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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the South Carolina Supreme Court

Appeal from Lancaster County
The Honorable Daniel Dewitt Hall, Circuit Court Judge

Appellate Case No. 2023-000404

Michael Brent Gay, Petitioner,

v.

The State of South Carolina, Respondent.

**SUPPLEMENTAL APPENDIX
VOLUME II**

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1 Ms. Wallace's side of the house, I believe.

2 Q And does that -- are those your hands holding the pill
3 bottle and the gloves?

4 A Yes.

5 Q Does that picture fairly and accurately depict the pill
6 bottle that was found there at the house?

7 A Yes, ma'am, it does.

8 MS. COLLINS: And I would move at this time State's
9 Exhibit 51 into evidence.

10 MR. PHILLIPS: Without objection.

11 Q And that pill bottle belonged to whom? Was it a
12 prescription?

13 A It says on the side of the pill bottle Michael Gay.

14 Q And can you tell what it was a prescription for?

15 A I can see on this portion of the label it's Oxymorphone
16 but I can't make out the remainder of the label.

17 Q But that was collected as well, or do you know?

18 A I don't know unless I refer to my notes.

19 Q Do you recall if there were any pills or drugs within?

20 A Again, I don't know unless I look at my notes.

21 MS. COLLINS: One moment, please.

22 (Break in proceedings.)

23 Q I have one more picture to ask you about that I believe
24 may be the cropped photo, and it is. I'll show you what is
25 already in evidence as State's Exhibit 30 and ask you to

1 take a look at that. Does that contain -- is that color
2 photo again cropped for the upper area of the T-shirt, but
3 does it depict the left pocket of the victim?

4 A Yes, ma'am, it does.

5 Q As well as the hand and the knife?

6 A Yes, ma'am, it does.

7 Q All right. The left pocket of the victim that is in
8 color, does that appear in the picture as you recall it?

9 A Yes, ma'am.

10 Q And there appears to be a difference in the stains to
11 that left pocket, would you agree?

12 A A difference as far as --

13 Q Let me rephrase. Do you have an expert opinion to a
14 reasonable degree of scientific certainty whether or not
15 that pocket was in that position when the blood flow and
16 vomit came down upon it, or whether or not it had been
17 altered based upon --

18 MR. NEWMAN: Beyond the scope, Your Honor, 702.

19 Objection beyond the scope, 702.

20 THE COURT: Well, the question is do you have an
21 opinion so that objection is overruled.

22 A No, ma'am, I don't have an opinion.

23 Q You don't have an opinion?

24 A No.

25 MS. COLLINS: Okay. Thank you. Thank you, Lieutenant,

1 please answer any questions of the defense.

2 THE COURT: All right. Mr. Phillips?

3 MR. PHILLIPS: Thank you, Your Honor, I know it's late.

4 CROSS EXAMINATION

5 BY MR. PHILLIPS:

6 Q You've been in law enforcement for quite some time?

7 A Yes, sir.

8 Q How long again?

9 A In January it will be 22 years.

10 Q And in that 22 years and being qualified as an expert
11 in crime scene investigation you've been involved in a lot
12 of drug cases?

13 A Not as much on the drug side as the violent crimes and
14 property crimes, normally that's handled but our narcotic
15 investigators. I did work with the violent crimes task
16 force for several years, and during that time I worked some
17 narcotics, yes, sir.

18 Q And so through your narcotics training and experience
19 and just overall 22 years of law enforcement experience, are
20 syringes common place for methamphetamine users?

21 A For methamphetamine? I don't know that I would say
22 that's common place, it depends on what form the meth is in,
23 you can smoke it, snort it.

24 Q Or shoot it.

25 A Or shoot it, yes, sir. So to say that's common place

1 it would depend on how you --

2 Q Well, I can rephrase. Methamphetamine users, some of
3 them shoot up methamphetamine.

4 A Yes, sir.

5 Q And so part of that in your years of experience in
6 doing narcotics, syringes would be part of that process of
7 drug addicts and drug use.

8 A Again, it would all depend on what type of drugs and
9 what your way of taking it into your system would be.

10 Q In your report you note that Brent had called 911.

11 A Yes, sir. That was the information that was given to
12 me.

13 Q All right. So part of your through crime scene
14 investigation they kind of caught you up to speed about him
15 calling 911 and giving you the layout of essentially what he
16 said happened. I'm not asking you to go into all of that.

17 A I didn't get a whole lot of details about what he said
18 other than the overview of it.

19 Q And so that was how you started your investigation, you
20 were laying out through the crime scene, is that fair to
21 say?

22 A For me it started with obtaining the search warrant
23 based on the information that I was given.

24 Q And you did fingerprints in this case?

25 A We didn't do anything on the scene. We did take some

1 photographs and we did dust the knife in our crime lab, and
2 then we also examined a patent print or a print that's in
3 suspected blood that was found on the scene as well.

4 Q So in your report when it refers to two latent print
5 cards, those wouldn't have been the fingerprint cards?

6 A Which report are you referring to, the initial or the
7 subsequent in the lab?

8 Q Let's see.

9 A Because we did collect two latent print cards but that
10 was in the our crime lab, not on the scene.

11 Q Okay. So that would have came later, that report?

12 A Yes, sir.

13 Q Okay. Just making sure as far at time lines. So you
14 took fingerprint cards of just -- what did you take the
15 fingerprints of?

16 A It was latent prints that we developed on the blade of
17 the Kershaw brand folding knife that was on the victims
18 right thigh.

19 Q And with that you submitted that to SLED so they could
20 process it?

21 A The fingerprints? No, sir, not the fingerprints. The
22 fingerprints were done in-house. We have two latent print
23 examiners and we have our own AFIS machine -- AFIS system at
24 the sheriff's office.

25 Q Okay. And so those prints didn't come back to anyone?

1 A The prints on the knife, that will have to be testified
2 by Investigator Taylor, but I don't believe that they were
3 able to be identified to either -- or anyone on the scene.

4 Q Now, going to -- as you go through that evidence
5 collection process, obviously part of your training is going
6 through DNA transfer, and you said that you changed your
7 gloves as part of your training. When did you put on the
8 initial set of gloves?

9 A As I testified, we would put gloves on before we ever
10 entered the house to protect different surfaces that we had
11 to access to open doors and to gain access, so that's the
12 first time we would have put on gloves is outside.

13 Q And so that pair of gloves, that was the same pair that
14 you used to pick up the knife?

15 A Absolutely not.

16 Q Okay. So that was changed.

17 A That's correct.

18 Q Because you're afraid of DNA transfer.

19 A Yes, sir.

20 Q And so with that in your report you said removed the
21 knife from the hand.

22 A Yes, sir, or from his thigh. In between his right
23 thumb and his right pointer finger.

24 Q And what's been marked as State's Exhibit 30, will you
25 take a look at it?

1 A Yes, sir.

2 Q Now, there's been a lot of talk about the position of
3 the knife and the position of the hand. When you look at it
4 it's fairly clear that his fingers are touching the knife.

5 A They are in close contact and in proximity too. I
6 didn't have to struggle to get the knife out of his hand, it
7 was just that's the way it was positioned.

8 Q But they're touching.

9 A Yes, sir.

10 Q It's not that the knife is in between, the knife is in
11 his hand.

12 A Yes, sir. It's not in his hand, it is touching his
13 right thumb and right pointer finger.

14 Q Right here?

15 A Yes, sir.

16 Q So there is direct contact with his hand and that
17 knife?

18 A Yes, sir, portions of his hand as I've testified.

19 MR. PHILLIPS: Just a second, Your Honor.

20 (Break in proceedings.)

21 MR. PHILLIPS: I know it's late, I know everybody is
22 tired so I'm going to end it here, thank you for your time.
23 No further questions.

24 THE COURT: Thank you. Any redirect?

25 MS. COLLINS: Briefly.

1 REDIRECT EXAMINATION

2 BY MS. COLLINS:

3 Q The knife, you've mentioned in terms of the fingers,
4 was it also touching his right thigh?

5 A It was. It was laying on his right thigh.

6 Q It was laying on his right thigh.

7 A Yes.

8 Q Thank you. I want to show you one other picture.

9 Mr. Phillips asked you about syringes.

10 MS. COLLINS: I ask that be marked as State's Exhibit
11 53.

12 Q And ask you, do you recognize what's in that photo?

13 A Yes, ma'am.

14 Q Is that a photograph of an open bathroom drawer in the
15 home of the defendant -- in the bathroom of the defendant,
16 Michael Brent Gay?

17 A Yes, ma'am.

18 Q And does that picture fairly and accurately depict the
19 contents of that drawer as you observed them the night of
20 12/5/15, the early morning of 12/6/15?

21 A Yes, ma'am.

22 MS. COLLINS: At this time I move that into evidence?

23 THE COURT: Without objection introduced.

24 Q All right. And within that drawer is also a syringe,
25 correct?

1 A Yes, ma'am.

2 Q A syringe with an orange top, correct?

3 A Yes, ma'am.

4 Q A syringe that's identical to the syringes in the EGO
5 pouch, correct?

6 MR. PHILLIPS: Objection to that. Also syringes are
7 identical but she cannot make that determination.

8 MS. COLLINS: All syringes are not identical.

9 THE COURT: Objection overruled, just answer the
10 question.

11 A They do look similar.

12 Q They look the same size?

13 A Yes, ma'am.

14 Q They have the same cap?

15 A Yes, ma'am.

16 Q Orange in color?

17 A Yes, ma'am.

18 MS. COLLINS: Thank you.

19 THE COURT: Recross based on redirect?

20 RECROSS EXAMINATION

21 BY MR. PHILLIPS:

22 Q Did you do any testing, any type of markings on those
23 syringes? Did you test those?

24 A I didn't test them. We collected DNA swabs from the
25 syringes inside the green zipper pouch that had EGO on the

1 front.

2 Q Anything with this one?

3 A No, sir.

4 MR. PHILLIPS: That's it, Your Honor.

5 THE COURT: All right. Thank you, ma'am, you may step
6 down. Ladies and gentlemen of the jury, we will go ahead
7 and end for the day. I will remind you of my instructions
8 to you yesterday, do not seek any information out about this
9 case, don't do any independent research on this case, don't
10 talk to anybody about this case. If anybody tries to talk
11 to you about this case let me know about it, okay? Y'all
12 have a great evening. I want you back in your jury room,
13 let's have an earlier start tomorrow as well, 9:00 a.m. we
14 will get started. Thank you.

15 (The jury left the courtroom.)

16 THE COURT: Anything else for the good of the cause
17 today?

18 MS. COLLINS: No, Your Honor.

19 THE COURT: All right. Anything else, Mr. Phillips?

20 MR. PHILLIPS: No, sir.

21 (Court adjourned for the day and resumed at 9:00 a.m.
22 On Thursday, December 13, 2018.)

23 THE COURT: All right. Anything else before we bring
24 in the jury?

25 MS. COLLINS: Your Honor, quick piece of housekeeping,

1 I thought we had moved in two exhibits, 18 and 19, we
2 thought we had moved them in, the court reporter is not
3 sure, I'm moving them in now.

4 MR. PHILLIPS: It's two pictures of the Monster can on
5 the back carport, we have no objection.

6 THE COURT: Without objection those exhibits are in
7 evidence.

8 (The jury returned to the courtroom.)

9 THE COURT: I hope you had a good evening. Before we
10 get started first thing this morning, I'll go ahead and let
11 you know, I am calling in lunch for you this afternoon to
12 help move things further so y'all can prepare accordingly at
13 the midmorning break or whatever that type thing so we keep
14 on moving through the day, okay? Thank y'all very much.
15 The State may call its next witness.

16 MS. COLLINS: Thank you, Your Honor. May it please the
17 Court? The next witness for the State is Thomas Craig
18 Bailey.

19 The witness, THOMAS CRAIG BAILEY, was first duly sworn
20 And testified as follows:

21 DIRECT EXAMINATION

22 BY MS. COLLINS:

23 Q Good morning.

24 A Good morning.

25 Q Would you please state your name?

1 A Thomas Craig Bailey.

2 Q And what is your current occupation?

3 A I work for Lynches River Contracting.

4 Q And what do y'all do?

5 A Road construction.

6 Q So you build roads?

7 A Yes, ma'am.

8 Q And what did you prior to that occupation?

9 A I was a captain in investigations with the sheriff's
10 office.

11 Q How long were you a law enforcement officer?

12 A Almost 27 years.

13 Q And was all of that with the sheriff's department?

14 A It was.

15 Q And how long were you captain over the investigative
16 division?

17 A Somewhere around 16 years ago.

18 Q Was one of the investigators under you Phillip
19 Crawford?

20 A He was.

21 Q Was Phillip Crawford the original case agent assigned
22 to this case?

23 A Yes, ma'am.

24 Q And by case agent, is that someone who kind of takes
25 the lead in terms of conferring with you and making sure

1 that all of the necessary steps are taken?

2 A Lead investigator.

3 Q All right. So at that time it was not investigator
4 Jennifer Rumbaugh, correct?

5 A No, ma'am.

6 Q So Phillip Crawford was the lead investigator on 12/5
7 of '15 when this incident happened; is that correct?

8 A Yes, ma'am.

9 Q How do you determine who should be the lead
10 investigator, is it simply the detective on call that night?

11 A Yes.

12 Q After this happened in December of 2015, what, if
13 anything, did you as a supervisor begin to notice about
14 Phillip Crawford, the investigator?

15 A First of all Phil Crawford is probably the most
16 well-organized, well-documented officer I have ever worked
17 with. It was almost kind of creepy because his desk would
18 be organized, you felt funny to even sit down and write a
19 piece of paper or something like that. Shortly after all of
20 this he seemed almost like he was tired, like he worked
21 third shift the night before, you know I mean, you would
22 have to get up and go again --

23 MR. PHILLIPS: Objection, Your Honor.

24 THE COURT: Objection overruled.

25 Q Please continue.

1 A And it was very subtle at first. I mean, unless you
2 worked with him every single day all day long you might not
3 notice nothing, and after a few weeks people started saying
4 when we were talking about and discussing it, "Phil sure is
5 tired all the time, maybe he's sick or just tired, maybe
6 he's got something going on." But later on we found out
7 what was going on.

8 Q And did some of that also involve that you noticed as a
9 supervisor, you worked with him almost daily, correct?

10 A Correct.

11 Q Anything regarding memory?

12 A Yes. He would forget stuff --

13 MR. PHILLIPS: Objection, Your Honor, leading and
14 relevance.

15 THE COURT: Y'all approach, please.

16 (A bench conference was held.)

17 Q Can you limit your testimony --

18 THE COURT: Objection overruled, resume questioning.

19 MS. COLLINS: Sorry, Judge.

20 Q Can you limit your testimony to what you observed as to
21 Phillip Crawford, the investigator at that time?

22 A Just backing up a little bit, just seemed he worked
23 night shift before and he had to get up early and come in
24 the next morning, just seemed tired and not quite himself.
25 Was he forgetful with some things? He was.

1 Q Did he ultimately have to get out of work on sick
2 leave?

3 A Yes, ma'am.

4 Q And you as supervisor had to approve that?

5 A Yes, ma'am.

6 Q Did you ultimately learn what, if any, illness he was
7 suffering from?

8 A ALS, Lou Gehrig's.

9 Q Lou Gehrig's disease? And when did he last work?

10 A Exact dates I don't know, but it was January or
11 February of '16.

12 Q So about a month or two after this incident he could no
13 longer work?

14 A Exactly.

15 Q His last day of work was within eight weeks of this
16 incident?

17 A Most probably, it was really fast. It's like -- it was
18 just like somebody turned a light switch on, something
19 just -- it's hard to explain.

20 Q Did Phil ultimately die?

21 A He did.

22 Q Do you know when he died?

23 A I don't know the exact dates.

24 Q But he has now passed away?

25 A Yeah.

1 Q Captain, if I may still refer to you as that through
2 our years, after Phillip Crawford couldn't be at work
3 anymore due to his illness, did you as captain over
4 investigations assign a new case agent to this case?

5 A I did.

6 Q Who was that?

7 A Spencer McInvaille.

8 Q And Spencer McInvaille ultimately while he was with
9 your department, he also -- he left the department, correct?

10 A Correct.

11 Q Not due to a health issue but employment, correct?

12 A Correct.

13 Q He left to join an investigative company in North
14 Carolina?

15 A Private investigations.

16 Q Thank you. Do you recall when Spencer left?

17 A No, ma'am. It was a good while after that, though,
18 maybe several months.

19 Q All right. And after Spencer left, is that when you
20 left?

21 A Yes, ma'am.

22 Q To take your new job?

23 A Yes, ma'am.

24 Q I think he you retired, didn't you?

25 A I did, I retired.

1 Q Congratulations. After Spencer left, did you or was it
2 the subsequent captain, Mike Howell, did you assign Jennifer
3 Rumbaugh at that time?

4 A I'm almost positive Mike Howell assigned that.

5 Q When was your last day at the department?

6 A Three years ago.

7 Q Three years?

8 A It was in the summertime almost three years ago.

9 Q Well, three years ago would have been December of '15,
10 the date of this incident?

11 A No, maybe it was two years ago. I've done Christmases
12 there so you're looking at maybe 18 months or something like
13 that.

14 Q But you don't recall if you assigned Jennifer Rumbaugh.
15 But you were there when Spencer left, correct?

16 A Yes, ma'am.

17 MS. COLLINS: Thank you. One moment.

18 (Break in proceedings.)

19 MS. COLLINS: Nothing further, please answer any
20 questions.

21 THE COURT: All right. Any questions?

22 CROSS EXAMINATION

23 BY MR. PHILLIPS:

24 Q Good morning.

25 A Good morning.

1 Q So I kind of want to tighten up the timeline. You said
2 that at the time when this statement was taken you were
3 Investigator Crawford's supervisor?

4 A Yes, sir.

5 Q And you said several months after that, or really it's
6 not quite several months, just right after that he no longer
7 was able to work?

8 A It was extremely fast. I didn't know much about ALS to
9 that point, but how fast that progressed was shocking.

10 Q But it was literally a month?

11 A If that was December, he left out January, it was a
12 month, maybe two.

13 Q And you were his supervisor?

14 A Yes.

15 Q And you assigned the murder case to another person?

16 A Yes, sir.

17 Q And part of that job, you know, through South Carolina
18 Criminal Justice Academy and your training you're trained to
19 be very detailed and, of course, you've had many years of
20 experience, you're a supervisor, and so part of that is
21 making sure this critical witnesses, say eye witnesses in a
22 murder case, are interviewed.

23 A Correct.

24 Q And part of that as a supervisor when it -- kind of
25 like a military organization, law enforcement is very

1 similar, that's why a lot of law enforcement officers are
2 prior military, when the chain of command -- when one person
3 falls out the next person steps and the role of the
4 supervisor, the commander is to make sure things are done.

5 A Sure.

6 Q That loose ends are tied up.

7 A That's what you try to do.

8 Q That eye witnesses are interviewed.

9 A That's what you try to do.

10 Q And so within just a few weeks the person assigned to
11 the case is no longer able to work it so you assign it to
12 someone else.

13 A Yes, sir.

14 Q And you never follow-up that there's an eye witness in
15 a murder case that needs to be interviewed.

16 A Yeah. But witnesses don't always -- everybody thinks
17 it's like on TV, you know.

18 Q Did you go interview him?

19 A Like I said, people think this is like television. In
20 30 minutes --

21 THE COURT: Hang on, let him answer the question.

22 A I'm trying to answer. This is not like television,
23 witnesses don't always pop in line and say, "Okay, here I
24 am, they've been looking for me." Sometimes it takes
25 minutes, sometimes it takes weeks, sometimes it takes

1 months.

2 Q And in television they actually go looking for them,
3 don't they? That's kind of part of the show, you watch Law
4 and Order, they're always going out knocking on doors. Did
5 you go knock on any doors?

6 A Me personally?

7 Q Yeah.

8 A No, I did not.

9 Q Did the person under you as supervisor knock on doors?

10 A It's been a long time ago, I don't remember exactly all
11 those details anymore.

12 Q Did you tell him, "You needs to go interview that eye
13 witness in a murder case?"

14 A As I mean, as a protocol I'm sure we did.

15 Q Did you tell him that? Not what you think, did you do
16 that?

17 A That was a long time ago, I'm sure we did. I can't sit
18 here and say I remember on December the 14th --

19 Q Bottom line is you're not --

20 MS. COLLINS: Objection. The witness should be
21 permitted to complete his answer.

22 THE COURT: Okay, sustained. Let him answer the
23 question and then you can ask follow-up.

24 Q Do you know for 100 percent certainty that he knocked
25 on the door, that he talked to anybody, that he went and

1 tried to speak with Mr. Perry?

2 A I know if he was in charge of the case file he was
3 supposed to, but like I said that was a long time ago. You
4 don't know what you did four years ago at this time.

5 Q No. But it would all be in notes. So let's talk about
6 that. Part of your training and experience with the
7 Criminal Justice Academy is that law enforcement officers,
8 specifically investigators who do even further training,
9 you're trained to take meticulous notes; is that correct?

10 A Correct.

11 Q Because you work on hundreds of cases every year.
12 Because when you come to court maybe a year or two years
13 later you can't remember everything that you did --

14 A Or much longer.

15 Q -- four years ago just like you said, so you pull your
16 notes up and you would see what you've done have. You got
17 your notes?

18 A No, sir, I didn't have any notes.

19 Q Do you have his notes?

20 A I have Phil Crawford's interviews, they were taped.

21 Q Mr. Crawford was only there for a couple of weeks.

22 A We didn't know that at the time, but --

23 Q I understand. But a couple of weeks afterwards and
24 then it becomes your responsibility as the supervisor to
25 make sure this eye witness is interviewed. Do you have any

1 proof that you tried to go interview Mr. Perry?

2 A No, sir. I did not make any statements or write any
3 notes that I tried to go interview Perry.

4 Q And as far as you know did you ever send the person
5 under you to go interview him?

6 A I feel with 100 percent confidence that Spencer
7 McInvaille made efforts to find Perry.

8 Q Based on that gut feeling that he would have tried to
9 find Mr. Perry, do you have any evidence that would have
10 been in the case file that he did that?

11 A I don't have the case file and haven't looked at it in
12 a long time.

13 Q And your role as a supervisor would have been to make
14 sure he took meticulous notes as an investigator, that he
15 was tracking down eye witnesses in a murder case.

16 A You're referring to Crawford or --

17 Q Crawford was only there for a few weeks, I'm talking
18 about after that. It's very sad about what happened to Mr.
19 Crawford but that was just a very small slither of time and
20 then the case became your responsibility.

21 A Uh-huh.

22 Q Okay. That's what we're focused on, only a few weeks
23 there with Mr. Crawford, after that it was your
24 responsibility to make sure the eye witnesses in a murder
25 case was interviewed.

1 A Okay.

2 Q So with that, during that time period you have no idea
3 from your point of view -- did you ever -- well, you said
4 you feel confident that he would have done it. Did you tell
5 him you need to go try to find this individual?

6 A Going back again to the same point that we've already
7 answered, that was four years ago. Do I remember telling
8 him specifically go do that? No. Spencer McInvaille was a
9 good investigator, I promise he made attempts to find Perry.
10 But that goes back to the same point, witnesses don't always
11 volunteer, "Hey, I saw all of this," because they don't want
12 to be involved. Nobody wants to be involved.

13 Q Have you reviewed your case file in preparation for
14 this?

15 A I glanced at it this morning for fast reading this
16 morning.

17 Q Because this is important, this is a murder case?

18 A Yes, sir.

19 Q Man's life is on the line?

20 MS. COLLINS: I'm sorry, I couldn't hear the question.

21 Q This is important.

22 A Sure.

23 Q And in a murder case it's important, it's important to
24 be thorough.

25 A I watched the interviews the other week, I read this

1 morning.

2 Q It's important to be detailed.

3 A Uh-huh.

4 Q It's important to be meticulous in your notes as an
5 investigator.

6 MS. COLLINS: Objection, asked and answered.

7 THE COURT: Sustained.

8 Q And you don't have any proof that any of that was ever
9 done.

10 A I have the case file.

11 MR. PHILLIPS: Just a moment, Your Honor.

12 (Break in proceedings.)

13 Q Based on your last answer about the case file, is there
14 anything in that file about Simpson's (sic) notes about what
15 he did or didn't do regarding the investigation,
16 specifically trying to find Mr. Perry?

17 A I don't know. I haven't read the whole file, it's
18 about three inches thick.

19 Q Mr. Simpson's (sic) notes, have you looked over them?

20 A No.

21 Q And you were his supervisor?

22 MS. COLLINS: Objection, it assumes facts not in
23 evidence. There's not been a reference to a Mr. Simpson.

24 THE COURT: All right, overruled. But it's asked and
25 answered anyway. All right. Any redirect? Oh, I'm sorry.

1 You were through?

2 MR. PHILLIPS: You read my mind, thank you.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY MS. COLLINS:

6 Q The second investigator was Spencer McInvaille,
7 correct?

8 A Correct.

9 Q Lastly Jennifer Rumbaugh.

10 A Yes, ma'am.

11 Q How many cases does your department work on at any
12 given time?

13 A At any given time they're liable to have 60 or 70 open
14 cases at a time.

15 Q And that doesn't mean -- you don't have a department
16 that investigates just murder cases, correct?

17 A No, ma'am.

18 Q They investigate rape, right?

19 A Every case.

20 Q Child rape?

21 A Everything.

22 Q Adult rape?

23 A All of it.

24 Q Burglaries.

25 MR. PHILLIPS: Your Honor, relevance, how many other

1 types of violent crimes they investigated.

2 THE COURT: Overruled, you opened the door.

3 Q Burglaries?

4 A Every case.

5 Q Home invasions?

6 A Yes, ma'am.

7 Q The investigative division has to investigate
8 everything that's not resolved by just a routine patrol,
9 correct?

10 A Yes, ma'am.

11 Q And how many investigators were there when you were
12 there?

13 A Seven at the time.

14 Q And Lancaster County is growing, right?

15 A Leaps and bounds, it's staggering.

16 Q Exploding in population, correct?

17 A Correct.

18 Q Exploding in population in terms of crime, correct?

19 A Yes, ma'am.

20 Q You and your department do the best you can to protect
21 the citizens, correct?

22 A Everything that we can.

23 MS. COLLINS: Thank you for your service.

24 THE COURT: Recross?

25 MR. PHILLIPS: Yes, Your Honor.

1 RECROSS EXAMINATION

2 BY MR. PHILLIPS:

3 Q I apologize, I said Mr. Simpson, I meant Mr.
4 McInvaille. Did you look at his notes? I said the wrong
5 name, I apologize.

6 A No, sir. I think I left right after he was assigned
7 that case.

8 Q Okay. So as far as you know -- I mean, in preparation
9 for today you didn't look at any notes as far as what had
10 been done.

11 A No, sir. I watched the interviews on their tapes and
12 that was it.

13 Q Prosecutor said that you have the duty and that you
14 investigate everything, she just said that.

15 A Our division does, yes.

16 Q And part of that, would you consider a murder case to
17 be the most important type of case in a violent crime
18 office?

19 A They're all important.

20 Q Of course they're all important, and the murder case
21 would be at the top of the list.

22 A It's ranking up there.

23 Q That's right. She just said you investigate everything
24 but you don't have any notes, don't have any proof of any of
25 that investigation.

1 A I have Phil Crawford's notes --

2 Q For three weeks?

3 A -- and statements that we took from the witnesses, and
4 the eye witnesses that were there that night gave us good
5 statements.

6 Q Not Mr. Perry and he was there, an eye witness.

7 A Like I said, that goes back to -- people don't always
8 volunteer to say, "Hey, I'm a witness too, I want to come in
9 and talk to you." Even though they know you're looking for
10 them they're not going to say, "Oh, he came by here looking
11 for me, let me call him up." I've never had that happen.

12 MR. PHILLIPS: Thank you.

13 THE COURT: Thank you, sir, you can step down, you're
14 free to leave.

15 MS. COLLINS: Thank you. The next witness for the
16 State is Jennifer Rumbaugh, Investigator Rumbaugh.

17 The witness, JENNIFER RUMBAUGH, was first duly sworn

18 And testified as follows:

19 DIRECT EXAMINATION

20 BY MS. COLLINS:

21 Q Good morning.

22 A Good morning.

23 Q Please state your name for the record.

24 A Jennifer Rumbaugh.

25 Q What is your occupation?

1 A Criminal investigator with the Lancaster County
2 Sheriff's Office.

3 Q How long have you been a law enforcement officer?

4 A Seven years.

5 Q And how long have you been -- is that all with the
6 sheriff's department?

7 A Yes.

8 Q Here in Lancaster?

9 A Yes.

10 Q And how long have you been assigned to investigations
11 as an investigator?

12 A Five years.

13 Q Can you tell us what your case load is at any given
14 time?

15 A Anywhere from 20 to 50 cases at this time.

16 Q And that would be cases that are active, that warrants
17 have not yet been issued?

18 A Yes.

19 Q And once warrants are issued, is there often followup
20 work to do?

21 A Yes.

22 Q As we've been discussing through this trial, correct?

23 A Yes.

24 Q Were you assigned to be the case agent on this case
25 after Spencer McInvaille left the sheriff's department?

1 A Not directly after he left the sheriff's office.

2 Q So there was a period of time where to your knowledge
3 no one was assigned, correct?

4 A Yes.

5 Q But ultimately the next captain, Captain Mike Howell,
6 did he assign you to be the investigator?

7 A Ultimately, yes.

8 Q Not the investigator but the case agent?

9 A Yes.

10 Q And as case agent at that point in the case you are to
11 work with our office just to make sure that any loose ends
12 are tied up; is that right?

13 A Yes, ma'am.

14 Q And did you become aware that Stefan Perry's interview
15 had never taken place to your knowledge?

16 A Yes, I did.

17 Q And did you reach out to Mr. Perry in an attempt to
18 interview him?

19 A I did. I first went to his house and put a card on his
20 door, wasn't able to make contact with him. And then
21 subsequently the arrest was made on the city charge where I
22 heard that traffic on the radio where he was under arrest
23 and I asked the deputies to bring him by to speak with me.

24 Q And that was a city court charge?

25 A Yes.

1 Q A 30 day or fine offense?

2 A Yes, ma'am.

3 Q That unlawful entry?

4 A Yes, ma'am.

5 Q And so he was brought to see you?

6 A Yes.

7 Q And that was in -- on October 30th of 2017?

8 A Yes, ma'am.

9 Q And the video that was played yesterday.

10 A It was.

11 Q And at that time when you talked to Mr. Perry that was

12 the only charge he had, correct?

13 A Yes.

14 Q And that was over a year before today, correct?

15 A Yes, ma'am.

16 Q Subsequently Mr. Perry was arrested, correct?

17 A Yes.

18 Q On other charges, right?

19 A Yes.

20 Q And in preparation for this trial you met with him

21 again, correct?

22 A I did.

23 Q And at that time what, if any, position, or what, if

24 any, communication did you make to him in terms of his

25 charges?

1 A Are you speaking of the 11/27 or on 12/4, December 4th?

2 Q Let me ask you about -- he got a charge first in June
3 of '18, correct, this past June?

4 A Yes, which was just brought to our attention on
5 November 27th.

6 Q So you spoke to him in my presence on November 27th,
7 correct?

8 A I did.

9 Q And at the end of that is when that was brought to our
10 attention, correct?

11 A Yes.

12 Q And what, if any, promises did you or I or to your
13 knowledge anyone make him regarding that charge or any of
14 his charges?

15 A No promises were made.

16 Q You later spoke to him on December 4th, 2018, correct?

17 A I did.

18 Q And at that time he'd been arrested on these new
19 charges, right?

20 A Yes.

21 Q There had been a search of his home and he'd been
22 charged with multiple charges, right?

23 A Yes.

24 Q And on December 4th when he came in to be interviewed
25 by you again, what -- how did you start off your interview?

1 What did you say to him?

2 A I wanted to make it known to him that this was not in
3 reference to any of his new charges that we were speaking
4 with him, and that there were going to be no promises made
5 or anything of that sort in reference to any charges that he
6 had, this was just to talk briefly about this case.

7 Q And you made that clear to him?

8 A Very clear, before and after, I believe.

9 Q And he affirmed that he understood that.

10 A Yes.

11 Q And there are times sometimes when you have to talk to
12 a codefendant or talk to someone else that's been charged in
13 a case and -- perhaps a lesser player and make them an
14 offer, right?

15 A Yes.

16 Q Make them an offer that if they cooperate that you will
17 speak to the solicitor on their behalf and recommend some
18 type of leniency.

19 MR. DELGADO: Your Honor, objection to the leading.

20 MS. COLLINS: I'll rephrase.

21 THE COURT: Hang on. I'm going to overrule that
22 objection. Rule 611 of the South Carolina Rules of
23 Evidence, I'm going to let your -- y'all do it as well,
24 y'all can lead witnesses as necessary to facilitate the
25 testimony since it's kind of late in the week, okay?

1 MS. COLLINS: Thank you, Your Honor, thank you.

2 A We never make any promises or anything to anybody, we
3 normally just make recommendations. We can say that we make
4 a recommendation in reference to somebody's cooperation on
5 something but we can't make that decision or make any
6 promises about what's going to happen.

7 Q But in this case you told Mr. Perry very clearly that
8 there were no recommendations and would be none, correct?

9 A Very clearly.

10 Q And he said he understood that, correct?

11 A Yes.

12 Q That he didn't want any.

13 A He didn't want anything in reference to testifying in
14 this.

15 MS. COLLINS: One moment.

16 (Break in proceedings.)

17 MS. COLLINS: Thank you, Investigator, please answer
18 any questions.

19 CROSS EXAMINATION

20 BY MR. DELGADO:

21 Q Good morning.

22 A Good morning.

23 Q Ms. Rumbaugh, let's -- I'm sorry, I'm a visual learner,
24 I have to go back to my chart.

25 A I understand.

1 Q This happened, the shooting, 12/5 of '15. You weren't
2 assigned the case in 2015.

3 A I was not.

4 Q Before Mr. Stefan Craig Perry makes any statement to
5 you on 10/30/17, that's about 23 months in between, right?

6 A Yes, sir.

7 Q All right. From what we heard from Mr. Bailey, who was
8 the gentleman here just a minute ago, Mr. Craig Bailey --

9 A Yes, sir.

10 Q -- the former chief, I guess, or head of the detective
11 division, right?

12 A Yes, sir.

13 Q And I'm sorry about Mr. Crawford, I didn't know that.

14 A Thank you.

15 Q That happens. After Mr. Crawford either took sick
16 leave or -- in January or February of 2017 that is still 21
17 months before October --

18 A January or February of 2016 is when he went out on sick
19 leave.

20 Q I'm sorry?

21 A January or February of '16 is when he went out, it was
22 shortly after.

23 Q Well, let's say he goes out February the 1st of 2016.

24 A Yes, sir.

25 Q That's still, what is that, 18 months later?

1 A Yes, sir.

2 Q So 18 months later the Lancaster County Sheriff's
3 Department -- and I understand, we're all in the state of
4 growth, I understand that, but with all due respect that's
5 y'all's responsibility to find eye witnesses, right?

6 A To attempt to find eye witnesses and have them
7 cooperate, yes.

8 Q Well, you can do more than find them, you can go to
9 their house at 3:00 in the morning and say, "I want to talk
10 to you," right?

11 A Yeah. We can attempt to speak with them, yes.

12 Q I'm sorry, ma'am?

13 A We can attempt to speak to them, yes.

14 Q Sure. And Stefan Perry has lived at the same address
15 for ten years, you knew that, didn't you?

16 A I did.

17 Q And in that 18 months neither you nor anybody from the
18 sheriff's department or anybody from the solicitor's
19 investigator section, nobody went out to see Stefan Perry,
20 right?

21 A I can't answer to what happened before I was -- it was
22 brought to my attention that Stefan needed to talk.

23 Q Tell us when you were in the chain of command assigned
24 this case by, hold on, Captain Hall?

25 A It would have been Captain Howell.

1 Q Howell, I'm sorry.

2 A I was not officially assigned or placed as case agent
3 for this case until several weeks ago, I was not.

4 Q On September the 30th -- excuse me, October the 30th
5 were you assigned this case?

6 A I was not assigned this case, no. I was --

7 Q Who was assigned the case then?

8 A There was nobody assigned the case at that time.

9 Q Is that our responsibility or is that -- with all due
10 respect, is that the sheriff's responsibility?

11 A It's the sheriff's office responsibility.

12 Q So for 23 months one of the two eye witnesses that
13 y'all have presented here is never interviewed, right?

14 A To my knowledge.

15 Q And I understand -- ma'am, I'm here to have the ask the
16 hard questions, I apologize to you.

17 A I understand that.

18 Q And from October 30th, '17 until November 27th, '18,
19 that's another 13 months, maybe 14 months, right?

20 A Yes, sir.

21 Q No other follow-up with Stefan Perry, right?

22 A No. I conducted the interview with him in
23 October 2017 -- on October 30th of 2017.

24 Q And then again in November 27th of '18, that's when you
25 and Ms. Collins met with Mr. Stefan Perry, right?

1 A Yes, sir.

2 Q In between October 30th of 2017 and November 27th, the
3 end of November in 2018, no contact by you or any of your
4 colleagues with the sheriff's department?

5 A Not to my knowledge.

6 Q Yeah, okay. And then, of course, he becomes available
7 for reinterviewing because he's down -- he's down at the --
8 he's down at the detention center, that's Perry, as a result
9 of him being arrested on October -- excuse me,
10 November 30th, right?

11 A Yes.

12 Q Three days after y'all meet with him upstairs in the
13 solicitor's office he gets arrested, right?

14 A Yes, sir.

15 Q Y'all do talk to him a week ago, Tuesday the 4th of
16 December, right?

17 A Yes, sir.

18 Q That's just you alone at the sheriff's department in
19 that interview room, right?

20 A I was alone in the interview room, yes, sir.

21 Q And we've seen it, that was a videotaped interview,
22 correct?

23 A It was, yes, sir.

24 Q That's the same room where he had been back on
25 October 30th of '17.

1 A It was.

2 Q That's the same room that Mr. Raymond Robinson was in
3 on the morning of December the 6th, 2015 that the jury has
4 seen.

5 A I would assume that's the same room, we have five
6 different interview rooms.

7 Q Ma'am, let's go into that December the 4th, 2018, a
8 week ago Tuesday, today is the 13th? Yes, the 13th. So
9 nine days ago, was it in the morning or the afternoon that
10 you met with --

11 A I believe it was first thing in the morning.

12 Q Okay. That was again -- he was incarcerated at the
13 detention center, he was brought to the sheriff's
14 department.

15 A He was.

16 Q All right. When he was brought -- and please
17 understand, you are absolutely right, ma'am, with all due
18 respect, of course you're never going to say anything about
19 this is a deal we are going to offer you, right?

20 A I would never say that.

21 Q Of course not. Because first of all you don't have
22 that authority, they have the authority to make the deal,
23 the solicitor's office, right? By that I mean to drop
24 charges or make recommendations to a sentencing judge
25 that -- you can't do that, they can do that. They may call

1 on you as a witness towards that end but they do that,
2 right?

3 A I don't know what their process is in doing that but we
4 make the recommendations.

5 Q Sure. And for somebody like Stefan Perry who's been in
6 and out of the system for years he knows that game, too,
7 don't you think?

8 A I'm sure he does.

9 Q Yeah. So we don't offer a deal but we sure as the
10 dickens might be able to help at the far end with a
11 recommendation, right?

12 A I can't make any recommendation on that case with
13 Stefan Perry because I have no dealings in the case
14 absolutely whatsoever.

15 Q No, ma'am, I understand. I'm simply saying that the
16 solicitor's office would never make a deal, but at the far
17 end at sentencing or trial time they might make a
18 recommendation to a judge maybe in this courtroom right here
19 at this table.

20 A Possibly.

21 Q To drop charges, right?

22 A Possibly.

23 Q To maximize the amount of time that maybe Mr. Perry
24 would look at by putting a cap on the amount of sentencing
25 they're going to recommend to the judge, right? That's done

1 everyday, isn't it?

2 A Possibly.

3 Q Ma'am, when you were -- ma'am, describe -- because I'm
4 fairly certain none of these good folks have ever had to be
5 in that interview room at your sheriff's department,
6 describe what that looks like.

7 A It's just a small room with a small table and two
8 chairs just as you saw on the video they played.

9 Q There are no windows in that room.

10 A There's not.

11 Q There's no oil paintings in the room, is there?

12 A No.

13 Q There's no magazines to read in that room, right?

14 A No.

15 Q There's no potted plants in the room, are there?

16 A No.

17 Q That's there to get the individual's attention this is
18 serious business. It's a table, a chair on one side and a
19 chair on the other side, right?

20 A Yes.

21 Q Yeah. That's what you all in investigations at the
22 Lancaster County Sheriff's Department and every sheriff's
23 department probably in the State of South Carolina, that's
24 what you all use regularly and routinely, correct?

25 A Yes.

1 Q Okay. On December the 4th, 2018, do you remember Mr.
2 Perry coming in -- I think he may have had that crutch, do
3 you remember that?

4 A I'm sure he did.

5 Q And he was in his orange jumpsuit.

6 A He was.

7 Q All right. Do you remember when he came in he had some
8 papers stuck up here in his pocket in the jumpsuit, do you
9 remember that?

10 A I do remember that.

11 Q I'm sorry?

12 A I do, yes.

13 Q Eventually he said to you on December the 4th, and it's
14 on the tape, "These are my charges." Do you remember him
15 saying that?

16 A I do.

17 Q And those were the charges from the drug raid, right?

18 A I don't recall looking at them, I'm sure they were.

19 Q Because that's what was right in front of his face
20 right then, wasn't it? He was in jail on some real serious,
21 as we've talked about, serious charges, right?

22 A Yeah.

23 Q Over the course of that interview, ma'am -- I think he
24 came in in cuffs, was he not?

25 A He had a belly chain on but I don't know if he had the

1 handcuffs connected, if he did have his crutch he didn't
2 probably have.

3 Q You're one side of the table, the table, and Stefan
4 Perry.

5 A Yes.

6 Q Do you remember him saying at the beginning of that
7 conversation, "These are my charges," and he puts the paper
8 over here? Do you remember him?

9 A I don't remember him saying that at the beginning.

10 Q You don't?

11 A I don't remember him saying that at the beginning, I
12 don't recall. I know he said it to me at the end, I don't
13 recall about the beginning.

14 Q Sure. Do you remember, ma'am, that conversation with
15 him lasted, what, maybe 35 or 40 minutes?

16 A I don't recall how long it lasted. I remember it to be
17 brief, not as long as before.

18 Q And at the very end, ma'am, you leave -- well, tell
19 these folks how law enforcement, professional law
20 enforcement go about doing interviews with a person like
21 Stefan Perry. The whole time he's in front of you you're in
22 a digital contact with other members of the investigation
23 division about other questions to ask him.

24 A Normally.

25 Q Do you recall having your cell phone with you that day?

1 A I don't recall.

2 Q Okay. Do you recall either getting other information
3 on your cell phone about other things that other
4 individuals, investigators, wanted you to ask Mr. Perry?

5 A I don't recall that either.

6 Q Do you remember -- you're leaving the room for maybe
7 three or four minutes with the door closing and you going
8 outside and leaving Perry in that room by himself, do you
9 remember that?

10 A I'm sorry, I don't.

11 Q Okay. Do you remember coming back into the room at
12 all?

13 A I don't recall. And I may have because, I mean, the
14 solicitor's office was in the observation as well while my
15 interview was going on, as well as another investigator.

16 Q Oh, is that right? So in other words the solicitor's
17 office is listening to your investigation, your question and
18 answer with Mr. Perry.

19 A Yes.

20 Q Oh. And how are they doing it? Because there's a live
21 audio feed from that room.

22 A Yes.

23 Q Was that Ms. Collins?

24 A She was present.

25 Q Okay. Ms. Collins was listening, and there was

1 somebody else from the detective division listening to what
2 was going on?

3 A It's our policy that when you have somebody that's in
4 custody, another investigator, if available, has to be in
5 the observation room. My partner was in the observation
6 room.

7 Q Absolutely, the way professionals ought to do it. At
8 the very end of the conversation, ma'am, you come back in
9 and you are crystal clear, "I cannot -- we can't make any
10 promises or anything." You said that to Perry.

11 A I do recall that, yes.

12 Q Absolutely. And that's what you should have done and
13 you did do it.

14 A I did.

15 Q Right. Do you remember Perry saying, pointing over to
16 his charges, do you remember him saying "That right
17 there" -- and he takes his left hand -- "That right there is
18 taken care of on something else."

19 A I do remember him saying that.

20 Q Yeah. And then you all -- and you said, "Well, we
21 can't talk about that," or whatever, and that ended the
22 conversation. And as he got up to get his crutch he
23 starts -- he said, "What I want to ask you is" -- and he
24 picked up the papers and he was going to try to talk to you
25 again about that, and you said to him, "Can we do that out

1 there," that's in the hallway. Do you remember that?

2 A Yes.

3 Q The hallway is not taped, though, right?

4 A No.

5 Q Okay.

6 MR. DELGADO: Ms. Rumbaugh, thank you.

7 THE COURT: Any redirect?

8 MS. COLLINS: Yes, Your Honor, briefly.

9 REDIRECT EXAMINATION

10 BY MS. COLLINS:

11 Q Ms. Rumbaugh, I'm not your lawyer, right?

12 A Correct.

13 Q You don't work for me, do you?

14 A No.

15 MR. DELGADO: Your Honor, leading.

16 MS. COLLINS: Overruled.

17 Q I don't sign your paycheck, do I?

18 A No.

19 Q In fact, I represent the State of South Carolina; isn't
20 that right?

21 A Yes.

22 Q So you and I don't have attorney/client privilege,
23 right?

24 A Correct.

25 Q You can sit there and tell this jury everything I have

1 ever said to you, correct?

2 A Yes.

3 MR. DELGADO: Leading, Your Honor.

4 THE COURT: I've overruled that objection. I'm
5 allowing leading questions to a certain extent to facilitate
6 testimony. Go ahead.

7 Q On December 4th of 2018, just a few weeks ago, after
8 Mr. Perry had been arrested, this case was not being
9 investigated at that point, correct?

10 A No. We were just doing preparation for the trial.

11 Q And we asked you to bring Mr. Perry to the sheriff's
12 department to make clear to him that he understood his
13 charges were totally separate from him being a witness in
14 this case, correct?

15 A We did.

16 Q And you started off that interview with him by telling
17 him, "You need to understand there's no deals, nothing, this
18 is totally separate," correct?

19 A Yes.

20 Q And you did that because I instructed you in the back
21 to make clear that he totally understood that, right?

22 A Yes.

23 Q And to start off the interview, right?

24 A Yes.

25 Q And then at the end when you step out and came back to

1 me I said, "Again, I just want him to be crystal clear,
2 crystal clear, that this is totally separate from him being
3 an eye witness to his friend being slaughtered before his
4 eyes and to make sure he knows there's no deal," right?

5 A Yes.

6 Q And that's why you went back and said, "Again, no deal,
7 no promises," right?

8 A Yes. That's why I reiterated to him at the end.

9 Q And at the very end when he said something about his
10 charges and you said "We'll talk about that out in the
11 hall," what did he ask you out in the hall?

12 A He asked me about when --

13 MR. DELGADO: Objection, Your Honor, hearsay now.

14 THE COURT: Overruled.

15 Q What did he ask you?

16 A About a public defender. And I had advised him that
17 the woman that works for the public defender's office, that
18 was a Tuesday morning when we interviewed him and that she
19 comes to the detention every Tuesday and I advised him that
20 she would most likely meet with him today.

21 Q And that was the only discussion, right?

22 A Only discussion that happened, yes.

23 Q You've got the chance, hand on the Bible, anything else
24 you want to tell this jury about Stefan Perry and your
25 talking to him, or Lisa Godwin Collins, anything else at

1 all? Go ahead.

2 A I feel like in talking to Stefan Perry --

3 MR. PHILLIPS: Objection.

4 THE COURT: Sustained.

5 Q Is that the truth?

6 A It is.

7 Q The whole truth?

8 A Yes.

9 Q And nothing but the truth.

10 MR. DELGADO: Objection, Your Honor, self-serving and
11 absolutely leading.

12 THE COURT: Sustained.

13 MS. COLLINS: Thank you.

14 THE COURT: Any recross based on the redirect?

15 MR. DELGADO: No, Your Honor, I have none.

16 THE COURT: Thank you, ma'am, you can step down. The
17 State can call its next witness.

18 MS. COLLINS: The next witness for the State is
19 Investigator Ken Taylor. I would ask that these be marked
20 as the next State's Exhibits.

21 The witness, KEN TAYLOR, was first duly sworn and

22 Testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLLINS:

25 Q Would you please state your name?

1 A Ken Taylor.

2 Q What is your occupation?

3 A I'm a sheriff's deputy and crime scene investigator for
4 the Lancaster County Sheriff's Office.

5 Q How long have you been so employed?

6 A Thirteen years.

7 Q In the course of your duties with the sheriff's
8 department, were you involved as an investigator in the
9 investigation of the crime scene in this particular case?

10 A Yes.

11 Q And pursuant to that, did you have an opportunity to go
12 to the crime scene at [REDACTED]

13 A Yes.

14 Q When did you first arrive?

15 A I was called just a little after midnight, our
16 dispatchers advised me of the ongoing scene and I probably
17 arrived at 1:00 a.m., somewhere around there.

18 Q And when you arrived you did not go in at that time
19 because the search warrant had not yet been secured.

20 A Correct.

21 Q And once it was secured by Lieutenant Rogers who
22 testified yesterday, did you enter the home?

23 A Yes, we did.

24 Q When you entered the home at first you took pictures of
25 outside of the home, correct?

- 1 A Yes, took pictures around the outside.
- 2 Q And when you entered the home you did so with
- 3 Investigator Jeff Steele as well as Lieutenant Rogers of
- 4 your same unit, correct?
- 5 A Yes.
- 6 Q And when you entered the home you were also taking
- 7 pictures ultimately, correct?
- 8 A Yes.
- 9 Q And when you first entered the home it was through the
- 10 back door?
- 11 A Yes, ma'am.
- 12 Q And did you see the kitchen?
- 13 A Yes.
- 14 Q And in the kitchen there were several items of interest
- 15 to you as an officer, correct?
- 16 A Correct.
- 17 Q There was a .38 caliber pistol, correct?
- 18 A Yes.
- 19 Q There were bullets and one shell casing beside that
- 20 pistol, right?
- 21 A Yes, there were.
- 22 Q And I show you State's Exhibit 11 and ask you, was that
- 23 the pistol that you observed on the kitchen island?
- 24 A Yes, it is.
- 25 Q And after seeing that, did you leave an officer with

1 that and proceed to the bedroom?

2 A We had the entire house locked down at that time, yes,
3 we did.

4 Q I show you State's Exhibit 61 and ask you, is that a
5 fair and accurate depiction of the gun in the kitchen with
6 the bullets and the one shell casing as you observed it on
7 12/5 of '15 other than the fact that it's black and white?

8 A Yes, it is.

9 MS. COLLINS: Move that into evidence.

10 MR. PHILLIPS: No objection, Your Honor.

11 THE COURT: Without objection introduced.

12 Q Now, when you moved into the bedroom you saw the body
13 of the deceased, Flint McManus?

14 A Yes.

15 Q And at that time do you recall the position of the
16 head?

17 A The head was at this time backwards with the mouth
18 gaped open and looking upward, looking straight up to the
19 ceiling.

20 Q And did you observe two blood patterns on the side of
21 his neck?

22 A Yes, I did.

23 Q And by two I mean there were two paths of blood from
24 the wound, correct?

25 A Yes.

1 Q Most of the blood went forward toward his chin,
2 correct?

3 A That is correct.

4 Q And that would be indicative that at some point his
5 head was down and gravity was pulling the blood that way,
6 correct?

7 A That I believe is the case.

8 Q And then there was a smaller trail back toward the nape
9 of his neck, correct?

10 A Yes.

11 Q And that would indicate at some point while the blood
12 was still bleeding -- while the wound was still bleeding
13 that the head was tilted back as you observed it when you
14 entered the room, correct?

15 A Yeah. That is correct, yeah.

16 Q And that's a lighter wound than the initial one,
17 correct?

18 A Yes, ma'am.

19 Q And there was blood and vomit on the left and middle
20 chest area of the T-shirt of the victim, correct?

21 A Correct.

22 Q He was seated, correct?

23 A Yes.

24 Q In a slumped back position, correct?

25 A Yes.

1 Q Shoulders toward the back of the chair.

2 A Yes.

3 Q Hips toward --

4 MR. PHILLIPS: Your Honor, I know we've already done
5 this a couple times --

6 THE COURT: Correct, you are correct, it is leading.
7 However, again, I'm going to allow some leading questions to
8 facilitate testimony, this is all testimony that's already
9 in the record, that's why I'm allowing it here. Now, for
10 new matters that this witness may testify to or any matters
11 that another witness may testify to certainly I'm going to
12 restrict it. But the reason I'm allowing it to go on for
13 the purpose of the record is to facilitate testimony and
14 evidence that's already in the record, okay?

15 MR. PHILLIPS: Thank you.

16 THE COURT: So keep that in mind, Ms. Collins, and
17 y'all keep that in mind as well. Thank you.

18 MS. COLLINS: Yes, sir. Thank you, Your Honor.

19 Q Hips tilted forward to the edge of the chair, correct?

20 A Correct.

21 Q Legs extended out with ankles crossed, right?

22 A Yes, ma'am.

23 Q Now, Tony Broome, the coroner, he proclaimed the body
24 dead in front of you, correct?

25 A Yes.

1 Q And you took pictures of the body before the body was
2 transported to the morgue, right?

3 A Yes, I did.

4 Q And you were there when Lieutenant Rogers changed her
5 gloves and pulled -- well, first extracted the knife from
6 the position it was in in the lap of the defendant as she
7 testified on the upper thigh with the hand over it, correct?

8 A Yes.

9 Q You observed her change her gloves and then pull items
10 from the pocket, correct?

11 A Correct.

12 Q And the items from the right pocket she pulled were a
13 green pouch that had EGO on it, correct?

14 A Yes.

15 Q And in that pouch were three syringes, correct? And I
16 think these are in evidence, State's Exhibits 9 and 10. Are
17 those pictures of the green pouch with the syringes in them?

18 A Yes, they are.

19 Q And that was in the pocket of the victim, correct?

20 A Correct.

21 Q And then she pulled out ID and all, she's testified to
22 that. You were there when she pulled out pictures of the
23 watches from the left pocket, correct? Not -- she didn't
24 pull out pictures, she pulled out the watches, correct?

25 A Yes.

- 1 Q And you were taking pictures, correct?
- 2 A Yes, ma'am.
- 3 Q And those were watches -- those are pictures in
- 4 Exhibits 6 and 7, those were the two watches, correct?
- 5 A Correct.
- 6 Q An Invicta watch, right?
- 7 A Yes, ma'am.
- 8 Q And a Fossil.
- 9 A Yes.
- 10 Q I show you State's Exhibit 8. Is that a picture of the
- 11 knife that was removed from the lap of the victim?
- 12 A Yes, it is.
- 13 Q Investigator Taylor, have you looked at that knife?
- 14 A At the scene.
- 15 Q Okay. Would you please put on these gloves?
- 16 MS. COLLINS: Mr. Phillips or Mr. Delgado, do you want
- 17 to join me as he opens this?
- 18 MR. PHILLIPS: I trust you.
- 19 MS. COLLINS: All right, that's fine, I just didn't
- 20 know if you wanted a closer view.
- 21 A Okay.
- 22 Q If you can open that box, please, let me know if you
- 23 need a utility knife or some instrument to do so.
- 24 A No, ma'am, I'm able to get it opened.
- 25 Q And is that the knife that was recovered from the crime

1 scene in the lap of the victim on 12/5 of '15?

2 A Yes, it is.

3 MS. COLLINS: I move that into evidence.

4 MR. PHILLIPS: No objection.

5 THE COURT: Without objection introduced.

6 Q Can you hold that knife up and display it for the jury?

7 A Yes, ma'am.

8 Q How does that knife close, Investigator?

9 A It should have -- yeah. It's got a mechanism down on
10 the under side that's kind of serrated and you have to press
11 that in to cause it to come past the latch that was -- the
12 serrated metal portion is actually the lock, and you push
13 that in and it will subsequently fold.

14 Q Go ahead and do so, please. And how do you open it?

15 A You take it with your thumb or you can grab it with
16 your thumb finger or however and pull it open that way and
17 it will lock in place.

18 Q So it doesn't open with a push button where it pops
19 out, right?

20 A No. Again, there is an item on the back that you can
21 dislodge it like that.

22 Q But it's not a push button?

23 A Correct.

24 Q Now, let me show you some pictures that I don't think
25 are in evidence. You can remove your gloves if you would

1 like. Thank you. These are marked State's Exhibit 53
2 through 60. If you'll please look through those and tell
3 me -- if you'll please look through those photos and tell
4 me, are those fair and accurate depictions of the crime
5 scene as you observed it on 12'5, '15, or the early morning
6 of 12/6 of '15, because that's what you entered, right?

7 A Yes, ma'am.

8 Q You entered about 1:00, right?

9 A Yes.

10 Q Are those fair and accurate depictions of the crime
11 scene as you observed it?

12 A Yes, they are.

13 Q Those include some pictures of the defendant's bedroom,
14 correct?

15 A Yes, they do.

16 MS. COLLINS: At this time I move all of these in
17 evidence as fair and accurate depictions of the crime scene.

18 MR. PHILLIPS: No objection.

19 THE COURT: Without objection introduced.

20 Q I show you State's Exhibit 53. Does that show some ear
21 buds and a remote on the bed of the defendant?

22 A Yes, it does.

23 Q I show you State's Exhibit 54, and there's a white box
24 on that bedside table; is that right?

25 A Yes.

1 Q And on that bedside table just in front of the white
2 box, do you see, is there another knife?

3 A There is a knife, it looks like it has a sheath there
4 that it is inserted into.

5 Q Was that knife collected to your knowledge?

6 A Yes.

7 Q And placed into evidence?

8 A Yes.

9 MS. COLLINS: And for the record in evidence was item
10 62 was the knife found in the lap of the victim.

11 Q I show you what's been marked as State's Exhibit 63.
12 Was that the knife that was collected from the bedside table
13 of the defendant?

14 A Yes, it is.

15 Q Okay. And it's in a black sheath?

16 MR. PHILLIPS: Objection, relevance, this knife.

17 THE COURT: Overruled.

18 Q It's in a black sheath?

19 A Yes, ma'am.

20 Q Okay. And again, you have to kind of lift it up. It
21 doesn't have a wooden -- no, you've got it flipped over, I
22 couldn't. It doesn't have a wooden handle, it's a metal
23 handle, right?

24 A Correct.

25 Q Thank you.

1 MS. COLLINS: Move that into evidence.

2 THE COURT: Same objection, noted, overruled.

3 MR. PHILLIPS: And 403 as well.

4 THE COURT: Okay. Overruled.

5 Q And again, that's in the picture right by the bed of
6 the defendant?

7 A Yes.

8 Q Or his bedside table?

9 A Yes, ma'am.

10 Q Now, you were in that bedroom, you saw where the bed
11 was, correct?

12 A Yes.

13 Q When you're in the bedroom, body of the victim is
14 behind you facing the door, correct?

15 A If I'm facing the door, correct.

16 Q You're standing in front of the victim, the victim is
17 behind you, right?

18 A Yes, ma'am.

19 Q And the body is facing the door sitting in a chair.

20 A Yes.

21 Q TV is in front of the body.

22 A Yes, ma'am.

23 Q And over here to the left is the door to the bathroom,
24 correct?

25 A Yes.

1 Q The bed that you see in the picture is right there,
2 correct?

3 A Yes.

4 Q And to be clear on the record, the bed is to the left
5 of the entry to the bathroom, correct?

6 A Yes.

7 Q And the table beside the bed is right there by the
8 bathroom, correct?

9 A Yes.

10 Q Now, you took a picture of the closet that's been
11 referenced in this case of the defendant that's there off of
12 the bathroom, correct?

13 A Yes.

14 Q And is that a fair and accurate depiction of the
15 interior of the defendant's clothes?

16 A Yes, it is.

17 MS. COLLINS: Move that into evidence.

18 MR. PHILLIPS: No objection, Your Honor.

19 THE COURT: Without objection, introduced.

20 Q And I want to show you -- now, you would have to walk
21 by the table and the bed to come around and swoop around
22 where Raymond and Stefan Perry were to get to Flint,
23 correct?

24 A Yes.

25 Q I show you pictures from the bathroom and ask you, are

1 those two -- look at the number on the back, please. Are
2 those two pictures -- what are the numbers?

3 A Item 55 and 56.

4 Q Thank you. Are 55 and 56 fair and accurate depictions
5 of the bathroom as you observed it?

6 A Yes, they are.

7 MS. COLLINS: I believe they're already in evidence, I
8 believe I moved them all in earlier without objection, the
9 pictures.

10 Q So there in the bathroom, this picture has a drawer
11 opened, State's Exhibit 57, right?

12 A Correct.

13 Q There's a vanity area, what some ladies call that area
14 in the bathroom where you sit down and perhaps put on
15 makeup, right?

16 A Yes, ma'am.

17 Q Drawer right there at the lap of the person, kind of
18 like a desk drawer, that's what's in that picture, right?

19 A It is.

20 Q It has an ID of the defendant, right?

21 A Yes, it does.

22 Q All right. Has another item too, doesn't it?

23 A Yes.

24 Q Item typically in a kitchen, right?

25 A Yes.

1 Q What's that item?

2 A That's a spoon.

3 Q What's a spoon used for in addition to eating?

4 MR. PHILLIPS: Objection.

5 THE COURT: Hang on.

6 MR. PHILLIPS: No foundation.

7 THE COURT: Hang on. Sustained.

8 Q Based on your years of experience as a law enforcement
9 officer, have you ever been involved in --

10 MR. PHILLIPS: Objection.

11 THE COURT: Overruled.

12 Q Have you ever been involved in investigating drug
13 cases?

14 A Yes.

15 Q Have you ever been involved in looking at drug
16 paraphernalia?

17 A Yes.

18 Q Are spoons found sometimes that are used to hold over a
19 flame and melt down a drug so it can be put in a syringe?

20 A Yes, they are.

21 Q You were here yesterday when Lieutenant Rogers
22 testified, right?

23 A Yes, ma'am.

24 Q And you were here when the picture of the other
25 bathroom drawer was placed into evidence after --

1 regarding -- that contained a syringe, do you recall that?

2 A Yes, ma'am.

3 Q So that was in the very same bathroom where that spoon
4 was, right?

5 A Yes.

6 Q And in a drawer right in that same area --

7 MR. PHILLIPS: And the leading. We're getting into the
8 new stuff, Your Honor.

9 MS. COLLINS: This is already in evidence.

10 THE COURT: Hang on. Rephrase the question.

11 Q I show you State's Exhibit 52. What's that a picture
12 of?

13 A That's a picture of that open drawer in that vanity.

14 Q In that same bathroom?

15 A Yes.

16 Q And what's in that drawer?

17 A There is a syringe needle over to the right side of the
18 drawer.

19 Q With an orange cap?

20 A Yes, ma'am.

21 Q You were there as stated when the EGO pouch was pulled,
22 the green pouch was pulled out of the victim's pocket?

23 A Yes, ma'am.

24 Q And when it was opened and had the three syringes in
25 it, correct?

- 1 A Yes, correct.
- 2 Q And they're also of the same size as that in that
3 bathroom drawer?
- 4 A They appear that way to me, yes.
- 5 Q With an orange cap, right?
- 6 A Yes, ma'am.
- 7 Q I show you State's Exhibits 58 and 59, also drawers in
8 the same bathroom; is that correct?
- 9 A Yes.
- 10 Q And that would be the bathroom of the defendant,
11 Michael Brent Gay?
- 12 A Yes, ma'am.
- 13 Q Now, you attended the autopsy of the victim, correct?
- 14 A Yes, I did.
- 15 Q You observed the victim's body at the scene, correct?
- 16 A Yes, ma'am.
- 17 Q It was taken to the morgue, correct?
- 18 A Yes.
- 19 Q You observed the body at the morgue, correct?
- 20 A I did.
- 21 Q It was then taken to the autopsy on December 7th,
22 right?
- 23 A Yes.
- 24 Q You went to the autopsy, right?
- 25 A Yes, ma'am.

1 Q You observed the victim's body at that time?

2 A Yes.

3 Q He had on a long sleeved shirt at the time of the

4 incident, correct?

5 A I believe it was bright yellow.

6 Q Bright yellow, long sleeved?

7 A Yes.

8 Q At the autopsy his clothing is removed, correct?

9 A Correct.

10 Q He's lying nude on the table, correct?

11 A Yes, ma'am.

12 Q Did you observe any needle tracts on his arm?

13 A No, I did not.

14 Q Did you observe anything on his body that appeared to

15 be needle tracks?

16 A No, I did not.

17 Q You've got the autopsy report there from Dr. Ross,

18 correct?

19 A I do not have a copy of the actual autopsy report.

20 Q You've reviewed it.

21 A But I have reviewed it.

22 Q And it's in evidence for the jury.

23 A Yes.

24 Q Let's continue. Shell casings, three bullets on the

25 kitchen island, right?

1 A It was a shell casing and four --

2 Q Shell casing, four bullets on the kitchen island,

3 right?

4 A Yes.

5 Q Bullets are the type that go in that .38 Special that's

6 in the kitchen island; is that right?

7 A Yes.

8 Q There was another bullet found, a .38 caliber in the

9 defendant's bedroom; is that right?

10 A I believe so, yes.

11 Q You observed the stippling around the bullet wound on

12 the victim's neck?

13 A Yes, ma'am.

14 Q Have you ever been qualified as an expert in the field

15 of shot reconstruction?

16 A Yes, ma'am.

17 Q Is that what it's called, am I using that term --

18 A I typically refer to it as shooting reconstruction.

19 Q Have you taken special training and classes on that?

20 A Yes.

21 Q Do you hold some type of certificate or graduated a

22 program regarding that?

23 A I did graduate a program from the National Forensic

24 Academy that was a pretty comprehensive program and that

25 included a 40 hour block in shooting reconstruction, and a

1 year after that had another 40 hour block and continuing
2 education throughout the years for shooting reconstruction.

3 MS. COLLINS: I move this witness -- I'm sorry, Your
4 Honor. Your Honor, I respectfully submit Mr. Taylor as an
5 expert witness in the field of shot reconstruction.

6 THE COURT: Any voir dire or objection?

7 MR. PHILLIPS: Voir dire, Your Honor.

8 THE COURT: All right.

9 VOIR DIRE EXAMINATION

10 BY MR. PHILLIPS:

11 Q How many times have you testified as a shot
12 reconstruction expert?

13 A Twice.

14 Q What were the dates of those?

15 A It's been probably -- both of them probably within
16 about the past five years.

17 Q So when was the most recent within the five years?

18 A Probably -- again, I don't know the exact dates, I just
19 have the times that I was qualified just written down, I
20 think about three years ago maybe.

21 Q So about three years?

22 A Yes, sir.

23 Q And then before that was maybe the five year --

24 A Probably, yes, sir.

25 Q All right. So you've been -- you testified to shot

1 reconstruction. And your trainings, when did they occur?

2 A 2010, 2011 and up on through the years up until as
3 recent some other shooting classes around 2018.

4 Q Well, I'm not talking about shooting, I'm talking about
5 the reconstruction with the rods and all of that?

6 A The reconstruction, probably the last reconstruction
7 was probably about 2015 probably.

8 Q And you said you had back in 2010 a 40 hour like a
9 week --

10 A Forty hour block in 2010 and a 40 hour block in 2011.

11 Q Okay. And since then -- and not shooting a gun, I'm
12 talking about -- that's not where she's going with this.

13 A Actual courses, hour and four hour courses online.

14 Q Four hour courses online?

15 A Yes, sir.

16 Q Anybody watch you? Did you take a test or --

17 A Yeah. You have to take whatever type test they have
18 there on the online program, one or two of them through the
19 University of West Virginia.

20 Q And you're sitting on the computer at home taking notes
21 as you watch?

22 A At work.

23 Q And you said it's a four hour online test?

24 A Yes.

25 Q All right. And that makes you an expert?

1 A No. The Court is going to qualify me as an expert.

2 Q From a week about eight years ago.

3 A Sir, I'm not going to argue with you about that.

4 Q I know. So with this past reconstruction, how much
5 hands-on training have you actually done?

6 A I've been shooting guns since I was a kid.

7 Q Not shooting guns, that's not what she's going to ask
8 you.

9 A I gleaned from that knowledge about having guns --

10 Q Not gleaned.

11 THE COURT: Hang on, don't interrupt, let him finish.
12 Go ahead.

13 A I gleaned information, I gleaned knowledge from that
14 about shooting guns. I'm a competitive shooter and have
15 been doing it since I was a kid.

16 Q We're not talking about shooting guns, that's not what
17 she's going to ask you about.

18 A I understand.

19 Q What hands-on training have you had about bullet
20 trajectory, path --

21 A Again, I've had 80 hours of training since 2010.

22 Q Hands-on training.

23 A Yes.

24 Q The rods, you know --

25 A Well, not to mention the cases that I've worked. We

1 work several cases a year of shooting reconstruction.

2 Again, it's an ongoing -- it's part of my job, it's what I
3 do.

4 Q Yeah, but you're just working. I'm talking about
5 training making sure --

6 A Again, I've had about 90 hours --

7 THE COURT: Hang on, Mr. Witness, let him finish his
8 question and then you answer. I don't need y'all talking
9 over each other.

10 MR. PHILLIPS: I'm sorry, Your Honor.

11 THE COURT: No, it's not you, it's him this time. All
12 right. Answer the question and then you go back.

13 Q Part of being an expert is that you have all of this
14 training, you have all of this hands-on experience because
15 she's going to ask you in your expert opinion you get
16 qualified based on your training and experience so that's
17 what we're backing you through here because the judge has
18 got to make that call. And so with that based on your
19 actual hands-on training, not shooting a gun, not working
20 cases because that's just your subjective intent about what
21 happened, we're talking about actual hands-on training and
22 what you've done besides the four hour online course on
23 bullet trajectory and flight path so that's what we're
24 really focused on here, okay? And so with your hands-on
25 training in the last five years what have you done?

1 A Probably just one four hour course in the last five
2 years.

3 MR. PHILLIPS: Okay. No further questions, Your Honor.
4 We would object to him being qualified as a flight path.

5 THE COURT: All right, objection overruled, I qualify
6 him as an expert in the field of shot reconstruction?

7 MS. COLLINS: Yes, Your Honor, thank you.

8 THE COURT: And ladies and gentlemen, again, you will
9 remember my instruction to you regarding expert witness
10 testimony. Just because an expert gives an opinion doesn't
11 mean you have to accept the opinion, it's just something for
12 you to consider and you consider all of the way to the
13 evidence, okay?

14 BY MS. COLLINS:

15 Q You observed the stippling around the wound on the
16 victim's neck, correct?

17 A Yes, I did.

18 Q Swabs were taken of that area, correct?

19 A Correct.

20 Q And submitted to SLED.

21 A Yes, I believe they were.

22 Q What I'm basically wanting to ask you is in terms of
23 the stippling around the wound, did you measure the width of
24 that? Was that measured?

25 A I think with some scaled photos that we had we

1 estimated about a five inch diameter pattern.

2 Q I show you what's already in evidence as State's
3 Exhibits 2 and 3 and ask you, are those photographs of the
4 stippling?

5 A Yes, they are.

6 Q I believe three is before it's cleaned up and then two
7 is after it's cleaned up during the autopsy, correct?

8 A That is correct.

9 Q Does it show the width of the stippling? You said it's
10 a to scale photo, you've got what's a sticker with an inch
11 or something?

12 A Yes, there is a scale in there. I think that scale is
13 probably millimeters, but again just based on that it's
14 probably about a four or five inch pattern.

15 Q Four to five inch, not 45.

16 A Correct, four to five inch, I'm sorry.

17 Q Do you have an opinion to a reasonable degree of
18 scientific certainty as to how far the shot occurred from
19 the body of the victim to have left a stippling pattern that
20 was that wide?

21 A This is something that we would refer to as an
22 intermediate. Without actually doing testing on the same
23 gun, the same brand and type of cartridge with the same
24 amount of powder and things like that there's no way to
25 really tell what diameter pattern it may leave unless we

1 actually do testing, so the fact that the was stippling was
2 there is typically going to be what we call an intermediate
3 range.

4 Q And what does intermediate range entail?

5 A Most distances that I've seen that people have reported
6 on intermediate range are anywhere between about 24 inches
7 and 30 inches distance from the muzzle of the gun. I have
8 seen some that say up to 36 but most kind of finish out
9 around 30 inches as well.

10 Q And if I walked by someone and turned and shoot at them
11 and have the gun extended, it's not where my feet are
12 measured from, it's from the gun, correct?

13 A From the muzzle of the gun, correct.

14 Q And you say it will be between 24 to 36 inches?

15 A That will be -- well, again, from 36 inches into about
16 as close as maybe about six inches is typically where you're
17 going to see stippling from. So you've got about a 24 to 30
18 inch range to where you would see stippling.

19 Q But it wasn't a contact wound.

20 A Correct.

21 Q Because a contact wound looks different, right?

22 A A contact wound does look different.

23 Q What's a contact wound.

24 A A contact wound is if the gun is in close contact.

25 Close contact could even leave a muzzle imprint from the

1 muzzle of the gun. It could also leave burning or searing
2 in the skin usually, and possibly if it's only a few inches
3 away maybe some soot.

4 Q Now, there's been testimony, and I'm looking for the
5 photo, forgive me, there are a lot of photos and I just --
6 it takes me a minute to put my hands on it.

7 (Break in proceedings.)

8 Q I show you what's been marked as State's Exhibits 24
9 and 25. I don't think that's in evidence yet. Is that a
10 fair and accurate depiction of some items that were in the
11 bedroom of 12-6-15, the early morning hours when you were
12 there?

13 A Yes, it is.

14 Q And what is that?

15 A It looks like a display stand holding some items
16 including some knives, figurines, it looks like some belts
17 or some straps and a placard for an advertisement maybe.

18 MS. COLLINS: Move those two into evidence, please.

19 THE COURT: All right. There is an objection?

20 Overruled.

21 Q Bedside the display stand there are also some boards,
22 correct?

23 A Yes.

24 Q Those boards like book shelves or bed boards or what?

25 A They look like some type of decorative wood piece or

1 either the frame around something like something you might
2 see on this desktop or a shelf or something, that's what
3 they look like to me.

4 Q Was that display shelf close to the body of Flint
5 McManus?

6 A Yes, within just a few feet.

7 Q So if Flint McManus is seated here, TV is front of him,
8 bedroom door is there, where is the display shelf, to
9 Flint's left or right?

10 A It would be to his right.

11 Q So if the defendant walked out of the bathroom, crossed
12 in front of Raymond, Perry and Flint and stood right over
13 here, he's close to that display shelf?

14 A Yes.

15 Q Within inches?

16 A Yes.

17 Q Within reach?

18 A Yes.

19 Q Tell me about those items that are on there, did you
20 see them? Did you look at them that night?

21 A Other than taking these pictures I did not closely
22 inspect them, but I did take the picture.

23 Q There's karate black belt there that has Michael Gay
24 embroidered on it.

25 MR. PHILLIPS: Objection. What's the relevance of the

1 black belt?

2 THE COURT: Well, sustained as to leading, overruled as
3 to relevance.

4 Q There's a karate black belt there with the name Michael
5 Gay embroidered in yellow or gold thread; is that correct?

6 A The one facing here actually says Brent Gay embroidered
7 in gold.

8 Q I'm sorry, thank you for correcting me, you're the
9 witness, I'm not. There are other knives there, correct?

10 A Correct.

11 Q There is a samurai sword there, correct, or a longer
12 knife.

13 A Some kind of long handled knife, yes.

14 Q Do you see up toward the top -- and I don't know what
15 you call them, but do those appear to be the ninja stars or
16 some kind of metal throwing thing?

17 A Some type of sharp looking instrument.

18 Q And behind the black belt you see something hanging
19 down, are those what some people call nunchucks?

20 A I can't quite tell from here. It looks like it may be
21 that, I can't quite see it completely but it looks like
22 that.

23 Q But can't tell.

24 A Yes, ma'am.

25 Q But multiple sharp knives within reach?

1 A Yes.

2 Q Two bed boards within reach.

3 A Yes.

4 Q Weren't bed boards, what were they?

5 A Again they look like some type of shelving or

6 decorative type boards.

7 Q But wooden boards.

8 A Wooden boards is what they look like, yes.

9 Q Thank you. You prepared the diagram of the scene of

10 the home, correct?

11 A Yes, I did.

12 Q And you focused on the scene area of the home, you

13 didn't do the entire home, correct?

14 A Correct.

15 Q You included the area of the home that contained

16 potential evidence, right?

17 A Yes.

18 Q And you prepared that on your computer?

19 A Yes, ma'am, at work.

20 Q You're trained to do that?

21 A Yes.

22 Q I'm going to show you a copy -- I'm going to show you a

23 copy of the photograph that's been marked as State's Exhibit

24 64 for ID and ask you, do you recognize that?

25 A Yes.

1 Q What is that?

2 A That is a drawing that I prepared of this crime scene.

3 Q And did you provide that to the solicitor's office?

4 A Yes.

5 Q And that drawing, is that to scale?

6 A It's what I offered -- no, it's not to scale. We
7 usually refer to as a near to scale in that we just try to
8 make a good graphic representation of what we saw there at
9 the scene.

10 Q But what does to scale mean? Does that mean it's
11 precise as that to measurements?

12 A Yes, it does.

13 Q So that perhaps when we have maps and didn't have all
14 of the computer stuff, but you could look like a fourth of
15 an inch would equal maybe ten miles?

16 A Yes.

17 Q So you would have the calculations and they would be
18 precise, correct?

19 A Correct.

20 Q But near to scale may be close but no cigar, close but
21 not precise?

22 MR. PHILLIPS: Leading, Your Honor.

23 Q Is that right?

24 THE COURT: Hang on, sir. What?

25 MR. PHILLIPS: The answer is in the question, it's

1 leading.

2 THE COURT: Correct, I agree, sustained.

3 Q So that is not precise, correct?

4 A Correct.

5 MS. COLLINS: Move that into evidence at this time.

6 THE COURT: Any objection.

7 MR. PHILLIPS: That's the diagram?

8 MS. COLLINS: Yes.

9 MR. PHILLIPS: No objection, Your Honor.

10 THE COURT: All right. Without objection introduced.

11 MS. COLLINS: Thank you.

12 Q Investigator Taylor, step down if you will with the
13 diagram.

14 A Yes, ma'am.

15 Q And we're going to do the same thing but in two parts
16 so that the jury can see. If you'll turn the diagram around
17 and just point with your finger, what area was the
18 defendant's bedroom?

19 A The defendant's bedroom is on the northeast corner of
20 the house. The drawing shows just basically that northeast
21 area. The rest of the house is not here just so we can
22 focus on the crime scene area.

23 Q And point to the hallway leading from his bedroom to
24 the garage.

25 A There's a doorway out here, a long hallway that goes

1 straight to another door and eases out into the garage which
2 would be on down in this area.

3 Q Okay. And do the same thing over here before we get
4 too far ahead and I forget what I asked. Point to the
5 defendant's bedroom, please.

6 A The bedroom is over on the northeast corner of the
7 house as it sits.

8 Q And the hallway leading to the garage?

9 A There's a hallway leading out of that bedroom down on
10 the side and into the garage, which would be down in this
11 area.

12 Q Now, point to the chair that the victim was found in.

13 A The victim was found in a wooden swivel type chair
14 that's right here coming out of that hallway just slightly
15 over to the right side.

16 Q And show this side to the jury, that same chair.

17 A Again in that northeast corner where the bedroom is the
18 chair was up right here. As you come out of the hallway the
19 chair would have been slightly over to your right.

20 Q Thank you. You can have a seat and take that with you.
21 So the swivel type wooden chair that the victim's body was
22 in, it was kind of like some people like to call a captain's
23 chair, it kind of curved around the body, correct?

24 A Yes, correct.

25 Q It wasn't just a straight back, right?

1 A No. I think it had a swept kind of rounded curve type
2 back.

3 Q And your figure of that particular chair also has a
4 curve, correct?

5 A Yes.

6 Q So when you're preparing those diagrams on your
7 computer, are you able to find similarly matched items where
8 you can drag and drop them into the diagram?

9 MR. PHILLIPS: Leading.

10 THE COURT: Sustained.

11 Q How do you do it?

12 A In the drawing program that we use called Auto Sketch,
13 and it does have stock or standard images that if you want
14 to pull out a picture of a chair and place a chair in your
15 drawing it does have standard ones that are like that. And
16 they are shaped differently because the makers of that
17 software apparently know that in real life there are
18 different shaped chairs, different shaped beds, things like
19 that so they do offer an array of kind of stock images you
20 can take out of there and place within that drawing.

21 Q And by place, how do you get it in the drawing?

22 A It's a matter of, if you're familiar with computer
23 terms, just drag and drop. You just go -- if you're on your
24 screen and you go over to the storage, look for the image
25 you want, click it and drag it over, drop it and move it in

1 place.

2 Q And again in that the diagram is not to scale but is
3 near scale --

4 A Correct.

5 Q -- does that show the precise location of that chair?

6 A No, it would not. Again, based on the pictures we took
7 and what few dimensions that I knew at the time, it was just
8 a graphical representation to try to follow the pictures
9 that I had taken.

10 Q I show you State's Exhibit 20 that's already in
11 evidence. Do you recognize that photo?

12 A Yes.

13 Q Is that a photo you took --

14 A Yes, ma'am.

15 Q -- of the crime scene on the early morning hours of
16 12/6 of '15?

17 A Yes, it is.

18 Q What does that depict?

19 A That was taken with me standing in the long hallway
20 that we referred to earlier looking toward the chair where
21 Mr. McManus was found, and you can see the very right side
22 of his body in the edge of the chair, that rounded back
23 chair where he's seated.

24 Q And that was the position of that chair that evening,
25 correct?

1 A Yes, it is.

2 Q At the time that you got there, correct?

3 A Yes, correct.

4 Q At the time that you entered, right?

5 A Yes, ma'am.

6 Q Obviously you weren't there when this crime occurred,
7 correct?

8 A Correct.

9 Q So you don't know what position that chair was actually
10 in at the time, right?

11 A Correct.

12 Q Thank you.

13 MS. COLLINS: One moment. Let me confer with the court
14 reporter.

15 (Break in proceedings.)

16 THE COURT: While we're doing all of this we need to
17 take a break, a juror needs to take a break. Let's go ahead
18 and take our mid-morning recess, ladies and gentlemen. Do
19 not talk about the case, obviously we still have a witness
20 on the stand as well so you may step back and take a break
21 at this point in time. Mr. Witness, just stay right where
22 you are, you can't talk to any lawyers or anything during
23 the break.

24 (The jury left the courtroom and a break was taken.)

25 MS. COLLINS: We might have a little bit of an

1 argument --

2 THE COURT: We're back on the record, the jury is out
3 of the room still.

4 MS. COLLINS: We are going to move some items into
5 evidence that haven't been moved in and I understand those
6 are without objections, just some photographs.

7 MR. PHILLIPS: Yes, Your Honor, no objection on those
8 items.

9 MS. COLLINS: But State's Exhibit 12 was a diagram, we
10 did not move it in at the time because at the time Ken
11 Taylor had not yet testified that he had prepared it, it was
12 near to scale but not in scale, et cetera, but it was a
13 diagram used and marked by Raymond Robinson to show, I
14 think, where --

15 MR. NEWMAN: He marked where he was standing when he
16 saw what he saw, he marked the room.

17 THE COURT: With the red marker.

18 MS. COLLINS: Right. And we didn't at that time move
19 it in because again as to the diagram itself --

20 THE COURT: It wasn't his diagram.

21 MS. COLLINS: That's right. So at this time we would
22 move that into evidence.

23 THE COURT: Yes, sir?

24 MR. PHILLIPS: We would object obviously at this time.
25 There's another witness who did the circle on the exhibit so

1 we just renew our objection under 403 and certainly 5th
2 Amendment of 14th Amendment to the United States
3 Constitution.

4 THE COURT: Thank you. Objection overruled, I'm going
5 to allow that document into evidence.

6 (Break in proceedings.)

7 MS. COLLINS: The only other argument, we just wanted
8 to say for the record in terms of diagram, I know you've
9 ruled for us, was also that Stefan Perry's came in, same
10 diagram but, of course, with his markings I think without
11 objection, but just for the record I want to note that.

12 MR. PHILLIPS: That is accurate. The only other
13 further objection on this specific diagram I forgot to
14 mention as far as authentication and, of course, laying the
15 foundation, I think it might have to come through Mr. Taylor
16 for the authentication and foundation.

17 MS. COLLINS: Okay. Well, I could do that real quick.
18 And lastly I will move State's Exhibits 6, 7, 8, 9 and 10
19 in.

20 THE COURT: Those are the photographs.

21 MS. COLLINS: Those are photographs.

22 THE COURT: Those are already in.

23 MR. PHILLIPS: And no objection.

24 THE COURT: Well, are you going to ask him about 12
25 again?

1 MS. COLLINS: I was just going to ask him is this the
2 same diagram that we just moved in that he also prepared.

3 MR. PHILLIPS: It's a separate diagram.

4 THE COURT: Okay. Well, then you just make your
5 objection at that time and I'll rule contemporaneously. Are
6 we ready? Bring the jury in.

7 (The jury returned to the courtroom.)

8 THE COURT: All right. Thank you, ladies and
9 gentlemen.

10 MS. COLLINS: Thank you, Your Honor. Just for the
11 record, we were trying to find some pictures that actually
12 ended up being at the witness chair with Mr. Taylor, Mr.
13 Watkins, the court reporter, found them and we have since
14 moved those into evidence without objection.

15 THE COURT: Those pictures are in evidence.

16 CONTINUED DIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q At this time I would like to show the witness State's
19 Exhibit 12 and ask you, is that the same diagram but with
20 some red markings on it, but it's the same diagram that
21 we've put in previously that you prepared in this case?

22 A It is the same layout of the house but minus the ledger
23 that explained what the markers were.

24 Q But the red marks were not on it obviously.

25 A Correct. Yes, they have been added.

1 Q And again, but it's the same diagram in general.

2 A Yes, it is.

3 Q And it's a fair and accurate depiction other than it is
4 not to scale.

5 A Correct.

6 Q Thank you.

7 MS. COLLINS: I move that into evidence, please.

8 MR. PHILLIPS: Just renew the objection.

9 THE COURT: Objection noted, objection overruled, that
10 document is in evidence.

11 MS. COLLINS: Thank you, Your Honor. Mr. Taylor, if
12 you will, please answer any questions of defense counsel.

13 THE COURT: Mr. Phillips?

14 MR. PHILLIPS: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. PHILLIPS:

17 Q Good morning.

18 A Good morning.

19 Q Now, you went through several photographs with the
20 prosecutor of things that were in the room, I want to kind
21 of let's go over that and I see one of them is right there
22 if front of you, if you could just kind of go back and look
23 through those photographs.

24 A Yes, sir.

25 Q All right. So you testified that there was a karate

1 belt on the wall. Is there any evidence in this case that
2 says that that karate belt has anything to do with this
3 case?

4 A It was hanging on the stand there against the wall.

5 Q Did it have anything to do with the knife that was in
6 Mr. McManus' hand?

7 A Didn't appear to to me.

8 Q Did it have anything to do with the gun that was on the
9 kitchen counter?

10 A Not directly related, no.

11 Q Samurai swords. Does this case have anything do
12 samurai swords?

13 A I don't know about that.

14 Q Does this case have anything to do about ninja stars?

15 A I don't know about that. I don't know all the details
16 about that.

17 Q Does this case have anything to do with nunchucks?

18 A Again, I don't know about anything that was on that
19 shelf over there other than it was in the room.

20 Q But you're an investigator in this case.

21 A Sure.

22 Q You're a crime scene investigator.

23 A Yes.

24 Q You look over everything.

25 A Yes.

- 1 Q And been qualified as an expert.
- 2 A Yes.
- 3 Q And you've had many years of training and experience in
4 crime scenes, and with that based on what you've seen karate
5 black belts, samurai swords, ninja stars, nunchucks, none of
6 that has anything to do with this case.
- 7 A Not while I was there it didn't.
- 8 MR. PHILLIPS: May I approach, Your Honor?
- 9 THE COURT: Yes, sir.
- 10 Q Solicitor handed you this too.
- 11 A Yes.
- 12 Q What's in this tube?
- 13 A A knife and a sheath.
- 14 Q Where was this found?
- 15 A On a --
- 16 Q Bedside table?
- 17 A Bedside table, yes.
- 18 Q Does the bedside table have anything to do with this
19 case?
- 20 A Again, I don't know.
- 21 Q Does this knife have anything to do with this case?
- 22 A It was in the same room, that's all I know.
- 23 Q Did you do any testing on this knife?
- 24 A I personally, no.
- 25 Q Why wouldn't you do any testing on this knife?

1 A I didn't have any requests to.

2 Q Because it is not relevant to this case.

3 A I don't know.

4 Q If it was relevant you would have done some testing on

5 it.

6 A I can't say that that's a true statement.

7 Q So you would only test something if you were told?

8 A Yes.

9 Q And talking about testing, in this case you did GSR

10 testing.

11 A Collected GSR kits, correct, I didn't do the testing.

12 Q In court terms, that's gunshot residue?

13 A Gunshot residue collection kit, correct.

14 Q So you were trying to get evidence to show whether

15 there was evidence of a gun being shot.

16 A Correct.

17 Q And you collect evidence on Mr. McManus' shirt?

18 A Mr. McManus' shirt neck area, and another kit, I

19 believe it was collected from his hands.

20 Q And his hands?

21 A Yes, sir.

22 Q Did you collect GSR, gunshot residue, on the Kershaw

23 knife?

24 A The knife specifically, no, but from his hands, yes.

25 Q This is State's Exhibit 62. Could you get out that

1 knife?

2 A Sure. Could you get some --

3 Q Before we even get that far, we talked about earlier
4 when we did our voir dire of you being an expert and going
5 to the forensic training facility, part of that is, of
6 course, evidence collection, right?

7 A Yes.

8 Q And part of evidence collection is making sure that you
9 have proper evidence tape on your evidence?

10 A I don't know anything about proper evidence tape.

11 Q Well, evidence tape where you couldn't just open a box.

12 A Tape is tape, we tape it up with tape.

13 Q And generally the evidence will have initials of who
14 put it on there?

15 A Sometimes.

16 Q Most of the time. Sure. And in this case when they
17 handed you the box, did you have to cut the tape?

18 A No.

19 Q In other cases you testified you generally have to cut
20 the tape?

21 A Sometimes.

22 Q Most of the time?

23 A Sometimes.

24 Q Okay. And generally it would be where there would be a
25 piece of tape put on the box, initialed and cut sometimes?

1 A Sometimes, correct.

2 Q Will you get the knife out?

3 A Sure.

4 Q Now, will you show that to the jury?

5 A Yes.

6 Q Now, this is the knife that's at issue.

7 A Correct.

8 Q This is the one that would have some evidence that's

9 relevant to this case?

10 A I don't know about that.

11 Q It's the one that was in Mr. McManus' hand?

12 A It was lying on his thigh.

13 Q It was touching his hand?

14 A It was touching his hand, correct.

15 Q All right. So it's in his hand. And part of that, you

16 didn't do any gunshot residue testing on that knife?

17 A No.

18 Q You fingerprinted that knife?

19 A No, sir.

20 Q You didn't do the latent prints?

21 A I didn't collect latent prints, no, sir.

22 Q You didn't do any evidence collection of fingerprints

23 on that knife.

24 A No, sir.

25 Q That's the knife that was in Mr. McManus' hand.

1 A Correct. On his thigh, excuse me.

2 Q So if Mr. Gay's fingerprints were on that knife you
3 wouldn't know about it.

4 A I didn't collect the prints, no, sir.

5 Q So we don't know whether Mr. Gay's fingerprints were on
6 that knife.

7 A I don't know.

8 Q And you didn't collect gunshot residue, or at least
9 swabs for it to be tested by SLED on that knife.

10 A On the knife, no.

11 Q Now, the solicitor said you weren't there, you don't
12 know what happened. But in going through, talking about the
13 belts and where people were standing she said if Mr. McManus
14 was sitting in the chair here and Mr. Perry is sitting over
15 to his left and Mr. Robinson is to the right and you're
16 nodding your head yeah. You weren't there and you literally
17 have no idea who was standing where, what was said, all of
18 that is just an assumption based on what was told to you,
19 right?

20 A The only person I know who was seated where he was was
21 Mr. McManus.

22 Q Of course, sure. As far as that, you have no clue
23 based on the evidence that was collected.

24 A Again, sure, I wasn't there, no.

25 Q Now, earlier -- I mean, probably should have kind of

1 walked through some of this before, but with evidence
2 collection and, of course, there was this testimony
3 regarding the syringes, you had the photographs.

4 A Yes.

5 Q And you talked about your training and experience in
6 law enforcement. You understand that someone that would
7 necessarily have methamphetamine in their system, it could
8 have been through a syringe?

9 A Sure.

10 Q Because that's one of the ways that you will do
11 methamphetamine?

12 A Are you asking me is that one --

13 Q Based on your training and experience as a law
14 enforcement officer, that in a place where one is doing
15 methamphetamine, one of the ways they would do it is through
16 a syringe.

17 A Are you asking me is that one of the ways they would do
18 it?

19 Q Yes.

20 A I would assume it is.

21 Q And based on evidence collection you've seen that in
22 narcotics cases.

23 A Yes.

24 Q You said that based on your training and experience and
25 in your expert opinion that it was an intermediate shot.

1 A Yes.

2 Q That it could have been as far as say 36 inches away?

3 A That would probably be about the furthest that I have
4 seen intermediate range.

5 Q And you said probably like 24 to 30?

6 A Well, that's -- anywhere from about six inches out to
7 about 30 or so is typical for intermediate.

8 Q And your testimony to the solicitor was 24 to 30 is a
9 good range, right?

10 A Explaining the extent of intermediate.

11 Q About two feet?

12 A Two feet to two and a half.

13 Q Not right to the head?

14 A No. That have would been -- if you're referring to a
15 contact or close contact, then no, that's different from
16 intermediate.

17 Q This isn't a close contact.

18 A No.

19 Q About two feet away?

20 A Again, I can't tell you, it's somewhere between about
21 six inches and about 30 inches, somewhere in between there.
22 No way to tell that unless you do testing on that gun with
23 the same type cartridge, the same powder load and all that.

24 Q One last thing.

25 MR. PHILLIPS: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 Q I've got to do it to you gain, I apologize, should have
3 did this earlier. Will you put on the gloves?

4 A Sure.

5 Q Will you get out the knife?

6 A Yes, sir.

7 Q Will you close it? Now, there's been some talk about
8 switch blade, and the solicitor said, "You've got to unlock
9 the knife." And you said, "Well, actually there's a push
10 button here and it flips out." Will you demonstrate that to
11 the jury again? Will you hold it up when you do it?

12 A Yeah. There's a knot on the back of it here, I'll call
13 it a knot, that's serrated, and as you push that in it has
14 an assist to help the knife blade come out.

15 Q All right. And you didn't do any gunshot residue on
16 that.

17 A No, sir.

18 Q No fingerprints.

19 A I didn't do any fingerprints on it.

20 MR. PHILLIPS: Thank you.

21 THE COURT: All right. Any redirect?

22 MS. COLLINS: Briefly.

23 REDIRECT EXAMINATION

24 BY MS. COLLINS:

25 Q Did anybody try to collect latent prints off of that

1 knife?

2 A I believe they did.

3 Q And when you're trying to get touch DNA off of
4 something, do you sometimes have to choose between that and
5 the collection of latent prints?

6 A Sometimes.

7 Q And how do you collect latent prints?

8 A Typically you can use some type of powder or something
9 or even a chemical to spray or sprinkle across an area that
10 you think a print might be there. Again, it's referred to
11 as a latent print, which latent typically means hidden, you
12 can't see it without some type of assistance. That could
13 come in the form of a powder, a chemical or even a different
14 frequency of light or something might make it visible. And
15 so we would typically, again, affect that item with powder,
16 something like that, and if a print becomes visualized then
17 they would either photograph it or use some type of tape and
18 try to lift that print from the surface of that item and
19 apply it to a backing card so that it could later be viewed,
20 examined or photographed.

21 Q And when you are using a swab to collect touch DNA, a
22 swab is like a Q-tip?

23 A Yes, just a sterile type Q-tip.

24 Q And do you have to rub it across the surface of
25 something you're trying to get the touch DNA off of?

1 A Yes.

2 Q So if you apply powder or a chemical in order to lift
3 the latent print, that would be applying it to the same
4 surface that if you wanted to swab for touch DNA you're now
5 applying something and covering something.

6 A That is correct.

7 Q Now, talking about GSR the kit, the gunshot residue
8 kit, these are kits where you're trying to collect GSR off
9 of perhaps someone who may have fired a weapon?

10 A Contrary to what television seems to indicate a lot of
11 times, it doesn't always indicate --

12 MR. PHILLIPS: Objection, Your Honor. He collected the
13 evidence, he's not the SLED analyst that's here to testify
14 about GSR.

15 MS. COLLINS: That's fine, I'll have the SLED analyst
16 later, Your Honor.

17 THE COURT: That's fine. Move on to the next one.

18 Q May I ask, did you collect a GSR kit off of the
19 defendant?

20 A No.

21 Q Did anyone to your knowledge?

22 A I don't know that anyone did.

23 Q Okay. And why didn't you? Why did you not collect a
24 GSR kit from the hands of the defendant?

25 A The defendant had already been transported from the

1 scene by the time I got there. We were there on over until
2 I think the wee hours of the morning, close to daylight, and
3 by that time again he was already gone and transported.

4 Q And he had been alone for a time?

5 A I don't know.

6 Q So you don't know whether or not he had an opportunity
7 to wash his hands?

8 A I do not know.

9 Q Now, you weren't the one to lift prints or -- no prints
10 were lifted but to swab that knife for touch DNA, correct?

11 A Correct, I did not do that.

12 Q Jeff Steele did that with your unit, correct?

13 A Either he or Lieutenant Rogers one, I'm not sure
14 exactly who processed that knife.

15 Q So when you opened it just now you opened it -- the
16 tape had not been put back on, right?

17 A Correct.

18 Q And at this point the testing has been done, right?

19 A Yes.

20 Q The testing has been completed, right?

21 A Right.

22 Q The purpose of the tape is to make sure that up until
23 the time that it is tested or that the items are swabbed is
24 that at that point the tape should be on it, correct?

25 A Correct.

1 MS. COLLINS: Thank you. One moment.

2 (Break in proceedings.)

3 MS. COLLINS: No further questions of this witness.

4 MR. PHILLIPS: I will be brief, Your Honor.

5 RECROSS EXAMINATION

6 BY MR. PHILLIPS:

7 Q Solicitor made a good point about touch DNA. You said
8 Mr. McManus' fingers were on that knife, his hand was on the
9 knife, it was touching.

10 A Correct.

11 Q And you swabbed for touch DNA.

12 A I did not.

13 Q Somebody swabbed for touch DNA possibly.

14 A I don't know, I didn't.

15 Q She asked you about that you've got to make a
16 determination about if you're swabbing for touch DNA,
17 whether you're looking for fingerprints and GSR, did you
18 make any determinations? I think you said generally I guess
19 so, but did you make any those determinations?

20 A No. Again I didn't process the knife.

21 Q Talking about evidence tape, based upon your training
22 and experience, even after something is tested it's
23 always -- it's called a chain of custody -- always taped,
24 always initialed, it wouldn't just be left out because a
25 defense expert might come back and look at it and you don't

1 want to have any question about somebody tampering with that
2 knife. Based on your training and experience, shouldn't
3 there be tape and initials on there?

4 A Again, while it is in the process sometimes of being
5 moved from one station to another sometimes there's not.

6 Q And based on your training and experience, the
7 question, there should be tape and initials?

8 A Not always.

9 Q You won't give me that?

10 THE COURT: He answered the question, not always he
11 said.

12 MR. PHILLIPS: All right. I'll ask another person,
13 thank you.

14 MS. COLLINS: Your Honor, the State's next witness is
15 Ann Horton.

16 The witness, ANN HORTON, was first duly sworn and
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. COLLINS:

20 Q Good morning. What is your name?

21 A My name is Ann Horton.

22 Q What is your occupation?

23 A I'm the evidence custodian at the Lancaster County
24 Sheriff's Office.

25 Q And how long have you been the evidence custodian for

1 the sheriff's department here in Lancaster County?

2 A Nine years, five months.

3 Q And so therefore you were the evidence custodian at the

4 time the evidence was collected for this case?

5 A Yes, ma'am.

6 Q In December of 2015?

7 A Yes, ma'am, I was.

8 Q You don't go to the scene, correct?

9 A No, ma'am, I do not.

10 Q But you heard Lieutenant Christy Rogers testify how she

11 collected evidence, correct?

12 A Yes, ma'am.

13 Q And she turned those items into evidence, correct?

14 A Yes, she did.

15 Q Do you also receive evidence from other officers?

16 A Yes, ma'am.

17 Q The officers throughout the department?

18 A Yes.

19 Q Throughout the sheriff's office?

20 A Yes.

21 Q And Brittany Hudson is another evidence technician,

22 correct?

23 A She is.

24 Q And do you later take those items to SLED for testing?

25 A I do.

1 Q Did you take the items to SLED for testing in this
2 case?

3 A The ones that required testing at SLED, yes, I did.

4 Q You did not transport the knife that's there in front
5 of you in State's Exhibit 62 to SLED, correct?

6 A I did not.

7 Q But you did transport something that had touched that
8 knife, right?

9 A Yes, I did.

10 Q You transported touch DNA swabs that have been
11 collected by Investigator Jeff Steele, correct?

12 A I did.

13 Q And you transported those to SLED for those to be
14 tested for DNA, correct?

15 A I did.

16 Q You transported a DNA sample of blood that had been
17 collected from the victim at autopsy by Dr. Ross and given
18 to Investigator Taylor who was there, correct?

19 A Yes, I did.

20 Q He placed that lavender top tube of blood into evidence
21 with you, right?

22 A He did.

23 Q And you took that to SLED also to be tested for DNA
24 purposes?

25 A Yes, I did.

1 Q Because when you test something for DNA purposes you
2 need what's called a standard to compare it to; is that
3 right?

4 A That is correct.

5 Q And by standard it means a known sample, right?

6 A Yes, it does.

7 Q So if I pricked my finger and rubbed it on something
8 that was sterile so that it could be tested, that would be
9 called my standard, it would be a known sample for me,
10 correct?

11 A That is correct.

12 Q So in addition ultimately Investigator Steele also
13 collected what's called a buccal swab from the interior
14 cheek inside the mouth of the defendant, correct?

15 A Yes, he did.

16 Q And that was submitted into evidence, correct?

17 A Yes.

18 Q And you took to that SLED also to be compared, correct?

19 A I did.

20 Q Because that would be the standard of the defendant,
21 correct?

22 A That's correct.

23 Q So whether the standard comes from DNA from a blood
24 sample such as the blood of the deceased or DNA from the
25 interior tissues of the cheek of the mouth, those both are

1 different types of standards, correct?

2 A They are, but they would both be a known standard.

3 Q Okay. All right. There are other items you took to
4 SLED as well, such as swabs from the -- such as the GSR kit
5 that was just testified to or swabs that may have been
6 collected from the cheek or shoulder area or the hands of
7 the victim, correct?

8 A That is correct.

9 Q All right. You took the firearm to SLED as well?

10 A Yes, I did.

11 Q So that it could be tested. And the bullets and the
12 cartridge that were found, did you take those to SLED as
13 well?

14 A I'll need to look at the SLED notes. I feel like I did
15 but I can't say with 100 percent certainty.

16 Q Sure. Do you need to look at your evidence log, the --
17 or where you signed it into SLED? Does Ms. Hudson have your
18 forms that you're referring to?

19 MS. COLLINS: I would ask that this be marked for
20 identification only as State's Exhibit 65.

21 Q State's Exhibit 65 marked for ID. If you will,
22 Ms. Horton, just refer to that to refresh your memory but
23 testify from your memory. What's that that I just handed
24 you on top? Are those the logs where you're logging stuff
25 into SLED?

1 A This is when someone brings a piece of evidence to
2 Brittany or myself, we -- this is a submission form. It
3 gives me the date, the time that they collected, as well as
4 the date and time that they submitted it to us. We then
5 sign on the date and time that we got it, and then I put in
6 this little note here what I plan to do with it next so I
7 would know if it's going in the SLED lab box. Everything
8 that are in these notes, if I'm telling you from memory with
9 100 percent surety, everything that went to SLED in these
10 notes I took.

11 Q And when you submit something to SLED you're requesting
12 that certain testing be done?

13 A Yes, ma'am.

14 MS. COLLINS: And I ask that this be included with the
15 same exhibit.

16 Q These were just more of the same that are not -- those
17 are also -- and I'm calling them logs but that's the wrong
18 thing to call them, that's when you're submitting the items
19 to SLED, correct?

20 A Yes. This is a forensic services request when I take
21 to SLED, I actually print this out. I do what we call an
22 I-lab, I put it in the computer before I go to SLED to tell
23 them what is coming and tell them what analysis I want done,
24 or not what I want done but what the investigator has told
25 me to have done to that piece of evidence. I don't make

1 those decisions. I send it -- I give them our number of a
2 piece of evidence here, SLED gives it a number, they give it
3 a lab number so it is tracked while it's there, and these
4 pieces of evidence I did take. And you asked me about the
5 cartridges, unfired cartridges, and my signature is on here,
6 that 12/8/15 I signed that I checked them in with Jennifer
7 Aycock at SLED.

8 Q Okay. And those are not yet in evidence, Ms. Horton,
9 so if you wouldn't hold them up, I know it's gets very
10 complicated. But again, if you would refer to them as
11 needed to refresh your memory but to testify from your
12 memory. So having refreshed your memory by looking at that,
13 did you take the cartridge to SLED?

14 A I did.

15 Q Did you take the unfired bullets to SLED?

16 A I did.

17 Q And did you take the .38 pistol from the kitchen island
18 that we have a photo of in evidence to SLED?

19 A Yes, I did.

20 Q Thank you. Did you bring that .38 pistol to court with
21 you today or --

22 A Yes, ma'am.

23 MS. COLLINS: I ask that this be marked as State's
24 Exhibit 66.

25 Q I would like to show you what's been marked as State's

1 66 and ask you, do you recognize that?

2 A Yes. This -- I have a bar code on here that gives me
3 an identification number as item number one and that it is a
4 Taurus .38 Special revolver.

5 Q And that is sealed, is it not?

6 A It is.

7 Q And it's sealed --

8 MS. COLLINS: One moment.

9 Q Do you have an implement to open that seal here in
10 front of the jury?

11 A I think --

12 Q It is sealed?

13 A It is. And may I open this with the understanding that
14 if the person from firearms is coming that --

15 Q He is coming later, but I want you to stand up and open
16 it so that everyone can see that you're cutting it open.

17 A (Witness complies.)

18 Q If you will open it up and look inside at the contents
19 without lifting it out yet. Is that the pistol that was
20 placed into evidence by Lieutenant Christy Rogers that you
21 took to SLED for testing in this case?

22 A Yes, it is.

23 MS. COLLINS: Move that into evidence at this time.

24 MR. PHILLIPS: No objection, Your Honor.

25 THE COURT: Without objection introduced into evidence.

1 Q Will you please remove it from the box and step down
2 beside me, Ms. Horton? I want you just to hold it where the
3 jury can see it and then just walk down this way. Thank
4 you, you can be seated. Ms. Horton, when you take an item
5 to SLED and you're submitting the form where you're
6 requesting that certain tests be obtained, have you received
7 information from members of the crime scene investigation
8 team as to what tests are being requested?

9 A Yes.

10 Q In other words, you're not making that decision,
11 correct?

12 A No, ma'am, I do not.

13 Q You have been instructed what to do by your,
14 lieutenant, Christy Rogers, who testified earlier, correct?

15 A That is correct, and my lieutenant in conjunction with
16 the lead investigator.

17 Q All right. You were in here just now when Investigator
18 Taylor testified as to perhaps sometimes having to choose
19 between latent prints and touch DNA, correct?

20 A I was.

21 Q Have you ever requested that both of those be collected
22 from one item?

23 A I have.

24 Q So at that point it would be up to SLED as to whether
25 or not they could do that?

1 A Yes. I would request both and they would put it
2 through the system in the order that they deemed necessary
3 to get.

4 Q So they would make the choice at that time, or as to
5 what to do first and whether or not one test would impede
6 another?

7 A That's correct.

8 Q Thank you. One moment please, Ms. Horton.

9 (Break in proceedings.)

10 MS. COLLINS: Ms. Horton, thank you very much. Please
11 answer questions the defense counsel may have for you.

12 THE COURT: All right.

13 CROSS EXAMINATION

14 BY MR. PHILLIPS:

15 Q Good morning.

16 A Good morning.

17 Q I'll be real brief. In reviewing everything, do you
18 see a GSR kit that was submitted for a knife in the evidence
19 chain?

20 A I don't believe there was one. There's not one in --
21 not on these sheets, and I do not recall that one would have
22 been done.

23 Q As part of being an evidence custodian you've had a lot
24 of training on the preservation of evidence?

25 A Yes, sir.

1 Q And so with all that training pieces of evidence,
2 especially a box like that that contains a very sensitive
3 piece of evidence in a case, part of your training would be
4 always keeping it sealed?

5 A Usually, unless it's being processed in the lab, and
6 then --

7 Q It would be unsealed to process and then sealed back.

8 A Usually, yes.

9 Q And there would either be a place on the tape where
10 somebody who ever unsealed it would initial back over the
11 initial piece of tape. That's common place?

12 A Usually.

13 Q Or there would be a little sheet, a sign out sheet so
14 to speak like a chain of custody and you will see in order
15 who did what?

16 A That's right.

17 Q And so for a critical piece of evidence proper training
18 and experience on keeping evidence sealed, a box would
19 necessarily have a piece of tape over it and the person's
20 initials who was the last person to open it, correct?

21 A It may. It may. There are times in the lab when
22 things are put in boxes and then the complete box is sealed,
23 and when we have evidence that is going back like for a
24 trial like this it may be packed in a larger box and sealed.

25 Q Right. So say a smaller box like this one that

1 contains a knife in a murder case, you're saying this one
2 would be sealed and then one would be in a bigger box that
3 might not be sealed.

4 A It may be. It may have been packed in a lab and it may
5 have been sealed in a larger box.

6 Q And if it wasn't sealed that's not what you were
7 trained to do, or at least that's not what you received in
8 the training. In the training it would always be the
9 preservation of evidence and to keep the integrity of the
10 evidence.

11 A Well, if the person in the lab packed the things that
12 he did, he or she did in that box and it's all taped up --

13 Q But I'm not asking about what the person in the lab
14 did, I'm talking your training, about what you're trained to
15 do. Preservation of evidence --

16 A The outside of the box, the larger box would be sealed.

17 Q Right. To keep the integrity of the evidence.

18 A That's correct.

19 MR. PHILLIPS: No further questions, Your Honor.

20 MS. COLLINS: Nothing further, Your Honor.

21 THE COURT: All right. Thank you, ma'am, you can stand
22 down, you're free to leave if you need to.

23 MS. COLLINS: The next witness is Investigator Jeff
24 Steele with the sheriff's department.

25 The witness, JEFF STEELE, was first duly sworn and

1 Testified as follows:

2 DIRECT EXAMINATION

3 BY MS. COLLINS:

4 Q Would you please state your name for the record?

5 A Jeff Steele.

6 Q What is your occupation?

7 A I'm a crime scene investigator with the Lancaster
8 County Sheriff's Office.

9 Q And how long have you been with the sheriff's
10 department?

11 A Almost 17 years.

12 Q And how long have you been with the crime scene unit?

13 A Nine and a half years.

14 Q And during your time with the crime scene unit, have
15 you received special training regarding the collection of
16 evidence?

17 A Yes, ma'am.

18 Q And in this case, did you help collect evidence?

19 A Yes, ma'am.

20 Q And particularly, do you recall collecting evidence of
21 DNA from the defendant himself, a buccal swab?

22 A Yes, ma'am.

23 Q Now, buccal sounds to me like you're buckling a belt.

24 Buccal is b-u-c-c-a-l; is that right?

25 A Yes.

- 1 Q And does that stand for the cheek?
- 2 A Yes, ma'am.
- 3 Q The interior of the cheek?
- 4 A Yes, ma'am.
- 5 Q And so when you're collecting a buccal swab from
- 6 someone, what do you do, Investigator?
- 7 A We take a cotton tip swab and we swab the inside
- 8 portion of the cheek for about eight to ten seconds. I
- 9 usually do two, one on the left side and one on the right
- 10 side.
- 11 Q And are those swabs sterile?
- 12 A Yes, ma'am.
- 13 Q And they're packaged to where they wouldn't have
- 14 touched anything else?
- 15 A That's correct.
- 16 Q And you have gloves on?
- 17 A Yes, ma'am.
- 18 Q And the defendant consented to that, did he not?
- 19 A Yes, ma'am.
- 20 Q And so when you collected that swab from his interior
- 21 cheek, did you place that in an envelope?
- 22 A Yes, ma'am.
- 23 Q And did you seal that envelope and submit that into
- 24 evidence with Ms. Horton?
- 25 A Yes, ma'am.

1 Q And did you collect swabs off of the knife in this
2 case, the knife that was found in the lap of the victim?

3 A I did.

4 Q I'm going to show you State's Exhibit 62, which is in
5 evidence, and ask you, please, to open that and look at it.
6 And is that the knife that you took swabs from in an effort
7 to secure touch DNA?

8 A Yes, ma'am.

9 Q Can you tell me, when you say touch DNA what does that
10 mean?

11 A Basically when you touch something your skin cells are
12 put on the item so your DNA is put on that item, so when you
13 swab that item you're collecting the skin cells which can be
14 used for DNA analysis.

15 Q And so you swabbed the knife?

16 A Yes, ma'am.

17 Q All right. And did you swab -- just tell me -- again,
18 you took a sterile swab, correct?

19 A Yes, ma'am.

20 Q And it had never touch anything before, right?

21 A Yes, ma'am.

22 Q And you had gloves on your hands, right?

23 A Yes, ma'am.

24 Q And you swabbed the knife, correct?

25 A Yes, ma'am.

1 Q And you put that swab into an envelope; is that right?

2 A Yes, ma'am.

3 Q And sealed that package, correct?

4 A Yes, ma'am.

5 Q And you submitted that to Ann Horton, correct?

6 A That's correct.

7 Q To be placed in evidence.

8 A Yes, ma'am.

9 Q Investigator Steele, sometimes in your work with the

10 sheriff's department, do you collect latent prints?

11 A Yes, ma'am, I do.

12 Q Is that something you're trained to do?

13 A Yes, ma'am.

14 Q Were you asked to collect any latent prints in this

15 case?

16 A Yes, ma'am.

17 Q And where did you collect those from?

18 A From the blade portion of the knife.

19 Q And were those analyzed to your knowledge?

20 A To my knowledge they were.

21 Q Okay. And did you do that analysis?

22 A No, ma'am.

23 Q Who did that analysis?

24 A Investigator Taylor.

25 Q All right. Do you know, were those collected -- so

1 explain to me, is it difficult to collect or is there a
2 conflict between collecting latent prints and touch DNA?

3 A Yes, ma'am.

4 Q And what is that conflict?

5 A Well, you don't want to mess up the area where the
6 possible prints could be located, so you want to swab in
7 areas that are most likely not a place where latent prints
8 would be deposited.

9 Q And so where did you swab for touch DNA?

10 A On the particular knife?

11 Q Yes.

12 A I did the handle, the actual handle part, the black
13 portion of the handle, you've seen the knife earlier. And
14 on the blade I did the left side and the right side using
15 the edge portion of the knife to swab on each side, that way
16 I don't interfere with anything that's actually on the blade
17 portion of the knife.

18 Q And when you're swabbing the knife and you said left
19 side or right side, would the tip or the cutting edge of the
20 knife be down or up when you're designating right side or
21 left side?

22 A The blade portion of the knife would be down, left side
23 would be your left and right side would be your right.

24 Q So as if you're looking over the knife, the blade side
25 is down so the right side would be to the right and to the

1 left would be the left?

2 A That's correct.

3 Q And you swabbed both sides in this case?

4 A That's correct.

5 Q And submitted that into evidence?

6 A Yes, ma'am.

7 MS. COLLINS: One moment, please.

8 (Break in proceedings.)

9 Q When you received that exhibit for you to swab the
10 knife, and that was Exhibit 62, am I right? Would you look
11 at that number?

12 A Yeah.

13 Q Was that box sealed at the time to the best of your
14 memory?

15 A It was.

16 Q And did you open it?

17 A Yes, ma'am.

18 Q And after you opened it you did the swabs as you've
19 described?

20 A Yes, ma'am.

21 Q Would you then afterwards have sealed it back or do you
22 know?

23 A Usually I would have sealed it back, I don't know why I
24 didn't because I did that on this one. I do remember
25 returning it back to evidence, myself and Lieutenant Rogers

1 returning it back to evidence after we completed our
2 processing.

3 Q So if you didn't seal back the box that would have been
4 a mistake; is that right?

5 A That's correct.

6 Q However at that point the swabs had already been done,
7 correct?

8 A That's correct.

9 Q And the swabs would have been placed in an envelope,
10 correct?

11 A That's correct.

12 Q And that envelope would be sealed, correct?

13 A Correct.

14 Q And it's the swabs that were tested in this case; is
15 that right?

16 A That's correct.

17 Q To your knowledge after you completed doing the swabs
18 for the touch DNA and put the knife back in the box, was
19 there any further testing of the knife done?

20 A Not to my knowledge.

21 Q So at that point to your knowledge the testing was
22 complete; is that right?

23 A That's correct.

24 Q And do you know whether or not that knife in that box
25 then was placed in a larger box and sealed, or do you know?

1 A I don't know.

2 Q That would not be something you would do.

3 A That's correct.

4 MS. COLLINS: Thank you. Please answer any questions
5 of Mr. Phillips. Thank you Mr. Steele.

6 CROSS EXAMINATION

7 BY MR. DELGADO:

8 Q Good morning. Mr. Steele, let's talk just about
9 fingerprints. If I put my finger here on the edge of this
10 table, if you look at it in a certain light you can kind of
11 see what my fingerprint does to the varnish or the stain on
12 this table. That's called a latent print, is that correct,
13 sir?

14 A That's correct.

15 Q All right. You tried, you -- I'm sorry, the sheriff's
16 department and law enforcement with the knife that's been
17 placed in evidence tried to see what fingerprints were left
18 on that knife, correct, sir?

19 A That's correct.

20 Q Now, sometimes if I put my full print down it leaves a
21 full what we call ridge detail, right?

22 A That's correct.

23 Q And again, I think y'all call those swirls and -- I'm
24 sorry --

25 A Swirls and alternate loops.

1 Q That's it, swirls and alternate loops. Every one of us
2 has got swirls and alternate loops on all of our fingers
3 that leave imprints on certain items, correct, sir?

4 A That's correct.

5 Q Sometimes you have a full thumb, sometimes you haven't
6 got enough what they call ridge detail to be able to say,
7 yeah, that little part right over there, we can't decide
8 whether or not that relates to anybody else that's involved
9 in this case, right?

10 A That's correct.

11 Q And what you tried to do with that knife -- you, again,
12 I'm sorry, the sheriff's department and whoever else that
13 looked at your latent print were not able to determine whose
14 fingerprint was on that knife, correct?

15 A That's correct.

16 Q My fingerprint, your fingerprint, Mr. McManus'
17 fingerprint or Brent Gay's fingerprint, right, sir?

18 A That's correct.

19 Q All right. You looked for fingerprints first or you
20 looked for fingerprints after you swabbed for the DNA?

21 A I swabbed the knife after.

22 Q So you looked for fingerprints first and then did the
23 DNA.

24 A Yes, sir.

25 Q Because the DNA is so sensitive you all have to do it

1 with your gloves on and you break it out of the package, the
2 sanitized package and you dab it where you believe, because
3 you don't know where someone may have left some touch DNA,
4 right?

5 A That's correct.

6 Q So with my thumb right here I not only leave ridge
7 detail, I leave some DNA right there, too, right?

8 A That's correct.

9 Q Depending on what you want you sometimes get the
10 fingerprint and sometimes get the DNA, sometimes you can get
11 both.

12 A Correct.

13 Q Was there any DNA resolved about this knife after you
14 swabbed it, do you recall? Do you know?

15 A What's the question again?

16 Q Let me just ask this, the DNA that you took from the
17 knife that you swabbed, what happened to that? You sent
18 that to --

19 A I sent that to SLED.

20 Q And the results of that were what as you know now?

21 A I don't know the results of it.

22 Q Okay. All right.

23 MR. DELGADO: Mr. Steele, I think that's all. Thank
24 you.

25 THE COURT: All right. Any redirect?

1 MS. COLLINS: Briefly.

2 REDIRECT EXAMINATION

3 BY MS. COLLINS:

4 Q Mr. Delgado used an example of if he touched this table
5 and -- he said, "So if I left -- if I touched the table it
6 would leave ridge detail as well as DNA; is that correct?"

7 And you said, "Correct;" is that right?

8 A Right.

9 Q But you don't know it would leave it or it could, it's
10 possible, correct?

11 A That's correct.

12 Q But it doesn't always leave DNA; is that right?

13 A That's correct.

14 MS. COLLINS: Thank you, nothing further.

15 MR. DELGADO: Nothing else.

16 THE COURT: Thank you, sir, you're free to leave if you
17 need to.

18 MS. COLLINS: Your Honor, I think we need to briefly
19 call back Mr. Taylor due to this line of questioning.
20 Investigator Taylor, if you will please take the stand
21 again.

22 THE COURT: Sir, you're still under oath.

23 The witness, KEN TAYLOR, remained sworn and testified

24 As follows:

25 DIRECT EXAMINATION

1 BY MS. COLLINS:

2 Q You're still under oath as the Judge said.

3 A Yes, ma'am.

4 Q Investigator Taylor, have you been seated here during
5 the testimony of Ms. Horton and as well as now Investigator
6 Steele?

7 A Yes, I have.

8 Q Since you left the stand have I talked to you at all?

9 A No.

10 Q And so now may I ask you something that perhaps I
11 neglected to ask you, did you attempt to lift latent prints
12 off of the blade of the knife?

13 A I did not attempt to lift prints off the blade, no.

14 Q You did not do that.

15 A Correct.

16 Q Why was that?

17 A Someone else was assigned that job.

18 Q And that's the knife that's there in Box 62?

19 A I believe it is. It's my understanding Investigator
20 Steele worked on that.

21 Q So did Investigator Steele to your knowledge lift a
22 print and did you analyze it?

23 A Yes, I did.

24 Q Are you trained to do so?

25 A Yes.

1 Q And have you received such training through your
2 profession?

3 A Yes.

4 Q And have you ever testified in a court of law as an
5 expert witness in the field of fingerprint analysis?

6 A Yes, I have.

7 Q How many times?

8 A Three times.

9 Q Is that, in fact, in this courtroom?

10 A Twice in this courtroom.

11 Q And where else?

12 A Federal court, Miami, Florida.

13 MS. COLLINS: At this time I offer Investigator Steele
14 (sic) as a witness in the area of fingerprint analysis.

15 MR. PHILLIPS: I'll do a quick voir dire.

16 THE COURT: Okay.

17 VOIR DIRE EXAMINATION

18 BY MR. PHILLIPS:

19 Q In the last five year have you had any training on
20 fingerprint analysis?

21 A Yes.

22 Q Could you explain that training?

23 A I had 36 hours this year.

24 Q This year? So you do a lot of fingerprint analysis.

25 A Yes.

1 Q So that's one of your main roles.

2 A Yes.

3 MR. PHILLIPS: No further voir dire, Your Honor.

4 THE COURT: All right. He's qualified in the field of
5 fingerprint analysis.

6 MS. COLLINS: Thank you, Your Honor.

7 BY MS. COLLINS:

8 Q Did you attempt to identify the source of the latent
9 print on the knife that had been lifted by Investigator
10 Steele?

11 A I did attempt.

12 Q And what were the results of that attempt?

13 A The results that were left on -- the two prints on the
14 card left by me as inconclusive.

15 Q What does that mean?

16 A Inconclusive is a term we use when -- essentially it's
17 the time when you can say I really can't tell. Basically
18 because of poor quality and lack of detail I couldn't come
19 to a conclusion to try to make a faithful match to a source,
20 so I couldn't say that it is or that it isn't from a
21 particular source so it's left as inconclusive.

22 Q So was the print partial or incomplete, was it due to
23 the print itself or was it just in comparison to a suspected
24 source?

25 A Part of it was poor quality and part of it was lack of

1 detail available in the print. Actually it was two prints,
2 one was pretty much unusable, the second one was, again, it
3 had some ridge detail but again, I didn't find enough detail
4 to make a good comparison to come to a good conclusion.

5 Q Did you even get to the point of comparing that
6 print -- did you say there were two prints from the knife?

7 A Yes.

8 Q Did you even get to the point of comparing the two
9 latent prints from the knife to someone's known or standard
10 prints?

11 A I did.

12 Q And whose standard prints were you comparing them to?

13 A I tried to compare them with Mr. Gray and with Mr.
14 McManus both.

15 Q Mr. McManus' prints were taken at the time during the
16 autopsy or at the morgue after his death?

17 A At the morgue.

18 Q Did you do that?

19 A Yes.

20 Q And you were not able to compare those two latent
21 prints to either of those sources?

22 A I wasn't able to come to a conclusion when compared to
23 either one.

24 Q When you tried to compare them you weren't able to come
25 to a conclusion.

1 A Yes.

2 Q Let me ask you this, Investigator, can you tell us
3 where on the knife -- and you if you have to put on gloves
4 and refer to the knife you do that -- where on the knife
5 were the two latents prints lifted that you were looking at?

6 A Can I put some gloves on?

7 Q Yes, please.

8 A It appeared that the knife had been processed by dust,
9 and when you put tape down over that dust if it's on an
10 object that is -- that the tape follows over the edge it
11 will leave like an impression of the contour of the item
12 that it's lifting from just like it cuts something off. And
13 I recall the contour of this blade right up here, and based
14 on the explanation on the card that it said it took it
15 from -- or the way it was done it appeared to me that it
16 would have been someone possibly holding the knife with two
17 fingers or a thumb and a finger right on that little humped
18 area there.

19 Q And that's on the steel blade itself.

20 A Yes, on the steel blade. Right like that is what it
21 appeared to me that the two impressions would have made.

22 Q So they appeared to be fingerprints, correct?

23 A Yes. One of them -- again, one side of it did show
24 ridge detail. But again, I just couldn't find enough
25 quality points of detail or quantity of that, enough of it

1 to really come to a good conclusion to make an
2 identification of it.

3 MS. COLLINS: Thank you very much.

4 THE COURT: All right. Mr. Phillips?

5 CROSS EXAMINATION

6 BY MR. PHILLIPS:

7 Q So your result is inconclusive?

8 A Yes, sir.

9 Q When the solicitor first questioned you, did you
10 mention anything about you actually doing any fingerprints
11 or getting any results?

12 A She asked me if I processed the item.

13 Q No, not just then, at the very beginning. At the
14 direct examination, did that ever come up?

15 A I don't recall anyone asked me if I examined any
16 prints, I think they asked me if I processed something.

17 Q On direct examination?

18 A I can't remember.

19 Q And then on cross I brought up fingerprints because it
20 didn't come up?

21 A Oh, I'm sorry. I misunderstood you, I'm sorry.

22 Q You didn't say anything about you processing any
23 fingerprints.

24 A I don't recall anything being asked, correct.

25 Q Right. But when I asked you about it you didn't say

1 anything about even processing the fingerprints.

2 A You asked me if I processed the items for prints and I
3 said no.

4 Q Your testimony here is that you processed the
5 fingerprints?

6 A I examined the fingerprints. I didn't process
7 anything, I examined the fingerprints.

8 Q I apologize. So you examined them and it was
9 inconclusive.

10 A Correct.

11 Q And you didn't say anything about that before.

12 A I wasn't asked about that before.

13 Q Sure. And because of that it's inconclusive. Do you
14 have your latent print cards to show where you believed it
15 was grabbed up here?

16 A Excuse me? I don't have them with me.

17 Q How many years ago was it when you did the examination?

18 A That was in -- I think it was in 2017.

19 Q Okay. What year is it now?

20 A It's 2018.

21 Q So how many months do you think has passed since then?

22 A About 12.

23 Q Not calendar year, from when you did it.

24 A I don't recall.

25 Q And so you can remember from memory that that's where

1 he grabbed it?

2 A Yes.

3 Q Not a hunch.

4 A No.

5 Q But you didn't say any of that before.

6 A I wasn't asked about any of that before.

7 Q That's right. Because your results are inconclusive?

8 A My results were inconclusive on the examination, yes,
9 sir.

10 Q Mr. Gay's fingerprint is not on that knife?

11 A I can't tell you if they are or not.

12 MR. PHILLIPS: Thank you.

13 THE COURT: Any redirect?

14 MS. COLLINS: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. COLLINS:

17 Q Did you take a picture of where that print was, do you
18 remember?

19 A Yes.

20 MS. COLLINS: I ask that these be marked 67, 68 and 69.

21 Q Did you need to correct something?

22 A I did. I uploaded photographs. I didn't actually take
23 the photograph of that, I uploaded them into my viewer on
24 the computer system.

25 Q All right. Well, I'm going to show you the photographs

1 and ask you, are those photographs a fair and accurate
2 depiction of the knife that's there in the box in State's
3 Exhibit 62?

4 A Yes, they are.

5 Q And are those fair and accurate depictions of what
6 appeared to you to be based upon your training and
7 experience a fingerprint?

8 A Yes.

9 Q And there are three pictures there. Do they show both
10 prints that you mentioned or is it just one?

11 A They showed both.

12 Q Okay. Thank you. And they're fair and accurate
13 depictions --

14 A Yes, ma'am.

15 Q -- of what you observed, correct?

16 A Yes.

17 MS. COLLINS: I move these items into evidence at this
18 time.

19 MR. PHILLIPS: No objection.

20 THE COURT: Without objection introduced.

21 Q Please step down so you you can show us where the
22 prints are. If you can show us on State's Exhibit 67.

23 A You can see in this photograph it's a series of lines
24 that we refer to as ridges or ridge detail, kind of smeared,
25 kind of dirty looking, doesn't make a whole lot of sense,

1 but that's where a finger would have left that impression,
2 the ridge detail on the finger or thumb, some digit that
3 would have done that.

4 Q If you'll show this portion of the jury as well.

5 A As well you can see these ridges that are kind of
6 almost like an arch here, a little bit here, couple of more
7 back here that kind of get lost in the powder and other
8 things that appear to be on the knife. You can see some
9 scrapes on the knife as well.

10 Q I show you what's been marked and in evidence as 68.
11 Look at the back and make sure, Investigator, is that --

12 A Yes, it is 68.

13 Q Show this portion to the jury, the image on that.

14 A Again, the same thing. You're going to see some
15 ridge -- marks by ridge detail once the powder was applied.

16 Q Step down and show them the same thing.

17 A Again, same thing here. You can see the outlines of
18 the ridge detail, and up in here it is very faint and you
19 can see some scrapes and scratches on the back of it as
20 well.

21 Q And finally State's Exhibit 69. If you'll also show
22 the jury what you're referring to there.

23 A This is on the reverse side of the blade from the ones
24 you just looked at, and you can see a little more defined
25 ridge detail. But still, the quality was just so poor it

1 was not able to again really have enough to make a good
2 comparison with, but you can see it on that knife blade and
3 there's that humped area that you see there.

4 Q All right. If you will step down here.

5 A Again, here you can see what is ridge detail that's
6 kind of heightened or enhanced by the powder that was
7 applied and taken the photograph of, but you can see it's
8 very faint and just didn't have enough at that time to make
9 a good comparison with to really come to a good conclusion.

10 MS. COLLINS: Thank you, Investigator. No further
11 questions.

12 CROSS EXAMINATION

13 BY MR. PHILLIPS:

14 Q At the end of the day it's inconclusive whether Mr.
15 Gay's fingerprint is on the knife?

16 A Correct.

17 Q You can't say whose fingerprint is on the knife.

18 A Correct.

19 Q But the one thing you can say is that you can open that
20 knife in a switch blade motion and it makes a pop when you
21 do it?

22 A It has what is often referred to as a finger assist.

23 Q Just as you demonstrated to the jury.

24 A Yes, just as I demonstrated.

25 MR. PHILLIPS: No further questions, Your Honor.

1 THE COURT: Thank you, sir, you may step down. You are
2 free to leave if you need to. Well, let's go ahead and
3 break for lunch. Ladies and gentlemen, we're going to break
4 for lunch. Like I told you, we're going to keep you here
5 for lunch to make it go as quick as possible. Certainly the
6 case isn't over yet and I instructed you at the very
7 beginning of this matter that you cannot talk about this
8 case even with yourselves, amongst yourselves until
9 everything is in until I instruct you to start doing that.
10 So certainly you're free to talk about personal things and
11 getting to know each other, that's the whole role of our
12 jury system and everything, so please feel free to do that
13 and have random chit-chat during your time together while we
14 eat lunch. I did tell the clerk to try to have everything
15 here at 12:15.

16 (The jury left the courtroom.)

17 THE COURT: Anything before we take a lunch recess?

18 MS. COLLINS: No, Your Honor.

19 (A lunch break was taken.)

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