

ORIGINAL

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County
Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEREMY SELDON BRADY,

APPELLANT

APPELLATE CASE NO 2016-000895

RECORD ON APPEAL

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1 him as to the grip of shotgun?

2 A. I could not draw a conclusion whether or not, as to
3 whether or not he is a contributor because it's a mixture of
4 at least four individuals. A lot of his information was
5 showing up in the mixture. However, because it's a mixture of
6 at least four individuals there's a lot of possible
7 combinations. There's a lot of people that could have
8 possibly be considered based solely on their DNA profile as a
9 possible contributor so I therefore wasn't able to
10 conclusively say yes, he is a possible contributor, but I also
11 wasn't able to say that no, he is not a contributor.

12 Q. Because you found a mixture of four or more people
13 would you ever be able to provide any kind of result that
14 would give you any kind of a match or a number statistic like
15 you did for the doorknob and Robert Mitchell?

16 A. No. Because of the complexity of this mixture, in
17 addition to being a four person mixture, it's also a low level
18 mixture which means it was a limited amount of DNA was present
19 which causes some other complications and interpretation.
20 Before I even looked at standards or even did a comparison
21 with standards, I determined that I would never be able to
22 definitively include someone as a possible contributor to the
23 mixture. So even if someone were to say yes, I did handle
24 this item and here is my swab so you can develop a profile,
25 based on the DNA profile I would not be able to definitely

1 include that person as a possible contributor to the mixture
2 just because of the complexity of the mixture.

3 Q. So that person would come back as an inconclusive?

4 A. That's correct.

5 Q. Item number 12, the last item that you analyzed in
6 this case was a swab from the forestock of the shotgun. Were
7 you able to develop a partial profile or a profile from that
8 item?

9 A. May I make one clarification on my former answer?
10 It's possible - I would say no conclusive. It's also possible
11 that they did not leave enough DNA behind even though they
12 handled the item that they would actually be excluded from the
13 mixture. So I should make that clarification as well. I'm
14 sorry. What was your second question?

15 Q. Okay. We had moved onto the next item which is the
16 last item which is item 12, the swab from the forestock of the
17 shotgun.

18 A. The DNA profile developed from item 12 is a mixture
19 of at least four individuals and is not suitable for CODAS
20 entry. Robert Mitchell and Nicholas Williams are excluded as
21 possible contributors to this mixture and again due to the
22 complexity of the mixture no conclusive statement can be made
23 regarding the inclusion or exclusion of Jeremy Brady as a
24 possible contributor to this mixture.

25 Q. So item 11 the swab from the grip of the shotgun and

1 item 12 the swab from the forestock of the shotgun have the
2 same results?

3 A. Essentially, yes. In both cases two individuals
4 were excluded and Jeremy Brady could not be excluded but he
5 also could not be definitively included. So I don't know
6 which is the case, if he contributed or he did not contribute
7 to the mixture.

8 MR. GRAHAM: Thank you, Ms. Clayton. Please answer
9 any questions that the defense has.

10 THE COURT: Cross.

11 MS. CLEARY: May it please the Court.

12 THE COURT: Yes.

13 CROSS EXAMINATION

14 BY MS. CLEARY:

15 Q. I'll try to stand back here this time. Ms. Clayton,
16 I'm Eleanor Cleary. How are you?

17 A. I'm doing well. Thank you.

18 Q. You do have a copy of your report dated May 8th,
19 2015 up there with you, right?

20 A. Yes. I do.

21 Q. Okay. And that's a summary of your results on ten
22 evidence items; is that correct?

23 A. That's correct.

24 Q. Okay. Now, the two vital items that I want to
25 question you about, those are two of the three samples from a

1 shotgun, correct?

2 A. Are you referring to SLED items 11 and 12?

3 Q. Yes, ma'am.

4 A. Correct.

5 Q. Okay. So first there's the swab from the grip of
6 the weapon, right?

7 A. Correct. That would be SLED item 11.

8 Q. And then there's a swab from the forestock,
9 correct?

10 A. Correct. That would be SLED item 12.

11 Q. Okay. So just to be clear, for item 10 which was
12 the trigger you were not able to make a finding as to who,
13 whether anybody could be included or excluded, right?

14 A. In that particular instance I was not able to
15 develop any type of DNA profile at all for comparison.

16 Q. Okay. So that's item number 10. It says no DNA
17 profile was developed from item 10?

18 A. That's correct.

19 Q. So it's the forestock and the grip we are talking
20 about here, not the trigger?

21 A. That's correct.

22 Q. Okay. So let me ask you this: Now you know that
23 the firearm here is important to us because it's a - a
24 homicide investigator brought it to you, right? And requested
25 that he wanted you to process it for DNA, right?

1 A. In this particular --

2 Q. He or she. I'm sorry.

3 A. In this particular case I believe the agency
4 collected swabs and they submitted swabs to our evidence
5 control department. I received the swabs from our evidence
6 control department.

7 Q. So you don't have anything to do with the field
8 investigation, right?

9 A. That's correct.

10 Q. Okay. So all right. So when you receive, as a
11 scientist when you receive a piece of swab like this, you take
12 their word from it that it's from a homicide investigation,
13 right, because you are not concerned with that aspect of it?

14 A. I assume the information they fill out on the
15 paperwork is correct, yes.

16 Q. Right. Okay. So on item 11 the swab from the grip
17 of the shotgun, if you look at page 2 where it says, it's
18 titled results, is it accurate for me to summarize from that
19 from the grip of the shotgun that you found to have DNA
20 profile that is composed of a mixture of DNA from at least
21 four individuals?

22 A. Yes. That's correct. The mixture from the gun,
23 from the grip of the shotgun contains DNA from at least four
24 individuals.

25 Q. Okay. And isn't it true that you did two completely

1 different rounds of analysis first using a system called the
2 Identifiler and the second using the MiniFiler?

3 A. Yes. That's correct. As I said earlier, we
4 typically run a kit that tests for 15 locations. However,
5 when I ran the Identifiler kit, it developed very partial
6 results and looking at the data it indicated that that sample
7 might be degraded. What that means is as DNA gets old or
8 exposed to chemicals or ultraviolet light, it begins to break
9 down and this is called, those samples are referred to as
10 degraded samples. We have a second kit that we sometimes use
11 on those samples and it's called MiniFiler as she said and it
12 can sometimes detect shorter pieces of DNA than the kit that
13 we typically use. It does not contain as many locations. It
14 doesn't test as many locations which is why it's not our first
15 choice. But for a degraded sample we will go back and try a
16 MiniFiler kit to see if it will give us more complete results
17 and that is when I determined that it was a mixture of at
18 least four individuals. The original results from the
19 Identifiler kit were not sufficient for comparison. I only
20 obtained partial results at four locations and therefore I did
21 additional testing before attempting any comparisons.

22 Q. Ms. Clayton, back to the Identifiler, you said that
23 that was the first test that you usually do. So is it
24 accurate for me to say that's the standard bread and butter
25 DNA typing system that you would use at the SLED lab? I mean,

1 does that facility use that all the time, the Identifiler
2 system first?

3 A. Typically. Sometimes depending on the evaluation of
4 the results from our quantification we will use a different
5 kit called Yfiler which was not used in this case, but the
6 majority of the cases we do run Identifiler, yes.

7 Q. So that's the primary DNA typing system?

8 A. That's correct.

9 Q. Okay. And the MiniFiler is an added technology that
10 is a low copy number? It's more sensitive that you don't
11 always have to use? You don't always resort to that; is that
12 correct?

13 A. The MiniFiler kit is, in fact, a more sensitive kit,
14 but it was actually designed for degraded samples. It wasn't
15 necessarily designed for low copy number samples. It was
16 designed for degraded samples which as I said before are
17 samples that have begun to break down or for samples that are
18 inhibited and what that means is that sometimes during the
19 extraction process when I'm attempting to obtain just DNA in
20 that final liquid, other chemicals, fabric dyes or something
21 like that will also get in and it can affect how well the kit,
22 the Identifiler kit works. This MiniFiler kit is good at
23 overcoming some of that inhibition and so it works well on
24 those types of samples as well. So it was designed for
25 degraded samples and inhibited samples. However, it is a more

1 sensitive kit than the Identifiler kit.

2 Q. Okay. So from the main, the primary DNA typing
3 system the Identifiler, if you look at those results from the
4 grip, item 11, I think that's on page 4 of the 5 page
5 report?

6 A. That's correct.

7 Q. So when you use the Identifiler kit, you didn't get
8 a mixture of four individuals; is that right?

9 A. I don't know. I obtained results at four locations.
10 I developed a single number at each of those four locations.
11 At that point I didn't know whether that was from one
12 individual or multiple individuals. When I ran MiniFiler, I
13 determined that I had a mixture of at least four individuals.
14 So there's several possibilities for the Identifiler results
15 based on what I know from the MiniFiler results. Because both
16 kits are run from the same sample, I now know that Identifiler
17 was run on a mixture of at least four individuals. So for
18 those four numbers it's possible that all four of those
19 numbers came from the same individual, but it's also possible
20 that they came from two different individuals or three
21 individuals or four different individuals and I don't have
22 enough information to make that determination.

23 Q. All right. Again, looking at page 4 of that report,
24 isn't it true that Identifiler only revealed four alleles; is
25 that right? Is that what you said?

1 A. That's correct. Alleles is the --

2 Q. Am I pronouncing that right?

3 A. Yes. Alleles are the scientific term for those
4 numbers. We typically just refer to them as numbers because
5 it easier to think of.

6 Q. Would you agree that that's four very weak signals
7 on that Identifiler test?

8 A. Yes. That's correct. And that's why I ran a second
9 test because there wasn't suitable results for comparison.

10 Q. Okay. And then that first allele, and you have to
11 forgive me because I was a history major so I have had to
12 learn all of this in a very short amount of time, but that
13 first allele is a 12 signal at D8 on the left side?

14 A. That's correct.

15 Q. Okay. So you would agree that that excludes Mr.
16 Brady there?

17 A. I would say definitively that Jeremy Brady is a 14
18 at D8 so he did not contribute a 12 at D8.

19 Q. Okay. And then so the Identifiler by itself from
20 the grip of the firearm is telling us no, Mr. Brady is
21 excluded because you don't see the 12 allele, because you see
22 that the 12 allele couldn't be him, right?

23 A. No. That's not actually correct. If I were
24 confident that all four results were from the same individual,
25 if I thought, if I were confident that the 12, the 31.2 at D21

1 which is just another location that we tested, the 9.3 at fell
2 1 and the 14 at D19 were all from the same individual, then
3 yes, I would have to exclude Jeremy Brady because he does not
4 have a 12 at D8. However, because of the MiniFiler results
5 because I know I have a mixture of at least four individuals,
6 it's possible that the 12 came from one individual, the 31.2
7 came from a second individual, the 9.3 came from a third, and
8 the 14 came from a fourth individual and because I don't know
9 if it's all the information is from one individual or all the
10 information is from multiple individuals, I can't exclude him
11 based on the Identifiler results. I have to take all of the
12 results into account. And again, that's part of the reason
13 that I ended up with a no conclusive statement for Jeremy
14 Brady because he does not have a 12 at D8. However, a lot of
15 his information does show up in the mixture and it was a
16 sufficient amount that I wasn't able to definitively exclude
17 him. However, I wasn't able to definitively include him
18 either.

19 Q. Ms. Clayton, you would agree, I mean, at this point
20 if we go back to when you're just doing the primary testing,
21 you didn't know anything about the MiniFiler at that time,
22 right?

23 A. That's correct.

24 Q. Right. So you could just say right there at that
25 point that Mr. Brady had no 12 allele at the D8, right?

1 A. Yes.. I could say that before and I would still say
2 he does not have a 12 at D8.

3 Q. Okay. And we'll talk about the MiniFiler in just a
4 second. All right. Let me ask you again just to clarify that
5 there - it is accepted when you're comparing DNA from evidence
6 to a known person, evidence from a shotgun or something like
7 that to DNA to a known person, it sometimes says this is a
8 single source of DNA and it matches like sort of like it was
9 with Robert Mitchell, right? It's one in -- You said that it
10 can match, right?

11 A. That's correct.

12 Q. When you do that, you use that - the probability
13 number that's one to 1.9 billion - no. Quintillion, something
14 like that. And those are the ones that you call a match,
15 right?

16 A. Only single source profiles are considered a match,
17 can be considered for a match. The reason being for a single
18 source profile when I'm confident that only one person
19 contributed the DNA and I have sufficient amount of
20 information for that single source profile, I know that every
21 single number for that profile from the evidence has to match
22 every single number from the profile from the standard. If
23 they're the same, then I can declare it a match and I can do a
24 calculation as I did with the swab from the doorknob, I
25 believe.

1 However, with a mixture you cannot declare a match
2 because it's a set of numbers and I cannot determine which
3 numbers go with which individuals. For instance, if I have a
4 location that has an 8, 11, and a 12, then I have to consider
5 multiple possibilities of individuals that can contribute to
6 that mixture. If an individual is an 8 at D7, they would be
7 considered a possible contributor at that location. If they
8 were an 8/11, 8/12 and 11, and 11/12 or a 12 at that location,
9 any of those individuals would be considered a possible
10 contributor to that mixture. So a match cannot be determined.

11 In some cases if it is not as complex of a mixture
12 as this one, a mixture statistic can still be calculated and
13 it is stated in the same way as a single source match
14 statistic. However, that probability will not reach the
15 number size of a single source mixture. It will always be a
16 lower probability.

17 Q. Okay. And so just to clarify from both the
18 Identifiler and the MiniFiler data, you could not declare that
19 Mr. Brady was a match?

20 A. That's correct.

21 Q. Okay. And so let me just say again, comparing
22 somebody's DNA to a DNA mixture when you have a multitude of
23 people like this, you could sometimes come up with a
24 conclusion Mr. John Doe cannot be excluded as a possible
25 contributor, correct?

1 A. If the mixture is of sufficient quality to make that
2 comparison to calculate a statistic, I must be able to
3 calculate a statistic to give the inclusion weight, then yes,
4 in some cases I would be able to say that this individual
5 cannot be excluded as a contributor and I can offer a
6 statistic. However, due to the complexity of this mixture, I
7 was not able to calculate any kind of a statistic and I cannot
8 definitively say this person is included as a contributor. I
9 can only say either that they're excluded, because sometimes
10 there is enough information to exclude someone, but not
11 definitively include them. Or as I did with Jeremy Brady, I
12 can reach a conclusion of no conclusive statement. I can't
13 definitively say they're in the mixture. I cannot
14 definitively exclude them from the mixture.

15 Q. So there's basically sort of three different
16 choices. You can have a match. You can say John Doe cannot
17 be excluded as a possible contributor, and then you have what
18 we have here, it's inclusive, right? Yeah.

19 A. For a single source profile, I can declare a match.
20 For a mixture I can, depending on the quality of the mixture I
21 may be able to say included or excluded, or if it's not a good
22 quality mixture, if it's complex mixture, then the results
23 may be possibly excluded or no conclusive statement without
24 the ability to say included.

25 Q. Okay. All right. Now, is it true that the

1 MiniFiler revealed at least four contributors? And I know we
2 have been through all of that. So this is a mixture. And I'm
3 talking about item 11 now, is a mixture of four or more
4 persons. I'm not sure if I understood when you testified --
5 All right. So you're saying you can never get a match when
6 you have four or more contributors?

7 A. A match is --

8 Q. It depends on the quality?

9 A. -- specific to a single source profile because with
10 a single source profile you can say the individual that I'm
11 comparing to this item of evidence must have that exact set of
12 numbers to be a match. With a mixture you can say included or
13 excluded or in some cases you may have to declare no
14 conclusive statement. The reason being is you cannot
15 definitively say this mixture was made up of these three
16 individuals because there are multiple combinations and based
17 on the information developed I can't say which information
18 belongs to which contributor.

19 So in this particular case because of the complexity
20 of the mixtures I would never be able to definitively include
21 anyone. Even if they specifically told me, yes, I did handle
22 the gun and I developed a DNA profile for them, I still would
23 not be able to definitively include them as a possible
24 contributor to this mixture. And in fact, I might be able to
25 exclude them from the mixture based on the fact that they

1 didn't leave enough DNA behind on the item to be able to
2 develop their information in the mixture. I just wouldn't
3 know that without testing them. But I would not be able to
4 definitively include them in this mixture based on the quality
5 of the mixture. It's independent of the individual's profile.
6 It's based solely on the quality of the mixture and due to the
7 quality of the mixture I would not be able to definitively
8 include anyone.

9 Q. Right. And when we are talking about the mixture,
10 we are talking about the swab that was taken off of the
11 grip?

12 A. That's correct.

13 Q. Okay. So I just want to make sure I understand.
14 You can't do any statistics when it's a mixture like this,
15 right?

16 A. That's correct.

17 Q. Okay. So in addition to being prohibited from doing
18 any kind of statistics like you talked about, you can't run a
19 mixture profile like this through CODAS, right?

20 A. No. A mixture of this complexity would not be
21 suitable for CODAS. The reason being, as I said before, there
22 are too many possible combinations so it would produce too
23 many matches. Or not matches. But it would produce too many
24 names of individuals that could have possibly contributed to
25 the mixture.

1 Q. Okay. And so isn't it true that no data from the -
2 not data. I'm sorry. No MiniFiler data by itself can be run
3 through CODAS? That's not one of the tests that they --

4 A. The information from -- As I said earlier, MiniFiler
5 tests eight locations and the database that she's referring to
6 CODAS which is a national database or it's maintained on a
7 national level by the FBI --

8 Q. Thank you. That was my next question.

9 A. -- has a minimum of 10 locations. However, if the
10 results are suitable quality, the information from a MiniFiler
11 kit can be combined with information from another kit to
12 upload that combined information to CODAS at the national
13 level.

14 Q. Okay. CODAS requires 13 for loci? Is that how you
15 say it loci?

16 A. Loci.

17 Q. Loci. Okay. All right. Now, if you look at page 2
18 of your report and is it accurate again there to say this is
19 from the forestock of the gun, is it accurate to say that the
20 DNA profiles is also composed of mixture of four individuals,
21 right?

22 A. SLED item 12?

23 Q. Yes.

24 A. That's correct.

25 Q. All right. And then once again when you put it

1 through the primary system, the Identifiler results, it gave a
2 mixture of 28 alleles and half of them are weak and half of
3 them are clear. Look at that. That's on page 4 of your
4 report. I'm sorry. On page 4. So if we look at that table
5 and you count across, count the alleles, right, there's 28; is
6 that right? Am I reading that right? If you count the
7 alleles in each column and add them up that's 28?

8 A. That's correct.

9 Q. All right. So half of them were weak and half of
10 them are fairly clear, right? Is that right?

11 A. I don't know that it would be an even half, but
12 yeah. Some of the information is very low level and some of
13 the information reached a higher level. I did obtain more
14 information on this item than I did from item 11 and there was
15 an indication again that this was a mixture of at least two
16 individuals. However, when I ran the additional kit, it was
17 determined that it is, in fact, a mixture of at least four
18 individuals for item 12.

19 Q. So on the forestock you had a little bit more to
20 work with than you did for the grip, right? Is that what
21 you're saying?

22 A. For the Identifiler it did originally give more
23 information than for item 11, correct.

24 Q. All right. Would you agree that Mr. Brady is a
25 clear exclusion just using the Identifiler?

1 A. Again, the two kits have to be taken into
2 consideration and evaluated as a whole.

3 Q. I'm sorry. Let me ask you this: You do the
4 Identifiler first and you look at those results and then you
5 decide whether to go to the MiniFiler. So at the point after
6 you have just done the Identifiler, would you agree that Mr.
7 Brady is a clear exclusion?

8 A. I look at the profile from the evidence first and
9 determine if no additional testing is needed or not and then,
10 before I do any comparisons at all, and then I do the
11 additional testing if it's necessary and then I do my
12 comparisons to standards. So in this case I looked at the
13 profile developed from the Identifiler kit, determined that it
14 appeared again that this sample was degraded and at that point
15 I ran the MiniFiler kit and the results from both kits have to
16 be considered as a whole. I don't consider Identifiler and
17 then consider MiniFiler. I look at the Identifiler kit
18 results, determine if MiniFiler is needed and then I run the
19 MiniFiler kit and then when I have all of those results, then
20 I do a comparison.

21 Q. All right. But you would agree though that
22 Identifiler is the primary test and you don't always have to
23 go to the MiniFiler, right?

24 A. Right. In some cases as in actually some of the
25 other items of evidence in this case, the swab from the

1 doorknob, it gave complete results with the Identifiler kit.
2 There were no signs of degradation so I stopped analysis at
3 that point and I did not run a MiniFiler kit on that sample.

4 Q. Okay. And so once you run it through the MiniFiler,
5 that's when you find out it's kind of a conglomerate of four
6 people, right?

7 A. Right. At that point I determined that it was a
8 mixture of at least four individuals and that information has
9 to be taken into consideration when looking at the Identifiler
10 results.

11 Q. All right. So even when you run it through the more
12 sensitive MiniFiler, right, you still can't make a statement
13 regarding Mr. Brady that he cannot be excluded as a possible
14 contributor to the DNA mixture, right?

15 A. Again --

16 Q. Because you weren't able to say Mr. Brady cannot be
17 excluded, right?

18 A. Right. It's no conclusive.

19 Q. It's inconclusive?

20 A. Either he is a contributor or he is not. I was not
21 able to make a definitive decision either way based on the
22 information I developed.

23 Q. Okay. So it's inconclusive, right?

24 A. Correct.

25 Q. And so that's the same thing for the forestock as

1 well? I'm sorry. Both for the grip and for the forestock
2 that those are inconclusive? You had essentially the same
3 statement for each of them, correct?

4 A. Correct.

5 Q. All right. Let me ask you again about submitting
6 data to the FBI. MiniFiler data doesn't even qualify, right,
7 to be submitted to the FBI; is that right?

8 A. The results from MiniFiler kits are accepted at the
9 national level. They do have a minimum requirement of
10 information that you must have. You must have information at
11 10 locations. As she mentioned there are what they consider
12 the 13 core locations. You have to have results at a minimum
13 of 10 of those locations. The MiniFiler kit gives results at
14 eight locations. However, if you develop results at the eight
15 MiniFiler locations and also develop results with Identifiler,
16 those results can be combined and the results from the
17 Identifiler kit combined with the MiniFiler kit can be
18 uploaded to the national level. In this particular case it's
19 not suitable for the national level or entry into CODAS
20 because of the complexity of the mixture because it is a
21 mixture of at least four individuals and it would return too
22 many results.

23 Q. All right. Now, the last one -- I'm almost done. I
24 swear. The last of the one item 10, that's the trigger swab,
25 right? And that's the one that you couldn't generate any DNA

1 results?

2 A. That's correct. No DNA profile was developed from
3 item 10, the swab from the trigger.

4 Q. Okay. So you didn't start with Identifiler and then
5 go to MiniFiler? You couldn't even do anything with the
6 MiniFiler on that one, right?

7 A. That's correct. Because no DNA profile at all was
8 developed, obviously it was an indication that the problem was
9 degradation. There just was no profile to work with at all so
10 I stopped analysis.

11 Q. Right. So basically zero DNA there. Okay. So let
12 me ask you, the forestock and the grip, the two items that we
13 are talking about, can you tell us how much DNA you are
14 talking about, a measurement?

15 A. It will take me just a moment to find those
16 totals.

17 Q. Wait a minute. Well, my pages aren't numbered. So
18 I think it has a handwritten, might be a 165 at the bottom.
19 It says DNA extraction and quantification worksheet. I think
20 I'm on the right page.

21 A. I believe for item 11 the 150 picograms were
22 excluded. I mean or extracted. And for item 12 I believe a
23 little over 500 picograms were extracted. I'm not sure what
24 the exact number is. I would need a paper and pencil to
25 calculate that.

1 Q. All right. What's a picogram?

2 A. A picogram is a very, very small amount of DNA. We
3 typically deal in nanograms.

4 Q. Can you convert that to nanograms?

5 A. I would be -- Yes. One would be approximately .15
6 picograms, I believe, or .15 nanograms.

7 Q. That's the grip?

8 A. The grip, yes, approximately if I did the math
9 correctly in my head and the other one would be approximately
10 .5 nanograms if I did the math correctly in my head. It would
11 actually be a little more than .5 nanograms.

12 Q. For the forestock?

13 A. Yes. That's correct.

14 Q. Okay. So what's a nanogram, say, in relationship to
15 a gram?

16 A. In relation to a gram? It goes nanogram, milligram.
17 I'm sorry. It goes gram, milligram, microgram, nanogram.

18 Q. So a nanogram is what fraction of a gram?

19 A. I wouldn't -- I would have to write down the zeroes.
20 I'm sorry. It's a thousandth. A hundred thousandth. A
21 millionth of it.

22 Q. If it's one in one billionth, would you agree with
23 that? One billionth. One zero zero zero, zero zero zero,
24 zero zero zero?

25 A. That sounds correct.

1 Q. Okay. So here we are not even talking about one
2 nanogram, right? You're talking about .15 nanogram, right?

3 A. Correct.

4 Q. And .5 nanograms on the forestock?

5 A. Correct.

6 Q. Okay. So do you know how many individual skin cells
7 it takes to get that much?

8 A. I don't know that number off the top of my head.

9 No.

10 Q. All right. Well, let me ask you this: Do you know,
11 and I did Google this, do you know how many skin cells that
12 the average adult sheds per minute from head to toe?

13 A. I do not know. I'm sure it's a lot because we -
14 thousands. It would be thousands all day throughout the day
15 we leave skin cells. We shed skin cells all throughout the
16 day.

17 Q. So what I found it was 36,000. Does that sound
18 right?

19 A. That could be correct.

20 Q. Okay. So that means there were -- All right. Let
21 me -- All right. So all right. So we are at one, over one
22 billion, right? But even a fraction of that .15 and so I know
23 you said you weren't sure how many skin cells it takes to get
24 to that amount, but would you agree to me that 50 cells will
25 yield about a quarter of a nanogram?

1 A. Uhm --

2 Q. You can tell me if you don't know.

3 A. I don't know. I knew that number at one time, but
4 it's not actually relevant to our analysis so it's not a
5 number that I keep on hand.

6 Q. That's fine. Oh, no. I don't want to be tested. I
7 understand.

8 A. Okay.

9 Q. Okay. So if we had basically 50 cells that you were
10 able to compare on here, you would agree that's certainly not
11 very much when you're talking about the human body shedding
12 36,000, right?

13 A. That's correct.

14 Q. All right. And then just on those other items you
15 were not able to do a DNA profile, right? On the swab of the
16 brass head. You tested those items as well? The shotgun
17 shells?

18 A. There was no DNA profile developed for the shot gun
19 shells and the brass head of the shot shell.

20 Q. All right. So just virtually no DNA there to work
21 with?

22 A. Correct.

23 Q. All right. But the cigarette butt you were able to
24 test it for DNA; is that right? And you found an unidentified
25 male; is that correct?

1 A. That's correct. I did develop a DNA profile from a
2 cigarette butt. It was a mixture. The DNA profile developed
3 from the major contributor was from an unidentified male.

4 Q. So that one you could definitely say it wasn't from
5 Mr. Brady or from Mr. Williams?

6 A. That's correct. It was not Mr. Brady. It was not
7 Nicholas Williams and it was not from Robert Mitchell.

8 Q. Did you test the blood on the wall, the swab from
9 the blood on the wall?

10 A. There was a swab --

11 MR. GRAHAM: Objection, Your Honor. That's not in
12 evidence. She's talking about a swab from the apartment
13 complex.

14 THE COURT: If it's not in evidence, she doesn't
15 know. It's not in evidence. Overruled.

16 MS. CLEARY: I'll move on. That's fine. All right.
17 Let me look at the report and see if I can figure out
18 what's in evidence. All right.

19 BY MS. CLEARY:

20 Q. So you did testify earlier that the DNA, the only
21 DNA found there on the doorknob, right, was Mr. Mitchell's,
22 right?

23 A. That's correct. The DNA profile developed from item
24 14 which was swabs from the doorknob matches the DNA profile
25 of Robert Mitchell.

1 Q. Okay. Let me ask you this: You may not know the
2 answer and that's fine. But do you have any idea of whether
3 -- Do you have any -- You have seen the gun in this case,
4 right?

5 A. I have not seen the gun in this case. No.

6 Q. All right. So they just swabbed it and then
7 submitted the swabs to you; is that right?

8 A. That's correct.

9 Q. All right. Let me just summarize then. To be
10 clear, though, you can't testify that there was, my client's
11 DNA was found on any evidence that's come up in this case,
12 right?

13 A. No. I did not definitively include him as a
14 contributor to any evidence in this case.

15 Q. Right. So, I mean, you can't say he's been
16 confirmed as having his DNA on this firearm, right?

17 A. No, I cannot.

18 Q. Okay. So, in fact, isn't it true that there is very
19 conclusive absence of my client's DNA on the trigger; is that
20 right? I mean, there's --

21 A. Yes.

22 Q. -- simply no DNA on the trigger?

23 A. No DNA profile was developed from the trigger.

24 Q. Right. No DNA from Mr. Brady or from Mr. Williams,
25 right?

1 A. That's correct. There was no DNA profile at all
2 from that item.

3 MS. CLEARY: Thank you. I appreciate your patience.
4 That's all I have.

5 MR. GRAHAM: No questions, Your Honor.

6 THE COURT: All right. Thank you very much, ma'am.
7 You may step down.

8 MR. GRAHAM: Your Honor, if I can approach?

9 THE COURT: Yes, sir.

10 (Side bar off the record.)

11 THE COURT: Call your next witness.

12 MR. GRAHAM: The State calls Jeanette Jones.

13 Thereupon,

14 JEANETTE JONES

15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. After you're
17 seated, please state your full name spelling your last
18 name for the record.

19 THE WITNESS: Jeanette Jones, J-o-n-e-s.

20 DIRECT EXAMINATION

21 BY MR. GRAHAM:

22 A. J-o-n-e-s.

23 Q. Go ahead.

24 A. Okay.

25 Q. Can you spell your first name?

1 A. My first name or last?

2 Q. Whatever you want to do. I'm sorry for interrupting
3 you.

4 A. Oh, I had spelled it. I make sure I spelled it
5 right.

6 Q. All right. Ma'am, you are in a wheelchair and it
7 looks like you have got an oxygen tank with you. Can you tell
8 me what's going on with you?

9 A. I have congestive heart failure and COPD and high
10 blood pressure and my lungs.

11 Q. How do you know Jeremy -- Do you know Jeremy
12 Brady?

13 A. Yes, sir.

14 Q. Do you see him in the courtroom?

15 A. Yes, sir.

16 Q. Is that the man sitting at the table over there with
17 the goatee and the shaved top of the head?

18 A. Yes, sir.

19 Q. How long have you known him?

20 A. For probably about three or four years. Four years
21 or five years.

22 Q. Back on July 27th of 2012, do you remember that
23 day?

24 A. That was my birthday.

25 Q. July 27th is your birthday?

1 A. Yes, sir.

2 Q. Back in 2012 on July 27th on your birthday did you
3 see Jeremy Brady?

4 A. Yes, sir.

5 Q. When he came -- Did he come over to your house?

6 A. Yes, sir.

7 Q. Do you remember what he was driving?

8 A. His truck with the wide wheels and I do believe it's
9 blue.

10 Q. Do you know from your dealings with him that day
11 whether he had any money?

12 A. No. He didn't have any.

13 Q. Do you know when I talk about a roxie, do you know
14 what a roxie is?

15 A. Yes, sir.

16 Q. Did Mr. Brady have any roxies on July 27th, 2012?

17 A. Not at that time, sir.

18 Q. Did he say anything to you about roxies then?

19 A. He had a hookup.

20 Q. That he had a hookup. What does that mean?

21 A. That mean where he can get some from.

22 Q. Once he told you that he had a hookup for roxies,
23 did he ask you anything?

24 A. Not at that time. I just - we had went to eat.

25 Q. Okay. Where did you go to eat?

1 A. I went to Denny's on Harbison Road.

2 Q. You get a free meal from Denny's on your birthday,
3 right?

4 A. Yes. On your birthday you get a free meal from
5 Denny's and I had went to the one on Harbison Road.

6 Q. Did Jeremy tell you whether he had a job or not?

7 A. At that time he wasn't.

8 Q. He did not have a job on your birthday on July 27th,
9 2012?

10 A. Not from my understanding.

11 Q. Okay. Did he tell you about whether he had any
12 family support at that time?

13 A. He was, uhm, he was mostly talking about his baby's
14 mama.

15 Q. Do you know who that person is?

16 A. Kim.

17 Q. Kim White?

18 A. I never got a last name.

19 Q. Kim?

20 A. Yes, sir.

21 Q. What was he saying about kim?

22 A. That, uhm, he didn't like Nick and them being
23 together and how he can try to get her back and --

24 Q. Ma'am, isn't it true that you have a conviction for
25 fraudulent check back in 1986?

1 A. Yes, sir.

2 Q. Isn't it true that you have a receiving stolen goods
3 and a fraud and deceit charge from 1992?

4 A. Yes, sir.

5 Q. A forgery from 1994?

6 A. Yes, sir.

7 Q. And a possession of, I believe, crack cocaine from
8 2005?

9 A. Yes, sir.

10 MR. GRAHAM: Your Honor, I'm going to show Ms. Jones
11 State's number 59 which is admitted by the defense
12 without objection. It's a summary of Ms. Jones'
13 telephone contacts with Mr. Brady that were obtained from
14 his records as the records are in evidence.

15 BY MR. GRAHAM:

16 Q. Your number at the time, ma'am, was 803-463-6256?

17 A. Yes, sir.

18 Q. Looking at State's exhibit number 59, it starts off
19 with phone calls on July 25th, and you have already looked at
20 these, I believe, haven't you, ma'am?

21 A. Yes, sir. On July 25.

22 Q. So on phone call from July 25th through the 31st,
23 approximately how many calls back and forth were there between
24 you two?

25 A. All of them are mine?

1 Q. Yes, ma'am.

2 A. Well, at that time several calls because he wasn't
3 sounding his best and I told him to come over and I could talk
4 to him and stuff.

5 Q. All right. On July 28th the day after your
6 birthday, do you remember receiving a text from him?

7 A. Yes, sir.

8 Q. What was that text?

9 A. Uhm, can I sell some roxies.

10 Q. What did he say to you? What does it say?

11 A. Can I sell some roxies.

12 Q. So did you end up talking to him on the phone after
13 he sent those texts to you?

14 A. He didn't answer.

15 Q. He didn't answer?

16 A. Not right then he didn't answer.

17 Q. But the text was can you cell some roxies?

18 A. Yes, sir.

19 MR. GRAHAM: Thank you, Ms. Jones. Please answer
20 any questions the defense may have.

21 MS. RUSSELL: Please the Court.

22 THE COURT: Yes, ma'am.

23 CROSS EXAMINATION

24 BY MS. RUSSELL:

25 Q. Ms. Jones, just very briefly. Were you with Jeremy

1 everyday during that time?

2 A. No, ma'am.

3 Q. So he could have been doing some part-time work?

4 A. No. But I talked to him a lot and we did a lot of
5 texting because he was, he wasn't in his right mind.

6 Q. So you weren't aware of him doing any kind of work
7 at all?

8 A. No, ma'am.

9 Q. Okay.

10 A. Because his dad is a contractor.

11 Q. And also before the 27th, the day of your birthday,
12 have you ever seen him with any roxies before?

13 A. I seen him with Kim.

14 Q. No. I mean with -- Have you --

15 A. No. No.

16 Q. -- seen him with any prescription pills before
17 then?

18 A. No.

19 Q. Have y'all ever gotten high together before the
20 27th?

21 A. No.

22 Q. Were you aware that Mr. Brady might have been doing
23 some roofing work at that time with an individual y'all know
24 by the name of Mike?

25 A. Mike? No. No. I didn't. I wasn't aware of.

1 that.

2 MS. RUSSELL: Okay. That's all. Thank you.

3 THE WITNESS: But he wasn't.

4 MR. GRAHAM: Nothing else. Thank you, Ms. Jones.

5 THE COURT: All right. Thank you very much, ma'am.

6 All right. Ladies and gentlemen, we are going to recess
7 for the afternoon. Please continue to protect and guard
8 your ability to remain fair and impartial. Don't have
9 any conversation with anyone about the case or any of the
10 evidence. Please be back up here at 9:00 and we'll get
11 started once everybody reconvenes. Everyone else please
12 remain seated and, folks, we'll see you back tomorrow
13 morning at 9:00.

14 (Whereupon, the jury was excused for the evening at
15 5:25 p.m.)

16 THE COURT: All right. Roughly, and I realize this
17 is a guesstimate because you don't know how long cross
18 will take, but how long do you think it will take you to
19 complete your case tomorrow? I think you told me, Shawn,
20 that you would get done sometime tomorrow.

21 MR. GRAHAM: I believe we'll be done tomorrow
22 morning. I'm just not sure how early. It could be
23 pretty early in the morning.

24 THE COURT: Okay. All right. Well, I appreciate
25 that. So, Ellen, y'all need to be prepared to begin and

1 let me, I don't mean to assume anything. I have been
2 under the assumption that you intend to put up some
3 witnesses. So if you do, you need to be ready tomorrow.
4 If you don't, then we'll proceed on. All right. If you
5 would also this evening, you probably already have, but
6 make sure you talk with Mr. Brady about his rights
7 regarding his rights to testify, his rights to remain
8 silent and everything like that and we'll take that up
9 tomorrow. Is there anything else we need to deal with
10 before we adjourn for the afternoon?

11 MR. GRAHAM: No, Your Honor.

12 THE COURT: Anything from the defense?

13 MS. CLEARY: No, Your Honor.

14 THE COURT: Okay. Folks, we'll see everybody back
15 up here at 9:00.

16 (Whereupon, court was recess for the evening at 5:30
17 p.m.)

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June 18, 2015

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BAILIFF: All rise. Court is now in session.

3

THE COURT: All right. Good morning everyone.

4

Please be seated. Anything before we bring the jury in?

5

MS. RANKIN: Yes, Your Honor. Quickly for the

6

record, the State has moved items 56 and 57 into

7

evidence, Your Honor, without objection from the defense.

8

THE COURT: All right. Is that correct, Ms. Cleary?

9

MS. CLEARY: Yes, Your Honor.

10

THE COURT: All right. 56 and 57 are in evidence

11

without objection. What about, there was some question

12

about 86. Is that --

13

MS. RANKIN: Yes, sir, Your Honor, we're not

14

entering that.

15

THE COURT: All right.

16

MS. RUSSELL: One second. I believe that 57 was the

17

unredacted version of Jeremy's text which was only going

18

to be a Court exhibit, and then 56 and 55 were the Nick

19

and Jeremy records that we all agreed to.

20

THE COURT: Is that correct? Make sure to look at

21

them. Right now I don't have 55 in at all.

22

MS. RANKIN: Okay. 55 y'all are fine with?

23

MS. RUSSELL: Yes, ma'am.

24

THE COURT: Let's eyeball them.

25

MS. RANKIN: They're right there. We got those.

1 THE COURT: Okay. So you're good with 55.

2 MS. RUSSELL: Yes, sir.

3 THE COURT: All right. So for the record, there's
4 no objection to State's 55. It's in evidence without
5 objection. That was for ID purposes.

6 MS. RANKIN: For ID purposes.

7 THE COURT: But is that the one court exhibit that
8 we have in the case now? That is marked as a Court's
9 exhibit?

10 MS. RANKIN: Yes, your honor.

11 THE COURT: All right. So 57 is not in evidence.
12 It's a court exhibit, right?

13 MS. RANKIN: That's correct. But 56 would be in.

14 THE COURT: All right. So 55 and 56 are in without
15 objection.

16 MS. RUSSELL: Yes, Your Honor.

17 THE COURT: All right. Let's bring the jury in.

18 (Whereupon, the jury returned to the courtroom at
19 9:30 a.m.)

20 THE COURT: All right. Folks, welcome back. We are
21 going to begin this morning where we left off last night,
22 that is on the State's case and we'll recognize
23 Mr. Graham or Ms. Rankin for the State's next witness.

24 MS. RANKIN: Thank you, Your Honor. The State calls
25 Terri Gleason.

1 Thereupon,

2 TERRI GLEASON

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. After you're
5 seated, please state your full name spelling your last
6 name for the record.

7 THE WITNESS: Terri Gleason Cypher, C-y-p-h-e-r.

8 DIRECT EXAMINATION

9 BY MS. RANKIN:

10 Q. You go by Cypher now?

11 A. Yes, ma'am.

12 Q. Ms. Cypher, where do you work?

13 A. I work with the Richland County Sheriff's Department
14 in their forensics sciences laboratory.

15 Q. And what do you do?

16 A. I'm a firearms and tool mark examiner.

17 Q. Can you tell us a little bit about your background
18 and education in firearms and tool marks?

19 A. Sure. I have a Bachelor's of Arts in both criminal
20 justice and psychology from the University of Georgia and a
21 Master of Science and Forensic Science from the University of
22 New Haven. In July of 1999 I began work with the Georgia
23 Bureau of Investigation State Crime Laboratory in Atlanta,
24 Georgia, and at that time I underwent an extensive two year
25 training program that dealt specifically with firearm and tool

1 mark examination. During that time in addition to receiving
2 certification from the state, I also received certification
3 from the Federal Bureau of Investigation in muzzle to target
4 distance determination and from the Bureau of Alcohol, Tobacco
5 and Firearms * restoration. To date I have logged over 3500
6 hours on the comparison microscope which is our primary
7 instrument or tool that we use for comparisons, completed
8 examinations on over 3000 firearms and completed approximately
9 a thousand actual firearm and tool mark cases. I'm also a
10 member of our professional organization which is the
11 Association of Firearm and Tool Mark Examiners.

12 Q. Have you ever testified as an expert in firearm and
13 tool mark examinations?

14 A. Yes. I have.

15 Q. About how many times?

16 A. Over 50.

17 MS. RANKIN: Your Honor, at this time the State
18 would move to have Ms. Cypher qualified as an expert in
19 firearm and tool mark examination.

20 THE COURT: Okay. Objection?

21 MS. CLEARY: No objection.

22 THE COURT: All right. Without objection. You may
23 proceed.

24 BY MS. RANKIN:

25 Q. Ms. Cypher, could you tell us a little bit about how

1 you would go about testing a firearm and comparing it?

2 A. Sure. Generally what we do if we have a firearm in
3 a case, we will take it -- Well, in this case we had a shotgun
4 so we actually have to go to our county range and test fire
5 it. We do that so that we can get exemplars from the specific
6 firearm and then we'll bring it back and we'll look at the
7 comparison microscope which I mentioned earlier. It's
8 essentially two microscopes that are joined together by an
9 optical bridge that allows you to see two items side by side
10 in the same lighting and magnification. So we'll take test
11 fires that we have received after going to the range and
12 testing the gun and we'll look at them under the comparison
13 microscope and we'll see what kind of marks that they are
14 leaving behind. Generally in the manufacturing process of a
15 firearm it goes through a variety of manufacturing processes.
16 And each of these stages of manufacturing leave behind
17 microscopic imperfections in the form of nicks, burrs and
18 cuts. These become kind of a unique signature fingerprint for
19 that firearm and what we are looking at when we test the
20 firearm is to make sure there is a replication of those marks
21 onto the test fires. So once we have determined that by
22 looking at the exemplars from test firing, we'll then actually
23 look at evidence items and we'll compare them to the test
24 fires and see what kind of conclusions we can come to.

25 Q. Okay. Did you test the shotgun in this case?

1 A. Yes. I did.

2 Q. Is this the shotgun that you tested?

3 A. Yes. It is.

4 Q. I'm handing you what's been marked for ID as State's
5 87. Are those the test fires?

6 A. This is the package that should contain them. Do
7 you want me to open it?

8 Q. Yes. You can open it up.

9 A. (Witness complies.) Yes. These are the test
10 fires.

11 Q. Did you create those test fires?

12 A. I did. These are the items that would have left
13 with me after going to our range to test fire the test
14 firing.

15 MS. RANKIN: Your Honor, at this time the State
16 would move 87 into evidence.

17 MS. CLEARY: No objection.

18 THE COURT: Without objection State's 87 is in
19 evidence.

20 BY MS. RANKIN:

21 Q. Where do you get the ammo for test fires?

22 A. We generally - we have a very large room at our
23 laboratory that houses our ammunition collection as well as
24 firearms that we use during testing procedures. In most cases
25 we'll have a type of ammunition similar to what was used in

1 the case and then we'll use that. If not, we can also go to
2 the local stores and buy ammunition if we need to buy it or
3 use ammunition from the case if we have to.

4 Q. States 72 and 64.

5 A. Yes. State's exhibit 72 is an unfired 20 gauge
6 shotgun shell.

7 Q. Was that given a Richland County number?

8 A. It was. It's our item 10. Is it okay to open this
9 bag as well?

10 Q. Yes, ma'am.

11 A. (Witness complies.) All right. State's exhibit 64
12 actually has Richland County item number 5 which are seven
13 fired 20 gauge shotgun cartridge cases and two unfired shotgun
14 cartridge cases as well as Richland County item 6 which is
15 three fired 20 gauge cartridge cases.

16 Q. For the three fired shot shell cases, did you make
17 comparisons on those?

18 A. Yes. I actually examined all of the unfired and the
19 three, are you talking about my item 6?

20 Q. Yes. Your item 6.

21 A. Yes.

22 Q. Okay. And as part of your duties as a firearm and
23 tool marks examiner, do you write a report?

24 A. Yes. I do.

25 Q. What were the results of those findings?

1 A. For the three fired cartridge cases that were
2 submitted as our item 6, I was able to identify them to one
3 another as well as having been fired by this firearm.

4 Q. Okay. So you compared your item 6 with the test
5 fires?

6 A. Yes, ma'am.

7 Q. And they came from that gun?

8 A. Yes. They did.

9 Q. Look at State's 72.

10 A. Yes. State's exhibit 72 is the unfired that is
11 Richland County's item 10.

12 Q. Did you compare that as well?

13 A. I did. Because it's unfired we are only looking at
14 a limited number of markings and I was able to determine that
15 this cartridge was extracted from this firearm so it wasn't
16 fired by it. It's still an unfired cartridge but the markings
17 from the extractor which is what pulls the cartridge case
18 after firing or cartridge if it's not fired back out of the
19 gun and leads to ejection, those marks were on this so I was
20 able to say that it was extracted by this firearm.

21 Q. And you tested item 5 as well?

22 A. Yes. I did.

23 Q. Okay. What were the results of that?

24 A. Item 5 had seven fired 20 gauge cartridge cases and
25 two unfired. Those seven fired cartridge cases were not

1 related either to the item 6 fired or from the test fires from
2 this gun.

3 Q. Just to go over it again, the three fired shot shell
4 cases that you have were fired from that weapon?

5 A. That's correct.

6 Q. And the one unfired was ejected from that weapon?

7 A. Yes.

8 Q. To what degree of certainty are you about your
9 results?

10 A. We are not able to give a degree of certainty
11 because as a science we're never going to be able to know
12 every firearm that's in existence to be able to give you a
13 percentage. I can give you my opinion as an expert and for me
14 to give an identification which I did in this case for those
15 three I am a hundred percent certain from my training and
16 education that these three cartridge cases came from this gun,
17 however, our science allows us to say that the likelihood that
18 another firearm fired this is so remote as to be a practical
19 impossibility.

20 MS. RANKIN: Thank you, Ms. Cypher. I have nothing
21 further.

22 THE COURT: Any cross examination?

23 MS. CLEARY: May it please the Court.

24 CROSS EXAMINATION

25 BY MS. CLEARY:

1 Q. Mrs. Cypher?

2 A. Yes, ma'am.

3 Q. I just have a couple questions. You testified that
4 you take the shotgun and test fire it?

5 A. Yes, ma'am.

6 Q. That's a pretty loud blast when you fire a
7 shotgun?

8 A. Well, we wear hearing protection so for us it's not.
9 If you don't have hearing protection on, yes, it would be
10 loud.

11 Q. So you wear hearing protection because it's a loud
12 blast?

13 A. Yes.

14 Q. Would you agree it's about 170 decibels?

15 A. Honestly I do not have any experience with actual
16 measurement.

17 Q. Let me ask you this: From your experience with
18 hearing these weapons, firing these weapons, do you believe
19 that you could hear that shot blast through the average
20 trailer exterior walls?

21 A. Yes.

22 Q. All right. You're vaguely familiar, I'm sure, if
23 not more familiar than I am with DNA evidence with the way
24 that experts report their findings in a DNA when they have a
25 DNA analysis?

1 A. No. The most that I do is I will, if I'm requested,
2 swab an item that will then be turned over to our DNA analyst
3 but I do not have any --

4 Q. Right. Yeah. I know. I understand that. I guess
5 what I mean is that you have a lay person's understanding of
6 DNA. Let me just follow up with, you have heard a DNA expert
7 say that there is a probability that it's somebody's DNA of
8 one to one quintillion, that sort of thing?

9 A. I know that they're able to --

10 Q. That they provide a number?

11 A. -- produce statistics because they have a --

12 MS. RANKIN: Objection, Your Honor. Relevance.

13 THE COURT: What is the relevance with this witness
14 with regards to DNA?

15 MS. CLEARY: Oh, no. Can I ask the follow up and
16 maybe establish that?

17 THE COURT: All right. Go ahead.

18 BY MS. CLEARY:

19 Q. Okay. So what I wanted to ask you then is you do
20 agree that DNA analysis is a more exact science? They are
21 able to give a percentage and testify to a scientific degree
22 of certainty that it's a one in one quintillion probability?

23 MS. RANKIN: Objection, Your Honor. I just don't
24 see where it's relevant.

25 THE COURT: Well, that's the same question. That

1 wasn't your follow up question, was it?

2 BY MS. CLEARY:

3 Q. Would you agree that -- You testified that
4 ballistics testing, you can't say any sort of number of
5 probability that this is the same firearm?

6 A. That's correct. As I explained, we don't have,
7 whereas DNA has a set number of alleles that they use to
8 create statistics, because of the nature of our science we do
9 not produce those statistics or those numbers.

10 Q. Okay. So you would agree that when you look at the
11 markings, that you have to make some subjective analysis?
12 There is no objective test?

13 A. No. They are both. We have both objective and
14 subjective because we are using our eyes versus an instrument
15 so there is a subjective nature to it, but we also use the
16 objective scientific method that all scientists use.

17 Q. And those cartridges that you determined were fired
18 from this weapon, do you know what brand those are? Do you
19 have them in front of you?

20 A. The three that were fired?

21 Q. It's in your report. Yes. Those are --

22 A. Richland County's item 6 were Winchester.

23 Q. And are those available to buy at Wal-Mart?

24 A. Winchester is a very common ammunition manufacturer
25 so yes, they'll be available at many local retail stores.

1 Q. And those are mass produced on a machine?

2 A. Yes.

3 Q. All right. So you would agree that you can't state
4 that this was definitely, these were definitely fired from
5 this weapon; is that correct?

6 A. No. I can tell you my opinion as an expert is that
7 yes, they were definitely fired. But again, our science does
8 not allow us to give you a hundred percent probability.

9 Q. So from a scientific standpoint you can't say it's a
10 hundred percent? Like you said, it's your opinion, right?

11 A. Correct.

12 Q. And the definition of what makes a mark unique,
13 that's a subjective decision by the examiner; is that right?

14 A. Well, because again we don't have an instrument that
15 produces a read out, we're using our eyes to look through the
16 microscope, that part of it is subjective.

17 Q. So you cannot testify that this cartridge was fired
18 from this shotgun to the exclusion of all other shotguns?

19 A. No. I cannot testify to that.

20 Q. And there is not a data base of all shotguns that
21 you can compare it to, for example, like a DNA expert can
22 do?

23 A. I don't know what they compare it to, but no, we do
24 not have a data base for shotguns.

25 Q. Because you haven't tested all of the shotguns or

1 have access to them?

2 A. That's correct.

3 MS. CLEARY: And the markings that would be created
4 from all other shotguns. Okay. Thank you. No other
5 questions.

6 REDIRECT EXAMINATION

7 BY MS. RANKIN:

8 Q. Ms. Cypher, your expert opinion in firearms and tool
9 marks examining is that you were one hundred percent certain
10 that those casings came from that shotgun?

11 A. Yes. For me to come to a conclusion about
12 identification means that I am one hundred percent certain
13 that these came. Again, the science does not allow that, so
14 the likelihood is so remote as to be a practical
15 impossibility.

16 MS. RANKIN: Nothing further.

17 THE COURT: All right. Thank you very much, ma'am.
18 You may step down. Any objection to this witness being
19 excused?

20 MS. CLEARY: No, Your Honor.

21 THE COURT: Thank you very much.

22 MS. RANKIN: Your Honor, at this time the State
23 would rest.

24 THE COURT: All right. The State has rested their
25 case so, ladies and gentlemen, I have to take up matters

1 of law at the close of the State's case. We do that in
2 all cases. We have matters of law that I need to take up
3 before we proceed. So I'm going to ask you to step back
4 into the jury room. If you need anything while you're
5 back there, let the bailiffs know and I'll bring you back
6 out after I take up these matters of law, okay?

7 (Whereupon, the jury entered the jury room at 9:50
8 a.m.)

9 THE COURT: Okay. At this time I'll be happy to
10 hear from the defense with any motions at the close of
11 the State's case.

12 MS. CLEARY: Yes, Your Honor. The defense would
13 move for a directed verdict on each of the charges based
14 on the fact there is no direct evidence and no
15 substantial circumstantial evidence of each of the
16 elements.

17 THE COURT: All right. Ms. Cleary, I'm going to
18 respectfully deny that motion. I think, the bottom line
19 is I think it's a factual issue. It depends on, I think,
20 how the jury views the evidence and it is certainly up to
21 them to give the weight to the evidence as opposed to the
22 Court and I think there is evidence in the record
23 depending on how it's viewed by the jury whereby they
24 could find the defendant guilty of these matters
25 depending on how they view the evidence. They may very

1 well find that there is not sufficient evidence, but
2 again I think it's a factual issue that is their job to
3 do, not the Court's. I don't think it's a legal issue so
4 I'm going to respectfully deny that motion.

5 MS. CLEARY: Yes, sir.

6 THE COURT: All right. Anything further at this
7 time? I wanted to, let's see, have you talked with your
8 client regarding, Mr. Brady, regarding his constitutional
9 rights to testify, to remain silent, put up a case, not
10 put up a case?

11 MS. CLEARY: We have, Your Honor.

12 THE COURT: All right. Mr. Brady, I'm going to just
13 kind of review that with you. I know you have talked to
14 your attorneys and gone over all of that. I'm just gonna
15 review that with you.

16 MR. BRADY: Yes, sir.

17 THE COURT: But before I go there, let me first
18 inquire with regards to Mr. Brady, is there any prior
19 record that would be subject to possible impeachment?

20 MR. GRAHAM: There is, Your Honor. He pled guilty
21 to a burglary in the second degree in December of 2005.

22 THE COURT: Okay.

23 MR. GRAHAM: The burglary warrant references him
24 going in and breaking into a house and stealing rifles,
25 shotguns, game systems, DVD players and box games. The

1 indictment reads that he entered a dwelling without
2 consent with the intent to commit a crime and while in
3 the dwelling or in flight thereof he or another
4 participant became armed with a deadly weapon or
5 explosive. That's indictment 2005-GS-32-4775. I don't
6 know -- If it's a crime of -- burglary by itself is not a
7 crime of dishonesty, but I believe the underlying theft
8 makes it a crime of dishonesty so I think that in and of
9 itself makes it come in without a balancing test but to
10 be safe if Your Honor wants to balance the probative
11 value and the prejudicial effect..

12 THE COURT: Let me give you my position on this
13 situation. Because Mr. Brady is charged in this case
14 with a burglary and those are the allegations in this
15 case, because they are essentially the same charge, I
16 think there would be a high possibility of prejudice to
17 be able to question him as to whether or not he's been
18 convicted of a burglary. I would allow you to ask him is
19 it true that you have been convicted of a felony.

20 MR. GRAHAM: Okay.

21 THE COURT: But not to name it because I think that
22 would be overly prejudicial based on the fact that that
23 is a charge that he is facing here.

24 MR. GRAHAM: Yes, Your Honor. He also has on
25 2009-GS-32-451 and that is from 2009 a conviction for

1 failure to stop for a blue light. That one I do think
2 would require Your Honor to do a balancing test on the
3 admissibility of that.

4 THE COURT: That was in 2009?

5 MR. GRAHAM: 2009, yes, Your Honor. And I don't
6 know the dates. I know that he was incarcerated. I
7 don't know the dates he was incarcerated on those charges
8 as well.

9 THE COURT: All right.

10 MR. GRAHAM: Your Honor, if I might, if I could ask
11 the Court, I know when we had our Miranda hearing, you
12 made complete rulings, I believe, on the verbal
13 statements made at the apartment. I know the defense
14 said that they didn't object to the Mirandized
15 statements, but I think Your Honor still needs to make
16 rulings for the record that they were made freely and
17 voluntarily because if he does testify, that needs to be
18 clear before I can cross him.

19 THE COURT: Exactly. Exactly. Well, let me do
20 this. First let me address the -- I'm going to let you
21 ask about the burglary but in the form of the felony and
22 I'm not going to go into the failure to stop. I don't
23 think -- I don't know that it has any probative value
24 that would outweigh its prejudicial effect. I don't
25 think it's - it doesn't seem to be appropriate.

1 Now, let me get back. Mr. Brady, having said that,
2 now I'm going to allow them as you heard me just say that
3 they can ask whether or not you have been convicted of a
4 felony. I'm not going to allow them to go into any
5 details. Now, Solicitor Graham gave me details here for
6 purposes of this hearing. But as far as if you decided
7 to testify, and this is what we're dealing with right
8 now, if you decide to testify, you understand you would
9 have to answer questions from your attorney?

10 MR. BRADY: Yes, sir.

11 THE COURT: But you would also be required to answer
12 questions from the State's attorney. Do you understand
13 that?

14 MR. BRADY: Yes, sir.

15 THE COURT: And one of those questions could be,
16 they may or may not, but they could ask whether or not
17 you have been convicted of a felony, but I would not
18 allow them to go into any detail. Simply to ask that
19 question. Do you understand?

20 MR. BRADY: Yes, Your Honor. I understand.

21 THE COURT: Okay. Now, also, however, a person who
22 is accused of a criminal offense has the right to remain
23 silent. In other words, you're not required to testify.
24 And if you chose to not testify, I would instruct the
25 jury, and my instruction goes something along these

1 lines, that the State has the burden of proof and that in
2 a criminal case a defendant is never required to prove
3 themselves innocent. So there is no burden on you to do
4 anything. As a matter of fact, the law provides that a
5 person can exercise their constitutional right to remain
6 silent. And if you were to do that, I would instruct
7 them that the fact that you chose to do that could not be
8 considered by them in any way in their deliberations in
9 this case. I would instruct them further that the fact
10 that you chose to remain silent could not even be
11 discussed in the jury room. The State has the burden of
12 proof. You don't have to prove anything. And I would
13 instruct them in that fashion if you were to choose to
14 remain silent.

15 So you have the right to testify, but if you do,
16 you're subject to questioning from both sides. But you
17 also have the right to remain silent. It's a
18 constitutional right that you have and so it's important
19 that you have talked with your attorneys about that.
20 It's important that y'all have had discussion and as good
21 lawyers that they are they'll give you their thoughts and
22 opinions but no one can ever make the decision for an
23 individual as to whether or not they wish to exercise a
24 constitutional right. That has to come from you.

25 Now, rightfully so you make that decision having

1 spoken to them and gone through that whole thought
2 process but when the dust settles, when the rubber meets
3 the road, it has to be your decision. Have you had an
4 opportunity to talk with them and to come up with a
5 decision with regards to this case?

6 MR. BRADY: We have discussed it and I believe we
7 have come up with a decision, yes, sir.

8 THE COURT: All right. Do you intend to testify or
9 do you intend to exercise your right to remain silent?

10 MR. BRADY: I do intend to testify.

11 THE COURT: Okay. And that's fine. I'll certainly
12 honor that request. Let me ask. That decision that you
13 came up with, has that been your decision?

14 MR. BRADY: Yes. Solely my decision.

15 THE COURT: Okay. No one has threatened you,
16 coerced you or in any way overridden your desires on that
17 issue; is that correct?

18 MR. BRADY: No. Your Honor, it's totally my
19 decision. I haven't been asked or persuaded in any type
20 of way. It's all my decision, yes, sir.

21 THE COURT: All right. Well, thank you, sir. You
22 may have a seat. We'll certainly honor that decision
23 when the time comes.

24 MS. CLEARY: Your Honor, can I just clarify though
25 that he's not actually bound to that at this time.

1 THE COURT: No. No. No. It's always going to be
2 up to Mr. Brady whether he chooses to testify or not.

3 MS. CLEARY: Thank you, Your Honor.

4 THE COURT: And that goes --

5 MR. GRAHAM: For the record, Your Honor, I'm
6 confused. When we started this case with opening
7 statements and multiple witnesses, they promised that he
8 was going to testify.

9 MS. CLEARY: Your Honor, I mean, I think that makes
10 us lose credibility with the jury.

11 THE COURT: That's a credibility issue for them if
12 he does not testify and we'll address it now. I don't
13 think you can object to the State addressing that in
14 their closing as far as --

15 MS. CLEARY: If we did that, yes, sir.

16 THE COURT: -- what you shared with them.

17 MS. CLEARY: Yeah. I mean, we did make a strategic
18 decision that we were gonna come forward with that in
19 opening and take that risk, you know, but I'm just saying
20 I don't know what's going to happen between now and the
21 time he gets up.

22 THE COURT: I understand. What I know is this,
23 Mr. Brady, your right to, constitutional right to remain
24 silent will always be a right that you can exercise if
25 you choose to or your right to testify will always be a

1 right that you can exercise if you choose to. Now,
2 again, now we are at a stage now where I need to have a
3 little bit more concrete information from the defense as
4 far as scheduling for today's purposes.

5 MS. RUSSELL: As far as I know we should have two
6 witnesses here at the courthouse. They were asked to be
7 here at 10:00. We would like a brief second to make sure
8 they are here.

9 THE COURT: Sure. I'll give you that time.

10 MS. CLEARY: She's gonna run out and check.

11 THE COURT: Go ahead and do that.

12 MR. GRAHAM: I did have another matter, Your Honor.
13 Prior to them presenting witnesses, I know, I believe in
14 conversations or e-mails and the rumor on the street and
15 talking to witnesses that there may be allegations of
16 third party guilt. I know that there is a standard
17 before they can admit that and they are all hearings that
18 have to be conducted and you have to make a determination
19 before the jury gets to hear any evidence of anybody else
20 doing this crime other than the accused.

21 MS. CLEARY: Yes, sir. I understand that. We are -
22 it's our plan to not name other suspects but to instead
23 attack -- Okay. You know, it's -- I'm gonna go ahead and
24 say it. It's our plan to, you know, ask questions about
25 the investigation, you know, without naming these people,

1 but did you do this, and I guess now I will be doing it
2 with direct, not pointing the finger at, you know, other
3 people but there are instances of people where they had
4 some evidence and I would just ask them why they didn't
5 follow up on that.

6 THE COURT: But you're not going to specifically say
7 so and so did it?

8 MS. CLEARY: No, sir.

9 MR. GRAHAM: I mean, I'll pass up some cases, Your
10 Honor. You can look at them. The law is the evidence
11 offered by an accused as to the commission of a crime by
12 another person must be limited to such facts as are
13 inconsistent with his own guilt and such facts that raise
14 a reasonable inference or presumption as to his
15 innocence. Evidence which can have no other effect than
16 to cast a mere suspicion upon another or to raise a
17 conjectural inference as to the commission of the crime
18 by another is not admissible. Before such testimony can
19 be received there must be such proof of connection with
20 the subject train of facts or circumstances to clearly
21 point out that such other person as the guilty party,
22 remote acts disconnect and outside the crime itself
23 cannot be separately proved for purpose. I'll pass these
24 up to Your Honor to look at during this break.

25 THE COURT: Do that. Have you got another copy that

1 you can give to --

2 MS. CLEARY: I think I have got that.

3 THE COURT: You have got it. Okay.

4 MR. GRAHAM: For the record, Your Honor, I'm passing
5 up State versus Burgess which is 703 Southeastern Second
6 512, 2012 Court of Appeals and then also State versus
7 Swafford which is a 2007 case. That was decided before
8 State versus Holmes which had to do with the strength of
9 the prosecution case and the admissibility but it still
10 addresses the underlying arguments in there.

11 THE COURT: All right. Thank you, sir. All right.
12 Let's take a few minutes. Y'all can make sure you got
13 who you need.

14 MS. CLEARY: We need to get our associate to look
15 for the witnesses.

16 THE COURT: All right. We'll start back in just a
17 few minutes.

18 (Short break.)

19 BAILIFF: Come to order. Please stay seated. Court
20 is now back in session.

21 THE COURT: Thank you, ladies and gentlemen. Well,
22 let me just say that I don't know other than allowing you
23 to proffer whatever testimony you think might be relevant
24 and let me rule on it. Or we can just proceed and then
25 if she goes down a path that's heading in that direction,

1 but I think I need to hear proffered testimony. I don't
2 think it's wise to put it out there and wait for you to
3 object because then it's out there.

4 MR. GRAHAM: Right. And that's my concern. I can't
5 unring a bell once she starts down that road.

6 THE COURT: I don't know what to ask Ms. Cleary for
7 the defense to proffer because I don't know what you
8 intend to do but if you -- I mean, I don't know what your
9 intention is.

10 MS. CLEARY: For example --

11 THE COURT: And you - you can give me -- I mean, you
12 don't have to - you can give me an example of what
13 information you're going to attempt to elicit from
14 a certain witness that would fall under this issue and
15 then if we need to, we can call that witness and let you
16 proffer that testimony so that I can make a decision.

17 MS. CLEARY: Your Honor, can I ask this? We have
18 two witnesses now that I don't believe raise that
19 issue.

20 THE COURT: Okay.

21 MS. CLEARY: Can you give me a minute after those
22 two?

23 THE COURT: How long do you anticipate these two
24 witnesses to take? I know you can't predict the cross,
25 but you know basically your direct. Like, for example,

1 it's 10:30. Will that take us an hour? Will it take us
2 an hour to do those two witnesses?

3 MS. CLEARY: No. Probably not. I mean, less.
4 Less.

5 THE COURT: Right.

6 MS. CLEARY: We may have one more that we can fit in
7 that our investigator is talking to.

8 MS. RUSSELL: I would think if you wanted to keep
9 the jury out for just a few more minutes, he will
10 probably be able to finish speaking with him. We have
11 three potentially ready to go before lunch and then we
12 could address third party guilt after lunch.

13 THE COURT: All right. Go ahead.

14 MR. GRAHAM: I was just going to say I know three of
15 their witnesses I believe I know who they are. I don't
16 know where they planned on calling them. One was an EMS
17 person. As far as third party guilt, we don't have any
18 questions. We do have questions about him being
19 qualified as an expert on time of death if that's what
20 they're planning on doing.

21 MS. CLEARY: No.

22 MR. GRAHAM: The second one is they gave us the name
23 of Latoya Warren. Ms. Warren was interviewed. She had
24 actually been a defendant that I prosecuted who had
25 robbed Mr. Mitchell before and she told the police that

1 Vanessa Deputy who testified earlier was the one who set
2 him up. They asked her why she thought that and she said
3 that, and I believe this is a quote, a little white girl
4 that was released from D pod told her that Allen was the
5 trigger man and Vanessa set it up.

6 MS. RUSSELL: I assure you we are not going into any
7 of that at all.

8 THE COURT: Okay.

9 MR. GRAHAM: The other witness is William Cash. He
10 was and still is an inmate in SCDC who offered
11 information against Jeffrey Martinez which was another
12 murder case I prosecuted as well and he provided a
13 statement on Nick Williams. The substance of it from the
14 videotape is that he said that Nick told him through an
15 air vent that he was the one who pulled the trigger and
16 he goes on to say he didn't know who was with him and
17 then he said I think it was his brother. The State would
18 object to his testimony at all under 613(b) prior
19 statement of a witness, (b) is the extrinsic evidence of
20 a prior inconsistent statement. They never crossed Nick
21 Williams on making that statement whether he said it to
22 Mr. Cash, when he said it and where he said it and those
23 are all requirements for them to be able to offer a
24 witness to rebut something he didn't have a chance to
25 admit or deny. That's inadmissible at all. Any

1 statement that Mr. Cash has that Mr. Williams said.

2 Additionally, if they are going down another path
3 that you are going into third party guilt, again it talks
4 about who Mr. Williams' accomplice was. So I think that
5 would need to be proffered. But it's not admissible
6 under 613(b), Your Honor.

7 THE COURT: Well, again I'm kind of at a
8 disadvantage because I don't know what they intend to do.

9 MS. CLEARY: Your Honor, if I can just say we are
10 not going to call Mr. Cash.

11 THE COURT: Listen. Let me do this, okay? I don't
12 know. There seems to be -- I'm going to make -- I'm
13 going to refer -- I'm gonna make -- I'm gonna label it as
14 something, but I don't mean to be critical. It just --
15 There seems to be a cat and mouse thing going on here
16 about everybody, nobody wanting anybody else to know what
17 witnesses are being called and I don't understand that.
18 I was a prosecutor for years. I was a defense lawyer for
19 years. I don't see any prejudice to say, Judge, our next
20 three witnesses are Mr. A, Mrs. C and Mr. B. That's who
21 we intend to call this morning if you'll give us just a
22 few minutes to wrap that up. What problem is there with
23 saying that? You think you're tipping off the State and
24 they're gonna have some advantage by knowing that?

25 MS. CLEARY: Well, Your Honor --

1 THE COURT: You can say that to them too and they
2 did.

3 MS. CLEARY: We didn't know who their witnesses were
4 going to be.

5 THE COURT: Here is the thing. I have got to make
6 rulings and I have got to be able to say I need you to
7 proffer that witness' testimony if we are going to go
8 into one of these objectionable areas. But if you tell
9 me that we are not, then we'll put up your three
10 witnesses and I'll hold you to that that we are not going
11 into this objectionable area.

12 MS. CLEARY: Right. And that's what I was telling
13 you. The two witnesses we have right now, they are not
14 related to third party guilt.

15 THE COURT: All right. And the third one?

16 MS. CLEARY: Well, the third one we just eliminated.
17 So now I'm a little bit worried that we are not going to
18 be ready. I know you don't want to send them to lunch
19 too soon.

20 THE COURT: I don't mind sending them to lunch. I
21 can.

22 MS. CLEARY: Okay. Well, that's fine. I mean, we
23 have to respond to what they --

24 THE COURT: I'm going to send them to lunch. I'm
25 not going to keep them here so if we have to send them to

1 lunch, to an early lunch, that's not an issue.

2 MS. CLEARY: Okay.

3 THE COURT: But I just want to be able to be in a
4 position so that these issues get resolved so that you
5 are able to plan your afternoon. Guys, let me say this,
6 too. The only thing I care about is that the State and
7 the defense get a fair trial. I'm not - time doesn't
8 matter to me. If we have to stay here until 9:00 tonight
9 or if we have to come back on Saturday, that's not an
10 issue. As long as everybody gets a fair trial time is
11 not an issue. It becomes an issue because I don't want
12 to waste the jury's time so to that extent it's an issue,
13 but we'll take all the time we need to try the case,
14 okay? So let's go ahead. We'll bring the jury out. Let
15 you proceed with your two witnesses. If you have another
16 one, we'll do that. If you don't, we'll break early.

17 MS. CLEARY: No, we don't.

18 THE COURT: Do you need a minute?

19 MS. RUSSELL: No. I think we can call those two and
20 then break for lunch and we can get everybody else here
21 for the afternoon. Also, I don't think we went on the
22 record about pre-Miranda and post-Miranda in terms of
23 your rulings.

24 THE COURT: I'm gonna do that at this point. Now, I
25 did go on the record with regards to the pre-Miranda. I

1 did that early on in the week. And the defense objected
2 to those statements coming in and I overruled those
3 objections based on what I said earlier, that I don't
4 believe that it was in violation of his constitutional
5 rights. I don't believe that they were coerced or that
6 they were done pursuant to interrogation. They were done
7 pursuant to investigation but I think they were,
8 everything about those statements appear to be freely and
9 voluntarily entered into without coercion or in violation
10 of his rights. There wasn't anything in there that
11 seemed to indicate that Mr. Brady was not aware that he
12 did not have to speak to law enforcement. He did not
13 have to cooperate. So I dealt with that. But then there
14 were a couple of statements, I think, two statements that
15 were given -- At some point that evening Mr. Brady was
16 placed under arrest and he was read Miranda and then
17 after having had his Miranda Rights read allegedly gave
18 two other statements pursuant to that. In our Jackson v.
19 Denno, the defense indicated that they did not object to
20 the post-Miranda statements as far as their voluntariness
21 and the procedures in doing that. The officers testified
22 as to reading Miranda, did they not?

23 MR. GRAHAM: They did, Your Honor. Their testimony
24 was that they read his rights, he understood his rights
25 and he waived his rights.

1 THE COURT: Right. They talked about reading off
2 the card or the sheet they had.

3 MR. GRAHAM: Off the sheet itself, Your Honor. On
4 the first time he was Mirandized he actually initialed it
5 and then the second time was verbal.

6 THE COURT: Correct. Okay. And so based on that
7 information it does appear that those statements were
8 given while he was in custody, however, after being read
9 his Miranda Rights. The rights that were read, that were
10 testified to during the hearing were the appropriate
11 rights under Miranda and that there was no evidence that
12 the defendant did not understand those rights, was not
13 aware of his rights. As a matter of fact to the
14 contrary, that he did understand those rights and that
15 his statements were voluntarily given at that time and so
16 I'm going to allow - I was going to say I was going to
17 allow those statements, but they haven't been offered
18 into evidence, but I'm gonna allow questioning depending
19 on the testimony that is presented, if that opportunity
20 arises for the State to question and then admit those
21 statements, if appropriate. In other words, I think they
22 are admissible if the proper foundation is laid for
23 them.

24 MR. GRAHAM: All right. I just -- They're
25 admissible for cross examination by the State.

1 THE COURT: Correct.

2 MR. GRAHAM: They would not be admissible by the
3 defense to try to have during his direct about some, that
4 he told the police that at the time because that would be
5 a prior consistent statement. They don't get to do that
6 until he's crossed on.

7 THE COURT: Correct. He can testify to what he said
8 but they don't put that statement in to bolster that or
9 to -- You know what I'm saying? In other words, Mr.
10 Brady, if he takes the stand, he can testify as to what
11 he said but not pursuant to the statement. The statement
12 doesn't come in.

13 MR. GRAHAM: Well, we are talking about something
14 that may not ever happen, but I don't think that it's
15 proper for the defense on direct to ask their client
16 about telling the police something until he's subject to
17 cross by me because he's trying to bolster his own
18 testimony that he told the police something. They can't
19 get his statement --

20 THE COURT: There's nothing to bolster because
21 no one has testified to any statements that Mr. Brady may
22 have made. There is no testimony in this record that I'm
23 aware of that Mr. Brady made any statements to anybody,
24 is there?

25 MR. GRAHAM: No.

1 THE COURT: Okay. So then if he takes the stand, he
2 can testify as to what happened.

3 MR. GRAHAM: What happened, yes, Your Honor. But I
4 don't think he can go back and say and I talked to the
5 police on this date and I told them that story at that
6 time until he's subject to cross. We'll deal with that
7 if it comes up, Your Honor. I'm sorry.

8 THE COURT: All right.

9 MS. CLEARY: I strongly disagree. I think I need to
10 --

11 THE COURT: We are not making a final decision right
12 now.

13 MS. CLEARY: Okay. Thank you.

14 THE COURT: But we are going to bring the jury in
15 and hear from your two witnesses that you are ready to go
16 on, okay? Bring the jury in please.

17 (Whereupon, the jury returned to the courtroom at
18 10:45 a.m.)

19 THE COURT: All right. Ladies and gentlemen, if you
20 recall when we took the break the State had arrested
21 their case. I had to take up matters of law before we
22 proceed and we have done that and we are now ready to
23 proceed and would recognize Ms. Cleary for the defense
24 for your next witness or Ms. Russell.

25 MS. RUSSELL: Yes, Your Honor. The defense calls

1 Latonya Warren.

2 Thereupon,

3 LATONYA WARREN

4 after having been first duly sworn, testified as follows,

5 THE CLERK: Please have a seat. After you're
6 seated, please state your full name spelling your last
7 name for the record.

8 THE WITNESS: Latonya K. Warren, W-a-r-r-e-n.

9 DIRECT EXAMINATION

10 BY MS. RUSSELL:

11 Q. Ms. Warren, where do you live?

12 A. [REDACTED].

13 Q. Is that in Lexington County?

14 A. Yes, ma'am.

15 Q. Do you know Mr. Mitchell?

16 A. Yes, ma'am.

17 Q. How did you know him?

18 A. I had known him for a long time. The first time I
19 met him was, shoot, my kids were little. I was 24. I was
20 dating somebody that used to work for him and they introduced
21 us and from the 44 Truck Stop because my whole family worked
22 down there for years so...

23 Q. Did you ever live with Mr. Mitchell or no?

24 A. Yes.

25 Q. Approximately when was that?

1 A. Let's see. To be honest with you I have lived with
2 him a couple of times so the last time I lived with him for
3 probably six months, something like that and that was probably
4 two and a half years ago, something like that. I'm trying to
5 think because I was gone from there for two years so it's been
6 like four years ago now.

7 Q. What are some of the things that you may remember
8 about living with him, if any?

9 A. Uhm, he was real particular about coming in his
10 house. He didn't have a lot of visitors except for family.
11 Always kept his door locked. I mean, he was very particular
12 about that. The doors stayed locked all the time. Robert was
13 just, you know, particular. Kind of paranoid almost about
14 people being around there.

15 Q. Did he give you a key to the house?

16 A. No.

17 Q. Okay. I'm going to show you what's been marked as
18 defense exhibits 3, 5 and 6.

19 A. Yes. That's his door.

20 Q. Do you recognize what's in these picture?

21 A. Yes.

22 Q. And are you familiar with that location?

23 A. Yes, ma'am.

24 Q. What is that location?

25 A. That's his -- Well, it's actually the back door but

1 it's what everybody used as the door and it had a chain on the
2 inside that he kept locked all the time and it had a padlock
3 on the outside. When he left, he took a lock, a padlock and
4 closed it up whenever he wasn't at home.

5 Q. Okay. And is this the way the door appeared the
6 last time you were there?

7 A. Yes, ma'am.

8 Q. And it accurately reflects both the inside and
9 outside locks?

10 A. Yes, ma'am.

11 MS. RUSSELL: I would move to have these admitted
12 into evidence.

13 MR. GRAHAM: No objection.

14 THE COURT: Without objection that's defense what
15 now?

16 MS. RUSSELL: 3, 5 and 6.

17 THE COURT: Defense 3, 5, and 6.

18 BY MS. RUSSELL:

19 Q. You said he always locked the door this way,
20 right?

21 A. Yes.

22 Q. Would he do anything differently if he was expecting
23 any guests?

24 A. No.

25 MR. GRAHAM: Objection. Speculation.

1 THE COURT: Sustained.

2 MS. RUSSELL: I'll move forward.

3 BY MS. RUSSELL:

4 Q. And at the time of Mr. Mitchell's passing, were you
5 living with him?

6 A. No.

7 Q. Did the two of you always get along or maybe not?

8 A. No. We have had our share of disagreements, but I
9 had assaulted him, but he attacked a family member when I was
10 living there which he wasn't in - he wasn't his self that day
11 but what he done caused us to get into an altercation --

12 MR. GRAHAM: Objection. Relevance.

13 THE COURT: Sustained.

14 BY MS. RUSSELL:

15 Q. And have you ever told the investigators in this
16 case about this same information?

17 MR. GRAHAM: Objection. Leading.

18 BY MS. RUSSELL:

19 Q. Have you ever spoken with investigators --

20 THE COURT: Sustained.

21 BY MS. RUSSELL:

22 Q. -- regarding this case?

23 A. Yes. The homicide detectives come and talk to me
24 while I was in jail, yes.

25 Q. And have you ever met either of the people charged

1 --

2 THE COURT: Ms. Russell, when there is an objection,
3 I need for you to let me rule on it before you continue
4 questioning.

5 MS. RUSSELL: Yes, Your Honor.

6 BY MS. RUSSELL:

7 Q. Have you ever heard of the defendants in this
8 case?

9 A. Just from what I seen on TV. I have never met them.
10 I don't know them.

11 MS. RUSSELL: Thank you. That's all I have. Please
12 answer any questions that they have for you.

13 THE WITNESS: Okay.

14 THE COURT: Cross.

15 CROSS EXAMINATION

16 BY MR. GRAHAM:

17 Q. Ms. Warren, how are you doing?

18 A. Fine. How are you?

19 Q. I'm good. You have a conviction for burglary in
20 2002?

21 A. Yes, sir.

22 Q. You have a shoplifting in 2002?

23 A. Yes, sir.

24 Q. Another one in 2002?

25 A. Mm-hmm.

1 Q. Possession of controlled substances in 2003?

2 A. Yes, sir.

3 Q. Forgery in 2005?

4 A. Yes, sir.

5 Q. Another possession with intent to distribute in
6 2007?

7 A. Yes, sir.

8 Q. , Shoplifting in 2011?

9 A. Yes, sir.

10 Q. And giving false information to the police in
11 2011?

12 A. Yes.

13 Q. The pictures that you were shown --

14 A. Yes, sir.

15 Q. -- do you know when those pictures were taken?

16 A. No. I don't have any idea when they were taken.

17 Q. Okay. When is the last time you were over at the
18 house?

19 A. Let's see. The night we got into the altercation
20 and I left.

21 Q. That was in 20 -- Do you remember when it was?

22 A. Let's see. To be honest with you I don't know the
23 exact date. I know that I can do it like this. I run for
24 about two years before and I got locked up for it. I was in
25 jail one week when Robert got killed so... And I have been,

1 let's see, two more years so probably a little over four
2 years.

3 Q. In 2011?

4 A. Yes. Something like that. Yes, sir.

5 Q. Isn't it true that if Robert was sleeping in his
6 bed, he would have a CPAP machine on?

7 A. Yes, sir.

8 Q. He would be wearing that?

9 A. Mm-hmm. Yes, sir.

10 Q. If he wasn't asleep, he wouldn't be wearing that,
11 would he?

12 A. No.

13 MR. GRAHAM: Thank you, Ms. Warren.

14 THE COURT: Redirect examination?

15 MS. RUSSELL: No further questions. Thank you.

16 THE COURT: Thank you very much ma'am. You may step
17 down. Call your next witness.

18 MS. CLEARY: Your Honor, the defense calls Eugene
19 Johnson.

20 Thereupon,

21 EUGENE JOHNSON

22 after having been first duly sworn, testified as follows,

23 THE CLERK: Please have a seat. After you're
24 seated, please state your full name spelling your last
25 name for the record.

1 THE WITNESS: My name is Eugene Johnson,
2 J-o-h-n-s-o-n.

3 DIRECT EXAMINATION

4 BY MS. CLEARY:

5 Q. Spell your first name.

6 A. E-u-g-e-n-e.

7 Q. Mr. Johnson, where are you employed?

8 A. Lexington County EMS.

9 Q. Were you working there on July 28th, 2012?

10 A. Yes, ma'am.

11 Q. What are your duties in that position?

12 A. I'm a paramedic.

13 Q. Or what is your position?

14 A. I'm a paramedic for the County. In a case like this
15 I get called out to pronounce a patient deceased on scene.
16 Other cases I do my best to save people's lives and transport
17 people to the hospital and treat all conditions.

18 Q. Did you respond to a call as part of your job to
19 1444 Juniper Springs Road on July 28th, 2012?

20 A. Yes, ma'am.

21 Q. Do you record your activities relating to what you
22 do on these calls?

23 A. Yes.

24 Q. What time was this call received?

25 A. By our dispatcher at 8:59.

1 Q. Then what time did you arrive?

2 A. I arrived on scene at 9:12.

3 Q. Once you arrived, what, if anything, did you
4 observe?

5 A. When we came to the room, the patient was laying on
6 the floor, large amounts of blood everywhere. Didn't see any
7 cause of the blood and he was unconscious and not breathing.
8 I knelt down to feel for a pulse in his wrist. I did not feel
9 a pulse.

10 Q. And what did you do then?

11 A. Upon feeling, I always on an unconscious patient I
12 always feel for a pulse in the wrist. I could tell that his
13 arm wasn't moving, rigor had set in and the amount of blood,
14 rigor, no pulse and no breathing I went ahead and pronounced
15 him deceased.

16 Q. So did you try to put leads on him?

17 A. At that moment not because I could - I essentially
18 don't have to in that situation but I wanted to confirm it so
19 I pronounced death at that time just on the rigor, no pulse,
20 no breathing, the amount of blood. After they secured the
21 scene, took pictures of everything they wanted to before we
22 disturbed it, I put the leads on then and got asystole on two
23 leads with that.

24 Q. Okay. But you were unable to move his arms?

25 A. Yes.

1 MS. CLEARY: Thank you. That's all I have. Please
2 answer any questions from the State.

3 THE COURT: Any cross?

4 MR. GRAHAM: Your Honor, we didn't get to hear the
5 last question and answer. We just didn't hear what he
6 said and what was asked.

7 MS. CLEARY: I can repeat it.

8 BY MS. CLEARY:

9 Q. Mr. Johnson, were you able to move his arms to try
10 to put the leads on?

11 A. I didn't have to move his arms, but I could feel
12 that I couldn't move his arm when I felt for a pulse on the
13 wrist.

14 MS. CLEARY: Thank you.

15 MR. GRAHAM: One second, Your Honor. I'm sorry.

16 MS. RANKIN: No questions, Your Honor.

17 THE COURT: All right. Thank you, sir. You may
18 step down. Any objection to this witness being excused?

19 MS. CLEARY: No, Your Honor. None from the defense.

20 THE COURT: All right. Thank you very much, sir.
21 You're free to go. All right. Folks, we are going to
22 break early for lunch today. Now, I'm going to send you
23 out on your own for lunch. We gave you some menus this
24 morning which you filled out and we are going to order
25 that food for you tomorrow. We are going to feed you

1 tomorrow. But today I'm going to let you leave and go on
2 your own. I'll give you a little bit on an extended
3 lunch break, okay? It's 11:00 now. I'll ask you to be
4 please be in your jury room at 1:30 so that's about two
5 and a half hours. Give you that time. Please continue
6 to guard your ability to remain fair and impartial. Do
7 not allow anyone to speak with you about the case. Do
8 not talk with anybody about the case and we'll see you
9 back here at 1:30. So if everyone else will remain
10 seated, ladies and gentlemen, you are excused until 1:30.

11 (Whereupon, the jury was released for luncheon
12 recess.)

13 THE COURT: All right. I would like for us to be
14 back at 1:00 so that we can then take up any issues that
15 we need to take up and proffer whatever might need to be
16 proffered or whatever, okay? Court will be in recess
17 until 1:00.

18 (Lunch recess.)

19 * * * * *

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1 BAILIFF: Come to order. Please keep your seats.

2 Court is now back in session.

3 THE COURT: Thank you, folks. All right. Ms.
4 Cleary, is there anything we need to put on the record or
5 proffer before we resume the defense's case?

6 MS. CLEARY: Yes, Your Honor. We would like to
7 proffer the testimony of Detective Grant.

8 THE COURT: Is Detective Grant here?

9 MR. GRAHAM: Yes, Your Honor.

10 THE COURT: Detective Grant, please come around to
11 be sworn. What we're gonna do right now, we're just
12 gonna proffer not all of your testimony, but we're gonna,
13 I have asked defense counsel to focus on a particular
14 legal issue so what we'll do is you will be placed under
15 oath and it will be just as if you were testifying before
16 the jury, okay?

17 MR. GRANT: Yes, sir.

18 Thereupon,

19 SHAWN GRANT
20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat. After you're
22 seated, please state your full name spelling your last
23 name for the record.

24 THE WITNESS: My name is Shawn Grant, G-r-a-n-t.

25 THE COURT: All right. Ms. Cleary.

1 DIRECT EXAMINATION

2 BY MS. CLEARY:

3 Q. Okay. Agent Grant, were you the lead detective in
4 this case?

5 A. Yes, ma'am.

6 MS. CLEARY: Okay. I'm going to skip through the
7 preliminaries, Your Honor.

8 THE COURT: Okay. Yes. Just go straight to the
9 issue at hand.

10 BY MS. CLEARY:

11 Q. Okay. In the course of your investigation did you
12 learn that there was people living in the property, the same
13 property as Mr. Mitchell?

14 A. Yes, ma'am.

15 Q. Did you talk to those people?

16 A. I did.

17 Q. How close did they live?

18 A. I'm not sure of the exact distance but it was behind
19 the trailer.

20 Q. What sort of a building was it?

21 A. It was a very small like mobile camper.

22 Q. Okay. But it was very close to his house. And at
23 some point in the investigation did you learn that there was
24 -- Let me -- What did you learn about the, uhm, relationship
25 that these two people might have had with Mr. Mitchell?

- 1 A. They lived on his property.
- 2 Q. Did you learn anything else?
- 3 A. They were acquaintances.
- 4 Q. Did you write a report about this matter?
- 5 A. I did.
- 6 Q. Do you have your report with you?
- 7 A. I do.
- 8 Q. Can I direct your attention to page 2 of your 18
- 9 page report. I think the date is 11/7/12.
- 10 A. Okay.
- 11 Q. Do you see there where you have some other
- 12 information about, uhm -- All right. Did Kathy -- Did Ms.
- 13 Hampton or Mr. Knight, did they indicate whether they had
- 14 heard anything?
- 15 A. They stated that they did not hear anything.
- 16 Q. Did you try to, uhm, verify if that was possible?
- 17 A. Yes. I did.
- 18 Q. How did you do that?
- 19 A. I walked into the camper.
- 20 Q. What did you do?
- 21 A. Closed the door and again like I said, the camper is
- 22 very small, uhm, and there was not, you wouldn't be able to
- 23 hear anything outside because the camper is made out of thick
- 24 metal. There was a large air conditioner, a window unit in
- 25 the camper that you could use in a residence. The camper was

1 small and they also had a television in there, a large
2 television.

3 Q. And did you, uhm, did you have any occasion have an
4 opportunity to speak to, uhm -- Let me pass on that. Okay.
5 Uhm, and at this point -- I'm sorry. Did you, uhm, did you
6 know at this point what the murder weapon was?

7 A. No, ma'am. Not at this point.

8 Q. Did you, uhm --

9 A. Did you say where it was?

10 Q. No. What it was. What Mr. Mitchell had been killed
11 with?

12 A. Yes, ma'am.

13 Q. What was that?

14 A. The weapon consisted of a 20 gauge shotgun.

15 Q. Do you know how loud shotguns are?

16 A. Yes, ma'am.

17 Q. Do you know how many decibels?

18 A. Not exact amount of decibels.

19 Q. But -- Okay. Do you, uhm -- All right. So at some
20 point did you learn that Mr. Mitchell had a, uhm, relationship
21 with Kathleen Hampton's daughter?

22 A. Yes, ma'am.

23 Q. What's her name?

24 A. Vanessa Deputy.

25 Q. And did you try to contact her?

1 A. I did.

2 Q. And how long did it take for you to be able to reach
3 her?

4 A. It was hours.

5 Q. Hours?

6 A. Yes, ma'am.

7 Q. And did it appear that she wanted to talk to you?

8 A. Initially, no, ma'am. She didn't.

9 Q. Okay. And so did you have occasion to, uhm, learn
10 that, uhm, Mr. - that her boyfriend George Hostel, uhm, may
11 have had some bad feelings about Mr. Mitchell?

12 A. Yes, ma'am.

13 Q. What did you learn?

14 A. That he had some issues with the type of
15 relationship that Vanessa and Mr. Mitchell had.

16 Q. And what were those issues?

17 A. Jealousy issues.

18 Q. Did you learn that he, uhm, that he had expressed a
19 desire to kill Mr. Mitchell?

20 A. From another party. Yes, ma'am.

21 Q. From another?

22 A. From another individual. Yes, ma'am.

23 Q. Okay. Not another detective but another lay
24 person?

25 A. Yes, ma'am.

1 Q. Okay. So did you go and talk to Vanessa?

2 A. Yes, ma'am.

3 Q. And did you talk to Vanessa and George at the same
4 time? How did that happen? How did that occur?

5 A. There were several interviews with them together and
6 then individually.

7 Q. Did you learn -- Eventually you decided they weren't
8 suspects?

9 A. Yes, ma'am.

10 Q. And why was that?

11 A. They had an alibi and we had further, as the case
12 developed we had further evidence to implicate two other
13 individuals.

14 Q. Okay. So did you verify their alibi?

15 A. Yes, ma'am,

16 Q. Who was their alibi?

17 A. Vanessa Deputy's sister Rachel and her boyfriend
18 Trey Jennings.

19 Q. Okay. And when you talked to Mr. Jennings, what did
20 he tell you that their alibi was?

21 A. He said that they were at his house during that
22 time, during the time that this incident would have
23 occurred.

24 Q. And so you just took him at his word?

25 A. Well, there was nothing to discredit what he said on

1 their account.

2 Q. Okay. And then, uhm -- Okay. So when you went to,
3 uhm, to talk to George and Vanessa, where did you talk to them
4 the first time?

5 A. It was at George's sister's house.

6 Q. Okay. What happened when you got there?

7 A. When I got there, I arrived with several other
8 detectives and they were some what evasive, George was
9 initially.

10 Q. What did they do?

11 A. They tried to evade us.

12 Q. Okay. Tell me how that happened. Did you go up to
13 the door, knock on the door?

14 A. Yes. I made contact with the resident, the resident
15 owner.

16 THE COURT: Ms. Cleary. I'm sorry. I'm wanting him
17 to focus and proffer simply those issues that are dealing
18 with third party guilt. I think we are really going way
19 beyond that.

20 MS. CLEARY: Okay. I just thought --

21 THE COURT: You addressed it earlier with a couple
22 of questions.

23 MS. CLEARY: Okay. All right.

24 THE COURT: And you may be going there again. I
25 just want to refocus your efforts.

1 MS. CLEARY: Okay. No. I have several different
2 suspects.

3 BY MS. CLEARY:

4 Q. Let me - let me, uhm -- Okay. Uhm, okay. So did,
5 uhm, George Hostel run out the back door?

6 A. Yes, ma'am.

7 Q. And then what did he do?

8 A. Apparently threw something in the burn barrel.

9 Q. And were your officers able to retrieve that?

10 A. They retrieved something out of the barrel the best
11 they could. It was an active fire.

12 Q. Did you test that information or did you test any of
13 those materials that were found?

14 A. What they recovered was turned over to evidence.

15 Q. But you didn't ask that anything be tested to see if
16 it could relate to this crime?

17 A. No, ma'am. Because several days later we developed,
18 you know, two suspects.

19 Q. Okay. So did you learn that Mr. Mitchell had
20 numerous women that were staying with him at various times?

21 A. Yes, ma'am.

22 Q. Okay. And did you also at the crime scene other
23 than the information that's been admitted, was there any
24 evidence that was not processed, that was not tested for
25 DNA?

1 A. There was a large amount of evidence at the scene
2 and it would not have been feasible to test every piece of
3 evidence. The evidence that was tested was things that were
4 critical to this case.

5 Q. Did you find a woman's shoe?

6 A. Yes, ma'am.

7 Q. And women's underwear?

8 A. Yes, ma'am.

9 Q. And it was just one shoe?

10 A. Yes, ma'am.

11 Q. And did you also learn that some witnesses said that
12 Mr. Mitchell, uhm, was one that would always keep his door
13 locked and not let strangers in?

14 A. Yes, ma'am.

15 Q. Okay. Uhm --

16 A. Unless he was expecting someone.

17 Q. Okay. And when you, uhm -- Did you, uhm, ascertain
18 that he was asleep, uhm, when he was killed during the course
19 of your investigation?

20 A. Ma'am?

21 Q. Were you able to determine that he had been
22 sleeping? He was hooked up to a CPAP machine?

23 A. I mean, he was hooked up, but that doesn't
24 necessarily mean he was asleep. I can't tell you whether he
25 was awake or asleep.

1 Q. Okay. Uhm, were you able to determine whether it
2 was likely if he got up and opened the door before he was
3 shot?

4 A. I'm not sure.

5 Q. Did the evidence -- Did the, uhm -- You saw the CPAP
6 machine?

7 A. Yes, ma'am.

8 Q. And you saw that it had been, the tubing had been
9 severed with a bullet and the mask was on his face?

10 A. Yes, ma'am.

11 Q. So did you draw any conclusions from that about
12 whether he got up and answered the door?

13 A. It could have been possible.

14 Q. That he was still hooked up to CPAP machine and
15 answered the door?

16 A. Yes, ma'am. The line was long.

17 Q. Let me, uhm -- Okay.

18 A. You have got to understand, look, the door, the back
19 door was in close proximity to his bedroom door. It wasn't a
20 great distance.

21 Q. Okay. I'm not sure this will clear it up so I'm not
22 gonna go further with that right there. So, all right. So,
23 uhm, did you at some point learn that, uhm, learn of any other
24 suspects other than the two at issue today?

25 A. There were several people of interest but there were

1 only two suspects.

2 Q. Okay. Did you learn that any information about his
3 grandson Charlie Kline?

4 A. Yes. He previously lived there numerous years
5 ago.

6 Q. Okay. And he was the first to arrive at the
7 scene?

8 A. Yes. Yes, ma'am.

9 Q. Did you receive information that he had not been
10 shedding any tears about his grandfather's death?

11 A. Yes, ma'am. But....

12 Q. And did you learn that Mr., uhm, Mitchell had what
13 they called a smart letter where he said he expected to be
14 killed?

15 A. I don't know about a letter saying he expected to be
16 killed.

17 Q. Did you ask to see the letter?

18 A. No, ma'am.

19 Q. You didn't think it was relevant at all?

20 A. No, ma'am.

21 Q. Okay. Uhm, all right. Did you learn at some point
22 that the victim's son had seen Vanessa Deputy cast out of the
23 victim's trailer with a needle in her arm?

24 A. Yes, ma'am.

25 Q. And that, and also from Mr. Mitchell that, uhm --

1 THE COURT: Ms. Cleary?

2 MS. CLEARY: Yes, sir.

3 THE COURT: If I could get you, you're very, very
4 soft spoken. It's very hard to hear you so if you could
5 please speak up.

6 MS. CLEARY: Okay. I'm sorry.

7 THE COURT: That's okay.

8 BY MS. CLEARY:

9 Q. I'm trying to make sure I don't -- Did you receive
10 information that, back to Kathleen and Allen, did you receive
11 information that the victim may have been afraid of them?

12 A. Someone was saying that.

13 Q. Okay. So did you bring Kathleen and Allen to the
14 Sheriff's Department to question them?

15 A. Yes. Yes, ma'am.

16 Q. And why did you decide that they weren't suspects?

17 A. There was no evidence to connect either one of
18 them.

19 Q. And those were the two that lived in the trailer
20 behind?

21 A. Yes, ma'am. In the small camper. Yes, ma'am.

22 Q. And you didn't - you didn't think it was, or I guess
23 you have already testified you felt their story was believable
24 about not having heard gun shots?

25 A. Yes, ma'am. Because I evaluated it myself.

1 Q. All right. Just one second. Uhm, I want to make
2 sure I don't leave anything out. Just give me one second.
3 Oh, okay. One more thing. Later on when you developed the
4 two suspects that we are here about, did you learn that they
5 were connected to the alibi witness for Vanessa and George,
6 Trey Jennings?

7 A. Yes, ma'am.

8 Q. And what was that connection?

9 A. Trey was involved with apparently some type of
10 prostitution thing involving Kimberly White.

11 Q. And what had you learned about Kimberly White's
12 prostitution? Had you learned -- I mean, you talked to her at
13 the jail. What did you learn?

14 A. That supposedly she was quote "pimped out" by
15 Nicholas Williams.

16 Q. The co-defendant in this case?

17 A. Ma'am?

18 Q. The co-defendant in this case?

19 A. Yes, ma'am.

20 Q. Okay. So did you further investigate whether Trey
21 Williams - I mean Trey Jennings might have any more
22 involvement in this case because of his relationship with Kim
23 and Nick Williams?

24 A. You know, as the case developed, all the evidence
25 led back to the two defendants.

1 Q. Okay. But the defendant today, he had never
2 admitted to going into the trailer, right?

3 A. He admitted being there when this incident
4 occurred.

5 Q. Right. But he never admitted to knowing that there
6 was going to be a robbery?

7 A. Right. That's what he claimed.

8 Q. Right. So did you - did you try to further
9 investigate any involvement that Trey Jennings might have
10 had?

11 A. No, ma'am. Because the two defendants put each
12 other there and no one else.

13 MS. CLEARY: Okay. I think that's everything
14 related to this issue.

15 THE COURT: All right. Mr. Graham.

16 MR. GRAHAM: No. I don't have any questions, Your
17 Honor.

18 THE COURT: All right. You want to be heard on any
19 of the proffer?

20 MR. GRAHAM: I do, Your Honor. In general about,
21 and I might have missed something in the way I heard it,
22 the hearing of the shotgun, I'm not sure of the relevance
23 of that. It may be relevant. If it's going toward third
24 party guilt against the people in the back, then
25 obviously that's inappropriate. Previous threats or hard

1 feelings between Vanessa Deputy and George Hostel and
2 their alibis as far as third party guilt it doesn't meet
3 the standards required to come in. Again the items
4 collected by the Sheriff's Department, there were some
5 burned items George Hostel threw into, I guess into a
6 burn barrel. Those were collected and never identified,
7 but it goes again, it's just supposition of what it is.
8 He was actually, I believe, arrested on drug charges as I
9 remember right; is that right?

10 THE WITNESS: Yes, sir.

11 MR. GRAHAM: He was arrested on drug charges so I
12 know he was trying to disassociate himself with some
13 things. The underwear and shoes in the house I think
14 it's -- I mean, that's probably a fair question for her
15 to ask. You all collected it. I don't, you know, I
16 don't know where you go from there. I don't think you
17 can go too far to try to say they're a particular
18 person's underwear or shoe that was left at the house.
19 The CPAP link, that's probably a fair question. Any
20 other suspects obviously is not because that's just a
21 search for people. The mention of Shawn Kline not
22 shedding tears that's again just casting doubts about
23 somebody's emotional reaction. That Robert was afraid of
24 Kathy and Allen, that's the same. It's just -- There's
25 nothing beyond that statement. And the mention of Trey

1 Jennings, I think on all these things going into the
2 particular people every one of them it's just they don't
3 meet the standard required to be able to offer third
4 party guilt in front of a jury.

5 THE COURT: All right. Ms. Cleary, I think Mr.
6 Graham is correct in that all the questions that
7 developed raised suspicion about third parties doesn't
8 rise to the level that the Court, that the Supreme Court
9 says is admissible for trying to assign or point the
10 finger at a third party or assign third party guilt.
11 I'll allow you to go into questions as to the
12 investigation and, you know, things that you feel should
13 have been done that weren't done or whatever, but like
14 things such as him being afraid of this couple, that
15 would not be appropriate. The nephew not shedding tears
16 over his grandfather's death, that would not be
17 appropriate. I don't even know what the relevance is of
18 the underwear and the shoe is in this case, period. But
19 there was testimony that there was a girl that lived with
20 him. They found a pair of woman's underwear and a shoe.
21 You can ask him about it. I don't know what relevance
22 there is to it. But any questions that you are asking
23 that merely raise a suspicion without any more than that
24 would not be allowed so...

25 MS. CLEARY: May I be heard?

1 THE COURT: Yep.

2 MS. CLEARY: Uhm, uhm, you know, under Kyle v.
3 Bentley, and State v. Page and State v. Smith -- I'm
4 sorry. Just give me a second. But the basic case is
5 about the right to attack the State's investigation and
6 to present --

7 THE COURT: Sure.

8 MS. CLEARY: -- present our evidence showing, you
9 know, our theory of the case and in this case what we are
10 trying to show by these things is not that these people
11 are guilty of the crime, but that there was not a
12 thorough investigation and that they just took the word
13 of Mr. Williams that it was our client who was involved
14 in the murder.

15 THE COURT: Well, I mean, that's certainly great
16 argument for you to make in closing.

17 MS. CLEARY: So, I guess, just I need -- Right. I
18 understand that. But I need clarification. I mean, I
19 understand I can't, you know, say specific things about
20 --

21 THE COURT: You can ask them.

22 MS. CLEARY: -- these people. But can I say, uhm --
23 I mean, am I allowed to raise general questions about
24 suspects not being interrogated or suspects not being --

25 THE COURT: You can ask why you didn't question so

1 and so any further.

2 MS. CLEARY: Okay.

3 THE COURT: But the questions you raised about did
4 you then learn that he was afraid of so and so, that
5 would not be proper.

6 MS. CLEARY: Okay. So I would be able to make
7 general statements that --

8 THE COURT: You're not supposed to make general
9 statements, period.

10 MS. CLEARY: I understand.

11 THE COURT: You're on direct examination.

12 MS. CLEARY: I understand. Obviously I'm struggling
13 with that.

14 THE COURT: Yeah.

15 MS. CLEARY: Okay. So is it proper for me to, uhm,
16 make, uhm, or to suggest that there were other witnesses,
17 you know, when I -- I mean, I'll have to figure out how
18 to do it exactly, but that there were witnesses and ask
19 him why he didn't question them or is that gonna --

20 THE COURT: You can ask him - you can raise the
21 issue about there were folks that you didn't talk to that
22 may have had information or whatever, but according to
23 the Supreme Court where it steps over the line is when it
24 goes to questions that would raise suspicion that a third
25 party committed this crime without anything more than

1 just mere suspicion.

2 MS. CLEARY: Okay. So by asking questions about his
3 investigation --

4 THE COURT: You can ask him.

5 MS. CLEARY: That's not gonna necessarily imply --

6 THE COURT: No. But you asked some questions which
7 Mr. Graham raised in his objection that were directly on
8 point as far as --

9 MS. CLEARY: Yeah. And I was trying --

10 THE COURT: And I know that and that's fine. That's
11 what a proffer is about.

12 MS. CLEARY: Yeah. I'm trying to get everything
13 in.

14 THE COURT: Yeah. I mean, you --

15 MS. CLEARY: Because that wasn't my plan.

16 THE COURT: You were absolutely in the right to ask
17 those questions.

18 MS. CLEARY: Right.

19 THE COURT: And that's what this is all about is to
20 gain an understanding of the boundaries and those
21 questions would be proper. But the questions that
22 simply, you know, question him with regards to his
23 investigation and who he talked to or why he didn't talk
24 to certain people or one of your questions I think dealt
25 with the couple behind the house who had an alibi and why

1 would you just believe that alibi. I mean, he can
2 respond to it. But in other words, that's questioning
3 the investigation and you can do that without pointing
4 the finger at a third party as that's the guilty party.

5 MS. CLEARY: Okay.

6 THE COURT: Okay?

7 MS. CLEARY: Uhm, okay.

8 THE COURT: Okay. All right. Investigator, I'm
9 going to get you to step down. At some point if you do
10 get called back up, the jury was not present so we'll go
11 ahead and go through swearing you in again.

12 MS. CLEARY: Oh, oh, wait.

13 THE COURT: You can step down.

14 MS. CLEARY: Your Honor, I'm sorry. Uhm, obviously
15 I need to do a better job of rewriting my questions. We
16 have another witness. I was wondering if we could call
17 him first?

18 THE COURT: Okay. You mean a proffer or you just
19 have another witness?

20 MS. CLEARY: No. No. No. I didn't want to go
21 straight --

22 THE COURT: You don't want to lead with this
23 witness?

24 MS. CLEARY: Right.

25 THE COURT: In other words, when we start back with

1 the jury, you have got someone else to call before?

2 MS. CLEARY: Yes.

3 THE COURT: That's fine. That's not a problem.
4 Anything?

5 MR. GRAHAM: I was just going to ask. I know I'm
6 having trouble hearing Ms. Cleary. If she is going to
7 stand here, we could move our microphone over and maybe
8 the court system would be able to pick her up. We could
9 try at least.

10 THE COURT: Maybe that might be a good idea. Ms.
11 Cleary, we're gonna do that and you're just soft spoken.
12 There's nothing wrong with that. It's just hard to hear
13 and maybe this microphone will pick it up.

14 MS. CLEARY: Okay.

15 THE COURT: All right. The State ready to proceed?

16 MR. GRAHAM: The only other thing, Your Honor, is I
17 didn't know if they have anymore lay witnesses since they
18 haven't supplied us with dates of birth and socials for
19 us to run rap sheets on them.

20 THE COURT: Ladies, defense counsel, do you have any
21 other lay witnesses that you have not supplied dates of
22 birth and socials for so that they could run those raps?

23 MS. CLEARY: Yeah. We only have one in.

24 THE COURT: Your first witness is that one officer.
25 It's the lay witness that they need the information

1 for.

2 MS. CLEARY: Yes. She just ran out to ask them for
3 the Social Security number for the defendant's father.

4 THE COURT: We're gonna start. By the time you get
5 around to cross, you will probably have it, don't you
6 think?

7 MR. GRAHAM: Yes, Your Honor.

8 THE COURT: All right. Let's bring our jury in.

9 (Whereupon, the jury returned to the court room at
10 2:35 p.m.)

11 THE COURT: All right. Ladies and gentlemen, let me
12 just share this with you. I realize that I more than
13 likely have lost all credibility with you about asking
14 you to be back and we'll start when everybody gets back.
15 Let me just say this though. It is my intention to start
16 back when I tell you and sometimes there's issues or
17 matters that we need to take up and sometimes it's
18 matters that don't have anything to do with this trial
19 but with other criminal matters that one was a bond
20 hearing that I needed to do. So I just want you - if you
21 don't know anything else, just understand that like I
22 asked you to be back here at 1:30 and here we are it's
23 2:30. We haven't been out here, you know, playing
24 basketball for an hour. We've been doing stuff. It just
25 has not been maybe as timely efficient as it should be.

1 Thank you for whatever patience you have shown us. I
2 appreciate that. But we are ready to proceed now and so
3 we recognize the defense for their next witness.

4 MS. CLEARY: The defense calls Seldon Brady.

5 THE COURT: Sir, if you would come around here to be
6 sworn.

7 Thereupon,

8 SELDON BRADY.

9 after having been first duly sworn, testified as follows,

10 THE CLERK: Please have a seat. After you're
11 seated, please state your full name spelling your last
12 name for the record.

13 THE WITNESS: Seldon Edwin Brady, Junior,
14 B-r-a-d-y.

15 DIRECT EXAMINATION

16 BY MS. CLEARY:

17 Q. Mr. Brady, what is your relationship to the
18 defendant Jeremy Brady?

19 A. I'm his father.

20 Q. And what do you do for a living?

21 A. I'm a simple carpet installer.

22 Q. Do you work for yourself or do you have your own
23 business?

24 A. Yes, I do work for myself.

25 Q. How long have you been doing that?

- 1 A. About 39 years. 38, 39 years.
- 2 Q. Are you married?
- 3 A. Yes.
- 4 Q. What's your wife's name?
- 5 A. Joanne.
- 6 Q. How is she related to the defendant?
- 7 A. She's his mother.
- 8 Q. Okay. How long have you been married?
- 9 A. 38 years.
- 10 Q. Okay. And could you just tell us why was she not
- 11 able to be here today?
- 12 A. Well, my wife has got a lot of health issues. She's
- 13 had numerous cancers since she was 21 and she is also taking
- 14 care of Jeremy's daughter Lexy.
- 15 Q. Okay. And Jeremy has one child?
- 16 A. Just one.
- 17 Q. Who is the mother of that child?
- 18 A. Kimberly White.
- 19 Q. Okay. And did, uhm, did Kim and Jeremy live in a
- 20 trailer together in 2006?
- 21 A. Yeah.
- 22 Q. Okay. And do you know why, uhm, they had to, why,
- 23 uhm -- Did they continue living there?
- 24 A. They stayed there over a year, year and a half or so
- 25 and --

1 Q. Okay. And at some point -- Let me move on. At some
2 point did Jeremy and Kim break up?

3 A. They did.

4 Q. Okay. And at what point -- Have you ever met Nick
5 Williams?

6 A. Yeah. I met him over there on Boy Scott Road.

7 Q. Okay. And that was at the property that Jeremy and
8 Kim were living in?

9 A. Right.

10 Q. And you own that property?

11 A. Right.

12 Q. What year was that that you met him estimated?

13 A. I would say late 2007 or early 2008.

14 Q. Okay. And at some point there was earlier testimony
15 that Kim and Nicholas began a relationship; is that correct?

16 A. That is correct.

17 Q. Okay. Did, uhm, did you observe anything at all
18 about Kim's behavior after she started dating Nicholas
19 Williams?

20 A. Well, of course, I wasn't happy that somebody else
21 was over there with Kim.

22 Q. How old was Lexy at this point?

23 A. She was probably three.

24 Q. Okay.

25 A. And I would see Nick over there. I wouldn't - I

1 just -- I didn't like him being there. There wasn't much I
2 could do, you know? But that's the way Kim wanted it.

3 Q. Did Kim's behavior -- Did you observe any changes in
4 Kim's behavior after she began dating Nick?

5 A. Yeah. I would say Kim got to the wild side I would
6 say doing a lot of marijuana and stuff.

7 Q. And, uhm --

8 A. I smelled it on them on occasion when I would go
9 over there.

10 Q. Okay. Uhm, did you, uhm, and, uhm, did later did
11 Kim and Lexy live in another trailer that you also own?

12 A. Yeah. After, you know, Nick was constantly over
13 there, you know, I would ask Kim to move, but it wasn't long
14 after that I got Kim and Alexis another place to stay because
15 I didn't want Nick around them.

16 Q. And so what happened when they moved into the other
17 place?

18 A. Well, it wasn't long Nick was over there staying
19 over there and then there was other people moving in over
20 there and I thought it was just too much traffic and stuff
21 going on so I asked them to leave from there.

22 Q. Okay. Did you take any kind of action?

23 A. I'm sure I evicted them. Yeah.

24 MS. RANKIN: Objection, Your Honor, to this line of
25 questioning. I'm not sure of the relevance.

1 MS. CLEARY: Okay. I'll move on.

2 THE COURT: Yes. You need to move on.

3 MS. CLEARY: Yes. I will move on.

4 BY MS. CLEARY:

5 Q. Was Jeremy -- What did Jeremy do for a living in
6 2012?

7 A. Jeremy worked with me part-time then installing
8 carpet and he was also doing some roofing work. Our work was
9 a little slow then.

10 Q. Any other sort of construction work or just --

11 A. Well, he may have done some lockers.

12 Q. Just anything that you have personal knowledge of.

13 A. Yes. That would be all that I knew of would be
14 lockers, roofing or carpet.

15 Q. Okay. And you just indicated that work was slow --

16 A. It was slow.

17 Q. -- is that correct? Did you, uhm -- What sort of
18 relationship did you have with Jeremy around this time? Was
19 it good or strained or --

20 A. Well, I didn't see Jeremy a lot, I guess, because
21 work was slow and I didn't see him a lot and if I wasn't busy,
22 then he would go find something else. Of course, he would be
23 gone.

24 Q. Was he able to still call on you if he needed you
25 during this period, during July of 2012?

1 A. I mean, if he had called me, yes.

2 Q. Okay. Did he -- Did you talk to him on July 28th,
3 2012?

4 A. I did. He called me.

5 Q. And what did he --

6 A. He --

7 Q. As a result of that call, what did you do?

8 A. Well, he mentioned he needed to get Kim's car moved.
9 That the other person was taking parts off of it.

10 Q. And who was that?

11 A. Nick.

12 Q. Okay.

13 A. Nick Williams. The car had a lot of Kim's, I guess,
14 belongings, clothes and stuff. There was bags, big bags
15 packed with clothes and stuff all through the back seat and in
16 the trunk.

17 Q. What vehicle was that?

18 A. It was a little Honda.

19 Q. Where was that? Where did you go to?

20 A. He asked me to meet him over on Old Orangeburg
21 Road.

22 Q. Were you familiar with that location?

23 A. Yeah. Because actually I wasn't very far from there
24 and I got my flatbed trailer I got somebody else to help me
25 because I didn't know how hard it was going to be to get the

1 car up on there. But met Jeremy over there. There was some
2 people with Jeremy. There was people at the house. Nick was
3 in the Honda. I went over to the Honda. I asked him to hurry
4 up. Keep --

5 Q. I'm going to ask you not to say anything that Nick
6 may have said to you.

7 A. That would be very, to me very, very, very important
8 what he said to me.

9 Q. Okay. Let me stop you there. What did you observe
10 about his behavior?

11 A. He was real sluggish. Real slow moving. Took him
12 about 15 minutes to take one screw out of a radio. He was
13 wanting to take the radio so he got the radio.

14 Q. Out of Kim's car?

15 A. Mm-hmm.

16 Q. Okay. And what did -- What did Jeremy tell you
17 about why he needed to go pick up that car?

18 MS. RANKIN: Objection, Your Honor. Hearsay.

19 THE COURT: Sustained as to any hearsay.

20 BY MS. CLEARY:

21 Q. All right. Uhm, did you, uhm -- So you also saw
22 Jeremy on that day?

23 A. I did.

24 Q. And how was he acting?

25 A. Jeremy was perfectly normal. I would ask him if he

1 could go find a jack. There was a wheel off of the car. The
2 brake caliper was off. I needed to find a wheel to get on
3 there and get a jack to jack it up so I could push it out from
4 under this little shed it was under.

5 Q. Okay. And again specifically what was Nick's
6 behavior? I mean --

7 A. Well, he definitely wasn't normal.

8 Q. Okay.

9 A. He was on something. I don't know what but he was
10 on something.

11 Q. Without saying what he said, what was he doing that
12 made you feel like he was on something?

13 A. Well, just in the way that he was moving and what he
14 was saying to me.

15 Q. Okay.

16 A. And the way he was real slow moving. Just sluggish
17 and from what -- Well, I can't say what he said. It was very
18 important.

19 Q. Was he repeating something over and over?

20 A. Yeah. He repeated a statement --

21 Q. Did he appear to be agitated?

22 A. He repeated a statement at least a dozen times and I
23 looked over at the person that was with me helping me to do
24 this and I said, what is this all about? I couldn't believe
25 it. I had no idea what it was about or why he was saying

1 it.

2 Q. All right. Have you ever seen Jeremy carry a large
3 black duffel bag?

4 A. No. I have never seen Jeremy with a duffel bag.

5 MS. CLEARY: All right. That's all I have for you.
6 Answer any questions the State may have.

7 THE WITNESS: Sure.

8 MS. RANKIN: Thank you, Mr. Brady. We don't have
9 any questions, Your Honor.

10 THE COURT: All right. Thank you, sir. You may
11 step down.

12 MS. CLEARY: May we approach?

13 THE COURT: Yes.

14 (Side bar off the record.)

15 THE COURT: All right. Folks, we have a little bit
16 of an unusual situation that we really can't do anything
17 about because we have got a witness that is coming in
18 from out of state who won't be here until this evening
19 and he got tied up with airline delays and it's just,
20 there's nothing that anybody can do about it. The flight
21 got cancelled or had to be moved so we are - we feel
22 pretty confident he will be here this evening so that he
23 will be ready to go first thing in the morning. So I'm
24 going to excuse you for the balance of the day. We are
25 going to stay and work on some other matters, but they

1 are matters, non jury matters so there is no reason for
2 you to stay. We'll start back at 9:00 in the morning.
3 That's my intention to start back at 9:00 in the morning.
4 I promise you that I will make every effort to stay on
5 that and just so you will have some idea, I anticipate
6 based on what I know and assuming there's no other
7 issues, I anticipate that you will have this case for
8 your deliberations at some point tomorrow. So ask
9 family, friends or loved ones who are curious to stay
10 patient for one more day because when this is all over,
11 you will be able to discuss it and talk about it and tell
12 them whatever it is they want to know, if they are still
13 curious. So do that for me and have a good afternoon,
14 good evening and if you can get that good night sleep, do
15 that and get back here and we'll see everyone here at
16 9:00 tomorrow and we have got your lunch orders and we'll
17 have that for you tomorrow, okay? Everyone else remain
18 seated while the jury is excused.

19 (Whereupon, the jury was released for the evening at
20 2:50 p.m.)

21 THE COURT: All right. What we'll do is Court will
22 be in recess until 9:00 but we are going to stay just
23 informally and we'll talk about the charge. So, Steve,
24 we don't need to be on the record for this portion of it.
25 We will put on the record whatever we need to put on the

1 record when it comes time to finalize the charge.. But
2 we're gonna be basically speaking informally
3 at this point. Okay. So Court will be in recess then
4 until 9:00. I'll ask the attorneys to hang so we can
5 discuss the charge, okay?

6 (Whereupon, Court was adjourned for the day at 2:55
7 p.m.)

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Steve LeBlanc

1 June 19th, 2015

2 BAILIFF: All rise. Court is now in session. The
3 Honorable Judge Tommy Russo presiding.

4 THE COURT: Thank you, folks. Please have a seat.
5 I don't know if you have had a chance to get all the way
6 through that draft that I have prepared, but I will tell
7 you that it probably doesn't say what you wanted it to
8 say the exact way you wanted to say it. But I do think
9 that it encompasses those things that everyone has asked
10 for. What I have tried to do, folks, is I have started
11 to really pay close attention to charges and to jurors
12 and as much as we try to make the charge simple so that
13 it can be easily understood, oftentimes it confuses them.
14 So I have tried to, like, for example, Shawn, you had a
15 concern about that confusing language in the hand of one
16 hand of all charge where it talks about, essentially it
17 was talking about mere presence, but the way it was
18 worded it was confusing. I agree with you. But yet I
19 know, Ellen, you clearly would like to have a mere
20 presence charge because it's appropriate.

21 Well, what I did was, I took all of that language
22 out of the hand of one charge completely because I think
23 it muddies up that legal precept and I let that stand on
24 its own and then I gave a separate mere presence charge
25 that I think encompasses the law on mere presence and it

1 didn't shorten it but by separating the two I think it
2 makes it less confusing. The language with regards to, I
3 hate to call it felony murder inference because South
4 Carolina doesn't recognize felony murder, but it is that
5 language on inference if it occurs during the commission
6 of a felony and so that language is in there but it's in
7 there not separate. It's in there at the end of the
8 murder charge because I think it flowed better at that
9 stage. So you have got it.

10 We still have got witnesses so we are not done with
11 the case so we're not gonna try to put it in a final form
12 this moment, but I just wanted to share that with you and
13 at some point when the time comes then we'll sit down and
14 we'll talk about it in more detail to get a final draft,
15 okay? Is there anything we need to take up from the
16 State before we get started?

17 MR. GRAHAM: No, Your Honor.

18 THE COURT: Anything from the defense before we get
19 started?

20 MS. CLEARY: No, Your Honor.

21 THE COURT: Okay. Let's bring the jury out please.

22 (Whereupon, the jury returned to the court room at
23 9:25 a.m.)

24 THE COURT: All right. Ladies and gentlemen,
25 welcome back and I hope everyone had a good evening and

1 ready to get started this morning. When we stopped
2 yesterday we were on the defense's case as you recall and
3 I think we're ready to proceed now. We'll pick up where
4 we left off with the defense's next witness.

5 MS. CLEARY: Thank you. The State calls Dr. Michael
6 Spence. I'm sorry. The defense calls Dr. Michael
7 Spence.

8 Thereupon,

9 MICHAEL SPENCE, M.D.
10 after having been first duly sworn, testified as follows,

11 THE CLERK: Please have a seat. After you're
12 seated, please state your full name spelling your last
13 name for the record.

14 THE WITNESS: My name is Dr. Michael J. Spence,
15 S-p-e-n-c-e.

16 DIRECT EXAMINATION

17 BY MS. CLEARY:

18 Q. Dr. Spence, what is your educational background?

19 A. I have a Bachelor's Degree and a Master's Degree
20 from UT El Paso. Both of those are in microbiology. I then
21 went onto get a Ph.D. in molecular biology from Mexico State
22 University.

23 Q. For your Ph.D. were you required to write a
24 scholarly peer reviewed article, publication?

25 A. Yes. That was my dissertation where I described

1 cloning a gene and doing studies on that gene.

2 Q. And what did you do after you completed your Ph.D.?

3 A. I went onto what is called a post doctoral research
4 program. I moved to Burlington, Vermont. I worked at the
5 University Vermont Medical School and later moved onto Boise,
6 Idaho where I did continued doing post doctoral work, in that
7 case in cancer research, although the work in Vermont was
8 cancer related.

9 Q. And then what did you do?

10 A. I then got interested in what was going on with DNA
11 and forensic biology and looked around for positions in a
12 forensic lab where they did criminal cases and eventually took
13 a position with the Indiana State Police where they assigned
14 me to the Evansville Regional Laboratory in Southern
15 Indiana.

16 Q. How long did you work for the Indiana State
17 Police?

18 A. Four years from May of '03 to May of '07.

19 Q. What did do you after that?

20 A. I got home sick and I moved back to New Mexico. I
21 had gone to New Mexico State University in Las Cruces, New
22 Mexico. That's where I moved back to and took a position with
23 a laboratory that was on that campus. It was a private lab
24 but it was on the campus of Mexico State University.

25 Q. What is your current professional status?

1 A. I'm a businessman. I have a consulting business
2 where I consult on criminal cases, forensic biology and DNA.
3 I have been doing that since February of 2008.

4 Q. In total how many cases have you reviewed as a
5 forensic scientist?

6 A. Well, there was a lot of review that was required in
7 the Evansville lab. You may have heard that there's a peer
8 review is required of any case report that comes out of a
9 police lab so one of the peer scientists has to look at the
10 other scientist's work and sign off on it. So I did about 230
11 cases of peer review with the Indiana State Police but as an
12 independent consultant I have done about another 450 plus
13 cases of review as an independent consultant so that the total
14 would be a little over 675, 680 cases.

15 Q. So it's accurate to say that you have examined
16 criminal investigative documents on behalf of both sides, the
17 defense and the government; is that correct?

18 A. That's correct.

19 Q. Okay. What are your fees for your services now that
20 you are in private?

21 A. My fees are \$240.00 per hour.

22 Q. And, uhm, is part of all your work and your research
23 and your writings and your review of case materials, have you
24 been qualified to testify as a DNA expert witness?

25 A. Yes. I have.

1 Q. How many times?

2 A. I have testified on 63 previous occasions so this is
3 my sixty-fourth time. Sixteen of those were with the Indiana
4 State Police and the rest have been as an independent
5 consultant.

6 Q. Have you been qualified to testify in specialized
7 forensic DNA areas?

8 A. Yes. I have expertise in DNA transfer events,
9 mixture interpretation, YSTR testing which is male based Y
10 chromosome based testing.

11 Q. All right. And when the defense attorney contacts
12 you and you examine the case documents, do you always find
13 something wrong with the - and a need for your testimony?

14 MR. GRAHAM: Objection, Your Honor. I'm not sure
15 what the relevancy is. I thought we were just trying to
16 qualify him as an expert.

17 THE COURT: That's outside the scope of his
18 qualifications.

19 MS. CLEARY: All right. So at this time I would
20 request the Court to qualify Dr. Michael Spence as an
21 expert in DNA analysis.

22 THE COURT: All right. Any objection?

23 MR. GRAHAM: No objection, Your Honor.

24 THE COURT: All right. Dr. Spence has been
25 qualified as an expert in the field of DNA analysis and

1 you may proceed with your examination then.

2 BY MS. CLEARY:

3 Q. All right. Dr. Spence, when the defense contacts
4 you and you examine the case documents, do you always find
5 something wrong that establishes a --

6 MR. GRAHAM: Objection, leading.

7 THE COURT: Sustained as to the leading.

8 BY MS. CLEARY:

9 Q. Okay. Dr. Spence, you have just testified that you
10 have reviewed numerous cases as a forensic consultant?

11 A. Yes.

12 Q. Do you know what percentage of those that you found,
13 uhm, found to have problems that would require your
14 testimony?

15 A. Yes. With this being my sixty-fourth time on the
16 witness stand, 16 of those with the Indiana State Police so
17 it's been 46, 47 times that I have testified as an independent
18 consultant but I have reviewed about 480 cases so - I'm sorry
19 - about 450 cases as an independent consultant so it's around
20 ten percent of the time that any kind of issues that I see
21 rise to the level where they need to call me in and have me
22 testify to whatever those issues are and a lot of times there
23 is consulting involved and there's some things that I point
24 out that I don't need to be traveling and going into a
25 courtroom and testifying to it. I just consult on what some

1 of the issues are.

2 Q. All right. Dr. Spence, did you have an opportunity
3 to review the SLED analysis provided by the State relating to
4 their expert's finding regarding whether the defendant's DNA
5 was on the shotgun?

6 A. Yes. I did.

7 Q. What did you find?

8 A. I found that there were two rounds of analysis on
9 two parts of the shotgun. It was the analysis of the grip of
10 the shotgun and the analysis of the forestock of the shotgun.
11 When the Identifiler analysis was done which is sort of the
12 bread and butter basic testing that all laboratories use,
13 there are other tools that labs use, but to look at the spread
14 of 15, 16 locations in the genome to get typing, the
15 Identifiler actually gave information that could be called an
16 exclusion of Mr. Brady. They proceeded on to do what you have
17 heard about because I have seen the testimony from the State's
18 witness MiniFiler analysis which is a much more sensitive
19 analysis and then there was much more of a mishmash of four or
20 more individuals contributing to that and it was
21 uninterpretable and inconclusive information from those. From
22 the trigger we saw no DNA typing information at all
23 whatsoever.

24 Q. You just testified that you had an opportunity to
25 read the transcript of Dr. Clayton's testimony. What, if

1 anything, did you find reading that testimony?

2 A. Well, the one thing I can point out that I found
3 that was a little bit disturbing about the testimony, I think
4 in general I completely agree with Ms. Clayton on her results
5 that the Identifiler, it was what it was. It was weak
6 results. Was not mixture results. In my case I would call it
7 exclusions, but when we got to the MiniFiler DNA typing I
8 found that to be very inconclusive which she said as well.
9 But within the testimony phrases were used such as his
10 information was there referring to Mr. Brady and this is
11 incorrect and it's prejudicial and it's unscientific. His
12 information isn't there. Some information that showed some
13 similarities to me could have been there. I'm sure it is. We
14 share a lot of alleles from person to person. So if you get a
15 mixture of any four persons' DNA even if it's partial
16 contributions, very slight contributions or heavier
17 contributions of various people, you're gonna see similarities
18 to a lot of people. That's why they call it inconclusive.

19 So to say his information is there, she could have
20 maybe said that about me. I haven't actually compared the
21 mixture to my DNA, but there may be several of my alleles that
22 are there. But are they really my alleles? Honest they are
23 not me. I wasn't here in South Carolina at the time. So you
24 have to be careful in making that kind of statement that his
25 information is there. Alleles that match a lot of people

1 might have been there and they might be aligned with his.

2 That doesn't mean it's his contributions.

3 So you have to be very cautious on your wording on
4 something like that. Beyond that I'm very much in agreement
5 with what the analyst found in her reports.

6 Q. All right. From looking at the report, what did you
7 determine was the amount of DNA that was tested from the swabs
8 on the shotgun?

9 A. In looking at the data which is called realtime PCR
10 data, they do a quantification, a yield analysis of how much
11 DNA is there on each of these two key places, the grip of the
12 shotgun and the forestock of the shotgun, according to my
13 measurements of what was in the work sheets from the analyst,
14 from the grip of the shotgun it was, I'm going a little bit on
15 memory here because I'm not looking at my notes but it was
16 about .18 nanograms so that's 18/100ths of a nanogram and then
17 from the forestock it was a little bit more DNA. It was
18 around a quarter of a nanogram, .27 nanograms of DNA.

19 Q. And how much is a nanogram compared a gram?

20 A. The best way to describe what a nanogram is that I
21 have come over and over for juries is to talk about what's in
22 a packet of artificial sweetener. That's an exact gram they
23 put into Splenda or Equal. If you take that packet and dump
24 it out on a on table and take 999 parts of it and throw it
25 away and only keep one one thousandth of it, you have saved a

1 milligram. That's gonna be a tiny little pile of the
2 sweetener. If you can then break that down by a thousand and
3 throw away 999 parts and only keep one one thousandth of that
4 milligram, you now have a microgram which you pretty much need
5 to look under a microscope to see that. Then you would have
6 to break it down so we're talking about a millionth of what's
7 in the Equal packet to get that microgram. You have to break
8 that down another thousandth. Now you've got one billionth of
9 what's in the Equal packet and that's a nanogram and that's
10 way beyond even looking under a microscope, a single nanogram.

11 It would surprise a lot of people to know that a
12 nanogram is actually is actually optimal for typing. If you
13 have a full nanogram from one given person, you should get a
14 complete profile. In these case we have roughly on both of
15 those samples a ballpark of about a quarter of that nanogram
16 so it's a quarter of one billionth of what we see in the Equal
17 packets and this is a testimony to how sensitive this typing
18 is.

19 Q. So if you have such as a small amount can be tested,
20 what other items can DNA be obtained from?

21 A. There's a variety of items that DNA can be obtained
22 from. I'm not sure if there is any one given item I haven't
23 seen a case where they have tested that and found some DNA on
24 it. So you name it, it's often gonna be on there. And in the
25 case of this quarter nanogram you have to keep in mind, too,

1 that was a mixture off of those two areas of the firearm of at
2 least four different people. So we're talking about each
3 individual person is contributing even a smaller amount than
4 the quarter of the nanogram. It's not a quarter of a nanogram
5 each. It's a quarter of nanogram total from these four
6 different people. But it can be on any kind of weapon. It
7 can be on any kind of clothing item. It can be on hats.

8 Q. Let me stop you there and ask you. How many skin
9 cells do humans on average shed per day?

10 A. Per minute it's 36,000 so you have to go times 60
11 minutes then times 24 hours to get it. It's a lot.

12 Q. 36,000 per minute?

13 A. And that's head to toe for an adult human is the
14 average. It's gonna vary broadly from person to person. Some
15 people shed more cells than others. Some people shed less.
16 But it's gonna be in that ballpark.

17 Q. Okay. So can DNA be obtained from a shoe, a sole of
18 a shoe?

19 A. Yeah. It's not -- I don't see too many shoes tested
20 unless you're looking for something on the outside, but if
21 it's a type of shoe that somebody might have worn with bare
22 feet, you're gonna see DNA from that. Unless they wore it
23 once for one hour you might not see much DNA, but if they wore
24 it regularly such as flip flops. But it's more likely to see
25 more DNA on a sock if those shoes are never worn with there

1 always being socks on. DNA doesn't easily penetrate the sock
2 and get on the inside of the shoe. But one of these days I'll
3 probably see somebody swabbing the inside of a shoe that is
4 normally worn with socks and they'll probably get some DNA.

5 Q. What about empty soda bottles?

6 A. Oh, all the time because when you drink off the soda
7 bottle, you're gonna leave a little bit of a deposit of saliva
8 and there we're talking about a whole different ballgame
9 because there's about a half a million cells in a single drop
10 of saliva.

11 Q. What about surfaces such as safes, a metal safe?

12 A. It's once again another surface that people have a
13 tendency to touch, maybe not just the outer sides of the safe
14 unless it gets moved around but the handles and the knobs I
15 have seen those swabbed off many a time before in criminal
16 cases.

17 Q. What about a wallet?

18 A. Yes. You're taking that out of your pocket and
19 putting in back in all day long. The inner edges of the
20 wallet you're gonna see DNA throughout that wallet.

21 Q. What about a cell phone?

22 A. Same thing. You're putting it up to your ear.
23 You're holding it, putting in and out of your pocket. You're
24 gonna have usually a significant amount of DNA on a cell
25 phone.

1 Q. All right. Dr. Spence, if one sleeps with a
2 blanket, will there likely be DNA on that blanket?

3 A. Absolutely. Unless the blanket has been recently
4 laundered, which still you might be able to detect DNA even if
5 it has. But if it hasn't been washed anytime recently,
6 anybody who has wrapped that around themselves or just maybe
7 thrown it down on a couch and laid on top of it, you're gonna
8 get those 36,000 skin cells per minute. Some of them are
9 gonna go wherever and some of them are gonna end up on the
10 blanket.

11 MS. CLEARY: May I approach the witness?

12 THE COURT: Yes, ma'am.

13 BY MS. CLEARY:

14 Q. Dr. Spence, I'm gonna show you what's been
15 previously entered into evidence as State's exhibit number 42.
16 Let me ask you in your expert opinion could DNA be transferred
17 from that blanket to the shotgun?

18 A. Not actively on a regular -- I mean, you wouldn't
19 expect a lot could go from one place to another. But yes,
20 it's definitely possible and it's likely if it's wrapped up in
21 there long enough and it's been placed in and taken out, and
22 placed in again, and there's somebody's DNA on that blanket to
23 begin with, there's a good chance that will happen.

24 Q. How about if you slept on that blanket, would your
25 DNA be on that blanket?

1 A. Yes.

2 Q. Because you testified we shed 36,000 cells per
3 minute?

4 A. Yes.

5 Q. All right. I'm almost done here. Dr. Spence, what
6 does this report show in your expert opinion, what does it
7 show, if anything, about whether Jeremy's DNA is on the
8 shotgun forestock?

9 A. Well, we have no reason to believe that any of that
10 DNA is his. We simply don't know. That's the definition of
11 the word inconclusive. It's scientific information. We can't
12 draw any conclusions from it even if you could make a
13 statement such as this person cannot be excluded as a possible
14 contributor to the mixture, then you calculate stats to put
15 weight on that as to how often you would be able to find a
16 person who could have been a contributor out there in the
17 general population. In this case the data doesn't even rise
18 to that level. The data is inconclusive and what that means
19 to me, how I explain that to jurors how to look at that as a
20 scientist is that the data is taking us no closer to knowing
21 whose DNA is on that gun by that comparison standard of
22 inconclusive than we were before we tested it at all.

23 Q. And that's the same conclusion that you drew from
24 looking at the report regarding the grip as well?

25 A. Yeah. From the grip and the forestock. I believe

1 that I'm in agreement with the analyst on that that it is
2 inconclusive information, no stats should be calculated from
3 that and they weren't and it doesn't tell us really anything
4 about whether or not that person's DNA is on that firearm.

5 Q. And what was your conclusion regarding the analysis
6 of the trigger of the shotgun, the part where your hand is
7 when you fire a weapon?

8 A. Well, once again I'm in agreement completely with
9 the analyst that they tried to get DNA off of the trigger.
10 Their yield was next to zero and their data was nothing. No
11 data.

12 MS. CLEARY: All right. Thank you. That's all I
13 have. Please answer any questions from the State.

14 MR. GRAHAM: Your Honor, I know that I have an
15 exhibit that I wanted to use and I handed it to Dr.
16 Spence. I don't know that he's had time to look at it to
17 verify that it's accurate. I don't know how much time he
18 needs to do that.

19 THE COURT: Have you had an opportunity to review
20 that?

21 BY THE WITNESS:

22 A. I haven't compared it side by side with the actual
23 data that I have but I can do that pretty quickly.

24 MR. GRAHAM: I had prepared a chart that was taken
25 from Agent Clayton's DNA report that I'm assuming that he

1 had to review to be able to testify and I want to use it
2 and he needs to verify before we can start talking about
3 it. I wasn't able to hand it to him until right before
4 we started here, Your Honor. I apologize.

5 THE COURT: Okay. All right. Do you need some
6 time? I can send the jury out and give you whatever time
7 you need.

8 THE WITNESS: I really don't need that much time. I
9 think I can look at it for probably a minute and a half,
10 two minutes and I'll be good to go as I testify to make
11 sure that there aren't any typographical errors or
12 anything like that.

13 THE COURT: Okay. That sounds good. Then we'll
14 give you whatever time you need.

15 BY THE WITNESS:

16 A. I'm prepared.

17 THE COURT: All right. Go ahead.

18 CROSS EXAMINATION

19 BY MR. GRAHAM:

20 Q. Dr. Spence, did you have a chance to review the
21 exhibit that I handed you?

22 A. Yes. And they look accurate to the information I
23 have already reviewed.

24 Q. That's the information you got from Agent Clayton's
25 report from SLED?

1 A. Yes.

2 Q. You had talked about peer review. You're aware that
3 Jennifer Clayton is at SLED, and SLED also has a peer review
4 policy as well, aren't you?

5 A. I would assume so. I don't believe I have seen
6 their SOP's or their technical manuals but it's a requirement
7 for accreditation.

8 Q. And they are an accredited agency, aren't they?

9 A. As I understand, yes.

10 Q. You had made a comment, you are aware that when
11 Agent Clayton made the decision to run the second test, the
12 MiniFiler test, that she didn't have the defendant's DNA at
13 the time?

14 A. I wasn't aware of that but that's fine.

15 Q. Uhm, you would agree with me that Nicholas Williams
16 is excluded from the shotgun, right?

17 A. Yes.

18 Q. You had made comments about, and I guess part of
19 your complaint with her testimony was her words weren't
20 accurate; is that correct? In the way she was describing
21 things?

22 A. Yeah. If we're talking about the testimony there
23 was some problems with accuracy to say that his information
24 was there referring to Mr. Brady. That was misleading.

25 Q. Okay. So what she should have said, I guess, was

1 the alleles that Mr. Brady has were seen in the results from
2 the forestock and the grip; is that correct?

3 A. Yeah. I think that it's also important to continue
4 to emphasize it's inconclusive data which is what her report
5 says. And she did emphasize that, but I think it's important
6 to keep that in mind.

7 Q. So is it your testimony that she was misleading the
8 jury?

9 A. Yes. If you say that his information was there on
10 the forestock and the grip of the shotgun, that's not true.
11 We don't know if that was his information.

12 Q. Well, didn't you when you were testifying say that
13 you would always find DNA on shoes that were worn with bare
14 feet?

15 A. Yes. I think that you would unless you washed the
16 shoes.

17 Q. So you don't think that people could wear shoes and
18 you may not find DNA? Now, you're telling me every time --
19 You said, in fact, you said you didn't test shoes very often
20 so how do you know that you are always going to find DNA?

21 A. Because you slough off 36,000 cells per minute and
22 that comes off of your feet and it comes off of all your skin
23 cells. It's just a fact of physics that when you rub up
24 against something, your skin cells are gonna come off.

25 Q. DNA stays there forever is your testimony?

1 A. Well, DNA can be found in humans 45,000 years after
2 they're gone.

3 Q. We're not talking about bones or hair samples.
4 We're talking about physical items. Are you testifying that
5 you will always find DNA on every object?

6 A. No. You're not always going to find DNA on objects
7 that aren't touched or that don't have residue or saliva or
8 semen or blood and if you have items that have been exposed to
9 moisture, for example, or to high intensity ultraviolet rays
10 like out in the sun, you can get breakdown of DNA.

11 Q. Even if I touch right here, if somebody comes back
12 and takes a swab, are you saying that you are always gonna
13 find my DNA every time?

14 A. Not necessarily but it's likely.

15 Q. Well, that's not what you testified to. You were
16 saying always. You said always there would be DNA on a soda
17 pop. Also there would be DNA on a safe. Always there would
18 be DNA on a wallet. Always there would be DNA on a cell
19 phone. That's not accurate, is it?

20 A. If it's a wallet that's sitting in a Wal-Mart in a
21 package, it's not gonna have DNA on it because nobody has ever
22 touched it. If somebody touches an item with their skin, they
23 are going to transfer skin cells to that item. To a
24 detectable level maybe not. You might only get a partial
25 profile. You might get only one allele.

1 Q. So you won't always be able to develop a DNA
2 profile?

3 A. Not always. Not from all items. But when they're
4 touched and they're sampled immediately after which is sort of
5 an unrealistic situation because typically there's not gonna
6 be a scientist there to swab something off right after it's
7 touched. There's a lot of forces that could cause that to be
8 eroded away. If you touch that place that you just touched
9 there, if we come back a week later, who knows what's happened
10 to that place. Has somebody come along and dusted and wiped
11 it off? We don't know.

12 Q. Exactly. So if we're talking about a shoe that was
13 left at a house, we don't know how long the shoe was there,
14 whether it was washed before or what happened to it before the
15 police collected it, do we?

16 A. We don't know what happens to items if we're not
17 watching them constantly, that's correct.

18 Q. Soda pop bottles, they aren't even in evidence. We
19 don't know whether anybody ever drank out of them, whether
20 they were touched, whether they were washed off, whether they
21 sat outside in the sun, in the rain, do we?

22 A. No. That's absolutely correct.

23 Q. If a safe was stolen from somebody, that doesn't
24 mean that there would be detectable DNA on it, does it?

25 A. No. I have seen a lot of surfaces like safe handles

1 or whatever, car door handles. They don't get any DNA off of
2 them. You can't really tell why. If you're not guarding that
3 item and watching it with a camera for the entire time from
4 any kind of potential touching to sampling, how do you know?

5 Q. Exactly. So if a safe was stolen from a victim's
6 house and we don't know whether somebody was wearing gloves or
7 whether it was wiped off later and whether at one point it was
8 put into the back of a vehicle and covered with other items,
9 there might not be any DNA on there, correct?

10 A. I think you're absolutely right in bringing up
11 things like gloves is a good point. If you don't know the
12 history of an item, the DNA can only tell you a little bit
13 about what might be there but if you don't test it, you don't
14 know.

15 Q. Wallets and other items and cell phones, you were
16 asked about those too, correct?

17 A. Yes.

18 Q. And you said there would always be DNA on those?

19 A. Yeah. There wouldn't be DNA on a cell phone coming
20 right out of the package that nobody has ever touched. But if
21 it's handled, swabbed immediately after, you can expect to get
22 DNA. Maybe not full profile, but you're gonna get DNA from
23 the transfer of skin cells to that item.

24 Q. Are you saying you would always develop a profile?

25 A. I just said that you're not always going to develop

1 a profile, not off a brand new phone, no.

2 Q. What about if I told you that the wallet and the
3 contents of the wallet and the cell phone were found on the
4 side of the road outside approximately, I don't know, four
5 days after they were stolen. Wouldn't the fact they were
6 outside subject to the elements degrade whatever might have
7 been there?

8 A. We can't say how much DNA would degrade. The
9 laboratories, not a single laboratory that I have examined
10 looked at cases out of over 50 different labs, none of them
11 have a test for degradation. They have the DNA test and if
12 DNA degrades, you're not gonna get as good information on that
13 DNA. But you can't tell what happened unless you sample it
14 and swab it and see what's there and it only gives you a clue
15 as to what might have happened mainly because we don't have
16 any kind of test that will tell us the level of degradation.
17 That was another, one of the things in the testimony that
18 bothered me was the constant references to degradation when we
19 have no assay for that. We have no test for that.

20 Q. But degradation exists, doesn't it?

21 A. DNA degrades and the main thing that will lead to
22 the degradation of DNA is moisture. It's the worst enemy of
23 DNA. But there are other factors. Chemicals, dirt,
24 contaminants, inhibitors, they have an effect on the
25 typability of DNA.

1 Q. So DNA does degrade?

2 A. It will degrade in some circumstances, yes.

3 Q. Transferring DNA from a blanket to a shotgun, for
4 instance, where the blanket was only wrapped around the
5 shotgun one time, what did you have to testify about DNA
6 coming from that?

7 A. First of all, I have to be careful about my
8 testimony on something like that because I don't know how many
9 times the shotgun was wrapped in the blanket. That would only
10 be related to somebody's testimony on that or so forth, but if
11 it's a blanket that somebody laid on, there can be transfer
12 events to that shotgun and that's what I have testified to.
13 Beyond that, the theoretical concept that if people lay on
14 blankets and then wrap firearms in the blankets, however many
15 times, there is potential for transfer. Is there a guarantee
16 for transfer? No. Not necessarily.

17 Q. You would agree with me that inconclusive does not
18 mean excluded, correct?

19 A. No. Those are two different results.

20 Q. You testified, I believe, as an expert when you
21 worked for the State of Indiana 16 times, is that correct,
22 over four years?

23 A. That's correct.

24 Q. Since that time all of the rest of your testimony
25 has been for defense attorneys and you have never testified

1 for any state agency again?

2 A. No. I have never been actually called by a state
3 agency to have me look at a case which the reason being is
4 that they always have an analyst to look at the case and there
5 is no need to bring in a second analyst when they already have
6 an expert working in their reporting lab.

7 Q. You had written a report on this case, haven't
8 you?

9 A. Did I write a report on this case? Yes. I did.

10 Q. Do you have a copy of that with you?

11 A. Yes. I do.

12 Q. Page 1 of your report and in your testimony I
13 believe you were talking about a range of the nanograms which
14 is the amount of DNA being between .18 and .27?

15 A. Yes.

16 Q. Isn't it true that that's actually incorrect? The
17 .27 measurement comes from the male DNA and actually the
18 higher level of .72 nanograms is the accurate reading that
19 came off of item 12?

20 A. That could be. It was a little bit difficult to
21 understand the worksheet prepared by the analyst. What I went
22 by is where it said the word -- I'm going by memory here
23 without actually looking at the sheet -- it said the word
24 "neat" which typically means that something hasn't been
25 diluted like a neat glass of scotch would be just the liquor

1 and no ice, no water. And so I interpreted that to mean an
2 undiluted sample and it was the measurement how much DNA was
3 there. So there might be a discrepancy in which number to use
4 on one of those.

5 Q. So is it fair to say that when you took that number,
6 you guessed?

7 A. No. That's not true at all. When I went by the
8 numbers that said neat, then that would mean an undiluted
9 sample and it was the data that was listed there. If the data
10 was misleading as to how it was provided there, that's fine.
11 The analyst can testify to the exact amount of recovered DNA
12 there was on either of those two items.

13 Q. If you had any questions, you could have called
14 Jennifer Clayton and asked her, couldn't you?

15 A. I suppose I could have. Yes.

16 Q. On your second page under your vital notes you
17 describe the MiniFiler DNA typing system as being specifically
18 developed scientific methodology for the examination of what
19 is listed as a low copy number method, correct?

20 A. Yes.

21 Q. Have you ever gone down to the Life Technologies and
22 reviewed why the MiniFiler was created? They are the actual
23 producers of the MiniFiler test.

24 A. I have seen a lot of documentation on their website
25 as to why they created this and I have seen a lot of

1 publications as to why MiniFiler, what it is used for and it
2 is a low copy number method for detection of DNA.

3 Q. Yeah. But isn't it true that it was not
4 specifically developed for low copy DNA and in fact it was
5 specifically developed for degraded and inhibited samples?

6 A. It was developed for all of those things. It was
7 developed for any compromised samples which one way a sample
8 can be compromised is because it's low copy number. And once
9 again I have to caution, we have no assay for degradation.
10 Not in any lab that I have reviewed do they have a situation
11 where they think maybe the DNA has degraded so they run it
12 through their degradation assay. I have never seen a
13 laboratory that has developed and utilized such an assay. I
14 have heard of such assays that are available out there but the
15 laboratories never validate such an assay that I have ever
16 heard of.

17 Q. Let me show you and ask if you recognize that when
18 you reviewed the MiniFiler profile that was produced by Life
19 Technology. Do you recognize that as being the document that
20 came off their website describing the MiniFiler and why it was
21 designed and what it can do?

22 A. This does look like a document from their website.
23 If you want me to read that?

24 Q. No. I'm just -- Do you see anywhere on there what
25 it says about low copy numbers?

1 A. I don't see where they mention the name low copy
2 number but in numerous publications that is what the
3 technology is referred to. If you Google the words low copy
4 number, you're going to see a lot of information about low
5 yield profiles and you're going to eventually see articles
6 involving MiniFiler analysis because it is the most, I would
7 say that it's the gold standard for doing low copy number
8 analysis of low yield DNA and as they say here degraded
9 samples, inhibited samples. This is the technology you want
10 to use for any of those kind of effects.

11 Q. Also in providing vital notes in your last sentence
12 in the first paragraph it says it is important to note that
13 any scientific data generated by MiniFiler analysis does not
14 meet FBI guidelines for submission to the combined DNA index
15 system; is that correct?

16 A. Yes. That is what I wrote.

17 Q. That is not a correct statement either though, is
18 it?

19 A. No. It's absolutely correct. The FBI requires ten
20 loci of information and MiniFiler does not even test ten loci.
21 It tests nine.

22 Q. Let me show you a document and ask you if you
23 recognize this as coming off the FBI website talking about
24 NDIS databases and CODAS databases?

25 A. Yes. It does list the kits that are useful for

1 information on the database.

2 Q. So you would agree with me that the NDIS database is
3 part of the CODAS database; is that correct?

4 A. Yes.

5 Q. Doesn't the document that came from the FBI
6 specifically say that PCR kits accepted for use at the NDIS
7 include the MiniFiler kit?

8 A. Yes. And I noticed that which was interesting
9 because it does suggest that you could use MiniFiler data.
10 The only problem is that there's another part of the FBI
11 information that says you have to have at least ten loci of
12 information and MiniFiler only tests nine, therefore, they
13 don't accept exclusively MiniFiler data. Maybe they accept
14 combined data from MiniFiler and other technology such as
15 Identifiler or such as there's another technology called
16 PowerPlex made by another company called Promega. But you
17 can't use MiniFiler by itself because they are not testing
18 enough loci and that's in their standards.

19 Q. But they do accept the MiniFiler profile kit,
20 correct?

21 A. Yes. It's acceptable data but you can't take
22 exclusively MiniFiler data because MiniFiler only looks at
23 nine locations in the genome and you need ten locations tested
24 in order to submit that data for database searches. So it is
25 contradictory. I don't understand it but, and in no way in my

1 report am I saying that the MiniFiler data is illegitimate.
2 I'm just saying it cannot be used to screen, search CODAS and
3 the FBI have stated that very clearly in another part of their
4 website.

5 Q. By itself?

6 A. By itself. Exactly.

7 Q. So what you wrote in your report doesn't mention
8 that. It just says the MiniFiler analysis does not meet
9 submission for CODAS.

10 A. It cannot be used for submission in the CODAS, no.

11 Q. By itself?

12 A. By itself.

13 Q. But that's not what you wrote.

14 A. It's the same thing.

15 Q. Well, no, it's not. Don't we have to be very
16 careful about what we say and how we say things?

17 A. Yes. I think the problem there is with the FBI
18 wording of their documents when they explain that MiniFiler is
19 acceptable data, but then they say you have to have ten loci
20 or more of information. That seems to be excluding MiniFiler
21 and it does exclude them unless they expand MiniFiler to
22 include more loci of testing.

23 Q. You have had a chance to look at the chart that I'm
24 showing you right now?

25 A. Yes. I have.

1 Q. Is that accurate from the information that you
2 received from Agent Clayton with SLED?

3 A. I believe it is. Yes.

4 MR. GRAHAM: Your Honor, the State would offer this
5 into State's exhibit, I don't know the number.

6 THE COURT: The last one I have is 104. I don't
7 know if you have a 105 marked. If you don't --

8 MR. GRAHAM: I have not marked it yet, Your Honor.

9 THE COURT: Any objection.

10 MS. CLEARY: Your Honor, just to clarify, this is a
11 blown up version of what you gave us?

12 MR. GRAHAM: It is a blown up version.

13 MS. CLEARY: Okay. No objection.

14 THE COURT: All right. State's 105 without
15 objection.

16 MR. GRAHAM: Your Honor, I would ask that Dr. Spence
17 be allowed to step off the stand down here.

18 THE COURT: Sure. Dr. Spence, if you would just
19 keep your voice up, sir, so the jury and the court
20 reporter can hear you. Whatever you need to do that's
21 fine.

22 THE WITNESS: Yes, sir.

23 THE COURT: That's fine.

24 BY MR. GRAHAM:

25 Q. Dr. Spence, what we're looking at here, table 3 is

1 the DNA profile that was taken from a buccal swab from Mr.
2 Brady, is that your understanding?

3 A. Yes, sir.

4 Q. Table 1 is an Identifiler which is the first test
5 that was run by SLED on items 11 and 12; is that correct?

6 A. That is correct.

7 Q. When we look at these, all these big numbers across
8 here, all these columns, those are an individual spot on the
9 DNA chain, correct?

10 A. That is correct.

11 Q. Normally when a child is born -- not normally. When
12 a child is born they get half of their DNA from their mom and
13 half of their DNA from their dad; is that correct?

14 A. That is correct.

15 Q. So that could be either two different numbers, one
16 from each or if they get the same number from each, they could
17 have one number at that location; is that correct?

18 A. That's correct as well.

19 Q. So when Agent Clayton went to develop, to see if she
20 could develop a DNA profile, this is what she got. For
21 instance, in that column she has, and in parentheses I think
22 that means it's a low reading; is that correct?

23 A. Yes. That means there is like a key down below that
24 says anything in parentheses is a low level.

25 Q. So when she checked the grip, this was the profile

1 she developed, she saw a low number 12 and in the second
2 column she saw a 31.2, nothing in the next three were
3 developed. That doesn't mean DNA was there or it was just so
4 low it might not even be detected?

5 A. That means that there's no callable signals at those
6 locations. There might be noise. There might be elevated
7 noise. There might be signals that look like they are
8 callable, but they weren't callable even though these ones in
9 parentheses are at least questionable because they are very
10 low signals. They're callable levels.

11 Q. We have three more uncallable levels in the next
12 three locations and another low callable level and the rest
13 for the grip item 11 were uncallable in your words, correct?

14 A. And just to be clear, all four of these are low
15 level but they meet the standard threshold for callable
16 signals.

17 Q. On the forestock we're seeing the same thing. We're
18 starting to see numbers and some numbers are low levels, some
19 we have nothing, but we develop another partial DNA profile
20 from there, correct?

21 A. Yes. But you have to call it partial if you have
22 some places where there's no callable signals at all.

23 Q. Once that was done knowing that we have low numbers
24 but some readings not having the suspect standard and running
25 the MiniFiler, these are the numbers that were developed,

1 correct?

2 A. Yes. As you told me that these numbers were
3 generated, these profiles were generated prior to having a
4 standard from Mr. Brady so you can make no comparison call if
5 you don't have his DNA.

6 Q. Sure. So this was ran. These were developed. This
7 was ran and this was developed. Some of the things to note if
8 I understand this correctly -- Well, all the ones in the
9 MiniFiler, all these different locations in the MiniFiler, are
10 they also in Identifiler?

11 A. Yes. They are.

12 Q. So, for instance, when we look at D13, where is that
13 up here? Where is that first column up here?

14 A. I don't know why they do this but they mix them up
15 and I should point out too that the MiniFiler is different in
16 that although we're targeting the same location in the genome,
17 you may be looking for a different product. They try to go
18 for smaller pieces of DNA in the MiniFiler. That make it
19 resistant to problems with low yield, degradation and
20 inhibitors.

21 Q. So the D13 originally on the grip, nothing,
22 correct?

23 A. Correct.

24 Q. When the MiniFiler is run, all these other numbers
25 start to show up, correct?

1 A. Yes. Showing the sensitivity once again of the
2 MiniFiler.

3 Q. MiniFiler is a more sensitive test than the
4 Identifiler?

5 A. Yes.

6 Q. So Identifiler can contain DNA that Identifiler
7 didn't recognize and report out either at all or fully,
8 correct?

9 A. Yeah. It wasn't able to pull up any kind of signal
10 because there was less DNA or there was degradation or there
11 was inhibition.

12 Q. If we start looking through this chart and we
13 compare Mr. Brady's DNA which we know these are his numbers.
14 It's fair to call those his alleles, right?

15 A. Yeah. This is his profile.

16 Q. Okay. So when we start looking for his alleles, and
17 I'm not saying Mr. Brady is in here, but the numbers that he
18 has, when we start comparing his alleles versus what was found
19 in the Identifiler there was a low 12 but he's got a 14 and 15
20 and that's why you have a problem, right?

21 A. It's not so much of a problem. It would be an
22 exclusion by itself if you didn't have any other data and just
23 looked here you would call it exclusion because of this signal
24 here that cannot be assigned to him.

25 Q. Okay. And then the D8 location is not found in here

1 in the MiniFiler; is that correct? Or it is?

2 A. It's not there.

3 Q. So there are only 1, 2, 3, 4, 5, 6, 7, 8 and then
4 the sixth chromosome over here out of the, how many are
5 there in the Identifiler?

6 A. Again I would have to correct myself. I said there
7 was nine MiniFiler loci. One is animal genome that's a part
8 of it. It's not part of the core loci for CODAS. And I'm
9 sorry. Your question?

10 Q. My question was there were, I believe, eight in the
11 MiniFiler. How many are there in the Identifiler?

12 A. There's 15 plus animal genome.

13 Q. So there's all eight of the MiniFiler and
14 Identifiler but there's seven additional Identifilers that are
15 not tested for in MiniFiler?

16 A. That's correct.

17 Q. So when we start comparing -- So the MiniFiler --
18 The Identifiler itself it's very low and it really doesn't
19 tell us anything, correct?

20 A. Well, I wouldn't say that it doesn't tell us
21 anything. I have already said something about the 12 being
22 here. At least being evidence for exclusion for Mr. Brady.
23 If you had an opportunity to compare these without doing any
24 other information, when you look at the forestock, it's
25 clearly and exclusion for Mr. Brady.

1 Q. Okay. We'll get back to that. But if we look at
2 Mr. Brady's DNA profile and the numbers that he's generated
3 and we look at the first Identifiler on the grip, you would
4 agree with me that the number he has here is also shown
5 there?

6 A. Yes.

7 Q. And I'm saying that accurately, I believe, right?

8 A. Well, it's --

9 Q. How do you want me to say it?

10 A. It's - the number is consistent. As the 12 isn't
11 consistent, all three of the others are consistent with his
12 profile.

13 Q. When we move over to here, Mr. Brady had a 9.3 there
14 and that's consistent with a 9.3 there?

15 A. That's correct.

16 Q. When we come here, Mr. Brady has a 14. That is
17 consistent with the 14 over there?

18 A. You're doing good now.

19 Q. You got me on track. For the forestock he has a 14
20 there and there is a 14 there?

21 A. That's correct.

22 Q. There is an 11 in this one and an 11 there?

23 A. That's correct.

24 Q. A 15 and a 15?

25 A. Yes. It's consistent with a 15 on the forestock.

1 Q. 9.3, 9.3?

2 A. That's correct.

3 Q. 8?

4 A. That's correct.

5 Q. 8. Now here there is nothing here, is there?

6 A. Oh, there's something there but it's not
7 consistent.

8 Q. Not consistent. His numbers are not seen there, the
9 11 and 13?

10 A. No.

11 Q. Nor is it here in the empty one. There is a 14
12 there and a 14 there. 17 and an 18. An 8. Nothing. An 11,
13 and then a 20?

14 A. Yes.

15 Q. Once this test is run, the MiniFiler, that's where
16 we learn that there is at least four people's DNA on these
17 items, correct?

18 A. Yes.

19 Q. And it could be an unknown number. We don't know
20 how high, correct?

21 A. That's correct.

22 Q. But it is a minimum of four and the reason you know
23 that, I think, is because of the eight numbers that are right
24 there?

25 A. Yes. And that could be eight people.

1 Q. It could be eight people with the same number?

2 A. Yes. It's not probable those would be eight people,
3 but theoretically it could be eight. But you can't go beyond
4 four as an adaptive. It's at least four. We know that.

5 Q. So when we look at the MiniFiler, the more sensitive
6 test that produced more numbers for us to look at, we now know
7 it's a mixture of four or more people, you would agree with me
8 that in every location off the Identifiler both, I believe,
9 alleles that Mr. Brady has are consistent with the alleles
10 that are found in the MiniFiler?

11 A. Yes. There are a lot of consistencies in the
12 alleles when you go down here. But as the analyst concluded
13 there's inconclusive data because of all these other alleles
14 here. A lot of people are gonna have four alleles that looks
15 like this. There's only so many alleles you can have and
16 there's also a lot of common alleles that a lot of people are
17 gonna have. I can't point to any one of these and tell you
18 the exact percentages in the population but some of these are
19 gonna be in 20, 30 percent of the population have some of
20 these alleles and some of these might be only five percent of
21 the population.

22 Q. Once you get four or more people, you can't record
23 out numbers, correct?

24 A. I have seen that before. You could have somebody's
25 profile that matches, I shouldn't use the word match, but has

1 enough consistency you could say it's not excluded. But it's
2 really difficult. You're right. Once you get up to three or
3 four, then I have seen mixtures with interpretations of five
4 people where it's even more data than this and they try to
5 say, well, this person cannot be excluded and I have even seen
6 where they have said that and they don't calculate any
7 statistics which is totally improper.

8 Q. So if I understand correctly, all of the alleles,
9 the numbers that represent the alleles for Mr. Brady are seen
10 in both items 11 and 12 on the MiniFiler; is that correct?

11 A. That's correct.

12 Q. The reason that you have excluded him is because of
13 the 12 off that location on the Identifiler?

14 A. Yeah. I want to be clear when you say that I have
15 excluded him, not when you take the data combined. When you
16 combine the data, I agree with the analyst. It's inconclusive
17 information. If you looked at these by themselves, that would
18 be an exclusion. The Identifiler data here or here would
19 exclude a person pending any further analysis. But there was
20 further analysis. It's right here. And in that case they
21 have gone from an exclusion to -- Well, it's inconclusive
22 data. I agree with her on that.

23 Q. Okay. If I understand what you just said, if SLED
24 had not run this test and the only test that was run was the
25 Identifiler, then you would have said that he was excluded

1 from being a contributor to items 11 or 12?

2 A. Yes. And often the way I have seen that worded in
3 reports is they'll say it's a partial profile, it's
4 inconclusive data, but there's enough data for exclusionary
5 purposes only and I would characterize especially this one as
6 that, the grip and it is exclusionary of Mr. Brady pending any
7 further analysis and the further analysis is right here.

8 Q. So once you do the further analysis and you combine
9 the Identifiler and the MiniFiler and you now have the results
10 from here, would you agree with me that you could no longer
11 exclude Mr. Brady as a contributor to items 11 or 12, the grip
12 and the forestock?

13 A. I think you have to be very careful with the wording
14 there because when you say you can no longer exclude him, that
15 is a result to say you cannot exclude a person and then you
16 need to do statistics on that to put weight on that non
17 exclusion. The analyst has not done that. The analyst has
18 reported that this is combined is inconclusive data which
19 precludes her from even doing stats and I completely agree
20 with that. My biggest problem is with the testimony saying
21 Mr. Brady's information is in here. We don't know that. If
22 it's inconclusive information, we can't draw any kind of
23 scientific conclusion of inclusion/exclusion data from. You
24 cannot then say, well, his information is in there. We don't
25 know if these green highlighted alleles came from him. She

1 has said that in her report and I'm completely fine with
2 that.

3 Q. So it's fair to say after all the testing that's
4 run, you disagree with her opinion that it's inconclusive as
5 to whether Mr. Brady's DNA was in there or not?

6 A. I agree with her on that.

7 Q. Okay. You would agree with me that the numbers that
8 he has present are seen everywhere in the MiniFiler?

9 A. Yes. I would agree with that.

10 Q. You would agree with me that because there is a
11 mixture of four or more people, that is a reason why it may be
12 inconclusive and numbers cannot be given?

13 A. That is the reason why it's inconclusive because
14 there's just too much data there and too many people could be,
15 too many people you could say are inconclusive as to whether
16 they are in there or not and he falls in that category of not
17 being able to draw any conclusion from this. It's just too
18 much of a mess of information to try to sort it out.

19 Q. And you would agree with me that it's very common
20 when there is a mixture of four people to not be able to reach
21 any other - you can exclude people, but most often all you can
22 do is be inconclusive?

23 A. I think that with this data there could be certain
24 people who definitely could say we cannot exclude this person.
25 We don't see a profile when we say that. And it depends a lot

1 on the signal intensity across here as to how strong some of
2 these signals are and how they line up. But when you have a
3 quarter of a nanogram yield and you have this many people that
4 contribute to a quarter of a nanogram on each of these places,
5 the analyst would reach the conclusion that it's inconclusive
6 and I completely agree with that.

7 Q. Okay.

8 A. Did that answer your question?

9 Q. I think it does.

10 A. I know that a lot of this is very confusing, but
11 there are four possible conclusions you can have when you
12 compare anybody's profile to any mixture. Since this is a
13 mixture there is also signal sources, but when you have a
14 mixture like this there are four possible conclusions.

15 MR. GRAHAM: Thank you, doctor. That's all the
16 questions I have.

17 THE COURT: Redirect.

18 MS. CLEARY: Very briefly, Your Honor.

19 THE COURT: Yes, ma'am.

20 REDIRECT EXAMINATION

21 BY MS. CLEARY:

22 Q. Dr. Spence, Mr. Graham asked you about shoes and I
23 believe your testimony was that it was likely that you could
24 get DNA off shoes; is that correct?

25 A. Yeah. And I qualified that. Especially if you have

1 somebody who is wearing shoes like a sandal where they wear it
2 often without any socks, you're definitely gonna get DNA off
3 of something like that. Shoes that you exclusively wear with
4 socks, that's gonna be a little more iffy.

5 Q. What would be your opinion about whether you could
6 get DNA off an item like this?

7 A. Well, I would say that if somebody bought those and
8 wore them one time and they wore socks while they wore them,
9 maybe not. But otherwise the way you normally see those shoes
10 worn is without socks. There is a big place that goes in
11 between the big toe and the rest of the toes and you're gonna
12 be able to get DNA off something like that unless they were
13 never worn.

14 Q. Does this shoe look like it's been worn one time or
15 never worn?

16 A. It looks like maybe it's been worn but I'm not an
17 expert on that.

18 Q. All right. Very briefly. Does the amount of DNA
19 whether it's .72 nanograms or .27 nanograms, does that have
20 any effect on your expert opinion as to the results of this
21 test?

22 A. No. Even quantities of DNA down in the levels of 1
23 or 2 or 3 nanograms, that's really low levels of DNA. Now,
24 you can get a full profile from maybe three quarters of a
25 nanogram, but things get complicated when you have at least

1 four contributors and you're below a nanogram level. We're
2 talking extremely tiny amounts of DNA and that's the reason
3 why we get so much information from that is because these
4 systems have been optimized for years and years to the point
5 to where they're mind boggling how efficient they are getting
6 a lot of information out of so little mass of DNA.

7 Q. And you read the report from SLED. What was the
8 SLED expert's conclusion on whether Jeremy's DNA is on the
9 swabs from the shotgun?

10 A. It was inconclusive.

11 Q. And what is your opinion as to the results of the
12 analysis?

13 A. I completely agree that when you combine the
14 Identifiler and the MiniFiler data that this is inconclusive
15 the comparison of Mr. Brady's DNA to what was found on each of
16 those two parts of the firearm with the third part being the
17 trigger where that is very conclusive that there is no DNA
18 information found at all. But otherwise it's inconclusive
19 data on those other two places.

20 MS. CLEARY: Okay. Thank you. No further
21 questions.

22 MR. GRAHAM: Nothing else, Your Honor.

23 THE COURT: All right. Thank you very much, sir.
24 You may step down. Any objection to Dr. Spence being
25 released?

1 MS. CLEARY: No, Your Honor.

2 MR. GRAHAM: None, Your Honor.

3 THE COURT: Thank you very much. You're released.
4 Defense may call their next witness.

5 MS. CLEARY: Your Honor, can we have about five
6 minutes?

7 THE COURT: All right. Folks, we'll take a short
8 break. Please have no conversation about the case.
9 We'll take a few minutes and we'll get back started,
10 okay? Thank you.

11 (Whereupon, the jury entered the jury room at 10:25
12 a.m.)

13 (Short break.)

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

16 MR. GRAHAM: Yes, Your Honor.

17 THE COURT: The defense ready to proceed?

18 MS. CLEARY: Yes, Your Honor.

19 THE COURT: All right. Let's bring the jury in
20 please.

21 MR. GRAHAM: Your Honor, I do want to make a
22 statement for the record.

23 THE COURT: All right.

24 MR. GRAHAM: Just to clarify. I don't know whether
25 Mr. Brady is going to testify or not right now. There

1 was some discussion yesterday where I had said, made
2 comments about the defense in opening and the witnesses,
3 saying that he was gonna testify later. I just want to
4 for the record be clear, I don't want anything to
5 influence his decision to testify or not to testify and
6 if he chooses not to testify, that I was going to make no
7 comment on those statements by the defense and those
8 witnesses. I don't want the threat of that to influence
9 his decision one way or the other.

10 THE COURT: I got you. Okay. All right. Let's
11 bring them in.

12 (Whereupon, the jury returned to the courtroom at
13 10:45 a.m.)

14 THE COURT: All right. Folks, we're ready to
15 proceed. We'll recognize the defense for your next
16 witness.

17 MS. CLEARY: The defense calls Jeremy Brady.
18 Thereupon,

19 JEREMY BRADY
20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat. After you're
22 seated, please state your full name spelling your last
23 name for the record.

24 THE WITNESS: My name is Jeremy Brady, B-r-a-d-y.

25 DIRECT EXAMINATION

1 BY MS. CLEARY:

2 Q. Mr. Brady, you're the defendant in this case,
3 correct?

4 A. That's correct.

5 Q. How old are you?

6 A. I'm 28.

7 Q. Where are you from?

8 A. I was born and raised in Pine Ridge, South
9 Carolina.

10 Q. Where did you go to high school?

11 A. I attended Airport High School.

12 Q. Did you graduate?

13 A. No, ma'am. I actually got my GED when I was 16
14 years old.

15 Q. Did you participate in any kind of sports or
16 extracurricular activities?

17 A. Yes, ma'am. I was in Dixie Youth Baseball and I
18 also played football throughout middle school, first years of
19 high school.

20 Q. And after you got your GED, what did you do for
21 work?

22 A. Uhm, I pretty much, uhm, wanted to take the same
23 steps as my dad. He, uhm, was very successful in installing
24 carpet, floor covering and that's what I wanted to do also.

25 Q. All right. What is your mother's name?

- 1 A. Joanne Brady.
- 2 Q. Where does she live?
- 3 A. She lives with my father and my daughter Alexis.
- 4 They stay in Lexington, South Carolina.
- 5 Q. How old is your daughter?
- 6 A. Alexis is 10 years old.
- 7 Q. Before I ask you any other questions, you have been
- 8 convicted of a felony, uhm, in 2005; is that correct?
- 9 A. Yes, ma'am, that's correct.
- 10 Q. Okay. And, uhm, now, you said you had a daughter
- 11 Lexi?
- 12 A. Yes, ma'am. Her actual name is Alexis but we call
- 13 her Lexi.
- 14 Q. Okay. And who is her mother?
- 15 A. Kimberly White.
- 16 Q. Okay. And before you were arrested, who had custody
- 17 of your child?
- 18 A. Uhm, I did.
- 19 Q. Who has custody of her now?
- 20 A. Uhm, my mother and father do.
- 21 Q. And so Kimberly White is the child's mother; is that
- 22 right?
- 23 A. That's correct. Yes, ma'am.
- 24 Q. When did y'all meet?
- 25 A. Uhm, I met Kimberly White when I was about 16 years

1 old.

2 Q. Okay. How did that relationship progress?

3 A. Well, uhm, to be honest with you she was really my
4 first real girlfriend I had been in a relationship with, uhm,
5 and things began to get intimate and she got pregnant.

6 Q. Okay. And then did you live together with her?

7 A. Yes, I did.

8 Q. Where did you live?

9 A. Uhm, we were staying at her mother's house in
10 Gaston.

11 Q. Okay. And at some point did you move into a mobile
12 home on your father's land?

13 A. Yes, ma'am. We did. Uhm, after Lexi was born, me
14 and her moved. My dad helped us get a trailer and me and her
15 lived together there with our daughter.

16 Q. Okay. And did you live there in 2008?

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

18 Q. And did you make any new friends when you were
19 living there?

20 A. Uhm, I wouldn't say that I made any new friends.
21 Uhm, I'd say that we actually talked my father into renting
22 the trailer out from our trailer to her best friend from high
23 school Jessica Gardner.

24 Q. To Kim's best friend?

25 A. Yes. Kim's best friend from high school. Yes,

1 ma'am.

2 Q. Did somebody move in with Jessica Gardner?

3 A. Yes. She, uhm, she ended up, she was dating a guy
4 Nick Williams, uhm, and he did move in with her. He was
5 living with her in front of our trailer. I, uhm, wouldn't say
6 we were friends, but I did over a period of several weeks
7 contact I made with Jessica and her father, I did, uhm, I was
8 introduced to Nick and I did meet him.

9 Q. Okay. And then what happened that enabled you to
10 get to know Nick better?

11 A. Well, I, uhm, I got home from work one afternoon
12 and, uhm, as I pulled in my driveway, Nick was sitting on the
13 back porch and, uhm, I noticed him. As I exited my vehicle I
14 noticed there was clothes thrown all over the yard and, uhm,
15 there was a black duffel bag and he was crying.

16 Q. Okay. And then what happened?

17 A. Uhm, I approached him. I asked him, you know, what
18 the problem was, what was going on and, uhm, he kept crying.
19 He told me that Jessica had kicked him out of the trailer.
20 He, uhm, had no place to go. He didn't have no family. His
21 family, his mom and dad lived in Florida.

22 Q. Let me ask you just to move back a little bit from
23 the microphone.

24 A. Yes, ma'am.

25 Q. So you allowed Nick to move in with you?

1 A. Yes. I, uhm, after the conversation I had with Nick
2 I, uhm, felt like I had an opportunity to help him and, uhm,
3 help him get back on his feet and be a positive influence in
4 his life so I, uhm, had a spare bedroom and I offered him a
5 place to live. I told him that I would try to help him get
6 work. I told him, you know, I didn't have any problem if he
7 needed money for cigarettes, food, whatever, I told him I
8 would try to support him as much as I could.

9 Q. Okay. And, uhm, what happened -- Uhm, let me ask
10 you this: Was anybody else living in that trailer at any time
11 in 2008?

12 A. You're referring to my trailer or Jessica Gardner's
13 trailer?

14 Q. I'm sorry. The trailer that you allowed Nick to
15 move into.

16 A. Okay. Uhm, her, uhm, Kim has two younger brothers
17 James and William. I believe one of them was living with me
18 full-time and one of them was there part-time.

19 Q. So what happened that changed your relationship with
20 Nick?

21 A. Well, uhm, over a period of a couple weeks, uhm, me
22 and Kim were engaged. I had proposed to her and I did want to
23 marry her, uhm, and, uhm, as the weeks went by I began to
24 notice, uhm, the way Kim and Nick would look at each other,
25 uhm, the way their conversation was. Nick seemed to have a

1 better relationship with my fiancée than I did and my gut
2 instinct told me that something was going on between them and,
3 uhm, I kind of put it to the side for my daughter but, you
4 know, Kim's little brother James, he pretty much came out one
5 day and he told me exactly --

6 MR. GRAHAM: Objection. Hearsay.

7 THE COURT: Sustained as to any hearsay.

8 BY MS. CLEARY:

9 Q. Okay. So, uhm, at some point it was obvious that
10 Nick and Kim were having a relationship, right?

11 A. Yes, ma'am.

12 Q. Okay. And, uhm, had he had any other impact on
13 Kim's life that you could observe?

14 A. Uhm, referring to the time that he was staying with
15 me and Kim?

16 Q. Yes.

17 A. Uhm, I mean, he did not take me up on any offer to
18 get him any work. He, uhm, I guess become accustomed to me
19 supporting him and he was very manipulative and I guess he
20 caught onto what was going on and he used it to his advantage
21 to live off me and want me to support him while he just lived
22 off everything that I provided.

23 Q. And he was also sleeping with your fiancée at that
24 point?

25 A. Yes. He was. If there was ever any time a reason

1 that I wasn't around, a sexual relationship did go on if I
2 wasn't around several times.

3 Q. Okay. And so eventually you moved out of the
4 trailer?

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

6 Q. Okay. And where did Kim and Nick live then if you
7 know?

8 A. Uhm, I found out at a later date they had, they, Kim
9 and Nick had -- Or excuse me. Let me rephrase this. Kim had
10 actually left with him and my daughter. The only vehicle we
11 had she also took that. They ended up I believe at first
12 staying with Nick's uncle which I had no idea he had an uncle
13 to begin with. Uhm, they were there for a short time and,
14 uhm, Kim's mother Brenda was renting an apartment, uhm, in
15 Lexington, but it was, the lease was actually in Kim's name
16 and I believe Kim forced her mother out of her own home so
17 that her and Nick could stay there and her little brothers.

18 Q. Okay. Uhm, and then at some point did, uhm, your
19 parents buy or --

20 A. Yes. Shortly after they were staying at the
21 apartments in Lexington they got an eviction notice. Of
22 course, they weren't paying rent, uhm, and they were,
23 basically they had my daughter running the streets staying
24 from house to house wherever they could find a place to live
25 at is where my daughter was sleeping. And my parents felt

1 that, you know, that that was wrong and they wanted Lexi to
2 have a stable home so they did purchase a trailer off of 1057
3 on Lawrence Drive and that's off of Platt Springs in
4 Lexington, South Carolina.

5 Q. Okay. So in August of 2010, uhm, did you go to the
6 Lexington County family court in relation to Lexi?

7 A. Yes. We, uhm, me and my parents, we went and got a
8 lawyer and, uhm --

9 MR. GRAHAM: Objection, Your Honor. Relevance to
10 this line of questioning.

11 THE COURT: I would have to sustain. I don't know
12 where this is going. It doesn't appear to be relevant to
13 the issues in this case.

14 BY MS. CLEARY:

15 Q. Okay. So back to your relationship with Kim and
16 Nick. Did you and Kim after she, uhm, moved in with Nick and
17 was with him, did you continue to have any sort of
18 relationship with her?

19 A. I had, uhm, after I got custody of our child, I
20 pretty much stayed away and didn't really have too much
21 contact, uhm, other than, you know, she would call to talk to
22 our daughter and after Lexi would get off the phone with her,
23 Lexi would come to me, hand me the phone and say, dad, mama
24 wants to talk to you for a minute and I did begin speaking to
25 her on occasion from time to time.

1 Q. Okay. So you were still in love with Kim in July of
2 2012?

3 A. Yes, ma'am.

4 Q. Okay. Well, let's move to what happened on the
5 night of July 27th before the victim was murdered. If I could
6 get you to tell the jury, uhm, where were you living at that
7 point?

8 A. At that point in time I was staying at, I was living
9 with my mom and dad and Lexi. At that time I was living with
10 my mother and father and Alexis.

11 Q. Okay. And this is in July of 2012?

12 A. Oh, July of 2012?

13 Q. Sorry.

14 A. I'm sorry. I apologize. July of 2012 I was staying
15 with Kimberly's mother Brenda.

16 Q. Okay. And how long had you been staying there?

17 A. I had been staying there for, uhm, a couple months.
18 I believe it was May, May of 2012 I started staying there so
19 about three months.

20 Q. Okay. All right. But you're not exactly sure?

21 A. I'm not exactly positive.

22 Q. All right. And who else lived there?

23 A. Uhm, of course, Brenda White lived there, Michelle
24 Webb and me.

25 Q. And what was the address, if you know it, what was

1 the address of that apartment?

2 A. The address was [REDACTED], I believe.

3 Q. Okay. And so what happened in the evening, the
4 nighttime of July 27th, 2012?

5 A. Uhm, I - I remember that evening, uhm, Michelle and
6 a good friend of hers Mike, they were, uhm, she - she -- I'm
7 sorry. I can't say she. They were going out to party
8 somewhere that night. They were going out to a little bar
9 and, uhm, Michelle asked me several times if I wanted to come
10 and I told her no. I didn't really have the money to spend,
11 the money to blow and I was just gonna stay at the house and
12 just, uhm, take it easy that night, relax.

13 Q. Okay. I know it's difficult. I'm going to ask you
14 to try not to say what other people said.

15 A. Yes, ma'am. Sorry. I apologize.

16 Q. That's fine. I know. So what time did you go to
17 sleep, if you remember?

18 A. I guess sometime between 10:00 and midnight.

19 Q. Okay. And was Michelle there?

20 A. No. Uhm, Michelle had left earlier that evening
21 with Mike. She wasn't there when I went to sleep.

22 Q. And how were you awoken on the morning of July 28th,
23 2012?

24 A. Uhm, I finally -- I did wake up to my cell phone
25 ringing and it was actually, when I looked on the phone, it

1 was a jail phone call so I did answer the phone. It was
2 Kimberly White, the mother of my child.

3 Q. You have had a chance to review your phone records
4 that were admitted into evidence; is that correct?

5 A. Yes, ma'am. That is correct.

6 Q. And you admit that those appear to be your records?
7 That was your phone number?

8 A. Yes, ma'am. It was 803-800-0649, if I'm not
9 mistaken.

10 Q. Okay. And from looking at those phone records do
11 you remember what time it was that she started calling you?
12 You can estimate.

13 A. I want to say, I'll give you a close estimate, 4:00.
14 4:00 a.m. 4:00 in the morning.

15 Q. Okay. And you learned, uhm, through the course of
16 those conversations, and I believe we heard Mr. Williams
17 testify to this earlier that she had been picked up on a bond
18 violation?

19 A. Yes, ma'am. That's correct.

20 Q. And, uhm, so as a result of her -- And from looking
21 at the phone records, how many times did she call you? And
22 we'll go over that if you don't remember.

23 A. Yeah. I don't remember the exact number, but I
24 remember she repeatedly called. She called several times.

25 Q. Okay. And then did somebody else call you as

1 well?

2 A. Yes. Nick. Nick did call, I believe, a while after
3 I spoke with Kim.

4 Q. Okay. So after you talked to Kim, did you
5 immediately -- What did you do then? Did you get up?

6 A. No. Actually after I got off the phone with Kim,
7 uhm, I just went right back to sleep. I wasn't real concerned
8 with going to pick up Nick. I wasn't really too worried about
9 him. You know, if he was in trouble, then that's on him. I
10 did go back to sleep. But I did talk to Kim on the phone and,
11 uhm, she, uhm, she broke down to me that her car was where her
12 and Nick were we're staying at at the time which, you know,
13 her and Nick always kept it hidden, the places that they were
14 staying at so me and Brenda, if Kim would ever call and want
15 to get away from Nick or want to be picked up, it was always
16 made sure that it was a big secret and if she wanted to get
17 away, that there was no way that anybody could have contact
18 with her. Uhm --

19 Q. Okay. So as a result of your phone call with Kim,
20 uhm, you eventually left the house. Why did you do that?

21 A. I - I eventually left the house, uhm, whenever I was
22 speaking to Kim, she did mention to me that --

23 MR. GRAHAM: Objection. Hearsay.

24 THE COURT: Sustained as to what was said.

25 BY MS. CLEARY:

1 Q. What did you do as a result of your phone call or
2 after the phone call, because of the phone call?

3 A. After the phone call, as I said, I actually went
4 back to sleep. I was then awakened maybe 30 minutes to an
5 hour later by Brenda. She came and woke me up. I was asleep
6 and she was begging me to talk to --

7 MR. GRAHAM: Objection. Hearsay.

8 MS. CLEARY: Your Honor, may we approach just
9 briefly or I can just --

10 THE COURT: Yeah.

11 MS. CLEARY: I don't believe it's to assert the
12 truth of the matter. We're not trying to show that the
13 things that she said are true, but just his response to
14 them and why he did what he did.

15 THE COURT: All right. I'll allow it.

16 BY MS. CLEARY:

17 Q. Okay. I still need you to be real careful when
18 answering.

19 A. Yes, ma'am. I'm sorry. Again I apologize.

20 Q. And I know it's very hard to do it this way.

21 A. Yes, ma'am.

22 Q. Okay. So what had -- What, if anything, had Kim
23 said to you that made you want to go pick up Nick?

24 A. The whole reason that I actually decided to go get
25 Nick is that she asked me if I would please get her car.

1 That, uhm, that was the last thing that she had left and she
2 knew that while she was in jail, if she wasn't out there to
3 get Nick money, that he would sell her car and I --

4 Q. Okay.

5 A. Kim had lost everything she had to Nick several
6 times and this is the last thing she had and if there was
7 something that I could do to help preserve (sic) him from
8 taking the last thing she had again, then I would make my best
9 effort to make that happen.

10 Q. Okay. And you heard Mr. Williams' testimony earlier
11 where he admitted that he had gotten her hooked on drugs. Was
12 that your understanding as well? And when I say drugs, I mean
13 drugs that you use intravenously.

14 A. Yes.

15 Q. Pills, roxies.

16 A. Nick actually introduced her to a life of shooting
17 up drugs from, ranging from heroin to cooking methamphetamine,
18 shooting methamphetamine to shooting any kind of pills that
19 were similar to heroin. And my perception was that she
20 actually became more addicted to the use of the needle and
21 using the needle than it was the drugs themselves. She became
22 addicted to the needle and when he first introduced this to
23 her, she couldn't shoot herself up and so I guess it was
24 always she had to go back to Nick in order to get high or in
25 order to be normal. So after he used her and got her hooked

1 on these drugs, he was the only one that could provide these
2 drugs to her through a needle because she couldn't do it
3 herself. He was very smooth. I guess had the hand of a
4 doctor and had, I guess, a lot of experience with doing
5 that.

6 Q. And you heard his testimony earlier that he was her
7 pimp. Did you understand that to be the case as well?

8 A. Yes, ma'am. I did. Uhm, I remember after getting
9 custody of Alexis, I - I knew Kim's phone number at the time
10 and I had overheard a conversation about Back Page and me and
11 my mom, I had my mom, I was looking up Back Page on the
12 computer and I knew the area of the hotels that they were
13 staying in, Bush River, uhm --

14 Q. Let me interrupt you. What is your understanding of
15 what Back Page is?

16 A. Uhm, Back Page is a website on Internet that you can
17 access, uhm, you can access certain cities, locations and
18 streets. I guess it breaks down each selection that you make
19 and it's a large list of women that are soliciting
20 themselves. It posts their pictures, their prices and what
21 they are offering.

22 Q. What did you determine from looking at the Back
23 Page?

24 A. I actually went through there and I looked at the
25 places that Kim and Nick had been staying at and I eventually

1 found Kim's phone number listed on there, but it was under the
2 name of Brittany and I actually clicked on it and pulled up
3 the page and there were no pictures of the face, but I had
4 been with Kim for a long time and I could recognize the
5 pictures of her body that were posted there along with her
6 phone number so that, you know, I guess Nick, they had worked
7 together on posting ads under the name of Brittany with their
8 phone number for Kim to solicit herself.

9 Q. All right. And you heard testimony earlier from
10 Nick that Kim had, or that he needed to get out of the Old
11 Orangeburg Road house that he was staying at because the
12 bondsmen had come gotten her and they were worried about the
13 police coming to the meth house, right?

14 A. Yes. They, uhm, the bondsmen came into the home
15 with some weapons. They came and got Kim and while they were
16 there, they smelled a distinct odor of methamphetamine, saw
17 paraphernalia laying around the trailer.

18 Q. Okay. And I'm going to ask you not to testify to
19 anything that you don't have personal knowledge of. So I will
20 just warn you of that, okay?

21 A. Okay.

22 Q. So what did you say when you talked to Nick on the
23 phone? What did you say to Nick?

24 A. I had a conversation with Nick and I told him that I
25 would come pick him up, but the stipulations of that were that

1 I needed to make sure that he had money for gas, uhm, and I
2 wanted him to give me a little bit of money for my time and
3 the third stipulation was that I had to have the keys to Kim's
4 car because that would be the only reason for me to even to go
5 pick him up in the first place was to make sure I could get
6 Kim's car.

7 Q. All right. I may have missed over this, but at some
8 point earlier did you begin taking, illegally using drugs like
9 these pain pills, doing drugs beyond say marijuana?

10 A. Yes, ma'am. I did begin harder drugs with Kim and
11 there was a constant - there was always a struggle whenever I
12 tried to put my family back together. I just -- After I had
13 gotten my daughter back, I had every, every piece to the
14 puzzle except Kim. She was the only missing piece to me
15 having my family back and I was under the impression when she
16 would come to me, she would leave go back to Nick. The reason
17 she was leaving to go back to Nick was because of their shared
18 drug use and me and her didn't have that type of connection
19 and I was just so tired of her leaving that I figured that if
20 I began to use drugs with her, that she would stay with me and
21 we could use the drugs together and I would be able to work
22 through that rather than her constantly leaving and going back
23 to Nick and using drugs.

24 Q. Do you remember about when you started using those
25 drugs?

1 A. This was when I was staying with Brenda right before
2 she moved to the apartment on, an apartment in Quail Hollow so
3 it would be a couple months into July 2012. I mean a couple
4 months into 2012. I'm sorry.

5 Q. So maybe February of 2012?

6 A. January, February 2012. Yes, ma'am.

7 Q. Okay. All right. So going back to the morning, you
8 know from your own personal knowledge what time it was when
9 you left to pick up Nick?

10 A. No, ma'am. I can't give you a positive time when I
11 left.

12 Q. That's fine. But do you remember whether it was
13 dark or light?

14 A. It was still dark outside when I left, yes, ma'am.

15 Q. Okay. And whose car -- Or I assume you picked him
16 up in a car. What car did you use to pick up Nick?

17 A. I, uhm, before I left that morning, I actually went
18 and asked Michelle if I could use her car. I did own a
19 vehicle. I had a, uhm, four wheel drive pickup, had big mud
20 tires and it was a gas hog and the water pump was going out so
21 it was kind of aggravating. You had to fill up the radiator
22 with water, carry a couple jugs of water in the back of the
23 truck. Her car was much better on gas. It would save me a
24 lot of time and be a lot easier to use her car and, uhm, she
25 never had a problem with me using her car so I decided to use

1 her car to save on gas and time.

2 Q. Approximately how long have you known Michelle
3 Webb?

4 A. Uhm, I met Michelle Webb at the same time that I met
5 Kimberly White when I was 16 years old. They were best
6 friends.

7 Q. Okay. So were you friends with her, Michelle?

8 A. Yes, ma'am. I was.

9 Q. How many times, if you now, in approximation, how
10 many times had you used her car in the past?

11 A. I would say I would use her car several times every
12 week.

13 Q. Okay. All right. So then you left the home on
14 Feather Run Trail and went to go pick up Nick. Where was
15 he?

16 A. I was given the address of [REDACTED] and
17 this is the first time that we actually discovered the address
18 to one of these hideouts that Kim and Nick were staying at.
19 That's where I proceeded to head after I left the apartment.

20 Q. So Nick gave you the address so you could come pick
21 him up?

22 A. Kim did. Kim gave me the address to the apartment.
23 I mean to the trailer off of Old Orangeburg.

24 Q. Okay. What did you find when you arrived there?

25 A. Well, I remember before as I got on old Orangeburg I

1 was actually looking for the trailer and, uhm, I couldn't find
2 the address 1551 on the mailbox anywhere or anything so I
3 actually turned around and I remember driving up and down the
4 road several times. I had to call Nick and he finally told me
5 that he was in the backyard with a flashlight. He described
6 the trailer a little bit more. Said it was back off the road.
7 And I believe after two passes I actually saw him in the
8 backyard with a flashlight, waving a flashlight around.

9 Q. And what was he doing in the backyard?

10 A. As I pulled in he was taking some of his stuff out
11 of Kim's car.

12 Q. Then what did you do?

13 A. I, uhm, pulled up. I, uhm, I then went to the car
14 and I got Kim's purses.

15 Q. Which car?

16 A. This is the green Honda that Kim had that was on -
17 actually they had taken the water pump off the car so it was
18 in the backyard at 1551 and it had all of Kim and Nick's
19 belongings. They pretty much lived out of whatever vehicle
20 they were in. But, uhm, I got two of her purses and she had a
21 small black plastic bag and that was all of the personal stuff
22 that, uhm, I retrieved from her car for her so after I met
23 with my dad and actually towed her car whenever she got out of
24 jail, she wouldn't have to travel very far to get her stuff.

25 Q. And you still loved Kim at this point?

1 A. Yes, ma'am.

2 Q. All right. So where did you go or what happened
3 next?

4 A. Uhm, after - after I put Kim's stuff in the car,
5 Nick put his belongings in the car. It was the understanding
6 that, you know, he had to leave this trailer because it was
7 going to be raided and he had to have somewhere to stay so I'm
8 assuming that's why he grabbed all the stuff that belonged to
9 him because he would not be returning back to this place. I,
10 uhm, I asked him where he was going and he stated that he was
11 going out to, uhm, stay in Gilbert.

12 Q. All right. And what did, if you can remember, what
13 exactly, what did Nick have with him in what sort of bags?

14 A. Nick had a green backpack that was his usual carry
15 around item and he also had a black duffel bag that I believe
16 is the same duffel bag that he had in 2008 whenever he moved
17 into my home in Gaston. He's had this black duffel bag for
18 years. It was approximately about four foot, zippers on the
19 sides, a U zipper in the middle and a shoulder strap.

20 Q. Okay. All right. So he puts the backpack -- What
21 did he do with the stuff that he was taking with him?

22 A. He, uhm, put everything in the back seat of the car.
23 I had Kim's stuff I guess sitting behind the driver's seat.
24 His stuff was sitting behind the passenger seat. He, uhm,
25 I remember after we got in the car on the ride, he actually

1 pulled the green backpack out and he showed me a Nintendo DS,
2 some games.. He had a camcorder and some other small
3 electrical appliances that he said he had stolen.

4 Q. I don't want you to testify to anything he said.

5 A. Sorry. Apologize again.

6 Q. That's fine.

7 A. He, uhm, he had some, some small, several small
8 electronic appliances. A camcorder, a Nintendo DS and some
9 small things. He also proceeded to show me, he had a driver's
10 license, a check or a checkbook. I'm sorry. And a set of
11 keys, car keys to a BMW and he had, him and Kim were actually
12 at a person's house and I guess they had stolen these items
13 from there and he --

14 MR. GRAHAM: Objection. Hearsay, Your Honor.

15 THE COURT: Sustained.

16 BY MS. CLEARY:

17 Q. Okay. Let's move on from that. Let me ask you, as
18 far as, you saw the checkbook personally, correct?

19 A. Yes, ma'am. I did. I saw all the items with my own
20 eyes.

21 Q. Whose name was on it?

22 A. I have no idea the name that was on the checkbook.
23 I didn't even get a close enough look at the driver's license
24 to notice the name on it.

25 Q. Was it Nick Williams' checkbook?

1 A. No, ma'am.

2 Q. How do you know that?

3 A. I have never known Nick to have any kind of checking
4 account whatsoever.

5 Q. Okay. All right. Okay. So you drive out to
6 Gilbert. Then what happened?

7 A. Uhm, we arrived. Well, on the way there Nick seemed
8 to not know exactly where he was going. He, uhm, had me stop
9 at the store, a gas station in Gilbert. He went inside and
10 asked directions and after we left there, he still wasn't sure
11 where he was going and I stopped again at BP. It was near the
12 44. I can't remember exactly that road, but there was a guy
13 standing outside. Nick rolled the window down and asked him
14 directions to get to a certain road and I can't remember what
15 the man's response was but, uhm, Nick proceeded to give me
16 directions again where to turn. We went down the road and
17 turned by 44. We ended up at a trailer that was on the corner
18 of the main road and a dirt road. It was a single wide
19 trailer. When we pulled up, there was --

20 Q. Wait a minute. Had you ever been to this trailer
21 before?

22 A. No, ma'am. I had not.

23 Q. All right. And at this point was it dark or was it
24 light?

25 A. It was still dark outside.

1 Q. Do you know from your personal knowledge what time
2 it was at that time?

3 A. I have no idea. I can't give you an exact time.

4 Q. Okay. That's fine. Go ahead. I'm sorry. You were
5 saying you saw a single wide mobile home?

6 A. Yes, ma'am. He told me to pull in. I believe it's
7 the -- I'm sorry. Excuse me. We pulled in and I pulled up by
8 the back porch. I noticed a, I want to say a late model it
9 was either a Ford Taurus or a Mercury Sable and there was an
10 older white pickup in the yard also.

11 Q. Okay. What happened when you arrived?

12 A. When we got there and Nick got out of the car, he,
13 uhm, went up to the trailer, knocked on the door. I assumed
14 there was nobody there. No answer. He came back to the car
15 and we left.

16 Q. Okay. So then what happened?

17 A. Uhm, well, from there it was, the whole reason me
18 getting Nick in the first place was he was supposed to be
19 going somewhere to stay. He didn't have any place to stay.
20 The only other place that he was going to be able to stay at
21 at the time was James White and Amanda Anderson's trailer and
22 so that's where I headed to.

23 Q. And again who is James White?

24 A. James White is Kimberly White's younger brother.

25 Q. Okay. And he had lived with you in the trailer I

1 think you earlier testified?

2 A. Yes.

3 Q. And Nick was there, too, so they all knew each
4 other?

5 A. Yes. Everybody was well acquainted, yes, ma'am.

6 Q. All right. So did you arrive at 1750 Two Notch
7 Road?

8 A. Yes, ma'am. We did.

9 Q. And what happened?

10 A. Whenever we pulled up there, I noticed Vanessa's car
11 was in the drive. I can't remember exactly whether William
12 and Vanessa were in the car or whether they were out of the
13 car. I remember Amanda Anderson was out on the porch. I,
14 uhm, did speak with her and I asked her, you know, uhm, was
15 James in town, out of town. What was his work situation.
16 And, uhm, James was not in town. He was out of town working
17 at the time and I just had a discussion with her whether it
18 was going to be all right if Nick stayed over there while
19 James was not home.

20 Q. Okay. Where was Nick at this time?

21 A. I believe Nick was --

22 Q. I mean, if you know from your own personal
23 knowledge.

24 A. Uhm, I believe at the time I was talking to Amanda
25 Nick was talking to William and Vanessa.

1 Q. And where would that be?

2 A. Uhm, that would have been outside in the front yard
3 somewhere around Vanessa's vehicle.

4 Q. Okay. And then what happened?

5 A. Uhm, from there Nick then asked if we could follow
6 William and Vanessa to their trailer.

7 Q. What was your understanding as to why you were going
8 there?

9 A. Uhm, my understanding of going over there, uhm, was
10 that William - William had \$10.00 that he wanted to give Nick
11 and also, uhm, also went over there to get a small bud, a
12 piece of marijuana to roll a joint or smoke something that
13 morning.

14 Q. So where did you go next? And this is -- I'm sorry.
15 Who is in the car when you left Two Notch Road?

16 A. Uhm --

17 Q. I'm sorry. Who was in Michelle Webb's car that you
18 were driving?

19 A. In Michelle Webb's car was me and Nick.

20 Q. Okay. And then just you and Nick. So where did you
21 go?

22 A. From there we went to [REDACTED].

23 Q. Who lives there?

24 A. That was actually where Vanessa's mother and Kim's
25 father were living at the time and William and Vanessa also

1 had a bedroom in that trailer. They lived there at the same
2 time also.

3 Q. That's William White who testified earlier?

4 A. William White. Yes, ma'am. Vanessa Dinkins.

5 Q. What happened when you got there?

6 A. Uhm, when we pulled up, we got there. I went inside
7 and I spoke with William for a minute. I got the \$10.00 from
8 him. He was reluctant to give the money to Nick, uhm, without
9 having the pill because obviously Nick could easily have kept
10 the money and not given him anything and, uhm, he did give me
11 a small bud of marijuana which we went outside and smoked.

12 Q. And where was Nick at this point?

13 A. Uhm, I believe Nick was outside. I can't say that
14 he was in the car or out of the car. I don't - I don't
15 believe he was in the car, but he, Nick wasn't allowed to come
16 into the trailer. Uhm, anybody that knows Nick and knows us,
17 he's pretty much off limits to being around anybody's personal
18 belongings because any chance he gets to be around somebody's
19 stuff, anything of value that he sees he can and will steal it
20 right behind your back without you even knowing.

21 Q. About how long were you there at the Sharon Church
22 Road?

23 A. Maybe five minutes. It wasn't long at all.

24 Q. Where did you go next?

25 A. From there, uhm, we went back and Nick asked to go

1 back to the trailer in Gilbert. I believe he told me that he
2 had been getting some pills there from the guy for -- Excuse
3 me. I'm sorry. I shouldn't say that. Him and Kim were
4 getting pills from a guy, from the guy in Gilbert whenever
5 they couldn't get access to any heroin and, uhm, he had told
6 me that they had been buying pills for \$15.00 apiece. I
7 believe he was actually getting them cheaper than that and
8 charging people a little bit more. He was making a profit off
9 of going out there and getting the drugs.

10 Q. And did you know what sort of pills he was
11 getting?

12 A. Yes, ma'am. He said they were getting 30 milligram
13 roxycontins.

14 Q. If you know, what was the usual price for those?

15 A. Uhm, the usual price was \$15.00. Uhm, if you wanted
16 to make money, you charged somebody some extra, maybe \$20.00.
17 Uhm, if you get a good deal on them, you pay \$10.00 apiece
18 which, uhm, I believe William didn't have much money at the
19 time so Nick, I guess Nick told him that -- Excuse me. Nick
20 was getting them -- Nick was in all actuality getting them for
21 \$10.00 apiece so...

22 Q. Okay. So you went back to the trailer in Gilbert?

23 A. Yes, ma'am. Uhm --

24 Q. Was it daylight?

25 A. Yes. The sun had came out. , It was starting to get

1 daylight whenever we arrived there the second time.

2 Q. All right. What happened when you got there?

3 A. When we got there the second time, I pulled up the
4 same exact spot as before. I didn't notice anything
5 different. Same vehicles. Everything still looked the same.
6 Nick, uhm, got out of the car. This time he took his black
7 duffel bag, uhm, to the porch with him.

8 Q. Did you think anything about it when you saw him do
9 that?

10 A. Well, when we had went there the first time, there
11 was no answer. I, you know, Amanda was not real positive
12 about him staying at her house without James being there.
13 That probably would cause problems between them so I was kind
14 of lead to, it kind of made me believe that he was going
15 there to, this is where he was staying at.

16 Q. Okay. All right. So what happened then when he
17 went up to the door?

18 A. Uhm, he then went into the house. I can't say that
19 I saw him knock on the door and I don't remember seeing
20 anybody come to the door but, uhm, I - I can't sit here and
21 say that somebody didn't come to the door either.

22 Q. Then what happened?

23 A. Uhm, I was probably out - I was outside in the car.
24 I believe I was listening to the radio or something. I was
25 out there maybe five or ten minutes. It wasn't an extended

1 period of time. It wasn't very long at all. Nick came back
2 out of the trailer. When he came out of the trailer, he
3 actually walked to the white pickup that was in the yard and
4 he placed his duffel bag in the back of the truck and he
5 proceeded to get inside the truck and I noticed him crank it
6 up. He had backed the truck up maybe four or five feet. I
7 actually stepped out of Michelle Webb's car and threw my hands
8 up at him. I believe the passenger side window was cracked.
9 And I was like, hey, man, what's going on? And he was like,
10 don't worry about it. Just follow me. And I told him, I was
11 like, look, I'm not getting involved with that. If you're
12 going with me, you need to get whatever you're gonna get
13 William, and he proceeded to pull the truck back up in the
14 same exact spot where it was at. He got out of the truck. He
15 grabbed his duffel bag and got back in Michelle Webb's car.

16 Q. What happened then?

17 A. From there I asked him what his plans were, you
18 know. What was going on with him getting his pickup. He said
19 that he knew a chop shop in Gaston where he could take the
20 truck to and get money and --

21 Q. Okay. I'll ask you not to say what Nick said.

22 A. I'm sorry. I apologize.

23 Q. That's fine. Okay. So then what happened next?

24 A. Uhm, from there I was pretty much kind of pissed
25 off. I was tired of giving him a ride. He had pretty much

1 been using me to give him a ride here, a ride there. I was
2 ready to go see my daughter. Michelle Webb I'm sure was
3 expecting her car to be back.

4 Q. Had you gotten any money for gas at that point?

5 A. No. Uhm, I did not get - I had not had any money
6 for gas. Nick, I - I did ask him and he tried to act like he
7 spent all the money that he had on pills. So I told him,
8 well, if you're not gonna pay me for coming to give you a
9 ride, I said if you want to just give me a couple pills,
10 that's fine.

11 Q. And so did he do that?

12 A. Yes. He, uhm, he gave me two. He gave me two
13 roxies and he also gave me another roxie to give to William.
14 He gave me three pills.

15 Q. Okay. So what happened after you left?

16 A. After we left from there, I was pretty much tired.
17 I told him I was done. I'm going back to Brenda's house.
18 Michelle is getting her car back and wherever you're going,
19 you can decide to go from there. I'm not having anymore to do
20 with it. It's pretty much a done deal. We're going back to
21 Brenda's house and you can take it from there whatever
22 you want to do. I tried. I'm not doing anymore.

23 Q. Had you gotten the car keys from him for Kim's
24 vehicle?

25 A. No. I still had not gotten the keys to Kim's car

1 yet.

2 Q. All right. So what happened when you went to
3 Brenda's apartment?

4 A. I went to Brenda's apartment. Uhm, I grabbed Kim's
5 stuff out of the back seat and I proceeded and I went inside.
6 I took, uhm, Kim's purses, small black plastic bag back to the
7 bedroom that I had been staying in and, uhm, I set her stuff
8 down in there. I actually saw Lexi in there playing with
9 Michelle. I can't remember exactly what they were doing.
10 Maybe on the laptop, watching TV. Uhm, I just went up and
11 gave my baby girl a big hug. Asked her how she had been
12 doing. She was, uhm, over for the weekend. I spoke with
13 Michelle a little bit.

14 Uhm, it was ten minutes later Nick, uhm, came
15 knocking on the door. Said that he wanted to speak to Brenda.
16 I guess he had the perception that he was going to be able to
17 stay at Brenda's house if he went and talked to her. He came
18 in. Nick came inside the apartment. He walked back to
19 Brenda's bedroom. Before he got to Brenda's bedroom, he
20 dropped his bag off in Michelle Webb's bedroom. Uhm, he went
21 back there and talked to Brenda. He wasn't back there long at
22 all and he didn't really say anything. He had his head down.
23 I believe he may have been crying again. Uhm, it was apparent
24 that he didn't have anywhere to go.

25 He, uhm, he went back outside and, uhm, was sitting

1 out on the porch. I asked him about some gas money. I had
2 called my dad and told him that I needed - I asked him what
3 time he would be able to meet me over near Platt Springs Road.
4 I told him I needed to get Kim's car and, uhm, put it on a
5 piece of his property in Gaston so, uhm, she would still have
6 it whenever she got out of jail and, uhm, I believe he was
7 around that area. He wasn't very far off and, uhm, I believe
8 he was meeting me in an hour, something like that and, uhm, I
9 asked Nick, you know, for the gas money to put in Michelle's
10 car. I was planning on using her car again to go meet my dad
11 and he said that he had spent all the cash he had and, uhm, he
12 asked me if I would take him to the pawnshop.

13 Q. I'm sorry. "He", you're referring to Nick
14 Williams?

15 A. Yes. I'm. I'm sorry. Uhm, I asked Nick if he had
16 money for gas and we proceeded to the pawnshop so he could
17 pawn something to give me a little bit of money for gas.

18 Q. And do you know if he was able to pawn anything?

19 A. We went to, actually went to two pawnshops. The
20 first pawnshop we went to, he went in there and asked them how
21 much they would give him for he had a Nintendo DS in his
22 backpack. He had, uhm, the camcorder and I think some small
23 games. They tested the Nintendo DS and actually some of it
24 wasn't working. After the game loaded, it wouldn't proceed to
25 play anymore. They tried the camcorder and he didn't have a

1 charger for it. It couldn't cut on and, uhm, we left that
2 pawnshop and went to one several blocks down the street. We
3 went in there. Again he tried to take the same things in
4 there and they wouldn't accept those. He then went out to the
5 car. He had a small air compressor that he got out of the
6 trunk of the car and they actually gave him 25 or \$30.00 for
7 it, and after we left there, he put half of that in the gas
8 tank of Michelle's car, somewhere between 12 and \$15.00.

9 Q. Do you have any knowledge where he got that air
10 compressor from?

11 A. No, ma'am. I have no idea.

12 Q. Okay. So what happened after you went to the
13 pawnshop?

14 A. After we went to the pawnshop --

15 Q. Wait a minute. I want to go back. Did anything
16 happen between the time that you had left Brenda's house and
17 that you were out going to the pawnshops, the two different
18 ones? Did you receive any phone calls?

19 A. Uhm, there was a phone call. I'm not positive
20 whether the phone call came to my phone or whether it came to
21 Nick's phone, but I did - I remember I had a conversation with
22 Brenda and she told me that she found a gun in Nick's black
23 duffel bag that was inside the house and, you know, I asked
24 her what she thought was going on. She said that she wasn't
25 sure but...

1 MR. GRAHAM: Objection. Hearsay.

2 THE COURT: Sustained as to any hearsay.

3 BY THE WITNESS:

4 A. Again, I'm sorry.

5 BY MS. CLEARY:

6 Q. Okay.

7 A. I don't know where you want to go from there. I'm
8 sorry.

9 Q. Fine. I'm sorry. Give me one second. What did you
10 say to her about the gun?

11 A. Uhm, I asked Brenda, I asked her if the gun was
12 actually, you know, where Lexi could have got it and she said
13 yeah.

14 Q. I'm sorry. Don't say what she said.

15 A. I'm sorry. I'm sorry.

16 Q. So all right. So you talked to her about the gun.
17 Did you know anything about the gun she was referring to?

18 A. I had no idea. She didn't refer to a certain type
19 of gun. She didn't describe the gun in any type of way.

20 Q. What did she call it? A gun?

21 A. A gun. Yeah, a gun.

22 Q. Had you ever seen Mr. Williams carry that gun that
23 was introduced into evidence on Tuesday, the BB gun?

24 A. Uhm, I don't want to say I saw him with that
25 particular gun, but I have seen him with a BB gun before on

1 several occasions when he would get arrested so Kim wasn't
2 with him. She would end up coming around her mother's house.
3 All of Nick's belongings, his backpack, his black duffel bag
4 are in the trunk of Kim's car so as I'm cleaning up Kim's car,
5 vacuuming, doing the Windex, Armor All, you know, I would
6 clean out the trunk, there would be all kind of trash, junk
7 food everywhere in the car. Every time Nick got arrested I
8 would end up cleaning her car and I did go through his green
9 backpack and I have seen a BB gun in his belongings several
10 times.

11 Q. Do you remember seeing that gun on July 28th,
12 2012?

13 A. No, ma'am. I don't remember seeing any type of BB
14 gun on that date.

15 Q. Okay. So after you went to the two pawnshops, where
16 did you go?

17 A. After we went to the two pawnshops, after we left
18 the second one, we went back to Brenda White's apartment.

19 Q. And then what happened?

20 A. William White showed up at Brenda White's apartment.
21 Uhm, I had a conversation with Michelle, uhm, telling her that
22 I needed to meet my dad to get Kim's car and, uhm, she offered
23 to take me. She asked if I wanted her to drive me to go meet
24 my dad. I told her that would be fine.

25 Q. Okay. So she did that?

1 A. Yes. She did and, uhm, as we were leaving William
2 White had showed up to pick up Nick. I'm not sure who told
3 him to come there. But, uhm, as William and Nick were leaving
4 out the apartment, me and Michelle were walking out behind
5 him. As we got out to the front courtyard down the stairwell
6 and out to the actual grass area, uhm, they were about to
7 leave and I told Nick that I needed the keys to Kim's car and
8 as I tried to get the keys, uh, they were trying to withhold
9 the keys from me. I actually had to take --

10 Q. Who is "they"?

11 A. Uhm, William and Nick. I actually had to physically
12 by force take the green backpack from Nick and open the front
13 zipper and take Kim's car keys out of the bag because they
14 refused to give them to me and that was the whole purpose of
15 the whole reason that I was even going to begin with was to
16 make sure I could get Kim's car.

17 Q. All right. So did you -- You just testified a
18 moment ago that you arranged to meet your father down there at
19 the meth house?

20 A. Yes, ma'am.

21 Q. So when did you all go down there?

22 A. Shortly after I obtained the keys to Kim's car, me
23 and Michelle went back inside to let Brenda know what was
24 going on. Brenda was about to lay down for a nap. So Lexi
25 actually wanted to ride with us to go meet my dad over at Old

1 Orangeburg Road so the three of us left and went to Old
2 Orangeburg Road.

3 Q. I believe you testified earlier that there was a
4 trailer on that property. Did you go into the trailer when
5 you got there?

6 A. No, ma'am. That morning was the first time that I
7 ever had any knowledge of this address. The first time I had
8 ever been there. The second time we went there I - I - I had
9 never been - I had no intentions of going inside this
10 trailer.

11 Q. Okay. So your dad testified he towed away the
12 car?

13 A. Yes, ma'am. He did. Uhm, whenever me and Michelle
14 got there, uhm, Alexis had actually fallen asleep in the back
15 seat so Michelle had the car running, the radio on the whole
16 time. It was hot outside. Uhm, whenever we pulled up there,
17 I actually went over to Kim's car. They had taken the water
18 pump off the car and there was one or two wheels missing off
19 the front of the car and I can't remember the exact time
20 period, but we jacked the car up. I proceeded to put the two
21 front wheels on the car and a guy that was staying at the
22 trailer came out to talk to me and, uhm, I let him be known of
23 the situation that was going on. He was curious as to who I
24 was and what was going on. And I let him know that I was the
25 father of Kimberly White's child. That when she got arrested,

1 I was picking up her car so that nothing would happen to it,
2 to make sure it was there when she got out. Let him know that
3 my dad would be there with the trailer shortly after.

4 Q. Okay. All right. You heard the testimony about the
5 text messages and those are your text messages as far as you
6 can remember, right?

7 A. Yes, ma'am. That's correct.

8 Q. Okay. Do you remember the contents of the text
9 messages word-for-word? Would it help if I were to provide
10 the text messages for you to refresh your memory?

11 A. Yes. That would make it a lot clearer, yes, ma'am.

12 Q. Okay. I'm gonna hand you what's been marked and
13 admitted as State's exhibit 58 which is some of the text
14 messages from your phone for the end of the month of July.
15 Now, can you read these small numbers here if I sort of direct
16 you where to go?

17 A. Yes, ma'am.

18 Q. All right. If you could go to page 2 to the text
19 message sent on July 22nd, 2012. It looks like it's somebody
20 texting you. Can you read that for us?

21 A. Yes, ma'am. It was somebody sending me a text
22 message and it says "got any perc?"

23 Q. All right. And then if you go down toward the
24 bottom there, it looks like that conversation continues?

25 A. Yes, ma'am. It did.

1 Q. Okay. I'm gonna try to not have you read all this
2 because, of course, the jury can read it.

3 A. Yes. Of course.

4 Q. But do you see where you answer the question of
5 whether you had any perc?

6 A. Yes, ma'am. The response that I made to do you have
7 any perc was, "get some tonight or in the morning."

8 Q. Okay. And you also indicated that you would do a
9 return at Wal-Mart where you get cash.

10 A. Yes, ma'am. I also stated in my, when I sent that
11 text message that I can do a return at Wal-Mart.

12 Q. What does that mean?

13 A. Uhm, doing a return at Wal-Mart would be basically
14 having some items that were shoplifted from the store and then
15 you would go to customer service and return them and actually
16 receive a gift card for the items.

17 Q. So you would do that sometimes?

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

19 Q. Okay. On July 28th, all right, you see where if you
20 just start, just read that line there.

21 A. Uhm, this text message right here states "can you
22 sell some roxie 30's?"

23 Q. And 30's, what does the 30 refer to in there?

24 A. The roxie 30's, that refers to a 30 milligram of
25 Oxycodone pill.

1 Q. All right. And there was testimony earlier that --
2 All right. Okay. So did you eventually sell this person -- I
3 mean, no. I'm sorry. You asked her if she could sell some
4 roxie 30's, right?

5 A. That's correct. Yes, ma'am.

6 Q. Where had you gotten those pills?

7 A. Uhm, I had a couple pills that I had got from
8 Nicholas Williams on the morning of the 28th. I also added, I
9 see it mentions perc in here. I had, uhm, a couple scripts of
10 Percocets also.

11 Q. Okay. And do you remember how many Percocets you
12 got in your prescription?

13 A. Uhm, I know one of them was I believe a smaller
14 amount of 16. It was 16, 5 milligram 325's, but believe I
15 also had a initial prescription or a prescription thereafter.
16 I believe it was around 30.

17 Q. Okay. And that prescription for the 16 Percocet
18 that was previously introduced in State's exhibit 75, did you
19 see that, the items that were taken from Michelle Webb's car?
20 Would that be your prescription?

21 A. Uh, I actually did notice the manila folder and it
22 looked like the manila folder that I had received whenever it
23 had the prescription in there.

24 Q. Okay. So on July 28th why were you trying to sell
25 roxie 30's?

1 A. Uhm, I was probably trying to get a couple bucks to
2 put on Kim's canteen. She had been arrested. She didn't
3 have, you know, Nick obviously would not do anything for her
4 while she was locked up.

5 Q. Okay. So the day of July 28th did you go -- Let's
6 see. All right. When say "put money on Kim's canteen", what
7 does that mean?

8 A. Uhm, it means go to the actual Sheriff's Department,
9 the jail and insert some money in the inmate deposit
10 machine.

11 Q. So that the inmate can buy canteen items?

12 A. So that she can buy any kind of personal hygiene.
13 So she has some soap. So she has something to drink,
14 something to eat, shampoo, toothbrush, toothpaste. I mean,
15 any item that you would need.

16 Q. And do you remember exactly how much money you put
17 on her canteen?

18 A. I don't remember a exact amount. I'd say it was
19 somewhere close to \$35.00 that day.

20 Q. Okay. But you are not going to dispute if it's some
21 different amount when the records are looked at?

22 A. No.

23 Q. Okay. And did you also put some money on her
24 phone?

25 A. Yes. Uhm, me and Brenda had came to an agreement

1 and, uhm, I'm not sure what the exact payment process to her
2 was, but she did allow me to use her debit card. You have to
3 have a debit card to place money on a phone account and Brenda
4 let me use her use her debit card to put, I believe it was
5 approximately \$30.00 on the phone account.

6 Q. Okay. Do you remember sending a text on July 29th,
7 2012? Can you read that text from July 29th?

8 A. Yes, ma'am. Uhm, it says, "Man, I'm sorry. I had
9 my daughter. No one to watch her."

10 Q. This is from you, correct?

11 A. Yes. That's correct. This is from me.

12 Q. Okay. Go ahead.

13 A. "I'm really sorry. I really need you to find
14 someone to buy two pills. I need money on the phone for Kim
15 and I'll look out."

16 Q. Okay. If you could read this text message from
17 7/30/2012.

18 A. Uhm, this text message reads, "Hey, man, this is
19 Jeremy. This is my new cell number. Guess you heard about
20 Kim being incarcerated. I gave my last \$150.00 I had for her
21 phone and canteen."

22 Q. Did you write that text?

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

24 Q. As far as you remember?

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

1 Q. And did you, in fact, put \$150.00?

2 A. No, ma'am. I didn't. I believe over the period of
3 those couple days I put \$35.00, about \$35.00 twice on her
4 account and the \$30.00 on the phone. It was really about a
5 hundred dollars and, uhm, I was just, I guess this was the guy
6 that she had known and I was trying to, I guess, look like I
7 was doing a lot to help her out. I may have exaggerated a
8 little bit on that amount.

9 Q. All right. Did you write a text on July 25th
10 complaining about not having any money or no way to support
11 yourself?

12 A. You said July 25th?

13 Q. Yes.

14 A. Give me one second.

15 Q. 8/22/08 at three hours I think.

16 A. All the texts on my sheet are --

17 Q. Oh.

18 A. -- redacted for the 25th.

19 Q. I'm sorry.

20 THE COURT: All right. Make a note where you are on
21 your questioning. We'll take a short break, okay? All
22 right. Folks, go ahead. We'll take a short break.
23 Please don't have any conversation about the case.

24 (Whereupon, the jury entered the jury room at 11:57
25 a.m.)

1 (Short recess.)

2 BAILIFF: All rise.

3 THE COURT: Thank you. Please be seated. Let's
4 bring in our jury.

5 (Whereupon, the jury returned to the courtroom at
6 12:15 p.m.)

7 THE COURT: All right. We'll pick up where we left
8 off. Ms. Cleary, you marked your spot, right?

9 MS. CLEARY: Yes, sir.

10 THE COURT: All right. You may continue then,
11 ma'am.

12 BY MS. CLEARY:

13 Q. All right. Mr. Brady, you heard evidence earlier
14 that you used a stolen credit card or tried to use a stolen
15 credit card at Wal-Mart?

16 A. That's correct. Yes, ma'am.

17 Q. Was that you?

18 A. Yes, ma'am.

19 Q. What was that date?

20 A. I believe the date was the 30th.

21 Q. Okay. What, if anything, did you know about the
22 owner of the card when you tried to use that credit card?

23 A. I had no idea of any owner. I didn't even pay
24 attention to the name that was on the card.

25 Q. But you knew it wasn't yours?

1 A. Yes, ma'am.

2 Q. How did you obtain that card?

3 A. Uhm, I actually found several cards in Michelle
4 Webb's car.

5 Q. Several credit cards?

6 A. Yes, ma'am.

7 Q. All right. You heard testimony earlier about a
8 lick. What does a lick mean to you?

9 A. Uhm, a lick would be whenever you, uhm, steal
10 something. Whenever you, uhm, try to obtain some drugs
11 perhaps. Uhm, several different things.

12 Q. Can you give me an example?

13 A. Uhm, say you went to the store and you stole
14 something and you returned it and got a gift card.

15 Q. Okay.

16 A. You would have done a lick. Got something for
17 free.

18 Q. So using your definition of a lick, have you ever
19 done a lick?

20 A. Uhm, yes, ma'am. I have shoplifted. Yes, ma'am.

21 Q. Jeremy, have you ever gotten money or drugs or other
22 items by holding a gun or a knife on somebody?

23 A. No, ma'am. Never.

24 Q. All right. Going back to the text messages, I'm not
25 going to ask you to read them. That's already been previously

1 admitted as a State's exhibit.

2 A. Yes, ma'am.

3 Q. And the jury has those text messages. On July 30th,
4 2012 there were a number of texts between you and Nick; is
5 that correct?

6 A. Yes, ma'am. That's correct.

7 Q. And can you kind of summarize the conversation? I
8 know you have looked at the text.

9 A. Yes. He, uhm, began to text me asking me for his
10 clothes. He previously stated that he didn't have any clothes
11 at all and he needed his clothes and that he left them in the
12 trunk of Michelle's car.

13 Q. And what did you think he - what did you think he
14 was talking about?

15 A. Uhm, it really surprised me. I still haven't
16 figured out yet what his intentions were or what he was
17 talking about. Uhm, he, in front of everybody took his
18 clothes in a black bag, he took it out of the apartment we
19 were staying in and left with it and, you know, what happened
20 with it after that I'm not sure. But apparently I was under
21 the impression that either he had gotten so high that he had
22 no idea maybe he left his clothes at somebody's house that he
23 was visiting and remembered that he had brought the clothes
24 with him and he thought that was the last place that he
25 actually had them.

1 Q. All right. Do you remember what happened on the
2 evening of August 2nd, 2012?

3 A. I believe - I believe August 2nd, 2012 I was at the
4 apartment and, uhm, that is the night that I was actually
5 questioned by some investigators.

6 Q. And this is the apartment on Feather Run Trail?

7 A. Yes. This is the apartment that me and Brenda and
8 Michelle was staying at on Feather Run Trail, Quail Hollow
9 Apartments, yes, ma'am.

10 Q. Okay. And what happened?

11 A. Uhm, I would say around midnight I was just getting
12 ready to go to sleep. Uhm, there was a knock on the door. I
13 actually walked back to Brenda's bedroom and I asked her if
14 she was expecting anybody and she said no. So I thought it
15 was kind of odd somebody was coming over there that late so I
16 went ahead and I answered the door and, uhm, it was I want to
17 say two or three investigators, uhm, dressed in khakis. They
18 had on Polo shirt with the Lexington County embroidered emblem
19 and, uhm, I believe they had firearms and the leather holsters
20 on their sides.

21 Q. As a result of them talking to you, what did you
22 do?

23 A. Uhm, they asked me if I would come outside and speak
24 with them. Uhm, they said they had a few questions that they
25 wanted to ask me and that was all. I, uhm, didn't have a

1 shirt or shoes on at the time. They asked me if I would slip
2 a shirt on. I believe I reached over to the couch and slipped
3 my shirt on and, uhm, I asked them if I could put some shoes
4 on. They said no. It's just a couple quick questions.
5 That's all. And, uhm, I followed them outside of the
6 apartment.

7 Q. What happened next?

8 A. Uhm, I was - after we got outside, I was shown a
9 picture of me and, uhm, the officer asked if it was a picture
10 of me. I said yeah. It looked like me. Uhm, I was also
11 shown a picture of Michelle Webb's car and, uhm, they asked
12 did I recognize that car and I said yes. That vehicle looks
13 very much like Michelle Webb's car.

14 Q. Those are the photos that were admitted into
15 evidence earlier?

16 A. Yes, ma'am.

17 Q. So that was you?

18 A. Yes, ma'am. That was me.

19 Q. And you freely told them that?

20 A. Yes, ma'am. I was wrong. I did use some credit
21 cards that didn't belong to me and, uhm --

22 Q. Were you in handcuffs at this point?

23 A. No, ma'am. I - I wasn't in handcuffs.

24 Q. Okay. All right. So after they showed you the
25 photos, what happened --

1 A. After they showed --

2 Q. -- and you said it was you?

3 A. Excuse me. Go ahead. I'm sorry.

4 Q. I'm sorry. You said that you said it was you. So
5 after that, what happened?

6 A. After that there became a lot more different line of
7 questioning. Questions I was being asked. Uhm --

8 Q. Was it the same -- I'm sorry. Was it the same
9 officers that had talked to you about the credit cards?

10 A. I believe one of them may have been the same, but
11 some more officers did arrive there on the scene. I believe
12 there was about five in total.

13 Q. Okay. Then what happened?

14 A. Uhm, I actually asked, uhm, you know, if there was
15 going to be more questioning, could I go put some shoes on.
16 And, uhm, they said that if I was uncomfortable standing up
17 out there on the concrete, that I could just have a seat on
18 the back of one of their pickups. They, uhm, dropped the
19 tailgate and asked me if I would have a seat there and I
20 believe one of the officers was sitting beside me on the
21 tailgate and another was in front of me and another was
22 standing to the side in front of me. I believe there was like
23 three officers around me and there was also other officers
24 present, but they weren't in the direct area where I was
25 talking to these guys.

1 Q. Okay. Do you remember about how long they talked to
2 you?

3 A. Uhm, it was about two and a half hours they had me
4 out there.

5 Q. Okay. And then what happened?

6 A. Uhm, from there, uhm, from there they actually
7 called a patrol car to come get me and transport me to the
8 detention center.

9 Q. So at this point were you in handcuffs?

10 A. Uhm, I was put in handcuffs before I was placed in
11 the patrol car. Yes, ma'am.

12 Q. Okay. And did they tell you what you had been
13 arrested for?

14 A. Uhm, yeah. They said it was credit card fraud.
15 Financial transaction fraud. Something to that effect.

16 Q. Okay. Have you ever been charged with that --

17 A. No, ma'am. I have not.

18 Q. -- as a part of this? Okay. Now, you said they
19 took you to the Sheriff's Department?

20 A. Yes, ma'am.

21 Q. And how long were you there?

22 A. Uhm, I was there about four hours.

23 Q. And then what happened?

24 A. Uhm, when I got there, normally when you get booked
25 in they dress you out. Uhm, they proceed to get you housed

1 somewhere. You sit out in the waiting area. Use the phone.
2 Watch TV. Use the restrooms. The water fountain they have
3 out there. Get water and stuff. But they actually threw me
4 inside a holding cell all by myself. Uhm, it was freezing
5 cold. I had on a simple jail shirt and shorts and all I could
6 do was lay on concrete. I was rolling back and forth laying
7 on the concrete from 3:00 at night until 7:00 in the morning
8 after I had already gone to bed around midnight and had to sit
9 outside for two and a half hours until about 3:00. So there
10 was an investigator came and got me probably it was around
11 like 7:00 in the morning they pulled me out of that cell.

12 Q. Had you had anything to eat or drink?

13 A. No, ma'am. I had nothing.

14 Q. All right. Do you remember the investigator's
15 name?

16 A. Uhm, yes, ma'am. I believe it was Detective
17 Grant.

18 Q. How did he identify himself?

19 A. Uhm, I believe once he was in there, I was called
20 out of the cell. Detective Grant is the actual officer that
21 placed the cuffs on me. I believe he identified himself then
22 before he transported me to the interrogation room in the
23 Sheriff's Department.

24 Q. Okay. So he was the main officer --

25 A. Yes, ma'am.

1 Q. -- talking to you. All right. So about how long
2 did you talk to Detective Grant?

3 A. Uhm, it was, I believe it was Detective Grant and I
4 saw Detective Spivey. I believe it was both of them. I spoke
5 with them in the interrogation room for about an hour and a
6 half.

7 Q. All right. Then what did you say to them?

8 A. Uhm, I was - basically I was trying to explain to
9 them that, you know, I didn't know where the credit card had
10 came from. They were constantly all night, uhm, hounding me.
11 They asked me if I was aware that the credit card I had used
12 was of a guy that had been killed or a guy that had been
13 murdered. I told them, you know, I had no idea. They scared
14 me at first, uhm, you know, after sitting there all those
15 hours and them talking to me, I just kept trying to explain to
16 them that I didn't know anything else about the cards. That I
17 couldn't help, or I couldn't make a statement as far as
18 helping them link them cards to a crime.

19 Q. All right. So what happened after you got through
20 talking to them at the jail?

21 A. I, uhm, whenever I was in there talking to them the
22 first time before we left, I filled out a Miranda statement
23 and, you know, I told them that I didn't have anything to say.
24 That I couldn't help them and, uhm, basically after they
25 hounded me that whole time basically they were, finally got

1 the idea that I didn't know anything so they decided to take
2 me back to the detention center.

3 Q. You said you signed a Miranda thing. That means
4 that you signed a waiver of your right to counsel?

5 A. Yes, ma'am. That's correct.

6 Q. And agreed to talk to them?

7 A. Yes, ma'am.

8 Q. All right. So okay. So then they were taking you
9 back to your cell?

10 A. Yes, ma'am. I remember them taking me back to a
11 booking area, yes, ma'am.

12 Q. And what happened?

13 A. Right before we entered where the gates are before
14 the actual entrance to the detention center, uhm, Detective
15 Grant got a call on his cell phone. He, uhm, picked up his
16 cell phone. He looked away from me. They exchanged, they had
17 a little conversation, he looked back at me and told me that
18 they were going to take me back to talk to me some more.

19 Q. Okay. And what did they tell you at that point?

20 A. Uhm, on the way there shortly after getting there
21 they told me that, uhm, they were, that they had gotten
22 Michelle Webb. They were getting close to getting, uhm, Nick
23 and, uhm, they told me that they had found the murder weapon
24 in the place that I was staying at. They, uhm, said that
25 there was actually three shells found on the scene that

1 actually matched the weapon that had been found at the place I
2 was living.

3 Q. Okay. And how many people were in the room with you
4 at that point?

5 A. Two.

6 Q. All right. So after they gave you that information,
7 what did you do?

8 A. Uhm, I had a lot of things running through my head
9 at the time. I couldn't believe that me going out to use some
10 credit cards was now making it look like I had went somewhere
11 and actually killed somebody. Uhm, when they said that Nick
12 was coming there, they said that they knew what happened and
13 that I needed to go ahead and give them a statement; that they
14 had found this murder weapon, these shells, everything
15 matched, they knew what happened. They said, you know, if you
16 really didn't have nothing to do with it, go ahead and give us
17 a statement and we'll help get you out of here. And, uhm, you
18 know, I had so much stuff running through my head at the time
19 that the only thing that I could figure linking, I finally put
20 everything together and it pretty much seemed like there was
21 more going on that happened that morning than Nick just going
22 inside that trailer and getting some pills.

23 Q. Okay. So at that point do you remember what you
24 told them?

25 A. Yeah. Uhm, they, uhm, I - I - I filled out another

1 Miranda form and, uhm, I gave them, uhm, I can't remember how
2 much of a page statement, but I wrote a couple pages out for
3 them.

4 Q. Do you remember what you told them about your
5 involvement?

6 A. Uhm, yes. I - I can't remember every single detail
7 but, uhm, I told them, I told them I did give Nick a ride,
8 uhm, out to Gilbert that morning. I told them that he, uhm,
9 went inside the trailer and, you know, I guess I was wanting
10 Nick to be the guilty party and I tried to distance myself
11 from that actual trailer so I told them that I heard three
12 gunshots, but then I told them that I was actually not around
13 the trailer at the time that the gun shots happened. I
14 basically just fitted a story together because I thought I was
15 gonna - I thought I was - they were gonna let me go home. I
16 thought I was gonna actually get to see my family again and
17 get out of there rather than sitting there looking at spending
18 the rest of my life in prison.

19 Q. Okay. And you testified earlier today that you, in
20 fact, had not left the yard at Gilbert?

21 A. No. I, uhm, both times that Nick went there, I - I
22 was present. I was in the yard in the car.

23 Q. Jeremy, did you hear any gunshots?

24 A. No, ma'am. I did not.

25 Q. Okay. Did Detective Grant ever come to see you

1 again prior to you getting legal counsel?

2 A. Uhm, no, ma'am. That was the only time that I ever
3 had any contact with law enforcement officers about this case
4 was that one morning.

5 Q. So nobody came to ask you about Nick's statement?

6 A. No, ma'am.

7 Q. Okay. All right. Were you advised by legal counsel
8 to go talk to the police again once you retained legal
9 counsel?

10 A. Uhm, no, ma'am. I was advised just, you know,
11 things were bad enough as they were. Just to, uhm, just leave
12 everything as it was.

13 Q. Did you have your discovery motion, all the
14 paperwork that the State provides to the defense, did you have
15 all of that at the jail with you?

16 A. Uhm, most of the times inmates in the jail, uhm,
17 that's the first thing that they get. The public defender or
18 their lawyer sends them the motion that has pretty much all
19 the information that the State has on their case and, uhm, I
20 never received that from you which I believe was a good idea
21 because as I have been there I have noticed that these
22 motions, uh, people tend to talk to people about their case.
23 They tend to go over motions with people. Uhm, sometimes if
24 you have a roommate that's trying to get a reduced time
25 sentence, they actually go through your motion and try to find

1 out facts about your case.

2 Q. And to be clear you're not testifying that we didn't
3 discuss the evidence at all, just that you didn't have all
4 those motions?

5 A. Yes, ma'am.

6 Q. I don't want to mislead you.

7 A. I'm just saying that I never had the actual
8 paperwork itself. I'm not saying that we didn't discuss it or
9 go over it.

10 Q. All right. And I'm almost finished here. Have we
11 gone over the phone records with you when you told us that
12 y'all had gone back twice to Mr. Mitchell's?

13 A. No, ma'am.

14 Q. Now, this is important. I need you to tell the
15 jury. Do you have any knowledge of who shot Mr. Mitchell?

16 A. I - I don't have any knowledge whatsoever.

17 Q. Did you see blood on Nick that day when he came out
18 of the trailer?

19 A. I - I do not remember seeing any blood on Nick. No.
20 I do not.

21 Q. Did you see Nick with a gun that day?

22 A. I did not see Nick with a weapon at all, a BB gun or
23 any type of gun, period.

24 Q. Did you have a gun that day?

25 A. No, ma'am. I did not.

1 Q. Did you have any knowledge of an armed robbery that
2 day?

3 A. No, ma'am. I did not have any knowledge of an armed
4 robbery that day.

5 Q. Did you know anything about the man's death until
6 the police told you?

7 A. The first time that I found out the death was
8 whenever they were questioning me about these credit cards and
9 actually told me that somebody had been killed and I had his
10 credit cards.

11 Q. Have you ever held that shotgun that's been shown
12 several times here this week?

13 A. No, ma'am. I've - I've never actually touched or
14 held a shotgun, but I did know of William to have that gun in
15 his possession. He was like a brother to me. I have lived
16 with him years and I have seen it, but I have never touched
17 it.

18 Q. And has any anyone ever asked you for your DNA?

19 A. Uhm, yes, ma'am. I believe a, about three weeks
20 before I was supposed to go to trial they showed up and asked
21 if I would consent to DNA.

22 Q. And did you consent?

23 A. Yes, ma'am. I did consent.

24 Q. Have you ever used that blanket that is in that
25 picture that I showed you earlier with the gun that it's in?

1 A. Uhm, yes, ma'am. I did notice that picture and that
2 blanket. That picture (sic) has been in the family since
3 2006. Uhm, Brenda has had that blanket when I lived with them
4 in Tennessee. I slept with that blanket, lived with that
5 blanket in Tennessee. It traveled from Tennessee actually to
6 my home in Gaston whenever my dad purchased his trailer. It's
7 been a throw blanket on my couches, over recliners. It's been
8 throughout my house for years and where I have been at.

9 Q. Mr. Brady, are you an abuser of prescription
10 drugs?

11 A. Yes, ma'am.

12 Q. Or were you before you were arrested for this?

13 A. Yes, ma'am. I was.

14 Q. Are you guilty of financial credit card transaction
15 theft?

16 A. Yes, ma'am. As I stated to the officers, you know,
17 as soon as they asked me about it, I was guilty of that. I
18 did attempt to use the credit cards that weren't mine.

19 Q. Mr. Brady, did you murder Mr. Mitchell?

20 A. No. I did not. I had no knowledge that this even
21 happened, uhm, until I became aware of it through the police
22 officers.

23 MS. CLEARY: Okay. Please answer any questions that
24 the State has for you.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Cross.

2 CROSS EXAMINATION

3 BY MR. GRAHAM:

4 Q. You have admitted that you are a thief, correct?

5 A. Yes, sir.

6 Q. And you have admitted that you are a liar,
7 correct?

8 A. I have. Yes, sir. I have lied before. Yes.

9 Q. In your text messages you were exaggerating the
10 amount of money you put down?

11 A. Yes.

12 Q. So you steal and you lie?

13 A. Yes. I have.

14 Q. Is it your testimony that the black duffel bag that
15 Nick had in 2008 when he moved in with you and Kim was the
16 same black duffel bag that you saw in 2012?

17 A. I can't say that it was the exact same duffel bag,
18 but Nick did have a black duffel bag in 2008 and he also had a
19 black duffel bag in the year or so prior to 2012 around that
20 same time. He's always - he's always had a black duffel bag
21 that all of his clothes stayed in.

22 Q. It's fair to say you hated Nick Williams, right?

23 A. Of course.

24 Q. He got Kim hooked on drugs, correct?

25 A. Yes. He did.

1 Q. Turned Kim into a prostitute?

2 A. He claims that he was her pimp. He used her in
3 order for him to get high. He did.

4 Q. And the reason you went over to pick up Nick that
5 night or that early morning was because Kim asked you to?

6 A. The reason I went to pick him up is because he had
7 access to Kim's car. This was the last thing she had left.
8 He was gonna end up selling her car to get high if she wasn't
9 out there to get money so he could get high and I did not want
10 her to lose the last thing that she had to him again.

11 Q. Okay. So your sole purpose of going over there was
12 not to help Nick, but to get the car keys?

13 A. Yes.

14 Q. So when you went over there, why didn't you get the
15 car keys and leave?

16 A. Because I gave - the stipulation was that I would
17 give Nick a ride because he couldn't stay there so he needed a
18 ride somewhere and I told him in order for him to give me the
19 keys that I would help you out and I would take you somewhere,
20 wherever you needed to go to get away from here as long as you
21 make sure that you give me the keys to Kim's car. That was
22 part - part of stipulation me going to get him and giving him
23 a ride.

24 Q. Why did you have to do anything to help him out?
25 Why not just go there and get the keys?

1 A. Because I wouldn't have been able to get the keys if
2 I just simply went there. Nick had no reason to give me the
3 keys to the car that he knew I was obviously going to get if I
4 didn't do something for him. If I didn't give him a ride to
5 get out of there, why - why would he just hand the keys --
6 Nick obviously wouldn't have just handed me the keys to Kim's
7 car.

8 Q. Why didn't you call the police and say Nick Williams,
9 has Kim White's car keys and she needs them back? You could
10 have done that, couldn't you?

11 A. Uhm, I don't believe it would have done any good to
12 call the police because he didn't steal her car. Her car was
13 at the place she was staying at. Uhm --

14 Q. My question to you was, you could have called the
15 police and had the police respond out there and get the keys,
16 couldn't you?

17 A. Uhm, I believe if police contact would have been
18 made, that, uh, Nick would have either denied the keys point
19 blank. Uhm, I don't believe if I would have contacted the
20 police, I don't believe there's any way I would have got the
21 keys to that car.

22 Q. If you hated Nick so much, you could have called the
23 police and have them arrested because you knew that there was
24 a meth house out there, didn't you?

25 A. I did become aware that they were cooking meth and I

1 was under the suspicion that the police were already on the
2 way there.

3 Q. If you would have called the police and they would
4 have responded out there and Nick would have been arrested,
5 then you could have got Kim's car keys, couldn't you?

6 A. No. Nick would have had the car keys with him when
7 he came to jail. I would have had no access to the keys.

8 Q. But he wouldn't have been able to sell the car,
9 would he?

10 A. If he was in jail, no, he wouldn't be able to sell
11 the car.

12 Q. Correct.

13 A. And actually if they were on their way there, then
14 that's one thing that might have happened.

15 Q. So if you would have called the police and turned in
16 the man you hate for ruining the woman you love and stealing
17 her from you, you could have gotten him arrested and you could
18 have gotten him to a place where the keys couldn't have been
19 used, correct?

20 A. Could you repeat that one more time? I'm sorry.

21 Q. If you would have called the police and turned that
22 meth house in and got Nick Williams arrested, you with me?

23 A. Yeah.

24 Q. He would have been in jail and he couldn't have sold
25 the car and you would have accomplished everything that you

1 wanted, correct?

2 A. Uhm, that is one way to go about that situation,
3 yes.

4 Q. But instead you went over to help him because the
5 truth is Kim asked you to go help him, correct?

6 A. Kim, that's the whole reason, yes. I spoke with
7 Kim. Kim let me know the situation about the car and she
8 asked me if I would please give him a ride because she didn't
9 want to see him go to jail. I told her -- She actually made a
10 statement I know you hate Nick. I know you can't stand him,
11 but through everything I still don't think he deserves to be
12 put in jail. And at that point I actually went back to sleep
13 because it didn't really bother me whether Nick went to jail
14 or not. The only reason I spoke with him again the second
15 time is because he refused to quit calling Brenda and Brenda
16 asked me to speak with him on the phone. Jeremy, will you
17 please - will you please speak with Nick. Tell him to stop
18 calling. I can't sleep. He's - he's aggravating me and he
19 will not stop calling and asking to speak to you. Brenda,
20 yeah, I'll see what it is. So actually when I got on the
21 phone, I told him he was deceptive, manipulative. And, hey,
22 man. He used Kim. Kim said you were gonna come get the keys
23 to her car, this and that. And I said, yeah. I did tell Kim
24 that - that I was gonna try and help her get her car and at
25 the time calling the police I figured, I guess I was, I didn't

1 even think of police at the time, but if the police were to be
2 called, I don't understand why when the bondsmen came there
3 why people weren't arrested if there was so much obvious
4 things going on. But, uh, basically after I spoke with him, I
5 did allow to be suckered into going and picking him up, yes.

6 Q. Okay. So you talked to Kim, went back to sleep,
7 Brenda woke you up?

8 A. Yes.

9 Q. Then you talked with Nick.

10 A. Yes.

11 Q. Have I got the order right?

12 A. Yes.

13 Q. So the first time you talked with Kim she said go
14 help Nick please, correct?

15 A. That was one of things she said.

16 Q. And get my keys?

17 A. She said get the keys to my car. If not, it's gonna
18 be gone. But if you're going there to get him, would you
19 please get Nick out of there because I don't believe that he
20 deserves to go to jail.

21 Q. Okay. So when you testified earlier the only reason
22 you get there was to get the keys, that's not true because
23 you went there to help out Kim?

24 A. My intention of going there was to get the keys and
25 as part of me getting the keys I was gonna give Nick a ride

1 out of there, yes.

2 Q. But you cared so much about the keys that you went
3 back to sleep, isn't that your testimony?

4 A. No. In fact, my testimony is that I went back to
5 sleep because I wasn't worried about Nick going to jail. If
6 he went to jail, he went to jail.

7 Q. Right. When Kim called and she said help Nick and
8 get my keys, your response was to go to sleep, correct?

9 A. I did go back to sleep. Yes. I did.

10 Q. So you weren't worried about getting Kim's keys.
11 You weren't worried about Nick's problems, correct?

12 A. I was worried about Kim's keys. I wasn't worried
13 about Nick's problems, but I just put it off to the side and I
14 wasn't even gonna do it. I did want her to have her keys, but
15 I didn't feel that it was really worth, you know, me going out
16 there and going to pick Nick up and giving him a ride. But,
17 then in fact, whenever Brenda begged for me to speak with him
18 on the phone, I did talk to him and I did agree to go pick him
19 up because as a matter of fact I did tell Kim that I would
20 make sure that she got her car. That she didn't lose her
21 car.

22 Q. And that was after you went back to sleep and after
23 Brenda woke you up and after you talked to Nick, correct?

24 A. Yes.

25 Q. Okay. You had testified earlier that Nick had

1 control over Kim by supplying her drugs; is that correct?

2 A. That's one way. Yes.

3 Q. Isn't it true that why you got into drugs, why you
4 were selling drugs and why you stole drugs is so that you
5 could be able to supply Kim in Nick's place?

6 A. Excuse me. Could you repeat that one more time?

7 Q. Isn't the reason that you got into drugs and started
8 selling drugs because you admitted to trying to sell some
9 drugs, right?

10 A. Yes.

11 Q. And the reason that you stole the drugs from Mr.
12 Mitchell with Nick Williams was so that you could take over
13 and supply Kim with drugs?

14 A. I never stole any drugs.

15 Q. You never stole any drugs?

16 A. I did not steal any drugs. No. I did not.

17 Q. In fact, it's your testimony you only got three
18 pills, right?

19 A. That's correct.

20 Q. So you drive over, Nick gets in the car. His worry
21 is he wants to get away from there, doesn't he? Because he's
22 worried about getting arrested? He was scared?

23 A. From?

24 Q. Old Orangeburg Road?

25 A. Uhm, that's what I was lead to believe. Yes.

1 Q. Okay. Did you ask him for the keys at that time?

2 A. No. I did not.

3 Q. Couldn't you have asked him for the keys and said I
4 will give you a ride from here if you give me the keys right
5 now?

6 A. I could have. Yeah.

7 Q. Wouldn't that have been the easiest way to get the
8 keys?

9 A. Uhm, I mean, I -- I believe asking him right then to
10 give me the keys was the same, pretty much the same as me
11 getting the keys with him before he left my presence. I got
12 the keys from him. Asked him for the keys.

13 Q. A man that you loathed and you hate, you don't want
14 to spend time with him?

15 A. That's correct.

16 Q. If you would have asked him for the keys and said
17 give me the keys and I'll give you a ride, you would have got
18 the keys and you could have dumped him off somewhere or, in
19 fact, you could have just left him there and laughed at the
20 man you hated?

21 A. No. Actually I don't believe -- Nick held onto
22 those keys as a motive for me to give him a ride. If I would
23 have -- He - he never would have gave me the keys if I would
24 have asked him for the keys.

25 Q. We're back again at that point you could have called

1 the police and had him turned in, correct?

2 A. Well, I mean, what were the police supposed to do?
3 I mean, I don't understand this. I - I didn't observe him
4 with any drugs on him. I didn't observe him breaking the law
5 so what was I supposed to call the police on him about?

6 Q. I thought Kim told you that there was a meth house
7 and that's what was going on. That's how you described that
8 house as a meth house, I think.

9 A. Yeah. She - she described that there was stuff in
10 that house that, uh, she said that they said that it smelled
11 like methamphetamine was being cooked in this house and I
12 believe they stated that there was paraphernalia associated
13 with that inside the house.

14 Q. You drove Michelle Webb's car over there to pick him
15 up, didn't you?

16 A. That's correct.

17 Q. And that's a car that you had access to and drove
18 and could borrow pretty much any time you wanted?

19 A. For the most part. Yes.

20 Q. And Nick was carrying stuff out in what you
21 described was a green backpack and I believe a duffel bag; is
22 that correct?

23 A. What he carried out of?

24 Q. Out of the Old Orangeburg property and put into
25 Michelle Webb's car that you were driving?

1 A. That's what he took out of Kim's car and transferred
2 from Kim's car to Michelle Webb's car. That's correct.

3 Q. Okay. Do you remember telling -- Well, where are
4 the text messages? Do you still have those?

5 A. Yes, sir.

6 Q. Go to page 22, the entry for August 2nd at 10:59.
7 That's a text from you because your number is the 800-0649
8 number, right?

9 A. Yes. That's my number.

10 Q. Read that text for me.

11 A. You said page 22?

12 Q. Yes, sir. Do you need some help finding it?

13 A. No. I just -- What did you say the time was?

14 Q. 10:59.

15 A. That's actually on page 23 for me. 10:59 is page
16 23.

17 Q. Can you read that text for me?

18 A. Yeah. Well, "When I picked you up, all you put was
19 your bag or two in the back seat and you took that with you.
20 Then you took plastic bags of clothes out of Kim's car
21 whenever we got it." Which meaning when we went to go pick
22 that car up, he was still removing stuff from Kim's car.

23 Q. So what that says, and you correct me, but what that
24 says is when I picked you up from Old Orangeburg, you put your
25 bag or two in the back seat of Michelle's car, right?

1 A. That's correct.

2 Q. And you took that when you took the plastic bags of
3 clothes out of Kim's car when we got there?

4 A. No. It says -- What it states is, "When I picked
5 you up, all you put was your bag or two in the back seat."
6 Which when we got there, he got his stuff and put it in the
7 back seat. Then it states, "And you took that with you."
8 Referring to whenever he left Brenda's apartment, he took what
9 he had with him when he left.

10 Q. Correct. So what he brought into the car when you
11 picked him up at Old Orangeburg he took from the car?

12 A. That's correct.

13 Q. Later?

14 A. Yes.

15 Q. Your testimony is that you're going to Gilbert for
16 the purpose of what?

17 A. Uhm, I was under the impression that's where Nick
18 was gonna stay.

19 Q. And when you dropped him off out of the car and he
20 went up to the front door, you could have driven off, right?

21 A. No. Nick's stuff was in the car.

22 Q. I thought you testified that he carried his stuff
23 up?

24 A. The second time we went there he did.

25 Q. The first time?

1 A. No. The first time he didn't.

2 Q. He didn't carry anything?

3 A. No.

4 Q. Why didn't you get the car keys when you pulled up
5 to the place where you thought he was gonna stay?

6 A. Because I wasn't sure whether he was staying there
7 or not. He didn't take his stuff in with him. Obviously if
8 the keys were still in his backpack in the of car then --

9 Q. So how did you know if you were gonna drop him off
10 that he was ever gonna give you the keys? You're just driving
11 him around under the hopes that this man who you hate and who
12 you loathe and who has ruined your life is going to
13 voluntarily give you keys; is that correct?

14 A. That is correct. But as you can see, he didn't
15 voluntarily give me the keys when he attempted to leave and if
16 he would have done that at any other place, I would have
17 forcibly taken the keys like I did when he tried to leave with
18 them.

19 Q. Why didn't you do that earlier instead of hanging
20 out with him all night?

21 A. I didn't hang out with him all night.

22 Q. You did. Your testimony is that you drove him to
23 multiple places. You went back to the Gilbert house twice.

24 A. I didn't hang out with him all night. This was
25 early in the morning. I picked him up, took him somewhere.

1 He didn't get no answer. He had some - he had another place
2 he could stay. I took him there. While there my brother
3 asked him to follow over to his house so I went over to his
4 house to get, uhm, us, so I could get high, so I could smoke
5 some weed and get a couple dollars from him, then proceeded to
6 take Nick back to where he was supposed to be staying at and I
7 was gonna get a pill for William.

8 Q. Eventually you had to take the keys from him,
9 right?

10 A. Yes. I did.

11 Q. Why didn't you do that at the beginning?

12 A. Uhm, because I told - I told - I told him - I gave
13 him my word that I would take him where he needed to go as
14 long as he gave me the keys.

15 Q. So you have admitted you're a liar and you have
16 admitted that you hate this man so your word to him means
17 something?

18 A. Uhm, whether it meant something - whether it meant
19 something to him or not, but whenever I give somebody my word,
20 that was my word.

21 Q. So you go to Amanda's house; is that right?

22 A. That's correct.

23 Q. When you get to Amanda's house, what happens?

24 A. When we got to Amanda's house, as I said, uhm,
25 Vanessa Dinkins' car was sitting in the front yard. Uhm, I'm

1 not sure whether her and William were actually in the car or
2 around the car. Amanda was on the front porch and, uhm, I
3 remember I briefly spoke with William and I asked Amanda some
4 questions about Nick being able to stay there, if it was going
5 to be all right, you know. I asked her what was going on with
6 James. What was his work situation. If he was going to be
7 around and what not.

8 Q. Isn't it true that on the way over when you picked
9 up Nick, that Nick proposed to you that he knew a place where
10 you all could go to rob and steal some roxies?

11 A. Never.

12 Q. Isn't it true at that time you suggested getting a
13 shotgun?

14 A. No. I did not.

15 Q. Isn't it true that you knew that you could get a
16 shotgun from the White family? You knew that William White
17 had a shotgun, didn't you?

18 A. I did know that William White had a shotgun. Yes.

19 Q. Isn't that the real reason that you went over to
20 Amanda's house?

21 A. Of course not. The real reason I went to Amanda's
22 house was because that was the only other place that Nick had
23 to stay. Obviously the whole reason for me going to pick him
24 up was so he could go stay somewhere. He did not have very
25 many friends. He didn't have no family, nowhere he could go

1 and that was his second option as a place to lay his head.

2 Q. What do you care about Nick Williams for?

3 A. This -- What I was doing wasn't really about Nick
4 Williams, but I told Kim and him that I would give him a ride.
5 I just wanted to make sure that Kim didn't lose the last thing
6 she had. Nick - Nick - Nick had caused her to lose her car
7 before. Everything she owned, her house, her daughter, her
8 sense of self respect, any kind of morals she had. She lost
9 everything to this man. And if I had the opportunity to help
10 her not lose her last thing, then that's what I was gonna
11 do.

12 Q. So when you're pulling up to Amanda's house, why
13 didn't you ask for the keys? Nick, I'm bringing you to where
14 you want to go where you can stay. Go ahead and give me those
15 keys.

16 A. The simple fact is that's when I talked to Amanda.
17 I had to converse with her to see that it was all right that
18 he was even gonna be able to stay there.

19 Q. And it's your testimony that she said, no, that he
20 could not? I didn't hear you say that. Why didn't he stay
21 there?

22 A. Why didn't I say that?

23 Q. Why didn't Nick Williams stay there?

24 A. Oh, because James was out of town working and he
25 wasn't at the house and obviously that, I mean, that would

1 have been a big conflict if Nick, you know, seeing as what
2 he's done obviously when he stayed at my house with my
3 fiancée, slept with her, imagine him sleeping in another man's
4 house with another man's girlfriend.

5 Q. Well, there were other guys there. Hunter was
6 there. You knew Hunter, right?

7 A. I - I had met Hunter and I don't believe I saw
8 Hunter there that night.

9 Q. How about Zack McClane?

10 A. I don't know who that is either.

11 Q. Fat Boy?

12 A. I was actually -- He was actually -- The first time
13 that I met him, he was actually brought into a cell that I was
14 in in Lexington County Detention Center and he made statements
15 to me that Nick told him -- Nick told him that he was going to
16 be subpoenaed to testify at trial because he was at that
17 house. That's the first time that I ever remember.

18 Q. So you don't remember him being at the house that
19 night --

20 A. No. I don't.

21 Q. -- or that morning?

22 A. No. I don't.

23 Q. You deny that you went over there looking for a
24 shotgun?

25 A. I did not go there looking for a shotgun.

1 Q. Now, your testimony is that you left there and then
2 you went over to Will and Vanessa's house on Sharon Church
3 Road for the purpose of what?

4 A. I followed William over there to get \$10.00 from
5 William. I guess him and Nick had an agreement that Nick
6 could get him a pill if he give him a couple dollars and
7 William also told me that he would let me get a bud, that I
8 could come over there and get some weed from him.

9 Q. So the \$10.00 was from who to who? I'm sorry.

10 A. The \$10.00 was actually, it was talked about between
11 Nick and William, but it was actually given to me for the
12 simple fact that William wasn't just gonna hand Nick some
13 money because there is no guarantee that he would get the pill
14 that he wanted to get so he gave the money to me to hold
15 onto.

16 Q. Didn't Nick have any pills at that time?

17 A. Not that I know of. No. He did not.

18 Q. He didn't go in the house was your testimony,
19 right?

20 A. No. Nick couldn't go in the house. That's
21 correct.

22 Q. So how -- Did Will ever get a pill?

23 A. Uhm, William was actually supposed to get the pill
24 from me. Nick gave me the pill. I gave him the \$10.00 before
25 we arrived at Mr. Mitchell's the second time. Obviously he

1 was going in to get pills, and whenever William showed up at
2 Brenda's house I was expecting him to ask for the pill and he
3 never got it from him.

4 Q. So why did you take Nick over to the Sharon Church
5 Road house if it wasn't to look for a shotgun?

6 A. Why did I take him over there?

7 Q. Yeah.

8 A. Frankly as I just stated, I went over there to get
9 the money from William and to smoke some weed.

10 Q. And to continue to hang out with Nick the man that
11 you loathe and hate?

12 A. No. Not to continue. That's not what I just said.
13 That's not what I stated at all whatsoever.

14 Q. But that's what you're doing, isn't it?

15 A. That's what I did, but that's not what I stated.

16 No. It's not.

17 Q. After leaving Sharon Church Road, it's your
18 testimony you went back to Robert Mitchell's house?

19 A. Yes.

20 Q. You didn't know it was Robert Mitchell at the time
21 though? That's your testimony, correct?

22 A. That's correct. I did not.

23 Q. After you left there, and we're talking about the
24 second time now, did you and Nick stop and shoot up some of
25 the roxies?

1 A. We, me and Nick did not. Uhm, I did stop at a gas
2 station. He asked if he could get some water and he did
3 proceed to get high. Yes. He did.

4 Q. And then you went back to Feather Run Trail,
5 correct?

6 A. That's correct.

7 Q. So you admit that you were with Nick the whole time
8 from picking him up at Orangeburg to all these various places
9 you went and taking him back to Feather Run Trail, correct?

10 A. Uhm --

11 Q. He was with you the whole time?

12 A. He -- Yes. He - I - I didn't have visual contact.
13 I didn't see everything he did from the time I picked him up
14 until the time we got back to Feather Run Trail, but yeah. We
15 were together. Yeah.

16 Q. Brenda White hated Nick Williams as much as you do,
17 doesn't she?

18 A. Some, uhm, somewhat to that effect I'm sure.

19 Q. Michelle Webb too?

20 A. Uhm, Michelle Webb claims she hated Nick but, you
21 know, of course, that was her best friend's boyfriend. Uhm,
22 I'm pretty sure if Kim was willing to accept Nick, that if Kim
23 had, I mean, if Michelle had to be around Nick in order to be
24 with Kim, then she would accept Nick and be friendly and --

25 Q. So Michelle didn't hate what Nick had done to Kim?

1 A. I believe anybody and everybody in this world would
2 hate what Nick did to Kim.

3 Q. Michelle included, correct?

4 A. Michelle included. Correct.

5 Q. So neither Brenda nor Michelle would let Nick into
6 the apartment at Feather Run, would they?

7 A. As far as Michelle I'm not sure. But Nick has
8 actually - Nick has actually been in that apartment before. I
9 remember a couple weeks prior to this, uhm, I came home one
10 night and when I walked in, I walked into the bedroom. I had
11 just gave Brenda like \$420.00 for rent and when I stepped in
12 the bedroom, I walked in my bedroom that I was staying at
13 there, Kim and Nick are in there having sex when I opened the
14 door to a place that I'm staying at that I just paid for and I
15 immediately went to Brenda's room. I said, you know, Brenda,
16 get him out of here. Get him out of here now. Why is he in
17 here? She said that she told Kim that she could stay at the
18 apartment, but Nick was not allowed inside and obviously she
19 would sneak Nick into the apartment and I believe that morning
20 after Nick asked Brenda if he could stay there, she told him
21 no and he proceeded to go back out to the apartment.

22 Q. Do you admit or deny that when you went into the
23 apartment, that you carried in the black duffel bag?

24 A. I did not carry in a black duffel bag. I carried in
25 Kim's personal belongings. She had a small plastic bag with a

1 cell phone, some cell phone chargers and she had two small
2 purses.

3 Q. You didn't carry anything that looked like a black
4 duffel bag is your testimony, correct?

5 A. No. I did not.

6 Q. Do you admit or deny that when you went in, you
7 offered to give roxies to Brenda White?

8 A. I did not.

9 Q. Do you admit or deny that when you went into the
10 apartment on Feather Run that you offered to give roxies to
11 Michele Webb?

12 A. I did not.

13 Q. Do you admit or deny that when you went in there
14 that you had a lot of roxies?

15 A. I did not. The only roxies I had was I had three of
16 them from Nick.

17 Q. You admit speaking to Brenda on the phone later and
18 arguing with her about going through your stuff, correct?

19 A. That is incorrect. I would never argue with Brenda
20 about going through my stuff. I don't know where --

21 Q. Did you have any phone conversation after you and
22 Nick had left to go to the pawnshop where Brenda was called
23 and she was asking about a gun and you argued with her or
24 chastised her or got mad at her for going through your
25 stuff?

1 A. No. She - she - she simply stated to me about
2 finding a gun and I spoke with her about it. But I don't know
3 what you mean by chastised her for going through my stuff. I
4 never had a black duffel bag. Brenda knows. It's
5 specifically stated in one of these pictures I have seen going
6 through here that I have a blue Adidas duffel bag with gray
7 embroidery three stripes and Adidas on it that my clothes are
8 in. I've - I've had this duffel bag for years. I don't see
9 why I would ask Brenda why she went in my duffel bag whenever
10 I've never owned a black duffel bag. I mean, this is a common
11 occurrence. You know that Nick has a black duffel bag.

12 Q. I know that Nick has a black duffel bag?

13 A. Excuse me. No. I'm sorry. You don't. But people
14 that were around and acquainted with the family knew that Nick
15 had a black duffel bag.

16 Q. You would agree with me that Michelle Webb knows the
17 difference between what you look like and what your duffel
18 bags are and what Nick looks like?

19 A. Uhm, I believe my duffel bag, my blue Adidas duffel
20 bag was in the place that Michelle was staying in so I'm sure
21 she knew what my duffel bag looked like, yes.

22 Q. You admit that later that day that Michelle took you
23 to the jail and put \$150.00 on Kim's books?

24 A. No. That's not correct.

25 Q. You admit that she took you there?

1 A. Yes. She did.

2 Q. You admit that you put \$150.00 on her books?

3 A. No. I did not.

4 Q. That's one of those places where you were lying?

5 When the text said \$150.00, you were lying?

6 A. I was - I was exaggerating about the \$150.00, but I
7 didn't deposit that all on her books. I put some money on the
8 books one day. I put another small amount the next day and
9 money on the phone. All those added together received a total
10 amount and I exaggerated to the guy to make it seem like I was
11 doing more or seemed like I was doing everything I could to
12 support her trying to make myself look better.

13 Q. You know Jeanette Jones, correct?

14 A. That's correct.

15 Q. And you were with her on Friday July 27th of 2012
16 which is her birthday, correct?

17 A. Yes. I believe so. Yes.

18 Q. And do you admit or deny that you told her you had
19 no money?

20 A. Uhm, if I told her that I didn't have any money, I
21 would probably be referencing that I didn't have any extra
22 money. Of course, I had money to buy food and money to buy
23 cigarettes, but as far as having extra money just to spend,
24 no, I did not have any money.

25 Q. Did you tell her you had no job? Do you admit or

1 deny that?

2 A. I believe I did tell her that and work was slow at
3 that time and I didn't even have a part time job that I was
4 doing at that time. That's correct.

5 Q. So you weren't working at all?

6 A. I was working some, but nothing steady at all.
7 Nothing that would amount to a significant amount of money
8 every week.

9 Q. The truth is you were desperate at that time,
10 right?

11 A. No. I was not desperate.

12 Q. That you weren't in your right mind, correct?

13 A. I wasn't in my right mind?

14 Q. Correct.

15 A. I don't believe - believe --

16 Q. You weren't acting your normal self? You were
17 desperate and you were not in your right mind, correct?

18 A. No.

19 Q. Page 9 of the text.

20 A. All right.

21 Q. The one that's on July 25th, 2012, 8:22 a.m., that
22 is a text, I believe, from you to Jeanette Jones?

23 A. No.

24 Q. Who is that to?

25 A. That's the, uhm, that number is 673-8025 and that

1 was my ex-girlfriend's.

2 Q. So you had a girlfriend at the time?

3 A. No. I did not.

4 Q. It was to an ex-girlfriend?

5 A. Yeah.

6 Q. Read that text to me please.

7 A. It says, "My truck's not running good. Have no job.
8 No money. No way to support myself and my child. No parents
9 to help me out. I'm like at the bottom with nothing."

10 Q. The next day you tried to get Jeanette Jones to sell
11 30 milligram roxies for you, correct?

12 A. Uhm, this was -- The next day?

13 Q. The next day after you got back to Feather Run, 9:49
14 a.m. on July 28th.

15 A. That's three days after the 25th. It's not the next
16 day.

17 Q. The next day after seeing her on the 28th. I'm
18 sorry.

19 A. Could you tell me where this message is again? I'm
20 sorry.

21 Q. I'm sorry. You saw her on July 27th. On page 16 --

22 A. I saw her --

23 Q. -- at 7:28 so that would have been the day that Mr.
24 Mitchell was killed. At 9:49 a.m. isn't it true that you sent
25 a text to Jeanette Jones saying can you sell tell roxies

1 30's?

2 A. That's correct. Yes, sir.

3 Q. And the truth was that you had a lot of roxie 30's
4 from robbing Mr. Mitchell that you wanted to sell, correct?

5 A. No. That is completely incorrect. If I had a lot
6 of pills, I obviously would have stated that I had a lot of
7 pills. Right here I just blatantly asked if you could sell
8 some roxie 30's. I had a couple pills that I had gotten from
9 Nick that I was wanting to get money to put on Kim's
10 canteen.

11 Q. When you went to Amanda Anderson's house, it's your
12 testimony you went there trying to find a place for Nick to
13 stay, correct?

14 A. That was the only other place that Nick had that he
15 could stay at.

16 Q. Do you admit or deny Amanda Anderson asking you what
17 you and Nick needed with a shotgun?

18 A. No. I -- She - she never asked that. No. She did
19 not.

20 Q. Do you admit or deny telling her that it's okay.
21 Don't worry about it. Everything is going to be okay?

22 A. Uhm, if I did say that, it - me and Amanda talked a
23 lot and, you know, like we're both going through hard times,
24 uhm, things were rough, we were down and out, and we basically
25 gave each other support and encouragement so if me and her

1 were conversating and I did tell her, you know, you and James
2 have been fighting, relationship's not good, uhm, a whole lot
3 of money isn't coming in, y'all losing the place that you're
4 staying at, you have to move somewhere else, moving in with
5 your parents, whatnot, just trying to encourage her and let
6 her know that no matter what happens everything's gonna be all
7 right. It's all gonna work out.

8 Q. But it had nothing to do with a shotgun?

9 A. Nothing to do with a shotgun.

10 Q. Do you admit or deny going over to Sharon Church
11 Road and going into Will's and Vanessa's bedroom and
12 retrieving a shotgun?

13 A. That is incorrect. I did not go to [REDACTED]
14 [REDACTED] and receive any type of firearm, period.

15 Q. So if somebody testified to that, it would be
16 incorrect?

17 A. That's correct.

18 Q. Let me ask you a question about being interviewed by
19 law enforcement. You were placed under -- Well, you were
20 interviewed out at your house, right? One officer showed you
21 pictures. You admitted it looked like you and that that was
22 Michelle's car?

23 A. That's correct.

24 Q. Another officer spoke to you and I believe he
25 started asking you questions about the use of that credit card

1 and where you got it, correct?

2 A. That's correct.

3 Q. So isn't it true that you told that officer that you
4 found a wallet and a credit card at the 44 Truck Stop?

5 A. That's correct.

6 Q. And that was a lie?

7 A. Yeah. That was a lie.

8 Q. So you lied to the police right there?

9 A. Yeah.

10 Q. Isn't it true that you told them that you found the
11 credit card somewhere else, not even at the 44 Truck Stop?

12 A. I don't remember.

13 Q. Isn't it true that you told them you found the
14 wallet on the ground at the 44 Truck Stop in the grass?

15 A. I don't -- I remember that I did make up that I
16 found a wallet at the 44 Truck Stop.

17 Q. So you made up a lot of lies about where you found
18 the wallet, right?

19 A. I made one lie.

20 Q. Why not just tell them the truth? You had already
21 admitted, hadn't you, that you had used the credit card?

22 A. Yes. Yes. Yeah. I did.

23 Q. So why -- What were you doing? Why not just tell
24 them? Because I think your final answer, your testimony is
25 that it was in the console of Michelle's car, right?

(1 A. Somewhere in Michelle's car. Yes.

2 Q. Why not just tell them the truth?

3 A. Uhm, basically because at the time whenever they
4 were questioning me about it, they - they - everything they
5 asked me lead to something, lead to an answer that they wanted
6 to receive from me. They, uhm, told me - they started to tell
7 me stuff about the crime scene. They basically wanted me to
8 admit that Michelle, that I had took Michelle out there. They
9 told me that they had found some panties. They found a
10 slipper.

11 Q. Let me interrupt you for a second. The question
12 that I'm asking you is about still at your apartment.

13 A. Yes.

14 Q. Okay. They haven't talked to you about any of that
15 stuff yet, have they?

16 A. Yes. Yes. The whole hour and a half that we were
17 out there they're constantly supplying me with information
18 about this crime scene. Supplying me with information about
19 Mr. Mitchell.

20 Q. The very first time they asked you when you're
21 outside at your apartment, when Detective Grant comes and
22 speaks to you, he's the second detective, the first detective
23 is Sergeant Mefford. He's the one that asked you the question
24 does that look like you in Wal-Mart photo. You said it looks
25 like me, and he asked you about whose car that was and you

1 said Michelle Webb's, correct?

2 A. Yes.

3 Q. Detective Grant was a smaller black male detective.

4 He's the one that spoke to you in the parking lot of your

5 house. Do you remember that?

6 A. Yes. I believe. Yes. That's correct.

7 Q. And it's your testimony that he was already

8 questioning you about a death at that time?

9 A. The very next question. Yes. The whole period.

10 The first question to me was did this look like me. I said

11 yes. They asked about the picture of Michelle Webb's car. I

12 said yes. They asked if I had used some stolen credit cards.

13 I said yes. The direct question after that was were you aware

14 that the credit card you used was of a man that's been

15 deceased or murdered. That was the - after those two

16 questions, the line of questioning went exactly from me using

17 credit cards to did I know that somebody had been murdered, a

18 guy had been killed.

19 Q. And you denied that, of course, right?

20 A. Yes. I did.

21 Q. And then when they asked you where the credit card

22 came from, why didn't you tell them the truth?

23 A. Why didn't I tell them the truth? Because they had

24 been questioning - they had been leading me to believe -- They

25 had asked me if I had been around the 44 Truck Stop Gilbert

1 area, and that's what I proceeded to tell them the first thing
2 that came to mind if I had been around the Gilbert area. Yes.
3 Uh, I got that credit card from the 44 Truck Stop.

4 Q. How do you know that credit card came from Nick?
5 Because that was your testimony, that it came from Nick.

6 A. I don't know that it came from Nick. No. I
7 don't.

8 Q. That's what you told the police, isn't it?

9 A. Well, I mean, I basically lied about a bunch of
10 stuff that I told the police.

11 Q. So how do you expect the jury to know if you're
12 telling the truth today or lying today?

13 A. Uhm, just -- I don't know. I hope they can sense,
14 uhm, get a sense of a, a sense of honesty whenever I'm trying
15 to talk to them. Maybe they can see that there is a very
16 respectable, honest guy inside of me and that at times being
17 on drugs that I sometimes lied and I didn't always tell the
18 truth.

19 Q. But you admit that you lie to stay out of trouble,
20 correct?

21 A. Yes. That's correct.

22 Q. And your story is now that you found the credit
23 cards in the console of Michelle Webb's car, correct?

24 A. I found them in Michelle Webb's car. I'm not
25 exactly sure of the specific spot, but yeah, I found them in

1 Michelle's car.

2 Q. So when you came up with these other stories that
3 you found them out in the parking lot, why did you do that?

4 A. Because the police, the officers questioned me and
5 asked me if I had been in that area at the time. Had I been
6 around there, the Gilbert area, the 44 Truck Stop, was I
7 familiar with those places.

8 Q. But you knew that you found it in the car. Why not
9 just tell them the truth? Isn't it true the real reason you
10 didn't tell them you found them in the car is because you knew
11 they were Robert Mitchell's and you knew he'd been killed
12 because you were part of it?

13 A. Whenever the first two questions when those officers
14 asked me if that was me in that picture, they asked me if that
15 was me in that car, I told them yes, that was me in that
16 picture. I knew that I had used somebody's credit cards. I
17 was never aware of whose credit cards they were and I had no
18 idea whatsoever that a man had been murdered over some credit
19 cards. I had no idea.

20 Q. Then why lie about where you found the cards?

21 A. Like I tried to explain to you, the first question
22 -- They asked me was I in the Gilbert area. Was I around 44
23 Truck Stop. That was the first presumption to me finding
24 these cards. Yes. Yes. That's - that's where I was at.
25 That's where I found these cards at.

1 Q. So you did it to agree with the police who were
2 telling you that the cards were used in a murder?

3 A. Yeah.

4 Q. As opposed to telling the truth that you found them
5 in the car and you didn't know where they came from which is
6 your testimony, correct?

7 A. Correct.

8 Q. You do admit that you tried to use his credit card
9 though, right?

10 A. That's correct. I did.

11 Q. You were taken to the Sheriff's Department and
12 eventually you were Mirandized, right?

13 A. That's correct.

14 Q. They went over of your rights with you?

15 A. Yes, sir.

16 Q. You understood your rights?

17 A. Yes, sir.

18 Q. And you waived your rights and agreed to speak with
19 them?

20 A. I waived my rights. I agreed to speak with them and
21 I wrote a statement on the form saying that I did not wish to
22 speak with them.

23 Q. You wrote a statement on the form. Where did you
24 indicate on the form -- Let me show you this form and ask you
25 if you recognize it. Is this the form that you are talking

1 about?

2 A. Uhm, that right there is the second form.

3 Q. So there is another form somewhere?

4 A. I believe there is from the first time that they
5 tried to talk to me. I believe there is.

6 Q. So the first time Detective Grant, now he's in the
7 courtroom who is sitting right here. Do you remember him?

8 A. Yes, sir. I do.

9 Q. And Detective Spivey, the first time they talked to
10 you, they Mirandized you and you said you didn't want to talk
11 to them?

12 A. Yes.

13 Q. Okay. But they talked to you anyway, is that your
14 testimony?

15 A. No. I, uhm, they questioned me. I talked to them
16 for about an hour and a half and after they saw that it was
17 going nowhere, they had me fill out a Miranda form writing a
18 statement saying that I didn't want to speak about it.

19 Q. All right. So they brought you in, Mirandized you,
20 talked to you for an hour and a half?

21 A. No.

22 Q. No. They brought you in and didn't Mirandize you?

23 A. That's correct.

24 Q. And interviewed you or interrogated you for an hour
25 and a half?

1 A. That's correct.

2 Q. And then got you to sign some kind of form that says
3 you don't want to talk?

4 A. That's correct.

5 Q. And then they took you back?

6 A. Yes, sir.

7 Q. And then shortly after being taken back Detective
8 Grant gets a phone call and says we want to talk to you some
9 more?

10 A. Yeah.

11 Q. Okay. And you told them right then and there I
12 don't want to go? I'm done talking to you. Did you say that
13 to them?

14 A. I had just wrote a statement saying that I didn't
15 want to talk to them. Why would I need to repeat that? I sat
16 there and talked to them for an hour and a half and told them.
17 They saw that I had nothing else to add to it. Then they had
18 me sign a form saying that I didn't want to speak to them and
19 therefore I was taken out. I mean, an hour and a half and you
20 don't come up with nothing. You have a form that says that he
21 blatantly doesn't want to speak and you're taking him back.
22 Why all of a sudden would you just all of a sudden turn around
23 and bring somebody back that has spoke to you for the past
24 hour and a half and you haven't been able to find anything,
25 somebody that wrote a statement that said that they didn't

1 have anything to talk about.

2 Q. Do you have a copy of that statement?

3 A. Uhm, no. I do not have a copy of that statement.

4 No.

5 Q. Do you know if your attorney ever got a copy of that
6 statement?

7 A. I have -- I don't know.

8 Q. Did you talk to her about that statement and ask
9 about it?

10 A. Uhm, I believe we have discussed, uhm, the whole
11 process, me going there and talking to them, being in there an
12 hour and a half, leaving, then all of a sudden being turned
13 around and brought back in.

14 Q. Did you ever file any complaints against Detective
15 Grant or Detective Spivey about violating your rights and
16 interrogating you when you didn't want to talk to them?

17 A. No. I did not.

18 Q. Why not? They're charging you with murder.
19 Something you're saying you didn't do. Why didn't you file a
20 complaint on them?

21 A. I was - it was irrelevant to the fact. It didn't
22 really register. I didn't want the first thing -- I mean,
23 like you said, I'm being charged with murder. Being charged
24 about it. Never seeing my daughter again. Never get to see
25 my family. The first thing that came to my mind wasn't

1 whether I could file some kind of complaint in the jail that's
2 run by police officers, I mean.

3 Q. So he gets a phone call and he takes you back to the
4 interview room, correct?

5 A. Yes. That's correct.

6 Q. And he and Detective Spivey are back there again?

7 A. Yes.

8 Q. At that time the form that I showed you, do you
9 recognize that?

10 A. Yes.

11 Q. Now, here it has rights all over the place. I have
12 the right to remain silent. That's your initials saying you
13 understood it?

14 A. Yes, sir.

15 Q. Anything I say can and will be used against me in a
16 court of law. You signed off on that?

17 A. Yes, sir.

18 Q. I have the right to talk to a lawyer for advice
19 before any questions and to have him or her present with me
20 during the questioning. Your initials?

21 A. Yes, sir.

22 Q. If I have no money for a lawyer, the court will
23 appoint one to represent me without cost if I wish. Your
24 initials?

25 A. Yes, sir.

1 Q. If I decide to answer questions now without a
2 lawyer, I will still have a right to stop answering questions
3 at any time. I also have the right to stop answering
4 questions at any time until I talk to a lawyer. Your
5 initials?

6 A. That's correct.

7 Q. All right. Did you understand all those rights?

8 A. Yes, sir. I did.

9 Q. The next one says I have read this statement of my
10 rights and understand what my rights are and you initialed
11 that, correct?

12 A. That's correct.

13 Q. All right. So they read you your rights a second
14 time. You understood your rights and you agreed to talk to
15 them again, right?

16 A. Yes.

17 Q. This statement that you wrote, you wrote it?

18 A. Yes. I did.

19 Q. And it's your handwriting?

20 A. That's correct.

21 Q. They didn't force you to write it, did they?

22 A. They told me that if I -- They told me that they had
23 gotten Michelle. They had told me that they had found the
24 murder weapon in my home. They had told me that they found
25 shells. They said that there was three shells they had found

1 that matched the weapon that was found in my apartment. And
2 they told me as I just stated that Nick was - that they were
3 on the way to go get Nick and that if I would go ahead and let
4 them know what happened, if I didn't have nothing to do with
5 it, that they would get me out of there and they would get me
6 back to the house. They said that if I didn't, then they were
7 pretty sure that Nick wouldn't have a problem coming down
8 there and giving them a statement so he could get out.

9 Q. They didn't force you to write this statement, did
10 they? You chose to write it of your own free will?

11 A. I chose to write that of my own free will because of
12 what they told me.

13 Q. What they said was if you didn't do anything wrong,
14 tell us what happened, right?

15 A. Yeah.

16 Q. Okay. So you wrote this of your own free will
17 because it's your testimony you didn't do anything wrong,
18 correct? Yes or no?

19 A. I wrote that after I talked to them and told them
20 that I didn't know anything. That I had told them -- I - I
21 had left. They got a phone call and all of a sudden
22 mysteriously bring you right back into the same interrogation
23 room where we sat for an hour and a half, didn't learn
24 anything more, but all of a sudden mysteriously now I want to
25 write a statement.

1 Q. Did you write this statement and did you choose to
2 write this statement freely and voluntarily of your own choice
3 or not? Yes or no?

4 A. I - I chose to write that by my choice because they
5 told me that they were gonna get me out of there and get me
6 back home.

7 Q. If you hadn't done anything wrong, correct?

8 A. I'm sorry. This just feels like it's a big play on
9 words that, you know, sitting here trying to have me slip up
10 and say something that sounds like --

11 Q. I'm just trying to figure out what happened.

12 A. And I have - I have said three or four times here.
13 I have explained what happened.

14 Q. What you told the police that night and what you
15 have said here is that you didn't have anything to do with the
16 getting of any shotgun, the robbing of Mr. Mitchell or his
17 death, right?

18 A. That's correct.

19 Q. It's your testimony that the only reason you drove
20 over there the first time was because you thought Nick was
21 going to live there. The second time was just to drive him
22 around so he could get some drugs, right?

23 A. Yes. Yeah. The second time there I wasn't -- He
24 didn't state to me whether he was going to be staying there or
25 not, but I was - I did know or I was expecting him to get some

1 drugs from there, yes.

2 Q. He never told you that he was going to live there,
3 did he?

4 A. No.

5 Q. You're assuming that?

6 A. Yes.

7 Q. When he went back the second time, he didn't tell
8 you let's go back and see if I can get in now because I'm
9 gonna stay there. It's your testimony he told you let's go
10 back because I'm gonna get drugs, correct?

11 A. That's correct.

12 Q. Nothing about living there. It was about drugs?

13 A. He didn't say that. He didn't deny that. That's
14 correct.

15 Q. You said that you were going over there to get
16 drugs? That's your testimony, correct?

17 A. I said that Nick was going over there to get
18 drugs.

19 Q. You were driving him over there to get drugs?

20 A. Yeah. That's correct.

21 Q. Okay. In your statement to the police and this is
22 on August 3rd of 2012 at the Sheriff's Department when you
23 were talking with Detective Grant and Detective Spivey you
24 told them that you dropped Nick off and you drove away and
25 went to the 44 Truck Stop, correct?

1 A. That's correct.

2 Q. But that's a lie?

3 A. That is a lie.

4 Q. You told them that you heard three gunshots when you
5 were half way back and forth to the 44 Truck Stop which is
6 over of a half a mile; isn't that correct?

7 A. That's correct.

8 Q. But that's a lie?

9 A. It's an obvious lie. Yes, sir.

10 Q. It's your testimony today that you heard no
11 gunshots?

12 A. That's correct.

13 Q. Do you admit or deny that you told the police -- Let
14 me ask you a question. When you left Mr. Mitchell's house
15 you went out of his driveway and took a left on Juniper
16 Springs, didn't you?

17 A. I -- I mean, this has been three years. I --

18 Q. Let me show you this document and ask you if that
19 refreshes your memory?

20 A. That - that is what I wrote on the form that says I
21 did take a left on Juniper Springs Road and a right on Old Two
22 Notch. Uhm, but, you know, as I previously stated there's
23 obviously a lot in that statement that's a lie.

24 Q. Why would you have lied about going on Juniper
25 Springs and taking a right on Old Two Notch?

1 A. Uhm, I'm not even sure if that's a correct road. I
2 believe whenever I was asked that, I believe they asked me did
3 you take a left out of this residence so I blatantly just
4 stated yeah, I took a left.

5 Q. Isn't it true that the question they asked you was
6 which way do you go after driving away from the house?

7 A. Yes.

8 Q. And your answer was I took a left on Juniper Springs
9 and then a right on Old Two Notch and went back to Brenda's
10 house; isn't that correct? Isn't that what you told the
11 police on that date and time?

12 A. What's wrote on that paper right there, the question
13 states which way did you turn, but the officer verbally asked
14 me did you take a left, so therefore I may have wrote yeah.
15 He asked me did you take a left? I said yes. I took a left.
16 Then he would write the question and then I would answer after
17 I had already been asked the question.

18 Q. Whose handwriting is that there? Took a left on
19 Juniper Springs and then a right on Old Two Notch. Went back
20 to Brenda's house and those initials?

21 A. That's my handwriting.

22 Q. Is it your testimony that that's true or is it your
23 testimony that Detective Grant told you what to say and made
24 you say that?

25 A. No. He did not tell me what to say, but he asked me

1 a question and I answered that question and then he wrote that
2 question down and wrote it out and had me answer.

3 Q. So did you take a left on Juniper Springs and a
4 right on Two Notch or not?

5 A. Like I said, I don't know. It's been - it's been a
6 long time ago. I mean, I can't sit here and tell you the
7 direction that I turned.

8 Q. And seeing that doesn't refresh your memory so you
9 don't know whether that's true or not?

10 A. I - I mean it's possible it could be true, but I
11 don't remember that. No. I do not.

12 Q. Did you lie to the police about that?

13 A. I don't know.

14 Q. You might have?

15 A. Very possible. Yes.

16 Q. To try to protect yourself?

17 A. No. To try - simply because that's what they wanted
18 me to write just for the fact that I had been in questioning
19 for two and a half hours out of my home. I was sitting there
20 being accused of this. I was in a cell, freezing cold cell
21 with no extra clothing, no nothing, just a little pair of
22 pants, a little shirt laying on concrete curled up with my
23 arms inside my shirt curled up in a little ball having to
24 switch from side to side every 15 minutes because my sides, my
25 arms, head's hurting from laying on concrete for four hours

1 straight.

2 Q. But you agreed to talk to them -- We've already went
3 through this, didn't we? You agreed to talk to them
4 voluntarily. You didn't have to and you chose to?

5 A. And again, we explained the whole reason that I
6 agreed to is because I was there for an hour and a half and
7 nothing came about and I was just mysteriously turned around
8 and all of a sudden why did I -- What all of a sudden made me
9 want to write a statement just out of the blue? I didn't want
10 to talk to them for an hour and a half. They know this. I
11 sat there and filled out a form. Told them this. All right.
12 We're gonna him back. All of a sudden out of the blue, oh, he
13 just mysteriously wants to talk.

14 Q. All of these items were found on the side of road.
15 You heard the testimony of what was found. We've got Mr.
16 Mitchell's NRA cards. Cards out of his wallet. DNR cards. A
17 wallet. Two pill bottles with his name and two phones that
18 were found on the side of Two Notch Road going if you take
19 Juniper Springs and take a right just like you wrote in your
20 statement, those items were found there, do you admit or deny
21 that you knew that Nick Williams was throwing them out of the
22 of car?

23 A. No. I do not know that Nick was throwing anything
24 out of the car.

25 Q. So if those were thrown by Nick Williams out of the

1 car and you were driving, somehow you didn't see it happen?

2 That's your testimony?

3 A. If, I mean, if those were thrown out of the car by
4 Nick? I mean, could you restate the question one more time
5 please?

6 Q. Do you have any knowledge of Nick Williams throwing
7 those items that I just showed you, the pill bottles with Mr.
8 Mitchell's name, a wallet, two phones and the contents of a
9 wallet out the window while you all were driving down Two
10 Notch Road?

11 A. I don't have knowledge of Nicholas Williams throwing
12 -- I don't recall him throwing anything out of a window.

13 MS. CLEARY: Your Honor, point of -- May we
14 approach?

15 (Side bar off the record.)

16 THE COURT: Folks, what we'll do is Mr. Graham has
17 been kind enough to agree to stop at this point. We're
18 gonna - your lunch is here. I'm gonna send you back to
19 have your lunch. And just as we did with lunch, I think,
20 on Wednesday, have your lunch. If any of wish to go out
21 for a little bit with the bailiff, stay together. Have
22 no conversation about the case and we'll start back as
23 soon as you are finished with your lunch, okay? Everyone
24 else remain seated while the jury is excused.

25 (Whereupon, the jury was released for lunch.)

1 THE COURT: All right. We will be in recess. I
2 don't know how long it's going to take them, but it's at
3 least going to take them probably 30 to 40 minutes. So I
4 imagine we need to be ready to go at 2:15. And,
5 Mr. Brady, step down and just throughout the break and
6 any time you're off the stand you're not to have any
7 conversation with anybody about your testimony, okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. Thank you, sir. All right.
10 We'll be in recess for about 45 minutes.

11 (Luncheon recess.)

12 BAILIFF: Come to order. Court's now in session.

13 THE COURT: All right. Anything we need to take up
14 before we get started?

15 MR. GRAHAM: No, Your Honor.

16 THE COURT: Anything from the defense?

17 MS. CLEARY: No, Your Honor.

18 THE COURT: Okay. We have got Mr. Brady up here.
19 Let's go ahead and bring the jury in.

20 (Whereupon, the jury returned to the courtroom at
21 2:30.)

22 THE COURT: Folks, we're on Mr. Graham's cross
23 examination of Mr. Brady and so we'll pick up there.

24 MR. GRAHAM: Thank you, Your Honor.

25 BY MR. GRAHAM:

1 Q. Mr. Brady, in your testimony on direct you had said
2 that you had never seen this safe before, correct?

3 A. That's correct.

4 Q. And that you had never seen this Harley Davidson
5 tin, correct?

6 A. Uhm, I'm not sure about that.

7 Q. You have seen this before?

8 A. I'm not sure what was said on direct regarding the
9 tin.

10 Q. Have you ever seen this tin before?

11 A. No.

12 Q. You're aware that those two items were found in the
13 back of Michelle Webb's car, correct?

14 A. That's correct.

15 Q. You're aware that you were the one that drove the
16 car and had access to it along with Michelle, correct?

17 A. Yes. I drove the car.

18 Q. And Nick Williams did not have access to that car
19 and did not drive that car, did he?

20 A. He did have access to that car.

21 Q. When?

22 A. Uhm, basically I believe in Michelle's testimony
23 Nick was outside by himself in her car for whatever period of
24 time.

25 Q. Nick didn't have keys to the car, did he?

- 1 A. He was inside the car. Why would he need keys?
- 2 Q. He wasn't in the trunk, was he?
- 3 A. You don't have to have keys to access the trunk.
- 4 Q. You don't?
- 5 A. No.
- 6 Q. But you continued to have access to the car after
- 7 you did not see Nick anymore on Saturday the 28th, correct?
- 8 A. That's correct.
- 9 Q. In fact, in a text that you sent to him when he was
- 10 asking where his stuff was, you told him you've looked in the
- 11 car, you've looked in the trunk and Nick didn't have anything
- 12 there, correct?
- 13 A. That's correct.
- 14 Q. So you were aware that those items were in the trunk
- 15 because you saw them when you searched the trunk?
- 16 A. No. Uhm, basically the reason that I said that,
- 17 Nick asked for his clothes which were in a black bag that he
- 18 took out of car and brought into the apartment and me and
- 19 Michelle Webb, Nick and himself were all there when he took
- 20 that same black bag with him and there was no point in me
- 21 trying to argue back and forth about me going out to the car
- 22 and looking in the trunk for your bag. You took your bag with
- 23 you. Okay. Yeah. I went out there and looked for your bag.
- 24 I mean, if that's what makes you happy. You know, I --
- 25 Q. So the text that you sent to Nick, you don't have

1 anything in Michelle's car, is a lie?

2 A. No. It's not all a lie.

3 Q. Well, you didn't look is what you just said,
4 right?

5 A. I did not go back and look in the trunk of the car
6 because I already knew that he took everything that he had
7 with him which as it says in that text message also.

8 Q. State's Exhibit number 34, the clothes that are in
9 the trunk of Michelle Webb's car, those are your clothes,
10 aren't they?

11 A. Yes. Yes. I'm sorry. I don't have my contacts in.
12 I do see some of my clothes in the back of trunk. That's
13 correct.

14 Q. Your testimony was that you only got three
15 roxycodones from Nick Williams after he went to Mr. Mitchell's
16 house in Gilbert, right?

17 A. That's correct.

18 Q. In the statement to the police on August 3rd, 2012,
19 do you remember telling them that you got ten?

20 A. Yes. I do.

21 Q. So did you get three or did you get ten?

22 A. I got three.

23 Q. So why did you lie about getting ten?

24 A. Uhm, to make it look like there was more of an
25 intent on Nick's part, uhm, as to, you know, after learning

1 everything from gunshots, shotgun being found, I basically
2 wanted to put, try to make Nick look like the guilty party,
3 like he had a reason to do something.

4 Q. Well, wouldn't you agree with me that it makes you
5 look bad?

6 A. What makes me look bad? What are you talking about?

7 Q. That you told the police that you got ten
8 roxycodone?

9 A. Uhm, I guess that could.

10 Q. Well, the street value from your testimony, if you
11 sell them pretty much at a minimum, that would be \$150.00,
12 correct? Ten roxycodone at \$15.00 apiece?

13 A. If you sold them, yeah, ten times 15 is 150.

14 Q. Okay. So by telling the police that you got ten
15 roxycodones from him for you driving him to get drugs, isn't
16 it true that you're saying that he paid you \$150.00 to drive
17 him to get drugs?

18 A. Of course I was lying in that statement. Yes. That
19 is what I wrote down for the purpose like I told you, but my
20 intent was to try and put more blame on Nick.

21 Q. But I thought you didn't know what happened?

22 A. I didn't know what happened?

23 Q. Yeah.

24 A. I mean, if I went somewhere and you find, you're
25 telling me that I stole credit cards from a guy that's been

1 killed, you tell me that you found shells at this place and a
2 gun that was in my home, and I mean, that makes it apparent
3 that you're trying to say that I went in here and robbed this
4 guy and killed this guy.

5 Q. So you lied to make Nick look worse?

6 A. Yeah.

7 Q. So sometimes you lie to make yourself look better
8 and sometimes you lie to make Nick look worse?

9 A. There could be reason behind both of them. Yeah.
10 That could be right.

11 Q. I didn't ask for a reason. I said is that true?
12 Sometimes you lie to make yourself look better? True or
13 false?

14 A. True.

15 Q. Sometimes you lie to make Nick look worse? True or
16 fault?

17 A. That's correct.

18 Q. The truth is after you picked up Nick, he told you
19 where he could go to do a robbery, didn't he?

20 A. Nick - Nick did not mention a robbery at all to me
21 that morning. No. He did not.

22 Q. The truth is you were the one that said we need a
23 gun to do a robbery, isn't it?

24 A. The truth is that I never said anything like that
25 because a robbery was never mentioned to me.

1 Q. The truth is you drove around to Amanda's house
2 specifically to get a shotgun; isn't that true?

3 A. The truth as I stated is that Nick Williams needed a
4 place to stay and that was the only other option that he had
5 to lay his head. Apparently where I took him there was nobody
6 there so he wasn't staying there. That was the only other
7 place that he knew that he could stay at. That was the only
8 other people that he knew. That's the reason that I went to
9 Amanda's house.

10 Q. The truth is that you went to William White's house
11 to get the shotgun, isn't it?

12 A. Incorrect. No. It's not.

13 Q. The truth is that then you and Nick, you driving the
14 car, drove over to Robert Mitchell's house for the sole reason
15 of breaking into his house and robbing him, isn't it?

16 A. I - I have never known Robert Mitchell. I didn't
17 know who he was. I did not know whose house I was gonna to
18 and I had no intent of robbing a Mr. Mitchell. My intent to
19 go there was driving somebody there. I had no knowledge of a
20 robbery. I had no knowledge of weapons. No, sir. I did
21 not.

22 Q. But you lie to make yourself look better, don't you?
23 Don't you?

24 A. I'm not God. I'm not Jesus. All of us are human
25 and we make mistakes. Just because I done things wrong does

1 not mean that I'm not a good person.

2 Q. My question to you was you lie to make yourself look
3 better? True or false?

4 A. I have. Yes. I have.

5 MR. GRAHAM: No further questions. Thank you.

6 THE COURT: Redirect.

7 MS. CLEARY: May it please the Court.

8 THE COURT: Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY MS. CLEARY:

11 Q. Mr. Brady, uhm, in 2002 how long had you known
12 Nick?

13 A. When?

14 Q. I'm sorry. In 2012?

15 A. 2012. Approximately three years give or take.

16 Q. And based on your knowledge of him did you believe
17 that Nick would give you the keys if you did nothing in return
18 for him?

19 A. Absolutely not.

20 MR. GRAHAM: Judge, I'm sorry to interrupt. I
21 cannot hear what she is saying.

22 THE COURT: Okay.

23 MR. GRAHAM: Do you mind if I move the stand back
24 and use the mic.

25 THE COURT: Yes, do that.

1 BY MS. CLEARY:

2 Q. Now, Jeremy, the prosecutor asked you some questions
3 about a text where you had written that you had no money and
4 no family to help you. On July 28th, who, if anyone, did you
5 call to help you to get Kim's car?

6 A. Uhm, the only person I called was my dad. He was
7 the only person I knew of at the time to call that would be
8 there in a quick amount of time that would be willing to
9 help.

10 Q. So if you needed money, who, if anybody, could you
11 call for help?

12 MR. GRAHAM: Objection, Your Honor. This was
13 already handled on direct.

14 THE COURT: I'm sorry.

15 MR. GRAHAM: This question has already been asked on
16 direct.

17 MS. CLEARY: No. He addressed these in cross. I'm
18 just trying to clarify it.

19 THE COURT: All right. Go ahead.

20 MS. CLEARY: Thank you.

21 BY MS. CLEARY:

22 Q. Uhm, in 2012 when these events happened, did you
23 know that you were going to be able to remember everything,
24 need to know every detail about what color bags were and what
25 size they were?

1 A. Uhm, no. I had no idea. This was just normal.
2 There wasn't anything different about this day than there was
3 any other day.

4 Q. All right. Mr. Graham asked you a number of
5 questions about your different statements to the police. You
6 spoke to the officers on August 2nd, 2012 going into the early
7 morning of August 3rd, 2012?

8 A. Yes, ma'am. That's correct.

9 Q. And when the officers first talked to you, where
10 were you located?

11 A. I was inside the apartment.

12 Q. Okay. And then you testified earlier that you went
13 outside and talked to them?

14 A. Yes. That's correct.

15 Q. At that point had they read you Miranda Rights to
16 you?

17 A. Oh, no, ma'am. I was never read any Miranda Rights
18 until I was questioned and interrogated at the Sheriff's
19 Department.

20 Q. And had they told you about a wallet that belonged
21 to a deceased victim?

22 A. Where is that at? Where are we talking about?

23 Q. When the officers were talking - when Detective
24 Grant talked to you at Feather Run Trail?

25 A. Well, after the first couple of questions, they

1 asked me if I was aware that the credit cards that I had used
2 belonged to a guy that had been killed or somebody that was
3 deceased.

4 Q. Did you feel as if you were free to leave at that
5 time?

6 A. No. Absolutely not. I was sitting on the tailgate
7 of a officer's car with an officer directly next to me, an
8 officer in front of me to my left and another officer closer
9 to me to my right. I was on a tailgate for two and a half
10 hours. I was not allowed to leave. One time, the only time I
11 was allowed to get off the tailgate of that truck was whenever
12 I was taken off the tailgate and transported to the patrol car
13 and put in handcuffs.

14 Q. And at 7:00 is when they first talked to you at the
15 detention center?

16 A. Yes, ma'am. That's correct.

17 Q. And did they give you Miranda Warnings at that
18 point?

19 A. When I was taken to the interrogation room?

20 Q. Mm-hmm.

21 A. I was given Miranda at the interrogation room.

22 Q. Not at Feather Run?

23 A. Yeah.

24 Q. But I'm talking about once you were arrested?

25 A. Yes, ma'am.

1 Q. Okay. So do you remember exactly what you said in
2 your statement? What you said to Detective Spivey at that
3 point?

4 A. I don't remember. No, ma'am.

5 Q. Would it help to you look at the statement?

6 A. That would help.

7 Q. And I'm just referring to this part here marked
8 threw in green there. Could you just read that part from your
9 statement at 7:00 in the morning?

10 A. This says at approximately 07:00 hours, Jeremy
11 Seldon Brady was advised of his Miranda Rights. Brady was
12 advised of the fact that there was evidence --

13 MR. GRAHAM: Objection, Your Honor. He's reading
14 off of a police supplement. That's improper.

15 MS. CLEARY: No. I'm sorry. I'm just giving him
16 the quote of his statement.

17 THE COURT: Did you give him the statement?

18 MS. CLEARY: Well, there are some that are
19 documented and some that are not.

20 THE COURT: All right. Read what's the statement.

21 BY THE WITNESS:

22 A. I apologize. Brady claimed that he didn't know what
23 we were talking about. Brady also claimed --

24 MR. GRAHAM: Your Honor.

25 THE COURT: Hold on.

1 MR. GRAHAM: I have got to object. He is reading
2 off of a police supplement. He didn't write it. It's
3 not his statement. He can't just take a police report --

4 THE COURT: That's completely improper. I thought
5 you were -- I thought you were going off of a written
6 statement which he had made so sustained on the
7 objection.

8 MS. CLEARY: Let me move to this part.

9 BY MS. CLEARY:

10 Q. Okay. So that's the written statement that
11 Mr. Graham just talked to you about?

12 A. Yes, ma'am.

13 Q. All right. If you could read just the parts that
14 are highlighted.

15 THE COURT: What is the purpose of having him read
16 from that statement? What are you trying to do?

17 MS. CLEARY: Because I don't want to lead him. Oh,
18 because it's a prior consistent statement and he's
19 already impeached him saying that he lied about things.
20 These are prior consistent statements.

21 THE COURT: Well, you can ask him.

22 MS. CLEARY: Okay. I just was worried about
23 leading.

24 THE COURT: You can ask him that.

25 BY MS. CLEARY:

1 Q. All right. Mr. - or, Jeremy, did you state in your
2 written statement Nick called and called for me to pick him
3 up. I finally gave into and agreed to pick him up?

4 A. Yes. I believe my statement says something like
5 that.

6 Q. Okay. And do you remember you said he said the guy
7 was nervous and nervous about meeting new people so come back
8 in five minutes. Did you say that? Do you remember?

9 A. I - I don't remember saying that but...

10 Q. But you did sign this statement?

11 A. I did sign those statements, yes, ma'am. It's just
12 that it's been so long since I wrote that. It was three years
13 ago.

14 Q. All right. So when Detective Grant writes describe
15 the gun that Nick used, your answer is not sure. Never saw
16 it. And he says what did Nick take from the residence? Not
17 sure. I know he got pills; is that correct?

18 A. If that's what I wrote, yes, ma'am.

19 Q. Okay. Is that correct now?

20 A. Could you state it one more time? I'm sorry.

21 Q. I'm sorry. You said you never saw the gun that Nick
22 used; is that true now?

23 A. That is true.

24 Q. And you say that you don't know if Nick took
25 anything from the residence, but you know he got pills?

1 A. I do know Nick got some pills. Of course, he gave
2 me, he offered to give me two. He gave me one that was
3 supposed to go to William and I believe we heard the other day
4 that we said that he was doing --

5 MR. GRAHAM: Objection. Hearsay. He needs to
6 testify from his memory, not what other people testified
7 to.

8 THE COURT: Correct. Sustained.

9 BY MS. CLEARY:

10 Q. All right. I'm sorry. Jeremy, did you say how did
11 you get, in response to the question, how did you get the
12 credit cards, did you say in your written statement they were
13 sitting in the center console of the car?

14 A. I believe that's what I wrote on the statement.
15 Yes, ma'am.

16 Q. Okay. And today you testified that they were
17 somewhere in Michelle's car?

18 A. Yes. That's correct.

19 Q. Okay. And when the officer asked you where did you
20 use the cards, you wrote I tried to use them at Wal-Mart. Is
21 that true?

22 A. That is true.

23 Q. The officer asked you did Nick tell you that he was
24 going to rob the guy. And you wrote he just told me he was
25 buying some pills. Is that true?

1 A. I was under the impression that he was going
2 there to by some pills the second time that we went there.

3 Q. Did Nick tell you the man's name?

4 A. No.

5 Q. You said he was referred to as the old man by the 44
6 with the roxies. Is that true?

7 A. That's true that I never - that I never knew of this
8 guy's name until after this incident happened. I have never
9 met him. Never seen him. Had no idea what his name was.

10 Q. Okay. And the officer asked you did you see a safe?
11 Is that true?

12 A. Yes. That's true.

13 Q. I'm sorry. And then you replied no. Is that
14 true?

15 A. Yes, ma'am.

16 Q. And then the officer said what did Nick have in his
17 hands when you picked him up? And you said bookbag and case
18 around the shoulder. Is that true?

19 A. When I picked him up from Old Orangeburg Road, yes,
20 he had his backpack and black duffel bag.

21 Q. And he said did you or Nick throw anything from the
22 house after you drove off? And you said did not notice
23 anything. I didn't throw anything. Is that true?

24 A. That is true.

25 Q. And the officer asked you what did Nick have when he

1 came back out of the house? And you replied he had the same
2 duffel bag both places. Is that true?

3 A. Uhm, on both places? I'm not exactly sure what that
4 means.

5 Q. Okay. Okay. Since I'm not either I won't ask you
6 that one again. Okay. So did you say that when the officer
7 said what did you do with the credit cards, you said I tried
8 to use them at Wal-Mart? Is that right?

9 A. Yes, ma'am. That's correct.

10 Q. And then he asked you did ever see a wallet that was
11 taken from the residence? And you said no. I never saw a
12 wallet itself. Cards were left in center console. Is that
13 true?

14 A. Uhm, I never did see a wallet. I'm not a hundred
15 percent sure that the cards were left in the center console
16 but the cards were left in the car.

17 Q. Okay. And the officer said describe Nick's duffel
18 bag. And you said very plain all black generic brand duffel.
19 Is that true?

20 A. That is true. Yes, ma'am.

21 Q. And the officer said, do you have anything else to
22 add or say? And you said I have no clue of a murder. Is that
23 true?

24 A. Yes, ma'am. That is true.

25 Q. In any of these written statements or the statements

1 that weren't written and signed but were documented by these
2 police officers, in any of these statements did you ever say
3 in there anything about seeing Nick shoot anybody?

4 A. No, ma'am. I did not.

5 Q. Did you ever say anything about knowing that Nick
6 had a gun or seeing him with a gun?

7 A. No, ma'am. I did not.

8 Q. And did you ever say anything in these three
9 statements about a robbery or knowing about a robbery?

10 A. No, ma'am.

11 Q. And did you ever say anything in these three
12 statements about a burglary or knowing about a burglary?

13 A. No, ma'am. I did not.

14 MS. CLEARY: That's all I have. Thank you.

15 THE COURT: All right.

16 RECROSS EXAMINATION

17 BY MR. GRAHAM:

18 Q. But you did talk about hearing gunshots, correct?

19 A. Yes. I did.

20 MR. GRAHAM: Nothing else.

21 THE COURT: All right. Thank you, sir. You may
22 step down. You may call your next witness.

23 MS. CLEARY: Your Honor, the defense rests.

24 THE COURT: All right. Does the State have any
25 reply?

1 MR. GRAHAM: We do, Your Honor.

2 THE COURT: All right. We'll move to that now.

3 MR. GRAHAM: The State calls Special Agent Shawn
4 Grant.

5 Thereupon,

6 SHAWN GRANT

7 after having been first duly sworn, testified as follows,

8 THE CLERK: Please have a seat. After you're
9 seated, please state your full name spelling your last
10 name for the record.

11 THE WITNESS: Shawn Grant, G-r-a-n-t.

12 DIRECT EXAMINATION

13 BY MR. GRANT:

14 Q. Agent Grant, where are you currently employed?

15 A. South Carolina Law Enforcement Division also known
16 as SLED.

17 Q. How long have you been there?

18 A. I have been there approximately one year.

19 Q. And what are your job responsibilities there?

20 A. I'm a major crimes investigator and I investigate
21 multiple crimes, general crimes.

22 Q. Prior to that, how much law enforcement experience
23 do you have?

24 A. 11 years.

25 Q. Back in July and August of 2012, where were you

1 employed?

2 A. Lexington County Sheriff's Department.

3 Q. And your job there was a major crimes investigator
4 at that time?

5 A. Yes.

6 Q. And, in fact, at that time you were the lead
7 investigator on this case; is that correct?

8 A. Yes, sir.

9 Q. On August 2nd and August 3rd, well, say, August 3rd
10 of 2012, did you come in contact with Jeremy Brady at his
11 apartment on Feather Run?

12 A. Yes. I did.

13 Q. Was he in custody at the time that you met with
14 him?

15 A. No. He wasn't.

16 Q. Was he free to leave any time he wanted?

17 A. Yes.

18 Q. Was he in handcuffs?

19 A. No.

20 Q. Was he arrested?

21 A. No.

22 Q. Did you talk to him about this case?

23 A. I did.

24 Q. Did you talk to him about a murder investigation or
25 did you talk to him about the use of credit cards?

1 A. Initially about the use of credit cards when we got
2 to the apartment complex.

3 Q. While you were at the apartment complex, what, if
4 anything, did you say to him about a murder or the credit card
5 belonging to a person who had been killed?

6 A. Nothing. I just mentioned that there were, you
7 know, some credit cards that were stolen from someone.

8 Q. And why didn't you tell him that?

9 A. Because usually when you're investigating a crime of
10 this nature, you got somebody who you may have an interest in
11 or involvement in it and you don't want to go into great
12 detail about it. You want to see whether they have
13 information with regard to it.

14 Q. When you talked to him about using a credit card,
15 did he ultimately admit that he did use it?

16 A. Yes. Well, after talking with him for several
17 minutes.

18 Q. Did he give you several different stories about
19 where the credit card came from?

20 A. He did.

21 Q. Do you remember what he told you?

22 A. He mentioned being around the 44 Truck Stop and
23 seeing a wallet on the ground near the business.

24 Q. At that time had you said anything to him about the
25 44 Truck Stop?

1 A. No.

2 Q. Did you say anything to him about a wallet?

3 A. No.

4 Q. Were you only asking about a credit card?

5 A. Yes.

6 Q. Subsequently was he arrested and taken to the
7 Sheriff's Department?

8 A. Yes.

9 Q. Do you remember approximately what time he would
10 have gotten there?

11 A. He would have gotten to the Sheriff's Department
12 around 3:00 a.m.

13 Q. At some point did you and your partner at this time
14 that would have been Detective Shawn Spivey; is that
15 correct?

16 A. Yes.

17 Q. At some point did you and Detective Spivey get
18 Mr. Brady from the jail and take him to an interview room?

19 A. Yes.

20 Q. Okay. At this time he is in custody, isn't he?

21 A. Yes.

22 Q. So he's under arrest and in custody?

23 A. Yes.

24 Q. And when somebody is under arrest and in custody,
25 what do you have to do to be able to interview them?

1 A. You know, advise them of Miranda Warnings to find
2 out if they want to talk to you.

3 Q. And how was he advised of Miranda?

4 A. He was advised, in the station we have a form called
5 advise of rights form and that form has, you know, general
6 information and it also has Miranda advisement listed on it
7 also.

8 Q. Let me show you a document and ask if you recognize
9 that document?

10 A. Yes, sir.

11 Q. Is that is the document that you're talking about?

12 A. Yes, sir.

13 Q. So how were the rights administered to the defendant
14 in this case?

15 A. Uhm, you know, in person and each right was
16 administered individually. There are approximately five
17 rights that you read to the individual and once they
18 acknowledge that they understand each right, you have them to
19 initial by each right.

20 Q. Were all of his rights read to him?

21 A. Yes, sir.

22 Q. Did he appear to understand his rights?

23 A. He did.

24 Q. Did he waive his rights?

25 A. Yes.

1 Q. Did he agree to speak to you and Detective Spivey?

2 A. He did.

3 Q. Did you all threaten him in any way?

4 A. No, sir.

5 Q. Did he make any promises to him?

6 A. No, sir.

7 Q. Did you promise him that if he told you something,
8 that you would let him go?

9 A. No.

10 Q. Now, so you've read the rights and you interviewed
11 him?

12 A. Yes.

13 Q. Now, was that the only interview or was there a
14 second one?

15 A. No. During the first interview he wouldn't provide
16 any information, just sat there, wouldn't answer any questions
17 so I decided just to end it.

18 Q. So the rights that you were just talking about
19 that's on that form, those are the rights that you read the
20 first time you interviewed him before you asked him any
21 questions?

22 A. Yes.

23 Q. The interview never really got anywhere so you took
24 him back --

25 A. To the detention center.

1 Q. -- to the detention center. Did he ever at any time
2 tell you that he didn't want to speak to you anymore, that he
3 wanted a lawyer?

4 A. No.

5 Q. Once you took him back to the detention center, did
6 you come up with additional information that you wanted to ask
7 him about?

8 A. Yes, sir. That's when I brought him back.

9 Q. So that's when you brought Mr. Brady back again to
10 the interview room?

11 A. Yes.

12 Q. And who was with you at that time again?

13 A. Detective Spivey.

14 Q. Did you all again advise him of his rights?

15 A. We did.

16 Q. Are you hiding a form where you interviewed him for
17 an hour and a half, advised him of his rights and he said that
18 he didn't want to talk?

19 A. No, sir.

20 Q. The second time that you talked to him, did you
21 again advise him of his rights?

22 A. Yes, sir. We used the same form, advised him on the
23 same form.

24 MS. CLEARY: I'm going to object to leading.

25 THE COURT: Okay. Sustained as to leading.

1 BY MR. GRAHAM:

2 Q. The second time that you interviewed him after you
3 used the same form to advise him of his rights, what, if
4 anything, did he say about exercising his rights?

5 A. He decided he wanted to talk to us. He waived those
6 rights.

7 Q. At that time did you do anything to coerce or
8 threaten him to speak with you?

9 A. No.

10 Q. Did you make any promises to him?

11 A. No.

12 Q. Did he speak with you voluntarily and freely?

13 A. He did.

14 Q. The document that you have before you, is that where
15 Mr. Brady wrote his statement?

16 A. Yes.

17 Q. The writing of the statement itself, is that his
18 handwriting or yours or Detective Spivey's?

19 A. That's his handwriting.

20 Q. At the beginning of the handwritten part there are
21 initials. Whose initials are those?

22 A. Mr. Brady's.

23 Q. And then at the end of the page?

24 A. Mr. Brady's.

25 Q. At some point it goes into Q's and A's. Whose

1 handwriting is the Q's?

2 A. I wrote the questions.

3 Q. And then the A's -- So Q is for question that you
4 wrote?

5 A. Mm-hmm. Q-is for question. A is for answer.

6 Q. Who wrote the answers?

7 A. Mr. Brady wrote his own answers.

8 Q. And that's shown, the initials that are by the
9 answers, whose are those?

10 A. Mr. Brady's.

11 Q. Did you tell him what to say in here?

12 A. No.

13 MR. GRAHAM: Your Honor, the State offers this as
14 State's exhibit 106.

15 THE COURT: 106.

16 MS. CLEARY: Your Honor, I object. May we approach?

17 THE COURT: Yes.

18 (Side bar off the record.)

19 MR. GRAHAM: Nothing further, Your Honor.

20 THE COURT: Anything on cross with this witness?

21 MS. CLEARY: No, Your Honor.

22 THE COURT: Thank you very much, sir. You may step
23 down.

24 MR. GRAHAM: Your Honor, the State rests its case in
25 reply.

1 THE COURT: All right. Folks, I have to take up
2 matters of law at the close of all the evidence. You
3 recall we did that at the close of the State's case, but
4 now we're at the close of all the evidence so now I have
5 to take up some matters of law. I'll get you the step
6 back into the jury room while I do that. Have no
7 conversation about the case and then when you come back
8 out, I anticipate that we will be moving into closing
9 arguments as well as jury charge. So if you would give
10 me a few minutes to take up these matters of law and I'll
11 bring you back out.

12 (Whereupon, the jury entered the jury room at 3:04
13 p.m.)

14 THE COURT: All right. At this time I'll take up
15 any motions at the close of all of the evidence. Ms.
16 Cleary.,

17 MS. CLEARY: Your Honor, uhm, I have a motion for
18 directed verdict on each of the charges renewing my
19 motions made earlier but as to the armed robbery.

20 THE COURT: Yes, ma'am.

21 MS. CLEARY: I know in the opening statement that
22 Ms. Rankin said that the victim was asleep and I haven't
23 heard any testimony that he was awake and just when I was
24 reading the armed robbery charge, I don't think that you
25 can put somebody in fear for their life if they are

1 asleep so I would ask for a directed verdict on that.

2 THE COURT: Do you wish to be heard on that?

3 MR. GRAHAM: Judge, he had three different shots as
4 testified, injury wounds as testified by the pathologist,
5 one was in the front and two in the back so he had to
6 move around. All three shots couldn't have happened at
7 the same time. It would have been impossible.

8 THE COURT: I'm gonna deny your motion. I think
9 it's a factual issue and so as to all of the charges I
10 believe it's a factual issue depending on how the jury
11 views the evidence. I think a directed verdict would be
12 inappropriate; that it would be taking the factual issues
13 away from the jury which would be inappropriate to do.

14 MS. CLEARY: And I believe I need to renew my
15 motions at this time relating to the third party guilt
16 issues but I don't have additional arguments on that.

17 THE COURT: All right. Well, just so the record is
18 clear, the defense has renewed, at this time is renewing
19 all their prior motions made and the exceptions taken to
20 those rulings and that is certainly noted for the record.
21 Anything else?

22 MS. CLEARY: No.

23 THE COURT: All right. Did Lauren give y'all
24 another copy of the charge this morning?

25 MS. CLEARY. Yes. I wanted to mention, I got it and

1 I haven't had time to read it other than very cursory.

2 THE COURT: All right. Here's the thing. It's not
3 very different. I'll give y'all a few minutes to read
4 over it. It shouldn't take long. Let me help you out.
5 I can't imagine there's any objections to the boiler
6 plate language for the first several pages so you might
7 want to consider, I mean, I'm not saying you can't object
8 to the boiler plate language, but you have read that from
9 yesterday because none of that changed. What I passed to
10 you today and the changes that I have made to the charge
11 would begin under the murder charge. There's been
12 changes there from yesterday's draft and there have been
13 changes under the hand of one hand of all charge. So if
14 that will help direct you. Y'all go ahead and take a few
15 minutes to look over those things and then we'll talk.

16 MS. RANKIN: Your Honor, the State has reviewed it
17 and we don't have any objection.

18 THE COURT: All right. Thank you, ma'am. Have you
19 had enough time to look over that, Ms. Cleary? What, if
20 anything, do we need to do?

21 MS. CLEARY: I mean, it's fine with me. I'm just
22 thinking the jury is going to come back and ask if
23 selling pills and that sort of thing is a felony.

24 THE COURT: Is what now?

25 MS. CLEARY: I'm sorry. They're going to ask if

1 selling pills and that sort of thing is a felony.

2 THE COURT: He's not accused of selling pills.

3 MS. CLEARY: No. I mean, because it talks about
4 committing a crime, you know, and acts happening in the
5 commission of a crime or a felony.

6 THE COURT: I think it's kind of clear that's in the
7 context of these charges.

8 MS. CLEARY: Okay. I just want to make sure he's
9 not gonna argue that because that seems to be where he
10 was going with that. Well, I mean with the charge that I
11 saw last night --

12 THE COURT: I cannot speak --

13 MS. CLEARY: -- it said unlawful conduct and I
14 thought, wow, that could sure be anything.

15 THE COURT: Well, no. I can't speak for Mr. Graham,
16 but I'm pretty confident that the basis of his argument
17 for the crime being committed is not going to be selling
18 pills.

19 MR. GRAHAM: I'm sorry. I wasn't paying
20 attention.

21 THE COURT: I was asked to predict what you were
22 going to argue because Ms. Cleary's concern, you know,
23 are you talking about under the hand of one hand of all
24 or what part is it that you are referencing?

25 MS. CLEARY: Well, I mean, either one.

1 THE COURT: Well, she's concerned that maybe your
2 argument to the jury is going to be because, you know,
3 you have to have it be in the act of committing a crime,
4 that you are going to argue that the crime was selling
5 pills.

6 MR. GRAHAM: The crime was armed robbery and murder.

7 THE COURT: I assumed it was going to be confined to
8 the crimes that he's charged with. Those are the
9 criminal acts that we're talking about, correct?

10 MR. GRAHAM: Yes, Your Honor. Yes.

11 THE COURT: That's what I would imagine. Yeah.

12 MS. CLEARY: Okay. I'm fine. Are we gonna go
13 straight --

14 THE COURT: Yes.. So right now if you need to use
15 the restroom or do anything like that, go ahead and get
16 it done and then we're gonna start. The defense will
17 argue first and the State will argue last.

18 MR. GRAHAM: I would ask for a small break between
19 so we can get the evidence out.

20 THE COURT: I just assume you are not because you
21 typically don't, but you're not gonna open on the law,
22 are you?

23 MR. GRAHAM: No, Your Honor.

24 THE COURT: Okay. And we'll do that. So go ahead
25 and if you need to use the restroom or anything, get a

1 drink of water or whatever, then do that.

2 (Short break.)

3 THE COURT: Everybody ready to resume?

4 MR. GRAHAM: The State is ready.

5 MS. CLEARY: The defense is ready.

6 THE COURT: Okay. Let's bring the jury in please.

7 (Whereupon, the jury returned to the courtroom at
8 3:30 p.m.)

9 THE COURT: All right. Ladies and gentlemen, as I
10 told you when we took the break, the evidentiary portion
11 of the trial has been closed. There's no other evidence
12 that's going to be presented, however, this is the
13 opportunity that the attorneys are gonna have to address
14 you with their closing arguments or what we sometimes
15 call final summations.

16 Now, you recall when we started this case when I
17 talked to you about their opening statements. I
18 instructed you that what they shared with you in their
19 opening statements was not evidence because they're not
20 under oath. Well, the same holds true to their closing
21 arguments as well. They are still not under oath.
22 They're not witnesses. So what they're going to share
23 with you in their closing arguments is not evidence. The
24 evidence in this case is closed. It is the testimony
25 that you have heard from the witnesses and the exhibits

1 that you will have back in the jury room with you. But
2 it is important because this is their opportunity to
3 argue to you what in their opinion the evidence in this
4 case has shown and so it's important that you listen
5 carefully as they address you with those thoughts. Once
6 they have concluded their remarks, I will then give you
7 the charge on the law. And once you have that, and I
8 have the charge here and you will also have the charge
9 back in the jury room with you so once we've concluded
10 that, then you will have everything you need to begin
11 your deliberations, okay? So if you would, please give
12 the lawyers your undivided attention as they address you
13 with their closing remarks or closing arguments. Ms.
14 Cleary.

15 MS. CLEARY: May it please the Court.

16 THE COURT: Yes, ma'am.

17 MS. CLEARY: First of all, I want to thank all of
18 you for your service on what must be the hottest week of
19 the year and also I apologize that, uhm, my voice has
20 been soft this week. I actually have never had anybody
21 tell me that I was soft spoken, but I think that I was
22 just exhausted and not able to project like I have been
23 trying to teach my 15 year old daughter to do. Teach her
24 don't yell, project. So because of that I'm going to go
25 ahead and use this microphone where I might normally walk

1 up and down like this. But I'm sure it would be
2 appropriate for you to just give me a little signal if I
3 need to get closer to this microphone.

4 Uhm, now, in the beginning the Judge and Ms. Russell
5 told you this wouldn't be like TV and as you can see
6 there is no script and there's certainly not actors here.
7 These are real people and sometimes things go awry and
8 sometimes it's boring and sometimes it's confusing and I
9 know if it were a TV show, it's ratings would be
10 horrible. So I appreciate your patience with this
11 process.

12 But this is the point where I get to talk to y'all
13 and argue what I believe that the reasonable inferences
14 should be that you should draw from the evidence admitted
15 in trial. I don't have a transcript of the trial and I
16 have tried to write down exactly what the testimony was,
17 but if I misstate something, you go by your memory as the
18 Judge instructed. But I am trying to do my best and be
19 accurate about what the evidence showed.

20 Now, remember that the government prosecutors get to
21 speak last and that's because we gave up our right to
22 speak last because Jeremy wanted to testify and tell you
23 his side of the story and he knew if he testified, that
24 he would have to tell you that he is a drug addict and a
25 drug seller and a credit card thief in July of 2012. But

1 he wanted to tell you that he is not a murderer and he's
2 not an armed robber and he is not a burglar and he is not
3 a conspirator with Nick Williams. And because I can only
4 speak once, this is going to be a little lengthy and I
5 apologize for that, but I'm not going to be able to refer
6 to every piece of evidence and I know you don't want me
7 to do that. So if I miss something it's not because I
8 didn't think it was important. It's just because there's
9 just so much different things going on here and I also
10 want to apologize for using notes so heavily because
11 there was a day when I could memorize things and I don't
12 do this every week like these extremely talented
13 prosecutors do and in order to keep me from rambling too
14 much I've got to have some notes here so don't hold that
15 against me. Please don't hold it against my client
16 Jeremy Brady.

17 I try to remember what I pointed out to you because
18 when the State gets up here after me they're gonna try to
19 muddy the waters. That's their job. And the State is
20 gonna try and add two and two and get five, but I implore
21 you do not let that happen and to apply that rational
22 thought process to the facts that have been presented
23 here. And remember, too, that you are going to be free
24 to ask the Judge if you can rehear testimony or if you
25 are not sure exactly what was said so rather than making

1 a decision on guessing what was said, feel free to ask
2 the Judge to replay it because it's very important that
3 you remember what the testimony was and you will also
4 have these exhibits back in the jury room and I ask you
5 to take your time with them.

6 Now, I had hoped when I started working on this case
7 two, almost three years ago, I hoped that I would be able
8 to come in here and tell you who murdered Mr. Mitchell
9 because there is absolutely nothing showing that that man
10 deserved to die. No question about it. But we don't
11 know what happened because of this hasty investigation in
12 which the State refused to look beyond the problems of
13 their killer, of their star witness, a pimp and a
14 manipulator who wanted Jeremy out of the picture. The
15 government took the easy way out and now an innocent
16 man's life is at stake and unfortunately we will never
17 know what really what happened.

18 What we do know is that Jeremy loved Kim. They have
19 a ten year old daughter together. They were living in a
20 trailer on dad's property. Jeremy is working doing
21 construction. They don't smoke pills or shoot heroin or
22 those other life sucking drugs that the State's expert
23 told you about. But one day that changes because out of
24 the kindness and sympathy and being a nice guy Jeremy
25 let's Nick Williams stay in his trailer. Let's him stay

1 rent free, buying his food and cigarettes. But like I
2 say, no good deed goes unpunished and soon Jeremy learns
3 that Nick not only had started sleeping with his wife but
4 he had gotten her hooked on heroin and pills and not too
5 long after that Nick is pimping her because that helps
6 support his habit and so then what Nick does that he
7 admitted to you is that he turned, he began at some point
8 starting using those harder drugs as well because he
9 wanted to keep Kim in his life. And those drugs are
10 highly addictive and Jeremy did steal credit cards to buy
11 more drugs and to support Kim and he did sell pills when
12 he had them and he bought pills when he needed them.

13 But there is a big jump between that and being a
14 murderer and he is not a murderer. He never killed for
15 these pills and other than Nick Williams the user and
16 manipulator that he is no one has testified to seeing
17 Jeremy kill Mr. Mitchell or to even seeing Jeremy inside
18 of Mr. Mitchell's house any time around July 28th, 2012.

19 Now, on that day Kim White the mother of Jeremy's
20 child, she got arrested and called Jeremy five times. If
21 you look at the phone records, she called him five times
22 from the jail, come pick me up. And Nick testified that
23 Kim made efforts to help Nick get away from the meth
24 house after the bondsmen picked her up and you can see
25 from the phone records there were five calls from

1 Securus.

2 Now, what was said on the phone we'll never know.
3 Whether she said go pick up Nick because I don't want him
4 to get arrested or whether she said go get my keys, when
5 she said it or why she said it, that doesn't matter. He
6 just wanted to help out Kim and sure wasn't interested in
7 helping out Nick. Then you can see that Nick starts
8 calling I think seven times, and Jeremy hates Nick but he
9 loves Kim so after he gets called 12 times between 4:05
10 and 5:41 Jeremy eventually gets up from sleeping and does
11 what Kim's wants him to do.

12 Now, he borrows Michelle's car as he's done many
13 times and Michelle testified he uses her car a good bit
14 and the State seemed to want to show that he took it
15 without permission but she admitted that she might not
16 have remembered whether he had asked. She was out
17 drinking. She admitted that he's free to use her car.
18 So he travels down Old Orangeburg Road. You can look at
19 this map and see when these things happened. The crack
20 house or meth house or whatever it's called and then they
21 drive to the victim's house, the man that Nick knew
22 because he bought pills from him.

23 They went to the victim's house and you heard Nick's
24 testimony that they went in to rob someone and Jeremy
25 killed Mr. Mitchell who the evidence showed and who the

1 State said in their opening statement was asleep with his
2 CPAP machine on. He goes in and kills him in cold blood
3 for no reason. You can clearly get the pills without
4 killing him but no he's such a, according to Nick, Jeremy
5 is so cold hearted he just killed him for no reason and
6 according to Nick's testimony it was Nick's plan to rob
7 him, but instead Jeremy shot him in the bedroom. It just
8 doesn't make sense.

9 Now, there was no evidence that Jeremy knew this man
10 or that he had any reason to shoot him at all. Believe
11 me, if there had been any evidence of that, the State
12 would have brought that forward.

13 Now, Nick is the one with the connection as I said.
14 Jeremy and Nick weren't two buddies working together.
15 They weren't going to conspire to do anything. Jeremy
16 tolerated Nick enough to make him happy. That's why he
17 picked him up on Old Orangeburg Road and drove him all
18 around the county. Nick has been using Jeremy for years.
19 It's no surprise that he's gonna do what he asks. He
20 knows that's the only way he's gonna get Kim's keys. He
21 obviously has not been able to stand up to Nick, but
22 we're supposed to believe he's the cold blooded murderer?

23 Now, Jeremy had no plan to rob Mr. Mitchell. He had
24 no plan to steal from him. If he wasn't going to get
25 involved in that kind of thing with Nick, why are you

1 gonna confederate to do a crime like this with someone
2 that you don't trust and don't like? That doesn't make
3 any sense. As Jeremy said he thought he was gonna
4 collect Kim's keys and maybe get some pills or some money
5 in exchange to put gas back in Michelle's car. Jeremy is
6 a credit card thief and he took that card out of
7 Michelle's car or wherever he got it from and went to
8 Wal-Mart. But it's common sense. He's not gonna go use
9 the credit card of a man he murdered a few days earlier
10 in the same tri-county area. He uses it because he's a
11 credit card thief. He doesn't know that Mr. Mitchell is
12 dead. He doesn't know anything about Mr. Mitchell. He's
13 a thief. And thanks to Nick he's a drug abuser but he's
14 not a murderer.

15 Now, let's just look at Nick's statements real
16 briefly. The first time he tells the police I don't know
17 anything about. Jeremy had nothing to do with it.
18 Nobody had anything to do with it, right? The second
19 time he says that the man sells pills. Wait. I'm sorry.
20 So initially Nick says, tells the officers he doesn't
21 know anything about it. Then he says, oh, well, Nick is
22 the one that knew Mr. Mitchell. But now we know as Nick
23 admitted he's the one that knew Mr. Mitchell. Initially
24 Nick said Jeremy didn't want him, didn't want Nick to
25 come inside because Mr. Mitchell didn't like strangers.

1 Well, Nick is the one who's been talking on the phone.
2 Nick is the one who knows that about him. Not Jeremy.
3 So you can infer from that that Nick just switched his
4 name with Jeremy's in this version of the stories to the
5 police. Because Nick eventually in his written statement
6 told the police that the victim had a CPAP machine on.
7 Well, what did he do when he said that? He put
8 himself inside that trailer where Mr. Mitchell had been
9 murdered and by doing that he can't come back later with
10 any credibility and say he wasn't there. He can't come
11 back and even say I walked in and the man was already
12 dead and I stole pills and a safe from a dead man. He
13 can't say that. Nobody is gonna believe this low life
14 drug pushing pimp who comes up with a plan and he starts
15 doing some of that manipulating that he's been doing his
16 whole life. He found out later from his lawyer that if
17 you're in the trailer with a shotgun to rob someone, it
18 doesn't matter who you try to pin the blame on. You're
19 both guilty under the hand of one is the hand of all. So
20 he knew that the only way to get around that was to
21 testify against Jeremy so he concocts a whole new story
22 that fits even better with the evidence now that he knows
23 what evidence the State has because he has his discovery
24 in the prison, in the jail with him and this is gonna
25 allow the State to get two convictions, not just one.

1 But no, he's telling us, he told us earlier this
2 week he's just telling this made up story because he's
3 just a good guy. That's just what kind of guy he is.
4 He's a manipulative guy who uses his friends and pimps
5 out his girlfriend to make money for his habit. But he's
6 just a good guy. And he testified that he doesn't have a
7 deal with the State and we are not doubting that. But
8 what we are doubting is that when Nick says he doesn't
9 believe that he's going to get a good deal better than
10 life in prison plus, when he says that, no, we don't
11 believe that because he knows that the only way he's
12 going to avoid life plus is if he helps them out. It's
13 just not credible. His story is just not credible. He
14 knows he can't wiggle out of being in that trailer that
15 night so this is his only choice. He doesn't care about
16 right and wrong. He doesn't care about justice. He
17 doesn't care about anything but himself and that's
18 obvious.

19 And the State is gonna try to say to you, well,
20 Jeremy lied too. He lied to the police. His stories
21 weren't right. He didn't lie about the important things.
22 Yeah. He tried to distance himself from where he found
23 the pills or how many roxies he got and then he admits he
24 felt like he had to give them some descent information so
25 at that point he told them he heard three gunshots after

1 they had told him there were three shells found. That
2 was wrong. He shouldn't have done it but he's not
3 getting up in court now and repeating that lie even
4 though that's of no benefit to him. It would probably be
5 more helpful if he could implicate Nick. But he doesn't
6 know whether Nick murdered him.

7 So the reason I asked Nick about doing that research
8 in the jail was not - I'm not -- I mean, that's great.
9 You should be able to do all the research you want. But
10 what I'm saying is that this is a guy who has the system
11 figured out, thoroughly researched it and so he came in
12 over a year later with this new story that he hoped the
13 prosecutors would buy and he's a manipulator and he
14 manipulated the police into believing his lie. But
15 Jeremy, he doesn't have a story to give to the police.
16 He can't turn State's evidence because he wasn't in the
17 trailer. He can't give them anything to help their case
18 against him. He's no good to them so that's why he's
19 here now. If he had some information on Nick that would
20 put that man in prison and get him out of their life and
21 maybe he can get back with Kim the love of his life, I am
22 sure he would have come up with it and told you because
23 every time I think about this case, I think if he was
24 going to kill somebody, it would have been Nick.

25 Now, the shotgun. The gun was in a storage closet

1 and they're gonna make it sound like it's his storage
2 closet but it's Brenda White's storage closet. People
3 were in and out of there. We don't know what's going on.
4 They're all on drugs. I mean, not everybody but you know
5 what I'm saying. There's evidence that, you know, people
6 are involved in different taking of pills. There is no
7 evidence that somebody is standing by guarding the door
8 at Brenda's house. People's memories are not clear. To
9 most of these people none of these events were important
10 at the time. They didn't know they were supposed to
11 remember everything like what color bags you were
12 wearing. I can't remember what color bag I had yesterday
13 except for that I use the same bag everyday so it's easy
14 for me but I can't remember details and you don't
15 remember details unless you have a reason to. When a
16 witness gets up here and says the bag looked exactly like
17 this and he was holding it exactly like this, you know
18 they're not telling the truth because that's just not how
19 memory works.

20 Now, as far as the DNA, Jeremy volunteered his DNA
21 because as he said he never touched that gun. But what
22 he didn't realize is that we shed 36,000 skin cells a
23 minute and if he had touched that blanket that the gun
24 was wrapped in that the State didn't even bother to take
25 in the blanket even though the gun is wrapped in it, he

1 didn't know that that could possibly show his DNA. But
2 you know what? Both of the experts agree that those
3 tests don't show his DNA was there. Let's be clear.
4 Both experts agree that as to Jeremy the results are
5 inconclusive and we don't know what that means. They
6 can't say that his DNA was on that. And I didn't like
7 him putting up all that boring testimony but it was
8 obvious that the State thought that that DNA was, you
9 know, that was the smoking gun. So we had to make it
10 clear that this report is not saying there's a match.
11 It's not saying that he cannot be excluded. It's saying
12 the results are inconclusive. And whether it's .72 or
13 .27 nanograms, that doesn't matter. That's still a
14 little tiny bit and you know it's not gonna take much for
15 it to transfer.

16 Now, as far as the bullets go, and I don't know
17 whether that's the gun that killed Mr. Mitchell. I have
18 no idea, but their expert, she had to admit she can't say
19 to a reasonable degree of scientific certainty that this
20 bullet came from this gun because the science won't let
21 them do that. That's what she said. It's a subjective
22 opinion.

23 MR. GRAHAM: Objection, Your Honor. That is what
24 she testified to. She just said that she couldn't give
25 numbers.

1 MS. CLEARY: Oh, I'm sorry.

2 MR. GRAHAM: I'm sorry to interrupt her closing,
3 Your Honor.

4 THE COURT: That's okay. Sustained.

5 MS. CLEARY: Okay. What I meant to say was -- Okay.
6 This is what I meant to say. She said that I'm a hundred
7 percent sure, but she had to admit that the science
8 doesn't allow her to say the term reasonable degree of
9 scientific certainty. That's what she testified to.
10 She's trying to wiggle out of that and say no, well, it's
11 my opinion. But she can't say to a scientific certainty.
12 It's a subjective opinion. She doesn't know whether
13 those mass produced bullets that are available at
14 Wal-Mart must have come from that shotgun because she
15 couldn't test every shotgun. Like I said, I don't know.
16 That may have been the gun that killed Mr. Mitchell. I
17 don't know. What I know is that Jeremy never touched it.

18 Now, the State says that, well, there was some
19 stolen items in Michelle's trunk, the trunk of that car
20 and nobody, you know, that Jeremy has access to it. We
21 do know who else has access to it. We do know that Nick
22 was riding around in it and we don't know what he was
23 doing in it the whole time. I don't know whether he put
24 that safe in there or what but I do know that from
25 looking at the pictures that when you look inside the

1 trunk before they start taking things out of it, you
2 can't see a safe. You can't see the tin so even if
3 Jeremy had gone and looked in the trunk, he's not gonna
4 see that it's hidden in there.

5 They say, oh, well, his clothes are there. His
6 clothes are underneath the safe. His clothes aren't --
7 The safe has obviously been put on or you can infer from
8 looking at it yourself and please do that his clothes are
9 in the back and somebody put the safe on it, not that his
10 clothes are covering it.

11 Now, all right. I briefly just talked about --
12 Well, so Jeremy shortly after the murder Nick starts
13 texting Jeremy and you will notice from the records that
14 that's the only text they have. These guys are not
15 friends. You have the text from the 22nd, I think, to
16 the 31st. Nick starts hounding him about he wants his
17 stuff back. I'm unclear on what he's talking about.
18 Jeremy was, too. But it's obvious that Jeremy - it
19 appears that Jeremy had some of his stuff and he wanted
20 it back. You know, talking about who carried the bag.
21 Who would be surprised that Jeremy would have carried
22 Nick's bag into Brenda's house. I mean, he's been doing
23 favors, he's been taken advantage by this guy for years.
24 He was his chauffeur. I wouldn't be surprised if he was
25 his bag handler as well. We don't know anything else

1 about that bag.

2 Now, Nick told them about the bag when he told the
3 officers that he was living at Old Orangeburg Road. So
4 we don't have any testimony about any kind of search done
5 there. Maybe if the bag was here, we might know a little
6 bit more about it but we don't have it.

7 Now, they had these witnesses about Jeremy or Nick
8 going to get the shotgun and they're both vague. They're
9 vague on what happened. But the police didn't bother to
10 go talk to these people for two years after this happened
11 and somehow they are able to remember exactly what day
12 this went down even though they admitted or at least a
13 couple of them admitted to being on drugs. And maybe
14 nobody threatened them, but they know what they're
15 facing. They don't trust the police. William White is
16 facing 20 plus life for possession of a sawed off shotgun
17 and for transferring and accessory to murder.

18 MR. GRAHAM: Objection, Your Honor.

19 MS. CLEARY: He testified to that.

20 MR. GRAHAM: I'm sorry. Again, the penalty for
21 possession of a sawed off shotgun is not 20 to life.

22 MS. CLEARY: No. I'm sorry.

23 THE COURT: Go ahead. It's not relevant, the
24 penalties and that's not in evidence as it is.

25 MS. CLEARY: He testified that it is.

1 THE COURT: If he testified to 20 to life, he's
2 wrong.

3 MS. CLEARY: No. No. I'm sorry. Possession and
4 transfer. He said they told him they were two separate
5 offenses.

6 THE COURT: It's still not 20 to life.

7 MS. CLEARY: Oh, no accessory after the murder. I
8 asked him. Okay. In any case, you remember the
9 testimony and as I said you can always ask to have it
10 reheard. But he was clearly scared but it clearly - it
11 wasn't Jeremy that he was scared of. Vanessa Dinkins,
12 his girlfriend, same thing. Now, she says something -
13 well, she said something about maybe in hindsight she
14 remembers hearing something about a lick and then she
15 says a lick is stealing behind someone's back, getting
16 over on somebody. Nobody said anything about that it
17 means holding a shotgun to somebody's face and putting
18 them in fear of their life. Nobody said it means armed
19 robbery. And Amanda Anderson another witness that they
20 didn't talk to for two years after the murder, she's on
21 pills. She had an injury. She can't remember what
22 happened that day. And she said they hounded her for
23 about an hour until she broke and wrote a statement and
24 I'm not doubting that they did any kind of overt act
25 promising or threats. I'm just telling you she felt like

1 she was being hounded. She was scared.

2 And my questions that I had about the time of death
3 and whether Mr. Mitchell was, the issue we tried to bring
4 in about that whether Mr. Mitchell was already in rigor
5 at 9:00 when he was found. Now, he was last seen at the
6 truck stop at sometime after 3:00 a.m. and found around
7 9:00 and that's a six hour range. The forensic
8 pathologist testified, well, there's no way to figure
9 that out so with all the modern science in the world
10 we've got no formal way to determine that. But the
11 investigator couldn't make some effort to determine a
12 more precise time so that when they get these cell phone
13 records in cases all the time now that they can't at
14 least try to pin down and see if these stories are
15 accurate? No. They take the easy way out. They take a
16 guy who is caught using his credit cards.

17 We know, we know from opening statement, we know
18 that Mr. Mitchell was asleep with a CPAP machine and the
19 door was unlocked so that's why we had to ask Latonya
20 Warren to testify. She doesn't have a dog in this fight.
21 She doesn't know these people. But she knows that Mr.
22 Mitchell did not sleep in his house with the door
23 unlocked.

24 So yeah, we were trying to raise questions as to why
25 didn't they investigate to see if maybe somebody was

1 already in the house that had been invited into the house
2 earlier who killed him and left maybe running leaving one
3 shoe she was in such a hurry. That's what was the
4 purpose of that. Now, you can infer and you can find
5 reasonable doubt if the investigation is not sufficient.
6 That's up to y'all.

7 Now, nobody, and I'm almost through, I swear, there
8 is no bloody clothes on anybody. No evidence that when
9 Nick came out of that house that he had blood on him. We
10 have got three shotgun blasts and no blood on him and he
11 sure didn't testify that he saw Jeremy come out with any
12 blood on him. I mean, there should be blood on the
13 person that shot him.

14 And when you get back there and look at this map,
15 look at the map of the house and see if it's possible for
16 Mr. Mitchell to have gotten up with that CPAP machine
17 attached with the length of the cord because you have got
18 the machine back there, they introduced that into
19 evidence, that's obviously important to them, look at it
20 and you will see that that tube is not long enough to
21 reach to the door. So he was asleep. The government
22 doesn't care about that because they found Jeremy using
23 Mr. Mitchell's credit cards.

24 And then they found the gun in the house where
25 numerous people had access and then they found Nick who

1 was willing to pin it all on Jeremy. So they've got
2 their case. Don't worry about all this other stuff.

3 Now, I believe the State is gonna try to argue that
4 Jeremy did some acts showing that he planned this crime.
5 They might tell you that, well, the phone was off on
6 these certain things and that the phone records indicate
7 the phone was off. So that means, you know, maybe he was
8 smart enough to figure out to turn his cell phone off
9 when they go to Gilbert so he won't be traced to Gilbert.
10 And then they might also say that he was smart enough to
11 not use his own car, right? He used Michelle Webb's car
12 so he's obviously trying to hide that, right? So they
13 want us to believe that he's that master mind criminal,
14 but then they're gonna turn around and tell us that that
15 master mind criminal used the credit card of a man he had
16 killed three days later? That's not a master mind
17 criminal. And that's just not common sense.

18 Now, look at this case and look at who was not put
19 up. The chief investigating officer was not put up to
20 talk about the case, to talk about how the case
21 progressed and what led them to what. They didn't put
22 him up because they didn't want you to hear about the
23 investigation and how shoddy it was.

24 Now, the State has not proven Jeremy's guilt of any
25 of these crimes beyond a reasonable doubt. All these

1 points that I have made today, that's your reasonable
2 doubt. Look at all of the evidence. Use your common
3 sense and you will see that the State has not met its
4 burden. Remember, I don't get to rebut what they say,
5 what the State is going to argue now, but we trust you as
6 the jurors that we selected, we trust that you are not
7 gonna hold that against me that I can't come back and say
8 anything, that you're gonna remember all of the evidence
9 and not just the last argument that you hear. We know
10 that. We can tell that about this group of people. And
11 once you begin looking at this case seriously with a
12 critical eye, you are gonna have no choice but to find
13 that Jeremy Brady is not guilty. Thank you.

14 THE COURT: Thank you, Ms. Cleary. Mr. Graham.

15 MR. GRAHAM: July 28, 2012, Robert Mitchell was
16 robbed and killed in cold blood while he slept in his
17 bed. Nobody deserves that. He's not dead because of old
18 age. He's not dead because of sickness or his poor
19 health. He is dead because of evil. There are evil
20 people in this world. There are bad people in this world
21 and they do bad things and Jeremy Brady is a bad person
22 and an evil man. So is Nick Williams. Nobody, not
23 myself or anybody from the State is gonna say that Nick
24 Williams is a good man. He's not. He's guilty of
25 murder, armed robbery, burglary, conspiracy, just like

1 Jeremy. Robert Mitchell is dead because Jeremy and Nick
2 needed drugs. Robert Mitchell is dead because Nick and
3 Jeremy needed money. Jeremy knew where to get the
4 shotgun. That's what the testimony was and neither one
5 of them cared what happened. They wanted the money and
6 they wanted the drugs and Mr. Mitchell today is dead
7 because of that.

8 Physical evidence. Unfortunately, it's not like TV.
9 I wish I had DNA to match Mr. Brady. I wish I had DNA
10 that matched Mr. Williams. I wish I had fingerprints all
11 over. What you can see is the police tried and that's
12 why we put that all that up, not because we found
13 something, but to show you a thorough investigation that
14 they do. All the items that they collected. All the
15 items that they looked for latent prints. Choosing
16 latent prints because they believe that it's better in
17 this case than DNA. They tried. They tried the safe.
18 They tried the tin. They tried things at the house.
19 They tried the items on the side of the road. They did
20 get Mr. Mitchell's DNA on the doorknob.

21 You remember the testimony there was blood all over
22 the bed. He was shot once here, twice in the back. He
23 was wearing a CPAP mask and the mask was busted apart,
24 blood covered the bed and pellets are in the bed. He
25 only wears his CPAP machine when he's sleeping. He was

1 in his bed. He was asleep. Those two men broke into his
2 house and for whatever reason killed him. Maybe they
3 startled him. Maybe he woke up. Maybe he sat up and got
4 two shots in the back and he fell back and got another
5 one here. Maybe they shot him while he was asleep and
6 the first shot came here and he sat up and he got one
7 here and another here as he turned. He didn't die
8 instantly because you can see his body is found on the
9 floor. You can see that he tried to pull himself up and
10 that's where the blood on the doorknob came from.
11 Neither one of them did anything to help. Nobody called
12 911. They wanted him to die.

13 What we know about the DNA and the gun, they did not
14 find Nick Williams' DNA on the gun. The State's expert
15 and the defense expert all agree that he was excluded and
16 it could not be on there. Did we find Jeremy Brady's on
17 there? No. We did not. What they said was it was
18 inconclusive and even their own expert agreed with the
19 State's expert that it was inconclusive. You all have
20 the chart. Look at it. You can see that the numbers
21 that he has are in there except for one area where there
22 could be any number. It's inconclusive but we tried.

23 The gun, and you will have the exhibits back there,
24 the firearms expert fired this gun. She had three shells
25 that she had - that had been collected by the police at

1 the house and you will see those and you will see that
2 the shell in there that was recovered is the same shells.
3 What she said was she was a tool mark and firearms
4 examiner. They're looking for marks on the brass shells
5 when we trip the pin and pull it out and we're looking
6 for the firing pin and we're looking to see how unique
7 those are. There's not a database of shotguns. It's not
8 like the DNA developed database where you get numbers.
9 What they look for is unique individual marks and when
10 they get to the point where they say there's enough
11 marks, then they say it's my opinion that it's a match.

12 I don't know what her exact words. If y'all want to
13 hear the firearm's words of what she said, please feel
14 free to listen to them. She said it was a match. The
15 bullets, the shells, the fired shells at the house
16 matched the ones found in the gun, and that was found in
17 Mr. Brady's house. So we tried DNA. We tried
18 fingerprints. We looked at firearms.

19 We looked at cell phones. You will have this
20 information back there and you will be able to see the
21 phone calls between Nick and Jeremy and the times and if
22 you want, you can go down and see the location of where
23 they are at and what's going on. And what you will see
24 is Nick's phone moving around and you will see Jeremy
25 heading out to get him. He doesn't stay at the house

1 forever. He moves out down here and his phone goes off.
2 I don't know why his phone went off. Maybe he turned it
3 off after he talked with Nick and Nick said let's go do a
4 robbery. Maybe he is that smart. Maybe he's not. Maybe
5 his phone went dead. What I do know is they didn't have
6 anymore tower locations so I can't tell you that he
7 matched with it. We're unable to show that to you. But
8 you can see Nick's movement and you can see Nick going to
9 a tower that's right there on Juniper Springs where Mr.
10 Mitchell was killed and we do know from Jeremy Brady's
11 testimony that they were together the whole night.

12 The defense wants to talk about a shoddy
13 investigation and how Shawn Grant didn't meet investigate
14 until the very end and he's the lead investigator and he
15 could have explained everything. And you all heard there
16 are only certain instances that hearsay comes in. They
17 could have called him if they wanted to. They can call
18 any witness they want to.

19 So what do we know? Let's look a little bit at the
20 evidence that points to Jeremy Brady. Jeremy Brady used
21 Robert Mitchell's credit card. Is it the brightest thing
22 in the world to use a dead man's credit card? It is not.
23 Does that mean he didn't kill him? It does not. Does it
24 mean that he didn't rob him? It does not. If all
25 criminals were smart, none of them would get convicted or

1 caught. He used his credit card. We know he didn't have
2 any money. We know he was desperate. We know the gun
3 that was found that was used wasn't at Nick's house.
4 Doesn't have Nick's DNA on it. We know it was found in
5 Jeremy Brady's house. If you think that's just a
6 coincidence, you give it what weight it's worth. The
7 safe and the tin, that wasn't found on Nick Williams.
8 Where was it found? In Michelle Webb's car.

9 What did Jeremy Brady say about carrying stuff out
10 of the house? He talked about a bag being carried out of
11 the house, a black duffel bag and that somehow he and
12 Nick are together and the black duffel bag according to
13 him Nick carries in the house which he is not allowed in.
14 How did that tin and how did that safe ever get in the
15 trunk? Nick didn't have a key and even if he could pop a
16 trunk, but if the story is he carried the bag in, how did
17 it get there? It got there because that's part of Jeremy
18 Brady's spoils of what was stolen. He put it there. He
19 had access to the car. He knew what was in there. You
20 can see the text. He said he checked and that Nick had
21 nothing in the car. So who did the stuff in the car
22 belong to? Michelle Webb? Jeremy Brady?

23 We talk about roxies. Drugs and money which is what
24 this case really boils down to. Jeremy said to the
25 police that he had ten. He testified on the stand that

1 he got three. He said he told the police it was ten to
2 make Nick look bad. But why was he trying to make Nick
3 look bad if he didn't know something bad had happened?
4 He wanted Nick to look bad because he knew there had been
5 an armed robbery, knew there had been a burglary and knew
6 there had been a murder because he was part of it.

7 I'm not here to tell you that two plus two equals
8 five because it equals four, but I will tell you that ten
9 pills at \$15.00 apiece equals \$150.00. And that's what
10 the text says that Jeremy Brady who had no money put on
11 Kim's books at the jail.

12 You heard, one of the things, your most important
13 job is to look at the credibility of witnesses. Biggest
14 thing you can do. You see what they look like. You see
15 how they act. You hear their voice. You hear their
16 words. You look into their eyes. You guys get to decide
17 what you believe and what you don't believe. You can
18 believe all, everything, every word that they say. You
19 can pick out pieces and parts. You can believe none of
20 it and decide that it's all a lie.

21 I'm not gonna go through Jeremy Brady's testimony.
22 You all heard it just a few minutes ago. I just want to
23 point out a few facts. He chose to be with Nick Williams
24 that morning, all that time from the time he picked him
25 up until the time he took him to Brenda White's house.

1 He chose to. And if you think he stayed with him the
2 whole time just to get the key and he didn't know what
3 happened, then it's your job to find him innocent, if you
4 really believe that. If we can prove to you beyond a
5 reasonable doubt that there is more to it which is what
6 all this evidence points to, then he's guilty.

7 Maybe he went over there because Kim asked him to.
8 Help my boyfriend out. Which seems like an odd request;
9 that he hated that man. He loathed that man. He could
10 have called the police. He could have had him arrested.
11 He could have gone over there and said you want a ride
12 out of here, give me the key. Use your commons sense.
13 Not, get in the car and I'll drive you around everywhere
14 you want to go and I hope I get the key some day. But
15 you give his testimony what weight it's worth. He said
16 he had conversations with Amanda Anderson about letting
17 Nick spend the night there and that's why he went there,
18 was to see if Nick could spend the night. I didn't hear
19 any testimony from Amanda Anderson about that. What
20 Amanda testified to was he was quiet and that was
21 unusual.

22 Amanda Anderson testified that Nick had come in
23 asking for the gun and she had gone out to the car to
24 Jeremy and said, Jeremy, why do you and Nick need a gun?
25 And the answer was, it's okay. Don't worry about it.

1 Why would Amanda Anderson do that? Why would she have
2 gone out and ask him the question if he wasn't looking
3 for a gun? Why would she come in and lie about that?
4 She hated Nick Williams. She told you that. She's
5 friends with him. You saw her. She cried up on the
6 stand. She didn't want to be here, but she wasn't going
7 to lie. She tried to say that she was harassed for an
8 hour and a half in an interview and I don't know how long
9 the interview took. I don't believe that she was
10 threatened with being locked up.

11 You heard Cathy Etheredge, the black sergeant with
12 internal affairs come in and tell you about that
13 interview. She didn't threaten her. She didn't harass
14 her. She didn't make her speak. She told her what
15 happened. It's hard to tell things that hurt people you
16 care about.

17 Nick told the police when he was arrested that he
18 heard the gunshot when he was in the car half a mile
19 away. He said that was a lie when he testified. Now,
20 he's saying he didn't hear it. When the firearms expert
21 testified, the firearms expert said that she would expect
22 you to be able to hear it. You could hear it through a
23 trailer. Jeremy Brady heard the gunshot. He was in the
24 house. He told the police I got ten pills when he was
25 arrested. He told you all today that he got three. He

1 said he told the police it was ten to make Nick look bad.
2 Look bad about what?

3 When you look at Jeremy Brady, he told you that he
4 was a liar and a thief and that he lied to make himself
5 look better and that he lied to make Nick look bad. You
6 give his testimony what weight you think it deserves. We
7 talked about Amanda Anderson. William White, Kim White's
8 brother, he's the one who this shotgun started with. He
9 told you that Jeremy Brady was like a brother to him.
10 You saw him up there. Did he act like he wanted to be
11 here? Did he act like he wanted to come in and lie and
12 get Jeremy, a person he considers his brother, in
13 trouble? He didn't even really want to tell you whether
14 it was Nick and Jeremy. It was just both of them. But
15 what he told you was that they both wanted a gun. They
16 both went to my house. I went and brought the gun out
17 and wiped it off. Why would he wipe it off? Maybe
18 because he knew something bad was gonna happen? He walks
19 out of the room according to his testimony and then the
20 gun is gone.

21 Who is the only person that Jeremy Brady told you
22 went in that house? In his testimony he told you he went
23 in and Nick didn't go in. So who got that gun? How did
24 that gun get out of William White's house if Jeremy Brady
25 didn't take it? Why would William White come in and lie

1 about a person he considered his brother?

2 Michelle Webb. She hated Nick for what Nick had
3 done to Kim. That was her testimony I believe. Jeremy
4 was living at her apartment. You look to see where the
5 allegiances lie. She doesn't want to be here either.
6 What she told you was though who did she tell you carried
7 in the black duffel bag? Jeremy Brady. Not Nick
8 Williams. Nick Williams wasn't allowed in that house.
9 So if you believe her, then he's lying. If you look at
10 these witnesses, either he's lying or Amanda is lying.
11 Either he's lying or William White's lying. Either he's
12 lying or Michelle Webb is lying. Michelle Webb said that
13 he came in, Jeremy Brady came in with a duffel bag. He
14 had a lot of pills. He had a lot of blue pills. Asked
15 her and Brenda if they wanted any roxies. He says he had
16 three. She said a lot. So she's lying or he's lying.
17 Who has the reason to lie?

18 Jeanette Jones, the lady who knows you can go to
19 Denny's on your birthday and get a free meal, she said
20 the day before that she was with Jeremy Brady, that
21 Jeremy had no money, he had no drugs, I believe no help
22 from his family and he was desperate. I think her quote
23 was he wasn't in his right mind. The next day she said
24 that he was trying to get, Jeremy Brady was trying to get
25 her to sell pills for him.

1 So you look at what you've got so far. Beyond a
2 reasonable doubt Jeremy Brady is guilty from what we have
3 heard. You can look at the circumstantial evidence of
4 the gun found at his house, the tin in the back of the
5 car, and the use of his credit card and the safe in his
6 car and you find him guilty if that proves to you beyond
7 a reasonable doubt. You can listen to the testimony of
8 Amanda Anderson and William White and Michelle Webb and
9 Jeanette Jones and based on their testimony alone you can
10 find him guilty because they're telling you he's looking
11 for a gun, he came by and got a gun. You look at the
12 phone records, Jeremy says they're together, puts him at
13 the house, Mr. Mitchell is dead. You don't get a gun and
14 go look for a gun unless you know what you're gonna do
15 with it. You don't get ten roxycodones for driving
16 somebody over to buy drugs. If you think that's right,
17 then you give it what weight it's worth.

18 Common sense will be the measure of the truth on the
19 credibility of the witnesses and their testimony and your
20 daily life experiences. Nick Williams, not a stand up
21 guy, told you he's guilty of all that stuff. He laid
22 himself open to every punishment in the book by doing
23 that. Is he the shooter? He might be. That's something
24 unfortunately we're never gonna know is which one of them
25 pulled the trigger. You can believe him and if you

1 believe him, Jeremy did it. You can think he did it and
2 still believe the rest of his testimony. The Judge is
3 gonna tell you if they had a plan and the plan was to go
4 over and do this robbery and to do this burglary and
5 somebody gets killed because of it, it doesn't matter
6 which one of them pulled the trigger. They are both
7 guilty. The hand of one is the hand of all.

8 Is Nick Williams a liar and manipulator? I have no
9 doubt that he is. At some point he came forward and
10 wanted to cooperate and tell the truth. That's what he
11 says. He wants a better deal. He's hoping to get one.
12 But he didn't get promised anything. Nobody said tell me
13 what I want to hear and I'll give you ten years. He had
14 to lay it out there on the line and he doesn't know
15 what's going to happen to him. He just hopes. You can
16 convict Jeremy Brady just on his testimony if you believe
17 him. But when you put it altogether, it's not muddying
18 the water. It's making the water clearer. There should
19 be no reasonable doubt. The gun was used and was found
20 in his place. He used the credit card. Items stolen
21 from the house are in his car. People say that he and
22 Nick were looking for a gun before it happened and that
23 he had money or drugs afterwards.

24 It's been a long week and the case is getting ready
25 to be turned over to you. The one job you all have is to

1 do justice. If we haven't proved to you beyond a
2 reasonable doubt that he's guilty, find him not guilty.
3 But I contend that with all the evidence put together and
4 when you look at the credibility of what people are
5 saying and why they are saying it, then you will have no
6 reasonable doubt. The evidence clearly shows that Jeremy
7 Brady is guilty of criminal conspiracy, he's guilty of
8 armed robbery, he's guilty of burglary first, and he's
9 guilty of murder. Thank you.

10 THE COURT: Ladies and Gentlemen, my charge is
11 probably going to take about 10 or 15 minutes. Do
12 you want a break before that or are you ready to keep on
13 going? Just keep on going. Okay. All right. Folks,

14 Well, I'm gonna come down to be with you for the
15 charge. When we started this case I told you you were
16 the judges of the facts and I was the judge of the law
17 which is true. But because of that while the lawyers
18 were presenting to you the facts of the case, it's been
19 appropriate for me to be up on the bench out of the way
20 and let that process occur. But we have now reached the
21 portion of this trial where you and I are in this
22 together. You as the judges of the facts and me as the
23 judge of the law. So I'm going to give this to you. I'm
24 gonna read it verbatim so that I don't misquote anything
25 or leave anything out.

1 Mr. Foreman and members of the jury, you have heard
2 the evidence and the arguments of both parties. I'm now
3 going to explain to you the law which applies to this
4 action.

5 The indictments charged the defendant Jeremy Seldon
6 Brady with the offenses of murder, burglary in the first
7 degree, armed robbery and conspiracy. I remind you that
8 the fact that the defendant was arrested, charged and
9 indicted in this case is not evidence in the case and it
10 cannot be considered by you as evidence of guilt nor does
11 it create any presumption or inference of guilt. The
12 indictments are simply the formal written instruments
13 which contain the charges made against a defendant. They
14 are the formal documents by which the case is brought
15 into this court.

16 Now, I'm gonna give you a copy of these instructions
17 in written form to have with you in the jury room.
18 During your deliberations you may refer to these
19 instructions to guide you in your decision making. You
20 must consider these instructions as a whole and not
21 follow some parts and ignore others.

22 Now, the defendant has pled not guilty to the
23 indictments that I went over with you and that plea
24 places the burden on the State to prove the defendant
25 guilty. A person charged with committing a criminal

1 offense in South Carolina is never required to prove him
2 or herself innocent. I charge you that it is an
3 important rule of law that the defendant in a criminal
4 trial no matter what the seriousness of the crime charged
5 may be will always be presumed innocent of the crime for
6 which the indictment was issued unless guilt has been
7 proven by evidence satisfying you of that guilt beyond a
8 reasonable doubt. This presumption of innocence does not
9 end when you begin your deliberations, but it accompanies
10 the defendant throughout the trial until you reach a
11 verdict of guilt based on evidence satisfying you of that
12 guilt beyond a reasonable doubt. The presumption of
13 innocence is not a mere legal theory. It is not just a
14 legal phrase but it is a substantial right to which every
15 defendant is entitled unless you the jury are satisfied
16 from the evidence of the defendant's guilt beyond a
17 reasonable doubt.

18 So what is a reasonable doubt in the law? Some of
19 you may have served as jurors in civil cases where you
20 were told that it is only necessary to prove that a fact
21 is more likely true than not true such as by the greater
22 weight or the preponderance of the evidence. In criminal
23 cases the State's proof must be more powerful than that.
24 It must be beyond a reasonable doubt. Proof beyond a
25 reasonable doubt is proof that leaves you firmly

1 convinced of the defendant's guilt. There are very few
2 things in this world that we know with absolute certainty
3 and in criminal cases the law does not require proof that
4 overcomes every possible doubt. If based on your
5 consideration of the evidence you are firmly convinced
6 that the defendant is guilty of the crimes charged, you
7 must find the defendant guilty. If on the other hand you
8 think there is a real possibility that the defendant is
9 not guilty, then you must give the defendant the benefit
10 of that doubt and find him not guilty.

11 I remind you that during this trial you and I have
12 certain duties to perform. As the trial judge it is my
13 responsibility to preside over the trial of this case and
14 I also have the duty to rule on the admissibility of the
15 evidence offered during the course of the trial. I have
16 the additional duty to charge you the law that is
17 applicable to this case. It is your duty as jurors to
18 accept and to apply the law as I now state it to you. If
19 you already have any idea as to what the law is or what
20 you think the law should be and it does not agree with
21 what I now tell you the law is, you must abandon your
22 idea because you are sworn to accept the law and to apply
23 it exactly as I state it to you.

24 As I told you at the start of this case you the jury
25 are the sole and the exclusive judge of the facts of this

1 case. The law does not allow me to have an opinion about
2 the facts. This is a matter solely for you the jury to
3 decide. As jurors it is your duty to determine the
4 effect, value, weight and truth of the evidence presented
5 during this trial. To determine those facts you will
6 have to evaluate the credibility or the believability of
7 witnesses and credibility simply means that. It means
8 believability. It becomes your duty as jurors to analyze
9 and to evaluate the evidence and determine which evidence
10 convinces you of its truth. You can believe as much or
11 as little of each witness' testimony as you think is
12 proper. You the jury should assess the credibility of
13 each of the witnesses. You may consider whether any
14 witness has exhibited to you any interest, bias,
15 prejudice or other motive in this case. You may also
16 consider the appearance and the manner of a witness while
17 on the witness stand. You do not, however, determine the
18 truth merely by counting the number of witnesses
19 presented by each side.

20 Now, in trials there are two types of evidence that
21 are generally presented. There is direct evidence and
22 there is circumstantial evidence. Direct evidence is the
23 testimony of a person who claims to have actual knowledge
24 of a fact such as an eyewitness. Circumstantial evidence
25 is proof of a chain of facts and circumstances indicating

1 the existence of a fact. Crimes may be proven by
2 circumstantial evidence. The law makes absolutely no
3 distinction between the weight or value to be given to
4 either direct or circumstantial evidence. Nor is there a
5 greater degree of certainty required of circumstantial
6 evidence than of direct evidence. However, to the extent
7 that the State relies on circumstantial evidence, all of
8 the circumstances must be consistent with each other and
9 when taken together point conclusively to the guilt of
10 the accused beyond a reasonable doubt. If these
11 circumstances merely portray the defendant's behavior as
12 suspicious, then that proof has failed. You should weigh
13 all of the evidence in this case. The State has the
14 burden of proving the defendant guilty beyond a
15 reasonable doubt and this burden rests with the State
16 regardless of whether the State relies on direct
17 evidence, circumstantial evidence or some combination of
18 the two.

19 Now, the rules of evidence ordinarily do not allow a
20 witness to testify to opinions or conclusions. There is
21 an exception to this rule that exists for witnesses that
22 we call expert witnesses. A witness who by education and
23 experience has become an expert in some art, science or
24 profession or some other calling may state an opinion as
25 to the relevant and the material matter in which that

1 witness claims to be an expert and may also state the
2 reasons for that opinion. You should consider any expert
3 opinion received into evidence in this case and like any
4 other evidence give it the weight that you think it
5 deserves. An expert witness' testimony is to be given no
6 greater weight than that of any other witness simply
7 because the witness is an expert. Furthermore, you're
8 not required to accept an expert's opinion even though it
9 may not be contradicted.

10 Now, the indictments in this case allege several
11 different offenses against the defendant. Those charges
12 are murder, first degree burglary, armed robbery and
13 conspiracy. Each indictment charges a separate and a
14 distinct offense. You must decide each indictment
15 separately on the evidence and the law that is applicable
16 to it uninfluenced by your decision as to any other
17 indictment. The defendant may be convicted or acquitted
18 on any or all of the offenses charged. You will be asked
19 to write a separate verdict of guilty or not guilty for
20 each individual indictment.

21 Now, the defendant is charged with murder. The
22 State must prove beyond a reasonable doubt that the
23 defendant killed another person with malice of
24 forethought. Malice is hatred, ill will or hostility
25 toward another person. It is the intentional doing of a

1 wrongful act without just cause or excuse and with the
2 intent to inflict an injury or under circumstances that
3 the law will infer an evil intent. Malice of forethought
4 does not require that malice exists for any particular
5 time before the act is committed, but malice must exist
6 in the mind of the defendant just before and at the time
7 that the act is committed. Therefore, there must be a
8 combination of the previous evil intent and the act.
9 Malice of forethought may be expressed or inferred.

10 Now, these terms expressed or inferred do not mean
11 different kinds of malice, but merely the manner in which
12 malice may be shown to exist. That is either by direct
13 evidence or by inference from facts and circumstances
14 which are proved. Expressed malice is shown when a
15 person speaks words which express hatred or ill will for
16 another or when the person prepared beforehand to do the
17 act which was later accomplished. For example, lying in
18 wait for a person or any other acts of preparation going
19 to show that the deed was within the defendant's mind
20 would be expressed malice. Malice may be inferred from
21 conduct showing a total disregard for human life.
22 Inferred malice may also arise when the deed is done with
23 a deadly weapon. If a person intentionally kills another
24 during the commission of a felony, malice may be
25 inferred. If the facts are proved beyond a reasonable

1 doubt sufficient to raise an inference of malice to your
2 satisfaction, this inference would simply be an
3 evidentiary fact to be taken into consideration by you
4 along with all other evidence in the case and you may
5 give it the weight that you decide that it should
6 receive.

7 Now, a deadly weapon is any article, instrument or
8 substance which is likely to cause death or great bodily
9 harm. Whether an instrument has been used as a deadly
10 weapon depends on the facts and circumstances of each
11 case. The following are examples of instruments which
12 may be deadly weapons. A pistol, a shotgun, a rifle, a
13 dagger, a knife, a gun may be a deadly weapon even if
14 it's not operable.

15 Now, when two or more people combine together to
16 commit a criminal act and during that criminal act a
17 homicide is committed as a natural and probable
18 consequence all present and participating in the criminal
19 act are as guilty of the killing as the one committing
20 the homicide.

21 The defendant is also charged with first degree
22 burglary. The State must prove beyond a reasonable doubt
23 that the defendant entered a dwelling without consent. A
24 dwelling is any building or portion of a building in
25 which a person ordinarily sleeps. In order to prove that

1 the defendant entered the dwelling, the State does not
2 have to show that the defendant's entire body entered the
3 dwelling. The smallest entry is sufficient. It may be
4 any part of the body such as a hand or a foot or even an
5 instrument such as a hook or some other type of
6 instrument. In addition, the State does not have to
7 prove that force was used to gain entry.

8 Next the State must prove beyond a reasonable doubt
9 that the defendant intended to commit a crime, either a
10 felony or misdemeanor at the time of the entry. The mere
11 entry into a dwelling without consent is not a burglary.
12 If the intent to commit a crime is formed after the
13 injury, then it's not a burglary. On the other hand, if
14 the defendant intended to commit a crime at the time of
15 the entry, it is a burglary even if the intent was
16 abandoned after entering the dwelling. It does not
17 matter that the intended crime was not completed. Intent
18 may be shown by acts and conduct of the defendant and
19 other circumstances from which you may naturally and
20 reasonably infer intent.

21 Finally, the State must prove beyond a reasonable
22 doubt that one, the entering or while in the dwelling or
23 while fleeing from the dwelling the defendant or an
24 accomplice was armed with a deadly weapon or explosive,
25 and I have defined and listed examples of deadly weapons

1 for you in the charge above on murder or, two, when
2 entering or while in the dwelling or when fleeing the
3 dwelling the defendant or an accomplice caused physical
4 injury to anyone not participating in the crime or,
5 three, the entering or while in the dwelling or when
6 fleeing the dwelling the defendant or accomplice used or
7 threatened the use of a deadly object or, four, when
8 entering or while in the dwelling or when fleeing from
9 the dwelling the defendant or an accomplice displayed
10 what appeared to be a knife, pistol, revolver, rifle,
11 shotgun, machine gun or other firearm.

12 Now, the State does not have to prove beyond a
13 reasonable doubt all four of the above listed factors to
14 show a burglary first, but it must prove beyond a
15 reasonable doubt at least one of the above listed factors
16 as present.

17 Now, Mr. Brady is also charged with armed robbery.
18 In order to prove this offense the State must first prove
19 beyond a reasonable doubt that the defendant took
20 personal property from the person or the presence of
21 another person. Property is in the presence of a person
22 if it is within the person's reach, inspection,
23 observation or control so that the person could, if not
24 overcome with violence or prevented by fear, to keep
25 possession of that property. The State must also prove

1 beyond a reasonable doubt that the defendant carried the
2 property away intending to permanently deprive the owner
3 of that property and to keep the property for the
4 defendant's own use. The slightest removal of the
5 property or the complete possession of the property even
6 for an instant by the defendant is sufficient to show a
7 taking and a carrying away of the property. The taking
8 and carrying away of the property must have been done
9 with violence or by putting the owner of the property in
10 fear of violence.

11 Finally, the State must prove beyond a reasonable
12 doubt that the defendant was armed with a deadly weapon
13 or with what would reasonably appear to have been a
14 deadly weapon during the robbery. And again I have
15 defined and I have listed for you examples of a deadly
16 weapon in the above charge on murder.

17 Now, finally, Mr. Brady is charged with conspiracy.
18 The State must prove beyond a reasonable doubt that the
19 defendant combined with one or more persons for the
20 purpose of committing an unlawful act or of committing a
21 lawful act by unlawful means. There must be a mutual
22 understanding, agreement or common intention and plan.
23 Mere passive knowledge of or consent to the criminal
24 conduct of another is not enough to make the person a
25 conspirator. There must be a guilty knowledge and

1 participation. Similarly the mere fact that the
2 defendant may have associated with another person or met
3 with another person and discussed common aims and
4 interests does not necessarily establish proof of the
5 existence of a conspiracy or that the defendant was
6 involved in a conspiracy.

7 Now, on the other hand, it's not necessary that the
8 agreement be a formal one, that it is in writing or that
9 the persons hold a meeting and expressly state the terms
10 of the common plan or that the agreement be stated in
11 words between them. The agreement of a criminal
12 conspiracy may come into being through an implied mutual
13 understanding. The willful, intentional and knowing
14 adoption by two or more persons of a common plan is
15 sufficient. No overt acts need to be shown to establish
16 a conspiracy. A conspiracy may be shown by
17 circumstantial evidence and by the conduct of the
18 parties. In order to convict the defendant of
19 conspiracy, the State must prove beyond a reasonable
20 doubt not only that the defendant knew of the unlawful
21 conduct but that the defendant agreed to combine with
22 other persons for the purpose of accomplishing the
23 unlawful conduct.

24 Now, I charge you that under South Carolina law if a
25 crime is committed by two or more people who are acting

1 together in committing the crime, the act of one is the
2 act of all. A person who joins with another person to
3 commit an unlawful act is criminally responsible for
4 everything done by the other person which happens as a
5 probable or natural consequence of the acts done in
6 carrying out the common plan and purpose. If two or more
7 people are together acting together assisting each other
8 by committing the offense, the act of one is the act of
9 all or as is sometimes said the hand of one is the hand
10 of all. A principal in a crime is one who either
11 actually commits the crime or who is present aiding,
12 abetting or assisting in committing the crime. When a
13 person does an act in the presence of and with the
14 assistance of another the act is done by both or as is
15 commonly said the hand of one is the hand of all.

16 Presence at the commission of a crime means to be
17 sufficiently near to aid, abet and to assist in the
18 commission of the crime. Intent is also a necessary
19 element for there must have been a common design or
20 intent to commit the crime and the crime must have been
21 committed pursuant thereto with the aiding, abetting by
22 some overt act. Intent may be shown by acts and conduct
23 of the defendant and other circumstances from which you
24 may naturally and reasonably infer intent. The State
25 must prove these elements beyond a reasonable doubt.

1 Now, mere presence at the scene of a crime is not
2 sufficient to prove someone guilty of a crime. A
3 defendant's presence where a crime is being committed or
4 mere association with a person who commits a crime does
5 not make a defendant an accomplice or an aider and
6 abettor of the person who is committing the crime. The
7 burden is on the State to prove every element of the
8 crime charged. If you find after reviewing all of the
9 evidence that the State has proved that the defendant was
10 only present at the scene of a crime and that they have
11 not proved beyond a reasonable doubt any other
12 participation in the crime, then you must find the
13 defendant not guilty. If, however, you find that the
14 State has proved the defendant was a participant in the
15 crime and was not just merely present, then the law on
16 mere presence would not apply.

17 Now, Mr. Foreman, and ladies and gentlemen, as you
18 retire to your room to begin your deliberations, I want to
19 express to you the hope that each of you will be mindful
20 of the importance of your responsibility. As presiding
21 officer of this Court I'm vitally concerned that whatever
22 verdict you reach will be the result of you're going into
23 the jury room and confining your consideration to the
24 evidence and to the law that you have heard in this
25 courtroom, weighing it fairly and impartially as I have

1 every confidence you will do. Your verdict in this case
2 cannot be based on sympathy, compassion, prejudice,
3 emotion or some other consideration that's not found in
4 the evidence. And remember, as I told you earlier, your
5 verdict in this case must be unanimous. You will
6 consider each charge as I said earlier in the charge
7 individually.

8 And so there are four sheets, Mr. Reckord. In the
9 front cover of this notebook you will find the verdict
10 forms. There are four verdict forms so you must, as I
11 said earlier, you can find the defendant either not
12 guilty of any of them, guilty of all of them or not
13 guilty of some and guilty of others. It's however you
14 view the evidence and the law in this case but for each
15 one your verdict must be unanimous.

16 The verdict forms are simply, it has the caption of
17 the case at the top and it has the charge listed and so
18 whatever your verdict, either not guilty or guilty, you
19 will just mark the appropriate decision of the jury and
20 the sign as the foreperson. Whenever you have reached a
21 unanimous decision as to all of the charges, if you will
22 just knock on the door and let the bailiff know that you
23 have reached a unanimous verdict, then we'll bring you
24 back out to accept your verdicts.

25 Now, there's a lot of exhibits here and we're going

1 to send those back into the jury room with you, but I'm
2 gonna send you back to the jury room but don't start
3 deliberations yet. First I'm gonna confer with the
4 attorneys to make sure I haven't misquoted anything or
5 left anything out. If I have, I'll bring you back out
6 here and I'll make whatever adjustments need to be made.
7 If the charge is good as is, we will collect these items
8 and we'll send them back into the jury room. When you
9 receive these items, that's your cue to begin
10 deliberations, okay? Please step back into the jury room
11 and await these items.

12 (Whereupon, the jury entered the jury room at 4:52
13 p.m.)

14 THE COURT: All right. Is there any objection or
15 exceptions from the State as to the Court's charge?

16 MR. GRAHAM: Judge, you probably said it but I may
17 have missed it, on page 6 --

18 THE COURT: I said it.

19 MR. GRAHAM: You said it?

20 THE COURT: I don't know. Go ahead.

21 MS. RANKIN: On page 6 you should weigh all of the
22 evidence in the case and then I picked up in that next
23 paragraph the State has the burden of proving.

24 THE COURT: Where are you now? At the top of the
25 page?

1 MS. RANKIN: Very top of the page, I heard the first
2 sentence of the page and then that next paragraph is
3 where I picked back up.

4 THE COURT: I'll tell what I have here and I believe
5 I read this. You should weigh all of the evidence in
6 this case. The State has the burden of proving the
7 defendant guilty beyond a reasonable doubt.

8 MS. RANKIN: We just have something extra in that
9 one.

10 THE COURT: I took that out.

11 MS. RANKIN: Okay.

12 THE COURT: All that was, again what I try to do is
13 I try to eliminate the things that are repetitive so I
14 did take that out and I didn't read that so I apologize
15 for not letting you now that. But are there any
16 objections or exceptions based on that or anything?

17 MS. RANKIN: No, sir, Your Honor.

18 THE COURT: Anything from the defense?

19 MS. CLEARY: Yes, Your Honor. I don't have an
20 objection to charge, but I would like to ask for a
21 curative instruction regarding that your comments made
22 during the closing argument. I do not want a mistrial
23 but what I believe happened was very prejudicial to the
24 client because our notes show that I asked the client - I
25 asked the witness William White, he said that he had been

1 told that he would be facing 20 years for possession of a
2 shotgun, sawed off shotgun and a separate charge of 20
3 for the sawed off barrel and then life for accessory
4 after the fact and I don't have the transcript and I
5 can't verify that, but the more important issue is that
6 you then said that it was irrelevant and I believe that
7 the potential sentence that a witness is facing or
8 believes that they are facing is always relevant to show
9 bias and motive so I think that's an incorrect statement
10 of the law and was very prejudicial to my client.

11 Finally, I believe you also said that if he said
12 that, then he's lying and I think that that is an
13 improper characterization and I think that some sort of
14 curative instruction is required.

15 THE COURT: All right. If you want to propose
16 something, I'll be happy to consider it.

17 MS. CLEARY: Handwritten?

18 THE COURT: Well, it would help me since I'm going
19 to have to give it. I'm probably not gonna remember it.
20 Let me say that I don't recall going into that detail
21 that that witness was giving you that detail, but none of
22 the things that you have listed carry life in prison so
23 that was my point, that none of those charges carry life
24 in prison.

25 MS. CLEARY: I may have misstated. I asked him if

1 they told him if he could be charged with accessory after
2 the fact to murder which carries life in prison.

3 THE COURT: I don't recall that testimony but
4 whatever you want to prepare as a curative instruction,
5 I'll be happy to consider.

6 MS. CLEARY: Could I sit down with them to see if we
7 can come up with an agreement?

8 THE COURT: Yeah, if you think there needs to be
9 one.

10 MS. CLEARY: Because in a way it's prejudicial to
11 them.

12 THE COURT: You know, I probably would understand or
13 see your point if it was a statement or a comment made by
14 Mr. Brady, but it was by --

15 MS. CLEARY: Well, it was by the witness that they
16 say puts him --

17 THE COURT: What witness was it?

18 MS. CLEARY: William White who said they came to the
19 house to get the shotgun. I didn't get his statement
20 until --

21 THE COURT: That's not relevant for purposes of
22 this.

23 MS. CLEARY: No. What I'm saying is that that was a
24 key piece of testimony.

25 THE COURT: Well, you think it was a key piece of

1 testimony as to whether or not the exact charge he was
2 facing?

3 MS. CLEARY: Well, I think that --

4 THE COURT: I mean, not the exact charge but the
5 exact amount of time he was facing?

6 MS. CLEARY: No. Not the exact amount.

7 THE COURT: Well, that was may reference.

8 MS. CLEARY: No. The fact that you then said that
9 that was irrelevant. Basically that's a misstatement of
10 the law.

11 THE COURT: Meaning the amount of time that those
12 charges carry?

13 MS. CLEARY: But then you said that he's lying.

14 THE COURT: If he said that possession of a sawed
15 off shotgun carried life, because that's what I think you
16 told the jury, that he was looking at 20 to life on that
17 charge and I said if he said that, then he's lying. And
18 I probably shouldn't have said he's lying. I probably
19 should have just said he's incorrect. I'll be happy to
20 correct that if you feel it needs to be done. So if you
21 come up with something, I'll bring them out and we'll
22 shine the light on that.

23 MS. CLEARY: Thank you.

24 THE COURT: All right.

25 MR. GRAHAM: In the mean time if we can get somebody

1 from opposing counsel and go through all the evidence.

2 THE COURT: Yes. Let me get, Brie, how about you
3 come up here and work with the folks and making sure with
4 Steve that everything is here that needs to be here,
5 okay?

6 MS. RUSSELL: Yes, sir.

7 (Short break.)

8 THE COURT: Okay. Let's bring our jury out.

9 (Whereupon, the jury returned to the courtroom at
10 5:10 p.m.)

11 THE COURT: Very briefly, ladies and gentlemen, if
12 you recall during closing arguments during Ms. Cleary's
13 presentation the State objected to an argument that she
14 had made regarding comments by one of the witness'
15 testimony with regards to potential sentences that he was
16 facing on pending charges that he had and during that
17 exchange I made two comments that was incorrect as far as
18 what those charges carried and that it wasn't relevant
19 and that is incorrect because under the rules of evidence
20 potential sentences that a witness is facing is relevant
21 evidence that can go towards showing either bias,
22 prejudice, or some other motive. It is solely up to you
23 the jury to decide that evidence and I'm not saying that
24 that witness, I'm not recalling that witness' testimony.
25 That's your role as jurors. But what I am saying is it's

1 very important that you consider that evidence however
2 you wish to consider it as you do all the evidence in
3 this case. And so the comments that I made as to that
4 evidence must be disregarded. So I'm asking you to
5 disregard my comments and treat the evidence that you
6 recall from the witness or any other witness and give it
7 whatever weight you think it deserves, okay? But that
8 type of evidence is relevant evidence. Whatever weight
9 you give it is up to you, okay? So I'm going to get you
10 to step back in the jury room and we'll send this stuff
11 back and then you will begin your deliberations, okay?

12 (Whereupon, the jury entered the jury room at 5:13
13 p.m.)

14 THE COURT: Any objections or exceptions from the
15 State with regards to the corrected instruction?

16 MS. RANKIN: No, Your Honor.

17 THE COURT: Anything from the defense?

18 MS. CLEARY: No, Your Honor. I appreciate that.

19 (Whereupon, the exhibits, jury charge and verdict
20 forms were sent into the jury room and the jury began
21 deliberations at 5:20 p.m.)

22 THE COURT: We'll be at ease.

23 (Short break.)

24 (Verdict at 5:45 p.m.)

25 THE COURT: All right. We're back on the record. I

1 understand we have our verdicts. So for the most part,
2 let me know, I was going to go ahead and say to everybody
3 else, ladies and gentlemen, I'm going to share with you
4 what I share in every case that I ever try whether it be
5 a criminal case or whether it be a civil case because it
6 applies regardless of the case because what I'm gonna
7 share with you deals with respecting the members of the
8 jury and the work that they have done. I don't ever ask
9 anybody to agree with the jury's verdict. It is their
10 verdict whatever it is and I don't know what it is
11 obviously. I was just told they have one but whatever it
12 is, I don't expect anybody to agree with it. It's okay
13 to disagree. But what I do expect and what I think is
14 deserved is that their verdict be received in a
15 respectful and professional manner.

16 As I said, you can disagree with it but there is
17 a way to do that and it's not by expressing any emotion
18 or outbursts or anything of that nature. In this case
19 because it involves the loss of a life there is high
20 emotion obviously and so I don't expect people to be
21 robots but what I do ask you to do is if you think that
22 you cannot control your emotions whatever the verdicts
23 may be, just I ask everybody to just imagine the verdict
24 going as bad as you can imagine it for you, if you can
25 receive it and maintain your emotions until the jury is

1 excused and not disturb the Court, then please feel free
2 to remain and receive it. But if you think you might not
3 control your emotions, I would ask that you step out
4 while we receive the verdict because I have only had to
5 do this once, but if there are any outbursts or
6 disturbances that are disrespectful toward the jury, I'm
7 gonna put that person or persons in custody and you won't
8 be going home tonight. So that's the last thing in the
9 world that I would ever want to do. I say that for what
10 it's worth. If you feel that you can control your
11 emotions regardless of what the verdict is, then please
12 feel free to remain. If you think that you might be able
13 to do that, then you might want to excuse yourself while
14 we accept the verdicts of the jury.

15 Is the State ready to proceed and receive the
16 verdicts?

17 MR. GRAHAM: The State is ready to receive the
18 verdicts, Your Honor.

19 THE COURT: Is the defense ready to receive the
20 verdicts?

21 MS. CLEARY: The defense is ready.

22 THE COURT: All right. Let's bring the jury in.

23 (Whereupon, the jury returned to the courtroom at
24 5:50 p.m.)

25 THE COURT: All right. Mr. Foreman, has the jury

1 reached a unanimous verdict, sir?

2 FOREMAN: Yes, Your Honor.

3 THE COURT: Please pass that over to the bailiff. I
4 appreciate that. Thank you.

5 (Whereupon, the bailiff hands the verdict forms to
6 the Court.)

7 THE CLERK: All right. Madam Clerk, please publish
8 the verdicts of the jury.

9 THE CLERK: Indictment 2012-GS-32-2249, The State
10 versus Jeremy Seldon Brady, as to indictment for charge
11 of murder, we the jury find the defendant Jeremy Seldon
12 Brady guilty of murder, and it is so signed. Indictment
13 2012-GS-32-2250, The State versus Jeremy Seldon Brady,
14 indicted for burglary in the first degree, we the jury
15 find the defendant Jeremy Seldon Brady guilty of burglary
16 in the first degree. It is so signed. Indictment
17 2012-GS-32-2251, The State versus Jeremy Seldon Brady,
18 indicted for armed robbery, we the jury find the
19 defendant Jeremy Seldon Brady guilty of armed robbery.
20 It is so signed. Indictment 2015-GS-32-1421, The State
21 versus Jeremy Seldon Brady, indicted for conspiracy, we
22 the jury find the defendant Jeremy Seldon Brady guilty of
23 conspiracy. It is so signed. All are dated June 19,
24 2015, signed by the foreman. Mr. Foreman, ladies and
25 gentlemen of the jury, if these are your verdicts, please

1 indicate each of you by raising your right hand.

2 All hands were raised, Your Honor.

3 THE COURT: All right. Thank you very much. Ladies
4 and gentlemen, I want to thank you for your service this
5 week. Your service this week has been rather typical I
6 think of a typical General Sessions term. Juries have a
7 hard job. Not do you have to determine the evidence in a
8 case, but you also have to deal with coming and going and
9 being outside the presence of the Court while I'm taking
10 up matters of law and it's not an easy thing to be a
11 juror. So I want to thank you for your service this
12 week. You have earned that exception. If you recall on
13 Monday I told you that state law provides that you only
14 serve on jury duty once, in state court once every three
15 calendar years so you have earned that exception. If you
16 receive a summons for jury duty over the next balance of
17 this year and for the next two years and you wish to be
18 excused, you may do so and exercise that exception. But
19 I do tell people this all the time. It's an exception.
20 It doesn't mean that you are not qualified to serve as
21 jurors and so oftentimes people will receive that summons
22 and they want to serve again and I certainly would
23 encourage you to do that if that's your decision.

24 That does conclude your service for this week. You
25 have the little juror buttons. If you could make sure

1 you give those to the bailiff as you depart. Have you
2 got their stuff?

3 THE CLERK: Yes.

4 THE COURT: Everything. Okay. You should have
5 checks too?

6 THE CLERK: No.

7 THE COURT: No. Well, the checks in the mail.
8 Don't be offended by it. Your service this week is
9 invaluable. There are people who will tell you and I'm
10 one of them that will tell you that second only to
11 serving your country in the military jury service is the
12 highest service you can give to your country. We have a
13 system of justice in this country that is the best on the
14 planet. There is not another system in the world that is
15 as efficient and as good as the system we have in this
16 country. Is it perfect? No. But it's man made so
17 therefore it's not going to be perfect. But it is the
18 best system of justice in the world and we're very
19 blessed to live in a country that has what we have in
20 place here. As I said, that concludes your service.
21 Now, everyone else remain seated. Folks, I'm going to
22 excuse you from service at this time.

23 (Whereupon, the jury was released from further jury
24 service on this case.)

25 THE COURT: At this time I'll take up any motions at

1 the closing of the reading of the verdict.

2 MS. CLEARY: Yes, Your Honor. The defendant would
3 move for a new trial and we would also ask for ten days
4 for you to receive those motions, I know that's at your
5 discretion, in order to prepare a more detailed
6 motions.

7 THE COURT: Well, what I'm trying to decide is what
8 I'm going to do. You all step up here. I'm trying to
9 think logistically here.

10 (side bar off the record.)

11 THE COURT: All right. On the record. I just met
12 with the attorneys at the bench. I'm going to grant your
13 request to give you the ten days within which to file any
14 post trial motions. I am though, since we have folks
15 here from both the victim and the defense, we're going to
16 proceed to sentencing. I'm gonna go ahead and hold the
17 sentencing at this time with the caveat or the
18 understanding that a upon receiving your motions and
19 considering those motions obviously if I grant those
20 motions which I will consider, then whatever sentence the
21 Court imposes will then be rescinded or withdrawn. But
22 I'm going to go ahead and proceed to sentencing at this
23 time but I am going to give you the ten days that you
24 requested to submit those motions.

25 All right. I'll be happy to hear from the State

1 with regards to sentencing.

2 MR. GRAHAM: Thank you, Your Honor. As you are
3 aware, Mr. Brady has a 2005 conviction for burglary
4 second, a 2009 conviction for failure to stop for a blue
5 light. You have heard the evidence in the case. No
6 member of the family wishes to address the Court because
7 they're aware that you have heard the evidence and we
8 just ask that you give him the appropriate sentence.

9 THE COURT: Okay. Do you have some sentencing
10 sheets prepared?

11 THE CLERK: Yes, sir. Right here (proffering.)

12 THE COURT: All right. Ms. Cleary, I will be happy
13 to hear either you or Ms. Russell, as well as, and no one
14 is required to obviously, but I'll be more than happy to
15 hear from anyone who wishes to address the Court on
16 behalf of Mr. Brady or if Mr. Brady himself would like to
17 address the Court, I'll be happy to hear from anyone
18 so...

19 MS. CLEARY: All right. May it please the Court.

20 THE COURT: Yes, ma'am.

21 MS. CLEARY: Obviously I have had a chance to know
22 Mr. Brady for three years. I think it's obvious from the
23 testimony that I put forth how I feel about him and I put
24 up what I believe to be perfect testimony. His mother is
25 not able to be here because she's at home with his child

1 but we would like for his father to address the Court at
2 the appropriate time, and Mr. Brady just doesn't feel
3 like he can at that point.

4 THE COURT: I understand. I will be happy to hear
5 from anyone who would like to address the Court.

6 Mr. Brady, I'll be more than happy to hear from you,
7 sir. If you please come up and just stand right here at
8 this, I don't know what they call it, podium, I guess. I
9 know we already know your name but for the record if you
10 will just state your name sir.

11 SELDON BRADY: Seldon Brady.

12 THE COURT: Thank you, sir.

13 SELDON BRADY: Your Honor, on behalf of my family
14 I want to apologize to this family for a loss. I'm so
15 sorry. I just ask for mercy on him.

16 THE COURT: Yes, sir. Thank you, Mr. Brady.
17 Anything further from the defense, ma'am?

18 MS. CLEARY: No, Your Honor. We just ask for mercy
19 as well.

20 THE COURT: All right. For everyone here it just
21 grieves me that all of you are here. There's no winners
22 here. The thing that's so concerning is I'm not sure all
23 of you were here throughout the course of the trial but
24 many of you were. As you heard as the facts unfolded
25 it's just an example of what drugs and addiction can do

1 to people. It can make people, turn them into something
2 less than they are. It creates a conduct that is
3 irrational and I don't understand it. I don't understand
4 the euphoria being that great to the point that people
5 would throw their lives away for it. The life of all the
6 people that were involved in this case as you heard from
7 those witnesses and you heard the stories and what was
8 going on amongst these young people is a life of
9 decadence. It's a life of, seems to be a life of just
10 complete absence of any moral compass and addictions take
11 over and they become the driving force to cause people to
12 do things that they normally probably wouldn't do and
13 it's terrible. We have lost, essentially we have lost
14 two lives here, Mr. Mitchell and Mr. Brady. Although
15 Mr. Brady is still alive, he's just put himself in a
16 position that for his family for all intents and purposes
17 he will be absent and it's senseless. It makes no sense
18 and I don't think anybody can try to make sense of it or
19 justify it. It's just what it is. I hate to say it, but
20 we see it all too often unfortunately. At some point,
21 and I would strongly urge family members at some point
22 it's going to be incumbent upon family members to say
23 enough of this. If you're going to do this, then get
24 away from our family. And I can't imagine saying that to
25 my son. My son is very young. He's not old enough to be

1 involved in this. I'm an old man with young kids. My
2 son is ten years old. I can't imagine a time that I
3 would tell him to get away. But on the other hand I can
4 imagine doing that if he's bringing into my home and into
5 his life illegal drugs, destruction, personal
6 destruction, all of the things that we heard about this
7 case this week. But we sit back and we kind of say,
8 well, you know, he's an adult. What can I do? What can
9 I say to him? Uhm, I don't know. But we need to. Those
10 of us that aren't involved in addictions, those of us
11 that aren't a slave to illegal drugs, we need to not
12 allow people in our lives to be involved in them and if
13 they are involved in them, we need to get them out of our
14 lives. Now, that sounds harsh. Well, they need help.
15 Why would you get them out if they need help? Well, you
16 offer help. But if they reject that help, then I don't
17 know what you do then and just it leads to senseless
18 things that just destroy lives not just the folks
19 involved but the extended families of everybody. I look
20 at this case. I hear that Mr. Mitchell is in his bed in
21 his home sleeping and these folks come into his home and
22 don't even give him a chance to give up the drugs and the
23 money. They just kill him and take what they want. You
24 talk about showing no mercy. That's the epitome of
25 showing no mercy. Then we come into court. Things don't

1 go our way and we ask the Court for mercy. It's not an
2 easy task of sentencing folks. But I have considered
3 everything that I have heard this week. I have
4 considered everything in this record. I have considered
5 - well, not considered a whole lot of mitigating factors
6 because I don't see any, other than sadness.

7 So on indictment 2012-GS-32-2249 and 2250 on the
8 charge of murder and the charge of burglary in the first
9 degree the sentence of the Court is that you are to be
10 committed to The State Department of Corrections for the
11 remainder of your natural life. 2012-GS-32-2251, armed
12 robbery, the sentence of the Court is that you are to be
13 committed to The State Department of Corrections for a
14 period of 30 years. And on 2015-GS-32-1421, the
15 conspiracy charge, the sentence of the Court is that you
16 are to be committed to The State Department of
17 Corrections for a period of five years. Those are all to
18 run concurrent with each other. Good luck to you, sir.
19 Is there any other business before the Court?

20 MR. GRAHAM: No, Your Honor.

21 THE COURT: All right. I hate to say it but this
22 Court is adjourned.

23 END OF PROCEEDINGS.

24

25

1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

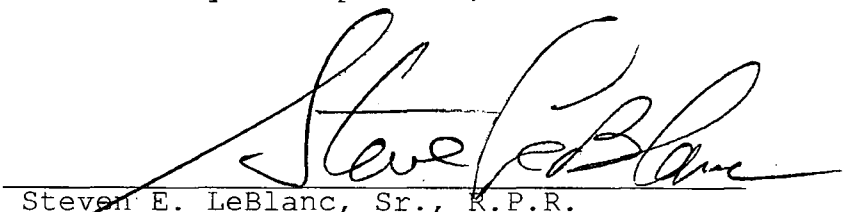
3 (COUNTY OF LEXINGTON)

4
5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 15th day through the 19th day
11 of June, 2015.

12 I FURTHER CERTIFY that the forgoing 768 pages
13 constitute a true and accurate record of said proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 10th day of September, 2016.

18
19
20 
21 Steven E. LeBlanc, Sr., R.P.R.
22 Eleventh Circuit Court Reporter
23 State of South Carolina.
24
25

1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions
3) Case No.: 2012-GS-32-2249,
4 State of South Carolina,) 2250 & 2251
5 Plaintiff,) 2015-GS-32-01421
6 vs.) Transcript of Record
7 Jeremy Seldon Brady,)
8 Defendant.)
_____)

9 February 4, 2016

10 Lexington, South Carolina

11
12 BEFORE:

13 The Honorable Thomas A. Russo, Judge

14 APPEARANCES:

15 Shawn Graham, Assistant State Solicitor
16 Casey Rankin, Assistant State Solicitor
17 Attorneys for the State

18 Eleanor Duffy Cleary, Esquire
19 Brie Rust Russell, Esquire
20 Attorneys for the Defendant

21 ALSO PRESENT:

22 Jeremy Seldon Brady
23
24
25

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1 February 4, 2016

2 Thereupon, the following proceedings were had,

3 (Whereupon, Defendant's Exhibits #1 through #4
4 marked for identification.)

5 BAILIFF: All rise.

6 THE COURT: Please be seated. All right. Folks,
7 are we ready to proceed?

8 MS. CLEARY: Yes, Your Honor.

9 THE COURT: All right. Ms. Cleary, I believe it's
10 your motion, ma'am.

11 MS. CLEARY: May it please the Court.

12 THE COURT: Yes, ma'am.

13 MS. CLEARY: As a preliminary matter I need to point
14 out a potential issue we might have is that we received
15 some letters this morning that were written by Archie
16 Goodwin. And his attorney, he's represented by Derrick
17 Mobley, his attorney was here this morning but we were in
18 the back going over the letters and we didn't get a
19 chance to show them to his attorney. So I was hoping
20 that we -- He had to go do a motion in York but is coming
21 back so what I was hoping is that we could go ahead and
22 get started but I just hesitate to put Mr. Goodwin on the
23 stand without his attorney having seen the evidence that
24 we just got. He said he's definitely coming back.

25 THE COURT: Well, unfortunately -- Go ahead.

1 MR. GRAHAM: Our office had talked to Mr. Mobley.
2 He knew we were starting back at 1:00. It's our
3 understanding that he was okay. He discussed it with
4 Mr. Goodwin testifying without him being here.
5 Mr. Goodwin would be the one that would know that
6 though.

7 MS. CLEARY: I'm just not sure if he was supplied
8 with the new evidence, Mr. Mobley was so that he could go
9 over it with his client.

10 THE COURT: Obviously I have only been exposed to
11 what was submitted to me by both sides. There are, I
12 think, obviously some letters I haven't seen. The stuff
13 that was submitted to me for review doesn't appear to me
14 that there is anything in there that would inculcate
15 Mr. Goodwin in anything. Nothing that I have here
16 involves him in any criminal activity or anything that
17 would place him in jeopardy. Am I wrong?

18 MR. GRAHAM: No, Your Honor. I don't think that it
19 does. But if I would suggest maybe the way to avoid it
20 is to go ahead and start with other witnesses and
21 hopefully Mr. Mobley will be back.

22 THE COURT: Okay. Yeah. We'll proceed. I'm sorry
23 that Mr. Mobley had something in another court but...

24 MS. CLEARY: That's fine. I just wanted to make
25 sure that the Court understands I'm not trying to put up

1 a witness without his attorney being here.

2 THE COURT: I understand.

3 MS. CLEARY: So if he does show up, I would just
4 like five or ten minutes to talk to him.

5 THE COURT: That's fine. Yes, ma'am.

6 MS. CLEARY: Yes, Your Honor. This is the defense
7 motion for a new trial based on after discovered
8 evidence. I don't believe there are any disputes as to
9 any of the time limit issues. I just would note that we
10 filed our motion shortly after receiving information that
11 Mr. Goodwin had made a statement in this case and, uhm,
12 we submitted a motion for a new trial and then the State
13 submitted a motion opposing the granting of a new trial.
14 Then we filed a memorandum in support of the motion and a
15 reply to their's. Then in early January the hearing was
16 set for today.

17 THE COURT: Let me just say just so the record is
18 clear, I don't think there is any issue with regards to
19 the time limits of your motion. It was appropriate and
20 timely. It's been a while since it was made, but that is
21 more logistics with my schedule than y'all's schedule than
22 it is with the time limits of the motion so I think
23 you're on good ground with that.

24 MS. CLEARY: Before we get started though and before
25 I start talking about any of the facts, I would like to

1 ask that the lay witnesses be sequestered. I believe
2 that Casey agreed with that.

3 MS. RANKIN: Yes, Your Honor.

4 MS. CLEARY: If while I'm talking, if they could
5 just, I know he needs to be moved out by the guards.

6 THE COURT: Sure. Let's sequester any of the lay
7 witnesses.

8 MS. CLEARY: We only have three.

9 THE COURT: Is there a place for them to go? Or
10 just out in the hallway. There's benches out there.

11 MS. CLEARY: We need the guards to take Mr. Goodwin
12 out.

13 THE COURT: Yes. We'll get Mr. Goodwin to come this
14 way. Well, let them go ahead and get Mr. Goodwin
15 situated.

16 MS. CLEARY: Before we get started, Your Honor, can
17 I introduce my intern who is shadowing me for two weeks.
18 Did she not pick a good week or what? 18 years old from
19 the upstate area Mika Plugy.

20 THE COURT: Thank you. Glad you could be here with
21 us, ma'am. If you have any questions about anything,
22 when we are done, I'll be happy to answer them.

23 MS. CLEARY: Thank you. That would be fabulous.
24 Thank you. As you know, Your Honor, in order to obtain a
25 new trial based on after discovered evidence the

1 defendant has to show that the evidence would probably
2 have changed the results at trial, that what has been
3 discovered since trial could not have been discovered and
4 is material to the issue of guilt or innocence of the
5 defendant and then is not merely cumulative or impeaching
6 and the State concedes that prongs two, three and four
7 are satisfied so therefore the defense will focus on
8 showing that, one, the evidence would probably change the
9 results at trial and then five that the evidence is not
10 merely cumulative or impeaching. And the State has
11 conceded that the evidence is material to the issue of
12 guilt or innocence.

13 Before we put up testimony, I would like to ask if
14 my co-counsel Ms. Russell can just briefly go over some
15 of the facts and I know that y'all have read the
16 memorandum but there were some things that we wanted to
17 clarify once we had the benefit of the transcript, some
18 mistakes that both sides had said about the evidence so
19 if she could just go through that.

20 THE COURT: Okay. All right.

21 MS. RUSSELL: Yes, Your Honor. And first we have a
22 copy of the excerpts from the transcript for you as
23 defense exhibit 1 I believe without objection.

24 MS. RANKIN: Yes, Your Honor.

25 THE COURT: Thank you very much, ma'am. Admitted.

1 MS. RUSSELL: It's been previously marked. May I
2 approach?

3 THE COURT: Yes. Thank you.

4 MS. RUSSELL: Yes, sir. Basically we just realized
5 that between our memories of the testimony at trial we
6 made some mistakes in our memorandum and I believe the
7 State made a few in their motion as well. Those items
8 have been able to be clarified by getting the testimony
9 from Mr. LeBlanc. We didn't ask him for an entire copy
10 of the trial. That would have been impossible in less
11 than a month. We just asked for the people that we had
12 stark differences in our facts in between the memo and
13 the motion.

14 THE COURT: Okay.

15 MS. RUSSELL: So following our defense's memorandum
16 on page 15 we stated that Williams stated that Brady also
17 took a wallet, a safe and a gun. I would just clarify
18 that in the testimony it states on page 33, line 25 that
19 Jeremy took the safe and the wallet but he had the same
20 gun that was supposedly taken in and out of the house.
21 It's not like he stole an additional gun from
22 Mr. Mitchell's house. That's how that reads.

23 THE COURT: Got you. The gun in question is the one
24 that was brought to the scene.

25 MS. RUSSELL: Right. Not that any weapons were

1 taken from Mr. Mitchell's home. Also he stated on page
2 17 that Williams got \$10.00 from William White, however,
3 the record indicates on page 153, line 15 that Jeremy
4 Brady got the \$10.00 from William White, not Nicholas
5 Williams.

6 Additionally, Michelle Webb stated on page 18 that
7 she testified that she never seen Jeremy Brady with a
8 black duffel bag. Page 125, line 1, she says, not, I
9 mean, yeah, but not, I don't know. It's just the
10 circumstances. I didn't know. It just seemed odd. So
11 we just wanted to clarify that that was a bolder
12 statement by us than her testimony actually reflected.

13 And then with regard to the State's motion versus
14 the actual testimony it appears that on their motion page
15 6 Williams stated that he told William White that he and
16 Brady had shot someone and William White told him not to
17 be talking about that. Williams testified that he went
18 to Amanda Anderson's house the next day and they got high
19 together with some of the pills and he had used some of
20 the money taken from Robert Mitchell to buy heroin with
21 Anderson. Williams then stated that he went back to his
22 house on old Orangeburg Road and found out that he was
23 wanted in connection with the murder of Robert Mitchell.

24 Williams stated that two friends had given him a
25 ride and set him up with a room at the Palmetto Inn Motel

1 where he was apprehended by law enforcement.

2 That entire paragraph is nowhere in Williams'
3 testimony.

4 THE COURT: And that's on what page?

5 MS. RUSSELL: Motion, page 6.

6 THE COURT: Of the State's memorandum?

7 MS. RUSSELL: Yes, sir.

8 THE COURT: Okay.

9 MS. RUSSELL: Also to clarify that under Vanessa
10 Dinkins' testimony in their motion on page 3 they stated
11 Dinkins further testified that she had heard something
12 about a lick. Her statement on page 107 at line 13 is,
13 you know, now thinking back I don't remember if I heard
14 it that morning or in hindsight like looking back if I
15 heard about it afterwards, but it was to my knowledge
16 that they were going to be involved in some type of lick.

17 Also, it says that on page 3 she also stated that to
18 her knowledge Williams did not go down the hallway but
19 acknowledged that she did not watch him at all times.
20 That it was possible that he went down the hallway to the
21 bedroom. She also testified that Brady and William White
22 did go down the hallway towards the bedroom. That entire
23 paragraph is nowhere in the record either.

24 And then namely from Michele Webb in their motion on
25 page 4, Webb stated that she also heard Brenda White call

1 Brady to ask him why he had a gun in her house. The
2 record indicates on page 119 at line 22, yeah, she called
3 him and asked. Then there was an objection. And then
4 she stated the only thing I know that he said is why are
5 you going through my stuff.

6 And there are a few minor discrepancies here and
7 there on both of our sides but those are the ones that
8 are very material to today's presentation.

9 THE COURT: All right.

10 MS. CLEARY: Your Honor, we have three witnesses
11 that we would like to call but before we do that there
12 are a couple of exhibits that the State has agreed that
13 we can admit. One is the phone examination records from
14 one of Mr. Nick Williams' phones. They have agreed we
15 didn't have to bring in the phone company and everything
16 so without objection I would like to introduce that as
17 defense exhibit 3.

18 THE COURT: Okay.

19 MS. CLEARY: May I approach?

20 THE COURT: Yes, ma'am.

21 MS. CLEARY: I'm going to hand that to you
22 (proffering.)

23 THE COURT: Is this in the materials that I
24 received?

25 MS. CLEARY: Yes. Actually what I did is I sort of

1 printed out the whole thing in case there was any issue
2 of context.

3 THE COURT: Sure. Okay.

4 MS. CLEARY: And then the second exhibit is the
5 property and evidence voucher from Mr. Williams when he
6 was arrested. This was material that was provided in
7 discovery and the State has agreed that we can admit that
8 without having to bring somebody from the jail house. So
9 we would like to admit that as defense exhibit 2. I
10 apologize for going out of order on my exhibits.

11 THE COURT: That's fine. That's no problem.

12 MS. CLEARY: May I approach?

13 THE COURT: Yes, ma'am.

14 MS. CLEARY: (Proffering.)

15 THE COURT: Thank you.

16 MS. CLEARY: We would like to call Kimberly White
17 and she is going to go get her.

18 THE COURT: Kimberly White. Ms. White, please come
19 around and take the stand please.

20 Thereupon,

21 KIMBERLY WHITE

22 after having been first duly sworn, testified as follows,

23 THE WITNESS: Kimberly White, W-h-i-t-e.

24 THE COURT: Ms. Cleary.

25 DIRECT EXAMINATION

1 BY MS. CLEARY:

2 Q. Ms. White, have you ever testified before in a
3 courtroom?

4 A. No, ma'am.

5 Q. Are you appearing here under subpoena?

6 A. Yes, ma'am.

7 Q. Which side subpoenaed you?

8 A. The defense.

9 Q. Okay. And so what is your relationship with the
10 defendant Jeremy Brady?

11 A. Right as of right now or as of when?

12 Q. What was your relationship with him in June of
13 2012?

14 A. He was my child's father.

15 Q. Is he still your child's father?

16 A. He's still my child's father. Yes.

17 Q. All right. Were you dating him in July of 2012?

18 A. On an off.

19 Q. Do you know Nicholas Williams?

20 A. Yes.

21 Q. What was your relationship with Nick?

22 A. We were dating in July, on July 28th of 2012.

23 Q. Okay. Were you living together?

24 A. We -- I was on the run.

25 Q. You were on the run from?

- 1 A. From jumping bond.
- 2 Q. Okay. And so were you living with Nick in various
- 3 places?
- 4 A. Yes. In various places. Yes.
- 5 Q. Did you have a steady place to live?
- 6 A. No, ma'am.
- 7 Q. Okay. How did you and Mr. Williams support
- 8 yourselves? I'm not trying to embarrass you.
- 9 A. Uhm.--
- 10 Q. Let me ask you this: There was previous testimony
- 11 that y'all were addicted to drugs. Were you addicted to
- 12 drugs?
- 13 A. Yes, ma'am.
- 14 Q. What sort of drugs?
- 15 A. Heroin.
- 16 Q. Okay. And how did you buy the heroin?
- 17 A. Uhm, I --
- 18 Q. Okay.
- 19 A. I sold myself.
- 20 Q. Okay. Are you turning your life around now?
- 21 A. Trying.
- 22 Q. So did you advertise on Back Page?
- 23 A. Yeah.
- 24 Q. Okay. So --
- 25 A. It's all right.

1 Q. All right. So you said you had stayed in various
2 places?

3 A. (Witness nodding head.)

4 Q. You stayed at a dope house on Two Notch Road?

5 A. No. A dope house on Old Orangeburg.

6 Q. That's right. On Old Orangeburg.

7 A. Yeah.

8 Q. Did you stay at motels?

9 A. Yeah, until the bondsmen came and they surrounded my
10 car and called my cell phone and said they were at the hotel
11 and I called their bluff. And I said, no. You guys aren't.
12 But we looked out the window. They were outside. Nick told
13 me you have one of two choices. We need to both get arrested
14 or we can run and we ran. We ran separate ways and we got
15 away and that's when we moved to Old Orangeburg.

16 Q. Okay. Do you know Archie Goodwin?

17 A. Yeah.

18 Q. When did you first learn of Archie Goodwin?

19 A. When Nick got out of jail. It's been so long ago.
20 One time when Nick got out of jail. He was in and out of jail
21 a lot.

22 Q. And so you met Archie then?

23 A. Yeah.

24 Q. Through Nick?

25 A. Through Nick. Yes.

- 1 Q. Okay. And what was your relationship with Archie?
- 2 A. To be honest with you --
- 3 Q. Yes.
- 4 A. -- I didn't like him.
- 5 Q. Okay. What did y'all do with Archie?
- 6 A. Uhm, Nick - Nick had the worst friends in the world
- 7 and, uhm, was always wanting to go hang out with him so, and I
- 8 would tag along because I didn't - I didn't - I was stupid.
- 9 Q. Did they do drugs together?
- 10 A. Yeah.
- 11 Q. Okay. And did you -- Do you remember -- Did you
- 12 stay at a hotel with Archie?
- 13 A. Yeah. Mm-hmm.
- 14 Q. Do you know when that was?
- 15 A. It's been so long ago but I would say it was in the
- 16 spring of 2012.
- 17 Q. Okay.
- 18 A. My best guess.
- 19 Q. And you were addicted to heroin and using a lot of
- 20 drugs?
- 21 A. Yes.
- 22 Q. Do you remember where the motel party was?
- 23 A. Yeah. The Travelers Inn.
- 24 Q. Who else was there?
- 25 A. Amanda. I don't know her last name but I believe it

1 to be Hartley. Harley.

2 Q. What did you say her first name was?

3 A. Amanda.

4 Q. And Archie was there?

5 A. Yeah. And then, uhm, some people came in and out as
6 the night went, but I don't know their names.

7 Q. Everyone was doing drugs at that point?

8 A. Yeah. But the reason why we were there is because
9 we had no place to stay.

10 Q. Okay. All right. And what, to your knowledge what
11 was Amanda Harley's relationship with Archie?

12 A. That was his -- They were together.

13 Q. Okay. And what did Amanda do for a living?

14 A. She said she was a stripper but I believe that she
15 worked Back Page.

16 Q. Okay. So what, if anything, happened at the motel
17 when y'all were there?

18 A. I told Nick that I would never -- That morning when
19 we woke up, I told him I would never stay - I would never go
20 anywhere with him, any hotel, anywhere with him again because
21 they had sex right in front of us. It was disgusting.

22 Q. It was a wild party?

23 A. Yeah. It was nasty.

24 Q. Do you remember if Archie had to leave the motel?

25 A. Yeah. He actually got kicked out of the motel. We

1 left early that morning. He called us and said that he needed
2 a ride to a new motel. Since he helped us out the night
3 before could we help him out that night. Well, we left early
4 that morning because when you're addicted to heroin, you have
5 to - you have to get your heroin in the morning.

6 Q. So did you help him?

7 A. Yeah. We helped him.

8 Q. What did you do?

9 A. We moved him from the Travelers Inn to the Airport
10 Inn.

11 Q. Okay. Did you know Pam Norris back in 2012?

12 A. No. I didn't meet Pam Norris until 2014.

13 Q. Okay. So by that point Nick was in jail?

14 A. Yeah.

15 Q. And so you never knew Pam Norris --

16 A. No.

17 Q. -- with Nicholas. So after that motel party, did
18 you ever have an occasion to see Archie again?

19 A. Yeah.

20 Q. What happened?

21 A. Uhm - uhm, I became best friends with Stephanie Head
22 which was his new girlfriend. Uhm, he would --

23 Q. Okay. Wait a minute. When was this?

24 A. When was this? December. It was in December. Uhm,
25 I remember it was cold.

1 Q. This was after Nicholas was arrested?

2 A. This was after Nick was arrested. Because the
3 reason why I met her is because I was at Lexington county
4 visiting Nick and she was trying to visit Archie and she
5 didn't know how to work the visitation machine so I helped her
6 and then we became friends after that.

7 Q. So before Nicholas was arrested, did you see Archie
8 again after the motel party?

9 A. Yeah. Oh, yeah. Yeah. One more time.

10 Q. What happened then?

11 A. Uhm, he wanted - he wanted me and Nick - he - me and
12 Nick didn't have, it was at one of those nights we didn't have
13 nowhere to stay and, uh, he offered for us to stay in his
14 hotel room and I told Nick he was crazy. No. I'm good on
15 that. And he said, uh, that he would get us our own hotel
16 room if we would both buy him a box of sudafed.

17 Q. Okay. Did you know what he needed the sudafed
18 for?

19 A. Uhm --

20 Q. You can say. Did you know?

21 THE COURT: To cook meth.

22 BY MS. CLEARY:

23 Q. Yes or no?

24 A. Yes.

25 Q. To your understanding what was that for?

1 A. To cook meth.

2 Q. Okay. All right. So do you remember seeing Amanda
3 Harley again after that party?

4 A. After that? Yeah. She was the one that picked us
5 up.

6 Q. She picked you up?

7 A. And took us to go try and buy sudafed but Nick told
8 me not to buy it.

9 Q. Okay. So did Nick get the money to buy the
10 sudafed?

11 A. No. I mean, he gave - he - he - we didn't give them
12 back their money. We slept in the car that night.

13 Q. All right.

14 A. He just had - he said he had a bad feeling or
15 something.

16 Q. Okay. So you only remember that one episode where
17 you were asked about sudafed?

18 A. Yeah.

19 Q. To your knowledge did Nick buy sudafed on other
20 occasions earlier than that?

21 A. For Archie?

22 Q. Yes.

23 A. No. I don't believe so. Because to be honest with
24 you Archie didn't learn - I think he didn't learn to cook meth
25 until after Nick went to jail. Or I mean, I'm sorry. That

1 month before Nick went to jail he learned to cook meth.

2 Q. So he was cooking meth before Nick went to jail?

3 A. Like maybe a month prior to it.

4 Q. All right. Now, how many different phone numbers
5 did Nick Williams have in the summer of 2012 to your
6 knowledge?

7 A. We had - I had one, 730-3964. Uhm, we also had a
8 800 number and like 803. 803-800. I can't remember the last
9 four digits.

10 Q. Okay. Would that be 9258?

11 A. Yes.

12 Q. Okay. Are there any other numbers that you
13 remember?

14 A. 553 maybe.

15 Q. Okay. And you remember you wrote an affidavit --

16 A. Yep.

17 Q. -- when you came into our office?

18 A. Yeah.

19 Q. Okay. Do you remember you said that he had the
20 730-3624 number?

21 A. Mm-hmm.

22 Q. Is that correct?

23 A. Mm-hmm.

24 Q. And the 429-9597?

25 A. Yes.

1 Q. And some number with a prefix 558?

2 A. 553.

3 Q. 553. And then what did you say about the numbers
4 you signed up for?

5 A. The text plus numbers would have never really been
6 used. Those would have been when we didn't have no money and
7 we were staying in hotels..

8 Q. Okay. Are those the lines you have to have a
9 wireless connection?

10 A. Yeah. A WiFi connection.

11 Q. Do you know which of those numbers y'all used for
12 the Back Page?

13 A. The only number I ever used for Back Page is
14 730-3624. Or the 3964 is my mom's number. The 3624 number is
15 my number or was mine and Nick's number and I was in arrears
16 for Back Page.

17 Q. Have you spoken to Archie Goodwin about this case?

18 A. No.

19 Q. When is the last time you talked to Archie?

20 A. Uhm, when he --

21 Q. Just tell me the date.

22 A. I don't - I don't - I don't know. It's been so - I
23 don't --

24 Q. Okay.

25 A. November.

1 Q. Was it more than a year ago?

2 A. He's been arrested for what, a year and a half?

3 Q. Yeah. So you haven't talked to him since he has
4 been in prison?

5 A. He got on the phone with me one time when I was on
6 the phone with, I believe, my best friend Tyler which he's
7 deceased now. He was in jail and Tyler was like, hey, someone
8 wants to talk to you. He was like, hey, here, Pam, talk to
9 him. I was like, hey, Archie. I was like don't ever put him
10 on the phone with me ever again.

11 Q. Did you talk about this case?

12 A. No. I don't - I don't like Archie.

13 Q. Okay. Have you read any of Archie Goodwin's
14 statements in regards to this case?

15 A. No.

16 Q. Okay. So did either I or Brie Russell tell you
17 anything about the content of his statements?

18 A. No. Y'all wouldn't tell me anything because of
19 Nick.

20 Q. So you have spoken to Nick on the phone in the past
21 week or so, correct? He's at Lexington County?

22 A. He's -- Through William, yeah.

23 Q. And what did he ask you to do about testifying
24 today?

25 A. Told me not to testify.

1 Q. What did he say specifically to do?

2 A. He said that I would be arrested for prostitution.
3 That, uhm, there's - the Court is just trying to get me to
4 testify so that I can go to jail for the rest of - for 20
5 years, something like that. I said, well, I'll do my 20
6 years. I'll do whatever I have to do.

7 Q. Did he curse at you about whether you should testify
8 or not?

9 A. Yeah. Yeah.

10 Q. What did he say he would do if you said anything
11 about, if you mentioned his name?

12 A. He would never speak to me again.

13 Q. And do you still love him?

14 A. It's a crazy thing. Uhm, I do have -- it's a sick -
15 sick - sick - I - I - I do have love for Nick, yes.

16 Q. Do you want to see Nick go to prison?

17 A. If he did it.

18 Q. Okay. Would you make anything up to try to --

19 A. No. I would not make anything up to try to save
20 either one of them because I believe that whoever shot that
21 man deserves to go to prison.

22 MS. CLEARY: All right. I don't have any further
23 questions. Please answer any questions that the State
24 may have. Thank you.

25 THE COURT: All right. Mr. Graham.

1 MR. GRAHAM: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. GRAHAM:

4 Q. Ms. White, when you talked to Nick on the phone, he
5 told you to tell the truth today, didn't he?

6 A. He told me to tell the truth. Yeah. Tell -- Yeah.
7 He told me to tell the truth.

8 Q. He told you to come in here and tell the truth and
9 that's what you are doing, right?

10 A. Yep.

11 Q. He told you just to be careful because people would
12 try to trip you up and twist your words?

13 A. Yes. Yes, sir.

14 Q. All right. In July, you got arrested by the
15 bondsmen on the very early morning hours of July 28, 2012,
16 correct?

17 A. Yes, sir.

18 Q. You were staying at the Old Orangeburg address that
19 you were talking about, correct?

20 A. Yes, sir.

21 Q. That was the home of Anthony Porjano and --

22 A. Yes, sir.

23 Q. -- that's where Bill Morgan was cooking meth?

24 A. They were both cooking meth there.

25 Q. They were both cooking meth. Okay.

1 A. At that time.

2 Q. And you had been staying there for how long?

3 A. Since the bondsmen came to my hotel so it's all kind
4 of a blur.

5 Q. About the same time your car was broke down?

6 A. Yeah.

7 Q. So it would have been about a month?

8 A. About a month. Yeah.

9 Q. So you had been staying at the Old Orangeburg
10 address with Bill and Mr. Anthony Porjano for about a month?

11 A. Mm-hmm. Yeah. And Mike Griffin.

12 Q. And Mike Griffin was at the house as well?

13 A. Mm-hmm.

14 Q. You weren't staying at any hotels during that time
15 you were at that residence?

16 A. I was at the residence. No hotels.

17 Q. So it's fair to say that it had been over a month
18 before your arrest on the morning of July 28th, 2012 since you
19 stayed at a hotel?

20 A. Yes.

21 Q. Since you had stayed over at -- Did you ever stay at
22 a Mark Steel's house on Two Notch Road?

23 A. No.

24 Q. You never stayed there?

25 A. No.

1 Q. Once you started spending time that last month of
2 July over at Anthony Porjano's house, did you even go back to
3 Mark Steel's house?

4 A. I have never met Mark Steel.

5 Q. Okay. The incident regarding the first time you met
6 Archie was at a motel party?

7 A. Yeah.

8 Q. At the Travelers Inn?

9 A. Yep.

10 Q. That was the very first time?

11 A. Mm-hmm.

12 Q. You testified that it was the spring of 2012?

13 A. Yeah. Somewhere in there. Yeah.

14 Q. Your affidavit says the summer of 2012. Do you know
15 which one it was or are you just guessing?

16 A. Uhm, I'm going to say April, May, June.

17 Q. We know that it wasn't July of 2012. It was not
18 July of 2012? We are sure of that, correct?

19 A. Yeah. I am sure it was not July of 2012. I thought
20 you were saying it wasn't. I was like no. There is no way.
21 It was not July. It was April, May or June, early June.

22 Q. And Archie was dating Amanda Harley at that point?

23 A. I don't - I -- Yeah. I wouldn't - I wouldn't know
24 if they were dating or just sleeping together.

25 Q. That's who he was with at that party --

- 1 A. Yes.
- 2 Q. -- at the Travelers Inn --
- 3 A. Mm-hmm.
- 4 Q. -- in April, May, June of 2012?
- 5 A. Yeah.
- 6 Q. Pam Norris, you did not meet her until after you got
- 7 out of jail, correct?
- 8 A. Way after I got out.
- 9 Q. Way after.
- 10 A. Mm-hmm.
- 11 Q. There was an incident where you and Amanda and Nick
- 12 were supposed to get sudafed; is that correct?
- 13 A. Yeah.
- 14 Q. Okay. That was not in July of 2012 either, was it?
- 15 A. Obviously it was in June of 2012.
- 16 Q. Because it was before you spent that last month --
- 17 A. Yeah. Yeah. You're right.
- 18 Q. Because if you got sudafed in July, you would have
- 19 been giving it to Anthony and Bill?
- 20 A. Yeah.
- 21 Q. To help pay for you all staying there, right?
- 22 A. Yes.
- 23 Q. The telephone numbers that you talked about, when
- 24 you were - there were -- How many phones did Nick have the
- 25 night you were arrested? The early morning hours of the 28th

1 when you were arrested, you had your phone which you said is
2 the 730 number?

3 A. Yeah. But he kept that.

4 Q. He had the other phone which had the 800 number?

5 A. The 800 number.

6 Q. You were asked about the other --

7 A. The text free numbers which are just WiFi numbers
8 used at hotels.

9 Q. So you couldn't -- Those are WiFi only?

10 A. WiFi only.

11 Q. So unless you have a WiFi hot spot somewhere --

12 A. Yeah.

13 Q. -- you can't communicate on those?

14 A. You can if you have data on your phone.

15 Q. But the ones you had did not have data?

16 A. No.

17 Q. So the only working phones that you and Nick had in
18 the early morning hours of July 28th, 2012 were the 800 number
19 that was Nick's phone and the 730 number which was your phone.
20 That was the only one that you all could use absent a WiFi?

21 A. And then the 553 number, the Blackberry.

22 Q. The Blackberry phone.

23 A. The Blackberry phone and the 553 numbers, something
24 like that.

25 Q. What kind of phone was that on?

1 A. Uhm, I don't even know because he set that up on his
2 own. That was his own personal phone. That was just - that
3 was a phone where I saw I couldn't talk to Jeremy.

4 Q. Do you know whether those were in y'all's possession
5 on July 28th, 2012?

6 A. Y'all's possession or his? They were in his
7 possession.

8 Q. When you got arrested from the house on Old
9 Orangeburg on the early morning hours of July 28th, 2012.

10 A. I was in jail. I went to jail with no phone.

11 Q. Okay. Do you know whether he had those phones?

12 A. Yeah. He had all the phones.

13 Q. Do you know if he had those phones when he left that
14 residence?

15 A. I don't. I don't know.

16 Q. You don't know?

17 A. I was in jail. I don't know.

18 Q. All right. You met Archie Goodwin looks like from
19 your affidavit it says in December of 2013. Nick called me
20 from jail and I was with Goodwin at a motel. That's correct,
21 isn't it?

22 A. Yep. That's when I would have been with his - I was
23 friends with his girlfriend Stephanie Head at the time.

24 Q. And during -- How many other times did you see
25 Archie Goodwin after Nick and Jeremy were arrested?

1 A. See, I would - I would save Stephanie from him.

2 Q. But how many times? Was there more than just the
3 one time or that one time?

4 A. Maybe three times.

5 Q. Three times. In those three times that you talked
6 to him did Archie Goodwin ever tell you that Nick Williams
7 called him in the early morning hours that this happened in
8 this case and tell you that Nick said that he shot anybody?

9 A. I wouldn't - I never wanted to hear anything about
10 it.

11 Q. He didn't tell you that, did he?

12 A. He tried to talk to me about the case but I didn't
13 want to hear anything.

14 Q. Well, your affidavit says I have not talked to
15 Goodwin about any information he has about the murder.

16 A. I haven't.

17 Q. So the answer is no, he did not tell you anything
18 about Nick Williams shooting anybody, did he, ever?

19 A. No. But that's because I never wanted any
20 information from him.

21 Q. But he never said those words to you, did he?

22 A. He tried to talk to me about the case.

23 Q. I understand that. But he never said that Nick
24 Williams called him the morning of the murder and told him he
25 shot anybody, did he?

1 A. No.

2 MR. GRAHAM: Thank you.

3 MS. CLEARY: Briefly.

4 THE COURT: Yes, ma'am.

5 REDIRECT EXAMINATION

6 BY MS. CLEARY:

7 Q. Kimberly, in June and July and the summer of 2012,
8 you were on drugs you testified. Did you stay up for hours at
9 a time?

10 A. Yeah.

11 Q. Days at a time?

12 A. Yeah.

13 Q. Did you keep like a day book calendar?

14 A. No. No. No.

15 Q. Okay. Then you were in jail when this murder
16 occurred?

17 A. Yes, I was.

18 Q. How long were you in jail?

19 A. From July 28th until August. I was out for my
20 birthday. August 24th is my birthday so I think it's August
21 19th I got out.

22 Q. Okay. So you were in there a few weeks?

23 A. Mm-hmm.

24 Q. So you don't know what Nick was doing --

25 A. No.

1 Q. -- while you were in jail?

2 A. But I - but I talked to Jeremy every day while I was
3 in jail for the seven days a week that he was out.

4 Q. Okay. What did - what did - you just testified that
5 you didn't want to hear what Goodwin said anything about the
6 murder. Are you saying he was trying to say something?

7 A. He was on meth. I - I - I heard enough stories. I
8 -- You know what I mean?

9 Q. What did he try to say to you or what did he say?

10 A. He was just - he was just trying to bring up, you
11 know, the case, you know. I'm like, listen. I've heard
12 enough stories, you know. Just like I told you that girl, she
13 told me that her uncle killed, you know, the man, and if I dug
14 any deeper, that she would have me killed, you know. It just
15 seemed like a bunch of methed up stories and so that's the
16 reason why I didn't want to hear Archie Goodwin's story,
17 anything that he had to say about anything, the case because I
18 didn't want to get - I didn't want -- What would you have done
19 if I had came to you with that, Ellen, you know?

20 Q. Okay. Okay.

21 A. You know, you would have been like, oh, you heard
22 this while you were doing, getting high with somebody.

23 MS. CLEARY: Okay. No further questions.

24 THE COURT: All right. Any recross?

25 RECROSS EXAMINATION

1 BY MR. GRAHAM:

2 Q. Ms. White, is it my understanding that he was asking
3 you information about the case or trying to tell you
4 something?

5 A. Trying to tell me something.

6 Q. But you don't know what?

7 A. I don't know what.

8 MR. GRAHAM: Okay. Thank you.

9 THE COURT: Thank you very much, ma'am. You may
10 step down.

11 MS. RUSSELL: We'll call Angela Lane next.

12 THE COURT: All right.

13 Thereupon,

14 ANGELA LANE

15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. After you're
17 seated, please state your full name spelling your last
18 name for the record.

19 THE WITNESS: Angela Lane, L-a-n-e.

20 DIRECT EXAMINATION

21 BY MS. RUSSELL:

22 Q. Good afternoon, Ms. Lane.

23 A. Good afternoon.

24 Q. Can you tell me where you were living in the summer
25 of 2012?

1 A. At 227 Sharon Church Road in Gaston, South Carolina
2 29053.

3 Q. Do you think it might be 247?

4 A. I'm sorry. 247.

5 Q. Who did you live there with?

6 A. Uhm, my boyfriend at the time which was Donald
7 White, my daughter Vanessa Nicole Dinkins and Donald's son
8 William White, my two grandsons James Adambars, Junior and
9 Brazlar Alexander Ortiz.

10 Q. Okay. And do you have any knowledge if your
11 daughter Vanessa Dinkins has testified in Mr. Brady's trial?

12 A. I believe she has. Yes, ma'am.

13 Q. Okay. At that time during the summer of 2012 you
14 said she was dating Donny's son; is that right?

15 A. Mm-hmm. William White.

16 Q. William White. Okay. And through this family group
17 setting did you know Nicholas Williams?

18 A. Very vaguely. I know that Donald's son and Donald's
19 daughter Kim White and Mr. Williams were dating or seeing each
20 other off and on.

21 Q. Did you also know Jeremy Brady?

22 A. I did. I met him when my grandson O.J. was very
23 little. My daughter and her boyfriend at the time rented a
24 mobile home from Mr. Seldon Brady which I believe is Jeremy's
25 dad. That's when we met them. Yeah. I met him then because

1 my grandson and his daughter were kind of close friends and
2 over the years we, you know, were acquaintances. I would see
3 him here and there.

4 Q. Okay. Do you remember when Amanda Anderson and
5 James White were moving to your house from Two Notch Road?

6 A. I do.

7 Q. Okay. Do you know about when that was?

8 A. To give you the exact time I could not because it's
9 been several years since that happened. Uhm, I know it wasn't
10 wintertime. It had been probably in the summer maybe.

11 Q. Okay. A few people have testified that it was
12 around July 28th and 29th that they were all there helping
13 Amanda pack. Does that sound about right?

14 A. It does. Like I said, it's been a while so I don't
15 remember the exact date.

16 Q. Okay. Did you go over there that morning to help
17 them kind of get their stuff together?

18 A. I did. Donna and I were going over there to help
19 her finish packing and stuff because James was out of town.
20 James White was out of town working. And I believe we were
21 supposed to pick his grandson Shawn up. If I'm not mistaken I
22 believe Vanessa and Will had already been there and picked him
23 up prior to us being there.

24 Q. But y'all were at Sharon Church Road when they were
25 packing?

1 A. Yeah.

2 Q. Unpacking.

3 A. That's where we lived. Mm-hmm.

4 Q. And what happened while you were there?

5 A. Well, we didn't go early because I had worked the
6 previous day. We went and got up and went over there to help
7 Mandy move because like I said James was out of town. We
8 pulled up and Mandy came out the door and she is telling us
9 that she was going to give us all the canned goods and stuff
10 from the cabinets and some stuff out of the refrigerator
11 because they were going to stay with us anyway and go ahead
12 and get that out of the way. She asked if I would help her
13 finish getting the child's toys and stuff together. I believe
14 her dad was gonna pick them up and put them in storage or
15 whatever. She came out. We were sitting in my car. We got
16 out and she had mentioned that Nick Williams was there. That
17 he had been laying on the floor sleeping or something. And,
18 of course, I said what the hell is he doing there? Because,
19 you know, he didn't really care for Mr. Williams. She said,
20 like, well, I don't know. He just, you know, wanted to crash
21 or whatever.

22 Uhm, so they were moving stuff around and on the
23 porch she had some child toys there and Mr. Williams come out,
24 walked down, you know, to where we were at. I was off the
25 porch standing and he was talking about, complaining about his

1 chest hurting. He couldn't hardly breathe. And I was like,
2 why is your chest hurting? And he pulls his shirt up and,
3 uhm, there's like a big bruise like, you know, like in between
4 his nipples or whatever on his chest, you know. And he was
5 touching it and stuff and, uhm, was talking about it was
6 hurting. He couldn't hardly breathe. I said, you know, that
7 looks kind of bad, you know. You might want to go to the
8 doctor to get it checked out.

9 Q. About how big do you think that bruise was?

10 A. Uhm, it was a couple inches wide. I don't remember
11 exactly how long. It was just, you know, just -- I don't
12 know. Just right there (indicating.) Uhm, looked like, to me
13 it looked a little indented some, you know, uhm, like
14 something had hit him. I don't know. But it was pretty
15 bruised.

16 Q. Do you know if he went to the doctor?

17 A. I don't know.

18 Q. That's okay.

19 A. I'm not positive. I think he did later on but I
20 don't know. You know, we helped her finish packing stuff and
21 moving. We were out of there in a couple hours so, you know,
22 I'm not really sure. I just really, didn't really keep up
23 with him too much because I didn't know him very well but, you
24 know, Donny didn't care for him so, you know, we didn't
25 really...

1 Q. And when did you learn about this case or that
2 something had happened at the trailer in Gilbert?

3 A. It was several months later before I even heard
4 anything about it or what had been going on, uhm, because like
5 I said, you know, I don't really keep up with what the kids
6 are doing pretty much. I'm, you know, mention -- I had heard
7 it was a robbery. I didn't know the man had passed until
8 later on.

9 Q. So you really didn't know anything about the facts
10 of the case for a long time?

11 A. Yeah. I did not until much later on. Much later
12 on.

13 Q. And when did we find out about your knowledge of
14 seeing Mr. Williams with the bruise?

15 A. This past summer when the trial was going on I
16 mentioned it to you because it kind of stuck out in my mind
17 because, I mean, like I said, I don't remember the exact date
18 or anything that it happened but it stuck out in my mind
19 because, you know, like I said, he was complaining about he
20 couldn't hardly breathe and he pulled his shirt up and it was,
21 the bruise was just weird looking to me. I just...

22 MS. RUSSELL: Beg the Court's indulgence.

23 MR. GRAHAM: Your Honor, I was waiting for it to
24 become relevant so I would object to this entire line of
25 questioning being relevant to their motion. It has

1 nothing to do with - their motion is based on Archie
2 Goodwin saying that Nick Williams told him that he's the
3 one who shot the man. This doesn't have anything to do
4 with that so I ask that it be struck. If not, I'll go
5 ahead and cross.

6 MS. CLEARY: Your Honor, we were gonna try to
7 explain the relevancy when we get to the legal argument
8 part.

9 THE COURT: We're not gonna do that. I'm not gonna
10 listen to a bunch of stuff that ends up turning out in
11 the long run to maybe be relevant. If it has relevance,
12 tell me now what the relevance is.

13 MS. CLEARY: We -- Uhm, you know, part of our oral
14 argument is that if we had had any evidence that Nicholas
15 Williams was the actual shooter, then we would have used
16 her testimony. She came to us in the middle of the trial
17 and we discussed it with you in chambers and, you know,
18 it wasn't - we had no - without - without any other
19 evidence that he was the shooter, that evidence was not
20 corroborated. It wasn't meaningful. But if we had had
21 evidence that he was the shooter, we would have sought to
22 introduce her testimony that she saw a bruise and
23 obviously she can't testify that it looked like a gunshot
24 wound because she's not an expert but --

25 THE COURT: A gunshot wound?

1 MS. CLEARY: I mean a gunshot bruise from a
2 kickback. What do you call it?

3 THE COURT: In the center of your chest?

4 MS. CLEARY: I mean, you know, I still think that
5 the jury could infer combined with the other knowledge
6 that he was the shooter. Uhm, but, you know, we
7 presented that that was just one of the things that we
8 were able to come up with that corroborated that he was
9 the shooter but without any other evidence, you know, we
10 wouldn't have sought to admit.

11 THE COURT: Well, I'll allow you to cross. I don't
12 know that it has any relevance but we have done the
13 direct. I'll let you cross.

14 MR. GRAHAM: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. GRAHAM:

17 Q. Ms. Lane, do you know what day this was?

18 A. I don't. I can't tell you the exact date, sir,
19 because at the time I didn't, it wasn't important to me.

20 Q. Do you know whether it was before or after Robert
21 Mitchell was killed?

22 A. I don't know personally. I know it was from
23 discussing it with other people involved, Mr. White and all,
24 they were telling me that he came over there after possibly.
25 I don't know whether it was before or after, sir, because like

1 I said, I didn't have knowledge of anything had happened until
2 several months later, you know.

3 Q. Okay.

4 A. I know it was on a Sunday pretty much because I
5 worked the day before which was a Saturday and we didn't get
6 up very early the next morning to go help her move because,
7 you know, I worked several hours that week. I actually worked
8 overtime because it was inventory where I work and I was tired
9 and Mr. White was like, you know, maybe we don't have to get
10 up early and go. I believe we got there around 9:00 that
11 Sunday morning. But as to the actual date I couldn't tell you
12 that because I didn't keep up with it. I mean, they didn't
13 tell me that, you know, that Mr. Mitchell had died until like
14 I say several, you know, months later. I knew that something
15 had happened. I had heard that there was a robbery committed.
16 I had no knowledge that Mr. uhm - uhm --

17 Q. Mitchell?

18 A. -- Mitchell had passed in the robbery or, you know,
19 that he had even gotten shot or any -- I mean, I didn't have
20 knowledge of that right away.

21 Q. I understand. So do you know that it happened in
22 2012 that you saw the bruise?

23 A. Uhm, yes, sir. It happened whenever, uhm, he had it
24 on him whenever we went to go help Ms. Amanda, Ms. Anderson
25 move because Donny's son was out of town working. We went

1 over to help her move so that's when we moved her stuff.

2 Q. Have you helped Amanda move more than one time?

3 A. Uhm, me personally, I haven't done it. Mr. White
4 has.

5 Q. Okay. The bruise that you saw you were indicating
6 is two inches wide and in the center of Nick's chest?

7 A. It was like right above his rib cage in between his
8 I guess you call it pectoral muscles or whatever, between his
9 nipples. It was like right above his, you know, his rib cage
10 right in the middle of it. It was pretty dark.

11 Q. It looked like an indentation?

12 A. It was an indentation. I couldn't tell you how deep
13 it was. Uhm, I know it was about two inches wide. I don't
14 remember exactly how long it was but it was pretty bruised.

15 Q. I understand you didn't measure it. Was it six
16 inches long?

17 A. Give or take a little bit probably.

18 Q. I'm sorry. Probably?

19 A. Yeah. Probably. And it was pretty dark and
20 bruised.

21 Q. So it was about two inches wide and six inches long,
22 looked like it was indented and it was dark in color like
23 black?

24 A. It was pretty bruised. It was purplish black.

25 Q. Purplish black?

1 A. Mm-hmm.

2 Q. When did you find out about -- He didn't tell you
3 where that bruise came from?

4 A. He did not mention where it came from. I really
5 didn't -- I asked him. I said, you know, how did you, you
6 know, how did you do that? He didn't answer. He was just
7 complaining that he couldn't breathe really good and, uhm, his
8 chest was hurting him pretty bad. Uhm, I just suggested to
9 him that he might need to go get it looked at because it
10 looked pretty bad.

11 Q. When you found out about or heard about Jeremy Brady
12 and Nick Williams being involved in a murder and a robbery,
13 how long after this incident was it?

14 A. It had -- Well, the robbery I heard about a couple
15 of weeks later on, I guess, when they arrested Jeremy and he
16 was in jail and I asked why, but they didn't tell me that it
17 was for murder. They just said it was for robbery. Uhm, I
18 didn't find out it was a murder until months later. Mr. White
19 just, uhm, he just didn't, you know, I didn't keep up with all
20 the kids and stuff.

21 Q. So how many months after that that you saw Nick was
22 it when you found out that a man was killed, that a shotgun
23 was used and that Nick and Jeremy were the ones accused?

24 A. Probably two or three months after that.

25 Q. And based on everything you knew, the bruise didn't

1 give you any indication that you needed to go to the police
2 and tell them anything, did it?

3 A. I didn't think that it was really relevant at the
4 time. Uhm --

5 Q. And you don't know today either, do you?

6 A. And I don't -- Honestly I really don't know today.

7 MR. GRAHAM: Thank you, ma'am.

8 BY THE WITNESS:

9 A. I mean, yeah. I was just trying to help out.

10 REDIRECT EXAMINATION

11 BY MS. RUSSELL:

12 Q. Ms. Lane, that information was important enough that
13 you felt like you should share it with us when you heard that
14 there was a trial?

15 A. When there was a trial, yes, ma'am. I thought, it
16 just stuck in my head the more I learned about it and the more
17 it seemed important to me.

18 Q. So why did you share that information with us?

19 A. I didn't know if it would help or if it would hurt.
20 I mean, you know, I just felt like it should be told.

21 Q. And the moving from Two Notch Road to Sharon Church
22 with you guys, do you remember if that was during the school
23 year?

24 A. Honestly I can't say for a fact that it was in the
25 school year or not. I don't think it was because the kids,

1 grandkids were, you know, out all day so I mean, like I say, I
2 didn't really know the actual date that this happened until
3 much later.

4 MS. RUSSELL: Thank you, Ms. Lane.

5 THE COURT: Thank you very much, ma'am. You may
6 step down.

7 MS. CLEARY: Your Honor, can we have about five
8 minutes to talk to Mr. Goodwin?

9 THE COURT: Yes, ma'am. All right. We'll take a
10 five minute recess.

11 (Short break.)

12 BAILIFF: Please keep your seats. Court now come to
13 order.

14 THE COURT: All right. You may call your next
15 witness.

16 MS. CLEARY: The defense calls Archie Goodwin.

17 Thereupon,

18 ARCHIE GOODWIN

19 after having been first duly sworn, testified as follows,

20 THE WITNESS: Archie Goodwin, G-o-o-d-w-i-n.

21 MS. CLEARY: Your Honor, I spoke to his lawyer on
22 the phone. I'm just gonna ask him a couple preliminary
23 questions about that.

24 THE COURT: All right. That's fine.

25 DIRECT EXAMINATION

1 BY MS. CLEARY:

2 Q. Mr. Goodwin, you're in the Department of Corrections
3 now?

4 A. Yes. I am.

5 Q. Are you represented by counsel?

6 A. Yes.

7 Q. And what is his name?

8 A. Derrick Mobley.

9 Q. Did you talk to Mr. Mobley about your testifying
10 today?

11 A. Yes. I did.

12 Q. What did he say about testifying without him being
13 present?

14 A. He said it was okay.

15 Q. Okay. So you feel comfortable going forward without
16 Mr. Mobley here?

17 A. Yes. I do.

18 Q. What are you in the Department of Corrections for?

19 A. Manufacturing methamphetamine second offense.

20 Q. How many years did you get?

21 A. 17.

22 Q. Who is the prosecutor on your case?

23 A. Casey Rankin.

24 Q. When did you first learn that she was the one who
25 had prosecuted, or was one of the prosecution team members

1 that had prosecuted Jeremy Brady?

2 A. When homicide and Mr. Graham had came over to
3 Kirkland.

4 Q. When was that?

5 A. That was approximately - I don't know the dates but
6 roughly around four months ago I think. I'm not sure of the
7 dates when they came and saw me.

8 Q. But it was after the murder trial had been
9 completed?

10 A. Oh, yes. Yes.

11 Q. All right. And you have a pretty long rap sheet,
12 don't you?

13 A. Yes. I do.

14 Q. Okay. And do you know what's on your rap sheet?

15 A. Yes. I do.

16 Q. Okay. And what is it?

17 A. I have a couple of drug offenses. I have a burglary
18 charge from back in --

19 Q. Okay. Wait a minute. Let me stop you there. We're
20 just gonna focus it on the last ten years. Did you have a
21 larceny in 2007?

22 A. Yes.

23 Q. And a breach of trust in 2007?

24 A. Yes.

25 Q. And fraudulent check in 2012?

1 A. Yes.

2 Q. And then several different possession of meth and
3 manufacturing of meth --

4 A. Yes.

5 Q. -- charges? Okay.

6 A. Yes, ma'am.

7 Q. And you have already been sentenced for these
8 crimes?

9 A. Yes, ma'am.

10 Q. Okay. Have you ever testified in a criminal matter
11 before?

12 A. No.

13 Q. All right. So do you know Nick Williams?

14 A. Yes. I do.

15 Q. How do you know him?

16 A. Nick and I were introduced together back after the
17 year 2010, 2011ish by some mutual friends because at the time
18 I was a local cocaine dealer.

19 Q. Did you consider him to be a friend?

20 A. I would say more like a business type friendly
21 thing. We didn't -- We wouldn't never pal around together.
22 It was just basically he needed me and I needed some services
23 from him from time to time.

24 Q. And what services did you need from him?

25 A. Well, a lot of times he would run people around for

1 me. A lot of times he would go do errands. That type of
2 stuff.

3 Q. Okay. Did he ever buy anything to help you with
4 your meth making?

5 A. Well, he did. When we were first introduced to each
6 other, I was dealing cocaine at that time and he would buy
7 small quantities of cocaine 15, \$20.00 at a time and around
8 the year 2011 I had learned to cook methamphetamine and
9 at that point I was using Nick to get boxes of sudafed for
10 me.

11 Q. Okay. And so you use sudafed to make meth?

12 A. Yes. I do.

13 Q. Okay. And so did y'all do drugs together?

14 A. Yes. We did.

15 Q. Okay. Did you -- Did he stay in a motel room
16 with you for a party?

17 A. Yes. Nick never had his own personal place to stay
18 so whenever I was at the motel whether it be whichever motel
19 right around Airport Boulevard, Nick would come over and crash
20 for the night if he didn't have a place to go.

21 Q. Okay. Did you have parties at those?

22 A. Yes. I did.

23 Q. Do you remember the one that you referenced in your
24 statements?

25 A. Yes. I do.

1 Q. What happened at that party?

2 A. At the party which was the last time I saw Nick was
3 at Travelers Inn Hotel and the party started around roughly
4 around I would say four or five in the afternoon after I got
5 the room. It was me, there was Amber Martin there. Uhm,
6 there was just several girls there and Nick was over there
7 right when I got the room. Uhm, we stayed there for a little
8 while and then he left. I stayed partying. A couple of my
9 other friends came over there. Dano Suggs. Mike Taylor.

10 Q. Okay. That's fine.

11 A. Okay.

12 Q. Do you remember when that party was?

13 A. That party was in July. Yes. I do.

14 Q. Do you know the exact date?

15 A. I don't know the exact date but it was
16 approximately, approximately a week, week and a half,
17 something like that before the murder.

18 Q. Did you keep a calendar at this time?

19 A. No. I did not.

20 Q. All right. And then you said that that was the last
21 time you saw him. Did you talk to him on the phone after that
22 before the murder?

23 A. The only time I talked to Nick was that day that he
24 left the motel, I talked to him by cell phone for to meet me
25 at the Americas, the exit where the Americas Best is on 378.

1 He and some friends were going to get some boxes of sudafed
2 for me. I met him. Gave him money to get the sudafed. He
3 was going to Wal-Mart on Bush River Road to go get the boxes
4 and was supposed to call me back after the transaction with
5 Wal-Mart happened and I was supposed to pay him for it. Okay.
6 Well, I never heard anymore back from Nick and it was
7 approximately, approximately a week, week and a half, you
8 know, that I had got the phone call from Nick.

9 Q. Okay. We'll get to that in a second. But who were
10 you dating around July of 2012?

11 A. July of -- Well, I was dating several girls. Pam
12 Norris was one. Amanda Harley was another.

13 Q. Okay. Were either of them at this hotel party?

14 A. Yes. Amanda Harley was at the hotel room the last
15 time I saw Nick.

16 Q. Okay. And so the party went on throughout the night
17 and into the morning?

18 A. Yes, ma'am.

19 Q. Okay. And then did you have to move out of the
20 motel?

21 A. Yes. When -- I didn't even know that Nick had came
22 back to the motel room until the next morning because when we
23 woke up, Nick was on the floor with Kim White and they were
24 both not dressed at the party. Because the phone was ringing
25 from the front desk and I thought they were calling for us to

1 come pay but actually they were calling for us to tell us to
2 move because the party had gotten too loud and they wanted me
3 to move to another motel.

4 Q. And did you move?

5 A. Yes. I did.

6 Q. Did Nick have any involvement with moving too?

7 A. Yes. Nick and Kim helped us move with their car
8 over to the Airport Inn.

9 Q. Okay. Then it was sometime that day that he was
10 supposed to buy sudafed boxes for you?

11 A. Yes.

12 Q. And had he bought sudafed boxes for you before?

13 A. Oh, yes.

14 Q. Do you know how many times?

15 A. I would say a couple times a week. It would either
16 be him or some friends of his. I would arrange that through
17 some friends of his.

18 Q. All right. Did you have multiple phones at that
19 time?

20 A. Yes. I did.

21 Q. Do you remember what your phone number was then?

22 A. 803-315-0104 was the phone number I had at that
23 time.

24 Q. Let me show you what's been admitted into evidence
25 as defense exhibit 3, the telephone records.

1 MS. CLEARY: May I approach the witness?

2 THE COURT: Yes, ma'am.

3 BY MS. CLEARY:

4 Q. All right. You see there, is that your phone
5 number?

6 A. Yes.

7 Q. Would you read that?

8 A. It says Arch and it says 803-315-0104.

9 Q. All right. And on page 29, you see that? Do you
10 remember -- Not 29. All right. So do you remember what
11 Nick's phone number was at that time?

12 A. I don't. It was actually programmed into my
13 phone.

14 Q. All right. I don't want you to guess. Okay. And
15 see on page 19 right here, line 22?

16 A. Yes. It says I need them boxes.

17 Q. To your knowledge did you write that?

18 A. Yes. I did.

19 Q. Okay. And did you have to often call him about
20 getting the boxes?

21 A. Yes. We would have a pre-arranged. It was the
22 night before. He would come by the motel where I was at or he
23 would call me or text me and I would say - I would let him
24 know what I needed. He would always have to come get the
25 money for the purchase and then once he brought the boxes back

1 or his friends would, I would have to give them the cash
2 because he would use the money for heroin. He didn't like
3 methamphetamine.

4 Q. So you would give him the money in advance and you
5 needed to make sure he brought you back something?

6 A. Yes. Because he didn't have the money on him to
7 purchase them himself.

8 Q. Okay. So you would give him the money to buy the
9 box and then he would bring the box back and you would give
10 him heroin?

11 A. That is correct.

12 Q. Okay. And so there were numerous times that you
13 called him --

14 A. Yes.

15 Q. -- on this phone?

16 A. Yes.

17 Q. And then at some point in the summer of 2012 were
18 you arrested?

19 A. Yes. I was.

20 Q. Do you remember when that was?

21 A. That was -- I don't remember the exact date but it
22 was the summertime in July I was arrested for the first time
23 ever for manufacturing methamphetamine in
24 Batesburg/Leesville.

25 Q. And it was the Batesburg/Leesville Police

1 Department?

2 A. Yes. It was. I was transferred from there to
3 Lexington County.

4 Q. All right. So does July 21st sound right to you?

5 A. Yes. Roughly. Yes.

6 Q. Who was with you when you were arrested?

7 A. Pam Norris.

8 Q. And when did you get out of jail?

9 A. I got out of jail -- It took me a few days, a couple
10 days to make bond. Roughly four or five days.

11 Q. All right. Is it possible you stayed in until July
12 27th?

13 A. Possibly.

14 Q. If that's what the records say, would you agree with
15 that?

16 A. I would say yes.

17 Q. Then what did you start doing right after you got
18 out of jail?

19 A. I had to get my money back up. When they got me
20 that day, they got all of my, I would say my lab, the pills,
21 all the pills we had purchased and everything and I went and
22 started making sudafed purchases immediately.

23 Q. Did you contact Nick?

24 A. Yes. Because I had previously given Nick money to
25 purchase sudafed pills for me so I was trying to catch up with

1 Nick to see where he was at.

2 Q. Were you able to reach him?

3 A. No. I was trying to contact him for a couple days.
4 I was just texting his phone and that type of stuff with no
5 call back.

6 Q. Okay. And then did you eventually hear back from
7 him?

8 A. Yes. I did.

9 Q. What happened?

10 A. I was at the Travelers Inn Hotel with Amanda Harley.
11 It was in the afternoon time and after I had been trying to
12 get in contact and sending word for him to call me for
13 approximately two days roughly the phone rang and it was Nick
14 and Nick was in a hurry. Nick wanted to know where I was at.
15 Basically where you at? What room are you at? I said, why?
16 What's up? He said, I'm on the run for murder. He said I
17 killed somebody. And I was like, to me it just don't sound
18 like something somebody tells you every day. I felt it was
19 some kind of scheme to find out where I was at because I would
20 never tell him exactly where I was at, what room and that type
21 of stuff. So we talked a little bit on the phone. Like when
22 I say a little bit, you know, just a couple sentences. He
23 wanted to know if I had some dope. I was like, man, I said,
24 you know, I was just kind of like hurried and got off the
25 phone with him and that was it. We hung up. I didn't hear

1 any more from Nick at all after that phone call. And roughly
2 about two weeks later I seen, I think it was on TV or in the
3 newspaper that he had actually really had been arrested for
4 murder.

5 Q. All right.

6 A. And then I knew right then and there that he was
7 telling the truth.

8 Q. What else did he tell you about?

9 A. Well, he had told me that he went to a house in
10 Gilbert to buy prescription pills from a guy. He said he had
11 went there with someone else. That he went over there and
12 instead of buying the pills he ended up just taking the pills
13 and he said things got out of hand and he ended up killing the
14 guy.

15 Q. Did he say, "I killed the guy"?

16 A. He said, "I killed the guy."

17 Q. How did he sound on the phone?

18 A. Well, I got to admit, now, it was a few, it's been a
19 couple years since that. To my recollection of it he sounded
20 real hurried. Real aggravated like I don't know if he was
21 driving but it just sounded like everything was kind of
22 hurried.

23 Q. Okay. And you don't know whether he had committed
24 the murder that day?

25 A. No. I don't know if it was that day, if it had been

1 previous like a couple days. I didn't know anything like
2 that.

3 Q. All right. Because you didn't talk to him any
4 further about it?

5 A. No.

6 Q. All right. And again do you know the exact date
7 that the Travelers Inn party was?

8 A. No. They could research the records.

9 Q. All right. So now you were a drug user as well?

10 A. Yes. I was.

11 Q. And what sort of drugs did you use?

12 A. Methamphetamine.

13 Q. Did you often stay up for days at a time?

14 A. Yes.

15 Q. And you testified you had several different
16 girlfriends?

17 A. Yes. I did.

18 Q. So you went from girl to girl?

19 A. Yes.

20 Q. Were those girls also using illegal drugs?

21 A. Yes. They were.

22 Q. All right. All right. So you remember you wrote
23 a letter to Joe Putney with the West Columbia Police
24 Department?

25 A. Yes. I do.

1 Q. And I think you have looked at those letters. Do
2 you remember when the letter was?

3 A. I remember writing that letter to Joe.

4 Q. And does May 20th, 2014 sound right?

5 A. Yes.

6 Q. And when you talked to Nick, that was in July of
7 2012?

8 A. '12, yes.

9 Q. So do you remember what you told Joe?

10 A. Yes. I was letting Joe know I had information about
11 the Nick Williams' case. To come see me.

12 Q. Did anybody ever come and talk to you?

13 A. No. They did not.

14 Q. Okay. And then you wrote again in 2015?

15 A. Yes.

16 Q. To Cal Thomas?

17 A. Yes. Actually -- I don't mean to interrupt you. I
18 actually wrote also an inmate request to homicide Lexington
19 County and never heard back.

20 Q. Do you know when that was?

21 A. That was approximately the week that the Strong
22 program had came to interview me at Lexington County to see if
23 I could be approved to go to that rehab.

24 Q. Do you know when that was?

25 A. I don't know. You would have to check with my

1 attorney on that. He would have those dates for you.

2 Q. Was it before you wrote to Joe Putney?

3 A. It was approximately about at the same time.

4 Q. All right. So it was around the same time. And did
5 anybody come talk to you as a result of that?

6 A. No. They did not. And that request was given to
7 Officer Horn.

8 Q. Okay. And so on May 2nd, 2015 you wrote to Cal
9 Thomas?

10 A. Yes. I did.

11 Q. With the Cayce Police Department?

12 A. Yes.

13 Q. And did anyone come talk to you?

14 A. No. They did not.

15 Q. Okay. And then when is the first time somebody came
16 and talked to you about it?

17 A. Uhm, I actually, uhm, I had my mother call Cal
18 Thomas at his office to find out which Solicitor was handling
19 this case and he said it was Shawn Graham and actually I wrote
20 a letter to Mr. Graham.

21 Q. Okay. Do you know if that was before or after the
22 murder trial?

23 A. That was after everything.

24 Q. Okay. All right. So you have waited until 2014 to
25 tell anyone about this?

1 A. Yes. I did.

2 Q. Why is that?

3 A. Because to be honest with you I was still -- I had
4 -- A lot of people don't know, but I was a CI for Cal Thomas
5 and Joe Putney for the year of 2011 and 2012 and I worked for
6 the DEA on some cases which was tied into the Attorney
7 General's Office.

8 Q. What sort of cases were these?

9 A. Drug cases. Large drugs cases.

10 Q. And to your knowledge did they use the information
11 that you gave to secure search warrants or arrest warrants?

12 A. Yes. They did.

13 Q. Okay. So let me get you to answer the question.
14 How come you didn't write a letter until May of 2014?

15 A. Because I was business friends with Nick and I
16 didn't really want to get involved or hurt Nick or hurt any of
17 the people, other people that I had actually become friends
18 with especially Kim, Kim White that is, and when me and Ms.
19 Rankin was having issues with my case while I was in the
20 county, we were going back and forth on a few things through
21 our attorneys, through Theo Williams, I figured it was best
22 that I go ahead and play what I call my last juice card and
23 let them know what I knew about the case and what I was told
24 by Nick Williams to try to help myself.

25 Q. All right. So you were repeatedly trying to get

1 leniency by being a drug CI?

2 A. Yes.

3 Q. At some point it was working for you?

4 A. Yes.

5 Q. Let me go back to Kim White. You just mentioned
6 her. So you have talked to her after the murder?

7 A. Yes.

8 Q. Have you talked about this?

9 A. No. Never have discussed it with her.

10 Q. You have never discussed --

11 A. With anyone.

12 Q. You have never discussed whether Nick was the
13 shooter?

14 A. Nope.

15 Q. Have you talked to her since you have been in the
16 Department of Corrections?

17 A. No.

18 Q. When did you first go into the Department of
19 Corrections?

20 A. I was -- The very first time I got sentenced?

21 Q. No. I'm sorry.

22 A. I was actually, I left Lexington County in October
23 of 2014.

24 Q. Okay. All right. So do you know Jeremy Brady?

25 A. No. I do not.

1 Q. Have you ever had a conversation with him?

2 A. Nope.

3 Q. Did you recognize him when you saw a picture of
4 him?

5 A. No. The first time I saw him is today. I didn't
6 recognize him.

7 Q. Have you ever heard his name other than as part of
8 this trial?

9 A. The only time I ever heard his name was mentioned by
10 you that one day you came and they said Jeremy Brady.

11 Q. Okay. Now, you obviously want a reduction in your
12 sentence?

13 A. Yes.

14 Q. Did you make up this information to get help with
15 your sentence?

16 A. No. I did not.

17 Q. Do you understand that if you lie on the stand, that
18 you're hurting your chances --

19 A. Yes. I do.

20 Q. -- of any sort of consideration with your
21 sentence?

22 A. That is correct.

23 Q. And again you assisted law enforcement with getting
24 drug convictions?

25 A. Several cases. Several dealers.

1 Q. Did you ever provide them with untruthful
2 information?

3 A. Never.

4 Q. Did they use your information?

5 A. Yes. They did.

6 MS. CLEARY: No further questions. Please answer
7 any questions the State may have.

8 CROSS EXAMINATION

9 BY MS. RANKIN:

10 Q. Good afternoon, Mr. Goodwin.

11 A. Yes, ma'am.

12 Q. May I call you Archie?

13 A. Yes, ma'am.

14 Q. All right. Archie, you and I know each other,
15 right?

16 A. Yes.

17 Q. All right. I'm the reason you're in that tan
18 uniform?

19 A. Yes, ma'am. That's correct.

20 Q. Archie, you have been in and out of jail a good bit,
21 haven't you?

22 A. Yes. I have.

23 Q. On July 21st, 2012 you got arrested for meth; is
24 that right?

25 A. Yes.

1 Q. And you got out July 27th, 2012?

2 A. Yes.

3 Q. You got out late in the afternoon, didn't you?

4 A. Yes.

5 Q. You were arrested again on September 6th of 2012,
6 weren't you?

7 A. That is correct.

8 Q. And you got out September 15th of 2012?

9 A. September 15. Yes. I believe. I don't know the
10 exact dates but yes. That sounds about right.

11 Q. And you were an inmate worker at that time?

12 A. In Lexington County. Yes.

13 Q. What is an inmate worker? What do you do?

14 A. As an inmate worker at LCDC I would like prepare
15 food, take it to the dorms. That type of stuff.

16 Q. So you would have contact with other inmates?

17 A. Of course.

18 Q. And you had contact with Nick Williams, didn't
19 you?

20 A. I never seen Nick. I have never seen Nick. Never
21 talked to him ever.

22 Q. Had you heard at that point that he had been
23 arrested?

24 A. I heard that he had been arrested for murder two
25 weeks after our phone conversation on the phone.

1 Q. So the answer to that question would be yes. If it
2 was - if that phone call you're saying happened the day of the
3 murder July 28th, two weeks after that you knew he had been
4 arrested?

5 A. Yes.

6 Q. All right. And you went to jail in September of
7 2012?

8 A. Yes.

9 Q. And an inmate worker?

10 A. Right.

11 Q. In October of 2012 you got arrested again for meth;
12 is that correct?

13 A. 2012, October. I was charged with manufacturing
14 methamphetamine twice in 2012.

15 Q. If I told you the record said October 13th, does
16 that sound right?

17 A. Well, you just named off three times I have been
18 charged. I have only been charged twice.

19 Q. Possession of methamphetamine.

20 A. Possession was the same charge. When I got arrested
21 the second time for manufacturing, I had a possession charge
22 that same time. It wasn't a different arrest date.

23 MS. RANKIN: May I approach, Your Honor?

24 THE COURT: Yes, ma'am.

25 BY THE WITNESS:

1 A. You don't have to show me. I know I have only been
2 arrested for methamphetamine twice, manufacturing, and the
3 date of the second offense when I got arrested they charged me
4 with possession because I had a used syringe with me so that's
5 not a separate arrest date. That's the same date.

6 BY MS. RANKIN:

7 Q. Did you get charged for an October date?

8 A. No. Never. I have never had any other charges.

9 Q. If I show you a sentencing sheet with your signature
10 on it, would that refresh your memory (indicating)?

11 A. You're saying I had a separate possession than when
12 I got arrested the second time for manufacturing? You're
13 saying I was arrested in September, correct? I was served no
14 more warrants after September. That's not correct. I know
15 that for a fact.

16 Q. You said you were arrested July 21st, 2012?

17 A. That's right, for manufacturing, first offense.

18 Q. Okay.

19 A. I was arrested the second time at the motel off of
20 378, the Extended Stay, charged with manufacturing first, also
21 again a possession because I had a empty syringe and I got no
22 other, methamphetamine possession or manufacturing charges in
23 that year. That is correct. That is what I'm saying. I know
24 that for a fact. I was served no other warrants in the county
25 either.

1 Q. Mr. Goodwin, is that your signature on that
2 sentencing sheet?

3 A. It might be. After I got sentenced, I signed that
4 the day of court but I know I have only been served that
5 warrant when I was --

6 Q. I understand that. Is that your signature on
7 that?

8 A. Okay. Yes.

9 (Whereupon, State's Exhibit #1 marked for
10 identification.)

11 MS. RANKIN: Your Honor, at this time the State
12 moves State's 1 into evidence, the certified conviction
13 of possession of less than one gram of meth of October
14 13th, 2012.

15 THE COURT: Any objection?

16 MS. CLEARY: No, Your Honor.

17 THE COURT: Without objection State's exhibit 1.

18 BY MS. RANKIN:

19 Q. Mr. Goodwin, you got sentenced in December of 2012;
20 is that correct?

21 A. That is correct.

22 Q. You got five years for that?

23 A. That is correct.

24 Q. You went over to SCDC in December of 2012?

25 A. That's correct.

1 Q. In April of 2013 you had helped with a drug case
2 over at the AG's office?

3 A. Right.

4 Q. And you had your sentence reduced to time served,
5 correct?

6 A. That is correct.

7 Q. So you get out of SCDC in April of 2013. In July of
8 2013 you picked up a manufacturing methamphetamine charge,
9 correct?

10 A. That is correct.

11 Q. And you bonded out some 15, 20 days later?

12 A. Right.

13 Q. And then July 31st you pick up another manufacturing
14 meth charge, correct?

15 A. That is correct.

16 Q. You bonded out on that. Got out in September; is
17 that correct?

18 A. That is correct.

19 Q. And then you were at a hotel. Were you at a hotel
20 with Kim White? Was that in 2013 or 2014?

21 A. That I got arrested?

22 Q. No, sir. Just when -- When were you at a hotel with
23 Kim White?

24 A. Well, I have been to a hotel with Kim White quite a
25 few times in 2013 with me and my girlfriend Stephanie.

1 Q. Stephanie Head?

2 A. Yes. They actually were real good friends. I was
3 actually a third wheel.

4 Q. In February of 2014 you got arrested on
5 manufacturing methamphetamine and a bench warrant, correct?

6 A. Actually I was picked up by the U.S. Marshals in
7 February. Yes.

8 Q. And that was for my bench warrant. You missed a
9 court date, correct?

10 A. That's correct.

11 Q. And you picked up a manufacturing meth that you were
12 on the run for. That happened in January, correct?

13 A. January 23rd. Yes.

14 Q. And at that point you couldn't get out?

15 A. Nope.

16 Q. And you wrote me a bunch of letters, didn't you?

17 A. That is correct.

18 Q. (Proffering.)

19 A. That's it. Yes.

20 Q. Is that your handwriting?

21 A. Yes. It is.

22 Q. Is that the letter you wrote to me?

23 A. Yes.

24 Q. What's the date on that letter?

25 A. April 6th.

1 Q. All right. If you would for me, turn to that second
2 page of that letter.

3 A. Second page?

4 Q. Yes, sir.

5 A. Where at?

6 Q. Right at the bottom, that last sentence. Did you
7 say I want to work for Lexington County as a CI and put some
8 of your county's biggest dope boys in prison?

9 A. That's right. I had been doing it previously in the
10 past for Joe Putney.

11 Q. And you can't turn it so I'll turn it for you.

12 A. Okay.

13 Q. This is the last page of that letter. You list out
14 several people.

15 A. That's right.

16 Q. Steve "Stevo" Brown, huge ice dealer for the
17 Warlocks.

18 A. That's right.

19 Q. They have lots of automatic weapons also.

20 A. Right.

21 Q. Will Fox. Meth cook. Guns.

22 A. Right.

23 Q. John Argo. Meth cook.

24 A. Right.

25 Q. Wheezie. Rolling Meadows. Huge crack dealer and

1 sells guns.

2 A. Right.

3 Q. Cartel in Gaston Gardens. Huge cook dealer and
4 guns.

5 A. Right.

6 Q. Keith Kabar.

7 A. That's right.

8 Q. Huge coke dealer. I have many more.

9 A. That's right.

10 Q. But there's nothing about a homicide, is there?

11 A. Nope.

12 Q. (Proffering.) Is that a letter you wrote to me?

13 A. Yes.

14 Q. What's the date on that?

15 A. April 22nd.

16 Q. 2014?

17 A. That's right.

18 Q. All right. The second page of this letter. I
19 filled out at least ten requests to narcotics with a list of
20 30 meth cooks in your county that I can help take down and not
21 one has come to see me. Not one.

22 A. That's right.

23 Q. Nothing about filling out anything to homicide
24 though?

25 A. Nope.

1 Q. Two DEA agents pulled me out and took me to an
2 office to talk. They were with the pharmaceutical division of
3 the DEA. Asked me questions about the sale of boxes of
4 sudafed from a pharmacy and a particular pharmacist I was
5 known to frequent. They asked me to help take him down and I
6 said I would.

7 A. That's right.

8 Q. But nothing to the DEA about a homicide?

9 A. Nope.

10 Q. Consider letting me work with the DEA and help take
11 the pharmacist down. It will make front page news and it will
12 be all made possible by you. Nothing about a homicide
13 though?

14 A. That's correct.

15 Q. Mr. Goodwin, you wrote letters to Judge Keesley,
16 didn't you?

17 A. That's right. When me and you were having problems.
18 I didn't feel I was gonna get a fair trial in Lexington
19 County.

20 Q. What are the dates on those letters?

21 A. April 30th and April 26th.

22 Q. You didn't trust me, correct?

23 A. I definitely didn't trust you.

24 Q. You didn't trust your attorney, correct?

25 A. You talking about Derrick Mobley or Theo Williams?

1 Q. Either one. Who was your attorney at the time?

2 A. Well, at the time - at the time I didn't know what
3 was going on because I was getting no plea deals.

4 Q. In either one of those letters, in April 2014 did
5 you tell Judge Keesley that you had information on a
6 homicide?

7 A. Nope.

8 Q. But you told him I have been asking for long term
9 rehab, drug court and to even help NET Team catch Lexington
10 County's biggest cooks?

11 A. That's right.

12 Q. You said I would rather let 30 meth cooks go and
13 ruin our community than to let the feds, let you help the feds
14 take out a huge pill supplier?

15 A. That is true and you made that decision to do
16 that.

17 Q. But you would rather let a murderer go loose?

18 A. I didn't let him go. You did.

19 Q. But you didn't tell Judge Keesley you knew anything
20 about --

21 A. Because I didn't trust especially nobody in the
22 Solicitor's Office with that. I reached out to my closest
23 friend at the time was Joe Putney the one that I trusted and I
24 gave him the information to pass along to the needing
25 people.

1 Q. So the second letter to Judge Keesley on April 26th,
2 2014 saying you sent ten requests asking Agent Bass to come
3 talk to you about active meth labs, he never came to see
4 you?

5 A. That's right. Because I heard you had warned all of
6 them off from even talking to me or using me even though I had
7 a history working as a CI for Cal Thomas.

8 Q. But you didn't tell Judge Keesley in that letter
9 either, did you?

10 A. I didn't need to. I sent them to the one person I
11 trusted most at the time.

12 Q. And in September of 2014 you sent me another letter.
13 Is that your handwriting?

14 A. Yes.

15 Q. About midway in that page, if you would give me the
16 opportunity I would help Lexington County catch the biggest
17 ice dealer in the Midlands. His name is Steve Brown. He's
18 the captain of the Warlock biker gang. They're huge. I know
19 him well.

20 A. Okay.

21 Q. You all could have his head on a platter if you
22 would give me the chance.

23 A. That's right.

24 Q. So you don't mind giving up Steve Brown. You know
25 him well, right?

1 A. That's right. I do.

2 Q. But you testified that you and Nick were just
3 business friendly and one of the reasons that you didn't come
4 forward is because you didn't want to hurt him?

5 A. No. I didn't say that.

6 Q. Well, tell me what you said.

7 A. What I said was it wasn't time to come forward with
8 that information yet.

9 Q. It wasn't time yet?

10 A. No.

11 Q. Do you remember writing a letter to Joe Putney on
12 May 20th, 2014?

13 A. I'm sure I do.

14 Q. (Proffering.) Do you recognize that letter?

15 A. Yes.

16 Q. Is that when it was time to come forward?

17 A. Yes. That's right.

18 Q. May 20th, 2014, that was the day. Why was that the
19 day?

20 A. Because I had exhausted all my other avenues with
21 law enforcement.

22 Q. In that letter you said, back when I used to date
23 Pam, I was friends with a guy named Nick Williams. We all
24 used to hang out everyday; is that correct?

25 A. That's right.

1 Q. You wrote Cal Thomas a letter in June of 2015,
2 correct?

3 A. Yes.

4 Q. In that letter you said, Nick and I were real close
5 friends back when I was dating Pam Norris. Pam and I were a
6 couple. Nick and a girl named Kim White were dating. We used
7 to all four hang out and party every night.

8 A. That's right. We did party.

9 Q. Y'all hung out and partied every night?

10 A. Me and Nick every other night. Couple times a week.
11 Two or three.

12 Q. You said in your letter we all four used to hang out
13 and party every night?

14 A. I had seen Kim before.

15 Q. June 27th of 2015 you wrote a letter to Shawn
16 Graham.

17 A. Right.

18 Q. The Solicitor sitting right here, correct?

19 A. That's right. That's correct.

20 Q. In that letter you said Nick and I were very good
21 friends from 2010 to 2012. You testified earlier you said you
22 met him in 2011?

23 A. I said after 2010, around 2010, 2011ish.

24 Q. Do you remember speaking with Sergeant Mefford?

25 A. Yes. I do.

1 Q. At SCDC?

2 A. Yes. I do.

3 Q. On July 16th, 2015?

4 A. That's right.

5 Q. Do you remember telling him that you knew Nick
6 Williams a month or two before receiving the phone call about
7 the murder?

8 A. I didn't say a month or two. I did not say a month
9 or two.

10 Q. Do you remember telling him the first time that you
11 met Kim White was when she was in your room passed out naked
12 --

13 A. Yeah.

14 Q. -- with Nick Williams at the Travelers Inn after a
15 dope party?

16 A. Yes. That is the first time that I said I had met
17 her but I was wrong because I had previously met her one time
18 before that but I wasn't introduced to her. I seen her.

19 Q. In that June 27th letter to Shawn Graham you said
20 that you were dating a girl named Pam Norris and that Nick was
21 dating a girl named Kim White --

22 A. That's right.

23 Q. -- and all four of us used to party together all the
24 time?

25 A. Okay.

1 Q. If you had met Kim White for the first time at this
2 dope party --

3 A. Right.

4 Q. -- how are you and Pam, Kim and Nick all hanging out
5 all the time if you had only ever met her one time and seen
6 her one time before?

7 A. Me and Pam was hanging out with Nick all the time.
8 I had partied with Kim that one night and actually I didn't
9 party with her that night. She didn't come to the room until
10 after we woke up the next morning. I realized she was in the
11 room. I had only seen her one time before that and I had
12 remembered that after we had spoken which was at the Publix on
13 Hubert Street with Nick. That's the only other time I have
14 ever seen her. Me and her never partied together until after
15 I had got out of prison in 1213 and that was only because she
16 knew, she had met Stephanie, Stephanie Head and we were all
17 three hanging out off and on. Mainly her and Stephanie.

18 Q. When did you start cooking methamphetamine?

19 A. In early 2012. 2011, 2012 roughly.

20 Q. Can you repeat that?

21 A. It was either the end of 2011 or early 2012.

22 Q. And you were dating Pam Norris at the time?

23 A. That's right.

24 Q. And you were dating Amanda Harley at the time?

25 A. That is right. They were best friends. Strippers.

1 Platinum Plus strippers.

2 Q. Did you testify earlier that you were at the
3 Travelers Inn when you got the phone call?

4 A. That is correct.

5 Q. I thought you had gotten kicked out of the Travelers
6 Inn?

7 A. That was a couple weeks before that. We got kicked
8 out of Travelers that day. They wouldn't let us pay the money
9 again so we moved to Airport Inn. Okay. That was when I was
10 with Amanda Harley. Shortly after that me and Pam was running
11 together a couple days, then I got arrested, bonded out, was
12 back with Amanda Harley. Anybody that knows me on the street
13 they will tell you that's the way it was. I was either with
14 one or the other.

15 Q. In the June 3rd letter to Cal Thomas you said you
16 were out in Gilbert partying with some friends when you got
17 the call; is that correct?

18 A. No. I don't know if that's correct or not.

19 Q. Well, look at the letter.

20 A. Let me see the letter.

21 Q. (Proffering.)

22 A. Because I remember stating that I was either at the
23 motel or about to leave to go to Gilbert to party with friends
24 to Mark Steel's house.

25 Q. I think you have the letter, don't you?

1 A. Okay.

2 Q. Were you or were you not out at your friend's house
3 in Gilbert --

4 A. I was not --

5 Q. -- partying when you got caught?

6 A. I was not at no one's house in Gilbert yet. No.

7 Q. So what you put in that letter is false?

8 A. I'm not saying it's false. I'm saying to remember
9 something back four years ago it's hard to get minute by
10 minute detail every time when it comes to a location where you
11 at.

12 Q. Well, you got told some pretty heavy information.

13 A. There would be no mistaking that conversation.

14 Q. But you don't remember where you were when you got
15 it?

16 A. I told you I was at Travelers Inn Hotel.

17 Q. Okay. Who was with you when you got the phone
18 call?

19 A. Amanda Harley.

20 Q. Do you remember when Sergeant Mefford was at SCDC
21 talking to you and you said that you were unsure as to whether
22 it was Amanda Harley or Pam Norris that was with you?

23 A. No.

24 Q. You don't remember that?

25 A. I don't remember that. You all questioned me on

1 minute by minute details of dates, arrests dates, places where
2 I was at. You got to remember, I was cooking dope at the
3 time, getting high every day and up for days. I'm not going
4 to know minute by minute, second by second time of
5 everything.

6 Q. You testified earlier that Nick called you and said
7 he was on the run for murder and that I went to rob someone
8 and I killed him. I killed the man?

9 A. That's right.

10 Q. But that's not what you said in your other letters,
11 is it?

12 A. Show me the letter.

13 Q. In fact, that first letter says Nick called me in a
14 frantic. He needed a ride and some dope. He said that him
15 and another guy tried to rob a guy for a bottle of pills and
16 it turned bad.

17 A. That's right.

18 Q. He told me that they wrestled around a little bit
19 and then he told me that he ended up killing the guy.

20 A. That's right. That's the same thing. It is the
21 same thing.

22 Q. Okay. That June 3rd letter to Cal Thomas that you
23 have up there with you?

24 A. Right.

25 Q. Did you say he sounded panicked and asked me if I

1 had some dope? He said he needed a ride in a hurry and he had
2 tried to rob the guy for some prescription pills and ended up
3 killing the guy and needed a ride?

4 A. That's right. He was actually looking for a place
5 to go.

6 Q. The letter to Shawn Graham on June 27th, 2015. He
7 told me that him and someone else was at a guy's house and
8 they tried to rob the man of a bottle of prescription pills.

9 A. That's right.

10 Q. And he said that some things got out of hand and he
11 killed the guy.

12 A. That is correct.

13 Q. Do you remember when Sergeant Mefford talked to you
14 over at SCDC on July 16th of 2015 and you told him that Nick
15 told you I killed somebody? We tried to rob a guy for pills
16 and it got out of hand and we killed him?

17 A. That's right. Nick told me on the phone that him
18 and someone else went to get some prescription pills from a
19 guy in Gilbert, okay? Nick said he decided to take the pills
20 instead, okay? He said things got out of hand and I end up
21 killing the guy. Plain and simple. That's what happened.

22 Q. But you agree with me that he told you that him and
23 another guy tried to rob the man and then he ended up killing
24 the guy?

25 A. You're saying I said that at what? At the meeting

1 that we had at Kirkland?

2 Q. Yes.

3 A. No. I don't recall saying that exactly like that.

4 No. I don't.

5 Q. I killed somebody? We tried to rob a guy for pills
6 and it got out of hand and we killed him?

7 A. I don't - I don't - I remember the conversation but
8 I don't remember word-for-word what was said. No. I don't.

9 Q. In your written statement on August 7th, 2015, do
10 you remember that one?

11 A. Which one?

12 Q. Your written statement.

13 A. Yes. If you show it to me. I wrote several
14 statements for all attorneys present.

15 Q. (Proffering.)

16 A. This one?

17 Q. Mm-hmm.

18 A. What am I looking it at? Which one do you want me
19 to look at?

20 Q. (Proffering.) Start at the top.

21 A. Which one? Where?

22 Q. Start at top right there.

23 A. Okay. Right.

24 Q. In your written statement, he said he needed a ride
25 and some dope. He told me that him and someone else was at a

1 guy's house and they tried to rob the man of a prescription, a
2 bottle of prescription pills and he said some things got out
3 of hand and he killed a guy.

4 A. Right. Okay.

5 Q. Is that true?

6 A. Yes.

7 Q. So in all of these different statements it is a we
8 went to rob the man for pills and I ended up killing the guy,
9 correct?

10 A. He said, the very words Nick told me is that him and
11 another guy went to a guy's house to get some prescription
12 pills. That's the only we part that was ever said between me
13 and Nick that ever came up in conversation.

14 Q. So your testimony is that you sat on this
15 information simply because it wasn't time?

16 A. That's not -- Well, yes. I did say that. That I
17 said that it wasn't time yet. I exhausted all my avenues that
18 I figured that I could rely on and when it didn't come
19 through, I figured I better go ahead and do what I got to do.
20 I really didn't want to get involved in it because he was
21 already charged with murder. I figured they didn't need me to
22 be a witness to what happened.

23 Q. But you wanted to be a witness, didn't you?

24 A. No. Actually what I wanted to do was work my case
25 out through narcotics.

1 Q. But in the May 20th letter to Joe Putney you said,
2 if it will help me, I'll give the State a statement and
3 testify against him about what he told me.

4 A. That's right.

5 Q. In the June 3rd, 2015 letter to Cal Thomas, would
6 you please get in touch with the Solicitor handling the case
7 and tell them what I know and ask them if they need me as a
8 witness in that case.

9 A. That is correct.

10 Q. It could be good for them and good for me.

11 A. That is correct.

12 Q. Tell them if they need me, I will tell them
13 everything I know.

14 A. That's correct.

15 Q. In the June 27th letter to Shawn Graham, if you can
16 use me as a witness, I'm willing to get on the stand and tell
17 the truth. I will also tell you any information about the
18 case that Nick told me. I have got some good info for you if
19 it can help you.

20 A. That is correct.

21 Q. Maybe we can help each other.

22 A. That is correct.

23 Q. I would be glad to help you testify.

24 A. That's right. And I still will.

25 Q. Do you remember stating to Sergeant Mefford on July

1 16th, 2015, why would I make this up? It doesn't even help
2 me?

3 A. That's right. And nobody has promised me anything.
4 And actually I got a sort of threat from Mr. Graham about this
5 whole situation anyway about testifying when y'all was over
6 there visiting me. He said he could make it hard on me at
7 parole.

8 Q. But up until July 27th of 2015, you thought it could
9 help you? You wanted it to help you?

10 A. I was hoping it would. Yes. I did. But I have
11 been promised nothing by no one. No parties. You, the
12 defense team or my attorney.

13 Q. That's correct.

14 A. Nothing. Nowhere.

15 Q. But you knew by the time that Sergeant Mefford got
16 to you over in SCDC in July, you knew the trial was over and
17 you knew that we were after Jeremy Brady and not Nicholas
18 Williams, didn't you?

19 A. That's right. That's right. Because you got the
20 wrong man.

21 Q. So that's why you said, why would I make it up? It
22 can't help me. Because you already knew you couldn't help,
23 correct?

24 A. No. I knew - I knew I could help because y'all got
25 the wrong man. I asked could I take the polygraph test and

1 y'all said y'all didn't want me to do that.

2 Q. Did you ever try to talk to Kim White --

3 A. Never.

4 Q. -- about Nick's involvement in the murder?

5 A. No. Never. That ain't never came up.

6 Q. You said you were a CI for Cal Thomas and Joe
7 Putney?

8 A. That's right.

9 Q. And when was that?

10 A. You would have to pull the dates on it. I believe
11 it was either the latter end of 2011 when I caught a Xanax
12 charge with Pam Norris. Whatever date from that date forward
13 is when it was. The end of 2011 or early 2012.

14 Q. While you were working as a confidential informant
15 for Joe Putney and Cal Thomas, were you cooking
16 methamphetamine?

17 A. Yes. I was. But they didn't know about it.

18 Q. That's not why they terminated you as a confidential
19 informant?

20 A. That is not. Nope. I never got terminated as a
21 confidential informant.

22 Q. Did you just decide to render your services?

23 A. Actually I helped them even after. Even after I
24 caught my manufacturing charge, they still used me to catch
25 other people. And I was standing in to testify for the

1 Attorney General. For the Attorney General. Yes. Antonio
2 Singleton. Big cocaine dealer out of West Columbia that I
3 got. Gun dealer, cocaine dealer.

4 (Whereupon, State's exhibits #2 through #6 marked
5 for identification.)

6 BY MS. RANKIN:

7 Q. Mr. Goodwin, I'm handing you State's exhibit 2. Is
8 that a letter you wrote to Cal Thomas on June 3rd, 2015?

9 A. Yes.

10 MS. RANKIN: Your Honor, at this time the State
11 would admit State's 2 into evidence.

12 THE COURT: Any objection?

13 MS. CLEARY: Yes, Your Honor. I'm not totally sure
14 why they want to introduce that statement. I don't think
15 he denied it.

16 THE COURT: He denied it?

17 MS. CLEARY: I don't think he denied. He agreed
18 that he had said what was in that statement so I'm not
19 sure that it would be, since he wasn't impeached, that
20 they would bring in extrinsic evidence.

21 THE COURT: Well, this is a post trial hearing and
22 if I make an error, the Appellate Court is gonna want to
23 see what it is I made an error on.

24 MS. CLEARY: Okay. Do you want it to be admitted as
25 a Court's exhibit?

1 THE COURT: I don't think it matters.

2 MS. CLEARY: Okay.

3 THE COURT: I'm going to allow it in.

4 MS. CLEARY: Okay.

5 BY MS. RANKIN:

6 Q. I'm handing you what's been marked as State's 3. Is
7 that the letter that you wrote to Joe Putney on May 20th,
8 2014?

9 A. Yes.

10 MS. RANKIN: Your Honor, at this time the State
11 would admit State's 3 into evidence.

12 THE COURT: All right. Admitted.

13 BY MS. RANKIN:

14 Q. I'm handing you State's 4. Is that the letter that
15 you wrote to Shawn Graham?

16 A. Yes.

17 MS. RANKIN: Your Honor, at this time the State
18 would move State's 4 into evidence.

19 THE COURT: Admitted.

20 BY MS. RANKIN:

21 Q. State's 5 --

22 A. Yes.

23 Q. -- is that the letter that you wrote to Cal Thomas
24 on May 2nd, 2015?

25 A. Yes.

1 MS. RANKIN: Your Honor, at this time the State
2 would move State's 5 into evidence.

3 THE COURT: All right. Admitted.

4 BY MS. RANKIN:

5 Q. Archie, is that your written statement from August
6 8th, 2015?

7 A. Yes.

8 MS. RANKIN: Your Honor, at this time the State
9 would move State's 6 into evidence.

10 THE COURT: All right. Admitted. Is that it?

11 MS. RANKIN: Beg the Court's indulgence.

12 THE COURT: On each of those items just for the
13 record I'm gonna note your objection.

14 MS. CLEARY: Okay. Thank you.

15 BY MS. RANKIN:

16 Q. Mr. Goodwin, just to clear everything up, we went
17 through kind of back and forth a little bit is that Nick
18 called you and said we went to rob a man for a bottle of
19 prescription pills. It turned ugly and I ended up killing the
20 guy.

21 A. To clarify your sentence, he said him and another
22 guy went to a guy's house to get some prescription pills.
23 Yes.

24 Q. So your statement today is that they just went to
25 the house to get prescription pills --

1 A. No.

2 Q. -- not to rob the guy?

3 A. No. That isn't my statement that I'm saying.

4 Evidently they robbed the guy for the pills when they got
5 there. Yes.

6 Q. But in your written statement you said he told me
7 that they decided to rob the man of the pills.

8 A. That's right.

9 Q. Nick said things got out of hand.

10 A. When they got there, they decided to rob the man of
11 the pills. Yes.

12 Q. So Nick told you that they robbed him?

13 A. Yes.

14 Q. That him and another guy robbed the man of the pills
15 and that he ended up killing the guy?

16 A. That's right.

17 MS. RANKIN: Thank you, Archie. I don't have
18 anything else for you.

19 THE COURT: Anything on redirect?

20 MS. CLEARY: Yes, Your Honor. Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. CLEARY:

23 Q. Mr. Goodwin, when Ms. Rankin was going through that
24 list of people that you offered to help them with, what kind
25 of help were you going to give them?

1 A. As far as working for narcotics?

2 Q. Right.

3 A. Assistance with law enforcement.

4 Q. How were you going to assist law enforcement?

5 A. Doing deals. Set up deals. Do buys.

6 Transactions.

7 Q. So you were volunteering to do things in the future.

8 To wear a wire --

9 A. That's right.

10 Q. -- during a buy?

11 A. I done it before. Lots of times.

12 Q. So you weren't talking about giving any kind of
13 information about any confessions --

14 A. No.

15 Q. -- that they had given to you about their drug
16 activity?

17 A. That's correct.

18 Q. In 2014 and 2015 before this trial, did you know
19 that Ms. Rankin had any involvement at all with this case?

20 A. No.

21 Q. And she was the prosecutor on your drug case?

22 A. That is correct.

23 Q. So now let me ask you, you said that you had said
24 that Pam Norris partied with you and Nick and Kim. Why did
25 you say it was Pam Norris?

1 A. Pam Norris was - her and I were dating when I first
2 met Nick, okay? But Pam didn't like me and Nick hanging out
3 because instead of just normal mischief, you know, it just
4 seemed like we were getting into more things. You see what
5 I'm saying? In other words, hanging out, parting, getting
6 loud, getting in trouble at the motel, that type stuff. She
7 did not want me hanging but with Nick so I was catching some
8 flack from her about hanging out with Nick.

9 Q. Okay. But you said you hung out with Pam Norris and
10 Nick without Kim --

11 A. Yes.

12 Q. -- sometimes throughout that spring?

13 A. That's right. That's right. For months. Yes.

14 Q. Okay. And then you would also, you were also dating
15 Amanda Harley?

16 A. That's right. I met Pam Norris and Amanda Harley on
17 the same day and they were real good friends and it was kind
18 of like almost like a little love triangle type thing. When I
19 wasn't with one, I was with the other.

20 Q. Okay. And did you -- Did Nick Williams ever say, I
21 believe that the statement said that you said that he said
22 that he killed the man. When he said "he", did he use the
23 word "he"?

24 A. Nick said that I killed somebody.

25 Q. And are you clear about that?

1 A. I am very clear.

2 Q. All right. And it's your testimony that you can't
3 give us an exact date of when that phone call was?

4 A. No. I cannot.

5 Q. Okay. Do you have any doubt what Nick said to
6 you?

7 A. No doubt.

8 MS. CLEARY: No further questions. Thank you.

9 THE COURT: Any recross?

10 RECROSS EXAMINATION

11 BY MS. RANKIN:

12 Q. Archie, do you remember when you spoke to Sergeant
13 Mefford on July 16th, 2016 over at the Department of
14 Corrections?

15 A. I remember the meeting. Yes.

16 Q. Do you remember telling him in regards to what Nick
17 Williams told you, I killed somebody. We tried to rob a guy
18 for pills and it got out of hand and we killed him?

19 A. Yes. No. I said that Nick said I killed him. I
20 didn't say nobody said that those two killed him. He said we
21 robbed him of the pills.

22 MS. RANKIN: Thank you.

23 THE COURT: Okay. Mr. Goodwin, thank you very much,
24 sir. You may step down.

25 MS. CLEARY: Those are all of our witnesses, Your

1 Honor.

2 THE COURT: All right. Does the State have anything
3 in reply?

4 MR. GRAHAM: We have four or five witnesses. Most
5 of them are very quick, Your Honor. The State calls --

6 MS. CLEARY: Can we have a bathroom break?

7 THE COURT: All right. Let's just take a few
8 minutes and then we'll start back.

9 (Short break.)

10 BAILIFF: Please keep your seats. Come to order.

11 THE COURT: All right.

12 MS. RANKIN: Thank you, Your Honor. The State calls
13 Joe Putney.

14 Thereupon,

15 JOE PUTNEY

16 after having been first duly sworn, testified as follows,

17 THE CLERK: Please have a seat. After you're
18 seated, please state your full name spelling your last
19 name for the record.

20 THE WITNESS: Jodie Lee Putney, P-u-t-n-e-y.

21 DIRECT EXAMINATION

22 BY MS. RANKIN:

23 Q. Investigator Putney, you work with the West Columbia
24 Police Department; is that right?

25 A. Yes, ma'am.

1 Q. How long have you worked there?

2 A. Approximately nine years.

3 Q. And in your time at West Columbia did you use an
4 individual Archie Goodwin as a confidential informant?

5 A. Yes, ma'am.

6 Q. And what was the nature of y'all's dealings?

7 A. Mr. Goodwin as confidential informant would do
8 controlled buys.

9 Q. How long did you use Mr. Goodwin as a confidential
10 informant?

11 A. Probably for at least a year.

12 Q. Do you remember when that started?

13 A. I want to say 2013. 2012, 2013, something like
14 that.

15 Q. You said you used him for about a year?

16 A. Yes, ma'am.

17 Q. Did you terminate Archie Goodwin as a CI?

18 A. Yes, ma'am.

19 Q. Why did you terminate him?

20 A. He kept getting arrested for shoplifting,
21 manufacturing meth, so forth.

22 Q. When you terminated him, did you feel like he would
23 say anything to get out of trouble?

24 A. Yes, ma'am.

25 Q. Investigator Putney, do you have an opinion as to

1 Archie Goodwin's reputation for truthfulness?

2 A. I do.

3 Q. What is that? Do you believe him to be truthful?

4 A. I believe Mr. Goodwin was truthful at a point in
5 time and Mr. Goodwin at one point started using, it was
6 evident that he was using methamphetamines quite frequently
7 and getting arrested and throwing all kinds of information
8 that he could just try to get out of jail and it felt to me
9 that he was pretty desperate to do whatever he had to do to
10 get out of jail.

11 Q. And at that point you terminated him?

12 A. Yes, ma'am. I told him many times I could not use
13 him.

14 MS. RANKIN: Thank you. Nothing further.

15 MS. CLEARY: May it please the Court.

16 THE COURT: Yes, ma'am.

17 CROSS EXAMINATION

18 BY MS. CLEARY:

19 Q. I'm sorry, sergeant, I missed your rank.

20 A. Just investigator is fine.

21 Q. Investigator Putney, which law enforcement agency
22 are you with?

23 A. West Columbia.

24 Q. And you first received a letter from Archie Goodwin
25 on May 20th, 2014 where he stated knowing something about

1 Nicholas Williams?

2 A. I believe that's right.

3 Q. Okay. And you never told anyone about that until
4 you were asked if you had a letter; is that correct?

5 A. Well, myself and Investigator Thomas had spoke about
6 it.

7 Q. Okay. So Thomas knew about it in 2014 as well?

8 A. Yes, ma'am.

9 Q. So did you tell anyone else?

10 A. No, ma'am.

11 Q. Okay. Now, you said you terminated Mr. Goodwin
12 because he kept getting arrested and kept continuing to use
13 meth?

14 A. Yes, ma'am.

15 Q. Did you tell him he was terminated?

16 A. I didn't say those specific words but I told him I
17 can't use him because he is getting in trouble.

18 Q. He keeps getting arrested?

19 A. Yes, ma'am.

20 Q. But you never gave him any sort of letter that said,
21 hey, we're not using you anymore?

22 A. No, ma'am.

23 Q. Okay. Now, you said that he did controlled buys.
24 Did he ever provide any information that you used as the basis
25 for a search warrant?

1 A. No, ma'am.

2 Q. And how long did he work for you?

3 A. Approximately a year.

4 MS. CLEARY: Okay. All right. That's all I have.

5 Thank you.

6 THE COURT: Anything further.

7 MS. RANKIN: Nothing further, Your Honor.

8 THE COURT: Thank you very much, sir. You may step
9 down.

10 MS. RANKIN: The State calls Cal Thomas.

11 Thereupon,

12 CAL THOMAS

13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. After you're
15 seated, please state your full name spelling your last
16 name for the record.

17 THE WITNESS: Caleb E. Thomas, T-h-o-m-a-s.

18 DIRECT EXAMINATION

19 BY MS. RANKIN:

20 Q. Investigator Thomas, you work for the Cayce
21 Department of Public Safety, right?

22 A. Yes, ma'am.

23 Q. How long have you worked there?

24 A. Approximately eight years.

25 Q. In your time there did you come to know Archie

1 Goodwin?

2 A. I did.

3 Q. Did you use him as a confidential informant?

4 A. I did.

5 Q. Do you remember when that started?

6 A. On or around February of 2012.

7 Q. Approximately how long did you use him?

8 A. Until approximately August of 2012.

9 Q. What was the nature of what he was doing for you?

10 A. He made controlled purchases and also provided
11 information on suspects in the Cayce area.

12 Q. Did you ultimately terminate Mr. Goodwin?

13 A. I did.

14 Q. What was the reason for that?

15 A. Just as Investigator Putney stated, he kept getting
16 arrested and kept calling me because he was under
17 investigation by other agencies.

18 Q. Did you ultimately find him to be unreliable in the
19 end?

20 A. I did.

21 Q. Do you have an opinion as to his reputation for
22 truthfulness?

23 A. Yes. I do.

24 MS. CLEARY: Your Honor, I know this is a hearing
25 but I feel like I need to object to that. I'm not sure

6 MS. CLEARY: Okay. Thank you.

8 A. Yes, ma'am. I have an opinion. Again as
9 Investigator Putney stated, Mr. Goodwin provided a lot of
0 information some of which is truthful. I believe that he
1 withholds some information and he will also use anything he
2 can to try to help himself out when he gets arrested or is
3 facing jail time.

16 CROSS EXAMINATION

18 Q. Investigator Thomas, you did not testify that he had
19 given you information that you later found out to be wrong,
20 right?

22 Q. Okay. And you first learned about this in 2014 that
23 he claimed to have some information on Nicholas Williams?

25 Q. Okay. And you didn't tell anybody?

1 A. When I got the first letter -- Well, I actually got
2 many letters from Archie when his incarceration began. The
3 one I believe I got in May, somewhere around May of 2015 is
4 the first one that mentioned the case.

5 Q. Right. But you heard Investigator Putney testify
6 that y'all talked about it when he got a letter in 2014; is
7 that correct?

8 A. Again I don't remember any specifics about the case.
9 There may have been some. We began getting letters from
10 Mr. Goodwin as soon as he was incarcerated in 2013.

11 Q. Right. And that was when he was offering to set up
12 some additional people as well for drug busts or drug buys?

13 A. He mentioned all kinds of information, anything he
14 might be able to do in those letters.

15 Q. Okay. So you didn't tell anyone that you might have
16 some information about the murder?

17 A. When I had specific information about it, when I
18 first learned the name of the defendant, I attempted to look
19 it up through the public index and could not find any
20 information. I was unable to determine if there was a case.
21 When I got specifics from his mother Ms. Belton, that is when
22 I contacted the Solicitor's Office.

23 Q. Okay. So when you talked to Investigator Putney
24 about it in 2014, did he - you didn't know the name of the
25 defendant?

1 A. I don't recall talking about the murder
2 investigation in 2014. If we did, we did not have specifics
3 on it.

4 Q. You didn't think it was important to try to get
5 additional information about a murder case?

6 A. Again, we were bound by what Mr. Goodwin was telling
7 us.

8 Q. Right. But did you ask him for additional
9 information?

10 A. I never had the opportunity to go visit him at the
11 Department of Corrections. No, ma'am.

12 MS. CLEARY: That's all we have. Thank you.

13 THE COURT: Anything further?

14 REDIRECT EXAMINATION

15 BY MS. RANKIN:

16 Q. You didn't follow up on any information from Mr.
17 Goodwin because you didn't think he was reliable?

18 A. That's correct. Again, he was providing so much
19 information and it all appeared to be just in an attempt to
20 reduce his sentence.

21 MS. RANKIN: Thank you. Nothing further.

22 THE COURT: All right. Thank you very much, sir.
23 Please step down.

24 MR. GRAHAM: Amanda Harley.
25 Thereupon,

1 AMANDA HARLEY

2 after having been first duly sworn, testified as follows,

3 THE CLERK: Please have a seat. After you're
4 seated, please state your full name spelling your last
5 name for the record.

6 THE WITNESS: Amanda Lynn Harley, H-a-r-l-e-y.

7 DIRECT EXAMINATION

8 BY MR. GRAHAM:

9 Q. Ms. Harley, do you know an individual named Archie
10 Goodwin?

11 A. Yes.

12 Q. Do you remember when you knew him?

13 A. Uhm, in my statement I haven't seen him since at
14 least June of 2012. It was actually probably before that, but
15 I know I have not seen him since then.

16 Q. Since June of 2012 you have not seen Archie
17 Goodwin?

18 A. No.

19 Q. In your time prior to June of 2012 was Archie
20 cooking methamphetamine at that time?

21 A. I had heard about some things and I was told to stay
22 away from him, that he was bad, and I never looked back and
23 never messed with him again.

24 Q. When you were together with him prior to June of
25 2012, was he cooking meth at that time to your knowledge?

- 1 A. Not that I know of.
- 2 Q. Do you know Kim White?
- 3 A. No.
- 4 Q. Did you ever party with Kim White?
- 5 A. No.
- 6 Q. Do you know Nick Williams?
- 7 A. Not that I know of. Archie had a lot of different
- 8 people coming around. If I did, I might know -- When you
- 9 showed me pictures, I didn't know those people. I don't know
- 10 a lot of names but not that I'm aware of.
- 11 Q. Sergeant Mefford showed you pictures?
- 12 A. Yes.
- 13 Q. And none of the pictures that he showed you you
- 14 didn't recognize --
- 15 A. I didn't know any of those people.
- 16 Q. Okay. Were you ever partying with Archie Goodwin at
- 17 the Travelers Inn?
- 18 A. He came by my room and I drank and hung out with
- 19 him.
- 20 Q. And that would have been prior to June of 2012?
- 21 A. Yes, sir.
- 22 Q. At any time when you were at the Travelers Inn or
- 23 any other time, did Archer Goodwin ever tell you that he had
- 24 received a phone call from an individual claiming to have
- 25 killed somebody or committed a murder?

1 A. No, sir.

2 Q. What, if any, opinion do you have about Archie
3 Goodwin for his character for truthfulness or
4 untruthfulness?

5 A. Very untruthful. Can't be trusted in my opinion.

6 MR. GRAHAM: Thank you, ma'am. Please answer any
7 questions they may have.

8 THE COURT: Hold on a minute.

9 MS. CLEARY: I'm sorry.

10 THE COURT: No. You're good.

11 CROSS EXAMINATION

12 BY MS. CLEARY:

13 Q. Ms. Harley, so you said you dated Archie Goodwin in
14 2012, right?

15 A. I never dated Archer. He was basically a friend
16 with benefits. Just sex. I have never been in a relationship
17 with him.

18 Q. Were you a stripper then?

19 A. Yes. I was dancing at Platinum for a little
20 while.

21 Q. Okay. And so did you do illegal drugs?

22 A. I tried some and I liked some.

23 Q. Okay. But he was doing illegal drugs and you never
24 did illegal drugs with him?

25 A. No. He did illegal drugs. I did know that he did

1 do illegal drugs.

2 Q. Okay. Do you remember when he got arrested by
3 Batesburg/Leesville Police Department?

4 A. No.

5 Q. So you're saying you never bought boxes of sudafed
6 for him?

7 A. No.

8 Q. You never took anyone else to buy boxes of
9 sudafed?

10 A. No.

11 Q. Do you recognize that girl right there?

12 A. No.

13 Q. In the grayish jacket?

14 A. No.

15 Q. You have never seen her before in your life?

16 A. Not that I recall.

17 MS. CLEARY: All right. And if we could let the
18 record reflect I pointed to Kimberly White who testified
19 earlier.

20 BY MS. CLEARY:

21 Q. Okay. So as far as the motel party, you said that
22 you had a room and he came by your room; is that right?

23 A. Yes. I have also had rooms. When I got divorced, I
24 stayed in hotels for the longest and then I finally just
25 started renting rooms from people.

1 Q. Okay. So you did admit that you were sleeping with
2 Archie Goodwin?

3 A. I have slept with Archie Goodwin.

4 Q. Okay. And you have partied with him or gone to
5 parties where he was there?

6 A. I mean, there's been drinking involved. Yes.

7 Q. But did you ever see anyone using methamphetamine?

8 A. I mean, I have seen Archie take drugs before.

9 Q. Okay. But you never used any drugs at all?

10 A. No. I mean, I used to do coke a long time.

11 Q. All right. And I believe in your earlier statement
12 you said you had never met Nick Williams?

13 A. I don't know Nick. Not that I recall. I mean, they
14 showed me pictures and if I knew somebody, I would tell them
15 the people in the pictures they showed me. I didn't know.

16 Q. Was it this Sergeant Mefford here that showed you
17 the picture?

18 A. Yes, ma'am.

19 Q. And it was just one picture of a man and you said,
20 no, I have never seen him before?

21 A. He showed me a picture of a man. He showed me a
22 picture of a girl. He asked me if I had ever been to a hotel
23 party and some girl passed out naked. I have never been
24 involved in anything like that.

25 Q. So you never picked up Nick Williams to buy sudafed

1 for Archie?

2 A. I don't -- Not that I'm aware of.

3 Q. Do you know Jeremy Brady?

4 A. No. I do not.

5 MS. CLEARY: That's all I have. Thank you.

6 THE COURT: All right. Thank you, ma'am. You may
7 step down.

8 MR. GRAHAM: Pam Norris.

9 Thereupon,

10 PAMELA NORRIS

11 after having been first duly sworn, testified as follows,

12 THE CLERK: Please have a seat. After you're
13 seated, please state your full name spelling your last
14 name for the record.

15 THE WITNESS: Pamela Norris, N-o-r-r-i-s.

16 DIRECT EXAMINATION

17 BY MR. GRAHAM:

18 Q. Ms. Norris, do you know Archie Goodwin?

19 A. I do.

20 Q. Can you tell me back when you actually knew him and
21 spent time with him, what time, what year was it? What month
22 to the best of your knowledge?

23 A. Uhm, we probably got together, uhm, April of 2010
24 and I probably left his side the middle of the year 2011
25 sometime.

1 Q. Could it have been 2012?

2 A. No.

3 Q. Do you know an individual named Nick Williams?

4 A. I take that back. I will take that back. It was
5 2011. I got in a car accident and I didn't have my Lincoln
6 anymore and I met him May of 2011 to 2012. You're right. I'm
7 sorry.

8 Q. That's okay. Was he cooking meth when you knew him?

9 A. Uhm, when we first got together, he knew nothing
10 about meth. Uhm, we were doing cocaine. Probably about after
11 six months of us being together, uhm, I had introduced him to
12 some friends of mine and that's when he started cooking dope
13 and cooking meth and started doing that.

14 Q. Do you know an individual named Nick Williams?

15 A. I met Nick once or twice.

16 Q. Did you ever party with Nick?

17 A. Uhm, he came to our hotel room. Uhm, me and Archie
18 rode with him to go get some dope off North Main at a gas
19 station. He came back to our room with us and shot up dope in
20 our room and left.

21 Q. And that would have been in the middle of 2012?

22 A. I'm thinking it was somewhere around there. Yes,
23 sir.

24 Q. Do you remember what hotel?

25 A. I'm thinking right there, it was either the Carolina

1 Lodge or the Travelers Inn right there at 302 and I-26.

2 Q. So how many times in your life did you see Nick
3 Williams?

4 A. Maybe once or twice. Maybe twice, but I know for
5 sure once. One time.

6 Q. He was doing -- The two times you met him what was
7 he doing? One or two times.

8 A. I can't remember if it was pills we got at the store
9 on North Main or if it was some kind of - if it was heroin or
10 meth. I can't really remember. It's been a while. But, uhm,
11 it was one of those three and he was shooting it up.

12 Q. Kim White, do you know who that is?

13 A. I do know who Kim White is.

14 Q. When did you meet Kim White?

15 A. I didn't meet Kim White with Archie at no time. I
16 was not with Archie at all when I met Kim white. The first
17 time I ever met Kim White was at Bobby Pendleton's house and
18 that was probably a year after I left Archie.

19 Q. 2013?

20 A. Yes, sir.

21 Q. Do you have any knowledge of Archie receiving a
22 phone call from Nick Williams and Nick Williams stating that
23 he was involved with a robbery or a murder in the July 28th
24 time frame of 2012?

25 A. No, sir. I have no recollection of this at all.

1 Actually the first time I ever heard anything about this is
2 when you guys came out to my home and I wrote a statement for
3 you guys.

4 Q. Do you have an opinion about Archie Goodwin's
5 character for truthfulness or untruthfulness?

6 A. I think Archie Goodwin will tell you anything to get
7 his time cut. He will, uhm, take a story and, uhm, make it
8 benefit his, make it benefit him.

9 MR. GRAHAM: Thank you, ma'am. Please, answer any
10 questions they have for you.

11 CROSS EXAMINATION

12 BY MS. CLEARY:

13 Q. Ms. Norris, what was the date that you - when did
14 you first start dating Archie Goodwin?

15 A. Uhm, it was 2011, probably May of that year.

16 Q. So you don't know the exact date?

17 A. I can't tell you. No, ma'am.

18 Q. And he dated other women as well?

19 A. Yeah. He sure did.

20 Q. He cheated on you, right?

21 A. Of course.

22 Q. And you did drugs with him?

23 A. I did.

24 Q. And you were a stripper at that time?

25 A. Yes, ma'am. I was working at Platinum Plus.

1 Q. You were working as a stripper?

2 A. I was. Yes, ma'am.

3 Q. What kind of drugs were you using at that time?

4 A. I was using cocaine. Smoking marijuana. I was
5 doing meth and probably pain pills and Xanax.

6 Q. And you were with Archie Goodwin and you still had a
7 relationship with him in July 2012?

8 A. Uhm, it was somewhat of a relationship. I guess he
9 was trying to hold on and I was -- Uhm, the first six months
10 of our relationship were great. The last six months was me
11 scared trying to get away from him.

12 Q. You were with him when he got arrested by
13 Batesburg/Leesville?

14 A. I was.

15 Q. What was that date?

16 A. I can't tell you the exact date.

17 Q. You don't know the exact date, right?

18 A. No, ma'am.

19 Q. Does it sound like maybe it was in July of 2012?

20 A. It is probably somewhere around that time. Yes,
21 ma'am.

22 Q. All right. And did you ever go with Archie to the
23 trailer on Old Orangeburg Road?

24 A. A trailer?

25 Q. That you remember?

1 A. No, ma'am.

2 Q. Did you know William Morgan?

3 A. No, ma'am.

4 Q. Now, you have turned your life around?

5 A. Yes, ma'am. I just recently had a baby. I have
6 been clean and sober since last year, August of last year.
7 I'm doing really well.

8 Q. All right. And you don't want to be associated with
9 Mr. Goodwin now, do you?

10 A. Oh, no, ma'am. No, ma'am. I'm good.

11 MS. CLEARY: Thank you. That's all I have.

12 THE COURT: All right. Thank you very much,
13 ma'am.

14 MR. GRAHAM: The State calls Sergeant Roy Mefford.
15 Thereupon,

16 ROY MEFFORD

17 after having been first duly sworn, testified as follows,

18 THE CLERK: Please have a seat. After you're
19 seated, please state your full name spelling your last
20 name for the record.

21 THE WITNESS: Roy E. Mefford, M-e-f-f-o-r-d.

22 DIRECT EXAMINATION

23 BY MR. GRAHAM:

24 Q. Sergeant Mefford, where are you employed, and what do
25 you do?

1 A. I'm employed with the Lexington County Sheriff's
2 Department. I'm a sergeant in the investigative unit.

3 Q. How long have you been in law enforcement?

4 A. I have been in law enforcement since 1992 and with
5 the Sheriff's Department since 1997.

6 Q. What was your involvement with the investigation
7 into the robbery and shooting death of Robert Mitchell?

8 A. Detective Sean Grant was the original investigator
9 assigned to the case and I was his supervisor at the time. I
10 got involved in the case a few days after it. His team was
11 on-call during that time and he left for SLED and after he
12 left and went to SLED, I took over the investigation several
13 months later.

14 Q. Do you remember whether a gun was recovered in this
15 case?

16 A. It was.

17 Q. And that was linked to the shooting of Robert
18 Mitchell?

19 A. Yes. A shotgun was recovered at the defendant's
20 residence.

21 Q. When you say the defendant, whose residence are you
22 talking about?

23 A. Jeremy Brady.

24 Q. Let me show you what was State's exhibit 42 from the
25 trial. Do you recognize that?

1 A. I do.

2 Q. What is that?

3 A. That is a sawed off pistol grip shotgun, .20 gauge
4 shotgun that was later linked to the murder of Robert
5 Mitchell.

6 Q. And that was linked by the shotgun shells that were
7 found at the residence where Mr. Mitchell was killed?

8 A. Yes, sir.

9 Q. When you say a pistol grip shotgun, what does that
10 mean?

11 A. It means that instead of a shoulder firing weapon
12 like a typical shotgun, you hold the pistol grip as you would
13 a handgun and in the other hand the foregrip so you would hold
14 it extended out from yourself instead of against your body
15 like a traditional shotgun stock.

16 Q. Did you have an opportunity to go out to Kirkland
17 Correctional Facility on July 16th of 2015 with myself and
18 Casey Rankin and Rhonda Robinson from our office and interview
19 Archie Goodwin?

20 A. Yes. Along with Goodwin's attorney Derrick
21 Mobley.

22 Q. At any time during that conversation did myself or
23 anyone else threaten Mr. Goodwin in any way?

24 A. Absolutely not.

25 Q. Did Mr. Goodwin of his own free will tell you what

1 happened?

2 A. Yes. He did.

3 Q. What, if anything, did he tell you about he and Nick
4 Williams and Kim White being good friends?

5 A. The letters -- I was aware of the letters obviously
6 after receiving them from your office, the one to you and one
7 of the letters to Cal Thomas and I looked at those, reviewed
8 those letters and obviously during the interview looked for
9 any kind of discrepancies or any kind of changes in those
10 letters and one of the things in the letters, he portrayed it
11 as a relationship, friendship that was over a couple years.
12 However, when we spoke to him at the SCDC, he said it was, he
13 began by saying it was a couple months and at that time we let
14 him, or I let him, since I was conducting the interview
15 mainly, let him tell me a story about what their relationship
16 was which was two months and that they had partied and things
17 like that with Pam Norris and Kim White and Nick Williams.
18 And then after that he was confronted with the fact that his
19 letters portrayed a much longer relationship between them. He
20 also indicated in that interview that he had only seen
21 Kimberly White twice, once when she was passed out on the
22 floor naked in a hotel room at the Travelers Lodge and then
23 the other time when they had met later in that day so he could
24 get some boxes, some sudafed purchases from them. They would
25 go purchase these for him. However, his letters portrayed it

1 that they were together all the time which was a discrepancy
2 that he was asked about and he did not have an explanation.

3 Q. In addition to that conversation with him, was there
4 another part of the conversation where he told you that we
5 killed him?

6 A. Yes.

7 Q. Can you recount that conversation with Mr. Goodwin
8 on July 16th, 2015 at Kirkland?

9 A. Yes. I'm gonna refer to my supplemental report
10 here. He specifically -- I remember him, and it's in my
11 supplement, he acted as if he specifically remembered
12 word-for-word the conversation at that time and he said that
13 he received a telephone call from Nicholas Williams and the
14 exact verbiage in that phone call about the shooting was,
15 where are you at? Which is by Nick Williams. And Goodwin
16 replied, why? Williams replied back, I'm on the run for
17 murder. Goodwin replied back, what? And then Williams said,
18 I killed somebody. We tried to rob a guy for pills and it got
19 out of hand and we killed him.

20 Q. We killed him?

21 A. Yes. And I specifically read this back to him
22 verbatim and he agreed with that, that that is what he was
23 telling us.

24 Q. Have you had an opportunity to -- Are you aware of
25 the phones that were taken from Nick Williams upon his

1 arrest?

2 A. Yes. There were four phones in his possession. Two
3 of which we knew the numbers of and two other ones that were
4 locked and we were unable to forensically download any
5 information from them or obtain the phone numbers to get any
6 kind of phone records.

7 Q. Was there a Blackberry that was found in Nick
8 Williams' possession?

9 A. No.

10 Q. One of the phones was an LGBX 1000. Is that one of
11 the phones that was locked?

12 A. I would have to look at the evidence sheet. I have
13 them by phone number but not by model number.

14 MR. GRAHAM: I think that those are defense
15 exhibits. I don't know where they are at right now.

16 MS. RUSSELL: I think the Judge has them.

17 MR. GRAHAM: Do you have them, Judge?

18 THE COURT: I have no exhibits other than these
19 three defense.

20 BY MR. GRAHAM:

21 Q. Sergeant Mefford, looking at defense exhibit number
22 3, is that correct? Or 2?

23 A. 2.

24 Q. 2. What is defense exhibit number 2?

25 A. It is a list of, a property voucher or evidence

1 voucher. These are items that are turned into the Lexington
2 County Sheriff's Department property room as evidence and this
3 is the printout of the paperwork that we do.

4 Q. Page 4 of that document, does it show the four cell
5 phones you were talking about?

6 A. I believe it's page 5 on mine.

7 Q. I think -- Well, I could be looking at a different
8 list. Do you see four cell phones items 28, 29, 30, and 31?

9 A. Okay. It is page 4. Yes.

10 Q. Item 28 that was taken from Nick Williams, what kind
11 of a phone was that?

12 A. That was a Motorola cell phone.

13 Q. And if I told you that that was Nick Williams'
14 phone, is that your understanding of your investigation in
15 this case?

16 A. Yes.

17 Q. And the phone number associated with that was
18 803-800-9258?

19 A. Yes.

20 Q. Have you had an opportunity to go back through the
21 documents that were introduced at trial being the phone
22 records of Nick Williams from Sprint and also a cell dump that
23 was done by Cellebrite hook up to that phone?

24 A. I did.

25 Q. What did you find as far as telephone calls to

1 Archie Goodwin?

2 A. After we reviewed the information from Goodwin, I
3 tried to establish a timeline for the events of what he was
4 saying and one of the main things was trying to find a
5 telephone conversation between Goodwin and Williams the
6 morning of the murder or thereafter. I was unable to locate
7 it. I was able to locate a saved contact number for Archie
8 Goodwin with the telephone number of 315-0104 and also in
9 reviewing booking sheets I located a phone number of 834-6840
10 that Goodwin used on a booking sheet. That is when I found
11 out he was in jail from July 21st until the 27th which added
12 some issues to his timeline also. And I searched the forensic
13 download and the cell phone actual records and did not find a
14 communication between the two of them around the time of the
15 murder on the 730 number. I'm sorry. On the 800 number.

16 Q. For either one of the numbers that you had
17 associated with Archie Goodwin?

18 A. Correct.

19 Q. The next phone is a Samsung model number SCHU350.

20 A. Yes.

21 Q. Do you recognize that as being another phone that
22 was in his possession that your investigation lead to believe
23 was probably a phone belonging to Kim White that Nick had
24 access to?

25 A. Yes. That is the 730 number that was Kim White's

1 phone.

2 Q. And that's 803-730-3624?

3 A. Yes.

4 Q. And have you had an opportunity to review defense
5 exhibit number 3?

6 A. I did.

7 Q. What is defense exhibit number 3?

8 A. This is a forensic download of that phone. We do
9 not have the phone records. This is a download of the
10 physical phone itself. I reviewed it for those two numbers
11 also.

12 Q. Did you find any incoming calls or text to that cell
13 phone from - what was in there, I believe there was a contact
14 for Arch in there. Isn't that one of the numbers you looked
15 at?

16 A. There is.

17 Q. So for either one of the numbers, that one and the
18 other number you have associated for Archie Goodwin, was there
19 any indication that that phone had any contact with Archie
20 Goodwin during the month of, let's say a week plus or minus of
21 the murder?

22 A. No, sir.

23 Q. In fact, the last time that there was any
24 communication on that, would that have been, between Archie
25 Goodwin and that phone, would that have been July 1st, 2012?

1 A. Yes. July 1st was the last communication I found.
2 There was some text messages in June talking about boxes which
3 has been testified to as being sudafed for the purchase.

4 Q. In fact, there was a text from Archie what was
5 labeled as Archie's contact and the number, you recognize
6 that, it says, I need them boxes?

7 A. Yes.

8 Q. The other phones, two on there, neither one of them
9 were a Blackberry. One was a Samsung model SCHM828C,
10 correct?

11 A. Yes.

12 Q. Was law enforcement able to go into that phone? And
13 if not, why not?

14 A. No. Our forensic services attempted to go into that
15 phone with the same technology that downloads the extraction
16 of the phone that I was looking for the number on and they
17 were unable to download it for different reasons. One was pin
18 locked and the other one had too many attempts to try to open
19 it.

20 Q. Still talking about the first phone, the Samsung
21 model, do you recognize what I'm showing you as being
22 photographs of that phone?

23 A. Yes.

24 Q. Investigator Mike Phipps with your office attempted
25 to get into that phone?

1 A. Yes, sir.

2 Q. On the home screen page is there a photograph of an
3 individual on that?

4 A. There is.

5 Q. Do you know who that individual is? Is it a male or
6 a female?

7 A. It's a male.

8 Q. Can you give me an approximate age and race?

9 A. White male. Heavy set white male. Looks to be in
10 his 20s. It is not Nick Williams.

11 Q. It is not Nick Williams?

12 A. No, sir.

13 Q. The fourth and final phone on that case, what's the
14 model number of that phone?

15 A. The fourth phone is a LGVX 10,000. Maybe an extra
16 zero in there because of the system.

17 Q. Were you all able or was anybody at the Sheriff's
18 Department able to get into that phone? And if not, why
19 not?

20 A. No, sir. It was also blocked from a forensic
21 download. An attempt was made.

22 Q. Let me show you photographs and ask if you recognize
23 those as being photographs of that phone that was taken during
24 the attempted extraction of information?

25 A. Yes, sir. That is the phone on the list here.

1 Q. Is there a picture on the home screen of that
2 phone?

3 A. There is.

4 Q. Is that a person?

5 A. Yes. It is.

6 Q. Male or female?

7 A. It's a female.

8 Q. White or black?

9 A. Black.

10 Q. Is it Nick Williams?

11 A. It is not Nick Williams.

12 Q. Kim White?

13 A. It is not Kim White.

14 Q. Anybody that you know?

15 A. Nobody that I know.

16 Q. Did you also go to the Travelers Inn?

17 A. I did.

18 Q. What was your purpose in going there?

19 A. The purpose in going there was to again try to
20 verify the timeline of events given to us by Goodwin and the
21 circumstances of his being around Nick Williams at the time of
22 the murder and to verify the story that he was providing us as
23 far as the party, getting kicked out and those kind of
24 things.

25 Q. What did your investigation reveal about that?

1 A. The front desk provided me with - I looked at the
2 names of all the individuals to that point that we had
3 involved in Goodwin's statements and that could have been
4 associated with the group. I looked at the records for
5 Kimberly White, Nicholas Williams, Amanda Harley, Archie
6 Goodwin and Pamela Norris and their renting of rooms at that
7 hotel.

8 Q. When you rent a room, do you have to show an ID at
9 that hotel?

10 A. Yes.

11 Q. What, if any, information did you find out about any
12 of those individuals renting a room at the Travelers Inn
13 during the month of July or August in 2012?

14 A. There was no record of any of them renting a room in
15 July of 2012.

16 Q. Have you had an opportunity to review the medical
17 records of Nick Williams that were obtained during the
18 investigation of this case before the original trial?

19 A. Yes, sir.

20 Q. What are those records? What hospital were they
21 from and what are the basis of those records?

22 A. They may be on the desk there. I don't have them in
23 my paperwork.

24 Q. (Proffering.)

25 A. This is the radiology department at the Lexington

1 Medical Center. It is a visit on July 30th, 2012 with the
2 patient being Nicholas Williams.

3 Q. Looking through those documents did you find any
4 evidence of a bruise on Nick Williams' chest?

5 A. No, sir. There's complaints of chest pains but
6 there is no indication that there is any kind of bruising or
7 anything on the records.

8 Q. Mr. Goodwin claimed that he wrote a letter to
9 homicide at the Sheriff's Department to provide information on
10 this case. When the Sheriff's Department receives letters
11 claiming to have information, tell me how that process works.

12 A. They will give it to the jailers on a contact form.
13 The inmate fills it out and gives it to one of the jail staff
14 next door that the jail or the Sheriff's Department is
15 connected. They will then bring it over and place it in the
16 investigation division box. We have wall boxes and they will
17 typically put it in a supervisor. If it's not addressed to a
18 specific individual with the detective's name or their case
19 number or something, they will put it in one of the
20 supervisor's boxes and then once we get it we will look up the
21 case and see what information it is and look up the person
22 who is writing the case also to see who they are because we
23 may not know them and then give it to the appropriate person
24 to handle that case.

25 Q. Back in the summer of 2012 going into 2013 and 2014