

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari - PCR - Common Pleas - Other
APPEAL FROM HORRY COUNTY
Common Pleas Court
Honorable H. Steven DeBerry, IV

Appellate Case No. 2023-000747
Trial Court Case No. 2020-CP-26-4711

Marquis McDonald , Petitioner,

v.

The State of South Carolina , Respondent.

APPENDIX
VOLUME I

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1 STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY) CASE NO.: 2020-CP-26-4711

3 ***CERTIFIED ORIGINAL***

4 -----

5 November 29, 2022

6 **BEFORE:** The Honorable H. Steven DeBerry, IV

7 -----

8 MARQUIS McDONALD,

9 Applicant,

10 vs.

11 THE STATE OF SOUTH CAROLINA,

12 Respondent.

13 -----

14

15 APPEARANCES:

16

17 C. Rauch Wise, Esq.
18 Stephen D. Geoly
19 Appearing for the Applicant.

19 Chelsey F Marto, Esq.
20 Appearing for the Respondent.

20

21

22

23 Natalie Dahl, RPR
24 Registered Professional Reporter,
25 State of South Carolina Official Court Reporter

I N D E X

APPLICANT'S WITNESSES:

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1 NOTE: Pursuant to Rule 607 (h)(1)(B), SCACR "A COURT
2 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
3 FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."
4 All requests for a copy of the enclosed transcript
5 shall be sent to: Natalie Dahl, RPR
6 P.O. Box 762
7 Conway, SC 29526

8
9 P-R-O-C-E-E-D-I-N-G-S

10 MS. MARTO: We are here on Marquis versus South
11 Carolina, 2020-CP-26-4711. He's presently confined in
12 the South Carolina Department of Corrections. He was
13 indicted for murder in April 2013. He was later
14 indicted for armed robbery in September 2014. He went
15 to trial before Judge Dennis on October 6, 2014. He
16 was represented by Greg McCollum. The prosecutors were
17 Bradley Richardson and Travis Hyman. The jury
18 convicted Applicant on both charges on October 9, 2014,
19 and he was sentenced to 45 years for murder, and 30
20 years for armed robbery. A timely notice of appeal was
21 filed and perfected. On appeal, Applicant argued trial
22 court erred in permitting AT&T records custodian to
23 testify to the location of cellular phones without
24 qualifying him as an expert; that the trial court erred
25 in allowing the SLED agent to testify to the location
 of the phones without qualifying her as an expert; and
 it also erred on ruling on the admissibility of
 Applicant's prior felony convictions. These were
 rejected, and the remittitur was sent July 28, 2017. A

1 PCR application was filed August 11, 2020. The State
2 filed a motion to dismiss for untimeliness, and a
3 motion to dismiss hearing was held before Judge
4 Culbertson. He effectively denied the State's motion
5 to dismiss with the opportunity to renew. Based upon
6 what we discussed in chambers how the Applicant wasn't
7 notified of the ending of his direct appeal, the State
8 is willing to drop the motion to dismiss and is
9 requesting this Court to proceed forward with a full
10 hearing today. With that, I'll turn it over to
11 Mr. Wise.

12 MR. WISE: That is correct. We filed an amended
13 application, which we sent to the State back in
14 September. We got our client to sign it today, and I
15 would like to formally file it with the -- you, the
16 clerk, you can get that filed?

17 THE CLERK: Yes, but don't you E-file?

18 THE COURT: No.

19 MS. MARTO: We don't E-file PCR.

20 THE CLERK: I can get it filed. I will have to
21 go down and clock it.

22 MR. WISE: Oh, you don't have to do it right now.
23 I'll just leave it with you.

24 But that is the amended complaint of the
25 application that raises the issues we have. The State

1 has had it since about September.

2 THE COURT: All right.

3 MR. WISE: With that, we would call Dr. Brent
4 Turvey.

5 THE COURT: For the record, let's place on the
6 record who is here for the Applicant.

7 MR. WISE: My name is Rauch Wise. I gave the
8 court reporter my card. And this is Steve Geoly.

9 THE COURT: Thank you.

10 If you will, place your left hand on the Bible
11 and raise your right hand.

12 (BRENT TURVEY, having been duly sworn,
13 testified as follows:)

14 THE COURT: State your name for the record.

15 THE WITNESS: My name is Dr. Brent Turvey,
16 B-R-E-N-T, T-U-R-V-E-Y.

17 DIRECT-EXAMINATION

18 BY MR. WISE:

19 Q Where are you from?

20 AI'm from many places, but I'm from Sitka,
21 Alaska.

22 Q And can you tell us about your educational
23 background.

24 ACertainly. I have a bachelor's degree in
25 history. I have a separate bachelor's degree in

1 psychology. I hold a Master's of Science in forensic
2 science, and I have a Ph.D. in criminology.

3 Q And when did you obtain your Ph.D. in
4 criminology?

5 A I started the program in Bond in 2009, and I
6 believe I received it in November of 2011.

7 Q That is out of where?

8 A In the Gold Coast of Australia.

9 Q How did you end up getting a Ph.D. from
10 Australia?

11 A In 1999, I was teaching there as a guess
12 teaching fellow. They had -- they started using a
13 number of my textbooks in their criminology program.
14 They have an exceptional -- at the time, they had an
15 exceptional miscarriage of justice program. Over the
16 years, I spent a month each year for approximately ten
17 years from 2000 to 2010 in Australia teaching in their
18 program, so they invited me to do the Ph.D. there.

19 Q That was a learned degree?

20 A Absolutely. It took three years. It involved
21 doing a dissertation and defending that dissertation,
22 involved a teaching requirement on-site. Eventually,
23 after I published the dissertation, I edited it and
24 turned it into a textbook.

25 Q You mentioned that you do some teaching; what

1 other teaching experience have you done?

2 AQuite a bit. Let's see. I served as an adjunct
3 professor with Oklahoma City University for quite a
4 few years. We started the Forensic Criminology
5 Institute not too long ago. Without looking at my
6 resume, I think that was five or six years ago. That
7 program partners with Cienca Aplicada in Latin
8 America. We have a fully accredited master's degree
9 in forensic criminology.

10 Q And do you teach at any seminars and places like
11 that?

12 AQuite a few, yes.

13 Q And what is the nature of that lecturing?

14 ADepends. I get invited -- the last thing I just
15 did was a lecture at a university in India online.
16 They have a national forensic science institute there
17 that once a year they have a conference they invite me
18 to speak. But, for example, last month I was in Costa
19 Rica training the investigators who work for the
20 supreme court through United Nations in concert with
21 the U.S. Embassy. United States funds education and
22 training initiatives for criminal justice
23 professionals all over the world, and I'm heavily
24 involved in working with both the United Nations and
25 the U.S. Embassy giving training to those agencies and

1 organizations. Generally, they are investigators for
2 the court or investigators for attorney general
3 offices. I've done that quite a bit. I mean, we
4 could spend days talking about that.

5 Q You said you have done work for the United States
6 government with foreign countries; what is the purpose
7 of that?

8 A Well, the United States has a heavy investment
9 in ensuring that other nations where we have heavy
10 ex-patriot populations have solid justice systems, and
11 that requires good training, good education relating
12 to criminal science and criminal investigation. We do
13 certification training and individual seminars; but,
14 for example, the one that we just finished in Costa
15 Rica was a three-week training event, two weeks online
16 and one week on site. We did the same thing with the
17 USA and the United Nations for a four-month period for
18 the attorney general's office in Columbia in 2020, and
19 that resulted in us helping rewrite their
20 investigative protocols for sexual homicide
21 investigations in accordance with their state law and
22 helping to change their constitution.

23 Q You mentioned a lot about training, but we
24 haven't talked about what do you train people to do
25 that is related to this case?

1 ASure. Essentially, what I do is crime
2 reconstruction and crime scene analysis. Crime scene
3 analysis has three components: One is the crime
4 reconstruction component where you look at the
5 physical evidence to determine precisely what
6 happened; the second part is forensic victimology to
7 determine the context of what happened and where the
8 vulnerabilities and threats are; then another part is
9 modus operandi analysis where you are looking at the
10 decisions made by the offender during, before, and
11 after the commission of the crime to answer certain
12 investigative questions. Essentially, that is my job,
13 to give them training to do that. When I'm not
14 working cases, which I maintain a caseload of about 30
15 to 34 at any time, I'm training investigators,
16 forensic scientists, criminologists, and even
17 psychologists.

18 Q And it is basically about crime scene
19 investigation?

20 AYeah. So crime scene investigation -- and I
21 would like to be clear what that is, because I think
22 most people have a bad idea of what it is. Crime
23 scene investigation refers to the process around
24 investigation the evidence related to a crime,
25 obviously; but it is broken down into component parts.

1 Because of movies and television, we have a very poor
2 understanding of what that is. Most people think it
3 is one job; it is not, it is about five. Crime scene
4 processing is what most people think of when they
5 think of crime scene investigating; that is the law
6 enforcement response to the scene where they protect,
7 document, collect, and transport evidence to the lab.
8 Then another part of crime scene investigation is the
9 laboratory work which is where the evidence is
10 physically tested. In a homicide case, it could
11 include the autopsy and toxicology. With a sex
12 assault case it could include the medicolegal part.
13 Then, there is another part on top of that, which is
14 reconstruction.

15 So crime scene investigation refers to a process,
16 a system of interrelated professionals who are doing
17 work related to the crime scene. Crime scene
18 investigation has come to take this idea it is just
19 police officers working collecting evidence, and that
20 is not correct; that is crime scene processing. So I
21 do teach crime scene investigation, and I do conduct
22 crime scene analysis. That is essentially what I do
23 for a living.

24 Q Have you published in this field?

25 A Many times.

1 Q And could you give us, basically, a summary of
2 some of your publications?

3 A Certainly. In terms of textbooks, my textbooks
4 are used at colleges and universities all over the
5 world. I have published about 19. I published a
6 textbook starting in 1999 on crime reconstruction with
7 my co-author, Jerry Chisum, who is a retired
8 Department of Justice criminalist in California. We
9 are now in the second edition in that. I published a
10 textbook called *Forensic Investigations* with a guy
11 named Stan Crowder. He is a retired colonel with the
12 Office of Inspector General in Georgia. Recently, we
13 just published the fifth edition of *Criminal*
14 *Profiling: An Introduction of Behavioral Evidence*
15 *Analysis*. The Ph.D I wrote was actually a Ph.D.
16 called *Forensic Fraud*. This was examining, sort of,
17 fraudulent examiners in my profession and the nature
18 and extent of what they do and how many there are, how
19 often it occurs, and the types of frauds that occur.
20 Those are just the highlights.

21 Q Have you published beyond books; articles?

22 A Yes, I have.

23 Q Have you testified in the courts in not only the
24 United States, but around the world over the years?

25 A Yes, I have.

1 Q And about how many courts would you say you've
2 testified in in the United States?

3 AHow many courts?

4 Q Well, yeah.

5 AI've testified -- I can give you a number --
6 I've testified more than 50 times in the United
7 States.

8 Q And you've been qualified as an expert?

9 AEvery time.

10 Q In what field?

11 AUsually, it is going to be in forensic science,
12 crime scene analysis, modus operandi, sometimes what
13 is referred to as "linkage analysis," because I work
14 serial cases, serial rape and homicides. Also,
15 primary construction as it relates to presumptive
16 testing like blood testing, firearms and toolmarks,
17 anything related to physical evidence. It is quite
18 extensive.

19 Q I'll hand you this. I believe it is a 41-page
20 document. Do you recognize it?

21 AI do.

22 Q What is that?

23 AThis is the most recent version of my curriculum
24 vitae.

25 MR. WISE: I'll introduce this as an Applicant's

1 exhibit. The State has a copy.

2 (Applicant's Exhibit 1 marked.)

3 MR. WISE: Your Honor, I would like to offer
4 Dr. Turvey as an expert in crime scene analysis and
5 reconstruction.

6 MS. MARTO: No objection, Your Honor.

7 THE COURT: All right. I find that Dr. Turvey is
8 recognized as an expert in crime scene analysis and
9 reconstruction based on his skill, knowledge,
10 education, and training. Thank you. Applicant's 1 is
11 admitted.

12 (Applicant's Exhibit 1 admitted.)

13 Q (MR. WISE:) Tell us how you became involved in
14 the case of Marquis McDonald.

15 AYou called me.

16 Q All right. What did -- what did you request from
17 me before you performed any opinions?

18 ARight. I have a standard request for material
19 that I submit to all of my clients.

20 Q Do you have a copy of your report?

21 AI do not.

22 Q Okay.

23 (A brief pause in the proceedings.)

24 Q Is this your report?

25 AIt is. Yes, it is.

1 MR. WISE: I would like to introduce this one for
2 the Court to follow along with.

3 THE COURT: I understand. Is there any
4 objection?

5 MS. MARTO: No objection.

6 (Applicant's Exhibit 2 marked and admitted.)

7 Q (MR. WISE:) Tell us, if you would, what you
8 requested from me to do this -- to analyze this case?

9 ACertainly. And let's back up and say that when
10 you contacted me, you said you had a shooting case,
11 and I work quite a few shooting cases. In my caseload
12 right now, it is about 50/50; 50 percent shooting
13 cases, 50 percent sexual homicide or sexual assault
14 cases at the moment. I have a standard request that I
15 make. When it is a shooting case, I try to stick just
16 to the crime scene. I'm not really interested in the
17 soap opera variables, if you will. I only care about
18 the physical evidence at the scene. So I'm interested
19 in the crime scene processing efforts, the crime scene
20 photographs, the police investigation as it relates to
21 the crime scene. In this case, since there was a
22 death involved, there is an autopsy report, so I'm
23 interested in autopsy photos and anything that
24 directly relates to witnesses or physical evidence
25 associated with the crime scene itself.

1 Q What did you get and receive in this case? I
2 believe it is listed in your report.

3 AIt is. In general, I received the autopsy
4 reports that were available at the time, crime scene
5 photos that were available at the time. I received
6 autopsy reports, investigative reports, the complete
7 trial transcript, which I was able to review that with
8 the other forensic personnel that were involved, as
9 well as some of the officers that were involved. Also
10 -- I'm trying to think. There are multiple vehicles
11 involved in this case, so we have the photos at the
12 scene and the photos at the lab that were taken,
13 interior and exterior. That is generally what I asked
14 for.

15 Q Were there a lot of pictures taken in this case?

16 ANo, not really.

17 Q I mean, how many pictures did you review?

18 AI would say a couple hundred.

19 Q You don't think that is a lot?

20 AThat is not even close to a lot. For as many
21 vehicles -- when you have a homicide -- I mean, back
22 in the old days you could say you have to worry about
23 film and all of that, but the way we were trained
24 starting in the late '90s, it is digital and there is
25 no reason not to take a bunch of photos of everything,

1 because you only have one shot. At that one shot, you
2 want to document as much as you can. So a couple
3 hundred photos of a homicide scene with multiple
4 vehicles, it doesn't seem like a lot to me.

5 Q It just seemed like a lot to me.

6 Did you have any hypothesis or understanding what
7 the State's theory was in this case before you started
8 reading it, or did you read it first?

9 AI always like to -- when I'm doing a
10 post-conviction case, I always like to read the
11 appellant decision first, not the decision about the
12 law, because I could care less about that. I want to
13 see what the factual summary is. I want to see what
14 the Court agreed the fact pattern is. I always ask my
15 clients: What is your thumbnail? What is alleged by
16 the State? What is being alleged by your client?
17 That gives me a general guide of what people are
18 saying happened. None of that really matters to me
19 when I do my analysis other than it gives me an idea
20 how well they understand the evidence. Because,
21 invariably, anyone who is looking at the evidence is
22 going to misinterpret it, misunderstand it, and they
23 are going to think things happened that didn't, or
24 misconceive what they are looking at; so it is a
25 guide. So I try to get that information first.

1 Q So what was your understanding of the basic
2 theory of the State's case here?

3 AWell, my basic understanding is that the
4 defendant was the shooter, and that the shooting took
5 place, essentially, outside of the vehicle.

6 Q Okay. What did you start looking at first to
7 make your analysis?

8 AWell, first thing I like to do is read the
9 autopsy report; that is my go-to. The autopsy report
10 sort of gives you a baseline of when -- like in a
11 shooting case, and every case is different, but in a
12 shooting case I like the autopsy report because that
13 gives you a sense of the bullets received by the body
14 of the victim. So you have a sense of what position
15 they could have been in, the range it could have been,
16 a sense whether there is physical evidence, distance
17 determination, and it might be helpful to explain what
18 a shooting incident reconstruction involves, perhaps.

19 Q Did you -- what did you find in relation to
20 pictures as it relates to the deceased in this case?

21 AWell, we have the -- there is nothing from the
22 scene, obviously, that I saw. It is all at the
23 autopsy. So you have it all -- you know, just him in
24 a supine position on the table with the photographs
25 taken of his injuries.

1 Q Did you notice anything that you thought was of
2 significant probative value concerning his hand?

3 AYes, I did.

4 Q What was that?

5 AWell, there is an jury to his hand, I believe it
6 is the right -- yeah, right hand.

7 Q That is pictured on what page of your report?

8 APage 3. There is a discussion -- my report
9 describes the forensic issues that I identified in
10 this case, and the first issue is the -- what is
11 described in the autopsy as a laceration to the
12 interior or the right palm of the right hand. What is
13 interesting to me, as you asked, is that there appears
14 to be what could be black sooting in that injury, and
15 that would tend to suggest perhaps contact with it
16 being up close to a firearm when it is being fired.

17 Q Do you recall how Dr. Proctor described that
18 wound in his testimony?

19 AYes, I do. I believe he described it accurately
20 as "defensive wound." This is very common in a
21 shooting case when someone has a gun pointed at them,
22 they put their hand up.

23 Q You agreed with that?

24 AAbsolutely. That is a reasonable description of
25 what we're looking at.

1 Q So what else did you look at next? What else --
2 did that tell you anything else about that case?

3 AWell, it tells you that -- several things. If
4 this is black sooting, if this is a defensive injury
5 as the medical examiner describes, you are saying that
6 the victim is close enough to the shooter to receive
7 the sooting, close enough to receive gunshot residue
8 on their hand, close enough to have some contact with
9 the firearm, potentially, that could cause that
10 injury, unless it is the projectile causing it. It's
11 close enough to receive the sooting, and that there is
12 nothing in between the shooter and the hand. So there
13 is nothing blocking it like a seat or door or
14 something.

15 Q Did you look at the pictures of the interior of
16 the car?

17 AYes, I did.

18 Q And what page are those on in your report?

19 AStarts on the second item, Page 4.

20 Q And what did you -- what conclusions did you draw
21 from those?

22 AWell, the crime scene personnel, where they are
23 processing the scene as though it was a shooting
24 incident, and rightly so. They were setting up
25 measurements to measure what they thought were

1 projectile entry and exit sites on the seat, on the
2 driver's seat. Also, they put in place what we call
3 -- laughingly we call them "forensic rods." You can
4 get them at, like, Home Depot for like 50 cents, or
5 supply stores for, like, ten bucks. But the reality
6 is they are designed to help you infer the trajectory
7 of projectiles as they pass through objects and
8 material.

9 Q Is that a common practice in shooting cases?

10 AOh, yeah. It's not only standard, it is -- it's
11 -- I wouldn't say it is best practice, but it is good
12 practice.

13 Q And what did you conclude from those dowel rods?

14 AWe have a trajectory that suggests a shooting
15 taking place from the front seat to the back seat. It
16 suggests the position of the shooter, the target, and
17 it suggests the shooting took place -- at least part
18 of it -- inside the vehicle.

19 Q And what did you conclude concerning the position
20 of the shooter from those dowel rods?

21 AWhat I concluded is that it is more reasonable
22 to infer it came from the passenger's seat. The
23 person from the passenger's seat turning around
24 right-handed and shooting into the back seat, behind
25 the driver's seat. The word I use is "unreasonable."

1 You would have to contort yourself all the way around.
2 If you are using your right hand, you couldn't do it
3 without turning your whole body around; it makes no
4 sense. If you are using your left hand, you still
5 have to do a massive contortion to do that shot. It
6 is not a reasonable thing to infer and not something
7 that someone could -- they could easily escape from.
8 They would know it was coming. It would take quite a
9 bit of time in the -- how do I put this? It would
10 take more time to do that, enough time that the person
11 would see it is coming and see if they could get away
12 from it. It would make no sense for the person in the
13 driving seat to do that. This shot is much more
14 reasonable and much more consistent with someone
15 shooting from the passenger's seat.

16 Q Did you find any other gunshot evidence inside
17 the vehicle?

18 AYes. In the passenger's left-side door, they
19 recovered a projectile consistent with the gunshots.

20 Q Consistent with what the dowel rod showed?

21 AYeah; that the gun is being fired inside and
22 consistent with the trajectory.

23 Q Did you see pictures of the vehicle next to the
24 car that was driven or used by Mr. McDonald?

25 AYes, I did.

1 Q And what did you observe there?

2 A Well, we have -- this is going to be on page --
3 let me get my glasses on, my apologies. I've reached
4 that age.

5 THE COURT: No problem.

6 A So this is on Page 6. You could see that this
7 is the white Hyundai we're referring to, and there is
8 damage on the exterior base of the vehicle on the rear
9 passenger's side. That appears to be consistent -- if
10 anyone has driven a car for any length of time or had
11 one in a parking lot, we know what this looks like; it
12 is a car door opening or something like that that is
13 chattering along the bottom. It looks like a scrape.

14 Q Was that damage noticed by the crime scene
15 investigators also?

16 A I believe it was. They noted it, but I didn't
17 see any pictures with placards with it or anything
18 like that.

19 Q What other damage did you see to the vehicle next
20 to you?

21 A Two bullet holes.

22 Q All right. And where were they?

23 A Those were in the same door, but up above the
24 handle.

25 Q You are on page what of your report?

1 A Page 7.

2 Q Go ahead.

3 A So these were very interesting to me because of
4 the angle of entry. Now, in a case like this, in
5 order to establish the angle, you would need to use
6 lasers or string or rods. Before, when I said rods
7 are good practice, but not the best practice, it's the
8 way we used to do things. Lasers and strings are
9 better because when you use them, you are not going to
10 damage the material that you are examining. You stick
11 a rod in it, you essentially damage stuff and remove
12 paint and stuff like that. You can actually twist and
13 contort the metal or damage the paint and get rid of
14 gunshot residue that you might be testing for later
15 on.

16 But I don't see that they did anything other than
17 take the photographs and put some measures in place.
18 What is important is they appeared to have been
19 received at an upward angle. So the person shooting
20 these shots came from an angle lower than the actual
21 projectiles that were received by the vehicle. So it
22 wasn't someone standing or coming from above, it was
23 in an inferior position.

24 Q Is that an observation you made from looking at
25 the pictures?

1 AYes.

2 Q And is it an observation that was made by the
3 crime scene people?

4 AYes.

5 Q So what else did you observe that you found at
6 the scene that impacted your opinion?

7 AWell, if we go to the next page, it's what is
8 outside of the suspect's vehicle's driver's door, and
9 that is the cell phone. It was found on the ground
10 next to a shell casing -- or nearby a shell casing.

11 Q Did you determine from the file whose cell phone
12 that was?

13 AYes.

14 Q Whose was it?

15 AThe defendant's.

16 Q And there was one shell casing?

17 AThat's right, one extended shell casing.

18 Q Were there reports on multiple shots in this
19 case?

20 AThat is my understanding.

21 Q The victim in this case had three bullet holes?

22 AAt least.

23 Q Were you able to draw any conclusions as to the
24 position of the shooter and the position of the
25 deceased based upon your analysis of all of these

1 factors that you testified about?

2 AYes.

3 Q What was that conclusion?

4 AWell, the first one is that the shooting took
5 place inside the vehicle.

6 Q Why is that?

7 AThat is because that is where we have all of the
8 damage from the projectiles; that is the first thing.
9 That places -- in my opinion, that places the shooter
10 in the passenger's seat, and that places the target,
11 the victim, the decedent in the rear passenger's seat,
12 and that is consistent generally with all of the
13 witness statements we have about what occurred that
14 night and the placement of seating that night of the
15 victim.

16 Q Was there anything else that led you to believe
17 that Mr. McDonald was the driver of the car?

18 AOther than -- well, the cell phone being
19 immediately outside of the driver's side. So if
20 someone is trying to leave a vehicle where a shooting
21 is taking place to get safety or out of surprise, or
22 for whatever reason, dropping the cell phone is
23 consistent with him exiting on that side from that
24 particular door.

25 Q There was one shell casing found outside?

1 A That's right.

2 Q What significance did you attach to that one
3 shell casing?

4 A It is interesting to me that we found no other
5 shell casings in association with this case, and that
6 the vehicle was not recovered until three, four days
7 later, is my understanding. So it makes sense that
8 the vehicle, when it was recovered, the shell casings
9 had been removed from the interior by whoever had
10 possession of the vehicle at the time, and the only
11 other shell casing is outside. So there is a couple
12 theories here. The first theory is that the gun was
13 shot outside of the vehicle; that is a possibility,
14 but it is not a possibility that the -- it's not
15 supported by any other physical evidence in the
16 environment.

17 Q When you say the gun being fired outside the car
18 is not consistent with the other reasonable
19 possibilities, what do you mean by that?

20 A By that I mean, one, the damage, the gunshot
21 damage inside the vehicle; that is the first part.
22 Two, the absence of shell casings outside. Three, the
23 lower angle of the gunshots that we described on the
24 white SUV's door, that is not consistent with someone
25 standing up outside and shooting. It is very

1 consistent with someone in a lower position firing,
2 not one, but two shots in the same general direction
3 in an upward angle to the other vehicle. That is more
4 consistent with coming from a seated position inside
5 the vehicle with the door opened.

6 Q So the damage to the Santa Fe SUV was near the
7 door handle?

8 A Above it, yes.

9 Q All right. All right. And at a slightly upward
10 angle?

11 A Yeah. It is coming from forward and upward. It
12 is not coming from behind the vehicle. It is coming
13 from forward of the vehicle at an upward angle.

14 Q Could a person standing beside a vehicle fire a
15 firearm in such a way that you would have that slight
16 upward trajectory on the door handle?

17 A If they were on the ground or crouched, yes; but
18 then you would expect there to be two shell casings
19 outside of the vehicle, and we only found one. That
20 is why when you are looking at pieces of evidence, it
21 is super dangerous to interpret it by itself outside
22 the context of the other evidence that you find. It
23 is not enough to say we found something, we have to
24 make it align with the other facts or evidence in the
25 case. My concern is the physical evidence, not so

1 much the testimonial evidence.

2 Q Right. So what plausible explanation could there
3 be concerning the shell casing on the ground by itself?

4 AWell, like I said, one is that the gunshot took
5 place outside of the vehicle; that is a possibility,
6 but it is not consistent with the other factors. So
7 the more reasonable possibility is that it was fired
8 inside the vehicle and it landed somewhere such that
9 when the door opened or a person left, it either
10 landed on someone's clothing or inside the doorjamb.

11 Q Okay.

12 AOr even the handle, so when the door opens, it
13 falls out; or, when the person gets out, it falls out.

14 Q And if they found three shell casings outside of
15 the car, what is that consistent with?

16 AThat is consistent with something happening
17 outside or with someone inside the vehicle firing with
18 an open window, but the windows I observed at the
19 scene were all closed. So if there were three shell
20 casings on the ground outside, that is more consistent
21 with all the gunshots taking place outside the
22 vehicle.

23 Q Okay. So what is your final conclusion then as
24 to what happened on this particular shooting?

25 AWithout describing the context, I'm not here to

1 talk about what they were doing there, but just the
2 physical evidence, you have three people in a vehicle,
3 someone who is a driver with Mr. Marquis' cell phone.
4 Then you have a person in the passenger's seat, and
5 the person in the passenger's seat front decides to
6 shoot the person in the back seat. The person in the
7 driver's seat gets out, and the person in the
8 passenger's seat is the one that receives all of the
9 gunshots.

10 Q What about the person in the back seat?

11 A They are dead.

12 Q Did they get out?

13 A I would assume.

14 Q Because they were outside of the car?

15 A Right. I would assume.

16 Q So which car doors would have been, basically,
17 flung open, so to speak?

18 A The driver's side and passenger's side, at
19 least.

20 Q And is there any reasonable explanation that
21 these shots could have ever been committed by the
22 driver?

23 A No. It is not only unreasonable and unlikely,
24 it is difficult -- nothing is impossible, but looking
25 at the actual angles and shots fired, it makes

1 absolutely no sense. There is no evidence, to me,
2 that suggests that that's what happened.

3 Q So the most probable method of this happening is
4 what?

5 AIs that the passenger in the front seat fired
6 the shots into the back seat into the victim.

7 Q Is that consistent with your education, training,
8 and crime scene analysis?

9 AIt is, and it is also the only theory that is
10 consistent with all the evidence in the case.

11 MR. WISE: Thank you. Answer any questions the
12 State may have.

13 CROSS-EXAMINATION

14 BY MS. MARTO:

15 Q So you are not disputing that Mr. McDonald was
16 present in the car?

17 ANot all.

18 Q Is that what you gleam from the record, that he
19 was likely just not involved in --

20 AThat's correct.

21 Q And your report has no bearing whether or not a
22 plan was in place, correct?

23 ANo. That is a separate forensic question.

24 Q And you didn't gleam anything in the record
25 indicating that there was a third individual that was

1 the perpetrator involved, correct?

2 ANo.

3 Q In your experience, is it common for the number
4 of casings and number of bullet holes maybe not to
5 match?

6 AI don't know what you mean. If you give me a
7 scenario, I'll answer that. There are a lot of
8 reasons why that would happen, but I don't want to
9 answer your question without understanding your
10 intent.

11 Q Is it common for maybe three or four bullet holes
12 to exist and to find only two shell casings?

13 AI will say this: No. They exist -- the answer
14 is that they exist, we just don't know where they are.

15 Q Is it common to have a situation where you can't
16 locate every single casing, though?

17 ANot in an open parking lot like that. In a
18 field, yeah. Forest, maybe. In a vehicle that was
19 cleaned, yes. But in a parking lot where everything
20 is out in the open, especially at night, it is not
21 like people can hunt and collect all of the brass;
22 usually you are going to find some.

23 Q All of the photos you used were taken in the
24 original investigation, correct?

25 AThat's correct.

1 Q So you are working with the same pieces of
2 information as the original crime scene processors
3 did?

4 AYes. The reason why crime scene processing is
5 done is to provide for a third-party evaluation and
6 review. That is the whole reason they have a job, so
7 that the forensic scientist can come along and
8 interpret it, so I rely heavily on their work.

9 Q Did you speak to Mr. McDonald directly about this
10 case?

11 ANo. I don't talk to defendants.

12 Q You are stating that this is, basically, just
13 highly unlikely that the driver was the shooter; not
14 that it is impossible, correct?

15 ANothing is impossible, but given all of the
16 facts and evidence of the case, having the driver as
17 the shooter is the least likely possibility. It
18 requires inordinately difficult events to take place.

19 Q And it was known that the defendant dropped his
20 cell phone at the time of trial, correct?

21 AYes.

22 Q You read the trial transcript?

23 AI did.

24 Q Do you recall the hand-of-one-hand-of-all or
25 accomplice liability instruction being given to the

1 jury?

2 AI focus entirely on the testimony of the
3 forensic personnel and investigative personnel at the
4 scene. I avoid legal issues. When they talk about
5 the law, I skip it; not my domain.

6 MS. MARTO: Nothing further.

7 REDIRECT-EXAMINATION

8 BY MR. WISE:

9 Q Did you look at the scene?

10 ACertainly did.

11 Q And you looked at it at night?

12 ACertainly did.

13 Q And you did it when you got here to Conway?

14 AI certainly did.

15 Q Looking at the scene at night, did that change
16 any of your opinions?

17 ANone of my opinions were changed by viewing it,
18 but they were more informed.

19 MR. WISE: Thank you.

20 That is all we have, Your Honor.

21 THE COURT: Thank you for being here. You may
22 step down.

23 THE WITNESS: This is the first court I've ever
24 been in that's carpeted. Am I free to leave the
25 state, Your Honor?

1 MR. WISE: We're through with him, and that is
2 one of the reasons I put him up first, because he has
3 to catch a flight back.

4 THE COURT: You are free to leave the state.
5 Good luck to you.

6 THE WITNESS: Thank you so much.

7 THE COURT: Call your next witness.

8 MR. WISE: I will call Greg McCollum.

9 (GREG MCCOLLUM, having been duly sworn,
10 testified as follows:)

11 THE WITNESS: Greg McCollum, M-C-C-O-L-L-U-M.
12 Give me one second, Your Honor, I thought I had a copy
13 of it, and I cannot find my copy now.

14 THE COURT: All right, sir. No problem.

15 DIRECT-EXAMINATION

16 BY MR. WISE::

17 Q Mr. McCollum, how did you come to represent
18 Marquis McDonald?

19 AIt was an appointment.

20 Q And you were appointed -- how long was it after
21 the shooting?

22 AI think it was fairly recent.

23 Q You had a conversation with him?

24 AYes. Yes.

25 Q What did -- what was your theory of defense in

1 this particular case?

2 A The main thing that jumped out at me is that, as
3 I understand the case, and it has been a long time, is
4 that physically the way people were placed in the car,
5 I didn't think it was possible that Marquis could be
6 the shooter, which I recall that was the State's
7 theory, that he was the shooter.

8 Q When you say "physically the way people were
9 placed in the car," what do you mean by that?

10 A I remember from the crime scene photos I could
11 still see these white plastic rods that, to me, would
12 indicate where the shots were fired from. It just
13 seemed physically impossible that Marquis could have
14 done that. It is not something that anyone would be
15 able to do, even if they planned it, which something
16 like this is usually spontaneous.

17 Q What was your general understanding who was the
18 driver of the car?

19 (A brief pause in the proceedings.)

20 Q Do you know who the car belonged to?

21 A No, I don't remember that.

22 Q Do you remember if it belonged to the uncle of
23 Mr. McDonald?

24 A I can't say that I remember that. I think that
25 I thought that the shots had come, I thought, from the

1 passenger's side of the vehicle; that was the theory
2 of the defense.

3 Q Do you remember the video that showed
4 Mr. McDonald and Mr. McCain at a convenience store
5 shortly before the shooting?

6 AI don't remember that specifically, no.

7 Q And so your general theory is that shots were
8 fired from the passenger's side. And Mr. McDonald,
9 what did he tell you?

10 AI think just -- I -- specifically that, you
11 know, he didn't shoot anybody. That he was present,
12 something went wrong, someone did something
13 unexpectedly, which often happens in these cases.
14 Just because you are there doesn't mean you have any
15 idea what someone is going to do in that situation. I
16 didn't see any need or incentive or anything for him
17 to shoot anybody.

18 Q Okay. Were you here for Dr. Turvey's testimony?

19 AI heard part of it.

20 Q Is what he testified to generally the theory you
21 had?

22 AYeah, 100 percent. You know, that was the
23 defense, that Marquis not only did not shoot in the
24 vehicle, but physically, based on the evidence, he
25 could not have been the shooter.

1 Q And during -- and that testimony -- would that
2 testimony have been helpful to you at trial?

3 A Absolutely. It should have been helpful from
4 looking at the crime scene photos and the evidence, it
5 seemed like a blaring error in the State's case and
6 something that I just didn't think that anyone would
7 contest it. My recollection of the testimony is that
8 the crime scene people testified that those rods, or
9 whatever they were, were not indicative of the bullet
10 trajectory. I couldn't understand why would you use
11 them if that is not what they indicate?

12 Q I think, in fairness to the experts, didn't they
13 frequently testify -- do you have a copy of the
14 transcript in front of you? This is just to refresh
15 your memory about some of the testimony. Go to page --
16 of the transcript, not the record on appeal -- 390 --
17 excuse me, 435. I believe you were cross-examining one
18 of the experts from Line 11 to 25. Do you have that?

19 A I have Page 435, but at the top it says "Edward
20 Proctor, Dr. Proctor."

21 Q You have to go to the transcript page, which is
22 the smaller number underneath it.

23 A Got it.

24 Q Let me help you here.

25 A So 435, Line 9?

1 Q Wasn't that during your cross-examination?

2 AYeah.

3 Q Read, if you would, Line 9 through 11 and 25, and
4 I'll ask you questions about them.

5 A(Witness examines document.)

6 (A brief pause in the proceedings.)

7 AWhat is the last line?

8 Q 23 through 24 -- actually, 21 through 24.

9 A(Witness examines document.)

10 (A brief pause in the proceedings.)

11 AYes. Okay.

12 Q (MR. WISE:) So you were attempting there to
13 elicit testimony from the crime scene investigator
14 about the direction of the bullets?

15 AYes.

16 Q And the crime scene investigator, basically, told
17 you she didn't know where they were coming from other
18 than they weren't coming from a balcony?

19 AYes. I think this is Randy Truss --

20 Q Uh-huh.

21 A-- who was testifying?

22 Q Right.

23 AAnd, yes. Yes.

24 Q They were basically saying they are not an expert
25 in where the bullets were coming from, correct?

1 AYeah. But I think the answer was just evasive.

2 Q Uh-huh. And on -- so you elicited -- I believe
3 it is 390, line -- this was your cross-examination of
4 Tiffany Hezel; is that how you pronounce it, H-E-Z-E-L?
5 Look at Lines 18 through 21 and read those to yourself,
6 again, please.

7 A(Witness examines document.)

8 (A brief pause in the proceedings.)

9 AOkay.

10 Q (MR. WISE:) And, again, despite your
11 cross-examination, they were not willing to give an
12 opinion of where the bullets from the Sante Fe SUV
13 came from, were they?

14 A No. They were just -- they avoided to answer
15 the question, which is frustrating.

16 Q All right. And it seems pretty commonsensical
17 from looking at them, the bullets, in layman's term,
18 had to come somewhere in the direction of Marquis
19 McDonald's car, correct?

20 AYeah. And that is the -- because -- because
21 when this hearing was coming up and I talked to you, I
22 was thinking about the expert. But, I mean, the crime
23 scene seemed so obvious that in hindsight I wish I had
24 an expert. I was telling someone this the other day,
25 that anyone with a No. 2 pencil could tell where the

1 bullets were coming from.

2 Q But the State pretty much argued that Marquis
3 McDonald was the shooter?

4 AYes; against the evidence.

5 Q And they argued that Mr. McDonald was the shooter
6 outside of the vehicle?

7 AI don't recall that part, but I remember being
8 exceedingly frustrated that they were just going to
9 disregard the facts and the physical evidence to try
10 to, basically, pin this on Marquis.

11 Q You were critical in your closing argument, and
12 if you look on Page 733 at Lines 14 through 18 --

13 AThat's in Volume Two?

14 Q Right.

15 A733?

16 Q Right.

17 A(Witness examines document.)

18 (A brief pause in the proceedings.)

19 Q (MR. WISE:) Again, you were critical of SLED for
20 not having a crime scene reconstruction person,
21 correct?

22 AYeah. Yeah. I was critical for that, yes.

23 Q I mean, I gather -- and correct me if I'm
24 wrong -- did you expect SLED to come in with somebody,
25 testimony similar to Dr. Turvey?

1 AYou know, I think that would have been the best
2 practice, you know. Because we talked about that in
3 the transcript, about did they get a crime scene
4 expert, but even just on a basic level, just follow
5 the obvious evidence. Don't try to argue something
6 happened that didn't happen; just follow the evidence.

7 Q Now, in your investigation or reading of
8 discovery in this case, did you learn that the shell
9 casing in this case matched the shell casing in another
10 murder case?

11 AYeah. Yeah. I have a vague recollection of
12 that.

13 Q I'll hand you the SLED report and see if that
14 refreshes your memory.

15 AYeah. I had forgotten that.

16 Q I'll tell you, for your benefit, it was
17 highlighted when you sent it to me.

18 A(Laughing).

19 MR. WISE: I would like to introduce this as
20 Plaintiff's 3.

21 MS. MARTO: No objection.

22 (Applicant's Exhibit 3 marked and admitted.)

23 Q (MR. WISE:) What did the SLED report tell you
24 about the shell casing?

25 ACan you rephrase the question?

1 Q What did the SLED report tell you about the shell
2 casing as it relates to another case?

3 AOh, that -- I think that gun was used in another
4 incident or used in another crime.

5 Q Another murder?

6 AYeah.

7 Q Do you recall whether or not Stephon McCain
8 (phonetic) was charged with that murder?

9 AI can't remember that.

10 Q Okay. Do you recall whether or not SLED had done
11 a search of Mr. McDonald's cell phone to determine its
12 location at the time of the other murder?

13 AYeah. That sounds right. He was -- if you
14 believe in the cell phone location, that would have
15 excluded him from being a suspect in that other case
16 where the gun was used.

17 Q Did you ever consider introducing the evidence
18 that the shell casing found at another murder,
19 according to discovery where GPS excluded Mr. McDonald,
20 did you consider using that as a defense for
21 Mr. McDonald to prove that he didn't possess the gun?

22 AI don't remember that. I don't remember if I
23 did or didn't. I think it should be done. If I
24 didn't do it, I think that is an error.

25 Q You remember a lot of the GPS testimony in this

1 case, correct?

2 AI don't recall specifically, but.

3 Q But you recall getting a report from SLED that
4 said Marquis' cell phone wasn't at the scene of the
5 other crime?

6 AYeah. Yeah.

7 Q Do you recall whether or not the report said that
8 Stephon McCain's cell phone was at the scene of the
9 other crime?

10 AI think so. That sounds right. It seemed
11 pretty obvious that he was involved in that at some
12 level.

13 Q All right. And you have not looked to see if he
14 was charged with the crime in that particular case?

15 AI don't recall that.

16 MR. WISE: Hold on one second.

17 (A brief pause in the proceedings.)

18 MR. WISE: Your Honor, I thought I had a copy of
19 it, but I think we can just take judicial notice of
20 the public records for Horry County that show that
21 Mr. McCain was charged with the other murder.

22 THE COURT: What does the State say about that?

23 MS. MARTO: No objection, Your Honor.

24 THE COURT: Okay, sir. Will do.

25 Q (MR. WISE:) Is that beneficial to your defense?

1 AYeah. Absolutely.

2 Q How many times did you meet with Mr. McCain --
3 Mr. McDonald prior to this trial?

4 AI don't remember how many times I met with him.

5 Q He was out of jail -- I mean, excuse me, he was
6 not out of jail; you had to see him in jail?

7 AYeah, which is always difficult.

8 Q I'll take judicial notice of that, too. Right.

9 But in order to see him, you had to go to the
10 jail to visit with him?

11 AYes.

12 Q Okay. And you don't recall how many times you
13 went?

14 ANo.

15 Q The State's argument was pretty much that Marquis
16 McDonald fired the gun?

17 AYes, that is what they set out to prove. From
18 my memory, I think that was the whole case, that they
19 were saying he was the shooter, that I just thought
20 that was completely false.

21 Q All right. And the State also had the theory
22 that they robbed the deceased?

23 AI think so; as a motive.

24 Q Was there anything really uncovered that could
25 have established a robbery?

1 AI don't recall anything like that.

2 Q So the main thrust of the State's case was
3 Marquis was the shooter; and if he's the shooter, the
4 robbery didn't make any difference?

5 AYeah. I mean, unfortunately, sometimes you get
6 these trials and it just seems, for whatever reason,
7 the prosecutor or the State are out to get whoever is
8 sitting right there to the extent that sometimes we
9 have seen conflicting evidence presented in separate
10 trials; so as defense lawyers, it is frustrating.

11 Q Did you have any discussion with Marquis about
12 hiring or getting an expert to help investigate this
13 case?

14 ANo. No. And I didn't think he needed an
15 expert. It never occurred to me until I was in trial
16 that the State's witnesses would -- that they
17 contradicted where bullets came from.

18 Q I don't know if they contradicted as much as
19 wouldn't admit.

20 AOkay. Yeah.

21 Q And they were not willing to admit, because they
22 claimed not to be experts of any bullet, virtually?

23 AYes.

24 Q When --

25 MR. WISE: Excuse me one second.

1 (A brief pause in the proceedings.)

2 Q (MR. WISE:) Being appointed, you knew you could
3 make a motion to obtain funds for an expert?

4 A In theory, yes. I mean, you can make a motion
5 for anything, right.

6 Q Correct. But, in practice, judges are more
7 likely to grant it for an expert than for some other
8 consultant?

9 A My experience with that has not been very
10 positive. But, yes, I think that the defendant is
11 entitled to a competent, qualified defense despite his
12 indigent status; and, clearly, an expert to contradict
13 or clarify that issue where the State did not admit
14 it, that would have been very helpful.

15 Q And, of course, if they had denied funds for an
16 expert, that would create a significant issue for
17 appeal?

18 A Yes.

19 (A brief pause in the proceedings.)

20 MR. WISE: Thank you. That is all I have.

21 THE COURT: All right. Ms. Marto.

22 CROSS-EXAMINATION

23 BY MS. MARTO:

24 Q Good morning, sir.

25 A Good morning.

1 Q So your general defense theory at trial is that
2 Mr. McDonald was not the shooter?

3 AYes.

4 Q And you just testified that you thought that all
5 of the evidence indicated that whoever was the shooter
6 was seated in the passenger's seat, correct?

7 AYes.

8 Q And there really was not any controverted
9 evidence that Mr. McDonald was in the driver's seat,
10 correct?

11 AI don't think so, no.

12 Q Do you recall anything being presented at trial,
13 absent argumentation, indicating Mr. McDonald was the
14 shooter?

15 ADo I remember anything other than argumentive
16 that Mr. McDonald was the shooter?

17 Q In terms of closing or opening statements, do you
18 recall any other evidence or anything else being
19 presented at trial indicating that?

20 ADo I recall anything being presented that he was
21 not the shooter?

22 Q That he was the shooter.

23 AYeah. To answer the question, I think so.

24 Because, you know, we kept stressing that he wasn't,
25 and the State kept, you know, not agreeing with that.

1 So in that context, yes. Yes. Does that answer your
2 question?

3 Q I think so. Now, how many shooting cases have
4 you handled?

5 A More than I can remember. I don't know how many
6 shooting cases I've handled. I don't know how many
7 murder cases I've tried. I probably should keep up
8 with that, but I don't remember.

9 Q Would you say hundreds?

10 A I've not tried hundreds of murder cases, no.
11 And I probably haven't tried hundreds of cases,
12 because a hundred is a lot of trials. I would have
13 certainly have tried, you know, dozens. Maybe I tried
14 over a hundred cases, but that wouldn't be, you know,
15 shooting cases; that would be felonies, misdemeanors,
16 all kinds of things.

17 Q Have you ever hired a crime scene expert before?

18 A I've hired experts. I've hired crime scene
19 experts. I can't -- I can't remember if I have hired
20 -- I can't remember specific experts I've hired on
21 appointed cases. I may or may not have. I'm sorry, I
22 don't remember that.

23 Q Do you recall what considerations went into the
24 hiring in other cases?

25 A Usually, if something jumps out at you and you

1 say this is the case -- like, say, on a
2 stand-your-ground, say this is an issue, use of force
3 or forensics, you know, gunshot residue or something
4 like that. It is usually something that is very
5 obvious where you discuss with a client and try to
6 determine, you know, which experts you are going to
7 hire.

8 Q Did anything jump out to you about this case at
9 that time?

10 A I don't -- apparently, I didn't make a motion
11 for an expert because no one raised it in the
12 transcript. The fairest answer I can get is that in
13 preparing for the trial and looking at the crime scene
14 evidence, and maybe this is just naive on my part, it
15 never occurred to me that the State's theory would be
16 that Marquis was the shooter. Maybe that was naive.
17 I didn't think that. So when the trial went that way,
18 it was not expected; so that became the trial.

19 Q Again, it was based upon your review of the
20 evidence, correct?

21 A When you say "it"?

22 Q Your conclusion that the State wouldn't have
23 pinned Mr. McDonald as the shooter?

24 A Yeah. You know, just the crime scene evidence,
25 the crime scene photos, all of those things. It

1 seemed, to me, like the bullet trajectories -- I
2 didn't think it would be an issue at trial.

3 Q So did you go into the trial assuming that it
4 would be a hand-of-one-hand-of-all theory?

5 AYou know, sometimes I just -- sometimes just
6 lack of preparation. Sometimes I go in trial
7 wondering what are they going to say? What is the
8 State going to say? Sometimes the other side -- the
9 prosecution is just not really that prepared and the
10 evidence comes out very differently. So you don't
11 really know until people start testifying where it's
12 going. So I don't know that I had any real strong
13 conclusion on what their theory was, okay. In my
14 mind, it wasn't going to be -- or if they argued that
15 Marquis was the shooter, I thought we would just
16 defeat that, so that would give you confidence or
17 comfort knowing that.

18 Q Do you recall the hand-of-one-hand-of-all charge
19 being given at trial?

20 AI don't recall it, but I think it is given in
21 every case where there is co-defendants.

22 Q So you certainly don't dispute that that was
23 given?

24 ANo. I would think that it was given. I'm sure
25 it was in the transcript, and I would think that that

1 charge would be given.

2 Q And, again, Mr. McCain was a co-defendant in this
3 case, correct?

4 A Yes. I don't remember specifically the
5 co-defendant's name. It's been a long time ago. I
6 remember there was a co-defendant.

7 Q Do you think that the crime scene expert would
8 have presented anything substantively different than
9 the evidence itself wouldn't present?

10 A I think so. I mean -- I mean, clearly, you
11 know, you could conclude that whether Marquis shot
12 anyone or not, if he's present aiding or abetting,
13 that he could be convicted as a principal in a murder.
14 I didn't think that a jury -- that a jury should know
15 that. Okay, we are not saying that you shot him, but
16 that he's guilty of murder in aiding and abetting. It
17 is a very different case, to me, than just saying he's
18 the shooter, just trust us.

19 Q And, again, the evidence didn't show any
20 indication that Mr. McDonald was not at the scene,
21 correct?

22 A I don't remember contesting that.

23 Q Did Mr. McDonald admit he was on the scene?

24 A I can't remember what he admitted or didn't
25 admit to. But, you know, if it was his uncle's car

1 and they had witnesses -- I mean, I can't remember if
2 he was caught a short time later. It is better to
3 defend someone with the truth, and what I thought the
4 truth was is that he was just merely present.

5 Q Do you recall his cell phone being dropped
6 outside of the door of the car?

7 A Not until you just said that, but that seems
8 right, which is another reason not to argue that he
9 wasn't at the scene, right. You want to defend
10 someone with the truth.

11 Q Do you recall, in general terms, what you
12 discussed with Mr. McDonald during your conversations?

13 A I can't, sorry. I don't recall all of that.

14 Q Do you recall if you went over the discovery in
15 the case?

16 A It's hard to imagine that we would not go over
17 the discovery with someone who is facing a murder
18 trial, right. We had discovery. We prepped the
19 discovery, so we would routinely go over the discovery
20 with the client. I know that is a general answer, but
21 that is usually why you go to the jail and meet with
22 them.

23 Q Would you think that included in that discovery
24 you would go over the ballistics report?

25 A If we had it, we would have gone over things

1 with him.

2 MS. MARTO: Nothing further.

3 MR. WISE: Just a few questions.

4 REDIRECT-EXAMINATION

5 BY MR. WISE:

6 Q Did you ever talk to the solicitor about the
7 theory of the case?

8 A In what context? You mean prior to trial?

9 Q How are you going to prove my client did it,
10 stuff like that?

11 A Usually I wouldn't do that, because if I thought
12 they had it wrong, I didn't want to discuss it in
13 advance; I found that that often doesn't help.

14 Q But they never -- you never had a general
15 discussion with them where you got an idea on how they
16 were going to do it?

17 A I don't remember discussing that. I just
18 remember thinking that the evidence wouldn't support
19 Marquis being the shooter.

20 Q Turning to Page 125, the opening statement by the
21 government. Look at Lines 4 through 7.

22 A (Witness examines document.)

23 Q That basically lays out the theory of the State,
24 that Marquis brought the gun to the crime scene?

25 A Yes.

1 Q And then in the closing argument, getting back to
2 it, on Page 739, in the closing argument, at Line 19
3 the State argued "especially when Marquis has a gun;"
4 again, it is arguing that Marquis was the shooter?

5 A(Witness examines document.) Yes.

6 Q Okay. And if the jury believed Marquis was the
7 shooter, the hand-of-one-hand-of-all charge is really
8 not relevant, is it?

9 ANo. No.

10 Q One other question. Look at Page 769 of the
11 transcript where the judge's charge begins at Line 13
12 through 21; read that, if you would, please.

13 AFrom Line 3?

14 Q Line 13 through 21 on 769.

15 AOut loud?

16 Q No. No. Just to yourself.

17 A(Witness examines document.)

18 (A brief pause in the proceedings.)

19 AOkay.

20 Q (MR. WISE:) And that charge -- before your
21 trial, that charge was improper since, I believe,
22 2009; were you aware of that? This trial was in 2012,
23 '13 -- '14 -- October 6, 2014.

24 ASo --

25 Q Were you aware that State versus Belcher made

1 that charge improper?

2 ANo. No. So the inference of malice from use of
3 a deadly weapon, which was charged here, was I aware
4 that that charge was improper?

5 Q Right.

6 ANo. No. No.

7 Q You were not familiar with State versus Belcher
8 that came down in 2009 prohibiting courts from charging
9 an inference of malice from use of a deadly weapon?

10 AApparently not. So to answer your question:

11 No.

12 Q Okay. All right. And since you weren't aware it
13 was improper, you didn't make an objection to it?

14 ANo. If I thought that charge was improper, I
15 would have objected, I would think. And -- but I was
16 not aware of that.

17 Q Since this trial, have you read State versus
18 Belcher, as we sit here today?

19 AIt doesn't jump out at me. I'm not familiar
20 with it.

21 Q Okay. Thank you.

22 THE COURT: Anything further?

23 MR. SPRATLIN: Yes, Your Honor.

24 RE CROSS-EXAMINATION

25

1 BY MS. MARTO:

2 Q Are you familiar with the Court's finding in
3 State versus Burdette?

4 ACan you elaborate?

5 Q So the Court found in State versus Burdette that
6 you cannot infer malice from use of a deadly weapon in
7 2019; do you recall that case coming out?

8 AI do not, no.

9 Q Do you -- so you don't recall anything about
10 Belcher?

11 ANo.

12 Q Have you read that case before?

13 AThe Burdette?

14 Q Or Belcher?

15 ASitting here, I don't remember reading it.
16 Maybe I have or haven't, but I can't say under oath
17 that I'm familiar with it.

18 Q Do you recall what the case law at the time in
19 2013 was?

20 AIn 2013, at the time of this trial?

21 Q Yes.

22 AKind of a broad question. Yes, I think I
23 understood the case law. Yes.

24 Q In terms of whether or not you could infer malice
25 from use of a deadly weapon?

1 AI think I thought that you could infer malice
2 from use of a deadly weapon.

3 Q Okay. Do you recall if there were limitations on
4 that?

5 ANot specifically.

6 Q And, again, you don't recall that law being
7 clarified again in 2019, correct?

8 ANo.

9 MS. MARTO: Nothing further.

10 THE COURT: All right.

11 MR. WISE: Nothing further.

12 THE COURT: All right. Sir, thank you for being
13 here. You are welcomed to sit down.

14 MR. WISE: Can we take about a 10-minute break;
15 it may speed things up?

16 THE COURT: Absolutely.

17 Thank you, Mr. McCollum.

18 (A recess was taken.)

19 THE COURT: Please keep your seat. Okay.

20 MR. WISE: We call Marquis McDonald.

21 (MARQUIS McDONALD, having been duly sworn,
22 testified as follows:)

23 THE CLERK: Please have a seat. Say your name
24 and spell your last name, and speak clearly and
25 loudly.

1 THE WITNESS: Okay. Marquis McDonald,
2 M-C-D-O-N-A-L-D.

3 DIRECT-EXAMINATION

4 BY MR. WISE:

5 Q Mr. McDonald, Greg McCollum represented you at
6 the trial in this case?

7 AYes, sir.

8 Q How many times did you meet with him prior to the
9 trial starting?

10 ATwo.

11 Q Did he have discovery on either of those
12 occasions?

13 AThe last time.

14 Q When he went over the discovery with you, the
15 time he visited with you, did you look over Plaintiff's
16 3, that SLED report?

17 AYes, sir.

18 Q And what were you told about that SLED report?

19 AThat it was another homicide connected to the
20 gun, and I asked him was I charged, and he said no,
21 because they did a GPS analysis and showed that you
22 were approximately 20 miles away at your grandmother's
23 house.

24 Q Did you think that was a helpful fact for you?

25 AYes.

1 Q Were you expecting that to come out at trial?

2 AYes, sir.

3 Q Did it come out at trial?

4 ANo, sir.

5 Q You sat here during the testimony of the expert,
6 Dr. Turvey?

7 AYes, sir.

8 Q Is that correct?

9 AYes.

10 Q You have to speak up a little bit. You are still
11 too soft spoken. What is your opinion about what he
12 described as to what his theory of what happened is?

13 AHe's good. He's accurate. He's directly right.

14 Q What he testified to is what happened?

15 AYes, sir.

16 Q Do you think that testimony at trial would have
17 been helpful to you in your defense?

18 AYes, sir.

19 Q Why is that?

20 ABecause it showed all of the accurate -- what
21 happened. It showed --

22 Q What was the State's theory of this trial?

23 AI got there, got out of the car, walked up to
24 the victim, shot him three times, got back in the car,
25 and I left.

1 Q And that was it?

2 AYeah. I've been trying to fight, but I ain't
3 know how.

4 Q I don't know how to phrase this question. So the
5 State's theory was that you actually did the shooting?

6 AYes, sir.

7 Q Is hand-of-one-hand-of-all important if you did
8 the actual shooting?

9 ANo, sir.

10 Q If the jury believed you did the actual
11 shooting --

12 AYeah.

13 Q -- is it important at all then?

14 ANo, sir, because they still saying I was the
15 shooter.

16 Q Okay. You testified in this case?

17 AYes.

18 Q I believe you testified --

19 AI told the same story that the expert did. I
20 just couldn't explain it. I was a kid.

21 Q And I believe you did -- I think Mr. McCollum did
22 point it out, that you did initially make a statement
23 that wasn't true to the police?

24 AYes.

25 Q About Mr. McCain?

1 AYes, sir.

2 Q Is he some kin to you?

3 AMy cousin.

4 Q And were you aware he was also charged in the
5 other murder?

6 AYes. When my lawyer let me know, told me.

7 Q When he told you?

8 AYes, sir.

9 MR. WISE: Excuse me one moment.

10 (A brief pause in the proceedings.)

11 Q (MR. WISE:) When he came with discovery, visit
12 with you in jail, how long did you meet with him then?

13 AI don't want to lie. I just want to, you know
14 -- probably, I would say, 25 to probably 45 minutes at
15 max.

16 Q Somewhere under an hour?

17 AYes, sir.

18 Q And the first time, how long was it then?

19 AInitial meet and greet, letting me know who he
20 is, and that is it.

21 Q Phone number and stuff like that?

22 AYes, sir.

23 Q Did you have any telephone conversations with
24 him?

25 ANo, sir.

1 Q Thank you.

2 MR. WISE: That is all we have.

3 THE COURT: Ms. Marto.

4 CROSS-EXAMINATION

5 BY MS. MARTO::

6 Q Now, you stated during your meetings with counsel
7 that you reviewed all of the discovery in the case?

8 AI can't hear.

9 Q You reviewed discovery in this case with counsel
10 prior to trial?

11 AYes, ma'am; on my own.

12 Q So he gave you a copy of the discovery?

13 AYes, ma'am.

14 Q And was the ballistics report a part of that
15 discovery?

16 AYes, ma'am.

17 Q Did you talk to counsel about that at all?

18 AYes; I pointed it out to him.

19 Q Do you recall what his response was?

20 ANo, ma'am. Don't want to lie. I don't remember
21 that.

22 Q And you admitted that you were present at the
23 scene of the shooting?

24 AYes, ma'am. I turned myself in.

25 Q You were in the car?

1 AYes, ma'am.

2 Q You were with -- you said you were with your
3 cousin earlier that day as well, right?

4 AYes, ma'am.

5 Q And they caught you on video?

6 AYes, ma'am.

7 Q And you testified at trial, right?

8 AYes, ma'am.

9 Q You stated that the co-defendant was the shooter?

10 AYes, ma'am.

11 Q And did you discuss the theory of the case at
12 trial with counsel?

13 AYes, ma'am.

14 Q What was your understanding of what defense you
15 would use?

16 AHe told me that when we go out here, if they say
17 that you was -- you is guilty of murder and you is the
18 shooter, we got the case, one, because we know you
19 didn't shoot and all the evidence shows it.

20 Q So, basically, your theory is that you weren't
21 the shooter, right?

22 AYes, ma'am.

23 Q And counsel presented that theory at trial,
24 right?

25 AYes, ma'am.

1 Q Do you recall discussing what the State's theory
2 at trial would have been at trial?

3 AWe didn't discuss it, but I heard what they said
4 at trial.

5 Q You don't remember discussions beforehand?

6 ANo, ma'am.

7 Q Again, you reviewed all of the evidence in this
8 case?

9 AYes, ma'am.

10 Q What kind of conclusion did you get from the
11 evidence as to what the evidence showed?

12 AWhat you mean? I don't understand.

13 Q Do you think that the evidence showed that you
14 were the shooter?

15 AOf course not to me, because I know the truth.
16 That is why I was trying to explain to them. They
17 were saying I was.

18 Q Do you think that the evidence, based on your
19 review, indicated that the passenger was the shooter?

20 AI ain't understand what you say.

21 Q Based upon your review of the evidence and
22 photographs and the reports, did it seem to you that
23 the evidence showed that the passenger was the shooter?

24 AIn my opinion; but, obviously, not to the
25 State's.

1 Q And the hand-of-one-hand-of-all charge was given
2 at trial?

3 A No, it wasn't.

4 Q You dispute that?

5 A Yes, ma'am.

6 Q Do you have a copy of the transcript up by you?

7 A Yes, ma'am.

8 Q Can you flip to Page 771 of the transcript. I
9 think that would probably be on the second volume. If
10 you could, start with Line 19 through Page 773, Line 8;
11 if you could read that to yourself.

12 A (Witness examines document.)

13 (A brief pause in the proceedings.)

14 A I read it.

15 Q (MS. MARTO:) Do you recall now whether the
16 hand-of-one-hand-of-all charge was given?

17 A Truthfully, when he said you have a charge, you
18 are saying that the judge is saying this?

19 Q Yes, sir.

20 A From what I read right here, it is speaking
21 about the theory of the hand-of-one-hand-of-all.

22 Q Okay.

23 MS. MARTO: One moment, Your Honor.

24 MS. MARTO: Nothing further.

25 REDIRECT-EXAMINATION

1 BY MR. WISE:

2 Q Just one question on redirect. Do you recall
3 whether there was any testimony about any pre-planning
4 of a robbery on that day?

5 A No, sir.

6 Q Thank you.

7 MR. WISE: That is all.

8 MS. MARTO: Nothing further, Your Honor.

9 THE COURT: All right. Mr. McDonald, you can
10 step down. Thank you.

11 I'll give you an opportunity to make closing
12 remarks, or if you want to submit something, however
13 you would like to do it, let the Court know.

14 MR. WISE: I don't know what the Court's
15 preference is. Some judges like some; some don't.

16 THE COURT: Well, so, I will be happy to
17 accommodate anything you would like to submit. I
18 won't ask you to submit anything, but if you want to,
19 you certainly can. Also, you know, I'm going to take
20 some time to review the transcript and what we've
21 heard here today.

22 MR. WISE: You are going to get a copy of the
23 transcript.

24 THE COURT: I have a copy of the trial
25 transcript.

1 MR. WISE: Yeah. Okay. Then I would simply in,
2 kind of, a brief summary, Your Honor, probably the
3 worse mistake a defense lawyer can ever make is to
4 assume that the State can't prove its case. I grew
5 up, basically, learning if you can't prove your
6 innocence, you can't win, and that's probably the best
7 attitude. It seems, to me, that Mr. McCollum got
8 focused on they can't prove the case, so I don't have
9 to worry about it. Lo and behold, they came up with a
10 theory, granted it may be inconsistent with some of
11 the facts, but the State came up with a theory that an
12 expert was needed. He heard the testimony of
13 Dr. Turvey, and he agreed that the testimony of
14 Dr. Turvey would have been very, very helpful; he
15 simply just didn't think about, and that is basically
16 what ineffective assistance of counsel is, when you
17 don't think about it.

18 Secondly, Your Honor, the testimony about the
19 shell casing, when I first learned about it, I was
20 surprised. You have a shell casing that was used in
21 another murder, which the co-defendant was charged in,
22 which you have a good alibi, and you don't have that
23 in front of the jury. I mean, that is pretty
24 compelling that contrary to the State's theory,
25 Marquis McDonald did not have that gun, because the

1 co-defendant was charged with that. I understand
2 later those charges were dismissed, but it would make
3 a logical assumption to a jury, at least to the point
4 of creating some question in the jury's mind, as to
5 whether or not Marquis brought the gun to the scene as
6 the State argued, it would do that at the very least.

7 Thirdly, having done the Belcher case, I am
8 familiar with it. I have an unfair advantage, but
9 anyone who is reasonably responsible in trying
10 criminal cases, not to be aware of three years after
11 the case that a charge to a jury about inferring
12 malice from use of a deadly weapon is not to be given
13 is -- can be shocking. To say that even today you are
14 not aware of Belcher is, to me, surprising. A
15 reasonable defense lawyer is supposed to keep up with
16 the law, and Belcher received a lot of publicity. I'm
17 surprised that the State didn't object, or that the
18 State gave it is even surprising, some three years
19 after the fact, but it is there.

20 So he was ineffective to giving to the jury the
21 fact that the shell casing was from another murder
22 that Mr. McDonald -- that the State acknowledged that
23 Mr. McDonald could not commit. And, thirdly, he
24 allowed the judge to improperly charge the jury that
25 they could infer malice. The State, I know, will

1 argue in anticipation of it, that the State charged
2 hand-of-one-hand-of-all; that's true, the judge did
3 say that, and the State argued that. But the point is
4 if the jury believed, as the State argued, that
5 Mr. McDonald was the shooter, then the
6 hand-of-one-hand-of-all is irrelevant. It is not even
7 discussed in the jury room. We don't know what theory
8 the jury went on. We know what theory the State
9 urged, and that was Mr. McDonald had the gun.

10 They also argued it was a pre-planned robbery.
11 If you reviewed the transcript, I don't think you will
12 find any evidence of a pre-planned robbery in that.
13 There was evidence of text messages going back and
14 forth, but if the co-defendant had testified, then
15 maybe you would have some merit. But there was very
16 little testimony, and the judge even noted that, you
17 know, what was stolen? What was taken? What was the
18 robbery of? The judge raised that on his own.

19 So to say that the State's theory -- that we have
20 proven the State's theory is absolutely wrong. To
21 confirm the conviction of hand-of-one-hand-of-all is
22 also wrong, because the jury wasn't required under the
23 State's theory to find hand-of-one-hand-of-all. They
24 weren't required to find there was a robbery in order
25 to convict Mr. McDonald. The only thing they were

1 required to do under the State's theory was to find
2 Mr. McDonald had the gun, and the State argued that.
3 If the jury believed that, that's the case.

4 As mentioned earlier, also, Mr. McCollum agrees
5 that, you know, I should have brought out the shell
6 casing, because that would have helped prove that
7 Mr. McDonald was not the shooter. I think if this
8 case had been tried in a manner in which the State had
9 the obligation of proving there was an intent to rob
10 this young man that was unfortunately killed, I think
11 they had trouble doing it, from reading the
12 transcript, because it's not there. The facts belie
13 any plan of robbery. I mean, you don't have a planned
14 robbery and have someone bail out of a car and leave
15 their cell phone; that is a spontaneous action. That
16 is what the record cries out, to be frank with you.
17 It is a very spontaneous action that night by
18 Mr. McDonald. He shouldn't have left the scene, there
19 is no question about that, but it doesn't change the
20 fact that he wasn't the shooter.

21 We have proved in this court today that he wasn't
22 the shooter. The evidence shows that, and the State's
23 theory that they argued to the jury that Mr. McDonald
24 was the shooter is not a correct theory; and,
25 therefore, I think it's improper to then say, well,

1 hand-of-one-hand-of-all relieves us of the obligation
2 of proving the State's theory. That wasn't the
3 State's theory. It was an argument they had, but it
4 wasn't the theory. It was a theory with no facts.

5 THE COURT: All right. Ms. Marto.

6 MS. MARTO: Just briefly, Your Honor. I think
7 counsel testified that he's an experienced criminal
8 defense lawyer, and hiring an expert in situations
9 like this is pretty rare. He didn't see anything
10 indicating that he needed an expert. He thought the
11 evidence spoke for itself, and that evidence was
12 entered at trial. He thought the person in the
13 passenger's seat was the shooter, based upon the
14 evidence alone. And though the State did argue that
15 Mr. McDonald was the shooter, A, I don't think that
16 the expert ruled it impossible that he could have
17 still been the shooter, but also there is no evidence
18 that Mr. McDonald wasn't already participating in that
19 murder as he was with Mr. McCain that day.

20 Again, even if the shell casing and the bullet
21 matched the murder weapon at another case, there is no
22 indication that it was handed off to someone else or
23 not handed off to someone else. It really only shows
24 that the same weapon may have been used in both
25 murders, not that Mr. McDonald wasn't the one handling

1 the weapon.

2 Further, it is the State's position that under
3 Burdette -- the instruction would have been improper,
4 but Burdette was decided in 2019. Belcher stated that
5 instruction is still proper barring mitigating
6 evidence, but I don't think that has been shown here
7 today. So Counsel had no duty to object to that
8 closing argument because the law at the time, you
9 know, stated that it was, for the most part,
10 acceptable until Burdette came out in 2019, which was
11 five or six years after the trial itself.

12 So for these reasons, we request you deny relief
13 in this case. Thank you.

14 THE COURT: Thank you.

15 MR. WISE: I just want to point out in Belcher
16 the problem is that the judge, as judges do, what I
17 consider a very convoluted definition of malice, which
18 is a key element. I think under the facts of this
19 case to tell a jury that -- I mean, it's further
20 evidence, to me, of the State's theory that
21 Mr. McDonald had the gun, and it simply bolstered that
22 argument, which is one of the problems with it also.
23 We don't know to what extent the jury used an
24 inference of malice; we can only assume they used it
25 because the judge charged it. I think under the facts

1 of the case, it should still have been excluded.

2 THE COURT: Let me ask you: When we consider the
3 armed robbery conviction, you know, all of these
4 arguments are compelling as far as elements of murder
5 don't necessarily apply to armed robbery.

6 MR. WISE: Well, yes and no. I think that the
7 murder portion -- and I understand your concern and I
8 should have addressed it earlier. The murder portion
9 of it was part of the armed robbery. There is no
10 question about that, to me. If the jury had --

11 THE COURT: How you do mean that?

12 MR. WISE: Well, if the jury had -- well, if the
13 jury had believed that he wasn't the shooter, that the
14 State's theory was wrong, then I think it also goes --
15 weighs into the armed robbery conviction. Because if
16 he wasn't the shooter, then in a sense he wasn't the
17 robber. He wasn't committing an armed robbery. If
18 they believe that McCain was the shooter, then McCain
19 is the one committing the armed robbery, not
20 Mr. McDonald.

21 If you think about it, under that analysis, the
22 armed robbery conviction, to me, is stronger proof
23 that the jury used the State's theory that he was the
24 shooter in order to convict him of murder. If he
25 wasn't the shooter, I think the jury could conclude

1 that he wasn't guilty of armed robbery. I mean, I
2 think they are very closely intertwined. I think it
3 is going to be difficult to separate the two in any
4 logical manner in the sense that the shooter --
5 obviously, if that was a robbery, then the shooter
6 obviously is guilty of armed robbery. But if he isn't
7 the shooter, that isn't necessarily true that he's
8 guilty of the armed robbery.

9 Armed robbery can occur without planning, too.
10 You can have an armed robbery on spur of the moment.
11 If the jury believed that the shooter shot the guy,
12 took off with his stuff, then that is their
13 prerogative, but that doesn't -- him not being the
14 shooter doesn't guarantee a conviction for armed
15 robbery, is my point.

16 MR. GEOLY: If it please the Court, Judge, if I
17 may?

18 THE COURT: Yes, sir.

19 MR. GEOLY: I understand what Mr. Wise is saying,
20 and I somewhat agree, that -- I think the jury gets
21 the whole case. Here, if they believe he is the
22 shooter and then takes off, they think he's part of
23 the robbery, too. Here is what I think the problem
24 is. In the allegation of ineffective assistance of
25 counsel, you have basically failure to properly

1 prepare. He says he only met with him less than an
2 hour the one time he had discovery. Even Mr. McCollum
3 admits if the jury gets the information this is not
4 the man who had the gun, because this gun is involved
5 in another murder, that he couldn't have done, but,
6 oh, yeah, this other not-being-tried co-defendant had
7 this gun, he could have been the one that shot. There
8 is never a crime scene. I think that counsel for the
9 government misconstrued a little bit because he said
10 he actually has hired experts, he just didn't know how
11 many times on appointed cases he hired experts. It
12 was not a case of, oh, my defendant, who I'm retained
13 on, can't afford this. He could have gotten an
14 application to Indigent Defense to get an expert. In
15 this case -- Dr. Turvey, it becomes evident what he
16 thought. He thought once he had a lawyer, it is going
17 to be abundantly clear my headrest gets shot, I
18 couldn't have shot my headrest. I almost got shot in
19 the head. I bailed out, dove out the door. These are
20 things that are indicative of not a plan, so you
21 remove the hand-of-one-hand-of-all conviction if that
22 all comes out.

23 Now, as was pointed out, you can still have the
24 armed robbery, but I think it is a whole lot less
25 likely if counsel brought out, hey, here is a shell

1 casing that shows this gun was had by the other
2 defendant, that could have been shooting the alleged
3 victim. Not only does that then help him exonerate
4 him from the murder, which obviously he couldn't have
5 committed if he didn't have the gun, but also the
6 armed robbery, which part of their reasoning was, hey,
7 he had a gun, he brought it; that was their theory.
8 There didn't seem to be any evidence presented,
9 really, that there was a plan. This was all based on
10 the death and then the quick exit. I don't think
11 there was any evidence that actually a robbery
12 occurred. But it is kind of --

13 THE COURT: Well, I mean, it defeated a directed
14 verdict, obviously.

15 MR. GEOLY: And it did, Judge. I think that you
16 can still have a hand-of-one-hand-of-all there, but
17 the problem is that there is not really any evidence
18 -- that I saw credible evidence. My point being, for
19 purposes of this, it's not really innocence or guilt,
20 but was there malpractice such that it affected the
21 verdict? The fact that you would have a gun, that the
22 co-defendant had, that the police linked to another
23 murder, and you never bring it up? I hope it is as
24 flabbergasting to Your Honor and everyone here as it
25 is to me.

1 Additionally, you have a case that you feel like
2 the evidence points that this can't be my guy, and you
3 never get a crime scene analysis or apply for one?
4 These things that are basic things that, in my mind,
5 should have been done, even by the most unpracticed of
6 lawyers, which Mr. McCollum has a great reputation. I
7 grew up in Myrtle Beach. I've been in Greenwood my
8 whole career, for 17 years, but you know Mr. McCollum.
9 It is not like he's some fly-by-night attorney. And I
10 think he admitted, hey, this is error. If that is
11 what I did, it is error. He realized it.

12 Here you have a man who did not shoot anybody,
13 who has been in jail almost ten years. He didn't get
14 appellant help. No one even told him about it. Then,
15 you look into the trial, and some things were missed.
16 Experts weren't handled. He didn't even bring up
17 evidence that he knew he had, which he testified today
18 that he told counsel about, but you never bring up the
19 fact that the co-defendant had the gun?

20 This, to me, Your Honor, should be reversed for
21 all of those reasons. I wanted to respond to how I
22 think the gun and the fact that he didn't have it does
23 directly impact on the attempted murder as well --
24 excuse me, on the armed robbery as well.

25 THE COURT: All right.

1 Ms. Marto, would you like to respond?

2 MS. MARTO: Quickly, Your Honor. We would point
3 out that based upon the Strickland standard, you are
4 not entitled to perfect representation, but reasonable
5 representation. It is not uncommon for attorneys not
6 to apply for crime scene experts. Mr. McCollum
7 admitted, based upon reasonable judgment as an
8 experienced attorney, that he didn't think one was
9 needed at that point, because he felt the evidence
10 spoke for itself. He pursued the defense at trial.
11 The issue wasn't that he did not present a defense
12 well, but rather it was unsuccessful for the
13 Applicant, and that, in itself, is not to establish
14 deficiency. So, for that, we would request you to
15 deny relief.

16 THE COURT: All right. And I certainly will give
17 the plaintiff -- if there is anything you would like
18 to close with, and then I'll take the matter under
19 advisement and go through everything filed.

20 Anything further?

21 MR. WISE: Nothing further.

22 THE COURT: Thank you very much. I appreciate
23 everyone's patience. Anything before we adjourn? All
24 right. Good day.

25 (Whereupon, the proceedings concluded.)

CERTIFICATE OF REPORTER

State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 29th day of November, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 26, 2022

Certified Original by Natalie Dahl, RPR

Natalie Dahl, RPR

Court Reporter

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VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
COURT OF APPEALS

Appeal from Horry County
Markley Dennis, Circuit Court Judge

ORIGINAL
RECEIVED

OCT 10 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

MARQUIS SPENCER MCDONALD

APPELLANT

APPELLATE CASE NO. 2014-002181

RECORD ON APPEAL

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1 State of South Carolina) Court of General Sessions
2 County of Horry) 2013-GS-26-01478
3 2014-GS-26-03820

4 State of South Carolina)
5 vs.) Transcript of Record
6 Marquis Spencer McDonald)
7

8 October 6, 2014
9 Conway, South Carolina

10
11 BEFORE:

12 Honorable Markley Dennis, Judge.

13 APPEARANCES:

14 Bradley C. Richardson, Senior Solicitor
15 Travis W. Hyman, Assistant Solicitor
16 Attorneys for the State

17 Gregory McCollum, Esq.
18 Attorney for the Defendant

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20
21 Teresa J. F. Bautz, RPR
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24
25

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1 not enter your thoughts, it's not even -- it's not
2 nothing for your consideration.

3 Ms. Post, you now have that seat, and that will be
4 your seat for the balance of the trial unless you're
5 moved onto the panel, okay.

6 First, I need to ask you if each of you, as the
7 Court instructed, honored the instruction that you have
8 not talked with anyone, you have not discussed this
9 case with anyone, you've not viewed any newspaper
10 articles or watched any TV programs. If you have
11 honored that, please raise your right hand.

12 Thank you, sir. And let the record reflect that
13 each juror has raised his or her right hand in response
14 to the Court's inquiry. Now, I'm going to ask you to
15 give your attention to our clerk as she administers
16 your oath. Thank you.

17 CLERK OF COURT: Please stand and raise your right
18 hand.

19 (All jurors were sworn.)

20 THE COURT: Thank you very much. Thank you,
21 ladies and gentlemen. And I promise you I will not be
22 standing down here the entire trial. It's just because
23 of the configuration of the courtroom, I just was here
24 so that I wouldn't have to get out and come around this
25 morning.

1 You have taken the oath that we mentioned
2 yesterday, and now you by virtue of that oath have
3 become a judge with me. And now we're going to work
4 together to resolve this dispute. Thank you for your
5 commitment to that process. Thank you for your
6 willingness to honor that commitment.

7 And I, again, will reiterate something I said to
8 you yesterday when I qualified you. There is no one in
9 the world more qualified than you all to perform the
10 task that you've undertaken. Because all that you --
11 because all that you're going to do is use those tools
12 that you brought with you. And you use them every day
13 of your life and have used them every day of your life,
14 because that's what gets you through life, that's what
15 allows you to function.

16 You're going to use your knowledge, your sense of
17 logic and reason, and you're going to apply that at the
18 appropriate time in analyzing the evidence in this case
19 which, as I stated yesterday, consists of testimony of
20 the witnesses and exhibits that might be introduced
21 with their testimony, and nothing else.

22 And then once you decide those true facts, you
23 will take the law as I give it to you and apply that
24 law fairly and impartially to those facts. When you've
25 done that you will have honored the commitment that

1 you've just made because your decision will be
2 consistent with the evidence and the law. And that's
3 all that anybody can ask of you, and that's all that
4 you have to do and all that you would want to do.

5 Because each one of you said something, most of it
6 was indirectly, but in response to my questions or not
7 responding to a question, you basically indicated, and
8 you probably got really tired of me saying will that
9 influence you, will you base your decision on the
10 evidence and the law and will that decision be fair to
11 both sides. Isn't that the essence of what we just
12 said, isn't that the essence of what we're about. And
13 each one of you, either in answering the question or
14 not answering the question, indicated that.

15 Now, all that you have to do is apply something
16 else that you brought with you when you walked in.
17 Each one of you, whether you said it or not, brought an
18 open mind. You said, in fact, you said in the last
19 question that I asked you, there was nothing about this
20 case that would give you any concern about your ability
21 to make a commitment to me.

22 So basically you said, judge, I don't know
23 anything about it or from what I know, I put that
24 aside, and I can have an open mind. And I would urge
25 you that that -- hold onto that and keep that. And I

1 will confess, as we talked yesterday, we're human and
2 we have human tendencies. And one of, some of us, I
3 don't know you, but I'll share this -- and you don't
4 know me -- but I'll share this about me with you.

5 I'm kind of a bottom line person. I'll hear a
6 little bit, and I just want to get to the bottom of it.
7 I happen to live with a person that's a detail person.
8 And she wants to hear everything, maybe even think
9 about it, and then after she -- after I'm finished,
10 then she'll make a decision. Sometimes it drives a
11 bottom line person crazy, because I want to get to the
12 point.

13 You have to be that detail person. Whether you
14 are or not, if you're not, if you're like I am, then
15 you're going to have to really focus on not making
16 decisions. If you happen to be a detail person,
17 welcome home because this is going to be perfect for
18 you. You cannot make a decision about anything,
19 anything, until you've been given an instruction to
20 begin your deliberations. Because if you do, no matter
21 how small, you will have violated the commitment that
22 you just made.

23 And it's important for a number of reasons, number
24 one, primarily because of the oath that you took. But
25 number two, you've promised to be that fair and

1 impartial judge in honoring this process that we have
2 of dispute resolution. And there are four distinct
3 parts in this process. In just a moment the attorneys
4 will have their opportunity to speak to you. They
5 address you twice, once before you hear the evidence
6 and then once after you've heard the evidence.

7 Before you hear the evidence, we call that opening
8 statements. And it's proper for them to discuss in a
9 non-argumentative fashion some of the evidence that
10 they expect you to hear. They may discuss some of the
11 legal principals with you. And you'll find those
12 remarks helpful as we move through the evidentiary
13 portion. It gives you kind of a broad overview of the
14 dispute and will help you as it unfolds.

15 After you've heard the evidence, it's proper for
16 them to discuss that evidence with you and suggest
17 reasonable inferences that you may draw from that
18 evidence. And I'm very confident that when you do
19 begin the process of deciding this case, you will find
20 those remarks very helpful in analyzing the evidence
21 and in applying the law.

22 Please remember something, they are officers of
23 this court. They have a very important responsibility
24 in this process, to present the evidence and the law in
25 a fashion that will assist us in making the decisions

1 that we're called upon to make. Please give them your
2 attention, as I know you will. But please remember
3 something else, their remarks, just as my remarks,
4 should never be considered evidence. Because the
5 evidence will come forth from the witness chair, and
6 you will have a chance to hear that evidence and
7 analyze that evidence at the appropriate time.

8 Now, in this proceeding, and we had a civil case
9 that started yesterday, and guess what, the four parts
10 are the same that we have in a criminal case. There
11 are two areas where there really is a distinction
12 between the two, civil versus criminal. In a civil
13 proceeding the party who makes the claim, such as the
14 State here, has the burden of proof. And in a civil
15 case, the burden of proof required of the party making
16 the claim is generally a probability standard. It's
17 called the preponderance or greater weight of the
18 evidence. If you've ever been involved in a civil
19 proceeding, that's what you dealt with.

20 Well, there's the first distinction, and it's
21 pretty significant. Because in a criminal dispute,
22 it's much more than probably guilty. It's proof beyond
23 a reasonable doubt. And I'll define this term for you
24 when I give you the instruction which will be the last
25 part of this process.

1 But a reasonable doubt, just for your purposes as
2 you go through, is a doubt that would make an honest,
3 conscientious juror who is searching for the truth in a
4 case to hesitate to act or take some action. And
5 that's the standard that you'll be applying when you're
6 instructed to begin your deliberations.

7 There's a distinction, though, about the burden of
8 proof. In a civil case there are occasions when the
9 party against whom the claim is made has a burden of
10 proof. But not here, not in a case where there's a --
11 of a criminal dispute. In this case the only party,
12 and I say only, is the State of South Carolina. The
13 Defendant, Mr. McDonald, has absolutely nothing to
14 prove or disprove. He doesn't have to present any
15 evidence for your consideration, he doesn't have to say
16 a word.

17 Why, because the State and the State alone has the
18 burden of proof. And that's precisely what a jury's
19 verdict says in a criminal dispute. Guilty means as to
20 that particular crime the jury analyzing the evidence
21 in the case were satisfied beyond a reasonable doubt
22 that each element had been established.

23 Not guilty simply means that that jury
24 collectively analyzing the evidence felt that the State
25 had failed to establish beyond a reasonable doubt one

1 or more. Because if they fail on one, you must return
2 a verdict of not guilty, because the State has to prove
3 each element to that standard.

4 So that's what we'll be about. First you'll hear
5 the evidence, and it's that evidence that ultimately
6 you will be analyzing. And certainly in addition to
7 applying the law fairly and impartially, you'll be
8 expected to apply that common sense, that sense of
9 logic and reason that you have done every day of your
10 life in doing something that I would suggest we do
11 everyday of our life. Most of the time it's a
12 subconscious process.

13 But we read something or we hear something, and we
14 decide for ourselves whether we believe it or not.
15 Now, that's an ongoing process, we do it probably, I'd
16 hate to guess how many times a day. Okay, while you're
17 going to be expected to do that about the evidence in
18 this case, and you'll be expected and everyone expects
19 you to make those mental notes that you make about, and
20 we talked about it yesterday. You know and I know, it
21 may not only be what somebody says, it may be how they
22 say it, it may be some body language. It may be
23 something that you've seen in your life, and it's
24 caused you to be suspect of what someone is saying.

25 If you notice that about any witness, make that

1 mental note but don't go to the ultimate conclusion, I
2 don't believe that. Why, because when you begin your
3 deliberation, then it would be proper for you to call
4 that to your fellow jurors' attention and say, you
5 know, in this situation I've felt this and I've
6 generally found that to be an indication that that
7 person is not credible.

8 They may be able to give you an explanation for
9 that, a logical explanation that allays your concern in
10 that regard. So that's why it's very critical that you
11 make the mental note but not reach the ultimate
12 conclusion. So please remember, keep that open mind.

13 At the close of this case, I will advise you of
14 various principles of law. I'll outline for you the
15 elements of each of the crimes, the crime of armed
16 robbery and the crime of murder, and give you each of
17 the elements that the State must prove. And then the
18 final instruction that I will give to you is when you
19 may go analyze the evidence and decide what are the
20 true facts, and then take that law and apply it fairly
21 and impartially.

22 So until that point, please keep that open mind,
23 please give the trial your attention, as I know that
24 you will. And it's an honor and a privilege to serve
25 with each one of you as a judge. And I thank you very

1 much for your attention to my remarks.

2 And now I ask you to give the same attention to
3 the solicitor as he gives his opening statement. You
4 may proceed. I'll come around.

5 MR. HYMAN: Thank you, Your Honor.

6 THE COURT: Okay.

7 MR. HYMAN: Folks, to begin with, I'd like to just
8 tell you a little bit about a young man named Anthony
9 Liddell, Jr. You'll hear a lot about him during this
10 case. And you'll hear that Anthony was from
11 Bennettsville, South Carolina, grew up in Marlboro
12 County, went to high school there in Marlboro County,
13 played football.

14 And you'll hear from this mother in this trial.
15 You'll hear how when he graduated from high school, he
16 chose to go on and pursue college. And he chose
17 Coastal Carolina University as his college, like many
18 kids do, simply because of their sports medicine
19 program. So his parents, like most parents, they
20 packed him up and they moved him two hours away from
21 home to let him go off to college.

22 And I'm sure when they did that, they wished the
23 best for their son, I'm sure they worried about him
24 like all parents with college age children. Hoped he
25 would hang out with the right crowd, hoped he would

1 work hard and make the right choices while he was in
2 college.

3 But never in a million years did they think that
4 Anthony would go off to college and get murdered. And
5 you're going to hear that that's exactly what happened
6 in this case, ladies and gentlemen. And Anthony was a
7 young man when he got killed, just 19 years old, just a
8 sophomore in college. And like many 19-year-old kids,
9 in this trial you'll see that Anthony made a few bad
10 choices in his life.

11 You'll hear that Anthony chose to use a little bit
12 of marijuana. Anthony may have even chosen to sell a
13 little bit of marijuana. But you see, his final and
14 his fatal bad choice was when he chose to do business
15 with this man right here, Marquis McDonald. And
16 throughout this case, essentially what you will see
17 that it was Anthony's involvement with marijuana that
18 led to his murder.

19 Specifically, this case is what's commonly
20 referred to as a drug rip. And the evidence in this
21 trial is going to prove that Marquis McDonald on
22 February 26th, 2013, he planned a drug deal with
23 Anthony Liddell for one purpose and one purpose only.
24 And we're going to prove that that purpose was to rob
25 him, folks.

1 You'll see the calls back and forth between
2 Anthony Liddell and this defendant, the text messages
3 back and forth where they agreed to meet at University
4 Place Apartments on that night. And you'll hear how
5 this defendant brought a gun along, which only served
6 one purpose, and that was for the purpose of robbing
7 him.

8 And when Anthony resisted the robbery like he had
9 a right to do, they shot him three times, point blank
10 with a high caliber pistol, and then sped off and left
11 him for dead in a cold, wet, February parking lot,
12 folks. Essentially that's what the case boils down to.
13 And because of this defendant's actions, Anthony will
14 never get to graduate from college or celebrate his
15 twentieth birthday for that matter.

16 And I'll be the first one to tell you that Marquis
17 McDonald did not act alone in this, he did have help.
18 There's another man, a man named Stephon McLain, that's
19 also charged, indicted with murder and indicted with
20 armed robbery. And he's pending, awaiting his trial
21 right now, and he will have his day in court.

22 But I'm sure some of you are wondering, where is
23 Stephon McLain. And I bring that up because I just
24 want to put a little bit of ease to your minds.
25 Stephon McLain has a right to a fair trial just like

1 Marquis McDonald does. And for legal reasons the State
2 has to try these two separately. So Stephon McLain
3 isn't on trial today.

4 Your job is to determine the culpability, the
5 guilt, of this man for his role in the armed robbery
6 and for his role in the murder. Stephon McLain will
7 have his trial, the State will try him. Even though he
8 wasn't the trigger man, he's just as guilty.

9 You'll hear a lot about a body of law that's
10 recognized here in South Carolina, it's called the hand
11 of one is the hand of all. And that's the theory that
12 Stephon McLain is guilty of murder under. Even though
13 he didn't pull the trigger, since he was present at the
14 commission of the crime and he was acting together with
15 his codefendant and assisting him with a common plan,
16 which was to rob Anthony, in South Carolina if you're
17 doing all those things, it doesn't matter who does the
18 ultimate act, they are both guilty, you see.

19 So and out of the law, both of these men are
20 guilty of murder. And I just kind of wanted to explain
21 that to you a little bit at the outset, so you could
22 ease your mind about where Stephon McLain is today.

23 And, folks, just getting into the facts a little
24 bit more, I wanted to go into in a little greater
25 detail what the facts of this case are, what kind of

1 evidence you will actually see in this case.

2 Like I said, this murder took place on
3 February 26th, 2013. And on that night the murder took
4 place between 7:15 and 7:20 p.m. And that night,
5 miraculously a young lady who you will hear from in
6 this trial -- her name was Amanda McTaggart, she was a
7 college student at Coastal as well -- and she happened
8 to be driving over to University Place Apartments that
9 night to go meet with one of her friends who happened
10 to live in University Place, Grand Strand E, which is
11 the crime scene in this case, the parking lot directly
12 behind there.

13 As she was driving over to that apartment that
14 night, miraculously, she just happened to be there at
15 the same time this was going on. You'll hear from
16 Amanda, and she'll tell you how she was pulling into
17 the parking lot that night, and as she was pulling into
18 her parking space, something grabbed her attention.
19 She'll tell you that she heard a bang, she heard a
20 gunshot, and it really just captured her attention.

21 She'll tell you how she pulled into her parking
22 spot, and she looked into her mirror, and she saw
23 directly behind her two men that she described as two
24 black males, and they were fighting. And then she
25 heard two more gunshots, bang, bang. And then the

1 shooter hopped in the car, and she'll tell you he drove
2 away, leaving Anthony Liddell the victim behind.
3 You'll hear how he was one of the two black males that
4 she saw fighting, folks.

5 And she'll tell you how then, when it was safe to
6 get out of her car, after the shooter left, she
7 proceeded to get out of her vehicle. And she'll tell
8 you how she watched Anthony stumble around towards his
9 car, and she ran to him and she tried to render him
10 aid, she tried to help him, she tried to do everything
11 she could.

12 And you'll hear how at the same time several other
13 students who lived right there in this apartment
14 complex, they also started funneling out of their
15 doors. They started coming out to see what was going
16 on, trying to help Anthony. You'll hear how everybody
17 was calling 911, how it was really just complete and
18 utter chaos, folks.

19 You can imagine all of these young kids coming out
20 and seeing, witnessing this great tragedy. Everybody
21 was calling 911. And I'm sure it seemed like forever,
22 but EMS did get there, they did get him, they took
23 Anthony over to Grand Strand hospital, tried to render
24 him aid. You'll hear how they tried and they tried,
25 and Anthony fought for his life that night, fought for

1 an hour, maybe an hour and 15 minutes, but ultimately
2 these wounds were just way too severe.

3 And you'll hear how he passed away that night
4 about 8:30 at night. And he had three gunshot wounds.
5 You'll hear how he had two to the chest and one that
6 went right through this left hip.

7 Folks, and simultaneously with Anthony fighting
8 for his life, police started responding and police
9 started to arrive on the scene there at University
10 Place Apartments. And in this trial you'll hear from
11 several of those officers, you'll hear from Coastal
12 Carolina police officers who arrived on the scene.

13 And they'll testify and they'll tell you that when
14 they got there that night, they started talking to
15 anybody and everybody they could. They started getting
16 witness statements and they started trying to gather
17 information and investigate this crime like police
18 officers do. You'll hear how SLED agents were involved
19 in this investigation because it took place on a
20 university campus. So you'll hear how SLED agents
21 responded to University Place that night.

22 And they'll tell you how they secured the crime
23 scene, which you probably all have seen something
24 before on TV or in the news where they put up the
25 security tape. And then they started doing what's

1 referred to as processing the crime scene, which just
2 like Sherlock Holmes, they go out there and they start
3 looking for clues, they start investigating this case.

4 And the agents in this case will testify and they
5 will tell you how they spent hours out there that night
6 investigating that crime scene, processing that crime
7 scene. And they will tell you that they did find some
8 evidence. Based on the statement given by Amanda
9 McTaggart, they were able to pinpoint the precise
10 location of the shooting. They were able to look,
11 narrow down their search to that area where she saw the
12 two black males fighting and where she heard the
13 gunshots.

14 And what the agents are going to tell you
15 essentially, folks, is that right where she saw those
16 people fighting, right where she heard those gunshots,
17 there was a vehicle parked right beside it, and then
18 two empty spaces and then the victim's vehicle. This
19 vehicle that was parked right beside it, you'll hear,
20 it was a white Hyundai SUV.

21 And police officers started looking at that
22 vehicle, and I'll tell you how they noticed it, there
23 were two bullet holes in it. And they actually even
24 took the door off that car, and they'll tell you how
25 they removed two bullets from that car. And they're

1 called projectiles, that's how they'll refer to them.
2 Essentially they are just two fired bullets.

3 And they'll tell you how directly below where
4 those two bullets were recovered, about this high
5 (indicating), just over the door handle on the rear
6 passenger side of that door of that white car, they
7 found some more evidence, some crucial evidence in this
8 case. As it turns out, the killer left his footprint
9 on the crime scene, folks, and it was right under those
10 two bullet holes in that car.

11 And the police officers will tell you that right
12 there they found a .40 caliber shell casing. And right
13 beside that .40 caliber shell casing they found a cell
14 phone. And they'll tell you how at first they thought
15 that that cell phone belonged to Anthony Liddell and
16 just assumed he dropped his cell phone while he was
17 fighting for his life.

18 And police will tell you how they were able to get
19 a search warrant for that phone. And once they boosted
20 it up the next day and started going through it,
21 they'll tell you how they realized this isn't -- this
22 phone doesn't belong to Anthony Liddell, this phone
23 belongs to the shooter. It just so happens the killer
24 left his cell phone behind, and police will tell you
25 how once they got a warrant, they were able to go

1 through the phone. And you'll get to see the call logs
2 back and forth between this defendant and the victim in
3 this case. You'll get to see the text messages back
4 and forth proving the planning of the drug deal, the
5 planning of the robbery.

6 And the police went through that phone, and based
7 on all this information they were able to identify that
8 phone as belonging to Marquis McDonald. You'll get to
9 see the selfies he took of himself and this, that and
10 the other. You'll get to see that he has the victim's
11 name listed in his phone as Coastal Boy Bud. That was
12 his contact in his phone. And police will tell you
13 that based on that information, they were able to
14 obtain an arrest warrant for the arrest of Marquis
15 McDonald for the ultimate offense of murder.

16 And they'll tell you that then they got the arrest
17 warrant on February 28th, two days after the shooting.
18 The police will tell you that then they started
19 looking, searching for Marquis trying to find him and
20 detain him. They'll tell you how they put his flier
21 out with his picture, started calling his known
22 associates trying to locate and trying to arrest him.

23 And you'll hear that Marquis did finally turn
24 himself in, folks, and it was three days after the
25 shooting. After police were hot on his trail, after

1 they put the heat on him, Marquis did turn himself in.
2 The Defendant turned himself in on March the 1st, on
3 Friday of that week. Shooting took place on Tuesday.
4 Keep that in mind when you're listening to the
5 defendant's statement.

6 He gave a handwritten statement of his version of
7 the events, and you'll get to see that self-serving
8 statement, ladies and gentlemen. And keep in mind,
9 three days after the shooting, you think he was coming
10 to help police or was he coming to talk to them to help
11 Marquis. Those are some of the things that you need to
12 think about when you're weighing the credibility of the
13 evidence in this case.

14 Like the judge told you, that's one of your
15 crucial jobs is to look at the evidence, use your
16 common sense, and you determine if it adds up, you
17 determine if it makes any sense. And when you're doing
18 that, I want you to compare what the Defendant says
19 took place to what all of the other eye witnesses say
20 took place that night. Compare it to the physical
21 evidence, the location of where his cell phone was
22 recovered, the phone contents, the phone evidence, the
23 text messages, the cell phone calls, the GPS tracking
24 that agents were able to do in this case. I want you
25 to do all of that, folks.

1 And if you do that, I submit to you, you'll see
2 that there are no less than three lies in this
3 defendant's statement. And that is a modest number.
4 There are more than three lies, but you'll see clearly
5 no less than three lies. And it's like the old saying
6 goes, if he'll lie a little, he'll lie a lot.

7 And specifically I'll tell you a little bit about
8 his statement so you know what I'm talking about. When
9 police interviewed this defendant on March the 1st,
10 three days after the shooting, his version of events
11 went something like this.

12 The gist of it is, he admits to being at University
13 Place Apartments, he admits to knowing Anthony Liddell,
14 he admits that they were there to do a drug deal. He
15 admits that he drove over there, says he drove his
16 uncle's gray Acura. He just spins the facts and tries
17 to put it on Stephon McLain who you will hear is named
18 Black. The State will identify Black, which is the
19 nickname this defendant used for the assailant, as
20 Stephon McLain.

21 And essentially Marquis McDonald said he pulled up
22 at University Place Apartments that night. He says he
23 drove over there by himself and that Anthony Liddell
24 was his best friend, that Anthony was going to give him
25 a deal on some weed because he was his best friend.

1 And he says when Anthony got there, somebody came with
2 Anthony who he says was named Black. He says he didn't
3 know his real name.

4 So he says Anthony proceeds to get into his
5 vehicle. Anthony gets in the back seat, Black gets in
6 the front passenger seat, Stephon McLain. He says
7 they're laughing, they're joking around and pulled the
8 weed out, put it on the scales. And he says Black
9 pulled out a handgun and pointed it at Anthony. And
10 then Anthony grabbed the gun, and then Marquis grabbed
11 the gun, and they're all wrestling over the gun. He
12 says the gun went off.

13 And then he jumps out of the car. But then he
14 knows Anthony needs help, so he comes back and helps
15 his best friend. And he says, he puts his knee on the
16 driver's side seat of that car and, like some
17 superhero, punches Black square in the face, and Black
18 goes flying out of the passenger seat of that car, like
19 a superhero, through a closed door. He said all he saw
20 was feet at that point. And then he was driving and he
21 backed the car out and sped off, leaving behind Anthony
22 Liddell and leaving behind Black, Stephon McLain.

23 Now, what you'll notice when you hear a lot of
24 these eye witnesses testify, first of all, not one eye
25 witness, not Amanda McTaggart, not Janie Plyler, not

1 Infiniti Henderson, none of these other witnesses who
2 were in and around University Place that night saw
3 anybody get punched out of the passenger side door of
4 that car.

5 Not only that, everybody there hears the gunshots
6 and then sees the vehicle back out and drive off.
7 You'll notice in Marquis' statement he claims he heard
8 a gunshot, then he left, and as he as driving off he
9 heard another gunshot, lie number two. Lie number
10 three, he claims he went to the crime scene by himself,
11 and Black happened to show up with Anthony McDonald.

12 And what you're going to see in this case is that
13 after the detectives interrogated Marquis McDonald, he
14 gave them another clue that they followed up on like
15 detectives do. They asked him, well, Marquis, where
16 were you right before the shooting. And he said, the
17 Sunhouse convenience store over in Cochran Town, right
18 over here in Conway off of Cultra Road.

19 So the police followed up to the Sunhouse, and
20 they pulled the security video from that store. And
21 you'll get to see the security video in this case. And
22 low and behold, when you watch that video, you see
23 Marquis McDonald pull up to the store. And guess who's
24 with him? Black.

25 And you'll get to see him go in the store, get

1 back out, Marquis gets into the driver's side, Black
2 gets into the passenger side, and off they go. And the
3 video is time stamped 6:34, February 26th, about 45
4 minutes before the shooting.

5 Clearly he's got something to hide, folks. And
6 when you're determining the credibility of his
7 statement, like the judge said your job is, when you're
8 comparing it to all of the physical evidence, the
9 video, the phone records, all of the other eye witness
10 statements, you'll notice that there -- that the thing
11 is riddled with lies. Think about what Marquis
12 McDonald's motives are, folks.

13 My boss, Jimmy Richardson, the solicitor, when
14 he's trying cases and he's cross-examining somebody and
15 he catches them in a lie, he always has a little
16 saying, and it goes like this. Oh, what a tangled web
17 we weave when we first practice to deceive. And at the
18 end of this trial, you will see that that's exactly
19 what's happened to Marquis McDonald in this case, he's
20 tangled himself up in a web of lies.

21 When police found his phone right beside the .40
22 caliber bullet, right where Amanda McTaggart saw the
23 two men fighting, right where she heard the gunshots,
24 they started tugging on that string, and he had to come
25 up with a story, and he had to quick because they were

1 hot on his trail. But three days later he gave that
2 story.

3 I just ask that you pay close attention to this
4 trial, that you determine the credibility of all of the
5 evidence. But pay very close attention to his
6 statement. And essentially what this case boils down
7 to, you know, that day, Tuesday, February 26th, 2013, a
8 little bit of weed was more important to this defendant
9 than the life of 19-year-old sophomore, Anthony
10 Liddell, Jr.

11 It doesn't matter what kind of bad choices Anthony
12 made. He didn't choose to be the target of an armed
13 robbery. He didn't choose to be shot three times point
14 blank, and he didn't choose to be left for dead in a
15 cold, wet parking lot, folks.

16 And I wish this were an attempted murder and not a
17 murder trial that we're doing here this week, and we
18 could put Anthony on the stand and that he could tell
19 you who the shooter was. But the fact of the matter is
20 this defendant made darn sure that that would never
21 happen. He wasn't going to let a witness, a live
22 witness, get away from armed robbery. So the State's
23 going to prove this case by way of other evidence. And
24 I would just like to thank you in advance for your time
25 and your attention to this matter.

1 MR. McCOLLUM: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. McCOLLUM: Ladies and gentlemen, as I told you
4 in the beginning, my name is Greg McCollum. And I'm
5 here and I represent Marquis McDonald. Now, what
6 happened to this young man, Anthony Liddell, is tragic,
7 it's terrible. When I was reviewing this case, I was
8 thinking about him, I was thinking about his family, I
9 was thinking about young people and how sad that is.
10 There's no question about that, it's awful, it's
11 terrible, okay. That's why we're here because
12 something terrible happened to that young man, and he
13 was shot to death.

14 In terms of what happened, though, in this case,
15 fortunately there was an investigation. There is
16 physical evidence, there's evidence regarding the
17 vehicle. There's the phone, there's eye witnesses,
18 there's the path of travel of the bullets, there's
19 fingerprint evidence. The evidence and testimony will
20 show to you conclusively that the shots were fired from
21 the passenger side.

22 The evidence and testimony will show you that
23 Marquis McDonald who was seated in the driver's seat
24 where his fingerprints are found on his car, his
25 uncle's car which he was driving, that a bullet passed

1 through his headrest being shot into the back seat,
2 that other bullets were fired through the seat that he
3 was sitting in at this poor young man in the back seat.

4 The evidence and testimony will show that whether
5 or not Marquis McDonald and Anthony Liddell were
6 friends or not, they knew each other, they communicated
7 back and forth. They had met together to either buy or
8 sell small quantities of marijuana to each other, and
9 nothing like this had ever happened before.

10 The evidence will show that Marquis McDonald drove
11 a vehicle registered to his uncle, the vehicle he
12 drove, that he drove it into the housing complex which
13 is part of Coastal Carolina University, that he drove
14 in a roadway, the evidence will show it actually has
15 alarms and gates that if there's an emergency those can
16 be lowered, or they lower them at night at a certain
17 time.

18 So he drove into an area that you could
19 conceivably not get out of, that he parked the car not
20 as a getaway car, didn't back up into a parking space,
21 didn't park the car in such a way that he could rapidly
22 leave, that he parked the car right next door, the
23 street adjoining a busy residential student housing
24 complex where people are coming and going.

25 There's nothing about these facts and

1 circumstances which would indicate that Marquis
2 McDonald had any intention whatsoever to rob Anthony
3 Liddell. The evidence will show he knew him, they had
4 met many times and that the shooting came from the man
5 known as Black, Stephon McLain, who is not here. The
6 evidence and testimony will show that Marquis McDonald
7 was not preparing to rob someone at gunpoint because
8 he's sitting in the car with his own cell phone in his
9 lap along with cigarettes. The evidence will show that
10 he leaped out of the car when the gunshots were going
11 through his seat, through his headrest.

12 The State has alleged that he is, quote, "the
13 trigger man." They are wrong. When you hear this
14 evidence, you will be firmly convinced that that's not
15 true. So the question that you will be asked to
16 decide, then, because what you're going to see, my
17 prediction is the State's theory will change as the
18 evidence is presented. Because it will be clear that
19 what was just stated physically could not have
20 happened.

21 So then the fallback theory is, well, okay, we
22 don't know who shot whom, maybe the defense is right,
23 we don't know, but we got you anyway because of this
24 theory called the hand of one is the hand of all. And
25 the hand of one is the hand of all is a theory that if

1 one or more people, actually more than one person, two
2 or more people, are acting in concert and they go do
3 something bad, then they are equally guilty, that's the
4 theory.

5 What's missing in this case is that that requires
6 a prior arranged plan, a prior arranged plan not to
7 meet with somebody, not to buy some marijuana or sell
8 some marijuana but to rob somebody, to commit a robbery
9 which leads to a murder. The State will have to show
10 you, which they will not be able to, a prior arranged
11 plan.

12 In doing this kind of work, and I lose count, I
13 think I've been at this about 25 years, I used to sit
14 not at this table because we were at the old
15 courthouse, but I started my career in the solicitor's
16 office, prosecuted many of these type cases. One of
17 the things that we always did, things that I tried to
18 do, was look at circumstance and say, what would
19 happen, what would this person do if the other person
20 were not in the picture.

21 Sometimes you have two or three people, sometimes
22 you have seven or eight people, somebody would do
23 something terrible. And you look at it, and it's not a
24 science, it's difficult to do at times, but look at it
25 and try to see who was the principal person, who was

1 the actor, who was the person that if you took out of
2 the equation, this terrible thing would not have
3 happened. And when you look at this clearly, that is
4 Stephon McLain, Black, O'Black, just some of his
5 nicknames, okay.

6 Because the evidence will show that whether they
7 were friends or not, Marquis McDonald had had many
8 meetings with Anthony Liddell and nothing like this had
9 happened. The evidence will show that there was no
10 prior arranged plan to commit a robbery. The facts are
11 tragic, they are terrible. It's sad, it's a terrible
12 loss.

13 However, Mr. McDonald, Marquis McDonald, did not
14 know that Black was going to pull out some weapon and
15 try to rob this poor kid. And if he -- to be guilty of
16 armed robbery and murder he would have to know that, it
17 would have to be a prior arranged plan, not something
18 that just happened. Because the other part of the law
19 is that if you're merely present when a crime is
20 committed, you're not guilty, you're there, all right.

21 Now, finally, the other thing is what happened
22 happened, the State investigated it, the State chose
23 and elected what to charge Marquis McDonald with. It
24 chose to charge him with murder, they chose to charge
25 him with armed robbery. They didn't charge him with

1 anything else. They didn't charge him with accessory
2 after the fact of a felony. They did not charge him
3 with attempting to possess or conspiring to possess or
4 sell marijuana. Clearly, whether you agree with it or
5 not, selling marijuana is not legal, smoking marijuana
6 is not legal.

7 If someone leaves the scene of a crime because
8 they panicked or for whatever reason, that could be
9 evidence that the person was an accessory after, okay.
10 But Marquis McDonald didn't make that decision. The
11 State made that decision when they indicted him. They
12 could have charged him with anything they wanted to
13 that they could support. So they kind of put you in a
14 situation where it's kind of what I call all or
15 nothing. But that's not your responsibility. Your
16 responsibility is to look at the facts and the evidence
17 and fairly judge the case.

18 I want to thank you for being here, I want to
19 thank you for your service. I agree very much with
20 what His Honor has said. I think he does a really good
21 job of putting you at ease and explaining to you
22 exactly what we're doing. Because you know generally,
23 but it's good to hear it and to genuinely hear how
24 thankful we all are that you're here. We appreciate
25 your service.

1 And we chose you because we believe and know that
2 you will render a verdict that's fair and just. You'll
3 render a verdict not based on sympathy or passion or
4 prejudice, because that's certainly present in these
5 situations. It affects all of us, it affects me. But
6 wrongfully convicting one young man because another
7 young man was horribly murdered is not justice.

8 And we will ask you at the conclusion of this case
9 for justice, for the truth, for a fair verdict. You
10 have -- clearly you have no friends to reward, no
11 enemies to punish. Your verdict is your verdict, and
12 no one can contest it or try to attack you for it or do
13 anything of that nature.

14 So again, thank you, thank you for your presence
15 here, and we look forward to the case being presented.

16 THE COURT: Solicitor, you may call your first
17 witness.

18 MR. RICHARDSON: Thank you, Your Honor. The State
19 would call Sergeant Brad Ferrell, Coastal Carolina
20 Police Department.

21 BRADFORD FERRELL, after being duly sworn,
22 testified as follows:

23 CLERK OF COURT: Please be seated. State your
24 full name, spell your last name for the Court, please.

25 THE WITNESS: Sergeant Bradford Ferrell. Last

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 name, F-E-R-R-E-L-L.

2 DIRECT EXAMINATION

3 BY MR. RICHARDSON:

4 Q Good morning, Sergeant Ferrell.

5 A Good morning.

6 Q Could you please tell us where you're employed,
7 how long and in what capacity.

8 A I've been with Coastal Carolina University
9 Department of Public Safety since 2004, hired as a
10 security officer in 2009. I applied for the position
11 of police officer, I got the position. I went to the
12 South Carolina Criminal Justice Academy, and I've been
13 a police officer since 2009. In 2013 I was promoted to
14 sergeant.

15 Q Okay. And so you've been to the police academy
16 just like any other law enforcement officer in the
17 State?

18 A Yes, sir.

19 Q Okay. So we're not talking about campus cops?

20 A No, sir.

21 Q We're talking about police?

22 A Yes, sir.

23 Q And as a Coastal Carolina University public safety
24 officer, could you tell us what your duties are
25 presently.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 A. Presently I'm assigned, we're contracted out with
2 Horry-Georgetown Technical College. I am the
3 supervisor for three campuses in Conway, Myrtle Beach
4 and Georgetown. I'm the second supervisor in charge of
5 about nine people, and I receive law enforcement
6 security duties and administration for all three
7 campuses.

8 Q And back in February of 2013, were those your same
9 duties back then?

10 A No, sir. I was just a patrol officer at Coastal.
11 My primary duties were law enforcement on the Coastal
12 Carolina campus.

13 Q Okay. Tell us about some of the law enforcement
14 duties you had.

15 A Answer any calls for medical, assault, rape cases,
16 anything of that nature. We give minor misdemeanor
17 cases for marijuana, underage consumption is mostly
18 what we get.

19 Q And were you working and on duty the night of
20 February 26th, 2013?

21 A Yes, sir, I got on duty at 1800 hours, 6 p.m.

22 Q Okay, and you were operating as a law enforcement
23 officer. In the course of your duties, did you have
24 the opportunity to respond to 114 Jackson Boulevard?

25 A Yes, sir, that night, yes..

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q And 114 Jackson Boulevard is, where is that
2 located?

3 A That's University Place, that's part of Coastal's
4 property, that's a housing area.

5 Q So that's University Place Apartments?

6 A Yes, sir.

7 Q And what county is that located?

8 A Horry County, sir.

9 Q Horry County. Now, how did it come that you were
10 dispatched to that area?

11 A Sometime after 7 o'clock we got a call that shots
12 fired over the University Place. My shift responders,
13 about six of us responded over there and proceeded down
14 Highway 544, actually passed a ambulance on 544 because
15 they would not enter the area until it's secured.
16 Proceeded down there, made a right on Jackson Bluff
17 Road, a right on Leaders Lane, proceeded to 114, there
18 was a lot of students standing around at some point, in
19 other words, at 114. I actually drove into the crime
20 area because we didn't know where it was at, there were
21 so many people in the area at the time.

22 Q Okay. Blue lights going?

23 A Oh, yes, sir, emergency equipment was going,
24 lights and sirens.

25 Q And do you have any kind of lockdown procedures or

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 anything with the apartments?

2 A Well, not at that time, sir. There's a lot of
3 stuff going on, you have to get clearance with the
4 college. We did initiate what the -- the campus alert,
5 which I don't have the authorization to do that. That
6 comes from one of the command staff. But they did
7 initiate that.

8 Q I'm sorry. Y'all have security boxes out around
9 those?

10 A Yes, sir, there are emergency call boxes, yes,
11 sir.

12 Q And if somebody hits the security box, the alarm
13 box --

14 A We treat that like a 911 call, sir, yes, sir. We
15 respond immediately to it.

16 Q Does the gate drop down immediately and block --

17 A No, sir, not like that, no.

18 Q All right. I'm going to show you what's been
19 previously marked as State's Exhibit 1, if you'll take
20 a look at State's-1. I believe defense has already
21 seen it. If you'll take a look at State's Exhibit No.
22 1.

23 A Yes, sir.

24 Q And first, tell me if you recognize State's No. 1.

25 A Yes, sir. It's university housing north,

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 University Place.

2 Q Okay. And you recognize that as a map of that
3 area?

4 A Yes, sir, I do. I've patrolled it for -- since
5 2004.

6 Q Okay. So you would know it well?

7 A Yes, sir.

8 Q Is this a fair and accurate depiction of that
9 area?

10 A That's a little outdated, there's some new housing
11 areas and parking lots, but yes, sir, it is.

12 Q Is the area of the crime scene depicted on there?

13 A Yes, sir, it is.

14 Q And the entrance from Highway 544, is that still
15 the same?

16 A It's still the same, yes, sir.

17 Q Same as it was back in February 2013?

18 A Yes, sir.

19 MR. RICHARDSON: Your Honor, at this time the
20 State would seek to introduce State's No. 1 into
21 evidence.

22 THE COURT: Is there any objection?

23 MR. McCOLLUM: Let me look at it just one more
24 time, Your Honor.

25 THE COURT: Sure.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 MR. McCOLLUM: I don't think so, Your Honor. Your
2 Honor, I do not have an objection.

3 THE COURT: Very well. State's-1 is admitted
4 without objection.

5 (WHEREUPON, State's Exhibit No. 1 was admitted
6 into evidence.)

7 THE COURT: Before you start, ladies and
8 gentlemen, during the trial of the case -- we've just
9 had our first experience with the exhibits -- I
10 mentioned to you that you will certainly be considering
11 that and the testimony of witnesses and exhibits as
12 introduced through the testimony.

13 Any exhibit that's introduced into evidence will
14 accompany you to your jury room, so you'll have an
15 opportunity to study it in detail and more closely at
16 that time. It may be from time to time what's going to
17 happen now is that they're going to show that to you.
18 But just know that you'll have it in your jury room and
19 you'll have a chance to look at it more closely if need
20 be.

21 Also there may be from time to time exhibits shown
22 to a witness that are marked for identification. If
23 those are -- if you hear that and it's not introduced,
24 know that the testimony about that exhibit will be
25 something you'll be analyzing, but the document itself

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 or the physical exhibit will not come to your jury
2 room. So when you hear that is introduced, know that
3 that will be coming with you to your jury room to begin
4 your deliberations. Thank you, solicitor. You may
5 continue.

6 MR. RICHARDSON: Thank you, Your Honor. Your
7 Honor, if I may have Sergeant Ferrell come down from
8 the stand.

9 THE COURT: Sergeant Ferrell, you may, and why
10 don't you position yourself so that you're speaking
11 back towards the court reporter.

12 THE WITNESS: Yes, sir.

13 THE COURT: Just keep your voice elevated, please.

14 MR. McCOLLUM: May it please the Court.

15 THE COURT: Oh, absolutely, please, feel free.

16 Q Sergeant Ferrell, please take the stand near the
17 microphone so the microphone can pick everything up for
18 madam court reporter.

19 Now, Sergeant Ferrell, for those of us that are
20 unfamiliar with the area, can you show us where
21 University Place Apartments is located on here, the
22 area you responded that night.

23 A Well, this is the original (indicating). And then
24 these areas here used to be called Campus Edge
25 (indicating), but the university didn't buy it. But

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON.

1 all these with the red tops and the gray tops are
2 university housing.

3 Q Okay. And we see here Highway 544?

4 A Yes, sir, Highway 544 is right here (indicating).

5 Q Can you show for the jury how you came to be at
6 University Place Apartments that night.

7 A Yes, sir. Our department is actually in this area
8 here (indicating). Proceeded on Highway 544 past the
9 ambulance right down here on this area (indicating),
10 made a right onto Jackson Bluff Road, we got to follow
11 for 114, made a right on Leaders Lane, and the incident
12 took place right here on this corner (indicating).

13 Q Okay. So just past the entrance, and that's a
14 Gullies gas station; correct?

15 A Yes, sir.

16 Q Okay. Now, you're indicating that you came down
17 Leader Lane, and just right here is where the crime
18 scene was (indicating)?

19 A Yes, sir.

20 Q Okay. And when you got to the crime scene, you
21 indicated earlier that you actually passed through the
22 crime scene?

23 A Yes, sir. We weren't exactly sure. We were told
24 114. And we didn't realize what was going on until I
25 saw the young man laying in the street with some

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 students around him.

2 Q And so the young man, the victim in this case?

3 A Yes, sir. I didn't know who he was at the time.

4 Q And whenever you -- can you show us -- you talked
5 about 114; can you show us which building 114 is.

6 A Yes, sir. It's this building right here
7 (indicating).

8 Q Okay, 114. How many apartments are in 114?

9 A Four, four, four, twelve.

10 Q About 12?

11 A Yes, sir.

12 Q Okay. So then you get on the scene. When you get
13 there, are you the first officer?

14 A Well, Sergeant Llewellyn and Officer Todd and
15 myself, we roughly got there the same time, but...

16 Q Do you recall what time you got dispatched?

17 A We just about had dinner served, so it was a
18 little after 7 o'clock, between seven and 7:30.

19 Q Okay. And you got there about the same time as
20 the other officers?

21 A Yes, sir.

22 Q Now, when you got on the scene here, what was the
23 first thing you did?

24 A Well, we tried to get everybody out of the
25 immediate area, we didn't know what was going on.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Until we saw the young man, tried to get some students
2 away from him. An individual said he had EMT training,
3 which is more than what I have. I said, stay with the
4 individual on the ground. Sergeant Llewellyn and
5 Officer Todd started interviewing suspects and
6 witnesses on what may have happened. The only thing
7 they could agree on was everybody left the area. Once
8 we agreed they left the area, we called the ambulance
9 in to deal with Mr. Liddell.

10 Once I saw that nobody was looking at the crime
11 scene, all they could agree on was it happened on one
12 part of the parking lot, I went over there and I
13 noticed there was a broken cell phone or a cracked
14 screen on there, and a shell casing on the ground, and
15 nobody was dealing with it. And there was a lot of
16 students around, I didn't want anybody to sit there and
17 possibly pick something up with their shoe or track
18 something in there, so I started to secure the crime
19 scene.

20 At that time the Conway police had shown up to
21 assist us. They started roping off the area, and we
22 got everybody outside the crime scene area. And
23 Lieutenant Nelson, who was my supervisor at the time,
24 told me to initiate the crime log, take a log of
25 everybody that comes in and out of the crime scene area

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 in case they have to be called in for questioning.

2 Q Okay. And at the very beginning of that you said
3 first thing you did is you found out that everybody had
4 left?

5 A Yes.

6 Q What do you mean by everybody?

7 A Well, the essential suspects that we have. We
8 didn't know -- all we saw was somebody got shot, we
9 said who did the shooting, everybody said they got in
10 the car and left.

11 Q Okay. You wanted to make sure the shooters
12 weren't still on the scene so the EMT could arrive?

13 A Yes, sir. Because EMT will not come in the area
14 until we secured it.

15 Q Okay. And EMT did arrive?

16 A Yes, sir. They were still sitting on 544 until we
17 talked. Horry County dispatch said, bring them on in,
18 we've got the area secured.

19 Q Now, were there any other vehicles around the
20 victim whenever you arrived?

21 A There were some parked over on this parking lot
22 across the street.

23 Q Now, the victim, you said a student there had some
24 EMT training?

25 A Yes, sir.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q And what did you observe him do?

2 A Well, at the time Mr. Liddell was laying face down
3 on the ground moaning. There was two students, one
4 trying to hold his head off the concrete, and the other
5 one was trying to put pressure to his back.

6 Other than that, sir, I didn't get too much
7 involved with Mr. Liddell. Certainly when Officer Todd
8 and I got there, I just started going to the crime
9 scene and trying to process that.

10 Q Okay. And then you mentioned that you noticed
11 that there was, I believe, a cell phone with a cracked
12 screen?

13 A Yes, sir.

14 Q And shell casing. Do you remember any landmarks
15 that was close to?

16 A Just next to the white vehicle, sir. It was the
17 one we were looking at too that they said -- well, the
18 incident -- excuse me, the incident took place right
19 here (indicating), they said shots fired in this
20 direction (indicating). It was just next to a white
21 SUV is all I could tell you, was the only
22 distinguishing marks we had.

23 Q Okay. And there was the empty space beside that
24 what SUV?

25 A Yes, sir, there was.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q Now, and you didn't take possession of those
2 items?

3 A No, sir. I left them on the ground, made sure
4 nobody got to them.

5 Q Okay. When you saw those items, did you see
6 anybody else around them?

7 A Well, there were students in the parking lot, but
8 nobody in the immediate vicinity of that, no, sir.

9 Q Okay. Where were the majority of the students,
10 please?

11 A They were on 114 on this side over here
12 (indicating) or trying to get to Mr. Liddell. Once we
13 put the crime scene up, of course we got them out of
14 the area.

15 Q Okay, so you put crime scene tape up. Can you
16 show here where the crime scene tape was put up.

17 A If you had a little better map. But basically
18 this corner here we had to block the intersection off
19 (indicating). And in front of 114 where he was at, we
20 tried to give it a good radius in there because we
21 didn't know exactly what evidence we were looking for.

22 Q Okay. And so you roped it off with?

23 A Police line, yes, sir.

24 Q Crime scene tape, the yellow stuff we see on TV?

25 A Yes, sir.

1 Q Okay.. And after you -- you get everybody out of
2 there, all the students?

3 A Yes, sir.

4 Q And your responsibility at that point, you said
5 something about a crime scene log?

6 A Yes.

7 Q What's the purpose of the crime scene log?

8 A To maintain the integrity of the crime scene, sir.

9 Q All right.

10 A Make sure that nobody is bringing stuff in or
11 taking stuff out. If anybody does, then we'll have a
12 listing of who did.

13 Q Okay. Including the EMT's?

14 A Yes, sir, the fire department, everybody.

15 Q So everybody that enters the scene, you make a
16 record of that?

17 A Yes, sir, I did.

18 Q Excuse me one second.

19 A No problem.

20 Q Now, while you are putting out crime scene tape or
21 being -- essentially putting crime scene tape out and
22 you're handling the crime scene log, do you know what
23 the other officers are doing at this point?

24 A Yes, sir. Officer O'Dell and investigators were
25 being called. They were trying to look for the

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 suspect's vehicle, that Chief Thomason was with him.
2 Sergeant Llewellyn and Officer Todd was trying to
3 interview any witnesses we might have had, until
4 Lieutenant Nelson was, you know, on-the-scene command
5 center, if you will. He's trying to coordinate with
6 everybody, get the media back, and that's about it for
7 that.

8 Q So it was pretty busy that night?

9 A Oh, it was chaos.

10 Q You said you saw a lot of students at the crime
11 scene when you got there?

12 A Yes, sir.

13 Q Do you have any idea how many?

14 A Off the top of my head, I cannot give you an
15 answer, no, sir.

16 Q Okay. And so you've got a lot of officers, a lot
17 of students, EMT's?

18 A Yes, sir.

19 Q And just quickly as possible, you get them out of
20 the crime scene to maintain that integrity?

21 A Yes, sir, the best we can, yes.

22 Q And that cell phone that you saw, that was
23 directly up under the SUV?

24 A Well, it was to the side of it. So that's the
25 only reason I saw it.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q Did you do anything to move that?

2 A No, sir, I did not touch it.

3 Q How about the shell casing, did you do anything to
4 move that?

5 A No, sir, I did not. I just kept it out of the
6 immediate area.

7 Q And the students that you did see, could you
8 describe their emotional status.

9 A A lot of them were confused, some were crying, of
10 course everybody tried to help, everybody saw
11 something, but of course I didn't get into any of the
12 interviews on that one. But there's a lot of
13 confusion, like I said, a crime going on, everybody was
14 trying to help.

15 Q The victim --

16 A Yes, sir.

17 Q -- that you saw on the ground they were trying to
18 aid him, did you ever identify him?

19 A Not at the time, no, sir. Because I didn't have
20 anything to do with Mr. Liddell, I was doing the crime
21 scene. I didn't find out until hours later who his
22 name was because I was still on the crime scene for
23 about eight hours.

24 Q He was a student?

25 A Yes, sir, that's all I was told.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q And, okay, so Mr. Liddell, Anthony?

2 A Yes, sir.

3 Q You found out later his identity. How long did
4 Anthony stay there while you were there?

5 A I would guess about 10 to 15 minutes, probably
6 tops. Once we figured everybody was out of area and we
7 secured the best we could, we got the ambulance in
8 there. There was a little delay because I don't have
9 direct access to Horry County dispatch to tell them to
10 bring the ambulance in, but we took them down there as
11 quick as we could.

12 Q Okay. And once EMT's got there, did they keep him
13 on the scene?

14 A No, sir. They pretty much put him in the back and
15 got him out of the area.

16 Q And started working on him?

17 A Yes, sir.

18 Q And did you have any interaction with Anthony that
19 night?

20 A No, sir. Just other than I said the person with
21 EMT training trying to assist him. I didn't ask him
22 any questions or anything like that, no.

23 Q And you started out the crime scene log. Did you
24 maintain that the whole time?

25 A Yes, sir, I did.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

- 1 Q Take any bathroom breaks?
- 2 A Just one, sir.
- 3 Q Okay. And did you just set the notebook down
- 4 whenever you did that?
- 5 A No, sir. Lieutenant Nelson relieved me, but he
- 6 stayed outside the area. And nobody came in around
- 7 while I was gone. And I made sure it was a down time
- 8 when all the investigators and everybody was out.
- 9 Q How long were you on the scene?
- 10 A Like I said, for about eight hours.
- 11 Q Eight hours, okay. And you didn't see anyone else
- 12 disturb any of the evidence?
- 13 A No, sir. Once Captain Sessions came out and
- 14 Deputy Chief Thomason, they started looking at the some
- 15 of the stuff, they went to different locations. And
- 16 then SLED came out and they -- I handed them everything
- 17 we had. They started working processing the crime
- 18 scene.
- 19 Q In the location where Anthony was --
- 20 A Yes, sir.
- 21 Q -- where he was laying on the ground, where you
- 22 said the majority of students were --
- 23 A Yes, sir.
- 24 Q -- how far away was that from the white Hyundai?
- 25 A I would say about 15, maybe 20 feet.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Please answer any questions that
2 Mr. McCollum may have. Mr. McCollum, do you need the
3 map?

4 MR. MCCOLLUM: I don't think so.

5 MR. RICHARDSON: Okay.

6 THE COURT: Return to your seat, please. Thank
7 you. You may cross-examine.

8 MR. MCCOLLUM: Thank you, judge.

9 CROSS-EXAMINATION

10 BY MR. MCCOLLUM:

11 Q Hi, Sergeant Ferrell, how are you doing?

12 A A little nervous.

13 Q Okay. I'm Greg McCollum. I don't think you need
14 to be nervous; okay? You feel better?

15 A Yes, sir.

16 Q Okay. In terms of that area, that's campus
17 housing; right?

18 A Yes, sir, it is.

19 Q And it has security boxes, I don't know what
20 they're called, I think somebody called them call box,
21 emergency call box?

22 A Emergency call boxes, yes, sir.

23 Q And can you describe to us what an emergency call
24 box is.

25 A We have them located inside and outside of the

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 campus in the parking lots, inside the buildings. You
2 hit an emergency call box, it comes up to our dispatch
3 section. And we treat that just like a 911 call,
4 because we don't know what's going on. I can't give
5 you much more than that, that's specialist training on
6 that one.

7 Q In terms of the call boxes, are they located on
8 the sidewalk outside the apartment buildings?

9 A Yes, sir, they are.

10 Q And in terms of the call box, if the call box is
11 activated, do you do it by pushing it?

12 A There's a -- push the button -- push a button that
13 activates it. Then you have to push to talk and
14 release to listen.

15 Q All right. Does anything happen when you do that?
16 And by that I mean does a flashing light come on?

17 A There's an audible sound that comes over our 400
18 channeled radios for our security officers and our
19 dispatch section, and there's a blue activating light
20 on top of the call box, for the exteriors only. The
21 interiors just having it on-scene on the radio.

22 Q And so if somebody pushes the call box, then
23 whatever is being said comes over the police radios?

24 A Over the security radios, not the police radios,
25 sir.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 Q What's the difference between the security
2 radios and the police radio?

3 A The police bands. We have an 800 radio, security
4 has a 400 band. But both of them are recorded on the
5 dispatch.

6 Q And so those are -- the law enforcement can hear
7 those?

8 A Yes, sir. If we have our 400s with us, yes, sir.

9 Q In real time?

10 A Yes, sir.

11 Q And those are placed intermittently in that area;
12 right?

13 A Throughout the housing, yes, sir. What the exact
14 placement, you'd have to get with the housing area. I
15 don't have anything to do with the placement.

16 Q Now, I think there's a road that comes off 544,
17 and I think it's called Jackson Bluff?

18 A Jackson Bluff, yes, sir.

19 Q And it weaves or kind of weaves around back toward
20 those -- that housing complex; right?

21 A Yes, sir, it does.

22 Q And there are a couple of entrances into the
23 housing complex; right?

24 A Yes, sir.

25 Q And at those entrances, there are actual gates or

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 arms that can be lowered and raised; right?

2 A Yes, sir.

3 Q And that would either keep a car from coming in or
4 keep a car from coming out; right?

5 A Supposed to, yes, sir.

6 Q Or somebody can drive through it; right?

7 A Yes, sir.

8 Q But, and those are lowered, I think, in the
9 evening like around 11; right?

10 A Yes, sir.

11 Q And could they be lowered at some other time if
12 somebody needed to lower it?

13 A Unfortunately, sir, I don't have the answer to
14 that question. That's above my pay grade.

15 Q Certainly somebody looking at it who didn't work
16 for your law enforcement agency or the security company
17 wouldn't know whether it could be lowered automatically
18 or not; right?

19 A I assume, sir. I cannot give testimony when
20 somebody else would know.

21 Q There are, I think you said, were there four units
22 per floor in the buildings?

23 A Yes, sir. They're actually quads, there's four
24 bedrooms per apartment complex, four apartments per
25 floor and three floors.

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

- 1 Q And so there are four apartments per floor?
- 2 A Yes, sir.
- 3 Q And there are three floors?
- 4 A Yes, sir.
- 5 Q So there are 12 apartments per building?
- 6 A Yes, sir.
- 7 Q And there are multiple buildings along that road;
- 8 right?
- 9 A Yes, sir, there are.
- 10 Q Now, I think that one of those roads is called
- 11 Leaders Lane?
- 12 A Yes, sir.
- 13 Q And does it turn to go back out to Jackson Bluff?
- 14 In other words, where the crime scene was, where the
- 15 cars were parked against the wooded area, is that
- 16 called Leaders Lane too?
- 17 A Honestly, sir, I do not know on that one. I think
- 18 Leaders Lane just comes in off of Jackson Bluff and
- 19 stops at that three way. I think that's a different
- 20 street name, I think that's Bronze Lane, but I'm not
- 21 sure.
- 22 Q All right. And four units per floor. And do you
- 23 know how many students live in a unit, or does it vary?
- 24 A It does vary, sir. You have to get with the
- 25 housing area for that because we have students come and

BRADFORD FERRELL-DIRECT BY MR. RICHARDSON

1 go, flunk out or they get kicked out of school for
2 various reasons. So the exact numbers fluctuate all
3 the time.

4 Q Do you know how many bedrooms are in a unit?

5 A There are four bedrooms per apartment.

6 Q Okay. So typically maybe four people per unit?

7 A Yes, sir.

8 Q So you got a lot of people living right there;
9 right?

10 A Yes, sir.

11 Q And when you arrived, I think you described the
12 area as being in chaos or chaotic. And there were a
13 lot of people out there; right?

14 A Yes, sir.

15 Q So as soon as something happened, the area was
16 covered with people; right?

17 A There was a large number, group out there, yes,
18 sir.

19 Q And the lighting there is not that good; right?

20 A We have some street light out there, but there are
21 some dark areas, yes, sir.

22 Q All right. Do you know how many minutes or
23 seconds passed before you got there on the scene? And
24 not a specific, I mean, just in general. In other
25 words, did it take you a long time to get there or

BRADFORD FERRELL-REDIRECT BY MR. RICHARDSON

1 short while?

2 A From when we got our call?

3 Q Yes, sir.

4 A I was probably there within three to five minutes.

5 Q All right. And you were the first officer on the
6 scene; right?

7 A No, sir. Myself, Sergeant Llewellyn and Officer
8 Todd. Technically I was about the third, but we got
9 there all at the same time. I was technically third on
10 the scene.

11 Q But you arrived simultaneously?

12 A Yes, sir.

13 Q So there was about three to five minutes from the
14 time you got the call to where there were no law
15 enforcement officers on the scene; right?

16 A To the best of my knowledge, yes, sir.

17 Q All right. All right, that wasn't that bad; was
18 it?

19 A No, sir, it wasn't.

20 MR. McCOLLUM: All right, thank you.

21 THE COURT: Redirect?

22 MR. RICHARDSON: Very briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q Sergeant Ferrell, you indicated to the best of

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 MR. McCOLLUM: No questions, Your Honor.

2 THE COURT: Thank you very much, you may step
3 down.

4 (Witness excused.)

5 THE COURT: Did you wish this witness to be
6 excused?

7 MR. HYMAN: We do, Your Honor.

8 THE COURT: You're free to leave, Mr. Burhans.
9 Thank you, sir.

10 MR. RICHARDSON: Thank you, Mr. Burhans.

11 THE COURT: Call your next witness, please.

12 MR. RICHARDSON: The State would call Amanda
13 McTaggart.

14 AMANDA L. McTAGGART, after being duly sworn,
15 testified as follows:

16 CLERK OF COURT: Please be seated. State your
17 full name, and spell your last name for the Court.

18 THE WITNESS: My name is Amanda Lee McTaggart, and
19 it's spell M-C-T-A-G-G-A-R-T.

20 DIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q Ms. McTaggart, whenever you're speaking -- I'm
23 going to try and position this microphone for you.

24 A Okay.

25 Q Is that a little bit better?

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 A Better, yeah.

2 Q Okay. Just remember to speak up, this nice lady
3 has got to take down your words, and the jury needs to
4 hear you. Ms. McTaggart, may I call you Amanda?

5 A Yes, you may.

6 Q Thank you, Amanda. Could you please tell us a
7 little bit about yourself, where you're from, what you
8 do, where do you go to school, whatnot.

9 A I'm from New Jersey. I went to Coastal Carolina
10 my freshman year of college, and now I go to the
11 community college in my hometown.

12 Q Okay. So you go to community college in New
13 Jersey now?

14 A Um-hum.

15 Q And you said you started off at Coastal Carolina?

16 A Yes, I did.

17 Q When did you originally begin at Coastal Carolina?

18 A I began in August of 2012, fall semester.

19 Q August 2012. So 2012, 2013 you were a freshman?

20 A Um-hum.

21 THE COURT: I'll say it. Ms. McTaggart, that's
22 normal, I do it, we all do it, but for the purposes of
23 this proceeding, if you will say yes or no. Because
24 the court reporter needs to take down what you're
25 saying. Sometimes we can misinterpret "um-hum."

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 THE WITNESS: Okay.

2 THE COURT: So it helps us tremendously.

3 THE WITNESS: All right.

4 THE COURT: Thank you so much.

5 THE WITNESS: Sorry about that.

6 THE COURT: Excuse me. That's no problem, we all
7 do it. That's not a problem.

8 Q All right, Amanda.

9 MR. RICHARDSON: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 Q Now, how long did you stay at Coastal?

12 A I stayed at Coastal until February of 2013.

13 Q Until February 2013. What changed, why did you
14 leave Coastal Carolina?

15 A Because I witnessed the murder of Anthony at
16 school, so I came home the next day.

17 Q Okay. So you were there at the University Place
18 Apartments the night of February 26th, 2013?

19 A Yes, sir.

20 Q And you called the victim Anthony. Did you know
21 Anthony prior to this?

22 A No, I did not.

23 Q Okay. Have you ever met his family before?

24 A No, I didn't.

25 Q But you know his name because of what happened

1 that night?

2 A Of what happened.

3 Q Let's go back to that night, February 26th, 201

4 The first time you've ever witnessed a murder?

5 A Yes, sir.

6 Q So that date's pretty firm in your head?

7 A Yes, sir, it is.

8 Q Okay. Now, were you living at University Place

9 Apartments back then?

10 A Yes, I was. I was living in University Place.

11 was put off campus as a freshman because there's no

12 rooms in the dorms.

13 Q Okay. And were you living at Grand Strand E ba

14 then?

15 A No, I wasn't. I was -- my friends do, so I was

16 going to see them that night.

17 Q Okay. So you were living over in University Pl

18 Apartments but not right where the murder occurred?

19 A No.

20 Q Okay. And you were going over to see your frie

21 at University Place, Grand Strand E?

22 A Yes, sir.

23 Q 114, I believe?

24 A Um-hum.

25 Q Now, why were you heading over to see your

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 friends?

2 A We were going to set up our rooming arrangements
3 and watch our favorite TV show together.

4 Q Okay. So you were going over there to set up
5 rooming arrangements for the next year?

6 A Yes, sir.

7 Q And you were going to watch some TV?

8 A Yes, sir.

9 Q It was a Tuesday night; do you know what y'all
10 were planning on watching?

11 A Yes. Pretty Little Liars.

12 Q Pretty Little Liars?

13 A Yeah.

14 Q I believe that's on the Family Channel?

15 A Yeah, ABC Family.

16 Q So you were heading over there; good mood?

17 A Yeah, I was in a great mood.

18 Q And when you arrived at University Place
19 Apartments, did you come in off of 544? I think you
20 said you lived out there, did you --

21 A Yes. I was coming from my apartment, so I was in
22 the building complex area.

23 Q Okay. You felt pretty safe, secure?

24 A Yes, I did, sir.

25 Q Okay. So you're coming from your complex. How

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 far away was your apartment building from Grand Strand
2 E?

3 A About half a mile. During the day I would walk,
4 but since it was nighttime I decided to drive, be safe.

5 Q And it was nighttime?

6 A Yes. It was like around 7:15 or so.

7 Q Dark outside?

8 A Yeah, but a little bit light. It was not too bad.

9 Q And the lighting in the parking lots there at
10 University Place, I mean, is it bright as day during
11 the nighttime?

12 A No, sir, it's not.

13 Q Okay. Normal, everyday street lights?

14 A Yes, sir.

15 Q When you arrived at your friends' apartment, where
16 did you park?

17 A I parked in my normal spot right in front of Grand
18 Strand E.

19 Q Okay. And what were you driving?

20 A A white Acura.

21 Q A white Acura. What kind of tags on that Acura?

22 A What do you mean, tags?

23 Q What state tags?

24 A Oh, New Jersey. Sorry.

25 Q New Jersey tags, okay. I'm sorry, it was a poor

- 1 question. Now, Amanda, you arrived at University Place
2 Apartments, you said you parked in your normal parking
3 spot?
- 4 A Yes, sir.
- 5 Q Can you describe that parking lot for us.
- 6 A If you pull into -- if you're turning into Grand
7 Strand E, there's a row of parking right in front of
8 the apartment and then a row behind it like in between
9 the roads.
- 10 Q Okay. The row behind it faces the woods?
- 11 A Yes, sir.
- 12 Q Okay. And so you said you pulled in your normal
13 place, if I'm not mistaken, facing the apartments?
- 14 A Yes, sir, facing the apartment. I never parked
15 the one facing the woods.
- 16 Q Did you back in or did you pull in?
- 17 A I pulled in.
- 18 Q Pulled in, okay. So at this point your headlights
19 would have been forward?
- 20 A Yes. My headlights were facing Grand Strand E.
- 21 Q Now, when you're pulling in there at University
22 Place, Grand Strand E, prior to that had you been
23 drinking anything?
- 24 A No, sir.
- 25 Q Smoking anything?

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

- 1 A No, sir.
- 2 Q Of sound mind at that point?
- 3 A I was of sound mind.
- 4 Q Okay. And when you're pulling in that parking
- 5 space, where are you concentrating on?
- 6 A Not hitting the curb or any other cars.
- 7 Q Okay. That's fair. So you're looking ahead?
- 8 A Um-hum, yes, sir.
- 9 Q Looking over your side?
- 10 A Yes, sir.
- 11 Q Now, as you're pulling into that parking spot,
- 12 does anything happen to draw your attention?
- 13 A Yes. I heard a bang.
- 14 Q Now, you heard a bang. When you heard this bang,
- 15 what did you do?
- 16 A I looked around, and then I looked in my rearview
- 17 mirror.
- 18 Q Now, when you first heard the bang, what did you
- 19 think it was?
- 20 A A car hitting another car.
- 21 Q You thought there was a little accident out there?
- 22 A Yes, sir, I did.
- 23 Q And was the bang in front of you, behind you, to
- 24 your side, could you tell?
- 25 A It was behind me.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

- 1 Q It was behind you. And you indicated that when
2 you heard the bang, you looked up. Why were you
3 looking up?
- 4 A Like I said, it was behind me, I heard the noise.
- 5 Q Okay. So you were looking up here (indicating)?
- 6 A Yes, sir, into my rearview mirror.
- 7 Q Into your rearview mirror. Now, as you look into
8 your rearview mirror, you heard the bang (indicating),
9 and then you look in your rearview mirror; what do you
10 see?
- 11 A I saw two kids struggling against a car.
- 12 Q You saw two kids struggling against a car. Could
13 you describe the car they were struggling up against.
- 14 A There was a little like crossover in between them,
15 and then there was the black car.
- 16 Q Okay. There was a crossover; is that --
- 17 A Like a white, like a little SUV, and then a black
18 car.
- 19 Q A white SUV and a black car?
- 20 A Um-hum, yes, sir.
- 21 Q And the fighters were in between those?
- 22 A Yes, sir.
- 23 Q Now, the two fighters, let's break them down, can
24 you describe the two fighters.
- 25 A The one was about five-nine, and he was wearing a

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 gray sweatshirt. And the other one was more taller
2 than him. I saw him over the kid in the gray
3 sweatshirt, and he was wearing a dark sweatshirt.

4 Q Okay. So the kid in the gray sweatshirt, light
5 gray, dark gray?

6 A Light gray.

7 Q And did you ever identify that kid?

8 A Yes, sir. That was Anthony.

9 Q Okay. So that was Anthony Liddell, Jr.?

10 A Yes, sir.

11 Q And we'll get back to how you were able to
12 recognize him. But you said he was about five-nine or
13 so?

14 A Yes, sir.

15 Q And you said the other guy that was fighting with
16 him was taller than him?

17 A Yes. I saw his like head over Anthony's.

18 Q Okay. So he was a bit taller than Anthony. And
19 he was -- I think you said he was wearing a black
20 sweatshirt?

21 A Yes, sir.

22 Q Now, everybody thinks a sweatshirt's a little bit
23 different. I mean, what kind of sweatshirt are we
24 talking about?

25 A Like a crew neck sweatshirt. There was no hood,

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 it was just a pullover sweatshirt.

2 Q Okay. So it was a crew neck sweatshirt. How can
3 you be sure it was not a hoodie?

4 A Because I didn't see like any other part behind
5 him, I just saw the line of it.

6 Q You didn't see the bunching up back there that the
7 hoodie shows?

8 A No, sir, I did not.

9 Q Okay. And you saw all black?

10 A Yes, sir.

11 Q And did you see any designs on it or anything?

12 A No, sir, I did not.

13 Q And whenever you were watching them fight, I mean,
14 is it a common thing to see people fighting?

15 A Well, I have younger brothers, so to me, yeah, it
16 is.

17 Q How often have you seen people fighting in a
18 parking lot?

19 A Never, I've never seen anything happen like that.

20 Q So it kind of takes you. Other than the dark crew
21 neck sweatshirt, do you see anything else on this
22 taller guy?

23 A No, sir, I did not.

24 Q Did you notice anything about his hair style?

25 A No, sir, I could not see.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 Q What if any type of long hair did you see?

2 A I didn't see any.

3 Q You didn't see any type of long hair?

4 A No, sir.

5 Q On the victim or the attacker?

6 A No, sir, I did not.

7 Q Did you notice anything about the pants that the
8 taller guy had on?

9 A No, sir.

10 Q Okay. And the light out there, I think you said
11 earlier that there's some street lamps around, not real
12 bright. But how was the lighting, how was your
13 lighting that night?

14 A Well, I also had my taillights on because my car
15 was still on. So it wasn't that bad of a view to see.

16 Q Are those red taillights?

17 A (Nodding affirmatively.)

18 THE COURT: Is that yes?

19 THE WITNESS: Yes, sir.

20 MR. RICHARDSON: I'm sorry, Your Honor. I'll try
21 to be more conscious as well.

22 Q Now, you see them fighting. Can you describe the
23 fight.

24 A It was very aggressive. At first I thought they
25 were just friends hugging, and then I saw fists being

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 thrown and it scared me a little bit.

2 Q Okay. And the fists being thrown, did you notice
3 who was getting the better of who?

4 A The other guy was hitting Anthony in the gray
5 sweatshirt. So the darker sweatshirt was hitting the
6 gray sweatshirt more.

7 Q The guy in the dark crew neck sweatshirt was
8 getting the best of Anthony?

9 A Yes, sir.

10 Q So you're watching this fight, and you're focused
11 on that fight; correct?

12 A Um-hum, yes, sir.

13 Q And what -- does anything else happen during that
14 fight that shocks you?

15 A Yes. I heard two more gunshots go off.

16 Q So you heard two more -- so you're watching the
17 fight, and you hear two more (indicating) gunshots?

18 A Yes, sir.

19 Q You said this is the first time you'd seen a fight
20 in the parking lot. How many times have you seen
21 somebody get shot?

22 A I've never seen anybody get shot, sir.

23 Q So what was your reaction whenever you noted it
24 was gunfire, and this person had been shot?

25 A I froze up. I thought that the kid was going to

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 come and shoot me too because my car was still on. So

2 I did not do anything at that time. I sat in my car.

3 Q So you sat in your car frozen?

4 A Um-hum. Yes, sir, I did.

5 Q Black out a little bit?

6 A Yes, sir.

7 Q And so right after those gunshots, you freeze up,
8 you're scared?

9 A Yes, sir.

10 Q How far away was the car from you -- or the fight,
11 how far away was the fight from you?

12 A About 15 feet.

13 Q About 15 feet. Just across the parking lot?

14 A Just across the parking lot.

15 Q Did you see any muzzle flash from the gun?

16 A No, sir.

17 Q Now, you're -- while you're watching the fight
18 prior to those gunshots, did you look into this other
19 black car at all?

20 A No, sir. I could not see into it.

21 Q Okay, you couldn't see into the black car. Tell
22 us if anybody else you saw out there in the parking
23 lot.

24 A I didn't see anybody else. I just saw Anthony and
25 that other guy.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 Q And did you describe any interior lights you saw
2 in this dark car?

3 A Yes. I saw gold trimming on the car.

4 Q But the interior lights, dome lights, did you see
5 them?

6 A Oh. No, sir.

7 Q Now, you're frozen up in your seat, you hear the
8 second two gunshots, boom, boom, frozen up. You're
9 watching everything in the rearview mirror. Do you
10 actually see the shooter's car leave?

11 A No, sir. I heard it fled away.

12 Q You heard it, but you're not watching at this
13 point?

14 A No, sir.

15 Q And you're watching the rearview mirror. Did you
16 ever see headlights pop on in that rearview mirror?

17 A No, sir, I did not.

18 Q Did there come a time when you unfroze or you came
19 back to?

20 A Yes, sir. After I heard the car fled away. The
21 sound of the car, I guess, woke me up.

22 Q Okay. And after you woke up, what if anything did
23 you do?

24 A I checked my surroundings, didn't see anybody. So
25 I thought it was safe enough to get out of my car, so I

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 could go into the apartment to call 911.

2 Q Did you ever or did you -- tell us anything you
3 did with regard to Anthony.

4 A When I got out of my car, I saw Anthony stumbling,
5 and I asked him if he was okay. And he said, help,
6 911, and he fell to the ground.

7 Q I'm sorry.

8 A It's okay. So I ran over to him and I was holding
9 his head.

10 Q So you ran over to him. You said you didn't see
11 the car drive away?

12 A No, sir.

13 Q But when you came to, where was Anthony when you
14 came to, when you finally snapped back?

15 A He was a little bit behind my car. And he was
16 starting to walk, I guess, towards me, and he lost his
17 balance and he fell.

18 Q And did he ever get back up after you saw him
19 fall?

20 A No, sir, he did not.

21 Q Did you witness any other people come around?

22 A Yes. A kid from another apartment came running
23 down, and then also my friend was driving by and saw me
24 getting a crowd. So he thought he would help me with
25 Anthony.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

- 1 Q And your friend, who was that?
- 2 A His name is CJ. His name is Christopher Kiel
- 3 actually.
- 4 Q Christopher Kiel. And what kind of car did
- 5 Christopher Kiel drive?
- 6 A He drove a gold Lexus.
- 7 Q Tell us about anything Christopher tried to do to
- 8 help.
- 9 A Well, we tried to help Anthony by getting him into
- 10 a car. But then a cop came and told us to put him on
- 11 the ground. So CJ, he's a volunteer fire fighter, took
- 12 off his sweatshirt to tie it around to try to help
- 13 Anthony as much as he could.
- 14 Q He was trying to hold down the wound?
- 15 A Um-hum, yes, sir.
- 16 Q Did you see Anthony's wounds?
- 17 A No, sir, I did not.
- 18 Q And did you go looking for Anthony's wounds?
- 19 A No, I did not. I was focussed on telling him to
- 20 stay with me. I was looking at his eyes.
- 21 Q You ever have a chance to talk to Anthony?
- 22 A No, I did not. I was just telling him to stay
- 23 with me.
- 24 Q Trying to comfort him?
- 25 A Yes, sir.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 Q And so you stayed there, you and Christopher,
2 y'all tried to load him up, and then you wait on EMT's?

3 A Yes, sir.

4 Q You're trying to comfort Anthony. How long did
5 you stay on the scene that night?

6 A I stayed on until the cops arrived, and I was too
7 shaken up, so they sent me inside.

8 Q Okay. And did you talk to the police that night?

9 A Yes, I did. I talked to countless officers.

10 Q You talked to a few police officers?

11 A Yes, sir, I did.

12 Q Okay. And did you give any statements to the
13 police that night?

14 A Yes, sir. I gave it to campus police and to Horry
15 County Police.

16 Q Horry County Police?

17 A I believe so, yes.

18 Q You believe it was Horry County?

19 A Yeah, but I don't --

20 Q People who weren't campus?

21 A Yeah. It was a lot of police officers at the
22 apartments that night.

23 Q And what you told police that night, is that
24 basically what you're telling us today?

25 A Yes, sir, it is.

AMANDA L. McTAGGART-DIRECT BY MR. RICHARDSON

1 Q And you've -- tell us about any times you've
2 reviewed your statement.

3 A Plenty of times, especially with you went over a
4 lot of times.

5 Q And that was your statement from that night?

6 A Yes, sir, it is.

7 Q Now, your vehicle, your, I believe you said a
8 white Acura?

9 A Yes, sir.

10 Q Your white Acura, once you pulled in that parking
11 space, did you ever move it after that?

12 A No, sir, I did not.

13 Q So it stayed in that space all night long?

14 A All night long, all week long.

15 Q All week long?

16 A (Nodding affirmatively.)

17 THE COURT: Ma'am, was that a yes?

18 THE WITNESS: Yes, sir.

19 THE COURT: Okay.

20 Q And Amanda, you said that you witnessed that
21 murder that night, and you left the next day?

22 A The next day I went to the guidance counselor to
23 get a medical withdraw paper. And I left school and I
24 came home for a week, and then I went back to pack up
25 all my stuff.

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

1 Q Home would be with family?

2 A Home would be with family.

3 MR. RICHARDSON: Court's indulgence.

4 THE COURT: Yes, sir.

5 Q And once again, I think we've already covered it
6 once, but I just want to make sure we're clear. You're
7 watching out the rearview mirror, and you see the
8 entire fight.

9 A Yes, sir, I did.

10 Q And either during the fight or after that car
11 pulls away, describe any other people you saw in that
12 parking lot.

13 A I saw no other person.

14 Q Just the two people that were fighting?

15 A Just the two people fighting.

16 Q In between the dark car and the white SUV?

17 A Yes, sir, I did.

18 MR. RICHARDSON: Your Honor, no further questions
19 at this time. Thank you, Amanda. Please answer any
20 questions.

21 THE COURT: Cross-examine.

22 MR. McCOLLUM: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. McCOLLUM:

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

- 1 Q Hi.
- 2 A Hi, how are you.
- 3 Q Good. Ms. McTaggart?
- 4 A Yes, it is.
- 5 Q My name is Greg McCollum, okay. And I'm an
- 6 attorney, and I represent Marquis McDonald; okay?
- 7 A Okay.
- 8 Q And I want to ask you just a couple questions;
- 9 okay?
- 10 A All right, sounds good.
- 11 Q All right. Are you nervous?
- 12 A Very.
- 13 Q You talked to Mr. Richardson a number of times;
- 14 right?
- 15 A Yes, sir.
- 16 Q Okay. And did you go over maybe some of the
- 17 questions that I might ask?
- 18 A Yes, sir.
- 19 Q And did he say that I was really mean and going to
- 20 beat you up?
- 21 A No, sir, he did not.
- 22 Q What kind of car were you driving that night?
- 23 A A white Acura.
- 24 Q A four-door white Acura?
- 25 A Yes, sir.

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

1 Q Okay. And you were the only person in the car;
2 right?

3 A Yes, sir.

4 Q And when you -- you saw what you saw in the
5 rearview mirror; right?

6 A Yes, sir, I did.

7 Q And that's the rearview mirror that, I think, you
8 described which is inside the car past your
9 compartment; right?

10 A Yes, sir.

11 Q And that -- it wasn't the side mirrors; right?

12 A No, sir, it was not my side mirrors.

13 Q Do you ever look in those side mirrors?

14 A When I'm backing out or when I'm pulling up to a
15 curb so I don't hit it.

16 Q And was your car, where was it in terms of the
17 vehicle that you were looking at? In other words,
18 first of all, that road where this happened outside of
19 Grand Strand E; right?

20 A Yes, sir.

21 Q Do you know the name of that road?

22 A No, sir, I do not remember.

23 Q Okay. So I'm going to call it the road; okay?

24 A All right, sounds good.

25 Q So on the road across from Grand Strand E, there's

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

- 1 parking spaces that you pull straight into; correct?
- 2 A Yes, sir.
- 3 Q They're not -- you don't parallel park; right?
- 4 A No, you do not parallel park.
- 5 Q And they're not angled; right?
- 6 A They are not angled.
- 7 Q And so a person wants to park there just pulls
- 8 straight in; right?
- 9 A Yes, sir.
- 10 Q And the space where you were parked on the road,
- 11 okay, was facing the apartment building at Grand Strand
- 12 E; right?
- 13 A Yes, sir.
- 14 Q All right. And where was your car in relation to
- 15 the car that you were looking at? And by that I mean,
- 16 was it directly behind it, was it at an angle, if you
- 17 can remember, as you were looking?
- 18 A I do not believe that it was directly behind. I
- 19 think the spaces were like uneven. But it was -- I had
- 20 a pretty good view behind me.
- 21 Q And when you looked up in the mirror, if you
- 22 remember, did you move the mirror any?
- 23 A No, sir, I did not. I did not touch my mirror.
- 24 Q And the vehicle that you were looking at where you
- 25 saw the two, I think you described them as kids, the

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

1 two kids, were the drivers -- well, first of all, the
2 car that you were looking at, it was pulled straight in
3 facing the woods; right?

4 A I believe so.

5 Q And so this car is facing away from you; right?

6 A Yes, sir.

7 Q And your car is facing away from it?

8 A Yes, sir.

9 Q And was the door -- well, and the car that you
10 were looking at, did that car have four doors or two
11 doors, or do you know?

12 A I do not recall seeing any doors at all, to be
13 honest.

14 Q So it could have been a two-door car?

15 A I don't know. It could have been, I guess.

16 Q Okay. Or it could have been a four-door car?

17 A Yeah, it could have been.

18 Q Okay. And when you were looking, were you looking
19 across the car or were you looking right down the line
20 of the car? In other words, were you looking directly
21 down the space which is open between two cars parked
22 next to each other?

23 A No. The cars were directly parked next to each
24 other.

25 Q They were parked directly next to each other. And

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

1 they were that space where these people were, these two
2 kids were, was away from you and not directly behind
3 you; is that a fair statement?

4 A I believe so.

5 Q Okay. And to your knowledge, the only people
6 present right there was the kid that you said was
7 fighting with the other kid?

8 A Yes, sir.

9 Q And you called Mr. Liddell by name, Anthony?

10 A Yes, sir.

11 Q And prior to this happening, did you know his
12 name?

13 A No, sir, I did not.

14 Q Had you ever spoken to him?

15 A No, sir, I have not.

16 Q You learned his name afterwards?

17 A Yes, sir.

18 Q And the solicitor asked you, because you heard
19 gunshots; right?

20 A Yes, sir, I did.

21 Q And you heard three or four gunshots; right?

22 A I heard three gunshots.

23 Q And correct me if I'm wrong, but two of the
24 gunshots that you heard, you heard those while you were
25 looking at what was transpiring, you were looking in

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

1 the mirror; right?

2 A Yes, sir.

3 Q Okay. And the solicitor asked you if you saw a
4 muzzle flash; right?

5 A Yes, sir.

6 Q Do you know what that is?

7 A No, sir, I do not.

8 Q Okay. Well, let's talk about that a minute. So
9 when the solicitor asked you if you saw a muzzle flash,
10 you said no; right?

11 A Yes, sir.

12 Q Am I making you nervous?

13 A A little bit.

14 Q I'm sorry. So the solicitor asked you if you saw
15 a muzzle flash, and you said no; right?

16 A Yes, sir.

17 Q Okay. Listen, you're not in trouble here, okay.
18 But you don't know what a muzzle flash is?

19 A No, sir.

20 Q Have you ever seen a gun fired at night?

21 A Yes, sir.

22 Q Did you ever see fire shoot out of it?

23 A Yes, sir.

24 Q Do you know that to be known as a muzzle flash?

25 A Yes, sir.

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

- 1 Q Okay. So do you know what we're talking about
2 now?
- 3 A Yes, sir, I do.
- 4 Q Did you see a muzzle flash?
- 5 A No, sir, I did not.
- 6 Q So even though you were looking right at the two
7 people; right?
- 8 A Yes, sir.
- 9 Q Yes. And you hear two gunshots; right?
- 10 A Yes, sir.
- 11 Q Right while you're looking at them in the mirror;
12 right?
- 13 A Yes, sir.
- 14 Q Yes?
- 15 A Yes.
- 16 Q You did not see any muzzle flash?
- 17 A No, sir, I did not.
- 18 Q The two individuals that you saw outside of the --
19 and let me back up a minute, because I think we covered
20 this, but they are on the driver's side of the car;
21 right?
- 22 A I do not recall what side directly because I was
23 looking in my rearview mirror.
- 24 Q Okay. So if the car is pulled in straight in
25 towards the woods; right?

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

- 1 A Yes, sir.
- 2 Q Then the driver's side would be on the left;
- 3 correct?
- 4 A Yes, sir.
- 5 Q And the passenger side would be on the right;
- 6 right?
- 7 A Yes, sir.
- 8 Q And I guess it's reversed because we're looking in
- 9 the mirror; right? But and the car, as you're sitting
- 10 in your car looking in the mirror, is the car -- tell
- 11 me if you can understand this. If you're doing what
- 12 I'm doing, okay, let me do it this way, if you're doing
- 13 what I'm doing (indicating); okay?
- 14 A Okay.
- 15 Q This is the passenger side of the car; okay?
- 16 A Okay.
- 17 Q Yes. And this is the driver's side?
- 18 A Okay.
- 19 Q This is the driver's side (indicating). And if
- 20 the car is pulled in this way and you're back there
- 21 looking at it, do you know which side of the car that
- 22 these people were on?
- 23 A No, sir. I do not remember seeing headlights or
- 24 taillights.
- 25 Q And you don't remember the number of doors on the

AMANDA L. McTAGGART-CROSS BY MR. McCOLLUM

- 1 car?
- 2 A No, sir.
- 3 Q And you don't know if the doors were opened or
- 4 closed?
- 5 A No, sir.
- 6 Q And those were the only two individuals that you
- 7 saw?
- 8 A Yes, sir.
- 9 Q As you saw these two individuals, were they
- 10 facing -- and listen, if you don't know, you know,
- 11 that's an answer too; okay?
- 12 A Okay.
- 13 Q Do you understand? These two individuals, these
- 14 two kids, as you've described them, are they facing
- 15 each other?
- 16 A They were facing each other.
- 17 Q And did you see an open -- you did not see an open
- 18 door between them?
- 19 A I did not see an open door.
- 20 Q And at the time, were they facing each other the
- 21 entire time?
- 22 A Yes, sir, they were.
- 23 Q And so they were facing each other when you heard
- 24 the two gunshots?
- 25 A Yes, sir.

AMANDA L. McTAGGART-CROSS BY MR. MCCOLLUM

1 Q And then at some point you say you blacked out?

2 A Yes, sir, after I heard the third gunshot go off.

3 Q So you were in the car. Was the car in park, or
4 do you remember?

5 A My car or the other car?

6 Q I'm sorry. Your car.

7 A My car was in park.

8 Q And did you have your foot on the brake, or do you
9 remember?

10 A I did not have my foot on the brake, I just put my
11 car in park.

12 Q And you just fainted?

13 A I didn't pass out, I just like my mind went blank.

14 Q Okay. And then I think you -- did you lose
15 vision, in other words, did you -- when you say black
16 out, you got to where you couldn't see?

17 A Yeah. I just zoned out, I guess you would say,
18 like looking forward at Grand Strand E.

19 Q And then at some point you could see again; right?

20 A Yeah. After I heard the car like fled away.

21 Q All right. And then, I think in your statement
22 you said that you got out of the car and yelled up to
23 some people on the balcony?

24 A After I saw Anthony collapse.

25 Q To call 911?

AMANDA L. McTAGGART-REDIRECT BY MR. RICHARDSON

1 A Yes, sir.

2 Q Okay. All right.

3 MR. McCOLLUM: That's all the questions that I
4 have. Okay, thank you.

5 THE WITNESS: You're welcome.

6 THE COURT: Redirect?

7 MR. RICHARDSON: If you please, the Court's
8 indulgence, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q I know it seems like you're up there forever,
12 Amanda. Mr. McCollum was asking you, did you see the
13 car doors open, did you see them get out of the car?
14 So I just want to make sure we're clear. You described
15 the white SUV earlier.

16 A Yes, sir.

17 Q And you said that the two guys engaged in a fight,
18 Anthony and the other guy in all black. They are in
19 between the black -- or the dark car and the white SUV?

20 A Yes, sir.

21 Q Who's closer to the white SUV?

22 A They are both in between, like standing directly
23 in front of each other. Neither one of them were
24 closer.

25 Q Okay, so they were standing directly in front of

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Infinity Henderson.

2 INFINITI HENDERSON, after being duly sworn,
3 testified as follows:

4 CLERK OF COURT: Please be seated. State your
5 full name, spell your last name for the Court, please.
6 Speak right here into the mike.

7 THE WITNESS: Infiniti Henderson,
8 H-E-N-D-E-R-S-O-N.

9 DIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q Good morning, Ms. Henderson, almost good
12 afternoon. Ms. Henderson, can I call you Infiniti?

13 A Yeah.

14 Q Infiniti, can you tell us a little bit about
15 yourself; where are you from originally?

16 A I was born in Connecticut, but I was raised in
17 South Carolina.

18 Q What part of South Carolina?

19 A Around the Georgetown area.

20 Q Around the Georgetown area. And if you speak up
21 just a little bit, I know you're nervous. When you
22 talk you're nervous. But we all just need to hear you;
23 okay?

24 A Yes, sir.

25 Q Infiniti, are you a student?

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 A Yes, sir.
- 2 Q Where?
- 3 A I'm a student at Coastal Carolina University.
- 4 Q What's your major?
- 5 A Graphic design.
- 6 Q When did you -- when did you start at Coastal?
- 7 A I started in May -- well, August of 2012.
- 8 Q August of 2012?
- 9 A Um-hum.
- 10 Q So, again, 2012, 2013, you were a freshman?
- 11 A Yes, sir.
- 12 Q And back in 2012, 2013, where were you living?
- 13 A I was living at University Place.
- 14 Q University Place Apartments?
- 15 A Um-hum.
- 16 Q Grand Strand?
- 17 A Yes, sir.
- 18 Q Okay. And I'm going to show you what's been
- 19 marked as State's Exhibit 3. Do you recognize State's
- 20 Exhibit 3?
- 21 A Yes, sir.
- 22 Q And what do you recognize State's Exhibit 3 as
- 23 being?
- 24 A Where I stayed at during freshman year.
- 25 Q And none of these are your vehicles; correct?

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 A No, sir.

2 Q This is a more recent picture. But this is a fair
3 and accurate depiction of the building in which you
4 lived?

5 A Yes, sir.

6 MR. RICHARDSON: And, Your Honor, the State would
7 seek to introduce this as State's No. 3.

8 THE COURT: Any objection?

9 MR. McCOLLUM: No, Your Honor.

10 THE COURT: Without objection State's-3, a
11 photograph, is admitted.

12 (WHEREUPON, State's Exhibit No. 3 was admitted in
13 evidence.)

14 MR. RICHARDSON: And publish at this time.

15 THE COURT: You may publish.

16 Q Ms. Henderson, I'm just going to hold this up, and
17 then I'll pass it to the jury. Could you describe for
18 the jury where your apartment was.

19 A This one right here (indicating).

20 Q Second floor. So that was your balcony?

21 A Yes, that was my balcony.

22 Q Infiniti, you were living there back in 2012,
23 2013?

24 A Yes, sir.

25 Q Were you living back there in February of 2013?

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 A Yes, sir.
- 2 Q Let's go back specifically to February 26th, 2013;
- 3 do you recall that day?
- 4 A Yes, I do, sir.
- 5 Q And why do you recall that day?
- 6 A Because I reported about the -- some kid died
- 7 actually.
- 8 Q A kid died?
- 9 A Um-hum.
- 10 Q Murdered?
- 11 A Yes, sir.
- 12 Q Let's go back to that day, I believe it was a
- 13 Tuesday. Where were you; were you at your apartment,
- 14 were you at the library, where were you?
- 15 A I was in my apartment with a few friends
- 16 watching -- watching a show.
- 17 Q Do you remember what you were watching?
- 18 A No, sir.
- 19 Q So you and your -- was it your friends, your suite
- 20 mates, what?
- 21 A It was me and my suite mates and a few friends.
- 22 Q Okay. Y'all were sitting around watching TV?
- 23 A Yes, sir.
- 24 Q And we see in the picture, you described it as a
- 25 second floor apartment, we see the balcony. In

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 relation to that balcony where were you sitting?

2 A I was sitting in front of the sliding door to the
3 balcony.

4 Q Okay. So you were sitting in front of the sliding
5 glass door that you can see in the picture --

6 A Um-hum.

7 Q -- that led from the balcony back into the living
8 area?

9 A Yes, sir.

10 Q Now, how many people were there, you guess?

11 A Maybe about five, including myself.

12 Q Okay. And the five of you, while y'all were
13 sitting around watching TV --

14 A Um-hum.

15 Q -- talking?

16 A Yes, sir.

17 Q Laughing?

18 A Yes.

19 Q Did anything happen that interrupted that TV show,
20 the talk and the laughter?

21 A We were watching it, and I heard like a bang. And
22 immediately I -- immediately I stopped and told them
23 that that didn't sound right.

24 Q What did you recognize that bang as being?

25 A Like a gunshot.

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 Q Had you ever heard a gun fire before?
- 2 A Yes, sir.
- 3 Q And how is that?
- 4 A Well, I lived in country, so we have hunters and
- 5 stuff around where I lived. So I could recognize it.
- 6 Q You've heard a gun fire before?
- 7 A Yes, sir.
- 8 Q From hunters around your neighborhood?
- 9 A Yes.
- 10 Q Back home?
- 11 A Yes, sir.
- 12 Q Okay. Not on campus?
- 13 A No.
- 14 Q So you recognized it as a gunshot. What if
- 15 anything did you do?
- 16 A I just -- I told my friends like, that sounds like
- 17 a gunshot, that doesn't sound right. And they
- 18 proceeded to tell me that, you know, it's the TV.
- 19 Q Now, after that gun -- after that what you
- 20 recognized as a gunshot from the get go, did you
- 21 observe or witness or hearing anything else?
- 22 A Not until a few seconds later, then we heard two
- 23 more.
- 24 Q So as I understand it, you hear a bam
- 25 (indicating)?

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 A Um-hum.

2 Q Then a few seconds more you heard, "bam bam"
3 (indicating)?

4 A Um-hum. Yes, sir.

5 THE COURT: Ma'am, you need to help us with this.
6 It's important and what we do is it's conversational,
7 we all say "um-hum." But this lady seated to your
8 right is taking down everything that you're saying, and
9 it will help her if you would say yes and no and not
10 use "um-hum" and "nu-uh;" okay?

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you very much, I appreciate it.
13 But you're not doing anything wrong, it just will
14 assist us; okay?

15 MR. RICHARDSON: Thank you, Your Honor.

16 Q Thank you, Infiniti. Now, upon hearing the first
17 gunshot, a pause, and then two more gunshots, what if
18 anything did you do?

19 A That's when I proceeded to turn around and go out
20 onto the balcony to see exactly what it was.

21 Q Okay. So you, upon hearing that second and third
22 gunshot, you get up and go to look out --

23 A Yes, sir.

24 Q -- on the balcony? Can you approximate how long
25 it took you to get out to the balcony.

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 A Around like between five and ten seconds. It
2 didn't take that long.
- 3 Q You didn't rush right into the gunfire?
- 4 A No.
- 5 Q But you waited a couple seconds?
- 6 A Yes, sir.
- 7 Q When you arrived out on the balcony, could you
-8 tell us what you saw.
- 9 A Well, I saw a car parked there, and I saw a man
10 standing outside. Car proceeded to back out as if it
11 was about to leave, and the guy about to like throw a
12 punch or something towards the car. But the car backed
13 up and I think it hit him just a little bit, like a
14 tap, like he didn't see him back there, and then drove
15 off.
- 16 Q So the car that you said you saw, where was that
17 car located?
- 18 A It was located in a parking lot not closest to the
19 dorm, but farther away like towards the tree --
20 treeline, line of trees.
- 21 Q Same parking lot, just away from the building?
- 22 A Yes. Yes, sir.
- 23 Q So that car, I believe you just indicated, backed
24 up?
- 25 A Yes, sir.

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 Q And tapped, struck the victim?
- 2 A Yes, sir.
- 3 Q Now, you said the victim. Could you describe the
- 4 victim.
- 5 A About -- he was tall, a little lanky. He was
- 6 wearing a shirt, a big shirt, something along that
- 7 line.
- 8 Q Now, you saw the victim in the parking lot, you
- 9 saw him get struck by this car; what kind of car was
- 10 it?
- 11 A It's like a whitish or silver-ish car.
- 12 Q Okay. Could you tell make and model, by any
- 13 chance?
- 14 A No, sir.
- 15 Q Now, when you see it back up, strikes him, do
- 16 you -- do you recall what the victim was wearing?
- 17 A Like a large shirt. I'm not positive about it.
- 18 Q That's fine. Did you see anybody else in the
- 19 parking lot?
- 20 A No, not at the moment.
- 21 Q Describe anybody you saw running into the woods.
- 22 A No, I don't recall.
- 23 Q Okay. So the only person you saw at this point is
- 24 the victim. Now, the vehicle, you told us a little bit
- 25 about the vehicle, and he was struck. Did he hit the

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 ground, did he stand, did he get thrown?

2 A No. He kind of stumbled back, but he didn't fall.

3 Q So the victim gets struck, and you watch this car
4 back up and pull away. Are you able to tell anything
5 with regard to the -- that would help us identify the
6 driver of that vehicle?

7 A No, not at all.

8 Q Were you able to tell anything with regard to the
9 race or what he was wearing?

10 A No, sir.

11 Q Could you tell how many people were in that
12 vehicle?

13 A Definitely one, because there was a driver. But
14 it could possibly be a second person, I'm not sure.

15 Q Okay. And did you give a statement to the police
16 that night?

17 A Yes, I did, sir.

18 Q Have you reviewed that statement?

19 A Yes, sir.

20 Q Are you having any difficulty remembering what you
21 told the police that night?

22 A Just a little bit.

23 Q A little bit. I'm going to show you --

24 MR. RICHARDSON: I'll mark this for a Court's
25 Exhibit, Your Honor -- or a State's Exhibit for

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 identification purposes only.

2 THE COURT: All right.

3 (WHEREUPON, State's Exhibit No. 4 was marked for
4 identification only.)

5 Q Let me show you what's mark for identification as
6 State's No. 4, see if you recognize that.

7 A Yes. This is my statement I turned in that night.

8 Q And that's the statement you wrote that evening.
9 You indicated you were having a little bit of
10 difficulty remembering everything from that night. So
11 that's your statement in your handwriting?

12 A Yes, sir.

13 Q Okay. So those are your words. If you'll take a
14 moment to refresh your recollection by reading that,
15 please. And don't read out loud, just read over it
16 real quick.

17 MR. RICHARDSON: If allowed, Your Honor.
18 Permission to?

19 THE COURT: Unless there's an objection, she can
20 do that. Thank you, sir.

21 MR. RICHARDSON: Yes, sir, Your Honor, I
22 apologize.

23 THE COURT: No, sir, that's okay. Thank you.

24 THE WITNESS: Yeah, the statement helped me
25 remember a little bit better from that night.

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 Q Okay. Now, from that night, that night were you
2 able to identify what type of clothing --

3 THE COURT: Solicitor, statement up here, please.

4 MR. RICHARDSON: Oh, I'm sorry, Your Honor.

5 That's fine.

6 THE COURT: Thank you, sir. Excuse me for
7 interrupting. Proceed.

8 Q That night, and with refreshing your memory, were
9 you able to identify the type of clothing the driver of
10 that vehicle had on?

11 A No, sir.

12 Q Did you say anything any more definite with regard
13 to seeing anybody else in the car?

14 A Excuse me?

15 Q Did you say anything more definite to police that
16 night with regard to seeing anybody, any other
17 passengers in that car?

18 A No, not really. That there was a possibility
19 there could be a second person in there.

20 Q A possibility that you might have saw a second
21 person in there?

22 A Yes, sir.

23 Q Now, did you make any attempts -- after this car
24 flees, which directs does it go?

25 A It goes right leaving the apartment.

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

- 1 Q Okay. So it goes out of the parking lot and turns
2 right, I believe that's Leaders Avenue or something
3 like that?
- 4 A I believe so. I'm not too sure.
- 5 Q Back towards the pool?
- 6 A Yes, sir.
- 7 Q Okay. Is that a better landmark?
- 8 A Yes, sir. It's been a while.
- 9 Q And the -- now; you're watching it. Do you notice
10 anything with regard to the windows, are they clear;
11 are they tinted?
- 12 A No, sir, not that I remember.
- 13 Q Difficult to see through?
- 14 A Yes.
- 15 Q And how quickly did all this happen?
- 16 A It happened pretty quick in maybe a minute or two
17 time span.
- 18 Q So it happened pretty quick?
- 19 A Yeah.
- 20 Q Now, you watch this car speed off, and you see the
21 victim in the parking lot?
- 22 A Yes, sir.
- 23 Q What do you see the victim do?
- 24 A He proceeded to walk towards the apartments, maybe
25 stumbling a bit. That's when I went to call out to

INFINITI HENDERSON-DIRECT BY MR. RICHARDSON

1 him, and I didn't get any response. Then I remember
2 seeing someone leave out of a car that was parked, that
3 was already parked there. And she proceeded to ask if
4 he was okay. I assumed he said something to her, and
5 then he fell on the sidewalk and didn't move.

6 Q On the sidewalk or in the parking lot or?

7 A Yeah, on the sidewalk in the parking lot.

8 Q Okay. Now, did -- this car you had seen before,
9 before you saw that car back out --

10 A Yes.

11 Q -- were there any other cars around that dark car?

12 A No, not really. It was parked and there was a --
13 I think there was one car parked to the left of it, but
14 there was nothing parked to the right of it.

15 Q Okay. And do you remember what kind of car was
16 parked to the left of it?

17 A Maybe a van or a SUV of some type.

18 Q Van or SUV. And you said to the left of it, to
19 the driver's side of that vehicle?

20 A Yes.

21 Q Okay. Because you saw it back up?

22 A Yes, sir.

23 Q Now, you saw Anthony collapse while you were
24 sitting in the vehicle?

25 A Yes.

1 Q Did you make any efforts to try and assist him in
2 any way?

3 A Yeah. As soon as he collapsed on the sidewalk, I
4 started to go across the hallway to notify my RA. She
5 wasn't there at the time, she was on campus finishing a
6 class. So me and a few of my other -- me and my
7 friends I were with, we started to go and call 911 and
8 start pressing the panic buttons that were lined across
9 the sidewalk.

10 And then other people in our building heard it,
11 and they started to help him. We tried to set him in a
12 truck and had to take him to Conway Medical, but that
13 didn't work. A few other people noticed, and there
14 were trained nurses, I think, amongst us, and they came
15 and tried to help him as well.

16 Q So there was a crowd of people outside?

17 A There -- yeah. Mostly the community, the Grand
18 Strand community. And some of local community was
19 there.

20 Q And I know it probably seemed like forever, but
21 from the time you heard that third gunshot until law
22 enforcement arrived, were you there when law
23 enforcement arrived?

24 A Yes, sir.

25 Q How long did it take, approximately?

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 CLERK OF COURT: Please be seated. State your
2 full name, and spell your last name for the Court.

3 THE WITNESS: Janie Nicole Plyler, P-L-Y-L-E-R.

4 DIRECT EXAMINATION

5 BY MR. HYMAN:

6 Q Good afternoon, Janie. Would you tell the jury a
7 little bit about yourself, where you're from and what
8 do you do and so forth.

9 A I'm from Lancaster, South Carolina. I'm a student
10 at the University of South Carolina, and I'm also a
11 lifeguard.

12 Q So right now you're a student at University of
13 South Carolina?

14 A Yes, sir.

15 Q Prior to attending USC, did you go to college
16 anywhere else?

17 A Yes, sir. I attended Coastal Carolina University
18 for one year.

19 Q For one year. What year was that?

20 A 2012 to 2013.

21 Q Okay. Would that be your freshman year?

22 A Yes, sir.

23 Q All right. Now, while you were going to school at
24 Coastal, where did you reside at?

25 A University Place dorms in the building Grand

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 Strand F, on the third floor.

2 Q So it was building Grand Strand F?

3 A Yes, sir.

4 Q Okay. I'm going to hand you a few exhibits here.

5 (WHEREUPON, State's Exhibit Nos. 5 through 7 were
6 marked for identification only.)

7 Q I'm handing you what's been marked for
8 identification only as States Exhibits 5, 6 and 7. If
9 you would, take a look at these and tell me if you're
10 able to recognize those.

11 A Yes, sir. They are the building that I lived in
12 when I was at Coastal Carolina.

13 Q So that's Grand Strand F?

14 A Yes, sir.

15 Q And these pictures weren't taken on February 26th,
16 2013; were they?

17 A No, sir.

18 Q They were taken more recently?

19 A Yes, sir.

20 Q But do they fairly and accurately represent the
21 apartment building that you lived in?

22 A Yes, sir.

23 Q They do. Okay. And how were you able to
24 recognize these?

25 A I lived there for a year, and I know exactly where

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 it's at in the...

2 Q And I think there are three photos. Just
3 generally will you go through each of them and explain
4 what they are exactly.

5 A The first one is an up-close picture of the
6 apartment.

7 THE COURT: Excuse me, can you look at the number
8 that's on the photo and give us the number you're
9 talking about.

10 THE WITNESS: State Exhibit 5.

11 THE COURT: Thank you.

12 THE WITNESS: It's an up-close picture of Grand
13 Strand F apartments. My room window is located at the
14 top left of the picture, it's the very top window in
15 that.

16 State Exhibit 7 is the view from the ground
17 towards my room, and that's where the car would have
18 been at that night.

19 Q Okay. And, again, do these fairly and accurately
20 represent the apartment you lived in and the point of
21 view that you had on February 26th, 2013?

22 A Yes, sir.

23 MR. HYMAN: Your Honor, at this time, the State
24 would offer State's Exhibits 5 through 7 for admission
25 into evidence.

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 MR. McCOLLUM: No objection.

2 THE COURT: Without objection, State's 5, 6 and 7,
3 each being a photograph, are admitted.

4 (WHEREUPON, State's Exhibit Nos. 5 through 7 were
5 admitted in evidence.)

6 Q Okay. Now, using those exhibits again, would you
7 just point out to the jury which floor and window was
8 yours.

9 A This window right here (indicating).

10 Q So the one on the far left of the building?

11 A Yes, sir.

12 Q And is there another picture that more accurately
13 represents the point of view you had that night?

14 A This would have been my window right here
15 (indicating), and this is where the action was
16 (indicating).

17 Q Okay. And, again, these cars weren't there that
18 night; were they?

19 A No, sir.

20 Q But the crime scene would have taken place
21 approximately where the person who took those pictures?

22 A Yes, sir.

23 Q Okay. All right. Now, let's go back and let's
24 talk specifically about February 26th, 2013. Do you
25 recall what you were doing that night?

JANIE N. PLYLER-DIRECT BY MR. HYMAN

- 1 A I was studying for a Spanish exam.
- 2 Q And while you were studying for that exam, what if
- 3 anything did you hear, did anything get your attention?
- 4 A I was sitting there studying, and I heard three
- 5 gunshots ring out. And I jumped up and ran to my
- 6 window to see what was going on.
- 7 Q Okay. Describe for us -- well, how did you know
- 8 it was gunshots?
- 9 A I've been around guns my entire life. We hunt and
- 10 my dad's a state trooper, so I've always been around
- 11 guns.
- 12 Q So you were sitting at your desk, I think you
- 13 said, studying for a Spanish exam, and then you heard
- 14 the gunshots?
- 15 A Yes, sir.
- 16 Q Are you sure it was three?
- 17 A Yes, sir.
- 18 Q Could you describe for the jury the sequence the
- 19 best you can, the sequence of those gunshots, how they
- 20 sounded?
- 21 A Pop, pop, pop, right.
- 22 Q They were pretty close in time?
- 23 A Yes, sir.
- 24 Q Okay. After you heard those gunshots, describe
- 25 what you did.

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 A I went to my window and I looked out, and I saw
2 Anthony standing at the back driver's side of the car.
3 It was a black car, Honda or Toyota like style, body
4 style. And it had no back spoiler or front license
5 plate, but it backed out. And Anthony jumped onto the
6 back of the car. And when the car pulled off it slung
7 him off, and it turned in front of my building to get
8 to 544.

9 Q Okay. And did you know Anthony --

10 A No, sir.

11 Q -- at the time this took place? Do you happen to
12 recall what type of clothing he was wearing that night?

13 A He had on a gray hoodie.

14 Q Anthony was wearing a gray hoodie?

15 A Yes, sir.

16 Q Now, I think you said earlier that you were
17 studying and you hear gunshots, and then did you say
18 you ran to your window to watch this?

19 A Yes, sir.

20 Q About how far was it, how long did it take you to
21 get to the window?

22 A About two steps.

23 Q Okay. So you got right there. Now, when you got
24 right there and you're looking out the window, did
25 you -- so you never saw who fired the shots?

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 A No, sir.

2 Q Okay. And the vehicle that was parked there that
3 you saw leaving --

4 A Yes, sir.

5 Q -- do you remember how it was parked that night?

6 A It was pulled into a spot next to a silver car.
7 There was an empty spot on the other side of it, and
8 there was a white SUV beside the empty spot. And it
9 backed out of the parking spot to get out.

10 Q Okay. So the vehicle was parked, the getaway car
11 was parked. Was it facing the woods or facing the
12 apartment?

13 A It was facing the woods.

14 Q Okay. And you saw it back out?

15 A Yes, sir.

16 Q And I think you said Anthony was -- jumped on the
17 trunk of it?

18 A Yes, sir.

19 Q And then it exited. Which direction did it exit?

20 A It would have turned right and then turned out to
21 go towards 544.

22 Q Okay. Now, when the car left, who did you see
23 left there behind in the parking lot?

24 A Anthony. He started walking towards the silver
25 car and collapsed.

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 Q Did you see anyone else left out there in the
2 parking lot?

3 A No, sir.

4 Q Did you see anybody running away?

5 A No, sir.

6 Q Did you happen to see anybody get knocked out that
7 passenger side door?

8 A No, sir, not at all.

9 Q And you gave us a little bit of a description
10 about the car that you saw, I think you said it was a
11 black car?

12 A Yes, sir.

13 Q Could you see who was driving the car?

14 A No, sir, I could not. The windows were blacked
15 out, I couldn't see into the car.

16 Q So the windows were tinted?

17 A Yes, sir.

18 Q Could you tell how many people were in the car?

19 A No, sir, I could not.

20 Q And I believe, do you recall what time this was?

21 A It was about 7:15-ish. It was in -- it was in the
22 seventh hour of the night.

23 Q And it was dark?

24 A Yes, sir.

25 Q Do you remember that?

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 A Yes, sir.

2 Q Okay. And describe what if any lighting.

3 A There's a street light, but it's -- it's not very
4 conducive for the area.

5 Q Okay. Now, you said you saw the vehicle driving
6 off?

7 A Yes, sir.

8 Q Was that -- give us a description, best you can,
9 you know, how long between the timing of the gunshots
10 and you seeing the vehicle leave.

11 A It wasn't any longer than two minutes. I wouldn't
12 even say that long. It was enough for him to back out
13 and then turn right in front of the -- my building and
14 then turn out of the apartments.

15 Q Describe the best you can the manner that that
16 vehicle was being driven in.

17 A It was reckless, very reckless. They were trying
18 to leave as fast as they could.

19 Q Did you ever go down to the parking lot that
20 night?

21 A No, sir, I did not.

22 Q After you witnessed all this take place, describe
23 what you did.

24 A I was looking down and I saw some people helping
25 him, and they called -- you could -- they had mashed

JANIE N. PLYLER-DIRECT BY MR. HYMAN

1 the emergency response button. And I called my father
2 to see what I needed to do.

3 Q Did you speak to the police that night?

4 A No, sir. I put in an anonymous report and gave
5 them my name, so that they could get in contact with
6 me. And the next day SLED came by and talked to me at
7 my apartment.

8 Q So the next day, that would have been on
9 February 27th, you spoke to SLED?

10 A Yes, sir.

11 Q Did you give them a statement concerning what you
12 saw?

13 A Yes, sir, I did.

14 Q And what you heard?

15 A Yes, sir.

16 Q Did you have any other involvement in the
17 investigation of this case?

18 A No, sir.

19 Q And were you -- I think you said you were studying
20 for an exam -- were you drinking or under the influence
21 of any drugs that night, or that's at just --

22 A No, sir.

23 Q Okay.

24 MR. HYMAN: Please answer any questions defense
25 may have.

JANIE N. PLYLER-CROSS BY MR. McCOLLUM

1 THE COURT: Cross-examine.

2 MR. McCOLLUM: May it please the Court.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. McCOLLUM:

6 Q Ms. Plyler, my name is Greg McCollum, okay.

7 A Yes, sir.

8 Q I'm an attorney, I represent Mr. McDonald, okay.

9 Do you have a copy of your statement up there?

10 A No, sir, I do not.

11 MR. McCOLLUM: Defense for identification.

12 THE COURT: Sure.

13 (WHEREUPON, Defendant's Exhibit No. 2 was marked
14 for identification only.)

15 Q I'm going to hand you what's been marked as
16 Defense Exhibit No. 2 for identification. That's a
17 statement you gave the next day to the police or to
18 SLED; right?

19 A Yes, sir.

20 Q And when you say the car left, there are two cars
21 that drove out of the parking lot; right?

22 A No, sir.

23 Q The car that you saw speed away was a black car?

24 A It was a dark-colored car, close to black.

25 Q Okay. And that car sped away from the parking

JANIE N. PLYLER-REDIRECT BY MR. HYMAN

1 lot?

2 A Yes, sir.

3 Q And the squealing tires?

4 A Yes, sir.

5 Q And fleeing the scene; right?

6 A Yes, sir.

7 Q And is that the same car that had backed into
8 Anthony Liddell?

9 A Yes, sir.

10 Q Okay. And are you sure about that?

11 A Yes, sir.

12 Q Okay.

13 MR. McCOLLUM: Thank you, ma'am. That's all I
14 have, Your Honor.

15 THE COURT: Okay. Thank you, sir. Redirect.

16 REDIRECT EXAMINATION

17 BY MR. HYMAN:

18 Q Has your testimony today been fair and accurate as
19 to what you saw that night?

20 A Yes, sir.

21 Q And just to sum it up, tell the jury one more time
22 just a summary of what you saw and you heard.

23 A I was studying for my Spanish test, and I got up
24 and ran to my window. I --

25 MR. McCOLLUM: Your Honor, I don't think it's

1 but it's going to be my first one up, he's got to be in
2 Columbia tomorrow.

3 THE COURT: No problem.

4 MR. RICHARDSON: I'm taking him out of order.

5 THE COURT: Nothing from the Defendant,
6 Mr. McCollum?

7 MR. McCOLLUM: Nothing from the Defendant.

8 THE COURT: Thank you so much, I appreciate it.
9 Hope y'all had a good lunch.

10 MR. RICHARDSON: Yes, sir. Thank you, Your Honor.

11 MR. McCOLLUM: Thank you, judge.

12 THE COURT: You bet. All right. I think Ed's
13 bringing in the jury. Thank you.

14 (Discussion off the record.)

15 (WHEREUPON, the jury came into open court at
16 approximately 2:04 p.m.)

17 THE COURT: Thank you, ladies and gentlemen. I
18 hope you had a good lunch and are ready now to
19 continue. Solicitor, you may call your next witness,
20 sir.

21 MR. RICHARDSON: Thank you, Your Honor. The State
22 would call Jay Dobbins of AT&T.

23 JAMES DOBBINS, after being duly sworn, testified
24 as follows:

25 CLERK OF COURT: Please be seated. State your

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 full name, and spell your last name for the Court.

2 THE WITNESS: My name is James Dobbins,
3 D-O-B-B-I-N-S.

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Good afternoon, Mr. Dobbins. Could you please
7 tell us where you're from.

8 A I'm representing AT&T.

9 Q Okay. And representing AT&T; do you work here
10 around Myrtle Beach?

11 A No. I've actually retired from AT&T. I was the
12 former director of security. I appeared on behalf of
13 AT&T to present court records.

14 Q Okay. As a records custodian?

15 A Yes.

16 Q And how long prior to your retirement -- I guess
17 you're a contractor now with AT&T?

18 A Yes.

19 Q Okay. How long prior to your retirement and
20 becoming a private contractor with AT&T, how long did
21 you work with them?

22 A Over ten years.

23 Q Over ten years. Can you tell us about your
24 familiarity with AT&T Wireless.

25 A Yes. It's called AT&T Mobility.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q I'm sorry, AT&T Mobility. All the terms get
2 thrown around.

3 A That's all right. AT&T Mobility is a
4 communication service provider.

5 Q Okay. So what we're talking about is cell phones?

6 A Yes.

7 Q Now, can you tell us, AT&T Mobility, what type of
8 business is it, what service does it provide?

9 A As a communication service provider, they would
10 provide wireless, mobile and voice and broadband
11 services.

12 Q Okay. And they are one of the largest?

13 A Yes, one of the -- one of the largest in the
14 country.

15 Q You don't provide services to that walkie talkie
16 over there?

17 A Not in this courtroom.

18 THE COURT: We're glad he has the walkie talkie.

19 MR. RICHARDSON: Oh, I'm very glad he's got it.

20 THE COURT: Not a problem.

21 Q All right. Now, as being a cell provider -- we
22 call it a cell provider, is that a good word?

23 A Yes.

24 Q You provide cellular service, AT&T Mobility does.

25 Could you tell us, what types of records does AT&T

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Mobility keep?

2 A We would keep records concerning customers, we
3 would keep records concerning calls and data and use of
4 the instruments by our customers.

5 Q Okay. Say, for instance, if I have a cell phone
6 with an AT&T account, and I make a call or I text
7 someone, what if any information would be received by
8 AT&T Mobility?

9 A AT&T would obviously have to know the location of
10 your phone where the call originated. They would know
11 the number it originated from, the number you're
12 calling to and the type of communication you're engaged
13 in.

14 Q Okay. So if I make a call from this courtroom,
15 they could tell the general area where that phone is?

16 A Yes.

17 Q And that information would be received by AT&T
18 Mobility?

19 A Yes.

20 Q And, of course, the number I'm dialing from?

21 MR. McCOLLUM: Your Honor, I'm going to object to
22 leading.

23 THE COURT: Sustained. Just ask the question.

24 MR. RICHARDSON: I'll move along.

25 THE COURT: Um-hum.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q How about if no calls are made, what if any type
2 information would be received by AT&T Mobility if
3 there's not a call made?

4 A The AT&T Mobility would know the location of the
5 phone because the phones keep in contact in case they
6 have to be -- a caller communication is initiated. But
7 there's not a record maintained of all that in the
8 normal course of business.

9 Q Okay. Now -- now, you said you appear on behalf
10 of AT&T?

11 A Yes.

12 Q As a member of their appearance team, what if
13 anything do your duties include with regard to the
14 responsibility for maintaining records concerning cell
15 phone usage and for those accounts held by AT&T
16 Mobility?

17 A I'll appear as custodian. AT&T will forward to me
18 via secured e-mail the information that's been
19 subpoenaed or the subject of a legal demand. And I
20 will attest to those records in court.

21 Q And how does AT&T records obtain the information
22 contained in those records?

23 A How do they get them?

24 Q Yes, sir.

25 A Oh, they would maintain the -- you talking about

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 how the phone company gets it when they do it or how --

2 Q From the cell phone. From the cell phone just as
3 you described earlier.

4 A Okay. When the cell phone is made, then
5 instantaneous or commensurate with the communication, a
6 record is made and stored in their files
7 electronically. And then it can be stored for billing
8 purposes, or it can be subject of bills or the records
9 are -- of the call details are also maintained.

10 Q Now, these records that are maintained by AT&T,
11 are these kept in the ordinary normal course of
12 business?

13 A Yes.

14 Q And now, the content of any calls or anything, can
15 you tell us what type of information is the content of
16 a text message or calls, could you tell us what if any
17 part of that is obtained by AT&T?

18 A We do not in the normal course of business
19 maintain the content of the calls.

20 Q Okay. But these other records, are these -- these
21 are maintained in the normal course of business?

22 A Yes.

23 Q The entries, how accurately do they reflect calls
24 and texts to and from a certain phone number?

25 A Very accurate.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q And now, cell phones, I know they are called cell
2 phones. Do they work like a normal telephone, like a
3 landline?

4 A Well, obviously not, no, they're -- they are
5 wireless, they are in fact a radio. The radio
6 communicates with a nearby cell tower. And once that
7 communication gets to the cell tower, then it's handled
8 along a wire line or wire typed network until it gets
9 to either a wired phone, or if it's going to another
10 cell phone, a cell tower either by AT&T or the
11 provider's cell tower to finish the call. The
12 beginning and the last legs of the call are the only
13 parts that are wireless.

14 Q Okay. And so whenever you're talking about the
15 location of a cell phone, you're talking about with
16 regard to a tower?

17 A A tower or an area covered by a tower, yes.

18 Q Okay, okay. And I'm sorry for mish-moshing the
19 terminology a little bit. Now, it's a radio signal.
20 I'm sure we've all seen cell towers and passed down the
21 road. How does a certain phone call determine which
22 tower to bounce off of? You may have already answered
23 that.

24 A Yeah, it will typically go to the tower that's
25 nearest.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q Okay.

2 A But if it's congested, it could go to a secondary
3 tower or -- and pass along the towers as you move from
4 one location to another.

5 Q Okay. Now, that information regarding tower
6 location --

7 MR. McCOLLUM: Your Honor, I think the witness was
8 presented as a, I think, a records custodian, I'm not
9 sure. But it seems like if we're getting or trying to
10 get some kind of expert testimony --

11 THE COURT: At this point, he's just a lay
12 witness. Solicitor, just move on to what it is, and we
13 don't need to go into that much detail --

14 MR. RICHARDSON: Yes, sir.

15 THE COURT: -- on how it works at this point.
16 Thank you.

17 MR. RICHARDSON: Yes, sir, Your Honor.

18 THE COURT: Thank you. I sustain the objection
19 insofar as we're not -- he's not been presented, and I
20 assume you're not offering him as an expert witness?

21 MR. RICHARDSON: No, sir, Your Honor, no, sir.

22 THE COURT: All right.

23 Q In AT&T's records, how do they identify cell phone
24 towers; by name, by GPS, by --

25 A There's a number. There's a number that's

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 associated with a tower, a tower ID number. And then
2 we also in our records would maintain the latitude and
3 longitude of the area covered by that -- the center of
4 the area covered by that tower.

5 Q Okay. And that's how you mark the tower location?

6 A Yes.

7 Q Okay. And in your records, what if any type of
8 information is given with regard to date and time?

9 A The records maintained would have the date of a
10 call or a data session in or out, the date it -- the
11 time it began, the initiating number, the terminating
12 number, the location, the cell tower that the call
13 started and stopped on.

14 Q Okay. As we're talking about dates and times, I
15 know there are in the Continental United States four
16 different time zones. What time zone is reflected in
17 AT&T records?

18 A Local.

19 Q Local?

20 A Local time.

21 Q Okay. And you mentioned the term terminating, I
22 think terminating number?

23 A Yes. That would be the number that was called.

24 Q Okay, all right. How about if another number was
25 dialing that cell phone? My cell phone is (843)

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 421-1111.

2 A The 1111 would show us the terminated number.

3 Q Okay. And after the information received by AT&T
4 Mobility is stored on the servers, can that information
5 be retrieved in any way?

6 A Yes. I mean, you could retrieve it by getting a
7 copy of your bill, or you could retrieve it by -- the
8 call detail information is stored in a separate
9 computer and could be accessed electronically.

10 Q And you received a subpoena for court today;
11 correct?

12 A Yes.

13 Q Okay. And with that subpoena did you do some
14 homework?

15 A Just to look at the information that was requested
16 to get from AT&T, the information they sent in response
17 to that subpoena and to be able to verify if that's the
18 information you're entering in.

19 Q All right. Allow me to show you what's been
20 marked for identification at this time as State's No.
21 8.

22 (WHEREUPON, State's Exhibit No. 8 was marked for
23 identification only.)

24 Q Can you take a moment, do you recognize State's
25 No. 8 for ID?

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 A Yes, I do.

2 Q And how do you recognize State's No. 8?

3 A These are copies of AT&T records concerning call
4 details.

5 Q And these are records that are normally kept in
6 the ordinary course of AT&T's business?

7 A Yes.

8 Q And you could certify these are your records?

9 A Yes, these are our records.

10 MR. RICHARDSON: Your Honor, at this time the
11 State would seek to introduce State's No. 8 as a
12 business record.

13 THE COURT: Any objection?

14 MR. McCOLLUM: No, Your Honor.

15 THE COURT: Very well. State's-8 is admitted,
16 copies of records.

17 (WHEREUPON, State's Exhibit No. 8 was admitted in
18 evidence.)

19 Q Now, Mr. Dobbins, I want to ask you a few
20 questions about those records. Can you tell us, can
21 you tell from terminating and originating phone number,
22 can you tell us what phone number is attached to those
23 records.

24 A Yes. This would appear to be from a phone
25 (843) 862-1424.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q And on that, that's what you were asked to look at
2 for court today; is that correct?

3 A Yes.

4 Q Now, those records, do you have a date range on
5 those records?

6 A The records start from February 1st, 2013, and
7 they appear to end March 3rd, 2013.

8 Q Okay. So for about a month?

9 A Yes.

10 Q From, I think you said, beginning of February
11 through the 1st of March, 2013. Now, you discussed
12 previously about AT&T maintains the location of the
13 cell phone whenever a call is made. As I hold up
14 State's No. 8, can you show us where we'd find the
15 location information?

16 A The last columns, tower ID, and then the latitude
17 and longitude of the center of the area covered by the
18 tower.

19 Q Okay. And the latitude and longitude, is that
20 particular to just AT&T, or is there a universal
21 latitude and longitude?

22 A That would be whatever universal longitude would
23 be.

24 Q It's a silly question.

25 A Nothing proprietary.

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 Q And you mentioned originating number that's under
2 the column. Can you just go through the columns.

3 A Yeah. I mean, the first column would have been a
4 call on the 1st of February, and it would have started
5 at 12:29 a.m. It would have been from the 1424 number,
6 and it would have been to (478) 335-8357. So you can
7 see that there's phone calls made.

8 Q Okay. Now, allow me to show you what's been
9 marked as State's No. 9 for identification.

10 (WHEREUPON, State's Exhibit No. 9 was marked for
11 identification only.)

12 Q If I may show you what's been marked for
13 identification as State's No. 9. Same questions as
14 before after taking a look at it, do you recognize
15 that?

16 A Yes. These are AT&T records.

17 Q And you've taken a look at these records?

18 A Yes.

19 Q Okay. And these are records kept in the normal,
20 ordinary course of business?

21 A Yes.

22 Q Okay. And these were the ones produced for court?

23 A Yes.

24 Q Okay.

25 MR. RICHARDSON: Your Honor, the same, the State

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 would seek to introduce State's No. 8 -- I mean, No. 9
2 now, into evidence.

3 THE COURT: Any objection?

4 MR. McCOLLUM: No, Your Honor.

5 THE COURT: Without objection, State's-9 is
6 admitted.

7 (WHEREUPON, State's Exhibit No. 9 was admitted in
8 evidence.)

9 Q In comparing State's-8 and State's-9, do you note
10 any differences with regard to how the records are
11 actually formatted?

12 A Well, obviously it's a different number on
13 State's-9. They are generally the same. The format on
14 the ones in the beginning is pulled up and actually
15 converted into an Excel format to be able to print.
16 There are some farther in the back of State's-9 that
17 look like gibberish.

18 Q Yeah.

19 A And that's what's called comma delineated. And
20 that's the same fields that are shown here organized,
21 but they just run on one after the other for each
22 column.

23 Q Okay. So essentially --

24 A It could be queried, it could be run up, it could
25 be queried either way. If someone puts it into Excel

JAMES DOBBINS-DIRECT BY MR. RICHARDSON

1 format it's a lot easier to read, but it's the same
2 data.

3 Q Okay. So it could be half as large if we just
4 kept that Excel in there?

5 A (Nodding affirmatively.)

6 Q Okay. Now, the phone number attributed to those
7 phone records, could you tell us what the phone number
8 attributed to those records are, State's No. 9.

9 A (843) 283-5423.

10 Q And the date range for those records?

11 A April 1st, it would appear, through March 6th.

12 Q You said February 1st?

13 A I'm sorry. February 1st through March 6th, 2013.

14 Q February 1st through March 6th, 2013. And those
15 are the records for (843) 283-5423. And these are, as
16 you stated, business records from AT&T?

17 A Yes, those are AT&T's business records.

18 Q And with regard to the call location on these, how
19 does it correspond with the date and time of the call?

20 A The call location?

21 Q Yes.

22 A It's -- that's done at the time the call is made.

23 Q Instantaneous?

24 A Or nearly so, maybe a few microseconds or a few
25 fractions of a second thereafter.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Your Honor, I have no further
2 questions of Mr. Dobbins.

3 THE COURT: Cross-examination, any questions?

4 MR. McCOLLUM: No questions, Your Honor.

5 THE COURT: Thank you, Mr. Dobbins, you may step
6 down. Do you wish this witness to be excused?

7 MR. RICHARDSON: Please, sir, Your Honor. He has
8 to go to Columbia.

9 MR. McCOLLUM: No objection.

10 THE COURT: You're also free to leave, sir. Thank
11 you.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 THE COURT: Call your next witness, please.

15 MR. RICHARDSON: Sabrina Fellers.

16 SABRINA ANN FELLERS, after being duly sworn,
17 testified as follows:

18 CLERK OF COURT: Please be seated. State your
19 name, and spell your last name for the Court, please.

20 THE WITNESS: Sabrina Ann Fellers, F as in Frank,
21 E-L-L-E-R-S.

22 DIRECT EXAMINATION

23 BY MR. RICHARDSON:

24 Q Good afternoon, Agent Fellers.

25 A Good afternoon.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q Agent Fellers, would you please tell where you're
2 employed, how long and in what capacity.

3 A I am employed by the South Carolina Law
4 Enforcement Division, it's commonly referred to as
5 SLED. I am employed in the special victims unit and
6 the vulnerable adult unit right now.

7 Q Okay. How long have you been with the special
8 victims unit?

9 A Since about March.

10 Q Since about March of 2014?

11 A Yes.

12 Q Prior to that, where were you working?

13 A I was in the crime scene unit.

14 Q Crime scene unit?

15 A Yes.

16 Q Kind of like CSI?

17 A Not quite as fancy, we don't get to drive the
18 Hummers and wear the heels, but similar.

19 Q Okay. Now, for those of us unfamiliar with SLED,
20 could you tell us what SLED is.

21 A SLED is the State Law Enforcement Division. They
22 are an assisting agency, they are called in to assist
23 with any local police, sheriff's office or state
24 investigations, any federal investigations, throughout
25 the State of South Carolina.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q And as an adjunct agency, I guess we call it --

2 A Yeah.

3 Q -- are there any -- where does SLED of have
4 jurisdiction?

5 A Statewide.

6 Q Statewide. And are there any areas where SLED
7 becomes the primary investigating agency?

8 A Yes.

9 Q What would those be?

10 A There are several, but one of them would be a
11 state campus.

12 Q State campus.

13 A Yes.

14 Q Public university?

15 A Yes.

16 Q And that's for death investigation?

17 A Yes.

18 Q Now, as a special agent prior to March in this
19 past year with SLED for the crime scene unit, what were
20 some of your typical duties?

21 A We responded to requests from local, state and
22 federal agencies throughout the State when they needed
23 any crime scene assistance, whether it be something
24 where they didn't have the manpower or the expertise to
25 handle the scene, or if it was something where there

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 was an officer involved in the incident, and they
2 didn't want their peers investigating.

3 Q What if any type of documentation and collection
4 or preservation did you do?

5 A When we arrived on-scene, we would photograph the
6 scene, document it using notes and a sketch. And we
7 would also mark any of the evidence that we found using
8 markers, document that on the sketch and in our notes,
9 and we would collect the evidence and preserve it and
10 transport it back to the laboratory for additional
11 processing.

12 Q In the present case, the murder of Anthony
13 Liddell, Jr., were you involved in this investigation
14 in any way?

15 A Yes, I was.

16 Q How did it come that you became involved in this
17 investigation?

18 A On the evening of February 26th, shortly after
19 8 p.m., I was requested to respond to the crime scene
20 at the University Place housing.

21 Q And in what county is that located?

22 A That is located in Horry County.

23 Q Now, you said you were dispatched shortly after
24 8 o'clock.

25 A Yes.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

- 1 Q Where were you when you were dispatched?
- 2 A Berkeley County.
- 3 Q Berkeley County. How long did it take you to get
- 4 here?
- 5 A I arrived shortly after 10 o'clock, about 10:15.
- 6 Q And upon your arrival at the University Place
- 7 Apartments, were you by yourself, did you operate by
- 8 yourself that night or how did that occur?
- 9 A I drove by myself, but my partner met me on the
- 10 scene.
- 11 Q And who is your partner?
- 12 A Special Agent Tiffany Hezel.
- 13 Q Okay. So you and Agent Hezel responded, how far
- 14 apart did y'all arrive?
- 15 A If I recall correctly, she arrived just a couple
- 16 minutes after I did.
- 17 Q Was she coming from Berkeley as well?
- 18 A No. She was coming from the Lexington, Richland
- 19 County area.
- 20 Q Now, you said you got there shortly after
- 21 10 o'clock?
- 22 A Yes.
- 23 Q And that was at University Place, Grand Strand
- 24 114-E?
- 25 A Yes.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q Upon arrival, what steps did you take initially
2 with regard to this investigation?

3 A Upon arrival, I verified that the scene was
4 secure, law enforcement was standing by, the -- I met
5 with the agents that were on-scene and got a briefing
6 of what they knew at the time.

7 Q And without telling us what they said, what was
8 your -- after speaking with the agents on the scene,
9 what were your primary areas of focus?

10 A The parking lot area between the building of 114
11 and the treeline.

12 Q Now, you said you spoke with law enforcement
13 there. Did that include agents from SLED?

14 A Yes, it does.

15 Q And which agents did you speak with?

16 A Special Agent Truss and Special Agent Johnson.

17 Q And after speaking with Agents Truss and Johnson,
18 you get acquainted with it, you get focussed on the
19 crime scene. Tell us about any walk-throughs that you
20 went through.

21 A They conducted a walk-through with me and showed
22 me areas that they had already located, possible
23 evidence to be found, and it was inside the premising
24 tape where it was secured.

25 Q Okay. So the crime scene had been secured?

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

- 1 A Yes.
- 2 Q With tape?
- 3 A Yes.
- 4 Q Were there any other measures that you witnessed
- 5 they used to secure that crime scene?
- 6 A There were law enforcement vehicles on the scene.
- 7 One of them saw the blue lights activated. There were
- 8 additional lights put up to help light the scene.
- 9 Q Okay. And what's the purpose of a crime scene
- 10 log?
- 11 A Crime scene log, to verify who comes into or exits
- 12 the scene, so you can keep a log of anybody that was in
- 13 there in case there were any contamination issues or
- 14 anything like that.
- 15 Q Okay. So you got a log, we've got crime scene
- 16 tape up. What precautions did you take with regard to
- 17 safeguarding the evidence that night?
- 18 A While we were on the scene, we were -- used our
- 19 flashlights, we were cautious of where we walked, we
- 20 made sure when we were collecting things to change our
- 21 gloves so that we didn't cross-contaminate anything.
- 22 We individually packaged the items so that they don't
- 23 cross-contaminate each other on transport.
- 24 Q Monitor other people?
- 25 A Yes.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q Because sometimes the guys can be kind of clumsy;
2 right?

3 A Sometimes.

4 Q Okay. Now, after your initial briefing and
5 walk-through, what were your initial observations?

6 A The pavement area was wet, as it had been raining
7 recently. There were several pieces of what appeared
8 to be clothing in the lane of traffic of the parking
9 lot. There were a couple of items near a white SUV,
10 and the white SUV appeared to have damage.

11 Q Now, you noticed all these things through your
12 walk-through. Did you take any efforts to document
13 this crime scene?

14 A We photographed the crime scene, and we also
15 completed notes and a sketch.

16 Q Okay. So you photographically documented the
17 crime scene?

18 A Yes.

19 Q Allow me to show you what will now be marked as
20 State's No. 10.

21 (WHEREUPON, State's Exhibit No. 10 was marked for
22 identification only.)

23 Q Do you recognize State's No. 10?

24 A This is the Power Point presentation that we
25 discussed, yes.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q Okay. And you've had the opportunity to look at
2 that Power Point presentation?

3 A Yes, I have.

4 Q And the Power Point presentation contained on
5 State's No. 10, how do you recognize those photographs?

6 A Those are the photographs that we took on-scene
7 that evening.

8 Q And do they fairly and accurately depict the scene
9 as you found it that evening?

10 A Yes, they do.

11 MR. RICHARDSON: Your Honor, I previously provided
12 a copy to defense.

13 MR. McCOLLUM: So these are the crime scene
14 photos?

15 MR. RICHARDSON: Yes. It was that Power Point I
16 gave you.

17 MR. McCOLLUM: All right. No objection.

18 THE COURT: So for the record's purposes, we're
19 not requiring the photographs that are part of the
20 Power Point. You've seen those, verified those, and
21 they are admitted in the form of the presentation.

22 MR. McCOLLUM: Yes.

23 THE COURT: Very well. State's Exhibit 10 is
24 admitted without objection. Thank you, Mr. McCollum.

25 MR. RICHARDSON: Thank you, Your Honor.

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1 (WHEREUPON, State's Exhibit No. 10 was admitted in
2 evidence.)

3 MR. RICHARDSON: And permission to publish at the
4 appropriate time?

5 THE COURT: Sure, sure.

6 MR. RICHARDSON: At the appropriate time. We'll
7 let it come up as I ask a few more questions.

8 THE COURT: Whenever you need it.

9 Q Additionally, other than photographing, I believe
10 you said you wrote some notes?

11 A Yes.

12 Q And you did a crime scene sketch?

13 A Yes.

14 Q Okay.

15 (WHEREUPON, State's Exhibit No. 11 was marked for
16 identification only.)

17 Q Allow me to show you State's No. 11.

18 A Yes. This is the diagram.

19 Q This is the diagram you sketched?

20 A Yes, it is.

21 Q Okay. Is this exactly how you sketched it
22 on-scene?

23 A No. On-scene I do a rough one with pencil or pen
24 and paper. And then once I get back to the lab we use
25 a computer program to sketch it and make it a little

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1 bit more legible and neat for everybody.

2 Q Now, is this -- is this diagram to scale?

3 A No, it's not.

4 Q It's not to scale. But other than not being to
5 scale, does it fairly and accurately depict the crime
6 scene and what you found that night?

7 A Yes, it does.

8 MR. RICHARDSON: Your Honor, at this time the
9 State would seek to introduce State's No. 11.

10 THE COURT: Any objection?

11 MR. McCOLLUM: Your Honor, one objection I had
12 is that one of the issues in the case was the placement
13 of the witness' vehicle.

14 THE COURT: What's the basis of your objection?

15 MR. McCOLLUM: That it --

16 THE COURT: If we need to put something in full,
17 we can do that, I can excuse the jury, we can put
18 that --

19 MR. McCOLLUM: All right. My objection is that
20 where the cars are parked is not accurate.

21 THE COURT: Okay. Well, that goes to challenge.
22 And this witness said the diagram represents something
23 that she prepared that's not to scale, subject to
24 cross-examination. But your objection is that you
25 believe there are errors in it, but I -- subject to

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1 that objection, I will admit it as State's Exhibit 11.

2 (WHEREUPON, State's Exhibit No. 11 was admitted in
3 evidence.)

4 THE COURT: You're free to cross-examine, of
5 course, about the exhibit. Thank you. It comes in as
6 not to scale diagram that she prepared and she located.
7 You can cross-examine her all you want to about that.

8 MR. McCOLLUM: Thank you.

9 THE COURT: Thank you.

10 MR. RICHARDSON: Permission to publish it to the
11 jury?

12 THE COURT: Sure.

13 MR. RICHARDSON: Thank you, Your Honor. Your
14 Honor, if I may have Agent Fellers stand for this.

15 THE COURT: All right. If you will, that's fine,
16 just keep your voice elevated, please. Why don't y'all
17 swap sides so she can testify back this way.

18 Q Agent Fellers, there's an microphone right there,
19 if you need to move towards you, please, ma'am.

20 A Okay.

21 Q Agent Fellers, as we look at this diagram, can you
22 describe what we're seeing here.

23 A Yes. This is the parking lot area (indicating).
24 This the housing unit, the apartment unit, and this is
25 the breezeway where the entrance is (indicating).

1 These are evidence items that were located in the lane
2 of traffic area (indicating). These are evidence items
3 that were located near this vehicle (indicating). And
4 this is a vehicle that had markers A and B placed on it
5 for evidence items located on the vehicle (indicating).

6 Q And this is the building we're talking about,
7 Grand Strand E?

8 A Yes.

9 Q 114. Now, with regard to the number of parking
10 spaces and vehicles located between those parking
11 spaces, is this diagram correct?

12 A To the best of my recollection, yes.

13 Q Okay. You documented this photographically?

14 A Yes.

15 Q So to your knowledge, the white Acura, what is the
16 significance of that white Acura?

17 A The white Acura, we were told, was driven by a
18 possible witness to the incident.

19 Q Okay. And to your knowledge, had it been moved
20 prior to your documenting the scene?

21 A Not while I was on-scene.

22 Q Now, items one, two and three, what's their
23 significance?

24 A Items one, two and three were clothing items that
25 were located in the lane of traffic. Item one was a

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1 sweatshirt with a piece of a tank top. Item number two
2 was a tank top, and item number three was a white
3 T-shirt.

4 Q And what's the significance of the vehicle marked
5 white Hyundai Santa Fe?

6 A The white Hyundai Santa Fe had what appeared to be
7 two bullet defects in the rear passenger side door,
8 below the window but above the handle in that area.

9 And we took the -- we managed to recover the
10 projectiles from the door area, and those were what was
11 marked as A and B when we photographed it.

12 Q Okay. And four, five and six, what's that?

13 A Those were evidence items located on the ground.
14 One was a cartridge case, one was a cigarette pack and
15 one was a cell phone.

16 Q And we'll come back to those items as we go
17 through the photographs. But did you take any
18 measurements with regard to the distance between the
19 white Acura and the Hyundai Santa Fe?

20 A Yes, we did.

21 Q How far apart were they?

22 A I would have to refer to my key.

23 Q You need that to help you refresh?

24 A Yes.

25 MR. RICHARDSON: Your Honor, I just ask her have

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1 permission to do that.

2 THE WITNESS: My I refer?

3 THE COURT: You may.

4 THE WITNESS: Thank you. From the driver's door
5 jamb of the Acura to the rear passenger bumper of the
6 Hyundai Santa Fe, it was approximately 40 feet and zero
7 inches. And from the rear passenger bumper of the
8 Acura to the rear passenger bumper of the Hyundai Santa
9 Fe, it was approximately 29 feet and 9 inches.

10 Q Okay. So both these vehicles were pulled
11 headlights towards the building and headlights toward
12 the woods?

13 A Yes, they were.

14 Q Okay.. So they pulled in normal, not backed in?

15 A Yes.

16 Q And you said how far from bumper to bumper?

17 A Approximately 29 feet and nine inches.

18 Q Okay. And the distance here between the two of
19 them, how does the distance here between the sets of
20 cars, how does it compare with a normal two-lane road?

21 A Based on my observations on-scene that night, I
22 would say that two cars could fit through there.

23 Q Normal for a parking lot?

24 A Yes.

25 Q And the lighting conditions when you arrived

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1 on-scene, what were they like?

2 A There was one light here and there was a light
3 here (indicating). But they had also set up some
4 exterior lights that they brought in to help illuminate
5 the scene.

6 Q Now, we have one more vehicle that's been marked
7 here (indicating). Silver Oldsmobile Alero.

8 A Yes.

9 Q What is that, what is the significance of that
10 vehicle?

11 A We photographed that vehicle while on-scene. It
12 was not processed at that time.

13 Q It was the closest one to the Hyundai?

14 A Yes, it was.

15 Q Okay. Agent Fellers, if you'll resume the stand.
16 Agent Fellers, as we go through this, I'm going to ask
17 you some questions. You indicated earlier the
18 photographs that appear on the Power Point are
19 photographs you took that night, fairly and accurately
20 depict the scene as you saw that night. We'll move
21 past. And as we look at -- let's go past the, we look
22 at the first couple slides, two and three. That yellow
23 tape, what are we seeing there?

24 A That is the tape that secured the crime scene
25 area.

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1 Q And we see what appears to be, is that a police
2 car on the left-hand side?

3 A Yes, it is.

4 Q Okay. Can you tell us anything about that police
5 car.

6 A That was the campus police car that was on-scene
7 at the time of my arrival.

8 Q Was that police car ever moved?

9 A Not that I recall.

10 Q Now, it was inside the crime scene tape?

11 A It was.

12 Q Now, if it was moved, what if anything would have
13 been done prior to its movement?

14 A All of the evidence in the area would have been
15 collected before the vehicle was moved.

16 Q Would you have done anything to check around the
17 vehicle?

18 A Yes.

19 Q Like what?

20 A We would have searched around the vehicle with a
21 flashlight, made sure there was no evidence near it,
22 under it, that type of thing.

23 Q Any evidence that you found under that police car?

24 A No.

25 Q Let's move on to slide three, that's another view

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1 of the police car. Now, the next several slides, what
2 are we seeing here?

3 A That is the front of -- well, that is the side of
4 the apartment building that documents the number and
5 the address of the building.

6 Q Okay. If we go through the next few slides, on
7 this one, slide number eight, the silver gray vehicle,
8 what is the significance of that vehicle?

9 A That is the -- that is a Lexus SUV. May I refer?
10 Lexus SUV. And that is a vehicle that was found the
11 way it is with the door open. It was a vehicle that we
12 were told somebody had tried to transport the victim in
13 that vehicle. And so there was some blood on the rear
14 passenger seat and on the rear passenger door. We
15 photographed the vehicle.

16 Q Okay. And this is still -- with regard to the
17 crime scene, is this inside, outside, where?

18 A That is outside of the crime scene tape to the
19 north.

20 Q Okay. More of the same?

21 A Yes.

22 Q As we look at slide number 12, these items here
23 that I'm pointing to that --

24 A Yes.

25 Q -- appear to be white items. Could you tell us

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1 what we're seeing.

2 A There is a sweatshirt that is closest to the white
3 vehicles. There is a tank top that is cut and torn,
4 and there is a white T-shirt.

5 Q Okay. Pretty much the same things?

6 A Yes.

7 Q And still the same?

8 A Yes.

9 Q Once again, this is the Lexus we were talking
10 about earlier?

11 A Yes.

12 Q Slide 16 through 20, what was the purpose, again,
13 of the search of this Lexus?

14 A We were documenting the Lexus just to document
15 that blood evidence that was on it. We did not enter
16 the vehicle.

17 Q Find anything of particular evidentiary value?

18 A No.

19 Q Now, we see -- you stated earlier you testified
20 that in the roadway you found a, I believe a
21 sweatshirt, T-shirt and a tank top?

22 A Yes.

23 Q Is this what we're seeing again --

24 A Yes, it is.

25 Q On slide 21. Now, did you or anybody to your

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1 knowledge do anything to other than just document this
2 photographically?

3 A We documented it photographically. We took
4 close-up photos of each item, we used markers to mark
5 each item so that they could be differentiated on the
6 diagram and in photographs, and each item was
7 collected.

8 Q Okay. Now, and I know we talked about it earlier
9 about your photographing the scene. Do you take a
10 single photograph of everything? Looks like we're
11 seeing some of the same pictures over and over.

12 A We start our photographs generally from the four
13 corners. And we start with a broader view, and then we
14 go to more of a midrange just to show the relationship
15 of items with other items. And then we do a close-up
16 of just that item by itself. And then we repeat the
17 process once we put the markers down.

18 Q So you take different vantage points?

19 A Yes.

20 Q I'm sorry, different landmarks?

21 A Yes.

22 Q And the markers, what do the markers look like?

23 A They are just yellow number markers.

24 Q And what's their purpose again?

25 A To help us identify the items in our notes and on

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1 our sketch and to help the items be more visibly seen
2 on photographs.

3 Q Okay. So as you go through 22, 23, 24, let's come
4 to slide 25. What are we seeing?

5 A Slide 25, that is the sweatshirt that was cut or
6 torn on-scene. And there was a portion of a cut, torn
7 piece of a tank top with it.

8 Q Is that what we're seeing on slide 26?

9 A I believe that is the tank top, the other portion
10 of the tank top. That is a white T-shirt.

11 Q And do you know what the purpose of the white
12 T-shirt was?

13 A I was told at a later date that the purpose of the
14 white T-shirt was it was put there by somebody that was
15 rendering aid.

16 Q Okay. So someone was trying to render aid to
17 Anthony. Now, you mentioned these markers earlier.
18 What are these yellow things?

19 A Those are the markers that were used.

20 Q And they had numbers on them?

21 A They did.

22 Q The numbers, how unique are they to each piece of
23 evidence?

24 A I only used each number once on the scene, I
25 didn't duplicate it.

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1 Q And once again, just different vantage points?

2 A Yes.

3 Q Item number one, once again, this is what?

4 A That is a Russell brand sweatshirt with Bulldog
5 Ironworks on the front of it.

6 Q 32, did you see -- what if any damage did you see
7 on this sweatshirt?

8 A There appear -- there was what appeared to be a
9 hole on the -- in the area of the letters O and the D
10 in the word bulldog. And there was what appeared to be
11 a hole on the rear, left portion of the shirt.

12 Q The rear, left portion?

13 A Yeah.

14 Q Back?

15 A Yes.

16 Q Okay. Agent Fellers, is that a marking you all
17 did or (indicating)...

18 A Not to my recollection, no.

19 Q Okay. That might not be a marking at all. So
20 this is just another vantage point on State's-32 -- or
21 slide 32?

22 A Yes.

23 Q Once again, number two represents what?

24 A That is the tank top that was cut or torn, and it
25 was a Hanes brand size small. And it appeared to have

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1 two possible holes in the front, left chest area.

2 Q For the record, that's on slide 34. And slide 35?

3 A That is just the tank top once it was opened up
4 and laid out.

5 Q As I circle that area with my -- with the laser,
6 what are we seeing there?

7 A That is what appeared to be the holes.

8 Q Okay. And did you test this red stuff?

9 A I did not.

10 Q Are you comfortable in figuring out what the red
11 stuff was?

12 A It appeared to be blood, but I collected the shirt
13 in its entirety as is.

14 Q Okay. And on slide -- what are we seeing on 36?

15 A Those are the holes that I had mentioned in the
16 chest area.

17 Q Okay. So two separate holes in the chest area?

18 A Yes.

19 Q That's on slide 36. Slide three?

20 A That is the white T-shirt. That was a Kirkland
21 Signature brand, size medium. And it appeared to have
22 some suspected blood on it, but it did not appear to
23 have any visible holes. While we were collecting it,
24 there were two hairs that were visually seen on it, and
25 those were collected separately.

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1 Q But it's your understanding this was used by
2 somebody trying to render aid?

3 A Yes.

4 Q Now, slide 37, you mentioned the blood on 37. Is
5 that what we're seeing on slide 38?

6 A Yes.

7 Q And you talked about the white Hyundai Santa Fe.
8 What are we seeing here on slide 39?

9 A That is the white Hyundai Santa Fe.

10 Q Okay. And on slide 40?

11 A That is also a picture of the white Hyundai Santa
12 Fe.

13 Q And 41 and 42?

14 A Yes.

15 Q Now, here on slide number 43, would you tell us
16 what we're seeing here.

17 A That is the ground area near the rear passenger
18 tire of the white Hyundai Santa Fe.

19 Q Okay. And this item (indicating)?

20 A That is a cell phone that was located on the
21 ground.

22 Q How many cell phones did you locate --

23 A One.

24 Q -- at this crime scene? Just one?

25 A Yes.

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- 1 Q And were there any other items around this area?
- 2 A There was a cartridge case on the ground. I can't
- 3 visualize it on this photo. And there was also a
- 4 Newport cigarette box.
- 5 Q Okay. Well, let's move to State's-44 -- or slide
- 6 44, that's the cell phone?
- 7 A Yes, it is.
- 8 Q And slide 45?
- 9 A That is also the cell phone.
- 10 Q You mentioned a cigarette box. This is slide
- 11 number 46?
- 12 A Yes. That is the Newport cigarette box.
- 13 Q Was it full or empty; do you recall?
- 14 A I do not recall.
- 15 Q What are we seeing on slide 47?
- 16 A That is the cartridge case that is on the ground,
- 17 and that is also part of the rear passenger tire in
- 18 that photograph.
- 19 Q So the vehicle, I believe you testified earlier,
- 20 the vehicle's pulled in, headlights towards the woods?
- 21 A Yes, it is.
- 22 Q And it's on the rear passenger side?
- 23 A Yes.
- 24 Q And that's the same area where you saw the bullet
- 25 defects?

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1 A Yes.

2 Q And this is the same area where you saw the shell
3 casing and cell phone?

4 A Yes.

5 Q As we look at slide 48, can you tell us what we're
6 seeing.

7 A Those were the two bullet defects that were on the
8 rear passenger door of the Hyundai Santa Fe.

9 Q And the purpose of slide 49?

10 A To document the vehicle from different angles and
11 also the evidence located on the ground near it.

12 Q The purpose of 50, 51, 52?

13 A To document the vehicle from different angles.

14 Q Now, you looked -- how many areas did you look at
15 around this vehicle?

16 A We looked around 360 degrees, the whole way around
17 it.

18 Q Did you find any other potential evidence around
19 the vehicle?

20 A No, I did not.

21 Q Now, we're looking at slide 53. I'm sorry, 53.
22 Can you tell us what we're seeing on here.

23 A That is a silver Oldsmobile Alero.

24 Q And that's two spots over from the Hyundai?

25 A Yes, it is.

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1 Q The purpose of slide -- the photograph in slide
2 54?

3 A That is to show the orientation of the evidence
4 items to the vehicle as well as the distance across the
5 parking lot to the other vehicles.

6 Q Okay. And you say that the distance to the other
7 vehicles. And then you said earlier that the witness
8 was in a white Alero. Starting one, two, three, four,
9 can you tell us which one was that vehicle that
10 appeared?

11 A To my recollection, it was the middle white one,
12 but I'd have to see a close-up photo of it for sure.

13 Q Okay. And did you take some close-up photos of
14 it?

15 A We did.

16 Q Okay. So that would be a better way to be able to
17 tell us?

18 A Yeah.

19 Q And this is looking back towards University Place
20 Apartments. Can you tell us, is it six and all these
21 numbers, is that what appears on your diagram?

22 A Yes, it is.

23 Q Okay. So that should be a little bit easier to
24 keep up with. Here we have markers?

25 A Yes.

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1 Q And that's on slide 55. And, once again, the
2 purpose of the markers?

3 A The purpose of the markers are to help visualize
4 the scene and to help me have a way to identify the
5 evidence items on my notes and diagram, such as the
6 cartridge case that you can you can't really see. But
7 you can see marker number five, which is in the area of
8 the cartridge case.

9 Q Okay. Now, this phone with marker number four,
10 other than marker number four, is there any other way
11 to identify this phone?

12 A Not while I was on-scene. I didn't take it apart
13 to try to get a serial number or anything.

14 Q What if anything did you do with this phone that
15 night?

16 A I collected the phone and I turned it over to, if
17 I can refer, Special Agent Johnson, I'm pretty sure.

18 Q Okay. And as we get into this, you said you were
19 working the scene with Special Agent Hezel?

20 A Yes, I was.

21 Q Okay. Do y'all work in tandem, go in different
22 areas, how do y'all...

23 A We generally work together. While one of them --
24 one of us is doing notes, the other one is collecting
25 evidence, one is doing photographs, one is collecting

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1 evidence. Yeah, we work together.

2 Q You're side by side?

3 A Yeah, side by side for the most part.

4 Q And did you personally bag this phone?

5 A It was either myself or Special Agent Hezel. I
6 can't say for sure which.

7 Q Okay.

8 (WHEREUPON, State's Exhibit No. 12 was marked for
9 identification only.)

10 Q I'm handing you what's been marked as State's No.
11 12.

12 A Yes.

13 Q Do you recognize State's No. 12?

14 A Yes.

15 Q And how do you recognize State's No. 12?

16 A It has the time that we collected it, the date on
17 it, and it is labeled as containing a silver smartphone
18 from marker number four.

19 Q Okay, marker number four, silver smartphone. What
20 time was it collected?

21 A It is marked as being collected at 23:39, which
22 would be 11:39, and the initials TBH are on the
23 packaging.

24 Q Okay. And that's your --

25 A That would be Tiffany Hezel's initials, yes.

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1 Q And you watched her collect it, or you watched her
2 bag this?

3 A Yes.

4 Q Can you open it. Could you open it to make sure
5 that is what indeed is in there.

6 A Yes. The package is also secured with yellow tape
7 with my initials and the date on it.

8 Q And what's the purpose of that?

9 A To maintain security of the evidence. This is --
10 this appears to be the silver iPhone that I collected.

11 Q Can you tell that from the markings on the
12 packaging?

13 A Yes.

14 Q And you said that you signed it over and gave it
15 to another agent?

16 A Yes. I gave it to Special Agent Johnson.

17 Q Do you remember what time that was?

18 A Yes. At approximately 2:21 in the morning on the
19 27th.

20 Q Okay. So from, we'll say, 11:30 till 2:21
21 approximately?

22 A Yes.

23 Q Where was this phone located?

24 A In my custody.

25 Q In your custody, okay.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 MR. McCOLLUM: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. McCOLLUM: I believe she testified that she
4 saw it collected. It's the same phone in the picture.
5 If he wants to admit it, there's no objection.

6 THE COURT: Thank you.

7 MR. RICHARDSON: I was going to follow through on
8 it, but I appreciate it.

9 THE COURT: Great. I think you've pretty much
10 established it, move it's admission.

11 MR. RICHARDSON: Yes, sir. The State would move
12 to admit this into evidence, Your Honor.

13 THE COURT: State's Exhibit 12 is admitted without
14 objection.

15 (WHEREUPON, State's Exhibit No. 12 was admitted in
16 evidence.)

17 Q Agent Fellers, after collecting this cell phone --
18 we'll mark it as State's 6 and 7.

19 A Yes.

20 Q State's-5.

21 MR. RICHARDSON: Court's indulgence, Your Honor.

22 THE COURT: When you refer to state, you talking
23 about the number five?

24 MR. RICHARDSON: Yes, sir, Your Honor. Marker
25 number five, I apologize.

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1 THE COURT: That's all right.

2 Q Marker number five, once again, this is a marker
3 for what?

4 A That is for the cartridge case.

5 MR. RICHARDSON: And, Your Honor, there are
6 several items in here, so I'm going to have Agent
7 Fellers open them. And then I'll have them
8 individually marked.

9 Q Agent Fellers, as you open that package, what you
10 have marked as marker number five, was that item ever
11 collected?

12 A Pardon me?

13 Q Was that item ever collected?

14 A Yes, it was.

15 Q And that was a cartridge casing, I believe you
16 said?

17 A Yes, cartridge case, yes.

18 (WHEREUPON, State's Exhibit No. 13 was marked for
19 identification only.)

20 Q Do you know what time you collected that cartridge
21 casing?

22 A If I can refer to the packaging, it will have the
23 time on it.

24 Q Sure. And that has now been marked as State's No.
25 14, I believe, for identification.

1 A It is listed as being collected on February 26th
2 at 23:36, which would be at 11:36 that night.

3 Q And after collection with that, what if any
4 safeguards did you take to maintain the integrity of
5 that piece of evidence?

6 A Once it was transported to the laboratory, it was
7 logged into evidence. When it was logged in, it was
8 assigned a laboratory case number and a laboratory item
9 number, which are both listed on the packaging as well
10 as my initials. And the packaging is here with yellow
11 crime scene tape that is also dated and initialed.

12 Q Okay. And no doubt about it, in your mind that's
13 the shell casing you recovered that night?

14 A Yes.

15 Q Can you open that.

16 MR. RICHARDSON: Your Honor, the State would seek
17 to introduce State's No. 14 into evidence, Your Honor.

18 THE COURT: It's 13.

19 MR. RICHARDSON: 13, I apologize, Your Honor.

20 MR. McCOLLUM: Without objection.

21 THE COURT: State's-13 is admitted without
22 objection.

23 (WHEREUPON, State's Exhibit No. 13 was admitted in
24 evidence.)

25 Q With regard to that shell casing you collected on

1 February 26th, 2013, what if anything can you tell
2 about that shell casing?

3 A It has the same head stamp on it, federal 40 SMW,
4 as I documented on the packaging as well as in my
5 notes.

6 Q So it's a .40 caliber shell casing?

7 A Yes, it is.

8 Q And you noted on your diagram in the photographs
9 that there were two bullet defects. How many shell
10 casings did you find?

11 A One.

12 Q How many times have you gone searching for shell
13 casings?

14 A Quite a few.

15 Q Quite a few?

16 A Yes.

17 Q You always find them all?

18 A Not always.

19 Q Okay. I'll leave that up here in case you need
20 that for anything else. So you found that .40 caliber
21 shell casing there at the scene, didn't find any
22 others. What's the purpose on slide number 59, what's
23 the purpose of those ruler tapes?

24 A That is what we refer to as scale tape. And the
25 purpose of it is to allow us to identify each -- each

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1 defect on the car. And it also allows us to orient it.
2 I think if we zoom in on them, you'll see that we show
3 which direction what the ground was and which direction
4 the hood was so you could orient it and get a close-up
5 picture.

6 Q So it's moved in on State's -- slide 60, 61. And
7 that one is turned, I believe, on State-62?

8 A Yes, it is.

9 Q State's-64, is that a decent shot of it?

10 A Yes.

11 Q And can you read from there, Agent --

12 A Yes.

13 Q -- Fellers, okay.

14 A The scale tape on the left is marked as B, and
15 that has "hood" on it with an arrow pointing upward, or
16 a hood and the arrow pointing to the right, roof with
17 the arrow pointing upward, and it has brown with the
18 arrow pointing downward.

19 Q Okay.

20 A And the defect on the right is also marked with
21 scale tape. That is identified as A, and that shows
22 that the ground was downward and the hood was to the
23 right.

24 Q Did you take any measurements in regard to how far
25 these shots were from the ground?

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- 1 A I did not.
- 2 Q Okay. To your recollection, do you know about how
- 3 high they are approximately?
- 4 A That is just below the window of the Hyundai Santa
- 5 Fe.
- 6 Q Okay. So above hip height?
- 7 A Yes.
- 8 Q And the Hyundai Santa Fe is an SUV?
- 9 A Yes, it is.
- 10 Q All right. And how could you tell whether this
- 11 was one entrance, an exit or two entrances or what?
- 12 A It appeared to be two entrances, but we further
- 13 documented it and searched the vehicle. We ended up
- 14 damaging the door taking it apart some, so that we
- 15 could recover those projectiles. And there were two
- 16 projectiles recovered from inside the door.
- 17 Q Was there anything you could tell about the
- 18 direction, trajectory for these projectiles?
- 19 A Dowel rods were unable to be used to determine
- 20 trajectory. But I did note in my notes that one of the
- 21 projectiles was above the defect in the door.
- 22 Q Okay. So one of the projectiles was above the
- 23 defect?
- 24 A Yes. It was lodged above it, as if it were
- 25 possibly an upward angle.

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1 Q Upward angle, okay. But you weren't able to use
2 dowel rods or -- this was just typical dowel rods?

3 A Yes, that's what we would have used.

4 Q Okay. And what would be the purpose of those?

5 A Dowel rods can be used to show trajectory. But
6 ideally you need two surfaces to be able to secure the
7 dowel rods so it doesn't have any play in it, so you
8 can get a more accurate representation of the angle of
9 trajectory.

10 Q You said two surfaces, you talking about two
11 different holes?

12 A Ideally, yes.

13 Q Okay. Now, as we move to slide number 66, what
14 are we seeing down here at the bottom?

15 A That was some damage on the lower portion of the
16 rear passenger side door.

17 Q Could you tell anything about how recent that
18 damage had been placed there?

19 A I could not.

20 Q And that's the same door in which the bullet
21 defects were found?

22 A Yes, it was.

23 Q Slide 67 is a closer view?

24 A Yes.

25 Q Okay. And 68?

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1 A Yes, it is.

2 Q Okay. How about here on slide 71, what are we
3 seeing there?

4 A That was what appeared to be damage above the rear
5 passenger side tire.

6 Q Could you tell anything about how recent that
7 damage was?

8 A No.

9 Q Closer view. And slide 73, even closer?

10 A Closer, yes.

11 Q Now, as we go through slide 75, 76, 77, 78, 79,
12 80, 81, 82, 83, 84, what all are we seeing on these
13 previous slides?

14 A Those were photographs of the interior of the
15 vehicle.

16 Q And what was the purpose of photographing the
17 other areas of the vehicle?

18 A Just to look for anything that was out of place
19 that might be relevant to this case.

20 Q Okay. Even though all the damage you saw was on
21 that rear passenger door?

22 A Yes.

23 Q Okay. And here on slide 85, what are we looking
24 at?

25 A That is the interior side of the rear passenger

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1 door where the bullet defects were on the exterior.

2 Q What is the significance of that view?

3 A We were looking for any possible exits of the
4 projectiles to see if they might have exited and been
5 elsewhere inside the vehicle.

6 Q As we move to 86, 87, 88, did you find any bullet
7 fragments or projectiles inside that vehicle?

8 A We did not until we took apart the rear passenger
9 side door.

10 Q Okay. We're going to slide 90, what are we seeing
11 here at 91?

12 A That is a photograph looking downward into the
13 door area.

14 Q Right here on 93?

15 A That was the -- that is where we attempted to try
16 to recover the projectiles from the door.

17 Q Was that -- and how was this, looks like a large
18 tear, how was that accomplished?

19 A A large screwdriver.

20 Q Were you successful in obtaining the projectiles
21 from utilization of the screwdriver?

22 A I do not recall if we obtained them from that area
23 or if they had shifted during while we were trying to
24 work on the door. But we did recover two projectiles
25 from inside the door.

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1 Q It was out of focus. Same thing we're looking at,
2 95 and 96. Now, what are we looking at here, at 96 and
3 97, 98?

4 A We had to take off the interior panel of the door
5 to retrieve the projectile.

6 Q Now, whose hand are we seeing here on slide number
7 98?

8 A Either mine or Special Agent Hezel's.

9 Q Okay. And what are we seeing there?

10 A One of the projectiles that was recovered.

11 Q 100, 101 and 102?

12 A Yes. Projectiles.

13 Q Two projectiles?

14 A The two projectiles that were recovered from
15 inside the door.

16 (WHEREUPON, State's Exhibit Nos. 14 and 15 were
17 marked for identification only.)

18 Q Let me show you what's been marked State's-14 and
19 15 for identification. State's-14 and 15, laying them
20 right there. Could you identify State's-14 and 15.

21 A Yes. These were the two projectiles that were
22 recovered from inside of the rear right passenger door
23 of the Hyundai Santa Fe.

24 Q Okay. And those are the ones you collected?

25 A Yes.

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1 Q And you placed them into evidence?

2 A Yes, we did.

3 Q And how can you be sure those are the projectiles
4 that you recovered that night, February 26th, 2013?

5 A They are dated with the time of collection at
6 2/27/13 and collected at 00:42 which would be
7 approximately 12:42 in the morning. And it has the lab
8 number that was assigned to the case, my initials and
9 the item number on the box.

10 And same thing for the second one, it has a time
11 of 01:26 as time of collection, and it is item number
12 eight. And it also has the same lab number and my
13 initials on it.

14 Q And can you open those, please, ma'am, in case the
15 jury wants to take a look at it later.

16 A They are open.

17 Q And those are the bullets you recovered?

18 A Yes, they are.

19 Q And you see here, did y'all do that damage to the
20 projectile?

21 A No. We photographed it the way it was when we
22 recovered it.

23 Q Okay. And just more photos of that. Thank you,
24 Agent Fellers.

25 A You're welcome.

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 Q As we move on to this next slide, slide 104, 105,
2 106, 107, 108, what are we seeing here?

3 A That is documenting the Oldsmobile Alero from
4 multiple angles.

5 Q To your knowledge, was that secured and taken into
6 custody that night?

7 A Yes.

8 Q For what purpose?

9 A At the time they took it into custody for possible
10 future processing.

11 Q Okay. And where was it taken; do you know?

12 A I do not.

13 Q Okay. What precautions would have been taken with
14 that car when it was taken into custody?

15 A It would have been taken someplace secure to be
16 stored.

17 Q Are you using any kind of tape or special lights
18 or anything?

19 A Generally we tape the vehicle, but I'm not sure.
20 To the best of my recollection, that vehicle was towed
21 after I had cleared the scene.

22 Q Okay. And you didn't process that vehicle?

23 A I did not.

24 Q Okay. As we move on to slide 109, 132, can you
25 tell us what we're seeing here?

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1 A Yes. We obtained permission to use a second floor
2 balcony of one of the apartments so we could get an
3 aerial view looking down onto the parking lot area from
4 the balcony.

5 Q So you're on the balcony of a second floor
6 apartment?

7 A Yes.

8 Q Directly in front of the crime scene?

9 A Yes.

10 Q Let me see. Let me show you what's already been
11 placed into evidence as State's No. 3. That is 114
12 Grand Strand E?

13 A Yes.

14 Q Do you see the balcony or apartment you took the
15 photographs from in that photograph?

16 A Yes. It would be the balcony that was -- if you
17 were facing the building from the parking lot, it was
18 the balcony on the left side and on the second floor.
19 In this picture it has a blue towel.

20 Q Okay, so right here (indicating). All right. And
21 what was the purpose of taking these photographs?

22 A Just to document the scene from another angle.

23 Q Okay. And what are we seeing, can you tell me
24 what my laser pointer is on?

25 A Yes. That is the Hyundai Santa Fe.

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- 1 Q Okay.
- 2 A Oldsmobile Alero.
- 3 Q Unsure which car that is?
- 4 A Unsure.
- 5 Q Okay. Well, yeah, that's a fair answer. Just
- 6 different views of the parking lot?
- 7 A Yes.
- 8 Q Now, as we move to -- as we move to slide 118, can
- 9 you tell me what we're seeing in slide 118.
- 10 A That is the white Acura RL.
- 11 Q And, once again, that's the one that you marked on
- 12 your diagram?
- 13 A Yes.
- 14 Q What's the purpose of State's-119?
- 15 A To photograph the vehicle from different angles.
- 16 Q Same thing on 120?
- 17 A Yes.
- 18 Q 121. The purpose of slide number 123?
- 19 A That is a photograph showing the view from the
- 20 front end of the white Acura looking back across the
- 21 parking lot to the Hyundai Santa Fe.
- 22 Q Okay. In this rearview mirror here, how was that
- 23 situated whenever you arrived?
- 24 A As it is in the photo, we didn't move it.
- 25 Q Did anyone ever move this vehicle while you were

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1 present?

2 A Not that -- no, sir.

3 Q Purpose of slide 124?

4 A Just also to document the view from the vehicle.

5 Q Okay. And it shows the approximate view from the
6 windshield back to the --

7 A Yes.

8 Q And 125?

9 A Another view.

10 Q Same thing?

11 A Yes.

12 Q How about with regard to 127?

13 A A view of the vehicle.

14 Q So all these are taken from the aspect of the
15 Acura, the white Acura of Amanda McTaggart?

16 A Yes. The ones that portrayed the white Acura
17 were.

18 Q We're still going through the same thing in slide
19 131?

20 A Yes.

21 Q 132.

22 MR. RICHARDSON: Madam clerk, can you lift the
23 screen.

24 Q How long were you on-scene that night?

25 A I arrived on-scene shortly after 10 o'clock, and I

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 cleared shortly before 2 o'clock, so not quite four
2 hours.

3 Q About four hours you were there?

4 A Yes.

5 Q Now, did you return to Berkeley that night?

6 A I did not.

7 Q What happened?

8 A I reported to the Grand Strand medical hospital to
9 attend the autopsy the following morning.

10 Q Now, while at, is that Grand Strand hospital or
11 Grand Strand Regional memorial?

12 A Grand Strand Regional, yes.

13 Q Now, when you first arrived on-scene, did you take
14 anything into possession?

15 A During the autopsy I collected evidence items,
16 yes.

17 Q Did you receive any clothing or anything, or
18 describe any clothing you received while you were
19 there.

20 A I did receive clothing.

21 Q And from whom did you receive clothing?

22 A I received clothing from Daniel Todd. The
23 clothing items consisted of two gray socks, one pair of
24 underwear, black underwear, that appeared to be cover
25 torn, and one pair of athletic pants that also appeared

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1 to be cover torn.

2 Q And do you know who these were from?

3 A These were from Daniel Todd.

4 Q Do you know who the clothing -- did the clothing
5 belong to Daniel Todd?

6 A The clothing did not belong to Daniel Todd. I was
7 advised that the clothing had belonged to the victim
8 and was from when he was transported to the hospital.

9 Q Upon your receipt of this clothing, did you search
10 it or anything?

11 A Not on-scene I did not. But prior to packaging it
12 to submit it to the laboratory, I did.

13 Q Now, as you packaged this material after you took
14 it back to SLED, did you find any items of value?

15 A No, I did not.

16 Q Any type of contraband, drugs, scales?

17 A No, I did not.

18 Q Cash?

19 A No, I did not.

20 Q Cell phones?

21 A No, I did not.

22 Q Now, the purpose of the autopsy, what was that?

23 A The purpose for the autopsy? The autopsy was
24 completed to help determine cause of death. I attended
25 the autopsy to collect any evidence items that were

SABRINA ANN FELLERS-DIRECT BY MR. RICHARDSON

1 gathered from the autopsy.

2 Q Now, you all collected a lot of evidence that
3 night?

4 A Yes.

5 Q A decent amount of evidence?

6 A Yes..

7 Q Were you personally present during the processing
8 of any other parts of this crime scene or the evidence
9 itself?

10 A I swabbed some -- I swabbed the cartridge case,
11 the Newport cigarette box and two of the projectiles
12 that were recovered from the door for possible DNA
13 evidence.

14 Q Did you return to Horry County that week after the
15 autopsy?

16 A I did not.

17 Q And why not?

18 A I was out of town.

19 Q And while you were out of town, who took over?

20 A Special Agent Tiffany Hezel, who was my partner
21 on-scene that night.

22 Q And you were the lead investigator on this?

23 A I was.

24 Q But Tiffany was your partner at that time?

25 A Yes.

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1 Q Is that standard operating procedure for SLED?

2 A Yes. Since I was out of town, yes.

3 Q Okay. So y'all work as a team, and you were the
4 team leader?

5 A Yes.

6 Q Now, I'm going to show you one last item.

7 (WHEREUPON, State's Exhibit Nos. 16 and 17 were
8 marked for identification only.)

9 Q State's No. 17.

10 A These were the major case prints that I collected
11 from the victim at autopsy. And it is identified with
12 item number 55, which was the item number assigned at
13 the time of login at the laboratory. It also has the
14 laboratory case number and my initials on it.

15 Q And you said these are the post-mortem prints that
16 you collected?

17 A Yes.

18 Q And these are the victim?

19 A Yes.

20 Q When we say post-mortem prints, what are we
21 talking about?

22 A We take a full set of prints that includes all ten
23 fingers. We also do palms and the areas on your hand
24 that have ridge details such as the entire palm area,
25 everything that has a ridge detail.

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1 Q And what's the purpose of taking these post-mortem
2 prints?

3 A To have them on record in case we ever need to
4 compare any prints against them.

5 Q Okay. How was this accomplished, how did you take
6 these post-mortem prints?

7 A We use ink and we put it on a metal slab or plate.
8 And we use a ruler to roll it out, and then we apply
9 the ink to the hand and press the hand to the paper to
10 obtain the prints.

11 Q Okay. And that's what you did in this case?

12 A Yes.

13 Q And no doubt about it, these are the prints you
14 took?

15 A Yes.

16 Q Can you open them for me.

17 A Yes.

18 Q After you took these post-mortem prints, Agent
19 Fellers, what if anything did you do with these?

20 A These were submitted to the SLED forensic
21 laboratory, and they were later used by Tiffany Hezel.

22 Q Okay. And what precautions do you -- were used to
23 make sure that these weren't confused with anyone
24 else's prints?

25 A We put the item number, the lab number and our

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1 initials on each piece of the print, each piece of
2 paper that has the prints on it and on the palm prints
3 also.

4 Q Okay. So no doubt about it, these are the prints
5 that you took?

6 A Yes. It's on the front, the back.

7 Q And when were these taken again?

8 A These were taken at autopsy on the morning of the
9 27th.

10 Q Okay.

11 MR. RICHARDSON: The State would seek to introduce
12 State's No. 17 into evidence, Your Honor.

13 THE COURT: Any objection?

14 MR. McCOLLUM: No objection.

15 THE WITNESS: Without objection, State's-17 is
16 admitted.

17 (WHEREUPON, State's Exhibit No. 17 was admitted in
18 evidence.)

19 MR. RICHARDSON: And the State would have no
20 further questions of the witness at this point, Your
21 Honor.

22 THE COURT: Okay. Cross-examine?

23 MR. McCOLLUM: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. McCOLLUM:

SABRINA ANN FELLERS-CROSS BY MR. McCOLLUM

- 1 Q Hi, Ms. Fellers, how are you doing?
- 2 A Good. How are you?
- 3 Q I'm Greg McCollum, I represent Mr. McDonald.
- 4 A Nice to meet you.
- 5 Q Now, to your knowledge, the bullet casing, the
- 6 casing that you found, was that ever matched to
- 7 anything?
- 8 A I'm not aware of the results of any tests that
- 9 were conducted.
- 10 Q All right. And do you have -- are you licensed to
- 11 carry a handgun?
- 12 A Yes, I am.
- 13 Q And do you carry a semiautomatic handgun?
- 14 A Yes, I do.
- 15 Q And have you shot semiautomatics before?
- 16 A Yes, I have.
- 17 Q Okay. And if you fire a semiautomatic, which is
- 18 something you've done many, many times; right?
- 19 A Yes.
- 20 Q The casing ejects from the gun; right?
- 21 A Yes.
- 22 Q And how does it -- how does it eject; in other
- 23 words, which direction does it go in?
- 24 A That I'm not qualified to answer. That would
- 25 depend on the type of the gun and the position of it.

SABRINA ANN FELLERS-CROSS BY MR. McCOLLUM

1 That's not something I can speculate to.

2 Q What kind of gun do you shoot or do you have?

3 A A Glock.

4 Q A Glock?

5 A .40 caliber Glock, yes.

6 Q .40 caliber Glock. And do you know the direction
7 that your gun ejects?

8 A My gun ejects to the right and backward.

9 Q Okay. And in terms of the drawing, the sketch?

10 A Yes.

11 Q And in terms of the photographs, there was a
12 witness; right, who was looking through the rearview
13 mirror?

14 A That's what I was told, yes.

15 Q Okay. But you didn't hear that testimony; right?

16 A No, I did not.

17 Q At any time -- well, first of all, the sketch, the
18 sketch does not accurately place the car in proportion
19 or in direction to where the incident occurred; right?

20 A The sketch is not to scale.

21 Q So where the sketch places the vehicle that the
22 witness was sitting in looking in the rearview mirror,
23 that could go -- be moved to the left or right?

24 A To some degree, yes.

25 Q And the mirror, now, you showed us, or the

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1 solicitor showed you a photograph of that vehicle, and
2 that was the Acura; right?

3 A Yes.

4 Q The white Acura?

5 A Yes.

6 Q And did you -- you took pictures showing the
7 mirror of the Acura; right?

8 A Yes. I took pictures of the Acura, yes.

9 Q And you took pictures standing in front of the
10 Acura?

11 A Yes, I did.

12 Q And you took pictures showing the rearview mirror
13 in the Acura; right?

14 A It was visible, yes.

15 Q And did you notice that the rearview mirror was --
16 if you're the driver, that it was tilted toward say the
17 driver's side of the car?

18 A I did not document that on-scene.

19 Q Do you know what I'm talking about, did you notice
20 that?

21 A In the photos, yes.

22 Q Yes. It was pointed more toward the driver's side
23 as opposed to the passenger side; wasn't it?

24 A It appeared like it was, yes.

25 Q Did you ever get inside the Acura?

SABRINA ANN FELLERS-CROSS BY MR. McCOLLUM

1 A I did not.

2 Q So you never got inside the Acura and looked in
3 the rearview mirror to see what was visible?

4 A I did not.

5 Q The scene that you examined there, you had -- you
6 and somebody in one of the police agencies had set up a
7 bank of portable lights; right?

8 A Yes.

9 Q And those lights had multiple lights in them, I
10 would call them spotlights or klieg lights or something
11 like that; right?

12 A Yes.

13 Q And they were run off of a generator or something?

14 A Something.

15 Q Something?

16 A Yes.

17 Q Even with those lights the area was -- around
18 there was dark; right?

19 A You could see pretty well with the lights added,
20 yes.

21 Q If you turned those supplemental lights off, the
22 area would be dark; right?

23 A I did not shut them off.

24 Q I know you didn't shut them off. But if you took
25 the -- if someone turned the lights off, the area would

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1 have been dark; right?

2 A There were street lights present, and there was a
3 light on the front of the building. I can't give an
4 opinion as to how dark it would have been. It was a
5 dark night and it rained, but I can't -- I didn't see
6 it without the lights, so I can't.

7 Q Okay. So you don't know if it would have been
8 dark or light without the lights?

9 A No.

10 Q Okay. The what you call or refer to the bullet
11 defects, you're talking about what we would call bullet
12 holes; right?

13 A Yes.

14 Q And they're in the door of the Santa Fe SUV?

15 A They are.

16 Q And can you give, and maybe just tell me if you
17 can, do you have -- can you give any kind of opinion of
18 the direction of travel of those bullets?

19 A I cannot.

20 Q So then the bullets could have been fired from the
21 sky?

22 A Well, the one was lodged above the bullet defect,
23 so it would appear to be at an upward angle of some
24 sort, but I can't say from right or left or what
25 direction. And they did impact the vehicle, so they

SABRINA ANN FELLERS-CROSS BY MR. McCOLLUM

1 would have had to have been going in that direction.

2 They wouldn't have been coming straight down to hit the
3 car.

4 Q So if they were -- if the Santa Fe was parked
5 where the front end is facing the wooded area or the
6 treeline; right?

7 A Yes.

8 Q And the bullet holes or defects are in the side;
9 correct?

10 A Yes.

11 Q Then they likely came from an area to the right --

12 A Yes.

13 Q -- of the Santa Fe if you were facing forward;
14 right?

15 A Yes.

16 Q So they would have come from the direction of the
17 vehicle that had been formerly parked there; right?

18 A If there had been a vehicle there, yes.

19 Q But they would not have come from someone standing
20 beside the vehicle shooting back toward the Grand
21 Strand E apartment building; right?

22 MR. RICHARDSON: Your Honor, I think at this time
23 it's concentrating over speculative.

24 THE COURT: Sustain the objection. She doesn't
25 have any idea. She's answered the question, and the

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1 rest of it speaks for itself by virtue of the
2 inferences to be drawn from the location of the bullet
3 holes. She can't tell the direction which you
4 describe --

5 MR. McCOLLUM: Thank you, Your Honor.

6 THE COURT: -- without further foundation.

7 Q In terms of one of the trajectories that you did
8 examine that you seem to think that it had been shot
9 from a lower level to a higher level?

10 A When it impacted the vehicle, it was traveling in
11 an upward direction. I can't say if it was shot that
12 way. I don't know if it might have went through any
13 other surfaces before it impacted the vehicle that
14 could have changed the trajectory.

15 Q You shot a gun hundreds of times; right?

16 A Yes, I have.

17 Q You shot a gun outside; right?

18 A Yes, I have.

19 Q You shot a gun inside an indoor firing range;
20 right?

21 A Yes, I have.

22 Q And when you shoot a gun, because it's so loud,
23 you wear earplugs; right?

24 A For recreational use, yes.

25 Q All right. Have you ever sat inside a car

SABRINA ANN FELLERS-CROSS BY MR. McCOLLUM

1 compartment and shot a gun inside the car?

2 A No, I have not.

3 Q Have you ever had a gun fired in close proximity
4 to your head?

5 A With earplugs, yes.

6 Q All right. And is that startling?

7 A It's loud, yes.

8 Q All right. And it's loud; right?

9 A Yes.

10 Q And it would be alarming; right?

11 A Yes.

12 Q And very frightening; correct?

13 A Depends on the situation. When I was in a range
14 when I got it, so it wasn't frightening there, but it
15 could be.

16 Q Okay, all right. Thank you.

17 MR. McCOLLUM: That's all I have, Your Honor.

18 THE COURT: Very well. Any redirect?

19 MR. RICHARDSON: No, sir, Your Honor.

20 THE COURT: All right. Thank you very much. You
21 may step down. Did you wish this witness to be
22 excused?

23 MR. RICHARDSON: Yes, sir, Your Honor.

24 THE COURT: Any objection?

25 MR. McCOLLUM: No, Your Honor.

1 THE COURT: You're free to leave as well.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you very much.

4 (Witness excused.)

5 THE COURT: At this point, ladies and gentlemen,
6 we'll take a recess, let you go to your jury room for
7 about 10 or 15 minutes. Do not begin your
8 deliberations, don't discuss the case among yourselves.
9 Thank you.

10 (WHEREUPON, the jury exited the courtroom at
11 3:37 p.m.)

12 THE COURT: Anything from the State before
13 recessing?

14 MR. RICHARDSON: No, sir, Your Honor.

15 THE COURT: Anything from defendant?

16 MR. McCOLLUM: No, judge.

17 THE COURT: Thank you. We'll be at ease for about
18 15 minutes.

19 (WHEREUPON, a brief recess was taken at 3:37 p.m.)

20 THE COURT: Let the record reflect that the
21 Defendant is present.

22 (Discussion off the record.)

23 THE COURT: All right. Let's bring in our jury.
24 Thank you.

25 (WHEREUPON, the jury came into open court at

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 approximately 3:55 p.m.)

2 THE COURT: Thank you very much, ladies and
3 gentlemen. Solicitor, you may call your next witness.

4 MR. RICHARDSON: Thank you, Your Honor. The State
5 would call Special Agent Tiffany Hezel.

6 TIFFANY HEZEL, after being duly sworn, testified
7 as follows:

8 CLERK OF COURT: Please be seated. State your
9 full name, and spell your last name for the Court,
10 please.

11 THE WITNESS: Tiffany Hezel, H-E-Z as in zebra,
12 E-L.

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q Good afternoon, ma'am. Could you tell us where
16 you are employed, how long and in what capacity.

17 A I am currently employed with the South Carolina
18 Law Enforcement Division, commonly referred to as SLED.
19 I have been employed as a special agent in the crime
20 scene unit since June of 2011.

21 Q Okay. And we've already heard from Agent Fellers,
22 formerly assigned to the crime scene unit, so we don't
23 need to go into what all y'all do for SLED and whatnot.
24 But can you tell us a little bit about your training
25 and certification as a crime scene unit agent with

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1 SLED.

2 A Sure. My background is I have a Bachelor of
3 Science in criminal justice from the University of
4 Wisconsin at Platteville. I have a Master's in
5 Forensic Science from the University of Central
6 Oklahoma. I have -- I can't speak, sorry --
7 successfully completed both in-house training in crime
8 scene and latent prints within SLED, and that has been
9 under a court qualified senior agent. And that
10 in-house training consisted of both academic and
11 practical application.

12 I have also successfully completed training
13 outside of SLED in death investigation, blood stain and
14 latent prints.

15 Q Now, Agent Hezel, you were partnered with Agent
16 Fellers back in February 2013?

17 A Yes, I was.

18 Q And could you tell us at what time when and -- I'm
19 sorry, at what time, what date, you responded to
20 Coastal Carolina University.

21 A We initially responded there on the 26th of
22 February. And I do not have the exact time in front of
23 me.

24 Q Okay. Daytime, nighttime?

25 A It was at night.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q Okay. And where were you coming from whenever you
2 were dispatched?

3 A I'm based out of Columbia.

4 Q Okay. And it's a common practice for agents --
5 partners to be based out of different areas?

6 A At that time it was, yes.

7 Q Okay. Now, upon arrival you assisted Agent
8 Fellers that night?

9 A I did.

10 Q And after -- after you got done, you and Agent
11 Fellers, did y'all complete work at the University
12 Place Apartments at the same time?

13 A We did.

14 Q Now, after the initial crime scene, did you have
15 the opportunity to respond back through any portion of
16 this investigation?

17 A I did. I responded back to Horry County for two
18 additional follow-ups.

19 Q Okay. And when you responded back the first time,
20 why you and not Agent Fellers?

21 A Special Agent Fellers had already been approved
22 for annual leave at that time, so I was partnered with
23 someone who was covering her call.

24 Q And who was that?

25 A That was Special Agent Melinda Worley.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q And you were familiar with the case already?

2 A Yes.

3 Q Now, when you were first detailed to come -- you
4 came up to Horry County, or came down to Horry County I
5 guess from you, back on February 26th, 2013. And then
6 you said you were detailed to respond again; when was
7 that?

8 A The first time I was called back was
9 February 27th.

10 Q The next day, Wednesday?

11 A I believe possibly, yes.

12 Q And what was the purpose of your response on the
13 27th?

14 A I had been contacted by my lieutenant at the time
15 who had stated that there were two vehicles that were
16 related to their case that needed to be processed. One
17 was believed to be the victim's vehicle, and the other
18 was a possible suspect vehicle.

19 Q Okay. And what types of vehicles were they?

20 A They're -- the first was a silver Alero, the other
21 was a black Honda.

22 Q A black Honda?

23 A Um-hum.

24 Q Okay. And did you conduct any searches?

25 A We did.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q Now, when you got back to Horry County, where did
2 you respond?

3 A We responded to the -- I have the proper name of
4 the building here -- it's the ML Brown Public Safety
5 Building in Horry County..

6 Q That's where Horry County Police were located?

7 A Yes.

8 Q And what was the purpose of responding to that
9 location?

10 A The vehicles had been placed in a secured impound
11 lot there for us to go ahead and process.

12 Q And describe what kind of security measures you
13 witnessed while you were at the ML Brown building, or
14 the impound lot?

15 A The impound lot is surrounded by a gate that can
16 only be opened by personnel with the approved authority
17 to do so. So we had to be allowed in by Horry County
18 crime scene officials.

19 Q And agent Mindy Worley was with you?

20 A She was.

21 Q Now, whenever you arrived on-scene, were you
22 provided with any search warrants or anything?

23 A We were provided search warrants, and those were
24 provided to us on the 27th by Special Agent Randy
25 Truss.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q Now, you said, you indicated you were detailed to
2 search two vehicles that day?

3 A Correct.

4 Q A black Honda and a silver Alero. The Oldsmobile
5 Alero, let's go through that search, please. When you
6 arrived, you said you got a search warrant, how did you
7 conduct your initial portion of the investigation?

8 A The initial investigation consisted of doing a
9 visual exam. Both of the vehicles had been secured
10 under kind of like a carport area at the rear of the
11 impound lot, and both had been secured with crime scene
12 tape around the exterior of the entire vehicle.

13 That to me shows that with the tape still intact,
14 there had been no tampering with the vehicle from the
15 time that they were placed there until the time that we
16 arrived. So the beginning part of our investigation is
17 just a visual making sure all of that tape is intact.

18 From there we would begin exterior photographs,
19 and we would then work our way into the interior of the
20 vehicle in a zone type approach in which each passenger
21 section is documented and then searched independently
22 from the rest of the vehicle.

23 Q Let me show you what's been marked as State's No.
24 16, see if you recognize that.

25 A I believe it is the CD comparing the crime scene

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1 photographs of the vehicle.

2 Q And you had an opportunity to review this Power
3 Point before?

4 A Yes, I have.

5 Q And is the photographs contained in the Power
6 Point, are they fair and accurate depiction of what you
7 saw on February 27th, 2013 while searching that
8 Oldsmobile Alero?

9 A Yes, they are.

10 MR. RICHARDSON: I provided a copy previously to
11 Mr. McCollum, Your Honor.

12 THE COURT: Very well.

13 MR. RICHARDSON: The State would seek to introduce
14 State's-16.

15 THE COURT: Without objection, State's-16 is
16 admitted. It may be published.

17 (WHEREUPON, State's Exhibit No. 16 was admitted in
18 evidence.)

19 MR. RICHARDSON: All right.

20 Q Let's take a minute. Thanks for coming up to
21 speed, Agent Hezel. Now, y'all arrive at this impound
22 lot, and you indicated there's crime scene tape around
23 this Oldsmobile Alero?

24 A Correct.

25 Q Was it intact?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A It was.

2 Q And did it have keys for this Alero?

3 A We did not have keys to the Alero, and all of the
4 vehicle doors were locked.

5 Q Okay, this vehicle was locked. You didn't have
6 keys?

7 A Correct.

8 Q Sounds like it was going to be a pretty short
9 search?

10 A We happened to have a gentleman with Squeaky
11 Towing who had been bringing a vehicle for an unrelated
12 incident into the impound yard. And he was able to
13 provide entry to the vehicle without causing any damage
14 to it.

15 Q Okay. And so he was able to gain entry, slim jim
16 or something?

17 A Yes.

18 Q Okay. And whenever Squeaky's Towing was there,
19 I'm saying, was Squeaky's escorted at that point when
20 he was there?

21 A Yes. He had been working with dropping the
22 vehicle off just down from the bay. And we approached
23 him, brought him to our vehicle.

24 Q He wasn't just running around willy nilly in
25 there, he had law enforcement with him?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q Okay.

3 MR. RICHARDSON: All right. Madam clerk.

4 Q Agent Hezel, as we go through these -- can you see
5 the presentation okay?

6 A Yes.

7 Q Okay. I'm going to ask you some questions as we
8 go through. First of all, of course we see the caption
9 page is there. But as we move to slide two -- I
10 apologize -- two, three, four, five, six, seven, eight,
11 nine and ten, what are we seeing on those first few
12 slides?

13 A On the first initial photographs we're just
14 documenting the exterior condition of the vehicle,
15 again showing that the crime scene tape was intact.
16 And we're also noting any obvious exterior damages to
17 the vehicle.

18 The last two photographs show that the sticker in
19 the front windshield is an identifying factor to that
20 vehicle, as well as the VIN plate is also unique to
21 that vehicle.

22 Q And that's on slides nine and ten. And you
23 indicated that you were able to gain access to the
24 vehicle using Squeaky's Towing?

25 A Yes.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q Next as we look through 11, 12, 13, and 14, what
2 are we seeing here?

3 A We're documenting the front passenger zone or
4 compartment of the vehicle, just overall photographs
5 showing what's present in that area.

6 Q Now, and how thoroughly did you search this right
7 front passenger zone?

8 A We searched through under the format. We went
9 into the glove box, we went through and photographed
10 what was on the interior door panel compartments. We
11 went through the center console, cup holders, just
12 basic documentation of everything that was in that
13 vehicle.

14 Q And what, if anything, of evidentiary value did
15 you find in this particular compartment?

16 A Nothing.

17 Q All right. Here we have 15. 15 was the glove
18 box?

19 A Yes.

20 Q Still nothing of evidentiary value?

21 A Nothing.

22 Q All right. As we go through 16, 17, 18, 19, what
23 are we seeing here?

24 A That is the rear passenger compartment of the
25 vehicle. We are, again, just photographing overall of

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1 what's present in that area. So we can see that there
2 are items on the floor board, there are some pieces of
3 paper and such on the seat itself. Again, we're just
4 documenting everything that is present.

5 Q Anything of evidentiary value you found?

6 A Not that we had found.

7 Q 20, 21, 22, 23, what are we seeing?

8 A This is the rear driver compartment area. Again,
9 overall documentation of all items that were present in
10 that compartment.

11 Q 24 and 25?

12 A Documenting items that were present within the
13 back window of the vehicle.

14 Q Now, thus far we've gone through the passenger
15 side front, passenger side rear, driver's side rear,
16 rear window. What if anything of evidentiary value did
17 you find in those areas?

18 A Nothing was collected from those three
19 compartments.

20 Q Move on to 26. 26, 27, 28, 29, 30, particularly
21 30, what are we seeing up here?

22 A What we like to do when we search a vehicle is
23 often flip down the visors. Sometimes things can be
24 placed up there that we want to make sure are
25 documented. In this particular instance, it was

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1 documented as negative, meaning that there was nothing
2 up there. But we like to document that as well.

3 Q Okay. So 31, how about here in 32?

4 A This is under the seat. We like to try to
5 photograph under seats when at all possible, just to
6 show lack of evidence or lack of items or what was
7 actually present there.

8 Q 33?

9 A Same thing, under the seat.

10 Q So pretty exhaustive search. And then searching
11 the interior of the vehicle as exhaustively as you did,
12 what if any evidentiary value -- what things of
13 evidentiary value did you find?

14 A We did not collect anything from this vehicle.

15 Q Okay. How about as we come here to 34?

16 A We are now going into the trunk. That's treated
17 as a separate area for documentation and search. So at
18 this time, again, we're just doing overall photographs
19 showing all items that are present.

20 Q That's what we're seeing in the next couple
21 slides?

22 A Yes, it is.

23 Q And did you find anything in the trunk?

24 A We did not.

25 Q Okay. And as we go through 37, still that's just

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 another view of the visor that was down?

2 A Yes. That was just showing the passenger -- front
3 passenger visor. Just as I explained with the driver's
4 side, we just wanted to document if there was anything
5 present.

6 Q All right. As we come in to 38 and 39, what are
7 we seeing here?

8 A The previous photograph was of the center console
9 with items intact. This is after we have now pulled
10 out those items and placed out for better documentation
11 purposes. So this is just what was in the center
12 console compartment now placed on the seat.

13 Q Okay. And these are closer views?

14 A Yes.

15 Q And can you read the name there.

16 A Anthony Liddell.

17 Q And that's the victim in this case?

18 A Yes, it is.

19 Q Closer view. And also on that, you see his name
20 on the credit card?

21 A Yes.

22 Q Go to slide 41. Once again, what are we seeing
23 here in slide 43?

24 A This is just more of the items in the center
25 console compartment.

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- 1 Q Okay. More views of searching?
- 2 A Yes.
- 3 Q As we look here at slide 46, what do you see?
- 4 A It is a South Carolina insurance card.
- 5 Q And who is the insured here?
- 6 A It appears to be a Sheila Gillespie.
- 7 Q The mother of the victim?
- 8 A I have no idea.
- 9 Q Fair answer. What are we seeing here as we look
- 10 at 47, I'm sorry, 47?
- 11 A Like I explained initially, we like to document
- 12 any kind of defect or damages currently on the vehicle
- 13 on the exterior. On this particular door you can see
- 14 that the trim around the window is slightly off on the
- 15 bottom there. And we're just documenting that that was
- 16 in as-is condition at the time we were there.
- 17 Q How about here?
- 18 A On that you can see that the glass of the window
- 19 was slightly off track, up towards the top left of the
- 20 photograph. We're just, again, documenting the
- 21 condition.
- 22 Q Now, Agent Hezel, in your exhaustive search of the
- 23 victim's vehicle, what if any type of money did you
- 24 find?
- 25 A We did not locate any currency.

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1 Q No currency. Tell us about any drugs you found.

2 A I did not find anything resembling drugs or
3 related paraphernalia within the vehicle.

4 Q And when you say paraphernalia, what are you
5 referring to?

6 A Any types of rolling papers, any kind of items
7 that could be used to smoke any illegal substance,
8 nothing related.

9 Q How about scales?

10 A Did not locate any of those.

11 Q Any blood or weapons in that vehicle?

12 A Not that was observed.

13 Q And when you're processing this particular
14 vehicle, how long did it take?

15 A We arrived on-scene at 4:56 in the afternoon. The
16 warrant was executed at 5:44, so that means at that
17 time we began our photographs and our search, and we
18 cleared the scene at 7 p.m. So from 5:44 p.m. to
19 7 p.m.

20 Q And that was the search of both vehicles you had
21 that day?

22 A Yes.

23 Q Okay. And the other was a Honda Civic?

24 A Yes.

25 Q Now, did you look for any fingerprints on either

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1 of these searches, the Alero or the Honda Civic?

2 A A visual exam was done. I have noted that there
3 was kind of a film over both vehicles consistent with
4 like a sand or a dirt or a pollen. There were some
5 ridge detail observed on the Honda Civic, but it was
6 not of value to collect.

7 Q Okay. And when you say not of value to collect,
8 what does that mean?

9 A It did not have significant ridge detail for
10 comparison to later be performed with it.

11 Q Okay. And we'll come back to fingerprinting
12 shortly. So, I mean, there was really nothing you
13 could do with these vehicles?

14 A Correct.

15 Q Fingerprint wise. Now, and that's everything you
16 did on the 27th?

17 A Yes, it is..

18 Q You said you responded twice after that initial
19 instance, so that was the first time, the 27th. When
20 did you respond to Horry County again?

21 A The second time I responded was on March 1st.

22 Q And on March 1st what was the purpose of your
23 responding back to Horry County?

24 A On March 1st, I was advised that an additional
25 possible suspect vehicle had been located and secured

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1 at the same location, the ML Brown Public Safety
2 Building.

3 Q And what time did you arrive at the ML Brown
4 building?

5 A We arrived on-scene at 8:09 that evening, on the
6 1st.

7 Q And upon arrival, what if any kind -- what if any
8 type of paperwork were you provided with?

9 A We were provided a search warrant at what I have
10 recorded as 8:50 that evening. And, again, the vehicle
11 had crime scene tape around the exterior intact.

12 Q So that vehicle had been taped up and delivered to
13 you?

14 A Correct.

15 Q And upon receiving the search warrant, what if
16 anything did you do?

17 A We went through the same steps, as I previously
18 discussed, making sure that the tape was intact when we
19 began our overall visual of the car, and then moved
20 straight into our exterior photographs and then the
21 interior documentation and search.

22 (WHEREUPON, State's Exhibit No. 18 was marked for
23 identification only.)

24 Q Allow me to show you what's been marked for
25 identification as State's No. 18.

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1 A This is a disc containing photographs of the Acura
2 that was searched and documented on March 1st.

3 Q Okay. And you've had the opportunity to review
4 these --

5 A Yes, I did.

6 Q -- photographs? And do they fairly and accurately
7 depict the photographs you took and what you
8 encountered on the 1st of March, 2013?

9 A Yes, they do.

10 MR. RICHARDSON: Mr. McCollum. State would seek
11 to introduce State's-18 into evidence, Your Honor.

12 THE COURT: Any objection?

13 MR. MCCOLLUM: No, Your Honor.

14 THE COURT: Without objection, State's-18 is
15 admitted.

16 (WHEREUPON, State's Exhibit No. 18 was admitted in
17 evidence.)

18 MR. RICHARDSON: Publish through Power Point?

19 THE COURT: You may.

20 Q And as that loads, now, when you got this vehicle,
21 did you need Squeaky's again?

22 A No, we did not.

23 Q Okay. This vehicle you had the keys, or was it
24 unlocked?

25 A I don't honestly recall how entry to this vehicle

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 was attained.

2 Q Okay. And Agent Hezel, what type of vehicle was
3 this?

4 A This was a dark in color, four-door Acura.

5 Q A dark in color, four-door Acura. Do you have the
6 year?

7 A I do not have the year documented in my notes.

8 Q Okay. And you arrived on the scene at 8 o'clock.
9 Did you get the search warrant shortly thereafter?

10 A Yes.

11 Q And how long did it take you to process this
12 thing?

13 A We executed the search warrant at 8:50, and we
14 cleared the scene at 11:37 that same evening.

15 Q Okay. So 10:15, you said, until 11:37?

16 A 8:50 that -- 8:50 until 11:37.

17 Q Oh, so it was a long search?

18 A Several hours.

19 Q Okay. And we'll come back to everything, but as
20 far as what all methods did you use in processing this
21 particular vehicle?

22 A With this vehicle, again, we documented our both
23 interior and exterior portions of the vehicle with
24 photographs. In addition to, we also collected several
25 swabs for both touch DNA and several swabs that we did

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1 a test for blood, a presumptive test for blood. And we
2 also processed the exterior of the vehicle for
3 fingerprints on this one. And we used black powder for
4 that.

5 Q Agent Hezel, as we go through these slides, I'm
6 going to call your attention to a couple, if I may, if
7 we can move past the initial. As we look through at
8 slides two through twelve, what are we seeing here?

9 A We're seeing the exterior documentation of the
10 vehicle showing it as it was at the time we arrived --
11 excuse me -- and that the crime scene tape is all
12 intact around the vehicle.

13 Q Okay. And as we look at slide number 11, what do
14 we see here?

15 A On this slide we're documenting the sticker in the
16 front window that is used to identify this particular
17 vehicle. And here, again, is the VIN plate that's
18 unique to this vehicle itself.

19 Q Okay. Let's move on to State's-13. What is the
20 purpose of State's-13?

21 A This is showing the exterior view of the rear
22 driver's side area of the vehicle. And specifically,
23 there is a area of missing paint just below the door
24 handle of that rear door.

25 Q Okay. With regard to this missing paint, can you

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 tell me anything with regard to the recency of this?

2 A I can't tell you exactly when it happened, but
3 there were other areas on that vehicle that had missing
4 tape -- had missing paint that rust had developed on.
5 So in sequential order, this is newer than that, that
6 had the rust.

7 Q Okay. And how about here on slide number 15?

8 A Here we're just documenting pre-existing damage
9 prior -- you know, that occurred at some point prior to
10 our arrival to document this car. You can see that on
11 the side portion of the front driver's side headlight,
12 there's some glass that's missing out of there.

13 Q Okay. Can you tell when that damage was done?

14 A I cannot.

15 Q All right. That's what we see, again, on 16 and
16 17?

17 A Yeah. We are documenting the missing glass. Also
18 there's some dents in the front hood, and on the left
19 side of the hood just in from the passenger side
20 headlight there are some more areas there that are
21 missing paint. And in those photographs you can see
22 that rust has already begun to develop on that surface.

23 Q Right. So probably older damage?

24 A Not as recent.

25 Q Slides 19 through 24, just more identifying

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 photographs?

2 A Yes.

3 Q Looking at slides 25 through 32, what are we
4 looking at?

5 A This is the initial photographs taken moving into
6 the front driver compartment of the vehicle. So we're
7 taking you from the interior door panel into where you
8 can see kind of the floor board, the seat, the ceiling,
9 just documenting anything that is in that compartment.

10 Q Okay. Let's go back to slides 27 and 28. What is
11 the purpose of those two slides?

12 A Documenting the condition of the ceiling, showing
13 if there is any blood present, not present, if there's
14 any items placed up under the visors, the condition of
15 the sunroof, if it's open or closed.

16 Q Okay. And did you see any damage up in the roof
17 area?

18 A I did not.

19 Q Okay. Looks like 33 and 34, what are we seeing on
20 those two?

21 A This is the interior door panel of the rear -- or
22 I'm sorry, the rear driver side door of the vehicle.
23 This is a defect to that interior door frame.

24 Q Okay. So we're talking about that is the defect?

25 A Yes.

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1 Q Okay. Now, at some point did you do a further
2 examination of that door?

3 A Yes. After we documented that defect and then we
4 scaled and rephotographed the defect as is, that
5 interior door panel was removed.

6 Q Okay. And we'll come back to that in a moment if
7 that's okay. Let's move on. 35, what are we seeing?

8 A Overall photograph of the back seat, just
9 documenting items that are present upon that back seat
10 and where their placement is.

11 Q How about right here, what are we seeing up here
12 (indicating)?

13 A That appeared to be a defect in which the fabric
14 had been torn by something and was visible.

15 Q Okay. That's all you can tell is that it was torn
16 by something?

17 A It was torn in a semicircular fashion, but past
18 that I can't tell you what caused it.

19 Q Okay. We're seeing much the same in 36, 37?

20 A Yes.

21 Q 38?

22 A That's just another view showing where that tear
23 of that upholstery on the rear of the headrest is.

24 Q Okay. And did you do any type of testing or
25 further examination on this here?

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1 A We don't have a field test to test for the
2 presence of any kind of projectile within our protocol.
3 However, there is a defect also on the interior
4 shoulder portion of that seat, there are actually two,
5 and there is another defect to the front portion of
6 this headrest. I attempted to run a trajectory rod
7 through the actual portion of the headrest. However,
8 that was not successful on penetrating through the foam
9 within the headrest itself.

10 However, I was able to place a trajectory rod
11 through the defects on the interior shoulder portion of
12 the seat. All I can tell you is that the holes
13 corresponded for a trajectory rod to be placed through
14 them. Where if any bullet traveled after it went
15 through there, I could not tell you. There was no
16 corresponding defect into the back seat.

17 Q Okay. The back window of this vehicle, was it
18 intact whenever you encountered it?

19 A It was.

20 Q And the back seat, the seat right behind
21 everybody, was there any damage to that back seat?

22 A There was not.

23 Q Okay. So no corresponding hole with that headrest
24 or that shot into the back seat?

25 A Correct, if indeed those were bullet holes which,

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 again, I can't tell you because we don't have a
2 presumptive test for the presence of lead or copper.

3 Q Okay. So there's no way to tell whether or not
4 those are bullet holes?

5 A I could not tell you for fact that they were.

6 Q Could be a screwdriver?

7 A It could be any kind of penetrating object into
8 vehicle string.

9 Q Okay. We'll cut through some of these. As we
10 come over to slides 42, 43, what are we seeing in 42
11 and 43?

12 A This is just overall documentation of the rear
13 passenger side showing, again, that there is a black
14 article of clothing, the back side of the ball cap that
15 are present on the seat. You can also see that there
16 are some items present in the back pocket of the front
17 passenger seat, just showing as-is condition.

18 Q Okay. And as we keep on going on 44, 45 and 46,
19 do you see any other bullet damage, bullet defects,
20 anything of that sort, any kind of damage on that side
21 of the vehicle?

22 A I did not, no.

23 Q Okay. Blood or anything on that side of the
24 vehicle?

25 A Not on that side of the vehicle.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q How about shell casings, did you find any shell
2 casings on that side of the vehicle?

3 A I did not find any shell casings in that car.

4 Q Okay. All right. Then what are we seeing here on
5 slide 48?

6 A This is that black sweatshirt, hooded sweatshirt,
7 that was present in the overall photograph, several
8 that you showed you before. I'm just documenting and
9 showing that there are no obvious defects present in
10 the fabric.

11 Q Can you tell when that sweatshirt got placed in
12 that that vehicle?

13 A No.

14 Q As we come to slide 50, 51, 52, what are we
15 starting to look at here?

16 A We're just moving into the front passenger
17 compartment of this vehicle working from the interior
18 portion of the door into the actual seat area.

19 Q Same thing on up through 56?

20 A Yes.

21 Q Now, in all the areas of the vehicle, did you or
22 anybody else involved in law enforcement, you or Agent
23 Worley in this case, did y'all do anything to
24 manipulate any of this evidence, move it around or
25 anything?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A After the initial photographs were taken, we did.
2 go through all the compartments just as we had the
3 other vehicles in our search, making sure that there
4 was nothing of evidentiary value or suspected
5 evidentiary value in any of the compartments. So we
6 went through the center console, the glove box, just as
7 the other vehicles.

8 Q Okay. And I think you stated earlier that you
9 didn't find any shell casings in the entire vehicle?

10 A Correct, not that I recall.

11 Q Any live rounds?

12 A No.

13 Q Any handguns?

14 A No.

15 Q Cell phones?

16 A No.

17 Q Dope of any kind?

18 A No.

19 Q Cash?

20 A No.

21 Q Here we have 57, 58, what are we are seeing?

22 A Those are just as-is pictures of the closed
23 compartments in the vehicle.

24 Q 59 and 60?

25 A Up close pictures of the compartments of the

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 vehicle.

2 Q Keep on going, 61. 61 is just the transmission?

3 A Transmission. You can see that there is a charger
4 plugged in, just as-is.

5 Q How about as you come in to 62, 63, 64?

6 A Again, overall documentation of the trunk and the
7 items that were located within it.

8 Q Same thing on 65?

9 A Yes.

10 Q Now, you searched the interior and the trunk of
11 the vehicle. What types of weapons have you found at
12 this point?

13 A There were no weapons recovered from this vehicle.

14 Q As we come back to State's-66, what are we seeing
15 here?

16 A This photograph was taken to show the red stain
17 presenting there on the side of the center compartment.
18 That was tested in the field and came back as positive
19 for being blood with our presumptive testing.

20 Q Okay. Is that a closer shot?

21 A Yes. That picture also shows the beginning part
22 of what the next picture focuses in on, was additional
23 blood stains located near kind of where the seatbelt
24 hooks into right there on the side of the center
25 compartment. That was also swabbed and presumptively

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 tested positive for blood.

2 Q And that was 67 and 68 slides. And those tested
3 positive for blood?

4 A Presumptively yes.

5 Q And what type of presumptive test do you do to
6 test for blood?

7 A We use phenolphthalein, which is a three-step
8 process of wetting the swab, swabbing the substance you
9 wish, and then you will apply the phenol and then
10 hydrogen peroxide. And if it's a positive presumptive
11 for blood, the swab will turn a very bright pink.

12 Q And I assume you're saying when it's positive for
13 blood it turns a very bright pink; what happened when
14 you swabbed this?

15 A Both that area and the area previously shown on
16 the side of the compartment, those both responded
17 positively and resulted in a very bright pink color on
18 the swab.

19 Q And you're not a DNA analyst; correct?

20 A I am not.

21 Q You're not qualified as one?

22 A I'm not qualified to tell you anything past it was
23 pink.

24 Q All right. And you couldn't tell if there was
25 actual DNA present for testing in those swabs?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A I could not.

2 Q Now, did you apply the, is it phenolphthalein?

3 A We can just call it phenol for short.

4 Q Phenol, okay, thank you. Did you apply phenol to
5 anywhere else in the vehicle?

6 A We did. We applied it to three additional areas.
7 The top of the center compartment was negative. There
8 were also some areas on the back seat that presented
9 with a discoloration from the rest of the fabric or the
10 upholstery. And the center of the back seat tested
11 negative, and swabs from the interior of the pouch of
12 the rear driver's seat also presented with the same
13 discoloration, and that too was negative.

14 Q So as we look through slide 69, 70, 71, 72, 73,
15 74, 75, 76, 77, 78, 79...

16 A And that's the stain on the interior of the seat
17 pocket.

18 Q And these tested negative, you say?

19 A Correct.

20 Q Okay. So this isn't blood?

21 A Presumptively, it came back negative.

22 Q Presumptively negative for blood?

23 A Correct.

24 Q Tell us about any positive hits you had for blood
25 in the back seat.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A None.

2 Q None. Now, would you read -- what are we looking
3 at on State's No. 8?

4 A That's just the additional VIN sticker on the
5 vehicle.

6 Q Okay. And what does it indicate?

7 A It has the VIN number and additional information
8 for the vehicle on there.

9 Q Right here where I have the drawing, can you read
10 that?

11 A I can't read that.

12 Q Okay. All right. Do you know what car company
13 makes Acura?

14 A No. That's a no.

15 Q Okay. For that information maybe you'd run the
16 VIN number?

17 A Yeah. All the information relevant to the vehicle
18 should be reported on those stickers.

19 Q Okay. We're just seeing more of the areas you
20 swabbed. As we look through, 81, 82, 83, 84 and 85,
21 what are we seeing here?

22 A In that photograph right there, that was
23 documentation that was located within that flip down
24 compartment. And we're just taking a closer look after
25 removing it of what it is.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q Okay. And this is all the registration
2 information and everything?

3 A Yes.

4 Q Do you recall if the vehicle was registered to the
5 Defendant?

6 A I don't recall.

7 Q Okay. And you can't read that from here; correct?

8 A I can't see that from here, no.

9 (WHEREUPON, State's Exhibit No. 19 was marked for
10 identification only.)

11 Q I'm having difficulty reading it too, so I'm going
12 to ask you to take a look at State's-19.

13 A Okay.

14 Q What do you -- do you recognize State's-19?

15 A Yeah. It's just a copy replicated of what's on
16 the screen.

17 MR. RICHARDSON: Mr. McCollum?

18 MR. MCCOLLUM: No objection.

19 THE COURT: Without objection, State's-19 is
20 admitted.

21 (WHEREUPON, State's Exhibit No. 19 was admitted in
22 evidence.)

23 Q Looking at State's No. 19 -- and I ask that we
24 publish it -- can you tell who the owner of the vehicle
25 is?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A The name appearing on the Allstate card appears to
2 be an Elizabeth or Douglas Clark Elijah Salem.

3 Q And does it mark an address for that insurance
4 card or the registration, do you see an address?

5 A The address on the card is 902 Temple Street in
6 Conway.

7 Q 902 Temple Street in Conway. Thank you, Agent
8 Hezel. As we look at slide 86, 87, 88, 89, 90, 91,
9 just continuing the search of the vehicle?

10 A Yes.

11 Q Same thing here, 93, just some of the items from
12 the glove box?

13 A Yes.

14 Q And you said y'all searched this vehicle for some
15 time. As we come back to slide 97, what are we seeing?

16 A This is the interior portion of the door panel of
17 the rear driver door where that defect was recorded
18 earlier as the as-is condition. All we have done now
19 is added scale tape around it to document it to exact
20 size.

21 Q Okay. And you said y'all did some manipulation
22 later on?

23 A Yes.

24 Q Okay. As we look, slide 99?

25 A Just a close-up to get a better measurement of the

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 actual size of that defect.

2 Q Could you tell me anything about the angle of
3 entry on that defect?

4 A No.

5 Q Okay. So you can't tell whether it was down,
6 over, up, whatever?

7 A I could not, no.

8 Q What are we seeing in 100?

9 A This is when the outer most portion of the panel
10 had been removed, and you can see that the defect goes
11 even further into the interior portion of the door.

12 Q 100, 101, 102, 103, 104, 105, 106. What if any --
13 what are we seeing in those pictures?

14 A The pictures prior to this one show a fired
15 projectile resting at the base of the door frame. It's
16 the silver and -- such object right there. It's a
17 fired projectile.

18 Q It's right here (indicating)?

19 A Yes.

20 Q And did you collect that item?

21 A Yes, we did.

22 Q I'm going to show you what's been marked or what
23 will be marked for identification as State's No. 20.

24 (WHEREUPON, State's Exhibit No. 20 was marked for
25 identification only.)

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q If you could look at State's No. 20 and tell me if
2 you recognize this item.

3 A This is the projectile that was collected from
4 inside the rear driver's side passenger door. And it
5 has the date and time of which it was collected.

6 Q Okay. And no doubt that's the projectile you
7 collected?

8 A Yes.

9 Q Okay. And how can you be sure?

10 A Well, I signed it over to Sabrina, and her
11 initials and lab number and item number correspond with
12 how it was logged in, and the seal is intact.

13 MR. RICHARDSON: The State would seek to introduce
14 State's Exhibit 20.

15 THE COURT: Any objection?

16 MR. McCOLLUM: Without objection.

17 THE WITNESS: State's-20 is admitted without
18 objection.

19 (WHEREUPON, State's Exhibit No. 20 was admitted in
20 evidence.)

21 Q As we proceed on to State's 107 and 108, what are
22 we starting to see here?

23 A Again, we're just taking closer photographs of
24 those defects in the upholstery with scale just to give
25 documentation of the size of how large they actually

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 were.

2 Q Okay. And can we -- did you make any markings on
3 here to tell which side of the seat we're talking
4 about?

5 A The tape should be documented with front pointing
6 towards the front of the vehicle, making that, as
7 you're seeing it, the rear portion of the headrest.

8 Q But it may be a little difficult to see with the
9 light shining down on it?

10 A Yeah. I can't really see what the tape says, but
11 I know how I labeled it.

12 Q All right. How about here on State's-110?

13 A Again, that's showing the front side of the
14 headrest with tape and on the interior shoulder portion
15 of the seat with the scale tape in place.

16 Q Okay. Same thing there?

17 A Yeah. We're just documenting on the tape, so if
18 you looked at it out of sequential order in the
19 photographs, you would know which side of the headrest
20 that this is on.

21 Q Okay. So this would be the driver's side?

22 A The front portion of the headrest in the front
23 driver's seat.

24 Q Okay.

25 MR. McCOLLUM: What number is that one?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: That was slide number 111.

2 MR. McCOLLUM: Okay.

3 Q We see that again in slide 1 -- I'm sorry. As we
4 move to 112, what are we seeing here?

5 A These are the two other defects that were noted on
6 the interior shoulder side of that front driver's seat.
7 Again, we're just documenting placement with the scale
8 tape.

9 Q So as to acclimate us as to where the damage is?

10 A Correct.

11 Q Describe any burn marks or scorch marks you saw
12 around these holes.

13 A I did not document seeing such.

14 Q So you didn't document seeing any burn marks, any
15 scorch marks?

16 A No, sir.

17 Q And the yellow stuff in there?

18 A That's the interior foam that is part of what
19 composes the seat.

20 Q Did you notice any blackening or anything of that
21 foam?

22 A Not that was apparently visible to me.

23 Q Okay. And you photographed it?

24 A I did.

25 Q Now, as we go to State's -- slide number 113, what

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 are we seeing?

2 A This is when we placed the trajectory rod through
3 the two defects on the interior shoulder of the front
4 driver's seat. It just shows that the path between the
5 two defects does line up.

6 Q Now, when you say the path between the two
7 defects, you're talking about between --

8 A The two on the interior shoulder.

9 Q Okay. And not necessarily shows the direction of
10 travel?

11 A Not necessarily.

12 Q Okay. But if it lines up, where did that stick
13 point to?

14 A It pointed towards where the seatbelt at the rear
15 driver's seat was placed against the back.

16 Q And did you see any blood back there on that
17 seatbelt?

18 A No. There were nothing that appeared or presented
19 to be blood or any other defects that corresponded into
20 the rear of the seat.

21 Q Okay. And is that -- what view are we looking at
22 here?

23 A This is a view closer towards the front passenger
24 compartment looking backwards, just trying to get more
25 of a line view going down the trajectory rod of where

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 it ends up. And you can see that where it ends in the
2 rear of the photograph is just to the interior side of
3 that seatbelt and that rear driver's seat.

4 Q Okay. So this -- as I understand your testimony,
5 this is from the stick, this is basically as it points
6 back; correct?

7 A Yes.

8 Q Okay. How about this one?

9 A That's just a side view showing that it goes
10 towards the back seat, not into the door.

11 Q Okay. And so that's -- and that's just a harder
12 aspect to see the direction of travel; correct?

13 A Yes.

14 MR. McCOLLUM: What number is that one, Brad?

15 MR. RICHARDSON: I'm sorry, that is 115.

16 Q And as we go up to 116, just another view?

17 A This is a view from the back seat showing that it
18 lined with the back seat.

19 Q Okay. As we go to 117?

20 A That's just looking down at the defect on the
21 door.

22 Q And 118?

23 A As I mentioned previously in my testimony, I was
24 unable to successfully put the dull rod for the
25 trajectory through that back portion of the headrest.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 So what I did is I cut the back portion off just to
2 confirm that there was a hole that penetrated into the
3 foam or the inner stuffing of that. And there was a
4 hole that was documented.

5 A lot of times if a penetrating object goes
6 through that foam, it closes back in on itself, so it's
7 not always possible to connect two defects that go
8 through such thick foam.

9 Q Now, in this particular -- and I know we are
10 looking at the rear part of the seat there, but on the
11 front part of the seat where the hole began, whatever,
12 did you see any burn marks there?

13 A No.

14 Q Any melted seat filler?

15 A No.

16 Q And that's pretty much -- you took a lot more
17 photographs, but that's pretty explanatory of what you
18 did that day; correct?

19 A Yes.

20 MR. RICHARDSON: Do you want me to leave this up?

21 MR. McCOLLUM: Okay.

22 MR. RICHARDSON: Mr. McCollum may have some
23 questions for you on this, so we'll leave it up.

24 Q Tiffany, in addition to the photographing, and I
25 think you -- and testing for -- using the phenol to

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 test, I believe you indicated that you did some
2 fingerprint lifts?

3 A Yes. We processed the exterior of the vehicle
4 with black powder, and we collected ten lifts from the
5 exterior of the car.

6 Q Before I get there, we had a hole in the front of
7 the seat, a hole in the back of the seat, a hole in the
8 front shoulder of the seat, hole in the back of the
9 seat. In that back seat, did you see any presence of
10 blood anywhere?

11 A No. The only discoloration was on the center of
12 that back seat, and when we swabbed it, it was a
13 negative for the presence of blood with our field test.

14 Q Have you been trained in the examination of crime
15 scenes for spatter evidence?

16 A I've attended classes, but I am not trained to the
17 level to do any kind of diagnostic thing.

18 Q The presence of spatter, not what it tells us?

19 A Yes, I know how to recognize the presence of it.

20 Q As a crime scene officer you're trained to do
21 that?

22 A Yes.

23 Q And are you trained in what the definition of
24 spatter is?

25 A Yes.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q What is that?

2 A Spatter, although it has changed in the
3 terminology, is basically very small droplets of blood
4 that are caused by a volume or a force being inflicted
5 upon a suspect or individual, an item.

6 Q Did you see the presence of any of that in the
7 back seat?

8 A No.

9 Q Now, let's get back to those fingerprints. You
10 examined the area for fingerprints?

11 A The exterior of the vehicle, yes.

12 Q The exterior of the vehicle. And I want to pay
13 particular attention to the rear passenger side; okay?

14 A The rear passenger side, okay.

15 Q The rear driver's side, I'm sorry.

16 A Okay.

17 Q Rear driver's side. The rear driver's side of the
18 vehicle, where we saw that bullet defect in the door.

19 A Okay.

20 Q Did you examine the exterior of that?

21 A I did.

22 Q Okay. And...

23 (WHEREUPON, State's Exhibit No. 21 was marked for
24 identification only.)

25 Q I want to see if you can identify State's No. 21.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A This is the latent lifts that were collected in
2 this case. And it has my date and initials from when I
3 sealed it doing the latent exam. Would you like me to
4 open this?

5 Q Yes. Do you have a knife up there?

6 A I don't know how to close this knife.

7 Q Before we talk about the lifts you collected, can
8 you tell if those are the prints that you collected?

9 A They are. They have the information from where I
10 collected them, the date I collected them, and my
11 initials on the back.

12 Q Okay.

13 MR. RICHARDSON: The State would seek to move
14 State's-21 into evidence, Your Honor.

15 THE COURT: Any objection?

16 MR. McCOLLUM: No, Your Honor.

17 THE COURT: Without objection, State's-21 is
18 admitted.

19 (WHEREUPON, State's Exhibit No. 21 was admitted in
20 evidence.)

21 Q And prior to actually getting into what you lifted
22 and any comparisons you did, I think we probably need
23 to get you qualified as an expert.

24 So could you tell us about what if any training
25 you've had with regard to fingerprint collection and

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 analysis.

2 A Throughout my in-house training at SLED, I did the
3 training under a court qualified senior agent, both
4 with academics and practical application. During that
5 practical application portion, I did thousands of
6 comparisons under my direct training officer.

7 Also as a crime scene investigator, we're trained
8 on how to process and collect fingerprints or latent
9 lifts off of various surfaces. I've also attended
10 classes in both the essential ridgeology concepts,
11 advanced palm print comparison techniques and
12 fingerprint recognition and comparison.

13 Q And can you tell us with regard to this -- or with
14 regard to this training and education, have you
15 received any kind of certifications with regard to this
16 type of work?

17 A I have not been awarded any kind of certification
18 nationally recognized at this time.

19 Q Okay. How long have you been performing
20 fingerprinting duties?

21 A I was deemed competent in fingerprints in November
22 of 2012.

23 Q And what was the process of being deemed
24 competent?

25 A You had to go through all of the in-house

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 training, and I had to successfully pass three
2 proficiency tests, that since that time I have had to
3 successfully pass one annually.

4 Q Approximately how many times have you collected
5 and/or analyzed latent fingerprints?

6 A Thousands. I couldn't give you an exact number.

7 Q Have you attended some seminars in the field?

8 A We have attended webinars here recently that our
9 entire department has all kind of watched at the same
10 time.

11 Q And what types of equipment do you use in this
12 field?

13 A Currently for our examination process we still use
14 what is referred to as a loop, which is basically a
15 magnifying glass that you place over the ridge detail
16 that you're examining. We currently don't have any of
17 the on-screen comparison software in our unit.

18 Q Have you had occasion to identify particular
19 persons by comparing latent lifts before?

20 A Yes, I have.

21 Q How many times?

22 A Hundreds.

23 Q And have you testified previously as an expert in
24 the field of forensic latent fingerprint collection and
25 examination?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A Yes, I have.

2 Q How many times?

3 A One other time.

4 MR. RICHARDSON: The State would seek to introduce
5 this agent as an expert in the field of forensic latent
6 fingerprint collection and examination, Your Honor.

7 THE COURT: Care to examine as to qualifications?

8 MR. McCOLLUM: No, Your Honor.

9 THE COURT: I'll allow her to render opinions in
10 comparison of fingerprints.

11 Q And I want to try and briefly go through this, but
12 could you tell us what a latent fingerprint is.

13 A May I explain what a fingerprint is first? It may
14 make it easier to understand.

15 Q Please go ahead, yes.

16 A Okay. On the palms of your fingers and hands and
17 also the soles of you feet and toes, you have areas of
18 skin that's kind of rough and it has ridges. Those
19 ridges make up an overall pattern on those areas of
20 your skin. Now, although those ridges make up a big
21 pattern, the ridges themselves have unique
22 characteristics.

23 And the three most common that we look at are when
24 a ridge flows, and then it splits into two which we
25 call a bifurcation, when a ridge will flow and suddenly

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 stop, which we call an ending ridge. And sometime the
2 ridge may be very little and it just looks like a
3 period at the end of a sentence, and that's termed as a
4 dot. So your fingerprints are made up of your overall
5 ridge pattern, your overall ridge flow and those
6 individual characteristics within the ridge themselves.

7 So anytime you touch something, it's going to be
8 almost kind of like a stamped impression of what's on
9 your hands or your feet. So throughout the day you
10 sweat, you touch your face -- oh, I'm sorry -- your
11 hair and other items throughout your daily course of
12 activities. And you also sweat. And there's pores
13 along those ridges that are going to sweat with you.

14 So when you touch something there is a chance that
15 you may leave an outline of sweat and oils of that
16 pattern on that item. And I say a chance because not
17 everyone leaves a fingerprint, and it takes conditions,
18 an individual person and the substance that you're
19 touching that allows that moisture to adhere.

20 So latent, by definition, means hidden. So a lot
21 of times that oil and moisture that you're leaving on
22 that item isn't necessarily seen to the naked eye, and
23 it takes some kind of processing technique to make that
24 more visible.

25 Q Fingerprints on a window, that would be an example

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 of latent fingerprints?

2 A Yes.

3 Q Okay. Now, I was about to ask a question, but I
4 already think you told us about what accounts for a
5 person leaving fingerprints, or something -- no. Thank
6 you. Are some surfaces better at attracting
7 fingerprints or...

8 A I wouldn't say they are better at attracting
9 fingerprints, but if you think about when you touch
10 something, if you touched a rough object, not every
11 part of your finger is going to touch that object
12 evenly. Some part of the surface might touch it sooner
13 than another part of that surface.

14 So rougher surfaces are usually a little more
15 difficult to leave a lot of ridge detail present. If
16 you have a very smooth, slick surface where once
17 contact is made you have equal pressure, it's more
18 likely that you're going to get a full impression left
19 behind.

20 Q And are there any environmental factors or any
21 other factors that inhibit the leaving of fingerprints?

22 A Sure. Since your fingerprints are composed
23 basically of moisture, if you sweat too much or you're
24 not sweating enough, that's going to factor into how
25 well or even if you will leave any of those ridges

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 behind when you touch something.

2 So if it's cold outside, you're less likely to
3 sweat, probably not going to leave as good of
4 fingerprints, there's still a chance. If it's wet,
5 raining and your hands are already wet and slick from
6 the rain, there's probably going to be too much
7 moisture to leave sufficient ridge detail on any item
8 you touch.

9 Q And whenever you look at fingerprints for
10 identification, what are you looking for?

11 A We're looking at that overall ridge flow and
12 pattern that the ridges of a hole make. And then we're
13 also looking at each individual ridge and the
14 characteristics that that ridge holds. So it's that
15 flow and those characteristics and the relationship to
16 each other that we look at when we're going to make any
17 kind of comparison.

18 Q And in your study and your training, how unique
19 are fingerprints?

20 A Fingerprints have never been shown to be the same
21 on any two people, even identical twins. Fingerprints
22 develop within the twelfth week of fetal life, and they
23 develop at random. So it's the individual stresses on
24 that fetus that cause the volar pads to develop in a
25 certain way.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 So no two people have ever been found to have the
2 same fingerprint, nor have any two fingers on the same
3 person been found to have the exact same patterns.

4 Q All right. How did you examine the defendant's
5 Acura for fingerprints?

6 A Well, first we did a visual exam, and then we
7 processed the vehicle with black powder. And the
8 powder would basically adhere to any moisture or oil in
9 any kind of latent print residue on the vehicle.

10 Q And you said before you examined what areas?

11 A We did the exterior of the vehicle. So the
12 exterior of the doors, the exterior of the windows,
13 around the trunk area.

14 Q And why not do the interior?

15 A Usually the interior vehicles are textured. And
16 in this particular case we swabbed the interior of the
17 vehicle for DNA instead of processing it for
18 fingerprints.

19 Q Okay. And whenever you examined the -- I told you
20 I wanted to draw your attention to the -- right behind
21 the driver's seat.

22 A Okay.

23 Q The driver's side rear. Did you find any prints?

24 A We collected one latent lift from the right edge
25 of the -- hold on, let me make sure -- right edge of

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 the driver's side passenger window.

2 Q Okay. So you got one from the right edge. As
3 you're facing the window, the right edge?

4 A Correct. So as you're facing the car, it would be
5 the side of the vehicle closest to the trunk.

6 Q Okay. About where the handle would be?

7 A Yes. And on the lift I always -- you're supposed
8 to draw a diagram to indicate placement. So it's just
9 up from the handle on that rear driver door.

10 Q Okay. And so in State's No. 21, this would be the
11 lift, okay, right edge, rear driver's side passenger
12 window?

13 A Correct.

14 Q Okay. And after you got this lift, could you tell
15 us -- could you tell us what we're seeing here.

16 A Basically I denoted an orientation to show that
17 the lift goes this way, so that when you look at it you
18 can kind of see it as it was on the vehicle so you're
19 not looking at it upside down or sideways. So this is
20 in its true form of where it was on the window.

21 And then basically once it's logged into evidence,
22 it's given a lab number, an item number and initials of
23 the logging in agent who in this case was Agent
24 Fellers. My initials then appeared on it once, I
25 received the evidence to do the latent comparison.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Other initials are present upon it following a tech
2 review of my latent exam.

3 Q Allow me show you what's already been marked into
4 evidence as State's No. 17. These have already been
5 introduced into evidence State's No. 17.

6 A These are the post mortem fingerprints of Anthony
7 Liddell.

8 Q Okay. Did you utilize State's No. 17 in your
9 examination?

10 A Yes, I did.

11 Q For what purpose?

12 A To compare them with the collected latent prints
13 of value for identification.

14 Q Okay. What were you looking for there?

15 A Can you be more specific.

16 Q What were you looking for to try and compare the
17 latent prints to these post mortem prints?

18 A Basically, what we do is we take an unknown print,
19 and we compare the unknown to the known. So in this
20 particular one we have an end joint pattern with a less
21 slanting loop. So we would begin our comparison with
22 finding the same overall pattern, which would be the
23 less slanting loop.

24 And then we would delve even further into our
25 comparison by looking at that ridge flow and those

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 individual ridge characteristics and the relationship
2 to each other between the unknown and the known
3 impression.

4 Q Okay. And in examining the prints you pulled off
5 the right passenger door and the post mortem prints of
6 Anthony Liddell, Jr., what were your results?

7 A I was able to identify this latent impression with
8 finger number two, I believe -- please let me double
9 check that -- yes, with finger number two of Anthony
10 Liddell's prints which is the pointer finger of the
11 right hand.

12 Q Okay. And did you find Anthony Liddell's prints
13 anywhere else on the exterior of the car?

14 A Of the prints of value I was not -- there was no
15 identification made to him on the other prints.

16 Q Okay. Any idea when that print was placed there?

17 A No idea.

18 Q No way to date it?

19 A I cannot date a fingerprint. All I can tell you,
20 it was touched at some point before I lifted it.

21 Q Let's put them back in. Agent Hezel, after you
22 were finished conducting the search of this vehicle,
23 did you have anything else to do in this case?

24 A Other than performing the latent print comparison,
25 I had no other involvement.

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 Q And, again, what type of blood did you find in the
2 vehicle?

3 A The only blood that we found was in the front
4 driver compartment, and it was presumptively positive
5 for blood.

6 Q And what type of weapons did you find in the
7 vehicle?

8 A No weapons were located.

9 Q Cell phones?

10 A No cell phones.

11 Q Marijuana?

12 A I didn't find any drugs or related paraphernalia.

13 Q Cash?

14 A No currency.

15 Q And after you got done with that, did you ever
16 collect any clothing in this case?

17 A Yes. Once we cleared the impound lot on March
18 the 1st, we responded to the detention center to
19 collect clothing reported to have been taken from
20 McDonald.

21 (WHEREUPON, State's Exhibit Nos. 22 and 23 were
22 marked for identification only.)

23 Q Let me show you what's been marked as State's-22
24 and 23.

25 A This is documented to contain item 17, which I

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 don't have the submission form in front of me to
2 correspond what that number is. And this is multiple
3 items, 18, 19 and 20. I believe 17 is the -- one of
4 them is shoes and the other is a pair of pants and two
5 shirts.

6 Q Okay.

7 MR. RICHARDSON: Mr. McCollum, do you want to take
8 a look at them whenever you can.

9 THE WITNESS: May I get a pair of gloves out of my
10 purse, please, judge.

11 THE COURT: Sure.

12 (Discussion off the record.)

13 THE WITNESS: Do you want these items opened all
14 the way?

15 Q Yes. I just want you to take a look at them, see
16 if you can recognize those items without publishing
17 them to the jury. Be careful with that item.

18 A Item 17 is further contained in a sealed paper
19 bag. And the bag is marked, blue Adidas shoes, which
20 are further packaged in white paper.

21 THE COURT: While she's opening that, counsel.

22 (WHEREUPON, a bench conference was held off the
23 record in the presence of the jury but out of the
24 hearing of the jury.)

25 Q Do you recognize these items?

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 A These are the blue Adidas tennis shoes that were
2 collected from the jail, or the detention center.

3 Q Okay. You took these into custody?

4 A I did.

5 Q Do you remember from whom?

6 A I do not recall the specific name. However, when
7 I did obtain these items from the detention center,
8 they were already in sealed, like in stapled paper
9 bags. And there was no immediate inventory done on the
10 time that I collected them.

11 However, when I placed the items into the custody
12 of SA Fellers, she inventoried them as the description
13 that appears on the submission log.

14 Q Okay. And you took these from the jail?

15 A I took these from the detention center, yes.
16 These were the shoes that were included.

17 Q Okay. And this other item?

18 A Did you take my knife away?

19 Q I think I did.

20 THE COURT: Did you mark those, solicitor?

21 MR. RICHARDSON: Yes, sir, I did, Your Honor.

22 THE COURT: They need to stay here.

23 MR. RICHARDSON: It's getting late in the day, and
24 I'm getting forgetful.

25 THE COURT: That's okay, I'm not going to take

TIFFANY HEZEL-DIRECT BY MR. RICHARDSON

1 them. That's part of my job.

2 MR. RICHARDSON: Yes, sir.

3 THE WITNESS: This box is to contain three items.

4 THE COURT: And that box is what number? On the
5 top.

6 THE WITNESS: 22.

7 THE COURT: Thank you.

8 THE WITNESS: And they are taped very well. And
9 they are further contained in white paper.

10 (WHEREUPON, State's Exhibit No. 24 was marked for
11 identification only.)

12 THE WITNESS: How open would you like the
13 clothing; would you like --

14 Q Just for you to see it, you to be able to identify
15 it.

16 A It's a pair of black pants, a blue shirt and a
17 black shirt with Grex on it.

18 Q I'm going to show you what's been marked as
19 State's-24 for identification purposes only. Now,
20 whenever you picked these items up from J. Reuben Long
21 Detention Center, did you sign any documentation?

22 A I signed a chain of custody.

23 Q Let me show you State's No. 24 for identification.

24 A I received two bags that were stapled. And I
25 signed them over as clothing from M. McDonald from J.

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 Reuben Long Detention Center, and I received them from
2 a Corporal Orlando.

3 Q Okay. And that would be the clearest memory?

4 A Yes. As I said, they were not -- the contents of
5 the bags were not inventoried as they had already been
6 stapled.

7 MR. RICHARDSON: Agent Hezel, I appreciate your
8 testimony. If you'll answer any questions Mr. McCollum
9 may have.

10 THE COURT: Cross examine.

11 MR. McCOLLUM: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. McCOLLUM: I'm trying to position her so that
14 she's not blocking the jurors.

15 THE COURT: That's fine. Can everyone see the
16 screen? Thank you. Does anyone need a break at this
17 point? Okay, we'll continue on.

18 MR. McCOLLUM: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. McCOLLUM:

21 Q Agent Hezel?

22 A Correct.

23 Q My name is Greg McCollum, and I represent Marquis
24 McDonald, okay.

25 MR. McCOLLUM: If you can, Michelle, can you go --

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 can you see slide 90 -- is this 97.

2 Q Now, you testified about these defects earlier;
3 right, just a few minutes ago?

4 A Correct.

5 Q And this is -- this slide right here, I think it's
6 slide 97, correct me if I'm wrong, Michelle, that shows
7 where a bullet penetrated the interior of the door and
8 was lodged in the inside of the door casing; right?

9 A That picture depicts a defect that was later found
10 to be from a bullet as we recovered the bullet from the
11 interior of the door frame.

12 Q And do you know what caliber bullet that is?

13 A No, I do not.

14 Q All right. Go to the next one, keep going. And
15 this is just a close up; right?

16 A Correct. It's a closer view of the defect in the
17 door.

18 Q And you don't know if that door was open or closed
19 when the bullet entered it; right?

20 A Correct.

21 Q All right.

22 MR. McCOLLUM: Michelle, keep going.

23 Q And this is just where you tore the door apart to
24 get inside it; right?

25 A Yeah. That's once the outer most layer of the

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 interior door panel has been removed.

2 Q And since it has this interior lining or layer,
3 were you able to put, what do you call those things,
4 the dowel rods, were you able to determine anything
5 like that in terms of direction?

6 A I did not place a dowel rod in this defect. As
7 there was only one hole, there was nothing to
8 correspond with. And often times when you place a
9 dowel rod without a corresponding defect, if even if
10 you get the rod to go into where the defect is, it's
11 not always going to be very consistent because it's
12 going to have a lot of give room either way. There's
13 nothing to stabilize it.

14 Q So in terms of the inside of the door panel that
15 was taken off, and then there's some space between that
16 and this material; right? Is there no way that you
17 could do that to see which --

18 A It's all still one corresponding defect. There's
19 not a second defect to align the trajectory with.

20 Q Does the second defect have to be a certain space
21 apart for it to be accurate?

22 A No, it does not.

23 Q So even if it was just an inch or two apart, that
24 would be sufficient?

25 A It would stabilize the trajectory rod between the

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 two. Placing a rod into only one defect isn't going to
2 give a very realistic --

3 Q I understand.

4 A -- stabilization for the rod.

5 Q I understand, all right.

6 MR. McCOLLUM: And keep going, please.

7 Q All right. Now, this is clearly the headrest of
8 the driver's seat; right?

9 A Correct.

10 Q And there's a hole in that headrest that comes
11 from the front of the headrest; right?

12 A There is a hole to the front of the headrest and
13 to the rear of the headrest.

14 Q And you marked that because you felt that had
15 significance; right?

16 A I marked it because it was an obvious defect to
17 the interior of the vehicle.

18 Q And defect is a term that's commonly used to refer
19 to bullet holes; right?

20 A A defect can be used to coin anything that is not
21 in pristine condition.

22 Q All right.

23 MR. McCOLLUM: Michelle.

24 Q And is this the front?

25 A That is the rear of the headrest with the front, I

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 believe, there's a front with an arrow pointing towards
2 the front of the vehicle. So that's the rear of the
3 headrest.

4 Q So this is still the rear. And it's -- the defect
5 is positioned off center, if you're facing it, let's
6 say you're looking at the front of the vehicle or
7 looking at the back of the seat facing forward, the
8 hole is off center to the left; right?

9 A Yes.

10 Q Okay. And the front of the hole is that -- and
11 that picture there shows the headrest; right?

12 A That's the front portion of the headrest.

13 Q On the driver's seat?

14 A Correct.

15 Q The front section?

16 A Correct. That is the -- that's the defect to the
17 front portion of the headrest.

18 Q So whatever passed through that hole was coming
19 from the passenger's side of the car; right?

20 A I cannot determine that.

21 Q So are you saying that that could have come from
22 the driver's side of the car?

23 A I'm saying that there's a defect to the front of
24 the headrest and a defect to the rear of the headrest.

25 Q And if you look at the defects and they -- it

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 goes, as you -- if you were sitting like where the
2 steering wheel is and looking back at the seat because,
3 obviously, it goes in on the left side of the headrest
4 and comes out toward the center of the headrest; right?

5 A They're -- those are the locations of the two
6 defects. However, I was not able to successfully place
7 a trajectory rod aligning the two.

8 Q And so it was coming from, if you're sitting in
9 the car, right, facing forward, in other words, sitting
10 in the driver's seat, it would be coming from right to
11 left; correct?

12 A I can't determine what the angle would be. I was
13 not able to align them with a trajectory rod, nor if I
14 had, I couldn't say one direction versus another a
15 hundred percent.

16 Q And looking at the same picture of the driver's
17 seat, there's another hole in the shoulder area of the
18 seat; right?

19 A Correct.

20 Q And before I move off this slide, just look at the
21 headrest. If someone were sitting in that driver's
22 seat and somebody shot through that headrest, the
23 bullet would pass right by their head; wouldn't it?

24 A I cannot say that.

25 Q Okay, thank you. All right. Now, moving to the

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 driver's seat, the shoulder area, there's a defect in
2 the front there; correct?

3 A Yes.

4 Q Okay. This is another view of the headrest;
5 right?

6 A Correct.

7 Q Okay. Let's go to the seat again. All right,
8 there. Now, this is a defect to the driver's seat of
9 the vehicle; right?

10 A Correct.

11 Q And it's on the right side of the driver's seat if
12 you're sitting in the driver's seat; right?

13 A Correct.

14 Q And it passes from the side front to the rear in a
15 right to left fashion; right?

16 A I would state that it has a diagonal trajectory,
17 but which direction it was travelling; if indeed it is
18 a bullet defect, I could not tell you.

19 Q And -- okay, Michelle. Now, here, you put the
20 trajectory rod through the seat; right?

21 A I placed the trajectory rod to -- through the two
22 defects that were present.

23 Q All right. And that shows a trajectory from right
24 to left; correct?

25 A Depending on the orientation of the individual

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 stating such.

2 Q All right, I'll rephrase that. So if the point of
3 view is sitting in the driver's seat facing forward,
4 there would be from the individual driver's right to
5 left; correct?

6 A I would say that the trajectory is either back to
7 front or front to back. It can only -- it's diagonal
8 either going back or coming to the front. That's as
9 far as I can tell you with my training is it's a
10 diagonal trajectory.

11 Q All right.

12 MR. McCOLLUM: Can you go to the next one. Okay,
13 skip through.

14 Q Okay. Now, in this situation, the trajectory rod
15 points in close proximity to the bullet that you found
16 inside the rear driver's side door; right?

17 A It's in close proximity but on a different plane.

18 Q You examined this vehicle on March the 1st at
19 night; correct?

20 A Yes.

21 Q And the incident occurred on February 26th;
22 correct?

23 A Yes, it did.

24 Q So the vehicle was not in police custody for the
25 night of the 26th, the 27th, the 28th, until the 1st;

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 right?

2 A I don't know the exact time the vehicle was placed
3 into police custody. The first time I encountered this
4 vehicle was on March 1st.

5 Q This vehicle was not found at the scene of the
6 incident; right?

7 A No, it was not.

8 Q And so do you know if that seat were moved up or
9 down, would that change where that trajectory rod
10 points?

11 A I -- in my training, I believe that the diagonal
12 would still be there, but where the end results of
13 anything that may have passed through it would be, I
14 could not tell you.

15 Q Because if it's -- if it's pointing say in this
16 direction, and the seat is moved up or back, then the
17 pointer, the end of it, what I'm calling the pointer,
18 that moves as well; doesn't it?

19 A The seat in itself would move forward or back.
20 However, with the back portion of the seat staying in
21 the same plane it is now, the diagonal trajectory, I
22 believe, would be the same as it is.

23 Q So if it's all the same, then the pointer is
24 pointing in the right direction?

25 A It is pointing at the -- in this view, it's

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 pointing towards the back seat.

2 Q If it were -- but if it were different, if the
3 seat were moved into a different position, either
4 reclined or reclined up -- I don't know what that's
5 called either -- reclining or raised up, the back of
6 the seat moves; correct?

7 A Yes.

8 Q And then the seat that you -- the part you sit on,
9 the base of the seat or the cushion, that moves forward
10 and backward; right?

11 A Yes.

12 Q In all cars; right?

13 A Yes.

14 Q And so those two pieces moved. And if they were
15 moved, that would move the trajectory rod; correct?

16 A I did not manipulate the seat other than in the
17 position it was found to document such movement of it.

18 Q Okay.

19 MR. McCOLLUM: Michelle. Okay, keep going.

20 Q And then in this one, in this slide, you cut the
21 fabric off the headrest and determined that whatever
22 passed through from front to back or, as you say, back
23 to front --

24 A All I'm saying is there's a defect to the back of
25 the headrest and to the front of the headrest. I was

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 not able to determine that they met together. This
2 photograph is just showing that the defect that's
3 visible to the exterior of the upholstery is also
4 relevant in the interior stuffing of the headrest, if
5 you will.

6 Q To your knowledge, is there another witness from
7 SLED who is going to explain or testify about the
8 trajectory of the bullets?

9 A No, there is not. There was no reconstruction
10 done on this vehicle, nor was it determined that those
11 were indeed made by a bullet penetrating through the
12 fabric. We have no field -- standardized field test to
13 test any defect to tell whether presumptively or not
14 they were made from a bullet.

15 Q And did you ever see the bullet holes or bullet
16 defects in the white SUV that was at the scene?

17 A Yes, I did.

18 Q And those bullets were fired from the direction of
19 where this vehicle was presumably?

20 A I have no idea. All I know is there were two
21 defects to the rear passenger door of that vehicle.

22 Q And do you know if -- was there any particular
23 reason why a reconstruction or something like that
24 wasn't done?

25 A To my knowledge, it was not requested.

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 Q Okay. So it would have to be requested?

2 A Yes.

3 Q Okay. And those are done frequently on cases?

4 A I would say that they're done when they are
5 requested to be done. We have different people in the
6 unit that are qualified to do a reconstruction. I am
7 not one of those individuals.

8 Q Did you find a fingerprint belonging to Marquis
9 McDonald on the driver's side of the vehicle?

10 A I identified a fingerprint belonging to McDonald
11 from the top center of the driver window on the
12 exterior side.

13 Q So you have a fingerprint from Marquis McDonald on
14 the driver's side window of the vehicle?

15 A Correct.

16 Q And I don't believe you testified to that earlier;
17 did you?

18 A It was not asked, no.

19 Q Okay. And you also collected swabs for what you
20 call touch DNA in the vehicle as well; right?

21 A Correct.

22 Q And are you aware of anybody that's -- was any DNA
23 discovered, or would I need to ask a different witness
24 about that?

25 A The labs -- the swabs were submitted to the DNA

TIFFANY HEZEL-CROSS BY MR. McCOLLUM

1 unit. I do not know the analyst that was assigned or
2 testing that was done on those swabs. Once they are
3 submitted to the lab and the evidence is transferred to
4 the different departments for additional analysis, we
5 no longer have any kind of contact with that evidence.

6 Q There's no question, though, you just testified
7 that Marquis McDonald's fingerprint was on the driver's
8 window?

9 A Yes, the front driver window.

10 Q Thank you.

11 MR. McCOLLUM: Your Honor, I think that may be all
12 I have.

13 THE COURT: Okay.

14 MR. McCOLLUM: Is that the last slide? Your
15 Honor, I don't have any more questions.

16 THE COURT: All right. Redirect?

17 MR. RICHARDSON: I believe that's enough for
18 today, Your Honor. No redirect.

19 THE COURT: Thank you. And you wish this witness
20 to be excused? You wish the witness to be excused?

21 MR. RICHARDSON: Yes, sir, Your Honor.

22 THE COURT: Any objection?

23 MR. McCOLLUM: None, Your Honor.

24 THE COURT: Thank you. You may step down, agent.
25 You are free to leave as well.

1 (Witness excused.)

2 THE COURT: All right. Ladies and gentlemen,
3 thank you very much, and I appreciate it. You put in a
4 good day's work. And I would remind you that, again,
5 you're not at liberty to discuss this case. Now that
6 you've heard testimony, it would be highly
7 inappropriate for you to discuss this case with anyone
8 outside of courtroom, amongst yourselves or with anyone
9 that might be at home.

10 Also, do not watch any news accounts, do not read
11 any newspaper articles. I will, again, ask you in the
12 morning when you return whether or not you've honored
13 that request. Have a good evening, and I ask you to be
14 back in your jury room, please, by 9:30 in the morning.
15 Thank you.

16 (WHEREUPON, the jury exited the courtroom at
17 5:25 p.m.)

18 THE COURT: Anything from the State before we
19 recess?

20 MR. RICHARDSON: No, sir, just a housekeeping
21 matter. Dr. Proctor said he can't be with us tomorrow.
22 I think we'll have enough witnesses to carry us through
23 the day and maybe have Dr. Proctor first thing Thursday
24 morning.

25 THE COURT: Yes, sir. Okay.

1 MR. RICHARDSON: I just -- I know the Court is
2 reluctant to have us wait.

3 THE COURT: Well, the problem with Dr. Proctor,
4 he's a pathologist, and I don't know what sort of
5 cross-examination, probably nothing. But given just
6 the flow of testimony, we were looking at having these
7 folks, some of them, I don't know all of their
8 distances, but they could be driving home after
9 6 o'clock. So I wasn't about to do that, so thank you.

10 MR. RICHARDSON: I was just informing the Court.

11 THE COURT: I understand that. He's under --
12 don't get me started -- he's under subpoena?

13 MR. RICHARDSON: Yes, sir.

14 THE COURT: Okay. I hope Dr. Proctor can
15 cooperate with us.

16 MR. RICHARDSON: Yes, sir, Your Honor.

17 THE COURT: Thank you, sir.

18 MR. RICHARDSON: Yes, sir, Your Honor.

19 THE COURT: Okay.

20 MR. RICHARDSON: Thank you, Your Honor.

21 THE COURT: Anything from the Defendant?

22 MR. McCOLLUM: No, Your Honor.

23 THE COURT: All right. Let's approach, please.

24 (Discussion off the record.)

25 THE COURT: Thank you very much.

RAYMOND MacDONALD-DIRECT BY MR. RICHARDSON

1 the record reflect that each juror raised his or her
2 right hand in response to the Court's inquiry. Good
3 morning, solicitor.

4 MR. RICHARDSON: Good morning, Your Honor.

5 THE COURT: You may call your first witness.

6 MR. RICHARDSON: The State calls Raymond MacDonald
7 of T-Mobile.

8 RAYMOND MacDONALD, after being duly sworn,
9 testified as follows:

10 CLERK OF COURT: Please be seated. State your
11 full name and spell your last name for the Court,
12 please.

13 THE WITNESS: Raymond MacDonald,
14 M-A-C-D-O-N-A-L-D.

15 DIRECT EXAMINATION

16 BY MR. RICHARDSON:

17 Q Good morning, Mr. MacDonald.

18 A Good morning.

19 Q Could you please tell us where you're employed.

20 A I work for T-Mobile, the wireless phone company.

21 Q And what's your position there?

22 A I'm a senior manager with the group called the law
23 enforcement relation group. We are part of the legal
24 department.

25 Q And how long have you been with that department?

RAYMOND MacDonald-DIRECT BY MR. RICHARDSON

1 A I've been there about 13 and a half years now.

2 Q And T-Mobile, where is your office located?

3 A Our office is in Parsippany, New Jersey. Our
4 corporate headquarters is in Bellevue, Washington.

5 Q Okay. And could you tell us a little bit about
6 T-Mobile, what type of business they conduct.

7 A Well, T-Mobile is a wireless phone company. They
8 have cell phones, and that's about what they do.

9 Q Okay. I think we're all familiar with cell phones
10 in this day and time.

11 A Yes.

12 Q What type of records are kept by T-Mobile?

13 A T-Mobile keeps a multitude of records. They have
14 what we would refer to as billing records or call
15 detail records, that would be the activity of the
16 phone. They have -- they maintain subscriber records,
17 which is information on the subscriber of an account.
18 They also maintain certain network records, cell site
19 information records.

20 Q With regard to dates, times and locations of
21 phones when they are in use, what type of records do
22 you give them?

23 A Those would be on the -- we would refer to as call
24 detail records or the billing records. And that would
25 show all activity on the phone, incoming, outgoing

RAYMOND MacDONALD-DIRECT BY MR. RICHARDSON

1 calls, the date, the time of the activity. And
2 depending on the type of requests that we get, we would
3 also send information out on cell site information.

4 Q And once T-Mobile receives this, I assume, from a
5 subscriber, someone with a T-Mobile account?

6 A Yes.

7 Q What happens with those records once they are
8 received?

9 A Once the call goes through the network?

10 Q Yes, sir.

11 A Well, what happens with the records, when you
12 place a call and it goes through the network, on the
13 network there are billing gateways which capture the
14 billing calls. And at that time that those calls are
15 then sent, that information is sent to the billing
16 computers where they set the digital and electronic
17 format until which time the company needs to call upon
18 those records for whatever reason.

19 Q And those records, once they are received, how
20 long are they kept by T-Mobile?

21 A It depends. Subscriber information could be kept
22 for several years. Certain billing information would
23 be kept -- if it's a monthly account, it could be kept
24 again for several years. If it's a prepaid account, an
25 account that's not billed but it's paid for up front,

RAYMOND MacDonald-DIRECT BY MR. RICHARDSON

1 those records are maintained only for two years. And
2 at this point right now cell site information is
3 maintained about 180 days.

4 Q Okay. And you said cell site location. With
5 regard to your records, how are cell site locations
6 reflected?

7 A They are -- they sit in a server which draws the
8 information from the switch. And those records are
9 kept, again, in a digital format in that server until
10 which time they are called upon. And the application
11 that we go into looks like a spreadsheet, a large
12 spreadsheet.

13 Q Okay. And once these records are stored by
14 T-Mobile, what if anything can be done to retrieve
15 those records?

16 A Well, once the records are sitting in the
17 computers, once we get a request for the records, we
18 will enter the phone number that's being requested into
19 the records. The first application we go into is the
20 subscriber application. We'll look for the subscriber
21 for that period of time. We'll draw up that
22 information. And then if billing records are being
23 requested, call detail records, we'll go into whichever
24 application would serve that type of record.

25 We would then draw that information directly out

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1 from the -- our system. And again, if it's a cell site
2 information, we would go into yet another application
3 and pull that information out. Billing records could
4 come from a couple different platforms, whether it's a
5 monthly billing record or whether it's a prepaid
6 billing record.

7 Q And you said that there was some information in
8 your records with regard to location of a phone, I
9 believe, whenever the calls are made or texts are made?

10 A Yes.

11 Q How are particular cell towers identified in the
12 records for T-Mobile?

13 A They are identified by a couple ways. They are
14 identified in the call records. There is a cell site
15 ID number. Usually it's a five-digit number, may not
16 always be. Once we look at the call and as you go
17 across the record, you'll have the date, time, you'll
18 have the call, the activity. And then you'll look at
19 the first cell site, the last cell site.

20 Also on there are an additional set of numbers
21 called LAC's, location area codes. And the location
22 area codes are set up by engineering so you can
23 identify the cell site -- the correct cell site ID
24 number. The cell site ID numbers will repeat
25 themselves throughout the country and a lot of times

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1 within a state. So the LAC's are assigned by switch or
2 market areas.

3 So in those areas the cell site ID numbers don't
4 repeat themselves. So when you match up the LAC and
5 the cell site ID number and you go into the
6 corresponding addresses for those cell sites, once you
7 match those two numbers up together, the address next
8 to those would be the location of that cell site.

9 Q What if any type of records do y'all record with
10 regard to latitude and longitude on cell towers?

11 A On the -- again, on the cell site ID records, as
12 you go along the different columns on the spreadsheet,
13 they also have latitude and longitudes. And the
14 latitude and longitude, if you map the latitude and
15 longitude, that would be the location of the cell site.

16 Q What if any type of information -- or with regard
17 to dates and time, I know we had four different time
18 zones here in the Continental United States, what times
19 are reflected on your cell phone records?

20 A It depends on the type of an account and the type
21 of records that are being pulled. A majority of the
22 records will be in what we call market time, that's the
23 time where the phone is. Post paid records or monthly
24 records are typically on market time. The cell site
25 records are on market time, and prepaid records are on

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1 Pacific time, and text messaging will be on Pacific
2 time.

3 What you have to look for in the records in the
4 cell sites also are the switches that the -- that carry
5 the activity because the company started doing switch
6 pulling. And what happens is the network starts
7 looking across the entire network to see what switches
8 can best handle the call.

9 And it used to be if you were in, say, South
10 Carolina where the switches for South Carolina would
11 handle the call, with switch pulling, those calls could
12 be handled by switches in other areas. So you'd have
13 to look at the switch also in order to see what time
14 zone that call would be in.

15 Q And all this information exists in the records you
16 all keep?

17 A Yes.

18 Q Now, upon request from law enforcement, you said
19 you were with the law enforcement response team?

20 A Yes.

21 Q Upon request for records from law enforcement,
22 what information did you provide to law enforcement?

23 A I'm sorry?

24 Q What types of information are provided to law
25 enforcement, and how does that occur?

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1 A Well, it depends on the request. We may get a
2 request for subscriber information only. And if that's
3 what we get, that's the information we'd send out. We
4 might get a request from law enforcement, or it could
5 be from individuals of the Courts or whoever is sending
6 subpoenas in for subscriber information and call detail
7 records for a period of time.

8 We would then go into our systems, pull that
9 subscriber information out, the call detail records,
10 for the period of time of the request. And if we
11 had -- we also get requests for other activities such
12 as cell site information. And we would then go in and
13 pull that cell site information out also.

14 Q And back in March of 2013, was T-Mobile contacted
15 by the State Law Enforcement Division with regard to
16 this case?

17 A Yes.

18 Q And what if any requests were made with regard to
19 the cell phone number (843) 331-9585?

20 A I believe, going from memory, I believe it was for
21 subscriber information, call detail records, and I
22 believe cell site information also.

23 Q Okay. And all these records are kept in the
24 ordinary course of business?

25 A Yes.

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1 MR. RICHARDSON: Your Honor?

2 THE COURT: Yes, sir.

3 MR. RICHARDSON: One moment. I'm getting ahead of
4 myself.

5 Q If I could have you take a look at State's No. 25
6 and 26 and tell me if you recognize those, to begin
7 with.

8 A Yes, I do.

9 Q And what do you recognize State's-25 and 26 to be?

10 A Well, on 25, these are, again, call detail
11 records. And these are -- would be for a prepaid
12 phone.

13 Q Okay. And what phone number?

14 A And the phone number is (843) 331-9585.

15 Q Okay. And State's-26, I believe.

16 A And 26, these are call detail records for cell
17 site information for 1 (843) 331-9585.

18 Q Okay. And are these records that are normally
19 kept in the course of business for T-Mobile?

20 A Yes.

21 Q And are these the records that were provided to
22 the State Law Enforcement Division back in, I believe,
23 March 2013?

24 A Yes.

25 MR. RICHARDSON: Your Honor, at this time the

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1 State would seek to introduce 25 and 26 into evidence.

2 THE COURT: Any objection?

3 MR. McCOLLUM: No, Your Honor.

4 THE COURT: Without objection, State's-25 and 26
5 are admitted.

6 (WHEREUPON, State's Exhibit No. 25 and 26 were
7 admitted in evidence.)

8 Q Okay. And I'm going to ask you a few questions,
9 if I may, Mr. MacDonald, about those records. I just
10 want us all to understand. As we look at State's --
11 let's look at State's-25 first. What type of
12 information are we seeing here? And you can just stay
13 on the first page.

14 A Well, what we have is, on the top says, subscriber
15 detail, which it's call detail records, billing
16 records. You have sub ID and on the column on the far
17 left, and that is the account number for this
18 particular phone number. And then under the column it
19 has MISDN, M-I-S-D-N, and that's pretty much just a
20 fancy word for phone number. So you would have the
21 phone number, in this case (843) 331-9585.

22 And then date of call, and then in parenthesis it
23 says, PDT, which is Pacific Daylight Time. And you
24 have the date of the call and the time of the call,
25 called number, that is the number that's either being

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1 called to or called from the subscriber phone.

2 Call direction, if you see a terminating, that
3 means it's an incoming call, that means it terminated
4 at the subscriber's handset. And outgoing call means
5 it's a call, an outgoing call, from the subscriber's
6 handset to another, another phone. You may see zeros
7 in there, that would be for data type usage, some type
8 of data usage. We can't say what, we just know it's
9 usage of data.

10 And then you have event description, whether it's
11 a voice call, a data use or an SMS which is short
12 message service which is a text message. Event
13 description, oh, we just did that one. Bill duration
14 in minutes, and you would see on the first one is two,
15 for two minutes. We bill out to the minute, so once
16 you go over a minute it becomes two minutes.

17 Q And let's look at State's-26 now. Once again, can
18 you explain what terms we're seeing, please. You need
19 me to move that binder clip.

20 A And it says, voice detail. This is another type
21 of call detail record. This is the one that has the
22 cell site information. It's starting on the first
23 column on the left. Again, you have MISDN which is the
24 phone number, and the number here is 1 (843) 331-9585.

25 And then under direction, if you see a MTC, that's

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1 a mobile terminating call, that's an incoming call to
2 the subscribers handset. If you see MOC, it's a mobile
3 outgoing call. Seizure date and time, that's just a
4 date and time of the call. First cell ID is the cell
5 identification number, and that first cell is the cell
6 site that the call initiated on.

7 And then you would have your first tower latitude
8 and first tower longitude so digital latitude and
9 longitude for the tower. And then it says first net
10 type, that's a network type, and this is all 2G, two
11 generation type of network. It just tells you what
12 type of network it was.

13 And last cell ID, again, that's your cell
14 identification number for that cell site. And the last
15 cell ID is the cell site that the call was on when the
16 call terminated. And then, again, you have your last
17 network which looks like pretty much 2G type networks.

18 Q With regard to seizure date and time, what time is
19 being used there?

20 A That is the start of the call.

21 Q Is it Eastern, Mountain, Pacific, Central?

22 A Well, these would be, we would say, in market
23 time.

24 Q Okay. So that's local time, wherever the phone is
25 located?

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1 A Local time, yes.

2 Q Do you recall what the date range that was
3 requested by State Law Enforcement Division was with
4 regard to these records?

5 A Not off the top of my head, no.

6 Q If I showed you the Exhibit one more time, could
7 you tell anything from that?

8 A Yes. I can tell you the date range of those
9 records, yes.

10 Q Okay. And I apologize, I should have done that
11 while you had the records.

12 A On the first set of records, on State's-25, it
13 starts on 2/1/2013, and it goes till 3/4/2013.

14 Q So from February 1st through March 4th, 2013?

15 A Yes, March 4th. And the next set of records on
16 State's Exhibit 26, these go from 2/1/2013 to -- it
17 broke apart -- 3/5/2013.

18 Q Okay. So that's...

19 (Discussion off the record.)

20 Q Okay. And what you're explaining to me right now,
21 could you just explain it, because the jury will have
22 this.

23 A Oh, okay. When you try to print these records out
24 on paper, the columns, there are so many columns if
25 they don't get redacted, that not all the information

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1 gets printed out on one page. So the reason it was
2 taking me a few minutes to find the end date is as I
3 was going through it, on the first page it's only part
4 of the record. And then when you go through all the
5 records and then you get into another set of pages, it
6 has different information that's a continuation of page
7 one. So you would have to kind of match up all those
8 pages all the way through, so.

9 Q Okay. Just want to make sure we weren't confused
10 on that. And these are the records provided, once
11 again, to State Law Enforcement Division back in 2013?

12 A Yes.

13 MR. RICHARDSON: Thank you, Mr. MacDonald. If
14 you'll answer any questions Mr. McCollum may have.

15 MR. MCCOLLUM: I don't have any questions.

16 THE COURT: Thank you, sir. You may step down.
17 Do you wish the witness to be excused?

18 MR. RICHARDSON: Yes, sir, Your Honor.

19 THE COURT: Any objection, Mr. McCollum?

20 MR. MCCOLLUM: No, Your Honor.

21 THE COURT: You are also free to leave, sir.

22 Thank you.

23 THE WITNESS: Thank you.

24 (Witness excused.)

25 MR. RICHARDSON: The State would call

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1 MR. HYMAN: The State's next witness is going to
2 be Randall Truss.

3 RANDALL TRUSS, after being duly sworn, testified
4 as follows:

5 CLERK OF COURT: Please be seated. State your
6 full name, spell your last name for the Court.

7 THE WITNESS: Randall Truss, T-R-U-S-S.

8 DIRECT EXAMINATION

9 BY MR. HYMAN:

10 Q Agent Truss, where are you currently employed?

11 A I'm employed with the South Carolina State Law
12 Enforcement Division, commonly known as SLED.

13 Q And how long have you worked for SLED?

14 A Just over six years.

15 Q What's your position there?

16 A I'm a special agent assigned to investigative
17 services.

18 Q Where were you employed prior to being employed
19 with SLED?

20 A The City of North Myrtle Beach.

21 Q So how long total have you worked in law
22 enforcement?

23 A I was with the city for 28 years, 22 of those in
24 law enforcement.

25 Q Okay. What -- explain to the jury what your

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1 primary duties are as a special agent with SLED.

2 A Our primary duties are to provide investigative
3 services to agencies within our region. I'm assigned
4 to an area called the Pee-Dee Region which is comprised
5 of about 14 counties.

6 Q Did you have the opportunity to become involved in
7 the investigation of this case?

8 A Yes, I did.

9 Q Explain how you became so involved.

10 A I received a call from my captain Kid McKenzie of
11 the Pee-Dee Region, and he requested that I respond to
12 Coastal Carolina University. They had an incident that
13 they were requesting SLED assistance on.

14 Q And what was supposed to be your role or
15 assignment in this case?

16 A My assignment was to go there; and Agent James
17 Johnson and I were going to be the two agents that were
18 assigned to assist them with the investigation.

19 Q And did you have an occasion to respond out to the
20 crime scene that night?

21 A Yes, I did.

22 Q And approximately, if you remember, what time did
23 you arrive?

24 A I believe sometime -- I think I received a call
25 sometime between 7:30, 7:45. I got there probably

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1 around 8:15. I'm probably 30 to 45 minutes away from
2 that area.

3 Q And explain for us, I think Coastal has their own
4 police department, explain for us why SLED became
5 involved in this investigation.

6 A SLED became involved in it because under state
7 statute we have the obligation to investigate any death
8 on a university institution of higher learning. It's
9 under the -- I believe it's called the Jessica Horton
10 Act, so in the event that there was a death that we had
11 to become the lead agency.

12 Q Thank you. And when you arrived on-scene that
13 night, University Place Apartments, tell the jury who
14 and what you encountered.

15 A Well, there was a lot of people around. I think
16 the news media was already there, because our response
17 is not always immediate when the incident occurs. So
18 once I arrived there, there was, like I said, numerous
19 people. So I looked for Chief David Roper, who was on
20 the scene to get briefed on the situation as to what
21 had occurred.

22 Q And describe the crime scene for us as you
23 observed it when you arrived.

24 A Well, the crime scene was taped off. The Coastal
25 Carolina University police had already cordoned off the

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1 area, and there was nobody inside that area other than
2 law enforcement. And there was a person doing a, what
3 you call a crime scene log, denote anybody who comes in
4 and out of that area and the times they come in.

5 Q About how long were you out there that night?

6 A I was out there until crime scene left, probably
7 2:30, maybe 3 o'clock in the morning.

8 Q Just summarize for us what all you did that night
9 during this investigation.

10 A Once we were briefed on the situation what
11 occurred, we met with Rodney Thomas and his deputy
12 chief, and we met with Rodney Sessions and pretty much
13 found out what they had done thus far. And then James
14 Johnson and I got together and determined what plan of
15 action and what course of action we were going to take
16 at that time.

17 I had to make sure that crime scene was on the
18 way, and they were. And we were just basically trying
19 to start our investigation until crime scene got there.

20 Q Was Anthony still on-scene when you got there?

21 A No, he wasn't.

22 Q And where was he at?

23 A I was informed that he was taken to Grand Strand
24 general hospital.

25 Q Did you or Agent Johnson start interviewing

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1 witnesses that night?

2 A We interviewed one witness that night, Amanda
3 McTaggart, I believe.

4 Q Okay. Did you interview anybody else?

5 A Not on that particular night. Because by the time
6 we finished up with her interview, crime scene arrived,
7 that was somewhere around, I believe, 10 o'clock. And
8 we met with them and discussed what was going to be
9 done about -- you know, what we were asking them to do.

10 Q Okay. I'm handing you what's already in evidence
11 as State's Exhibit No. 12. If you don't mind, just
12 take a look at that, and tell me if you recognize that
13 item.

14 A This is a cell phone that was recovered by crime
15 scene.

16 Q Could you tell us anything about that recovery.

17 A It was recovered next to the white Hyundai that
18 was at the crime scene. It was photographed, as
19 previously stated, on the ground in front of that white
20 Hyundai.

21 Q And was anything else, were any other items of
22 evidence located around it?

23 A I believe there was a shell casing and there was
24 -- I can't recall, but there was one other item that
25 was found.

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1 Q Okay. What if anything did that indicate to you?

2 A In regards to the cell phone? That it was -- I
3 don't think it was purposely put there, I think it was
4 dropped by someone who was in that area.

5 Q Did you have occasion to come in custody of this
6 item?

7 A Yes, I did.

8 Q Who did you receive it from?

9 A I received it from Agent James Johnson.

10 Q And when was that?

11 A That same night. It was actually about 2:30 in
12 the morning.

13 Q What was the purpose in giving it to you?

14 A I was going to -- James and I discussed who was
15 going to be the lead agent. And I was going to assume
16 responsibility, so he chained it over to me.

17 Q When he gave it to you, whose phone did you
18 believe -- who did you believe owned that phone?

19 A I believed it to be the phone of Anthony Liddell.

20 Q Okay. And why did you think that was Anthony's
21 phone?

22 A Because it was in the location where he was
23 supposedly shot right next to the white Hyundai.

24 Q And when you got it from Agent Johnson, did you do
25 anything to tamper with the phone?

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1 A Well, we looked at the phone to see if, you
2 know -- usually you look at the last number dialed to
3 see who they may have called. And the number that came
4 up, we hit the last number dialed to see if it -- if he
5 was actually, in fact, talking to a possible suspect to
6 see who would answer the phone. And we got no answer.

7 Q Do you remember who the last number dialed
8 happened to be?

9 A I remember -- I can't remember specifically the
10 number, but the name that was associated with it was
11 Costal Boy Bud. I know it was a 843 area code, I think
12 an 862 prefix.

13 Q After you received the phone, did there come a
14 time when you relinquished custody of it to someone
15 else?

16 A Yes, it was.

17 Q And who did you give it to you?

18 A I gave it to Agent Will Lynch of the Fifteenth
19 Judicial Drug Enforcement Unit.

20 Q When did you turn it over to him?

21 A It was the following morning, sometime probably
22 around 10 a.m.

23 Q What was the purpose in you giving the cell phone
24 to Agent Will Lynch?

25 A The Horry -- the drug enforcement unit has a

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1 capability to download information off the phone. It's
2 called Cellebrite technology. I'm not exactly familiar
3 with all the specifics of it. But we were trying to
4 capture any information on that phone that may lead us
5 to a possible suspect.

6 Q And who does Agent Lynch work for?

7 A Agent Lynch works for the City of North Myrtle
8 Beach. He's assigned to the Fifteenth Judicial Circuit
9 Drug Enforcement Unit.

10 Q Prior to giving the phone to him, how was it
11 stored?

12 A It was stored in the trunk of my vehicle.

13 Q Is that a secure location?

14 A It's secure as far as SLED's policy that, you
15 know, we can't obviously drive everything to Columbia
16 right away and then go back and retrieve it. And I
17 knew the next morning we were going to attempt to get
18 information out of this phone. So it was not feasible
19 to even drive it to Florence and back.

20 Q So the next morning, February 27th, you gave it to
21 Agent Lynch?

22 A Yes, I did.

23 Q And, again, do you remember what time that was?

24 A I believe it may have been somewhere around 10
25 a.m. because it was -- obviously we were interested to

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1 see what was in the phone.

2 Q And you took it over to DU office. Which office
3 did you take it to; the one in Myrtle Beach or Conway?

4 A No. Their office is in Conway on Main Street.

5 Q And does SLED have the capabilities of doing
6 Cellebrite technology --

7 A They do.

8 Q -- downloads? They do. Why not take it to SLED
9 up in Columbia?

10 A There again, the distance of travel and trying to
11 get this -- obviously, they would put it a priority,
12 but there again, it takes three hours to get from here
13 to Columbia.

14 Q Explain for us what you did, what steps you took
15 in this investigation after leaving that phone with
16 Agent Lynch.

17 A Well, those of us that were involved in it, we
18 went back to Coastal Carolina University's department
19 of public safety where we had set up office. And we're
20 basically trying to go through the data and information
21 we had to develop a suspect.

22 Q Now, after you left that phone with Agent Lynch,
23 did there come a time when he provided you with any
24 type of information?

25 A He contacted me and told me that the battery in

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1 the phone was down, and he wasn't able to do any
2 Cellebrite technology, but when it would come up, he
3 would let me know. Shortly after he called and said
4 that the only thing he could get on the phone right now
5 is the front screen to show up where it shows the
6 recent numbers dialed.

7 And he was able to, I guess, scroll through that
8 and make screen shots with his phone of that phone, of
9 this phone, and e-mailed those to us where we were at.

10 Q So you received screen shots from him?

11 A Yes, I did.

12 Q And approximately when was that?

13 A It was probably around 11, 11:30.

14 Q And do you recall what the contents of the screen
15 shots were?

16 A Well, the contents aren't that -- I said it was
17 just the face of your phone when you pull it up and you
18 have recent numbers dialed. If someone has put the
19 name in there associated with the phone number, that's
20 on there. And I think there's like maybe, each one was
21 individualized, you know, he could go through the
22 recent numbers dialed and have a name associated with
23 the number in a phone.

24 Q Describe how you and other law enforcement agents
25 were able to figure out that this phone did not belong

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1 to Anthony Liddell, Jr.

2 A Once the -- Will Lynch notified me, once the phone
3 was up and he was able to get power back to it and
4 start scrolling through it, he found pictures in the
5 phone that were, I guess you'd call them selfies,
6 people taking pictures of themselves. And he indicated
7 that these pictures in the phone appeared to be someone
8 he was familiar with.

9 Q Did he -- who did -- did you have a suspect at
10 that time?

11 A No, we didn't. Agent Lynch said that the person
12 in this phone who's taken the selfies looks like
13 someone who was their confidential informant. And he
14 gave us the name of the confidential informant.

15 Q So once law enforcement figured out that this
16 phone did not belong to Anthony Liddell, Jr., what
17 steps were taken?

18 A I called -- once he told me that on the phone, I
19 told him to stop looking into the phone, that there was
20 the appearance that it was not Anthony Liddell's phone.
21 So then I had requested we get a search warrant for the
22 phone to go further into it.

23 Q And was a search warrant obtained?

24 A Yes, it was.

25 Q Who got the search warrant?

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1 A Lieutenant Rodney Sessions of the Coastal Carolina
2 University Police.

3 Q Okay. So when was that?

4 A That was probably around as soon as Will Lynch
5 gave me the notification that it appeared not to be
6 Anthony Liddell's phone, maybe 12, 12:30. I don't know
7 how long it took the battery to charge up.

8 Q So that was on which date?

9 A It was on February 27th.

10 Q Okay. Around noon, somewhere in there?

11 A Somewhere that that area.

12 Q Do you know if Agent Lynch or anyone was able to
13 actually download any information from this phone using
14 the Cellebrite technology?

15 A Yes.

16 Q And did you ever receive a report of that
17 information?

18 A Yes, I did.

19 Q And would Agent Lynch be in a better position to
20 speak about the contents of that report?

21 A He would be more familiar with the layout of the
22 way the documents are printed out of Cellebrite.

23 Q Well, after you received that report, what if
24 anything did you do?

25 A At that time we called the Bennettsville Police

1 Department, because the number that we thought belonged
2 to the suspect, we asked, I believe it was a Lieutenant
3 Larry Turner, go to Ms. Gillespie's house, she's the
4 mother of Anthony Liddell, and find out whose number
5 that was which was the Coastal Boy Bud. And the person
6 who went there found out that that number belonged to
7 Anthony Liddell.

8 Q So --

9 A It just further confirmed that it was not Anthony
10 Liddell's phone, the number that was --

11 Q I understand. So was Ms. Gillespie able to assist
12 law enforcement in identifying the Coastal Boy Bud
13 number?

14 A She identified that phone number as her son's
15 phone number.

16 Q And after she did that, what were your actions?

17 A Well, our actions were to continue in the
18 investigation and to put Marquis McDonald as a suspect
19 in this case.

20 Q Was an arrest warrant ever obtained in this case?

21 A Yes, it was.

22 Q For who?

23 A For Marquis McDonald.

24 Q And when was that warrant taken out?

25 A It was taken out, I believe it was February 28th.

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1 Q And what was that warrant for?

2 A The warrant was for murder.

3 Q So that warrant was taken out on the 28th. And
4 what did you do after getting the warrant?

5 A Well, at that time we -- we had the assistance --
6 we had the assistance of the US Marshal Service, and we
7 began looking for Marquis McDonald.

8 Q Describe that process for us.

9 A Well, we found any document that may have an
10 address associated with his name, mainly on the
11 confidential informant packet that was held by the DEU
12 through the DMV, South Carolina Department of Motor
13 Vehicles. Any -- any document that was made available
14 to law enforcement that had an address associated with
15 his name, we went to those addresses looking for
16 Marquis McDonald.

17 Q Do you remember -- do you recall some of the
18 places, some addresses you may have gone?

19 A One of them, I believe, on his DL was 140
20 Crestwood in Conway, there was 4265 Willard Street.
21 There was an address associated with his Uncle Doug on
22 Temple Street in Conway. I don't know the specific
23 numbers or...

24 Q Were you able to locate him on the 28th?

25 A No, we weren't.

RANDALL TRUSS-DIRECT BY MR. HYMAN

1 Q And then, now, so that would have been on
2 Thursday, I believe?

3 A Yes.

4 Q The following day, March 1st, what if anything of
5 significance pertaining to this case occurred?

6 A Well, we had produced a news release, you know,
7 indicating that we needed to -- we were looking for
8 him. And on the day before I had spoke with his Uncle
9 Doug Clark, and I gave him a business card and my cell
10 number and said if he finds Marquis to give us a call,
11 we need to talk with him. And that's all we said.

12 He showed up at another address we were looking
13 at. But during that day sometime around three, 3:30,
14 he called and said that Marquis McDonald wanted to turn
15 himself in, he was going to bring him to us.

16 Q Do you recall approximately what time it was?

17 A I know it was in the afternoon of -- I know that
18 because we were interviewing someone else at the time
19 on that statement. It was somewhere around 3:30 when
20 he actually showed up. We were all at the Conway annex
21 or police substation over on 378. And that's where I
22 instructed Doug Clark to bring Marquis.

23 Q Now, what all factors did you take into
24 consideration when you took out that warrant?

25 A Well, the fact that the cell phone, the interviews

RANDALL TRUSS-DIRECT BY MR. HYMAN

1 that we had conducted with some of his friends, and
2 the -- I guess the information we received from the
3 crime scene.

4 Q What -- elaborate on that information, what
5 specifically?

6 A Well, the information was what was presented here
7 yesterday, which was the defects in the car which were
8 projectiles found inside the car, the cell phone, shell
9 casings.

10 Q Okay. So he actually turned himself in on March
11 the 1st?

12 A Yes.

13 Q During the course of your investigation, what if
14 any information did you provide to the SLED Fusion
15 Center?

16 A We had -- on some of the cell phones we had sent
17 out subscriber information. We requested certain phone
18 numbers that if they could give us subscriber
19 information. They run it through a system called
20 Clear. There again, I'm not specifically knowledgeable
21 of what Clear means other than it's a database that
22 they can pull historical data off of.

23 Q Do you remember which phones, which records you
24 sent to him?

25 A We'd sent -- not specifically because there were

RANDALL TRUSS-DIRECT BY MR. HYMAN

1 so many phone numbers in there, that any phone number
2 we had we sent those phone numbers in to them to find
3 out subscriber information to try and piece together
4 who was associated with who at the time.

5 Q Okay. Did you send records pertaining to the 331
6 number to the Fusion Center?

7 A 331-9585?

8 Q Yes, sir, I believe so.

9 A Yes.

10 Q And what was the purpose in doing that?

11 A To find out who was the owner of that phone number
12 or who that phone number was associated with.

13 Q Were they able to determine that?

14 A Yes, they were.

15 Q Who did they determine that --

16 A They come back and the historical data had
17 belonged to a Stephon McLain.

18 Q What about the 283 number, 5423, do you recall if
19 you sent that one?

20 A I'm not exactly sure if we sent that one. I don't
21 think it came back because that was a prepaid phone.

22 Q Okay.

23 MR. HYMAN: That's all the questions I have for
24 you at this time. Please answer anything defense has.

25 MR. McCOLLUM: May it please the Court?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. McCOLLUM:

4 Q So Agent Truss, you were with North Myrtle Beach
5 for 28 years?

6 A Yeah. I've worked in the fire service for about
7 six years.

8 Q And how long have you been a SLED agent?

9 A About six.

10 Q Wow. Time flies, huh?

11 A It does.

12 Q Stephon McLain, was he a suspect prior to Marquis
13 turning himself in?

14 A No, he was not.

15 Q And Stephon McLain is also charged with the
16 offense of murder; right?

17 A Yes, he is.

18 Q And the victim in that murder charge is the same
19 person we're talking about here today is Mr. Anthony
20 Liddell; right?

21 A Yes, it is.

22 Q Okay. So he also clearly is charged with this
23 offense; correct?

24 A Yes, he is.

25 Q And after Marquis McDonald turned himself in, he

RANDALL TRUSS-CROSS BY MR. McCOLLUM

1 told either you or other law enforcement officers that
2 Stephon McLain had shot Mr. Liddell; right?

3 A No, he never gave the name Stephon McLain. He
4 referred to the person as Black.

5 Q Okay. So he said Black?

6 A Black is what --

7 Q And Black is also O'Blake; right, or O'Black?

8 A It could be. In his phone -- it is O'Blake in his
9 phone associated with the number that belongs to
10 Stephon McLain.

11 Q And you determined that Black was in fact McLain;
12 right?

13 A In, yes, through the investigation.

14 Q And McLain was located in the State of Ohio;
15 right?

16 A Yes.

17 Q And then he was arrested by Ohio authorities and
18 brought back here?

19 A He was arrested by authority -- Ohio authorities,
20 and myself and Agent Johnson went to Ohio and retrieved
21 him.

22 MR. McCOLLUM: And Defense for identification.

23 THE COURT: All right.

24 (WHEREUPON, Defendant's Exhibit No. 3 was marked
25 for identification only.)

1 Q And a warrant was issued for McLain, that looks
2 like, March 5th?

3 A March the 5th, yes.

4 Q Okay. So just a few days after Marquis McDonald
5 turned himself in and gave a statement?

6 A Yes.

7 Q And then the warrant was served on -- the warrant
8 for murder was served on McLain, I think, March 8th,
9 some three days later?

10 A Yes.

11 Q - And you, yourself participated in going to Ohio
12 and getting him and bringing him back here?

13 A Yes.

14 Q Okay. Now, do you know when either your agency or
15 another police department got possession or took
16 possession of the Acura?

17 A It was on March the 1st.

18 Q And that was the same day that Marquis turned
19 himself in?

20 A Yes.

21 Q Did him turning himself in, is that what led to
22 the location and collection of the car?

23 A Yes. He told us which car he was in.

24 Q All right.

25 A And the location of it.

1 Q And so that's when your law enforcement was able
2 to go get the car?

3 A Yes.

4 Q Okay. And at the time of the shooting, Stephon
5 McLain or Black or O'Blake, was in the passenger seat
6 of the Acura; right?

7 A From what Marquis McDonald said, yes, that he was
8 in the front passenger seat.

9 Q And the shots fired at Anthony Liddell were coming
10 from the direction of the passenger seat; right?

11 A I can't tell where they were coming from.

12 Q Okay. You know a lot of places they weren't
13 coming from; right?

14 A Yes.

15 Q Like, for example, they weren't coming from the
16 balcony of Grand Strand E; right?

17 A You could say they were coming from the left side
18 of the vehicle.

19 Q The left side of the vehicle or the right side?

20 A Well, as far as, if you want to look at the rear
21 of a vehicle, the left side. I mean, I'm not qualified
22 to say that in any direction, but you're right, they
23 are not coming from the balcony, they are coming within
24 close proximity of the vehicles where they were at.

25 Q And so in fairness to you, you said you can't say

1 where they were coming from?

2 A Right.

3 Q But clearly, I mean, they weren't coming from the
4 woods; right?

5 A My understanding, no.

6 Q They weren't coming from above; right?

7 A Yeah, I guess you could say that, I mean.

8 Q And, I mean, they weren't coming from the other
9 side of the SUV; right?

10 A No.

11 Q Now, and science is used in law enforcement
12 techniques; right, correct?

13 A Yes.

14 Q But at the same time; if you and I never had a
15 course and we went out to a barn or a trash can or
16 something and we saw three or four bullet holes in say
17 a trash can, I mean, we would have enough knowledge and
18 ability to kind of tell where they came from; wouldn't
19 we?

20 A Reasonable, yes, I would say.

21 Q I mean, we wouldn't go out there and look at the
22 trash can and just become completely ignorant or
23 stupid, for lack of a better term, to know that the
24 direction of travel of bullets; would we?

25 A No.

1 Q Right?

2 A No, I don't think you would.

3 Q And it's important in law enforcement to be
4 accurate; correct?

5 A Yes, it is.

6 Q And it's important when you come to court and
7 testify under oath doing your job to make sure that
8 you're not adding to or embellishing facts; right?

9 A Yes.

10 Q And at the same time, though, if you see, you
11 know, bullet holes in metal or in a door or something,
12 that you know they came from the other side; right?

13 A Well, you know they came from the opposite side of
14 where they struck. Now, as far as where they came
15 from, were they in the vehicle, outside the vehicle,
16 I'm not qualified to say.

17 Q I understand, I respect that? You've not --
18 you've not been trained in the ballistics of bullet
19 travel?

20 A No. I'm not an expert in forensics, no.

21 Q And you've investigated crimes or criminal
22 offenses for such, I think, 28 years?

23 A Yes.

24 Q And how many crimes, just crimes, not saying
25 shootings or violent crimes or murders, but how many

1 crimes do you think you've investigated?

2 A It would be hard to say, I mean, I don't -- I've
3 worked in a variety of positions, administrative
4 positions, in law enforcement. I don't know, I mean,
5 hundreds, maybe.

6 Q How many crime scenes do you think you've been to?

7 A There, again, I would have to say hundreds.

8 Q Hundreds?

9 A Yes.

10 Q All right. And when you say, and make sure that
11 we're clear, when I say investigated, you take that to
12 mean that you were the investigator?

13 A Not necessarily all the time, but yes.

14 Q Well, I'm just saying participated in, whether you
15 were a patrol officer.

16 A Yes, I would have to say hundreds.

17 Q Not thousands?

18 A North Myrtle Beach is not an active city as far as
19 violent crimes, so...

20 Q Okay. SLED's pretty active; aren't they?

21 A SLED is, yes.

22 Q Is very active; right? And -- yes?

23 A Yes, they are.

24 Q All right. Now, for your knowledge about this
25 case, and you've investigated this case; right?

1 A Yes.

2 Q And you've investigated this case thoroughly;
3 right?

4 A Yes.

5 Q And you've investigated this case drawing upon
6 your knowledge and experience; right?

7 A Yes.

8 Q And you've put a lot into this; right?

9 A Yes, I have.

10 Q All right. And you have given this, I mean, a
11 good faith, goodwill investigation; right?

12 A Yes, I have.

13 Q Because you're serious about what you do; right?

14 A Yes, I am.

15 Q Okay. Now, standing here in this courtroom, you
16 don't know who shot Anthony Liddell; do you?

17 A Who actually shot Anthony Liddell?

18 Q Yes, sir.

19 A I can't say definitively, no.

20 Q Thank you, thank you.

21 MR. McCOLLUM: That's all I have, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. HYMAN:

25 Q Agent Truss, based on your investigation, how many

1 shots were fired that night?

2 A It's my understanding there were three shots
3 fired.

4 Q Three shots were fired. Do you know how many
5 bullets were recovered?

6 A At that crime scene there were -- Coastal Carolina
7 University were two projectiles.

8 Q The two from the white Hyundai?

9 A Hyundai, yes.

10 Q And the vehicle was parked on the driver's side of
11 the Acura?

12 A Yes.

13 Q And then there was one more bullet recovered; do
14 you know where that was recovered?

15 A That was recovered out of the Acura.

16 Q Okay. Do you know how many shell casings were
17 recovered?

18 A There was one.

19 Q So we know three shots were fired, three bullets
20 are recovered, one casing. Do you remember how many
21 wounds were to Anthony's body, gunshot wounds?

22 A My understanding, there were three wounds.

23 Q Were any projectiles recovered from his body?

24 A No.

25 Q So they were all through and through wounds?

1 A Yes.

2 Q Based on your investigation and the crime scene,
3 do you know which side of the Acura all the evidence
4 was recovered from?

5 A It was recovered on the left side of the Acura.

6 Q Would that be the driver's side?

7 A Yes.

8 Q Okay. So that car was parked to the right of the
9 white Hyundai?

10 A Yes, my understanding.

11 Q Based on your investigation, do you know who was
12 driving that car?

13 A Marquis McDonald.

14 Q And how do you know that?

15 A Because he told us he was driving it.

16 Q And did he tell you that he went to the drug deal
17 alone that night?

18 A No, he didn't.

19 Q When you interviewed him --

20 A Oh, I'm sorry.

21 Q -- did he tell you anything about it?

22 A Yes, he did. He said he went to the drug deal
23 alone, that the person he described as Black came with
24 Anthony Liddell.

25 Q So he said Black came with Anthony?

- 1 A Yes.
- 2 Q And did he tell you, did he know Black's real
- 3 name?
- 4 A He did not indicate that night that we interviewed
- 5 him that he knew his name. He referred to him as
- 6 Black.
- 7 Q Just knew him as Black. But he said he came with
- 8 Anthony?
- 9 A Yes.
- 10 Q Based on your investigation, do you know of any
- 11 information to disprove that statement?
- 12 A Yes.
- 13 Q Tell the jury.
- 14 A During the course of the interview with Marquis
- 15 McDonald, we asked him if he had stopped anywhere on
- 16 the way to Coastal Carolina University. He indicated
- 17 that he had stopped at the Sunhouse in Cochran Town.
- 18 Agent Johnson had contacted the Sunhouse convenience
- 19 store and requested to see if they had any video during
- 20 a specific timeframe we were looking for. And they had
- 21 the video, and we went and retrieved it.
- 22 Q Did you view the contents of the video?
- 23 A Yes, I did.
- 24 Q What did you see?
- 25 A Well, on the video you could see Marquis McDonald

1 pull up in a car, and then you can see a second
2 individual get out of the passenger side of that car.
3 You could see both of those individuals walk into the
4 convenience store. Each of them, I believe, purchased
5 some item, I'm not really sure. And then both of them
6 leave that convenience store and get back into the same
7 vehicle.

8 Q And what time was the video taken?

9 A I believe it's somewhere around 6:30 something,
10 6:35. I'm not sure of the specific time, but it's on
11 February the 26th.

12 Q So the day of the shooting?

13 A Yes.

14 Q Would that -- would 6:34 have been prior to the
15 shooting?

16 A Prior to the shooting, yes.

17 Q Okay. The shooting occurred when?

18 A I believe it was sometime around, going by the
19 last phone call, 7:12, 7:15, somewhere in that area.

20 Q So he clearly said Black came with Anthony?

21 A Yes, he did.

22 Q And after the interview, what led you to the
23 convenience store to get that videotape?

24 A It was just the question we asked him if he had
25 made a stop anywhere, so we wanted to see if where he

1 claimed he stopped at. And they produced some type of
2 information as to a second person. We didn't know of a
3 second person until he told us in his interview.

4 Q And how did you know that this defendant was
5 driving that gray Acura?

6 A Because he told us he was.

7 Q And is he seen?

8 A He's seen getting into the driver's side of the
9 Acura leaving the convenience store.

10 Q Okay. And then where Amanda McTaggart testified
11 she saw the victim fighting with an individual?

12 A Yes.

13 Q Beside the white car?

14 A Beside the white car.

15 Q And what was recovered right there?

16 A The shell casing and the other item, I can't
17 remember, but there was a cell phone also recovered
18 there.

19 Q And the two bullet holes?

20 A And the two bullet holes.

21 Q So three shots fired, and we have three bullets?

22 A Yes.

23 Q And none with the headrest?

24 A Not to my understanding. I just have to go on
25 what crime scene found and testified to. They can't

1 definitively determine if that hole through the
2 headrest is made by a bullet, a screwdriver or some
3 other cylinder type object.

4 Q But in the precise location, is it fair to say
5 based on the eye witness statements and precise
6 location where she saw the victim fighting with the
7 killer, and she heard the gunshots, is that where the
8 evidence, the cell phone, the bullets and the casings
9 were recovered?

10 A Yes.

11 Q And was that on the driver's side of the gray
12 Acura?

13 A Yes, it was.

14 Q And I believe defense counsel asked you about an
15 arrest warrant that was obtained on Stephon McLain?

16 A Yes..

17 Q So you were able to identify McLain as being who?

18 A Stephon McLain?

19 Q Yes..

20 A I identified him as the second person in the
21 vehicle.

22 Q And I think you testified that you actually went
23 up to Ohio?

24 A Yes.

25 Q And I think y'all even had some flight trouble on

RANDALL TRUSS-RE CROSS BY MR. McCOLLUM

1 the way there, if I remember correctly?

2 A Yes.

3 Q So you drove him back?

4 A Um-hum.

5 Q Did he fight extradition?

6 A No, he didn't.

7 Q Did he tell you that he knew Black?

8 A That who knew Black?

9 Q This Defendant.

10 A Did Marquis McDonald tell us that he knew Black?

11 Q Did he appear, based on your conversation with

12 McDonald when you interviewed him, did he appear to

13 know Black?

14 A He indicated to us that he did not know him

15 whatsoever.

16 MR. HYMAN: Court's indulgence.

17 THE COURT: Certainly.

18 MR. HYMAN: That's all the State has at this time.

19 THE COURT: Recross?

20 MR. McCOLLUM: Thank you, Your Honor.

21 RE CROSS-EXAMINATION

22 BY MR. McCOLLUM:

23 Q In terms of Black or Stephon McLain, is it your --

24 I'm not going to ask that. Regardless of who arrived

25 with whom to the scene, that doesn't change where the

SHEILA GILLESPIE-DIRECT BY MR. HYMAN

1 bullets was coming from; right?

2 A No, it doesn't.

3 MR. McCOLLUM: Okay. Thank you, sir.

4 THE COURT: All right. You may step down.

5 (Witness excused.)

6 THE COURT: Call your next witness.

7 MR. HYMAN: Your Honor, we just ask to reserve the
8 right to recall him at a later time, if necessary.

9 THE COURT: There's a rule governing that. We'll
10 deal with that, if necessary. Thank you.

11 MR. HYMAN: The State calls Sheila Gillespie.

12 SHEILA GILLESPIE, after being duly sworn,
13 testified as follows:

14 CLERK OF COURT: Please be seated. State your
15 full name, and spell your last name for the Court,
16 please.

17 THE WITNESS: Sheila Gillespie, G-I-L-L-E-S-P-I-E.

18 DIRECT EXAMINATION

19 BY MR. HYMAN:

20 Q Good morning, Mrs. Gillespie.

21 A Good morning.

22 Q Tell the jury a little bit about yourself; where
23 are you from and what is your occupation?

24 A I'm from Bennettsville, South Carolina. I work
25 with Chesterfield County government. I'm a jail

SHEILA GILLESPIE-DIRECT BY MR. HYMAN

1 administrator at the Chesterfield County Detention
2 Center.

3 Q Okay. So you're the jail administrator. How long
4 have you worked there?

5 A Ten years, almost ten years.

6 Q What is your degree of kinship to Anthony Liddell,
7 Jr.?

8 A I'm his mother.

9 Q Okay. Tell us a little bit about Anthony just
10 briefly, where did he go to school growing up?

11 A Initially he was born in Raleigh, North Carolina,
12 and he attended school in Mississippi and
13 Bennettsville, South Carolina. He graduated from high
14 school in Bennettsville and came to Coastal Carolina.

15 Q Okay, so he moved to Coastal. And what was he
16 doing here at Coastal?

17 A He was working on a degree for sports medicine.

18 Q Do you know if Anthony had a job while he was here
19 at Coastal, where he worked?

20 A He did.

21 Q What was your relationship like with Anthony; were
22 you guys close or --

23 A We were very close.

24 Q Did you know most of his friends?

25 A I did. Or I do.

SHEILA GILLESPIE-DIRECT BY MR. HYMAN

1 Q Who do you know some of Anthony's best friends to
2 be?

3 A Cequan, Dashawn, Shaq, Gavin, O'Kealy, David,
4 Celesta, Mark. It's -- I know most of his friends, his
5 really close friends.

6 Q Okay. Cequan and Gavin, do they go to Coastal as
7 well?

8 A They do. And they -- and O'Kealy.

9 Q Okay. Who were Anthony's roommates his freshman
10 and sophomore year?

11 A His freshman year his roommates were Brice and
12 Chad. I don't know their last name.

13 Q Did you -- do you know this defendant, Marquis
14 McDonald?

15 A I don't.

16 Q Did you ever know him to hang around with Anthony?

17 A No, sir.

18 Q Have you ever heard his name mentioned prior to
19 this?

20 A No, sir.

21 Q What about Stephon McLain, did you know him?

22 A No, sir.

23 Q Do you know if he was one of Anthony's friends?

24 A No, sir.

25 Q And after this took place on February 26th, were

SHEILA GILLESPIE-DIRECT BY MR. HYMAN

1 you ever contacted by SLED regarding this
2 investigation?

3 A I was.

4 Q What did they contact you about?

5 A I think it was Mr. Johnson that I spoke with, he
6 called and asked me what was Anthony's telephone
7 number.

8 Q And what if anything were you able to provide
9 Mr. Johnson?

10 A I gave him the telephone number.

11 Q Did you describe for him what Anthony's cell phone
12 looked like?

13 A I did.

14 Q Tell us, describe for us what Anthony's phone
15 looked like.

16 A It was an Apple iPhone, but it was enclosed in a
17 commando case. It was black so you couldn't see the
18 actual color of the phone.

19 Q Did you give Agent Johnson Anthony's phone number?

20 A I did.

21 Q Do you recall to this day what Anthony's phone
22 number it was?

23 A I do.

24 Q Could you please tell us what his number was.

25 A It's area code (843) 862-1424.

SHEILA GILLESPIE-DIRECT BY MR. HYMAN

1 Q And is that the same telephone number that you
2 provided agents with SLED?

3 A It is.

4 Q To your knowledge, was Anthony's cell phone ever
5 recovered?

6 A I was told that it wasn't.

7 MR. HYMAN: Thank you, Ms. Gillespie. Please
8 answer any questions defense has for you.

9 THE WITNESS: Okay.

10 THE COURT: Any questions?

11 MR. McCOLLUM: Your Honor, I don't have any
12 questions for Ms. Gillespie.

13 THE COURT: You may step down, Ms. Gillespie.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 THE COURT: Call your next witness, please.

17 MR. RICHARDSON: Your Honor, the next witness will
18 be somewhat lengthy, and it pertains to the matters we
19 discussed prior.

20 THE COURT: Okay. Ladies and gentlemen, at this
21 point I'll let you take a break. Do not begin your
22 deliberations, don't discuss the case. This one may be
23 a little bit longer than normal. Thank you. Some
24 matters we need to take up.

25 (WHEREUPON, the jury exited the courtroom at

1 10:45 a.m.)

2 THE COURT: Anything from the State before we
3 recess?

4 MR. RICHARDSON: No, sir.

5 THE COURT: Anything from defendant?

6 MR. McCOLLUM: No, Your Honor.

7 THE COURT: Thank you. We'll be at ease, give you
8 a chance to look over.

9 MR. RICHARDSON: Thank you, Your Honor.

10 MR. McCOLLUM: Thank you, Your Honor.

11 (WHEREUPON, a brief recess was taken at
12 10:46 a.m.)

13 (WHEREUPON, State's Exhibit Nos. 29 and 30 were
14 marked for identification only.)

15 THE COURT: Thank you, please be seated. Have you
16 had a chance to review?

17 MR. McCOLLUM: Yes, Your Honor.

18 THE COURT: Okay, good.

19 MR. McCOLLUM: Yeah, I just have an issue with
20 those two sections.

21 MR. RICHARDSON: Your Honor, I'm going to hand you
22 up what's been marked for identification as State's No.
23 30. Mr. McCollum has indicated he does have issue with
24 two of the lines on here.

25 THE COURT: Okay. Which two?

1 MR. McCOLLUM: I have a number, Your Honor, I
2 think it's 125.

3 THE COURT: Okay.

4 MR. McCOLLUM: And it may be more than just that
5 one line, but that's where the area is.

6 THE COURT: What's the objection?

7 MR. McCOLLUM: May I look at it again.

8 MR. RICHARDSON: It's got that word, Your Honor, I
9 believe, is what he's objecting to.

10 THE COURT: What's the objection?

11 MR. McCOLLUM: That I'm not sure what that means,
12 but I've heard it used --

13 THE COURT: I'm not either.

14 MR. McCOLLUM: -- to refer to cocaine. I don't
15 know why. But work is frequently, that's what it
16 means. Can you hear me?

17 THE COURT: Well, I mean --

18 MR. McCOLLUM: That's my objection, at least I
19 think it --

20 THE COURT: Why is that necessary to say?

21 MR. RICHARDSON: Your Honor, it just shows
22 continued contact between O'Blake, shows him not just a
23 call or whatever, it just shows a connection.

24 THE COURT: Are there other contacts other than
25 this?

1 MR. RICHARDSON: Yes, sir, there are.

2 THE COURT: First of all, it's highlighted.
3 What's it highlighted for?

4 MR. RICHARDSON: So that Agent Lynch will be able
5 to call attention to those. I've got that highlighted
6 and I've got blue for the contacts between Mr. Liddell
7 and this cell phone.

8 THE COURT: Do you have any objection to the
9 highlighting?

10 MR. McCOLLUM: I don't think that I do, no, sir.

11 THE COURT: Okay, that's fine. All right, well,
12 we could redact that one, that's fine. What else?

13 MR. RICHARDSON: I'll redact it with pen, Your
14 Honor.

15 MR. McCOLLUM: The other number, judge, is the
16 part that begins at 321.

17 THE COURT: Okay. I'll sustain the objection to
18 that one.

19 MR. RICHARDSON: Your Honor, is that the one
20 referring to marijuana?

21 THE COURT: It's referring to no pills.

22 MR. RICHARDSON: Oh, the pills, yes, sir.

23 THE COURT: You can redact 321?

24 MR. McCOLLUM: Well, just those references right
25 there.

1 THE COURT: Well, why not just redact the whole
2 thing, there's no need to have it. Okay?

3 MR. McCOLLUM: And those are the only objections,
4 Your Honor.

5 MR. RICHARDSON: Just the language; correct, Your
6 Honor?

7 THE COURT: Just redact the entry, it's not
8 necessary, I mean --

9 MR. RICHARDSON: I'm saying the text language, I
10 can still show that there's contact between O'Blake
11 and --

12 THE COURT: Any objection to the contact?
13 Solicitor, you know, again, I have a -- you have
14 multiple -- I don't see how two removed when there are
15 a multitude of them damages the State at all. I think
16 the better thing is just rather than to have the text,
17 I think redact the whole thing. Thank you, sir.

18 MR. RICHARDSON: Yes, sir.

19 THE COURT: All right. We ready to go?

20 MR. RICHARDSON: Court's indulgence, Your Honor.

21 THE COURT: Sure.

22 MR. RICHARDSON: Just give me a moment to redact
23 them.

24 THE COURT: Okay.

25 MR. McCOLLUM: Travis, will you approach with me.

1 Just for future reference, Your Honor.

2 THE COURT: Sure.

3 (Discussion off the record.)

4 THE COURT: Thank you, sir. I appreciate that,
5 thank you, Mr. McCollum. It will be helpful.

6 MR. MCCOLLUM: Your Honor, I don't want to make
7 this more complicated than it should be, but it occurs
8 to me that with a redaction, we've redacted something
9 that was highlighted in yellow. And the things that
10 were highlighted in yellow --

11 THE COURT: I'm not going to -- I'm not going
12 to -- I will instruct the jury, if you wish me to, that
13 the redactions are not for their concern. That's by
14 agreement that they are redacted. They're not to infer
15 anything from them.

16 MR. MCCOLLUM: I understand.

17 THE COURT: Thank you, sir. All right?

18 MR. RICHARDSON: The State is ready to proceed.
19 And Your Honor, I apologize, we did have a short
20 witness that came in just as you broke. But I'll just
21 take her real quick, and then we'll --

22 THE COURT: You don't need to apologize.

23 MR. RICHARDSON: Yes, sir.

24 THE COURT: I feel like that you feel like I'm --

25 MR. RICHARDSON: That's fine.

1 THE COURT: That's fine, call whomever you need,
2 I'm fine with that.

3 MR. RICHARDSON: Yes, sir. I just instructed
4 Court I had a long witness.

5 THE COURT: That's not a problem.

6 MR. RICHARDSON: Yes, sir, Your Honor.

7 THE COURT: Okay. You may want to apologize to
8 the jury, but I'm not going to let you to do that now.
9 The Court is -- it's not a concern to the Court.

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: You can let the jury back in.

12 (WHEREUPON, the jury came into open court at
13 approximately 11:16 a.m.)

14 THE COURT: Thank you very much, ladies and
15 gentlemen. We are ready to continue. Solicitor, you
16 may call your next witness.

17 MR. RICHARDSON: Thank you, Your Honor. The State
18 would call Corporal Orlando from J. Reuben Long
19 Detention Center.

20 THE COURT: Okay.

21 ELIZABETH ORLANDO, after being duly sworn,
22 testified as follows:

23 CLERK OF COURT: Please be seated. State your
24 full name, and spell your last name for the Court,
25 please.

ELIZABETH ORLANDO-DIRECT BY MR. RICHARDSON

1 recollection with regard to what was transferred?

2 A It was all his clothing.

3 Q And by his, who are you talking about?

4 A Marquis McDaniel -- McDonald.

5 Q And how would it have been packaged when you
6 transferred it to her?

7 A In a brown paper bag.

8 Q Brown paper bag sealed?

9 A I probably would have rolled it up and stapled it
10 closed, yes.

11 MR. RICHARDSON: Okay. No further questions, Your
12 Honor.

13 THE COURT: Cross-examine?

14 MR. McCOLLUM: No, Your Honor.

15 THE COURT: Thank you, you may come down.

16 (Witness excused.)

17 THE COURT: Call your next witness, please.

18 MR. RICHARDSON: The State would call Agent Will
19 Lynch of the Fifteenth Circuit Drug Enforcement Unit.

20 WILL LYNCH, after being duly sworn, testified as
21 follows:

22 CLERK OF COURT: Please be seated. State your
23 full name, and spell your last name for the Court,
24 please.

25 THE WITNESS: Will Lynch, L-Y-N-C-H.

WILL LYNCH-DIRECT BY MR. RICHARDSON

DIRECT EXAMINATION

1
2 BY MR. RICHARDSON:

3 Q Agent Lynch, would you please tell us a little bit
4 about yourself, where you're currently employed, how
5 long and in what capacity.

6 A Yes. Currently I'm employed with the City of
7 North Myrtle Beach. I am also assigned to the
8 solicitor's 15th Circuit drug enforcement unit. I've
9 been employed with the city for approximately 20 years,
10 and I've been assigned to the solicitor's drug
11 enforcement unit for approximately eight years since
12 its inception in 2006.

13 Q And when you talk about the 15th Circuit drug
14 enforcement unit, what is the purpose of that unit?

15 A The purpose of that unit is to investigate drug
16 crimes within the county of Horry and Georgetown.

17 Q And in your investigations of drugs and narcotics
18 crimes?

19 A Yes.

20 Q Could you tell us what types of tools and
21 equipment you all use.

22 A Well, we have a wide variety of surveillance
23 equipment to help in the purchase of narcotics, things
24 like that. We also have a tool at our disposal called
25 a Cellebrite which does a forensic examination of a

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 cell phone, also some type of tablet device as well.

2 Q And you're saying that that is utilized for
3 extraction of information from cell phones and smart
4 devices?

5 A That's correct. It's primarily for cell phones,
6 but will do also tablets as well as GPS units.

7 Q And when we're talking about cell phone data
8 extraction, what are we talking about?

9 A Basically the information that is on your cell
10 phone, whether it was put on there through the
11 manufacturer of the cell phone or by the user itself.

12 Q Okay. And you mentioned the term Cellebrite.
13 What is Cellebrite again?

14 A It is a device, a forensic device, that allows the
15 user of that machine to connect a telephone and pull
16 the information off of that cell phone that is in the
17 cell phone itself.

18 Q And with regard to Cellebrite, are you trained in
19 the use of this Cellebrite equipment?

20 A I am.

21 Q And can you take us through your training, how
22 much training, how long, what type of training?

23 A I was certified in August of 2011 by a company
24 called Forward Discovery in the upstate Virginia. The
25 company actually takes you how to use the device itself

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 properly, how to connect the phones, which cables to
2 use to connect certain phones. And from that point on
3 it's a lot of just hands-on training actually doing,
4 you know, phones. And it's they continually update the
5 machine and do little seminars about the new updates
6 and things like that. So it's a continuing learning
7 process.

8 Q And were you given any kind of certification or
9 anything with regard to that?

10 A I was. I was given a certification to operate the
11 machine.

12 Q And if I understand your testimony, you had
13 continued training after your initial certification?

14 A That's correct.

15 Q Now, the Cellebrite equipment that's used for data
16 extraction, how exactly does the process occur?

17 A I'm given a phone through -- from someone. The
18 machine, you have to turn the machine on. The phone
19 typically has to be powered up. You will take the --
20 the cable that corresponds with the port on the cell
21 phone, and you will connect it from the machine to the
22 cell phone. The machine now at this point in time
23 today will actually recognize which phone it is and
24 will go ahead and tell you this is this type of phone.

25 Once the phone is recognized, then you decide

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 which type of extraction you would like to do from the
2 phone. And once you decide which extraction --

3 MR. McCOLLUM: Pardon me, Your Honor.

4 THE COURT: Yes, sir.

5 MR. McCOLLUM: If he wants to go ahead and show
6 him what he's going to introduce, we may be able to
7 move forward with that.

8 THE COURT: And he's going to explain -- when you
9 explain the records, we don't need to explain it twice.

10 MR. RICHARDSON: Yes, sir. I'm just trying to
11 make sure that we all understood how this process
12 works, Your Honor.

13 THE COURT: I don't know that there's a challenge
14 right now to that. Let's get on to what he's here to
15 testify about, and then we can move back if you think
16 it needs some enlightenment, that's fine, solicitor.
17 You can go forward.

18 MR. RICHARDSON: Yes, sir, Your Honor. If I may
19 just to get there.

20 THE COURT: Sure.

21 MR. RICHARDSON: Just need a bridge, Your Honor.

22 Q Now, when you get a phone, how many types of
23 phones can you download? Or rather I was trying to get
24 to, can you dump an iPhone?

25 A Yes.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q Okay. And whenever you dump an iPhone, what
2 happens with that, the cables and whatnot?

3 A You just basically connect the phone to the
4 Cellebrite and start the extraction process, and it
5 pulls the data off the phone. And then you take that
6 data, and then you turn it into a report that is -- can
7 be read by anyone.

8 Q And whenever you connect a phone with that cable,
9 are you able to input anything into that phone?

10 A No, you're not.

11 Q Now, during the course of the investigation of
12 this case into the murder of Anthony Liddell, Jr.,
13 armed robbery, did you receive any items of evidence or
14 anything, any types of requests?

15 A Yes. I received a request from the South Carolina
16 Law Enforcement Division to do an extraction of an
17 iPhone.

18 Q Okay. And when did that occur?

19 A I believe it was February 26th, 2013. Or 27th,
20 excuse me, it was February 27th, 2013.

21 Q February 27th, 2013?

22 A Yes.

23 Q Do you remember what agent you spoke with?

24 A Agent Randall Truss.

25 Q And prior to that, did you know Agent Truss?

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 A I did.

2 Q Y'all worked together?

3 A We did. We worked together at the City of North
4 Myrtle Beach.

5 Q Now, I'm going to show you what's been previously
6 marked and identified and actually entered into
7 evidence as State's No. 12, see if you recognize that
8 item.

9 A I do. This was the iPhone cell phone that was
10 given to me to do the examination on.

11 Q And do you remember what time of day you received
12 that cell phone?

13 A It was in the morning time.

14 Q Okay. When you first received that cell phone,
15 can you take us through your first steps, what you did
16 with that particular cell phone.

17 A The cell phone was in pretty bad shape. I don't
18 think there was any power to it. So initially I tried
19 to charge it up, put some power to it, just to see if I
20 could get it to turn on. It had also come to my
21 attention that it had gotten wet. So there were some
22 challenges initially. I was able to get the phone
23 powered up.

24 Q Okay.

25 A And because of this cracked screen, I was only

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 able to access just a few things on the telephone
2 itself.

3 Q What types of things did you access whenever you
4 first turned it on?

5 A I was able to access the call history of the
6 phone, some of the most recent phone calls that were
7 done from the phone.

8 Q Okay. And did you do anything to record those
9 phone calls?

10 A I did. I took a snapshot of the screen itself of
11 the incoming and outgoing calls. And then I e-mailed
12 them to Agent Truss.

13 Q Allow me to show you State's No. 27 and see if you
14 recognize this item.

15 A I do. These are the actual pictures of the cell
16 phone and the screen shots that I actually took of the
17 cell phone and e-mailed them to Agent Truss.

18 Q Okay. Are they fairly and accurately what you saw
19 that morning?

20 A Yes, they are.

21 Q The 27th?

22 A Yes.

23 Q And that was the first step you did?

24 A That was the first step, yes, that's correct.

25 MR. RICHARDSON: Your Honor, the State would seek

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 to introduce State's No. 27.

2 THE COURT: Any objection?

3 MR. McCOLLUM: No, Your Honor. This is just the
4 screen shots; right?

5 MR. RICHARDSON: Um-hum.

6 MR. McCOLLUM: No objection.

7 THE COURT: Without objection, State's-27 is
8 admitted.

9 (WHEREUPON, State's Exhibit No. 27 was admitted in
10 evidence.)

11 Q We'll come back to that shortly, Agent Lynch.

12 A Okay.

13 Q Now, at this point, did you have a search warrant
14 or anything?

15 A No.

16 Q And why not?

17 A It was my understanding that they believed it was
18 the victim of a shooting whose phone had been left at
19 the scene.

20 Q Okay. Did your -- in your mind did that ever
21 change?

22 A Not until we started looking into the phone, and I
23 started sending some screen shots to Agent Truss and...

24 Q What was your realization at that point?

25 A Well, the realization came that this was not going

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 to be the victim of the crime that took place, this was
2 actually possibly going to be a suspect.

3 Q And what led you to that realization?

4 A Some of the phone numbers in and out as well as
5 some pictures that we were able to get off of the phone
6 just by going into the photo section of the phone and
7 seeing some of the pictures that were in the photo
8 section of the cell phone.

9 Q And once you determined it was not the victim's
10 phone, what did you do?

11 A We just basically left the phone with power
12 connected to it so the battery would charge up and just
13 sat it down, didn't touch it anymore.

14 Q And what were you waiting on?

15 A Waiting on a search warrant.

16 Q Okay. Did there come a time when you did receive
17 a search warrant?

18 A Yes. Later that same day in the afternoon we did
19 receive a search warrant.

20 Q And upon your receipt of the search warrant, what
21 if anything did you do?

22 A Once I was given the search warrant, then I was
23 able to hook the phone up to the Cellebrite machine and
24 extracted the data off of the cell phone and then put
25 it into a report.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q And that's when you hooked it up with that one-way
2 cable again?

3 A That's correct, a read-only cable.

4 Q Do you know how long it took to establish this
5 report?

6 A It took approximately 20 minutes, I believe.

7 Q And whenever you pulled this information up,
8 whenever you did it, we call it a phone dump, data
9 extraction --

10 A Yes.

11 Q -- what types of information were you able to pull
12 from that phone?

13 A Able to pull the phone directory or the contacts
14 of the phone, recent SMS messages which were the simple
15 messages, text messages, any multimedia or MMS
16 messages, photos as well, incoming and outgoing phone
17 calls. And of course there was some information of
18 what kind of phone it was, you know, the ID for the
19 phone and things like that.

20 Q Anything with regard to the phone number attached
21 to that phone?

22 A There was.

23 Q So basically everything that's stored on that cell
24 phone?

25 A Every -- yes. What you see is what you get.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q Did you generate any types of reports with regard
2 to this phone dump?

3 A I did. I did an extraction report which is
4 basically the information that was on the phone. And
5 then I also did what they call a timeline report which
6 kind of puts what's been done on the phone into a
7 chronological order, so it helps you kind of see how
8 the person's been using that phone in chronological
9 order.

10 Q Allow me to show you what's been marked as State's
11 No. 29 for identification. See if you can identify
12 that, please.

13 A This would be the extraction report that I
14 generated from the extraction of the cell phone.

15 Q Okay. And what's the first page of that?

16 A The first page is just basically a summary of the
17 cell phone, what kind of phone it is, who manufactures
18 it, the cable that was used to do the download. Also
19 some different device information that's associated
20 with the cell phone itself.

21 Q And this is the extraction report that you were
22 able to get from the data extraction and prepare that
23 report on the 27th of February?

24 A That's correct.

25 MR. RICHARDSON: Your Honor, at this time the

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 State would seek to introduce State's No. 29.

2 THE COURT: Without objection?

3 MR. McCOLLUM: No objection. This is what we went
4 through, Your Honor.

5 THE COURT: And there are redactions on this?

6 MR. RICHARDSON: Not on this one, Your Honor.

7 THE COURT: Okay, all right.

8 MR. RICHARDSON: They are on the other report.

9 THE COURT: Very well. Then State's-29 is
10 admitted out objection.

11 (WHEREUPON, State's Exhibit No. 29 was admitted in
12 evidence.)

13 MR. McCOLLUM: That's just the contacts list;
14 right?

15 MR. RICHARDSON: This is just the front page and
16 then the directory.

17 MR. McCOLLUM: Right.

18 Q Agent Lynch, as you look through that, what's
19 contained in that particular report first?

20 A After the first page which identifies the phone,
21 and you have a contact list of the contacts that were
22 stored on the phone.

23 Q Okay. And so that's not a complete report, but
24 that shows the extraction time and the directory?

25 A That's correct.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q Okay. Let's go back to that front page, if we
2 could. On that front page, do you see an area marked,
3 extraction time?

4 A I do.

5 Q I made a copy to look at as I ask you the
6 question.

7 A Sure.

8 Q What do you mean on that report by extraction
9 time, or what is meant by that?

10 A Extraction time would be the time that the
11 extraction was started and the time that the extraction
12 was finished.

13 Q And in this particular case, what time did the
14 extraction start?

15 A On the 27th of February, 2013, approximately 18:23
16 is what it says on the report, which would be 6:23 p.m.

17 Q 6:23 p.m. And what does MSI -- I'm sorry, MSISDN
18 mean?

19 A It stands for Mobile Station International
20 Subscriber Directory Number which, as the gentleman
21 from T-Mobile described, is just a fancy name for the
22 phone number to the phone.

23 Q And in this particular case, what is the MSISDN
24 attached to this particular phone?

25 A The phone number attached to this particular phone

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 is area code (843) 283-5423.

2 Q And I believe there are a couple tabs on there.

3 A Yes, sir.

4 Q Can you flip to the first tab.

5 A Yes.

6 Q Is there, do you see any entries reflecting
7 Coastal or Costal Boy Bud?

8 A Yes, I do. Entry is labeled 27 on here, it does
9 say, Costal Boy Bud.

10 Q And what number is associated with that?

11 A 1-843, it looks like 862-1424.

12 Q Okay. And if you flip to the next tab, do you see
13 any entries associated with O'Blake?

14 A Yes. That would be entry 119. And the phone
15 number associated with that would be (843) 331-9585.

16 Q Okay. And are there a couple more entries right
17 above that one?

18 A Above O'Blake? Yes, there's one that says O-B,
19 and another one that says O -- it could be Blak,
20 B-L-A-K.

21 Q Now, was this the first time you analyzed a phone?

22 A Analyzed a phone?

23 Q Yeah, a cell phone.

24 A No.

25 Q In your experience, how many times have you done

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 these cell phone jobs?

2 A Several hundred times.

3 Q How many phone directories have you gone through?

4 A I typically don't go through the phone
5 directories, I -- you know, the phone is given to me by
6 law enforcement typically. I do the extraction
7 clinical report, and then give it back to them. If
8 they ask me to go through it, of course I'll go through
9 it, but I typically don't analyze the reports.

10 Q How common in your analysis or your phone dumps
11 is -- is the -- how common is the practice of code
12 naming or nicknaming directories?

13 A Oh, it's very common.

14 Q You see it everyday?

15 A Everyday.

16 Q And all of this information contained in that
17 directory, that's exactly what you pulled off the
18 phone?

19 A That's correct.

20 Q Any additions or deletions?

21 A None.

22 Q Allow me to show you the next document, State's
23 No. 30. If you'll take a look at State's No. 30, and
24 tell me if you recognize that document.

25 A I do recognize this document.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q And what do you recognize State's No. 30 as being?

2 A This would be the timeline report of the phone
3 which basically shows the activity of the phone in
4 chronological order.

5 Q Okay. And so you're saying that -- when you say
6 it shows the activity of the phone in chronological
7 order, can you break it down even a little bit further.

8 A Basically it goes, you know, minute by minute, day
9 by day of incoming and outgoing text messages, incoming
10 and outgoing phone calls, anything that was done on the
11 phone by the user in chronological order.

12 Q And on that document that you have, if you'll look
13 in that first column, the timestamp column, is there an
14 abbreviation, UTC plus zero?

15 A There is.

16 Q And what does UTC plus zero mean?

17 A UTC stands for universal time coordinated. It is
18 basically a universal time that's recognized through
19 the scientific community throughout the world. And for
20 us here, where we live or anywhere in the world, you
21 would either add or subtract hours, depending on where
22 you lived in the world, to get this UTC or universal
23 time coordinated.

24 Q Okay. And in February of 2013, and the
25 information that you're getting from Cellebrite that

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 comes out with the UTC time?

2 A At the time the extraction was done, yes, all the
3 times that were printed on reports were UTC's time.
4 You know, they've now updated it to which, you know,
5 zone you live in it will actually print out the time.
6 But at this time it was done UTC time.

7 Q Okay. And back in February 2013 how would UTC
8 time have been balanced against Eastern Coast Standard
9 Time?

10 A Back in February of 2013, to get the time that
11 would be on our clock or our watches, you would take
12 the UTC time and you would subtract five hours. And
13 then that would give you the time of day that we
14 normally see, like I said, on our clocks or our
15 watches.

16 Q Okay. So if on your report it says 6 p.m. UTC
17 plus zero, it would actually be 1 o'clock p.m.?

18 A That's correct.

19 Q Okay. Now, as we're going through this report,
20 again, this is the timeline of calls and text activity
21 on the phone?

22 A Yes, sir.

23 Q Now, there's some arrows, I believe, as you start
24 getting into the SMS texts and whatnot, arrows pointing
25 as you look at the document to the right or to the

WILL LYNCH-DIRECT BY MR. RICHARDSON

- 1 left?
- 2 A That's correct.
- 3 Q What do they signify?
- 4 A Whether it was a incoming text message or an
- 5 outgoing text message.
- 6 Q And an arrow back towards the message, back
- 7 towards the center of the page.
- 8 A Okay.
- 9 Q What does that mean?
- 10 A That would -- that would be a text message sent to
- 11 a person.
- 12 Q Okay, so a text message from this phone out to
- 13 another person?
- 14 A That's correct.
- 15 Q And likewise, if the arrow is pointing off the
- 16 page back to the left?
- 17 A Then it would be from that person to the phone.
- 18 Q Okay. I made some tabs and highlighted some
- 19 entries. If we could take a look at that, can you flip
- 20 to the first tab.
- 21 A Yes.
- 22 Q The first tab, what are you seeing there?
- 23 A I see numerous -- numerous text messages, incoming
- 24 and outgoing text messages.
- 25 Q Okay. And I'll draw your attention to I believe

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 it's down around 83, 84, 85; is that highlighted?

2 A 83, 84 and 85 are highlighted, yes.

3 Q And what information can you tell us about those
4 text messages?

5 A On January 25th, 2013 at approximately 3:19 p.m.,
6 there was a text message from the phone to O'Blake.
7 And then there's some -- there's a message that's
8 associated with that. Do you want me to read the
9 message?

10 Q Please.

11 A Yes. The message says, I'm eating at Johnnie's
12 spot right quick.

13 Q Okay. And when you said it was about 3:19, how
14 did you arrive at that time?

15 A Well, on the report it says 8:19 p.m. UTC. And
16 because of the time and where we're located, I
17 subtracted five hours and came up with 3:19.

18 Q Okay. So any time you're talking about time,
19 you're just going to go ahead and do the math?

20 A I'm going to do the math, yeah.

21 Q But the time would be as it says on here?

22 A Right.

23 Q All right. And the next text?

24 A The next text, line 84, again, from this phone to
25 O'Blake at approximately 5:19 p.m., just says, five

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 mins, M-I-N-S, or typically that would stand for five
2 minutes.

3 Q And the next text?

4 A And the next text there is a text message from
5 O'Blake to this phone at approximately 5:20 p.m., it
6 says, do I need to come outside now.

7 Q Okay. So basically just a conversation back and
8 forth between this phone and O'Blake?

9 A That's correct.

10 Q And the number associated with O'Blake again?

11 A (843) 331-9585.

12 Q Okay. If you could flip to the next tab, over on
13 page five, bottom right corner.

14 A What number do you have?

15 Q Looking at line 169.

16 A Okay.

17 Q And at line 169, what do we see?

18 A We have a text message from the phone to O'Blake
19 at approximately 2:05 p.m. on February 3rd, 2013, says,
20 where you at, bra, and I only get 50 to put with it
21 bra. I only get a hundred to my damn name.

22 Q Okay. We'll skip over the next tab. Let's go to
23 page seven, line 243.

24 A Okay. I have a text message again. It would be
25 from O'Blake to this phone on February the 10th at

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 approximately 6:16 p.m. And the message says, what you
2 gone dude, they waiting.

3 Q Flip over to the next tab, I believe, page ten.

4 A Okay.

5 MR. RICHARDSON: Court's indulgence, please.

6 Q If we look at line 360, will you tell me what you
7 see.

8 A Yes. Another text message from this phone to
9 O'Blake's on February 15th, 2013 at approximately 1:26
10 in the morning. And the message says, you up, I need
11 some green.

12 Q Okay. Flip to the next tab, I believe it's page
13 12, line 455.

14 A There is a text message from Costal Boy Bud to
15 this phone. On the report it shows February 22nd at
16 2:51 in the morning, but when you subtract the five
17 hours it's actually going to put you on February 21st.

18 Q Okay..

19 A Anyway, the message would say, bra, I sold the
20 whole thing that same day. I'm making a trip back next
21 week, though. I got you, bra.

22 Q And the next line?

23 A Then there was a text message from the phone to
24 Coastal Boy Bud.

25 Q At what time?

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- 1 A That would again be on February 21st at
2 approximately, I guess that would be 9:56 p.m., and the
3 message is, again, it's from this phone to Coastal --
4 Coastal Boy Bud and it says, aight.
- 5 Q Okay. Let's flip to the next page, 13. If we can
6 just go through the highlighted portions at line 486,
7 487, 488, 493, to begin with.
- 8 A All right. 486 there is a text message from this
9 phone to O'Blake on February 24th at approximately 6:29
10 p.m., says, what's good, bro. And then there's a
11 message from O'Blake to this phone February 24th,
12 approximately 36 seconds later, 6:29, it says, about to
13 get dressed. And then there's a text message from this
14 phone to O'Blake approximately 20 seconds later, says,
15 where you going.
- 16 Q Okay. And then line 493?
- 17 A There's a text message from O'Blake to this phone,
18 again on February 24th at approximately 6:42 p.m.,
19 says, my mom house.
- 20 Q Okay. That seems to be in response to the, where
21 you going?
- 22 A Correct.
- 23 Q And it was shortly after that message?
- 24 A Right.
- 25 Q Skip down to line 500, I believe it's highlighted

1 in blue..

2 A Yes.

3 Q Can you tell us about what you're seeing in here,
4 line 500 through 506 and skip 507, and go 508, 509.

5 A Yeah. February 25th at approximately, would be
6 12:39 p.m., there is a text message from Costal Boy Bud
7 to this phone that says, grand daddy perp on deck.

8 Q As a drug agent, what do you understand that to
9 mean?

10 A As a drug agent, grand daddy perp typically
11 symbolizes a higher grade of marijuana.

12 Q And I apologize for interrupting, but if you could
13 go through.

14 A Sure. After that text message, there is a text
15 message from this phone to Costal Boy Bud at
16 approximately 12:47 p.m. on same date, February 25th,
17 it says, how much a -- how much a zip.

18 Then there is a text message after that from
19 Costal Boy Bud to this phone, again, February 25th at
20 approximately 12:54 p.m., says, 425. I'll let you get
21 it for four cause I fucks with you.

22 Then there is a text message from this phone to
23 Coastal Boy Bud, same date, February 25th, at
24 approximately 12:56 p.m. that says, that's what's good,
25 bro, my nigga when I can come through -- when can I

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1 come through.

2 Then there is a text message from Costal Boy Bud
3 back to this phone, same date, February 25th, at
4 approximately 1:03 p.m., that says, come through at
5 five. Then there was a text message from this phone
6 back to Costal Boy Bud, same date, February 25th, at
7 approximately 1:06 p.m. that says, aight, good looking,
8 bra.

9 Text message from Costal Boy Bud back to this
10 phone, same date, February 25th, at approximately 1:14
11 p.m. Text message says, no doubt. Then there is a
12 text message from Costal Boy Bud back to this phone,
13 same date, February 25th, at approximately 2:53 p.m.,
14 says, come through like ten when I get off work.

15 Then there's a text message from this phone to
16 Costal Boy Bud at approximately 2:56, same date,
17 February 25th, says, aight bra, don't sell mine, bra,
18 LOL. And then there is a text message from Costal Boy
19 Bud back to this phone February 25th, at approximately
20 3:04. It says, I got you, bra.

21 Q And all the Coastal Boy -- or, I'm sorry, Costal
22 Boy Bud or Coastal Boy Bud attachments there, what
23 phone number is that attached to?

24 A (843) 862-1424.

25 Q Go ahead and flip the page, please, Agent Lynch.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Start at line 519.

2 A Line 519, there is a text message from Costal Boy
3 Bud to this phone on February -- excuse me, on February
4 25th at approximately 9:10 p.m. says, yo. And then
5 there is a text message from this phone back to Costal
6 Boy Bud at approximately 9:17 p.m. that says, what's
7 good, bro.

8 Then there is a text message from Costal Boy Bud
9 back to this phone at approximately 9:25 p.m., says,
10 where you, up hot, I got to bring it to you. There is
11 a text message from this phone to Costal Boy Bud at
12 approximately 9:27 that says, I'll meet you somewhere,
13 bro.

14 Then after that, there is a phone call from this
15 phone to O'Blake at approximately -- approximately two
16 minutes after that text message, which would be 9:29
17 p.m. There is another call -- do you want me to keep
18 going?

19 Q Yes, please.

20 A Okay, yep. There is another call at approximately
21 9:39 p.m. from this phone to Costal Boy Bud. Then
22 there is a phone call from Costal Boy Bud back to this
23 phone at approximately 9:40. Then there is another
24 phone call from O'Blake back to this phone at
25 approximately 9:53 p.m. And then there is a phone call

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1 from this phone to O'Blake at approximately 9:58 p.m.

2 Then there is a text message from this phone to
3 Costal Boy Bud at approximately 10 o'clock that says,
4 ay, bra, I got only three G's left, I need to grab
5 that. That's why I didn't go to my brother, I was
6 waiting on you. I'll come grab it.

7 Q Okay. Then on 542?

8 A 542 there is a phone call from this phone to
9 Costal Boy Bud at approximately 11:40 p.m. And then
10 there is a phone call again from this phone to O'Blake
11 at approximately 12:25 a.m. on the 26th of February.

12 Q Okay. So the majority of these calls all
13 occurring the day before the murder?

14 A That's correct, yes.

15 Q Let's flip onto the next page, please, sir.

16 A Okay.

17 Q You can start on page 15.

18 A Line 561?

19 Q Please.

20 A Line 561, there is a phone call from this phone to
21 O'Blake at approximately 1:15 p.m. on February 26th.
22 Then there is another phone call from this phone to
23 O'Blake at approximately 1:17 p.m. on the 26th. And
24 then again on the 26th, there is a phone call from this
25 phone, again, to O'Blake at approximately 2:10 p.m.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q From this report is there any way to tell how long
2 those calls were?

3 A From this report, no.

4 Q Okay.

5 A You can only see the time that either it came in
6 or it exited.

7 Q Okay. Let's go on to page 16, please. Let's just
8 start at the top, there's a bit of information up
9 there, I believe 594.

10 A All right. There is a phone call from O'Blake to
11 this phone at approximately 5:37 p.m. on the 26th.
12 There is a phone call from this phone to O'Blake at
13 approximately 5:38 p.m.

14 There is another phone call from this phone to
15 Costal Boy Bud at approximately 5:40 p.m. Then there
16 is a phone call from this phone to O'Blake at
17 approximately 5:41 p.m. on the 26th. Then there is a
18 phone call again on the 26th, approximately 5:52 p.m.,
19 from this phone to O'Blake.

20 Then there is another phone call at approximately
21 6:02 p.m. from this -- from this phone to Costal Boy
22 Bud. Then there is a phone call from Costal Boy Bud
23 back to this phone approximately five minutes later, at
24 6:07 p.m.

25 Then there is a phone call from Costal Boy Bud

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1 back to this phone at approximately 6:49 p.m. Then
2 there is a phone call from this phone back to Costal
3 Boy Bud at approximately 6:56 p.m. Then there is
4 another phone call from this phone to Costal Boy Bud
5 at, would be 7:05 p.m.

6 And then there was another phone call from this
7 phone to Costal Boy Bud at 7:12 p.m. Then there is a
8 phone call from this phone to Costal Boy Bud at one --
9 excuse me, 12:28 p.m. on the 27th.

10 Q 12:28 or 1:28?

11 A 1:28, excuse me, 1:28.

12 Q Okay. Now, and you indicated that there's no way
13 to tell how long the calls lasted or anything on that
14 report?

15 A Not on this report, that's correct.

16 Q How about on the screen shots you took, you said
17 you looked at the some of the --

18 A Yeah. On the screen shots you can look at the
19 last dialed incoming and outgoing calls, and then you
20 can actually touch that portion of the screen of the
21 person that either called or received a call, and it
22 would show you the time that call either came in or
23 left the phone and actually -- exactly how long it
24 actually lasted.

25 Q Let's take a look at State's-27.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 A Okay.

2 Q Let's just look on the first page. In the bottom
3 left-hand corner, what if any information do you see
4 with regard to Costal Boy Bud?

5 A It shows outgoing calls to Costal Boy Bud. It
6 gives the date and the time of the outgoing calls
7 exactly, the time and the duration of the outgoing
8 calls, and the number that was assigned to the person
9 that the phone called.

10 Q And these are outgoing calls to Coastal Boy Bud?

11 A Yes.

12 Q And how long were those phone calls and what
13 times?

14 A You have a phone call, an outgoing phone call, at
15 7:12 p.m. that lasted two minutes, you had a phone call
16 at 7:05 that last the 43 seconds, and you had a phone
17 call at 6:56 that lasted ten seconds, all p.m., in the
18 afternoon.

19 Q Okay. So I can get this right on the record, the
20 fifth page, do you see anything with regard to O'Blake?

21 A I do. I see there's a screen shot of the outgoing
22 call to O'Blake and a screen shot of incoming in and
23 outgoing call.

24 Q What's the time of that -- what's the date and
25 time of those calls?

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 A There is a incoming call from O'Blake at 5:37 that
2 lasted five seconds on February 26th, 2013. Then
3 there's an outgoing phone call to O'Blake at 5:38 p.m.
4 that lasted a minute. And then there's another
5 outgoing phone call to O'Blake that lasted one minute
6 at 5:41 p.m., all on the 26th of February.

7 Q Okay. And then this page here?

8 A There is an outgoing phone call to O'Blake at 5:52
9 p.m. that lasted six seconds on February 26th, 2013.

10 Q Okay. And that's 5:52 p.m.?

11 A Yes.

12 Q And then, finally, I believe we went over these,
13 but Coastal Boy Bud in the bottom corner?

14 A There is an outgoing phone call to Costal Boy Bud
15 on February 26th, 2013 at 6:02 p.m., it lasted 14
16 seconds. And then there is an incoming phone call from
17 Costal Boy Bud 6:07 p.m. that lasted 24 seconds.

18 Q Okay. So this phone initiated a call to --

19 A Yes.

20 Q -- Coastal Boy Bud, then he called back?

21 A Then he called back.

22 Q We discussed that there are numerous contacts
23 between this phone and O'Blake. Any contacts you saw
24 with that directory name of O'Black or OB?

25 A I don't recall seeing any.

WILL LYNCH-DIRECT BY MR. RICHARDSON

1 Q And you were able to pull some of the photographs
2 off of there. That helped you identify who the phone
3 belonged to?

4 A That's correct.

5 Q Okay. And allow me to show you what's been marked
6 for identification as State's No. 28. Do you recognize
7 State's No. 28?

8 A I do. This was one of the photos that I obtained
9 off the cell phone itself.

10 Q Okay. And no doubt about it, this is one of the
11 photos you got?

12 A Yes, that's correct.

13 MR. RICHARDSON: Your Honor, at this time the
14 State would seek to introduce State's No. 28 into
15 evidence.

16 THE COURT: Any objection?

17 MR. McCOLLUM: No objection, Your Honor.

18 THE COURT: Without objection, State's-28 is
19 admitted.

20 (WHEREUPON, State's Exhibit No. 28 was admitted in
21 evidence.)

22 MR. RICHARDSON: And publish, Your Honor.

23 THE COURT: You may publish.

24 Q State's-28, when you saw this photograph, what
25 happened?

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1 A We realized that the person in the photograph had
2 been signed up as a confidential informant to the drug
3 enforcement unit and that we knew the identity of that
4 person in the photograph.

5 Q Okay. So he was signed up to work with y'all at
6 some point?

7 A That's correct.

8 Q At a confidential informant?

9 A Yes.

10 Q And who did y'all recognize that as being?

11 A I honestly don't recall the name.

12 Q Okay.

13 A Yeah.

14 Q All right.

15 A I wasn't the one that actually signed him up in
16 the sign-up sheet.

17 Q But that information, once you got -- agents in
18 your office were able to identify who that was?

19 A Yeah, absolutely, yes.

20 Q And once y'all had that information who that was
21 in that picture, what did you do with that information?

22 A We then passed that information along to Agent
23 Truss with SLED.

24 Q Any other information passed along to Agent Truss?

25 A Basically all the information that we had on the

WILL LYNCH-CROSS BY MR. McCOLLUM

1 packet, the CI packet, which would be any relevant
2 phone numbers, any relevant addresses, places where
3 he's previously lived, worked, any relationships he may
4 have, a girlfriend, brother, sister, mother, anything
5 like that.

6 Q All kinds of contact information?

7 A All kinds of contact information.

8 Q So they could try and find him?

9 A That's correct.

10 Q And when was that information provided?

11 A That same day that we had the cell phone in our
12 possession, that afternoon once we had the --

13 Q I'm sorry, the 27th of February?

14 A 27th of February, yes.

15 MR. RICHARDSON: Agent Lynch, thank you very much,
16 if you'll answer any questions Mr. McCollum may have.

17 THE WITNESS: Absolutely.

18 THE COURT: Cross-examine.

19 CROSS-EXAMINATION

20 BY MR. McCOLLUM:

21 Q So you're saying that Marquis McDonald, the owner
22 of the phone and the person in that picture, worked for
23 the police?

24 A Yes, sir.

25 Q Worked for your agency?

WILL LYNCH-CROSS BY MR. McCOLLUM

- 1 A He was signed up as an informant, yes, sir.
- 2 Q And assisted you in criminal investigations?
- 3 A I was not the agent assigned to him.
- 4 Q Right, I'm sorry, not you.
- 5 A So I'm not exactly sure what his --
- 6 Q Your agency?
- 7 A He was, yes --
- 8 Q As to your agency.
- 9 A That's what he signed up to do, yes. What he did,
- 10 I don't know.
- 11 Q I understand. I'm not asking you what he did.
- 12 A Okay.
- 13 Q Now, you went through a number of communications
- 14 back and forth between Coastal Boy Bud; right?
- 15 A Yes, sir.
- 16 Q And Marquis McDonald; right?
- 17 A Yes, sir.
- 18 Q And there were a lot of telephone calls back and
- 19 forth; right?
- 20 A Yes, sir.
- 21 Q And there were text messages back and forth;
- 22 right?
- 23 A Yes, sir.
- 24 Q And these were limited to the month of February
- 25 and just, well, February of 2013; right?

- 1 A Yes.
- 2 Q So you didn't go back and look at January; right?
- 3 A No, sir.
- 4 Q All right. Or nobody asked you to; right?
- 5 A That's correct.
- 6 Q And you didn't go back to the whole other year,
- 7 you didn't go and see if they were in regular
- 8 communication with each other; right?
- 9 A That's correct.
- 10 Q Okay. But they appeared just from the limited
- 11 month that you had like they were pretty familiar with
- 12 each other; right?
- 13 A Yes, sir.
- 14 Q And they communicated a good bit; right?
- 15 A Yes, sir.
- 16 Q And in one of those communications, Coastal Boy
- 17 Bud had said, and I think he used some slang or
- 18 something, that he sold the whole thing; right?
- 19 A Possibly said that.
- 20 Q May I see it, is that the --
- 21 A Yes, sir.
- 22 Q Is that the warrants?
- 23 A Yeah.
- 24 Q So from that you would determine if he sold the
- 25 whole thing, that Coastal Boy Bud was, for lack of a

WILL LYNCH-CROSS BY MR. McCOLLUM

1 better word, selling or dealing of marijuana; right?

2 A That's what it appears, yes, sir.

3 Q Okay. And he was telling, I guess, in that
4 message; he was telling Marquis McDonald that; right?

5 A That's correct.

6 Q Okay. And did you have -- or, and I know your
7 role in this investigation is limited, but did you have
8 any information that this other person, O'Black or
9 Stephon McLain, had any connection to Anthony Liddell
10 or Coastal Boy Bud?

11 A I didn't have any of that information.

12 Q Would it strike you as odd -- you've been in law
13 enforcement how long?

14 A 20 years.

15 Q A long time; right?

16 A Yes, sir.

17 Q Would it strike you as odd that people who
18 regularly dealt with each other back and forth for a
19 period of time, that one of them would suddenly decide
20 to rob the other one?

21 A I've seen a lot, especially with the drug unit.
22 Nothing surprises me anymore. You know, maybe early on
23 in my career it might be odd, but there's nothing that
24 really surprises me anymore, so I can't say I would
25 find it odd. I don't find anything really odd anymore.

1 Q I can appreciate that. But it does appear fairly
2 certain from their history, and you don't know their
3 whole history and neither do I, that there were a lot
4 of interactions where they met face to face, and
5 Marquis McDonald never attempted to rob him or did
6 anything that we know about?

7 A I can't say if they ever met face to face. I
8 don't know that. Just because he says he's going to
9 meet him somewhere doesn't necessarily mean he met him
10 there and saw him face to face. I mean, I don't know.

11 Q Now, in this part right here, and I'm going to
12 look at, if I'm -- let's say, I'm going to step right
13 here, I'm not trying to crowd your space.

14 A That's fine.

15 Q If you could just look right here at line 500, and
16 I'll try to read over your shoulder, please, this
17 message is from Coastal Boy Bud; right?

18 A Yes, it is.

19 Q And he says to -- how much is zip; right?

20 A That's correct.

21 Q And he's saying that to Marquis McDonald; right,
22 or do you know?

23 A The person -- he's -- the Coastal Boy Bud is
24 telling the person who has this phone, granddaddy perp
25 on deck. And then the person that has this phone is

1 responding, how much is zip. And then Coastal Boy Bud
2 is responding, 425.

3 Q So you take from that that Coastal Boy Bud is
4 selling --

5 A Yes.

6 Q -- the marijuana?

7 A Yes.

8 Q And he says that he'll let him have it for four?

9 A Yes.

10 Q Okay. So he's giving him a better deal?

11 A Yes.

12 Q And so there's certainly that familiarity; right?

13 A Yes, sir.

14 Q Because he's not even negotiating, he's just
15 saying it's this much, but for you I'll give it -- I'll
16 give you a break?

17 A That's correct.

18 Q Right?

19 A Yes, sir.

20 Q Now, in terms of the screen shots, if you could
21 look at those for just a minute, and I'm going to come
22 back around here.

23 A Sure.

24 Q First of all, do you know a guy named Roland
25 Crooms?

WILL LYNCH-CROSS BY MR. McCOLLUM

- 1 A I can't say that I do.
- 2 Q All right. Do you know a lot of people; right?
- 3 A I do.
- 4 Q All right. This fellow seated on the end over
- 5 there with the long braids with the green shirt --
- 6 A Okay.
- 7 Q -- do you know him? You can't say --
- 8 A He looks familiar, but I can't say that I know
- 9 him.
- 10 Q Okay. Well, look at your screen shots on the
- 11 February 26th incoming at 6:18 for 17 seconds; do you
- 12 see that?
- 13 A Let's see here.
- 14 Q It's got the name Roland on the top.
- 15 A Is that it right there?
- 16 Q All right, that's one's at 4:29, so it just -- it
- 17 should be just a little further over. There it is.
- 18 A Okay.
- 19 Q Okay. So there's a call on February 26th at
- 20 6:18 p.m. from Marquis' phone to Roland; correct, or
- 21 somebody named Roland in the --
- 22 A Well, this is an -- the one I'm looking at is an
- 23 incoming call.
- 24 Q From Roland?
- 25 A From Roland.

WILL LYNCH-REDIRECT BY MR. RICHARDSON

1 Q I'm sorry, you're right.

2 A Yes.

3 Q Okay. And so that call from Roland to Marquis
4 came in at, according to this, 6:18 p.m.; right?

5 A That's correct, yes, sir.

6 Q And then prior to that there was an outgoing call
7 from Marquis' phone to Roland at 5:54; do you see that?

8 A I do.

9 Q Okay. Outgoing from Marquis' phone to someone
10 named Roland?

11 A Yes.

12 Q 5:54 on February 26th; right?

13 A Yes.

14 Q Okay. But you don't know who Roland is?

15 A No.

16 Q All right, okay. Thank you.

17 MR. McCOLLUM: That's all I have, Your Honor.

18 THE COURT: Redirect?

19 MR. RICHARDSON: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q Mr. Lynch, Mr. McCollum asked you about the
23 Defendant working with the police. What exactly is a
24 confidential informant?

25 A A confidential informant is a person who typically

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 MR. HYMAN: We do, Your Honor.

2 THE COURT: You're also free to leave, sir.

3 THE WITNESS: Thank you, sir.

4 (Witness excused.)

5 THE COURT: You don't have an objection; do you?

6 MR. McCOLLUM: No objection.

7 THE COURT: Thank you, sir. Call your next
8 witness, please.

9 MR. RICHARDSON: The State would call Lieutenant
10 Roxanne Bethea.

11 ROXANNE BETHEA, after being duly sworn, testified
12 as follows:

13 CLERK OF COURT: Please be seated. State your
14 full name, spell your last name for the Court, please.

15 THE WITNESS: Roxanne Bethea, B-E-T-H-E-A.

16 DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q Lieutenant Bethea, I'm going to tidy up around
19 here real quick, okay. Lieutenant Bethea, can you
20 please tell us where you're employed, how long and in
21 what capacity.

22 A I'm employed with the South Carolina Law
23 Enforcement Division. I'm a lieutenant in the Pee Dee
24 region, and I've been with SLED approximately 21 years.

25 Q And what are your duties with SLED?

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 A As a lieutenant in the Pee Dee region, I supervise
2 about seven agents and their caseload, cases.

3 Q And in your official capacity as lieutenant over
4 the Pee Dee region, did you have the opportunity to
5 become involved in the investigation of the murder of
6 Anthony Liddell, Jr.?

7 A I did. I did not respond on the night of the
8 incident, I responded the next day on the 27th of
9 February.

10 Q And what types of duties were you doing in this
11 case?

12 A Just assisting the agents with what they had, if
13 any issues came up, help discuss what our plan of
14 action may be.

15 Q Okay. So you began coordinating things?

16 A Yes, sir.

17 Q You weren't the lead agent on it?

18 A No, sir.

19 Q Okay. Were you briefed on everything?

20 A I was, yes, sir.

21 Q Okay, as a lieutenant. Now, during the course of
22 your briefings, was a suspect developed in this case?

23 A It was. Marquis McDonald.

24 Q And when did that occur?

25 A We developed him as a suspect on the 27th of

1 February.

2 Q After the cell phone dump?

3 A Yes, sir.

4 Q Now, once he was developed as a suspect in this
5 murder, what efforts were taken to apprehend him?

6 A We went out into the community with known
7 associates of his and tried to make contact with them
8 to try to locate him and see if we could talk with him
9 in reference to this incident that had occurred on the
10 26th at CCU.

11 Q Now, y'all went out to speak with associates,
12 friends, I believe there was some prior testimony about
13 looking at former addresses and everything from a
14 packet.

15 A Yes, sir.

16 Q When did that begin?

17 A The 28th we -- after we got -- had done the cell
18 phone dump, reviewed all the information, it was the
19 28th when we got -- actually got out into the community
20 and started looking and tried to locate Marquis
21 McDonald so we could talk to him.

22 Q And you had had a warrant on him?

23 A Yes, sir.

24 Q Okay. Now, that, you get the cell phone dump, you
25 get an ID on the 27th, the 28th y'all were beating the

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 bushes looking for him. Do you all apprehend him on
2 the 28th?

3 A No, sir, we do not.

4 Q Do you apprehend him on the morning of the 1st,
5 March 1st?

6 A Not the morning, no, sir. It was after lunch
7 approximately around 3:30-ish.

8 Q Okay. And what happened to -- what happened to
9 effect this apprehension of the Defendant; how did that
10 occur, how did you come in --

11 A Oh. After speaking with some of his relatives and
12 girlfriend, Doug Clark, which is his -- which is
13 Marquis McDonald's uncle, had contacted Agent Truss and
14 advised him that he -- that Marquis, he had Marquis,
15 and they were going to -- they wanted to meet us.

16 So Agent Truss told him we were at the Conway
17 annex there near 378, and he brought him to our
18 location where Marquis McDonald turned himself in and
19 we arrested him.

20 Q Okay. Now, you took him into custody there at the
21 Conway police annex?

22 A Yes, sir.

23 Q Where is that located?

24 A Near 378.

25 Q And who took him into custody, who personally took

1 him into custody?

2 A Myself and Assistant Chief Rodney Thomason with
3 Coastal Carolina Public Safety.

4 Q Now, when y'all took him into custody, did he ever
5 enter the Conway police annex?

6 A No, he did not.

7 Q So that arrest occurred in the parking lot?

8 A Yes, sir, it did.

9 Q Or that detention?

10 A Um-hum.

11 Q And after y'all -- you put handcuffs on him?

12 A Yes, sir.

13 Q After that happened, what occurred?

14 A After we placed the handcuffs on him, we did a
15 brief search of his person and then placed him into
16 Assistant Chief Thomason's vehicle. And then we then
17 transported him to Coastal Carolina University Public
18 Safety, so that we could conduct an interview.

19 Q Okay. So y'all searched him after y'all took him
20 into custody?

21 A Yes, sir.

22 Q Find anything?

23 A No, sir.

24 Q What was the purpose of the search?

25 A For safety reasons, make sure he didn't have any

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 weapons or anything like that on him.

2 Q Okay. And you didn't find anything?

3 A No, sir.

4 Q And once y'all placed him in the car, how many
5 people were in the car?

6 A Rodney Thomason -- Assistant Chief Thomason was
7 driving, Marquis McDonald was in the front seat
8 passenger, and I was behind him in the rear passenger.

9 Q Now, what efforts or if any were taken to obtain a
10 statement from the Defendant at this point?

11 A We made no effort at that point. We were just
12 simply there to transport him to CCU where we could get
13 into a conference room area, so that we could sit down
14 and actually talk with him in a better environment.

15 But while we were transporting him, he was very
16 excited and wanted to talk and tell his story. We had
17 constantly had to tell him, slow him up and tell him,
18 you know, we didn't want him to discuss anything at
19 this point because we need to read him his rights. And
20 we were headed to CCU where we could do that.

21 Q Okay. So he gets in the vehicle and he wants to
22 talk?

23 A Yes, sir.

24 Q And y'all tell him we need to give you Miranda?

25 A Yes, sir.

1 Q At any point did anyone in the vehicle or to your
2 knowledge make any threats to the Defendant?

3 A No, sir.

4 Q Any promises of leniency or reward in exchange for
5 a statement?

6 A No, sir.

7 Q Make any attempts whatsoever to coerce him?

8 A No, sir.

9 Q With regard to intoxication, how did he appear?

10 A He appeared to be in a good frame of mind and
11 didn't appear to be intoxicated or anything.

12 Q And it's a silly question, but when he was
13 speaking to you, what language was he speaking?

14 A Plain English.

15 Q Plain English?

16 A Um-hum.

17 Q And when you told him to hush, be quiet, whatever,
18 because you wanted to read him Miranda, what were your
19 observations with regard to his understanding of what
20 you were saying?

21 A He totally understood what we were saying, but he
22 still wanted to talk. And we constantly had to tell
23 him, not now, not yet, we needed to wait till we got
24 back, so we could read him his rights. And of course
25 he had to sign a form for us before we talked to him.

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 Q A proper investigation?

2 A Yes, sir.

3 Q Now, how long did that ride from Conway police
4 annex take to get to Coastal Carolina public safety?

5 A Approximately ten minutes. Because we were -- we
6 had a lot going on with him talking and everything, but
7 the best of my recollection approximately ten minutes.
8 It could have been a little bit longer.

9 Q Where was Agent Truss at this time?

10 A He and Agent Johnson were finishing up an
11 interview at the Conway annex, and they were en route
12 right behind -- not directly behind us, but they were
13 coming behind us as we were headed that way.

14 Q And when you and Deputy Chief Thomason arrived at
15 Coastal Carolina University at the public safety
16 office, what happened with regard to this?

17 A We exited the vehicle, walked -- walked him into
18 the -- from what I call the rear area of the building,
19 into the CCU public safety and took him into the
20 conference room area where the handcuffs were basically
21 taken off and he was seated. And we waited for Agent
22 Truss and Agent Johnson to get there, which they
23 arrived shortly thereafter, and eventually the
24 interview took place.

25 Q And this conference room, how big was it?

ROXANNE BETHEA-DIRECT BY MR. RICHARDSON

1 A It's fairly large. Big enough probably for 15 or
2 so people to get in there easily.

3 Q About as big as the jury box?

4 A Yes, sir, um-hum.

5 Q And how many people were in there with Marquis
6 during the interview?

7 A Just myself, Agent Truss and Agent Johnson, and of
8 course Marquis was in there.

9 Q Okay.

10 MR. RICHARDSON: That's all the questions I have
11 of Lieutenant Bethea at this time, Your Honor.

12 THE COURT: Cross-examine?

13 MR. McCOLLUM: Court's indulgence.

14 THE COURT: Sure.

15 MR. McCOLLUM: I don't have any questions.

16 THE COURT: Very well. You may come down, thank
17 you.

18 (Witness excused.)

19 THE COURT: Call your next witness, please.

20 MR. RICHARDSON: The State would call senior agent
21 James Johnson of the State Law Enforcement Division.

22 JAMES L. JOHNSON, after being duly sworn,
23 testified as follows:

24 CLERK OF COURT: Please have a seat. State your
25 full name, and spell your last name for the Court,

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 please.

2 THE WITNESS: My name is James Lee Johnson,
3 J-O-H-N-S-O-N.

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Senior Special Agent Johnson, could you educate us
7 a little bit with regard to your place of employment,
8 how long and in what capacity.

9 A I'm currently employed with the South Carolina Law
10 Enforcement Division, commonly referred to as SLED. I
11 been there approximately 21 years as a criminal
12 investigator in the Pee Dee region.

13 Q Prior to going to work with the State Law
14 Enforcement Division, or SLED, as a criminal
15 investigator, what was your prior work experience?

16 A I was an agent with the South Carolina Alcoholic
17 Beverage Control Commission.

18 Q Okay. Also in investigations?

19 A Yes, sir.

20 Q Okay. And that was essentially since then, that's
21 actually been adopted into SLED; correct?

22 A Yes, sir, that's correct.

23 Q What divisions have you worked at within SLED?

24 A I worked in the division known as the Governor's
25 Raid Team, at that time we was narcotics investigating

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 unit. And then I was assigned part-time to the State
2 grand jury as an investigator.

3 Q And how long have you been a violent crimes
4 investigator?

5 A Approximately maybe 13, 14 years.

6 Q Okay. How many murders have you investigated
7 during that time?

8 A Several.

9 Q Several. Hard to put a number on it?

10 A Yes, sir.

11 Q Now, did you have the opportunity to become
12 involved in the investigation of the murder of Anthony
13 Liddell, Jr.?

14 A Yes, sir, I did.

15 Q And when did that occur?

16 A The evening of February 26th, I received a called
17 from Captain Ken Mackenzie, our regional captain. He
18 told me to respond to a shooting incident at Coastal
19 Carolina University. And I was supposed to meet Agent
20 Randy Truss there.

21 Q And who was the lead agent on this case?

22 A Randy Truss and I discussed it, and we decided
23 that he would take the lead on this case.

24 Q And the fact that he's the lead agent, what
25 exactly does that mean?

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 A That means that any evidence or any statements
2 collected would be turned over to him. He would
3 process the case report.

4 Q Y'all still worked together as a team?

5 A Yes, sir.

6 Q Okay. Side by side?

7 A Yes, sir.

8 Q Now, you responded to Coastal Carolina that night,
9 and we've heard a great deal about the investigation
10 that night. But just briefly, most of that was
11 yesterday, could you just briefly, briefly take us back
12 through your initial portions of the investigation.

13 A Upon arrival at CCU, Coastal Carolina University,
14 we met with Chief David Roper and Deputy Chief Rodney
15 Thomason. They briefed us on the incident and gave us
16 as much information that they had accumulated at that
17 time.

18 Q With regard to witnesses that night?

19 A Yes, sir. They gave us names of the witnesses
20 that they had gotten while they were doing their
21 preliminary investigation.

22 Q Did y'all speak with any witnesses?

23 A Yes, sir, we did.

24 Q Obtain statements?

25 A Yes, sir. We spoke to Amanda McTaggart.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q Were you present when the cell phone, State's No.
2 -- I should know it by now -- State's No. 12, were you
3 present when State's No. 12 was found?

4 A Yes, sir. I saw the phone laying on the ground
5 beside the white Santa Fe vehicle.

6 Q All right. And so you were present when it was
7 found. Did you originally take possession of that
8 phone?

9 A Later on after the team finished their
10 investigation, the crime scene team finished their
11 investigation, Sabrina Fellers called me and told me
12 that she had a cell phone. I met her at the Gully Gas
13 Station, it was late, around about 2:30 or three, close
14 to 3 o'clock, and she signed that cell phone over to
15 me.

16 Q And were you aware that eventually what y'all
17 wanted to do with that cell phone?

18 A Yes, sir.

19 Q Okay. And what was that?

20 A We thought the cell phone belonged to Anthony
21 Liddell. We was going to examine the cell phone, see
22 if we can get any information off the thing to who he
23 might have been talking to.

24 Q Okay. Trying to lead to a suspect?

25 A That's correct.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q Okay. Nearest and dearest; right?

2 A Yes, sir.

3 Q Now, were you present when that cell phone was
4 actually searched over at the DEU?

5 A After it went to DEU and we eventually got a
6 search warrant, we received some messaging --
7 information back that was generated from the phone.

8 Q Okay. And during the course of that day, well, I
9 think we've heard testimony that you had that phone for
10 about the whole day on that Wednesday?

11 A Yes, sir.

12 Q What were y'all doing?

13 A We were trying to generate some leads in this
14 investigation. Just trying to find someone that we
15 could talk to that had some information regarding the
16 incident, like the students and the names of the person
17 that we got, to possibly witness to the shooting.

18 Q I believe the jury's heard something about a black
19 Honda Civic that was taken into custody?

20 A Yes, sir.

21 Q Do you know why that was taken into custody?

22 A It just was a vehicle that was seen at the scene
23 and black, they said it was a dark colored vehicle.

24 Q And after searching this vehicle and investigating
25 this vehicle, what was your determination?

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 A That it didn't have anything to do with the crime,
2 it was just a vehicle that was there.

3 Q So y'all just searched it as part of the
4 investigation?

5 A Yes, sir.

6 Q Now, after you get the Cellebrite report, did you
7 review a copy of that report?

8 A Yes, sir, I did.

9 Q And after y'all got the report, we've heard it
10 many times now, who was developed as a suspect?

11 A Marquis McDonald.

12 Q And once y'all identified Marquis McDonald, what
13 steps were taken to apprehend him?

14 A We went out in the community. We developed some
15 leads through our courses that people that he might
16 have been associated with. His uncle and several other
17 people, his girlfriend, we went to those locations
18 looking for him.

19 Q Okay. And y'all made them aware y'all wanted to
20 speak with him?

21 A Yes, sir, we did. We told his Uncle Doug Clark
22 that we wanted to speak with him.

23 Q And where y'all looking, how -- I mean, was it in
24 Conway, Myrtle Beach, where?

25 A Conway, the Conway area, Cochran Town and

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Jamestown communities.

2 Q Okay. So small areas of Conway?

3 A Yes, sir.

4 Q And y'all speak with a lot of people?

5 A Yes, we did.

6 Q What other agencies were involved?

7 A The US Marshal Service, Conway Office of Public
8 Safety, DEU Conway Pee Dee.

9 Q Y'all going around, knocking on doors
10 (indicating)?

11 A Well, actually we went to communities where he had
12 known to be hanging out or friends of his. And yes, we
13 knocked on some doors.

14 Q Okay. And when did that begin?

15 A That began right after he was developed as a
16 suspect.

17 Q Okay. Eventually y'all got a warrant?

18 A Yes, sir, we did.

19 Q Okay. And that was on the 28th?

20 A I believe so.

21 Q Now, you've talked to known associates and family
22 members on the 28th and turning up the heat, marshal
23 service, DEU, all those are involved. Did y'all ever
24 arrest the Defendant?

25 A Yes, sir, we did.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q How did that occur? I believe Lieutenant Bethea
2 talked a little bit about it.

3 A We was at the Conway annex conducting an
4 interview. In the course of the interview Agent Randy
5 Truss received a phone call from his Uncle Doug Clark
6 stating that he had Marquis with him. And he was going
7 to bring him up and turn him over to us.

8 Q Okay. And who were y'all interviewing at the
9 time?

10 A Roland Crooms and Amber Farewell.

11 Q Okay. So you were interviewing Roland Crooms and
12 Amber Farewell. Now, did you take -- did you take part
13 in the apprehension of the Defendant there at the
14 Conway police annex?

15 A No, sir. I was still inside doing the interview.

16 Q You were trying to conclude it?

17 A Yes, sir.

18 Q Now, at what point did you encounter the Defendant
19 personally?

20 A I was at the CCU office of public safety.

21 Q Okay. So how long did it take you from the time
22 you left Conway police annex to get over to Conway --
23 to CCU?

24 A We had completed the interview with Roland Crooms
25 at approximately, I believe it was somewhere around

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

- 1 3:10 or 3:15. After we released him and let him go, we
2 probably was about five minutes, no more than five
3 minutes, behind Lieutenant Roxanne Bethea and Deputy
4 Chief Rodney Thomason.
- 5 Q So when you arrived at Coastal Carolina
6 University, where do you encounter the Defendant?
- 7 A In the conference room.
- 8 Q In the conference room?
- 9 A Yes, sir.
- 10 Q Once again, room about as big as this jury box?
- 11 A Yes, sir.
- 12 Q Now, when you initially walked in, you see the
13 Defendant there?
- 14 A Yes, sir.
- 15 Q You get a good view of him?
- 16 A Yes, I did.
- 17 Q Do you know about how tall he is?
- 18 A Looked to be about six foot, maybe six-one.
- 19 Q Six foot, six-one?
- 20 A Yes, sir.
- 21 Q And tell us about any wounds you noticed on him.
- 22 A Didn't notice any wounds at all.
- 23 Q Okay. And did you have the opportunity to talk to
24 him?
- 25 A Yes, sir, we did.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q Did he appear to have any difficulty hearing?

2 A No, sir.

3 Q Okay. Tell us about any complaints he made about
4 any ringing in his ears or hearing.

5 A He made none.

6 Q And the defendant's clothing that he had on, did
7 you get a good view of it?

8 A Yes, sir, I did.

9 Q And we'll come back to the interview in a second.
10 But the defendant's clothes -- was the Defendant taken
11 in -- you said you had a warrant; did you actually
12 serve that warrant on him that evening?

13 A We did later on.

14 Q And after that warrant was served on him, what
15 happened?

16 A He was taken to J. Reuben Long Detention Center.

17 Q Okay. And did you allow him the opportunity to
18 change his clothes before he went out there?

19 A No, sir.

20 MR. RICHARDSON: And, Your Honor, I neglected to
21 do it earlier, but the State would seek to introduce, I
22 believe it was laid the chain on State's-22 and 23.

23 THE COURT: What are 22 and 23?

24 MR. RICHARDSON: Those are the clothing from the
25 jail.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 THE COURT: Any objection?

2 MR. McCOLLUM: No, no objection.

3 THE COURT: State's-22 and 23, a box containing
4 clothing, admitted without objection.

5 (WHEREUPON, State's Exhibit Nos. 22 and 23 were
6 admitted in evidence.)

7 MR. RICHARDSON: Thank you, Your Honor.

8 THE COURT: Um-hum.

9 Q Now, he's transported out there. While the
10 Defendant was in your custody, to your knowledge did
11 you or anybody to your knowledge make any threats
12 towards the Defendant?

13 A No, sir.

14 Q What efforts did you take in informing the
15 Defendant of his rights?

16 A We have a standard form, a Miranda rights form,
17 that we carry, all agents have those. We presented him
18 with one and we took one in our hand, and we went
19 through that form line by line, paragraph by paragraph.

20 Q Okay. Let's see.

21 MR. RICHARDSON: Court's indulgence.

22 Q Allow me to show you what's been marked for
23 identification as State's No. 32. Can you tell me if
24 you recognize that document.

25 A Yes, sir, I do.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q What is State's-32?

2 A It's a Miranda's right form that we gave to
3 Marquis McDonald to read as we read it to him.

4 Q Now, how can you tell this is the one y'all gave
5 to him?

6 A My name is on it.

7 Q How about, does he have any markings on there?

8 A Yes, sir. His initials is beside each line as we
9 read it to him indicating that he did understood what
10 we were telling him.

11 Q Okay. So no doubt about it, this is a fair and
12 accurate copy of the Miranda form you gave to him?

13 MR. RICHARDSON: Your Honor, the State would seek
14 to introduce State's No. 32 into evidence.

15 THE COURT: Any objection?

16 MR. McCOLLUM: No, Your Honor.

17 THE COURT: Without objection State's-32 is
18 admitted.

19 (WHEREUPON, State's Exhibit No. 32 was admitted
20 into evidence.)

21 Q Now, you said that you kept a copy of a Miranda
22 form while the Defendant had a copy of it?

23 A Yes, sir.

24 Q Okay. Could you demonstrate for us how you
25 delivered his Miranda rights to him.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 A He was given a form -- he was asked could he read
2 and write, he said he could. He was given a form, then
3 we took the copy, and the form laid in front of him.
4 And we read each line to him. If he understood, he was
5 to put his initials beside that line indicating that he
6 did.

7 Q Okay. And could you tell us, list out those
8 rights you told him about.

9 A It says, before we ask you any question you must
10 understand your rights. It says, you have the right to
11 remain silent -- whereby which he put his initials
12 there saying that he understood that.

13 Anything you say can be used as evidence against
14 you. He did put his initials by that line and
15 indicated he did understand. You're entitled to talk
16 to a lawyer now and have him present now or at any time
17 during questioning. He again initialed it.

18 Q All right.

19 A If you cannot afford a lawyer, one will be
20 appointed for you without cost. He understood and
21 initialed. If you decide to answer questions now
22 without a lawyer present, you will still have the right
23 to stop answering at any time. You also have the right
24 to stop answering at any time until you talk with a
25 lawyer. He understood, he initialed that line.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Do you understand your rights? He initialed that
2 line. Do you wish to talk to us at this time? He
3 initialed that line that he did. And then at the
4 bottom there is a waiver of your rights. It says, I
5 have read this statement of my rights and understand
6 what my rights are. I am willing to talk now without a
7 lawyer present. I understand and know what I am doing.
8 No promises or threats have been made to me and no
9 pressure or coercion of any kind has been used against
10 me. He initialed that as well, and he signed his name
11 at the bottom.

12 Q And he read this?

13 A Yes, sir, he did.

14 Q So to your knowledge, what was his understanding
15 of the English language?

16 A Very well, he understood it very well.

17 Q Did you make any attempts to determine his state
18 of mind or intoxication?

19 A He didn't seem to be intoxicated at all. He
20 understood what we were saying, he talked well.

21 Q The questions that you asked him, did he appear to
22 respond appropriately?

23 A Yes, sir.

24 Q Now, so he signs off on that Miranda form?

25 A Yes, sir, he did.

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 Q Now, at any point during your interview with him,
2 did he ever tell you he wanted to stop?

3 A No, sir.

4 Q What if anything did he say about requesting an
5 attorney?

6 A He did not request one.

7 Q Did you or anyone to your knowledge make any
8 threats to him in exchange for a statement?

9 A No, sir, no threats was made against him.

10 Q Any promises of leniency or award?

11 A None were made.

12 Q Do anything to coerce the statement from the
13 Defendant?

14 A No, sir.

15 Q And he signed the Miranda form?

16 A Yes, he did.

17 Q The room, I know we've already gone over about the
18 size of the room where the interview took place. What
19 were the conditions like in the room, too hot, too
20 cold, what?

21 A No, sir. It was pretty good, it was a nice
22 temperature in the room. It was in February so there
23 was heat, but it wasn't hot in the room.

24 Q And, once again, I know we've heard it once
25 before, but who all was present during the course of

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 this interview?

2 A Myself, Lieutenant Roxanne Bethea and Agent Randy
3 Truss.

4 Q All right. And who all was speaking during the
5 course of this interview?

6 A Pretty much I did most of the talking. But they
7 had questions that they wanted to ask, and they did.

8 Q You're the senior agent, you led the interview?

9 A Well, I did most of the talking, yes, sir.

10 Q Okay. Now, tell us what the Defendant told you
11 about this murder.

12 A Well, in questioning him, he began to -- I asked
13 him to go ahead and explain to me what had happened if
14 he would. He started talking, he said he had been
15 talking off and on with Anthony Liddell. And they had
16 made arrangement -- he said that Anthony told him to
17 meet him at his spot, referring to the old dormitory
18 that he lived in during his freshman year.

19 He said he got there, he drove and parked his
20 vehicle and said that Anthony came up and he had a
21 friend with him, someone that he called Black. He said
22 that they got out of the car, and Black got into the
23 front seat, passenger seat. Liddell got into the back
24 seat.

25 Q Of whose car?

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 A Marquis MacDonald's car.

2 Q Okay.

3 A While they were in the car, he said that they was
4 just talking, just talking about how Anthony has sucked
5 in football and just a general conversation. And he
6 pulled out a scale to weigh the weed, so he said. And
7 during that time he looked up at the individual that he
8 identified as Black.

9 He said that Black pulled out a black gun. He
10 said that he grabbed the gun, and they were struggling
11 with the gun. And then Anthony grabbed the gun, and
12 they were going back and forth with the gun. Then he
13 said that the gun went off. He loosed the gun and got
14 out of the car. In his mind he was going to run, but
15 he said that Anthony asked for help.

16 He said so he got back in the car, and he said
17 that he balled his fist up and he knock Black out of
18 the vehicle. Black fell out of the vehicle on the
19 ground, feet in the air.

20 Q From the passenger side?

21 A All on the passenger side of the car, front
22 driver's seat -- front passenger seat. He said that
23 then he put the car in reverse, backed out. As he was
24 leaving he heard another shot rang out, he said he
25 didn't look back, he kept on going. He went to Highway

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 90.

2 Q How many shots he tell you took place in the car?

3 A He said a shot was fired.

4 Q And he said he heard one more shot?

5 A That's what he said, yes, sir.

6 Q Then he said when he was leaving Black had been
7 knocked out of the car?

8 A Knocked out of car.

9 Q Feet up in the air?

10 A Feet up in the air.

11 Q Did you make any efforts to have him reenact?

12 A Yes, sir. Because I asked him, I said, how was
13 you able to knock him out of the car and the door was
14 closed. He said -- you really did that, he said, yeah.
15 And he said, let me show you. So we got a training
16 pistol from Conway public safety, we got a training
17 pistol.

18 He grabbed the pistol, and he told me to put my
19 hand on top of his hand, and Lieutenant Roxanne Bethea
20 put her hand on top of my hand, and we was going back
21 and forth with the gun and said the gun went off. He
22 had turned the gun loose, and he got out of the car.

23 Q Did he tell you anything about any damage to the
24 car?

25 A He tried to say -- well, he was talking about the

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 headrest and there was a bullet went through the
2 headrest and things of that nature.

3 Q And how animated was he during this; what was
4 his --

5 A He was kind of -- it's hard to describe. He was
6 very talkative and excited, kind of excited about
7 telling the story.

8 Q Okay. Now, did y'all take any efforts to record
9 this interview in any way?

10 A No, sir, we did not.

11 Q Okay. So you didn't audio record it or video it?

12 A No, sir.

13 Q Do you even have any audio or video recording
14 equipment as a SLED agent?

15 A At SLED we do.

16 Q Okay, at SLED?

17 A Yes, sir.

18 Q But how about at Coastal at that time?

19 A I don't believe they had anything at that time.

20 Q Okay. Now, did the Defendant prepare any type of
21 written statement?

22 A Yes, sir, he did.

23 Q Allow me to show you what's been marked as State's
24 No. 33. Tell me if you recognize that document.

25 A Yes, sir. This is the statement that was written

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 by Marquis McDonald.

2 Q And how do you know that's the statement that he
3 wrote?

4 A His name is there, and of course my name is there
5 and Agent Randall Truss name is there.

6 Q Okay. You witnessed him write it?

7 A Yes, sir, I did.

8 Q And this is a fair and accurate copy of that
9 statement he made in front of you guys?

10 A Yes, sir.

11 Q Post Miranda?

12 A Yes, sir.

13 MR. RICHARDSON: Your Honor, at this time, the
14 State would seek to introduce State's No. 32 -- or 33
15 into evidence.

16 THE COURT: Any objection?

17 MR. McCOLLUM: No, Your Honor.

18 THE COURT: Without objection State's-33 is
19 admitted.

20 (WHEREUPON, State's Exhibit No. 33 was admitted in
21 evidence.)

22 Q Agent Johnson, or Senior Agent Johnson, I'm going
23 to ask if you could --

24 MR. RICHARDSON: Your Honor, if I may have
25 permission to publish through Agent Johnson?

JAMES L. JOHNSON-DIRECT BY MR. RICHARDSON

1 THE COURT: You may.

2 Q Agent Johnson, can you please read the statement
3 of the Defendant that he wrote on that day, March 1st.

4 A It says a voluntary statement. It lists his name
5 as McDonald, last name, first name Marquis, middle
6 initial -- middle name Spencer, age 20. Date of birth
7 is what look likes to be 3/28/1992, male, his social
8 security number, his street address, home telephone
9 number, the date and time of the interview, the
10 location and the interviewing agent.

11 And then it states, I, Marcus McDonald, understand
12 I do not have to say anything, and I volunteer the
13 following information on my own free will for whatever
14 purpose it may serve. I can read and write and have
15 completed the twelfth grade in school.

16 Then he goes on to say that Monday or Sunday, Ant
17 text me saying he got weed, and he will give me a
18 discount because he my best friend. I called back. He
19 said he sold it in one whop. And he said, I got
20 somebody want a zone. So I say, okay. I hung up, I
21 called back and say is a go. So that night I call, he
22 said he was chilling with his girl. He will call me in
23 the morning.

24 I called him. He say, give me a minute, he's
25 trying to make a jug. So I said I'll charge him 350,