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VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable D. Garrison Hill, Circuit Court Judge

RECEIVED

JUL 07 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BILLY JOHN GEISENDORFF,

APPELLANT

APPELLATE CASE NO 2016-001901

RECORD ON APPEAL

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1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions
3) Indictment No.: 2014-GS-32-1423
4 State of South Carolina,) 2014-GS-32-1426
5 Plaintiff,)
6 vs.) Transcript of Record
7 Billy John Geisendorff,)
8 Defendant.)
9

10 September 6th through 8th, 2016
11 Lexington, South Carolina
12

13 BEFORE:

14 The Honorable Eugene C. Griffith, Junior, Judge
15 The Honorable D. Garrison "Gary" Hill, Judge,
16 and Jury
17

18 APPEARANCES:

19 Suzanne Mayes, Assistant State Solicitor
20 Robert McNair, Assistant State Solicitor
21 Attorneys for the State

22 Benjamin A. Stitely, Esquire
23 Robert T. Williams, Senior, Esquire
24 Attorneys for the Defendant

25 ALSO PRESENT:

Billy John Geisendorff

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1 SEPTEMBER 6, 2016

2 * * * * *

3 THE COURT: Madam Solicitor, call the first case.

4 MS. MAYES: Yes, sir, Your Honor.

5 THE COURT: All right. Do so.

6 MS. MAYES: May it please the Court. Your Honor,
7 before you is indictment number 2014-GS-32-1423. This
8 indictment is the State of South Carolina versus Billy
9 John Geisendorff. This indictment is for murder.
10 Indictment number 2014-GS-32-1426, the State versus Billy
11 John Geisendorff. This indictment is for possession of a
12 weapon during commission of a violent crime. Your Honor,
13 the defendant is present in the courtroom represented by
14 counsel and the State is ready for trial in this case.

15 THE COURT: All right. Thank you, ma'am. All
16 right. Folks, make sure y'all can hear me. The gears
17 shift a little bit when a case is called for trial. When
18 I went through the qualification process, my intent was
19 to determine your qualifications and eligibility. Now my
20 focus changes a little bit. I'm going to ask more direct
21 questions and my goal is to end up with 13 jurors. I
22 pick 12 to be the jury proper and one alternate. I may
23 pick two today out of an abundance of caution, so 14
24 people qualified as good listeners, but those 14 people I
25 don't want you to have any preconceived notion as to

1 anything about the case, be kin to, related to, close
2 personal friends to anybody really involved in the case.
3 I don't want anybody to be bias one way or the other so
4 that both sides, both the State and Mr. Geisendorff gets
5 a fair and impartial trial here.

6 Now, I will tell you this: It's my opportunity this
7 morning to help select this jury and to ask the
8 questions. I will not be the trial judge. Another judge
9 is going to come in this afternoon and try the case so
10 I'm kind of doing the first step for him. When the trial
11 commences, he will be the presiding judge over this case
12 so I want to make certain he gets a really good jury.

13 Now, the way I'm gonna do this, what I don't need
14 from anybody after I start asking my questions is a long
15 involved explanation of your knowledge of the case, your
16 knowledge of somebody. I need to know your name, your
17 juror number and then I'll try to ask you yes, no
18 questions. The end question on just about all of the
19 questions, would that fact, your relationship with a
20 witness, your friendship with someone, your kinship to
21 someone, would that create an issue for you to not be
22 fair and impartial. If you can be fair and impartial,
23 that's what I want to know. If you can't be, that's good
24 enough for me. But I don't need to know why not. I had
25 a fellow in Newberry go to church with him. We were

1 trying a civil court case and he didn't like insurance
2 companies. In civil court insurance companies are there.
3 He wanted to tell me what low down dogs the insurance
4 agent he had was and this and that and the other and he
5 tried to pay the premium and they rooked his daddy out of
6 some money. I'm like, look, if you don't hush, I'm gonna
7 put you in jail to myself. He was telling me too much
8 information. So what I did since he was trying to get
9 out of jury service, I moved him to a criminal week.

10 So understand I want fair and impartial jurors. I
11 don't want people who don't want to serve so that's my -
12 y'all are still under oath so that's my little preamble.

13 I'll tell you this: The lawyers unlike on TV, you
14 may have seen things on TV, in South Carolina the Court
15 is in charge of the case. The Court is in charge of the
16 questioning of the jurors or the voir dire is what it's
17 called in Latin and those are the questions I'm going to
18 ask you. The lawyers have handed me up some questions,
19 given me a list of potential witnesses and so I'm going
20 to ask these questions but understand the lawyers can't.
21 They have to hand them to me. On TV it's done
22 differently. I want you to remember that. When Judge
23 Hill is in here, he will tell you that over and over.
24 What you see on TV, what you heard at the beauty shop or
25 the barber shop or for heaven sakes what you read on the

1 Internet is not applicable here. The Court will ask you
2 to take an oath at the very beginning of the trial but
3 basically to listen to the whole case, every witness
4 called by either side, then listen to the instructions of
5 the Court telling you what the law in South Carolina is
6 and then consider the evidence which has been presented
7 and reach a unanimous verdict.

8 They don't that pain staking process on TV. They do
9 it in an hour. Nearly impossible. We have been together
10 here now 45 minutes. It is a slow process but it is a
11 process that works and has worked for over 200 years and
12 until they tell me to quit doing it this way, that's how
13 I'm gonna do it.

14 All right. First things first. I'm going to ask
15 the lawyers starting with Ms. Mayes to introduce
16 everybody at her table, then I'm going to come to Mr.
17 Stitely and ask him to do the same. And my question is
18 going to be do you know these people and can you be fair
19 and impartial? Starting with Ms. Mayes, give me
20 everybody at your table please, ma'am.

21 MS. MAYES: My name is Suzanne Mayes. I am an
22 Assistant Solicitor here in the Eleventh Circuit
23 Solicitor's Office which includes Lexington County. I'm
24 a prosecutor in this case. Also present is Robby McNair.
25 He is also an Assistant Solicitor with the Eleventh

1 Circuit Solicitor's Office. Also present in the
2 courtroom is Investigator Kevin Wilson and the detective
3 on the case is Trish Stoner with the Lexington County
4 Sheriff's Department major crimes unit.

5 THE COURT: Okay. I'm gonna go with y'all's group
6 first. All right. Is there any member of the jury panel
7 related by blood, marriage or close personal friends to
8 any of those four introduced thus far? If so, please
9 stand. No one is standing.

10 All right. Mr. Stitely, introduce your table
11 please.

12 MR. STITELY: Good morning. My name Ben Stitely.
13 This is my law partner Theo Williams. Our law firm is
14 Williams, Stitely and Brink right across the street in
15 the old bank building. We represent Mr. Geisendorff.

16 THE COURT: Any member of this jury panel related by
17 blood, marriage, close personal friends to anyone at Mr.
18 Stitely's table? If so, please stand. No one is
19 standing.

20 Any member of the jury panel ever been represented
21 by any of the attorneys introduced thus far, Ms. Mayes,
22 Mr. McNair, Mr. Stitely or Mr. Williams? If so, please
23 stand. Got a couple. All right. These are gonna be yes
24 or no questions. I'll start over here on the far right.
25 Tell me your name please, sir.

1 YOUNG KERR: Young Jason Kerr.
2 THE COURT: Mr. Kerr.
3 YOUNG KERR: Yes, sir.
4 THE COURT: Juror number?
5 YOUNG KERR: 136.
6 THE COURT: 136. Which attorney represented you?
7 YOUNG KERR: Mr. Stitely and Mr. Theo.
8 THE COURT: Is that case ongoing?
9 YOUNG KERR: No, sir.
10 THE COURT: Is it over with?
11 YOUNG KERR: Yes, sir.
12 THE COURT: Now, would the fact that you had their
13 services -- How long ago was it over?
14 YOUNG KERR: 2013.
15 THE COURT: Now, would that relationship with your
16 professional relationship with them now ended, would that
17 create an issue for you being fair and impartial to both
18 the State and the defense?
19 YOUNG KERR: Not at all, sir.
20 THE COURT: All right. Be seated. Ma'am in the
21 front in the green print. Tell me your name.
22 MIRIAM WILLIAMS: Miriam Williams, 288.
23 THE COURT: Which of the attorneys represented you
24 in the past?
25 MIRIAM WILLIAMS: Mr. Williams. He defended my

1 son-in-law, my ex son-in-law.

2 THE COURT: Now, your ex son-in-law?

3 MIRIAM WILLIAMS: Ex son-in-law. Yes.

4 THE COURT: All right. Well, you never know. All
5 right. Ms. Williams, the lawyer's name is Mr. Williams
6 also. That's why I wanted to double check. Would that
7 fact that he had representation of your former son-in-law
8 affect your ability to be fair and impartial in this
9 case?

10 MIRIAM WILLIAMS: No.

11 THE COURT: Thank you very much. All right. The
12 gentleman there in the beard. Tell me your name.

13 STEVEN KRAFT: Steven Kraft, number 143.

14 THE COURT: Mr. Kraft, which of the lawyers has
15 represented you in the past?

16 STEVEN KRAFT: Theo Williams.

17 THE COURT: Is that matter now ended?

18 STEVEN KRAFT: Yes, sir.

19 THE COURT: Can you be fair and impartial to both
20 sides in spite of that?

21 STEVEN KRAFT: Yes, sir.

22 THE COURT: Thank you very much. Gentleman in the
23 red. Tell me your name.

24 MICHAEL LONG: Mike Long, 151.

25 THE COURT: Which of the lawyers?

1 MICHAEL LONG: Mr. Williams.

2 THE COURT: Would the fact -- Is your matter now
3 ended?

4 MICHAEL LONG: Yes, sir.

5 THE COURT: Would that fact that he's represented
6 you in the past affect your ability to be fair and
7 impartial in this case?

8 MICHAEL LONG: No.

9 THE COURT: Thank you, sir. Gentleman in the beige,
10 last man standing. What's your name?

11 ROBERT JACOBY: Robert Jacoby, 128.

12 THE COURT: Which lawyer?

13 ROBERT JACOBY: Theo Williams.

14 THE COURT: Is that matter now ended?

15 ROBERT JACOBY: Yes.

16 THE COURT: Would that affect your ability to be
17 fair and impartial in this trial?

18 ROBERT JACOBY: No.

19 THE COURT: Thank you very much. Any member of the
20 jury panel related by blood, marriage, close personal
21 friends to Mr. Geisendorff or his immediate family? If
22 so, please stand. No one is standing.

23 Any member of the jury panel or a member of your
24 immediate family ever been charged with or accused of a
25 violent crime of any type? If so, please stand. No one

1 is standing.

2 Any member of the jury panel or a member of your
3 immediate family a member of any organizations which
4 their primary focus is on victim's rights or temperance
5 such as MADD, SADD, Citizens Against Violent Crime, BACA,
6 Bikers Against Child Abuse, any group such as that,
7 please stand. Got one. Ma'am, tell me your name.

8 AMANDA POWELL: Amanda Powell.

9 THE COURT: Which group or -- Are you a member or a
10 member of your family?

11 AMANDA POWELL: I am a member of Friends of Police
12 and I'm trying bring our church together with
13 police officers.

14 THE COURT: Okay. Now, would the fact that you --
15 Tell me your name again.

16 AMANDA POWELL: Amanda Powell.

17 THE COURT: Ms. Powell. What number is she?

18 AMANDA POWELL: 197.

19 THE COURT: Would that fact that you interact with
20 this group create an issue with you being fair and
21 impartial in this case?

22 AMANDA POWELL: Yes.

23 THE COURT: All right. Be seated. I'm going to
24 excuse her for cause from this case. Anybody else? Tell
25 me your name please, sir.

1 JOHN SANDERS: John Sanders, 223.

2 THE COURT: Mr. Sanders, you or a member of your
3 family?

4 JOHN SANDERS: No. Your last question, my cousin is
5 in prison now for manslaughter.

6 THE COURT: All right. Now, would that affect your
7 ability to be fair and impartial in this case?

8 JOHN SANDERS: No, sir.

9 THE COURT: Okay. Fair enough. Thank you. The
10 gentleman in green. Tell me your name.

11 CECIL HASH: Cecil Hash, 108.

12 THE COURT: Mr. Hash, tell me your situation. What
13 is it?

14 CECIL HASH: I'm a retired police officer out of
15 Texas. I was an investigator. My department was crimes
16 against children. I don't know if that's --

17 THE COURT: You did that in Texas?

18 CECIL HASH: Yes, sir.

19 THE COURT: How long have you been retired?

20 CECIL HASH: I retired 2010.

21 THE COURT: Okay. So that's six years now. Now,
22 the fact you're a former police officer investigating
23 crimes against children, would that affect your ability
24 to be fair and impartial in this case?

25 CECIL HASH: Most definitely.

1 THE COURT: That's all I need to know. I'll excuse
2 you from the trial of this case. Okay. Now, any member
3 of this jury panel or any member of your immediate family
4 similar to Mr. Hash, is a law enforcement officer? If
5 so, please stand. All right. You need not stand again,
6 Mr. Hash. You're good. All right. Tell me your name.
7 I'll go from front to back. It's easier to catch
8 everybody that way. The gentleman in the black shirt.
9 Tell me your name.

10 JOHN WHITE: John white.

11 THE COURT: Mr. White, you or a member of your
12 family.

13 JOHN WHITE: Brother-in-law.

14 THE COURT: Is a police officer.

15 JOHN WHITE: Is a retired police officer.

16 THE COURT: Which department did he work for?

17 JOHN WHITE: City of Sumter.

18 THE COURT: City of Sumter. Would that create an
19 issue for you being fair and impartial in this case?

20 JOHN WHITE: No, sir.

21 THE COURT: Thank you very much. Gentleman in the
22 plaid, tell me your name.

23 DOUGLAS BERRY: Doug Berry.

24 THE COURT: Mr. Berry, you or a member of your
25 family?

1 DOUGLAS BERRY: My son-in-law is a deputy with
2 Lexington County Sheriff's Department.

3 THE COURT: Currently?

4 DOUGLAS BERRY: Yes, sir.

5 THE COURT: This is a Lexington County case. All
6 right. I'm gonna excuse him from this case.

7 THE CLERK: Number 15.

8 THE COURT: Number 15. Okay. Now, I'm gonna start
9 working over here. Ma'am in the plum color.

10 DOLORIS HARRINGTON-HUCKS: Doloris Harrington-Hucks,
11 juror 106.

12 THE COURT: You or a member of your family is in law
13 enforcement?

14 DOLORIS HARRINGTON-HUCKS: A member of my family.

15 THE COURT: Which department?

16 DOLORIS HARRINGTON-HUCKS: One was in New York State
17 and the other was in Florida.

18 THE COURT: All right. No local ones?

19 DOLORIS HARRINGTON-HUCKS: No.

20 THE COURT: Would the fact that some of your family
21 has been in law enforcement affect your ability to be
22 fair and impartial in this case?

23 DOLORIS HARRINGTON-HUCKS: That would not affect my
24 ability to be fair and impartial.

25 THE COURT: One more time. I must have missed part

1 of it. It's a big courtroom.

2 DOLORIS HARRINGTON-HUCKS: It wouldn't.

3 THE COURT: Can you be fair and impartial?

4 DOLORIS HARRINGTON-HUCKS: That would not affect my
5 ability to be fair and impartial.

6 THE COURT: So the answer is yes, you can be fair?

7 DOLORIS HARRINGTON: My current profession might
8 prohibit me.

9 THE COURT: What do you do right now?

10 DOLORIS HARRINGTON-HUCKS: I'm a social worker for
11 the Department of Mental Health.

12 THE COURT: Okay. I'm gonna come back to you in a
13 little bit. I have another question at the very end.
14 All right. The lady here in the shrimp color dress.
15 Tell me your name.

16 AMY BOOTH-ROBINSON: Amy Booth-Robinson, 20.

17 THE COURT: Tell me your situation.

18 AMY BOOTH-ROBINSON: My husband is a retired police
19 officer. He was assistant chief in Rock Hill and --

20 THE COURT: No. Would that affect your ability to
21 be fair and impartial?

22 AMY BOOTH-ROBINSON: No.

23 THE COURT: Thank you very much. Now, you were
24 about to tell me something else, ma'am. Ms. Robinson,
25 stand back up. You were about to tell me something else

1 and I cut you off. Is there another member of your
2 family that's in law enforcement?

3 AMY BOOTH-ROBINSON: Yes.

4 THE COURT: All right. And who would that be?

5 AMY BOOTH-ROBINSON: I have a cousin who works for
6 Cayce, Mike Gerrin.

7 THE COURT: All right. Would that relationship with
8 your cousin create an issue for you being fair and
9 impartial in this case?

10 AMY BOOTH-ROBINSON: No.

11 THE COURT: Thank you very much. The lady in black.
12 Tell me your name.

13 MICHELLE COOPER: Michelle Cooper. 52.

14 THE COURT: Ms. Cooper, number 52. You or a member
15 of your family?

16 MICHELLE COOPER: My nephew.

17 THE COURT: Which department does he work for?

18 MICHELLE COOPER: Irmo.

19 THE COURT: Irmo. Would that affect your ability to
20 be fair in this case?

21 MICHELLE COOPER: No.

22 THE COURT: Thank you very much. The gentleman in
23 the blue. Tell me your name.

24 JOHN GUNTER: John Gunter. 98. My nephew is a
25 policeman in the City of Columbia.

1 THE COURT: Your nephew?

2 JOHN GUNTER: Yes. My nephew.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 JOHN GUNTER: No.

6 THE COURT: Thank you so much. The lady in blue.
7 Tell me your name.

8 KAREN PORTH: Karen Porth. Number 196.

9 THE COURT: Ms. Porth, you or a member of your
10 family?

11 KAREN PORTH: Family member.

12 THE COURT: Who would they be?

13 KAREN PORTH: Two cousins currently work for
14 Lexington County Sheriff's Department. I have two, an
15 aunt and an uncle.

16 THE COURT: You didn't say two husbands, did you?

17 KAREN PORTH: Two cousins.

18 THE COURT: Okay. I was thinking, wow, that's
19 pretty good. All right. You got two cousins who are now
20 employed with Lexington County. How close cousins?

21 KAREN PORTH: Very close.

22 THE COURT: First cousins?

23 KAREN PORTH: First cousins. We live in the same
24 neighborhood.

25 THE COURT: That's good enough for me. I'm gonna

1 excuse you from this case. Be seated. You'll be off the
2 computer this time. Ma'am in the black. Tell me your
3 name.

4 DARLENE RICHARDS: Darlene Richards. Number 210.
5 My nephew is a sergeant with Lexington County sheriff's
6 Department.

7 THE COURT: Who is?

8 DARLENE RICHARDS: My nephew.

9 THE COURT: Your nephew. You interact with him a
10 lot?

11 DARLENE RICHARDS: He lives straight across the
12 street from me.

13 THE COURT: All right. I'm gonna set you aside from
14 this case out of an abundance of caution. Be seated.
15 All right. The gentleman in red. Sorry you stood up so
16 early. You could have rested.

17 MICHAEL LONG: Michael Long. 151. I have a
18 brother-in-law who is a sheriff in Savannah, Georgia and
19 a nephew who is a Georgia state trooper.

20 THE COURT: And those are out of state. Would
21 either of those relationships them being employed as law
22 enforcement create an issue for you being fair in this
23 case?

24 MICHAEL LONG: No.

25 THE COURT: Thank you so much. All right. Now, I

1 have got, I require the lawyers on both sides to give me
2 any witness who possibly could be called. It does not
3 mean they are going to call all these, but I require them
4 as does Judge Hill, if they are potentially going to get
5 called, I don't want jurors in the box and somebody at
6 the last minute say, well, you know what, we meant to
7 call so and so. Well, I didn't ask the jury ahead of
8 time and it's a close personal friend to a juror and the
9 juror is in a spot. So these are potential witnesses so
10 don't worry that they will all be called. They may not,
11 but I require both sides to tell me everyone. So, I'm
12 going to read them in small groups and then ask the same
13 question. Anybody related by blood, marriage, close
14 personal friend to these potential witnesses, okay?

15 The first group, John Michael Williams. Jessica
16 Lynn Raley. Donna Blanchett. Theresa Sabbagha. Cari
17 Reinberg. Andrew Diehl. Anthony McNeal. Any member of
18 this jury panel related by blood, marriage, close
19 personal friends to any of those potential witnesses,
20 please stand. No one is standing.

21 Next group. Deputy Stephen Bair. Lieutenant Jenn
22 Burns. Deputy Tim Franklin. Deputy Tom Fine. Sergeant
23 Billy Laney. Deputy Brittany Nicholson. Deputy N.W.
24 Redmond. Deputy Reggie Ward. Deputy Hampton Taylor.
25 Any member of this jury panel related by blood, marriage,

1 close personal friends with any of those potential
2 witnesses? I have two. I'll so start here with the
3 lady. Tell me your name please, ma'am.

4 DALE BASS: Dale Bass. Number 11.

5 THE COURT: Ms. Bass. Which one of those witnesses
6 -- Have I excused her? Have I excused you from the
7 trial?

8 DALE BASS: No, sir.

9 THE COURT: I thought I did. Okay. Did not. Okay.
10 Ms. Bass, which one of those potential witnesses?

11 DALE BASS: Deputy Tim Franklin is a family
12 friend.

13 THE COURT: All right. Now, do you socialize with
14 him on a regular basis?

15 DALE BASS: Periodically.

16 THE COURT: All right. Would the fact that he's a
17 potential witness and could be called to testify, would
18 that create an issue for you being fair and impartial to
19 both sides?

20 DALE BASS: No, sir.

21 THE COURT: It would not?

22 DALE BASS: It would not. I could be impartial.

23 THE COURT: You could be fair and impartial?

24 DALE BASS: Yes, sir.

25 THE COURT: That's what I need to know. Thank you.

1 The gentleman here in the blue. Tell me your name.

2 JOHN DERRICK: John Derrick. Number 59.

3 THE COURT: Mr. Derrick, which potential witness do
4 you know.

5 JOHN DERRICK: Billy Laney.

6 THE COURT: All right. Is he related by blood,
7 marriage or a friend?

8 JOHN DERRICK: Friend. Grew up with him.

9 THE COURT: You grew up in the same community?

10 JOHN DERRICK: Yes, sir.

11 THE COURT: Now, would that relationship with him
12 being a friend, would that affect your ability to be fair
13 and impartial in this case?

14 JOHN DERRICK: No, sir.

15 THE COURT: Thank you so much. Okay. Next group.
16 Detective Trish Stoner. She's already been introduced.
17 Detective Benjamin Booth. Detective Chris Stout.
18 Detective Eric Kirkland. Detective Marlo McCann. Shelby
19 Derrick. Roger Gilland. James Hickman. Margaret Beth
20 Holliman. Candy Kyzer. Sergeant Doug Novak. Any member
21 of this jury panel related by blood, marriage, close
22 personal friends to that group of witnesses, please
23 stand. Ms. Bass.

24 DALE BASS: Chris Stout is a family friend.

25 THE COURT: Chris Stout. A member of -- Y'all

1 socialize also?

2 DALE BASS: Periodically. Yes sir.

3 THE COURT: All right. Would that relationship for
4 you create an issue for you being fair and impartial in
5 this case?

6 DALE BASS: No, sir.

7 THE COURT: Very well. Thank you very much. All
8 right. Next group. Kathleen Woodard. Kelley Bugden.
9 Investigator Michael Phipps. Agent Toni Broome. SLED
10 Agent James Green. SLED Agent Tyler Sturkie. Dr. Janice
11 Ross. Amy Stephens. Courtney Thompson. Denise
12 Yarborough. And Gina Pendergrass. Any member of this
13 jury panel related by blood, marriage, close personal
14 friends to any of those potential witnesses? If so,
15 please stand. No one is standing.

16 All right. Folks, Ms. Mayes read the indictments to
17 you. I didn't ask this question. I generally do. As
18 you may not know, but when a person requests a jury
19 trial, they are tendering a plea of not guilty which
20 places the burden of proof upon the State to prove the
21 case beyond a reasonable doubt. Those legal terms we
22 define to you at the end of the case.

23 Now, this indictment is a formal allegation made by
24 the State against Mr. Geisendorff. It's just merely an
25 allegation of what to tell him and his attorneys of what

1 to be prepared to come into court to defend themselves
2 against.

3 Now, the victim in this case, his name was Bobby
4 Christofoli. Did I say that right? It involves an
5 incident that occurred last April 2nd of 2014. Has any
6 member of this jury panel heard anything, read anything,
7 seen news accounts, seen anything on the Internet
8 concerning the facts or the investigation or anything
9 about this case? If so, please stand. No one is
10 standing.

11 Any member of the jury panel related by blood,
12 marriage, close personal friends to the members of the
13 immediate family of Bobby Christofoli or was a friend of
14 his? If so, please stand. No one is standing.

15 All right. Any member of this jury panel know any
16 reason whatsoever they cannot be fair and impartial in
17 this case? Because like I told you, I want 12 jurors and
18 a couple of alternates that will be good listeners and
19 listen to the facts and testimony and consider the
20 evidence and follow the instructions of my good friend
21 Judge Hill and reach a unanimous verdict. Is anybody not
22 going to be able to do that? Ma'am in the plum, I want
23 you to come up and talk to me. Anybody else have a
24 reason they cannot be fair and impartial to both sides
25 please stand. No one is standing.

1 Is there any further voir dire before I speak to,
2 and I can't remember her name, but I know where she is
3 sitting?

4 MS. MAYES: Nothing from the State, Your Honor.

5 MR. STITELY: Nothing from the defense, Your Honor.

6 THE COURT: Come forward, ma'am.

7 BAILIFF: 106, Your Honor.

8 (Side bar.)

9 THE COURT: Come closer to me. I want to ask you
10 some questions. This case, do you know anything about
11 the factual background? Do you know anything?

12 DOLORIS HARRINGTON-HUCKS: No.

13 THE COURT: All right. Do you know anything that
14 your employment would require you to have any involvement
15 in any part of this case?

16 DOLORIS HARRINGTON-HUCKS: No. I don't think so.

17 THE COURT: Okay. Now, what was your concern about
18 your employment when I asked those two questions?

19 DOLORIS HARRINGTON-HUCKS: Just the training that I
20 have as a social worker looking at people and their
21 environment. You know, victims of their environment and
22 where they end up down the line. Things they get
23 involved in.

24 THE COURT: That's a big cross section of our
25 citizenry. We get people like you that have specialized

1 training. We get people that are just good old common
2 sense farmers and they see things differently than you
3 do. Can you be fair and impartial?

4 DOLORIS HARRINGTON-HUCKS: I don't know that I
5 really could be.

6 THE COURT: Fair enough for me.

7 DOLORIS HARRINGTON-HUCKS: I think that I might be
8 sympathetic to someone based on where they came from.
9 Yes. Maybe their childhood.

10 THE COURT: Any problem with that?

11 MS. MAYES: It's the State's position she should be
12 excused.

13 THE COURT: Yours, too?

14 MR. STITELY: Sure, Judge.

15 THE COURT. All right. Fair enough. I'm gonna sit
16 you out from this trial. 106. All right.

17 (End of side bar.)

18 THE COURT: All right. Those are my questions for
19 the voir dire. What's gonna happen next is Ms. Frick and
20 her assistant clerk over there are going to generate a
21 random list from your number and as soon as that list is
22 generated, she is going to call you up one at a time,
23 you're gonna come stand by the bailiff here, and the
24 lawyers get to look at you and they're gonna say please
25 excuse or please seat. People have all sorts of

1 different reasons or bases for excusing people or seating
2 them. I had my reasons when I was a lawyer and when in
3 doubt, go with the brown eyed people. That's what I did.
4 Seriously.

5 All right. I always tell a joke when we're waiting
6 on the jury list to come out. Y'all want to hear one?
7 It's pretty good. All right. I always get these jokes
8 from my preacher so they're clean. All right. Now, I
9 just heard it from him and I'm gonna try to get it right.
10 But anyway this preacher is talking to a young couple and
11 they had a new pet bird and he walked over and was
12 visiting and he went to the house and he said I like your
13 parrot. He said, I've got one, too. He said, what does
14 he say? And he walked over to the parrot and the parrot
15 said "give me a kiss, baby." This is a young married
16 couple. This is their parrot. The preacher says that's
17 really interesting. So, well, what does your parrot say?
18 He said, well, my parrot says, "let us pray." Do you
19 know what? We ought to get these parrots together and
20 maybe we can teach them to say different things. So the
21 end of the next week they get those parrots together, put
22 them in the same room and the little parrot from the
23 young couple says, "give me a kiss, baby." You know what
24 the other parrot said back? "Answered my prayers."

25 I know Judge Hill has a better sense of humor than I

1 do. You will enjoy him a lot. He's smarter and better
2 looking than me.

3 THE CLERK: Proceed?

4 THE COURT: Ready to go?

5 MR. STITELY: Yes, sir.

6 MS. MAYES: Yes, sir.

7 THE CLERK: As I call your number and name come
8 forward and stand in front of the podium until I give you
9 further instructions. Number 50, Sharon Cone.

10 (Whereupon, Sharon Cone, a white female, was called
11 forward.)

12 THE CLERK: What say for the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say for the defense?

15 MR. STITELY: Please excuse Ms. Cone from the trial
16 of the case.

17 THE CLERK: Return to your seat please, ma'am.
18 Number 67, David Druseikis.

19 (Whereupon, David Druseikis, a white male, was
20 called forward.)

21 THE CLERK: What say for the State?

22 MS. MAYES: Please excuse the juror from the trial
23 of this case.

24 THE CLERK: Return to your seat, sir. Number 47,
25 Dannon Collett.

1 (Whereupon, Dannon Collett, a white female, was
2 called forward.)

3 THE CLERK: What say for the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say for the defense?

6 MR. STITELY: Please swear Ms. Collett.

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

8 143, Steven Kraft.

9 (Whereupon, Steven Kraft, a white male, was called
10 forward.)

11 THE CLERK: What say for the State?

12 MS. MAYES: Please excuse the juror from the trial
13 of this case.

14 THE CLERK: Return to your seat please, sir. 116,
15 Jason Holmes.

16 (Whereupon, Jason Holmes, a white male, was called
17 forward.)

18 THE CLERK: What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. STITELY: Please swear Mr. Holmes.

22 THE CLERK: Have a seat in the jury box, sir. 124,
23 Kenneth Horton.

24 (Whereupon, Kenneth Horton, a white male, was called
25 forward.)

1 THE CLERK: What say for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say for the defense?

4 MR. STITELY: Please swear Mr. Horton.

5 THE CLERK: Have a seat in the jury box, sir. 73,
6 Julie Estes.

7 (Whereupon, Julie Estes, a white female, was called
8 forward.)

9 THE CLERK: What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MR. STITELY: Please excuse the juror from the trial
13 of this case.

14 THE CLERK: Return to your seat please. 262,
15 Patricia Thompson.

16 (Whereupon, Patricia Thompson, a white female, was
17 called forward.)

18 THE CLERK: What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Return to your seat please, ma'am. 247,
24 Tiffany Stephenson.

25 (Whereupon, Tiffany Stephenson, a white female, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. STITELY: Please swear Ms. Stephenson.

6 THE CLERK: Have a seat in the jury box, ma'am. 52,
7 Michelle Cooper.

8 (Whereupon, Michelle Cooper, a white female, was
9 called forward)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. STITELY: Please excuse the juror from the trial
14 of this case.

15 THE CLERK: Return to your seat please, ma'am. 289,
16 Kenneth Williamson.

17 (Whereupon, Kenneth Williamson, a white male, was
18 called forward.)

19 THE CLERK: What say for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say for the defense?

22 MR. STITELY: Please swear Mr. Williamson.

23 THE CLERK: Have a seat in the jury box please, sir.
24 266, Kimberly Todd.

25 (Whereupon, Kimberly Todd, a white female, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. STITELY: Please swear Ms. Todd.

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

7 252, Debbie Strother.

8 (Whereupon, Debbie Strother, a black female, was
9 called forward.)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. STITELY: Please excuse the juror from the trial
14 of the case.

15 THE CLERK: Return to your seat please, ma'am. 155,
16 Ian Macdonald.

17 (Whereupon, Ian Macdonald, a white male, was called
18 forward.)

19 THE CLERK: What say for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say for the defense?

22 MR. STITELY: Please swear Mr. Macdonald.

23 THE CLERK: Have a seat in the jury box, sir. 43,
24 Sean Clayton.

25 (Whereupon, Sean Clayton, a white male, was called

1 forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. STITELY: Please swear Mr. Clayton.

6 THE CLERK: Have a seat in the jury box, sir. 273,
7 Samuel Vandiver.

8 (Whereupon, Samuel Vandiver, a white male, was
9 called forward.)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. STITELY: Please swear Mr. Vandiver.

14 THE CLERK: Have a seat in the jury box, sir. 203,
15 Brandi Rauch.

16 (Whereupon, Brandi Rauch, a white female, was called
17 forward.)

18 THE CLERK: What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Return to your seat please, ma'am. 214,
24 Nicole Riddle.

25 (Whereupon, Nicole Riddle, a white female, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. STITELY: Please swear Ms. Riddle.

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

7 249, Sean Stokes.

8 (Whereupon, Sean Stokes, a white male, was called
9 forward.)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. STITELY: Please swear Mr. Stokes.

14 THE CLERK: Have a seat in the jury box, sir. 282,
15 John White.

16 (Whereupon, John White, a white male, was called
17 forward.)

18 THE CLERK: What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. STITELY: Please excuse the juror from the trial
22 of the case.

23 THE CLERK: Return to your seat please, sir. 234,
24 Timothy Shipley.

25 (Whereupon, Timothy Shipley, a white male, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. STITELY: Please present Mr. Shipley.

6 THE CLERK: Please have a seat in the jury box, sir.

7 Alternates, Your Honor?

8 THE COURT: Two?

9 MR. STITELY: Yes, sir.

10 THE COURT: I think I want two. Still the same

11 split.

12 THE CLERK: 201, Phyllis Prosser.

13 (Whereupon, Phyllis Prosser, a white female, was

14 called forward.)

15 THE CLERK: What say for the State?

16 MS. MAYES: Please present the juror.

17 THE CLERK: What say for the defense?

18 MR. STITELY: Please excuse the juror from the trial

19 of the case.

20 THE CLERK: Return to your seat please, ma'am. 213,

21 Patricia Riddick.

22 (Whereupon, Patricia Riddick, a white female, was

23 called forward.)

24 THE CLERK: What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. STITELY: Please swear Ms. Riddick.

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

4 That's alternate one. 251, David Stone.

5 (Whereupon, David Stone, a white male, was called
6 forward.)

7 THE CLERK: What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MR. STITELY: Please excuse the juror from the trial
11 of the case.

12 THE CLERK: Return to your seat please, sir. 279,
13 Charles Webb.

14 (Whereupon, Charles Webb, a white male, was called
15 forward.)

16 THE CLERK: What say for the State?

17 MS. MAYES: Please excuse the juror from the trial
18 of this case.

19 THE CLERK: Return to your seat please, sir. 21,
20 Robin Brailsford.

21 (Whereupon, Robin Brailsford, a black female, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MR. STITELY: Please swear Ms. Brailsford.

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

3 That's alternate number 2, Your Honor.

4 THE COURT: All right. Ladies and gentlemen, are
5 there any matters of law regarding the selection process
6 employed by the Court or the composition of the jury from
7 either side?

8 MS. MAYES: Nothing from the State, Your Honor.

9 MR. STITELY: Nothing from the defendant.

10 THE COURT: Excellent. All right. I'll talk to
11 y'all in one second. Y'all just stand at ease. All
12 right. Folks in the audience not so lucky to be
13 selected, I apologize. All right. Folks, here's the
14 drill left over for y'all. This case is going to start
15 after lunch. It should proceed accordingly. The civil
16 court roster is in a little bit of a state of flux. I'm
17 told the biggest case they had was resolved by agreement
18 this morning. Since I don't know what's gonna be called
19 tomorrow or the next day, the potential is there. But so
20 as not to inconvenience you as a group, okay, I'm going
21 to have you call in tonight to the Lexington County Clerk
22 of Court's office and listen to the recording.

23 The recording is gonna tell you several things.
24 Thank you for calling. You're required to call back
25 tomorrow night after 6:00. Thank you for calling.

1 Please report in to the jury room, courtroom on the
2 fourth floor at such and such time. Something along
3 those lines. So if you will do me that favor, call in
4 after 6:00 and listen to the recording and follow those
5 instructions.

6 Now, be careful. Listen and follow the
7 instructions. If it says come in and you don't come in,
8 you will get a free ride, okay? So the recording is your
9 only source of information.

10 Now, do me this one favor. Ms. Frick is up here in
11 the main courtroom with me. Several other staff members
12 are in the other courtrooms. Please don't call at 4:30
13 and ask someone downstairs what's going on upstairs on
14 the third and fourth floor because they won't know. Wait
15 until 6:00 when the decision is made by the group trying
16 to keep the cases organized. If you call early, you will
17 get someone who won't know your answer and will ask you
18 to call back and you will be ringing Ms. Carrigg's phone
19 off the hook and it's just a little bit more than they
20 need. There is no real information. Just call after
21 6:00. Now, any questions? All right. Before we leave,
22 I need to see juror number 204, Ms. Ravenell. I need to
23 see you before you leave so if you will come forward,
24 everybody else can leave. All right. Folks, I'll talk
25 to y'all momentarily.

1 (Whereupon, the remainder of the jury venire was
2 released from jury service on this case.)

3 (Side bar.)

4 THE COURT: Ms. Ravenell, look here, I was told by
5 the Solicitor's Office there's an outstanding warrant on
6 you from West Columbia City. They have been looking for
7 you since March. And I didn't want to say it in front of
8 the crowd, but I want to make this record now. They're
9 gonna be downstairs?

10 THE CLERK: I'm not sure --

11 THE COURT: I'm not sure either.

12 THE CLERK: -- if the deputies have confirmed.

13 THE COURT: I can't detain you for false
14 information, something along those lines but I want you
15 to be aware of it. You need to go to West Columbia and
16 tend to that, okay? Ms. Frick will show you a copy of
17 what I've got.

18 AMBER RAVENELL: A warrant for what?

19 THE COURT: Well, I don't know that and I didn't
20 want to have to talk to you in front of the entire crowd
21 but I don't know. I think it's a warrant for false
22 information. I don't know if it's a city charge or a
23 magistrate's charge or what but there is a pending
24 warrant and you need to tend to it, okay?

25 AMBER RAVENELL: Yes, sir.

1 THE COURT: They may be downstairs. They can't
2 arrest you in this courthouse when you're dealing with me
3 on jury service. But once you walk out of the
4 courthouse, you can be, okay? So they know you're here.
5 I don't know anything about the charge other than it's
6 pending, all right?

7 AMBER RAVENELL: Yes, sir.

8 THE COURT: Fair enough. Y'all take her downstairs
9 and just walk with her.

10 (End of side bar.)

11 THE COURT: All right. Ms. Moore, she's my
12 observer. You can sit wherever you like. Either side.
13 See, y'all don't understand Ms. Moore's situation. All
14 right. I'm gonna give a little preliminary instructions
15 hopefully consistent with Judge Hill's. Ms. Moore and I
16 talked about certain things and I'm going to give you an
17 example and I'm not gonna tell you her situation because
18 it doesn't matter, but I'm in Abbeville County a lot. We
19 have Mennonites out there and they don't like to sit in
20 judgment of others and so what I do so they don't get
21 free from jury service because it's an imposition, no one
22 volunteers to come get on a jury but it's a civic duty.
23 To stand in good for that civic duty and I guess to be
24 inconvenienced as much as you are, I asked her, I said
25 would you agree either to go to a civil week or sit and

1 watch this trial? And she said I would rather sit and
2 watch so she's a member as a court observer at my
3 direction so she's gonna come and go as y'all come and go
4 and she didn't get of jury service because of another
5 issue. I just do that because I think it's the only fair
6 way to do it because I'm certain she's being candid with
7 me but sometimes people come up and say, well, I can't do
8 this because of some particular belief and it's hard to
9 judge whether that religious belief or whatever belief
10 might be, if they sit and observe, then they have been
11 imposed upon just as much as you. So that's why she'll
12 be here. If y'all see her here, she's an observer and I
13 appreciate her willingness to do that. All right. For
14 y'all, as I told you Judge Hill, he's from up in
15 Greenville. He's coming in shortly. Is it 2:00 that we
16 are going for or 1:00?

17 MS. MAYES: 1:00, Your Honor.

18 THE COURT: 1:00. All right. Y'all are gonna have
19 a quick lunch. I'm gonna let y'all go to lunch and come
20 back at 1:00. The first thing we gonna do is go out --
21 That door they go out?

22 BAILIFF: Yes, sir.

23 THE COURT: The bailiffs are gonna show you where
24 the jury room is. So you need to report back to the jury
25 room by 1:00. Now, the bailiffs, everybody with the red

1 on.

2 MS. MAYES: May we approach, Your Honor?

3 THE COURT: Sure.

4 (Side bar off the record.)

5 THE COURT: Oh, okay. Even better. Y'all heard
6 that? We are doing motions this afternoon and starting
7 in the morning. There's a lot of pretrial stuff.
8 There's a lot of witnesses and getting them organized.
9 They know more about the case than I do obviously. I
10 don't know anything about the case other than what I have
11 read on the indictment, okay?

12 Now, I point out that that's how much y'all know
13 also. For that reason I'm gonna tell you everything you
14 need to decide this case you will get in the courtroom.
15 You don't need to get it outside. You don't need to get
16 it off the Internet or cell phone. You don't need to get
17 it off the television or the newspaper. So my
18 instructions to you are very strict. Receive the
19 information in here as a group. You will all hear what
20 is said from this witness stand. The evidence will be
21 here in the courtroom, all of you as a group of 14.

22 Now, the reason I have two alternates is I'm not
23 certain how long the trial will be, but in case someone
24 becomes sick or ill or can't continue on, the alternate
25 will be moved into that position and it's just better to

1 have enough than not enough and if I get less than 12
2 jurors, that creates a problem for me. But most
3 importantly Judge Hill will instruct you not to discuss
4 the case while you're listening to the testimony. You
5 don't get to discuss the case until the very end when you
6 have heard the testimony presented by the lawyers and the
7 instructions of the Court as a reasonable doubt is
8 defined as. The burden of proof is. All these sort of
9 things that you will get at the very end so there is no
10 reason to discuss the case in the meantime among one
11 another or even at home.

12 Now, one thing, you're wearing the buttons. It's
13 imperative that nobody try to influence you in your job
14 as jurors so the red buttons y'all will be able to wear
15 -- Do they wear them home?

16 BAILIFF: Yes, sir.

17 THE COURT: So when you're coming to and from the
18 courtroom and going outside, the bailiffs downstairs and
19 security will see you're a juror and they will help you
20 get in rapidly. No one should be trying to talk to you
21 about the case outside the courthouse or outside the
22 courtroom or anywhere. The lawyers' job is to influence
23 you about the case here in the courtroom but not outside.
24 No one else is allowed to communicate with you.

25 Now, in small communities like Newberry, Saluda,

1 everybody knows everybody so I tell people a lot of
2 times, you know, if you see somebody you know and they
3 don't speak to you, it's not because they're being rude.
4 They're not allowed to try to influence you except in the
5 courtroom. So if you know any party in here, even
6 casually and all they say is good morning, they are not
7 being rude. Those are the rules. They can say good
8 morning and that's it. The bailiffs on the other hand
9 are paid to make certain you come in and know where
10 you're going. You need a glass of water, they will be as
11 nice as they can be and talk to you about the football
12 games you saw and the nice weather we had over the
13 weekend, anything. That's free game. That's their job.
14 Everyone over here, not allowed to do that. Just so you
15 know is that you're not being treated tersely. It's the
16 requirements and the rules of the court.

17 Now, if anyone does try to communicate with you in
18 any fashion, let one of the bailiffs know. They'll take
19 it to the judge. Like I said, it's Judge Hill and he
20 will deal with that accordingly if it happens. It
21 shouldn't happen. It rarely does. But most importantly
22 is I do not want y'all talking about the case until the
23 very end when he says, all right, now, begin your
24 deliberations. That's what you are waiting on. So I
25 imagine at every break he will tell you remember, don't

1 discuss the case. Keep an open mind. Something like
2 that. And that's what you are here to do.

3 So now, when y'all go to lunch, y'all can go as a
4 group. Generally don't. Go wherever you like. Doesn't
5 matter to he. It's up to y'all.

6 Now, Judge Hill will decide whether he wants you to
7 elect a foreperson or he's gonna select a foreperson. I
8 don't know his practice. I select the foreperson in my
9 trials. I'm not gonna do that for him. I'm gonna let
10 him do that when he gets here.

11 Now, y'all have heard the lawyers. They have got
12 some pretrial matters and these are basically laying out
13 some things that they're anticipating, some testimony and
14 the order of witnesses and who can be here because they
15 can't get all 30 of those witnesses here first thing in
16 the morning. Some of them, they're kind of staggered.
17 Some after lunch, some before lunch, that kind of thing.
18 They have got to organize on how they want to present it,
19 okay? They're gonna start in the morning. What time do
20 you want to start? 9:30?

21 MS. MAYES: Yes, sir, Your Honor.

22 THE COURT: Is Judge Hill going to be spending the
23 night?

24 MS. MAYES: Judge, I have no idea.

25 THE COURT: I think he is. I do not know that

1 though. I want y'all to be in the jury room tomorrow
2 morning by 9:30. Y'all will see where the jury room is
3 but in the meantime they'll do the organizing the case.
4 Hopefully that will make things proceed in a more rapid
5 fashion for you tomorrow to be better organized. If
6 anybody is a smoker, let the bailiffs know because Judge
7 Hill will even know that and give you longer breaks in
8 case you need to step outside. I generally don't allow
9 cell phones in the jury room. Now, during breaks, you
10 can use your cell phones to check on your children, your
11 family or your dog or whatever it is you need to check
12 on. I generally allow that. But in the jury room, it's
13 not a real big room but everybody on their cell phone at
14 the same time is kind of annoying. If you need to make a
15 call or something during a break, the bailiffs will let
16 you go outside and do that. That way you can step
17 outside and do that. That won't be a problem. Just like
18 a person, if you need to take a smoke break, they can do
19 that also.

20 All right. I think those are my preliminary
21 instructions is receive, influence in here. Everything
22 you decide the case on you will get in here. Don't do
23 any independent research. Anybody asks you what the case
24 is about, Judge Hill and Judge Griffith said don't talk
25 about the case until the very end. Blame it on us, okay?

1 That's it. All right. Go see where the jury room is.
2 Y'all be back tomorrow morning at 9:30. This afternoon
3 is pretrial stuff.

4 (Whereupon, the jury was released for the remainder
5 of the day.)

6 TIFFANY STEPHENSON: Can I talk?

7 THE COURT: Sure. All right. Come on over here.
8 Tell me your name.

9 TIFFANY STEPHENSON: Tiffany Stephenson.

10 THE COURT: Okay. Ms. Stephenson. Tell me your
11 situation.

12 TIFFANY STEPHENSON: I have a job out on base. Is
13 (there any way I can get an excuse? Like they know for
14 today. Is there any way I can tell them, hey, I got it
15 for the rest of the week so I can put time in? It's a
16 military thing.

17 THE CLERK: I know.

18 THE COURT: Ms. Frick will take care of you, okay?
19 You just want to be protected at work. That's fine.
20 Good deal. Ms. Frick will take care of that.

21 All right. Y'all need anything else from me?

22 MR. STITELY: No, sir.

23 MS. MAYES: No, sir.

24 THE COURT: Good enough.

25 MR. STITELY: Thank you, Judge.

1 THE COURT: Wish you good luck.

2 MR. STITELY: Thank you.

3 (Lunch break.)

4 BAILIFF: All rise. The Honorable Judge Gary Hill
5 presiding.

6 THE COURT: Keep your seats. Okay. I apologize for
7 starting late. We were taking care of some matters back
8 there. The case -- This is a Castle Doctrine hearing; is
9 that right?

10 MS. MAYES: It is, Your Honor.

11 THE COURT: Ms. Mayes.

12 MS. MAYES: Yes, Your Honor.

13 THE COURT: Okay. You can go ahead and call the
14 case, ma'am. Thank you.

15 MS. MAYES: Okay. And we selected the jury, Your
16 Honor, and after jury selection, we excused the jury
17 until I believe 9:30 a.m. tomorrow in order for us to go
18 ahead and resolve these remaining issues concerning
19 Castle Doctrine. The motion for immunity pursuant to the
20 Castle Doctrine was filed by defense counsel in this case
21 Mr. Ben Stitely. And, Your Honor, the indictments are
22 2014-GS-32-1423 indictment for murder and 2014-GS-32-1426
23 indictment for possession of a weapon during a violent
24 crime. State versus Billy John Geisendorff. I believe
25 we have passed those indictments up.

1 THE COURT: All right.

2 MS. MAYES: The burden of proof, Your Honor, in this
3 matter would be on the defense.

4 THE COURT: Thank you.

5 MR. STITELY: We agree, Your Honor. If it please
6 the Court, would you like a brief kind of summary of
7 where we are going or do you want us to jump into the
8 witnesses and kind of explain as we go?

9 THE COURT: Whatever your pleasure is, sir.

10 MR. STITELY: Your Honor, if I could just briefly,
11 pretty much the background for this hearing, Your Honor,
12 this is a murder charge. There is no question that our
13 client did, in fact, shoot and kill the victim. It is
14 our position that it was in response to a threat upon his
15 life and his safety and he acted in self defense. Under
16 the Castle Doctrine specifically that he had a right as
17 he was not doing anything unlawful in and of itself to
18 defend himself when he was threatened with a force with
19 potential of great bodily injury and/or death.

20 In this case he was repeatedly harassed by the
21 decedent as well as his friend. He had asked them to
22 leave. He, in fact, even called 911 one time. Pressure
23 continued to one point there was an altercation that
24 happened kind of out in the middle of the dirt trail
25 between two trailers where the actual action took place,

1 Your Honor. So it would be our position, of course, that
2 as a right, he was lawfully there. He had a right to
3 defend himself from what he thought to be force. We can
4 call witnesses when you're ready, Judge.

5 THE COURT: You may call your first witness.

6 MR. STITELY: Our first witness is actually John
7 Michael Williams. I understand the State has him under
8 subpoena in the back.

9 THE COURT: Generally speaking, you don't have to
10 ask to approach the witness and during the trial, if the
11 witness' testimony is complete, they are automatically
12 excused unless somebody needs to preserve their presence.

13 Thereupon,

14 JOHN MICHAEL WILLIAMS
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: John Michael Williams,
20 W-i-l-l-i-a-m-s.

21 MR. STITELY: Your Honor, may it please the Court.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. STITELY:

25 Q. Mr. Williams, could you tell the Court how old you

1 are today please?

2 A. 46.

3 Q. What do you do for a living?

4 A. I'm a welder.

5 Q. Have you lived in the Lexington area your whole
6 adult time?

7 A. No, sir. I come from West Virginia. I was born and
8 raised in West Virginia.

9 Q. How long have you been in this area?

10 A. I've been in South Carolina for 24 years.

11 Q. Do you obviously recall the events that happened
12 back in April of 2014?

13 A. Yes, sir.

14 Q. What was your relationship to the decedent Mr.
15 Christofoli?

16 A. He was my - he was my road dog. That's who I worked
17 on the road with. That's who I worked several jobs with. We
18 hunted together. We fished together. We would just hang out
19 together.

20 Q. Do you know how old Mr. Christofoli was?

21 A. He was my age.

22 Q. Mid 40's?

23 A. 45.

24 Q. Do you know where he lived?

25 A. He lived on Faber Road.

1 Q. In the midlands area?

2 A. Yeah.

3 Q. The property where this all went down, can you
4 describe ownership, possession, kind of how the property
5 was?

6 A. Donna Blanchett owns the property. Me and my wife,
7 well, she's my girlfriend, but anyway, we live on the other
8 piece of property so it's split between two pieces of woods.

9 Q. So one land mass with two homesteads?

10 A. That's right.

11 Q. Okay. And some woods in between them?

12 A. Yeah.

13 Q. And a dirt road that kind wraps around between the
14 two; is that fair?

15 A. Yeah.

16 Q. Okay. Do you know Mr. Geisendorff?

17 A. Yes, sir.

18 Q. Had you known him before?

19 A. No.

20 Q. You didn't know him before that day?

21 A. Oh, yes. Yeah. I knew him for, I don't know. I
22 guess it's been about a year, I guess. Something like that.

23 Q. What was his relationship to staying out at that
24 property to your knowledge?

25 A. He was Donna's boyfriend.

1 Q. He lived out there?

2 A. Yes.

3 Q. If you were to describe, so we can just kind of make
4 it clear, the front house, back house, which one was Donna's
5 house?

6 A. Donna's was the front house. The top house. The
7 first house that you would pass on the right coming down the
8 dirt road.

9 Q. Okay. And you were in the back house?

10 A. Yes. The second house. Yes.

11 Q. So Mr. Geisendorff would have lived in the front
12 house and you and your girlfriend would have resided in the
13 back house?

14 A. That's correct.

15 Q. You said you had known him for about a year. Is
16 that how long he had been living there?

17 A. I guess so. About that, yeah. Maybe a little bit
18 longer.

19 Q. What had you been doing earlier in that day? These
20 events took place at night. What had you been doing earlier
21 that day?

22 A. I was working.

23 Q. Do you remember what day of the week it was by
24 chance?

25 A. It was a Wednesday.

1 Q. All right. You say you were working. Were you
2 working with Mr. Christofoli that day?

3 A. Yep.

4 Q. What time do you think you got home?

5 A. Somewhere around 7:00ish. Yeah. Somewhere around
6 7:00. Maybe a little bit after 7:00. Something like that.

7 Q. Okay. Prior to April 2nd, the day this happened,
8 had you ever had for a better word a beef or disagreements
9 with Mr. Geisendorff you personally?

10 A. We had a little argument. Yeah.

11 Q. Just a history of jaw jacking? Anything physical?

12 A. No.

13 Q. What was the nature of those arguments typically?

14 A. It was over a - it was over about my mother-in-law
15 not going back to pick up my girlfriend.

16 Q. Was the owner of the property your girlfriend's
17 mother?

18 A. Yeah.

19 Q. Okay. I just want to make sure that's clear. So
20 Donna, the lady who owned the property was your girlfriend's
21 mother?

22 A. Yes.

23 Q. Okay. When do you think you guys had initially had
24 a disagreement?

25 A. Do what now?

1 Q. When initially do you think you had your first
2 disagreements with Mr. Geisendorff?

3 A. It wasn't long after we had met.

4 Q. So for that whole running year potentially?

5 A. Yeah. They were just -- Yeah.

6 Q. But never any physical altercations?

7 A. No, sir.

8 Q. No fighting. How about Mr. Christofoli, was he
9 aware of the ongoing hostilities between y'all?

10 A. Mm-hmm.

11 Q. Yes or no?

12 A. Yes.

13 Q. He has to record everything you say. When do you
14 think he would have been made aware of this disagreements you
15 had with Mr. Geisendorff?

16 A. I would just -- Do what now?

17 Q. How long do you think he would have been aware of
18 the ongoing --

19 A. Oh, it would have been quite some time. I can't
20 recollect exactly how long.

21 Q. It wasn't a new thing that happened that day? It
22 had been --

23 A. Yeah.

24 Q. If you were to describe between the two houses,
25 about how far away are they?

1 A. Uh, maybe a 100 yards, if that.

2 Q. Okay.

3 A. Might be a little bit further. I mean, I never
4 really sit and measured it or anything but...

5 Q. As far as line of sight, could you sit on your porch
6 and look at the other house or was there woods in the way?

7 A. No. You can't see the other house. There was woods
8 in the way.

9 Q. Okay. So it wouldn't have been like a clear easy
10 line of sight from house to house. You kind of had to go
11 around to get to it, fair?

12 A. Yeah.

13 Q. You said about a 100 yards give or take. At least
14 further than inside this courtroom for sure?

15 A. For sure.

16 Q. What did you and Mr. Christofoli do when you got
17 home from work that afternoon?

18 A. We sit at the house and was drinking.

19 Q. Your house?

20 A. Yes, sir.

21 Q. Anyone else present?

22 A. No.

23 Q. Were you all drinking beer, wine, liquor?

24 A. Just beer.

25 Q. At some point did you end up having an interaction

1 with Mr. Geisendorff that evening?

2 A. Yes. He called me before, actually before I got
3 totally out of the gate at work he had called. He called my
4 cell phone.

5 Q. So y'all had, phone numbers had been exchanged
6 before?

7 A. He was using my mother-in-law's phone. Well,
8 Donna's phone. Yeah. He was using Donna's phone.

9 Q. And that was you said before you had even gotten out
10 the gate before you finished your work day?

11 A. Yes.

12 Q. How about once you got home, was there any actual
13 physical within eyesight contact with Mr. Geisendorff between
14 you and him?

15 A. No. We just come down the dirt road and he was
16 standing over in the yard and he threwed his hands up like
17 that (indicating) and that's when all the cussing and
18 hollering that he was shouting down to the house had
19 started.

20 Q. Okay. Let's go into the cussing and hollering.
21 What do you mean by that?

22 A. He was just hollering motherfucker this and
23 motherfucker that.

24 Q. Was it directed towards you generally would you
25 say?

1 A. I would say so.

2 Q. Any return from either you or Mr. Christofoli?

3 A. The only thing - the only thing Bobby said was you
4 need to shut that shit up. We just got off work. We don't
5 need to listen to it.

6 Q. Bobby would be Mr. Christofoli?

7 A. Right.

8 Q. At some point did Mr. Christofoli walk from the back
9 house up towards the front house to engage in a conversation
10 or something along those lines with Mr. Geisendorff to your
11 knowledge?

12 A. Yes.

13 Q. About how long after you had been home do you think
14 that happened?

15 A. I got to the house. I took the beer into the house.
16 Went in and put beer in the refrigerator. Went over to the
17 window. Asked Bobby, I said, do you want one of these? Bobby
18 was over at the edge of the woods going like this
19 (indicating.) I said, do you want a cold beer? He said yeah.
20 From the time I got the beer out of the refrigerator, walked
21 out the back door, walked around the corner, Bobby was up the
22 dirt road.

23 Q. Okay. You put your finger up to your mouth. What
24 did that mean to you?

25 A. Shh. He wanted to listen to what Billy was

1 hollering.

2 Q. Had you all been drinking earlier or was that the
3 first beers of the day?

4 A. No. We had one after work.

5 Q. Were you in contact with Mr. Christofoli the entire
6 evening? Was there any period of time that he was out of
7 sight prior to getting home?

8 A. One more time now.

9 Q. Had you come straight from work to your house?

10 A. Yes. We were in the truck together the whole time.
11 Yes.

12 Q. Bad question. You had one beer after. And then
13 before you got to any drinking you said he walked down and
14 spoke to Mr. Geisendorff?

15 A. Yes.

16 Q. Did you overhear that conversation or you just
17 turned around and he was gone?

18 A. No. I had just - he had just - by the time - like I
19 said, by the time I left out of the house and got to the back
20 of the house, come out the door and went around the corner he
21 was already up the dirt road.

22 Q. How far up the dirt road if you had to guess? Like
23 you can use the courtroom kind of like an indicator or beyond
24 the doors of the courtroom?

25 A. Probably - probably about - probably about the

1 length of this courtroom. Maybe a little bit further.

2 Q. All right. And at some point Mr. Christofoli
3 returned to your house, correct?

4 A. Yeah. Once I finally got him calmed down and got
5 him back to the house.

6 Q. Did you actually walk down as well?

7 A. No. I never left the yard.

8 Q. How did you get him calmed down and back to the
9 yard?

10 A. Just kept hollering at him, come on, Bobby. Forget
11 about it. It ain't worth it. Just let it go. Let him pass
12 out. Tomorrow will be a different day.

13 Q. How long did you think that took to get him back?

14 A. I don't know. Time frame I don't know. Maybe five
15 minutes. Ten minutes maybe.

16 Q. Could you describe Mr. Christofoli like size,
17 weight, appearance?

18 A. Bobby was a - he was a - he was a - he was a pretty
19 big boy.

20 Q. When you say big boy, larger than you?

21 A. Yeah. He was bigger than me.

22 Q. Relatively physically strong?

23 A. Taller wise. Wider wise. Heavier. Just a little
24 bit heavier probably. Yeah. He was bigger than me. Yeah.

25 Q. How tall are you?

1 A. Maybe five eight.

2 Q. All right. When you got him back to your house, you
3 said he calmed down. What did you guys do next?

4 A. We were just sitting around in the yard laughing and
5 cutting up.

6 Q. Did y'all continue to drink then?

7 A. Oh, yeah.

8 Q. Did he make any statements to you about what went
9 down when he was down the hill or down the road?

10 A. There was - there was, uhm, there was one thing. He
11 said that there - he said that Billy had showed him a gun.

12 Q. Okay. Do you remember writing a statement to law
13 enforcement back on the 2nd of April, 2014, to a Detective
14 Kirkland?

15 A. Yes.

16 Q. He's a black gentleman that wore a goatee back - or
17 a big beard back then. Do you remember that statement?

18 A. Yeah.

19 Q. Do you remember telling him that Bobby pulled a
20 silver gun and -- I'm sorry. That Billy pulled a silver gun
21 and Bobby called him a puss? Do you remember telling the
22 officer that?

23 A. Yes.

24 Q. What happened after you guys got back to the house
25 and you were goofing off in the yard, whatever?

1 A. Just laughing. Cutting up. Sitting there drinking.
2 Smoking cigarettes. Talking about the day at work.

3 Q. At some point did Mr. Christofoli go back down the
4 hill or down the road?

5 A. He went back down the road. He had already - he had
6 already come back to the house.

7 Q. At some point did he go down again?

8 A. He went back up.

9 Q. Up. Sorry. When was that? About how much longer
10 after the initial time frame?

11 A. That had been - that had been quite some time.

12 Q. What was your position on him going back up to
13 Donna's house?

14 A. What was his position?

15 Q. What was your position? What did you tell him about
16 it?

17 A. I told him don't worry about it. We needed to just
18 let it go.

19 Q. You, in fact, told him to leave it alone? Don't go
20 back over there?

21 A. That's right.

22 Q. Why was it that Mr. Christofoli went back over
23 there, if you know?

24 A. I have no clue.

25 Q. How would you describe his demeanor at that point?

1 Had he relatively beered up?

2 A. No. Not really.

3 Q. What happened next to your knowledge?

4 A. They had got - they had gotten back into it. Uhm,
5 hang on a second. Give me a second. They had - they had
6 gotten into it. He had come back. We had - we had a little
7 while. Uhm, Donna had come back down wanting to know what we
8 were laughing at. Told - told Bobby that he - he needed to
9 leave.

10 Q. All right. Let me back you up. So between the
11 first time he went up to Donna's and the second time, the
12 actual property owner came and asked --

13 A. Bobby to leave.

14 Q. -- Bobby, Mr. Christofoli to leave?

15 A. Yes.

16 Q. Okay.

17 A. And I said he ain't got to go nowhere. We're just
18 sitting here. We ain't doing nothing wrong. He ain't got to
19 go nowhere.

20 Q. Then what happened?

21 A. So she went back up the road. I had went back in
22 the house to get more beer. I come back out of the house,
23 Bobby was gone. They were back up the dirt road and then
24 Donna come - Donna come running back down to the house and
25 then that's when I heard the gunshot. Then there was a pause

1 and then I heard three more gunshots. There was a total of
2 four gunshots that I heard, period.

3 Q. Let me slow you down and go through this a little
4 bit. You said you went inside?

5 A. Yeah.

6 Q. And when you came back out, Bobby was gone?

7 A. Yeah.

8 Q. He had went up the road?

9 A. Yeah.

10 Q. You said Donna ran back to the house. Where - which
11 house was Donna at?

12 A. Donna had went back up - Donna had went back up the
13 dirt road to where he was at.

14 Q. Okay.

15 A. Okay. And from when I was in the house, Bobby must
16 have followed her back up the road.

17 Q. Okay. All right. You heard one shot?

18 A. A pause and then I heard three more.

19 Q. Did you hear Bobby make any statements or holler
20 anything at Billy before you heard the shots?

21 A. I heard him say, big boy, if you're gonna pull it
22 out, you better use it.

23 Q. Okay. And you, in fact, wrote that in the statement
24 to Detective Stoner?

25 A. Yes.

- 1 Q. Let me make sure I'm clear about that. You heard
2 Mr. Christofoli tell my client Billy Geisendorff, if you pull
3 that out, you better use it?
- 4 A. Big boy, if you pull it out, you better use it.
- 5 Q. What do you think he was talking about?
- 6 A. A gun.
- 7 Q. Who is larger, Mr. Geisendorff or Mr. Christofoli?
- 8 A. Bobby was.
- 9 Q. How much so?
- 10 A. I don't know.
- 11 Q. Significantly?
- 12 A. I wouldn't say significantly, but he was bigger than
13 him.
- 14 Q. 50 pounds? A 100 pounds?
- 15 A. Probably 50 pounds bigger.
- 16 Q. A couple inches, too?
- 17 A. Yeah.
- 18 Q. Did you know if there were any other weapons present
19 at the time?
- 20 A. No. There was none.
- 21 Q. How about up at your house?
- 22 A. Yeah. There was - yeah. There's two guns in my
23 house but they remained in the house. They never left the
24 house.
- 25 Q. What were those?

1 A. Two black powder. One black powder pistol and a
2 black powder rifle.

3 Q. Did you ever see the weapon that Mr. Geisendorff
4 had?

5 A. No. Not until the gunshot.

6 Q. That night you didn't see -- You didn't actually
7 witness the transaction down, whatever happened down the dirt
8 road? You kind of more heard it from a distance?

9 A. Yeah.

10 Q. You weren't there the first time when Bobby had come
11 back saying he had pulled a gun out?

12 A. Yeah. I was - I was at the back of the truck. I
13 said, well, why don't you just call the law? If he pulled a
14 gun, call the law. I said, if you don't want to call the law,
15 I'll call the law. But nobody never did call the law.

16 Q. Were you aware of a 911 call that was actually
17 placed by Mr. Geisendorff earlier and hung up on them?

18 A. No. Never knew nothing about that.

19 Q. Why didn't Bobby want to call the law?

20 A. I don't know.

21 Q. Did he make any statements about it?

22 A. I can't -- The only thing he said was he showed me a
23 gun and I said, well, call the law. You don't want to call
24 the law, I'll call them.

25 Q. Did he just --

1 A. Just - he didn't say nothing else.

2 Q. Did he discourage you from calling the law?

3 A. No. He did not. No. Not by no means.

4 Q. But there is no question in your mind that
5 Mr. Christofoli knew that my client actually did have a
6 firearm and went back down, or up the road the second time?

7 A. That's what he said.

8 Q. You definitely heard him say something along the
9 lines of, if you're going to pull that out, big boy, you
10 better use it?

11 A. That's -- Initially that's when he shot him. That's
12 - that's when that statement was made.

13 MR. STITELY: Thank you, Mr. Williams. That's all
14 the questions I have.

15 MR. McNAIR: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 CROSS EXAMINATION

18 BY MR. McNAIR:

19 Q. Mr. Williams, you testified that you had prior
20 disagreements with the defendant?

21 A. Yes, sir.

22 Q. Had any of those disagreements turned physical?

23 A. No, sir.

24 Q. You testified that --

25 A. No hands - no hands during the whole - the whole

1 arguments throughout the years, there was a year or whatever
2 it was, there was never no hands ever throwed.

3 Q. So Bobby would have not been aware of any type of
4 physical altercations between you and the defendant, correct,
5 because there were none?

6 A. Right.

7 Q. Now, you mentioned that you had a disagreement with
8 the defendant prior to Bobby getting killed, correct?

9 A. Yes. That was the night before.

10 Q. The night before?

11 A. Yes.

12 Q. And that was a disagreement over your girlfriend's
13 mother Donna Blanchett?

14 A. Yes.

15 Q. Now, after you had that argument or whatever it was
16 with the defendant, did you continue to hang out with him
17 after that?

18 A. We changed a tire.

19 Q. Okay. So he didn't leave fighting mad that night,
20 did he?

21 A. No.

22 MR. McNAIR: Okay. Just so the Judge has a visual,
23 we'll mark this as State's exhibit 1.

24 MR. STITELY: Judge, there won't be any objections
25 to any kind of pictures, maps or anything like that.

1 THE COURT: All right.

2 (Whereupon, State's Exhibits #1 through #69 marked
3 for identification)

4 BY MR. McNAIR:

5 Q. All right. Do you recognize this aerial map?

6 A. Yes.

7 Q. Does that fairly and accurately represent where you
8 lived back in April of 2014?

9 A. Yes, sir.

10 Q. Which house did you live in?

11 A. I lived in the bottom one.

12 Q. This one right here?

13 A. Correct.

14 Q. And what's the address there?

15 A. [REDACTED] Cheryse Drive.

16 Q. And you lived there with Donna Blanchett's daughter
17 Lynn?

18 A. Yes, sir.

19 Q. Donna lived in this house?

20 A. Correct. Still lives.

21 Q. That's [REDACTED] Cheryse?

22 A. Correct.

23 Q. And at the time she was living there with the
24 defendant?

25 A. Yes.

1 Q. You testified that Donna Blanchett owns this entire
2 property?

3 A. That's correct.

4 Q. How long have you lived here? Who owns this
5 trailer?

6 A. Donna does.

7 Q. And do you pay her rent?

8 A. We make the house payments.

9 Q. How long did you live there with Lynn?

10 A. Probably been there a total of -- I have probably
11 been there seven years.

12 Q. Do you treat this trailer --

13 A. Eight years.

14 Q. -- and the yard surrounding it as your property?

15 A. Yes.

16 Q. Does Donna have a key and just come at will into
17 your property?

18 A. No.

19 Q. Bobby was a guest of yours on this property?

20 A. Yes, sir.

21 Q. This roadway, does that belong to Donna?

22 A. No, sir. That's the roadway to get in and out of -
23 to everybody's house that lives on that dirt road.

24 Q. Okay. So there are multiple houses down this dirt
25 road?

1 A. Yes.

2 Q. So multiple people have a right of access down this
3 dirt road?

4 A. Yes. Anybody can come down that road to see anybody
5 down that dirt road.

6 Q. And Bobby was shot in this dirt road; is that
7 correct?

8 A. Yes, sir.

9 Q. Now, you testified that you and Bobby were working
10 that day on April 2nd, 2014?

11 A. Yes, sir.

12 Q. What kind of shift were you working?

13 A. Day shift.

14 Q. How long is the shift?

15 A. From 7:30 to 5:30.

16 Q. You get off work at 5:30?

17 A. Yes, sir.

18 Q. Do you recall when the first time you heard from the
19 defendant that day was?

20 A. It was while I was - I was -- I don't remember exact
21 time frame.

22 Q. Was it after you got off work?

23 A. Yeah. We were still on our way out to the gate. We
24 hadn't gotten to - we hadn't --

25 Q. Shortly after 5:30?

- 1 A. Yeah.
- 2 Q. And how did he contact you?
- 3 A. He contacted me on my cell phone.
- 4 Q. Whose phone was he using?
- 5 A. Donna's.
- 6 Q. What did he say to you?
- 7 A. He told me motherfucker, whenever you get off work,
- 8 you need to come and see me.
- 9 Q. What did you interpret that to mean?
- 10 A. Sounded to me like he wanted to fight.
- 11 Q. What did you tell him?
- 12 A. I told him I'm not coming up there.
- 13 Q. How did his demeanor appear to you?
- 14 A. He was angry.
- 15 Q. Angry?
- 16 A. Yeah. Like he wanted to fight.
- 17 Q. Did you think he had been drinking?
- 18 A. Yeah. I knew he had been drinking. I could tell it
- 19 in his voice. I've been around him enough drinking. I could
- 20 tell what he sounded like.
- 21 Q. So you felt he was wanting to fight?
- 22 A. Yes, sir.
- 23 Q. And you told him you weren't coming up there?
- 24 A. That's right.
- 25 Q. Now, where was your job site that day?

1 A. The Watery station out on 601.

2 Q. What community is that in?

3 A. What community?

4 Q. What area of the state?

5 A. That's 378. I guess that would be Richland
6 County.

7 Q. Is that Eastover?

8 A. Yeah. Eastover. Yeah.

9 Q. Okay. Now, how far is it from where you were
10 working to your house?

11 A. Roughly about an hour.

12 Q. After that initial phone call -- By the way, who are
13 you riding with that day?

14 A. Bobby Christofoli.

15 Q. He took you to work?

16 A. Yes, sir.

17 Q. You were riding home with Bobby?

18 A. Yes.

19 Q. After that initial phone call, did the defendant
20 call you again?

21 A. Yes.

22 Q. Where were you at that point?

23 A. We were - he had -- The next time he called we were
24 - we hadn't made it to the store quite yet. And he asked,
25 where you at? I said I haven't made it home yet. When you

1 gonna be home? I said, when you see the red and silver truck
2 coming down the dirt road, we'll be home.

3 Q. What was his response to that?

4 A. Okay.

5 Q. Did he still appear to be angry?

6 A. No. Actually I hung up on him.

7 Q. You hung up on him?

8 A. Yeah.

9 Q. All right.

10 A. I'll be there when I get there and I hung up.

11 Q. Did he call you again after that?

12 A. Yes.

13 Q. Were you still in the truck with Bobby?

14 A. Yes.

15 Q. What did he say at that time?

16 A. He wanted to know, say again where were we at.

17 Motherfucker, where you at? I said, whenever we get there,
18 we'll get there.

19 Q. Throughout all of these calls is it your belief that
20 he was trying to get you to come up there to fight?

21 A. Sure.

22 Q. Did he appear angry?

23 A. Yes.

24 Q. Did he appear intoxicated?

25 A. Yes.

1 Q. You mentioned you stopped at a store on your way
2 home?

3 A. Yes.

4 Q. How many stops did you make when you went home?

5 A. Twice. Two times.

6 Q. Where did you stop?

7 A. The first time we stopped at a little store off of
8 601 and 378 which is, I guess, considered the Eastover exit.
9 We stopped there and got a beer, cigarettes, left and went
10 down the road. The next stop we made was at the Shell station
11 on Highway 6 and 302.

12 Q. All right. So after those two stops, your testimony
13 is you think you arrived home around 7:00 p.m.?

14 A. Yes. Somewhere around in there.

15 Q. And as you're driving -- When you drive down to your
16 house down that dirt road, you have to past Donna's house,
17 correct?

18 A. Yes.

19 Q. And you testified that when you drove past Donna's
20 house, you saw the defendant waiting for you in the yard?

21 A. Yes.

22 Q. And he was making gestures towards you?

23 A. Yes.

24 Q. What kind?

25 A. Just throwed his hands up and he was like

1 motherfucker this and I didn't even - didn't even look over
2 there and it was just, you could hear the cussing all the way
3 down the dirt road. When we got out, Bobby pulled the truck
4 up into the yard, he put the truck in park, he said, do you
5 want me to go or do you want me to stay? I said, no. Just go
6 ahead and go. It will be all right and everything. I'll go
7 in the house, lock the door. It will be all right tomorrow.

8 Q. So the gestures he was making to you in the yard is
9 you interpret those as fighting gestures?

10 A. Yeah.

11 Q. And you ignored them and you drove down to your
12 house?

13 A. Yes.

14 Q. When you and Booby got down to your house and got
15 out of the truck, did you hear the defendant some more?

16 A. Yes. He was still hollering.

17 Q. What was he saying?

18 A. Punk ass bitches. Motherfuckers.

19 Q. Okay. Again, is it fair to classify those as
20 statements trying to entice you up into a fight?

21 A. Yes.

22 Q. Did you or Bobby yell anything back to him?

23 A. No.

24 Q. You testified --

25 A. Or Bobby did. Bobby said -- Yeah. Bobby said,

1 listen, man, we just got off work. We don't want to listen to
2 this fucking shit.

3 Q. Right. Okay. Did the defendant quit hollering
4 at that point?

5 A. No.

6 Q. He continued saying --

7 A. Yes.

8 Q. -- what you just testified to?

9 A. Yes.

10 Q. You testified at that point you went into your house
11 to put the beer up?

12 A. Correct.

13 Q. You came back out and Bobby was no longer in your
14 yard?

15 A. No.

16 Q. What do you think drew Bobby up to where the
17 defendant was?

18 A. He had went up to tell him just to shut up. That we
19 didn't want to listen to it.

20 Q. Okay. Now, on this aerial photo where was Bobby's
21 truck in relation to where your house is?

22 A. It's right at the -- Probably back at the - probably
23 about the middle of the back of the house.

24 Q. So it was about where this vehicle is in this
25 photo?

1 A. Somewhere around in there. Yeah. Maybe over to the
2 right just a little bit further.

3 Q. All right. When you came out of the house after
4 getting beer, you testified you could see Bobby up the road?

5 A. Yeah. I could see him through that little - that
6 little patch of clear woods right there because it had been
7 cleared out because there was a camper there prior before that
8 and they cut a lot of the brush down. So yeah. I could see
9 all the way --

10 Q. You're referring to you could see through this
11 little clear area of the woods?

12 A. That's correct. I could see him the whole time.

13 Q. Where did you see Bobby?

14 A. He was standing - he was down there on the dirt
15 road.

16 Q. There's a light pole right here on the edge of
17 Donna's driveway.

18 A. He was down from the - he was back down from that
19 light pole.

20 Q. Kind of right here?

21 A. Come on down just a little bit more. He was
22 probably right in there some place.

23 Q. Okay. Could you see the defendant?

24 A. Yeah. I could see him because by that time I had -
25 I was already out in the yard.

- 1 Q. Where was the defendant?
- 2 A. He was up the street. Billy?
- 3 Q. Billy.
- 4 A. Was up there in his yard some place.
- 5 Q. Okay. He's in the yard?
- 6 A. Yes.
- 7 Q. You saw Bobby --
- 8 A. Bobby was in the dirt road, correct.
- 9 Q. Did Bobby ever leave the roadway?
- 10 A. No, sir. He did not. Never stopped a toe in that
- 11 yard.
- 12 Q. Could you hear what they were saying?
- 13 A. Just cussing, arguing back and forth. Billy said --
- 14 Or Bobby said, why don't you just come out in the road and get
- 15 your ass whooped like a man.
- 16 Q. Did you ever hear the defendant say please leave me
- 17 alone?
- 18 A. No. I did not.
- 19 Q. Was he cussing back at Bobby?
- 20 A. They were both cussing back and forth.
- 21 Q. Now, you testified that Bobby walked back down to
- 22 where you were. He told you that the defendant had flashed a
- 23 gun?
- 24 A. That's what he said.
- 25 Q. Now, when you drove past Donna's residence, the

1 defendant was already in the yard, correct?

2 A. Yes.

3 Q. And he continued hollering until Bobby went up
4 there to tell him to cut it out and shut up?

5 A. Yes.

6 Q. But he already had the gun at that time?

7 A. I - I don't know.

8 Q. According to Bobby he flashed a gun?

9 A. According to Bobby. And he said it was silver so I
10 thought maybe it might have been a Corona bottle. But Bobby
11 had come back and said it was a gun.

12 Q. All right. Now, after Bobby came back down to your
13 house, what happened next?

14 A. We just sit - we just hang around the house and we
15 drank beer and was cutting up laughing about the day at
16 work.

17 Q. Did things kind of settle down for a little while?

18 A. Yeah. They got quiet for a little while.

19 Q. Did you and Bobby continue to sit outside by his
20 truck and drink?

21 A. Yeah.

22 Q. How long would you say you thought things were just
23 kind of quiet and then died down?

24 A. Man, I don't know. Probably 20, 25 minutes. Maybe
25 30 minutes at the most.

1 Q. You and Bobby continued to sit outside?

2 A. Yeah. We were -- Yeah. We never -- Yeah. We never
3 was in the house none. We were outside in the yard the whole
4 time.

5 Q. At some point did you hear a notice that, I guess,
6 caught your attention?

7 A. Yes. I heard a stick crack in the woods.

8 Q. After you heard that stick crack, what happened?

9 A. Things just got quiet again.

10 Q. At some point did Donna come down to your house?

11 A. Yes.

12 Q. What was the purpose of her coming down to your
13 house?

14 A. Wanted to know what we were laughing at.

15 Q. What did you tell her?

16 A. Told her that we were laughing and cutting up about
17 the day at work.

18 Q. All right. Did she leave after that?

19 A. Yes.

20 Q. What did you do after Donna left?

21 A. Same thing. Smoke cigarettes and drank some beer.

22 Q. All right. Did you testify that you went back
23 inside the house to get another beer after Donna left that
24 time?

25 A. Yes.

1 Q. When you came back out of the house, where was
2 Bobby?

3 A. He was gone. He was back up the dirt road.

4 Q. So Donna had left your yard and Bobby had left your
5 yard?

6 A. Yes.

7 Q. Can you see them in the roadway at that point?

8 A. Yes.

9 Q. Now, are you still standing where you were before
10 beside Bobby's truck?

11 A. Yeah. I'm somewhere around the truck.

12 Q. So you're looking through that little clearing in
13 the woods?

14 A. That's right.

15 Q. And you could see Bobby and the defendant?

16 A. Yeah.

17 Q. Could you see them clearly or was it dusk?

18 A. Silhouette. It had already gotten dusk to dark by
19 then.

20 Q. Okay. Can you step down for one second?

21 A. Yes, sir. (Witness complies.)

22 Q. Approximately where did you see them in the roadway?
23 Scoot over to the side so the Judge can see.

24 A. Sorry. Right about in here somewhere.

25 Q. Where were you standing?

1 A. I was standing back here.

2 Q. All right. Is there a light anywhere in that
3 area?

4 A. Yeah. There's a street light right there.

5 Q. Okay.

6 A. There's a street light right there.

7 Q. So that provides some illumination?

8 A. Yes. That's correct.

9 Q. Do you have any idea what time of day this is? Is
10 it dusk?

11 A. Yeah. It's already dusk. Maybe five minutes after
12 the sun goes down.

13 Q. But you can see two silhouettes?

14 A. Yes.

15 Q. What's the next thing that you see?

16 A. The next thing I see is -- Well, they were up there
17 arguing and Donna come running - Donna comes running back down
18 the dirt road and they're up there arguing and I'm trying to
19 drown her out but she's over here saying I wish they would
20 quit. I wish they would quit. I wish they would just stop
21 and then that's when I heard Bobby saying, well, big boy, if
22 you're gonna pull it out, you better use it, and then that's
23 when I heard a gunshot and then a pause and then three more
24 gun shots. So I only heard four gunshots. That's all I could
25 count.

1 Q. Okay. So the first gunshot was within seconds?

2 A. Seconds. Was within seconds.

3 Q. Of that comment?

4 A. Right. And why she -- And then I had ran -- I had
5 grabbed my phone and ran out to the dirt road and I seen Bobby
6 laying in the dirt road and then that's when I called 911.

7 Q. What, if anything, did you see when the gun was
8 fired?

9 A. I saw a muzzle blasting, the fire come out from
10 around the cylinder.

11 Q. Okay. So it was dark enough that you could see the
12 muzzle blast?

13 A. Sure.

14 Q. And at the time of the muzzle blast could you still
15 see the two silhouettes?

16 A. Yes.

17 Q. And how far apart were the two silhouettes?

18 A. About six to eight feet. About this far apart right
19 here.

20 Q. By the time you heard the gunshot, Donna had already
21 run back down to your yard?

22 A. Yes. Well, she - she had already ran down to the
23 yard before the gunshot, but then after the gunshot, she had
24 walked back up the dirt road and that's when I was on the
25 phone with 911 and then that's when the 911 phone call you can

1 hear her screaming coming back down the dirt road.

2 Q. Okay. All right. Have a seat.

3 A. (Witness complies.)

4 Q. Prior to hearing that gunshot, did you ever hear the
5 defendant say stay back?

6 A. No.

7 Q. Don't come any closer?

8 A. No.

9 Q. Warn him I have got a gun?

10 A. Never heard none of that.

11 Q. You just heard that one comment that you heard?

12 A. That's what I heard. Because I had her over here
13 and I was trying to listen to them.

14 Q. You testified that you heard four shots. Was that
15 all the shots that were fired or was that just all you
16 heard?

17 A. That's all I remember.

18 Q. So there could have been more?

19 A. Yeah.

20 Q. Was Bobby ever armed with any type of weapon that
21 you saw that day?

22 A. No.

23 Q. After the shot, did you ever see the defendant
24 again?

25 A. No.

1 Q. Did he ever call for help or yell for somebody to
2 call 911?

3 A. No.

4 Q. Did you ever see any type of physical altercation
5 between Bobby and the defendant?

6 A. No.

7 Q. Did you ever see Bobby charge at the defendant in
8 any way?

9 A. No.

10 Q. I'm going to show you what's marked as State's
11 exhibit 2. Do you recognize this disk?

12 A. Yes.

13 Q. Is that an accurate recording of the 911 call that
14 you placed on that day?

15 A. Yes, sir.

16 Q. Are those your initials on that disk?

17 A. Yes, sir.

18 MR. STITELY: Judge, I don't know what the purpose
19 that they are trying to put it in for just a court's
20 exhibit for this hearing. I don't have a problem with
21 that. But I'm gonna have a foundation objection possibly
22 once we come up to the actual trial if it's something
23 they want to admit later on. But I think for the
24 purposes of this hearing hearsay or whatever is
25 admissible anyway.

1 MR. McNAIR: Your Honor, at this time we would like
2 to play it for you.

3 THE COURT: All right.

4 (Whereupon, State's exhibit number 2 played for the
5 Court.)

6 BY MR. McNAIR:

7 Q. What just happened at that time?

8 A. He had done shot Bobby.

9 Q. How did you learn that?

10 A. Pardon me.

11 Q. You called and said he had been shooting at your -
12 he shot at your friend?

13 A. Yeah.

14 Q. So what had changed, what had you seen when you made
15 that comment?

16 A. That's when I seen the muzzle flash.

17 Q. Okay.

18 (Whereupon, State's exhibit number 2 played for the
19 Court.)

20 BY MR. McNAIR:

21 Q. Mike, I'm going to show you State's exhibit 3 and do
22 the calls highlighted in green and blue fairly and accurately
23 represent the calls between you and the defendant on April
24 2nd, 2014?

25 A. Yes.

1 Q. You testified earlier that you received the first
2 call from the defendant shortly after you got off work,
3 correct?

4 A. Correct.

5 Q. So 5:42 shows the defendant calling you. Was that a
6 missed call?

7 A. Yes.

8 Q. 5:43 it shows you calling him back and y'all talked
9 for two minutes and two seconds; is that correct?

10 A. Yep.

11 Q. What was that conversation?

12 A. That's the conversation he said, motherfucker,
13 whenever you get off work, you need to come home and see me.
14 We got some stuff we need to handle. I just listened to him
15 for a little bit and then I hung up.

16 Q. All right. Then at 6:09 it shows the defendant
17 calling you and y'all talked for 23 seconds?

18 A. That's when he called me and asked me where the fuck
19 I was at. I said I hadn't made it home yet. When you see the
20 truck come down the dirt road, we'll be there.

21 Q. And then you hung up?

22 A. Yep.

23 Q. 6:55 there's another missed call from the defendant.
24 At 7:00 is when you testified was right around the time when
25 you would have arrived home?

1 A. That's right.

2 Q. Defendant called you again. Y'all had a 22 second
3 conversation?

4 A. Yep.

5 Q. What was that call?

6 A. Wanting to know why - wanting to know why I sent my
7 boy up there to do my work. Said you little bitch. Why you
8 send your boy up here? Why didn't you come up here?

9 Q. This is 7:00. Were you home yet or were you still
10 en route or just getting home?

11 A. No. We were just - we were just on the way just
12 about to the house. That's somewhere the timeline around, I
13 guess --

14 Q. There's another call at 7:17. So would you have
15 been home at 7:17?

16 A. Yeah. I was home. Yes.

17 Q. Okay. So at 7:00 --

18 A. We were still en route.

19 Q. Okay. Do you remember the nature of that call?

20 A. That's just -- No.

21 Q. More of the same?

22 A. Yeah.

23 Q. Okay. You testified earlier that --

24 A. That phone call was whenever you get home, you need
25 to fucking come see me. You need to come fucking see me when

1 you get here.

2 Q. Okay. Again similar to the previous phone calls?

3 A. Yes.

4 Q. All attempts to get you to fight?

5 A. Yes.

6 Q. Now, you testified that when y'all got home and got
7 out of the truck, you could hear the defendant yelling in the
8 yard?

9 A. Yes.

10 Q. You said that, you testified that Bobby made some
11 comment about, man, we just got off work. Shut up. Leave us
12 alone?

13 A. Correct.

14 Q. You testified that you went in the house, you came
15 back out. At that point you saw Bobby up the road in the road
16 but on the edge of where Donna's yard started; is that
17 correct?

18 A. Yes.

19 Q. Now, was that shortly after y'all arrived home
20 around 7:00?

21 A. Mm-hmm.

22 Q. So what was the call about at 7:17 when the
23 defendant called you?

24 A. That must have been about the time that I had gotten
25 Bobby back to the house and then he had called wanting to know

1 why I sent my boy up there to do my work. You little bitch,
2 why didn't you come up here?

3 Q. Okay. So it's your recollection this call was after
4 Bobby had gone up there the first time and then come back to
5 your house?

6 A. Right.

7 Q. And the defendant called you?

8 A. Right.

9 Q. And said what?

10 A. Why did you send your boy up here? Why don't you
11 come up here and do your dirty work?

12 Q. What did you believe that comment to mean?

13 A. Wanting me to come up there and fight.

14 Q. Now, at 7:32 there's another call from the defendant
15 to you that looks like a missed call?

16 A. Yep.

17 Q. At 7:43 another call from the defendant to you that
18 lasted one minute and 16 seconds?

19 A. Same thing. Cussing, hollering. Why did you send
20 your boy up here? You little bitch. Why don't you come up
21 here? Just cussing, antagonizing.

22 Q. And then two more missed calls, one at 8:05 and one
23 at 8:34?

24 A. Yeah. I didn't talk to him after that.

25 Q. And then you called 911 at 8:58?

1 A. Correct.

2 Q. About two hours after you arrived home?

3 A. Right.

4 Q. So y'all had only been drinking beer for about a two
5 hour period, correct?

6 A. Correct.

7 Q. You testified Bobby is a little bigger than the
8 defendant but Bobby is no Kimbo Slice, is he?

9 A. Pardon me.

10 Q. Bobby's not a trained MMA fighter, is he?

11 A. Oh, no.

12 Q. Had Bobby met the defendant prior to this night?

13 A. Sure.

14 Q. Had he talked to him before?

15 A. Yeah. Just to be friendly.

16 Q. Have there ever been any previous physical
17 altercations between Bobby and the defendant?

18 A. No, sir.

19 MR. McNAIR: That's all I have, Mike.

20 MR. STITELY: Your Honor, I do have some follow up,
21 if it pleases the Court.

22 THE COURT: Go ahead.

23 REDIRECT EXAMINATION

24 BY MR. STITELY:

25 Q. Mr. Williams, I want to run back through a couple of

1 things you just discussed with the prosecutor if you don't
2 mind. You said in the year or more that you had known Billy
3 y'all had never had a physical altercation; is that correct?

4 A. No. No fighting. No nothing like that.

5 Q. But you had plenty of arguments?

6 A. Sure.

7 Q. And you said even the night before it came to a head
8 and you had a huge argument?

9 A. Well, I wouldn't call it huge but it was an
10 argument.

11 Q. And it was so bad that afterwards you worked
12 together to change a tire?

13 A. Yeah.

14 Q. No physical altercation though?

15 A. No.

16 Q. You said when you were talking to the Solicitor that
17 it sounded like he wanted to fight when you were talking to
18 him on the phone and when he came up the hill, but you had
19 never fought with him before?

20 A. No.

21 Q. One thing that you did say and I just want to make
22 sure we are right, was it the first time or the second time
23 that Bobby walked down that you heard him say to Billy come
24 out in the roadway and get your ass beat like a man? Do you
25 remember which time Bobby walked up the hill and told that to

1 Billy?

2 A. Might have been the second time. The first time.

3 Q. One of them?

4 A. It was one of them.

5 Q. Okay. Had you ever known Mr. Christofoli to have a
6 history of violence? Any convictions? Gun charges? Assault
7 charges?

8 A. No, sir. None.

9 Q. You don't know or you know he didn't?

10 A. Not that I know of. No. Not to my recollection.

11 Q. Okay. You said that you saw the silhouettes and
12 they were relatively close together?

13 A. Yes, sir.

14 Q. And you heard him say if you're gonna pull that out,
15 you're gonna need to use it?

16 A. Yeah.

17 Q. Okay. You said you did not hear my client say stay
18 back. I have a gun?

19 A. No, sir. I did not.

20 Q. But you were aware earlier that at least Mr.
21 Christofoli told you that my client had a gun?

22 A. Yes.

23 Q. Okay. When I asked you about the gun, you said you
24 didn't know anything about it. How come you told the 911
25 operator saying he just fired off a .22 if you didn't know

1 what kind of gun my client might have had?

2 A. Because that's the only gun that was up there at
3 that house because that gun had been up there for years.

4 Q. Okay. You never saw Mr. Geisendorff with the gun
5 that night though?

6 A. No.

7 Q. And at one of the phone calls on the chart you
8 weren't sure which one, the one at 7:17, maybe the one at 7:43
9 Mr. Geisendorff was saying why are you sending your boy to do
10 your dirty work?

11 A. Yeah.

12 Q. What did he mean by that? What dirty work?

13 A. Well, why I - why I wouldn't come up there and fight
14 him.

15 Q. From the nature of that did you get the impression
16 that Bobby was going to do the fighting for you?

17 A. No. Bobby just wanted him to shut up.

18 Q. So by saying why don't you step out into the roadway
19 and get your ass beat like a man, that's your way of saying
20 just --

21 A. Well, I guess Bobby had had enough of it. I mean, I
22 really can't call that. I don't know.

23 MR. STITELY: I have no other questions, Judge.

24 Thank you.

25 MR. McNAIR: Real quick, Your Honor.

1 THE COURT: Sure.

2 RE CROSS EXAMINATION

3 BY MR. McNAIR:

4 Q. Mr. Williams, you testified I think that the only
5 comment you really heard during the second time was Bobby
6 saying something to the effect if you're going to pull it, use
7 it, correct?

8 A. Yes.

9 Q. You testified that it was the first occasion that
10 Bobby walked up the road when you heard something to the
11 effect of come in the road and fight like a man, correct?

12 A. Yes.

13 Q. So that was the first time he had walked up the
14 road?

15 A. Yes.

16 Q. When he then returned and told you that he had seen
17 a gun?

18 A. Yes.

19 MR. McNAIR: No further questions.

20 MR. STITELY: No other questions for that witness

21 THE COURT: All right. Thank you, Mr. Williams.

22 MR. STITELY: Your Honor, I'll put this down. Your
23 Honor, that's the only witness the defendant has for this
24 hearing.

25 THE COURT: Okay. We can take a short recess, just

1 about five or ten minutes, all right?

2 MS. MAYES: Your Honor, let me say before we start
3 back and for the Court's benefit concerning scheduling,
4 the State is prepared to call rebuttal witnesses if
5 necessary, but one of the fundamental elements that the
6 defendant would have to establish in order for the Castle
7 Doctrine to apply is that he was not at fault in bringing
8 on the difficulty and it seems abundant from the
9 testimony we just heard from Michael Williams that the
10 defendant was, in fact, at fault in bringing on the
11 difficulty. He instigated the verbal altercation not
12 just once but twice. He made repeated phone calls to
13 Michael Williams in an attempt to instigate this and then
14 he armed himself and left the residence, we know that
15 much, again with a verbal altercation ensuing. So we
16 feel that it's been already established by the testimony
17 of Michael Williams that the defendant was at fault in
18 bringing on the difficulty.

19 MR. STITELY: Judge, we can agree to disagree. I'm
20 happy to make my argument if you like, if they want to
21 call witnesses. I don't know how you want to handle it,
22 Judge. If they want to rest on that position, if they
23 don't intend to put any additional evidence up, I'm ready
24 to argue if you want, Judge. We can take a break and
25 then I'll argue.

1 MS. MAYES: What the State is saying, Your Honor, is
2 that we have extensive witnesses. We have probably seven
3 or eight witnesses that would take the entirety of the
4 afternoon in order to establish fully and completely that
5 the defendant was at fault in bringing on the difficulty.
6 But the State's position, we believe that the defendant
7 has failed to meet the burden of proof in what he has
8 offered so far and that even rebuttal witnesses would not
9 be necessary. We'll leave that in the Court's
10 discretion. We are prepared to call rebuttal witnesses.

11 THE COURT: All right. We'll take a short recess.
12 Thank you.

13 MR. STITELY: Thank you, Judge.

14 (Short break.)

15 BAILIFF: All rise.

16 THE COURT: Keep your seats.

17 THE COURT: Mr. Stitely.

18 MR. STITELY: Yes, Your Honor. I guess this all
19 comes down to 16-11-440(c) which states a person who is
20 endangered who is not engaged in unlawful activity who is
21 attacked and in a place where he has the right to be not
22 to be limited to a place of business he has no duty to
23 retreat and has the right to stand his ground and meet
24 force with up to deadly force if he believes it's
25 reasonably necessary to prevent death or great bodily

1 injury to himself or another or to prevent the commission
2 of a violent crime.

3 Your Honor, in this case it's actually a nuance but
4 what's very important here is even if we were to take the
5 State's position which I heard Ms. Mayes very briefly
6 tell Your Honor that my client was somehow the wrongdoer
7 that caused Mr. Williams to feel in some way threatened,
8 that's not what this case is about, Judge. This case is
9 about the decedent Mr. Bobby Christofoli going up the
10 road to where my client is on multiple occasions and
11 threatening him. And it happens quite simply like this:
12 He goes up the road once to threaten him. Come out in
13 the roadway and get your ass beat like a man. My client
14 by his account showed him a gun, he leaves, goes back,
15 gets loaded on beer, then after the owner of the property
16 asks Mr. Christofoli, you're out of control. You need to
17 leave. Does he leave? No. He goes back down the road
18 threatening my client again this time saying you pull
19 that out, you better use it.

20 Through the testimony of Mr. Williams you even hear
21 him saying why are you going to send someone out here to
22 do your dirty work? I asked Mr. Williams what he meant.
23 Obviously to fight. The decedent in this case was the
24 primary aggressor not on one occasion but on two
25 occasions. Through the testimony of Mr. Williams he got

1 within a couple feet of my client, is threatening him,
2 he's physically stronger, larger, taller in every way.
3 My client presented him with an opportunity to leave. He
4 had the property owner ask him to leave. He had a right
5 to be there as he lived there where the other individual
6 did not.

7 The State has to show that my client was in the
8 wrong when it came to Mr. Christofoli. Mr. Williams sent
9 his buddy down the hill to threaten, scare my client. My
10 client's position was he was there lawfully. He had even
11 presented an opportunity saying look, I'm armed. Leave
12 me alone, and the gentleman continued back down the hill
13 with more threats. He has a right to defend himself and
14 if he's in fear for his safety, he has a right to use up
15 to deadly force. It's that simple, Judge, through their
16 own witness. The decedent in this case picked a fight.
17 Continued to fight over two hours after being asked to
18 leave, after being asked to cool down. After asking him
19 to stop. Got drunk. Went down and threatened my client,
20 forced his hand and unfortunately this is where we are
21 today, Judge. Thank you.

22 MS. MAYES: Yes, sir, Your Honor. The State is
23 prepared to offer rebuttal testimony. At this time we
24 call Donna Blanchett.

25 THE COURT: Well, do you want to make any further

1 argument about the --

2 MS. MAYES: Your Honor, I will state for the record
3 I do believe that from even Mr. Williams' testimony, he's
4 just one witness in this matter, it was clear that the
5 defendant's actions in making the repeated phone calls
6 throughout the day, in cursing and yelling from his home
7 down to the other home which would be approximately one
8 hundred yards apart, but clearly they could hear him from
9 yelling in the yard just that short distance away and
10 he's yelling punk ass bitches, and MF and everything he
11 can do to instigate this matter further and that is what
12 drew Mr. Christofoli up to the roadway, not onto the
13 property but into the roadway where the initial verbal
14 altercation ensued and it was merely limited to a verbal
15 altercation. The victim remained in the roadway
16 throughout that event. At that point in time the
17 defendant flashed a gun at the victim. The victim
18 retreated and went back to [REDACTED] Cheryse and continued
19 about his day after work standing there at the tailgate
20 with his friend and they were sharing some beers.

21 The defendant's behavior continued with repeated
22 phone calls. He then says to Michael Williams why did
23 you send your bitch up here to do your dirty work. Again
24 what were perceived to be fighting words looking for a
25 fight and about an hour goes by or at least 30 minutes

1 according to the testimony of Mr. Williams and then
2 ultimately they hear a confrontation in the roadway
3 between Donna Blanchett and the defendant. At this point
4 in time the defendant is armed. He's left his residence
5 armed. He's engaged in a verbal confrontation now with
6 Ms. Blanchett. That then draws the victim
7 Mr. Christofoli up the roadway. At some point in time
8 Donna Blanchett flees back to the truck at [REDACTED] Cheryse.
9 Mr. Williams testifies that he can see the muzzle blast.
10 We know that at least four shots were fired. The victim
11 was shot and killed there in the roadway. And again even
12 with that second incident it was the defendant's actions
13 that drew him up the roadway and that was the
14 confrontation with Ms. Blanchett and at that point in
15 time we know the defendant was armed in the roadway.

16 Your Honor, we believe pursuant to State v. Curry it
17 is fundamental that a defendant cannot be at fault in
18 bringing on the difficulty if he intends to pursue
19 immunity under the Castle Doctrine Act. In this case the
20 defendant fails to meet that burden of proof and it is
21 his burden of proof. He fails to meet that burden of
22 proof that he was not at fault in bringing on this
23 difficulty. In fact, it appears that he was the
24 instigator for both the first verbal altercation and the
25 second verbal altercation that ended in a shooting with

1 no evidence that the victim ever lunged at him or that
2 the altercation went beyond being verbal. In fact, there
3 is no testimony that there was ever any type of physical
4 confrontation between the parties prior to the defendant
5 pulling the trigger repeatedly on that firearm.

6 Your Honor, the other case that we submitted is
7 State versus Strickland. As to State versus Strickland,
8 Your Honor, that case supports that fighting words as
9 used in this case, fighting words can hold a defendant
10 responsible for bringing on the difficulty. You can't
11 use fighting words as were used in Strickland and then
12 attempt to claim that you were not at fault in bringing
13 on the difficulty. And here the fighting words that we
14 heard repeatedly yelled down towards [REDACTED] Cheryse directed
15 to both Michael Williams and Bobby Christofoli appear to
16 rise to the level beyond that even set forth in
17 Strickland. I believe in Strickland it was cursing at
18 someone and calling him a liar. Here we have punk ass
19 bitches. Why did you send your bitch to do your dirty
20 work. Just repeated, repeated acts of instigation on the
21 part of the defendant Mr. Geisendorff.

22 MR. STITELY: Just very briefly, Your Honor.

23 THE COURT: Yes, sir.

24 MR. STITELY: Your Honor, if it please the Court. I
25 think it was specifically on a contrary point. I even

1 asked Mr. Williams twice if there was any physical
2 violence, any threats of violence or anything like that
3 between Mr. Geisendorff and him. He said over the year
4 they always had arguments. My client was never a
5 fighter, never physical, altercation bringer. Their
6 argument was so bad the night before, they worked
7 together on changing a tire. I think the State is
8 missing the nuance. The instigation here is
9 Mr. Christofoli who is not even involved in the
10 conversation between my client and Mr. Williams going
11 down there to pick a fight and if any fighting words were
12 used, they were direct threats by the decedent in this
13 case, Judge, saying step out here so I can take you
14 down.

15 THE COURT: All right. The defendant does bear the
16 burden of proof. I just find that it simply is not met
17 as to the right to be immune from prosecution which is
18 what this is all about. There is insufficient evidence
19 at this stage that would prove by the greater weight of
20 the evidence that Mr. Geisendorff is entitled to
21 immunity. I find that under subsection (c) of 16-11-440
22 he has to, based on State versus Curry, show he was not
23 engaged in unlawful activity. He was attacked. He was
24 in a place where he had a right to be, and he met force
25 with like force and reasonably believed it was necessary

1 to prevent death or great bodily injury to himself or
2 another person. Here we don't know what his objective
3 belief was. We don't know what his - there is not
4 sufficient evidence to prove that his conduct was
5 objectively reasonable based on the record as it now
6 stands.

7 Likewise, he has not demonstrated by the greater
8 weight of the evidence that he was not without fault in
9 bringing on the difficulty. The jury could believe, for
10 instance, that he started the entire chain of events by
11 his phone call earlier that afternoon to Mr. Williams and
12 continued to be at fault and stirring up the difficulty
13 by again, if the jury believed it, his conduct at the
14 property line. There is no evidence that he was not at
15 fault in bringing on the difficulty. The nuance that Mr.
16 Stitely refers to may very well be a nuance that the jury
17 would accept but right now it's not enough to prove by
18 the greater weight of the evidence that he's entitled to
19 be immune from having the jury determine whether or not
20 he committed the crime he's charged with so I
21 respectfully deny his motion for immunity.

22 MR. STITELY: Thank you, Judge.

23 THE COURT: Thank you. All right. Anything further
24 at this point?

25 MS. MAYES: Yes, sir, Your Honor. Briefly. We do

10 TRISH STONER

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.

16 DIRECT EXAMINATION

18 Q. Detective Stoner, where are you employed?

20 Q. In what capacity?

23 Q. I'm going to cut through and ask you whether or not
24 you had a chance to respond to a homicide investigation on
25 Cheryse Drive back on April 2nd, 2014?

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

2 Q. Upon arrival what did you observe?

3 A. There were several patrol cars and I noticed a male
4 victim laying in the roadway.

5 Q. He was in the roadway?

6 A. Yes, ma'am.

7 Q. At this point in time was there a suspect?

8 A. I believe that I heard the radio traffic say that it
9 was possibly a white male named Billy.

10 Q. All right. When you arrived at the scene, was there
11 any sign of Billy the suspect?

12 A. No, ma'am.

13 Q. And approximately how long were you on the scene
14 before the suspect known as Billy was apprehended?

15 A. Approximately an hour.

16 Q. Where was he at when he was apprehended?

17 A. He had crawled out from under a crawl space of the
18 residence that he lived at with Donna Blanchett.

19 Q. All right. So when you initially arrived and he was
20 not visible to you, he was hiding under a crawl space?

21 A. Yes, ma'am.

22 Q. When he came out from under the crawl space, please
23 describe his demeanor?

24 A. He was loud and boisterous, screaming obscenities,
25 making several verbal statements.

1 Q. All right. And the initial statements that he made,
2 how did you go about documenting those?

3 A. Handwritten notes.

4 Q. All right. And you maintained those notes as part
5 of your case file?

6 A. Yes, ma'am.

7 Q. And you have them with you today for purposes of
8 this hearing?

9 A. Yes, ma'am.

10 Q. Now, did he ever that night provide you with a
11 written statement?

12 A. No, ma'am.

13 Q. You mentioned that when he came out of the crawl
14 space, he was already making statements?

15 A. Yes, ma'am.

16 Q. What did you do in response to that?

17 A. I tried to get him to stop for a moment so that I
18 could read him his Miranda Rights.

19 Q. How did you go about reading him his rights?

20 A. From a card that I keep with me.

21 Q. All right. And do you have such a card with you
22 today?

23 A. I do.

24 Q. If you could pull that out and read into the record
25 what you advised Mr. Geisendorff of on that night?

1 A. It states you have the right to remain silent.
2 Anything you say can and will be used against you in a court
3 of law. You have the right to talk to an attorney and have
4 him or her present with you while you are being questioned.
5 If you cannot afford to hire an attorney, one will be
6 appointed to represent you before any questioning if you want.
7 You can decide at any time to exercise these rights and not
8 answer any questions or make statements. Do you understand
9 these rights I have explained to you? Having these rights in
10 mind do you wish to talk to us now?

11 Q. What was his response?

12 A. He continued to speak.

13 Q. Now, can you tell us based upon your observations
14 and the information that you obtained throughout the night
15 during this investigation, had the defendant been drinking?

16 A. Yes, ma'am.

17 Q. Despite the fact that he had been drinking, can you
18 tell us whether or not he appeared to understand the Miranda
19 Rights that you advised him of?

20 A. He did.

21 Q. And based upon your observations was he able to
22 speak coherently?

23 A. Yes, ma'am. I understood everything he was telling
24 me.

25 Q. Did he appear to respond appropriately to questions

1 that you posed to him?

2 A. Yes, ma'am.

3 Q. At any point in time did you threaten him in order
4 to obtain the statement?

5 A. No.

6 Q. Was he coerced in any way?

7 A. No, ma'am.

8 Q. Were promises made?

9 A. No, ma'am.

10 Q. To the best of your knowledge was his waiver of
11 Miranda Rights there at the scene freely and voluntarily
12 provided?

13 A. Yes, ma'am.

14 Q. You mentioned that his demeanor was boisterous. Can
15 you tell us whether or not his demeanor remained the same
16 throughout that evening at the scene?

17 A. It did.

18 Q. And you mentioned that you went about documenting
19 the statements that he made through some handwritten notes?

20 A. Yes, ma'am.

21 Q. Ultimately did you convert those notes in the form
22 of an incident report?

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

24 Q. And a supplemental report?

25 A. Yes.

1 Q. Have you also had the opportunity to review a
2 summary of statements?

3 A. Yes, ma'am. I have.

4 Q. From your supplemental report?

5 A. I have.

6 Q. Can you tell us whether or not that summary appears
7 to be a fair and accurate representation of statements that
8 were made?

9 A. It does.

10 Q. There at the scene, Detective Stoner, what is the
11 content of the collection of statements that were being made
12 by Mr. Geisendorff?

13 A. We were writing down everything he was saying.

14 Q. All right. What do you recall him saying that night
15 there at the scene?

16 A. That the dude tried to attack him twice in his yard.
17 That he had no choice. That he was scared for his life. He
18 didn't know the victim's name so he called him different names
19 throughout the questioning. He called him Danny. He said
20 Danny threatened to kick his ass. He wanted me to understand
21 how people's frustration gets up.

22 Q. Let me stop you right there. He said what in
23 regards to wanting you to understand how frustration gets
24 up?

25 A. That's what he said. He said I needed to understand

1 how people's frustration gets up.

2 Q. So he was, in effect, saying that he was frustrated
3 during this event?

4 A. Yes.

5 Q. What, if anything, else did he say?

6 A. He said he didn't care if the dude was dead or
7 alive. He continued on to say that he had backed up 60 to 80
8 feet before I gave him what he got. Then he cries like a baby
9 what has bullets in him. He said that the victim even begged
10 him to call someone and that he could hear Michael and Buddy
11 which was another name for the victim, laughing and saying
12 wait 'till I get him. He went on to say that he could hear
13 them saying we're gonna take care of him. He is from
14 Louisiana and he is a bum. He said the victim turned around
15 and told him shoot me in the back.

16 Q. All right. So according to his statement to you he
17 stated that the victim was facing in which direction according
18 to his statement to you?

19 A. Originally was facing towards him and then turned
20 around and had his back to him.

21 Q. And said shoot me in the back?

22 A. Yes.

23 Q. What else did he state?

24 A. He stated that Buddy then turns around and runs
25 towards him and he shoots him. He said that he gave him two

1 warning shots up and to the right and then followed through
2 with seven shots. He had nine shots. He knew exactly how
3 many bullets were in the gun and how many he shot.

4 Q. Pursuant to this investigation did you determine the
5 type of weapon used?

6 A. All I remember was that it was a revolver.

7 Q. All right. And a revolver which held how many
8 shots?

9 A. Nine. He stated that the victim was walking and he
10 had his back to him and that Billy was backing up. He said
11 all the bullets were in the front. He said he should have
12 stayed under the house and let us get him, but he figured he
13 would face the music. He asked me, so he's dead? And I told
14 him yes. He was. He said that's good for his ass. He said
15 he did what he had to do to protect himself. And I believe
16 that was all that evening.

17 Q. All right. Did you have a chance to speak with him
18 after that night?

19 A. He did say one more thing. He asked me if the
20 victim had a gun. I told him that he did not. And then what
21 was your question?

22 Q. Did you go back --

23 A. One of the other statements that he made to me that
24 night was that he had asked me if the victim had a gun and I
25 told him he did not.

1 Q. Do you have page 2 of your report?

2 A. Yes, ma'am. That's what I'm looking at. That's
3 where it's written.

4 Q. Let's refer directly to page 2 of your report.

5 A. Yes, ma'am.

6 Q. What exactly did you write there?

7 A. I wrote, I asked him if the victim had a gun and he
8 said he didn't. That he was a bigger dude and that he was
9 scared of him. He said that Michael was not the one he shot.
10 He shot Danny or whoever threatened to kick his ass. He said
11 Danny threatened to kick his ass.

12 Q. You asked him if the victim had a gun and he said
13 that he didn't?

14 A. Yes, ma'am. Sorry.

15 Q. Now, when did you next have a chance to talk with
16 him?

17 A. The next day.

18 Q. Where did that take place?

19 A. The Lexington County Sheriff's Department in an
20 interview room.

21 Q. And how was he advised of his rights?

22 A. From an Advisement Of Rights Form.

23 Q. Do you have with you a copy of that form or the
24 original?

25 A. I have the original.

1 Q. All right. I'll hand you this and ask you whether
2 or not you recognize it?

3 A. Yes, ma'am.

4 Q. Is that a fair and accurate representation of the
5 original?

6 A. It is.

7 Q. All right. If I could take the original from you.
8 And whose signature is reflected on this document?

9 A. Mr. Geisendorff's, myself and Detective McCann.

10 Q. What's the date of the document?

11 A. 4/3/2014.

12 Q. What is the time in which your contact with him was
13 conducted?

14 A. 13:49.

15 Q. All right. So 1:49 in the afternoon?

16 A. Yes, ma'am.

17 Q. Now, can you tell us at this point in time if the
18 defendant, where he had been located during the night on into
19 the next day?

20 A. He was at the Lexington County Detention Center.

21 Q. So during this time between the night before and
22 when this interview was conducted 1:49 the next day, would he
23 have been under the influence of any alcohol?

24 A. No, ma'am.

25 Q. And you recognize your signature on this document?

1 A. I do.

2 MS. MAYES: This would be State's exhibit 11 and,
3 Your Honor, at this time we will pass a copy up to you
4 (proffering.)

5 THE COURT: Thank you.

6 BY MS. MAYES:

7 Q. Now, Detective Stoner, can you read for the record
8 exactly what Mr. Geisendorff was advised regarding his Miranda
9 Rights on the date of April 3rd, 2014 at the Lexington County
10 Detention Center?

11 A. Yes, ma'am. We conducted the interview at the
12 Sheriff's Department in an interview room and I read to him,
13 before we ask you any questions, you must understand your
14 rights. You have the right to remain silent. Anything you
15 say can and will be used against you in a court of law. You
16 have the right to talk to a lawyer for advice before we ask
17 you any questions and to have him or her present with you
18 during questioning. If you have no money for lawyer's fees,
19 the court will appoint one to represent you without cost if
20 you wish. If you decide to answer questions now without a
21 lawyer present, you will still have the right to stop
22 answering questions at any time. You also have the right to
23 stop answering questions at any time until you talk with a
24 lawyer. I have read this statement of my rights and I
25 understand what my rights are. Mr. Geisendorff then signed

1 that. I then read him the waiver of rights which states I am
2 willing to make a statement and understand - and answer -- I'm
3 sorry -- and answer questions. I do not want a lawyer at this
4 time. I understand and know what I am doing. No promises or
5 threats have been made to me and no pressures or coercion of
6 any kind has been used against me. And then Mr. Geisendorff
7 signed again.

8 Q. All right. Did it appear, Detective Stoner, that he
9 understood the rights as they were read to him?

10 A. Yes, ma'am.

11 Q. And he also, I believe your testimony is that he
12 acknowledged that there were no threats or promises or other
13 forms of coercion in order to obtain a statement?

14 A. Correct.

15 Q. Based upon your observations did his waiver of those
16 rights appear to be free and voluntary?

17 A. It did.

18 Q. How did you go about documenting any statements that
19 he made during this interview?

20 A. Handwritten notes.

21 Q. Do you have those notes with you today?

22 A. Yes, ma'am.

23 Q. Can you tell us what, if anything, he stated
24 regarding his use of alcohol that day?

25 A. He stated that he had had a vodka drink earlier in

1 the day and that he had also drank some beer.

2 Q. All right. What, if anything, did he state to you
3 about hiding in the woods?

4 A. He stated that he hid in the woods and could hear
5 Michael and Bobby talking about whooping his ass. He said he
6 was in the woods at the side of his trailer and that while he
7 was in the woods he called Donna and told her about Michael
8 and Bobby talking.

9 Q. All right. And what, if anything, did he state
10 about whether or not he was armed when he was in the woods?
11 Do you recall whether or not he made any statements?

12 A. He did make a statement that he had a gun with him
13 because he had made the statement that he had it in the woods
14 with him when he came out one time and hid it under a burn
15 pile and then went back and got it before the actual shooting
16 occurred.

17 Q. What, if anything, did he state to you about whether
18 he had taken any alcohol or the vodka into the woods with
19 him?

20 A. He may have taken the vodka in there with him.

21 Q. I'll refer you to item 53.

22 A. I'm not sure what you are referring to.

23 Q. On the summary.

24 A. Item 53 on the summary is, oh, he didn't go after
25 him with a gun. He grabbed a gun and Bobby came after him.

1 Q. All right. In reference to taking booze into the
2 woods with him?

3 A. He took booze into the woods with him and took a
4 couple shots of vodka equivalent to one jigger of vodka.

5 Q. All right. And that was while he was in the woods
6 and what is your understanding as to when that event, or how
7 that event flowed in time to the actual shooting where he came
8 out and eventually approached Donna Blanchett in the
9 roadway?

10 A. It was shortly before that.

11 Q. So just to summarize, his statement to you is that
12 he had the weapon with him and the vodka with him as he hid in
13 the woods?

14 A. Yes, ma'am.

15 Q. And he hid in the woods for what purpose?

16 A. To listen to what Michael and Bobby were saying.

17 Q. And your understanding of where that woods is
18 located in relation to the two residences at [REDACTED] and [REDACTED]
19 Cheryse Drive is what?

20 A. I'm sorry. Can you repeat that?

21 Q. What is your understanding of where that wooded area
22 is?

23 A. It's in between the [REDACTED] and [REDACTED] Cheryse.

24 Q. Did you ask him why he didn't just go home or why he
25 didn't want to stay in the house?

1 A. I did.

2 Q. What was his response to that?

3 A. I can't find his response in my notes right now.

4 You have to bear with me for just a moment.

5 Q. I'll refer you to item 46.

6 A. He said he didn't know why he didn't stay in the
7 house. Then he said that he didn't want to get stuck in the
8 house if Bobby came in there.

9 Q. So you asked him why he didn't just stay at home and
10 his response was that he didn't know why he didn't stay in the
11 house and he didn't want to get stuck in there?

12 A. Correct. Because I had asked him when he went
13 inside and asked for Donna, why he didn't just stay inside.

14 Q. You have reviewed the summary of the various
15 statements set forth in your supplemental report?

16 A. Yes, ma'am.

17 Q. Can you tell is whether or not it appears to be
18 a fair and accurate representation of your notations in your
19 supplemental report?

20 A. It does.

21 MS. MAYES: Your Honor, at this time we would mark
22 as a Court's exhibit for purposes of this hearing the
23 summary of the verbal statements.

24 MR. STITELY: No objection to them in this hearing,
25 Judge.

1 THE COURT: All right. It's in evidence.

2 BY MS. MAYES:

3 Q. Just to clarify, the statements that were made both
4 at the scene and then ultimately the next day during your
5 interview at the detention center were documented in your
6 handwritten notes and converted to supplemental reports?

7 A. Yes, ma'am.

8 Q. And provided pursuant to discovery in this case?

9 A. Yes, ma'am.

10 MS. MAYES: Nothing further.

11 MR. STITELY: Please the Court.

12 THE COURT: Yes, sir, Mr. Stitely.

13 CROSS EXAMINATION

14 BY MR. STITELY:

15 Q. Detective Stoner, who was the first person on the
16 scene to interact with my client, do you know?

17 A. It may have been Detective Booth.

18 Q. Were any statements taken prior to your speaking
19 with him that night to your knowledge?

20 A. Taken as in did he write any statements?

21 Q. No. Just in general did he talk to any of the other

22 --

23 A. He spoke to Detective Booth.

24 Q. Then how did you get handed over --

25 A. I saw him -- I saw the whole thing transpire. I saw

1 Mr. Geisendorff come out from underneath the house. He was --
2 The uniformed officer gave him verbal directions on what he
3 needed to do and then Detective Booth who at the time was a
4 master deputy on the road took custody of him and by the time
5 I got over there to him that's when he turned him over to me
6 but stayed there with me.

7 Q. Okay. Do you know who the first uniformed officer
8 was by chance?

9 A. It may have been Deputy Bair or Deputy Moore. I
10 don't remember. I wasn't the first on scene.

11 Q. No problem. I was just wondering. You spoke to him
12 that night. Was he aggressive in any way towards law
13 enforcement?

14 A. No.

15 Q. Threatening law enforcement in any way?

16 A. No.

17 Q. How would you describe his demeanor generally?

18 A. He was agitated.

19 Q. What do you mean by agitated?

20 A. He was yelling. He was cursing.

21 Q. Okay. Any physical manifestation of injury?

22 A. I believe he had scratches on his arms.

23 Q. Okay. Did he fight with law enforcement in any way,
24 shape or form?

25 A. No.

1 Q. Did he come compliantly when you arrested him?

2 A. I didn't arrest him, but I believe he was compliant
3 when he was handcuffed. Yeah.

4 Q. Then you, the next day, I guess, is when you do a
5 more thorough interview?

6 A. Correct.

7 Q. At that point he was in the detention center?

8 A. He was.

9 Q. Where exactly did you interview him?

10 A. In an interview room which is located at the
11 Sheriff's Department.

12 Q. The ones when you come in to the left you go down
13 the hallway?

14 A. Go through another door and there's two or three
15 interview rooms. It was in one of those rooms.

16 Q. Are they equipment with the ability to record the
17 conversations either audio or video?

18 A. They are not.

19 Q. They are not?

20 A. They are not.

21 Q. Do you as an officer have the ability to record
22 conversations either audio or video?

23 A. I have the ability to do audio. I believe they
24 supply cassette tapes.

25 Q. Was his interview by chance done that way?

1 A. It was not.

2 Q. Your notes indicate it was you and Investigator
3 McCann?

4 A. It was.

5 Q. Only really one other question about that. You
6 state, and I don't want to misquote you, I'm looking at your
7 notes, that you, and I'm on your page 5 of your supplement.

8 A. Okay.

9 Q. You stated that you read him his Miranda. He stated
10 he understood, read the waiver and he said that he wanted a
11 lawyer. How did that go down?

12 A. That he immediately said he would talk within
13 reason. I asked him to sign the Waiver Of Rights if he was
14 willing to speak with me without a lawyer which he then signed
15 the waiver.

16 Q. What was his exact statement about requesting a
17 lawyer or saying he wanted to have a lawyer?

18 A. I can't quote his exact statement. All I can say
19 was he said he wanted a lawyer. That's the best I can tell
20 you. I can't quote exactly what he said.

21 Q. No unequivocal terms, he said I want a lawyer?

22 A. He did and then immediately following said without
23 any further conversation from me, he immediately said that he
24 would talk within reason.

25 Q. Okay. In that setting he was clearly in custody?

1 A. He was.

2 Q. Not free to go?

3 A. Not free to go.

4 Q. Qualified in your mind as custodial interrogation?

5 A. Yes.

6 MR. STITELY: No other questions. Argue at the
7 appropriate time, Your Honor.

8 THE COURT: All right.

9 MS. MAYES: Briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Did he state to you how he got any cuts or scratches
13 on him?

14 A. From being in the woods.

15 Q. From the woods?

16 A. Yes, ma'am.

17 Q. And then to follow up on Mr. Stitely's last
18 question, after making the statement or reference to a lawyer,
19 did he appear to knowingly and voluntarily waive his right to
20 an attorney?

21 A. Yes, ma'am. He did by signing the form.

22 MS. MAYES: Nothing further.

23 MR. STITELY: No other questions, Judge.

24 THE COURT: Thank you, ma'am.

25 MS. MAYES: The State calls Detective Booth.

1 Thereupon,

2 BENJAMIN BOOTH

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: Benjamin Booth, B-o-o-t-h.

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. Detective Booth, where are you employed?

11 A. Lexington County Sheriff's Department.

12 Q. You're currently a detective?

13 A. Yes, ma'am.

14 Q. Can you tell us whether or not you were working as a
15 master deputy back on April 2nd of 2014?

16 A. Yes, ma'am. I was in the north region.

17 Q. Did you have the opportunity to respond to the
18 incident on Cheryse Drive?

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

20 Q. Can you tell us after you arrived at the scene what,
21 if any, contact you had with the suspect in this case Billy
22 Geisendorff?

23 A. Yes, ma'am. Once we were trying to locate him, we
24 had set up a perimeter around the residence of [REDACTED] Cheryse
25 Drive. Once K-9 arrived on scene, we were going to let them

1 approach the door. As soon as K-9 arrived I heard a noise
2 under the - what I believed to be in the residence. Turns out
3 it was under the residence. As I was going to chime up on the
4 radio advising I heard some movement, I heard a deputy call
5 out show me your hands. Get on the ground. Which are normal
6 verbal commands. I then came around the side or edge of the
7 house and detained Mr. Geisendorff.

8 Q. All right. So you were the first to actually detain
9 him there at the scene?

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

11 Q. Can you tell us at that point in time whether or not
12 he was making any statements?

13 A. He was. He was - he was loud. He was cussing and
14 saying that he was, had shot a man in self defense several
15 times.

16 Q. Were those statements the result of questioning
17 at that point or were they being made spontaneously?

18 A. Spontaneously. The only question I asked him prior
19 to or in between the time I was detaining him and got him to
20 Stoner was I asked him his name and that's it.

21 Q. All right. Ultimately were you at the scene when
22 Detective Stoner advised him of his Miranda Rights?

23 A. Yes, ma'am. I was standing right next to him.

24 Q. And when he waived those Miranda Rights?

25 A. Yes, ma'am.

1 Q. Ultimately who transported him from the scene to the
2 Lexington County Detention Center that night?

3 A. I did.

4 Q. Detective Booth, can you tell us whether or not you
5 documented any statements that were made by Mr. Geisendorff?

6 A. Yes, ma'am. I did in my supplemental report.

7 Q. Do you have that with you?

8 A. I do.

9 Q. I'm gonna refer you to the second page of your
10 supplemental report third paragraph. Do you have that
11 with you?

12 A. Yes, ma'am.

13 Q. Can you tell us whether or not Mr. Geisendorff made
14 several statements throughout the time you were with him?

15 A. Yes, ma'am.

16 Q. I'm going to ask you to read into the record exactly
17 what he stated to you and you can start with while you were
18 handcuffing him.

19 A. He stated, I just shot the man. The man was coming
20 at me.

21 Q. Okay. I'm going to need you to read directly from
22 your supplemental report.

23 A. Yes, ma'am.

24 Q. While handcuffing him.

25 A. While handcuffing him he stated that he knew why we

1 were there and he stated I just shot the man.

2 Q. Okay.

3 A. The only question I asked prior to Miranda was me
4 asking him his name.

5 Q. All right.

6 A. After speaking with Detective Stoner, Billy stated
7 several times that the man was coming at me and bigger than
8 me. I shot him in self defense. He was coming at me in the
9 road and got his hands on me. I got some distance and he came
10 at me again so I gave him his medicine and I bet he won't
11 challenge anybody else with his balls laying horizontal.

12 Q. All right. So the statement with his balls laying
13 horizontal was made from the defendant to you that night?

14 A. Yes, ma'am. It was made in my presence. It wasn't
15 made to me. It was just outlined.

16 Q. Please continue.

17 A. After we left the scene, I was transporting him to
18 LCDC, Lexington County Detention Center. He stated that he
19 was under the house with a 12 pack of Corona and I only drank
20 two before I figured I ought to come out and face it. He then
21 stated I should have stayed under there and finished the beer.
22 Y'all would never have found me. I had a revolver and I
23 wonder if I hit him all nine times with it.

24 Q. All right. I wonder if I hit him all nine times
25 with it. You heard that statement as well?

1 A. Yes, ma'am.

2 Q. What else?

3 A. And I'm glad he's dead. While getting him out of
4 the patrol car at the sally port he said if we was man to man
5 I would have whipped his ass, saying this confidently while
6 flexing his arms as if he tried to reach out and grab someone.
7 Billy went back and forth between he was afraid for his
8 safety. The man was coming toward him for confrontation and
9 he was cocky bragging about the fact he had just killed
10 someone.

11 Q. All right. So when you say, when you describe that
12 he was going back and forth, you mean you're referencing to
13 back and forth between self defense and being cocky?

14 A. Correct.

15 Q. How would you describe his overall demeanor when he
16 spoke of this incident?

17 A. Uhm, he would go back and forth between aggressive
18 and boastful and cocky and going between it was self defense
19 and it was, I put his dick in the dirt.

20 Q. You heard that statement as well?

21 A. Yes, ma'am.

22 MS. MAYES: Nothing further, Your Honor.

23 MR. STITELY: Please the Court.

24 CROSS EXAMINATION

25 BY MR. STITELY:

1 Q. Investigator Booth, at the time you were a road
2 deputy still?

3 A. Yes, sir.

4 Q. Driving a marked patrol car?

5 A. Yes, sir.

6 Q. In uniform?

7 A. Yes, sir.

8 Q. Were you equipped with body mics?

9 A. No, sir.

10 Q. Was your car equipped with camera equipment?

11 A. No, sir.

12 Q. Who did the transport back to Lexington County
13 with you?

14 A. Nobody did.

15 Q. Just you and him?

16 A. Yes, sir.

17 Q. Front seat or back seat?

18 A. Back seat in the cage.

19 Q. Cuffed in front of him or behind him?

20 A. Behind him. Seat belted.

21 Q. You said the first half of the statement you heard
22 prior to getting in the car, they were made in your presence
23 but not to you?

24 A. All of those statements were in my presence.

25 Q. Do you know why they are not indicated in the

1 detective's notes as things he said?

2 A. She wasn't always around me. She had to answer to a
3 lieutenant and a captain as well and other investigators.

4 Q. No recordings of any kind for you though?

5 A. No, sir.

6 Q. And you did no direct questioning, correct?

7 A. No, sir. The only question was his name.

8 MR. STITELY: Yes, sir. Nothing further from this
9 witness, Judge.

10 MS. MAYES: Nothing further from the State, Your
11 Honor.

12 THE COURT: Thank you, Detective Booth.

13 MS. MAYES: That's all from the State, Your Honor.

14 THE COURT: All right. Mr. Stitely.

15 MR. STITELY: Your Honor, may I have one second
16 please, Your Honor.

17 THE COURT: Yes, sir.

18 MR. STITELY: Your Honor, I don't think we have a
19 position regarding any statements allegedly made at the
20 scene prior to any interrogation at this point. I would
21 seek the suppression of any statements made after he did
22 say he wanted a lawyer it sounded like and the officer's
23 own admission was unequivocal declaration he wanted
24 counsel. I think it should stop at that point without
25 anything going further. Any other statements after that

1 should be suppressed.

2 THE COURT: Thank you.

3 MR. STITELY: Thank you, Judge.

4 MS. MAYES: Your Honor, the testimony is that he
5 then gave a knowing and voluntary waiver of his rights
6 after making that initial statement and that he continued
7 to make boisterous and spontaneous statements throughout
8 that night and the waiver occurred at the scene after
9 being advised of his rights by card and then the
10 following day the waiver was done in the format of a
11 written form which he acknowledged and signed.

12 MR. STITELY: To clarify, Judge, I don't have a
13 problem with that night's statements. I'm only
14 specifically talking about the ones after in the
15 interrogation room where he was not free to go. He said
16 he wanted a lawyer.

17 THE COURT: Right.

18 MS. MAYES: He reinitiated the conversation, Your
19 Honor, was the testimony and then signed a waiver form.

20 THE COURT: The defendant invoked his right to
21 counsel at the second interview, the one the next day,
22 Mr. Stitely is intending to be suppressed, however, the
23 State has proven beyond a reasonable doubt that the
24 defendant later on his own initiative voluntarily resumed
25 the interview and was only interrogated after he had

1 knowingly and intelligently and voluntarily waived his
2 right to counsel. I find the State has proven the waiver
3 beyond a reasonable doubt. I find the statements of
4 Detective Booth and Detective Stoner to be credible and I
5 find that there was no Fifth or Sixth Amendment violation
6 and the statements are admissible for the jury to
7 consider.

8 MS. MAYES: Your Honor, the only other matter that
9 comes to mind at this stage is a motion in limine by the
10 State to limit any reference by defense counsel, to
11 anything regarding the victim's prior history. Your
12 Honor, he did have a 1994 conviction for criminal
13 domestic violence so it would have been 20 years before
14 this event and if there is any other matters that the
15 defense intends to offer or pursue we just want to take
16 those up at this time.

17 I believe he also he had a 2002 conviction for a
18 weapon which would have been 12 years earlier. Your
19 Honor, those events do not involve this defendant and
20 were not relevant to any of the interactions with this
21 defendant whether previously or on the night of the
22 shooting.

23 MR. STITELY: Your Honor, as far as clarification,
24 he does have a 2004 conviction for unlawful carrying of a
25 weapon to which he got a year with a year's probation.

1 That conviction happened on 4/28/2004 within ten years of
2 this event. It happened back in 2014. It's proof that
3 he carried a weapon. Additionally, Judge, and I can't
4 tell you what it's for, but it looks like he had a
5 probation violation and/or revocation in October of 2006,
6 and then looking at his jail booking sheets it shows
7 arrests for the sale of cocaine in 2011. I'm not sure
8 about a disposition on that. I just see it on his jail
9 booking of a sale of cocaine from 2011. But I wouldn't
10 have the ability to tell you exactly what happened. That
11 would be the State's case.

12 MS. MAYES: That is not a conviction, Your Honor.
13 There is no conviction for sale of cocaine in 2011 and
14 then the 2002 unlawful weapon that I mentioned, 2002 was
15 the arrest date, but I do see that the actual conviction
16 date on that was 2004. And again, Your Honor, that
17 weapon charge which the offense date would have been 2002
18 did not involve this defendant in any way and there's no
19 allegations that the victim was armed that night. There
20 will be sufficient testimony on the record that from the
21 first responder at the scene that the victim was unarmed.
22 Even the defendant in his verbal statement to Detective
23 Stoner stated that the victim was unarmed. With that
24 being the case I can't imagine how that would be relevant
25 that ten years earlier he had a weapon charge when the

1 defendant based on his own admission to Detective Stoner
2 was aware that he was not armed and there's never been an
3 allegation that he was armed.

4 THE COURT: Are we talking about the admissibility
5 of the 2004 conviction of the victim?

6 MR. STITELY: Yes. The victim, Judge. The only
7 thing he had is that 2004 unlawful carrying of a weapon.
8 There's also a 2006 grand larceny which he got a year's
9 probation it looks like. I don't know how super relevant
10 a grand larceny would be to this case because he won't be
11 testifying. But the weapon charge is within ten years.
12 My client is being threatened by an individual who was
13 convicted for carrying a weapon unlawfully.

14 THE COURT: How is it going to come up? I'm unclear
15 on that.

16 MR. STITELY: If my client was, and I'm not saying
17 it will come up directly, but potentially if my client
18 was to testify that this is the reason I was afraid of
19 him because I knew he had prior gun charges and you heard
20 the 911 call, the other gentleman saying I'm a felon and
21 I have firearms, I think that could be relevant as to my
22 client's state of mind if he were to testify. I guess
23 that's a we'll cross that bridge when we get there kind
24 of thing, Judge.

25 THE COURT: All right. Well, if your client chooses

1 to testify, do you intend to elicit that or feel the door
2 has been opened to elicit it after the State cross
3 examines your client, if y'all would just let me know you
4 wish to go into that and we can revisit it at that time.

5 MR. STITELY: Yes, sir.

6 MS. MAYES: Yes, sir, Your Honor. I believe that
7 would be all from the State at this point in time, Your
8 Honor.

9 MR. STITELY: I don't have any other pre-trial,
10 Judge.

11 THE COURT: So we'll be ready for the opening
12 statements at 9:00 or 9:30?

13 MS. MAYES: 9:30 is when the jury is coming back.

14 THE COURT: And how long is the trial anticipated to
15 last?

16 MS. MAYES: Through Friday, Your Honor.

17 THE COURT: Okay. Do you agree with that?

18 MR. STITELY: We'll see, Judge. It depends on how
19 many of their witnesses, they have got 30 some witnesses
20 listed. It kind of depends on how many they go through.

21 MS. MAYES: We in reality expect, Your Honor, I
22 believe about 10 to 12, some of which would be chain
23 witnesses and ultimately if there is any type of
24 stipulation as to chain, that may speed some things
25 along.

1 MR. STITELY: As you heard, Judge, this is a
2 straightforward trial. I think it's going to flow pretty
3 quickly. ,

4 THE COURT: Well, maybe we can effectively use the
5 time. If you need me to help streamline anything, I'll
6 be glad to do it, but we'll take as much time as we need
7 certainly and we'll see y'all at 9:30 in the morning.
8 Thank you.

9 MS. MAYES: Thank you, Judge.

10 MR. STITELY: Thank you, Judge.

11 (Whereupon, court was adjourned for the day at 4:00
12 p.m.)

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1 SEPTEMBER 7, 2016

2 MS. MAYES: Your Honor, there has been a redaction
3 to the 911 audio in that the reference of the caller that
4 he was a convicted felon has been redacted. Just
5 informing the Court. Defense counsel is already aware.
6 The conviction at issue is a grand larceny conviction
7 which is over ten years in age.

8 THE COURT: Okay. Mr. Stitely.

9 MR. STITELY: My guess is Your Honor wouldn't want
10 me getting into a 24-year-old grand larceny conviction.
11 If those are the only words taken out, that's not a
12 problem.

13 THE COURT: Yes, sir. Okay. Thank you. All right.
14 Y'all ready for the jury?

15 MS. MAYES: Yes, sir, Your Honor.

16 MR. STITELY: We are, Judge.

17 MS. MAYES: We are ready, Your Honor.

18 THE COURT: Okay.

19 (Whereupon, the jury entered the courtroom at 9:47
20 a.m.)

21 MR. STITELY: Judge, may we approach for half a
22 second.

23 THE COURT: Sure.

24 (Side bar off the record.)

25 THE COURT: All right. Good morning. I'm Gary

1 Hill. I'm the Circuit Court Judge that will actually be
2 trying this case. I understand Judge Griffith was here
3 yesterday and actually presided over the jury selection,
4 but that was due to a conflict that I had back in
5 Greenville yesterday which is my home circuit. But I'm
6 glad to be here this week in Lexington serving with
7 y'all. I thank you for your service this week. I know
8 it was an inconvenience for you to come down to the
9 courthouse yesterday. You probably groaned when you got
10 the summons in the mail. I know you're here in part
11 because you understand and appreciate and respect the
12 fact that the right to a jury trial is a fundamental
13 right in our country. It's guaranteed not only by the
14 state and federal constitutions, but by three of the
15 first ten amendments to the U.S. Constitution or the Bill
16 of Rights. So that's how strongly our founders felt
17 about the right to a jury trial and you're making that
18 right a reality here today for these parties. So before
19 we get going too far, I'm going to ask the clerk to
20 administer the oath to you. Listen very carefully to the
21 words of the oath because they have been around a long
22 time and they tell you in a nutshell what your job is as
23 a juror and then I will amplify on that after you have
24 taken the oath. Yes, ma'am.

25 (Whereupon, the jury was duly sworn by the Clerk of

1 Court at 9:50 a.m.)

2 THE CLERK: Please have a seat. Was any juror
3 unable to take the oath as it was administered?

4 (No response from the jury.)

5 THE CLERK: All jurors are under oath, Your Honor.

6 THE COURT: So any time we have a trial in Circuit
7 Court with a jury, there's always two judges. There's
8 the judge of the law which is the job that I discharge
9 and there's the judge of the facts which is the job that
10 you do. I'll tell you about my job first because it's
11 much easier than yours. As the judge of the law I have
12 two main responsibilities. The first is to rule on the
13 admissibility of evidence. If there is an objection to
14 evidence during the course of the trial, it's my job to
15 determine whether that evidence can be heard by you based
16 on the law and I will do that usually in open court.
17 Sometimes if things get a little tricky, we have to take
18 a break and discuss it. But nevertheless that's my first
19 job is to rule on the admissibility of evidence under the
20 law.

21 The second job I have as the judge of the law is to
22 charge you on the law that applies to the facts of this
23 case and I'll do that at the end of the trial after you
24 have heard all of the evidence and the arguments of the
25 lawyers.

1 Your job, as I said, is much more difficult. Your
2 job is to be the judge of the facts and the constitution
3 of our state doesn't allow me to suggest what I think the
4 facts are in this case or what your verdict should be.
5 That's entirely your prerogative. So how do you
6 determine what the facts are? You do that by weighing or
7 evaluating the evidence that you're going to hear during
8 this trial.

9 The evidence consists of two sources, sworn witness
10 testimony and exhibits. Keep in mind during this trial
11 that nothing else is evidence. That's the only thing
12 that can be used to determine what the facts are, sworn
13 testimony and exhibits.

14 We have excellent lawyers in this case and they are
15 going to be making in just a moment opening statements to
16 you. You should listen very carefully to what the
17 lawyers say throughout this trial because they're trying
18 to help you understand the evidence. But bear in mind
19 that because they are not witnesses, what they say is not
20 evidence in itself. So keep that in mind.

21 As the judge of the facts you will have to by
22 necessity determine the credibility of the evidence
23 during this trial so that means for every witness who
24 testifies and every exhibit that's submitted you will
25 have to gauge its believability and you as the judge of

1 the facts are also the sole judge of the credibility of
2 all the evidence so keep that in mind as well.

3 Now, how many of y'all have sat on a jury in a
4 criminal case before? Just raise your hand. Okay. Two.
5 Some of you may know from your own experience a little
6 bit about how criminal trials work, but the first thing I
7 want to tell you is that there are some important
8 principles that apply to this trial because it is a
9 criminal trial just as any other criminal trial. And the
10 first is the defendant in this case has pled not guilty
11 to the indictments and that means that the burden of
12 proof is entirely on the State.

13 Mr. Billy John Geisendorff, the defendant, has been
14 charged with murder and possession of a weapon during a
15 violent crime in these indictments. These indictments,
16 ladies and gentlemen, are not evidence. They are not
17 witnesses. They are not exhibits. An indictment is
18 simply the way that a case is begun against a citizen and
19 let's the citizen know what he's being charged with and
20 it allows the State to come in the doors of this
21 courtroom and begin its case against the citizen. So
22 these are simply allegations and that's all they are.
23 You cannot take them into account for anything other than
24 that fact.

25 Now, Mr. Geisendorff pled not guilty and he is

1 presumed innocent and that presumption of innocence
2 remains with him throughout this trial and even into your
3 deliberations and it can only be removed if you the jury
4 find unanimously that the State has proven each and every
5 element of each crime beyond a reasonable doubt. That's
6 the burden of proof in a criminal trial.

7 Mr. Geisendorff has no burden. He doesn't have to
8 offer any evidence or explanation whatsoever and it is
9 the State's sole burden to prove guilt and they must
10 prove it beyond a reasonable doubt.

11 Now, when I was mentioning to you about credibility,
12 I will give you some guidelines that you may choose to
13 use when you're evaluating the witnesses who testify for
14 their believability. First of all, you can consider what
15 interest the witness may have in the outcome of this
16 case. You may consider whether they have some bias or
17 prejudice against someone or some issue involved in the
18 case. You may consider what opportunity the witness had
19 to observe the things that they are here to tell you
20 about. You may consider how their testimony stacks up
21 against the other evidence in the case whether it's
22 consistent or inconsistent. You may consider their
23 demeanor while they're testifying. You may use whatever
24 you use in your day to day life to determine whether
25 someone or some thing is worthy of belief because your

1 common sense didn't evaporate when you walked into the
2 Lexington County Courthouse.

3 Now, this trial is expected to last several days.
4 Regardless of how long or short it is, it is an important
5 day for both the State and Mr. Geisendorff. This is
6 their day in court. I know you will give them fair and
7 impartial consideration just as you promised to do in the
8 oath and I know that you will keep an open mind
9 throughout this trial.

10 Trials are often like jigsaw puzzles and the lawyers
11 have to present them one piece at a time so don't start
12 talking about the case until the very end after you have
13 heard all the evidence, after you have heard the closing
14 arguments, and after you have been given the law that you
15 are to apply to the facts of the case because only then
16 will you have all the pieces you need in the box to
17 complete the puzzle.

18 Now, you may know from your own experience and those
19 of you who have sat on criminal cases before, a little
20 bit about the structure of a criminal trial, but let me
21 just tell you about that to kind of help demystify the
22 surroundings for you.

23 In just a minute you're going to hear the opening
24 statement of the Solicitor which is as we know in South
25 Carolina the prosecutor and the prosecutor will give a

1 brief summary of what they think the evidence will be in
2 the case and what the issues are. Then that defense will
3 have the opportunity but not the obligation to give an
4 opening statement as well because remember the defense
5 has no burden of proof. And then after you have heard
6 the opening statement or statements, we'll move to the
7 evidence portion of the trial where the State will begin
8 its presentation of evidence because they bear the burden
9 of proof again, and the defense may confront the State's
10 evidence by cross examination or otherwise, and then
11 after the State completes their presentation of evidence,
12 the defendant has the opportunity but again not the
13 obligation to present any evidence he wishes to which the
14 State may confront, and then after you have heard all the
15 evidence, we'll have the closing arguments of the lawyers
16 where they tell you what they think the evidence showed
17 and what your verdict should be, and then I'll give you
18 the instruction on the law and then you will begin your
19 deliberations and you will apply the law I gave you to
20 the facts as you find them and you will ultimately reach
21 a verdict.

22 So as I said, it may last several days and we
23 appreciate your patience. I know it's hard to sit there
24 and keep attention sometimes. Believe me I can empathize
25 with that, but try to keep close attention throughout the

1 trial. We'll try to take breaks about every hour and a
2 half or two hours. If someone needs a break before that,
3 just raise your hand or get the attention of me or the
4 bailiff and we'll certainly accommodate you but do try to
5 pay close attention knowing that your job is to closely
6 scrutinize the credibility of the witnesses. And as we
7 all know, it's right when we start letting our minds
8 wander that something important happens so please try to
9 stay fresh and attentive.

10 Now, the lawyers in the case are advocates. They
11 are going to do their best to zealously represent their
12 client's interest. You and I, ladies and gentlemen, are
13 not advocates or partisans for either side. Our job is
14 to be fair and impartial. Your job is to determine the
15 facts of the case and determine whether the State has met
16 its burden of proof. So we are judges and as I said I
17 know you will give each side fair and impartial
18 consideration. So thank you for your attention to me and
19 now we'll have the opening statement by the State.
20 Mr. McNair.

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

23 About 12 minutes before the defendant unloaded his
24 revolver on Bobby Christofoli, he called his girlfriend
25 Donna Blanchett and told her that he had a bead on them

1 and that he could take them out now. 12 minutes later
2 Bobby Christofoli lay dead in the middle of the road with
3 four shots, one in the back. This fatal encounter was
4 just the culmination of what the defendant had been
5 trying to provoke all day long. On April 2nd, 2014 he
6 was itching for a fight. He wanted to fight Bobby's
7 friend Mike Williams. Mike had said something about the
8 defendant's girlfriend the day prior that made him mad so
9 on the day of the murder the defendant had been drinking
10 vodka early that day. He started getting himself all
11 worked up about that comment that Mike had made so he
12 called Mike as Mike was getting off work and told Mike to
13 come up to Donna's house when he got off work.

14 Mike knew the defendant was drunk. Knew he wanted
15 to fight. Told him he wasn't coming up there. The
16 defendant wouldn't take no for an answer. He kept
17 calling Mike repeatedly as Mike was driving home telling
18 him to come up to Donna's house and see him to fight when
19 he got home. Mike and Bobby had been working that day at
20 a job site in Eastover. They both work construction.
21 They had just gotten off a ten hour shift around 5:30
22 when the defendant first called Mike. Bobby was driving
23 Mike home that day. It was April. It was a nice day.
24 They decided to pick up some beer on the way home to
25 drink at Mike's house when they got home.

1 In order to get to Mike's house they have to pass by
2 Donna Blanchett's house where the defendant lived. As
3 they passed by Donna's house the defendant is already out
4 in the yard waiting on them to get home gesturing to them
5 with his arms in the air. They ignore him. They
6 continue down to where Mike's house is. As soon as they
7 get out of the truck they can hear the defendant in Donna
8 Blanchett's yard yelling obscenities towards them,
9 taunting them, trying to get Mike to go up the road to
10 fight.

11 After a while, hearing this for a while, Bobby
12 decided he's heard enough. He walks up the road to where
13 he can see into Donna Blanchett's yard and sees the
14 defendant. He tells the defendant to shut up. He says
15 if you want to fight, come out in the road and fight.
16 At that point the defendant walked towards Bobby. They
17 exchanged some words. The defendant flashed a gun at
18 Bobby. Bobby then goes back down to Mike Williams'
19 house. While this was going on Donna Blanchett had been
20 on the porch. When she saw Billy, the defendant, walking
21 towards Bobby, she had gone back in the house because she
22 was scared of what might happen.

23 At some point after that the defendant goes back to
24 Donna's house. She sees her late husband's pistol on the
25 porch. She tries to hide it from the defendant. When he

1 sees it's gone, he says, bitch, don't you ever take that
2 gun away from me again. She tells him where the gun is.
3 He goes and gets it, a bottle of vodka and her cell phone
4 and then goes out into the woods.

5 There's a strip of woods between where Donna
6 Blanchett and the defendant live and where Mike Williams
7 lived with Donna's daughter Lynn. The houses are about a
8 hundred yards apart. They're on the same piece of
9 property. The strip of woods in between. The next time
10 Donna hears from the defendant he's calling her on her
11 house phone from her cell phone. He calls her
12 periodically over the course of about an hour as he's
13 hiding in the woods with a gun spying on Mike Williams
14 and Bobby having a beer beside Bobby's truck.

15 The last call she receives from the defendant is
16 when he tells her I've got a bead on them and I can take
17 them out now. Obviously that concerns her enough that
18 she gets dressed, she goes outside to try and defuse the
19 situation. She walks down to Mike's house where Bobby
20 and Mike are. She asks them what are they talking about.
21 They say we're just talking about work. She leaves,
22 starts walking back up the road to her house.
23 At that point the defendant comes out of the woods,
24 confronts her, asks what they're talking about. She says
25 they're just talking about work. He doesn't believe her.

1 He starts getting belligerent and loud. At that point
2 Bobby hears the commotion. He starts walking back up the
3 road towards where Donna and the defendant are. Donna
4 then hears the defendant say something about a gun and
5 she takes off running towards Mike Williams' house. By
6 the time she gets down to Mike Williams' house less than
7 30 seconds later, she starts hearing shots.

8 Bobby was dead in the middle of the road unarmed
9 with no evidence of any type of physical altercation.
10 The defendant didn't call 911. He didn't report what
11 happened. He is found over an hour later hiding under
12 Donna Blanchett's house with a case of Corona and a .22
13 revolver with all nine rounds having been fired. He's
14 charged with murder, possession of a weapon during
15 commission of a violent crime.

16 Murder is the killing of another with malice of
17 forethought. It's one of simplest definitions in the
18 law. Malice is ill will, hatred or hostility towards
19 another person. We obviously can't dissect somebody's
20 brain to determine what they were thinking so it's
21 provable by the facts and circumstances surrounding the
22 murder. It's provable by comments like I've got a bead
23 on them. I can take them out now.

24 The burden of proof in a criminal case is beyond a
25 reasonable doubt. Everybody has heard that. I'm going

1 to talk about it now because a lot of people have
2 misconceptions about what that term really means. It
3 does not mean that we have to prove things to you to an
4 absolute certainty. There's very few things, if
5 anything, that we can know to an absolute certainty in
6 this world. What it means is that you are firmly
7 convinced of the defendant's guilt based on the evidence
8 at the end of this trial and if you are, you just took an
9 oath to find the defendant guilty.

10 As I stand here right now I have no idea what the
11 defense may or may not bring up. They don't have to say
12 a word. They can sit there in silence during this whole
13 trial and the burden of proof is on us and we welcome
14 that. But, ladies and gentlemen, if you hear anything
15 about self defense, I want to go ahead and talk about
16 what self defense is right now.

17 Self defense, the law of self defense is to protect
18 those who are forced to protect themselves. It is not to
19 protect those who what the law terms bring on the
20 difficulty. What that means in laymen's terms is you
21 can't provoke a fight, then shoot somebody and claim self
22 defense. You can't yell obscenities at somebody, taunt
23 them to fight and then shoot them when they tell you to
24 shut up. It also means the defendant has to -- Before I
25 move onto that, I want you throughout this trial to ask

1 yourself was the defendant without fault in bringing on
2 this difficulty? Ask yourself that throughout this
3 trial.

4 The defendant also has to reasonably believe he was
5 in imminent danger of losing his life or sustaining
6 serious bodily injury. By all accounts Bobby Christofoli
7 was unarmed. You ask yourself throughout this trial
8 would a reasonable person have feared death or serious
9 bodily injury.

10 Thirdly, the defendant has to have no other means of
11 avoiding the difficulty. He has a duty to retreat if he
12 can do so. Ask yourself how many opportunities did this
13 defendant have to avoid this situation.

14 Bobby Christofoli made a bad decision that night
15 when he decided to tell a drunk man with a gun to shut
16 up, okay? But that does not justify or give this
17 defendant the right to take his life. I suspect Bobby
18 didn't really think this defendant would pull the
19 trigger. He thought he was just a blow hard, but he was
20 absolutely willing to pull the trigger. He had made up
21 his mind at least 12 minutes prior that he was willing to
22 pull that trigger and when he got the opportunity to do
23 so, he pulled it all nine times. All that rage and
24 malice that he had built up for Mike Williams was
25 unleashed on Bobby Christofoli.

1 I'm about to sit down, ladies and gentlemen. All I
2 can ask is that throughout this trial that you use your
3 common sense. Just like you do in your everyday lives
4 use your common sense to determine what's reasonable and
5 what's not. What's fact and what's fiction. At the end
6 of this trial we'll come back before you and we're gonna
7 ask you to return a verdict that speaks the truth. Find
8 this defendant guilty as charged.

9 THE COURT: Thank you, Mr. McNair. Mr. Stitely.

10 MR. STITELY: Please the Court, Your Honor.

11 Hi. My name is Ben Stitely. I'm a private practice
12 lawyer. My office is right across the street Williams,
13 Stitely and Brink. Sitting with me is my law partner
14 Theo Williams and Mr. Geisendorff. I may not be quite as
15 elegant as Mr. McNair, but it's my turn to tell you just
16 a little bit about how we see the case going.

17 I hate to tell you, this isn't going to be like an
18 episode of Law and Order. Law and Order was my favorite
19 show when I was going to law school. You have a scene of
20 a crime and you flash away and you spend the entire rest
21 of the show figuring out who did it, how did they do it,
22 when did they do it, where did they do it, why did they
23 do it. This case a lot of that is cut out. You have one
24 real question that you're gonna be asked. Why? Why did
25 it happen?

1 The Solicitor's Office got up here and said two
2 things to you at the very end. Mr. Christofoli made a
3 mistake when he told that drunk man with a gun to shut
4 up. Get in this street so I can beat your ass and F you
5 up. My client didn't say that. You will hear witnesses
6 say that Mr. Christofoli said that to my client.
7 Mr. Christofoli said get out here so I can beat you up,
8 boy. That would be the first time you heard from him?
9 Oh, no. You're gonna hear testimony the first time he
10 came down the hill he got into a fight with my client.
11 Started arguing with him. Someone was asked to leave the
12 property that night by the property owner, Ms. Donna that
13 you heard about. The testimony will tell you it was Mr.
14 Christofoli who was asked to leave the property that
15 night for being inappropriate, not my client.

16 You will hear testimony that at some point Mr.
17 Christofoli was heard if you're gonna show me that, you
18 better be using it. Did he tell a drunk man to shut up?
19 Or did he threaten to beat his ass in the middle of the
20 street and force his hand to defend himself the only way
21 he could?

22 The Solicitor brought it up. The reason this all
23 started was because Mr. Williams was calling his
24 girlfriend's mom some utterly and completely
25 inappropriate things. I'll let him tell you the words

1 during his testimony because I don't think they're
2 appropriate for me to say to you now. And Mr.
3 Geisendorff said you need to come down here and
4 apologize. That's what this started about was asking
5 someone to apologize for using language which I think you
6 will find completely deplorable towards his girlfriend's
7 mother. And instead of coming down and apologizing, you
8 will hear that Mr. Christofoli, a man who is
9 significantly larger, bigger and stronger than my client
10 came down not once but at least two times to threaten to
11 beat him up and caused a problem. Was asked to leave and
12 didn't leave.

13 My client lived there. It was his house. He had
14 every right to be there. Mr. Christofoli was a drunken
15 guest, friend of Mr. Williams who was cussing at his
16 girlfriend's mother. And instead of coming down to
17 apologize, they came down to beat him up. My client had
18 to shoot. No who. Mr. Geisendorff pulled the trigger.
19 There is no how. It was a .22 caliber revolver. You
20 will learn about it. The why is why we are here.

21 It's hard to sit in judgment of another and as you
22 sit there as a jury you're gonna have to listen to the
23 facts in this case. It's not what I say. It's not what
24 Mr. McNair says. It's not what Ms. Mayes says. We are
25 just talking because that's what lawyers do. The people

1 who sit in that stand are gonna give you the facts that
2 you have to consider and when you sit there wonder to
3 yourself why are certain things omitted when the State
4 gets up hear and says he just told a drunk man to be
5 quiet. Not that he said he was gonna beat him up and to
6 come out into the road so he can quote "F him up." That
7 wasn't said but you will hear it from the witness stand.
8 The evidence from that stand.

9 When law enforcement came, my client admitted to
10 what had happened. Told them the story. Didn't fight
11 with law enforcement. Told them exactly what happened.
12 Listen as the witnesses testify. Listen to how they
13 remain consistent to what they said that night when
14 interviewed by law enforcement. What they said to law
15 enforcement in subsequent interviews and listen to what
16 they say from the witness stand.

17 At the end of the day it comes down to a simple
18 question in this case and it's one question and that is
19 all. Did Mr. Geisendorff have the right to defend
20 himself from an aggressor who was larger, stronger, drunk
21 and threatening him to F him up on the side of the road
22 on his own property after the other gentleman was told to
23 leave? Please listen to the facts. That's all we ask.
24 Thank you.

25 THE COURT: Thank you, Mr. Stitely. You may call

1 your first witness.

2 MS. MAYES: The State calls Cari Reinberg.

3 Thereupon,

4 CARI REINBERG

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

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

9 THE WITNESS: My name is Cari Reinberg,
10 R-e-i-n-b-e-r-g, and I work for Lexington County.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. All right. Can you give us a little bit more
14 information about yourself. Again, what is the name of the
15 county agency that you work for?

16 A. I work for Lexington County communications.

17 Q. All right. I need you to speak up a little bit
18 louder. You may have to pull that microphone a little closer
19 to you. I'll need you to lean in maybe about an inch or an
20 inch and a half away. Again, what is the name of the county
21 agency you work for?

22 A. Lexington County 911.

23 Q. All right. What are your job responsibilities
24 there?

25 A. I'm the 911 systems administrator. I maintain and

1 configure the technologies of the 911 that the center uses.

2 Q. Now, when you talk about the 911 center, let me ask
3 you what exactly is the 911 center in relation to what's known
4 as county dispatch?

5 A. It's the same. We receive 911 calls.

6 Q. So what we know as county dispatch is the
7 communication center?

8 A. Correct.

9 Q. And can you tell us whether or not you are
10 responsible for dispatching law enforcement officers to
11 certain crime scenes?

12 A. Yes. We are.

13 Q. What about EMS?

14 A. EMS and fire service.

15 Q. All right. Now, as a result of your occupation
16 there at the Lexington County Communication Center can you
17 tell us whether or not there are audio recordings of 911
18 calls?

19 A. Yes. There are.

20 Q. Can you tell us whether or not the audio recordings
21 are maintained in the ordinary course of business?

22 A. Yes. They are.

23 Q. Can you tell us whether or not you act in the role
24 of custodian of records in that regard?

25 A. Yes. I do.

1 Q. Now, I want to take you specifically to the date of
2 April 2nd, 2014. Pursuant to a request in this case have you
3 had the opportunity to review any calls to a location on
4 Cheryse Drive?

5 A. Yes. I have.

6 Q. Are you able to see this from where you are?

7 A. Yes.

8 Q. All right. I want to start by asking you
9 specifically on the date of April 2nd, 2014 what, if anything,
10 do you have regarding a call made from a Donna Blanchett?

11 A. I have a 911 CAD incident report.

12 Q. When you say CAD, you're referring to?

13 A. Computer added dispatch.

14 Q. Okay. So in addition to actually recording the
15 calls that you have already told us about, do you also have
16 the means to enter information for each call received?

17 A. Yes. We do.

18 Q. Can you tell us whether or not that includes the
19 number that is making the call?

20 A. Yes. It is.

21 Q. So you know who is making the call? You know the
22 number that's being called out to 911?

23 A. Correct.

24 Q. Can you tell us whether or not you're able to
25 determine if it's a landline?

1 A. Yes. We are.

2 Q. How are you able to determine that?

3 A. It displays the address and the name of the
4 residence.

5 Q. All right. Now, I asked you specifically about a
6 Donna Blanchett. I'm going to write that name here. And what
7 you called the CAD sheet, the computer generated information,
8 does it reflect whether or not a call was received from a
9 Donna Blanchett?

10 A. It does.

11 Q. All right. What was the time associated with that
12 call?

13 A. 19:22.

14 Q. 19:22 in military time. What time would that be to
15 people like me?

16 A. 7:22 p.m.

17 Q. 7:22 p.m. Now, if you get a call and the caller
18 says anything at all however brief, is it documented?

19 A. It is.

20 Q. What happens if a call is made and the person says
21 nothing at all and then hangs up?

22 A. That is actually documented as well as a 911 hang
23 up.

24 Q. So that's considered a 911 hang up and you keep a
25 record of those too?

1 A. Yes. We do.

2 Q. This call at 7:22, what type of call was that?

3 A. It was a 911 hang up.

4 Q. So this was a hang up. If the caller had said
5 anything at all, would you have a record of that on the
6 document that you have?

7 A. Yes. We would.

8 Q. Was anything stated from the caller?

9 A. No.

10 Q. Okay. So what can you tell us about the policy or
11 procedure there at 911 dispatch if you do get a hang up call?
12 What do you do next?

13 A. We immediately return the call to make sure that
14 everything is okay.

15 Q. All right. So your dispatcher then returns the call
16 to the number that it came from?

17 A. Mm-hmm.

18 Q. For what reason do you guys do that?

19 A. To make sure that they don't need emergency
20 assistance.

21 Q. All right. In this particular case what number was
22 the call made from?

23 A. It was placed from 803-892-[REDACTED].

24 Q. And based on the information before you and in your
25 system can you tell us whether or not that's a cell phone or a

- 1 landline?
- 2 A. That's a landline.
- 3 Q. That's a landline. When you have a landline, is it
- 4 affiliated with a certain address?
- 5 A. It is.
- 6 Q. What is the address it's affiliated with?
- 7 A. [REDACTED] Cheryse Drive.
- 8 Q. [REDACTED] Cheryse Drive. And what name is associated with
- 9 that residence?
- 10 A. Buck and Donna Blanchett.
- 11 Q. Okay. Buck and Donna Blanchett. So in this
- 12 situation did your dispatcher call back?
- 13 A. Yes.
- 14 Q. Upon calling back what type of call was this
- 15 determined to be?
- 16 A. Accidental.
- 17 Q. Accidental. And that's noted on your report?
- 18 A. It is.
- 19 Q. Now, what, if any, additional calls did you receive
- 20 in the area of Cheryse Drive on the date of April 2nd, 2014.
- 21 A. A call for assistance for a stabbing/gunshot
- 22 wound.
- 23 Q. All right. Gunshot wounds and stabbings, do they
- 24 come under the same code?
- 25 A. They do.

1 Q. Okay. Gunshot wound. And again, do you have
2 with you what you call the CAD sheet that has all the
3 information affiliated with that call?

4 A. I do.

5 Q. What time was that call made to 911?

6 A. 20:58.

7 Q. And that would be?

8 A. 8:58 p.m.

9 Q. 8:58 p.m. Who was the caller who called in this 911
10 call at 8:58 p.m. for the gunshot wound?

11 A. Michael.

12 Q. And if it's an emergency call such as a shooting, do
13 you necessarily get all the information concerning last name,
14 that sort of thing or what's the primary concern in that
15 situation?

16 A. We get as much information as possible.

17 Q. So you have the name Michael. Did you have a last
18 name?

19 A. No.

20 Q. All right. What about the number that this call was
21 made from?

22 A. 803-200 [REDACTED]

23 Q. And can you determine whether that's a landline or a
24 cell phone?

25 A. It's a cell phone.

1 Q. All right. What address did the caller say he was
2 calling from?

3 A. [REDACTED] Cheryse Drive.

4 Q. Where was -- Okay. Go ahead.

5 A. Initially it was [REDACTED] Cheryse Drive.

6 Q. Okay. So that was also on Cheryse Drive?

7 A. Correct.

8 Q. Now, when you get an emergency call like this,
9 what's the first step? What's the first step in dispatching
10 authorities to that location?

11 A. We determine what the emergency is and then we
12 dispatch the appropriate law enforcement, EMS or fire
13 service.

14 Q. Can you tell us whether or not law enforcement was
15 dispatched in this case?

16 A. Yes. It was.

17 Q. What time?

18 A. 21:00 or 9:00 p.m.

19 Q. So at 9:00 p.m. the dispatcher sent law enforcement
20 out, correct?

21 A. Correct.

22 Q. Does your record note the time they actually arrived
23 on the scene?

24 A. Yes. 21:05 or 9:05 p.m.

25 Q. Okay. Then in addition to a law enforcement officer

1 can you tell us whether or not EMS was also dispatched in this
2 case, an ambulance?

3 A. Yes.

4 Q. Can you tell us whether or not you were able to
5 retrieve the actual audio affiliated with that emergency call
6 at 8:58 p.m. on the night of April 2nd, 2014?

7 A. Yes.

8 Q. I'm going to show you what is marked as State's
9 exhibit 14. What do you recognize on this audio CD?

10 A. Those are my initials.

11 Q. You recognize your initials. You have had the
12 opportunity to listen to this?

13 A. I have.

14 Q. Is it a fair and accurate representation of the call
15 that was maintained there at the Lexington County
16 Communication Center?

17 A. Yes. It is.

18 Q. Can you tell us again whether or not this type of
19 audio is maintained in the ordinary course of business by the
20 Lexington County Communication Center?

21 A. Yes. It is.

22 MS. MAYES: Your Honor, at this time the State would
23 offer exhibit 14 and request permission to publish?

24 MR. STITELY: No objection, Judge.

25 THE COURT: It's in evidence. You said 14?

1 MS. MAYES: Yes sir, Your Honor.

2 (Whereupon, State's exhibit number 14, 911 audio
3 recording played for the jury.)

4 MS. MAYES: Nothing further from this witness, Your
5 Honor.

6 THE COURT: Cross examination.

7 MR. STITELY: If it please the Court.

8 CROSS EXAMINATION

9 BY MR. STITELY:

10 Q. Ms. Reinberg.

11 A. It's Reinberg.

12 Q. Reinberg. Sorry. I didn't want to get that wrong.
13 Do you have the tape from the 7:22 call by chance?

14 A. Do I have the tape?

15 Q. Yeah.

16 A. No.

17 Q. You didn't bring the other call from Donna's phone
18 to court today?

19 A. No.

20 Q. Okay. How about the call back to Donna's phone, did
21 you bring that to court today?

22 A. No.

23 Q. Okay. Did you know if it was a male or a female who
24 the initial call at 7:22?

25 A. No.

1 Q. Do you know who responded when there was a call back
2 at 7:22?

3 A. No.

4 Q. Do you know why Donna told them not to come out at
5 7:22 when the initial call was made?

6 A. I do not.

7 MR. STITELY: Thank you. Nothing further.

8 THE COURT: Redirect?

9 MS. MAYES: Yes, sir, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Does your record reflect when you called back to the
13 party who made that call at 7:22, does your record reflect
14 what the party indicated as to the call?

15 MR. STITELY: I'm going to object to any hearsay.
16 She can refer to what the record says but I don't think
17 it's appropriate to make any speculation if she wasn't
18 listening.

19 MS. MAYES: That's what I'm asking, Your Honor.

20 THE COURT: Overruled.

21 BY THE WITNESS:

22 A. Accidental.

23 MS. MAYES: Accidental. Okay. Nothing further.

24 MR. STITELY: Nothing further, Judge. Thank you.

25 MS. MAYES: The State calls Gina Pendergrass.

1 Thereupon,

2 GINA PENDERGRASS

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 DIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. Could you state your full name for the record.

10 A. Gina Taskey Pendergrass.

11 Q. All right. And Ms. Pendergrass, where are you
12 employed?

13 A. With the SEFA Group.

14 Q. All right. When you state the SEFA Group, can you
15 tell us what that acronym stands for?

16 A. It stands for Southeastern Fly Ash Company.

17 Q. And what type of work does your company do?

18 A. We are a broker for fly ash sales.

19 Q. And specifically what is your job description for
20 the SEFA Group?

21 A. I'm director of human resources.

22 Q. As director of human resources, can you tell us
23 whether or not you maintain records in the ordinary course of
24 business that relate to employees, their names and other
25 payroll type information?

1 A. I do.

2 Q. Does that include employees who work through
3 subcontractors?

4 A. Yes. It does.

5 Q. Can you tell us whether or not that also includes
6 time sheets affiliated with days worked, length of a shift,
7 that sort of thing?

8 A. Yes. It does.

9 Q. Specifically in this case did you receive a request
10 for records that are related to the date of April 2nd, 2014
11 for two individuals?

12 A. Yes. I did.

13 Q. Specifically that would be Michael Williams and
14 Bobby Christofoli?

15 A. That is correct.

16 Q. Can you tell us whether or not through your role in
17 human resources you would be a custodian of records for that
18 type of information?

19 A. Yes. I am.

20 MR. STITELY: While she is doing that, is there
21 any way to have that moved? I can't see the witnesses
22 where she has it positioned.

23 THE COURT: Yes. Sure.

24 MR. STITELY: Perfect. Thank you. Sorry about
25 that.

1 BY MS. MAYES:

2 Q. And you are able to see from this location?

3 A. I am.

4 Q. Okay. All right. I'll put here SEFA. And the
5 date, of course, that we are referring to is April 2nd, 2014.
6 I mentioned two employees, Michael Williams and Bobby
7 Christofoli. You mentioned previously that you are a
8 custodian of records in this matter. I'm going to show you
9 what is marked as State's exhibit 13 and ask you whether or
10 not you recognize this document?

11 A. Yes. I do.

12 Q. All right. I'm going to ask you whether or not this
13 appears to be the same document, a fair and accurate
14 representation of the document that was provided to the State
15 in relation to this case?

16 A. Yes. It is.

17 MS. MAYES: Your Honor, this would be State's
18 exhibit 13 for evidence.

19 MR. STITELY: No objection, Judge.

20 THE COURT: It's in evidence.

21 BY MS. MAYES:

22 Q. Okay. I'm gonna let you hold onto this document.
23 Now, on that date, April 2nd, 2014 can you tell us whether or
24 not Michael Williams worked?

25 A. Yes. He did.

1 Q. What about Bobby Christofoli?

2 A. Yes. He did.

3 Q. In fact, are they co-workers?

4 A. Yes. They are.

5 Q. All right. On that date how long was the shift that
6 they worked?

7 A. It was a ten hour shift.

8 Q. Ten hour shift. And what was the job site
9 location?

10 A. It was at International Paper in Eastover, South
11 Carolina.

12 Q. Eastover. Richland County?

13 A. I believe so.

14 Q. And as a result of working a ten hour shift, are you
15 familiar with what time that shift in accordance with the
16 records what time that shift would have started?

17 A. Yes. It would have started at 7:00 a.m. and ended
18 at 5:30 p.m.

19 Q. 7:00 a.m. 5:30 p.m. And finally let me ask you
20 what type of work are the co-workers Michael Williams and
21 Bobby Christofoli doing on this particular date?

22 A. They are installing industrial pipe.

23 MS. MAYES: Nothing further from this witness, Your
24 Honor.

25 MR. STITELY: Briefly, Your Honor.

1 CROSS EXAMINATION

2 BY MR. STITELY:

3 Q. Ms. Pendergast?

4 A. Pendergrass.

5 Q. Pendergrass. What other kind of records do you keep
6 on your employees?

7 A. All of their personnel employee records.

8 Q. Would you have all of those on both of the
9 individuals who worked for you?

10 A. No. I would not because they were a leased employee
11 from Hardhat.

12 Q. The times, are those punched in on some kind of
13 digital clock or is that kind of what they just report to
14 you?

15 A. That's what's reported to the supervisor.

16 Q. So there's no time clock that backs that up?

17 A. No, sir.

18 Q. Were you there the night at 7:30 out in Lexington at
19 Cheryse Drive?

20 A. No. I was not.

21 MR. STITELY: Nothing further.

22 REDIRECT EXAMINATION

23 BY MS. MAYES:

24 Q. Just to clarify, you indicated that those are the
25 times reported to a supervisor?

1 A. Yes.

2 Q. Is the supervisor there on scene as well?

3 A. Yes.

4 MS. MAYES: Nothing further.

5 MR. STITELY: Nothing else.

6 THE COURT: Thank you, ma'am.

7 MR. McNAIR: The State calls Michael Williams.

8 Thereupon,

9 MICHAEL WILLIAMS

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: John Michael Williams,
15 W-i-l-l-i-a-m-s.

16 DIRECT EXAMINATION

17 BY MR. McNAIR:

18 Q. Mr. Williams, where do you live?

19 A. [REDACTED] Cheryse Drive.

20 Q. Is that where you lived back in April of 2014?

21 A. Yes, sir.

22 Q. Who do you live there with?

23 A. Lynn Raley, my girlfriend.

24 Q. How long have you been with Lynn?

25 A. I have been with her for 11 years.

1 Q. What, if any, is her relation to Donna Blanchett?

2 A. It's her daughter.

3 Q. How long have you lived on Cheryse Drive?

4 A. Six years. Seven years. Something like that.

5 Q. I'm going to show you what's been marked as State's
6 exhibit number 1. Do you recognize that?

7 A. Yes, sir.

8 Q. Is that an accurate aerial photo of how things
9 appeared back in April of 2014?

10 A. Yes, sir.

11 MR. McNAIR: Your Honor, we offer State's 1 into
12 evidence.

13 MR. STITELY: No objection.

14 THE COURT: It's in evidence.

15 BY MR. McNAIR:

16 Q. In April of 2014, who lived with Donna Blanchett?

17 A. Billy Geisendorff.

18 Q. The defendant?

19 A. Yes, sir.

20 Q. Do you recall how long he lived at that location
21 prior to the incident involving Bobby?

22 A. Maybe about a year, year and a half maybe.
23 Something like that.

24 Q. Would you step down for one second please?

25 A. Yes, sir. (Witness complies.)

- 1 Q. All right. Where is your house located on this
2 map?
- 3 A. Right here.
- 4 Q. What is the address there?
- 5 A. [REDACTED] Cheryse.
- 6 Q. Where does Donna live?
- 7 A. (Indicating.) Right here.
- 8 Q. What's that address?
- 9 A. [REDACTED] Cheryse.
- 10 Q. Who owns this property?
- 11 A. Donna does.
- 12 Q. But you and Lynn have lived there for how long?
- 13 A. Five, six years.
- 14 Q. Okay. All right. And this road right here, is that
15 a private road?
- 16 A. Yes, sir.
- 17 Q. Do other people other than -- Who owns the road?
- 18 A. It's just a private road. There's other people that
19 live down past there.
- 20 Q. So multiple people have a right of access over this
21 road to access their properties?
- 22 A. That's correct.
- 23 Q. Donna or Lynn don't own this road, correct?
- 24 A. No, sir.
- 25 Q. All right. You can have a seat.

1 A. (Witness complies.)

2 Q. Tell the jury how you knew the victim in this case
3 Bobby Christofoli?

4 A. I worked with him on the road. We stayed - if we'd
5 go out of town, we stayed together in motels. We hunted
6 together. We fished together. He come and hang out together.
7 I would go to his house and hang out together. We just - we
8 have known each other for about ten years. Actually probably
9 longer than that.

10 Q. Now, were you working together with Bobby back in
11 April of 2014?

12 A. Yes, sir.

13 Q. Where were y'all working?

14 A. At Watery station.

15 Q. Where is that located?

16 A. Uhm --

17 Q. Eastover?

18 A. Yes.

19 Q. Okay. What shift were y'all working that day?

20 A. Day shift.

21 Q. How long was day shift?

22 A. From 7:00 to 5:30.

23 Q. Now, would you see Bobby on a daily basis?

24 A. Yes, sir. He was my fitter.

25 Q. Okay. Occasionally would he take you to work?

1 A. Oh, yeah. He took me to work all the time. Any
2 time we worked together, I road with him.

3 Q. During the course of you working with Bobby, have
4 you had the opportunity to observe what hand he was?

5 A. Yes, sir.

6 Q. What was that?

7 A. He was a right hand.

8 Q. Okay. Let's talk about the days prior to when Bobby
9 was killed. Had you had a disagreement or an argument with
10 the defendant?

11 A. Yes, sir.

12 Q. In relation to when the killing happened, when was
13 that?

14 A. The day before.

15 Q. What was that argument about?

16 A. It was about my mother-in-law going to pick up my
17 girlfriend.

18 Q. What was said during that argument?

19 A. There was some things I said about - there was some
20 things I said about my mother-in-law that she wasn't a mother
21 through the days and stuff like that. Just things that when
22 people get upset they say.

23 Q. What was the defendant's reaction?

24 A. He was mad.

25 Q. All right. After he got mad, did you all fight?

1 A. No.

2 Q. What happened after he got angry?

3 A. He was standing over by the door and I threw a beer
4 can at him and he came at me and I said we are not going to do
5 this and that was it.

6 Q. Did he leave your residence after that?

7 A. No. We went and changed a tire on the car.

8 Q. So in your mind did everything appear to be fine
9 after that incident?

10 A. Yes, sir.

11 Q. Let's talk about the day that Bobby was killed. You
12 and Bobby were working that day?

13 A. Yes, sir.

14 Q. You testified you got off around 5:30?

15 A. Yes, sir.

16 Q. Did Bobby give you a ride that day?

17 A. Yes, sir.

18 Q. Now, what route did you all take to get home from
19 Eastover?

20 A. We would go down to 601, hit 378 and then hit 77 and
21 then get off at the fish hatchery exit, exit 321, go down Fish
22 Hatchery Road and then Boiling Springs.

23 Q. Approximately how long do you think it takes you to
24 get from the job site in Eastover to your house?

25 A. About an hour.

1 Q. Did you stop anywhere prior to getting home?

2 A. Yes, sir.

3 Q. Where did you stop?

4 A. Stopped at a little store in Eastover and got a beer
5 and a pack of cigarettes.

6 Q. Is that the only place you stopped?

7 A. No, sir. We stopped one other time. When we got
8 back off of 302, we stopped on Highway 6 which there's a store
9 right there when you turn off Highway 6, Boiling Springs
10 there's a Shell station right there.

11 Q. All right. Did you buy anything at that store?

12 A. Yes, sir. Bought a case of beer.

13 Q. Did you see anybody that you recognized or knew at
14 that store?

15 A. Yes, sir. I seen Theresa.

16 Q. What was the relationship between Donna Blanchett
17 and the defendant?

18 A. They were boyfriend and girlfriend.

19 Q. Did they live together?

20 A. Yes, sir.

21 Q. I'm going to show you State's 15 and 16 and ask you
22 if you recognize these?

23 A. Yes, sir. That's the first store we stopped at.

24 Q. Look at 16 as well.

25 A. And this is the second store that we stopped at.

1 Q. Are those pictures of the stores that you just
2 testified to?

3 A. Yes, sir.

4 MR. McNAIR: Your Honor, we offer 15 and 16 into
5 evidence at this point.

6 MR. STITELY: No objection.

7 THE COURT: They're in evidence.

8 BY MR. McNAIR:

9 Q. State 15 is the store you stopped at in Eastover; is
10 that correct?

11 A. Yes, sir.

12 Q. And 16 is the Shell station you stopped at?

13 A. Yes, sir.

14 Q. I was asking you, did you see anybody that you knew
15 or recognized at the Shell station?

16 A. Yes. I saw Theresa.

17 Q. Who is she?

18 A. That's Bobby's girlfriend.

19 Q. Did you talk to her at the Shell station?

20 A. Yeah.

21 Q. Approximately how far is that Shell station from
22 where you live?

23 A. 15 minutes, 20 minutes at the most. I'd say about
24 15 minutes.

25 Q. So what time after leaving Eastover and stopping at

1 these stores, what time do you think you arrived home that
2 day?

3 A. A little after 7:00.

4 Q. Did the defendant contact you at some point that
5 day?

6 A. Yes.

7 Q. How did he contact you?

8 A. By my cell phone.

9 Q. What number was he calling from?

10 A. What number? He was calling from Donna's phone.

11 Telephone number I really don't know.

12 Q. Okay. Was it Donna's house phone or --

13 A. No.

14 Q. -- her cell phone?

15 A. It was her cell phone.

16 Q. When was the first time he contacted you?

17 A. He called me before I got out the gate at work.

18 Q. Shortly after 5:30?

19 A. Yes, sir.

20 Q. And what, if anything, did he say to you?

21 A. I didn't answer the phone.

22 Q. Did you return his call?

23 A. Yes, sir.

24 Q. What, if anything, did he say to you

25 at that point?

1 A. He told me whenever I come home, I needed to come up
2 to the house and fucking see him.

3 Q. What was your response?

4 A. I told him, I said I'm not coming up there.

5 Q. Do you know why he wanted to see you?

6 A. Because of his state of mind I could tell he had
7 been drinking and the state of mind that he was in he wanted
8 to fight.

9 Q. Do you know why he wanted to fight?

10 A. Because of the - because of the night before
11 probably about what I said about Donna.

12 Q. You told him you weren't coming up there?

13 A. That's correct.

14 Q. Did he leave it at that or did he call you again?

15 A. No. He called me again.

16 Q. How many more times do you think he called you
17 before you got home?

18 A. He called me -- Before I got home?

19 Q. Let me show you this. I show you State's exhibit
20 17. Take a minute and look at this and tell me if that
21 accurately reflects the calls made between you and the
22 defendant on April 2nd, 2014?

23 A. (Witness complies.) Yes, sir.

24 MR. McNAIR: Your Honor, we would offer State's 17
25 into evidence.

1 MR. STITELY: Your Honor, we have an objection as to
2 foundation and authenticity of that document.

3 THE COURT: May I see the document?

4 MR. McNAIR: (Proffering.)

5 THE COURT: You want to lay more foundation.

6 BY MR. McNAIR:

7 Q. Is this document just a printout reflecting the call
8 log from your cell phone?

9 A. Yes.

10 Q. And do the dates and times accurately reflect the
11 calls made between you and the defendant on April 2nd, 2014?

12 A. Yes.

13 MR. McNAIR: Your Honor, it's just a document
14 reflecting his call log from his phone. I think he can
15 --

16 MR. STITELY: My objection falls, he said he didn't
17 even know the phone numbers that were being called from.
18 I don't think it's fair to put in a document that he
19 can't even identify the phone numbers. If he said that
20 he knew the phone number during -- I questioned him
21 earlier and he said he didn't know the phone number that
22 was calling him.

23 BY MR. McNAIR:

24 Q. Mr. Williams, did you have Donna's cell phone saved
25 as a contact in your phone?

1 A. Yes, sir. I did.

2 Q. And does that call log reflect Donna's name when she
3 calls you from her cell phone?

4 A. That's correct.

5 MR. STITELY: That's fine, Judge.

6 THE COURT: All right. Overruled. Go ahead. It's
7 in evidence.

8 BY MR. McNAIR:

9 Q. Do you have a copy of this document with you?

10 A. Yes, sir.

11 Q. Can you pull that out.

12 A. (Witness complies.)

13 Q. Mr. Williams, looking at that call log, when was the
14 missed call from the defendant to you on April 2nd?

15 A. The time was 5:42.

16 Q. All right. When did you call the defendant back?

17 A. At 5:43.

18 Q. That was the conversation that you testified to
19 where he is asking you to come up to his house?

20 A. Yes, sir.

21 Q. When is the next call from the defendant to you?

22 A. At 6:09.

23 Q. What's the duration of that call?

24 A. He wanted to know where the fuck I was at.

25 Q. What's the duration of that call?

- 1 A. The duration of the call is 23 seconds.
- 2 Q. He wants to know where you are at?
- 3 A. Yes, sir.
- 4 Q. Why did he want to know where you were at?
- 5 A. Because he wanted me to come up there whenever I got
- 6 home.
- 7 Q. What did you say to him at that point?
- 8 A. I told him, I said, I'm not home. I said, when you
- 9 see that gray truck coming down the dirt road, I'll be home.
- 10 Q. What was your perception of what he wanted you to
- 11 do?
- 12 A. He wanted to fight.
- 13 Q. Now, when is the next call from the defendant?
- 14 A. Is 6:55.
- 15 Q. You testified that you got home around 7:00 or
- 16 shortly thereafter?
- 17 A. Yes, sir.
- 18 Q. And that was a missed call, correct?
- 19 A. Yes, sir.
- 20 Q. The next call from the defendant is at 7:00; is that
- 21 right?
- 22 A. Yes, sir.
- 23 Q. And the duration of that call is 22 seconds?
- 24 A. Yes, sir.
- 25 Q. What was that call about?

1 A. Wanted to know where I was at. How close I was
2 home. Where was I at.

3 Q. All right. Did he appear intoxicated to you?

4 A. Oh, yeah.

5 Q. Did he appear angry?

6 A. Yes.

7 Q. Were all of his statements perceived by you as
8 invitations to fight?

9 A. Yes, sir.

10 Q. Now, you testified you arrived home around 7:00?

11 A. Yes, sir.

12 Q. Tell the jury when you arrived home, what did you
13 see?

14 A. I seen him in the yard with his hands up like this
15 (indicating) and he started hollering and started cussing and
16 I didn't acknowledge him. Was in the passenger side of the
17 truck going down to the house and we pulled into my yard.

18 Q. Okay. Now, when you got out of your truck, what, if
19 anything, could you hear?

20 A. Hey, motherfucker. Hey, bitch. What are you doing?
21 He was just constantly cussing.

22 Q. Where was he at that point?

23 A. He was up in the yard.

24 Q. Okay. How far apart do you think you and Donna's
25 houses are?

1 A. About a hundred yards.

2 Q. So you could clearly hear what he's saying?

3 A. Sure.

4 Q. Again, do you perceive those an invitations to come
5 up to his yard and fight?

6 A. Yeah.

7 Q. What exactly was is saying?

8 A. He was calling me a motherfucker. Calling me a
9 bitch. Just calling me all kind of stuff.

10 Q. How long do you think that went on?

11 A. That went on for a little while. I don't know. 15
12 minutes. 20 minutes. Something like that.

13 Q. With him just hollering up there in the yard?

14 A. Yeah.

15 Q. All right. What happened at that point?

16 A. I went - I went - had pulled up to the house. I got
17 out of the truck, went in the house. Took the case of beer.
18 I went in, put the beer in the refrigerator, closed the door,
19 walked over to the kitchen window, the window was open. I
20 hollered to Bobby. I said, do you want a beer? Bobby was
21 sitting over at the edge of the woods in my yard where it's
22 separated by the two wood lines. He was in my yard sitting
23 there kneeled down. I said, do you want a beer? He said,
24 (indicating) like that.

25 Q. Why did he do that?

1 A. Because he wanted to hear what he was saying.

2 Q. Okay.

3 A. So from the time I grabbed two beers, walked out of
4 the house, went back around the house, Bobby was done up the
5 dirt road.

6 Q. All right. Can you you see where Bobby is from your
7 yard?

8 A. Yeah.

9 Q. Where were you standing?

10 A. I was standing in the yard.

11 Q. Can you see the defendant?

12 A. No. I could not.

13 Q. Could you hear what they were saying?

14 A. Yeah. They were arguing. Cussing back and forth.
15 Bobby told him just to shut up. That we didn't want to hear
16 it. We just got off work and we just come home to unwind.

17 Q. All right. Did you hear the defendant say anything
18 to him?

19 A. No.

20 Q. Was it just cussing back and forth?

21 A. Yeah. It was just hollering back and forth
22 cussing.

23 Q. Did Bobby say anything to him about a fight?

24 A. He told him if he didn't want to hush up, just come
25 out in the dirt road.

1 Q. Okay. Now, after that did Bobby come back to where
2 you were?

3 A. I finally got him back to the house. Yeah.

4 Q. What, if anything, did Bobby say to you
5 at that point?

6 A. He said he showed - he said he seen a gun.

7 Q. Okay. After Bobby came back down, what happened
8 next?

9 A. We just sat in the yard and continued to drink and
10 laugh and cut up and just talking about the day at work.

11 Q. All right. Did you hear from the defendant again
12 after Bobby come back down to your house?

13 A. No.

14 Q. Look at your call log up there. There's a call at
15 7:17. Do you see that call?

16 A. Yes, sir.

17 Q. The duration of that call is one minute and 24
18 seconds?

19 A. Yes, sir.

20 Q. Was that before or after Bobby went up the road and
21 talked to the defendant?

22 A. That was after.

23 Q. Okay. What did the defendant say during that
24 call?

25 A. When I answered the phone, he asked me, he said, why

1 you send your bitch up here? Why don't you be a man and come
2 up here? Why you send your bitch up here? I said, I didn't
3 send him up there. He come up there on his own.

4 Q. Again, was that perceived by you as an indication to
5 go over there and fight?

6 A. Yeah.

7 Q. At some point did Donna Blanchett come down to where
8 you were?

9 A. Yes, sir.

10 Q. How many times?

11 A. Twice that I recollect.

12 Q. The first time she came down, when was that?

13 A. I really don't remember.

14 Q. Was it before or after this incident involving
15 Billy, the defendant, and Bobby?

16 A. Pardon me.

17 Q. Do you remember if it was before or after when Bobby
18 had gone up the road and talked?

19 A. That was after.

20 Q. Okay. Do you recall what she said?

21 A. She wanted to know what we were talking about. Why
22 we were laughing and stuff. And I told her that we were
23 laughing about the day at work.

24 Q. All right. Is that the first time or the second
25 time she came down?

1 A. That was the first time.

2 Q. Okay. Now, after this initial argument or whatever
3 it was between the defendant and Bobby, did you hear from the
4 defendant again? And after that phone call was there a period
5 of time where things appeared to have settled down to you?

6 A. Yeah. I thought he had went in the house and passed
7 out.

8 Q. Was that your hope?

9 A. Yeah.

10 Q. How long do you think things had settled down for?

11 A. I don't know. 10, 15 minutes. Something like that.
12 Maybe 20 minutes. It was a good little - it was a good little
13 while.

14 Q. Do you and Bobby remain outside drinking beer during
15 that time?

16 A. Yes, sir.

17 Q. At some point while y'all are sitting outside
18 drinking beer do you hear a noise?

19 A. Yes. I heard a stick crack in the woods.

20 Q. Did you know what it was at that time?

21 A. I figured it was - we got a bunch of wild cats,
22 stray cats around the house. I figured it was one of them in
23 the woods looking for something to eat.

24 Q. So what's the next thing that happens?

25 A. The next thing that happens? The next thing that

1 happens is, uhm, Donna come back down to the house. Said that
2 Bobby needed to leave. And I was like, well, why does he need
3 to leave? And then she had went - she went back up to the
4 house.

5 Q. Okay. Where were you -- You were out there with
6 Bobby when Donna came down?

7 A. Yeah. We were at the - we were at the back of the
8 truck still.

9 Q. And after Donna left your location, what did you do?
10 Did you stay outside or did you go back inside?

11 A. No. I went back into the house.

12 Q. Why did you go back inside?

13 A. I went back in the house to get another beer.

14 Q. Okay. When you came back out, where was Bobby?

15 A. Bobby was gone back up the dirt road.

16 Q. Could you see where he was?

17 A. Yes, sir.

18 Q. Was he up there with Donna and the defendant?

19 A. Yes, sir.

20 Q. And what did you see?

21 A. They were up there arguing. Just arguing back and
22 forth.

23 Q. Did you hear anything in particular that was said?

24 A. I heard, old big boy, if you're gonna pull it out,
25 you better use it.

1 Q. What did you hear next?

2 A. I heard gunshots.

3 Q. All right. Now, prior to hearing -- Could you see
4 the gunshot?

5 A. Yeah. I could see the muzzle blast from the end of
6 the gun.

7 Q. It was dark enough that you could see the fire
8 coming out of the gun?

9 A. Yes.

10 Q. How far apart were Billy and Bobby when you first
11 saw that muzzle blast?

12 A. Probably six to eight feet.

13 Q. Could you tell if they were facing each other?

14 A. Yes.

15 Q. Okay. So you can't make out features but you can
16 see --

17 A. I could just see silhouettes.

18 Q. Now, is there a light nearby that helped illuminate
19 that road?

20 A. Yes, sir. There's one in my yard at the corner of
21 our property.

22 Q. So from where you were standing in your yard, you
23 can see two silhouettes four to six feet apart --

24 A. Eight to six.

25 Q. -- before you hear the muzzle blast?

1 A. Yes.

2 Q. Prior to hearing that muzzle blast, did you see
3 Bobby run at the defendant?

4 A. No, sir.

5 Q. Did you see him lunge at the defendant?

6 A. No, sir.

7 Q. Did you hear any type of physical or see or hear any
8 type of physical altercation?

9 A. No, sir.

10 Q. They were just standing there not moving prior to
11 that muzzle blast?

12 A. Yes.

13 Q. Talking back and forth?

14 A. Yeah. Hollering and cussing back and forth.

15 Q. Cussing back and forth?

16 A. Yes, sir.

17 Q. Step down one more time for me.

18 A. (Witness complies.)

19 Q. Show me where you were standing -- First of all,
20 show me where Bobby's truck was parked.

21 A. Somewhere around where - somewhere around in here
22 toward the end of the house right here.

23 Q. Was it close to where this vehicle is parked in this
24 aerial photo?

25 A. Yeah. Just more or less a little bit more to the

1 right.

2 Q. Okay. And that's where y'all were hanging out?

3 A. Yes, sir.

4 Q. And where were you standing when you could see the
5 defendant and Bobby standing in the roadway?

6 A. Standing right about around right in here some
7 place. Either to the side of the truck, the back of the truck
8 somewhere. But I wasn't around where the truck was.

9 Q. All right. Where were they standing?

10 A. They were up here. Right around up in here some
11 place.

12 Q. Down from this telephone pole?

13 A. Yes.

14 Q. So you were able to see through this patch of woods
15 into the roadway?

16 A. That's correct.

17 Q. All right. One more thing. Where is the light by
18 your house that illuminates?

19 A. Right there.

20 Q. This is a street light?

21 A. Yes, sir. It's a Mid Carolina street light.

22 Q. Thanks. Please take your seat.

23 A. (Witness complies.)

24 Q. The last call we stopped with was at 7:17 where you
25 testified he was saying why did you send your bitch up here to

1 do your dirty work; is that correct?

2 A. Yeah.

3 Q. The next call is 7:32. That is a missed call.

4 There's another call at 7:43 with a duration of one minute 16
5 seconds. What was that call in reference to?

6 A. Same thing. Wanting to know why I didn't come up
7 and fight. Why you send your bitch up here to fight for
8 you.

9 Q. Does he still appear angry at that point?

10 A. Sure. Yes, sir.

11 Q. Does he still appear drunk?

12 A. Yes, sir.

13 Q. And he still wants to fight?

14 A. Yes, sir.

15 Q. And then you have two more missed calls, one at 8:05
16 and one at 8:34; is that correct?

17 A. That's correct.

18 Q. And that's from Donna's cell phone that the
19 defendant was using?

20 A. Yes, sir.

21 Q. And then at 8:58 you called 911; is that correct?

22 A. Yes, sir.

23 Q. Now, when Bobby went up the road that first time,
24 what drew him up there?

25 A. Billy hollering and cussing, raising hell.

1 Q. Was Bobby ever armed with any type of weapon?

2 A. No, sir.

3 Q. After Bobby had been shot, did you ever see the
4 defendant again?

5 A. No, sir.

6 Q. Did you ever hear him yell for help or stay back or
7 somebody call 911 or anything of that nature?

8 A. No, sir.

9 Q. When you called 911, what did you see?

10 A. Just a gunshot muzzle blast.

11 Q. When you saw the initial muzzle blast, that's when
12 you called 911?

13 A. No. When I first initially seen the muzzle blast,
14 that gun shot was already over. I ran out. I started
15 hollering, Bobby, Bobby, Bobby, Bobby. He never answered me.
16 I run out to the mailbox at the beginning of my driveway right
17 there. I ran right there and I seen a silhouette of a body
18 laying in the road. That's when I came back and called 911.

19 Q. How many shots did you hear?

20 A. I heard one and then three more so I heard a total
21 of four shots.

22 Q. Could there have been more shots?

23 A. Yes. There could have been. I lost count.

24 (Whereupon, State's exhibit #14, the 911 call played
25 for the jury.)

1 BY MR. McNAIR:

2 Q. When you called 911, what had you seen or heard when
3 you made that comment?

4 A. I seen Bobby laying in the dirt road.

5 Q. So did you call 911 prior to walking up to the dirt
6 road and seeing his body laying in the road?

7 A. No.

8 Q. You had already seen his body laying in the road?

9 A. Yes, sir. I already walked out to the mail box and
10 seen his body laying in the dirt road.

11 Q. When you called 911?

12 A. Yes.

13 (Whereupon, State's exhibit #14, the 911 call played
14 for the jury.)

15 BY MR. McNAIR:

16 Q. All right. Whose voice is that screaming?

17 A. That's Donna.

18 Q. What had happened at that point?

19 A. She had walked back up to the dirt road. After the
20 gunshots, she had walked back up to the dirt road and she had
21 seen Bobby laying in the road.

22 Q. All right. Was she back where you were prior to
23 shots going off?

24 A. Yes.

25 Q. And then she walked back to the road?

1 A. Yes.

2 Q. And she had seen Bobby laying in the road?

3 A. Yes, sir.

4 Q. And this is her running back to where you are?

5 A. Yes, sir.

6 (Whereupon, State's exhibit #14, the 911 call played
7 for the jury.)

8 BY MR. McNAIR:

9 Q. After the shooting, you never saw the defendant
10 again?

11 A. No, sir.

12 Q. You didn't know where he was when you called 911?

13 A. No, sir.

14 MR. McNAIR: This is State's 18.

15 MR. STITELY: That's 18?

16 MR. McNAIR: Yes, sir.

17 BY MR. McNAIR:

18 Q. This is State's exhibit 18. Is this your phone?

19 A. Yes.

20 Q. Is that the phone that you communicated with the
21 defendant on?

22 A. Yes, sir.

23 Q. That's the phone you called 911 with?

24 A. Yes.

25 MR. McNAIR: Your Honor, we would offer State's 18

1 into evidence.

2 MR. STITELY: No objection, Judge.

3 THE COURT: It's in evidence.

4 BY MR. McNAIR:

5 Q. Are you aware of what type of cigarettes

6 Mr. Christofoli smoked?

7 A. He smoked Pall Mall Short Red with full flavor.

8 Q. All right. Can you describe what the filter looks
9 like?

10 A. The filter is red. Well, not red but brown.

11 Q. Tan filter?

12 A. Yes, sir.

13 Q. I'm going to show you State's 19 first. You
14 testified earlier that y'all stopped at a gas station in
15 Eastover, correct?

16 A. Yes, sir.

17 Q. And you said Bobby made a purchase?

18 A. Yes, sir.

19 Q. Is that the receipt from the purchase at that
20 station?

21 A. Yes, sir.

22 MR. McNAIR: Your Honor, we'd offer State's 19 into
23 evidence.

24 MR. STITELY: No objection.

25 THE COURT: It's in evidence.

1 BY MR. McNAIR:

2 Q. And what was the time of the purchase made at that
3 station in Eastover?

4 A. It's 5:56.

5 Q. 5:56. I'm gonna show you State's 20 and 21. Do you
6 recognize those?

7 A. Yes, sir. Those are his. Those are Bobby's.

8 Q. Are those pictures of Bobby's truck from April 2nd,
9 2014?

10 A. Yes.

11 Q. And is that a picture of the cigarettes that Bobby
12 smoked?

13 A. Yes, sir.

14 Q. And is State's 21 a picture of the actual
15 cigarette?

16 A. Yes, sir.

17 MR. McNAIR: Your Honor, we'd offer State's 20 and
18 21 into evidence.

19 MR. STITELY: No objection.

20 THE COURT: In evidence.

21 BY MR. McNAIR:

22 Q. Now, when I was asking you about the statements made
23 by the defendant while you were down in your yard, do you
24 recall the defendant calling you, excuse my language, a punk
25 ass bitch?

- 1 A. Yep.
- 2 Q. He made that comment?
- 3 A. Yes.
- 4 Q. And a puss ass bitch?
- 5 A. Yes.
- 6 Q. Those are all statements made by him?
- 7 A. Sir.
- 8 Q. Those were all statements he made?
- 9 A. Yes. Yes.
- 10 Q. What was your response to Donna when she came down
11 there and asked Bobby to leave?
- 12 A. I said he don't have to go nowheres. It's my
13 yard.
- 14 Q. You live there, correct?
- 15 A. Correct.
- 16 Q. That's your house and she treated that as your yard,
17 right?
- 18 A. Yes.
- 19 Q. So you could invite whoever you wanted over there?
- 20 A. Yes.
- 21 Q. He was a guest of yours?
- 22 A. That's correct.
- 23 Q. And did the victim, Mr. Christofoli, ever leave the
24 roadway?
- 25 A. No, sir.

1 Q. He never went into the defendant's yard, did he?

2 A. No, sir.

3 Q. And you never saw or heard any type of physical
4 altercation between the victim and the defendant, did you?

5 A. No, sir.

6 Q. You testified that the reason Bobby went up there
7 the first time was not looking for a fight, it was to --

8 MR. STITELY: Object to speculation at that point.

9 THE COURT: Sustained.

10 BY MR. McNAIR:

11 Q. Do you see the defendant in the courtroom today?

12 A. Yes, sir.

13 Q. Will you please point him out?

14 A. (Indicating.)

15 Q. He's the man sitting in the middle?

16 A. Yes, sir.

17 Q. Without the white hair wearing glasses?

18 A. Yes.

19 MR. McNAIR: Thank you, Mr. Williams.

20 MR. STITELY: Your Honor, this is probably going to
21 take a few minutes. I didn't know if you wanted to give
22 the jury a few seconds.

23 THE COURT: Anybody need a break right now?

24 (No response.)

25 THE COURT: Okay. Go ahead.

1 MR. STITELY: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. STITELY:

4 Q. Good morning, Mr. Williams.

5 A. How you doing?

6 Q. Doing fine. Do you want Mr. Williams? Mike?
7 What's best for you?

8 A. Whatever. Michael is fine.

9 Q. All right. Michael. I just want to go over a
10 couple things very specifically. Start back with your
11 relationship with Mr. Geisendorff. How did you know him?

12 A. From Donna. From my mother-in-law.

13 Q. Just to clarify. You were dating Donna's
14 daughter?

15 A. Yes, sir.

16 Q. And Billy was Donna's live in boyfriend?

17 A. Yes, sir.

18 Q. And you think he had been living there at least a
19 year to a year and a half prior to the incident?

20 A. Something like that.

21 Q. Okay. You had been living at the back house almost
22 the entire time, correct?

23 A. Yes, sir.

24 Q. And it's been discussed, but when we talked about up
25 or down, we are referring to Donna's house is up and yours is

1 down?

2 A. Yes, sir.

3 Q. Mainly because you go further down the road?

4 A. Correct.

5 Q. Okay. Was the night before the first time you had
6 ever had words with Mr. Geisendorff?

7 A. Yes, sir. We have had words. We've had arguments,
8 just little arguments before.

9 Q. Over the year, year and a half that you knew him?

10 A. Yes, sir.

11 Q. Had they ever become physical?

12 A. No, sir.

13 Q. The night before the 2nd so on the 1st, you said
14 that the argument was over some things you may have said about
15 Donna. What specifically did you say about Donna that really
16 got Billy unhappy?

17 A. Just saying that she wasn't a mother like she was
18 supposed to be and she wasn't there through the years. She
19 was a drunk. Just -- Really I don't actually remember
20 everything that was said, but I do remember saying those
21 things.

22 Q. Probably some vulgarities as well?

23 A. Yeah.

24 Q. And Mr. Geisendorff didn't take kindly to you
25 referring to your mother-law-law in that way?

- 1 A. No, sir.
- 2 Q. Okay. You said he got upset with you?
- 3 A. Yes.
- 4 Q. And you actually threw a beer can at him, correct?
- 5 A. Yeah. I threw it beside of him.
- 6 Q. Did he fight you right then?
- 7 A. No.
- 8 Q. So he didn't resort to physical violence?
- 9 A. He came at me but I said we're not gonna do this in
10 the house.
- 11 Q. All right. And he didn't resort to physical
12 violence?
- 13 A. No, sir. There was no hands thrown.
- 14 Q. Okay. And, in fact, he went out and changed your
15 girlfriend's tire afterwards; is that correct?
- 16 A. We went out. That's right. We did.
- 17 Q. Okay. And then the next day you said that he was
18 begging for a fight. You must have said that like four or
19 five times to the Solicitor; is that correct?
- 20 A. Yeah.
- 21 Q. So the year and a half y'all have been having words
22 you never fought him?
- 23 A. No.
- 24 Q. And the night before when you even threw something
25 at him or in his direction, there was no fighting?

1 A. No.

2 Q. Okay. Could you describe Mr. Christofoli
3 physically?

4 A. Physically he was a pretty big boy.

5 Q. Big boy as in bigger than me?

6 A. As in -- I'm not going -- I was trying to use one of
7 them.

8 Q. You're fine. Tall? Taller than you or Mr.
9 Geisendorff?

10 A. Yeah. Yeah.

11 Q. Heavier?

12 A. Yeah. Probably about maybe 40 pounds, 50 pounds.

13 Q. The kind of work he did, he was a pipefitter?

14 A. Actually he was a truck short. He had just got into
15 pipe.

16 Q. Heavy work?

17 A. Yeah.

18 Q. Not a weak guy?

19 A. No.

20 Q. Physically imposing, would that be fair?

21 A. Yeah.

22 Q. Okay. That night when you guys came back to the
23 house you said that Mr. Geisendorff was calling from Donna's
24 phone?

25 A. That's correct.

1 Q. Did he ever call you from his cell phone?

2 A. No.

3 Q. So all the calls on the call log the State was
4 referring to in exhibit number 17, those all came from Donna's
5 cell phone?

6 A. Correct.

7 Q. Including the missed calls?

8 A. Yes. Everything -- Yeah. Everything that's noted
9 there is Donna's. Yes.

10 Q. You have a copy in front of you?

11 A. Yes, sir.

12 Q. So the missed calls around 8:00, you can't say for
13 certain that wasn't Donna calling you up at your place?

14 A. No. That wasn't.

15 Q. But she did come up there and tell you that bobby
16 needed to go, correct?

17 A. Yes.

18 Q. Let's go to the first encounter between
19 Mr. Christofoli and Mr. Geisendorff. You said you went to the
20 house to grab a couple more beers, correct?

21 A. Yes.

22 Q. And by the time you got back outside, Bobby was gone
23 is how you described it?

24 A. Correct.

25 Q. When you say gone, you mean he was walking up the

1 dirt road?

2 A. Yes.

3 Q. So the house, your exit was on which side of the
4 house?

5 A. It's on the backside.

6 Q. I'll approach you. I'm sorry.

7 A. It's right here where the back porch is right
8 here.

9 Q. Okay. And so he was hanging out somewhere back by
10 his truck?

11 A. No. Actually he was right over here in the woods
12 and I was in the house because this is the kitchen window
13 right here. And this is where I hollered out, hey, you want a
14 beer? He was leaned over here.

15 Q. Okay. And when you say he had left, what path?

16 A. I don't know what path he took. I don't. I don't
17 know.

18 Q. Where did you see him or catch up with him later
19 on?

20 A. They were -- He was somewhere right around over in
21 here. Somewhere in this area right here.

22 Q. Okay. And this is the house that Mr. Geisendorff
23 lived in, correct?

24 A. Yes, sir.

25 Q. Okay. Now, the Solicitor had brought up that

1 Mr. Christofoli had went down the hill to tell Mr. Geisendorff
2 to be quiet. Do you recall what exactly he said to Mr.
3 Geisendorff on that first exchange?

4 A. He just told him to shut up. That we didn't want to
5 listen to it. That we just got off work and we didn't want to
6 listen to this shit. We listen to cussing and everything at
7 work all day. We didn't want to hear it when we got home.

8 Q. Do you remember specifically what you told Detective
9 Stoner when she interviewed you what Bobby said when he came
10 to talk to Mr. Geisendorff that first time?

11 A. No. I don't.

12 Q. Do you recall making the statement he went down
13 there and said come out in the road so I can beat your ass
14 like a man?

15 A. If you won't hush up, just come out in the road.

16 Q. Okay. Did he say anything about beat your ass like
17 a man?

18 A. Just come out in the dirt road and we'll fight like
19 a man. That's what he said. The words was we'll fight like a
20 man.

21 Q. Okay. Did you tell Detective Stoner that he said he
22 was going to F him up?

23 A. No.

24 Q. You definitely didn't tell Detective Stoner that
25 when you were interviewed by her?

1 A. I don't remember. I don't recall.

2 Q. All right. So at that point Mr. Christofoli
3 returned to house and indicated that he had seen a firearm on
4 Mr. Geisendorff; is that correct?

5 A. Said he showed it. Yeah. Said he seen a gun.

6 Q. Okay. So he was aware that Mr. Geisendorff had a
7 weapon?

8 A. He said so.

9 Q. Okay. To your knowledge?

10 A. Yes. To my knowledge.

11 Q. Okay. So y'all continued drinking, correct?

12 A. Well, actually I told him, I said, well, if he's got
13 a gun, I said, call the cops. If he don't want to call - if
14 you don't want to call the cops, I'll call the cops. But the
15 cops were never called. So don't worry about it. Everything
16 quiet now so...

17 Q. Well, someone called the cops at 7:22 that night.
18 Was that you?

19 A. No, sir.

20 Q. Okay. Do you know who called the cops at 7:22?

21 A. No, sir. I don't know it wasn't me or it wasn't
22 Bobby. Neither one of us had called the cops.

23 Q. At some point Ms. Donna did tell Bobby to leave,
24 correct? Do you remember what time that was?

25 A. No. I don't remember.

1 Q. Okay. How long after Ms. Donna told Bobby to leave
2 did Mr. Christofoli go back down the road again?

3 A. It was a little while. I don't know time frame. I
4 don't know. Maybe five minutes. Ten minutes. I don't know.
5 I wasn't --

6 Q. That's fine. Did it pretty much happen the next
7 time you ducked yourself inside to grab a couple more drinks
8 from the fridge?

9 A. Yes.

10 Q. So you had kind of walked away and he went back up
11 the hill or up the road to re-engage?

12 A. Yes.

13 Q. Did you, in fact, make a statement saying you told
14 him to leave it alone and not to go up there?

15 A. Yes. I said just leave it alone and let him go pass
16 out.

17 Q. Mr. Christofoli didn't do that though, did he?

18 A. No.

19 Q. And without a doubt the property owner had told him
20 to leave, correct?

21 A. Yes.

22 Q. You testified when speaking to the Solicitor that
23 you saw muzzle flashes. Do you remember writing a statement
24 back on April 2nd and then another statement on April 18th of
25 2014?

1 A. I remember writing a statement the night that it
2 happened and then it was, I don't know, maybe a couple of days
3 later.

4 Q. Okay. One of the other things you said is that
5 you went up and saw him lying on the road. Do you have your
6 statements in front of you?

7 A. Yeah.

8 Q. Do you remember in the first statement, the one that
9 was on the 2nd where you said Donna came up saying Bobby was
10 lying in the street?

11 A. Wait a minute.

12 Q. Down towards the very bottom.

13 A. Okay. One more time. Do what now?

14 Q. Do you recall saying that Donna came up yelling or
15 screaming Bobby was laying in the street?

16 A. Yes.

17 Q. On the next page do you remember saying that after
18 Billy had pulled the silver gun, Bobby called him a puss and
19 left?

20 A. I don't know. I don't remember, man. I was -- I
21 had some beer that night. I really don't recall.

22 Q. Okay. When you wrote your second statement on the
23 18th of April, 2014, do you have that in front of you?

24 A. The which one now?

25 Q. The one that you wrote on the 18th of April, that

1 short one?

2 A. Yeah. It's a short one. I see the date's on the
3 bottom now. Yeah. I was looking for dates. That's why.

4 Q. The very first line. I never saw Billy shoot Bobby.
5 Do you remember something better today than you did back in
6 2014?

7 A. It was dark. I didn't actually -- It's not like
8 it's 5:00 in the afternoon where you can look at somebody and
9 make a facial acknowledgment. I saw silhouettes.

10 Q. But you definitely wrote I never saw Billy shoot
11 Bobby.

12 A. No. I saw the muzzle flash.

13 Q. Did you write that?

14 A. No. I didn't.

15 Q. Did you write that in either of your statements?

16 A. I don't remember.

17 Q. Would it surprise you to learn that you didn't?

18 A. No.

19 Q. Okay. You also say that at some point Bobby told
20 Billy if you're gonna pull it, big boy, you better use it?

21 A. Yes.

22 Q. What do you think he was referring to?

23 A. I would assume the gun.

24 Q. Okay. So he's telling him to come out and get his
25 butt beat and then telling him you're gonna have to use

1 that?

2 A. Do what now?

3 Q. Bobby said to Billy come out here so I can beat your
4 ass. I'm gonna F you up. If you're gonna pull that, you
5 better use it?

6 A. That was earlier. Them things were said earlier.

7 Q. What about the if you pull it, big boy, you're gonna
8 use it?

9 A. Your gonna use it. I'm assuming that's when Billy
10 pulled the gun on Bobby.

11 Q. But then you go on to say that only seconds later I
12 heard four shots?

13 A. I heard one and then I heard three more so a total
14 of four shots.

15 Q. Did you write in your statement seconds later I
16 heard four shots?

17 A. Yes.

18 Q. Okay. Has Mr. Geisendorff ever presented any gun at
19 you?

20 A. No.

21 Q. Ever offered to shoot you?

22 A. No.

23 Q. Did you send Mr. Christofoli down to beat up Bobby
24 that night?

25 A. Nope.

1 Q. He went down there to beat him up on his own
2 accord?

3 A. To get up there to tell him to just hush, man. We
4 were tired of listening to it. I don't think that was his
5 intentions the whole time. Just wanted him - just wanted him
6 just to hush. We didn't want to listen to it no more.

7 Q. If I was to say to you come over here so I can beat
8 your ass like a man, I'm gonna F you up, what do you think my
9 intentions are?

10 A. Yeah. You're wanting to fight.

11 MR. STITELY: Nothing further. Thank you.

12 REDIRECT EXAMINATION

13 BY MR. McNAIR:

14 Q. Mr. Williams, in response to Mr. Stitely's question
15 about the first time Bobby walked up the road, who is the
16 person that caused Bobby to walk up the road?

17 A. Pardon me. What now?

18 Q. What caused Bobby to walk up the road the first
19 time?

20 A. Billy running his mouth, hollering, cussing.

21 Q. What did he do that caused Bobby to walk up the
22 road?

23 A. He was cussing and he was - he was cussing and
24 hollering and raising cane and we was just tired of it.

25 Q. What exactly again was he yelling at y'all?

1 A. Oh, he was calling us motherfuckers. Punk ass
2 bitches. Pussies.

3 Q. What exactly was it that the defendant wanted to do
4 to you?

5 A. He wanted to fight me.

6 Q. Okay. Now, you were testifying about Bobby's
7 size?

8 A. Right.

9 Q. He's not a professional MMA fighter, is he?

10 A. No, sir.

11 Q. He's not substantially bigger than the defendant, is
12 he?

13 A. Not much. Two or three inches maybe. Four
14 inches.

15 Q. A little heavier?

16 A. Yes, sir.

17 Q. All right. Now, had Bobby ever met the defendant
18 prior to this incident?

19 A. Yeah.

20 Q. Had they talked before?

21 A. Yeah. We had a fire in the yard one day and he had
22 come down there and we sat down there and drank by the fire.

23 Q. So they weren't friends but they had met each other
24 before?

25 A. They were acquaintances.

1 Q. Had there ever been any type of physical altercation
2 between those two in the past?

3 A. No, sir.

4 Q. And that statement you gave to law enforcement, was
5 that that night, that first statement?

6 A. Yes.

7 Q. Was it late?

8 A. Yes.

9 Q. Was Bobby Christofoli your best friend?

10 A. Yes.

11 Q. Did you put all of the details in your statement
12 that night?

13 A. Not that -- I mean, no.

14 Q. Now, when you said that you didn't see the defendant
15 shoot Bobby, what did you mean by that?

16 A. I didn't see -- What I meant was I didn't see actual
17 facial like looking at these people right here. I just saw a
18 body of silhouette, two silhouettes. That's it.

19 Q. You were certain that you saw two silhouettes six to
20 eight feet apart prior to that muzzle blast, correct?

21 A. Yes. Yes, sir.

22 MR. McNAIR: Thank you.

23 MR. STITELY: Nothing additional, Judge.

24 THE COURT: Thank you, sir. You may step down. All
25 right. We'll take about a ten minute recess. Don't talk

1 about the case. Continue to keep an open mind. We'll
2 resume the trial in about ten minutes. Thank you.

3 (Whereupon, the jury entered the jury room at 11:40
4 a.m.)

5 (Short break.)

6 THE COURT: Keep your seats. Anything before we
7 bring the jury in?

8 MS. MAYES: Nothing from the State, Your Honor.

9 MR. STITELY: Nothing from the defense, Your
10 Honor.

11 THE COURT: All right.

12 (Whereupon the jury entered the courtroom at 12:07
13 p.m.)

14 THE COURT: Call your next witness.

15 MS. MAYES: The State calls Donna Blanchett.

16 Thereupon,

17 DONNA BLANCHETT

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

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

22 THE WITNESS: Donna Blanchett, B-l-a-n-c-h-e-t-t.

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Ms. Blanchett, where do you currently reside?

1 A. [REDACTED] Cheryse Drive, Lexington.

2 Q. If you can tell us a little bit about yourself. How
3 long have you lived at that Cheryse Drive address?

4 A. Since 1988.

5 Q. All right. How many children do you have?

6 A. Two.

7 Q. What are their names?

8 A. Lynn and Grace.

9 Q. Now, who was Buck Blanchett?

10 A. He was my husband.

11 Q. What year did he pass away?

12 A. 2006.

13 Q. After he passed away in 2006, were you residing
14 alone there at your residence on Cheryse Drive?

15 A. Yes.

16 Q. I'm going to show you a photograph which is already
17 in evidence. I'm going to show you State's exhibit 1. I'm
18 just gonna walk up here to you to make that a little bit
19 easier. Looking here at this aerial photograph, Ms.
20 Blanchett, show us where your residence is at.

21 A. This one.

22 Q. This one right here. And that's the residence
23 you've lived in since 1988, correct?

24 A. Well, I did change mobile homes, but the same
25 residence.

1 Q. Same location?

2 A. Yes.

3 Q. And the same residence that you have been at since
4 your husband passed away?

5 A. Yes.

6 Q. And then you mentioned that you have two children.
7 Do you have a daughter by the name of Lynn?

8 A. Yes.

9 Q. Where does Lynn reside?

10 A. Right here.

11 Q. Okay. Separating these two residences is this small
12 patch of woods, correct?

13 A. Yes.

14 Q. And this roadway that we're looking at here, what is
15 that roadway?

16 A. Cheryse Drive.

17 Q. Now, specifically as to this roadway, do you own
18 that property?

19 A. Yes. I do.

20 Q. Well, as to the actual road, Cheryse Drive?

21 A. No. I don't own the road. I own my property.

22 Q. Right. Does Lynn own the road?

23 A. According to everybody, everyone on the road is
24 supposed to maintain the road but none of us own the road.

25 Q. All right. So none of you are owners of that road,

1 correct?

2 A. Right.

3 Q. As a resident there do all the residents in that
4 area around Cheryse Drive have access to that road?

5 A. Yes.

6 Q. So it's available for everyone to use, correct?

7 A. Correct.

8 Q. I want to start by asking you a little bit more
9 about what led us to the circumstances here. Back in 2014
10 were you working?

11 A. No. I was retired.

12 Q. Retired from what type of work?

13 A. I retired from finance for the State Budget and
14 Control Board.

15 Q. I'm gonna move this a little bit closer to you.

16 A. Okay.

17 Q. So you were a former state employee of the South
18 Carolina Budget and Control Board?

19 A. That's correct.

20 Q. Then you retired. Do you recall what year you
21 retired from the budget and control board?

22 A. At the end of '01.

23 Q. All right. And after your husband passed away, were
24 you residing alone there at [REDACTED] Cheryse Drive?

25 A. Yes.

1 Q. Ms. Blanchett, how is it that you met the defendant
2 in this case Billy Geisendorff?

3 A. He was across the street staying with his uncle.

4 Q. All right. When you say across the street, is his
5 uncle's residence visible in this diagram?

6 A. No. It's on this side.

7 Q. It's on up more?

8 A. Yeah. If I can show you. Where my driveway goes
9 there, theirs goes this way so they are right over here.

10 Q. What was his uncle's name?

11 A. Ben Gaybis.

12 Q. All right. How did that lead you to actually meet
13 Mr. Geisendorff and become acquainted with him?

14 A. I used to be real good friends with him and I would
15 go over there and visit and he was living over there and I had
16 mentioned I needed something done, a board in my kitchen and
17 they said, well, Billy could do it and he introduced me to
18 Billy and he came over later and fixed the kitchen floor.

19 Q. The kitchen floor in your home?

20 A. Right.

21 Q. And once he came over and helped with that odd job
22 around your house, did you see him anymore?

23 A. Yeah. We just started talking and then he would come
24 over sometimes in the afternoon and just sit on the front
25 porch and drink beer.

1 Q. All right. Now, at that point in time was he
2 employed anywhere?

3 A. No.

4 Q. Did you have various odd jobs around your house that
5 needed done?

6 A. I did.

7 Q. Can you tell us whether or not you had Billy do any
8 additional odd jobs around your house?

9 A. Not at that point.

10 Q. What happened next?

11 A. I'm trying to think. It just went on for several
12 weeks. Just he would come over and we would just talk and he
13 finally decided he was going back to Louisiana and he went.
14 In fact, I took him to the train to go back to Louisiana.
15 While he was in Louisiana he kept calling me and when he found
16 out I had tax money, he talked me into letting him come
17 back.

18 Q. Approximately what time of year was this and what
19 year are we talking about?

20 A. '14.

21 Q. 2014?

22 A. No. It was '13. I'm sorry.

23 Q. So the year before the shooting incident happened?

24 A. Yeah. Because he came back. The shooting happened
25 in '14. So he came back here and got to my house right after

1 Valentine of '13.

2 Q. All right. And around that time of February of 2013
3 can you tell us how, if at all, your relationship with Mr.
4 Geisendorff progressed?

5 A. I was a lonely old fool and I believed what he was
6 saying so I let him come back. I even paid his way for a
7 train and picked him up at the train to come stay with me.
8 Just to come stay with me and he lived with me until what
9 happened in '14.

10 Q. All right. So he began living there with you at [REDACTED]
11 Cheryse Drive?

12 A. Right.

13 Q. I want to ask you specifically about the
14 relationship. How would you describe your relationship? Were
15 you just friends or more than friends?

16 A. At one point I thought we were more than friends,
17 but it went from just being friends to a little more than
18 friends back to just friends.

19 Q. All right. And while y'all were living there at [REDACTED]
20 Cheryse Drive up until April of 2014, was anyone else living
21 there with the two of you?

22 A. No.

23 Q. Just the two of you. And in April 2014 can you tell
24 us whether or not Lynn was residing at Cheryse Drive at the
25 other residence?

- 1 A. They - they were there the whole time.
- 2 Q. When you say "they", you're referring to Lynn and
- 3 who?
- 4 A. Lynn and Michael.
- 5 Q. Michael Williams?
- 6 A. Right. They lived down there for years.
- 7 Q. Now, how would you describe Billy's relationship
- 8 with Lynn's boyfriend Michael Williams?
- 9 A. He never got along with him.
- 10 Q. How so?
- 11 A. I never really figured out why. I just knew he
- 12 didn't like him.
- 13 Q. When you say he didn't like him, you're referring to
- 14 who didn't like who?
- 15 A. Billy never did like Michael.
- 16 Q. Okay.
- 17 A. Although at times they would still sort of act like
- 18 they got along.
- 19 Q. You would see them speak to one another?
- 20 A. Yes.
- 21 Q. I want to take you specifically, Ms. Blanchett, to
- 22 the day of April 2nd, 2014 and I want to start by asking you
- 23 what you and Billy were doing that day?
- 24 A. We had gone to Gibson Pond for him to run his
- 25 electric boat.

1 Q. Gibson Pond. How far away is that approximately
2 from your home?

3 A. About almost ten miles. About nine something.

4 Q. Okay. And you say y'all went there for what
5 purpose?

6 A. For him to run his electric boat.

7 Q. Okay. He had an electric boat?

8 A. Right.

9 Q. And you're referring to Billy?

10 A. Yes.

11 Q. Did anyone else go to the Gibson Pond that day other
12 than you and Billy?

13 A. No.

14 Q. And who drove?

15 A. I did.

16 Q. Ms. Blanchett, can you tell us whether or not you
17 observed Billy drinking that day?

18 A. Yes. He was drinking.

19 Q. What was he drinking?

20 A. He started off drinking Corona.

21 Q. When you say he started off drinking Corona, was
22 that before Gibson Pond or while you were there? What time
23 approximately during the day was that?

24 A. He would always start early in the morning and drink
25 just about all day.

1 Q. Let me ask you specifically about the Gibson Pond
2 trip. The Corona that you mentioned, was that before Gibson
3 Pond?

4 A. He started before we ever left. Yes.

5 Q. What about while you were at Gibson Pond?

6 A. He made a vodka drink to take with him.

7 Q. Okay. What kind of vodka was this?

8 A. Taaka.

9 Q. What size bottle are we talking about?

10 A. The - I call it half gallon.

11 Q. Okay. Is it one of the small little pints?

12 A. No. The half a gallon.

13 Q. So it's the tall bottle?

14 A. Yes.

15 Q. And do you know whether or not he consumed that
16 vodka drink at Gibson Pond?

17 A. Yes. He did.

18 Q. I'm going to take you to approximately 5:30, 5:40,
19 that time of day. Would you have still been at Gibson Pond?

20 A. I believe we were.

21 Q. Who had your phone while y'all were at Gibson
22 Pond?

23 A. I had it until we got in the car to leave and then
24 he got it.

25 Q. Okay. When you say he got it, you're referring to

1 what type of phone?

2 A. A little flip phone.

3 Q. Cell phone?

4 A. Cell phone.

5 Q. And did you hear him on the phone?

6 A. He called Michael.

7 Q. Michael Williams?

8 A. Michael Williams. And he said something to him
9 about wanting him to come up into the yard after we got
10 home.

11 Q. All right. You heard Billy say to Michael come up
12 to the yard when you get home. What was his tone of voice
13 when he said that?

14 A. The first time it was fairly normal.

15 Q. And what happened next?

16 A. Well, his boat had tore up and that's why we were
17 getting ready to leave and when he got everything packed up in
18 the car is when he called Michael when I was backing out and
19 we went home and I know he called him again.

20 Q. All right. And what was his tone of voice?

21 A. He was just getting madder by the minute and kept
22 saying he wanted him to come up to the yard.

23 Q. What happened next?

24 A. When he was in the yard, he had gotten my gun and he
25 was out in the yard. I was trying to sit on the back porch

1 and read a book and he kept cussing and cussing and carrying
2 on and hollering and hollering down to them to come. And I
3 know after they got home and I know he kept calling and I
4 couldn't hear everything or how many times he called but he
5 had my phone and would not give it back to me.

6 Q. Did you ask for it back?

7 A. Yes. I did.

8 Q. Would he listen to you?

9 A. No.

10 Q. Were these repeated phone calls?

11 A. As far as I know they were.

12 Q. And you say that you could hear him yelling. What
13 was he yelling and who was he yelling at?

14 A. He was yelling MF. All kind of stuff and just
15 cussing and cussing and cussing and hollering and hollering
16 for Michael to come up to the yard.

17 Q. All right. This whole time you hear him hollering
18 for Michael to come up to the yard, did you ever hear Michael
19 holler anything back?

20 A. No. Michael never said a word.

21 Q. How long do you think this went on with him yelling
22 and cursing and calling for Michael to come up to the yard?

23 A. It seemed like forever.

24 Q. Can you tell us whether or not he was still
25 consuming alcohol during this time period?

1 A. Yes. He was.

2 Q. What type of alcohol?

3 A. I know he had vodka.

4 Q. Referring to that same bottle of vodka --

5 A. That same bottle of vodka.

6 Q. -- that you mentioned earlier? And eventually just
7 to clarify, here in State's exhibit 1, when you talk about
8 he's yelling, you're familiar with this property. If someone
9 is in your yard yelling, can you hear it down at your
10 daughter's house?

11 A. Mm-hmm. And we were in the back.

12 Q. If you could show us where you were.

13 A. Okay.

14 Q. I'll need you to --

15 A. I'm sorry. I was -- I can't even tell -- Well, this
16 was before -- Well, I can't see the porch, but I was sitting
17 out here.

18 Q. Okay. There's a back porch to your residence,
19 correct?

20 A. Right. Well, the back porch and a back porch.

21 Q. Okay.

22 A. So he was out here.

23 Q. So he's standing out in the yard and you were able
24 to see him from where you were?

25 A. Yes. Because I was sitting on the porch, the

1 outside porch and he was just jumping all around and carrying
2 on and had the gun and he was just out there just a cussing.

3 Q. Okay. And you could see him jumping around?

4 A. Yeah.

5 Q. How was he dressed?

6 A. Shorts and nothing else.

7 Q. Do you remember whether or not he was barefoot?

8 A. Yes. He was barefoot.

9 Q. And eventually, after all of this had been going on,
10 eventually was there a response from anybody down at the other
11 address [REDACTED] Cheryse Drive?

12 A. Yes. Bobby walked up the road. But Bobby stayed in
13 the road and Billy walked toward him with the gun in his hand
14 and Bobby was trying to get him to stop screaming obscenities
15 all over the neighborhood.

16 Q. All right. When you say Bobby stayed in the road,
17 you're referring to right here in the roadway of Cheryse
18 Drive?

19 A. Right.

20 Q. Did Bobby ever step foot in your yard?

21 A. No.

22 Q. And you say the defendant already had the gun?

23 A. Yes.

24 Q. And he went towards Bobby in what direction?

25 A. Bobby had walked up because they had the - they was

1 back here at the truck and Bobby had walked up here and I'm
2 not sure the first time if it was on this side of the light
3 pole or this side, but Bobby stayed in the road and Billy
4 walked out and stayed on my property and it was just words.
5 But Bobby kept trying to get him to stop screaming all over
6 the neighborhood.

7 Q. All right. And was there ever a physical
8 altercation between them?

9 A. No.

10 Q. All right. And did Bobby eventually retreat back to
11 Mike's house?

12 A. Yes.

13 Q. And where was the truck that Mike and Bobby had been
14 standing around?

15 A. It was someplace right in here.

16 Q. Okay. And this was after Bobby and Mike returned
17 home from work?

18 A. Right.

19 Q. What happened next?

20 A. Billy came up and he went back -- Well, I went in
21 the house and then he came in the house and when I went back
22 on the porch, he had laid the gun on a shirt or something
23 right at the top of the steps. When I saw the gun, I picked
24 it up and I took it into my bedroom and slid it on top of
25 chest of draws under some clothes.

1 Q. All right.

2 A. And when I started back out the door, Billy had
3 already gone back out and he came back in and he got right in
4 my face and said, called me a bitch. Well, asked me first
5 what I had done with the gun. I told him I put it up. He got
6 in my face and called me a bitch and told me not to ever take
7 the gun away from him again, so I just told him where it was
8 and he went and got it and the next thing I know, I didn't
9 know where he was. I thought he was in the house and I just
10 sat down. I was going to watch TV and that's when my phone
11 started ringing and it was him saying he was out -- At first
12 he told me he was almost at his cousin's house which I knew
13 had to be a lie because that would have been 15 miles and I
14 kept saying I know you're not. I said where are you? He
15 finally said he was out in the woods and that he had the gun
16 and I knew he had the vodka bottle with him, but he also had
17 his daddy's blanket. He told me he was out in the woods and
18 he was getting all scratched up. Then he got off the phone
19 and then he called me several more times and I know one time
20 he called me I wouldn't even pick the phone up and then the
21 last time he called was when he told me he had, he could see
22 them and they were talking about him and that he had a bead on
23 them and could take them out at any time.

24 Q. Let me stop you right there. Did you want to give
25 him that gun?

1 A. No. I didn't.

2 Q. Why had you taken it away and hidden it?

3 A. Because I was scared he was really going to do
4 something with it.

5 Q. When he demanded it back, who was the gun with the
6 last time you saw it?

7 A. Him.

8 Q. And when he went out into the woods, your testimony
9 was that he had the gun, the vodka and a blanket?

10 A. Right.

11 Q. And you were getting calls from him?

12 A. Mm-hmm.

13 Q. How was he making calls to you?

14 A. He was calling from my cell phone to my home
15 phone.

16 Q. Okay. So your cell phone. Who had your cell
17 phone?

18 A. He did.

19 Q. And then he was able to call you on your landline?

20 A. Right.

21 Q. And that last call that you got from him, what was
22 he talking about when he told you that he had a bead on
23 them?

24 A. He said that he was in the woods. He could see them
25 and that he had a bead on them and could take both of them out

1 and that they were talking about him.

2 Q. And he was referring to who?

3 A. Billy -- He was referring to Michael and Bobby
4 sitting at the tailgate of the truck.

5 Q. So he was watching Michael and Bobby from the
6 woods?

7 A. Right.

8 Q. Can you tell us whether or not based on your
9 conversations he had a gun aimed at them?

10 A. That's what I got from what he said.

11 Q. What was your response to that?

12 A. I hurried and put my clothes on again, got dressed
13 and went back down to where Michael and Bobby was at the end
14 of the truck and I asked them what they were talking about.
15 They said work. Well, then that's when I started back up the
16 road and Billy came out and wanted to know what they were
17 talking about.

18 Q. Okay. I'll stop you right there. When you were
19 getting the calls from him in the woods, can you tell us
20 whether or not you made any attempts to get him to come back
21 into the home?

22 A. I told him please calm down/ and just come back in.

23 Q. What was his response to that?

24 A. He just wouldn't.

25 Q. He refused to come back home?

1 A. He refused to come back in the house.

2 Q. And as a result you left the house?

3 A. Yeah. Well, I went down to where Michael and Bobby
4 were standing talking.

5 Q. All right. So looking again at this aerial photo,
6 you leave your residence and go where?

7 A. From here straight down here to the back of the
8 truck.

9 Q. You went to the back of the truck and you spoke with
10 Mike and Bobby?

11 A. Right.

12 Q. And at that point in time you asked them what they
13 were talking about?

14 A. And they said work.

15 Q. They said work. And what did do you?

16 A. I turned around and walked back up the road and I
17 got right back here. Billy come out of the woods from
18 somewhere in here and I told - he asked me what they were
19 talking about. I said they're talking about work. And he
20 started cussing again and saying all kind of things. Well,
21 Bobby walked back up the road and he got right beside me and
22 my mind was in such a state. I heard Billy say gun and I
23 turned around and ran as fast as I could back to where Michael
24 was.

25 Q. All right. So as you were leaving the truck where

1 Mike and Bobby were, you're walking back up here, who came out
2 of the woods?

3 A. Billy.

4 Q. And looking at that photo about where did he come
5 out from the wood line?

6 A. Some place in here.

7 Q. Some place right in here?

8 A. Yeah.

9 Q. Did you know he was going to be coming out of the
10 woods?

11 A. No.

12 Q. So this is by surprise. And what's his demeanor or
13 attitude at this point when he confronts you in the roadway?

14 A. He was just mad.

15 Q. Was Billy in the road?

16 A. Yeah. He came out in the road and was standing in
17 front of me.

18 Q. So at this point you and the defendant are both in
19 the road?

20 A. Right.

21 Q. And you testified he was yelling. Who was he
22 yelling at?

23 A. Right then he was just yelling.

24 Q. All right.

25 A. He was yelling that they were lying.

1 Q. And he was yelling that at who?

2 A. He was just yelling. I was standing in front of him
3 and he was hollering that they were lying.

4 Q. And it's just you and Billy at that point?

5 A. Right.

6 Q. Where did you see Bobby come from in response to
7 this?

8 A. He walked up the road and he was beside me.

9 Q. Okay. So Bobby leaves the truck and comes up the
10 road to where the defendant is with you and yelling?

11 A. Right. Right.

12 Q. Okay. About how far apart would you say Bobby was
13 from the defendant?

14 A. I would say about five or six feet.

15 Q. Okay. Five or six feet. And your testimony was
16 that you heard Billy say the word gun?

17 A. That - that's all I heard was gun and I turned
18 around and ran.

19 Q. All right. At that point you ran?

20 A. I ran.

21 Q. Back to the truck?

22 A. Right.

23 Q. About how long did it take you to get back to the
24 truck?

25 A. Maybe ten seconds.

1 Q. All right. When you got back to the truck, what, if
2 anything, did you hear?

3 A. Michael was standing at the truck and we heard -
4 that's when we heard the gunshots.

5 Q. Was it more than one?

6 A. Yes.

7 Q. Are you able to say exactly how many you heard?

8 A. No. I just heard bang, bang, bang, bang, and I
9 didn't count. I don't know.

10 Q. What happened next?

11 A. Michael called 911 and I went, got back to the road.
12 I was calling Bobby.

13 Q. When you say calling, what do you mean?

14 A. I was hollering, Bobby, Bobby, Bobby.

15 Q. Calling his name.

16 A. And I saw him in the road and when I saw him in the
17 road is when I started screaming and I couldn't stop screaming
18 and then I went back to Michael. He was talking to 911 and
19 they told us to go in Michael's house and lock the door.

20 Q. Okay. When you say you saw Bobby in the road
21 at this point, was he standing in the road or lying in the
22 road?

23 A. He was lying in the road about someplace right in
24 here.

25 Q. Can you tell us is that the general location where

1 you had last seen him?

2 A. Yes.

3 Q. Did you see any sign of Billy when you went back up
4 the road to talk to Bobby?

5 A. No. I never saw him again.

6 Q. Did an officer come down to your house to speak
7 with you?

8 A. Yes.

9 Q. What was your state of mind that night at the
10 scene?

11 A. I was a total wreck.

12 Q. Did you attempt to give a statement to law
13 enforcement?

14 A. I attempted to. Yes.

15 Q. Were you able in that state of mind to include every
16 single thing that had happened that night?

17 A. No.

18 Q. How would you describe Michael's state of mind that
19 night when he was giving statements to the police?

20 MR. STITELY: I'm gonna object to that, Judge.

21 MS. MAYES: I can rephrase it, Your Honor.

22 BY MS. MAYES:

23 Q. What, if anything, did you observe about Michael's
24 mood or behavior after this had happened to his friend
25 Bobby?

1 A. He was very upset and him and Bobby had been
2 drinking beer so, you know. But Michael really didn't act
3 like he was actually drunk. He was - he had been drinking and
4 he was really upset about Bobby.

5 Q. All right. You had testified that when the
6 defendant demanded the gun back from you and left your house
7 with the gun, he had the gun and your cell phone. When he had
8 left the scene, was law enforcement asking you who he was and
9 where he may have gone?

10 A. I can't remember if they asked me anything that
11 night. I mean, not then.

12 Q. All right. Were you present when he was apprehended
13 under the crawl space of your home?

14 A. No. I was in Michael's house.

15 Q. All right.

16 A. Because that's where we stayed.

17 Q. All right. And under the crawl space of your home,
18 I'm going to ask you whether or not you recognize this
19 photograph which is State's exhibit 29?

20 A. Yeah. That's the crawl space.

21 MR. STITELY: Judge, I would like to see that
22 before.

23 THE COURT: Okay.

24 BY THE WITNESS:

25 A. That's the crawl space that goes under my trailer.

1 BY MS. MAYES:

2 Q. Do you normally leave the door or hatch to the crawl
3 space open?

4 A. No. It's always closed.

5 Q. At this time I have a series of photographs I'm
6 going to show you and ask you whether or not you can identify
7 them. I'm going to show you some additional photos. Just if
8 you can tell us whether or not you can recognize what's in
9 them. State's exhibit 28.

10 A. That's my cell phone.

11 Q. State's exhibit 9?

12 A. That was my husband's gun.

13 Q. All right. You say your husband's gun. That was
14 Buck's gun?

15 A. Well, it was actually Buck's daddy's gun and Buck
16 had it so I had it after Buck died.

17 Q. What type of gun was that?

18 A. It's a .22.

19 Q. A .22. Can you tell us whether or not that's the
20 gun that Billy had that night?

21 A. Yes. It is.

22 Q. That gun belongs to you?

23 A. Yes.

24 Q. Where do you normally keep the ammunition for that
25 gun?

1 A. In a kitchen cabinet.

2 Q. The last time you saw the ammo for that gun where
3 had it been?

4 A. I thought it was in the kitchen cabinet.

5 Q. All right. I'm going to show you what is State's
6 exhibit 10 and ask you whether you can recognize that?

7 A. Yes. That's the bullets.

8 Q. The bullets. The ammo for that gun?

9 A. Mm-hmm.

10 Q. And State's exhibit 8?

11 A. Yes. The bullets.

12 Q. That's the ammo?

13 MS. MAYES: Your Honor, at this time this will be
14 State's exhibits 8, 10, 9, and 28 and 29 for evidence.

15 MR. STITELY: Judge, I don't have objections about
16 numbers 28 and 29. If I could look at 8 and 10 one more
17 time if it please the Court.

18 THE COURT: Sure.

19 MR. STITELY: No objection to those either, Your
20 Honor.

21 THE COURT: They're in evidence.

22 BY MS. MAYES:

23 Q. Beginning with the crawl space at the home, you said
24 that you normally do not leave the hatch open?

25 A. No. It's always closed.

1 Q. So if the hatch is open, you did not put it that
2 way?

3 A. I couldn't hear you.

4 Q. One more, Ms. Blanchett. State's exhibit 6. It's a
5 little dark.

6 A. Yes. It is dark. That's my bedroom, bathroom.
7 That's the chest of drawers. That was a pile of clothes.
8 That's where I stuck the gun up under it.

9 Q. Okay. Looking here at this photo, State's exhibit
10 6, what part of the residence is this?

11 A. That's my bedroom and the bathroom and it's dark.

12 Q. That's the bedroom where the dresser was located
13 where you hid the gun?

14 A. Right.

15 Q. What are we looking at here?

16 A. My cell phone.

17 Q. And here is State's exhibit 9.

18 A. And that's my gun.

19 Q. When you last saw that gun, it was with who?

20 A. Billy.

21 Q. State's exhibit 10, what are we looking at?

22 A. The bullets that went with the gun.

23 Q. Finally.

24 A. Same bullets.

25 Q. All right. The bullets were in the couch. Did you

1 put the bullets in the couch?

2 A. No. I kept the bullets in the cabinet.

3 Q. Thank you. Nothing further on that matter. At any
4 point during that time, Ms. Blanchett, that you were in the
5 roadway in that final incident, you were in the roadway and
6 your testimony was that the defendant was yelling, did you
7 ever hear Bobby make a threat to the defendant?

8 A. No.

9 Q. Did you ever see Bobby move in a lunging manner
10 towards the defendant?

11 A. No.

12 Q. Did you ever see any kind of weapon on Bobby?

13 A. No.

14 Q. What was Bobby trying to do based on what you
15 heard?

16 A. He was trying to get him to stop screaming all over
17 the neighborhood.

18 Q. When you last saw them as you ran back towards the
19 truck, approximately how far apart were they?

20 A. Well, I was around five or six foot from Billy and
21 Bobby was standing right beside me when I turned around and
22 ran.

23 Q. Who was Bobby facing toward?

24 A. Billy.

25 Q. And who was Billy facing toward?

1 A. Bobby.

2 Q. Finally I want to ask you, have you had a chance to
3 review the phone log of the ingoing and outgoing calls from
4 that cell phone that I showed you a photo of?

5 A. Yes.

6 Q. Who had that cell phone throughout the night of
7 April 2nd?

8 A. Billy.

9 Q. Were you ever able to get the phone back from him?

10 A. No.

11 Q. Based on the call log what's the time of the last
12 call you got from him?

13 A. 8:39.

14 Q. He's calling you on what phone?

15 A. He called me on the landline from my cell phone.

16 Q. 8:39. Is that a.m. or p.m.?

17 A. Is that what?

18 Q. Is that 8:39 in the morning or at night?

19 A. At night.

20 Q. 8:39 p.m. he's calling you on the landline?

21 A. Right.

22 Q. How long does that phone call last, Ms. Blanchett?

23 A. According to this six minutes and 28 seconds.

24 Q. Six minutes and 28 seconds in duration. And your
25 testimony was at some point you were prompted to get dressed

1 and go out and that's when you went out on the roadway
2 yourself?

3 A. Right.

4 Q. Which phone call was it that prompted you to take
5 that action?

6 A. That last one.

7 Q. This last call. What, or how would you describe the
8 state of mind of this defendant and what he was saying to you
9 and how he was saying it?

10 MR. STITELY: Objection once again to his state of
11 mind.

12 MS. MAYES: I can rephrase that, Your Honor.

13 BY MS. MAYES

14 Q. What was his tone of voice?

15 A. Hateful.

16 Q. Were you ever able to reason with him?

17 A. No.

18 Q. Did he ever say to you that he was scared or
19 afraid?

20 A. Never.

21 Q. What was he angry about? Did he express that?

22 A. I have never known what he was really angry about.

23 Q. And the gun, based on your testimony, he had that
24 gun already on him at the time of the first incident?

25 A. Yes.

1 Q. The first time he's yelling and screaming when they
2 got home from work?

3 A. Yes.

4 Q. And the entire time that he was in the woods did he
5 ever come back inside to put the gun up?

6 A. No.

7 Q. He had it with him the whole time?

8 A. Right.

9 Q. Do you recognize this item?

10 A. Yes. That's my old cell phone.

11 Q. That's the cell phone. Can you tell us whether or
12 not this is the cell phone that you were referring to that he
13 was calling you on to the landline?

14 A. Right.

15 MS. MAYES: And this would be State's exhibit 6 in
16 evidence as well, Your Honor.

17 MR. STITELY: No objection.

18 THE COURT: It's in evidence.

19 BY MS. MAYES:

20 Q. Ms. Blanchett, why did you take off running back to
21 that truck?

22 A. When Billy said gun, I actually got scared and
23 turned around and just took off running.

24 MS. MAYES: Nothing further.

25 THE COURT: Okay. We are gonna take a lunch break

1 and we'll reconvene at 2:00. Don't talk about the case.
2 Continue to keep an open mind. See you back at 2:00.
3 Thank you.

4 (Whereupon the jury was released for lunch break at
5 12:55 p.m.)

6 (Lunch recess.)

7 BAILIFF: All rise.

8 THE COURT: All right. Please be seated. Anything
9 before we bring the jury in?

10 MS. MAYES: Your Honor, our understanding after
11 consulting with defense counsel over lunch break is that
12 they are stipulating to the chain concerning some of the
13 items that were sent to the State Law Enforcement
14 Division for analysis. That would include the blood
15 samples of the victim that were sent for purposes of
16 toxicology analysis and then also the items that were
17 sent for ballistics analysis. There will still be
18 testimony from the SLED agent assigned to actually do the
19 analysis and then there will still be testimony from the
20 person who retrieved those items from the scene or from
21 the body at autopsy, but it's the people in the chain in
22 between that the defense is stipulating we do not need
23 and with that being the case we're gonna release those
24 witnesses now.

25 MR. STITELY: That is correct, Your Honor.

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

2 Bring the jury in.

3 (Whereupon, the jury entered the courtroom at 2:20
4 p.m.)

5 THE COURT: All right. Cross examination.

6 MR. STITELY: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. STITELY:

9 Q. Ms. Blanchett, how are you today?

10 A. In pain.

11 Q. Okay. Is it a medical condition?

12 A. Yeah.

13 Q. Okay. Sorry about that. My name is Ben Stitely and
14 I have some questions I would like to clarify with you.

15 Before we get started, who have you gone over before this
16 trial today and talked to about what you would be testifying
17 to today? Any particular parties?

18 A. The two people sitting there.

19 Q. The two prosecutors?

20 A. Yeah.

21 Q. Anyone else?

22 A. No.

23 Q. Law enforcement?

24 A. No.

25 Q. Family or friends?

1 A. No.

2 Q. I got from the demeanor of your testimony as you
3 were speaking to Ms. Mayes, you described your relationship
4 with Mr. Geisendorff as friends, maybe more than friends and
5 then friends again. Is that what you said?

6 A. Yes.

7 Q. So you wouldn't have characterized it as a loving
8 and endearing relationship?

9 A. It was not really a loving, a love affair if that's
10 what you mean. It was more friend.

11 Q. Okay. Do you recall after he got charged with this
12 making a number of phone calls with him at the jail?

13 A. Yes. I do.

14 Q. How would you describe your demeanor in your
15 speaking with him on those calls?

16 A. I actually thought that I was in love with him.

17 Q. What changed your mind?

18 A. Well, I was in such a state, I was not in my right
19 mind at the time.

20 Q. You still live in close proximity to your daughter,
21 Michael Williams; is that correct?

22 A. Right.

23 Q. You in contact still with Mr. Christofoli's
24 family?

25 A. No.

1 Q. But you still have to deal with Mr. Williams and
2 your daughter?

3 A. Right.

4 Q. Do you remember speaking to law enforcement that
5 night?

6 A. Yes. I do.

7 Q. Do you remember later on in speaking to them again
8 and providing a secondary statement?

9 A. Yes.

10 Q. Let's go back through some of the things you talked
11 to the Solicitor about. One of the things you kind of ended
12 with is you told Ms. Mayes that you don't even know what Billy
13 was angry about?

14 A. I still don't.

15 Q. Do you remember the very first line of the statement
16 that you wrote?

17 A. Which one?

18 Q. The one that you wrote to law enforcement on April
19 2nd, 2014.

20 A. Which statement?

21 Q. The one written by Donna B. Blanchett.

22 A. This one?

23 Q. That one. Yes, ma'am. We'll start with that one.
24 Do you remember saying that at about 3:30 Billy called Michael
25 from Gibson Pond and told him he met him no harm but was upset

1 about the things Michael had said Monday night?

2 A. Yes. That's what I wrote.

3 Q. So today you don't know what the fight was about or
4 the argument was about but that night you did?

5 A. When I wrote this, I knew what Billy had told me
6 about an argument with Michael.

7 Q. So how come during your direct testimony you told
8 the Solicitor you have no idea what the argument was about?

9 A. I still don't know for sure what the argument was
10 about. I don't know if it was really about him getting mad at
11 him on Monday night because he had been mad at him for so
12 long.

13 Q. Well, let's look at the end of that statement where
14 you say Monday night Michael called and asked Billy to help
15 him change a tire. When Billy came back, he said Michael was
16 drunk saying terrible things about me. He had called me an
17 evil bad word and thrown a beer can at him, hit him, got in
18 his face like he was trying to stop him from leaving. Billy
19 was extremely mad because of the things that Michael had just
20 said about me. Do you recall saying that?

21 A. I recall writing it. Yes.

22 Q. And then you said I had not heard actual threats
23 until tonight when he called me on the phone. Are you
24 referring to Billy or are you referring to Michael?

25 A. Oh, Billy. The last time he called me on the

1 phone.

2 Q. Okay.

3 A. As far as what Billy told me when he came back from
4 down at Michael's. I did not really believe what he said.

5 Q. All right. You didn't say it to the Solicitor but
6 at some point that night you go up to Michael's house and tell
7 Bobby he had to leave?

8 A. Yes. But it wasn't because I -- I liked Bobby. It
9 wasn't Bobby. By that time I was just so distraught. I was
10 so aggravated. I was mad plus scared and I went down there
11 and just tried to get Bobby to go home. I kept thinking if
12 Bobby would just go home, if Michael would go back in the
13 house, then I thought Billy would just come back in and go to
14 sleep and sleep it off. And I also kept thinking, well, he's
15 going to eventually pass out out there in the woods he was
16 that drunk.

17 Q. Okay. You told the Solicitor during direct
18 examination that the only thing Bobby did was come down and
19 try to calm Billy down. Do you remember saying that?

20 A. Yeah. He came down. What he was trying to do was
21 get him to stop screaming obscenities all over the
22 neighborhood.

23 Q. Let's look back at your statement. We're down to
24 the sixth line of the first page. Bobby walked up the road
25 edge and was egging Billy on.

1 A. At the time I don't know why I wrote that particular
2 word.

3 Q. Did you lie when you wrote it down?

4 A. No. I do not lie. But I will tell you this: This
5 particular day I had been up all day long. I had been having
6 to listen to Billy cuss, cuss, cuss, cuss, cuss for hours. I
7 was not in the right frame of mind and then after everything
8 had happened, I could not quit crying. I sat on the couch
9 down at Michael's and they had me write this at 12:00 that
10 same night. I was good to get what I wrote wrote.

11 Q. Okay. On the second page, fourth line do you
12 remember saying Bobby started running his mouth again and came
13 up the road towards Billy?

14 A. Well, when I say running his mouth, he was - kept
15 telling him to shut up because Billy was still hollering.

16 Q. Okay. And then you told the Solicitor you heard
17 Billy say something about a gun and you ran to Michael's.
18 What did you say in your statement about that? It's the next
19 line in your statement. Didn't you, in fact, say you heard
20 Billy talking about the gun and I walked down to Michael's?

21 A. I know that was another thing that I wrote wrong. I
22 wasn't walking. I was running as fast as I could run.

23 Q. How long was this after you had told Bobby to leave
24 because you thought that would de-escalate the situation?

25 A. I can't - I don't know the times, but I know the

1 first time when I tried to get Bobby to leave, it was still
2 daylight and I went back home and at one point I just changed
3 clothes and was trying to watch TV and trying to just get
4 calmed down 'cause Bobby didn't leave and I did find out he
5 was planning on going home. He was waiting for his wife to
6 come pick him up because he had been drinking and didn't want
7 to drive.

8 Q. Did you not write in your statement that Bobby said
9 he didn't have to go and he was visiting and you couldn't tell
10 him to leave?

11 A. Well, yes. He said that. But it was because I was
12 so belligerent with him trying to get him to leave.

13 Q. That's a little different. Why were you
14 belligerent?

15 A. I don't know if that's the right word. I was just
16 saying, Bobby, you know, you need to go home. You just need
17 to leave.

18 Q. In fact, in your second statement, do you have that
19 in front of you?

20 A. Yes.

21 Q. That's the one kind of handwritten?

22 A. Yes.

23 Q. Where you yelled at Bobby to get off my land and go
24 home?

25 A. Yeah.

1 Q. And then he kept saying I'm visiting and you
2 couldn't tell him to leave?

3 A. That's true. And I really couldn't. I only -- But
4 I was just trying my best to get him to leave to try to get
5 everything just to stop.

6 Q. But it's your position today that Bobby was just
7 being a good old nice guy and trying to de-escalate the
8 situation?

9 A. Yes.

10 Q. You didn't hear the statement where he said come out
11 in the road. I'm gonna beat your ass like a man?

12 A. Bobby never said that.

13 Q. Bobby never said that?

14 A. No.

15 Q. So Michael would have been lying if Michael said
16 Bobby said that?

17 A. I didn't hear --

18 MS. MAYES: Objection, Your Honor pitting of
19 witnesses.

20 THE COURT: Sustained.

21 BY MR. STITELY:

22 Q. Were you out in the roadway at the same time as
23 Bobby?

24 A. Just the very last time.

25 Q. Okay. How many times did you go down to Michael's

1 house to tell Bobby to leave?

2 A. Just once.

3 Q. Okay. How many times did you go down to Michael's
4 house in total?

5 A. Twice.

6 Q. Okay. One of the things you said is that
7 Mr. Geisendorff had the cell phone the whole night?

8 A. He did.

9 Q. Who called 911 from your house phone then?

10 A. I probably did, but I still to this day don't
11 remember doing it.

12 Q. So at 7:22 you called 911? An hour and a half
13 before the shooting you called 911, correct?

14 A. Evidently I did and still do not remember it.

15 Q. Why was it you didn't want law enforcement to come
16 down there that night?

17 A. I told you I was not in my right state of mind. I
18 didn't even remember calling.

19 Q. Why wouldn't you have wanted law enforcement to come
20 at 7:22 when 911 was dialed?

21 A. If I had been in my right mind, I would want - I did
22 want them to come. I would want them to come.

23 Q. So obviously you were concerned enough about
24 something an hour and a half before this went down that you
25 called 911 when Bobby walked down the driveway?

1 A. I cannot in my mind get all the times right or even
2 the time lines right. I was - my - I was not in my right mind
3 at that time..

4 Q. So you remember things far better today two years
5 after the fact than you remember when you were there that
6 night?

7 A. No. I don't remember them now anymore than I
8 remembered them then.

9 Q. So is it possible that some of the things you said
10 on direct are just things you're guessing at?

11 A. No. I don't feel like I'm guessing at anything.

12 Q. One of the things you said was that Billy was in the
13 woods listening to what they had to say and then asked you to
14 go talk to them?

15 A. No. He didn't ask me to. He was, on that last
16 phone call I don't remember him asking me to. I remember
17 getting off the phone with him, putting my clothes on and
18 walking back down there and I asked him what they were talking
19 about.

20 Q. And Billy didn't know what they had been talking
21 about was the conversation you had with him after the fact?
22 He asked you what were they talking about.

23 A. He kept saying when he was in the woods on the phone
24 with him, he said they were talking about him.

25 Q. So why did he ask you what they were talking about

1 when you met him in the roadway on your way back?

2 A. Because I went down there to ask them. I asked them
3 what they were talking about and when I started back up the
4 road, he asked, he came out and he asked me, he said, well,
5 what did they say? I said they were talking about work.

6 Q. Well, if he was just listening to them, why did he
7 ask you what they were saying?

8 A. I have no idea about that.

9 Q. Okay. Was that when you told Bobby to leave?

10 A. No. That had happened before then.

11 Q. So you even had told Bobby to leave probably that
12 first time over an hour earlier?

13 A. That's because I was tired of hearing Billy cussing
14 and carrying on.

15 Q. But you were definitely the one in possession of
16 your landline?

17 A. Yeah.

18 Q. Okay. So you don't remember why you called 911 but
19 you did?

20 A. I didn't even remember actually doing it.

21 Q. What did you tell them when they called you back?

22 A. I told them that it had to have been a misdial and I
23 actually, when I started thinking, I thought it was from the
24 cell phone but it was not. It was from the landline.

25 Q. Were you drinking?

- 1 A. I had not had a drink. No.
- 2 Q. At all?
- 3 A. Not then. No.
- 4 Q. Not then at all that day?
- 5 A. No.
- 6 Q. Not a one?
- 7 A. Not a one.
- 8 Q. Okay. After this happened, did you go and put a
- 9 bunch of money on Billy's account at the jail?
- 10 A. Yes. I was stupid enough to do it one time.
- 11 Q. Did you continue to call him and speak with him over
- 12 the next couple of weeks?
- 13 A. He called me for several times and I talked to him
- 14 and I would get upset and I would be crying and I would say I
- 15 loved him because I was not in my right mind and he said some
- 16 things that kind of got my mind to thinking that he - he was
- 17 trying to blame somebody else and he even said something one
- 18 time about it was all Lynn and Michael's fault.
- 19 Q. Okay.
- 20 A. And then he said something one time about -- I
- 21 cannot remember all the exact words. He said something about,
- 22 you know, that I was the only one that could help him.
- 23 Q. He was asking you to help him get a lawyer, wasn't
- 24 he?
- 25 A. I don't -- No. I don't think he asked me to get a

1 lawyer which I wouldn't have done that anyway. But he did say
2 something about help. I was the only one that could help him.
3 But all I told him, I said I will tell the truth and I meant
4 I'll tell the truth, not what he wanted to be the truth.

5 Q. I'm fine with that. Do you remember your one
6 conversation where you were saying you were so lost and even
7 the cats missed him and you couldn't wait for him to be home
8 and it was killing you that he wasn't there?

9 A. Yes. That's when I was completely out of my mind.

10 Q. But today you're in your mind?

11 A. Well, I, after all that, after I just cut it off,
12 quit talking to him, quit doing anything and I went to
13 counseling for months.

14 Q. Did law enforcement tell you to stop talking to
15 him?

16 A. No.

17 Q. After your interview on 4/18/2014?

18 A. No. She said I could talk to anybody I wanted to
19 talk to. But I didn't want to talk to him anymore. I didn't
20 want to listen to anymore of his lies.

21 Q. But the statements that you wrote the night in
22 question and on the 18th, those are - you don't even know why
23 you wrote those? They're fabrications? You're not in your
24 right mind?

25 A. They're not fabrications. I was just not in my

1 right mind. I was a nervous wreck when I had to sit there at
2 midnight and write all that.

3 Q. Well, what about the one two weeks later?

4 A. I was still a wreck because a had been talking to
5 him on the phone. He's very good at making people believe.

6 Q. I'm going to show you this picture once again. The
7 house on the bottom as we have been referring to it down the
8 hill, that's where Michael stayed?

9 A. Yes.

10 Q. And this is the house where you stayed. Where was
11 the first time you saw Bobby out in the road?

12 A. Someplace -- The first time was either right in here
13 or right there. Either there or here.

14 Q. Fairly closer to your house than it was to
15 Michael's?

16 A. Well, if he's right there, well, close. But he
17 wasn't - I mean, it wasn't down here. I wouldn't have even
18 seen them there. It was either up here or right in here.

19 Q. And that's where in your statement you said he was
20 egging Billy on?

21 A. I don't know why I used that word. It was just
22 Bobby was out there telling him to please shut up and stop
23 screaming those obscenities everywhere.

24 Q. The second time where did you see him?

25 A. The second time when I put my clothes on, went out

1 and just walked straight down to where they were at the back
2 of the truck.

3 Q. Okay.

4 A. And I asked them, you know, what they were talking
5 about. They both said they were talking about work. And I
6 just said okay. And I started back up the road. He came out
7 around in here and asked me what they were talking about. I
8 said work. They said they were talking about work. And he
9 started again. They're lying. They're lying. And just
10 cussing and they're lying. And that is when Bobby came up
11 again and he got right beside me and that's when I heard the
12 word, and all I heard was the word gun and I turned around and
13 I ran from there back to where Michael was.

14 Q. Did you have your back problem back then too?

15 A. No. I wasn't like I am now. That's two and a half
16 years ago.

17 Q. Do you remember on the calls that you made talk
18 about how you were waiting to see the surgeon about your
19 back?

20 A. Yeah. I was.

21 Q. Okay.

22 A. But, I mean, it didn't stop me from running.

23 Q. Where was Bobby when you told him to go?

24 A. The first time he was at the back of the truck.

25 Q. Okay. But you said the first time you talked to him

1 he was up hear. So you actually went all the way up there
2 after you met him in the roadway? Because you said the first
3 time he came you were sitting here and you saw, your word,
4 egging Billy on from here?

5 A. No. That's not -- It was after that when I walked,
6 when I went down there and asked him to leave.

7 Q. Okay. But before the time you went and spoke to him
8 about what they were talking about?

9 A. Yeah. That happened all - all - me asking him to
10 leave and the first time Bobby walked up and then when that
11 part was over and Bobby went back, that's when I asked Bobby
12 to leave.

13 Q. Okay.

14 A. And he wouldn't and I went back home and that's when
15 I was - I just - I was like this and I just wanted to relax
16 and watch TV.

17 Q. Do you know if that's when you called 911?

18 A. I still do not remember that. I know I had to do
19 it. It's on my phone but I don't remember.

20 Q. When Bobby came up to meet you the time when you
21 were speaking to Billy in the roadway, did you hear him make
22 any statements about you gonna pull that thing, you're gonna
23 use it?

24 A. No. I know that's what Michael heard, but I was in,
25 my state of mind, I heard gun and I ran.

1 Q. How do you know Michael heard that if you have not
2 talked to him about your testimony today?

3 A. I didn't - I did not know about that until I heard
4 Michael say it yesterday.

5 Q. So you have been talking about your testimony?

6 A. No.

7 MR. STITELY: I have no other questions at this
8 time.

9 REDIRECT EXAMINATION

10 BY MS. MAYES:

11 Q. Just to clarify, was that a conversation with
12 Michael or was that an official court proceeding?

13 A. Yesterday was a hearing here in court.

14 Q. Don't say -- Can you tell us where you were when
15 heard that statement?

16 A. Sitting right back there.

17 Q. In this courtroom?

18 A. Yeah.

19 Q. Okay. Now, I want to follow up a little bit more on
20 some questions that Mr. Stitely had for you. First of all,
21 about your relationship with the defendant Mr. Geisendorff,
22 can you tell us whether or not this was the first significant
23 relationship you had after your husband passed away?

24 A. Yes.

25 Q. And why were you taking his calls from the jail

1 initially after he was arrested?

2 A. Because I still - I was thinking I loved him and I
3 finally came to my senses and realized that he was just making
4 a fool out of me.

5 Q. Now, when we talk about what happened there on that
6 last, the last incident that Mr. Stitely was asking you about,
7 the one right here, this last incident where you said you
8 heard the word gun and you left, what was it that drew Bobby
9 up the road?

10 A. When I walked back up the road, Billy was asking me
11 and he started hollering that they were lying, they were lying
12 and got louder and louder and that's when Bobby walked up and
13 was standing beside me and when I heard gun is when I turned
14 around and ran as fast as I could.

15 Q. Okay. Did you ever at any point on that occasion
16 hear Bobby make any threats to this defendant?

17 A. No. I never did.

18 Q. Did you ever see him go at this defendant?

19 A. No. I didn't.

20 Q. He was standing where in relation to you, Bobby?

21 A. I was standing in front of Billy and it must have
22 been five or six feet. I can't judge feet. And Bobby was
23 right beside me when I heard gun and ran.

24 Q. He was at your side?

25 A. Yeah.

1 Q. What, if anything, did you mean when Mr. Stitely was
2 asking you about why Billy was mad and you said you didn't
3 really know, he's been mad at Mike so long?

4 A. They just never got along and the whole time he was
5 there I never could figure out exactly what his problem was
6 with Michael.

7 Q. And Mr. Stitely was asking you about the 911 call
8 that was made at 7:22. I'll just pull this around. All
9 right. So there's a 911 call that's made at 7:22 and it's
10 made from your landline and it's classified as accidental so
11 I want to ask you some questions about that phone call that
12 Mr. Stitely was asking you about. Do you remember a 911
13 dispatch calling back that night?

14 A. Yes. I remember that.

15 Q. What did you tell the dispatch?

16 A. I told them it may have been a misdial because I
17 kept thinking Billy may have misdialed on the phone, but it
18 happened to be the landline so it would have to be me to call
19 but I still didn't remember. I still don't.

20 Q. Okay. And then were you present when the next 911
21 call was made by Mike at 8:58 p.m. after the shooting?

22 A. All I know is when I got back down to the truck,
23 that's when I thought Michael was already on the phone with
24 911 or I know he was talking and I thought he was talking to
25 911 right then.

1 Q. Okay. You have had a chance to hear that
2 recording?

3 A. Yes.

4 Q. There's a female voice on that recording --

5 A. That's me.

6 Q. -- in the background. That's you. When you said
7 you were a nervous wreck in writing that statement for law
8 enforcement that night, what are you referring to?

9 A. I was referring to my state of mind and my - I was
10 nervous and upset about everything that had happened. I had
11 been up all day long and I had cried for hours and they had me
12 write it at 12:00 that night.

13 Q. All right.

14 A. When I was really in no state to write anything.

15 Q. The police were still at the scene?

16 A. Yes.

17 Q. So from the time 911 was called at 8:58 until you
18 wrote that statement law enforcement had remained at the scene
19 all that time?

20 A. Right.

21 Q. While at the scene you had learned that Bobby had
22 passed away?

23 A. Yeah.

24 Q. And this last call between you and the defendant
25 Billy at 8:39, can you estimate how many times he had called

1 you from the woods?

2 A. No. It was a lot so...

3 Q. Do you know approximately how long he was in those
4 woods?

5 A. Seemed to me a couple hours.

6 Q. All right. If calls began at 7:39 between you and
7 Billy, was he in the house or outside of the house?

8 A. The first time he called me in the house on the cell
9 phone he was in the woods.

10 Q. All right. So if there is a call from 7:39, where
11 was he telling you he was?

12 A. At first he told me he was almost to his cousin's
13 house which I knew he couldn't possibly be because he was
14 barefoot, had on no clothes except his shorts and his cousin
15 lives at least 15 miles from us. I knew he wasn't walking
16 there and he finally said he was in the woods and that he was
17 getting all cut up with the briars.

18 Q. So to the best of your knowledge between 7:39 p.m.
19 and 8:39 p.m. where was he?

20 A. In the woods.

21 Q. And approximately that call would have been six
22 minutes 28 seconds to have ended approximately 8:45 p.m. At
23 8:45 p.m. after you got off the phone, where did you go?

24 A. I took - I had to go get dressed and I left the back
25 door and I went straight down to the truck and that's when I

1 asked them what they were talking about because he was in the
2 woods looking at them saying he, insisting they were talking
3 about him. They said they were discussing work. So when I
4 went back up the road, Billy came out and said, what were they
5 talking about? I said they said they're talking about work.
6 That set him off again. He said they're lying. They're
7 lying. Cussing. Lying. And that's when Bobby come up and
8 stood there and I heard gun and I ran.

9 Q. Okay. And the area that he came out of, if you can
10 show us where that is in relation -- I know Mr. Stitely was
11 asking you where y'all were located in the roadway, but where
12 did you see the defendant come out of the woods?

13 A. Someplace right in here.

14 Q. All right. Now, is one able to go into the woods
15 from this area? Is there enough room or pathway in that area
16 for someone to go in and hide or be concealed?

17 A. Well, see this one --

18 Q. Let me ask you this: I'm going to show you State's
19 exhibit 22. I'll just ask you before you say anything about
20 it, whether or not you recognize what's in that photo?

21 A. Yeah. That's my house and the woods between us.

22 Q. Okay. Is it a fair and accurate representation of
23 that area of woods between your house and the house of Mike?

24 A. Yeah.

25 MS. MAYES: That's State's exhibit 22 for evidence,

1 Your Honor.

2 THE COURT: Any objection?

3 MR. STITELY: No objection.

4 THE COURT: It's in evidence.

5 BY MS. MAYES:

6 Q. What are we looking at right here?

7 A. My house.

8 Q. All right. And this?

9 A. That's the roadway.

10 Q. I'll scoot it forward just a little bit. What are
11 we looking at here?

12 A. It was a clear space that I had let a friend of mine
13 rent to put a camper for a while and he had already moved it
14 so it was like one little, one open space.

15 Q. Okay. And through this clearing what's back through
16 here?

17 A. Just woods.

18 Q. Okay. And so the defendant comes out of the woods,
19 Bobby is at your side, you leave and ultimately 911 is called
20 at 8:58, correct?

21 A. I think so.

22 Q. You have almost a six and a half minute call, six
23 minutes 28 seconds. You add that to 8:39 p.m., that takes us
24 past 8:45. Between you getting that call that he had a bead
25 on them, putting your clothes on, coming out, less than 13

1 minutes later Bobby is dead, correct?

2 A. Right.

3 MS. MAYES: Nothing further.

4 MR. STITELY: Just briefly to follow up, Your
5 Honor.

6 THE COURT: Yes, sir.

7 RECROSS EXAMINATION

8 BY MR. STITELY:

9 Q. Ms. Blanchett, you kept saying after midnight. Do
10 you remember talking to Deputy Nicholson and Franklin at 9:09
11 that night?

12 A. I remember talking to somebody. Yes. But not what
13 time it was.

14 Q. Was it Detective Franklin or Deputy Franklin to
15 which you gave the statement? The one in front of you, the
16 two page long one that night.

17 A. Yes. Franklin.

18 Q. Okay. Would it seem inaccurate to you if he
19 reported that at 21:09 he made contact with you which would be
20 9:09 that night? Would that seem wrong to you or would that
21 be possible?

22 A. Just repeat.

23 Q. If the officer said he spoke to you at 9:09 that
24 night, would that seem possible to your recollection?

25 A. To my recollection I don't know.

1 Q. One of the things you said just in the last set of
2 questions, you said this was your first relationship since
3 your husband. What is your current relationship status?

4 A. I'm married.

5 Q. When did you get remarried again?

6 A. This past March.

7 Q. March of?

8 A. '16.

9 Q. When did you meet that gentleman?

10 A. At least 30 years ago.

11 Q. Okay. When did this relationship restart?

12 A. Uhm, last year.

13 Q. In 2015?

14 A. 2015.

15 MR. STITELY: Nothing further. Thank you.

16 THE COURT: All right. Ms. Blanchett, you may step
17 down, ma'am. Thank you.

18 MR. McNAIR: You ready, Your Honor?

19 THE COURT: Y'all ready?

20 MR. McNAIR: Yes, sir.

21 THE COURT: Okay. I thought you were --

22 MR. McNAIR: I was waiting for you to recognize
23 me.

24 THE COURT: You don't have to wait on that. I
25 recognize you.

1 MR. McNAIR: Thank you, Your Honor. The State calls
2 Stephen Bair.

3 Thereupon,

4 STEPHEN BAIR
5 after having been first duly sworn, testified as follows,

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

9 THE WITNESS: Stephen Bair, B-a-i-r.

10 DIRECT EXAMINATION

11 BY MR. McNAIR:

12 Q. Deputy Bair, where are you currently employed?

13 A. The Lexington County Sheriff's Department.

14 Q. How long have you been with the Sheriff's
15 Department?

16 A. Five years.

17 Q. What's your current position over there?

18 A. I'm an investigator on the fugitive task force.

19 Q. Were you on duty on April 2nd, 2014?

20 A. I was.

21 Q. Did you respond to a shooting incident on Cheryse
22 Drive?

23 A. Yes, sir. I did.

24 Q. What time did you arrive on the scene?

25 A. I believe About 9:05 p.m.

1 Q. Were you the first officer on scene?

2 A. I was.

3 Q. Were you the first person period on scene?

4 A. Yes, sir. I was.

5 Q. You beat EMS and any other first responders?

6 A. Yes, sir.

7 Q. What did you observe when you arrived on scene?

8 A. There was a white male lying on his back in the
9 roadway.

10 Q. Did you notice anyone around or near the body?

11 A. No, sir.

12 Q. What did you observe about the victim's condition?

13 A. He was not moving. His eyes were open. He did not
14 appear to me to be breathing.

15 Q. You saw no signs of life?

16 A. No, sir.

17 Q. How was he positioned when you first observed him?

18 A. He was lying on his back with one leg out, one leg
19 kind of up on a foot and his arms out to his side.

20 Q. I'll show you what's been marked as State's exhibit

21 --

22 MR. STITELY: Did he take that picture?

23 MR. McNAIR: I'll lay the foundation.

24 BY MR. McNAIR:

25 Q. I'm going to show you State's exhibit 34. Do you

1 recognize this photo?

2 A. I do.

3 Q. With the exception of the placards in there, is that
4 the condition and the location of the body when you arrived on
5 scene?

6 A. Yes, sir. It is.

7 MR. McNAIR: Your Honor, we offer State's 34 into
8 evidence.

9 THE COURT: Any objection?

10 MR. STITELY: No objection.

11 THE COURT: It's in evidence.

12 BY MR. McNAIR:

13 Q. So that is how the victim was positioned when you
14 first arrived on scene?

15 A. Yes, sir.

16 Q. That was prior to EMS treating the body or
17 anything?

18 A. That is correct.

19 Q. Okay. Did you know where the suspect was when you
20 first arrived on scene?

21 A. I did not.

22 Q. Who else arrived while you were on scene?

23 A. While I was on scene a white female arrived in a
24 vehicle right behind me within a minute or so. I found out
25 later I believe it was Theresa Sabbagha, the victim's wife.

1 Q. What type of vehicle was she in?

2 A. I believe it was a van or an SUV. I honestly can't
3 recollect exactly.

4 Q. Was she allowed to enter the crime scene?

5 A. She was not.

6 Q. What was your role regarding the crime scene?

7 A. After I had another officer show up on the scene, I
8 actually taped the area off and began a crime scene watch.

9 Q. Did anybody enter the crime scene without your
10 knowledge?

11 A. No, sir.

12 Q. Were you present with the body the whole time?

13 A. I was until I was relieved from the crime scene by
14 CSI.

15 Q. Were you present with the body until the coroner
16 came and removed the body?

17 A. I was not there at the time the body was removed.

18 Q. Okay. Were you present when the suspect was
19 located?

20 A. Yes, sir. I was.

21 Q. Are you aware of where he was located?

22 A. I saw him coming out from around the mobile home to
23 my right at the time. I didn't see exactly where he came out
24 from.

25 Q. Other than securing the crime scene in this case and

1 maintaining a visual on the body, did you have any other
2 involvement in this case?

3 A. No, sir. I did not.

4 MR. McNAIR: Thank you.

5 MR. STITELY: Briefly, Your Honor.

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. STITELY:

9 Q. Detective, do you have a report, a supplemental
10 report?

11 A. I believe I do.

12 Q. Can I take a look at it?

13 A. Certainly (proffering.)

14 Q. Detective, at no time did you interview any
15 witnesses?

16 A. No, sir. I did not.

17 Q. Didn't see what happened that night?

18 A. No, sir. I did not.

19 Q. And the picture of the gentleman, he was laying on
20 his back?

21 A. Yes, sir.

22 Q. Did it appear, and you can answer if you don't know,
23 that he had been rolled over or anything?

24 A. It did not appear so, but I'm not really an expert.
25 I didn't do an examination of the area around the body.

1 MR. STITELY: No further questions.

2 REDIRECT EXAMINATION

3 BY MR. McNAIR:

4 Q. You were the first person to arrive on scene,
5 correct?

6 A. Yes, sir.

7 Q. And nobody moved the body after you arrived on
8 scene, correct?

9 A. That is correct.

10 MR. McNAIR: Thank you.

11 MR. STITELY: Nothing additional, Judge.

12 THE COURT: Thank you, Mr. Bair. All right. You
13 may call your next witness.

14 MS. MAYES: The State calls Theresa Sabbagha.

15 Thereupon,

16 THERESA DARLENE TINSLEY SABBAGHA

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: Theresa Darlene Tinsley Sabbagha,
22 S-a-b-b-a-g-h-a.

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Ms. Sabbagha, where do you reside?

1 A. [REDACTED] Lunsford Lane, Lexington, South Carolina.

2 Q. Who do you live with?

3 A. At the time right now my daughters. My two
4 daughters.

5 Q. All right. How is it that you know the victim in
6 this case Bobby Christofoli?

7 A. He was my common law husband for the last 16
8 years.

9 Q. Did the two of you reside together?

10 A. Yes.

11 Q. On April 2nd, 2014, what can you tell us about that
12 day?

13 A. Uhm, ordinary day. I have a special needs child at
14 home with a nurse. I was off with my niece that afternoon,
15 that evening and we had been doing some shopping or something.
16 I realized that my trash had not been taken off yet so we got
17 to the house and it was around 6:30 so I started bagging up
18 the garbage getting it in the truck and me and my niece went
19 down Highway 302 to dump the trash at the landfill. It's a
20 recycling center. We rushed down there, got that out. We
21 were coming back up 302 and we hit the Shell station and the
22 Exxon station at 302 and number 6 Highway and we realized, we
23 saw Bobby's truck at the gas station. He was pulled up to the
24 pump and I seen him out there at the gas pump. So we pulled
25 up smiling, asking him what's he doing. Asking him did he

1 just get home from out of town. And, uhm, I said what you
2 fixing to do? He said I'm fixing to run Mike home. I said
3 okay. And I said, well, hurry up so we can leave because I'm
4 going to let the nurse go home. Let's go out to eat. So he
5 said as long as you give me a haircut first, we'll go out to
6 eat. So that's what we were doing, gonna do.

7 Q. Okay. You said it was an ordinary day. Did Bobby
8 work that day?

9 A. Yes. He did.

10 Q. Along with his co-worker Mike?

11 A. Yes. He did.

12 Q. What time did he normally get off work?

13 A. Bobby normally worked a 10 to 14 hour day. I never
14 really knew exactly what time he would get off everyday.

15 Q. And the Shell station that you saw him at is located
16 where?

17 A. It's between the trash dump which is a couple miles
18 down the road and then my house which is about five, six
19 miles.

20 Q. Are you familiar with Boiling Springs Road?

21 A. Yes. I am.

22 Q. Is it the Boiling Springs Road Exxon Shell?

23 A. Yes. It is. Yes. It is.

24 Q. How were you aware that it was approximately 6:45
25 p.m.?

1 A. Because when I left my home, it was 6:30. I knew I
2 had approximately 15 minutes to get down to the trash dump
3 because they try to close one set of the gates before 7:00 so
4 people can't straggle in late.

5 Q. All right. So Bobby and Mike are at the Shell
6 station at 6:45 and you had plans for later that evening. Can
7 you tell us whether or not you answered a call once you got
8 home?

9 A. I did.

10 Q. All right. You answered a call from who?

11 A. From Bobby.

12 Q. What time was that call?

13 A. It was around 8:21.

14 Q. How is it that you remember the time of that call?

15 A. Because it come in on my cell phone and that's the
16 last time I ever spoke to him.

17 Q. Okay. Where was Bobby?

18 A. Excuse me.

19 Q. Where was Bobby when you got that call at 8:21?

20 A. He was at Mike's house.

21 Q. Now, before I ask you anything else, I want to ask
22 you about that call. Can you tell us whether there was
23 anything usual or unusual about his tone of voice?

24 A. Uhm, he was in a hurry. He was real urgent about me
25 coming and picking him up.

1 Q. When you say real urgent, was that usual or unusual
2 for Bobby?

3 A. Very unusual.

4 Q. Can you tell us whether or not there was any stress
5 in his voice?

6 A. Very stressed. Didn't want me to ask any questions.
7 Told me to leave our special needs child at home. Don't bring
8 her. Just hurry. Come quickly.

9 Q. Was that usual or unusual?

10 A. Very unusual.

11 Q. Now, your daughter who is special needs, what's her
12 name?

13 A. C.F.

14 Q. How old is C.F.

15 A. She is now 13.

16 Q. Special needs. What is her condition?

17 A. Uhm, I caught a virus in the first part of my
18 trimester that damaged her brain and she is left with what's
19 called microcephaly. It's a small head. So the small head
20 also causes multiple problems so she has a feeding tube, CP
21 really bad. She has seizures.

22 Q. You say CP. What is CP?

23 A. Cerebral palsy. Her body shrinks up.

24 Q. Does she have a nurse?

25 A. She does.

1 Q. Was the nurse working on that particular day?

2 A. Yes. She was.

3 Q. At the point that you got this call at 8:21, were
4 you able to even have a detailed conversation with Bobby?

5 A. No.

6 Q. At that point in time was the nurse there or had the
7 nurse left?

8 A. The nurse - actually the nurse had already left
9 because I was walking back inside when I heard my phone
10 ringing but I seen his photo coming up.

11 Q. Where were you supposed to pick Mike up at? I'm
12 sorry, where were you supposed to pick Bobby up at?

13 A. All Bobby told me was quick, leave the baby at the
14 house with the nurse. Come quick. Don't ask no questions. I
15 kept trying to ask him questions. I kept trying to say what's
16 wrong? Where is your truck? And he said just come quick. I
17 need you to hurry. Don't bring the baby.

18 Q. Come quick to where?

19 A. To Mike's house.

20 Q. So with the nurse having already left what, if
21 anything, was necessary in order for you to go pick Bobby up
22 at Mike's house?

23 A. C.F. had just had surgery a few weeks before and
24 she had two casts on her legs and they were from the hips down
25 to the ankles so she was quite heavy.

1 Q. Why was the surgery necessary?

2 A. We had hamstrings on both of her legs cut so behind
3 the knees they go in and cut her hamstrings to lengthen out
4 her legs because the CP had tightened her up so bad that we
5 couldn't get her in and out of vehicles and move her around.

6 Q. So with the casts on both legs, what is the
7 procedure or process for actually getting her transported from
8 inside the house into the vehicle?

9 A. I had her -- She has a special wheelchair but we
10 can't use that with the casts. We had to use an adult size
11 wheelchair so it was rather big and then I had to load her
12 into that, stuff pillows around her, take her down the steps
13 or down the ramp and then put her in my car. She couldn't be
14 in her car seat. I had to put her in the front seat and stuff
15 pillows around her and then I was able to leave.

16 Q. And then in addition to that approximately how far
17 or how long does it take you to get from your residence to
18 Cheryse Drive where Bobby was at Mike's?

19 A. The distance is about nine to ten miles from my home
20 and there's no red lights or anything, just stop signs through
21 there, you know, so I can get there probably in 15 minutes, 20
22 minutes.

23 Q. Once you got C.F. situated and into the van, can
24 you tell us whether or not you traveled to Cheryse Drive to
25 give your husband a ride back home?

1 A. Yes. I did.

2 Q. What happened when you arrived?

3 A. As I was approaching, I seen an ambulance come -- As
4 I was driving down Cox Ferry because that's one of the ways to
5 go, that's the last road before you reach Cheryse, so as I was
6 driving down Cox Ferry I saw an ambulance in my rear view
7 mirror and I thought, oh, my, God, I've got to speed up.
8 Somebody's had a wreck. So I speed up to get to my turn off
9 which is the next two dirt roads. It's the second dirt road
10 that I get to and it's on the left-hand side and when I got to
11 the dirt road, I was like (indicating.) I got here. So I
12 turned in and then the ambulance, I lost sight of what the
13 ambulance was doing because I was in such a hurry trying to
14 get off the highway and as I went down that dirt road you're
15 showing and I come around that first home around the curve, I
16 seen Bobby stretched out in the highway and I seen no
17 movement. He appeared to me to be very still. He always had
18 a nervous twitch and I didn't see his hand moving. I just
19 seen his hand stretched out in the highway. I saw his legs
20 kind of pulled up to his stomach. I saw his stomach and I saw
21 his boots and I seen one hand down to the side and one
22 stretched out here and it looked like to me that his body was
23 kind of twisted over his waist.

24 Q. Let me ask you this: Was there an officer already
25 at the scene?

1 A. Yes. There was.

2 Q. Was Bobby left-handed or right-handed?

3 A. He was right-handed.

4 Q. Were you allowed to go to him at the scene?

5 A. I immediately jumped out the car and tried to go to
6 him and the officer that had responded was stretching out his
7 hands and asking me to stop and who was I. I told him that I
8 was his wife. That I had just received a phone call to come
9 get him.

10 Q. Did you ever actually get to physically touch him?

11 A. No. I saw a part of his body.

12 MS. MAYES: Nothing further.

13 THE COURT: Cross examination.

14 MR. STITELY: Please the Court, Judge.

15 CROSS EXAMINATION

16 BY MR. STITELY:

17 Q. Ms. Sabbagha?

18 A. Mm-hmm.

19 Q. My name is Ben Stitely. I'm sorry about your loss
20 but I have to ask you a couple questions.

21 A. Mm-hmm.

22 Q. When you received the call at 8:21 and you're fairly
23 certain it was 8:21? You said you checked your phone?

24 A. Mm-hmm.

25 Q. You said that it was very urgent. He was in a

- 1 hurry. Come quick. Don't ask any questions.
- 2 A. Mm-hmm.
- 3 Q. Was that actually Bobby speaking to you?
- 4 A. Yes. It was.
- 5 Q. You have been sitting in the courtroom for the
- 6 duration of the trial, correct?
- 7 A. Yes. Yes.
- 8 Q. Would that account, the urgent, come quickly sound
- 9 different than what Mr. Williams and Ms. Donna said about them
- 10 cutting up about work at eight something that night when she
- 11 came up to ask what was going on?
- 12 A. Can you repeat that please?
- 13 Q. Mr. Williams and Ms. Donna said that they were
- 14 cutting up laughing, joking, drinking beer about work. Did
- 15 you get any of that flavor in the 8:21 phone call?
- 16 A. I got an urgency to come pick him up.
- 17 Q. Not a jovial we're drinking beers, laughing about
- 18 work?
- 19 A. No.
- 20 Q. Okay. He didn't tell you why he wanted you to
- 21 come?
- 22 A. He would not tell me. He said just hurry. Please
- 23 get here quick.
- 24 Q. But this was 8:21. It wasn't 7:20 something?
- 25 A. (Witness shaking head.) I remember my cell -- I

1 remember it as 8:21.

2 Q. That's fine. You wrote a statement as well on the
3 3rd of April?

4 A. I think -- I haven't pulled it out since then, but I
5 think I put 8:21.

6 Q. No problem. You said that you had plans to go out
7 to dinner that night?

8 A. Yes.

9 Q. How old is your other child?

10 A. She is now 21.

11 Q. Does she live at home as well?

12 A. At that time she was living in and out of the house.
13 She has another home she lives in.

14 Q. All right. You said you were going to do a haircut
15 and then go out to dinner, correct?

16 A. Yes.

17 Q. And I guess just timing, you didn't even hear from
18 him again until almost 8:30 that night. Where would y'all
19 have been going to supper if you were still 15, 20 minutes
20 away and you hadn't heard from him yet?

21 A. We made the dinner plans right there at the gas
22 station. I said please, you know, come so we can go out to
23 eat and he said as long as I cut his hair.

24 Q. Was it discussed about going back to Mike's house
25 and drinking? Did he tell you he was going back to Mike's

1 house to go drinking?

2 A. No. He did not.

3 Q. But it definitely sounded to you like he wanted to
4 get out of there pretty quickly at 8:21?

5 A. Yes.

6 Q. Did he give you any other instructions, anything to
7 bring with you?

8 A. Told me not to bring the child.

9 Q. Is that odd?

10 A. We have always been very careful with C.F. because
11 C.F. is a sick child.

12 Q. It must be difficult.

13 A. Yes. It is.

14 Q. And you said that you arrived right in front of the
15 ambulance, correct?

16 A. I was ahead of the ambulance and I pulled up.

17 Q. But they were literally right on your tail as you
18 described it?

19 A. They come down the hill flying. Yeah.

20 Q. One other thing. What time do you think you got
21 there?

22 A. When the officer made me move my vehicle because I
23 had to move it to the side of the woods, there was other
24 people that started arriving and they taped me in. I was
25 trying to get my phone and call, start calling his family and

1 I realized I think it said 9:05, I think, when I saw, when I
2 got back in my truck and looked at my phone.

3 Q. And the officer said 9:05 and about a minute later
4 you showed up?

5 A. Mm-hmm.

6 Q. And you saw the gentleman who might have been in
7 uniform, the officer who was testifying earlier?

8 A. Mm-hmm.

9 Q. One thing I just wanted to ask you about. In your
10 statement you said at 9:11 you got a text from Mike saying
11 that he had been shot?

12 A. I got a phone call off my cell phone but it was
13 later. It was after -- See, after we had to leave the scene,
14 my whole entire family come back to my home and I checked my
15 phone messages and there was a message. I think it was a
16 message on there that said Bobby had been shot. A verbal
17 message.

18 Q. And that you needed to get to his house quick?

19 A. Yeah. But I was already over there.

20 Q. I was just checking the time on it.

21 A. I think I was standing there when he called me.

22 MR. STITELY: Thank you for accommodating me. Sorry
23 you had to.

24 MS. MAYES: Nothing further, Your Honor.

25 THE COURT: All right. Thank you, ma'am. You may

MICHAEL PHIPPS - DIRECT BY MR. McNAIR

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1 call your next witness.

2 MR. McNAIR: Your Honor, the State calls
3 Investigator Mike Phipps.

4 Thereupon,

5 MICHAEL PHIPPS

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

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

10 THE WITNESS: Michael Phipps, P-h-i-p-p-s.

11 DIRECT EXAMINATION

12 BY MR. McNAIR:

13 Q. Investigator, where are you employed?

14 A. The Lexington County Sheriff's Department.

15 Q. What's your position over there?

16 A. I'm a forensic technology examiner with our forensic
17 unit.

18 Q. As part of your job, do you regularly analyze
19 forensic or digital devices?

20 A. Yes, sir. Primarily computer cell phones or any
21 other type of media.

22 Q. What type of education or training do you have in
23 forensic examination of digital devices?

24 A. I have been sent to various classes over the years.
25 Initially started out in the crime scene unit collecting data,

1 getting involved in investigating digital media. Over the
2 last approximately 11 years I have been to various courses
3 those specific to cell phones. There was a 2007 class for the
4 core skills for investigation of cellular telephones, 36
5 hours. 2014 cyber investigations. 2015 basic cell phone
6 investigation, a 14 hour course. Those are the two specific
7 to cell phones. There are various courses also specific to
8 computers and other digital examination which cell phones are
9 pretty much like computers nowadays.

10 Q. How many forensic examinations of cell phones do you
11 think you have done?

12 A. Cell phones specifically? Over 600.

13 Q. Have you been qualified in court as an expert
14 concerning forensic analysis of digital devices before?

15 A. Yes. Four times in the area concerning the
16 investigation or testimony concerning cell phones or digital
17 media.

18 Q. That was in General Sessions court?

19 A. Yes. All in the Eleventh Circuit. Once in 2014 as
20 an expert in computer examination. 2015 two times, once as an
21 expert in forensic analysis of digital media and the other as
22 an expert in cell phone forensics and then once in 2016 as an
23 expert in cell phone examination.

24 MR. McNAIR: Your Honor, at this time we would offer
25 Investigator Phipps as an expert on media devices.

1 THE COURT: Very well. Any voir dire from the
2 defense on his qualifications as an expert on media
3 devices?

4 MR. STITELY: No, sir, Your Honor. We stipulate.

5 THE COURT: All right. He's qualified. Ladies and
6 gentlemen, typically a witness can only offer testimony
7 about things they directly observed or with one of their
8 senses. The law does have an exception for people who by
9 reason of their training, education or experience have
10 achieved expertise in their given field. That witness is
11 referred to as an expert witness and they may testify to
12 their opinions that they have drawn of what they have
13 observed. However, all witnesses including expert
14 witnesses remain subject to your determination of their
15 credibility. So you may continue, Mr. McNair.

16 MR. McNAIR: Thank you, Your Honor.

17 BY MR. McNAIR:

18 Q. Officer Phipps, how do you conduct a forensic
19 examination of a cell phone?

20 A. Our department has a piece of hardware made by
21 a company called Cellebrite. It's a universal forensics
22 extraction device. The cell phone is connected to this piece
23 of equipment and it basically pulls all the data off of that
24 device. There are different ways to connect to it, but it
25 pulls that off in a forensically sound manner meaning that

1 it's doing so without adding anything to or taking anything
2 away from what's already there and does it in a manner that
3 can't alter the original device.

4 Q. Once it's extracted the underlying data obtained
5 from the cell phone can no longer be manipulated?

6 A. That's correct.

7 Q. What type of information are you able to retrieve
8 from a cell phone?

9 A. As you might imagine, cell phones have everything
10 now so pretty much anything you can imagine such as
11 photographs, text messages, web browsing history, location
12 information, e-mails, contacts, phone records, call histories,
13 all of it.

14 Q. I'm gonna show you State's exhibit 18 and State's
15 exhibit 35. Can you tell me whether these are the two cell
16 phones that you forensically analyzed?

17 A. The packaging on this phone right here still has my
18 initials visible so I can tell you certainly that this is one
19 of the phones. This one since it's absent its original
20 packaging I would have to take the back off or case off of
21 it.

22 Q. Is there a serial number?

23 MR. STITELY: Judge, it's in evidence. We'll
24 stipulate it's the phone.

25 MR. McNAIR: All right.

1 THE COURT: Okay.

2 BY MR. McNAIR:

3 Q. So were forensic extractions done on these two
4 phones?

5 A. Yes, sir.

6 Q. All right. Now, are you aware of the numbers
7 associated with these two phones?

8 A. Yes, sir. They were identified through the
9 examination.

10 Q. State's 18 is what type of phone?

11 A. That's a Samsung Galaxy.

12 Q. What's the number associated with that phone?

13 A. It's area code 803-200-██████.

14 Q. Are you aware of who this phone belongs to?

15 A. According to the original search warrant it was
16 associated with Mike Williams.

17 Q. State's 35 which is, what type of phone is this?

18 A. It's a Samsung clip phone.

19 Q. What's the number to that phone?

20 A. Are code 803-360-██████.

21 Q. Are you aware of who that phone was associated
22 with?

23 A. Billy Geisendorff.

24 Q. Now, based on the extracted information from those
25 two phones, are you able to generate reports such as timeline

1 reports?

2 A. Yes, sir.

3 Q. Or call logs between different numbers?

4 A. Yes, sir. That's correct.

5 Q. Did you create a report showing the calls made
6 between those two phones and a landline with the number
7 803-892-██████ on the date April 2nd, 2014?

8 A. Yes, sir. I did.

9 Q. Are you aware of who that landline is associated
10 with, the ██████ based on the CAD reports?

11 A. Yes. I am looking through my notes. Donna
12 Blanchett. It was a landline.

13 Q. All right. I'll show you State's 36 and 37. Are
14 these the two timeline extraction reports that you prepared?

15 A. Yes, sir. They are.

16 Q. And they show the calls between these two cell
17 phones and the landline, correct?

18 A. Yes, sir. They do.

19 Q. How does a cell phone record date and time
20 information?

21 A. The more modern phones, you have an option to allow
22 it to either pull the time and date from the network that it's
23 connected to or manually enter one. In this instance the
24 Samsung Galaxy, in examining it we were able to verify that it
25 was set to where it automatically pulled the date and time and

1 the time zone from the network.

2 Q. So you were able to verify that the date and time
3 information on those reports is correct?

4 A. Yes, sir.

5 Q. I'll show you State's 3. Do you recognize this
6 spreadsheet?

7 A. Yes, sir. It's a composite of both the reports with
8 some additional data added to it.

9 Q. This accurately reflects the calls between those
10 three numbers and any calls made to 911 on April 2nd, 2014?

11 A. Yes, sir.

12 MR. McNAIR: Your Honor, we would offer State's 3,
13 35, 36 and 37 into evidence at this point.

14 MR. STITELY: No objection, Judge.

15 THE COURT: They're in evidence.

16 BY MR. McNAIR:

17 Q. Investigator Phipps, do you mind stepping down for a
18 second?

19 A. (Witness complies.)

20 Q. Can you just explain to the jury what this
21 spreadsheet shows?

22 A. It's a timeline report in sequence. It's color
23 coded so that everything in green is Billy Geisendorff making
24 a phone call. Everything in gray is Donna Blanchett making a
25 phone call. The gold is Billy Geisendorff calling Donna

1 Blanchett's landline and the red calls are 911 calls.

2 Q. And the blue?

3 A. The blue is Mike Williams with an outbound call
4 going to Billy Geisendorff.

5 Q. So anything obviously with zero seconds would be a
6 missed call?

7 A. Correct.

8 Q. Anything with any type of duration would indicate a
9 connected call?

10 A. Connected. I don't know. Obviously if it's only
11 for a few seconds, it could be something that just connected
12 and they hung up or - I can't say whether an actual
13 conversation occurred.

14 Q. Based on this chart the defendant called Mike
15 Williams nine times on April 2nd?

16 A. Yes, sir.

17 Q. And Mike Williams called him back one time?

18 A. That is correct.

19 Q. At 5:43 p.m. And the last call to Donna Blanchett
20 again was made at what time?

21 A. The last call to Donna was at 8:39 p.m. that
22 evening.

23 Q. And that is from the flip phone to Donna Blanchett's
24 landline; is that correct?

25 A. Correct.

1 Q. And then the 911 call by Mike Williams was made at
2 8:58?

3 A. Yes, sir.

4 MR. McNAIR: That's all the questions I have. Thank
5 you.

6 MR. STITELY: Please the court.

7 THE COURT: Yes, sir.

8 MR. STITELY: Judge, I'm gonna slide this out of the
9 way. I feel rude every time I'm speaking to you.

10 CROSS EXAMINATION

11 BY MR. STITELY:

12 Q. Investigator Phipps?

13 A. Yes, sir.

14 Q. Are you a licensed law enforcement officer as well
15 as CSI?

16 A. Yes, sir.

17 Q. Didn't want to give you the wrong title. How are
18 you today?

19 A. I'm fine. Thank you.

20 Q. Just a couple questions. The Solicitor kept asking
21 you number associated with the 360 [REDACTED] and you said that's
22 Billy Geisendorff. You're relying on information that was
23 given to you, correct, to associate that name?

24 A. Yes. Information that was provided during the
25 course of the investigation.

1 Q. So would it surprise you to know that Billy
2 Geisendorff is not the owner of that phone number?

3 A. It would not surprise me.

4 Q. In fact, are you aware that number actually belonged
5 to Donna Blanchett?

6 A. I did not know that.

7 Q. So whenever we say a number associated with Billy
8 Geisendorff, you just mean law enforcement told you or someone
9 told you that he was making those calls?

10 A. Right. That was information that was offered in an
11 affidavit for the search warrant.

12 Q. Got you. So you didn't get a chance to listen to
13 the context of any of these calls to determine who might have
14 really been on the phone?

15 A. No, sir.

16 Q. There's nothing you can tell from your chart here
17 that would tell you that either, correct?

18 A. No, sir.

19 Q. Do we have the cell phone logs from the calls placed
20 by Mr. Christofoli that night?

21 A. I'm sorry. Cell phone logs?

22 Q. Or cell phone data dump, whatever you call this for
23 Mr. Christofoli's phone that night?

24 A. I'm not aware. I was asked to examine those two
25 phones specifically. I'm not aware of information gained from

1 any other devices.

2 Q. It wouldn't have been your -- Because you didn't get
3 the -- You don't go out to the scene to collect items. You
4 simply do the analyzing?

5 A. That's correct.

6 Q. Is there another chart out there with
7 Mr. Christofoli's call logs that you are aware of?

8 A. Not that I'm aware of.

9 Q. Is there anyone else at the Sheriff's Department who
10 does these kind of investigations?

11 A. There have been in the past off and on other CSI's.
12 My position, I have spent 12 years in crime scene. Over the
13 last approximately 11 years I have been also doing as a
14 collateral duty the digital side of these type of
15 investigations. Other crime scene investigators have also
16 been involved off and on but this past January they brought me
17 in full time to dedicate my efforts towards nothing but
18 that.

19 Q. Okay. Assuming this chart contains all of the calls
20 made, the last one that it appears that Mr. Geisendorff and
21 Mr. Williams had any contact, if we are to belief Mr.
22 Geisendorff was the one calling on the phone was at 7:43:54,
23 correct?

24 A. 8:34:18, Geisendorff.

25 Q. The last time it appears they actually had an actual

1 conversation?

2 A. Yes, sir. That is correct.

3 Q. I don't want to put you at a disadvantage if you
4 can't see it.

5 A. Yeah. I wasn't looking at this timeline.

6 Q. So there is nothing around 8:20 that night where he
7 was calling him that you could see that he spoke to him?

8 A. Nothing that appears like you said an actual
9 conversation.

10 Q. And my other question about this 911 hang up right
11 here?

12 A. Yes, sir.

13 Q. If 911 called back, why isn't that on this log as
14 well?

15 A. That 911 call is referenced from a CAD report. That
16 911 call didn't appear on either of the two phones that I
17 examined so it's listed in there by virtue of appearing on a
18 CAD report as having occurred.

19 Q. For ten seconds. So if there was a call back from
20 911, shouldn't it have probably fit somewhere in these blocks
21 and not been omitted from this chart?

22 MR. McNAIR: Judge, objection. The testimony was
23 the call back was to a landline. He didn't forensically
24 analyze a landline.

25 MR. STITELY: Judge, it's his chart. I was just

1 asking about the completeness.

2 THE COURT: Overruled.

3 BY THE WITNESS:

4 A. Correct. The landline that was used to call 911
5 obviously I wouldn't have any records to examine to verify
6 that.

7 BY MR. STITELY:

8 Q. But the CAD report does indicate a call back?

9 A. I believe it says that they did make contact
10 according to the CAD report. Yes, sir.

11 Q. But that didn't make it on the chart?

12 A. No, sir.

13 MR. STITELY: Nothing further. Thank you.

14 MR. McNAIR: No further questions, Your Honor.

15 THE COURT: All right. Thank you, Investigator
16 Phipps. All right. You may call your next witness.

17 MS. MAYES: Your Honor, may we approach?

18 THE COURT: Sure.

19 (Side bar off the record.)

20 THE COURT: All right. We'll take a short recess.

21 While we are breaking, if y'all would select someone to
22 be the foreperson of the jury and just write their name
23 down and give it to one of the bailiffs, I would
24 appreciate it. We'll just take about a ten minute
25 recess. Thank you.

1 (Whereupon, the jury entered the jury room at 3:35
2 p.m.)

3 (Short break.)

4 THE COURT: Anything before we bring the jury back?

5 MS. MAYES: From the State, Your Honor, we have gone
6 ahead and unsealed some of the evidence items without
7 objection and then pursuant to our own courtroom security
8 procedures we do need permission from the Court to unlock
9 the firearm from its container. There's a lock on it,
10 Your Honor.

11 THE COURT: You want to unlock the -- I can't see
12 that far.

13 MS. MAYES: May approach?

14 THE COURT: Sure. Oh, okay.

15 MS. MAYES: We just want to remove this lock.

16 THE COURT: Why?

17 MS. MAYES: Your Honor, I was going to have the
18 witness testify regarding that, but if we could just have
19 her take a look at it and see if we can accomplish that
20 while it's in the box.

21 MR. STITELY: Judge, I don't intend to object to the
22 gun coming in.

23 MS. MAYES: All right. We'll leave that as it is,
24 Your Honor.

25 THE COURT: Okay. All right. Thanks. All right.

1 We'll bring the jury in.

2 (Whereupon, the jury entered the courtroom at 4:00
3 p.m.)

4 THE COURT: Okay. Ms. Collett?

5 DANNON COLLETT: Yes, sir.

6 THE COURT: You have been selected to be the
7 foreperson so you will just preside over the
8 deliberations and if you need to communicate with me or
9 anybody on the jury needs to communicate with me, I can
10 only communicate with you by way of a written note that's
11 made part of the record or out here on the record so just
12 keep that in mind. Hopefully you won't have to
13 communicate with me, but if you do, that's protocol.
14 Thank you. You may call your next witness.

15 MS. MAYES: Your Honor, the State's calls
16 Investigator Shelby Derrick.

17 Thereupon,

18 SHELBY DERRICK

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

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

23 THE WITNESS: Shelby Derrick, D-e-r-r-i-c-k.

24 DIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Where are you currently employed?

2 A. I'm currently employed with the Lexington County
3 Sheriff's Department as a crime scene investigator.

4 Q. How long have you been a member of the crime scene
5 investigation unit at the Sheriff's Department?

6 A. Well, I have been at the Sheriff's Department for
7 ten years. I was road patrol for about two and a half, three
8 years. I have been in crime scene for seven and a half.

9 Q. Can you give us a very general overview what is
10 meant by the term crime scene investigation?

11 A. What a crime scene investigator does is we go to the
12 scene and actually document the scene as is. Taking
13 photographs, sketches, collecting physical evidence and
14 working with the other investigators as they are getting
15 statements and talking to people. I pretty much stayed at the
16 house or where the incident happened and collect the physical
17 items.

18 Q. Okay. Now, what type of training and experience do
19 you have in the field of crime scene investigation?

20 A. Uhm, well, actually I'll just start, I guess, from
21 the beginning. I have a high school diploma. I have a
22 Bachelor's of Science in psychology, a Bachelor's of Science
23 in Criminal Justice and Criminology. I have approximately 500
24 hours or so of training in advanced crime scene and that
25 entails fingerprints, photographing, uhm, different types of

1 collection, DNA collection, firearms, tools marks and just
2 overall general crime scene investigation type classes.

3 Q. When you say firearms, can you tell us whether or
4 not that includes ballistics?

5 A. Yes, ma'am. They're hand in hand.
6 Ballistics/firearm training. I have had approximately 40
7 hours class basically on firearm identification, firearm ammo,
8 weapon, all the way up to basically comparison of the actual
9 bullet came from this gun. I can't compare that, but I can do
10 everything but that if that makes sense.

11 Q. Identification of caliber types involved in
12 firearms; is that correct?

13 A. Yes, ma'am.

14 Q. Now, can you tell us whether or not you had an
15 opportunity to respond to a homicide investigation on the
16 night of April 2nd, 2014?

17 A. Uhm, yes, ma'am. April 2nd I was actually the
18 primary crime scene investigator on-call for that night and I
19 was the first person that got the call in regards to the crime
20 scene and I responded to Cheryse Drive.

21 Q. Now, when you say a crime scene investigator
22 on-call, let me ask you this: How does the Sheriff's
23 Department work in terms of the major crimes unit and working
24 with the CSI division when you may be needed?

25 A. When I may be needed?

1 Q. Yes.

2 A. Okay. When a crime occurs, usually depending on
3 what the circumstances are, the officers on scene will notify
4 through the chain of command whether or not they need major
5 crimes versus property crimes investigators. In this case
6 they notified major crimes investigators. Forensics actually
7 is under the same umbrella as major crimes but we do both
8 property and major and any time pretty much when they're
9 called, we are called as well as we work hand in hand. While
10 they're interviewing and taking statements, I'm at the scene
11 photographing, collecting as they are working and we are
12 pulling our stories together to make them, or to see if they
13 match basically.

14 Q. All right. Now, specifically let me ask you this:
15 You had worked other homicide scenes prior to this one on
16 April 2nd; is that correct?

17 A. Yes, ma'am. I have probably worked maybe 50, I
18 guess, homicides since I have been in crime scene, maybe more.

19 Q. And Cheryse Drive, is that within the jurisdiction
20 of Lexington County?

21 A. Yes, ma'am. That is in Lexington County.

22 Q. Investigator Derrick, what can you tell us about the
23 time of your arrival at the scene on Cheryse Drive?

24 A. Uhm, I had received the first phone call or the
25 phone call to respond to the incident about 21:40 which is

1 9:40 p.m. I arrived on scene at 22:10 which is 10:10 p.m. At
2 the point I arrived on scene there were already multiple
3 officers there. I wasn't the first one there. Many officers
4 were in there. The crime scene tape had been placed up. All
5 the cars were surrounded in a perimeter around [REDACTED] Cheryse,
6 actually was set up when I got there because I was actually
7 told that we were still looking for the possible suspect at
8 that time. I actually parked off the road, put on my vest and
9 everything and was about to head and be part of the
10 perimeter.

11 Q. So at 10:10 p.m. the suspect had still not yet been
12 apprehended; is that correct?

13 A. Affirmative. Yes, ma'am.

14 Q. What is the policy of law enforcement or what, if
15 anything, is done for safety and precaution when you have a
16 suspect who is not apprehended and may still be near the
17 scene?

18 A. If a suspect is thought to be maybe near the scene,
19 I mean, we're not gonna go in until it's cleared until we
20 either have a suspect in hand if he's around or we make sure
21 that he or she is not in the immediate area for our own
22 protection. We don't want to be photographing or collecting
23 evidence or taking statements when we don't know if he's gonna
24 come up behind us or at us.

25 Q. So at 10:10 p.m. you arrived on the scene and he's

1 not yet apprehended. Ultimately were you present at the scene
2 when the suspect Billy Geisendorff was taken into custody?

3 A. Yes, ma'am. Right when I arrived on scene, I was
4 advised that he had still not been captured or located at that
5 time and as far as we knew then, what little information we
6 knew he was probably either in the house or around the house
7 in the woods and I pulled off the side of the road into an
8 empty house driveway. I pulled off the road because at that
9 time my secondary crime scene investigator was getting there
10 and he pulled up behind me. So we were off the roadway a good
11 bit to get out of the way and we put on our vest and
12 everything to help with perimeter at that point.

13 Q. All right. And ultimately can you tell us whether
14 or not a K-9 unit arrived at the scene?

15 A. Yes, ma'am. Actually the K-9 officers were notified
16 either right before I was or at the same time I was because I
17 remember hearing that on the radio and they actually got there
18 like within minutes after I did and we were all getting
19 briefed at the same time basically that the suspect was still
20 unfound.

21 Q. All right. Is the scene secured at this point? By
22 that I mean, is there crime scene tape up?

23 A. Yes, ma'am. There was crime scene tape up already.
24 The road was blocked. We were holding as is and basically
25 waiting on the K-9's to get there to see if we could possibly

1 locate the suspect.

2 Q. What happened next?

3 A. After the K-9's got there?

4 Q. Correct.

5 A. The K-9's got there. They were being briefed at the
6 same time I was and they got their dogs out of the car and
7 everything and started to approach the house and around the
8 house.

9 Q. Did the dogs make noise when they were unloaded and
10 things of that nature?

11 A. Yeah. They get kind of excited when blue lights and
12 sirens are going so as soon as they get out they're ready to
13 work and they're barking and making noise.

14 Q. What happened next?

15 A. A soon as they started walking towards the house,
16 I'm not sure who was it on perimeter but all I heard was he's
17 coming out. Put your hands up. Put your hands up is all I
18 heard from one of the officers on the perimeter and I actually
19 witnessed --

20 Q. You can refer to him as the defendant.

21 A. Okay. Sorry. I don't know how to pronounce his
22 last name. The defendant actually was coming out of the crawl
23 space area underneath the trailer and then he was apprehended
24 right there in the front yard.

25 Q. All right. When he was apprehended, can you tell us

1 whether or not he had shoes on?

2 A. No, ma'am. He was barefooted. He had a pair of
3 jeans on and I believe no T-shirt.

4 Q. What happened next?

5 A. He was apprehended and at that point I didn't have
6 anything to do with that part. I started getting my equipment
7 ready because I knew he was in custody so the next thing that
8 was gonna happen was I was gonna have to start working the
9 scene so I went back to my truck and took off my vest and
10 started getting my equipment ready.

11 Q. All right. You mentioned that he came from the
12 crawl space so I'm going to ask you about that. You're
13 referring to the crawl space of?

14 A. ████ Cheryse.

15 Q. So that would be the crawl space of his residence,
16 correct?

17 A. Yes, ma'am.

18 Q. All right. How do you go about processing or
19 searching a crawl space type area for any potential
20 evidence?

21 A. Uhm, well, first of all, we secure it by looking and
22 making sure nothing else is there, nobody else is there. It's
23 called like basically an overall sweep, a protective sweep
24 that is made just to make sure there is no one else under
25 there or anything else that could hurt us and then we document

1 by taking notes and photographs as we go. So basically I
2 would be entering the crawl space area. I'm not only visually
3 and hearing and all senses are up, uhm, documenting it for my
4 report, I'm also taking photographs to show how it is at that
5 exact moment as well.

6 Q. Who went about processing the crawl space area where
7 the suspect had been hiding? Who went about processing that
8 location with you?

9 A. It was me and my other CSI Roger Gilland.

10 Q. All right. And can you tell us whether or not a
11 firearm was recovered in this case?

12 A. Yes, ma'am. It was. Underneath the crawl space was
13 a sandy area and there was a couple boxes and stuff like that
14 on the ground and the actual weapon was sort of, it was
15 underneath a box sort of but the handle grip was sticking out
16 a little bit at the corner in the sand underneath that box.

17 Q. In addition to the firearm, what, if anything, else
18 was recovered from underneath that crawl space where the
19 defendant had been hiding?

20 A. Give me a second and let me read from my list on my
21 notes.

22 Q. Take your time.

23 A. We located a copper in color flashlight that had
24 matches in it, like a safety survival type style. It had a
25 section where you could put stuff in the back of it. A

1 Milwaukee knife. An unopened pack of Pall Malls, blue pack,
2 blue material. I'm not sure what flavor or whatnot but it's a
3 blue back of Pall Mall cigarettes unopened. There was also a
4 single cigarette that was a Pall Mall laying in the dirt
5 around the other pack of cigarettes and the knife in that
6 little area. There was a box of Corona that had been, the box
7 had opened and there were full beers inside. There was also a
8 Samsung flip style phone and the revolver which is the weapon
9 we were just talking about. The firearm.

10 Q. Can you tell us whether or not there were any shell
11 casings or spent casings in that firearm?

12 A. Yes, ma'am. One of the first things we do when we
13 find a weapon regardless if it had been in a crime or not, we
14 check it to make sure it's clear as far as unload it and stuff
15 because we are going to be touching it and dealing with it,
16 packaging it and we don't want it obviously to go off so we
17 make sure that it's clear. In this case it was a revolver
18 that had a cylinder and so the cylinder was popped open to
19 reveal the shell casings that were still in the cylinder and
20 removed that way there is no ammo in the gun when we are
21 packaging it.

22 Q. For purposes of identification I'm gonna have you
23 take a look at these photos. Beginning with State's Exhibit 4
24 and 5. Before we get into any specifics, let me go ahead and
25 show you the rest of these too. State's exhibit 27, State's

1 exhibit 26, State's exhibit 30, State's exhibit 31, 32, 33.

2 Are you familiar with these items?

3 A. Yes, ma'am. These are the photographs that are
4 taken of each individual item that I just spoke of.
5 Photographs of the outside and the inside of the crawl space
6 and all the pieces of evidence that were found in the crawl
7 space area.

8 Q. Okay. Are these photos a fair and accurate
9 representation of the items that were seized from the crawl
10 space?

11 A. Yes, ma'am.

12 MS. MAYES: For evidence, Your Honor, this would be
13 State's 26, 5, 4, 30, 31, 27 and 32 and 33.

14 MR. STITELY: There's no objection to those, Judge.

15 THE COURT: Thank you. They're in evidence.

16 BY MS. MAYES:

17 Q. Let's start here. What are we looking at here,
18 Investigator Derrick?

19 A. That's the back part of [REDACTED] Cheryse Drive and that's
20 the power pole on the back end that supplies power to the
21 house and to the right of that is the door to the crawl space
22 underneath the trailer.

23 Q. State's Exhibit 26, a little bit more clear here.

24 A. It's the same crawl space area with the door
25 opened.

1 Q. All right. And then just to clarify, the items that
2 you mentioned being recovered, how far back into the crawl
3 space were those items?

4 A. Uhm, I would say probably about five feet into it.
5 There's a cement pole foundation right there and around that
6 on the other side, yep, on the ground right beside that, in
7 front of that and on the backside of that.

8 Q. All right.

9 A. Three to five feet.

10 Q. We're gonna take a look now at State's exhibit 9.
11 At this point are we inside the crawl space or outside the
12 crawl space?

13 A. This is inside the crawl space and I'm actually
14 sitting or squatting next to that cement pole that I was just
15 referring to looking at the end of the trailer under the crawl
16 space so that is inside the crawl space, yes, ma'am.

17 Q. What is located here?

18 A. That's the revolver.

19 Q. Now, you mentioned that part of the procedure when a
20 revolver or firearm is recovered pertaining to an official
21 investigation your first step is to clear it, correct?

22 A. Yes, ma'am.

23 Q. Had you checked that weapon to see if it's still
24 loaded?

25 A. Yes, ma'am.

1 Q. Was that done in this case?

2 A. Yes, ma'am.

3 Q. You're familiar with this photograph?

4 A. Yes, ma'am. That's the cylinder of the firearm.

5 Q. What are we looking at here inside the chamber or
6 cylinder of this weapon?

7 A. Uhm, any time we open the cylinder or take the
8 magazine out if it was an automatic, we always document
9 whether or not one is in the chamber or how many is in the
10 cylinder, how many is in the magazine. We do that through
11 photographing as well as writing it down. This is actually
12 showing all the casings or bullets in the actual cylinder
13 which is nine of them. It's a nine shot.

14 Q. All right. This is what type or caliber of
15 revolver?

16 A. Actually it was a New England firearm .22 revolver,
17 a model R92.

18 Q. It's a .22 and it holds how many bullets in its
19 chamber?

20 A. It holds nine. It's a nine shooter.

21 Q. All right. So we are looking here at nine casings
22 inside that chamber. Investigator Derrick, what, if anything,
23 can you tell us about once the casings are actually examined
24 or your observations upon your examination of those casings
25 inside the chamber?

1 A. Well, in this case being a .22 the ammo was actually
2 what you call rim fire. Most ammo center fire where it has
3 the primer directly in the center and the firing pin will hit
4 that primer in the middle. In this case the .22 is a rim fire
5 so basically it can be hit all around the rim instead of in
6 the center. It can hit in the center if it needs to or if
7 that's how it's set up. But if it hits anywhere on the back
8 of that casing, it will fire the bullet from that weapon and
9 all nine of these were actually fired or hit by the firing pin
10 of that weapon.

11 Q. I'll hand you this and ask you what, if anything,
12 you're looking at or you're observing that indicates to you
13 that all nine casings have been fired?

14 A. All right. These little marks on the outside of the
15 rims, that's all the firing pin hitting each individual
16 bullet. There's actually, I believe, two casings that
17 actually have two marks. You can see right there that has
18 one, two. Basically all that means is that the cylinder went
19 through one time and it was also going back through and that
20 bullet was actually hit twice so it shows two indentations
21 from the firing pin.

22 Q. So the bullet comes out but the casing stays in the
23 cylinder; is that correct?

24 A. Yes, ma'am. And then the casings, they stay in the
25 cylinder until you remove them.

1 Q. And the firing pin leaves a mark behind?

2 A. Yes, ma'am.

3 Q. And all nine bear that mark that it's been fired?

4 A. Yes, ma'am.

5 Q. Including two that showed two markings meaning it's
6 gone all the way around and indicating someone is continuing
7 to fire?

8 A. Yes, ma'am.

9 Q. What are we looking at here?

10 A. This is the flip style cell phone that was found
11 underneath the crawl space.

12 Q. Also from the area where the defendant had been
13 located?

14 A. Yes, ma'am.

15 Q. Was that phone also taken into evidence?

16 A. Yes, ma'am. That phone was collected as evidence.

17 Q. Now, you're sequestered so you haven't heard any of
18 the other testimony in this case but are you familiar with
19 whether or not that phone was what we call extracted? It went
20 through forensic analysis by the Lexington County Sheriff's
21 Department to determine any incoming and outgoing calls and
22 things of that nature?

23 A. Yes, ma'am.

24 Q. State's exhibit 30. Let me scoot this up a little
25 bit. What are we looking at here?

1 A. This is inside the crawl space. You can see on the
2 left of the screen is the cement support. Sorry. I guess I
3 could have used that. Sorry. Is the cement support. And to
4 the right of that is the copper in color flashlight. The red
5 Milwaukee knife over to the left and then the single Pall Mall
6 cigarette by itself.

7 Q. Now, this Pall Mall doesn't have a tan butt,
8 correct?

9 A. No, ma'am. It's all in white with a blue rim and it
10 actually shows the blue unopened pack of cigarettes as well.

11 Q. All right. And pursuant to this investigation have
12 you had a chance to look at type of cigarettes that come in
13 the blue carton versus the type of cigarettes that come in the
14 red carton?

15 A. Yes, ma'am. The Pall Malls this being the Pall
16 Malls, in the blue pack it's solid white with a blue rim on the
17 actual cigarette and then the red pack of Pall Malls actually
18 have a tan or brown color filter and a white base so it's a
19 little different.

20 Q. So the blue pack have a solid white and the red pack
21 have the tan butt or tan filters?

22 A. Yes, ma'am.

23 Q. State's exhibit 27. What are we looking at here?

24 A. This is the case of Corona that was open and
25 underneath the crawl space as well in that same area.

1 Q. State's exhibit 33?

2 A. Oh, I'm sorry. What are you asking?

3 Q. States exhibit 33, what, if anything, is depicted in
4 this photograph?

5 A. I'm sorry. That's showing the firearm under the
6 cardboard box as well as a bottle, an empty Corona bottle
7 laying on its side in the sand, wet sand which appears to have
8 been poured out right there or knocked over.

9 Q. How many empty Corona bottles or how many consumed
10 Corona bottles were found underneath there along with that
11 carton?

12 A. There were two empty Corona bottles laying on the
13 ground and I believe there was eight full unopened Coronas in
14 the case.

15 Q. Okay. State's exhibit 32.

16 A. That's a more close up photo of the bottle, the
17 Corona bottle.

18 Q. And upon examination could you tell us whether or
19 not there was any broken area of this bottle?

20 A. Yes, ma'am. Actually the top of it, I'm not going
21 to assume anybody drinks or anything but a Corona is not a
22 screw off. It's a pop with a bottle opener so in this case if
23 it's not screwed off, you can break the bottle's mouth piece
24 and that was broken. Yes, ma'am.

25 Q. Among the various items found underneath there,

1 there's a case of Corona bottles but was there a bottle
2 opener?

3 A. Not to my knowledge. We did not recover a bottle
4 opener from under there.

5 Q. So ultimately there was a broken area here around
6 the rim?

7 A. Yes, ma'am.

8 Q. What, if anything, else was observed on the Corona
9 bottle?

10 A. There was actually a brown reddish substance
11 appearing to be blood which was actually tested for
12 presumptive test that indicated that it was blood on the
13 bottle.

14 Q. One more. Are you aware pursuant to your work at
15 the scene and your investigation in this case whether
16 ammunition was also recovered in this case?

17 A. Yes, ma'am. A plastic case of .22 bullets were
18 located in the residence of [REDACTED] Cheryse.

19 Q. I'm going to show you item number 8 and item number
20 10. Not very clear. Let me show you item number 10. Are you
21 familiar with that item?

22 A. Yes, ma'am. That's the clear box or container that
23 the .22s come in.

24 Q. All right. Are you familiar with where in the
25 residence the ammunition box was located?

1 A. Yes, ma'am. In the living room of the residence
2 there was a couch in the living room and to the left side of
3 the couch underneath the cushion of the couch was the plastic
4 container with the bullets in it.

5 Q. All right. Now, let me show you a gun. Can you
6 tell us whether or not this appears to be the same item that
7 was retrieved from the residence from the crawl space
8 underneath the residence?

9 A. Yes, ma'am. That's the same gun.

10 Q. And the sealing on the package was done by who?

11 A. Well, the red tape is me and after this item was
12 sent to SLED, SLED then made their own when they secured it.
13 So those are my initials and my date on the originals.

14 Q. So once you seized it from the crime scene, you
15 sealed it up in this box, the box being law enforcement
16 property?

17 A. Yes, ma'am.

18 Q. You sealed it up for the purposes of going where?

19 A. Well, I sealed it up in order to turn it into
20 evidence and then from evidence we knew it was going to be
21 going to SLED for further testing.

22 Q. To the State Law Enforcement Division?

23 A. Yes, ma'am.

24 Q. That's for actual ballistics or comparison
25 analysis?

1 A. Yes, ma'am. That's for the comparison.

2 Q. Comparison between that weapon and the .22 caliber
3 ammunition found at the scene?

4 A. Yes, ma'am.

5 MS. MAYES: Your Honor, this would be State's
6 exhibit for evidence 41.

7 MR. STITELY: No objection.

8 THE COURT: It's in evidence.

9 BY MS. MAYES:

10 Q. You mentioned some of the other items found at the
11 scene so let me show you these items and ask you whether or
12 not you recognize them and if so how.

13 MR. STITELY: Judge, we are not gonna object to
14 anything they found at the crime scene.

15 BY MS. MAYES:

16 Q. I believe we can start with this box.

17 A. They are all secured in plastic. I don't know if
18 you want me to pull them out one by one.

19 Q. Start with the knife.

20 A. The crawl space item. This is the actual Milwaukee
21 knife that was from underneath the crawl space. This is the
22 blue unopened pack of Pall Malls that was underneath the crawl
23 space. That's not the right one. There was a full one. It's
24 still in there. This is the copper color flashlight and the
25 little matches in the bottom. And actually you can't see it

1 because I wrapped it in a box, but this is the unsmoked single
2 Pall Mall that had red brownish stains on it. That was with
3 the knife and everything under the crawl space.

4 Q. All right. And so just clarify, this copper color
5 item is actually a flashlight?

6 A. Yes, ma'am.

7 Q. But it comes with matches inside it sort of a
8 survival type?

9 A. It came with or it allowed you to put them in when
10 you bought it.

11 MS. MAYES: Your Honor, this would be all State's
12 exhibitS for evidence which are marked at this time as
13 42, 43, 44, 45 and 46.

14 THE COURT: Entered without objection, is that
15 correct, Mr. Stitely?

16 MR. STITELY. Yes, sir, Your Honor.

17 THE COURT: Okay. All in evidence.

18 BY MS. MAYES:

19 Q. Next I'm going to show you what's in this box and
20 ask you whether or not you recognize it along with these two
21 items?

22 A. That's the case of full Coronas and the two empty
23 bottles.

24 Q. Are those the same items that you retrieved from
25 underneath the crawl space?

1 A. Yes. Yes, ma'am.

2 MS. MAYES: Your Honor, at this time this will be
3 State's exhibits 46, 47, and 48 for evidence.

4 MR. STITELY: Judge, I think she already used 46 but
5 I have no objection.

6 THE COURT: Yes. I thought I heard 46 before, too.

7 MS. MAYES: Yes, Your Honor. We ended up not
8 needing to mark that 46.

9 THE COURT: They are in evidence.

10 BY MS. MAYES:

11 Q. I'll show you these items and ask you whether or not
12 you recognize them?

13 A. Yes, ma'am. This is the plastic case or container
14 of .22 ammo that was found in the couch of the residence and
15 these are the nine shell casings, .22 shell casings that were
16 retrieved from the actual cylinder of the revolver in the
17 crawl space.

18 MS. MAYES: Your Honor, at this time that would be
19 State's exhibits 49 and 50 as evidence.

20 MR. STITELY: No objection.

21 THE COURT: All right. They're in evidence.

22 BY MS. MAYES:

23 Q. Just to clarify, we saw a little while ago this
24 photo of the nine spent casings inside the chamber of that
25 revolver but what's the procedure once you're getting ready to

1 actually submit it to the State Law Enforcement Division for
2 analysis? Do they stay in the chamber or do they come out?

3 A. Oh, no. They came out of the chamber that night and
4 so they were packaged separately as far as being separate from
5 the gun. Also we are not allowed to turn in weapons and ammo
6 together. You have to have them separated to turn into our
7 evidence as well.

8 Q. So State's exhibit 49, are those nine spent casings
9 removed from the chamber of this firearm, correct?

10 A. Yes. They were removed from the cylinder of the
11 firearm.

12 Q. Now, does your work as a crime scene investigator
13 stop that night at the scene?

14 A. No, ma'am. I guess go through the process of what
15 we do. All right. After once all the evidence and everything
16 was collected from the scene, it's then transported back to
17 Lexington County Sheriff's Department. We have a lab area
18 where we do all our extra processing so it was actually
19 secured in our lab for more packaging or analyzing or
20 processing at that point.

21 Q. You seal it as you previously testified. You
22 initial it, you seal it, report it, submitted to any other
23 agency for analysis?

24 A. Yes, ma'am. Once we seal it and label it and date
25 it with our initials, we turn it into our evidence room at

1 that point, then we decide with the investigators on what
2 exactly is going to go for further analysis that we can't do
3 inhouse. So at that point we'll basically make a list of what
4 items we want to go and then usually we try to keep it in the
5 same person who turned it in as the one that goes to pick it
6 up so in this case I retrieved the items from our evidence
7 room and actually delivered them to South Carolina Law
8 Enforcement Division for further testing.

9 Q. Now, Investigator Derrick, this is a homicide case.
10 With it being a homicide what additional work is needed
11 following your response to the crime scene? Do you attend,
12 for example, the autopsy?

13 A. Yes, ma'am. The Coroner's Office actually is in
14 charge of setting that up and they will actually set up the
15 autopsy for two different locations. Either we go to Newberry
16 to Newberry Pathology or we will actually do the autopsy at
17 Lexington Medical Center. Once we figure out where we are
18 going with the victim, then I will actually attend. Whoever
19 goes to the scene will attend the autopsy preferably because
20 they can fill in the doctor on what the scene actually looked
21 like, what we found at the scene so it can be, I guess,
22 compared to how the condition of the victim is. When they
23 come in, they will know why certain things look a certain way
24 or what's missing, what's not missing kind of deal like with
25 clothing there. So I will actually go to the autopsy to

1 further document. I actually take photographs during the
2 autopsy and I do take notes and everything.

3 Q. All right. In this particular case did you attend
4 the autopsy of Bobby Lee Christofoli?

5 A. Yes, ma'am. On actually the next day the autopsy
6 was held at Newberry Memorial Hospital.

7 Q. Is it conducted by a forensic pathologist?

8 A. Yes, ma'am.

9 Q. In this case which medical doctor, forensic
10 pathologist conducted the autopsy of Mr. Christofoli?

11 A. Dr. Ross at Newberry Pathology performed the
12 autopsy.

13 Q. Now, when someone has been shot, for example, and
14 there may still be a projectile or a bullet inside the body,
15 what is the procedure of the crime scene investigative unit at
16 the Sheriff's Department for retrieving that type of
17 evidence?

18 A. During the autopsy the medical personnel, the
19 pathologist, they will actually x-ray the body just to see if
20 the shot was through and through or if the projectile is
21 actually still located or if pieces of the projectile are
22 still located within the body. They actually remove the
23 projectiles from the body itself and they're placed in secured
24 bags and everything and then they are handed over to whoever
25 goes. In this case it was me. Once they seal them they turn

1 them back over to me to put them in evidence.

2 Q. All right. In this case you were present at the
3 autopsy of Mr. Christofoli. Can you tell us whether or not
4 there were any bullets still inside his body?

5 A. Yes, ma'am. We actually --

6 MR. STITELY: Judge, at this point can I have an
7 objection. If she is not the one doing the autopsy
8 making the recoveries, I don't think this is the proper
9 witness to go through this testimony. I think she is
10 relying on hearsay coming from someone else.

11 MS. MAYES: Your Honor, I can follow up and lay the
12 foundation.

13 THE COURT: Okay.

14 BY MS. MAYES:

15 Q. Investigator Derrick, let me ask you this: Do you
16 recognize these four items here and if so how?

17 A. These are the four projectiles that were removed
18 during the autopsy by Dr. Ross and transferred into my custody
19 after the autopsy was over.

20 Q. All right. Is each bullet packaged separately?

21 A. Yes, ma'am.

22 Q. How many packages do you have there?

23 A. Four.

24 Q. Once you retrieved them as evidence, what is the
25 next step in terms of the investigation?

1 A. Once I retrieve them from the pathologist, then they
2 are submitted into our evidence property room and then more
3 than likely if there is a firearm and a projectile that we
4 want comparisons done they will be signed out of our evidence
5 and taken to SLED or South Carolina Law Enforcement for actual
6 ballistics comparison.

7 Q. In other words, to compare this gun to those four
8 bullets that came from the body at autopsy?

9 A. Yes, ma'am. That's what we were sending them to be
10 done.

11 MS. MAYES: Your Honor, these will be all exhibits
12 for evidence 51, 52, 53 and 54.

13 MR. STITELY: I'm still gonna object to foundation
14 until Dr. Ross is here to say those are the actual ones
15 that she removed.

16 THE COURT: Overruled. They're in evidence.

17 BY MS. MAYES:

18 Q. Now, in addition to the bullets being taken from the
19 autopsy and placed into evidence, can you tell us,
20 Investigator Derrick, whether you collected any other type of
21 evidence or samples from the body for potential analysis by
22 the State Law Enforcement Division?

23 A. Yes, ma'am. During the autopsy a toxicology and
24 serology packet is collected by the pathologist. It's done
25 the same way that the projectiles were done. They were sealed

1 in plastic bags or heat sealed bags directly in front of me
2 and that bag or that packet of samples was collected and done
3 the same as the projectiles, turned into our evidence and then
4 logged out of our evidence for further analysis.

5 Q. Is that maintained in a different format or in a
6 different way than being boxed up and kept in the evidence
7 room?

8 A. Yes, ma'am. It's body tissues or blood actually has
9 to keep refrigerated so it's not collected or put in a box and
10 stored in our evidence. It's actually stored in a
11 refrigerator in our evidence.

12 Q. In this case can you tell us whether or not blood
13 samples were taken and turned over to you from Bobby
14 Christofoli during the autopsy for the purpose of toxicology
15 analysis by the State Law Enforcement Division?

16 A. Yes, ma'am. It was.

17 Q. Now, in addition to the physical evidence that you
18 recovered both from the crime scene and at the autopsy, what
19 other type of work do you do at the crime scene in terms of
20 documentation, photographs, things of that nature?

21 A. Note taking, photographs, sketching. We can
22 possibly do fingerprints. Swab samples if there is DNA
23 present or appears to be present, depending on the location of
24 actually where the victim is whether processing for
25 fingerprints and all that stuff is necessary. Measurements.

1 Those kinds of things. Any other evidence such as tire wear
2 or shoe wear. We're looking for those as well depending on
3 the actual location.

4 Q. I'm going to start by asking you regarding your
5 measurements at the crime scene. I'm going to show you what's
6 pre-marked as State's exhibit 40. Before you describe
7 anything in this photograph, how do you go about collecting
8 dimensions and measurements and that type of information to
9 actually prepare a sketch or diagram of a crime scene?

10 A. Well, in this case I would actually sketch out the
11 location or the residence depending on where the actual
12 incident happened and then I would take measurements. You can
13 take them several different ways. I have several different
14 measuring devices. If it's a long stretch of roadway, then I
15 have a wheel, a measurement wheel. It will take measurements
16 as I walk. Or I have measuring tape or I also have electronic
17 digital where I can hold it against the wall and it will tell
18 me how far the walls are apart or whatever the laser is
19 hitting.

20 Q. Do you also make notes and collect your own notes
21 and documentation of various measurements that may be involved
22 at a crime scene?

23 A. Yes, ma'am. Once I measure things out, they get
24 written down.

25 Q. Do you have specific training in the preparation of

1 crime scene diagrams?

2 A. Yes, ma'am.

3 Q. Can you tell us whether or not although not to scale
4 in terms of the actual size because we can't recreate a one
5 hundred yard crime scene in the courtroom, but can you tell us
6 whether or not this is a fair and accurate representation in
7 terms of a diagram of the crime scene as you recorded it?

8 A. Yes, ma'am.

9 MS. MAYES: Your Honor, at this time it would be
10 State's exhibit 40.

11 MR. STITELY: Judge, I'm going to object to that
12 document. Clearly it says not to scale and I think the
13 Solicitor is misinterpreting what to scale means. That
14 means to draw it accurately in accordance with the size
15 and the parameters of the thing. We have a map of the
16 location which is an accurate portrayal. I think using a
17 diagram that's not to scale could be misleading.
18 Additionally I object to the word on the top in the
19 middle of it.

20 THE COURT: Okay. Overruled. Thank you. It's in
21 evidence.

22 BY MS. MAYES:

23 Q. I'm going to try to position this where you can see
24 it but also where Mr. Stitely can still see you.

25 MR. STITELY: I'll come around.

1 MS. MAYES: In that case I will move down here.

2 BY MS. MAYES:

3 Q. Can you tell us what we are looking at, Investigator
4 Derrick, on this crime scene diagram? We may need you to step
5 down.

6 A. (Witness complies.)

7 Q. What are we looking at here?

8 A. Uhm, well, this is actually the entrance way into
9 Cheryse Drive that dead ends at the end so there's only one
10 way in, one way out. This is [REDACTED] Cheryse and this is the
11 curve in the road that goes down the dirt road to [REDACTED]
12 Cheryse.

13 Q. One residence here in blue, the other residence in
14 blue?

15 A. Yes, ma'am.

16 Q. Was it possible to approximate or measure the
17 difference directly from this residence to this residence?

18 A. Like straight through here to here?

19 Q. Correct. A straight distance?

20 A. No, ma'am. Because of the foliage, the trees and
21 the bushes. That wasn't a clear path that I could straight up
22 tape.

23 Q. What could you tell us about -- What are we looking
24 at right here?

25 A. This is gonna be the mailbox area. This is the

1 driveway per se. This is the mailbox area of [REDACTED] This is
2 the mailbox area of [REDACTED]

3 Q. All right. What are we looking at here?

4 A. This a power pole that set in between the two
5 properties as well as that power pole as well.

6 Q. What did you determine the distance to be between
7 this mailbox and this power pole?

8 A. Well, actually I listed three different
9 measurements. One's in meters, one's in yards and one's in
10 feet.

11 Q. In terms of yards we can all relate to that, a
12 football field.

13 A. Mm-hmm. That's 58.7 yards or 176.1 feet. About
14 half a football field.

15 Q. All right. So 58 yards from this mailbox to this
16 power pole?

17 A. Yes, ma'am.

18 Q. Then also do your notes reflect the distance between
19 the approximate location of this residence and this residence
20 if you were going by the road?

21 A. Well, that's kind of what I got going up here and
22 then here and then here so I'm basically 140, 170, 180. It's
23 not a clear shot.

24 Q. What about straight across here?

25 A. Oh, thanks. Yeah. I already got it up there. The

1 roadway from here to here. Sorry. It's about 320 feet.

2 Q. 320 feet. And in terms of yards how far would that
3 be?

4 A. A hundred yards. A hundred yards.

5 Q. 106 yards?

6 A. Yes, ma'am. 106.

7 Q. A little over a football field. All right. You may
8 return to your seat.

9 A. (Witness complies.) I forgot about that line.

10 Q. Now, in addition to the actual diagram, what can you
11 tell us about your arrival at the scene and the condition or
12 positioning of the body and anything related to your
13 observations in that regard?

14 A. Uhm, are you asking where the body was located?

15 Q. And in what position?

16 A. The actual victim's body was located in the roadway
17 supine or on the back, on his back. His feet were facing
18 towards [REDACTED] and his head was facing towards [REDACTED] so lying on
19 his back head that way, feet up the other way.

20 Q. Now, in a situation like this where the surface is
21 sand or dirt, how do you go about documenting or preserving
22 anything which could potentially be important in an
23 investigation?

24 A. It depends on the actual surface of the roadway, if
25 it was gravel, dirt, sand. In this case it was sand. You can

1 visually see tire tracks going up and down the road. You can
2 also see foot traffic going up and down the road as well.

3 Q. All right. What, if any, effort is made to record
4 any type of footprints that may be near a body in a homicide
5 investigation?

6 A. Uhm, well, the same as collecting evidence. We have
7 placards. We have numerical placards. We have alphabetical
8 placards. And in this case I labeled shoe wear and foot wear
9 or foot impressions basically all along the roadway I labeled
10 with my placards and I photographed them. That's how we
11 document. I can't collect the sand as is that will show you a
12 footprint. I have to photograph it because if I pick it up,
13 it will seep through my hands and be no longer.

14 Q. Let me show you what has been pre-marked as State's
15 exhibits 34 and 39. Do you recognize these items?

16 A. Yes, ma'am. That's the roadway where the victim was
17 found.

18 MS. MAYES: Okay. These are for evidence, Your
19 Honor, without objection.

20 MR. STITELY: No objection to those, Your Honor.

21 THE COURT: All right. They're in evidence.

22 BY MS. MAYES:

23 Q. Investigator Derrick, please step down again.

24 A. (Witness complies.)

25 Q. Looking at the dirt roadway --

1 A. Let me grab my notebook with my notes. Okay.

2 Q. The placards that you mentioned --

3 A. Yes, ma'am. This is the roadway. [REDACTED] would be
4 here. This is [REDACTED] to orient you so the victim's head is
5 facing towards [REDACTED] the feet are facing towards [REDACTED] I have
6 numbers and I have alphabet letters or alphabetically
7 placards. The reason I use letters for one and numbers for
8 one is there are two different types of impressions there so I
9 wanted to use letters for one impression that all matched and
10 one for numbers that all matched or were similar.

11 Q. Let me stop you right there. When we see a letter
12 such as H, that represents what type of foot impression?

13 A. In this case I chose to label all of the alphabet
14 letters to bare feet impressions.

15 Q. Let me stop you right there. So you had bare feet
16 impressions at this scene?

17 A. Yes, ma'am.

18 Q. And then in addition to the bare feet impressions,
19 what other type of impressions did you observe, if any, that
20 were different from a barefoot impression?

21 A. Yes, ma'am. Well, there are several different shoe
22 impressions. You can see a lot of tire impressions and a lot
23 of footwear impressions. Like I said, the alphabet letters
24 are used for bare feet impressions that I located and the
25 numerical placards actually are the similar pattern. All the

1 similar pattern of a tennis shoe or boot basically. So the
2 letter represent bare feet and the numbers represent the same
3 shoe design.

4 Q. How many numeric placards did you use?

5 A. 1 through 6.

6 Q. And you say that represents a shoe as opposed to a
7 bare foot?

8 A. Yes, ma'am.

9 Q. All right. What type of shoe is it? What can you
10 tell us about the type of tread wear located on the sole of
11 that shoe?

12 A. 1 through 6 all have the similar same pattern and
13 it's a basic like wavy pattern. Sometimes we call it herring
14 bone pattern. I don't know how many of them there are but
15 it's basically an impression with different waves going all
16 the way down.

17 Q. So 1 through 6 were identical?

18 A. Yes, ma'am.

19 Q. Can you tell us how those impressions appeared in
20 comparison? Did you have a chance to examine any type of foot
21 wear that Mr. Christofoli was wearing?

22 A. He actually has a boot on that has the wavy pattern
23 that actually matches or is similar to 1 through 6.

24 Q. All right. Now, are you able to determine exactly
25 when these various footprints were left at the scene? In

1 other words, are you able to determine whether they were the
2 result of this final incident or an earlier occasion where one
3 or both of the parties may have been in the roadway or walking
4 on the roadway?

5 A. Uhm --

6 Q. Are you able to put a time on any of the
7 footprints?

8 A. I'm trying to think of how to say it. I'm not able
9 to put a timeline on when these actually happened but I'm
10 showing you that there is foot impressions that match the
11 victim's shoe wear and there's bare feet impressions up and
12 down the road showing that the foot traffic was there. You
13 can see the different tire tracks and the shoe impressions.
14 Unless they are one on top of the other, that's the only way I
15 can tell you which one came first or which one came last. But
16 I can't actually put a time frame on it so these shoe wear and
17 bare feet could be an hour before the incident. It could be
18 two minutes before the incident, but shows the traffic up and
19 down the road.

20 Q. All right. Now, where Mr. Christofoli was laying,
21 is he on his back or on his stomach?

22 A. He's laying on his back with arms out to the side
23 and his knee sort of bent.

24 Q. Okay. In looking at this scene as a whole did you
25 have an opportunity to photograph anything which would have

1 stood out to you as being unusual or out of the ordinary?

2 A. Well, we would photograph obviously around the
3 victim's body and also look for possible evidence other than
4 shoe wear, tire wear. But in this case being sand or dirt we
5 are also looking for any type of evidence like if he went down
6 on his knees first because you can see the impression in the
7 sand or fell down and was still moving or if actually an
8 altercation was occurring you would expect to see disturbances
9 in the sand.

10 Q. Did you see any evidence of an altercation?

11 A. No, ma'am. The sand was not disturbed.

12 Q. I'm gonna show you State's exhibit 34. What are we
13 looking at here?

14 A. Well, we have one wavy shoe impression labeled 1.
15 That's similar to the boot and then we have a K which is a
16 barefoot impression and the arrow actually shows you which way
17 the toes are pointing so the toes are pointing that way.

18 Q. All right. So we have bare feet walking in this
19 direction, correct?

20 A. Yes, ma'am. Right there.

21 Q. You had an opportunity to examine this shoe,
22 correct?

23 A. Yes, ma'am. And that shoe matched, well, similar to
24 the pattern that's left right here. It's a wavy pattern.

25 Q. All right. What are we looking at right here?

1 A. This is a slight disturbance in the sand and this
2 is, actually it shows, there's a disturbance to the knee in
3 places here and the feet disturbance there. It appears that
4 he fell on his knees first and then backwards and moved his
5 feet a little bit around that area but not too drastically.

6 Q. All right. Were you able to determine whether or
7 not there was any sand on the pants?

8 A. Yes. There actually was two circles around the
9 knees that had sand on them. Yes. Sand on the jeans.

10 Q. All right. You may return.

11 A. (Witness complies.)

12 Q. In addition to those photographs I'm going to show
13 you some additional photographs from the scene and ask you
14 whether or not you recognize them. Let me show you these
15 photographs and ask you whether or not you recognize them.
16 And you don't have to describe each one. If you can just go
17 through them and tell me whether or not they appear to be a
18 fair and accurate representation of the scene as it was
19 documented the night of April 2nd?

20 A. One by one?

21 Q. If you could just look at them as a whole.

22 A. Okay. (Witness complies.) Yes, ma'am. They are an
23 accurate depiction of what was that night. I actually took
24 these photographs and I do recognize them.

25 MS. MAYES: All right. Your Honor, this will be

1 State's exhibits 55, 56, 57, 58, 59, 60, 61 and 62 for
2 evidence.

3 MR. STITELY: No objection to those pictures, Judge.

4 THE COURT: They're in evidence.

5 BY MS. MAYES:

6 Q. Now, in addition to processing the area under the
7 crawl space and documenting the scene, can you tell us whether
8 or not there was a search of the victim's truck?

9 A. Yes, ma'am. The victim's truck was parked down at
10 [REDACTED] and I actually went through it and photographed or
11 searched it and photographed it.

12 Q. Searched it for the purposes of recovering any
13 relevant evidence, correct?

14 A. Yes, ma'am.

15 Q. I'm going to show you two items and ask you if you
16 recognize them and if so how?

17 A. Yes, ma'am. These are two photographs that I took.
18 This is the victim's red pickup truck that's parked at [REDACTED] and
19 this is the actual tailgate and bed of the truck.

20 Q. All right.

21 A. Or rear end.

22 MS. MAYES: All right. This would be State's
23 exhibits 63 and 64 as evidence, Your Honor.

24 MR. STITELY: No objection, Judge.

25 THE COURT: They're in evidence.

1 BY MS. MAYES:

2 Q. Now, having had the opportunity to search that
3 truck, let me ask you whether or not there was a cell phone
4 found near the tailgate of that truck?

5 A. Yes, ma'am. There was a cell phone found in the bed
6 of the truck.

7 Q. Was the tailgate of that truck up or down?

8 A. It's down.

9 Q. All right. And the cell phone, can you tell us
10 whether or not there was a cell phone associated with that
11 truck that you determined to be a cell phone belonging to the
12 victim Bobby Christofoli?

13 A. Yes. I was actually informed that that was the
14 victim's cell phone.

15 Q. Was it also taken as evidence for potential
16 analysis? We heard earlier from Investigator Mike Phipps who
17 extracts phones and collects evidence from phones.

18 A. Yes, ma'am. I collected that phone and turned it in
19 for analysis.

20 Q. Same phone shown right here in State's exhibit 21,
21 the victim's phone that was recovered from the bed of that
22 truck, correct?

23 A. Yes, ma'am.

24 Q. And were you able to do an extraction on that
25 phone?

1 A. Uhm, I attempted to but there is a pass code lock, a
2 pattern lock with, I guess, dots. There's a pattern lock and
3 we could not - I could not bypass it at that point in time so
4 I passed it onto Investigator Phipps.

5 Q. All right. Then also in the bed of this truck that
6 was searched and processed by you, in addition to the phone
7 what are we looking at right here?

8 A. That is a, I guess, partial or smoked cigarette with
9 a, that's the tan filter or the filter part or butt of the
10 cigarette.

11 Q. And here is State's exhibit 20.

12 A. Yes, ma'am. This is the cab looking into the
13 driver's side window and that is actually a red pack of Pall
14 Mall cigarettes.

15 Q. You have testified earlier those Pall Malls in the
16 red pack that were in the victim's truck had these tan butts
17 to them, correct?

18 A. Yes, ma'am.

19 Q. I'm also gonna show you for purposes of
20 identification, if you could just take a look at this photo
21 for identification only.

22 A. Yes, ma'am. I took this photo.

23 Q. Take a look at that one and also State's exhibit 56.

24 A. This is -- I took this photo as well. It's a more
25 close up photo of the one before.

1 Q. All right. Now, that photo is very, very dark so
2 I'm not going to attempt to put it on the projector, but in
3 terms of this photograph what are we looking at in the
4 photograph in this area here?

5 A. Uhm, this is actually the roadway. This is the sand
6 on the roadway and this is anatomically is the victim's left
7 side. Probably about maybe two feet away from his left knee
8 and about a foot away from his left arm there is actually a
9 partially smoked cigarette with a tan filter.

10 Q. The same tan filter that you previously indicated
11 was, or contained in the red Pall Mall packs that were in the
12 victim's truck, correct?

13 A. Yes, ma'am.

14 Q. So here beside the body is a cigarette with the tan
15 butt?

16 A. Yes, ma'am.

17 Q. Finally I want to ask you about this diagram here.
18 It's the aerial photograph that we have used during the course
19 of this trial, State's exhibit 1, the aerial map of the
20 location. Have you also had the opportunity to visit this
21 scene during daylight hours?

22 A. Yes, ma'am. I took photographs that night which was
23 nighttime and any time there's a nighttime scene or incident
24 we usually try to go out during the daylight to take
25 photographs and document as well because obviously in the dark

1 you take dark photographs so we try to get lighter ones during
2 the day. This is the actual above. This is [REDACTED] coming out
3 the driveway, mailbox, curve of the road and [REDACTED]

4 Q. Did you have an opportunity to examine this area of
5 the woods, the area of the woods that separates the two
6 trailers and determine whether there's an area or clearing,
7 there are areas or clearings within that wooded area where one
8 could hide?

9 MR. STITELY: Judge, I'm gonna object to that super
10 compound leading question.

11 THE COURT: Sustained.

12 MS. MAYES: I'll rephrase it.

13 BY MS. MAYES:

14 Q. Did you have an opportunity to observe that area?

15 A. Yes, ma'am. I actually took photographs of that
16 bush or tree area as well as walked into that area taking
17 photographs out of the area towards both houses.

18 Q. Let me show you what is pre-marked as State's
19 exhibits 23, 24, 25.

20 A. And these are the actual photographs of me of taking
21 the wooded area and standing in the wooded area taking it
22 towards the house.

23 Q. Is it a fair and accurate representation of the
24 crime scene as you recall it?

25 A. Yes, ma'am.

1 MS. MAYES: Your Honor, this would be State's
2 exhibits 23, 24 and 25 for evidence.

3 MR. STITELY: No objection.

4 THE COURT: They're in evidence.

5 BY MS. MAYES:

6 Q. What are we looking at here?

7 A. Uhm, well, I'm standing in the roadway shooting or
8 taking a photograph of the tree area. On the left side of the
9 photograph would be [REDACTED] Cheryse and on the right would be [REDACTED]
10 And this is kind of like - it's not a driveway. It's not a
11 clear driveway but it actually is a clearing in the actual
12 wooded area right there.

13 Q. And next we have State's exhibit 22.

14 A. Actually I was standing in the same location I was
15 just before. It's that clearing on the left and [REDACTED] Cheryse
16 is on your right.

17 Q. That's the residence of Donna Blanchett and the
18 defendant in this case, correct?

19 A. Yes, ma'am. I believe so.

20 Q. State's exhibit 24.

21 A. Uhm, that's actually taken from approximately the
22 same area. The clearing is right there in the middle and then
23 you can see the residence of [REDACTED] partially through the
24 woods.

25 Q. All right. So that would be the residence of Mike

1 Williams, correct?

2 A. Yes, ma'am.

3 Q. This area here is what you refer to as the
4 clearing?

5 A. Is the clearing. Yes, ma'am.

6 Q. Finally State's exhibit 23.

7 A. That's just another photograph of the clearing same
8 way. I'm in the roadway and [REDACTED] is to the left and [REDACTED] is to
9 the right.

10 Q. Did you have a chance to actually go into, walk into
11 this area yourself and observe it?

12 A. Yes, ma'am. I walked into that clearing area and I
13 actually took photographs facing each direction to show the
14 house location from inside the trees.

15 Q. Were you able to determine whether anyone in this
16 clearing can see through the trees?

17 A. Yes, ma'am. You can. Well, it's - the clearing is
18 actually closer to [REDACTED] and you can actually see through the
19 woods towards [REDACTED] a little bit more clearer than you can see
20 the other way because there's more trees and stuff in the
21 way.

22 Q. [REDACTED] being the residence of Mike Williams; is that
23 correct?

24 A. Yes, ma'am.

25 Q. Are there - can you tell us whether or not there are

1 briars in that wooded area?

2 A. Yes, ma'am. There's several briars, several trees,
3 several little bushes, sticks, pine cones, leaves.

4 Q. Now, in this photo can you tell us which way the
5 victim's head, the direction that the victim's head is
6 pointing?

7 A. The head is pointing towards -- Well, the ambulance,
8 you see the ambulance down there. It's pointing towards that
9 direction which is where [REDACTED] Mike Williams' residence, and
10 the feet are located or facing towards [REDACTED]

11 Q. So the head is pointing in the direction, the body
12 is found with the head positioned towards the residence of
13 Mike Williams, correct?

14 A. Yes, ma'am.

15 Q. And can you also see lighting in this photograph?

16 A. Yes, ma'am. There's a -- Well, it looks kind of
17 like streetlights to us but this is actually using the flash
18 of our camera to kind of highlight the area of the roadway,
19 but there is a single light pole, power pole, light pole with,
20 I guess, a roadway light. A street light.

21 MS. MAYES: Nothing further of the witness at this
22 time, Your Honor.

23 THE COURT: Cross examination.

24 MR. STITELY: Your Honor, this is probably going to
25 take a while. Is that all right?

1 THE COURT: Yes.

2 CROSS EXAMINATION

3 BY MR. STITELY:

4 Q. Officer or Investigator Derrick?

5 A. Investigator.

6 Q. Investigator Derrick. I'm Ben Stitely. How are
7 you?

8 A. I'm all right.

9 Q. One thing before I get into it just really quick.
10 The picture that we were just looking at, number 39, this
11 picture as we are looking at it has been digitally enhanced,
12 correct?

13 A. No, sir. It's not. It's the flash of the camera.

14 Q. The color though, they added color to this
15 picture?

16 A. No.

17 Q. I was told by the State they had.

18 A. No. It's not digitally altered. That's actually
19 the flash of the roadway using photography, not computer.

20 Q. I'm trying to find the other -- There's a smaller
21 version of the exact same picture that was into evidence. Do
22 you recall that one?

23 A. Uhm, if there was, it's probably in that stack. I'm
24 not sure.

25 Q. Nonetheless, it was not that bright out there that

1 day?

2 A. No. As I said, the flash, we use the flash to
3 lighten the area.

4 Q. And the other ones that we saw, 56, 64, that was
5 closer to the actual lighting where you were?

6 A. Yeah. It's still got a flash on the camera, but
7 that is more without the enhanced, the flash.

8 Q. Right. So the street light wasn't giving us that
9 kind of light at the scene?

10 A. No. That's from the flash in the roadway.

11 Q. If you were to describe it, would you call it
12 relatively dim even with the streetlight there?

13 A. Yes. It was dark. It was 10:00 at night, normal
14 darkness for 9:30, 10:00.

15 Q. State's 57. Let me show you. It's got your same
16 little markers and everything taken with a different camera?

17 A. Yeah. Well, no. It's the same camera. It's just a
18 different flash.

19 Q. Okay. But this is probably a more accurate
20 representation of what it would have looked like out there at
21 that time?

22 A. Yes. The flash isn't going up and down the road.

23 Q. Ma'am, I'm just trying to clarify. If someone was
24 to walk out there at that time of night, that's not what it
25 would have looked like on the side of the street as far as

1 what the eye would have seen?

2 A. Oh, no. Yeah. No. The flash is brightening it
3 up.

4 Q. Okay. Let me kind of jump you all the way back.
5 You have been up there for a few minutes. When you came out
6 to the scene, one of the things you talked about briefly was
7 when you were going through your qualifications, you said
8 you're pretty well versed in firearms, correct?

9 A. Yes.

10 Q. You said that you're able in court to testify about
11 pretty much anything except for the actual casings or the
12 rounds or the bullets that are discharged and comparing
13 them?

14 A. No. I physically cannot do to the actual comparison
15 saying that that bullet came or shot matched the bullet out of
16 the gun. I don't do the actual comparison.

17 Q. Okay. The gun that's in evidence number 41, it's
18 safe. It's in no means able to fire at this point, correct?

19 A. Yes. At this point, no. It has the lock on it and
20 it's clear.

21 Q. I just don't want to scare the jurors by holding it
22 close to them or anything like that.

23 A. It's not going to go off unless you pull the
24 trigger.

25 Q. So this gun you described as a .22, correct?

1 A. It's a .22 caliber revolver.

2 Q. Let's talk a little bit about guns. The Solicitor
3 kept saying the things in the back of it were the bullets and
4 that's what was in exhibit number 49.

5 A. Yeah. That's the shell casings from the cylinder.

6 Q. Okay. A quick going through of how guns work, you
7 have a shell casing which is usually made of copper, back in
8 the day brass, some substance like that. Then at the end of
9 it --

10 A. Yes. The metal projectile.

11 Q. Number 51.

12 A. That would be the metal projectile from an end of a
13 casing.

14 Q. There's a little piece of metal which is typically
15 made of back in the day lead but all kinds of things nowadays,
16 correct?

17 A. It's made out of lead or anything today. Yes.

18 Q. Okay. And then in between the bullet, what goes in
19 the little holes that you see in the casings?

20 A. Gun powder.

21 Q. Gun powder. How do you determine -- I guess I have
22 a couple questions on that front. When you talk about the
23 actual gun being a .22, what are we describing?

24 A. You're actually talking about the diameter of the
25 bullet, projectile, the metal fragment that he's holding right

1 there that comes out the end.

2 Q. That's the measurement of the actual diameter or the
3 circumference of the round?

4 A. The diameter.

5 Q. Right. The diameter. The actual bullet which is
6 the projectile that gets discharged from a firearm?

7 A. Yes.

8 Q. Okay. And then the casings can have any different
9 number of types of casings, correct?

10 A. Not size for a .22.

11 Q. Well, for a .22 --

12 A. You can have long rifle or shorts, if that's what
13 you're asking.

14 Q. All right. Yes. It is. All right. So .22, now,
15 we have all heard the term .22 and this is obviously a pistol,
16 correct? Is that what we would call it? A revolver?

17 A. It's a revolver.

18 Q. Okay. A .22 is also commonly used for a rifle,
19 correct?

20 A. You can have a .22 caliber rifle. Yes, sir.

21 Q. And, in fact, there are multiple different kinds of
22 rounds for a .22, some that are LR which means long rifle or
23 short which is what these are, correct?

24 A. I'm --

25 Q. I'm sorry. I don't mean -- (Proffering.)

1 A. Yeah. These would be considered .22 shorts.

2 Q. Now, when you're actually talking about the ability
3 of a bullet to be fired, you were talking about the gun
4 powder, correct?

5 A. Yes. The gun powder goes off which shoots or
6 projects the projectile out of the gun.

7 Q. What is the determiner when you're talking about the
8 ability of the actual round to produce the force? Like they
9 talk about the weight or the grains used per round, correct?

10 A. Mm-hmm.

11 Q. What is the actual grain weighting of these
12 rounds?

13 A. Each round is different, but the grain weighting is
14 29 grains.

15 Q. Do you know what the average grain weighting for a
16 .22 long caliber is?

17 A. No, sir. I don't.

18 Q. Was that not part of your training?

19 A. We didn't go over gun powder grains.

20 Q. What is the gun that you are carrying on your hip?

21 A. It's a 9 millimeter. Glock 17 9 millimeter.

22 Q. Do you happen to know what the grain load of the
23 rounds you carry on your stock issue 9 millimeter is?

24 A. Actually I do not know what the grain load is of our
25 bullets.

1 Q. Outside of your expertise?

2 A. I am not the one that picks out the bullets.

3 Q. Do you know why it is police officers carry a 9
4 millimeter rather than a .22?

5 A. Uhm, the size of the bullet.

6 Q. The size of the bullet. What's important about the
7 size of the bullet when you're talking about it's usefulness?

8 MS. MAYES: Objection to relevance.

9 THE COURT: Overruled.

10 BY THE WITNESS:

11 A. I don't understand the question.

12 BY MR. STITELY:

13 Q. Well, you said it's the size of the bullet. Why
14 does it matter that it's a bigger bullet? The 9 millimeter is
15 a bigger bullet than a .22, correct?

16 A. Yes. A 9 millimeter is bigger in diameter.

17 Q. Why is that important?

18 A. They chose the 9 millimeter. It's a bigger bullet
19 so it would obviously make a bigger hole.

20 Q. Is it commonly talked about stopping power?

21 A. It depends on the load itself whether it's a hollow
22 point or jacket or ball ammo.

23 Q. Sure. Did you -- I guess at the academy, you're a
24 licensed law enforcement officer, correct?

25 A. Yes, sir.

1 Q. What do they call it, level one certified?

2 A. Class I.

3 Q. Class I one certified?

4 A. Yes, sir.

5 Q. So you went through all these training classes and
6 the idea of using the 9 millimeter, if a bad guy is coming is
7 what? You want to stop them so they can't keep coming,
8 correct?

9 A. Well, yeah. If we're attempting to, yeah, stop the
10 offender or stop the attack, yeah.

11 Q. Okay. I'll move on from that. Okay. So just going
12 back to it. The short round is fired from this revolver. Do
13 you know what the effective range of a .22 short is?

14 A. No, sir. There's many different things that can
15 cause distance of range.

16 Q. Do you know what the foot power load of a .22 short
17 round is at point of impact?

18 A. No, sir. I don't.

19 Q. Outside of your training?

20 A. Yes, sir.

21 Q. I take it you don't know what the foot power load of
22 a stopping of a 9 millimeter is either then?

23 A. No, sir.

24 Q. One other thing you talked about briefly, and you
25 were looking at one of the pictures and you were talking about

1 the back side of the casings and she showed you a picture and
2 you called these rim shots; is that correct?

3 A. That's rim fire ammo. Yes, sir.

4 Q. Rim fire. And that's because you can actually see
5 on the back of a casing where the firing pin struck it,
6 correct?

7 A. Yes, sir.

8 Q. Once again, this gun is safe. I can touch it
9 without any problems. And the firing pin is, in fact, what's
10 attached to the back end of the hammer or on the inside of a
11 revolver when the hammer strikes down to bang into the casing,
12 correct?

13 A. Yes, sir.

14 Q. Why is it the revolvers were commonly used as a
15 successful weapon rather than say a semi-automatic pistol?
16 What's the difference in a revolver and a pistol?

17 A. The difference between a semi-automatic and a
18 revolver is the way it's loaded whether it's in a cylinder or
19 whether it's in a magazine clip holding six shots, nine shots
20 versus 12 or 15 or 17.

21 Q. And the way a revolver works is every time you pull
22 the trigger and the cylinder turns one and in theory goes to
23 the next round. That's what you were just describing?

24 A. Yes.

25 Q. Is there anything to guarantee that all nine rounds

1 that you could say with any of your expertise were fired that
2 night?

3 A. All of the rounds in that gun were struck by a
4 firing pin and that's what I can tell you.

5 Q. Can you tell me if it happened that night or any
6 time prior?

7 A. I'm not sure. I mean, it was found under the house
8 and it was collected but as far as timeline, no.

9 Q. So it could have been that one round was fired that
10 night and eight some other time or any combination thereof?

11 A. Yeah. Nine rounds were fired out of that gun.
12 Yes.

13 Q. But you couldn't tell us when?

14 A. Mmm-mmm.

15 Q. Okay. Can you even guarantee -- Now, you testified
16 to it that those must have been hit twice. Can you guarantee
17 that they are not reloads that had been fired once before?

18 A. No. You can't actually reload a .22 rim fire.

19 Q. That's all I have about the actual pistol rounds or
20 the revolver rounds at this point. The actual crime scene,
21 now, I know that you did a bunch of investigation. One thing
22 that's been talked about and I apologize, ma'am, you haven't
23 been in here. Did you find a bottle of vodka lying out
24 there?

25 A. A bottle of vodka lying out where? In the roadway?

1 Q. In the road? Under the house? In the woods? In
2 the house?

3 A. Well, I didn't walk into the woods that night or
4 anything like that searching in the woods in depth, but as far
5 as the roadway or underneath the trailer there was no vodka,
6 just the Corona.

7 Q. How about the house where you found the bullets in
8 the couch?

9 A. I did not find the bullets in the house.

10 Q. Do you know who did?

11 A. Roger Gilland did. He's the one who actually
12 collected those but I was there.

13 Q. Okay. Did anyone tag and bag a bottle of vodka?

14 A. A bottle of vodka? No. I did not collect a bottle
15 of vodka.

16 Q. You said that you were there when Mr. Geisendorff
17 came out from -- Did you actually witness him emerging or did
18 you just see him after he had already emerged from the crawl
19 space?

20 A. When the officer started yelling show me your hands,
21 I then witnessed him coming out of the crawl space at that
22 moment.

23 Q. Did he present a weapon at that time?

24 A. Well, no. He came out with his hands up and then he
25 was apprehended at that time.

1 Q. Any fuss or fight with law enforcement?

2 A. I don't know what transpired at the time of the
3 actual arrest because at that point I went back to my truck.

4 Q. I have a report. Do you have your case file
5 with you?

6 A. I do.

7 Q. Your name is on it. It's a supplemental case
8 report. It talks about a Gilland. Is that the other officer
9 you had mentioned earlier?

10 A. Yes. Roger Gilland is the other crime scene
11 investigator that night.

12 Q. And your name is S.L. Derrick?

13 A. Yes.

14 Q. And it talks about when he emerged from the house.
15 Do you have that?

16 A. It's my supplemental?

17 Q. It might be his. It might be yours. It's not
18 signed. It has both of your names on it.

19 A. Can I see what you are looking at? Because there
20 are several reports.

21 Q. Sure. Yes, ma'am.

22 A. That's actually going to be Roger Gilland's report,
23 not mine.

24 Q. Did you review this report?

25 A. I reviewed it on the computer, yes, to pass it

1 through.

2 Q. But you were there at the same time that he was?

3 A. I was. I generated a report and he generated a
4 report.

5 Q. Did you hear the statements that were made to my
6 client when he came out?

7 A. No. Roger Gilland actually went towards, and he was
8 with the subject and everything while he was being apprehended
9 while I was getting my equipment.

10 Q. So you don't have any first-hand knowledge of these
11 statements?

12 A. No. I was not with him when he heard or saw what he
13 did as far as that part is concerned.

14 Q. Did you pull prints, DNA off of any items you
15 collected?

16 A. From under the crawl space?

17 Q. Sure.

18 A. Uhm, we swabbed or I swabbed from the bottle, Corona
19 bottles. Other than that no latent fingerprints or swabs were
20 collected.

21 Q. What about this, you called it a Milwaukee knife?
22 That's a brand?

23 A. Yeah. Milwaukee is a brand.

24 Q. And the flashlight matches thing, did you pull
25 fingerprints off of either of those?

1 A. No. They were immersed in sand and had too much
2 dirt on them to be processed at the time. The surfaces were
3 not conducive.

4 Q. Okay. How about DNA off the cigarettes?

5 A. I don't collect or test DNA so if that needs to be
6 tested for DNA, it would have to be sent as a whole item being
7 a cigarette.

8 Q. Do you know if they did that?

9 A. No. Those are my initials and seal on that bag.

10 Q. So they didn't test them?

11 A. No. That's not been tested.

12 Q. How about the pack of cigarettes that still has its
13 plastic wrapper on it?

14 A. Was it what?

15 Q. Tested for anything?

16 A. No.

17 Q. Have you ever been asked to pull latent prints
18 before as part of your job?

19 A. Oh, yes. I have fingerprinted.

20 Q. Does the surface get much better than a plastic
21 wrapper intact around a cigarette pack?

22 A. It can. Yes.

23 Q. Would you call this a relatively conducive media to
24 possibly pull prints?

25 A. Possibly. I wouldn't know until I actually tried to

1 do it. Each surface is different and weather the conditions
2 actually dictate that as well as far as surface can do it.

3 Q. You said the weather conditions.

4 A. If I processed it out there or if I processed it --
5 I believe what you're asking is whether this is more conducive
6 than the knife. Yes. This would be more conducive to do it
7 to possibly get fingerprints from than the so-called knife.

8 Q. But nothing was done on these and you can tell that
9 because your signature is still on them?

10 A. Yes, sir.

11 Q. No problem. Do you know who did the GSR collection
12 in this case?

13 A. I believe Investigator Chris Stout collected the
14 GSR, performed the GSR kit.

15 Q. And I apologize to the jury. GSR is what?

16 A. Gunshot residue.

17 Q. Standard protocol in a shooting case, who do you
18 take gunshot residue from?

19 A. Okay. It depends on the case actually whether or
20 not they want it taken or not. We don't have a standard
21 protocol whether we do or don't. In this case it was taken
22 from the subject.

23 Q. (Indicating)?

24 A. Yes.

25 Q. My client?

1 A. Yes. Your client.

2 Q. You said Investigator Stout took the GSR?

3 A. I believe he is the one who actually did the -- Yes.
4 He's the one that collected the, or performed the kit on
5 him.

6 Q. Would that analysis become part of your CSI file?

7 A. Uhm, my CSI file? I don't do the analysis.

8 Q. Would the results of the analysis become part of
9 what you would put together in your packet?

10 A. If the gunshot residue is sent off, it usually comes
11 back to the lead investigator.

12 Q. Do you have a copy of the results?

13 A. I do not.

14 Q. You do not. So the lead investigator would have
15 been Detective Stoner?

16 A. I'm assuming so. Yes.

17 Q. Do you know if gunshot residue was done on
18 Mr. Christofoli?

19 A. No. We do not collect GSR on victims of gunshot
20 residue - or gunshots because they are obviously in the
21 presence of a gun being discharged and therefore it's not an
22 accurate test.

23 Q. How about flash marks or flash GSR burns in and
24 around the contact points where the bullets entered, did you
25 do any testing on those?

1 A. Around the actual entrance wounds and exit wounds?

2 Q. Yes.

3 A. The entrance wounds and exit wounds will be examined
4 by a pathologist.

5 Q. So that is outside of your purview?

6 A. Yes.

7 Q. That would be Dr. Ross?

8 A. Yes.

9 Q. Okay. Did you take scrapings from underneath Mr.
10 Christofoli's fingernails to determine whether he had been in
11 any kind of altercation or scrap?

12 A. If it appeared to be that he had defensive wounds or
13 scratchings where nails could be clipped, that would be done
14 by the pathologist as well at autopsy.

15 Q. Also Dr. Ross?

16 A. Yes.

17 Q. Let's get into the actual pictures of the scene.
18 I'm going to grab that easel and we're gonna chat for a
19 second. If you would come on down.

20 A. (Witness complies.)

21 Q. I guess to start at a point of reference, where
22 Mr. Christofoli is laying would you say he was closer in the
23 roadway to Ms. Donna's house or Michael's house?

24 A. Uhm, the victim was located probably about right in
25 the middle.

1 Q. Okay. Would he have already cleared the entire tree
2 area on the approach back to Ms. Donna's house where the body
3 was located?

4 A. Well, the tree area comes all way up in here and he
5 was located right here or approximately right there so I'm not
6 actually sure what you're asking me.

7 Q. He wasn't tucked back behind trees? He was clearly
8 in the roadway. Was he within eye shot of this house?

9 A. Well, yeah. He was in the roadway. There's
10 actually an embankment so I don't know if you can actually
11 stand here and here see over the embankment. Right there is
12 the embankment from when they plow the road, the sand goes off
13 to the side and then the trees are here.

14 Q. All right.

15 A. That's the embankment.

16 Q. On State's number 39?

17 A. Yes.

18 Q. Okay. This is probably the best picture we have
19 that you can actually see footprints clearly on; is that
20 fair?

21 A. Well, there's a couple other ones that you can see
22 footprints.

23 Q. Okay. Now, you testified that numbers were a
24 footprint that had a wavy pattern?

25 A. Mm-hmm.

1 Q. Letters appeared to be bare feet?

2 A. Yes.

3 Q. You also said, and there was a picture, I believe, a
4 close up of the gentleman's boots, that his boots had that
5 wavy pattern?

6 A. The wavy pattern. Yes, sir.

7 MS. MAYES: Your Honor, the defense counsel has no
8 objection to these coming in as part of the State's
9 exhibits.

10 THE COURT: What numbers are they?

11 MS. MAYES: This would be 65 and 66, Your Honor.

12 THE COURT: Okay.

13 MR. STITELY: No objection, Your Honor.

14 THE COURT: They're in evidence.

15 BY MR. STITELY:

16 Q. Number 65 is that wavy pattern you were speaking
17 of?

18 A. Yes, sir.

19 Q. And those are the numbers that we see on this
20 chart?

21 A. Yeah. Those match that similar pattern are the ones
22 numbered so...

23 Q. Now, Investigator, you keep saying similar not
24 identical?

25 A. I didn't do the actual comparison, or didn't do a

1 actual comparison so I really don't -- All I can say is
2 they're the same shape and the same size and pattern.

3 Q. And that would have involved the old Boy Scout thing
4 where you pour the cast mold and they match it up and all
5 that?

6 A. We can do it several different ways depending on
7 whether it's sand or clay or mud. In this I actually would
8 have taken scale photographs of the top and everything like
9 that to do an actual comparison.

10 Q. Why don't you have any boot prints all the way back
11 with numbered placards to where he came into the roadway?

12 A. I just label them on this site.

13 Q. Is it fair to assume that there's probably tons more
14 of them going back down towards the house?

15 A. Yeah. There's foot traffic up and down the actual
16 roadway right there on the other side as well as this side.
17 There's bare feet over here and shoe prints. I just labeled
18 them on this side before I went on.

19 Q. You kind of made it clear. You can't put a time on
20 any of these markings. You can just say that they exist and
21 they matched wavy pattern or matched bare feet?

22 A. Yes. I can't say it happened 30 minutes ago. I
23 can't say it happened an hour ago unless one is on the top of
24 the other then I can say this one came before this one because
25 it's obviously on top of the other one. But as far as this

1 one came 30 minutes ago or an hour ago, no, I cannot say.

2 Q. So these are a helpful aid but they in no means can
3 give you an exact play by play of what was happening?

4 A. Yeah. I just document they are actual shoe
5 impressions. There's foot wear. But I can't tell if that
6 happened 30 minute before the incident, during the incident or
7 an hour.

8 Q. Okay. Now, sand actually would probably be a
9 relatively preferable medium to get at least some kind of foot
10 impression, correct?

11 A. Depends on the actual condition of the sand.

12 Q. Maybe not as good as some nice wet mud?

13 A. Mud would be nice.

14 Q. Do you notice a difference in foot impressions from
15 an individual who, say, is walking and someone who is jogging
16 or someone who is running?

17 A. Sometimes you can depending on actual medium whether
18 they are actually running or walking.

19 Q. What would you expect to see from an individual who
20 was, say, running?

21 A. Well, it depends on the speed that they are running.
22 You might be able to see if they are coming down on their
23 heels where it's deeper on the heel or they kick back with
24 their toe you would see an indentation.

25 Q. Usually a less equal like step. It would usually be

1 weighted either the front or back?

2 A. Well, usually, I mean, it depends. There's usually
3 a kick or a back. But everybody runs differently. Everybody
4 puts their foot down, weight is distributed differently so it
5 could possibly be a forward --

6 Q. Weight in and around where you found Mr. Christofoli
7 when you arrived that night, did you see any smaller
8 footprints that looked like they were running?

9 A. Uhm, I cannot tell. I don't know if -- I can't give
10 you that answer. I don't know.

11 Q. Was there any dirt kicked up by someone who was
12 running, flat out running that way?

13 A. No. I don't know if there was running, kicks or
14 anything like that. Sometimes you might not be able to see
15 them. There's a lot of traffic. There's other shoe wear and
16 tire wear.

17 Q. Were there footprints that lead all the way up to
18 the grass line both ways?

19 A. There's footprints all over the road.

20 Q. That's the only other question I have about this
21 one. Thank you. You said you collected a cell phone from the
22 bed of the truck; is that correct?

23 A. Yes.

24 Q. And we're assuming that belonged to
25 Mr. Christofoli?

1 A. Yes. I was informed that was Mr. Christofoli's cell
2 phone.

3 Q. You said that you turned it over to Investigator
4 Phipps or by some way it was turned over to Investigator
5 Phipps?

6 A. Yes. It had a pattern lock on it and I was unable
7 to extract the data so then it was transferred to Mike Phipps
8 for him to extract the data. He has several more tools than I
9 do. A little more training in cell phones and computers.

10 Q. He's an expert in cell phones and computers. Do you
11 have any idea why he didn't know anything about another cell
12 phone of Mr. Christofoli's when he testified earlier?

13 A. I didn't hear his testimony. I don't know what he
14 testified to.

15 Q. But you definitely logged it into evidence and
16 turned it in?

17 A. Mr. Christofoli's phone? Yeah. I collected three
18 different phones I believe and turned them all into
19 evidence.

20 Q. Mr. Phipps would have been the one who got it?

21 A. If there was a request done for it, yes.

22 Q. Did you collect any forensic items off of anyone
23 else at the scene, Mr. Williams or Ms. Blanchett?

24 A. Uhm, that night I collected Mr. Williams' cell phone
25 as well.

1 Q. But no other like fungible like prints, blood, DNA,
2 anything like that?

3 A. No.

4 MR. STITELY: No other questions. Thank you,
5 ma'am.

6 REDIRECT EXAMINATION

7 BY MS. MAYES:

8 Q. Investigator Derrick, Mr. Stitely was asking you
9 about whether or not the victim was tested for gunshot
10 residue, forensic gunshot residue on the hands?

11 A. Mm-hmm.

12 Q. What was your response to that question?

13 A. We don't typically take GSR samples from the actual
14 victims because the GSR means that you're present during
15 gunfire and if you have been shot with a firearm, then you're
16 in the presence of a gunfire and we don't need to do it. It's
17 a waste of a test.

18 Q. In addition to that, can you tell us whether or not
19 that's in accordance with the State Law Enforcement Division's
20 recommendations?

21 A. Yes, ma'am. That is.

22 Q. Now, in this case the first officer at the scene,
23 Officer Bair, who secured the scene? Whose role was it to
24 secure the scene?

25 A. The first officer arriving.

1 Q. All right. When you arrived at the scene, was it
2 secure?

3 A. Uhm, the tape was present and everybody was parked
4 in, I guess, a briefing zone outside the tape when I pulled
5 up.

6 Q. Was there a crime scene log?

7 A. Yes. Once the crime scene is established, the
8 barrier tape or the crime scene tape is put out, a log is
9 started at that point to record who goes in and out of the
10 crime scene at that point.

11 Q. All right. So you have got the first officer on the
12 scene who keeps everyone away from the body, correct?

13 A. Yes, ma'am.

14 Q. And puts crime scene tape around the body,
15 correct?

16 A. Yes, ma'am.

17 Q. And then a crime scene log is maintained to make
18 sure that no one else enters the scene, correct?

19 A. Unless they have a reason to enter the scene. Yes,
20 ma'am.

21 Q. Which would be law enforcement?

22 A. Yes, sir.

23 Q. EMS. The Coroner's Office?

24 A. EMS and the Coroner's Office. Yes, ma'am.

25 Q. Not civilians, correct?

1 A. No, ma'am.

2 Q. Investigator Derrick, was there any evidence
3 whatsoever that Bobby Christofoli was armed with a weapon?

4 A. There was no weapon around him or in his presence or
5 in his truck.

6 Q. If there had been, would that have been seized by
7 evidence as evidence by you?

8 A. Yes, ma'am.

9 Q. Now, in addition to that question Mr. Stitely was
10 asking you about the casings and your testimony was there were
11 nine spent casings inside the cylinder of that .22?

12 A. Yes, ma'am.

13 Q. Other than the four projectiles or bullets that were
14 recovered from the victim's body at autopsy, were the
15 circumstances conducive that night for you actually going out
16 into the woods and checking for other possible spent
17 projectiles?

18 A. Usually we do a area, a typical area search but with
19 that small of a projectile, if it missed its target, it can go
20 into the woods, into the dirt. There's really no direct path
21 that it could take. It could bounce. It could --

22 Q. On this particular night did the Lexington County
23 Sheriff's Department send officers out into the woods with
24 metal detectors?

25 A. No. We did not go into the woods at great lengths.

1 We pretty much stayed in the roadway area.

2 Q. In addition to that, Mr. Stitely was asking you
3 about the bottle of vodka. On this particular night there at
4 the crime scene did you have all full details from every
5 possible witness in this case at that point?

6 A. No, ma'am. As the investigation goes on within days
7 you get more and more information depending on the
8 circumstances.

9 Q. Based upon the information you had that night, did
10 you determine it necessary to go into the woods and search for
11 a bottle of vodka?

12 A. No, ma'am.

13 Q. Mr. Stitely was asking you about the victim's cell
14 phone and why it wasn't examined by Investigator Phipps. Who
15 actually attempted the extraction of that phone?

16 A. I attempted the extraction of that phone and if it
17 was needed prior or after that, a request would be done. Mike
18 Phipps would have gotten the request but he wouldn't have
19 known automatically to go get a phone unless he had a
20 request.

21 Q. So just to clarify, part of your role as a CSI
22 investigator is to do phone extractions, correct?

23 A. Yes, ma'am.

24 Q. Including cell phone extractions?

25 A. Yes, ma'am. I have had training in that -- Mike

1 Phipps that's his sole position is to do cell phone so we
2 typically try to get him to handle them.

3 Q. So you attempted that extraction yourself,
4 correct?

5 A. Yes.

6 Q. And the initial extractions on the phones of both
7 Mr. Williams, Michael Williams and the phone of Donna
8 Blanchett which is believed to have been used by the defendant
9 that night were conducted by whom?

10 A. They were conducted by me. There were three search
11 warrants of each, one for each phone and they were all three
12 done by me. That was the only phone I was not able to do
13 because of the pass code.

14 MS. MAYES: Thank you very much. Nothing further.

15 MR. STITELY: I do have some follow up.

16 THE COURT: Yes, sir.

17 RECROSS EXAMINATION

18 BY MR. STITELY:

19 Q. How many police officers in total and first
20 responders in general do you think got out there that night?

21 A. I don't know the actual number of ambulance or
22 fire.

23 Q. Ballpark it on a shooting case with a decedent, how
24 many officers typically could respond?

25 A. Depends on how many are working that night, I guess.

1 I don't know how many first responders were there on that
2 scene that night.

3 Q. In this case law enforcement, five officers or
4 significantly more than that?

5 A. I don't know. I was notified like an hour after the
6 first call.

7 Q. When you got there, were there a dozen people? Two
8 dozen people? I'm not asking for an exact number, I'm just
9 asking you to ballpark it.

10 A. I mean, there was more than one, but I don't know
11 the exact number. There was a lot of people there because we
12 had a perimeter set up so there were a good amount of people
13 there with the perimeter around.

14 Q. The area itself, would you call it rural?

15 A. Rural? Yes.

16 Q. Does your report -- You didn't respond -- You didn't
17 get there until almost 10:10 you said. But do you know when
18 the first officers got there or is that outside your realm?

19 A. I don't know at this point. I can look at the call
20 log or call CAD sheet.

21 Q. If it's not something you know --

22 A. Yeah.

23 Q. When you say established a perimeter, there were a
24 lot of woods there, correct?

25 A. Yes. There's woods on both sides of the houses.

1 It's not your typical neighborhood where each house is sitting
2 on like a one acre lot or a half acre. I mean, there's a good
3 distance between each house.

4 Q. And the long and short of it is my client was there.
5 He didn't flee off into the woods or left before perimeter was
6 established or anything like that, correct?

7 A. Well, he was in the crawl space.

8 Q. On the scene?

9 A. Yes.

10 Q. You also answered the Solicitor when she asked you
11 about the GSR that it was a no brainer that someone who was
12 involved in a shooting would have gunshot residue. Have you
13 ever seen one of the gunshot reports?

14 A. I have.

15 Q. The ones that are delivered by SLED?

16 A. Mm-hmm.

17 Q. Does SLED use a fairly regular form?

18 A. They have a standard form for their reports. Yes,
19 sir.

20 Q. Okay. All of them look pretty much the same?

21 A. They are all on the same letterhead. Yes, sir.

22 Q. You said that you didn't do a swab or a testing on
23 the decedent because anyone who is involved in a shooting
24 would clearly have gunshot residue on them, correct?

25 A. Well, that's a protocol by SLED. I don't know when

1 it was enacted. I don't know what year they started it but
2 they no longer test GSR kits collected from victims.

3 Q. And you know that in this case Investigator Stout
4 did a gunshot residue on my client, correct?

5 A. His name is on the gunshot form. Yes, sir.

6 Q. As the collecting officer?

7 A. As the collecting officer.

8 Q. Did they find any gunshot residue on my client?

9 A. I don't know.

10 MS. MAYES: Objection, Your Honor. Outside the
11 scope of knowledge of this witness.

12 THE COURT: Overruled.

13 BY THE WITNESS:

14 A. I didn't do the test. Well, this is not my report
15 so I don't feel comfortable reading the results of their
16 testing because I don't do this comparison.

17 BY MR. STITELY:

18 Q. Is that a standard SLED form, the same ones that are
19 used in every single investigation that you ever worked?

20 A. I don't work for SLED so I don't know. It could be
21 a standard form on letterhead or -- It's not my report. I
22 don't feel like I can say what their findings are just by
23 reading it because I don't do the test. I'm not - that's not
24 my expertise. I don't know what I'm reading as far as the
25 results.

1 Q. So you said that a South Carolina Law Enforcement
2 Division Forensic Science Services Laboratory Report might be
3 just a letterhead?

4 A. I don't know what their standard protocol is. As I
5 said, that's the main form that we see is the letterhead but I
6 don't know if they are exactly the same depending on which
7 department they come from. DNA might have the same letterhead
8 or the same form. I'm not sure.

9 Q. Have you ever worked with an Officer Tyler S.
10 Sturkie, forensic scientist at SLED?

11 A. Not to my knowledge. No.

12 Q. Do you have a case number associated with this
13 file?

14 A. I don't know it, but I'm sure there is one since we
15 sent evidence to it, to SLED. They assign their own lab case
16 number to it.

17 Q. Okay. There's not a Lexington County Sheriff's
18 Department case number?

19 A. There's a Lexington County -- Yeah. There's a case
20 number that we use. Yes, sir.

21 Q. What is that?

22 A. The case number that we used for this incident was
23 14005718.

24 Q. What is the case number on this report indicated in
25 the top right corner?

1 A. I would assume your case number would be 14005718.

2 Q. Who does it indicate was the decedent and the
3 subject who was tested for gunshot --

4 MS. MAYES: Objection, Your Honor, from publishing
5 any information from a document that was not prepared by
6 the witness and the witness is not familiar with.

7 MR. STITELY: Judge, she's the CSI who has testified
8 this is what she does for a living.

9 THE COURT: Overruled.

10 BY MR. STITELY:

11 Q.. Who was the subject tested for gunshot residue?

12 A. On this form the deceased is listed as Bobby
13 Christofoli and the assailant would be suspect would be Billy
14 Geisendorff.

15 Q. Did they find gunshot residue on Billy Geisendorff's
16 hands either his left or his right?

17 A. I don't know. I don't know how they actually
18 determine that.

19 Q. Okay. In your expertise as a CSI if it says no
20 primer gunshot residue found, what does that mean to you?

21 A. There is no primer residue.

22 Q. No gunshot residue found.

23 A. I guess that's what they are testing for is the
24 gunshot residue. I don't know what they are actually testing
25 for with the gunshot residue.

1 MR. STITELY: Nothing further. Thank you.

2 THE COURT: All right. Thank you, ma'am. Okay.

3 Let me ask the lawyers one thing about scheduling before
4 we wrap up.

5 (Side bar off the record.)

6 THE COURT: Okay. We will reconvene at 9:00 in the
7 morning. Just be back in the jury room at 9:00 a.m.
8 Don't talk about the case. Keep an open mind. Don't do
9 any outside investigation. Human curiosity such as it is
10 will probably lead you to want to be exploring some
11 things you have heard about today but that would not be
12 in keeping with your oath. You have to decide this case
13 based solely on the evidence you hear during the trial.
14 So we'll see you back at 9:00 a.m. Thank you very much.

15 (Whereupon, the jury was released for the evening at
16 6:00 p.m.)

17 THE COURT: Anything for the record before we
18 adjourn.

19 MS. MAYES: Nothing from the State, Your Honor.

20 MR. STITELY: Nothing from the defense, Your
21 Honor.

22 THE COURT: While I'm thinking about it,
23 Mr. Geisendorff, let me just ask you a couple questions
24 about your right to testify, okay, sir?

25 MR. GEISENDORFF: Yes, sir.

1 Thereupon,

2 BILLY GEISENDORFF

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

4 THE COURT: All right. You can have a seat, sir.

5 I'm just gonna go over your right to testify which
6 I'm sure you already understand but if I ask you a
7 question you want me to repeat or you can't hear, you
8 don't understand, or if I'm just not making sense, just
9 let me know. I'll be glad to repeat it so you can
10 understand what I'm saying. Is that okay?

11 MR. GEISENDORFF: Yes, sir.

12 THE COURT: All right. You have the right to
13 testify in this trial. You can take the stand and tell
14 your side of the story. If you do that, you would be
15 subject to being cross examined just as your lawyer has
16 cross examined the State's witnesses. I don't know if
17 there is any -- Is there anything the State would seek to
18 impeach him with in terms of a prior record?

19 MS. MAYES: Your Honor, he does have a prior record
20 but not within the last ten years.

21 THE COURT: Okay. So you also could choose not to
22 testify. If you chose not to testify, the jury would be
23 told by me that you have the absolute right guaranteed by
24 the constitution not to testify and they can't hold that
25 against you or take it into account whatsoever or even

1 discuss it in the jury room the fact that you did not
2 testify. If you don't present evidence, you also have
3 the final argument in front of the jury. Your lawyer
4 will get to make the final closing argument. The last
5 word so to speak. And whether you wish to testify is a
6 personal right. It's your right. Nobody else's. It's a
7 decision you have to make after consulting with your
8 lawyer and discussing strategy with him and ultimately
9 making up your own mind. Do you have any questions of me
10 about your right to testify or not testify?

11 MR. GEISENDORFF: No, sir. Yes. Other than --

12 MR. STITELY: I'll explain that to you.

13 MR. GEISENDORFF: Yes, sir. I understand everything
14 you said.

15 THE COURT: Okay. Thank you, sir.

16 MR. STITELY: Thank you, Judge.

17 THE COURT: We'll see y'all at 9:00.

18 (Whereupon, court was adjourned for the evening at
19 6:10 p.m.)

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1 SEPTEMBER 8, 2016

2 BAILIFF: All rise. Court is now in session.

3 THE COURT: Thank you. Please be seated. Anything
4 before we bring the jury in?

5 MS. MAYES: Nothing from the State, Your Honor.

6 MR. STITELY: Nothing from the defense, Your Honor.

7 THE COURT: Okay. Let's bring them in.

8 (Whereupon, the jury entered the courtroom at 9:10
9 a.m.)

10 THE COURT: All right. Good morning, ladies and
11 gentlemen. We'll continue now with the presentation of
12 evidence and, yes, ma'am or yes, sir from the State.

13 MS. MAYES: Your Honor, the State calls Toni Broome.
14 Thereupon,

15 TONI BROOME
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: Toni Broome, B-r-o-o-m-e.

21 DIRECT EXAMINATION

22 BY MS. MAYES:

23 Q. Agent Broome, can you tell us where you are
24 employed?

25 A. South Carolina Law Enforcement Division, SLED.

1 Q. You're a SLED agent?

2 A. That's correct.

3 Q. What division are you assigned to at the State Law
4 Enforcement Division?

5 A. I work in the forensics department in toxicology.

6 Q. All right. When we talk about toxicology, can you
7 give us a general overview of what type of science field that
8 is?

9 A. Toxicology is basically the study of poisons.
10 Forensic toxicology is applying that science to law. My
11 specific duties include analyzing biological specimens for the
12 absence, presence or concentration of alcohol, drugs or other
13 poisons and interpreting the results for courts of law,
14 investigating officers and sometimes the Coroner's Office.

15 Q. All right. I'm gonna need you to pull that
16 microphone a little bit closer to you.

17 A. Okay.

18 Q. Now, Agent Broome, how long have you been a forensic
19 toxicologist at SLED?

20 A. Since August of 2000.

21 Q. Specifically what is your educational background
22 that lead you to become a toxicologist?

23 A. I have a Bachelor's of Science degree in chemistry
24 from Francis Marion University.

25 Q. Have you testified previously as an expert in the

1 field of forensic toxicology?

2 A. That is correct.

3 Q. Is it possible to estimate how many such times you
4 have previously testified as an expert?

5 A. At least 30 or so.

6 MS. MAYES: Your Honor, at this time the State would
7 offer Agent Broome as an expert in the field of forensic
8 toxicology.

9 MR. STITELY: We stipulate she's an expert.

10 THE COURT: All right. She's qualified.

11 BY MS. MAYES:

12 Q. Now, Agent Broome, let me ask you, did the State Law
13 Enforcement Division receive certain samples from the victim
14 in this case following his autopsy?

15 A. That's correct.

16 Q. And what type of toxicology samples were submitted
17 to SLED following the autopsy of Bobby Christofoli?

18 A. Blood samples along with ocular fluid, gastric
19 contents.

20 Q. What is ocular fluid?

21 A. Ocular fluid is basically the gel like watery fluid
22 that holds your eye intact in your head.

23 Q. All right. So ocular fluid is from the eye. And
24 your testimony was that you also received blood samples?

25 A. That's correct.

1 Q. Can you tell us whether or not toxicology analysis
2 was done on those samples?

3 A. Toxicology was done on those samples.

4 Q. Do you have a copy of that report with you?

5 A. I do.

6 Q. I'm going to refer you to that specifically, SLED
7 lab number L1405558. Is that the same report that you are
8 referring to?

9 A. That's correct.

10 Q. Who is the forensic toxicologist who signed and
11 certified this report?

12 A. Me. Toni Broome.

13 Q. Now, does this toxicology analysis include a test
14 for any type of illegal drugs or narcotics?

15 A. We did do a drug screen on the blood.

16 Q. All right. What were the results of that drug
17 screen?

18 A. The results of the drug screen were negative for the
19 compounds that we actually analyzed for. Tested for I should
20 say.

21 Q. All right. Does that include marijuana?

22 A. It does.

23 Q. Does that include other type of narcotics such as
24 cocaine, heroin, anything of that nature?

25 A. Basically what the panel consists of are 11 classes

1 of drugs to include amphetamines, methyl diazepam,
2 carisoprodol, cocaine metabolite, methadone, methamphetamine,
3 opiates, oxycodone, tramadol, zolpidem, and cannabinoids. All
4 of those results were negative for the sample that was tested.

5 Q. All right. So all the drugs in the drug screen were
6 negative, correct?

7 A. That's correct.

8 Q. Now, do you also test for alcohol or the blood
9 alcohol level?

10 A. We tested for ethanol in addition to some other
11 volatiles that may be consumed by humans. For ethanol which
12 is considered a drinking alcohol. We tested for methanol,
13 acetone and isopropyl. For the ethanol result for the blood
14 from femoral blood labeled Bobby Lee Christofoli the ethanol
15 is 0.076 grams per deciliter.

16 Q. All right. 0.07. All right. Agent Broome, where
17 does that fall in relation to, for example, the threshold for
18 DUI in this state?

19 A. The inferred limit for DUI in the State of South
20 Carolina is 0.08 grams.

21 Q. Let me stop you right there. So that's the starting
22 limit of what you refer to as the inferred limit for DUI would
23 be a 0.08, correct?

24 A. That's correct.

25 MR. STITELY: Your Honor, I have a matter of law to

1 take up.

2 THE COURT: All right.

3 MR. STITELY: I would like to approach.

4 THE COURT: Okay.

5 (Side bar off the record.)

6 BY MS. MAYES:

7 Q. Your testimony is that Mr. Christofoli was a 0.07,
8 correct?

9 A. That's correct.

10 MS. MAYES: Nothing further.

11 THE COURT: Cross examination.

12 MR. STITELY: May it please Your Honor.

13 CROSS EXAMINATION

14 BY MR. STITELY:

15 Q. I'm going to jump back actually. What is the actual
16 threshold limits under the DUI statute? Did you know the DUI
17 statute?

18 A. When we're talking about the DUI statute, what you
19 have is, when you refer to it as a 0.08 is what I was
20 previously saying, at that point that person is inferred to be
21 impaired. If you have from a 0.05 to a 0.08, that person is
22 in question so basically you can go back and see if there are
23 any other additional drugs that could have contributed to the
24 impairment.

25 Q. So you could still get a DUI under a .08 under our

1 statute?

2 A. That is correct.

3 Q. And she wrote .07 on her little white board over
4 here. Is .076 closer to .07 or .08?

5 A. Is it closer to?

6 Q. If we are rounding. I mean, 6 is closer to the
7 higher number than that 7, isn't it?

8 A. If you're rounding, the rounding rules would make
9 that numerically a 0.076 is less than a 0.08. So if you're
10 rounding, if you were going to use the rules of rounding, it
11 would round up. But the recorded value is 0.07 which is
12 numerically less than a 0.08.

13 Q. Let's talk about how things metabolize. For the
14 jury's sake what do we talk about when we talk about how
15 either a drug or ethanol metabolizes in the blood? What are
16 we typically talking about?

17 A. As far as?

18 Q. Time frame on how long it takes for a drug to
19 denature, metabolize into your system?

20 A. It's gonna vary per drug and it's gonna vary for
21 person. The basic concept is that once one consumes a drug,
22 you're gonna get absorbed, you're gonna be distributed
23 throughout your body, it's gonna be metabolized and then it's
24 going to be eliminated from your body.

25 Q. And that can happen either through excretion or just

1 natural body function, the elimination process, correct?

2 A. Yes. The body, basically it's the process of what
3 your body is going to do to the drug.

4 Q. What, for example, is the half life of a cocaine
5 metabolite?

6 A. Cocaine metabolite is used in about 30 or so minutes
7 but we have to realize when we say half life, it's not saying
8 that your half life is gonna be, the drug is gonna be gone.
9 Basically it's gonna say that that half life, you have a
10 certain amount of time for half of that drug, the
11 concentration of that drug to be eliminated from the body. So
12 just when you say 30 minutes it should be gone, that's not
13 necessarily gonna be the final clearance from the body.

14 Q. Right. But cocaine is 30 minutes for example. Some
15 drugs like marijuana are how long?

16 A. It can go up to, it can be several days. Again,
17 it's gonna depend on the drug to see how many half lives. In
18 general one could say about seven or so half lives an acute
19 dose would be eliminated from the body. And when I say acute
20 dose, I mean you're taking that dose one time. This is not
21 somebody who is chronically using or someone who has been
22 prescribed this medication to be taken. So like say, for
23 instance, if you're taking your medicine as prescription
24 orders, you're going to keep putting drug back into your body.
25 So that's why you have your intervals to take your medicine as

1 prescribed by the doctor.

2 Q. Do you know when the blood was actually drawn in
3 this case that you were later testing?

4 A. No. I do not.

5 Q. Would it make a difference to you in making a
6 determination as a forensic -- Are you a forensic toxicologist
7 or a forensic pathologist? I don't want to use the wrong
8 word.

9 A. Toxicologist.

10 Q. As a forensic toxicologist would it make a
11 difference, say, if you were giving me a blood alcohol test
12 right now or six hours from now? Would I have a different BAC
13 reading? If the actual draw was done now versus a draw done
14 six hours from now?

15 A. So say, for instance, if you were drinking or an
16 individual was drinking, I shouldn't say you, an individual is
17 drinking and they had a blood draw now, their blood alcohol
18 would be different six hours later especially if they had
19 consumed more within that time or they have ceased consumption
20 of alcohol.

21 Q. It's pretty much static though. Once you get the
22 blood even if you test it three months later, whatever you got
23 in the blood usually holds when they refrigerate it and put it
24 in that container pretty well?

25 A. Oh, yes. That is correct. Once the blood is drawn

1 it's in a tube. Now, that's gonna be your blood alcohol
2 level. But I understood your question to be that you're gonna
3 draw it at one time and then you're gonna draw another sample
4 later.

5 Q. Yes, ma'am. I wasn't trying to confuse you. I just
6 wanted to point out the difference. It doesn't matter if you
7 test it at say three months later as long as they drew it,
8 it's gonna hold in that sample until you test it?

9 A. Oh, yes. That is true.

10 Q. You don't have any indication as to when these
11 samples were drawn though on your documentation?

12 A. No. I don't think so. Give me just a minute
13 please.

14 Q. Yes, ma'am.

15 A. On the - on my label for my samples that came into
16 SLED, I actually have a date for 8/3/2014. So that would be
17 August 3rd, 2014 is gonna be the label that's is marked on my
18 label for the blood samples that were submitted.

19 Q. And you don't have anything to do with the actual
20 draw. You're simply the tester once they get to SLED?

21 A. That is correct.

22 Q. Just as a case in point, the only thing you ever
23 know about a case is the case number and the names on it. You
24 don't know anything about specifics of an actual case or how
25 it came to you?

1 A. As far as?

2 Q. You're not involved in the crime scene? You're not
3 involved with the investigation. You're simply the analyst
4 who does the test?

5 A. Oh, yes. That's correct.

6 MR. STITELY: Thank you, ma'am. No other
7 questions.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. Just to clarify, Agent Broome, the hypothetical that
11 Mr. Stitely was asking you about, if he were to be tested six
12 hours later, he's a living person, correct?

13 A. That's correct.

14 Q. So in this case are we talking about a living person
15 or a deceased person?

16 A. This - the sample that was submitted was from a
17 deceased person. As far as when you draw a sample, that
18 sample is in that tube and we go through extensive measures to
19 ensure the integrity of the sample. That's why we refrigerate
20 it. That's why we make sure it's labeled properly and make
21 sure the seals aren't broken before any testing is actually
22 done. When you're talking about specific drugs in particular
23 cases certain drugs could degrade down meaning they could
24 breakdown in the tube. But we do go through precautions to
25 make sure that that's not the common action of the drug. We

1 are not going to hold samples for years and years and years
2 before they are actually tested if we can. Most cases it is
3 very accurate to say that when you draw a blood sample and we
4 test the sample, that's going to be the sample, the
5 concentration of the sample that we test.

6 Q. All right. And a deceased person, do they -- Let me
7 just clarify this. A deceased person isn't continuing to
8 process, metabolize or eliminate alcohol, correct?

9 A. In most cases they are not. If the body and stuff
10 are preserved, that is going to take that possibility away or
11 lessen that chance. Like I say, for instance, if this body
12 was sitting for a long time or some other, I guess, different
13 circumstances than from going ahead and collecting the samples
14 at autopsy, you know, something that's going to, I guess,
15 interfere with any type of sample collection, then that could
16 be a possibility. But for the most part if a sample is
17 collected fairly shortly after death like during the autopsy,
18 things should be pretty much the concentration that they
19 should have been.

20 Q. All right. And if a person is at a mortuary and
21 properly preserved prior to autopsy, that would apply,
22 correct?

23 A. In that case I would think that possibility of
24 something else happening, that would be less. I'm thinking
25 more so like, say, for instance, if a body was outside not

1 being properly preserved or something like that, then
2 something may come into play. But again, once the sample is
3 actually drawn and we have it at SLED, that's what we are
4 considering our starting point.

5 MS. MAYES: Thank you. Nothing further.

6 MR. STITELY: Can I follow up on that briefly,
7 Judge.

8 THE COURT: Sure.

9 RECROSS EXAMINATION

10 BY MR. STITELY:

11 Q. You said drawn closely after. Body outside. It is
12 true that a body continues, some bodily functions continue
13 even after we would call a person deceased, correct? Like
14 your blood stays warm for a while, correct?

15 A. That's correct.

16 Q. Some of your functions continue happening even after
17 brain death?

18 A. Okay.

19 Q. And a body as you said sitting outside for a while
20 could continue to have some kind of biological chemical
21 changes within it, correct?

22 A. What I'm concerned with, when I say like sitting
23 outside for a while, I'm more concerned about the
24 decomposition of the body. That's going to be a different
25 circumstance I would think. Death cases are kind of, they are

1 tricky when it comes to, you know, actually capturing as
2 opposed to a living person where you could actually say, okay,
3 I'm pulling this draw right now. When I said that we are
4 starting our drawing point from the sample that we have drawn,
5 that's what we are looking at. That's going to be the
6 concentrations that's going to be recorded and we are not
7 really kind of going back into what happened before. We had
8 that sample that was drawn at the time and that's the sample
9 that's going to be tested.

10 Q. But ideally you would prefer a sample taken at the
11 instance they want to know what his BAC was, correct? That
12 would be in an ideal world that would be a better situation
13 rather than one taken the next day?

14 A. I mean, ideally if everything was perfect, yes, of
15 course, you would want something as close as possible. But it
16 is accepted that if it was taken at an autopsy within a
17 mortuary like you said in a preserved sample, that is also
18 considered a very viable sample.

19 MR. STITELY: Thank you, ma'am.

20 THE COURT: All right. Thank you very much. You
21 may step down. You may call your next witness.

22 MR. McNAIR: Thank you, Your Honor. The State calls
23 Agent James Green.

24 Thereupon,

25 JAMES GREEN

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

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

5 THE WITNESS: James William Green, G-r-e-e-n.

6 DIRECT EXAMINATION

7 BY MR. McNAIR:

8 Q. Agent Green, where are you employed?

9 A. By the South Carolina Law Enforcement Division,
10 commonly referred to as SLED.

11 Q. What is your position at SLED?

12 A. I'm a firearms examiner in the forensics firearms
13 department.

14 Q. How long have you been in that position?

15 A. Since June of 2005.

16 Q. As part of your job do you regularly do firearms
17 identifications?

18 A. Yes, sir.

19 Q. What type of education or training have you had in
20 firearms identifications?

21 A. I have a Bachelor's of Arts and a Master's of
22 Science in Criminal Justice from Charleston Southern
23 University. When I was hired at SLED, I started the SLED
24 firearm and tool mark course instruction which is about a
25 three to three and a half year course of instruction in an

1 apprentice type fashion learning under court qualified
2 examiners to do what I currently do now.

3 Q. Approximately how many firearms examinations have
4 you done?

5 A. It's in the thousands.

6 Q. Have you testified in court as an expert in firearms
7 identification before?

8 A. Yes, sir.

9 Q. Approximately how many times?

10 A. 51.

11 MS. MAYES: Your Honor, we would offer Agent Green
12 as an expert in firearms identification.

13 MR. STITELY: We stipulate, Judge.

14 THE COURT: He's qualified.

15 BY MR. McNAIR:

16 Q. I'm going to show you exhibit 41, 49, 50 and 52
17 through 54. Look at these and tell me if these are items that
18 were submitted by the Lexington County Sheriff's Department to
19 SLED that you did, in fact, examine?

20 A. State's exhibit 41 is the revolver that was
21 submitted to SLED as item 1. It's an NEF model R92 .22 long
22 rifle caliber revolver with a serial number of NL000517.
23 State's exhibit 49 are the fired cartridge cases that were
24 submitted to SLED as items 5 through 13. Ladies and gentlemen
25 of the jury, if you notice what I'm doing, I'm looking through

1 the bag and rolling the evidence around in my hand and looking
2 at it. When we get the evidence at SLED, we mark it with like
3 an electric pencil if we can, if it's large enough, with a lab
4 number or item number and our initials so that's what I'm
5 doing just to make sure this is what I looked at. State's
6 exhibit 50 is the SLED item 3, a box of partial - or excuse
7 me, a partial box of unfired cartridges. State's exhibits 51
8 through 54 are the fired bullets that were submitted in this
9 case as SLED items 17 through 20.

10 Q. Thank you. Let's start with exhibit 41 which is
11 SLED item 1 and tell the jury what examinations or tests that
12 you performed on that item.

13 A. Yes, sir. Whenever we receive firearms in the
14 office and I'm going to have to shoot them for a case, the
15 first thing I want to do is make it's safe to fire. I like my
16 fingers. I don't want to lose them when I shoot a gun so we
17 go through and make sure that the firearm is in working order.
18 If there is any fired evidence in the case as well like fired
19 bullets or fired cartridge cases, what we'll do is we'll test
20 fire the firearm ourselves to say when we do microscopic
21 comparisons the test that we fired out of this gun came out of
22 this gun definitively and we know that because we shot it
23 ourselves.

24 So what I did was with State's Exhibit 41 was I got
25 it, once I made sure it was safe to fire, I looked at the

1 fired evidence in the case and then tried to determine what
2 brand it was. I went to our ammunition collection room and
3 got some ammunition that was similar and test fired it. I
4 took those test specimens and compared them microscopically on
5 my comparison microscope and that's just one microscope with
6 two stages and one optical bridge that let's us look at
7 different items simultaneously. I looked at the test fired
8 bullets to make sure they were marking consistently from shot
9 to shot and then once I did that I compared those test fired
10 bullets to the fired bullets submitted in the case.

11 Q. Before we get to that, was that firearm in working
12 order?

13 A. Yes, sir.

14 Q. Would you just describe for the jury for those who
15 may not know how that weapon functions?

16 A. State's exhibit 41 is a revolver. As you can see
17 it's got a swing out cylinder. There are multiple chambers in
18 cylinder. You load the cartridges in the chambers, close the
19 cylinder. Now, this is a double action revolver which means
20 if you pull the trigger, when you pull the trigger, just the
21 act of pulling the trigger will cock the hammer and release
22 the hammer firing the cartridge. You let go of the trigger,
23 you pull it again, the gun will automatically rotate the
24 cylinder, cock the hammer and fire the next one. You can do
25 that as many times as there are cartridges in the gun. This

1 also apart from being double action you can fire it single
2 action. That means you can cock the hammer manually by
3 pulling it back with your finger and then you pull the trigger
4 and it rotates and do the same thing.

5 Q. All right. Did you, in fact, take trigger weights
6 from that weapon?

7 A. Yes, sir. That's part of our standard procedure.

8 Q. What weights did you measure?

9 A. When you manually cock the hammer and fire the
10 revolver in single action mode, the trigger pull weight was
11 approximately six and a quarter to six and three quarter
12 pounds.

13 Q. In laymen's term what is that the equivalent of?

14 A. It's just a little less than a gallon of water.

15 Q. Okay.

16 A. Double action the trigger pull was approximately 15
17 to 15 and a quarter pounds which would make it just about,
18 when you pull the trigger, cock the hammer, letting it go
19 about lifting two gallons of water roughly with one finger.

20 Q. All right. In your opinion if somebody that was
21 firing that weapon in quick succession, is it more likely that
22 it was fired in double action or single action mode?

23 A. It most likely would be in double action unless they
24 were like a cowboy shooter and fan it like you see on the old
25 time cowboy movies. But most of the time we see in revolvers

1 when someone is shooting quick succession, they do shoot
2 double action.

3 Q. Let's talk about SLED item 3 which is exhibit 50.
4 That's a box containing ammunition.

5 A. Yes, sir.

6 Q. What type of examination did you perform on that
7 item?

8 A. A lot of times when we get unfired ammunition, it's
9 just, they submit it to us just because that's what they found
10 during the execution of the search warrant or they found it in
11 someone's car. So what I did on this is I just looked at it
12 and made sure it was all unfired which it was and there were,
13 I believe, 18 unfired cartridges in here and there were 18 .22
14 short caliber cartridges which can be fired in the State's
15 exhibit 41 revolver.

16 Q. Okay. Is the ammunition in that container
17 consistent with the shell casings that were submitted to you
18 from the revolver?

19 A. Yes, sir. They are all CCI brand.

20 Q. Now, SLED items 5 through 13 which would be exhibit
21 49 which are the nine cartridge casings submitted to you, what
22 type of examination did you perform on those?

23 A. I just examined them physically and microscopically
24 and looked to see that they were fired. Part of the evidence
25 submission guidelines at SLED is that if a revolver is taken

1 or a pistol or a shotgun, whatever for that matter, if someone
2 takes a fired ammunition component out of the gun, we're not
3 going to microscopically examine it. In the history of our
4 department we have never had somebody shoot a revolver and
5 then somebody else shoot a revolver and they switch cartridge
6 cases so we are not gonna prove that the cartridge cases came
7 out of the gun if someone took them out of the gun so all I
8 did was say they were fired cartridge cases and I did not do
9 any further examination on them.

10 Q. All right. So how are you able to tell -- Well, it
11 is your opinion that all nine of those casings were fired,
12 correct?

13 A. Yes, sir. They all have firing pin impressions and
14 none of them have a bullet in it.

15 Q. Can you tell whether or not any of those casings
16 have been struck twice by the firing pin?

17 A. Yes, sir. There were two that had multiple strikes
18 on it.

19 Q. I'll show you State's number 4. This is a picture
20 of the revolver that was recovered from under the defendant's
21 house with the casings still in the chamber which you didn't
22 see because they were submitted separately. Take a look at
23 that. Can you see the shell casings that were struck twice by
24 the firing pin?

25 A. Yes, sir.

1 Q. Are they side by side?

2 A. Yes, sir. They are.

3 Q. So if you shoot a revolver and it has nine shots and
4 you shoot the ninth shell, is it possible, does the cylinder
5 continue to rotate and you strike the first two shells you
6 fired again the second time?

7 A. Yes, sir. If you kept pulling the trigger.

8 Q. So that would happen if you pulled the trigger 11
9 times? It could happen if you pulled the trigger 11 times?

10 A. It could. Yes, sir.

11 Q. Now, you testified these rounds are .22 shorts,
12 correct?

13 A. Yes, sir.

14 Q. If a .22 short was aimed straight ahead at chest
15 high and missed its target, would it travel a significant
16 distance?

17 A. Without anything intervening it could. Yes, sir.

18 Q. All right. The projectiles from a .22 short, what
19 are they made of?

20 A. Most of them -- Actually the only ones I have ever
21 seen are all lead. They may have a brass or a copper coating
22 on them but they're predominantly made of lead.

23 Q. Because they're made of lead, can you tell whether
24 or not the ones that were submitted to you from the autopsy
25 are lead projectiles?

1 A. Yes, sir. They were all lead.

2 Q. All right. And is that something that you would
3 expect to find with a metal detector?

4 A. They are not magnetic so they possibly could be
5 missed in a large area.

6 Q. You did testify that all four of the bullet
7 projectiles submitted to you from the autopsy, it's your
8 opinion that they were fired from that weapon, correct?

9 A. Yes, sir. They were.

10 MR. McNAIR: All right. Thank you.

11 THE COURT: Mr. Stitely.

12 MR. STITELY: May it please the Court.

13 CROSS EXAMINATION

14 BY MR. STITELY:

15 Q. Agent Green okay?

16 A. Yes, sir. That's fine.

17 Q. Agent Green, I'm Ben Stitely. How are you today?

18 A. I'm doing well. How are you?

19 Q. I'm doing just fine. I want to ask a couple
20 questions about what he asked and then a few other things.
21 One of the things he closed with is he said there were two
22 rounds that appear to be double struck?

23 A. Yes, sir.

24 Q. In our hypothetical world he said that could have
25 meant you pulled the trigger 11 times, correct?

1 A. Correct.

2 Q. Pretend that there was only one live round in that
3 gun and they pulled the trigger three times. What would have
4 happened?

5 A. The same thing.

6 Q. Exact same thing. So if they had shot one time and
7 just hadn't reloaded and they just hit some empties, it would
8 potentially do the exact same thing?

9 A. That's another possibility. Yes, sir.

10 Q. Through your analysis can you tell when those
11 particular cartridges were struck by that firing pin?

12 A. No, sir. There is no test for that.

13 Q. Could it have been done a hundred years ago for all
14 you know?

15 A. The cartridge cases would have looked a lot
16 differently but theoretically. Yes, sir.

17 Q. You wouldn't have a specific test that you could
18 have done to tell that?

19 A. No.

20 Q. So there is no way to say how many times the trigger
21 of that particular pistol was pulled on April 2nd, 2014?

22 A. No, sir.

23 Q. And I liked that you actually talked about it.
24 Whenever we saw movies like Dirty Harry, they always did this
25 because those were single action revolvers, correct?

1 A. Correct.

2 Q. Like the old Rugers?

3 A. Yes, sir.

4 Q. The old Black Hawks and all those?

5 A. Yes.

6 Q. Now, the idea behind a double action is it's a
7 harder pull because it has to make the trigger go all the way
8 back and forward, correct?

9 A. Correct. You're doing all the work for gun when you
10 pull a trigger on a double action.

11 Q. If you were lining up a shot ahead of time, is it
12 easier to make the shot in single action or double action?

13 A. Single action.

14 Q. Because if you wanted to take aim on something, it
15 takes a lot less pressure if you have already hammered the gun
16 back, correct?

17 A. Correct.

18 Q. So that would involve a two step process. Well, you
19 could do it, I guess, with either a hand but you would have a
20 pulling of the hammer back and then a firing?

21 A. Correct.

22 Q. And you said that that would probably be a more
23 opportune moment to aim your shot if you had already pulled it
24 back once?

25 A. Right. It would be less of an exertion on the

1 trigger pull so it wouldn't be quite as much weight bringing
2 on the barrel.

3 Q. What also is relevant about the amount of the
4 trigger pull as far as an individual's ability to reacquire a
5 target?

6 A. You will actually have to rephrase that one.

7 Q. I apologize. What happens -- I guess this is a good
8 question. If it's outside of your expertise, please tell me.
9 When you fire a gun of any sort from your hand, what is the
10 natural impact of that shot on your body?

11 A. Well, the recoil, if that's what you're referring
12 to, recoil is a force exerted by firing a firearm. Usually it
13 will come back and up. The smaller calibers like .22 short
14 will have considerably less recoil than like a .45 automatic.
15 But it's still the same. It's gonna come back and up. So if
16 you're pulling a trigger quickly, you're going to have to
17 readjust your aim to get back on target because the gun is
18 gonna want to rise the more you shoot.

19 Q. And that's why if you ever see in the movies,
20 especially like with an Uzi, the gun starts going like this
21 (indicating) as they're firing it, correct?

22 A. Yes, sir.

23 Q. So any gun, even a .22 is going to have a recoil of
24 some type?

25 A. Right. It may be negligible but there will be some

1 recoil.

2 Q. One other question about that gun with a .22 short,
3 what was the actual grain weighting of the projectiles that
4 were fired or those shells?

5 A. I will have to look. I don't know it off the top of
6 my head.

7 Q. It's on the box.

8 A. Well, I don't always go by that because it varies.
9 They may say it's a 20 grain bullet but it actually in our
10 terms will weigh 22 because they're punching out the lead so
11 quickly that it varies.

12 Q. What does it indicate on the box for those?

13 A. They wrote right over the top of it. It's either 28
14 or 29.

15 Q. As far as -- What kind of -- You're a law
16 enforcement officer, correct?

17 A. Yes, sir.

18 Q. Do you carry a weapon on you?

19 A. I do.

20 Q. What do you carry?

21 A. We are issued Glock model 22 Gen 4's which is a .40
22 caliber.

23 Q. What is the grain weighting of the .40 caliber
24 rounds that you are issued by SLED?

25 A. 180.

1 Q. How many times greater is that than that of a .22,
2 of those particular .22's?

3 A. About seven and a half, somewhere around there.

4 Q. Why is it that law enforcement carries a bigger
5 bullet for no better way of saying it?

6 A. Well, it boils down to inertia and stopping power
7 when it comes to that. Usually the larger caliber bullets
8 have more force on the target.

9 Q. In laymen's terms when you say stopping power, you
10 want to be as close to one shot stopping a person coming at
11 you as possible, correct?

12 A. Yes, sir.

13 Q. You said even the gun that you carry is seven and a
14 half times the grain load of those .22 caliber rounds?

15 A. Correct.

16 Q. What is, for example, the FBI field operator weapon
17 hold? Do you know that answer?

18 A. They were carrying .40's but they are switching back
19 to 9's now.

20 Q. Even a 9 millimeter, what's the average grain load
21 on a 9 millimeter round?

22 A. If you go out and buy a box at Sports Authority or
23 Academy or whatever, most people buy 115's, but law
24 enforcement generally carry a 124 plus 8 which gives more
25 pressure or 147 grain.

1 Q. Right. So it actually has more stopping power out
2 of the same bullet?

3 A. Correct.

4 Q. And it also matters about the size of the actual
5 penetrating round, correct?

6 A. In a sense. Yes, sir. But you also have to think
7 shot placement as well as grain weight of the bullet and
8 inertia force.

9 Q. Do you know what the foot pounds of torque generated
10 at point of impact from a .22 caliber round is?

11 A. No, sir. That's a ballistic question. That's not
12 my area of expertise.

13 Q. Outside of your expertise?

14 A. Yes, sir.

15 Q. Without specifics is there a metric that would
16 follow the same as you go up in size and up in weight that
17 would probably flow like a chart like the bigger the
18 stronger?

19 A. Yes, sir. It generally would, but I don't know the
20 numbers.

21 Q. All right. Now, those are .22 shorts, correct?

22 A. Yes, sir.

23 Q. Now, you said these could be fired from this gun.
24 What is the normal round that you would anticipate being fired
25 from that weapon?

1 A. I'm sorry. What did I say could be fired from this
2 gun?

3 Q. You said there's are .22 short rounds. They could
4 be fired from this gun.

5 A. Okay. All right. I'm sorry. I misunderstood what
6 you were saying. Yeah. A .22 revolver that is chambered for
7 .22 long rifle can shoot .22 long rifle, .22 long and .22
8 short. However, if you have a .22 semiautomatic pistol that's
9 chambered for .22 long rifle, the differences in load or the
10 powder may affect how the gun functions. So a revolver like
11 this will easily fire and function with .22 shorts.

12 Q. Okay. Which is probably the more potent, the long
13 or the short?

14 A. Well, the long would be, even though they carry the
15 same bullet, a .22 long and a .22 short cartridge are the
16 exact same bullet but there's less powder in a .22 short.

17 Q. In your thousands, you said thousands of guns you
18 have tested?

19 A. Yes, sir.

20 Q. What are the smallest caliber rounds that you have
21 seen?

22 A. 17 HMR.

23 Q. What kind of grain loud does a 17 HMR carry?

24 A. Roughly the same as a .22.

25 Q. So would it be fair to say that this is about as

1 small and least powerful bullet that you have seen in your
2 thousands of cases?

3 A. Yes, sir. .22 short is down there.

4 Q. And the reason I ask that is this would not be ideal
5 stopping power shot, would it?

6 A. Well, shot placement has something to do with it,
7 too, like I said before. But I would not choose a .22
8 short.

9 Q. And a .22 short is probably not the most accurate
10 round as far as distance from a short nosed revolver either.
11 Is that fair to say?

12 A. I don't know. I have never shot one for accuracy.

13 Q. The longer the barrel usually the more accurate the
14 way it leaves the gun?

15 A. As a very general rule.

16 Q. What's the barrel length on that particular
17 revolver?

18 A. I think it was right at two and a half inches. Let
19 me double check just to make sure I've got everything right.
20 Yes, sir. It was two and a half inches.

21 Q. What is the barrel length, for example, on the .40
22 that you carry?

23 A. Four and a half inches.

24 Q. So about twice, almost twice the size in barrel
25 length?

1 A. Yes, sir.

2 Q. Was there any rifling that you noticed on the
3 bullets discharged from that .22?

4 A. Yes, sir.

5 Q. How significant was the rifling?

6 A. Define your --

7 Q. How tight was the pattern?

8 A. The pattern?

9 Q. The actual spiraling pattern?

10 A. Referring to rate of twist?

11 Q. Yes, sir.

12 A. I don't know. That's not something we measure. I
13 just know it had six lanes and grooves with a right twist.

14 Q. But you didn't do the specific dynamics of it?

15 A. No, sir. That doesn't have any bearing on what I
16 do.

17 Q. That would be the other guy that we were talking
18 about, the ballistics expert?

19 A. Yes, sir.

20 MR. STITELY: And I don't know if this is in your
21 knowledge or not. I won't ask that question because I
22 think you said you didn't know the answer, wasn't your
23 expertise. That's all the questions I have. Thank you,
24 Agent Green.

25 REDIRECT EXAMINATION

1 BY MR. McNAIR:

2 Q. Agent Green, .22 caliber weapons kill people all the
3 time, don't they?

4 A. Yes, sir.

5 Q. Would a .22 through the heart, the lung, the neck
6 and in the back, would that stop somebody?

7 A. I would think through the heart would do it. Yes,
8 sir.

9 MR. McNAIR: Thank you.

10 MR. STITELY: No other questions.

11 THE COURT: All right. Thank you, Agent Green.

12 MS. MAYES: The State calls Agent Tyler Sturkie.

13 Thereupon,

14 TYLER STURKIE

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: Tyler Sturkie, S-t-u-r-k-i-e.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. Good morning, Agent Sturkie. Where are you
23 employed?

24 A. I'm employed by the South Carolina Law Enforcement
25 Division commonly known as SLED.

1 Q. What's your job title there at the State Law
2 Enforcement Division?

3 A. I am a forensic scientist in the trace evidence
4 laboratory.

5 Q. All right. Trace evidence, what does that entail?

6 A. Trace evidence is a type of physical evidence that
7 is not normally seen with the naked eye and also requires some
8 sort of analytical or microscopical technique in order to
9 analyze and view and characterize the evidence.

10 Q. Does that include gunshot residue evidence?

11 A. Yes. It does.

12 Q. And analysis?

13 A. Yes, ma'am.

14 Q. Have you testified previously, Agent Sturkie, as an
15 expert in the field of gunshot residue analysis?

16 A. Seven times before.

17 MS. MAYES: Your Honor, at this time the State would
18 offer Agent Tyler Sturkie as an expert in the field of
19 gunshot residue analysis.

20 MR. STITELY: Stipulated, Judge.

21 THE COURT: Okay. He's so qualified.

22 BY MS. MAYES:

23 Q. Now, I want to begin by asking you how does SLED go
24 about analyzing evidence from suspects in criminal cases
25 regarding gunshot residue?

1 A. When a gunshot residue evidence kit is submitted to
2 the laboratory, I will take it into my custody and begin the
3 proper analyzing of checking the submissions of the case the
4 reports, incident reports, setting it up for analysis on a
5 scanning electron microscope. It will go through an automated
6 analysis, then I will review that analysis and check it. Once
7 it is done with my analysis, I will send my report out and it
8 will be submitted, reviewed and then finalized.

9 Q. All right. The actual collection of the kit is
10 collected from what part of the suspect's body?

11 A. Typically gunshot residue kits are collected from
12 the hands of a subject. They're four lifts contained in the
13 gunshot residue kit and that includes the right palm, the
14 right back, left palm and the left back of the subject.

15 Q. Can you tell us whether or not the State Law
16 Enforcement Division received a gunshot residue kit from the
17 defendant in this case Billy Geisendorff following his arrest
18 and apprehension by law enforcement?

19 A. I have for SLED lab number L14-05558 item number 2
20 is one GSR kit from Billy John Geisendorff.

21 Q. Does the kit reflect the times that the testing is
22 collected? That the samples are collected?

23 A. Within a GSR kit there is a GSR submission form that
24 has pertinent information to include the subject's name, the
25 time of shooting and the time of collection. On the

1 information form that I received I have a time of collection
2 as 23:30 on April 2nd, 2014.

3 Q. 23:30. That's military time but that would be
4 11:30, correct?

5 A. Yes, ma'am.

6 Q. 11:30 at night?

7 A. P.m.

8 Q. All right. So over two and a half hours from the
9 time of shooting, correct?

10 A. According to my information form which is what I go
11 off of, the time of shooting was 20:58 p.m.

12 Q. 8:58 p.m.

13 A. 8:58 p.m. Time of collection was 11:30 p.m.

14 Q. What were the results of the samples that were
15 submitted to you for analysis, Agent Sturkie?

16 A. For the right hand the results are no gunshot
17 residue found and for the left hand no gunshot residue was
18 found.

19 Q. Now, Agent Sturkie, what can you tell us about any
20 factors which may potentially result in a negative test after
21 someone has actually fired a weapon?

22 A. When we have a negative result on our report, we
23 have a disclaimer as to what the results were. Is it okay if
24 I read the result verbatim from my report?

25 Q. Certainly. If that is your response as to - if

1 that's included among the factors.

2 A. Yes, ma'am. The report reads the absence of gunshot
3 residue on the hands is consistent with an individual not
4 having discharged a firearm. A negative result could also
5 occur from circumstances such as washing the hands, wiping the
6 hands, wearing gloves, sweating profusely, environmental
7 factors including wind and rain, bloody hands, excessive
8 debris on the sample, normal physical activity within four to
9 six hours passing between firing and sampling, or the firearm
10 not producing gunshot residue on the hands when discharged.

11 Q. All right. What can you tell us about the washing
12 of hands? For example, if someone has an opportunity to go
13 into their residence, get some belongings to take with them
14 such as a case of beer, what would washing of the hands amount
15 to?

16 A. Washing of the hands, any other factors that I have
17 explained here have the potential to remove any gunshot
18 residue that may have been present. Gunshot residue is a
19 very small fragile piece of matter. It is a micrometer
20 sized particle that is fragile in the sense of any wind, rain,
21 sweat, water, as far as washing of the hands. A number of
22 factors has the potential to remove any gunshot residue that
23 may have been present.

24 Q. What about the exposure to wet surfaces such as cold
25 beer bottles or hydration from bottles?

1 A. That has the potential to remove any gunshot residue
2 that may have been present.

3 Q. What about the exposure to environmental factors
4 such as dirt and sand?

5 A. Again, dirt and sand have the potential to remove
6 any gunshot residue that may have been present if wiping of
7 the hands was partaken by the subject.

8 Q. And if it's a warm evening where a party can be
9 barefoot, no shirt, how may that type of environmental factor
10 affect the test?

11 A. Certainly if it's warm enough outside and the
12 subject may be sweating, then the sweat has the potential to
13 remove any gunshot residue that may have been present.

14 Q. How fragile is this test in your opinion?

15 A. A good visual for gunshot residue is to compare it
16 to baking flour in the kitchen. If you have baking flour on
17 your counter top and you place your hand on that baking flour,
18 you now have baking flour on your hand. Well, if I go to
19 reach and touch this cup, you now potentially have baking
20 flour on this cup that has been removed from the hand. If I
21 were to wash my hands, baking flour would be removed
22 potentially. It is fragile in a real world sense of baking
23 flour.

24 Q. And the information that you obtained told you the
25 time of the test collection was 11:30 p.m. and that's done in

1 the form of swabs to the hand?

2 A. These are - we call them particle lifts. They are
3 thumb sized carbon sticky tabs. If you can imagine a roofing
4 nail that has a larger head, these particle lifts resemble
5 that and what the investigating officer will do on the scene
6 is take these particle lifts that have the carbon tape on it
7 and will dab the hands of the subject. Anything on those
8 hands will be adhered to that carbon sticky tab and then sent
9 to us for analysis.

10 Q. Did the information that you received, the kit as
11 you put it, also tell you the location in which those samples
12 were collected?

13 A. When we report hand kits submitted for analysis, we
14 submit as right hand and left hand. For the right hand that
15 includes the right palm and the right back and for the left
16 hand that includes the left palm and the left back together
17 for analysis.

18 Q. What about the physical location in which the kit
19 was actually drawn where that occurs? Is it done by law
20 enforcement?

21 A. It is done by law enforcement. Yes, ma'am.

22 Q. Do you know whether or not that's done once the
23 subject has been detained and transported?

24 A. The information I'm giving is when the time of
25 shooting occurred and the time of collection occurred. In

1 between or where that collection occurred I have no
2 information as to where.

3 Q. Finally, Agent Sturkie, as to crawling in sand and
4 dirt with the hands, how may that affect the test?

5 A. That could very well potentially remove any
6 particles that may have been present as well as add particles
7 from the sand to the hand as well.

8 MS. MAYES: Nothing further.

9 MR. STITELY: May it please the Court.

10 CROSS EXAMINATION

11 BY MR. STITELY:

12 Q. Agent Sturkie?

13 A. Yes, sir.

14 Q. Agent Sturkie, Ben Stitely. How are you?

15 A. Good.

16 Q. So if these tests are so inaccurate, why do we even
17 bother doing them?

18 A. The tests give accuracy as to what gunshot residue
19 is and if it is found or not. The inaccuracy may come from
20 how that gunshot residue may have been produced or if it was
21 found. With gunshot residue we cannot say an individual fired
22 a weapon. If gunshot residue is found, we can say one of
23 three things. The subject fired a weapon. The subject was in
24 the vicinity of a discharged weapon. Or touched an object
25 that previously had gunshot residue on it.

1 Q. When you talk about gunshot residue, you use the
2 analogy of touching baking flour. How does gunshot residue
3 puff out of a gun? I guess would be the best way to say it.

4 A. When a firearm is discharged, the primer in the
5 cartridge as a whole is what we are specifically looking for.
6 The primer contains elements of lead bearing antimony which we
7 look for in the analysis of gunshot residue. When fired,
8 these particles are undergo high heat and pressure and will
9 volatilize in the air and then fall in the vicinity to that
10 discharge.

11 Q. And generally speaking the more times the gun fired,
12 the more gunshot residue is put out?

13 A. Theoretically. Yes.

14 Q. Now, one of the things that - this case was negative
15 for my client and you said that they test the front and the
16 back of his hands, correct?

17 A. Yes, sir.

18 Q. The solicitor went through a whole bunch of possible
19 reasons why it could be missing. Is another possible reason
20 that maybe he wasn't the one shooting?

21 A. That is a possible reason. Yes, sir.

22 Q. In this case did you receive any samples to be
23 tested from the decedent Mr. Christofoli?

24 A. No, sir.

25 Q. Are you able in your trace evidence lab to examine

1 samples taken around a bullet hole to determine if it was
2 fired at close range to somebody?

3 A. We do not test for distance determination.

4 Q. Have you ever seen what they call like a flash burn
5 or an analysis of gunshot residue against a close impact
6 wound?

7 A. In my training I have been trained to analyze
8 gunshot residue kits submitted. That includes kits such as
9 the one in this case as well as clothing from suspects or
10 witnesses.

11 Q. Okay. So it can be done. It just wasn't done in
12 this case?

13 A. Correct.

14 Q. Do you know why it wasn't done in this case?

15 A. No, sir. The only submission I have is one GSR kit
16 from Billy John Geisendorff.

17 Q. Because you're not the police officer working the
18 scene. You're just testing what comes to you?

19 A. Yes, sir.

20 MR. STITELY: Thank you, sir.

21 MS. MAYES: Nothing further, Your Honor.

22 THE COURT: All right. Thank you, sir. You may
23 step down.

24 MS. MAYES: Your Honor, may we approach?

25 THE COURT: Sure.

1 (side bar off the record.)

2 THE COURT: Ladies and gentlemen, we'll take a
3 recess. Don't talk about the case. Continue to keep an
4 open mind. We'll resume the trial as soon as we can.
5 Thank you very much.

6 (Whereupon, the jury entered the jury room at 10:05
7 a.m.)

8 (Short break.)

9 BAILIFF: All rise. Court is back in session.

10 THE COURT: Please be seated. Anything before we
11 bring the jury in?

12 MR. STITELY: No, Your Honor.

13 THE COURT: The State ready?

14 MS. MAYES: Yes, Your Honor.

15 THE COURT: Okay.

16 (Whereupon, the jury entered the courtroom at 10:50
17 a.m.)

18 THE COURT: All right. You may call your next
19 witness.

20 MS. MAYES: The State calls James Hickman.

21 Thereupon,

22 JAMES HICKMAN

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

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

1 name for the record.

2 THE WITNESS: James L. Hickman, H-i-c-k-m-a-n.

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Where are you currently employed?

6 A. Lexington County Sheriff's Department.

7 Q. How long have you been a member of law
8 enforcement?

9 A. About 46 years, or 43 years I believe it is.

10 Q. What is your actual job description at the Lexington
11 County Sheriff's Department?

12 A. Latent fingerprint examiner and shoe and tire print
13 examiner.

14 Q. When you say latent print examiner, how long have
15 you been involved in the field of latent print examination?

16 A. 40 years.

17 Q. You mentioned shoe impressions. How long have you
18 been in the field of shoe impressions or footprints?

19 A. Approximately 40 years.

20 Q. Is specific training available to law enforcement in
21 this field?

22 A. Yes, ma'am.

23 Q. Is it generally accepted as reliable among peers in
24 your field?

25 A. Yes, ma'am.

1 Q. Is this type of crime scene work subject to peer
2 review by law enforcement agencies?

3 A. Yes, ma'am.

4 Q. Can you tell us whether or not your training also
5 includes crime scene analysis and crime scene investigation?

6 A. Yes, ma'am.

7 Q. How long have you been involved in the field of
8 crime scene investigation?

9 A. Approximately 40 years.

10 Q. Are latent prints and footprints and shoe
11 impressions, do they fall under the umbrella of crime scene
12 investigation?

13 A. Yes, ma'am.

14 Q. Have you been previously qualified as an expert in
15 the field of crime scene investigation?

16 A. Yes, ma'am.

17 MS. MAYES: Your Honor, at this time the State would
18 offer James Hickman as an expert in the field of crime
19 scene investigation.

20 MR. STITELY: No objection.

21 THE COURT: All right. He's qualified.

22 BY MS. MAYES:

23 Q. You mentioned you're currently employed at the
24 Lexington County Sheriff's Department?

25 A. Yes, ma'am.

1 Q. Does that involve, can you tell us whether or not
2 that involves consultation with the major crimes unit in cases
3 such as homicides?

4 A. Yes, ma'am. Sometimes.

5 Q. What about in cases where there may be shoe or foot
6 impressions at the crime scene?

7 A. Yes, ma'am.

8 Q. What is your normal protocol when you're reviewing a
9 case at the request of the major crimes unit or on behalf of
10 the Lexington County Sheriff's Department?

11 A. I request all the information that's available. All
12 the written reports. All the statements. All the
13 photographs. Any impressions that was taken and compile all
14 this before I start.

15 Q. All right. Does that also include things such as
16 the autopsy report?

17 A. Yes, ma'am.

18 Q. Did you have an opportunity in this case, Officer
19 Hickman, to review the actual crime scene photographs
20 which were taken in this case by Shelby Derrick as the crime
21 scene investigator?

22 A. Yes, ma'am. I was.

23 Q. Did you also have the opportunity to review the
24 photographs of the victim's boot tread pattern?

25 A. Yes, ma'am.

1 Q. Can you tell us whether or not the information you
2 received also included information that the defendant had been
3 barefoot at the crime scene?

4 A. Yes, ma'am. It was.

5 Q. And, Investigator Hickman, did you have an
6 opportunity to review any photographs which depicted the
7 victim's body as it was recovered at the crime scene?

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

9 Q. I'm going to show you a photograph which is
10 pre-marked as State's exhibit 67.

11 A. Yes, ma'am.

12 Q. Can you tell us whether or not that's a photograph
13 that was included among the crime scene photographs that you
14 reviewed?

15 A. Yes, ma'am. It was.

16 Q. Can you tell us whether or not that's ordinary
17 procedure in your cases when you're looking at a case from the
18 standpoint of trying to determine what may have happened at
19 the crime scene?

20 A. Yes, ma'am. It's one of the photographs that I need
21 to look at.

22 MS. MAYES: Your Honor, the State at this time would
23 offer exhibit 67.

24 MR. STITELY: No objection.

25 THE COURT: It's in evidence.

1 BY MS. MAYES:

2 Q. Can you tell us, Investigator Hickman, whether or
3 not based upon your full review of the evidence in this case
4 and I'm going to show you what is State's exhibit 34, is that
5 an enlarged version of a photograph that you already
6 previously examined?

7 A. Yes, ma'am. It is.

8 Q. State's exhibit 39, if you can tell us whether or
9 not --

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

11 Q. -- you're familiar with that photograph as well?

12 A. Yes, ma'am.

13 Q. Having reviewed the crime scene photographs in this
14 case, Investigator Hickman, can you tell us whether or not
15 there was any evidence of a physical altercation at the
16 scene?

17 A. No, ma'am. Not that I saw in any of the
18 photographs.

19 Q. What, if anything, is significant about State's
20 exhibit 67 which depicts the victim at the crime scene?

21 A. It shows how he was dressed. The hat on his head.
22 His hands outstretched. Location of the feet and location of
23 the arm and also it indicates there is a cigarette butt laying
24 to the left side of him. The marks in the dirt indicate where
25 his feet was at whenever he fell. To me it showed that he was

1

1 standing erect facing in one direction. He was - feet turned,
2 shuffled around and he fell directly back on his back. The
3 left arm you can see where it moved slightly after he hit.
4 The hat is off his head but under the ball of his head on the
5 ground.

6 Q. Investigator Hickman, would you please step down
7 here?

8 A. (Witness complies.)

9 Q. Looking here at State's exhibit 67, Investigator
10 Hickman, let's move more this way and I'll ask you to keep
11 your voice up for the court reporter.

12 A. Yes, ma'am.

13 Q. Where is the cigarette noted in relation to the
14 victim?

15 A. You will see here where I have my finger, you see
16 the little white, that's the cigarette butt that's laying
17 there. I refer to it as a butt. For anybody who has ever
18 smoked, you know what I'm talking about. It's not a butt as
19 you go put it out but like a cigarette that's half burned or a
20 little bit more.

21 Q. All right. In addition to that, what can you tell
22 us about the color of that cigarette?

23 A. It is - the cigarette is white with a cork type
24 filter on it.

25 Q. Would that be known as a tan color filter?

1 A. Yes, ma'am.

2 Q. Or tan butt?

3 A. Yes, ma'am.

4 Q. All right. So the cigarette is there next to the
5 victim and where is the hat that you noted?

6 A. The hat, you can see where it's under his head,
7 under the ball of the head sort of back on his head and under
8 the ball.

9 Q. Investigator Hickman, what, if anything, does that
10 indicate to you regarding this crime scene?

11 A. It indicates to me that when he fell, the hat was on
12 his head and it knocked it back a little bit and it stayed.
13 It was there. His head never moved after he hit the ground.

14 Q. You may return.

15 A. (Witness complies.)

16 Q. I'm going to show you State's exhibit 65 which is in
17 evidence. Are you familiar with that photo as well?

18 A. Yes, ma'am.

19 Q. What, if anything, does that photograph indicate to
20 you?

21 A. This shows me the position of the victim's feet, his
22 shoes where they were at when he fell. It also shows me some
23 impressions in the sand and the dirt where his feet were
24 before he fell and drag marks across is also indicated on one
25 of the toes which is the, I believe the right toe where

1 there's a little bit of sand on the toe where it drug across.

2 You can also see the drag marks in the sand itself.

3 Q. Investigator Hickman, can you tell us whether or not
4 I'm facing you and I turn away from you and then fall to my
5 knees, can you tell us whether or not that would leave a
6 similar marking in the sand?

7 A. No, ma'am. I don't think so.

8 Q. Explain so.

9 A. He was, the victim was facing or in the direction,
10 in other words, in the photograph you just saw where he was
11 laying on his back, he was in an upright position that
12 indicates that that's where he was at.

13 Q. All right. Is there any indication of a pivot turn
14 in this photograph?

15 A. Yes, ma'am. If you will see --

16 Q. You can please step down?

17 A. (Witness complies.) If you will look in the
18 photograph, you will see a scrap mark here. You will see some
19 marks across here and over here you can see a slight shoe
20 impression here. If you will notice, his shoes are sort of
21 wavy pattern and you can see sort of a wavy pattern in here.
22 It's a little bit hard to see but there is a little pattern
23 there. To me that indicates that foot was planted here. You
24 will see on the toe a little bit of sand or dirt. That's
25 indicated to me that it was planted here, it come across and

1 it scraped across here as though he was twisting. The other
2 foot you can see over on this side.

3 Q. Can you demonstrate as to the type of pivot or twist
4 you're referring to you?

5 A. To me, he was standing like I'm facing to you and
6 his feet planted and he started turning and as he turned he
7 lost balance and his feet went out and he fell down. He was
8 turning to the right.

9 Q. Thank you. You may return.

10 A. (Witness complies.)

11 Q. Can you tell us whether or not upon examination of
12 the photographs of the crime scene there was any indication of
13 sand or dirt to the knees of the victim's jeans?

14 A. Yes, ma'am. There was. It appeared to be sand or
15 dirt on both knees and there was one mark a little bit further
16 over from these photographs that could have been where he
17 dropped to his knees but I'm not sure about that.

18 Q. Did you see any indication of scuffle marks to
19 indicate an altercation?

20 A. No, ma'am. There was no indication of any scuffle
21 marks around the victim at all. With the shoe impressions
22 that I just explained to you, the fact that the cigarette butt
23 was there, the hat on his head, it appeared to me that there
24 was a person standing there smoking a cigarette and the
25 cigarette fell out of his hand, went back on his head and the

1 hat was in place.

2 MS. MAYES: Nothing further, Your Honor.

3 MR. STITELY: Please the Court.

4 THE COURT: Cross examination.

5 MR. STITELY: Yes, sir.

6 CROSS EXAMINATION

7 BY MR. STITELY:

8 Q. Mr. Hickman, how are you today?

9 A. Pretty good, sir.

10 Q. Is it still Officer Hickman?

11 A. No. It's just plain old Hickman now.

12 Q. All right. Mr. Hickman. Now, you said as part of
13 your job in the 40 years you reviewed pretty much the whole
14 case file before you kind of get up here and make a
15 conclusion, correct?

16 A. Yes, sir.

17 Q. You said you review pictures, statements, reports,
18 the whole shebang?

19 A. Yes, sir.

20 Q. In order to get a full picture?

21 A. Yes, sir.

22 Q. The State asked you if there was a scuffle?

23 A. Yes, sir.

24 Q. Meaning a physical like individual possibly touching
25 kind of altercation?

1 A. Yes, sir.

2 Q. You can't tell from the physical evidence if one
3 individual is, for example, saying I'm going to beat your butt
4 or I'm going to mess you up or anything like that?

5 A. No, sir. I cannot.

6 Q. Did you see any impressions where this red knife may
7 have fallen out the decedent's hand?

8 A. No, sir.

9 Q. Did you look specifically for any impressions
10 matching this red knife?

11 A. No, sir.

12 Q. So you didn't look so you can't say for sure there
13 weren't though?

14 A. No, sir. I can't say for sure there wasn't.

15 Q. Picture number 39, I'll put it over here so you
16 don't have to step down, if you don't want to if that's okay
17 with the Court. Ms. Derrick took this picture as part of a
18 normal CSI. Does it look like a normal CSI picture you would
19 have taken as well?

20 A. Yes, sir.

21 Q. You have read her report, correct?

22 A. Yes, sir.

23 Q. She indicated that the letters would have been
24 barefoot footprints and the numbers were booted footprints
25 that appear to be similar to the decedent's?

1 A. Yes, sir.

2 Q. She also indicated, and I don't know if you saw
3 through the roadway, that there were prints all the way up and
4 down the road looking like multiple passers by, any number of
5 people?

6 A. Yes, sir.

7 Q. Okay. And she said that although these are the ones
8 she marked, there were also, of course, footprints all through
9 that weren't marked behind the decedent?

10 A. Yes, sir.

11 Q. And there are footprints from the decedent all the
12 way up to this point where number 6 was, correct?

13 A. Yes, sir.

14 Q. And then, of course, there would be more heading
15 backwards towards where he came from?

16 A. On some of the photographs I could indicate which
17 direction -- Well, I could indicate which direction the shoe
18 impression was going. In some of them I couldn't determine in
19 what direction the photograph was taken so I don't know
20 whether he was going back towards we'll say the ambulance or
21 in the other direction.

22 Q. Sure. And you looked at number 34 which was another
23 blow up of footprints, correct?

24 A. Yes, sir.

25 Q. And as you can see in this picture, there are all

1 kinds of footprints all over the place?

2 A. Yes, sir.

3 Q. Barefoot, multiple different kinds of shoes, all
4 kinds?

5 A. Yes, sir.

6 Q. And then you can see up by the decedent we have
7 other close ups, but the turn marks and the boot prints that
8 you were talking about in the other small picture?

9 A. Yes, sir.

10 Q. Now, one of the things, of course, you read through
11 was my client's statements to law enforcement, correct?

12 A. No, sir. I did not.

13 Q. You didn't read the detective's report?

14 A. Not his statement. No, sir.

15 Q. You didn't read what the detective wrote down?

16 A. No, sir.

17 Q. You just told us that you reviewed the reports in
18 this case. You didn't read the lead investigator's report?

19 A. No, sir. I told you I reviewed the crime scene
20 investigator's report.

21 Q. That would be both reports from both crime scene
22 investigators?

23 A. I reviewed the crime scene report by both crime
24 scene officers, the supplemental report by the crime scene
25 officer, the autopsy report by the crime scene officer, the

1 autopsy report check list from the crime scene officer's
2 supplemental report from the crime scene - the crime scene
3 officer, the mobile device worksheet, the supplemental report
4 crime scene, another supplemental report crime scene, and then
5 the crime scene sketch, the crime scene report by Derrick, a
6 statement from John Williams, a statement from Donna - I can't
7 read her last name. Blanchett. And a supplemental report
8 crime scene from one of the crime scene officers. The autopsy
9 report from Dr. Ross. I reviewed 73 photographs received and
10 I reviewed the crime scene photographs that's on file at the
11 Lexington County Sheriff's Department and the crime scene case
12 file that's on file with Lexington County Sheriff's
13 Department.

14 Q. Okay. So you read Mr. Williams' statement, correct?
15 That was Mike Williams. You said that was one of them?

16 A. Yes, sir. I believe it was Mike Williams. Or
17 John.

18 Q. John Michael Williams.

19 A. John Williams I believe is what it was.

20 Q. He told us he goes by Michael. I apologize. So you
21 read the part in his statement where he indicated that Mr.
22 Christofoli, the decedent, said two different things. One
23 being get out in this roadway so I can beat your ass like a
24 man. And the second one that said if you're gonna pull that,
25 you better use it.

1 A. I don't recall exactly what was said in it. I can
2 review it and answer the question but...

3 Q. I guess I can answer it this way. There is nothing
4 in the physical evidence that, of course, can tell you what
5 words were said?

6 A. No, sir. There's nothing that I saw that can tell
7 me.

8 Q. You read Officer Gilland's report. He's one of the
9 CSI's, correct?

10 A. Yes, sir.

11 Q. Let's look to the first paragraph of his report.
12 We're going down about halfway through the paragraph. This is
13 one of the ones that you used in prepping for testimony and
14 for making your expert opinions, correct?

15 A. The one first paragraph that's dated 4/2/2014?

16 Q. Yes.

17 A. Yes, sir.

18 Q. Down there it says Bobby threatened to beat my ass
19 if I turned around. I told him I would shoot him if he turned
20 around and began telling me to go ahead and shoot him. Now,
21 you made a reference to turning.

22 A. Yes, sir.

23 Q. Where can you tell from that picture someone was
24 turning?

25 A. I can tell from the photographs, the shoe impression

1 that I saw and the autopsy report I saw.

2 Q. Okay. So there is some consistency with an
3 individual turning?

4 A. Yes, sir.

5 Q. Okay. Then it says he began to say go ahead and
6 shoot him. Shoot me in the back. I'm unarmed. If you turn
7 and walk away, I'm gonna beat your ass. I turned to walk away
8 and he started walking towards me. I fired two warning shots
9 in the air and then unloaded the gun into him. It was either
10 him or me. Can you see any footprints particularly lettered
11 ones that would be bare feet that look like they're walking
12 away in this picture?

13 A. No, sir.

14 Q. Did you look specifically at number H?

15 A. Yes, sir.

16 Q. Do we have a close up of number H in your analysis
17 or reports? Or letter H. I said number.

18 A. Yes, sir. I have one.

19 Q. Looking at the H, which way are the toe prints
20 actually facing?

21 A. They are facing away from item number 3.

22 Q. So away from number 3 like you're walking backwards?
23 Away from number 3?

24 A. Yes, sir.

25 Q. So if the defendant said he was trying to walk away

1 when a man approached him, H would be consistent with that?

2 A. If he was that far away from the defendant, yes,
3 sir.

4 Q. I know we have said that you can't say there was a
5 physical struggle. Was there anything from this physical
6 evidence that would say as an expert you couldn't say that the
7 decedent might not have had a knife in one hand, a cigarette
8 in the other hand, been screaming obscenities saying I'm gonna
9 beat your ass?

10 A. No, sir. There is not.

11 Q. And isn't there physical evidence that could argue
12 that the defendant was trying to walk away as the decedent was
13 walking towards him in a threatening manner?

14 A. Around where the victim was laying in the
15 photographs I saw, I saw no other footprints of his that was
16 going in any direction other than what I have already
17 testified to.

18 Q. Okay.

19 A. That's in the general area of him.

20 Q. There were footprints of his though walking up,
21 correct?

22 A. Yes, sir.

23 Q. Are you aware of where the bullet placements were in
24 the decedent?

25 A. Yes, sir.

1 Q. Were they consistent with one being entering as
2 someone was turning around?

3 A. Yes, sir. As far as I'm concerned.

4 Q. Do you know what kind of rounds were used?

5 A. I believe they were .22.

6 Q. Do you have any, and I'll ask it as expertise, but a
7 background history in firearms, ballistics, rounds strength,
8 anything like that?

9 A. No, sir.

10 Q. So you wouldn't be able to testify with any direct
11 knowledge about stopping power of a .22 caliber round? I
12 don't want to put you outside your expertise.

13 A. No, sir. I have no expertise in that field.

14 Q. Okay. Looking specifically at what you examined
15 being the pictures from the crime scene -- I guess I didn't
16 ask this question. Did you ever go to the crime scene that
17 night?

18 A. No, sir.

19 Q. So you're kind of like a secondary consultant
20 reviewing it after the fact?

21 A. Yes, sir.

22 Q. As an expert what I described to you is plausible
23 where an individual could have been making threatening
24 comments possibly with a red knife in their hand walking
25 towards a person walking away?

1 A. No, sir. I saw no walking around where the victim
2 was laying. I saw no walking prints of his, shoe impressions
3 of his. His shoe impressions were in other areas around there
4 but in the immediate area right around him I saw none.

5 Q. But he had to get there some way?

6 A. Yes, sir. He did.

7 Q. Okay. There is no picture showing his walk up
8 path?

9 A. No, sir.

10 MR. STITELY: No further questions. Thank you very
11 much.

12 REDIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Just to clarify, was there any indication through
15 any of the reports that you reviewed from the first responders
16 to the crime scene reports of Shelby Derrick that the victim
17 was ever armed in any way?

18 A. No, ma'am. There was no indication in anything I
19 read.

20 MS. MAYES: Nothing further.

21 MR. STITELY: Nothing additional, Your Honor.

22 THE COURT: Thank you.

23 MS. MAYES: May we approach.

24 THE COURT: Yes.

25 (Side bar off the record.)

1 THE COURT: All right. We are waiting on another
2 witness to arrive so we'll take a short recess.
3 Hopefully in about 15 minutes they will be here. So
4 don't talk about the case. Continue to keep an open
5 mind.

6 (Whereupon, the jury entered the jury room at 11:20
7 a.m.)

8 THE COURT: So we can take up any requested charge
9 at this time. I think in addition to the standard
10 charges about the jury's role and presumption of
11 innocence, reasonable doubt, statements of a defendant,
12 depending, of course, on whether he testifies, right to
13 remain silent, intent, murder, possession of a weapon
14 during a crime of violence, any other charges
15 specifically requested by either side?

16 MS. MAYES: Yes, sir, Your Honor. We have gone to
17 retrieve our jury charge book. We have a copy of the
18 bench book with some relevant requests for charge.
19 Direct and circumstantial evidence would be one, Your
20 Honor.

21 THE COURT: Yes. I would charge that, of course.

22 MS. MAYES: The charge on voluntary intoxication.

23 THE COURT: Okay.

24 MS. MAYES: The charge regarding expert witnesses.
25 I believe that's already - I believe you have already

1 charged them on that matter but we would ask for an
2 additional charge.

3 THE COURT: Sure.

4 MR. STITELY: No objection to any of those charges,
5 Your Honor.

6 THE COURT: All right. Well, they are all warranted
7 by the evidence.

8 MR. STITELY: Your Honor, I was speaking to the
9 Solicitor about this, we talked about it in pretrial, the
10 16-11440(c), he does have a case that says it wasn't
11 appropriate to charge, however, Your Honor, in any case
12 you always have the common law defense of defense of ones
13 self and ones property. I think the evidence in this
14 case would indicate that at this point through the
15 testimony of both Ms. Blanchett and Mr. Williams,
16 Mr. Christofoli was a trespasser on property owned by Ms.
17 Blanchett and was asked to leave. By her testimony as
18 well Mr. Geisendorff was a lawful resident of that
19 property being either piece of land as she owned the
20 whole thing. I think that I would ask for a charge under
21 the right to be present, not to flee on top of self
22 defense just as the facts as a whole. I think it's a
23 jury question to make a factual determination. I
24 understand as a matter of law Your Honor ruled he may not
25 be up to a immunity but I think the jury can still make

1 that determination as the finder of fact.

2 THE COURT: So you're really asking for --

3 MR. STITELY: I'm asking for both, Judge.

4 THE COURT: Well, what you're really asking for is a
5 defense of habitation.

6 MR. STITELY: Yes, sir.

7 THE COURT: All right. The Castle Doctrine based on
8 State v. Curry would not be proper to charge the act.
9 But what about the defense of habitation, the common law
10 defense, where does the State --

11 MR. McNAIR: Judge, I think that extends to the
12 residence and the curtilage. The evidence in this case
13 is that the incident happened in a road that multiple
14 people had access to. It wasn't owned by Donna Blanchett
15 or Mike Williams. There are two cases, State v. Magee,
16 185 SC 184. It says the duty to retreat apply on a
17 public highway where all men have equal rights. Also
18 State v. Boyd which is 126 SC 300, a person charged with
19 ABWIK, that case said they cannot defend on the ground of
20 the Castle Doctrine extended to the middle of the street
21 in front of the defendant's house, that would not be
22 considered the curtilage. Court of Appeals, State v.
23 Dickey opinion addressed what would be considered
24 curtilage as well. That case said that the defendant was
25 not immune from the duty to retreat under the Castle

1 Doctrine because he was on a public sidewalk. He was not
2 in the building or within the curtilage of the building.

3 So our argument is this roadway is not within the
4 curtilage of where the defendant lived, therefore he
5 would have a duty to retreat.

6 MR. STITELY: Your Honor, I have two different
7 points on that. One, I think they would bear the burden
8 to prove it's a county road. It was the only point of
9 egress and ingress between the two houses. By the
10 testimony of all of their witnesses the woods were
11 impassable. My client, is, if you look at even the
12 footprint, he's off onto the grass right here and he's
13 still within I would argue the curtilage because as they
14 testified this is a privately maintained road and both
15 pieces of property where all of the acts happened was
16 owned by Ms. Blanchett through her own testimony where my
17 client was a lawful resident, where the other gentleman
18 was a trespasser and asked to leave.

19 MR. MCNAIR: Judge, that language in Dickey, and I
20 believe they're citing State v. Wiggins but the Court of
21 Appeals opinion in Dickey said the common denominator
22 between the places that are considered curtilage are the
23 places that the property owner alone has the right to the
24 exclusion of the general public. He did not have the
25 right to eject a trespasser from that road. Multiple

1 people had access to that road. It's not his road, so
2 therefore it's not the curtilage of his residence.

3 MR. STITELY: I think it's a fact question the jury
4 can answer, Judge, as to how it went down, where my
5 client may or may not have been standing at the time of
6 the incident.

7 THE COURT: Okay. I'll look at that while we have
8 got some time. What else?

9 MR. STITELY: Nothing additional from us, Judge.

10 THE COURT: Does the State have anything further as
11 far as the requests?

12 MR. STITELY: We will not be requesting a voluntary
13 manslaughter charge, Your Honor.

14 THE COURT: All right. That is a strategic decision
15 you're making with your client's agreement?

16 MR. STITELY: That is correct, Judge. It's not our
17 position.

18 MS. MAYES: Your Honor, the State will reserve at
19 this time the opportunity to review the matter further to
20 determine whether or not we may request a voluntary
21 manslaughter charge. We'll know at the close of Dr.
22 Ross' testimony.

23 MR. STITELY: That makes sense, Your Honor.

24 THE COURT: All right. We can take it up again.

25 MS. MAYES: Your Honor, as to your charge of self

1 defense.

2 THE COURT: Yes, ma'am.

3 MS. MAYES: Does it include the section in the bench
4 book regarding contemptuous language? We would request
5 that.

6 THE COURT: Okay.

7 MR. STITELY: We are, of course, not going to object
8 to any standard charges from the court rules as long as
9 it's charged. However the Court makes the determination
10 I think is appropriate.

11 THE COURT: Okay.

12 MS. MAYES: And as to malice, Your Honor, you would
13 charge the expressed or implied instruction regarding
14 malice?

15 THE COURT: Well, let's see here.

16 MS. MAYES: Referring to the portion of the bench
17 book which defines malice of forethought as expressed.
18 It may be expressed or inferred. These terms expressed
19 or inferred are then set forth and defined.

20 THE COURT: Right. You're not asking me to charge
21 about use of a deadly weapon?

22 MS. MAYES: No, sir. We are not.

23 THE COURT: All right. Yes, sir.

24 MR. STITELY: No objection to that, Judge.

25 THE COURT: Okay. Anything further before we bring

1 the jury back in?

2 MR. McNAIR: No, Your Honor.

3 MR. STITELY: No, sir.

4 THE COURT: Okay. Let's bring them back in.

5 (Whereupon, the jury entered the courtroom at 11:51
6 a.m.)

7 THE COURT: All right. Yes, sir.

8 MR. McNAIR: Your Honor, the State recalls Donna
9 Blanchett.

10 MR. STITELY: Your Honor, we have a matter of law to
11 take up.

12 THE COURT: All right.

13 MR. STITELY: Your Honor, we can approach.

14 THE COURT: Okay.

15 (Side bar off the record.)

16 MR. McNAIR: Your Honor, the State calls Donna
17 Blanchett.

18 THE COURT: Okay.

19 THE CLERK: Still under oath, Your Honor?

20 THE COURT: Yes. You're still under oath, ma'am.

21 Thereupon,

22 DONNA BLANCHETT

23 after having been previously duly sworn, was recalled and
24 testified as follows,

25 THE WITNESS: My name is Donna Blanchett,

1 B-l-a-n-c-h-e-t-t.

2 REDIRECT EXAMINATION CONTINUED

3 BY MR. McNAIR:

4 Q. Ms. Blanchett, I'm gonna show you State's exhibit 42
5 which is a knife that was found under your residence. Who
6 does that knife belong to?

7 A. Billy.

8 Q. How long has Billy had that knife?

9 A. Ever since the first day I met him.

10 Q. You have seen him with this knife before?

11 A. Everyday.

12 Q. When you were in the roadway and the defendant came
13 out of the woods and Mr. Christofoli was coming up the road,
14 did you ever see this knife in his hand?

15 A. No.

16 MR. McNAIR: Thank you. No further questions.

17 MR. STITELY: Briefly.

18 RECROSS EXAMINATION CONTINUED

19 BY MR. STITELY:

20 Q. Do you know what kind of knife that is?

21 A. A utility knife.

22 Q. Is it a knife or is it like a box cutter?

23 A. It's like a box cutter.

24 Q. , Do you know what kind of work tools Mr. Christofoli
25 carried doing his job?

1 A. No. I don't.

2 Q. Do you know what kind of knives he may or may not
3 have owned?

4 A. No. I don't.

5 Q. Do you know what he had on his possession that
6 night?

7 A. Nothing that I know of.

8 Q. Did he have pants with pockets?

9 A. Yes. He had on a pants and I don't know what was in
10 his pockets.

11 MR. STITELY: Nothing further.

12 MR. McNAIR: Nothing further, Your Honor.

13 THE COURT: Thank you, ma'am. You may step down.

14 Thank you.

15 MS. MAYES: The State calls Dr. Janice Ross.

16 Thereupon,

17 JANICE EDWARDS ROSS, M.D.

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

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

22 THE WITNESS: Janice Edwards Ross, R-o-s-s.

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. Dr. Ross, can you tell us a little bit about

1 yourself?

2 A. Yes. I am a forensic pathologist which means I have
3 been through four years of college, went to the University of
4 South Carolina, then I received my M.D., my Doctor of Medicine
5 from Upstate Medical Center in Syracuse, New York where I did
6 further training in the field of pathology. Pathology as
7 opposed to being a surgeon or a pediatrician, a pathologist
8 learns how to diagnose diseases by looking at tissue under the
9 microscope, diagnosing cancers and that kind of thing. Also
10 using the laboratory in the hospital to identify diseases. We
11 learn how to do an autopsy to find a cause of death. A
12 forensic pathologist further does a forensic autopsy which is
13 in somewhat more detail to identify patterns of injury in
14 homicides, suicides, accidents as opposed to and including
15 natural diseases like heart disease. When we are doing a
16 forensic autopsy, we collect specimens for toxicology and for
17 documentation of injury and we take photographs.

18 Q. How long have you been a forensic pathologist?

19 A. 40 years.

20 Q. All right. Now, some of us are familiar with the
21 show Quincey that used to be on the air, but is that basically
22 the job off a forensic pathologist?

23 A. Yes. We do autopsies. I do autopsies for different
24 coroners in the state at Newberry County Memorial Hospital and
25 we identify the cause of death and a manner of death.

1 Q. All right. Now, how does the body actually come to
2 you?

3 A. The coroner authorizes and schedules an autopsy
4 which is done at the morgue in Newberry County Memorial
5 Hospital. The coroner provides transport of the body to us
6 and we do the autopsy in the morgue at that facility.

7 Q. Now, Dr. Ross, you have mentioned that you have been
8 in the field for approximately 40 years. Is it possible for
9 you to estimate how many such times you have conducted an
10 autopsy in a criminal investigation for homicide?

11 A. I have done over 10,000 autopsies and I would say 95
12 percent of them are for criminal cases or for coroners.

13 Q. Is it possible for you to estimate how many such
14 times you have been previously qualified as an expert in the
15 field of forensic pathology in a court in the State of South
16 Carolina?

17 A. Over 200 times.

18 MS. MAYES: Your Honor, at this time the State would
19 offer Dr. Ross as an expert in the field of forensic
20 pathology.

21 MR. STITELY: Without any objection.

22 THE COURT: All right. She's qualified.

23 BY MS. MAYES:

24 Q. What can you tell us, Dr. Ross, about the body as it
25 comes to you in any type of case? If it's referred to you

1 from the coroner's office, for example, what's the normal
2 procedure for storage and refrigeration of a body prior to
3 autopsy?

4 A. That's up to the coroner will store the body in a
5 cool area until the transporter brings the body to us and we
6 generally look at the body and do the autopsy pretty much
7 immediately on arrival by the transport.

8 Q. Can you tell us whether or not that was done in the
9 case of Bobby Christofoli?

10 A. As far as I know. Yes. We were - we received him
11 within the 24 hours of the time of death that was given.

12 Q. Who was the agency responsible for transporting
13 Mr. Christofoli's body?

14 A. I don't have that written down. It's in the morgue
15 log sheet.

16 Q. All right. Do you know whether or not law
17 enforcement was already involved in this case and present at
18 the autopsy?

19 A. Yes.

20 Q. Okay. So can you tell us whether or not with law
21 enforcement already involved that routinely involves the
22 Coroner's Office as well?

23 A. Yes.

24 Q. What was the date of the autopsy regarding
25 Mr. Christofoli?

1 A. April 3rd of 2014.

2 Q. And the actual date of death?

3 A. I was given April 2nd, 2014.

4 Q. The night before your autopsy?

5 A. Correct.

6 Q. Now, regarding toxicology samples such as blood,
7 things of that nature, what can you tell us about the
8 procedure for drawing those items?

9 A. We draw the blood from a known blood vessel. We
10 don't blindly pick it up. In this case, uhm, we drew it from
11 the iliac vein which is once we open the body and before we
12 interfere with any blood system, we draw the blood from a vein
13 that's down close to the leg. The further away you draw
14 blood, the better the toxicology. The further away from the
15 heart that you can get blood, the better the toxicology
16 results.

17 Q. Was that done in this case?

18 A. Yes.

19 Q. What can you tell us about the toxicology results
20 regarding Mr. Christofoli?

21 A. He had a blood alcohol level of .07 percent.

22 Q. All right. .07 percent. And here is what I'm going
23 to ask you next. I'm going to ask you to explain when the BA
24 or blood sample is drawn by you at autopsy, can you tell us
25 whether or not that blood alcohol level is equivalent to what

1 it would have been at the time of death?

2 A. Yes. I can say yes.

3 Q. And how so?

4 A. The blood alcohol is stable up to several days. It
5 may rise somewhat slightly when the body decomposes over a
6 couple of weeks, but we also check the fluid from the eye and
7 the fluid from the eye blood alcohol lags behind the blood a
8 little bit and it was similar. It was .064 percent.

9 Q. So can you tell us to a reasonable degree of medical
10 certainty whether or not that would be the equivalent of
11 Mr. Christofoli's BA level or blood alcohol level at the time
12 of his death?

13 A. Yes.

14 Q. What is the next step in your autopsy once the body
15 arrives to you? Is it clothed?

16 A. Yes. We open the body bag and we photograph the
17 body as it is brought to us. At this time the body was
18 clothed. Then we inventory the body, the clothing and take
19 the clothing off and do an external exam of the body taking
20 photographs.

21 Q. You mentioned that you inventoried the body. Does
22 that include a search of the person or at least going through
23 belongings on the person?

24 A. Yes.

25 Q. If that person has any type of weapon, is that noted

1 by law enforcement and/or by yourself?

2 A. We just have a clothing sheet that defines
3 everything that was on the body and in the pockets.

4 Q. All right. Do you have that in this case?

5 A. Yes.

6 Q. All right. And are any weapons noted?

7 A. No.

8 Q. What, if anything, do you note in attempting to --
9 Let me back up and ask you this: In the field of forensic
10 pathology do you have an opportunity to actually look at all
11 of the physical features before you start the autopsy
12 process?

13 A. Yes.

14 Q. Okay. Does that include examination of hands, for
15 example?

16 A. Yes.

17 Q. Does it include examination of the face and facial
18 characteristics?

19 A. It's everything.

20 Q. The entire body top to bottom?

21 A. Yes.

22 Q. Why, if at all, is that an important aspect of
23 forensic pathology?

24 A. Well, to begin with, it gives us an idea of what we
25 need to do next. In this case there were obvious gunshot

1 wounds so we did x-rays of pretty much the whole body because
2 of the positions of the gunshot wounds.

3 Q. All right. And in looking at hands, for example, of
4 a body that comes to you for the purpose of an autopsy, why
5 may that be important in your examination in a homicide
6 case?

7 A. We look for evidence of injuries from defensive
8 wounds, any injuries to the hands or arms, legs, and also any
9 injuries to the face, for instance, to rule out a fist fight,
10 for instance.

11 Q. All right. During your 40 years of experience, have
12 you had the opportunity to conduct an autopsy in a homicide
13 case that did involve evidence of a physical altercation?

14 A. Yes.

15 Q. And did that include cases where a homicide victim
16 may have sustained injuries to the lips or nose or face
17 consistent with a fist fight?

18 A. Yes.

19 Q. Does that include cases where the hands may have
20 noted bruising or scraping or abrasions to the knuckles
21 consistent with a fist fight?

22 A. Correct.

23 Q. Did you examine Mr. Christofoli for evidence of any
24 type of physical altercation?

25 A. Yes.

1 Q. Was there any evidence whatsoever of a physical
2 altercation?

3 A. No.

4 Q. No injuries to the face?

5 A. No.

6 Q. And the hands?

7 A. Correct. No.

8 Q. What ultimately did you determine, Dr. Ross, to be
9 the cause of death for Mr. Christofoli?

10 A. He had bled out. It's called exsanguination, to
11 bleed out from laceration of heart and lungs due to gunshot
12 wounds of the chest and back.

13 Q. After you complete the physical observations about
14 the body, how do you go about actually examining for gunshot
15 wounds?

16 A. We can visualize externally entrance wounds and exit
17 wounds if there are any. Again we do x-rays to see where
18 bullets may have ended up and then when we do an internal exam
19 we can follow the trail of the bullet.

20 Q. All right. Were you able to determine in this case
21 how many gunshot wounds Bobby Christofoli had sustained?

22 A. Yes.

23 Q. How many?

24 A. Four.

25 Q. And upon your examination are you able to determine

1 the entry point or location of those gunshot wounds?

2 A. Yes.

3 Q. Can you tell us how many gunshot wounds or evidence
4 of gunshots he actually had still in his body?

5 A. All four. There were four bullets in him, plus a
6 little piece of metal that was from an old wound behind the
7 left ear. But he had four bullets in him, four entrance
8 wounds and no exit wounds.

9 Q. Now, of the four gunshot wounds that you examined,
10 were you able to determine a point or angle of entry?

11 A. Yes.

12 Q. And in your report did you note that?

13 A. Yes.

14 Q. And ultimately are you able to prepare a diagram
15 that will share with us exactly what the point of injury is
16 for each of those gunshot wounds?

17 A. Yes.

18 MS. MAYES: Your Honor, I would ask at this time
19 that Dr. Ross be allowed to step down.

20 THE COURT: Yes.

21 BY MS. MAYES:

22 Q. Now, Dr. Ross, are you able to determine when you
23 are conducting an autopsy which bullet came first, for
24 example?

25 A. No. I am not.

1 Q. All right. So how do you go about your process of
2 dissection and then ultimately removing each bullet and
3 determining a point of entry?

4 A. Well, just for organization we generally identify,
5 enumerate gunshot wounds from the top to the bottom, but that
6 does not - 1, 2, 3, 4. But that doesn't indicate the order in
7 which they were obtained.

8 Q. All right. And that being the case, we are going to
9 start at the top and then I'm going to ask you to work your
10 way down. The first gunshot wound that you will address was
11 located to what part of the body?

12 A. In the back of the neck.

13 Q. And whichever diagram you feel is most appropriate
14 to depict the injury.

15 A. All right. This is obviously the front of the body
16 and the back of the body so the left side on the back is here.
17 The entrance wound was on the left and it went pretty much
18 straight across, stayed underneath the skin and we retrieved
19 the bullet under the skin on the right side of the neck.
20 That's a little crooked. It should be straight. That's what
21 we call gunshot wound number 1 on my report.

22 Gunshot wound number 2 was in the chest just to the
23 left of midline and that bullet went from the front towards
24 the back from the left towards the right so it went pretty
25 much straight back and that bullet was found underneath the

1 skin of the right back.

2 Gunshot wound number 3 first went through the arm,
3 the left arm and then re-entered the chest on the left
4 somewhat under the armpit and that bullet was found free in
5 the blood in the left chest after going through both lobes of
6 the left lung.

7 And then gunshot wound number 4 is in the left
8 buttock and that went pretty much back to front. Uhm, if you
9 look at the side, this diagram of the side, the bullet that
10 went in the chest went front to back. The one in the buttock
11 went back to front.

12 Q. What, if anything, does that indicate to you about
13 the gunshot wound to the back that went back to front?

14 A. Well, bullets go straight so it just means that
15 either the gun is moving around or the person is moving
16 around.

17 Q. All right. And specifically this is the point of
18 entry to the back?

19 A. Correct.

20 Q. And as to these gunshot wounds, the point of entry
21 is to the chest?

22 A. Correct.

23 Q. And then as to the ones you noted to the left, again
24 that's to the left side of the body and this is also to the
25 left side of the body so even though they look different on

1 the diagram, we are still talking about a bullet to the left
2 of the neck and then through the left arm, correct?

3 A. Correct. Going left to right.

4 Q. Can you tell us what that indicates about the
5 position of this person to the gun?

6 A. Well, it means the gun in this instance, the chest
7 wound would be in front of the person and may be slightly to
8 the left.

9 Q. So as I'm standing in front of you it would be to
10 the front, correct?

11 A. Yes. With the wound going through the arm, the left
12 arm and into the left neck, both of those mean that the gun
13 was to the victim's left.

14 Q. All right. So if you were standing there, it would
15 be going into my left neck and my left arm, correct?

16 A. Yes.

17 Q. All right. And this one?

18 A. The one in the back, of course, the gun would be in
19 back of the victim.

20 Q. My back would be towards the gun?

21 A. Correct.

22 Q. Dr. Ross, of these diagrams and these gunshot wounds
23 which ones indicate injuries to vital organs?

24 A. This one to the front of the chest and this one that
25 went through the arm first and then back into the chest, those

1 hit lungs and heart and caused a lot of internal hemorrhage.

2 Q. All right. Are those fatal wounds?

3 A. Yes.

4 Q. Now, if I suffer such a fatal wound, do I still have
5 time to make a turn?

6 A. If you're young and have no heart disease, yes.

7 Q. Thank you. You may return.

8 A. (Witness complies.)

9 MS. MAYES: Your Honor, this would be State's
10 exhibit 68 and 69 for evidence.

11 MR. STITELY: No objection to those two charts.

12 THE COURT: All right. They're in evidence.

13 BY MS. MAYES:

14 Q. I'm going to show you what is State's exhibit 52,
15 51, 53 and 54 and ask you if you're familiar with these items.

16 A. Yes. These are the bullets retrieved at autopsy on
17 Bobby Christofoli.

18 Q. Ultimately once you retrieved them from autopsy, did
19 you have a representative from the crime scene unit there and
20 present?

21 A. Yes.

22 Q. What did you do with those items?

23 A. They are sealed and signed and turned over to law
24 enforcement which was I think Shelby Derrick.

25 Q. Dr. Ross, what, if anything, did you determine

1 concerning the manner of death?

2 A. It was a homicide.

3 Q. What, if anything, can you tell us, Dr. Ross,
4 regarding the distance of these gunshot wounds meaning how far
5 away the victim was from that gun?

6 A. Yes. We are talking about a range of the bullet
7 wounds. When the bullet comes out of a gun, so does soot and
8 powder. But the soot and powder only goes a certain distance
9 whereas the bullet will continue on. If you see any evidence
10 of powder or soot, then you can get an idea that the gun, the
11 end of the gun was fairly close to the skin or the body that
12 we are looking at. I did not see any evidence of powder,
13 stippling or soot so I would say that the wounds were, the gun
14 was at least two feet away from the victim.

15 Q. All right. So these were not close range shots
16 within two feet?

17 A. Correct.

18 Q. When you say at least two feet, that would be the
19 minimum amount that the gun would have been away from the
20 victim, correct?

21 A. Yes.

22 Q. Could have been a greater amount?

23 A. Yes.

24 Q. Could it have been six to eight feet?

25 A. Yes.

1 Q. Or more?

2 A. Yes.

3 Q. Just to clarify, as you have noted these injuries,
4 Dr. Ross, starting at the top of the head and moving down do
5 you necessarily know the order that the gunshots were
6 sustained?

7 A. No. I do not.

8 Q. This is an example going head to toe?

9 A. Correct.

10 Q. Dr. Ross, based on your autopsy of Bobby Christofoli
11 can you tell us whether or not it's possible to sustain a
12 gunshot wound to the chest, then to the left arm, left neck,
13 then to the back?

14 A. Yes.

15 MS. MAYES: Nothing further.

16 THE COURT: Cross examination.

17 MR. STITELY: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. STITELY:

20 Q. Good morning, Dr. Ross. How are you?

21 A. Good morning. Fine, thank you.

22 Q. My name is Ben Stitely and I have a couple questions
23 for you. It shouldn't be too many. One thing the Solicitor
24 asked you, you said the manner of death in this case was a
25 homicide, correct?

1 A. Yes.

2 Q. Homicides can be justifiable though, too, under the
3 law, can't they?

4 A. Yes. The word homicide according to the Black's Law
5 Dictionary is just the taking of life by action or inaction.

6 Q. So it doesn't mean murder. It just means by some
7 action the individual was killed?

8 A. Correct.

9 Q. I wanted to clarify that. This is already in
10 evidence as State's number 39. Did you review any pictures of
11 the scene or is that not part of it?

12 A. I saw some. Yes.

13 Q. One similar to this one if not specifically this
14 one?

15 A. Yes. I did.

16 Q. Okay. Now, your testimony was when she asked if you
17 could make a turn while taking those wounds as long as you
18 were young and in no bad heart health, did you do an
19 examination of the individual's heart?

20 A. Yes. I did.

21 Q. Did you notice any specific heart defect?

22 A. No. I did not.

23 Q. So would that have qualified as someone in okay
24 heart health?

25 A. Correct. Yes.

1 Q. Age of the decedent was what?

2 A. 40, I believe. 42. I'm sorry.

3 Q. Particularly an old person as you define an old
4 person?

5 A. No.

6 Q. Okay. Now, you described that one of the things you
7 do is you do an inventory. Do you happen to have the
8 inventory of his clothing with you?

9 A. I do.

10 Q. Now, the Solicitor asked if you found any weapon.
11 What was actually inventoried out of his pocket though?

12 A. I don't have anything on his pocket. I have a blue
13 shirt, pair of blue jeans, a brown buckle belt, a pair of blue
14 underwear, brown boots, a camouflaged hat, and a green clip on
15 his belt.

16 Q. Do you know what that clip was to?

17 A. No. I don't.

18 Q. But it was down around his waist?

19 A. Let me look. I do have there was one, what I call a
20 marker and one - two small pieces of stone but no gun.

21 Q. So there was a decent sized cylindrical object at
22 his waist or somewhere, a marker or a Sharpie maybe with him
23 if when he got to you, it was there; is that fair?

24 A. Yes.

25 Q. Do the police typically just throw random objects in

1 or do they usually collect them is hopefully how they work in
2 your experience?

3 A. I'm not sure what you're asking.

4 Q. Typically if it's brought to you, that's how it
5 would have been found at the scene, correct?

6 A. Correct. Yes. Sometimes they go through the
7 pockets at the scene. Sometimes they don't.

8 Q. They wouldn't have added things to bring to you
9 though, correct?

10 A. No. No.

11 Q. You described the actual injuries mostly all coming
12 from the left side, correct?

13 A. Two of them. Yes.

14 Q. Two of them?

15 A. Yes.

16 Q. Specifically -- Well, you said the neck wound came
17 from the left side?

18 A. Correct.

19 Q. And the one you called fatal that came through the
20 arm also from the left side?

21 A. Correct.

22 Q. Judging by -- And I'll bring it closer so you can
23 see.

24 A. Okay.

25 Q. Which side would have been his left side as he's

1 laying there? His head is oriented towards the back.

2 A. It looks like it's upwards like that.

3 Q. His head was oriented towards the ambulance so which
4 would be his left side of his body, the side towards the road
5 or over here towards the grass?

6 A. I believe towards the grass.

7 Q. So if someone was in the grass, it would be more
8 likely to generate a shot to the left, correct? Into the left
9 side of an individual?

10 A. Yes.

11 Q. And you said that the wounds could be consistent
12 with someone making a turn and catching him as they were
13 turning. The Solicitor even did a little dance right there,
14 correct?

15 A. Yes.

16 MS. MAYES: Objection to that characterization, Your
17 Honor. Move to strike.

18 BY MR. STITELY:

19 Q. The Solicitor made a series of turning movements --

20 THE COURT: Overruled.

21 BY MR. STITELY:

22 Q. -- showing that, correct?

23 A. Yes.

24 Q. That's forensically consistent with, and tell me if
25 a person possibly going this way in the grass firing back at

1 an individual in the roadway as they were coming towards them
2 and then turning until the fatal wound was struck?

3 A. I wasn't at the scene. I don't know.

4 Q. Okay. Now, you said that there was no evidence of a
5 physical altercation by no head wounds or hand wounds,
6 correct?

7 A. Correct.

8 Q. Hypothetically nothing in that case would say that
9 there couldn't have been verbal threats, another weapon
10 pointed at someone, something along those lines?

11 A. I wouldn't be able to tell.

12 Q. You can just say that they didn't fist fight or get
13 punched in the head?

14 A. Correct.

15 Q. Nothing says that they couldn't have been
16 approaching in a threatening manner though?

17 A. Correct.

18 Q. Nothing that says they couldn't have been making
19 threats?

20 A. Correct.

21 Q. Nothing that says that he couldn't have been armed
22 to the teeth with a machine gun?

23 A. Correct.

24 MR. STITELY: Nothing further. Thank you, Dr.
25 Ross.

1 REDIRECT EXAMINATION

2 BY MS. MAYES:

3 Q. Let me follow up on some of that, Dr. Ross. He's
4 asking you about an inventory of clothing. Is that something
5 that you did?

6 A. Yes.

7 Q. And you make notes in that regard?

8 A. Yes.

9 Q. You mentioned that he had what items on his
10 person?

11 A. He had on a blue shirt and a pair of blue jeans and
12 a brown belt, a pair of brown boots, camouflaged hat, some
13 sort of green clip on his belt and also in his pockets I see
14 there was some marker, I think an ink marker and then two
15 small pieces of stone.

16 Q. Are you familiar with soap stone used by
17 pipefitters?

18 A. Somewhat. Yes.

19 Q. Now, as to the scenario that Mr. Stitely was asking
20 you about, regardless of which direction the first shot came,
21 you found no evidence of stippling or powder burns on the
22 victim, correct?

23 A. Yes.

24 Q. Meaning that gun was at least two feet or greater
25 away from Mr. Christofoli, correct?

1 A. Yes.

2 MS. MAYES: Nothing further.

3 MR. STITELY: I do have a follow up to that,
4 Judge.

5 THE COURT: All right.

6 RECROSS EXAMINATION

7 BY MR. STITELY:

8 Q. It could have been two feet and one inch?

9 A. Yes.

10 Q. And isn't possible that his clothing could have
11 absorbed any of that residue that could have happened?

12 A. Usually you can see some powder. We didn't see
13 that. We sent the clothing to SLED for their examination, but
14 the one on the neck didn't have any overlying clothing. There
15 was no stippling on that one.

16 Q. But you can't say if they were from me to you, from
17 me to the court reporter or from you to the court reporter
18 which is more than two feet, correct?

19 A. Correct.

20 MR. STITELY: Nothing further.

21 THE COURT: All right. Thank you, Dr. Ross.

22 MS. MAYES: Your Honor, can she be excused at this
23 time?

24 MR. STITELY: No objection.

25 THE COURT: All right.

1 MS. MAYES: Nothing further, Your Honor. At this
2 time the State will rest.

3 THE COURT: All right. Ladies and gentlemen, the
4 State has completed their presentation of evidence at
5 this time and I understand that lunch has arrived so we
6 will take a lunch recess and don't talk about the case.
7 Continue to keep an open mind. Thank you very much.

8 (Whereupon, the jury entered the jury room for lunch
9 recess at 12:30 p.m.)

10 THE COURT: Any motions at this stage?

11 MR. STITELY: Yes, sir. The defendant makes a
12 motion for directed verdict. The evidence as a whole is
13 insufficient as a matter of law to proceed forward to a
14 jury.

15 THE COURT: All right. Thank you. I find that
16 there is sufficient evidence in the record in view of a
17 light most favorable to the State that would allow the
18 jury to find beyond a reasonable doubt the elements of
19 each crime. I can't weigh the evidence, of course. I
20 just have to determine whether it exists, but I do find
21 within the meaning of rule 19 that directed verdict
22 should be denied based on the record as it now stands.

23 MR. STITELY: We would just ask protecting the other
24 previous rulings at this time as well.

25 THE COURT: Yes, sir. Any other motions or matters

1 at this time?

2 MS. MAYES: Nothing from the State, Your Honor.

3 THE COURT: How many witnesses do you intend to
4 have?

5 MR. STITELY: We're gonna discuss that if you can
6 give us a few minutes, Judge.

7 THE COURT: All right. Well, we can go ahead and
8 take a lunch break now and let you do that.

9 MR. STITELY: I don't envision going past this
10 afternoon if that's what you're asking, Judge.

11 THE COURT: Okay. All right. We'll just take about
12 45 minutes.

13 MR. STITELY: Yes, sir.

14 THE COURT: Okay. In terms of the defense of
15 habitation, tell me, Mr. Stitely, what the evidence is
16 that would support charging that in terms of the decedent
17 ever entering the property of Mr. Geisendorff.

18 MR. STITELY: It would be our position, Your Honor,
19 and I'm using number 39 because it's the best picture we
20 have, through the testimony of everyone who has come
21 through there is a heel print followed by a footprint
22 showing my client proceeding back this way. Even Dr.
23 Ross' own testimony indicates that the shooting must have
24 come from the left side. If you're just judging by the
25 position of where the body fell and multiple witnesses

1 have said that he couldn't have gone too far, there is no
2 way, if he's more than two feet away, he could have been
3 anywhere than on his own property. It would be our
4 position that my client is retreating onto his property.
5 He is being followed. The shooting itself occurs on my
6 client's property where he resides, stopping the
7 individual who is a trespasser at that time from coming.
8 There is no testimony showing that the shooting would
9 have come from the left side in the roadway. Even Dr.
10 Ross said it would have come from more than two feet over
11 and that puts him in the grass of his property.

12 THE COURT: Puts who in the grass?

13 MR. STITELY: My client.

14 THE COURT: What about the decedent?

15 MR. STITELY: It's our position he was attempting to
16 get onto the property where my client was on his
17 homestead.

18 THE COURT: Wouldn't there be some evidence that he
19 had breached that property boundary?

20 MR. STITELY: Your Honor, there's footprints all the
21 way up in here continuing all the way down to here and
22 it's our position and my client even said he was coming
23 at me, I was retreating backwards, he continued to come,
24 I fired. It was him or me. That would be our position,
25 Judge.

1 THE COURT: Okay. The State's position would be?

2 MS. MAYES: Your Honor, we are opposed. There's
3 absolutely no evidence in the record to support that.
4 There has been absolutely no testimony from any witness
5 that the victim was ever on that property. Every single
6 witness has been consistent that he was in the roadway
7 where he was seen by every witness in this case and then
8 finally he's found in the roadway deceased. There's not
9 even circumstantial evidence that puts him on the
10 property of the defendant. We strongly oppose a charge
11 on habitation, Your Honor.

12 MR. STITELY: The whole property is both houses
13 where he had been on the whole day by all accounts. The
14 whole piece of property, not just one house or the other,
15 is owned by Ms. Blanchett through her own testimony. He
16 was asked to leave the entire piece of property.

17 THE COURT: Well, I understand, but based on, I
18 mean, he was a guest of the occupier or renter of the
19 other dwelling that was on the adjoining parcel or the
20 part divided by the woods. That occupier was
21 Mr. Williams. I understand your position. I'll mull it
22 over during the lunch break and we'll see y'all back in
23 court.

24 MS. MAYES: Your Honor, just to follow up a little
25 bit more. In regards to scheduling, prior to the last

1 few witnesses defense had indicated on the record that
2 they were not requesting a charge of voluntary
3 manslaughter and that it was a strategic decision. The
4 State does not oppose that obviously and the State is not
5 submitting or requesting a submission of voluntary
6 manslaughter. So with that being the case, at what point
7 do we want to go ahead and plan on the charges before the
8 jury being finalized and proceeding with closing
9 arguments, if we come back after lunch and the defendant
10 does not testify? Would we go forward at that point?

11 THE COURT: Yes.

12 MS. MAYES: I'm inquiring as to the Court's intent.

13 THE COURT: If we come back after lunch and the
14 defendant decides not to testify, we'll have the closings
15 at that time and then the charge.

16 MS. MAYES: All right. If that's the case, Your
17 Honor, it is 12:35 now. I would ask for at least until
18 1:30.

19 THE COURT: Okay. Fair enough.

20 MR. STITELY: And, Judge, we discussed it
21 additionally during the break. I firmed up we do not
22 intend to ask for the lesser included.

23 THE COURT: Mr. Geisendorff, you're still under
24 oath, sir. Do you understand that --

25 MR. GEISENDORFF: Yes, sir.

1 THE COURT: -- decision? And you agree with it?

2 MR. GEISENDORFF: Yes, sir.

3 THE COURT: You don't want the jury to consider the
4 lesser included defense of manslaughter?

5 MR. GEISENDORFF: No, sir.

6 THE COURT: All right. Do you have any questions of
7 me about that?

8 MR. GEISENDORFF: No, sir.

9 THE COURT: All right. Thank you, sir.

10 MR. STITELY: Thank you, Judge.

11 MR. GEISENDORFF: Thank you, Your Honor.

12 THE COURT: Okay.

13 (Lunch recess.)

14 BAILIFF: All rise. Court is now back in session.

15 THE COURT: Thank you. Please be seated. Yes,
16 ma'am.

17 MS. MAYES: We are just getting some exhibits in
18 order, Your Honor. Should be ready any minute now.

19 THE COURT: Is there --

20 MS. MAYES: I was going to ask if we could see the
21 Court's reasonable doubt charge.

22 THE COURT: Yes. What about the defense?

23 MR. STITELY: We are not going to put up a defense,
24 Judge.

25 THE COURT: Okay. The habitation request to charge,

1 again going back to that, what evidence does either side
2 see as to any testimony or other evidence that would
3 support the jury finding that there was an imminent
4 attack on Mr. Geisendorff on the property he was
5 occupying? And what evidence was there that he could
6 step into the shoes of Ms. Blanchett? And what evidence
7 was there that he knew about her asking the decedent to
8 leave? I know that's three questions.

9 MR. STITELY: Yes, sir. First, he was residing
10 there for the past year and a half lawfully so. She
11 described it as all kinds of different relationship, but
12 he was living there. I think that's why I would consider
13 him to be a part and parcel permanent tenant to the
14 property.

15 The second question was, I believe Ms. Blanchett
16 said that when she went up there, she admitted she had
17 told him to go and she even said it was in response to
18 Mr. Geisendorff saying that they were having some kind of
19 ongoing problem. They were making fun of him. She did
20 make it abundantly clear she told him to go.

21 The imminent threat once again is even through Dr.
22 Ross' testimony, through the statements that my client
23 made that were elicited through the CSI, there is a
24 factual probability that could present to the jury that
25 he was on his property being threatened by an individual

1 who had already come up to him on more than one occasion.
2 That's further corroborated by the statements of Ms.
3 Blanchett in her written statement which was used for
4 impeachment that Bobby came up and kept egging Billy on.
5 She later tried to retract that, but it was definitely
6 brought out through cross examination.

7 Additionally, the fact that he was on his property,
8 he had a right to be there, the other individual even as
9 a guest of Mr. Williams ultimately was told to go by the
10 landowner and she made that abundantly clear during her
11 testimony it was her property and he was staying there
12 with his girlfriend, I don't think they presented any
13 kind of land lease or anything like that, she said it's
14 all my property and she told the gentleman to go. He's
15 there. Even if you were just to believe making the
16 incendiary remarks that Mr. Williams said, come out
17 here in the roadway, he's trying to beg a fight and
18 that's their witness, Judge.

19 THE COURT: Okay. Ms. Mayes.

20 MS. MAYES: Yes, sir, Your Honor. Mr. McNair.

21 MR. McNAIR: Your Honor, I think Ms. Blanchett
22 testified that although she did own that property, that
23 she knew she didn't have a right to eject a guest of
24 Michael Williams. That property was treated as Michael
25 Williams' and his girlfriend Lynn's property so she

1 didn't have a right to eject him as a trespasser and
2 there is no evidence whatsoever that the defendant was
3 ever trying to eject him as a trespasser. There is no
4 evidence that he knew what Donna Blanchett had done or
5 that he was telling the victim to leave the property. So
6 that's just disingenuous to even say that there's no
7 evidence of that whatsoever.

8 And lastly, this incident occurred in the roadway
9 which nobody owns; that he did not have a right to eject
10 somebody as a trespasser.

11 MR. STITELY: Judge, that was in her statement
12 I went over with her I think at least twice. I was so
13 upset with everything going on, I yelled at Bobby to get
14 off my land and go home.

15 MR. McNAIR: And she said that she just wanted him
16 to leave to help defuse the situation, not that she felt
17 she had the legal right to eject him as a trespasser.

18 MR. STITELY: I told him it was my land and he
19 should go home. He did not leave and I walked back home.
20 She clearly attempted to eject him and she yelled it loud
21 enough for anyone to hear.

22 MR. McNAIR: There has been no evidence whatsoever
23 that Bobby Christofoli ever stepped foot in his yard.
24 None at all.

25 THE COURT: Yes. I understand that.

1 MR. McNAIR: There's been no testimony that he tried
2 to follow the defendant into his yard. And furthermore,
3 Judge, another issue, Mr. Stitely on his cross of Officer
4 Hickman was asking him a series of questions about
5 statements that his client allegedly made to a Officer
6 Gilland. Those statements are not in evidence. They
7 should not be referred to in closing. Those were
8 statements made by Mr. Stitely, not by any witness on the
9 witness stand.

10 MR. STITELY: They are in evidence, Judge. The
11 officer testified he had a copy of that report. He
12 reviewed it and I asked him to confirm if that was indeed
13 what he used in making his decision as an expert.

14 MR. McNAIR: He did not say he relied on that, Your
15 Honor.

16 THE COURT: Well, the State does concede that there
17 is sufficient evidence to charge self defense, don't
18 they?

19 MR. McNAIR: We concede there is slight evidence
20 that would warrant a charge for self defense but I don't
21 think -- That means there should be a charge of
22 habitation.

23 THE COURT: How could there not be if there is
24 evidence of self defense?

25 MR. McNAIR: Because self defense would apply to any