:

24 Q. Now, let me show you what's been marked as State's
25 Exhibit Number 5 previously for identification.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Do you recognize that one?

2 A. Yes, ma'am. It's Alex Rhue Sr., March 15th and my
3 initials are on the top.

4 Q. So this is the one that you had initialed,
5 correct?

6 A. Yeah, I didn't say I initialed the last one.

7 Q. Yeah, I know. I should have realized that when
8 you looked puzzled.

9 MS. RICHARDSON: Your Honor, at this time, the
10 State would offer Sate's Exhibit Number 5 into evidence and
11 to publish for the Jury.

12 THE COURT: Any objection, Mr. Hazzard?

13 MR. HAZZARD: No, sir.

14 THE COURT: Mr. Voigt?

15 MR. VOIGT: No, sir.

16 THE COURT: Mr. Edgeworth?

17 MR. EDGEWORTH: No, sir.

18 THE COURT: All right. That's admitted without
19 objection and please free to publish it to the Jury,
20 Solicitor.

21 (WHEREUPON, State's Exhibit Number 5 was moved
22 into evidence, and played. Not transcribed
23 herein.)

24 BY MS. RICHARDSON:

25 Q. Let me also show you -- we were missing this one

BERT POWELL - DIRECT BY MS. RICHARDSON

1 earlier -- State's Exhibit -- what's been marked for
2 identification as State's Exhibit 30.

3 Do you need some gloves?

4 A. Yeah.

5 THE COURT: Madam Clerk, give him a pair of
6 gloves, please. Here you go, sir.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Yes, sir.

9 BY MS. RICHARDSON:

10 Q. Look in that and tell us what it is.

11 A. It says Item Number 3, carpet padding with spot,
12 [REDACTED] Highmarket Street from missing person report...

13 THE COURT: All right. You need to repeat that or
14 as best you can.

15 THE WITNESS: I'm sorry.

16 THE COURT: No. You're doing a great job. Just
17 want to make sure everybody hears it and the Court Reporter
18 hears it. Okay, sir?

19 THE WITNESS: This is Item Number 3, which is
20 carpet padding with a spot on it from [REDACTED] Highmarket
21 Street. This was the missing person case from the search
22 warrant we did when we cut the carpet padding out of the
23 house and to the responses of the other padding.

24 BY MS. RICHARDSON:

25 Q. Okay. If you could look at it?

BERT POWELL - DIRECT BY MS. RICHARDSON

1 A. Take it out?

2 Q. Yes. And is that the section of padding that you
3 cut out?

4 A. Yes, ma'am.

5 Q. And that was the second cutout part that was
6 found; is that right? The smaller one?

7 A. Yes, ma'am. The small one.

8 Q. And, again, did you take steps to preserve it when
9 -- and not cross-contaminate it when you took it into
10 evidence?

11 A. Yes, ma'am.

12 Q. Like you did, wearing gloves?

13 A. Wearing gloves, yes, ma'am.

14 Q. And then, after you cut the carpet padding, what
15 did you do with it?

16 A. We take it and put it in the bags to preserve it.

17 Q. And did you alter or tamper with it in any way?

18 A. No, ma'am.

19 MS. RICHARDSON: Your Honor, at this time, I'd
20 offer State's 30 into evidence.

21 THE COURT: Any objection, Mr. Hazzard?

22 MR. HAZZARD: Subject to previous objection, Your
23 Honor.

24 THE COURT: All right. Mr. Voigt?

25 MR. VOIGT: Subject to previous objection.

BERT POWELL - DIRECT BY MS. RICHARDSON

1 MR. EDGEWORTH: Subject to previous objection.

2 THE COURT: All right. It's admitted subject to
3 the previous objections made by Defense Counsel.

4 (WHEREUPON, State's Exhibit Number 30 was moved
5 into evidence.)

6 BY MS. RICHARDSON:

7 Q. Okay. So I believe we were up to -- that was
8 March 15th when you spoke with Mr. Rhue Sr. outside of the
9 home; is that correct?

10 A. Yes, ma'am. Yes, ma'am.

11 Q. And during the course of the investigation, did
12 y'all -- or did officers request phone records?

13 A. We did. That's why we took the phones.

14 Q. Did you also request phone records from cellular
15 providers?

16 A. Yes. I think Investigator Anderson did that.

17 Q. And you were apprised of the -- some of the
18 results of that?

19 A. Ma'am?

20 Q. You knew about some of the results that they had
21 found with that?

22 A. Yes, ma'am.

23 Q. Okay. And based on that, did -- what kind of
24 action did you take?

25 A. Based on the phone results?

BERT POWELL - DIRECT BY MS. RICHARDSON

1 Q. Yes.

2 A. We went to look for video footage at Walmart.

3 Q. And where did you go?

4 A. From Walmart.

5 Q. And did you do that?

6 A. Yes, ma'am, I did.

7 Q. Okay. And who did you meet with there?

8 A. So according to what I put in my report, I, along
9 with Investigator Allen Morris, went to Walmart to obtain
10 the surveillance video. And we looked at footage for the
11 night of Saturday, February 25, 2017 and the morning of
12 Sunday, February 26, 2017. And we went there to get that on
13 a Wednesday, March 29th.

14 Q. Okay. So March 29th is when you went to Walmart?

15 A. Yes, ma'am.

16 Q. All right. And did you receive a copy of the
17 video from Walmart?

18 A. Yes, ma'am.

19 Q. Okay. And did you review that?

20 A. Yes, ma'am.

21 Q. Let me show you what's been marked as State's
22 Exhibit 31. And can you tell me what that is?

23 MR. VOIGT: I'm going to object, Your Honor, to
24 him identifying in front of the Jury.

25 THE COURT: All right. All right. Counsel,

BERT POWELL - DIRECT BY MS. RICHARDSON

1 approach.

2 (WHEREUPON, a bench conference was had.)

3 THE COURT: All right. So I'm going to overrule
4 your objection for now pending the Solicitor's proper
5 linkage.

6 MR. VOIGT: Thank you very much.

7 BY MS. RICHARDSON:

8 Q. Officer Powell, did you -- were you with -- well,
9 let me ask you this: Who was pulling the video at Walmart?

10 I may have asked you this.

11 A. Ma'am?

12 Q. Who was reviewing the video at Walmart?

13 A. I reviewed the video that we got from Walmart.

14 Q. But did you -- were you at Walmart when the video
15 was viewed?

16 A. No, I was at the office.

17 Q. Okay. So you didn't meet with the loss prevention
18 officer to view the video or find the video?

19 A. I think I gave him the dates and times. He called
20 me back and told me, said, Hey, I think I got the times
21 you're looking for. I may have looked -- went there briefly
22 and looked at it, but I was like, Yeah, that's the dates and
23 times and I watched it at the police department.

24 Q. Okay. And did you subsequently go back to Walmart
25 and get additional video?

BERT POWELL - CROSS BY MR. HAZZARD

1 A. Yes, ma'am.

2 Q. Or additional views?

3 A. Yes, ma'am. From a different angle.

4 Q. Okay. I have no further questions. Answer any
5 questions that the attorneys may have for you.

6 A. Okay.

7 THE COURT: Mr. Hazzard?

8 MR. HAZZARD: Can they move that television?

9 THE COURT: Yes.

10 MS. RICHARDSON: Yeah, I think we're...

11 MR. HAZZARD: May it please the Court?

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. HAZZARD:

15 Q. Good afternoon, sir.

16 A. Good afternoon, Mr. Hazzard.

17 Q. So let's go back to March 9th, I think it is.

18 Leon Harrison Sr., I think the Prosecutor asked you, Leon
19 Harrison Sr. came in on that day and talked with y'all and
20 reported his son missing, right?

21 A. Correct.

22 Q. Okay. And he said that he thought that something
23 bad had happened to his son?

24 A. Correct.

25 Q. And he said that his son was selling drugs to the

BERT POWELL - CROSS BY MR. HAZZARD

1 Mexicans, correct?

2 MS. RICHARDSON: Your Honor --

3 THE WITNESS: I don't remember him telling me
4 that.

5 MS. RICHARDSON: I object.

6 THE COURT: All right. Overruled.

7 BY MR. HAZZARD:

8 Q. If you need to review and refresh your
9 recollection I would suggest you look at, I believe it's
10 Page 54 of your incident report. It's down near the bottom,
11 like the last half paragraph.

12 A. Okay. So I see where you were stating that.

13 Q. Yes, sir.

14 A. Kyle Walton wrote this -- this narrative, not me.
15 If you go back to Page 53.

16 Q. Uh-huh.

17 A. Where it says Narrative Date.

18 Q. Okay.

19 A. So these ones were written by Lieutenant Kyle
20 Walton.

21 Q. Okay. So he told Kyle Walton that?

22 A. Yes, sir.

23 Q. Okay. And you were privy to that information
24 because all of you were working together on this
25 investigation, right?

BERT POWELL - CROSS BY MR. HAZZARD

1 A. No. They -- he spoke with Lieutenant Walton. I
2 was not in that interview nor did I speak with him at that
3 time.

4 Q. So you never discussed the information that Kyle
5 Walton was obtaining as a part of this investigation?

6 A. Not as far as him saying he sold drugs to
7 Mexicans.

8 Q. But that's what it says?

9 A. Okay. Yeah. It may be what it says, but I didn't
10 hear him say that.

11 Q. Gotcha. Gotcha. And so --

12 MS. RICHARDSON: Your Honor, just an objection.

13 THE COURT: Go ahead.

14 MS. RICHARDSON: His initial question put a date
15 on that. I think that may have been some of the confusion,
16 the date that that information --

17 THE COURT: All right. Well --

18 MS. RICHARDSON: -- that he said it was on -- if
19 my understanding, the question was sort of long, that it was
20 on March 9th, the initial report.

21 THE COURT: How about do this: I'm going sustain
22 the objection. Could you ask the question again, please?

23 MR. HAZZARD: Yes, sir.

24 BY MR. HAZZARD:

25 Q. According to your incident report that you've been

BERT POWELL - CROSS BY MR. HAZZARD

1 referring to, On March 17th, Mr. Harrison Sr. came to the
2 police department, advised that his son knew Luis Flores
3 from a job they shared in the past at International Paper
4 with Sunbelt Rentals.

5 When questioned, he told me that being --

6 MS. RICHARDSON: Your Honor, objection.

7 THE COURT: All right. Come on, approach.

8 (WHEREUPON, the following discussion was held at
9 the bench.)

10 MS. RICHARDSON: Your Honor, first of all,
11 hearsay. Mr. Harrison, himself, wasn't here to be
12 questioned about that.

13 Second of all, though, this is going to be an
14 improper third-party guilt. That is just shows a mere
15 suspicion, but it doesn't rise to the level to show that,
16 Flores, as opposed to these individuals, committed the
17 crime.

18 MR. HAZZARD: Well, the thing is, they have been
19 referring to that incident report for the last three days.
20 That is in that incident report.

21 THE COURT: I think it's been referring to the
22 incident report as to what he's been doing. He -- I believe
23 that he answered your question. The gentleman did he know
24 about it. If you want to ask anymore about that, then call
25 the witness who wrote that part of the report. All right,

BERT POWELL - CROSS BY MR. HAZZARD

1 sir?

2 MR. HAZZARD: Okay. Not a problem. Yes, sir.

3 (WHEREUPON, the bench conference ended.)

4 THE COURT: All right. I'm going to sustain the
5 objection. Please proceed, Counsel.

6 BY MR. HAZZARD:

7 Q. Did you ever at some point, you personally,
8 interview, Luis Flores?

9 A. I think me and Investigator Anderson did talk with
10 him, Luis Flores.

11 Q. Okay. And Mr. Flores basically verified what had
12 been said previously that -- what I just asked you about,
13 that was told to Kyle Walton, right?

14 A. Yeah. Mr. Flores told us that that's -- that he
15 bought drugs from him.

16 Q. Okay. Now, let's back up to March 8th. Now, am I
17 correct that based on your investigation -- and when I say
18 your, I mean the investigative team -- that certain Harrison
19 family members were seen searching near the Black River on
20 the 8th?

21 A. I think we had heard something about that, but I
22 can't confirm if they were or not.

23 Q. Okay. All right. Are you familiar with that
24 particular area off of Highway 51 on the Black River?

25 A. Which part? It runs --

BERT POWELL - CROSS BY MR. HAZZARD

1 Q. The river -- I'm sorry. Go ahead.

2 A. It runs like -- I mean, it goes a long ways down
3 51.

4 Q. The part where -- well, Colonel Cole Drive and
5 then up to the Riverview Club.

6 A. Okay. Yes, I'm familiar with that stretch of road
7 and river.

8 Q. Okay. Now, is the Riverview Club upstream from
9 where Mr. Harrison Jr.'s body was recovered or downstream?

10 A. It depends on the tide.

11 Q. So it can run either way? It can run away from
12 the ocean?

13 A. Correct. All up to the tides, it can go up and
14 down. Sometimes it's flowing on way, sometimes when the
15 tide goes out, it flows to the ocean. When the tides come
16 in, it flows up the river.

17 Q. But can we agree that the Black River eventually
18 runs to the Atlantic Ocean?

19 A. It does.

20 Q. Okay. Atlantic Ocean doesn't run all the way from
21 the Black River --

22 A. So Colonel Cole would be -- if you had to put a
23 direction on it -- would be east, closer to the ocean than
24 the River (sic) Club.

25 Q. So, eventually, any water that in the Black River

BERT POWELL - CROSS BY MR. HAZZARD

1 that is at the Riverview Club is eventually going to flow
2 past Colonel Cole Drive?

3 A. Correct. At some point, yes.

4 Q. Okay. Thank you, sir. And I believe -- I don't
5 know -- and if I ask you about -- because this report is
6 73-pages long, right?

7 A. Correct.

8 Q. All right. There are parts of it that you did,
9 parts of it that Investigator Morris may have entered, and
10 apparently parts that Kyle Walton entered.

11 If I ask you about a part that has nothing to do
12 with you, please tell me.

13 A. Okay.

14 Q. I apologize.

15 But then on March 9th, Harrison -- Mr. Harrison
16 Sr. and Brittani Green separately come in to report
17 Mr. Harrison Jr. missing; is that correct?

18 A. Correct.

19 Q. Okay. And, obviously, as we've already seen,
20 there were multiple times when the police spoke with, you
21 know, Alex Sr. over here -- Alexander Rhue Sr.?

22 A. Yes, sir.

23 Q. Okay. And on March 30th he was charged with
24 obstruction of justice; is that correct?

25 A. Correct.

BERT POWELL - CROSS BY MR. HAZZARD

1 Q. Okay. And then on March 31st he was charged with
2 accessory after the fact to an A, B, or C felony; is that
3 correct?

4 A. Correct.

5 Q. And then on May 10th he was charged with murder,
6 criminal conspiracy, and these other things?

7 A. Correct.

8 Q. Okay. Now, as part of your investigation, you
9 obviously had the opportunity to search, I think, it's [REDACTED]
10 Highmarket Street?

11 A. Yes, sir.

12 Q. Okay. And you indicated, I believe, when the
13 Solicitor was showing you pictures, that there was a room
14 that you perceived to be Alexander Sr.'s room or at least
15 the room he would use when he would stay there?

16 A. Correct.

17 Q. And did you have the opportunity to search
18 everything in that room?

19 A. If I'm not mistaken, like, I said, this was over
20 four years ago.

21 Q. Yes, sir.

22 A. We searched every room in the house through the
23 dresser drawers, under beds, mattresses, you know, closets,
24 whatever.

25 Q. All right. And so you had the opportunity to

BERT POWELL - CROSS BY MR. HAZZARD

1 search any and all clothing that was in that room?

2 A. Yes, sir, to my knowledge.

3 Q. Okay. And any and all bedding in the room?

4 A. Correct.

5 Q. And any and all suitcases, backpacks, anything of
6 that nature?

7 A. Yes, sir.

8 Q. Was there anything in that room that you did not
9 have access to, to your knowledge?

10 A. I don't think it -- I don't think there was. But,
11 like I say, that was four years ago.

12 Q. Yes, sir. And when Mr. Rhue Sr. was arrested,
13 y'all even went out and searched the clothes and the shoes
14 at the detention center; isn't that correct?

15 A. Correct.

16 Q. Okay. And then, as part of your investigation on
17 April 25th, y'all went out to the school, the different
18 schools where the five children attended and had someone
19 interview the children in your presence; is that correct?

20 A. Someone did, I didn't. I didn't go to any of the
21 schools when any of that took place. I think that was our
22 victim's advocate at the time.

23 Q. Yes, sir. Yes, sir. I understand that
24 completely. You have a female, I believe her name is Shonda
25 (ph)?

BERT POWELL - CROSS BY MR. HAZZARD

1 A. Shonda, yeah.

2 Q. And she talked with the kids?

3 A. Correct.

4 Q. Okay. And at some part during the investigation
5 law enforcement searched every car related to Alexander Rhue
6 Sr., correct?

7 A. Yes. I think the search warrant where we did that
8 had anything that was on the property, outbuildings,
9 vehicles, all that.

10 Q. Okay. And so you had that opportunity?

11 A. Correct.

12 Q. And y'all took advantage of the opportunity, you
13 actually searched?

14 A. Correct.

15 Q. Okay. And then you had mentioned, I believe, how
16 Mr. Harrison Jr.'s hands and feet were bound, correct?

17 A. Correct.

18 Q. And it was bound with some type of speaker wire?

19 A. Correct.

20 Q. So you searched 10 -- is it [REDACTED] Highmarket
21 Street?

22 A. Yes.

23 Q. Okay. So you searched that residence
24 specifically, or part of the reason, was specifically
25 looking for speaker wire that would match that, correct?

BERT POWELL - CROSS BY MR. HAZZARD

1 A. Correct.

2 Q. And you didn't find any, did you?

3 A. No, sir.

4 Q. Okay.

5 MR. HAZZARD: Court's indulgence, Your Honor.

6 THE COURT: Yes, sir.

7 BY MR. HAZZARD:

8 Q. How long have you been a police officer in the
9 Georgetown area, for whichever department and in whatever
10 capacity?

11 A. I worked with the Sheriff's Office -- total I've
12 been with the Sheriff's Office for approximately five years
13 total, two times. And I worked with the Georgetown Police
14 Department about three-and-a-half years.

15 Q. So we're talking about almost nine years overall?

16 A. Correct.

17 Q. From today?

18 A. Correct.

19 Q. So then you would have started probably sometime
20 in 2012 or 2013?

21 A. I started at the Sheriff's Office, the first time,
22 2008.

23 Q. Oh, okay. To your recollection, did Georgetown
24 have license plate readers in February of 2017?

25 A. I don't think we did.

BERT POWELL - CROSS BY MR. VOIGT

1 Q. Okay. But you're not completely sure?

2 A. I'm not completely sure. I know at one time, they
3 did, but I think I was with the Sheriff's Office, that's the
4 first time. I think I was with the city at this time, I
5 want to say they were inoperable or they were not operating,
6 I don't know.

7 Q. Would you have any idea of when they were operable
8 and when they were not?

9 A. Not really.

10 Q. All right. Thank you. I don't have any further
11 questions.

12 THE COURT: All right. Mr. Voigt?

13 MR. VOIGT: May it please the Court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. VOIGT:

17 Q. Sergeant, hello.

18 A. Hello, sir.

19 Q. I'm going to move this a little closer so I don't
20 have to shout quite as much.

21 Since that's where Mr. Hazzard left it, why don't
22 we start with your experience a bit.

23 South Carolina Criminal Justice Academy. How long
24 do you spend training there?

25 A. I had to go twice. I went one time -- the first

BERT POWELL - CROSS BY MR. VOIGT

1 time I went 2006 for nine weeks.

2 Q. Nine weeks?

3 A. Correct.

4 Q. Okay. And then the second time you went?

5 A. The second time I went was 12 weeks.

6 Q. Twelve weeks, okay.

7 And you have been a narcotics -- a K9 dog, a
8 narcotics officer, I think you've been a bloodhound officer?

9 A. Bloodhound handler, yes, sir.

10 Q. That's right. And dog handling's a completely
11 different kind of skill in a police sense than working with
12 people, right?

13 A. Absolutely.

14 Q. Okay. You've taken an interview class; is that
15 right?

16 A. Yes, sir.

17 Q. To which you testified.

18 A. I did, yeah.

19 Q. And you've had investigator training?

20 A. Correct.

21 Q. Okay. And you became an investigator on March 6,
22 2017?

23 A. Whatever that Monday was. Whatever date that
24 Monday was.

25 Q. I wrote down March 6th, because I think that's

BERT POWELL - CROSS BY MR. VOIGT

1 what you said on direct. .

2 A. I think so, sir. The Thursday -- I think we took
3 the initial report from Mr. Leon on Thursday at night. So
4 whatever that Monday was, I think it may have been the 6th.

5 Q. Okay. So you had been an investigator for the
6 Georgetown Police Department three days when Mr. Leon came
7 in?

8 A. Correct.

9 Q. Okay. At any other time in your law enforcement
10 experience with the Sheriff's Office and then with the City,
11 had you been an investigator before?

12 A. Other than a narcotics investigator, no.

13 Q. That's right. Okay.

14 And being a -- I don't what Georgetown calls it,
15 but being a persons investigator or CID, that's again a
16 different skill set than a narcotics investigator, right?

17 A. Correct.

18 Q. Okay. And what kind of a crime is missing
19 persons?

20 A. It's not.

21 Q. So, when this began, this was not a criminal
22 investigation?

23 A. Not when it began, no.

24 Q. Okay. And what sort of powers do you have when
25 you're investigating things that aren't crimes? Is it

BERT POWELL - CROSS BY MR. VOIGT

1 different than when you're investigating crimes?

2 A. No, we're just looking for information.

3 Q. Okay. And when you look for information, you can
4 talk to people and interview them; is that right?

5 A. Yes, sir.

6 Q. And can you go into their houses and look at their
7 stuff?

8 A. If they let you or if you have a search warrant.

9 Q. Okay. If they let you, that's one thing that you
10 said, right. And if you have a search warrant, right?

11 MS. RICHARDSON: Your Honor, I object.

12 THE COURT: All right. Approach.

13 (WHEREUPON, a bench conference was had.)

14 THE COURT: I've overruled the objection. Please
15 proceed, sir.

16 BY MR. VOIGT:

17 Q. So you just said that to get into somebody -- you
18 don't have free right to go into people's houses, right?

19 A. No, you can't just walk in. You have to have
20 consent or a search warrant.

21 Q. Okay. And you've been trained that way, right?

22 A. Correct.

23 Q. You were trained that way -- you had to have had
24 that twice at the Academy, right? And your investigator
25 training, I'm sure, covered some of that, right?

BERT POWELL - CROSS BY MR. VOIGT

1 A. Well, I didn't actually go to investigator
2 training until after a lot of this had taken place.

3 Q. So you were learning on the job, then?

4 A. Absolutely.

5 Q. Okay. And -- but at some point, you had had some
6 sort of training in how to write an affidavit in -- to
7 support a search warrant and that sort of thing, right?

8 A. Yes.

9 Q. And one of the things you have to put in a search
10 warrant, right is probable cause that a crime's been
11 committed, right?

12 A. Correct.

13 MS. RICHARDSON: Your Honor, objection again,
14 because that's not the only thing.

15 THE COURT: Come on up.

16 (WHEREUPON, a bench conference was had.)

17 BY MR. VOIGT:

18 Q. And so Officer --

19 THE COURT: Whoa, whoa, whoa.

20 MR. VOIGT: I'm sorry, Judge.

21 THE COURT: That's all right.

22 I'm going to sustain the objection. Go ahead.

23 BY MR. VOIGT:

24 Q. And so, Officer, so that we're clear, the very
25 first time you went to [REDACTED] Highmarket Street with a search

BERT POWELL - CROSS BY MR. VOIGT

1 warrant, you were not aware that a crime had been committed,
2 right?

3 A. No.

4 Q. Okay. And --

5 A. I also didn't get that search warrant.

6 Q. No, I understand. But you were present, though,
7 when it was executed, right?

8 A. Correct.

9 Q. We saw a picture of you?

10 A. Correct.

11 Q. You always try get into the pictures while you're
12 doing search warrants?

13 A. No. I try not to. It was inevitable, I think.

14 Q. Do this for me, if you would, I have a habit of
15 talking over people. And if you could wait for me to end,
16 I'll try to wait for you to end, because I think that last
17 one, we just were doing this to each other. I don't want to
18 do that.

19 A. Okay.

20 Q. So, what was the very first time you entered [REDACTED]
21 Highmarket?

22 A. It would have been on the night or the evening we
23 did the first search warrant.

24 Q. Okay. And at that point you had no idea that a
25 crime had been committed, right? Just so that we're clear?

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1 A. Correct.

2 Q. And you were looking, as I understood your
3 testimony on direct, you were looking for evidence that Leon
4 Harrison Jr. lived there, right?

5 A. We were looking for proof of residency.

6 Q. Proof of residency.

7 Now, you already had his records from the DMV,
8 right?

9 A. I think we did have a printout of it, yes.

10 Q. Because we -- you saw one earlier and it's
11 somewhere on this table, right?

12 A. Correct.

13 Q. Okay. So you came with that information.

14 A. Uh-huh.

15 Q. Okay. And proof of residency, what kinds of
16 things -- you were one of the people looking, right?

17 A. Correct.

18 Q. What are you looking for? What kind of thing are
19 you looking for?

20 A. I was looking for mail with addresses on it. Any
21 kind of -- like, we found some medication there that had his
22 name on it. We had -- we found some tickets from Maryland
23 that had his address there on it. That kind of thing.
24 Stuff that would show that he received there, he gets mail
25 there, therefore he would be a resident of that address.

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1 THE COURT: All right. I'm going to stop for a
2 minute. I'm going to send the jury back to the jury room,
3 we need to take up something outside of your presence, okay?

4 (WHEREUPON, the jury exited the courtroom at 4:02
5 p.m.)

6 THE COURT: All right. We'll be at ease for
7 five minutes.

8 (WHEREUPON, there was a break held from 4:02 p.m.
9 until 4:09 p.m.)

10 THE BAILIFF: All rise.

11 THE COURT: All right. You can be seated. Thank
12 you.

13 All right. Anything before we bring the jury back
14 in from the State?

15 MS. RICHARDSON: Your Honor, I object to any line
16 of questioning that goes to the pretrial rulings from Your
17 Honor. I mean, I think we're getting dangerously close to
18 the point of, I think the Judge said you were wrong, and
19 asking him to draw legal conclusions that all of us argued
20 about and briefed ad nauseam.

21 I just think that's an improper line of
22 questioning and it's improper and he's going to try to get
23 into the Court's rulings that is completely improper.

24 THE COURT: All right. Mr. Voigt?

25 MR. VOIGT: I haven't done any of those things,

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1 Judge. I'm allowed to explore what the Officer did through
2 my cross-examination just like the State did through its
3 direct examination.

4 I get to go into his training, his understanding
5 of the law, and what his duties are. I have not asked a
6 question that has put the Court's ruling in jeopardy. And I
7 think, as Mr. Edgeworth said, it's fair game at trial. I
8 mean, you could potentially change your mind. I doubt you
9 will, but you could.

10 MS. RICHARDSON: And can I respond to that?

11 THE COURT: Absolutely.

12 MS. RICHARDSON: And, Your Honor, now he knows. I
13 mean, that was one of the issues, is now he knows the
14 results of the Court's ruling as far as on the search
15 warrant. So I think that that's sort of improper to go into
16 the rulings that the Court -- I mean, basically, it's
17 education that maybe he got from the Court.

18 And also, he didn't issue the first -- or he
19 didn't do the affidavit for the search warrant.

20 THE COURT: All right.

21 MS. RICHARDSON: And I just think he's asking you
22 to draw a legal conclusions about, Do you have probable
23 cause? What is the legal standard for a search warrant?
24 That is a little more intricate than --

25 THE COURT: He's not going to do that. He knows

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1 he can't do that.

2 Let me -- did you have something to say? And I'm
3 happy to hear from you.

4 MR. EDGEWORTH: Your Honor, all I was going to add
5 in contribution to our argument here, or my argument,
6 because I would be asking similar questions, is that, of
7 course, Your Honor's ruling, and not that anything would
8 change, was on the basis of basically a summary proceeding.

9 We didn't have an adversarial proceeding where
10 that could be -- this information would have been gleaned
11 for the purposes of that -- of your determination. And, of
12 course, the whole reason why we have to continuously object
13 is because it's not a final ruling. So I -- barring asking
14 the witness to make a legal conclusion, I think it's
15 certainly appropriate to ask questions fact-based so the
16 Court can hear them.

17 MR. VOIGT: And my last question, Judge ---

18 THE COURT: Hold on. Hold on. I want to get
19 Mr. Hazzard in on this. I know he's ready to go.

20 MR. HAZZARD: Yes, sir. All I would say is, to
21 respond very briefly to the Solicitor's last statement, is
22 that the State has had the opportunity to put in copious
23 pictures from the first and the second search warrant,
24 but -- and they did them through this witness.

25 So to say, Well, you know, he wasn't involved in

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1 drawing up the affidavit, this, that and the third, I would
2 think that that is kind of unfair to the defense in that
3 regard.

4 MS. RICHARDSON: But, Your Honor, what is the
5 relevancy of your ruling that the search warrant is invalid?
6 The pictures are coming in because of the last search
7 warrant that he did do.

8 THE COURT: All right. We're not getting into the
9 search warrant. We're not going to ask him questions about
10 why did he move a tote when he was only there to look for
11 papers. We're not going ask questions that are going to get
12 into the search warrant and the exclusion. You asked for it
13 to be excluded, it's excluded. The pictures all came in
14 through the third warrant, which was inevitable. There was
15 no changes.

16 Now, if you want to ask him a question that when
17 he went to the house the first time, did it look the same as
18 it did the third -- you know, maybe so. But getting into
19 the search warrant, getting into exceeding the scope of the
20 search warrant, getting into what a judge may have ruled
21 about it, I'm not going to allow any of that.

22 MR. VOIGT: If I might be heard briefly on that,
23 Your Honor.

24 THE COURT: Absolutely.

25 MR. VOIGT: And I'd like you to consider one part

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1 of what you just said, because I believe it is -- first of
2 all, I'm not going to ask him anything about a prior
3 proceeding or a prior ruling and I haven't.

4 But I do want to ask him why he believed he needed
5 to move a tote or a blanket. I think they've already asked
6 him that and I get to ask him that on cross-examination.
7 And if I want to tell this jury at the end of the day what I
8 think that means I think I get to do that. But I think I
9 get to ask him a question about why he thought papers were
10 being hidden under a carpet.

11 And to restrict me from asking that question,
12 while allowing the State to explore that same thing that
13 gets to a central piece of evidence in this case, inhibits
14 my ability to defend my client.

15 THE COURT: I disagree.

16 MR. VOIGT: Okay. Well --

17 THE COURT: I disagree, sir. You can ask him why
18 he moved the tote.

19 MR. VOIGT: You just said I couldn't.

20 THE COURT: No, no, no. You can ask him why he
21 moved it, but you can't go and ask him, Hey, you were only
22 there to move it to look for -- when he moved it, I got the
23 first two out, the third comes in. He was looking for
24 blood, looking for all sorts of stuff, on the third warrant.

25 The third warrant, he was able to move, correct?

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1 Yes, he --

2 MR. VOIGT: I'm asking very specific questions
3 about the very first time he enters the house. I believe I
4 can ask him about what he does when he enters the house.

5 THE COURT: You can't -- I'm not going to allow
6 you, sir, to ask him questions about the first search
7 warrant and looking for papers and then ask why he moved the
8 tote. I'm not going to allow you to do that. I think
9 that's improper.

10 You can go and you can ask questions about him
11 moving the tote, but not in the context, sir, of the search
12 warrant and being improper. I'm not going to allow you to
13 argue that he did something improper as it relates to moving
14 the tote on the first -- on the first visit, because that's
15 just going to -- I don't think that's an accurate reflection
16 of where we are.

17 You can ask him about his investigation. You can
18 ask him anything you want. But getting into those things,
19 I'm just not -- I think the Solicitor's correct, I'm not
20 going to allow that.

21 MR. VOIGT: We have made the record, so I've noted
22 my exception and then...

23 THE COURT: That's fine.

24 Does anybody else -- y'all going to join in?
25 That's -- I mean, whatever y'all want to do.

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1 MR. HAZZARD: I do join in on the objection for
2 this specific reason -- and maybe I'm misunderstanding the
3 Court's ruling. What I think you said was that Mr. Voigt
4 cannot ask him, basically, anything about the first search
5 warrant which was -- but he can ask him about moving the
6 tote, which I believe was part of the first search warrant.

7 So I'm -- and the Court, basically, agreed with
8 Mr. Voigt with regard to the first and second search
9 warrants, because he said they were improper.

10 THE COURT: All right. What I'm -- okay.

11 MR. HAZZARD: I'm confused, is my position.

12 THE COURT: Well, I mean --

13 MR. HAZZARD: But I join in his objection.

14 MS. RICHARDSON: Can I address?

15 THE COURT: Yeah.

16 MS. RICHARDSON: This is the State's issue: The
17 State's issue is I don't think you can have pretrial
18 hearings and come in and just pretty much say, Ha ha, the
19 Judge ruled against you. I mean, that's kind of what we --
20 you did a bad job, because the Judge ruled against you.

21 And I think that's kind of what we're getting
22 into. Even if he doesn't ask it specifically that way, he's
23 drawing that conclusion and we're never going to be able to
24 argue how it later came in.

25 It would be just like saying, Hey, how come that

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1 confession got kicked, didn't it? Or half of that statement
2 got kicked?

3 Those matters are outside of the jury's presence
4 for a reason. And some of these legal issues are close
5 calls and are difficult for us to argue or make decisions
6 on. But to try to make an Officer look bad or to impeach
7 his credibility because search warrants were suppressed,
8 which, even if he doesn't say those words, that's what he's
9 insinuating to the jury.

10 THE COURT: Go ahead.

11 MR. VOIGT: That's not close to what the question
12 was, what the answer sought to be elicited was. It's not
13 close. It's the State's subjective understanding of their
14 fear that, God forbid, the jury should learn a little bit
15 about the truth of this case. I did not ask a question
16 close to that.

17 THE COURT: But the answer was on -- was spot on.

18 MR. VOIGT: What do you mean the answer was spot
19 on?

20 THE COURT: What you want to -- what you want to
21 elicit is exactly what she's talking about. You may have
22 not asked the question. We all know why you want to -- why
23 you want to go where you're going.

24 And so to that extent ---

25 MR. VOIGT: And I will put this point out there

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1 just for consideration.

2 THE COURT: Yes, sir.

3 MR. VOIGT: The jury still gets to make its own
4 independent determination of the voluntariness of all these
5 statements. I think that hiding too much from the jury to
6 protect the State's precious theory of the case does not due
7 justice in this matter.

8 I have heard the Court's ruling and I'm going to
9 obey it and I've made the exception. So I'm not arguing
10 past that.

11 THE COURT: Hold on. Yes, sir.

12 MR. EDGEWORTH: Yes, Your Honor. For the record,
13 I just want to make sure that I am joining in on the same
14 objection.

15 THE COURT: Sure.

16 MR. EDGEWORTH: And then also make a clarification
17 because, likewise, I was little confused to the Court's
18 instruction. Are we allowed to ask questions, fact-based
19 questions related to which was the execution of the search
20 warrant? Such as, can I say, You know, why did you move the
21 box without referencing, Well, you weren't supposed to do
22 that?

23 THE COURT: Yeah. You can do that.

24 MR. EDGEWORTH: Okay.

25 THE COURT: What you can't do is bring up the

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1 search warrant at this point. You're not going to be -- I
2 mean, I'm not going to allow you to argue or to suggest that
3 this Officer did something wrong by moving a tote when he
4 only had a search warrant to look for papers. That's what
5 I'm not going to allow.

6 So if you want to -- you want to ask about moving
7 the tote, that's fine, but we're not -- first or second
8 search warrant, I'm not going allow that.

9 MR. EDGEWORTH: Okay.

10 THE COURT: All right. Does everybody understand?

11 MR. HAZZARD: Yes, sir.

12 MR. EDGEWORTH: Yes, Your Honor.

13 MR. VOIGT: I've noted my exception.

14 THE COURT: Yes, sir.

15 MR. VOIGT: I think I understand and you'll
16 correct me if I don't. I think I understand exactly what
17 the limits on my questions are.

18 THE COURT: Anything else?

19 MS. RICHARDSON: And just to clarify the record,
20 because I think I'm the one that caused this confusion at
21 the hearing. The evidence has been that, at the first
22 search warrant for documents, it was a rug and a blanket
23 that was moved. And then when they got the second search
24 warrant, which Your Honor ruled was based on the first
25 search warrant, that's when the tote was moved.

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1 THE COURT: All right.

2 MS. RICHARDSON: That was my mistake and I didn't
3 want any arguments or --

4 THE COURT: That's all right. Either way, no
5 one's going to ask questions about search warrant A only
6 limiting this and then why did you move something else,
7 that's what I'm not allowing. All right?

8 MR. VOIGT: And I think I've already asked all the
9 other questions I would have already done.

10 THE COURT: Okay. All right. Anything before we
11 bring the jury back in from the State?

12 MS. RICHARDSON: Not from the State, Your Honor.

13 THE COURT: From the defense?

14 MR. HAZZARD: No, sir.

15 MR. EDGEWORTH: No, Your Honor.

16 THE COURT: All right. Great. Let's get the jury
17 back in.

18 (WHEREUPON, the jury entered the courtroom at 4:27
19 p.m.)

20 THE COURT: All right. Thank you, ladies and
21 gentlemen. Mr. Voigt, please continue.

22 MR. VOIGT: Thank you, Your Honor.

23 BY MR. VOIGT:

24 Q. So Sergeant, when did this investigation -- on
25 what date, if you can recall, did this investigation go from

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1 being a non-criminal investigatory matter, which is a
2 missing persons, to a criminal matter?

3 A. I don't want to be incorrect here, but I would say
4 probably around the -- around the time where Mr. Leon was --
5 body was found in the river.

6 Q. Okay.

7 A. You know, I'll say that's a good -- that would
8 probably be a good date.

9 Q. And at various points in the statements that we've
10 heard, we've heard about the Georgetown Police Department's
11 commitment to this missing person's case.

12 Is it safe to say that this was the biggest case
13 in the City of Georgetown from the time the missing person's
14 case was initiated on the 9th until Mr. Harrison's body was
15 found?

16 A. Was it the biggest?

17 Q. Yeah. Was it the biggest?

18 A. I don't know if it was the biggest, but we did put
19 in a lot of man hours on it.

20 Q. And you had more than just you and Investigator
21 Morris working on this, right?

22 A. Correct.

23 Q. I mean, how large is the Georgetown Police
24 Department?

25 A. Well, the investigations department was me,

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1 Investigator Morris, Investigators Ken Anderson and
2 Lieutenant Kyle Walton.

3 Q. And so all -- that entire department, at least for
4 part of their time, was devoted to this missing person's
5 case. Is that safe to say?

6 A. Yes, that is safe to say.

7 Q. And I saw you -- and just so the jury knows, when
8 you're looking down, you're looking at your police report,
9 which I think we have established is 73-pages long?

10 A. Yes, sir.

11 Q. And kind of hard to get through.

12 And I think the reason why you're using it is
13 because with the passage of time you want to be accurate as
14 to times and dates and that sort of thing. Is that safe to
15 say?

16 A. Yes, as accurate as I can. Yes, sir.

17 Q. Okay. And that document, which has more than --
18 more entries than just yours, has entries from other
19 officers, it helps you refresh your recollection, right?

20 A. Yes, sir.

21 Q. And that's why you're able to refer to it?

22 A. Yeah. Not completely, but...

23 Q. And what you testify to, though, what you're going
24 to tell the jury, is from your memory, it's not just what
25 was written on that paper, right?

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1 A. There are some things that are in here, yes.

2 Q. No. What I'm saying, though, is if that refreshes
3 your recollection, then you have it in your head -- what
4 you're going to tell this jury is what you remember, right?

5 A. Yeah, what I can remember. Summarize it to the
6 best of my knowledge, yes.

7 Q. Okay. Now, I think when you were talking to
8 Mr. Hazzard and when you were talking to the State, we
9 established that you did multiple search warrants on
10 Highmarket Street. Is that safe to say?

11 A. Yes, sir.

12 Q. And you did search warrants of a couple of
13 vehicles associated with the Rhues. Is that safe to say?

14 A. Correct.

15 Q. Okay. Did you participate in the vehicle search
16 warrants?

17 A. Yes.

18 Q. Okay. And did you do -- did you participate,
19 personally, in the execution of any search warrants on any
20 other physical location?

21 A. I don't know if I did or not. I don't remember.

22 Q. Okay.

23 A. I don't remember going anywhere other than there.

24 Q. Okay. So we've heard some talk about a

25 Ms. Brittani Green. Does that...

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1 A. Yes.

2 Q. You didn't execute a search warrant on any
3 location -- you personally didn't participate in a, either
4 the preparation or the execution of a search warrant, having
5 anything to do with her. Is that safe to say?

6 A. I don't remember if I did or not.

7 Q. Okay. And you've got your report there. I'm not
8 even going to ask you to flip through it, but if you don't
9 remember it, you don't remember it, right?

10 A. Yeah, I don't remember it.

11 Q. Rosario Grate, we've heard a little bit about her.
12 Did you participate in either the drafting or the
13 execution of a warrant having anything to do with the
14 physical location associated with her?

15 A. Not that I remember.

16 Q. We've heard from Leon Harrison Sr. and we've heard
17 about an address on Front Street.

18 Did you execute a search warrant there,
19 participate in the execution or the drafting of the search
20 warrant for that location?

21 A. Not that I remember.

22 Q. So were there any other car search that you
23 recall, that you participated in?

24 A. No, sir. Not that I remember.

25 Q. So the only searches that you recall participating

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1 in, in any capacity, would have been associated with the
2 Rhues?

3 A. Correct.

4 Q. Okay. Maybe you mentioned it, maybe you didn't, I
5 can't remember. Did -- did you mention what color the
6 speaker wire was?

7 A. I don't think I did.

8 Q. Do you recall what color the speaker wire was?

9 A. I want to say maybe it was tan in color or
10 brown -- like standard speaker wire, I guess.

11 Q. Okay. Did you ever, to the best of your
12 knowledge, and this is just based on what you did now, did
13 you ever find any -- did you ever find any speaker wire
14 consistent with the wire that was found on Leon Harrison
15 Jr.'s body?

16 A. They sell it at Walmart or Radio Shack. We went
17 there to see if we could find some similar to it, yes.

18 Q. Did you? Did you find some similar to it?

19 A. I wouldn't say it was exact, but we found some
20 hanging on the shelf that was, you know, similar to it.

21 Q. Okay. Did you ever send it -- wait a second, let
22 me back you up here.

23 A. Okay.

24 Q. Did you go to Radio Shack?

25 A. I think we did. I think we may have.

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1 Q. 2017 you went to Radio Shack. Yeah?

2 A. It wasn't Radio Shack. It was named something
3 else now.

4 Q. You'd be hard pressed to go to a Radio Shack,
5 right?

6 A. Yeah. I forgot they changed names.

7 Q. Changed names would be gentle to what happened to
8 Radio Shack.

9 MS. RICHARDSON: Your Honor, I object to that
10 commentary.

11 THE COURT: And I sustain that objection.

12 MR. VOIGT: Thank you, Your Honor.

13 MS. RICHARDSON: And I'd strike it from the
14 record, because that's actually ---

15 THE COURT: That's -- that's -- go ahead.

16 MS. RICHARDSON: I would like to strike the
17 reference that Radio was out of business from the record,
18 because that's not something that's been established.

19 THE COURT: I agree. Disregard. We don't know
20 when Radio Shack went out of business. Thank you.

21 Proceed.

22 MR. VOIGT: Did I say that?

23 THE COURT: Proceed.

24 MR. VOIGT: Thank you, Judge.

25

BERT POWELL - CROSS BY MR. VOIGT

1 BY MR. VOIGT:

2 Q. Did you ever find any speaker wire at any location
3 that you can recall that you sent to be compared to the
4 speaker wire that was used to bind Leon Harrison Jr.'s body?

5 A. Not to my -- not to my -- I can't remember doing
6 that.

7 Q. Okay. And you were involved in this case -- how
8 long did you stay with Georgetown Police Department?

9 A. I was there three-and-a-half years.

10 Q. When did you leave?

11 A. April 2018.

12 Q. Okay. So is it safe to say that you were with the
13 Georgetown Police Department during all the material aspects
14 of this investigation?

15 A. The first, yeah -- the first part, yeah. I only
16 stayed in the CID Division for like six months, then I went
17 back to patrol.

18 Q. So you went back to patrol?

19 A. Correct.

20 Q. Okay. So you were back on the street, which is,
21 again, a different skill set than --

22 A. Completely.

23 Q. And did you participate in any other aspects of
24 this investigation that neither the State nor Mr. Hazzard
25 have asked you questions about; if you recall?

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1 A. I don't know what you would be referring to.

2 Q. Well, we've testified -- you've testified that you
3 talked on numerous times to Alexander Rhue Sr.; is that
4 true?

5 A. Yes.

6 Q. I try to put this in the form of a question so
7 that you can tell me yes or no.

8 And you've participated in multiple interactions
9 with Ms. Tiesh Rhue; is that correct?

10 A. Correct.

11 Q. And you executed search warrants. We've already
12 talked about that; is that correct?

13 A. Correct.

14 Q. And I think you said that you testified, rather,
15 you talked to Mr. Harrison Jr.'s boss --

16 A. Correct.

17 Q. -- when he was constructing the bridge, is that
18 right?

19 A. Correct.

20 Q. And did you talk to the folks at Sunbelt Rentals?

21 A. Yes, we did, about the guy Mr. Hazzard mentioned,
22 Flores.

23 Q. And you participated in the interview with
24 Mr. Flores; is that right?

25 A. Yeah. Correct.

BERT POWELL - CROSS BY MR. VOIGT

1 Q. And Mr. Flores' connection to Mr. Harrison was
2 what?

3 A. It was his drug dealer.

4 Q. Okay. And you actually participated in an
5 interview with somebody else, right, concerning that?

6 A. I think that was Flores' roommate, maybe, or
7 coworker.

8 Q. Was his name Ricardo Cabral?

9 A. May have been.

10 Q. Okay. And did you utilize the skills you learned
11 as a narcotics investigator in those interviews?

12 A. I would just ask him how did he know the missing,
13 you know...

14 Q. So at that point in the -- do you recall when you
15 did those two interviews? And if you need to look, please
16 feel free.

17 A. This would say, myself, along with Investigator
18 Anderson, interviewed Mr. Flores on March the 17th.

19 Q. Okay. And the other individual, when did you
20 interview him?

21 A. It says that Ricardo, however you say his last
22 name, he was -- he was also interviewed that day.

23 Q. Okay. And that was you and Investigator Anderson?

24 A. Yes, sir.

25 Q. Okay. And during the course of your

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1 investigation, were you able to determine or confirm where
2 those two individuals were from, say, February 25th to the
3 time that you interviewed?

4 A. So, according to Mr. Flores, he last spoke to
5 Mr. Harrison on --

6 MS. RICHARDSON: Your Honor, I object. We're
7 getting into hearsay and my previous objection.

8 THE COURT: All right. I'm going to -- I'll
9 sustain on hearsay.

10 BY MR. VOIGT:

11 Q. Officer, listen if you can. I'm trying not to
12 elicit what somebody else may have said to you. After you
13 met with those individuals --

14 A. Correct.

15 Q. -- did you do anything as an investigating officer
16 to determine where there whereabouts may have been from
17 February 25th to the time you interviewed them?

18 In other words, what you did, not what you heard.

19 A. We asked them where they were at.

20 Q. Excuse me?

21 A. We asked them where they were at.

22 Q. Okay. And then, presumably, you got some sort of
23 answer.

24 A. Correct.

25 Q. Did you go and confirm with other people --

BERT POWELL - CROSS BY MR. VOIGT

1 A. Yes.

2 Q. -- or do any sort of other investigation?

3 A. We did.

4 Q. Okay. And were those people, to the best of your
5 knowledge, could you confirm whether they were or were not
6 in Georgetown?

7 A. According to what we were able to find out they
8 were in Georgetown on that night.

9 Q. Did there come a time that they subsequently left
10 to the best that you could determine through your own
11 investigation?

12 A. Correct.

13 Q. Okay. Did you ever have to travel out of state to
14 confirm any of that?

15 A. I did not.

16 Q. Did you or anybody that you were aware of in the
17 course of this investigation have to communicate with
18 persons out of state for such confirmation?

19 A. Yes. With Mr. Flores, yes.

20 Q. Okay. Now, in your investigation, did you ever
21 seek any information about where Leon Harrison Jr. obtained
22 the drugs that he sold to Mr. Cabral and Mr. Flores?

23 MS. RICHARDSON: Your Honor, I object to this.

24 THE COURT: All right. Counsel, approach.

25 (WHEREUPON, a bench conference was had.)

BERT POWELL - CROSS BY MR. VOIGT

1 THE COURT: All right. I'm going to sustain the
2 objection. Let's proceed, Mr. Voigt. Thank you.

3 BY MR. VOIGT:

4 Q. Okay. So based on the information that you
5 learned from those two individuals, you did not further your
6 investigation any more in that direction, did you?

7 A. No, sir.

8 Q. Okay. And did you further your investigation with
9 any other known associates of Leon Harrison Jr., to your
10 knowledge?

11 A. I don't know that we found that he had very many
12 known associates.

13 Q. Okay. Is it safe then to say that the answer is
14 Yes, that you did not?

15 MS. RICHARDSON: Your Honor, I believe that he's
16 answered that.

17 THE COURT: Hold on. Overruled. I didn't hear
18 it. How about ask the question again?

19 MR. VOIGT: Thank you very much, Your Honor.

20 BY MR. VOIGT:

21 Q. Maybe, I'll ask it this way: Because you didn't
22 know of any other known associates of Mr. Leon Harrison Jr.,
23 is it true that you didn't investigate leads involving those
24 sorts of known -- and I don't want known associates -- a
25 known associates can be a friend, a barber, something like

BERT POWELL - CROSS BY MR. EDGEWORTH

1 that. It doesn't have to be --

2 A. I know there were some other people that we, as a
3 team, spoke with, yes.

4 Q. Okay. But nothing that developed any sort of --
5 where law enforcement resources were utilized towards that
6 person or entity?

7 A. Just followups with a couple of people.

8 Q. Okay.

9 MR. VOIGT: One moment, Your Honor.

10 THE COURT: Yes, sir.

11 MR. VOIGT: That's all I have for this witness,
12 Your Honor.

13 THE COURT: Thank you. Mr Edgeworth.

14 MR. EDGEWORTH: Thank you, Your Honor. May it
15 please the Court?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. EDGEWORTH:

19 Q. I want to point your attention back to the
20 beginning of this matter on or about March 9, 2017.

21 On that date, Leon Harrison Sr. came in to report
22 his son missing; isn't that true?

23 A. Yes, sir.

24 Q. And that's been established multiple times, right?

25 A. Correct.

BERT POWELL - CROSS BY MR. EDGEWORTH

1 Q. Okay. At that time, or on the same day, Ms. 77
2 Brittani Green, who had children with Leon Harrison Jr.,
3 came in and also reported that he had been missing?

4 A. Correct.

5 Q. On March 9, 2017?

6 A. Correct.

7 Q. Then on March 10th, Rosario Grate, the girlfriend
8 of Mr. Harrison, also reported that he was missing?

9 A. Correct.

10 Q. Now, as part of your investigation you learned
11 that the last time anyone saw Mr. Harrison was on or about
12 the night of February 25, 2017?

13 A. Correct.

14 Q. So the date of first report would have been how
15 many days?

16 A. The --

17 Q. The first time he would have been reported missing
18 would have been how many days?

19 A. The first time he was reported missing was on the
20 9th.

21 Q. Okay. Well, let's just count it out.

22 So we have the 26th of February, the 27th, the
23 28th, would not have been a leap year. So then we have the
24 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th.

25 A. So 12 days.

BERT POWELL - CROSS BY MR. EDGEWORTH

1 Q. Twelve days.

2 A. Correct.

3 Q. So in 12 days, the family who indicated that they
4 had -- they'd hear from him on a regular basis, to include
5 the dad who said that he stayed with him often, did not
6 report him for a period of 12 days -- missing for 12 days,
7 correct?

8 A. Correct.

9 Q. Ms. Green, who said that Mr. Harrison contacted
10 her children often, did not report Mr. Harrison missing for
11 a period of 12 days.

12 A. Correct.

13 Q. Ms. Grate, who purportedly had a conversation with
14 Mr. Harrison, in fact, dropped him off earlier in the day,
15 right?

16 A. Uh-huh.

17 Q. Okay. So she saw him on the 25th. And it's been
18 testified to that she was the girlfriend?

19 A. Correct.

20 Q. Okay. She didn't report him until the 10th which
21 would have been 13 days, correct?

22 A. Correct.

23 Q. Now, on March 9th when you spoke to Mr. Harrison,
24 he indicated that -- that Mr. Harrison had a sister,
25 Ms. Sandra Johnson.

BERT POWELL - CROSS BY MR. EDGEWORTH

1 A. Correct.

2 Q. And, in fact, she worked at the detention center.

3 A. Correct.

4 Q. She was a member of law enforcement?

5 A. She's a -- I think she's a booking officer, or
6 jailer -- corrections officer.

7 Q. Okay. But she's in the law enforcement community?

8 A. Correct.

9 Q. And as a part of your investigation, you reached
10 out to her, right?

11 A. Yes.

12 Q. Okay. And she mentioned to you that she hadn't
13 seen him either.

14 A. Correct.

15 Q. But she didn't report it to you.

16 A. Right.

17 Q. Okay. So his own sister didn't even report him
18 missing.

19 A. Correct.

20 MS. RICHARDSON: Your Honor, if we could clarify,
21 whose own sister?

22 MR. EDGEWORTH: Sandra Johnson. Mr. Harrison --

23 THE COURT: Hold on.

24 MR. EDGEWORTH: My apologies.

25 THE COURT: I didn't hear you, I'm sorry.

BERT POWELL - CROSS BY MR. EDGEWORTH

1 All right. I'll sustain it. Could you -- whose
2 sister, sir?

3 MR. EDGEWORTH: Excuse me.

4 BY MR. EDGEWORTH:

5 Q. Is it your understanding that Sandra Johnson is
6 Leroy (sic) Harrison Jr.'s sister?

7 A. I think it's Mr. -- I think it's Sr.'s sister.

8 Q. My apologies. Leon Harrison Sr.'s sister?

9 A. Yeah, I think that she would be Mr. Jr.'s aunt.

10 Q. A family member?

11 A. Correct.

12 Q. Okay. She did not report him missing, correct?

13 A. Correct.

14 Q. Okay. But you reached out to her?

15 A. Correct.

16 Q. Okay. So it's safe to say, then, that not only
17 his dad, but the children of his mother -- or excuse me, the
18 mother of his children, my apologies -- his girlfriend, and
19 then his aunt, and his dad, did not report him for at least
20 a period of 12 days?

21 A. That would be correct.

22 Q. Okay. So, is it fair to say, then, and I
23 apologize -- strike that.

24 On March 9, 2017 when you spoke to Ms. Rhue about
25 it and she indicated that the last time she saw him was

BERT POWELL - CROSS BY MR. EDGEWORTH

1 February 25, 2017. Would that be consistent with all of the
2 other complaints or notifications that he was missing from
3 all the other family members and relatives?

4 A. Yeah, she said she hadn't seen him since the 25th.

5 Q. And they had not reported it for over that period
6 of time?

7 A. Correct. I think that they were all like, the
8 23rd or the 24th was the last time they saw him.

9 Q. So they hadn't seen him in a longer period of
10 time?

11 A. Yeah, it was like the 23rd or 24th, around some
12 birthday party they had is when some of those people saw
13 him. And I think Ms. Rhue said the last time she saw him
14 was on the 25th.

15 Q. Now, you interviewed Ms. Rhue?

16 A. Yes, sir.

17 Q. On multiple occasions?

18 A. Correct.

19 Q. And she, in fact, told you that she had not seen
20 him since that night?

21 A. Correct.

22 Q. And you had previously talked to Ms. Grate who
23 said that she had dropped him off early in the day?

24 A. Correct.

25 Q. Okay. Now, she also told you that, after the

BERT POWELL - REDIRECT BY MS. RICHARDSON

1 argument, that he had walked off in some odd direction?

2 A. Correct.

3 Q. Unknown direction?

4 A. Correct.

5 Q. Do you have any knowledge that Mr. Harrison had
6 access to an automobile?

7 A. She said he left walking. So I don't know if he
8 did or not. I know that he had wrecked one of her vehicles
9 and that's why we were going to meet her to pick her up to
10 take her to the police department for the interviews.

11 Q. And if he didn't have a car then the way for him
12 to leave would be to walk off?

13 A. Correct. Unless somebody drove to pick him up.

14 Q. Unless someone picked him up.

15 In the course of your investigation, did you learn
16 about someone having picked him up?

17 A. On that night, no.

18 MR. EDGEWORTH: I have no further questions for
19 this witness.

20 THE COURT: All right. Any redirect?

21 MS. RICHARDSON: Just on one point.

22 REDIRECT EXAMINATION

23 BY MS. RICHARDSON:

24 Q. Was it typical at that time for multiple
25 investigators to be involved on any case of this nature?

BERT POWELL - REDIRECT BY MS. RICHARDSON

1 A. Typically, it was. I mean, usually we -- patrol
2 -- typically patrol would do the missing person reports.
3 For whatever reason, patrol was busy that day, I happened to
4 be in the office, that's why I got the case. That's why I
5 took the initial report.

6 Q. But any major investigation that the investigative
7 decision does -- division does, did y'all assist each other?

8 A. Yes, ma'am. Any major investigation, yes.
9 Typically, we will have multiple people on that.

10 Q. And early on, like within -- when you started
11 interviewing Mr. Harrison Sr., you talked to the mother of
12 the children, you talked to Ms. Grate, were there concerns
13 regarding foul play?

14 A. Yes.

15 MS. RICHARDSON: No further questions.

16 THE COURT: All right. Any redirect limited to
17 the cross? Or any re-cross limited to the redirect?

18 MR. HAZZARD: I do not have any questions
19 regarding what the Prosecutor just asked. I'm asking the
20 Court's guidance, do I get to ask a question regarding
21 something Mr. Voigt asked? Because I didn't get -- since I
22 went first I don't get that opportunity. I have one
23 question and one question only. But if the Court finds that
24 that is inappropriate, then that is fine.

25 THE COURT: I'm going to find that's

BERT POWELL - RECROSS BY MR. VOIGT

1 inappropriate.

2 MR. HAZZARD: Yes, sir.

3 THE COURT: Anything limited to her questions as
4 it relates to her redirect, Mr. Voigt?

5 MR. VOIGT: Yes.

6 THE COURT: Okay.

7 MR. VOIGT: I'll stay back here just to show you
8 how limited it is.

9 RECROSS-EXAMINATION

10 BY MR. VOIGT:

11 Q. Was this case considered a major case on March
12 9th?

13 A. Initially, no.

14 THE COURT: Anything?

15 MR. EDGEWORTH: No further questions, Your Honor.

16 THE COURT: All right. Great. Thank you.

17 All right. You can step down, sir. Thank you.

18 MS. RICHARDSON: Your Honor, I would ask that
19 Mr. Powell be excused from his subpoena. He has some very
20 big plans at the end of the week.

21 THE COURT: Good. Well, I wish you well with your
22 big plans, sir. All right. Congratulations.

23 THE WITNESS: Thank you.

24 THE COURT: All right. You can be excused. Thank
25 you.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 Solicitor, approach, Counsel.

2 (WHEREUPON, a bench conference was had.)

3 MS. SMITH: Your Honor, the State calls Rosario
4 Grate.

5 THE COURT: All right.

6 MS. SMITH: Ms. Rosario -- Ms. Grate, if you'll
7 proceed and answer the Clerk.

8 ROSARIO GRATE, having been duly sworn,
9 testified as follows:

10 THE COURT: Okay. Ms. Grate, would you please
11 remove your mask for the Purposes of your testimony?

12 THE WITNESS: Yes.

13 THE COURT: And the other thing that I would ask
14 before you state your name, if you would -- you gotta get
15 real close to that microphone for it to pick up. And when I
16 say real close, I literally mean just a few inches away.
17 Okay?

18 THE WITNESS: Uh-huh.

19 THE COURT: Thank you so much.

20 Go ahead and state your name, ma'am.

21 THE WITNESS: Rosario Grate.

22 DIRECT EXAMINATION

23 BY MS. SMITH:

24 Q. Ms. Rosario, as I'm breaking this podium right
25 now, would you also spell your name just so it's correct in

ROSARIO GRATE - DIRECT BY MS. SMITH

1 the record, please, ma'am?

2 A. R-O-S-A-R-I-O, G-R-A-T-E.

3 Q. Ms. Grate, where are you from?

4 A. I was born in Delaware, but I was raised in

5 Plantersville, Georgetown, South Carolina.

6 Q. Okay. And what do you do?

7 A. I cook at the boys home, Broadstep.

8 Q. Do you have any kids?

9 A. Yes, ma'am. I have a son.

10 Q. How old is he?

11 A. Eight.

12 Q. And did you know the victim, Leon Harrison Jr.?

13 A. Yes, ma'am.

14 Q. How did you know him?

15 A. We were dating.

16 Q. Okay. And what did you call him?

17 A. J., JR, Leon if I was upset.

18 Q. Why would you call him Leon if you were upset?

19 A. He didn't like it.

20 Q. So what was your relationship like with JR?

21 A. We were happy. We were in love.

22 Q. How long were y'all together?

23 A. I met him January 6th of 2016.

24 Q. So how long would that have been?

25 A. That would be a year, a month, and maybe like

ROSARIO GRATE - DIRECT BY MS. SMITH

1 18 days.

2 Q. How do you know that date so well?

3 A. It's my son's birthday.

4 Q. So it just sticks out in your mind?

5 A. Uh-huh.

6 Q. Did JR ever stay with you?

7 A. Yes, ma'am.

8 Q. Where'd he stay?

9 A. When I first met him, I lived at 56 Green Acres
10 Drive and we moved to 33 Rainey Drive.

11 Q. All right. So you'd stay at your house?

12 A. Yes, ma'am.

13 Q. Did he ever keep items in your home?

14 A. Yes, ma'am.

15 Q. Okay. Did he ever keep anything like a toothbrush
16 in your home?

17 A. Yes, ma'am.

18 Q. Okay. Hold on one second. Let me get some gloves
19 real quick as well.

20 MS. SMITH: Beg the Court's indulgence.

21 THE COURT: Take your time.

22 MS. SMITH: Your Honor, I am approaching with what
23 has been marked as State's Exhibit 15.

24 THE COURT: All right.

25 BY MS. SMITH:

ROSARIO GRATE - DIRECT BY MS. SMITH

1 Q. Ms. Grate, I'm going to take this out and just
2 show it to you by the handle real quick.

3 Is this a toothbrush? Do you recognize this
4 toothbrush?

5 A. Yes, ma'am.

6 Q. Okay. And where's that toothbrush from?

7 A. My house.

8 Q. Okay. Who'd you give this toothbrush to?

9 A. I put it in a bag and I took it to JR's father's
10 house to give to the police as evidence.

11 Q. Okay. Now -- I'll take these off now.

12 The week before JR went missing, was he staying
13 with you that week?

14 A. Yes, ma'am.

15 Q. And did JR have any kids?

16 A. Yes, ma'am.

17 Q. And you have a son?

18 A. Yes, ma'am.

19 Q. Did they play together?

20 A. Yes, ma'am. A few times.

21 Q. Okay. Did y'all have anything like family time or
22 anything like that?

23 A. We were trying to make Sundays as our family days.

24 Q. Okay.

25 A. Because that was the only day that he would be

ROSARIO GRATE - DIRECT BY MS. SMITH

1 off. He worked Monday through Saturday.

2 Q. So did everybody get along?

3 A. (Witness nods.)

4 Q. Is that a Yes?

5 A. Ma'am?

6 Q. Is that a Yes?

7 A. Yes.

8 Q. Okay. Sorry. We have to have verbal
9 communication for the Court Reporter and I'm not trying to
10 be rude at all by -- by saying, Is that a Yes, I just want
11 to make the record clear, okay? Sorry.

12 A. Yes, ma'am.

13 Q. Did you ever drive JR to work?

14 A. Yes, ma'am.

15 Q. What about pick him up from work?

16 A. Yes, ma'am.

17 Q. Was that frequent?

18 A. Yes, ma'am.

19 Q. Do you know where he worked?

20 A. Yes, ma'am. He worked for a company called PCL.

21 They were redoing the bridge in Pee Dee, the Yauhannah
22 Bridge.

23 Q. Do you know how he got paid?

24 A. Yes, ma'am. It was like one of those prepaid
25 debit cards that a job would give you instead of giving you

ROSARIO GRATE - DIRECT BY MS. SMITH

1 a paper check.

2 Q. Okay. So it wasn't a direct deposit to a bank
3 account, it was a prepaid card?

4 A. Yes, ma'am.

5 Q. All right. Now, did you see JR on February 15th
6 of 2017?

7 A. On the 15th?

8 Q. I'm sorry, 25th. Yeah, 25th of 2017. I don't
9 know where that came from.

10 A. Yes, ma'am.

11 Q. Did you drive him from work that day?

12 A. Can you repeat that?

13 Q. Did you drive him home from work that day?

14 A. Yes, ma'am.

15 Q. And what did y'all do when y'all was driving home?

16 A. We stopped by the Dollar General on Choppe Road --
17 well, right there at the intersection of Choppe and 701,
18 picked up a few items there. We also stopped at the liquor
19 store by Domino's Pizza, right here in Georgetown, and then
20 we went to my house at 33 Rainey Drive.

21 Q. Did you take JR anywhere else that night?

22 A. Yes, ma'am. Later on that night I took him to his
23 dad's house.

24 Q. Did Tiesh know about you and JR and y'all's
25 relationship?

ROSARIO GRATE - DIRECT BY MS. SMITH

- 1 A. Yes, ma'am.
- 2 Q. And has she ever seen you out with JR?
- 3 A. Yes, ma'am.
- 4 Q. Okay. Tell us about that.
- 5 A. That was New Year's Eve of 2016. We were at the
- 6 Riverview Lounge.
- 7 Q. Okay. And did you talk JR often?
- 8 A. Ma'am?
- 9 Q. Did you talk to JR often?
- 10 A. Yes, ma'am.
- 11 Q. Did you see him often?
- 12 A. Yes, ma'am.
- 13 Q. How often did you see JR?
- 14 A. Almost every day.
- 15 Q. And when you talked to him, was it in person?
- 16 A. It could be, yes.
- 17 Q. What about by the phone?
- 18 A. Yes, ma'am.
- 19 Q. What about text message?
- 20 A. Yes, ma'am.
- 21 Q. Okay. And do you remember and your phone number
- 22 was in 2017?
- 23 A. Yes, ma'am.
- 24 Q. What was it?
- 25 A. (843)240-8658.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 MS. SMITH: For the record, I'm showing the
2 Defense communications form Rosario to Leon.

3 May I approach the witness, Your Honor?

4 THE COURT: You may.

5 MS. SMITH: I'm showing the witness what has been
6 marked as State's Exhibit 31.

7 BY MS. SMITH:

8 Q. Ms. Grate, will you look through that and tell --
9 tell me what I'm showing you?

10 A. These are the conver -- text messages between me
11 and JR.

12 Q. Okay, and what's the -- what's the time frame of
13 those text messages?

14 A. The first one was on the 23rd of February. I
15 can't see the time on that one.

16 Q. Just the date range.

17 A. So it starts on the 23rd of February.

18 Q. Okay. And when does it end?

19 A. The 25th of February.

20 Q. Okay. And are these a copy of your text messages
21 between you and Leon Harrison Jr.?

22 A. Yes, ma'am.

23 Q. Okay. And how do know that that's -- those are
24 messages between you and JR?

25 A. I remember the conversation.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 Q. You remember the conversation. And what was JR's
2 number back in 2017?

3 A. (843)240-1042.

4 Q. Have those texts been altered in any way since you
5 last saw him?

6 A. No, ma'am.

7 Q. Okay. On February 25th of 2017, were you and JR
8 in a good spot in your relationship?

9 A. Yes, ma'am.

10 Q. Did you tell him you loved him?

11 A. Yes, ma'am.

12 Q. Did he tell you he loved you?

13 A. Yes, ma'am.

14 Q. Did you get a text message from JR on February 25,
15 2017 that seemed odd?

16 A. Can you repeat that?

17 Q. Did you get a text message from JR on February
18 25th of 2017 that seemed odd?

19 A. Yes, ma'am.

20 Q. Okay what was that?

21 A. The very last text message that I received from
22 him that night.

23 Q. Okay. And what time was that text message?

24 A. That would be at 10:55.

25 Q. Okay.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 MS. SMITH: Your Honor, at this time, the State
2 seeks to introduce these text messages into evidence.

3 THE COURT: All right. Mr. Hazzard?

4 MR. HAZZARD: I have no objection.

5 THE COURT: All right. Mr. Voigt?

6 MR. VOIGT: I have no objection, Your Honor.

7 THE COURT: Mr. Edgeworth?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: All right. Thank you. Admitted
10 without objection.

11 (WHEREUPON, State's Exhibit Number 31 was moved
12 into evidence.)

13 BY MS. SMITH:

14 Q. Can you talk to us about your communications that
15 day? I mean, were they happy communications?

16 A. Yes, ma'am.

17 Q. Okay. Kind of what were y'all talking about?

18 A. Talking about him getting off of work, we were
19 both ready to see each other. What I was gonna cook for
20 dinner. Then later on, after I dropped him off, it was
21 about me going out and whether I had his permission to go
22 out or not.

23 Q. Did you need his permission to go out?

24 A. I felt like I did.

25 Q. Okay. So did you go out?

ROSARIO GRATE - DIRECT BY MS. SMITH

1 A. Yes, I did.

2 Q. Okay. And did you talk on the phone with him that
3 day, that --

4 A. Yes, ma'am.

5 Q. -- that evening?

6 A. Yes, ma'am.

7 Q. And were there any calls from Leon's phone to you
8 around 10:00 p.m. that evening?

9 A. Yes, ma'am.

10 Q. Okay. And can you tell me about those phone
11 calls?

12 A. It wasn't him.

13 Q. Who was it?

14 A. Tiesh.

15 Q. Can you tell the jury what happened?

16 A. The initial when I -- when she first called on his
17 phone, I really can't remember what was said between the
18 two, but I know there was words exchanged. I hung up the
19 phone. I continued doing what I was doing.

20 She called back a couple -- well, I received a few
21 phone calls, multiple calls from his phone. I didn't answer
22 because I assumed it was her.

23 A little bit of time went on and I received
24 another phone call from his phone. I picked up and she was
25 like, Your little bitch, answered the phone, why don't you

ROSARIO GRATE - DIRECT BY MS. SMITH

1 talk to her? Couple other words were exchanged. He never
2 said anything. I hung up the phone.

3 Q. Okay. Did you receive any more phone calls that
4 night?

5 A. Yes, ma'am, but I was out of service area, so I
6 didn't know that I received phone calls until after I got
7 service.

8 Q. Did you have any voice mails that evening?

9 A. Yes, ma'am.

10 Q. And who were those voice mails from?

11 A. Tiesh.

12 Q. Okay. And off of who's phone were they from?

13 A. JR's.

14 MS. SMITH: Your Honor, State's 32. Approaching
15 the witness.

16 THE COURT: All right.

17 BY MS. SMITH:

18 Q. Ms. Grate, what is this?

19 A. CD with voice mails on there.

20 Q. Okay. And did you listen to it?

21 A. Yes, ma'am.

22 Q. Okay. Are those the voice mails from that night?

23 A. Yes, ma'am.

24 Q. Okay. Is that your signature on it?

25 A. Yes, ma'am.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 MS. SMITH: Your Honor, the State seeks to admit
2 State's 32 into evidence, publish to the Jury.

3 THE COURT: Mr. Hazzard?

4 MR. HAZZARD: No objection.

5 THE COURT: Mr. Voigt?

6 MR. VOIGT: No, objection, Your Honor.

7 THE COURT: Mr. Edgeworth?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: Admitted without objection. Please
10 feel free to publish.

11 (WHEREUPON, State's Exhibit Number 32 was moved
12 into evidence and published for the jury.)

13 BY MS. SMITH:

14 Q. Are those the voice mails?

15 A. Yes, ma'am.

16 Q. Okay. Now when you talked to her, y'all -- you
17 said, I believe, you exchanged some words.

18 What does that mean?

19 A. She was calling me out by name, you know, saying
20 how she felt, whatever the case may be and I told her what
21 was on my mind. I can't recall exactly what was said when
22 we did speak.

23 Q. During the time that you were dating JR, did you
24 know -- did you know in the beginning that he had a wife?

25 A. No, ma'am.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 Q. Did you later find out?

2 A. Yes, ma'am.

3 Q. Okay. What was your reaction when you found out?

4 A. I was upset. We stopped talking for a while and
5 then he reached back out to me and explained the situation.
6 By the time he had reached out and explained the situation,
7 I had already seen some things for myself, so I continued
8 the relationship.

9 Q. Okay. Did you know that he was still talking to
10 Tiesh?

11 A. I'm quite sure, yeah, he was.

12 Q. Okay. And y'all talked often, but did he stay the
13 night at your house every night?

14 A. No, ma'am, not every night.

15 Q. Okay. So I'm going to ask you a very
16 uncomfortable question. Did you and JR ever get a sexually
17 transmitted infection?

18 A. Yes, ma'am.

19 Q. And at that point in time was JR still going back
20 and forth to Tiesh?

21 A. I believe he was.

22 Q. Okay. When JR went missing, did you look for him?

23 A. Yes.

24 Q. Did you call around?

25 A. Yes.

ROSARIO GRATE - DIRECT BY MS. SMITH

1 Q. What about calling his phone?

2 A. Yes.

3 Q. Did you call his dad?

4 A. Yes.

5 Q. Did you call his brother?

6 A. Yes.

7 Q. Did you call friends?

8 A. Yes.

9 Q. What about family members?

10 A. Yes.

11 Q. Were you looking for JR?

12 A. Yes.

13 Q. Did you ever get an answer from JR again ---

14 A. No, ma'am.

15 Q. After February 25, 2017?

16 A. No, ma'am.

17 Q. Okay. When you went out with your friends that
18 night, was JR supposed to meet you out?

19 A. He said he would.

20 Q. Did he meet you out?

21 A. No.

22 MS. SMITH: Beg the Court's indulgence one second.

23 THE COURT: Yes, no problem.

24 BY MS. SMITH:

25 Q. Ms. Grate, on New Year's Eve when you were out

ROSARIO GRATE - CROSS BY MR. HAZZARD

1 with JR, who did Tiesh come into the club with?

2 A. Her brother.

3 Q. Her brother is?

4 A. Alex.

5 Q. Alex Jr.?

6 A. Yes, ma'am.

7 Q. And were any words exchanged?

8 A. Yes, ma'am.

9 Q. Okay. Who were those words between?

10 A. Between Tiesh, Alex, and JR.

11 Q. Were you involved in that?

12 A. No, ma'am.

13 MS. SMITH: Your Honor, at this point in time I
14 have no further questions.

15 THE COURT: All right. Thank you, Solicitor.

16 Mr. Hazzard, do you have any questions, sir?

17 MR. HAZZARD: Yes, sir, Your Honor. Very, very,
18 very, quickly.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. HAZZARD:

22 Q. Good afternoon, ma'am. I think the Prosecutor
23 just asked you about a New Year's Eve verbal altercation; is
24 that correct?

25 A. Yes, sir.

ROSARIO GRATE - CROSS BY MR. HAZZARD

1 Q. And you said it was at the club?

2 A. Yes, sir.

3 Q. And that was the Riverview Club, correct?

4 A. Yes, sir.

5 Q. Thank you, ma'am. No further questions.

6 THE COURT: Mr. Voigt, do you have any questions,
7 sir?

8 MR. VOIGT: I do not.

9 THE COURT: Mr. Edgeworth, do you have any
10 questions, sir?

11 MR. EDGEWORTH: No, Your Honor.

12 THE COURT: All right. Anything further,
13 Solicitor? Anything else?

14 MS. SMITH: No, Your Honor. This -- may this
15 witness be excused?

16 THE COURT: Absolutely. Thank you for your
17 appearance today here in court. You are released from the
18 subpoena. Thank you very much.

19 All right. Ladies and gentlemen, I think we have
20 reached a good stopping point. I appreciate the attention
21 that you have given this case today. And again, I keep
22 saying it, but it's so true, important case to the State,
23 important case to these Defendants.

24 I would like to start back at nine o'clock
25 tomorrow morning. If anybody approaches you about this, you

1 let them know that you cannot talk to them. If they proceed
2 to bother you, you let me know about it.

3 No media. No research. No looking on the
4 internet concerning this matter. Of course, again, don't
5 talk amongst yourselves or with anybody else about this
6 matter.

7 I thank you and I'll see you back here in the jury
8 room. We appreciate your being back at nine o'clock
9 tomorrow morning. Thank you folks. Have a great evening.

10 (WHEREUPON, the Jury exited the courtroom at 5:28
11 p.m.)

12 THE COURT: All right. Solicitor, are we going to
13 be ready to go tomorrow morning?

14 MS. RICHARDSON: Yes, Your Honor, we are. There's
15 another matter I would like to bring to the Court's
16 attention, but I would prefer to do it with just the
17 attorneys.

18 THE COURT: All right. Y'all want to approach?

19 MS. RICHARDSON: Yes, Your Honor.

20 (WHEREUPON, the following discussion was held at
21 the bench.)

22 THE COURT: Yes, ma'am.

23 MS. RICHARDSON: We've just been made aware of
24 some social media postings that I think maybe from -- they
25 appear to be from the mother of Mr. Rhue Jr.'s child about

1 the court proceedings.

2 THE COURT: Who is that?

3 MS. RICHARDSON: Catessa Tucker. And also talks
4 about jury tampering. I don't know what media this is. If
5 it's posting from ---

6 MS. SMITH: I believe that's Face -- I mean, it
7 looks like Facebook to me. I just had them screen shot.

8 THE COURT: What are they saying here?

9 MS. RICHARDSON: It just says, Okay cuz, jury
10 tampering.

11 MR. HAZZARD: I thought they're talking Kristina
12 Grate.

13 MS. RICHARDSON: And this is a ---

14 MS. SMITH: Sorry, it's a poor screen shot, I
15 apologize. Trying to get it done quick.

16 THE COURT: Are they saying that there's something
17 else going on or just bringing it to my attention?

18 MS. RICHARDSON: It gives the impression that
19 information about the court proceedings is being put on
20 social media, like the hearings on sort of looks to me like
21 hearings on jury tampering, lying to the judge and got
22 caught.

23 That lawyer has roasted your fat ass on that stand
24 today and caught you in two different lies. That's also my
25 lawyer.

1 MS. SMITH: That's apparently -- and this is
2 coming from -- it's coming from somebody else. I am not
3 swearing my name to it or anything of that nature. Let me
4 be one hundred percent clear. I do not know if this is true
5 or not.

6 Apparently, this post is about Brittani and that
7 is -- that is.

8 MR. HAZZARD: Well, who sent it to you?

9 MS. SMITH: Huh?

10 MR. HAZZARD: Who sent it to you?

11 MR. EDGEWORTH: Yeah.

12 MS. SMITH: Leon.

13 MR. HAZZARD: Who?

14 MS. RICHARDSON: Leon Thomas.

15 MR. HAZZARD: Oh.

16 MS. RICHARDSON: My concern is I don't know where
17 it's coming from based on Your Honor asking people not to
18 talk about proceedings.

19 THE COURT: I mean, once people are released I
20 don't know that I can tell people not to exercise their
21 rights as it relates to -- I mean, it's not the media that
22 is coming here and doing this, but I see -- I'm not hearing
23 that -- I'm not hearing that anyone's trying to communicate
24 with any of our jurors.

25 And if they were, then I would bring the jurors in

1 individually and certainly question those jurors. But at
2 this point, I appreciate you bringing that to my attention.

3 Is there something that you want me to do?

4 MS. RICHARDSON: Well, Ms. Tucker is on our
5 witness list. You know, she's obviously with the Rhue
6 family, but we put her on our witness list because she had
7 been interviewed about several things in case those issues
8 came up. She initially had given like an alibi and then
9 that changed, that's why we had her on our witness list.

10 But that's what my concern is that somebody's
11 communicating to her information also that is going on in
12 the courtroom.

13 THE COURT: Okay. So your concern is that some of
14 the, I guess, sequestered witnesses may be in contact? Is
15 that what you're telling me?

16 MS. RICHARDSON: Well, in that regard is -- yes,
17 Your Honor. I don't know. I feel like somebody is --

18 THE COURT: And what would you suggest I do?

19 MS. RICHARDSON: Admonish the parties, in
20 particular, it appears to be the Rhue family not to be
21 having -- not to communicate with anybody who's sequestered
22 or to cause --

23 MR. HAZZARD: I guess one of the issues is, how
24 would somebody know if somebody is -- I mean, all of these
25 people are very close. And to hear half of them tell it,

1 they're related in some form or fashion that I -- like
2 fashion that I can't even imagine.

3 So if you're just talking in general, how do you
4 even know that somebody's sequestered? I mean, I'm not
5 playing devil's advocate, I'm not trying to be difficult. I
6 legitimately do not know. My family has never been that
7 big. I don't even know how these people talk to anyone
8 without talking somebody in their family.

9 MS. RICHARDSON: I just -- I just thought that it
10 was important to bring that to the Court's attention.

11 MS. SMITH: Jury tampering.

12 MS. RICHARDSON: I mean, just that being alleged.

13 MR. VOIGT: And they all seem to be on the State's
14 witness list. It seems to be a State-confined problem.

15 MR. HAZZARD: Well, considering the fact we don't
16 have a witness list.

17 MS. RICHARDSON: As it's your client's baby momma.

18 THE COURT: I don't think that it's -- I think
19 with the people who are on the State's witness list, that
20 whether they give it or not, who knows?

21 But what I would say is, I think everyone ought to
22 go and to make certain that folks are not communicating
23 directly or indirectly or through third parties or through
24 social media with anyone who is a potential witness in this
25 matter.

1 So I think that each individual, each side, State
2 and the Defense, they need to make ceratin that their
3 witnesses, their clients, are aware that they are not to be
4 communicating. And so I direct this, not to your client,
5 Mr. Hazzard. Not to your client. Not to your client. Not
6 to your witnesses.

7 But y'all need to make certain that they
8 understand that they're not to be communicating with anybody
9 about this directly or indirectly, particularly the people
10 who are sequestered and who have to testify. And they need
11 to understand that that includes broadcasting things on
12 social media or allowing third parties to broadcast things
13 on social media.

14 Because if the matter comes back before me and we
15 find out that there has been some type of improper
16 communication -- whether that's threatening or whether
17 that's just providing information to a family member -- that
18 that will be dealt with in the most severe fashion.

19 MR. HAZZARD: Yes, sir.

20 MS. RICHARDSON: Thank you, Your Honor.

21 THE COURT: Is that adequate, Solicitor?

22 MS. RICHARDSON: That's -- that's -- we were just
23 bringing it to everyone's attention. I don't know how --

24 MS. SMITH: Yeah, because it came to my attention.

25 THE COURT: I appreciate that. I will deal with

1 that. This case is too important and too -- if something
2 like that happened, I will deal with that harshly. All
3 right?

4 MS. RICHARDSON: Thank you.

5 THE COURT: Thank you. I appreciate everyone
6 communicating that to the witnesses and to the parties.

7 (WHEREUPON, the bench conference ended.)

8 THE COURT: All right. Solicitor, thank you for
9 bringing that to my attention.

10 The jurors have a question?

11 All right. I'm informed that the jurors have a
12 question.

13 THE CLERK: I think that it's one for in the
14 morning.

15 THE COURT: I'm sorry?

16 THE CLERK: I think they're going to write it down
17 for in the morning. Or if you just it because they're going
18 to ask it in the morning.

19 THE COURT: All right. All right. Mr. Hazzard.

20 MR. HAZZARD: Yes, sir.

21 THE COURT: All right. I've just been informed
22 that the jury may have a question, but perhaps they're
23 writing it down to --

24 MR. HAZZARD: Are they still in there?

25 THE COURT: That's -- that's --

1 THE CLERK: Just knock on the door.

2 THE COURT: Hold on. Let's get the Bailiff out
3 here:

4 THE CLERK: Just to see if they're in there. No,
5 they're gone.

6 THE COURT: Apparently the jury is gone. I don't
7 know. Apparently, it was relayed to me that the jurors may
8 have been writing a question. I didn't know if they had a
9 question for this evening to get to us or if it was a
10 question that they're gonna address in the morning. I don't
11 -- I don't know.

12 But apparently they are now gone. So I'm going to
13 assume that whatever it is, if anything, will be taken up in
14 the morning.

15 MR. HAZZARD: Many judges make arrangements for
16 breakfast, biscuits and bagels. That might be the issue.

17 THE COURT: Well, I will -- in the morning --

18 THE CLERK: They have a question in the morning.

19 THE COURT: All right. They have a question in
20 the morning. All right. So whatever that is, apparently
21 it's going to be addressed in the morning. All right?

22 So we're going start at, hopefully start at 9:00.
23 So are there evidentiary matters that are going to need to
24 take up time tomorrow or are we gonna be able to go right on
25 in to some testimony?

1 MS. RICHARDSON: I think we should be ready to go
2 into some testimony. We did send -- we did send some
3 proposed photos from the body recovery. I think we sent a
4 folder of those last night.

5 THE COURT: After Mr. Hazzard went to bed?

6 MS. RICHARDSON: Yeah, everybody else was
7 sleeping.

8 THE COURT: So they'll have an opportunity -- they
9 should have that and be able to look at that?

10 MS. RICHARDSON: They should have that. We -- we
11 just assumed that there would be some objections to showing
12 all of the body photo -- body recovery photographs when we
13 do have the entire CD of them. But --

14 MR. EDGEWORTH: But the emails are the ones you've
15 pared-down?

16 MS. RICHARDSON: Yes.

17 THE COURT: All right. So if y'all can --

18 MR. HAZZARD: So those are the ones you want, are
19 the ones you sent?

20 MS. RICHARDSON: Right.

21 MR. HAZZARD: Okay.

22 THE COURT: All right. You're also gonna get a
23 copy of the jury instructions and the verdict form. One of
24 the reasons I need you to look at that is cause somebody --
25 everybody can be replaced, you understand that, but someone

1 is wanting to leave early on Friday.

2 And so you noticed I don't have a computer in
3 front of me. Okay? So I need y'all to take a look at those
4 and we'll talk about that sometime tomorrow or Friday. But
5 I need you to look at those and we need to have your ideas
6 as it relates to that for potential charges and/or a verdict
7 form. We need to have that sometime tomorrow or early
8 Friday so we can work on those.

9 And that sounds good. I'll see everybody in here
10 at 10 till 9:00 tomorrow.

11 MR. HAZZARD: Might I just say --

12 THE COURT: Yes, sir.

13 MR. HAZZARD: -- a word of advice to the clerk,
14 that might affect your letter of recommendation, young lady.

15 THE COURT: I'd hate to tell, Mr. Hazzard, it will
16 not. She has been absolutely fabulous.

17 All right. Thank you.

18 (WHEREUPON, the trial adjourned for the day at
19 5:41 p.m.)

20 OCTOBER 14, 2021

21 (WHEREUPON, the proceedings resumed at 9:00 a.m.)

22 THE BAILIFF: All rise.

23 THE COURT: All right. Thank you, you can be
24 seated. Good morning. Solicitor, is there anything we need
25 to take up before we see about getting the jury in here from

1 the State?

2 MS. RICHARDSON: Your Honor, the flash drive that
3 the State entered into evidence malfunctioned, and I do have
4 a -- I think it's just some glitch with the flash drive, I
5 do have one I'd like to substitute.

6 THE COURT: All right. Any objection from the
7 Defense?

8 MS. RICHARDSON: This is the one where it wouldn't
9 read it.

10 MR. HAZZARD: I mean, I don't know how we can do
11 that without going through it.

12 MS. RICHARDSON: And let me just explain the
13 State's purpose for that, Your Honor. Is we do have it on
14 CD in evidence, but when we play the CD it seems to kind of
15 drag and take longer to go between the pictures, it's just
16 for quickness. If they have no objection to me using the
17 folder of photos that I've provided, that will be fine.
18 It's just that the CD takes so long to load.

19 THE COURT: Is this concerning the photographs of
20 the body? Or what is this about?

21 MS. RICHARDSON: It's the crime scene -- I mean
22 the house photos.

23 THE COURT: All right.

24 MS. RICHARDSON: One of my witnesses will be
25 testifying about today.

1 THE COURT: Well, apparently he says that he needs
2 to look at it.

3 MS. RICHARDSON: Okay.

4 THE COURT: And I don't -- I don't -- you know.

5 MR. HAZZARD: I mean, Your Honor, there is a disk
6 in evidence that has been reviewed and we know there are no
7 issues with that. If it is just a matter of it takes a
8 little while longer to load, I would say that is neither
9 here nor there. But to say, Okay, I want to literally swap
10 out a piece of evidence, that is a great deal of concern, if
11 we haven't reviewed it.

12 MS. RICHARDSON: Okay. That's fine.

13 THE COURT: So.

14 MS. RICHARDSON: It's just the medium, it's just
15 that the flash drive failed.

16 THE COURT: I understand, Solicitor. You can use
17 what's in evidence and we you know -- we're going to use
18 what's in evidence, and if it doesn't load in time, and it
19 wastes too much of the Court's time, then we're just not
20 going to use it.

21 We've got to move forward, and there's just been
22 one delay after another and nothing intentional. But we've
23 got to move this case forward. And I can't sit here and
24 keep this jury waiting. And I think his request to look at
25 something is reasonable.

1 So we're going to use what's in evidence,
2 hopefully it's going to load, hopefully it's going to be
3 able to allow you to look at whatever you need to look at.
4 And if it doesn't, then we're going to move forward, because
5 we're not going to -- we can't spend any more time on
6 glitches and things of this nature. And they're not your
7 fault, I understand that, but it's just we've got to move
8 on.

9 Is there anything else from the State -- excuse
10 me, from the Defense before we bring the jury in?

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

12 THE COURT: Yes, sir.

13 MR. HAZZARD: I want to make sure, and I'm not
14 sure if this has been done yet, but as the Court knows,
15 obviously, prior to the start of this trial, we had a
16 virtual motion hearing. And a lot of that motion hearing
17 was with regard to Mr. Voigt's motion to suppress the search
18 warrants. And to my understanding, both I and
19 Mr. Edgeworth, joined in on that motion.

20 The Court ruled on the motion and did a written
21 order with regard to its ruling. Subsequent to that, at the
22 start of the trial, it is my understanding the Court renewed
23 that order. And so, for the course of the trial, at least
24 up to this point -- like I said, you can always change your
25 mind -- but that's been my understanding.

1 THE COURT: Yes.

2 MR. HAZZARD: And so for the course of this trial
3 what we've been saying on the record is, "Subject to
4 previous objection." And I just want to make sure that the
5 record is clear as to what the previous objection was. So I
6 am asking, simply, that a copy of Mr. Voigt's written motion
7 to exclude is made a Court's Exhibit along with a copy of
8 the Court's order. That way, it's clear as to what we've
9 been talking about with regard to "Subject to previous
10 objection," it's clear that there was a motion hearing, it's
11 clear what the Court's ruling was and has continued to be.

12 THE COURT: Well, it's funny you bring that up. I
13 was talking to my clerk about that yesterday the "Subject to
14 previous objection."

15 MR. HAZZARD: Yes, sir.

16 THE COURT: So your point is "Subject to previous
17 objection," is the Court's ruling as it relates to the first
18 and the second search warrants and the exclusion, but the
19 granting of the third, which cured everything and then
20 basically allowed to enable discovery and so forth.

21 That's what you're wanting to affirm your
22 objection is?

23 MR. HAZZARD: Yes, sir. Well, I want to affirm
24 the objection on the record.

25 THE COURT: Yes, sir.

1 MR. HAZZARD: But I also want the record to be as
2 clear as possible.

3 THE COURT: I understand.

4 MR. HAZZARD: Which is why I would want a copy of
5 his written motion to exclude to be made a Court's Exhibit
6 for the record and the Court's Written Order to be a Court's
7 Exhibit for the record.

8 THE COURT: All right. Mr. Voigt, you join in on
9 that?

10 MR. VOIGT: I do, Your Honor.

11 THE COURT: And Mr. Edgeworth?

12 MR. EDGEWORTH: Yes, Your Honor. I join in that.

13 THE COURT: Solicitor?

14 MS. RICHARDSON: And I agree, and I already put my
15 information in as an exhibit anyway.

16 THE COURT: That's absolutely fine. I think
17 that's appropriate and it's consistent with the ruling and
18 the Court and I believe everyone else's understanding.

19 Thank you. Hold on one second.

20 Anything else, sir?

21 MR. HAZZARD: No, sir.

22 THE COURT: Anything, Mr. Voigt?

23 MR. VOIGT: No, sir.

24 THE COURT: Anything Mr. Edgeworth?

25 MR. EDGEWORTH: No, Your Honor.

1 THE COURT: So are we ready to bring the jury in.

2 MR. HAZZARD: Yes, sir.

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: All right. We can bring the jury in.

5 MR. HAZZARD: Oh, yesterday you said they had a
6 written question.

7 THE COURT: Well, I don't know. Is the Bailiff
8 here?

9 THE CLERK: They are here.

10 THE COURT: Yes, sir. Is this a note from the
11 jury?

12 THE BAILIFF: It is. And good morning. How are
13 you doing?

14 THE COURT: I'm doing great. Good morning, sir.
15 All right. I received a note.

16 The note reads: Your Honor, two jurors asked me
17 to ask you what your feeling was if this trial will go into
18 next week, as they have doctors appointments, et cetera,
19 that they will need to reschedule. Thank you for your
20 time -- very courteous -- thank you for your time. Charles
21 Powell, Juror 182.

22 If you want to come up and read the note, I will
23 allow any of the lawyers to come read the note, otherwise
24 what I plan on doing is making this a Court's Exhibit.

25 Any objection to this being made a Court's

1 Exhibit?

2 MS. RICHARDSON: Not from the State, Your Honor.

3 THE COURT: Does the State need to read the note?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right. Mr. Hazzard?

6 MR. HAZZARD: No, sir. Defense waives reading the
7 note.

8 THE COURT: All right.

9 MR. VOIGT: No, sir.

10 MR. EDGEWORTH: No objection, Your Honor.

11 THE COURT: All right. So we're going to make
12 this a Court's Exhibit.

13 COURT REPORTER: It's Number 4.

14 THE COURT: Number 4.

15 COURT REPORTER: Yes, Your Honor.

16 THE COURT: All right. Thank you Madam Court
17 Reporter.

18 (WHEREUPON, Court's Exhibit Number 4 was marked.)

19 THE COURT: You know, kind of, they hit on the
20 question that I was going to be thinking about later this
21 afternoon and not this morning, but I certainly understand,
22 you know, they have lives. The fortunate thing is, as I
23 read the note, it tends to indicate that there could be
24 appointments that could be rescheduled, as opposed to people
25 saying that can't be here. And so, to that extent, I find

1 that potentially encouraging as I try to read through the
2 tea leaves there.

3 Solicitor, what is -- what's your expectation as
4 it relates to this case and its anticipated length?

5 MS. RICHARDSON: Your Honor, I think it will end
6 up into next week. I think we will be calling witnesses all
7 day today and tomorrow. And I don't know if the Defense
8 plans on to call any or not, but I do think it will have to
9 go into next week.

10 THE COURT: Well, then I guess the next question
11 is, would you gentlemen concur? I'm not asking if you're
12 going to call witnesses, but based upon, you know the case
13 better than I, and having heard what the Solicitor said,
14 would you concur that this case would more than likely not
15 be in a position to be finished by tomorrow evening?

16 MR. HAZZARD: Not being privy to the witnesses the
17 State intends to put up, I cannot say one way or the other,
18 Your Honor.

19 THE COURT: Mr. Voigt?

20 MR. VOIGT: I'm always surprised at how long these
21 things take, Judge. And I have no way of knowing what the
22 State is going to do.

23 THE COURT: I understand that. Mr. Edgeworth, I'm
24 just asking, because I don't want to leave y'all out of any
25 discussion or an opportunity to voice your opinions, that's

1 all.

2 MR. HAZZARD: Thank you, Your Honor.

3 MR. EDGEWORTH: Yes, Your Honor. I mean,
4 obviously we don't know, but my suspicion is that it would.

5 THE COURT: All right. The next question is: If
6 it's going to continue, do we work Saturday or do we come
7 back on Monday? I guess what I really do is I ask the jury
8 what their preference is. From the State?

9 MS. RICHARDSON: Either way is fine with me, Your
10 Honor.

11 THE COURT: Mr. Hazzard?

12 MR. HAZZARD: I would prefer not to work on
13 Saturday.

14 MR. VOIGT: I hate to ruin everybody's party, but
15 I think we've had some issues with social media in this
16 case. I think we've had -- I think that this is a burden on
17 the jury. And to the extent that it's a burden on us, we
18 signed up for this, they didn't. I'd prefer to work on
19 Saturday, because I worry with the a non-sequestered jury,
20 and this wouldn't be a sequestered jury under normal
21 circumstances, that the pressures in this community to
22 influence jurors, to communicate improperly, the longer it
23 goes on, the more that can go wrong. And we're seeing it
24 almost everyday in this case. I'd prefer to shorten,
25 temporally, you know, just how much risk we're going to have

1 and I would prefer to do that on Saturday than Monday.

2 THE COURT: Yes, sir, Mr. Edgeworth?

3 MR. EDGEWORTH: Your Honor, my position on this is
4 really just personal based. My wife is going undergoing
5 orthopedic surgery on Friday, which, obviously, I will --

6 THE COURT: Tomorrow?

7 MR. EDGEWORTH: Yes, sir.

8 THE COURT: Yes, sir.

9 MR. EDGEWORTH: Which, obviously, we've made
10 family arrangements in that regard. But I would prefer to
11 be able to be with her over the weekend in her
12 convalescence.

13 THE COURT: I understand that.

14 MR. EDGEWORTH: Yes, sir.

15 THE COURT: And, Solicitor, what did you tell me?
16 I'm sorry, as to a preference concerning working on
17 Saturday?

18 MS. RICHARDSON: I said, I'll do whatever --
19 either way is fine with me, Your Honor.

20 THE COURT: My court staff? All right. What I
21 plan on doing is this, I'm going to draft a note, I'm going
22 to get y'all's approval on it to return to the jury and then
23 basically let them talk about it and then respond to that
24 note. All right? Is that okay with the State?

25 I'm going to have my clerk prepare the note, I'll

1 let you look at it. Is that okay, Mr. Hazzard?

2 MR. HAZZARD: Yes, sir.

3 THE COURT: Mr. Voigt?

4 MR. VOIGT: Yes, sir.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: Yes, sir, that's fine.

7 THE COURT: Okay. Great thank you gentlemen and
8 ladies. All right. We'll be back in one second.

9 (WHEREUPON, there was a break held from 9:13 a.m.
10 until 9:23. a.m.)

11 THE BAILIFF: All rise.

12 THE COURT: All right. Please be seated.

13 I'm trying to word this, and what I've got is, my
14 clerk is going to read a proposal. And she is -- I want to
15 get input, and then we'll try to get it so she can write it
16 neatly to give to them. Go ahead, Monica.

17 LAW CLERK: The attorneys informed me that the
18 case is highly unlikely to go the jury by close of business
19 Friday. As a result it is anticipated that the case will
20 continue into the early part of next week. If the jury
21 desires, we can work on Saturday for all or part of the day
22 in hopes of completing the case Saturday. Or minimizing the
23 amount of time it will take to complete the case next week.

24 THE COURT: All right. From the State?

25 MS. RICHARDSON: The State agrees with the

1 statement.

2 THE COURT: Mr. Hazzard?

3 MR. HAZZARD: Well, I mean, it says, The attorneys
4 informed you. The State informed the Court of that.

5 THE COURT: I'll put I informed.

6 MR. HAZZARD: Sounds good.

7 MR. VOIGT: With that modification, no objection.

8 MR. EDGEWORTH: Yes, no objection with the
9 modification.

10 THE COURT: All right. Any objection to her
11 writing that out --

12 MR. HAZZARD: No, sir.

13 THE COURT: -- with that one modification and then
14 returning that to the jury from the State?

15 MS. RICHARDSON: None from the State, Your Honor.

16 THE COURT: Mr. Hazzard?

17 MR. HAZZARD: No, sir.

18 THE COURT: Mr. Voigt?

19 MR. VOIGT: No, sir.

20 THE COURT: Mr. Edgeworth?

21 MR. EDGEWORTH: No, sir.

22 THE COURT: All right. Thank you.

23 How about if I also write out, We await your
24 response?

25 MR. HAZZARD: That's probably a good idea.

1 THE COURT: Is that all right from the State we
2 add, We await their response? In other words, I want them
3 to go ahead and let us know what they want to do.

4 MS. RICHARDSON: Yes, Your Honor.

5 THE COURT: Is that all right, Mr. Voigt?

6 MR. VOIGT: Yes, sir.

7 THE COURT: Mr. Edgeworth?

8 MR. EDGEWORTH: Yes, sir.

9 THE COURT: All right, guys. Thank you.

10 MR. HAZZARD: Also, Your Honor, purely
11 housekeeping, your clerk had sent us the proposed jury
12 charge and we were supposed to go over it. Do you want
13 to -- we can address that now, if you wish, or, obviously,
14 we can do it at a later time.

15 THE COURT: I think we'll do it probably later.
16 Let's find out what these guys want to do and get them
17 working this morning. And then maybe sometime this
18 afternoon or sometime tomorrow morning knock that out.

19 Is that all right, sir?

20 MR. HAZZARD: Yes, sir.

21 THE COURT: All right. Is that all right with the
22 State as it relates to the jury charges and the verdict
23 form?

24 MS. RICHARDSON: Yes, Your Honor.

25 THE COURT: Okay.

1 MS. RICHARDSON: And may we approach?

2 THE COURT: Sure you can. Is that all right,
3 then, Mr. Voigt, as it relates to the jury charges.

4 MR. VOIGT: Oh, absolutely, Judge. And I had sent
5 that note last night, mostly so that we could benefit from
6 what your clerk will do with it.

7 THE COURT: All right. And Mr. Edgeworth, does
8 that meet with your approval?

9 MR. EDGEWORTH: Yes, sir.

10 THE COURT: All right. Yes, sir.

11 MR. VOIGT: More housekeeping, Your Honor.

12 The State, I think on Monday night, Ms. Smith sent
13 some pictures, recovery of the body, as well as autopsy
14 pictures. I was able to review those last night and I will
15 not have any objections to the recovery pictures. I do
16 believe that the autopsy pictures are duplicative. I'll
17 make -- and so I think that there will objections to that.
18 And if we ever get a break before, you know, I just want to
19 make the Court aware that I have reviewed them, I will have
20 objections to certain autopsy photos.

21 THE COURT: That's fine. Are you going to have
22 any objections to autopsy photos, Mr. Hazzard, the
23 photographs?

24 MR. HAZZARD: Yes, sir. I'm going to have
25 objections to some of the recovery photos.

1 THE COURT: Okay.

2 MR. HAZZARD: And most of the autopsy photos.

3 THE COURT: Yes, sir.

4 MR. EDGEWORTH: Likewise, Your Honor, on both sets
5 of photos.

6 THE COURT: All right. Thank you, Mr. Edgeworth.
7 We'll deal with that at the appropriate time.

8 MS. RICHARDSON: Well, at the appropriate time is
9 we've got a couple of the witnesses before the body recovery
10 witnesses. So, I mean, like two or three, so the
11 appropriate time may be now.

12 THE COURT: All right. I'm happy to hear from
13 you.

14 MS. RICHARDSON: Your Honor.

15 THE COURT: Go ahead.

16 MS. RICHARDSON: I'm just going to -- if any
17 family members -- these are going to be displayed so if any
18 family members need to leave the courtroom.

19 THE COURT: All right. Ladies and gentlemen, who
20 are in the gallery, we're getting ready to review some very
21 sensitive photographs. And what I will tell you right now
22 is that if you cannot keep your emotions in check, and I
23 know it may be difficult, but if you cannot do that, then
24 you need to leave now. I want you to know that.

25 All right. The note says, I am informed that the

1 case is highly unlikely to go to the jury by the close of
2 business Friday. As a result it is anticipated the case
3 will continue into the early part of next week. If the jury
4 desires we can work on Saturday for all or part of the day
5 in hopes of completing the case Saturday or minimizing the
6 amount of time it will take to complete next week. We await
7 your response.

8 Does that meet the State's approval?

9 MS. RICHARDSON: Yes, Your Honor.

10 THE COURT: Mr. Hazzard?

11 MR. HAZZARD: Yes, sir.

12 THE COURT: Mr. Voigt?

13 MR. VOIGT: Yes, sir.

14 THE COURT: Mr. Edgeworth?

15 MR. EDGEWORTH: Yes, sir.

16 THE COURT: All right. Yeah, let me put
17 Judge Bonds on that, I'm sorry. Very good. I just signed
18 my name at the bottom of it.

19 All right, Solicitor, I'm happy to hear from you.

20 MS. RICHARDSON: Your Honor, we provided 28 photos
21 in discovery of the recovery of the body that were taken by
22 Investigator Kohut with the Georgetown County Sheriff's
23 Office.

24 THE COURT: Yes, ma'am.

25 MS. RICHARDSON: Of those 28 photos, the State

1 seeks to introduce...

2 THE COURT: And, Solicitor, given what you told --
3 if you feel more comfortable sitting down, please feel free
4 to do that. Okay?

5 MS. RICHARDSON: Photo 1462 is just a view from
6 the bank of the location of the body. I don't see where
7 that has any -- it's far enough away that it's not gruesome
8 or --

9 THE COURT: All right.

10 MS. RICHARDSON: -- on appeal to the prejudice --
11 or inflame the jury, but it does show the location of where
12 the body was located.

13 THE COURT: And to that extent, you gentlemen I'm
14 happy to hear from you as to an objection from any
15 particular photograph. I'm going to go ahead and deal with
16 it photograph by photograph.

17 MR. EDGEWORTH: Your Honor, I believe you are now
18 limiting some of the photos that were sent, it sounds like
19 are or they going in order? I'm just trying to go -- okay,
20 let me come over here to this. That makes more sense.

21 MR. HAZZARD: Because what I received was I
22 believe 36 photos, and obviously they're not labeled
23 numerically, so...

24 MS. RICHARDSON: That includes the autopsy photos.

25 MR. HAZZARD: Huh?

1 MS. RICHARDSON: That included the autopsy photos.

2 MR. HAZZARD: Yes.

3 MS. RICHARDSON: Okay. This is the photos just of
4 the body recovery.

5 THE COURT: All right. This first photograph, is
6 there any objection from the Defense on the first
7 photograph?

8 MR. VOIGT: No, Your Honor.

9 MR. EDGEWORTH: I have no objection to this photo.

10 THE COURT: All right.

11 MR. HAZZARD: No, sir.

12 MS. RICHARDSON: The next photo is 1466, and that
13 is a view of -- that is just a view of the yard and kind of
14 shows the steepness of the bank.

15 THE COURT: Any objection?

16 MR. HAZZARD: No, sir.

17 MR. VOIGT: No, sir.

18 MR. EDGEWORTH: No, Your Honor.

19 MS. RICHARDSON: 1458 is another view of the body
20 in the water?

21 THE COURT: Any objection?

22 MR. HAZZARD: No, sir.

23 MR. VOIGT: No, sir.

24 MR. EDGEWORTH: I have no objection to this photo,
25 Your Honor.

1 MS. RICHARDSON: This is 1459 and this is a closer
2 view showing the condition of the body as it was found in
3 the water.

4 THE COURT: Any objection?

5 MR. HAZZARD: No, sir.

6 MR. VOIGT: No, sir.

7 MR. EDGEWORTH: No objection, Your Honor.

8 MS. RICHARDSON: 1460 is a close up showing the
9 position of the hands and the clothing.

10 MR. EDGEWORTH: What was that number, again?

11 MS. RICHARDSON: 1460.

12 THE COURT: Any objection?

13 MR. HAZZARD: No, sir.

14 MR. VOIGT: No, sir.

15 MR. EDGEWORTH: No, Your Honor.

16 MS. RICHARDSON: And then 1467, and this shows how
17 the body was moved.

18 THE COURT: Any objection?

19 MR. HAZZARD: I would object to that one as being
20 duplicative of the previous one showing the body in the
21 water.

22 MS. RICHARDSON: Your Honor, from the State's
23 position we have eliminated all of the close ups of the body
24 and the more gruesome photos. But this is important for the
25 State to show the way the body was undisturbed in the river.

1 And then to show how it was recovered to show that any
2 injuries to the body were not caused during the recovery
3 process.

4 THE COURT: All right. I'll make a ruling -- I've
5 taken some notes on that, I note your objection and we'll
6 deal with that.

7 MR. EDGEWORTH: May I add to the objection, Your
8 Honor?

9 THE COURT: Yes, sir.

10 MR. EDGEWORTH: Because part of my objection on
11 this particular photo was, you know, it casts it in light,
12 too, where they're -- it looks like they're fishing him out.
13 And, of course, we don't know -- if the State's position now
14 is that, you know, We didn't disturb the body. Well, we
15 don't know whether this hook, you know, hit the body on the
16 way in or otherwise. So to say that it doesn't show -- what
17 they purport it to show, I think that adds to the prejudice
18 here.

19 MS. RICHARDSON: Well, in that case, Your Honor,
20 then I need to show more pictures to show more close-up
21 views of the body while it was in the body to show the
22 injuries.

23 THE COURT: All right. Go ahead. What's the next
24 one?

25 MS. RICHARDSON: That's all of them. And, like I

1 said, there were 28 photos.

2 THE COURT: Right.

3 MS. RICHARDSON: And we specifically went through
4 and chose. And if Your Honor wants to view the rest, you
5 know, we can do that as well.

6 THE COURT: All right. So those -- those are the
7 photographs at the scene?

8 MS. RICHARDSON: Yes, Your Honor, but now -- yes,
9 Your Honor.

10 THE COURT: Okay. All right. As it relates to
11 the photographs at the scene, I think that they're all --
12 they're all relative -- relevant. I think that they -- I
13 mean, they just show the unfortunate reality of the
14 situation. And I think that -- I think it's reasonable in
15 this case for the State to be able to show at least one
16 photograph as it relates to their retrieval of Mr. Harrison
17 from the -- from the river.

18 So I note your objections for the record, but that
19 will be my ruling and all of these will be able to come into
20 evidence if properly identified through whatever witness
21 they have.

22 MR. EDGEWORTH: Yes, Your Honor.

23 MR. HAZZARD: Yes, sir.

24 THE COURT: All right. Just for y'all's
25 edification, some will be happy, some will not, what's new.

1 All right. Sir, the jury has elected not to work
2 on Saturday. Thank you for your time in this matter.
3 Charles Powell, Juror 182.

4 So to that extent the jury has decided that they
5 do not want to work on Saturday. I know some wanted to work
6 on Saturday, some did not want to work on Saturday for a lot
7 of differ ways, but I think it was appropriate that the
8 decision in this case be left to the jury. They're the ones
9 that have been coming in at 9:00 o'clock. And as Mr. Voigt
10 so eloquently put it, they didn't necessarily sign up for
11 this, we did. And so I don't think it's fair to put any
12 additional pressure on them. I think they're working very
13 hard and have been here early and have stayed until
14 5:30-plus each day.

15 So, with that, I'm going to make this -- if you
16 want to come up and read this note, you can, otherwise I'm
17 going to go ahead and make this as a Court's Exhibit and
18 tell the -- and we'll be able to go ahead move forward. We
19 won't work on Saturday, but we will start back up Monday
20 morning. I'll have to contact court administration. I'm
21 supposed to be trying cases in Beaufort next week. But I'm
22 sure they will accommodate me.

23 All right. Anything further concerning the note
24 from the jury, from the State?

25 MS. RICHARDSON: No, Your Honor.

1 THE COURT: Mr. Hazzard?

2 MR. HAZZARD: No, sir.

3 THE COURT: Mr. Voigt?

4 MR. VOIGT: No, sir.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: No, sir.

7 THE COURT: All right. We'll make that 5?

8 COURT REPORTER: Yes, sir.

9 THE COURT: Thank you. All right. Okay. Yes,
10 and I'm sorry, why don't we make my note Number 5 and that
11 note in response Number 6. Thank you.

12 (WHEREUPON, Court's Exhibit Numbers 5 and 6 was
13 marked.)

14 THE COURT: Do we want to go ahead and look at the
15 autopsy photos now, Solicitor? Or do you want to wait?

16 MS. SMITH: I beg the Court's indulgence, of
17 course, technology apparently hates us. So we are working
18 on getting this back shortly.

19 THE COURT: No problem.

20 MS. SMITH: Your Honor, this is -- what we have
21 are pictures from the autopsy, we have printed out pictures
22 as well. The first two that we plan on showing are pictures
23 of X-rays.

24 THE COURT: Is there a number associated with
25 that?

1 MS. SMITH: I believe the 924 is the number --
2 those are the last three on these photos, 924 are the last
3 three digits on this. They continue.

4 THE COURT: All right. Okay. Hold on. As it
5 relates to the X-ray photos, any objections?

6 MR. HAZZARD: No, objection.

7 MR. VOIGT: No objection.

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: Thank you.

10 MS. SMITH: We've got Number 4 on the FA17204,
11 Number 4. Your Honor, this did assist the pathologist in
12 her report and she will testify to the water mark lines on
13 this photo. And we can go to the next.

14 THE COURT: Hold on a second. Hold on.
15 Any objection?

16 MR. HAZZARD: I don't believe there's -- I would
17 object to it, I don't believe there's any probative
18 information to be gleaned from that photograph of the
19 deceased body laying on the table. I believe the sole
20 purpose of it or the sole result of it would be to inflame
21 the passions and prejudices of the jury, which would violate
22 my client's Constitutional Rights under the South Carolina
23 and United States Constitution to due process of a fair
24 trial.

25 THE COURT: All right. Do the other Defendants

1 join in?

2 MR. VOIGT: I join in that, Your Honor. And I
3 will make this note, which is relative to all these autopsy
4 photograph, that for those of us who have chosen to do this
5 sort of thing for a living, we are -- we see these types of
6 photographs, and I think that we underestimate the effect
7 this has on people who are not in the business, so to speak.

8 I think that these photographs have a much more
9 profound effect on laypeople than we -- than we give credit
10 to. And I think that none of those effects redound to my
11 client's benefit and, in fact, violate his rights.

12 THE COURT: All right. Anything else anybody
13 wants to add?

14 MR. EDGEWORTH: No, Your Honor. Just for the
15 record, I absolutely join in, in the objection and the
16 arguments made by Counsel.

17 THE COURT: Okay.

18 MS. RICHARDSON: Your Honor, just out -- I'm
19 assuming we're going to have this same objection to the most
20 of the pictures. The State's position is, we've tried to
21 limit, as I've said, there were 28 of the body recovery and
22 we're trying to limit what is being shown. But this is a
23 murder case where there is no clear cause of death.

24 Arguments that has been brought up in all of the
25 opening statements, injuries to the body are going to be

1 important, so that the pathologist can explain where there
2 were defects in the body and possible injuries. So I think
3 every injury needs to be shown to the jury. The bindings
4 need to be shown from multiple angles to the jury to show
5 the manner of death.

6 Also, Your Honor, this is a desecration case, as
7 well.

8 THE COURT: All right.

9 MS. RICHARDSON: And the jury needs to see the
10 condition of the body in that regard. But since the cause
11 of death is a contention, Your Honor, I think it's important
12 that the jury see all of the areas of injury on the body.

13 Ms. Smith is going to finish arguing this. She
14 talked with the pathologist who specifically went with her
15 through the pictures to say what would aid in her testimony
16 in this matter. And I believe it's State v. Collins, that's
17 the case involving the child that was mauled by dogs, and
18 our Supreme Court has recognized, although it's unfortunate
19 that, you know, we can't just rely on squeamishness. This
20 is not to inflame the jury from the State's position, but
21 cause of death and desecration or at issue here.

22 THE COURT: All right. Let's move on to the next
23 photograph, please.

24 MS. SMITH: Yes, Your Honor. I do believe that I
25 forgot the foot bindings which are 846, 473, 925, so the

1 last three digits 925, these are the X-rays of the foot
2 bindings.

3 THE COURT: All right. Any objection to the
4 X-rays?

5 MR. HAZZARD: No, sir.

6 MR. VOIGT: No, sir.

7 MR. EDGEWORTH: No, Your Honor.

8 THE COURT: Okay.

9 MS. SMITH: Moving on. This is FA17204, Item
10 Number 5, or Picture Number 5, this is the image of the
11 victim's body. It shows the defects in his right side, the
12 very large gash in his right side. The body is still in
13 a -- in the same position where he was found floating in the
14 river, Your Honor. This is just a more detailed picture.
15 We did exclude -- we are excluding more graphic pictures
16 than this one.

17 THE COURT: All right. Is it the same
18 objection -- is it going to be the same objection as it
19 relates to this photographs from the Defense, Mr. Hazzard?

20 MR. HAZZARD: In a sense, Your Honor, yes. And I
21 will add to that, after listening to the Prosecutor's
22 reasoning for why these should be admissible, first of all
23 she indicated, or at some point she indicated that they
24 were -- that they would be helpful in determining the cause
25 of death. But then they say we don't know the cause of

1 death.

2 So I'm -- so possibly these would be probative and
3 relevant if they actually did indicate the cause of death,
4 but she's saying they don't. So then what is the relevance
5 of them? What is the purpose of them?

6 THE COURT: Well, I think she said that this would
7 assist the coroner or pathologist as it relates to her
8 descriptions. And also, I mean, I think in your openings --
9 I think in the openings from the defense they talked about
10 cause of death, their lack of cause of death, they're not
11 being able to prove it or what the injuries were.

12 So, I mean, I disagree with you as it relates to
13 the need for autopsy photographs as it relates -- as to that
14 general argument. But as to this specific picture, anything
15 other than the arguments that you've made already,
16 Mr. Hazzard?

17 MR. HAZZARD: No, sir. All right. Anything else,
18 Mr. Voigt?

19 MR. VOIGT: I will say this and this will -- that
20 way I don't have to say it again.

21 THE COURT: Yes, sir.

22 MR. VOIGT: I believe the State's decision to
23 charge desecration --

24 THE COURT: Yes, sir.

25 MR. VOIGT: -- has absolutely no impact on the

1 probative value of these photographs. I don't believe that
2 there will be evidence -- perhaps there maybe between now
3 and then, but I haven't heard it in the State's theory, any
4 evidence that these photographs are going to support that
5 particular charge. I don't believe their charging decision,
6 in this particular matter, determines what's probative. And
7 I'll just join Mr. Hazzard's objection, because I believe
8 he's right.

9 THE COURT: Mr. Edgeworth?

10 MR. EDGEWORTH: Likewise, Your Honor, I join in
11 the objection.

12 THE COURT: All right. Let's move to the next
13 photograph.

14 MS. SMITH: 204, Item Number 6.

15 THE COURT: All right. Let me just ask: Any
16 objection to photograph of the hands?

17 MR. HAZZARD: No, sir.

18 THE COURT: Mr. Voigt?

19 MR. VOIGT: No, Your Honor.

20 MR. EDGEWORTH: No, Your Honor.

21 THE COURT: All right. We can move on.

22 MS. SMITH: 204, Item Number 9.

23 THE COURT: Hands?

24 MR. HAZZARD: No objection.

25 MR. VOIGT: No objection, Your Honor.

1 MR. EDGEWORTH: No objection, Your Honor.

2 THE COURT: All right. 204, 10, different view,
3 hands?

4 MR. HAZZARD: I would object, because at this
5 point, and you'll see that there are several photographs of
6 the hands, and I would say at this point it's becoming
7 duplicative. If the issue with regard to hands is to show
8 the swelling and the sloughing of the skin, then the first
9 photograph shows that. So I don't know how many more
10 photographs --

11 THE COURT: Okay.

12 MR. HAZZARD: -- you need to show that --

13 THE COURT: All right.

14 MR. HAZZARD: -- so I would object on the grounds
15 that it's duplicative as well therefore --

16 THE COURT: Mr. Voigt?

17 MR. HAZZARD: -- the only purpose being to inflame
18 the passions and prejudices of the jury.

19 THE COURT: Thank you. Mr. Hazzard.

20 MR. VOIGT: I join in that objection, Your Honor.

21 MR. EDGEWORTH: I join the objection, Your Honor.

22 THE COURT: All right. Next photograph.

23 MS. SMITH: Your Honor, do you want us to tell you
24 why those are important now or later?

25 THE COURT: Um.

1 MS. SMITH: There -- I mean, there is a -- there
2 is a reason as to why each of these views are important and
3 each of these views do show different things.

4 THE COURT: All right. Well, very quickly,
5 please.

6 MS. SMITH: Okay. Your Honor, you take over.

7 MS. RICHARDSON: Your Honor, the different views
8 are necessary to show the amount of loops and the knots that
9 were tied in the different areas that were there, because it
10 will be the pathologist that will explain how the decedent
11 would not have been able to have done that. And it also
12 shows that the thumb is wrapped. It shows how tight the
13 bindings were from different angles. And also shows the
14 free edges were clear.

15 THE COURT: All right. Is this one -- is that
16 one -- all right.

17 MS. SMITH: Sorry, I was just going to pull them
18 all up.

19 MS. RICHARDSON: And, Your Honor, it also shows
20 the -- it's very important for us to show the position of
21 the hands, because one hand was covering the palm of the
22 other that is injured.

23 THE COURT: All right. Let's move on to the next
24 photograph. All right. Any objection to this photograph as
25 it relates to the feet from the Defense?

1 MR. HAZZARD: No objection.

2 MR. VOIGT: No, sir.

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: And what number is that?

5 MS. SMITH: Your Honor, that's 204, 11.

6 THE COURT: Thank you.

7 MS. SMITH: And, Your Honor, the next is 204, Item
8 Number 12.

9 THE COURT: Any objection?

10 MR. HAZZARD: No objection.

11 THE COURT: Mr. Voigt?

12 MR. VOIGT: No, sir.

13 THE COURT: Mr. Edgeworth?

14 MR. EDGEWORTH: No objection, You Honor.

15 THE COURT: All right. Next.

16 MS. SMITH: 204, Item Number 13.

17 THE COURT: This is just another angle?

18 MS. SMITH: Yes, Your Honor, it also shows
19 different angles of the bindings as well and more of the
20 free ends.

21 THE COURT: All right.

22 MS. SMITH: I mean, obviously, the knots in this
23 picture are very clear.

24 THE COURT: All right, Solicitor. Gentlemen,
25 Mr. Hazzard?

1 MR. HAZZARD: I would object. I think at this
2 point it's become a little duplicative. Also, if their
3 argument is that they have to show the knots from different
4 angles to prove that the decedent didn't do it himself, I
5 think that's a little disingenuous. I don't think there's
6 been any argument made that he bound himself, hand and foot,
7 and through himself into the Black River.

8 So I do not know how many angles of the decedent
9 they need, Your Honor.

10 THE COURT: All right.

11 MR. HAZZARD: So objection to being duplicative at
12 that point.

13 THE COURT: Yes, sir.

14 MR. VOIGT: I would join in that, Your Honor.

15 THE COURT: Thank you.

16 MR. EDGEWORTH: I join in that objection, Your
17 Honor.

18 THE COURT: All right. Thank you.

19 Go ahead, Solicitor.

20 MS. SMITH: 204, 14, different angle of -- it is a
21 different angle it continues to show the wire and the
22 knotting.

23 MR. HAZZARD: Same objection.

24 THE COURT: Yes, sir.

25 MR. VOIGT: Join in the objection.

1 MR. EDGEWORTH: I join in the objection, Your
2 Honor.

3 MS. SMITH: And, again, Your Honor, the State does
4 have the burden to show malice.

5 THE COURT: Okay. Next photograph.
6 Any objection.

7 MR. HAZZARD: Same objection, Your Honor.

8 MR. VOIGT: Joined, Your Honor.

9 MR. EDGEWORTH: Same objection, Your Honor.

10 THE COURT: Is this 20 -- thank you, gentlemen.

11 MS. SMITH: 204-15, Your Honor.

12 THE COURT: 204-15?

13 MS. SMITH: Yes.

14 THE COURT: All right. Go ahead. This is the
15 angle of the hand that is on the bottom. It is showing the
16 defects that is on the hand and the absence of clubbing.

17 Objections?

18 MR. HAZZARD: No objection.

19 MR. VOIGT: Judge, I will object to that. I think
20 that's gratuitously invasive. I believe it's only meant to
21 inflame. If -- if -- and it also shows manipulation of the
22 body, which is clearly, obviously, done at an autopsy. But
23 if we thought autopsies were relevant, we'd film them and
24 show them to juries, and we don't. At least that part of
25 the procedure. Some of this stuff really should remain

1 behind the curtain.

2 THE COURT: All right. Mr. Edgeworth?

3 MR. EDGEWORTH: I join in the objection, Your
4 Honor.

5 THE COURT: Okay. And that's 20 -- 204-17?

6 MS. SMITH: 16, Your Honor.

7 THE COURT: 16. All right. Anything else?

8 MS. SMITH: Any other pictures?

9 THE COURT: Yes, ma'am.

10 MS. SMITH: Yes.

11 MR. EDGEWORTH: That's labeled 17. I'm down to 17
12 and the picture shows 17. Is that 17-204?

13 MS. SMITH: 17-204, Item Number 16.

14 MR. EDGEWORTH: Okay. You're talking about the
15 Item Number?

16 THE COURT: Okay.

17 MS. SMITH: Your Honor, this is a picture of the
18 defendant's (sic) hands, the bindings on his hands and the
19 fact that fact it is showing the defects of the defendant's
20 (sic) hand on the side of it.

21 THE COURT: All right. Any objection?

22 MR. HAZZARD: Yes, sir. I would submit that the
23 previous photos have shown the defects, have shown the close
24 up of the hands, thus making this duplicative. And the only
25 purpose it would serve or the result it would have would be

1 to improperly -- well, not improperly -- to inflame the
2 passions and prejudices of the jury, since there's never a
3 proper inflaming of passions and prejudices of the jury.

4 Therefore it would be impermissible as it would to
5 violate my client's due process rights under the
6 South Carolina, U.S. Constitutions to a fair trial.

7 THE COURT: Mr. Voigt?

8 MR. VOIGT: I will join in that objection, Your
9 Honor.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: I will join in that objection,
12 Your Honor.

13 THE COURT: And what is that -- that's what
14 204-16.

15 MS. SMITH: Item number 17, Your Honor.

16 THE COURT: 17?

17 MS. SMITH: Yes, Your Honor. And we have not
18 shown a picture -- there is no other picture that shows this
19 angle that we have shown at this point in time. It shows
20 the side of the victim's hand with the defects on it.
21 There's been no other picture at this point in time that has
22 shown those defects.

23 THE COURT: Okay.

24 MS. RICHARDSON: And, Your Honor, we do have hard
25 copies of those. And maybe other pictures that might be

1 able -- easier to compare what is --

2 THE COURT: No, I'm good. I'm good.

3 MS. RICHARDSON: -- duplicated and what's not.

4 THE COURT: I'm good. Go ahead.

5 MS. SMITH: Your Honor, this is showing the defect
6 of the victim's hand. The hand that is behind -- there is
7 one hand that is over the other hand. This is the hand on
8 the backside, Your Honor. There is a defect going across --
9 across the hand. Your Honor, this is -- this also shows the
10 tightness of the bindings and the lack fingernails that are
11 on the victim's -- the victim's left hand.

12 MR. VOIGT: What number is this?

13 MS. SMITH: This 2014, Item Number 18.

14 MR. VOIGT: Thank you.

15 THE COURT: Any -- same objection, Mr. Hazzard?

16 MR. HAZZARD: Yes, sir, Your Honor. I would argue
17 that it is duplicative. What they are saying is the same
18 thing, it shows the defect, it shows the defect. That's the
19 same as previous pictures. So I would object on those
20 grounds.

21 MR. VOIGT: I would join in that objection.

22 MR. EDGEWORTH: I join in the objection, Your
23 Honor.

24 THE COURT: All right. What's next?

25 MS. SMITH: Your Honor, that is a different

1 defect. That is a different angle of a defect. I mean, the
2 previous picture did not show this portion of the defect.

3 THE COURT: What's the defect?

4 MS. SMITH: Your Honor, if I -- Your Honor, if I
5 may approach?

6 THE COURT: Sure.

7 MS. SMITH: That is the defect. It is a slice.

8 THE COURT: All right.

9 MS. SMITH: 204, Item Number 20, this is showing
10 the defects on the -- on the victim's left thumb and webbing
11 of his thumb, Your Honor.

12 THE COURT: All right. Same objection from the
13 Defense?

14 MR. HAZZARD: But for the other duplicative
15 pictures, I actually would not have an objection to that
16 particular picture, Your Honor. But when you take them all
17 cumulatively, one picture after the other, after the other,
18 after the other, you know, that is when you're talking about
19 inflaming the passions and prejudices of the jury and the
20 fact that it has absolutely not probative value. But that
21 picture standing alone, I would have no objection to.

22 MR. VOIGT: I would concur with that objection,
23 Your Honor.

24 MR. EDGEWORTH: I'd likewise join in this
25 objection, Your Honor.

1 THE COURT: Okay. Next.

2 MS. SMITH: Your Honor, these pictures, these
3 angles, of the left hand, the one with the slicing, the
4 defect, Your Honor, the pathologist is going to use these as
5 a -- these are consistent with a defensive wound, Your
6 Honor. And, I mean, that is the purpose. It is extremely
7 probative. It is extremely relevant to this case.

8 This is -- the effects and the angles, I mean, one
9 angle is showing the deepness of the -- the deepness of the
10 cuts. You know, there are lots of pictures of his hands,
11 yes, I completely understand that. And, however, these are
12 being used to assist that pathologist in her testimony and
13 in her -- and in her -- her report in general.

14 THE COURT: All right. Next.

15 MS. SMITH: 21, the tightness of the bindings,
16 Your Honor. That's what -- that is what extremely important
17 in this one. It also...

18 THE COURT: Same objection gentlemen?

19 MR. HAZZARD: For Alexander Rhue Sr., yes, sir.

20 MR. VOIGT: I would join in that objection, Your
21 Honor.

22 MR. EDGEWORTH: I join in the objection your
23 honor.

24 THE COURT: All right. Thank you. Next.

25 MS. SMITH: 23, this one's an overview -- sorry

1 FA17204, Item Number 23. Your Honor, this again shows the
2 tightness of the bindings -- or this shows the tightness of
3 the bindings in this picture. And in the words of our
4 pathologist, that he wouldn't have been able to slip it.

5 THE COURT: Okay. Same objection, gentlemen?

6 MR. VOIGT: Yes, Your Honor.

7 MR. HAZZARD: Yes, sir.

8 MR. EDGEWORTH: Same objection, Your Honor.

9 THE COURT: Go ahead.

10 MS. SMITH: Item 33, the cutting of the rope -- or
11 excuse me, the cutting of the wire.

12 THE COURT: All right.

13 MS. SMITH: Your Honor, at this point in time, you
14 really cannot get an accurate idea of how many times this
15 victim's hands were bound with this wire, how many times it
16 was wrapped around. Your Honor, particularly in this
17 picture, you can see that pathologist actually had to push
18 the scissors down into -- down into the skin a little bit to
19 get underneath the wire in order to cut the wire.

20 THE COURT: Gentlemen?

21 MR. HAZZARD: I do not see the relevance of the
22 pathologist removing the speaker wire.

23 THE COURT: Okay. Mr. Voigt?

24 MR. HAZZARD: Therefore I object to that.

25 MR. VOIGT: I would object. And, further Your

1 Honor, I'm assuming that the pathologist is going to, based
2 on the admission of certainly, several of these photographs
3 to this point, which have been admitted, as to the tightness
4 of the binding and all of the things that State is given as
5 reasons, how many times they were wrapped. And I'm sure
6 that we're going to get testimony about the difficulty of
7 removing the binding. I don't believe that that photograph
8 assist the jury to understand anything, it would only seek
9 to inflame them.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: I join in the objection, Your
12 Honor.

13 THE COURT: Thank you. Next, please.

14 MS. SMITH: This is further cutting of the
15 binding, this is Item Number 40, FA17204, Item Number 40.

16 Your Honor, this does assist the jury in
17 understanding the amount of times that this man was bound.
18 he was wrapped over and over again with the speaker wire.

19 THE COURT: Gentlemen. Mr. Hazzard?

20 MR. HAZZARD: I object again. I fail to see the
21 relevance of it. The question of whether or not he was
22 bound is not at issue. The arguments we are hearing is that
23 they have to prove that he didn't bind himself and throw
24 himself in the river. I think anyone of the preceding 20
25 pictures would make that point.

1 THE COURT: All right. Mr. Voigt?

2 MR. VOIGT: I join in that objection.

3 THE COURT: Mr. Edgeworth?

4 MR. EDGEWORTH: I join the objection, Your Honor.

5 THE COURT: Go ahead.

6 MS. SMITH: The next one is FA17204, Item
7 Number 42, showing the rope -- showing the speaker wires
8 being removed from his thumb, Your Honor.

9 THE COURT: Mr. Hazzard?

10 MR. HAZZARD: I object simply because of the
11 number of photographs before it. As to that individual
12 picture, I don't really have a problem with it, but when you
13 add in the 20-some-odd before it, I believe that there is a
14 cumulative effect --

15 THE COURT: All right.

16 MR. HAZZARD: -- that endures to the
17 Constitutional detriment of my client's rights to a fair
18 trial due process under the South Carolina and United States
19 Constitution.

20 THE COURT: All right.

21 MR. HAZZARD: And for that reason I object.

22 THE COURT: All right. Mr. Voigt?

23 MR. VOIGT: I join in that objection for that
24 reason.

25 THE COURT: All right. Mr. Edgeworth?

1 MR. EDGEWORTH: I join in the objection, Your
2 Honor.

3 THE COURT: Go ahead.

4 MS. SMITH: 44, the sheer amount of times that the
5 hands were wrapped. It is showing that she taped the ends,
6 she's also showing a picture of the free end at this point
7 in time. Your Honor, the end is cut cleanly, that is --
8 that is what this picture shows. Your Honor, it also shows
9 the defect of the hand. However, we have another picture to
10 clearly show the full defect of this left hand.

11 THE COURT: What number is that?

12 MS. SMITH: Your Honor, that's Item Number 44.

13 THE COURT: Same objection, gentlemen?

14 MR. HAZZARD: Yes, sir. The argument being
15 positive is that this picture shows the sheer number of
16 times the hands were wrapped. We have heard that about
17 approximately five or six other photographs. So I would
18 submit that they're duplicative and would serve only to
19 inflame the passions and prejudices of the jury thus
20 violating my client's rights to a fair trial and due process
21 under the South Carolina and United States Constitutions.

22 THE COURT: All right.

23 MR. VOIGT: I would join in that objection, Your
24 Honor.

25 MR. EDGEWORTH: I join in the objection, Your

1 Honor.

2 THE COURT: All right. Next.

3 MS. SMITH: Item Number 53. Your Honor, this is
4 cutting -- this is cutting the wire from the left hand, the
5 previous pictures were of the right -- were of the right
6 hand.

7 THE COURT: Same objection, gentlemen?

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

9 MR. VOIGT: Yes, sir.

10 MR. EDGEWORTH: Yes, Your Honor.

11 THE COURT: Thank you. Next.

12 MS. SMITH: Item Number 60, is a closeup of the --
13 it's the full effect, it is the full picture of the defect
14 on the victim's right hand, or left hand, Your Honor. You
15 know, this is the picture you can see the deepness of the
16 wound.

17 And, as I said before, a photo of this nature not
18 only will it show the -- not only will it show that these
19 wounds could be consistent with a defensive wound, but it
20 also shows furrowing on the wrist. You can see the indents,
21 which I believe the proper term for that is a "furrow," Your
22 Honor.

23 THE COURT: All right. Gentleman?

24 MR. HAZZARD: Your Honor, but for the preceding
25 pictures, I would not have an objection to that, because I

1 think that actually is one of the ones that shows what they
2 claim that they want to show.

3 THE COURT: Yes, sir. Mr. Voigt?

4 MR. HAZZARD: So, but for the other pictures, I do
5 not object to that one.

6 THE COURT: I'm sorry. I didn't mean to cut you
7 off, Mr. Hazzard. Go ahead.

8 MR. HAZZARD: I mean, I'm placing -- because we're
9 looking at these pictures in this sequence, again, I'm old
10 school, I'm used to actually having physical photographs
11 that you look at and rulings being made on each photograph.

12 But as to that one, individually, I do not have an
13 objection to it but for if the ones preceding it are
14 admitted, then I think it becomes duplicative.

15 THE COURT: I understand. Mr. Voigt?

16 MR. VOIGT: I would join in that objection, Your
17 Honor.

18 THE COURT: Okay.

19 MR. EDGEWORTH: Same objection, Your Honor.

20 THE COURT: Item Number 64, Your Honor, is the
21 cutting of the wire on his feet showing that she had to
22 press down in order to cut the bindings. And it also shows
23 the free ends which are labeled. Gentlemen?

24 MR. HAZZARD: Same objection, Your Honor, because
25 we've seen several photographs of the bindings on the ankles

1 and the feet, so it makes it duplicative.

2 MR. VOIGT: I concur, Your Honor.

3 MR. EDGEWORTH: I join the objection, Your Honor.

4 THE COURT: All right. Thank you. Next.

5 MS. SMITH: The next one is Item Number 72.

6 THE COURT: How many are there?

7 MS. SMITH: Your Honor, I believe there is --
8 there are five more -- six more.

9 THE COURT: Okay. Go ahead.

10 MS. SMITH: Okay. This is the speaker wire --
11 Your Honor, do you mind if I speak to you while sitting
12 down, I apologize?

13 THE COURT: Sure you can, that's not problem.

14 MS. SMITH: I apologize. Item Number 72, this is
15 the -- after she has cut the speaker wire from victim's
16 feet -- excuse me, his ankles, Your Honor, she has taped the
17 ends of the wire. At this point in time, you can clearly
18 see the sheer amount at this point.

19 THE COURT: All right. Same objection, gentlemen?

20 MR. HAZZARD: Actually, I have no objection to
21 that photograph. Again, in some of the photographs the
22 State says the purpose of those photographs is to show the
23 sheer number of times and how much wire we're talking about.
24 Well, there's your perfect photograph to show how much wire
25 we're talking about. So, no, I have no objection to that

1 photograph, Your Honor.

2 MR. VOIGT: No objection.

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: Well, in that case, that will be
5 admitted without objection. All right. What's next?

6 MS. SMITH: Item Number 74, Your Honor. This one
7 is -- I believe that one is already in evidence.

8 THE COURT: Any objection to the tattoo?

9 MR. HAZZARD: No, sir.

10 MR. VOIGT: I had already objected to it, so.

11 THE COURT: Mr. Edgeworth?

12 MR. EDGEWORTH: No objection, Your Honor.

13 THE COURT: All right. That's going to be
14 admitted.

15 MS. SMITH: Item Number 84, Your Honor, is a
16 picture of the victim's hoodie.

17 THE COURT: Any objection, gentleman?

18 MR. HAZZARD: I'm assuming that was on the body at
19 the time of recovery?

20 MS. SMITH: Absolutely.

21 MR. HAZZARD: No objection.

22 MR. VOIGT: No objection.

23 MR. EDGEWORTH: No objection, your Honor.

24 THE COURT: All right. That's admitted.

25 MS. SMITH: Your Honor, a closeup of the torn --

1 excuse me, Your Honor, this is Item Number 86, it is a
2 closeup of the tearing of the victim's hoodie at the bottom
3 left corner.

4 THE COURT: Any objection, gentlemen?

5 MR. HAZZARD: No objection, sir.

6 MR. VOIGT: No objection.

7 MR. EDGEWORTH: No objection, Your Honor.

8 THE COURT: All right. That's going to be
9 admitted without objection.

10 MS. SMITH: 109, furrows.

11 THE COURT: Gentlemen?

12 MR. HAZZARD: Your Honor, again, this particular
13 photograph I have no objection to. The State says they want
14 to show the defect or -- the defect in the hand in the right
15 hand, there's your perfect photograph to show it. I have no
16 objection to that one, but if the eight or ten others are
17 admitted, then, yes, I have an objection for being
18 duplicative.

19 THE COURT: All right.

20 MR. VOIGT: I will join in that reasoning, Your
21 Honor.

22 MR. EDGEWORTH: Same objection, Your Honor.

23 THE COURT: All right. Solicitor, you got hard
24 copies of each one of these?

25 MS. SMITH: Yes, Your Honor.

1 THE COURT: All right. And are they each -- do
2 they each have the number on them?

3 MS. SMITH: Yes, Your Honor, on the back.

4 THE COURT: All right. Bring those up.

5 MS. SMITH: Besides the ones that you've already
6 admitted?

7 THE COURT: All of the X-rays are admitted without
8 objection. The others that I just acknowledged that were
9 without objection, those are in, but just whatever is going
10 to be quickest, I want to -- I want to look at this.

11 MS. SMITH: Yes, Your Honor.

12 THE COURT: And let me just tell you, gentleman, I
13 do believe that unfortunately the photographs, I mean, just
14 mirror the reality of the case. And I think that's outlined
15 in Collins. And, to that extent, I don't think in Collins,
16 just because they're gruesome, they're not inadmissible
17 merely because they're gruesome. And, to that extent,
18 though I do agree that some of these photographs, in my
19 opinion, are duplicative. And to that extent those that I
20 believe are duplicative, I'm going to exclude those. And so
21 what I want to do is go through them.

22 Solicitor, did you show this one? I didn't recall
23 seeing this one on the video.

24 MS. SMITH: May I approach, Your Honor?

25 THE COURT: Sure. FA17204, 129?

1 MS. SMITH: No, Your Honor. There were two left
2 when you asked for the hard copies. That is not one of the
3 ones that was shown on the screen.

4 THE COURT: Okay. Well, then I don't know if
5 they've seen it.

6 MS. SMITH: Yes, sir.

7 THE COURT: Hand that to those gentlemen.

8 MS. SMITH: Yes, sir. May I approach?

9 THE COURT: Uh-huh. Any objection on this
10 photograph, when I say this, FA17204, 129?

11 MR. HAZZARD: By itself, no objection from me,
12 Your Honor.

13 THE COURT: Mr. Voigt?

14 MR. VOIGT: Only in so far as it maybe duplicative
15 of other photographs, but in and of itself, I have no
16 objection.

17 MR. EDGEWORTH: Same objection, Your Honor.

18 THE COURT: All right. I do believe that there
19 are some duplicative photographs. I think FA17204, 64, the
20 feet, the cutting of the feet, I think that's -- I don't --
21 I just don't -- I think there are other photographs that
22 show the tightness of the webbing, of the feet, and of the
23 wire, and so I just don't think that cutting adds anything.

24 MS. SMITH: Your Honor, would you repeat that
25 number for me?

1 THE COURT: Sure.

2 MS. SMITH: So I can write it, I apologize.

3 THE COURT: FA17204, 64.

4 MS. SMITH: 64?

5 THE COURT: Yes, ma'am.

6 Again, I think duplicative. FA17204, 14. I think
7 duplicative FA17204, 17. I think duplicative FA17204, 23.
8 I think the same thing for FA17204, 33. I think the same
9 thing for FA17204, 53. I think the same thing for FA17204,
10 42.

11 I believe that the rest of the photographs are
12 relevant and, while they maybe gruesome, I certainly think
13 that, like I said, it shows the sad reality of the
14 situation. I also believe that there are -- there are
15 enough variations in those photographs that I believe the
16 anticipated testimony that's going -- that the State
17 indicates that the medical examiner is going to be making
18 reference to is going to show different potential injuries
19 that maybe I think that may be relevant and assist the jury
20 in this case. So that will be my ruling. These will be
21 out. And these will be in. All right, gentleman?

22 Anything further concerning the photographs from
23 the State?

24 MS. RICHARDSON: Yes, Your Honor, based on the
25 Arguments of Counsel regarding possible manipulation of the

1 body, the State would ask for a full body photo from the
2 body recovery site, just to show the position of the body
3 when it was -- and the condition. It would also be, I
4 believe, the only photograph of the face, which would go --
5 and it's not really that close up of the face. We have two.
6 This one shows the full...

7 MR. VOIGT: I didn't make an objection to that, so
8 don't concede that.

9 MS. RICHARDSON: And if I could show Your Honor
10 that?

11 THE COURT: All right. You can just hand it to
12 me.

13 MS. RICHARDSON: And we got to put a number on the
14 back.

15 And that just shows where the body was recovered,
16 just to show there was no manipulation. Your Honor, as I
17 was showing them, there's obviously much more gruesome
18 photos that we're not seeking to admit.

19 THE COURT: All right. As to these two
20 photographs that I've been handed, Mr. Hazzard?

21 MR. HAZZARD: I saw one photograph, I wasn't shown
22 two.

23 THE COURT: I'm sorry, sir.

24 MS. RICHARDSON: This would be the only one of the
25 face, but it does show just closer up of the face.

1 THE COURT: Let me hear from you, Mr. Hazzard.

2 MR. HAZZARD: No objection.

3 THE COURT: Mr. Voigt?

4 MR. VOIGT: Your Honor, I didn't object to the
5 recovery photographs at all. I would object to these. I
6 think that this is -- now I think this -- I think the State
7 made the correct call the first time, and now I think
8 they're doubling down on making the incorrect call, which
9 would serve to inflame the jury.

10 This pathologist is going to testify, I believe,
11 that she doesn't know how these wounds occurred. That isn't
12 going to change no matter what photographs are introduced.

13 THE COURT: All right. Mr. Edgeworth?

14 MR. EDGEWORTH: Yes, Your Honor. Just to
15 reiterate, and my understanding is that you had excluded
16 Number 17?

17 THE COURT: Which one.

18 MR. EDGEWORTH: Where the body was taken out of
19 the water with the fish hook or whatever?

20 THE COURT: No, I think I allowed that in. Where
21 they showed the body being basically put the fish hook, or
22 whatever apparatus they were using, I guess, to try to guide
23 the body toward the shore. Yes, sir, I said that one.

24 MR. EDGEWORTH: And that -- well, I was making
25 sure that that was my understanding of the Court's ruling,

1 that that one has been admitted.

2 THE COURT: Yes, sir.

3 MR. EDGEWORTH: So my objection wasn't to
4 manipulation of the body, my objection was simply to the
5 fact that there was a, you know, the fish hook was in the
6 picture, as opposed to the body as of itself. It didn't
7 have anything to do with the -- so in that line of
8 thought -- with the State's line of thought that they need
9 an additional photo, which is even more gruesome than the
10 others, it doesn't shed any light on their argument that the
11 body wasn't manipulated in some form or fashion.

12 THE COURT: All right.

13 MR. EDGEWORTH: There was no objection on that
14 basis.

15 THE COURT: All right. I'm going to allow the one
16 that shows -- I'm not going to allow the one with the
17 closeup of the face.

18 MS. RICHARDSON: Okay.

19 THE COURT: And so the photographs that shows
20 Mr. Harrison on the shore or on the side of the river, I
21 will allow that, but not the one that has the more close-up
22 picture of his face, all right?

23 Anything further before we can get the jury in
24 here, Solicitor?

25 MS. RICHARDSON: Your Honor, if we could just have

1 five minutes to make sure that we --

2 THE COURT: All right.

3 MS. RICHARDSON: -- just to make sure that we
4 don't accidentally -- we have it digitally, correct.

5 THE COURT: Okay.

6 MR. HAZZARD: Are we taking a break, Your Honor?

7 THE COURT: Yes, that's fine. Yes, sir.

8 MR. HAZZARD: Thanks.

9 THE COURT: We'll be at ease for about
10 five minutes.

11 (WHEREUPON, there was a break held from 10:25 a.m.
12 until 10:30 a.m.)

13 THE BAILIFF: All rise.

14 THE COURT: Thank you. Please be seated. All
15 right.

16 MR. EDGEWORTH: Your Honor, just a few extra
17 moments, because my client was delayed in the ability to go
18 to the restroom due to all the people from the gallery being
19 outside.

20 THE COURT: I understand.

21 (WHEREUPON, there was a brief pause.)

22 THE COURT: All right. Solicitor, are we ready to
23 proceed?

24 MR. HAZZARD: Your Honor, as a housekeeping
25 matter.

1 THE COURT: Yes, sir.

2 MR. HAZZARD: I simply want to state for the
3 record, I indicated the basic grounds for my objections when
4 we were reviewing the photographs.

5 THE COURT: Yes, sir.

6 MR. HAZZARD: I want the record to be clear that
7 when I say, "The due process rights of my client to a fair
8 trial to the State and Federal Constitution," I'm referring
9 to his rights under the Fifth and Fourteenth Amendments to
10 the United States Constitution, and Article 1, Section 3, of
11 the South Carolina Constitution.

12 THE COURT: Yes, sir. Thank you.

13 MR. HAZZARD: Yes, sir.

14 THE COURT: Mr. Voigt?

15 MR. VOIGT: I would, of course, join in that, Your
16 Honor.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: I would join in that, as well,
19 Your Honor.

20 THE COURT: All right. That sounds great.

21 Solicitor, are we ready?

22 MS. RICHARDSON: Yes, Your Honor.

23 THE COURT: All right. Great. Is the Defense
24 ready to bring the jury in?

25 MR. HAZZARD: Yes, sir.

1 MR. VOIGT: Yes, sir.

2 MR. EDGEWORTH: Yes, sir.

3 THE COURT: All right. Let's get the jury in
4 here.

5 (WHEREUPON, the jury entered the courtroom at
6 10:34 a.m.)

7 THE COURT: Good morning, folks.

8 We received your note, and, in fact, your note was
9 something that I was anticipating would probably come to
10 light later this afternoon as it relates to that, but you
11 beat me to it, and that's fine.

12 I do believe that this case will -- we won't be
13 able to complete it this week. I want you to know it is not
14 because we are not working and there are just certain
15 matters that have to be taken up with and dealt with outside
16 of your presence. And please do not hold any delay, if you
17 want to hold it against anybody hold it against me, not the
18 State, not the Defense. These folks are working hard, I
19 promise you.

20 That having been said, we're going to continue
21 with the State's case. And I believe, Solicitor, you are
22 ready proceed with your next witness; is that correct?

23 MS. RICHARDSON: Yes, Your Honor.

24 THE COURT: All right, ladies and gentlemen, thank
25 you again.

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 Solicitor?

2 MS. RICHARDSON: The State calls Perry Collins.

3 THE COURT: Watch your step. Thank you.

4 PERRY ROBINSON COLLINS, having been duly
5 sworn, testified as follows:

6 THE COURT: Come on right around here Mr. Collins.
7 And, Mr. Collins, if you would, unfortunately that
8 microphone, you got to be right up on it.

9 THE WITNESS: Okay.

10 THE COURT: But, please, go right ahead, sir, and
11 state your name, sir.

12 THE WITNESS: Oh, okay. Perry Robinson Collins.

13 THE COURT: Your witness, Solicitor.

14 MS. RICHARDSON: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MS. RICHARDSON:

17 Q. Good morning, Mr. Collins.

18 A. Good morning.

19 Q. Can you tell us where you live?

20 A. I live at 25 -- 50 -- I've never done this before.
21 2055 Colonel Cole Drive.

22 Q. And that's here in Georgetown County?

23 A. Yes, ma'am.

24 Q. And is that on the Black River?

25 A. It is.

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 Q. Okay. And can you kind of generally just describe
2 to us where that is?

3 A. Yes, ma'am. If you're coming out 701, you'll turn
4 left at Francis Marion Store on 51. About four miles out on
5 the right, after you cross Six-Mile Creek, there's a road,
6 Colonel Cole Drive that you go down, it's a dirt road. It's
7 three miles long and then you turn left and go in my
8 driveway which is a mile to the river.

9 Q. Okay. And how long have you lived out there?

10 A. Since '97. I've owned the property since '88.

11 Q. And on March 11, 2018 -- I mean, 2017, did you
12 call 911?

13 A. I did.

14 Q. And tell me what happened and why you did that.

15 A. I was out in the yard working, just picking up
16 limbs and cutting grass and raking, working in my flower
17 beds, and I live on a 30-foot bluff, and I looked down and
18 saw a body floating. The tide was ebb, so it was stationary
19 just sitting there.

20 Q. Okay. And so you called the authorities?

21 A. Yes, ma'am.

22 Q. Okay. And what happened then?

23 A. They kept me on the phone and told me to watch the
24 body. And, of course, the tide was ebb, so it was still.
25 And then it started going out, and the body started moving.

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 And they said you got to stay with the body, stay with the
2 body. I didn't have a boat on my dock or anything.

3 There's three miles of woods between me and the
4 next -- next area, so, Ramsey Road, I just told them there's
5 just no way I can stay with it. And they said, You got to.
6 By God's grace he hung on a limb. And they were able to
7 come tape off the crime scene and do their investigation.

8 Q. Okay. And had the police been out there looking
9 for the body before that?

10 A. Not to my knowledge.

11 Q. Okay. All right. Let me mark these.

12 (WHEREUPON, State's Exhibits 33, 34, 35, 36 37,
13 38, and 40, were marked.)

14 BY MS. RICHARDSON:

15 Q. All right. Let me show you what's been marked for
16 identification as State's 33, 34, and 35.

17 A. Okay.

18 Q. And what are those photos of?

19 A. This one's of the body of the man that was in the
20 river. His hands were bound, feet were bound, and was
21 looked like to be in his underwear.

22 Q. And is that from the area where you first saw the
23 body?

24 A. No, actually it was up a little further.

25 Q. Okay.

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 A. Closer to my dock.

2 Q. All right. And the second picture?

3 A. That's a picture of DNR, after I had already
4 called the police. DNR came out along with all of the
5 Sheriff's Department.

6 Q. All right. And this one, let me show you, 34, is
7 that your property?

8 A. Yes, ma'am.

9 Q. Okay. And is that out where you were working?

10 A. Yeah, in that area. I was in my backyard on the
11 river side. That other picture illustrates what I was doing
12 better. The one -- yeah, see I live on a 30-foot bank and I
13 was throwing tree limbs and things out of my yard down the
14 bank to keep it from eroding.

15 Q. Okay. Is this an accurate reflection of the way
16 that you saw things when you called 911 in your yard?

17 A. Yes.

18 MS. RICHARDSON: At this time the State would
19 offer, 33, 34 and 35 into evidence.

20 THE COURT: Mr. Hazzard, any objection?

21 MR. HAZZARD: If I could briefly see which photos
22 they are, Your Honor.

23 THE COURT: Yes, sir.

24 MR. HAZZARD: No objection, Your Honor.

25 MS. RICHARDSON: Your Honor, I seek to publish

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 these to the jury.

2 THE COURT: Hold on. Mr. Voigt?

3 MR. VOIGT: No objection. Your Honor.

4 MS. RICHARDSON: Oh, I forget, sorry.

5 THE COURT: That's all right. And Mr. Edgeworth?

6 MR. EDGEWORTH: No objection, Your Honor.

7 THE COURT: All right. Yes, you can publish they
8 are admitted without objection and you can publish those
9 photographs to the jury.

10 (WHEREUPON, State's Exhibits 33, 34, and 35 were
11 moved into evidence. Published to the jury.)

12 MS. RICHARDSON: Your Honor, We're going to
13 publish those digitally.

14 THE COURT: Yes, ma'am.

15 BY MS. RICHARDSON:

16 Q. But while we're waiting for the TV to be brought
17 out, tell me about the tides and the -- you've been living
18 there, you said, since about '88?

19 A. I've owned it since '88. Lived there since '97.

20 Q. Okay. And you're familiar with the tides and the
21 way the river flows in that area?

22 A. Very familiar.

23 Q. Okay. Can you tell me about the current in that
24 area?

25 A. Yeah. It's pretty strong. There's about a

PERRY COLLINS - DIRECT BY MS. RICHARDSON

1 three-foot tide variation in the rise and the fall. So
2 water moves pretty quickly.

3 Q. Okay.

4 MS. RICHARDSON: Can we turn the monitors on?

5 THE CLERK: Uh-huh.

6 THE COURT: Sir, can you see that? If not, you
7 can look at the monitor to your left.

8 THE WITNESS: Okay. Yeah, I can see it.

9 BY MS. RICHARDSON:

10 Q. And so this is the area of the brush you were
11 talking about?

12 A. Yes, ma'am.

13 Q. And, again, just where DNR was out, and that's
14 after the body had been hung up, on you said, a limb?

15 A. Yeah.

16 Q. Okay.

17 A. On a submerged pine tree.

18 Q. Okay.

19 A. That had fallen from the bank.

20 Q. And that's just the area of your yard?

21 A. That's a picture of a flower bed that I have.

22 Q. Okay. And behind that that's where you said the
23 30-foot bluff is?

24 A. Yeah, when you're looking at DNR, yes, ma'am.

25 Q. All right. I have no further questions. Answer

PERRY COLLINS - CROSS BY MR. VOIGT

1 any questions that other attorneys may have for you.

2 THE COURT: Mr. Hazzard?

3 MR. HAZZARD: I have no questions, Your Honor.

4 THE COURT: Mr. Voigt?

5 CROSS-EXAMINATION

6 BY MR. VOIGT:

7 Q. Mr. Collins, how many, if you know, how far is it
8 from where you are on Colonel Cole to here?

9 A. It's about, by boat, you're, I guess --

10 Q. No.

11 A. Oh, miles?

12 Q. Yeah.

13 A. Oh, it's eight miles.

14 Q. Eight miles?

15 A. Yes, sir.

16 Q. Thank you, sir.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: No questions for this witness,
19 Your Honor.

20 THE COURT: All right. Any redirect?

21 MS. RICHARDSON: No, Your Honor.

22 THE COURT: Sir, thank you so much for coming in
23 and you're excused. Okay?

24 THE WITNESS: All right.

25 MS. RICHARDSON: State calls -- sorry, Your Honor.

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 THE COURT: That's all right. I was just going to
2 give him a little head start, so he can clean up right
3 there.

4 Yes, ma'am. Who do you want call next?

5 MS. RICHARDSON: Your Honor, the State calls A.J.
6 Kohut.

7 THE COURT: All right. Thank you, Solicitor.

8 ALBERT J. KOHUT, having been duly sworn,
9 testified as follows:

10 THE WITNESS: Albert J. Kohut, Sergeant with the
11 Georgetown County Sheriff's Office. Last name, K-O-H-U-T.

12 DIRECT EXAMINATION

13 BY MS. RICHARDSON:

14 Q. Officer Kohut, can you give me your educational
15 background?

16 A. High school graduate. I'm in my 27th year of law
17 enforcement.

18 Q. And have you some training, law enforcement
19 training?

20 A. Yes, ma'am. Several different types of training.
21 At the time of this incident I was in criminal
22 investigations. I had gone to several detective
23 investigator classes, evidence classes.

24 Q. And on March 11, 2017 -- and you said you're with
25 the Sheriff's Office, not the Police Department, correct?

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 A. The Sheriff's Office, yes, ma'am.

2 Q. That services the entire county?

3 A. Yes, ma'am.

4 Q. All right. And On March 11, 2017, were you
5 working at the Sheriff's Office?

6 A. Yes, ma'am, I was.

7 Q. And what your position at that time?

8 A. I was working in criminal investigations unit and
9 I was the on-call investigator for that day.

10 Q. Okay. And did you get a call to go in?

11 A. Yes, ma'am, I did.

12 Q. Okay. And tell me what was the nature of that.

13 A. I was called at approximately 1:22 in the
14 afternoon to head out to an address Colonel Cole Road for a
15 possible body in the -- floating in the river.

16 Q. Okay. And that's when you were called out?

17 A. Yes, ma'am.

18 Q. Was at 1:22?

19 A. Approximately 1:22, yes, ma'am.

20 Q. And do you know if the initial call came in
21 earlier?

22 A. Later on I learned that, yeah, they had been
23 dispatched -- other units had been dispatched out here.

24 Q. Okay. And do you know that time the initial
25 dispatch was?

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 A. No, I do not, ma'am.

2 Q. Would anything reflect -- would it refresh your
3 recollection to look at your report?

4 A. It may, I don't know if I have what time the
5 original dispatch was on here. If you give me a second.

6 According to my report the original dispatch was
7 approximately 12:15 p.m. on the same date.

8 Q. So just after noon, and you arrived an hour --

9 A. About an hour and change after the original
10 dispatch.

11 Q. Okay. And when you arrive what did you find?

12 A. I got to the scene, the deceased was in the water
13 of the river. From the way the property was designed --
14 well, I shouldn't say designed -- the way the property was,
15 it was kind of a high embankment, so you could actually look
16 down to the edge of the water.

17 So, from that point, I'm looking down onto the
18 river, took several photographs from that, what I would call
19 a bird's eye view, looking down on to where the deceased
20 was.

21 Q. Okay. And after that, what did you? Well, tell
22 me what you saw first.

23 A. Okay. I saw what appeared to be a body hung up
24 possibly on a log, ballpark about 20 feet from the edge of
25 the land. So I photographed from the top of the ridge down

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 to the water, distant shots, close-up shots.

2 Q. Let me show what's -- first of all, let me mark
3 this.

4 (WHEREUPON, State's Exhibit 41 was marked.)

5 BY MS. RICHARDSON:

6 Q. All right. Let me show you what's been marked as
7 State's 41, do you recognize that?

8 A. Yes, ma'am.

9 Q. And tell what that is?

10 A. That is a copy of the photographs that I took
11 while on scene, it was also signed by myself.

12 Q. Okay. And that was an accurate reflection of all
13 the photos you took?

14 A. Yes, ma'am.

15 Q. And you took numerous --

16 A. Yes, ma'am.

17 Q. -- that day? Okay.

18 And you understand that not all of those photos
19 we'll be able -- we'll show today?

20 A. Yes, ma'am.

21 Q. But that we'll be just showing a portion of those
22 photos, you understand that?

23 A. Yes, ma'am.

24 Q. Okay. Let me show you -- did I already hand you
25 some?

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1 A. No, I have no photos, ma'am.

2 Q. All right. If I could show you what's previously
3 been marked as...

4 MS. RICHARDSON: Your Honor, at this time the
5 State would seek to admit a CD showing the photos that have
6 been approved after our conference this morning into
7 evidence as a portion of the photos that were taken on
8 State's Exhibit for Identification Only Number 41.

9 THE COURT: All right. Mr. Hazzard?

10 MR. HAZZARD: Your Honor, may we approach?

11 THE COURT: Yes, sir. Come on up.

12 (WHEREUPON, the following discussion was held at
13 the bench.)

14 MS. RICHARDSON: I don't know where they just
15 went.

16 MR. HAZZARD: The witness didn't take them with
17 him, did he?

18 MS. RICHARDSON: That's what I'm asking him, I
19 think he might have taken them.

20 MR. EDGEWORTH: No, he was empty handed.

21 MS. RICHARDSON: I don't know that happened to
22 them.

23 MR. HAZZARD: Okay. What's on this disk?

24 MS. RICHARDSON: It's the same what, what I'm
25 seeking to do is admit the paper copies and the CD so that

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 we can display them digitally, we'll have an accurate
2 reflection of what was displayed digitally.

3 MR. HAZZARD: And my concern is there anything on
4 that disc that hasn't been approved by the Court?

5 MS. RICHARDSON: No. These were removed from
6 after the Court's approval and it's to display them
7 digitally.

8 MR. HAZZARD: As long as there isn't anything on
9 there that the court hasn't approved I have no problem with
10 that.

11 THE COURT: Have we found them?

12 MS. RICHARDSON: We have.

13 THE COURT: So that's now moot. All right, great.

14 (WHEREUPON, the bench conference ended.)

15 All right. Ladies and gentlemen, I think we found
16 them.

17 MS. RICHARDSON: We did. All right.

18 BY MS. RICHARDSON:

19 Q. Let me show you what's been marked as State's 33,
20 34, and 35 and I'm going to go ahead and pre-mark the rest
21 of these as well. And do you recognize those first three
22 photos?

23 A. Yes, ma'am.

24 Q. And tell us what they are.

25 A. All right. This is from the ridge above the

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1 river. I took two photos of the deceased from different
2 angles. And then stepped back from where I took those
3 photos to give a perspective of where I was standing when I
4 took those photos.

5 Q. Okay.

6 THE COURT: And, again, Mr. Hazzard and
7 Mr. Edgeworth, if y'all need to move, feel free to move
8 about the courtroom, so that you can properly see.

9 All right, sir?

10 BY MS. RICHARDSON:

11 Q. So this is -- what I'm showing you now is a
12 digital display of State's Number 33. Now, tell the jury
13 about that.

14 A. Okay. So using that palm tree as reference,
15 that's a ridge above the river. If you were to go forward
16 and look down, it drops down sharply, so it's not a slope
17 where I could walk down and get close. So I'm at the top of
18 the ridge looking down to where the deceased was located.

19 Q. Okay. And based on the location of the body, what
20 decisions did you make regarding recovery?

21 A. We were going to need to use a boat to go out into
22 the river and actually recover the body.

23 Q. Because it was too steep just to walk down?

24 A. Too steep to walk down and access to that point by
25 foot would not be possible. Like I said, I estimated about

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1 20 feet from the shoreline, with the debris in there and
2 really not having an idea of the exact depth is at that
3 point, I felt it was safe and more prudent to use a boat.

4 Q. Okay. If we could just play 1466, State's 34.

5 Let me just go ahead and do this: Would you also
6 look at State's 36, 37, 38 and 40?

7 A. Okay.

8 Q. And are those copies of the photos that you took?

9 A. Yes, ma'am.

10 Q. And is that an accurate reflection of those photos
11 that you took?

12 A. Yes, ma'am.

13 Q. That you previously reviewed?

14 A. Yes, ma'am.

15 MS. RICHARDSON: Your Honor, at this I'd offer
16 these exhibits into evidence.

17 THE COURT: All right. Let Defense Counsel take a
18 look at those.

19 MS. RICHARDSON: It's 36, the numbers are on the
20 back 1459, 37; 1160, 38; 1467, and 1481 is Exhibit 40.

21 Okay.

22 THE COURT: Any objection, Gentlemen?
23 Mr. Hazzard?

24 MR. HAZZARD: No, sir.

25 THE COURT: Mr. Voigt?

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1 MR. VOIGT: I had only objected to State's 7, Your
2 Honor, I'll just renew that objection.

3 THE COURT: All right.

4 MR. VOIGT: I'm sorry. Did I say State's 7 --
5 State's 40.

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

7 MR. EDGEWORTH: No objection, Your Honor.

8 THE COURT: Thank you.

9 MS. RICHARDSON: Your Honor, at this time I'd move
10 these into evidence and seek to publish them to the jury
11 during his testimony.

12 THE COURT: All right admitted without objection,
13 but for Mr. Voigt's.

14 MR. VOIGT: Just State's 40.

15 THE COURT: Just State's 40?

16 MR. VOIGT: The other ones are without objection.

17 THE COURT: All right. Thank you.

18 And you may publish, Solicitor.

19 (WHEREUPON, State's Exhibits 36, 37, 38, and 40
20 was moved into evidence. Published to the jury.)

21 MS. RICHARDSON: Okay. I'm just going to publish
22 them during the course of his testimony. I just wanted to
23 go ahead and get them up there.

24 THE COURT: That's fine.

25

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. All right. So I don't know if I asked you this,
3 but was the body moving at that time?

4 A. No, ma'am. It appeared to be hung up on a log
5 from that perspective there. Yes, it was stationary and
6 hung up on a log.

7 Q. Okay. And tell me what you did to recover the
8 body.

9 A. At that point we had a boat brought from the
10 Sheriff's Office. Two other deputies went and picked the
11 boat up and brought it to the location. We brought the boat
12 down to the edge of the water. I would estimate maybe 30 to
13 40 yards from that location. It wasn't really like a boat
14 landing, it's more like where the property slopes down and a
15 dirt road kind of runs to the edge of the water. So it
16 wasn't like an official boat landing. I don't know if I'm
17 making sense on that.

18 We put the boat in the water, or they put the boat
19 in the water, and met me there. We then went down to the
20 scene to where the deceased was located.

21 Q. Okay. And did you photograph the body before it
22 was moved?

23 A. Yes, ma'am. Once I got closer, I took photos of
24 the body at the actual retrieval location.

25 Q. Okay. And if we could show 1459, this is State's

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1 36. Okay. And tell me -- just describe this photo and what
2 it shows.

3 A. That photo was taken from the top of the ridge
4 using a zoom, zooming down to get a closer view from the
5 previous picture from the top which was set back from the
6 ridge.

7 Q. Okay. So that shows the body before it was moved
8 or manipulated at all?

9 A. Yes, ma'am. We hadn't even put our boat in the
10 water at that point.

11 Q. Okay. And obviously you noticed that the hands
12 were bound?

13 A. It appeared that they were. The clothing was
14 pushed up over the hands and down to the lower extremities.

15 Q. Okay. And tell me how you decided to get the boat
16 back -- I mean, get the body back to shore.

17 A. Once we got out to the scene, again, I
18 photographed it before we did anything. And then took a
19 water sample. There was at least a -- actually, I used a
20 boat hook -- two boat hooks and I secured it to what
21 appeared to be sweatpants that were down by the ankles.

22 First, we had to un-secure him from the debris
23 that he was caught on, which I believe it was a log. And
24 then, at that point, the gentleman driving the boat, I just
25 told him to proceed as slow as possible back to the area

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1 where he had picked me up at the end of that little dirt
2 road, and we got closer to the shoreline at that point.

3 Q. Okay. And when -- and you participated in
4 unhooking the body or at least observed it?

5 A. Oh, I was the one who used the boat hook to grab
6 the -- lowered -- like I said, the pants had gone down to
7 the ankles, basically, used that to retrieve it from the
8 log. And then that's where I hung onto him as we came back
9 down to the transfer point.

10 Q. Okay. And in your efforts to unhook the body from
11 the log and to transport it, did you take care not to hit
12 any of the flesh?

13 A. Yes, ma'am. I made very special care not to.

14 Q. And so let me -- we're going to show State's 38,
15 which is Photo 1467. And tell us about that.

16 A. Okay. So that's -- he -- the body has now
17 basically been secured from what it was lodged on, which,
18 again, was a log. That, if you look at the bottom of the
19 screen, that silver looking pole going out is the boat hook,
20 the boat pole, it's basically a long silver rod and it has a
21 hook on the end of it. The hook is going down into where
22 the pants are. And we're working backwards now towards
23 where we're going to -- well, actually we're backing out and
24 then going to work back towards where we originally -- where
25 they originally picked me up on the shoreline.

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1 Q. Okay. And so did you hook the hook on the
2 bindings or the clothing?

3 A. Probably a combination. The clothing was on top
4 of it and in the water, I don't want to fumble with it too
5 much. Again, you don't want to cause any damage to the
6 deceased. So once I felt I had a firm grip on the clothing
7 line, using another boat hook to secure it as well, so I
8 actually had a -- there's not a picture of the second hook
9 because my hands were full at that point.

10 And then we're just basically holding on trying
11 very slowly to work our way back to where we could bring him
12 to land.

13 Q. Okay. So you actually pulled him to the landing?

14 A. Yes, ma'am.

15 Q. All right. And once you got him to the landing,
16 how did you get him prepared for transport?

17 A. Once we got him to the edge of the water where he
18 was -- where we were able to maneuver a little bit safer, we
19 had EMS there, they brought in a backboard and I think it's
20 called a Stokes basket, like a portable basket to put the
21 board in, he was secured to that. And then, basically,
22 lifted up on to dry land.

23 Q. Okay. And let me show you State's 37, Photo 1460,
24 and tell us what that is a picture of.

25 A. That's a picture of his hands above his head with

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1 the shirt wrapped around it. You can see some debris in
2 there, it looks like pine straw debris, and there's also
3 some like speaker wire, wiring, mixed in there tying the
4 wrists together.

5 Q. Okay. And then if we could -- and did you take
6 efforts not to manipulate any of the evidence?

7 A. Yes, ma'am. As best as possible. Like I said,
8 the boat hook was used towards the lower extremities, but I
9 did my best not to do any damage to him as he lay other than
10 to use them as something to grip onto to get him back to
11 shore.

12 Q. Okay. And let me show you what's been marked as
13 State's 40, Photo 1481. And tell me about this.

14 A. Okay. When we got him on shore, that white piece
15 of, I guess, I don't know what you call it vinyl, plastic,
16 that's a body bag.

17 Q. Uh-huh.

18 A. So once we secured him out of the water, we
19 quickly layed him onto the body bag. Again, with the
20 thought of preserving any evidence that may be on him and to
21 transport. Once you seal it up, it has handles on it, it
22 makes it easier for you to lift and maneuver causing the
23 least amount of damage.

24 Q. Okay. And the defects that we see on the body,
25 did your recovery efforts cause any of those?

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1 A. No, ma'am.

2 Q. And is that an accurate reflection of how he was
3 when you -- without any manipulation?

4 A. Yes, ma'am.

5 Q. Okay. All right. So once you had him on the
6 shore and you said EMS came?

7 A. Uh-huh.

8 Q. Who else responded? Let me ask you, the coroner?

9 A. Yeah, the coroner was there, another investigator
10 was there.

11 Q. Okay. And at that point what did you do?

12 A. At that point, you know, take some more photos.
13 Now that you had, you know, up close to it and safely
14 without damaging anything. Took several more photos from
15 top to bottom, bottom to top. Different angles, different
16 sides.

17 Q. Okay. We're not going to show those photos, but
18 can you describe to the jury what you saw as far as the
19 condition of the body?

20 A. The body was in a very advanced state of
21 decomposition. There was a lot of discoloration. There was
22 degloving of the skin, specifically on the hands, on parts
23 of the exposed flesh. There was some -- there's a small
24 wound on the left side of the ribcage. There's a larger
25 wound on the right side of the abdomen area. The hands were

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1 bound with speaker wire up over the head. I think I
2 actually even put in my report, if I could look at it, the
3 left hand was over the right hand. And I saw what looked to
4 be a laceration across the entire right palm of the victim.

5 Q. Okay. And did you manipulate the bindings at all?

6 A. No, ma'am.

7 Q. And could you tell the race and gender of the
8 decedent?

9 A. No, ma'am. Very difficult to tell.

10 Q. Well, as far as gender, you could tell that?

11 A. I could tell -- yeah, I could tell it was a male.

12 The chest was exposed, so I could see that there was no
13 breasts. And the underwear, although still in place, you
14 could determine that it was a male.

15 Q. Okay. But by the condition of the face could you
16 make any identification?

17 A. No, ma'am.

18 Q. And after the remains were removed, what did you
19 do at that point?

20 A. At that point DNR had a boat in the water. I had
21 them basically canvass the area in the river just in case
22 there was any more evidence that may have been recovered.
23 Also just, you know, go up river and down it for them just
24 to see if there are any locations that might need to be
25 further explored for evidence, but we had no success.

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1 Q. So you didn't find any other pieces of evidence in
2 the water?

3 A. No, ma'am.

4 Q. And did you also go in different directions of the
5 river --

6 A. Yes, ma'am.

7 Q. -- to look for --

8 A. Yeah, we went to --

9 Q. And what were you looking for at that point?

10 A. You're looking for, again, any other evidence. It
11 could be something as simple as clothing or something like
12 that. You're also looking for points where possibly the
13 deceased could have been placed in the water. Just looking
14 for locations that might be appropriate, or I should say
15 fitting, to put a person in the water. That way you can go
16 back later on dry land and actually explore those areas and,
17 again, look for any possible evidence that indicates where
18 the body was dumped in the water or other evidence that may
19 have been left behind during the process.

20 Q. And what areas did you look for possible...

21 A. We -- I'll have to go back in here again -- we
22 checked the Riverview Club, which the IP Canal Road off of
23 Highway 51, and we checked the Dunbar Bridge. Again, we
24 didn't have much success in locating anything that appeared
25 to be even slightly related to the body being placed in the

ALBERT KOHUT - DIRECT BY MS. RICHARDSON

1 water in those locations or any evidence or anything like
2 that.

3 Q. So is the Dunbar Bridge also referred to as the
4 Brown's Ferry Bridge?

5 A. Yes, ma'am.

6 Q. Okay. And that's up near Brown's Ferry
7 Elementary, that area?

8 A. Yes, ma'am.

9 Q. Okay. But you didn't find anything on land?

10 A. No, ma'am.

11 Q. Okay. And after the body was secured in the body
12 bag who was it released to?

13 A. To the coroner.

14 Q. Okay. It was sealed in the body bag?

15 A. Yes, ma'am.

16 Q. And did you take any evidence from the body
17 itself?

18 A. No, ma'am.

19 Q. All right. I have no further questions. Answer
20 any questions that the defense attorneys may have for you?

21 A. Yes, ma'am.

22 THE COURT: Mr. Hazzard?

23 MR. HAZZARD: I have no questions, Your Honor.

24 THE COURT: Mr. Voigt?

25 MR. VOIGT: No questions, Your Honor.

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: No questions, Your Honor.

3 THE COURT: All right. Thank you very much, sir.
4 You're excused. Appreciate it.

5 MS. RICHARDSON: The State calls Meyan Thomas to
6 the stand.

7 MEYAN THOMAS, having been duly sworn,
8 testified as follows:

9 THE COURT: Ms. Thomas, for the purposes of your
10 testimony, could you please remove your mask? It makes it
11 easier for everyone to hear you and also the Court Reporter
12 as it relates also so she can see your mouth moving. Thank
13 you.

14 THE WITNESS: Okay. My name is Meyan Thomas.

15 DIRECT EXAMINATION

16 BY MS. RICHARDSON:

17 Q. Ms. Thomas, where are you from?

18 A. Georgetown.

19 Q. And how long have you lived in Georgetown?

20 A. All my life.

21 Q. And do you have children?

22 A. Yes.

23 Q. How many children do you have?

24 A. Three.

25 Q. And do you work?

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

- 1 A. Yes.
- 2 Q. And what do you do?
- 3 A. I work at a coffee shop in DeBordieu.
- 4 Q. Okay. Do you know or did you know Leon Harrison
- 5 Jr.?
- 6 A. Yes. He's my cousin.
- 7 Q. And how did you know him?
- 8 A. He was my cousin.
- 9 Q. And how were you related?
- 10 A. My mom and his mom was family.
- 11 Q. His mother, his deceased mother?
- 12 A. Yes, ma'am.
- 13 Q. And what did you -- did you have a nickname for
- 14 him?
- 15 A. JR.
- 16 Q. JR?
- 17 A. Uh-huh.
- 18 Q. And what about the defendants, do you know any of
- 19 them?
- 20 A. Yes, ma'am.
- 21 Q. Which of them do you know?
- 22 A. Tiesh and her brother Alex.
- 23 Q. So Tiesh Rhue and Alex Rhue Jr.?
- 24 A. Yes.
- 25 Q. Okay. And do you know the father, Alex Rhue Sr.?

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 A. No.

2 Q. And tell me what your relationship and how you know
3 Alex Rhue Jr. and Tiesh Rhue?

4 A. I met them through JR. They used to live across
5 the street from me.

6 Q. Okay. How long have you known them?

7 A. Say five years, something around that time.

8 Q. And how would you describe your relationship with
9 Tiesh?

10 A. I just know that was JR wife. I really didn't
11 know too much about her.

12 Q. Didn't spend a lot of time with her?

13 A. We went out one time, yeah.

14 Q. And what about Alex Rhue Jr., what's your
15 relationship with him?

16 A. He was -- he became a friend of mine.

17 Q. And how long were you friends?

18 A. A couple of years, two or three years, something
19 like that.

20 Q. And how close was your relationship?

21 A. I used to call him my best friend.

22 Q. And explain what sort of things you did together
23 and what your interactions were.

24 A. We used to just hang out at my house. And, you
25 know, like smoke and drink and, you know, just watch TV

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 stuff like that, just chill.

2 Q. Okay. And did you become aware that JR was
3 missing?

4 A. Not until like a week into it. Like I wasn't sure
5 of the date. I found out that he was missing, but I didn't
6 know the exact date.

7 Q. Okay. Had you heard he was missing before his
8 body was found?

9 A. Yes.

10 Q. Okay. And were there any efforts to look for him
11 at that point?

12 A. Called around and went to his father's house,
13 things like that.

14 Q. And you were aware when the police -- or when he
15 was reported missing to the police? You found out he'd been
16 reported missing to the police?

17 A. Yes.

18 Q. And there were Facebook postings and that sort of
19 thing?

20 A. Yes.

21 Q. Okay. And after you found out he had been
22 reported missing to the police, and that people were looking
23 for him, did you become concerned?

24 A. Of course.

25 Q. And did you go and talk with the police on March

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 10, 2017?

2 A. Yes.

3 Q. And at that time his body had not been found?

4 A. No.

5 Q. And had you observed the relationship between
6 Alex -- Alex Jr. and JR?

7 A. I'm sorry, say that again.

8 Q. Had you seen or know anything about the
9 relationship between those two?

10 A. Yes.

11 Q. Tell me what their relationship was.

12 A. They really didn't get along much. And it was
13 mainly because, you know, Alex being Tiesh brother that he
14 always had a problem with JR. Any time that Tiesh and JR
15 got into it, he just felt like he had to be involved, that
16 being his sister.

17 Q. And he would discuss that with you?

18 A. He would say certain things, but I'd cut him off
19 because I'd be like -- at the end of the day JR is my
20 cousin, and I'm not going to sit there and let you talk down
21 on him. But he would say things like he can't stand him,
22 and he's just wished his sister never married him, and
23 things like that.

24 Q. And did he talk to you about any specific problems
25 or reason that he didn't like JR?

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 A. I'm sorry?

2 Q. Did he talk to you about any specific problems or
3 reasons why he didn't want him to be married to his sister
4 and why he didn't like him?

5 A. He just said that they wasn't for each other,
6 like, they just argue a lot and he didn't really get into
7 details. But I'm pretty sure, like, all three of them
8 living together there was more than what he was telling me.
9 He just didn't really come out and say exactly what it was.
10 He just, like, wished they didn't marry each other.

11 Q. Okay. So tell me why you went and talked with the
12 police on March 10th before he was found.

13 A. Actually, they came and get me. I was reaching
14 out to Gregory, because that's normally, like, the person
15 that I talk to, but actually --

16 Q. And when you say "Gregory," that Sergeant Gregory
17 with the Georgetown Police Department?

18 A. Yes. But he wasn't working that day. So whatever
19 officers came to me and picked me up and brought me down to
20 the station.

21 Q. And did you tell them about some interactions you
22 had had regarding this case?

23 A. As far as what I knew between JR and Alex --

24 Q. Yes.

25 A. -- how they was always in disagreements? Yes.

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 Q. And before you went to the police department had
2 you learned how long JR had been missing?

3 A. I found out that it was the 25th of February.

4 Q. And what did that mean --

5 A. I didn't talk to the officer until the 10th of
6 March, but I didn't find out until, like, either that day or
7 the day before. I didn't know that JR was missing that
8 long.

9 Q. Okay. So the same week that you talked to the
10 police is the week you found out he was missing?

11 A. Right.

12 Q. Okay. And you learned that he had been missing
13 since February 25?

14 A. Right.

15 Q. Okay. And why was that significant to you?

16 A. Because, I mean, I normally talk to JR if it's
17 not, like, a daily base. We always reach out to each other.
18 And it didn't ever dawn on me, like, I haven't heard from
19 him.

20 Q. Okay. And did the timeframe of February 25, did
21 you have any interactions with Alex Rhue Jr.?

22 A. I don't think I did.

23 Q. Okay. Did he contact you at all during that
24 period of time?

25 A. I did get a text message from him 3:00 o'clock,

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 the 26th, that morning.

2 Q. Okay. And what was that text message?

3 A. Saying that he was going to D.C., he had some
4 issues that he had to deal with, that he was catching a bus
5 to D.C.

6 Q. Okay. And did you have your phone with you when
7 you were talking to the police?

8 A. Yes, ma'am, I did.

9 Q. And did you show him those text messages?

10 A. I sure did.

11 Q. Okay. And did you also give them your phone to
12 process?

13 A. Yes, ma'am. Anything I needed to do, I did for
14 them.

15 (WHEREUPON, State's Exhibit Number 42 was marked.)

16 BY MS. RICHARDSON:

17 Q. Okay. And let me show you what's been marked as
18 State's 42. And can you identify that?

19 A. Yes. This is the text messages between me and
20 Alex.

21 Q. Okay. And is that an accurate reflection of what
22 you saw and what you provided to the police?

23 A. Yes, it is.

24 MS. RICHARDSON: Your Honor, at this time I'd move
25 State's 42 into evidence.

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 THE COURT: Mr. Hazzard, any objection?

2 MR. HAZZARD: I have no objection.

3 THE COURT: Mr. Voigt?

4 MR. VOIGT: No objection.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: No objection, Your Honor.

7 THE COURT: All right. It's admitted without
8 objection, Solicitor. Thank you.

9 (WHEREUPON, State's Exhibit Number 42 was moved
10 into evidence.)

11 BY MS. RICHARDSON:

12 Q. And could you tell the jury what time you received
13 the text messages?

14 A. At 3:05 a.m. on February 26, 2017.

15 Q. All right. And this also shows how he was
16 programmed in your phone. He was programmed in your
17 contacts?

18 A. As best friend, yes.

19 Q. Okay. And what telephone was with that?

20 A. (202) 309-8145.

21 Q. Okay. And did you often communicate with Alex
22 Rhue Jr. at that number?

23 A. Yes. But he also had two different phones, but
24 this was the main one.

25 Q. Okay. And that's the one he text you off that

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 night?

2 A. Yes.

3 Q. And did you see that at 3:00 the morning?

4 A. No, ma'am.

5 Q. Okay.

6 A. I was asleep.

7 Q. All right. When did you see it?

8 A. When I responded it was 5:24 a.m.

9 Q. Okay. And could you read the text message that he
10 sent to you?

11 A. Sure. It said, Boo, I'm in D.C., had a family
12 emergency, ASAP, had to catch the Greyhound up here. I'll
13 explain more later. Love you, Queen. I'm sorry. I'll hit
14 you tomorrow. Shit is real crazy right now. Love you.

15 Q. And were you surprised to see that message?

16 A. Yes. But I was also tired, so when I read it
17 early in the morning, I just sent K, and went back to sleep.

18 Q. Okay. And when did that -- and did that concern
19 you that night?

20 A. Of course, it didn't. I mean, I didn't know what
21 was going on, but I didn't think to ask, I was too tired.

22 Q. Okay. And when you found out JR was missing and
23 had been missing since the 25th, how did you feel?

24 A. I was torn up. I was really confused about
25 everything. It was just not like him to not be around.

MEYAN THOMAS - DIRECT BY MS. RICHARDSON

1 Q. And what effect did this message have on you?

2 A. It really through me off, because knowing the
3 history relationship, like, with them, how they always
4 bumping heads --

5 MR. VOIGT: Objection, Your Honor.

6 THE COURT: Hold on a second.

7 MR. VOIGT: I believe this is calling for
8 speculation and opinion.

9 MS. RICHARDSON: Your Honor, I'm asking her how
10 she felt.

11 THE COURT: I'm going to overrule you. I think
12 she's entitled to tell her how she felt.

13 BY MS. RICHARDSON:

14 Q. And how did it make you feel?

15 A. Like I say, I was torn, I was confused. It just
16 wasn't like JR. And then, seeing the message, I just was
17 putting it together. I didn't understand why he sent it
18 that time of morning. And then after this, I haven't heard
19 from him again.

20 Q. After that message you didn't hear from him
21 anymore?

22 A. I didn't hear from him again.

23 Q. And was that unusual?

24 A. That was very unusual.

25 Q. Because how often would you have contact before

MEYAN THOMAS - CROSS BY MR. VOIGT

1 then?

2 A. If not every day, every other day.

3 Q. And had you -- had you told other people in the
4 community your suspicions or told them about these messages?

5 A. I might have mentioned it, I'm not sure, but I
6 know it was the first thing I brought up when I spoke to the
7 officer.

8 Q. Okay. And when you spoke to officer were up
9 upset?

10 A. Yes, I was.

11 Q. Okay. All right. I have no further questions.
12 Answer any questions that the other attorneys may have for
13 you.

14 THE COURT: Mr. Hazzard?

15 MR. HAZZARD: I have no questions.

16 THE COURT: Mr. Voigt?

17 MR. VOIGT: I got a couple, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. VOIGT:

20 Q. I think you testified that you talked to JR every
21 couple of days.

22 A. Every few days. If not, like, every so often, but
23 we do communicate.

24 Q. And you do that by telephone, right?

25 A. Or he come by the house.

MEYAN THOMAS - CROSS BY MR. VOIGT

1 Q. Okay.

2 A. Us being family, he'd come around.

3 Q. Family is important to you, right?

4 A. Of course.

5 Q. And when was the last time that you saw JR?

6 A. I know it had to been like mid February.

7 Q. Okay.

8 A. I'm not exactly sure of the date, but the last
9 time I seen him, him and his wife was together.

10 Q. And you hadn't seen him since mid February and
11 when was the last time you think you may have gotten some
12 sort of telephone call from him?

13 A. I'm not necessarily sure. I think maybe the day
14 of I saw him or the day after.

15 Q. Okay. Nobody asked you about that though, right?
16 The police officers didn't ask you about when the last time
17 you talked to JR was, did they?

18 A. I'm pretty sure they did.

19 Q. Okay. Did you show them your phone and show them
20 the contact and give them that --

21 A. I showed them everything.

22 Q. Okay.

23 A. I gave them my whole phone.

24 Q. Okay. When do you think the last time JR texted
25 you was?

MEYAN THOMAS - CROSS BY MR. VOIGT

1 A. I could not tell you. We didn't do a lot of
2 texting, it was more calling or him coming by.

3 Q. Okay.

4 A. It wasn't too many text messages.

5 Q. Okay. So in preparation for this case, say you
6 haven't reviewed any text messages between you and JR,
7 right?

8 A. No, I don't think so.

9 Q. Okay. You have reviewed that particular text
10 message, right?

11 A. Huh?

12 Q. The text message that you've got right in front of
13 you, you've reviewed that in preparation for your testimony
14 today?

15 A. I reviewed, yes.

16 Q. Okay.

17 A. Yes, I did.

18 Q. Now, that is a person in your phone contacts was
19 listed as "best friend"?

20 A. Uh-huh.

21 THE COURT: Yes? You just need to answer out loud
22 Yes, No --

23 THE WITNESS: Sorry. Yes.

24 THE COURT: Hold on. Or however you want to
25 answer the question just not with Uh-huh or uh-uh.

MEYAN THOMAS - CROSS BY MR. VOIGT

1 THE WITNESS: Okay. Yes.

2 BY MR. VOIGT:

3 Q. Because, there's a transcript that shows up, and
4 then there's quotation marks in it and it says, Uh-uh, or
5 unintelligible or something.

6 A. Okay.

7 Q. And we all knew what you said, but when we try to
8 keep a permanent record.

9 A. I understand.

10 Q. Okay. How many times after receiving those text
11 messages that you say are from your best friend did you try
12 to contact him?

13 A. Once.

14 Q. And when was that?

15 A. The day I went to the police department I tried to
16 call him.

17 Q. Okay. How many days after receiving that text
18 message did you attempt to reach out to him?

19 A. None.

20 Q. Okay.

21 A. Like I say, I haven't heard from him since that
22 message.

23 Q. Let me see if I can ask the question in a better
24 way.

25 When do you say is the last time that you texted

MEYAN THOMAS - CROSS BY MR. VOIGT

1 the person that you've identified as "best friend" on your
2 phone?

3 A. I'm guessing that morning when I read the message.

4 Q. And what morning would that have been?

5 A. The 26th.

6 Q. Okay. And you remember that because it's written
7 on that piece of paper?

8 A. Right.

9 Q. Okay. And at no time after the 26th did you
10 attempt to text the person you've identified in your phone
11 as "best friend"?

12 A. I think I might have did, text or call, been so
13 long ago I'm not even sure.

14 Q. Okay. Now, you just testified just a second ago
15 that before you went to the police you tried to call the
16 person --

17 A. Right.

18 Q. -- you've identified --

19 A. Yes.

20 Q. -- as best friend?

21 A. Yes.

22 Q. Okay. All right. And you testified that you were
23 friends mostly because you hung out together, that sort of
24 thing?

25 A. Yes.

MEYAN THOMAS - CROSS BY MR. VOIGT

1 Q. Okay. And you didn't hang out with him at all
2 from the end of February through the middle of March,
3 though?

4 A. No.

5 Q. Okay. And you didn't reach out to him to hang
6 out, did you?

7 A. No.

8 Q. And before you learned that JR was missing, you
9 didn't reach out to him?

10 A. No.

11 Q. Okay.

12 A. After he sent the message saying that he had a lot
13 going on, I just waited for him.

14 Q. Now, you talked to other family members about that
15 message, didn't you?

16 A. I probably did.

17 Q. And that got shared -- did you share it on
18 Facebook, that message?

19 A. No.

20 Q. Did you share it with other people -- well, let
21 me, I won't ask that question. I'll go at it another way.

22 You mentioned that you wanted to talk to
23 Sergeant Gregory. Did you have some sort of relationship,
24 just a personal relationship with Sergeant Gregory that made
25 you trust him?

MEYAN THOMAS - CROSS BY MR. VOIGT

1 A. Yes.

2 Q. Okay. Had you gone to him before with concerns,
3 questions, that sort of thing?

4 A. About this, or...

5 Q. In general?

6 A. In general, yes.

7 Q. Okay. So he was somebody who was familiar to you?

8 A. Yeah. Yes.

9 Q. Okay. And he wasn't -- but he wasn't on duty that
10 day when you went to the...

11 A. No. They said that he worked the night before.

12 Q. And so you had to get the next best thing, which
13 was who showed up --

14 A. I didn't come to the next officer, they came to
15 me.

16 Q. That's what I mean, they came --

17 A. Okay.

18 Q. -- directly to you?

19 A. Yes.

20 Q. Okay. Had you known JR your whole life?

21 A. Yes.

22 Q. Because he's a little bit older than you?

23 A. Yes.

24 Q. Okay. He's your blood?

25 A. Yes.

MEYAN THOMAS - CROSS BY MR. EDGEWORTH

1 Q. And you would agree with me, wouldn't you, that
2 blood is thicker than water?

3 A. Of course.

4 Q. All right. Please answer any questions that
5 Mr. Edgeworth may have of you.

6 THE COURT: All right. Mr. Edgeworth?

7 MR. EDGEWORTH: Court's indulgence. One moment.

8 THE COURT: Yes, sir.

9 MR. EDGEWORTH: Briefly, Your Honor. May it
10 please the Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. EDGEWORTH:

14 Q. Ms. Thomas, you've indicated that you didn't know
15 Tiesh very well, right?

16 A. I'm sorry?

17 Q. You testified that you didn't really know Tiesh
18 very well?

19 A. No, not too much, no.

20 Q. Okay. Have you had -- have you had interactions
21 with her?

22 A. We went out once.

23 Q. Okay. The one time?

24 A. Uh-huh.

25 Q. Do you recall --

MEYAN THOMAS - CROSS BY MR. EDGEWORTH

1 THE COURT: Yes?

2 THE WITNESS: I'm sorry. Yes.

3 BY MR. EDGEWORTH:

4 Q. That's okay.

5 Do you recall in the past an incident in which you
6 were being assaulted by your boyfriend outside of Hair Q?

7 A. What does it have to do with this?

8 Q. Well, I'm just asking if you recall the incident?

9 A. I do recall that.

10 Q. Do you recall --

11 A. And it wasn't Hair Q, it was Ming'z.

12 MS. RICHARDSON: Your Honor, objection, relevance.

13 MR. EDGEWORTH: I haven't gotten there, yet.

14 THE COURT: Well, I'll overrule that. Continue,
15 sir.

16 MR. EDGEWORTH: Okay.

17 BY MR. EDGEWORTH:

18 Q. Do you recall Tiesh stopping by to intervene and
19 call 911 on your behalf?

20 A. No.

21 Q. Do you recall her taking you home from the
22 incident?

23 A. Yes.

24 Q. You indicated in your testimony that approximately
25 two weeks or the middle of February was the last time you

MEYAN THOMAS - REDIRECT BY MS. RICHARDSON

1 saw JR?

2 A. Yes.

3 Q. Okay.

4 A. And he was with Tiesh.

5 Q. Okay. During that time do you recall that Tiesh
6 was dropping off clothes for your children?

7 A. No. She didn't drop them off for my children, she
8 dropped them off for me, and I threw them in my closet.

9 Q. Okay. But she did drop off clothes to you?

10 A. Yes.

11 MR. EDGEWORTH: Okay. No further questions, Your
12 Honor.

13 THE COURT: Any redirect?

14 MS. RICHARDSON: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. RICHARDSON:

17 Q. Mr. Voigt asked about your relationship with
18 Sergeant Gregory.

19 A. Yes.

20 Q. You felt close enough to reach out to him?

21 A. Yes, I did.

22 Q. Would you tell us how and why you were close to
23 Sergeant Gregory?

24 A. Well, in 2011 I lost my brother to violent -- to
25 gun violence. And Gregory was the only one that I felt

MEYAN THOMAS - REDIRECT BY MS. RICHARDSON

1 close to that helped solve that case. So I don't confide in
2 officers like that, but because he did what he did, I mean,
3 that's just the first person I would go to if I had a
4 problem.

5 Q. Mr. Voigt also inquired about your -- and he kept
6 referring to him as "best friend," but let's just be clear,
7 "best friend" was who?

8 A. It was Alexander.

9 Q. Alexander Rhue Jr.?

10 A. Yes.

11 Q. Okay. And as far as your closeness, did he
12 actually stay with you at some point?

13 A. He spent two nights at my house, because JR and
14 Tiesh got into it and she put him out.

15 Q. She put Alex out?

16 A. She put Alex out.

17 Q. And he came and stayed at your house?

18 A. Yes.

19 Q. And what was his reaction to that?

20 A. He was frustrated and saying that, How his sister
21 is going to choose JR over him.

22 Q. Okay. And did he say anything else about it or
23 was he angry?

24 A. He was angry.

25 Q. Okay. And did he give you any indication how he

MEYAN THOMAS - REDIRECT BY MS. RICHARDSON

1 was going to handle that?

2 A. No, he didn't say how he was going to handle it.
3 He just --

4 MR. VOIGT: I'm going to object at this point,
5 Judge.

6 THE COURT: Hold on, ma'am.

7 MS. RICHARDSON: I'll withdraw the question.

8 THE COURT: All right.

9 MS. RICHARDSON: I have no further questions.

10 THE COURT: All right. Mr. Hazzard, any recross
11 that's limited to redirect?

12 MR. HAZZARD: No, Your Honor.

13 THE COURT: All right. Mr. Voigt?

14 MR. VOIGT: No, sir.

15 THE COURT: Mr. Edgeworth?

16 MR. EDGEWORTH: No, Your Honor.

17 THE COURT: All right. Thank you.

18 All right. Ma'am, thank you so much for coming
19 in, you're excused from your subpoena.

20 THE WITNESS: Okay. You're welcome.

21 THE COURT: Solicitor, there's a piece of paper
22 here.

23 MS. RICHARDSON: I did move it in evidence, right?

24 COURT REPORTER: Number 42?

25 MS. RICHARDSON: Yes.

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 COURT REPORTER: Yes.

2 MS. RICHARDSON: Okay. Your Honor, can she be
3 excused from her subpoena?

4 THE COURT: Yes. She can. Thank you.

5 All right, Solicitor.

6 MS. RICHARDSON: The State calls Antwan Simmons.

7 ANTWAN SIMMONS, having been duly sworn,
8 testified as follows:

9 THE WITNESS: Antwan Simmons.

10 DIRECT EXAMINATION

11 BY MS. RICHARDSON:

12 Q. Mr. Simmons, where are you from?

13 A. I'm from Georgetown.

14 Q. Okay. And how long have you lived in Georgetown?

15 A. Most my life.

16 Q. And do you have children?

17 A. Yes.

18 Q. How many children do you have?

19 A. I have three girls.

20 THE COURT: Mr. Simmons, I'm going to need you to
21 try to get as close to that microphone as you can. It only
22 picks up when you're about that far away from it.

23 Thank you, sir.

24 THE WITNESS: Three girls.

25

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. And what do you do for a living?

3 A. I do residential construction.

4 Q. Okay. And whose business is that?

5 A. It's mine.

6 Q. How long have you done that?

7 A. A little over 25 years, maybe.

8 Q. Okay. And do you know any of the defendants:

9 Alex Rhue Sr., Alex Rhue Jr., or Tiesh Rhue?

10 A. Yes, ma'am.

11 Q. Okay. And tell me which of them you know.

12 A. I know Alex, I know his father, and I know his
13 sister.

14 Q. Okay. And how do you know them?

15 A. I met them through a mutual cousin of mine,
16 Bianca, and I think it was probably '16 or '15 I met them.

17 Q. 2015 or '16?

18 A. Yes.

19 Q. Okay. And what was your relationship with Alex
20 Rhue Jr.?

21 A. Well, I know him from the neighborhood and he
22 worked with me.

23 Q. And he worked with you? What did he do for you?

24 A. He's one of my helpers, like, on this particular
25 job I did, I was doing a metal roof. And I needed a ground

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 man, he was mostly my ground man.

2 Q. Okay. And when was it that he worked for you?

3 A. It was May 2017, I think it was.

4 Q. Okay. And was he working with you -- and did you
5 know JR?

6 A. Yes, ma'am.

7 Q. And how did you know him?

8 A. He's my family.

9 Q. And how are you related?

10 A. Cousins through Johnson, Harris. My mother's
11 side.

12 Q. Your parents were cousins, I think you said?

13 A. Yes.

14 Q. Okay. And were you aware -- well, first of all,
15 were you aware JR was missing back in February or March of
16 2017?

17 A. No, ma'am. Not until I was told.

18 Q. Okay. And did you become concerned about JR
19 before he was missing?

20 A. Yes.

21 Q. Okay. Tell me about that.

22 A. Well, I got off work one day, I think it was a
23 Saturday, and I have another cousin named Shawn Simmons.
24 Him and his girlfriend just moved in an apartment and wanted
25 me to pick up some furniture for them. And me and him was

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 about to pull out and Alex stopped us, saying he wanted to
2 talk to me about something.

3 Q. And had Alex been working with you some at that
4 point?

5 A. Yes, ma'am.

6 Q. Okay. And you said May of '17, but he had
7 actually been working with you before this --

8 MR. VOIGT: Objection. I think that's leading,
9 Judge.

10 THE COURT: Try to rephrase, please?

11 MS. RICHARDSON: All right.

12 THE COURT: Sustained.

13 BY MS. RICHARDSON:

14 Q. When you -- at the time of this conversation that
15 you -- or of moving this furniture, who was working with
16 you? Who had been working with you on your jobs?

17 A. Alex. Alex Jr.

18 Q. Okay. And do you remember specifically which job
19 it was?

20 A. Yes, ma'am.

21 Q. Okay. Where was that job?

22 A. Out in Loris.

23 Q. And that's in Horry County?

24 A. Yes, ma'am.

25 Q. And how would you travel to Horry County?

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 A. I would take 701 straight on up through Conway,
2 jump Highway 9, I believe.

3 Q. Okay. And about how long of a ride was that?

4 A. About an hour and 20 minutes, ride -- hour and
5 15 minutes.

6 Q. And did you travel by yourself or did you...

7 A. I would carry the crew with me. One particular
8 time was me and Alex went. Another time it was me and a few
9 other cousins went, you know, but I only got a Ford Ranger,
10 so I didn't carry too much people.

11 Q. And so getting back to the day with Shawn Simmons,
12 tell me about that.

13 A. Well, he asked me prior, Could I go and take some
14 furniture or pick some furniture for him from Big Lots,
15 Myrtle Beach. And I said, Sure, I could.

16 Q. And you had a trailer because of your construction
17 business?

18 A. Yes, ma'am.

19 Q. Okay.

20 A. We went to go and pick up the trailer, and we were
21 about to pull out, Alex flagged me down, saying he want a
22 ride, smoke. So I let him in and we ride to Myrtle Beach,
23 smoked a couple of blunts.

24 Q. Okay. And did you pick up the furniture from Big
25 Lots?

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 A. Yes, ma'am.

2 Q. Okay. And were did you see Alex? Where did you
3 pick him up?

4 A. It was on Emanuel and Alex Alford.

5 Q. And that's here in the city limits?

6 A. Yes, ma'am.

7 Q. And after you got the furniture, what did you do?

8 A. Dropped it off at her house and we all went our
9 separate ways.

10 Q. Okay. And now you asked Alex to ride with you?

11 A. Yeah.

12 Q. Okay. Tell me -- tell me how that went. Tell me
13 about that?

14 A. Well, he jumped in the truck, started off quiet,
15 we rolling up. And then just come out of nowhere, it was
16 like, You know JR? I'm like, Yeah. Well, that fucker out
17 of here, I took that nigga for a ride.

18 And I kind of, it just through me off a little
19 bit, but he kept on talking. He talked so fast I couldn't
20 really understand what he was saying, but I got that much
21 out of the conversation.

22 Q. Okay. And what did that mean what does, "Take him
23 for a ride," mean?

24 A. I know it was not good, and it was slangs,
25 neighborhood slang you know, taking somebody out, killing

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 them.

2 Q. And that's the sort of slang that you used?
3 That's what you thought it meant?

4 A. Yes, ma'am. Off the top.

5 Q. And did he say anythings else about that?

6 A. Just said that -- I remember him saying that JR
7 and sister got in a little beef or argument or something,
8 she called him and he went to go handle it.

9 Q. And did he tell you what they were fighting over?

10 A. No. I believe it was -- it was -- I think it
11 was -- it was about money, because JR was married to her and
12 he had kids with another young lady. And I think that child
13 support was getting took from her through taxes or some
14 stuff. So it was like JR owed her some money. I don't
15 know, how much it was, but I think they were beefing over
16 money.

17 Q. All right. And did he give you any additional
18 information about that?

19 A. Just been having problems around the house, you
20 know, beefing. I think she put him out.

21 Q. And you took this, what he said, "Took him for a
22 ride," you took it to mean what?

23 MR. VOIGT: Objection. Asked and answered.

24 THE COURT: I'm sorry. Thee was a cough. I
25 didn't hear the question. Could you repeat the question?

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 MS. RICHARDSON: What did you take, "I took him
2 for a ride," to mean?

3 THE COURT: All right. Hold on. And your --

4 MR. VOIGT: Was asked and answered.

5 THE COURT: All right. I'm going to overrule
6 that.

7 BY MS. RICHARDSON:

8 Q. And -- so what -- what did you do after that
9 conversation? Do you remember what day it was?

10 A. It was a Saturday. Sunday I was off, I kind of
11 just laid around. And it was bothering me, you know. So
12 Monday morning I got up, went to work, knocked off a little
13 early and went by the father house, which is Leon Sr.

14 Q. And why did you go there?

15 A. I wanted to know if anybody seen JR and they said
16 that they hasn't seen him. I said, Why don't you try to
17 look for him? And I would tell him something, that, If
18 y'all can't find him, I'll tell y'all what somebody told me.

19 Q. Okay. So you didn't tell them what had been told
20 that day?

21 A. No. No, I didn't tell --

22 Q. And that was on a Monday, you said?

23 A. Yeah. I hadn't told them anything. I just -- I
24 just told them to go look for him.

25 Q. Okay. And after that -- and who did you talk to?

ANTWAN SIMMONS - DIRECT BY MS. RICHARDSON

1 A. I talked to Khryshard, we usually call him Cross,
2 he was the only one home that day.

3 Q. All right. And did you have any further contact
4 with the family after that?

5 A. Yes. I told Cross, you know, and get with his
6 father, get with his brothers and just try to look for JR,
7 and if they don't find him, call me and I'll come and tell
8 them the story that somebody told me.

9 Q. Okay. And was there any more contact from them?

10 A. Yes. I believe so. They called me up about
11 Wednesday or Tuesday, asked me to come to the family house.
12 Everybody was there. They were a little upset, because they
13 couldn't find him, so I told them what I had been told.

14 Q. And you told them who had said it?

15 A. Yes.

16 Q. And after that, is that when he was reported
17 missing?

18 A. Yes.

19 Q. And when you told his brother, did he seem to know
20 he was missing at that time?

21 A. No. No, we didn't think it was unusual for JR to
22 be gone a couple of days. Nobody thought it was unusual.

23 Q. All right. I have no further questions. Answer
24 any questions that they may have for you.

25 A. Yes, ma'am.

ANTWAN SIMMONS - CROSS BY MR. HAZZARD

1 THE COURT: All right. Mr. Hazzard, do you have
2 any questions, sir?

3 MR. HAZZARD: Yes, sir, Your Honor. Court's
4 indulgence.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. HAZZARD:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. Okay. You told the Prosecutor that you went to
11 pick up some furniture in Myrtle Beach, correct?

12 A. Yes, sir.

13 Q. Okay. And what type of car were you driving?

14 A. I have a Ford Ranger XLT.

15 Q. Okay. And how many seats does it have?

16 A. It has two front seats and a fold out back
17 passenger seat, fold out back driver seat.

18 Q. Okay. So, basically, front seats, back seats, but
19 not a huge cab --

20 A. No.

21 Q. -- it's not like a limousine or anything like
22 that?

23 A. No, sir.

24 Q. So you're going to pickup this furniture and Shawn
25 Simmons is with you, correct?

ANTWAN SIMMONS - CROSS BY MR. HAZZARD

1 A. Yes, sir.

2 Q. So he's in on the ride all the way, correct?

3 A. Yes, sir.

4 Q. There and back?

5 A. Yeah.

6 Q. You, Shawn Simmons and Alex Rhue Jr.?

7 A. Yeah.

8 Q. So he would have been able to hear anything Alex
9 Rhue Jr. said?

10 A. Should have been, I would think so.

11 Q. All right. And you said that you are related to
12 Leon Harrison Jr.?

13 A. Yes.

14 Q. And that is common knowledge in the community?

15 A. Yes.

16 Q. But it is your testimony to this jury that a
17 worker of yours --

18 A. Yes.

19 Q. -- got in your car and, unprovoked, said, "I
20 killed your relative"?

21 A. Yeah.

22 Q. Okay. And I think -- I want to be clear, I think
23 you said that he said that, Tiesh Rhue and Leon Harrison Jr.
24 got into an argument and she called him to come take care of
25 it, that's what he told you?

ANTWAN SIMMONS - CROSS BY MR. VOIGT

1 A. He said that they got in a little scat and he was
2 called there.

3 Q. He was called there.

4 MR. HAZZARD: No further questions.

5 THE COURT: Mr. Voigt?

6 MR. VOIGT: Just a few.

7 CROSS-EXAMINATION

8 BY MR. VOIGT:

9 Q. Not unusual for JR to drop out of site for a few
10 days, right?

11 A. Yes. That's what I was told by the family when I
12 went to go see them.

13 Q. Okay. In your experience, like, how long between
14 interactions with JR would you have?

15 A. I would probably see JR about once a month, maybe.

16 Q. So he could go -- he could lay low for 10 days,
17 14 days, it wouldn't effect how often you saw him?

18 A. No. No, I wouldn't think nothing of it.

19 Q. Was Alex Rhue working for you in February of 2017?

20 A. Not sure.

21 Q. You're not sure?

22 A. No, I'm not sure.

23 Q. Okay. And whose idea was it for him to go with
24 you up to Myrtle Beach?

25 A. I'm not sure who suggested it, but he say he

ANTWAN SIMMONS - CROSS BY MR. VOIGT

1 wanted to holler at me about something. I said, We're going
2 to Myrtle Beach, you can ride if you want, he jumped in.

3 Q. And did y'all talk about anything else on the way
4 up to Myrtle Beach?

5 A. That was the main thing that I could remember, I'm
6 not sure.

7 Q. Okay. And that's a pretty long drive, right?

8 A. Yeah.

9 Q. Like an hour and 15 going up?

10 A. Probably more like an hour, yeah, about an hour.

11 Q. Okay. And your -- how much time do you think YOU
12 spent up there?

13 A. When we pulled up to the furniture store in the
14 front, went inside, grabbed the furniture and left, maybe 20
15 lminutes, maybe, at that.

16 Q. Okay. And an hour back?

17 A. Yeah.

18 Q. Okay. So maybe two-and-a-half hours?

19 A. Yeah.

20 Q. That you would have spent in a cab or in the
21 presence of Alex Rhue Jr. and your other cousin, Shawn
22 Simmons?

23 A. Yes.

24 Q. Okay. Now when we're talking about fold out
25 seats, are these the kind that fold out from the sides?

ANTWAN SIMMONS - CROSS BY MR. VOIGT

1 A. Yeah, come from the side wall.

2 Q. And show me with your hands how narrow they might
3 be or how wide they might be?

4 A. About that wide. (Indicating.)

5 Q. All right. Just for the record, you're holding
6 your hands about 14 inches apart more or less?

7 A. Yes.

8 Q. And those are directly behind the driver seat and
9 the passenger seat, right?

10 A. Yes.

11 Q. So that your heads are fairly close to each other,
12 it's not like you've got your legs between you and the
13 person in the front seat, you're actually sitting to the
14 side, right?

15 A. Yes.

16 Q. Okay. And you smoked a couple of blunts?

17 A. Yes.

18 Q. And for the record, what's a blunt?

19 A. That's marijuana.

20 Q. Okay. And you did that before you had any sort of
21 real conversation with anybody in the truck, right?

22 A. No, I didn't say that. We was talking while we
23 was rolling.

24 Q. Talking, rolling, smoking all at the same time.

25 A. All at the same time.

ANTWAN SIMMONS - CROSS BY MR. VOIGT

1 Q. Okay. And that was on the way up?

2 A. Yes, sir.

3 Q. And the conversation that we're concentrating on
4 was on the way up?

5 A. Yes.

6 Q. Okay. And it didn't impair you at all?

7 A. No.

8 Q. Because it doesn't impair you?

9 A. (Indicating.)

10 Q. We have to do verbal answers.

11 A. No, it doesn't impair me, not to that point.

12 Q. Okay. It doesn't affect you at all?

13 A. Yes.

14 Q. Okay. Does it affect your perception?

15 A. No.

16 Q. At all?

17 A. No.

18 Q. If it doesn't affect your perception why do you do
19 it?

20 A. It relaxes me.

21 Q. Got you. And you needed to relax to head up to
22 Myrtle Beach to get some furniture?

23 A. That's just how I unwind.

24 Q. Okay. You talked to the police about this, right?

25 A. Yes.

ANTWAN SIMMONS - CROSS BY MR. VOIGT

1 Q. Do you remember telling the police that you
2 thought, "Taking him for a ride" meant to beat him up?

3 A. I don't remember saying that.

4 Q. Okay. You know that Alex Rhue doesn't drive,
5 right?

6 A. Yes.

7 Q. Okay. You then went and you told -- you went to
8 the family first, right?

9 A. Yes.

10 Q. You didn't talk to the police first?

11 A. No.

12 Q. You went to the family first and then you had to
13 go back to the family, right?

14 A. Yes.

15 Q. You love your family?

16 A. Yes.

17 Q. Are you very tight with your family?

18 A. Yes.

19 Q. You consider them blood?

20 A. Yes.

21 Q. Do you believe that blood is thicker than water?

22 MS. RICHARDSON: Your Honor, I object.

23 THE COURT: I'll allow it.

24 THE WITNESS: What's you want?

25

ANTWAN SIMMONS - REDIRECT BY MS. RICHARDSON

1 BY MR. VOIGT:

2 Q. Well, it's how you take it, not what I mean.

3 A. If I believe blood is thicker than water?

4 Q. Yeah.

5 A. Yeah.

6 Q. Okay.

7 MR. VOIGT: I have no further questions, Your
8 Honor.

9 THE COURT: Mr. Edgeworth, do you have any
10 questions, sir?

11 MR. EDGEWORTH: I have no questions for this
12 witness, Your Honor.

13 THE COURT: All right. Any redirect, Solicitor?

14 REDIRECT EXAMINATION

15 BY MS. RICHARDSON:

16 Q. Was Alex a talkative person?

17 A. Yes.

18 Q. Can you describe, kind of, how he talked and
19 acted?

20 A. Yeah.

21 MR. VOIGT: I'm going to object as beyond my
22 cross, Judge.

23 MS. RICHARDSON: It's Mr. Hazzard's cross.

24 THE COURT: Hold -- hold on. Hold on.

25 I'm going to allow the question.

ANTWAN SIMMONS - REDIRECT BY MS. RICHARDSON

1 MR. VOIGT: Thank you, Your Honor.

2 THE WITNESS: Yes, he's very talkative.

3 BY MS. RICHARDSON:

4 Q. Okay. Can you kind of elaborate and explain that
5 to me?

6 A. Just like, to boast, talk about things, you know,
7 shouldn't be talking about.

8 Q. All right.

9 MS. RICHARDSON: I have no further questions.

10 THE COURT: All right. Any -- any recross limited
11 to redirect from Mr. Hazzard?

12 MR. HAZZARD: No, sir.

13 THE COURT: Mr. Voigt?

14 MR. VOIGT: No, Your Honor.

15 THE COURT: Mr. Edgeworth?

16 MR. EDGEWORTH: No, sir.

17 THE COURT: All right. Sir, thank you. You can
18 step down and you're excused from your subpoena. Okay?

19 THE WITNESS: I appreciate it.

20 THE COURT: Yes, sir. All right.

21 Ladies and gentlemen, it's 12 o'clock, and so I
22 think right now would be a good time to go ahead and break
23 for lunch. I'd ask that you be back in the jury room at
24 1:15. And we will be ready to start, I believe, promptly at
25 1:15 and so have a good lunch.

1 Don't talk about the case amongst yourselves or
2 with anyone else. No research about the case on this
3 matter, checking on Facebook and things of that nature.

4 Thank you. Have a great lunch, we'll see you back
5 at 1:15.

6 (WHEREUPON, the jury exited the courtroom at 12:01
7 p.m.)

8 THE COURT: All right. We'll be at recess until,
9 I told them to come back at 1:15. Is there going to be
10 anything we need to take up before we bring the jury back in
11 from the State?

12 MS. RICHARDSON: Not from the State, Your Honor,
13 but we do expect a lot of, sort of, evidence handling at
14 this next juncture.

15 THE COURT: Well, if y'all need to talk about it,
16 please do so. I'll be back out on the bench at five after
17 1:00. Okay?

18 MS. RICHARDSON: Do you think there are any
19 issues?

20 THE COURT: Mr. Hazzard?

21 MR. HAZZARD: Yes, sir.

22 THE COURT: Does that meet with your approval,
23 I'll see y'all back here about five after 1:00?

24 MR. HAZZARD: Yes, sir.

25 THE COURT: Thank you. All right.

1 Mr. Voigt, is that okay?

2 MR. VOIGT: Absolutely, Your Honor.

3 (WHEREUPON, there was a break held from 12:03 p.m.
4 until 1:12 p.m.)

5 THE BAILIFF: All rise.

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

7 MS. SMITH: I apologize profusely. I heard the
8 wrong time. I am so sorry.

9 THE COURT: All right. Are we ready to proceed?

10 MS. SMITH: Your Honor, if you'll give me one
11 second. I don't how I heard 1:30. I am so sorry.

12 THE COURT: All right.

13 MS. SMITH: Ms. Rogers, is going to get our
14 witnesses.

15 THE COURT: Okay. In that case, are we ready to
16 bring the jury in, Solicitor?

17 MS. SMITH: Your Honor, if you can just give us
18 just a second to get them from downstairs to upstairs. I
19 apologize, when we got the phone call, we were running out
20 the door.

21 THE COURT: That's all right. We're not going to
22 bring the witness in before we get the jury seated?

23 MS. SMITH: No. I just don't to have them sitting
24 here waiting -- while in the courtroom.

25 THE COURT: All right.

1 MS. SMITH: Thank you.

2 MS. RICHARDSON: My apologies, Your Honor.

3 THE COURT: That's all right.

4 MS. RICHARDSON: I was thinking it was 1:30.

5 THE COURT: That's all right. Just let me know
6 when y'all are ready to proceed.

7 MS. RICHARDSON: Is there anything we need to
8 address before the jury comes in?

9 THE COURT: No. We're ready to bring the jury in?

10 MS. RICHARDSON: Okay.

11 THE COURT: Are you ready to bring the jury in?

12 MS. SMITH: Just one second.

13 THE COURT: Ready. All right. Bring in the jury,
14 please.

15 (WHEREUPON, the jury entered the courtroom at 1:19
16 p.m.)

17 THE COURT: All right. Ladies and, gentlemen
18 welcome back.

19 Solicitor, are we ready to proceed?

20 MS. RICHARDSON: Yes, Your Honor.

21 THE COURT: Call your next witness, please.

22 MS. RICHARDSON: The State calls Ricardo Leal.

23 RICARDO LEAL, having been duly sworn,
24 testified as follows:

25 THE COURT: All right. Sir, if you don't mind,

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 pull your mask down just for the purposes of your testimony,
2 please.

3 THE WITNESS: Okay.

4 THE COURT: Thank you very much.

5 THE WITNESS: Thank you, Your Honor.

6 My name Ricardo Leal, it's R-I-C-A-R-D-O. Last
7 name is spelled, L-E-A-L.

8 DIRECT EXAMINATION

9 BY MS. RICHARDSON:

10 Q. Mr. Leal, where are you employed?

11 A. I work for T-Mobile Corporation.

12 Q. And how long have you worked there?

13 A. So I started with T-Mobile on April 1st of '20.

14 Prior to that, I worked for the Sprint Corporation. And the
15 two companies merged together on that date. So since then,
16 I've been doing the same function, essentially, that I did
17 with the Sprint Corporation testifying serving as a records
18 custodian that I did previously for nine years. And so, in
19 total, it will be 20 years this months that I've worked for
20 a phone company.

21 Q. Okay. And specifically with Verizon what sort of
22 records are kept regarding cell phones?

23 A. So there are -- there's subscriber information,
24 call detail records with cell site information, there's
25 other information as well, data information, different types

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 of things, that all go back to the actual telephone number.

2 The information that was requested was Subscriber
3 Information and Call Detail Records for finite period of
4 time.

5 Q. And are those records kept in the normal course of
6 business?

7 A. Yes, they are.

8 Q. Let me show you what's been marked as State's
9 Exhibits 43, and then 44. Let's start with 43.

10 A. Okay.

11 Q. Can you tell me what that is?

12 A. Yes, ma'am. These are call detail records and
13 subscriber information for phone number (843)240-1042. It's
14 information that I actually placed on the disk from the
15 records that were sent out originally.

16 Q. Okay. And have you reviewed that CD?

17 A. Yes.

18 Q. And you actually put the information on that CD?

19 A. Yes.

20 Q. Okay. And is it initialed by you?

21 A. Yes.

22 Q. Okay. And is that an accurate reflection of the
23 records that were provided in the normal course of
24 business -- or records that were kept in the normal course
25 of business and provided for that target number?

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 A. Yes, ma'am.

2 Q. Okay.

3 MS. RICHARDSON: Your Honor, at this time, I'd
4 move State's 43 into evidence.

5 THE COURT: Mr. Hazzard, any objection?

6 MR. HAZZARD: No, sir. No objection.

7 THE COURT: Mr. Voigt?

8 MR. VOIGT: I will lodge a relevance objection,
9 which I'm sure might be cured.

10 THE COURT: All right. Yes, sir.

11 MR. EDGEWORTH: No objection, Your Honor.

12 THE COURT: All right. Admitted without objection
13 to the two, but as it relates to a possible relevance
14 objection raise by Mr. Rhue Jr., I'm going to go ahead and
15 admit it.

16 (WHEREUPON, State's Exhibit Number 43 was moved
17 into evidence.)

18 BY MS. RICHARDSON:

19 Q. And also State's 44.

20 A. It too is call detail records with subscriber
21 information for a different telephone number, that telephone
22 number being (843)240-5159. It, too, is a disk that I
23 placed the original record onto and reviewed the
24 information.

25 Q. And that's an accurate copy of the records that

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 were kept in the normal course of business that have been
2 provided by Verizon pursuant to search warrant?

3 A. T-Mobile.

4 Q. I mean T-Mobile, I'm sorry.

5 A. Pursuant to search warrant, yes, ma'am.

6 Q. Your Honor -- and do you have subscriber
7 information, were you able to determine that --

8 A. Yes.

9 Q. -- for that exhibit?

10 A. So for this Exhibit 44, the subscriber information
11 is on it and it's in the name of Tiesh Rhue. And the other
12 Exhibit Number 43 is in the subscriber name of Leon
13 Harrison.

14 MS. RICHARDSON: And Your Honor, at this time, I'd
15 move State's 44 into evidence.

16 THE COURT: All right. Mr. Hazzard, any objection
17 to State's 44?

18 MR. HAZZARD: No objection.

19 THE COURT: Mr. Voigt?

20 MR. VOIGT: No objection, Your Honor.

21 THE COURT: All right. Mr. Edgeworth?

22 MR. EDGEWORTH: No objection, Your Honor.

23 THE COURT: All right. Admitted without
24 objection.

25 (WHEREUPON, State's Exhibit Number 44 was moved

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 into evidence.)

2 MS. RICHARDSON: And, Your Honor, if we could
3 publish these for the jury and let him use that during his
4 testimony?

5 THE COURT: Yes, ma'am.

6 BY MS. RICHARDSON:

7 Q. We'll begin with State's 43. Can you see the
8 monitor?

9 A. I can see it yes, ma'am.

10 Q. Thank you. All right.

11 And this would be -- can you tell me what records
12 were requested in reference to State's 43?

13 A. Yes, ma'am. So subscriber information and call
14 detail records with cell tower information for the number
15 ending in 1042.

16 Q. Okay. And what time period?

17 A. It was for two days. Can I open it up; is that
18 all right?

19 Q. Yes.

20 A. It give the exact dates. So it's February 25th,
21 2017, through February 26th of 2017, but actually goes
22 through March 10th of 2017, rather.

23 Q. And who is the -- do you have the subscriber
24 information for phone number 240-1042?

25 A. Yes, ma'am. The subscriber information is here,

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1 this is the subscriber information.

2 Q. And who is the subscriber?

3 A. Leon Harrison.

4 Q. And when was that telephone activated?

5 A. I was effective on January 23rd of 2017.

6 Q. And is that account expired?

7 A. It terminated on March 1st of 2017.

8 Q. Yet you have some records after that?

9 A. Yes, ma'am.

10 Q. And it was -- and you have the reason for the
11 suspension?

12 A. It just says it was suspended.

13 Q. Okay. And if we could go back to the call detail
14 records?

15 A. Okay.

16 Q. Now, can you briefly -- first of all, what sort of
17 time zone are these records provided in?

18 A. So the records are provided in UTC Time. So with
19 UTC Time that's what's stamped on the record itself. To get
20 it to Eastern Time you have to do a conversion. And for
21 this time period the conversion is minus five hours to get
22 to Eastern Time.

23 Q. Okay. So for the first record that you're showing
24 there, 2/25, what would that at -- it's also in military
25 time as well, right?

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 A. Correct, it's in military time. So it's showing
2 stamped 35 minutes after midnight on the 25th, but you have
3 to go back five hours. So that's going to put you at -- let
4 me do the conversion -- 7:35 and 17 seconds.

5 Q. And actually on the day before?

6 A. On the day before, correct.

7 Q. Okay. All right. So if you could just briefly
8 show us how these records are kept and what each call is
9 for.

10 A. Absolutely. So starting from the left hand side,
11 you have the date, then you have the time. And I'm just
12 going to go by each row or column here. You have the
13 duration, the duration is the total time in seconds. Then
14 you have the call type. M-O-C would be Outgoing Mobile
15 Originating Call. If it said M-T-C, it would be Mobile
16 Terminating Call. If it had S-M-S in there, it would be a
17 text message. Text messages would show up in the Duration
18 Column as 60, like 60 seconds, but they're actually text
19 messages, okay?

20 You have the calling number in this next column,
21 or actually it shows the directionality too, so it also
22 identifies whether it's outgoing, incoming, to that target
23 number. The target number being the record holder number,
24 the number ending 1042.

25 You have the calling number, that's the number

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1 that's doing the calling. You have the dialed number,
2 that's the number being dialed. And then it shows the
3 called number, which would be showing the actual digits that
4 are being called. And then you have the destination number,
5 which would typically they're going to be the same. The
6 called number is going to be the designation number.

7 You also have the I-M-S-I, that is the
8 International Mobile Subscriber Identity. And the I-M-E-I,
9 which is the Equipment ID, or the International Mobile
10 Equipment Identifier. It all goes back to the actual
11 handset that was being utilized. That's in the Subscriber
12 Information.

13 Then you have the completion code that tells you
14 if the call was competed or not. If it was abnormal
15 completion it wasn't a completed call.

16 You have service codes. The service codes
17 would -- there's a handout that we send out that has all the
18 information, but basically the service codes would show a
19 call into voice mail, if the call was being restricted on
20 the other end by the calling number, those types of things.

21 You have the switch name, which is this last one
22 we're looking at, it's just the actual name switch that the
23 tower is operating from. And then you have information for
24 the call records beyond that. So it gives you the first
25 tower and sector. It also gives you the azimuth of the

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1 tower that is being utilized. The azimuth is the midpoint
2 of the sector for the specific tower.

3 Generally speaking towers are three sided and so
4 this would kind of give you the midpoint for the sector that
5 was being utilized. It gives digits, so I try to use like a
6 clock where 12 is zero and 360. So, if it was, say, 120
7 degrees, four would be an approximation of 120 degrees if
8 you were trying to do zero to 360, right? Just to give you
9 a little bit of an idea how that works.

10 So what it does it shows the sector or side of the
11 tower that a call bounced off of by the radio frequency and
12 the tower as the actual antenna.

13 The next columns show First Tower, Lat and Long,
14 that is the actual placement of the tower by latitude and
15 longitude. So you would have to input that information and
16 it would give you an address or location if you were to use
17 Google Maps or some type of mapping software to do that.

18 It also gives the tower address and it could be
19 the exact location of that specific tower, but it also could
20 be that that's site address where you would have to go to
21 locate the tower. So when mapping the information you
22 really need to use the latitude and longitude and not the
23 actual address that's there.

24 And then it gives information about where that
25 tower is located, Georgetown, South Carolina, in this case,

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1 is where the information was hitting off of and then it give
2 the zip code.

3 Q. Okay. And how big is the radius for each tower?

4 A. So I can't define the exact radius for each tower,
5 but, generally speaking, it could be as little as a third of
6 a mile, two to 2.5 miles. It just depends on the population
7 density and the landscape of the land as far as that's
8 concerned.

9 Q. And then each tower is divided into a sector based
10 on the three side?

11 A. Correct.

12 Q. All right. So as for these records, I'm going to
13 refer you, if you can go down -- if you can go down to -- if
14 you can just scroll down?

15 A. Okay.

16 Q. Until later on the 25th. All right.

17 If you can go to 2/26 at 2:24 UTC Time?

18 A. Okay. All right.

19 Q. Okay.

20 A. It's right there.

21 Q. All right. If you would put the mouse on that
22 one. So that would -- actually what that would -- would
23 that actually be on a different date?

24 A. Correct. You have to go back five hours. And so
25 that would be 9:24 and 55 seconds on the 25th of February

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1 2017.

2 Q. Okay. And that was an outgoing call?

3 A. Yes, ma'am.

4 Q. And what number was that to?

5 A. 843 -- I'm having a hard time reading it here --

6 (843)240-5159.

7 Q. Okay. And is that the other target number?

8 A. Yes, ma'am.

9 Q. Of Tiesh Rhue? Subscriber Tiesh Rhue?

10 A. Yes, ma'am.

11 Q. Okay. And then after that there's an incoming
12 call from that same number?

13 A. Yes, ma'am.

14 Q. Okay. And then after that you have some
15 additional outgoing calls?

16 A. Correct.

17 Q. And what number are those to?

18 A. (843)240-8658.

19 Q. And that first call is at what time?

20 A. It's at 11:19:37.

21 Q. Okay.

22 A. On the 25th.

23 Q. And can you tell if any of those calls from
24 that -- your target number to that 240-8658 number, can you
25 sort of give me the timeline of those numbers?

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 MR. HAZZARD: Objection.

2 MS. RICHARDSON: Or time frame?

3 THE COURT: Yes, sir?

4 MR. HAZZARD: I don't really have an objection,
5 but since I'm over here, it's kind of hard to get
6 everybody's attention. I would ask the court to instruct
7 the witness to -- he's been starting out with UTC Time and
8 then converting it. And I believe on this last one, he just
9 said 11:16. So I'm trying to figure out if he's talking
10 about UTC Time --

11 THE COURT: All right.

12 MR. HAZZARD: -- he's going to convert it, or if
13 he's going to go with Eastern Time when he's describing.

14 THE COURT: All right. And I certainly understand
15 that. And, Solicitor, if you could make sure that we're
16 referring to one time, I'm assuming that being Eastern Time.
17 BY MS. RICHARDSON:

18 Q. All right. So on line -- on Line 120.

19 A. Okay.

20 Q. That call is listed at 2/26 at 3:19:37, what time
21 is that in?

22 A. So that's going to be -- that's in UTC Time.

23 Q. Okay. And then to convert that it's going to take
24 it back to the 25th?

25 A. Correct. Minus five hours take it to the 25th.

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 Q. And so that's going to be approximately 10:19:37?

2 A. Yes, ma'am.

3 Q. And then there are -- I guess if you'll count how
4 many calls in a row there are to that number?

5 A. There are five calls.

6 Q. Okay. And the last of those, what time is that
7 and date in UTC Time?

8 A. It is 4:07:27 in UTC Time.

9 Q. Okay. And would that be in Eastern Standard?

10 A. Eastern Standard Time it's 11:07 and 27 seconds on
11 the 25th of February 2017.

12 Q. All right. And then the next call, can you tell
13 if that call has been -- and all of those calls have they
14 been successfully completed?

15 A. Except for this one up here, this was an abnormal
16 completion, this call, so it wasn't a successfully completed
17 call.

18 Q. And that's from your other target number?

19 A. Correct. From the 5159 number.

20 Q. And successfully completed just means that it did
21 go through to that other number?

22 A. Correct.

23 Q. All right. And then if you would go down to
24 line -- is that line, yes, there. All right. Can you give
25 me the date and time in UTC Time?

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 A. It's at 4:25:03 in the morning UTC Time on
2 February 26th of 2017.

3 Q. Okay. So what would that be in Eastern Standard?

4 A. Eastern time it would be at 11:25 and
5 three seconds on February 25th of 2017 in the p.m.

6 Q. Okay. And was that call completed successfully?

7 A. Yes, ma'am.

8 Q. And what number was it to?

9 A. It was to 1-800-214-5483.

10 Q. Okay. And how long was that call?

11 A. It was 57 seconds.

12 Q. So 2/25/17 at 11:25:03 p.m. Eastern Standard Time?

13 A. Yes, ma'am, p.m.

14 Q. After that call, are there any completed calls on
15 your record successfully completed calls on your record?

16 A. So there are calls that are successfully
17 completed, but they're calls that are going -- they're
18 incoming calls that are going to voice mail.

19 Q. So as far as outgoing calls, is that the last
20 outgoing call from this target number during this time
21 period?

22 A. Yes, ma'am.

23 Q. And on the next line -- on the next line there?

24 A. Uh-huh.

25 Q. Okay. Can you explain those next two lines?

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 A. So I absolutely can. So you have an incoming call
2 to the record holder. And then you have an outgoing call,
3 it's all the same transaction. It's incoming and then
4 outgoing to voice mail.

5 So what you have here is this 805 number that is
6 designated voice mail. So any time you see a number in this
7 second column that shows 805 ending in 7249, that means it
8 went to voice mail, to the voice mail platform. So it's an
9 incoming call and then it's going to the record holder and
10 it goes to voice mail.

11 Q. And what time is that in UTC Time?

12 A. So that is 6:53, I believe it's :07, UTC Time on
13 February 26th, 2017.

14 Q. And that call went to voice mail?

15 A. Correct. That's where it's -- that's the time
16 that it starts. And there's a little bit of time in
17 between, but it rolls to voice mail and then it's attached
18 to that voice mail line for 254 seconds.

19 Q. And in Eastern Standard Time?

20 A. That's going to be at 1:53:07 Eastern Standard
21 Time.

22 Q. So 1:53:07 on the morning of 2/26 Eastern Standard
23 Time that call went to voice mail?

24 A. Correct. In the morning of February 26, 2017.

25 Q. And in reviewing the records, what about the

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 remaining calls after that?

2 A. So in review of the records the remaining calls
3 after that are all going to voice mail. They're all -- if
4 you look here in this column all the calls are going to
5 voice mail. The 805 number is showing up. And all calls
6 going into that telephone number are going to the voice mail
7 platform.

8 Q. So when it says Outgoing, but it's going to the
9 805 area code, that means it's a voice mail?

10 A. Correct.

11 Q. It's received?

12 A. It's being forwarded tho the voice mail platform.

13 Q. All right. And do you have tower data on these
14 records?

15 A. There is tower data on the records, but there is
16 no tower data for the time period here which is consistent
17 with the phone being off or out of battery. It's not
18 registering with the network. The phone's not registering.

19 Q. So what time -- can you show us the line at what
20 time in UTC Time first that the phone first registered, you
21 said as turned off or out of battery?

22 A. Yes, ma'am. So that would be here 15:00:06 on
23 2/26 of 2017.

24 Q. And so converted that would be 2/26 at 10:00 a.m.?

25 A. Correct. It would be 10:00 a.m. and six seconds.

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 Q. Okay. And did the phone ever receive power after
2 that?

3 A. There was no calls after that as far as it's
4 consistent with it being off or out of battery, until the
5 very end. There was a call on the last that had some tower
6 information on there, the last call, but I don't see
7 anything else. Oh, I think I went too far, I'm sorry.

8 Yeah, that was it. There was no other
9 information.

10 Q. Okay. Let me show you what's been marked as
11 State's 45 for identification. Let me show it to them
12 first.

13 MR. HAZZARD: Court's indulgence.

14 THE COURT: Yes, sir.

15 MR. HAZZARD: Your Honor, may we approach?

16 THE COURT: Yes, sir.

17 (WHEREUPON, a bench conference was had.)

18 MS. RICHARDSON: Your Honor, since it was objected
19 to, I'm going to leave it up with the Court Reporter.

20 THE COURT: Okay. That's fine.

21 MS. RICHARDSON: Let me show.

22 THE COURT: Let me just -- I'm going to sustain
23 the objection. But you can proceed.

24 MS. RICHARDSON: And he can use it to...

25 THE COURT: If that will assist him.

RICARDO LEAL - DIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. Would it assist you to look at this?

3 A. Yes, ma'am.

4 Q. All right. And State's 45, which is only for
5 identification purposes, can you tell us what that is?

6 A. So this is the records for the number ending in
7 1042.

8 Q. Okay.

9 A. It's the Call Detail Records with cell tower
10 information.

11 Q. Okay.

12 A. And basically it's for the two days.

13 Q. And just to summarize. Does it show your -- when
14 the last completed outgoing call was?

15 A. Yes. The same call that I spoke to earlier.

16 Q. Okay. And that was again what -- as to Eastern
17 Standard Time, what date and time?

18 A. That was at 4:25:03 UTC Time on the 26th, which is
19 actually 11:25:03 on the 25th in the p.m. of 2017.

20 Q. Okay. And after that time all calls went to voice
21 mail?

22 A. Correct.

23 Q. Thank you. I have no further questions. Answer
24 any questions that the other attorneys may have for you.

25 THE COURT: All right. Mr. Hazzard, do you have

RICARDO LEAL - CROSS BY MR. HAZZARD

1 any questions, sir?

2 MR. HAZZARD: Yes, sir. Very briefly.

3 THE COURT: Sure.

4 MR. HAZZARD: Thank you, Your Honor.

5 May it please the Court.

6 CROSS-EXAMINATION

7 BY MR. HAZZARD:

8 Q. Good afternoon, sir.

9 A. Good afternoon, sir.

10 Q. Now, I want to be clear, because this is kind of
11 confusing to me. The Prosecutor said the times on there are
12 military time. They're not military time, right?

13 A. It is in military time, but it's also in UTC Time.

14 Q. Okay. So when she said 3512, I'm not familiar
15 with a 3512 military time.

16 A. It's after midnight, 35 midnights after midnight.

17 Q. So you're talking about 00:35:12 seconds?

18 A. Correct.

19 Q. Okay. And that's five hours ahead of Eastern
20 Standard Time?

21 A. Correct.

22 Q. Okay. And you said the last number called was
23 1-800-214-5483?

24 A. Yes, sir.

25 Q. And what's that number to?

RICARDO LEAL - CROSS BY MR. HAZZARD

1 A. I don't know.

2 Q. Okay. And did they have you figure out Luis
3 Flores's number?

4 A. I didn't speak to anybody about Luis Flores's
5 telephone number.

6 Q. All right. And you said with regard to the
7 coverage area for the tower it could be a shorter distance,
8 it could be two and a half miles or thereabouts. Do you
9 have any idea the number of other towers in that vicinity?

10 A. I do not know the number of other towers that are
11 in the area.

12 Q. Because that would effect the coverage area of any
13 given tower normally, correct?

14 A. If there's other towers in the area they would
15 work in unison to complete calls. And so that's pretty much
16 how that works. Like, we're in the business of keeping
17 people in constant communication. And so that's more of an
18 engineering aspect of the tower placement and how all that
19 works. But, yes, we want to have coverage so there would
20 adjacent towers in the area to complete calls.

21 Q. So if I leave my home and walk two or three blocks
22 over, I could very well be hitting off the same tower, but
23 not near my home; is that correct?

24 A. Yes.

25 Q. Thank you. No further questions.

RICARDO LEAL - CROSS BY MR. HAZZARD

1 A. You're welcome.

2 THE COURT: All right. Mr. Voigt, any questions,
3 sir?

4 MR. VOIGT: No questions of this witness, Your
5 Honor.

6 THE COURT: All right. Mr. Edgeworth, any
7 questions, sir?

8 MR. EDGEWORTH: No additional questions, Your
9 Honor.

10 THE COURT: All right. Any redirect, Solicitor?

11 MS. RICHARDSON: You're Honor, I'm going to have
12 recall him on this other exhibit, State's Exhibit 44.

13 THE COURT: All right. Any objection?

14 MR. HAZZARD: I don't have an objection.

15 I guess, is she -- I mean, he's still on the
16 stand.

17 MS. RICHARDSON: I know, but I wanted to cover an
18 area outside of what I asked him on direct and so I'm
19 basically recalling him.

20 MR. HAZZARD: No, sir. No objection.

21 THE COURT: Any objection, Mr. Voigt?

22 MR. VOIGT: No objection.

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: All right. Please proceed, Solicitor.

25 REDIRECT EXAMINATION

RICARDO LEAL - REDIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. I got ahead of myself and forgot to show you.

3 I'm going to put in now what is State's
4 Exhibit 44. Can you identify the subscriber on these
5 records?

6 A. Yes, ma'am. So the subscriber for the number
7 (843)240-5159, is subscribed to Tiesh Rhue.

8 Q. And if you could go to the call detail records?

9 A. Okay.

10 Q. All right. And, again, these records begin on
11 what date and time in UTC Time?

12 A. So it's February 25th, 2017 at 00:13:52, after
13 midnight, 13 minutes after midnight.

14 Q. All right. And how -- and on what date do these
15 records end?

16 A. They end on February 26, 2017, at 23:28:38 UTC
17 Time.

18 Q. And if I could direct you to UTC Time 2/26 at
19 4:23:08 UTC Time.

20 A. Right there.

21 Q. Again, the conversion, can you do the conversion
22 for us?

23 A. Yes. So this is 4:23:08 UTC Time, which if you
24 convert it, it's going to be -- so that's on the 26th, and
25 if you convert it, it goes back to 11:23:08 on February 25th

RICARDO LEAL - REDIRECT BY MS. RICHARDSON

1 of 2017 in the p.m.

2 Q. Okay. And what number is that called to?

3 A. It's to 1-800-214-5483.

4 Q. And the length of that call?

5 A. Forty-five seconds.

6 Q. Okay. And the next call?

7 A. It, too, is a call to the same number,

8 1-800-214-5483, it's at 4:24:03 UTC Time, in the morning.

9 Which translates -- and that would be on the 26th of 2017,

10 but it goes back to the 25th at 11 -- February 25th, 2017 at

11 11:24:03 in the p.m. and it lasts for 19 seconds.

12 Q. All right. I have no further questions. Answer

13 any questions that the attorneys may have for you.

14 A. Thank you, ma'am.

15 THE COURT: Mr. Hazzard?

16 MR. HAZZARD: I have no questions, Your Honor.

17 THE COURT: All right, sir. Mr. Voigt?

18 MR. VOIGT: No questions, Your Honor.

19 THE COURT: Mr. Edgeworth?

20 MR. EDGEWORTH: No questions, Your Honor.

21 THE COURT: All right. Sir, thank you very much.

22 If you're here under subpoena, you're released from your

23 subpoena and free to go.

24 THE WITNESS: Thank you very much.

25 THE COURT: Yes, sir.

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 MS. RICHARDSON: The State calls Domenic
2 Armstrong.

3 DOMENIC ARMSTRONG, having been duly
4 sworn, testified as follows:

5 THE WITNESS: My name is Dominic Armstrong.

6 THE COURT: Hold on one second, Ms. Armstrong.
7 Solicitor, there's something here.

8 Thank you for bringing that to my attention,
9 Mr. Bailiff. There's an exhibit.

10 DIRECT EXAMINATION

11 BY MS. RICHARDSON:

12 Q. Ms. Armstrong, where are you employed?

13 A. Verizon.

14 Q. Okay. And what do you do for Verizon?

15 A. I'm a senior analyst in executive relations. And
16 in that title I am a custodian of records.

17 Q. And how long have you been working for Verizon?

18 A. Nine years.

19 Q. And were you asked to provide some records in
20 reference to this case?

21 A. Yes.

22 Q. Okay. And let me show you what's been marked as
23 State's Exhibit 46, and can you tell me what that is?

24 A. This disk contains the records that are
25 authenticated.

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 Q. Okay. And for what target number are those
2 records for?

3 A. (843)359-8519.

4 Q. Okay. And have you reviewed the contents of that
5 disk?

6 A. Yes.

7 Q. Okay. And you've initialed the same?

8 A. Yes.

9 Q. And is that an accurate reflection of the records
10 that were provided in this case?

11 A. Yes.

12 Q. Okay. And are those kept in the normal course of
13 business with Verizon?

14 A. Yes.

15 MS. RICHARDSON: Your Honor, at this time I'd
16 offer State's 46 into evidence.

17 THE COURT: Any objection, sir?

18 MR. HAZZARD: If she could just state whose
19 records they are and might give some relevance to them.

20 THE COURT: Solicitor, do we know whose records
21 they are?

22 MS. RICHARDSON: Your Honor, we would be getting
23 additional information for that. This witness is not going
24 to be able to testify as to the identity of the records.

25 THE COURT: All right.

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 MR. VOIGT: I'll jump on this one, Judge. I don't
2 believe there's been a foundation layed for the relevance in
3 this trial. So I would object.

4 THE COURT: Mr. Edgeworth?

5 MR. EDGEWORTH: Likewise, Your Honor. Relevance
6 at this point.

7 THE COURT: Counsel approach.

8 (WHEREUPON, a bench conference was had.)

9 THE COURT: All right. So as far as admitting
10 them, I believe they are admitted without objection pursuant
11 the representation that the Solicitor made at the bench
12 conference; is that accurate?

13 MR. HAZZARD: Your Honor, my objection is with
14 regard to proving relevance.

15 THE COURT: Right.

16 MR. HAZZARD: In other words, with regard to the
17 identification of the number, the Prosecutor said, As an
18 officer of the Court the identification of the number as she
19 perceives them and that future State witnesses will --

20 THE COURT: Yes, sir.

21 MR. HAZZARD: -- be under oath. I take her at her
22 word. I withdraw my objection.

23 THE COURT: All right.

24 MR. VOIGT: Based on representations made, it is
25 without objection.

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 THE COURT: I understand.

2 MR. EDGEWORTH: Likewise, Your Honor. Thank you.

3 THE COURT: All right. Go ahead.

4 MS. RICHARDSON: So State's Number 46, which is
5 the (843)359-8519 number, it's the State's position that
6 it's Alexander Rhue Sr.'s phone -- the 843 number is Sr.'s
7 phone.

8 And State's Exhibit Number 47, which is
9 (202)309-8145. The 202 area code would be Alexander Rhue
10 Jr.'s phone, pursuant to the --

11 MR. VOIGT: Objection.

12 THE COURT: Come on up.

13 (WHEREUPON, a bench conference was had.)

14 THE COURT: All right. Ladies and gentlemen, I
15 just want you to disregard the last statement that the
16 Solicitor made.

17 Solicitor, you now may continue.

18 BY MS. RICHARDSON:

19 Q. So I'm not sure where we left off. 46 is for what
20 target number?

21 A. (843)359-8519.

22 Q. And State's Exhibit 47 is for what target number?

23 A. (202)309-8145.

24 Q. And have you reviewed the contents of both of
25 these disks?

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 A. Yes.

2 Q. And is this an accurate copy of the records that
3 are kept in the normal course of business by Verizon and
4 provided pursuant to search warrant in this case?

5 A. Yes.

6 MS. RICHARDSON: Your Honor, at this time I'd
7 offer 46 and 47, because I think I offered one and not the
8 other, into evidence.

9 THE COURT: Any objections, sir?

10 MR. HAZZARD: No, sir.

11 THE COURT: Any objection. I'm tending the
12 representation of the Solicitor?

13 MR. VOIGT: Yes.

14 MR. EDGEWORTH: No objection.

15 THE COURT: Excellent. It's admitted without
16 objection subject to the representation that the Solicitor
17 made just a few moments ago at the bench conference.

18 MS. RICHARDSON: Thank you.

19 (WHEREUPON, State's Exhibit Numbers 46 and 47 were
20 moved into evidence.)

21 MS. RICHARDSON: And permission to publish to the
22 jury?

23 THE COURT: Yes, ma'am.

24 BY MS. RICHARDSON:

25 Q. Beginning with State's 46, and that's area code

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 (843)359-8519.

2 A. Yes.

3 Q. And as far as subscriber information, could you
4 tell us what the subscriber information is for this phone
5 number?

6 A. The subscriber information is unknown as it
7 belongs to Trac-Phone Wireless.

8 Q. Okay. And if you could refer to the call detail
9 records on this phone.

10 A. (Indicating.)

11 Q. Now, your records are provided in what time zone?

12 A. This particular set of records is in Eastern Time.

13 Q. Okay. So no conversions from UTC Time or
14 anything?

15 A. No.

16 Q. Okay. All right. And if I can refer you to
17 2/26/2017 at 1:56 a.m.

18 A. (Indicating.)

19 Q. Okay. And if you can scroll over to the tower
20 data?

21 A. (Indicating.)

22 Q. Okay. At 1:56 a.m., what tower is that -- is
23 being utilized by this telephone?

24 A. 1642.

25 Q. Okay. In what sector?

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 A. 2 Beta.

2 Q. And then the next call is at 2/26 at 1:59, and
3 what tower and sector is being used there?

4 A. 1642 Sector 1 Alpha.

5 Q. Okay. After 1:59 a.m., when is the next call that
6 is made?

7 A. February 26, 2017 at 8:40 a.m.

8 Q. So there is no cell data between 1:59 a.m. and
9 8:40 a.m.; is that correct?

10 A. Correct.

11 Q. Let me -- now, let's do the same thing for State's
12 Exhibit 47. And if you could look at the subscriber
13 information on that as well.

14 A. The subscriber identity is unknown as this belongs
15 to Tricom Wireless.

16 Q. Okay. If you could look at the call detail
17 records, and if I could refer you to 2/26/2017 at 1:52 a.m.

18 A. Can you repeat the date?

19 Q. 2/26/17 at 1:52 a.m.

20 A. Okay. I see it.

21 Q. And when that call -- there are two calls
22 sequentially that have the same number. Can you explain
23 what that means?

24 A. This appears to be a routed call. It's only one
25 phone call. The home switch of the phone number belongs to

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 the Washington switch. As this person was not in the home
2 switch area it was routed to the Charleston switch. So it
3 appears to be a duplicate call, but it's only one phone
4 call.

5 Q. Okay. And so for that call at 1:52 a.m. what
6 tower and sector is that phone utilizing?

7 A. So, Cell Number 1642, Sector 2 Beta.

8 Q. Okay. And then the call at 2/26/2017 at 2:09
9 a.m., what cell tower and sector is that utilizing?

10 A. Can you repeat the times?

11 Q. 2:09 a.m.

12 A. Cell 1642, Sector 3 Gamma.

13 Q. And when after 2:09 a.m. is that phone utilized
14 again for a call? Or the next line, what is that?

15 A. So that would be 5:05 p.m.

16 Q. Okay. So no activity as far as calls from
17 2:09 a.m. to 2:05 p.m.?

18 A. 5:05 p.m.

19 Q. I mean 5:05 p.m. Okay.

20 And if you could refer to text data on this. So
21 text messages are kept on a separate spread sheet by Verizon
22 than phone calls; is that right?

23 A. Yes.

24 Q. So the call detail records we looked at were just
25 for phone calls and this is just for text messages?

DOMENIC ARMSTRONG - DIRECT BY MS. RICHARDSON

1 A. Yes.

2 Q. Okay. All right. And if you could refer to going
3 2/26/2017, there at the top, were these -- was this phone
4 utilized for text messages on February 26, 2017?

5 MR. HAZZARD: Your Honor, maybe I missed it, if I
6 could ask for clarification on which number they're talking
7 about.

8 MS. RICHARDSON: This would be (202)309-8145.

9 MR. HAZZARD: Thank you, ma'am.

10 BY MS. RICHARDSON:

11 Q. If you could refer to line two and three, please?

12 A. One moment. I would need to look at the text
13 detail report, detail sheet, please.

14 Q. Okay.

15 A. And can you repeat the question?

16 Q. Yes. Can you tell us if this phone was used for
17 text messages on February 26, 2017?

18 A. Yes.

19 Q. Okay. And what times were those text messages?

20 A. There was on outbound text message at 3:05 a.m.
21 And there was an inbound text message at 5:25 a.m.

22 Q. Okay. And were those from the same number?

23 A. Yes.

24 Q. Okay. And at 3:05 a.m. what was the outgoing text
25 message, what number was that to?

DOMINIC ARMSTRONG - CROSS BY MR. VOIGT

1 A. (704) 441-7355.

2 Q. Okay. And is that the same number that sends the
3 incoming text at 5:25?

4 A. Yes.

5 Q. Okay. Thank you. I have no further questions.
6 Please answer any questions that the attorneys may have for
7 you.

8 THE COURT: Mr. Hazzard?

9 MR. HAZZARD: No questions, Your Honor.

10 THE COURT: Mr. Voigt?

11 MR. VOIGT: Just briefly, Judge.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. VOIGT:

15 Q. Ma'am, thank you very much for coming down.

16 When were these records requested of you? Do you
17 have that information?

18 A. They were requested in 2017. I don't know the
19 exact date.

20 Q. What were the parameters of the request? What
21 dates were requested?

22 A. I don't know the dates by heart. I would need to
23 review the document again.

24 Q. Please, if it would help you.

25 MS. RICHARDSON: Which one do you want?

DOMINIC ARMSTRONG - CROSS BY MR. VOIGT

1 MR. VOIGT: I'm only interested in 47 for the
2 purposes of this question.

3 BY MR. VOIGT:

4 Q. While this is coming up. I can ask you another
5 question, if that's all right with you?

6 A. Yes, that's fine.

7 Q. As a records custodian, is it your job to get only
8 the records that are requested of you through a subpoena or
9 a request such as the one the State has given to you?

10 A. Subpoena or search warrant, yes.

11 Q. Okay. So you don't get to pick what dates, you
12 just if it's in a subpoena or a search warrant, you use
13 those dates and times to collect the records for Verizon?

14 A. Yes.

15 MR. VOIGT: Is this the record?

16 MS. RICHARDSON: 47?

17 MR. VOIGT: Yes. Is she able to look at it?

18 BY MR. VOIGT:

19 Q. Could you look at 47 and find out what dates were
20 requested?

21 A. I don't see a copy of the request in this file.

22 Q. On the sheet that we were referring to before 47,
23 what is the last telephone call made in the time frame that
24 you have on those records?

25 A. For which telephone number?

DOMINIC ARMSTRONG - CROSS BY MR. VOIGT

1 Q. And this is for what has been identified as
2 State's 47, which is a number ending 8145.

3 A. And can you repeat your question?

4 Q. I'll try. Using this information what is the last
5 time and date of the last phone call for these records for
6 this records request?

7 A. February 26, 2017 at 5:05 p.m.

8 Q. Okay. Had you been requested -- had Verizon
9 received a request for dates after February 26, 2017, that
10 would have something that you would have complied with to
11 the best of your ability; is that correct?

12 A. Can you rephrase your question? I'm not quite
13 sure I understand.

14 Q. If they, for example, had subpoenaed March 31st,
15 2017, you'd be able to see March 31st records as well, would
16 you not?

17 A. Yes.

18 Q. So it's safe to say that they only requested
19 through February 26th, because that's what you have?

20 A. Not necessarily. If there was a time -- if the
21 date range went further than that and it pulled back
22 records, it's a possibility that no other activity could
23 have happened as well.

24 Q. It could have been -- I understand. Thank you
25 very much.

CYNTHIA SCHANDL - DIRECT BY MS. RICHARDSON

1 THE COURT: Mr. Edgeworth, do you have any
2 questions, sir?

3 MR. EDGEWORTH: No questions for this witness.

4 THE COURT: All right. Any redirect, Solicitor?

5 MS. RICHARDSON: No, Your Honor. And we'd ask
6 that she be excused.

7 THE COURT: All right. Ma'am, thank you so much
8 for coming, we appreciate your testimony.

9 THE WITNESS: Thank you.

10 THE COURT: All right. Solicitor.

11 MS. RICHARDSON: The State calls Dr. Schandl to
12 the stand.

13 CYNTHIA ANNA SCHANDL, having been duly
14 sworn, testified as follows:

15 THE COURT: For the purposes of your testimony, if
16 you could remove your mask, we'd appreciate it very much.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Thank you.

19 THE WITNESS: My name is Cynthia Anna Schandl,
20 S-C-H-A-N-D-L.

21 DIRECT EXAMINATION

22 BY MS. RICHARDSON:

23 Q. And are you a medical doctor?

24 A. Yes, ma'am.

25 Q. And a PhD?

CYNTHIA SCHANDL - DIRECT BY MS. RICHARDSON

1 A. Yes, that's correct.

2 Q. All right. And could you tell me where you're
3 employed?

4 A. Yes. I work at the Medical University of
5 South Carolina in Charleston, South Carolina.

6 Q. Okay. And what do you do there?

7 A. I'm a pathologist.

8 Q. Okay. And could you tell us the benefit of your
9 educational background?

10 A. Surely. So after high school, I went to college
11 at the California State University System in San Bernadino.
12 I received my bachelors degree in biology.

13 Thereafter, I did come to Charleston to the
14 Medical University of South Carolina, where I did get my
15 doctoral degree, my PhD; as well as my medical degree, my
16 MD.

17 And then, following those eight years of school, I
18 went on to residency training, which was an additional
19 four years, and then two additional years of fellowship
20 training. And after all that training, I do have,
21 certainly, a medical license and four board certifications
22 in pathology, including anatomic pathology, clinical
23 pathology, forensic pathology and molecular genetic
24 pathology.

25 And I was brought on to faculty at the Medical

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1 University of South Carolina in 2004, and have been employed
2 there ever since. Rising through the ranks, I am now a
3 tenured professor at that college.

4 Q. And, as such, do you perform autopsies?

5 A. Yes, ma'am. So with my forensic pathology hat on,
6 that's one of the main things that we do.

7 Q. Okay. And just basically explain what forensic
8 pathology is.

9 A. Sure. Absolutely. So if you think about
10 pathology, the "ology" means the study of, right? So
11 biology or pathology. And pathology is the study of
12 disease. And so when you put forensic in front of it,
13 you're talking about, Well, how does disease or trauma, how
14 do those things work within the law?

15 So how -- where do those things intersect? And so
16 the kinds of cases that a forensic pathologist is often
17 responsible for are persons who died of unexplained reasons
18 or a violent way or accidentally of suicide. Those sorts of
19 things will come under the purview of the forensic
20 pathologist, whose job it is then to determine the cause of
21 deaths of what made them die. And then also, in some
22 jurisdictions, the manner of death.

23 Q. Okay. And how many autopsies have you performed?

24 A. Over two thousand.

25 Q. Okay. And have you been qualified as an expert

CYNTHIA SCHANDL - DIRECT BY MS. RICHARDSON

1 previously?

2 A. Yes, ma'am.

3 Q. And how many times have you testified?

4 A. More than a hundred.

5 MS. RICHARDSON: Your Honor, at this time I'd
6 offer Dr. Schandl?

7 THE WITNESS: Schandl.

8 MS. RICHARDSON: Schandl as an expert in the area
9 of forensic pathology.

10 THE COURT: Any objection?

11 MR. HAZZARD: No, sir.

12 MR. VOIGT: No, sir.

13 MR. EDGEWORTH: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen,
15 normally a person cannot give opinion testimony, that is
16 they must testify as to what they either heard, or saw,
17 sensed, maybe smelled.

18 However, there's an exception when someone is
19 qualified because of education or experience they're
20 permitted, in fact, to give their opinion in certain areas
21 if the Court qualifies them that way.

22 This witness will be qualified in the area of
23 forensic pathology. And, as such, she can give opinion
24 testimony in that area. I do want you to know that it
25 doesn't mean that you have to accept the opinion, but it is

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1 evidence for you to use any way you see fit. Thank you.

2 BY MS. RICHARDSON:

3 Q. So were you asked to do an autopsy on the body
4 of -- or on an individual who was later identified as Leon
5 Harrison Jr.?

6 A. Yes, ma'am. That was back in 2017.

7 Q. Okay. And can you basically tell us the condition
8 of the body when it arrived?

9 A. Sure. Absolutely. So when we're going to do an
10 autopsy -- so there are several different procedures
11 involved. Certainly, the first is we're notified, in this
12 state anyway, by the coroner or the deputy coroner of the
13 county where the person is. And then that entity will
14 transport the body to our facility in Charleston,
15 South Carolina.

16 So the first I would see of the person would be
17 after they would come to Charleston, and are brought up to
18 the autopsy room. So when I first saw Mr. Harrison, he was
19 starting to decompose and he also was noted to, or I noticed
20 quite clearly, that he had both his hands bound and his
21 ankles bound with wire.

22 So when I received him he had clothing on. It was
23 all wet and partially disarrayed and he was bound at the
24 wrists and at the ankles. So those were the first
25 observations that I made.

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1 Q. And could you tell a race and gender?

2 A. Yes, to some extent. We can certainly tell the
3 sex of the individual based upon their external genitalia as
4 well as internal findings. And this person was a male. As
5 far as the race, you know that's much more difficult with
6 decomposition, people tend to change -- people or anything
7 that's decomposing -- tends to change colors, but there was
8 some skin that would indicate to me that this individual had
9 a darker complexion.

10 Q. And could you basically tell us what your process
11 and findings were in this case?

12 A. Sure. So in any forensic autopsy, we do things in
13 sort of an organized stepwise fashion. So I mentioned my
14 observations when the individual came up to the autopsy
15 room. At that point I'll take some pictures as to document
16 how the individual came to me. After those pictures are
17 taken, the clothing can be removed, and then I'll take
18 individual pictures of the clothing. Then I'll look at all
19 of the body surfaces, looking for any kind of defects or
20 injuries or evidence of identification, measure height and
21 weight, and all those sorts of things.

22 And then, after all of that is done, we'll also
23 take a series of X-rays, particularly in cases where someone
24 is starting to decompose and their skin isn't entirely
25 intact, such as was the case with Mr. Harrison. And also if

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1 we're trying either exclude or find a projectile. So if
2 there's a bullet or something else that we're going to find
3 by an X-ray, that's another reason we would take a series of
4 X-rays. So X-rays were taken in this case as well.

5 So after all of those initial things happen, we'll
6 also determine whether any evidence can be gathered from the
7 body at that time. So in this case, due to the
8 decomposition, the epithelium, so the covering of the skin,
9 had come off of one of the hands, we call that "gloving."

10 So when that happens, since the nails are part of
11 your epithelium, the top layer of skin, those are also lost.
12 So we did not have the nails from one of the hands. But the
13 other glove, the other epithelial cover of the other hand,
14 was still there, so I did collect the fingernail clippings
15 for evidence.

16 And so then after all the external exam things are
17 completed. Then we start what many people think about as
18 the autopsy, which is the internal exam with the wide
19 incision to see if there's any evidence of disease or trauma
20 inside the body.

21 So we go through each individual organ system, all
22 of the larger vessels, including, and as far as organs, also
23 the brain, to again, look for any signs of disease or
24 trauma. And, of course, all of those things were done on
25 this individual as well. And then another part of a

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1 forensic autopsy is, if possible, is to do a toxicological
2 examination.

3 So, again, we're trying to exclude other causes of
4 death, such as if he had any drugs on board or anything like
5 that. And in the case of someone who's decomposed, and this
6 particular case, there was no blood left. The blood tends
7 to leak out of the vessels so you can't gather it. And so
8 for this case, the toxicological exam was performed on liver
9 tissue, which is also very useful for that purpose.

10 Also, during the autopsy examination it is my
11 habit to always put in some sections of major organs to look
12 for certain things, including disease and other findings,
13 and that was done in this case as well. And then, once all
14 of that is said and done, I put all my findings and the
15 findings from the toxicology laboratory and other places,
16 into a report which I generate and give back to the coroner,
17 who requested the autopsy.

18 Q. Okay. And explain to the jury the difference
19 between cause of death and manner of death.

20 A. Sure. Sure. Absolutely. So cause of death and
21 manner of death -- my husband to mix these up -- anyway, so
22 cause of death is the thing that killed you, okay? So if
23 you had a heart attack, a myocardial infarction, that would
24 be your cause of death.

25 Now, if you had a heart attack because you had

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1 coronary arteries, then, the manner of death would be
2 natural, because that's your own body doing things, right?

3 But if you had a heart attack because somebody
4 frightened you, or, you know, otherwise attacked you, or who
5 knows what, if you had a heart attack directly as a result
6 of somebody else's action, well that could potentially be a
7 homicide.

8 So the cause is the thing that killed you. And
9 the manner is a determination of the events surrounding what
10 killed you. So that's how I think of them as different.

11 Q. Okay. And what are the manners of death, the
12 classifications that you use?

13 A. So the manners of death, they will -- they can
14 differ depending upon where you live and what jurisdiction
15 you're in. In South Carolina we have five to choose from
16 including: Undetermined, homicide, suicide, accident, and
17 natural. So you pick one of those things and that would be
18 the manner of death.

19 Q. Okay. And suicide would be death at your own
20 hands, obviously?

21 A. That's correct.

22 Q. And homicide, what would that be?

23 A. So homicide is simply a description that an
24 individual did die either at the hands of another person or
25 by their neglect. So something that they did or did not do

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1 to the individual that is deceased that, you know, led to
2 their demise.

3 Q. Okay. And you took, or numerous photos were
4 taken, during this autopsy?

5 A. Yes. I am in the habit of documenting quite
6 extensively with pictures.

7 Q. Okay. And let me show you what has already been
8 entered into evidence as State's Exhibit 13. Do you
9 recognize that?

10 A. Yes, ma'am. So part of the external exam, I did
11 see a tattoo. Fortunately, for us when the epithelium comes
12 off, tattooing is in the dermis, so beneath the epithelium.
13 So tattoos will withstand that sloughing of the outer layer
14 of skin, so there was a tattoo.

15 Q. Okay.

16 THE COURT: Solicitor, Counsel, approach for a
17 minute, please.

18 (WHEREUPON, a bench conference was had.)

19 THE COURT: All right. Ladies and gentlemen,
20 we're going to take a break for a few minutes. I want to
21 encourage everyone to please do your best to pay attention.
22 I know it's sometimes difficult after lunch, but the
23 testimony today that you're receiving is very important.

24 So we're going to take about a 15-minute break
25 give everybody an opportunity to stretch, so that we can try

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1 to continue with the Doctor's testimony. And thank you for
2 your patience and for your attention. Thank you.

3 (WHEREUPON, the jury exited the courtroom at 2:51
4 p.m.)

5 THE COURT: All right. We'll be at ease for
6 15 minutes. Thank you.

7 (WHEREUPON, there was a break held from 2:52 p.m.
8 until 3:08 p.m.)

9 THE BAILIFF: All rise.

10 THE COURT: Thank you. Please be seated.

11 All right. Are we ready to bring the jury in from
12 the State?

13 MS. RICHARDSON: Yes, Your Honor.

14 THE COURT: Defense?

15 MR. HAZZARD: Yes, sir.

16 MR. VOIGT: Yes, sir.

17 MR. EDGEWORTH: Yes, Your Honor.

18 THE COURT: All right. Doctor, again, sorry for
19 the interruption. All right. Let's get the jury.

20 (WHEREUPON, the jury entered the courtroom at 3:08
21 p.m.)

22 THE COURT: All right. Ladies and gentlemen,
23 thank you and I appreciate your giving the State and the
24 Defense your best efforts as it relates to attention in this
25 matter. And, as I've said before, it's an extremely

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1 important case and I know you understand that and will
2 continue to do so.

3 All right. Solicitor, if you would, continue with
4 the Doctor's direct examination, please?

5 BY MS. RICHARDSON:

6 Q. Okay. All right. And I believe you were looking
7 at State's Exhibit Number 13, the photo of a tattoo?

8 A. Yes, ma'am.

9 Q. Okay. And are those often helpful in identifying
10 individuals?

11 A. It certainly can be, absolutely.

12 Q. Okay. And in this case, as far as the victim's
13 facial features, had they been affected?

14 A. So decomposition does affect facial features, just
15 from swelling and things not quite exactly like they may
16 have during life. That's not to say that many people who
17 are in states of decomposition can't be identified by loved
18 ones, they certainly might be, but it makes it more -- more
19 challenging.

20 Q. Okay. And, obviously, it would be more upsetting
21 for a family member as well?

22 A. Yes.

23 Q. Okay. And let me show you -- this has already
24 been admitted. Let me show you what's been marked as
25 State's Exhibits 57 through 74 and photo 76, and see if you

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1 recognize those.

2 A. Yes, ma'am. So these are photographs taken during
3 the autopsy as well as reproductions of X-rays that we took
4 during the autopsy.

5 Q. Okay. And, obviously, that's just a portion of
6 the pictures that you took?

7 A. Yes, I took over a hundred pictures in this case.
8 And this is quite a few, yes.

9 Q. Okay.

10 MS. RICHARDSON: All right. Your Honor, at this
11 time I'd offer these photos into evidence.

12 THE COURT: Any objection.

13 MR. HAZZARD: Your Honor, since I'm not sure which
14 photos.

15 THE COURT: You want to show him the photos.
16 You'd like to glance through those, sir?

17 MR. HAZZARD: I'd appreciate it.

18 THE COURT: Absolutely.

19 MR. HAZZARD: Thank you, sir.

20 Okay. Your Honor, based on the in-camera hearing
21 with regard to the admissibility of these photos and the
22 objection I raised at that time, I will renew that objection
23 with regard to State's Exhibits 64, 65, 63, 60, 59, 72, 71,
24 70, 68, 67, and 62. The balance are acceptable to Alexander
25 Rhue Sr.

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1 MR. VOIGT: I would join in that objection and
2 concur with those that I don't.

3 MR. EDGEWORTH: Your Honor, I concur in the
4 objection as well. And for the record, I actually had 64 as
5 excluded. I don't know if we -- it's possible I wrote it
6 down wrong, but I just wanted to...

7 MS. RICHARDSON: Are you referring to Exhibit 64
8 or Photo 64?

9 MR. EDGEWORTH: I was going by the numbers that
10 were called.

11 THE COURT: Let me see -- if you show me 64, I'll
12 be able to confirm that.

13 MR. HAZZARD: I'm looking for it, Your Honor.

14 THE COURT: Yes, sir.

15 MS. RICHARDSON: You mean, Exhibit Number 64?

16 MR. HAZZARD: Your Honor, may we approach?

17 THE COURT: All right.

18 (WHEREUPON, a bench conference was had.)

19 THE COURT: All right. And so to that extent as
20 it relates to the objections, I note your objections for the
21 record, and I think we've addressed all of that at the
22 hearing early this morning. All right.

23 (WHEREUPON, State's Exhibits 57-74, 76 were moved
24 into evidence.)

25 MS. RICHARDSON: Your Honor, I'd ask that the jury

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1 be advised that some photos are deemed inappropriate.

2 THE COURT: All right. Ladies and gentlemen,
3 these are some of the photographs that the Doctor took. And
4 what I would tell you is some of these photographs may be
5 difficult to look at. But, again, it's not something that
6 anybody is actually going to enjoy, but as the oath that you
7 took as jurors, this is evidence, it's been admitted into
8 evidence.

9 And so, absolutely, if you want the Doctor -- were
10 you going to have the Doctor step down or what did you want
11 to do? I'm sorry.

12 MS. RICHARDSON: If she can see from here, she can
13 use the electronic mouse, if that's okay for you.

14 THE COURT: All right. That's fine.

15 Any objection to the instruction I gave the jury
16 from the Defense?

17 MR. HAZZARD: No, sir.

18 MR. VOIGT: No, sir.

19 MR. EDGEWORTH: No, sir.

20 THE COURT: All right. Thank you.

21 BY MS. RICHARDSON:

22 Q. And you did say you had taken over a hundred
23 photos?

24 A. Yes.

25 Q. And this is just a small portion of them?

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1 A. Yes. I don't know how many you have there, but
2 not a hundred.

3 Q. Okay. And you photograph just about everything
4 during an autopsy; is that right?

5 A. Well, you know, it depends upon the case. In this
6 case I thought it was important to show rather than try to
7 explain and describe things like the binds and it's very
8 difficult to describe. I don't know nautical language, so
9 knots and things, so just to show those sorts of things
10 rather than to try to describe them in words.

11 So, in this case, this is more pictures than one
12 would need in a usual case where so many things are
13 difficult to explain in words.

14 Q. Okay. Before we start showing these, can you just
15 go through, sort of, the basics of the body? Did you have a
16 height and weight for the body?

17 A. Yes. He was about 202 pounds and 68 inches, so
18 5'8", 200-ish. There's some changes with decomposition
19 where weight can be lost a little bit due to the
20 decomposition process. But that was, if I remember
21 correctly, I'll refer to my report that I mentioned earlier
22 to make sure that that is accurate, it is.

23 Q. Okay. And were you given any additional
24 information by the coroner before you began the autopsy?

25 A. So we always try to get context around any cases

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1 that we get so that we, you know, can frame what evidence we
2 need to collect and what pictures should meet those sorts of
3 things.

4 So, yes, and I can certainly go through what we
5 knew before the case, if that's something you would like me
6 to do?

7 Q. Yes, if you would.

8 A. So we frequently -- we'll use what we call an I
9 Form, or Information Form, for intake of cases, and that's
10 what I have in front of me now. And at the time that the
11 deputy coroner called our team, this individual had not been
12 identified.

13 So it was described as a John Doe, Georgetown
14 County. And, let's see, they notified our office on the
15 11th of March 2017 at 2:53 p.m. We have in here that they
16 that -- that if he is the person they think missing, he was
17 missing since 2/25, so February 25th.

18 The investigators suspect homicide, hands and feet
19 bound, found in Black River. Investigators to attend, may
20 attempt fingerprints if feasible, will attempt to find
21 dental X-rays. And there's a little note here that we did
22 ask whether we could save the jaws if we thought it would be
23 needed.

24 So a couple of those things, so the dental X-rays
25 that would be another way to try to identify a person. The

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1 jaws, that goes along with the dental X-rays so that we can
2 take our own X-rays of the jaws, the teeth, to compare to
3 any dental records that someone might have had.

4 So that's what those things mean.

5 Q. Okay. And can you generally just summarize your
6 findings your or diagnosis of the body?

7 A. Absolutely. So we have a little section here on
8 the front page of our autopsy report that's called Diagnosis
9 and it's sort of low down of everything that we saw in one
10 little place.

11 So under Diagnosis, we have, ankles and wrists
12 tightly bound by multiple turns of speaker wire. Defects of
13 right and left sides of torso and thighs suggestive of
14 postmortem animal predation. State of moderate
15 decomposition. No radiopaque projectiles or osseous trauma
16 on anterior/posterior radiographs. And history that the
17 decedent was found floating in a river after not been seen
18 for several weeks.

19 Q. Okay. All right. So I'm going to -- so you first
20 began with the X-rays; is that right?

21 A. So the X-rays are certainly part of the autopsy
22 examination and we will do X-rays before we do the internal
23 examination. So before we make any cuts to the body, we
24 will do a series of X-rays. And in this case we did a
25 series of anterior to posterior, so front to back X-rays.

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1 Of course, when you see them, they're flat, you can't tell
2 what's in front of what.

3 So we did a series all the way from the head to
4 the toe. Particularly, because there were defects in the
5 skin in various places, the abdomen, and the legs and hands,
6 and so we wanted to make sure that there isn't a bullet or
7 something like that that we might miss, you know, if we
8 don't do X-rays.

9 So we X-ray all the tissue, all the way from the
10 head to the toe, for that purpose, as well as to see if
11 there's anything else that we need to know about.

12 Q. Okay. And did you find any bullets or anything
13 like that --

14 A. No.

15 Q. -- in the X-rays?

16 Okay. And did you have any significant findings
17 regarding the condition of his skeleton and bones?

18 A. No. So the bones were all intact. The only
19 radiopaque objects were the bindings, since they were wire,
20 the metal does keep the X-ray from going through, which
21 makes it look white. But, of course, those weren't in the
22 body, those were on the body, so I, kind of, already knew
23 those were there. But, yes, no, nothing particular.

24 Q. Okay. All right. This is what's marked as
25 State's Exhibit Number 57. And can you tell us what that

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1 is?

2 A. Yes. So what you see here is one of the X-rays.
3 When we received the body, he was -- he looked like this, so
4 his hands were above his head in the water. And then when
5 he came to us, as well, he was still in this sort of
6 position. And so that's where we had to start with our
7 X-rays is up there. And so what you're seeing there are his
8 hands like this. And then that tie is the speaker wire and
9 you can tell that it's radiopaque, so that's why it's white.

10 So bone are relatively radiopaque, whereas soft
11 tissue is less so, the muscle and that sort of thing is less
12 so, so that's what this is.

13 The little "l" is helping us orient so "l" for the
14 left side of the body, so that we know when we come back to
15 these X-rays where we are in space.

16 Q. Okay. And then what's been marked as State's
17 Exhibit Number 58.

18 A. Yes, of course. And so here we are at the feet
19 and ankles, similar scenario. He was -- when we received
20 the body he was sort of in a frog-like position with one
21 foot on top of the other, and the ankles bound, again, with
22 this speaker wire. And that's what you're seeing here is
23 the feet and then the wire around the ankles.

24 Q. Okay. And we'll go to State's Exhibit 60, which
25 is. I'm going to refer you now to State's Exhibit

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1 Number 60, which is in your photographs, Number 5.

2 And can you describe to us, basically, the
3 significance of this photo and the findings that you made?

4 A. Sure. So what you see here is a side view of
5 Mr. Harrison, that tag down towards his rear end that says
6 "FA17-204," that's our case number for this particular
7 individual. And it has sort of a measuring device on there
8 so that we can tell how big things are, you can zoom into
9 something, or whatnot, so that's our identification tag.

10 And then, to the left of your picture, you can see
11 the hands over the head, again, going like this, and you can
12 see the shirt is kind of up over his head as well. And then
13 on -- right sort of on his middle you can see there's a
14 fairly large defect in his stomach wall and peaking through
15 are some intestines there.

16 And then, as you go further down, you see there's
17 his shorts, there's some more clothes down here by his
18 ankles. You can just sort of see a bit of the wire that is
19 binding the ankles here.

20 Q. Okay. And what if we -- we'll just take that down
21 for now. Can you turn that off for now, so it's not up here
22 the whole time.

23 Okay. So, basically, in your first overview of
24 the body, the external examination of the body, tell me
25 basically what you found there.

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1 A. So much, as what you've just seen, this individual
2 had his wrists bound, in this position his ankles bound so
3 that one foot was on to of the other. And he had several
4 defects of the body, you saw one on his abdomen. There was
5 another one on the other side of the abdomen. Some to his
6 hands and his legs as well.

7 So these defects are through the skin in all cases
8 and the deepest one is the one to the abdomen where you're
9 seeing the abdominal contents, the intestines, out there for
10 you to see.

11 Q. Okay. And what about the-- was there any rigor
12 mortis?

13 A. No. So after someone, or some animal, anybody --
14 after we die, there's a period of time where you lose all
15 the energy in the muscles and they tighten up. And then,
16 over time as decomposition occurs, they start to loosen from
17 things breaking down. So those muscles are no longer
18 functional so everything starts to release.

19 And this individual was at a point of
20 decomposition where everything was released. So rigors, or
21 rigor, is that stiffness that occurs after death from losing
22 all the energy in the muscles so you can't relax them. And
23 then -- so everything was now movable, so that period of
24 time had passed. That period of time is very variable
25 depending upon the enviromental conditions. We usually

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1 consider rigor to come and go within about 36 to 48 hours.
2 But, again, much more quickly if it's colder, less
3 quickly -- backwards -- much more quickly if it's hotter,
4 more slowly if it's colder out. So that period of time will
5 expand if it's cold, and be less long if it's warm.

6 Q. Okay. And did you find any other changes to the
7 skin?

8 A. Well, sure. And I mentioned before, decomposition
9 also comes with a wide variety of new colors for skin,
10 including reds and greens and purples. And so, certainly,
11 there was discoloration of his skin. The way that he was in
12 the water made what looks like an immersion line.

13 So there's line that sort of demarcates or marks
14 between the top of his body and the bottom of his body from
15 where he was floating. And so the skin that was above the
16 water is dried and more -- more dry and more dark in color.
17 Whereas, the skin that is either under clothing, so under
18 the shorts or that was in the water, is not dry like that,
19 it has a different coloration.

20 So many of these colors after death are largely a
21 result of either the environment or the bacteria that are
22 dividing now and taking advantage of the situation.

23 Q. Okay. And can you demonstrate what you're talking
24 about on that photograph?

25 A. I don't have it over here, and there's a lot of

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1 glare over there.

2 Q. Oh, do you have the mouse?

3 THE COURT: These are not on.

4 MS. RICHARDSON: Could you turn the monitors back
5 on? I'm sorry.

6 THE CLERK: Yes.

7 THE WITNESS: Okay. Yes, of course.

8 So, if you -- what I'm referring to with the upper
9 part and the lower part and this demarcation or whatnot, so
10 you can kind of make a line here across the body. And so
11 this part down here is a different color from this part up
12 here. And were you in the room, you would notice that this
13 skin up here has some drying artifact to it, which is not
14 effecting the skin here.

15 So that's simply a discoloration artifact of where
16 he was after he died and decomposition. So he's just --
17 that's the line I'm referring to in the colors.

18 Q. Okay. All right. Well, let's just first just go
19 through sort of your significant findings, and then we'll go
20 into more detail with the photographs, if you need them, so
21 we won't have to leave the photographs up as long.

22 A. Sure.

23 Q. Okay. So did you find, as far as the head, were
24 there any significant findings regarding his head?

25 A. Well, so the whole body was affected by

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1 decomposition, head not excluded. So as we mentioned with
2 the tattoo and with the gloving of the hands, you know, the
3 scalp starts to slough as well. So, you know, those things
4 are happening from top to toe.

5 But, I mean, aside from that, you know, opening
6 the brain cavity and looking at the scalp, I don't see
7 anything that looks like hemorrhage or stroke or blood in
8 the brain or anything like that.

9 So nothing -- it was certainly decomposing, the
10 brain was. So the brain, as decomposition continues,
11 becomes more of a fluid rather than a solid. So you do lose
12 a lot of the usually antonymy. So it's difficult to find,
13 Ooh, that's that part of the brain, when it comes out and
14 it's kind of not solid anymore, it's more of a liquid. But
15 other than changes of decomposition, no.

16 Q. Okay.

17 A. Now, there, again, another thing that was off all
18 over the body in various places were defects to the skin.
19 And I mentioned those a moment ago, and there was, in fact,
20 a defect to the skin of the chin. But, again, they're all
21 over the place, on the abdomen, on the legs, on the hands,
22 on the chin.

23 Q. Okay. And was there evidence of injury to the
24 torso?

25 A. So, again, we mentioned this with the photograph,

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1 there's a defect with the side of the abdomen. And, again,
2 all that you're seeing in that photograph is some of the
3 intestines. There's another defect on the left side of the
4 abdomen and that doesn't go into the belly cavity, so it's
5 just through the skin. Let's see, anything else. Multiple
6 linear skin defects up to one inch on the medial aspect of
7 the torso near the umbilicus.

8 So, again, more skin defects sort of below and to
9 the center of the body compared to that larger defect on the
10 side of his abdomen.

11 Q. Okay. And then as far as his upper extremities.

12 A. Sure. So the right hand did have a defect all the
13 way across the palm. And so you could actually see muscle
14 and tissue under that -- from that cut, so that wasn't just
15 through skin, but into the soft tissues of the hand.

16 There were also additional, sort of, jagged all
17 over the place additional defects to that hand, as well.
18 And then more skin punctures. We have something in the
19 right axillas, that's under arm, left shoulder, anterior
20 left forearm. And then, of course, that's where the binds
21 were, so once I was able to remove those with scissors,
22 there are furrows, so ligature furrows, so indentations to
23 the skin around the ankles and of course similarly to the --
24 these aren't the ankles are they -- the wrists and also
25 similarly to the ankles.

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1 Q. Okay. And then on the lower extremities.

2 A. Lower extremities, we've got inner and posterior,
3 inner of back of the right thigh. We've got, again, more
4 defect to the skin, jagged margins, multiple linear defects
5 up to two inches above that major defect that was six
6 inches. Left thigh also has a cluster of skin punctures and
7 linear defects up to one-and-a-half inches. And we've got a
8 two-inch skin defect on distal interior left thigh. So
9 that's above the knee on the front on the left.

10 Q. Okay. So after the external examination did you
11 do an internal examination?

12 A. Yes, ma'am.

13 Q. Okay. Can you go through your findings? And
14 that, of course, is to look for cause of death.

15 A. Yes. I mean, the whole thing is to look for cause
16 of death, but looking in the inside of the body,
17 specifically to look for abnormalities that are inside the
18 body that you wouldn't see on the surface of the body.

19 So, with that, we'll, you know, do the line
20 incision, you take the chest plate off, you can see the
21 lungs, you can see the heart, you take the organs out, you
22 dissect the organs one at a time, look at every different
23 part of every different organ. So, you know, kidneys,
24 liver, spleen. This was a male, so prostate, testes, all of
25 this stuff. Brain, of course, we mentioned already.

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1 So that's -- and then so the idea is, Is there any
2 disease that's significant and is there any trauma that's
3 significant that we can tell on this examination of all of
4 the inside of the body?

5 Q. Okay. And anything that was significant on the
6 head as far as any disease or injury?

7 A. No. No. Again, no skull fractures, no
8 hemorrhages that I could make out, either outside or inside
9 the skull cavity.

10 Q. Okay. And as far as the neck, did you find any
11 injuries to the neck?

12 A. Again, no. So it's going to be kind of a common
13 theme. I didn't find much of anything in any of the
14 internal organs. So as far as the neck everything was
15 intact. Sometimes you will look at the -- there's a little
16 bone here that floats that becomes calcified with age and it
17 can break if there's neck trauma, didn't find that.

18 Look at the tongue, sometimes someone might bite
19 their tongue should they be having a seizure or something
20 like that, didn't find that. And then, if you'd like, I can
21 kind of --

22 Q. Yeah. Just kind of summarize your findings.

23 A. Looked through the heart, the heart walls were not
24 too thick. The coronary arteries were clear. The aorta had
25 just a little bit of fatty streaking, which is a very early

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1 sign of atherosclerosis. The liver looked okay. Again,
2 it's capsule, it was intact, the lungs, again.

3 Other than decomposition, again, we're getting the
4 same kind of things going on the inside as we do the outside
5 of the body. Things start to get soft. They start to have
6 different colors than you're used to, those sorts of things,
7 and that's throughout. And then the GI system, again,
8 everything pretty much as one would expect, nothing really
9 weird. The kidneys, same thing. Spleen, again, also
10 intact.

11 The thyroid and adrenal glands, I could find them,
12 so that, to me, when I go back years later, that means he
13 wasn't all that decomposed, because I could still find some
14 of these smaller organs. Yeah.

15 Q. Okay. So based on your internal examination, did
16 you find anything that would have suggested a natural cause
17 of death or a death from disease?

18 A. No, ma'am.

19 Q. Okay. And you also did a toxicology report?

20 A. So I -- what we do is we get the sample for
21 toxicology and then send it a reference laboratory that
22 performs the toxicology and then they send us a report back,
23 so, yes.

24 Q. And what were the results of that, did he have any
25 drugs in his system?

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1 A. This was a comprehensive toxicology exam. The
2 only thing that was found was some ethanal. And the level
3 of ethanal, the way that they do livers is they weigh it, so
4 it's 1.26 milligrams per gram. And if you turn that around
5 into something that we're used to thinking about, it's
6 equivalent to 0.1213 percent, if you're thinking about terms
7 of how we think about alcohol in the blood. So it's sort of
8 an equivalent to that.

9 Q. So it's like a .01?

10 A. 0.1.

11 Q. Okay. And can that also -- can anything
12 contribute to that level besides just alcohol in the system?

13 A. Well, it is alcohol, absolutely alcohol.

14 Q. Okay.

15 A. The thing is, that after you are starting to
16 decompose, your friendly neighborhood micro-bacteria also
17 make alcohol. So the decomposition process itself will
18 cause alcohol to be formed, which then we can pick up in the
19 toxicology report.

20 So whether this individual was drinking alcohol or
21 not, I can't tell you. I know he was decomposing, that
22 could account for all of the alcohol, some of the alcohol,
23 that I can't tell you.

24 Q. Okay. And did you -- what did you end up
25 determining was the cause of death? Could you determine

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1 that?

2 A. Yes. So the cause of death in this case is
3 homicidal violence.

4 Q. Okay. And explain to us what that means.

5 A. Sure. Absolutely. So homicidal violence, again,
6 is anything that was imposed on an individual that leads to
7 their demise. In this case it could be something as simple
8 as the bindings themselves. If you think of it in a very
9 pristine condition, if you bind someone up like this so that
10 they can't really ambulate, they also can't take care of
11 themselves, they can't feed themselves, they can't get
12 water, those sorts of things.

13 So even if you take out all of the other factors
14 that in itself would be adequate to be homicidal violence.
15 And then anything on top of that, you know, whether it's
16 something with an implement, you know, it could be a knife,
17 could be a gun, could be a plastic bag, it could be any
18 number of who knows whats, might contribute as well.

19 So homicidal violence, in this case is, you know,
20 at its pristine level, just the findings that we are
21 absolutely 100 percent certain about. And then you can add
22 on to that whatever may have also occurred.

23 Q. Okay. And you also eliminated some other causes
24 of death that we talked about natural causes, you eliminated
25 that?

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1 A. Right. There's no evidence of any natural disease
2 process. So in a case like this, in a young individual, the
3 most common things you would think of for a natural death
4 would be potential -- you know, I don't have a lot of his
5 medical history, but stroke, certainly, hypertension or
6 hypotensive stroke, or heart disease. And those two things
7 he does not have. He doesn't have significant
8 atherosclerotic disease to suggest that he would have had
9 any kind of a heart attack.

10 So there's -- there is no evidence of a natural
11 disease process that would have been fatal at this time.

12 Q. Okay. And as far as manner of death, can you talk
13 about how you determined the manner of death?

14 A. Absolutely. So we did go through the different
15 manners that I have to choose from. So those do, of course,
16 limit you. But, again, we have unidentified, natural,
17 suicide, homicide, and I'm missing one.

18 Q. Undetermined?

19 A. Oh, I didn't say that? Undetermined, yes. No, I
20 think I said that first. I'm missing one. I hate when that
21 happens. In any case.

22 Q. Accident?

23 A. Accident. Yes. All right. So, basically, you
24 choose one of these things. So homicide, again, simply
25 means to me -- to me -- to the forensic pathologist, that an

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1 individual died either by the actions of someone or their
2 inactions.

3 And in this case my opinion is that actions did
4 cause Mr. Harrison's demise. Whether it was just the
5 bindings or whether there was more to it than that. And
6 keeping in mind that he was also in the river when he was
7 found.

8 So, yes, that is my opinion.

9 Q. Could you determine if he had drown?

10 A. No. It's actually very hard, it's one of the
11 things you can't tell. So suffocation you can't tell.
12 Drowning you can't tell. You have to exclude everything
13 else, and if that's all you're left with, then you can go
14 with it if the situation is correct. So you can't prove
15 drowning. So, yeah, I can't disprove it and I cannot prove
16 it.

17 Q. And I want to go through the photos of the
18 injuries that you did find. State's Exhibit 59, which is
19 Photo 4. And can you point us to the injuries that you
20 found in this photo?

21 A. Sure. So I mentioned that there was another
22 defect to the abdomen on the other side, so that's this one.
23 It does not go all the way into the peritoneal cavity, the
24 belly cavity, where the intestines are, it's just into the
25 soft tissues there. We've got some defect over here. And

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1 then it gets kind of hard for me to tell if there are more
2 in this picture I should be telling you about.

3 And if you come down here to the feet, you can see
4 sort of the same -- we were talking about gloving with the
5 hands, well the same thing happens to the feet, but they
6 call it stocking.

7 So, again, the epitheliums starts to come loose
8 from the rest of the deeper skin. And then much of the rest
9 of it, at least from this point of view in this photograph,
10 is arching, which is a decomposition with the skin coming
11 off. So you have this sort of pattern of some epithelium
12 that looks to be dark in complexion, but much of it has been
13 sloughed off in this area. But a lot of these, again,
14 discoloration and changes are decomposition related.

15 Q. Okay. And can you tell us as far as that defect
16 on this side if it was before he died or after he died?

17 A. No. And so from all of these -- that's why I keep
18 calling them defects rather than stab wounds, or
19 lacerations, you know, something more specific. These are
20 defects, because I don't know whether they happened before
21 he died or after he died.

22 Again, he was in an environment where there are
23 creatures who like to eat, just like any of us, right? And
24 so many of these defects to the body may well have been from
25 predation from the creatures that were in the environment

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1 that he was found.

2 So -- and then the other thing that happens when
3 you're in water, if you're immersed in water and you do have
4 a cut or some kind of a defect to the skin that was before
5 you died, is that that -- all the blood, all of sort of the
6 evidence of you having had been alive, gets to be washed
7 out. And the longer you're in the water, the more that sort
8 of washing occurs.

9 So, with all that in mind, each one of these
10 defects may have been either one. Might have been before he
11 died, might have been after he died.

12 Q. Okay. And as far as predation, is that more
13 common in the areas where there is an injury?

14 A. So that's an interesting point. And so if there's
15 already a defect before a person ends up in the state where
16 there are critters, that will be a place that the critters
17 will sort of congregate first. You know, they want an
18 easier meal, snacks are easier to get if there's already a
19 break in the skin. The skin is a very -- a very good
20 barrier. That's why we like it so much.

21 And so once you do break the skin, that can
22 provide an entry for some of these -- for some predators.

23 Q. Okay. And lets' go to Photo 61, State's
24 Exhibit 61, which is Photo 6. And could you tell us the
25 significance of this photo?

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1 A. Yes. So this showing the -- at least from this
2 point of view, the multiple times that the wire was wrapped
3 around the wrists. And it's also showing that artifact of
4 the gloving which can occur with decomposition. So the top
5 layer of skin separates form the underlying skin surface.
6 And, you know, to think about that in normal terms, if you
7 get a burn, for example, and you have a blister that skin on
8 top, that's the epithelial layer, right? And then when that
9 comes off, you don't want to break that because that will
10 hurt, you'll see the underlying dermis.

11 And so that upper skin layer that you lose when
12 you have a blister is similar to this effect after death.
13 And this effect after death can occur in emersion, so in the
14 water, which we know he was. In decomposition, which we
15 also can see plainly. And it's also something that happens
16 in fires, and so with heat damage as well.

17 Q. Okay. And if we could go to the next photo which
18 is State's 62, which is your Photo 9.

19 A. All right. So here we're just looking at a
20 different point of view. You can see that the binding is
21 around the thumb, as well, sort of a separate entity, as
22 well as around the other wrist. You can start to see the
23 ends. Here's a couple of the free ends. And this is how we
24 received him, so these free ends that appear to have been
25 cut straight across.

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1 Q. Okay. And what about the way that it's tied
2 around the thumb and the wrist?

3 A. Well, I mean, the way -- again, I'm not real good
4 with nautical terminology and knots, but this is a -- these
5 are a number of different knots and turns of the speaker
6 wire, tightly binding the wrists together. And one would
7 presume limiting mobility. And I would be immobilized if my
8 wrists were tied together.

9 | So that's -- this is just showing sort of the
10 complexity of the -- one way to look at the complexity of
11 how the speaker wire was wrapped around this individual's
12 wrists and thumb.

13 Q. And do you have an opinion as to whether he could
14 have done that himself?

15 A. I would find that very -- I do have an opinion, I
16 don't think he could have done it to himself for several
17 reasons, including the complexity, as well as the nice clean
18 ends of the rope -- of the speaker wire, that looks like
19 they were both cut to end. So that would be unusual to
20 manage that on your own, but that is my opinion.

21 Q. Okay. And the next photo, State's Exhibit 63,
22 Photo 10.

23 A. So this looks similar to the one we just saw. So,
24 again, we see sloughing and some of the speaker wire wraps.

25 Q. Okay. And in this photo, can you tell how his

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1 hands are resting one another?

2 A. Yes. So as how I tried to demonstrate earlier,
3 it's with, like, both palms up and the left one on top of
4 the other.

5 Q. Okay. And then Photo 64, which is your Photo 11.

6 A. Okay. So now we're at the feet and ankles.
7 Similar story with sloughing of the skin. You can see,
8 again, our little ID tag is in -- should be in all these
9 pictures, hopefully we managed that. And then you can see
10 how the speaker wire was tied around, at least this
11 particular left ankle, from this viewpoint.

12 Q. And as far as the free ends in that photo?

13 A. Yes. Yes. So the free ends -- this one and this
14 one is much more difficult to see, but you can see a sort of
15 nice straight cut across this free end here.

16 Q. And then State's 65, Photo 12?

17 A. This is another point of view, again, showing
18 there's a little tag, the sloughing of the skin, here's one
19 of the free ends and how the speaker wire is wrapped around
20 this left ankle.

21 Q. And anything regarding the way the feet are
22 positioned?

23 A. Well, you can see sort of, as well as I can, that
24 the left ankle is on top of the right ankle and in sort of a
25 turned out position.

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1 Q. Okay. State's 66, Photo 13?

2 A. You can start to see the ends of the wire a little
3 bit better in this picture but aside from that, again,
4 showing the way that the speaker wire is around the left
5 ankle.

6 Q. Okay. State's 67, Photo 15.

7 A. You sure you don't have all 100? Sorry.

8 Q. No, I promise.

9 A. Okay. This is -- so, yeah, it takes me a little
10 bit. So one of the reasons we put this in as well so we can
11 orient, so we should be able to read this if the person is
12 standing upright. So this is up and this is down. So this
13 is, again, the ankle and coming down onto the foot and
14 again, just showing the arrangement of the speaker wire
15 around the ankle.

16 Q. Okay. State's 68, Photo 16.

17 A. Okay. So we're back up at the hands now. And so
18 you can see -- the only reason I can tell is I have to put
19 my hand up, but that's his right hand, I can only tell
20 because where the thumb is. And you can see that there are
21 defects to the back of that hand. This is the hand that the
22 epithelium had sloughed off completely. So, and, you know,
23 it's been quite some time ago, but the fingernails do come
24 off with the epithelial layers. So no fingernails from this
25 right hand, but you can see that there are defects to the

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1 back of the hand here.

2 Q. Okay. And as far the wire around the wrists, can
3 you tell anything regarding its tightness in that photo?

4 A. Well, I mean, maybe not necessarily from the
5 picture, but these binds were very tight when I was removing
6 them. You know, I had to basically force the scissor
7 underneath to get under each of the different wires
8 themselves and cut them individually. So it was a tight --
9 tightly bound system.

10 Q. Okay. And can you explain to the jury what
11 defensive wounds are on hands that you normally see?

12 A. Sure. So defensive wounds is sort of a term we
13 use where someone is injured when they're trying to defend
14 themselves. So it makes perfect sense, right?

15 So, if somebody is going to, theoretically, let's
16 just say they're going to shoot you and you go like that,
17 and the bullet goes through your hands, those would be
18 defensive wounds.

19 If someone has a knife and you're trying to defend
20 yourself in whatever way and your hands or your forearms or
21 if you're on the ground your feet, wherever it is that
22 you're using to defend yourself, if you end up with cuts or,
23 you know, other injuries, we call those defensive wounds.

24 Q. Okay. And can you tell if the injuries from his
25 hands are they consistent with defensive wounds or can you

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1 make that determination?

2 A. So, again, any time that there are defects to the
3 hands one certainly can suspect defensive wounds, but I
4 can't tell you that that's what there are, because, again, I
5 can't tell you whether these defects are before he died or
6 after he died.

7 So I certainly can't tell you whether he was
8 trying to defend himself at the time. But that is sort of
9 a, you know, it's a fairly classical sign if somebody is
10 going to attack someone, they will try to defend themselves
11 and usually it's the hands and forearms and such that get in
12 the way.

13 Q. And State's 69, Photo 18.

14 A. So just a side view of the left hand. So now we
15 can remember the left hand because it's the one that still
16 has some skin on it. And you can see again how many times
17 the wire is going around the wrist here.

18 Q. Okay.

19 A. Yeah, you're right. So, I hope I wasn't -- it got
20 a little --

21 Q. No, just about that --

22 A. So, on this other hand we've got defects to the
23 palm of the hand that you can start to see in this picture.

24 Q. And State's 70, Photo Number 20.

25 A. Okay. So, again, this again is the right hand, so

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1 we saw the defects over here before, now we're starting to
2 see the ones closer to the thumb here. Again, more skin
3 defects.

4 Q. Okay. And the next one State's 71, Photo 21.

5 A. I think we may have seen some of these before,
6 but, again, defects on the back of the right hand.

7 Q. Okay. State's 72, Photo 44.

8 A. So here we're starting to take the bindings off.
9 And so I'm just sort of putting tape on so that I remember
10 where what was as I'm cutting the things off. And so this
11 is just sort of in the midst of cutting some of these bonds
12 off.

13 Q. And could you tell how many times he had been
14 wrapped or bound?

15 A. It sort of would depend on which appendage. So as
16 many as five or six just looking at this picture here, but
17 it was different depending upon which part.

18 Q. All right. And State's 73, Photo 60.

19 A. So the palm, again, and the defect across the palm
20 you can now see without the other hand in the way. You can
21 see some of that furrow from the now removed bindings,
22 speaker wire bindings, that were on this wrist.

23 Q. Okay. And is this the hand -- is this the hand
24 that was resting under the top hand?

25 A. Yes.

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1 Q. And what about the cut across the palm, is that
2 one that you said went to muscle?

3 A. Yes, it does.

4 Q. And then State's 74, which is Photo 72.

5 A. The same thing at the ankles just demonstrating
6 how the -- after cutting, what the speaker wire wraps looked
7 like. And those -- that's my tape on the ends so that I
8 could keep them next to each other and not let them sort of
9 come apart entirely.

10 Q. Okay. And then State's 76, Photo 129?

11 A. And the ankles, so you can see, again, the furrow
12 where the bindings were here on the ankle.

13 Q. Okay. And then if we could go back to State's 60,
14 Photo 5. Just briefly. And could you describe this defect?

15 A. So if we're talking -- we've kind of already
16 described the defect to his right side. Again, that's
17 through the abdominal skin, soft tissue and muscle, exposing
18 underlying intestine.

19 Q. Okay. I'm going to turn this off.

20 And he also had injuries to the back of his
21 thighs; is that right?

22 A. Yes.

23 Q. Okay. And were those pretty significant gaping
24 injuries as well?

25 A. Yes, they were.

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1 Q. Okay. And all of these injuries, again, you can't
2 tell if they were before or after death?

3 A. That's correct.

4 Q. Okay. And if the injuries had occurred prior to
5 death, what is your opinion regarding -- regarding them as
6 far as bleeding, pain, that sort of thing?

7 A. Right. So, I mean, if one were to suppose and
8 it's a big guess, that all of these injuries happened while
9 this individual was alive, there would be -- it would be a
10 very bloody, very painful scene. So, yes.

11 Q. Okay. And as far as these defects that were on
12 his body, did any of them appear -- if they had occurred
13 prior to death, to be the type to would cause instant death,
14 or can you make a determination?

15 A. So, again, there were no injuries to the -- to the
16 major organs or to the large vessels. So I don't think that
17 any of these injuries in and of themselves would have caused
18 him to die immediately. There wasn't any stab wounds to the
19 heart or the neck or you know things that -- the aorta, a
20 big old artery in the middle of your body. Nothing that
21 would suggest to me that that happened, no.

22 Q. And but, obviously, if there -- if these did occur
23 prior to death and someone is bleeding that could eventually
24 cause death?

25 A. Right. So, absolutely. I mean, anytime anyone is

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1 injured, I mean, even in the slightest, there are downstream
2 complications that can occur. Whether it's from bleeding,
3 if the wound is deep enough, or cuts a large enough vessel,
4 or from infection. So you can never exclude that any injury
5 could be a cause of death.

6 Q. Okay. And did you look at other possible causes
7 of death? Did you check his -- check for poisoning?

8 A. So as part of the toxicology screen includes many
9 different drugs and toxins, over 300 substances. So none of
10 those were there, only the alcohol that we described
11 earlier.

12 Q. Okay. And to a reasonable degree of medical
13 certainty what is your opinion regarding the cause of death?

14 A. Again, I'll just read it from my report, homicidal
15 violence, cause of death.

16 Q. Okay. And to a reasonable degree of medical
17 certainty what is your opinion as to the manner of death?

18 A. Homicide.

19 Q. That would be death at the hands of another?

20 A. Yes.

21 Q. I have no further questions. Answer any questions
22 that the Defense attorneys may have for you.

23 A. Yes, ma'am.

24 THE COURT: Mr. Hazzard, do you have any
25 questions, sir?

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1 MR. HAZZARD: Yes, sir, Your Honor. Thank you.

2 May it please the Court.

3 THE COURT: Absolutely.

4 CROSS-EXAMINATION

5 BY MR. HAZZARD:

6 Q. Good afternoon, Doctor.

7 A. Hi.

8 Q. Is there anything from your autopsy that tells us
9 who bound Leon Harrison Jr. and placed him in the Black
10 River?

11 A. No, sir.

12 Q. Thank you. No further questions.

13 THE COURT: Mr. Voigt, do you have any questions,
14 sir?

15 MR. VOIGT: Just a couple, Judge.

16 THE COURT: All right.

17 CROSS-EXAMINATION

18 BY MR. VOIGT:

19 Q. Most of, I think what we just heard you testify
20 to, Doctor, was things we didn't know. There's no
21 indication that he drowned, but that's hard to tell; is that
22 safe to say?

23 A. So, again, drowning is a diagnosis of exclusion.
24 One cannot prove drowning except by the circumstances.

25 Q. And I think you talked about -- you didn't mention

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1 it, but I think you talked about hyoid bone and that's
2 normally implicated in strangulations?

3 A. Yeah, it can be. So, again, it's a bone in the
4 neck, it's a small bone. So if you find that that thing is
5 fractured, you think, Hmm, I wonder what happened to his
6 neck? Which, if course, could include strangulation or
7 other things.

8 Q. But there were no defects that would have
9 indicated something like that externally?

10 A. No. I did not find any -- any -- any fracture of
11 that little bone.

12 Q. Okay. We didn't have any head fractures, jaw
13 fractures, no fractures to any of the major bones, nothing
14 like that?

15 A. Nope, he did not.

16 Q. Okay. Could you tell, based on your observations,
17 whether or not he had suffocated?

18 A. Nope.

19 Q. Could you tell, and perhaps you could, whether or
20 not he had suffered from something like carbon monoxide
21 poisoning?

22 A. No, there is no evidence of that.

23 Q. Okay. So that -- we can exclude that perhaps as
24 one of the few things we can absolutely exclude?

25 A. Right.

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1 Q. Okay. Hypothermia, can we exclude that?

2 A. I do not recall the temperature of the
3 environment, but that is -- I don't have evidence of that.
4 So there is physical evidence that you would see with
5 hypothermia, which we did not find. So there are these
6 spots that occur in the lining of the stomach that happen
7 with hypothermia, we did not see that. So that is not
8 implicated in this case.

9 Q. Okay. Is there any way to know -- and sometimes
10 when we do these sorts of cases it's really important to
11 find out when somebody died. And I think you testified a
12 little bit about rigor and how rigor breaks and the timing
13 of that. And that's normally one of the things that we use
14 to determine how somebody dies.

15 Is there any indication -- not how, but when -- is
16 there any indication from your examination that you could
17 put a window into perhaps Mr. Harrison Jr.'s death?

18 A. As far as time of death and decomposition there
19 are very many variables. So it's one of those things that
20 if you put a number on it, you're going to be wrong. So,
21 no, I don't play in that arena.

22 Q. Okay. That's more TV stuff, isn't it?

23 A. Well, often. I mean, the way that -- the most
24 accurate way to figure out how someone died or when they
25 died is to find out when they were last alive and move your

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1 way forward. So it's often investigative.

2 Q. Okay. So that's beyond your writ, so to speak.

3 A. Yes.

4 Q. Why is the liver chosen -- when there's an absence
5 of blood -- now, normally when we're looking to get some
6 sort of alcohol content from a body, presumably a live body,
7 we look for blood or that sort of thing. In the absence of
8 blood, why is the liver chosen?

9 A. For a number of different reasons. One is that
10 there are many, many studies that quantify different toxic
11 substances in livers so that you can get an idea of what is
12 toxic, what is lethal. So using a liver where they already
13 have all those information available makes it much easier to
14 draw conclusions from your results.

15 Another reason is that, well, the blood is full --
16 the liver is full of blood. And it's also an organ that
17 handles toxins. So the -- the -- and it lasts in the body
18 longer in decomposition than does the blood. So there are
19 all those reasons. It's not that you couldn't test
20 something else, the spleen works fine, we've tested brain,
21 we've tested lungs.

22 So all of these tissues are going to be effected
23 by whatever is in the blood stream. But the liver is
24 usually going to be your second choice after blood, just
25 because there's so many standards around levels in -- levels

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1 of different substances in the liver and what that means in
2 the real world.

3 You know, with blood it's obvious, because people
4 are walking around giving blood all day -- so, well,
5 hopefully not. But you can take a blood sample after a
6 particular ingestion and you can find a level and make all
7 of those determinations. But once someone is dead, you can
8 either get blood and use those standards, or you can get
9 something else. And the liver has the best group of
10 standards.

11 Q. I think you mentioned that microorganisms can also
12 create blood in the system as the body decomposes?

13 A. They can create alcohol.

14 Q. I'm sorry. It's late in the afternoon.

15 Are there any organs that are particularly
16 susceptible to making alcohol, such as the stomach, the
17 intestines, or any of the other organs like that?

18 A. Making alcohol, no. So what's making the alcohol
19 are the -- are the microbes, the bacteria. Those make the
20 alcohol. There -- if you have -- so I'm not exactly sure
21 what you're trying to get an answer for, but if you have
22 just ingested alcohol, for example, and there is alcohol in
23 your stomach, then anything close to the stomach might have
24 a falsely elevated alcohol content, because that can start
25 to leak into those systems.

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1 So that's, for example, one reason that we'll take
2 peripheral blood away from the central organs rather than
3 something near the heart, which is awfully close to the
4 stomach, so that we want to get the closest number -- the
5 number to be as close to reality as we can get it.

6 Q. And so the liver would then be as close to reality
7 as you can get it?

8 A. That's as best we can do in this case.

9 Q. All right. Doctor, I think that's all I have for
10 you. Thank you.

11 A. Thank you, sir.

12 THE COURT: Mr. Edgeworth?

13 MR. EDGEWORTH: Yes, Your honor.

14 May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. EDGEWORTH:

18 Q. Doctor, in regards to some of the tests that were
19 performed as part of your evaluation, of course, you
20 obtained the toxicology report?

21 A. Yes, sir. On the liver tissue.

22 Q. And you sent that out to a lab as you normally
23 would do?

24 A. Yes, sir.

25 Q. And when you received the results you reviewed

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1 those results?

2 A. Correct.

3 Q. And in this particular case you adopted the
4 results from the toxicology results as part of your report?

5 A. We -- we -- I put them in the report, you know,
6 that we sent this tissue to this particular laboratory and
7 here are what the results were.

8 Q. Right. But you had no reason to refute the
9 results you got back, because you had adopted them as part
10 of your report?

11 A. Yes. I tried to accurately put those same numbers
12 into my report from their report.

13 Q. And in that report and I believe you testified
14 that the ethanol content as part of the toxicology was
15 1.26 milligrams per gram?

16 A. I think it was 1.126, but, yeah, pretty close.

17 Q. Okay. You provided the Court with a conversion as
18 it relates to what we colloquially know in the world as
19 alcohol content and that was?

20 A. Yeah. So the closest we can do when we have liver
21 and we're trying to compare it to something that we think of
22 like this percentage, which is why we do it in milligrams,
23 because you can weigh that, is sort of decide is how many
24 parts in a thousand?

25 So one, if we just take a one, one milligram to a

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1 gram, so that's one in a thousand. So one in a hundred
2 would be one percent and one in a thousand would be
3 0.1 percent. So that's where I'm getting that, it's not
4 entirely accurate, but it's kind of as close as we can get.

5 Q. So in this case what would that conversion be?

6 A. Well, in this case, the closest we can get, if we
7 were going to pretend it was in blood, would be 0.12.

8 Q. 0.12?

9 A. Correct.

10 Q. And you would agree with me that 0.12 is higher
11 than 0.08?

12 A. It is.

13 Q. And 0.08 would be, air quotes, legal limit in
14 South Carolina?

15 A. That's what they tell me.

16 Q. Okay. No further questions.

17 THE COURT: Solicitor, any redirect?

18 MS. RICHARDSON: Yes, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. RICHARDSON:

21 Q. When you're doing the autopsy do you collect items
22 of evidence?

23 A. Yes, when pertinent.

24 Q. Okay. And did you --

25 MR. HAZZARD: Objection. Outside of scope.

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1 THE COURT: I agree.

2 MS. RICHARDSON: Your Honor, then I'd ask to
3 recall her as a witness at this point.

4 THE COURT: Counsel approach.

5 (WHEREUPON, the following discussion was held at
6 the bench.)

7 THE COURT: Yes, ma'am.

8 MS. RICHARDSON: I just forgot. I mean, but I
9 don't think that should be the end all, be all.

10 THE COURT: Well, I think it's --

11 MS. RICHARDSON: I think you have the discretion
12 to allow her to be recalled. This will be quick, it's just
13 a few items that need to be entered into evidence.

14 THE COURT: What is it?

15 MS. RICHARDSON: It is fingernail clippings, the
16 blood spot and the wiring.

17 MR. HAZZARD: What blood spot?

18 THE COURT: What blood spot?

19 MS. RICHARDSON: Well, they did a blood card. they
20 tested it, but they couldn't get anything from it but they
21 did test it. It's the items that were tested.

22 MR. HAZZARD: Okay.

23 THE COURT: All right. I mean, I'll note your
24 objection for the record.

25 MS. RICHARDSON: I know. I'm sorry.

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1 THE COURT: I'm going to let her get this in.

2 Now, get that in, Solicitor, means ask her to
3 identify it and get it in. I don't want to go into -- I'm
4 not going to allow you to go into what it means or the
5 significance or all those things.

6 MS. RICHARDSON: Yeah, it's none of that. Sorry,
7 Your Honor.

8 THE COURT: Okay. All right.

9 MR. HAZZARD: I'm not going to object to it.

10 MR. VOIGT: I will for the record, because we've
11 already done this.

12 THE COURT: All right.

13 MR. HAZZARD: Thank you, Your Honor.

14 THE COURT: All right. Hold on.

15 The Solicitor made a request to call the witness
16 for the limited purposes as discussed at the bench. I
17 understand that there's an objection to recalling from
18 Mr. Voigt; is that correct?

19 MR. VOIGT: That's correct, Your Honor.

20 THE COURT: Not from Mr. Hazzard?

21 MR. HAZZARD: No, sir. My objection was that she
22 was doing it outside of the scope. She then said she would
23 recall. I have no objection to her recalling the witness.

24 THE COURT: All right. Yes, sir.

25 MR. EDGEWORTH: I'm not going to have an

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1 objection, Your Honor.

2 (WHEREUPON, the bench conference ended.)

3 THE COURT: All right. So subject to that,
4 objection, I'm going to overrule your objection.

5 Go ahead, Solicitor.

6 BY MS. RICHARDSON:

7 Q. Let me show you what's been marked as State's 54
8 for identification. Can you tell me what that is?

9 A. Yes. This is the form that we use when we are
10 transferring evidence from our possession to the somebody
11 else's possession, usually a law enforcement official.

12 Q. Okay.

13 A. And that's what this is from this case.

14 Q. Okay. And is that an accurate reflection of that
15 report?

16 A. Yes, it is.

17 MS. RICHARDSON: Your Honor, I'd offer State's 54
18 into evidence.

19 MR. HAZZARD: No objection.

20 BY MS. RICHARDSON:

21 Q. And how who does it show --

22 THE COURT: Hold on.

23 MS. RICHARDSON: I keep forgetting.

24 THE COURT: That's all right. He said no
25 objection.

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1 MR. VOIGT: Subject to my previous objection.

2 THE COURT: I understand.

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: All right. It's admitted subject to
5 Mr. Voigt's previous objection.

6 (WHEREUPON, State's Exhibit Number 54 was moved
7 into evidence.)

8 BY MS. RICHARDSON:

9 Q. And let me show you what's been marked as State's
10 48 and 49. And can you identify those?

11 A. Okay. Let's see. This one is called 49, and,
12 yes, this is -- so the outside thing isn't mine, so I don't
13 know what that is, but inside there's another little
14 envelope that is mine, and it is the left hand fingernail
15 clippings, or that's what it says on the label. And then
16 one would presume that that was what was in there, since
17 that's what I put in there.

18 Q. Okay. And the same thing for State's 48?

19 A. This one is, yes, State's 48. And, again, well,
20 this one I don't know, because it's not opened.

21 State's 48. And, again, there's another little
22 thingy in there and...

23 Q. Could you pull that out?

24 A. Sure. All right. So this is our little envelopes
25 that we use and our little stickers from the autopsy has our

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1 office number on it and everything like that. This is the
2 right hand fingernail clippings that were in this bag.

3 Q. All right. And as far as those items, do you
4 collect them and seal them into that little pouch that you
5 have?

6 A. That's correct. That's why we put that label over
7 the opening so that you can tell if it's been opened.

8 Q. Okay. And you take efforts not to cross
9 contaminate?

10 A. Yes. Oh, yes, we're wearing gloves, and they
11 go -- so they go -- for the fingernail clippings, we'll put
12 down paper underneath, use brand new clippers out of the box
13 and clip the nails and then wrap them up in the paper and
14 stick them right in the there using gloves.

15 MS. RICHARDSON: The State moves 48 and 49 into
16 evidence.

17 THE COURT: All right. Any objection,
18 Mr. Hazzard?

19 MR. HAZZARD: No, sir.

20 THE COURT: All right. Mr. Voigt, subject to your
21 previous objection.

22 MR. VOIGT: Yes, sir.

23 THE COURT: And Mr. Edgeworth, no objection?

24 MR. EDGEWORTH: No objection, Your Honor.

25 THE COURT: All right. I'm going to admit those

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1 subject to Mr. Voigt's previous objection.

2 (WHEREUPON, State's Exhibit Numbers 48 and 49 were
3 moved into evidence.)

4 BY MS. RICHARDSON:

5 Q. Okay. And if you could look at State's Number 50?

6 A. State's 50 is one of the bindings. This looks
7 like the one from the ankles of -- yes, and it even says,
8 right there, wire from the feet, indeed.

9 Q. That's State's Number 50.

10 THE COURT: All right. Any objection,
11 Mr. Hazzard?

12 MR. HAZZARD: No, sir.

13 THE COURT: Subject to your prior objection,
14 Mr. Voigt?

15 MR. VOIGT: Yes, sir.

16 THE COURT: Any objection?

17 MR. EDGEWORTH: No objection.

18 THE COURT: All right. Admitted subject to
19 objection.

20 (WHEREUPON, State's Exhibit Number 50 was moved
21 into evidence.)

22 THE WITNESS: Okay. This is 51, State's, and
23 these are the bindings from the wrists. And, again, I
24 mentioned before, but I'll mention again, because it
25 reminded me, I put the tape on there so that I could keep

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1 track of which ends were what.

2 MS. RICHARDSON: The State moves 51 into evidence.

3 THE COURT: All right. Any objection,

4 Mr. Hazzard?

5 MR. HAZZARD: No, sir.

6 THE COURT: Mr. Voigt, subject to your prior
7 objection?

8 MR. VOIGT: Yes, sir.

9 THE COURT: All right. Mr. Edgeworth?

10 MR. EDGEWORTH: No objection.

11 THE COURT: All right. Admitted subject to
12 Mr. Voigt's prior objection.

13 (WHEREUPON, State's Exhibit Number 51 was moved
14 into evidence,)

15 BY MS. RICHARDSON:

16 Q. Okay. And State's 52?

17 A. Okay. State's 52, has another one of our little
18 envelopes in it. Let's see if I can figure out what it
19 says. Okay. Sure. this is the blood spot. So another way
20 that we may try to identify -- well, we don't do the
21 analysis, but we will collect a blood spot in case DNA can
22 be extracted from it and compared to a known individual so
23 that's what the blood spot is for.

24 MS. RICHARDSON: And, Your Honor, at this time I'd
25 move State's 52 into evidence.

CYNTHIA SCHANDL - REDIRECT BY MS. RICHARDSON

1 THE COURT: All right. Any objection,
2 Mr. Hazzard?

3 MR. HAZZARD: No, sir.

4 THE COURT: Mr. Voigt, subject to your prior
5 objection?

6 MR. VOIGT: Yes, sir.

7 THE COURT: All right. Mr. Edgeworth?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: All right. Admitted subject to prior
10 objection.

11 (WHEREUPON, State's Exhibit Number 52 was moved
12 into evidence.)

13 BY MS. RICHARDSON:

14 Q. State's 53?

15 A. 53 is another blood spot.

16 Q. Also collected during the autopsy?

17 A. Yes, ma'am. Same with all our stuff.

18 MS. RICHARDSON: At this time I'd move State's 53
19 into evidence.

20 THE COURT: Mr. Hazzard, any objection?

21 MR. HAZZARD: No objection.

22 THE COURT: Subject to prior objection, Mr. Voigt?

23 MR. VOIGT: Yes, sir.

24 THE COURT: Mr. Edgeworth?

25 MR. EDGEWORTH: No objection, Your Honor.

CYNTHIA SCHANDL - REDIRECT BY MS. RICHARDSON

1 THE COURT: All right. We'll admit it subject to
2 Mr. Voigt's objection.

3 (WHEREUPON, State's Exhibit Number 53 was moved
4 into evidence.)

5 MS. RICHARDSON: Your Honor, I have no further
6 questions.

7 THE COURT: All right. Since this witness was
8 recalled, do you have any cross, Mr. Hazzard?

9 MR. HAZZARD: No, sir.

10 THE COURT: Mr. Voigt?

11 MR. VOIGT: No, sir.

12 THE COURT: Mr. Edgeworth?

13 MR. EDGEWORTH: No, Your Honor.

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

15 MS. RICHARDSON: No, your honor.

16 THE COURT: All right.

17 Doctor, thank you so much, you're released from
18 your subpoena and have a safe trip back. Okay?

19 THE WITNESS: Thank you, sir.

20 MS. RICHARDSON: The State calls Michael Thacker.

21 THE COURT: All right.

22 MICHAEL THACKER, having been duly sworn,
23 testified as follow:

24 THE WITNESS: Michael Thacker.

25 DIRECT EXAMINATION

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 BY MS. RICHARDSON:

2 Q. Officer Thacker, where are you employed?

3 A. With the Sheriff's Office in Georgetown County.

4 Q. Okay. And how long have you worked there?

5 A. Twenty-one years.

6 Q. And what is your position with the Sheriff's
7 Office?

8 A. I work with the investigations, I'm a sergeant of
9 investigations, as well as the processing and evidence
10 custodian.

11 Q. And can you explain to us what an evidence
12 custodian does?

13 A. Yes. All the intake of all the items that come in
14 form all the different officers intake of that, and taking
15 that items or the items and placing them in storage places
16 in a secured link area, secured locations at the Sheriff's
17 Office. And then, from that point, if it needs to be taken
18 for order or instruction or anything, to be moved at that
19 point.

20 Q. And what sort of safeguards are put into place and
21 procedures for the keeping of evidence at the Sheriff's
22 Office?

23 A. Well, there's -- as far as the area is secured by
24 a locked door with a key access also key-card access, that I
25 have a key and only one other person, my supervisor, has

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 that key.

2 Q. And did you receive evidence on Sheriff's Office
3 Case 17006780?

4 A. 17006780, yes.

5 Q. You did?

6 A. Yes, ma'am.

7 Q. Okay. And who did you -- what evidence did you
8 receive?

9 A. The total items received into evidence?

10 Q. Well, let me ask: Did you receive -- let me show
11 you what's been marked as State's Exhibit Number 54.

12 A. Yes, these items from this sheet?

13 Q. Yes.

14 A. Yes.

15 Q. Okay. And those items were received from the
16 autopsy at the Medical University of South Carolina?

17 A. They were. And they were received at the
18 Sheriff's Office and placed into the secured storage.

19 Q. Okay. And who received them from the Medical
20 University of South Carolina?

21 A. That was Investigator Aswad.

22 Q. And he was employed with the Sheriff's Office at
23 that time?

24 A. Yes.

25 Q. Okay. And where is he now?

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 A. He works for the federal government, FBI.

2 Q. Okay. And when officers bring items to put into
3 evidence are there steps made to make sure that they're
4 secured and can't be contaminated?

5 A. Yes. Whenever they're received, they should be
6 sealed in an envelope or box. And on the front there should
7 be an area where it identifies the item as well as the chain
8 of custody where they sign it over to evidence and all of
9 those items sealed with tamper tape.

10 Q. Okay. And did you receive or did the Sheriff's
11 Office receive fingernail clippings from the autopsy of Leon
12 Harrison Jr. from the Medical University?

13 A. Yes.

14 Q. And that's reflected on that sheet as well?

15 A. Yes.

16 Q. Let me show you what's been marked as State's
17 Exhibits 48 and 49. Do you recognize those?

18 A. Yes.

19 Q. Okay. And what are they?

20 A. These are the packages of the left hand fingernail
21 clippings and right hand fingernail clippings from the
22 autopsy.

23 Q. And those were put in secured evidence at the
24 Sheriff's Office?

25 A. Yes.

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 Q. Okay. And did you alter, tamper with, or do
2 anything to those items?

3 A. No. The only thing -- the only thing I did to
4 this item was to sign it on the chain of custody.

5 Q. And did you subsequently turn those items over to
6 another agency?

7 A. Yes. Those were turned over to the Georgetown
8 Police Department.

9 Q. And let me show you what's been marked as State's
10 Exhibit 55. State's Exhibit 55.

11 A. Yes. This is the chain of custody form that I
12 completed to turn the items over to the City Police
13 Department.

14 Q. And that would be the two sets of fingernail
15 clippings?

16 A. The fingernail clippings, yes.

17 Q. And who were they turned over to?

18 A. They were turned over to Officer Sparkman.

19 Q. Okay. And who turned them over to him?

20 A. That was me.

21 Q. And that's your signature?

22 A. It is.

23 Q. Okay. And you had Officer Sparkman sign it as
24 well?

25 A. Yes. He signed it on this form and then we both

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 signed it on the actual evidence item packaging.

2 Q. And had there been any evidence tampering or did
3 you manipulate those in any way before they were transferred
4 to Officer Sparkman?

5 A. No.

6 Q. Okay. And during that period of time was there
7 also an additional evidence custodian?

8 A. Yes.

9 Q. And who was that?

10 A. Allen Morris.

11 Q. And he would have been in control of the evidence
12 room at some point?

13 A. Yes.

14 Q. And where is Officer Morris?

15 A. He works with Berkeley County Sheriff's Office.

16 Q. Okay. And, again, no evidence of tampering or
17 altering when you gave it to Officer Sparkman?

18 A. No.

19 MS. RICHARDSON: Your Honor, I'd offer State's 55
20 into evidence, the chain on the clippings.

21 THE COURT: All right. Any objection,
22 Mr. Hazzard?

23 MR. HAZZARD: No, sir.

24 THE COURT: Mr. Voigt?

25 MR. VOIGT: No, Your Honor.

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: No, Your Honor.

3 THE COURT: All right. It's admitted without
4 objection.

5 (WHEREUPON, State's Exhibit Number 55 was moved
6 into evidence.)

7 BY MS. RICHARDSON:

8 Q. I'm going to show you, based on State's 54, did
9 you also receive wiring from the autopsy, speaker wire?

10 A. Yes.

11 Q. Okay. And let me show you what's been marked as
12 State's 51 and 52. And do you recognize those?

13 A. Yes, it's the packaging for the wire from the
14 hands and the wire from the feet from the autopsy.

15 Q. Okay. And those were received from the autopsy by
16 which officer?

17 A. This was Investigator Aswad.

18 Q. Okay. And those were turned into evidence?

19 A. Turned into evidence, yes, ma'am.

20 Q. Okay. And did y'all alter or tamper in any way
21 those items?

22 A. No.

23 Q. And were those items -- let me show you what's
24 been marked as State's Exhibit Number 50, and what is that?

25 A. This is the property receipt that I completed for

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 the items that I turned over -- some additional items I
2 turned over to the City Police Department.

3 Q. And Is that an accurate reflection of the evidence
4 form that you completed?

5 A. Yes.

6 MS. RICHARDSON: Your Honor, I'd offer State's 50
7 into evidences.

8 THE COURT: Any objection, Mr. Hazzard?

9 MR. HAZZARD: No, sir.

10 THE COURT: Mr. Voigt?

11 MR. VOIGT: No, sir.

12 THE COURT: Mr. Edgeworth?

13 MR. EDGEWORTH: No, Your Honor.

14 THE COURT: All right. Admitted without
15 objection.

16 (WHEREUPON, State's Exhibit Number 50 was moved
17 into evidence.)

18 BY MS. RICHARDSON:

19 Q. And who were the speaker wires released to?

20 A. Investigator Allen Morris.

21 Q. Okay. And who released them to Allen Morris?

22 A. I did.

23 Q. Okay. And did you -- and, in fact, you listed all
24 of the items that were collected from the autopsy to the
25 Georgetown Police Department; is that correct?

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 A. Yes. Everything was returned or turned over to
2 them. The only thing that we had was the photographs that
3 were already -- there were already photographs given to them
4 prior to that. So we retained those at our office.

5 Q. And why were the items turned over to the
6 Georgetown City?

7 A. That was determined that the City Police
8 Department was -- picked up the investigation jurisdiction
9 wise for the case.

10 Q. All right. I have no further questions. Answer
11 any questions that the other attorneys may have for you.

12 THE COURT: Mr. Hazzard?

13 MR. HAZZARD: No questions, Your Honor.

14 THE COURT: Mr. Voigt?

15 MR. VOIGT: No questions, Your Honor.

16 THE COURT: Mr. Edgeworth?

17 MR. EDGEWORTH: No questions for this witness,
18 Your Honor.

19 THE COURT: All right. Thank you very much, sir,
20 you may be excused.

21 MS. SMITH: I beg the Court's indulgence. May I
22 have one minute to set up a different computer that actually
23 has the appropriate software to play the CDs on it? They're
24 very quick.

25 THE COURT: All right. I'll tell you what, ladies

MICHAEL THACKER - DIRECT BY MS. RICHARDSON

1 and gentlemen, why don't you take a quick break and y'all go
2 back to the jury room and we'll let them get this set up and
3 as soon as we can we'll get you back in here, okay?

4 Thank you very much. Don't talk about the case.
5 I appreciate it.

6 (WHEREUPON, the jury exited the courtroom at 4:41
7 p.m.)

8 THE COURT: All right. We'll be at ease for
9 hopefully five minutes.

10 (WHEREUPON, a break was held from 4:41 p.m. until
11 4:48 p.m.)

12 THE BAILIFF: All rise.

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

14 All right. Solicitor, are we ready?

15 MS. RICHARDSON: Yes, Your Honor.

16 THE COURT: All right. Anything else before we
17 bring the jury in from the State?

18 MS. RICHARDSON: Your Honor, we may have an issue
19 with sequestration, but we could probably deal with that
20 after we let the jury go.

21 THE COURT: All right. And anything from the
22 Defense?

23 MR. HAZZARD: No, sir.

24 MR. VOIGT: No, Your Honor.

25 MR. EDGEWORTH: No, Your Honor.

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 THE COURT: All right. Let's bring the jury in.
2 (WHEREUPON, the jury entered the courtroom at 4:49
3 p.m.)

4 THE COURT: All right. That didn't take too
5 terribly. All right.

6 Solicitor, call your next witness.

7 MS. RICHARDSON: The State calls Bill Pierce
8 Pearce.

9 Your Honor, he must have stepped away, we'll just
10 call another witness.

11 THE COURT: All right.

12 MS. SMITH: The State calls Austin Kight.

13 THE COURT: All right.

14 AUSTIN KIGHT, having been duly sworn,
15 testified as follows:

16 THE WITNESS: My name is Austin Kight.

17 DIRECT EXAMINATION

18 BY MS. SMITH:

19 Q. Mr. Kight, can you spell your last name for the
20 record?

21 A. K-I-G-H-T.

22 Q. Okay. Well, how are you today, Mr. Kight?

23 A. Good. How are you?

24 Q. I'm doing well. Where are you from?

25 A. From Conway, South Carolina.

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 Q. And how long did you live there?
2 A. My whole life.
3 Q. Okay. Do you live there currently?
4 A. No, ma'am.
5 Q. Where do you live now?
6 A. Spencer, Massachusetts.
7 Q. And what do you do up in Spencer, Massachusetts?
8 A. Taking care of my family and working.
9 Q. Okay. How long have you been up there?
10 A. A little over two years.
11 Q. And what do you do --
12 A. For work?
13 Q. -- for a living? Yeah.
14 A. I crush rock.
15 Q. Okay. And do you have any kids?
16 A. Yes, ma'am.
17 Q. How many kids do you have?
18 A. Four.
19 Q. And do all of them reside with you?
20 A. No.
21 Q. All right. Who resides with you?
22 A. One son.
23 Q. Now, you've flown all the way down here. I'm
24 going to bring up a delicate subject, but have you ever been
25 in trouble before?

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 A. Yes, ma'am.

2 Q. Okay. So when I say trouble, have you been
3 arrested?

4 A. Yes, ma'am.

5 Q. Okay. Did you spend any time in J. Reuben Long?

6 A. Yes, ma'am.

7 Q. And what is J. Reuben Long?

8 A. It's a detention center.

9 Q. And which county is that in?

10 A. Horry County.

11 Q. Okay. And while you were in J. Rueben Long, did
12 you happen to meet anybody involved in this case?

13 A. Yes, ma'am.

14 Q. Okay. Who did you meet?

15 A. Alexander Rhue Jr.

16 Q. Okay. And how did you meet him?

17 A. Just through conversation in the pod.

18 Q. Okay. Do you remember what pod or block you were
19 in?

20 A. E4.

21 Q. Okay. And was this back 2017?

22 A. Yes, ma'am.

23 Q. Okay. And while you were in same pod with
24 Mr. Rhue Jr. did you ever strike up any conversations?

25 A. Yes, ma'am.

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 Q. Does any one particular conversation come to mind?

2 A. Yes, ma'am.

3 Q. Okay. Which conversation is that?

4 A. Conversation where we're talking about his case.

5 And he said that they didn't have anything on him.

6 Q. Well, let me go back. How did this conversation
7 start?

8 A. We were talking about people we knew from
9 Georgetown.

10 Q. Okay. And did you happen to know any of the same
11 people?

12 A. Yes, ma'am.

13 Q. Okay. Did you happen to know the victim in this
14 case, Leon Harrison Jr.?

15 A. No, ma'am.

16 Q. So after y'all started talking about people y'all
17 knew, what did he tell you next?

18 A. He walked away and about 30 minutes later he come
19 back to me and said that he was there for a murder case,
20 that's what he was in jail for.

21 Q. Okay. Did he tell you anything about that murder
22 case?

23 A. Yes, ma'am.

24 Q. What did he tell you?

25 A. He said that they didn't have anything on him and

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 that we dumped the body. And the only way they would know
2 that it was -- they guy was -- there were tattoos that was
3 on his arm.

4 Q. Are you -- were you aware at that point in time
5 that Mr. Leon Harrison Jr.'s body was only identified
6 through a tattoo?

7 A. No.

8 MR. VOIGT: Objection.

9 THE COURT: What's your objection, sir?

10 MR. VOIGT: I believe it's leading, Your Honor.

11 THE COURT: All right. Please try to rephrase the
12 question.

13 BY MS. SMITH:

14 Q. When did you find out how the victim's body was
15 identified?

16 A. When?

17 Q. Yeah. When did you find out --

18 A. Today.

19 Q. -- how the victim's body was identified?

20 A. Today.

21 Q. Okay. So the reference to a tattoo, did you have
22 any knowledge of that tattoo at that point in time?

23 A. No, ma'am.

24 Q. Give me one second real quick.

25 When you found out this information, did you do

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 anything about it?

2 A. Yeah.

3 Q. What did you do?

4 A. I went and talked to somebody about it because it
5 just wasn't right.

6 Q. Okay. Did you talk to -- I mean, who did you talk
7 to?

8 A. A detective from Georgetown.

9 Q. Okay. Were you ever promised anything?

10 A. No, ma'am.

11 Q. Were you ever -- did anybody agree to assist you
12 in any way?

13 A. No, ma'am.

14 Q. Why did you talk to the police?

15 A. Because it's the right thing to do.

16 MS. SMITH: May I approach?

17 THE COURT: Show it to them, please.

18 (WHEREUPON, State's Exhibit Number 77 was marked.)

19 BY MS. SMITH:

20 Q. Okay. So what am I showing you?

21 A. A statement that I wrote.

22 Q. Okay. And is that a true and accurate depiction
23 of the statement that you wrote?

24 A. Yes, ma'am.

25 Q. And has it been altered in any way shape or form

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 since the last time you saw it?

2 A. No, ma'am.

3 Q. Okay. When was the last time you were arrested?

4 A. About three years ago.

5 Q. Okay. Do you have any addiction issues?

6 A. No, ma'am.

7 Q. Did you?

8 A. Yes.

9 Q. Okay. When was the last time that you did drugs?

10 THE COURT: I'm sorry. I didn't hear the
11 question?

12 BY MS. SMITH:

13 Q. When was the last time that he had partaken in
14 drugs?

15 A. About three years ago when before I got entered
16 into Horry County Drug Court.

17 Q. Okay. Are you clean and sober here today?

18 A. Yes, ma'am.

19 MS. SMITH: Your Honor, the State moves to enter
20 State's Exhibit 77 into evidence.

21 THE COURT: Any objection, Mr. Hazzard?

22 MR. HAZZARD: No, sir.

23 THE COURT: Any objection, Mr. Voigt?

24 MR. VOIGT: No, Your Honor.

25 THE COURT: Any objection, Mr. Edgeworth?

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 MR. EDGEWORTH: No, Your Honor.

2 THE COURT: All right. It's admitted without
3 objection.

4 (WHEREUPON, State's Exhibit 77 was moved into
5 evidence.)

6 BY MS. SMITH:

7 Q. In your statement, besides talking about the --
8 about the statement that Mr. Rhue Jr., said to you what he
9 said, you also said --

10 MR. VOIGT: Objection, to leading.

11 THE COURT: Try to rephrase.

12 MS. SMITH: I apologize, yes.

13 THE COURT: Sustained.

14 MR. VOIGT: Thank you, Your Honor.

15 BY MS. SMITH:

16 Q. Did you also put in your response, that's all I'm
17 asking.

18 MR. VOIGT: Objection to the form of the question,
19 Judge. It's already in evidence, it speaks for itself.

20 THE COURT: I would sustain --

21 MS. SMITH: Your Honor.

22 THE COURT: I would sustain the objection.

23 BY MS. SMITH:

24 Q. Mr. Kight, will you please read your statement for
25 the jury?

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 MR. VOIGT: Objection.

2 THE COURT: Counsel approach.

3 (WHEREUPON, the following discussion was held at
4 the bench.)

5 THE COURT: I sustained the objection, Solicitor.

6 There's no way, rephrase your question, okay? So
7 I don't think it's proper to read the document, you
8 certainly can show him the document. You've already done
9 that. But, I mean, you're going to have to rephrase the
10 question.

11 MS. SMITH: Yes, sir.

12 THE COURT: To try to elicit whatever answer it is
13 you're trying to get. I have to sustain the objection.

14 Just go -- y'all think about it for a second.

15 (WHEREUPON, the bench conference ended.)

16 BY MS. SMITH:

17 Q. Did you ask for any assistance from the officers?

18 A. Yeah.

19 Q. Okay. And did you receive any assistance from
20 those officers?

21 A. No, ma'am.

22 Q. Do you know Marva Jones?

23 A. Yes.

24 Q. How do you know Marva Jones?

25 A. Through a mutual friend.

AUSTIN KIGHT - DIRECT BY MS. SMITH

1 Q. Okay. How long have you known her?

2 A. About 20 years.

3 Q. And what is her nickname?

4 A. Punkin.

5 THE COURT: Hold on. Sir, you just needs to speak
6 up a little bit, because the Court Reporter's got to hear
7 you and she's all the way around the corner. Go ahead.
8 What was that answer? Ask him the question again, please.

9 BY MS. SMITH:

10 Q. What is Marva Jones' nickname?

11 A. Punkin?

12 Q. Okay. And she related to JR? Is she related to
13 the victim in this case?

14 A. Yes.

15 Q. Okay. Are y'all and Marva Jones close?

16 A. Yes.

17 Q. Okay. At the time that Mr. Rhue told you his
18 statements, did you know that the victim was related to
19 Marva Jones?

20 A. No.

21 Q. Okay. I've got no further questions.

22 THE COURT: All right. Thank you.

23 Mr. Hazzard, do you have any questions, sir?

24 MR. HAZZARD: Oh, yes, sir. Very briefly.

25 THE COURT: Yes, sir.

AUSTIN KIGHT - CROSS BY MR. HAZZARD

CROSS-EXAMINATION

BY MR. HAZZARD:

Q. Good afternoon, sir.

Now, you've been convicted of a bunch of drug charges, correct, in the past?

A. Yes, sir.

Q. Okay. And you said that they put you in drug court, helped you out, right?

A. Yes, sir. It changed my life.

Q. Okay. And when did they put you in drug court?

A. It's about three years ago.

Q. Okay. So that would have been in 2018?

A. Yes, sir.

Q. After you told them you needed help?

A. Yes, sir.

Q. Okay. And it was better for you to be in drug court than to go to the penitentiary, right?

A. Yes, sir.

Q. And you've been convicted of possession, sale or disposition of a stolen vehicle, and that was in 2014?

A. Yup.

Q. And criminal domestic violence, second offense, back in 2012?

A. Yes, sir.

Q. No, sir?

AUSTIN KIGHT - CROSS BY MR. HAZZARD

1 A. Yes, sir.

2 Q. Oh, okay. Thank you. And resisting arrest?

3 MS. SMITH: Your Honor, objection.

4 THE COURT: Counsel approach.

5 MR. HAZZARD: Yes, sir.

6 (WHEREUPON, the following discussion was held at
7 the bench.)

8 THE COURT: Solicitor, what's your objection?

9 MS. SMITH: The resisting arrest doesn't carry
10 over a year. I mean, the ones that do qualify under the
11 statute, I obviously have no objection to.

12 THE COURT: All right. So what was the resisting
13 arrest?

14 MR. HAZZARD: Sir?

15 THE COURT: What was the crime that she objected
16 to?

17 MR. HAZZARD: Resisting arrest it does carry...

18 MS. SMITH: Okay.

19 THE COURT: It depends on which one it is, right?

20 MR. HAZZARD: Correct. Whether it's A or B.

21 THE COURT: Well, which one is it?

22 MR. HAZZARD: And it's up to 10 years.

23 THE COURT: Which one is it, is it A or B?

24 MR. HAZZARD: As far as I know it's B.

25 THE COURT: You got anything to show it isn't B?

AUSTIN KIGHT - CROSS BY MR. HAZZARD

1 MS. SMITH: I don't.

2 THE COURT: All right. Well, he's an Officer of
3 the Court, I'm going to accept him at his word. All right?

4 MR. VOIGT: I have a deep thought and it is, we
5 don't ask if you've had problems or if you've had troubles,
6 because that's broader than being able to cross-examine on
7 convictions, that's why you don't ask it that way. That's
8 how it was asked. I think any law enforcement, I mean,
9 you're probably going to tell me arrests don't count, and I
10 would probably agree with you. But I think when you ask it
11 that broadly, I think it comes in regardless of the statute.

12 He has an idea or he has some thoughts about the
13 fact that because the way that she asked the question, any
14 conviction comes in, I've seen it work.

15 THE COURT: Well, it's not going to work today.
16 I'm going to deny that. Okay?

17 MR. VOIGT: Thank you, Judge.

18 MR. HAZZARD: Well, I mean, she did open the door
19 about saying he's been in trouble, it is a good point.

20 THE COURT: Well, I'm overruling that. And so you
21 go ahead and ask the crimes that are applicable as it
22 relates to the one year and 10 years. Okay? Is that all
23 right, Mr. Hazzard.

24 MR. HAZZARD: And I did misspeak. In looking at
25 it, it says it's under the A Section, which I believe is

AUSTIN KIGHT - CROSS BY MR. HAZZARD

1 only up to a year. So I will, on the record, withdraw that
2 question.

3 THE COURT: Thank you. fine. Thank you, sir.

4 (WHEREUPON, the bench conference ended.)

5 THE COURT: All right. I will sustain the
6 Solicitor's objection.

7 BY MR. HAZZARD:

8 Q. Sir, that last question I asked you about the last
9 offense, I withdraw that and I apologize. Okay.

10 And in 2013 you were convicted of shoplifting?

11 A. I was with somebody that was shoplifting and they
12 charged us both.

13 Q. And they convicted you of it?

14 A. I think both of us.

15 Q. Okay. And in 2014, possession, sale, or
16 disposition of a stolen vehicle, court date August of 2014?

17 A. Yes, sir. I rented a car from somebody and it was
18 stolen.

19 Q. Okay.

20 MR. HAZZARD: Court's indulgence, Your Honor.

21 THE COURT: Yes, sir.

22 BY MR. HAZZARD:

23 Q. Now, you indicated that you were housed at J.
24 Rueben Long Detention Center?

25 A. Yes, sir.

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 Q. And in J. Rueben Long detainees are allowed to
2 have what is called -- they're allowed to have a copy of
3 their discovery in their possession, correct?

4 A. Yes, sir.

5 Q. And most folks refer to it as their motion?

6 A. Yeah.

7 Q. And there is no footlocker for anybody to use to
8 lock away their discovery is there?

9 A. No, sir. They give you a big container, like a
10 Tupperware container with a lid on it to put all your
11 belongings in.

12 Q. And it doesn't have a lock on it, key, anything of
13 that nature?

14 A. No.

15 Q. Is that a No?

16 A. No.

17 Q. Okay. I have no further questions.

18 THE COURT: All right. Thank you. Mr. Voigt, do
19 you have any questions, sir?

20 MR. VOIGT: Just one or two, Judge.

21 THE COURT: All right.

22 CROSS-EXAMINATION

23 BY MR. VOIGT:

24 Q. Do you recall when you wrote this letter?

25 A. Do I recall when?

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 Q. When? Yeah, when?

2 A. I mean, it was sometime -- it was 2017, I think.

3 Q. Well, I'm going to show you just so you can
4 refresh your recollection. I'm showing you what's been
5 previously marked and entered as State's Exhibit 77.

6 Did you date it?

7 A. Yes, sir.

8 Q. Okay. What's the date that you put on that?

9 A. June 10, 2017.

10 Q. Okay. Is that before or after you were allowed to
11 go to drug court?

12 A. Before.

13 Q. Okay. Now, in this letter, and this is written in
14 your own hand?

15 A. Yes, sir.

16 Q. No one helped you with this?

17 A. Nope.

18 Q. No one guided you, counseled you, told you what to
19 write?

20 A. Nope.

21 Q. Okay. This is entirely your words?

22 A. Yes, sir.

23 Q. And in your first sentence you're talking about
24 the murder of JR, right?

25 A. Yes, sir.

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 Q. Did you have any idea how old JR was when he was
2 murdered?

3 A. No, sir.

4 Q. Are you in the habit of calling adult men Boy?

5 A. Not that I --

6 Q. Why don't you read that sentence out for me?

7 A. The first one?

8 Q. The first one.

9 A. This letter needs to go either to a homicide
10 detective or whoever is working in prosecuting the murder of
11 the boy JR, whom they found floating in the Black River.

12 Q. And then there's a comma, right? Or is that a
13 period? I don't know.

14 A. I'm not sure. After that it says, I -- I can't
15 make out what that word is.

16 Q. Think, perhaps?

17 A. Think his head was cut off.

18 Q. Okay. You think his head was cut off.

19 Okay. So you're really familiar with the facts
20 about this murder, right?

21 A. I mean, I am now, obviously, because I've done a
22 lot of reading on it.

23 Q. Okay. So you've been doing some research?

24 A. From hearsay and looking on the internet, yeah.

25 Q. Okay. So you've been looking on the internet, and

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 you've been hearsay, you've been talking to people
2 presumably?

3 A. No, I haven't.

4 Q. Okay. You've talked to the State about this?

5 A. Yeah, I have.

6 Q. I mean, presumably, before you ever walked through
7 those doors back there, you talked to them, right?

8 A. I mean, yeah.

9 Q. Okay. How many times do you think you met with
10 them to prepare for this?

11 A. I live in Boston, I just met with them this
12 morning.

13 Q. Okay. And you paid to come down here by yourself?

14 A. No. The Solicitor's Office paid for it.

15 Q. And they put you up?

16 A. Yes, sir.

17 Q. And they've given you some kind of per diem for
18 food?

19 A. They paid for my meal today, yes.

20 Q. Okay. And you think that this -- when did this
21 murder happen?

22 A. I don't know exactly the day.

23 Q. Okay. Do you know the month?

24 A. No.

25 Q. Now, you actually make reference to it in your

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 letter, don't you, because you got a lot of details in
2 there.

3 A. I said, if I'm not mistaken, it happened in March
4 or April.

5 Q. Okay. And then you have to tell them why you're
6 in jail in Georgetown, right?

7 A. Yeah.

8 Q. Okay. Now, you didn't ask them for anything,
9 right?

10 A. What do you mean?

11 Q. You didn't -- I mean, there's no ask in this
12 letter is there? You're not asking them for anything, are
13 you?

14 A. I told them something and I asked if they could
15 help me with a bench warrant that I had at the time.

16 Q. Okay. You had pending charges when you wrote this
17 letter, did you not? Or did you get them later?

18 A. I had a child support charge.

19 Q. Okay. You don't go to drug court for child
20 support, do you?

21 A. No.

22 Q. Okay. So you went to drug court for something
23 else?

24 A. Yes.

25 Q. Okay. And what was that?

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 A. Drugs.

2 Q. All right. And with your record were you facing
3 prison time?

4 A. For drug court?

5 Q. No. No. No. For that charge before you went to
6 drug court?

7 A. No. I think it was a misdemeanor, if I'm not
8 mistaken, I don't really know what the charge was.

9 Q. Well, okay. I thought we knew that.

10 A. Driving under suspension was the charge.

11 Q. You went to drug court for a driving charge?

12 A. No. That's what I went to jail for before drug
13 court.

14 Q. But you don't get to driving -- that's not why you
15 get to drug court, right?

16 A. No. I told you it was drugs.

17 Q. Drugs. Okay. Now, when you go to drug court, so
18 that we're clear, you get treatment, right?

19 A. Yes, sir.

20 Q. And tell me if the -- tell me if I'm right about
21 this, the purpose of drug court is to divert people, such as
22 yourself who have a history of drug problems, from
23 reoffending --

24 MS. SMITH: Objection.

25 THE COURT: All right. Approach.

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 (WHEREUPON, the following discussion held at the
2 bench.)

3 THE COURT: All right. Yes, ma'am.

4 MS. SMITH: He's trying to improper propensity,
5 other than if he hadn't gone to drug court, like he would
6 have continued on this path of -- and on top of that he's
7 testifying about drug court right now, Mr. Voigt is.

8 THE COURT: Well, Mr. Voigt?

9 MR. VOIGT: Yes, Judge.

10 THE COURT: Okay. I don't think this guy knows
11 anything -- as far as eligibility for drug court, how you
12 get into drug court there's a lot of different ways.

13 And so I just -- I mean, I think you can ask him
14 about drug court, whether he went to drug court, what he
15 went to drug court for, but getting into things dealing with
16 who's, you know, why you go to drug court, whether you go to
17 drug court for a drug case, whether you go to drug court for
18 a non-drug case, I just don't think that's -- I don't think
19 that's -- I think that's outside his scope of knowledge.

20 MR. VOIGT: Okay.

21 THE COURT: I think it's outside of any ordinary
22 person's scope of knowledge. You with me?

23 MR. VOIGT: I got you.

24 THE COURT: All right.

25 MR. VOIGT: Thank you.

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 (WHEREUPON, the bench conference ended.)

2 THE COURT: All right. I'm going to sustain the
3 objection.

4 BY MR. VOIGT:

5 Q. So you have this little drug case and you get
6 released from prison and you get drug treatment?

7 A. I got released from J. Rueben and went to drug
8 court.

9 Q. Okay. But you were no longer incarcerated; is
10 that right?

11 A. Yes, sir.

12 Q. Okay. And you got placed in a program that
13 allowed you then to travel ultimately to Massachusetts; is
14 that right?

15 A. No, sir. I didn't leave the state until after I
16 graduated drug court.

17 Q. Okay. But you didn't go to prison for that
18 charge?

19 A. No.

20 Q. And you were released from jail for that charge?

21 A. Yes.

22 Q. And that happened after you wrote this letter?

23 A. What happened after I wrote this letter?

24 Q. You got into drug court.

25 A. Yes.

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 Q. Okay. Now, how long did you have this
2 conversation or how long do you contend you had this
3 conversation with Mr. Rhue?

4 A. Just a couple of minutes and then he walked off
5 and come back and started speaking about it again.

6 Q. Okay. And that's the first and only time you ever
7 had an interaction with him?

8 A. Yes.

9 Q. Before you ever saw Mr. Rhue, did you know what he
10 was charged with?

11 A. No.

12 Q. Is all of the information that you put in your
13 letter something that you got or you contend that you got
14 from Mr. Rhue?

15 A. Yes.

16 Q. How many days do you think you were housed near
17 Mr. Rhue?

18 A. Maybe a week or two, something like that, maybe a
19 little bit longer. I don't really remember. It was a long
20 time ago.

21 Q. Was it safe to say that that facility, J. Reuben
22 Long, was a fairly crowded facility?

23 A. Yes.

24 Q. And how many people do you think were housed in
25 the area that you were housed during the time you claim that

AUSTIN NIGHT - CROSS BY MR. VOIGT

1 you had this conversation?

2 A. I think it holds up to about 70 people, if I'm not
3 mistaken.

4 Q. 70 people, roughly?

5 A. Yes, sir.

6 Q. Now, in the area where you purportedly had this
7 conversation, approximately how many people were in that
8 area?

9 A. Maybe 10 or 15, we were sitting watching TV on the
10 back row.

11 Q. Okay. And if you know, and you may not, are those
12 areas where you're allowed to congregate filmed? If you
13 don't know that's fine, too.

14 A. I don't know. I'm not sure.

15 Q. Okay. Did he say where he drove him to?

16 A. No, sir.

17 Q. Did he say how he shot him?

18 A. No.

19 Q. Do you know what happened to Mr. Harrison Jr.?

20 A. I don't personally know.

21 MR. VOIGT: One moment, Judge.

22 THE COURT: Yes, sir.

23 BY MR. VOIGT:

24 Q. So you said that you knew a relative of JR for
25 20 years?

AUSTIN KIGHT - CROSS BY MR. VOIGT

1 A. Somewhere around that.

2 Q. And how do you know that person?

3 A. Through mutual friends.

4 Q. Do you hang out together?

5 A. We used to.

6 Q. And what did you do when you used to hang out?

7 A. Party.

8 Q. And by party, we're talking about taking drugs,
9 right?

10 A. And drinking.

11 Q. And drinking. Okay. And just so I'm clear,
12 you're in a jail, surrounded by a bunch of people, and man
13 you've never met, comes up and tells you he killed somebody
14 and dumped his body?

15 A. Yup.

16 Q. Lucky you.

17 MR. VOIGT: Thank you, Judge.

18 MS. RICHARDSON: Your Honor. I object to the
19 comment.

20 THE COURT: Sustained.

21 MS. SMITH: Motion to strike.

22 THE COURT: Jury disregard Counsel's last
23 statement.

24 MR. VOIGT: Can we have Counsel talk with one
25 voice, as opposed to getting both merils from them?

AUSTIN KIGHT - REDIRECT BY MS. SMITH

1 THE COURT: We will deal with that, but in the
2 meantime, sir, your last statement was inappropriate.

3 MR. VOIGT: Thank you, Judge. I'll withdraw it,
4 but it's already said.

5 THE COURT: No need to withdraw, sir. I've
6 already stricken it from the record. Is that clear?

7 MR. VOIGT: Very clear.

8 THE COURT: All right. Do we have any redirect?

9 MS. SMITH: Your Honor, I do believe that
10 Mr. Edgeworth has not had an opportunity --

11 THE COURT: Oh, I apologize, Mr. Edgeworth, I
12 didn't mean to forget about you over there.

13 MR. EDGEWORTH: No problem, Your Honor, I have no
14 questions for this witness.

15 THE COURT: Do you have any question, sir?

16 MR. EDGEWORTH: No, sir.

17 THE COURT: All right. Do we have any redirect?

18 MS. SMITH: Briefly.

19 REDIRECT EXAMINATION

20 BY MS. SMITH:

21 Q. How did your conversation with Mr. Rhue start?

22 A. We were talking about people we both knew from
23 Georgetown.

24 Q. So did he tell you where he was from?

25 A. No, I don't think he did.

AUSTIN KIGHT - REDIRECT BY MS. SMITH

1 Q. Okay. Well, how did Georgetown come up?

2 A. We just got in a conversation and he said he
3 was -- knew people from Georgetown. I said that I know
4 people from Georgetown. We exchanged who we knew from
5 Georgetown, a couple more words were said, and then he
6 walked off.

7 Q. Okay. No further questions.

8 THE COURT: All right. Any redirect, Mr. Hazzard?

9 MR. HAZZARD: No, sir.

10 THE COURT: All right. Mr. Voigt?

11 MR. VOIGT: No, sir.

12 THE COURT: All right. Mr. Edgeworth?

13 MR. EDGEWORTH: No, Your Honor.

14 THE COURT: All right. Sir, thank you. Have a
15 safe trip back, okay?

16 THE WITNESS: Yes, sir.

17 THE COURT: You're released from you subpoena.

18 THE WITNESS: This paper, what is this?

19 MR. VOIGT: That's in evidence, Judge.

20 THE COURT: I'll get this. I'll hand this to the
21 clerk. Thank you, sir.

22 THE WITNESS: Yes, sir. Thank you.

23 THE COURT: All right. Ladies and gentlemen, it's
24 about 5:30 and I think we're at a good point to stop for the
25 evening. And I want to thank you for your attention. And I

1 would remind you please not talk amongst yourselves or with
2 anyone else concerning this case. And that you also refrain
3 from any type of research concerning the case, the parties,
4 the lawyers, and so forth.

5 If anybody approaches you or wants to talk with
6 you about this matter, you tell them I can't, and if they
7 bother you or they won't leave you alone, please bring it to
8 my attention and I will take care of it. Have a great
9 evening. I'd like to see everybody back at 9:00 o'clock
10 tomorrow morning. Thank you.

11 (WHEREUPON, the jury exited the courtroom at 5:28
12 p.m.)

13 THE COURT: All right.

14 Solicitor, to Mr. Voigt's point. One Solicitor,
15 one questions, one objects, one takes that lead. And so to
16 that extent, he is absolutely correct concerning that. So
17 in the future, please decide who's going to question, who's
18 going to object needs to be the same person. That was a
19 point well taken. Thank you for bringing that to my
20 attention, Mr. Voigt.

21 Anything further from the State before we break
22 for the evening?

23 MS. RICHARDSON: Your Honor, we did have someone
24 on our witness list who was in the courtroom, but I can
25 inquire and see how long that was and maybe we can address

1 that in the morning to see if it's going to be a problem.

2 THE COURT: All right. That's fine, we'll address
3 that in the morning. I'll see everybody here at a quarter
4 till.

5 MR. HAZZARD: Your Honor, my position would be if
6 the person is present now you can put him under oath and ask
7 him yourself how long were they in the courtroom.

8 THE COURT: Is the person in the courtroom now.

9 MS. RICHARDSON: No. I sent them out, Your Honor,
10 but I wanted to see how long they were in there to see if it
11 would be something we would even -- if they weren't in here
12 for a long time, we probably wouldn't even try to get around
13 it, you know. I mean, obviously, I wanted to judge it for
14 myself and see how bad it was.

15 THE COURT: We'll meet at a quarter till.

16 MR. HAZZARD: 8:45?

17 THE COURT: That would be 8:45.

18 MS. RICHARDSON: I'm sorry.

19 THE COURT: No. No. No. He was being...

20 MR. HAZZARD: No, I wasn't, I was seriously.

21 THE COURT: A quarter till 9:00 yes, sir, 8:45.

22 MR. HAZZARD: Yes, sir.

23 THE COURT: I wasn't going to have you here at
24 7:45. Do you want to be?

25 MR. HAZZARD: No, sir.

1 THE COURT: Okay.

2 MR. HAZZARD: I didn't want to show up late like
3 the Solicitor. So I wanted to be very clear at what time
4 you said.

5 MS. RICHARDSON: I thought he said 1:05, and then
6 changed it to 1:30.

7 THE COURT: Everybody is getting testy here, so
8 let's break for the evening. Okay? I'll see everybody back
9 in here at 8:45. Thank you.

10 (WHEREUPON, the proceedings adjourned for the day
11 at 5:30 p.m.)

12 OCTOBER 15, 2021

13 (WHEREUPON, the proceedings resumed at 8:55 a.m.)

14 THE BAILIFF: All rise.

15 THE COURT: Thank you. Be seated.

16 All right. We're waiting on Mr. Voigt?

17 MR. HAZZARD: Yes, sir.

18 THE COURT: All right.

19 MR. HAZZARD: I actually thought I saw his car in
20 the parking lot, maybe it was somebody else's.

21 THE COURT: Okay. All right. Solicitor, it's my
22 understanding there was a matter you wanted to bring up
23 concerning a witness in sequestration?

24 MS. RICHARDSON: Yes, Your Honor. We didn't
25 realize it, but yesterday State's Witness Khrystopher

1 Harrison was in the courtroom, I believe, all of the day.
2 He is the brother of the decedent. He was here, I believe,
3 for all of the testimony yesterday.

4 THE COURT: All right. Is the State planning on
5 calling him?

6 MS. RICHARDSON: Yes, Your Honor.

7 THE COURT: For what purpose?

8 MS. RICHARDSON: And, Your Honor, that's probably
9 going to be the issue. He confirms the circumstances
10 surrounding the family looking for Mr. Leon Harrison Jr.
11 before his body was found. And also the conversations with
12 Antwan Simmons.

13 THE COURT: All right. And remind me of what
14 witnesses were called yesterday.

15 MS. RICHARDSON: Antwan Simmons, Meyan Thomas.

16 THE COURT: Uh-huh.

17 MS. RICHARDSON: The pathologist.

18 Austin Kight.

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

20 MS. RICHARDSON: Austin Kite.

21 THE COURT: Yes.

22 MS. RICHARDSON: The pathologist. And the cell
23 phone records, records custodians for T-Mobile and Verizon.

24 Oh, and Perry Collins, who found the body.

25 THE COURT: Perry Collins?

1 MS. RICHARDSON: Perry Collins, who found the
2 body.

3 THE COURT: All right. Let me hear from you,
4 Mr. Hazzard.

5 MR. HAZZARD: I don't believe there's anything
6 that the witnesses who testified yesterday would have said,
7 based on Mr. Harrison's previous statement, which we
8 received that gives me any pause or concern regarding him
9 still testifying in this matter. So I have no objection to
10 him testifying.

11 THE COURT: Mr. Voigt.

12 MR. VOIGT: Judge, because it's my job to, I
13 guess, be the fly in the ointment all the time. What the
14 State just said is they want this witness to specifically
15 confirm the testimony of a witness that he watched
16 yesterday.

17 I think the very danger that sequestration seeks
18 to avoid is that witnesses will conform their testimony is
19 exactly what's on display here. And the State has control
20 of this case, the State has control of its witnesses. The
21 State has multiple eyes in this courtroom that could have
22 fixed that problem before it became a problem.

23 So I believe that, based on their violation of the
24 sequestration order, this witness and his testimony should
25 be excluded from this trial.

1 THE COURT: Mr. Edgeworth.

2 MR. EDGEWORTH: Your Honor, my position on that,
3 Ms. Rhue would be in line with Mr. Hazzard in the sense that
4 the -- I do not believe that the information previously
5 received on that, in regards to Mr. Harrison, would be
6 inconsistent with what he's most likely testifying to today,
7 and therefore I have no objections.

8 THE COURT: Talk to me, sir, about what testimony
9 that the witness may have observed yesterday that somehow it
10 -- he's going to, I guess, really glean something to benefit
11 his testimony today.

12 Because I think, to me, that's the point of
13 sequestration is to -- is to remove potential witnesses so
14 they can't rely upon or glean information from testimony
15 that they're observing.

16 So what is it that, from a specific person that
17 testified, that he would have gained some knowledge? That's
18 what I need to know.

19 MR. VOIGT: And I'm specifically -- I don't
20 believe as to -- and I'm not aware, based on what I believe
21 his testimony is going to be, that any other -- that him
22 watching any other witnesses testimony, for example, the
23 pathologist.

24 THE COURT: Cell phone records.

25 MR. VOIGT: I don't think that that would

1 influence his testimony. I'm specifically concentrating on
2 Antwan Simmons, because Antwan Simmons testimony came in two
3 parts. One involving a ride to Myrtle Beach and a
4 conversation that he may or may not have had.

5 But the second part is what he did and who he did
6 it with and when he did it. And that is specifically with
7 this witness, Mr. Harrison, and I believe that that part of
8 the testimony in so far -- this is an event that happened
9 four years ago. Officers who are trained in testifying are
10 having difficulty remembering basic times and dates and what
11 they did and they're having to constantly refer to their
12 notes and their police reports.

13 It concerns me that a lay witness without that
14 training is going to be relying on what he just heard the
15 day before and can form his testimony so that they are
16 entirely consistent.

17 Consistency, as we have -- as the Logan case
18 highlights, consistency in circumstantial evidence is
19 exactly the sort of thing that a case like this can -- can
20 be the fulcrum upon this case, you know, which way this case
21 cubes.

22 THE COURT: All right. This -- the ride up, they
23 talked about that. The ride up. They talked about the
24 confession or the statement about riding him out or
25 whatever, correct?

1 MR. VOIGT: That's what Mr. Simmons said, yes.

2 THE COURT: All right. But are you talking about
3 the part about the -- are you talking about the part where
4 he went to the family and said, I'll say something if you --
5 or you need to go look or you need to do something and, if
6 you can't find out, I'll tell you who told me?

7 Is that what you're talking about, sir?

8 MR. VOIGT: Yes, Your -- Yes, Your Honor. Because
9 Mr. Harrison's actions and his purported testimony are going
10 to be based on, assuming, what he remembers Mr. Simmons told
11 him. What he remembers Mr. Simmons told him, I believe is
12 going to be directly influenced by what he just heard
13 yesterday.

14 THE COURT: Solicitor.

15 MS. RICHARDSON: Your Honor, he was not at the
16 first meeting with the family. He was at the second meeting
17 with the family and we do have a recorded interview of him
18 that was -- he was one of the witnesses who had not been
19 interviewed previously that we were concerned may have some
20 potentially exculpatory information when this case was
21 scheduled in July. And he does have a recorded interview
22 that was taken by our office in the -- either in July or
23 since July.

24 THE COURT: All right. Mr. Hazzard, you're
25 standing up. Are you stretching or maybe there's something

1 you want to tell me?

2 MR. HAZZARD: There's something I want to tell
3 you.

4 THE COURT: All right. I'm ready to listen, sir.

5 MR. HAZZARD: One of the things I do want -- that
6 we might as well address is based on Mr. Harrison's
7 interview on July 12th of 2021 at 11:37 a.m., he admits to
8 shooting Terrence Thompson -- shooting someone else as
9 retribution for the death of Leon Harrison Jr.

10 So if he gets on the stand, I fully intend to ask
11 him about that. I fully intend to ask him about his
12 prosecution, how his charge went from attempted murder to
13 assault and battery of a high and aggravated nature and the
14 sentence that he received.

15 So if the Court decides to allow him to testify,
16 despite the violation of the sequestration order, I don't
17 want to start asking him that and have them jumping up and
18 start objecting.

19 THE COURT: Well, let me decide -- let me decide
20 first whether I'm going to allow him to testify, then I
21 guess we can address that. Would that be acceptable, sir?

22 MR. HAZZARD: Yes, sir.

23 THE COURT: Thank you, though, for bringing that
24 to my attention.

25 MR. HAZZARD: Yes, sir.

1 MS. RICHARDSON: And, Your Honor, I didn't have
2 him scheduled particularly for today, but I just wanted to
3 bring it to the Court's attention, because if he's not going
4 to be allowed to testify since this is his brother's case, I
5 was going to allow him to remain in the courtroom.

6 MR. VOIGT: Judge, because this case is such a
7 heated environment, we've had issues in the hall, if we
8 could have -- I think that my concerns might be best
9 addressed if we could have Mr. Harrison not be in the
10 courtroom and be in some place where the State can keep an
11 eye on him and if we can address it in that way, I think
12 that I can withdraw my sequestration objection, because we
13 really are having problems at breaks. And we've addressed
14 this with -- I know that Mr. Edgeworth has addressed this
15 with court security.

16 THE COURT: All right. Let me -- and I appreciate
17 you telling me that. Am I to understand that what you're
18 saying is that you won't -- you might not have a problem or
19 withdraw your objection if we could be confident that this
20 witness is somewhere isolated, for lack of better words,
21 from all of the traffic as it relates to what's going on
22 outside of the courtroom?

23 Is that what you're saying?

24 MR. VOIGT: Yes. Yes, Judge.

25 THE COURT: All right. Solicitor, I mean, can we

1 do that? Or what can we do?

2 MS. RICHARDSON: I can tell y'all --

3 THE COURT: I'm going to listen to you folks.
4 I'll do whatever you want me to do to try to assist you as
5 it relates to the traffic of folks in passing. So y'all
6 tell me what you wanna do and I'll listen and if it's
7 reasonable, I'll order it. But...

8 MR. HAZZARD: The difficulty, as far as I can see,
9 is the Court's very reasonable concern for the efficiency of
10 how this case moves along, i.e. shorter breaks, which is
11 understandable. And I realize the Court is very flexible
12 with regard to five minutes maybe more like eight or nine.
13 But those short breaks and result in one side running out,
14 the other side hopefully waiting and then they go out, and
15 there's not that much of a time for the Sheriff's Deputies
16 -- who are doing an excellent job --

17 THE COURT: They are.

18 MR. HAZZARD: -- they really are.

19 THE COURT: They are.

20 MR. HAZZARD: Of trying to get one group where
21 they're going and the other group can follow behind slightly
22 separate. And that obviously takes time because as the
23 Court has seen, and I have even noticed, which I don't spend
24 the whole time looking at the gallery, the gallery seems to
25 have swelled both sides as this trial has progressed.

1 Which, as you know, more people, movement during breaks.

2 And so the Court, of course, is trying to be very
3 efficient with the Court's time, but yet that kind of bumps
4 us into --

5 THE COURT: Some of the shorter breaks,
6 Mr. Hazzard, are due to the fact that there's been some lags
7 in -- in technical issues that need usually very few moments
8 to fix. And if I take fifteen-minute breaks every time
9 there's a technical snafu, we blow a day.

10 MR. HAZZARD: Yes, sir.

11 THE COURT: And so that's -- but I understand and
12 I appreciate that and thank you for telling me that. And I
13 will try to see if we can arrange -- and I want to
14 compliment the Deputies and the Bailiffs on the job they're
15 doing.

16 I know that the -- like the tide, it kind of ebbs
17 and flows, as it relates to that and I appreciate the work
18 that you gentlemen are doing.

19 Solicitor, can you take steps to make certain that
20 this witness is removed from this situation to satisfy
21 Mr. Voigt's concern? Do you want to talk -- is the witness
22 here? Do you want to talk with him?

23 MS. RICHARDSON: He's not here, yet. I spoke with
24 him yesterday and -- afternoon, because I wasn't sure. I
25 didn't see him until -- we didn't see him until the

1 afternoon. So I will talk -- I will speak with his father
2 and I will have somebody from my office up here. We'll have
3 somebody from my office up here. And if the Sheriff's
4 Office could help, maybe if we could just get the -- we'll
5 recognize our witnesses, but I'll have somebody from my
6 office helping to monitor that.

7 That's all I know to do. Now, as far as out in
8 the hallways, I can tell him not to --

9 THE COURT: Mr. Voigt, how would you suggest --
10 because you have the objection. I understand your
11 objection. How do you want or what would you suggest that
12 the Solicitor's office do to assist you, sir, such that you
13 could be in a position to consider withdrawing your
14 objection?

15 I'm not asking you to. I don't want you to think
16 that I'm pressuring you to. I'm just asking how might that
17 be done?

18 MR. VOIGT: Judge, I think that there are
19 available places where the State has been putting their next
20 available witness, which is out of view of -- it's not in
21 the hall where he would be the Deputies' or the Bailiffs'
22 problem, he's in one of those rooms.

23 If he can, while he's in the courthouse, and he
24 may not -- you know, whenever he arrives -- if he could be
25 sequestered there, you know, kind of the launching pad for

1 their next witness, that I think would take him out of the
2 general mix and would alleviate that problem.

3 Because the problem that we've had, and I agree --
4 and I do want to compliment the Sheriffs and Bailiffs for
5 their assistance in this. It's just that there's an
6 overwhelming number of people and when they congregate in
7 the hall, it only takes one mugging, you know, a face or a
8 comment, and then it kind of gets as though a whole group of
9 people -- and I don't want to cast dispersions on a whole
10 group of people, because if frankly may just be one or two.

11 THE COURT: All right.

12 MR. VOIGT: So...

13 THE COURT: Well --

14 MR. HAZZARD: I mean, obviously, they have the
15 ability to have him in a room in the Solicitor's office
16 downstairs.

17 MS. RICHARDSON: Well, why not for today, let's
18 just give his name to the Bailiffs up front, because he has
19 to go through security and they can just have him not enter
20 the courthouse today. And then the day that he's called,
21 we'll hold him in our office until his time.

22 Would that be suitable with everybody?

23 MR. HAZZARD: Well, the thing about -- and I will
24 address my comments to the Court.

25 THE COURT: Yes, sir.

1 MR. HAZZARD: The thing about providing the
2 Deputies downstairs with his name is, I assume, then that
3 would require them to ask the name of every Black
4 African-American male who enters the courthouse today.

5 Now, if you want to provide them with a picture of
6 him, that might help them a little better.

7 MS. RICHARDSON: We can do that.

8 MR. VOIGT: I believe that each of us, each side
9 or each individual party in this, is responsible for
10 enforcing the sequestration.

11 THE COURT: I agree completely.

12 MS. RICHARDSON: And I don't want to put it on
13 somebody else who doesn't have that responsibility.

14 THE COURT: All right. Solicitor, let me tell you
15 want I'm going to do. Mr. Voigt, are you objecting or are
16 you withdrawing your objection? I mean, at this point I
17 need to know. I'm not -- I mean, you've got to tell me one
18 or the other.

19 MR. VOIGT: All right. I believe that based on
20 the representations of the State that there will be some
21 attempt -- and the conversation that we've had -- that there
22 will be a more vigorous attempt to enforce sequestration. I
23 believe that satisfies my concern and I will withdraw the
24 objection.

25 THE COURT: All right. Fine. Thank you.

1 Solicitor, number one, thank you for bringing this to our
2 attention, okay, as an officer of the Court. And I would
3 appreciate your continued efforts, particularly as it
4 relates to this witness, to take steps to make sure that
5 this witness, A, isn't in the courtroom when he isn't
6 supposed to be. And potentially if he is in the courthouse,
7 that he be isolated, kept away and in a position not to be
8 contacted or make contact with anyone else concerning this
9 matter.

10 MS. RICHARDSON: Yes, Your Honor.

11 THE COURT: All right. Thank you.

12 MR. VOIGT: Thank you.

13 THE COURT: All right. Are we ready to move
14 forward?

15 MS. RICHARDSON: I'm just going to bring one more
16 issue to the Court's attention. Mr. Voigt had provided us
17 redaction times for the statement of his client and pursuant
18 to the Court's ruling we did those and provided copies
19 yesterday.

20 Last night I was just a little concerned, because
21 Mr. Rhue Jr. speaks really fast and sometimes it's hard to
22 understand. So I did watch it again and found one other
23 area that had not been -- or a couple of spots that had not
24 been noted by Mr. Voigt.

25 He was particularly interested in conversations

1 regarding his arrest on the breach of trust charge and his
2 prior record. And so we did go in and redact some
3 additional ones. I have copies for everybody, but we just
4 got that completed. I just -- with it being arrest and that
5 sort of thing, I wanted to be abundantly cautious that it
6 didn't get on this CD.

7 MR. VOIGT: I'm going to take the Solicitor at her
8 word and I don't believe that's going to delay us or impede
9 us. If she's taken out two or three extra small, quick
10 references, I'm happy with that and I don't think that will
11 slow me down.

12 THE COURT: So the two or three references
13 Mr. Voigt, you brought to her attention --

14 MR. VOIGT: I had brought --

15 THE COURT: -- you Solicitor had removed those?

16 MR. VOIGT: I had brought a list to their
17 attention, Judge.

18 THE COURT: Yes, sir.

19 MR. VOIGT: And I perhaps missed a couple, because
20 there are seven or eight in there and -- or at least I found
21 seven or eight. And if the Solicitor found an extra couple,
22 I'm glad that she did and I appreciate that.

23 THE COURT: Okay. All right. Great. Gentlemen,
24 any objection to the one or two other matters the Solicitor
25 may have moved concerning the -- Mr. Voigt's client's

1 record?

2 MR. HAZZARD: No, sir.

3 THE COURT: All right.

4 MR. EDGEWORTH: No, Your Honor.

5 THE COURT: All right. Then we're ready to go on
6 to that video.

7 MS. RICHARDSON: And I'm going to go ahead and
8 just hand -- and I wrote -- I've got about five of them now.
9 But I wanted to give them -- I think we've got it, but I
10 wanted to give them the opportunity to review it if they
11 needed to.

12 MR. VOIGT: I don't believe I will, Judge.

13 THE COURT: Mr. Hazzard?

14 MR. HAZZARD: No, sir. I'm good.

15 THE COURT: Mr. Edgeworth?

16 MR. EDGEWORTH: No, Your Honor.

17 THE COURT: All right. Great. Anything else?

18 MS. RICHARDSON: Your Honor, that's all as far as
19 before we begin the testimony. You had mentioned something
20 about jury charges, but I don't know if you want to make the
21 jury wait for that.

22 THE COURT: Well, what we're going to end up doing
23 with the jury charges -- very important people will be
24 leaving early today and I want that -- I want that very
25 important person to be present at the jury charges, when we

1 have our charge conference. So what I plan on doing is
2 probably having the jury come in at ten o'clock on Monday,
3 so that at nine o'clock on Monday we can have a charge
4 conference.

5 I don't have to have a Court Reporter here for the
6 charge conference. What I'll do is, if we reach an
7 agreement and come to, I will generally go bring the Court
8 Reporter in before we start and we'll go on and confirm what
9 we discussed at the charge conference. If anybody has
10 anything, any representation, if I summarize it and it's not
11 correct, then we can talk about it at that time.

12 But I'd like to go over the charges Monday at nine
13 o'clock. Does that meet with everyone's approval?

14 Mr. Hazzard, is that fine, sir?

15 MR. HAZZARD: Yes, sir.

16 MR. EDGEWORTH: Yes, sir.

17 THE COURT: Mr. Edgeworth? Mr. Voigt?

18 MR. VOIGT: Yes, sir.

19 THE COURT: Solicitor?

20 MS. RICHARDSON: Yes, Your Honor.

21 THE COURT: All right. So we'll see everybody
22 probably around 9:00 and then probably about 9:45 the Court
23 Reporter can be here. And then if there's anything, we'll
24 put on -- we'll put on the record that we had the charge
25 conference, what was discussed, what my rulings were and

1 then give you an opportunity to go and confirm that I'm
2 representing what was discussed off the record. Okay?

3 MR. HAZZARD: Yes, sir.

4 THE COURT: All right. Great. In that case, are
5 we ready to bring the jury in from the Defense?

6 MR. HAZZARD: Yes, sir.

7 MR. VOIGT: Yes, sir.

8 MR. EDGEWORTH: Yes, sir.

9 THE COURT: All right. Okay. That's great. We
10 need the jury, Mr. Bailiff.

11 (WHEREUPON, the jury entered the courtroom at 9:19
12 a.m.)

13 THE COURT: All right. Mr. Foreman, ladies, and
14 gentlemen, good morning. Happy Friday. And I believe the
15 State is ready to continue.

16 Solicitor, you can call your next witness.

17 MS. RICHARDSON: State calls Bill Pierce.

18 WILLIAM PIERCE, having been duly sworn,
19 testified as follows:

20 THE WITNESS: My name is William Pierce.

21 DIRECT EXAMINATION

22 BY MS. RICHARDSON:

23 Q. Could you tell us where you work and what your
24 position is?

25 A. I work for the City of Georgetown Police

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1 Department. And -- excuse me, I'm the interim Police Chief.

2 Q. And what is your educational level?

3 A. I have a master's degree in criminal justice
4 public administration from Liberty University.

5 Q. And could you tell us your training and experience
6 in law enforcement?

7 A. I started in criminal justice in 1992 with the
8 Georgetown County Sheriff's Office. I graduated from basic
9 law enforcement training from the South Carolina Criminal
10 Justice Academy in 1992. I worked there for about 25 years
11 and during that time I was promoted from patrol officer to
12 criminal investigator to lieutenant. And I left there in
13 January of 2017 as the captain of patrol or captain of
14 enforcement.

15 Q. And how many years total? You may have said that.

16 A. Just under 30.

17 Q. Okay. And have you had specialized trainings?

18 A. Yes, I have. I've had about 1,100 hours of
19 on-the-job training and about 500 hours of advanced
20 training, specifically dealing with forensics and crime
21 scene processing.

22 Q. And have you previously been qualified as an
23 expert in crime scene processing?

24 A. Yes, I have.

25 Q. About how many times?

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1 A. I would say about ten times.

2 Q. Okay. And about how many crime scenes do you
3 think that you have processed?

4 A. Approximately 1,200, give or take.

5 MS. RICHARDSON: Your Honor, at this time I'd
6 offer him as an expert in crime scene processing.

7 THE COURT: In crime scene --

8 MS. RICHARDSON: Processing.

9 THE COURT: Mr. Hazzard?

10 MR. HAZZARD: As to the processing of the crime
11 scene, no objection to his qualifications.

12 THE COURT: Mr. Voigt?

13 MR. VOIGT: Judge, I think I have a matter that
14 I'd like to bring up outside the presence of the jury.

15 THE COURT: All right. Ladies and gentlemen, I'm
16 going to ask you to go back to the jury room. I'm sorry.
17 We'll get you back in here as soon as we can. Thank you.

18 (WHEREUPON, the jury exited the courtroom at 9:23
19 a.m.)

20 THE COURT: Yes, sir.

21 MR. VOIGT: Thank you, Judge. Sometimes I don't
22 enjoy being this guy. I'm -- and this is probably because
23 I'm not from here and I haven't tried cases in this
24 jurisdiction and this is unfamiliar territory to me. But as
25 I understand Counsel, and as I understand the laws involving

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1 expert testimony and the cases involving expert testimony, I
2 have yet to come across crime scene processing as an area of
3 expertise that would allow for someone to be qualified as an
4 expert and would allow that person thereby to give opinions.

5 I think that long time -- it's kind of like dog
6 handling in this respect. I think you can -- there are
7 opinions based on your experience that you can give that
8 don't come with the imperator of being an expert.

9 I wasn't prepared to go do a full hearing on
10 expertise or, you know, to cross this particular witness
11 upon his -- on his qualifications for this particular
12 expertise, because I don't know that this particular
13 expertise is recognized statewide.

14 I can. And it's usually something that we don't
15 do in front of the jury. I don't know what opinions he
16 would be giving that would be different if he was called an
17 expert or different if he was someone with 30 years of
18 experience processing crime scenes. I don't know the
19 difference, perhaps the State can enlighten me.

20 THE COURT: Well, I don't know what the difference
21 is either, but what they've done is, they've proffered him
22 as an expert in crime scene processing.

23 And so, to that extent, I think at this point if
24 you have a question concerning his being qualified as an
25 expert in crime scene processing, sir, then, certainly, if

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1 you're going to object, I will give you the opportunity if
2 you want to ask this gentleman some questions about his
3 experience, about his prior qualifications, I think that you
4 certainly have that opportunity to do that. And I will give
5 that to you now.

6 MR. VOIGT: Thank you, Judge.

7 MS. RICHARDSON: Well, Your Honor, can I -- I may
8 can kind of shorten this up and just let everyone know
9 exactly what.

10 THE COURT: All right. That's fine.

11 MS. RICHARDSON: And maybe we'll reoffer him as
12 crime scene processing and analysis. But -- yeah, I
13 probably just used the wrong term. But basically he's the
14 one who did the test for the -- the presumptive test for
15 blood and he also will have some opinions regarding a
16 cast-off type stain near the closet.

17 MR. VOIGT: Okay.

18 MS. RICHARDSON: That's the --

19 MR. VOIGT: Okay. Well, now I do have some
20 questions.

21 THE COURT: All right.

22 MR. VOIGT: Sir, you're familiar with the term
23 blood spatter?

24 THE WITNESS: Correct.

25 MR. VOIGT: Have you ever been qualified as an

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1 expert in blood spatter?

2 THE WITNESS: No, sir.

3 MR. VOIGT: Okay. Well, when we're talking about
4 a cast-off stain, we're talking about a drop of blood that
5 is thrown from some particular person that has blood on them
6 that is bleeding or some object that has blood on it. Is
7 that safe to say?

8 THE WITNESS: It is.

9 MR. VOIGT: Okay. And when it interacts with a
10 surface, there's certain characteristics of that cast-off
11 that can be interpreted; is that correct?

12 THE WITNESS: That's correct.

13 MR. VOIGT: Would you seek to -- in your
14 testimony, have you been prepared to make interpretations or
15 give expert opinions as to those characteristics and what
16 they may mean?

17 THE WITNESS: I can give opinions on my
18 interpretation of what a particular stain means to me.

19 MR. VOIGT: Okay. But, again, you've never been
20 qualified as an expert in blood spatter. And that's --
21 cast-off stains on surfaces, that's considered in that area
22 of expertise; is it not?

23 THE WITNESS: Correct.

24 MR. VOIGT: Okay. Judge --

25 THE COURT: Hold on. Mr. Hazzard, any questions

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1 of this witness --

2 MR. HAZZARD: I do not have any questions, but --

3 THE COURT: -- as it relates to his
4 qualifications?

5 MR. HAZZARD: Well, yes, sir. Because as I
6 specifically said, when they said they were offering him as
7 an expert in crime scene processing, I had no problem with
8 that. If they seek to broaden that to crime scene analysis,
9 then, yes, I do have an objection.

10 And I do think that if he's going to be giving an
11 opinion as -- as Mr. Voigt said, looking at Council, looking
12 at Jones, we have to have a full hearing, the Court has to
13 make a determination of whatever he's relying on and whether
14 it's considered to be appropriate and recognized for that
15 purpose. He has said, I've never been qualified in blood
16 spatter or cast-off analysis.

17 So, yes, I would definitely object to him being
18 able to give an opinion in that regard. He can say what he
19 sees or what he thinks he sees, I guess, or what he
20 collected. But as far as him giving his opinion as to what
21 it means, I think that is well beyond his purview.

22 THE COURT: Mr. Edgeworth, I want to give you an
23 opportunity to speak, sir.

24 MR. EDGEWORTH: Yes, Your Honor, I don't have too
25 much to add, but I will say that had I -- before we went

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1 into this component of it, I would have objected to and I do
2 object to make sure that we had clarified what Mr. Hazzard
3 just brought up, what they're calling processing versus
4 analyzing. Because that was my fear that there was going to
5 be an attempt to backdoor some analysis -- unknown analysis
6 and I would object to that.

7 THE COURT: All right. Solicitor, I mean, I think
8 what we got to do is, I think you need to expand on his
9 experience and I think we need to have a -- Mr. Hazzard, you
10 want a full hearing on this matter to see what he's going to
11 say?

12 MR. HAZZARD: Yes, sir.

13 THE COURT: I think we need to have some testimony
14 and I think we need to have a little more concerning his
15 experience, Solicitor. And I'm happy to hear from you. Go
16 ahead.

17 MS. RICHARDSON: Have you had any trainings
18 specifically with crime scenes and determining which items
19 need to be photographed as far as blood stains or blood
20 patterns?

21 THE WITNESS: I've had a lot of extensive training
22 in crime scene processing, to include photographing items of
23 evidence, how to process crime scenes, how to locate
24 evidence and things of that nature.

25 MS. RICHARDSON: And had you had any training

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1 regarding how blood is transferred or items that need to be
2 photographed for further analysis regarding blood spatter?

3 MR. VOIGT: Objection to the compound nature of
4 that question.

5 THE COURT: Overruled.

6 MR. VOIGT: Thank you, Your Honor.

7 MS. RICHARDSON: Let me ask you this: You would
8 not give an opinion as to -- for what you determine to be
9 cast-off, as to what direction or anything like that; is
10 that correct?

11 THE WITNESS: If I was asked, I could do that.

12 MS. RICHARDSON: You could do that. Okay. But
13 you, through your training and experience, have had classes
14 on how blood hits surfaces?

15 THE WITNESS: Yes.

16 MS. RICHARDSON: Okay. And if you were looking
17 for blood spatter analysis would you then photograph that
18 and send to someone else?

19 THE WITNESS: Yes.

20 MS. RICHARDSON: Okay. So your training is to see
21 what appears to be a cast-off so that if you wanted to have
22 further analysis, you could?

23 THE WITNESS: Correct.

24 MS. RICHARDSON: And how many classes do you feel
25 like you've had in that area?

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1 THE WITNESS: If I could look back through my
2 training, I could probably tell you very specifically. So I
3 was -- I had a 40-hour blood stain spatter analysis training
4 in Florida, July of 2015, specifically dealing with blood
5 stain pattern analysis. I think that's the only -- the only
6 specific training that I've had relative to blood stain
7 pattern analysis.

8 MS. RICHARDSON: And as far as training regarding
9 violent crimes, crime scene, and death investigations.

10 THE WITNESS: I guess, I could just kind of walk
11 through this if you'd like and just detail --

12 MS. RICHARDSON: Well, first of all, did you have
13 training in college on that on crime scenes?

14 THE WITNESS: I had -- no.

15 MS. RICHARDSON: No training there? Okay.

16 THE WITNESS: No, I had -- as far as my training,
17 during my basic law enforcement training in Columbia, which
18 was March of 1993, that training incorporated some basic
19 crime scene training.

20 I also had 120 hours of basic training with the
21 Ohio Peace Officers Training Academy in 1998, which had some
22 basic crime scene processing training incorporated in that.

23 I've had 40-hour practical homicide investigation
24 training course in 2000. I've had 12 hours of investigation
25 and prosecution of child homicide cases in March 2000;

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1 21 hours of hands-on crime scene investigation in March of
2 2001; 16 hours of death investigation in May of 2001;
3 120-hour internship with the State Law Enforcement Division,
4 their forensic training program in August of 2001.

5 I attended a 24-hour crime scene seminar in
6 Lawrenceburg, Texas in June of 2004; 40 hours of advanced
7 training in crime scene processing in Panama City, Florida,
8 November of 2005; 24 hours advanced crime scene
9 reconstruction training in Columbia, South Carolina,
10 September of 2006.

11 I attended a Florida Department of the IAI, which
12 is the International Association of -- hold on, I think I
13 lost my spot. Yeah, the Florida Division of the
14 International Association for Identification Annual Training
15 Conference in October of 2006.

16 I attended another Florida Division of the
17 International Association for Identification Training
18 Conference in October of 2010.

19 I had 35 hours of death and homicide investigation
20 advanced training in May of 2013; 18-and-a-half hours of
21 homicide and questioned death investigation in September of
22 2014; 40 hours of blood stain pattern analysis in 2015.

23 I attended a 40-hour FDIAT, Florida Division of
24 the International Association for Identification Training
25 Conference in 2018. And I think that's it.

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1 MS. RICHARDSON: And these crime scene trainings
2 and advanced crime scene trainings that you have been to, do
3 they -- did they include identifying cast-off or blood
4 spatter areas?

5 THE WITNESS: Yes.

6 MS. RICHARDSON: And have -- do you recall what
7 field you were previously trained -- or qualified as an
8 expert in?

9 THE WITNESS: Crime scene processing.

10 MS. RICHARDSON: Your Honor, do you want to go
11 ahead and have testimony regarding what his opinion would be
12 in this case?

13 THE COURT: Yeah.

14 MS. RICHARDSON: Let me pull the TV.

15 Your Honor, I've just taken State's Exhibit 39.

16 Your Honor, and he assisted in the search warrants
17 and the presumptive testing. It's the State's position you
18 would not have to be an expert as far as the field tests
19 kits. The opinion would be more -- it's State's 39.

20 THE COURT: Yeah. Let's try to zero in on what I
21 think the issue here about this splatter and testimony
22 concerning that. Let's zero in on that, because, certainly,
23 as it relates to I think crime scene processing and crime
24 scene analysis he's got a lot of experience, but I want to
25 hear more about that. That's the issue in this case.

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1 Is that the issue, sir?

2 MR. VOIGT: I think -- I think when it comes to
3 case -- crime scene processing, I think calling him an
4 expert and not calling him an expert really doesn't affect
5 the testimony one way or the other.

6 When it comes to analysis, I think there's pretty
7 clear case law that that's not scientific and that perhaps
8 that is not something for which we should call someone an
9 expert. And I think this anticipated testimony is going to
10 intrude on an area that has very clear qualifications for an
11 expert. Those qualifications are not ones that this officer
12 has testified that he possesses.

13 So I think that's where I'm focusing.

14 THE COURT: All right.

15 MR. VOIGT: And just for guidance, Judge, I would
16 -- I'm sorry. I'm trying to pull something up here. I
17 would direct Counsel and the Court's attention to State v.
18 Prather, which is 429 SC 583, I think it's from last year
19 sometime.

20 THE COURT: And that allowed a crime scene
21 analysis expert?

22 MR. VOIGT: I don't believe it did -- well, it
23 says it's non-scientific, Judge.

24 THE COURT: Right. But that doesn't exclude
25 someone from testifying as to that based on -- I mean, based

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1 on specialized knowledge, as I understand it.

2 Go ahead, Solicitor. Let's work through this.

3 MS. RICHARDSON: Okay. And if everybody's -- can
4 I just kind of lead so we can go through this really
5 quickly? As far as --

6 MR. HAZZARD: I'm not going to object to leading.

7 MS. RICHARDSON: Okay.

8 So you're -- when you analyzed or went to the
9 crime scene on March 14th, which was the second time
10 officers were at the home?

11 THE COURT: Repeat the question.

12 MS. RICHARDSON: You -- I'm -- I was just kind of
13 directing him as to when it was.

14 Did you take samples of what you determined to be
15 probable transfer stains on the walls?

16 THE WITNESS: Yes.

17 MS. RICHARDSON: Okay. And that was depicted in
18 this photo, which is State's Exhibit 39, Photo 828 and
19 subsequent photos.

20 THE WITNESS: Well, let me clarify. I didn't take
21 samples of this -- of this stain. I processed this stain
22 with a chemical to enhance probable blood.

23 MS. RICHARDSON: Okay.

24 THE WITNESS: The samples would have been taken by
25 other officers.

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1 MS. RICHARDSON: And -- but you determined that
2 they were -- these stains were probable transfer?

3 THE WITNESS: I determined through the chemical
4 enhancement that it likely could have -- that this
5 particular photograph could have contained blood.

6 What you're looking at is a positive reaction
7 through chemical enhancement using a field test.

8 MS. RICHARDSON: And then let's go down to...

9 All right. In Photo 835, that is you?

10 THE WITNESS: Yes.

11 MS. RICHARDSON: And what were you looking at, at
12 that point?

13 THE WITNESS: I was looking at a cast-off stain on
14 the inside door jamb of the closet.

15 MS. RICHARDSON: And that's 837, a blurry photo of
16 that?

17 THE WITNESS: (Witness nods.)

18 MS. RICHARDSON: Okay. I'm showing you Photo 839.

19 THE WITNESS: Yeah. 839 is -- depicts the
20 cast-off stain I was looking at.

21 MS. RICHARDSON: Okay. And based on your training
22 and experience how did you determine that this was a
23 cast-off stain?

24 THE WITNESS: Based on the color, the
25 characteristics of the stain, the directionality. It had

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1 every characteristic consistent with a cast-off stain.

2 THE COURT: Solicitor, what is a cast-off stain?

3 MS. RICHARDSON: Chief Pierce, can you explain to
4 the Court and explain to us what a cast-off stain is?

5 THE WITNESS: Yeah. When -- when -- in this case,
6 when blood is impacted, a blood source is impacted or it's
7 flung off of something that's in motion, when it hits a
8 surface, it leaves a particular -- the stain will leave
9 particular characteristics, such as directionality, size,
10 shape. And from those characteristics you can -- you can
11 determine roughly where the stain came from, what type of
12 stain it is, whether it's a low-velocity, medium-velocity,
13 or high-velocity stain.

14 THE COURT: So are you testifying, sir, as to
15 whether this is a low-velocity or a high-velocity stain or
16 from what direction that stain came from? Are you here to
17 give that testimony today?

18 THE WITNESS: Sir, I'm not sure. I'm just
19 answering the questions I'm being asked.

20 THE COURT: Well, ask him that question, because
21 that's -- that's -- that's what I want to -- I want to
22 understand. I mean, I'm a layman to this and so what I want
23 to know is, is he going to testify to those things or is he
24 just going to testify that there was blood on the wall? And
25 are they -- I don't -- I'm not getting at what he's

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1 testifying to, Solicitor.

2 MS. RICHARDSON: Is it your opinion that this is a
3 cast-off stain?

4 THE WITNESS: It is.

5 MS. RICHARDSON: Meaning, that it came from some
6 sort of force or an object being moved; is that correct?

7 THE WITNESS: Correct.

8 MS. RICHARDSON: As opposed to a transfer stain
9 where someone just rubbed up against an --

10 THE WITNESS: This is not a transfer stain.

11 MS. RICHARDSON: So, basically, something was hit
12 and splattered or came off of an object that was being
13 slung?

14 THE WITNESS: Yeah, this stain was produced by
15 something in motion.

16 THE COURT: All right. Beyond that?

17 MS. RICHARDSON: No. I wouldn't be asking
18 direction or anything like that, just explaining what
19 cast-off is. It could be from an object in motion or from
20 some sort of impact, is what I believe he said.

21 THE COURT: Okay. So he's not talking about
22 direction, force, angles, distance, we're not getting into
23 any of that?

24 MS. RICHARDSON: I will be asking how he can tell
25 that it's a cast-off stain as opposed to a transfer stain.

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1 THE COURT: All right. Do you have some
2 questions?

3 MR. VOIGT: Just to --

4 THE COURT: Mr. Voigt?

5 MR. VOIGT: Just to hone in on this. Your
6 testimony would be a transfer stain would be a stain --
7 there's blood on an object and it brushes past or makes
8 contact with the surface; is that correct?

9 THE WITNESS: Yes. Correct.

10 MR. VOIGT: And you can't tell the circumstances
11 under which that is done; is that correct?

12 THE WITNESS: That's correct.

13 MR. VOIGT: And a cast-off stain, you can't tell
14 that this is a result of some sort of blunt object hitting
15 -- you can't tell how that was cast-off, can you?

16 THE WITNESS: Based on the size of a stain, for
17 instance, if you're looking at a cast-off stain that is less
18 than a millimeter in diameter, basically the size of mist,
19 you can determine that there was a significantly -- a
20 significant more amount of force applied to that blood
21 source than with a larger stain.

22 So if you're looking at a stain that is larger
23 than four millimeters in diameter, those are generally
24 considered to be low-velocity blood stains, or passive
25 drops.

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1 Stains that are smaller than four millimeters in
2 diameter, generally considered to be medium-velocity, which
3 would be consistent with somebody being struck with an
4 object, a fist, a bat, things of that nature.

5 And then high-velocity stains, very small, small
6 stains, less than a millimeter, which would -- you know,
7 those could -- those could come from sneezing, those could
8 come from bullet -- gunshot wounds, and things of that
9 nature.

10 MR. VOIGT: Okay. And you'd agree with me that
11 there's a little bit of a difference between sneezing and a
12 gunshot wound?

13 THE WITNESS: When you're looking -- very much so,
14 very much so.

15 MR. VOIGT: Okay. And are you going to testify in
16 your expert opinion that this one particular blood drop on
17 the inside door jamb of a closet is as a result of blunt
18 force trauma?

19 THE WITNESS: Am I going to testify to that?

20 MR. VOIGT: Uh-huh.

21 THE WITNESS: I would not testify to that.

22 THE COURT: So this could just be a droplet like
23 if somebody had a bloody nose and had -- and transferred
24 blood onto their hand and somehow their hand went in motion
25 and a droplet fell, it could have -- it could have come that

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1 way, right?

2 THE WITNESS: Generally, when you see a stain of
3 that nature, it's large -- it would be larger than
4 four millimeters in diameter. And I'm not -- I mean,
5 without the scale, I'm not sure -- there's some photographs
6 with scales, but I'm not -- I don't know what size this
7 stain is right off.

8 MR. VOIGT: Okay. So your testimony, your
9 purported expert testimony, is going to be based on this one
10 particular droplet, yes? And I'm not talking about the
11 transfer stains, I'm talking about this right here.

12 THE WITNESS: Repeat your question, sir.

13 MR. VOIGT: The testimony that has been proffered,
14 that you're going to give to the jury, is going to be based on
15 your analysis of this one particular droplet?

16 THE WITNESS: That's my understanding, yes, sir.

17 MR. VOIGT: And do you have an opinion and do you
18 intend to give the jury an opinion on how that droplet got
19 there?

20 THE WITNESS: I would just tell the jury that this
21 is consistent with a cast-off stain.

22 MR. VOIGT: And that's it?

23 THE WITNESS: That's all -- that's all I can say.

24 THE COURT: Okay. Mr. Hazzard, do you have any
25 questions? Because I -- you know, I want to give everybody

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1 a chance to talk.

2 MR. HAZZARD: Thank you, sir. I appreciate it.

3 THE COURT: Yes, sir.

4 MR. HAZZARD: I guess I'm confused as to whether
5 the Captain is going to be qualified as an expert in
6 analysis. If he's not going to be qualified as an expert in
7 analysis, then I don't have a particular question. But I
8 will, so I'll stop there, and then I'll follow up concerns.

9 THE COURT: Mr. Edgeworth?

10 MR. EDGEWORTH: I guess my question will come once
11 we get that answer -- or my decision.

12 THE COURT: All right. I'm assuming the State's
13 moving him as an expert in crime scene -- crime scene
14 analysis and processing?

15 MS. RICHARDSON: Yes, Your Honor.

16 THE COURT: All right. I would rule that this
17 gentleman based upon his experience both in the classroom,
18 his educational experience, and in addition to that, his
19 practical experience that he has developed over 20 years
20 would allow him -- would allow this Court to qualify him as
21 an expert in crime scene processing and analysis.

22 I believe that his qualifications are sufficient.
23 I certainly have heard about the classes. I believe that
24 his testimony is reliable. I think it falls outside of the
25 scope that something an average juror is going to know. I

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1 think it's going to assist the jury or the trier of fact in
2 this case. And I certainly don't think it's going to
3 confuse them.

4 And I do believe that, to an extent, it is -- some
5 courts have ruled that it's a non-scientific expert
6 testimony, and to that extent other courts have ruled that
7 it is considered expert testimony.

8 I'm going to rule that it is. I believe that it
9 is expert testimony or non-scientific -- well, that it's
10 non-scientific expert testimony that I believe based upon
11 his qualifications.

12 From what I heard, however, I think he would be in
13 a position -- I would limit his testimony such that I do not
14 believe that he would be able to go beyond indicating that
15 the splatter -- splatter is a term of art, let's step away
16 from that. This is a transfer or a --

17 MR. VOIGT: Cast-off.

18 THE COURT: Cast-off. Thank you. That it's a
19 cast-off, but he's not going to give testimony -- it doesn't
20 sound like he's going to give testimony that -- where it
21 came from, how it got there, other than I think he can
22 certainly talk about a cast-off versus a transfer. I think
23 he's fully equipped to do that.

24 And then he's not going to get into talking about
25 the angles, the force. I don't think he's qualified for

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1 that and I don't think he's here to talk about that.

2 So that's what I will do. I'll qualify him
3 understanding that he's not going to be able to talk about
4 angles and speed and directions and things of that nature,
5 but I certainly think he can testify as to what a cast-off
6 is as opposed to a transfer. And what that -- and what
7 that, in general, would mean as it relates to an example. A
8 transfer being from a sleeve or a cast-off being from, you
9 know, somebody shaking their hand and a drop of blood
10 landing on the door were some of the examples he gave
11 earlier.

12 But, getting into the specifics, I don't think
13 he's qualified for that. So that would be my ruling. I
14 think the State understands what my ruling is, correct?

15 MS. RICHARDSON: And that was my intention the
16 whole time was just for him to say it was a cast-off and how
17 cast-offs are done.

18 THE COURT: Well, I don't know that I understood
19 that to be your intention and they certainly -- I don't want
20 to speak for the Defense. I don't know that that was their
21 understanding of what your intention is. But I believe that
22 you are very clear on what my ruling would be as it relates
23 to this witness and what he's going to be able to say. Do
24 you understand that, Solicitor?

25 MS. RICHARDSON: Yes, Your Honor.

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1 THE COURT: All right. Now, having explained what
2 my ruling is, do you have objections further as it relates
3 to this whole process in your other concern that you had,
4 Mr. Hazzard?

5 MR. HAZZARD: Yes, sir. Thank you, very much,
6 Your Honor. May it please the Court?

7 I understand the Court's ruling. I would note an
8 objection to the Captain being qualified as a crime scene
9 analyst with regard to cast-off. In listening to the
10 qualifications that he read into the record, and I think
11 that one of things to me at least, is it seems like the
12 crime scene processing and basic crime scene knowledge kind
13 of gets jumbled in with the crime scene analysis.

14 I simply heard him indicate that he had one course
15 in crime scene analysis in Florida. I heard no testimony
16 regarding whether there was any proficiency testing that
17 came out of that course. I heard nothing regarding any
18 certification that was a result of that course. So I
19 maintain my objection in that regard.

20 Now, understanding the Court's ruling, my concern
21 past my objection is that the -- if the witness is allowed
22 to say, This is cast-off. Okay. He has said, in camera, I
23 don't have an understanding of the size of the droplet. As
24 a result, my concern is if he's going to opine as to, Well,
25 you know, cast-off can happen because of, you know, blunt

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1 force trauma, from somebody getting shot, you know, from
2 them sneezing when their lungs are full of blood. I would
3 object to that strenuously.

4 But if his testimony's going to be limited to,
5 This particular droplet appears to be cast-off to me and no
6 further testimony regarding, Well, this is how it normally
7 occurs, since he's saying he doesn't know the size of the
8 droplet and therefore can't give an opinion, then I can live
9 with that after my objection.

10 THE COURT: Mr. Voigt?

11 MR. VOIGT: I understand the Court's ruling. I --
12 with the limitations, I would concur with Mr. Hazzard in all
13 other respects.

14 THE COURT: All right. Mr. Edgeworth?

15 MR. EDGEWORTH: Thank you, Your Honor. May it
16 please the Court?

17 Mr. Hazzard beat me to the punch on some of my
18 inquiry and objection. Understanding the Court's ruling, of
19 course, but my main concern, I think what Counsel is trying
20 to bring out and the Court's already touched on it, in that
21 the crime scene analysis would be a non-scientific type of
22 expertise.

23 Well, he testified that he does not analyze
24 anything. He took a picture and sent it off. And my
25 concern with calling it an expert in analysis is really just

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1 identification. He's been trained to identify things that
2 look like cast-off. And so then we're kind of blending that
3 into some kind of expertise, and whether it is or isn't, we
4 don't know.

5 How his identification of something that he's seen
6 on the -- even though he may have been trained in
7 identifying it, he certainly has not analyzed it. And to
8 call him a crime scene, you know, expert in processing and
9 analysis, is completely misleading and will potentially
10 mislead the jury and especially when we're talking about
11 something that is non-scientific.

12 The scientific component of it would come from the
13 actual analysis of that -- of that alleged spatter. So, you
14 know, I think we're just reaching too far in calling this an
15 expertise. He's been trained just like any other officer
16 and maybe a little bit more training to identify something
17 that could be, but it's not been analyzed in any sense.

18 THE COURT: All right. I'm ready to move forward.
19 I've made my ruling. Solicitor is aware. He's going to be
20 able to talk about the cast-off, talk about the difference
21 with the transfer, but is not going to be able to get into
22 giving -- opining how that spot got there.

23 So if he wants to, you know, talk about a transfer
24 would be from a sleeve or a hand or whatever it may be, and
25 if he wants to talk then about a cast-off being from

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1 somebody, you know, flinging a hand or any -- I mean, he's
2 not going to be able to give an opinion as -- he can talk in
3 the most general sense about the difference between cast-off
4 and transfer.

5 Do you have any questions?

6 MS. RICHARDSON: But he can identify this -- and
7 there is a scale on it -- this item as a cast-off stain?

8 THE COURT: Yeah.

9 MS. RICHARDSON: And talk about --

10 THE COURT: If that's what he believes, he can
11 identify it as a cast-off stain, if that's his opinion. I
12 think he's qualified to do that.

13 MS. RICHARDSON: Yeah, and that's the only opinion
14 he had given me.

15 THE COURT: All right.

16 MS. RICHARDSON: Was that it was a cast-off stain
17 that could be consistent with a blunt force trauma or
18 swinging off of an object, that sort of thing.

19 MR. VOIGT: The, "Consistent with," part is what
20 gets me.

21 MS. RICHARDSON: Well, it could be cast-off stains
22 are typically made in these ways.

23 THE COURT: What I would -- go ahead, Mr. Hazzard.

24 MR. HAZZARD: I will let Mr. Voigt finish his
25 objection or statement, because I think we're of the same

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1 accord, so.

2 MR. VOIGT: Thank you, Your Honor. I believe that
3 the problem that I have is that I think we all understand
4 the Court's ruling, it's just if there's a question or an
5 answer that is, And this is consistent with blunt force
6 trauma, I think that actually now takes it outside of the
7 Court's limitation.

8 And I would just -- that's what I'm concerned with
9 because we keep circling back, some of us do, to how. And
10 the "how" is, I believe, beyond this witness's knowledge.

11 THE COURT: All right. I think that the "how" is
12 beyond his knowledge. I think he can certainly testify that
13 a cast-off will be something, for instance, that's flung
14 off, for lack of better words, as opposed to a transfer and
15 I think he can talk about that.

16 But he can't get into, you know, That's consistent
17 with somebody taking a crowbar and popping somebody in the
18 side of the head or ripping the back of somebody's hand open
19 and the crowbar then being whipped back and flinging
20 something against the wall. Not going to be able to do
21 that.

22 MS. RICHARDSON: Okay.

23 THE COURT: All right. Do you understand?

24 MS. RICHARDSON: I do. But I'm probably going to
25 say something else that's not going to make you happy.

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1 THE COURT: Let's -- tell me so I can hear it and
2 so we can move on. Yes, ma'am.

3 MS. RICHARDSON: Can we have one of those quick
4 four-minute breaks?

5 THE COURT: No, Mr. Hazzard likes 20-minute
6 breaks.

7 MS. RICHARDSON: Yeah. Can we have a bathroom
8 break, Your Honor?

9 THE COURT: Certainly, we can have a bathroom
10 break. And again, the four-minute break, folks, was a joke.

11 MS. RICHARDSON: I know. I know.

12 THE COURT: Not that I'm here joking. There's
13 nothing not serious about what we're doing, but you take
14 your time to go to the bathroom, Solicitor, that's fine. I
15 hope you're feeling better by the way.

16 MS. RICHARDSON: I am. Thank you.

17 MR. HAZZARD: Thank you, Your Honor.

18 THE COURT: All right. We'll be at ease for about
19 45 minutes, Mr. Hazzard?

20 MR. HAZZARD: Four to five.

21 THE COURT: About five minutes. Okay.

22 (WHEREUPON, a break was held from 10:06 a.m. until
23 10:11 a.m.)

24 THE BAILIFF: All rise.

25 THE COURT: All right. Are we ready to bring the

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1 jury back in?

2 MS. RICHARDSON: Yes, Your Honor.

3 THE COURT: Okay. Let's get the jury back in.

4 MR. HAZZARD: Oh, one second.

5 THE COURT: Hold on.

6 MR. HAZZARD: I would like to say for the record,
7 Mr. Edgeworth had made a specific objection. I want to say
8 for the record I join in with his reason of his objection
9 and Mr. Voigt's objection.

10 THE COURT: All right.

11 MR. VOIGT: I will join as well, Judge.

12 THE COURT: All right. Mr. Edgeworth?

13 MR. EDGEWORTH: Yes, Your Honor.

14 THE COURT: Come here for one second.

15 (WHEREUPON, a brief discussion held off record.)

16 THE COURT: All right. Are we ready to bring the
17 jury in from the State?

18 MS. RICHARDSON: Yes, Your Honor.

19 THE COURT: Ready to bring the jury in from the
20 Defense?

21 MR. HAZZARD: Yes, sir.

22 MR. EDGEWORTH: Yes, sir.

23 THE COURT: All right. Let's get the jury in
24 here.

25 (WHEREUPON, the jury entered the courtroom at

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1 10:13 p.m.)

2 THE COURT: All right. Ladies and gentlemen, I
3 believe the State had moved to qualify -- did the State move
4 to tender this witness as an expert?

5 MS. RICHARDSON: The State moved to qualify this
6 witness as an expert in crime scene processing. The State
7 now moves to qualify this -- this witness as an expert in
8 crime scene processing and analysis.

9 THE COURT: All right. Ladies and gentlemen, the
10 Court is going to qualify this witness as an expert in crime
11 scene analysis and processing. And again, normally a person
12 cannot give opinion testimony. They've got to testify -- a
13 witness normally has to go and testify as to what they saw
14 or heard or observed.

15 However, there is an exception when someone is
16 qualified, because of experience or education, and they're
17 permitted to give their opinion in certain areas if the
18 Court qualifies them that way. And I've instructed to you
19 that I am qualifying this witness as a crime scene -- an
20 expert in crime scene processing and analysis.

21 And, of course, you can give his opinion whatever
22 weight that is that you would -- that you see fit. And, of
23 course, this is subject to the objection of Mr. Hazzard,
24 Mr. Voigt, and Mr. Edgeworth. All right?

25 MR. HAZZARD: Yes, sir.

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1 THE COURT: Okay. You can -- you can proceed,
2 Solicitor. Thank you.

3 BY MS. RICHARDSON:

4 Q. I'm not sure where -- I know we covered your
5 qualifications, but just to make -- you've had multiple
6 trainings in crime scene processing?

7 A. Yes, I have.

8 Q. Okay. And those extend back how many years?

9 A. To approximately to the year 2000.

10 Q. What position were you in with the police
11 department in March of 2017?

12 A. I was the -- I started with the City of Georgetown
13 Police Department in January of 2017 as a captain of support
14 services and that was the capacity I was in.

15 Q. You had moved over from the Sheriff's Office?

16 A. I did. I moved over from the Sheriff's Office.

17 Q. Okay. And so on March 10, 2017, did you
18 participate in a search at [REDACTED] Highmarket Street?

19 A. Yes.

20 Q. Okay. And tell me your role in that search.

21 A. When I got on the scene investigators were already
22 on the scene processing. I showed up just to help with some
23 presumptive testing of some areas inside the house.

24 Q. Okay. And what would you be presumptively testing
25 for? What is that?

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1 A. In this case I was using field tests to test for
2 the presence of blood.

3 Q. And tell me what type of field test do you use?

4 A. So we use -- in this case we used two different
5 types of field tests. One was leucomalachite and the other
6 was a phenolphthalein and those are both presumptive tests
7 for the presence of the hemoglobin in blood.

8 Q. And how does that work? What do you actually do
9 to test it?

10 A. So these are ampule tests. You take the ampule,
11 you crack the ampule and it mixes the chemical components
12 inside the field test, and then you apply that chemical to
13 -- in this case, we took sterile swabs, swabbed the areas
14 that we wanted to test, and then we dripped these
15 presumptive tests onto the sterile swabs to see if it would
16 react. A positive reaction results when you get a color
17 change to the swab indicating that the presence of the heme
18 in blood.

19 Q. Okay. And what is the first area that you
20 swabbed?

21 A. On this -- on this day there was an area by the
22 closet in the master bedroom where the padding, the carpet
23 had been removed. And there was a dark stain on the padding
24 and we swabbed the pad, right off -- right by the master
25 bedroom closet and tested that area for the presence of

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1 blood.

2 Q. Okay. And did you see another stain before that,
3 before you saw the carpeting removed?

4 A. I saw another stain before that, but I did not
5 test that. That was tested before I got there.

6 Q. Okay. And you have reviewed the photographs that
7 were taken in these two searches; is that right?

8 A. Yes.

9 Q. Okay. And let me -- I'm referring to State's
10 Exhibit Number 25, which labeled Photos Highmarket Street
11 from [REDACTED] 2017.

12 I'm going to refer you to Photo 479 on State's
13 Exhibit 25. Can you tell us about that?

14 A. Yeah, this photo shows the swabs that I had
15 mentioned a few minutes ago. The top swab is a positive
16 reaction using the leucomalachite presumptive test. And the
17 bottom swab is a positive reaction using the phenolphthalein
18 presumptive test.

19 Q. Okay. And I have a mouse here if you can point to
20 what area those swabs were from.

21 A. They were taken from this spot right here.

22 Q. Okay. And was there another area that you ended
23 up swabbing as well?

24 A. Give me just a second to refer to my notes.

25 Q. I was trying to wait for these photos to load.

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1 But this area by the closet did have a positive
2 reaction for blood? Is that what you're saying?

3 A. Correct.

4 Q. All right. When crime scene markers were placed,
5 that was Area 1?

6 A. Do you have a photograph of that?

7 Q. A bigger photo?

8 A. Yes, 1 -- that is 1.

9 Q. Okay. And did you notice anything or make -- or
10 did you notice anything about the carpet padding?

11 A. I made a note that the -- that the exposed padding
12 that you're looking at here did not contain any dirt or
13 debris or foreign matter that is associated with normal foot
14 traffic that we noticed throughout the room on top of the
15 other carpet. And that there were many loose fibers, carpet
16 fibers lying around the floor in the area where the carpet
17 had been cut away.

18 Q. Now, I'm just scrolling through 554, 556.

19 Okay. Now, I'm referring to Photo 558, tell us
20 about this.

21 A. This is another area in the same room where a
22 smaller section of carpet had been cut away in the same
23 fashion as the previous photograph we looked at near the
24 closet.

25 Q. Did you notice anything about the condition of the

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1 padding and carpet in this -- on this area?

2 A. The characteristics were the same as the closet.
3 It didn't have the dirt, debris, the foreign matter that we
4 were seeing throughout the room on top of the other carpeted
5 areas and there were loose fibers as well in this area also.

6 Q. So this is the second area? State's Exhibit 3 --
7 or Crime Scene Marker 3; is that correct?

8 A. Yes, ma'am. Identification Number 3 is a
9 photograph of the second area where the carpet had been cut
10 away in the master bedroom.

11 Q. All right. And these are just different angles,
12 578?

13 A. That's correct.

14 Q. All right. And could you tell us about this
15 photo, 588?

16 A. This photograph?

17 Q. Yes.

18 A. This was a photograph of that same area, the
19 second area where the carpet had been removed. The scale
20 has been added to identify the size of the cutting of the
21 carpet and, of course, the Number 3 is just there for
22 reference so that it's easy to identify in photographs.

23 Q. Okay. And this Photo 593?

24 A. This is the same area that we've been talking
25 about. The second area in the room with the padding

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1 removed. The padding had been cut away.

2 Q. Okay. And what did you notice about this stain or
3 this area where the padding had been cut away?

4 A. There appears to be a stain soaked into the
5 subfloor.

6 Q. Okay. And based on training and experience, what
7 did you opine that this stain could be?

8 A. It was consistent with a probable blood stain.

9 Q. So what did you do at that point?

10 A. We used the same types of field tests to test this
11 stain in the same manner that we did the other stain by the
12 bedroom closet.

13 Q. And what was the result?

14 A. The test from this area resulted in a positive
15 reaction for the presence of blood.

16 Q. And then Photo Number 598?

17 A. This is a photograph of the same area, with the
18 Number 4 has been added -- it was not added by me, but was
19 added to identify the stain into the subflooring.

20 Q. And so these are just other photos, different
21 angles?

22 A. Yes, ma'am.

23 Q. And when you swab these areas, what efforts do you
24 take not to contaminate them?

25 A. Sure. Each individual area, the steps that I take

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 to avoid cross-contamination, I change gloves, the swabs
2 that we use are sealed in packaging, they're sterile swabs,
3 we use sterile water, we don't touch -- we're sure not to
4 touch the ampules, the chemical peel tests to the swabs.
5 It's actually held above the swabs and dropped on to the
6 swabs so that there's no possibility of cross-contamination
7 in that manner.

8 Q. Now, on this day did you -- was it -- were
9 additional suspected blood stains found?

10 A. There were additional stains found in the room.

11 Q. And that was on the bedding and the mattress?

12 A. The mattresses and the sheets, yes.

13 Q. Now, did you do any presumptive tests on those?

14 A. No, those items were collected by other
15 investigators for later processing.

16 Q. And after you processed the stain on this date --
17 on this date it was still a missing person's case; is that
18 right?

19 A. Correct.

20 Q. Okay. And that was on March 10, 2017?

21 A. Yes.

22 Q. Okay. Can you tell me what occurred on March 11,
23 2017?

24 A. On March 11th, we, the City of Georgetown Police
25 Department received a call -- or I received a call from

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 Lieutenant Robbie Sarvis from the Georgetown County
2 Sheriff's Office and he told me they had found a -- or they
3 were responding to a body that had been found in the river.

4 Q. And, obviously, y'all had a press release out at
5 this time regarding ---

6 A. We did.

7 Q. -- Mr. Harrison being missing?

8 A. Correct.

9 Q. Okay. And did you go to that scene?

10 A. I did.

11 Q. And did you participate in the investigation
12 there?

13 A. No.

14 Q. And subsequently -- well, tell me, when you went
15 on the scene, what did you find as far as the body?

16 A. Well, when I got the call I was told that based on
17 the ethnicity, the gender, approximate age, the height, the
18 weight, this could be our missing individual from
19 Georgetown, which is the reason that I went out there.

20 When I got on scene, I was unable to make a
21 positive identification at that time due to the state of
22 decomposition. So, really, at that time that's all that --
23 that's all that I did.

24 And I made some -- the individual that had been
25 recovered was being processed. It was still being handled

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 by the Sheriff's Office, so they were doing the
2 photographing, making the notes, and those sorts of things.

3 I could tell that -- I mean, there were some
4 things about the individual that had been recovered that I
5 was -- obviously, I was able to identify as being
6 suspicious, if you would like me to go into that.

7 Q. Sure.

8 A. Yeah. He -- when he had been removed from the
9 river, his hands and his legs were bound with what appeared
10 to be speaker wire. So, obviously, we knew that this was --
11 or I felt that this was going to be a homicide at that time.
12 Didn't know if it was our guy yet, but knew that it was not
13 -- very suspicious nature at this time.

14 Q. And, subsequently, the body was identified as
15 Mr. Harrison?

16 A. Correct. He was identified -- later identified --
17 positively identified.

18 Q. And at that point, was a second search done of
19 [REDACTED] Highmarket Street?

20 A. It was.

21 Q. And you participated in that search?

22 A. I did. My task was the same as the first search.
23 I went in with some chemicals to enhance certain areas
24 inside the house for additional blood evidence.

25 Q. Okay. And you have reviewed the photographs from

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 that search?

2 A. Yes.

3 Q. Okay. And now I'm referring to State's Exhibit
4 Number 39, which is a purple flash drive.

5 Did you process vehicles that were there as well?

6 A. I did.

7 Q. And did you do some presumptive testing on the
8 vehicles?

9 A. Yes.

10 Q. Did you have any results with that?

11 A. There was -- standby just one second. The vehicle
12 was tested using field tests for the presence of blood and
13 it was -- the result was negative for blood.

14 Q. I'm going to go through -- and you can use your
15 mouse, it might be easier for you to explain.

16 So back inside the house, I'm referring to
17 Photograph 828. Can you tell me about this?

18 A. This area right here was tested with a field test,
19 a field test called LCV, which is Leucocrystal violet. It's
20 another field test for the presence of blood. It's used in
21 a spray bottle, a mist bottle, and you can apply it to
22 walls, floors, clothing, fabric, things of that nature.

23 And, when it results in a positive reaction, the
24 stain turns violet blue, kind of purple in color. And what
25 you're seeing here in this photograph is a positive reaction

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 using that field test in that area on the wall.

2 That's beside a window in the master bedroom. The
3 master bed is -- or the bed in the bedroom is right here.
4 And the area on the floor that was cut away, the smaller
5 second sample that we took prior is right down here in this
6 area.

7 Q. And that's just a closeup?

8 A. That's a closer photograph with the scale.

9 Q. 829. Okay.

10 This is Photo 835. Can you explain what's going
11 on here?

12 A. That's -- what I'm looking at is a blood stain or
13 probable blood stain that is on the door jamb of the closet
14 facing me in this area right here. And the large section of
15 carpet that we've already talked about is on the floor at my
16 feet down here, you can't see it in the photograph, but
17 that's where carpet had been cut away in that first foreign
18 stain that reacted positive for the presence of blood.

19 Q. Some blurry photos here, but 839?

20 A. This is -- this is the probable blood stain that I
21 was looking at in the other photograph, this small area
22 right here.

23 Q. And based on your training and experience, can you
24 tell us what type of blood stain that is?

25 A. That was consistent with a cast-off blood stain.

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 Q. Okay. And just very generally and basically tell
2 us what a cast-off stain is.

3 A. Yeah. A cast-off stain is a blood stain that
4 results from force, some sort of force being applied to a
5 blood source or an object that contains blood. When force
6 is applied to an object that has blood on it, the force
7 causes blood drops and those -- when those blood drops fly
8 off of that surface, it can land on another surface, that's
9 called a cast-off stain.

10 Q. And what type of stain on this -- now we're at
11 842, we're looking at the first area by the window. What
12 type of stain was that?

13 A. This is -- this would be consistent with the -- a
14 transfer stain.

15 Q. Okay. And this -- what's a transfer stain?

16 A. So a transfer stain would result from an object
17 that has blood on it, being rubbed or swiped against another
18 surface. For instance, if -- a rag -- I mean, any type of
19 transfer, but in this case, this resulted -- this positive
20 result was an indication that it might have been blood.

21 So if any object that has blood on it that comes
22 in contact with this wall or this surface and leaves that
23 blood on that surface, that's a transfer stain.

24 Q. Okay. And 847, is that another photo of the
25 closet door stain?

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 A. It is.

2 Q. And more, 857, 858, and 859.

3 What are you doing here as far as Photo 859?

4 A. Just adding scale so that if we ever need to
5 enlarge this photograph to a one-to-one ratio we could do
6 that.

7 Q. Okay. You also identify which item it is?

8 A. Also -- yeah. The writing on it should indicate
9 the item number, case number.

10 Q. Okay. Did you perform testing on that stain?

11 A. Yes. That's another area of wall surface inside,
12 right inside the master bedroom and it was sprayed in the
13 same fashion as the other stain with the LCV.

14 Q. Okay. Going back to the one at the door jamb, was
15 it processed with LCV?

16 A. No.

17 Q. And why did you not process that with LCV?

18 A. Because I felt comfortable that -- I felt
19 comfortable enough identifying that as a possible cast-off
20 blood stain, that I didn't need to -- I didn't need to
21 process it using any type of field test.

22 Q. Okay. And then there was another area found?

23 A. That area right there is -- actually, that's just
24 inside the master bedroom. Matter of fact, if you were to
25 open up the bedroom door it would cover this area. We

WILLIAM PIERCE - DIRECT BY MS. RICHARDSON

1 processed that area using the LCV as well.

2 Q. Okay. And what was the result of that area?

3 A. It responded positively. It was a very faint
4 reaction.

5 Q. And these are some more photos of that area?

6 A. That's correct.

7 Q. And these are just overviews of the master
8 bedroom?

9 A. Yes.

10 Q. And did you -- so that was three areas processed
11 in the master bedroom. Did you process another area?

12 A. We processed the floor in the kitchen which is
13 right outside the -- right, so this area here is the master
14 bedroom, the entry to the master bedroom. This floor in the
15 kitchen area was processed using the same spray, the LCV,
16 and it resulted in a negative reaction, there was no
17 indication that there was blood in that area. And then
18 there was a -- this door.

19 Q. Is this Photo 915?

20 A. Yes.

21 Q. Okay.

22 A. Yeah, that door leading into the laundry room from
23 the kitchen, there was a stain in this area that was
24 processed and had a positive reaction.

25 Q. And are those all the areas that you processed in

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 the house?

2 A. Yes.

3 Q. Okay. And what is the purpose of doing that field
4 test or that LCV and presumptive tests?

5 A. Just to identify possible blood evidence in a
6 crime scene.

7 Q. Is that so you can decide what needs further
8 analysis or examination?

9 A. That's correct.

10 Q. I have no further questions. Answer any questions
11 that the other attorneys may have for you.

12 THE COURT: Mr. Hazzard? Yes, sir, there you are.

13 MR. HAZZARD: Thank you, Your Honor. May it
14 please the Court?

15 THE COURT: Absolutely.

16 CROSS-EXAMINATION

17 BY MR. HAZZARD:

18 Q. I wasn't listening closely enough when you first
19 took the stand and I apologize. Is it Captain Pierce? Is
20 that your official title?

21 A. Yes -- I'm the Interim Chief, currently, sir.

22 Q. Chief Pierce, congratulations, sir.

23 A. Thank you, sir.

24 Q. Now, so, the Prosecutor asked you about searching
25 -- executing the search warrant and searching all of the

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 cars; is that correct?

2 A. I don't recall the exact term, I was asked about
3 searching -- helping cars, searching cars.

4 Q. And as a part of this investigation, every car
5 that was -- that had anything to do with Alexander Rhue Sr.
6 and every car that was determined to have anything to do
7 with Ms. Rhue, were searched, correct?

8 A. I do not know that, sir.

9 Q. Okay. How many cars did you assist in the search
10 of?

11 A. I assisted in the search of a stain that was
12 located in the cargo area of the Mercury Mariner that was
13 found outside the house the day that I was there doing this
14 chemical enhancement.

15 Q. Okay. And that report -- that stain came back
16 negative for blood or anything like that?

17 A. That's correct. That stain was negative.

18 Q. And they -- you had license plate readers at that
19 time, correct?

20 A. No, sir.

21 Q. You don't believe you had license plate readers at
22 that time?

23 A. The City of Georgetown? We -- we -- there were
24 license plate readers available. We don't have -- we didn't
25 have any license plate readers in the City of Georgetown.

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 Q. So what the county has license plate readers?

2 A. The state -- the state has license plate readers.
3 The county has license plate readers. I don't know if they
4 had them in 2017, but license plate readers were available.
5 The City of Georgetown did not own or operate any license
6 plate readers at that time.

7 Q. So as part of this investigation, when the
8 investigative report says that license plate readers were
9 used, that would indicate there were license plate readers,
10 correct?

11 A. The state -- in the state and/or in the county
12 there are license plate readers. There were license plate
13 readers -- there have been license plate readers available
14 for years.

15 So what I'm assuming is that those license plate
16 readers, we reached out -- or investigators would have
17 reached out to whatever entity controls those license plate
18 readers to access that information.

19 Q. Okay. As being involved in this investigation,
20 are you privy to the 73-page investigative report?

21 A. I am privy to it.

22 Q. Okay. And you are familiar with it?

23 A. No, sir. Not entirely.

24 Q. Okay. Would it help refresh your recollection as
25 to aspects of this investigation?

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 A. Sure. Some aspects of it.

2 MR. HAZZARD: All right. Court's indulgence, Your
3 Honor.

4 BY MR. HAZZARD:

5 Q. I'm going to hand you what's been provided to me
6 by the Prosecution, a 73-page report. At the top it says
7 Case Report Number 17003242-051. And I'll direct your
8 attention -- you may look at all of those reports, but I'll
9 direct your attention for expediency to the highlighted
10 portions.

11 A. Yes, sir.

12 MS. RICHARDSON: What page are we referring to?

13 MR. HAZZARD: 51.

14 THE WITNESS: Yes, sir.

15 BY MR. HAZZARD:

16 Q. Okay. So after reviewing that and seeing the
17 activity that was done as part of this investigation, am I
18 correct in assuming that license plate readers were used?

19 A. I would say license plate readers were checked,
20 yes, sir.

21 Q. Okay. Now, if you would, help me out, exactly
22 what is a license plate reader and what's the purpose for
23 it?

24 A. Well, I can give you a general overview of my
25 understanding of license plate readers. I don't have a lot

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 of specific knowledge about them. But they are placed
2 throughout the state, some are fixed, some are mobile. And
3 what they do is when cars pass by they capture an image of
4 the tag and you can access that data.

5 Some license plate readers -- for instance, if we
6 have a missing person or we have a stolen car, we'll enter
7 it into the National Crime Database and if -- some license
8 plate readers, if they capture that tag, they will
9 immediately notify a law enforcement agency that that tag
10 just passed a particular LPR.

11 I know that the Sheriff's Office has license plate
12 readers now, within the past couple of years, that will
13 capture tags as they're coming and going inside, in and
14 around the county, and they do report to the 911 Center.

15 So there's been a number of times here recently
16 where the LPR will capture a stolen car, coming into or out
17 of the city, they'll notify the 911 Center, and it'll alert
18 law enforcement to be on the lookout for it.

19 As an investigative tool, you can -- if you've got
20 a suspect vehicle that you're looking for -- you can contact
21 the SLED Fusion Center and they can run this information,
22 the tag information, through the database to see where this
23 tag, if it has passed any of the known license plate reader
24 location readers around the state. And I'm sure other
25 states have similar LPRs as well, but I don't know that to

WILLIAM PIERCE - CROSS BY MR. HAZZARD

1 be certain.

2 Q. Thank you, sir. And when you say around the
3 state, you also mean, as part of the state, around
4 Georgetown County, correct?

5 A. In Georgetown County.

6 Q. Okay.

7 A. And within the -- and I want to be clear, I said
8 the City of Georgetown doesn't own or operate. Within the
9 -- within the past month we have had some LPRs put up in
10 four or five places around the city. We don't own 'em. We
11 don't operate 'em. Those are on a trial basis right now,
12 but those are brand new to the city. That's been within the
13 past month or so.

14 Q. Okay. But no question that in 2017, there were
15 license plate readers that were available and in use here in
16 Georgetown County?

17 A. That's correct.

18 Q. Okay. Now, the Prosecutor showed you some stains.
19 Based on your 30 years of training and experience and
20 knowledge, any indication when the stains that were referred
21 to were left on the surfaces that you reported?

22 A. No, sir.

23 Q. Okay. I believe the Prosecutor asked, you
24 searched the house three times; is that correct? That there
25 were three search warrants executed. She asked you that?

WILLIAM PIERCE - CROSS BY MR. VOIGT

1 A. I don't recall her asking me if there were three
2 search warrants executed.

3 Q. Okay. All right. I have no further questions.

4 THE COURT: Mr. Voigt?

5 MR. VOIGT: Just a few, Judge.

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. VOIGT:

9 Q. Now, you had previously -- you had previously
10 testified about cast-off stains. Can a cast-off stain come,
11 for example, if I were to, I don't know, cut my hand, my
12 cuticle or something and I had blood on my hand, could I
13 swing my hand while walking and cast-off a droplet of blood?

14 A. Absolutely.

15 Q. Okay. And you talked about doing some negative
16 tests in a vehicle. I believe you said it was a Mercury
17 Mariner?

18 A. Yes, sir.

19 Q. All right. When you all conduct a search warrant,
20 you're looking for more than just stains, right?

21 A. That's correct.

22 Q. And you have experience searching vehicles before,
23 don't you, in other cases?

24 A. I do.

25 Q. It's frankly something law enforcement does on a

WILLIAM PIERCE - CROSS BY MR. VOIGT

1 regular basis for a number of different reasons; is that
2 right?

3 A. Yes.

4 Q. And there's no time limit on how long you have to
5 search the car, is there? Other than say reasonableness?

6 A. Based on the execution of a search warrant?

7 Q. Yeah.

8 A. No, sir.

9 Q. So if it -- if you wanted to take an hour to
10 search it, you could take an hour to search it?

11 A. You could.

12 Q. You could take longer if you felt like it was
13 necessary?

14 A. Correct.

15 Q. And you could take it back to a facility in the
16 Georgetown Police Department and you could take the seats
17 out; is that true?

18 A. That's true.

19 Q. And you could go under carpet and rip out panels
20 and doors; is that true?

21 A. Correct. In some cases.

22 Q. If it warrants it --

23 A. If it warrants it.

24 Q. -- you can take it down to metal if -- based on
25 the particularities of the case; is that true?

WILLIAM PIERCE - CROSS BY MR. VOIGT

1 A. That's correct.

2 Q. Now, you didn't do anything nearly that detailed
3 in this particular case, did you?

4 A. With the Mercury Mariner?

5 Q. That's right.

6 A. The only thing that I did was a field for a small
7 stain.

8 Q. So your role in this particular was -- your
9 were -- your attention was drawn to a stain and your job was
10 to see if it was blood or not?

11 A. That's correct.

12 Q. And it clearly was not.

13 A. It did not.

14 Q. All right. To the best of your knowledge, and you
15 may not know, was anything further done with the Mercury
16 Mariner?

17 A. I do not know.

18 Q. Okay. Now, so that I'm clear, you did testify
19 that when it came to the two areas of carpet padding, you
20 testified that there was no dirt or debris there.

21 A. Correct.

22 Q. When you got to the scene, were those areas
23 exposed? In other words, were they clearly visible?

24 A. When I got to the scene the first time, the area
25 near the closet, the large -- the larger cutting was not

WILLIAM PIERCE - CROSS BY MR. VOIGT

1 exposed, it was covered. When I got to the scene the second
2 time, the area -- what -- and let me back up. Neither area
3 was exposed.

4 When I got to the scene the second time,
5 subsequent to the first stain being found in the closet when
6 we came back the second time, the second area was exposed.

7 Q. Okay. So that I'm clear. The very first time you
8 saw those areas in the bedroom, they had been covered by
9 something?

10 A. Correct.

11 Q. And then the next time -- and you're not -- it's
12 not like you're the only one there. We're talking about
13 having multiple officers in this place, right?

14 A. That's right.

15 Q. As many as perhaps could fit in the room, because
16 it's not the largest house in the world, right?

17 A. Right. There -- correct.

18 Q. Okay. So the second time you come back, some
19 objects had been moved. Is that safe to say?

20 A. That's right.

21 Q. Okay. Were the objects that were moved tested in
22 any way?

23 A. Not by me.

24 Q. And do you know -- let's -- I'm not going to ask
25 you what somebody else did.

WILLIAM PIERCE - CROSS BY MR. EDGEWORTH

1 Thank you. I have no further questions.

2 THE COURT: Mr. Edgeworth?

3 MR. EDGEWORTH: Yes, Your Honor. May it please
4 the Court, briefly?

5 CROSS-EXAMINATION

6 BY MR. EDGEWORTH:

7 Q. Chief Pierce, in your testimony, you're in -- or
8 in your recollection, you were in what appeared to be the
9 bedroom in the house, the main bedroom in the house?

10 A. That's what I -- that's the way I refer to it.

11 Q. Okay. And so there was a bed?

12 A. Correct.

13 Q. Okay. There appeared in one of those photos there
14 was a closet with a bunch of clothing in it?

15 A. Correct.

16 Q. There was some tables or whatnot in there and some
17 other -- a lot of things on the floor and things like that,
18 correct?

19 A. Yes, that's correct.

20 Q. It was -- when you were in there, we saw you in
21 one of the photos and you're standing up towards the wall,
22 someone's taking the photo of you at -- at the doorway?

23 A. That's right.

24 Q. How big of a room could you estimate that it was?

25 A. If I had to estimate the size of the room based on

WILLIAM PIERCE - REDIRECT BY MS. RICHARDSON

1 my recollection I would say it might have been 10 or 11 foot
2 wide by maybe 12 or 14 foot long.

3 Q. So it -- not very big of a room?

4 A. Not a large room.

5 Q. It was crowded?

6 A. There was a lot of -- there were a lot of objects
7 in the room.

8 Q. On the floor, against the wall?

9 A. It was -- it was -- I would describe it as
10 cluttered. There were -- there were things strewn about the
11 floor, there was furniture in the room. I remember a
12 dresser, a nightstand, a bed, some clothes baskets, a shoe
13 rack, just some various other objects.

14 Q. It was crammed to the point that not very many of
15 you could be in there at one time to do your job?

16 A. Correct. It was -- it was tight.

17 Q. You and the photographer?

18 A. That's right.

19 Q. No further questions.

20 THE COURT: All right. Solicitor, do you have any
21 redirect?

22 MS. RICHARDSON: Yes, Your Honor.

23 THE COURT: All right.

24 REDIRECT EXAMINATION

25 BY MS. RICHARDSON:

WILLIAM PIERCE - REDIRECT BY MS. RICHARDSON

1 Q. Going back to the license plate readers. Do you
2 know how many were in the city limits of Georgetown in 2017?

3 A. No, I don't. I know -- I can tell you that when
4 I -- when I left the Sheriff's Office at the end of 2016,
5 they had -- the Sheriff's Office owned and operated one
6 license plate reader. It was a mobile license plate reader
7 that you could -- it was a speed trailer that had a license
8 plate reader attached to it and you could position it
9 wherever you wanted.

10 But it had had some technical problems and was in
11 and out of operating. I don't even know if it was working
12 when I left. That's the only license plate reader that I
13 knew about at the time, but there were others around the
14 state.

15 Q. Okay. But in 2017, around the time of this crime,
16 were there any operational license plate readers in the City
17 of Georgetown?

18 A. No. Not in the City of Georgetown.

19 Q. Okay. And when there are license plate readers,
20 and like you said you have some now, they are just sort of
21 sporadic?

22 A. Yes.

23 Q. I mean, it's not every block in the City of
24 Georgetown?

25 A. No. No. They try to strategically place them.

WILLIAM PIERCE - REDIRECT BY MS. RICHARDSON

1 The Sheriff's Office has a number of fixed license plate
2 readers now, that I'm aware of. I don't know where they are
3 located, but I know that they have them. And, like I said,
4 within the last month we have -- we have signed on to test a
5 few around the city.

6 Q. Okay. And in 2017 around February or March, are
7 you aware of where the license plate readers were located in
8 the County of Georgetown?

9 A. No. I don't -- I don't even know if they had any
10 working at that time.

11 Q. And when someone checks the license plate readers,
12 is there a database where they're connected? Explain that.

13 A. Yeah. I know when we want to check statewide, the
14 license plate readers, we call the State Law Enforcement
15 Division and they access that information for us. Here now,
16 since the Sheriff's Office has gotten some license plate
17 readers locally, we can reach out to them and they can check
18 their local license plate readers for us. But other than
19 that, that's the extent of what I know about checking the
20 databases.

21 MS. RICHARDSON: Your Honor, may I approach -- or
22 may we approach?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, the following discussion held at the
25 bench.)

WILLIAM PIERCE - REDIRECT BY MS. RICHARDSON

1 MS. RICHARDSON: I don't want to run afoul of the
2 Court's ruling.

3 THE COURT: Uh-huh.

4 MS. RICHARDSON: But based on Mr. Voigt's
5 questioning regarding slinging the arm, I feel that the
6 door's been opened so that Officer Pierce can give testimony
7 regarding the size of this spatter.

8 MR. VOIGT: Mine was a hypothetical. I don't
9 think I opened the door.

10 THE COURT: Well, his hypothetical was, if there
11 was blood on my cuticle and I did like this and it flew off,
12 would that be a cast-off. And the answer was, Yes. That was
13 the hypothetical that he asked.

14 MS. RICHARDSON: And I feel that's misleading to
15 the jury, because he just gave -- you know, when we were in
16 camera, it gives the impression --

17 THE COURT: What he opened the door to are other
18 hypotheticals from which the cast-off could come. That's
19 the door that got opened. As far as the size.

20 MS. RICHARDSON: The size.

21 THE COURT: No, he didn't open any doors to size,
22 because he didn't address size. He didn't say if it was a
23 spot or a quarter size or a dime size. But what he did say
24 that it came from a cuticle and it flung. So as it relates
25 to what you're saying, no. So as it relates to what you're

WILLIAM PIERCE - REDIRECT BY MS. RICHARDSON

1 saying, no, ma'am. He didn't open the door to that.

2 MS. RICHARDSON: Okay. Well, just the way that it
3 was asked it gives the impression that that stain could have
4 been caused by him slinging his hand, when, in our in-camera
5 hearings he opined that it was too small for that.

6 THE COURT: I've got to disagree with you.

7 MS. RICHARDSON: Okay.

8 THE COURT: I've got to disagree with that.

9 MS. RICHARDSON: That's why I wanted to come up
10 and ask.

11 THE COURT: Okay.

12 MS. RICHARDSON: But I do feel that the door is
13 open as far as asking for other things.

14 THE COURT: I think when he says it came from
15 blood from a flinging cuticle and asked that hypothetical,
16 then it leaves the door open for other hypotheticals as to
17 where that could come from, but not the size.

18 MS. RICHARDSON: Okay.

19 THE COURT: Do y'all have -- I mean, I'll let you
20 say anything you want on the record as it relates to a
21 ruling there, or if I'm wrong, or if there's an issue.

22 MR. VOIGT: No, I don't my question was specific
23 tailored because of the mention that the Court made in its
24 ruling, and I specifically tried to stay away from the facts
25 of the case, so as not to implicate --

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1 THE COURT: Hold on. Let him finish.

2 MR. VOIGT: And there was no follow up, because I
3 did not want enter his opinion as to what may have caused
4 this one, but merely how they -- what basically what can be
5 cast-off.

6 Now, I think it is fair that there are other ways
7 that are less innocent than an arm sling, but I don't think
8 he can opine as to what this stain have been.

9 THE COURT: Oh, he absolutely cannot opine as to
10 what this stain is from. You are 100 percent right. And I
11 didn't mean to lead there, but as it relates to a more
12 sinister type of way that blood can -- that can tran -- damn
13 it cross -- I'm sorry. And I apologize for using
14 profanity -- cast, that I think is a fair question, but not
15 as it relates to this stain, you understand that?

16 MS. RICHARDSON: No, I was just going to say
17 generally.

18 THE COURT: Or hypothetically. I think he placed
19 it as a hypothetical. And I'm sorry, I didn't mean to cut
20 you off, Mr. Edgeworth.

21 MR. EDGEWORTH: I think the point was made, Your
22 Honor. I was just simply saying as far as it comes
23 gyrations with his hands showing that it was a sling or
24 something.

25 THE COURT: Right.

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1 MR. EDGEWORTH: I was just making a point that all
2 his question was reiterating the same that was already made.
3 Not that it leads to going down the road of assuming
4 additional hypotheticals.

5 THE COURT: You know, you need to be very careful
6 as to how you might proceed if you want to proceed.

7 MS. RICHARDSON: Thank you, Judge.

8 MR. VOIGT: Thank you, Judge.

9 THE COURT: Yes, sir.

10 (WHEREUPON, the bench conference ended.)

11 THE COURT: All right. You can proceed,
12 Solicitor. Or any further questions?

13 FURTHER REDIRECT EXAMINATION

14 BY MS. RICHARDSON:

15 Q. Hypothetically and generally, when you talked --
16 Mr. Voigt asked you about the cast-off stain could be from a
17 flinging your hand; is that right?

18 A. Yes.

19 Q. But it could be from any object; is that correct?
20 Without going into specifics.

21 A. It could be from any object that has blood on it.

22 Q. Or from impact with any object that has blood on
23 it?

24 A. The cast-off would result from force being applied
25 to any object that has blood on it and causing droplets to

WILLIAM PIERCE - RECROSS BY MR. HAZZARD

1 fling off of that object.

2 Q. Just fling off? Okay. I have no further
3 questions.

4 MS. RICHARDSON: I'd ask that he be excused from
5 his subpoena, Your Honor.

6 THE COURT: All right. Any redirect?

7 MR. HAZZARD: Yeah, just one question.

8 THE COURT: Yes, sir.

9 RECROSS-EXAMINATION

10 BY MR. HAZZARD:

11 Q. I don't want there to be any confusion, and I'm
12 sorry if I'm belaboring this point, but based on the
13 investigative report, there is no question that license
14 plate readers were used in this investigation; is that
15 correct?

16 A. Based off of the sentence or two that I read in
17 that report, I would say that's definitely -- license plate
18 readers were definitely used.

19 Q. Thank you.

20 THE COURT: Mr. Voigt, do you have any?

21 MR. VOIGT: No further questions, Your Honor.

22 MR. EDGEWORTH: No further questions, Your Honor.

23 THE COURT: Sir, thank you so much, you are
24 excused from your subpoena.

25 THE WITNESS: Thank you, sir.

ANGELA GARDNER - DIRECT BY MS. SMITH

1 THE COURT: All right. Solicitor, you can call
2 your next witness.

3 MS. SMITH: Your Honor, the State calls Angela
4 Gardner. Can I have one second to get the courtroom set up?

5 THE COURT: Sure.

6 ANGELA GARDNER, having been duly sworn,
7 testified as follows:

8 THE COURT: Good morning.

9 THE WITNESS: Good morning. My name is Angela
10 Gardner.

11 THE COURT: All right. Ms. Gardner, you're going
12 to need to get literally within inches of that microphone.

13 THE WITNESS: Okay. For the record, my name is
14 Angela Gardner.

15 DIRECT EXAMINATION

16 BY MS. SMITH:

17 Q. Hey, Ms. Gardner.

18 A. Hello.

19 Q. Where are you from?

20 A. Nashville, Tennessee.

21 Q. How long have you lived there?

22 A. Fifty-one years.

23 Q. And what do you do for a living?

24 A. I'm a criminal intelligence analyst.

25 Q. Where do you work?

ANGELA GARDNER - DIRECT BY MS. SMITH

1 A. Regional Organized Crime Information Center.

2 Q. Is that ROCIC for short?

3 A. Yes. We call it ROCIC.

4 Q. And what is ROCIC?

5 A. We're a federally funded law enforcement support.

6 Q. So what does that mean? What does ROCIC do?

7 A. So we provide all kinds of services for law
8 enforcement. We have an intelligence unit that helps the
9 officers gather information on suspects. We have a training
10 department that puts on conferences and lots of training for
11 law enforcement. We have a publications department that
12 puts out a bulletin every month with articles that the
13 officers send in. And also we put out publications that are
14 important topics to law enforcement.

15 We have equipment that we can loan out to agencies
16 if they don't have certain equipment themselves,
17 surveillance equipment. And then, of course, the analytical
18 department that I work in, we analyze a wide variety of data
19 and we organize it and then we make charts to help with
20 criminal investigations and in courtroom presentations.

21 Q. How long you been working there?

22 A. 28 years.

23 Q. And can you tell me exactly what a criminal
24 intelligence analyst is? What are your duties?

25 A. My duties are to -- we get a wide variety of data

ANGELA GARDNER - DIRECT BY MS. SMITH

1 from our officers and I am -- I organize it and analyze it
2 and I make reports. And I also -- I'm simplifying that
3 information and I make charts to help present that
4 information and make it easier to understand and I -- for,
5 like, in -- during the investigation and for court.

6 Q. So does this -- do these records and data that you
7 analyze and create charts out of, do these include phone
8 records?

9 A. Yes.

10 Q. And cell tower location data?

11 A. Yes.

12 Q. How long have you been working with phone records?

13 A. 23 years.

14 Q. Do you have any other education? Where'd you go
15 to school?

16 A. I went to Western Kentucky University.

17 Q. And did you graduate from there?

18 A. Yes. I got a degree in a bachelor's of science
19 and a minor in business.

20 Q. Do you have any training as a criminal
21 intelligence analyst?

22 A. Yes. I have extensive training in my -- training
23 in -- I went to Anacapa, which is no longer, but we -- that
24 was my initial analytical training. I do training every
25 year. My training on cell tower mapping is with PenLink.

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1 I've worked for the FBI CAST team, their Cellular
2 Analysis Team. I've worked with the ESRI, who puts out a
3 product called ArcView. I've worked with the Northeast
4 Counterdrug Training Center and the National White Collar
5 Crime Center. And then the current program that we use is
6 GeoTime and I've done a lot of training with them.

7 Q. Okay. And so, what is GeoTime?

8 A. GeoTime is just a mapping program that helps us
9 visualize the cell tower records that we're analyzing.

10 Q. And how are those cell tower locations provided?

11 A. The phone company sends us the cell phone records
12 for the individual that they have requested and they provide
13 us the cell towers that that phone was using and the
14 locations.

15 Q. As a criminal intelligence analyst, even without
16 using GeoTime, can you verify the information from the --
17 can you verify information through GeoTime and the cell
18 phone company records?

19 A. Yes.

20 Q. Okay. Is GeoTime an industry accepted program?

21 A. Yes.

22 Q. Okay. And does GeoTime assist in sorting
23 voluminous records such as cell records?

24 A. Yes.

25 Q. Okay. How long have you been using GeoTime?

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1 A. At least 16 years.

2 Q. Do you know --

3 A. Oh, GeoTime, I've been using for four --
4 five years, I'm sorry. GeoTime I've been using for
5 five years. I've been analyzing phone records for 16 years.

6 Q. Do you know if GeoTime has been used in other
7 courts throughout the country?

8 A. Yes.

9 Q. And how long have you been analyzing cell site
10 location data?

11 A. At least 16 years.

12 MS. SMITH: Your Honor, at this time the State
13 moves to qualify Ms. Angela Gardner as an expert in GeoTime
14 and cell record analysis.

15 THE COURT: Mr. Hazzard, any objection to the
16 witness being qualified as an expert in GeoTime and cell
17 record analysis?

18 MR. HAZZARD: Yes, sir, because I believe we have
19 a Council Jones matter.

20 THE COURT: All right. I'm going to ask the jury
21 to step out and we'll get you back in here as soon as we
22 can.

23 (WHEREUPON, the jury exited the courtroom at 11:19
24 a.m.)

25 THE COURT: Yes, sir, Mr. Hazzard.

1 MR. HAZZARD: Yes, sir, Your Honor. Pursuant to
2 State v. Council, my understanding of it is, when they're
3 talking about using scientific and survey evidence, the case
4 says, In considering the admissibility of scientific
5 evidence. The Court looks at several factors to determine
6 reliability, including: Publication and peer review of the
7 technique, prior application of the method to the type of
8 evidence involved in the case, three -- which is more on
9 point to me -- The quality control procedures used to ensure
10 reliability, such as error rate, things of that nature, and
11 consistency of the method with recognized laws and procedure
12 to be in compliance with rule 702 of the South Carolina
13 Rules of Evidence.

14 I have not heard anything in what has been
15 presented so far that addresses, at the very least, the
16 issue of quality control procedures used to ensure
17 reliability, or any information that would give the Court
18 that it has an indicia of reliability so that the Court can
19 fulfill its gatekeeper function under Council and Jones.

20 So I would object on those points, Your Honor.

21 THE COURT: Sir.

22 MR. VOIGT: I would concur, Your Honor.

23 MR. EDGEWORTH: I would join that objection, Your
24 Honor.

25 THE COURT: All right. Solicitor, I think -- I

1 think we need some additional testimony or information as it
2 relates to the very matters that Mr. Hazzard brought up.

3 MS. SMITH: And, Your Honor, I apologize. Can I
4 get clarification? Mr. Hazzard are you -- which point were
5 you saying?

6 MR. HAZZARD: All four of them.

7 MS. SMITH: Okay. Your Honor --

8 THE COURT: And let me get those. And I'm sorry.
9 I was writing, of course, I can now not read my handwriting
10 within a matter of seconds. And so, what were those four
11 issues in State v. Council, Mr. Hazzard?

12 MR. HAZZARD: Just point the Court to Footnote 23,
13 In considering the admissibility of scientific evidence, the
14 Court looks at several factors to determine reliability,
15 including: Publications and peer review of the technique --
16 and we have heard nothing regarding peer review of this
17 GeoTime technique.

18 Prior application of the method to the type of
19 evidence involved in the case. I believe that has been
20 addressed.

21 Quality control procedures used to ensure
22 reliability. I do not believe that has been addressed.
23 And, parenthetically I would add, addressing the issue of
24 error rate, because as the Court knows, no application is
25 perfect. So one of the things they look at is: What are

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1 the quality control procedures that they're used to ensure
2 reliability and how good are those quality control
3 procedures, i.e. what is the error rate for the procedure?

4 And then four, The consistency of the method they
5 used with recognized scientific laws and procedures.

6 THE COURT: All right.

7 MS. SMITH: May it please the Court?

8 THE COURT: Yes, go ahead.

9 COUNCIL-JONES HEARING DIRECT EXAMINATION

10 BY MS. SMITH:

11 Q. Ms. Gardner, has GeoTime been used across the
12 country in other courtrooms?

13 A. Yes.

14 Q. Okay. And where do you -- what records do you put
15 in GeoTime?

16 A. There are records that the cell phone companies
17 sends.

18 Q. And specifically in this case, did you use cell
19 phone records?

20 A. Yes.

21 Q. Okay. And looking at the cell phone records, and
22 then looking after they are in GeoTime, are you able to
23 verify that the information from the cell phone company and
24 what is in GeoTime is accurate with each other?

25 A. Yes.

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1 Q. What other ways --

2 A. It's the same.

3 THE COURT: Hold on, let her finish.

4 BY MS. SMITH:

5 Q. I apologize.

6 A. It's the same.

7 Q. Okay. What other ways are you able to verify the
8 accuracy of the program GeoTime?

9 A. Well, I mean, I proof everything that goes into
10 the system to make sure that it's the same as my records and
11 -- go ahead.

12 Q. Specifically, with the mapping data, are there
13 ways to check the data that you have on your maps?

14 A. In regards to?

15 Q. Location.

16 A. Yes. So, I have literally done maps in the same
17 map in GeoTime. And I previously spoke of ESRI, having
18 trained with them, I've used their program ArcView, and put
19 those same locations into Google and they were all in the
20 same location. These are industry-standard, you know,
21 programs, widely used.

22 Q. Okay. And --

23 A. You're plotting a lat/long on a map.

24 THE COURT: You're -- I'm sorry. You're finding
25 what?

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1 THE WITNESS: You're plotting a latitude and
2 longitude for the location of the tower that is provided by
3 the cell phone company.

4 BY MS. SMITH:

5 Q. And I believe that you just said it, but where is
6 that information coming -- where is the latitude and
7 longitude coming from?

8 A. It is given to us by the cell phone company.

9 Q. And can you take that latitude and longitude and
10 check it and see if the information on GeoTime is correct?

11 A. Yes.

12 Q. Okay. Now, this function, what types of maps,
13 what types of data and exhibits are you creating?

14 A. I'm just -- I'm putting cell tower locations on a
15 map and visually showing the phone record information and
16 the tower locations.

17 Q. And when you say, "phone record location," are you
18 speaking of ---

19 A. Tower location.

20 Q. Are you also speaking of, maybe, call records?

21 A. Yes.

22 Q. Okay. So -- and when you -- what does it create?
23 Are you able to create a visual?

24 A. Yes. I create a map.

25 Q. And is it a summary of the records?

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1 A. Yes.

2 Q. Is it an easy readable -- in an easy readable
3 format?

4 A. Yes.

5 Q. Do you believe that it would assist the jury in
6 understanding voluminous records such as -- such as cell
7 phone records?

8 A. Yes.

9 MS. SMITH: Okay. Your Honor, may I also approach
10 with State v. Franks? This is an August 12, 2020 case of
11 the South Carolina Court of -- yes, the South Carolina Court
12 of Appeals.

13 THE COURT: Sure.

14 MS. SMITH: This case addresses actually GeoTime,
15 the -- a law enforcement officer in Greenville County -- in
16 this matter the cell phone records are already into
17 evidence. They have been admitted into evidence, I believe,
18 without objection from the Defense, Your Honor.

19 Ms. Gardner's testimony is being proffered to help
20 the jury in understanding these voluminous records. These
21 maps -- and if I may show you how concise these maps are,
22 just one, for example, Your Honor.

23 But in State v. Franks, Your Honor, a Sergeant Dan
24 Kelly of the Greenville County Sheriff's Office testified to
25 the phone records that were in evidence in that case. He

1 used GeoTime to help in, quote, "speed things up."

2 Your Honor, he -- these records were used to help
3 explain to the jury what the phone records were saying.
4 Phone records are extremely complex and complicated and
5 without visual aid it can really get lost on a jury.

6 During the voir dire of Franks he was questioned
7 about the algorithms. He was questioned about whether it
8 was an industry standard, it was. And the judge in this
9 case did agree that the sergeant without -- honestly without
10 all the experience that Ms. Gardner has, was an expert in
11 his field.

12 THE COURT: All right. We'll be at ease while I
13 take a look at this case. And I'm fine if the witness wants
14 to step down while we're taking this recess.

15 MS. SMITH: Yes, Your Honor.

16 (WHEREUPON, there was a break held from 11:28 a.m.
17 until 11:43 a.m.)

18 THE BAILIFF: All rise.

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

20 Mr. Hazzard?

21 MR. HAZZARD: Yes, sir.

22 THE COURT: Is there anything else that you want
23 to bring to my attention after hearing the State's argument,
24 sir, concerning qualifying this witness, sir?

25 MR. HAZZARD: With regard to the qualification --