

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

On Writ of Certiorari to Dillon County
Honorable J. Derham Cole, Circuit Court Judge
Appellate Case No. 2023-000914

TYREEK HAYES,

Respondent,

vs.

THE STATE,

Petitioner.

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State of South Carolina) In the Court of General Sessions
County of Dillon) Fourth Judicial Circuit
2016-GS-17-0875, 0877,
0878, 0879

STATE OF SOUTH CAROLINA,)
Plaintiff,)
vs.) Transcript of Record
Tyreek Dashawn Hayes,)
Defendant.)
_____)

Dillon, South Carolina
July 23-26, 2019

B E F O R E:

The Honorable Roger E. Henderson

A P P E A R A N C E S:

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1 **Tuesday, July 23, 2019**

2 (WHEREAS, this matter was scheduled for a trial, all
3 parties appeared along with their counsels of record. The
4 proceedings began at 11:07 a.m.)

5 THE COURT: Okay. Ms. Burchstead and Mr. Kozak, do we
6 have some motions that you brought this morning, is that
7 correct?

8 MS. BURCHSTEAD: Yes, Your Honor. We have a few
9 motions to address and just some things to put on the
10 record. Specifically, Mr. Kozak is going to handle third
11 party guilt. While I'm standing I'll go ahead and handle,
12 what's most commonly referred to as, the rape shield.
13 Specifically I don't, obviously, we don't know what the
14 defense is but I want to say I don't think the State is
15 going to open any doors and we just want to make sure.
16 We're going to abide by the Statue 16-3-659 to exclude - to
17 exclude any evidence, questions or eliciting testimony as
18 connected to the victim's prior sexual conduct. Again,
19 that's pursuant to 16-3-659. We certainly have not been
20 given any notice of that. I understand as trials play out
21 we might have to revisit that, but at this point we just
22 want to put that out there on the record that we are asking
23 that the defense abide by 16-3-659.

24 Also, while I'm standing I'll go ahead and put on the
25 record I don't believe we need a Denno hearing, Your Honor.

1 There was a statement by the defendant provided to law
2 enforcement, to Investigator Turner with Dillon Police
3 Department. However, neither side wants to introduce it
4 for various and different reasons. So at this point it
5 should be a non-issue.

6 THE COURT: Okay.

7 MS. BURCHSTEAD: And, similarly, my understanding
8 from Mr. Swilley we do not to have a Biggers hearing.
9 There is a photo lineup identification from both victims
10 but it's my understanding there's not a problem with that
11 identification so we do not need to have a Biggers hearing.
12 And, of course, both will be testifying and will identify
13 him in court.

14 And as for the other motions, we have the third party
15 guilt and self-serving statement but the self-serving
16 statement relate to neither party wants the statement so I
17 think that, that motion by the State is mute. So I'll turn
18 it over to Mr. Kozak and just for record purposes also say,
19 there's never been a formal offer in this case. It's our
20 understanding he would not wish to plead to anything
21 anyway.

22 THE COURT: Okay. Mr. Kozak?

23 MR. KOZAK: Thank you, Your Honor. The State's
24 motion to exclude evidence of third party guilt, as Ms.
25 Burchstead said earlier, we aren't quite sure what the

1 defense is going to be but the third party guilt motion is
2 pretty well-established involve State v. Gregory which I
3 handed up to Your Honor, that basically quotes, "must be
4 limited to such facts as are inconsistent with his own
5 guilt, and to such facts as raise a reasonable inference or
6 presumption as to his own innocence. Evidence which can
7 have no other effect than to cast a bare suspicion upon
8 another, or to raise a conjectural inference as to the
9 commission of the crime by another, is not admissible."
10 We're not sure, obviously, what he's going to try to admit
11 and his ground, but we would just like to go ahead and put
12 it on the record prior to the trial so if it does come up,
13 we can object and, Your Honor, it's on the record.

14 THE COURT: Okay.

15 MR. SWILLEY: Judge, I'm sorry, judge, I believe that
16 anticipation that there is some kind of evidence that
17 somebody else is responsible for the crime. I think
18 Gregory actually has been overruled by the United States
19 Supreme Court in Holmes versus South Carolina. They
20 basically, you know, the US Supreme Court held that, you
21 know, such evidence -- essentially, that the defendant has
22 a right to present a complete defense. "Whether rooted
23 directly in the Due Process Clause of the Fourteenth
24 Amendment or in the Compulsory Process Clause," excuse me,
25 "Compulsory Process or Confrontation Clause of th Sixth

1 Amendment, the Constitution guarantees criminal defense the
2 meaningful opportunity to present a complete defense, a
3 meaningful opportunity to present a complete defense." I
4 believe the court goes on to say, "that say such a rule is
5 enunciated wherever that case - Gregory is
6 unconstitutional." "Just because the prosecution's
7 evidence, if credited would provide strong support for
8 guilty verdict, it does not follow the evidence of a third
9 party guilt has only a weak logical connection to the
10 central issues in this case. And where the credibility
11 prosecution's witnesses or this reliability of its evidence
12 is not conceded, the strength of the prosecution's case
13 cannot be assessed without making the sort of factual
14 findings that have traditionally been reserved for the
15 trier of fact."

16 Ultimately, judge, if Mr. -- I have the case here. If
17 evidence is tendered that would suggest that another
18 individual is responsible for the crimes in which the
19 defendant is accused we have the right to present evidence
20 of that and any rule as enunciated in Gregory I believe
21 it's been overruled.

22 MR. KOZAK: Your Honor, in response to that, I do
23 not believe Gregory that's been overruled. It's the
24 extension of Gregory to a case entitled Gay which is State
25 v. Gay, in which the judge when, decided whether the third

1 party guilt motion was admissible uses standard that was
2 reliant on the stream of the prosecution's case rather than
3 whether the evidence would - hold on, Your Honor, - whether
4 the, whether the evidence was actually connected to the
5 crime. So they used the Gay standard. Basically, took
6 Gregory and took another step and that is what Holmes
7 overruled, the Gay case. They took the Gregory case, they
8 took it to the step where they said, "that evidence wasn't
9 admissible because the prosecution's case was so strong.
10 In the standard in Gregory, I believe is still good law.
11 And it looks at whether the evidence is actually connected
12 to the crime. It's not whether the prosecution's case is
13 strong enough that the third party guilt shouldn't come in,
14 it's whether the third party guilt just cast the bare
15 suspicion on someone else with no connection to the actual
16 crime that occurred. So I believe Gregory is still good
17 law. Holmes overruled Gay which Gregory, which extended
18 Gregory too far. So it still the State's position that
19 Gregory is good law and third party guilt they just cast a
20 bare suspicion is still not admissible, Your Honor.

21 MR. SWILLEY: Judge, I disagree. But if there was
22 evidence that didn't cast -- even if that was good law, I
23 don't think that prohibits Mr. - Mr. Hayes or us from
24 presenting evidence that another party is criminally
25 culpable for some of the crimes which he is accused. I

1 just don't -- I think the Constitution guarantees him the
2 right to present a complete defense and he's got that
3 right.

4 THE COURT: How do you plan to establish that?
5 What do you contend to offer?

6 MR. SWILLEY: Well, judge, I would anticipate that if
7 Mr. Hayes and based on the information that I have, there's
8 no other individual that was within the apartment complex
9 other than the defendant who -- there's no other individual
10 that would've witnessed any of these alleged offenses so I
11 believe it would be through Mr. Hayes, if necessary, that
12 could present direct evidence of that as well. So really
13 and truly it would be through Mr. Hayes any evidence of
14 actual third party guilt. And, judge, I just don't think
15 that they can, the State can limit any evidence that's
16 favorable to the accused. And I think that's pretty much
17 set out by US Supreme Court in Holmes. I think they said
18 that rule, if I can find it, that arbitrary rule would
19 infringe on his constitutional rights to present a complete
20 defense. And the court, the US Supreme Court with several
21 other opinions in which that happened Rock versus Arkansas
22 and it looks like Chambers versus Mississippi on page 5. It
23 says here that, "While the Constitution thus prohibits the
24 exclusion of defense evidence under rules that serve no
25 legitimate purpose or that are disproportionate to the ends

1 that are asserted to promote, well-established rules of
2 evidence permit trial judges to exclude evidence if it's
3 probative value is outweighed by certain other factors such
4 as unfair prejudice, confusion of the issues, or potential
5 to mislead the jury." In other words, I believe this would
6 do if it is offered. So, I mean, judge, I think if there
7 is evidence of third party guilt I think we have the right
8 to offer it. And I think page 8, may go on to discuss the
9 the exclusion of it. I think, you know, essentially,
10 judge, "a criminal defendant's federal constitutional
11 rights are violated by an evidence rule under which the
12 defendant may introduce evidence of third party guilt if
13 the prosecution has introduced forensic evidence that, if
14 believed, strongly support a guilty verdict." But I don't
15 think that's the situation we're gonna have. I think that
16 the evidence against Mr. Hayes is direct and testimonial
17 based on some of the individuals that are gonna testify.

18 MR. KOZAK: Your Honor, I don't believe that third
19 party guilt motion prevents him from taking the stand and
20 testifying whatever regard he wants. And if there is
21 direct evidence, then I believe that's admissible as well.
22 It's just the law states, "that there must be proof of some
23 connection with the actual crime. Remote act disconnected
24 and outside the crime itself, cannot be separately proved
25 for such a purpose," and that, "the defendant may not be

1 permitted to indulge in conjectural inferences that other
2 people might've committed the offense." I don't think that
3 excludes direct evidence of someone else doing it or the
4 defendant testifying on his own behalf.

5 THE COURT: No. But I agree that it sounds like to
6 me it may be conjectural or speculation or whatever but,
7 we'll see. Let me read these two cases before we come
8 back, you know, for the jury selection. I'll let you know
9 how I rule on that. What about the other -- do you agree
10 the statements, no one wants the statement in, correct?

11 MR. SWILLEY: That's correct, judge. I'm not even
12 offering that statement into evidence through any
13 witnesses and the State is not going to either it appears.
14 I don't plan on it or anticipate any evidence of any other
15 prior sexual encounters or activities of the State's
16 witness, Ms. Simpson, I don't plan on offering anything
17 that pertains to that. I don't anticipate that coming up.
18 I'm not -- I'm not contesting the introduction of any
19 photo, any photo lineups that were used to identify Mr.
20 Hayes. And I think that's pretty much it.

21 THE COURT: Okay. So you, basically, agree to
22 abide by the rape shield law?

23 MR. SWILLEY: Yes, sir.

24 THE COURT: Okay.

25 MR. SWILLEY: I don't think I have a choice.

1 THE COURT: Right. I don't either but I just
2 wanted to hear you say it so....

3 MR. SWILLEY: Yes, sir.

4 THE COURT: Okay. All right. I'll let you -- I
5 may read these cases and I'll let you hear what I say about
6 the third party. But I agree with you, Mr. Kozak, he can -
7 if he testifies, I mean, but he can present his defense
8 basically as he sees fit and we'll just have to see, you
9 know, how far he goes with regards to that. Well, I'll
10 look at it and let hear from me. Anything else before

11 MR. SWILLEY: Not at this time, judge.

12 THE COURT: Okay. I understand the jury is to
13 report at 1 o'clock. So we'll try to get started promptly
14 so we can get them qualified. Qwen, we'll they - they're
15 not to be here until one, right?

16 THE CLERK: One o'clock.

17 THE COURT: So you take the mileage as they come in
18 or do you want me to ask for?

19 THE CLERK: I have somebody back there. They have
20 to scan them, you know, and they get their mileage and
21 everything.

22 THE COURT: Okay.

23 THE CLERK: So we won't have to get their mileage
24 because they'll get the mileage.

25 THE COURT: So all we need to do is to get their

1 occupation, spouse occupation ---

2 THE CLERK: Yes, sir.

3 THE COURT: --- and we can charge ahead.

4 THE CLERK: Yes, sir.

5 THE COURT: Okay. So we probably won't be ready to
6 question them, for what, it will probably take about
7 fifteen or twenty minutes or so to get them in?

8 THE CLERK: Mmm, hmm.

9 THE COURT: Well, we'll all be here at 1 o'clock
10 anyway so. Yes, ma'am, Ms. Burchstead?

11 MS. BURCHSTEAD: Just to say, over the break I
12 believe we've agreed to take a look at evidence and we'll
13 try to go through some exhibits and expedite that as well.

14 THE COURT: Oh, great. Okay.

15 MS. BURCHSTEAD: And nothing else from the State.

16 THE COURT: Right. Okay.

17 MS. BURCHSTEAD: Thank you.

18 THE COURT: If we can pre-mark anything, we'll
19 certainly do that.

20 MS. BURCHSTEAD: Yes, sir.

21 THE COURT: Okay. All right. We'll resume at 1
22 o'clock then.

23 (Whereupon, the court take a lunch at 11:20 a.m.)

24 (Whereupon, the court goes back on the record at 1:28 p.m.)

25

1 THE COURT: All right. Ladies and gentlemen, those
2 of you who are remaining with us are now qualified to serve
3 as jurors for this term of court. I want to mention a few
4 things to you this week while we're here before we begin
5 the selection process, I don't know if they confiscated
6 your cell phones here, do you or are they allowed to bring
7 them in?

8 THE CLERK: They don't bring them in.

9 THE COURT: They aren't allowed to bring them in?

10 OFFICER: No, sir.

11 THE COURT: Okay. Good. That wouldn't be a
12 problem. But don't try to slip your phone in by chance.
13 If you -- if someone is taking them up outside please leave
14 your phone with the officials and you'll get it back at the
15 proper time. Now -- and if you need them during lunch time
16 or break or something, you certainly have access to them so
17 you can use your phone.

18 Now, you don't know anything about the case that we're
19 going to talk about in a few minutes but I want to go ahead
20 and explain to you that as jurors you're not to discuss
21 this case or talk about it with anyone. We had a case here
22 recently in Dillon County, a few weeks ago, where we had to
23 declare a mistrial before we actually even got started
24 because one of the jurors went out and started doing
25 research on the computer looking up old newspaper articles

1 and things the night before we were to start the trial.
2 You can't do that. You're not to do any type of research
3 on your own whether your checking on a lawyer or looking up
4 something about a lawyer or the name of the case or any of
5 the court officials or anything. You're not to do any of
6 that. If you do it can result in a mistrial in this case
7 and we do not want that to happen. The State and the
8 Defendant have their day in court this week and we want
9 them to be able to go ahead and have this case tried and a
10 decision rendered for everyone.

11 Now, it's important during this week that you not
12 approach any of the attorneys or any of the parties or
13 anybody that's involved in this case. That was also an
14 issue we had a couple of weeks ago where one of the jurors
15 actually approach one of the lawyers out on the courthouse
16 lawn after we finished court one day. And the lawyers are
17 instructed, they are instructed not to talk to you, not to
18 bother you in any way and it's not because they're not
19 friendly. If you were to walk in and see a lawyer one
20 morning and say, good morning, and he didn't even respond
21 it's because I'm telling them not to. I don't want there
22 to be any sense of what, we call, impropriety whatsoever
23 during the course of this trial. So they're not being
24 unfriendly, they're just following my instructions not to
25 approach you and you don't approach them. And, again, you

1 don't speculate about things if you do happen to be
2 selected on the jury or if we take a break in a few minutes
3 before we select the jury, don't start talking about, well,
4 I know this guy, this and that, you know, there's some
5 questions that you'll have to be asked in a few moments
6 before we begin the selection process and I don't want you
7 talking to anybody about anything about this case or what
8 you speculate that this case might be like.

9 Now, I also want you to be prompt. When we give you a
10 time to be here in the mornings, I generally give you about
11 a fifteen minute leeway. If we're going to start court at
12 9:30 I'll tell you to be in the jury room at 9:15. But we
13 want you to be prompt. I know things happen and emergency
14 arise but I want everybody to do their best to be here and
15 be on time. It's a disservice to your fellow jurors and to
16 everybody in the court system if you just lollygag around
17 and don't come in except when you want to come in. Now,
18 you know, if emergencies arise during the course of the
19 week, the person who is involved in the emergency can
20 certainly contact the sheriff's department or the clerk of
21 courts office and the message will get to us and we'll get
22 it to you or if you have an emergency that rises somehow if
23 you'll please let the clerk of court know before court
24 starts in the morning.

25 Now, there are other things that I'll explain to you

1 if you are actually selected to serve on the jury. The
2 hours of operations can sometimes vary from day-to-day.
3 But we generally try to conclude court every day around
4 5:30, five or 5:30. It may run over six. But we try not
5 to inconvenience you any more than we have to because
6 everyone realizes that jury service is an inconvenience.
7 But it's also an important duty that you are fulfilling on
8 behalf of the State of South Carolina and the County of
9 Dillon I want to thank you for having responded to your
10 jury summons and appearing here this week to serve as a
11 juror. I can't think of anything more important as far as
12 a civic duty than serving on a jury and I appreciate again
13 you're doing that.

14 Now, I don't know if it's been discussed about a call
15 in system but if we have any need for you to call in, we'll
16 go over that with you later and let you know the number and
17 where you would need to call in for any type of
18 instructions that we might give to you when we're own
19 downtime.

20 Now, counsel, do y'all need a few minutes to look over
21 the jury list that we've gone over?

22 MS. BURCHSTEAD: The State's ready, Your Honor.

23 MR. SWILLEY: We're ready to proceed, Judge.

24 THE COURT: Okay. Good. I'm not gonna give
25 you a break right now then. Okay. All right. Counsel, I

1 have five indictments, is that right?

2 MS. BURCHSTEAD: Yes, Your Honor.

3 MR. SWILLEY: That's correct.

4 **VOIR DIRE**

5 THE COURT: All right. Ladies and gentlemen,
6 we're about to begin the trial of the case of the State of
7 South Carolina versus Tyreek Dashawn Hayes. There are five
8 separate indictments and I'll go over those with you later
9 in the process. But at this point in time there's some
10 other questions that I need to ask you before we can
11 actually begin the selection process. And I'm going to ask
12 first that Mr. Tyreek Dashawn Hayes stand and face the jury
13 please.

14 (Whereupon, the defendant stands)

15 THE COURT: All right, sir, you may be seated.
16 Are Ms. Simpson and Ms. Covington present?

17 MS. BURCHSTEAD: They are in the solicitor's
18 office, Your Honor.

19 THE COURT: Okay. Can we bring them in so
20 they can be identified possibly?

21 MS. BURCHSTEAD: Yes, sir.

22 (Whereupon, the witness are brought into the courtroom)

23 THE COURT: Ladies, you can seat right here. All
24 right. Ms. Candace Simpson, would you raise your right
25 hand just so the jury will know? This is Candace Simpson

1 an alleged victim in this case. You can put your hand
2 down. And this is Ms. Covington, correct?

3 MS. COVINGTON: Yes, sir.

4 THE COURT: You name is Ann Covington?

5 MS. COVINGTON: (Shaking of the head yes)

6 THE COURT: You may be excused.

7 (Whereupon, the witnesses exit the courtroom)

8 THE COURT: All right. I want to caution you
9 and remind you that you are still under oath. The clerk of
10 court placed you under oath a little earlier this afternoon
11 and that oath still applies to you at this time so these
12 questions are to be responded to accurately based on your
13 oath that you have provided.

14 Now, is there any member of the jury panel who is
15 related by blood or marriage or who has ever been related
16 by blood or marriage to either Tyree DeShawn Hayes, Ann
17 Covington, or Candace Simpson, if so please stand?
18 (Whereupon, a juror stands)

19 THE COURT: Yes, ma'am. Your name and number
20 please?

21 POTENTIAL JUROR #80: Nortonius Jones.

22 THE COURT: All right. Who are you related to?

23 POTENTIAL JUROR #80: To Candace and to Ann.

24 THE COURT: You're related to both of them?

25 POTENTIAL JUROR #80: Yeah, we're cousins, distant,

1 but we are cousins. I am related to them.

2 THE COURT: Okay. All right. And are you familiar
3 with the situation?

4 POTENTIAL JUROR #80: No, sir. I don't think I am.
5 I don't know the situation so I don't think I'm familiar
6 with it.

7 THE COURT: Okay. All right. The fact that you
8 are related to the two alleged victim's in this matter, I'm
9 going to excuse you for service on this particular case, do
10 you understand? Just have a seat and remain with us.

11 All right. Is there anyone else who is related by
12 blood or marriage to either, as I said, Mr. Hayes, Ms.
13 Covington, or Ms. Simpson or who has ever been related by
14 blood or marriage to these individuals please stand now?
15 Don't hold back. We don't want to find out later that
16 somebody is related and didn't tell us about it.

17 (Whereupon, no one is standing)

18 THE COURT: Okay. Has any member of the jury panel
19 ever had a close personal, business, or social relationship
20 with Tyreek Hayes, Ann Covington, or Candace Simpson, if so
21 please stand?

22 (Whereupon, several jurors stand)

23 POTENTIAL JUROR #50: Good afternoon, Your Honor.

24 THE COURT: Hang on just a minute. We got to get
25 your name and number first.

1 POTENTIAL JUROR #50: Porsche German, number 50.

2 COURT REPORTER: You're number what?

3 POTENTIAL JUROR #50: Fifty.

4 THE COURT: Okay. Ms. German, what is your
5 situation concerning which party?

6 POTENTIAL JUROR #50: Candace Simpson and Ann
7 Covington, I grew up in the same church as them. I've been
8 going to church with them my life. All of us are still
9 members of that church.

10 THE COURT: What's the last thing you said?

11 POTENTIAL JUROR #50: All of us are still current
12 members of that church.

13 THE COURT: Well, the fact that you know them and
14 go to church with them, would that prevent you from being
15 able to be fair and impartial to both the State and the
16 Defendant in the trial of this case?

17 POTENTIAL JUROR #50: No, sir. I just didn't want
18 you to find any conflict of interest.

19 THE COURT: Say it again?

20 POTENTIAL JUROR #50: No, sir. I didn't want you
21 to find any conflict of interest.

22 THE COURT: Okay. But you could be fair to both
23 sides in the trial of this case? You can listen to all of
24 the evidence and make a decision based on the evidence and
25 not on the fact that you go to church with those people?

1 POTENTIAL JUROR #50: Yes, sir.

2 THE COURT: Okay. All right. Yes, ma'am?

3 POTENTIAL JUROR #102: Farrah McLellan, 102. I went
4 to school with Ann Simpson. Me and her used to be friends
5 in school but we haven't spoken really since then.

6 THE COURT: Okay. Was that just a couple of years
7 ago?

8 POTENTIAL JUROR #102: No, more than that.

9 THE COURT: Ma'am?

10 POTENTIAL JUROR #102: No, we've been out of school.

11 THE COURT: Would the fact that you went to school
12 with this individual ---

13 POTENTIAL JUROR #102: It won't.

14 THE COURT: --- would that keep you from being able
15 to be fair and impartial to both the State and the
16 Defendant in the trial of this case?

17 POTENTIAL JUROR #102: No, sir.

18 THE COURT: You wouldn't be bias or prejudiced in
19 any way?

20 POTENTIAL JUROR #102: No, sir.

21 THE COURT: Okay. Thank you, ma'am. Yes, sir,
22 your name and number?

23 POTENTIAL JUROR #90: Keith Leonard, number 90. I
24 actually know Ms. Simpson through a friend of a friend. I
25 know Tyreek. I think he was a former employee at the Wix's

1 Plant here in Dillon. I don't have a reason to be
2 impartial to either party. I just want to acknowledge that
3 I do know both parties. Probably know her just a little
4 bit more than probably Tyreek. But I don't have a problem
5 being impartial in any manner regarding the case.

6 THE COURT: Okay. You, basically, know them as --
7 is there any real close social relationship?

8 POTENTIAL JUROR #90: No.

9 THE COURT: All right. Let me ask the question.
10 Can you, then, be fair and impartial to both the State and
11 the Defendant in the trial of this case even though you
12 know some of them?

13 POTENTIAL JUROR #90: I most certainly can.

14 THE COURT: Okay. Thank you, sir. Yes, ma'am?

15 POTENTIAL JUROR #142: Louise Samuels, 142. I work
16 with Ann.

17 THE COURT: Hang on just a minute. All right. Ms.
18 Samuel, you say you work with Ms. Covington?

19 POTENTIAL JUROR #142: I do.

20 THE COURT: How long have you worked with her?

21 POTENTIAL JUROR #142: Eight years. Eight years.

22 THE COURT: Okay. And would the fact that you work
23 with her make you biased or prejudiced in her favor ---

24 POTENTIAL JUROR #142: No.

25 THE COURT: --- or could you be fair and impartial

1 to both the State and the Defendant in the trial of this
2 case? Could you make your decision based on evidence and
3 facts that are introduced during this trial or would you
4 make your decision based on the fact that you work with
5 her?

6 POTENTIAL JUROR #142: Yeah -- yeah, I could. Yes.

7 THE COURT: Yes to which question?

8 POTENTIAL JUROR #142: That I could be fair.

9 THE COURT: You can be fair and impartial to both
10 the State and the Defendant?

11 POTENTIAL JUROR #142: Yes, sir.

12 THE COURT: All right. I'm gonna let you stay.
13 All right, ladies and gentlemen, I have a number of
14 potential witnesses names that I'm getting ready to call
15 out to you I want you to pay close attention to these
16 names. If any of these individuals happen to be in the
17 courtroom I want them to stand up when their name is
18 called. I don't see too many people here. But listen
19 carefully to these names: Johnny Lester, Elaine Manning,
20 Tonya Moore ---

21 POTENTIAL JUROR #9: I know Tonya Moore.

22 THE COURT: Okay. That's fine. Let me get through
23 the whole list and then I'll have a questions to ask about
24 them.

25 POTENTIAL JUROR #9: Okay.

1 THE COURT: Okay. Tonya Moore, Randy Grimsley with
2 the Dillon County EMS, Ryan Barry with the Dillon Police
3 Department, Officer Jeffery Cook with the Dillon Police
4 Department, Sergeant Julie Duff with the Dillon Police
5 Department, Corporal Brian Genwright with the Dillon Police
6 Department, Corporal Christian Hensley with the Dillon
7 Police Department, David Lane with the Dillon Police
8 Department, Matt Townsend with the Dillon Police
9 Department, Alan Turner with the Dillon Police Department,
10 Lieutenant Jason Turner with the Dillon Police Department,
11 Corporal Lorie Tyler with the Dillon Police Department,
12 Mark Vereen with the Dillon Police Department, Sergeant
13 Michael Yoder with the Dillon Police Department, Bridget
14 Bass, an RN, with McLeod Medical Center, Mandouh Mijalli -
15 I'm not sure I pronounce that right - Mijalli, she's an MD,
16 or a doctor, with McLeod Medical Center, Janis Rogers, an
17 RN, with McLeod Medical Center, Thomas E. Darnell with the
18 State Law Enforcement Division, Verona T. Herrera also with
19 sled, Lindsay Mitchell with sled, Samuel Stewart with sled,
20 Shalanda Livingston, Anika Sellers, and the Dillon County
21 911 records custodian, in all likelihood, would be Anitra
22 Clark-Jones, Andre Almad Hamilton, Delvon Tiriq Bethea,
23 Infinity Russell, Janique Sellers, Jalik Bethea, Terrell
24 McBride, Lacarius Manning, Bobby Watkins, Shawn Bethea.
25 That's a lot of names I just called out. I need to know if

1 anyone on the jury panel has ever been related or is now
2 related by blood or marriage to any of the people whose
3 names I just called out. Also keep in mind if you ever had
4 any type of close business, personal, or social
5 relationship with any of those individuals whose names I
6 called out please stand? Stand up all at one time so I can
7 see you now. Don't pop up one at a time.

8 (Whereupon, several jurors stand)

9 THE COURT: Again, ever been related by blood or
10 marriage to any of those potential witnesses or ever had a
11 close business, personal, or social relationship with those
12 names?

13 (Whereupon, several jurors stand)

14 THE COURT: Okay. We'll start with the lady in
15 purple.

16 POTENTIAL JUROR #102: Farrah McLellan, 102. Elaine
17 Manning that's my cousin. Elaine Manning, you called her
18 name.

19 THE COURT: Okay. How close are y'all?

20 POTENTIAL JUROR #102: Well, you know....

21 THE COURT: Ma'am?

22 POTENTIAL JUROR #102: We close cousins but we don't
23 talk.

24 THE COURT: Okay. That's probably why you're still
25 close.

1 (Whereupon, there is laughter in the courtroom)

2 THE COURT: Would the fact that she is related to
3 you in that way and apparently don't talk very often ---

4 POTENTIAL JUROR #102: No, I don't ---

5 THE COURT: Would that keep you from being able to
6 be fair and impartial to both the State ---

7 POTENTIAL JUROR #102: I can.

8 THE COURT: --- and the Defendant in the trial of
9 this case?

10 POTENTIAL JUROR #102: I can.

11 THE COURT: Ma'am.

12 POTENTIAL JUROR #102: Yes, sir. I can be fair.

13 THE COURT: You can listen to the evidence make a
14 decision based on that ---

15 POTENTIAL JUROR #102: Yes, sir.

16 THE COURT: --- not the fact that she's a cousin of
17 yours?

18 POTENTIAL JUROR #102: Yes, sir.

19 THE COURT: Okay. Have a seat. Yes, ma'am?

20 POTENTIAL JUROR #38: Katina Dudley.

21 THE COURT: Speak up please.

22 POTENTIAL JUROR #38: Number 38, Katina Dudley.

23 THE COURT: All right.

24 POTENTIAL JUROR #38: I attend church with Jason
25 Turner. We attend the same church.

1 THE COURT: Just members of the same church?

2 POTENTIAL JUROR #38: Yes, sir. We go to the same
3 church.

4 THE COURT: Would that fact keep you from being
5 able to be fair and impartial to both the State and the
6 Defendant in the trial of this case?

7 POTENTIAL JUROR #38: No, sir.

8 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

9 POTENTIAL JUROR #150: Twana Stewart, 150.

10 THE COURT: Yes, ma'am, Ms. Stewart?

11 POTENTIAL JUROR #150: I went to school with Mark
12 Vereen.

13 THE COURT: One of the witnesses -- which one,
14 Mark?

15 POTENTIAL JUROR #150: Mark Vereen.

16 THE COURT: You just went to school with him?

17 POTENTIAL JUROR #150: Yeah.

18 THE COURT: Would that fact keep you from being
19 able to be fair and impartial to both the State and the
20 Defendant in the trial of this case?

21 POTENTIAL JUROR #150: No, sir.

22 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

23 POTENTIAL JUROR #8: Candace Bohachic, juror
24 number 8. Ryan Berry, his wife is my boss and he's also
25 one of my husband's best friends.

1 THE COURT: He's also what?

2 POTENTIAL JUROR #8: My husband's best friend.

3 THE COURT: Okay.

4 COURT REPORTER: What was her number?

5 THE COURT: What was your number again?

6 POTENTIAL JUROR #8: Number 8.

7 THE COURT: Eight, Bohachic?

8 POTENTIAL JUROR #8: Bohachic.

9 THE COURT: All right. Would these -- with the
10 information that you've just given us, do you feel like you
11 can be fair or would you be bias possibly towards that
12 particular witness and what he might testify to in this
13 trial?

14 POTENTIAL JUROR #8: I can be fair.

15 THE COURT: You can be fair?

16 POTENTIAL JUROR #8: Yes, sir.

17 THE COURT: Okay. So your relationship is not such
18 that you could not be fair and impartial to both the State
19 and the Defendant in the trial of this case?

20 POTENTIAL JUROR #8: I can be fair.

21 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

22 POTENTIAL JUROR #83: I'm number 83, Emily Jordan.

23 THE COURT: Yes, ma'am, Ms. Jordan?

24 POTENTIAL JUROR #83: I'm in Sunday School with Dr.
25 Mijalli. So we attend social events together and know him

1 fairly well from church.

2 THE COURT: Would that fact keep you from being
3 able to be fair and impartial to both the State and the
4 Defendant in the trial of this case?

5 POTENTIAL JUROR #83: No, sir.

6 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

7 POTENTIAL JUROR #77: Kimberly Johnson, 77. I went
8 to school with Jason Turner.

9 THE COURT: Okay. Would the fact that you went to
10 school with Mr. Turner keep you from being able to be fair
11 and impartial to both ---

12 POTENTIAL JUROR #77: No, sir.

13 THE COURT: --- the State and the Defendant in the
14 trial of this case?

15 POTENTIAL JUROR #77: No, sir.

16 THE COURT: You can be fair and impartial?

17 POTENTIAL JUROR #77: Yes, sir.

18 THE COURT: Okay. Thank you, ma'am. Yes, sir, in
19 the blue shirt, light blue shirt?

20 POTENTIAL JUROR #12: Ashley Brumble, number 12. I
21 worked with Randy Grimsley part-time as an EMT ten or
22 eleven years ago something like that. Close friends with
23 Bridget Bass. And I attended social functions at one time
24 or another with most of the Dillon City officers you named.

25 THE COURT: Okay. Would the fact that you attended

1 those functions with the police officers and your other
2 statement, would that keep you from being able to be fair
3 and impartial to both the State and the Defendant in the
4 trial of this case?

5 POTENTIAL JUROR #12: I'd be good.

6 THE COURT: You wouldn't be bias toward law
7 enforcement officers in any way?

8 POTENTIAL JUROR #12: No, sir.

9 THE COURT: Okay. Thank you, sir. Gentleman in
10 the black?

11 POTENTIAL JUROR #90: Yes, sir. I, as well, work
12 in the Dillon County EMS. Randy Grimsley was the director
13 as he still is today. I don't have any problem or
14 association other than work influence regarding my job here
15 whatever, with any of the police officers, rescue members
16 or whatever. I can be fair and impartial in this case.

17 THE COURT: So you just stated, you can be fair and
18 impartial to both the State and the Defendant ---

19 POTENTIAL JUROR #90: Yes, sir.

20 THE COURT: --- in the trial of this case?

21 POTENTIAL JUROR #90: Yes, sir.

22 MR. KOZAK: Your Honor, what's his number?

23 THE COURT: Your number again?

24 POTENTIAL JUROR #90: Number 90.

25 THE COURT: Thank you. I'm sorry. Mr. Leonard.

1 Yes, ma'am?

2 POTENTIAL JUROR #128: Casey Pitts, 128. I, as
3 well, know most of the Dillon Police officers and I do like
4 social events with them. David Lane and I went to school
5 together and still to this day, close friends. And he and
6 I attended the same social functions.

7 THE COURT: What was your number again?

8 POTENTIAL JUROR #128: One twenty-eight.

9 THE COURT: Ms. Pitts, correct?

10 POTENTIAL JUROR #128: Pitts, yes.

11 THE COURT: But would your situation, ma'am, keep
12 you from being able to be fair and impartial to both the
13 State and the Defendant in the trial of this case?

14 POTENTIAL JUROR #128: I can be fair.

15 THE COURT: Your relationship wouldn't affect you
16 in any way, whatsoever?

17 POTENTIAL JUROR #128: No, sir.

18 THE COURT: Okay. Thank you. Yes, ma'am?

19 POTENTIAL JUROR #9: Julia Boykin, number 9.

20 THE COURT: Yes, ma'am, Ms. Boykin?

21 POTENTIAL JUROR #9: I work with Tonya Moore and
22 spoke with her today. We're ten feet apart working with
23 each other.

24 THE COURT: What does Ms. Moore do?

25 POTENTIAL JUROR #9: She's a disability

1 specialist.

2 THE COURT: And you work with disability and
3 special needs, right?

4 POTENTIAL JUROR #9: Yes, sir.

5 THE COURT: Okay. I mean, would the fact that you
6 work with her and the fact that she might testify for one
7 side or the other, would that keep you from being able to
8 be fair and impartial to both the State and the Defendant?

9 POTENTIAL JUROR #9: Yes, sir.

10 THE COURT: It would keep you from being able to be
11 fair and impartial?

12 POTENTIAL JUROR #9: Yes, sir. I've already got
13 some of it planted in my mind already.

14 THE COURT: Okay. Well, if that's the situation
15 and you got something plant in your mind, we don't need for
16 you to serve on the jury. We need open minded people,
17 therefore, I'm going to excuse you.

18 POTENTIAL JUROR #9: Okay. Yes, ma'am?

19 POTENTIAL JUROR #108: Kim Miller, 108. I attend
20 church with Christian Hensley.

21 THE COURT: All right. Would the fact that you
22 attend church with that particular potential witness, would
23 that keep you from being able to be fair and impartial to
24 both the State and the Defendant in the trial of this case?

25 POTENTIAL JUROR #108: No, sir.

1 THE COURT: All right. Thank you, ma'am. All
2 right. At this time, I'm going to ask that the attorneys
3 stand and face the jury and identify yourself to the jurors
4 please. The State first please.

5 MS. BURCHSTEAD: Thank you, Your Honor. Megan
6 Burchstead with the South Carolina Attorney General's
7 Office in Columbia.

8 MR. KOZAK: Joel Kozak also with the Attorney
9 General's Office.

10 MR. SWILLEY: My name is Matt Swilley. I work at
11 Swilley Law Firm in Florence. I'm also a part-time
12 assistant public defender for the Fourth Circuit Public
13 Defenders Office in Dillon, Darlington, Marlboro in
14 Chesterfield Counties.

15 THE COURT: All right. Has any member of the jury
16 panel ever been related by blood or marriage to any of the
17 attorneys who just identify themselves to you, if so please
18 stand?

19 (Whereupon, no one is standing)

20 THE COURT: Have any of the jurors, any of you
21 jurors ever had a close business, personal, or social
22 relationship with any of these three attorneys who just
23 stood, if so please stand?

24 (Whereupon, no one is standing)

25 THE COURT: Has any member of the jury panel ever

1 been represented by Mr. Swilley or any member of his law
2 firm, if so please stand?

3 (Whereupon, no one is standing)

4 THE COURT: Has any member of the jury panel ever
5 been represented by the Attorney General's Office of South
6 Carolina, if so please stand?

7 (Whereupon, no one is standing)

8 THE COURT: Has any minute of the jury panel had a
9 family member who has ever been represented by Mr. Swilley
10 or who has had any involvement for a case ever prosecuted
11 on your behalf by the South Carolina Attorney General's
12 Office or the Fourth Circuit Solicitor's Office, if so
13 please stand?

14 (Whereupon, no one is standing)

15 THE COURT: Does any member of the jury panel know
16 or worked with the defendant, Tyreek Hayes, or anyone in
17 his family, if so please stand?

18 (Whereupon, several jurors stand)

19 POTENTIAL JUROR #153: I worked with his
20 grandmother.

21 THE COURT: I'm sorry. Let me get your name and
22 number?

23 POTENTIAL JUROR #153: One fifty-three, Patricia
24 Taylor.

25 THE COURT: Hang on just a minute. Ms. Taylor,

1 what did you say?

2 POTENTIAL JUROR #153: I work with his grandmother,
3 Gloria German.

4 THE COURT: You work with his grandmother?

5 POTENTIAL JUROR #153: Mmm, hmm.

6 THE COURT: Okay. Would the fact that you work
7 with his grandmother make you biased toward him in any way?

8 POTENTIAL JUROR #153: No, ma'am -- No, sir.

9 THE COURT: You can be fair and impartial to both
10 the State and the Defendant in the trial of this case?

11 POTENTIAL JUROR #153: Yes, sir.

12 THE COURT: Okay. Thank you, ma'am. Anyone else
13 who has ever worked with the defendant or anyone in the
14 defendant's family, if so please stand?

15 (Several jurors stand)

16 THE COURT: Yes, sir?

17 POTENTIAL JUROR #90: As I stated earlier, Tyreek
18 is his name, I guess is been some years ago. He was a
19 temporary employee in the department next to my department.
20 I don't think he worked directly for me. I don't remember
21 him working directly for me. But I do remember him working
22 at the Wix Facility at some point in time which that's been
23 some years ago. I don't know -- I can't remember what year
24 that was by know I remember seeing his face and I know he
25 worked there.

1 THE COURT: Okay. Would the fact that y'all both
2 worked at the same business, would that keep you from being
3 able to be fair and impartial ---

4 POTENTIAL JUROR #90: No, sir.

5 THE COURT: --- to both the State and the Defendant
6 ---

7 POTENTIAL JUROR #90: Not at all ---

8 THE COURT: Let me finish my question for the
9 record please.

10 POTENTIAL JUROR #90: Okay. I'm sorry.

11 THE COURT: Would that keep you from being able to
12 be fair and impartial to both the State and the Defendant
13 in the trial of this case?

14 POTENTIAL JUROR #90: No.

15 THE COURT: You wouldn't be ---

16 POTENTIAL JUROR #90: I would be fair and
17 impartial.

18 THE COURT: You wouldn't be bias toward him in any
19 way?

20 POTENTIAL JUROR #90: Not at all.

21 THE COURT: Okay. Thank you, sir.

22 POTENTIAL JUROR #90: Thank you, sir.

23 THE COURT: All right. Anyone else who has ever
24 worked with Mr. Hayes or anyone in his family, please stand
25 at this time?

1 (Whereupon, no one is standing)

2 THE COURT: Has anyone in the jury panel ever
3 conducted business with the defendant, the defendant's
4 family or any business associated with the defendant or his
5 family, if so please stand?

6 (Whereupon, no one is standing)

7 THE COURT: Has anyone in the jury panel or a close
8 friend of a member of the jury panel or a family member of
9 a member of the jury panel ever been a victim of a crime,
10 if so please stand? If you, a family member, or a close
11 personal friend has ever been a victim of a crime, please
12 stand? Don't hesitate please stand. This is a very
13 important question. Okay. Keep coming.

14 (Whereupon, several jurors stand)

15 THE COURT: Yes, ma'am, the first lady that stood,
16 your name and number?

17 POTENTIAL JUROR #77: Kimberly Johnson, number 77.

18 THE COURT: All right. And Ms. Johnson, you had --
19 you or somebody you know has been a victim of a crime?

20 POTENTIAL JUROR #77: Yes, sir.

21 THE COURT: You or somebody else?

22 POTENTIAL JUROR #77: My mother - my mother.

23 THE COURT: Your mother. All right. Would the
24 fact that she's been the victim of a crime, would that keep
25 you from being able to be fair and impartial to both the

1 State and the Defendant in the trial of this case?

2 POTENTIAL JUROR #77: No, sir.

3 THE COURT: You wouldn't be bias toward a potential
4 victim in this case?

5 POTENTIAL JUROR #77: No, sir.

6 THE COURT: You can be fair?

7 POTENTIAL JUROR #77: Yes, sir.

8 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

9 POTENTIAL JUROR #102: Farrah Mclellan. I was a
10 victim.

11 THE COURT: You, yourself?

12 POTENTIAL JUROR #102: Yes, sir.

13 THE COURT: Okay. Would the fact that you have
14 been the victim of a crime, ma'am, would that keep you from
15 being able to be fair and impartial to both the State and
16 the Defendant in the trial of this case?

17 POTENTIAL JUROR #102: No, sir.

18 THE COURT: You can be fair?

19 POTENTIAL JUROR #102: Yes, sir.

20 THE COURT: You wouldn't be bias toward the victim?

21 POTENTIAL JUROR #102: No, sir.

22 THE COURT: Okay. Thank you, ma'am. All right.

23 We had another one stand up - anybody else in this category
24 go ahead and stand up now please. Yes, ma'am?

25 POTENTIAL JUROR #150: I'm sorry I misunderstood

1 your question. One fifty, Twana Stewart. And I've been a
2 victim of a crime.

3 THE COURT: I'm sorry, your number again?

4 POTENTIAL JUROR #150: One fifty.

5 THE COURT: Oh, okay. All right. Ms. Stewart, you
6 have been the victim of a crime yourself?

7 POTENTIAL JUROR #150: Yes, sir.

8 THE COURT: Okay. Would that fact keep you from
9 being able to be fair and impartial to both the State and
10 the Defendant in the trial of this case?

11 POTENTIAL JUROR #150: No, sir.

12 THE COURT: You wouldn't be bias toward a victim in
13 this matter?

14 POTENTIAL JUROR #150: No, sir.

15 THE COURT: Okay. Thank you, ma'am. All right,
16 anybody else ever been the victim of a crime, had a close
17 personal friend that was a victim of a crime or a family
18 member that was a victim of a crime please stand?

19 (Whereupon, no one is standing)

20 THE COURT: Has any member of the jury panel or a
21 close personal friend of a member of the jury panel or a
22 family member of a member of the jury panel ever been
23 accused of a crime, if so please stand? If you, a family
24 member, or a close personal friend has ever been accused of
25 a crime please stand?

1 (Whereupon, no one is standing)

2 THE COURT: Good. Has anyone in the jury panel
3 seen information about this case in the media or heard
4 anything about this case and already formed an opinion, if
5 so please stand?

6 (Whereupon, a juror stands)

7 THE COURT: Yes, ma'am.

8 POTENTIAL JUROR #102: Farrah McClellan, 102. I
9 haven't formed an opinion but this is Dillon and we hear
10 everything and I heard about it when it happened.

11 THE COURT: Okay. All right. The fact that you
12 heard about it through the grapevine or wherever ---

13 POTENTIAL JUROR #102: Well, it won't. I just know
14 ---

15 THE COURT: I understand. I come from a smaller
16 town than Dillon.

17 POTENTIAL JUROR #102: --- what had happened has
18 been around ---

19 THE COURT: I understand what you're talking about.

20 POTENTIAL JUROR #102: Yes.

21 THE COURT: But would that fact that you've heard
22 something about it, would that interfere with your ability
23 to be fair and impartial to both the State and the
24 Defendant in the trial of this case?

25 POTENTIAL JUROR #102: No, sir.

1 THE COURT: Could you disregard anything you've
2 heard and base your decision on the information that you
3 received from this witness stand?

4 POTENTIAL JUROR #102: Yes, sir.

5 THE COURT: Okay. Thank you, ma'am. Anybody else
6 who's heard anything about this matter and possibly form an
7 opinion about the case?

8 (Whereupon, no one is standing)

9 THE COURT: Again, I want to ask the question, has
10 any member of the jury panel already informed an opinion
11 about this case or any issue in this case, please stand
12 now?

13 (Whereupon, no one is standing)

14 THE COURT: Is there anyone who is a member of the
15 jury panel or a close personal friend of yours or a family
16 member of yours who has ever been a victim of a physical
17 and/or sexual assault or the victim of a home invasion or
18 robbery, please stand?

19 (Whereupon, several jurors stands)

20 THE COURT: Anyone else, please stand now? Yes,
21 sir, your name and number?

22 POTENTIAL JUROR #137: One thirty-seven, Michael
23 Roberts.

24 THE COURT: Okay. Mr. Roberts, have you been the
25 victim or have you had a family member or a friend that's

1 been a victim?

2 POTENTIAL JUROR #137: I -- my family was a victim
3 of a break in, twenty years ago maybe, to was my house.

4 THE COURT: Okay. Would that fact cause you to be
5 bias in any way against the Defendant possibly?

6 POTENTIAL JUROR #137: No, sir.

7 THE COURT: You could be fair and impartial to both
8 the State and the Defendant in the trial of this case?

9 POTENTIAL JUROR #137: Yes, sir.

10 THE COURT: Okay. Thank you, sir. Yes, ma'am?

11 POTENTIAL JUROR #32: Patricia Derry, 32. I have
12 been a victim.

13 THE COURT: Okay. You've been the victim of an
14 assault yourself?

15 POTENTIAL JUROR #12: Yes -- well, it wasn't --
16 it's a personal, when I was little, thing.

17 THE COURT: All right. Would that fact cause you
18 to be bias or prejudice toward either the State or the
19 Defendant in the trial of this case?

20 POTENTIAL JUROR #32: No.

21 THE COURT: You could be fair and impartial to both
22 the State and the Defendant in the trial of the case?

23 POTENTIAL JUROR #32: Yes.

24 THE COURT: Okay. Thank you, ma'am. Yes, ma'am?

25 POTENTIAL JUROR #150: Twana Stewart, 150. I've

1 been a victim of sexual assault. Twana Stewart, 150 ---

2 THE COURT: I didn't hear ---

3 POTENTIAL JUROR #150: --- I've been a victim.

4 THE COURT: Okay. And the fact that you have been
5 the victim, ma'am, would that keep you from being able to
6 be fair and impartial to both the State and the Defendant
7 in the trial of this case?

8 POTENTIAL JUROR #150: No, sir.

9 THE COURT: You wouldn't be biased in any way?

10 POTENTIAL JUROR #150: Okay. Thank you, ma'am. All
11 right. Anyone else who has been the victim of physical or
12 sexual assault or a home invasion or robbery, please stand
13 now?

14 (Whereupon, no one is standing)

15 THE COURT: Is there anyone who's a member of the
16 jury panel who has had to make a police report with the
17 City of Dillon Police Department within the past ten years,
18 if so I want you to state the nature of that report and
19 what officers were involved if you remember? Please stand
20 if you've ever had to make a report to the Dillon Police
21 Department in the last ten years? Yes, ma'am? We'll start
22 over here.

23 POTENTIAL JUROR #143: Farrah Sandel, 143. Just a
24 car accident and I don't remember who the police that were
25 involved.

1 THE COURT: Okay. Would the fact that you interact
2 with the police department keep you from being able to be
3 fair and impartial to both the State and the Defendant in
4 the trial of this case?

5 POTENTIAL JUROR #143: No, sir.

6 THE COURT: All right. Thank you, ma'am. Over
7 here again.

8 POTENTIAL JUROR #102: Farrah Mclellan, 102.

9 THE COURT: Okay. You had to make a report ---

10 POTENTIAL JUROR #102: I did a report three years
11 ago.

12 THE COURT: What kind of report did you make?

13 POTENTIAL JUROR #102: A shoot'in. Somebody shot at
14 me.

15 THE COURT: Shot at you?

16 POTENTIAL JUROR #102: And I had to go.

17 THE COURT: Okay. Do you remember what officers
18 you dealt with?

19 POTENTIAL JUROR #102: I don't even know.

20 THE COURT: Okay. Would that fact keep you from
21 being able to be fair and impartial to both the State and
22 the Defendant in the trial of this case?

23 POTENTIAL JUROR #102: No, sir.

24 THE COURT: Okay. Thank you, ma'am. In the back?

25 POTENTIAL JUROR #8: Candace Bohaschic, 8. I had

1 a car accident ---

2 THE COURT: Speak up a little bit for me.

3 POTENTIAL JUROR #8: A car accident a few months
4 ago.

5 THE COURT: Okay. And do you remember who the
6 officer was you interacted with?

7 POTENTIAL JUROR #8: No, -- Officer McFadden (sic)
8 -- officer McFadden. (sic)

9 THE COURT: My court reporter didn't hear you. The
10 last name again?

11 POTENTIAL JUROR #8: McFadden. (sic)

12 THE COURT: Officer McFadden. Would that fact keep
13 you from being able to be fair and impartial to both the
14 State and the Defendant in the trial of this case?

15 POTENTIAL JUROR #8: No, sir.

16 THE COURT: Okay. Thank you, ma'am. Yes, sir?

17 POTENTIAL JUROR #137: One thirty-seven, Michael
18 Roberts. My son was involved in an automobile accident
19 about seven years ago in the City of Dillon. I do not
20 remember the names of the officers involved. And about a
21 week and a half ago one of my other sons was involved in an
22 accident. Trooper Anderson of the Highway Patrol was that
23 officer.

24 THE COURT: Okay. Would the fact that your sons
25 have been involved in accidents and you've had some

1 interaction with law enforcement, would that keep you from
2 being able to be fair and impartial to both the State and
3 the Defendant in the trial of this case?

4 POTENTIAL JUROR #137: No, sir.

5 THE COURT: Okay. Thank you, sir. Yes, ma'am?

6 POTENTIAL JUROR #32: Patricia Derry, 32. I had my
7 house broken into about four years ago. I don't remember
8 the officers name. I still can be good with doing this.

9 THE COURT: Okay. Would that fact keep you from
10 being able to be fair and impartial to both the State and
11 the Defendant in the trial of this case?

12 POTENTIAL JUROR #32: No. I'd be fair.

13 THE COURT: All right. Thank you, ma'am. All
14 right. Anyone else who's had to make any type of report to
15 the City of Dillon Police Department within the past ten
16 years? We've got one more standing.

17 POTENTIAL JUROR #6: Irene Bethea, number 6.

18 THE COURT: Yes, ma'am, Ms. Bethea?

19 POTENTIAL JUROR #6: Stolen license plate. That
20 was about it.

21 THE COURT: Okay. Do you know who you talked with?

22 POTENTIAL JUROR #6: No. They went around
23 different neighborhood stealing people's license plates.

24 THE COURT: Okay. All right. Would that fact that
25 you had some involvement with the City of Dillon Police

1 Department keep you from being able to be fair and
2 impartial to both the State and the Defendant in the trial
3 of this case?

4 POTENTIAL JUROR #6: No, sir.

5 THE COURT: Okay. Thank you, ma'am. All right.
6 Anybody else? Stand up now please.

7 (Whereupon, no one is standing)

8 THE COURT: All right. Is there any member of the
9 jury panel who believes that a law enforcement officer is
10 more likely to tell the truth than an ordinary citizen or
11 believe a police officer's testimony over that of an
12 ordinary citizen, if so please stand?

13 (Whereupon, no one is standing)

14 THE COURT: Okay. Thank you. All right. Does any
15 member of the jury panel or anyone who may be a close
16 friend of you or a family member, reside in the Newtown
17 area of the City of Dillon, if so please stand?

18 (Whereupon, several jurors stands)

19 THE COURT: You might as well keep standing up.
20 (Whereupon, laughing in the courtroom)

21 THE COURT: Yes, ma'am, do you live near Newtown?

22 POTENTIAL JUROR #102: My mother. I stay in Little
23 Rock. My mother still stay in Newtown. That's where I was
24 brought up at and she still stays there.

25 THE COURT: Okay. Thank you, ma'am, for that

1 information. Yes, sir?

2 POTENTIAL JUROR #90: Yes, sir. Keith Leonard,
3 number 90. I do have relatives that live in Newtown
4 Community but I will be bias against the State or otherwise
5 in this case.

6 THE COURT: All right. Thank you, sir. All right.
7 Is there any member of the jury panel or any member of the
8 jury panel who has a close friend or family member who
9 resides in the Maplewood, Maplewood II or Dover Village
10 Apartment Homes on Long Street Road in Dillon, that's
11 Maplewood, Maplewood II or Dover Village Apartment Homes on
12 Long Street Road in Dillon, if so please stand?
13 (Whereupon, no one is standing)

14 THE COURT: Okay. Is there any member of the jury
15 panel who has friends or relatives that work or have worked
16 in the past for the Dillon County Sheriff's Office or the
17 City of Dillon Police Department, if so please stand?
18 (Whereupon, a juror ask the judge to repeat his question)

19 THE COURT: All right. Is there any member of the
20 jury panel who has a friend or friends or relatives that
21 work or have worked in the past for the Dillon County
22 Sheriff's Office or the city of Dillon Police Department?
23 (Whereupon, several jurors stand)

24 POTENTIAL JUROR #1: The chief, Larry Abraham, my
25 brother-in-law.

1 THE COURT: Okay. Is that -- whoo! Whoo! Whoo!
2 Don't stand up yet. Is he still working ---

3 POTENTIAL JUROR #1: Yes, I'm sorry. He still
4 works.

5 THE COURT: Okay. And he's what relation to you?

6 POTENTIAL JUROR #1: My brother-in-law.

7 THE COURT: Brother-in-law?

8 POTENTIAL JUROR #1: Yes.

9 THE COURT: Would the fact that your brother-in-law
10 is involved in law enforcement or works, he works for the
11 county?

12 POTENTIAL JUROR #1: Yes.

13 THE COURT: Okay. Would that keep you from being
14 able to be fair and impartial to both the State and the
15 Defendant in the trial of this case?

16 POTENTIAL JUROR #1: No, it would not.

17 THE COURT: You wouldn't let that bias you in any
18 way?

19 POTENTIAL JUROR #1: No, it would not.

20 COURT REPORTER: What's her number again?

21 THE COURT: Her number is, number one.

22 POTENTIAL JUROR #1: Yes, number one.

23 THE COURT: All right. You may be seated. Thank
24 you. Yes, ma'am, in the pink?

25 POTENTIAL JUROR #6: Irene Bethea, number 6. My

1 youngest daughter's father used to be a policeman, city
2 policeman.

3 THE COURT: Your youngest ---

4 POTENTIAL JUROR #6: My youngest daughter's father
5 used to be a former policeman.

6 THE COURT: Okay. Would that fact keep you from
7 being fair and impartial to both the State and the
8 Defendant in the trial of this case?

9 POTENTIAL JUROR #6: No, sir.

10 THE COURT: All right. Thank you, ma'am. You
11 might as well stand up too all the time.

12 (Whereupon, laughing in the courtroom)

13 POTENTIAL JUROR #150: Twana Stewart, 150. Larry
14 Abraham is my cousin and Santika Jones (sic) she's my aunt.

15 THE COURT: Okay. And who does Ms. Jones worked
16 for?

17 POTENTIAL JUROR #150: Officer Jones, she works for,
18 at the ---

19 THE COURT: Detention center?

20 POTENTIAL JUROR #150: Yes, sir.

21 THE COURT: Okay. Would the fact that these two
22 individuals are involved with law enforcement or work for
23 law enforcement keep you from being able to be fair and
24 impartial to both the State and the Defendant in the trial
25 of this case?

1 POTENTIAL JUROR #150: No, sir.

2 THE COURT: Be fair. Thank you, ma'am. Okay.

3 Yes, ma'am?

4 POTENTIAL JUROR #143: My cousin is actually married
5 to Mr. Green's son.

6 THE COURT: Your cousin ---

7 POTENTIAL JUROR #143: Mmm, hmm.

8 THE COURT: --- is married ---

9 POTENTIAL JUROR #143: Yes.

10 THE COURT: I feel sorry for them.

11 (Whereupon, laughing in the courtroom)

12 THE COURT: Would that fact keep you from being
13 able to be fair and impartial to both the State and the
14 Defendant in the trial of this case?

15 POTENTIAL JUROR #143: No, sir.

16 THE COURT: And your name and number?

17 POTENTIAL JUROR #143: Farrah Sandel, 143.

18 THE COURT: Okay. Ms. Jordan?

19 POTENTIAL JUROR #83: Emily Jordan, number 83. A
20 friend that my husband grew up with has since become
21 friends of mine who works for the City of Dillon Police
22 Department.

23 THE COURT: Works for what?

24 POTENTIAL JUROR #83: The City of Dillon Police
25 Department.

1 THE COURT: Okay. So a friend of a friend?

2 POTENTIAL JUROR #83: No, it's one of my friends.

3 THE COURT: One of your friends.

4 POTENTIAL JUROR #83: Me and my husband.

5 THE COURT: Okay. Would that fact keep you from
6 being able to be fair and impartial to both the State and
7 the Defendant in the trial of this case?

8 POTENTIAL JUROR #83: No.

9 THE COURT: Okay. Thank you, ma'am. Yes?

10 POTENTIAL JUROR #8: Candace Bohachic, 8. My
11 husband is close friends with Officer Ryan Berry with City
12 Police Department.

13 THE COURT: So your husband and Mr. Berry are close
14 friends?

15 POTENTIAL JUROR #8: Yes, sir.

16 THE COURT: Would that relationship that they have,
17 a friendship, keep you from being able to be fair and
18 impartial to both the State and the Defendant in the trial
19 of this case?

20 POTENTIAL JUROR #8: No, sir.

21 THE COURT: Would the fact that Mr. Berry may be a
22 potential witness and he's a friend of your husband's, you
23 wouldn't be bias toward him in any way?

24 POTENTIAL JUROR #8: No, I would not be bias.

25 THE COURT: Okay. Thank you, ma'am. Yes, sir?

1 POTENTIAL JUROR #137: Number 137, Michael Roberts.

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

3 POTENTIAL JUROR #137: Roy Lee, who was a sheriff
4 for Dillon County for number of years, was my uncle and my
5 ex-brother-in-law used to be a sheriff's deputy also.

6 THE COURT: Okay. Would that keep you from being
7 able to be fair and impartial to both the State and the
8 Defendant in the trial of this case?

9 POTENTIAL JUROR #137: No, sir.

10 THE COURT: You wouldn't be bias toward law
11 enforcement in any way?

12 POTENTIAL JUROR #137: No, sir.

13 THE COURT: Okay. Thank you. Yes, ma'am?

14 POTENTIAL JUROR #142: Louise Samuels, 142.

15 THE COURT: Can you speak a little bit for me
16 please?

17 POTENTIAL JUROR #142: Louise Samuels, 142.

18 THE COURT: Okay. Ms. Samuels?

19 POTENTIAL JUROR #142: My brother was -- he worked
20 for the Sheriff's Department and he worked for the City of
21 Dillon.

22 THE COURT: He no longer works for them, though?

23 POTENTIAL JUROR #142: No, he don't.

24 THE COURT: Okay. Would the fact that he had
25 worked for them in the past, would that keep you from being

1 able to be fair and impartial to both the State and the
2 Defendant in the trial of this case?

3 POTENTIAL JUROR #142: No.

4 THE COURT: You would not be bias toward law
5 enforcement?

6 POTENTIAL JUROR #142: No.

7 THE COURT: Okay. Thank you. The gentleman in
8 red?

9 POTENTIAL JUROR #58: Mark Hamer, number 58.

10 THE COURT: All right. Yes, sir, who or you or
11 some friend related to?

12 POTENTIAL JUROR #58: I worked with the Dillon
13 County Sheriff's Department.

14 THE COURT: Sir?

15 POTENTIAL JUROR #58: I worked with the Dillon
16 County Sheriff's Department.

17 THE COURT: You, yourself did?

18 POTENTIAL JUROR #58: Myself.

19 THE COURT: Okay.

20 POTENTIAL JUROR #58: Yes, sir.

21 THE COURT: How long ago was that?

22 POTENTIAL JUROR #58: Probably about twenty-three
23 years ago.

24 THE COURT: Twenty something years ago?

25 POTENTIAL JUROR #58: Yes, sir.

1 THE COURT: Okay. All right. Would the fact that
2 you in the past, distant past, worked for law enforcement
3 keep you from being able to be fair and impartial to both
4 the State and the Defendant in the trial of this case?

5 POTENTIAL JUROR #58: Yes, sir.

6 THE COURT: He would keep you from being able to be
7 fair and impartial?

8 POTENTIAL JUROR #58: Yes, sir.

9 THE COURT: You'd be bias toward law enforcement?

10 POTENTIAL JUROR #58: I just don't have it in me,
11 judge.

12 THE COURT: Sir? I didn't hear what you said.

13 POTENTIAL JUROR #58: I just don't have it in me in
14 order to sit and listen to the trial. I just don't have it
15 in me.

16 THE COURT: I'm still not sure what he said. What
17 you mean you don't have it in you? You can't be fair?

18 POTENTIAL JUROR #58: I can't be fair.

19 THE COURT: All right. We'll excuse you then for
20 service in the trial of this case. That's Mr. Hamer.

21 (Whereupon, number 58, Mark Hamer was excused)

22 THE COURT: Yes, sir?

23 POTENTIAL JUROR #47: Zachary Ford, 47. My uncle
24 was a cop, Marion Ford. (sic)

25 THE COURT: Your uncle, used to be, you said?

1 POTENTIAL JUROR #47: Yeah, he was the school
2 resource officer, Marion Ford. (sic)

3 THE COURT: But he's no longer involved?

4 POTENTIAL JUROR #47: (shaking of the head no)

5 THE COURT: You've got to answer yes or no?

6 POTENTIAL JUROR #47: Oh, no.

7 THE COURT: You can't nod your head. All right.
8 Would that fact keep you from being able to be fair and
9 impartial to both the State and the Defendant in the trial
10 of this case?

11 POTENTIAL JUROR #47: No.

12 THE COURT: Okay. Thank you. Yes, ma'am.

13 POTENTIAL JUROR #41: Does that include a probation
14 officer?

15 THE COURT: It wasn't part of the question but
16 that's fine. Glad you gave that information. No, stand up.
17 Stand up.

18 POTENTIAL JUROR #41: Juror number 41.

19 THE CLERK: What's her name?

20 POTENTIAL JUROR #41: Ann English. I was asking
21 you does that include probation officers

22 THE COURT: Are you related to a probation officer?

23 POTENTIAL JUROR #41: I know one, Tony Grant. (sic)

24 THE COURT: You know one?

25 POTENTIAL JUROR #41: Yes.

1 THE COURT: Okay. Would the fact that you know a
2 probation officer keep you from being able to be fair and
3 impartial to both the State and the Defendant in the trial
4 of this case?

5 POTENTIAL JUROR #41: No.

6 THE COURT: Okay. Thank you, ma'am. Yes, sir?

7 POTENTIAL JUROR #79: Leon Jones, 79. Tim Floyd,
8 that's my cousin.

9 THE COURT: Sir?

10 POTENTIAL JUROR #79: Officer Tim Floyd, that's my
11 cousin.

12 THE COURT: And what agency does he work with?

13 POTENTIAL JUROR #79: Dillon County.

14 THE COURT: Dillon County?

15 POTENTIAL JUROR #79: Yes, sir.

16 THE COURT: Okay. And that's your cousin?

17 POTENTIAL JUROR #79: Yes, sir.

18 THE COURT: close cousin? Distant cousin?

19 POTENTIAL JUROR #79: Close cousin.

20 THE COURT: All right. Well, would the fact that
21 you have a cousin that works for the Sheriff's Department,
22 would that keep you from being able to be fair in the trial
23 of this case? Could you be fair to the Defendant and the
24 State or are you going to be bias toward law enforcement?
25 In other words, you're going to believe what law

1 enforcement says above everything else because your kin to
2 somebody that works there?

3 POTENTIAL JUROR #79: Yes, sir.

4 THE COURT: You're going to be bias?

5 POTENTIAL JUROR #79: Yes, sir.

6 THE COURT: So you can't be fair, is what you're
7 telling me? That's the bottom line.

8 POTENTIAL JUROR #79: Yeah, that's what I'm telling
9 you.

10 THE COURT: Speak up! You can't be fair?

11 POTENTIAL JUROR #79: No, sir.

12 THE COURT: All right. One more time, are you able
13 to be fair to both sides in the trial of this case or are
14 you going to be bias toward law enforcement?

15 POTENTIAL JUROR #79: No, sir.

16 THE COURT: You were also a cousin of the victim in
17 this case, were you not? Maybe I've got the wrong name.

18 POTENTIAL JUROR #79: No, you're looking at the
19 wrong name.

20 THE COURT: I'm looking at somebody -- I'm looking
21 at the name above you. I'm sorry. Can you give everybody
22 a fair trial in this case?

23 POTENTIAL JUROR #79: What do you mean?

24 THE COURT: Can you be fair to both sides, yes or
25 no?

1 POTENTIAL JUROR #79: No, sir.

2 THE COURT: Okay. All right. I'm going to excuse
3 Mr. Jones from service on this jury.

4 (Whereupon, Leon Jones, number 79, is excused)

5 THE COURT: All right. Anyone else, please stand
6 now?

7 (Whereupon, no one is standing)

8 THE COURT: Is there any member of the jury panel
9 who believes that a person is guilty of a crime just
10 because they are charged with a crime by the police? Just
11 because somebody is charged you automatically think they're
12 guilty, if so please stand? I would hope nobody in this
13 country feels that way.

14 (Whereupon, no one is standing)

15 THE COURT: Does any member of the jury panel know
16 of or is aware of any bias or prejudiced of any kind toward
17 either the State or the Defendant in this case, please
18 stand? If you have or know of any bias or prejudiced
19 toward the State or the Defendant please stand at this
20 time?

21 (Whereupon, no one is standing)

22 THE COURT: Is there any member of the jury panel
23 that was a member of the grand jury which issued the
24 indictments or indictments in this case, if so please
25 stand?

1 (Whereupon, no one is standing)

2 THE COURT: Is there any member of the jury panel
3 who is a member of or a contributor to any group which has
4 as its primary concern the promotion of law enforcement or
5 victims rights. These groups would include such as Mothers
6 Against Drunk Driving, Students Against Drunk Driving,
7 Citizens Against Violent Crimes, the South Carolina
8 Troopers Association's, South Carolina Sheriff's
9 Association any of those organizations, anybody a
10 contributor to or a member, please stand?

11 (Whereupon, a juror stands)

12 THE COURT: Yes, ma'am, Ms. Jordan?

13 POTENTIAL JUROR #83: Number 83, we give donations
14 to the South Carolina Troopers Association.

15 THE COURT: Okay. Thank you for that information.

16 (Whereupon, no one else is standing)

17 THE COURT: Has any member of the jury panel been
18 approached by anyone on behalf of the State of South
19 Carolina or the victims in this case or the defendant at
20 any time prior to today or up until this point in time
21 today? Have you ever been contacted by anyone on behalf of
22 either side, the State or the defendant, please stand at
23 this time?

24 (Whereupon, no one is standing)

25 THE COURT: Okay. Does any member of the jury

1 panel know of any reason whatsoever why he or she should
2 not serve as a juror in this case? And, again, it's that
3 same question I've asked a hundred times today already,
4 keep in mind that emphasis placed on the fact as to whether
5 you can be fair and impartial to both the State and the
6 Defendant in the trial of this case? If there's anything
7 that would interfere with your ability to be fair and
8 impartial, please stand now?

9 (Whereupon, no one is standing)

10 THE COURT: Okay. Does the State have any
11 additional questions they would like for the court to
12 propose to the jury?

13 MS. BURCHSTEAD: No, Your Honor.

14 THE COURT: Does the defendant have any additional
15 questions?

16 MR. SWILLEY: No, Your Honor.

17 THE COURT: Okay. Thank you. All right, counsel,
18 are you ready for the selection process?

19 MS. BURCHSTEAD: The State is ready.

20 MR. SWILLEY: We're ready, judge.

21 THE COURT: Okay. Madam, clerk?

22 THE COURT: All right. Strikes are ten and five
23 and I'm going to select two alternates as well.

24 (Whereupon, the clerk prepares to pick jury)

25 **Jury selection:**

1 THE COURT: All right. If called by the clerk, I
2 want you to please come forward, come up here to the rail,
3 turn around and face the attorneys please.

4 THE CLERK: Ms. Louise Samuels. Just come forward,
5 up here.

6 (Whereupon, a black female comes forward)

7 THE CLERK: What saith the State?

8 MS. BURCHSTEAD: Please present the juror.

9 MR. SWILLEY: We'll excuse Ms. Samuels from the
10 trial of this case.

11 THE CLERK: You're excused. Just go have a seat
12 back.

13 THE COURT: Just go back out in the audience,
14 ma'am.

15 THE CLERK: Katina Dudley.

16 (Whereupon, a white female comes forward)

17 THE CLERK: What saith the State?

18 MS. BURCHSTEAD: Please present the juror.

19 THE CLERK: Defendant?

20 MR. SWILLEY: Please excuse Ms. Dudley from the trial
21 of this case.

22 THE CLERK: Have a seat. Thank you. Connie
23 Wheeler.

24 (Whereupon, a black female comes forward)

25 MR. KOZAK: What was that number, I mean, name?

1 THE CLERK: Connie Wheeler. She's number 170.

2 What saith the State?

3 MS. BURCHSTEAD: Please present the juror.

4 MR. SWILLEY: Defendant?

5 MR. SWILLEY: Please swear Ms. Wheeler.

6 THE CLERK: Have a seat in the jury box. Number 8,
7 Ms. Candace Bohachic.

8 (Whereupon, a white female comes forward)

9 THE CLERK: What saith the State?

10 MS. BURCHSTEAD: Please present the juror.

11 THE CLERK: Defendant?

12 MR. SWILLEY: We excuse Ms. Bohachic from the trial
13 of this case.

14 THE CLERK: Have a seat Ms. Bohachic. Number 77,
15 Kimberly Johnson.

16 (Whereupon, a white female comes forward)

17 THE CLERK: What saith the State?

18 MS. BURCHSTEAD: Please present the juror.

19 THE CLERK: Defendant?

20 MR. SWILLEY: please excuse Ms. Johnson from the
21 trial of this case.

22 THE CLERK: Number 134, Bobby Richardson.

23 (Whereupon, a black male comes forward)

24 THE CLERK: What saith the State?

25 MS. BURCHSTEAD: Beg the Court's indulgence.

1 Please excuse the juror.

2 THE CLERK: Okay. You can have a seat. Number 83,
3 Emily Jordan.

4 (Whereupon, a white female comes forward)

5 THE CLERK: What saith the State?

6 MS. BURCHSTEAD: Please present the juror.

7 THE CLERK: Defendant?

8 MR. SWILLEY: Please excuse Ms. Jordan from the trial
9 of this case.

10 THE CLERK: Number 137, Michael Roberts.

11 (Whereupon, a white male comes forward)

12 THE CLERK: What saith the State?

13 MS. BURCHSTEAD: Please present the juror.

14 THE CLERK: Defendant?

15 MR. SWILLEY: Please swear Mr. Roberts.

16 THE CLERK: Please have a seat in the jury box, Mr.
17 Roberts. Number 106, Luvenia Mcrae.

18 (Whereupon, a black female comes forward)

19 THE CLERK: What saith the State?

20 MS. BURCHSTEAD: Please excuse the juror.

21 THE CLERK: You're excused, Ms. Mcrae. You can
22 have a seat. Thank you. Number 43, Debbie Faulk.

23 (Whereupon, a black female comes forward)

24 THE CLERK: What saith the State?

25 MS. BURCHSTEAD: Please present the juror.

1 THE CLERK: Defendant?

2 MR. SWILLEY: Please swear Ms. Faulk.

3 THE CLERK: Have a seat in the jury box, Ms. Faulk.

4 Thank you. Number 150, Twana Stewart.

5 (Whereupon, a black female comes forward)

6 THE CLERK: What saith the State?

7 MS. BURCHSTEAD: Please present the juror.

8 THE CLERK: Defendant?

9 MR. SWILLEY: Please excuse Ms. Stewart from the
10 trial of this case.

11 THE CLERK: Number 169, Terry Webster.

12 (Whereupon, a white male comes forward)

13 THE CLERK: What saith the State?

14 MS. BURCHSTEAD: Please present the juror.

15 THE CLERK: Defendant?

16 MR. SWILLEY: Please swear Mr. Webster.

17 THE CLERK: Have a seat in the jury box, sir.

18 Thank you. Number 36, Jarvis Dixon.

19 (Whereupon, a black male comes forward)

20 THE CLERK: What saith the State?

21 MS. BURCHSTEAD: Please seat the juror.

22 THE CLERK: Defendant?

23 MR. SWILLEY: Please swear Mr. Dixon.

24 THE CLERK: Have a seat in the jury box, sir.

25 Number 146, Terry Self.

1 (Whereupon, a black male comes forward)

2 MS. BURCHSTEAD: Can you repeat that?

3 THE CLERK: One -- number 146.

4 MS. BURCHSTEAD: Thank you.

5 THE CLERK: What saith the State?

6 MS. BURCHSTEAD: Please present the juror.

7 THE CLERK: Defendant?

8 MR. SWILLEY: Please swear Mr. Self.

9 THE CLERK: Have a seat in the jury box, Mr. Self.

10 Number 32, Patricia Derry.

11 (Whereupon, a white female comes forward)

12 THE CLERK: What saith the State?

13 MS. BURCHSTEAD: Please present the juror.

14 THE CLERK: Defendant?

15 MR. SWILLEY: Please swear Ms. Derry.

16 THE CLERK: Have a seat in the jury box, Ms. Derry.

17 Thank you. Number 116, Donta Norman.

18 (Whereupon, a black male comes forward)

19 THE CLERK: What saith the State?

20 MS. BURCHSTEAD: Please swear the juror.

21 THE CLERK: Defendant?

22 MR. SWILLEY: Please swear Mr. Norman.

23 THE CLERK: Have a seat in the jury box, sir.

24 Number 26, Daisy Cuiman.

25 (Whereupon, a black female comes forward)

1 THE CLERK: What saith the State?

2 MS. BURCHSTEAD: Please present the juror.

3 THE CLERK: Defendant?

4 MR. SWILLEY: Please swear Ms. Cuiman.

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

6 Number 61, Carlton Hilburn.

7 (Whereupon, a white male comes forward)

8 THE CLERK: What saith the State?

9 MS. BURCHSTEAD: Please present the juror.

10 THE CLERK: Defendant?

11 MR. SWILLEY: Please swear Mr. Hilburn.

12 THE CLERK: Have a seat in the jury box. Thank
13 you. Number 41, Ann English.

14 (Whereupon, a black female comes forward)

15 THE CLERK: What saith the State?

16 MS. BURCHSTEAD: Please swear the juror.

17 THE CLERK: Defendant?

18 MR. SWILLEY: Please excuse Ms. English from the
19 trial of this case.

20 THE CLERK: Number 128, Casey Pitts.

21 (Whereupon, a white female comes forward)

22 THE CLERK: What saith the State?

23 MS. BURCHSTEAD: Please seat the juror.

24 THE CLERK: Defendant?

25 MR. SWILLEY: Please excuse Ms. Pitts from the trial

1 of this case.

2 THE CLERK: Number 33, Johnny Dial.

3 (Whereupon, a Native American male comes forward)

4 THE CLERK: What saith the State?

5 MS. BURCHSTEAD: Beg the Court's indulgence.

6 Please present the juror.

7 THE CLERK: Defendant?

8 MR. SWILLEY: Please swear Mr. Dial.

9 THE CLERK: Have a seat in the jury box. Number
10 90, Keith Leonard.

11 (Whereupon, a black male comes forward)

12 THE CLERK: What saith the State?

13 MS. BURCHSTEAD: Please present the juror.

14 THE CLERK: Defendant?

15 MR. SWILLEY: Beg the Court's indulgence. Please
16 swear Mr. Leonard.

17 THE CLERK: Have a seat in the jury box. That's
18 twelve, Your Honor.

19 THE COURT: All right. We will . The structure two
20 and one for each alternate.

21 THE CLERK: Number 6, Irene Bethea.

22 (Whereupon, a black female comes forward)

23 THE CLERK: What saith the State?

24 MS. BURCHSTEAD: Please present the juror.

25 THE CLERK: Defendant?

1 MR. SWILLEY: Please swear Ms. Bethea.

2 THE CLERK: Have a seat in the jury box. This is
3 alternate number one. Number 168, Laura Wallace.

4 (Whereupon, a white female comes forward)

5 THE CLERK: What saith the State?

6 MS. BURCHSTEAD: Please present the juror.

7 THE CLERK: Defendant?

8 MR. SWILLEY: Please excuse Ms. Wallace from the
9 trial of this case.

10 THE CLERK: Number 143, Farrah Sandel Webster.

11 (Whereupon, a white female comes forward)

12 THE CLERK: What saith the State?

13 MS. BURCHSTEAD: Please present the juror.

14 THE CLERK: Defendant?

15 MR. SWILLEY: Please excuse Ms. Sandel from the trial
16 of this case.

17 THE CLERK: Number 102, Farrah Mclellan.

18 (Whereupon, a black female comes forward)

19 THE CLERK: What saith the State?

20 MS. BURCHSTEAD: Please excuse the juror.

21 THE CLERK: You're excuse Ms. Mclellan.

22 THE COURT: You're excused.

23 THE CLERK: Number 21, Avonlea Cooke.

24 (Whereupon, a white female comes forward)

25 THE CLERK: What saith the State?

1 MS. BURCHSTEAD: Please present the juror.

2 MR. SWILLEY: No cause.

3 THE CLERK: Okay. Ms. Avonlea, have a seat in the
4 jury box. Thus alternate number two.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury panel that remain in the audience, this trial that
7 this jury has been selected for is the only trial we're
8 scheduled to hear this week so I guess y'all are considered
9 the lucky ones because you will not have to serve any
10 further this week and you will be excused to go home today
11 for the remainder of the week. Just let me express to you
12 again one more time my appreciation for the fact that you
13 responded to your summons and you came here willing and
14 ready to serve as a juror. As I indicated early I know of
15 no greater civic duty than serving as a juror and standing
16 of judgment of your fellow man or woman.

17 Again, thank you for your service and enjoy the rest
18 of your week. You may be excused. Any instructions for
19 them, Madam, Clerk?

20 THE CLERK: Your check will be put in the mail
21 tomorrow, okay?

22 (Whereupon, the remaining jury panels leaves the courtroom
23 at 2:50 p.m.)

24 THE COURT: All right. Counsel, before we swear
25 the jury I'm going to allow them to take a break and all of

1 us take a break. They've been here for quite some time.
2 I'm sure they need to stretch their legs, go to the
3 restroom or whatever. We will swear the jury and get
4 started with my preliminary charge and opening statements
5 once we come back in. Hopefully, you don't know anything
6 about this case. I know they may have been some
7 scuttlebutt in the Town of Dillon, the County of Dillon but
8 I instruct you now and I'll instruct you at every break
9 that we take for the rest of this trial, do not discuss
10 anything about this case or what you think the case is
11 about when you leave and go in to your jury room. The only
12 time you will begin discussions will be the time that you
13 begin your deliberations at the conclusion of the trial
14 when you've heard all of the evidence, heard the arguments
15 of the attorneys and hear me charge you on what the law is
16 that applies to this case. But as I said, you will get
17 tired of me saying this but I'll instruct you every time,
18 do not discuss anything about this case in the jury room.
19 You can talk about the weather, sports, your girlfriend,
20 your boyfriend, whatever you want to in the jury room but
21 not this case.

22 All right. You may be excused go to the jury room and
23 we'll call you back in very shortly. Everybody remain
24 seated while the jury goes out.

25 (Whereupon, the jury exits the courtroom at 3:43 p.m.)

1 THE COURT: All right. Let's stand at ease for
2 about ten minutes or so.

3 (Whereupon, the court takes a short break)

4 (Whereupon, we are back on the record at 4:03 p.m.)

5 THE COURT: All right. Before we bring the jury
6 back in let's -- I want to address the motion to exclude
7 evidence of third party guilt. I reviewed the cases and I
8 don't think that the Holmes case changed anything with
9 regards to Gregory. I think it dealt with the Gay case and
10 the Holmes case itself. I think the principal set forth in
11 Gregory still apply. Of course, I don't know what your
12 client will testify to so what I would - what I would
13 suggest and what I'm going to offer is that at some point
14 in time if you want to try to introduce evidence of third
15 party guilt I'll give you an opportunity to proffer that
16 outside the presence of the jury. I'll see what the
17 testimony is and I can rule as to whether or not that
18 should be excluded or not at that point in time. But I'll
19 give you a chance to proffer ---

20 MR. SWILLEY: Okay.

21 THE COURT: --- depending on what you want to do.

22 MR. SWILLEY: Yes, sir.

23 THE COURT: Okay. Any questions?

24 MR. KOZAK: No, Your Honor.

25 THE COURT: Okay. All right. Is everybody ready

1 for the jury?

2 MS. BURCHSTEAD: Yes, Your Honor.

3 MR. SWILLEY: Well, Judge, I guess we're not going to
4 take testimony, I just wanted to -- I did make a motion to
5 sequester the witnesses. I don't know if you ruled on
6 that.

7 THE COURT: I have not ruled on it.

8 MR. SWILLEY: Okay.

9 MS. BURCHSTEAD: No objection.

10 THE COURT: And I have no problem, you know,
11 sequester any witnesses. Are there any potential witnesses
12 in the courtroom now?

13 MS. BURCHSTEAD: The lead investigator and the two
14 primary victims.

15 THE COURT: Okay. Certainly they can both remain.
16 There not to be sequestered, but any defense witnesses?

17 MR. SWILLEY: There are not -- there are no people on
18 the defenses witness list, Your Honor. And -- I guess
19 Officer Cook is not on the State's witness list.

20 MS. BURCHSTEAD: He's got the evidence in the
21 courtroom. He probably will testify. If he's not on there
22 that was an oversight. But he's our chain of custody for
23 the Dillon Police Department. We don't necessarily need
24 him. Yeah, he can go.

25 MR. SWILLEY: Okay. If he's not going to testify

1 then ---

2 MS. BURCHSTEAD: He might.

3 THE COURT: Is that this gentleman here?

4 MS. BURCHSTEAD: Yes, sir.

5 THE COURT: Okay. Let's be on the safe side.

6 MS. BURCHSTEAD: Yes, thank you, judge.

7 THE COURT: What's that officer's name?

8 MS. BURCHSTEAD: Jeffrey Cook, Your Honor. We did

9 not realize that he was not on there. Sorry about that.

10 THE COURT: Yeah, he is on there. Jeffrey Cook?

11 MR. KOZAK: Yes.

12 THE COURT: He's on there.

13 MS. BURCHSTEAD: Okay. Thank you.

14 THE COURT: Thank goodness, yeah.

15 MS. BURCHSTEAD: Yeah.

16 THE COURT: I was concerned about the jury not
17 knowing. But I've got number eight as officer Jeffery
18 Cook.

19 MR. SWILLEY: Okay. I missed him. Okay.

20 THE COURT: Okay. All right. Let's bring the jury
21 in.

22 (Whereupon, the jury enters the courtroom at 4:07 p.m.)

23 THE COURT: All right. Madam, Clerk, will you
24 swear the jury please?

25 THE CLERK: I will, Your Honor. Thank you. Would

1 you stand and raise your right hand please.

2 (Whereupon, the all jurors are standing)

3 THE CLERK: You shall well and truly try, and true
4 deliverance make, between the State of South Carolina, and
5 the prisoner at the bar, and a true verdict render,
6 according to the law and evidence. So help you God.

7 (Whereupon, the jurors take the oath)

8 **Judge's Instructions:**

9 THE COURT: All right. Ladies and gentlemen, we
10 are about to begin the trial of the State of South Carolina
11 versus Tyreek Dashawn Hayes.

12 Now, as we begin this trial I want to tell you that it
13 won't be like Law and Order on tv and those kind of trials.
14 They're all over in a hurry and they're done in hour as
15 you, obviously, know. Sometimes our process is slow and
16 deliberate but that's - there's a reason for that. It's an
17 important reason so everything can be properly presented to
18 you that you so can make a good informed decision with
19 regards to the guilt or innocence of the defendant.

20 What I'm about to tell you now is basically an
21 introduction to the trial of this case. What I'm telling
22 you now is not a charge on the law. The charge on the law
23 I will give you at the conclusion of the case. This is
24 merely an explanation of the procedure that we will follow
25 throughout this trial so you'll have a better understanding

1 what's taken place as we go through the course of the
2 trial.

3 Now, some judges allow note taking, some judges don't
4 allow note taking. I don't mind if you take notes. If you
5 bring a pad and pencil in and want to take notes, but I
6 must caution you that if you do so sometimes taking notes
7 can take away from your being able to pay attention to what
8 a witness is saying while you're writing down something,
9 something important may come out. So I leave it in your
10 discretion but I'll also want to tell you that, you know,
11 the fact that you take notes if someone who's got notes and
12 somebody who doesn't the person who took notes what they
13 remember is no more important than what somebody else
14 remembers just from their pure memory of sitting here and
15 listening to the testimony and things that are presented
16 throughout the trial of this case.

17 Now, the defendant, Mr. Hayes, is charged by five
18 different indictments in this case. He's charged with two
19 counts of attempted murder, kidnapping, criminal sexual
20 conduct in the first-degree, and possession of a weapon
21 during the commission of a violent crime.

22 The elements of all these crimes will be explained to
23 you later on during the course of the trial and in my
24 charge of the law to you at the conclusion of the trial.
25 These indictments are simply the charges by which the case

1 is brought into court. And they are not, in any sense,
2 evidence of the allegations that they contain. The
3 defendant has pled not guilty to each and every one of
4 these indictments. The State, therefore, has the burden of
5 proving each of the elements of the indictment beyond a
6 reasonable doubt. And it will be your duty, ladies and
7 gentlemen, to decide whether the State has met that burden.
8 Your purpose as jurors is to find and determine the facts.
9 You are the sole judge of the facts. If at any time I make
10 any comment regarding the facts during this case, you must
11 disregard what I say. You are to determine the facts from
12 the testimony you hear and any other evidence that's
13 introduced in this courtroom. It is up to you to determine
14 the emphasis which you feel may properly be drawn from the
15 evidence. It is especially important that you perform your
16 duty of determining the facts diligently and
17 conscientiously. Because ordinarily there is no way to
18 correct an erroneous determination of the facts by a jury.

19 On the other hand and with equal emphasis, the same
20 law that makes you the judges of the facts makes me the
21 judge of the law. The law is given by the court is the only
22 law you may consider. You must accept and follow it even
23 though you may disagree with it. I cannot tell you what
24 the facts are and you cannot disagree with me about what
25 the law is or should be. Your job is to take the law as I

1 give it to you and apply it to the facts as you find them
2 from the testimony of the witnesses and any other evidence
3 that is introduced. After doing that you will render your
4 verdict. Until I advise you to begin your deliberations,
5 as I've told you earlier, you must not discuss this case
6 with anyone. I told you earlier not to discuss it amongst
7 yourselves. I'm going further than that at this point in
8 time, you're not to discuss this with your friends, family
9 members, or anyone involved this case. Especially anyone
10 involved in this case. This includes discussion not only
11 face-to-face with someone but by telephone, email, text,
12 blogs, Facebook, or any other type of communication. You
13 may not use a computer, cell phone, or other electronic
14 devices with communication capabilities at any time while
15 in the courtroom or during your deliberations. During your
16 breaks or meals or overnight, if necessary, you may use
17 these devices for personal reasons. However, you may not
18 at any time use these devices to get or send information
19 about this case. This includes information about a party,
20 a witness, an attorney, a court officer, any news accounts
21 about the case, any - you can't do any research with your
22 phone or your computer on any topics that may be raised
23 during the course of the case or any other topic that you
24 might think would be important to you in making a decision.
25 You just can't do that. You can't talk about it or look up

1 something about a testimony of a witness. As I told you a
2 few moments ago, you make your decision only on the
3 evidence that's introduced from this witness stand by way
4 of testimony or any other physical evidence that may be
5 introduced by the attorney, the attorneys and in the form
6 of an exhibit.

7 I don't know if they'll be any type of press coverage
8 or anything, but during this trial do not read, listen to,
9 or watch any news reports about this case. This includes
10 anything that may be in the newspapers, or on the Internet,
11 radio, or television. You must not consider anything that
12 you may have already read or heard about the case outside
13 this courtroom. Whether it's been, as I said before, the
14 case began today or anytime during the course of this
15 trial. After the case is submitted to you, you must
16 discuss it only in the jury room with your fellow jurors.
17 The attorneys and parties in this case have been advised
18 that they are not to talk to you at all which I told you a
19 little bit earlier. If you see anyone involved in the case
20 and they don't say hello it's because as you heard me
21 earlier tell them they're not supposed to. They can't do
22 that. I don't any sense of impropriety to rear its head
23 during the course of this trial. They're just following
24 my instructions if they seem unfriendly.

25 It's important that you keep an open mind and not

1 decide any issue in this case until all of the evidence has
2 been presented, the parties have made their closing
3 arguments, and I have instructed you on the law in this
4 case. It is your solemn responsibility to determine the
5 guilt or innocence of the defendant and your verdict must
6 be based solely on the evidence as it is presented to you
7 in this trial and on the law as I instruct you during and
8 at the close of the trial.

9 Now, in just a few moments the Attorney General will
10 make what is called an opening statement in which the
11 Attorney General will explain to you the issues in this
12 case or at least what the Attorney General thinks the
13 issues are in this case.

14 The attorney for the defendant may also make an
15 opening statement, although, he is not required to do so.
16 What these attorneys tell you during their opening
17 statements is not evidence in any way in this case. It is
18 only their contentions as to what the issues are. The
19 evidence in this case will be presented to you by the
20 testimony of sworn witnesses, as I said, from this witness
21 stand and any exhibits that may be introduced into
22 evidence.

23 Now, from time to time during the course of the trial
24 you may hear one of the lawyers say, you know, Your Honor,
25 we believe we've got a question of law or a matter of law

1 we need to discuss with you or Your Honor, may we approach
2 the bench and bring something up to you, or sometimes, even
3 myself, I might find it necessary to excuse you from the
4 courtroom so I can have a discussion with the attorneys.
5 And the reason I do this is because, as I explained
6 earlier, you're the judges of the facts. And sometimes when
7 we're discussing a matter of law up here at the bench the
8 facts come into play and I might have to make a comment on
9 the facts and how they apply to the law or the legal
10 situation that's being raised and I don't want you to hear
11 me say anything about the facts because, as I told you
12 earlier, you're not to hear me comment on the facts at all
13 and you're to disregard anything that you would hear. So
14 that's just a safeguard to keep you from even having the
15 possibility of hearing me making a comment on the facts.

16 Now, in determining what the true facts are in this
17 case, you must decide whether or not the testimony of the
18 witnesses is believable. It would be my responsibility to
19 rule as a matter of law as to whether certain testimony is
20 admissible or not. But once the testimony is admitted
21 whether or not you believe it is solely for you to
22 determine. In deciding whether to believe a witness, you
23 have the right to consider the interest of any witness, the
24 bias of any witness, the prejudice of any witness, the
25 opportunity for the witness to have seen the matters and

1 things about which that witness is testifying and the way
2 the witness actually acts on the witness stand. You have a
3 right to consider anything that is in the record that will
4 help you evaluate the testimony of the witnesses. That
5 means that it is your duty to pay close attention to these
6 witnesses. To observe the witnesses. To listen to the
7 witnesses. And to pay close attention to the attorneys and
8 to the court. Don't let your thoughts wander. But give
9 strict attention to the testimony in this case so that at
10 the end of all of the testimony, after the arguments of
11 counsel and the charge on the law by the court, you will
12 then be in a position to determine what the true facts are
13 and to apply the law to those facts.

14 Now, in a few moments I'm going to appoint a
15 foreperson of this jury. The foreperson's responsibility
16 will be the purpose of serving as the spokesperson for the
17 jury out here in the courtroom. It will be the duty of the
18 foreperson to preside over deliberations in the actual jury
19 room. And it would be the foreperson's duty to write the
20 actual verdict at the proper time. But I'll give you
21 further instructions on that at the conclusion of the case.

22 At this point in time, I'm going to appoint Debbie C.
23 Faulk to serve as the foreperson of this jury. The
24 foreperson will always sit in this front seat. The first
25 seat on this end right here. The two alternates will

1 always sit in the two seats where you're already sitting, I
2 believe, now. And those are the only assigned seats. The
3 rest of you can seat anywhere you want to throughout the
4 course of the trial. I always want the foreperson here and
5 the two alternates on the back row on the two seats.

6 Now, in order for me to preserve everyone's rights, I
7 will give the parties an opportunity to object to anything
8 that I have said and then at that point in time we will
9 begin the opening statements.

10 Any objections or any cause from the State?

11 MS. BURCHSTEAD: No, Your Honor.

12 THE COURT: From the defendant?

13 MR. SWILLEY: No, Your Honor.

14 THE COURT: All right. Attorney General, you made
15 make your opening statement. Before I do - let me do one
16 thing and I always forget to do that, if you wonder who
17 this person is sitting beside this is my law clerk. People
18 sometimes wonder who this guy is, he does legal research
19 for me and helps me do things to keep things in order
20 during the course of the trials and, of course, works at my
21 office. So just so you know who he is and you won't have
22 to think about that anymore.

23 Thank you. Mr. Kozak?

24 **Opening Statement by Mr. Kozak:**

25 MR. KOZAK: May it please, the Court, Your Honor?

1 Over three hours, you'll hear that is how long the
2 defendant held Candace Simpson against her will in her own
3 apartment as he strangled and raped her.

4 Good afternoon. As you heard earlier, my name is Joel
5 Kozak and I along with Megan Burchstead represent the State
6 of South Carolina and its case against the defendant,
7 Tyreek Hayes.

8 Mr. Hayes stands before you today charged with crimes.
9 And it's our job to prove to you beyond a reasonable doubt
10 that he's, in fact, guilty of those crimes. And those
11 crimes are the charge of two counts of attempted murder,
12 criminal sexual conduct in the first degree also called CSC
13 first, for short, possession of a weapon during a violent
14 crime and kidnapping.

15 Now, at the conclusion of this trial Judge Henderson
16 is going to instruct you on the law, but I'd like to take a
17 moment just to introduce it to you right now. To prove our
18 case beyond a readable doubt for criminal sexual conduct
19 first degree, we have to prove to you two main things.
20 That a sexual battery occurred and a sexual battery is
21 defined as any sort of penetration no matter how slight.
22 And we have to show you that the sexual battery occurred
23 was accomplished using aggravated force.

24 Now, everyone has an idea of what kidnapping is from
25 movies and television. But it doesn't necessarily require

1 someone to be tied up and thrown in the back of the van.
2 The act of unlawfully confining someone also would be
3 considered kidnapping. Possession of a weapon during a
4 violent crime and attempted murder are fairly, fairly well
5 defined themselves. And at the end of this trial, the
6 judge will tell you the actual definition of all of these
7 crimes. But I just wanted to touch on it so you would know
8 what to look for through out the testimony of the trial.

9 Now, in order to meet our burden throughout this case,
10 we're going to call several witnesses to that stand right
11 there. But most importantly you're going to hear from
12 Candace Simpson and Ann Covington. They are sisters and
13 they are the two victims in this case. They're both going
14 to get on the stand and tell you what happened on the
15 morning of October 1, 2016. Candace is going to tell you
16 that she had been communicating with the defendant online
17 prior to the morning of October 1st and they were at the
18 same party the night before. She's going to tell you that
19 her and her cousin gave him a ride home and he asked to
20 come inside. She's going to tell you that she let him in
21 but when she turned down his advances he began to get
22 violent. She's going to tell you what happened and what
23 the defendant did to her over the next three to four hours.
24 Ann will then take the stand and tell you what she had
25 volunteered - and tell you that she had volunteered to

1 watch Candace's his kids that night. And when she came to
2 bring one of the children back the next morning, she'll
3 describe what she saw. What she saw when she walked into
4 Candace's apartment and how the defendant attacked both her
5 and her sister with a knife.

6 I know parts of this trial are not going to be easy to
7 hear but you'll hear a lot of it throughout the course of
8 this trial. You'll hear about it when Candace describes
9 what happened to her and you'll hear about it in clinical
10 terms. But the bottom line is that the evidence will show
11 that the defendant committed these crimes.

12 Now, during this trial you're going to hear about
13 forensic evidence such as DNA, serology, fingerprints. But
14 this is real life, this is not CSI or Law in Order as the
15 judge said earlier. I don't have a clear screen that's
16 gonna drop down from the roof and show holographic images
17 of fingerprints and DNA strands. There are limitations to
18 what forensic can be extracted from a scene and there are
19 limitations to what these forensics can show you. And
20 you're going to hear from the forensic technicians who
21 performed these test and did the research on these, on the
22 evidence that was submitted. And they're going to explain
23 the science and the realistic application of forensic
24 evidence found at the scene in this case. A reasonable
25 doubt is the highest burden in our judicial system, but it

1 doesn't mean it has to be a perfect case. It means that
2 the case has to be proven beyond any sort of reasonable
3 doubt and that's a burden we gladly accept in this case
4 because the evidence is clear. That's why at the end of
5 this trial we'll ask you to find the defendant guilty.

6 Thank you.

7 THE COURT: Mr. Swilley?

8 **Opening Statement by Mr. Swilley:**

9 MR. SWILLEY: Because I said so. Y'all probably
10 heard that growing up a good bit from your parents. You
11 know, when they told you to do something and you gave them
12 any kind of talk back, because I said so. You're going to
13 do this because I said so. Well, you all are adults here
14 and you've got to be over 18 to serve on a jury so those
15 days are over. The government is not your parents.

16 Because what happened in this case is someone made
17 some allegations, Candace Simpson and Ann Covington, about
18 some things that they accused Tyreek Hayes of doing and the
19 government adopted those accusations. So because I said so
20 became because we said so and that's that.

21 You see what happened in this case, it goes way -
22 you've got to look at what happened well before and after
23 what happened on the night of September 30th, early morning
24 of October 1, 2016. That's right 2016. This case or
25 these accusations are almost three years old. And what had

1 happened - and the Attorney General touched on it some -
2 Tyreek Hayes is a young man. He is from Dillon South
3 Carolina. He 25 years old. He's about ten years younger
4 than the lady, Ms. Simpson, who's accusing him of doing
5 these things. I'm not going to go into graphic details
6 about what the accusations are because you're going to hear
7 those accusations. But what happened was Tyreek grew up in
8 Dillon, he grew up around the City of Dillon in this area
9 and what happened was when he got to be oh, about twenty --
10 -

11 MS. BURCHSTEAD: Objection. Testimonial facts not
12 in evidence.

13 MR. SWILLEY: Judge, I think I can outline what I
14 believe the evidence is going to show.

15 THE COURT: I'll let you -- I'll let you continue.
16 Be careful.

17 MR. SWILLEY: Based on what I've I believe the
18 evidence is going to show you, Tyreek Hayes had known
19 Candace Simpson for a long time. I think somebody
20 commented about Dillon earlier is everybody knows
21 everybody. Well, that might not be exactly true. What
22 happened is Tyreek had grown up and the evidence is going
23 you that he had to grown up with her nephew, her brother,
24 they knew him. And they started having conversations weeks
25 before via Facebook. And it became very clear that Tyreek,

1 he liked Candace and it would appear that Candace liked
2 Tyreek. And what happened is on the night of September
3 30th they went out to a club called Strikers here in Dillon
4 and later on to a place called T. Lee's. What happened
5 then, is about 5 o'clock in the morning the evidence is
6 going to show that they all got a ride home, I think, it
7 was Tyreek that got a ride home from some of Candace's
8 friends back to the Maplewood Apartment Complex in Dillon
9 and he went home with her. And when he went home with her
10 he had consensual sex with her. What the evidence should
11 show you after that is that at some point - and let me back
12 up for a second - the evidence will show you the
13 conversations that were had between them were indicative of
14 them being singled and that's not true, neither one of
15 them. And at some point, someone walked in on this
16 encounter and it wasn't Ms. Covington. It was her
17 boyfriend. And that's where things got violent. And
18 that's when Ms. Covington, or excuse me, and that's when
19 Ms. Simpson and Ms. Covington were assaulted. There was no
20 rape. There was no criminal sexual conduct. The evidence
21 that Mr. Kozak mentioned is going to show you that there
22 was sex and nothing more. It's going to show you that
23 there was sexual intercourse between Tyreek Hayes and
24 Candace Simpson. He's accused of rape because she said so.
25 He's accused of attempted murder because they said so.

1 He's accused of kidnapping and possession of a weapon
2 during the commission of a violent crime because they said
3 so. The government is trying to take his freedom because
4 they said so and it's not true.

5 You see, like I said, this case has been going on for
6 three years but today, today is the first time this young
7 man has gotten to have any participation in the proceedings
8 against him. These allegations were made law enforcement
9 was called. Law enforcement did an investigation. Law
10 enforcement adopted the allegations of Ms. Simpson and Ms.
11 Covington and they went and they got a warrant on Tyreek
12 and he was charged and he was arrested and he was formally
13 accused. Today marks the first time he's gotten to have
14 any participation in these proceedings. This is the first
15 time he could have participation in these proceedings.

16 Ladies and gentlemen, this is the most - this is the
17 most important part of these proceedings because now it's
18 out of the government's hands, it's in your hands. What a
19 trial is, is a safety net for citizens like Tyreek that
20 don't have any power that stand accused. What I want
21 y'all to understand is this is the most, unless you get
22 elected some government office, a very powerful government
23 office, this is the most power you're ever going to have,
24 probably in your life. You have the power to say no to the
25 government. You have the power to say no that's not true.

1 You haven't proved your case beyond a reasonable doubt
2 because that young man is not guilty. And you should come
3 to that conclusion at the end of this case because that
4 young man is not guilty. He's not guilty of criminal
5 sexual conduct. He's not guilty of attempted murder on
6 Candace Simpson. He's not guilty of attempted murder on
7 Ann Covington. He's not guilty of kidnapping Candace in
8 any way. He's not guilty of possession of a weapon in
9 commission of a violent crime. Because what you'll see
10 after all of these things were taken into evidence and they
11 were processed by sled, based on that evidence you'll come
12 to the conclusion that there was a sexual encounter between
13 Tyreek and Candace after Tyreek was invited into the home
14 of Candace Simpson around 5 o'clock in the morning on
15 October 1st. At some point that morning that's when these
16 allegations happened. Find that young man not guilty
17 because he's not guilty.

18 THE COURT: All right. Counsel, I understand that
19 the State's first witness would be rather lengthy?

20 MS. BURCHSTEAD: Yes, Your Honor.

21 THE COURT: Okay. And I believe it's about 4:30 in
22 the afternoon so this being the first day and you not being
23 advised as to how our process would work, we're not gonna
24 get into the testimony until tomorrow morning. I'm going
25 to excuse you for the evening in just a few minutes and we

1 will start tomorrow. What I would like for you to do is
2 to report back to the jury room at 9:15 tomorrow morning.
3 Be in the jury room, as I told you earlier, please be
4 prompt and it would be my intentions to start promptly at
5 9:30. That'll give you a little bit of a window. But be
6 here, try to be here at 9:15. They will probably be some
7 coffee or something for you drink, some things in there.
8 But get here and get comfortable, get ready to go, and
9 promptly at 9:30 I want to start the trial of this case.

10 Now, I told you I would tell you this every time and I
11 am, do not discuss anything about this case. You've had
12 opening statements so you have some idea now about what the
13 attorneys contend the issues are in this case. Don't talk
14 about when you go back in your jury room amongst yourself.
15 When you get home tonight don't talk about it with your
16 spouse or your girlfriend, boyfriend, or anybody else or
17 some friend if you stop by the store on the way home.
18 Again, I caution you do not get on a computer and try to
19 look up old newspaper articles or something about this
20 matter because that is in violation of my instructions. It
21 would interfere with your ability to make a decision purely
22 on the facts that are presented during this trial in this
23 courtroom. I had to declare a mistrial recently here in
24 Dillon County because somebody ignore my instructions and
25 went home that night and got on the computer and looked up

1 old newspaper articles about the case we were trying that
2 week. And you cannot do that because what you see in the
3 paper is not necessarily what took place. What took place
4 will be presented in this courtroom.

5 So with those instructions I'm going to allow you to
6 be excused for the evening and expect to see you back at
7 9:15 tomorrow morning and we'll get started at 9:30. The
8 clerk said please wear your badges so everybody will know
9 you are a juror. I don't know where they report in, do
10 they come in ---

11 THE CLERK: They come in where they came in this
12 morning and they can take them right straight to the jury
13 room.

14 THE COURT: Okay. All right. So somebody will be
15 there so you won't be approached by anybody. If anybody
16 tries to approach you and say anything, tell them to go
17 away and leave you alone when you come to this courthouse.
18 Okay. Y'all have a pleasant evening. We'll see you
19 tomorrow morning.

20 (Whereupon, the jury exits the courtroom at 4:36 p.m.)

21 THE COURT: All right. Counsel, are there any
22 matters we need to take up before retiring for the evening?

23 MS. BURCHSTEAD: Not from the State, Your Honor.

24 MR. SWILLEY: No, Your Honor.

25 THE COURT: Okay. Let's be here and plan to hit

1 the ground running at 9:30 with the first witness tomorrow.

2 MS. BURCHSTEAD: Yes, sir. Thank you.

3 THE COURT: Okay. Thank you.

4 (Whereupon, court adjures for the day at 4:40 p.m.)

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1 Wednesday, July 24, 2019

2 (WHEREAS, this matter was scheduled for a trial, all
3 parties appeared along with their counsels of record. The
4 proceedings began at 9:36 a.m)

5 THE COURT: Is the State ready to proceed?

6 MS. BURCHSTEAD: Yes, Your Honor.

7 THE COURT: Is the defense?

8 MR. SWILLEY: Your Honor, there is just one -- I --
9 there is one thing I wanted to bring up. I know that we
10 consented to a sequestration order from the court from the
11 trial and I know that the lead investigator Mr. Turner be
12 present and the victims can be present. I would just ask
13 the court to extend that order to sequester Ms. Covington
14 during Ms. Simpson's testimony and then let her allow to be
15 in here for the rest of the time just so to guarantee
16 spirit in order?

17 THE COURT: I think that's appropriate.

18 MS. BURCHSTEAD: No objection.

19 THE COURT: I don't have a problem with that.

20 MR. SWILLEY: Thank you, judge. And Your Honor just
21 one further question, can I have a minute and a half to
22 take a bathroom break?

23 THE COURT: Okay. So is Ms. -- who's going to
24 testify first, Ms. Simpson?

25 MS. BURCHSTEAD: Yes, sir.

1 THE COURT: So is Ms. Covington in the courtroom?

2 MS. BURCHSTEAD: Yes, Your Honor.

3 THE COURT: All right. Ms. Covington, I'm going to
4 have to ask you to wait outside during the testimony of Ms.
5 Simpson. Once that testimony is completed, you will be
6 allowed to come back in.

7 MS. COVINGTON: Yes, sir.

8 (Whereupon, the court took a short break)

9 THE COURT: All right. Anything else counsel
10 before we bring the jury in?

11 MR. SWILLEY: No, Your Honor.

12 MS. BURCHSTEAD: No -- no, Your Honor.

13 MR. SWILLEY: No, Your Honor.

14 THE COURT: Bring the in.

15 (Whereupon, the jury enters the courtroom at 9:39 a.m.)

16 THE COURT: Good morning, ladies and gentlemen.

17 (Whereupon, the jury greets the judge)

18 THE COURT: I hope you had a pleasant evening last
19 night and ready to go to work today. All right, the State
20 may call its first witness.

21 MS. BURCHSTEAD: Thank you, Your Honor. The State
22 calls Candace Simpson.

23 THE CLERK: Put your left hand on the Bible and raise
24 your right hand. Do you solemnly swear or affirm the
25 testimony you're about to give the Court is the truth, the

1 whole truth, and nothing but the truth so help you God?

2 MS. SIMPSON: Yes, I do.

3 THE CLERK: Be seated in the witness box and state
4 your full name for the Court, spelling your last name.

5 MS. SIMPSON: You said spelling my last?

6 THE COURT: Yes.

7 MS. SIMPSON: My name is Candace Patrice Simpson.
8 Simpson is spelt S-i-m-p-s-o-n.

9 THE CLERK: Thank you.

10 THE COURT: Birthday?

11 MS. BURCHSTEAD: My birthday is [REDACTED].

12 CANDACE SIMPSON, first being
13 duly sworn, testified as follows:

14 **Direct Examination by Ms. Burchstead:**

15 Q. Good morning, Ms. Simpson.

16 A. Good morning.

17 Q. So I know you just gave your birth date, but I'm not
18 doing the quick math on that. How old are you?

19 A. I'm 35.

20 Q. And where do you live?

21 A. In [REDACTED].

22 Q. Is that here in Dillon?

23 A. Yes, ma'am.

24 MS. BURCHSTEAD: We may need to adjust --

25 THE COURT: Can you hear into the jury box?

1 MS. BURCHSTEAD: Okay.

2 THE COURT: Try to speak a little closer to the mic.

3 MS. BURCHSTEAD: There you go.

4 THE COURT: Get yourself comfortable.

5 MS. BURCHSTEAD: Just need to make sure the court
6 reporter can hear us and everybody in the jury.

7 Q. Okay. So you live in [REDACTED] Apartments, is that
8 right?

9 A. Yes, ma'am.

10 Q. That's in Dillon?

11 A. Yes, ma'am.

12 Q. Did you grow up in Dillon?

13 A. Yes, ma'am.

14 Q. How long have you lived in [REDACTED] Apartments?

15 A. All my life.

16 Q. Okay. And who lives with you?

17 A. My two sons.

18 Q. And how old are they?

19 A. I have an [REDACTED] year old and a [REDACTED] year old.

20 Q. Do you work?

21 A. Self-employed.

22 Q. What do you do?

23 A. I braid hair.

24 Q. How long have you been doing that?

25 A. About -- I'd say about 10 or 12 years.

1 Q. Do you have a sister?

2 A. Yes, I have three sisters.

3 Q. Okay. Is one of your sisters named Ann?

4 A. Yes, ma'am.

5 Q. What's her last name?

6 A. Covington.

7 Q. And how old is she?

8 A. She's forty ---

9 Q. She's older than you ---

10 A. --- forty one or two. Forty is one of them.

11 Q. Yeah. So she's a little bit older than you?

12 A. Yes, ma'am.

13 Q. Okay. Does she sometimes help out and watch your
14 kids?

15 A. Yes, ma'am.

16 Q. I want to take you back to September 30th - October 1,
17 2016, so not quite three years ago. On the evening of
18 September 30th, were you going to go out somewhere?

19 A. Yes, ma'am.

20 Q. Okay. Where were you planning to go?

21 A. To a club, Strikers.

22 Q. Okay. And was that a Friday night, do you remember?

23 A. Yes, ma'am, it was because I had to do hair the next
24 morning.

25 Q. Now, before that Friday night had you been talking to

1 any -- had you been talking with a guy on Facebook?

2 A. Yes.

3 Q. Okay. Who had you been talking to on Facebook?

4 A. His name on Facebook was Reedy Boss.

5 Q. Can you -- did you remember how that's spelled?

6 A. Reedy is spelled R-e-e-d-y. And I know it was
7 something in between but boss is spelled B-o-s-s.

8 Q. So y'all had been kind of talking a little bit on
9 Facebook?

10 A. Yes, ma'am.

11 Q. Okay. How would you do that on Facebook, like with
12 Messenger or what would you do?

13 A. Yes, ma'am, Messenger.

14 Q. About how long before September 30th had y'all been
15 talking on Facebook?

16 A. A couple of weeks, maybe a month. I'm gonna say, if
17 not a month, probably about three and a half weeks.

18 Q. Okay. Had you had any plans to meet up?

19 A. No, ma'am.

20 Q. Did you know -- is it fair to say Reedy Boss was sort
21 of a street name or a nickname?

22 A. Yes, ma'am.

23 Q. So going to September 30th I think you said you were
24 gonna -- plans were to go out to Strikers?

25 A. Yes, ma'am.

1 Q. Can you spell Strikers for us?

2 A. I'm guessing it's spelled S-t-r-i-k-e-r-s.

3 Q. Okay. Had you been to Strikers before?

4 A. A while -- it's been a while ago but yes.

5 Q. Okay. All right. Who were you planning to go with?

6 A. My sister and my friends.

7 Q. Okay. Did you drive -- did you go to Strikers?

8 A. Yes, ma'am.

9 Q. Did you drive yourself?

10 A. I rode with someone.

11 Q. Who did you ride with?

12 A. I rode in with Rochelle and Demetris.

13 Q. So Rochelle and Demetris?

14 A. Yes.

15 Q. Do you remember what time you left? Well, let me back
16 up, did you leave from you apartment in [REDACTED]?

17 A. Yes, ma'am.

18 Q. Okay. Did somebody pick you up there, then?

19 A. Yes, ma'am.

20 Q. So did you actually go to Strikers?

21 A. Yes, ma'am.

22 Q. Do you remember about what time you left to go out
23 that night?

24 A. I'm going to say about in between ten and eleven.

25 Q. Okay. Ten or eleven p.m. on September 30th?

1 A. Yes, ma'am.

2 Q. Okay. Now, you mentioned you had children. Did they
3 stay at home or

4 A. No. They was at my sister's - well, my mother house
5 but my sister lives there.

6 Q. Okay. And is that the sister we were talking about a
7 minute ago, Ann?

8 A. Yes, Ann Covington.

9 Q. So your boys were with your mother and your sister?

10 A. Yes.

11 Q. So what was -- what was the plan for the night? Was
12 it just a night out?

13 A. Yes, a night out. Someone we knew was having a party
14 at the club so we decided to go.

15 Q. And when you say the club, are you talking about
16 Strikers --

17 A. Yes.

18 Q. -- or a different club?

19 A. Strikers, yes, ma'am.

20 Q. Okay. So there was going to be a party at Strikers?

21 A. Yes, ma'am..

22 Q. And you're -- you're going with your friends?

23 A. Yes, ma'am.

24 Q. Okay. So I think you said between ten and eleven you
25 left.

1 A. Mmm, hmm.

2 Q. And did you go straight to Strikers?

3 A. Yes, ma'am.

4 Q. All right. And what did you do at Strikers? Just
5 hangout? What was it like at Strikers?

6 A. I had -- we danced and we hung out. I had one drink.

7 Q. Okay.

8 A. And we partied. We just danced and had fun.

9 Q. All right. Did you see people you knew there?

10 A. Yes, ma'am.

11 Q. All right. Now, prior to this evening, were you
12 dating anybody? Did you have a boyfriend?

13 A. No, ma'am.

14 Q. Okay. All right. Do you remember how long you stayed
15 at Strikers?

16 A. I'm going to say it was -- it was a couple of hours --
17 I'm gonna say about three hours. We probably stayed til
18 about two -- I'm trying to think what time they close --
19 I'm going to say about 2:30.

20 Q. So 2:30 going into the morning of October 1st ---

21 A. Yes, ma'am.

22 Q. --- going into Saturday morning? Okay. Now, you had
23 been chatting on Facebook with Reedy Boss.

24 A. Yes, ma'am.

25 Q. Did you -- when y'all were on Facebook, did you see a

1 picture of him?

2 A. Yes, ma'am.

3 Q. Okay. Do you know if you saw him at Strikers that
4 night?

5 A. No, ma'am. I don't remember seeing him that night,
6 not at Strikers.

7 Q. Okay. So when you left Strikers, where did you go?

8 A. We went to - it's a club down the street in Newtown
9 called T Lees.

10 Q. Do you know how that's spelled?

11 A. I'm not sure.

12 Q. It's in Newtown?

13 A. Yes, ma'am.

14 Q. So you left Strikers and went to T Lees?

15 A. Yes, ma'am.

16 Q. Okay. And who'd you go with to T Lee?

17 A. Me and Tonya [REDACTED].

18 Q. Tonya [REDACTED]. Okay. So you had originally gone with
19 Rochelle and Demetris --

20 A. Yes, but they went on home and I went with Tonya

21 Q. Okay. Who's Tonya?

22 A. Tonya [REDACTED] is a friend of mine.

23 Q. Okay. And how long have you known Tonya?

24 A. For years.

25 Q. Okay.

1 A. It's been a long time.

2 Q. All right. So just the two of y'all went to sort of
3 an after party ---

4 A. Yes, ma'am.

5 Q. --- something after Strikers? Okay. And that was at
6 T Lees?

7 A. Yes, ma'am.

8 Q. Do you have any idea what time that was?

9 A. What time we left or what time we went there?

10 Q. What time you got there? You think you left Strikers
11 about 2:30?

12 A. Yes, ma'am.

13 Q. And you went straight there?

14 A. We probably hung out at Strikers in the parking lot
15 for a little while and then we went.

16 Q. Okay.

17 A. So I'm gonna say probably about -- it had to be about
18 three something, I'm gonna say.

19 Q. Okay. So you went to Newtown, T Lees, 2:30, three
20 something like that?

21 A. Yes, ma'am.

22 Q. Okay. And that was you and Tonya?

23 A. Yes, ma'am.

24 Q. Okay. Were there a lot of people there?

25 A. It wasn't too many. I remember they were playing

1 cards inside. It wasn't too many people there.

2 Q. Did you see Reedy Boss there?

3 A. Yes, ma'am.

4 Q. Did y'all talk?

5 A. Not really.

6 Q. Okay.

7 A. Only thing -- when we were going outside, we talked
8 for a second but that was really it until we -- he asked
9 for a ride.

10 Q. Okay. So he asked for a ride?

11 A. Yes, ma'am.

12 Q. Did he ask you for a ride?

13 A. He asked me and I asked Tonya because she was driving.

14 Q. Okay. Where did he want a ride to?

15 A. He -- he lived in [REDACTED] Village and we lived in

16 [REDACTED]

17 Q. Okay. Is [REDACTED] next to [REDACTED] Village?

18 A. Yes, ma'am.

19 Q. And both of those are apartment complexes?

20 A. Yes, ma'am.

21 Q. So he asked you to get a ride to [REDACTED] Village?

22 A. Yes, ma'am.

23 Q. And because you weren't driving, you asked Tonya?

24 A. Yes, ma'am.

25 Q. All right. So did Tonya -- well, did y'all leave the

1 T Lees together - T Lees together?

2 A. Yes.

3 Q. All right. So who all got in the car leaving T Lees?

4 A. Me, Tonya -- well, Tonya was in the car.

5 Q. Okay.

6 A. And I got in, and he got in.

7 Q. So you and Tonya and the person you knew as Reedy
8 Boss?

9 A. Yes, ma'am.

10 Q. And did she drive to [REDACTED] Village or [REDACTED]?

11 A. She drove to her apartment and we got out.

12 Q. Where is her apartment?

13 A. Right -- it was right across the street from me at the
14 time. She doesn't live out there anymore.

15 Q. Okay. So was she living at [REDACTED] at the time?

16 A. Yes, ma'am.

17 Q. Okay. So the three of y'all left. Do you remember
18 about what time you left the club or the - the after party?

19 A. I can't -- I can't remember the exact time. I know it
20 wasn't daylight yet.

21 Q. Okay. So you got to T Lees maybe around three. Do
22 you remember about how long you stayed?

23 A. I'm gonna say no longer than an hour.

24 Q. So you think you may have left around four?

25 A. Something like -- I'm gonna say -- I don't know the

1 exact time --

2 Q. That's okay.

3 A. -- but I'm gone say something like that.

4 Q. Yeah. You just tell us what you remember. Okay. So
5 Tonya drove y'all to [REDACTED], right?

6 A. Yes, ma'am.

7 Q. What happened after Tonya drove you guys to [REDACTED]

8 A. Everyone got out and I assumed he was going home but
9 he was like can he come in for a while. I was like well,
10 sure but nothing's gonna happen.

11 Q. Okay. And when you're talking about him, we're
12 talking about Reedy Boss?

13 A. Yes, ma'am.

14 Q. Because it was the three of y'all in the car?

15 A. Yes, ma'am.

16 Q. So y'all -- did y'all talk about him coming in when
17 you were in the car?

18 A. No, that wasn't the plan.

19 Q. Okay. So y'all get out and he asked to come in?

20 A. Yes, as we -- as everyone was walking away, going
21 their separate ways he asked could he come in.

22 Q. And Maplewood is right next to [REDACTED] Village?

23 A. Yes.

24 Q. Okay. So did he come in?

25 A. Yes, ma'am.

1 Q. Tell us what happened after he came in.

2 A. When he came in, he sat - I cut on the TV, he sat
3 down. I told him I was going to wash to get the smoke and
4 stuff off me so I washed. I went in my room. I put my
5 clothes on. I came back out my single -- I got a sectional
6 and I had a single chair, a recliner. I sat down in the
7 recliner and he was in the sectional. He was like want you
8 come over here and sit beside me? I was like okay that's
9 fine. I went and sat beside him and then he tried to start
10 kissing on me. And I was like no, you know, so you got to
11 go. So, okay -- then so it was like he just kept trying to
12 kiss on me. So we was by the door by the kitchen - it's
13 the door beside the kitchen and he was just holding onto me
14 and I was like no you got to go, I got to do hair in the
15 morning anyway. So he wasn't leaving. He said no he's not
16 going anywhere. So when I -- he was trying to pull on me
17 so I held onto the wall because it's right there beside the
18 door and he ---

19 Q. So let me just stop you right there. So you'd asked
20 him to leave because you needed to do hair in the morning?

21 A. Yes. It was all ready going left anyway so, yes,
22 ma'am, I asked him to leave.

23 Q. So did he leave?

24 A. No, ma'am.

25 Q. What did he do instead of leave?

1 A. He pulled me in the room.

2 Q. In your bedroom?

3 A. Yes, ma'am. I tried to scream and hit the wall for my
4 next door neighbor but he choked me instantly.

5 Q. How did he pull you in there? Do you remember?

6 A. It was by the waist. I remember it was like my feet
7 wasn't touching the ground. It was like he drug me in
8 there.

9 Q. Okay. And you called for help?

10 A. I tried to call for my next door neighbor because
11 she's very alert but he choked me.

12 Q. Okay. When you say he choked you, he put his hands
13 around your neck?

14 A. Yes.

15 Q. Okay. So he took you to your bedroom?

16 A. Yes, ma'am.

17 Q. When was he putting his hands around your neck?

18 A. Instantly. Soon as I tried to scream for help.

19 Q. Okay. Where were you when you were screaming for
20 help?

21 A. On the bed because it was right to the wall at the
22 time.

23 Q. Did you ask him to stop?

24 A. Yes, ma'am, but that wasn't an option.

25 Q. All right. So he puts his hands around your neck,

1 what happens after that?

2 A. And I just asked him to stop, you know, choking me,
3 but it was obvious that he just wanted what he wanted. And
4 I just plead -- I asked him I was like I don't know what
5 you have, it's all ready accurate that I don't have a
6 choice. I just begged him could he please get a condom
7 because I didn't know what he have. So that's when --
8 that's how we ended on the floor. The condoms was in my
9 bottom drawer where my - it's the TV stand where the - what
10 you call the chest. And I remember it beginning but I
11 don't know when it ended. I just remember waking up the
12 next and it was daylight.

13 Q. Okay. So you understood that he wanted sex and you
14 didn't have a choice?

15 A. Yes.

16 MR. SWILLEY: Objection to leading, Your Honor.

17 THE COURT: Don't lead the witness.

18 Q. Let me rephrase it. I believe you had said a minute
19 ago he wanted what he wanted. And what was your
20 understanding of that?

21 A. He wanted to have sex with me.

22 Q. And was it your request that he wear a condom?

23 A. Yes, I begged.

24 Q. All right. And you said something about getting on
25 the floor. Can you clarify what that was about?

1 A. It was the only - with the condoms was over there, he
2 wasn't going to let me go by myself to do it so we had, I
3 had to move with him in order to get it.

4 Q. To get the condom?

5 A. Yes.

6 Q. Okay. So did he wear the condom?

7 A. I'm thinking yes, ma'am.

8 Q. So did he use his -- did he penetrate your vagina?

9 A. Yes, ma'am.

10 Q. Okay. Did he use his penis to penetrate your vagina?

11 A. Yes, ma'am.

12 Q. So after you remember him penetrating you, what
13 happened next? What do you remember after that?

14 A. I don't remember too much, just waking up the next
15 morning.

16 Q. Okay. What do you remember when you woke up?

17 A. He was watching me when I woke up. I just seen him.
18 He was just standing there.

19 Q. Do you remember where he was standing?

20 A. Like, leaned against the dresser.

21 Q. Okay. Where were you?

22 A. On the bed.

23 Q. Did you have any clothes on?

24 A. No, ma'am.

25 Q. Do you remember how your clothes -- before you got in

1 the bedroom, did you have clothes on?

2 A. Yes.

3 Q. Do you remember how they got off?

4 A. No, ma'am.

5 Q. Do you remember if he had on clothes?

6 A. Before or after?

7 Q. Either one. Why don't you tell us both?

8 A. When he drug me in the room he had on clothes. When I
9 woke up when it was daylight, I remember him having on a
10 shirt, not sure about the pants, but I'm sure of the shirt.

11 Q. Okay. So after you woke up, what do you remember
12 happening?

13 A. When I woke up, I remember him -- he wanted to have
14 sex again and I was like no that's not what I wanted, but
15 like I said I didn't want to be choked again so he asked me
16 to do the oral sex and I didn't have a choice, I had to.
17 And it didn't last long because I remember my throat being
18 like parched so -- but that was pretty much it. And then I
19 remember waking up again -- it's like I woke up two times
20 slipping in and out of consciousness, I guess.

21 Q. So let me back up. When you say you woke up two times
22 -- now, was that before he asked for oral sex or after?

23 A. No. When I woke up the first time is when he asked to
24 have sex again and I just was - wasn't in the mood for
25 anything. I just wanted to be free.

1 Q. So a minute ago you said you didn't want to be choked
2 again, can you elaborate on what you mean by that?

3 A. I didn't want to be put out -- I didn't want him to
4 put his hands around my neck and put force on choking me.
5 I can't breathe -- I couldn't breathe.

6 Q. Did you ever -- let me back up. Did you start
7 performing oral sex?

8 A. Yes.

9 Q. And how did that stop?

10 A. I'm not sure. I'm not sure of how it stopped. I
11 remember -- I do remember -- no, this is how it stopped, I
12 didn't want to do it, that's when he choked me again.
13 That's -- yes, he choked me again and that's when I begged
14 him, I was like I have children, please. But he was
15 worried about me telling.

16 Q. What makes you say that?

17 A. Because he was like no you're gonna tell.

18 Q. So you were begging him -- what -- what were you
19 begging? What were you saying?

20 A. Begging for my life. Just pretty much I -- really I
21 was begging for my life but I was telling him I have kids.

22 Q. What happens next? What do you remember?

23 A. Waking up again. And I remember this time my legs
24 were so weak I could barely walk. I remember I needed to
25 use the bathroom. I told him I needed to use the bathroom

1 but I needed his help because I couldn't -- my legs was
2 real weak so he helped me to the bathroom. He held my arm
3 while I sat on the toilet but I couldn't use the bathroom
4 because he was in there with me but he wasn't leaving and
5 he -- he was going everywhere where I went.

6 Q. Okay. So did you ever go to the bathroom?

7 A. Yes, ma'am. He helped me to the bathroom.

8 Q. So after that what do you remember?

9 A. After leaving out the bathroom, like I said he helped
10 me to the bathroom, I sat down on the toilet but I couldn't
11 use it. He was holding my arm the whole time. I couldn't
12 use it so I pulled -- no, I didn't have on any clothes so I
13 didn't pull up anything. I walked out -- we walked back
14 out the bathroom to the room. He was holding my arm.

15 Q. This is to your bedroom?

16 A. Yes, ma'am.

17 Q. Okay.

18 A. And I remember being on the bed and him being on the
19 bed. But a few -- I'm going to say probably about a couple
20 of minutes later that's when someone walked in. I didn't
21 know who at the time. And he was like who is that and I
22 just ran out just to go see. And it was my sister. And I
23 fell to my knees and I told her he raped me.

24 Q. Where were you when you saw your sister?

25 A. Mid hallway.

1 Q. How far is the hallway from your bedroom?

2 A. Not far.

3 Q. Do you have any idea what time of day it was at this
4 point?

5 A. I know it was daylight. I'm not sure of the time.

6 Q. Was it morning or afternoon?

7 A. It was morning.

8 Q. So your kids had not been home during all this, is
9 that right?

10 A. No, ma'am.

11 Q. Okay. You say you saw your sister. Which sister was
12 this?

13 A. Ann [REDACTED].

14 Q. So after you see Ann, tell us what happened?

15 A. After I told her he raped me, she told him he had to
16 go. And all I remember after that is them fussing and I
17 thought he was punching her. I didn't know he was trying
18 to cut her. I jumped on him and when she got loose and ran
19 in the room with the kids, I tried to run to the front door
20 but he got a hold of me and he tried to cut my neck but I
21 put my hands up and he drug me in the kitchen and he just
22 started stabbing me.

23 Q. I'm going to back you up just a little bit. I think
24 you said, he and Ann started having a tussle?

25 A. Yes, because she asked him to leave.

1 Q. Where -- where were y'all when that started?

2 A. Mid hallway.

3 Q. In the hallway?

4 A. Yes, ma'am.

5 Q. Is that near the bedroom?

6 A. The bedroom is in front. The hallway isn't long.

7 Q. Okay. Is it also near the kitchen?

8 A. Yes, ma'am.

9 Q. So tell us a little more about the struggle between
10 Ann and Reedy Boss.

11 A. He grabbed her. I thought, like I said, I thought he
12 was punching her. I didn't know that he had a knife at the
13 time. So I just jumped on him. At the time, you can't
14 think, you just do what comes first. I just jumped on him.

15 After they got loose -- when my sister got loose and ran
16 into my bedroom and closed the door, I tried run out the
17 front door but he got to me first before I could get out.
18 And he just was holding me like this (demonstrating) trying
19 to cut my neck but I put my fingers up and he drug me in
20 the kitchen and I fell on the floor and he started stabbing
21 me.

22 Q. So did Ann get away?

23 A. They was in the room, locked in the room.

24 Q. Say that again.

25 A. They were locked in the room, her and my son and my

1 nephew.

2 Q. So your son and nephew were there?

3 A. Yes, ma'am.

4 Q. So when Ann showed up, did she have your son and
5 nephew with her?

6 A. Yes, ma'am.

7 Q. Where were they?

8 A. They were standing right with her when I fell to my
9 knees and told her he had raped me.

10 Q. So did Ann leave with the kids?

11 A. No. She locked herself in the room because at that
12 time, we didn't know really what to do.

13 Q. So what happened after that?

14 A. After she -- after she got loose from him which is
15 because I jumped on his back, she locked herself in the
16 room with the kids. Q. Okay.

17 A. That gave me -- after I jumped - got off of him, I
18 tried to run to front door. I just wanted to make sure
19 they was safe. I ran to the front door and I -- and as
20 soon as I opened it, he closed it and he just drug me back
21 by my neck and was just trying to cut me and I put my
22 fingers up in front of, behind the knife so he couldn't go
23 straight across.

24 Q. Is the front door -- where's the front door in
25 relation to the kitchen and the bedrooms?

1 A. It's right -- it's not far.

2 Q. Okay. So what exactly happened when you got to the
3 front door?

4 A. I was -- I opened it. I did get to open it but barely
5 and he shot it back and just drug me and tried to cut my
6 throat.

7 Q. Okay. So did Ann and the kids get out of your
8 apartment?

9 A. While he was stabbing me, while I was down on the
10 floor and he was stabbing me, that gave her a chance to
11 run. And when he heard the door open, he ran to the front
12 door. That gave me a chance to escape out the back door
13 which was all ready open.

14 Q. So let's make sure we got it right, Ann went out the
15 front door?

16 A. Yes, ma'am. Her and my nephew and son.

17 Q. And which door did you go out?

18 A. The back door.

19 Q. Where is that in relation to the front door?

20 A. It's in the kitchen.

21 Q. So how did you get away exactly?

22 A. When he ran to see who was going out the front door or
23 coming in, he ran and -- he ran in the living room to the
24 door because it opened which was my sister and them leaving
25 out. That gave me a chance to get up off the floor and run

1 out the back door. I had to bust down the screen because
2 he was coming after me.

3 Q. And when you said back door, is that -- that's next to
4 the kitchen?

5 A. Yes. It's a slide door.

6 Q. So after you got out the slide door in the kitchen
7 area, what did you do?

8 A. I just ran. I ran all the way around the building and
9 I came back up which is to my next door neighbor's house,
10 Elaine's house.

11 Q. Did you have on any clothes?

12 A. No, ma'am.

13 Q. Had you been wounded by, in the fight?

14 A. Yes ma'am. I had a lot of stab wounds.

15 Q. So you ran around building?

16 A. Yes, ma'am.

17 Q. To your neighbor, Elaine?

18 A. Yes, which is straight from out of my back door back
19 around to the front side.

20 Q. Do you know what he did while you ran?

21 A. No, ma'am. I didn't go back.

22 Q. So you made it to Elaine's?

23 A. Yes, ma'am.

24 Q. What happened after that?

25 A. I remember sitting down in the chair.

1 Q. This is at Elaine's?

2 A. Yes. And I thought she put a cold towel around me but
3 I'm not sure. She said that she didn't. Only thing I
4 remember sitting in there, then the ambulance, they came
5 in.

6 Q. So you remember an ambulance coming?

7 A. Yes.

8 Q. Do you remember if anybody had called 911 or how the
9 ambulance got there?

10 A. I know it's called from Elaine's house. I didn't know
11 if my sister or Elaine called.

12 Q. You just know somebody had called 911?

13 A. Yes.

14 Q. Okay. All right. So after the ambulance gets there,
15 what do you remember?

16 A. Them rolling me out and putting me in the ambulance.

17 Q. Did you go to the hospital?

18 A. Yes, ma'am.

19 Q. What happened at the hospital that you can remember?

20 A. They -- they brought me in the room. I sat there for
21 a while. They came in, they took pictures.

22 Q. Who took pictures?

23 A. It was -- it was -- I think it was the police -- it
24 was the police lady, I -- yes -- I can't remember her name.

25 Q. So you saw law enforcement at the hospital?

1 A. Yes.

2 Q. Okay. And you think they took pictures?

3 A. Yes. I know somebody took pictures. I remember --
4 I'm thinking it was a lady.

5 Q. Okay. Did you see nurses?

6 A. A lady came in to check me.

7 Q. Did you see a doctor?

8 A. Afterwards. After, because I don't know if they put
9 me to sleep or -- I just remember I'm waking up to Dr.
10 Mijalli afterwards.

11 Q. So is it fair to say you got treatment in the
12 hospital?

13 A. Yes, ma'am.

14 Q. Did you say you -- you woke up after?

15 A. Yes,. I was already stitched up and stapled up and
16 everything.

17 Q. What do you remember after waking up with your ---

18 A. I remember the police coming in, Mr. Jason, showing me
19 of photos on a piece of paper and I pointed out who was the
20 attacker.

21 Q. Did you learn the identity of Reedy Boss?

22 A. Excuse me?

23 Q. Did you learn the real name of Reedy Boss?

24 A. Yes, at the hospital. I only knew him as Reedy Boss.

25 Q. So you picked a photo out of him?

1 A. Yes.

2 Q. As the person that attacked you?

3 A. Yes, ma'am.

4 Q. What did you learn the name, the real name of Reedy
5 Boss to be?

6 A. My sister -- well, my brother's girlfriend, she told
7 me his name.

8 MR. SWILLEY: Objection to hearsay.

9 THE COURT: Okay. Don't tell us what somebody else
10 told you.

11 A. Okay.

12 A. Well, I learned at the hospital what his name was.

13 Q. And what did you learn his name to be?

14 A. Tyreek Hayes.

15 Q. Was that after you had the photos with law
16 enforcement?

17 A. Yes.

18 MS. BURCHSTEAD: I beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 (Whereupon, the State took a moment to go through exhibits)

21 MS. BURCHSTEAD: Okay. Referencing State's 1. If
22 I can have permission to approach, Your Honor.

23 THE COURT: Yes, ma'am.

24 MS. BURCHSTEAD: And I believe there's no
25 objection.

1 MR. SWILLEY: No objection.

2 MS. BURCHSTEAD: Thank you.

3 THE COURT: Okay, thank you.

4 Q. I'm going to show you State's 1 and we're going to
5 have a bigger one of this in a minute, can you just take a
6 look at that and tell us what I'm showing you?

7 A. She's showing me, it's a recreation field behind
8 Maplewood in Maplewood.

9 Q. So is that a picture of the apartments?

10 A. Yes, ma'am.

11 Q. And the field behind the apartments?

12 A. Yes, ma'am.

13 Q. Okay. So does that look like it's accurate?

14 A. Yes, ma'am.

15 Q. Okay.

16 MS. BURCHSTEAD: If I may, Your Honor, I'm just
17 going to have this marked for identification. It's a blow
18 up of State's 1.

19 THE COURT: All right. Yes, ma'am.

20 MS. BURCHSTEAD: Okay. If I may approach again,
21 Your Honor.

22 THE COURT: Yes, ma'am.

23 Q. I'm showing you a blow up of the picture you just
24 looked at, does that look like a bigger picture of what we
25 just saw?

1 A. Yes, ma'am.

2 Q. Okay.

3 THE COURT: Can you all see? If she needs to come
4 down from the stand it would be easier.

5 MS. BURCHSTEAD: Yeah. Do you want to do that?

6 THE COURT: You can step down.

7 MS. BURCHSTEAD: Come on down.

8 Okay. If you can, if you'll take this pin and just
9 however best you can see, can you find your apartment on
10 here and just stick that pin in there?

11 (Whereupon, the witness complies)

12 Q. So your apartment -- what's your apartment number?

13 A. P4.

14 Q. P4? Okay, so you're right here on P4.

15 A. Yes, ma'am.

16 THE COURT: Ma'am, you're gonna have to speak up now
17 since you don't have the microphone.

18 A. Yes, ma'am.

19 Q. So where did you run? Can you show us where you went
20 to Elaine's apartment?

21 A. Out the back door and around.

22 Q. Okay. So I'm going to get you another pin and we'll
23 put that in. Do you know the number of Elaine's apartment?

24 A. Hers is P -- P3 -- P3.

25 Q. Did you say P3?

1 A. P3.

2 Q. Okay. Carefully hand that to you, can you just stick
3 that in there and show Elaine's apartment P3?

4 (Whereupon, the witness complies)

5 Q. Okay. All right. And if you can just show us where
6 Dover Village is.

7 (Whereupon, the witness complies)

8 Q. So this is [REDACTED] Village?

9 A. Yes.

10 Q. So this is [REDACTED] and this is [REDACTED] Village?

11 A. Yes.

12 Q. And that's your apartment and Elaine's?

13 A. Yes.

14 Q. So which way did you run?

15 A. I ran this -- going out the back door ---

16 THE COURT: Speak up now so they can hear you. You've
17 got your back to them. Speak up.

18 A. Oh, I'm sorry.

19 A. Out the back door and around the front.

20 Q. Okay. All right. Go ahead and have a seat.

21 A. Sorry about that.

22 MS. BURCHSTEAD: Beg your pardon while I put some
23 gloves on, Judge.

24 THE COURT: Was that first photograph marked as an
25 exhibit?

1 MS. BURCHSTEAD: State's 1 is evidence and then we
2 actually, I think, without objection moved that one into
3 evidence and then we -- we just have the blow up as an
4 exhibit.

5 THE COURT: What number is it, though?

6 MS. BURCHSTEAD: I'm sorry, Judge.

7 THE COURT: Do you want the blow up in evidence or
8 the small picture?

9 MS. BURCHSTEAD: Right. We'll do the blow up in
10 evidence. That will be fine.

11 THE COURT: And that's what --

12 MS. BURCHSTEAD: It's one. She has them both as
13 one, Judge.

14 THE COURT: All right. Plaintiff's Number 1 is
15 admitted into evidence. No objection?

16 MR. SWILLEY: No objection.

17 (Whereupon, the Photo has been marked and entered into
18 evidence as State's Exhibit No. 1)

19 Q. Okay. Let me take you back to after you get out the
20 hospital, did you go back home?

21 A. No. I went to my mother's.

22 Q. Did you ever go back home?

23 A. Yes.

24 Q. How long was it until you went back home?

25 A. Probably about a week.

1 Q. Okay. Was -- was there ever a knife or a blade or
2 anything recovered in your house after you went back home?

3 A. Yes. My son recovered it.

4 Q. What do you remember him finding?

5 A. It was a piece of knife. The handle was missing.

6 Q. Where did he find it?

7 A. Behind my dresser.

8 Q. So after he found it, what happened?

9 A. I didn't touch -- his fingerprints are probably on it
10 but I didn't touch it. I took it immediately to Jason.

11 THE COURT: I'm sorry I didn't hear what you said.

12 A. I said that when I got it from him, I didn't put my
13 hands on it. I picked it up with something and I
14 immediately took it to Jason.

15 Q. Okay.

16 MS. BURCHSTEAD: If I may approach, Your Honor?

17 THE COURT: Yes, ma'am.

18 Q. I'm showing you State's 3. Let me just get my gloves
19 on. I'm just going to open this envelope up very
20 carefully. I'm just going to show this to you, okay? Is
21 this what your son found?

22 A. Yes, ma'am.

23 Q. You're sure?

24 A. Yes, ma'am.

25 Q. Okay. So you gave it to Jason?

1 A. Yes, ma'am.

2 Q. Do you know what happened to it after that?

3 A. No.

4 Q. All right.

5 MS. BURCHSTEAD: If I may approach again and show
6 State's 2 and, I believe, this is entered without
7 objection, Your Honor.

8 MR. SWILLEY: No objection.

9 THE COURT: All right.

10 MS. BURCHSTEAD: Thank you.

11 THE COURT: State's 2 is received into evidence
12 without objection.

13 (Whereupon, the Knife (part blade) has been marked and
14 entered into evidence as State's Exhibit No. 2)

15 Q. If you'll look at that and tell us what that is.

16 A. This is a Facebook profile, Reedy All Boss.

17 Q. Is that the person you were talking to?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. BURCHSTEAD: Permission to publish, Your Honor.

21 THE COURT: Yes, ma'am.

22 Q. So that's the Facebook picture you remember of the
23 person that you were talking to that you knew as Reedy
24 Boss?

25 A. Yes, ma'am.

1 Q. And you later learned that person to be Tyreek Hayes,
2 is that right?

3 A. Yes, ma'am.

4 Q. And is that the person that went to your apartment?

5 A. Yes, ma'am.

6 Q. Is that the person who had sex act with you?

7 A. Yes, ma'am.

8 Q. And is that who put his hands around your neck?

9 A. Yes, ma'am.

10 Q. Was there any other adult male in your apartment that
11 night?

12 A. No, ma'am.

13 Q. Are you making this up?

14 A. No, ma'am.

15 Q. Do you have any reason to lie ---

16 MR. SWILLEY: Objection.

17 A. No, ma'am ---

18 THE COURT: Hang on. Wait a minute. Let him state
19 his objection.

20 MR. SWILLEY: She's bolstering the credibility of the
21 witness, Your Honor. It's improper bolstering.

22 THE COURT: All right. I'm going to overrule the
23 objection. It's appropriate.

24 Q. Do you have any beef with Tyreek Hayes prior to this?

25 A. No, ma'am.

1 Q. Was the person you were talking to on Facebook the
2 person that wounded with you a knife?

3 A. Yes, ma'am.

4 Q. And wounded your sister with a knife?

5 A. Yes, ma'am.

6 Q. And held you against your will?

7 A. Yes, ma'am.

8 Q. Is that person in the courtroom?

9 A. Yes, ma'am.

10 Q. Can you please point him out and tell us where he is?

11 A. Right there.

12 (Whereupon, the witness points to the defendant at the
13 defense table)

14 Q. Are you pointing at defense counsel table?

15 A. Yes.

16 Q. So is it the defendant, Tyreek Hayes?

17 A. Yes, ma'am.

18 THE COURT: Let the record reflect she's pointing
19 in the direction of the defense table and the defendant is
20 sitting with Mr. Swilley.

21 MS. BURCHSTEAD: I beg the Court's indulgence.
22 Nothing further at this time, Your Honor.

23 THE COURT: Okay. Mr. Swilley?

24 **Cross-Examination by Mr. Swilley:**

25 Q. Now, Ms. Simpson, you've -- you've lived in Dillon

1 your whole life, correct?

2 A. Yes, sir.

3 Q. All right. And it's true you've known Tyreek Hayes
4 for a long time, haven't you?

5 A. I've known him from hearsay.

6 Q. When you say hearsay, you've known him ---

7 A. That he played football with my brother.

8 Q. Played football with your brother and went to Dillon
9 High, right?

10 A. No. He didn't go to school with me.

11 Q. He played football with your brother ---

12 A. Yes.

13 Q. --- at Dillon High, right?

14 A. Yes.

15 Q. And you'd go to those games, right?

16 A. I had went to a few.

17 Q. All right. And you saw games where Tyreek was playing
18 with your brother, right?

19 A. The -- not really. I was focused on my brother.

20 Q. My question to you was, you saw games where Tyreek was
21 playing football with your brother, right?

22 A. I -- no, sir. May I explain that was not it? I just
23 known him from playing with him but I didn't see him at the
24 time. I was focused on my brother.

25 Q. Okay. And my question to you was, you saw games where

1 Tyreek Hayes was playing football with your brother, is
2 that correct?

3 A. No. I never saw a game with him playing because I
4 wasn't focused on him, Your Honor -- sir, sorry.

5 Q. Okay. That's a no?

6 A. No, sir.

7 Q. Okay. And he's also good friends with your nephew,
8 Akeem Nelson, is that correct?

9 A. I wasn't aware of that.

10 Q. You weren't aware that he was friends with your nephew
11 ---

12 A. No. I ---

13 Q. --- Akeem Nelson?

14 A. No.

15 Q. All right. And Akeem Nelson is Ms. Covington's son,
16 is that correct?

17 A. Yes.

18 Q. All right. Now, Ms. Simpson, you had been talking
19 with Mr. Hayes on Facebook, is that correct?

20 A. Yes.

21 Q. Several weeks before, right?

22 A. Mmm, hmm.

23 Q. And during those communications you even made mention
24 of the fact that he was friends and grew up with your
25 nephew, right?

1 A. My brother. I don't -- I never known him to grow up
2 with my nephew.

3 Q. Your nephew always lived with Ms. Covington, is that
4 correct?

5 A. Yes. My brother did too.

6 Q. So it's true to say that you've known Tyreek Hayes for
7 years, correct?

8 A. Not known him known him. I really interacted with him
9 more on Messenger and when I seen him outside of [REDACTED].
10 And I have seen him around in Newtown before.

11 Q. So you'd see him outside of your apartment complex, is
12 that correct?

13 A. Yes, he would be hanging out there with some of his
14 friends, I guess.

15 Q. You say with some of his friends, yes, you would
16 communicate with him outside the apartment complex, is that
17 correct?

18 A. Only once. It was only once because he called me
19 over.

20 Q. Okay. He called you over and y'all had a
21 conversation, correct?

22 A. Yes, sir.

23 Q. Okay. And you had spoke with him a good bit via
24 Facebook, right?

25 A. Yes, sir.

1 Q. Okay. And it's your -- it's your testimony that you
2 didn't know Mr. Hayes' first or last name at the time?

3 A. No, I didn't.

4 Q. It's your testimony that you didn't know his name,
5 first or last name, for several weeks, is that correct?

6 A. Yes, sir.

7 Q. And it's your testimony that, that Mr. Hayes made it
8 clear that he wanted to be in a relationship with you, is
9 that correct?

10 A. No, sir.

11 Q. Okay. And it's also clear that you told Investigator
12 Turner you didn't know his real name, is that correct?

13 A. Yes, it is.

14 Q. Okay. Just so I'm clear. You -- it's your testimony
15 that you had a conversation with someone electronically for
16 weeks, is that correct?

17 A. Yes.

18 Q. And that you'd also seen him in person, is that
19 correct?

20 A. Yes.

21 Q. And you didn't know his name, right?

22 A. No, sir.

23 Q. And this is also the same person that you went out
24 with that evening, is that correct?

25 A. No, sir.

1 Q. All right. And it's your testimony that you let
2 someone into your apartment in the middle of the night
3 without knowing their first and last name, is that correct?

4 A. Yes, sir.

5 Q. Okay. You would agree that is not something that is
6 not normally done by you, is that correct?

7 A. Yes.

8 Q. Okay.

9 MR. SWILLEY: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 Q. Ms. Simpson, your -- your apartment complex, it's --
12 it's -- there -- there are apartments next door to each
13 other, right?

14 A. Yes.

15 Q. On each side of each other, right? Those wall are
16 pretty thin, right?

17 A. I'm not sure.

18 Q. Well, I mean, you can hear what goes on -- you can
19 hear loud noises from next door, is that correct?

20 A. If they're loud enough, yes.

21 Q. Right. And you've had, I think, the same neighbors
22 for a good long while, haven't you?

23 A. One of them, yes.

24 Q. And that's Ms. Manning, is that correct?

25 A. Yes.

1 Q. And you got to know Ms. Manning pretty well, is that
2 correct?

3 A. Yes, sir.

4 Q. Okay.

5 MR. SWILLEY: Hold on for a second.

6 THE COURT: Okay.

7 Q. Ms. Simpson, you actually testified on direct that you
8 hadn't plan to meet Tyreek Hayes out that night, is that
9 correct?

10 A. No, I didn't.

11 Q. Okay. But you asked him that day via Facebook if he
12 was going to be at Strikers, didn't you?

13 A. I don't remember.

14 Q. You don't recall?

15 A. No, I don't recall.

16 Q. Okay. Is that something you would normally recall?

17 A. No, sir. I don't remember that.

18 Q. Okay. And you test -- you told Mr. Hayes that you
19 were single, is that correct?

20 A. Yes.

21 Q. And that's not true, was it?

22 A. Yes, it was.

23 Q. It was true at the time, is that your testimony?

24 A. Yes, sir.

25 Q. Okay. And, Ms. Simpson, going back, you and Mr. Hayes

1 both entered your apartment late that evening ---

2 A. Yes, sir.

3 Q. --- early that morning, is that correct?

4 A. Yes, sir.

5 Q. And it's your testimony that you left that door
6 unlocked, is that correct?

7 A. Yes.

8 Q. That front door was unlocked?

9 A. Yes, it was.

10 Q. And it's your testimony that all these things were
11 done to you while that front door was unlocked, is that
12 correct?

13 A. Yes, it was.

14 Q. And you don't typically leave your door unlocked in
15 the middle of the night, do you?

16 A. No, sir.

17 Q. Okay. But it was unlocked on this evening, is that
18 correct?

19 A. Yes, sir.

20 Q. And it's your testimony that you didn't really talk to
21 Mr. Hayes at T. Lees, is that correct?

22 A. Not really until after we walked outside.

23 Q. And it's your testimony that y'all weren't at Strikers
24 together?

25 A. No, sir.

1 Q. Okay. And isn't it true that you were spending a lot
2 of time speaking with Mr. Hayes while you were out that
3 evening, is that correct?

4 A. Excuse me?

5 Q. You -- You were spending a lot of time speaking with
6 Mr. Hayes at the clubs that evening, is that correct?

7 A. No, sir.

8 Q. Okay. All right. Now, Ms. Simpson, today you
9 testified on direct examination that Mr. Hayes began to
10 kiss you, is that correct?

11 A. He tried to.

12 Q. Tried?

13 A. Yes.

14 Q. And that's the first time you've told that story, is
15 that correct?

16 A. First time I've told ---

17 Q. That's the first time you've said that he was trying
18 to kiss you that evening, is that correct?

19 A. In my apartment?

20 Q. Yes, ma'am.

21 A. No, sir.

22 Q. Okay. Now, you remember talking to Investigator
23 Turner at the hospital after the police were involved,
24 don't you?

25 A. Yes.

1 Q. Okay. And you never mentioned anything about him
2 trying to kiss you, is that correct?

3 A. I'm not sure because I was in the hospital. I'm not
4 sure what all was talked -- I talked about certain things
5 but they didn't really get into everything.

6 Q. Okay.

7 A. They just wanted to really know what -- who did it.

8 Q. Okay. And that would be important to mention to the
9 police, is that correct?

10 A. Excuse me?

11 Q. You feel that would be important to mention to the
12 police, is that correct?

13 A. To mention?

14 Q. You stated he tried to kiss you, right?

15 A. Yes, sir.

16 Q. And that would be important to mention to the police,
17 is that correct?

18 A. Well, it would be, but at the time I just gave the
19 important facts.

20 Q. That's a yes?

21 A. Well, yes, it would have been at the time presentable.

22 Q. All right. So, you -- you -- you say you just wanted
23 to give the important facts at the time ---

24 A. That ---

25 Q. --- you talked to the police?

1 A. Yes. Which was that I was stabbed and raped.

2 Q. Okay. And, Ms. Simpson, I think you testified on
3 direct you were forced to give oral sex that evening, is
4 that correct?

5 A. Yes.

6 Q. And you didn't mention anything about that to the
7 police at the hospital, is that correct?

8 A. I didn't. No, sir.

9 Q. And that's an important fact, right?

10 A. Yes, sir.

11 Q. I'm sorry, is that a yes?

12 A. Yes, sir.

13 Q. Okay. And you testified that Mr. Hayes forced himself
14 on you and drug you to the back, to the back bedroom by
15 your waist, is that correct?

16 A. Yes, sir.

17 Q. Okay. And it's your testimony that you tried to knock
18 on the walls for Ms. Manning?

19 A. Yes. I tried to scream and holler and knock but he
20 just choked me instantly.

21 Q. Okay. And Ms. Manning knows to come over when you
22 knock on that wall, right?

23 MS. BURCHSTEAD: Objection.

24 A. No, sir. Because I ---

25 MS. BURCHSTEAD: Objection.

1 THE COURT: Wait a minute! Wait a minute!

2 MS. BURCHSTEAD: Objection. Calls for speculation.

3 THE COURT: I agree. Objection sustained.

4 Q. Now, Ms. Simpson, you yourself, you know to knock on
5 that wall for Ms Manning when you need help, right?

6 A. No, sir. That was the first time this ever happened.

7 Q. Okay. It's your testimony that you never knocked on
8 the wall before for Ms. Manning to come over before when
9 you were in trouble, is that your testimony?

10 A. I never had any trouble. This was the only time that
11 I had trouble. I would -- she was very alert so that's why
12 I would have done that at the time.

13 Q. Just so I'm clear. Your testimony is that you've
14 never had to knock on the wall for Ms. Manning to come over
15 because you were in trouble, is that correct?

16 A. No. I've never had any trouble other than this.

17 Q. You've never had any trouble other than this, is that
18 correct?

19 A. Not something that I needed help with.

20 Q. Not something that you needed help with, is that
21 correct?

22 A. Yes.

23 Q. And you testified on direct that Mr. Hayes actually
24 helped you to the bathroom, is that correct?

25 A. Yes, sir.

1 Q. And you never mentioned that to the police, as well,
2 is that correct?

3 A. Correct.

4 Q. Okay. And then you mentioned that you -- you stated
5 that you couldn't use the bathroom, is that correct?

6 A. No.

7 Q. Is that, I mean, is that a yes?

8 A. Yes. I couldn't. I couldn't use the bathroom.

9 Q. You couldn't use the bathroom, right?

10 A. No, sir.

11 Q. And you told the nurse at the hospital that you used
12 the bathroom before they examined you, is that correct?

13 A. I'm not sure.

14 Q. You don't know?

15 A. I'm not sure what all was said that day.

16 Q. Okay. You don't know -- just to make sure I'm clear,
17 you don't know whether or not you told the sexual
18 examination nurse that you'd used the bathroom, is that
19 correct?

20 A. I -- I don't remember using it because -- because when
21 he was in the bathroom, I just don't remember using it. I
22 couldn't so I don't -- I'm not sure.

23 Q. Just so I'm clear, based on your recollection -- based
24 on your recollection, you did not use -- you did not
25 urinate or defecate before being examined by the medical

1 staff, is that correct.

2 A. I didn't. I did see a little bit on the cover, it was
3 some but I didn't in the bathroom.

4 Q. Okay, That's what I was referring to.

5 A. Oh, okay.

6 Q. So that's a no, correct?

7 A. Not in the bathroom, yes, sir.

8 Q. All right. Now, Ms. Simpson, you also talked about or
9 you also stated on direct examination that Mr. Hayes or
10 that you -- based on your testimony Mr. Hayes -- you asked
11 Mr. Hayes to use a condom, is that correct?

12 A. Yes, I begged him.

13 Q. Okay. And you didn't mention anything about that to
14 the police, is that correct?

15 A. No. No, sir.

16 Q. Again, that's an important fact, right?

17 A. Yes, sir.

18 Q. Now, Ms. Simpson, isn't it true that it takes two
19 hands to open a condom, is that correct?

20 A. I'm not sure. I've never had to put one on.

21 Q. Okay. Is it your testimony that Mr. Hayes used two
22 hands to open a condom?

23 A. It was dark.

24 Q. Okay. Is that -- you don't know or you don't recall?

25 A. I don't know how many hands he used. I don't recall.

1 Q. Okay. And based upon your testimony is Mr. Hayes
2 putting a condom on himself?

3 A. Yes.

4 Q. Okay. And you don't know whether or not -- and you
5 don't know in what fashion he did that, is that correct?

6 A. I don't.

7 Q. Okay. And, again, you're not aware of why you never
8 mentioned that to the police during your interview?

9 A. Well, no, sir, but I was in and out when Jason came
10 in. I was falling asleep on him. I do remember that.

11 Q. Okay. And also you testified on direct that you fell
12 asleep after that, right?

13 A. I don't really call it falling asleep. I call it
14 falling in and out of consciousness.

15 Q. Okay. And you also testified that he was watching
16 you when you woke up, right?

17 A. Yes, he was.

18 Q. And you hadn't told the police that at any time, is
19 that correct?

20 A. We never really got into all of that.

21 Q. Okay. And your testimony is that you don't know how
22 your clothes were off, is that correct?

23 A. No, I didn't take them off.

24 Q. Okay. So is it your testimony that you don't know how
25 your clothes were taken off?

1 A. No.

2 Q. And, Ms. Simpson, that evening you weren't intoxicated
3 at all, were you?

4 A. No.

5 Q. You testified you only had one drink, is that correct?

6 A. Yes, sir.

7 Q. And, I think you -- isn't it true you told the sex
8 assault examiner that you had three drinks or something of
9 that nature?

10 A. No, I don't recall that.

11 Q. Okay. But we can both agree that you weren't under
12 the influence of any drugs or alcohol?

13 A. No, not that would make me not know what I'm talking
14 about, no, sir.

15 Q. And you don't take any medication that affects your
16 ability to remember things, do you?

17 A. No, sir.

18 Q. Okay. And that morning you hadn't suffered any head
19 trauma had you?

20 A. No, but I was -- I suffered being choked.

21 Q. Okay. My question is, you didn't suffer any kind of
22 head trauma, did you?

23 A. No, sir.

24 Q. You don't suffer from any kind of amnesia from this,
25 do you?

1 A. No, sir.

2 Q. Okay. And it's -- is it your testimony that when your
3 sister, Ann, came in through the unlocked door that you
4 were in the bedroom?

5 A. Yes, sir.

6 Q. Is that correct -- and I think you testified that you
7 came out of the back bedroom and then fell to your knees --

8 A. Yes.

9 Q. --- in front of Ann ---

10 A. Yes.

11 Q. --- is that correct?

12 A. Yes, sir.

13 Q. Is it your -- based on your observation, Ms. Covington
14 couldn't see Mr. Hayes when she walked into the room, she
15 just see you based on your observation?

16 A. No, sir. When I came and fell to my knees, he was
17 right behind me.

18 Q. Okay. Is it your testimony that he was -- he was
19 following you when he came out of the room?

20 A. He was right behind me.

21 Q. Okay. And you fell to your knees?

22 A. Yes.

23 Q. And told her and -- based on your recollection, there
24 would be no -- well, let me rephrase this. Are you telling
25 me that when she would have came the room and you came out,

1 there would have been no confusion about what was going on,
2 right?

3 A. Excuse me?

4 Q. There shouldn't have been any -- well, you said you
5 fell to your knees and screamed that he had raped you,
6 right?

7 A. Yes.

8 Q. There shouldn't have been any confusion about what was
9 going on then, right?

10 A. Well, no, not -- not after I told my sister that
11 because I wouldn't lie.

12 Q. Well, I mean, my question is based on your observation
13 and recollection, there shouldn't have been any confusion
14 about what was going on for Ann, right?

15 A. Explain. Make that -- could you say that where I can
16 better understand?

17 Q. Yes, ma'am. Isn't it true that it would have been
18 readily apparent that what you testified to today was
19 occurring to your sister, is that correct?

20 A. What I --

21 MS. BURCHSTEAD: Objection. Calls for speculation
22 again.

23 MR. SWILLEY: Okay. I'll move on.

24 THE COURT: I'll sustain. I don't know how she can
25 know that.

1 MR. SWILLEY: I'll move on.

2 Q. I think you testified also that Ann locked herself in
3 the room with children.

4 A. Yes.

5 Q. And you hadn't made any mention of that to anybody in
6 law enforcement as well, is that correct?

7 A. I don't recall.

8 Q. Okay. And you said -- and during direct, you do or
9 you do not recall someone calling 911?

10 A. Either my sister or Elaine, yes.

11 Q. You do recall them calling 911?

12 A. Yes, one of them because they came. The ambulance
13 came and got me.

14 Q. And that's the only person you recall calling 911?

15 A. Yes. At that the time, those were the only two adults
16 around me.

17 Q. The only two adults around you at the time?

18 A. And when I went to Elaine's house, yes.

19 Q. Okay. And it's your testimony you don't know whether
20 or not anyone else called 911, is that right?

21 A. No, I don't.

22 Q. Okay. Ms. -- Ms. Simpson, you also stated to the
23 police, though, that you were throwing up everywhere, is
24 that correct?

25 A. Throwing up? No, I don't recall that.

1 Q. All right. Is it your testimony that did not tell the
2 police that you were throwing up?

3 A. I don't remember.

4 Q. Okay. So you don't remember if you told them that ---

5 A. I don't recall.

6 Q. Okay. And it's your testimony that -- or is it --
7 well, it's your testimony that he never drug you to the
8 kitchen, right?

9 A. He drug -- yes. He drug me from the door and he was
10 trying to cut my neck and I put my fingers ---

11 Q. It's your testimony that he drug you to the kitchen?

12 A. Yes.

13 Q. Okay. And you don't -- and you testified that this is
14 before or after you'd been stabbed?

15 A. This was before. He was trying to cut my neck at the
16 time when he drug me in the kitchen.

17 Q. He drug you into the kitchen, is that correct?

18 A. Yes.

19 Q. Okay. Now -- and you testified that he had taken a
20 knife from your bedroom, is that correct?

21 A. No, I never said that.

22 Q. Okay. Is it your testimony that he had taken a knife
23 from your kitchen?

24 A. I didn't see him go into the kitchen and get it but it
25 was obvious that he had to get it from the kitchen.

1 Q. It's your testimony he had a knife in the bedroom, is
2 that correct?

3 A. I don't recall that.

4 Q. It's your testimony that he drug you in the kitchen
5 while he was trying to cut you with a knife, right?

6 A. Yes.

7 Q. Okay. And this is before Mr. Hayes had been in the
8 kitchen?

9 A. I don't recall him going into the kitchen before that.
10 The only thing I know is he drug me in the kitchen ---

11 Q. Okay.

12 A. --- trying to cut my neck.

13 Q. And Mr. Hayes didn't have -- we can agree that Mr.
14 Hayes didn't have a knife that evening when he came into
15 your home, did he?

16 A. Not that I recall.

17 Q. Okay. And you don't keep knives in your bedroom, do
18 you?

19 A. No, sir.

20 Q. Okay. Now, Ms. Simpson, in -- in your apartment that
21 evening there were some things that you didn't know, right?

22 A. Meaning?

23 Q. Right. For instance, I think there was a Playstation
24 game in your house, right?

25 A. My son has one.

1 Q. It's your son's Playstation. And there were some Air
2 Jordans in your house, right?

3 A. Not laying around. If there was, they would have been
4 in the closet because my son he wears Jordans.

5 Q. There were some adult -- your sons are what ages, now?

6 A. He -- my oldest -- I have two, eleven and six.

7 Q. Okay. And they don't wear adult Air Jordans, do they,
8 at the time -- they didn't wear adult Air Jordans at the
9 time, did they?

10 A. No.

11 Q. Okay. And it's your testimony that there were, there
12 were not adult Air Jordans in your apartment?

13 A. I don't recall.

14 Q. Okay. And there were Playstation games, I believe, in
15 the drawer and a piece of furniture in your room, is that
16 correct?

17 A. Playstation games?

18 Q. Yes, ma'am.

19 A. I can't recall that.

20 Q. Okay. And, Ms. Simpson, you previously told law
21 enforcement that you had been bitten, is that correct?

22 A. No. I never said that I had been bitten.

23 Q. Never testified that, or excuse me, I think you
24 testified that you bit Mr. Hayes, is that correct?

25 A. I -- the only thing I -- I really don't really

1 remember. The only thing I know is that something got him
2 off me. I don't recall biting.

3 Q. Okay.

4 A. But I could have.

5 Q. Okay. You don't know whether or not you bit Mr.
6 Hayes, is that correct?

7 A. I can't remember that.

8 Q. Okay.

9 A. I don't remember.

10 Q. And I think you told the police that you had scratched
11 somebody, is that correct?

12 A. I don't recall that.

13 Q. Okay. And you do recall them taking samples from your
14 fingernails, right, from under your fingernails?

15 A. I don't remember.

16 Q. Okay. So, Ms. Simpson, just so I'm clear, you don't
17 recall whether or not you vomited, right?

18 A. No.

19 Q. You don't recall whether or not Mr. Hayes put a condom
20 on, is that correct?

21 A. I know he did but I don't know how many hands he used.

22 Q. Okay. And you don't recall how you got undressed, is
23 that correct?

24 A. No. I just remember being naked the next morning.

25 Q. And you don't recall whether or not you bit anybody,

1 is that correct?

2 A. No.

3 Q. Okay. You don't recall whether you scratched anybody,
4 is that correct?

5 A. No.

6 Q. And I think you said that you were in and out of
7 consciousness, is that correct?

8 A. Yes. Because ---

9 Q. And you told the doctors at the hospital that you
10 didn't lose consciousness, is that correct?

11 A. No, I doubt that, sir.

12 Q. Okay. Do you know -- do you know -- do you why
13 whether or not your medical records indicate that you said
14 you didn't lose consciousness?

15 MS. BURCHSTEAD: Objection. Cause for speculation.

16 A. No. No, sir.

17 THE COURT: Wait a minute.

18 A. No, sir.

19 MS. BURCHSTEAD: Outside her knowledge of the
20 medical records.

21 MR. SWILLEY: My question asked for a, based upon her
22 knowledge, if she knew whether or not -- if she knew why
23 whether or not something would be contrary to what she
24 said.

25 THE COURT: Has she reviewed the medical records?

1 MR. SWILLEY: I'm not aware of that, Your Honor.

2 THE COURT: If she hasn't reviewed the medical
3 records, she couldn't answer that question.

4 MR. SWILLEY: Okay.

5 THE COURT: I mean, you can ask her if she's
6 reviewed the records ---

7 Q. Ms. Simpson, have you reviewed your own medical
8 records today?

9 A. No.

10 Q. Or at any time?

11 A. No, sir.

12 Q. Okay. And don't remember or recall having
13 conversations with the doctors, right?

14 A. Couple of times, Dr. Mijalli.

15 Q. Dr. Mijalli, right? He's the doctor at McCleod that
16 did treated you, is that correct?

17 A. Yes, it is.

18 Q. Okay. And you don't recall -- you recall whether or
19 not you discussed anything about consciousness at the time?

20 A. No. Because he was just worried about my hands at the
21 time.

22 Q. Okay. You don't recall that?

23 A. No.

24 Q. Ms. Simpson, it's true to say you didn't, during your
25 Facebook conversations with Mr. Hayes, you didn't want Mr.

1 Hayes to text your phone, is that right?

2 A. He didn't have my number.

3 Q. Okay. My question is you didn't want Mr. Hayes to
4 text your phone, is that right?

5 A. No. I didn't give him my phone number. No, sir.

6 Q. You didn't want him to text your phone?

7 A. No.

8 Q. Okay. And you just wanted to speak with him over
9 Messenger, is that correct?

10 A. Yes, that was better for me.

11 Q. Better for you?

12 A. Yes. It was better just to conversate -- it was still
13 a conversation.

14 Q. Okay. You didn't want any text messages showing up on
15 your phone from Mr. Hayes, is that correct?

16 A. No, it wasn't that. I just didn't want him to have my
17 number.

18 Q. Okay. You didn't want him to have your number?

19 A. No, sir.

20 Q. All right. But you did want him to have Facebook --
21 you did want to be connected on Facebook Messenger, right?

22 A. Excuse me?

23 Q. You did want to be connected with him on Facebook
24 Messenger, right?

25 A. That was fine.

1 Q. Okay. And he knew where you lived, right?

2 A. Yes. Only because he seen me going there one day.

3 Not -- other than the night he came in.

4 Q. And he told you where he lived, right?

5 A. Yes.

6 Q. Okay. But you didn't want him to text you, right?

7 A. No, sir, but it still was texting on Messenger.

8 Q. I'm sorry. Say that again, please?

9 A. I said no, sir, but it still was called texting when
10 you're on Messenger.

11 Q. Okay. And, Ms. Simpson, based upon your recollection,
12 you don't recall any adult men being around Maplewood at
13 the time you were being or at the time that, that 911 was
14 called, is that correct?

15 A. No, sir, it was just me and my sister. When I ran
16 around the building, it was my sister, was the only person
17 I seen and I went inside Elaine's house.

18 Q. Okay. And during your Facebook conversations with Mr.
19 Hayes, you would tell him what you were doing, right?

20 A. Yes. Like I had to do hair or something like that.

21 Q. You told him where you were going, right?

22 A. I don't recall what all the messages was about.

23 Q. You recall telling him you were going down to Florence
24 to go to Sam's, right?

25 A. I could have.

1 Q. Okay. That's a yes or a no?

2 A. Like I said, I don't recall everything that was in the
3 messages, but I could have.

4 Q. Okay. You disclosed a lot of information to him about
5 what you were doing, right?

6 A. I could have, yes, sir.

7 Q. Right. And you told him about the kind of food you
8 were cooking, right?

9 A. I don't recall that. I could have, but I don't recall
10 all the messages.

11 Q. Okay. And that evening, I think, you had left your
12 children with, with Ann to take care of that night, right?

13 A. Yes.

14 Q. And y'all had a set time about when the children were
15 going to be brought back, is that correct?

16 A. Well, when they start getting on her nerves.

17 Q. When they start getting on her nerves?

18 A. That's when she'll bring them back. We really -- we
19 really didn't have a set time.

20 Q. So your testimony is you just drop your children off
21 with your sister and she would bring them back whenever
22 they get annoying?

23 A. Well, when they -- well, when she's tired, you know,
24 children can be a little active.

25 Q. Okay. And, Candace, when you got out of the hospital

1 it wasn't long before you started going back out to
2 nightclubs, is that correct?

3 A. It took a little while.

4 MS. BURCHSTEAD: Objection. Relevance.

5 THE COURT: I'll overrule the objection. You can
6 ask the question.

7 Q. Ms. Simpson, my question was, it didn't take long
8 before you started going out to nightclubs again, is that
9 correct?

10 A. It took a while.

11 Q. A while meaning a couple of weeks?

12 A. I went to a tailgate.

13 Q. Okay. My question to you was, a while before you
14 started going out to nightclubs, that was a week or two?

15 A. When I -- no, I'm going to say a little bit longer
16 than that. I healed up. I was healed. My wounds weren't
17 -- they were healed up.

18 Q. When they healed up, you started going out to
19 nightclubs again, is that correct?

20 A. I did go.

21 Q. Okay.

22 A. I have went.

23 Q. And coming home about the same time, is that correct?

24 A. No. They didn't stay -- well, after I go out I would
25 come straight home because I didn't need another event to

1 occur.

2 Q. Okay. And you were doing this about every weekend ---

3 A. No, sir.

4 Q. --- you got a chance?

5 A. No, sir.

6 Q. Okay. Ms. Simpson, this isn't the first time you've -
7 - well, let me back up, you've -- you've had plenty of time
8 to discuss and prepare your testimony with the prosecution,
9 haven't you?

10 A. Yes, I have.

11 Q. Okay. You've talked to them multiple times about
12 testifying today, is that right?

13 A. Yes.

14 Q. You've done a lot of preparation, haven't you?

15 A. Yes. Yes, sir.

16 Q. Had a lot of time to refresh your memory, is that
17 correct?

18 A. Well, can I explain it? My memory didn't need be
19 refreshed, sir.

20 Q. Okay. Your memory didn't need to be refreshed, is
21 that correct?

22 A. No, sir. I just told them what all happened.

23 Q. Memory didn't need to be refreshed but you've added a
24 lot of stuff to your story that you didn't tell the police,
25 is that correct?

1 A. Well, can I explain? At the time when -- after this
2 happened, I didn't really talk about it a lot. But I did
3 open up more with the attorneys because they asked every
4 question that needed to be, they needed to know.

5 Q. Okay. Just so I'm clear, you've added more facts the
6 longer time goes by, is that correct?

7 A. Well, that came back to me, yes, sir.

8 Q. Okay. And you added facts about the oral sex that you
9 say occurred, is that correct?

10 A. No. we always -- I always told them that.

11 Q. Okay. It's your testimony that you told everybody in
12 this investigation that you'd been forced to have oral sex,
13 right?

14 A. I told the, my attorneys.

15 Q. Okay. Never told that to the police, is that correct?

16 A. I don't recall. I could -- I don't recall.

17 Q. Okay. Now, this knife blade that you turned in to the
18 police or that you turned in to Mr. Turner, right, that
19 was, you said your son found that a week after?

20 A. I don't know the exact how long it was after. I just
21 remember him finding it and I took it to Jason.

22 Q. And it's your testimony that knife was used in an
23 assault against you?

24 A. I'm not sure. I just took the knife, you know,
25 because it could have been evidence.

1 Q. Okay. So just so I'm clear, you didn't know whether
2 or not this knife blade that your son had found was
3 involved in any assault yet you took it to the police
4 anyway?

5 A. I did because I don't keep knives in my room and so I
6 took it because I don't keep knives in my room.

7 Q. Ms. Simpson, as far as it pertains to this knife, you
8 say it was about a week after you say this happened?

9 A. I don't recall the exact --

10 THE COURT: The microphones have gone out so you
11 need to speak a little bit louder, please for the jury.

12 A. Okay. I don't recall the exact time after it happened
13 when I took it.

14 Q. And your testimony is -- your testimony is that you
15 don't know whether or not this had any evidentiary value,
16 is that correct?

17 A. I didn't know.

18 Q. You didn't know? Okay. But you took this to
19 Investigator Turner, is that correct?

20 A. Yes, just to be on the safe side.

21 Q. And this -- this -- this knife blade was not given to
22 you by anyone other than your son, is that right?

23 A. No, sir.

24 Q. Okay. So as far as you're concerned, this knife blade
25 was recovered by your son after all the police had searched

1 and done their investigation in your apartment, is that
2 right?

3 A. Yes.

4 Q. Okay. And do you know of any reason why the police
5 would have missed this particular knife blade in their
6 investigation?

7 A. Yes, because it was behind the dresser. Nothing was
8 really messed up in the apartment. That's probably a good
9 reason why.

10 THE COURT: I'm going to ask you to speak up just a
11 little bit and make sure everybody can hear you.

12 A. They probably missed it because nothing was really
13 messed up in the apartment so they probably didn't think
14 there was any need to look behind the dressers and stuff.

15 Q. Ms. Simpson, you testified that you invited Mr. Hayes
16 in and it was about twenty minutes before he made an
17 advance toward you, is that correct?

18 A. I don't know the exact time. Like I said before, he
19 sat down, I turned the TV on, I went and washed and got my
20 clothes on and I came back out. So it could have been
21 about thirty, about thirty minutes.

22 Q. And it's your testimony that you invited him in there
23 just to have a conversation?

24 A. Yes, sir. My intentions were not to have sex.

25 Q. Y'all had a conversation outside of your apartment

1 complex, is that correct?

2 A. Yes, he just -- he asked me to add him on Facebook.

3 Q. No, I'm talking about that evening. Y'all were having
4 a conversation out in the parking lot when y'all got
5 dropped off, is that correct?

6 A. Only conversation we had was when he asked me could he
7 come in and I said sure but nothing was going to happen.

8 Q. All right. When y'all got out in the parking lot,
9 y'all were standing around in the parking lot talking,
10 right?

11 A. Standing -- no, we just got out the car. Everybody
12 was about to go their separate ways and he asked could he
13 come in.

14 Q. Okay. And your testimony is that you weren't standing
15 around in the parking lot for a while talking before y'all
16 went in the house, right? Is that your testimony?

17 A. No, we walked to the door after that. After he asked
18 could he come in, we walked up to the door.

19 Q. It's your testimony that you got directly out of the
20 car and walked towards the apartment?

21 A. He asked could he come in. That was the only stand
22 around when he asked could he come in and then we walked to
23 the door.

24 Q. And this is, approximately, 5 o'clock in the morning?

25 A. In between -- it wasn't -- it wasn't later than six.

1 It was in between there somewhere.

2 Q. All right. Now, just so I'm clear and I'm hard of
3 hearing, are you telling me it was between five and six
4 when this occurred?

5 A. It was -- I don't know the exact time but I know it
6 wasn't daylight outside.

7 Q. Okay.

8 A. So it was -- it was after four, I'm pretty -- it had
9 to be in between four and six.

10 Q. In between four and six?

11 A. Yes.

12 Q. So way past the time you ordinarily go to bed, right?

13 A. Excuse me?

14 Q. Way past the time you ordinarily go to bed, correct?

15 A. Yes. I go to bed earlier than that.

16 Q. You go to bed earlier than that, right?

17 A. Yes.

18 THE COURT: Speak up, please.

19 A. Oh, sorry about that. I'm sorry.

20 Q. It's way past the time you ordinarily go to bed,
21 right?

22 A. Meaning like, do I go to bed earlier than that? Is
23 that what you're trying to say?

24 Q. Ordinarily, is that past the time you go to bed?

25 A. Yes, six -- four, yes, sir, it's past the time.

1 Q. And it's your testimony that you had every intention
2 of going back to your house and going to sleep as soon as
3 possible?

4 A. Yes, if he was -- if he wasn't asked to come in, I
5 would have went to sleep because I had hair to do the next
6 day.

7 Q. Okay. So my question to you was, when you went back
8 home after y'all had been out to the nightclub, you
9 intended to go back to your apartment and go to sleep and
10 that's it --

11 A. Yes.

12 Q. -- is that correct?

13 A. Yes.

14 Q. And you invited Mr. Hayes into your home, is that
15 correct?

16 A. Yes, I invited him in.

17 MR. SWILLEY: One moment please, Your Honor.

18 THE COURT: Yes, sir.

19 Q. And, Ms. Simpson, it's your testimony that you don't
20 know how long you were in that apartment with Mr. Hayes
21 before your sister came to the door?

22 A. It was a couple of hours.

23 Q. Did you say a couple of hours?

24 A. Yes.

25 Q. It's your testimony that you didn't have the TV on?

1 A. Not in my room. The TV was on in the living room
2 before.

3 Q. Okay.

4 A. Because he was sitting down watching it while I
5 washed.

6 Q. I'm sorry, what now?

7 A. He was sitting in the living room watching TV as I
8 washed.

9 Q. Okay. Ms. Simpson, do you agree if you had no
10 intention of having any kind of encounter with Mr. Hayes,
11 there was no reason for him to come in the house, right?

12 A. Excuse me? Well, I just feel like it's not all about
13 that.

14 Q. Ms. Simpson, it was well after four in the morning.

15 A. Yes, sir.

16 Q. You had to be up to do hair the next day, right?

17 A. Yes, sir.

18 Q. Do you agree with me there was no reason to bring Mr.
19 Hayes into your home -- well, let me -- let me stop myself.
20 Let me rephrase that. It's your testimony today that you
21 invited Mr. Hayes to come into your home just to have a
22 conversation?

23 A. And watch TV until I was ready --

24 THE COURT: Speak up, please.

25 A. And watch TV until I was ready to go to bed.

1 Q. And nothing more?

2 A. Nothing more.

3 Q. Between four and six in the morning?

4 A. Yes, sir.

5 Q. It's your testimony that subsequent to that he goes
6 into a rage and forces himself on you at that point?

7 A. Yes.

8 Q. And then it's your testimony that he commences to stab
9 your sister and you, that's your testimony?

10 A. Yes.

11 Q. And that no other individual was present, is that
12 correct?

13 A. Yes.

14 Q. And Mr. Hayes is the only person you've ever brought
15 into your home that late whose name you didn't know, is
16 that correct?

17 A. Yes.

18 Q. You're not in the habit of bringing men into your home
19 late night, early morning when you don't know their first
20 or last name, is that correct?

21 A. No, sir.

22 Q. Your testimony is that this is the first and only time
23 that you did that?

24 A. Yes, sir.

25 Q. You've never done it before?

1 A. No, sir.

2 Q. It's your testimony that you don't know when Mr. Hayes
3 left your apartment that morning?

4 A. No, sir. He was still in the apartment when I ran
5 out.

6 Q. And during this time that you say that you were being
7 that you were being stabbed and that your sister was being
8 stabbed, there was a lot of commotion going on?

9 A. The only commotion that was going on at the time is
10 when I jumped on his back when, like I said, I thought he
11 was punching her. I didn't know he was trying to cut her
12 neck at the time.

13 Q. Okay.

14 A. And I jumped on his back and that gave them a chance
15 to make a run into my room.

16 Q. Okay. So it's your testimony that he assaulted your
17 sister first, is that correct?

18 A. Well, he assaulted her after the fact that he had done
19 raped me.

20 Q. Well, I mean, before -- you say he assaulted you, but
21 you say he assaulted your sister first, is that correct?

22 A. Yes, he assaulted her first.

23 Q. And you say he assaulted your sister without any
24 provocation?

25 A. Excuse me?

1 Q. Without any provocation from Ms. Covington, is that
2 correct?

3 A. Explain that, like, break that word down to me.

4 Q. It's your testimony that he assaulted Ms. Covington
5 without her doing anything, is that correct?

6 A. She just was trying to get away.

7 Q. So it's your testimony that she walked in and then she
8 tried to leave and that Mr. Hayes assaulted, just began to
9 assault her?

10 A. No, she didn't try to leave. She asked him to leave.

11 Q. Okay.

12 A. And that's when he assaulted her.

13 Q. Okay.

14 A. And I jumped on his back.

15 Q. And, Ms. Simpson, you know the definition of
16 provocation, don't you?

17 A. No.

18 Q. Okay. And you said -- you said you saw him, it looked
19 like he was punching her?

20 A. Yes. I didn't know he had a knife at the time.

21 Q. And you say, you don't know where and when he got this
22 knife?

23 A. No, I'm not sure.

24 Q. Okay. And you testified that he drug you into the
25 kitchen while you were bleeding, is that correct?

1 A. He drug me into the kitchen when he was trying to cut
2 my neck and I put my fingers up.

3 Q. Okay. When you were bleeding, is that correct?

4 A. I'm pretty sure I was bleeding, yes.

5 Q. Okay. And you were bleeding so that it would have
6 left a blood trail from the bedroom into the kitchen?

7 A. It wasn't from the bedroom. It was from the door in
8 the living room.

9 Q. The living room. So ya'll got out of the bedroom and
10 into the living room and that's when he drug you into the
11 kitchen?

12 A. We were in the hallway. When he -- when my sister
13 came in, I fell down in the hallway, mid hallway, to my
14 knees and I told her that he had raped me. So from there
15 we was pretty much in the hallway at first. That's when he
16 -- when she asked him to leave, he started on her. Like I
17 said, I thought he was punching her but I didn't know he
18 had a knife at the time. When I jumped on his back, that
19 got my sister and my nephew and my son free to run. And
20 then I ran, tried to get out the front door. I opened it
21 just a little bit before he shot it closed and he drug me
22 by the neck and tried to cut my neck but I put my fingers
23 up.

24 Q. So he drug you from the front door to the back or ---

25 A. It was just right here beside the kitchen sink and the

1 stove. The stove is right here (demonstrating), my head
2 was where the stove was, and the kitchen sink is right here
3 (demonstrating).

4 Q. Now, based on your observation, Mr. Hayes wasn't under
5 the influence of any kind of drug or substance, was he?

6 A. I'm not sure.

7 Q. Okay. You don't know?

8 A. No, sir.

9 Q. Now, you testified that or you stated to Investigator
10 Turner that he was on the floor stabbing you and that's
11 when he went -- and that's when he went back to cut your
12 sister. You weren't sure, is that correct?

13 A. He went after my sister. When he was stabbing me on
14 the floor, he heard the door open which was my sister and
15 them run -- my sister running out with the kids. He went
16 to go see and that gave me a chance to get up and run out
17 the back door.

18 Q. Ms. Simpson, I asked you what you told Investigator
19 Turner at the hospital. You told Investigator Turner isn't
20 -- well, I mean, isn't it true that you told Investigator
21 Turner that he had you on the floor stabbing you and stuff
22 and then went back to the room so that's when he might have
23 tried to cut my sister, I'm not sure. Isn't that what you
24 told Investigator Turner?

25 A. I'm not sure about that.

1 Q. You don't recall?

2 A. No. Only thing I know is what happened before when he
3 was -- like, he was cutting her at the time but I didn't
4 know that he was cutting her. I thought he was just
5 beating her.

6 Q. Okay.

7 A. I don't recall.

8 Q. And you don't know why you would've told Investigator
9 Turner differently?

10 A. No.

11 Q. And, Ms. Simpson, you testified that he, excuse me,
12 you told Investigator Turner differently that he drug you
13 in the kitchen and threw you on the floor of the kitchen,
14 isn't that correct?

15 A. Yes, he did.

16 Q. Okay. And then you said at that time, you said that
17 he had to get it out of my kitchen drain, isn't that true?

18 A. No.

19 Q. You didn't tell Investigator Turner that?

20 A. I don't recall that ---

21 Q. Okay. You did or you did not tell ---

22 A. --- at the kitchen ---

23 Q. --- Investigator Turner that?

24 A. I don't recall.

25 Q. Okay. Ms. Simpson, I'm going to ask you to read lines

1 7 -- that sentence on line 7 and 8 right here.

2 A. You said 7 and 8?

3 Q. It's lines 7 and 8.

4 A. He got -- he get it out the kitchen in my drain.

5 Q. Okay. Thank you. And, Ms. Simpson, we can agree that
6 your -- we can agree that your memory would be a lot better
7 the day this happened than three years later. Can we agree
8 on that?

9 A. I'm not going to say that, sir.

10 Q. That's a no or yes?

11 A. I'm going to say that at the time, you know,
12 everything was just messed up so I'm not going to agree to
13 that, sir.

14 Q. Ms. Simpson, just so I'm clear, it's your testimony
15 that your memory is better three years later in front of
16 this jury than at the time you were talking to Investigator
17 Turner, is that correct?

18 A. I'm going to say a few weeks later. Because at the
19 time, you know, it wasn't all there. I didn't remember
20 everything.

21 Q. Okay. It's your testimony the day of, you didn't
22 remember as much as you remember afterwards?

23 A. Yes. Because I was on medications and stuff when he
24 came in and I talked to him.

25 Q. And these medications, you don't know whether or not

1 they made you tell things that are different from the
2 truth, right?

3 A. No, I -- no, sir.

4 Q. All right. And based on your information these
5 medications didn't cause you to lie to anybody, did they?

6 A. No. No, sir.

7 Q. And you told Investigator Turner that when your sister
8 got there that Mr. Hayes told you -- that she came in, Mr.
9 Hayes told you, you better not scream. You told
10 Investigator Turner that, is that correct?

11 A. Uh, uh. I don't recall at the time.

12 Q. Okay. So just -- just so I'm sure, you testified
13 today that you ran directly into the living room and said -
14 -

15 A. It was mid hallway.

16 Q. -- into the hallway and said that he raped you, right?

17 A. Yes.

18 Q. And then, do you recall telling Investigator Turner
19 that Mr. Hayes said, shhhh you better not scream, do you
20 recall saying that?

21 A. I could have. I don't recall it at the moment.

22 Q. You don't recall that?

23 A. I could have.

24 Q. And you testified or, excuse me, you made no mention
25 in your direct testimony that Mr. Hayes threw you, is that

1 correct?

2 A. I do. I do remember -- I don't remember during direct
3 testimony, but I do remember that happening, him throwing
4 me down in the kitchen, stabbing me.

5 Q. Okay. And you stated that you recall him throwing you
6 in the kitchen, right?

7 A. Yes.

8 Q. And your testimony is that he didn't throw you in the
9 bedroom?

10 A. No. He didn't throw me, he just dragged me in the
11 bedroom.

12 Q. Okay. You told Investigator Turner that every time he
13 would just throw me like a rag doll ---

14 A. No, I don't ---

15 Q. --- when you said he was raping you, is that true?

16 A. I don't recall that.

17 Q. You don't recall?

18 A. No.

19 Q. Do you deny that you said that?

20 A. I don't recall saying that. I'm just -- I don't
21 recall.

22 Q. Ms. Simpson, you would agree that there's a lot of
23 difference between your testimony here today and what you
24 initially told the police, isn't there?

25 A. Some things that you said I didn't recall.

1 Q. Just to clarify my question, you would agree with me
2 that there's a lot of difference between what you told the
3 police initially and your testimony here today, is that
4 correct?

5 A. Not too much difference.

6 Q. Not too much difference?

7 A. I -- no, sir.

8 Q. Okay.

9 MR. SWILLEY: Nothing further.

10 THE COURT: Ms. Burchstead?

11 MS. BURCHSTEAD: Thank you, Your Honor.

12 **Redirect Examination by Ms. Burchstead:**

13 Q. Okay. Ms. Simpson, going back to when you were
14 talking to Reedy Boss on Facebook, and whatever
15 interactions you had with him before this night, is it fair
16 to say you might have liked him a little bit?

17 A. Yes, he was okay.

18 THE COURT: All right. I'm going to ask you to
19 speak up again.

20 A. Oh, I'm sorry. I forgot about the mic. Yes, ma'am,
21 he was fine. He was okay.

22 Q. Mr. Swilley asked you about the walls being thin and
23 knocking on the walls, did you call for help that night?

24 A. Yes, I tried. I tried to scream but he choked me
25 instantly.

1 Q. So did you quit screaming?

2 A. Yes.

3 Q. Okay. Why did you quit screaming?

4 A. His hands was around my throat.

5 Q. Did you feel like you could leave?

6 A. No.

7 Q. Why not?

8 A. Because I didn't have a plan.

9 Q. Were you afraid?

10 A. Yes.

11 Q. What were you afraid of?

12 A. I never been choked before so....

13 Q. And when he had put his hands around your neck, what
14 would happen?

15 A. I couldn't breathe.

16 Q. I think you had said to me and maybe Mr. Swilley that
17 you had lost consciousness, is that right?

18 A. Yes. It had to be because every time it just -- I
19 would just wake up like out and just wake up. And like I
20 said, he was standing there watching me when I ---

21 Q. You said every time, does that mean it happened more
22 than once?

23 A. Yes. It's two times I woke up like I -- when the rape
24 happened, I didn't recall when that finished. I just
25 remember waking up and it was daylight. And I fell out of

1 consciousness again and like I told you that was when my
2 legs felt weak and he needed to help me to the bathroom.

3 Q. So to be clear, you remember passing out more than
4 once?

5 A. Yes.

6 Q. And every time you woke up, he was there, is that
7 right?

8 A. Yes.

9 Q. So when he put on a condom or when you remember him
10 putting on a condom, did you feel like you could leave?

11 A. No.

12 Q. Do you recall a condom during the oral sex?

13 A. No, it wasn't.

14 Q. So when you talked to law enforcement at the hospital,
15 was that right after surgery?

16 A. Yes.

17 Q. How did you feel at the time you were talking to law
18 enforcement?

19 MR. SWILLEY: Objection, Your Honor. Relevance.

20 THE COURT: She can testify to how she felt. It
21 was her and her condition so go ahead and answer the
22 question.

23 A. I felt relieved to be alive, but hurt that it
24 happened.

25 Q. And was everything you told law enforcement, at that

1 time in the hospital, true?

2 A. Yes. Everything I told him was what happened. I
3 might didn't tell him in the exact order but it was what
4 happened.

5 Q. Did you tell him every single detail?

6 A. We didn't really get into everything at the hospital.

7 Q. Did you answer their questions?

8 A. Yes.

9 Q. So when you were in the hospital, was that right after
10 the attack?

11 A. Yes.

12 Q. So it was right after EMS had brought you to the
13 hospital?

14 A. Yes, ma'am.

15 Q. When you ran to the neighbor for help -- or let me
16 back up, what was -- why were you running to the neighbor?

17 A. Because I had been stabbed and I was bleeding.

18 Q. Did you know everything going on around you other than
19 the attack?

20 A. No.

21 Q. Did you know where Reedy Boss or Tyreek Hayes was when
22 you were running to the neighbor?

23 A. No. The only thing I know I ran and he was still in
24 there when I ran out.

25 Q. He was still in there?

1 A. Yes.

2 Q. And which door did you go out?

3 A. The back slide door.

4 Q. And which door did your sister go out?

5 A. The front door.

6 Q. So the attack on your sister and you ---

7 A. Yes, ma'am.

8 Q. --- how fast was the attack?

9 A. I don't know. It was -- it didn't take long to
10 escalate from her to me.

11 Q. Is it fair to say whether you thought there might be a
12 sexual encounter or not, you certainly didn't intend on
13 getting stabbed and sliced with a knife that night?

14 A. No, ma'am, I didn't.

15 Q. When he was -- when Tyreek Hayes was fighting with
16 your sister, can you remind us where they were?

17 A. Mid hallway.

18 Q. Did anybody ever end up on the bed?

19 A. No, not during this time. No, ma'am.

20 Q. During the struggle and the attack, is it fair to say
21 the apartment is kind of small?

22 A. Yes, ma'am.

23 Q. And from the bedroom to the kitchen ---

24 A. It's not ---

25 Q. --- and the hallway is pretty tight?

1 A. Yes, ma'am.

2 Q. Do you have permanent scars from this attack?

3 A. Yes, ma'am.

4 Q. Where are your scars?

5 A. Here (pointing), here (pointing), here (pointing), my
6 finger won't bend. My fingers was badly severed. My thumb
7 was hanging.

8 THE COURT: I'm sorry, what was the last thing you
9 said?

10 A. My thumb was hanging. I have -- I had to get staples
11 here (pointing), down on my legs. It's just mainly here in
12 the chest, my face, my neck and stuff.

13 Q. Do you have any question who did this to you?

14 A. No, ma'am.

15 MS. BURCHSTEAD: I beg the Court's indulgence.
16 Nothing further.

17 THE COURT: Mr. Swilley?

18 MR. SWILLEY: Just briefly, Judge.

19 **Re-cross Examination by Mr. Swilley:**

20 Q. Ms. Simpson, I may have misheard you, but did you
21 testify on redirect that this whole incident took thirty
22 minutes?

23 A. No, I said it was from her to me.

24 Q. From her to you?

25 A. Yes, from when it -- when he -- when I jumped on her,

1 his back to get him off of her, she ran into the room. I
2 didn't say the exact time.

3 Q. No. I was asking you when Ms. Burchstead had asked
4 you, how long this whole -- how long did this take, did you
5 say it was thirty minutes, that it took thirty minutes?

6 A. No, sir. I said it didn't take -- I don't remember
7 the exact words I used, but I know it didn't take a lot of
8 time. I didn't say thirty minutes.

9 Q. Okay.

10 MR. SWILLEY: Thank you.

11 MS. BURCHSTEAD: Nothing further.

12 THE COURT: All right. You can step down, ma'am.
13 Thank you.

14 A. Thank you.

15 THE COURT: Okay. We're going to take a short break
16 right now. Ladies and gentlemen, I'm going to give you a
17 chance to go freshen up, whatever we need to do. Go take a
18 short brea. Stretch your legs. As I've told you before do
19 not discuss anything about the testimony that you've heard
20 so far when you go back into your jury room amongst
21 yourselves. Everybody remain seated while the jury goes
22 out.

23 (Whereupon, the jury exits the courtroom at 11:29 a.m.)

24 THE COURT: Let me make sure the jury's gone down the
25 hall. Wayne, can you make and see if the jury's gone down.

1 All right. We can take a break now.

2 (Whereupon, the court took a short break)

3 THE COURT: Counsel, you ready for the jury?

4 MR. KOZAK: Yes, sir, Your Honor.

5 MS. BURCHSTEAD: Yes, sir.

6 THE COURT: Bring them in.

7 (Whereupon, the jury enters the courtroom at 11:49 a.m.)

8 THE COURT: You may call your next witness.

9 MS. BURCHSTEAD: Thank you, Your Honor. The State
10 calls Ann Covington. We'll bring her in, Your Honor.

11 (Whereupon, the State retrieves the witness from the back)

12 THE CLERK: Place your left hand on the Bible and
13 raise your right hand.

14 MS. COVINGTON: Say my name?

15 THE COURT: Left hand on the Bible and raise your
16 right hand.

17 THE CLERK: --- raise your right hand. Do you
18 solemnly swear or affirm the testimony you're about to give
19 the Court and jury on this case is the truth, the whole
20 truth, and nothing but the truth so help you God?

21 MS. COVINGTON: Yes, ma'am.

22 THE CLERK: Have a seat in the jury box and state
23 your full name for the court, spelling your last first
24 please.

25 THE COURT: Ma'am, we don't have the benefit of the

1 mic system now -- the sound system. You've got to speak
2 loudly and clearly when you answer questions and say
3 anything.

4 MS. COVINGTON: Okay.

5 ANN COVINGTON, first
6 being duly sworn, testified as follows:

7 **Direct Examination by Ms. Burchstead:**

8 Q. Good morning. Did she give her name?

9 THE COURT: Not --

10 A. Ann Covington.

11 Q. And spell your last name.

12 A. C-o-v-i-n-g-t-o-n.

13 Q. And what is your date of birth?

14 A. 10-21-77.

15 Q. So how old are you?

16 A. 41.

17 Q. And where do you live?

18 A. Medina Drive in Dillon.

19 Q. So you live in Dillon?

20 A. Uh-huh.

21 Q. Have you always lived in Dillon?

22 A. Yes, ma'am.

23 Q. Do you work?

24 A. Yes, ma'am.

25 Q. What do you do?

1 A. A twister at Mohawk in Bennettsville.

2 Q. How long you been doing that?

3 A. Thirteen years.

4 Q. Do you have a sister named Candace?

5 A. Yes, ma'am.

6 Q. Is she older or younger?

7 A. Younger than me.

8 Q. She has children?

9 A. Yes, ma'am.

10 Q. Do you ever help out and watch her kids?

11 A. Yes, ma'am.

12 Q. And where do you live -- who do you live with?

13 A. My mother.

14 Q. I want to go back to 2016, the night of September of
15 30th, were you watching your sister's son?

16 A. Yes, ma'am.

17 Q. Or I guess both her kids, right?

18 A. Yes, ma'am.

19 Q. Okay. And that was with your mom?

20 A. Mmm, hmm.

21 THE COURT: Say yes or no please, ma'am, when you
22 answer these questions.

23 A. Yes, sir.

24 MS. BURCHSTEAD: Thanks, Judge.

25 Q. So you had the children on September 30th, was that a

1 Friday night, do you remember?

2 A. A Friday night, yes, ma'am.

3 Q. And going into the morning of October 1st, were you
4 taking one or both of her children back to her?

5 A. I was taking one of them.

6 Q. Tell us about that.

7 A. After breakfast I went to go take her son -- well, I
8 had both my nephews, two small ones, and I went to go take
9 hers home first.

10 Q. Okay. Why were you taking him home -- nephew, right -
11 --

12 A. Yes.

13 Q. --- why were you taking him home first?

14 A. Because they were just getting on my nerves. They
15 were just playing in the house and I just wanted to take
16 them home to they mama.

17 Q. How old was he at the time, do you remember?

18 A. Two or three.

19 Q. Okay. Kind of that toddler age?

20 A. Yes.

21 Q. Pretty active one?

22 A. Yes, ma'am.

23 Q. Okay. So you took her son and your son, is that
24 right?

25 A. No, my -- my brother's son.

1 Q. Your brother's son. Okay. Your nephew -- well, both
2 your nephews.

3 A. Yes, ma'am.

4 Q. So you go to take him back to Candace's?

5 A. Yes, ma'am.

6 Q. And where does she live?

7 A. Maplewood Apartments.

8 Q. And that was in the morning, do you remember what
9 time?

10 A. About 8:30, 9 o'clock, somewhere in that time.

11 Q. So you'd had the kids overnight --

12 A. Yes, ma'am.

13 Q. -- and you were taking them back in the morning?

14 A. Yes, ma'am.

15 Q. Did anybody else go with y'all, your mom or anybody
16 else with you?

17 A. No, ma'am.

18 Q. So you and two boys?

19 A. Yes, ma'am.

20 Q. Did you go inside Candace's apartment?

21 A. Yes, ma'am.

22 Q. What happened when you went inside -- did all three of
23 you go inside, let me ask you that first?

24 A. Yes, ma'am.

25 Q. So all three of you went inside?

1 A. Yes, ma'am.

2 Q. What happened when you went inside?

3 A. I went in her bedroom and I saw she was laying across
4 the bed but the boy was laying across her and then I walked
5 out the room. I said excuse me and I walked out the room.
6 That's when she came out and dropped on the floor and said
7 he's tried to kill me. And that's when he was like no, I
8 wasn't, Candace. And that's when everything started.

9 Q. Okay. Do you remember if she had clothes on? Did you
10 say she had clothes on ---

11 A. She was naked.

12 Q. Do you remember if he had clothes on?

13 A. Seems like he had on a tee shirt and some shorts.

14 Q. Okay. And you say -- where do you recall seeing your
15 sister first when you got in there, where was she?

16 A. She was in her bedroom.

17 Q. And where was he when you first got there?

18 A. In the bedroom.

19 Q. Okay. And what did you do when you saw them?

20 A. I walked out the room.

21 Q. Okay. So when you walked out the room, where were
22 you?

23 A. In the -- I walked in the living room.

24 Q. Okay. Is the living room very far from the --

25 A. No, ma'am. It's right down the hallway.

1 Q. So is it fair to say the hallway is kind of short?

2 A. Yes, ma'am.

3 Q. Okay. And is it close to -- is the bedroom close to
4 the living room, then?

5 A. Yes, ma'am.

6 Q. And is it kind of close to the kitchen?

7 A. Yes, ma'am.

8 Q. Where were the kids when you first got there?

9 A. In the living room.

10 Q. So you left them in the living room?

11 A. Yes, ma'am.

12 Q. And walked in the bedroom?

13 A. Uh-huh. Yes, ma'am.

14 Q. Okay. So what did you think you'd walked in on?

15 A. I -- I thought I walked in on them having sex.

16 Q. And then you exited the room, is that right?

17 A. Yes, ma'am.

18 Q. Okay. And then tell us exactly what happened after
19 that to the best you can remember.

20 A. That's when he came out and she came out and she
21 started crying and she dropped on the floor and she was
22 like he's trying to kill me and he's saying no I wasn't.

23 Q. So were you in the hallway at this point?

24 A. Yes, ma'am.

25 Q. Okay. So the three of y'all were in the hallway?

1 A. Yes, ma'am.

2 Q. So what did you do?

3 A. I was in shock. I was just looking at her. And then
4 that's when he walked in the kitchen. And I'm -- then he
5 came to the door where we was standing by her bedroom and I
6 told him he wasn't going back in that room where my sister
7 was. And that's when he turnt to walk and then he turnt
8 toward me and pushed me. And that's when got on top of me
9 and started -- I thought he was hitting me but I never felt
10 anything -- that's when he started stabbing me.

11 Q. Okay. Did you know who this person was?

12 A. I knew him by name but I don't know him like....

13 Q. At the time that you encounter him in Candace's
14 apartment, did you know him? Did you know who she was
15 with?

16 A. When I walked in the room?

17 Q. Yeah.

18 A. No.

19 Q. Yes.

20 A. No, ma'am.

21 Q. Okay. So you said you felt -- did you know you were
22 getting stabbed?

23 A. No, ma'am. I thought he was hitting me but I never
24 felt anything.

25 Q. Where were you when that was happening?

1 A. On her bed.

2 Q. So you're in -- is it fair to say you were in a fight
3 with him at that point?

4 A. Yes, ma'am.

5 Q. So are you saying you ended up on the bed?

6 A. Yes, ma'am.

7 Q. What happened after you were on the bed?

8 A. Me and him was tussling -- basically I'm trying to get
9 him off of me that's when Candace jumped on his back and
10 got him off of me. That's when I grabbed my nephews cause
11 they was -- they had came in standing to the bedroom door
12 and they was watching me and I grabbed them and ran out the
13 door.

14 Q. Okay. So you grabbed your nephews and ran out the
15 door?

16 A. Mmm, hmm.

17 Q. Which door did you go out?

18 A. The front door.

19 Q. Did you say Candace jumped on his back?

20 A. Yes, ma'am.

21 Q. Is that how you got away?

22 A. Yes, ma'am.

23 Q. At what point did you -- were you actually stabbed or
24 cut with the knife?

25 A. Yes, ma'am.

1 Q. At what point did you realize that?

2 A. After I got out the house.

3 Q. And you said you ran out the front door ---

4 A. Yes, ma'am.

5 Q. --- with the kids?

6 A. Yes, ma'am.

7 Q. What did you do?

8 A. I went and knocked on the neighbor's door.

9 Q. Do you remember which neighbor?

10 A. Elaine.

11 Q. After you got out of Candace's, was Candace still in
12 there?

13 A. Yes, ma'am.

14 Q. Was the man with her still in there?

15 A. Yes, ma'am.

16 Q. Okay. Do you know -- why did you run to the neighbor?

17 A. To try to get the kids some help and get Candace some
18 help.

19 Q. Okay. So you say you went to Elaine's?

20 A. Yes, ma'am.

21 Q. Did you -- did you go inside Elaine's?

22 A. No. She didn't open the door all the way.

23 Q. So you knocked on the door, is that right?

24 A. Yes, ma'am.

25 Q. Okay. Do you know if 911 was called?

1 A. I told her to call 911.

2 Q. Okay. So Elaine opened the door, did you ask her to
3 call 911?

4 A. Yes, ma'am.

5 Q. And is it your understanding that she called 911?

6 A. From my understanding, yes, ma'am.

7 Q. The time you were getting attacked with the knife with
8 the man, how long did it feel like to you?

9 A. It was happening kind of quick.

10 Q. Kind of quick?

11 A. Yes, ma'am.

12 Q. Is it accurate to say minutes?

13 A. Yes ma'am.

14 Q. Did you understand what was happening --

15 A. Not at --

16 Q. -- when you were tussling with him?

17 A. Not at first. I thought we was fighting but then I
18 never felt a hit. I just -- then I saw his hand going up
19 and down and I realized he was cutting me.

20 Q. Do you have any idea where he got a knife?

21 A. Probably out her kitchen because when we -- I was down
22 watching her, he had went in the kitchen.

23 Q. So you said when you were watching her, what do ---

24 A. When she had came out the room she was on the floor
25 crying, he had went in the kitchen.

1 Q. After 911 was called or you asked Elaine to call 911,
2 what did you do?

3 A. I tried -- well, I knocked on her door again because
4 she had closed it. I was trying to get the kids in so they
5 could be safe.

6 Q. So the first time she opened the door, you asked for
7 911?

8 A. Yes, and she closed -- she said ok and she closed the
9 door. Then I knocked again for her to open it so I could
10 get the kids in.

11 Q. Okay. How were the kids acting?

12 A. They looked kind of scared.

13 Q. So did she let the kids in?

14 A. Eventually, yeah.

15 Q. Okay. Did you go in?

16 A. Yeah.

17 Q. So you and the kids have gone into Elaine's at this
18 point, is that right?

19 A. We were going in.

20 Q. Going in? Okay.

21 A. Mmm, hmm.

22 Q. Then what happened?

23 A. Then I saw him peep out the door at us -- as we was
24 going I seen behind me, he was peeping out the door.

25 Q. So from Elaine's you can see Candace's?

1 A. Yes, ma'am.

2 Q. All right. And you saw the man you'd been fighting
3 with peek out the door?

4 A. Yes, ma'am.

5 Q. Which door?

6 A. The front door.

7 Q. And which door had you gone out of?

8 A. The front door.

9 Q. So after you see him peeking out the front door, what
10 do you remember?

11 A. Then I see Candace coming around the building.

12 Q. About how long was that? Any idea?

13 A. It was maybe a minute or two.

14 Q. Did Candace have any clothes on?

15 A. No, ma'am.

16 Q. Was she bleeding?

17 A. Yes, ma'am.

18 Q. Were you bleeding?

19 A. Yes, ma'am.

20 Q. Did you see the man do anything else?

21 A. No, ma'am.

22 Q. Did EMS arrive? Did you get help from an ambulance?

23 A. Yes, ma'am.

24 Q. Did law enforcement arrive?

25 A. Yes, ma'am.

1 Q. What do you remember about the ambulance arriving and
2 law enforcement arriving? Just what you remember.

3 A. We just got in the ambulance and I rode -- both of us
4 rode in the same ambulance to the hospital.

5 Q. Okay. So EMS helped you?

6 A. Yes, ma'am.

7 Q. And you and Candace were in the same ambulance?

8 A. Yes, ma'am.

9 Q. And you did go to the hospital?

10 A. Yes, ma'am.

11 Q. What happened at the hospital?

12 A. We got -- we got treated and the police came and you
13 know....

14 Q. Did you see a nurse or a doctor?

15 A. Yes, ma'am.

16 Q. And you said the police came?

17 A. Yes, ma'am.

18 Q. Did you talk to law enforcement when you were at the
19 hospital?

20 A. Yes, ma'am.

21 Q. Okay. And you say you were treated, did you have
22 surgery?

23 A. I had to have stitches.

24 Q. And what did you have stitches for?

25 A. For the cuts I had.

1 Q. Where were they?

2 A. I got one across my neck and the rest on my arm.

3 Q. So your neck and arm?

4 A. Yes, ma'am.

5 Q. Did you tell law enforcement what happened?

6 A. Yes, ma'am.

7 Q. Were you shown any photos of the potential man that
8 did it?

9 A. In the line up?

10 Q. Right.

11 A. Yes, ma'am.

12 Q. Did you pick somebody out?

13 A. Yes, ma'am.

14 Q. Did you later learn who that man was?

15 A. I knew him by name.

16 Q. So you did know him?

17 A. Yes, ma'am.

18 Q. Okay. How did you know him?

19 A. Just from around. I don't know him like
20 conversational wise but from seeing him.

21 Q. Okay. So you could recognize him by his face?

22 A. Yes, ma'am.

23 Q. So you weren't friends or anything but you knew his
24 face ---

25 A. Yes, ma'am.

1 Q. --- is that right?

2 A. Yes, ma'am.

3 Q. So the police showed you some pictures and you picked
4 him out, is that right?

5 A. Yes, ma'am.

6 Q. And who is it that attacked you with the knife?

7 A. Him.

8 Q. Are you pointing at defense counsel table?

9 A. Yes, ma'am.

10 Q. And what is his name?

11 A. Tyreek Hayes.

12 Q. Had you ever heard him called Reedy Boss?

13 A. Yes, ma'am. That's what ---

14 Q. Is that what you actually know him by?

15 A. Mmm, hmm.

16 Q. Okay.

17 THE COURT: Say yes or no please.

18 A. Yes. Yes, ma'am.

19 MS. BURCHSTEAD: I beg the Court's indulgence.

20 Nothing further on direct.

21 THE COURT: Okay. Mr. Swilley?

22 **Cross-Examination by Mr. Swilley:**

23 Q. Ms. Covington, you've lived in Dillon all your life,
24 haven't you?

25 A. Yes, sir.

1 Q. And all your family lives in Dillon, all your close
2 family?

3 A. Yes, sir.

4 Q. And I think you grew up in the Newtown area?

5 A. No, sir.

6 Q. Well, your -- you got -- you children, don't you?

7 A. Yes, sir.

8 Q. All right. And one of your children is Akeem Nelson,
9 right? That's your son?

10 A. Yes, sir.

11 Q. Okay. And you knew Tyreek Hayes from growing up and
12 being friends with your son, Akeem, didn't you?

13 A. I didn't know they was friends.

14 Q. You didn't know they were friends at all?

15 A. Uh, uh.

16 Q. You had no idea?

17 A. Not like that, no, sir.

18 Q. Okay. Now, I wanna go back to what you said on - on
19 direct -- now, initially you did -- you spoke with a
20 policeman, right, and gave your account of what happened,
21 is that correct?

22 A. Yes, sir.

23 Q. And you recall doing that?

24 A. Yes, sir.

25 Q. And you recall what you told him?

1 A. Yes, sir.

2 Q. You recall pretty well what you told him, is that
3 correct?

4 A. Pretty much.

5 Q. That's a yes?

6 A. Yes.

7 Q. Yes, ma'am. And I think you were the first to
8 actually talk with the police about what had happened, is
9 that correct?

10 A. Yes, sir.

11 Q. Okay. And I think you were first -- I think you met
12 with Investigator Lorie Murray, was it Lorie Tyler?

13 A. I'm not sure who it was.

14 Q. A female lady from the Dillon police, is that correct?

15 A. Yes, sir.

16 Q. Okay. It's a female - the woman from the Dillon
17 police. And, I think, that you -- you testified and told
18 law enforcement that when you walked in, it appeared that
19 you were walking into a sexual encounter, is that correct?

20 A. Yes, sir.

21 Q. Okay. That's what you believed you had saw?

22 A. Yes, sir.

23 Q. All right. And then you went to quickly exit ---

24 A. Yes, sir.

25 Q. -- is that correct?

1 A. Yes, sir.

2 Q. And then I think you testified that Candace came in
3 and then said he's trying to kill me ---

4 A. Yes, sir.

5 Q. --- at that time. Now, Ms. Covington, she didn't say
6 or exclaim anything about any kind of rape, did she, at
7 that time?

8 A. Not at that particular time, no, sir.

9 Q. Okay. And at that time no one in the apartment had
10 been stabbed, had they?

11 A. No, sir.

12 Q. Okay. And based upon your observation, no one had
13 been assaulted at that time in the apartment, is that
14 correct?

15 A. Not that I could tell, no, sir.

16 Q. At that time, correct?

17 A. Correct.

18 Q. Yes, ma'am. And I think you testified that Candace
19 was not wearing any clothes, is that right?

20 A. No, sir.

21 Q. If you could, um, wait until I'm done asking the
22 question ---

23 A. Okay.

24 Q. --- before you answer please ---

25 A. I'm sorry.

1 Q. Thank you. And I think you testified that Mr. Hayes
2 was wearing a tee shirt and shorts?

3 A. Yes, sir.

4 Q. Okay. And at that point, I think you say that you had
5 a confrontation with Mr. Hayes, is that correct?

6 A. Yes, sir.

7 Q. All right. And then you say that he pushed you, is
8 that correct?

9 A. Yes, sir.

10 Q. Okay. And then you said that you believed he started
11 hitting you but he was stabbing you, is that correct?

12 A. Yes, sir.

13 Q. All right. Now, you never went and locked yourself in
14 the bedroom with the children, did you?

15 A. No, sir.

16 Q. Okay. And while you were in the apartment you said
17 you never saw Mr. Hayes -- you testified you never saw Mr.
18 Hayes grab a knife, is that correct?

19 A. I never saw -- no, sir, I never saw him grab it.

20 Q. Okay. But at some point you said he began -- you said
21 he stabs you first, is that correct?

22 A. Yes, sir.

23 Q. Okay. All right. Now, at the time, you said you saw
24 -- when Candace started to exclaim that he was trying to
25 kill her, you were between Candace and Mr. Hayes at this

1 time in the bedroom, is that correct?

2 A. Yes, sir.

3 Q. In the bedroom?

4 A. In the doorway.

5 Q. The doorway. All right. And you told law enforcement
6 that this was in the bedroom, is that correct?

7 A. It was right there in her bedroom by the doorway.

8 Q. Okay. And then you told -- isn't it true that you
9 told law enforcement that at that time Mr. Hayes started
10 poking you, is that correct?

11 A. Not in the doorway.

12 Q. Okay. What I'm asking you is what you told law
13 enforcement or what you told the Investigator Tyler, you
14 said that the - said the person started poking you and
15 that's when Candace jumped on his back, is that correct?
16 Is that what you told them?

17 A. Yes, when I was on the bed, yes, sir.

18 Q. Okay. And that's not what you told today, is that
19 correct?

20 A. That is what I told today.

21 Q. Okay. You didn't say anything about anybody poking
22 you, is that correct? On your direct examination, is that
23 correct?

24 A. I said stabbing.

25 Q. Okay. And you stated that and then you told law

1 enforcement then at that time, he started stabbing Candace,
2 is that correct?

3 A. In the kitchen.

4 Q. All right. Now, you told law enforcement at that time
5 after you were in the bedroom that, that's when he started
6 stabbing Candace, is that correct?

7 A. Can you repeat that?

8 Q. All right. Ms. Covington, just to recall, you
9 remember what you told the police when they got there,
10 right?

11 A. Yeah. Yes, sir.

12 Q. And that's true, right? What you told them is the
13 truth, is that correct?

14 A. Yes, sir.

15 Q. --- what you were telling them -- and you're telling
16 me that, that was shortly thereafter people had been - you
17 and Candace had been stabbed, right?

18 A. Yes, sir.

19 Q. Okay. Now, is it or is it not true that you told
20 Investigator Murray that you were in the bedroom when Mr.
21 Hayes or when - when the person started stabbing Candace,
22 is that true?

23 A. We wasn't in the bedroom -- I don't know. Candace got
24 stabbed in the kitchen.

25 Q. Okay.

1 A. I got stabbed in the bedroom.

2 Q. You told law enforcement that Candace was stabbed in
3 the bedroom, is that correct?

4 A. No, sir.

5 Q. Oh, you didn't tell law enforcement that?

6 A. She got stabbed in the kitchen.

7 Q. Okay. Do you know of any reason why law enforcement
8 would have that as what you told them?

9 A. No, sir.

10 Q. Okay. You don't know. And you say at that time, you
11 grabbed the two children and ran out of the apartment.

12 A. Yes, sir.

13 Q. Okay. And then you say you went next door for help,
14 is that correct?

15 A. Yes, sir.

16 Q. And it's your testimony that you told law enforcement
17 that you saw the person peeping out of the door like you
18 said in direct?

19 A. Yes, sir.

20 Q. Okay. You told them that, is that correct?

21 A. Yes, sir.

22 Q. And you wouldn't -- you don't -- you yourself don't
23 know of any reason why that wouldn't be documented, do you?

24 A. No, sir.

25 Q. Okay. And you -- you testified on direct examination

1 that you knew Mr. Hayes, right?

2 A. By sight, yeah.

3 Q. And you told law enforcement that you didn't know the
4 person, is that correct?

5 A. Not as holding a conversation with him, no.

6 Q. Okay. My question to you, Ms. Covington, is you told
7 law enforcement that you didn't know the person, is that
8 correct? Is that a yes or no?

9 A. No.

10 Q. You're telling me that you never told law enforcement
11 that you didn't know the suspect, is that correct?

12 A. I know him by face, not by ---

13 Q. I'm not asking ---

14 A. No.

15 Q. Okay. You never -- you never told law enforcement you
16 didn't know him, is that correct?

17 A. No. I didn't say it like that.

18 Q. Okay. So it's true you told law enforcement that you
19 knew the person?

20 A. By name, yes.

21 Q. Okay. You did -- okay you told them that. You don't
22 know why they would have it documented that you said you
23 didn't know the suspect? You don't know why?

24 A. No, sir.

25 Q. Okay. And on direct you stated that Mr. Hayes was

1 wearing a tee shirt and shorts, correct?

2 A. Yes, sir.

3 Q. All right. And you told law enforcement he was only
4 wearing a pair of basketball shorts, is that correct? Did
5 you tell them that?

6 A. I'm not sure.

7 Q. Okay. And, Ms. Covington, at the time that this
8 happened, Candace was seeing somebody romantically, isn't
9 that correct? She had a boyfriend at the time?

10 A. I don't know.

11 Q. You don't know?

12 A. No.

13 Q. Based on your recollection, was Ms. Elaine Manning the
14 only person that called 911?

15 A. From my recollection.

16 Q. Okay. From what you remember there was no one else -
17 no adults around who would have called 911?

18 A. I -- no. I just told Elaine to call them.

19 Q. Okay. So at the time that law enforcement was being
20 summoned there was -- you were present, right?

21 A. Mmm, hmm. Yes, sir.

22 Q. And Candace was present?

23 A. No. Candace -- when I told Elaine that, she wasn't
24 there.

25 Q. And you were with the kids, right?

1 A. Yes.

2 Q. No other adults around other than you and Ms. Manning?

3 A. Yes, sir.

4 Q. Okay. Now, Ms. Manning, (sic) certainly you would
5 want the individual - you would want to tell the police the
6 individual who stabbed you, you would want to identify
7 them, right?

8 A. Yes, sir.

9 Q. All right. So you certainly would have gave them the
10 best description identity you could to the police, is that
11 correct?

12 A. Yes, sir.

13 Q. All right. And you didn't leave Ms. Manning's
14 apartment until EMS got there, is that correct?

15 A. That's correct.

16 MR. SWILLEY: I beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 Q. And, Ms. - Ms. Covington, do you remember you gave
19 your statement to law enforcement with, ah, while you were
20 being videoed on the body camera, do you remember that?

21 A. I could have. I don't remember.

22 Q. You don't remember?

23 A. No.

24 Q. Okay. And when you were giving your statement to law
25 enforcement, were they taking down notes on what you said,

1 the lady policeman?

2 A. In the hospital or when they came to the house? I
3 don't know ---

4 Q. When you first -- when you first told what happened to
5 law enforcement, were they recording what you were telling
6 them?

7 A. Not at the hospital. Now, when they came to the
8 house, they was.

9 Q. Okay. So when they came -- when they got there, to
10 the scene, right?

11 A. Yes.

12 Q. When you first told your story of what happened ---

13 A. Yes.

14 Q. --- was law enforcement making notes or recording you
15 on a camera?

16 A. They did do that.

17 Q. They did?

18 A. At my house.

19 Q. Okay. You told them everything that happened, right?

20 A. Yes.

21 Q. You told them all the information you could remember,
22 isn't that correct?

23 A. Yes, sir.

24 Q. Okay. Ms. Covington, is it your testimony that there
25 was no other male, adult male in the area at the time?

1 A. No, sir, there wasn't no male.

2 Q. Okay.

3 THE COURT: Ms. Burchstead?

4 MS. BURCHSTEAD: Thank you, Your Honor.

5 **Redirect Examination by Ms. Burchstead:**

6 Q. Ann, when you -- when y'all were going through that
7 attack at Candace's, were you looking in detail at your
8 sister's body?

9 A. No, ma'am.

10 Q. You weren't there to see if anybody had strangled her
11 before you got there, right?

12 A. No, ma'am.

13 Q. Is it fair to say it was pretty hectic during the
14 struggle?

15 A. Yes, ma'am.

16 Q. And when you talked to law enforcement was that back
17 in 2016?

18 A. Yes, ma'am.

19 Q. Was there any other adult male in that apartment
20 during that attack?

21 A. No, ma'am.

22 Q. Was there any question about who attacked you and your
23 sister?

24 A. No, ma'am.

25 MS. BURCHSTEAD: Nothing further, Your Honor.

1 THE COURT: Anything else, Mr. Swilley?

2 MR. SWILLEY: There's not, Your Honor.

3 THE COURT: All right. You may step down, Ms.

4 Convington. Thank you.

5 MS. BURCHSTEAD: Your Honor, may we approach for
6 just a minute?

7 (Whereupon, a bench conference was held off the record)

8 MR. KOZAK: The State calls Johnny Lester.

9 THE COURT: Come on up here, Mr. Lester.

10 THE CLERK: Place your left hand on the Bible and
11 raise your right hand. Do you solemnly swear or affirm the
12 testimony you are about to give the Court and jury on this
13 case is the truth, the whole truth, and nothing but the
14 truth so help you God?

15 MR. LESTER: So help me God.

16 THE CLERK: Be seated in the witness box. State
17 your full name for the court, spelling your last.

18 MR. LESTER: Johnny Lester. Last name L-e-s-t-e-r.

19 JOHNNY LESTER, first being
20 duly sworn, testified as follows:

21 **Direct Examination by Mr. Kozak:**

22 Q. Mr. Lester, where were you employed on October 2016?

23 A. Dillon Rec -- Dillon City Rec. Department.

24 Q. And what was your job title there?

25 A. Cutting grass and keeping the fields maintained.

1 Q. And what were some of your duties involved in that?

2 A. Cutting grass, lining the fields up, cleaning
3 bathrooms, making sure everything is clean around the
4 department.

5 Q. Did you mow the lawn behind Maplewood Apartments?

6 A. Yes, I -- well, I mow the fields and outside the
7 fields.

8 Q. Okay. And what happened on October 5, 2016?

9 A. I was out cutting grass as normal and I was taking out
10 the zero turn and I was turning to my left and I seen a
11 knife. And so I picked it up with my grabber and I took it
12 to the guy that I was working with.

13 Q. I'm going to show you State's Exhibit 1. Let's just
14 go over some of the locations here. What -- what are we
15 looking at here?

16 A. We're looking at the football field and behind the
17 football field, I mean, behind the baseball fields,
18 softball fields.

19 Q. And what is this area over here?

20 A. That's the apartments.

21 Q. All right. What is this line, it looks like a really
22 thin line right here, what is that?

23 A. That's a fence.

24 Q. All right. And what -- so this looks like a really
25 big baseball diamond?

1 A. It is.

2 Q. But what is this here, this line?

3 A. That's the fence for the outfield.

4 Q. All right. And what is this area outside the
5 outfield?

6 A. That's the outside of the fence where we cut grass at
7 for the, basically, for kids to go out there and they play,
8 they be like, you know, for softball toss and stuff like
9 that.

10 Q. So on October 5th, where were you cutting grass,
11 about? Just, what areas did you cut on October 5th?

12 A. I cut the front, up in here, this area, then I came
13 around and cut this area.

14 Q. Okay. And how often do you mow the lawn in those
15 areas?

16 A. Mondays and Thursdays. Sometimes we do it on
17 Wednesdays. It just all depends if we have a tournament.

18 Q. All right. So if October 5th was a Wednesday, when
19 would you have probably mowed the lawn before that?

20 A. Monday.

21 Q. And if you would have found anything irregular in the
22 lawn, would have you have reacted the same way you reacted?

23

24 A. Yes, I would because we have a lot of kids be out
25 there. And then we was -- at that point in time, we was

1 getting ready for a big tournament also.

2 Q. Okay. So on October 5th, you said you found the
3 knife?

4 A. Yes.

5 Q. What did you do once you found the knife?

6 A. I just grabbed it with my grabber. And I held it up
7 and I went to the front to throw it away but then the guy
8 was like, you know, where you find the knife and I was
9 telling him where I found it at and he was like there's an
10 incident went on and I'm like what incident?

11 Q. So at the time you found the knife, did you know the
12 incident had happened?

13 A. No, sir.

14 Q. Okay. Now, once you found the knife who did you give
15 it to?

16 A. I just took it up there towards Kevin Scott. And I
17 didn't give it to him, I just held it up and he said I
18 think we need to call the detective ---

19 Q. Did you call the detective ---

20 A. --- or the cops to come get it.

21 THE COURT: Don't talk over each other. Let him
22 answer the question. Let him finish asking before you
23 answer.

24 Q. Did you call the detective?

25 A. Yes, we called the detective.

1 Q. And did a detective come up to the scene?

2 A. Yes, he did.

3 Q. And did you give the detective that knife?

4 A. Yes.

5 Q. Did you ever touch the knife?

6 A. No, sir.

7 Q. Do you know the name of the detective you gave the
8 knife to?

9 A. I can't remember his name.

10 Q. Okay. We're going to look at State's Exhibit 1 one
11 more time. I'm going to give you a push pin. Will you put
12 it in the map whereabouts you found the knife?

13 A. All right. Should be right in here.

14 Q. Okay. All right. So once you gave this knife to the
15 detective, did anyone take a photo of you showing where you
16 found the knife?

17 A. Yes.

18 MR. KOZAK: Approaching with State's Exhibit 5.

19 Q. Will you tell me what this is? What am I showing you?

20 A. You're showing me grabbing ---

21 Q. Okay.

22 A. --- right there. That was the knife, the point where
23 the knife was at ---

24 Q. And ---

25 A. --- and that's me using the grabber.

1 Q. Who is this?

2 A. That's me.

3 Q. Okay.

4 MR. KOZAK: At this time, I'd like to move State's
5 Exhibit 5 into evidence.

6 MR. SWILLEY: No objection.

7 THE COURT: Okay. State's Exhibit 5 admitted into
8 evidence.

9 (Whereupon, the Photo has been marked and entered into
10 evidence as State's Exhibit No. 5)

11 MR. KOZAK: All right. Let's show this to the
12 jury.

13 Q. What is -- what are they looking at?

14 A. They're looking at me with the grabber with them
15 grabbing the knife.

16 Q. Okay. And what are these in the back of this photo?

17 A. Those are apartments.

18 Q. And is there a fence between ---

19 A. Yes.

20 Q. --- those apartments?

21 A. Yes.

22 Q. All right.

23 MR. KOZAK: Approaching with State's Exhibit 4.

24 Q. What am I showing you here?

25 A. That's the knife I picked up.

1 Q. Okay. Why are you sure that's the knife you picked
2 up?

3 A. Because I remember the, the bent blade on it.

4 MR. KOZAK: I'd like to move State's Exhibit 4 into
5 evidence and publish to the jury.

6 MR. SWILLEY: No objection.

7 THE COURT: All right. State's Exhibit 4 is
8 admitted into evidence. You may publish.

9 (Whereupon, the Knife has been marked and entered into
10 evidence as State's Exhibit No. 4)

11 Q. So the bend you're talking about, is, is that what
12 you're talking about?

13 A. Yes, sir.

14 Q. All right. So this is the knife that you picked up in
15 the field?

16 A. Yes, sir. That's the knife.

17 Q. Never touched it?

18 A. Never touched it.

19 Q. Okay. And the field is behind Maplewood apartments?

20 A. Yes.

21 Q. And you mowed that same lawn, approximately, a week
22 before, correct?

23 A. Yes, I did.

24 Q. Did you find a knife then?

25 A. No.

1 MR. KOZAK: No further questions.

2 **Cross-Examination by Mr. Swilley:**

3 Q. Mr. Lester, when you found that knife is it true,
4 based on your recollection nobody else came in contact with
5 the knife until it got to the police, right?

6 A. Right.

7 Q. Thank you, sir.

8 THE COURT: Anything else, Mr. Kozak?

9 MR. KOZAK: No further questions, Your Honor.

10 THE COURT: All right. You can step down, Mr.
11 Lester. Thank you.

12 MR. LESTER: You're welcome.

13 MR. KOZAK: The next witness is Anika Sellers.

14 THE COURT: Is Mr. Lester under supbeona?

15 MR. KOZAK: Yes, sir. He can be released.

16 THE COURT: Does he need -- he need ---

17 MR. SWILLEY: No objection, Your Honor.

18 THE COURT: You may be excused, Mr. Lester. Thank
19 you.

20 THE CLERK: Place your left hand on the Bible and
21 raise your right hand please, ma'am. Do you solemnly swear
22 or affirm that the testimony given the Court and jury on
23 this case is the truth, the whole truth, and nothing but
24 the truth so help you God?

25 MS. SELLERS: I do.

1 THE CLERK: Be seated in the witness box and state
2 your full name for the Court, spelling your last.

3 MS. SELLERS: My name is Anika Sellers Charles.

4 THE COURT: Spell your last name.

5 MS. SELLERS: S-e-l-l-e-r-s hypen C-h-a-r-l-e-s.

6 THE COURT: All right. Please speak loud and clear
7 because that microphone's not working.

8 MS. SELLERS: Okay.

9 THE COURT: Thank you, ma'am.

10 ANIKA SELLERS-CHARLES, first
11 being duly sworn, testified as follows:

12 **Direct Examination by Mr. Kozak:**

13 Q. Where'd you work in 2016?

14 A. 2016, I was at the -- nah, I had just left the 911
15 office. I was a previous dispatcher ---

16 Q. Okay.

17 A. --- at Dillon County 911 Office.

18 Q. And what apartment complex do you live in?

19 A. Dover Village.

20 Q. Did you live there in 2016?

21 A. Yes, sir.

22 Q. Are you familiar with -- do you know the victims in
23 this case?

24 A. I know them, both of them.

25 Q. Are you familiar with the defendant in this case?

1 A. Yes.

2 Q. How do you know the defendant?

3 A. Just from playing sports and going to school. My son
4 was a few years under him in school and I knew that they
5 played football.

6 Q. Are you familiar with the defendant's girlfriend ---

7 A. Yes.

8 Q. --- at the time?

9 A. Yes.

10 Q. What was her name?

11 A. I think it's Shalanda, Sholanda, Shalonda.

12 Q. How are you familiar with her?

13 A. Just from the streets. I know the family and she
14 lives in the same apartment complex that I live in.

15 Q. Which is what apartment complex?

16 A. Dover Village.

17 Q. Is that next to Maplewood Apartments?

18 A. Yes, it is.

19 Q. I'm going to show you State's Exhibit 1.

20 MR. KOZAK: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 Q. Where -- so this is an above look at the apartments.

23 A. Mmm, hmm.

24 Q. Where is Dover Apartments in relation to Maplewood
25 Apartments?

1 A. Dover Village -- how am I looking at this now -- okay
2 -- is this Maplewood?

3 Q. Mmm, hmm.

4 A. If that's Maplewood, then this is Dover Village right
5 here. Q. Okay. And can you tell by where this is
6 whereabouts your apartment is?

7 A. I stay in this building right here beside the dumpster
8 and she stays in this building directly across from my
9 building.

10 Q. So Tyreek's -- the defendant's girlfriend lives where?

11 A. Directly across from my building. Across the parking
12 lot from my building.

13 Q. And where was the dumpster again?

14 A. The dumpster is right beside my building.

15 Q. So on October 1, 2016, the date of this incident, what
16 did you see?

17 A. Once everything calmed down or whatever, I saw
18 officers out, like, riding through the softball field and
19 stuff just looking around for something. And, like I said,
20 I was a previous dispatcher. I saw the girlfriend come out
21 the house, walk across to the dumpster and throw something
22 in the dumpster. So I got in touch with one of the
23 officers and told them they need to come check the
24 dumpster.

25 Q. Okay. So at the time you were aware that, that was

1 the defendant's girlfriend?

2 A. Yeah.

3 Q. Do you remember who you called?

4 A. Mark Vereen.

5 Q. Okay. And to your knowledge did they come check the
6 dumpster?

7 A. Yes, they did.

8 MR. KOZAK: Beg the Court's indulgence. Your
9 Honor, I'm gonna approach one more time?

10 THE COURT: Yes, sir.

11 Q. Actually, let me get two of these. I'm going to hand
12 you a pushpin and I'd like you to mark where Shalanda's
13 apartment on here is.

14 (Whereupon, the witness complies).

15 Q. I'm going to hand you one more and ask you to mark
16 where the dumpster is.

17 (Whereupon, the witness complies).

18 Q. All right.

19 MR. KOZAK: No further questions, Your Honor.

20 THE COURT: Mr. Swilley?

21 **Cross-Examination by Mr. Swilley:**

22 Q. Now, Ms. Sellers, you're friends with Candace Simpson,
23 aren't you?

24 A. I wouldn't say friends. I'm associates with all of
25 them. I know all of them from the streets.

1 Q. You're friends with Ms. Covington too, aren't you?

2 A. Covington?

3 Q. You're friends with her sister too, aren't you? Ann?

4 Neese, Nina?

5 A. I'm not friends with Ms. Covington, I'm friends with
6 her son.

7 Q. Okay. Her son is Akeem Nelson?

8 A. Yes.

9 Q. You're friends with him? And you're friends with
10 Candace, right?

11 A. We went to school together. I wouldn't say friends
12 we're associates.

13 Q. Okay. And you work at 911, you worked at the 911
14 office, right?

15 A. I used to.

16 Q. You worked at the 911 office at the time, is that
17 correct?

18 A. Not at the time. I had left. I was -- I was let go
19 before this incident happened.

20 Q. You worked at the 911 office -- so you were fired from
21 there?

22 A. Yes.

23 Q. What day were you fired?

24 A. I can't -- I don't know.

25 Q. You said it was before October the 1st ---

1 A. Yes.

2 Q. --- is that correct?

3 A. Uh, huh.

4 THE COURT: Say yes or no please when you answer
5 questions.

6 A. Yes.

7 Q. And you were fired for what?

8 A. They said I was a liability.

9 Q. Okay. So ---

10 A. Personal reasons.

11 Q. Personal reasons? Okay. Poor job performance, is
12 that correct?

13 A. No.

14 Q. Okay. All right. Now, Ms. Sellers, you testified you
15 saw Shalanda Livingston throwing stuff away in the garbage?

16 A. Yes.

17 Q. And it was more than one item, right?

18 A. I don't know what it was. I just saw her with the
19 stuff balled up in her hand and she walked to the dumpster
20 and threw it in the dumpster.

21 Q. She was throwing items away, correct, is that right?

22 A. Yes.

23 Q. Okay. And you couldn't see what they were, right?

24 A. No.

25 Q. All right. And at -- and you didn't stand there and

1 watch her continue to throw stuff away, did you?

2 A. She only went to the dumpster one time. There weren't
3 no reason to stand there and continue.

4 Q. All right. I didn't hear what you said.

5 A. I said she only went to the dumpster once so there was
6 no reason to stand there and continue to watch her because
7 once she went to the dumpster, she went back in her house
8 and I went back in mines.

9 Q. Okay. And you didn't see any, any activity over at
10 the dumpster after that, right?

11 A. Uh, uh. When the police came and got the stuff out
12 the dumpster.

13 Q. You didn't -- so once you saw her walk to the dumpster
14 and walk back, you went back in your house, right?

15 A. Not right then. I saw her walk back in her house and
16 then I walked back in my house.

17 Q. Then you walked back in your house?

18 A. Yes.

19 Q. Okay. And then you didn't go back out there until the
20 police got there?

21 A. My son went out there but I don't know what he went
22 out there to do.

23 Q. I'm asking you.

24 A. No.

25 Q. You didn't go back out there until the police got

1 there, right?

2 A. No.

3 Q. Okay. And that's all you know about -- and you know
4 Ms. Livingston, right?

5 A. Yeah.

6 Q. And you've conversated with Ms. Livingston after this?

7 A. No.

8 Q. And your testimony is that all this is the extent of
9 the -- all of which you testified is the extent of the
10 information you know about the situation, is that correct?

11 A. Yes.

12 Q. Okay. By first hand, right?

13 A. Yes.

14 Q. Okay.

15 MR. SWILLEY: One moment please, Your Honor.

16 THE COURT: Yes, sir.

17 Q. All right. Well, Ms. Sellers, I'm going to go ahead
18 and ask you. When you were working at the 911 place, I
19 mean, you know, part of your duties were to preserve 911
20 calls, right?

21 A. Yes.

22 Q. And before you were discharged you were tasked with
23 preserving 911 calls quite frequently, right?

24 A. Yes.

25 Q. All right. And you had preserved 911 calls whenever

1 there was certain types of emergency situations, right?

2 A. Mmm, hmm. Yes, sir.

3 Q. Okay. And particularly if there was, if there was any
4 police involvement or investigation, you had to preserve
5 those calls, right?

6 A. Yes.

7 Q. And that was important, right?

8 A. Yes.

9 Q. The police would want to come and recover these calls
10 for their investigations, right?

11 A. Yes.

12 Q. And that happened pretty frequently in Dillon?

13 A. Yes.

14 Q. Okay. And y'all didn't -- y'all never intentionally -
15 - y'all are not supposed to intentionally erase calls
16 before anyone told you to, right?

17 A. No.

18 Q. Okay.

19 MR. SWILLEY: Thank you, Ms. Sellers.

20 THE COURT: Anything else, Mr. Kozak?

21 MR. KOZAK: No.

22 THE COURT: All right. You can step down. Thank
23 you, ma'am.

24 MR. KOZAK: We can have her released from her
25 subpoena too, Your Honor.

1 THE COURT: Any objections, counsel?

2 MR. SWILLEY No, Your Honor.

3 THE COURT: All right. You may be excused, ma'am.
4 Thank you. Okay, Counsel, approach the bench again,
5 please.

6 (Whereupon, a bench conference was held off the record)

7 THE COURT: All right, ladies and gentlemen, at
8 this point in time we're going to stop and break for lunch.
9 The next witness may be lengthy and might get into more of
10 the lunch hour so. And I've got a couple of matters I need
11 to take up during the lunch with the solicitor. So I'm
12 going to release you at this point in time and have you and
13 ask you to be back at 2 o'clock, ready to start back for
14 the afternoon session. Again, I caution you. Please don't
15 talk about the testimony that you've heard. I know you're
16 going to get tired of me saying this, but please don't talk
17 about the testimony that you've heard so far, don't discuss
18 it. You can talk about anything else. And if somebody
19 bothers you when you're out on lunch and they say, hey
20 you're on the jury, what are y'all doing this week? Tell
21 him that you can't talk, the judge told me not to talk to
22 you, okay? Thank you. You may be excused. Remain seated
23 while the jury goes out.

24 (Whereupon, the jury exits the courtroom at 12:41 p.m.)

25 THE COURT: All right. We will break for lunch at

1 this time. The plan is to start back at 2 o'clock. Make
2 sure the jury's gone before anybody leaves, though. They
3 had to go down to the jury room and they've got to come
4 back out this way. So we might to sit here for another
5 minute or so.

6 (Whereupon, the court breaks for a lunch break)

7 (Whereupon, after the lunch break and while off the record
8 the attorneys talked with the judge concerning exhibits
9 which we then went on record per Judge Henderson)

10 (Whereupon, the court goes back on at the record at 2:11
11 p.m.)

12 THE COURT: We can go ahead and take it up now if
13 you want to?

14 MR. SWILLEY: Okay. Judge, I would object, the State
15 remarked several photographs. Some depict the scene of
16 the incident location as well as some of the wounds - it
17 appears to be Ms. Simpson. Judge, there are several
18 photographs of the wounds and I don't think that really and
19 truly the defense hasn't contested the fact that Ms.
20 Simpson was, in fact, stabbed. Some of the wounds that the
21 State is trying to introduce are extremely graphic. They
22 show very wide wounds and tissue, very difficult to look
23 at. I think, the other photographs, I mean, there's looks
24 to be well over about, I think, in the seventies of
25 photographs, and judge, you know, I think they've fully

1 proven that there were stab wounds, that Ms. Simpson was
2 stabbed. Some of these photographs do show wounds to the
3 neck. I think that these, that these photographs these
4 particular ones which would be premarked as State's Exhibit
5 75, 76, 77, 54, 65, and 66, I think the prejudicial nature
6 of these photographs substantially outweigh any probative
7 value they would have and the totality of circumstances and
8 looking at the other photographs the State wants to
9 introduce into evidence that I wouldn't object to.
10 Although, I think they make their point with the other
11 photographs without having to show these very, very,
12 graphic, looks like, wounds to Ms. Simpson that do depict
13 copious amounts of tissue as well as blood and stuff, cuts
14 in the skin and I can hand those up to you.

15 MR. KOZAK: Yeah. You can go ahead and hand them
16 up ---

17 MR. SWILLEY: Okay.

18 MR. KOZAK: --- to review.

19 MR. SWILLEY: Those are ones I object to and these
20 are the other ones that we can agree on.

21 THE COURT: Thank you.

22 MR. KOZAK: Once you review them, Your Honor, I
23 will respond.

24 THE COURT: All right, sir.

25 (Whereupon, the judge takes a moment to go through photos)

1 THE COURT: Yes, sir, Mr. Kozak?

2 MR. KOZAK: Your Honor, I believe these photos fall
3 under the relevancy rules and these photos are relevant to
4 the crime in hand. In his response to them being gruesome,
5 unfortunately, this is a knife attack and that's what the
6 injuries look like. An attempted murder being a specific
7 intent crime we have to show the depth and the gravity of
8 the injuries she sustained to meet the burden the State has
9 to meet in order to prove attempted murder. And I think
10 the photographs of the actual injuries do that. Now, the
11 case law about the photos being overly gruesome and
12 somewhat I think pertain to mostly autopsy photos that were
13 shown for shock value. I don't think any of these photos
14 are shock value. They are the exact incident that happened
15 and the injuries that resulted. That's the State's
16 position.

17 THE COURT: I agree that I don't believe the State
18 introducing these bring any time at shock value and I think
19 the nature and extent of the wounds are necessary for the
20 jury to see based on the charge of attempted murder.
21 Therefore, I'm going to respectfully overrule Mr. Swilley's
22 objection. In this particular case I feel the probative
23 value outweighs the prejudicial effects so I'm going to
24 allow these photographs into evidence.

25 MR. KOZAK: Thank you, Your Honor.

1 THE COURT: Do you want to keep them separated?

2 MR. KOZAK: I'm just gonna put them back in order
3 number wise we have two separate dealings going on.

4 THE COURT: Thank you.

5 MR. SWILLEY: And, Your Honor, before you bring the
6 jury may I have a quick break, quick restroom break?

7 THE COURT: All right.

8 THE COURT: Okay. Are we ready for the jury?

9 MS. BURCHSTEAD: The State is ready. I say that
10 but where is Mr. Kozak?

11 MR. SWILLEY: I think Mr. Kozak needs to be here.

12 MS. BURCHSTEAD: I say that but he disappeared on
13 me. There he is. Now, we're ready, judge.

14 MR. SWILLEY: We're ready, judge.

15 THE COURT: Like trying to hem up kittens here.

16 (Laughter in the courtroom)

17 THE COURT: Is that screen in your way in any way
18 or blocking your view in any way, Mr. Swilley?

19 MR. SWILLEY: I can see, judge, I can see the witness
20 fine. And if I need to see what the jury is seeing I can
21 get up and move.

22 THE COURT: Okay. All right. Thank you, sir. All
23 right. Bring them in.

24 (Whereupon, the jury enters the courtroom at 2:20 p.m.)

25 THE COURT: All right, ladies and gentlemen, we are

1 a few minutes after two getting started but we been
2 working. We had a couple of legal matters to take up
3 outside of your presence so we went ahead and took care of
4 that rather than bring you in and send you back out. We
5 are now ready to proceed. The State may call its next
6 witness.

7 MR. KOZAK: The State calls Lorie Tyler.

8 THE CLERK: Place your left on the Bible and raise
9 your right hand. Do you solemnly swear or affirm that the
10 evidence and testimony that you're about to give this court
11 and jury on this case is the truth, the whole truth, and
12 nothing but the truth so help you God?

13 MS. TYLER: I do.

14 THE COURT: Sit in the witness box. Give us your
15 full name and spell your last please.

16 MS. TYLER: My name is Lorie Tyler. My last name
17 is T-y-l-e-r.

18 LORIE TYLER, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Mr. Kozak:**

21 Q. Ms. Tyler, where are you currently employed?

22 A. Dillon Police Department.

23 Q. And what is your current position there?

24 A. My current position is investigator.

25 Q. And how long have you been employed there?

1 A. I've been employed since 2011.

2 Q. And what are some of the duties and responsibilities
3 of that position?

4 A. As an investigator our duties is to arrive on a crime
5 scene, processed the scene, speak to the complainant, the
6 witnesses, the victims, suspects and follow the evidence
7 until an arrest.

8 Q. And what capacity were you employed on October 1,
9 2016?

10 A. I was a patrol officer.

11 Q. And what are some duties and responsibilities of that
12 job?

13 A. Answer calls, patrol neighborhoods.

14 Q. Throughout the course of the investigation into this
15 case, what position were you employed as?

16 A. A patrol officer.

17 Q. Okay. So how did you become involved in this case?

18 A. On October 1, 2016 we had a 911 call to Maplewood and
19 myself along with Sergeant Mike Yoder and Officer Genwright
20 we all arrived on scene, we were the first responders.

21 Q. Were you the first person to arrive on the scene?

22 A. I think Sergeant Yoder actually pulled in before me
23 but we all were like right behind each other. We all
24 arrived at the same time.

25 Q. Did you arrive before the EMTs?

1 A. Yes.

2 Q. And about what time estimate did you arrive at the
3 scene?

4 A. Around 9:30 that morning.

5 Q. And what was the scene like when you arrived?

6 A. There were already people gathering. You could see
7 like blood prints on the sidewalk. You could hear people,
8 like, they were upset, hollering, and directing us to
9 apartment P3 and they were saying the victims were in P3.

10 Q. Okay. And did you go into P3?

11 A. I did.

12 Q. Who did you speak with inside P3?

13 A. I spoke to Candace and Ann.

14 Q. And where were they?

15 A. They were -- Candace was sitting in a chair. The
16 people in the apartment had, like, towels and paper towels
17 up to the wounds. And Ann was just walking around in the
18 apartment.

19 Q. Was Candace wearing any clothes?

20 A. I think she had, like, a sheet around her, a bedsheet.

21 Q. Okay. And what was -- what did Candace look like?

22 A. She was bloody. Her face was bloody and swollen. Her
23 eyes were, like, the whites of her eyes were red. She had
24 blood dripping everywhere.

25 Q. Okay. And did she say who had done this to her?

1 A. She did.

2 MR. SWILLEY: Objection, Your Honor. It's a hearsay.

3 MR. KOZAK: Excited utterness, Your Honor.

4 THE COURT: Sir?

5 MR. KOZAK: Excited utterness.

6 THE COURT: I agree and it's the victim herself.

7 I'll overrule the objection.

8 A. She did. She said that "Reedy All Boss" was all she
9 knew that he went by on Facebook.

10 Q. And where, at that time in the investigation, where
11 was it understood that he was?

12 A. I'm sorry, I couldn't ---

13 Q. At that point in the investigation, where - where did
14 people think he was?

15 A. At that time, the people in the apartment was saying
16 they thought he was still inside Candace's apartment.

17 Q. Okay. So what -- so what you do from there?

18 A. Myself and Genwright go to Candace's apartment which
19 is P4 and the door is locked. So I go back into P3 and get
20 a key.

21 Q. Now, let me stop you right there, what door did you go
22 to?

23 A. I went to the apartment P4 which is Candace's
24 apartment ---

25 Q. Mmm, hmm.

1 A. --- and the door was locked, the front door was
2 locked.

3 Q. Okay.

4 A. So I go back into P3 and asked for a key. They give
5 us a key and then I unlocked the door and we make entry.

6 Q. Now, when you say locked, what locked did you have to
7 unlock to get in?

8 A. The deadbolt.

9 Q. And what was the number of Candace's apartment?

10 A. Candace's apartment is P4.

11 Q. And where was P -- oh, geez -- where in relations is
12 P4 to P3?

13 A. P3 and P4 is sitting in a corner, is like an L-shape
14 corner. This would be P4 and P3 would be on the side.

15 Q. Now, what did you notice once you enter Candace's
16 apartment?

17 A. There were signs of a struggle. There was blood. We
18 saw hair laying on the floor. A broken door.

19 Q. And once you entered was anyone else in there?

20 A. Once we cleared the residence there was no one in
21 there.

22 Q. So what -- once you were inside the apartment, what
23 did you do for your investigation?

24 A. Once we maintain that there was no, no one still in
25 the apartment, we put tape up, police take so nobody could

1 come in or out of the scene. There was officers position
2 on the front side and the backside. Photos were taken and
3 the investigator was notified.

4 Q. So you said you secured the scene, how long once you
5 secured the scene does it stay secured?

6 A. Until the investigator states that we can release it.

7 Q. All right. So what else did you do in the apartment?

8 A. We took photographs. And then we waited on the
9 investigator to arrive on the scene.

10 Q. Did you also go see Candace and Ann in the hospital?

11 A. I did.

12 Q. What did you do at the hospital?

13 A. I took photos of the wounds for each individual lady
14 and I took video statements.

15 Q. Now, you said you took video statements, did you take
16 a video statement of Ann's statement at the hospital?

17 A. Yes, sir.

18 Q. Did that record?

19 A. I don't think -- no, sir. My battery was dead.

20 Q. Okay. Now, can you explain a little bit more about
21 that?

22 A. In 2016 we had just gotten our body camera system and
23 we were not accustomed to using them and whenever I tried
24 it the battery died. So I took her statement and then I
25 went and replaced my body cam.

1 Q. You said you took photos of the scene and the injuries
2 at the hospital?

3 A. Yes.

4 Q. I'm going to approach with State's Exhibits 6 through
5 78, these have already been shown to opposing counsel, the
6 photos.

7 MR. SWILLEY: That's correct.

8 Q. I'm going to approach with these, can you identify
9 what these are, 6 is on top, 78 is on bottom?

10 A. Yes, sir.

11 Q. What are those?

12 A. These are the photos that I took that day.

13 Q. Have they have been edited or altered in any way?

14 A. No, sir.

15 MR. KOZAK: At this time I like to move State's
16 Exhibit 6 through 78 into evidence and publish.

17 MR. SWILLEY: Same objection made *in limine*, judge,
18 to the photographs that I objected to.

19 THE COURT: All right. And as I've previously
20 ruled, I overrule the objection. They are admitted into
21 evidence as State's 6 through 78.

22 (Whereupon, the Photos has been marked and entered into
23 evidence as State's Exhibits Nos. 6 through 78)

24 Q. I'm going to leave those copies up there with you and
25 I'm gonna show copies to the jurors on the TV. Let's look

1 at State's Exhibit 6 -- can everyone see from over there?

2 (Whereupon, the jurors indicates yes)

3 Q. We're looking at State's Exhibit 6, what are we
4 looking at here?

5 A. That's -- this is the front door to Ann's apartment.

6 Q. You mean, Ann?

7 A. I meant Candace's apartment, I'm sorry.

8 Q. Okay. And what's the number up there on the door?

9 A. Apartment P4.

10 Q. Now, is this after it's been roped off and secured?

11 A. Yes, sir.

12 Q. And what's this hanging from the deadbolt?

13 A. The key.

14 Q. Is that the key you use?

15 A. Yes.

16 Q. Okay. So when you arrived that door was locked?

17 A. Yes, sir.

18 Q. State's Exhibit 7, another photo, what are we looking
19 at here?

20 A. Candace's apartment door P4 with the key in the lock.

21 Q. And what room is just inside that door?

22 A. The living room.

23 Q. Okay. State's Exhibit 8, what are we looking at here?

24 A. That is the backside of the front door of apartment
25 P4.

1 Q. And what are these smudges and things on there, do you
2 know what those are?

3 A. It's like smeared blood.

4 Q. All right. State's Exhibit 9, what are we looking at
5 here?

6 A. This is Candace's bedroom.

7 Q. All right. And is this from -- where is this photo
8 taken, what's the angle? Where are you standing?

9 A. From outside the door looking in.

10 Q. And what would you call that area outside the door?

11 A. The hallway.

12 Q. All right. State's Exhibit 10, what is this?

13 A. I'm still outside the door in the hallway, but I got a
14 close up of the blood droplets on the carpet and the hair.

15 Q. Okay. And from your experience in this case, who does
16 that hair belong to?

17 A. Candace.

18 Q. State's Exhibit 11, what are we looking at?

19 A. Candace's bed.

20 Q. All right. And what's to the right of the bed on the
21 ground?

22 A. A used condom, more blood and some clothing.

23 Q. I think we're going to zoom in on that. State's
24 Exhibit 12, similar view?

25 A. Yes, sir.

1 Q. All right. State's Exhibit 13, is that the condom
2 that you're talking about?

3 A. Yes, sir.

4 Q. Fourteen and then, 15, now, where is this from the,
5 let's put together the big picture and the smaller picture,
6 where is this in the room?

7 A. It's beside the bed on the floor.

8 Q. And who collected that at the scene?

9 A. Investigator Christian Hensley I do believe.

10 Q. But you didn't collect it, correct?

11 A. No. No.

12 Q. Okay. State's Exhibit 16, what are we looking at
13 here?

14 A. This is a photo of me standing in the hall facing the
15 living room and you can see blood droplets on the wall.

16 Q. Now, when you take this photo are you, basically,
17 standing in the bedroom?

18 A. I'm in the hallway.

19 Q. Okay. But if you're -- what's right behind you?

20 A. The bedroom door is right beside me.

21 Q. So on State's Exhibit 17, we're gonna zoom in on what
22 you're talking about, what is that?

23 A. It's - it's blood on the wall.

24 Q. And is that in the hallway?

25 A. It's in the hallway.

1 Q. Now, the way you're going right now ---

2 A. It's towards ---

3 Q. --- when you're looking at these, you're going from
4 the bedroom to the kitchen?

5 A. Yeah. To the living room and the kitchen.

6 Q. All right. State's Exhibit 18, what are we looking at
7 here?

8 A. This is a picture where I'm standing in the living
9 room facing the kitchen. You can see the blood in the
10 floor in the kitchen. There's a piece of hair and paper
11 towel.

12 Q. All right. Now, is this -- this little alleyway on
13 the left side of the photo, is that where we just saw the
14 blood droplets?

15 A. Yes, sir.

16 Q. All right. And so the bedroom is further down that
17 hall?

18 A. Yes, sir.

19 Q. State's Exhibit 19, what are we looking at here? What
20 is this - what is this right here in front of the kitchen?
21 The chair? What room is that in?

22 A. That's the living room.

23 Q. Okay. So what are we looking at here in the kitchen?

24 A. It's the blood on the floor. There's hair on the
25 floor. If you can see the table behind it, it's like got a

1 knocked over flower vase like there was a struggle.

2 Q. So State's Exhibit 21, is that -- the next photo 21?
3 It's on the back, what's that exhibit number?

4 A. I've got 20.

5 Q. Okay. State's Exhibit 20 is the next one, what's
6 that?

7 A. It's a - it's a closer view of the kitchen floor where
8 you can see the blood droplets, the hair.

9 Q. Now, when you're taking these photos, how close is the
10 living room to the bedroom? Just an estimate.

11 A. The living room is probably about five to ten feet
12 from the bedroom.

13 Q. And the kitchen is directly off the living room?

14 A. Yes.

15 Q. How far you think it is from the front door to the
16 kitchen? Like how big is the living room?

17 A. Not big. It's probably the same. Probably about ten
18 feet to the kitchen.

19 Q. State's Exhibit 21, what is this?

20 A. That's a close, close up view of the hair and the
21 blood that was on the kitchen floor.

22 Q. Okay. So this is a different piece of hair that was
23 found in the bedroom?

24 A. Yes.

25 Q. State's Exhibit 22, what are we looking at here?

1 A. We're looking at blood and, um, in the kitchen floor.

2 Q. State's Exhibit 23, now, where are you standing when
3 you take this photo?

4 A. When I take this photo I'm standing in the kitchen
5 facing the living room.

6 Q. So also what would be through the living room?

7 A. The front door.

8 Q. Okay. So what do we have in this photo?

9 A. This photo shows blood, the hair, more hair. There's
10 also blood all over the counters running down the doors.
11 The carpet is kicked up like there was a scuffle in there.

12 Q. Okay. State's Exhibit 24, what is this?

13 A. This is a picture of the kitchen table with everything
14 knocked over which indicates a struggle.

15 Q. Now, you guys have not touched anything at this point
16 ---

17 A. No.

18 Q. --- in the investigation, correct?

19 A. No.

20 Q. Okay. State's Exhibit 25, what are we looking at
21 here?

22 A. It's a different view of the table. You can also see
23 the blood on the floor in the background. This is the
24 kitchen.

25 Q. Now, this is -- this curtain ---

1 A. That's the ---

2 Q. --- looks like it's blowing in the wind ---

3 A. It's a sliding glass door that was left opened.

4 There's also blood if you look, like somebody grabbed that
5 on the way out.

6 Q. Okay. State's Exhibit 26, it's just a different angle
7 of the cabinets?

8 A. Yes, sir.

9 Q. Now, earlier we were just looking at one floor mat,
10 correct?

11 A. Yes, sir.

12 Q. Now this other floor mat is also in the kitchen, has
13 it been moved?

14 A. No.

15 Q. Okay. State's Exhibit 27, what are we looking at
16 here?

17 A. This is the counter in the kitchen.

18 Q. Mmm, hmm.

19 Q. That also had blood all over.

20 Q. Now, if you can look closely, what's in the sink?

21 A. There's blood in the sink.

22 Q. All right. What is actual, from your picture, what
23 actually looks like is in the sink?

24 A. A knife.

25 Q. What's all in this drying rack?

1 A. All kind of dishes, knives, utensils.

2 Q. Okay. State's Exhibit 28, what are we looking at
3 here?

4 A. This is a picture of the sliding glass door that's in
5 the kitchen with blood on the doorframe in the wall also on
6 the floor.

7 Q. State's Exhibit 29, it's just a closer view?

8 A. Yes, sir.

9 Q. State's Exhibit 30, it's still ---

10 A. It's a closer view.

11 Q. All right. What is this, State's Exhibit 31?

12 A. That is the curtain in the kitchen, the back, from
13 where I guess it was pushed to get the door opened.

14 Q. And, now, is this the same blind you saw in the last
15 photo?

16 A. Yes.

17 Q. Okay. State's Exhibit 32, now, as we just saw in a
18 photo earlier, was that screen down outside of the sliding
19 door when you arrived?

20 A. Yes.

21 Q. And was the sliding door still opened when you
22 arrived?

23 A. Yes, it was.

24 Q. State's Exhibit 33, is this -- what are we looking at
25 here?

1 A. It's a closer view of the blinds on the sliding doors
2 in the kitchen.

3 Q. Okay. State's Exhibit 34, is this a screen I was
4 describing earlier?

5 A. Yes, sir.

6 Q. And what is -- what else is outside that door?

7 A. This is the patio outside of the sliding glass doors
8 and it has blood droplets on it.

9 Q. Now, when you go outside of that patio door, what are
10 you looking at? What's outside that door?

11 A. The apartments across.

12 Q. Where is the baseball field in respect to this sliding
13 glass door?

14 A. The baseball field would be on your left.

15 Q. Okay. State's Exhibit 35, what are we looking at
16 here?

17 A. This is the sidewalk in front of Candace's apartment.

18 Q. And what's the door all the way at the end there, the
19 end of that walkway?

20 A. That's Candace's apartment.

21 Q. Okay. State's Exhibit 36, why did you feel you needed
22 to zoom in here, what are we looking at?

23 A. This is the sidewalk and you can see the blood that
24 goes up the sidewalk to the apartment.

25 Q. State's Exhibit 37, what is that right at the bottom?

1 A. That is a bloody footprint.

2 Q. All right. And so are each of these big blotches
3 footprints?

4 A. Yes, sir.

5 Q. State's Exhibit 38?

6 A. It's the same as, I mean, it's the sidewalk with
7 bloody footprints.

8 Q. So where did these footprints lead?

9 A. To apartment P3.

10 Q. Okay. State's Exhibit 39, more footprints?

11 A. Yes, sir.

12 Q. State's Exhibit 40, what are we looking at there?

13 A. That is apartment P3.

14 Q. Whose apartment is that?

15 A. That was the next-door neighbor's apartment.

16 Q. Okay. State's Exhibit 41, what are we looking at
17 here?

18 A. That is the apartment P3, that's the entrance with
19 blood going into the apartment.

20 Q. State's Exhibit 42, just a closer view of the same ---

21 A. Yes, sir.

22 Q. --- doorway -- forty-three?

23 A. It's a close review in front of apartment P3.

24 Q. Forty-four, what are we looking at here?

25 A. This is apartment P3. That is the chair Ms. Candace

1 was sitting in when I spoke to her when I arrived on scene.

2 Q. Mmm, hmm. And what are these blotches on the floor?

3 A. They are bloody footprints.

4 Q. Where are you standing when you take this photo?

5 A. At the front door.

6 Q. Forty-five?

7 A. It's apartment P3 with bloody footprint.

8 Q. Forty-six, what are we looking at here?

9 A. We're looking at a chair sitting in the apartment P3
10 that Candace has sat in. In the background you can see
11 blood in the floor.

12 Q. So when you arrived at the scene where was Candace?

13 A. She was sitting in that chair ---

14 Q. Okay.

15 A. --- in apartment P3.

16 Q. And what was she wearing?

17 A. She had like, like a sheet or something over her.

18 Q. What's -- State's Exhibit 47, where is this?

19 A. This is apartment P3 in the kitchen.

20 Q. All right. So where is the chair in this photo?

21 A. It's like right at the bottom of the photo.

22 Q. All right. State's Exhibit 48, is it just a closer
23 view of kitchen in P3?

24 A. Yes, sir.

25 Q. State's Exhibit 49, who we looking at here?

1 A. This is Ms. Ann.

2 Q. And where was this photo taken?

3 A. McLeod Medical Center.

4 Q. And how long after the attack, estimate, did you take
5 this photo?

6 A. I'd say maybe thirty minutes.

7 Q. All right. So after you were at the scene you
8 responded to the hospital?

9 A. Yes.

10 Q. Okay. Fifty, what is this a close up of?

11 A. This is a close up of Ann's throat.

12 Q. And what does that appear to be to you?

13 A. A cut marked.

14 Q. State's Exhibit 51, what are we looking at?

15 A. That's Ms. Ann.

16 Q. Okay.

17 A. We're looking at her shirt with all the blood on it
18 and she has a bandaged arm.

19 Q. State's Exhibit 52, what -- whose hand is this?

20 A. That's Ms. Ann's hand.

21 Q. State's Exhibit 53, what are we looking at here?

22 A. That's Ms. Ann's pants.

23 Q. State's Exhibit 54, who is this?

24 A. Fifty-four is Ms. Ann's arm.

25 Q. State's Exhibit 55?

1 A. That is Ms. Ann's arm.

2 Q. All right. What do those appear to be?

3 A. It looks like a stab wound through and through.

4 Q. State's Exhibit 56, is this another stab wound?

5 A. Yes, sir.

6 Q. State's Exhibit 57?

7 A. A stab wound.

8 Q. All right. State's Exhibit 58, who are we looking at?

9 A. We are looking at Ms. Candace.

10 Q. Okay. Now, when did you respond to the hospital to
11 take these photos?

12 A. I'd say about thirty minutes after I arrived on scene.
13 Once the investigator got to the scene I was advised to go
14 to the hospital with the victims.

15 Q. All right. State's exhibit -- where was she at the
16 hospital when you responded, do you remember?

17 A. She was in the emergency room.

18 Q. Okay. State's Exhibit 58, whose hand is this?

19 A. That's Ms. -- 58 or 59?

20 Q. Oh, 59, sorry. State's Exhibit 59?

21 A. That's Ms. Candace's hand.

22 Q. State's Exhibit 60, it's just a closer view of her
23 hand?

24 A. Yes, sir.

25 Q. Now, were there any injuries to her hand when you were

1 photographing it?

2 A. Yes, sir. She had a lot of cuts on the hand which
3 appeared to be defensive wounds.

4 Q. Okay. State's Exhibit 61, whose -- what are we
5 looking at?

6 A. That is a cut on Ms. Candace's arm.

7 Q. State's Exhibit 62, what are we looking at?

8 A. We're looking at Ms. Candace's face. You can see the
9 lacerations on her throat. You can see the bruising and
10 swelling on her neck and you can see the redness in her
11 eyes.

12 Q. Now, you can see her hair very well here, is that the
13 hair that matched the hair on the floor in the apartment?

14 A. Yes, sir.

15 Q. Okay. Now, what does the red in the eyes indicate to
16 you?

17 A. Petechial hemorrhaging. It's like it appears someone
18 was strangling her.

19 Q. And what -- do you notice anything else about this
20 photo that would look like strangulation?

21 A. Her throat.

22 Q. What about her throat?

23 A. It's red and discolored. It's bruised.

24 Q. Okay. State's Exhibit 63, what are we looking at?

25 A. We're looking at Ms. Candace....

1 Q. And what's -- well, I think we'll zoom on the next
2 one. State's Exhibit 64, what are we looking at?

3 A. We're looking at her face, the bruising on her face.
4 You can also see some of the lacerations on the side of her
5 neck.

6 Q. State's Exhibit 65, what are we looking at in this
7 photo?

8 A. We're looking at Ms. Candace's leg.

9 Q. And what -- what about that injury? What does that
10 injury look like to you?

11 A. It's a deep injury.

12 Q. Sixty-six, State's Exhibit 66, is this just a further
13 out photo of that same injury?

14 A. It is.

15 Q. State's Exhibit 67, now, which -- this is the other
16 side of Candace's face, correct?

17 A. Yes, sir.

18 Q. What are we looking at here?

19 A. It appears to be a laceration to her face.

20 Q. All right. And where, I mean, ---

21 A. Up under her eye.

22 Q. What looks like caused that injury?

23 A. A knife.

24 Q. State's Exhibit 68, is this Candace's other hand?

25 A. It is.

1 Q. And what is knife wounds on both hands consistent with
2 in your experience?

3 A. Defense. It would be a defense.

4 Q. State's Exhibit 69, these similar defensive wounds?

5 A. Yes, sir.

6 Q. State's Exhibit 70, what are we looking at?

7 A. It's a close up of Candace's neck area.

8 Q. And what did you notice, let's go over again what you
9 noticed about her neck now that we've got a good zoomed in
10 picture?

11 A. Her neck has been cut more than once. There's
12 bruising. There's swelling.

13 Q. And all of that in your experience is indicative of
14 what?

15 A. Choking.

16 Q. State's Exhibit 71, are these more defensive wounds on
17 her hands?

18 A. Yes, sir.

19 MR. KOZAK: I beg the Court's indulgence real fast.

20 THE COURT: Yes, sir.

21 MR. KOZAK: Sorry about that.

22 Q. State's Exhibit 72, what are we looking at here?

23 A. It's a picture of Candace's face and her eyes that are
24 bloody.

25 Q. State's Exhibit 73, that's a closer of this one, what

1 do you notice about her eyes?

2 A. That they have a lot of blood where the white of the
3 eye should be.

4 Q. And in your experience what is that indicative of?

5 A. Choking.

6 Q. State's Exhibit 74, what are we looking at here?

7 A. This is Candace's chest.

8 Q. And just more knife wounds?

9 A. Yes, sir.

10 Q. State's Exhibit 75, what are we looking at here?

11 A. This is, um, Candace's leg.

12 Q. And what is that ---

13 A. It's a knife wound, stab wound.

14 Q. State's Exhibit 76, what are we looking at here?

15 A. Candace's arm.

16 Q. State's Exhibit 77?

17 A. That's a picture of Candace's arm with a deep wound.

18 Q. All right. Um ---

19 MR. KOZAK: I beg the Court's indulgence. I don't
20 want to get one photo in that's not in yet.

21 Q. State's Exhibit 78, did you have a chance to look up
22 the defendant's Facebook account?

23 A. I did.

24 Q. And what information led you to that Facebook account?

25 A. Candace telling me that it was "Reedy All Boss" is the

1 name that he goes by on Facebook. So I searched Facebook
2 using "Reedy All Boss" and it was the defendant's page.

3 Q. All right. And you were able to visit that account.
4 I'm showing State's Exhibit 2, tell us what's on this?

5 THE COURT: If you need to step down to get a
6 better ---

7 Q. Oh, sorry. Yeah, you don't have the number. Here you
8 are, I'll hand you State's Exhibit 1, sorry about that. Is
9 this the account you went to look at?

10 A. Yes, sir.

11 Q. And once you were on that account were you able to
12 look at any photos of his?

13 A. Yes, sir.

14 Q. Okay.

15 MR. KOZAK: I they the court's indulgence. It's --
16 he went to get another exhibit. It was not in the pile.

17 THE COURT: What is the number of that exhibit,
18 ma'am, that you're referring to?

19 A. Number 2.

20 THE COURT: Number 2.

21 MR. KOZAK: We'll bypass and come back to that.

22 Q. Do you know if fingerprints were taken off the front
23 door of P4?

24 A. I do not.

25 Q. Okay.

1 MS. BURCHSTEAD: Apologizes, judge, pictures have
2 been moved around.

3 MR. KOZAK: Your Honor, we can't find the hard copy
4 right now but it will be marked, it is in the electronic
5 form, it will be marked as State's Exhibit seventy or
6 State's Exhibit 80.

7 COURT REPORTER: Which one?

8 MR. KOZAK: It's going to be electronic so we can't
9 mark it yet. We're going to bring it in.

10 COURT REPORTER: Is this another one? A different
11 one?

12 MR. KOZAK: Mmm, hmm, a different photo.

13 COURT REPORTER: Yes, sir, it would be Number 80.

14 MR. KOZAK: Okay. Your Honor, if there is no
15 objection to it coming in?

16 THE COURT: All right. State's Exhibit Number 80
17 is admitted into evidence.

18 (Whereupon, the Photo has been marked and entered into
19 evidence as State's Exhibit No. 80) (sic)

20 MR. KOZAK: Do you want to step down so you can see
21 it ---

22 THE COURT: A hard copy will be ---

23 MR. KOZAK: --- it's gonna be electronic.

24 THE COURT: A hard copy will be provided.

25 MR. KOZAK: Yes, sir. It's just not -- don't know

1 where it went missing.

2 Q. If you'll look at -- so you had a chance to review
3 this Facebook account, correct?

4 A. I did.

5 Q. Now, when you reviewed his account, did he have any
6 photos from the night before the incident?

7 A. He did.

8 Q. And is this photo from the night before the incident?

9 A. Yes.

10 Q. And why do you know it from that date? If you want to
11 come read the date from the Facebook photo. Stand over
12 there so you're not blocking that photo.

13 A. The date has September 30, 2016.

14 Q. And what was the incident date of this incident?

15 A. October 1, 2016.

16 Q. Now, was this shirt ever recovered?

17 A. Yes, sir.

18 Q. Okay.

19 MR. KOZAK: No further questions, Your Honor.

20 THE COURT: All right. Mr. Swilley?

21 **Cross-Examination by Mr. Swilley:**

22 Q. Now, Ms. Tyler, you're an investigator now, right?

23 A. Yes, sir.

24 Q. And you were a road officer at the time, right?

25 A. Yes, sir.

1 Q. And those -- the difference is road officer respond,
2 the investigators come in and investigate, right?

3 A. Yes, sir.

4 Q. Okay. And you were the first to arrive it looks like
5 on, at the scene of the road officers, right?

6 A. Yes, sir.

7 Q. Okay. And when you got there you assess the
8 situation, talked to people, find out what happened, right?

9 A. Yes, sir.

10 Q. Okay. And now, Investigator Tyler -- well, let's go
11 back, even though you were a road officer you'd gone to the
12 Criminal Justice Academy, right?

13 A. Yes, sir.

14 Q. Graduated, correct?

15 A. Yes, sir.

16 Q. And you learn how to do a lot of stuff at the Criminal
17 Justice Academy pertaining to police were, right?

18 A. Yes, sir.

19 Q. Learn how to be a cop, is that correct?

20 A. Yes, sir.

21 Q. Okay. And one of the things you had to do -- well,
22 it's true to say one of the things you do as an
23 investigator and as a road officer is you produce an
24 incident report, right?

25 A. Yes, sir.

1 Q. And anytime you responded to a situation that need
2 police assistance you would generally type up a police
3 incident report, right?

4 A. Yes, sir.

5 Q. Okay. And you had an incident report as a road
6 officer in this case, right?

7 A. Yes, sir.

8 Q. Now, when you have -- when you put together an
9 incident report that incident report it's got to be
10 detailed, right?

11 A. Yes, sir.

12 Q. It's got -- because it's an important document, isn't
13 it?

14 A. Yes, sir.

15 Q. And everything in there has got to be correct, right?

16 A. Yes, sir.

17 Q. And it's got to be precise, right?

18 A. Yes, sir.

19 Q. And specific, correct?

20 A. Yes, sir.

21 Q. Okay. And that so you can remember what happened,
22 right?

23 A. Yes, sir.

24 Q. And that so prosecutors can know what's going on,
25 right?

1 A. Yes, sir.

2 Q. And they have to have an accurate detail of, of the
3 incident, right?

4 A. Yes, sir.

5 Q. Okay. And you reviewed your incident report before
6 you produce it, right?

7 A. Yes, sir.

8 Q. Go through it and make sure everything is correct,
9 right?

10 A. Yes, sir.

11 Q. Make sure everything makes sense, right?

12 A. Yes, sir.

13 Q. You review your notes before you make it, right?

14 A. Yes, sir.

15 Q. And you made notes in this case too, right, didn't
16 you?

17 A. I think so.

18 Q. You think so. Okay. Any kind of notes she would make
19 would be accurate, right?

20 A. Yes, sir.

21 Q. All right. And also you -- you, yourself went and
22 typed up it looks like a page and a half of notes, right?

23 A. Yes, sir.

24 Q. Okay. And you testified on direct earlier that you
25 had made contact with Ann Covington and attempted to record

1 her version of events in your body camera, right?

2 A. Yes, sir.

3 Q. Okay. And afterwards you found that the battery was
4 dead?

5 A. Yes, sir.

6 Q. And none of that was recovered, right?

7 A. No, sir.

8 Q. All right. And it's a good thing -- well -- and you
9 didn't go back and record it again, did you?

10 A. No, sir.

11 Q. Okay. So there's no -- so there's no audio or video
12 recording of this interview with Ann Covington that exists,
13 is that correct?

14 A. Not to my knowledge.

15 Q. Okay. I'm sorry, now?

16 A. Not to my knowledge.

17 Q. Okay. But you were able to do that with Candace
18 Simpson, right? Make a body cam video?

19 A. Yes, sir.

20 Q. And that was recorded and preserved, correct?

21 A. Yes, sir.

22 Q. Okay. Now, you didn't have one of Ann Covington but
23 it's a good thing you produce an incident report, right?

24 A. Yes, sir.

25 Q. All right. And that was that you were able to

1 memorialize your interview with Ann Covington, isn't that
2 correct?

3 A. Yes, sir.

4 Q. Okay. And your memorialization of that interview in
5 your answer report that's correct, right?

6 A. Yes, sir.

7 Q. And it's accurate?

8 A. Yes, sir.

9 Q. It's detailed, isn't it?

10 A. Yes, sir.

11 Q. And it's precise, right?

12 A. I would hope so.

13 Q. That's a yes?

14 A. Yes.

15 Q. Okay. I mean, like you testified you wouldn't put
16 anything in there that's not those four things, right?

17 A. Yes, sir.

18 Q. Okay. And before you release it I think it has to be
19 -- well, in this case it was actually reviewed and approved
20 by chief of police, right?

21 A. Yes, sir.

22 Q. Chief David Lane?

23 A. Mmm, hmm.

24 Q. I'm sorry?

25 A. Yes, sir.

1 Q. Okay. I'm sorry, that mic is not working. You've got
2 to speak up for me.

3 A. Okay.

4 Q. It's all good. Now, in your -- during your interview
5 or your notes with Ms. Covington it states that you
6 recorded that Ms. Covington did not know the suspect, is
7 that correct?

8 A. Yes, sir.

9 Q. Okay. And it also states that - give me one moment -
10 it doesn't mention anything, in your report it doesn't
11 mention anything about Ms. Covington locking herself in the
12 bedroom, does it?

13 A. No, sir.

14 Q. Okay. And your report makes mention that Ms.
15 Covington said that she was poked, is that correct?

16 A. Yes, sir.

17 Q. Okay. And it makes mention that -- it makes mention
18 that Ms. Covington then grabbed the children and ran out of
19 the apartment, is that correct?

20 A. Yes, sir.

21 Q. And at that point she went next door to the apartment
22 of Ms. Elaine Manning for help, is that correct?

23 A. Yes, sir.

24 Q. And it states that before Ms. Covington could go back
25 to the apartment for Ms. Simpson, Ms. Simpson was walking

1 towards her down the sidewalk?

2 A. Yes, sir.

3 Q. Okay. And then at that point it states that when she
4 was walking down the sidewalk Ms. Covington helped Ms.
5 Simpson in the apartment at that point, is that correct?

6 A. Yes, sir.

7 Q. Okay. And investigator or now Investigator Tyler, you
8 didn't process the scene for prints or DNA or anything like
9 that, that wasn't your job, was it?

10 A. No, sir.

11 Q. Okay. Your job was mainly to gather information from
12 the people involved, right?

13 A. Yes, sir.

14 Q. Right. And that was your sole, I guess, as a road
15 officer that was your sole duty, that was your particular
16 duty in this case, right?

17 A. Yes, sir.

18 Q. All right. That was your emphasis?

19 A. Yes, sir.

20 Q. Right. And other people had to go and try to collect
21 prints, right?

22 A. Yes, sir.

23 Q. Other officers - other road officers?

24 A. No.

25 Q. Or ---

1 A. Investigators.

2 Q. Oh, okay. Excuse me, investigators. And other
3 officers had to go and rope off, rope off the scene, right?

4 A. Yes.

5 Q. That was part of the other people's duties -- you've
6 got several officers that were involved in this
7 investigation, right?

8 A. Yes, sir.

9 Q. Each with specific things that they had to do?

10 A. Yes, sir.

11 Q. Okay. And I guess that's delegation of task for
12 several different officers, right?

13 A. Yes, sir.

14 Q. And yours was to basically collect information
15 initially from the people involved, right?

16 A. Yes, sir.

17 Q. Okay. And you're fairly certain that you did a good
18 job of this, correct?

19 A. Yes, sir.

20 Q. Okay. And you -- you didn't write anything down in
21 your report that you didn't, that you didn't take in,
22 right?

23 A. No, sir.

24 Q. Okay.

25 MR. SWILLEY: Give me one moment, Ms. Tyler.

1 Q. Okay. And during your interview, your recording, you
2 recorded that according to your interview with Ms.
3 Covington, the individual had on just a pair of basketball
4 shorts, right?

5 A. Yes, sir.

6 Q. Okay. All right.

7 MR. SWILLEY: Thank you, Ms. Tyler.

8 THE COURT: Mr. Kozak?

9 MR. KOZAK: Briefly, Your Honor.

10 **Redirect Examination by Mr. Kozak:**

11 Q. So when you arrived on scene that night Candace is in
12 the chair ---

13 A. Yes ---

14 Q. --- freshly injured?

15 A. Yes, sir.

16 Q. And immediately who did she say did this to her?

17 A. Reedy All Boss.

18 Q. And at any time throughout all of your interactions
19 asking Candace or Ann about the story, did Candace ever say
20 she wasn't raped?

21 A. No, she did not.

22 Q. Did she ever say she wasn't stabbed?

23 A. No, she did not.

24 Q. And did she ever say anyone else did it?

25 A. No, she did not.

1 MR. KOZAK: No further questions.

2 MR. SWILLEY: No re-cross.

3 THE COURT: All right. You can step down, Ms.

4 Tyler. Thank you.

5 MS. TYLER: Thank you.

6 MR. KOZAK: The State calls Bridget Bass.

7 THE CLERK: Place your left on the Bible and raise
8 your right hand for me. Do you solemnly swear or affirm the
9 evidence and testimony that you're about to give the Court
10 and jury on this case is the truth, the whole truth, and
11 nothing but the truth so help you God?

12 MS. BRYANT: I do.

13 THE CLERK: Have a seat in the witness box. State
14 your full name for the court spell your last.

15 MS. BRYANT: Bridget Bass Bryant, B-r-y-a-n-t.

16 BRIDGET BRYANT, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mr. Kozak:**

19 Q. Good afternoon, Ms. Bass. Where are you currently
20 employed?

21 A. McLeod Dillon ER.

22 Q. And what is your role there?

23 A. I'm a staff nurse.

24 Q. All right. How long have you been there?

25 A. Since 2006.

1 Q. And what are some of your duties as a staff nurse
2 there?

3 A. Take charge, triage patients, implement nursing from
4 the time they enter until the time they're transfer from
5 our department.

6 Q. And were you working October 1, 2016?

7 A. Yes, sir.

8 W. All right. And what role were you working that day?

9 A. I was the primary nurse.

10 Q. Do you recall a Ms. Candis Simpson coming in needing
11 treatment?

12 A. I do.

13 Q. And in what regard did she come in?

14 A. She came in, if I'm not mistaken, she came in by EMS.
15 She went straight to one of our trauma rooms and I began
16 care from there.

17 Q. Did she come in as a possible rape?

18 A. She come in with an assault. She was an assault. She
19 had lacerations. We didn't get into all the rape stuff
20 until I got in the room. My first primary goal was to
21 stabilize her.

22 Q. And what did -- what was her appearance like? What
23 did she look like?

24 A. She had lacerations, multiple lacerations. Unless I
25 look at the chart I could not tell you everywhere they were

1 at but I do remember them being all over her body.

2 Q. Is there anything particular that stood out to you
3 about this case?

4 A. The only thing that I recalled from my memory until
5 this come up was I remember being worried about her hands
6 because she was a hairdresser and I was worried about the
7 function of her hands. That was the only thing I recalled
8 before reviewing the chart.

9 Q. Why would you be -- what made you worry about her
10 hands?

11 A. Because there were so many lacerations on her hand,
12 deep lacerations and I just worried about her afterwards.
13 I knew she was a hairdresser so ---

14 Q. Now, when there's a ---

15 A. That was the only thing I recalled after the fact of
16 taking care of her.

17 Q. Okay. And when it's a possible rape situation what's
18 the protocol? What do you -- how do you guys handle that?

19 A. We have a rape kit that we are in charge of collecting
20 and being responsible for and handing over to the officer
21 in charge.

22 Q. Okay. And what goes into -- well, is this called a
23 sexual assault examination protocol?

24 A. Yes, sir.

25 Q. And what goes into that?

1 A. A lot. A lot of time. A lot of time. Preparation.
2 Sealing. We pretty much assess them from their head to
3 toe. We collect samples. Documentation.

4 Q. And have you performed sexual assault examinations
5 protocols in the past?

6 A. Yes, sir.

7 Q. About how many do you think? Just an estimate.

8 A. Probably too many to count.

9 Q. Okay. And in this case did you perform one?

10 A. Yes, sir.

11 Q. Let me have this marked as State's Exhibit 81.

12 MR. KOZAK: I've showed opposing counsel this
13 already.

14 Q. I'm going to hand you what's been marked as State's
15 Exhibit 81, can you tell me what this is?

16 A. This right here is the South Carolina Law Enforcement
17 Division sexual assault examination protocol.

18 Q. Okay. And is that -- did you perform the sexual
19 assault or were you involved in the sexual assault
20 examination protocol in this case?

21 A. Yes, sir.

22 Q. And is that your report?

23 A. Yes, sir.

24 Q. Has it been edited or altered in any way?

25 A. No, sir.

1 MR. KOZAK: At this time I'd like to move State's
2 Exhibit 81 into evidence and published to the jury.

3 MR. SWILLEY: One moment please, judge, just one
4 moment. No objection.

5 THE COURT: All right. State's Exhibit Number 81
6 is received into evidence.

7 (Whereupon, the Sled Protocol Report From Hospital has been
8 marked and entered into evidence as State's Exhibit No. 81)

9 Q. Okay. We're gonna kind of walk through this. So when
10 she comes in, what happens?

11 A. She is triage.

12 Q. Okay.

13 A. Stabilized.

14 Q. And then - and then how do we get to the sexual
15 assault examination protocol?

16 A. Once she stabled, then we actually, we have the kit
17 that comes in a box. It has all of the necessary paperwork
18 inside the kit. All the collection, envelopes, seals,
19 everything that we need. We get the kit. We go to the
20 room. We collect the samples that it ask for and we stay
21 in the room with the patient with the samples until it is
22 sealed up and given to the officer.

23 Q. Okay. So your present ---

24 A. The whole entire time ---

25 Q. --- in the room the entire time this is done?

1 A. Yes. The kit is my baby until it's handed over to the
2 officer.

3 Q. Okay. So it looks like there's a questionnaire, is
4 that correct?

5 A. Yes.

6 Q. And one of the questions is if the patient ingested
7 alcohol that's on page 2, is that one of the questions?

8 A. Yes.

9 Q. And did she have a response in this case?

10 A. She responded, yes.

11 Q. And there's a described label, what did she say there?

12 A. She said that she had three mixed drinks.

13 Q. All right. Now, what - what are you looking for with
14 some of these questions? Like what is the purpose for the
15 sexual assault examination protocol?

16 A. To collect any evidence. To get a questionnaire from
17 the patient. To show assessment information on the
18 patient.

19 Q. And did she give a description to you of what happened
20 ---

21 A. Yes, she did ---

22 Q. --- I guess, a brief synopsis of what happened?

23 A. Mmm, hmm.

24 Q. What did she say in this case?

25 A. I stated here patient reports she was raped more than

1 once. She was held against her will while trying to escape
2 she was attacked by a knife.

3 Q. All right. Now, when you're looking at her injuries
4 are you supposed to mark down what injury she has to her?

5 A. Yes, we do.

6 Q. And what did you mark down in this case?

7 A. I put multiple lacerations to arms, legs, chest,
8 hands. She was strangulated and now has blood "bloodshot
9 eyes."

10 Q. Is there anything you added after that?

11 A. Bruising to the neck.

12 Q. Now, in your experience, you said you've done more
13 than you can count of sexual assault protocols, when you
14 see bloodshot eyes and bruised neck what does that indicate
15 to you?

16 A. Strangulation.

17 Q. Now, there said on page 4, we go into other acts, what
18 are you looking for here at the bottom of page 4?

19 A. That is -- here we're looking for other acts like
20 oral, masturbation, ejaculation, anything there.

21 Q. All right. Now, how soon after the attack is this
22 questionnaire filled out by you with the patient?

23 A. With the patient after the attack?

24 Q. Yeah.

25 A. If they come in directly after the attack we tried to

1 get it as soon as possible.

2 Q. Okay.

3 A. We like to have the same clothes and everything.

4 Q. Now, in this questionnaire it looks like you have
5 answers, I mean, questions for penetration of vagina by
6 multiple things which you ask everyone these questions,
7 correct?

8 A. Yes.

9 Q. Now, what are -- she said penetration by vagina of
10 penis, what is her answer to that question?

11 A. Yes.

12 Q. And a finger?

13 A. Yes.

14 Q. And then an object, what is her answer?

15 A. She was unsure.

16 Q. And was she sure of anything else according to this
17 questionnaire that happened that morning from the boxes you
18 checked?

19 A. Would you rephrase? I'm sorry.

20 Q. So the possible answers are no, yes, attempted, and
21 unsure ---

22 A. Mmm, hmm.

23 Q. --- on the questionnaire. Now, you have the next
24 question is, penetration of an anus by penis, finger, or
25 object, what was her answer to those three?

1 A. She was unsure of everything else.

2 Q. And does that include -- is there a section for oral
3 sex on there?

4 A. Yes.

5 Q. And her answer to that was?

6 A. Unsure.

7 Q. And at the bottom there's a description because she
8 told you something, what's does that stay at the bottom
9 right?

10 A. She said that she was unsure because she had passed
11 out multiple times from being strangled.

12 Q. Okay. Now, there is a strangulation assessment on
13 this, correct?

14 A. Yes, sir.

15 Q. What kind of questions and what are the answers to
16 those and what are you looking for? It's on page 6.

17 A. Thank you.

18 Q. No problem.

19 A. The strangulation assessment it ask what did he
20 strangle you with and she said his hands, with both hands.

21 Q. All right. Is there a place for her to say how many
22 times she was strangled?

23 A. She said she was strangled multiple times, four times.

24 Q. And did she say she lost consciousness?

25 A. Yes.

1 Q. Why would you ask if a throat -- why would you ask if
2 she has a hoarse voice?

3 A. Because anytime someone is strangled, any trauma to
4 the neck would cause you to be hoarse.

5 Q. And what did -- did she have a hoarse voice and did
6 you note that?

7 A. She did. Very hoarse vocally is what I stated or
8 noted.

9 Q. Now, tell me what a Woods light is?

10 A. A Woods light it's like a black light if anyone's ever
11 seen a black light before. You can turn the lights off and
12 it glows purple and you can see stuff you wouldn't normally
13 see with the lights on. Lint, anything white it would
14 show.

15 Q. Okay. And what is the purpose of using a Woods light
16 in a sexual examination protocol?

17 A. Body fluid. To see if there's any body fluid
18 anywhere.

19 Q. And did you use a Woods light in this examination?

20 A. Yes, it was used.

21 Q. And did it show any body fluids ---

22 A. Yes ---

23 Q. --- present on Ms. Simpson?

24 A. Yes, sir.

25 Q. Okay. Now, you said you took samples in this case?

1 A. Well, we assist. The physician actually collects the
2 samples from the cervix.

3 Q. Okay.

4 A. But we assist him in handing him the device and seal
5 it and label it ourself.

6 Q. And when you seal it and label it what is the purpose
7 of doing that?

8 A. It's so whenever it's sent off no one knows that it's
9 been tampered with.

10 Q. Okay. And in this case did you take samples?

11 A. Yes.

12 Q. Did you seal them and ---

13 A. And initial ---

14 Q. --- I mean, what you do with them after you seal them?

15 A. We put them in the box. We put them in the kit
16 through the officer.

17 Q. And then, what happens to the box?

18 A. It goes to the officer, sealed. We seal it as well.

19 Q. Okay.

20 MR. KOZAK: I beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 MR. KOZAK: No further questions, Your Honor.

23 THE COURT: All right. Mr. Swilley?

24 **Cross-Examination by Mr. Swilley:**

25 Q. Ms. Bass, you still got that copy ---

1 A. Yes, sir.

2 Q. --- of your sexual assault examination ---

3 A. Yes, sir.

4 Q. --- up there with you? Okay. Now, this thing when
5 you said, again, you've done a numeral amounts of these,
6 right?

7 A. Yes, sir.

8 Q. And this is the same one every time, right?

9 A. Yes, sir.

10 Q. And you're the one that is taking all -- this is
11 actually in your handwriting, right?

12 A. It is in my handwriting. Actually, I had a charge
13 nurse in with me and she did fill out some parts of it and
14 there's a physician's part where he fills out his questions
15 in this exam.

16 Q. Okay. And the other nurse is Janis Rogers, right?

17 A. Yes, sir.

18 Q. Okay. And she's - she's got the same credentials as
19 you have ---

20 A. Yes, sir.

21 Q. --- the same training, right?

22 A. Mmm, hmm. She's been there fifteen -- yeah, we've
23 been there together pretty much.

24 Q. And, yes, ma'am, these microphones are dead.

25 A. I'm sorry.

1 Q. If you could speak up for me.

2 A. Okay.

3 Q. Now, Ms. Bass, there's eight pages and a lot of the
4 stuff, you get these answers to these questions directly
5 from the - directly from the person, is that correct?

6 A. Yes, sir.

7 Q. Okay. And I noticed, you know, you took down, it
8 would've been three mixed drinks that was informed to you,
9 is that correct?

10 A. Yes, sir.

11 Q. Now, later on -- and that's on page 2. Now, you go
12 down and it says post assault hygiene/activity, it's marked
13 he yes for urinated, is that correct?

14 A. Had she urinated since the assault? Yes.

15 Q. And it was marked defecated too, is that correct?

16 A. Yes.

17 Q. And then you go down a little further and it also is
18 marked yes for vomiting, is that correct?

19 A. Yes.

20 Q. Okay. And moving on it says on page 4, describe the
21 types of penetration and the first one is penis and it's
22 marked yes, is that correct?

23 A. Yes.

24 Q. And then after that it's marked finger, is that
25 correct?

1 A. Yes.

2 Q. Okay. And that's a positive indication that she said
3 happened?

4 A. Yes.

5 Q. Okay. And you move on and you go and there was, I
6 don't know if this was covered in direct, but as far as
7 oral copulation and that's oral sex, correct, that third
8 one down?

9 A. Yes, sir.

10 Q. And that's marked unsure, is that correct?

11 A. Yes, sir.

12 Q. She would've answered that she was unsure at the time?

13 A. Yes.

14 Q. Okay. And you go down to the non-genitals acts it's
15 marked kissing and it also says unsure, is that correct?

16 A. Yes, sir.

17 Q. And you go down to biting, I think, that's also marked
18 unsure?

19 A. Yes.

20 Q. And -- move on and then you actually -- and you were
21 the one that actually did the, the actual vaginal exam, is
22 that correct?

23 A. No, I did not. The physician did the vaginal exam. I
24 just took the specimens.

25 Q. Okay. A physician -- and you were present during that

1 exam?

2 A. Yes, sir.

3 Q. Okay. And I think there were several methods that you
4 could do the vaginal exam with, is that correct? I think
5 it's on page 6, top.

6 A. Yes, I see it.

7 Q. Okay. I'm sorry.

8 A. Oh, no, you're fine.

9 Q. And there were several exam methods that could be
10 employed, is that correct?

11 A. Right.

12 Q. Well, four, four to be exact.

13 A. Mmm, hmm.

14 Q. Okay.

15 THE COURT: Please say yes or no when you answer
16 these questions.

17 A. Yes. I'm sorry.

18 Q. And that chart on page 7 which you are referring to
19 that was conducted by the physician, is that correct?

20 A. It was. Although, on seven I actually wrote on there
21 laceration, like I tried to mark where all her lacerations
22 were and then it was my handwriting, it was me that done it
23 at the bottom.

24 Q. Okay. But as far as G through K, or I guess in this
25 particular instances subsection G ---

1 A. Mmm, hmm, that was the physician.

2 Q. Okay. And a Woods light was employed to look for body
3 fluids only, right?

4 A. Correct.

5 Q. Okay. And body fluids -- and, if this is true, body
6 fluids are present usually in any sexual encounter whether
7 it's consensual or not non-consensual, is that correct?

8 A. Yes, sir.

9 Q. Okay. And you can determine by using that Woods light
10 or well, let me put it this way, there's no indicator by
11 that Woods light whether or not the sexual encounter was
12 forced or consensual, is there, it's just that there was
13 one?

14 A. It just says that's where he -- where it circled is
15 where he found ---

16 Q. Body fluid?

17 A. Body fluid, yes, sir.

18 Q. Okay. And -- I'm sorry, you said you were present
19 during the inspection of the vaginal area?

20 A. The whole entire time, yes.

21 Q. Okay. But you weren't the one who did the inspection,
22 right?

23 A. No.

24 Q. Okay.

25 A. He did.

1 Q. Okay.

2 MR. SWILLEY: Thank you, Ms. Woods, I mean, Ms. Bass.

3 THE COURT: Any redirect, Mr. Kozak?

4 MR. KOZAK: Briefly, Your Honor.

5 **Redirect Examination by Mr. Kozak:**

6 Q. So Mr. Swilley ask the answers to these questions are
7 coming from Candace?

8 A. Yes, they are.

9 Q. But the observations about ---

10 A. Are coming from me.

11 Q. Okay. And so your observations about the
12 strangulation are coming from you?

13 A. Yes.

14 Q. So when she comes in, did you ask her if she was
15 strangled?

16 A. Yes.

17 Q. And then through your observations did you confirm?

18 A. Yes, sir.

19 Q. Okay. Now, in the description of contact between
20 where we're talking about all of the penetration and oral,
21 all the unsure's she gave an explanation for that at the
22 bottom?

23 A. It was because she was passing out. She was
24 disoriented from being strangled.

25 Q. Okay. And when you said you marked all the

1 lacerations on her body, what are you referring to when you
2 say lacerations?

3 A. There is a diagram on here that has pretty much just a
4 picture of a body and then you just, you mark on there
5 where the lacerations are. You just ---

6 Q. You're -- go ahead.

7 A. No, you go ahead. I'm sorry.

8 Q. You're a nurse. You've been working for a long time.
9 You've seen lots of lacerations. In your opinion, what
10 does these appear to be?

11 A. Defensive wounds.

12 Q. And ---

13 MR. KOZAK: No further questions, Your Honor.

14 MR. SWILLEY: Your Honor, just very briefly on re-
15 cross.

16 **Re-cross Examination by Mr. Swilley:**

17 Q. The -- refer back to page 4, Ms. Bass, for
18 explanations, that's under the, and this is in evidence,
19 it's under where it says the explanation is under other
20 acts masturbation, photographs, other the explanation is
21 off to the right side of that, is that correct?

22 A. Yes.

23 Q. And all the explanations of the other previous
24 questions described of sexual assault are left blank, is
25 that correct?

1 A. They're blank but it was in reference to all.

2 Q. Okay. But the explanations is next to the other?

3 A. It's only next to the other acts, yes, sir.

4 MR. SWILLEY: Thank you.

5 THE COURT: All right. You can step down, ma'am.
6 Thank you.

7 MS. BASS: Thank you.

8 MR. KOZAK: Your Honor, may she be excused from her
9 subpoena?

10 THE COURT: Any objection, Mr. Swilley?

11 MR. SWILLEY: No objection, Your Honor.

12 THE COURT: You may be excuse, ma'am.

13 MS. BASS: Thank you.

14 THE COURT: Thank you. Okay.

15 MS. BURCHSTEAD: May we approach, Your Honor?

16 THE COURT: Yeah.

17 (Whereupon, a bench conference is held off the record)

18 MS. BURCHSTEAD: Thanks for your patience, Your
19 Honor. The State now calls Dr. Mijalli, Mamdouh Mijalli.
20 I'll ask him to pronounce it correctly when he gets on the
21 stand.

22 THE CLERK: If you'll place your left hand on the
23 Bible and raise your right hand. Do you solemnly swear or
24 affirm that the evidence and testimony you're about to give
25 the court and the jury on this case is the truth, the whole

1 truth, and nothing but the truth so help you God?

2 DR. MIJALLI: Yes.

3 THE CLERK: Be seated and state your full name for
4 the court and spelling your last for us.

5 DR. MIJALLI: My name is Mamdouh Mijalli. I'm a
6 general surgeon. And I covered trauma in the ER in Dillon.

7 THE CLERK: How do you spell your last name for the
8 court?

9 DR. MIJALLI: Mijalli, M-i-j-a-l-l-I.

10 MAMDOUH MIJALLI, first being
11 duly sworn, testified as follows:

12 **Direct Examination by Ms. Burchstead:**

13 Q. Good afternoon, doctor.

14 A. Good afternoon.

15 Q. Thanks for coming. Let's just get some background,
16 doctor. You went to medical school, right?

17 A. Yeah.

18 Q. Okay. Where did you go to medical school?

19 A. I went to medical school in Cairo University.

20 Q. Okay.

21 A. When I came to Yale University, I did my fellowship
22 and I did my residency at Yale.

23 Q. Your residency here?

24 A. Yeah, Yale -- Yale University.

25 Q. Oh, at Yale?

1 A. Yeah, at Yale

2 Q. Residency at Yale. And when did you finish residency?

3 A. That's a good point, twelve years ago.

4 Q. Twelve years ago, time flies, huh?

5 A. Yeah.

6 Q. Do you now live in Dillon or work in Dillon?

7 A. Yeah, I live in Dillon, yeah.

8 Q. Okay.

9 A. I came as a general surgeon for a few years and have
10 been there for twelve years now.

11 Q. So twelve years you've been here?

12 A. In Dillon, yes.

13 Q. Okay. And where do you currently work? Are you with
14 the hospital?

15 A. McLeod, yeah.

16 Q. And are you a surgeon with McLeod?

17 A. Yeah, I'm a general surgeon and I cover trauma too.

18 Q. Okay. I assume you're licensed and board certified?

19 A. Yeah. Board certified, yes.

20 Q. Have you ever testified in court?

21 A. Never.

22 Q. This is your first trip to court, huh?

23 A. Yeah.

24 MS. BURCHSTEAD: All right. Your Honor, at this
25 time the State offers Dr. Mijalli as an expert in general

1 surgical medicine.

2 MR. SWILLEY: I don't object to his qualifications.

3 THE COURT: All right. I find him to be qualified
4 as an expert in the area of general surgeon and also
5 trauma.

6 MS. BURCHSTEAD: Thank you.

7 Q. Doctor, were you -- you said you've been at the
8 hospital for about twelve years, is that right?

9 A. Yes.

10 Q. So presumably you were working there back in October
11 of 2016?

12 A. Yeah.

13 Q. As a surgeon?

14 THE COURT: Say yes or no please.

15 A. Yes. Yes.

16 Q. And also we have to keep reminding everybody that the
17 microphones are not working well.

18 A. Okay.

19 Q. So as much as you can project would be appreciated. I
20 assume you've treated a lot of patients over the years?

21 A. I do. I have many traumas.

22 Q. It has been a little time since 2016. Have you had an
23 opportunity to review the medical records in relation to a
24 Candace Simpson?

25 A. Yeah, I did. Operative notes.

1 Q. All right. So you had operative notes for Candace
2 Simpson?

3 A. Yeah.

4 Q. And that was from October 1, 2016?

5 A. Yes.

6 THE COURT: Speak up a little bit louder.

7 A. Yes.

8 THE COURT: It's not working ---

9 A. Yes. Oh, yes. Sorry.

10 THE COURT: --- so just speak loud ---

11 A. Yes.

12 Q. It's a constant battle for everybody. If at sometime
13 you don't remember or if you need to refer to something let
14 me know, we do have copies for you. Do you recall what
15 injuries you treated with Ms. Simpson?

16 A. I mean, she had multiple injuries. She had multiple
17 cuts around her neck and the thumb. I remember lift her
18 hands like multiple -- there was some superficial cuts and
19 the thumb was a little bit deep ---

20 Q. Okay.

21 A. --- deeper. I remember she had conjunctiva hemorrhage
22 and I remember -- I took care multiple areas. It's all
23 over.

24 Q. When you talk about the hemorrhage, what you mean?
25 Can you explain that?

1 A. Bleeding, like bleeding under the conjunctiva, like
2 around the eye. Her eyes were like raccoon eyes where you
3 have like bruising around the eye and all this stuff.

4 Q. So bruising in the eye and petechial hemorrhage?

5 A. Petechial hemorrhage, yeah. You can say that, yeah.

6 Q. And you said, I believe, did you said they were cuts
7 on her neck?

8 A. There was a cut -- I remember cuts and her thumb and
9 hands because I took care of everything. I put everything
10 back together. So I did.

11 Q. Right. And when you say you put it back together,
12 what did you do?

13 A. I mean, suturing. If this is superficial we suture it
14 and if it's a tendon, we just approximate the tendon just for
15 the hand mobility to be able to move it. So I remember it
16 took me a while because taking care of all -- you have to
17 clean the wound the, the first. You have to do it again.
18 And then you have to approximate the wound -- you can't close
19 it tight because of the infection from the injury so you
20 have to be very careful in how to clean it, yeah.

21 Q. Okay. And you've used the term superficial, can you
22 explain what that means?

23 A. Superficial meaning involving the superficial parts of
24 the skin. It doesn't have to be deep down involving the
25 muscles or tendons so it's more in the sub-continuous

1 tissue in the skin. You have the skin, you have fat under
2 the skin, and then you have deeper structures.

3 Q. So if you strike a major organ that's not superficial?

4 A. No, that's not superficial. If you hit that organ
5 that's not superficial.

6 Q. So if you don't hit an organ, it is or it could be
7 superficial?

8 A. Deep, yeah. It could be, yeah.

9 Q. Okay. Do you remember any notes about lots of
10 consciousness or any general condition of when you treated
11 her?

12 A. No. I do remember when I took care of her she was
13 very conscious, like, she was talking to me.

14 Q. Okay.

15 A. Like she was very, I would say, cooperative. Because
16 I was talking to her and we told her what we were going to
17 do to get her to the operating room, clean the wounds and
18 everything. So I do remember she was talking to me like
19 that.

20 Q. Okay.

21 A. Maybe she was a little bit - have changed of voice. I
22 don't remember exactly how she was but she was like I was
23 talking to her because I try to get some information on how
24 she's doing.

25 Q. Right. Now, you mentioned the petechial hemorrhage,

1 is that the redness in the eyes, is that right?

2 A. Yes. Under the conjunctiva, the superficial under the
3 eye.

4 Q. Okay. And do you remember any bruising or swelling in
5 the neck?

6 A. There was a little like around her eye ---

7 Q. Okay.

8 A. --- I remember in the face, yeah, it was.

9 Q. Okay. And so if you have the redness in the eye, and
10 a hoarse voice, bruising to the neck, in your medical
11 opinion, is that consistent with possible strangulation?

12 A. Yeah, it can be. Is anything that can increase your
13 pressure in the head and neck can cause this change. So
14 anything that is strained, strangulation, pressure,
15 straining. You try to strain, pushing and that if somebody
16 who is having heavy weight you can injury the body with
17 straining and by all this bleeding and bruising, yeah.

18 Q. Okay.

19 A. It can be consistent with it.

20 Q. Okay. Now, it if someone is sliced on the neck deep
21 enough what could happen or if it was a deep laceration to
22 the neck what could happen?

23 A. It depends. I mean, you can cut the trachea so this
24 is where breathing is.

25 Q. Right.

1 A. You can cut the carotid artery, two carotid and you
2 can cut the vein and you can cut even the C spine. You can
3 just cut the whole neck.

4 Q. And if that happened in any of those incidences would
5 death result? Could it result?

6 A. Yeah. It depends, too. I mean, if you save somebody
7 fast enough to do pressure you can save their life.

8 Otherwise, if you wait with bleeding you can bleed to
9 death, fast. Because this is a carotid coming from the
10 aorta and that's big artery, considerably.

11 Q. So in this case the slice of the neck did not go that
12 deep, is that correct?

13 A. As I remember it was superficial. I didn't remember
14 it was deep because I just close it with the stitches. I
15 didn't go deep.

16 Q. Okay. And do you remember if there was more than one
17 ---

18 A. Yeah, they were multiple. I do remember there were
19 multiple there. I can't count because I was taking care of
20 everywhere so I was not, you know ---

21 Q. Right.

22 A. --- I didn't count them like

23 Q. I understand.

24 MS. BURCHSTEAD: I beg the Court's indulgence.

25 THE COURT: Yes, ma'am.

1 Q. Do you recall anything about her hands?

2 A. Yeah, the hand - the thumb, there was cuts in the
3 thumb but it was deeper a little bit in the tendon. I think
4 I -- and there was multiple cuts in most of the hands, the
5 fingers too.

6 Q. And in your opinion, could that be defensive wounds?

7 A. Oh, yeah. You can just try to defend yourself and you
8 can have multiple cuts on your hands, yeah.

9 MS. BURCHSTEAD: Nothing further on direct, Your
10 Honor.

11 THE COURT: Mr. Swilley?

12 **Cross-Examination by Mr. Swilley:**

13 Q. Dr. Mijalli?

14 A. Hey, how are you?

15 Q. How are you? You along with, I think, Nurse Bass
16 conducted the sexual assault examination protocol, is that
17 correct?

18 A. Yeah. I don't remember which nurse was there but my
19 job was focusing -- remember I work with the OR Team.

20 Q. Right.

21 A. So I just come in as a surgeon and take the patient to
22 the OR. So about the sexual assault I don't know any of
23 that. I'm not involved with -- I didn't even know what
24 exactly about that.

25 Q. You didn't -- you didn't examine the ---

1 A. No. No. No.

2 Q. You didn't examine the vaginal area?

3 A. I'm a surgeon. No. No.

4 Q. Make sure I ask -- please let me finish my question.

5 THE COURT: Let him ask the questions fully.

6 A. I'll try again. Yeah.

7 Q. Dr. Mijalli, you didn't examine the genital area?

8 A. No.

9 Q. Okay.

10 A. Just the -- you treated Ms. Simpson just for the
11 wounds, is that correct?

12 A. Yeah, for the surgical wounds.

13 Q. Okay. Thank you.

14 A. Thank you.

15 MR. SWILLEY: Nothing further.

16 THE COURT: Anything else, Ms. Burchstead?

17 MS. BURCHSTEAD: Not from the State. We asked that
18 he be excused?

19 MR. SWILLEY: No objection.

20 THE COURT: Thank you, sir. You may be excused.

21 DR. MIJALLI: Thank you very much. Thank you.

22 MS. BURCHSTEAD: May we approach?

23 THE COURT: Yes, ma'am.

24 (Whereupon, a bench conference was held off the record)

25 THE COURT: Ladies and gentlemen, we can keep going as

1 we are now but if you need a break I'll certainly give you
2 one now. What's the jury's pleasure, do you want a break or
3 do you want to keep going?

4 (Whereupon, the back row of the jury states to keep going)

5 THE COURT: The back row says to keep going, how
6 about the front row?

7 (Whereupon, the front indicates the same thing)

8 THE COURT: Keep going.

9 MS. BURCHSTEAD: Okay. The State calls Anitra
10 Clark-Jones.

11 THE COURT: If you'd come forward please, ma'am.

12 THE CLERK: Place left and on the Bible and raise
13 right hand for me. Do you solemnly swear or affirm that
14 the evidence and testimony you're about to give the court
15 and the jury on this case is the truth, the whole truth,
16 and nothing but the truth so help you God?

17 MS. CLARK-JONES: I affirm.

18 THE CLERK: Have a seat in the jury box. Give us
19 your full name spelling your last.

20 THE COURT: We do not have the use of the
21 microphone so I am going to go ahead and tell you speak
22 loudly and clearly please, ma'am.

23 MS. CLARK-JONES: Anitra Clark-Jones, C-l-a-r-k- -J-
24 o-n-e-s.

1 ANITRA CLARK-JONES, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Ms. Burchstead:**

4 Q. Good afternoon.

5 A. Hello.

6 Q. You prefer to Ms. Clark-Jones, right?

7 A. Correct.

8 Q. Okay. Where are you employed?

9 A. Dillon E-911.

10 Q. And how long have you been there?

11 A. Since April 26, 2001.

12 Q. And what are your primary duties? Let me say back in
13 -- well, in the last few years, what have been your duties
14 at 911?

15 A. The training coordinator there. I'm responsible for
16 all certifications for the new hires in the current
17 employees.

18 Q. Okay. And in your experience at the 911 call center,
19 are you aware where the records are kept when 911 calls are
20 placed and come in?

21 A. Yes.

22 Q. And what -- what type of records are kept? What are
23 they called?

24 A. CAD, computer-aided dispatch and recordings.

25 Q. And how are they, how are they logged?

1 A. By computer.

2 Q. So whenever a call comes in the information is put
3 into the computer?

4 A. Correct.

5 Q. And it's kept there so reports can be generated from
6 that information, is that right?

7 A. Yes.

8 Q. Do y'all have a system in place to make sure that
9 information is not changed?

10 A. Yes. And if it's change it's logged on the CAD.

11 Q. Okay. So anything surrounding a 911 call, a 911 call
12 that comes in it's going to be in the report?

13 A. That's correct.

14 Q. And are you aware whether a report was done in this
15 particular case from October 1, 2016?

16 A. Yes.

17 MS. BURCHSTEAD: I beg the Court's indulgence. I
18 need to get the exhibit marked. It has previously been
19 shown to defense counsel referencing State's 82 and I
20 believe it's going to be admitted without objection?

21 MR. SWILLEY: That's correct.

22 THE COURT: All right. Admitted into evidence ---

23 MS. BURCHSTEAD: All right.

24 THE COURT: --- State's Number 82.

25 (Whereupon, the EMS-CAD Report has been marked and entered

1 into evidence as State's Exhibit No. 82)

2 MS. BURCHSTEAD: State's 82, if I May approach,
3 Your Honor?

4 THE COURT: Yes, ma'am.

5 Q. I'm gonna show you State's 82, can you tell us what
6 that is?

7 A. This is a CAD detail report.

8 Q. Okay. And what sort of information is on this CAD
9 report just in general? Does it give you like the type of
10 call that comes in?

11 A. Mmm, hmm. It tells the actual incident location. The
12 time the incoming call came in. The time the officers were
13 dispatched. It also has narratives that whoever may have
14 taken the call might've put in. And just a general log of
15 the officers or the ambulance services that responded.

16 Q. Okay. So in this case what type of call came in?

17 A. A stabbing.

18 Q. A stabbing, okay. And can you tell us when that call
19 came in?

20 A. It says the incoming call came in at 9:26 that
21 morning.

22 Q. So 9:26 a.m. on October 1st?

23 A. Yes, 2016.

24 Q. 2016, okay. Does it tell us anything about the
25 caller, the person that calls into 911?

1 A. Well, on here it has the callers name but a lot of
2 times whenever someone is calling in the caller name could
3 have been added later after they found out who the actual
4 person was that was stabbed. It does said that Elaine
5 called this and that the male party left and that was at
6 9:29.

7 Q. Okay. So does it give dispatch times on there?

8 A. It does.

9 Q. Okay. So the incoming call came in at 9:26 and what's
10 the dispatch time?

11 A. The dispatch time that it is showing is 9:31.

12 Q. Okay. And you have an en route time?

13 A. Well, it has en route time for law enforcement and an
14 en route time for the ambulance services so it would depend
15 on which en route time.

16 Q. Oh, can you give us both?

17 A. It's showing en route time for the ambulance services
18 at 9:32 and en route time -- well, you don't show -- it
19 gives an en route and on scene time for law enforcement at
20 9:36.

21 Q. Okay. And what is a clear time or a clear date or a
22 clear time mean?

23 A. The time that the actual CAD was cleared from our
24 system.

25 Q. And what is that in this case?

1 A. 14:32.

2 Q. So is that 2:32 p.m.?

3 A. That's correct

4 Q. Now, I believe a minute ago you said there was a place
5 for remarks, is that right?

6 A. Yes.

7 Q. Are there just notations regarding the call, is that
8 correct?

9 A. Yes.

10 Q. Okay. And do you have remarks in this particular case
11 that are on this report?

12 A. Yes.

13 Q. Okay. And if you could we're just gonna walk line by
14 line on some of these here. Directing your attention to
15 the 9:29:52 time, what is the remark?

16 A. "Stabbed everywhere. Losing blood. Elaine called this
17 in. Male party left."

18 Q. Okay. And then the next line 9:32:04, what's the
19 notation there?

20 A. "Stabbed everywhere. Losing blood. Elaine called this
21 in. Male party left. Unknown direction of travel. It is
22 very hard to understand female party because she was
23 yelling in the phone."

24 Q. Okay. Let me ask you this, are you the one that
25 actually took this call?

1 A. No.

2 Q. Okay. But your familiar with reports and know how to
3 interpret the reports, right?

4 A. Yes.

5 Q. So what is the notation of 9:37:22?

6 A. "Advised 120 Unit 9 that law enforcement is on scene."

7 Q. And then at 9:38:32?

8 A. "Male party called in to advise that there was an
9 emergency at Maplewood Apartments. He advised that
10 apartment P3."

11 Q. And then at 9:40:11?

12 A. "Per 206 notify 205.

13 Q. You know what that means?

14 A. Um, 206 is the officer that responded that was on
15 scene.

16 Q. Okay.

17 A. And 205 is normally whenever they go to this kind of
18 call it's like an investigator.

19 Q. All right. And then at 9:41:22, what notation do we
20 have?

21 A. "Call this male party back and got no answer."

22 Q. And at 9:43:47?

23 A. "Went back to listen to voice recorder to see if I
24 could get the name of the male party. It sounded like it
25 was some guy named Radio on Facebook."

1 Q. Okay. And 9:44:16, what is the remark?

2 A. "Called 205 and he advised that he has been out of
3 work for over a month."

4 Q. 9:44:29?

5 A. "Per 215 advised to call 204."

6 Q. And 9:45:88 (sic), should be your next page?

7 A. "Male party call back advised his name was James. He
8 was asked did he know the victim's name because it was hard
9 to understand the original caller and if he knew the guy
10 that had did the stabbing. He stated that he didn't know.
11 He had just pulled up and was advised to call 911."

12 Q. Okay. And what is the notation at 9:45:59, the next
13 line?

14 A. "Called 204 and advised him of this and he advised
15 that 206 has already called him and he's on the way.

16 Q. Okay. 10:11:26, what's the remark?

17 A. "130 advised per 126 to let the city know that they
18 are standing by until they get there."

19 Q. And at 10:13:27, again this is still October 1st, you
20 can read that line?

21 A. "Per 120 unit 9 called by 21 to get the times for the
22 call. Advised times for dispatch and on scene. They did not
23 advise when they were en route to the hospital or what time
24 they had arrived at the hospital."

25 Q. And at 10:48:03, what is the notation?

1 A. "Late entry. Played the IRR back again and it sounded
2 like she said the male party that did it was "Reedy All
3 Boss" on Facebook."

4 Q. And then on the last couple of lines, the parties are
5 clear from the scene?

6 A. Yes.

7 Q. Okay. And the remarks that you just read, did you
8 input any of that data yourself?

9 A. No.

10 Q. Okay. Are there a couple of individuals that would've
11 been put that information?

12 A. Yes.

13 Q. Okay. The line that you read at 10:48:03 "late entry
14 played the IRR back and it sounded like "Reedy All Boss",
15 what is IRR?

16 A. The instant recorder retrieval.

17 Q. Okay. So when the call came in it was recorded and
18 based on this notation it fair to say they went back to
19 that original recording and listen to it?

20 A. Yes.

21 Q. Okay. And then page 3 of the CAD detail, the viewed
22 activity, is that just the individuals that arrived on
23 scene?

24 A. Yes.

25 Q. Okay.

1 MS. BURCHSTEAD: Nothing further on direct.

2 THE COURT: Mr. Swilley?

3 **Cross-Examination by Mr. Swilley:**

4 Q. Ms. Clark-Jones, you know Ms. Simpson, don't you?

5 A. I know of her.

6 Q. Well, my question was you know Ms. Simpson, don't you?

7 A. No.

8 Q. All right. And you know Ms. Covington, is that
9 correct? Her sister Ann Covington?

10 A. No.

11 Q. Okay. Now, I guess, you are, I guess, what could be
12 referred to as the second-in-command over the E-911, is
13 that correct?

14 A. Correct.

15 Q. I think Sonny McRae, is ahead of it right?

16 A. Correct.

17 Q. Okay. Now, I think you been working there since April
18 26, 2001?

19 A. Correct.

20 Q. Okay. And you are -- your agency or your office,
21 rather, is tasked with maintaining these 991 calls, is that
22 correct?

23 A. That's correct.

24 Q. Okay. And your task is not only with maintaining
25 them, but your task is preserving these calls as well, is

1 that correct?

2 A. That's correct.

3 Q. And anytime that there is law enforcement interaction
4 in a situation you want to preserve these calls, is that
5 correct?

6 A. If requested.

7 Q. Okay. So -- well, let me back up, in this situation -
8 and just to clarify - in this case there was no 911 call
9 preserved, was there?

10 A. It -- well, it was held for a year. I recorder only
11 keeps it for a year.

12 Q. It was held -- your testimony is that this call is
13 held for a year?

14 A. On the instant recorder, yes.

15 Q. And then it was erased?

16 A. Correct.

17 Q. Okay. And never to be retrieved again?

18 A. Not that recorder, no.

19 Q. my question is, though, the recording of any 911 calls
20 that were made are never to be retrieved again, is that
21 correct?

22 A. That's correct.

23 Q. And that goes for all the 911 calls that were made
24 regarding this incident, is that correct?

25 A. All calls that's made over a year ago or during this

1 time.

2 Q. Okay. All calls made during this incident have been
3 erased by your report, is that correct?

4 A. Yes.

5 Q. All right. So my question to you is whose fault is it
6 that we don't have this called or any of these calls,
7 rather?

8 A. I don't know, sir.

9 Q. Okay. Now, is it your testimony that no matter what
10 kind of call it is from a murder to an alleged attempted
11 murder you don't automatically preserve those unless you're
12 told to?

13 A. Correct.

14 Q. Okay. You don't take - nobody over there takes it
15 upon themselves to make sure that calls like these don't
16 get erased, is that correct?

17 A. Correct.

18 Q. Okay. Now, I think you were not the person who
19 actually answered this, any of these 911 calls, is that
20 right?

21 A. That's correct.

22 Q. And you weren't working at the time, is that why?

23 A. I'm not sure if I was working that day.

24 Q. Okay. So would it be -- and on the remarks to the
25 left side when it says, "crichards and dwalters", would

1 those be the individuals that were answering the phone or
2 just that they were entering this information in the
3 system?

4 A. Just that the ones that were entering the information.
5 The one that created the call was "crichards." It's got it
6 on the CAD as well.

7 Q. You said by the one that created the call that's the
8 one that recorded in the system or the one that created
9 this entry in the CAD?

10 A. Created the initial entry in the CAD.

11 Q. Okay. And you don't know who answered the 911 call?

12 A. Crichards.

13 Q. Okay.

14 A. The original 911 call.

15 Q. And that's who?

16 A. "Crichards."

17 Q. All right. So she answered the phone and said, "oh,
18 this is 911 and what's your emergency?"

19 A. Correct.

20 Q. Okay. And it looks like for the -- well, when a male
21 party called in that was "dwalters" that answered that
22 call?

23 A. I -- yes, I guess.

24 Q. Well, I mean, you testified that it was "crichards"
25 that answered the call because her name is next to the

1 entry. Wouldn't it -- isn't it true that "dwalters" is the
2 one that answered the call for the male party?

3 A. Yes.

4 Q. All right. And that call was in regards to this
5 incident from a male party, is that correct?

6 A. I guess, yes.

7 Q. Is that a yes?

8 A. Yes.

9 Q. Yes, ma'am. Now -- and again, it looks like there was
10 another individual whose answering 911 calls as well during
11 this time, is that correct?

12 A. Yes.

13 Q. And that's, "sfore", f-o-r-e?

14 A. Yes.

15 Q. And that's the one that answered the phone, "a male
16 party called back and advised his name is James?"

17 A. Yes.

18 Q. Okay. And then it looks like after that there's some
19 other entries that were made by "richards and walters" as
20 well, is that correct?

21 A. Yes.

22 Q. Okay. And, Ms. Clark-Jones, the way entry is the
23 person who comes back and listens, that's an individual,
24 right?

25 A. Yes.

A. Clark-Jones- Redirect Examination by Ms. Burchstead 320

1 Q. Okay. That's a person. And those are the ones that
2 playback the recording and, in this situation that Ms.
3 Burchstead talked about, the way the entry came back looks
4 like at 10:50 and played the incident recorder retrieval
5 again at that time, right?

6 A. Yes.

7 Q. All right. And that's because it was important at the
8 time to make sure that all this, at least this CAD report
9 was correct, is that right?

10 A. Yes.

11 Q. Okay. Now, it's your testimony that nobody from law
12 enforcement told you to preserve any of these calls?

13 A. They did not request the call.

14 Q. That's -- okay. So no one asked you to preserve any
15 of these calls, is that correct?

16 A. No.

17 Q. Okay. Isn't it true to say that's not typical in
18 situations like this?

19 A. No.

20 Q. That's not typical?

21 A. It's not typical.

22 Q. Okay. Usually, for emergency such as this, you can
23 request for the calls to be preserve, right?

24 A. They request the tape, yes.

25 Q. And then you can put that tape on a disc or some sort

A. Clark-Jones- Redirect Examination by Ms. Burchstead 321
and preserve that for however long you need to?

A. Yes.

Q. Okay. And that's one calendar year that it's
preserved before it's erased?

A. That's correct.

Q. Okay. Three hundred and sixty-five days?

A. Thirty hundred and sixty-five days.

MR. SWILLEY: Thank you, Ms. Clark-Jones.

MS. BURCHSTEAD: Redirect ---

THE COURT: Ms. Burchstead?

MS. BURCHSTEAD: Okay. Thank you.

Redirect Examination by Ms. Burchstead:

Q. Just for clearing purposes, is it fair to say the
purpose of the CAD or at least one purposes of the CAD is
to document the information received from the 911 call?

A. Yes.

Q. So if we were to play a 911 call that information
presumably could be heard in a recording?

A. And reflect what's on the CAD.

Q. Have y'all gone through in changing your system at the
911 call center in the last couple of years?

A. No.

Q. Okay. And there are procedures in place not to change
the information once his input into the computer, is that
right?

1 A. That's correct.

2 MS. BURCHSTEAD: Nothing further.

3 THE COURT: Mr. Swilley?

4 MR. SWILLEY: Just briefly, judge.

5 **Re-cross Examination by Mr. Swilley:**

6 Q. Ms. Clark-Jones, this is not a transcript of the call,
7 is that correct?

8 A. It's ---

9 Q. My question is, this doesn't have every single word
10 that was said during the 911 calls, does it?

11 A. No. It just basically ---

12 Q. Summarizes it?

13 A. Yeah.

14 Q. Not -- but the calls -- and typically your department
15 doesn't record in the CAD every single word that is said in
16 the 911 calls that come in, right?

17 A. Not in the CAD detail but in the recorder it does.

18 Q. I'm talking about the CAD, it doesn't record that in
19 the CAD, right? Or else there would be no reason to have
20 the actual audio recording, right?

21 A. Right.

22 Q. All right.

23 MR. SWILLEY: Thank you.

24 THE COURT: All right. You can step down, ma'am.

25 MS. CLARK-JONES: Thank you.

1 MR. KOZAK: May she be excused from her subpoena,
2 Your Honor?

3 MR. SWILLEY: No objection.

4 THE COURT: All right. You may be excused from
5 your subpoena, Ms. Clark-Jones.

6 MR. KOZAK: Jason Turner.

7 THE CLERK: Do you solemnly swear or affirm that
8 the evidence and testimony you're about to give the court
9 and the jury on this case is the truth, the whole truth,
10 and nothing but the truth so help you God?

11 MR. TURNER: Yes, ma'am.

12 THE COURT: Have a seat in the witness box and
13 state your full name for the court.

14 MR. TURNER: My name is Jason Turner. Spelling last
15 name T-u-r-n-e-r.

16 THE COURT: I don't have to tell this witness to
17 speak up.

18 MR. KOZAK: We're good. No microphone.
19 (Whereupon, laughter in the courtroom)

20 JASON TURNER, first being
21 duly sworn, testified as follows:

22 **Direct Examination by Mr. Kozak:**

23 Q. Mr. Turner, where are you currently employed?

24 A. City of Dillon Police Department.

25 Q. And what is your current position?

1 A. I'm an investigator.

2 Q. And how long have you been employed there?

3 A. Twenty-four, a little over twenty-four years.

4 Q. And what are some of the duties and responsibilities
5 in that position?

6 A. We follow-up on reports that are filed by citizen
7 complaints. We respond to crime scenes. Processed crime
8 scenes. Collect evidence. Turn evidence over to evidence
9 custodian. We analyze data when it comes to financial type
10 cases. Just different investigative functions depending on
11 the type of complaint that's filed by the citizen.

12 Q. And what capacity were you employed on October 1,
13 2016?

14 A. I was an investigator at that time and I would've been
15 the investigator on call, the primary investigator on call
16 that weekend.

17 Q. And how did you become involved in this case?

18 A. I was called to the scene by first, by the supervisor
19 Mike Yoder, and then I was called by the 911 center also.

20 Q. And about what time in the morning do you think it
21 was?

22 A. It would've been after 9 o'clock, 8:30, 9 or 9:30, I'm
23 not exactly sure. It was - it was a Saturday morning so
24 it would've been a day I typically gotten up to be at work
25 at 8 o'clock and Saturday is the only day I get to sleep

1 late. So it would've been 8:30, 9, 9:30 that morning.

2 Q. And where were you called to?

3 A. I was called to Maplewood Apartments the P building,
4 to the P building.

5 Q. And is that in Dillon County?

6 A. It is in Dillon County.

7 Q. And what did it look like when you got there?

8 A. Well, when I arrived on scene there were patrol
9 officers on scene. The scene was roped off. I met with
10 the supervising officer and officers that were on scene. I
11 got a briefing of what they have learned prior to beginning
12 there. We discussed the next plan of action of what we
13 needed to do whether, you know, processed the scene, get
14 someone to go to the hospital to make sure the that the
15 attacker doesn't go to the hospital to try and attack the
16 victim again and just discuss the next plan of action on
17 how we would carry out processing the scene.

18 Q. Okay. And what are some of the things you did in your
19 investigation of this case?

20 A. Photos were taken, were already taken. So we had a
21 team of people come out whenever we have a major event. So
22 myself and Christian Hensley went into the actual apartment
23 P4, which we would call the primary crime scene, to try and
24 collect and preserve any evidence from inside that primary
25 crime scene. We had another officer go to the hospital,

1 like I said earlier, to standby with the victim's for
2 safety purposes and to see if there's any information they
3 can gather from them to help us. Also, while I was
4 standing outside staging and going through the crime scene,
5 I was approached that there was an individual who needed to
6 talk to me about, they needed to talk to me about the
7 event, about some information regarding what may or may not
8 have happened.

9 Q. Okay. Did you receive a call about clothing?

10 A. I did receive a call about clothing. Yes, sir.

11 Q. What, just without saying exactly what was said, what
12 -- what did the call refer to?

13 A. In the course of investigating this event, we got
14 information that there may or may not have been some
15 clothing that belonged to a possible person of interest in
16 the case in Dover Village Apartments in the trash can, in
17 the trash dumpster. We were already canvassing and working
18 the scene so while we were out we actually went over there
19 to follow up on that information.

20 Q. And did you go obtain the clothing items?

21 A. I did. I did. I went to the trash dumpster at Dover
22 Village. And when you look in the trash dumpster there was
23 a piece of clothing readily on the top surfaces of the
24 trash inside.

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

1 THE COURT: Yes, sir.

2 Q. Let's just look at the over head showing State's
3 exhibit 1, where about did you find the clothes in the
4 dumpster?

5 MR. TURNER: Can I stand?

6 THE COURT: Yes, sir. If you need to step down do
7 so.

8 A. Okay. So this is Maplewood, this is Dover Village,
9 um, this pin is actually on top of the dumpsters, if that
10 was your question.

11 Q. Mmm, hmm.

12 A. This is the dumpster. That pin is actually on top of
13 that dumpster.

14 Q. And how long after the incident did you go and recover
15 that whatever you recover from that dumpster?

16 A. It would've been in the time of the initial crimes
17 scene response somewhere between, you know, 10:30, ah, 9,
18 10, 10:30 until 1 o'clock or 2 o'clock, whatever the
19 primary time from the crime screen. Because when you're
20 working an active investigation it's not a A,B,C,D process.
21 As good or hot information comes in, you may, if your
22 fingerprinting something you may have to actually stop
23 fingerprinting something to actually go follow-up on a
24 piece of information that may be more vital in the way you
25 gage that is if it's something that could deteriorate or be

1 moved before you can finish what you're doing. That scene
2 was already preserved. We had tape around it and we had
3 officers at front and back doors. So anything inside that
4 apartment wasn't going to go anywhere. But something in
5 the dumpster could get dumped so we went while we were on
6 the primary crime scene to go over to the next department
7 complex to get it.

8 Q. And when you went to the dumpster, what did you see?

9 A. That there was a shirt inside. We found a piece of
10 clothing inside on the top surface area.

11 Q. Was it in a bag or anything?

12 A. No. It was just sitting right there.

13 Q. So it was touching all the other garbage in the
14 dumpster?

15 A. Yes, sir.

16 Q. All right. I'm gonna show you what's been marked as
17 State's Exhibit 83. State's Exhibit 83 with some gloves,
18 all right, can you tell me what's in this box?

19 A. Can I pull them out?

20 Q. Yeah.

21 A. So this would be the bag that I would've used to, this
22 is my handwriting, this would've been what I used to bag
23 this particular piece of evidence. I marked it with a case
24 number. We assigned an internal agency item number that
25 way when you look at it later on and you have a listing of

1 what you've got.

2 Q. While you are looking at it, do you know who you
3 received the call from?

4 A. I do.

5 Q. Who did you receive a call from concerning the shirt?

6 A. I got the information from Mark Vereen.

7 Q. Okay.

8 A. That's who the ---

9 Q. Who was the original caller?

10 A. Anika Sellers was the original one to call in this
11 information.

12 Q. And what is that, that you're looking at right now?

13 A. It's a black colored T-shirt with a design on the
14 front, a logo, a picture on the front.

15 Q. And is this the shirt that you recovered from the
16 dumpster?

17 A. It is, yes, sir.

18 Q. All right.

19 MR. KOZAK: At this time I'd like to move State's
20 Exhibit 83 into evidence and publish?

21 MR. SWILLEY: No objection.

22 Q. Let's hold that shirt up.

23 THE COURT: State's Exhibit 83 is admitted into
24 evidence. You may publish it to the jury.

25 (Whereupon, the Shirt has been marked and entered into

1 evidence as State's Exhibit No. 83)

2 Q. Now, once you -- so, it looks like there's cuttings in
3 the shirt, to your knowledge were those cuttings present
4 when you first recovered the shirt?

5 A. No, sir.

6 Q. Do you know what those are for?

7 A. That would've been part of the processing that sled
8 lab would've done or a lab would have done.

9 Q. When you recovered this shirt was there any damage or
10 cuts to it that you saw when you recovered?

11 A. Not that I recall.

12 Q. If they were, would you have noted it or would you
13 have put that on an incident report or something somewhere?

14 A. Yes, sir.

15 Q. All right. Now, what did you do with the shirt after
16 you recovered it?

17 A. I would've -- we carry bags in our vehicles, we
18 would've packaged it in a bag. You would not have sealed
19 it on the scene. You would've sealed it. You would've
20 folded the bag over. Secured it in a vehicle. Went back
21 to, went back to the primary crime scene and finish that
22 primary crime scene.

23 Q. Okay. Now, was this bag eventually sealed?

24 A. It was, yes, sir.

25 Q. And then where was it sent after it was sealed?

1 A. To the sled lab.

2 Q. All right. Now, did you -- were there prints
3 attempted to be taken at the scene?

4 A. There were, yes, sir.

5 Q. And did you take these prints?

6 A. I -- I was standing there -- I assisted Corporal
7 Christian Hensley. He was, he actually processed the front
8 door, the inside of the front door and - can I tell why?
9 We process the interior of the front door based on the fact
10 that the door was locked when we got there and we had to
11 unlock the door when we got in and when Ann would have run
12 out the door, she would not have stopped to turn and lock
13 the door. So in theory, we felt like it would've been good
14 evidence to swab the lock and fingerprint and see if we can
15 get whoever the potential person of interest is maybe
16 fingerprints or touched DNA.

17 Q. So when did you try and take these prints?

18 A. Immediately at the primary crime scene that morning.

19 Q. So would you document trying to attempt to take these
20 prints?

21 A. Yes, sir.

22 Q. Handing the defendant or the witness what's been
23 marked as State's Exhibit 79, what am I showing you here?

24 A. This is a crime scene sketch form that we use in
25 criminal investigations. What we do is whenever we try to

1 list something it's easier for me to show you a drawing
2 instead of saying we process the interior side of the front
3 door to the apartment in the upper left quadrant six and
4 half feet or centimeters from the top. I can show you on a
5 drawing about where we got it from. It's just -- it makes
6 the going back a lot easier to -- it's easier to look at
7 than it is to read.

8 Q. And has that been altered or edited in any way?

9 A. It has not.

10 MR. KOZAK: I'd like to move State's Exhibit 79
11 into evidence and published to the jury?

12 MR. SWILLEY: No objection.

13 THE COURT: All right. State's Number 79 is
14 admitted into evidence.

15 (Whereupon, the Diagram of Apartment From Dillon Police
16 Department has been marked and entered into evidence as
17 State's Exhibit No. 79)

18 Q. I want you hold this up and explain to the jury what
19 you did?

20 A. So this is just a rough sketch not the scale.

21 THE COURT: Hang on. Can you see very well?

22 (Whereupon, the court was talking to the jury)

23 MR. KOZAK: You can come down here.

24 A. So and I apologize I'm going to hold it like this if
25 that's okay. So this is a rough sketch not the scale.

1 What we do is we draw the interior as best we can, because
2 I'm not a artist and this is my handwriting and I
3 apologize, but fortunately there are blocks. So what we do
4 is we draw the interior side of the door and everywhere
5 that you see a mark that's where we tried to take, like
6 this here says, "swab number 23", whenever you're at the
7 scene - so let me explain how that works so to keep - when
8 you take multiples swabs and multiple fingerprints at a
9 scene, the way you keep from getting them mixed up or
10 confused is while you're on scene and while you're taking a
11 swab you actually mark the box. You mark it with the case
12 number and you mark it with an item number. You draw a
13 sketch and on that sketch you put where you made that
14 particular swab from. You'll assigned it a number. That
15 way when you get back to the office you can look at your
16 sketch. And when I look at my swab number 23 I know swab
17 number 23 came from this spot right here on the door. That
18 way if there some type of match later on in the future I
19 can say, oh, well, this match came from the lock on the
20 inside door. I'm not saying that happened I was just
21 giving you that for example. So what we draw is the
22 interior door. We drew the sliding door which would've
23 been the point of exit at the back. And it shows where we
24 tried to swab and fingerprint each one of these particular
25 areas because that would've been where the person of

1 interest would've shut the door behind, Ann leaving. And
2 also after Ms. Covington run out the person was not,
3 clearly not in the apartment when we got there and cleared
4 the apartment, so we process that point of exit out the
5 back door just to make sure if there was any touch of
6 touched DNA or fingerprint, just trying to be thorough on
7 that part.

8 Q. And what you do with the prints after you obtain them
9 from the scene or the samples, sorry?

10 A. The samples we would package them -- we take swabs,
11 they come in a protective cover, we put them in a box where
12 you can label them. Once you put them -- once you label
13 them they can air dry in that box. You put them in a paper
14 bag and you seal them to be given to the evidence custodian
15 so that you can submit them to sled for testing.

16 Q. Now, is Maplewood Apartments equipped with security
17 cameras?

18 A. It is, yes, sir.

19 Q. And did you try to obtain security footage from the
20 scene?

21 A. We did. This incident happened on Saturday morning.
22 I went back on Monday, two days later. Even to this
23 present day we have issues, there's issues that we have at
24 the apartment, at the apartment complex. There are two
25 sides to Maplewood. There's Maplewood I and Maplewood II.

1 The camera's DVR system is in the office which is by the A
2 and B building. What happens is, is guys, I say guys,
3 unknown persons will unplug the camera systems and they
4 mess up the cords so. We've had several events where we
5 try to go to Maplewood to pull video from what we call
6 Maplewood II which would be where the P building is and
7 where they connect, people will unplug the cameras.
8 There's just issues with the camera system at Maplewood.

9 Q. And so were you able to obtain any?

10 A. We were not. There were no videos for that particular
11 spot.

12 Q. And so there was a condom on the scene from the photos
13 we looked at earlier?

14 A. Yes ---

15 Q. Were ---

16 A. I'm sorry.

17 Q. Who collected that condom?

18 A. That would've been me in the master bedroom.

19 Q. And how do you go about collecting that and was it
20 sealed?

21 A. It would be, of course, you would glove up, you don't
22 touch anything without gloves. You would photograph it
23 first to show it in its original location and once it's
24 photographed in its original location then you would just
25 simply collect it and put it in a paper bag and, you know,

1 seal it so that it can be submitted to the evidence
2 custodian and then submitted to sled for potential
3 evidence.

4 Q. And in this case you are the one that did that and
5 sealed it?

6 A. Yes, sir.

7 Q. All right. Now, you received a knife from Candace in
8 this case?

9 A. I did.

10 Q. And you also received a knife from Johnny Lester?

11 A. Yes, sir.

12 Q. You are the person, in person, received both of those
13 knives?

14 A. I am for both.

15 Q. Did you -- when you received the knife from Johnny
16 Lester, the one found in the field without the handle, were
17 you able to compare that to any of Candace's knives?

18 A. Do you mean like walking to her house and compare it?

19 Q. Or just -- was there any evidence that this was a
20 knife similar to Candace's?

21 A. Just from looking at it, it appeared to be similar to
22 the knives that were at Candace's, just similar.

23 Q. Okay. And I'm going to hand you State's Exhibit 3,
24 what did I just hand you? What is that?

25 A. That is the -- the knife end of, of a knife. It is

1 the knife end of what, maybe, like a steak knife type. I
2 say steak knife, it's a -- it's one that you would use at
3 the table. It's not like one that you would use to cook
4 with or I wouldn't use it. But this is the one that was
5 brought to me by Ms. Simpson.

6 Q. And there was never a handle found for that knife,
7 correct?

8 A. There was -- no, sir.

9 Q. All right. You received another knife from Mr.
10 Lester?

11 A. Yes, sir.

12 Q. I'm approaching with State's Exhibit 4, is that the
13 knife you received from Mr. Lester?

14 A. It is, yes, sir.

15 Q. And where was that knife found once again?

16 A. This knife was found where, where Maplewood Apartments
17 in the City of Dillon Parks and Recreation meet. There's
18 an area from where, I called the home run fence where the
19 fence is in the outfield - there's probably several I don't
20 know how many feet - between the fence and the baseball
21 field where there's just a grassy area, opened area, and it
22 was in between the fence where Maplewood is to the baseball
23 diamond on the outside.

24 Q. And the knife that Candace brought you was found
25 where?

1 A. She found it.

2 Q. Mmm, hmm.

3 A. She told me she found it in her bedroom.

4 Q. Okay.

5 A. It was found in her bedroom.

6 Q. Is there any logo on the knife found inside of her?

7 A. The one that she brought has "diamond cut" logo
8 engraved in it.

9 Q. Is the one found in the field have a logo on it?

10 A. It has "diamond cut" engraved into it, into the knife
11 itself.

12 Q. Okay. All right. So one of these were found inside
13 of her house the other was found in the field?

14 A. Yes, sir.

15 Q. All right. Now, did you ever show Ms. Simpson or Ms.
16 Covington lineups?

17 A. Yes, sir.

18 Q. Now, let's just walk through, just a second, how do
19 you do a lineup?

20 A. I personally don't do them. I don't have the ability
21 to do them. So when we have the necessities for doing a
22 photo lineup there's a couple of things involved. You've
23 got time frame and you've got access to databases. So what
24 we do is we send an email to the Sled Fusion Center and
25 that's their computer center where they have access to all

1 these databases and we just simply put in a request by name
2 and date of birth for the person for which we're looking
3 for a photo lineup from and then they process it. They
4 have no knowledge of the case or what we're doing. They
5 just know we need a photo lineup with this particular
6 person in it for whatever reason. And then they email it
7 back to us. We print it out in color. And then we show it
8 to the victim or witness that we're trying to see if they
9 can identify someone in a photo lineup.

10 Q. And in this case were they both able to identify
11 anyone?

12 A. Yes, sir.

13 Q. And were you present during the identification?

14 A. I was on both with both victims.

15 Q. Now, when they identify someone do you make them mark
16 the identification in any way?

17 A. I like to do that, yes, sir. I do.

18 Q. In this case, did you have them mark the lineup?

19 A. I -- yes, sir.

20 Q. Was Candace able to mark the lineup?

21 A. So Candace was a little different because we had to go
22 to the hospital. You've got to remember she was, had all
23 these wounds on her hand so her hands were bandaged up. So
24 we did it on body cam that way we would have a record of
25 who was in the room. So we went in with a body cam and we

1 did a photo lineup and we were able to have one of her
2 family members who was present while we were on body cam
3 witness and sign it because her hands were unable to hold a
4 pen or sign.

5 Q. Okay. I'm going to approach with State's Exhibit 84,
6 85, and 86, I believe without objection?

7 MR. SWILLEY: That's correct.

8 Q. Would you tell me what these are starting with 84?

9 A. Eighty-four is a photo lineup that is unmarked with
10 six people in it.

11 Q. All right. Has this been altered or edited in any
12 way?

13 A. It does not appear to. No, sir.

14 Q. Okay.

15 MR. KOZAK: At this time I'd like to move State's
16 Exhibit 84 into evidence?

17 THE COURT: All right. State's Number 84 is
18 admitted into evidence without objection.

19 MR. KOZAK: And published to the jury.

20 (Whereupon, the Photo Lineup has been marked and entered
21 into evidence as State's Exhibit No. 84)

22 Q. So is this the lineup that you showed Candace and Ann?

23 A. It is, yes, sir.

24 Q. Okay. So you actually don't create this lineup?

25 A. I don't, no, sir.

1 Q. All right. Was this just a copy of the same ones you
2 showed them.

3 A. Yes, sir.

4 Q. Look at State's Exhibit 85, what am I showing you
5 here?

6 A. Eighty-five is a photo lineup from, we showed Ann
7 Covington. This would've been around 6:50 p.m. that same
8 afternoon October 1st. It would've been at her house on
9 Madania Drive she was, she was home by this point.

10 Q. Has it been altered or edited in any way?

11 A. It has -- when you say altered, the photo lineup
12 itself is in its original form from sled. The only
13 alterations is where we, where I hand written the witness.
14 The witness who is actually looking at the photo lineup and
15 I wrote the date and the time and I signed it. The other
16 alteration would be where we handed it to Ms. Covington and
17 she would've, she was instructed to if she -- we always
18 instruct, the person may or may not be in this photo
19 lineup, and we show them the photo lineup and when they
20 point to a photo we asked them to mark it and sign it.

21 Q. So this has not been altered or edited since she
22 identified Tyreek Hayes?

23 A. No, sir.

24 Q. Now, walk me just -- walk me through real fast the
25 language you use when you telling someone about an

1 identification?

2 A. So you got to be careful when you're doing a photo
3 lineup because you could have a good photo lineup but if
4 you use bad wording you could really be subjective with the
5 photo lineup. So you try not to suggest anything to the
6 person in which you're showing the photo lineup to. So I
7 keep my comments extremely generic but I also put an
8 exclaimer whenever I show a photo lineup that the person -
9 that the person may or may - that the person who committed
10 whatever crimes we're showing you the photo lineup for, may
11 or may not be in this photo lineup. If you see the person
12 point to it or circle the number under the person or if you
13 don't see the person don't point to anything. So we try
14 not to make it suggestive to either way.

15 Q. Okay. And did Ms. Covington make an identification in
16 this case?

17 A. She did.

18 Q. And who did she identify?

19 A. She pointed to cell number 3 which would be Mr. Tyreek
20 Hayes.

21 Q. Look at Exhibit 86 please and tell me what that is?

22 A. This would be the photo lineup that we showed Candace
23 at the hospital. This would have been at 5:55 p.m. This
24 would've been the same, which would be the same day as the
25 event. We got a family member to sign for her because she

1 couldn't sign because of her hands. We presented the same
2 photo lineup to Candace.

3 Q. Has this been altered or edited after the
4 identification in any way?

5 A. It has not.

6 MR. KOZAK: Move for State's Exhibit 86 to be
7 admitted.

8 MR. SWILLEY: No objection.

9 THE COURT: State's 86 is admitted into evidence
10 without objection.

11 (Whereupon, the Photo Lineup has been marked and entered
12 into evidence as State's Exhibit No. 86)

13 Q. And did Candace make an identification?

14 A. She did.

15 Q. And who did she identify?

16 A. She identified Mr. Tyreek Hayes as her attacker.

17 Q. And both of these identifications are on the same day
18 as the incident?

19 A. It was, yes, sir.

20 Q. All right.

21 THE COURT: Mr. Kozak, did you move number 85 in?

22 MR. KOZAK: I think I moved all three of them, Your
23 Honor. But 85 - 84, 85, and 86 all permission to move into
24 evidence.

25 THE COURT: All of them are admitted into evidence.

1 (Whereupon, the Photo Lineup has been marked and entered
2 into evidence as State's Exhibit No. 85)

3 Q. Have you investigated a lot of knife attacks?

4 A. Sadly, in almost twenty-five years, I have.

5 Q. Is it often for a person who was attacked with a knife
6 to have no damage to the clothing they're wearing in your
7 experience?

8 A. I'll have to say, no, because the actual concept of
9 being cut with a knife in order for it to break the skin
10 it's got to break the clothes to get to it so....

11 Q. Okay. And were you present when the defendant was
12 arrested on these charges?

13 A. I was, yes, sir.

14 Q. And did you have a chance to examine him for injuries?

15 A. I did.

16 Q. And did he say he had any injuries on his body?

17 A. He showed me a place on his hand or arm, you know, hand
18 and arm.

19 Q. Approaching with what's been marked as State's Exhibit
20 87, can you tell me what that is?

21 A. This is a body cam still shot of Mr. Hayes' hand and
22 wrist area where he said he had a mark.

23 Q. Now, in your experience -- first of all, how long
24 after the incident did this examination take place?

25 A. This would've been, the incident happened October 1st

1 which was a Saturday. This would've been Sunday, October
2 2nd right around lunchtime, around 12 o'clock. So roughly
3 twenty-four hours from the event, the actual event, the day
4 before.

5 Q. Did the injury he showed you look fresh?

6 A. It didn't.

7 MR. KOZAK: I'd like to move what's been marked as
8 State's Exhibit 87 into evidence and published to the jury.

9 MR. SWILLEY: No objection.

10 THE COURT: All right. State's Number 87 is
11 admitted into evidence.

12 (Whereupon, the Photo has been marked and entered into
13 evidence as State's Exhibit No. 87)

14 Q. So after, after - when he was being arrested he
15 showed you one injury?

16 A. Yes, sir.

17 Q. And this was it?

18 A. Yes, sir.

19 MR. KOZAK: I beg the Court's indulgence, Your
20 Honor.

21 THE COURT: Yes, sir.

22 Q. So Candace said her son found that knife in the
23 bedroom, why would you guys not find that knife in the
24 bedroom?

25 A. So when we process the primary scene in the master

1 bedroom where you saw the photos earlier, we didn't move
2 any furniture. We didn't move anything out of place. When
3 you examine the scene as it is, the closest thing that I
4 can say to that would be at one point after, of course, the
5 condom and everything that was on the floor beside the bed
6 was collected and move. There's a point in time where I
7 actually lay on the floor to pan and see if there's
8 anything under the dressers and the night stand and I
9 didn't see anything. And based on where she found it I
10 would not have seen it. But we did not move any furniture
11 out from the wall or behind anything to search for
12 evidence. Everything was immediately right there in the
13 spot. There was nothing to suggest to do it either.

14 Q. Based on your investigation, was there any evidence
15 that someone else did this attack?

16 A. No, sir.

17 MR. SWILLEY: Objection, Your Honor.

18 THE COURT: State the question again?

19 Q. Based on your investigation, was there any evidence
20 that someone else did the attack?

21 THE COURT: He can answer that. It's his
22 investigation. He can tell what his result are. I'll
23 overrule the objection. You can answer the question.

24 A. No one else.

25 MR. KOZAK: No further questions, Your Honor.

1 THE COURT: Let's take a short break right now at
2 this point before we do cross examination for about five or
3 ten minutes. Just long enough to go to the restroom and
4 we'll bring you right back out. Everybody remain seated
5 while the jury goes out. Again, do not discuss the case
6 while you are in the jury room or with anyone else.

7 (Whereupon, the jury exits the courtroom at 4:36 p.m.)

8 THE COURT: All right. Mr. Turner, while we are on
9 break you can not discuss with anyone your testimony or
10 what you may anticipate will be on cross-examination. So
11 don't talk to Mr. Kozak and don't talk to Ms. Burchstead,
12 okay?

13 MR. TURNER: Yes, sir.

14 THE COURT: Or anybody else for that matter.

15 MR. TURNER: Yes, sir.

16 THE COURT: Okay. All right. We'll take a very
17 quick break.

18 (Whereupon, the court takes a short break)

19 (Whereupon, a bench conference was held off the record)

20 (Whereupon, the court goes back on the record at 4:50 p.m.)

21 THE COURT: All right. Mr. Kozak?

22 MR. KOZAK: As we just stated earlier Exhibit
23 Number 78 has already been marked and it's when Lorie Tyler
24 was on the stand, we were trying to find a copy of, the
25 hardcopy that we moved in electronically's Exhibit 80.

1 It's actually already been moved in as Exhibit 78 without,
2 without objection. There is no 80, no State's 80 any where
3 in evidence yet. So that number can be used for the next
4 piece of evidence moved in.

5 THE COURT: All right. So that is actually Exhibit
6 78?

7 MR. KOZAK: Yes, sir.

8 THE COURT: Okay.

9 MR. KOZAK: And also there was some confusion, I
10 spoke to the court reporter earlier, on whether State's
11 Exhibit 3 has actually been moved into evidence, she has a
12 question mark, we would like to formally move that in when
13 the jury walks back in.

14 MR. SWILLEY: What's 3?

15 MR. KOZAK: The knife ---

16 MS. BURCHSTEAD: Handle.

17 MR. KOZAK: --- handle.

18 MR. SWILLEY: Okay. That's fine.

19 THE COURT: All right.

20 MR. KOZAK: And if we need to move it in front of
21 the jury that's fine or we could just move it in now. It's
22 quicker for ---

23 THE COURT: We'll do it when the jury comes back
24 in.

25 MR. KOZAK: Okay.

1 THE COURT: All right. Let's bring the jury in.
2 (Whereupon, the jury enters the courtroom at 4:52 p.m.)

3 THE COURT: Mr. Kozak?

4 MR. KOZAK: At this time there was some confusion
5 on whether State's Exhibit 3 was ever moved into evidence
6 formally. At this time we'd like to move states Exhibit 3
7 as evidence.

8 MR. SWILLEY: No objection.

9 THE COURT: All right. State's Number 3 is
10 admitted into evidence.

11 (Whereupon, the Knife Blade has been marked and entered
12 into evidence as State's Exhibit No. 3)

13 MR. KOZAK: Thank you, Your Honor.

14 THE COURT: Mr. Swilley, you may conduct your cross
15 examination.

16 **Cross-Examination by Mr. Swilley:**

17 Q. Now, Investigator Turner just to clarify, you were the
18 lead investigator in this case, right?

19 A. Yes, sir.

20 Q. I think I guess you were the only investigator at the
21 time involved in this case, right?

22 A. Yes, sir.

23 Q. That means you're in charge of the investigation?

24 A. Yes, sir.

25 Q. Now, just to go over your duties and I think you

1 glossed over them on direct. You, as the investigator,
2 it's your -- there are several things that have to be done
3 throughout the investigation, that's correct?

4 A. Yes, sir.

5 Q. And you have to make sure the evidence gets gathered
6 correctly, right?

7 A. Yes, sir.

8 Q. And you have to make sure everything gets -- it gets
9 down to sled that needs to get down to sled, right?

10 A. Yes, sir.

11 Q. To make sure that all relevant interviews are
12 conducted, right?

13 A. Yes, sir.

14 Q. Okay. And you gotta make sure you follow up on all
15 leads, right?

16 A. Yes, sir.

17 Q. And make sure you procure any relevant evidence,
18 right?

19 A. Yes, sir.

20 Q. Like the 911 recording?

21 A. Yes, sir.

22 Q. Okay. And in this case, also as the lead
23 investigator, you're basically the supervise and authority
24 over this case, right?

25 A. Yes, sir.

1 Q. And you went, as like an investigator, to the Criminal
2 Justice Academy as well, right?

3 A. Yes, sir.

4 Q. And on the job, right?

5 A. Yes, sir.

6 Q. For twenty-five years?

7 A. Yes, sir.

8 Q. All right. And at the Academy, initially, when you
9 went you learn how to create incident reports too, right?

10 A. Yes, sir.

11 Q. And like we talked about with Investigator Tyler the
12 gotta be truthful, right?

13 A. Yes, sir.

14 Q. They gotta be detailed, right?

15 A. Yes, sir.

16 Q. They have to be precise, right?

17 A. Yes, sir.

18 Q. And it has to be complete, right?

19 A. Yes, sir.

20 Q. And that so that you can recall what you did, correct?

21 A. Yes, sir.

22 Q. And that's so you can recall also what happened,
23 right?

24 A. Yes, sir.

25 Q. And that's so that the prosecutors can know what's

1 going on as well, right?

2 A. Yes, sir.

3 Q. Okay. Wouldn't want anything in there that's not
4 true, right?

5 A. Yeah. Right. Yes, sir.

6 Q. And you wouldn't want anything in there that's not
7 complete, correct?

8 A. Yes, sir.

9 Q. Okay. And in this case you did, you did create
10 several pages of supplemental incident reports to the
11 original that Ms. Tyler produced, right?

12 A. Yes, sir.

13 Q. Okay. And that outlined what you did, right?

14 A. Yeah, yes, sir.

15 Q. And what you saw, correct?

16 A. Yes, sir.

17 Q. And what evidence you collected, is that correct?

18 A. Yes, sir.

19 Q. Okay. And throughout, you know, the case even after
20 the arrest was made, you still, you still came out with
21 subsequent supplemental reports, right?

22 A. Yes, sir.

23 Q. Okay. So it's true and accurate to say, you know,
24 once the arrest is made you're not, you're not done, right?

25 A. No, sir.

1 Q. You still got work to do sometimes?

2 A. Actually, we always teach the paperwork. That's when
3 the paperwork actually starts once the arrest is made.

4 Q. Right.

5 A. Yes, sir.

6 Q. And you made, like I said, you made sub, throughout
7 the coming months and even over a year later, you made some
8 other subsequent incident reports as well, right?

9 A. Yes, sir.

10 Q. Right. True to say we can agree that you don't stop
11 investigating until the case is over, right?

12 A. Yes, sir. You're right. That's right.

13 Q. Now, Investigator Turner, you're convinced that in
14 this particular case, you know, you did -- these incident
15 reports, excuse me, they were everything they were supposed
16 to be, detailed, accurate, precise, and complete, right?

17

18 A. Yes, sir.

19 Q. And you submitted everything to sled that you needed
20 to submit, correct?

21 A. Yes, sir.

22 Q. Okay. During the time, it looks like you were
23 conducting your investigation you went into Elaine
24 Manning's house, is that right?

25 A. I did go. Yes, sir, I did.

1 Q. And based upon your report I believe you took into
2 evidence, a kitchen knife in her house, is that correct?

3 A. A Paula Dean kitchen knife, yes, sir.

4 Q. A Paula Dean kitchen knife.

5 A. Yes, sir.

6 Q. And that was laying next to some blood, is that
7 correct?

8 A. Yes, sir.

9 Q. And you took that into evidence at the Dillon Police
10 Department?

11 A. I -- yes, sir.

12 Q. All right. And I think that was marked as item number
13 30?

14 A. Thirty, 30 sounds right. Yes, sir.

15 Q. Right. And that was actually, I guess, the third, if
16 you count the blade that Candace brought to you a week
17 later, that's actually the third knife that was collected
18 in the investigation of this case, right?

19 A. Yes, sir.

20 Q. Now, that knife, number 30, that was never sent to
21 sled, was it?

22 A. No, sir.

23 Q. Okay. The knife that -- well, I'll point to it, I'm
24 pointing to State's Exhibit Number, looks like number 3,
25 the knife blade that was sent to sled, wasn't it?

1 A. Yes, sir.

2 Q. And the knife that, whose gentleman's name I can't
3 recall found at the field, that was sent to sled too,
4 wasn't it?

5 A. Yes, sir.

6 Q. All right. Based on your information those were
7 analyzed by the sled technician, is that right?

8 A. Yes, sir.

9 Q. Okay. And going back to the interviews that were
10 recorded, you were present for the interview that was
11 recorded of Candace Simpson, right, at the hospital?

12 A. I was not. I was on scene. That would've been ---

13 Q. The interview that I am referring to is the interview
14 that was recorded on Officer Tyler's body cam?

15 A. Oh, yes, sir. Yes, sir. I'm sorry.

16 Q. And I think you were also -- well, you weren't present
17 for the interview with Ann Covington that was supposed to
18 be recorded, is that correct?

19 A. I was not, no, sir.

20 Q. That's when you were on the scene, right?

21 A. Yes, sir, I was on the scene. Yes, sir.

22 Q. And I think you found out later that, that interview
23 was actually not recorded because of the battery issue?

24 A. We had -- we were having issues with the L3 camera
25 system that we're using, yes, sir.

1 Q. Okay. And no one ever went back to try to re-record
2 an interview with Ms. Covington, did they?

3 A. Not to my knowledge. No, sir.

4 Q. Okay. And also there was never an interview recorded
5 with Elaine Manning, was there?

6 A. No, sir.

7 Q. Okay.

8 A. Not by me. No, sir.

9 Q. Okay. To your knowledge at all?

10 A. Unless, it was on body cam at the initial response
11 there would've been -- but when you say interview if you're
12 talking about a formal sit down interview, no, sir. The
13 answer to that question is no.

14 Q. Okay. And Ms. Manning is the actual occupant of the
15 P3, the neighbor, right?

16 A. She is.

17 Q. Okay. And you never went and spoke with anybody in
18 apartment P2, did you?

19 A. No, sir.

20 Q. Okay. And I think that based on your report you
21 didn't, you weren't able to get to the E-911 center within
22 a year to get the recordings, is that correct?

23 A. Yes, sir, that's right.

24 Q. Okay. However, you were able to obtain the CAD
25 report, weren't you?

1 A. Yes, sir.

2 Q. And you read through the CAD reports, didn't you?

3 A. Yes, sir.

4 Q. Okay. And when you read the CAD report after that you
5 didn't interview anybody else, did you?

6 A. Um, it's kind of an open-ended question.

7 Q. I'll -- I'll -- I'll try to break it down. You didn't
8 interview any of the individuals that were mentioned in
9 that CAD report, did you?

10 A. No, sir. No, sir.

11 Q. All right. And without telling me what was said, you
12 interviewed Mr. Hayes, right?

13 A. We did. I did. Yes, sir.

14 Q. All right. And that Sunday you mention you met with
15 Mr. Hayes, he voluntarily came to the Dillon Police
16 Department, didn't he?

17 A. He did.

18 Q. Right. Well, I guess, he was brought up there. He
19 had somebody drive him.

20 A. Yes, sir, you're right. He was brought up.

21 Q. Okay. And that was around noon time, is that correct?

22 A. Yes, sir.

23 Q. All right. And he sat down with you, is that correct

24 A. Yes, sir.

25 Q. Again, without telling me what was said, he spoke with

1 you, is that correct?

2 A. He did, yes, sir.

3 Q. Okay. He didn't terminate the interview, did he?

4

5 A. He did not terminate the interview.

6 Q. You terminated that interview when you were finished?

7 A. I did, yes, sir.

8 Q. He didn't ask for an attorney, did he?

9 A. He did not ask for an attorney.

10 Q. I think that interview lasted about twenty minutes, is
11 that correct?

12 A. That's about right. Yes, sir.

13 Q. Okay. And during that time -- let me go back -- let
14 me go back to some of these forms. You had several forms,
15 whole pages documenting each item that was taken into
16 custody, right?

17 A. Yes, sir.

18 Q. And that was to make sure, you know, they were
19 documented and you knew what was what and what corresponded
20 to what, is that correct?

21 A. Yes, sir.

22 Q. All right. And agree you're pretty organized in your
23 investigation in this case?

24 A. I feel like I am. But you can always go back and look
25 and I'm always very critical of my own work so. I would

1 say yes it's good but when you go back and look at it I
2 promise you I can find ten flaws in it.

3 Q. Yes, sir.

4 A. That I could've done better for the next time.

5 Q. Yes, sir.

6 Q. I think -- and during the interview with Tyreek you
7 told Tyreek that you would follow up on his side of the
8 story, is that correct?

9 A. Yes, sir.

10 Q. Okay. And you had already -- and then you served an
11 arrest warrant on him at that time, is that correct?

12 A. Yes, sir.

13 Q. Okay. And after you interviewed Tyreek you didn't go
14 back and re-interviewed Ms. Simpson or Ms. Covington again,
15 did you?

16 A. No, sir.

17 Q. Okay. And I don't think, as far as -- correct me if
18 I'm wrong, but I don't think after you -- I think Tyreek
19 was the last interview, formal interview you conducted, is
20 that right?

21 A. Yes, sir.

22 Q. Okay. I think you communicated to Tyreek that you
23 were gonna go back and speak with them about what he spoke
24 with you about?

25 A. Yes, sir.

1 Q. Okay. And you made sure that all of these latent
2 lifts that were lifted from the scene of the, I think it
3 was apartment P4 Ms. Covington's apartment, you made sure
4 those got to sled, right?

5 A. Yes, sir.

6 Q. Okay. And I think there were also some items
7 pertaining DNA that you made sure got to sled too as well,
8 right?

9 A. Yes, sir.

10 Q. Okay. And you conducted these lineups -- the photo
11 lineups that Mr. Kozak threw into evidence earlier, you
12 felt that they were necessary, is that correct?

13 A. Yes, sir.

14 Q. Okay. And that was because, it was your understanding
15 that they, that these women didn't know this individual, is
16 that correct?

17 A. That's not really a yes or no -- I'm leery whenever a
18 witness tells me a name or a nickname. I like to have -- I
19 don't want to arrest the wrong person, does that make
20 sense?

21 Q. Yes, sir.

22 A. So if someone gives a nickname or even if they give a
23 nickname and a real name or part of a real name, even if
24 they described him to a 't', their family members and they
25 can describe it to a point where I can say that they know

1 who John Doe is even though they might not know John Doe's
2 full name, I prefer to do a photo lineup because I just
3 don't want to arrest the wrong person ---

4 Q. Okay.

5 A. --- based on a nickname or a partial name.

6 Q. Okay. And just to clarify, so it was your
7 understanding at the time that neither one -- based on your
8 investigation, it is your understanding at the time that
9 neither one of these women knew Tyreek Hayes' real name?

10 A. Right. Yes, sir.

11 Q. That's what they told you?

12 A. Yes, sir.

13 Q. And I think you conducted -- before you conducted an
14 interview with Ms. Simpson you conducted an interview with
15 Tanya Moore, is that correct?

16 A. Yes, sir.

17 Q. I don't think you conducted any other interviews with
18 anybody else in that vehicle other than Ms. Moore?

19 A. No, sir.

20 Q. Okay. I think the last question Mr. Kozak ask you, is
21 based on your investigation you didn't find any evidence
22 anybody committed this act, did you? Excuse me, I think
23 the last question that Mr. Kozak ask you, is based on your
24 investigation there's no other evidence that anybody else
25 committed this act, is that correct?

1 A. Yes, sir, that was the question.

2 Q. Okay. And after you spoke with Mr. Hayes, you didn't
3 interview anybody else, is that right?

4 A. Yes, sir.

5 Q. And just to clarify, Investigator Turner, what you
6 told Mr. Hayes was that you were going to go back and put
7 Candace and Ann on the spot about it and see what they had
8 to say?

9 A. Yes, sir.

10 Q. Okay. And that didn't transpire, did it?

11 A. I'm sorry, say ---

12 Q. That didn't -- that didn't happen, did it?

13 A. I did go back and talk but there was not an interview.

14 Q. Okay.

15 A. If you're -- it was not on camera.

16 Q. Okay. You did go back and speak with them about your
17 interview with Mr. Hayes?

18 A. I asked them if there was any -- I went back and asked
19 them was there anybody else in the apartment or was there
20 anything else that I didn't know that I needed to know
21 about and they said no.

22 Q. Okay. And that was not documented in any of your many
23 supplementals?

24 A. No, sir.

25 Q. Okay. And there was nothing preventing you from

1 documenting that in your supplementals, was there?

2 A. No, sir.

3 MR. SWILLEY: Thank you, Investigator Turner.

4 THE COURT: Mr. Kozak?

5 **Redirect Examination by Mr. Kozak:**

6 Q. So the third knife that was found in Elaine Manning's
7 apartment, why did you send that for testing?

8 A. The Paula Dean knife ---

9 Q. Yes.

10 A. --- item 30? So you've got to go back to the October
11 1, 2016, we didn't have any information. When you work a
12 scene although people talk and say things you've got to
13 examine the evidence as it is. In Elaine Manning's
14 apartment P3, where when you looked at the photos and I
15 don't know what number it is, but you saw a photo of a
16 chair where the, where Candace would've been sitting in,
17 there was blood in the kitchen behind it. There was a
18 counter. On that counter, apparently, whether she touched
19 it or braced on it or what, but that Paula Dean knife was
20 there and there was blood on it. And at the time, you've
21 got to remember this was the initial response, the
22 ambulance was either on the way to the hospital with them
23 or had just got there, it would've been as soon as I got
24 there I collected it not knowing. I even told Ms. Manning
25 because she got really upset with me because I took her

1 Paula Dean knife. She really did not want me to take the
2 knife. She said it had nothing to do with it. But at the
3 time I didn't know if it had any significant so I took it
4 under the promise that as soon as the case completed and
5 the State would allow me I would give her, her Paula Dean
6 knife back. That's why I know it's a Paula Dean knife
7 because it's a Paula Dean knife.

8 Q. So it's your understanding that, that knife was Elaine
9 Manning's?

10 A. Yes, sir.

11 Q. And it was found in Elaine Manning's apartment?

12 A. Yes, sir.

13 Q. That knife, from your understanding, was never in P4?

14 A. It was not from my understanding.

15 Q. Okay. Now, in this case did you do any buccal swabs?

16 A. I did. Yes, sir.

17 Q. Who did you do buccal swabs on?

18 A. We did -- I know, Mr. Hayes gave me one and we got
19 some from the victims for elimination purposes.

20 Q. Okay. And what is a buccal swab?

21 A. So when we talked about touched DNA earlier so the way
22 labs process now they like for you to have what's called
23 elimination standards. So when you work a scene anyone in
24 that apartment that could've possibly touched the place or
25 could or should have been in there you have to submit

1 what's called a non-standard for the victim or anyone who
2 is known inside the location. In this particular case, you
3 know, you would have Ms. Candace Simpson and Ms. Ann, they
4 needed elimination standards and that's why we actually got
5 one for Mr. Hayes also to see if any of the DNA would've
6 been his or would not have been his for known standards.

7 Q. And after you take these swabs what do you do with
8 them?

9 A. So we package them just like we do a touched DNA swab,
10 you package them. You put them in -- they come in a --
11 buccal swabs are a little different. We buy kits, buccal
12 swab kits. It comes with its own box. It's in a pre-heat
13 sealed package so we break the seal in front of you. It
14 comes with its own gloves. We glove up. We swab the
15 inside of your cheek because all you need is inner cheeks,
16 we refer to it as an inner cheek swab, we take it and we
17 swab it. We cap it. We put it in a box. We label it. We
18 seal it right in front of you. That way there's no issue
19 of us playing around with your DNA.

20 Q. Okay. And after you spoke with the defendant, what
21 was -- what did you do at the end of that time?

22 A. The day of the arrest, is that day you're talking
23 about?

24 Q. Yeah. What did you do after speaking with him?

25 A. It was -- he was taken -- a warrant was served on him

1 and he was taken to jail.

2 Q. Thank you.

3 MR. KOZAK: No further questions.

4 THE COURT: Mr. Swilley?

5 MR. SWILLEY: Just a couple of follow-ups.

6 MR. TURNER: Yes, sir.

7 **Re-cross Examination by Mr. Swilley:**

8 Q. All right. Investigator Turner, I think you mentioned
9 those buccal swabs, Mr. Hayes voluntarily gave you a swab,
10 right?

11 A. Yes, sir.

12 Q. And you didn't have to go through that process of
13 getting a court order for it, did you?

14 A. No, sir. He was cooperative and willing.

15 Q. I think he gave it to you in two different occasions,
16 didn't he?

17 A. Two different occasions, yes, sir.

18 Q. Okay.

19 MR. SWILLEY: And I think that's all I have.

20 THE COURT: Okay. All right. Mr. Turner, you can
21 step down. Thank you, sir.

22 MR. TURNER: Thank you.

23 THE COURT: All right, ladies and gentlemen, we're
24 going to stop here for the evening. If we were to take
25 another witness it'd take us somewhat past 5:30 and I don't

1 want to try to do that if we don't have to. We will resume
2 tomorrow morning at 9:30 like we did this morning. So if
3 you'll be back in the jury room around 9:15 or so will try
4 to start promptly at 9:30 tomorrow morning. Again, I
5 caution you about discussing the case as you going back and
6 forth out of the jury room and discussing it with anybody
7 at home at tonight. Again, I caution you about trying to
8 do any research or anything concerning any of the issues
9 that have been raised here today or any old reports that
10 may have been published at some point in time. Just go
11 home. Have a good evening. Rest. And be ready to come
12 back tomorrow morning. Remain seated as the jury goes out.
13 (Whereupon, the jury exits the courtroom at 5:13 p.m.)

14 THE COURT: All right. Counsel, any matters that
15 we need to take up tonight?

16 MS. BURCHSTEAD: Not from the State.

17 MR. SWILLEY: No, Your Honor.

18 THE COURT: All right. Let's let the jury clear
19 out and then everybody will be excused for the evening.

20 MS. BURCHSTEAD: Yes, sir.

21 THE COURT: All right. I think the jurors have
22 cleared so everybody is welcome to leave.

23 MS. BURCHSTEAD: Thank you.

24 MR. SWILLEY: Thank you, judge.

25 (Whereupon, court is adjured for the day at 5:15 p.m.)

Thursday, July 25, 2019

(WHEREAS, this matter was scheduled for a trial, all parties appeared along with their counsels of record. The proceedings began at 9:38 a.m.)

THE COURT: Is the State ready?

MS. BURCHSTEAD: Yes, Your Honor.

MR. SWILLEY: Is the defendant ready?

MR. SWILLEY: We are, judge.

THE COURT: All right. Bring in the jury.

MS. BURCHSTEAD: I'm sorry, judge ---

THE COURT: Whoa! Whoa!

MS. BURCHSTEAD: I'm sorry, judge.

THE COURT: Wait a minute.

MS. BURCHSTEAD: We're ready but we do need to put a few things on the record real quick.

THE COURT: Okay.

MS. BURCHSTEAD: First we were intending to call Officer Cook and also through sled, establish chain of custody, it is my understand the defense is willing to stipulate to chain at this time. Additionally, there is a toxicology report from sled that I believe they're willing to stipulate to as well. We would just have that published by one of the witnesses on the stand this morning.

1 MR. SWILLEY: That's fine.

2 THE COURT: All right.

3 MR. SWILLEY: I don't have an issue with that.

4 That's correct.

5 THE COURT: Okay. All right.

6 MS. BURCHSTEAD: Thank you, judge.

7 THE COURT: Thank you.

8 MR. KOZAK: At this time can Jeffrey Cook be
9 released from his subpoena so he can sit in the courtroom?

10 MR. SWILLEY: That's Officer Cook?

11 MR. KOZAK: Yeah.

12 MR. SWILLEY: I don't any have a problem with that.

13 THE COURT: All right. He may be excused. Thank
14 you, sir.

15 MS. BURCHSTEAD: Thanks, judge. Now, we're ready.

16 THE COURT: Bring them in.

17 (Whereupon, the jury enters the courtroom at 9:40 a.m.)

18 THE COURT: All right. Good morning, ladies and
19 gentlemen.

20 (Whereupon, the jury greets the judge)

21 THE COURT: I hope y'all had a good evening last
22 night and rested for the day. All right. The State may
23 call it's next witness.

24 MR. KOZAK: The State call Thomas Darnell with
25 sled. I believe they've stepped outside to grab him.

1 THE CLERK: Good morning.

2 MR. DARNELL: Good morning.

3 THE CLERK: Place your left hand on the Bible and
4 raise your right hand. Do you solemnly swear or affirm
5 that the evidence and testimony you're about to give the
6 court and the jury on this case is the truth, the whole
7 truth, and nothing but the truth so help you God?

8 MR. DARNELL: I do.

9 THE CLERK: Be seated in the witness box. State
10 your full name for the court, spelling your last please,
11 sir.

12 MR. DARNELL: My name is Thomas Edward Darnell. It's
13 spelled D-a-r-n-e-l-l.

14 THE COURT: Mr. Darnell, we don't have the use of
15 the sound system. You've got a good voice it sounds like
16 so I'm gonna ask you speak loudly and clearly. Please
17 answer the questions with yes or no response. And if
18 somebody makes an objection, you've probably testified
19 before you know to stop and wait for the objection to made,
20 don't answer the question.

21 MR. DARNELL: Yes, sir.

22 THE COURT: All right. Thank you. Mr. Kozak?

23 THOMAS DARNELL, first being
24 duly sworn, testified as follows:

25 **Direct Examination by Mr. Kozak:**

1 Q. Mr. Darnell, where are you currently employed?

2 A. I work at sled, the State Law Enforcement Division in
3 Columbia, South Carolina.

4 Q. And what is your current position there?

5 A. I am a latent print or a forensic examiner in the
6 crime laboratory.

7 Q. For how long have you been working at sled?

8 A. A total of twenty-five years or so. Eight, actually,
9 eight years prior to that at the sheriff's, at the sheriff
10 department in Columbia, but about twenty-fives years total
11 at sled.

12 Q. And have you always been a latent prints expert?

13 A. Well, when I was at the sheriff's department for eight
14 years in Richland County I was not in forensics but I
15 started at sled in 1990. I am -- my time has pretty much
16 been spent in that area of latent print in forensic work.

17 Q. All right. And what's your educational background?

18 A. I have a Bachelor of Science Degree in Criminal
19 Justice from the University of South Carolina where I
20 graduated in 1982. I started at sled in 1990 and I
21 completed in-house training at sled that was monitor by
22 court trained and trained professionals in that, in the
23 field of latent prints in forensic science. I've attended
24 a number of courses in state as well as out-of-state that
25 deals with latent print work, forensic work crime scene

1 type work. In addition to all of the in-house or the in-
2 house in the state and the out-of-state training at
3 different academies, I've also trained at the FBI Academy
4 in Quantico, Virginia.

5 Q. Now, are there any certifications that go into this?

6 A. There are your certifications. I have -- I have taken
7 a number of competency test at sled and we also have to
8 take annual test for proficiency to demonstrate that you
9 are certified and that you are competent in the field of
10 latent prints.

11 Q. All right. And is there any continuing education for
12 ---

13 A. Yes, sir. Yes, sir. There are lots of opportunities
14 to further your knowledge, you know, sometimes the
15 different processes and different techniques might change
16 somewhat so we have to keep up with that. We're actually
17 expected to.

18 Q. Have you ever testified in court?

19 A. Yes, I have.

20 Q. About how many times?

21 A. Probably around hundred and forty, hundred and fifty
22 times all over the state. I've been out-of-state as well,
23 but primarily in state.

24 Q. And what do you usually qualify as?

25 A. Normally, it's in the field of latent print analysis.

1 Latent print, it has to deal with latent print processing,
2 latent print comparisons and also anything to do with crime
3 scene. But primarily in the field of latent print
4 processing and analysis.

5 MR. KOZAK: At this time we'd like to offer him as
6 an expert in latent prints?

7 MR. SWILLEY: No objection to that.

8 THE COURT: All right. I find him to be qualified
9 as an expert in the field of latent prints.

10 Q. Mr. Darnell, how did you become involved in this case?

11 A. I received some evidence in our department back in
12 2017 or the first part of 2017. As part of our job we
13 receive evidence from outside departments and we're asked
14 to perform certain test to determine if we can develop any
15 prints or any other types of evidence. So I was asked to
16 process this evidence for Dillon Police Department.

17 Q. Okay. And, I guess, what is a latent print?

18 A. Well, the word latent means "hidden or invisible" so
19 you have to, you have to do some sort of processing or
20 development to try to enhance it but, you know, we all have
21 fingerprints. We all have those areas of skin on our
22 fingers that form different patterns. And a latent print
23 is what is a result of perspiration that comes out of your
24 pores in your skin. Whenever you touch an item you may or
25 may not leave an impression depending on several different

1 factors. But the word latent actually means "hidden or
2 invisible" so I have to develop so that I can be able to
3 see it.

4 Q. Now, you said may or may not leave a print, will you
5 elaborate a little bit of why you may not leave a print?

6 A. Yeah. You know, unlike on a television shows that we
7 all like to watch, you know, where they always seem to get
8 fingerprints, in the real world that just doesn't, that
9 just doesn't always happen. And the reason for that is, is
10 that you have to consider how someone perspired first of
11 all. We all perspired differently. You have to consider
12 the time of year. Obviously, this time of year when it's
13 hot and humid outside most of us tend to perspire
14 profusely. You also have to consider the surface that's
15 touched, whether the surface is contaminated with something
16 or, and you also have to consider how you touch something
17 and how long you might touch something. You know, for
18 example, if I'm touching a doorknob and someone, you know,
19 and the doorknob is something that's always used to open a
20 door for most cases, someone could come behind me and open
21 the same door, using the same door and they can damage or
22 cause the print that I might have left behind, they can
23 actually damage that print. So latent prints are very
24 fragile. They don't stay around forever. But they're just
25 lots of variables that go into place. And just to

1 summarize, basically, the type, the amount of perspiration
2 that you might have coming out of your hands, the condition
3 of the surface, and how you handle something. All those
4 factors come into play when it determines if you can leave
5 a print or not.

6 Q. Are there certain surfaces that are better for prints?

7 A. Ideally, nice cleans smooth surface in most cases
8 tends to lend the best results. Not always, but that's
9 typically, that would be the ultimate surface versus
10 something that's corrugated or textured or not smooth. So,
11 basically, a smooth surface would be considered the best
12 surface.

13 Q. All right. And what is the process for pulling a
14 print?

15 A. Well, it just depends on what type of evidence you're
16 examining. If it -- if the item, if the surface is what we
17 call non-coarse which means, you know, for example: like
18 this counter on this witness stand is considered non-porous
19 versus porous would be like paper, you know, things that
20 actually absorb the moisture. If it's non-porous we use
21 several different processes one of which would be super
22 glue. We fume super glue and then it creates a vapor that
23 would adhere to any moisture that might be on the surface.
24 We can use black powders. We can use different, we have
25 different dye stains that we use. We have light sources

1 that we use. If it's a porous surface such as paper we
2 could use different chemicals that would develop prints and
3 normally when you're processing paper, for example, it's
4 reacting with acids in your perspiration. So there's
5 different processes that we use depending on, it just
6 depends on the type of object that we're processing.

7 Q. Now, once you received a print that's been developed,
8 I guess for lack of a better word, how do you examine that?

9 A. Well, quite often, as in this case, I mean, there were
10 some, you know, I received some items that I was asked to
11 process and then also received some items that had already
12 been processed by Dillon Police Department. And I was
13 asked to look at these areas of prints to determine if,
14 first of all, are they of value? You know, does it have
15 sufficient clarity? Does it have the ridges or the points
16 or just the overall clarity, does it have the sufficient
17 clarity that I need to compare with someone. And once I
18 determined that it's of no value, what that means is, is
19 that the print that I'm looking at is no value. I can't
20 compare it to anyone, you know, ever because the print it's
21 just not there. If the print is of value and I have a
22 sufficient amount of clarity then I can go further and I
23 can actually compared it to an individual to see if I can
24 determine which person might've left the certain print.

25 Q. So what goes into you comparing? What are you looking

1 for?

2 A. Well, when I'm comparing I'm looking for the detail
3 within the print. You know, there's three basic patterns
4 that we consider. We all have those, you know, we might
5 have similar patterns but we don't have, we don't have the
6 same detail within the prints. I'm looking at an
7 individual's random identifying characteristics within the
8 print and I'm trying to determine if those characteristics
9 appear in the latent print that I've developed and if it
10 also appears in the same position in the known print of an
11 individual. So I'm trying to see if they are matching up
12 so to speak.

13 Q. All right. And in this case did you prepare a report?

14 A. I did.

15 Q. At this time

16 MR. KOZAK: May I approach, Your Honor?

17 THE COURT: Yes, sir.

18 Q. I'm showing the witness State's Exhibit 88, what am I
19 showing you?

20 A. This is the laboratory report that I issued on January
21 30, 2017. It has a list of all the items that I processed
22 and that I compared and looked at and it has results of my
23 examination and it has my electronic signature at the
24 bottom.

25 Q. Has this been altered or edited in any way?

1 A. No, sir.

2 MR. KOZAK: At this time I'd like to move State's
3 Exhibit 88 into evidence and published to the jury?

4 MR. SWILLEY: Just one moment. No objection.

5 THE COURT: All right. State's Number 88 is
6 received into evidence.

7 (Whereupon, the Sled Report- Thomas Darnell has been marked
8 and entered into evidence as State's Exhibit No. 88)

9 Q. Do you have a copy up there?

10 A. I do.

11 Q. All right. What are we looking at on this first page?
12 What's some of the information that's on, at the top of
13 this page?

14 A. At the top of the page it has the name of the officer
15 which was Dillon Police Department that being Jason Turner.
16 It also has the sled laboratory number, the L16 number.
17 That's the lab number that was assigned to the case once it
18 came into the sled laboratory. And, obviously, the date at
19 the top is the date that I issued the report. It has the
20 Dillon Police Department case number and it has an incident
21 date and then it has three names listed there as well.

22 Q. All right. So on this first page what are the items
23 we're looking at?

24 A. The first item that I perceive was what we listed as
25 item 2 which is I've got it listed as an open condom

1 package.

2 Q. And what did you try to do with this item?

3 A. I attempted to process it for latent prints and I
4 actually developed one area of a print on the package and I
5 developed it in a way that I needed to have it photograph
6 to be able to better evaluate and determine if it was of
7 value so had that print photographed.

8 Q. And what's item 2.1?

9 A. 2.1 is the latent impression that I developed on the
10 item 2, condom package. And the result, when I compared
11 it, was that I determined it was of no value for
12 comparison.

13 Q. So when you say no value for comparison, what you
14 mean?

15 A. No value just means that I can't, there's just not
16 enough clarity there for me to be able to compare it to
17 anyone. It's just there's no way to determine who left the
18 print. I can just say -- I can only say that there was a
19 print there at some point left on the condom package but I
20 couldn't say whose it was.

21 Q. So sometimes even when you get a print it's not a good
22 enough print to compare it anything?

23 A. That's -- that's -- that's correct. In fact, the no
24 value for comparison is a result that we typically come up
25 with quite a bit. You know, probably in my, all my years

1 of experience I probably rendered, honestly, more reports
2 to say no value than those where I've actually identified
3 someone. You know, in my years I would identify a lot of
4 folks but more often than not we tend, we tend to come up
5 with a no value result. And, again, as I explained
6 earlier, that's because not everyone leaves, leaves a good
7 print for all the reasons that I've already testified
8 about.

9 Q. So what is, I believe, item 3 through 8, what are
10 those?

11 A. Item 3 through 8 and, again, these item numbers are
12 numbers that were assigned to the item when it came into
13 the laboratory at sled. But items 3 through 8 are what
14 I've got listed as latent lifts indicated as, and it says
15 it came from, "taken from the exit door of the scene". All
16 of them were lifted in the same fashion. These would've
17 been latent lifts that Dillon Police Department submitted.
18 In other words, these were areas that they had already
19 process themselves and they lifted those areas and had
20 those affixed to a card. And then those came to me and I
21 was asked to evaluate those to determine if they were of
22 value or not.

23 Q. So what was the result of that examination?

24 A. All of the latent lifts that I received were of no
25 value for comparison. Again, I couldn't tell whose they

1 were. They were prints there, but just wasn't enough
2 detail, wasn't enough clarity for me to be able to identify
3 anyone.

4 Q. So what's item 10?

5 A. Item 10 is a, I have listed as one (1) black handle
6 kitchen knife.

7 Q. Now, is that just a handle or is that you were asked
8 to process the handle of a knife?

9 A. I was actually -- I was asked to process the item 10
10 for latent's and for DNA. That's what I was asked to do
11 with that item.

12 Q. What -- what -- I guess, what I'm asking is was item
13 10 just to handle or was it a full knife?

14 A. Item 10, I have listed as of one (1) black handle
15 kitchen knife so it would be the blade with a handle. It
16 was intact.

17 Q. Okay. And what were you able to find with that test?

18 A. When processing item 10 using different chemicals I
19 developed areas of prints that were of no value for
20 comparison. And actually prior to, prior to processing it
21 for latent prints I swabbed portions of that knife handle
22 for any DNA that might be present. You know, quite often
23 we get, we get evidence in, all the time actually, to where
24 we're asked to process something for latent's, latent
25 prints or fingerprints and for DNA. So we have to sort of

1 decide which areas we want to swap for DNA and which areas
2 we want to process for latent's. In other words, if I
3 swabbed the entire handle for DNA there would be no reason
4 to process it for latent prints because I had already
5 swabbed all the entire area. And this example, I swabbed
6 portions of the handle for DNA and then I processed the
7 remaining area for latent's. and the results for latent's
8 was that, again, the print was of no value. And then the
9 swabs were actually forwarded to the DNA department for
10 further analysis.

11 Q. And is that item 10.1?

12 A. Yes, sir. Item 10.1 is the swab from the knife
13 handle.

14 Q. All right. And so when you're asked to do both, swab
15 for DNA and fingerprints, would you go into a little bit
16 more why that is a problem?

17 A. Yeah, it's just that, you know, if I swabbed the
18 entire handle there would be nothing left for prints.
19 Because prints are extremely, extremely fragile. I'm
20 trying to decide which areas of the knife or the knife
21 handle to swab. So I'm swabbing like the narrow edges of
22 the knife, those, those, those sorts of things. I'm trying
23 to swabbed areas that might not be as conducive to leaving
24 a fingerprint. So I'm trying, I'm trying to do both. At
25 which, sometimes it's hard to do but in this case I was

1 asked, it was requested that I do that so that's what I
2 did.

3 Q. So you're not swabbing the entire piece of -- you're
4 not swabbing the entire piece of the handle, you're only
5 swabbing pieces of it, correct?

6 A. Right. Just trying to get like the narrow edges or,
7 you know, and sometimes I even try to, try to picture if
8 I'm holding that knife which area would be the most likely
9 area where I would leave fingerprint. And so then I'm
10 trying to swab the areas away from that area, I'm trying to
11 swab that for DNA. So it's -- it's -- I'm trying to do,
12 I'm trying to do both.

13 Q. So when you're doing both. It's kind of a double-
14 edged sword taking a print will destroy DNA but swabbing
15 for DNA would destroy the print?

16 A. Absolutely. Absolutely. And that's -- and it's a
17 problem. But -- but, now, we get a lot of cases where we
18 are asked to do that. And so we have to sort of decide how
19 we want to best do that. Sometimes we'll actually decide
20 to just swab the entire thing. It just depends on what the
21 surfaces is like and what we're trying - what we're trying
22 to accomplish. In other words, if I've got a textured area
23 and I'm being asked to swab it for DNA and latent's, I'm
24 gonna recommend that we swab the entire thing because it's
25 textured. You know, and textured services don't typically

1 lend very good results when it comes to leaving
2 fingerprints.

3 Q. So -- also would an item being left out in the
4 weather, would that remedy, I mean, with that cause prints
5 to possibly be washed away or destroyed?

6 A. It certainly could. It just depends on, depends on
7 the weather, you know, on a given day, you know, like I
8 said latent's are extremely fragile. In other words, just
9 a simple stroke of a fingerprint brush could cause them to
10 go away if you're not careful. The majority, about 98 to
11 99% of the print is nothing but perspiration. So you know,
12 if something is left out in the heat it would tend to
13 evaporate. You know, -- you know, heat certainly has a
14 detrimental effect on latent prints. In other words, if
15 I'm -- if I'm getting prints on the outside of a car, for
16 example, in July or June in South Carolina has hot as it
17 gets the chances of that print being destroyed by the
18 weather, by the heat its a pretty good chance that could
19 happen. Rain, obviously, if it rained on something that
20 would certainly have, have a negative effect on prints
21 being lift.

22 Q. Now, in the movies you always see someone who doesn't
23 want a print to be found wiping down a surface, is that
24 successful in wiping off prints?

25 A. Yeah. Prints can be wiped off rather, rather easily.

1 In fact, whenever we are processing evidence, when we get
2 evidence in the laboratory, we wear lab coats and we have
3 to wear latex gloves and we actually have to handle the
4 item in such a way that we won't damage the prints.

5 Because, you know, if we're not careful we can damage them
6 ourselves in the laboratory trying to handle them. So we
7 have to handle them carefully because they're just that
8 fragile. So, yes, I mean, you can -- you can take a -- you
9 can wipe a latent print or a fingerprint away fairly,
10 fairly easily, I would say, depending on the surface.

11 Q. So you said you swabbed for DNA, what happens to the
12 DNA swab?

13 A. The DNA swabs once I, once I swab the area and I'm
14 using a sterile cotton swab, okay. We are in a clean room
15 doing it. It's in a sterile environment. And once I
16 collect the swabs I allow them to air dry and then I
17 package them into an envelope and I seal them up with
18 evidence tape. I date it and I initial it. And I write on
19 the envelope where it came from, the lab number, the item
20 number, the initials. And then once that's package I take
21 it downstairs to our evidence control department and
22 ultimately it winds up going to the DNA department for
23 examination.

24 Q. And in that case you sealed it correctly and did all
25 of that?

1 A. Yes, sir. In other words, if I -- if I have more than
2 one, more than one swab, each - from each item it's
3 packaged separately. In other words, if I swab two items I
4 don't put those all-in-one envelope, I separate them out
5 and give him a number. And then they ultimately wind up
6 with the DNA department.

7 Q. Now, I guess, to backtrack a little bit, these
8 numbers, these item numbers that are given those stay with
9 the items all the way through all the testing?

10 A. Yes, sir. That number remains the same all the way
11 through. In other words, anytime evidence comes into the
12 sled laboratory it gets a case number. It gets a -- each
13 item gets a item number and that number stays, stays with
14 that item all the way through. Regardless, of how many
15 departments it might go to that number stays the same with
16 each item.

17 Q. So like item 10.1 is because you did something to item
18 10, right?

19 A. That's correct. 10.1 that number was actually created
20 by me. That's a sub items which item 10 would be the item
21 that I processed and then the .1 designates the, designates
22 the swabs that I collected off the knife handle.

23 Q. Right. So 10.1 is not the knife itself, it would be
24 what you created from the knife?

25 A. That's correct. Yes, sir.

1 Q. Okay. What is item 11 and 11.1?

2 A. Item 11 is a, is one (1) kitchen knife blade. In
3 other words, it was a blade without the handle. Just a
4 blade itself. Item 11.1 is some DNA swabs that I collected
5 from the edges of the knife blade. Again, I was asked to
6 process it for latent's and for DNA, okay. So I had to, in
7 this case, what I did was before I processed for latent's,
8 I swabbed the very edge of the blade. If you picture a
9 knife blade I was swabbing the very edge of it for DNA and
10 I'm going to process the flat portion of the blade for
11 fingerprints.

12 Q. All right. And once you swabbed the blade for DNA,
13 the same process as you did for item 10.1?

14 A. Yes, sir.

15 Q. Okay. So that's sent to another unit that does the
16 processing of the actual evidence?

17 A. That's correct.

18 Q. So what happened when you looked for fingerprints on
19 item 11?

20 A. When I -- when I processed the blade I got what we
21 called no fingerprint evidence, "no fingerprint evidence
22 observed." There was nothing on the blade. And keep in
23 mind all I've got is the blade, there's no handle with it.
24 So -- but I was asked to swab or to swab for DNA and in the
25 process for latent, so I did both. No fingerprint evidence

1 on the knife blade and then I have had the swabs that went
2 to DNA.

3 Q. So this item was a little different than the other
4 items, correct?

5 A. Yes, sir.

6 Q. Because you didn't even have, pulled a print at all
7 from it?

8 A. Right. I didn't see any evidence of fingerprints on
9 the blade whatsoever.

10 Q. So the other items had a print but just couldn't be
11 compared. This one did not have a printed at all?

12 A. That's correct.

13 Q. All right.

14 MR. KOZAK: I beg the court's indulgence.

15 THE COURT: Yes, sir.

16 MR. KOZAK: No further questions, Your Honor.

17 THE COURT: Mr. Swilley?

18 **Cross-Examination by Mr. Swilley:**

19 Q. All right. Mr. Darnell, you just testified on direct
20 about latent prints that you examine, right?

21 A. Yes, sir.

22 Q. And you could also get prints from based on material
23 that's not perspiration too, right?

24 A. Yes, sir.

25 Q. And those would be, I guess, patent prints?

1 A. Well, a patent print would be a print that would be
2 visible to the naked eye. In other words, if I had grease
3 or blood or paint or something like that on my hand and I
4 touched an item, that impression could be left behind and
5 that would be referred to as a patent print.

6 Q. And you didn't -- you didn't receive any of those in
7 this investigation, did you?

8 A. No, sir.

9 Q. Okay. And all the items that are listed in that
10 report that was put into evidence, those are all the items
11 that you received for analysis, that correct?

12 A. Yes, sir.

13 Q. All right. And when you received material like this
14 from an agency all over the state, you're gonna try to do
15 an analysis on everything, right?

16 A. Yes, sir. I'm gonna try -- I'm gonna try to honor
17 their request of the submitting agency. They want me to,
18 you know, process it for different things so, yes, I'm
19 gonna try to process to the extent that I can.

20 Q. And there's not a limit on the amount of things that
21 they can send you, right? There's not a numerical limit,
22 is there?

23 A. No, sir.

24 Q. All right. They could send you, if they have a
25 hundred things, they can send you hundred things for you to

1 analyze?

2 A. Yes, sir, they could.

3 Q. Okay. And I think you testified on direct about, you
4 know, I guess, latent prints or prints in general can be,
5 can be wiped off, I guess, by human or manually?

6 A. Sure. Yes, sir.

7 Q. All right. And based on the information you have
8 that's not relevant in this case, is there -- is it, excuse
9 me? You weren't provided with any information that any
10 prints had been wiped off or anything, had you?

11 A. No, sir. No, sir. I just received these items for
12 processing. We also received a copy of the incident report
13 that goes over basic facts of the case. And outside of
14 that, that's about all we received. And sometimes we'll
15 get phone calls that kind of thing. I don't recall getting
16 any phone calls in this case. So I had the evidence before
17 me and I had an incident report that would've been created
18 by Dillon Police Department.

19 Q. Okay. I just wanted to clarify that. And everything
20 within this report that's everything you received?

21 A. Yes, sir, that's it.

22 Q. And, you know, if there's items that are recovered
23 later on they can, they can submit those too at a different
24 time, right?

25 A. Yes, sir.

1 Q. Within the same case?

2 A. Yes, sir.

3 Q. Okay. And sled doesn't impose any kind of time limit
4 on things that can be received pertained to each case,
5 right?

6 A. No, sir. No, we don't.

7 MR. SWILLEY: Give me one moment please, Mr. Darnell.

8 Q. And Mr. Darnell, just to clarify, I think you
9 testified on direct about, you know, more often than not
10 you don't find latent prints when that material is
11 presented to you? You are trying to find prints, though,
12 right?

13 A. Absolutely.

14 Q. Okay. All right.

15 MR. SWILLEY: Thank you very much.

16 THE COURT: Anything else, Ms. Kozak?

17 MR. KOZAK: No redirect, Your Honor.

18 THE COURT: All right. You can step down, sir, Mr.
19 Darnell. Thank you.

20 MR. DARNELL Yes, sir.

21 MR. KOZAK: Can he be release from his subpoena?

22 MR. SWILLEY: No objection.

23 THE COURT: All right. You may be excused, Mr.
24 Darnell. Thank you.

25 MR. DARNELL: Yes, sir.

1 MR. KOZAK: The State calls Verona Herrera.

2 THE CLERK: Place your left on the Bible and raise
3 right hand. Do you solemnly swear or affirm that the
4 evidence and testimony you're about to give the court and
5 the jury on this case is the truth, the whole truth, and
6 nothing but the truth so help you God?

7 MS. HERRERA: I do.

8 THE CLERK: Be seated and state your full name for
9 the court spelling your last for us.

10 MS. HERRERA: My name Verona Herrera, H-e-r-r-e-r-a.

11 VERONA HERRERA, first being
12 duly sworn, testified as follows:

13 **Direct Examination by Mr. Kozak:**

14 Q. Good morning, Ms. Herrera. Where are you currently
15 employed?

16 A. The South Carolina Law Enforcement Division or sled.

17 Q. And what's your position there?

18 A. I'm a forensic technician and forensics serologist in
19 the DNA section.

20 Q. And what's your educational background?

21 A. I have two associates degrees. One from Greenville
22 Tech and one from Tri-County Tech in Sciences and Criminal
23 Justice. And I have a Bachelors Degree in Criminal Justice
24 Forensics from Liberty University.

25 Q. And how long have you been employed at sled?

1 A. A little over a eleven years.

2 Q. And what units have you been a part of there?

3 A. I've always been in the evidence processing section of
4 the DNA department. We combined or made a new department
5 by adding some duties to the evidence processing to make a
6 serology department. So I still do the same thing I've
7 done all of the eleven years I just added some extra duties
8 a couple of years ago.

9 Q. And what types of training have you had in that field?

10 A. We are training in-house at sled under court qualified
11 analyst to process the items and to do the body fluid
12 identification testing.

13 Q. And is there continuing education involved in that?

14 A. We do occasionally go for continuing education but it
15 is not required for my position.

16 Q. Are there any certifications involved in that?

17 A. There are not, no.

18 Q. Okay.

19 MR. KOZAK: At this time, I'd like to ---

20 Q. Oh, have you ever testified in court before?

21 A. I have. Approximately seventy-five times.

22 Q. All right. And in what field have you been qualified
23 as?

24 A. A forensic evidence processing technician and in
25 forensic serology.

1 MR. KOZAK: Your Honor, at this time I'd like to
2 offer Ms. Herrera as an expert in forensic processing and
3 in serology.

4 MR. SWILLEY: I have no objection to that.

5 THE COURT: All right. I find her qualified as an
6 expert in the field of forensic serology and in forensic
7 evidence processing.

8 Q. I guess, what is serology?

9 A. Serology is the identification of body fluids. And in
10 our laboratory that is usually blood, semen, and saliva.

11 Q. All right. And what goes in to processing for, I
12 guess, fluids?

13 A. It depends on the item that you're talking about. If
14 it's clothing or car parts that kind of thing we would do
15 what's called a "present testing" for blood or semen. We
16 visualize the stain test it with the quick color change
17 test and that would go forward for identification if need
18 be. We also process sexual assault kits or swabs that come
19 into the laboratory. So the sexual assault kit we
20 inventory to determine what's in the kit. Test the
21 relevant swabs for semen or blood or saliva as needed.

22 Q. Now, when the evidence comes into the lab, is it
23 sealed?

24 A. It is. It is sealed in our evidence intake area.
25 Those lady store it and then provide it to me or any other

1 analyst that needs the evidence and then we would break the
2 seal.

3 Q. Okay. What would you do if a seal was broken when it
4 came in?

5 A. We would not analyze the evidence without talking with
6 the agency and my supervisor first and noting it in a case
7 file.

8 Q. So if the seal was broken it would be noted on the
9 report?

10 A. It would be noted in my case file ---

11 Q. In this case ---

12 A. --- not on the report.

13 Q. In this case was there any seal broken?

14 A. They were not.

15 Q. Okay. Did you prepare a report in this case?

16 A. I did. Yes, sir.

17 MR. KOZAK: I'm showing opposing counsel what's
18 been marked as State's Exhibit 89.

19 MR. SWILLEY: No objection, Your Honor.

20 MR. KOZAK: May I approach the witness?

21 THE COURT: Yes, sir.

22 Q. I'm showing the witness what's been marked as State's
23 Exhibit 89, please tell me what that is?

24 A. It's a copy of the report that I issued in this case?

25 MR. KOZAK: At this time I'd like to move State's

1 Exhibit 89 into evidence and published to the jury?

2 THE COURT: All right. State's Number 89 is
3 received into evidence without objection. You may publish
4 it.

5 (Whereupon, the Sled Report- Verona Herrera has been marked
6 and entered into evidence as State's Exhibit No. 89)

7 Q. All right. So, I guess, how did you initially become
8 involved in this case?

9 A. I was just assigned the case in random order and then
10 took the evidence into my custody to process it.

11 Q. Okay. So once you start processing the evidence, what
12 you do?

13 A. It depends on the type of evidence. In this case, for
14 example, the condom I would swab the interior and the
15 exterior of the condom. Do the quick color change test for
16 the possible presence of semen or acid phosphatase,
17 actually. And then take that forward for further testing
18 for the p30 and spermatozoa.

19 Q. Okay. So when you're testing for the fluid on the
20 condom, what are you looking for?

21 A. So the test that we run it's like we swab it and drop
22 some chemicals on it. If the test -- if the swab has
23 changed color we know that needs to be taken forward for
24 further testing. There's a possibility that, that swab has
25 semen or seminal fluid on it and that's the acid

1 phosphatase. Which to take it forward, we test for what's
2 called p30 or you may know it better as psa, phosphate
3 specific antigen. That is available in high qualities in
4 seminal fluid. And then we would also look for the sperm
5 cells themselves, the spermatozoa to identify the semen.

6 Q. So on these test you're actually looking for three
7 different things?

8 A. Potentially. At least two, but definitely three if
9 it's a piece of clothing or not swabs that came directly
10 from the body.

11 Q. So item 1 is the condom itself?

12 A. That is correct.

13 Q. Item 1.1 is the swab you did?

14 A. It's the swab from the interior of the condom as it
15 was submitted to us, yes.

16 Q. And what do you find on the swab from the interior of
17 condom in this case?

18 A. That was positive for all three acid phosphatase, p30
19 and spermatozoa so semen was identified on that.

20 Q. And what happens once you identify semen?

21 A. I cut a small section of it, put it in a tube to
22 forward to the DNA profile developing section of the DNA
23 part of the department.

24 Q. And is that tube sealed?

25 A. Yes. It sealed within a small heat sealed pouch

1 within a larger heat sealed pouch.

2 Q. All right. So did you also swab anything else on the
3 condom?

4 A. Yes. The exterior of condom as it was submitted to
5 the agency.

6 Q. And what did you find on that?

7 A. In that case, the acid phosphatases were positive but
8 the p30 was negative, spermatozoa was identified and then
9 it was forwarded to the DNA section.

10 Q. So, I guess, what could it mean when you only find one
11 aspect of the semen and not the others?

12 A. There are several different reasons. Semen is not --
13 semen is not a homogenize fluid so it could be that the
14 enzyme p30 or protein, excuse me, p30 was just not in the
15 sample that I tested. It could be that for some reason
16 degraded because it interacted with some chemical in the
17 condom. So we can't say semen is identified without both
18 the p30 and spermatozoa but in this case I only had this
19 spermatozoa.

20 Q. What you mean by homogenize?

21 A. So any portion you would take of a sample, it's kind
22 of like milk, it's homogenized so that all the fat stays in
23 the liquid and it doesn't separate out. Semen can separate
24 into like more of one chemical on a certain area in the
25 liquid than another's.

1 Q. Okay. And what you do after you identify the semen on
2 the outside of the condom?

3 A. The same thing. A small portion of that swab is cut
4 and placed in a tube for further testing.

5 Q. Okay. And what's item -- so what was the 1.3?

6 A. 1.3 was hair from the condom.

7 Q. And you don't do actually any testing on that?

8 A. I do visualize it to determine whether it is suitable
9 to go forward for further testing but I don't run any test
10 on it, no.

11 Q. So what happens to that hair?

12 A. It goes into a tube just like the cutting from the
13 swabs and goes forward to the DNA section.

14 Q. Okay. So what is item 9?

15 A. Item 9 is a shirt found in the dumpster at Dover
16 Village.

17 Q. And so what you do once you receive the shirt?

18 A. In this case the request on the shirt was for blood
19 and for ownership. So we would or I would lay the shirt
20 out, look for areas that appear to possibly be a
21 bloodstain. I test those for discolorations with a quick
22 color change test again that turns pink. And if those --
23 if it changes pink I would cut that and send it forward to
24 the DNA section. For ownership, we scrape and swab the
25 neck area of the shirt and send that forward for further

1 testing.

2 Q. Is this the shirt that you did the testing on?

3 A. That is the shirt. Yes.

4 Q. So what -- would you describe what we're seeing here?

5 A. Sure. Up here there is a hole right above the head,
6 that is where I cut item 9.1 which tested positive for the
7 presumptive test for blood and that was sent forward for
8 DNA section. There's also a cutting here on this right arm
9 that's labeled 9.2, that was also positive for the
10 presumptive test for blood and was sent forward to the DNA
11 section. And then I swabbed and scraped the neck area of
12 the shirt, the interior neck area of the shirt to try to
13 determine who wore that shirt. That's considered ownership
14 DNA and that was forwarded to the DNA section.

15 Q. Now, is there any way for DNA to get on this shirt
16 from not someone wearing it?

17 A. Yes. You can hug someone. You could wash your
18 clothes in the same wash machine with someone else. In
19 this case it came out of the dumpster so any items in the
20 trash bag or the dumpster itself, whichever impacted the
21 shirt, could potentially transfer DNA to it.

22 Q. How easy is it to transfer DNA?

23 A. It just depends. There's different levels of DNA and
24 different body fluids. It depends on whether you're
25 sweating a lot. Some people shed more DNA than others. It

1 just depends on the situation.

2 Q. Okay. Have you been or received a lot of shirts that
3 were involved in knife altercations?

4 A. Some, yes, sir.

5 Q. And if someone is a victim of a knife attack is the
6 shirt usually not cut up at all?

7 MR. SWILLEY: Objection, Your Honor. I think that's
8 gonna call for her for speculate. She's a serologist.

9 THE COURT: Rephrase your question.

10 MR. KOZAK: Okay.

11 Q. In your experience when you receive a shirt from a
12 knife attack have there been knife wounds or slits in the
13 shirt?

14 MR. SWILLEY: Objection, judge. That calls for a
15 general question. I think it's out of the scope of
16 relevance.

17 THE COURT: Based on her experience, I mean, she's
18 testified and she's been qualified as an expert, she can
19 answer the question.

20 A. If the person was injured with a knife, yes, I do
21 typically find some type of rip or tear defect in the
22 fabric.

23 Q. And so with item 9, what happened -- what did you find
24 with the presumptive testing?

25 A. The two areas that I cut, 9.1 and 9.2, were both

1 positive for the presumptive test for blood and then those
2 cuttings were sent forward for further testing in the DNA
3 section. And the swab from scraping the neck area of the
4 shirt was forwarded for further testing in the DNA section.

5 Q. So once again 9.1 was the cutting from where?

6 A. That was the chest area of the shirt.

7 Q. And 9.2 was the cutting from where?

8 A. The cuff area of the right arm of the shirt.

9 Q. And those were both positive for blood?

10 A. Presumptive test for blood, yes.

11 Q. Okay. And then what happened to those items?

12 A. They go forward for further testing.

13 Q. All right. Now, what is 9.3?

14 A. 9.3 is where we were trying to determine the ownership
15 of the shirt, who wore the shirt. So we scraped the
16 interior of the neck area because it tends to impact the
17 skin the most. And then we scrape it and then swab that
18 area and the scraper and the paper that it was scraped on
19 to and send that forward for further testing in the DNA
20 section.

21 Q. So there -- you did not do presumptive test for blood
22 on that section?

23 A. No. We're not trying to identify blood in that
24 section.

25 Q. Okay. So what kind of DNA would show up on a scraping

1 of the neck? Are there different types of DNA, I guess?

2 A. There are different ---

3 Q. Or I guess -- sorry, go ahead.

4 A. I'm sorry. There are different types of DNA like
5 mitochondrial and nuclear which our laboratory does not
6 test for mitochondrial they only do nuclear. So nuclear
7 DNA is found in every cell of the body except for red blood
8 cells. So when we're looking at ownership we're trying to
9 typically look for skin cells that give up there DNA.

10 Q. So, I guess, is there, I guess, a better question for
11 DNA but is there -- your testing for both blood and skin
12 cells?

13 A. In that case, there is no differentiation there was no
14 testing for blood. So any kind of DNA that was on the neck
15 area would be found.

16 Q. Okay.

17 A. It could be blood. It could be skin cells. Any DNA.

18 Q. So what is item 12, it looks like it's got a lot of
19 parks?

20 A. Item 12 is the sexual assault evidence collection kit
21 from Candace Simpson.

22 Q. All right. So what you do once you receive a sexual
23 assault kit?

24 A. Sexual assault kits come in a box. Those are broken
25 down into the toxicology section and the DNA section in our

1 evidence control department. Then I take the DNA section
2 of it and inventory it to see what items were collected at
3 the hospital. And then test those items.

4 Q. So what items come in?

5 A. In this case, there is a vaginal swabs, oral swabs,
6 rectal swabs, suspected body fluids swabs from the thighs,
7 fingernail scrapings, the victims buccal swab.

8 Q. Okay. So when you examine the vaginal swab, what did
9 you find?

10 A. The components of semen p30 and spermatozoa were
11 positive. Semen was identified and that was forwarded to
12 the DNA section.

13 Q. What did you find in the oral swabs?

14 A. Examinations for semen p30 was positive but no
15 spermatozoa was identified and the item was forwarded to
16 the DNA section.

17 Q. And what did you find the rectal swabs?

18 A. Components of semen p30 was positive. No spermatozoa
19 was identified and the item was forwarded to the DNA
20 section.

21 Q. And what about the thighs?

22 A. The thighs, again, examination for component of semen
23 p30 was positive. No spermatozoa identified and the item
24 was forwarded to the DNA section.

25 Q. So as we were discussing earlier, I guess, the three

1 different parts of semen are to -- what's the difference
2 between what you found in the vaginal swabs and the other
3 three?

4 A. Okay. So semen is made up of two components, ah, well
5 two sections. A cellular component which is the
6 spermatozoa and a liquid component which contains also the
7 spermatozoa. The p30 is a protein in the liquid portion
8 that we look for. And then the spermatozoa are the sperm
9 cells themselves. We can't call it in our laboratory semen
10 unless we find both of those because p30 can be found in
11 other locations in the body just at lower concentrations.
12 But spermatozoa are not usually found in other places
13 unless it's transferred or through sometimes the urine of
14 males.

15 Q. All right. So what was done with the fingernails?

16 A. The fingernails that was just the tip of the scraper
17 was cut and forwarded to the DNA section.

18 Q. And so what is the last two things you examined?

19 A. The buccal swab from Candace Simpson and the buccal
20 swab from Tyreek Hayes.

21 Q. Okay. And is that just forwarded to the DNA section?

22 A. Well, the buccal swab from Candace Simpson was the
23 one, item 14, was not analyzed because a buccal swab from
24 the victim was included in the kit and we use that buccal
25 swab. And then the buccal swab from Tyreek Hayes was just

1 forwarded on to the DNA section.

2 Q. Okay. I guess, as an overarching question, how
3 fragile is DNA?

4 A. If it's dried and kept in climate control conditions
5 it can last for numbers of years. If it's exposed to the
6 elements and heat, moisture, it can degrade.

7 Q. All right. And how easily can it be, I guess, wiped
8 off or taken off of an item?

9 A. It depends on the item. If it's a smooth surface it's
10 much easier for it to be removed because there's no porous
11 area for the DNA to cling to. But like a shirt or
12 something is very difficult to wipe it all off.

13 Q. All right.

14 MR. KOZAK: I beg the Court's indulgence.

15 Q. Did -- are you aware that the sled departments did
16 toxicology analysis on Candace Simpson that night or
17 Candace Simpson's blood?

18 A. Yes. That would've come in with the sexual assault
19 kit.

20 MR. KOZAK: I'm showing opposing counsel what's
21 been marked as State's Number 80.

22 Q. Approaching with State's Exhibit 80, what is this?

23 A. This appears to be a copy of the toxicology report
24 Lindsey Mitchell issued.

25 Q. And has it been altered or edited in any way?

1 A. I can't speak to that.

2 Q. I mean, does it look like a ---

3 A. It looks like a typical ---

4 Q. --- typical report?

5 A. --- report.

6 Q. Okay.

7 MR. KOZAK: At this time I'd like to move State's
8 Exhibit 80 into evidence and published to the jury.

9 MR. SWILLEY: No objection to that.

10 THE COURT: Eighty, you said?

11 MR. KOZAK: Yes, sir.

12 THE COURT: All right. State's Exhibit 80 is
13 admitted into evidence.

14 (Whereupon, the Sled Report- Lindsey Mitchell has been
15 marked and entered into evidence as State's Exhibit No. 80)

16 Q. Will you just read to the jury what the result is on
17 that test?

18 A. Ethanol was the item analyze for and the result was
19 negative.

20 MR. KOZAK: I beg the Court's indulgence.

21 Q. In your experience, I mean, limit experience but, I
22 mean, with sled, what is ethanol looking for? What's the
23 common term for ethanol?

24 A. Alcohol.

25 Q. Okay.

1 MR. KOZAK: No further questions, Your Honor.

2 THE COURT: Okay. Mr. Swilley?

3 **Cross-Examination by Mr. Swilley:**

4 Q. All right. Ms. Herrera, you, I guess, you tested it
5 looks like, I guess, that would be twelve items to be sent
6 to DNA department, is that correct? Well, more
7 importantly, let me ask you, you tested all the items you
8 received to go to the DNA department, right?

9 A. All the ones in my report, yes, sir, they were. They
10 were tested.

11 Q. All right. And all the ones that are in the report
12 are all the ones you actually received?

13 A. That is correct, yes.

14 Q. Yes, ma'am. And it looks like you - I'd say item, it
15 would appear - I guess, 12 was the sexual assault
16 collection kit from Candace Simpson, is that correct?

17 A. That is correct.

18 Q. All right. And 12.1, just to reiterate, is the
19 vaginal swab, is that correct?

20 A. Yes, sir.

21 Q. And I think the results you found there was positive
22 for semen, is that correct?

23 A. Yes, sir.

24 Q. And as well as the rectal swab I think there was
25 positive for semen, is that correct?

1 A. No, sir. The rectal swab was positive for the
2 component of semen p30 but no spermatozoa was identified.

3 Q. I'm sorry, excuse me. So it had -- there was no semen
4 that was actually identified on the rectal swab, is that
5 correct?

6 A. That's correct. Just a component of semen.

7 Q. And the component could get there feasible by, I
8 guess, coming from the vaginally area or the perennial
9 area, is that correct?

10 A. That is absolutely correct.

11 Q. Yes, ma'am. Thank you. And you also I think it looks
12 like you analyze the or -- yeah, analyze the fingernail
13 scrapings 12.5, right?

14 A. I just forward those on. I didn't do any testing to
15 them.

16 Q. So you didn't test for blood in there or anything like
17 that?

18 A. No, sir.

19 Q. So skin cells or anything else like that you just
20 forwarded them on?

21 A. We just forward them on. Yes, sir.

22 Q. Okay. Now, going back to the items 12.1 and 12.3 and
23 it looks like as well 12.2, you did -- well -- excuse me,
24 let me back up, as it pertains to 12.1 the vaginal swabs
25 and 12.3 the rectal swabs, you didn't find any blood in

1 those swabs, did you?

2 A. I did not test for blood.

3 Q. Okay. Now, if there had been bleeding in that area
4 you could've found -- you could've -- you could've found
5 blood had there been bleeding, is that correct?

6 A. We don't typically test swabs from the vaginal area or
7 the rectal area for blood unless there's an indication the
8 assailant was bleeding. We would -- we find the DNA of the
9 victim there any way so blood there is just going to tell
10 us that the victim's own DNA was there.

11 Q. Okay. And -- well, if there had been trauma to the
12 vaginal area there potentially could be blood too, right?

13 A. There is a potential, yes.

14 Q. Okay. And this scenario you didn't, and these two
15 swabs, you didn't find any -- just to clarify, you didn't
16 find any blood in either one of these two swabs ---

17 A. I did not test for blood, no.

18 Q. Okay. Thank you. And I think just to go back and
19 what was brought up during direct examination, no
20 information was provided to you that any kind of DNA had
21 been intentionally move back by any individual from any of
22 these items, is that correct?

23 A. I'm ---

24 Q. Sorry.

25 A. That's okay.

1 Q. I was talking too fast. Based on the information you
2 were provided in this case I think you testified, you
3 testified on direct that DNA particles or material can be
4 potentially moved from tangible items, right?

5 A. That is possible, yes.

6 Q. All right. And you didn't get any information from
7 anybody from anywhere that, that had happen in this case,
8 had you?

9 A. I have no information for that.

10 Q. Thank you.

11 MR. SWILLEY: Give me one moment, Ms. Herrera?

12 MS. HERRERA: Sure.

13 Q. And the neck area -- I guess, 9.3 the scrapings from
14 the neck area of the shirt that just forwarded on to the
15 DNA section as well, you don't do any kind of presumptive
16 testing for anything there, is that correct?

17 A. I do not. No, sir. We don't have a test for skin
18 cells.

19 Q. Okay. So no presumptive testing was done on the neck
20 area, is that correct?

21 A. That's correct.

22 Q. Okay.

23 MR. SWILLEY: Thank you, Ms. Herrera. Nothing
24 further.

25 THE COURT: Anything else, Mr. Kozak?

1 MR. KOZAK: Nothing further, Your Honor

2 THE COURT: All right. You can step down, ma'am.

3 Thank you. May this witness be excused?

4 MR. SWILLEY: No objection.

5 MR. KOZAK: No objection, judge.

6 THE COURT: You may be excused, Ms. Herrera. Thank
7 you.

8 MS. HERRERA: Thank you.

9 MS. BURCHSTEAD: The State calls Samuel Stewart.

10 THE CLERK: Place your left on the Bible and raise
11 right for me. Do you solemnly swear or affirm that the
12 evidence and testimony you're about to give the court and
13 the jury on this case is the truth, the whole truth, and
14 nothing but the truth so help you God?

15 MR. STEWART: I do.

16 THE CLERK: Have a seat in the witness box. State
17 your full name for the court and spell your last name for
18 us please.

19 MR. STEWART: Samuel Alan Stewart, S-t-e-w-a-r-t.

20 SAMUEL STEWART, first being
21 duly sworn, testified as follows:

22 **Direct Examination by Ms. Burchstead:**

23 Q. Good morning, Mr. Stewart.

24 A. Good morning.

25 Q. Mr. Stewart, where are you employed?

1 A. I work for the South Carolina Law Enforcement Division
2 commonly known as sled.

3 Q. And how long have you been at sled?

4 A. Seven years.

5 Q. What are your primary duties at sled?

6 A. At sled on the DNA analyst assigned to the -- I'm a
7 DNA analysis assigned to the DNA work department. As a DNA
8 analyst it's my job to test any evidence and known
9 standards in a criminal investigation for DNA. My purpose
10 is try to determine whether or not that DNA profile develop
11 from those known standards can be included or excluded from
12 the DNA found on the evidence.

13 Q. Okay. And just a ballpark, how many test have you
14 done for DNA at sled?

15 A. Hundreds, I would say.

16 Q. And have you previously testified in court?

17 A. Yes, I have.

18 Q. Have you previously been qualified as an expert in
19 court?

20 A. Yes, I have.

21 Q. And were you qualified in the area of DNA and DNA
22 testing previously?

23 A. That is correct.

24 Q. And presumably you had background and training for
25 this testing?

1 A. Yes. At sled -- first, I got my Bachelors in Science
2 and Biology from Francis Marion University and I also had
3 in-house sled training for over a year and a half. We had
4 to complete lots of test samples, practicing samples,
5 practical test, competent test to qualify as a competent
6 DNA analyst.

7 Q. Okay. And do you have any continuing education or
8 subject to peer review those sorts of things?

9 A. We do eight hours of continuing education every year.

10 MS. BURCHSTEAD: Okay. Your Honor, at this time
11 the State offers Mr. Stewart as an expert in the field of
12 DNA and DNA analysis and testing.

13 MR. SWILLEY: No objection.

14 THE COURT: All right. I find him to be qualified
15 as an expert in the area of DNA testing and analysis.

16 Q. So back up just a minute, we're using the term DNA,
17 can you explain to the jury what is DNA and in just basic
18 terms?

19 A. Yeah. DNA stands for deoxyribonucleic acid. It is
20 the genetic material that's found in every individual and
21 it's responsible for certain traits such as our eye and our
22 hair color. DNA contains a dense packets on its
23 chromosomes which is found in every cell of your body
24 excluding red blood cells. We inherit half of our
25 chromosomes from our mother and the other half from my

1 father. And on those chromosomes we target certain
2 locations known as STR's and that stands for short tandem
3 repeats.

4 Q. So ---

5 A. And we look at 21 of those STR's repeats to develop
6 what's known as a DNA profile which would be used to
7 identify one, excuse me, one individual from another
8 excluding identical twins.

9 Q. Okay. And I failed to tell you the mic system is not
10 working real good this morning ---

11 A. I can speak up ---

12 Q. --- so just speak up -- speak up as much as you can.

13 A. --- not a problem. I can do that. I apologize.

14 Q. So in short, is it accurate to say DNA helps to
15 identify individuals?

16 A. Yes, that is correct. We use DNA to identify
17 individuals that may contributed to a piece of evidence.

18 Q. Okay. And so at sled conduct DNA analysis on
19 particular items that are submitted to sled, is that right?

20 A. That is correct.

21 Q. So how do items usually come to you for DNA testing?

22 A. Usually, all evidence is submitted from a submitting
23 agency and they bring it to our evidence control. The
24 evidence control logs in that evidence that the submitting
25 agency brings and they housed in a secured evidence locker.

1 It's also given a unique sled number and item number for
2 everything that's brought in. It's contained in the
3 evidence locker until an analyst is assigned to that case.
4 Once an analyst is assigned to that case to work, the
5 analyst then goes down to evidence control and they take
6 all that evidence into their custody to begin starting
7 testing. They keep it in their custody through the
8 duration of the process of testing of those items of
9 evidence. And then it's taken back to evidence control
10 once we're done completing our analysis on it.

11 Q. Okay. And if there was something out of the norm or
12 the protocol is not followed, would you make a notation or
13 how would you handle that?

14 A. Yes. So everything is concealed in a heat sealed
15 pouches, not tampered with. Only the analyst that's doing
16 the testing are allowed to enter and exit the pouch and we
17 have to initial and date when we do that. If there's any
18 kind of discrepancy with that, the heat sealed pouch,
19 anything that the evidence looks like it might have been
20 tampered with we wouldn't do any testing on it.

21 Q. All right. Were you asked to do an analysis in this
22 particular case?

23 A. Yes, I was.

24 Q. Okay. And just briefly can you explain the sled
25 numbering system when items come to you, how there

1 numbered, and what you would be testing?

2 A. Yes. So this case number in particular it was given a
3 unique sled number L16-15253 and the items -- but the item
4 are given an unique number too just depended upon how they
5 were submitted. We have various number of items for this
6 case.

7 Q. Okay. So did you actually generate a report in this
8 case?

9 A. Yes, I did.

10 Q. Okay.

11 MS. BURCHSTEAD: I beg the Court's indulgence.
12 Permission to approach, Your Honor?

13 THE COURT: Yes, ma'am.

14 Q. Okay. I am showing you what has been marked as
15 State's Exhibit Number 90, would you take a look at that
16 and tell us if you recognize it?

17 A. Yes, this is my sled report that I issued dated
18 December 17, 2018.

19 Q. Does it look to be complete and accurate?

20 A. Yes, it does.

21 MS. BURCHSTEAD: Your Honor, at this time, the
22 State moved Exhibit 90 into evidence.

23 THE COURT: All right. State's number 90 is
24 admitted into evidence and received into evidence without
25 objection.

1 MS. BURCHSTEAD: All right. And permission to
2 publish?

3 THE COURT: Yes, ma'am.

4 (Whereupon, the Sled Report- Samuel Stewart has been marked
5 and entered into evidence as State's Exhibit No. 90)

6 Q. Let's walk the jury through your findings now. I'm
7 going to approach again to give you a copy of your report
8 if you want to read from that or step down that's up to
9 you.

10 A. Okay.

11 Q. If you'll speak real clear for us.

12 A. Okay.

13 Q. Nice and loud. Okay. Can you just describe to the
14 jury what they're seeing here on page 1 at the top of the
15 identifying information?

16 A. So this is our basic first page of it. It lets you
17 see the comparison standards. Those are the standards of
18 the individuals that are involved in the case. So I use
19 their standards to compare against any kind of DNA profiles
20 I may develop from the evidence.

21 Q. And when you say standards, buccal swab, could that be
22 like a cheek swab?

23 A. Yes. It's a sterile swab that's used to collect cheek
24 cells inside the mouth.

25 Q. Okay. So that's what you use to do your test?

1 A. Yeah. To do the comparisons with, that is correct.

2 Q. All right. Where it says items of evidence, item 1.1,
3 what is that and how did it get to you?

4 A. It's swab from interior condom. I believe that item
5 was collected by the forensics serologist ---

6 Q. Ms. Herrera?

7 A. --- Ms. Herrera -- Yes. She swab that condom for me
8 and then submitted it to me so I can do the DNA analysis on
9 that.

10 Q. Okay. And did you have any findings on that?

11 A. Yes, I did.

12 Q. And what were your findings?

13 A. And if I can back up ---

14 Q. Sure.

15 A. Whenever we have an item of evidence that has semen or
16 the possibility of having semen on it what I do is
17 different type of extraction known as the differential
18 extraction. What we want to do is we want to separate any
19 kind of other DNA that might be on that item from that
20 sperm DNA that's possibly there. So when I refer to my
21 report they'll be a section that says non-sperm fraction
22 and sperm fraction. The non-sperm fraction that's a
23 fraction we hope to have captured any other DNA that may
24 have been there present on that item. And the sperm
25 fracture is the actual fracture that we hope to capture

1 just that semen DNA that's there. Sometimes we do get
2 complete separation and sometimes we don't. But I just
3 wanted to make sure I reference that before I started
4 reading my report.

5 Q. And I appreciate that. Thank you.

6 A. No problem.

7 Q. Yes.

8 A. So swab from interior of condom, the non-sperm
9 fraction the DNA profile is a mixture of two individuals --
10 -

11 THE COURT: Speak up just a little bit.

12 A. I'm sorry. The DNA profile is a mixture of at least
13 two individuals. A mixture is when we have more than one
14 person contributing their DNA to an item. That's pretty
15 common too as well. The DNA profile of the major
16 contributor matches the DNA profile of Tyreek Hayes. The
17 probability of randomly selecting an unrelated individual
18 having a DNA profile matching the major contributor to this
19 mixture is 1 and 140 nonillion. Candace Simpson is
20 included as a possible minor contributor. The probability
21 of randomly selecting an unrelated individual who could
22 have contributed to this mixture is approximately 1 in 22.
23 And Ann Covington is excluded as a possible minor. And the
24 minor contributor is just someone who contributed much more
25 DNA to that item than the other person there.

1 Q. Okay. So from the interior of the condom we have a
2 major contributor of Tyreek Hayes and a minor contributor
3 of Candace Simpson, is that correct?

4 A. That's correct. On the sperm -- on the non-sperm
5 fraction.

6 Q. All right. And when you say, going back to page 1,
7 the likelihood or probability of randomly selecting an
8 unrelated individual is 1 and 140 nonillion, can you just
9 explain that a little bit more?

10 A. Yeah. What that means if I took a random person's DNA
11 profile and I compared it to that major contributor from
12 that non-sperm fraction the chances of that random person
13 DNA profile matching the major contributor would be 100, 1
14 and 140 nonillion. So this a pretty significant number in
15 the chances of a random person's DNA matching that would be
16 highly unlikely.

17 Q. Thank you. All right. Now, let's move to item 1.2,
18 swabs from the exterior of the condom, would those have
19 come to you again from Ms. Herrera?

20 A. That is correct.

21 Q. Okay. And did you perform an analysis and get some
22 results on that?

23 A. I did.

24 Q. Okay. And what are your results?

25 A. From the non-sperm fraction the DNA profile is a

1 mixture of two individuals, Candace Simpson and Tyreek
2 Hayes are included as possible contributors to that
3 mixture. The probability of randomly selecting an
4 unrelated individual who could have contributed to this
5 mixture is approximately 1 and 35 million. And Ann
6 Covington is excluded as a possible minor contributor.

7 Q. And, again, you had received a swab from Ann as well
8 so were you just testing all items for all three of the
9 individuals?

10 A. That is correct.

11 Q. Okay.

12 A. To see if they can contribute to it.

13 Q. Because that was what you were asked to do?

14 A. That is correct.

15 Q. Okay. All right. Go ahead with 1.2 there, so Ann is
16 not excluded or Ann Covington is excluded and I believe
17 we're on the sperm fraction, if you'll go through that?

18 A. Yeah, the sperm fraction the DNA profile is a mixture
19 of the two individuals. The DNA profile of the major
20 contributor matches the DNA profile of Tyreek Hayes. The
21 probability of randomly selecting an unrelated individual
22 having a DNA profile matching the major contributor to this
23 mixture is approximately 1 in 140 nonillion. And due to
24 the inability to calculate a statistic, no further
25 interpretation will be offered regarding the minor

1 contributor to this mixture. And that just means that I
2 just didn't have enough genetic information to put a stat
3 to that minor contributor. And if we are unable to put a
4 statistic to any kind of contributor we won't do any kind
5 of interpretations on that.

6 Q. All right. Thank you. Let's me on to the next item,
7 1.3.1, and can you just refreshes on why we have all these
8 little numbers after it, the .3 and the .1?

9 A. Yeah. We sub items. So everything that these items
10 came from originated from the condom so we just want to
11 make sure that each item, we want to reference where it
12 came from and also give it is unique own number as well.

13 Q. Because it moves to the different areas within sled?

14 A. That's correct.

15 Q. Okay. Do you have some results related to the hair
16 from the condom?

17 A. The DNA profile is a mixture of two individuals. Due
18 to the inability to calculate a statistic, no further
19 interpretations will be offered.

20 Q. Okay. Now, item 9.1 is the cutting from the chest
21 area of the shirt, did you test that?

22 A. Yes, I did.

23 Q. And what are your results?

24 A. The DNA profile is a mixture of two individuals. The
25 DNA profile of the major contributor matches the DNA

1 profile of Ann Covington. The probability of randomly
2 selecting an unrelated individual having, excuse me,
3 matching the major contributor to this mixture is 1 and 1.,
4 excuse me, 1 and 7.9 nonillion.

5 Q. Okay. So for clarity purposes, item 9 was the shirt
6 that have been submitted for testing and 9.1 was from the
7 cutting from the chest area, right?

8 A. That is correct.

9 Q. So that's what you tested and found the DNA profile of
10 Ann Covington, is that right?

11 A. As the major contributor, that is correct.

12 Q. Okay. All right. Let's talk about item 9.2, go
13 through that for us?

14 A. Oh, yes. The DNA profile is a mixture of at least two
15 individuals. The DNA profile of the major contributor
16 matches the DNA profile of Candace Simpson. The
17 probability of randomly selecting an unrelated individual
18 having a DNA profile matching the major contributor to this
19 mixture is approximately 1 in 12 nonillion. And due to the
20 inability to calculate a statistic, no further
21 interpretation will be offered regarding the minor
22 contributors to this mixture.

23 Q. All right. So we're still talking about item 9 for
24 sled numbering purposes, that same shirt and then 9.2 is
25 the cutting from the arm ---

1 A. From the ---

2 Q. --- that you would've gotten from Ms. Herrera, is that
3 right?

4 A. That's correct. The cuff area of the right arm.
5 That's correct.

6 Q. So the major contributor is Candace on that?

7 A. That is correct.

8 Q. So we have Candace's DNA on the arm of the shirt, is
9 that correct?

10 A. That is correct.

11 Q. Okay. Now, what do you mean and you may have touched
12 on this briefly but let's clarify just a little bit more.
13 Your last notation on 9.2, "due to the inability to
14 calculate a statistic, no further interpretation will be
15 offered as to a minor contributor", can you explain that a
16 little bit more for us?

17 A. Not a problem. Because there's not enough genetic
18 information there for me to be able to use as a statistic.
19 We won't put a -- we won't do any kind of comparison in
20 with it. Whenever we compare anything to anybody or we say
21 we match or that person is a major contributor we would
22 want to put a weight stat to give it more significance to
23 let you know exactly how much of that person is
24 contributing to that item as a major contributor. But if
25 I'm unable to do that then we won't do any kind of

1 comparisons with that. And that's just -- and that does
2 happen occasionally.

3 Q. All right. Let's move down to the next page, talk
4 about item 9.3, we're still referencing that same shirt, is
5 that correct?

6 A. That's correct.

7 Q. Okay. And if you'll tell us the results for item 9.3?

8 A. Ah, yes. The DNA profile is a mixture of at least
9 three individuals. The partial DNA profile of the major
10 component to this mixture is consistent with being from two
11 individuals. Candace Simpson and Tyreek Hayes are included
12 as possible contributors to the major component. The
13 probability of randomly selecting an unrelated individual
14 who could have contributor to the major component to this
15 mixture is 1 and 1.0 million. Ann Covington is excluded as
16 a contributor to the major component. And due to the
17 inability to calculate a statistic, no further
18 interpretations will be offered regarding the minor
19 component to this mixture. If I may explain about the
20 major component, whenever we have received two people
21 contributing significantly more DNA to a person, excuse me,
22 a mixture of three people are more than we can kind of pull
23 out who is known as that major component. That's just a
24 way for us to be able to target those major, those major
25 persons who are contributing to a three-person mixture or

1 more. So that's what a major component is.

2 Q. Okay. Thank you. And just for clarity, I'm not sure
3 if we put it out there, 9.3 is a swab from the neck area of
4 the same shirt, right?

5 A. That is correct.

6 Q. Okay. Now, let's pause for a minute and talk a little
7 bit about the transfer of DNA, how easy is it to
8 transferred DNA?

9 A. It varies. It just depends on that person any kind of
10 external circumstances that might be going on. Everybody
11 sheds skin cells differently. Some people are heavy
12 shedders. Some people are light shedders. It just really
13 just depends upon the circumstance, what kind of external
14 factors that may come in contact with the item and, in this
15 case, the shirt. It just kind of varies.

16 Q. Okay. So is it possible to transfer DNA from like
17 sweat, rubbing up on somebody, a hug, that kind of thing?

18 A. Yes, it is. It's possible.

19 Q. All right. Let's move to item 10.1 and if you can
20 explain what item 10 was for us?

21 A. That was swabs of handle of knife.

22 Q. Okay.

23 A. A knife that has a DPD number 28 ---

24 Q. So DPD number 28 that would've been the Dillon Police
25 Department, right?

1 A. I believe so.

2 Q. Okay. And then sled gave it item 10?

3 A. Ten.

4 Q. Okay.

5 A. But the swab we gave 10.1.

6 Q. Okay. And if you'll tell us your findings on that?

7 A. The partial DNA profile is insufficient for
8 interpretation.

9 Q. Okay. What does that mean?

10 A. It just means once again not enough genetic
11 information to do any kind of comparisons with. It's very
12 low DNA.

13 Q. So there's nothing there for you to be able to test,

14 A. There was nothing in ---

15 Q. --- compare it?

16 A. There was nothing -- it wasn't enough to do any kind
17 of comparisons with.

18 Q. Okay.

19 A. And no Y-STR profile was developed. If I may explain
20 what Y testing is, that's a different type of testing of
21 DNA that only targets male DNA. It's testing the Y
22 chromosome that every male has. That Y profile that could
23 be developed it follows the paternal line. So any father
24 or brother or son, grandfather, uncle, brother it would all
25 have that same Y profile since that Y chromosome is passed

1 down from father to son. And we did do Y testing on this
2 one but as I stated no Y profile was developed.

3 Q. Okay. And is that related to the fact that there
4 wasn't enough to be able to test?

5 A. That's correct.

6 Q. Okay. And for clarity purposes this particular knife
7 we're talking about this came from the handle of the knife
8 ---

9 A. That is correct.

10 Q. --- as compared to a blade, is that right?

11 A. That is correct.

12 Q. So this would be a knife with a handle on it. Okay.
13 So item 11.1, can you tell us about that, your findings
14 there?

15 A. Ah, yes. The DNA profile is a mixture of two
16 individuals. The partial DNA profile of the major
17 contributor matches the DNA profile of Ann Covington. The
18 probability of randomly selecting an unrelated individual
19 having a DNA profile matching the major contributed to this
20 mixture is 1 in 100 sextillion. Due to the inability to
21 calculate -- due to the inability to calculate a statistic,
22 no further interpretation be offered regarding the minor
23 contributors to this mixture. And though partial Y-STR
24 profile is insufficient for interpretation.

25 Q. Okay. So let's -- let's clarify a couple of things

1 there. So for item 11 you were testing a blade, is that
2 correct?

3 A. That is correct.

4 Q. So not a knife with a handle but a blade?

5 A. That is correct.

6 Q. Okay. And the major contributor was Ann Covington?

7 A. That is correct.

8 Q. Okay. Now, tell us on this one why you didn't have or
9 why there is an insufficient interpretation for Y?

10 A. Once again just not enough genetic information to do
11 any kind of comparisons with very low DNA.

12 Q. Okay. So you found a mix of two individuals and the
13 major contributor is Ann, is that what we're saying?

14 A. Ann Covington, that is correct.

15 Q. Okay. Let's move to item 12.1, page 5 of your report.
16 So again vaginal swabs came to you from another department,
17 is that right?

18 A. Yes. Ms. Herrera swabbed those -- well, she cut them,
19 yes, that's correct.

20 Q. Okay. And what findings you have for the vaginal
21 swabs?

22 A. For the non-sperm fraction the DNA profile is
23 attributable to Candace Simpson. Which means I did find
24 her DNA in that non-sperm fraction. And the sperm
25 fraction, the DNA profile is a mixture of two individuals.

1 A DNA profile foreign to Candace Simpson was developed and
2 it matches the DNA profile of Tyreek Hayes. The
3 probability of randomly selecting an unrelated individual
4 having a DNA profile matching this foreign DNA is
5 approximately 1 and 28 octillion. And also DNA types
6 attributable to Candace Simpson were also present in that
7 sperm fraction.

8 Q. Okay. So item 12.1, the vaginal swabs from Ms.
9 Simpson we have a mixture of two individuals and, in short
10 terms, it would be Tyreek Hayes and Candace Simpson, right?

11 A. That is correct in the sperm fraction.

12 Q. Okay. And item 12.2, the oral swabs, can you tell us
13 what you found there?

14 A. Yes. In the non-sperm fraction the DNA profile is
15 attributable to Candace Simpson. And the sperm fraction
16 the DNA profile is a mixture of two individuals. The
17 partial DNA profile of the major contributor is
18 attributable to Candace Simpson. But Tyreek Hayes is
19 included as a possible minor contributor to that mixture.
20 The probability of randomly selecting an unrelated
21 individual who could have contributed to this mixture is
22 approximately 1 in 840 billion. And Ann Covington is
23 excluded as a possible minor contributor to this mixture.

24 Q. Okay. So item 12.2 that's still part of the sled or
25 sled number 12, right ---

1 A. Yes. From ---

2 Q. --- which would be the the sex assault kit?

3 A. That's correct.

4 Q. Okay. So this is the oral swabs from the sex assault
5 kit, is that right?

6 A. That is correct.

7 Q. Okay. So, in short terms, again, we have major
8 contributor is Candace and another contributor is Tyreek
9 Hayes, is that correct?

10 A. That is correct.

11 Q. Let's move to 12.3 , so rectal swabs, again, this
12 would be from the same sex assault kit, right?

13 A. That is correct.

14 Q. Okay. And what are your findings of the rectal swabs?

15 A. The non-sperm fraction the DNA profile is attributable
16 to Candace Simpson.

17 Q. If you could you just speak up a little bit. Sorry.

18 A. I'm sorry. I apologize. The non-sperm fraction the
19 DNA profile is attributed to Candace Simpson. The sperm
20 fraction the DNA profile is a mixture of two individuals.
21 The DNA profile foreign to Candace Simpson was developed
22 and it matches the DNA profile to Tyreek Hayes. The
23 probability of randomly selecting an unrelated individual
24 having a DNA profile matching this foreign DNA is
25 approximately 1 in 20 septillion. And DNA types

1 attributable to Candace Simpson are also present in this
2 mixture.

3 Q. Okay. So from the rectal swabs in the sex assault kit
4 we have Candace Simpson and Tyreek Hayes?

5 A. That is correct.

6 Q. And could you tell us about 12.4 the thighs, the swabs
7 from Candace's thighs?

8 A. The non-sperm fraction the DNA profile is a mixture of
9 two individuals. The partial DNA profile of the major
10 contributed is attributable to Candace Simpson. And due to
11 the inability to calculate a statistic, no further
12 interpretation would be offered regarding the minor
13 contributor to that mixture. For the sperm fracture the
14 DNA profile matches the DNA of Tyreek Hayes. And the
15 probability of randomly selecting an unrelated individual
16 having a DNA profile matching this item is approximately 1
17 in 140 nonillion.

18 Q. Okay. So from the thigh swabs major contributor,
19 Candace, and also DNA of Tyreek Hayes?

20 A. In the sperm fracture, that is correct.

21 Q. In the sperm fracture, thank you. Okay. And item
22 12.5.1, still working with the a sex assault kit, did you
23 find the results of the fingernail scrapings, left hand?

24 A. Yeah. Develop from the left hand finger scrapings the
25 DNA profile is a mixture of two individuals, at least two

1 individuals. The DNA profile of the major contributor is
2 attributable to Candace Simpson. The partial DNA profile
3 of the minor contributor is insufficient for
4 interpretation.

5 Q. All right. So you found two individuals but can only
6 determine the major contributor, is that right?

7 A. That is correct.

8 Q. Okay. And the next item, the right hand fingernail
9 scrapings, what is your finding there?

10 A. The DNA profile is attributable to Candace Simpson.

11 Q. Okay.

12 MS. BURCHSTEAD: I beg the Court's indulgence.

13 Q. All right. Just to clear up a couple points here, I
14 believe throughout your report and at least in a couple of
15 places maybe with the shirt and the fingernail scrapings,
16 could you explain just a little bit more when the partial
17 DNA profile of a minor contributor is insufficient for
18 interpretation, what does that mean?

19 A. It just means that we just did not have enough genetic
20 information to do any kind of statistics with. Once again,
21 if we can't put a stat to it we don't make any kind of
22 comparisons to it. We always want to put a weight on our
23 stat to any kind of comparisons that we are making whenever
24 we're doing any kind of testing just to show the
25 significance of that comparison. And if we are unable to

1 do that because of the makeup of their DNA profile such as
2 two minor or two partial then we won't to any kind of
3 comparisons with that.

4 THE COURT: Don't let your voice trail off.

5 A. I'm sorry. I apologize. I really do apologize. I'm
6 sorry.

7 Q. It's hard. We understand. Okay. So does it mean the
8 person is unknown or you just don't have enough to test?

9 A. We just don't have enough to test is what that means.

10 Q. Okay.

11 MS. BURCHSTEAD: Nothing further on direct, Your
12 Honor.

13 THE COURT: Okay. Mr. Swilley?

14 **Cross-Examination by Mr. Swilley:**

15 Q. All right, Mr. Stewart ---

16 A. Good morning.

17 Q. Good morning. Going back to report, it would appear
18 that, you know, going back -- and you have a copy of your
19 report, don't you?

20 A. I do.

21 Q. Okay. Now, you were given comparisons for or you were
22 given comparisons standards which are those buccal swabs
23 from Candace Simpson, Tyreek Hayes and Ann Covington,
24 correct?

25 A. That is correct.

1 Q. You weren't given any more buccal swabs from anyone
2 else, right?

3 A. I was not.

4 Q. All right. Now, -- and then you base, you know, you
5 base your analysis on these items that you tested or that
6 you analyzed which be 1 through 12, right, all 12 items --
7 those -- the only comparisons standards with Candace
8 Simpson, Tyreek Hayes and Ann Covington, is that correct?

9 A. That is correct.

10 Q. Okay. And there was no way for you to have a
11 comparison standard for someone else who you didn't
12 receive, right?

13 A. No.

14 Q. Okay. Thank you. Now, going back to -- and just so
15 we're clear, the swab or the swab from the interior of the
16 condom there was, in fact, it would've appeared to have
17 been actual semen from inside, you know, the actual, you
18 know, to have all three components for semen inside of that
19 condom, right?

20 A. Yes. That's what Ms. Herrera testified to.

21 Q. I'm sorry, now?

22 A. Ms. Herrera she tested all three the p30, acid
23 phosphatase and spermatozoa tested positive.

24 Q. Those are all three components of semen, right?

25 A. That is correct.

1 Q. Okay. Now, and that was from the inside of the
2 condom. And the exterior of the condom which is 1.2 is
3 that swab, that's a profile from at least two different,
4 that was two different individuals and your analysis
5 included that Candace and Tyreek were included as possible
6 contributors to this mixture, right?

7 A. For the non-sperm fraction?

8 Q. Yes, for the non-sperm fraction, that's correct?

9 A. That is correct.

10 Q. Right. And for the actual sperm faction there is no
11 semen, there's no actual semen that was identified but
12 there was a spermatozoa that was identified for the
13 exterior, is that correct?

14 A. I have to look at her -- and you mean for item 1.1,
15 correct? I believe she identified everything from 1.1. acid
16 phosphatase, p30 and spermatozoa were all identified on
17 item 1.1.

18 Q. Right. And then I'm going to hand you what's been
19 marked as State's Exhibit 89 that's Ms. Herrera's report.

20 A. Mmm, hmm.

21 Q. There you go just so you're working off the actual
22 exhibits.

23 A. That's correct.

24 Q. Now, 1.2 there was no semen found but there was
25 spermatozoa found, is that correct?

1 A. That is correct.

2 Q. Okay. And that would mean that the spermatozoa came
3 in contact with the exterior of the condom, right?

4 A. I believe so.

5 Q. Okay. And we move on to item 3 which is, excuse me,
6 or 1.31 or 1.3.1, excuse me.

7 A. Mmm, hmm.

8 Q. That is a hair from the condom and that was a mixture
9 of at least two different individuals, right?

10 A. That is correct.

11 Q. And you didn't have any inability to calculate a
12 statistic because you didn't have enough to test, is that
13 right?

14 A. Right. Yeah, I didn't have enough confidence in that
15 profile to put weight to it, a statistic, so I didn't do
16 any comparisons.

17 Q. Okay. But you -- but for something like this you
18 could've done a comparison, right, you just didn't feel
19 confident ---

20 A. Well, if we can't put a weight to it then I won't put
21 a comparison or I want put any type of comparisons with it.

22 Q. You won't put a comparison to it, right?

23 A. Well, also sled, I mean, anyone in our lab we're not
24 gonna put any kind comparison with that. I mean, that's
25 generally accepted in a forensic community. If we can't

1 put a stat to it then we won't do any kind of comparisons
2 with it.

3 Q. Okay. And going back to 9.1, chest area of the shirt,
4 that was a mixture of at least two individuals and said the
5 "major contributor was Ann Covington", right?

6 A. That is correct.

7 Q. That was her DNA?

8 A. That is correct.

9 Q. Okay. And the actual source of that DNA is not noted
10 on your report, is that correct?

11 A. It is not.

12 Q. Okay. And that's because you don't know because you
13 just get the standard from Ms. Herrera, right?

14 A. Yeah, I get the swab from her. All the cuttings from
15 her, that is correct.

16 Q. Right. Okay. Same with the cuff area of the shirt,
17 the actual DNA profile major contributor is Candace
18 Simpson, is that correct?

19 A. That is correct.

20 Q. All right. And that's a mixture of at least two
21 different individuals from the cuff of that shirt, right?

22 A. That is correct.

23 Q. Right. And due to the inability to calculate a
24 statistic you can identify the other individual, could you?

25 A. I cannot.

1 Q. All right. That individual, you have no idea who that
2 person could be?

3 A. I do not.

4 Q. Right. Moving on. And then the same with 9.3, it
5 says, "there's DNA profile mixture of at least three
6 different individuals", right?

7 A. That is correct.

8 Q. Okay. And the major component of this mixture is
9 consistent with being, would being from two individuals or
10 the partial profile, excuse me, of the major component at
11 least two individuals, right?

12 A. That is correct.

13 Q. And that's Candace and Tyreek, right?

14 A. That is correct.

15 Q. Right. And Ann Covington is excluded from being a
16 contributor to the major component, right?

17 A. That is correct.

18 Q. Right. So -- so there is, at least, consistent from
19 being with two individuals, the profile is a mixture of
20 three, right?

21 A. That is correct.

22 Q. All right. Now, and you had Ann Covington's, and
23 again I'm reverting back, you had Ann's sample to compare
24 it to, right?

25 A. That is correct.

1 Q. You had Tyreek's?

2 A. That is correct.

3 Q. And you had Candace's, right?

4 A. That is correct.

5 Q. And those are the only three and Ann was actually
6 excluded as a contributor from that neck area of the shirt,
7 right?

8 A. As a major component.

9 Q. As a major component. So there's three major
10 components, right, you had three people to compare it to
11 and two of them, two of your samples were major component,
12 right?

13 A. They're in the mixture, that is correct.

14 Q. Tyreek and Candace?

15 THE COURT: Speak up please.

16 A. That's -- that's correct, yes.

17 Q. All right. Now, that third one you don't have a
18 comparison so you don't know who that third major
19 contributor is, do you?

20 A. I do not but also I would not be able to do -- even if
21 I were to have another standard I wouldn't be able to do
22 the comparisons to that, to that minor component because it
23 was just so partial and I can do a stat to it so

24 Q. Now, as to the -- now, as to the -- okay. Now, as to
25 the mixture -- but there is three different individuals on

1 that, on that, on that scraping from the neck area?

2 A. That is correct.

3 Q. And you only identified two -- you could only
4 identified to with the samples you were given, right?

5 A. Yes. And I excluded Ann Covington from the major
6 component. That's correct.

7 Q. Okay. And you can't -- and you can't -- you are
8 unable to figure out who the minor contributor was, right?

9 A. I wouldn't be able to even if I had another standard I
10 wouldn't be able to.

11 Q. Okay. And then we go back, you know, you had a swab
12 on the knife handle, you couldn't, you couldn't use that
13 profile at all from the knife handle for interpretation,
14 right?

15 A. Item 10.1?

16 Q. That's correct.

17 A. That is correct.

18 Q. Okay. And then you got swabs from the blade edges on
19 item 11, isn't that correct?

20 A. That 11.1, that's correct.

21 Q. All right. And you were able to find out that's DNA
22 profile of two different, two different individuals, right?

23 A. Yes, that's correct.

24 Q. And you are able to identify one and that's Ann
25 Covington, right?

1 A. That is correct.

2 Q. And you can't identify the other?

3 A. I cannot.

4 Q. Okay. And you were able to compare that standard with
5 all three of the standard or you were able to compare that,
6 that profile with the three standards you were given,
7 right?

8 A. That is correct.

9 Q. And you only had three so that's all you could compare
10 it to, right?

11 A. With the three standards, that is correct.

12 Q. Okay. Going back -- going up to 9.2, that's the cut -
13 - okay. Now, if you were given more swab samples you
14 could, you could compare those standards to all of these
15 items, right? You could have had you been given more?

16 A. The ones -- I don't believe not for the ones that's
17 insufficient or the ones -- even if I had another standard
18 for those partial ones I could not do any kind of
19 comparisons with those.

20 Q. Okay. Now, going back to 12, it looks like 12.2, the
21 oral swab, I'm going to revert you back to Ms. Herrera's
22 report, 12.2, there was no -- there was no spermatozoa
23 identified in 12.2, isn't that right?

24 A. That is correct.

25 Q. Okay. Only p30 was found in there, right?

1 A. That is correct.

2 Q. And p30 is short for what?

3 A. It's short for protein, protein 30. That's
4 potentially what I think it stands for.

5 Q. Protein -- protein 30?

6 A. I -- I -- I believe so ---

7 Q. You don't ---

8 A. --- don't quote me on that.

9 Q. You don't know?

10 A. I don't.

11 Q. Okay. You just know that's one of the three
12 components of semen, right?

13 A. That's correct.

14 Q. And it comes from males, right?

15 A. Yes, it does.

16 Q. Okay. Now, going back to your report on 12.2, the
17 actual sperm fraction is comparable to -- well, you have it
18 labeled as a sperm fraction it's actually a profile of the
19 mixture of two individuals and you were able to include the
20 major contributor to what you labeled as a sperm fraction
21 as Candace and the minor contributor of this mixture is
22 Tyreek Hayes, right?

23 A. That is correct.

24 Q. And you don't know the source of this, of this
25 particular fraction, do you?

1 A. Like I said, it's supposed to try to encompass on any
2 kind of semen potential DNA that's there, but I do not know
3 the exact source of it.

4 Q. All right. There was no semen that was found --
5 according to Ms. Herrera there's no semen that was found in
6 the swab, right?

7 A. That is -- no spermatozoa, that's correct.

8 Q. Right. And you have to have all three to have actual
9 semen, right?

10 A. Well, the sperm is actually in the spermatozoa.
11 That's the actual DNA that we would get from that so....

12 Q. Okay.

13 A. But she said no spermatozoa so I cannot tell you
14 hundred percent where the DNA actually came from.

15 Q. You can't tell -- yeah, you can't tell what part or
16 where the actual DNA came from it's just DNA there?

17 A. That's correct.

18 Q. It could've come from saliva, right?

19 A. Yes, that's correct.

20 Q. Okay. Just give me one moment Mr. Herrera. It's not
21 Mr. Herrera, give me one moment please, Mr. Stewart?

22 A. That's okay.

23 Q. And Mr. Stewart, as far as the DNA, the DNA analysis
24 you can't tell, DNA doesn't tell you when, right?

25 A. It does not.

1 Q. Right. It doesn't tell you where, right?

2 A. It does not.

3 Q. And it also doesn't tell you how either, right?

4 A. It does not.

5 Q. Just that it is?

6 A. That it's there. That's correct.

7 Q. Okay. And then you went back -- well, you were able
8 to try to do an analysis for Y-STR, and just to clarify
9 that, Y-STR analysis of DNA that's for Y chromosome, right?

10 A. That is correct.

11 Q. And just so everybody - and just so to make sure
12 we're aware, I mean, females have two X, chromosomes,
13 right?

14 A. That is correct.

15 Q. And a male has a X and Y chromosome, right?

16 A. That is correct.

17 Q. And that Y chromosome is what, I guess, inherently
18 makes a male a male?

19 A. That is correct.

20 Q. Right. And when you do that Y chromosome analysis you
21 looking for that male, specific type of male DNA, right?

22 A. Yeah. If the Y profile - if the Y-STR profile we
23 develop off locations off that Y chromosome.

24 Q. Okay. And you weren't able to get any kind of results
25 on the Y-STR analysis that you did, right?

1 A. Off of 10.1, I'm sorry, let me go back. For 10.1,
2 there was no Y-STR profile developed. And for 11.1 there
3 was a partial Y-STR that was to insufficient for
4 interpretation.

5 Q. So that's swab from that 11.1, that's the swab from
6 the blade of edge of item 11, there was, there was a
7 partial DNA profile of a man that you were able to, at
8 least, identify, right?

9 A. I did type -- there's one profile, I mean, one type at
10 that Y-STR but, like I said, it was to insufficient.

11 Q. All right. And that's item 11, right? That's just
12 the blade edge, right? That's just the knife with no
13 handle, is that correct?

14 A. That is correct.

15 Q. Okay. And there's a -- so just to make sure, there's
16 a partial Y-STR profile on that, on that knife that you
17 cannot identify?

18 A. Yeah, that's correct.

19 Q. Okay. Now -- and just to be clear, an STR stands for
20 short tandem repeat, right?

21 A. That is correct.

22 Q. Right. And you're -- I think Ms. Herrera testified
23 earlier there's two types of DNA analysis, there's nuclear
24 that sled does, right?

25 A. That's correct.

1 Q. And this mitochondrial that sled doesn't do?

2 A. That is correct.

3 Q. All right. Now, and this short tandem repeat test is
4 a test for the nuclear DNA, right?

5 A. That is correct.

6 Q. Right. And the Y-STR it's just a same short tandem
7 repeat specifically for the Y rather than ---

8 A. The entire ---

9 Q. --- everything else, right?

10 A. That is correct.

11 Q. Okay. And when you did that, that narrowing, that Y-
12 STR test which is the narrowing down short tandem repeat
13 test for the nuclear, for the nuclear DNA, you can't
14 interpret it, right?

15 A. The Y, profile?

16 Q. Right.

17 A. No, I cannot.

18 Q. Now, if you had a, a Y that was sufficient for
19 interpretation you could've compared it to any standard,
20 right?

21 A. Any male standard, that is correct.

22 Q. Any male, yeah, any male standards, right?

23 A. That is correct.

24 Q. All right.

25 MR. SWILLEY: All right. Thank you, Mr. Stewart.

1 MR. STEWART: No problem.

2 THE COURT: Ms. Burchstead?

3 MS. BURCHSTEAD: Thank you, Your Honor.

4 **Redirect Examination by Ms. Burchstead:**

5 Q. Just briefly let's see if we can go over a few things.
6 All right. So there's a lot of talk about majors and
7 minors. So specifically looking at 9.3, again we're
8 talking about the neck area of the shirt. I believe you
9 had said on cross even if you had been given another sample
10 there wasn't enough test for that third potential
11 contributor, is that right?

12 A. That is correct.

13 Q. Okay. So the fact that you don't have enough test
14 does that mean Ann is excluded as a minor?

15 A. I couldn't, like I said, I couldn't do any type of
16 comparisons with that minor.

17 Q. Okay. So it could be Ann?

18 A. It's possible. But, like I said, I just can't do
19 anything with it.

20 Q. Or it could be someone that just rubbed up on it may
21 be if DNA had transferred?

22 A. It's possible.

23 Q. It could've happened, a shirt getting tossed around in
24 a garbage can, if there's some DNA in the garbage can?

25 A. Yeah, that can be possible too.

1 Q. Okay. So just not enough for you to know?

2 A. That's correct.

3 Q. Okay. All right, similarly with item 11.1 that's the
4 knife with the blade, so not the handle from the knife but
5 just the blade knife, is your result excluding Candace as a
6 contributor?

7 A. No, it is not.

8 Q. So Candace could be on that, her DNA could be on
9 there, potentially?

10 A. Like I said ---

11 THE COURT: Speak up.

12 A. I couldn't do anything with it ---

13 Q. We just don't know?

14 A. I just don't know. No, I don't.

15 MS. BURCHSTEAD: Nothing further.

16 MR. STEWART: Thank you.

17 THE COURT: Mr. Swilley?

18 **Re-cross Examination by Mr. Swilley:**

19 Q. Just to -- all right. Just to clarify, Mr. Stewart, I
20 think Ms. Burchstead just ask you different ways DNA could
21 be, could've been transferred to item 9.3, there is no
22 limitation on -- you have no way of to limit the ways in
23 which DNA, to know in which the ways DNA could have been
24 transferred in 9.3, right?

25 A. I do not.

1 Q. And as far as the blade that doesn't, your analysis
2 didn't exclude anybody. As she said, it doesn't exclude
3 Candace Simpson, right?

4 A. That's correct.

5 Q. It doesn't exclude anybody else in this world?

6 A. That's correct.

7 MR. SWILLEY: Thank you.

8 THE COURT: All right. Mr. Stewart, you can step
9 down. Thank you, sir.

10 MS. BURCHSTEAD: May he be excuse, Your Honor?

11 THE COURT: Any objection?

12 MR. SWILLEY: No objection.

13 THE COURT: Mr. Stuart, you may be excused.

14 MR. STEWART: Sorry about that.

15 MS. BURCHSTEAD: And may we approach, Your Honor?

16 THE COURT: Yes.

17 (Whereupon, a bench conference was held off the record)

18 THE COURT: All right. Ladies and gentlemen, we're
19 going to take a break at this point in time before we hear
20 from the next witness. Again, I caution you about
21 discussing the case when you go back into the jury room.
22 We'll wait until the conclusion of the trial. You may be
23 excused. Everybody remain seated while the jury goes out.

24 (Whereupon, the jury exits the courtroom at 11:25 a.m.)

25 THE COURT: All right. We'll take a break. A

1 short break.

2 (Whereupon, the court takes a short break)

3 (Whereupon, the court goes back on the record at 11:44
4 a.m.)

5 THE COURT: Are we ready for the jury, counsel?

6 MS. BURCHSTEAD: Yes, Your Honor.

7 MR. SWILLEY: Yes, sir.

8 (Whereupon, the jury enters the courtroom at at 11:44 a.m.)

9 THE COURT: All right. The State may call its next
10 witness?

11 MS. BURCHSTEAD: Thank you, Your Honor. The State
12 calls Tonya Moore.

13 THE CLERK: Place your left on the Bible and raise
14 right hand. Do you solemnly swear or affirm that the
15 evidence and testimony you're about to give the court and
16 the jury on this case is the truth, the whole truth, and
17 nothing but the truth so help you God?

18 MS. MOORE: I do.

19 THE COURT: Have a seat in the witness box. State
20 your full name for the court and spelling your last.

21 MS. MOORE: Tonya M-o-o-r-e.

22 THE COURT: Ms. Moore, the sound system is not
23 working so I'm going to ask you to keep your voice up and
24 speak loudly and clearly at all times, all right?

25 MS. MOORE: All right.

1 THE COURT: Okay. Thank you.

2 TONYA MOORE, first being
3 duly sworn, testified as follows:

4 **Direct Examination by Ms. Burchstead:**

5 Q. Good morning, Ms. Moore.

6 A. Good morning.

7 Q. Ms. Moore, where do you live?

8 A. I live across the street from Candace in Maplewood
9 Apartments.

10 THE COURT: Speak up, now, a little bit.

11 A. I live across the street from Maple, I mean, from
12 Candace in Maplewood.

13 Q. Okay. So you live in Dillon County in Maplewood
14 Apartments?

15 A. Yes.

16 Q. And you mentioned Candace, so you know Candace
17 Simpson?

18 A. Yes.

19 Q. How do you know her?

20 A. We're real close friend more like relatives.

21 Q. Okay. And do you know Ann Covington?

22 A. Yes.

23 Q. And how do you know Ann?

24 A. Friends. Real close friends more like relatives.

25 Q. All right. So how long have you known Candace and

1 Ann?

2 A. For years.

3 Q. Okay. Do you work anywhere?

4 A. Yes, ma'am.

5 Q. Where do you work?

6 A. Board of Disability and Special Needs.

7 Q. And what do you do there?

8 A. I'm a caregiver.

9 Q. And how long have you been at DDSN?

10 A. For four years.

11 Q. You say you live at Maplewood, how long have you lived
12 at Maplewood?

13 A. Seven years.

14 Q. So let's go back to 2016 the night of September 30th,
15 do you remember if that was a Friday night? Weekend night
16 ---

17 A. A Saturday. It was a weekend. I think it was a
18 Saturday.

19 Q. All right. Okay. So did you have any plans for that
20 night?

21 A. Yes, ma'am. I attended the Strikers Club there was a
22 party out there.

23 Q. Okay. So you went to Strikers?

24 A. Yes.

25 Q. Okay. And did you see Candace at Strikers?

1 A. Yes, ma'am.

2 Q. All right. Do you know an individual name Tyreek
3 Hayes?

4 A. At the point I didn't but -- then, I didn't.

5 Q. Okay. All right. So did you stay at Strikers all
6 night or ---

7 A. I did.

8 Q. Okay. Did you go anywhere after Strikers?

9 A. Yes, to, um, after hours spot called T. Lee's.

10 Q. All right. And when you say after hour spot, what do
11 you mean?

12 A. Meaning like after the regular clubs get over, like
13 two or something like that, it's just like after hours
14 after two.

15 Q. Okay. So after Strikers closed, did you go T. Lee's?

16 A. Yes, ma'am.

17 Q. All right. Were you driving?

18 A. Yes, ma'am.

19 Q. Okay. Did you take anybody with you to T. Lee's?

20 A. Me and Candace.

21 Q. So you and Candace went to T. Lee's?

22 A. Yes.

23 Q. And about how long did you stay at T. Lee's, do you
24 remember?

25 A. Not long.

1 Q. Okay. And when you left T. Lee's were you still
2 driving?

3 A. Yes, ma'am.

4 Q. And did you take anybody with you?

5 A. Yes.

6 Q. Who did you take with you?

7 A. Candace and Reedy.

8 Q. And when you say Reedy, do you know him by any other
9 name or

10 A. That's all the name I know him.

11 Q. All right. So how did you end up with Reedy in your
12 car?

13 A. He asked Candace for me to give him a ride home.

14 Q. All right.

15 A. That he stayed in the next complex over ---

16 Q. Okay.

17 A. --- from where we lived at.

18 Q. All right. So you didn't know him?

19 A. No, I didn't.

20 Q. But through Candace you agreed to give him a ride ---

21 A. Right.

22 Q. --- is that right?

23 A. Right.

24 Q. So you said the next apartment complex over, what's
25 that?

1 A. Dover Village.

2 Q. So you thought he was going to go to Dover Village, is
3 that right?

4 A. Correct.

5 Q. Okay. So do you have any idea what time it was when
6 the three of y'all got into the car to leave T. Lee's?

7 A. It was around probably two, 3-ish, somewhere in there.

8

9 Q. Okay. So Strikers had closed at what time?

10 A. No, excuse me, Strikers closed probably around two,
11 around two or 2:30.

12 Q. Okay.

13 A. We sat out there for a little while so maybe around 3-
14 ish, 4-ish, somewhere in there.

15 Q. All right.

16 A. I'm not for sure what exact time.

17 Q. So you've been to Strikers, hung out a little bit in
18 the parking lot ---

19 A. Yes.

20 Q. --- or somewhere outside?

21 A. Yes.

22 Q. Then you go to T. Lee's?

23 A. Yes.

24 Q. Stay there for little while?

25 A. Yes.

1 Q. Okay. And the three of y'all get in the car to head
2 to Maplewood?

3 A. Yes.

4 Q. Okay. So you live in Maplewood, right?

5 A. Yes.

6 Q. All right. And Candace lives at Maplewood?

7 A. Yes.

8 Q. And it was your understanding -- was it your
9 understanding that Reedy, the guy with Candace, was gonna
10 go straight to Dover Village?

11 A. Yes.

12 Q. Okay. And you just knew him as Reedy, at that point,
13 right?

14 A. Yes.

15 Q. Okay. So were Candace and Reedy, where were they
16 positioned in your car?

17 A. Well, Candace was in the front seat. He was in the
18 back seat behind me.

19 Q. All right. Were y'all talking on the drive home?

20 A. No.

21 Q. Okay. Was Candace and Reedy talking at all?

22 A. No.

23 Q. Okay. And where were you planning -- were you
24 planning to drop them off or just go to your place, how
25 were you gonna get everybody where they needed to go?

1 A. Well, from where I live at it's like right there, it's
2 a few steps, and then you go over to the next building so I
3 pulled in front of my building.

4 Q. Okay.

5 A. Cuz it's walking distance so he, I guess, I was
6 thinking he was gonna walk on over there.

7 Q. And so was it walking distance for Candace to get her
8 apartment?

9 A. Yes.

10 Q. And then Dover Village is just a little bit passed
11 that, is that right?

12 A. Yes.

13 Q. Okay. So you made it back to your place, right?

14 A. Yes.

15 Q. Okay. What happened when you got back to your place?

16 A. I pulled in my unit. I heard him ask her can he come
17 over. She stated you can come over for a minute but you're
18 not getting any. Then they both left, got out the car and
19 walked to her unit and I went in my unit.

20 Q. Okay. And do you know anything -- you didn't see
21 anything in her unit, you never went into her apartment
22 that night, right?

23 A. No, ma'am.

24 Q. Okay.

25 MS. BURCHSTEAD: I beg the Court's indulgence.

1 Nothing further on direct. Thank you.

2 THE COURT: All right. Mr. Swilley?

3 **Cross-Examination by Mr. Swilley:**

4 Q. Ms. Moore, it's your testimony today that it was just
5 you and Candace that went out?

6 A. Sir?

7 Q. It's your testimony today that it was just you and
8 Candace that went out to the clubs?

9 A. Yes, sir.

10 Q. Okay. Now, do you recall speaking with investigator
11 Turner about this on October 1, 2016, don't you?

12 A. Yes, sir.

13 Q. All right. And you were talking to him in the police
14 car, right?

15 A. Yes, sir.

16 Q. All right. And you told him that some of your friend
17 girls went back to the club, T. Lee's, after Strikers,
18 right?

19 A. No, sir. Actually what I said was that me and Candace
20 went back to the club. I don't recall ---

21 Q. Okay.

22 A. --- saying other ones went back to there.

23 Q. All right. Ms. Moore, if you wouldn't mind could you
24 just read line 16 through 19?

25 A. "Last night we went to the little party at Strikers.

1 After we done went -- after we done we went to Strikers.
2 All of me and my friend girls went back to the club to T.
3 Lee's."

4 Q. Thank you. And Ms. Moore, you weren't the only one in
5 the car when you came back to Maplewood either, were you?
6 Or you and Candace and Tyreek weren't the only ones in the
7 car when you got back to Maplewood either, were you?

8 A. Yeah, we were.

9 Q. Okay. Candace is one of your best friends, right?

10 A. Correct.

11 Q. You've known her for a long time, right?

12 A. Yes.

13 Q. You live in the same apartment complex with her, don't
14 you?

15 A. Yes.

16 Q. All right. It's your testimony today that you don't
17 know Tyreek Hayes?

18 A. Yes, sir.

19 Q. All right. And it's your testimony that you didn't
20 know who he was at the time, right?

21 A. Yes.

22 Q. Is that your testimony?

23 A. Yes.

24 Q. You've lived in Dillon your whole life, haven't you?

25 A. I have.

1 Q. Okay. And you've never lived anywhere else, have you?

2 A. No, sir.

3 Q. All right. Went to Dillon high school, didn't you?

4 A. I did.

5 Q. Okay. All of your family lives in Dillon too, right?

6 A. Yes.

7 Q. I think you testified y'all left Strikers between
8 three and four in the a.m.? Not Strikers, excuse me, you
9 left T. Lee's to go home about between three and four in
10 the a.m.?

11 A. Yes, sir.

12 Q. Okay. And you're certain about ---

13 A. Somewhere along in long in that. I'm not for certain
14 what exact hour but somewhere in that time.

15 Q. I'm sorry, what was the last thing you said?

16 A. I said somewhere along in that time. I'm not sure
17 what exact time.

18 Q. Okay.

19 MR. SWILLEY: Thank you, Ms. Moore.

20 THE COURT: Anything else?

21 MS. BURCHSTEAD: No, Your Honor. May the witness
22 be excused?

23 THE COURT: All right. You can step down, ma'am.
24 No objection?

25 MR. SWILLEY: No objection.

1 THE COURT: All right. You may be excused, too,
2 ma'am. Thank you.

3 All right. Ladies and gentlemen, we're going to stop
4 here and take an early lunch today. It's almost 12 o'clock
5 I understand. So we have got, I think the State's got
6 maybe only about one more witness to present, is that
7 correct?

8 MS. BURCHSTEAD: Yes, Your Honor, possible.

9 THE COURT: And then the defendant will have the
10 opportunity to present any case that he wishes to. Let's
11 plan to be here back here by 1:15. That'll give you about
12 an hour and fifteen minutes to get lunch. And again I
13 caution you don't discuss the case with one another as you
14 go in and out while you're in the jury room but just plan
15 to be back here at 1:15. Thank y'all. Have a good lunch.
16 (Whereupon, the jury exits the courtroom at 11:55 a.m.)

17 THE COURT: All right. Counsel, we'll break for
18 lunch at this point in time. We'll resume at 1:15.

19 MS. BURCHSTEAD: Thank you, judge.

20 MR. KOZAK: Thank you.

21 (Whereupon, the court takes a lunch break at 11:56 a.m.)

22 (Whereupon, the court is back on the record at 1:18 p.m.)

23 THE COURT: All right. Counsel, are we ready?

24 MS. BURCHSTEAD: Yes, Your Honor.

25 MR. SWILLEY: Yes, Your Honor.

1 THE COURT: All right. Bring them in.

2 (Whereupon, the jury enters the courtroom at 1:20 p.m.)

3 THE COURT: All right. The State may call its next
4 witness.

5 MS. BURCHSTEAD: Your Honor, the State rest.

6 THE COURT: Okay. Mr. Swilley, do you have any
7 motions?

8 MR. SWILLEY: I do, Your Honor. I don't know if you
9 want to take those up before the jury.

10 THE COURT: Yeah. We brought them but we're gonna
11 have to send them right back out since we had a motion. I
12 didn't realize the State was going to rest. So, ladies and
13 gentlemen, I hate to send you back down the hall. It won't
14 be for long. Just for a few minutes. You probably don't
15 even need to sit down. I'll call you back in, in a second.
16 (Whereupon, the jury exits the courtroom at 1:21 p.m.)

17 **Motion for Directed Verdict:**

18 THE COURT: All right. Mr. Swilley?

19 MR. SWILLEY: Your Honor, I would make a motion for a
20 directed verdict of not guilty as to all five counts, all
21 five indictment against Tyreek Hayes.

22 THE COURT: Any response from the State?

23 MS. BURCHSTEAD: Yes, Your Honor. As Your Honor is
24 well aware at this junction we are concerned with the
25 existence of evidence and not the weight of the evidence

1 presented and we believe taking a light most favorable to
2 the State, as it's the standard, the State has presented
3 more than efficient evidence for all five counts to go to
4 the jury specifically as to attempted murder times two. We
5 have slashing of necks with the knife which would also go
6 to the use of a deadly weapon following the commission of
7 the kidnapping and CSC. We have testimony by Ms. Simpson
8 that she was held against her will. Rape, we have the rape
9 kit. We have the attack with the knife following all of
10 that and, you know, Ms. Simpson and Ms. Covington testified
11 to that as well as the shirt and the knife and the DNA and
12 the evidence that the jury could take from that. We
13 certainly establish that it was in Dillon County with Ms.
14 Simpson with Investigator Turner. And there was
15 identification of the defendant by both victims in this
16 case. And we believe all five counts are appropriate to
17 submit to the jury.

18 THE COURT: All right. Thank you, ma'am. All
19 right. Mr. Swilley, I'm going to respectfully deny your
20 motion for a directed verdict. I agree with counsel with
21 the State. There's more than sufficient evidence in this
22 case that this matter should be submitted to the jury at
23 this point. Okay. Anything else we need to take up before
24 we bring the jury back?

25 MR. SWILLEY: Judge, I don't know if you want to take

1 up, go over Mr. Hayes' Fifth Amendment Rights with him now
2 or later on. I do have some lay witnesses that I'm gonna
3 call in my case and chief, I mean, it's up to you. But he
4 does intend to testify. And I think there's also gonna be
5 an argument as to a prior conviction on his criminal
6 history and whether or not that's admissible. We can take
7 that up whenever. But that's really the only thing I have
8 right now.

9 THE COURT: Okay. But he does intend to testify?

10 MR. SWILLEY: He does, Your Honor.

11 THE COURT: Okay. All right. Let me go ahead and
12 put something on the record with regards to Mr. Hayes. Mr.
13 Hayes, stand up and raise your right hand. Do you swear or
14 affirm the testimony you're about to give will be the truth
15 so help you God?

16 MR. HAYES: Yes, sir.

17 THE COURT: All right. Mr. Hayes, I understand
18 that you intend to testify in the trial of this case - you
19 can put your hand them - that you intend to testify in the
20 trial of this case?

21 MR. HAYES: Yes, sir.

22 THE COURT: Okay. Do you understand you have the
23 right to remain silent and do not have to testify in this
24 case?

25 MR. HAYES: Yes, sir, I understand.

1 THE COURT: And you understand that if you were to
2 exercise that right to remain silent that the jury would be
3 instructed that, that cannot be held against you in any way
4 whatsoever?

5 MR. HAYES: I understand.

6 THE COURT: Okay. You understand that by
7 testifying you may expose yourself to the introduction of
8 any prior record that you might have?

9 MR. HAYES: I understand.

10 THE COURT: You understand that, all right. You've
11 done this, made this decision, which obviously you can
12 change your mind if you wanted to, but you've done this
13 after sufficient consultation with your attorney Mr.
14 Swilley?

15 MR. HAYES: Yes, sir.

16 THE COURT: Has he answered all of your questions
17 concerning your rights to testify and your right to remain
18 silent?

19 MR. HAYES: Yes, sir.

20 THE COURT: Okay. All right. Anything you want to
21 ask him, Mr. Swilley?

22 MR. SWILLEY: There is not, Your Honor.

23 THE COURT: Okay. All right. You may be seated.
24 At what point did you intend to call Mr. Hayes?

25 MR. SWILLEY: I plan to call him last. I have three

1 witnesses here that I'm going to call and then call Mr.
2 Hayes.

3 THE COURT: Okay. And the reason I ask, I
4 indicated earlier when it was brought up about, you know,
5 the third-party that any testimony that goes to that, if
6 you intend to introduce that, I'd want to get up outside
7 the presence of the jury so ---

8 MR. SWILLEY: Yes, sir.

9 THE COURT: --- so I can rule on that.

10 MR. SWILLEY: I don't, Your Honor, I don't plan to
11 and I'm not going to elicit any evidence as any third-party
12 guilt through any other witnesses other than Mr. Hayes,
13 himself, which I don't think the State's motion really
14 encompass. But I don't have any other witnesses that are
15 gonna introduce evidence of third-party guilt, any other
16 witnesses they're gonna testify.

17 THE COURT: Other than ---

18 MR. SWILLEY: Correct.

19 THE COURT: --- Mr. Hayes. Okay. All right. We
20 can take that matter up when you call him, then, we can
21 send the jury out.

22 MS. BURCHSTEAD: And there was mention of a prior
23 record, I believe, we can quickly take care of that. The
24 prior record is a strong arm in 2015 reduced from armed
25 robbery. Under old case law Al-Amin I believe you could

1 use that but I believe that's been overturned. The State
2 does not intend to go into that unless we have some sort of
3 situation where characters are an issue and then we could
4 approach the bench and deal with that as necessary, if some
5 of these witnesses on the stand start to getting into
6 whether he's violet or not.

7 THE COURT: Okay. All right.

8 MR. SWILLEY: So, just to make sure, the State
9 doesn't plan on introducing into evidence of the prior
10 conviction?

11 MR. SWILLEY: Not for impeachment in terms of
12 truthfulness, no.

13 MR. SWILLEY: Okay.

14 THE COURT: If the doors open in terms of character
15 we will approach at that point.

16 MR. SWILLEY: Okay.

17 THE COURT: Okay. All right. Bring them in.

18 (Whereupon, the jury enters the courtroom at 1:28 p.m.)

19 THE COURT: All right. Mr. Swilley, you may call
20 your first witness.

21 MR. SWILLEY: The defense calls Infinity Russell.

22 THE CLERK: Place your left on the Bible and raise
23 right hand. Do you solemnly swear or affirm that the
24 evidence and testimony you're about to give the court and
25 the jury on this case is the truth, the whole truth, and

1 nothing but the truth so help you God?

2 MS. RUSSELL: I do.

3 THE CLERK: Have a seat in the witness box. State
4 your full name for the court and spelling your last.

5 THE COURT: And that microphone doesn't work.

6 MS. RUSSELL: Oh, I'm sorry.

7 THE COURT: Just please speak loudly and clearly
8 since it does not work.

9 MS. RUSSELL: Okay. May name is Infinity Russell.
10 That is I-n-f-i-n-i-t-y, Russell, R-u-s-s-e-l-l.

11 Infinity Russell, first being
12 duly sworn, testified as follows:

13 **Direct Examination by Mr. Swilley:**

14 Q. Ms. Russell, where do you reside?

15 A. I am -- I reside in Dillon, South Carolina.

16 Q. Okay. How long have you been residing in Dillon for?

17 A. For about five years.

18 Q. Five years. And do you know who Tyreek Hayes is?

19 A. I do.

20 Q. All right. How do you know Tyreek?

21 A. I know Tyreek Hayes from Purdue. We used to work
22 together.

23 Q. Okay. And that's the extent of how you know him?

24 A. Right.

25 Q. Okay. And do you know who Candace Simpson is?

1 A. I do.

2 Q. Okay. And -- actually, what part of Dillon do you
3 live in, Infinity?

4 A. I stay in front of Walmart to be exact in Interstate
5 Apartments.

6 Q. Okay. And do you -- around the time of 2000 -- do you
7 recall going out to any nightclubs around the time of it
8 would've been around November or December of 2016?

9 A. Yes.

10 Q. Okay. Which nightclub did you frequent at that time?

11 A. I attend two nights clubs, actually, one is Alar (sic)
12 which is now closed now. And the other one is Johnny's
13 lounge.

14 Q. Okay. And did you have a chance to be at the same
15 nightclub during this time as Candace Simpson?

16 A. Yes.

17 Q. Okay. And don't tell me -- don't tell me what anybody
18 said but did you witness Ms. Simpson at these nightclub?

19 A. Yes, I have.

20 Q. Okay. And specifically do you remember about how long
21 after -- well, how long after November 1st, excuse me,
22 October 1st -- or let me ask you this, about how long after
23 November 1, 2016 was this, how many weeks?

24 A. It hadn't been probably a month.

25 Q. A month?

1 A. Yeah, no longer than a month when I seen her.

2 Q. Can you describe her demeanor at these nightclubs?

3 A. Yes, very, very social. Talkative. You know,
4 intoxicated.

5 Q. Okay.

6 A. Very intoxicated.

7 Q. Okay. Was she interacting with people?

8 A. She was.

9 Q. Okay. Would you describe her conduct as ---

10 MS. BURCHSTEAD: Objection. Relevance. Pretty far
11 from the date of the incident of how she's acting at
12 nightclubs is not relevant.

13 MR. SWILLEY: Judge, I think ---

14 THE COURT: Does she know specifically about the
15 night in question?

16 MR. SWILLEY: Your Honor, I don't think she has the
17 information -- I don't believe she's gonna testify to
18 anything about the incident in question just subsequent
19 observation.

20 THE COURT: And we're talking about a month after
21 the incident, is that what she testified to?

22 MS. RUSSELL: Yes, sir.

23 MR. SWILLEY: I believe so.

24 THE COURT: I don't see the relevance in that quite
25 frankly, after the fact. Had it been something prior to

1 maybe we can tie in a connection but this is after the
2 fact. I'm gonna sustain the objection for the State.

3 MR. SWILLEY: Nothing further, Your Honor.

4 THE COURT: Okay. Anything from the State?

5 MS. BURCHSTEAD: No questions, Your Honor.

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

8 MR. SWILLEY: Your Honor, I'd ask that Ms. Russell be
9 excused.

10 THE COURT: Any objection?

11 MS. BURCHSTEAD: No objection.

12 THE COURT: All right. You may excused, ma'am.
13 Your Honor, the defense would call Andre Hamilton.

14 THE CLERK: Place your left on the Bible and raise
15 right hand. Do you solemnly swear or affirm that the
16 evidence and testimony you're about to give the court and
17 the jury on this case is the truth ---

18 MR. HAMILTON: Yes, ma'am.

19 THE CLERK: --- the whole truth, and nothing but
20 the truth so help you God?

21 MR. HAMILTON: Yes, ma'am.

22 THE COURT: Be seated in the witness box. State
23 your full name for the court and spelling your last.

24 MR. HAMILTON: Andre Hamilton, H-a-m-i-l-t-o-n. My
25 last name Hamilton.

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1 A. I've been staying in Dillon all my life.

2 Q. Okay. And do you recall that evening or that evening
3 being with Tyreek Hayes?

4 A. Yes, sir. I was getting ready to go out to the club,
5 actually, myself.

6 Q. You were getting ready to go out to the nightclub that
7 evening?

8 A. Yes, sir.

9 Q. What particular nightclub was that?

10 A. Strikers.

11 Q. Strikers?

12 A. Yes, sir.

13 Q. Okay. And when you were getting ready, where were
14 you?

15 A. I was home and ironing my clothes. Me and my cousin
16 were at my house, I was get'in ready ironing my clothes, we
17 was talk'in or whatever. He left before I did.

18 Q. Your cousin being Tyreek?

19 A. Yes, sir.

20 Q. Okay. And he left before you did?

21 A. Yes, sir.

22 Q. All right. Andre, without telling what anybody said
23 based on your observations where was, where was Mr. Hayes
24 headed when he left your home?

25 A. He went -- he went to Strikers.

1 Q. Okay. And for what -- for what reason did he go to
2 Strikers at that time?

3 A. He had told me he had ---

4 Q. Don't tell me what anybody said. Tell me for what
5 reason you know of that he was or why he was going to
6 Strikers at that time?

7 A. He was gonna meet somebody there.

8 Q. Say that one more time?

9 A. Meet somebody there.

10 Q. Okay. You know whether or not this individual was a
11 male or a female?

12 A. A female.

13 Q. Female, okay. And did you go to Strikers later that
14 night?

15 A. Yes, sir.

16 Q. Did you see Tyreek Hayes there?

17 A. Yes, sir.

18 Q. Okay. And what time did you leave Strikers at night?

19 A. I left about one sum'in, I left before the club
20 closed.

21 Q. You left before the club closed?

22 A. Yes, sir.

23 Q. So you left early?

24 A. Yes, sir.

25 Q. And did you see Tyreek Hayes at the club that evening?

1 A. Yeah, he was with a female dancing in the middle of
2 the club, having a good time, talk'in, having a
3 conversation. I wouldn't really paying attention like
4 that, but I know they were having a good time or whatever.

5 Q. Do you know Candace Simpson?

6 A. I know - I don't know her, but I know of her. I seen
7 her before.

8 Q. Do you know who she is?

9 A. I know her if a see her.

10 Q. Was that female Candace Simpson he was with?

11 A. I ain't really -- I seen -- I seen a little bit of
12 her. I seen -- from the side of her face, yeah. I wasn't
13 really look'in at her face but I was look'in at her, you
14 know. Yes.

15 Q. Base -- Andre, based upon your observation was that
16 Candace Simpson who he was talking to?

17 A. Yes. But I don't know her -- I ain't know her name --
18 seem like I don't know her name, do you feel me?

19 Q. Okay.

20 A. But I know if I see her, you know.

21 Q. Okay. And was that her that you saw him talking and
22 commingling with?

23 A. Yes.

24 Q. Okay. And after that you left Strikers by yourself?

25 A. Yes.

1 Q. Okay. And did you see Tyreek talk with anybody else,
2 any other females that evening?

3 A. At my house earlier on -- earlier at my house I was
4 getting ready, he had a female at my house already there
5 with him. After she left he went to the club. He said
6 another female was waiting on him at the club.

7 Q. Okay. My question to you was, did you see Tyreek at
8 the club with any other, talking with any other woman at
9 that point?

10 A. At the club?

11 Q. Yeah.

12 A. No, only one female.

13 Q. Just one?

14 A. Yes.

15 Q. Okay. All right.

16 MR. SWILLEY: I beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 Q. Andre, based upon what you saw did it appear that the,
19 did it appear that Candace and Tyreek were interested in
20 each other at that time?

21 A. Yes.

22 MR. KOZAK: Objection, Your Honor, speculation.

23 MR. SWILLEY: I said did it appeared that way based
24 on his observation. I think he can testify as to what he
25 observed based on appearance.

1 THE COURT: State the question again.

2 Q. Based on your observation, did they appeared to be
3 interested in each other?

4 A. It's like they knew each other, like, they been
5 talk'in, conversate'in, friends.

6 Q. Okay. That's what -- is that what you saw?

7 THE COURT: He can testify as to what he saw and
8 observed.

9 Q. Okay. Is that what you saw? You've got say yes or
10 no.

11 A. Oh, yes, sir.

12 Q. Thank you, Andre.

13 MR. SWILLEY: Nothing further.

14 THE COURT: Mr. Kozak?

15 **Cross-Examination by Mr. Kozak:**

16 Q. Mr. Hamilton, you said you were out with Tyreek Hayes
17 that night, correct?

18 A. I was at my house, me and him was at my house.

19 Q. But you went to Strikers with him, correct?

20 A. Yes, sir.

21 Q. You said you were get'in ready to go out, correct?

22 A. I was get'in ready to go out.

23 Q. So he was already ready to go out?

24 A. He was ready.

25 Q. This was what he was wearing that night, right?

1 A. Yeah, that's my house.

2 Q. It's your house -- is that your house?

3 A. Yes.

4 Q. So this is the shirt that he was wearing that night?

5 A. I can't remember really what he had own but it's my
6 house, yeah.

7 Q. September 30th, right, can you read the date from that
8 photo?

9 A. September 30, 2016.

10 THE COURT: Speak up so I can here you. Speak up.

11 A. Oh, September 30, 2016.

12 Q. And that's the night there we're talking about,
13 correct?

14 A. Right.

15 Q. So this picture was taken at your house wearing that
16 shirt before you guys went out, correct?

17 A. Right.

18 Q. You said you didn't go to T.Lee's, right?

19 A. No, sir.

20 Q. So you didn't see anything else happen that night
21 after Strikers, did you?

22 A. Uh,uh.

23 THE COURT: Is that a yes or no?

24 A. No, sir.

25 MR. KOZAK: No further questions, Your Honor.

1 A. I apologize.

2 MR. SWILLEY: I have nothing further, Your Honor.

3 THE COURT: All right. You can step down.

4 MR. SWILLEY: I'd ask that he be excused from his
5 subpoena.

6 THE COURT: Any objection?

7 MS. BURCHSTEAD: No objection.

8 THE COURT: All right. You may be excuse, sir.

9 MR. SWILLEY: I'd call Lacarius Manning.

10 THE CLERK: Place your left hand on the Bible and
11 raise your right hand. Do you solemnly swear or affirm that
12 the evidence and testimony you're about to give the court
13 and the jury on this case is the truth, the whole truth,
14 and nothing but the truth so help you God?

15 THE CLERK: Place your left hand on the Bible and raise
16 right hand right here.

17 MR. MANNING: Left hand?

18 THE CLERK: Place your left hand on the Bible,
19 raise your right hand. Do you solemnly swear or affirm
20 that the evidence and testimony you're about to give the
21 court and the jury on this case ---

22 MR. MANNING: Yes, ma'am.

23 THE CLERK: --- is the truth, the whole truth, and
24 nothing but the truth so help you God?

25 MR. MANNING: Yes, ma'am.

1 THE CLERK: Have a seat in the witness box. State
2 your full name for the court and spelling your last.

3 MR. MANNING: Lacarius Manning ---

4 THE COURT: Sir, that microphone does not work so
5 you're going to just have to speak loudly and clearly and
6 make sure everybody can hear you.

7 MR. MANNING: Lacarius Manning. L-a-c-a-r-i-u-s M-a-
8 n-n-i-n-g.

9 THE COURT: Okay. Speak a little bit lower than
10 that, if you can?

11 MR. MANNING: Okay.

12 LACARIUS MANNING, first being
13 duly sworn, testified as follows:

14 **Direct Examination by Mr. Swilley:**

15 Q. Lacarius, tell me how old you are?

16 A. Twenty-five.

17 Q. Twenty-five.

18 THE COURT: Speak up, now.

19 A. Twenty-five.

20 Q. Try to speak about as loud as I am.

21 A. Okay.

22 Q. All right. You're twenty-five?

23 A. Yes, sir.

24 Q. And you're from where?

25 A. Dillon, South Carolina.

1 Q. Okay. And you reside in where now?

2 A. In Dillon, South Carolina.

3 Q. In Dillon. All right. And you -- do you know Tyreek
4 Hayes?

5 A. Yes, sir.

6 THE COURT: Speak up.

7 Q. You've got to speak up.

8 A. Yes, sir.

9 Q. All right. Speak up so these folks can hear you. How
10 long have you been knowing Tyreek for?

11 A. Since I was in kindergarten.

12 Q. Since you are in kindergarten?

13 A. Yes, sir.

14 Q. And do you know Candace Simpson, do you know who she
15 is?

16 A. I know of her I don't know her.

17 Q. Do you, I mean, do you know who she is?

18 A. Yes, sir.

19 Q. Okay. And Lacarius, do you recall being out at
20 Strikers nightclub on September 30, 2016, that evening?

21 A. Yes, sir.

22 Q. All right. Now, don't tell me what anybody said but
23 tell me when you got to Strikers what did you, did you
24 observe Tyreek Hayes?

25 A. Yes, sir.

1 Q. All right. And tell me based on your observations who
2 was Tyreek speaking with?

3 A. Candace Simpson.

4 Q. All right. And based on your observation about how
5 long was he with Candace talking?

6 A. He was back and forth.

7 Q. Right.

8 A. She was from the bar to this, to the bar to this, like
9 back and forth.

10 Q. Was he spending a lot of time interacting with her?

11 A. So-so, you know what I'm say'in, like, you know how
12 you be in the club just go to her, come back, go to her,
13 come back but he was with her, though.

14 Q. Did it appear that they were together?

15 A. Yes, sir.

16 Q. Okay. And Lacarius, did you -- did you leave the club
17 that evening and go -- did you leave Strikers that evening
18 and go anywhere else?

19 A. I left before him. I had went to Escalade, well we
20 call it T. Lee's.

21 Q. All right. T. Lee's Club?

22 A. Yes, sir.

23 Q. Is that like after Strikers had closed?

24 A. That was after Strikers closed but I left before
25 Strikers closed.

1 Q. Okay.

2 A. But I ended up seeing him coming to it, um, T. Lee's.

3 Q. Okay. And when he got to T. Lee's who was he
4 interacting with at T. Lee's?

5 A. He was with her. He told me he was going home with
6 her.

7 Q. Don't -- don't tell me what anybody told you.

8 A. He was with Candace Simpson.

9 Q. Okay.

10 A. But he told me he was going home with her.

11 THE COURT: Don't tell us what he said.

12 A. Oh, okay.

13 Q. And were they -- was he interacting with her at T.
14 Lee's as well?

15 A. Yes, sir.

16 Q. Okay. And based, without telling me what anybody
17 said, based on your observations -- well, did you leave
18 when T. Lee's closed?

19 A. You say what, now?

20 Q. Did you leave T. Lee's when T. Lee's closed?

21 A. I left a little bit before they closed.

22 Q. Okay. Were people starting to file out at T. Lee's?

23 A. Like leave?

24 Q. Yeah.

25 A. A little bit.

1 Q. Okay. And did you ---

2 A. But it's an all nightclub, though.

3 Q. Gotcha. And did you happen to see Tyreek Hayes leave
4 that evening?

5 A. Yes, sir.

6 Q. With whom did he leave?

7 A. He left with Candace Simpson.

8 Q. Okay. Do you recall whose car they were in?

9 A. No, sir.

10 Q. Okay. Was it with another -- was there another lady?

11 A. It was other girls with him but I don't know them.

12 Q. You don't know the girls that were ---

13 A. No, I don't know ---

14 Q. --- riding with him?

15 A. --- the girls. I know, I think the girls name
16 Rochelle or something like that and Tonya.

17 Q. Okay. And that's who he left with?

18 A. Yes, sir.

19 Q. Okay. And when you got back, you got back home that
20 evening?

21 A. I stayed -- I stayed out there at Maplewood in the
22 third row.

23 Q. Okay. But you didn't see anything that happened that
24 evening -- or when you got home, did you go straight home?

25 A. I went straight home.

1 Q. Okay. And that's what you recall about that evening
2 of September 30th, October 1st morning?

3 A. Yes, sir, that morning.

4 Q. Okay. Give me one moment please.

5 A. All right.

6 MR. SWILLEY: Thank, Lacaruis. Please answer any
7 questions that these folks have.

8 THE COURT: Mr. Kozak?

9 **Cross-Examination by Mr. Kozak:**

10 Q. Hello, Lacarious. You said you've known Tyreek Hayes
11 since kindergarten, right?

12 A. Yes, sir.

13 THE COURT: Speak up please.

14 Q. You guys went to kindergarten is that what you said?

15 A. Yes, sir.

16 Q. That's a long time, right?

17 A. Yes, sir.

18 Q. You care a lot about Tyreek Hayes, don't you?

19 A. Yes, sir.

20 Q. You said, also, you don't really know Candace, right?

21 A. No, sir, I don't.

22 Q. Okay. You weren't present inside Candace's apartment
23 that night, were you?

24 A. No, sir.

25 MR. KOZAK: No further questions, Your Honor.

1 MR. SWILLEY: Nothing else.

2 THE COURT: All right. You can step down. Any
3 objection to this gentleman been excused?

4 MR. SWILLEY: There's not, not from me.

5 MR. KOZAK: Not from the State, Your Honor.

6 THE COURT: All right. You can be excused, sir.

7 MR. SWILLEY: Your Honor, at this time we'd call
8 Tyreek Hayes.

9 THE COURT: All right. Counsel approach the bench
10 please.

11 (Whereupon, a bench conference was held off the record)

12 THE COURT: You to go ahead and swear him in.

13 THE CLERK: Okay. Place your left on the Bible and
14 raise your right hand. Do you solemnly swear or affirm
15 that the evidence and testimony you're about to give the
16 court and the jury on this case is the truth, the whole
17 truth, and nothing but the truth so help you God?

18 MR. HAYES: Yes, ma'am.

19 THE CLERK: Be seated in the witness box and state
20 your full name for the court and spell your last for us.

21 THE COURT: All right. Ladies and gentlemen, this
22 is one of those times we have a legal matter to take up
23 which we must take him outside your presence so I'm gonna
24 ask you retire to the jury room for a short while while we
25 take care of this matter. We'll call you back into the

1 testimony. Again do not discuss the case at this point in
2 time.

3 (Whereupon, the jury exits the courtroom at 1:48 p.m.)

4 THE COURT: All right. Mr. Swilley?

5 MR. SWILLEY: Your Honor, I believe that if the
6 State's preliminary motion is that they, they were gonna
7 exclude any evidence of third-party guilt of - I've got a
8 motion here - pursuant to State v. Gregory, "which would
9 try to exclude any evidence which would have no other
10 effect than to cast a bare suspicion upon another
11 individual, or to raise the conjectural inference as to the
12 commission of a crime by another is not admissible." And
13 I'm quoting directly from their motion. In other words,
14 "there must be proof of connection with it, such a train of
15 facts or circumstances, as tends clearly to point out such
16 other person as the guilty party." I do believe that, Mr.
17 Hayes, intends to do that on the stand and I don't think
18 that the restrictions in Gregory are gonna apply. You want
19 me to ask ---

20 THE COURT: Yeah, I need to hear what he's gonna
21 say.

22 MR. SWILLEY: Okay.

23 THE COURT: And see whether it does apply or not.

24 MR. SWILLEY: Okay. Yes, sir.

25 TYREEK HAYES, first being

1 duly sworn, testified as follows:

2 **Direct Examination by Mr. Swilley:**

3 Q. All right. Tyreek, just fast-forward to that morning
4 of November, excuse me, October 1st, tell me what happened
5 that morning?

6 A. That morning in the apartment or....

7 Q. In the apartment.

8 A. Um, we was chill'in, um, in the living for quite some
9 time. That's when she went and got in the shower, um, for
10 about fifteen minutes to be exact and that's when she came
11 -- well, she got -- she got herself together and then came
12 back and sat on my lap and that's when, um, one thing led
13 to another, conversation.

14 Q. Okay. Fast-forward to when, to when another
15 individual comes into play just ---

16 A. Oh, um, we was in the bedroom having consensual sex.

17 Q. Okay.

18 A. And that's when, um, minutes later a guy came in the
19 room.

20 Q. Okay. Tell me what happened then?

21 A. And that's when he came in the room and started get'in
22 loud, started make'in threats, promises. And that's when,
23 um, he leave.

24 Q. Okay.

25 A. And that's when he leave Ms. Simpson leave behind him.

1 She went out behind him.

2 Q. Okay.

3 A. And that's when she beg'in him to calm down but, um,
4 he ain't -- he ain't listen to her. And that's when one
5 thing led to another, argu'in and fight'in.

6 Q. Okay. And specifically, fighting, was there an
7 assault that took place between this guy and her?

8 A. Yes, sir.

9 Q. Okay. And, um, go ahead and ---

10 THE COURT: Don't lead him let him testify.

11 MR. SWILLEY: Yes, sir.

12 Q. Continue.

13 A. Um, so that's when -- when I hear this I don't see
14 this. I hear this so I'm putting on my clothes as fast as
15 possible, um, that's when I finally get, finally get my
16 pants on, my shoes on and that's when - when I leave out
17 the bedroom that's when they fight'in that's when -- she
18 tell me to help her. She was like help me, Reedy, that's
19 when I kicked him off her.

20 Q. Okay.

21 A. That's when I kicked him off her and that's when I was
22 going to charge at him but at the time he grabbed the knife
23 and when he grabbed the knife that's when, um, I got behind
24 her.

25 Q. Okay.

1 A. Continue?

2 Q. Yeah. Um, Continue. Go ahead.

3 A. And that's when, um, when I got behind her that's
4 when, um, he charged and that's when he became very
5 violent. That's when he's started swing'in the knife.

6 Q. Okay.

7 A. And when he started swing'in the knife, you know, this
8 woman she in front of me, you know, basically, basically,
9 she is in front of me as a shield. At the time that's when
10 he kept approaching her and swing'in the knife and cutting
11 her and we still, at that moment, we still in the kitchen
12 and that's when, you know, I started backing out ---

13 Q. Okay.

14 A. --- into the living room and when I get into the
15 living room that's when the same thing going on. That's
16 when he cut me, cut'in her, because I'm trying to grab the
17 knife out of his hand.

18 Q. Okay.

19 A. But every time that I try to reach for the knife, you
20 know, I never could connect, connect to his hand and grab
21 it and that's when, um, suddenly there was a knock at the
22 door. I didn't know who it was, but when they finally came
23 in and showed they face it was her sister, Ann, with the
24 two kids.

25 Q. Okay.

1 A. And that's when they came in and that's when they came
2 in that's when everything was at a standstill. Everything
3 at a standstill. And that's when she say, what's going on?
4 Why my sista bleeding, this that and the third?

5 Q. Okay. Go ahead.

6 A. And when she say that, that's when the guy he start
7 moving, moving from the kitchen area into the living room
8 and that's when he tell her you need to ask her. You see
9 what's going on. And he over here -- he said he over here
10 and your sista this is what she been having going on.

11 Q. Okay. And did -- you last -- when ---

12 A. Sir?

13 Q. And then -- okay. Tell -- just continue on to the
14 point where you leave?

15 A. Okay. So that's when, um, her sista, um, that's when
16 the sista and the dude, they communicate'in and that's when
17 she was like, tell me what's going on because she wanted
18 answers and that's when he was like, that's when he was
19 like you know what y'all deal with it, I'mma about to
20 leave. So that's when he start, he was try'in to exit for
21 the door that's when the sista, she pushed him. That's
22 when she became, she became a little violent with him,
23 like, you ain't going nowhere. You ain't going nowhere.
24 Ain't nobody going nowhere. So that's when them two get
25 into it and that's when she fell, that's when he was on top

1 of her and that's when, um, she got up, ran out the front
2 door with the two minor kids and, um, she left the door
3 open and that's when, um, he exit for the back door.

4 Q. Okay. And then you left through the back door?

5 A. Um, yes, sir, after I had gave her a towel.

6 Q. Okay. Okay.

7 A. Then I left.

8 Q. Okay.

9 MR. SWILLEY: Judge, I think that, that would not
10 fall under penumbra of Gregory prohibits and I think that
11 any prohibition of his testimony would infringe on his
12 right to, defense right to present complete defense and his
13 right to testify. And I don't think that their, ah, I
14 don't believe there should be any prescription on his
15 testimony - in his testimony as is. But I just don't think
16 the State's motion to prevent that type of evidence is
17 what's been presented in limine here.

18 THE COURT: Okay. Anything from -- do you have any
19 questions you want to ask first or do you just want to make
20 a statement?

21 MS. BURCHSTEAD: We do not have any questions, Your
22 Honor. And we have to agree with Mr. Swilley, he has the
23 right to present his own defense if that's what he wants to
24 testify to in front of the jury we're not going to object.

25 THE COURT: Okay. And I think based on that

1 testimony that looking at the statement in the Gregory
2 case, you know, when it says, "he offers facts which are
3 inconsistent with his own guilt and raise an inference as
4 to his presumption of innocence" I think that would fit
5 this category. So I think I'm gonna let offer his
6 testimony.

7 MR. SWILLEY: Yes, sir.

8 THE COURT: Okay. If you'll bring the jury back.
9 (Whereupon, the jury enters the courtroom at 1:58 p.m.)

10 THE COURT: All right. Mr. Hayes, state your full
11 name for the record and spell your last name please.

12 MR. HAYES: Tyreek Dashawn Hayes, T-y-r-e-e-k, H--
13 a-y-e-s. My last name is Hayes.

14 THE COURT: And as you've heard me tell everybody
15 else microphone is not working ---

16 MR. HAYES: Yes, I'm aware ---

17 THE COURT: --- so speak loudly and clearly.

18 MR. HAYES: Yes, sir.

19 **Conti- Direct Examination by Mr. Swilley:**

20 Q. All right. Tyreek, tell me how old you are?

21 A. Twenty-five.

22 Q. Where are you from?

23 A. Dillon.

24 Q. And you have been in Dillon your whole life?

25 A. Yes, sir.

1 Q. Okay. Where did you go to high school?

2 A. Dillon High School.

3 Q. And again speak up for me a little bit. Tyreek, I'm
4 going to ask you, do you recall about what time you started
5 communicating with Candance Simpson?

6 A. Um, 2016, um, between August and September - August
7 and September.

8 Q. Okay. And at that time tell me what forms were you
9 communicating with her?

10 A. Um, basically, um, just a building level ---

11 Q. Well ---

12 COURT REPORTER: I didn't get that.

13 Q. Say that again?

14 A. A building level.

15 Q. Okay. The question to you, were you communicating
16 with her verbally in person at times?

17 A. At times.

18 Q. And were you communicating with her electronically?

19 A. Yes.

20 Q. Through what means?

21 A. Um, Facebook.

22 Q. Okay. And have you had a chance to look at the
23 Facebook conversation between you and her?

24 A. Yes.

25 Q. And how long -- when did that -- do you recall what

1 time that conversation started on Facebook?

2 A. Um, September.

3 Q. Was it -- was it a matter of -- well, let me ask you,
4 was it early or late September?

5 A. Early.

6 Q. Okay. How often during that time would you
7 communicate with her over Facebook?

8 A. Basically, every day.

9 Q. Okay.

10 THE COURT: Can we get more of a timeframe, a year

11 ---

12 MR. SWILLEY: Okay.

13 THE COURT: --- September of what year?

14 Q. September of what year did you start ---

15 A. 2016.

16 Q. 2016, okay. And do you -- and you said you
17 communicated with her, would this be a conversation going
18 on back and forth?

19 A. Yes.

20 Q. All right. Based on this conversation, did -- did you
21 -- did you discuss any, I guess, friends or relatives you
22 knew in common?

23 A. Yes.

24 Q. Okay. Let me ask you, did you know -- do you know any
25 -- did you know any of her family members growing up?

1 A. Yes.

2 Q. All right. Tell me who?

3 A. Her nephew, Akeem Nelson.

4 Q. Okay. How did you know him?

5 A. Um, we went to, um, middle school and high school
6 together.

7 Q. Okay. And any other siblings that she had?

8 A. Her brother.

9 Q. Who's that?

10 A. Damien.

11 Q. All right. And how did you know him?

12 A. We played ball together.

13 Q. Played football?

14 A. Yeah.

15 Q. At Dillon High School?

16 A. Yeah.

17 Q. Okay. And how much older than you is she?

18 A. A big age difference. I want to say, I guess,
19 probably about eight or nine ---

20 Q. Years?

21 A. --- years difference.

22 Q. Okay. And did -- well, during these conversations,
23 did you express any kind of like feelings you had towards
24 her?

25 A. Yeah.

1 Q. Okay. What -- I mean, did you want -- can you
2 describe -- can you describe that?

3 A. Yes. Um, well, I did let it be known that I really
4 did liked her and I really did was -- I really did liked
5 her and I really want to spend time with her.

6 Q. Okay. Romantically?

7 A. Um, somewhat.

8 Q. I mean, some -- somewhat?

9 A. Yes, sir.

10 Q. You said somewhat, okay. All right. And did it get
11 to a time where time, I'm going to fast-forward a little
12 bit, you reviewed the conversation you had with her on
13 September 30th?

14 A. Right.

15 Q. Right. Without telling what -- without telling me
16 what anybody said, did it -- were you made aware of where
17 she was going to be that evening?

18 A. Right. Right.

19 Q. And that was where?

20 A. Strikers.

21 Q. Okay. And Strikers is Strikers Nightclub?

22 A. Right.

23 Q. Okay. and tell me leading up to, before you went in
24 Strikers, tell me where you were?

25 A. Before I went?

1 Q. Yeah.

2 A. I was at auntie's house.

3 Q. Is that -- is that your aunt who is Andre's mom?

4 A. Yes.

5 Q. Okay. And you were over there with him?

6 A. Yes.

7 Q. And about, do you remember about what time you left
8 Andre's house?

9 A. I think about ten going on eleven?

10 Q. At night?

11 A. Yes.

12 Q. Okay. When you got a Strikers tell me what -- who
13 were you interacting with at Strikers?

14 A. When I first got a Strikers I was interacting with my
15 so-called "home boys", um, boys I was raised up from the
16 same area.

17 Q. Okay. And -- some friend of yours?

18 A. Say again.

19 Q. They were friends of yours?

20 A. Yes.

21 Q. Okay. And who else did you interact with?

22 A. Ms. Simpson.

23 Q. Candace Simpson?

24 A. Yes.

25 Q. Okay. How long were you interacting with her at