

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Laurens County

S.C. SUPREME COURT

Honorable Letitia H. Verdin, Circuit Court Judge

RONALD DUYANE DAVIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001136

APPENDIX

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State of South Carolina	)	In the Court of General Sessions
	)	Eighth Judicial Circuit
County of Laurens	)	2016-GS-30-01382
		2016-GS-30-01383

State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Transcript of Record
	)	
Ronald Duyane Davis,	)	
	)	
Defendant.	)	
	)	
	)	

March 16, 2018
Greenwood, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge

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

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TRANSCRIPT OF RECORD

(Whereupon, the proceeding commenced at 12:37 p.m.)

THE COURT: All right. We -- we're on the record this afternoon in the *State of South Carolina v. Ronald Davis*; is that correct?

MR. MOWRY: Yes, sir. And ---

THE COURT: Okay.

MR. MOWRY: --- just for the record, Your Honor, they're Indictments 16-GS-30-1382 and -1383, charging him with murder and possession of a firearm during the commission of a violent crime.

THE COURT: Okay. Okay. And this case is scheduled for trial beginning the week of March 26th. And we're doing some pretrial work today because the week of the 26th is a short week because of Good Friday.

And I understand that we're not going to accomplish all the pretrial matters today, but at least we'll be able to accomplish a -- a good -- good majority of it. Is that right?

MR. SHAFFER: That's correct, Your Honor.

THE COURT: Okay. All right.

MR. SHAFFER: And, Your Honor, for the sake of the officers, there are several matters I want to take up. But for the sake of the officers, I'm guessing the *Jackson v. Denno* probably would be best if we did that first.

1 THE COURT: Okay. What I want -- and either side can
2 do this. Mr. Shaffer, you're standing. Because I imagine
3 most of the pretrial, if not all, would be coming from your
4 side. Can you list out all the pretrial matters, even
5 though we may not get to all of them today ---

6 MR. MOWRY: And, Your Honor, if I could just put on
7 the record: I requested over a week ago to have a list of
8 the matters. I -- I've -- I said specifically in an e-mail
9 that I did not want to get a list handed to me at ten
10 o'clock in the morning today. I haven't gotten it at ten
11 o'clock in the morning or now. So ---

12 THE COURT: Okay.

13 MR. MOWRY: --- I -- I am not familiar with what we
14 are ---

15 THE COURT: Okay.

16 MR. MOWRY: --- going to have to be arguing today.

17 THE COURT: Okay. Well, if -- if -- if there is a
18 pretrial matter that you're completely caught off guard and
19 you need some time to prepare a response, I'll certainly
20 allow that, as well as I would allow the same courtesy ---

21 MR. MOWRY: I appreciate ---

22 THE COURT: --- to the ---

23 MR. MOWRY: --- that, Your Honor.

24 THE COURT: --- to the ---

25 MR. MOWRY: I anticipate ---

1 THE COURT: --- defense.

2 MR. MOWRY: --- a *Jackson v. Denno*.

3 THE COURT: Right.

4 MR. MOWRY: And also, there were several search
5 warrants. We have officers from Laurens County and from
6 Newberry that are here that can testify to those, if
7 necessary. But ---

8 THE COURT: Okay.

9 MR. MOWRY: --- we are prepared on at least those two.

10 THE COURT: All right. Well ---

11 MS. MCNEILL: And ---

12 THE COURT: --- go ahead, Ms. McNeill, if you can. If
13 you can list out every known pretrial matter, and then --
14 and then we can get into whatever we can get into today.

15 MS. MCNEILL: Before we do that, Judge, I just also
16 want to place on record, memorializing an e-mail that I
17 believe Your Honor's law clerk was copied on, along with
18 Warren Mowry, Tristan Shaffer, myself, Yates Brown --
19 because he's the solicitor in Greenwood for scheduling
20 purposes -- and also Walter Bentley, who's the lead
21 investigator for the Laurens solicitor's office.

22 Your Honor and I -- or Your Honor, myself, and Warren
23 Mowry had a conversation at the end of the Laurens General
24 Sessions term where Your Honor was trying to get an
25 understanding of this case for scheduling purposes because

1 we have two judges on our upcoming March 26th general-
2 sessions short term. It's a four-day week, since Good
3 Friday falls on -- on that week.

4 You asked us what, if any, pretrial matters we could
5 have so that we could try to take care of them in advance.
6 And it's that moment where Mr. Mowry put Your Honor on
7 notice that we have this geo-mapping issue. At that time I
8 don't even think I had the complete cell phone,
9 quote/unquote, dump records in order to properly prepare
10 for a geo-mapping pretrial hearing.

11 We then received the cell phone dump after that. And
12 it was in a format where we were unable to analyze it. And
13 so we then -- Tristan Shaffer requested that the format be
14 given -- provided to us in a different format so that we
15 could have our expert look at it, which we -- we received
16 on Monday.

17 Unfortunately, because it was such a voluminous amount
18 of records, our expert was not able to conference with us
19 until yesterday afternoon. And so we were unable to really
20 provide a written motion outlining exactly what we plan to
21 argue. However, in an e-mail -- several e-mails, in fact
22 -- we did outline the issues that we would be objecting to,
23 should the state try to introduce these -- the cell phone
24 material.

25 So Mr. Mowry has known about the issues we wanted to

1 raise. However, it would require his expert to come and
2 testify to certain things so that we could raise proper
3 arguments -- proper objections, supplemented by proper
4 arguments. We would then probably put up our cell phone
5 expert as a rebuttal witness, obviously, since they would
6 have to -- we would have to hear what his expert has to say
7 first through testimony.

8 It's my understanding that the state is not prepared
9 to go forward on that hearing today because their expert is
10 unavailable, apparently out of town this week and next week
11 at a conference in California.

12 I also, in an e-mail to all parties that I listed
13 before, had said the defense is willing to be very
14 flexible. Because Tristan put everybody on notice that
15 this hearing on the cell phone issue, he anticipates to
16 take two to three hours in order to make a very good
17 record.

18 We wanted to put all parties on notice because it is a
19 short trial term, the week of March 26th. And so we
20 offered to be flexible and try to go to Greenville, where
21 Your Honor, I believe, is holding court next week, if we
22 could find time to do the pretrial matter on that specific
23 issue next week.

24 It's my understanding now the state, through Walter
25 Bentley, has told me that the expert is unavailable all

1 next week as well. So that is one issue I just wanted to
2 put everyone on notice on and, also, just to be clear for
3 memorialization purposes.

4 Other than that, Tristan will outline the only other
5 issues that we have to bring up for pretrial matters today.

6 THE COURT: Okay.

7 MR. SHAFFER: And ---

8 THE COURT: Let me just -- is that correct, Solicitor,
9 that for purposes of pretrial matters, your expert
10 concerning cell phone materials would not be available for
11 pretrial matters next week?

12 MR. MOWRY: That's correct, Your Honor. He will not
13 be back from California next week. It'd be -- I -- I think
14 he will be back next weekend.

15 THE COURT: Right.

16 MR. MOWRY: But he ---

17 THE COURT: Okay.

18 MR. MOWRY: --- will not be back. He is going to be
19 there all next week.

20 THE COURT: Okay.

21 MR. MOWRY: I will tell Your Honor: It -- our expert
22 is Dan Kelly from the Greenville County Sheriff's Office,
23 whom Your Honor has heard before. Our intention is to
24 admit through him his processing of the data received from
25 AT&T that would indicate the defendant's location or the --

1 at least the defendant's handset -- cell phone-handset
2 location through a software program called GeoMapping -- I
3 believe Your Honor is familiar with it -- or GeoTime. I
4 don't know why I keep wanting to say GeoMapping. GeoTime.

5 I believe Your Honor is familiar with it through
6 Darrell Raines case. It would be the same witness, talking
7 about the same format, using the same technology. And that
8 is why I even question why we need to go into a great
9 amount of detail on that one. But I will leave that to
10 Your Honor.

11 THE COURT: Right. Well, and -- and certainly, I --
12 I'm going to give the defense the right to explore that.
13 While I did rule in favor of the state in the Darrell
14 Raines case to allow Mr. Kelly to testify and -- and put up
15 his demonstration, I -- I think, in all fairness to the
16 defense, I don't think I should bootstrap them and -- and
17 -- and -- and hold them to a ruling in the -- in -- in the
18 previous case.

19 So certainly, I'll -- I'll give them the opportunity
20 and -- and -- I mean, I don't know. They may raise an
21 issue that was not raised in -- in the Raines case that,
22 you know, I might need to consider, you know, looking at it
23 a little bit differently. So ---

24 MS. MCNEILL: And -- and, Judge, just briefly, I
25 believe that we have outlined that arguments in the Darrell

1 Raines case -- and I did speak to Bryan Able before this
2 hearing today. I believe that he only raised arguments
3 under 702 and also the Fourth Amendment.

4 In contrast, as we've outlined numerous times in our
5 e-mail, we would objecting on other areas as well. So Mr.
6 Mowry is on notice of what the main issues we would be
7 objecting to are.

8 MR. MOWRY: And I ---

9 MS. MCNEILL: And it is ---

10 MR. MOWRY: --- believe ---

11 MS. MCNEILL: --- different argument ---

12 MR. MOWRY: Oh, I'm sorry. I believe Mr. Able also
13 raised confrontation clause, a -- a -- a number of
14 constitutional ---

15 THE COURT: Right.

16 MR. MOWRY: --- issues.

17 MR. SHAFFER: And ---

18 THE COURT: And ---

19 MR. SHAFFER: --- Your Honor ---

20 THE COURT: --- and the ---

21 MR. SHAFFER: --- I've read the transcript ---

22 THE COURT: Right.

23 MR. SHAFFER: --- from that. I -- I apologize. I
24 didn't ---

25 THE COURT: No. That's okay. Go ahead.

1 MR. SHAFFER: I -- I've actually read over the
2 transcript, at least a portion, from Mr. Raines's case. I
3 -- I pulled that, as well as the other case that they
4 referenced, Deshann [sic] Markelle Franks, where Mr. Kelly
5 testified in front of Judge Addy. Both of those times, the
6 attorney did not raise the same issues that I plan on
7 raising ---

8 THE COURT: Okay.

9 MR. SHAFFER: --- at least not during the trial.
10 Maybe they raised some pretrial and I didn't read the -- I
11 mean, I'm not going to read an extra thousand pages of
12 transcript ---

13 THE COURT: Right.

14 MR. SHAFFER: --- to figure out if they raised it
15 somewhere else in there. But they didn't raise it at the
16 time of the qualification of the witness, Your Honor.

17 THE COURT: Right. And, you know, quite naturally --
18 and -- and again, we're not going to spend a whole lot of
19 time talking about the Darrell Raines case. And certainly,
20 I remember Dan Kelly testifying. I remember his
21 demonstration. I do remember that.

22 But as far as any issues raised, I -- quite frankly, I
23 -- I don't have any recollection. I would ask, though,
24 that even though it looks like it's going to be on that
25 Monday where we'll fully flesh out this pretrial matter as

1 it relates to Dan Kelly and the -- the cell phone
2 materials, if you can in advance, what you anticipate
3 relying on, as far as rules, cases, that sort of thing, if
4 you can get that to me next week.

5 Again, I know specifics, you're going to have to
6 possibly wait until -- until we hear from Mr. Kelly. But
7 you -- you kind of know in advance what rules, cases,
8 statutes, whatever, that you're going to rely on. And both
9 sides, if you can get that to me, I'd appreciate it.

10 MR. SHAFFER: And -- and, Your Honor, just -- we're
11 actually -- can go through about half of that today.

12 THE COURT: Okay.

13 MR. SHAFFER: So my goal was to go through what I
14 could without Mr. Kelly here and then ---

15 THE COURT: Okay.

16 MR. SHAFFER: --- if necessary, during the week of
17 trial, do a hearing with Mr. Kelly ---

18 THE COURT: Okay.

19 MR. SHAFFER: --- and possibly also present our own
20 evidence ---

21 THE COURT: Okay.

22 MR. SHAFFER: --- in rebuttal of that under ---

23 THE COURT: Okay. All right. All right. We can do
24 that.

25 All right. Now, so pretrial matters, we got the --

1 the cell phone issue. We've got a *Jackson v. Denno* that we
2 need to do first because we have some police officers here.

3 MR. SHAFFER: And ---

4 THE COURT: And any other pretrial matters that you're
5 aware of?

6 MR. SHAFFER: Yes, Your Honor. Actually, the -- the
7 *Denno* hearing, the cell phone is sort of -- there's
8 multiple parts to it, Your Honor. There's a authentication
9 issue. Because what you have is a -- Dan Kelly basically
10 punches numbers into a program and it comes out and shows
11 dots of where things were.

12 So we -- we first have the admissibility of the
13 initial records that he's going to use.

14 THE COURT: Right.

15 MR. SHAFFER: And we have a couple different
16 objections for that. Then, we have the first part of the
17 702 counsel/*Watson v. Ford Motor Company*-type objection to
18 the reliability of information. The first part of that, I
19 can't do it full without him here, obviously. But we'll --
20 we can at least do the first part of that.

21 And then, we're objecting -- Your Honor, there was a
22 -- a child who was asleep in the other room at the time of
23 this shooting. So we're going to make a objection under
24 relevance and that it's unduly prejudicial to admit the
25 evidence that the child was sleeping in the other room.

1 The kid didn't wake up.

2 I don't believe the state plans on calling him as a
3 witness or anything for any reason. We just don't think
4 that it's necessarily relevant to any fact that's at issue
5 in this case. And ---

6 THE COURT: All right.

7 MR. SHAFFER: --- even if it had some relevance, it's
8 certainly unduly prejudicial.

9 THE COURT: Okay. All right. What else? We got cell
10 phone, *Jackson v. Denno*, evidence of the child sleeping in
11 another room. What else?

12 MR. SHAFFER: We also have the -- there is a picture
13 with some -- with a picture of a pregnancy test that was
14 found inside the purse of the -- Ms. Profit. There is also
15 various 911 calls, where my client calls 911. Those 911
16 calls, what we would like is ---

17 (Whereupon, Mr. Shaffer and Ms. McNeill conferred.)

18 MR. SHAFFER: With those -- with those 911 calls,
19 first of all, we have a recording of them. We would like
20 to redact portions where he references his prior record, at
21 least an agreement to do that. I mean, we can go back
22 through and redact it later.

23 THE COURT: So that -- that -- that certainly appears
24 to be something that it can be agreed upon ---

25 MR. MOWRY: Yes, sir.

1 THE COURT: --- and -- and ---

2 MR. MOWRY: We'll stipulate ---

3 THE COURT: --- and ---

4 MR. MOWRY: --- to that.

5 THE COURT: --- the lawyers can -- can work on that.

6 MR. SHAFFER: Your Honor, there's also an issue that
7 we have and -- with the 911 calls. Whenever you call 911,
8 generally, local 911 centers have -- even though you're
9 dialing 911 on your phone, the phone number you're actually
10 connected to is a -- is a different line. It has a
11 different number. At ever 911 center, the -- it has a
12 different trunk line. Because they can't very well have --
13 you can't very well dial 911 -- there's multiple calls
14 going on all across the country for that one number.

15 So, Your Honor, what we would ask is that they produce
16 -- and we -- we haven't asked for this before because this
17 came up last night. But we would ask that they produce all
18 of the valid trunk numbers for -- for Laurens County 911
19 before -- certainly before trial begins.

20 THE COURT: Okay.

21 MR. MOWRY: All right. We'll see what we can do about
22 that ---

23 THE COURT: Okay.

24 MR. MOWRY: --- Your Honor.

25 THE COURT: All right. Okay.

1 MR. SHAFFER: Your Honor, there's also a issue with
2 field notes a -- another discovery-type issue. We've been
3 told that there are no field notes on this case; that
4 there's no handwritten field notes from any of the agencies
5 involved. We just want to make sure that that's actually
6 correct on the record, just before we go any further, that
7 we're not going to get some new information at the last
8 minute.

9 And if there any field notes, obviously, we would like
10 them turned over to us -- handwritten.

11 MR. MOWRY: Your Honor, the -- basically, the process
12 is that they use their notes to basically transcribe to
13 create their incident reports or their supplementals. And
14 once that's concluded, the -- those -- those reports are
15 save electronically and the notes are disposed of.

16 THE COURT: Okay.

17 MR. MOWRY: They've -- they've served their purpose at

18 ---

19 THE COURT: Okay.

20 MR. MOWRY: --- that point.

21 THE COURT: All right. So as we sit here today, there
22 are no field notes in existence now, even though at one
23 time, there may have been?

24 MR. MOWRY: Just for the record, Your Honor, I'm going
25 to turn to the officers that are present and ask them.

1 Do -- do y'all have any field notes that weren't
2 included in the file?

3 And they all have responded in the negative ---

4 THE COURT: Okay.

5 MR. MOWRY: --- Your Honor.

6 MR. SHAFFER: And, Your Honor, I would ask also --
7 there's also the SLED ones as well. And I'll let Ms. --
8 Ms. McNeill actually speak to that, because she had been in
9 communication with the solicitor's office directly about
10 that.

11 MS. MCNEILL: In previous trials that I've had, Judge,
12 it is very unusual for there to be no handwritten notes
13 whatsoever that exist from any law enforcement agency that
14 was involved in investigating a crime. In this case we
15 have Laurens County Sheriff's Office and SLED, who
16 investigated.

17 And in a previous trial, it's -- it's not proper
18 procedure for them to be shredding the handwritten notes
19 after -- even after they transcribe or type them in to
20 memorialize them electronically. So out of an abundance of
21 caution, that's why we're -- we're bringing up this -- this
22 issue as well.

23 Also, when I asked repeatedly if there was any
24 information, any documentation whatsoever, out of Newberry
25 County weeks ago, I was told that there was not. I was

1 told that because Newberry County did not have a case file
2 on Mr. Davis, that there would be no documentation, even
3 though law enforcement had been communicating with him and
4 law enforcement apparently sent out officers to the
5 incident location where he said he was, where he had moved
6 to -- I'm sorry; not the incident location -- but a
7 location in Newberry.

8 It's my understanding that through CAD, those
9 documents would be available for seven years, even if there
10 was no filed opened on Mr. Davis for a crime that was
11 committed within Newberry County. I was told repeatedly
12 nothing existed. And then on Wednesday at 4 p.m., Mr.
13 Bentley comes over to my office in Laurens County and hands
14 me information that included a Newberry County incident
15 report, documenting their involvement in the case. We were
16 also handed a search warrant that was done in Newberry
17 County, issued by a Newberry County magistrate judge, for a
18 search of a house that Mr. Davis said that he was at.

19 And so out of an abundance of caution, I am just
20 concerned that when I've asked for it repeatedly weeks ago
21 and have been told repeatedly in the negative, that there
22 -- there is nothing that exists, and then two days ago, I
23 get this information, this is why we're raising these
24 issues.

25 MR. MOWRY: Your Honor, I believe there is a

1 misapprehension of what she asked for. And I believe Mr.
2 Bentley can fill you in on it.

3 THE COURT: Okay.

4 MS. MCNEILL: I've asked for anything and everything
5 that exists and -- and was told that there was nothing that
6 exists because Mr. Bentley was told by those officers,
7 apparently, that nothing exists, which I believed him
8 initially because, you know, we're so close to -- I mean,
9 it was -- we were so close to this trial and this incident
10 date is July 3rd of 2016. And then, at 4 p.m. on -- two
11 days ago, I'm handed this information.

12 So yes. I did believe Mr. Bentley that nothing
13 existed.

14 THE COURT: Okay. All right. Mr. Bentley?

15 MR. BENTLEY: Judge, I think there might've been a
16 miscommunication with Ms. McNeill. I originally was
17 looking for 911 and their CAD system reports through Lt.
18 Lominack, Garrett Lominack, and was unable -- he was unable
19 to find those.

20 When we started talking about the notes situation, I
21 called Robert Dennis to see, "Hey, do you guys have any
22 kind of notes where you guys went over?"

23 And he was, like, "I'll send you everything that we
24 hade."

25 And that's when they sent me the report in the ---

1 THE COURT: Okay.

2 MR. BENTLEY: --- search warrant, which I turned over
3 to her immediately. It might've been miscommunication,
4 because we had talked about 911 and -- and me and Mr. Mowry
5 had talked about it also.

6 THE COURT: Okay.

7 MR. BENTLEY: But that's originally what I was looking
8 for, was the 911 calls between Mr. Davis and Newberry 911
9 and communications through their dispatch. It was --
10 could've been a miscommunication. I apologize if it was
11 but ---

12 THE COURT: Okay.

13 MR. BENTLEY: --- I got those records on Wednesday and
14 immediately handed ---

15 THE COURT: Okay.

16 MR. BENTLEY: --- them over to her. There were
17 references in the photographs of a search in Newberry
18 County they already had in the crime scene report with SLED
19 that references a search of Newberry County.

20 THE COURT: Okay.

21 MR. MOWRY: And the photographs that -- that stem from
22 that search as well, Your Honor. That -- so they had
23 notice that the search had occurred. We just got the
24 actual document ---

25 THE COURT: Okay.

1 MR. MOWRY: --- the actual search ---

2 THE COURT: All right.

3 MR. MOWRY: --- warrant. That's ---

4 THE COURT: All right. Mr. Bentley, are you -- you
5 comfortable in saying that you believe you have got
6 everything from Newberry County that -- that they've had?

7 MS. MCNEILL: No. I'm ---

8 MR. BENTLEY: Yes, sir.

9 MS. MCNEILL: --- I -- I'm not comfortable with that.
10 If there's any handwritten notes from Newberry County, I
11 want those too.

12 And I understand -- and I'm not trying to blame Mr.
13 Bentley. I think that he is a -- a very, you know,
14 efficient worker. He's a hard worker. And -- and I know
15 that he -- I do trust his word.

16 My problem is that even if there was a
17 miscommunication, this information that included an
18 incident report and a very detailed search warrant, which
19 uncovered some evidence that I suspect they're going to
20 plan to present at trial against Mr. Davis, this should've
21 been information that was -- was a part of the initial
22 discovery packet.

23 And these photographs that they're referencing that we
24 had notice of, we didn't get those photographs until just a
25 few weeks ago as well. Again, this is a July 3rd, 2016,

1 case. And I'm just now getting a search warrant that's
2 highly relevant to the case two days before pretrial
3 motions.

4 I am just saying that no, I'm not comfortable. And
5 that's why we're here: to just make sure that this is all
6 preserved for the record.

7 THE COURT: All right.

8 MR. MOWRY: Your Honor, the fact that a search warrant
9 existed was available to them months ago. That we -- that
10 we gave ---

11 THE COURT: Right.

12 MR. MOWRY: --- them the document is no huge surprise
13 ---

14 THE COURT: Okay.

15 MR. MOWRY: --- to them.

16 THE COURT: All right.

17 MR. MOWRY: And -- and, Your Honor, just -- just for a
18 -- one correction, Your Honor, we -- we actually did have
19 the pictures.

20 I don't think we got any new pictures, did we?

21 MS. MCNEILL: No.

22 MR. SHAFFER: Yeah. We -- we didn't -- I -- I have
23 the pictures since -- since December on that from SLED and
24 from the other people.

25 Your Honor, the ---

1 (Whereupon, Mr. Shaffer and Ms. McNeill conferred.)

2 MR. SHAFFER: Yeah. There -- there -- we -- we did
3 not think that the -- the search warrant actually existed
4 once Mr. Bentley said, "We don't have a search warrant."

5 And, I mean, the search warrant certainly wasn't
6 available to us if they never turned it over to us until
7 two days ago, Your Honor.

8 MR. MOWRY: Mr. Bentley never said that, Your Honor.

9 MR. SHAFFER: And -- and -- and ---

10 THE COURT: All right.

11 MR. SHAFFER: --- Your Honor ---

12 THE COURT: All right. Here -- here's -- here's what
13 we're going to do on this:

14 Mr. Bentley, this afternoon, once we conclude this, if
15 you can contact Newberry County and -- and make sure that
16 they have provided everything to you or that the defense
17 has everything, and specifically ask them about any
18 handwritten notes, field notes. Make sure that they're not
19 in existence. If you could just do that and then just
20 confirm your conversation with -- with defense counsel.
21 Would you ---

22 MR. BENTLEY: Yes, sir. And ---

23 THE COURT: --- do that?

24 MR. BENTLEY: --- and Mr. Womack is actually here.

25 THE COURT: Okay.

1 MR. BENTLEY: He was ---

2 THE COURT: All right.

3 MR. BENTLEY: --- he's a ---

4 THE COURT: I ---

5 MR. BENTLEY: --- Greenwood County investigator ---

6 THE COURT: Yeah. You are ---

7 MR. BENTLEY: --- now but ---

8 THE COURT: --- back there.

9 MR. BENTLEY: He's already ---

10 THE COURT: I'm sorry.

11 MR. BENTLEY: --- answered the question ---

12 THE COURT: Okay.

13 MR. BENTLEY: --- about the notes earlier.

14 THE COURT: Okay.

15 MR. BENTLEY: But he is here. We can ---

16 THE COURT: Okay.

17 MR. BENTLEY: --- hash that out today.

18 THE COURT: Okay. Why don't we -- because we'll
19 probably be taking a break in between all this. How about
20 -- Ms. McNeill, how about you checking with Officer
21 Lominack. He's back here. And you talk to him and make
22 sure that they don't have anything else that they haven't
23 provided.

24 MS. MCNEILL: I'm going to do that right now ---

25 THE COURT: You can ---

1 MS. MCNEILL: --- while testimony ---

2 THE COURT: --- do that right now if you like. Okay?

3 Mr. Shaffer, what -- what else?

4 MR. SHAFFER: Your Honor, there's also a issue with --
5 there were -- my -- my client, at some point during this
6 time period, was on the phone with Lt. Cheek. What we
7 would ask for is a summary of basically anything my client
8 said during that time period. Because, I mean, that --
9 perhaps we have it.

10 But if there is anything additional, other than what's
11 in the incident reports, we would just ask for a summary of
12 anything else that he said during that time period.

13 THE COURT: Okay.

14 MR. MOWRY: He's going to be on the witness stand in a
15 few minutes, Your Honor, for the *Jackson v. Denno*. So ---

16 THE COURT: Okay.

17 MR. MOWRY: --- if they want to ask him questions
18 about that, that's ---

19 THE COURT: You ---

20 MR. MOWRY: --- fine.

21 THE COURT: --- you want ---

22 MR. SHAFFER: Your -- Your Honor, I think, under Rule
23 5, we're actually entitled to the summary as part of the
24 ---

25 THE COURT: All right. Was ---

1 MR. SHAFFER: --- discovery.

2 THE COURT: --- there -- was there an interview with
3 the defendant that was not recorded, either audio, video,
4 or in written form?

5 MR. SHAFFER: It was a -- it was a phone conversation.

6 THE COURT: Phone conversation?

7 MR. SHAFFER: Yes, Your Honor.

8 THE COURT: Okay. All right.

9 MR. SHAFFER: And I -- I mean, that's -- that's
10 basically what we would like to have, is ---

11 THE COURT: Okay.

12 MR. SHAFFER: --- a summary of every -- all of the
13 phone conversations so we know for sure ---

14 THE COURT: Right.

15 MR. SHAFFER: --- exactly what's going to come up.
16 And what -- what we don't want to happen at trial is some
17 new, "Oh, well, we -- we weren't planning on introducing
18 this, but this is -- you know, we're going to introduce
19 this as a rebuttal witness," or something like that. We
20 just want to make sure that there's nothing out there like
21 ---

22 THE COURT: Well ---

23 MR. SHAFFER: --- that.

24 THE COURT: --- what we can first do, since -- since
25 Officer Cheek's going to be testifying in the *Jackson v.*

1 Denno, he may very well confirm to you that everything that
2 was discussed is in the incident report. I mean, I don't
3 know what he's going to say. But he may very well do that.

4 And if that's the case, then we really don't need for
5 him to duplicate what he's already indicated in an incident
6 report. So let's first -- let's first see what he says.

7 MR. SHAFFER: Okay.

8 THE COURT: And -- but these were phone conversations
9 between the defendant and Officer Cheek; is that right?

10 MR. SHAFFER: That's correct, Your Honor.

11 THE COURT: Okay. All right.

12 MR. SHAFFER: And -- and outside of those issues, I
13 don't believe that we can address anything else today.
14 There are certain things, obviously, that we will probably
15 be bringing up ---

16 THE COURT: Okay.

17 MR. SHAFFER: --- later. But ---

18 THE COURT: Okay.

19 MR. SHAFFER: --- today, I think that we're -- we're
20 ---

21 THE COURT: Okay.

22 MR. SHAFFER: --- set with what ---

23 THE COURT: Well -- well ---

24 MR. SHAFFER: --- we can bring up.

25 THE COURT: Yeah. Let me go ahead and say this. And

1 I understand the -- the -- the cell phone materials and Dan
2 Kelly and all that, that we're not going to be able to do
3 anything with that -- well, we can do some today.

4 MR. SHAFFER: Yes, Your Honor.

5 THE COURT: But concluding that, we can't do it until
6 Monday at trial.

7 MR. MOWRY: Let -- let me ask this, Your Honor: We
8 have three cell -- three search warrants for two cell
9 phones. One was for AT&T. One was for a phone dump by
10 SLED of the defendant's cell phone. The other one was for
11 the victim's cell phone. Is

12 there any -- I -- I have officers here that obtained
13 those search warrants. Is there any problem with those?
14 Do we need to take testimony on those today, or can I
15 release those officers?

16 THE COURT: Okay.

17 MR. MOWRY: They've been -- they've been here for
18 quite a while.

19 THE COURT: I -- I know.

20 MR. SHAFFER: Your Honor, I'm -- I'm certainly not
21 going to lock myself in to something else. But I -- I had
22 no intention of addressing any of those issues today.

23 THE COURT: Okay.

24 MR. SHAFFER: But I don't want to lock myself into
25 anything. I mean ---

1 THE COURT: Right.

2 MR. SHAFFER: --- quite honestly, right now, I don't
3 have any ---

4 THE COURT: Right.

5 MR. SHAFFER: --- issue with any of that.

6 THE COURT: And -- and ---

7 MR. MOWRY: Your ---

8 THE COURT: --- and I can accept that right now. I
9 mean, I'm -- I'm not going to handcuff you and -- and
10 prevent you from getting into that if you discover
11 something today -- after this hearing that you might need
12 to deal with the search warrants. But right now, you don't
13 anticipate any particular argument as it relates to the
14 three search warrants?

15 MR. SHAFFER: And that's correct. And ---

16 THE COURT: Okay.

17 MR. SHAFFER: --- and I will say that it's not
18 something I might, you know -- sandbagging the state with.
19 I -- I really don't anticipate ---

20 THE COURT: Right.

21 MR. SHAFFER: --- raising any ---

22 THE COURT: Okay.

23 MR. SHAFFER: --- issue with them.

24 MR. MOWRY: And there were search warrants on the
25 incident location, Your Honor, prior -- that were -- that

1 were obtained or that ---

2 THE COURT: Okay.

3 MR. MOWRY: --- was obtained prior to a processing of
4 the scene by the SLED crime-scene unit. Is there any
5 problem with that, or can I release the officer that
6 obtained that search warrant?

7 THE COURT: That was a search warrant of the ---

8 MR. MOWRY: --- of the incident location ---

9 THE COURT: Okay.

10 MR. MOWRY: --- Your Honor, on Allen Bridge Road in --
11 in Laurens County.

12 THE COURT: Okay.

13 MR. SHAFFER: And -- and, Your Honor, without delving
14 really far deep into -- or with the same exact
15 qualification, I'll say that I -- I actually don't
16 anticipate at this time, any point during the trial,
17 challenging anything related to those search warrants ---

18 THE COURT: Okay.

19 MR. SHAFFER: --- Your Honor.

20 THE COURT: All right.

21 MR. MOWRY: Okay.

22 THE COURT: Okay.

23 MR. SHAFFER: I mean, obviously, the evidence obtained
24 for -- under other grounds, but not a Fourth Amendment
25 issue.

1 MR. MOWRY: There is a -- a search warrant at a
2 residence of the defendant in Newberry County that Mr.
3 Womack obtained -- Detective Womack obtained. If there is
4 -- again, there was a SLED search there. Laurens County
5 and Newberry County officers were present. Obviously,
6 Newberry County was doing it at -- at Laurens County's
7 behest.

8 But if there is no objection to that search warrant,
9 then perhaps Detective Womack could be released.

10 THE COURT: Okay.

11 MR. SHAFFER: And ---

12 THE COURT: All right.

13 MR. SHAFFER: --- and, Your Honor, I -- I will
14 certainly be digging in to try to find something on that
15 search warrant, because that was the one that was recently
16 ---

17 THE COURT: Right.

18 MR. SHAFFER: --- given to us.

19 THE COURT: Yeah.

20 MR. SHAFFER: But that being said, right now ---

21 THE COURT: Okay.

22 MR. SHAFFER: --- I mean, I've read it. I -- I -- at
23 first blush, I'll say that I don't anticipate challenging
24 ---

25 THE COURT: Okay.

1 MR. SHAFFER: --- anything ---

2 THE COURT: Okay.

3 MR. SHAFFER: --- or any of the Fourth Amendment
4 issues related to any of the search warrants.

5 THE COURT: Okay. All right. So those officers are
6 certainly welcome to remain with us. But they're --
7 they're free to go.

8 MR. MOWRY: Okay. That would be Ben Blackmon and
9 Matthew Womack, Your Honor.

10 THE COURT: Okay. All right. Okay. Officer Womack,
11 Officer Blackmon, you're -- you're free to go, but you're
12 welcome to remain with us if you like.

13 MR. MOWRY: Just wanted to check and make sure also,
14 Your Honor, Detective -- or now-retired Detective Keith
15 McIntosh is here. He obtained the search warrants for the
16 two cell phone handsets that I've talked about.

17 THE COURT: Okay.

18 MR. MOWRY: Are we going to need testimony from him
19 today on those issues?

20 THE COURT: Well, I think, according to what Mr.
21 Shaffer said, at this time he does not anticipate any
22 particular issue with respect to -- well, when I'm saying
23 all four search warrants ---

24 MR. MOWRY: Okay.

25 THE COURT: So -- so he -- he certainly is free to go

1 too.

2 Now, let me say -- Ms. McNeill, did you have
3 opportunity to speak with Officer Womack and -- about any
4 additional documents that -- in Newberry County Sheriff's
5 Department?

6 MS. MCNEILL: I did. He informed me that after he got
7 -- that he was on the phone, I believe he said, with Ben
8 Blackmon while he was typing up the search warrant for the
9 Newberry County location. And then he said when he got the
10 return back, he e-mailed all of the information he had on
11 July 5th of 2016 to the Laurens County Sheriff's Office.
12 So they did have it the entire time.

13 He said that the only other -- he can tell me that he
14 does not have any handwritten notes; he doesn't know if
15 anybody else does. But he also believes that a CAD report
16 would have existed in Newberry County. So I just ask that
17 the solicitor's office do check on that information with
18 Newberry this afternoon.

19 THE COURT: Okay. All right. Mr. Bentley, can you do
20 that too? You understand ---

21 MR. BENTLEY: Yes, sir.

22 THE COURT: --- what may be in existence out there,
23 possibly some hand notes from the other officers and the
24 CAD document.

25 MR. BENTLEY: Yes, sir. I'll ---

1 THE COURT: Okay.

2 MR. BENTLEY: --- follow up ---

3 THE COURT: All right.

4 MR. BENTLEY: --- with Capt. Dennis this afternoon.

5 THE COURT: Okay. Good.

6 MR. MOWRY: In that case, Your Honor, we would ask
7 that ---

8 THE COURT: Okay.

9 MR. MOWRY: --- Detective Blackmon, Detective Womack,
10 and Detective McIntosh be released.

11 THE COURT: Okay. Free to go.

12 MR. MOWRY: We'll keep Detective Cheek here for ---

13 THE COURT: Okay.

14 MR. MOWRY: --- the Jackson ---

15 THE COURT: All right.

16 MR. MOWRY: --- v. Denno ---

17 THE COURT: --- matter.

18 MR. MOWRY: --- matter.

19 THE COURT: All right.

20 At this time, Mr. Shaffer, you're not aware of any
21 other pretrial issues at this time?

22 MR. SHAFFER: There -- I'm not aware of any pretrial
23 issues that we're going to raise before a jury is sworn.
24 And I don't ---

25 THE COURT: Okay.

1 MR. SHAFFER: --- have any -- and -- and the ones that
2 we might are not -- I don't think that they're going to
3 take a substantial amount ---

4 THE COURT: Right.

5 MR. SHAFFER: --- of time.

6 THE COURT: Okay.

7 MR. SHAFFER: At least right now, I'm -- I ---

8 THE COURT: Okay.

9 MR. SHAFFER: --- don't think.

10 THE COURT: All right. Well, let's -- let's do the
11 *Jackson* ---

12 MR. SHAFFER: And ---

13 THE COURT: --- v. ---

14 MR. SHAFFER: Oh.

15 THE COURT: Go ahead.

16 MR. SHAFFER: I apologize, Your Honor. The other --
17 the other thing that I was supposed to check on, at this
18 point, we've been at -- we've been told that the state
19 plans -- does not plan on introducing any of the jail calls
20 from the defendant, going back from this date. Now,
21 obviously, if something else comes up in the meantime, you
22 know, that's fair game. But I would just ask that the
23 state let us know whether or not they plan on doing that.

24 THE COURT: Solicitor?

25 MR. MOWRY: Your Honor, I will tell you, Mr. Bentley

DIRECT EXAMINATION BY MR. MOWRY - BRYANT CHEEK

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1 keeps pretty close tab on those when they're coming up to
2 trial. And we don't have anything that we would intend to
3 use ---

4 THE COURT: Okay.

5 MR. MOWRY: --- from -- from any recorded jail calls.

6 THE COURT: Okay. Very good. All right.

7 MR. SHAFFER: And ---

8 THE COURT: Let's -- let's -- let's get into the
9 *Jackson v. Denno* and then we'll see what else we need to do
10 this afternoon. Okay. Solicitor?

11 MR. MOWRY: Thank you, Your Honor. We'd call Bryant
12 Cheek to the stand.

13 (Whereupon, the witness came forward.)

14 BRYANT CHEEK, having been first duly sworn,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MOWRY:

18 Q You are Bryant Cheek?

19 A Yes.

20 Q And I believe you're currently employed by the Laurens
21 County -- excuse me -- Laurens City Police Department; is
22 that right?

23 A Yes.

24 Q Back in July of 2016, were you a lieutenant, an
25 investigator with the Laurens County Sheriff's Office?

1 A Yes, sir.

2 Q On the early-morning hours of July 3rd, 2016, did you
3 receive a call to -- to go anywhere?

4 A Yes.

5 Q Describe what -- what you heard and what you did in
6 response to that call.

7 A I received a call from our dispatch or investigator on
8 call. The captain had called us out to assist what
9 appeared to be a homicide at [REDACTED] Allen Bridge Road.

10 Q Okay. What did you in response to that call?

11 THE COURT: What was the date of that, officer?

12 THE WITNESS: Uh.

13 THE COURT: Solicitor, what was the date?

14 MR. MOWRY: It -- it was July 3rd.

15 THE WITNESS: July 3rd.

16 THE COURT: Okay. Of '16?

17 MR. MOWRY: Of '16. Yes, sir.

18 THE COURT: Got you.

19 Q What did you do -- once you got that call, what did
20 you do?

21 A We responded to an incident location.

22 Q And what was -- what did you find when you got there?

23 A Our patrol deputies was on scene. They kind of filled
24 me in as to what -- what they discovered when I arrived.

25 Q Okay. Did you talk to Lt. Crain -- Marty Crain at

1 that time?

2 A Yes.

3 Q And were you the investigator in charge on the scene?

4 A No, sir. I was just called out to assist Lt. Keith
5 McIntosh.

6 Q Okay. So Keith McIntosh was the ---

7 A Investigator ---

8 Q --- lead ---

9 A --- on call.

10 Q --- investigator ---

11 A Yes, sir.

12 Q --- is that right?

13 Okay. Did he give assignments for various people,
14 various tasks that he -- that he wanted those folks to do?

15 A Yes.

16 Q And what was your assignment?

17 A At the time my assignment was to assist him. We had
18 spoken with dispatch. They had given us some information.
19 I think, at the time, we had a number from individual that
20 had called in. And I was going to try to make contact with
21 him.

22 Q Okay. And do you have any kind of specialized
23 training in that area?

24 A Yes, sir. I served as a negotiator for Laurens County
25 Sheriff Office; received my training with South Carolina

1 Department of Corrections SITCOM. I did two weeks of
2 intense training there. And then I did another basic
3 hostage-negotiation training with -- at the Greenwood
4 County Sheriff Office with Steve -- Romano, I think. He's
5 from FBI.

6 Q Okay. Did you receive certifications in those areas?

7 A Yes, I did.

8 Q And do you have copies of them here?

9 A I don't have the copy. I have a copy on my cell
10 phone, because it was in my -- I had it framed.

11 Q I got you.

12 A And it's glued in, and I couldn't pull it out. And I
13 thought I had some copies.

14 Q Got you. But you -- you have been certified as a
15 negotiator; is that right?

16 A Yes, sir.

17 Q And did you take part in that procedure that night ---

18 A I did.

19 Q --- or that morning?

20 A I did.

21 Q How did you go about doing that?

22 A At the time I just retrieved the number from our
23 dispatch. And I attempted to try to talk with Mr. Ronald,
24 because I think he had called back in and stated with them
25 that he was contemplating suicide.

1 Q What -- what kind of telephone did you use to make
2 that call?

3 A At the time I had the -- two cell phones: an iPhone,
4 and I also had a Samsung phone.

5 Q Which was your county ---

6 A The iPhone.

7 Q --- issued phone?

8 A It was an ---

9 Q The ---

10 A --- iPhone.

11 Q --- iPhone?

12 A Yes, sir.

13 Q Were you able to make contact with him on your county
14 phone?

15 A I was able to make contact a couple of times. But I
16 think the signal kept dropping. Because we were kind of
17 down in a hole.

18 Q Right.

19 A And then I attempted to make contact with him on the
20 other phone.

21 Q Did you -- on -- on your personal phone; is that
22 right?

23 A Yes, sir.

24 Q Did you have better luck with it on your personal
25 phone?

1 A I did.

2 Q What was the substance of your conversation?

3 A I just reached out to him and contacted him, explained
4 to him who I was and the purpose of my call. I was
5 concerned about him and what dispatch had shared with us
6 about him contemplating suicide.

7 Q Okay. How many times did you speak with him over the
8 next couple of hours?

9 A We spoke multiple times. I don't have a specific
10 number, but we spoke several times.

11 Q Okay. Were you making notes as you went along, or was
12 this a kind of fluid situation where ---

13 A Just kind of fluid situation.

14 Q You -- but you -- you reduced things to writing later
15 on; is that right?

16 A I did.

17 Q Okay.

18 MR. MOWRY: Your Honor, I've got a copy of his
19 incident represent supplemental. How would you like me to
20 handle this? I was going to show it to him and ask if that
21 was it.

22 MR. SHAFFER: And ---

23 THE COURT: We -- we can have it -- is that a copy?

24 MR. MOWRY: Yes, sir.

25 THE COURT: Okay. We can have it marked as a Court's

1 exhibit. Do you have ---

2 MR. SHAFFER: And ---

3 THE COURT: --- a copy, Mr. Shaffer?

4 MR. SHAFFER: I -- I'm sure I do, Your Honor.

5 MR. MOWRY: I -- yeah. I'm quite confident they do,
6 Your Honor.

7 THE COURT: Well ---

8 MR. SHAFFER: Yeah.

9 MR. MOWRY: I hope ---

10 MR. SHAFFER: Oh, I got ---

11 MR. MOWRY: --- so anyway.

12 MR. SHAFFER: --- this is -- this is the -- yeah.

13 MR. MOWRY: Yeah.

14 MR. SHAFFER: Your Honor, we definitely have a copy of
15 that.

16 THE COURT: Okay. Just have it marked as a Court's
17 exhibit ---

18 MR. MOWRY: And if you ---

19 THE COURT: --- before you ---

20 MR. MOWRY: --- don't mind, I'll make a copy of it
21 right now, Your Honor ---

22 THE COURT: Okay.

23 MR. MOWRY: --- so we can ---

24 THE COURT: All right.

25 MR. MOWRY: --- get that taken care of.

1 (Off the record briefly.)

2 (Whereupon, Court's Exhibit 1 was marked for
3 identification.)

4 Q Let me hand you what's now been marked as Court's
5 Exhibit No. 1. Do you recognize that document?

6 A I do.

7 Q What is that, sir?

8 A This is a supplemental to the incident report that was
9 typed up by me.

10 Q Okay. And does that encapsulize [sic], I guess, the
11 -- the gist of the conversations that you had ---

12 A Yes, sir.

13 Q --- with the defendant?

14 A Yes, sir.

15 Q Those early-morning hours?

16 A Yes, sir.

17 Q All right. Do you have any written notes or any --
18 well, any handwritten notes, aside from this incident
19 report, that ---

20 A No, sir.

21 Q --- would document ---

22 A No, sir. No, sir.

23 Q --- what went on?

24 A No, sir.

25 Q Can you describe the conversations for us a little

1 bit?

2 A To the best of my ability, we -- we just talked;
3 reached out to him, based on the conversation and the
4 contact from our dispatch as relates to what he had shared
5 with dispatch. And I just reached out to him.

6 Q And -- and you were concerned that he was going to
7 commit suicide; is that right?

8 A I was.

9 Q Okay. Ultimately, what happened next?

10 A We kept reaching out to each other. I would call him;
11 he would call me. Or we would lose contact. He ended up
12 calling me back and said that he was going to turn himself
13 in at the Johnson Detention Center.

14 Q Okay. Did you also get word that he had -- he was at
15 a -- or had been at a particular location ---

16 A Yes. He had went ---

17 Q --- in Newberry?

18 A --- home to Newberry.

19 Q Okay. Did you -- did you have an address?

20 A Yes.

21 Q What was the address?

22 A Let me find it on here.

23 Q If you have it.

24 A It was 13347 C.R. Koon Highway in Newberry County.

25 Q Okay. And what was done with regard to that

1 information?

2 A It was passed on to Lt. Blackmon as -- as well as
3 Newberry County Sheriff Office.

4 Q Okay. Did you have any part in the -- in the search
5 of that location?

6 A In Newberry County, no, sir.

7 Q All right. What was your next task?

8 A I was just at the scene on Allen Bridge Road, and I
9 was reaching out to him by cell phone.

10 Q Okay. Once you had done that, once you had gotten
11 word from him that he was going to turn himself in, what
12 did you do?

13 A I was still at the incident location. And then when I
14 received a call that he was at the Johnson Detention
15 Center, I shared that with Lt. Keith McIntosh. And then I
16 went to the detention center.

17 Q Okay. Let me ask you the -- I guess, the -- the
18 tenor, the tone of the conversations that you were having
19 with the defendant, was there any kind of threat that you
20 ever made during those conversations?

21 A No, sir.

22 Q Any kind of promises that you made?

23 A No, sir.

24 Q Any kind of hope of reward that you might've -- that
25 you might've communicated to the defendant?

1 A No, sir.

2 Q What would you -- how would you describe the tone of
3 those conversations?

4 A The conversation, it was very calm, very relaxing to
5 me. Very -- I'm sure it was relaxing to him. I can't
6 speak for him. But we -- we didn't have any intense
7 conversation. We just conversated.

8 Q Okay. And matter of fact, you're a pastor as well,
9 aren't you?

10 A Yes.

11 Q All right. So that pastoral tone, is that -- is that
12 what you adopted that evening?

13 A Yes, sir.

14 Q Okay. When you got the word that the defendant was
15 going to turn himself in, I believe you stated that you --
16 you went to the detention center?

17 A Yes, sir.

18 Q What was your purpose in going there?

19 A My purpose for going to the detention center was to
20 speak with him, to talk with him about himself, as well as
21 the incident location.

22 Q Okay. Now, while you were doing that, had the search
23 yet been conducted in -- in -- at the house in Newberry?

24 A I'm not sure. I don't think so. I -- I'm -- I don't
25 know.

1 Q All of these things were going on ---

2 A Well, they all ---

3 Q --- at the ---

4 A --- were going ---

5 Q --- same time?

6 A --- on at the same time.

7 Q Right.

8 A That's right. That -- let me back up. Because he had
9 -- they were out at Newberry -- I mean, at -- at the
10 incident location in Newberry.

11 Q Okay.

12 A Yes.

13 Q When -- when you first met with the defendant the
14 morning of July 3rd of 2016, where did that occur?

15 A At the Johnson Detention Center.

16 Q All right. But specifically, in the -- in the -- in
17 the detention center, where were you?

18 A We were in the booking area when I first arrived.

19 Q Okay. Did you go anywhere else?

20 A We went from the booking area in front to the
21 attorney-client room just down the hall.

22 Q Okay. Let me hand you what is -- well, it hadn't been
23 marked yet. I'm sorry.

24 MR. MOWRY: This is the advisement of rights on July
25 3rd.

DIRECT EXAMINATION BY MR. MOWRY - BRYANT CHEEK

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1 (Whereupon, Court's Exhibit 2 was marked for
2 identification.)

3 Q Let me hand you what's been marked as State's -- or
4 Court's Exhibit No. 2. Do you recognize that?

5 A I do.

6 Q What is that, please, sir?

7 A It is an advisement of rights from the Laurens County
8 Sheriff Office.

9 Q And what is the purpose of those rights?

10 A In each situation we read the individual the rights if
11 we're going to ask them some questions.

12 Q Okay. And this basically is the -- these are the
13 rights that are dictated by the *Miranda* case; is that
14 right?

15 A Yes, sir.

16 Q You did this prior to any kind of -- of questioning of
17 the defendant?

18 A I did.

19 Q He was in custody at that time; is that right?

20 A He -- yes. He was in the detention center.

21 Q While the conversations were going on, on the road,
22 you know, before you met him at the detention center, was
23 he in custody?

24 A He had turned hisself in.

25 Q But -- but while you were having phone conversations

1 with him, was he in custody?

2 A No.

3 Q He was -- he was still at large, so to speak?

4 A Yes.

5 Q Okay.

6 A When -- yeah -- when we're having phone conversations.

7 Q Right.

8 A Yes.

9 Q Exactly. But at this point, when we're talking about
10 the *Miranda* warnings and the advisement of rights, he was
11 in custody at the ---

12 A --- detention center.

13 Q --- detention center?

14 A Yes, sir.

15 Q About what time did you start giving him those rights?

16 A It was on July the 3rd, 2016, at 5:45 a.m.

17 Q Okay. How did you go about advising him of his
18 rights?

19 A I explained to him, before I talked to him, I wanted
20 to read him his rights and make sure he understand his
21 rights. And then I read it to him, and I had him to
22 initial each one and sign it if he wanted to talk.

23 Q Okay. Was he able to read those rights himself?

24 A Yes.

25 Q But you read them to him as well?

1 A Yes.

2 Q When you were talking with him, did he -- did -- in
3 your opinion, was he lucid?

4 A No.

5 Q I mean, when I -- when I say lucid, I mean clear-
6 minded.

7 A Oh. Yes. Yes, he was clear-minded.

8 Q Did -- did not appear to be under the influence ---

9 A No, sir.

10 Q --- of anything?

11 A No, sir.

12 Q Were his answers appropriate?

13 A Yes, sir.

14 Q Any kind of character to his appearance that -- that
15 gave you any concern?

16 A No, sir.

17 Q How would you describe his -- his mood at that time?

18 A He was very calm. I would just say calm, cool,
19 collected. He appeared to be fine.

20 Q Okay. But you went down these rights individually; is
21 that right?

22 A Yes, sir.

23 Q And you had him initial each one; is that right?

24 A Yes, sir.

25 Q Did you ask him whether or not he wished to speak with

1 you?

2 A Yes, sir.

3 Q Did you ask him whether or not he was willing to waive
4 his rights and do so?

5 A Yes, sir.

6 Q And what were -- what was his response?

7 A He said that he wanted to speak with me.

8 Q Okay. And was willing to waive his rights; is ---

9 A And was ---

10 Q --- that right?

11 A --- willing to waive his rights. Yes, sir.

12 Q Did he incident whether or not his waiver of rights
13 was voluntary?

14 A Yes.

15 Q In your opinion, was it voluntary?

16 A Yes, sir.

17 Q Okay. And let me then hand you ---

18 MR. MOWRY: Matter of fact, let me just give you both
19 of these.

20 THE COURT REPORTER: You want these marked as Court's
21 ---

22 MR. MOWRY: Right.

23 THE COURT REPORTER: --- 3 and 4?

24 MR. MOWRY: Yes.

25 (Whereupon, Mr. Mowry and Mr. Shaffer conferred.)

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1 (Whereupon, Court's Exhibits 3 and 4 were marked for
2 identification.)

3 Q Okay. Let me hand you what's now been marked as
4 Court's Exhibit No. 3 and ask you if you can identify that.

5 A Yes, sir. It's a Laurens County Sheriff Office
6 voluntary-statement form.

7 Q And how did you go about conducting that little form?
8 How did you -- how did you obtain that?

9 A We printed it out, and I -- well, I told him we was
10 going to back up from the attorney-client room back up to
11 the booking area and put it on paper.

12 Q Okay. So you had been in a secluded -- small,
13 secluded room; is that right?

14 A Yes, sir.

15 Q Basically, a desk and a -- and a couple of chairs?

16 A Uh-huh.

17 Q And you'd been back there with the defendant. Now you
18 went up to the front; is that right?

19 A Yes, sir.

20 Q And why did you go up to the front?

21 A We was going to take his statement; type it out.

22 Q Was there any kind of device back in the -- the
23 attorney room that you could've used for that purpose?

24 A No, sir. It's just a table and two chairs.

25 Q Okay. So you had to go up to the front to be able to

1 type it out; is that right?

2 A Yes, sir.

3 Q Okay. How did you go about obtaining this statement
4 from him?

5 A I'm sorry.

6 Q How -- how did you go about obtaining the statement?
7 What was your process in doing that?

8 A I explained to him, you know, we was going to type the
9 statement out in his words. He sat on one side; I sat on
10 the other side after I had Mirandized him.

11 Q Okay. And the -- just referring to state -- excuse me
12 -- Court's Exhibit No. 2, it says that this process started
13 at 5:44 and was completed at 5:45. So it took about a
14 minute to do this; is that right?

15 A Yeah. Yes, sir.

16 Q To -- to get him -- to get his signature and have ---

17 A Uh-huh.

18 Q --- that ready?

19 A Yes.

20 Q What time did you start the statement? Does it say?

21 A No, sir. I don't think I have the time on it that I
22 started it. But I have the time when, though, we ended it,
23 I think.

24 Q And what was that?

25 A The time that we ended it was 7:25 a.m. ---

1 Q Okay.

2 A --- on March [sic] the 3rd.

3 Q Before you did that, was there another evidentiary
4 process that you went through with the defendant?

5 A Yes. I shared with him about performing a GSR,
6 gunshot-residue, kit.

7 Q Okay. And did you, in fact, do that?

8 A Yes, sir, I did.

9 Q So was that in between the time that you completed the
10 statement and obtained the -- that would've been the -- the
11 closest and -- and then, further back was the advisement of
12 the rights; is that right?

13 A Yes.

14 Q In the middle of those two, you got the GSR; is that
15 right?

16 A Yes, sir.

17 Q Okay. And was there any kind of threat made to the
18 defendant to induce this statement?

19 A No, sir.

20 Q Any kind of promise that you made to him?

21 A No, sir.

22 Q Any -- did you hold out any hope of reward?

23 A No, sir.

24 Q Any sort of inducement that got him to make that
25 statement?

1 A No, sir.

2 Q In your opinion, was that statement voluntary?

3 A Yes, sir.

4 Q Okay. Now, there was another statement; is that
5 right?

6 A Yes, sir.

7 Q When did that occur?

8 A That occurred on July the 5th.

9 Q Two days later ---

10 A Two days later.

11 Q --- is that right?

12 A (Nodded head up and down.)

13 Q Okay. Let me hand you Court's Exhibit No. 4 and ask
14 you if you recognize that.

15 A I do.

16 Q What is that, please, sir?

17 A It is the advisement of rights from the Laurens County
18 Sheriff Office.

19 Q Okay. Is that similar in form to the -- to Court's
20 Exhibit No. 2 that you talked about earlier?

21 A Yes, sir.

22 Q And did you go through that same process that you
23 described?

24 A Yes, sir.

25 Q Where did that take place?

1 A This took place in the courtroom, just off of the
2 booking area of the detention center.

3 Q Okay. Why did you do it in there?

4 A I'm not sure. I think we were -- wanted to be on
5 camera. I'm not sure. That's where Lt. McIntosh asked us
6 to go.

7 Q Okay. So it was under Keith McIntosh's direction ---

8 A Yes, sir.

9 Q --- or his suggestion, at least, that ---

10 A Yes.

11 Q --- that you do it in there?

12 A (Nodded head up and down.)

13 Q And was this statement videotaped?

14 A Yes, sir.

15 Q And audio-taped?

16 A Yes, sir.

17 Q So you -- you have sight and sound of the entire
18 process; is ---

19 A Yes, sir.

20 Q --- that right?

21 What was the mood, I guess, between you and the
22 defendant in that room?

23 A Again, it was calm.

24 Q Okay. Any kind of raised voices?

25 A No, sir.

1 Q Anybody get angry?

2 A No, sir.

3 Q Any shouting?

4 A No, sir.

5 Q So just a conversation back and forth between you and
6 him; is that right?

7 A Yes, sir.

8 Q Was anybody else present at that time?

9 A Lt. Blackmon and Lt. McIntosh was present as well.

10 Q These two deputies that are sitting out here in the --
11 in the courtroom; is that right?

12 A Yes, sir.

13 Q Any kind of shouting by them ---

14 A No, sir.

15 Q --- at the defendant?

16 A No, sir.

17 Q Did anybody ever raise voices?

18 A No, sir.

19 Q In your opinion -- well, let me ask you this: Did the
20 defendant again waive his rights ---

21 A Yes.

22 Q --- as described by *Miranda*?

23 A Yes, sir.

24 Q In your opinion, was that -- or did he understand
25 those waivers, the ---

DIRECT EXAMINATION BY MR. MOWRY - BRYANT CHEEK

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1 A Yes, sir.

2 Q --- implication of them?

3 A Yes, sir.

4 Q In your opinion, was that waiver voluntary?

5 A Yes, sir.

6 Q All right. And lastly ---

7 (Whereupon, Mr. Mowry and Mr. Shaffer conferred.)

8 (Whereupon, Court's Exhibit 5 was marked for
9 identification.)

10 Q Court's Exhibit No. 5, do you see that videotape?

11 A Yes, sir.

12 Q Or that -- that -- that DVD, I should say. And I
13 believe this is the Davis interview; is that right?

14 A Yes, sir.

15 Q The interview that took place that you described?

16 A Yes, sir.

17 Q In the courtroom ---

18 A Courtroom.

19 Q --- at the detention center?

20 A Yes, sir.

21 Q It's about two hours long; is that right?

22 A Yes, sir.

23 MR. MOWRY: Your Honor, I would -- and I -- I think
24 the defense counsel would be in agreement with this -- give
25 it to Your Honor. You can review at your leisure, if you

1 ---

2 THE COURT: Okay.

3 MR. MOWRY: --- if you believe you need to. But in
4 any event, we don't intend to publish the document. We
5 just ---

6 THE COURT: All right.

7 MR. MOWRY: --- want it to be available to Your Honor.

8 THE COURT: Well, I guess I need to ask the defense:
9 As you certainly very well know, what I needed to find is
10 if he's in custody -- and certainly, he was -- if *Miranda*
11 was complied with; and, if so, was this statement
12 voluntarily made. Do you believe that there -- the -- that
13 the Court needs to view the video in order to make that
14 determination?

15 MS. MCNEILL: I ---

16 MR. SHAFFER: While we're not waiving the objection to
17 it, right now I don't think you're going to need to ---

18 THE COURT: Okay.

19 MR. SHAFFER: --- view the video to make your
20 determination. I -- I would anticipate you're probably not
21 going to need to.

22 MS. MCNEILL: I just want to say, though, the copy
23 that we have of this recorded interview is, like,
24 impossible to hear. I don't know if you've been able to
25 enhance that audio for Your -- for His Honor.

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1 MR. MOWRY: We -- we looked at it in the courtroom,
2 Your Honor. That helped it some. It is -- the -- the
3 audio quality is not very good.

4 MS. MCNEILL: Okay.

5 THE COURT: Okay.

6 MR. MOWRY: And if -- if -- if the Court -- I'm -- we
7 were able to understand it, for the most part. We had to
8 concentrate pretty hard. And if -- if the Court is okay
9 with this and if the defense has no objection, we will try
10 to get that ---

11 THE COURT: Okay.

12 MR. MOWRY: --- cleaned up ---

13 THE COURT: Okay.

14 MR. SHAFFER: And ---

15 MR. MOWRY: --- prior to trial ---

16 THE COURT: All right.

17 MR. MOWRY: --- so that it can be a little more
18 audible.

19 MR. SHAFFER: Your Honor, and -- and me and Mr.
20 Bentley have just been chitchatting about that over here.
21 I think that we're probably going to -- I -- I would
22 imagine we're probably not going to have a objection, but
23 we would need to actually look at the copy of it and then
24 let you know whether we have a objection at that time. But
25 right now I don't anticipate there being any objection to

1 it.

2 THE COURT: Okay. All right. And so at least right
3 now, you don't -- the defense does not see a need for me to
4 view the video, but, certainly, reserving your rights if
5 something were to come up after you cross-examine Officer
6 Cheek.

7 MR. SHAFFER: That's correct, Your Honor.

8 THE COURT: Okay. All right.

9 MR. MOWRY: And Mr. Bentley tells me, Your Honor, if
10 you wear earbuds, if you -- if you want to watch it
11 yourself ---

12 THE COURT: Right.

13 MR. MOWRY: --- enhances it to some degree.

14 THE COURT: Right.

15 MR. MOWRY: It's still kind of hard to hear but ---

16 THE COURT: All right. That -- that -- that has had
17 to be done in -- in the past.

18 MR. MOWRY: Yes, sir.

19 THE COURT: Okay.

20 MR. MOWRY: You can hear -- Investigator Cheek is --
21 is either blessed or cursed in the same way I am, Your
22 Honor. His voice is easy to hear. Mr. Davis had a
23 tendency to speak very low. And then, sometimes it can be
24 a little difficult to hear ---

25 THE COURT: Okay.

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1 MR. MOWRY: --- him. But -- but ---

2 THE COURT: Okay.

3 MR. MOWRY: --- Investigator Cheek ended up repeating
4 much of what Mr. Davis said.

5 THE COURT: Okay.

6 MR. MOWRY: And that helped us understand what was
7 going on too.

8 THE COURT: All right. Very good. Anything further
9 in direct?

10 MR. MOWRY: I believe that covers it ---

11 THE COURT: Okay.

12 MR. MOWRY: --- Your Honor. That's all ---

13 THE COURT: All right.

14 MR. MOWRY: --- I have.

15 MS. MCNEILL: I just need to -- what -- did you make a
16 Court exhibit of that DVD, Warren?

17 MR. MOWRY: Yes.

18 MS. MCNEILL: What Court exhibit number was that?

19 MR. MOWRY: It's No. 5, I believe.

20 MS. MCNEILL: Thank you.

21 THE COURT: And you -- do you have -- I guess you have
22 additional copies? That's not your only copy, is it?

23 MR. MOWRY: No, sir. We've got -- I mean, you -- you
24 have more -- you have it on your computer, don't you?

25 (Whereupon, Mr. Mowry and Mr. Bentley conferred.)

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1 MR. SHAFFER: I have it if y'all need it.

2 MR. MOWRY: Okay.

3 (Off the record briefly.)

4 THE COURT: All right. In this *Jackson v. Denno*
5 hearing, defense counsel have any questions for Officer
6 Cheek?

7 MR. SHAFFER: Yes, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SHAFFER:

10 Q All right. Lt. Cheek, you had said that you had
11 talked to him over the phone -- over cell phones, correct?

12 A Yes, sir.

13 Q What were the two cell phone numbers that you were
14 calling him from?

15 A My personal number is 864-981-2808. The work phone
16 number is 864-871 -- I don't remember.

17 Q Okay. But it would've started with 871?

18 A I think so.

19 Q Okay. And I imagine we can get that from the state.

20 A Yes, sir.

21 MR. SHAFFER: And, Your Honor, just for the record,
22 could we actually strike out his personal cell phone from
23 the -- have that removed from the record on this case? I
24 just don't want that going up in an appellate transcript
25 and getting passed around.

CROSS-EXAMINATION BY MR. SHAFFER - BRYANT CHEEK 65

1 THE COURT: Okay. Well, let me just -- Officer Cheek,
2 do you have any problem with your personal cell phone
3 number being a part of the record?

4 THE WITNESS: No, sir.

5 THE COURT: Okay.

6 MR. SHAFFER: Okay.

7 THE COURT: All right. Very good. Thank you.

8 Q Now, you said that the substance of the cause -- I
9 believe you said -- I think you have the Court -- Court's
10 Exhibit 1. Court's Exhibit 1, you said, contained the
11 entire substance of the calls?

12 A To the best of my ability -- knowledge, yes, sir.

13 Q Okay. And at the time did you write anything down on
14 handwritten notes or anything like that about what was said
15 during the calls?

16 A No, sir.

17 Q Were they recorded?

18 A No, sir.

19 Q Are you familiar with anything that might refresh your
20 recollection as to what the substance of those calls were?

21 A No, sir.

22 Q Okay. So to the best of your ability today, the --
23 the substance of those conversations would all be contained
24 in there, correct?

25 A Yes.

1 Q Okay. Now, you -- you mentioned that y'all were
2 talking about you being a pastor and him being a pastor; is
3 that correct?

4 A Yes.

5 Q Okay. Did you -- you two know each other on a
6 personal level?

7 A I don't know him. I think, when I introduced myself
8 to him, he said that he knew me.

9 Q Okay.

10 A I -- I don't know him. I didn't know him.

11 Q Okay. Do you -- had you ever heard of him before?

12 A No, sir.

13 Q Okay. And what churches during that time period were
14 you a pastor of?

15 A I am pastor at Springfield Baptist Church. I'm in my
16 28th year there.

17 Q Okay. Now, at what point did you actually get to the
18 Laurens County Detention Center that morning?

19 A I'm not sure exactly. Let me look back through my
20 notes. Looks like about 5:44, I spoke with him at the
21 detention center.

22 Q Okay. Do you know if you would've been there before
23 that? If you -- do you know if you would've been at the
24 Laurens County Detention Center -- well, let me ask this:
25 Were you present whenever Mr. Davis turned himself in?

CROSS-EXAMINATION BY MR. SHAFFER - BRYANT CHEEK

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1 A No, sir.

2 Q Okay. So they called you and said he turned himself
3 in?

4 A Yes, sir.

5 Q And do you know where you were when you got that call
6 saying he turned himself in?

7 A I was on -- at the incident location.

8 Q Okay. So you were in Fountain Inn whenever you heard
9 that he turned himself in, correct?

10 A Yes.

11 Q And you would've driven back to the Laurens County
12 Detention Center at that point, correct?

13 A Yes. Yes.

14 Q And did you immediately start talking with Mr. Davis
15 when you got there?

16 A I don't recall if we immediately started talking. I
17 can't recall. When you said immediately, I don't -- I
18 don't recall immediately.

19 Q Okay. But at some point y'all started talking ---

20 A Yes, sir.

21 Q --- correct?

22 And initially, you were in the booking area, correct?

23 A Yes, sir.

24 Q And then you went down that little hallway to the
25 attorney rooms, correct?

1 A Yes, sir.

2 Q Why'd you go down the hallway to the attorney rooms?

3 A We -- we just went there to have some privacy.

4 Q Okay. Now, there are cameras in the booking area,
5 correct?

6 A Yes.

7 Q And there's cameras in the room where this second
8 statement was taken, correct?

9 A Yes.

10 Q Why did you go to -- and there's no cameras where the
11 booking room was, correct? I mean -- excuse me. There's
12 no cameras where the attorney room was, correct?

13 A I don't think so.

14 Q Okay. Why'd you go to the attorney room versus going
15 to the other place?

16 A I just went to the attorney-client room.

17 Q Okay. How long were you in the booking room before
18 going to the attorney-client room?

19 A I'm not sure.

20 Q Okay. How long were you in the attorney-client room?

21 A I'm not sure.

22 Q Okay. Whenever you started talking to him at -- in
23 the attorney-client room, was that where he signed that
24 paper?

25 A I think so.

1 Q Okay. So he would've signed the advisement of rights
2 in the attorney-client room, correct?

3 A Yes, sir.

4 Q And that would've been at what time? And I apologize.
5 That's ---

6 A 5:44 a.m.

7 Q Okay. So at 5:44 he would've signed the advisement of
8 rights?

9 A Yes.

10 Q Now, were you relying -- I mean, had you heard the
11 story about what had happened -- or his side of the story
12 before he actually came in and you started talking to him?
13 Like, over the phone, did y'all talk about the actual
14 event?

15 A When I was communicating with him?

16 Q Yes, sir.

17 A I don't recall. I was concerned about him, and he was
18 talking about committing suicide.

19 Q Okay. But when you got to the attorney-client room,
20 he signed the advisement of rights, correct?

21 A Yes.

22 Q Was that before or after he was -- I mean, was that
23 right when you got in the room?

24 A Yes. Before I started talking him, yeah. I ---

25 Q Okay.

1 A --- had him sign that.

2 Q And you talked for a while, correct?

3 A Yes.

4 Q And did you take any notes?

5 A No, sir.

6 Q Okay. You didn't have anything to write with, with
7 you there?

8 A No, sir.

9 Q Okay. And at some point you come out of the attorney-
10 client room. Did you get his full version of what happened
11 in the attorney-client room?

12 A I got some information. I don't remember if it was
13 the full version of what happened or not in the attorney-
14 client room. I can't recall.

15 Q Okay. So you got some of the information in the
16 attorney-client room. And at that point you left the
17 attorney-client room and went out toward the booking area,
18 correct?

19 A Yes, sir.

20 Q And at that point you started typing his statement,
21 correct?

22 A Yes, sir.

23 Q Is that -- was that your standard practice whenever
24 you worked for Laurens County?

25 A Pretty much. Each situation is different, because we

1 have an interviewing room back at the office.

2 Q Okay. Was that your standard practice for a person
3 who was going to give a statement while they were in
4 custody at the detention center?

5 A Yes.

6 Q Okay. So at that point was the computer in a place
7 that -- were you typing or was he typing?

8 A I was.

9 Q You were?

10 A Uh-huh.

11 Q Could he see the screen from where you -- where he was
12 standing?

13 A No, sir.

14 Q Okay. So at the end of that, basically, did you ask
15 him again for all of the information that you put it in the
16 -- put in the statement or were you going, in part, off of
17 memory from the attorney-client room?

18 A No. When we got to the computer, we started fresh.

19 Q Okay. And did you type down everything that he said?

20 A Yes, sir.

21 Q And I'm showing you Court's Exhibit 3. That would be
22 everything that he said?

23 A At that time, yes, sir.

24 Q Okay. Is there anything that came out in the
25 attorney-client room that didn't make it into that

1 statement?

2 A No, sir.

3 Q What time was that signed?

4 A It was signed at 7:25 a.m.

5 Q Was it signed immediately after you finished typing
6 it?

7 A No, sir. After we printed it out, I let him -- I
8 asked him to read over it to make sure that those words
9 were accurate, what he said; and if they accurate with what
10 you said, then he signed his name.

11 Q How long did he take to read it?

12 A I'm not sure.

13 Q Do you recall how long it took you to type it?

14 A No, sir.

15 Q But that 7:25 time, that would've been accurate from
16 when he signed it, correct?

17 A Yes, sir.

18 Q Do you recall him taking a long time reading it?

19 A I don't recall how long it took him to read it. I
20 recall asking him to read the words to make sure that
21 everything on the statement is accurate of what he had
22 given to me.

23 Q Did he read out loud?

24 A No, sir.

25 Q Okay. There would've been a video camera above your

1 head while you were typing, correct?

2 A I'm not familiar with where the cameras are at the
3 detention center. I'm not ---

4 Q Okay. Did you ever attempt to pull the video from --
5 from the detention center from ---

6 A No, sir.

7 Q --- any surveillance footage?

8 Now, you are familiar with the other room where there
9 is a camera, correct?

10 A Yes. That was -- that was -- I was following the
11 direction of Lt. McIntosh.

12 Q Okay. Prior to that you didn't know that there was a
13 room in there with a camera with audio?

14 A Say that again?

15 Q Prior to you taking the second statement of Mr. Davis,
16 were you aware of the fact that there was a room with audio
17 available at the detention center to take a statement?

18 A Again, I'm not familiar where the cameras are in the
19 detention center.

20 Q At the time you took the second statement, were you
21 familiar that there was a room with audio that you could
22 take the -- the second statement?

23 A To the best of my knowledge, I think that Lt. McIntosh
24 -- we ended up going to the courtroom because the other
25 rooms was being occupied by someone else.

1 Q Okay. Were you familiar at that time, or on the 3rd

2 ---

3 A Yes.

4 Q --- that there was a camera in the courtroom?

5 A Yes.

6 Q Okay.

7 MR. SHAFFER: Court's indulgence.

8 THE COURT: Sure.

9 (Whereupon, Mr. Shaffer and Ms. McNeill conferred.)

10 MR. SHAFFER: No further questions, Your Honor.

11 THE COURT: Okay. Any in redirect?

12 MR. MOWRY: No, sir.

13 THE COURT: Okay. Officer Cheek, you can step down.

14 (Whereupon, the witness exited the witness stand.)

15 THE COURT: Does the state have any additional
16 witnesses or evidence as it relates to the *Jackson v. Denno*
17 hearing?

18 MR. MOWRY: No, sir. I believe that will ---

19 THE COURT: Okay.

20 MR. MOWRY: --- cover it.

21 THE COURT: Okay. All right. And does the defense
22 have any witnesses or evidence as it relates to the *Jackson*
23 *v. Denno* hearing?

24 MR. SHAFFER: Your Honor, what would we ask for is
25 approximately five minutes to find out whether or not my

1 client wishes to -- to testify ---

2 THE COURT: Okay.

3 MR. SHAFFER: --- as to the ---

4 THE COURT: All right.

5 MR. SHAFFER: --- *Jackson v. Denno* ---

6 THE COURT: All right. We -- we're going to take a
7 little break.

8 (Off the record from 1:18 p.m. until 1:29 p.m.)

9 THE COURT: All right. We're back on the record. Mr.
10 Shaffer?

11 MR. SHAFFER: Your Honor, at this time we'll call Mr.
12 Davis for the purposes of the *Denno* hearing.

13 THE COURT: Okay. Come around.

14 (Whereupon, the witness came forward.)

15 RONALD DAVIS, having been first duly sworn,
16 testified as follows:

17 THE COURT: All right. Come around, please, sir.

18 MS. MCNEILL: Judge, may we unhandcuff one of his arms
19 so he can drink water as needed?

20 THE COURT: Sure.

21 (To the deputies) Can y'all assist with that.

22 And before he takes his seat, what I do, I give a
23 modified instruction to a defendant who elects to testify
24 in a -- in a motion in-camera proceeding to inform them of
25 their rights not to testify and that anything he says today

1 could possibly -- we don't know -- could possibly be used
2 by the state. So it's a -- kind of a modified-type version
3 of -- and certainly, he still reserves the right not to
4 testify at trial, if -- if that's the decision that's made.

5 MR. SHAFFER: Yes, Your Honor. And we -- and we told
6 him that we -- essentially, the scope of this hearing is
7 limited to ---

8 THE COURT: Sure.

9 MR. SHAFFER: --- the *Denno* issue and ---

10 THE COURT: Sure.

11 MR. SHAFFER: --- not what happened.

12 THE COURT: Right. Right. Mr. Davis -- and you've
13 already discussed this with your attorneys. But you
14 understand that, you know, you have the right to remain
15 silent and you have the right not to testify in any
16 proceeding involving this case. And certainly, whatever
17 you say today could possibly be used against you in some
18 fashion later on by the -- the state.

19 Again, I don't know what you're going to testify to.
20 So I don't know if that's going to be an issue or not. But
21 I just want you aware that you still have the right to
22 remain silent and not testify; and if you elect to testify,
23 which you're doing so now, that there is that possibility
24 that you can say something that the state could use. You
25 understand that, sir?

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. All right. I need for you to
3 sit close to that microphone so we can all hear you. And,
4 Mr. Shaffer, you may proceed.

5 DIRECT EXAMINATION

6 BY MR. SHAFFER:

7 Q All right, Mr. Shaffer. If -- if you could -- and I'm
8 only going to ask you about stuff that happened at the
9 actual jail, okay?

10 A Yes, sir.

11 Q So if, anytime during my questioning, it sounds like
12 I'm asking you something else, ask me to clarify the
13 question, okay?

14 A Okay, sir.

15 Q All right. Now, Mr. Davis, once you arrived at the
16 jail, how long was it before you talked to Lt. Cheek?

17 A It was around about ten minutes, sir.

18 Q Okay. And what happened whenever you started talking
19 to Lt. Cheek? Where were you at?

20 A We was in booking.

21 Q Okay. And what -- what transpired in booking?

22 A He asked me to come into the attorney-client room and
23 talk to him then. When I got back to the attorney-client
24 room, he pulled out a piece of paper and a pen out of his
25 coat-jacket pocket.

1 And he told me -- he said, "You're not under arrest or
2 nothing like that." He said, "You're only being held for
3 questioning." And I -- he said, "Do you really want to --
4 do you want to give a statement?"

5 I said, "Yes, sir, if I'm only being held for
6 questioning."

7 And I gave a statement -- a written statement on the
8 piece of paper that he pulled out his pocket.

9 Q So this written statement, did you write it yourself?

10 A Yes, sir, I did.

11 Q Okay. Now, I'm showing you Court's Exhibit 2. Prior
12 to writing out that statement by hand, was -- did you sign
13 that document or did he go over that document with you?

14 A No, sir, he didn't.

15 Q Okay.

16 A I gave the statement first. And then we went back up
17 to booking. And then that when I signed this paper, after
18 giving the statement.

19 Q Okay. Did he go over your rights on there? Did he
20 tell you have the right to attorney and the right to remain
21 silent before giving that handwritten statement?

22 A No, sir, he didn't.

23 Q Okay. Were you handcuffed at this point?

24 A No, sir, I wasn't.

25 Q Okay. Were you in street clothes, or were you in --

1 had they already booked you in?

2 A No. They had took my street clothes and -- on the
3 outside of the jail. And they put me in a -- a green
4 velvet suit or some kind of suit.

5 Q Okay. And you're saying that Court's Exhibit 2, you
6 signed after you gave that handwritten statement?

7 A Yes, sir. After we got back up to booking.

8 Q Okay. Now, when you got back up to booking, what --
9 did he start questioning you at booking about what happened
10 again?

11 A Yes, sir, he did.

12 Q Okay. And did he -- I'm going to show you Court's
13 Exhibit 3. Is that the statement that he typed out after
14 you got up to booking?

15 A Yes, sir.

16 Q Does that contain -- now, did he type it from things
17 he was asking you or did he type it from your handwritten
18 statement?

19 A He typed it from things I -- he were asking me.

20 Q Okay. And ---

21 A He also typed it from the -- some of it from the
22 handwritten statement too.

23 Q Okay. So he looked at the -- some of it from the
24 handwritten statement?

25 A Yes, sir. And he -- he were asking me questions. And

1 then I told him that wasn't what I said. And then he'll
2 look back at handwritten statement. And then ---

3 Q So he was referencing back to the handwritten
4 statement?

5 A Yes.

6 Q Okay. And that handwritten statement, what -- my
7 understanding is that was before you were actually -- had
8 been told that you have the right to remain to silent and
9 what we call *Miranda* rights, right?

10 A Yes, sir.

11 Q But the typed statement was after you had done that,
12 correct?

13 A Yes, sir.

14 Q Okay. So you would say things like, "That's not what
15 I said."

16 A Yes, sir.

17 Q And then he'd go back and look at the other -- his
18 notes -- or the handwritten statement, right?

19 A Yes, sir.

20 Q Okay. Now, once he signed -- once he finished typing
21 that, did you sign it?

22 A Yes, sir.

23 Q Did you read it before signing it?

24 A No, sir. Because I had taken knowledge that he had
25 wrote -- took everything off the handwritten statement that

CROSS-EXAMINATION BY MR. MOWRY - RONALD DAVIS

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1 I had wrote and typed it on.

2 Q Okay.

3 THE COURT: Why do you say that you did not read it
4 before signing it? Your reason for what -- what was that?

5 THE WITNESS: I was thinking that he had took it off
6 the handwritten statement that I had wrote.

7 MR. SHAFFER: Court's indulgence.

8 (Whereupon, Mr. Shaffer and Ms. McNeill conferred.)

9 MR. SHAFFER: No further questions.

10 THE COURT: All right. Any cross-examination?

11 MR. MOWRY: Yes, sir, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MOWRY:

14 Q Let's see. Referring to Court's Exhibit No. 3, Mr.
15 Davis, is that your signature down there at the bottom?

16 A Yes, sir, it is.

17 Q What does that paragraph -- that typed paragraph say
18 before that? Can you read that into the record?

19 A It said (As read): "I have read each page of this
20 statement consisting of one page."

21 Q Okay. Go ahead.

22 A (As read): ". . . each page of which bears my
23 signature and correction, if any; bears my initials; and I
24 certify that the facts contained herein are true and
25 correct."

1 Q Okay. So you're saying, then, your signature
2 indicates that everything that's on this page is true; is
3 that right?

4 MR. SHAFFER: Objection, Your Honor. I think that
5 exceeds the scope of what this hearing is about. I think
6 that the -- I mean, obviously, I -- I think he can certify
7 whether or not it was a -- he voluntarily gave it.

8 But I -- I mean, we can't reference back to -- to the
9 facts of the case and say, "Is this true? Is this what
10 happened?" I mean, that exceeds the ---

11 MR. MOWRY: I ---

12 MR. SHAFFER: --- scope of what we're ---

13 MR. MOWRY: I am not ---

14 MR. SHAFFER: --- we're here ---

15 MR. MOWRY: --- allowed ---

16 MR. SHAFFER: --- for.

17 MR. MOWRY: --- to impeach him?

18 THE COURT: Well ---

19 MR. MOWRY: Is that what you're saying?

20 MR. SHAFFER: That's not it -- what I'm saying at all.
21 What I'm saying is that you can't go into the facts of the
22 underlying crime in a *Jackson v. Denno* ---

23 MR. MOWRY: I --- I'm ---

24 MR. SHAFFER: --- hearing.

25 MR. MOWRY: --- not. I'm not.

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1 MR. SHAFFER: You're ---

2 THE COURT: I think ---

3 MR. SHAFFER: --- asking him ---

4 MR. MOWRY: I'm asking ---

5 MR. SHAFFER: --- to verify ---

6 THE COURT: Wait a minute.

7 MR. MOWRY: --- him ---

8 MR. SHAFFER: --- it.

9 THE COURT: Whoa, whoa, whoa. Please don't talk over
10 each other. I think, since it was brought out in direct
11 that he stated he did not read it before signing it and he
12 gave his reason, certainly, the solicitor can -- can get
13 into that. Solicitor, you cannot get into the underlying
14 facts of what -- what happened.

15 MR. MOWRY: I -- I -- and I had no intention ---

16 THE COURT: Right.

17 MR. MOWRY: --- of doing that ---

18 THE COURT: Maybe ---

19 MR. MOWRY: --- Your Honor.

20 THE COURT: --- maybe rephrase your question. And
21 that might clear things up.

22 MR. MOWRY: Well, I wanted him to certify that what he
23 had written in here is true.

24 MR. SHAFFER: Objection, Your Honor. That's exactly
25 the problem.

1 THE COURT: Yeah. Yeah. Yeah. I don't think you can
2 go into the contents of it.

3 MR. MOWRY: I -- I ---

4 THE COURT: Well, wait ---

5 MR. MOWRY: --- and ---

6 THE COURT: --- a minute.

7 MR. MOWRY: --- again ---

8 THE COURT: Well, wait a minute. Wait a minute.

9 MR. MOWRY: I'm -- I'm not going into the contents ---

10 THE COURT: Well ---

11 MR. MOWRY: --- Your Honor. I'm going into the --
12 into the certification that he read it and is certifying
13 that it ---

14 THE COURT: All right.

15 MR. MOWRY: --- was correct.

16 THE COURT: I'll -- the only -- what I have to find is
17 if *Miranda* was complied with if, in fact, he was in custody
18 at these various times that he gave statements and whether
19 it was not -- or not it was voluntarily given. I don't
20 think you can go into the -- asking him whether the
21 contents of the statement are correct or not. He read it
22 or didn't read it, but he did sign it. So let -- let's
23 move on.

24 MR. MOWRY: Okay.

25 Q Mr. Davis, do you recall the videotaped statement with

1 Mr. Cheek and Mr. McIntosh and Mr. Blackmon, made a couple
2 a days later?

3 A Yes, sir.

4 Q Do you recall, about 20 minutes in there, at the first
5 of it, you were complaining to them that you'd never been
6 charged with anything?

7 A Yes, sir.

8 Q Do you recall in there that Mr. McIntosh actually went
9 and got copies of the arrest warrants and brought them back
10 to you to prove that, in fact, you had been charged?

11 A No, sir. He didn't bring no arrest warrants back to
12 me, sir.

13 Q So if it's on the video that that is exactly what
14 happened ---

15 MR. SHAFFER: (Stood.)

16 THE COURT: I'm going to let him proceed.

17 MR. SHAFFER: Okay.

18 Q --- which one is true, your recollection now or what's
19 on the video?

20 A Sir, I don't remember bringing me no copies of no -- I
21 mean, no warrants back. Because when -- before all this
22 contact started, I asked Mr. McIntosh and Mr. Cheeks [sic]
23 was I being charged with anything.

24 And then Mr. Cheeks -- McIntosh told me, "You already
25 have been charged him."

1 And I told him -- I said, "Sir, I haven't received no
2 arrest warrants," I said, "because Mr. Cheeks told me that
3 I was not being arrested; I was only being held to be
4 questioned."

5 Q Okay. You don't recall Keith McIntosh coming in and
6 giving you copies -- photocopies of the -- of the arrest
7 warrants; is that right?

8 A No, sir, I don't recall it, sir.

9 Q And you are on -- you have been charged with murder
10 and possession of a weapon during the commission of a
11 violent crime with regard to this case; is that right?

12 A I don't understand that question, sir.

13 Q How do you want me to clarify it? You have been
14 charged with murder in this case; is that correct?

15 A (No audible response.)

16 MR. SHAFFER: Your Honor ---

17 THE COURT: I think ---

18 MR. SHAFFER: --- I'm not ---

19 THE COURT: --- we can all stipulate that ---

20 MR. SHAFFER: Yeah. We'll stipulate that he's been
21 charged with ---

22 THE COURT: Right.

23 MR. SHAFFER: --- murder, Your Honor.

24 MR. MOWRY: I don't have ---

25 MR. SHAFFER: And ---

1 MR. MOWRY: --- anything further from this witness ---

2 THE COURT: Okay.

3 MR. MOWRY: --- Your Honor.

4 THE COURT: Okay. Anything in follow-up, briefly?

5 MR. SHAFFER: No, Your Honor.

6 THE COURT: Okay. You can step down, sir.

7 (Whereupon, the witness exited the witness stand.)

8 THE COURT: Okay. Anything further from the defense
9 on the -- in relationship to *Jackson v. Denno*?

10 MR. SHAFFER: No further evidence, Your Honor. And I
11 -- I'll leave it in the Court's discretion. Obviously, we
12 take issue with the statements being admitted.

13 THE COURT: Okay. Well, I -- I think we have
14 basically three kind of sets. We have the conversations
15 over the phone. And I'm not aware of what he said. I know
16 it's -- it's set out in that supplemental incident report.

17 But certainly, he was not in custody at that time.
18 There's no indication that whatever he may have said during
19 those phone conversations, there's no indicate that they
20 were not voluntarily made. So I do find that those would
21 be admissible.

22 Concerning the written that he gave on -- I think on
23 the morning of July 3rd, I find that *Miranda* was complied
24 with and that that statement was voluntarily made.

25 And lastly, the video statement, I also find that

1 *Miranda* was complied with and that was voluntarily made.

2 So all of that being admissible into evidence, and, of
3 course, as -- the standard is by a preponderance of the
4 evidence. Certainly, the jury can make the determination
5 beyond a reasonable doubt whether those statements were
6 voluntarily made.

7 Okay. So that issue -- let me go back. What do we
8 want to address next?

9 MR. SHAFFER: And ---

10 MR. MOWRY: Your Honor, I will tell you, there --
11 there was a question about the picture of a pregnancy test.

12 THE COURT: Right.

13 MR. MOWRY: If they'd have asked us beforehand, we'd
14 have told them we had absolutely no intention of using
15 that.

16 THE COURT: Okay.

17 MR. MOWRY: I -- I think that it, quite frankly, is
18 irrelevant.

19 THE COURT: Okay. All right.

20 MR. MOWRY: As far as the relevance of the child, I
21 think that's a different matter. The child was in the next
22 room. The child was left alone in the house. DSS had to
23 be called out that night, once the child was discovered by
24 officers.

25 The fact that the child was there simply is. And it

1 is relevant to the -- to the conduct of the investigation
2 that night. And I think it also goes to malice on the part
3 of the defendant, that gunfire was let loose inside the
4 house and the child was -- was there.

5 There will be testimony, Your Honor, that a bullet
6 went through the wall, the exterior wall, of the residence
7 and struck the defendant's vehicle. The bullet was
8 recovered from the vehicle. So clearly, the -- the bullets
9 were penetrating walls in the house.

10 And I think this would relevant for the factors in the
11 case: the -- all of the elements that the state has to
12 prove. I think this is something that the jury should be
13 able to consider.

14 THE COURT: Okay. And whose vehicle did it hit?

15 MR. MOWRY: The defendant's. It was ---

16 THE COURT: Okay.

17 MR. MOWRY: --- recovered in Newberry, Your Honor.

18 THE COURT: Okay. Mr. Shaffer?

19 MR. SHAFFER: Your Honor, they -- the child was not
20 hit. The child was not shot at. The child was not awake.
21 The child is not a witness in this case.

22 Your Honor, I think that we're setting a unusual
23 precedent if we're saying that proximity to children is
24 evidence of malice in this state. I don't think it's
25 relevant for any of that.

1 But the only thing I can think of is it being,
2 essentially, Lyle-type evidence, or character-type evidence
3 because of the fact of what he's saying is that he's a bad
4 person because he left the child in the house. Your Honor,
5 I don't think that that necessarily is -- I -- I don't
6 think that that is -- there's any case that says proximity
7 to children causes malice -- is evidence of malice. I
8 certainly wasn't able to find one.

9 I don't think that it is, in any way, relevant. But
10 it's certainly prejudicial, because of the fact that, you
11 know, the exact reason that the state wants to use it: to
12 say that he's a bad person because he left a child in the
13 house ---

14 (Whereupon, Mr. Shaffer and Ms. McNeill conferred.)

15 MR. SHAFFER: --- and -- and the fact that DSS had to
16 be called. That -- that's basically saying he's a bad
17 person because of that. And that's how they're planning on
18 using it, according to the solicitor.

19 That is not, in anyway, probative as to whether or not
20 the shooting was in malice or whether or not he acted in
21 self-defense or in the heat of passion, Your Honor. I
22 don't think that it's related to any possible issue that
23 the jury has to decide.

24 THE COURT: Okay. All right.

25 MR. MOWRY: I -- frankly, Your Honor, I -- I am not

1 admitting -- or offering it for admission under *Lyle*. I'm
2 offering it ---

3 THE COURT: Right.

4 MR. MOWRY: --- for admission under depraved heart.
5 He's -- he's discharging a firearm that could easily strike
6 somebody else. The evidence that we ---

7 THE COURT: Right.

8 MR. MOWRY: --- would have that the -- that the
9 bullets went through the wall certainly would be an
10 indicator that they would go through an interior wall and
11 perhaps strike the child. And then he drove off and left
12 the child alone.

13 So if -- if that's not something that a jury could
14 consider as -- as far as a circumstance that would give
15 rise to malice, then I don't know what it is.

16 THE COURT: Okay. The -- the child -- would that have
17 been a child of the victim, the deceased?

18 MR. MOWRY: Yes, sir.

19 THE COURT: Okay.

20 MR. MOWRY: It was -- it was a very young child; was
21 not capable of testimony ---

22 THE COURT: Not -- not ---

23 MR. MOWRY: --- anyway.

24 THE COURT: --- his child?

25 MR. MOWRY: I don't believe so. No -- yeah ---

1 THE COURT: Okay.

2 MR. MOWRY: --- no sir.

3 THE COURT: Okay.

4 MR. SHAFFER: And -- and ---

5 THE COURT: All right.

6 MR. SHAFFER: --- Your Honor, just to address the
7 solicitor's concern, the bullets -- the bullet holes are in
8 the opposite direction of where the child was actually at.
9 If you looked at the diagram from where the actual bullet
10 holes ---

11 THE COURT: Okay.

12 MR. SHAFFER: --- were, they were fired going out of
13 the house, not anywhere close to where the child's room is.
14 The child's room is in the other direction, Your Honor.

15 I -- I think that basically, what they're going to do
16 is drum up sympathy with the jury because of the fact that
17 this is a mother who -- who died and her kid was in the
18 house at the time and try to make my client out to be evil
19 because of that fact and not necessarily related to what he
20 actually did, but just because of the fact that there's a
21 child there.

22 THE COURT: Okay.

23 MR. SHAFFER: I also think it goes to -- I -- I think
24 that it's basically opening the door for the solicitor to
25 make a -- a -- a -- basically, a -- a improper closing

1 argument or improper argument directed toward the passion
2 and prejudice of the jury, Your Honor.

3 THE COURT: Okay. One last comment?

4 MR. MOWRY: No, sir.

5 THE COURT: Okay. Well, I'm -- I'm going to take this
6 under advisement. I -- I would agree with the solicitor
7 that I don't think it's a *Lyle* issue here. But let me --
8 I'm going to take that under advisement and -- you know,
9 and then let y'all know something soon as possible. Okay?

10 What -- what next? And let -- let me just say this:
11 We'll -- we'll certainly go a while longer. What would be
12 the thinking -- and I realize we can't wrap up the cell
13 phone issue because of -- of Dan Kelly not being available.
14 I understand that.

15 But since I, more than likely, will have some time in
16 Greenville, if we don't finish up everything today, this
17 afternoon, would y'all be adverse coming to Greenville and
18 -- and wrapping up what we need to?

19 MR. SHAFFER: We're okay with that, Your Honor.

20 MR. MOWRY: We ---

21 THE COURT: Yeah.

22 MR. MOWRY: --- we won't be either, Your Honor. But
23 Dan will still not be available ---

24 THE COURT: Well, I understand ---

25 MR. MOWRY: --- next weel.

1 THE COURT: --- that. I -- I -- I realize that. But
2 my thinking is -- is -- is not go rest of the afternoon and
3 I'd rather kind of split it up and then maybe do some in --
4 in -- in Greenville.

5 MR. MOWRY: Well, Your Honor, if I could, since we're
6 talking about the cell phone records, we have -- we have
7 done what has been done in the past and provided notice
8 under 19-5-520. We -- we got the historical location
9 information from AT&T. We received a declaration of
10 authenticity of AT&T records. And pursuant to that
11 statute, we ended up ---

12 THE COURT: Yeah. I got it.

13 MR. MOWRY: --- giving those to the defense. What
14 that essentially does is eliminates the need for a -- a
15 business-records custodian to come up here. You -- I think
16 Your Honor is fully aware how difficult that would be to
17 accomplish.

18 And that's what the statute was designed to
19 accomplish. In any event, we would ask that Your Honor at
20 least rule on the nature of our proffer, as far as that is
21 concerned.

22 THE COURT: Okay. All right. What -- what do -- let
23 -- you -- you got something for me to look at?

24 MR. MOWRY: Yeah. If -- if you wish, Your Honor, I've
25 got my copies of this.

1 MR. SHAFFER: Here. You can -- you can go ahead and
2 hand up this if you want.

3 MR. MOWRY: Okay.

4 MR. SHAFFER: This, I was going to make a Court's
5 exhibit.

6 MR. MOWRY: Okay.

7 THE COURT: Okay.

8 MR. MOWRY: Good.

9 THE COURT: Let's -- let's make that as Court's
10 Exhibit -- I think it's No. 6.

11 MR. SHAFFER: And, Your Honor, Court's Exhibit ---

12 THE COURT REPORTER: Wait ---

13 THE COURT: Hold -- hold -- hold on ---

14 MR. SHAFFER: Oh.

15 THE COURT: --- a second. She's good, but she ---

16 MR. SHAFFER: No. I get it.

17 THE COURT: --- needs a minute.

18 (Whereupon, Court's Exhibit 6 was marked for
19 identification.)

20 (Off the record briefly.)

21 MR. MOWRY: In essence, Your Honor, if Your Honor
22 rules it inadmissible on this basis, then Dan Kelly would
23 be moot.

24 THE COURT: Right.

25 MR. MOWRY: We would not be able to get that

1 information in anyway.

2 THE COURT: All right. Okay.

3 MR. SHAFFER: And, Your Honor ---

4 THE COURT: Hold -- hold that thought ---

5 MR. SHAFFER: Okay.

6 THE COURT: --- Mr. Shaffer.

7 (Off the record briefly.)

8 THE COURT: Okay. Yes, sir.

9 MR. SHAFFER: Your Honor, we have several objections
10 to the -- this, I guess, goes directly to authentication.
11 It doesn't necessarily go to the hearsay objection that
12 we're about to raise or that we could raise in Greenville
13 later.

14 But directly related to 19-5-520, essentially, it says
15 "An original or a copy of a domestic record . . ." And
16 there -- I -- I have a second half to this objection, but
17 I'll go ahead and take it in parts.

18 THE COURT: Okay.

19 MR. SHAFFER: I -- I would object to the applicability
20 of this statute initially under the fact that this is not a
21 domestic record. This is a record outside the state of
22 South Carolina, Your Honor. And if you notice the -- the
23 fact that foreign records in Subsection (B) are allowed in
24 civil cases, you know, Subsection (A) basically says that a
25 domestic record that meets the requirements of 803(6),

1 which is the business-records exception ---

2 THE COURT: Right.

3 MR. SHAFFER: --- as shown by a certification of the
4 custodian or other qualified person that complies with the
5 -- with a state statute or court rule before the trial or
6 hearing, the proponent shall give an adverse party
7 reasonable written notice of a intent to offer the record
8 and shall make the record a certification available for
9 inspection so that the party has a fair opportunity to
10 challenge the record.

11 That is Subsection (A), which I believe is ---

12 THE COURT: Right.

13 MR. SHAFFER: --- subsection that they're trying to
14 get it in under, because Subsection (B) only applies to
15 civil cases, Your Honor.

16 THE COURT: Right.

17 MR. SHAFFER: My first argument related to this
18 statute would be that this is not a domestic record, Your
19 Honor. It's not domestic under the statute because of the
20 fact that it's not in -- it's not a South Carolina
21 document. This ---

22 THE COURT: Well ---

23 MR. SHAFFER: --- document ---

24 THE COURT: --- what ---

25 MR. SHAFFER: --- is coming ---

1 THE COURT: --- tells -- what tells you ---

2 MR. SHAFFER: I don't ---

3 THE COURT: --- Mr. Shaffer, that the word "domestic"
4 used in 520 means South Carolina and not domestic meaning
5 United States?

6 MR. SHAFFER: Your Honor, because of the title in the
7 code, if you look under one of the other chapters, it --
8 called -- titled "Foreign Records." It's under the same
9 title with this. I'm -- I'll go direct to the -- give me
10 just one second, Your Honor. I'll tell you exactly what
11 code section I'm talking about.

12 THE COURT: Let -- let me ask you this while you're
13 looking it up. And maybe you don't want to respond until
14 after you've looked it up. But wasn't the intent of this
15 statute -- one of the reasons for the legislature passing
16 this statute was dealing with cell phone records, which
17 Verizon/AT&T/Sprint, they're all over the -- the -- the
18 country. And wasn't that one of the primary reasons for
19 the passage of this statute, was to prevent somebody having
20 to be flown from California to South Carolina?

21 MR. SHAFFER: Your Honor, I'll -- I'll say that the
22 rules of statutory interpretation does not allow any judge
23 to go into that until -- unless and until you find that
24 it's ambiguous on its face. So if I -- I think that if
25 you're -- you're making a finding that it's ambiguous,

1 maybe you can go into the legislative intent of the ---

2 THE COURT: Well, apparently ---

3 MR. SHAFFER: --- statute ---

4 THE COURT: --- it is ---

5 MR. SHAFFER: --- as a whole.

6 THE COURT: --- because you're claiming that domestic
7 means South Carolina. And -- and the state is -- is -- is
8 maintaining that it does not mean South Carolina. So isn't
9 that, in and of itself, an ambiguity?

10 MR. SHAFFER: Your Honor, it -- if you don't read the
11 entire code, then it is brought out. If you only read this
12 statutory section, I would agree with you there, that there
13 would be ambiguity there.

14 But, Your Honor, if you read the entire -- entire act
15 that -- that was passed, you'll reference Article III of
16 that act. And we're talking about Title 19, Chapter 5,
17 Article 3. It's -- the article is entitled "Foreign
18 Documents."

19 And what they do is they talk about other states as
20 foreign documents, for example, North Carolina. North
21 Carolina ---

22 THE COURT: But ---

23 MR. SHAFFER: --- we accept ---

24 THE COURT: --- but that's a -- that's a separate
25 article, though.

1 MR. SHAFFER: Your Honor, it's part of the exact same
2 act that passed this. And -- and what it's saying -- the
3 exact same act that -- that passed was the same act, 2015
4 Act No. 4. That is the exact same act that was passed as a
5 whole. And it references foreign documents as being
6 documents in -- in North Carolina being a foreign document.

7 And specifically, I'm talking about 19-5 -- 19-5-210.

8 MR. MOWRY: Your Honor, can I just simply refer to
9 *Merriam-Webster's Dictionary*, as far as domestic is
10 concerned? It says (As read): "Of, relating to, or
11 originating within a country, especially one's own
12 country."

13 And quite frankly, in the guard, you take a -- an oath
14 to defend the Constitution against all enemies, foreign and
15 domestic. Foreign enemies do not contemplate a people that
16 we are going to war with in North Carolina.

17 THE COURT: Okay.

18 MR. SHAFFER: Your Honor, I -- I'm saying that the use
19 of the word by the legislature in the act that was passed
20 as -- this title -- I mean, this particular statute came
21 from, they refer to North Carolina documents under the
22 article dealing with foreign documents.

23 THE COURT: Okay. Let me just take a look.

24 MR. SHAFFER: And they also talk about reciprocity in
25 19-5-230. And it talks about other states.

1 (Off the record briefly.)

2 THE COURT: Well, of course, now, section -- the --
3 the -- Section 3 -- 19-3 -- or that whole foreign section,
4 that was passed long before 19-5-520 was passed. 19-5-520
5 was passed in 2015.

6 I don't think, by having a statute and why it's limited
7 to North Carolina would automatically, then, dictate that
8 520 would define domestic as being South Carolina. That
9 one isolated statute, why it refers to just North Carolina,
10 I don't know. We'd have to go through the legislative
11 history to make that determination. But I don't believe
12 that statute, in and of itself, where they -- or even that
13 body of what's called "foreign documents" would dictate the
14 definition of domestic as being limited to South Carolina.

15 MR. SHAFFER: And -- and, Your Honor, on -- on the
16 other -- other reason that -- and it -- this is obviously
17 going into ambiguity. There's a difference between civil
18 cases and criminal cases between Subsection (A) and
19 Subsection (B) of this statute.

20 I would submit that a reasonable reason for why
21 there's a difference is that the legislature basically
22 anticipated the fact that a criminal defendant may very
23 want to challenge whether or not something actually is or
24 is not a business record, okay, which we do. We are
25 challenging that.

1 Your Honor ---

2 THE COURT: Well, can't ---

3 MR. SHAFFER: --- Subsection ----

4 THE COURT: --- you challenge it ---

5 MR. SHAFFER: --- (B) ---

6 THE COURT: --- under 803?

7 MR. SHAFFER: And -- and yes, Your Honor. I -- I can
8 still challenge it because ---

9 THE COURT: Sure.

10 MR. SHAFFER: --- this only deals with authentication,
11 Your Honor. But ---

12 THE COURT: All right.

13 MR. SHAFFER: --- the thing is -- is that I can't very
14 well, with two weeks' notice -- because, mind you, we got
15 this exhibit, Court's Exhibit 6, on Monday -- I can't very
16 well challenge -- I can't very well go domesticate a
17 subpoena to Florida or wherever this guy is and actually
18 subject him or subject anyone from AT&T that deals with
19 this to cross-examination as to whether or not this
20 actually is a business record, Your Honor. I'm -- I'm
21 denied that ability to do that.

22 I mean, yeah. If I had reasonable notice -- if I had
23 six months' notice, I could go get a subpoena and then go
24 pay to have someone domesticate that subpoena down in --
25 down in Florida and then pull someone into court and

1 actually do that.

2 THE COURT: What ---

3 MR. SHAFFER: I can't ---

4 THE COURT: --- what ---

5 MR. SHAFFER: --- we ---

6 THE COURT: --- causes you -- let me just ask you
7 this. What is -- what red flags are being sent up, when
8 you look at this -- this document, what is causing you to
9 believe that this is not authentic? And I'm not -- I'm not
10 saying -- I'm not wanting you to just engage in a fishing
11 expedition. What -- what in this is causing you to have
12 some concern that maybe it's not authentic?

13 MR. SHAFFER: Directly toward authenticity, Your
14 Honor, I -- I am not going to say that the state did not do
15 that it -- like that they're -- they present some
16 unauthentic document.

17 THE COURT: Oh, I'm ---

18 MR. SHAFFER: I'm not ---

19 THE COURT: --- I'm not ---

20 MR. SHAFFER: --- saying that.

21 THE COURT: --- suggesting that.

22 MR. SHAFFER: But -- but I -- I am saying that they're
23 still required to prove the authenticity of it. And part
24 of proving the authenticity is having someone come in who
25 is subject to cross-examination. And the reason that we

1 want that, Your Honor, is really because of the fact that
2 we can't -- we are challenging that the -- that the
3 documents presented are actually business records under the
4 -- under the definition, Your Honor.

5 And I don't have the ability to really -- or I am
6 hampered to do that whenever we don't actually have a
7 records custodian who can say, from AT&T, whether or not
8 these documents and ---

9 THE COURT: All right.

10 MR. SHAFFER: --- this information, all of it, is kept
11 in the normal -- ordinary course of business.

12 THE COURT: Well, but then, doesn't that defeat the
13 purpose for 19-5-520(A), that if -- if -- if you -- if
14 you're entitled to -- to have somebody live here testify
15 concerning these documents, then why have 5 -- 520?

16 MR. SHAFFER: Your Honor, I think that I -- I would --
17 I would say that you would have the ability to do so. And
18 related directly to the domestic part, I -- I mean,
19 assuming our -- I'm -- I'm going to make an assumption
20 without waiving my argument about the domestic thing ---

21 THE COURT: Right.

22 MR. SHAFFER: --- that domestic means national. I
23 will -- I will -- I'll make that assumption ---

24 THE COURT: Okay.

25 MR. SHAFFER: --- for the purposes of this ---

1 THE COURT: All right.

2 MR. SHAFFER: --- argument. Your Honor, I have to
3 have someone come testify. If I -- if I want to challenge
4 that, it says that they have to give this to us with
5 reasonable notice so that we can -- we can make a challenge
6 to it.

7 THE COURT: Right.

8 MR. SHAFFER: I don't have reasonable notice to make a
9 challenge to some guy who's down in Florida with two weeks'
10 notice before trial, because I can't get him here to
11 actually testify to this stuff.

12 THE COURT: Right.

13 MR. SHAFFER: I -- I can't make him show up. If I
14 wanted ---

15 THE COURT: Right.

16 MR. SHAFFER: --- to make him show up, I mean, I -- I
17 -- if I went and got a subpoena today, there's no chance
18 that I'm going to have it domesticated and have ---

19 THE COURT: All right.

20 MR. SHAFFER: --- him ---

21 THE COURT: Are you ---

22 MR. SHAFFER: --- there ---

23 THE COURT: --- asking for a continuance?

24 MR. SHAFFER: Your Honor, if -- if you plan on
25 allowing this in pursuant to this, I actually would ask for

1 a continuance, because I need someone from AT&T, before
2 they get these records in, to tell me that these are -- all
3 of the information contained in here is kept in the
4 ordinary course of business.

5 Because some of this information is not kept in the
6 ordinary course of business, Your Honor. If you look at
7 the actual -- I -- I wouldn't even call it a affidavit, so
8 I don't think it necessarily complies with the statute.

9 But the declaration that is on Subpart (1) of that
10 packet that I handed up -- I -- I flagged it as (1) -- that
11 doesn't even lay a foundation for this being a business
12 record, Your Honor. It doesn't say these are kept in the
13 ordinary course of business.

14 THE COURT: Okay.

15 MR. SHAFFER: Because they can't say that because some
16 of those -- some of that information contained in there is
17 not kept in the ordinary course of business. Some of it is
18 documents that are maybe from original business records
19 that have been interpreted by them, which goes into -- to a
20 later argument on the confrontation clause about -- that I
21 had planned on raising next.

22 THE COURT: Okay. All right. Do you believe that --
23 I'm not going to try to pronounce his name.

24 MR. MOWRY: Figueroa, Your Honor ---

25 THE COURT: Figueroa?

1 MR. MOWRY: --- I believe.

2 THE COURT: --- complies with the Business Records
3 Act?

4 MR. MOWRY: Oh. Yes, sir, I do.

5 THE COURT: Okay.

6 MR. MOWRY: I do. He -- I mean, this is exactly what
7 19-5-520 was -- was referring to. And he states -- and
8 I'll read it into the record -- (As read): "I'm over the
9 18 and qualified to process this affidavit. I'm employed
10 by AT&T as a legal-compliance analyst. And I also serve as
11 a custodian of records for AT&T. I've been employed since
12 January 2013.

13 "Attached to this declaration are true and correct
14 copies of subscriber information and/or call detail, issued
15 by AT&T for the following number" -- and it was the
16 defendant's number.

17 And then, he says: "I declare under penalty of
18 perjury that the foregoing is true and correct."

19 I don't know what more Mr. Shaffer wants than that.
20 If we're going to go through this every time with -- and --
21 and have to get people here, then 19-5-520 might as well
22 just -- it's a dead letter.

23 THE COURT: Right.

24 MR. SHAFFER: I -- I would ask -- and specifically,
25 what I would want, I would want someone from AT&T to be

1 subject to cross-examination or at -- at bare minimum, put
2 in their affidavit that these -- that every -- all the
3 information contained in this thing is subject to -- I
4 mean, it is actually kept in the ordinary course of
5 business. Because, Your Honor, our position is a lot of
6 the information is actually pulled from data and then
7 analyzed through algorithm and, at that point, spit it out
8 for the purposes of this.

9 It is not a business record, Your Honor. And that's
10 why they don't say: "These documents are kept in the
11 ordinary course of business." That's not even in the
12 affidavit, Your Honor.

13 THE COURT: Okay. All right. All right. Solicitor,
14 803(6), under rules of evidence, Records of Regularly
15 Conducted Activity, what Mr. Shaffer is arguing that the
16 certification -- it does not need to be an affidavit, even
17 though this gentleman does refer to it as an affidavit. It
18 doesn't have to be an affidavit -- affidavit under the
19 statute.

20 But the statute does require compliance with the
21 requirements of 803(6). Should not his certification
22 contain that language, that the records are kept in
23 regularly conducted business, etc., etc.?

24 MR. MOWRY: I -- and I think subscriber information
25 and/or call detail issued by AT&T does just that, Your

1 Honor. I believe that -- that accomplishes that goal.

2 MR. SHAFFER: How -- how -- where does it actually say
3 that, that this is under oath; that this is actually kept
4 -- no. The -- it's kept in the ordinary course of
5 business. Where does it lay a foundation? I don't see
6 anywhere in that document that it actually lays a
7 foundation under 803(6).

8 THE COURT: What would be the -- the chances of
9 getting this certification to include some -- some 803(6)
10 language?

11 MR. MOWRY: See what I can do, Your Honor.

12 THE COURT: Okay.

13 MR. MOWRY: We'll give him a call.

14 MR. SHAFFER: Your Honor, it still needs to be subject
15 to cross-examination.

16 THE COURT: I'm -- I'm not going to -- I'm not going
17 to require -- under 520, I'm not going to require anybody
18 from AT&T to be present. Because if that -- if that's my
19 requirement, then why have the statute?

20 So I'm not going to require that. You've got your
21 argument on the record. But I'm not going to require that.

22 I think it would be better if his certification did
23 contain some language out of 803(6) because that's what the
24 statute says. But I'm not going to require him to be -- or
25 any AT&T person to be brought up here and to testify.

1 MR. SHAFFER: Your Honor, there are -- there are
2 multiple documents in that. What I would ask for: If
3 they're going to ask for a new affidavit that actually
4 includes that language, that, at bare minimum -- and
5 without raising my objection to -- waiving my objection to
6 it -- at bare minimum, he list out which documents are kept
7 in the ordinary course of business and which ones aren't.

8 MR. MOWRY: I invite ---

9 MR. SHAFFER: Because ---

10 MR. MOWRY: --- Mr. Shaffer to write it.

11 MR. SHAFFER: You ---

12 MR. MOWRY: I will submit it to him and ask him to
13 sign it.

14 MR. SHAFFER: Your Honor ---

15 THE COURT: Okay.

16 MR. SHAFFER: --- may I -- may I -- may I point to why
17 this is such an issue for us, so that the Court understands
18 that this isn't just a mere technicality; that this
19 actually goes to the heart of the evidence that they're
20 trying to present.

21 If the Court would look at the little Tab 5 on there?

22 THE COURT: Okay.

23 MR. SHAFFER: And, Your Honor, I'm going to -- give me
24 just a moment so that I can . . .

25 Tab 5, it -- it should be historical precision

1 location information, Your Honor. What this is, it's
2 called "Nelos," N-e-l-o-s. AT&T calls it "Nelos."
3 Different providers call it different things. For example,
4 Verizon calls it "RTT."

5 What -- what it is, is basically a cell phone tower.
6 And the cell phone tower basically will send out
7 information to a phone to ping off of it. And whenever the
8 phone responds back to the cell phone tower, they run
9 through it a algorithm and basically say "at some point
10 he's in this general location." Okay?

11 Your Honor, the document created in this, it's our
12 position that this specific document, which is the basis of
13 Mr. Kelly's opinion -- the sole basis of Mr. Kelly's
14 opinion is this document. This document is -- our position
15 is this particular document is not kept in the ordinary
16 course of business.

17 And it says at the top (As read): "The results
18 provided are AT&T's best estimate of the location of the
19 target number. Please exercise caution in using these
20 records for investigative purposes, as location data is
21 sourced from various databases, which may cause location
22 results to be less than exact."

23 Now, the first part of that that I would like to point
24 out is that it's sourced from various locations, okay?
25 Your Honor, this is not necessarily AT&T's document.

1 The second part I'll point out is the fact that it
2 says "the target number." Your Honor, this document is
3 prepared specifically for litigation. They send a report
4 down there, law enforcement does. And the reports that
5 come back isn't data about where this is so that law
6 enforcement can run their own analysis on it.

7 What they get back is this, that's already gone
8 through a algorithm from AT&T, for the purposes of helping
9 out law enforcement. I have several documents, which we
10 can take up later if the Court wants. I mean, this gets
11 fairly technical into my confrontation argument and the
12 expert-witness argument.

13 But, Your Honor, this -- this document is not prepared
14 in the ordinary course of business. And this is the basis
15 of Dan Kelly's opinion, is that -- is a document not
16 prepared in the ordinary course of business, a document
17 prepared subject to a subpoena, subject to a search warrant
18 that says: Provide us with this information for the target
19 phone number.

20 And AT&T runs their own algorithm, which tells -- can
21 tell maybe where this is. Now, this that -- we have all
22 sorts of arguments about why this inaccurate -- inaccurate
23 and all that and also a violation of the confrontation
24 clause.

25 But, Your Honor, initially, I think that the Court can

1 see just off of the plain language of it, is that this is
2 prepared for the purposes of law enforcement and it's not
3 prepared in the ordinary course of business.

4 THE COURT: Solicitor?

5 MR. MOWRY: Your Honor, I would submit to you that
6 Nelos data is what we used in the -- in *State v. Wise* in
7 Newberry County that Your Honor tried. So much of what Mr.
8 Shaffer has been going into is going to be going to the
9 weight, not the admissibility of the evidence.

10 MR. SHAFFER: And once again, the solicitor is
11 basically -- is attempting to deprive my client of due
12 process. Because what he's doing is basically saying,
13 "Your Honor, just rely on your previous ruling that a
14 different attorney and a different defendant was in." And
15 a different objection was probably made as well.

16 MR. MOWRY: It's the same data, the same witness, the
17 same information, Your Honor.

18 THE COURT: Well, I think what we need to do on this
19 particular issue is, Solicitor, see if you can obtain --
20 because I -- I -- I don't know if these documents are
21 prepared for litigation or prepared for -- or kept in the
22 course of their normal business. I don't know that.

23 I mean, I'm hearing Mr. Shaffer's argument. But I
24 don't -- I don't know that. Let's see -- I would suggest
25 that you be in communication with -- with Mr. Figueroa and

1 see if he's willing to sign an -- an affidavit that
2 complies with this Section 520.

3 MR. MOWRY: Yes, sir.

4 THE COURT: And then we'll kind of take it from there.
5 I mean, I don't -- I don't know what else we can do at this
6 -- at -- at this stage.

7 So you have any idea -- a time frame when you think
8 you would be in communication with him and ---

9 MR. MOWRY: We will be calling him on it on our way
10 back to Laurens, Your Honor.

11 THE COURT: Okay. Okay. All right. And, you know,
12 if -- if -- if -- if -- if 520 is complied with and he
13 signs a -- and again, it doesn't have to be an affidavit --
14 a certification -- you know, if he signs and he says all
15 these documents are -- notwithstanding your -- your
16 arguments, if he signs it, saying that all these documents
17 are kept in the normal course of business and the other
18 criteria in -- in 803(b)(6), then, you know, I'm -- I'm
19 going to allow them in because the statute's been complied
20 with.

21 And I know you got some other arguments, confrontation
22 and otherwise. And then, I guess, probably, what you would
23 do, what I would anticipate that you would do is to have
24 your expert -- because I think there's been some alluding
25 to the fact you've got an expert; I think I heard you say

1 that ---

2 MR. SHAFFER: And, Your Honor ---

3 THE COURT: --- can -- can -- can attack that. You
4 can attack Mr. Kelly on cross and you'll go from there.

5 MR. SHAFFER: Your Honor, here -- here's the issue,
6 though: Because the confrontation issue is actually a lot
7 bigger than -- that just this. Even if it is a business
8 record, you're talking about an expert opinion from AT&T
9 about where it was at.

10 Their expert did not do any independent calculations
11 on this. I -- I would hand up *State v. McCray*, Your Honor,
12 which is a 2015 Court of Appeals opinion. And the reason I
13 know this is that I actually -- I mean, the reason I know
14 that he can't testify as to the accuracy of the information
15 that he was provided by AT&T or whether or not the accuracy
16 of the opinions on location is because I read the previous
17 transcript, which I can -- at least one of them.

18 I can make Deshawn Franks's transcript -- I'd like to
19 -- that to be part of the ---

20 (Whereupon, Ms. McNeill and Mr. Shaffer conferred.)

21 MR. SHAFFER: --- or --- excuse me -- Deshanndon
22 Franks. This is the first trial transcript or portion of
23 it that the state initially ---

24 THE COURT: Okay. Just hold -- hold that thought just
25 a second.

1 (Whereupon, Court's Exhibit 7 was marked for
2 identification.)

3 THE COURT: And what's does the Franks transcript ---

4 MR. SHAFFER: Your Honor ---

5 THE COURT: --- what -- what ---

6 MR. SHAFFER: --- in ---

7 THE COURT: --- do you want me to glean from -- from
8 this? And I'll -- I'll certainly read it. But just kind
9 of give me a heads-up of what ---

10 MR. SHAFFER: And -- and, Your Honor, I'll -- I'll
11 point directly to the part that I'm talking about. And
12 this is the best I could do. Court's Exhibit 7 was the
13 best I could do, at least to try to flush [sic] this out --
14 issue out without having their expert here.

15 But, Your Honor, if you go to what's -- what's marked
16 361 in the large numbers?

17 THE COURT: Okay.

18 MR. SHAFFER: It's 408 in the small numbers.

19 THE COURT: Okay. Getting to it.

20 MR. SHAFFER: And, Your Honor, one thing that I had
21 told you ---

22 THE COURT: Oh. You have it highlighted. I didn't
23 know ---

24 MR. SHAFFER: Yes, Your Honor.

25 THE COURT: --- did that. Okay. Thank you.

1 MR. SHAFFER: One thing that I told you earlier is
2 that -- that RTT is basically the same thing as Nelos; it's
3 just a different -- different algorithm run by a different
4 cell phone provider.

5 But what it says is -- and I'm talking about line
6 18 (As read): "Well, you agree that RTT data
7 that you are relaying on -- relying on, in part
8 here, is not specifically location data,
9 according to Verizon; is that -- it -- it's
10 billing data?"

11 Answer: "But it does have location data in
12 there, as far as where the handset it at the time
13 the call was made."

14 Then, line 23: "But you cannot testify to the
15 accuracy of it?"

16 Answer: "No."

17 Your Honor -- and I -- I handed up *State v. McCray*, I
18 believe, as well. What the state -- or what we anticipate
19 the state's going to do is they're going to take that Nelos
20 stuff, the -- the 5 of Court's Exhibit 6 -- they're going
21 to take that document -- and this is what I think Dan
22 Kelly's going to testify that he did -- is that he plugged
23 that information into an Excel file and then ran it through
24 a computer program that basically maps it, Okay?

25 Your Honor, the -- and will animate it based off of

1 time. I -- I suspect that Dan Kelly's going to say that he
2 is not an expert in whether or not the Nelos is accurate or
3 not and not a expert in whether or not the location data
4 that he's been given is accurate or not. I don't think
5 that he's going to say that, Your Honor.

6 THE COURT: Okay. But where -- and -- and -- and I
7 realize we -- we're going to need -- and I'm allowing you
8 to be able to cross-examine Mr. Kelly at some point in
9 time. But whether or not he is an expert or not an expert
10 in a particular area, where does that cause this to be
11 inadmissible?

12 MR. SHAFFER: And I'll -- I'll refer to *McCray*, Your
13 Honor. And specifically, I'm going to refer to page 8 of
14 the opinion.

15 And, Your Honor, in this case, basically what they had
16 is that they DNA analyst who came in, she didn't do the
17 DNA. She just looked over the DNA. Was she an expert in
18 DNA in other cases? Yes. But she didn't actually do it.

19 What he argued there is that it was testimonial
20 hearsay contained in the report and that -- that
21 essentially, he was -- his confrontation clause was -- or
22 the -- his right to confrontation was violated under the
23 Sixth Amendment. And what the Court found there is (As
24 read): "The touchstone for determine whether an expert is
25 given -- giving an independent judgment or merely acting as

1 a transmitter for testimonial hearsay is whether the expert
2 is applying training and expertise to the source before
3 him, thereby producing original product that be -- can be
4 tested through cross-examination."

5 Your Honor, what he's doing, he's taking data and he's
6 looking at longitude and latitude and plugging it into a
7 map, basically. It's something that anyone who knows what
8 longitude and latitude technically could do. He -- he's
9 basically just plugging this information that he gets from
10 Exhibit 6-5, those longitude and latitude points, into a
11 map.

12 I can -- what I was prepared to do -- and I don't --
13 and I won't take the time to actually do it here -- I
14 basically did the same thing on Google Earth, Your Honor.
15 The only difference is -- is that in his -- in his thing,
16 he has -- let's see. He has it animated.

17 And specifically, what I'm referring to is the
18 document -- the animation in the documents that I was
19 provided by the state. I'd actually like to make this disc
20 a Court's exhibit as well, Your Honor.

21 THE COURT: Okay. That's fine. But -- well, go ahead
22 and have it marked.

23 THE COURT REPORTER: Mr. Shaffer, you need an envelope
24 to put it in.

25 THE COURT: Court's exhibit.

1 MR. SHAFFER: Okay. Can I -- can we mark it later,
2 Your Honor? I will get a envelope.

3 MS. MCNEILL: Oh. I can -- I can give you an envelope
4 right now.

5 MR. SHAFFER: I -- I probably have one in my bag ---

6 MS. MCNEILL: I -- I have one.

7 MR. SHAFFER: --- that I can rip off.

8 (Off the record briefly.)

9 THE COURT: Okay. That'll be Court's -- whatever
10 number.

11 (Whereupon, Court's Exhibit 8 was marked for
12 identification.)

13 MR. SHAFFER: And, Your Honor, I'm happy to pull it up
14 for the Court if the ---

15 THE COURT: No. I ---

16 MR. SHAFFER: --- Court wants ---

17 THE COURT: --- I really ---

18 MR. SHAFFER: --- to look ---

19 THE COURT: --- I -- I ---

20 MR. SHAFFER: --- at it.

21 THE COURT: --- I think it would be better, before we
22 get into -- because this is dealing with Dan Kelly and all
23 the -- the issues related to him. I -- I don't think we
24 really need to get into that until -- until he is present
25 to testify. Certainly, anytime an expert is offered -- or

1 witness is offered as an expert, you know, you -- you have
2 to determine whether or not he's -- he should be qualified
3 as an expert. And I think you're arguing, at least in
4 part, that -- that -- that he's not.

5 So I think we just need to hold off on this. I
6 thought we were still kind of arguing about 520 and not
7 getting into Mr. Kelly.

8 MR. SHAFFER: And -- and, Your Honor, I think I -- I
9 went toward the confrontation issue. Obviously, *McCray* is
10 a confrontation-clause case. Essentially, what I'm -- I --
11 and the reason I did that, Your Honor, is basically because
12 you said if -- if they can meet the business-records
13 exception, that you were going to allow it in.

14 But the problem is -- is I still have this
15 confrontation issue. And this confrontation issue is
16 actually probably the strongest issue. It just ---

17 THE COURT: Right.

18 MR. SHAFFER: --- logically doesn't make it sense to
19 ---

20 THE COURT: Right.

21 MR. SHAFFER: --- present ---

22 THE COURT: Well, if ---

23 MR. SHAFFER: --- it and ---

24 THE COURT: --- if you're arguing that 520 is -- is
25 unconstitutional because of the -- because there's a

1 confrontation issue ---

2 MR. SHAFFER: And -- and -- no, Your Honor, I'm not.
3 I'm actually arguing that -- first of all, I'm arguing that
4 520 does not apply to the ---

5 THE COURT: Right.

6 MR. SHAFFER: --- the affidavit.

7 THE COURT: Right.

8 MR. SHAFFER: Then, I'm arguing that they can't lay a
9 foundation for it for hearsay -- for their hearsay
10 exception. Your Honor, then, I'm arguing that -- that even
11 allowing Dan Kelly to relay this stuff, to be a conduit for
12 this information that he did nothing to -- to formulate is
13 a violation of confrontation because I can't cross-examine
14 someone from AT&T who actually came up with those longitude
15 and latitude points.

16 THE COURT: Well, I -- I think we're still mixing --
17 tell me, related to 520, to the statute, specifically your
18 -- your objections. Number one, you're saying that it --
19 it should only apply to records in South Carolina; that
20 domestic means South Carolina. And I pretty much disagreed
21 with you on that.

22 So what else, related to 520, is your ---

23 MR. SHAFFER: Related to 520?

24 THE COURT: 520.

25 MR. SHAFFER: The -- I don't believe that the document

1 that they provided, which -- the affidavit that -- of the
2 records custodian, I don't believe that that is a records
3 custodian under that statute.

4 THE COURT: Right.

5 MR. SHAFFER: I mean, I don't believe that it
6 qualifies under that statute ---

7 THE COURT: Right.

8 MR. SHAFFER: --- either ---

9 THE COURT: And -- and -- and that statute is -- I'm
10 -- I'm allowing the state to obtain a -- another
11 certification and see if -- if the certification complies
12 with 803(6). If it doesn't, then we still have an issue
13 that we have to -- to -- to deal with. Okay?

14 MR. SHAFFER: Yes, Your Honor. And -- and ---

15 THE COURT: So ---

16 MR. SHAFFER: --- what I had asked on that -- and just
17 so the state is aware of what I'm asking, I'm asking that
18 the person list which one of those documents -- because I
19 was handed that Court's Exhibit 6, which has multiple
20 documents in it. Some of those documents are straight
21 business records. Some of them are not, Your Honor.

22 And I would ask that the records custodian, in the
23 affidavit, list whether each one of those documents is or
24 is not a business record.

25 THE COURT: Well, if -- if the certification says that

1 this packet that was previously provided, all of the
2 documents comply with 803(b), then I don't think there
3 needs to itemization, if he says all of them are.

4 MR. SHAFFER: Your Honor, I -- I have no idea if that
5 was provided as a document as a whole. I was e-mailed
6 that. And my understanding is -- well, here's the thing:
7 Some of those documents came from -- came at different
8 times.

9 Because I believe he got the -- something resent.
10 That's my understanding of what Mr. Bentley told me, is
11 that at ---

12 THE COURT: All right.

13 MR. SHAFFER: --- at least some of those documents had
14 -- had -- they had a problem where the original
15 investigator didn't save all of the files from the e-mail;
16 he only saved the PDF version and ended up having to go
17 back and get it resent.

18 So that's the reason I'm asking for the itemization,
19 because I can't say for sure -- if you just say the
20 original packet, that doesn't mean anything to me because I
21 don't know what the original packet is.

22 MR. MOWRY: Your Honor, what happened was that there
23 was -- it was a different format. And Mr. Bentley went
24 through a rather laborious process getting Keith McIntosh's
25 former Laurens County Sheriff's Office e-mail reopened --

1 actually, two of them -- so that AT&T could send to that e-
2 mail. If -- if it -- we had not been able to do that, they
3 were refusing to send it, because this was the e-mail that
4 -- that was connected with that particular data -- I don't
5 want to say data dump, but for lack of a better term.

6 In any event, he was able to accomplish that. The
7 entire packet was resent. And that was what was delivered
8 to Mr. Shaffer with the different format. So we'd had this
9 stuff for a long time. But he requested it in a different
10 format. That was the process Mr. Bentley went through in
11 order to -- to accommodate him.

12 MR. SHAFFER: That's actually not entirely correct,
13 Your Honor. Because some of those documents, we didn't
14 have. There -- there are keys there for -- it -- there --
15 if you look at 3 -- Tab 3 on there, that actually -- we did
16 not have.

17 All we had was the PDF version of the Nelos, which is
18 5. And, Your Honor, I think that if you look at the
19 declaration as well -- and I -- I don't have it handy.
20 Would you mind if I looked at the declaration ---

21 THE COURT: Well, why ---

22 MR. SHAFFER: --- at the ---

23 THE COURT: --- can't we ---

24 MR. SHAFFER: --- data ---

25 THE COURT: Why can't we do this? I -- and I know

1 it's -- it's somewhat voluminous. Can you not just e-mail
2 this to this guy and say, "Can you do a -- a new
3 certification that complies with 803(6)?"

4 MR. MOWRY: We'll see what we can do, Your Honor.

5 THE COURT: Yeah. The -- wouldn't that be -- wouldn't
6 that kind of fix things? If it -- if this is a complete
7 package -- and I'm assuming that it is, even though it may
8 have been piecemeal, different formats, or whatever, if we
9 can just send this to him and he can see exactly what we're
10 asking him to -- to base his certification on. And then,
11 if he says yes, all those documents are -- are in -- kept
12 in the regular course of business, 803(6), then fine. Get
13 him to sign the -- do -- do a new certification.

14 MR. MOWRY: Mr. Bentley is pulling up the original
15 AT&T e-mail from ---

16 THE COURT: Okay.

17 MR. MOWRY: --- back in, I guess, 2016 ---

18 THE COURT: Okay.

19 MR. MOWRY: --- Your Honor.

20 THE COURT: All right.

21 MR. SHAFFER: And, Your Honor ---

22 MR. MOWRY: Or the ---

23 THE COURT: Wait ---

24 MR. MOWRY: --- one ---

25 THE COURT: --- a minute. One ---

1 MR. MOWRY: --- where they resent it to him. I
2 apologize.

3 THE COURT: Okay.

4 (Whereupon, Mr. Mowry, Mr. Shaffer, and Mr. Bentley
5 conferred.)

6 THE COURT: And -- and then, if he's able to do that,
7 fine. If he's not, if he says no, some of these documents
8 are -- are not kept in the regular course of business, then
9 he's going to have to identify which -- which are not.

10 And I -- and I think, hopefully, that's going to
11 resolve this issue and maybe some of Mr. Shaffer's
12 concerns. So if -- if y'all can handle it in that fashion
13 ---

14 MR. MOWRY: Yes, sir.

15 THE COURT: All right.

16 MR. MOWRY: Your Honor, if -- if -- if I could make a
17 request, I've asked of the defense a number of occasions
18 for the name of their expert ---

19 THE COURT: Okay.

20 MR. MOWRY: --- so that we can begin our investigation
21 on him and get background and that sort of thing. I -- I
22 think it's only fair. We -- we've complied with discovery.
23 We've given a reciprocal discovery motion. And I -- I have
24 not even gotten a name ---

25 THE COURT: Okay.

1 MR. MOWRY: --- on this guy yet.

2 THE COURT: All right. We'll -- we'll -- we'll get
3 back to that in just a moment. But I want to make sure --
4 okay -- concerning 520, defense argues not domestic because
5 it's not South Carolina. They're not -- the records are
6 not all kept in the regular course of business. And we're
7 going to try to make clear that up, maybe not.

8 What other specific arguments related to 520, Mr.
9 Shaffer, do you have?

10 MR. SHAFFER: Your Honor, the fair opportunity to
11 challenge the record. I don't believe two weeks gives me a
12 fair opportunity to challenge it. Because ultimately, I'd
13 want to bring the guy in. And two weeks isn't enough time
14 to do so.

15 If the Court was willing to continue it, I would look
16 into getting it domesticated so that we could actually have
17 him here, identify in court each individual document, and
18 be subject to cross-examination on whether or not those
19 documents are or are not and whether or not all the
20 information in those documents are or are not kept in the
21 ordinary course of business.

22 THE COURT: And -- and -- and the method in which
23 you're wanting to challenge the documents is to get Mr.
24 Figueroa or who -- whoever with AT&T to be here -- present?

25 MR. SHAFFER: Someone who is a -- who can speak with

1 authority about the accuracy or what -- how they calculated
2 the Nelos; or somebody who can say that the actual Nelos
3 locations and estimations of confidence are accurate.
4 Either of -- are -- are accurately kept in the ordinary
5 course of business. If they're kept in the ordinary course
6 of business, then obviously, that goes directly toward
7 that.

8 I'm still making an objection under confrontation if
9 they can't get me somebody who's -- who can actually talk
10 about the data. But if they're saying that that -- Exhibit
11 6, Tab 5, if they're saying that they keep that specific
12 document in the ordinary course of business, I would like
13 to be able to at least question them on that.

14 That's basically what I would do. Because ---

15 THE COURT: Okay.

16 MR. SHAFFER: --- why does it say target number? Why
17 -- you know, do -- do they keep this document? Is there a
18 similar thing for my phone out there right now without them
19 having to produce it at the request of the state?

20 THE COURT: Okay. Okay.

21 (Off the record briefly.)

22 THE COURT: All right. Let's -- let's touch on the
23 solicitor's request for identity of your expert. Would not
24 Rule 5 require disclosure?

25 MR. SHAFFER: At the point we decide that we're going

1 to call the expert at trial, I think it would. And I told
2 them as soon as we find -- figure out whether or not we're
3 actually going to call him at trial -- because we're not
4 going to call him at trial if this evidence is suppressed,
5 Your Honor, because there's no need to.

6 And -- and the -- and I'm not playing games here, Your
7 Honor. I'm -- I'm really not. We're -- our expert is more
8 qualified than their expert is.

9 And -- and -- and ultimately, I'm not going to get
10 into our expert's analysis of what's going on, unless they
11 actually are -- are able to get into this evidence, which
12 really, I -- I -- I don't think that they should be able
13 to. I think that even if the Court was to allow it, we may
14 not still call our expert. Because it's -- it may very
15 well -- we may very well just hang on to the issue.

16 Your Honor, we're -- we're on the fence about whether
17 or not we're going to call him. So up until the point we
18 figure out if we're going to call him, that's -- we told
19 him we would let him know as soon as we did.

20 THE COURT: Well, what -- what's the harm? Even if
21 you decide not call him ---

22 MR. SHAFFER: Well ---

23 THE COURT: --- what's the harm on identifying who he
24 is? And so if -- as is often done with experts, you do a
25 little digging into the background and that sort of thing,

1 I mean, what's the harm if -- if right now, all they're
2 asking for is the identity of -- of your expert?

3 MR. SHAFFER: Because then they -- they realize that
4 our expert's more qualified than theirs and calls -- call
5 our expert at trial? "And didn't you get hired by the
6 defense? Didn't you do this? Didn't you do that?"

7 If -- if they have the ability to call our expert,
8 that's our only ---

9 THE COURT: Well ---

10 MR. SHAFFER: --- reason that we wouldn't -- wouldn't
11 be willing to turn that over.

12 MR. MOWRY: Your Honor, the whole purpose behind Rule
13 5 is to avoid ---

14 THE COURT: Yeah.

15 MR. MOWRY: --- trial by ambush. And ---

16 THE COURT: Right.

17 MR. MOWRY: --- that's exactly what they're trying to
18 ---

19 THE COURT: Yeah.

20 MR. MOWRY: --- do here.

21 THE COURT: Yeah.

22 MR. MOWRY: This is ---

23 MR. SHAFFER: Well ---

24 MR. MOWRY: --- ridiculous.

25 THE COURT: I -- I ---

1 MR. SHAFFER: Well ---

2 THE COURT: --- I think -- I -- I think they're
3 entitled to it, so you need to let him know who he ---

4 MR. SHAFFER: Your ---

5 THE COURT: --- who is and where he is. And then, of
6 course, under Rule 5, if -- you know, certainly, if any
7 scientific reports are generated by your expert -- only if
8 he -- you call him to trial. Now, if you're not calling
9 him to trial, then -- then, certainly, that doesn't have to
10 be disclosed. But if he -- if he's -- as soon as you
11 decide that you're going to use him and he's got some --
12 some generated reports of some sort, then, certainly, the
13 state would be entitled to those ---

14 MR. SHAFFER: Well ---

15 THE COURT: --- under Rule 5.

16 MR. SHAFFER: --- Your -- Your Honor, what -- what
17 stops the state from subpoenaing the reports that he has
18 that we may or may not use at trial? I mean, Your Honor,
19 we -- we -- I -- I can say honestly, we do not know if
20 we're going to call him or not.

21 THE COURT: And -- and I ---

22 MR. SHAFFER: Even if ---

23 THE COURT: --- believe you. I believe you. I'm --
24 I'm not questioning that at all. And that's not unusual to
25 determine, well, should we call this witness or we

1 shouldn't?

2 But again, let's say you make the decision one day
3 decision before trial, which could very well be the case.
4 Then, you're going to call him. And then, you know, they
5 don't have a chance to -- to -- to check into his
6 background. Let's not argue the point anymore.

7 MR. SHAFFER: Can ---

8 THE COURT: Mr. Shaffer, let -- let the solicitor know
9 who he is and where he is and ---

10 MR. SHAFFER: And -- and, Your Honor, are -- are you
11 going to allow the state to call the witness that we're
12 currently using as a consulting expert against us?

13 THE COURT: I -- I can't -- I can't dictate who the --
14 who the state calls as a witness who -- or who -- who they
15 don't call as a witness. Certainly, if -- if they're not
16 competent to testify, I can -- I can have some involvement
17 there. But ---

18 MR. SHAFFER: Well, Your Honor, I mean, here -- here's
19 the problem. We're actually leaning toward not calling
20 him. That's the reason he's not here today.

21 THE COURT: Well, then, you know -- then again, I
22 don't see where -- where there's any ---

23 MR. SHAFFER: Well ---

24 THE COURT: Here -- here -- here's the bottom line.
25 Here's the bottom line. If the state did not feel

1 comfortable with their expert that they got, then I would
2 assume that they'd be out shaking the bushes to try to get
3 another expert that maybe is more qualified or might offer
4 more favorable testimony. That would just be my -- my
5 assumption.

6 So if you disclose the name of your expert and they
7 decide that they want to, you know, use him, I mean, what's
8 -- I mean, I -- I ---

9 MR. SHAFFER: The ---

10 THE COURT: --- just don't see where I can prevent
11 that. I'm not going to argue the point anymore, Mr.
12 Shaffer.

13 MR. SHAFFER: Your ---

14 THE COURT: Mr. Shaffer, don't argue with me anymore.
15 Don't argue with me anymore. Disclose the name and where
16 he's from, where he -- where -- where his office is,
17 whatever, and -- and -- and leave it at that.

18 MR. SHAFFER: Your Honor, we're not calling the expert
19 at trial now. We just made the decision. We will not call
20 the expert at trial.

21 THE COURT: Okay.

22 MR. MOWRY: Very well.

23 THE COURT: All right. Very good.

24 MR. SHAFFER: And -- and, Your Honor, we would like
25 him for pretrial hearings, though, and -- and --

1 potentially, for pretrial hearings ---

2 MR. MOWRY: In that ---

3 MR. SHAFFER: --- not for the trial, though.

4 THE COURT: Well, but if you're going to use him in
5 any fashion, whether it's pretrial -- pretrial is, in ---

6 MR. SHAFFER: Well ---

7 THE COURT: --- many respects, just as important as
8 trial because it -- it determines evidence and -- and
9 issues. So if you're going to use him in any fashion, then
10 you've got to disclose him.

11 MR. SHAFFER: We -- we won't, Your Honor. We are
12 going to -- we may request a funding order for a separate
13 expert who would be willing to testify, generally, at trial
14 about -- I -- I mean, for the pretrial. But we will let
15 them know as soon as we request -- find the new expert.
16 But we're not going to use our current expert for -- in any
17 capacity ---

18 THE COURT: Okay.

19 MR. SHAFFER: --- except to consult with, Your Honor.

20 THE COURT: Okay.

21 MR. MOWRY: Your Honor, I would request that I not be
22 ambushed ---

23 THE COURT: Right.

24 MR. MOWRY: --- on the day of trial.

25 THE COURT: Well, here -- here's what we're going to

1 do. And -- and certainly, it's -- it's your right to
2 decide on who you want to use and who you don't want to
3 use. I'm not -- I'm not going to prevent you from that.

4 However, you know, I -- I don't want a -- I don't want
5 a funding order coming across my desk, you know, in the
6 eleventh hour and then we're kind of defeating the purpose
7 of making sure both sides have full knowledge about
8 everything that's going on.

9 So what I'm going to have to do, then, is if -- if
10 you're going to submit another funding order for another
11 expert, then it's going to need to be done by -- by Monday.
12 Okay?

13 MR. SHAFFER: Fair enough, Your Honor.

14 THE COURT: And then, with the requirement that --
15 and, of course, the funding order would then include
16 whoever it is that you're going to use. And then, that
17 needs to be disclosed to the state, okay?

18 MR. SHAFFER: Thank you, Your Honor.

19 THE COURT: Okay. All right. So at least -- at least
20 right now, there is no expert for the defense, but we may
21 have one. Okay.

22 (Off the record briefly.)

23 THE COURT: All right. All right. I'm -- I'm going
24 to say Tuesday, because this -- this is Friday. So this
25 day is almost shot. Let's -- let's go Tuesday.

1 MR. SHAFFER: Thank -- thank you, Your Honor. Tuesday
2 for the expert?

3 THE COURT: Tuesday for -- for you to get me a funding
4 order ---

5 MR. SHAFFER: Yes, Your Honor.

6 THE COURT: --- as to a potential new expert. And
7 then, of course, if that's presented to me by Tuesday, you
8 probably need to -- to e-mail it to me.

9 MR. SHAFFER: I'll copy ---

10 THE COURT: Then ---

11 MR. SHAFFER: --- y'all.

12 THE COURT: --- then, at that same time, then,
13 disclosure would need to be made to the state.

14 MR. SHAFFER: Yes, Your Honor.

15 THE COURT: Okay.

16 MR. SHAFFER: And I'll -- I'll copy the state on the
17 request.

18 THE COURT: That'd be -- that'd be good.

19 All right. Well, I think probably this -- it's
20 quarter till 3. Unless we have any other just pressing
21 pretrial matters, let's go ahead and adjourn for the day.

22 MR. MOWRY: Thank you, Your Honor.

23 THE COURT: You got -- anything pressing that we need

24 ---

25 MR. SHAFFER: No ---

1 THE COURT: Okay.

2 MR. SHAFFER: --- Your Honor.

3 THE COURT: All right. So what we will do, as soon as
4 we know my schedule in Greenville, we'll -- we'll reach out
5 to everybody and try to -- try to arrange some time to deal
6 with some more of this stuff next week. Okay?

7 MR. SHAFFER: Thank you, Your Honor.

8 THE COURT: All right.

9 MR. SHAFFER: And ---

10 THE COURT: I appreciate everybody's hard work on this
11 case.

12 MR. SHAFFER: And ---

13 THE COURT: And we'll be back in touch.

14 MR. SHAFFER: Thank you. And just for logistics, the
15 Court's exhibits, will they get transferred to Greenville?

16 THE COURT: Yeah. I'm going to go ahead and put on
17 the record that I'm going to direct my court reporter to
18 give to me all of the pretrial Court's exhibits. And I'll
19 have those with me in Greenville, if they're needed.

20 And then, when we -- Monday, we start the pretrial --
21 trial whatever, then I will turn those over to the --
22 because there'll be a different court reporter and I'll
23 turn those over to that court reporter. But she's going to
24 give them to me before we leave out.

25 MR. SHAFFER: Thank you, Your Honor.

1 THE COURT: Okay.

2 MR. MOWRY: Thank you, Your Honor.

3 THE COURT: Okay.

4 (Whereupon, the proceeding was adjourned at 2:50 p.m.)

5 --- END OF TRANSCRIPT OF RECORD ---

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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR LAURENS COUNTY, SOUTH CAROLINA, ON THE 16TH
DAY OF MARCH, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

SEPTEMBER 25, 2018

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2016-GS-30-1382
COUNTY OF LAURENS	)	2016-GS-30-1383
	)	
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
RONALD DUYANE DAVIS,	)	
DEFENDANT.	)	
_____	)	

March 20, 2018
Laurens, South Carolina

B E F O R E:

THE HONORABLE DONALD B. HOCKER, JUDGE

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

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
	(Court's Exhibits)		
9	Certificate of Authenticity of Domestic Records Pursuant to Federal Rules of Evidence 902(11) and 902(13)	3	
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P R O C E E D I N G S

(WHEREUPON, Court's Exhibit Number 9 was premarked for
identification.)

(WHEREUPON, proceedings commenced at 10:15 a.m.)

THE COURT: All right. We're on the record this
morning in The State vs. Ronald Davis. It's a
continuation of the hearing we had last Friday, I think
Friday afternoon possibly or maybe over the weekend. I
can't recall.

Ms. McNeill, you sent out an e-mail to those
concerned indicating that Mr. Davis had informed you and
Mr. Shaffer sometime on Friday, I guess, that he wanted to
represent himself; is that correct?

MS. MCNEILL: Yes, sir. I had received a letter from
the clerk of court in Laurens County's office, and my
paralegal had scanned it in and e-mailed it to me. And
that was late Friday afternoon after our pretrial motions
on that day had concluded, indicating it was a letter sent
by Mr. Ronald Davis to the clerk of court asking how he
goes about proceeding pro se.

Yesterday, Tristan Shaffer went and saw Mr. Davis at
the Laurens jail to talk to him about that and some other
things. It's my understanding that Mr. Davis just wanted

1 to know if he could ask questions of witnesses along with
2 his attorneys being myself and Mr. Shaffer. I informed
3 him that it doesn't work like that. If he wants to
4 proceed pro se, that means that he asks questions of the
5 witnesses. However, if he proceeds with me -- myself and
6 Tristan representing him, that we are the ones that ask
7 questions of the witnesses on his behalf. I just want
8 Your Honor to inquire of Mr. Davis if that is that correct
9 understanding that Mr. Shaffer and I have.

10 Thank you.

11 THE COURT: Okay. Thank you, Ms. McNeill.

12 Mr. Davis, I need to swear you in. Once I swear you
13 in, then I'll allow you to take your seat, okay, because
14 it might be a little difficult with what you have on,
15 okay?

16 (WHEREUPON, RONALD DUYANE DAVIS, is duly sworn.)

17 THE COURT: Okay. You can have a seat.

18 All right. You heard Ms. McNeill tell me that, based
19 upon your conversations with them, that you had inquired
20 about representing yourself?

21 DEFENDANT DAVIS: Yes.

22 THE COURT: Okay. Are you wanting to represent
23 yourself and no longer be represented by Mr. Shaffer and
24 Ms. McNeill?

25 DEFENDANT DAVIS: No, sir.

1 THE COURT: Okay. All right. Was the basis for
2 inquiring about representing yourself was centered around
3 your wanting to know if you could ask witnesses questions
4 during the trial?

5 DEFENDANT DAVIS: Yes, sir.

6 THE COURT: Okay. And Ms. McNeill is correct. You
7 would not be allowed to ask questions while you have
8 attorneys. However, I'm sure that as customarily happens,
9 you can communicate with your lawyers about certain
10 questions that you feel like maybe need to be asked, and
11 you can do that throughout the whole trial. So they want
12 your participation insofar as communicating with them. Do
13 you understand that?

14 DEFENDANT DAVIS: Yes, sir.

15 THE COURT: Okay. All right. So you want
16 Ms. McNeill and Mr. Shaffer to remain as your lawyers in
17 this case.

18 DEFENDANT DAVIS: Yes, sir.

19 THE COURT: Okay. Very good. Very good.

20 Okay. Let's deal with the issue that arose Friday
21 about the certification slash -- it's called an affidavit
22 even though it wasn't sworn, the new one that I think I
23 saw yesterday that was obtained from the -- from AT&T.
24 Any further discussion on that?

25 MR. SHAFFER: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. SHAFFER: Specifically, I will point the Court's
3 attention to the last paragraph which basically cites to
4 Rule 902(11) to (13) which are authenticity rules under
5 the federal rules. We don't have a Subsection 11 and 13.
6 That's one way that our rules differ from the federal
7 rules.

8 Now, one of those sections is basically in the
9 statute. It's similar to our statute that we have been
10 discussing. And what it does is it refers -- I think it's
11 -- give me just a second. 902, I want to say it's
12 902(11), but let me just double-check that, Your Honor. I
13 don't have access to the Internet, but I believe it is
14 902(11). It's one that is similar to the -- similar
15 language to the statute that they're trying to introduce
16 this under.

17 Your Honor, related to that, there is -- that rule
18 then cites to Federal Rule of Evidence 803(6), which is
19 the business records exception under the federal rule. I
20 do want to point out to the Court, hand up for the Court a
21 copy of the Federal Rule 806 and the South Carolina rule.
22 I basically copied and pasted them into one sheet so the
23 Court could look at both of them. And what I'll say is
24 that they're somewhat different.

25 One way that they're different is that in 803(6)(E)

1 under the federal rules, it basically puts the burden on
2 the opponent, the person opposing the evidence, to show
3 that the source of the information or method or
4 circumstances in preparation indicate a lack of
5 trustworthiness. Under the federal rules, it puts the
6 burden on the opponent of the evidence. Under the state
7 rules, I believe that the State actually has -- or the
8 moving party are the one who -- the proponent of the
9 evidence would actually have that burden. I think that's
10 a difference.

11 And the reason I'm saying that's a difference is
12 that, essentially, what they're trying to introduce is an
13 affidavit saying, yeah, these records are good, these
14 records are valid. What they don't look at or what they
15 don't really go into is the fact that is whether or not
16 the underlying data is reliable or not. There is -- and
17 I'm going to hand this up. I'd like to have this made as
18 part of the Court's Exhibit.

19 THE COURT: Just have it marked.

20 MR. MOWRY: I don't know what that is, Your Honor.

21 MR. SHAFFER: I'll hand it ---

22 THE COURT: Let him get it marked and then he can
23 show it to you.

24 (WHEREUPON, Court's Exhibit Number 10 was marked for
25 identification.)

1 MR. SHAFFER: It's Court's Exhibit 10, Your Honor.

2 If the Court will look at the very top of that page,
3 I highlighted some text in there. One of the things I
4 highlighted is the fact that AT&T is saying two things in
5 that. First, they're saying that this is our best
6 estimate of what the location is. Underneath that they're
7 saying that the information is compiled from various
8 databases, and I believe the language is that it may be
9 less than accurate.

10 Your Honor, I called AT&T this morning, and,
11 obviously, I would have had them in court, but we just
12 found out about this, that they were trying to introduce
13 it under this rule about eight days ago, Your Honor.

14 MR. MOWRY: Your Honor, that is completely untrue.
15 We gave this to them weeks ago.

16 MR. SHAFFER: The underlying documents. They never
17 gave us an affidavit saying we're moving to introduce
18 this. I would see that in an e-mail on Monday of last
19 week. If they have some document saying something else,
20 I'm happy to see it. But I can say ---

21 MR. MOWRY: I submitted the document because it's
22 supposed to be within ten days of trial. That's why I did
23 the timing. If they didn't know -- if they could not put
24 together two and two, I cannot help that. These documents
25 that he is referring to were given to them probably back

1 in when -- when was it, Walter?

2 MR. BENTLEY: December.

3 MR. MOWRY: December. They've had them for four
4 months.

5 MR. SHAFFER: Your Honor, the affidavit, we had never
6 received the affidavit. They provided us Court's
7 Exhibit 10 back in December. The rest of the packet which
8 I have made part of the Court's exhibit I didn't receive
9 until Monday of last week.

10 Included in that is an affidavit. And the statute
11 does not say ten days.

12 MR. MOWRY: That ---

13 MR. SHAFFER: What it says is -- what the statute
14 actually says, Your Honor, is a reasonable time so that I
15 could challenge the evidence.

16 MR. MOWRY: And he is being completely disingenuous
17 with the Court, Your Honor. We provided them the
18 information, we have had discussions not only on the fact
19 that we intended to admit this evidence, but who we were
20 going to try to get it in through. They've known the name
21 of our expert almost since the time this case started.

22 THE COURT: Well, I thought the issue that came out
23 of pretrial Friday in Greenwood was that the -- and we'll
24 call it an affidavit even though it's not. We'll call it
25 an affidavit -- did not have the language as required by

1 803 that the records were kept in the ordinary course of
2 business. Mr. Shaffer, you maintain that some of the
3 records may not have been kept but prepared for
4 litigation. We get an affidavit from the AT&T person that
5 says all of those records have been. I thought that was
6 the ---

7 MR. MOWRY: And that's Court's Exhibit Number 9, Your
8 Honor. I will tell Your Honor that I followed your
9 instructions.

10 THE COURT: Right.

11 MR. MOWRY: On the way back to Laurens, we made a
12 call to AT&T. We actually got a person midafternoon on a
13 Friday, which in and of itself surprised me. He
14 instructed me what to do. I told him that this case was
15 coming up within about ten days, could we get it back in
16 time. And he said, Send it to us marked urgent, which I
17 did, and he said we would see what we can do.

18 Mr. Bentley, who is the recipient of all these
19 e-mails simply because he is the one with the encrypted --
20 or has the code to break the encryption, told me that it
21 came Sunday night, which in and of itself shocked me.

22 But I would submit that it fully complies with what
23 Your Honor instructed us to do, that the language is
24 there, and that should mark "paid" to this motion.

25 THE COURT: So the issue at least before me on Friday

1 was whether or not these records come in under 19-5-520.
2 I don't think it's for the Court's determination. If I
3 determine that they come in under that statute, that we
4 then go through and y'all got experts. They got an
5 expert. It appears that y'all have a new expert because
6 of that funding order, that -- and I will note for the
7 record that you did as I requested you do. You provided
8 the State with the information concerning your expert.

9 And so I don't think we need to go through and -- it
10 goes to the weight of these documents as far as AT&T
11 claiming that it's a best estimate. I don't think it goes
12 to admissibility. Again, I'm only concerned with whether
13 or not 19-5-520 has been complied with.

14 MR. SHAFFER: Your Honor, well, the problem -- and
15 the thing is, I haven't actually got to get to the meat of
16 my argument, but one thing I will say is I wasn't being
17 disingenuous. I have no idea exactly how they were
18 planning on getting it in. I know how they were going to
19 present it, but I didn't know how they were ---

20 MR. MOWRY: And he told me that he doubted I was
21 going to be able to get them in, Your Honor.

22 THE COURT: Try not to talk over one another, please.

23 MR. SHAFFER: Your Honor, that was an e-mail on
24 Monday night that I said I don't think you're going to be
25 able to get it in without an AT&T person. That

1 conversation took place in an e-mail, Your Honor.

2 But, Your Honor, going back to why I'm challenging
3 this under the new affidavit is in part because they
4 actually have to, under our Rule 803, which is the top
5 portion of that thing I've handed up, the little
6 printed-off document, they actually have to show that it
7 is -- it is trustworthy, and they have to show -- and they
8 -- and also, there's also another part to that which is
9 saying that subjective opinions and judgments found in
10 business records are not admissible.

11 And, Your Honor, I called AT&T this morning. And at
12 some point, in order to properly present this, I would
13 like Ms. Nelson to testify to this because Ms. Nelson was
14 there while I was on the phone with this, with AT&T, and
15 she took notes as to what AT&T said.

16 One of the things they said was first of all, they
17 said that Mike Figararo, the analyst said that Mike
18 Figararo is essentially a legal analyst and could not
19 testify about anything about the reliability of this data.
20 Okay. He said he doesn't know anything about the
21 technical side of it. All they can say is whether or not
22 it was produced.

23 I asked him specifically, I said -- and I reference
24 Court's Exhibit 10, the top paragraph there. And I said,
25 By estimate, do you mean that's AT&T's best judgment?

1 She said, Yes. It is. And Ms. Nelson has it written
2 down verbatim, and I would have her come testify in a
3 minute, whenever it is appropriate. But what Ms. Nelson
4 is going to testify to is that the lady from AT&T said, We
5 would not -- this is not 100 percent reliable. We would
6 not even come testify that this is where he was at or that
7 this was where the phone was at. That's the words from
8 the analyst at AT&T. This is not 100 percent reliable.
9 We would not come testify to this.

10 Your Honor, the expert that they're going to call in
11 previous cases, he relied 100 percent, and that's also a
12 Court's exhibit from Friday, is his testimony where he
13 says I'm relying on AT&T to give me accurate's results on
14 this. If AT&T is saying, well, we're not going to testify
15 in court that this is it, and they're putting in a
16 disclaimer saying this is the best estimate, use caution
17 in using it, Your Honor, if they're saying that, then I
18 don't think it complies with 803 on the part that says it
19 has to be trustworthy, or that it is subjective opinions
20 and judgments found in business records are not
21 admissible. That's their best guess, and the rule
22 specifically excludes that, then this is not a business
23 record, Your Honor. But that portion of it at least is
24 not a business record, the portion of the precision data,
25 the, I guess, 10. I believe that the rest of the packet

1 that I handed up on Friday probably would be a business
2 record, but the document that you have in front of you as
3 Court's Exhibit 10 is, by AT&T's own admission, basically
4 an opinion of a judgment, their best judgment. And
5 they're saying we wouldn't come testify to that because
6 it's not 100 percent accurate.

7 Your Honor, under 803, you actually have to make a
8 finding that that information -- that that part of the
9 information would be accurate.

10 And one other thing I wanted to mention, Your Honor,
11 is that what we've done, because of the fact that we
12 didn't have -- I don't think two weeks is fair notice to
13 actually challenge this properly. The best way I can come
14 about doing it, and I'll send a subpoena and see if I can
15 get someone to appear for a hearing next week, but the
16 best way that I can think of doing this is I've subpoenaed
17 the phone conversation that we had with AT&T this morning
18 because they record all phone conversations. I would have
19 recorded it myself, but, obviously, there's prohibitions
20 on that, Your Honor, without notifying the other side.
21 But AT&T says we record all phone conversations, so we've
22 asked for a copy of all of the correspondence including
23 phone conversations that have been conveyed to AT&T on
24 this file number.

25 So I don't know how long it will take to get that. I

1 would imagine that there is some sort of process, and my
2 thought was I was going to e-mail or call the AT&T
3 compliance center tomorrow and just check, make sure that
4 they've received it and find out how long it will take
5 them to get us that information.

6 But, obviously, if the AT&T rep herself is saying --
7 well, first of all, me and Mr. Figararo don't have the
8 ability to testify about the accuracy or anything
9 technical related to this data, the source of this data.
10 All we can say is that it's available through AT&T system,
11 then, Your Honor, I don't think that they've met their
12 burden under 803 to even show that this is a business
13 record. Because, like I said, under our Rule 803, it's on
14 them to actually present evidence that this is reliable
15 and this is not a subjective opinion, that this is an
16 object of fact in a business record.

17 THE COURT: Well, when the person says it's not 100
18 percent reliable, I don't know if anything is necessarily
19 100 percent reliable. Did she qualify that and say it's
20 95 percent reliable or it's 90 percent? She just said
21 it's not 100 percent reliable? Did she qualify that in
22 any way?

23 MR. SHAFFER: She said AT&T will not come testify to
24 the accuracy.

25 THE COURT: I understand that. But I'm talking about

1 her statement that it's not 100 percent reliable. And,
2 again, I don't think anything is 100 percent reliable. So
3 I just wanted to know if she qualified that.

4 MR. SHAFFER: And, Your Honor ---

5 MR. MOWRY: And the State does not have to prove this
6 case to 100 percent certainty either, Your Honor.

7 MR. SHAFFER: Your Honor, I would ask Ms. Nelson to
8 come testify because she was actually taking notes during
9 this time period.

10 MR. MOWRY: Your Honor, if I could stop right here.
11 He is mixing apples and oranges. When we're talking about
12 the certification, we're talking about the certification
13 that these business records were kept in the normal course
14 of business, the regular practice of AT&T. They list on
15 here the location accuracy likely better than 50 meters,
16 likely better than 5,000 meters. Sometimes they get what
17 they believe is a very accurate hit, sometimes not.
18 That's something for an expert to testify to.

19 The purpose of the certification was to say that
20 these were kept in the normal course of business. These
21 are business records. They are not objective. They are
22 not simply a viewpoint of the mindset of a speaker. These
23 are actual technical data, and that's what
24 business records are all about.

25 THE COURT: Well, I don't dispute, Mr. Shaffer, what

1 you're telling the Court what was told to you on the
2 phone, so I really don't -- I don't think it's necessary
3 for Ms. Nelson to come in and testify. However, if you
4 want a complete record, why don't you just get Ms. Nelson
5 to submit an affidavit saying, okay, I was a party -- not
6 a party, but I overheard the conversation between AT&T and
7 Mr. Shaffer, and here's what was said, and just have her
8 -- and we'll mark it as a Court's exhibit. I think that
9 would accomplish what you need to accomplish.

10 Again, I mean, y'all have experts that can challenge
11 these records. I'm going to allow them in under 19-5-520.
12 Again, her statement -- you know, she says, Oh, we
13 wouldn't come to court and testify. But who is this
14 person? I mean, it's somebody with AT&T. I don't know
15 what that means. And when she says they're not
16 100 percent reliable, well, again, nothing is 100 percent
17 reliable. I'm going to allow them in under 19-5-520, find
18 that 803(6) has been complied with in the certification.

19 MR. SHAFFER: Okay. Your Honor, obviously, we also
20 have the additional grounds. We have a 702 objection, we
21 have a -- we also have a -- which we would need testimony
22 from their witness to testify about. We also have a
23 confrontation argument on that as well, Your Honor.

24 And specifically related to your 803 objection, I
25 would just ask the Court what evidence it's relying on to

1 find that there is -- that this evidence is reliable,
2 because I don't think that there is any evidence if AT&T
3 themselves are actually saying that. And I'm not trying
4 to argue with the Court. I'm just trying to make a
5 complete record.

6 THE COURT: Well, again, there's nothing that has
7 been presented to me to show that it's not reliable.
8 Again, her statement to you over the phone that it's not
9 100 percent reliable does not cause me to therefore find
10 that it's not reliable.

11 I'm going to allow them in. Let's go to the next
12 point.

13 MR. SHAFFER: And just for the record, Your Honor,
14 I'm not arguing at all. I'm just saying that I think the
15 Court's shifting its burden on the admissibility to us to
16 find evidence, which is basically what the federal rule
17 would have been. I think that they're the proponents,
18 they would actually have to present evidence affirmatively
19 saying it is reliable to get it in, Your Honor.

20 MR. MOWRY: And I will simply state for the record,
21 Your Honor, so that the record is complete on that, if the
22 defense's motion was granted, that would completely do
23 away with the statute that we have been dealing with.

24 THE COURT: Okay. What's your next point?

25 MR. SHAFFER: Your Honor, there were pictures of a

1 vehicle, actually two vehicles that we'd like to suppress.
2 They have nothing to do with the actual incident. They
3 are pictures of -- one car is a Grand Marquis, I believe,
4 Your Honor. It says "Tar Heels" across it. It has
5 nothing to do with the incident. It just happened to be
6 parked at one of the places that the SLED people checked,
7 a place in Newberry. It has Tar Heels and its own rims.
8 Your Honor, I don't think that there's any relevance to
9 that. I also think that it may be prejudicial to my
10 client because of the fact that in certain people's minds,
11 it may look like -- Your Honor, certain people would call
12 that a drug dealer's car. Now, you know, I'm not saying
13 that it is. I'm just saying that there might be a
14 stereotype in the jury that will make them feel like that
15 car -- or relate that type of vehicle with something a
16 drug dealer would drive. I mean, it's something oriented
17 with Tar Heels on it.

18 MR. MOWRY: Your Honor, I think I can stop it right
19 here. First of all, Mr. Bentley and I are both North
20 Carolina fans. Both my parents went there. But that is
21 really not relevant. We don't plan to introduce pictures.
22 If it's in the background of another one, we will remove
23 it. If he'd have asked us about this beforehand, we'd
24 have told him.

25 THE COURT: All right. So that's not an issue.

1 Okay. Next argument.

2 MR. SHAFFER: Your Honor, I don't believe that we
3 have ever had a ruling on the issue related to the child
4 being in the other room.

5 THE COURT: Okay. That's right. And my ruling is is
6 that I'm not going to allow it in unless the State can
7 present some evidence to me that they claim that the
8 defendant knew that the child was in the bedroom sleeping.
9 And then I still may grant the motion anyways. But right
10 now, I mean, I don't know if there's any evidence to
11 indicate that the defendant knew the child was in there.
12 So my ruling at this point is to deny -- or to grant the
13 motion to suppress.

14 MR. MOWRY: Your Honor, if it please the Court, if
15 you will look at the written statement by the
16 defendant ---

17 THE COURT: Okay.

18 MR. MOWRY: --- about a quarter of the way down: I
19 walked on in the house through the sliding door, and I
20 walked in the living room. Then that is when I went to my
21 stepson bedroom. I saw that he was sleep.

22 THE COURT: Okay. That's in his statement.

23 MR. MOWRY: That's in -- and it's also in the
24 recorded statement, Your Honor.

25 THE COURT: Okay.

1 MR. MOWRY: So clearly, he knew that he was there.

2 THE COURT: Okay, okay. Well, in light of that
3 appearing in his statement, I think it does go to the
4 issue of malice, and I'm going to deny the motion to
5 suppress and allow it in.

6 Okay. Mr. Shaffer, next point.

7 MR. SHAFFER: Your Honor, just one minute.

8 THE COURT: Sure. Take your time.

9 MS. MCNEILL: Judge, can you just give me a few
10 minutes?

11 THE COURT: Sure. Yeah.

12 (Pause.)

13 MS. MCNEILL: Judge, we did want -- in our last
14 pretrial motion in Greenwood, Mr. Shaffer had asked for
15 the trunk number for the 9-1-1 lines that were active at
16 that time.

17 THE COURT: Let's do this. I made a list of
18 everything that you mentioned Friday in Greenwood. Let me
19 go down my list, and we can either argue it or maybe it's
20 not an issue or whatever. Let's do it that way.

21 All right. I know we still have to deal with the
22 cell phone materials on some other arguments that are
23 going to require testimony from their expert. We can't do
24 anything there until Monday, right?

25 MS. MCNEILL: That's correct.

1 THE COURT: All right. We've already done the
2 Jackson v. Denno, and I've already ruled on that.

3 I've already ruled on the evidence of the child in
4 the bedroom.

5 Then the next thing is I've got 9-1-1 calls
6 redaction. I'm not sure exactly what that means.

7 MS. MCNEILL: Judge, there was a 9-1-1 call that
8 Mr. Davis had made. And in that 9-1-1 call, he says that
9 he's not supposed to be around guns because he's a
10 convicted felon, and then I believe he mentions what
11 felony or felonies he was convicted of. And I believe
12 that at that time, Mr. Mowry had stipulated that those
13 would be redacted. I think myself and Mr. Bentley just
14 need to get together and go through the time frame of what
15 we need redacted, and if we're in disagreement about
16 something, we can raise that before the trial begins.

17 THE COURT: Okay.

18 MR. MOWRY: We will be generous on redactions, Your
19 Honor. That's not a problem.

20 THE COURT: And I do recall now that that was agreed
21 to, that at least references to his prior record would be
22 redacted. But sit down and hopefully you all can work
23 that out.

24 All right. The next one is numbers for Laurens
25 9-1-1. I think they were asking if y'all could provide

1 that.

2 MR. MOWRY: Yes, sir. Mr. Bentley provided two of
3 them on Friday, and I believe he discovered a third one
4 today.

5 THE COURT: Okay.

6 MS. McNEILL: Okay. I was unaware that some of the
7 9-1-1 call numbers were made, but Mr. Bentley, I'm sure,
8 will get that to me.

9 THE COURT: Just make sure they get everything you
10 get. Okay. All right.

11 MS. McNEILL: And then I just need to clarify that
12 Newberry County 9-1-1 was never triggered by any sort of
13 9-1-1 call.

14 MR. MOWRY: Your Honor, that is according to Robert
15 Dennis, the captain of detectives over there.

16 THE COURT: Okay.

17 MR. MOWRY: They have nothing that would indicate
18 that.

19 THE COURT: Okay. All right. My next entry was that
20 defense wanted confirmation from the State that field
21 notes are not in existence, indicate that they had been
22 prepared but no longer once the -- I think the incident
23 report is done up.

24 MR. MOWRY: Yes, sir.

25 THE COURT: But that y'all were going to verify with

1 SLED whether or not any field notes are in existence.

2 MR. MOWRY: We are going to meet with them tomorrow,
3 Your Honor. If there are any notes, we will -- we have
4 given bench notes from one of the -- from the GSR.

5 THE COURT: Okay.

6 MR. MOWRY: I wish them well with that. I looked at
7 them and my eyes crossed.

8 THE COURT: Okay.

9 MR. MOWRY: But we have gotten that. We will ask for
10 anything more. We will ask for that from the crime scene
11 tech.

12 THE COURT: Okay. All right. So if there are any in
13 existence, they'll get that to you.

14 MR. MOWRY: And Mr. Bentley stated that he had spoken
15 with the crime scene tech. I did not realize that. And
16 he says there are none.

17 THE COURT: Okay.

18 MR. MOWRY: But again, these are -- the notes are
19 used to prepare the typewritten report and then are
20 destroyed.

21 THE COURT: Okay. All right. The next, I've got
22 Newberry County incident report, their involvement in the
23 case, search warrant. Previously said none in existence
24 then just got them, defense wants hand notes. So, again,
25 they've already confirmed that there are no hand notes in

1 the -- as far as Newberry County Sheriff's Office.

2 All right. The next point -- all right. And I think
3 this was resolved when Officer Cheek testified. Summary
4 of phone conversations between defendant and Officer
5 Cheek, and I think Officer Cheek testified on Friday that
6 the supplemental incident report, possibly the
7 supplemental contained the summary of the phone
8 conversations that he had with the defendant that night.

9 MR. MOWRY: Well, I think he testified also, Your
10 Honor, as to some of the information. I don't know that
11 the supplemental had all that information ---

12 THE COURT: Okay.

13 MR. MOWRY: --- but he was able to describe some of
14 what was spoken between the two of them.

15 THE COURT: Okay.

16 MS. McNEILL: Yes. And that's correct. Outside of
17 what he testified to, the only other notes that were
18 provided was this one-page incident report supplemental
19 from Mr. Bryant Cheek, and that was dated July 6, 2016.
20 So with that information and plus supplemented by his
21 testimony, that's the scope of what we understand
22 Mr. Cheek can testify to.

23 THE COURT: Okay. All right. Very good.

24 Then the next issue, no issue anticipated at this
25 time with respect to the search warrants, but something

1 may arise. But at least right now, none anticipated.

2 MS. McNEILL: That's correct, Your Honor.

3 THE COURT: All right. And then also the search
4 warrant of the Newberry residence. Incident site, cell
5 phones, Newberry residence, no issue at this time.

6 The jail calls, State not anticipating using those?

7 MR. MOWRY: Nothing has come up since Friday to have
8 us change our position on that, Your Honor.

9 THE COURT: And disclosure of defense expert, that's
10 already been taken care of. I appreciate that.

11 Pro se representation no longer an issue.

12 Picture of two vehicles that was just raised a moment
13 ago, that's not an issue.

14 So is there anything else other than the cell phone
15 issue that we can't do anything with until Monday?
16 Anything else?

17 MS. McNEILL: And just the picture of the pregnancy
18 test that was found in the back of her BMW. I believe
19 Mr. Mowry stipulated that ---

20 MR. MOWRY: That is correct. We're not using that.

21 THE COURT: Right, right. Okay.

22 Anything else?

23 MR. SHAFFER: And, Your Honor, as I previously said
24 in the motion, I'm going to be trying to get -- or in the
25 argument, I'm going to try to get someone here from AT&T,

1 provided what I expect to happen is them telling me that
2 they're not going to show up to court in South Carolina on
3 this. If they do say that, what I'm going to do is
4 actually ask for a continuance in the case. I just want
5 to put the Court on notice of that so that we can have
6 adequate time to challenge that evidence.

7 THE COURT: I think you may have kind of alluded to
8 that Friday that that may be a possibility.

9 MS. MCNEILL: And, Judge, just to place on the
10 record, we had -- the defense has offered to stipulate to
11 the autopsy report, but I believe that Mr. Bentley and
12 Mr. Shaffer had a conversation that they need their expert
13 here to testify. So we're fine with that.

14 MR. MOWRY: Yes, sir.

15 THE COURT: All right.

16 MR. MOWRY: There was a comment about a second
17 vehicle, Your Honor, pictures of a second vehicle besides
18 the Tar Heel vehicle.

19 THE COURT: Okay. All right. What was the other
20 vehicle?

21 MR. SHAFFER: The other vehicle was the Grand Marquis
22 that was on rims. I mean not the Grand Marquis, but
23 Mercury Mountaineer, not -- the Mercury Explorer.

24 MR. MOWRY: There were five cars in that driveway,
25 Your Honor. There's really only one that we're concerned

1 with and that's the one that the defendant drove away from
2 the scene with the bullet in it.

3 THE COURT: Okay.

4 MR. MOWRY: So, quite frankly, I don't know how much
5 we're going to be able to -- if we can do it, we will crop
6 the pictures so that no other cars are shown.

7 THE COURT: Okay.

8 MR. MOWRY: There are certain technical things that I
9 will leave to Mr. Bentley.

10 THE COURT: Right.

11 MR. MOWRY: He's much more of an expert on that than
12 I am.

13 THE COURT: Right.

14 MR. MOWRY: But we will do as much as we can to
15 comply with that and still be able to present our case.

16 THE COURT: Okay.

17 MR. MOWRY: Mr. Bentley and I went through yesterday
18 and I think we have got most of the pictures we plan to
19 present, if the defense wants to come by. I think they
20 have the disks, but if they want to come by and see what
21 we're planning on presenting, they're welcome to do so.

22 THE COURT: Any you may want to do that because it
23 probably will narrow down what you have and take a look
24 and find out specifically.

25 All right. Anything else?

1 MS. McNEILL: I'm just reviewing my notes, Judge.

2 THE COURT: Sure. Take your time.

3 (Pause.)

4 MS. McNEILL: Your Honor, your ruling about the
5 information of the child that was in the house, is your
6 ruling based on relevance? Or what was your ruling ---

7 THE COURT: Yeah. I think it's relevant. Again, my
8 main concern was, at least Friday I did not know if the
9 State had any evidence that the defendant allegedly knew
10 that the child was in there. They cleared that up by
11 referencing his statement and indicating that the video
12 also indicates that he knew. So I think it is relevant on
13 the issue of malice, and that's why I'm allowing it in.

14 MS. McNEILL: Okay. And I just want to renew my
15 objection that it's unduly prejudicial to my client at
16 this time.

17 THE COURT: Okay. Very good.

18 Anything else? And I realize there may be some
19 last-minute things we'll have to deal with on Monday.
20 Anything else you can anticipate right now?

21 MS. McNEILL: Judge, I think that that concludes all
22 the defense's concerns at this moment.

23 THE COURT: Okay.

24 MR. MOWRY: Your Honor, my only concern is on Monday,
25 Matthew Womack, who obtained the search warrant from

1 Newberry, Monday is the only day he's available. He goes
2 out of town for the rest of the week and would not be
3 available. And so I just simply -- if we need to take him
4 out of order, if that can be accomplished, I would
5 appreciate that.

6 THE COURT: Okay. All right. Let's just try to keep
7 that in mind.

8 I don't know when the jury is coming in. Do you
9 know?

10 MR. MOWRY: I don't know that Lynn has told them. We
11 can have them in at 9:00, if you'd like. That might be
12 the best thing to do, go ahead and get it done as early as
13 possible.

14 THE COURT: Well, and, again, assuming that you do
15 make a motion for a continuance and assuming that I don't
16 grant it, then I think that -- let's try to get them in at
17 9:00.

18 MR. MOWRY: Yes, sir.

19 THE COURT: And we'll get them qualified. And then
20 we can still deal with your continuance motion if you make
21 one, but at least let's get that behind us and then
22 certainly not swear them in but have them picked and then
23 we'll go from there.

24 MR. MOWRY: I'll communicate with the clerk this
25 morning, Your Honor.

1 THE COURT: Okay. All right. Very good.

2 Okay. Thank you very much. Appreciate y'all's hard
3 work.

4 MR. MOWRY: Thank you, Your Honor.

5 THE COURT: And let me just mention, Mr. Davis, I'm
6 glad, I'm really glad that we did not have to deal with
7 you wanting to represent yourself. You've got two really
8 good lawyers, and I was real concerned that if that's what
9 you wanted to do, to represent yourself, I was real
10 concerned about that. So I'm glad that is not an issue,
11 okay?

12 (WHEREUPON, proceedings concluded at 10:56 a.m.)
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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Laurens County, South Carolina, on
14 the 20th day of March, 2018.

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

17
18 July 5, 2018
19

20
21 Cheryl A. Smith

22 Cheryl A. Smith, CVR-M

23 Court Reporter
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STATE OF SOUTH CAROLINA)

COUNTY OF LAURENS)

COURT OF GENERAL SESSIONS

2016-GS-30-01382

2016-GS-30-01383

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

RONALD DUYANE DAVIS,)
DEFENDANT.)

ORIGINAL

March 26 and 27, 2018
Laurens, South Carolina

B E F O R E:

THE HONORABLE DONALD B. HOCKER, JUDGE; and a jury.

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Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(DW) - Denotes Defense Witness

(IC) - Denotes In Camera

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Laurens County.

P R O C E E D I N G S

(WHEREUPON, Court's Exhibit No. 11 was marked for identification and admitted into evidence.)

THE COURT: And I'll address just for a moment the proposed voir dire. The State had requested the voir dire question, anyone accused of a serious crime? That would be added to what the Defense requested.

And so my voir dire will be, any member of the jury panel, any close family members, close personal friends ever been accused of or a victim of a serious crime?

And concerning the -- the Defense proposed voir dire, the -- what I will not ask is #11, #27. That's it.

And the one -- the questions that I will tell the panel not to respond in front of everybody and see if this will cover some of the concerns, Ms. McNeill, that you indicated a moment ago will be #6, #12, #21, #24, #25, #36. And just take -- take a moment to look at that and see if that will address your concerns about a -- one person on the panel that you have some concerns about, and you let me know after the break.

MS. MCNEILL: Judge, do you want me to go ahead and place on the record now a couple matters --

THE COURT: I mean, if you have had time to look at the ones that I indicated that I'm -- will instruct the panel not to respond.

1 MS. MCNEILL: Okay. I'll -- I'll further look at it.

2 THE COURT: Yeah. Take a look at it. That's fine.

3 MS. MCNEILL: And I would, also, like, Your Honor, to
4 make that -- that statement right before you ask the
5 State's proposed voir dire as well.

6 THE COURT: Right. I'll do that.

7 And, lastly, just for my clarification, is the
8 alleged victim Shana Prophet? Is that --

9 MS. MCNEILL: Shana. It's pronounced Shana.

10 MR. MOWRY: Yes, sir.

11 THE COURT: Okay. I just wanted to make sure.

12 All right. We'll be -- take break for a few minutes.

13 MR. SHAFFER: And, Your Honor, at some point, I was
14 going to make that request for a continuance based off the
15 failure to [inaudible] as well.

16 THE COURT: Okay.

17 MR. SHAFFER: We can --

18 THE COURT: We can do that after we come back from
19 the break.

20 MR. SHAFFER: Yes, Your Honor. I just want it on the
21 record, Your Honor.

22 THE COURT: Sure.

23 And does the Defense have a witness list?

24 MS. MCNEILL: Yes, sir, I do. I thought -- I'm
25 sorry. I thought I handed it up.

1 THE COURT: That's all right.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Okay. We're back on the record.

4 Mr. Shaffer, you have a motion that you need to put
5 on the record, sir?

6 (WHEREUPON, there was no response.)

7 THE COURT: Mr. Shaffer, you have a motion you need
8 to put on the record, sir?

9 MOTION

10 MR. SHAFFER: Yes, Your Honor.

11 I was going to make a motion. We had referenced that
12 I might do it last week, the request for a continuance.

13 Your Honor, the subpoena from AT&T, we were not able
14 to get the information yet. They couldn't really provide
15 us an exact timetable of when they were going to do it. I
16 do have an affidavit to submit, based off of what Janna
17 Nelson heard, which I can submit once we, actually, knew
18 our -- the hearing --

19 THE COURT: Okay.

20 MR. SHAFFER: But we would ask for a continuance so
21 that we have more time to prepare that issue.

22 THE COURT: Okay. Motion denied.

23 MR. SHAFFER: Thank you, Your Honor.

24 THE COURT: Anything further before we bring the
25 panel out and get the jury selected?

1 Anything from the State?

2 MR. MOWRY: Nothing from the State, Your Honor.

3 THE COURT: The Defense?

4 MR. SHAFFER: No --

5 MS. MCNEILL: Yes. Yes, sir.

6 THE COURT: Okay.

7 MS. MCNEILL: Just to put on the record. The
8 potential juror on the jury panel that I am concerned
9 about that we had a brief discussion off the record with
10 the State as well, her number is Juror #101, Janet
11 McCartney, M-C-C-A-R-T-N-E-Y.

12 When she answered a question during qualification
13 about her employment, she answered that she was a former
14 Delta -- worked for Delta Air Lines in the past. And that
15 her husband is currently incarcerated for criminal
16 domestic violence.

17 Obviously, that was a kind of strange answer to begin
18 with. But I am putting -- I let the Court know that Joel
19 Broome and myself represented her husband, Jeffrey
20 McCartney. And he is doing some time.

21 My concern is that Janet McCartney is kind a -- I
22 don't know how else to put it, a dramatic individual who
23 seems to be attention seeking. And -- and I would be
24 striking her for cause, number one.

25 And, number two, on the questions that Your Honor

1 said that you would give kind of a warning to the
2 potential -- to the jury panel about when they answer
3 questions, I believe Your Honor said #3, #6, #12 --

4 THE COURT: I didn't say #3.

5 MS. MCNEILL: You did not?

6 THE COURT: No, no.

7 Ms. MCNEILL: Okay.

8 THE COURT: Start with #6.

9 MS. MCNEILL: #6, #12, #21, #24, #25, #36. And I
10 believe Your Honor said you would not answer -- I mean ask
11 question #27 and question #11 from the Defense's proposed
12 voir dire.

13 I'm, also, asking Your Honor to maybe caution about
14 #4, as well as #22 and #23.

15 THE COURT: All right. #4, you want me to -- all
16 right. #4, you want me to -- to request that they not
17 respond in -- in front of everybody?

18 MS. MCNEILL: If -- if they could just limit
19 commentary, I guess. Just to ask them not to give
20 their -- you know, any excess commentary. If they have
21 excess commentary to --

22 THE COURT: Yeah. We're just going to find out if
23 they do belong to any of these groups, and leave it at
24 that.

25 MS. MCNEILL: Right. And, also, when Your Honor

1 allows us to introduce ourselves, she might say something
2 about me. I'm just --

3 THE COURT: Right. Well, you know, again, the
4 question is, is there any member of the jury panel ever
5 been represented by any of the attorneys involved in this
6 case or anyone in their respective offices? And -- but,
7 again, I will not allow commentary. I'll just -- if they
8 have been, then they'll say who and leave it at that.

9 MS. MCNEILL: Yes, sir.

10 And I, also, want to make any proposed voir dire a
11 Court's Exhibit --

12 THE COURT: Yes.

13 MS. MCNEILL: -- so the record's complete.

14 THE COURT: And that -- that would be fine.

15 MS. MCNEILL: Thank you.

16 (WHEREUPON, Court's Exhibit No. 12 was marked for
17 identification and admitted into evidence.)

18 THE COURT: All right. There were two other voir
19 dire questions that you want me to indicate that they
20 speak to me privately. But I didn't catch those other
21 two.

22 MS. MCNEILL: Number #4, #22, and #23.

23 THE COURT: Okay.

24 MS. MCNEILL: And, Judge, just so you are aware, I
25 did add another -- one more person to the Defense's

1 witness list, Robert Walker. I wrote it down on Your
2 Honor's copy. And then I had, also, given that
3 information to Mr. Walter Bentley.

4 THE COURT: Okay. Got you. Very good.

5 Okay. You can bring the jury out, please -- or the
6 panel back in, please.

7 (WHEREUPON, the jury panel entered the courtroom.)

8 THE COURT: All right. Ladies and gentlemen, the --
9 the trial that we will be starting this week is the State
10 of South Carolina v. Ronald Duyane Davis.

11 Mr. Davis, if you would just stand and face the panel
12 just for a second, please, sir.

13 All right. Thank you very much.

14 You can have a seat.

15 Ladies and gentlemen, the -- Mr. Davis has been
16 charged and indicted with two offenses, that being murder
17 and possession of a firearm during the commission of a
18 violent crime.

19 Now, let me explain to you right at the outset, the
20 fact that Mr. Davis was arrested, charged, and indicted
21 with two criminal offenses is not proof to any extent
22 of -- of any -- of guilt on his part. The indictments
23 that I'm going to read to you in just a moment contain
24 allegations. And that's what they are, they're merely
25 allegations. So the fact that he has been charged and

1 indicted in this case cannot be used against him
2 whatsoever.

3 It's up to the State of South Carolina to prove to
4 you these allegations that are contained in the
5 indictment. And I'll explain more about that later.

6 But the indictments read as follows, the murder
7 indictment, which is indictment 16-GS-30-1382, alleges as
8 follows, that Ronald Duyane Davis did on or about
9 July 3rd, 2016, in Laurens County willfully, feloniously,
10 and with malice aforethought kill a -- one, Shana --

11 Is it Shauna or Shana?

12 MR. MOWRY: Shana.

13 THE COURT: Shana?

14 MR. MOWRY: Yes, 'sir.

15 THE COURT: Shana Prophet by means of shooting her
16 with a firearm. And that the said Shana Prophet did die
17 in Laurens County as a proximate result thereof on or
18 about July 3rd, 2016, in violation of Section 16-3-10 Code
19 of Laws for South Carolina.

20 And the other indictment for possession of a firearm
21 during the commission of a violent crime alleges as
22 follows, that Ronald Duyane Davis did on or about
23 July 3rd, 2016, in Laurens County did possess a firearm or
24 visibly displayed what appeared to be a firearm during the
25 commission of a violent offense, to wit, murder or any

1 lesser included violent offense in violation of Section
2 16-23-490 Code of Laws for South Carolina.

3 Now, I will be asking you a series of questions that
4 relate to this case. Now, the same rules apply. If you
5 want to respond to a question but are reluctant to do so
6 in front of everybody, that's fine. We'll form a line and
7 you'll speak with me privately.

8 In addition, there will be several questions that I
9 will instruct you before asking the question not to
10 respond in front of everybody, but speak with me
11 privately. There are probably about -- I don't know,
12 maybe about six or eight questions. And I'll read --
13 probably do like three at a time.

14 So, again, you'll have that opportunity to speak with
15 me privately, if you so choose. In addition, I will
16 instruct you not to respond to the question in front of
17 everybody, but speak with me privately.

18 JURY QUALIFICATION

19 THE COURT: Okay. Any member of the jury panel
20 related by blood or marriage either now or formerly to
21 either Ronald Duyane Davis or Shana Prophet? If so,
22 please, stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: Any member of the jury panel have or have
25 had in the past a close personal or social relationship

1 with either Ronald Davis or Shana Prophet? If so, please,
2 stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: Any member of the jury panel know either
5 Ronald Duyane Davis or Shana Prophet? If so, please,
6 stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: All right. I'm going to read to you a
9 list of potential witnesses in this case. And when I say
10 "potential," they may or may not testify. Ben Blackmon
11 with the Laurens County Sheriff's Office; Keith McIntosh
12 with the Laurens County Sheriff's Office; Brandon Howard
13 with the Laurens County Sheriff's Office; Marty Crain with
14 the Laurens County Sheriff's Office; Ron Wood with the
15 Laurens County Sheriff's Office; Robert Timmons with the
16 Laurens County Sheriff's Office; Bryant Cheek with the
17 Laurens Police Department; Matthew Womack with the --

18 Is he with Greenwood?

19 MR. MOWRY: It's Newberry.

20 THE COURT: It should be Newberry. That's what I was
21 thinking.

22 The Newberry Sheriff's Office --

23 MR. MOWRY: Actually, he's currently with Greenwood,
24 Your Honor. At the time, it was Newberry.

25 THE COURT: Okay. Formerly with the Newberry

1 Sheriff's Office, but currently with the Greenwood
2 Sheriff's Office; Julie Smith; Jeff Green; Jovonya --
3 that's J-O-V-O-N-Y-A -- Key with SLED; Todd Shenk --
4 that's S-H-E-N-K -- with SLED; Michelle Eichenmiller --
5 E-I-C-H-E-N-M-I-L-L-E-R -- with SLED; Jennifer Nates with
6 SLED; Dan Kelly with the Greenville Sheriff's Office;
7 Tommy Hines with SLED; Dr. James Fulcher, that's
8 F-U-L-C-H-E-R; Walter Bentley with the Eighth Circuit
9 Solicitor's Office; Marlana Davis; Joey Pittman with the
10 Eighth Circuit Solicitor's Office; Joey Avery with Laurens
11 County 911; Latron Prophet; Crystal Turner with Laurens
12 911; Rebecca Bagwell with Laurens 911; Francine Champagne
13 with the Laurens Detention Center; Spencer McInaville,
14 M-C-I-N-A-V-I-L-L-E; Christopher Robinson; Brad Neal with
15 the Village Pawnshop in Newberry; Katie Perry with the
16 Village Pawnshop in Newberry; Nicole Hurley; Jimmy Powers;
17 Steve Cannon; Demarcus Barksdale; Natasha Benjamin; Kevin
18 Caughman; Deandre Davis; Marlana Coleman Drapper; Jenny
19 Walker; Robert Walker.

20 Is any member of the jury panel related by blood or
21 marriage either now or formerly to any of those
22 individuals I've just listed, or any member of the jury
23 panel have or had in the past a close personal or social
24 relationship with any of those people I've just listed?
25 If so, please, stand.

1 Yes, ma'am. Your name and juror number, if you know
2 it?

3 JUROR #148, ELIZABETH ROACHEBELL: I'm Elizabeth
4 Roachebell.

5 And Marty Crain. We served together on the band
6 booster club. He was president. I was vice president.

7 THE COURT: You served Marty Crain how?

8 JUROR #148, ELIZABETH ROACHEBELL: We were on the
9 band booster club for my child's high school. And he was
10 president. I was vice president.

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

12 THE CLERK: #148.

13 THE COURT: #148 is the juror number.

14 All right. I'm going to now allow the attorneys
15 involved in this case to introduce themselves. I know all
16 four attorneys very well. They've all tried cases in this
17 Court before. And I can tell you we have four excellent
18 attorneys.

19 I'll allow the State to proceed first.

20 MR. MOWRY: Thank you very much, Your Honor.

21 Ladies and gentlemen, my name is Warren Mowry. I am
22 the deputy solicitor here in Laurens County. I work for
23 Solicitor David Stumbo, who is your elected circuit
24 solicitor. I'll talk a little bit more about that when
25 the time comes.

1 With me at the table is Jared Simmons. Jared is an
2 assistant solicitor here in Laurens and will be working
3 with me on this trial, along with Walter Bentley, who is
4 our investigator in the case.

5 Thank you.

6 THE COURT: Thank you.

7 And from the Defense.

8 MS. MCNEILL: Good morning. My name is Chelsea
9 McNeill. I'm the chief public defender for Laurens
10 County. I work for our circuit defender, Janna Nelson.
11 Our circuit is comprised of Newberry, Laurens, Greenwood,
12 and Abbeville Counties.

13 And this is my co-counsel, Mr. Tristan Shaffer. And
14 then, of course, this is my client that we represent,
15 Mr. Ronald Davis.

16 THE COURT: Okay. Thank you very much.

17 Any member of the jury panel ever been represented by
18 any of the attorneys involved in this case or anyone in
19 their respective offices? If so, just identify the name.
20 And we need no further information if you need to respond
21 to that question.

22 (WHEREUPON, there was no response.)

23 THE COURT: Anybody?

24 (WHEREUPON, there was no response.)

25 THE COURT: Any -- wait a mine. I've got one.

1 Yes, ma'am. Give me your name and juror number, if
2 you know it.

3 JUROR #101, JANET MCCARTNEY: #101, Janet McCartney.

4 THE COURT: Okay. And which attorney or attorneys?

5 JUROR #101, JANET MCCARTNEY: Both the public
6 defender's office and solicitor's office.

7 THE COURT: All right. Thank you.

8 Have a seat.

9 Is any member of the jury panel related by blood or
10 marriage either now or formerly or have or have had in the
11 past a close personal or social relationship with any of
12 the attorneys involved in this case or anyone in their
13 respective offices? And, again, just identify the name or
14 names; if that applies.

15 (WHEREUPON, there was no response.)

16 THE COURT: Anybody?

17 (WHEREUPON, there was no response.)

18 THE COURT: Okay. Has any member of the jury panel
19 already formed or expressed any opinion about any issue or
20 matter involved in this case? If so, please, stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Is any member of the jury panel aware of
23 any bias or prejudice towards either the State or the
24 Defendant in this case? If so, please, stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Is there any member of the jury panel who
2 is a member of or a contributor to any group which has as
3 its primary concern the promotion of law enforcement or
4 victim's rights? And these groups would include and,
5 certainly, are not limited to MADD, SADD, or CAVE. And if
6 you are a member of such organization, just identify the
7 organization and leave it at that.

8 Anybody?

9 (WHEREUPON, there was no response.)

10 THE COURT: Okay. Does any member of the jury panel
11 volunteer with any group involving children, such as the
12 Boy Scouts, any youth groups, church groups, school groups
13 in a volunteer capacity? If that applies to you, please,
14 stand.

15 (WHEREUPON, Blake Cash exited the courtroom.)

16 THE BAILIFF: Your Honor, he had to go to the
17 restroom.

18 THE COURT: Excuse me?

19 THE BAILIFF: That one that went out, he got up and
20 left and went to the restroom before I could catch him.
21 So I --

22 THE COURT: All right. Well, just have a seat. And
23 we'll just -- we'll be in -- we'll be in a short recess.

24 THE BAILIFF: He just got up and walked out, Your
25 Honor. He said he had held it as long as he could.

1 THE COURT: Was he not in here for the start?

2 THE BAILIFF: I guess. As far as I know, he was.

3 THE CLERK: Well, count them. There are supposed to
4 be 61. So count them while he's out.

5 THE BAILIFF: 61?

6 THE CLERK: Yes.

7 (Pause.)

8 THE BAILIFF: I've got 60 in here now. He would be
9 61.

10 THE COURT: Okay.

11 UNIDENTIFIED JUROR: What was the question? Were you
12 involved in any group with children?

13 THE COURT: Right. And I'm going -- I'm going to ask
14 that question again. We're waiting on the one member of
15 the panel to come back in.

16 THE BAILIFF: I'm going to walk down the hall, Your
17 Honor.

18 THE COURT: Okay.

19 (Pause.)

20 (WHEREUPON, Blake Cash entered the courtroom.)

21 THE BAILIFF: Your Honor, this is the one that just
22 left out. He says he's not a juror. He's supposed to be
23 down in the other courtroom. So I don't know how he got
24 in this one.

25 MR. BLAKE CASH: I thought this was the General

1 Sessions courtroom. That's how I ended up here.

2 THE BAILIFF: Well, this is General Sessions. Give
3 her your name and see if we've got you on the jury list.
4 Just tell her your name.

5 MR. BLAKE CASH: Blake Cash.

6 THE CLERK: The last name is what?

7 MR. BLAKE CASH: Cash.

8 THE CLERK: Cash.

9 He is not a juror.

10 THE COURT: Okay. Go on down to the other courtroom.

11 (Pause.)

12 THE COURT: All right. Let me repeat that last
13 question before we took a break. Does any member of the
14 jury panel volunteer with groups involving children, such
15 as the Boy Scouts, youth groups, church groups, school
16 groups, serve as a volunteer? If so, please, stand.

17 Okay. We'll start at the beginning. Be sure to give
18 me your name and number, if you know it.

19 Yes, ma'am.

20 JUROR #148, ELIZABETH ROACHEBELL: Elizabeth
21 Roachebell.

22 Church groups, youth groups, coach, volunteer
23 involving youth.

24 THE COURT: Okay.

25 JUROR #153, HEIDI SAMPSON: Heidi Sampson, #153, I

1 believe.

2 I volunteer with my husband at [inaudible]. So I
3 work with foster children at Thornwell.

4 THE COURT: All right. Very good.

5 Yes, sir.

6 JUROR #48, LEWIS EDWARDS: Lewis Edwards, #48.

7 I teach elementary Sunday school.

8 THE COURT: All right. Thank you.

9 Yes.

10 JUROR #172, SUSAN SUBER: Susan Suber.

11 4-H.

12 THE COURT: Ma'am?

13 JUROR #172, SUSAN SUBER: 4-H.

14 THE COURT: All right. What's your name?

15 JUROR #172, SUSAN SUBER: Susan Suber.

16 THE CLERK: #172.

17 THE COURT: And you volunteer with the 4-H group?

18 JUROR #72, SUSAN SUBER: Yes.

19 THE COURT: Okay. Thank you.

20 Yes, ma'am.

21 JUROR #138, BERTHA PULLEY: Bertha Pulley, #138.

22 Superintendent of Sunday school.

23 THE COURT: All right. Very good.

24 Thank you.

25 Yes, ma'am.

1 JUROR #42, ROBIN DAVIS: Robin Davis --

2 THE COURT: You're going to need to speak up.

3 JUROR #42, ROBIN DAVIS: Robin Davis.

4 THE COURT: Okay.

5 JUROR #42, ROBIN DAVIS: And I mentor children. And
6 I'm a Sunday school teacher.

7 THE COURT: All right. Thank you.

8 JUROR #101, JANET MCCARTNEY: Janet McCartney, #101.
9 I volunteer with a church group.

10 THE COURT: All right. Thank you.

11 All right. Any member of the jury panel or any
12 members of your immediate family or close personal friends
13 ever been or currently a civilian or military law
14 enforcement officer previously or currently? If so,
15 please, stand.

16 Okay. Yes, ma'am. What's your name and your number?

17 JUROR #39, SANDRA CROFT: Sandra Croft. I believe
18 I'm #39.

19 My ex-husband was a Navy officer.

20 THE COURT: Okay. Yes, sir.

21 JUROR #167, SANDY SPRINKLES: Sandy Sprinkles, #167.

22 My father is a retired police chief out of North
23 Carolina.

24 THE COURT: All right. Thank you.

25 They keep standing up here.

1 Okay. Yes, ma'am.

2 JUROR #145, WANISA RICHARDSON: Wanisa Richardson,
3 #142 [sic], I think.

4 My brother-in-law, David Richardson, is an officer.

5 THE COURT: Okay. Yes, sir.

6 JUROR #125, GRADY OWENS: #125.

7 Retired police officer.

8 THE COURT: Okay. You are?

9 JUROR #125, GRADY OWENS: Yes, sir.

10 THE COURT: All right. Yes, sir.

11 JUROR #127, DAVID PARENTI: David Parenti, #127.

12 I'm a former military and civil police officer.

13 THE COURT: Okay.

14 JUROR #42, ROBIN DAVIS: Robin Davis.

15 My brother-in-law is a volunteer police officer.

16 THE COURT: Okay.

17 JUROR #174, THERESA SUMMER: Theresa Summer, #174.

18 My son was a detention officer for Laurens County.

19 THE COURT: All right. All of those of you who just
20 stood in response to that question, the fact that you have
21 some relationship with someone being formerly or currently
22 a law enforcement officer and then one who, actually, was
23 previously, would that cause you to be unable to be fair
24 and impartial to both sides in this case? If so, please,
25 stand.

1 JUROR #125, GRADY OWENS: I think mine would, Your
2 Honor.

3 THE COURT: Okay. Give me your name again.

4 JUROR #125, GRADY OWENS: Grady Owens.

5 THE COURT: Okay. The fact that you were previously
6 a law enforcement officer, do you believe that would
7 prevent you from being fair and impartial to both sides?

8 JUROR #125, GRADY OWENS: Yes, sir.

9 THE COURT: Okay. You're free to go.

10 (WHEREUPON, Juror #125, Grady Owens, exited the
11 courtroom.)

12 THE COURT: Ladies and gentlemen, you're going to
13 hear me throughout this process use the terms "fair and
14 impartial." And that's -- that's the key. That's what we
15 want on a jury, those of you who can be 100 percent fair
16 and impartial to both sides in this case. So you're going
17 to hear me relate to that throughout this process.

18 As I told you at the outset, the Defendant has been
19 charged with the offense of murder. Does any member of
20 the jury panel have any knowledge of -- of this case or
21 any of the allegations that have been made against
22 Mr. Davis? If so, please, stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: Now, the Constitution of the United
25 States allows -- a person who has been charged with a

1 criminal offense allows them the right to remain silent.
2 And no one can be forced to testify in the case. They,
3 certainly, have the right to testify, but they don't have
4 to and, certainly, cannot be forced to.

5 Does any member of the jury panel feel that you would
6 need to hear from the Defendant in this case in order to
7 make a decision concerning Mr. Davis' guilt or innocence?

8 I don't know what his plans are concerning testifying
9 or not testifying. But do you believe you would have to
10 hear from him in order to make a decision in this case?
11 If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Does any member of the jury panel feel
14 that the Defendant, if he elects not to testify, will be
15 hiding something? If so, please, stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Does any member of the jury panel feel
18 like if a witness cried during his testimony or her
19 testimony -- would you be able to put aside your own
20 emotion and sympathy in order to make a decision based
21 upon the evidence in this case?

22 And, again, your verdict in this case, if you are
23 chosen as a member of the trial jury, is to be based upon
24 the evidence in the case and cannot be based at all on any
25 sympathy, or bias, or emotion, or anything of that nature.

1 So -- but do you believe that you would be unable to
2 lay aside your emotions and sympathy if a witness became
3 emotional?

4 (WHEREUPON, there was no response.)

5 THE COURT: Seeing none, we'll go to the next
6 question. And this is similar to a previous question I
7 just asked.

8 Has any member of the jury panel read anything in the
9 newspaper, or on the Internet, any media coverage about
10 this case? Anybody done that, or heard about it, or read
11 about it, or had conversations with anyone about this
12 particular case? If so, please, stand.

13 Okay.

14 JUROR #167, SANDY SPRINKLE: Sandy Sprinkle --

15 THE COURT: Well, here's what I'm going to need for
16 you to do, sir. Give me your name.

17 JUROR #167, SANDY SPRINKLE: Sandy Sprinkle, #167.

18 THE COURT: All right. Speak with me privately when
19 we form a line at the end of this process. So just --
20 just remember that, whatever your response is. Okay.

21 JUROR #167, SANDY SPRINKLE: Yes, sir.

22 THE COURT: Thank you.

23 Does any member of the jury panel know anyone who
24 works with the following: The Eighth Circuit Solicitor's
25 Office, any law enforcement agency in Laurens County,

1 Newberry County, Greenwood County, Abbeville County? And
2 this would include any staff member, prosecutor, or any
3 member of the law enforcement -- any law enforcement
4 officer in any of those agencies. The Eighth Circuit --
5 the Eighth Circuit is comprised of those four counties,
6 Laurens, Greenwood, Newberry, and Abbeville.

7 So if you know of anyone who works in the solicitor's
8 office or any law enforcement agency in any of those four
9 counties, please, stand at this time.

10 Yes, ma'am. Your name for the record?

11 JUROR #148, ELIZABETH ROACHEBELL: Elizabeth
12 Roachebell.

13 THE COURT: Okay.

14 JUROR #148, ELIZABETH ROACHEBELL: I know Marty
15 Crain.

16 THE COURT: Okay.

17 JUROR #148, ELIZABETH ROACHEBELL: I know Lee Foster.

18 THE COURT: Okay.

19 JUROR #148, ELIZABETH ROACHEBELL: I know more, but I
20 can't think of them all.

21 THE COURT: All right. Yes, sir. Your name?

22 JUROR #133, WINDELL PHILSON: My brother-in-law --
23 Windell Philson.

24 My brother-in-law worked for the Greenwood city as a
25 detective.

1 THE COURT: All right. Thank you.

2 Yes, sir.

3 JUROR #137, STEVEN PUCKETT: #137, Steven Puckett.

4 I'm a -- I'm a retired public safety officer in the
5 city of Clinton. So I know a good many.

6 THE COURT: All right. The three individuals that
7 just stood, the fact that you know certain individuals
8 related to that question I just asked you and then the
9 gentleman that said you're retired, I think; correct?

10 JUROR #137, STEVEN PUCKETT: Yes.

11 THE COURT: Would that prevent you from being fair
12 and impartial to both sides in the case? If so, please,
13 stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: Okay. Has any member of the jury panel
16 ever campaigned for or made any contribution -- financial
17 contribution to either Ricky Chastain, former sheriff of
18 Laurens County; current sheriff, Don Reynolds; or David
19 Stumbo, the current Eighth Circuit Solicitor? Ever
20 campaigned for or made any financial contribution to them?
21 If so, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: Does any member of the jury panel know
24 anyone who works with the Department of Social Services?

25 Okay. Yes, sir. Your -- your name again, sir?

1 JUROR #137, STEVEN PUCKETT: Steven Puckett, #137.

2 My daughter is currently employed with DSS at
3 Greenwood.

4 THE COURT: Okay. Thank you.

5 Yes, ma'am.

6 JUROR #153, HEIDI SAMPSON: #153, Heidi Sampson.

7 I've worked mostly with Laurens County DSS through an
8 adoption of my own kids and through Thornwell.

9 MS. MCNEILL: What was her number?

10 THE CLERK: #153.

11 THE COURT: Okay. Thank you.

12 Yes, ma'am.

13 JUROR #138, BERTHA PULLEY: Bertha Pulley, #138.

14 I know Patty Bates that works with social services.

15 THE COURT: All right.

16 JUROR #42, ROBIN DAVIS: Robin Davis.

17 I know Patty Bates.

18 THE COURT: All right. The four individuals -- I
19 think there's four who responded to knowing someone with
20 DSS, would that prevent you from being fair and impartial
21 to both the State and the Defense in this case? If so,
22 please, stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: Does any member of the jury panel
25 currently have a child or children 10 years old or younger

1 who lives in your household?

2 And what you'll need to do, if that applies to you,
3 you'll stand, just give us your name and juror number, and
4 sit down. I don't want to know the names. I don't want
5 to know the ages. But if you have any child or children
6 who lives in your household that is 10 years of age or
7 younger.

8 All right. We'll start on the front row and we'll
9 work our way back.

10 Name and number?

11 JUROR #5, CHRISTOPHER ASHMORE: Chris Ashmore, #5.

12 THE COURT: Okay.

13 JUROR #145, WANISA RICHARDSON: Wanisa Richardson,
14 #142 [sic].

15 THE CLERK: #145.

16 JUROR #187, SHEQUILIA WALKER: Shequilia Walker,
17 #187.

18 THE COURT: Okay.

19 JUROR #98, DAVID MARTIN: David Martin, #98.

20 JUROR #153, HEIDI SAMPSON: Heidi Sampson, #153.

21 JUROR #53, FREDa FLANAGAN: Freda Flanagan, I think
22 #53.

23 THE CLERK: #53, yes.

24 JUROR #133, WINDELL PHILSON: Windell Philson, #133.

25 JUROR #24, CRISTAN BUTLER: Cristan Butler, #24.

1 JUROR #123, DEVIN OSBORNE: Devin Osborne. I can't
2 remember.

3 THE CLERK: It's #123.

4 JUROR #104, WERNER D. MCDANNALD: David McDannald,
5 #104.

6 THE COURT: Okay.

7 JUROR #77, TIFFANY JOHNSON: Tiffany Johnson, #77.

8 THE COURT: Okay.

9 JUROR #195, SILAS WILLIAMS: Silas Williams. I can't
10 remember my number.

11 THE CLERK: #195.

12 JUROR #165, CHRISTINA SNOW: Christina Snow --

13 THE COURT: Speak up, please.

14 JUROR #165, CHRISTINA SNOW: Christina Snow, #165.

15 THE COURT: Okay.

16 JUROR #16, WHITNEY BLAND: Whitney Bland, #16.

17 THE COURT: You can sit down.

18 Okay. Yes, ma'am.

19 JUROR #18, RAVEN BOYD: Raven Boyd --

20 THE COURT: Speak up, please.

21 JUROR #18, RAVEN BOYD: Raven Boyd. I'm #18.

22 THE COURT: Okay.

23 JUROR #72, DONNA HUGHES: Donna Hughes, #72.

24 JUROR #42, ROBIN DAVIS: Robin Davis.

25 THE CLERK: #42.

1 THE COURT: Okay.

2 JUROR #112, CURTIS MOSS: Curtis Moss, #112.

3 JUROR #110, LYLE MOORE: Lyle Moore, #110.

4 JUROR #23, EDWARD BURGESS: Edward Burgess, #23.

5 THE COURT: Okay. Is any member of the jury panel a
6 mandated reporter? And if you are, you'll know what that
7 means. If you don't know what it means, then you're,
8 obviously, not. Okay. But anybody on the jury panel a
9 mandated reporter?

10 Yes, ma'am. Your name?

11 JUROR #153, HEIDI SAMPSON: Heidi Sampson, #153.

12 THE COURT: Okay. Thank you.

13 Anybody else?

14 (WHEREUPON, there was no response.)

15 THE COURT: All right. There are allegations made in
16 this case that during the -- the alleged killing a
17 child -- a young child was asleep in a room down the hall
18 from where this alleged killing took place. Would that
19 fact prevent anyone from being fair and impartial to both
20 sides in this case? If so, please, stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Has any member of the jury panel liked or
23 followed any of the following Facebook pages, any page
24 dealing with sexual assault or criminal domestic violence,
25 any crime watch page, or the Laurens County Sheriff's

1 Office page? Either liked or followed any of those
2 Facebook pages? If so, please, stand.

3 Okay. Your name and number? And then just indicate
4 which page or pages that you have liked or followed.

5 Yes, ma'am.

6 JUROR #77, TIFFANY JOHNSON: Tiffany Johnson, #77.

7 And crime watch daily.

8 THE COURT: Okay. Thank you.

9 JUROR #137, STEVEN PUCKETT: Juror #137, Steven
10 Puckett.

11 And it would be the Laurens County Sheriff's
12 Department.

13 THE COURT: All right. Thank you.

14 JUROR #112, CURTIS MOSS: Curtis Moss, #112.

15 Laurens County Sheriff's Department.

16 THE COURT: Okay. Yes, ma'am.

17 JUROR #31, CHERYL CLAYTON: Cheryl Clayton, #31.

18 Laurens County.

19 THE COURT: Laurens County Sheriff's Office?

20 JUROR #31, CHERYL CLAYTON: Yes, sir.

21 THE COURT: Okay. Thank you.

22 JUROR #115, RONDA MUNDY: Ronda Mundy, #115.

23 Laurens County Sheriff's Office.

24 THE COURT: Okay. Thank you.

25 Has any member of the jury panel or anyone in your

1 immediate family ever served in any branch of the
2 military? If so, please, stand.

3 Okay. Just identify yourself, name and number. And
4 then you can have a seat. Indicate whether it's you or a
5 family member. Okay.

6 JUROR #145, WANISA RICHARDSON: Wanisa Richardson,
7 #145.

8 THE COURT: You or a family member?

9 JUROR #145, WANISA RICHARDSON: Family members.

10 THE COURT: Okay.

11 JUROR #156, KENNETH SEILER: Kenneth Seiler, #156.
12 United States Air Force.

13 THE COURT: You?

14 JUROR #156, KENNETH SEILER: Yes.

15 THE COURT: All right.

16 JUROR #138, BERTHA PULLEY: Bertha Pulley, #138.
17 Relative, my brother.

18 THE COURT: Okay.

19 JUROR #193, JONATHAN WILBURN: Jonathan Wilburn,
20 #193.

21 Family member.

22 THE COURT: Okay.

23 JUROR #109, ANNIE MITCHELL: Annie Mitchell, #109.
24 Father.

25 THE COURT: Okay.

1 JUROR #39, SANDRA CROFT: #39.

2 Family members.

3 THE COURT: Okay.

4 JUROR #148, ELIZABETH ROACHEBELL: Elizabeth
5 Roachebell.

6 Family member.

7 JUROR #1, BARBARA ACHESON: Barbara Acheson.

8 Family members.

9 THE COURT: All right. And let me just tell the
10 attorneys. If we're moving a little too fast on this,
11 we'll try to slow it down some. I know you're trying to
12 get down the information.

13 MS. MCNEILL: I just didn't hear the number for
14 Ms. Roachebell and the last one.

15 THE CLERK: #148.

16 THE COURT: And who was the other one?

17 MS. MCNEILL: The one that just spoke.

18 THE COURT: Who was the last one that just responded?

19 THE CLERK: She's #1.

20 JUROR #1, BARBARA ACHESON: Barbara Acheson, #1.

21 THE COURT: Okay. We'll try to go a little bit
22 slower so the lawyers can take down everything.

23 Okay. Yes, sir.

24 JUROR #116, MARKEVIOUS NEELY: Markevious Neely. I
25 don't know my juror number, but --

1 THE CLERK: #116.
2 JUROR #116, MARKEVIOUS NEELY: My dad.
3 THE COURT: Okay. He's juror #115?
4 THE CLERK: #116.
5 THE COURT: #116.
6 JUROR #144, MARTHA REECE: Martha Reece, #144.
7 My dad and my brother.
8 THE COURT: Okay.
9 JUROR #133, WINDELL PHILSON: Windell Philson, #133.
10 U.S. Army, myself.
11 THE COURT: Okay.
12 JUROR #123, DEVIN OSBORNE: Devin Osborne, #123.
13 My dad.
14 THE COURT: Okay.
15 JUROR #46, DALE DICKSON: Dale Dickson, #46.
16 Several family members.
17 THE COURT: Okay.
18 JUROR #104, WERNER D. MCDANNALD: David McDannald,
19 #104.
20 Family members.
21 JUROR #77, TIFFANY JOHNSON: Tiffany Johnson, #77.
22 My brother.
23 JUROR #31, CHERYL CLAYTON: Cheryl Clayton, #31.
24 My husband.
25 THE COURT: Okay.

1 JUROR #127, DAVID PARENTI: David Parenti, #127.
2 I was in the U.S. Air Force.
3 THE COURT: You?
4 JUROR #127, DAVID PARENTI: Yes, sir.
5 THE COURT: Okay.
6 JUROR #195, SILAS WILLIAMS: Silas Williams.
7 My family members.
8 THE COURT: Okay.
9 JUROR #48, LEWIS EDWARDS: Lewis Edwards, #48.
10 Father and brother.
11 JUROR #137, STEVEN PUCKETT: #137, Steven Puckett.
12 A lot of family members.
13 THE COURT: Okay.
14 JUROR #165, CHRISTINA SNOW: #165, Christina Snow.
15 Family members.
16 THE COURT: Okay.
17 JUROR #6, GAIL BAGINSKI: Gail Baginski, #6.
18 Family member.
19 THE COURT: Okay. I'm trying to stay by rows. It's
20 kind of hard for --
21 Yes, ma'am.
22 JUROR #172, SUSAN SUBER: Susan Suber.
23 Family member.
24 THE COURT: Okay. What's the number?
25 THE CLERK: #172.

1 THE COURT: #173?
2 THE CLERK: #172.
3 THE COURT: Yes.
4 JUROR #18, RAVEN BOYD: Raven Boyd.
5 Family members.
6 THE COURT: Okay.
7 JUROR #119, KELLY NIX: Kelly Nix, #119.
8 Family.
9 THE COURT: Okay.
10 JUROR #168, MEREDITH STATON: Meredith Staton, #168.
11 Family member.
12 THE COURT: All right.
13 JUROR #174, THERESA SUMMER: Theresa Summer, #174.
14 Several family members.
15 THE COURT: Okay.
16 JUROR #60, ANDREA GIBSON: Andrea Gibson, #60.
17 Several family members.
18 THE COURT: Okay.
19 JUROR #110, LYLE MOORE: Lyle Moore, #110.
20 Father.
21 THE COURT: Okay.
22 JUROR #23, EDWARD BURGESS: Edward Burgess.
23 Family members.
24 JUROR #115, RONDA MUNDY: Ronda Mundy, #115.
25 Family members.

1 THE COURT: Okay.

2 JUROR #101, JANET MCCARTNEY: Janet McCartney, #101.
3 Several family members.

4 THE COURT: All right. Thank you.

5 Does any member of the jury panel feel like a witness
6 is more believable simply because he or she has served in
7 the military, or has been involved in law enforcement? If
8 you feel like that -- feel that, then stand at this time.

9 (WHEREUPON, there was no response.)

10 THE COURT: Does any member of the jury panel believe
11 that a person does not have the right to defend himself or
12 herself from loss of life or serious bodily injury? If
13 you hold that belief, please, stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: Does any member of the jury panel believe
16 in restricting the right of a person to own a gun in order
17 to protect themselves and their family? If so, please,
18 stand.

19 Okay. Do this. Get in the line at the end and we'll
20 talk further about that. Okay.

21 Give -- give me your name and your number, though.

22 JUROR #172, SUSAN SUBER: Susan Suber, #173 [sic].

23 THE COURT: Thank you, ma'am.

24 Does any member of the jury panel believe that a
25 person is never justified in using deadly force to defend

1 himself or herself, or believe that a man versus a woman,
2 woman versus a man as far as defending himself or herself?
3 If you hold that belief, please, stand.

4 (WHEREUPON, there was no response.)

5 THE COURT: Does any member of the jury panel believe
6 that because a man is much larger than a woman that
7 defending himself from a woman with a gun is never
8 justified? If you hold that belief, please, stand.

9 (WHEREUPON, there was no response.)

10 THE COURT: This trial may contain allegations or
11 issues concerning infidelity. Just because a person is
12 unfaithful you -- wait a minute. Let me see if I can read
13 this correctly. Let me ask it this way.

14 This trial may contain allegations or issues
15 concerning infidelity. Does any member of the jury panel
16 hold a strong belief concerning the issue of infidelity
17 that would prevent you from being fair and impartial to
18 both sides in this case? If that applies to you, please,
19 stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: One of the law enforcement officers
22 involved in this case is Bryant Cheek, who is, also, a
23 pastor at a local church in Laurens County, Springfield
24 Missionary Baptist Church. Do any members of the jury
25 panel attend this church, or is a member of this church?

1 If so, please, stand.

2 And your name?

3 JUROR #138, BERTHA PULLEY: My name is Bertha Pulley,
4 #138.

5 THE COURT: Okay. Are you a member?

6 JUROR #138, BERTHA PULLEY: No, I attend.

7 THE COURT: Do you attend on a regular basis?

8 JUROR #138, BERTHA PULLEY: Not a regular basis.

9 THE COURT: Okay. Have a seat.

10 Concerning Bryant Cheek, just because he is a pastor
11 and will more than likely be a witness in this case, does
12 the fact that he is a pastor and in law enforcement, would
13 that cause any member of the jury panel to automatically
14 give more credibility to his testimony, as opposed to any
15 other witness, the fact that he is a law enforcement
16 officer and a pastor? If that applies to you, please,
17 stand.

18 JUROR #138, BERTHA PULLEY: Bertha Pulley, #138.

19 THE COURT: Okay. And you would -- you would give
20 more credibility to his testimony?

21 JUROR #138, BERTHA PULLEY: Yes, sir, I would.

22 THE COURT: All right. Now, ladies and gentlemen, as
23 I told you at the outset, I'm going to be asking some
24 questions where I don't want you to respond in front of
25 everybody, but speak with me privately. And I'll try to

1 do it in groups of three. Because if I read all of them
2 at one time, you may have a hard time keeping -- keeping
3 things straight. So I'll ask it in groups of three.

4 And if -- if you need to respond to the question,
5 then we'll form a line. And then we'll go to the next
6 group of three and work our way through that.

7 Several of you who I indicated to speak with me
8 privately, let's do that at the end -- okay -- about
9 whatever -- I forget what questions you had indicated a
10 response to. Okay.

11 All right. The first question, has any member of the
12 jury panel, any of your immediate family members, any
13 close personal friends ever been accused of committing a
14 serious crime, or ever been a victim of a serious crime?
15 That's question one.

16 Has any member of the jury panel ever given a
17 statement to, been questioned by, or made a report to any
18 child protective agency such as the Department of Social
19 Services, the police, or any other agency or entity about
20 an incident involving a child?

21 Okay. And the third question in this first group,
22 has any member of the jury panel ever had any involvement
23 with or knows anyone who have had -- or has had any
24 involvement with the Julie Valentine Center, which is
25 located in Greenville, South Carolina, or Beyond Abuse,

1 which is located in Greenwood, South Carolina?

2 Okay. Now, concerning those three questions, does
3 anybody need for me to read those questions again? Just
4 raise your hand.

5 (WHEREUPON, several jurors raised their hand.)

6 THE COURT: All right. I'll read all three of them
7 again. First question, has any member of the jury panel,
8 any of your immediate family members, or close personal
9 friends ever been accused of committing a serious crime or
10 been a victim of a serious crime?

11 Next, has any member of the jury panel ever given a
12 statement to, been questioned by, or made a report to any
13 child protective agency such as the Department of Social
14 Services, the police, or any other entity about an
15 incident involving a child?

16 And the third question in this first group, has any
17 member of the jury panel ever had any involvement with or
18 knows anyone who has had any involvement with either the
19 Julie Valentine Center in Greenville, or Beyond Abuse in
20 Greenwood?

21 All right. So does anybody need to respond to one of
22 those three questions? Just stand.

23 Anybody else?

24 All right. We'll just form a line. And I'll speak
25 with you privately.

1 (WHEREUPON, a sidebar was held with the Court, the
2 attorneys, and potential jurors.)

3 THE BAILIFF: Juror #39.

4 THE COURT: Your name?

5 JUROR #39, SANDRA CROFT: My name is Sandra Croft.

6 THE COURT: Okay. Ms. Croft.

7 JUROR #39, SANDRA CROFT: My current live-in
8 boyfriend, he is facing murder charges right now in
9 Greenville County.

10 THE COURT: Okay.

11 JUROR #39, SANDRA CROFT: And he's had -- he,
12 actually, is having to testify. He's already testified
13 in -- against somebody in the trial. And he's got to go
14 to court next week to testify, also. He's more as a
15 witness. But he's still been charged -- is facing murder
16 charges.

17 THE COURT: All right. The fact that your live-in
18 boyfriend is involved in that case you just described, can
19 you still be fair and impartial to both sides?

20 JUROR #39, SANDRA CROFT: Uh-huh, definitely.

21 THE COURT: Okay. To both sides?

22 JUROR #39, SANDRA CROFT: Yeah. It's given me a
23 whole different perspective of both sides.

24 THE COURT: All right. Thank you.

25 Stay with us.

1 JUROR #39, SANDRA CROFT: Okay.

2 THE COURT: Thank you.

3 JUROR #39, SANDRA CROFT: Uh-huh.

4 (WHEREUPON, Juror #39, Sandra Croft, was seated.)

5 THE BAILIFF: Juror #53, Your Honor.

6 THE COURT: Yes, ma'am. Your name?

7 JUROR #53, FREDA FLANAGAN: Freda Flanagan.

8 THE COURT: Ma'am?

9 JUROR #53, FREDA FLANAGAN: Freda Flanagan.

10 THE COURT: Flanagan?

11 JUROR #53, FREDA FLANAGAN: Uh-huh.

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

13 JUROR #53, FREDA FLANAGAN: My mother and my father
14 were both accused and victims in a very bad domestic
15 violence case.

16 THE COURT: Okay. They were both accused of domestic
17 violence and victims of domestic violence?

18 JUROR #53, FREDA FLANAGAN: Uh-huh.

19 THE COURT: Okay. Would that prevent you from being
20 fair and impartial to both sides?

21 JUROR #53, FREDA FLANAGAN: (There was no response.)

22 THE COURT: I want you to be honest.

23 JUROR #53, FREDA FLANAGAN: If it's a domestic
24 violence case, probably.

25 THE COURT: Okay. The two charges involved in this

1 case are murder and use of a deadly weapon during the
2 commission of murder. Those are the two charges.

3 JUROR #53, FREDA FLANAGAN: Okay. Then no, sir.

4 THE COURT: Excuse me?

5 JUROR #53, FREDA FLANAGAN: No, sir.

6 THE COURT: No, sir what?

7 JUROR #53, FREDA FLANAGAN: I can be fair.

8 THE COURT: You can be fair and impartial to both
9 sides.

10 Okay. Stay with us.

11 Thank you.

12 (WHEREUPON, Juror #53, Freda Flanagan, was seated.)

13 THE BAILIFF: Juror #123.

14 THE COURT: Yes, sir. Your name?

15 JUROR #123, DEVIN OSBORNE: Devin Osborne.

16 THE COURT: Okay.

17 JUROR #123, DEVIN OSBORNE: The second question I
18 think you asked about the child.

19 THE COURT: All right.

20 JUROR #123, DEVIN OSBORNE: I have joint custody of a
21 six-year-old, my daughter. And there was some domestic
22 stuff going on with her mom about when she was, like,
23 three or four.

24 THE COURT: Okay. Would that prevent you from being
25 fair and impartial to both sides?

1 JUROR #123, DEVIN OSBORNE: No.

2 THE COURT: Okay. Thank you, sir.

3 (WHEREUPON, Juror #123, Devin Osborne, was seated.)

4 THE BAILIFF: #173 [sic].

5 THE CLERK: No. It's #172.

6 THE COURT: #172 for --

7 JUROR #172, SUSAN SUBER: #173.

8 THE CLERK: It's #172.

9 MS. MCNEILL: It's #172.

10 JUROR #172, SUSAN SUBER: It's #172. Okay. Sorry.

11 THE COURT: Yes, ma'am. Your name?

12 JUROR #172, SUSAN SUBER: Susan Suber.

13 THE COURT: Okay. Yes, ma'am, Ms. Suber.

14 JUROR #172, SUSAN SUBER: In 1977, April --

15 THE COURT: Shhh, shhh.

16 JUROR #172, SUSAN SUBER: In April 1977, I reported
17 to the Department of Social Services in Racine County,
18 Wisconsin, three malnourished children under the age of
19 three.

20 THE COURT: Okay. Thank you, ma'am.

21 JUROR #172, SUSAN SUBER: I've got another question,
22 too. Do you want to ask that now?

23 THE COURT: Yeah, yeah. Go ahead.

24 JUROR #172, SUSAN SUBER: Okay. What was the
25 question?

1 (WHEREUPON, there was no response.)

2 JUROR #72, SUSAN SUBER: Do you want to read that
3 question again, the gun one?

4 THE COURT: I can't remember what question that was.

5 MR. MOWRY: Yeah. She stood up on one.

6 THE COURT: Just go ahead and tell me. It was a gun
7 question? Tell me --

8 JUROR #172, SUSAN SUBER: I'm anti-gun.

9 THE COURT: You're anti-gun?

10 JUROR #172, SUSAN SUBER: Yes.

11 THE COURT: Okay. In any situation?

12 JUROR #172, SUSAN SUBER: In any situation.

13 THE COURT: So since the allegations in this case is
14 that a gun was used to kill somebody -- okay -- would that
15 prevent you from being completely fair and impartial to
16 both sides?

17 JUROR #172, SUSAN SUBER: I'll try not to let it be.

18 THE COURT: Well, and I appreciate your honesty. But
19 if you feel like there is a possibility that you cannot be
20 fair and impartial, then I want you to tell me that.

21 JUROR #172, SUSAN SUBER: There's a possibility.

22 THE COURT: Okay. I want you to remain with us.

23 JUROR #172, SUSAN SUBER: Sure.

24 THE COURT: But I'll excuse you from the trial of
25 this case. But I want you to stay with us. Okay.

1 JUROR #172, SUSAN SUBER: Okay.

2 THE COURT: All right. Thank you.

3 (WHEREUPON, Juror #172, Susan Suber, was seated.)

4 THE COURT: The Court has stricken her for cause.

5 THE BAILIFF: Juror #83, Your Honor.

6 THE COURT: Yes, ma'am. Your name?

7 JUROR #83, PAMELA KOMSKI: Michelle -- Pamela Komski.
8 I go by middle name. Sorry.

9 THE COURT: Okay.

10 JUROR #83, PAMELA KOMSKI: My brother-in-law was
11 convicted of -- I don't know exactly what the charge was.
12 But I know he -- it was something to do with sex with a
13 minor. She was 14.

14 THE COURT: All right. How long ago was that?

15 JUROR #83, PAMELA KOMSKI: 10, 11, 12 years.

16 THE COURT: Okay. Would that prevent you from being
17 fair and impartial to both sides?

18 JUROR #83, PAMELA KOMSKI: No.

19 THE COURT: Okay. Thank you.

20 Stay with us.

21 (WHEREUPON, Juror #83, Pamela Komski, was seated.)

22 THE BAILIFF: #119, Your Honor.

23 THE COURT: Yes, ma'am. Your name?

24 JUROR #119, KELLY NIX: Kelly Nix.

25 THE COURT: Okay.

1 JUROR #119, KELLY NIX: I've been heavily involved
2 with the solicitor and DSS in Greenville County. My
3 ex-husband was just convicted in July of sexual abuse of
4 our children. I was the one that turned him into the
5 police, and everything.

6 Infidelity, also, came up during that time frame.
7 This is all very fresh for me.

8 THE COURT: Okay. Well, would that present some
9 problems for you being fair and impartial to both sides?

10 JUROR #119, KELLY NIX: I feel like it could be
11 emotional for me, depending on what came up.

12 THE COURT: Okay. I'm going to excuse you from the
13 trial of this case. Stay with us, though. But I'm going
14 to excuse you from the trial of this case. Okay.

15 JUROR #119, KELLY NIX: Thank you, Your Honor.

16 (WHEREUPON, Juror #119, Kelly Nix, was seated.)

17 THE COURT: The Court has stricken her for cause.

18 THE BAILIFF: #174.

19 THE COURT: That line keeps growing.

20 Yes, ma'am. Your name?

21 JUROR #174, THERESA SUMMER: Theresa Summer.

22 THE COURT: Okay. Yes, ma'am, Ms. Summer.

23 JUROR #174, THERESA SUMMER: My -- my first cousin
24 was killed in -- he was the victim back in -- I think
25 about 10 years ago.

1 THE COURT: In a -- in a murder case?

2 JUROR #174, THERESA SUMMER: Uh-huh, domestic
3 violence.

4 THE COURT: And this was a cousin?

5 JUROR #174, THERESA SUMMER: Uh-huh, my first cousin.

6 THE COURT: First cousin. The fact that your first
7 cousin was -- was someone convicted of that?

8 JUROR #174, THERESA SUMMER: (Juror #174, Theresa
9 Summer, nodded.)

10 THE COURT: Okay. Would that prevent you from being
11 fair and impartial to both sides?

12 JUROR #174, THERESA SUMMER: I don't think so.

13 THE COURT: Well, I need for you to be certain of --
14 of that. But I want you to be honest, too.

15 JUROR #174, THERESA SUMMER: Yeah. I don't think it
16 would. But I'd have to hear all the evidence. I think
17 I'd -- I'd like to hear both sides of the story before
18 I --

19 THE COURT: Right. Well, and -- and that's one thing
20 I want you to do if you're on the jury.

21 But do you believe that you can be fair and
22 impartial, even though your cousin was a victim of a
23 homicide about 10 years ago?

24 JUROR #174, THERESA SUMMER: I think I could.

25 THE COURT: All right. Stay with us.

1 Thank you.

2 (WHEREUPON, Juror #174, Theresa Summer, was seated.)

3 THE BAILIFF: Juror #60.

4 JUROR #60, ANDREA GIBSON: Good afternoon.

5 THE COURT: Hi. Give me your name for the record.

6 JUROR #60, ANDREA GIBSON: Andrea Gibson.

7 THE COURT: Yes, ma'am, Ms. Gibson.

8 JUROR #60, ANDREA GIBSON: And I had an uncle that
9 was convicted of manslaughter.

10 THE COURT: Who was?

11 JUROR #60, ANDREA GIBSON: My uncle.

12 THE COURT: Your uncle?

13 JUROR #60, ANDREA GIBSON: And then in 1993, this
14 young fellow was abusing him and picking on him. And so
15 my uncle shot him in self-defense. But they didn't find
16 it self-defense because he shot him. They said he had
17 time to think on it.

18 THE COURT: Okay. This happened back in the 90s?

19 JUROR #60, ANDREA GIBSON: It was.

20 THE COURT: The fact that your uncle went through
21 that, can that -- can you still be fair and impartial to
22 both sides?

23 JUROR #60, ANDREA GIBSON: I can.

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

25 (WHEREUPON, Juror #60, Andrea Gibson, was seated.)

1 THE BAILIFF: Juror #110.

2 THE COURT: Yes, sir. Your name?

3 JUROR #110, LYLE MOORE: Lyle Moore.

4 THE COURT: Okay. Yes, sir, Mr. Moore.

5 JUROR #110, LYLE MOORE: When my daughter was nine
6 years old, she was molested by a 13-year-old boy. So we
7 had to contact DSS and the police.

8 And I'm, also, currently awaiting trial for third
9 degree criminal domestic violence.

10 THE COURT: All right. Concerning your child, how
11 long ago was that?

12 JUROR #110, LYLE MOORE: About three years ago.

13 THE COURT: Okay. Would that prevent you from being
14 fair and impartial to both sides?

15 JUROR #110, LYLE MOORE: No, sir.

16 THE COURT: Okay. And then you say you currently
17 have pending charges against yourself for domestic
18 violence third degree?

19 JUROR #110, LYLE MOORE: Yes, sir.

20 THE COURT: Okay. Can you still be fair and
21 impartial?

22 JUROR #110, LYLE MOORE: I believe so, sir.

23 THE COURT: Okay. Stay with us.

24 JUROR #110, LYLE MOORE: All right. Thanks.

25 (WHEREUPON, Juror #110, Lyle Moore, was seated.)

1 THE BAILIFF: Juror #150.

2 JUROR #115, RONDA MUNDY: It's #115.

3 THE BAILIFF: #115. I'm sorry. #115.

4 THE COURT: Yes, ma'am. Your name?

5 JUROR #115, RONDA MUNDY: Ronda Mundy.

6 THE COURT: Okay. Yes, ma'am, Ms. Mundy.

7 JUROR #115, RONDA MUNDY: I am a victim of criminal
8 domestic violence.

9 THE COURT: Okay.

10 JUROR #115, RONDA MUNDY: And my nephew was, also,
11 shot when he was 16.

12 THE COURT: All right. You've been a victim of
13 domestic violence about how long ago?

14 JUROR #115, RONDA MUNDY: 2002.

15 THE COURT: Okay. Would that prevent you from being
16 fair and impartial to both sides?

17 JUROR #115, RONDA MUNDY: Yeah.

18 THE COURT: Okay. I'm going to excuse you from the
19 trial of this case. But just remain with us, though.
20 Okay.

21 JUROR #115, RONDA MUNDY: Okay.

22 (WHEREUPON, Juror #115, Ronda Mundy, was seated.)

23 THE COURT: Stricken for cause.

24 THE BAILIFF: Juror #101.

25 THE COURT: Hey. State your name for the record.

1 JUROR #101, JANET MCCARTNEY: Janet McCartney.

2 THE COURT: Okay. Yes, ma'am, Ms. McCartney.

3 JUROR #101, JANET MCCARTNEY: I was the victim of
4 rape in 1984, statutory.

5 THE COURT: Okay.

6 JUROR #101, JANET MCCARTNEY: And my minor child --
7 my soon to be ex-husband served 10 years for the death of
8 our 18-year-old son.

9 THE COURT: Okay.

10 JUROR #101, JANET MCCARTNEY: And most recently,
11 domestic violence of which my husband was incarcerated for
12 last year -- early this year.

13 THE COURT: Okay. Would all that prevent you from
14 being fair and impartial to both sides?

15 JUROR #101, JANET MCCARTNEY: No.

16 THE COURT: You could still be fair and impartial to
17 both sides?

18 JUROR #101, JANET MCCARTNEY: Yeah.

19 THE COURT: Okay. Thank you.

20 (WHEREUPON, Juror #101, Janet McCartney, was seated.)

21 THE BAILIFF: Juror #77.

22 THE COURT: Just step back just a minute.

23 (WHEREUPON, there was an off-the-record discussion
24 with the Court and the attorneys that was out of the
25 hearing of the court reporter.)

1 THE COURT: #53 is stricken by the Court for cause per
2 agreement by both sides.

3 And #101 is stricken for cause per agreement between
4 the parties.

5 THE COURT: All right. Now, ma'am.

6 (WHEREUPON, Juror #77, Tiffany Johnson, came
7 forward.)

8 THE COURT: I should remember your name and your
9 number. Name?

10 JUROR #77, TIFFANY JOHNSON: Tiffany Johnson.

11 THE COURT: Johnson. And number?

12 JUROR #77, TIFFANY JOHNSON: #77.

13 THE COURT: Okay.

14 JUROR #77, TIFFANY JOHNSON: My cousin, actually, is
15 going to be up for trial soon, Clinton Smith, for the
16 murder of his wife, Kimberly Smith.

17 THE COURT: Okay.

18 JUROR #77, TIFFANY JOHNSON: And I grew up in an
19 abusive home.

20 THE COURT: All right.

21 JUROR #77, TIFFANY JOHNSON: So this is real touchy
22 for me.

23 THE COURT: Okay. You would have some issues being
24 fair and impartial?

25 JUROR #77, TIFFANY JOHNSON: I would.

1 THE COURT: Okay. Thank you for your honesty.
2 I'm going to excuse you from the trial of this case.
3 But stay with us. Okay.

4 JUROR #77, TIFFANY JOHNSON: Okay.

5 (WHEREUPON, Juror #77, Tiffany Johnson, was seated.)

6 THE COURT: The Court strikes for cause.

7 THE BAILIFF: Robin -- Robin Davis.

8 THE COURT: Okay. Give me your number.

9 JUROR #42, ROBIN DAVIS: I don't know my number.

10 THE CLERK: #42.

11 THE COURT: #42. Yes, ma'am.

12 JUROR #42, ROBIN DAVIS: My son, he was shot in a
13 home invasion three years ago.

14 THE COURT: Your son?

15 JUROR #42, ROBIN DAVIS: Yes, sir.

16 THE COURT: How old was he?

17 JUROR #42, ROBIN DAVIS: It was three years ago. 21.

18 THE COURT: 21?

19 JUROR #42, ROBIN DAVIS: Yes, sir.

20 THE COURT: All right. So he was a victim of a
21 shooting in a home invasion?

22 JUROR #42, ROBIN DAVIS: Yes, sir. And they never
23 caught the person.

24 THE COURT: Never caught the person?

25 JUROR #42, ROBIN DAVIS: Never.

1 THE COURT: Okay. Would that cause you some problems
2 being fair and impartial?

3 JUROR #42, ROBIN DAVIS: Yes, sir, it would.

4 THE COURT: Okay. I'm going to excuse you from this
5 trial. But stay with us. Okay.

6 JUROR #42, ROBIN DAVIS: Okay.

7 (WHEREUPON, Juror #42, Robin Davis, was seated.)

8 THE COURT: Stricken for cause.

9 THE BAILIFF: #66, Your Honor.

10 THE COURT: Yes, ma'am. Your name?

11 JUROR #66, CHASTITY HAWTHORNE: Chastity Hawthorne.

12 THE COURT: Yes, ma'am, Ms. Hawthorne.

13 JUROR #66, CHASTITY HAWTHORNE: I filed a police
14 report in 2006 against a neighbor -- a minor child that
15 was touching my daughter.

16 THE COURT: Okay. 2006?

17 JUROR #66, CHASTITY HAWTHORNE: Uh-huh.

18 THE COURT: Okay. Can you still be fair and
19 impartial to both sides in this case?

20 JUROR #66, CHASTITY HAWTHORNE: Yes, sir.

21 THE COURT: Thank you, ma'am.

22 (WHEREUPON, Juror #66, Chastity Hawthorne, was
23 seated.)

24 THE BAILIFF: Juror #190.

25 THE COURT: Yes, ma'am. Your name?

1 JUROR #190, ROSE WELCH: Rose Welch.

2 THE COURT: Okay. Ms. Welch.

3 JUROR #190, ROSE WELCH: My fiancé is currently
4 incarcerated.

5 THE COURT: Your fiancé is currently incarcerated?

6 JUROR #190, ROSE WELCH: Uh-huh.

7 THE COURT: And charged with what?

8 JUROR #190, ROSE WELCH: Murder.

9 THE COURT: Okay. Where? In Laurens County?

10 JUROR #190, ROSE WELCH: No. In Columbia.

11 THE COURT: Okay. Would that cause you some problems
12 being fair and impartial?

13 JUROR #190, ROSE WELCH: No.

14 THE COURT: You could still be fair and impartial to
15 both sides?

16 JUROR #190, ROSE WELCH: Uh-huh.

17 THE COURT: Completely?

18 JUROR #190, ROSE WELCH: Uh-huh.

19 THE COURT: All right. Thank you, ma'am.
20 Stay with us.

21 (WHEREUPON, Juror #190, Rose Welch, was seated.)

22 THE BAILIFF: Juror #129.

23 THE COURT: Yes, sir. Your name?

24 JUROR #129, JORDAN PEARSON: Jordan Pearson.

25 THE COURT: Pearson?

1 JUROR #129, JORDAN PEARSON: Yes, sir.

2 THE COURT: Okay. Yes, sir, Mr. Pearson.

3 JUROR #129, JORDAN PEARSON: This isn't pertaining to
4 the previous questions you asked about.

5 THE COURT: That's fine.

6 JUROR #129, JORDAN PEARSON: But I have issues with
7 race --

8 THE COURT REPORTER: Judge, I can't hear --

9 THE COURT: Get a little closer so she can hear you.

10 JUROR #129, JORDAN PEARSON: I have an issue with
11 race. It's a problem here.

12 THE COURT: Okay. You've got an issue with race?

13 JUROR #129, JORDAN PEARSON: Yes, sir.

14 THE COURT: Because the Defendant is Afro-American,
15 do you believe you could not be fair and impartial to him?

16 JUROR #129, JORDAN PEARSON: Yes, sir.

17 THE COURT: Okay. I'm going to excuse you from the
18 trial of this case. But stay with us. Okay.

19 JUROR #129, JORDAN PEARSON: Yes, sir.

20 (WHEREUPON, Juror #129, Jordan Pearson, was seated.)

21 THE COURT: Okay. Strike for cause.

22 THE BAILIFF: Juror #6.

23 THE COURT: Yes, ma'am. Your name?

24 JUROR #6, GAIL BAGINSKI: Gail Baginski.

25 THE COURT: Okay.

1 JUROR #6, GAIL BAGINSKI: I am a mandated reporter.

2 THE COURT: Okay. And you are -- you work where?

3 JUROR #6, GAIL BAGINSKI: Greenville Memorial
4 Hospital.

5 THE COURT: Okay. Very good.

6 Thank you, ma'am.

7 (WHEREUPON, Juror #6, Gail Baginski, was seated.)

8 THE BAILIFF: #133.

9 THE COURT: Yes, sir. Your name?

10 JUROR #133, WINDELL PHILSON: Windell Philson.

11 THE COURT: Yes, Mr. Philson.

12 JUROR #133, WINDELL PHILSON: My son had an armed
13 robbery in Spartanburg County.

14 THE COURT: Your son was -- was he convicted?

15 JUROR #133, WINDELL PHILSON: He got probation.

16 THE COURT: Okay. He was convicted of armed robbery?

17 JUROR #133, WINDELL PHILSON: Uh-huh.

18 THE COURT: The fact that your son was convicted of
19 armed robbery, can you still be fair and impartial to both
20 sides?

21 JUROR #133, WINDELL PHILSON: Yes, sir.

22 THE COURT: Okay. Thank you.

23 Stay with us.

24 (WHEREUPON, Juror #133, Windell Philson, was seated.)

25 (WHEREUPON, the sidebar was concluded.)

1 THE COURT: All right. Ladies and gentlemen, we
2 still have a ways to go with the questions. Does anybody
3 need to take a break at this time?

4 (WHEREUPON, several potential jurors indicated in
5 the affirmative.)

6 THE COURT: Okay. We have several.

7 All right. And those who need to take a break, go
8 ahead and do so. If you want to just remain in the
9 courtroom at this time, that's fine, too.

10 So we'll take about a 10-minute break for those who
11 need a break. Don't go far. When you're finished with
12 your break, come on back in the courtroom.

13 (WHEREUPON, a break was taken.)

14 THE COURT: Ladies and gentlemen, we're going to
15 continue with this -- what we call, just for your
16 information, the voir dire process of asking you certain
17 questions. The next group is of three questions. Again,
18 you can speak with me privately. Don't respond in open
19 court.

20 First question, has any member of the jury panel
21 received any special training or education in the subject
22 of domestic violence, whether involving minors or adults?

23 Next question, has any member of the jury panel
24 attended any events or meetings in relation to criminal
25 domestic violence?

1 And third question, has any member of the jury panel
2 been a victim of or a witness to domestic violence?

3 And if any of you who had already come to the front
4 and spoke to me privately on the issue of domestic
5 violence as far as being involved in any kind of domestic
6 violence situation, you do not need to come back again.
7 We already have your information.

8 So does anybody need for me to read those three
9 questions again? Raise your hand if you do.

10 (WHEREUPON, there was no response.)

11 THE COURT: All right. Does anybody need to speak
12 with me privately about those three questions? If so,
13 please, stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: All right. Seeing none.

16 All right. This next -- this last -- this is the
17 last group of questions. And they have four. I'll ask
18 four questions. Okay. This is similar to what I just
19 asked, but a little different.

20 Does any member of the jury panel have an immediate
21 family member who has been a victim of domestic violence?

22 And, again, if you've already shared that -- and I
23 can't recall if you have. But if you've already shared
24 that you have a family member -- an immediate family
25 member who's been a victim of domestic violence, you do

1 not -- you do not need to speak with me again on that.

2 That's the first question.

3 Second question, does any member of the jury panel
4 have any beliefs about gun control or gun violence that
5 would prevent you from being fair and impartial to both
6 the Defendant and the State in this case?

7 Third, does any member of the jury panel -- any
8 member of the jury panel have an immediate family member
9 or a close personal friend that has either been shot or
10 killed by a gun?

11 And last, everybody is aware of the -- the media
12 coverage concerning gun violence in schools. Does any
13 member of the jury panel -- or let me ask it this way.
14 Would anything about this issue that has been covered in
15 the media prevent you from being fair and impartial to
16 both sides in this case?

17 Does anybody need for me to repeat those four
18 questions? If so, raise your right hand.

19 (WHEREUPON, there was no response.)

20 THE COURT: All right. Does anybody -- concerning
21 one, or both, or all of those questions need to speak with
22 me privately? If so, please, stand.

23 All right. I've got one.

24 Okay. Now, you can go ahead and get -- get in the
25 line.

1 The few people -- early on, I indicated -- I told you
2 to speak to me privately, not necessarily with respect to
3 these last questions. If you need to speak with me
4 privately or I instructed you to, get in the line.

5 If there's any other issue that you need to be
6 brought -- that you need to bring to my attention that we
7 need to speak about, get in the line and we'll do it at
8 this time.

9 (WHEREUPON, a sidebar was held with the Court, the
10 attorneys, and potential jurors.)

11 THE BAILIFF: Juror #165.

12 THE COURT: Okay. Yes, ma'am. Your name?

13 JUROR #165, CHRISTINA SNOW: Christy Snow.

14 THE COURT: Yeah, Ms. Snow.

15 JUROR #165, CHRISTINA SNOW: Yes. My mother was a
16 victim of domestic violence.

17 THE COURT: Okay. How long ago was that?

18 JUROR #165, CHRISTINA SNOW: Probably about three,
19 four years ago.

20 THE COURT: Okay. Would that prevent you from being
21 fair and impartial to both sides?

22 JUROR #165, CHRISTINA SNOW: No.

23 THE COURT: Okay. Thank you, ma'am.

24 Stay with us.

25 (WHEREUPON, Juror #165, Christina Snow, was seated.)

1 THE BAILIFF: Juror #83.

2 THE COURT: Yes, ma'am.

3 JUROR #83, PAMELA KOMSKI: I'm not sure what to call
4 him, my high school sweetheart --

5 THE COURT: All right. Your name?

6 JUROR #83, PAMELA KOMSKI: Oh, Pamela Komski. Sorry.

7 THE COURT: Okay.

8 JUROR #83, PAMELA KOMSKI: It's my oldest child's
9 biological father was shot and killed.

10 THE COURT: Okay. How long ago was that?

11 JUROR #83, PAMELA KOMSKI: 21 years.

12 THE COURT: Okay. Would that have any bearing on
13 your ability to be fair and impartial?

14 JUROR #83, PAMELA KOMSKI: No.

15 THE COURT: Thank you, ma'am.

16 (WHEREUPON, Juror #83, Pamela Komski, was seated.)

17 THE BAILIFF: Juror #46, Your Honor.

18 THE COURT: Okay. Your name?

19 JUROR #46, DALE DICKSON: Dale Dickson.

20 THE COURT: Okay. Are you the juror that has a
21 problem with Friday?

22 JUROR #46, DALE DICKSON: Well, it's just that
23 this -- this is a once in a lifetime -- you know, Easter
24 is Sunday.

25 THE COURT: Right.

1 JUROR #46, DALE DICKSON: My mother was born on
2 Easter Sunday. She was buried on Easter Sunday. And I'm
3 being baptized Easter Sunday.

4 THE COURT: All right. Well, good for you. What
5 we're going to do is I'm not sure how this -- how
6 long this --

7 JUROR #46, DALE DICKSON: Yeah.

8 THE COURT: -- so we're going to transfer you to
9 another term.

10 JUROR #46, DALE DICKSON: Okay.

11 THE COURT: And just make sure that when you get
12 notice that you -- you have your calendar cleared.

13 JUROR #46, DALE DICKSON: Okay.

14 THE COURT: Good luck to you.

15 JUROR #46, DALE DICKSON: Thank you.

16 (WHEREUPON, Juror #46, Dale Dickson, was seated.)

17 THE COURT: This juror is transferred.

18 THE BAILIFF: #23, Your Honor.

19 THE COURT: Okay. Yes, sir. Your name?

20 JUROR #23, EDWARD BURGESS: Edward Burgess, #23.

21 THE COURT: Okay. Yes, sir.

22 JUROR #23, EDWARD BURGESS: It ain't about the civil
23 thing. But I've got a medical condition. I'm a diabetic.
24 And I wasn't thinking this'd go this long before we got a
25 break. But with my sugar -- and I can't sit another no

1 three hours, so -- without checking.

2 THE COURT: Okay. We usually don't go more than,
3 like, an hour and a half at any given clip of time during
4 the trial.

5 JUROR #23, EDWARD BURGESS: Okay.

6 THE COURT: So if you're -- if you're good with
7 that -- now, are you having issues right now? Do you need
8 to eat something real quick?

9 JUROR #23, EDWARD BURGESS: I need to go out there
10 and check it.

11 THE COURT: Huh?

12 JUROR #23, EDWARD BURGESS: I need to go out and
13 check it. I've got my stuff in the car.

14 THE COURT: All right. What we're going to do -- if
15 you can stay with us about another five minutes.

16 JUROR #23, EDWARD BURGESS: Okay.

17 THE COURT: We're going to be -- take another -- not
18 that I'm going to send anybody out. But you can leave to
19 go check it and then come right back in. Okay. Give me
20 about five minutes. All right.

21 JUROR #23, EDWARD BURGESS: Okay. Thank you.

22 (WHEREUPON, Juror #23, Edward Burgess, was seated.)

23 THE BAILIFF: #167, Your Honor.

24 THE COURT: Mr. Sprinkles.

25 JUROR #167, SANDY SPRINKLES: Yes, sir.

1 THE COURT: Okay. Yes, sir.

2 JUROR #167, SANDY SPRINKLES: You asked a question
3 about the newspaper, media. I mean, I remember seeing it.
4 I don't remember all the details, but.

5 THE COURT: Okay. The fact that you do remember
6 seeing and reading about it, would it cause you any
7 problems with being fair and impartial?

8 JUROR #167, SANDY SPRINKLES: I don't think so, no,
9 sir.

10 THE COURT: All right. Thank you, sir.

11 (WHEREUPON, Juror #167, Sandy Sprinkles, was seated.)

12 (WHEREUPON, the sidebar was concluded.)

13 THE COURT: Okay. My last question -- and I've
14 already touched on this, and I've asked several of you.
15 Does any member of the jury panel know of any reason
16 whatsoever that would prevent you from being fair and
17 impartial to both the State and the Defendant, Mr. Davis,
18 in this case? Any reason whatsoever?

19 We need for you to be 100 percent fair and impartial
20 to both sides as we start and progress through this trial
21 this week. If that applies to you, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: Okay. I'm going to get the clerk to
24 start working on the compiling of names. I'll give a
25 chance for both the State and the Defense to look over

1 your notes concerning jurors.

2 I have one juror in the back, he needs to go out and
3 check something real quick and then come right back in.

4 Anybody else who has just a pressing need to leave
5 this courtroom for just a short period of time, I'll give
6 you an opportunity to do that, and then come right back
7 in.

8 Anybody else need to leave real quick?

9 (WHEREUPON, there was no response.)

10 THE COURT: Everybody be at ease for just a few
11 minutes and await for that gentleman to come back in.
12 Okay.

13 Let me just -- does the State have any initial voir
14 dire, any objections to voir dire?

15 MR. MOWRY: No and no, Your Honor.

16 THE COURT: Okay. The Defense?

17 MS. MCNEILL: No, other than the two questions that I
18 raised.

19 THE COURT: Right.

20 MS. MCNEILL: Thank you.

21 THE COURT: All right. Everybody be at ease.

22 (WHEREUPON, a break was taken.)

23 THE COURT: All right. Ladies and gentlemen, we're
24 going to begin with jury selection. And how -- how this
25 works is if your name is called out, bring all your

1 belongings with you. And you'll come down and you'll face
2 the doors. And you'll hear words such as, swear the
3 juror, or seat the juror, or excuse the juror from the
4 trial of this case, words like that.

5 If you're selected, then at the direction of our
6 bailiffs, you'll take a seat in what we call the jury box.
7 If you're not selected, then you'll go back to your -- to
8 your seat.

9 If you're not selected, don't take it personally.
10 Okay. The jurors -- the lawyers rather, they have certain
11 reasons for wanting certain people on a jury and certain
12 reasons for not wanting people on the jury. So don't --
13 don't take it personally. Don't be offended by it. Okay.
14 And so that's the manner in which we select juries.

15 The strikes, as the lawyers know, are 10 and five. I
16 think because of the potential length of this case, it may
17 be prudent to have three alternates. So, of course, as
18 you know, two and one on each alternate.

19 Okay. Are the lawyers ready for jury selection?

20 MR. MOWRY: Yes, sir, Your Honor.

21 THE COURT: Is the Defense ready?

22 MS. MCNEILL: Yes, sir.

23 THE COURT: All right. Madam Clerk.

24 JURY SELECTION

25 THE CLERK: Juror #137, Steven T. Puckett.

1 (WHEREUPON, Steven T. Puckett, a white male, came
2 forward.)

3 THE CLERK: What says the State?

4 MR. MOWRY: Present the juror.

5 THE CLERK: What says the Defense?

6 MS. MCNEILL: Please excuse the juror from the trial
7 of this case.

8 THE CLERK: Juror #24, Cristan N. Butler.

9 MS. MCNEILL: I'm sorry. What was that number?

10 THE CLERK: #24.

11 MS. MCNEILL: Thank you.

12 (WHEREUPON, Cristan Butler, a white female, came
13 forward.)

14 THE CLERK: What says the State?

15 MR. MOWRY: Present the juror.

16 THE CLERK: What says the Defense?

17 MS. MCNEILL: Please seat the juror.

18 THE CLERK: Juror #193, Jonathan T. Wilburn.

19 (WHEREUPON, Jonathan T. Wilburn, a white male, came
20 forward.)

21 THE CLERK: What says the State?

22 MR. MOWRY: Present the juror.

23 THE CLERK: What says the Defense?

24 MS. MCNEILL: Please excuse this juror.

25 THE CLERK: Juror #21, Rodney F. Brewer.

1 (WHEREUPON, Rodney F. Brewer, a white male, came
2 forward.)

3 THE CLERK: What says the State?

4 MR. MOWRY: Please present the juror.

5 THE CLERK: What says the Defense?

6 MS. MCNEILL: Please excuse this juror.

7 THE CLERK: Juror #83, Pamela M. Komski.

8 (WHEREUPON, Pamela M. Komski, a white female, came
9 forward.)

10 THE CLERK: What says the State?

11 MR. MOWRY: Please present the juror.

12 THE CLERK: What says the Defense?

13 MS. MCNEILL: Please excuse the juror.

14 THE CLERK: Juror #110, Lyle A. Moore.

15 (WHEREUPON, Lyle A. Moore, a white male, came
16 forward.)

17 THE CLERK: What says the State?

18 MR. MOWRY: Excuse Mr. Moore from this trial.

19 THE CLERK: Juror #47, Megan N. Dudleson.

20 (WHEREUPON, Megan N. Dudleson, a white female, came
21 forward.)

22 THE CLERK: What says the State?

23 MR. MOWRY: Please present the juror.

24 THE CLERK: What says the Defense?

25 MS. MCNEILL: Please present this juror for the trial

1 of the case.

2 THE CLERK: Juror #168, Meredith K. Staton.

3 (WHEREUPON, Meredith K. Staton, a white female came
4 forward.)

5 THE CLERK: What says the State?

6 MR. MOWRY: Please present the juror.

7 THE CLERK: What says the Defense?

8 MS. MCNEILL: I beg the Court's indulgence.

9 THE COURT: Sure. Take your time.

10 (Pause.)

11 MS. MCNEILL: Please excuse this juror.

12 THE CLERK: Juror #174, Theresa F. Summer.

13 (WHEREUPON, Theresa Summer, a white female, came
14 forward.)

15 THE CLERK: What says the State?

16 MR. MOWRY: Please present the juror.

17 THE CLERK: What says the Defense?

18 MS. MCNEILL: Please excuse the juror from the trial
19 of this case.

20 THE CLERK: Juror #144, Martha Ann Reece.

21 (WHEREUPON, Martha Ann Reece, a white female, came
22 forward.)

23 THE CLERK: What says the State?

24 MR. MOWRY: Please present the juror.

25 THE CLERK: What says the Defense?

1 MS. MCNEILL: Please present the juror for the trial
2 of this case.

3 THE CLERK: Juror #72, Donna M. Hughes.

4 (WHEREUPON, Donna M. Hughes, a white female, came
5 forward.)

6 THE CLERK: What says the State?

7 MR. MOWRY: Please present the juror.

8 THE CLERK: What says the Defense?

9 MS. MCNEILL: Please present the juror for the trial
10 of this case.

11 THE CLERK: Juror #187, Shequilia R. Walker.

12 (WHEREUPON, Shequilia Walker, a black female, came
13 forward.)

14 MS. MCNEILL: Is that #187?

15 THE CLERK: #187.

16 What says the State?

17 MR. MOWRY: Please present the juror.

18 THE CLERK: What says the Defense?

19 MS. MCNEILL: Please present the juror.

20 THE CLERK: Juror #31, Cheryl R. Clayton.

21 (WHEREUPON, Cheryl R. Clayton, a white female, came
22 forward.)

23 THE CLERK: What says the State?

24 MR. MOWRY: Please present the juror.

25 THE CLERK: What says the Defense?

1 MS. MCNEILL: Please present the juror for the trial
2 of this case.

3 THE CLERK: Juror #23, Edward C. Burgess.

4 (WHEREUPON, Edward C. Burgess, a white male, came
5 forward.)

6 THE CLERK: What says the State?

7 MR. MOWRY: Please present the juror.

8 THE CLERK: What says the Defense?

9 MS. MCNEILL: Please present the juror.

10 THE CLERK: Juror #195, Silas A. Williams.

11 (WHEREUPON, Silas A. Williams, a black male, came
12 forward.)

13 THE CLERK: What says the State?

14 MR. MOWRY: Please present the juror.

15 THE CLERK: What says the Defense?

16 MS. MCNEILL: Please present the juror for the trial
17 of this case.

18 THE CLERK: Juror #27, Timothy B. Campbell.

19 (WHEREUPON, Timothy B. Campbell, a white male, came
20 forward.)

21 THE CLERK: What says the State?

22 MR. MOWRY: Please present the juror.

23 THE CLERK: What says the Defense?

24 MS. MCNEILL: Please present the juror for the trial
25 of the case.

1 THE CLERK: Juror #123, Devin L. Osborne.

2 (WHEREUPON, Devin L. Osborne, a white male, came
3 forward.)

4 THE CLERK: What says the State?

5 MR. MOWRY: Please present the juror.

6 THE CLERK: What says the Defense?

7 MS. MCNEILL: Please present the juror.

8 THE CLERK: Juror #82, Kenneth J. Kern, Jr.

9 (WHEREUPON, Kenneth J. Kern, Jr., a white male, came
10 forward.)

11 THE CLERK: What says the State?

12 MR. MOWRY: Please present the juror.

13 THE CLERK: What says the Defense?

14 MS. MCNEILL: Please excuse the juror from the trial
15 of this case.

16 THE CLERK: Juror #188, Jacqueline Watts.

17 (WHEREUPON, Jacqueline Watts, a black female, came
18 forward.)

19 THE CLERK: What says the State?

20 MR. MOWRY: Please present the juror.

21 THE CLERK: What says the Defense?

22 MS. MCNEILL: Please present the juror.

23 THE CLERK: Juror #1, Barbara J. Acheson.

24 (WHEREUPON, Barbara J. Acheson, a white female, came
25 forward.)

1 THE CLERK: What says the State?

2 MR. MOWRY: Excuse the juror from this trial.

3 THE CLERK: Juror #194, Byron J. Williams.

4 (WHEREUPON, Byron J. Williams, a white male, came
5 forward.)

6 THE CLERK: What says the State?

7 MR. MOWRY: Please present the juror.

8 THE CLERK: What says the Defense?

9 MS. MCNEILL: Please excuse the juror from the trial
10 of this case.

11 THE CLERK: Juror #29, Christine Carver.

12 (WHEREUPON, Christine Carver, a white female, came
13 forward.)

14 THE CLERK: What says the State?

15 MR. MOWRY: Please present the juror.

16 THE CLERK: What says the Defense?

17 MS. MCNEILL: Please excuse the juror.

18 THE CLERK: Juror #18, Raven Boyd.

19 (WHEREUPON, Raven Boyd, a black female, came
20 forward.)

21 THE CLERK: What says the State?

22 MR. MOWRY: Please present the juror.

23 THE CLERK: What says the Defense?

24 MS. MCNEILL: I beg the Court's indulgence.

25 THE COURT: Sure. Take your time.

1 (Pause.)

2 MS. MCNEILL: Please excuse the juror from the trial
3 of the case.

4 THE CLERK: Juror #6, Gail A. Baginski.

5 (WHEREUPON, Gail A. Baginski, a white female, came
6 forward.)

7 THE CLERK: What says the State?

8 MR. MOWRY: Please present the juror.

9 THE CLERK: Would the Defense challenge for cause?

10 MS. MCNEILL: No. Please seat the juror.

11 THE COURT: All right. We have the 12 selected.
12 Three alternates.

13 THE CLERK: Juror #190, Rose A. Welch.

14 (WHEREUPON, Rose A. Welch, a white female, came
15 forward.)

16 THE CLERK: What says the State?

17 MR. MOWRY: Excuse the juror from this trial.

18 THE CLERK: Juror #156, Kenneth J. Seiler.

19 (WHEREUPON, Kenneth J. Seiler, a white male, came
20 forward.)

21 THE CLERK: Would the State challenge for cause?

22 MR. MOWRY: No, ma'am.

23 THE CLERK: What says the Defense?

24 MS. MCNEILL: I beg the Court's indulgence.

25 (Pause.)

1 MS. MCNEILL: Please excuse this juror.

2 THE CLERK: Juror #133, Windell Philson.

3 (WHEREUPON, Windell Philson, a black male, came
4 forward.)

5 MS. MCNEILL: Was that #133?

6 THE CLERK: Yes, ma'am.

7 Would the State challenge for cause?

8 MR. MOWRY: No, ma'am.

9 THE CLERK: What says the Defense?

10 MS. MCNEILL: Please seat the juror.

11 THE CLERK: Juror #16, Whitney S. Bland.

12 (WHEREUPON, Whitney S. Bland, a black female, came
13 forward.)

14 THE CLERK: What says the State?

15 MR. MOWRY: Please present the juror.

16 THE CLERK: What says the Defense?

17 MS. MCNEILL: Please seat this juror.

18 THE CLERK: Juror #88, Christina M. Lester.

19 (WHEREUPON, Christina M. Lester, a white female,
20 came forward.)

21 THE CLERK: What says the State?

22 MR. MOWRY: Please present the juror.

23 THE CLERK: What says the Defense?

24 MS. MCNEILL: Please excuse this juror.

25 THE CLERK: Juror #130, Lemuel R. Penland.

1 (WHEREUPON, Lemuel R. Penland, a white male, came
2 forward.)

3 THE CLERK: What says the State?

4 MR. MOWRY: Please present the juror.

5 THE CLERK: What says the Defense?

6 MS. MCNEILL: Please present the juror for the trial
7 of the case.

8 THE COURT: Congratulations, ladies and gentlemen.
9 You've been selected as the trial jury in this case.

10 What I want you to do is go back to the jury room.
11 Mr. Bolt will escort you back there. I'll give you a few
12 minutes to introduce yourselves to each other, get kind of
13 acclimated to where you're going to be spending some time
14 this week.

15 And I will, also, want you to select a Foreperson of
16 this jury. Now, if it is a male, we call them a Foreman.
17 If it is a female, we call her a Forelady. Let me explain
18 to you a little bit about what a Foreperson does. They
19 wear several hats.

20 First of all, I need someone to serve as spokesperson
21 between the jury and the Court. Now, if there's an issue
22 that arises during the trial of this case, then I need
23 someone to bring it to my attention. Typically, there
24 will be paper back there, just write out what it is, hand
25 it to the bailiff. And they'll get it to me so I can deal

1 with it.

2 Also, when I give you the case to begin your
3 deliberations, if there's any questions that arise that
4 need to be brought to the Court's attention, then I need
5 someone to do that as well.

6 Secondly, I need someone to make sure that all of my
7 instructions starting now throughout the course of the
8 trial are being followed, even though that's really
9 everybody's responsibility. Primarily, that's the
10 Foreperson's responsibility to do that.

11 And lastly, when I do give you the case to begin your
12 deliberations, I need someone to organize those
13 deliberations and supervise those deliberations.

14 Now, the vote of the Foreperson carries no greater
15 weight than the vote of the others on the jury. I'm
16 confident that all 15 of you would make excellent
17 Foreperson's of the jury, but we can only have one. And I
18 sometimes pick the Foreperson. Sometimes, I have the law
19 clerk pick the Foreperson. And sometimes, I have the jury
20 elect among yourselves. And I'm going to give you that
21 opportunity.

22 Now, the three alternates, you can be a part of that
23 voting process. Certainly, when the jury gets the case to
24 begin their deliberations, alternates do not participate
25 in those deliberations. But in so far as selecting a

1 Foreperson, you can participate in that.

2 And let me just briefly explain the role of the
3 alternates. Your role is very important. It's not
4 unusual, especially in a case that's going to take as long
5 as this case is anticipated to take, for one of the 12 to
6 have an illness, become ill, have an emergency at home, or
7 other reasons, and I have to excuse that person. I need
8 someone who's been sitting here listening to all the
9 testimony and the evidence to be able to step in and fill
10 those shoes of that excused juror.

11 So your role is very, very important. You'll
12 maintain those three seats. And the Foreperson will
13 always maintain this front seat. Everybody else can sit
14 wherever you like in those chairs there.

15 It's been my experience that jurors like to sit in
16 the same seat throughout the whole trial, kind of like a
17 church, you sit in the same seat, same pew at church. But
18 that's totally up to you. The Foreperson and alternates,
19 they have their assigned seats, but everyone else can sit
20 where you like.

21 Now, lastly, before I send you back there, I'm going
22 to tell you something that you're going to hear me say
23 throughout this trial, don't begin any discussion among
24 yourselves about anything related to this case. I know
25 you know very little. But anything you've seen, you've

1 heard, you can't begin any discussion among yourselves.
2 Okay. Those discussions cannot start until I tell you to
3 begin your deliberations, which, of course, would be at
4 the end of the case.

5 Okay. So if you'll go back, select your foreperson.
6 Have that person's name written down on a piece of paper
7 for me and give it to Mr. Bolt.

8 I have jury candy that's compliments of the Court. I
9 always buy sugar free because I don't know if people can
10 have sugar candy, or you're watching your weight, or
11 whatever. I've had some juries complain that it's sugar
12 free, but I guess I can't please everybody.

13 But, Mr. Bolt, if you'll take it back there with you.

14 Okay. Go back. We'll get you back out shortly.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 12:45 p.m.)

17 THE COURT: Does the State have any exceptions or
18 objections to jury selection?

19 MR. MOWRY: No exceptions. No objections, Your
20 Honor.

21 THE COURT: Defense?

22 MS. MCNEILL: No, sir.

23 THE COURT: Okay. Thank you very much.

24 Ladies and gentlemen of the remaining jury panel, I
25 hope, at least, some of you are disappointed that you were

1 not selected on this jury. I know some of you are glad
2 that you were not.

3 Now, what I want you to do. Even though this case is
4 expected to take all week, I don't want to excuse you for
5 the whole week yet. So what you need to do after 6:00
6 this evening, look at your card, make sure you've got that
7 card that had the information we needed from you during
8 roll call. There's a number. And you'll need to call
9 that number, and it will tell you what to do. Chances are
10 it's going to tell you to call back after 6:00 tomorrow
11 evening. Okay. But I don't want to excuse you quite yet.

12 All right. But you are free to go. And if I don't
13 see you back, I hope sometime down the road that you'll be
14 summoned back to this courtroom or if you move to another
15 county, another courtroom and you'll have the opportunity
16 to be selected on a trial jury, whether it's in a criminal
17 case, such as we have here, or in a civil case.

18 But have a great afternoon and great evening.

19 You're free to go.

20 (WHEREUPON, the remaining jury panel members exited
21 the courtroom.)

22 THE COURT: All right. It is approaching lunch hour.
23 Now, I know that we still have some pre-trial left.

24 Do we have an idea about how long that's going to be,
25 understanding when we're breaking for -- today this

1 afternoon?

2 MR. SHAFFER: Your Honor, obviously, there is
3 pre-trial related to the expert, which I don't believe is
4 here.

5 MR. MOWRY: He's not. If we can take that up maybe
6 even --

7 MR. SHAFFER: We have our guy coming Wednesday. We
8 were under the impression it would be Wednesday.

9 MR. MOWRY: I believe Wednesday would probably work
10 for us as well, Your Honor.

11 THE COURT: Okay. So continuing with the cell phone
12 pre-trial issue, we will just wait and deal with that when
13 both the experts are here on Wednesday. Is that what
14 you're saying?

15 MR. SHAFFER: Yes, Your Honor.

16 THE COURT: All right. So are there any other
17 pre-trial issues that we have not dealt with, or have any
18 pre-trial issues surfaced back -- back up?

19 MS. MCNEILL: I would like to know if there's any
20 jail calls the State plans on using as of today's date.

21 MR. MOWRY: None, Your Honor. No, sir.

22 THE COURT: Okay.

23 MS. MCNEILL: And then the only other issue is I
24 think the State and I, we should probably get together and
25 go through the other photographs.

1 MR. MOWRY: Right.

2 MS. MCNEILL: From the autopsy and so on and so
3 forth. We've already agreed on the pack of photographs
4 that Mr. Bentley brought to my office on Friday afternoon.

5 THE COURT: Okay.

6 MS. MCNEILL: I believe Walter was supposed to have
7 finished redacting or editing the 911 call and the
8 recorded interview. I think I have the 911 call. And I
9 guess we got the recorded interview today as well. So
10 that's cleared up.

11 THE COURT: Okay. Anything else?

12 MR. SHAFFER: Your Honor, we will have to take a
13 substantial amount of time to, actually, review that
14 911 --

15 THE COURT: Sure.

16 MR. SHAFFER: Or, at least, the recorded statement.
17 I imagine it's probably 45 minutes long.

18 MR. MOWRY: Probably more than that. I don't think
19 we're going to get to that until tomorrow the way things
20 are going.

21 THE COURT: Let's do this. We'll break for lunch and
22 start back at 2:15. Let's do our opening. And I would --
23 I'm just guessing here, but probably your first witness
24 may be lengthy.

25 MR. MOWRY: No, sir. Actually, the first three might

1 be fairly quick. I was going to call the sister of the
2 victim.

3 THE COURT: Okay.

4 MR. MOWRY: I was going to call a neighbor from
5 across the street, and then Lieutenant Crain.

6 THE COURT: Okay.

7 MR. MOWRY: And all of those should be relatively
8 quick. I think we could probably get all three of those
9 in this afternoon.

10 THE COURT: Okay.

11 MR. SHAFFER: Your Honor, just related to the sister
12 of the victim. We're not exactly sure what -- I mean, I
13 imagine she's going to talk about the -- where the victim
14 was beforehand or -- but -- which, obviously, is fine,
15 Your Honor. I would just ask -- because there is some
16 allegation of messaging going back and forth and things
17 like that, I would just ask to make sure she's warned not
18 to disclose anything that the deceased said to her.

19 THE COURT: Okay.

20 MR. SHAFFER: I don't think they're going to try to
21 get into that.

22 MR. MOWRY: No, sir. That wasn't our intention.

23 THE COURT: All right. Very good.

24 Let's kind of plan then, we'll start back at 2:15, do
25 opening, try to get those three short State's witnesses

1 in --

2 MR. MOWRY: Actually, Your Honor, there was a fourth
3 witness that is Joey -- I forgot about this one. It's
4 Joey Avery with 911 to enter the phone calls to 911.

5 THE COURT: Okay.

6 MR. MOWRY: And they do have the recording.

7 THE COURT: Okay. But I think the 911 calls are
8 something you need to review. So get them in, unless
9 there's some objection. But, certainly, not play it for
10 the jury until they've had an opportunity to review.

11 MR. MOWRY: Yes, sir.

12 THE COURT: Okay. That will be fine.

13 Okay. Let's get the jury back out and go from there.

14 (WHEREUPON, the jury came into open court at
15 approximately 12:54 p.m.)

16 THE COURT: Ms. Baginski, you've been voted as
17 Forelady of this jury.

18 Ladies and gentlemen, it's approaching the 1:00 hour.
19 It will be a good time to break for lunch. I want you
20 back here at 2:15, and we will start the trial of this
21 case. We're going to stop a little earlier today. But
22 we'll get started. And I think the State has a few
23 relatively short witnesses they'll put up to start the
24 case.

25 My instruction to you about no discussion among

1 yourselves about anything related to this case, also,
2 applies to anybody that you come into contact with during
3 break, whether it's lunch break or break in the evening.
4 Whether it's family members, coworkers, friends, whomever
5 that may be, no discussion with them. You can tell them
6 you've been selected on a jury, but leave it at that.

7 Okay. Also, if you plan to eat lunch at one of the
8 local restaurants, if you don't mind, leave your juror
9 badge visible. And the reason for that is that some of
10 the lawyers in the case or maybe some of the witnesses may
11 be there at that same restaurant. They may be talking
12 about the case. And, certainly, we don't want you to
13 overhear anything that they say or discuss. So leave that
14 visible because they may not recognize you, at least,
15 early on that you're a juror in this case.

16 Lastly, and I'll get into more about this this
17 afternoon. Don't do any independent research into this
18 case or anything related to this case. We have an access
19 to a wealth of information, as we all know, Internet,
20 social media and the like, and just don't do that. And
21 I'll explain more about that this afternoon when you come
22 back.

23 Okay. Follow these gentlemen out. They will show
24 you where to park in the back and where to come in. And
25 this will be your -- this will apply throughout the whole

1 trial. So you will not be parking in the front or coming
2 into the courthouse from the front during this trial.

3 Have a good lunch. And we'll see you back at 2:15.

4 (WHEREUPON, the jury was excused from open court at
5 approximately 12:57 p.m.)

6 THE COURT: Okay. We'll be in recess until 2:15.

7 Have a good lunch.

8 (WHEREUPON, a lunch break was taken.)

9 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,
10 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,
11 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,
12 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49,
13 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63,
14 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77,
15 and 81 were marked for identification only.)

16 MR. MOWRY: Your Honor, before we begin, I believe
17 there is a matter that the Defense and I have talked about
18 in the last few minutes that I think might need to be
19 dealt with before we begin.

20 THE COURT: Okay. Mr. Shaffer, you're standing. So
21 I'll be glad to hear from you, sir.

22 MR. SHAFFER: Yes, Your Honor. I believe the State
23 is going to be calling the decedent's sister to the stand.
24 And one of the things that I think they're going to get
25 into is they're going to try to introduce evidence -- or

1 the -- through the sister, they're going to try to
2 introduce the fact that the decedent, apparently, did not
3 like guns. I -- I think that's speculation, Your Honor.

4 There's a child -- she had another child who ended up
5 dying in a gun accident previously. Your Honor, I don't
6 think that's necessarily relevant. I, also, think that
7 it's really sort of prejudicial to allow that in -- to get
8 introduced because it shows some sort of a -- I guess
9 it -- it could be used to argue sympathy to the jury.

10 But, certainly, I don't think that they can allow the
11 sister to testify to what the deceased thought about guns,
12 or what her idea was on guns.

13 THE COURT: All right. Solicitor, do you want to --

14 MR. MOWRY: Your Honor, the issue becomes relevant
15 because the Defendant on the 911 calls claims that the
16 victim ended up pulling a gun out from underneath a pillow
17 and pointing it at him.

18 THE COURT: Okay.

19 MR. MOWRY: The plain fact of the matter is if the
20 victim did not like guns, it would be extraordinarily
21 relevant. The sister can testify as to the fact that if
22 she, the sister, actually, gave one of her children a toy
23 gun to play with, then the victim would not let her
24 children play with that child. She did not like to be
25 around guns.

1 And -- and she is familiar with the fact that that
2 attitude stemmed from the event that took place in -- I
3 think it was 2014. And that's where that came from.

4 THE COURT: Okay.

5 MR. SHAFFER: I just don't see how they're going to
6 be able to say anything other than speculation -- I mean,
7 other than having her speculate about her ideas about
8 guns.

9 THE COURT: Well, I guess if she's just speculating,
10 yeah, I have to agree with you. If she's had
11 conversations with -- I can't even think of her name --

12 MR. MOWRY: Ms. Prophet, Shana Prophet.

13 THE COURT: Prophet. Prophet. With Ms. Prophet,
14 then it would not be speculation. So -- and, again, I
15 don't know exactly what she's going to testify to.

16 MR. MOWRY: She's going to testify pretty much to
17 what I described there, Your Honor.

18 THE COURT: Based upon conversations with --

19 MR. MOWRY: Yes.

20 THE COURT: -- Ms. Prophet and not just her trying to
21 speculate as far as what Ms. Prophet --

22 MR. MOWRY: Exactly.

23 THE COURT: -- liked or did not like.

24 MR. SHAFFER: Well, Your Honor, I think that she
25 can't get into feelings. She may very well be able to get

1 into things she said if they can lay a foundation to get
2 past the hearsay rule as well, Your Honor.

3 So I would just ask that maybe you defer your ruling
4 until afterwards until we, actually, get a chance to hear
5 how they plan on bringing it up before --

6 THE COURT: Are you suggesting then that we take some
7 testimony -- limited testimony in camera?

8 MR. SHAFFER: I think that that would probably be the
9 safe way.

10 THE COURT: Now, so let's just plan on doing that so,
11 at least, the Defense can have a pretty good firm idea
12 what she's going to say. And they can either renew the
13 objection, withdraw it, whatever the case may be.

14 MR. SHAFFER: Thank you, Your Honor.

15 MR. MOWRY: Okay.

16 THE COURT: And would that be Latron Prophet?

17 MR. MOWRY: Yes, sir.

18 THE COURT: Anything else on the record before we
19 have the jury brought out and have them sworn from the
20 State?

21 MR. MOWRY: Nothing.

22 THE COURT: Defense?

23 MR. SHAFFER: Nothing further, Your Honor.

24 MR. MOWRY: And I believe I called Ms. Latron Prophet
25 her sister. It's, actually, her mother. That's my bad.

1 THE COURT: Okay.

2 MR. SHAFFER: And, Your Honor, with the smart board,
3 is that going to be there the entire time?

4 THE COURT: I don't know what --

5 MR. MOWRY: For opening statements, yeah.

6 MR. SHAFFER: For opening statements, yeah. I just
7 didn't want it there during testimony, because I can't
8 see.

9 THE COURT: Let's bring the jury out, please.

10 (WHEREUPON, the jury came into open court at
11 approximately 2:28 p.m.)

12 THE COURT: Y'all can have a seat.

13 THE BAILIFF: All jurors are present.

14 THE COURT: All right. Thank you, Mr. Bolt.

15 Madam Clerk, will you swear the trial jury in?

16 THE CLERK: If you'll, please, stand and raise your
17 right hand, please.

18 (WHEREUPON, the jury was sworn at approximately
19 2:28 p.m.)

20 THE CLERK: Thank you.

21 You may be seated.

22 INTRODUCTORY REMARKS

23 THE COURT: All right. Ladies and gentlemen, I'm
24 going to make a few opening remarks, tell you a few things
25 about what to keep in mind as we go through this trial.

1 It's very, very important to pay very close attention and
2 be very alert throughout this whole process. Be sure to
3 get a good night's rest.

4 You're not permitted to take notes. So it's going to
5 require you to be very attentive, very alert throughout
6 this whole process so when you do go back in the jury room
7 and begin your deliberations, then you're going to have to
8 have a good memory of what was presented to you.

9 Now, certainly, you're not going to remember
10 everything. But, hopefully, collectively, everything will
11 be remembered. So pay close attention. Like I said, get
12 you a good night's rest every night and stay alert.

13 One of the things I do, as a judge, is I kind of keep
14 my eye on the jury to make sure that you are being alert.
15 What is so frustrating to the Court, maybe even the
16 lawyers is where you see somebody dozing off or really not
17 paying attention. And so don't do that. Okay.

18 Keep in mind that you are the sole judges of the
19 facts in this case. I can't tell you what the facts are.
20 It's for your determination to determine what the facts
21 are in this case. And the same law that makes you the
22 sole judge of the facts makes me the sole judge of the
23 law.

24 At the conclusion of the case, I will tell you what
25 the law is that's applicable to this case. So just keep

1 in mind that's why -- there may be times where I will need
2 to send you to the jury room. The lawyers may have an
3 objection or an issue that they need to bring to my
4 attention. And I may have to discuss the facts with them
5 in order to make a ruling on a particular legal issue
6 involved. And I, certainly, don't want to discuss the
7 facts in your presence. Because, again, you're the sole
8 judge of the facts.

9 As I told you this morning, the fact that Mr. Davis
10 has been arrested, charged, and indicted in this case is
11 not proof whatsoever of any guilt on his part concerning
12 the two charges involved. The State and the State alone
13 has the burden of proving beyond a reasonable doubt the
14 allegations made against Mr. Davis. He does not have to
15 prove anything. He has no burden of proof. Okay. And so
16 just keep that in mind.

17 And, also, keep in mind -- and all of these legal
18 concepts I'll explain to you again. But keep in mind that
19 Mr. Davis is presumed innocent. We have a Constitutional
20 right of the presumption of innocence. So when someone is
21 charged with a -- with a crime, they're automatically
22 presumed innocent. And that presumption of innocence
23 remains with him, unless the State has met their burden of
24 proof and proven to you that he is guilty of the crimes
25 charged.

1 Now, you remember this morning -- or really this
2 afternoon when we broke for lunch, I mentioned to you
3 about don't do any research into this case. Your verdict
4 that you reach has to be based 100 percent on what is
5 brought out in this courtroom by way of evidence,
6 testimony from witnesses. There will probably be some
7 exhibits involved.

8 And if you go out and you do your own research while
9 the information that you gather from that research may
10 very well be incorrect information, it is information
11 outside of this courtroom that the other members of the
12 jury have not had the benefit of receiving.

13 So that's why during the course of this trial, don't
14 go on social media. Don't go on the Internet, or anything
15 of that nature to try to do some research into this case,
16 the charge involved, anything. Leave that alone until at
17 the end after we have concluded this case.

18 Now, the order of this case is that the State, since
19 they have the burden of proof, they will present their
20 case first. Okay. And then the Defense has the right, if
21 they so choose, to put up a case. They may not. I don't
22 know.

23 And, again, they don't have to because they don't
24 have any burden of proof in this -- in this matter. But
25 if they do, they will present their case. And then the

1 State would have the right to reply to any new matters
2 brought out by the Defense.

3 We'll start the case off with the opening arguments.
4 These are just statements by the lawyers as to what they
5 believe this case is about. It's not evidence, by any
6 means, what they say during their opening. It's just a
7 statement of their perspective positions in this case.
8 And then the State will start by putting up their
9 witnesses.

10 Lastly, it's very, very important, ladies and
11 gentlemen, to keep an open mind. Don't rush to judgment.
12 Don't make any decisions until all of the evidence has
13 been presented to you, the lawyers have made their closing
14 arguments -- that's what takes place after all the
15 witnesses have testified. They will make closing
16 arguments, and then I will charge you on the law that
17 applies to this particular case. So keep an open mind
18 throughout. Okay.

19 Again, Madam Forelady, if there's any issue that
20 arises during this trial that needs to be brought to my
21 attention, I prefer to have it written down on a sheet of
22 paper. And then I can, certainly, address it.

23 If at any time -- I try not to go past an hour and a
24 half at any one given clip of time before we take a break.
25 But if any of you feel like you just have to have a break

1 right now, just raise your hand. Okay. And we want to
2 try to keep y'all as comfortable as we possibly can.

3 This is a grueling process. It's not only gruelling
4 for these lawyers who work extremely hard in preparing for
5 this case, I know that firsthand. But it's, also,
6 gruelling for the jurors to sit here, stay alert, be
7 attentive, and try to soak up everything that's presented
8 to them. So it's not an easy process. So if you need to
9 take a break, you can't wait until I take a recess, just
10 raise your hand.

11 Okay. Any objection from the State as to the Court's
12 opening remarks?

13 MR. MOWRY: No, sir.

14 THE COURT: From the Defense?

15 MS. MCNEILL: No, sir.

16 THE COURT: Thank you very much.

17 Is the State ready to make opening --

18 MR. MOWRY: Yes, sir, Your Honor.

19 THE COURT: You may proceed.

20 MR. MOWRY: If I could get the indictments, Your
21 Honor.

22 THE COURT: Yes.

23 OPENING STATEMENTS

24 MR. MOWRY: Thank you, sir.

25 Madam Forelady, and, ladies and gentlemen, let me

1 just reintroduce myself, if I may. I am Warren Mowry. I
2 am the Deputy Solicitor for Laurens County. I'm a
3 criminal prosecutor. I present evidence against people
4 charged with a criminal offense. That is my job. Every
5 case that is brought up in South Carolina in criminal
6 court is brought in the name of the people of the State of
7 South Carolina. And that's why you always see cases
8 entitled the State v. Whomever.

9 In this case, we have the State v. Ronald Davis, this
10 gentleman sitting in the suit in the middle at the defense
11 table.

12 And, as Your Honor pointed out to you, Mr. Davis is
13 charged in two indictments. An indictment is simply a
14 charging paper, a vehicle to bring this case before you.
15 But he is charged with murder. And he is charged with
16 possession of a pistol during the commission of a violent
17 crime.

18 And what the State will show you, ladies and
19 gentlemen, is that back on July the 3rd in the early
20 morning hours in the year 2016, the Defendant shot Shana
21 Prophet with whom he had a relationship not just once, not
22 just twice, or three times, or four times. He shot her
23 five times, five times and killed her.

24 The details will come out from the witnesses that
25 we'll present to you. I'm not going to go over them in

1 detail today. You'll hear them. You'll hear them in this
2 courtroom from this witness stand from the witnesses that
3 know about the case.

4 Now, His Honor talked to you a moment ago about proof
5 beyond a reasonable doubt. And that is the standard
6 before somebody can be convicted of a crime in the United
7 States. The State does have the burden of proving this
8 case. And it is something that we accept gladly.

9 If I were charged with a criminal offense, ladies and
10 gentlemen, I would not want to have to prove myself
11 innocent. If somebody came to me today and said, you're
12 charged with something that happened back on October 20th,
13 2017, I'm not, actually, sure where I was. I don't keep a
14 diary.

15 But if I had to prove myself innocent, I would have
16 to figure out where I was, to the best of my knowledge,
17 and then prove that I didn't commit the crime. And that's
18 almost impossible for most of us. And that is why the
19 burden is on the State to prove somebody guilty.

20 But while it is a burden that we, as I said, gladly
21 accept and must carry, it's not an impossible burden.
22 It's not proof beyond every single doubt. A reasonable
23 doubt is what the word says, a doubt for which you can
24 give a reason. It's not some whimsical doubt. It's not
25 some substantial doubt. It's a doubt that leaves a person

1 hesitating to act -- a reasonable person hesitating to
2 act. So proof beyond a reasonable doubt, ladies and
3 gentlemen, is something that leaves you firmly convinced,
4 firmly convinced.

5 Now, I don't know -- I'm a movie fan. I like movies.
6 And there was a movie years ago with Jim Carrey called the
7 Truman Show. Some of y'all may be familiar with it. Jim
8 Carrey's character had been born on a reality show, quite
9 literally. And he grew up in what he thought was this
10 idyllic little town on the coast. And he had all these
11 friends, a nice job, and everything else. But all of his
12 friends were actors. All of the nice places that he lived
13 were sets for this reality show and they've got broadcasts
14 out everywhere.

15 Now, how do we know that we're not living the Truman
16 Show? Can we be convinced of that beyond every possible
17 ridiculous doubt? It's absurd to think of it, of course.
18 But you can't be convinced beyond every single doubt. But
19 you can be convinced that you're not living the Truman
20 Show beyond a reasonable doubt. And that's what we have
21 to prove. That's the degree that we have to carry in
22 order to prove this case.

23 Now, ladies and gentlemen, as I said, there are two
24 offenses with which Mr. Davis is charged. The first is
25 murder. I've put the elements of the crime up here. And

1 we'll talk about it in just a little bit.

2 A murder is an unlawful killing. Because there are,
3 sometimes, ladies and gentlemen, where a murder -- or
4 excuse me, a killing of one human being by another is not
5 illegal. A soldier in wartime. A question was asked
6 today if any of y'all had served in the military. A
7 soldier in wartime killing an enemy, that's not illegal.
8 It's kind of what war is about, unfortunately. So there
9 is a justification for that.

10 Self-defense is another thing that is allowed. You
11 are allowed to defend yourself against an imminent attack.
12 You are allowed to use deadly force if deadly force is
13 being applied against you.

14 Excuse. There are times when someone is killed by
15 pure accident. That is an excusable homicide. Somebody
16 is involved in a traffic accident driving down a hill,
17 perhaps, hits a patch of ice, loses control, hits a
18 pedestrian. It's tragic. We wish it hadn't happened.
19 But it's not criminal. That's what I'm getting at. So,
20 sometimes, a homicide, the killing of one person by
21 another, can be excusable.

22 I submit, ladies and gentlemen, when we are finished
23 and you have heard all the evidence in this case, you will
24 be convinced beyond a reasonable doubt that there was no
25 justification for what Ronald Davis did and no excuse for

1 what Ronald Davis did. It will be murder.

2 So it's an unlawful killing, no justification, no
3 excuse of a human being with malice. With malice. What
4 does that mean? Sometimes, you'll hear malice described
5 as wickedness, evil intent, doing harm to somebody.
6 Intending to cause them harm would be malice. And we must
7 show, ladies and gentlemen, that that malice existed
8 before the act. It existed before the act and at the time
9 the act was committed. Because it's malice aforethought.

10 Now, what does that mean? Sometimes, you'll talk
11 about premeditated murder, somebody planned out, plotted
12 about it for two or three weeks preparing to kill
13 somebody. That's not required. It doesn't have to be any
14 appreciable time.

15 If you get the mindset in your head that you're about
16 to strike out at somebody and then you do it, it can be
17 that quick. It doesn't have to be a long period of time.
18 Either expressed, which is saying I'm going to kill you,
19 or implied or inferred. You can glean that intent, that
20 malice from the circumstances surrounding the case.
21 That's what murder is.

22 And, again, ladies and gentlemen, when we're done,
23 I'm confident you are going to find the State has proven
24 its case beyond a reasonable doubt, and that Ronald Davis
25 is guilty of murder.

1 What's the other charge? Possession of a weapon
2 during the commission of a violent crime. South Carolina
3 has added this on. If somebody commits a violent crime
4 and uses a weapon, a knife, or a gun in the commission of
5 that crime, that is a separate crime. And I submit to you
6 the State will prove to you that that happened.

7 You will find out from Ronald Davis' own words that
8 he used a gun to kill Shana Harlan [sic], that he,
9 actually, had it in his hand.

10 I'm possessing this pen that I'm holding here. I'm
11 holding it in my hand. I'm, actually, possessing it. If
12 I lay it there and I walk off, but I still intend to come
13 back and get it. Everybody realizes that's my pen. I'm
14 constructively possessing it.

15 But what you will find, ladies and gentlemen, is that
16 it wasn't constructive possession. It was actual
17 possession. He held it in his hand. He fired those five
18 deadly shots in and through Shana Harlan killing her.
19 That's what we'll find.

20 There will be testimony, ladies and gentlemen, from
21 evidence that was found at the scene that it was a nine
22 millimeter pistol. There were projectiles, bullets that
23 were found at the scene. There were spent shell casings
24 that were found at the scene. We'll present expert
25 witnesses to you to tell you about those bullets, and

1 those shell casings.

2 You will understand, ladies and gentlemen, I submit
3 to you, by the time we get done and you will be convinced
4 beyond a reasonable doubt that Ronald Davis possessed that
5 weapon and he used it during the commission of a violent
6 crime. And what is that violent crime? That violent
7 crime, ladies and gentlemen, is murder. That's what the
8 violent crime is.

9 Now, ladies and gentlemen, I always like to ask a
10 jury to do three things for me during the course of a
11 trial. And the first thing is to listen carefully to the
12 evidence that comes off this witness stand. Because it's
13 only that evidence and whatever exhibits that might be
14 introduced through those witnesses that you are to render
15 your verdict.

16 I don't know beyond what people have told me what
17 happened there that night. I wasn't there. But you will
18 hear from people that were. Listen carefully to that
19 evidence. Consider carefully the exhibits that are
20 introduced through those witnesses.

21 At the close of the trial, His Honor is going to
22 instruct you on the law in the case. You will determine
23 what the facts are. That's your job. You are the fact
24 finders in this case. You determine what the truth is.

25 But when His Honor instructs you on the law, that's

1 what you've got to take. It may not be the law as you
2 think it is. It may not be the law as you think it ought
3 to be. But by your oath, it's the law that you've got to
4 take with you back there to that jury room.

5 When you're back there, when you're applying that
6 law, as His Honor tells you, to the facts as you determine
7 them to be, I ask you to do the third thing, one last
8 thing. We went through a lengthy process this morning.
9 Because we wanted a jury that was the conscience of the
10 community. And that's what we have with y'all.

11 Each and every one of y'all comes from a different
12 background, perhaps, different jobs, different lifestyle,
13 whatever. But each and every one of y'all has, at least,
14 one thing in common, and that's common sense. We ask you
15 to use that common sense. Use that common sense as you're
16 considering the evidence and the testimony that comes to
17 you off the witness stand. Use that common sense when
18 you're taking the law as His Honor has instructed you and
19 applying it to the facts as you determine them to be.

20 And if you do all those three things, ladies and
21 gentlemen, you're going to come back with a just, fair,
22 and true verdict. And that's all any of us ask.

23 Thank you very much.

24 THE COURT: All right. Thank you.

25 Is the Defense ready for opening, Mr. Shaffer?

1 MR. SHAFFER: Yes, Your Honor.

2 Good afternoon, everyone.

3 I have a confession to make. Every time I get in
4 front of juries, I get little butterflies in my stomach.
5 I promise you I'm not a rookie. I've done this before.
6 I've argued a bunch of cases in front of juries. Yet,
7 every time, I get butterflies in my stomach.

8 So this case -- this case is a little bit different
9 than a normal case. I, normally, get butterflies and,
10 normally, it cures it -- I get past it pretty quickly.
11 But in this case, I'm feeling a little bit of anxiety.

12 And I'll tell you why I'm feeling a little bit of
13 anxiety. It's because Ronald, my client over there, shot
14 Shana Prophet. Okay. No one is disputing that Ronald
15 shot Shana Prophet. She died as a result. No one is --
16 if that was all that was here to be determined, then guess
17 what? We could all go home right now.

18 But the thing about that is that there is more to
19 this case than just who shot who. This isn't a whodunit.
20 Okay. And, unfortunately, I think that people jump to
21 conclusions. And the reason I'm saying people jump to
22 conclusions is because I jump to conclusions.

23 If I see a headline in the newspaper and it says, you
24 know, so and so was shot at a bar, or this person was
25 arrested, Columbia man arrested for bar shooting, in my

1 mind, that man did it. In my mind, I jump to the
2 conclusion just from seeing the headline on that and that
3 man did it. He deserves to go to prison forever. That's
4 the end of the story.

5 Okay. And I think a lot of other people do that as
6 well. They think just because you're arrested for
7 something, it means that you committed a crime. Okay.

8 And the anxiety that I feel in this case or the
9 pressure on me in this case is somehow I'm going to have
10 to get through to you, I guess, 15 people -- I'm going to
11 have to get through to y'all and let y'all realize that
12 this isn't just about who shot who. And that's not the
13 end of the inquiry. That's not the end of what we're here
14 to look at.

15 I'm going to tell you about that night. Okay.
16 Normally, I'm the one sitting here talking about stuff
17 beyond a reasonable doubt and the prosecutor is sitting
18 there talking about the facts of the case. Okay. This is
19 a little bit switched around compared to what normally
20 happens.

21 Normally, the Prosecutor is saying all these facts
22 and the Defense attorney is going, oh, but they can't
23 prove this beyond a reasonable doubt. And we'll get to
24 that. I'm sure I'll talk about that some. Okay. But
25 what I want to do -- what I want to do is tell y'all and

1 let y'all get a view of what's going to happen in this
2 case. Okay.

3 You're going to hear that Ronald -- Ronald -- it was
4 right before the Fourth of July about two years ago.
5 Ronald went to a cookout. Shana, his girlfriend, they had
6 been on and off for a while. They had just moved from
7 Newberry up to Fountain Inn. Okay. They lived together.
8 They had separate houses whenever they were in Newberry,
9 but she still stayed over a lot. They were long-term
10 boyfriend and girlfriend.

11 Okay. Ronald went to a cookout. Shana went to a
12 different cookout. I don't know about y'all, but that
13 probably was not the smartest thing on Ronald's part to
14 do. Okay. I know that if my wife wanted me to go to her
15 family's cookout and I said, no, I'm going to my family's
16 cookout, that might cause a little bit of tension. So --
17 but they went to different cookouts.

18 And you're going to hear from witnesses who are going
19 to talk about, you know, how Ronald went from Fountain Inn
20 where they had just moved to, he went down to Clinton to
21 meet up with his cousin. And him and his cousin -- well,
22 he had gone down to Newberry earlier because the house he
23 was moving out of in Newberry, he was the only one on the
24 lease in Newberry. And the house that they had just moved
25 out of in Newberry, Ronald's ex-wife and kids were going

1 to move into. Okay. So he had given them a key earlier.
2 And then they went to -- he went to a cookout.

3 Now, Shana went to a different cookout. She went
4 down to Denmark with her people, her family. Okay.
5 Ronald goes to a cookout up in Anderson County. And
6 there's some -- a little bit of tension coming on. You're
7 going to hear about that.

8 You're going to hear about some text messages back
9 and forth. You're going to hear about a phone call.
10 You're going to hear about Ronald saying, Well, don't let
11 some man drive my car. He said his car, but it was in her
12 name. I think he was paying for it. He was upset about
13 that. She was upset at him. And then they didn't talk
14 for a while.

15 And Ronald came back from the cookout. And you're
16 going to hear about that. You're going to hear that he
17 drove by the house in Fountain Inn. You're going to hear
18 that she wasn't there. You're going to hear that they
19 then went down to Clinton and that he then went to try to
20 talk to some people in Newberry, another woman maybe.

21 Now, while Ronald is down in Newberry, Shana comes
22 back up to Fountain Inn. Ronald then decides that he
23 needs to go back home. He's a truck driver. He had been
24 up since real early. And he says, hey, give me a ride
25 home to his ex-wife, who was down in Newberry at their old

1 house that she was moving in.

2 So she drives him up to Fountain Inn. And you're
3 going to hear that Shana was upset. Shana then pulled out
4 a gun. Shana shot at Ronald. Ronald then took the gun
5 away from her and was about to leave. And Shana came back
6 at him.

7 Now, I'm going to tell you, you're going to look at
8 some physical evidence and go, yeah, they, actually, did
9 get into a little scuffle there. You're going to look at
10 the pictures of this scene and say, yeah, that's signs of
11 somebody getting into an argument and getting into a
12 physical altercation.

13 Now, I'm sure that the State is going to try to
14 dispute this later on. But Ronald then tried to leave.
15 And Shana decided to go after him. And he turned around
16 and shot her. And he shot her five times.

17 Okay. Now, what you're going to hear after that is a
18 bunch of really dumb decisions on the part of Ronald.
19 Okay. Not cold calculated murder decisions. You're going
20 to hear frantic, not smart decisions. What he decides to
21 do is jump in the car. And then he calls 911.

22 Okay. So he calls 911 -- excuse me. He jumps in the
23 car and he tries to call his momma. Okay. He calls his
24 momma. And then he calls 911. Okay. He tells 911, hey,
25 I'm going to be at the house, but he's not really going to

1 be at the house because he's out there -- he just killed
2 someone.

3 I hope to God I'm never in this situation that he's
4 in, but if I was, I don't know what I would do. I don't
5 know what I would do if I had just shot someone. I mean,
6 what he does is, basically, calls 911 and says, hey, I
7 shot her. I'll be here. Then he decides, hey, maybe I
8 should kill myself.

9 And, I mean, I can't imagine the guilt going
10 through -- on his shoulders. I can't imagine what's going
11 through his mind at this time. But then he, basically,
12 drives all around the place and then turns himself in.
13 Okay.

14 So he -- over the next several hours, he is driving
15 around for about four hours. He drives down to Newberry.
16 He calls up 911 again. He gets in touch with 911 again.
17 And they're going back and forth about him turning himself
18 in. And he's running away from the officers. He's,
19 basically, making a bunch of stupid, stupid decisions.

20 He gets on the phone with Lieutenant Cheeks, the
21 investigator back there. He gets on the phone with him.
22 He says, hey, I'm going to kill myself. Luckily, he talks
23 him out of it. But he ends up turning himself in.

24 But he makes one more stupid decision before he turns
25 himself in. You know what he does? He throws the gun in

1 the woods. Now, that is a really, really stupid decision.
2 And you're going to hear about efforts to find it. I
3 imagine you're going to hear the fact that he told law
4 enforcement around where it was. It was on the side of
5 I-26.

6 So if you throw something in the woods off of I-26,
7 it's not going to be exactly easy to find. They did a
8 good job trying to find it. I'm not saying they didn't.
9 You know, he shot -- he offered to help. He offered to go
10 out there and try to help. But you're going to hear that
11 the gun is not going to be found. Okay.

12 Now, I want to talk to you about another piece of
13 evidence that you're going to hear about, which I'm really
14 surprised the State didn't bring up in their opening
15 statement. Okay. The bullets that were used to shoot her
16 are called laser nine-millimeter bullets. Okay. They're
17 sold all over the place. Okay. And you're going to hear
18 that these nine-millimeter bullets, the shell casings --
19 the bullets that ended up killing Shana, they're similar
20 bullets to that down at the house in Newberry. Okay.

21 Now, the reason that I'm surprised you didn't hear
22 about that is I think they're going to ah-ha, the same
23 bullets are found in the house in Newberry, you know. He
24 must have planned this all along. I don't know what
25 exactly they're going to say. But I, actually, suspected

1 them to get up and talk about these bullets in Newberry.

2 Now, what you're going to hear from our side of it is
3 the fact that those bullets in Newberry are completely
4 unrelated to this offense. Okay. They didn't find a gun
5 in Newberry. But what you're going to hear is that those
6 bullets didn't even belong to him and weren't even in the
7 house whenever -- beforehand, whenever they lived there
8 together.

9 Now, I told you I was going to talk about burden of
10 proof, and I'm going to. Okay. You have the right to
11 defend yourself in this state. Okay. If someone
12 threatens your life, you have the right to defend
13 yourself. You're going to hear about it from the Judge
14 later on at the end of the trial.

15 You're, also, going to hear the fact that,
16 essentially, it doesn't matter if you fired one or 10
17 times, that if you had the right to defend yourself
18 whenever you were firing, you have the right to,
19 basically, keep firing until there's no longer a threat to
20 you. That's going to be something you're probably going
21 to hear from the Judge, because that's the law in this
22 state.

23 And I'm going to tell you something that's vitally
24 important. He doesn't have to prove that he acted in
25 self-defense. Okay. I told you I was going to talk about

1 reasonable doubt. This is what I'm going to talk about.

2 At some point at the end of this case whenever the
3 Judge gives you the law to apply, you're going to hear
4 something that sounds a lot like this, there is no burden
5 upon the Defendant to prove self-defense. The Defendant
6 is not required to prove any element of self-defense. The
7 burden is on the State to disprove self-defense beyond a
8 reasonable doubt.

9 Now, throughout this trial, I want you to think about
10 that word. How are they disproving self-defense? They're
11 not. What they're going to do is show a bunch of
12 circumstantial evidence to say, well, he did a bunch of
13 stupid stuff later, he must be guilty. That's their case.

14 Their case is two things. These bullets must have
15 came from the Newberry house. He may have planned it
16 beforehand and, oh, well, an innocent person wouldn't have
17 acted like that.

18 Ladies and gentlemen, this is a self-defense case.
19 There is absolutely no evidence that they're going to show
20 that will disprove self-defense beyond a reasonable doubt.
21 Sure, there's circumstantial stuff. And you can make
22 arguments all day long and say that's not what someone who
23 acted in self-defense would have done, which is sort of
24 ridiculous because I don't think -- I seriously doubt any
25 of the people in this courtroom who are going to testify

1 have, actually, been in that situation. I don't know what
2 a person who acted in self-defense would have done. I
3 don't know what I would have done. I know I would have
4 been scared. And I know Ronald was scared.

5 Now, generally, you don't hear a whole lot of
6 witnesses from a defendant in most cases. Most of the
7 witnesses come from the State. I think that you're going
8 to see holes in the State's case. And that's why we're
9 going to present witnesses in this case.

10 Okay. One thing that juries like hearing, juries
11 like hearing the Defendant testify. It's sort of like the
12 climax of the trial. If you watch it on TV, you see a guy
13 get up on the stand. That is like one of the hardest
14 decisions for a criminal defense attorney to make. Do we
15 call the client? Do we not call the client?

16 And there's a reason that's hard. Because if we call
17 the client, he gets up there and talks, I suspect that
18 what you're going to do, you're going to say, oh, in the
19 back of your mind, you're going to think is he just lying
20 to save himself? And if we don't call the client, in the
21 back of your mind, you're going to be thinking, man, if I
22 got charged with a crime, I would be wanting to testify.

23 If we don't call the client, the only defense we have
24 is to hear the Judge at the end give an instruction saying
25 that you can't use that against him. Okay. So either way

1 we go, it's sort of a lose/lose situation for a criminal
2 defense attorney with that decision.

3 And, honestly, I don't know how I'm going to -- which
4 way we're going to decide later on as to whether he
5 testifies or not. But I suspect you're going to get part
6 of his story from the State. And I suspect you're going
7 to hear some of that.

8 Now, the last thing I'll say is, please, don't jump
9 to conclusions. Okay. Don't just assume -- just because
10 we're up here admitting that Ronald shot Shana, don't just
11 assume that means he's guilty of murder. Listen to this
12 case. Listen closely. Pay attention. You have a duty to
13 do so.

14 Now, we picked y'all.' It was a long process. Part
15 of the reason we picked y'all was that we thought, well,
16 these are the people we want to put Ronald's life in their
17 hands. These are the people who are going to make a
18 decision that will impact the rest of his life. These are
19 the people we want to hear it.

20 Please follow your oath, follow your duty, listen to
21 this. You heard the Judge say we don't get to present our
22 witnesses first. Listen to the State's witnesses. In the
23 back of your mind, listen for them to prove to you beyond
24 a reasonable doubt that he did not act in self-defense.
25 Listen to that. Pay attention and listen and follow the

1 evidence before you make a decision.

2 Thank you.

3 THE COURT: All right. Thank you, Mr. Shaffer.

4 Is the State ready to call the first witness?

5 MR. MOWRY: We are, Your Honor. But this might be
6 the time to take up that matter of law that we discussed a
7 few minutes ago.

8 THE COURT: Okay. Madam Forelady, and, ladies and
9 gentlemen of the jury, if you'll go back to the jury room
10 and let me deal with a particular issue with the lawyers.
11 And we'll get you back out shortly.

12 Again, I remind you, no discussion about anything
13 related to this case.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 3:13 p.m.)

16 THE COURT: Let's take a five-minute short break.

17 (WHEREUPON, a break was taken.)

18 THE COURT: Okay. We are back on the record.

19 And I think we're going to take some limited
20 testimony from Latron Prophet.

21 MR. MOWRY: Yes, sir.

22 THE COURT: All right. Come around, please, ma'am.

23 WHEREUPON,

24 LATRON PROPHET,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOWRY:

Q Ms. Prophet, I've already apologized to you in person. Let me apologize on the record. In opening statement, I called your daughter Shana Harlan, who was a witness in a recent case that I had. I apologize. Your daughter is Shana Prophet; isn't that right?

A Yes.

Q How old was she at the time of her death?

A 28.

Q Okay. How many kids had she had?

A Two.

Q Okay. How many were living at the time of her death?

A One.

Q What had happened to the other child?

A He was at the neighbor's house and was shot accidentally.

Q Okay. A gun discharged?

A Yes.

Q Did you ever have any conversations with Shana about guns?

A Yes.

Q And what was her attitude about guns?

MR. SHAFFER: Objection, Your Honor.

THE COURT: This is in-camera. We need to hear what

1 she's going to testify to so you'll have a better idea as
2 far as any objections, if any.

3 THE WITNESS: Her attitude, she didn't like guns.

4 BY MR. MOWRY:

5 Q Okay. Did you ever know her to own a gun?

6 A No.

7 Q Was there anything that you can point to that can
8 graphically describe her attitude towards guns? Was there
9 any time where you were offering a toy gun?

10 A Yeah. My -- I got a son that's a year -- Shana's
11 little boy and my son is a year apart. And if I bought my
12 son a toy gun, she'd be like, Mom, you need to take that
13 away from him. You know what happened to Mod. Mod was
14 her first child. And so she would take it and put it in
15 her trunk. She would take it from my son. And I wasn't
16 allowed to buy her son no toy guns for Christmas, or his
17 birthdays, and stuff like that.

18 Q Did you ever know her to own a real gun?

19 A No.

20 MR. MOWRY: And, Your Honor, I believe that's all I'd
21 have for this limited purpose.

22 THE COURT: Okay. Mr. Shaffer, do you have any
23 examination of this witness on this limited purpose?

24 MR. SHAFFER: No. I just --

25 THE COURT: Okay. Ma'am, you can step down and go

1 back to your seat.

2 MR. SHAFFER: I would have one objection -- or
3 objection to one -- well, Your Honor, actually, I have an
4 objection to the child as well -- a separate objection to
5 the child, as well as my objection to the gun.

6 THE COURT: Okay. State your objections on the
7 record.

8 MR. SHAFFER: Your Honor, related to the -- to the
9 information about the child dying, her first child dying,
10 we're objecting under relevance and 403 for that -- for
11 that limited purpose. And then I have a separate
12 objection for the other issue.

13 THE COURT: Okay. And the second basis for your
14 objection?

15 MR. SHAFFER: Your Honor, provide -- if the Court was
16 to allow testimony concerning the -- the previous child
17 that died, my only objection would be to that one question
18 of her giving any opinion about what her thought was about
19 guns. You know, it's one thing to relive facts. I mean,
20 I think the Solicitor, if they were relevant, could
21 probably get into the facts about the toy gun, and all
22 that stuff and then make argument on it later.

23 I don't think that she can have -- the mom get up
24 there and say, well, I think -- or she didn't like guns.
25 That's speculation, Your Honor. I don't think she has a

1 basis to, actually, know that.

2 MR. MOWRY: Your Honor, I don't believe it's
3 speculation, number one. And she, certainly, has
4 illustrated a basis for that knowledge.

5 THE COURT: Okay. The way I understood the testimony
6 was that -- and I'm not going to allow speculation. And
7 I'm not going to allow this witness to give her opinion on
8 some particular issue.

9 But the way I took her testimony was that she had
10 conversations with Shana about Shana's dislike for guns,
11 and Shana's statements about the toy guns, and that sort
12 of thing. So I didn't take it as speculation.

13 Now, if you believe that she was speculating, we'll
14 bring her back up and have her testify some more. I just
15 didn't take it to be that.

16 MR. SHAFFER: Your Honor --

17 MR. MOWRY: And -- I'm sorry. The reason it's
18 relevant, Your Honor, is because the Defendant in his
19 written and oral statements says that the victim pulled
20 the gun out from under a pillow. He claims he had never
21 seen it before. And she pointed it at him and, actually,
22 fired a shot into the floor.

23 THE COURT: Okay.

24 MR. SHAFFER: Your Honor, I think -- if you wouldn't
25 mind ruling on the 403 and 401 objection first and then

1 let me go into why I think it's objectionable, what
2 questions particularly I think is objectionable. I think
3 that that might be better because -- is the Court planning
4 on ruling that it is relevant and it's not unduly
5 prejudicial?

6 THE COURT: What I want to do before I go any
7 further, there's a couple quick cases I want to take a
8 look at to -- if any of this comes in at all, I want to
9 take a look.

10 So everybody be at ease for just a minute.

11 We're off the record.

12 (Pause.)

13 THE COURT: We're back on the record.

14 And the -- I'm not going to -- I'm going to allow the
15 mom to testify based upon statements made by the victim
16 that the victim did not like guns, did not even like toy
17 guns. However, I'm not going to allow her to testify
18 about the other -- the son having been killed by a gun in
19 some shooting of some sort. I didn't really have a good
20 handle on what was behind that.

21 So I'm not going to allow evidence as to the child
22 dying. But I will allow evidence as -- because it goes to
23 her state of mind. We've got self-defense on the table,
24 it appears, and the likelihood or lack thereof of Shana
25 being the aggressor in the altercation.

1 So I think state of mind would be appropriate under
2 803. So I'm going to allow that, but nothing about this
3 son dying in some previous accident.

4 MR. MOWRY: Okay. Could I have a minute to talk to
5 Ms. Prophet about that?

6 THE COURT: Let's keep in mind the time frame that
7 we're under today.

8 MR. MOWRY: Yes, sir. Yes, sir.

9 THE COURT: Okay. Thank you.

10 (Pause.)

11 MR. MOWRY: I think we're ready, Your Honor.

12 THE COURT: Mr. Shaffer, did you want to put anything
13 else on the record on this point?

14 MR. SHAFFER: No, Your Honor.

15 THE COURT: Okay. Very good.

16 Okay. Let's bring the jury out, please, Mr. Bolt.

17 (WHEREUPON, the jury came into open court at
18 approximately 3:44 p.m.)

19 THE BAILIFF: All jurors are present, Your Honor.

20 THE COURT: Thank you, Mr. Bolt.

21 MS. MCNEILL: Judge, may we approach real quick?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: All right. Is the State ready?

25 MR. MOWRY: Yes, sir, Your Honor.

1 We call Latron Prophet to the stand.

2 WHEREUPON,

3 LATRON PROPHET,

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

5 DIRECT EXAMINATION

6 BY MR. MOWRY:

7 Q Ms. Prophet, where do you live?

8 A In Denmark, South Carolina.

9 Q And I apologized to you, but let me apologize in
10 front of the jury. I believe I called her Shana Harlan
11 during my opening statement. Your daughter is Shana
12 Prophet; is that right?

13 A Yes.

14 Q She's the victim in this case; is that right?

15 A Yes.

16 Q How old was she when she died?

17 A 28.

18 Q Okay. Let me just ask you this. Do you know the
19 Defendant in this case, Ronald Davis?

20 A Yes.

21 Q How do you know him?

22 A From him coming down visiting her.

23 Q Okay. Did they have a relationship?

24 A Yes.

25 Q Okay. At the time of her death, where did she live?

1 A At the time of her death, she was staying in Laurens
2 County up here.

3 Q Okay. Was it at [REDACTED] Allen Bridge Road? Is that the
4 place?

5 A Yes.

6 Q How long had she lived there?

7 A A week.

8 Q Okay. She had just moved up there?

9 A She had just moved.

10 Q Where had she moved from?

11 A Denmark.

12 Q Okay. As a matter of fact, tell me about where she
13 was the day or two before her death.

14 A The day -- well, Saturday, she was at my house. We
15 had a cookout. I had talked to her earlier on the phone.
16 She wanted us to come up to her new place for a cookout
17 for the holiday, but I told her it was a long drive.
18 Because I had just left my other daughter in college. So
19 I said I didn't want to drive up here.

20 So I talked to her that morning, Saturday morning.
21 And she said, Well, I might come, mom. She said, I'm
22 going to talk to Ronald and see what he wants to do.

23 So I was waiting on her to call me back and she never
24 called me back until probably, like, 12:00 or 1:00 p.m.
25 And she was already at my house. And when I got there, I

1 was like, Well, where's Ronald? She said he didn't want
2 to come, but she was on the phone with him.

3 Q Okay. How long did she stay there?

4 A She got there, it must have been, like, 12:00 or
5 1:00. And she stayed there until, like, 11:30 that night.

6 Q So she just stayed there that afternoon, that
7 evening?

8 A Right.

9 Q And then left you said about what time?

10 A 11:30 p.m.

11 Q Okay. How far was it? How long did it take to drive
12 from your house in Denmark -- and by the way, Denmark is
13 in what county?

14 A Bamberg County.

15 Q Bamberg County. That's down below Columbia; is that
16 correct?

17 A Right.

18 Q How long did it take to drive from your house back to
19 her new place?

20 A Two hours.

21 Q Okay.

22 A About two hours.

23 Q So that would have gotten her back around 1:00?

24 A Yeah, 1:00.

25 Q Was anybody with her when she came down?

1 A Her little boy.

2 Q How old is he?

3 A He is now?

4 Q Well, how old was he at the time?

5 A Four.

6 Q What's his name?

7 A Prophet. Prophet was his first name, Prophet
8 Odumgba.

9 Q Okay.

10 THE COURT: Can you spell that last name?

11 THE WITNESS: Prophet, like my last name,
12 P-R-O-P-H-E-T. That would be his first name.

13 THE COURT: Right. Got that. What's the last name?

14 THE WITNESS: Odumgba.

15 THE COURT: Can you spell that?

16 THE WITNESS: O-D-U-M-G-B-A.

17 THE COURT: Okay. Thank you.

18 MR. SHAFFER: Your Honor, may I approach real quick?

19 THE COURT: Sure.

20 (WHEREUPON, a bench conference was held.)

21 THE COURT: You may proceed.

22 BY MR. MOWRY:

23 Q So she and her son were there -- let me just recap.

24 She and her son were there for the afternoon and evening,
25 and then left about 11:00; is that right?

1 A Yeah, between 11:00 and 11:30.

2 Q And it's roughly a two-hour drive back to her new
3 place in Laurens County?

4 A Yes.

5 Q What all did y'all do while she was down? What
6 happened?

7 A We -- we cooked. We cooked on the grill. We fried
8 some food. Her son got in the pool with the kids. And
9 she went over to some more of our families house, which
10 is -- we was just in the yard.

11 Q And it was right before July 4th; isn't that right?

12 A Right.

13 Q So a little celebration?

14 A Right.

15 Q Let me ask you, did she -- you said that she was on
16 the phone with Ronald. Did she have her own cell phone?

17 A Yes.

18 Q Let me hand you what has been marked for
19 identification as State's Exhibit No. 84, and ask you if
20 you recognize that?

21 A Yes.

22 Q What is that, please, ma'am?

23 A That's Shana's phone.

24 Q Okay. Was it in this condition when you saw it?

25 A No, sir.

1 Q Was it intact?

2 A Yes.

3 Q How does it appear now, just for the record?

4 A Destroyed.

5 Q Okay. Bent; is that right?

6 A Yes.

7 Q Ms. Prophet, what was Shana's height?

8 A About 5'4".

9 Q Okay. Do you know what -- how tall Ronald Davis is
10 in comparison?

11 A Ronald is tall. He was, like, probably, like, this
12 tall.

13 Q Okay. About a foot difference?

14 A Yeah.

15 Q Okay. Let me ask you this, ma'am. Were you familiar
16 with her attitude towards guns?

17 A Yes.

18 Q Okay. How did she demonstrate that with toys, or
19 anything else? Tell us about that.

20 A She didn't like guns. Like, if I bought my son a
21 little play gun, or whatever, she would be like, Mom, you
22 shouldn't buy him those. And, like, she would take it
23 away from him and put it in the trunk, or whatever. And
24 she wouldn't let me buy her son no guns for Christmas, or
25 nothing like that.

1 Q She was pretty vocal about her attitude; is that
2 right?

3 A She was.

4 Q Did you ever know her --

5 MR. SHAFFER: Your Honor, leading.

6 THE COURT: Okay. Try not to lead, Solicitor.

7 BY MR. MOWRY:

8 Q Did you ever know her to own a gun?

9 A No.

10 Q When did you find out about Shana's death? How did
11 that happen?

12 A Two -- two officers came and knocked on my door maybe
13 about 3:30 in the morning before -- like, a couple hours
14 after she left.

15 MR. SHAFFER: Can we approach, Your Honor?

16 THE COURT: Sure.

17 (WHEREUPON, a bench conference was held.)

18 BY MR. MOWRY:

19 Q So the officers came by. She had left about 11:00;
20 is that right?

21 A Yes.

22 Q So about four or four and a half hours later, a knock
23 on the door came; is that right?

24 A Yes.

25 Q And the officers told you she had died?

1 A Yes. Because I had told her to call me when she made
2 it home, but she never did call me.

3 Q Okay. Did you know her phone number?

4 A Yes.

5 Q Do you still know it?

6 A Yes, sir.

7 Q Can you recite it?

8 A It was three -- well, it was area code 803-300-6414.

9 Q Okay. And that was the number that connected with
10 this cell phone, State's Exhibit No. 84; is that right?

11 A Yes.

12 MR. MOWRY: Thank you, ma'am.

13 That's all I have.

14 THE COURT: Any cross-examination?

15 MR. SHAFFER: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SHAFFER:

18 Q Ms. Prophet, I'm very sorry for your loss.

19 The one thing I was planning on asking, I think you
20 said whenever you -- when you first -- when the Solicitor
21 first asked you when she had left, you said 11:30; is that
22 correct?

23 A Right.

24 Q And you're saying it was -- later, I think you said
25 11:00 to 11:30; correct?

1 A Right.

2 Q So it was sometime between 11:00 and 11:30, she left
3 the cookout in Denmark; right?

4 A Right.

5 Q How long had she been -- how long had she been
6 involved with Ronald?

7 A About a month and a half, something like that, a
8 month, maybe two months.

9 Q She had never been involved before that month and a
10 half?

11 A Yeah. They had been -- they had dated a little while
12 before. They met on a website, or something. And then
13 they kind of broke up, or whatever. And then they got
14 back together, I guess, like, a -- probably, like, two
15 months they had been together, a couple months.

16 Q Okay. Do you know how much longer before they,
17 originally, dated?

18 A Do you mean before they met back up?

19 Q Yeah.

20 A I'm not sure. It was a while. I'm not sure.

21 Q When was the first time they started dating? Do you
22 recall?

23 A Do you mean what year?

24 Q Yeah.

25 A It had to be sometime in 2015.

1 Q 2015?

2 A Yeah.

3 Q Okay. So they had only dated in 2015 and 2016;
4 right?

5 A Yeah.

6 Q Now, they moved in together two weeks before this;
7 correct?

8 A One week.

9 Q One week before this. Okay. Now, before that, they
10 had only been dating about a couple weeks?

11 A Yeah.

12 Q Had she been staying with him a good bit?

13 A They -- they had a plan because he worked up here
14 somewhere and she worked down in Denmark. So he came down
15 one night and would spend the night, then she would come
16 up one night and spend the night.

17 Q Okay. And at that time, she had come up to Newberry;
18 right?

19 A Wherever he was staying.

20 Q Okay. And you're saying it takes about two hours to
21 get from Denmark up to Fountain Inn; correct?

22 A Fountain Inn, I'm not sure. But here, it's two
23 hours.

24 MR. SHAFFER: Two hours.

25 Okay. Thank you very much.

1 I appreciate it.

2 THE COURT: Any recross [sic]?

3 MR. MOWRY: Just very briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. MOWRY:

6 Q Just to make sure the jury understands. She did not
7 live with Ronald Davis in Newberry; is that what you're
8 saying?

9 A No, sir.

10 Q She stayed there occasionally; is that right?

11 A Right.

12 MR. SHAFFER: Objection, Your Honor. Leading again.

13 THE COURT: Try to rephrase.

14 BY MR. MOWRY:

15 Q Where did she live prior to moving to the house in
16 Laurens?

17 A Denmark.

18 Q Okay. So she lived in Newberry and occasionally
19 visited Davis --

20 MR. SHAFFER: Objection, Your Honor. Leading.

21 THE COURT: Try to rephrase.

22 BY MR. MOWRY:

23 Q Where did she live?

24 A She lived in Denmark up until the -- a week before
25 the accident -- the incident took place, she lived in

1 Denmark.

2 Q Where did Ronald Davis live?

3 A I think he stayed in Newberry.

4 Q Okay. Did Shana have a house in Newberry?

5 A No.

6 Q Where did Shana stay, as far as you know, in
7 Newberry?

8 A At Ronald's house.

9 Q Okay. And do you know the address?

10 A No, not to Ronald's house.

11 Q Okay. Were they planning to live together in the
12 house in -- around Fountain Inn?

13 A That's here?

14 Q Yes. In Laurens County?

15 A Yes.

16 MR. MOWRY: Thank you, ma'am.

17 THE COURT: Recross?

18 MR. SHAFFER: Yes.

19 RECROSS-EXAMINATION

20 BY MR. SHAFFER:

21 Q Now, you said that whenever -- before they moved to
22 the house in Fountain Inn, isn't it correct that you said
23 that they, basically, would alternate nights?

24 A Yes.

25 Q Okay. And that was going on for about a month; is

1 that fair to say?

2 A Yes.

3 MR. SHAFFER: Okay. Thank you very much.

4 THE COURT: You can step down, ma'am.

5 Thank you.

6 All right. Madam Forelady, and, ladies and gentlemen
7 of the jury, we're going to adjourn this afternoon a
8 little earlier than we normally will. So I'm going to go
9 ahead and release you for the evening. We'll start back
10 at 9:15 in the morning.

11 Be sure to get a good night's rest. And no
12 conversations about this case with anybody that you come
13 into contact with, including yourself. And I remind you,
14 once again, no research into this case. And we'll see you
15 at 9:15 in the morning.

16 Have a good afternoon and good evening.

17 (WHEREUPON, the jury was excused from open court at
18 approximately 4:01 p.m.)

19 THE COURT: All right. We'll be in recess until
20 9:15. Have a good evening.

21 MR. SHAFFER: Your Honor, before we go off the
22 record, I did --

23 THE COURT: Is this on the record?

24 MR. SHAFFER: Yeah. Are we --

25 THE COURT: Yeah. We're on the record.

1 MR. SHAFFER: Your Honor, I did want to preserve that
2 objection that I made at the bench about the child being
3 with her at the time. We had -- I had approached and I
4 had made that objection.

5 THE COURT: Right. And you had noted that at
6 sidebar. And I just suggested and you agreed that we
7 would do it when we broke.

8 MR. SHAFFER: Yes, sir.

9 THE COURT: So you're on the record and protected.

10 MR. SHAFFER: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (WHEREUPON, State's Exhibit Nos. 78, 79, 80, 82, 83,
13 and 84 were marked for identification only.)

14 (WHEREUPON, the proceedings were concluded at
15 approximately 4:02 p.m., to be reconvened on
16 Tuesday, March 27, 2018.)

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1 TUESDAY, MARCH 27, 2018

2 THE COURT: Good morning, ladies and gentlemen.

3 MR. MOWRY: Your Honor, just for the record, the
4 Defense and the State have consulted about trying to
5 streamline things a bit. I think you'll agree it's kind
6 of necessary if we're going to finish Thursday. And I
7 think this is what we've agreed on.

8 We're trying to eliminate the duplicative witnesses,
9 for the most part. Brandon Howard is one of the first
10 officers on the scene, but there were two others, Marty
11 Crain and Robert Timmons. Lieutenant Crain is here. He
12 can testify to pretty much everything. So he will be the
13 only one of those.

14 Ron Wood is purely a chain witness. Matthew Womack,
15 we've already dealt with, the officer who wrote up the
16 search warrant in Newberry. Julie Smith and Jeff Green,
17 again, they would testify to, essentially, the same thing.
18 Ms. Smith is here and she's prepared to testify.

19 Jovonya Key and Todd Shenk were the two crime scene
20 technicians for SLED. Ms. Key is going to be here.
21 Mr. Shenk would be duplicative. Michelle Eichenmiller and
22 Jennifer Nates are two SLED analysts. Obviously, we'd
23 need both of them.

24 THE COURT: Okay.

25 MR. MOWRY: Dan Kelly and Tommy Hines will be dealing

1 with the phone. They'll be here tomorrow.

2 THE COURT: Okay.

3 MR. MOWRY: Dr. Fulcher will be here later this
4 morning. Walter Bentley, with our office, constructed a
5 blow-up chart of text messages. And if the Defense has no
6 objection to Mr. Hines, basically, admitting those, we can
7 do the chart that way.

8 THE COURT: Okay.

9 MR. MOWRY: Then he won't be necessary.

10 Joey Pittman, Joey Avery -- well, Joey Avery, Crystal
11 Turner, and Rebecca Bagwell were all 911. That has been
12 stipulated to.

13 THE COURT: Okay.

14 MR. MOWRY: So we're going to deal with that with no
15 testimony. Ms. Prophet has already testified. And
16 Francine Champagne witnessed the written statement by the
17 Defendant and, also, if memory serves, served the warrants
18 on the Defendant. And I'm told that that won't be
19 necessary either, so.

20 THE COURT: Okay.

21 MR. MOWRY: So I think we're going to be able to cut
22 down about half.

23 THE COURT: Very good.

24 I don't know, Mr. Shaffer, if you heard everything
25 that Solicitor Mowry said because I know you've been

1 conversing with Mr. Bentley, but --

2 MR. SHAFFER: I did, Your Honor. And that is
3 accurate.

4 THE COURT: Is that consistent with your
5 conversations?

6 MR. SHAFFER: That's correct, Your Honor.

7 THE COURT: And when there is a stipulation, let's
8 just make sure that it gets on the record.

9 MR. SHAFFER: Okay. And, Your Honor, before
10 Ms. McNeill comes back in, I'm going to go ahead and
11 address something. My client told me back there that,
12 apparently, he heard on the radio station a report about
13 that case.

14 THE COURT: Okay.

15 MR. SHAFFER: I would just ask that maybe you poll
16 the jury. Because some of it contained information that
17 didn't come out in front of their presence.

18 THE COURT: Okay.

19 MR. SHAFFER: I would just ask that you poll the jury
20 to find out if any of them had heard it. And then maybe
21 advise them not to listen to the radio or watch the news.

22 THE COURT: Was that this morning or yesterday?

23 MR. SHAFFER: That was this morning. My
24 understanding was it was this morning, Your Honor.

25 THE COURT: Would that have been WLBG?

1 DEFENDANT DAVIS: Yes.

2 THE COURT: Okay. I'll, certainly, cover that.

3 Okay. Anything further before we bring the jury out
4 from the State?

5 MR. MOWRY: Nothing from the State.

6 THE COURT: And from the Defense?

7 MS. MCNEILL: No, Your Honor.

8 THE COURT: Okay. Thank you.

9 Mr. Bolt, let's bring the jury out, please.

10 (WHEREUPON, the jury came into open court at
11 approximately 9:40 a.m.)

12 THE BAILIFF: All jurors are present, Your Honor.

13 THE COURT: Good morning, ladies and gentlemen.

14 I hope everybody got a good night's rest and is ready
15 to get to work today.

16 I need to mention one thing to you. It's been
17 brought to my attention that WLBG this morning had some
18 news report about this case. And I need to inquire of you
19 if any of you heard that report or not?

20 (WHEREUPON, all of the jurors shook their heads.)

21 THE COURT: Let the record reflect that no one
22 indicated in the affirmative that they had.

23 I would just ask that while this case is going on
24 that you not listen to the local radio station. Emil
25 Finley, the owner, is a good friend of mine. I know he

1 probably doesn't want me to be telling people don't listen
2 to his radio, but, at least, while the case is going on
3 and, also, when the local paper comes out, the Advertiser
4 and Chronicle. I don't know if they're going to have
5 anything about this case on Wednesday or not. But if you
6 just avoid looking at those newspapers as well. Okay.

7 Thank you very much.

8 Is the State ready to call it's next witness?

9 MR. MOWRY: Yes, sir, Your Honor.

10 The State would call Julie Smith.

11 WHEREUPON,

12 JULIE SMITH,

13 after first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. MOWRY:

16 Q You are Julie Smith?

17 A Yes, sir.

18 Q Ms. Smith, where do you live now?

19 A Greer.

20 Q In Greer?

21 A Uh-huh.

22 Q Back in July of 2016, where did you live?

23 A Off Gentry Road in Fountain Inn.

24 Q What was the street you lived on -- or road that you
25 lived on?

1 A Gentry Road.

2 Q Okay. How -- what's the proximity -- or how close
3 are you to Allen Bridge Road?

4 A One block away.

5 Q Okay.

6 A From the stop sign.

7 Q So you're very close to it?

8 A Yes.

9 Q How well can you see the road, Allen Bridge Road from
10 your house?

11 A You can see -- I mean, you can watch the traffic go
12 by.

13 Q Okay. Did you know the victim in this case, Shana
14 Prophet?

15 A No, sir.

16 Q You had been living there for how long in July of
17 2016?

18 A Probably about six months.

19 Q Okay. Were you aware when Ms. Prophet moved in?

20 A No, sir.

21 Q Okay. How close were you to [REDACTED] Allen Bridge Road,
22 Ms. Prophet's address?

23 A You could see the back porch from our residence where
24 we were staying.

25 Q All right. Let me hand you what's been marked for

1 identification as State's Exhibit No. 77.

2 MR. MOWRY: I've already shown it to the Defense,
3 Your Honor.

4 THE COURT: Okay.

5 BY MR. MOWRY:

6 Q Do you recognize that photograph? Have you seen that
7 before?

8 A Yes.

9 Q What is that, please, ma'am?

10 A That is a map of Allen Bridge Road and Gentry Road.

11 Q Okay. And if you could point out on here where your
12 house is, as opposed to [REDACTED] Allen Bridge Road.

13 A Okay. Where is -- Gentry Road is where? Up here?

14 Q Yes.

15 A Yeah. It was -- oh, gosh. We were caddy corner.
16 It's hard to tell.

17 Q So you were diagonally across the road; is that right?

18 A Diagonally across, right.

19 MR. MOWRY: Your Honor, I would offer State's Exhibit
20 No. 77 into evidence at this time.

21 MS. MCNEILL: No objection.

22 THE COURT: Without objection, State's Exhibit No. 77
23 is in evidence for the State.

24 (WHEREUPON, State's Exhibit No. 77 was admitted into
25 evidence.)

1 BY MR. MOWRY:

2 Q Now, I want you to think back to the early morning
3 hours of July 3rd of 2016. Where were you?

4 A Outside in the driveway smoking a cigarette.

5 Q Who was with you?

6 A My boyfriend, Jeff.

7 Q Okay. How close to your house were you?

8 A In the driveway.

9 Q Okay.

10 A Probably 20 feet, yeah.

11 Q Okay. Where -- about -- between 1:00 and 1:30 that
12 night, did you hear something unusual?

13 A Yeah. We heard a bunch of consecutive gunshots.

14 Q Okay. How many would you say you heard?

15 A Six -- I would say five, six, seven. I'm not exactly
16 sure. I don't remember.

17 Q How rapidly did they occur? One after the other?

18 A I mean, they were consecutive.

19 Q Okay. What did you hear after that?

20 A Nothing.

21 Q Okay. Did you hear any other gunshots after that?

22 A No.

23 Q Okay. So you heard several gunshots in a row?

24 A Yes, sir.

25 Q You didn't hear one --

1 A I don't remember.

2 MS. MCNEILL: Objection. Leading.

3 THE COURT: Try to rephrase.

4 THE WITNESS: I can't remember.

5 BY MR. MOWRY:

6 Q But all the gunshots were in a row. Is that what
7 you're saying?

8 A Yes, sir. They were together.

9 Q Was that unusual for that area?

10 A Yes, it was.

11 Q Okay. This was close to July the 4th; is that right?

12 A Yes.

13 Q Did you wonder whether it was fireworks, or were you
14 able to tell it was gunshots?

15 A You could tell it was gunshots, yes.

16 Q What did you do after that?

17 A We stood there and talked about it.

18 Q All right. Did you see anything unusual after that?

19 A Yes. Later on, we saw the law roll up down there --

20 Q Okay.

21 A -- at the trailer.

22 Q All right. Did you see anyone else around the house
23 before the law enforcement got there?

24 A No.

25 Q Okay. Did you see any cars leave?

1 A Not that I could tell, but I wasn't looking either.

2 MR. MOWRY: Very good.

3 Thank you, ma'am.

4 That's all I have. If you'd answer any of the
5 Defense's questions.

6 MS. MCNEILL: I beg the Court's indulgence.

7 THE COURT: Sure.

8 (Pause.)

9 CROSS-EXAMINATION

10 BY MS. MCNEILL:

11 Q Good morning.

12 How are you?

13 A I'm good.

14 Q Ma'am, I know that night was a long time ago; right?

15 A Yes.

16 Q So your memory's probably a little fuzzy?

17 A Yeah. But not on what I heard, though. But, I mean,
18 yeah, kind of.

19 Q And you said that you were -- you could see the back
20 porch from where you were standing outside when you were
21 smoking a cigarette?

22 A Yes. Yes.

23 Q So you could see the house?

24 A You could see the house in the daylight, yes. But
25 you could see if someone was coming down the road to pull

1 in, you know.

2 Q Right.

3 A Because it was nighttime.

4 Q And that night, you couldn't see inside the house?

5 A No, sir -- I mean, no, ma'am.

6 Q Okay. And you heard a bunch of gunshots pretty
7 rapidly?

8 A Yes.

9 Q But you couldn't tell from hearing those gunshots if
10 there was a fight going on inside the house?

11 A No.

12 MS. MCNEILL: Thank you.

13 No further questions.

14 MR. MOWRY: Nothing further, Your Honor.

15 We'd ask that this witness be excused.

16 THE COURT: Ma'am, you're free to go or welcome to
17 remain with us, either way.

18 MR. MOWRY: We call Marty Crain.

19 THE COURT: Come around, Mr. Crain.

20 WHEREUPON,

21 MARTY CRAIN,

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

23 DIRECT EXAMINATION

24 BY MR. MOWRY:

25 Q I believe you're employed by the Laurens County

1 Sheriff's Office; is that right?

2 A Yes, sir.

3 Q Currently, what is your position with the sheriff's
4 office?

5 A School resource officer.

6 Q And back in July of 2016, what did you do?

7 A I was the road patrol lieutenant.

8 Q All right. And was that a rotating shift job?

9 A I worked standard night shift. But we had an on-off
10 rotation, yes.

11 Q Okay. Were you on duty in the early morning hours of
12 July 3rd, 2016?

13 A Yes.

14 Q Around 1:30 or so that morning, did you receive a
15 call?

16 A I did.

17 Q And what was -- what did that call direct you to do?

18 A I received a call from Laurens County Emergency
19 Dispatch that a possible shooting had taken place on Allen
20 Bridge Road.

21 Q Is that commonly 911? Is that what you're talking
22 about?

23 A Yes, sir.

24 Q Okay. What did you do in response to that call?

25 A I responded myself and dispatched a couple other

1 deputies to the scene.

2 Q Who else did you direct to come there?

3 A Sergeant Timmons, who, also, had Deputy Brandon
4 Howard with him.

5 Q So a total of three of y'all; is that right?

6 A Yes, sir.

7 Q Where is this location?

8 A It's in the upper part of Laurens County near
9 Fountain Inn, near the intersection of Gentry Road where
10 Allen Bridge and Gentry --

11 Q But, for the record, [REDACTED] Allen Bridge Road is in
12 Laurens County; is that right?

13 A Yes, sir.

14 Q I'm going to hand you a few pictures, if I may. I'm
15 going to hand you what have been marked for identification
16 as State's Exhibit Nos. 1, 2, and 3, and ask you if you
17 can identify those?

18 A Yes. This is the residence that we responded to.

19 Q All right.

20 A That's the front of the residence.

21 Q That's, specifically, State's Exhibit No. 1; is that
22 right?

23 A Yes, sir. This is the rear of the residence.

24 Q And that's State's Exhibit No. 2?

25 A Yes. And this is, also, another photograph of the

1 rear of the residence.

2 Q And that's State's Exhibit No. 3; is that right?

3 A Yes, sir.

4 MR. MOWRY: Your Honor, I would offer these into
5 evidence at this time.

6 MS. MCNEILL: No objection.

7 THE COURT: Without objection, State's Exhibit
8 Nos. 1, 2, and 3 into evidence for the State.

9 (WHEREUPON, State's Exhibit Nos. 1, 2, and 3 were
10 admitted into evidence.)

11 BY MR. MOWRY:

12 Q Let's take a look at State's Exhibit No. 1, if we
13 could. Is that State's Exhibit No. 1?

14 A Yes, sir.

15 Q When you got there, were lights on?

16 A No, sir.

17 Q What was the lighting conditions at that time?

18 A It was dark, other than that street light you see in
19 the background.

20 Q In the background here?

21 A Yes, sir.

22 Q What about in the back of the house?

23 A There was a light coming from the rear door where the
24 sliding glass door was on the back.

25 Q Okay. Was the yellow tape there?

1 A No, sir.

2 Q Did y'all put that up?

3 A Yes, sir.

4 Q And that's one of y'all's vehicles; is that right?

5 A Yes, sir.

6 Q Did you deal with Ms. Smith later on? Did you talk
7 with her? Or do you know where she lived?

8 A Ms. Smith, no, sir, I did not.

9 Q All right. But this is the front of the house; is
10 that right?

11 A Yes, sir.

12 Q Okay. What did you do when you got there?

13 A My vehicle is, actually, positioned to the left out
14 of the frame. When I pulled up, I assessed the situation
15 there from the yard. There were two vehicles still in the
16 yard. Once I arrived, I arrived on scene, first, by
17 myself. I cleared both vehicles to make sure no one was
18 in the vehicles. A short time --

19 Q You talk about clearing, what does that mean?

20 A Making sure no one was inside those vehicles.

21 Q Okay. Then what did you do?

22 A I positioned myself at the back corner of the
23 residence where I could move back and forth between the
24 front -- and see the front door and the back door until
25 Sergeant Timmons and Deputy Howard arrived.

1 MR. MOWRY: Okay. Can you switch to State's Exhibit
2 No. 2?

3 BY MR. MOWRY:

4 Q Referring to State's Exhibit No. 2, where were you?

5 A The far end.

6 Q On this right-hand edge?

7 A Yes, sir.

8 Q Okay.

9 A At that time, I was unaware of this door on this end.

10 Q Right. Then what did you do?

11 A Once they arrived, Sergeant Timmons and myself made
12 our way up. But before we started up those steps, we
13 could see in the dew in the wet grass where it looked like
14 a set of tire tracks where another vehicle had been parked
15 there that was no longer there.

16 Q What did that indicate to you?

17 A Someone had left.

18 Q Okay. What happened then -- no. Let me ask you
19 this. Is there a driveway off here on the right-hand
20 side?

21 A Yes. That's the driveway. That's correct.

22 Q Is there another way out without going down that
23 driveway?

24 A Not that I saw from that moment.

25 Q Okay. What did you do then?

1 A Once Sergeant Timmons got there, we had Deputy Howard
2 stationed and watched the front door. Sergeant Timmons
3 and I made entry through this back sliding glass, which
4 was open.

5 Q Now, there's a wooden deck here; is that right?

6 A Yes, sir.

7 Q Is this the sliding glass door that you're talking
8 about?

9 A Yes, sir.

10 Q What was the position of that sliding glass door when
11 y'all got there?

12 A It was open, partially open.

13 Q Okay. Let me hand you what has been marked for
14 identification as State's Exhibit No. 11, and ask you if
15 you can identify that?

16 A Yes. That is the sliding door that was partially
17 open.

18 Q Is that the condition it was in when you got there?

19 A Yes, sir.

20 Q There is --

21 MR. MOWRY: Well, I would offer this into evidence at
22 this time.

23 MS. MCNEILL: No objection, Your Honor.

24 THE COURT: Without objection, State's Exhibit No. 11
25 into evidence for the State.

1 (WHEREUPON, State's Exhibit No. 11 was admitted into
2 evidence.)

3 BY MR. MOWRY:

4 Q Lieutenant Crain, there is a marker here, number 11,
5 it's a yellow marker. What is that?

6 A Usually, any kind of evidence that we -- that could
7 be a possible evidence that we locate for -- pertaining to
8 the incident that occurred, we place down evidence markers
9 so we can take photographs of it.

10 Q So that yellow marker is an evidence marker; is that
11 right?

12 A Yes, sir.

13 Q Okay. What did you do after y'all came in the
14 partially opened sliding glass door?

15 A After we came in, we started to clear the residence
16 from left to right, and made our way through. This is
17 like a small den, living area that goes across. Once we
18 made our way across, we immediately went to an open door
19 to the right.

20 When I went inside, I found a female in the floor of
21 the bedroom between the bathroom and the bed.

22 Q So you and Sergeant Timmons were working together on
23 this; is that right?

24 A Yes, sir.

25 Q Okay.

1 A He stayed at the doorway of the bedroom when I went
2 inside.

3 Q All right. What did you see inside that room?

4 A Once I went in, initially, I saw the bed. Then when
5 I started around the bed, I saw the victim lying in the
6 floor.

7 Q Okay. You say "the victim," male or female?

8 A Female.

9 Q What did you note about her?

10 A We saw some blood. She was laying face down with her
11 right arm kind of under her. I kneeled down to check to
12 see if I could find a pulse. Once I couldn't find
13 anything, we had to continue clearing the rest of the
14 house because we didn't know if anybody was still there.

15 Q So you found no signs of life; is that right?

16 A No, sir.

17 Q Where else did you go?

18 A Once we cleared that bedroom, we continued to work
19 around and made our way through a kitchen, then a living
20 room across the front of the house. Then I went into a
21 bedroom kind of in the front where I located a small child
22 asleep in the bed.

23 Q Okay. What did you do with the small child?

24 A Once -- once we determined -- we got the child up,
25 got the child to the front door.

1 MS. MCNEILL: Judge, subject to previous objections.

2 THE COURT: So noted.

3 BY MR. MOWRY:

4 Q Okay.

5 A We took the child to -- gave him to Deputy Howard,
6 who placed him in a patrol car outside.

7 Q What happened to the child after that?

8 A We contacted victim services and DSS.

9 Q Did you notice anything else about the room where the
10 victim was?

11 A It was disheveled. We found some shell casings in
12 the floor. The bed was kind of disheveled a little bit.
13 We photographed and put markers down based on those
14 casings that we had found.

15 Q Okay. Let me hand you a series of pictures here, if
16 I may in just a second. I'm going to hand you what has
17 been marked for identification as State's Exhibit Nos.
18 18 -- excuse me, I'll back up. State's Exhibit Nos. 13,
19 14, 15, 16, 17, 18, 19 and State's Exhibit Nos. 20 through
20 24, and then 26.

21 MS. MCNEILL: No objection.

22 THE COURT: All right. You can go ahead -- you've
23 not moved for them to be put into evidence. Ms. McNeill
24 indicated there's no objection.

25 MR. MOWRY: If there's no objection, I will move them

1 into evidence at this time.

2 MS. MCNEILL: There's no objection.

3 THE COURT: And I think you indicated State's Exhibit
4 Nos. 13 through 19, 20 through 24, and 26?

5 MR. MOWRY: Yes, sir.

6 THE COURT: Okay. Those are in evidence for the
7 State.

8 You may proceed.

9 (WHEREUPON, State's Exhibit Nos. 13, 14, 15, 16, 17,
10 18, 19, 20, 21, 22, 23, 24, and 26 were admitted
11 into evidence.)

12 BY MR. MOWRY:

13 Q Let me just hand you this stack of pictures -- well,
14 let me, actually, pull a few. Let's look at, first of
15 all, State's Exhibit No. 17. What does that depict?

16 A That is the bed.

17 Q All right. And again, we see the yellow placards all
18 about?

19 A Yes, sir.

20 Q Did y'all place those?

21 A Yes, sir.

22 Q What do those mark?

23 A Either shell casings or bullet holes that we saw.

24 Q Okay. And I'm going to hand you State's Exhibit
25 No. 13. What does that show?

1 A That is the photograph taken from the doorway of the
2 bedroom going in.

3 Q All right. I see a lot of paper. It appears to be
4 paper down here. Was that there when you arrived?

5 A No, sir. That was from the EMS.

6 Q Okay.

7 A And the fire services.

8 Q So the emergency services came. And what were they
9 trying to do?

10 A They were checking for signs of life, or if she could
11 do any life saving measures.

12 Q So all that paper and stuff was their trash; is that
13 right?

14 A Yes, sir.

15 Q Wrappings of various medical things?

16 A Yes, sir.

17 Q Okay. But let me show you this -- or point to this
18 stuff down at the bottom of this bureau. I guess this is
19 a TV on top of it?

20 A Yes, sir.

21 Q What is all this stuff down at the bottom?

22 A It looked to be stereo equipment, surround sound
23 equipment, stuff like that.

24 Q Okay. Was that there in that position when you got
25 there?

1 A Yes.

2 Q And State's Exhibit No. 15, does that show pretty
3 much the same thing?

4 A Yes, sir.

5 Q Let's go to State's Exhibit No. 16 then. What does
6 that show?

7 A This is the side of the bed on the side closest to
8 where the victim was located. And --

9 Q Go ahead. I'm sorry -- oh, okay. And this stuff
10 down here, what is that?

11 A That's, also, trash and stuff from EMS.

12 Q And these items on the little nightstand here?

13 A That's EMS.

14 Q These are, I guess, IV bags?

15 A Yes, sir.

16 Q Okay. But all of these markers here, like, five,
17 six, and seven down on the floor, what are they showing?

18 A Shell casings.

19 Q All right. I see this green item right here. What
20 is that?

21 A It was a green Crown Royal bag.

22 Q All right. Crown Royal liquor?

23 A Yes, sir.

24 Q And the bottle comes in that kind of velvet or felt
25 bag; is that right?

1 A Yes, sir.

2 Q Was that there when you arrived?

3 A Yes, sir.

4 Q Okay. Let me hand you the rest of these photos,
5 State's Exhibit Nos. 20, 21, 22, 23, 24, and 26. I'm
6 going to go back, State's Exhibit Nos. 14, 19, and 18.
7 I'm sorry they're out of order.

8 A That's all right.

9 Q But just talk about those in general. What do those
10 show?

11 A This photograph here, State's Exhibit No. 18, is a
12 marker over by the dresser on the left when you first come
13 in where a shell casing was at.

14 Q Okay. What's next?

15 A State's Exhibit No. 19.

16 Q All right.

17 A It's a shell casing located on the bed.

18 Q All right.

19 A With marker 4.

20 Q And that was in that position when you got there; is
21 that right?

22 A Yes, sir.

23 Q What was your purpose in placing all these markers
24 before anybody else got there?

25 A So if anything was disturbed, we would know the

1 general area of where it was at.

2 Q And to give EMS kind of a clue where they were?

3 A Yes. And EMS was notified by myself when they came
4 in the door that we had evidence around and that they
5 needed to be cautious.

6 Q Okay. What's next?

7 A Next is State's Exhibit No. 14, which is a view from
8 the other side of the bed back towards the bathroom.

9 Q All right. And you talked about the bathroom. How
10 is that significant as far as the victim is concerned?

11 A She was laying in between the doorway of the bedroom
12 and the bathroom.

13 Q So she was lying across the threshold there of that
14 door?

15 A Yes, sir.

16 Q Okay. What's next?

17 A Next is State's Exhibit No. 26.

18 MR. MOWRY: Go to State's Exhibit No. 26, Walter.

19 Sorry.

20 There we go.

21 BY MR. MOWRY:

22 Q I'm showing marker 10?

23 A Yes. Those markings are where it appeared that a
24 round had went through the bed.

25 Q Right here?

1 A Right there and right there, yes, sir.

2 Q Okay. What's next?

3 A Next is State's Exhibit No. 24. And it just depicts
4 another shell casing.

5 Q With marker 8; is that right?

6 A Yes, sir.

7 Q Okay.

8 A State's Exhibit No. 23, this is the same picture of
9 the last, but with a wider spectrum.

10 Q So that one was, basically, in the corner; is that
11 right?

12 A Yes, sir.

13 Q Okay. What's next?

14 A Next is State's Exhibit No. 22. It's another shell
15 casing.

16 Q All right. And, again, this is shown by marker 7?

17 A Yes, sir.

18 Q All right.

19 A Then State's Exhibit No. 21, which is another shell
20 casing.

21 Q All right.

22 A And last is State's Exhibit 20, which is another
23 shell casing.

24 Q And that shows marker 5; is that right?

25 A Yes, sir.

1 Q Okay. But all those were present when you got there?

2 A Yes, sir.

3 Q And y'all were the ones that placed those markers?

4 A Yes, sir.

5 Q Did you, in fact, collect these items yourself?

6 A No.

7 Q Who did that?

8 A Once the scene was turned over to investigators, I
9 assume SLED did.

10 Q What was your purpose once the investigators arrived?

11 A We just kept the outside area contained and secure.
12 And I waited at the vehicle with the child.

13 Q Okay. So y'all went and put the yellow tape around
14 the area, too?

15 A Yes, sir.

16 Q What's the purpose of that?

17 A To keep anybody from outside the crime from going
18 inside and disturbing.

19 MR. MOWRY: Okay. Thank you, sir.

20 I believe that's all I have. Answer any of the
21 Defense's questions.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MS. MCNEILL:

25 Q Good morning, Mr. Crain. How are you?

1 A Good morning.

2 Q So you responded to the scene. You were one of the
3 initial responding officers, along with Timmons and Deputy
4 Howard; correct?

5 A Correct.

6 Q And you had received information that a guy had shot
7 his girlfriend in self-defense, what he claimed, and
8 that's what --

9 A We received a call that there was a shooting that had
10 taken place.

11 Q And do you remember what time that call came in?

12 A I do not. It was in the early morning time.

13 Q If I hand you the CAD report, would you be able to
14 refresh your recollection?

15 A The time should be stamped on it.

16 MS. MCNEILL: Permission to approach, Judge?

17 THE COURT: Sure.

18 BY MS. MCNEILL:

19 Q What time did that call come in?

20 A On the -- it shows 01:30.

21 Q Okay. And what time did -- were you guys dispatched
22 to the scene?

23 A 01:32.

24 Q And what time did you arrive?

25 A 01:46.

1 Q Okay. So about 16 minutes or so after?

2 A Yes, ma'am.

3 Q Okay. Thank you.

4 And you testified that when you got to the scene --
5 were all the lights on when you got there?

6 A Not all the lights.

7 Q Did you turn the lights on?

8 A After EMS came in, we turned on, I think, one light
9 in the front room and the porch light.

10 Q The front room and the porch light. Okay. And you
11 stated that the sliding glass door was wide open?

12 A It was open, yes, ma'am.

13 Q Okay. Was it all the way open?

14 A In that photograph is how it was opened, partially.

15 Q Okay. And when you went through the home, you
16 announced "sheriff's office" pretty loudly?

17 A Yes, ma'am.

18 Q In case there was anybody still inside the house that
19 may be an intruder?

20 A For anyone who was in the house, yes, ma'am.

21 Q Okay. And you didn't hear anybody respond?

22 A No, ma'am.

23 Q And you went through each room of the house?

24 A Yes, ma'am.

25 Q And cleared the house of anybody?

1 A Yes, ma'am.

2 Q You said that you found a small child in the back
3 bedroom?

4 A Front bedroom.

5 Q Front bedroom. Okay. And this was down the hall
6 from the master bedroom?

7 A It's, actually, quite -- just through the wall on the
8 other side.

9 Q And that child was sleeping in the bed?

10 A Yes, ma'am.

11 Q Okay. So you woke the child up?

12 A Yes, ma'am.

13 Q And you took the child outside?

14 A Yes, ma'am.

15 Q And you placed the child in a patrol car?

16 A No. I gave the child to Deputy Howard. And Deputy
17 Howard placed the child in the patrol car.

18 Q And did you call DSS?

19 A No, ma'am. I think one of the investigators called
20 DSS.

21 Q But you're the one that woke the child up and carried
22 him outside?

23 A Yes, ma'am.

24 Q And he was sleeping in his bed?

25 A Yes, ma'am.

1 Q When you arrived into the master bedroom, you stated
2 that you saw a female laying on the floor?

3 A Yes, ma'am.

4 Q And was she laying face down?

5 A Yes, ma'am.

6 Q Can you explain, was she laying -- was her stomach
7 touching the ground when she was found?

8 A She was face down this way with her right arm up
9 underneath her, partially underneath her.

10 Q Okay. I -- I'm going to ask you to demonstrate.
11 Would you mind demonstrating that on the floor?

12 A No.

13 Q And if the jury would just stand if they can't see.

14 THE COURT: If any of the jury needs to stand up to
15 see Officer Crain do his demonstration, you may.

16 BY MS. MCNEILL:

17 Q Okay. So her right arm is underneath her?

18 A Yes, ma'am.

19 Q Between her stomach and the floor?

20 A Yes, ma'am.

21 Q Okay. Thank you.

22 And was she laying with her head in towards the
23 bathroom?

24 A Yes, ma'am.

25 Q And her feet were out towards the bed?

1 A Yes, ma'am.

2 Q In the bedroom?

3 A Yes, ma'am.

4 Q And when you arrived and you found her face down, you
5 said there were no signs of life?

6 A Yes, ma'am.

7 Q Are you the one that tried to touch her and say, are
8 you okay?

9 A Yes, ma'am.

10 Q And she didn't respond?

11 A No, ma'am.

12 Q And you saw a lot of blood coming out of her?

13 A I saw blood.

14 Q Blood. Okay. Was the blood on her back? Was it on
15 her --

16 A I just saw blood. I saw some on her arm. I was
17 using a flashlight because that room did not have a light
18 on.

19 Q It didn't have a light on at all?

20 A Not in that room, no, ma'am.

21 Q Okay. And she, obviously, didn't respond?

22 A No, ma'am.

23 Q So there were no signs of life?

24 A No, ma'am.

25 Q And EMS did arrive on scene; correct?

1 A Yes, ma'am.

2 Q How long after you had been on scene did EMS arrive?

3 A I don't recall.

4 Q Did you take any photographs whatsoever of the
5 deceased, Shana, or of the room before EMS arrived?

6 A I did not take any photographs at all.

7 Q Okay. Do you know if somebody did?

8 A Someone took photographs, but I don't know what
9 they're timing was when they took them.

10 Q So you don't know whether they took them before or
11 after EMS had arrived?

12 A No, ma'am.

13 Q Okay. So in photograph 16 -- I'm just going to give
14 this to you. It's up on the screen as well. In
15 photograph 16, Mr. Mowry asked you what all of this was on
16 the night stand. You see it looks like some saline bags,
17 some purple gloves, and some other paper items. Are those
18 from EMS or you?

19 A EMS.

20 Q Okay. Were you wearing any gloves?

21 A Yes, ma'am. I had on just regular patrol gloves.

22 Q Okay. What color were those?

23 A Black.

24 Q So this was not -- this purple glove would not belong
25 to you?

1 A No, ma'am.

2 Q I notice that her foot is facing upward in this
3 picture?

4 A Yes, ma'am.

5 Q So this would have been after EMS had arrived and
6 started working on her?

7 A Yes, ma'am. EMS rolled her over.

8 Q They rolled her over. Did they intubate her?

9 A I don't recall. I remember when they rolled her
10 over, they started attaching leads for a monitor.

11 Q Okay. Even though you had already noticed no signs
12 of life?

13 A Yeah. But I'm not EMS, so they --

14 Q Right.

15 A They do their preliminary check as well.

16 Q When you were answering questions for Mr. Mowry, you
17 stated that the room was very disheveled?

18 A Yes, ma'am.

19 Q Okay. And so let's look at -- at this photograph,
20 which I believe is State's Exhibit No. 16.

21 A Yes, ma'am.

22 Q Okay. In this photograph, these markers, you
23 testified that you had put these markers in place?

24 A We had, yes, ma'am. I didn't personally put them in
25 place.

1 Q Okay. Who did put them in place?

2 A I'm pretty sure Sergeant Timmons placed those
3 markers.

4 Q And it's important to preserve a crime scene for
5 evidentiary value?

6 A Yes, ma'am.

7 Q It's, also, important to preserve the crime scene for
8 SLED to come in and process the crime scene?

9 A Yes, ma'am.

10 Q So, of course, you would want to be making note of
11 any signs of bullet trajectory; right?

12 A Yes, ma'am.

13 Q Okay. Any cartridge casings?

14 A Yes, ma'am.

15 Q Any bullet projectiles?

16 A Yes, ma'am.

17 Q So you would have -- you and your team would have
18 done your best to preserve that scene so that SLED could
19 come in and further process it; correct?

20 A Yes, ma'am.

21 Q Okay. And so when we look at State's Exhibit No. 16,
22 this photograph, you can see that there's -- the mattress
23 is slightly moved over from the bed frame; right?

24 A Yes, ma'am.

25 Q Or from the box spring; right?

1 A Yes, ma'am.

2 Q Okay. And you see the Crown Royal green bag that
3 Mr. Mowry talked about by marker number 6?

4 A Yes, ma'am.

5 Q Okay. Which is, also -- it looks like a casing is
6 next to it as well?

7 A Yes, ma'am.

8 Q And by marker number 10, what do you see there?

9 A It looks like some kind of cord or wire.

10 Q Could it, also, be somebody's hair?

11 A It could be.

12 Q It could be. Okay. Now, I want to show you State's
13 Exhibit No. 26. I'm going to hand this photograph to you.

14 And it's, also, going to be on the screen. Okay.

15 MS. MCNEILL: State's Exhibit No. 26; right?

16 UNIDENTIFIED MALE: Yes.

17 BY MS. MCNEILL:

18 Q State's Exhibit No. 26, we see by marker number 10,
19 which is the same marker number in the previous photo,
20 State's Exhibit No. 16, that I just showed you?

21 A Yes, ma'am.

22 Q Okay. Can you now see in that photograph, which you
23 have in your hand, the braided hair?

24 A Yes, ma'am.

25 Q Okay. And then, also, down below that marker --

1 because that marker is on the mattress, isn't it?

2 A Yes, ma'am.

3 Q Okay. So below, which is where some plastic looks
4 like it is on the box spring?

5 A Yes, ma'am.

6 Q Okay. You, also, see another strand of hair;
7 correct?

8 A Yes, ma'am.

9 Q Okay. So we see two strands of hair on a mattress
10 that looks like it has been moved; right?

11 A Yes, ma'am.

12 Q But interestingly enough, if you can go back to
13 photograph -- actually, I'm going to make sure this is the
14 right one.

15 MS. MCNEILL: If you could go back to State's Exhibit
16 No. 16.

17 BY MS. MCNEILL:

18 Q All right. In State's Exhibit No. 16, you, also,
19 notice that the bed is, actually, made; correct?

20 A It appears to be, yeah.

21 Q All right. And on State's Exhibit No. 17, again,
22 you, also, notice that the bed is, actually, made; right?

23 A Yes, ma'am.

24 Q Okay. So we have a made bed with a mattress moved;
25 right?

1 A Yes, ma'am.

2 Q Just the top part, though, not the box spring; correct?

3 A Uh-huh.

4 Q And we have several strands of hair strung out around
5 the room; right?

6 A Yes, ma'am.

7 MS. MCNEILL: I beg the Court's indulgence.

8 THE COURT: Sure.

9 (Pause.)

10 BY MS. MCNEILL:

11 Q And then State's Exhibit No. 14 shows several markers
12 on top of the actual mattress, marker 10, 4, and 9; right?

13 A Yes, ma'am.

14 Q Okay. And what was found at 10, 4, and 9? Were
15 those casings?

16 A Yes, ma'am. Casings or the -- as in this one on
17 26 [sic] by marker 10 is where those two bullet trajectory
18 holes were.

19 Q Okay. And then back to State's Exhibit No. 16, we
20 see -- so we just saw all those markers 10, 4, and 9 on
21 the bed. And, now, in State's Exhibit No. 16, we see
22 state markers 5, 7, and 6 on the floor; right?

23 A Yes, ma'am.

24 Q Was -- that green Crown Royal bag by marker number 6,
25 was that bag there when you got there?

1 A Yes, ma'am.

2 Q Okay. It was in that very location?

3 A Yes, ma'am.

4 Q Okay. And then you had testified that you preserved
5 the scene to keep people from going inside the crime scene
6 that shouldn't be there?

7 A Yes, ma'am.

8 Q Okay. So in other words, it sounds like it was well
9 preserved?

10 A Yes, ma'am.

11 Q Do you remember -- I'm sure that finding this female
12 laying face down in between a bathroom and bedroom with
13 blood coming out of her and no signs of life, that had to
14 have been -- you had to have been on alert?

15 A Yes, ma'am.

16 Q Do you remember if she had braided hair?

17 A I do not remember.

18 MS. MCNEILL: You don't remember.

19 No further questions.

20 Thank you.

21 THE COURT: Any redirect, Solicitor?

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

23 REDIRECT EXAMINATION

24 BY MR. MOWRY:

25 Q Ms. McNeill had you demonstrate the position of the

1 victim's body when you arrived. Did EMS move the body at
2 all to try to give treatment?

3 A Yes. They rolled her over to her back.

4 Q And she talked about how the mattress was disturbed
5 like this?

6 A Yes, sir.

7 Q Was that in that position when you got there?

8 A Yes, sir.

9 Q She talked about the green Crown Royal bag. That
10 was, also, present?

11 A Yes, sir.

12 Q And let me, also, refer to --

13 MR. MOWRY: Is that number 14 or 16?

14 THE COURT: That one is 16.

15 MR. MOWRY: This is 16. Okay.

16 BY MR. MOWRY:

17 Q Right next to the Crown Royal bag, I see a little
18 black item coming out from underneath the nightstand?

19 A Yes, sir.

20 Q Did you determine -- did you at any time determine
21 what that was?

22 A Yes, sir. We looked. It was what appeared to be a
23 cell phone.

24 Q Okay. Can I hand you what's been marked for
25 identification as State's Exhibit --

1 MS. MCNEILL: Objection. Outside the scope of my
2 cross-examination.

3 MR. MOWRY: Well, she was asking about all these
4 items, Your Honor. That's just another thing in the
5 picture.

6 THE COURT: I'll overrule the objection and let you
7 proceed.

8 BY MR. MOWRY:

9 Q Let me hand you what's been marked for identification
10 as State's Exhibit No. 84. Do you recognize that?

11 A Yes, sir. It's a cell phone.

12 Q Does that appear to be the same one that's underneath
13 the nightstand right there?

14 A Yes, sir.

15 Q Was that in the same condition?

16 A Yeah. The one that was under there was damaged, yes,
17 sir.

18 MR. MOWRY: Thank you, sir.

19 I believe that's all I have.

20 THE COURT: Recross?

21 MS. MCNEILL: Just briefly.

22 RECROSS-EXAMINATION

23 BY MS. MCNEILL:

24 Q Officer, you said that you arrived before EMS;
25 correct?

1 A Yes, ma'am.

2 Q And you found Shana's body on the floor face down
3 before EMS got there?

4 A Yes, ma'am.

5 Q And that EMS rolled her body over?

6 A Yes, ma'am.

7 MS. MCNEILL: Thank you.

8 No further questions.

9 THE COURT: You can step down, sir.

10 MR. MOWRY: And, Your Honor, pursuant to agreement
11 with the Defense, we would like to now play the first 911
12 call.

13 THE COURT: Okay. Approximately how --

14 MR. MOWRY: It's very short, about a minute long.

15 THE COURT: Okay. Let's play that one and then we'll
16 take a morning break.

17 MR. MOWRY: Yes, sir.

18 (WHEREUPON, State's Exhibit No. 81 was played in open
19 court.)

20 MR. MOWRY: That is the substance of it, Your Honor.

21 THE COURT: All right. Madam Forelady, and, ladies
22 and gentlemen of the jury, let's take about a 10-minute
23 morning break.

24 Again, I remind you to refrain from any discussion
25 about this case. And we'll get you back out shortly.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 10:27 a.m.)

3 (WHEREUPON, a break was taken.)

4 THE COURT: Is everybody ready?

5 MR. MOWRY: I believe there's a matter we need to
6 take up, Your Honor, before the jury comes back out.

7 MR. SHAFFER: Your Honor, with the next witness, I'll
8 go ahead and get this marked as a Defense exhibit.

9 THE COURT: What number is that?

10 MR. SHAFFER: One.

11 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
12 identification only.)

13 MR. SHAFFER: Defendant's Exhibit No. 1 is a
14 photograph from the autopsy. We're going to try to
15 introduce that through the doctor, through their witness.

16 There's a couple different reasons we're going to
17 introduce it. One, we'll make clear later on during
18 argument. But, one, particularly is the tattoo that's on
19 her lower behind and side is of a crown.

20 And it's our position that, essentially, it's the
21 same -- same crown as what you would see on a Crown Royal
22 bag, which is relevant to this case because, obviously,
23 the allegation is that she pulled the gun -- and I don't
24 think the Court has, actually, heard this part.

25 But she pulled the gun out of a green Crown Royal

1 bag. And they're going to introduce some evidence about
2 some green Crown Royal bags that were found in Newberry
3 and, obviously, the green Crown Royal bag that's in the
4 floor there. It's our position, essentially, that that
5 crown is a similar crown or the same type of crown that's,
6 actually, shown on that Crown Royal bag, Your Honor.

7 THE COURT: All right. So do we have -- is the State
8 objecting?

9 MR. MOWRY: Yes, sir.

10 THE COURT: Okay. To this --

11 MR. MOWRY: The fact that a crown is there is
12 something they can ask the doctor about. It's the same
13 situation we're stuck in, Your Honor. A lot of times, the
14 picture would be worth a thousand words.

15 But, quite frankly, the shock value to the jury --
16 we, essentially, tried to avoid any blood and gore. And
17 they're putting a picture of a dead body in front of the
18 victim when words can describe it. There's absolutely no
19 reason. Plus, it's pure speculation on their part as to
20 what that crown is about.

21 THE COURT: Well, let me ask this. Is there a reason
22 why we're dealing with it at this stage?

23 MR. SHAFFER: The doctor is about to go up.

24 THE COURT: Oh, you've got the doctor?

25 MR. MOWRY: Yes, sir.

1 THE COURT: I got you. Okay.

2 MR. SHAFFER: And, Your Honor, we were planning on
3 introducing -- that, first of all, is the least bloody of
4 the autopsy pictures we were able to find that showed
5 that.

6 THE COURT: All right.

7 MR. SHAFFER: Secondly, that picture, also, shows
8 something else that we might raise during our -- might
9 make an argument concerning during our closing argument.

10 Your Honor, I mean, we can possibly edit it down if
11 the Court thinks it's too gory. I, certainly, don't think
12 that particular picture is too gory to show a jury, I
13 mean.

14 MR. MOWRY: In his autopsy report, Your Honor, on
15 Page 3, there are identifying marks and scars that
16 include -- and there's a list of her tattoos.

17 THE COURT: Right.

18 MR. MOWRY: I think they're doing this for pure shock
19 value, not for any evidentiary purpose. They can get the
20 words. They don't need the picture.

21 MR. SHAFFER: Why would we want to shock the jury
22 with a picture of a dead body? That doesn't make any
23 sense.

24 THE COURT: You know, if they have certain theories
25 about the case, certainly, as the State has certain

1 theories about the case, it's going to be up to the jury
2 to give a theory any weight or credibility. And so if
3 they -- if one of their theories is that there's some
4 correlation between the green Crown Royal bag and this
5 tattoo on her -- on her rear-end, I'm going to allow them
6 to get it in, as the jury is going to make that
7 determination whether or not there's any validity to that.

8 MR. MOWRY: Well, just for Your Honor's reference, as
9 part of the -- your request when we began the break, I
10 explained to the family that the autopsy was coming up and
11 explained to them that they might not want to be in here
12 for that. So they are not. The victim advocate is.

13 THE COURT: Right.

14 MR. MOWRY: But I would ask Your Honor to give me an
15 opportunity to get them back in the courtroom once the
16 doctor is done.

17 THE COURT: Oh, certainly. As soon as the doctor
18 finishes testifying, then go ahead and take care of that.

19 Okay. Let's bring the jury out, please.

20 (WHEREUPON, the jury came into open court at
21 approximately 10:53 a.m.)

22 THE BAILIFF: All jurors are present, Your Honor.

23 THE COURT: Okay. Thank you, Mr. Bolt.

24 Ladies and gentlemen, the break lasted a little bit
25 longer than we anticipated. I had a legal matter that I

1 had to address with the lawyers. That's why the break was
2 a little bit longer than normal.

3 Solicitor, are you ready to call your next witness?

4 MR. SIMMONS: Yes, Your Honor. The State calls
5 Dr. James Fulcher.

6 THE COURT: Come around, please, Doctor.

7 WHEREUPON,

8 JAMES WILLIAM FULCHER, M.D.,

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

10 DIRECT EXAMINATION

11 BY MR. SIMMONS:

12 Q Would you state your name for the jury?

13 A I'm Dr. James William Fulcher.

14 Q What's your occupation?

15 A I'm a forensic pathologist.

16 Q And can you explain to the jury what that is?

17 A Sure. I'm a medical doctor, just like a pediatrician
18 or a surgeon. I went to school in Virginia. I graduated
19 medical school at the Medical College of Virginia. I
20 completed a four-year residency in anatomic and clinical
21 pathology, and then a one-year fellowship after that at
22 the chief medical examiner's office in Richmond, Virginia.

23 I've been practicing forensic pathology and anatomic
24 pathology in the State of South Carolina located in
25 Greenville, South Carolina for the last 10 years.

1 Q And what does a forensic pathologist do?

2 A A forensic pathologist does autopsies at the request
3 of the State. And, also, we do hospital autopsies for
4 people that die in the hospital unexpectedly.

5 But in this case, because of the situation at the
6 scene, the coroner of Laurens County would have requested
7 that we do an autopsy in this particular case because of
8 the situation at the scene.

9 Q And how long have you been practicing as a forensic
10 pathologist?

11 A Actually, it will be 10 years in July.

12 Q You've done several autopsies?

13 A Approximately 3,000.

14 Q And where do you work?

15 A I work with Pathology Associates in Greenville, South
16 Carolina. They're a private group of pathologists that
17 serve the GHS system.

18 Plus, I do all the autopsies for Pickens County,
19 Laurens County, Greenville County, and, occasionally,
20 Anderson and Spartanburg.

21 Q And approximately how many times have you been
22 qualified as an expert in the field of forensic pathology?

23 A Approximately 35 to 40.

24 MR. SIMMONS: Your Honor, at this time, I would like
25 to offer Dr. Fulcher as an expert in the field of forensic

1 pathology.

2 MS. MCNEILL: Without objection.

3 THE COURT: All right. Without objection,
4 Dr. Fulcher is found to be an expert in the area of
5 forensic pathology.

6 Ladies and gentlemen of the jury, let me mention to
7 you that, ordinarily, witnesses who testify in cases are
8 not allowed to give opinions. They can, certainly,
9 testify as to what they heard, seen, felt, touched,
10 smelled, those sorts of things. However, when a witness
11 is found to be an expert in a particular field because of
12 education, training, et cetera, and if the Court finds him
13 to be an expert in a particular area, they will be allowed
14 to give opinions connected with their field of expertise.

15 I have found Dr. Fulcher to be an expert in the area
16 of forensic pathology. Now, just because I have found him
17 to be an expert, it's up to you to give whatever weight
18 that you feel like is necessary to whatever testimony that
19 he intends to offer today.

20 Okay. You may proceed, Solicitor.

21 MR. SIMMONS: Thank you, Your Honor.

22 BY MR. SIMMONS:

23 Q Did you have an opportunity to perform an autopsy on
24 Shana Prophet?

25 A I did, yes.

1 Q When did you perform that autopsy?

2 A July 4th, 2016, at 1:00 p.m.

3 Q And can you explain to the jury an autopsy -- the
4 procedure?

5 A Sure. I look at the external body, take photographs,
6 remove clothing. And then I take a scalpel and remove all
7 the organs, the brain, the heart, the kidney, the spleen,
8 and determine, in this case, what -- where each bullet
9 went and what organs each bullet injured.

10 Q And she was deceased at that time?

11 A Oh, yes.

12 Q When you perform autopsies, do you do any toxicology?

13 A We do, yes, sir.

14 Q Did you perform toxicology on Shana Prophet?

15 A Yes, sir, we did.

16 Q And what were the results of that?

17 A Caffeine was present only, so no illegal substances.
18 We sent this to National Medical Services Laboratory and
19 got the expanded panel, which includes a wide variety of
20 drugs. It includes cocaine, methamphetamine, opiates,
21 alcohol.

22 So, basically, for practical purposes, her toxicology
23 was positive only for caffeine, like you find in coffee or
24 tea.

25 Q And when you performed an autopsy on Ms. Prophet,

1 what kind of injuries did you observe?

2 A Ms. Prophet had five gunshot wounds to her torso.
3 Every bullet enters and exits the body. No projectiles
4 were recovered. That is, no lead was present in her body
5 at the time of autopsy. Every shot exited.

6 Q Were there any other wounds besides the gunshot
7 wounds?

8 A No, sir, just gunshot wounds.

9 Q And when you are performing an autopsy, do you create
10 some type of chart?

11 A I do. I produce a body diagram that shows where each
12 wound enters and exits.

13 Q Dr. Fulcher, I'm showing you what's been marked for
14 identification purposes as State's Exhibit No. 82. What
15 is that?

16 A It is a body diagram that I produced that shows where
17 each projectile enters and exits.

18 Q And when do you create these?

19 A So I do one at autopsy. And right after I'm done, I
20 do a cleaned-up version. I have my original here that
21 shows the same gunshot wounds, but has much more
22 handwriting which was, obviously, illegible on it. So I
23 clean it up for the purposes of people that want to be
24 able to read my handwriting.

25 Q And you created this yourself?

1 A Yes, I do them both.

2 MR. SIMMONS: Your Honor, I would like to introduce
3 State's Exhibit No. 82 into evidence.

4 MS. MCNEILL: No objection.

5 THE COURT: Without objection, State's Exhibit No. 82
6 into evidence.

7 (WHEREUPON, State's Exhibit No. 82 was admitted into
8 evidence.)

9 MR. SIMMONS: One moment, Your Honor.

10 THE COURT: Sure.

11 (Pause.)

12 MR. SIMMONS: Your Honor, may the witness step down?

13 THE COURT: Sure.

14 BY MR. SIMMONS:

15 Q Dr. Fulcher, would you mind stepping down so you can
16 point to the chart that you created?

17 A (Witness complied.)

18 Q Stand to the right or left. And it appears there are
19 10 holes in the body?

20 A There are five total shots. 10 holes as each
21 projectile both enters and exits.

22 Q And you have them numbered on the chart?

23 A Yes, I do. And the same -- so number one entry and
24 number one exit are the same one. So I have one through
25 five, both an entry and an exit, both -- all numbered one

1 through five.

2 Q And how do you know where the entry wound and the
3 exit wound -- how do you determine the difference?

4 A When a bullet enters the skins surface, it leaves a
5 characteristic mark that you will not have when it exits.
6 Usually, there's a small abrasion collar and, also, the
7 entry is more rounded, whereas the exit is more stellate
8 or lacerated.

9 Q Okay. And what, in your opinion, was the cause of
10 death of Ms. Prophet?

11 A In this case, there are several wounds that are
12 potentially fatal. But the wound that is most fatal is
13 gunshot wound number two, which you can see enters above
14 the breast and exits right in the midline of the back.
15 That projectile creates a very large wound through the
16 left ventricle of the heart, a large chamber in the heart
17 that pumps a great deal of blood throughout the entire
18 body, actually. That created very significant bleeding in
19 this case and represents the direct cause of death in this
20 case.

21 Q And for that, how long would she have been alive at
22 that point?

23 A Seconds.

24 Q Dr. Fulcher, I'm going to have our investigator step
25 up here just so we can kind of get a 3D visual of where

1 the entrance wound and exit wound appears.

2 A Okay.

3 Q I know a 2D sometimes is a little difficult. I have
4 these dowels. So when I ask you questions, you just put
5 them on Mr. Bentley's body just to show the directory.

6 A Okay.

7 Q So for number two that you have on the chart, can you
8 kind of show the jury where that wound entered --

9 A Sure.

10 Q -- or the projectile entered or exited?

11 A We're really talking about left chest straight
12 through. And I believe the direction of wounding in this
13 case was very slightly upward and very slightly right to
14 left.

15 So it, actually, comes and angled a little out like
16 that. So that's number one -- or sorry, number two,
17 gunshot wound number two, the fatal one.

18 Q And can we -- number four, can you show where gunshot
19 four entered and exited?

20 A Number four enters in the pelvis and exits in the,
21 kind of, flank. And it is from -- number four is left to
22 right. So kind of this way.

23 Q So it's an upward trajectory?

24 A Yes. Number four should be upward as well. Yes,
25 upward.

1 Q And then number five?

2 A Number five is kind of the opposite of number four.

3 It enters on the other side and goes upwards and, also,
4 goes -- so it's kind of like this, as opposed to -- that's
5 four and that's five.

6 Q So you have two different wounds entering in opposite
7 sides?

8 A Correct.

9 Q And do you have an opinion on about how far away
10 these shots were?

11 A I do not. I don't speculate on that. The decedent
12 was received with clothing that had holes in it.
13 Unfortunately, it was blood soaked. If range of fire was
14 critically important, I would refer to a firearms
15 examiner. I saw no evidence of a hard contact wound.
16 There's no soot on the skin surface, which even with
17 clothing, we couldn't see.

18 So I don't believe the weapon was touching the skin
19 surface or the clothing. But as far as exactly how far
20 away it was, I would be speculating to tell you that.

21 Q And, in your opinion, what was the manner of death?

22 A The manner --

23 Q The manner of death?

24 A The manner of death in this case is homicide. And
25 that is a legal definition, just the death of one

1 action -- or death of one person by the actions of another
2 individual.

3 Q And you can have a seat back on the stand.

4 A (Witness complied.)

5 MR. SIMMONS: I beg the Court's indulgence.

6 THE COURT: Sure.

7 (Pause.)

8 BY MR. SIMMONS:

9 Q Do you have a copy of your chart?

10 A I do.

11 Q And I want to go through each one of these and kind
12 of explain the damage that was caused.

13 A Okay.

14 Q So number two; you have fatal. Can you explain the
15 damage that gunshot would have caused?

16 A Sure. Gunshot number two, the one that enters in the
17 chest and exits in the back, creates, according to my
18 autopsy report, a large hemorrhagic wound to the left
19 ventricle of the heart and lower lobe of the left lung.

20 In my diagnosis, I, actually, describe the wound in
21 the heart to be a seven centimeter gutter wound, which
22 means a long skinny wound lacerated. That meant the
23 bullet grazed that edge of the heart and, basically, blew
24 out that side. So it's a fairly long hole, much more
25 bleeding, you can imagine, than just one in and out. You

1 have this big long hole.

2 And then the lung -- to be honest, the lung injury
3 was significant, but it would not have been immediately
4 life threatening. Certainly, really nothing else mattered
5 after the bullet went through the heart.

6 Q And number one, like you said, is through and
7 through, just straight through?

8 A Yeah. Number one in the left shoulder is a flesh
9 wound. It, actually, just goes through fat and soft
10 tissue. It does not hit any vital structures. Number one
11 is just a flesh wound.

12 Q Number three?

13 A Number three in this case on the flank does injure --
14 it enters kind of right where the chest and the abdominal
15 cavity come together. So it hits both the upper portion
16 of the liver and the lower portion of the lungs.
17 Technically, she would have bled out from that eventually.
18 Although with the heart wound, it didn't really matter.

19 Q And number four?

20 A Number four is in the pelvis, several loops of bowel.
21 Number four and number five, the wound paths cross. So
22 it's difficult to determine exactly which bullet hits what
23 in the center of the body. What I'll tell you is it's
24 mostly bowel and a little bit of stomach.

25 So I do not consider four or five fatal wounds. They

1 would need surgical correction, of course, but they are
2 not fatal wounds.

3 Q But, in your opinion, number two, that would have
4 ended her life immediately; correct?

5 A Yes. That very large hole in a very critical portion
6 of the heart would have ended her life very quickly.

7 MR. SIMMONS: No further questions. Answer any
8 questions the Defense has.

9 THE COURT: Cross-examination.

10 MS. MCNEILL: Yes, sir.

11 CROSS-EXAMINATION

12 BY MS. MCNEILL:

13 Q Good morning, Dr. Fulcher.

14 A Hello.

15 Q So you did the autopsy. What was the date of the
16 autopsy?

17 A The date I have is July 4th, 2016.

18 Q And on your autopsy report, you note several things
19 identifying the body?

20 A I do.

21 Q And was her hair braided?

22 A It was.

23 Q Was it longer hair?

24 A It was.

25 Q And just to clarify on your diagram that you drew for

1 State's Exhibit No. 82. I'm going to give you -- even
2 though it's up on the screen, here it is again.

3 A Yes, ma'am.

4 Q When you talk about these bullets and numbering the
5 bullets 1, 2, 3, 4, there's no significance to that
6 numbering sequence, is there?

7 A That is correct. In fact, my autopsy report,
8 specifically, says gunshot wounds are numbered for
9 convenience. Chronology of the timing is unknown. I
10 can't tell you which shot happened first.

11 Q Okay. So you can't say if the shots that you said
12 were not fatal, but would need surgical repair happened
13 before or after number two, which you said was most fatal?

14 A Yes. That's correct.

15 Q Can you tell us, Doctor -- and you may have said this
16 on direct examination with Mr. Simmons. How long did it
17 take her to die, in your opinion?

18 A Seconds. And largely due to the wound in the heart.
19 Everything else you would have -- could have survived
20 minutes to even hours slowly bleeding. But the heart
21 wound was very significant.

22 Q Okay. So if she sustained the non-fatal wounds
23 first, then she could have been alive for a while before
24 sustaining the heart wound?

25 A That's correct.

1 Q Okay. And all of these bullets -- none of these
2 bullets entered through her back; correct?

3 A That is correct, yes. They're all in the flank or
4 front. Yes, that's correct.

5 Q Okay. And can you -- she had clothing; right?

6 A She did.

7 Q What kind of clothing did she arrive to you in?

8 A At autopsy, she's received in shorts, T-shirt, bra
9 and sandals. The shorts and bra -- and they show gunshot
10 wounds, but the clothing is very -- they show holes,
11 defects. But the clothing is so saturated in blood, I do
12 not examine it there due to the blood soaking for
13 gunpowder residue, I should say.

14 Q Okay. And can you explain to the jury what stippling
15 is?

16 A Sure. When you fire a weapon, the nitrocellulose
17 gunpowder, the powder in the casing burns. And it exits
18 the barrel, too, with the bullets. The bullet goes out
19 the barrel first and then soot and stipple exit after.

20 If you imagine taking rice, flour, and a rock and
21 putting it in your hand and throwing it, the rock goes the
22 furthest. The rice goes a little further than the
23 flour. And the flour goes the shortest distance because
24 of its size and air resistance.

25 Well, when you fire a weapon, the soot only goes

1 maybe a foot to a foot and a half out from the barrel.
2 And the stipple, which is in between sizes, the little
3 fragments of lead and unburnt powder, they go out a little
4 further, maybe two to three feet. And then the bullet, of
5 course, goes as far as it goes.

6 Stippling -- another way to describe it is gunpowder
7 tattooing. Because those little fragments, actually,
8 embed in the skin at the same level that tattooing does.
9 So you can't wipe it off the skin surface.

10 In this case, I did not see any. However, she was
11 wearing clothes everywhere she was shot, so that can
12 prevent some of that stipple going in. That's why I can't
13 speculate as to the range of fire.

14 Q So you can't speculate to the range of fire because
15 the clothing could have interfered with the stippling?

16 A That's correct.

17 Q So you stated you would have to defer to a gunshot
18 residue expert?

19 A There are special biochemical tests that a firearms
20 examiner could do on the clothing that would show these
21 residues, even in a blood-soaked garment.

22 Q Do you know what kind of person would have done that
23 test?

24 A It would have been someone at SLED, most likely in
25 this state. They would have examined the clothing and

1 done multiple biochemical tests to determine those.

2 Q And it's important to determine that sometimes;
3 right?

4 A It can be, yes.

5 Q Okay. Specifically, if this was an altercation?

6 A Sure.

7 Q Okay. And you did have the clothing that she arrived
8 in preserved and available for law enforcement to collect
9 and do that testing?

10 A Of course.

11 Q And as far as the directions of the bullets --

12 A Uh-huh.

13 Q -- when you analyze them, you can't tell the jury
14 what position she would have been in with each bullet that
15 shot her; correct?

16 A That is correct. I can tell you very accurately
17 where the bullet enters and exits the body. But I can't
18 put that person back in the scene. So I can't tell you if
19 she was bent over, standing up, or on her head, or laying
20 down.

21 Q Okay. And she -- I note in your autopsy report her
22 height, you said, is 66 inches?

23 A Yes.

24 Q Okay. So is that five-foot six?

25 A It is. We measure people lying down, though, on the

1 table. So, sometimes, that can be different from what
2 they would have described their height. Because most
3 people measure themselves standing up, not spread out on a
4 table.

5 Q And what was her weight?

6 A 216 pounds. And that would have been with the small
7 amount of clothes she had on.

8 Q Okay. And you indicated there were no projectiles
9 that were found in the body?

10 A That's correct.

11 Q Okay. So that means the bullets went through and
12 through?

13 A Uh-huh.

14 Q Okay. And --

15 MS. MCNEILL: I beg the Court's indulgence.

16 (Pause.)

17 BY MS. MCNEILL:

18 Q And you stated that you ruled the manner of death as
19 a homicide?

20 A That is correct.

21 Q Okay. And can you give the definition of what that
22 means one more time?

23 A Sure. A homicide in this state is one person dying
24 by the action or inaction of another person.

25 Q Okay. So you can't tell if this is a murder versus a

1 self-defense case?

2 A That's correct.

3 Q Okay.

4 A My description of homicide does not imply guilt.

5 Q Okay. And I'm going to show you what's been
6 previously marked as Defendant's Exhibit No. 1.

7 MR. MOWRY: Subject to our objection, Your Honor.

8 THE COURT: Yes, sir.

9 THE WITNESS: Yes. This is my photo.

10 BY MS. MCNEILL:

11 Q Okay. So you recognize that photo?

12 A I do.

13 Q You took that photo?

14 A I did.

15 Q Can you explain to the jury what that photo is?

16 A This is a picture of the decedent's buttocks, after
17 she's been cleaned, and back showing multiple tattoos.

18 Q And what tattoo is indicated on her left -- I'm
19 sorry, her left buttock cheek?

20 A There is a tattoo of a crown.

21 Q Okay. Can you, also, see part of her hair in that
22 photograph?

23 A I can. And it's long and braided.

24 MS. MCNEILL: Judge, at this time, I wish to move
25 Defendant's Exhibit No. 1 into evidence.

1 THE COURT: Okay. Subject to previous discussions,
2 Defendant's Exhibit No. 1 into evidence for the Defense.

3 (WHEREUPON, Defendant's Exhibit No. 1 was admitted into
4 evidence.)

5 MS. MCNEILL: No further questions.

6 Thank you, Doctor.

7 THE COURT: Any redirect, Solicitor?

8 MR. SIMMONS: No, Your Honor.

9 THE COURT: Thank you, Doctor.

10 You can step down. And you're, certainly, free to
11 leave the courthouse.

12 THE WITNESS: Thank you.

13 MR. MOWRY: Could we have a moment?

14 THE COURT: Sure.

15 Everybody be at ease for just a moment.

16 (Pause.)

17 MR. MOWRY: Your Honor, for the record, our next
18 witness would be Bryant Cheek.

19 THE COURT: Okay. Let me see the lawyers for just
20 one...

21 (WHEREUPON, a bench conference was held.)

22 THE COURT: All right. Solicitor, are you ready to
23 call your next witness?

24 MR. MOWRY: Yes, sir. Bryant Cheek.

25 THE COURT: Come around, please, Officer.

1 WHEREUPON,

2 BRYANT CHEEK,

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

4 DIRECT EXAMINATION

5 BY MR. MOWRY:

6 Q I'll let you get adjusted there for a second.

7 A Thank you.

8 Q You are Bryant Cheek?

9 A Yes, sir.

10 Q And Mr. Cheek, where are you employed right now?

11 A I currently work for Laurens City Police Department.

12 Q Back in July of 2016, where were you working?

13 A I was working for the Laurens County Sheriff's Office
14 as an investigator.

15 Q Okay. And were you on duty, on call, or what -- on
16 the early morning hours of July 3rd, 2016?

17 A No, sir. I wasn't on duty. I was at home.
18 Lieutenant Keith McIntosh was the on-call investigator.

19 Q Did you receive a call early that morning?

20 A Yes, sir, I did. I received a call to come out to
21 assist Lieutenant Keith McIntosh on Allen Bridge Road.

22 Q Did you understand the nature of the call, what you
23 were going out for?

24 A I was going out for a possible shooting.

25 Q Is that a normal process for the sheriff's office,

1 pretty much, all hands on deck if you've got a shooting?

2 A Yes, sir.

3 Q Okay. And did you, in fact, respond to 49 -- [REDACTED]

4 Allen Bridge Road?

5 A Yes, sir.

6 Q What did you find when you got there?

7 A When I arrived on the scene, I was met by Lieutenant
8 Marty Crain, who explained to me some of the things at the
9 incident location.

10 Q Did you get any notification about any 911 calls
11 about that time?

12 A Also -- yes, sir, we did. We got some information
13 from 911 -- from the dispatcher that an individual was on
14 the phone.

15 Q Okay. That an individual was on the phone?

16 A Yes, sir.

17 Q Did you know what kind of individual or who he was?

18 A He was a male individual that was contemplating
19 suicide.

20 Q Did you know whether it was related to that case?

21 A Not at the time. But then dispatch explained to us
22 then --

23 Q When you say "dispatch," dispatch and 911 are pretty
24 much the same?

25 A Pretty much the same.

1 Q All right. When did you find out that the calls were
2 connected?

3 A I think they had explained it to one of the officers.
4 And I can't remember which one explained it to me. And
5 then when they said that he was on the line, I asked
6 dispatch to give me the number.

7 Q And did you get that number?

8 A Yes, sir.

9 Q Do you have it with you?

10 A Yes, sir.

11 Q Can you read that into the record, please, sir?

12 A 1-803-537-7538.

13 THE COURT: Give that number again, please.

14 THE WITNESS: 1-803-537-7538.

15 BY MR. MOWRY:

16 Q All right. Did you -- before I go into that. Do you
17 have any specialized training that might affect your
18 ability to deal with folks that might be contemplating
19 suicide?

20 A Yes, sir. I -- at the time, I was serving not only
21 as an investigator for Laurens County Sheriff's Office, I,
22 also, served as our negotiator. I received my negotiation
23 training with South Carolina Department of Corrections,
24 which is Sitcom [phonetic], situation controllers. And
25 then I, also, received another basic negotiation training

1 at Greenville County Sheriff's Office with Steve Romano of
2 the FBI.

3 Q How long were each of those training sessions?

4 A The first session was two weeks in Columbia. We went
5 from sun up to sun down two weeks of intense training.
6 And then with Mr. Romano, we did a week of training.

7 Q So you had three weeks of training in this area?

8 A Yes, sir.

9 Q Is there any kind of certification you get as a
10 negotiator?

11 A Yes, sir. After you go through the training and the
12 scenarios, they give you a certificate.

13 Q Have you used those skills in your --

14 A Yes, sir.

15 Q -- work in law enforcement?

16 How many times would you say you've dealt with folks
17 like that, just a ballpark?

18 A Quite a number. I know maybe 20, 25.

19 Q Okay.

20 A It could be more than that. I'm not sure.

21 Q And is there any other capacity where you counsel
22 folks?

23 A Yes, sir. I serve as a pastor at Springfield Baptist
24 Church here in Laurens, South Carolina. I've been a
25 pastor there -- I'm in my 27th year.

1 Q So in all those capacities, when you had gotten the
2 number where the individual was calling in, what did you
3 do?

4 A I attempted to call the individual, make contact with
5 him, see if I could get him on the phone.

6 Q Which phone did you use initially?

7 A I'm not sure which phone I used initially -- well,
8 initially, I used the sheriff's office phone that's
9 issued.

10 Q Okay. So your government-issued phone?

11 A Yes, sir.

12 Q Did that work?

13 A No, sir.

14 Q What did you do then?

15 A When I couldn't get out -- make contact with him with
16 the iPhone, I used another cell phone, a Samsung cell
17 phone.

18 Q And whose phone was that?

19 A That's my phone, my personal phone.

20 Q Your personal phone?

21 A Yes, sir.

22 Q Did you get ahold of him then?

23 A Yes, sir.

24 Q What was your purpose in talking to the individual?

25 A I was trying to make contact with him, communicate

1 with him. We was concerned about him and what he had
2 shared with dispatch that he was contemplating suicide.

3 Q Did you get a name for the individual?

4 A Yes, sir.

5 Q And what was that name, please, sir?

6 A Mr. Ronald Davis.

7 Q Did you later meet with Ronald Davis?

8 A I did.

9 Q Do you see him in the courtroom at this time?

10 A Yes, sir.

11 Q Could you point him out, please, sir?

12 A It's the gentlemen sitting there with the white shirt
13 and the tie at the Defense table.

14 MR. MOWRY: Your Honor --

15 THE COURT: Let the record reflect the witness has
16 identified the Defendant.

17 MR. MOWRY: Okay.

18 BY MR. MOWRY:

19 Q So you -- again, state your -- what your purpose was.

20 A My purpose, at the time, I was following a lead of
21 Lieutenant Keith McIntosh. I was just trying to
22 communicate with him to keep him from committing suicide.

23 Q So Lieutenant McIntosh, who is seated here in the
24 courtroom; is that right?

25 A Yes, sir. He was the lead investigator that night.

1 Q What did the Defendant tell you during this phone
2 call, or did he tell you anything?

3 A I really can't recall, specifically. We just talked
4 to try to keep him from hurting himself.

5 Q Was that your fear at the time?

6 A Yes, sir.

7 Q How many times did you speak with -- or did you call
8 him?

9 A I called him on multiple occasions trying to make
10 contact with him.

11 Q All right. Did you recently go back over your
12 records and -- and indicate -- find a listing of how many
13 times you called?

14 A Yes, sir.

15 Q Can you report that to the jury, please, sir?

16 A On 7/3/2016, we called at 3:01 a.m., no answer; 3:39
17 twice; 3:47; 4:06; 4:07; 4:10; 4:12; 4:25; 4:45 --

18 MR. SHAFFER: Your Honor, may we approach?

19 THE COURT: Excuse me?

20 MR. SHAFFER: May we approach?

21 (WHEREUPON, a bench conference was held.)

22 THE COURT: Okay. You may want to start him back
23 where you were.

24 BY MR. MOWRY:

25 Q' So tell us again how many times you called.

1 A I called him on multiple occasions.

2 Q Count up how many times you called. You've got your
3 list there; right?

4 A Yes, sir. At least, 12.

5 Q Okay. Did they -- did the phone calls get cut off in
6 the normal way where somebody hangs up, or did --

7 MR. SHAFFER: Objection, Your Honor.

8 THE COURT: Excuse me?

9 MR. SHAFFER: Your Honor, I -- I have a problem with
10 him saying "the normal way." I think that he can,
11 certainly, ask what way it got cut off.

12 THE COURT: Maybe ask it how were the calls
13 terminated. And then he can describe.

14 BY MR. MOWRY:

15 Q How were the calls terminated?

16 A I can't totally recall whether they were -- we hung
17 up or the call was dropped. But we did get disconnected.

18 Q And the service in the area where you were calling,
19 how would you describe it?

20 A It was not a good connection.

21 Q All right. Did you ever receive a phone call from
22 the Defendant?

23 A Yes, sir, I did.

24 Q And about what time was that?

25 A At 5:20 a.m.

1 Q Okay. Let me --

2 A Yes. I'm sorry. 5:17 a.m.

3 Q Okay. And what did he tell you at that time?

4 A That he was going to turn himself in to the Laurens
5 County Detention Center.

6 Q When you got that information, what did you do?

7 A I shared it with Lieutenant Keith McIntosh that I
8 received a call from Mr. Davis. And I was going to leave
9 the incident location to go to the detention center to
10 meet with him.

11 Q Did you, in fact, do that?

12 A Yes, sir, I did.

13 Q What was your purpose in meeting with Mr. Davis at
14 the detention center?

15 A My purpose for meeting with him was to go check on
16 him to make sure he was all right, and to talk with him.

17 MR. SHAFFER: Your Honor, there's two different
18 Miranda forms up there. I think we dealt with, at least,
19 one of those earlier. And we just renew previous --

20 THE COURT: Very good.

21 (WHEREUPON, State's Exhibit Nos. 85, 86, and 87 were
22 marked for identification only.)

23 BY MR. MOWRY:

24 Q When you got to the detention center, did you see the
25 Defendant?

1 A Yes, sir.

2 Q Prior to his -- your meeting him there, had he
3 reported that he was going to go anywhere else, or that he
4 was at somewhere else?

5 A Yes, sir. He went to Newberry, a location in
6 Newberry.

7 Q Okay. Do you know what that location was?

8 A It was 13347 C.R. Cone Highway in Newberry County.

9 Q And what was that place? I mean, what significance
10 did that have to the Defendant?

11 A I think that was his residence.

12 Q Okay. Do you know whether or not officers were
13 supposed to go there? Did they, in fact, go there?

14 A Yes, sir. Officers did go there.

15 Q Did they find the Defendant there?

16 A No, sir.

17 Q All right. When you got to the detention center, did
18 you see the Defendant?

19 A Yes, sir, I did.

20 Q How was he attired at that time? How was he dressed?

21 A At that time, the detention center had removed his
22 clothes and dressed him out at the detention center.

23 Q Was he under arrest at that time?

24 A Not at that time.

25 Q Was he in detention --

1 A Well, I mean, he was in detention, yes, sir.

2 Q Or in custody?

3 A In custody.

4 Q Had he been arrested on anything?

5 A No, sir.

6 Q What was the purpose in changing out the clothes
7 then?

8 A At the time, he had contemplated suicide. And any
9 time a person contemplates suicide, the detention center
10 will dress you out and take your clothes away from you.

11 Q So there's no weapon or anything that you might do
12 harm to yourself?

13 A Right.

14 Q Did you speak with the Defendant?

15 A Yes, sir.

16 Q Where did you speak with him?

17 A I spoke with him -- our initial contact was when we
18 first came into the detention center. And then he and I
19 walked back to the attorney-client room.

20 Q And describe the attorney room, if you would.

21 A The attorney-client room is a small room. It has a
22 table and a chair on one side and a chair on the other
23 side.

24 Q So just a couple of chairs and a table; is that
25 right?

1 A Yes, sir.

2 Q Can you close the door?

3 A Yes, sir.

4 Q So there is some privacy?

5 A Yes, sir.

6 Q All right. What was your purpose in going in there?

7 A To go in there to talk with him about himself and the
8 incident location.

9 Q All right. So you were, perhaps, going to get a
10 statement from him; is that right?

11 A Yes, sir.

12 Q Prior to your advise -- or getting a statement from
13 him, did you do anything else?

14 A Yes, sir. I read -- I pulled out the advisement form
15 from the Laurens County Sheriff's Office. And I explained
16 to him I wanted to read him his rights and -- before I
17 asked him any questions pertaining to the incident
18 location.

19 Q Let me hand you State's Exhibit No. 86, and ask you
20 if you can identify that?

21 A Yes, sir. This is the advisement of rights form from
22 the Laurens County Sheriff's Office.

23 Q Can you tell the jury exactly what an advisement of
24 rights form is?

25 A Before we -- anyone that's in custody or detained,

1 before we, actually, ask them any questions pertaining to
2 anything, we would read them their rights and make sure
3 they understand. And if -- read them their rights and see
4 if they want to answer some questions or have a lawyer
5 present with them before we ask them any questions.

6 Q So these are the same rights you would hear if you
7 watch Law & Order, you know, somebody is getting arrested
8 as soon as they advise those rights; is that right?

9 A Yes, sir.

10 Q Can you go ahead and explain what those rights are?

11 A It says, Advisement of Rights. And we've got the
12 case number and the time that we start. The question --
13 and it says, Before we -- I ask you any questions, you
14 must understand your rights. You have the right to remain
15 silent. Anything you say can be used against you in a
16 court of law. You have the right to talk to a lawyer
17 before -- lawyer for advice before we ask you any
18 questions, and to have him or her with you during
19 questions.

20 If you have no money to pay a lawyer's fee, the Court
21 will appoint one to represent you without cost, if you
22 wish. If you decide to answer questions now without a
23 lawyer present, you will still have the right to stop
24 answering at any time. You, also, have the right to stop
25 answering at any time until you talk to a lawyer.

1 And then it has a part that says, Please, initial
2 your response. Do you understand each of these rights I
3 have explained to you? Check yes or no. Do you want to
4 answer questions now? You can check yes or no.

5 And then it has a waiver of rights. I have read the
6 statement of my rights and I understand what my rights
7 are. I'm willing to make a statement and answer
8 questions. I do not want a lawyer at this time. I
9 understand and know what I am doing. No promises or
10 threats have been made to me. And no pressure or coercion
11 of any kind has been used against me.

12 And then it has the witness signature, as well as the
13 other person's signature and the time. He signs his name.
14 And then we sign the time right there. And then I sign as
15 a witness.

16 Q Okay. So there are really two parts to this; is that
17 right?

18 A Yes, sir.

19 Q There's the advisement of rights up here?

20 A Yes, sir.

21 Q And you went through that process with him?

22 A Yes, sir.

23 Q I see some marks out here to the -- well, I guess to
24 the left of each of these rights --

25 A Yes, sir.

1 Q -- that you read. What are those?

2 A Those are -- normally, when we advise a person of
3 their rights, to make sure they understand, we ask them to
4 read it and we ask them to initial their initials right
5 beside each one so that they can -- they understand that
6 we've explained each one to them.

7 Q Okay. So you read these rights to him?

8 A Yes, sir.

9 Q Did Mr. Davis indicate to you whether or not he could
10 read and write?

11 A Yes, sir.

12 Q Did he read them himself?

13 A Yes, sir.

14 Q And then he put his initials out here to the left; is
15 that right?

16 A Yes, sir.

17 Q What time was that process completed?

18 A That process was completed at 5:45 a.m.

19 Q Okay. The first part?

20 A The first part was 5:45 a.m.

21 Q And then what is the second part?

22 A The second part is he -- we asked him, Do you
23 understand each of the rights I've explained to you? He
24 checked, yes.

25 Do you wish to answer questions now? He checked,

1 yes.

2 And then he reached the other part and then he signs
3 his name and we put the time down. And then after he puts
4 his name and the time, then I sign it as a witness.

5 Q Did Mr. Davis indicate to you whether or not he
6 wanted to talk with you?

7 A Yes.

8 Q What was his response?

9 A He said he was willing to talk.

10 Q Okay. Prior to getting that indication of his
11 willingness, was there any kind of threat made to him?

12 A No, sir.

13 Q Any kind of promise made?

14 A No, sir.

15 Q Any kind of hope of reward?

16 A No, sir.

17 THE COURT: Hold on one minute, Solicitor.

18 MR. SHAFFER: Your Honor, can we approach?

19 THE COURT: Yes, sir.

20 (WHEREUPON, a bench conference was held.)

21 THE COURT: You may proceed, Solicitor.

22 MR. MOWRY: Thank you, Your Honor.

23 BY MR. MOWRY:

24 Q Once again, was there any kind of threat, or promise,
25 or hope of reward made?

1 A No, sir.

2 Q Any kind of inducement to get him to talk?

3 A No, sir.

4 Q He was willing of his own accord; is that right?

5 A Yes, sir.

6 Q Did he indicate whether or not his willingness was
7 voluntary?

8 A Yes, sir.

9 Q Did he appear to be under the influence of anything?

10 A No, sir.

11 Q In your opinion, was his willingness to speak
12 voluntary?

13 A Yes, sir.

14 Q All right. Did he indicate that?

15 A Yes, sir.

16 Q How?

17 A He indicated that by signing his name on the
18 advisement of rights.

19 Q And that's your name next to it; is that right?

20 A Yes, sir.

21 Q And at what time was that completed?

22 A At 5:45 a.m.

23 Q Okay. So very quickly after he -- you finished the
24 advisement of rights, he waived his rights; is that right?

25 A Yes, sir.

1 Q How did you go about taking a statement from him?

2 A We started out in the attorney-client room. We went
3 back up to the booking area. And in the booking area,
4 there's a counter and computer. And I began to take his
5 written statement. He was on the opposite side of the
6 counter just like I'm on this side.

7 Q Okay. So how close is the booking area to the
8 attorney room that you were describing?

9 A If you go out the door, it's probably from here to
10 maybe Lieutenant McIntosh. It's not far.

11 MR. MOWRY: So, Lieutenant McIntosh, if you would
12 stand up.

13 BY MR. MOWRY:

14 Q This is Lieutenant McIntosh?

15 A Yes, sir.

16 Q So it's that close?

17 A Yes, once you go through the door.

18 Q What was your purpose in going out to the booking
19 area, rather than staying in the attorney room?

20 A To get a statement. We didn't have anything back
21 there, just a table and a couple of chairs.

22 Q Nothing to type it up?

23 A Type it up, yes, sir.

24 THE COURT: Solicitor, if I could just stop you for
25 just a second.

1 Ladies and gentlemen, you remember yesterday when I
2 told you it is very, very important to be attentive, be
3 alert. I've noticed several of you -- and I'm not going
4 to single anybody out at this time. But I notice several
5 of you not to be completely attentive.

6 I know this is difficult to sit here. It's long.
7 It's gruelling. I understand that. But it's so very,
8 very important that all 15 of you remain very alert and
9 attentive.

10 Okay. You may proceed.

11 MR. MOWRY: Thank you, Your Honor.

12 BY MR. MOWRY:

13 Q Let's see. Let me hand you what's been marked as
14 State's Exhibit No. 87, and ask you if you can identify
15 that?

16 A Yes, sir. It's a Laurens County Sheriff's Department
17 voluntary statement form.

18 Q And was that the form that you used that night -- or
19 that day?

20 A Yes, sir.

21 Q To get Mr. Davis' statement?

22 A Yes, sir.

23 Q Is that his signature at the bottom?

24 A Yes, sir.

25 Q Is that your signature underneath?

1 A Yes, sir.

2 THE COURT: Hold on just a minute, Solicitor.

3 Mr. Shaffer.

4 MR. SHAFFER: Subject to the previous matter of law,
5 we'll, actually -- subject to our previous --

6 THE COURT: Sure.

7 MR. SHAFFER: -- issue we raised, we will stipulate
8 to the authenticity.

9 THE COURT: Very good. Subject to prior discussions
10 on the record.

11 MR. MOWRY: Okay.

12 THE COURT: So are you moving that into evidence?

13 MR. MOWRY: I thought it was already in evidence,
14 Your Honor. But if it's not, I would move it. I thought
15 State's Exhibit Nos. 86, 87, and 85 --

16 THE COURT: State's Exhibit No. 87 into evidence.

17 How about State's Exhibit No. 86, do you move that
18 into evidence?

19 MR. MOWRY: And State's Exhibit No. 85.

20 MR. SHAFFER: Subject to the previous ruling, we
21 will --

22 THE COURT: What is State's Exhibit No. 85?

23 MR. MOWRY: State's Exhibit No. 85 is one of the
24 waivers, Your Honor.

25 THE COURT: State's Exhibit Nos. 85, 86, and 87?

1 MR. MOWRY: Yes, sir.

2 THE COURT: They are moved into evidence.

3 (WHEREUPON, State's Exhibit Nos. 85, 86, and 87 were
4 admitted into evidence.)

5 BY MR. MOWRY:

6 Q Who created this? Did you type it up yourself?

7 A Yes, sir.

8 Q What is this part up here at the top?

9 A This part up here is -- has his name on it, my name,
10 his age, the address. Also, we ask, I can and cannot read
11 and write, what grade you completed. And on here, he has
12 GED, as well as date of birth.

13 Q Okay. And is there any more discussion of rights in
14 that -- in that section?

15 A Yes, sir.

16 Q What does it say?

17 A It says, I, Ronald Duyane Davis, am not under arrest
18 for nor am I being detained for any criminal offenses
19 concerning the events I am about to make known to
20 Lieutenant Bryant Cheek. I understand I am free to walk
21 away without saying anything. And I volunteer the
22 following information of my own free will for whatever
23 purpose it may serve.

24 Q What did he tell you?

25 A He began to explain to me as I typed his statement --

1 Q Was this an immediate process? I mean, did you type
2 down every word he said, or did y'all discuss things and
3 you kind of reduced it to writing later?

4 A Yes, sir.

5 Q The latter part?

6 A Yes, sir.

7 Q So you had a discussion with him?

8 A We talked a little bit in the attorney-client room.
9 And then we went up to get a statement on paper.

10 Q Okay. Tell me about his statement.

11 A Of course, when I started, it says, This statement is
12 being written at my quest, Ronald Duyane Davis, to
13 Lieutenant Bryant Cheek of the Laurens County Sheriff's
14 Office.

15 Q Okay. What did he say?

16 A I had just got home and noticed -- noticed that my
17 car was not parked where I left it at -- so that it was --
18 when I walked around the house, I saw my car backed up.
19 And I saw my clothes in the car. I walked on in the house
20 through the sliding door. And I walked in the living
21 room.

22 Then that is when I went into my stepson's bedroom.
23 I saw that he was asleep -- I saw that he was asleep. And
24 that is when I went into the master bedroom. I noticed
25 her standing by the bed.

1 Then I asked, What are you doing?

2 And she said, You're getting out.

3 Then I told her I have just as much right as she did,
4 because we both paid for this together.

5 Q Okay.

6 A Okay. I seen her reach up under the pillow when I
7 told her I was not going anywhere. She reached up under
8 the pillow and she came out with a green bag. That is
9 when she pulled the gun out of the bag. She pointed the
10 gun at me and she fired it at me. That is when I reached
11 for her arm and twisted her arm behind her back.

12 Then I grabbed the gun out of her hand. And we were
13 standing in the bathroom door. That is when she came
14 toward me. And that's when I pointed the gun at her and
15 fired it. Then she fell on the floor. Then I saw some
16 blood coming out of her.

17 Then I turned and walked outside the house through
18 the sliding door and got in the car. I sat there. And I
19 called 911. The 911 lady asked me what happened. And I
20 told her me and my girlfriend got into it and she pulled a
21 gun and fired it at me. And I took the gun and shot her.
22 The 911 dispatcher asked me was she breathing. And I told
23 her I did not know. She asked me was I still in the
24 house. I told her, No.

25 Then she asked me to go back into the house and see

1 if she was breathing. And I told her no, because I was
2 scared. I told her I will be sitting outside until
3 someone gets here. I got scared and I left. And I went
4 to Newberry to my house.

5 Then y'all started calling me. And I talked to
6 you -- to y'all by phone. I called my ex-wife to come and
7 get me to bring me back to Laurens. I called Lieutenant
8 Cheek and told him that I was turning myself in at the
9 jail.

10 Q What was the name of his ex-wife?

11 A I'm not sure. I don't remember.

12 Q Do you know who delivered him to the jail -- to the
13 detention center?

14 A I think it was his ex-wife.

15 Q Okay. But that was his statement?

16 A Yes, sir.

17 Q Voluntarily given to you; is that right?

18 A Yes, sir.

19 Q At this same time, did you go through any other
20 evidentiary process?

21 A Yes, sir.

22 Q What did you do?

23 A At the time, I asked him for consent to do a GSR kit
24 on him, which is a gunshot residue kit. And I performed
25 the GSR on him at the detention center.

1 MR. MOWRY: Hold up just one second.

2 (WHEREUPON, State's Exhibit No. 88 was marked for
3 identification only.)

4 BY MR. MOWRY:

5 Q Let me hand you an envelope marked as State's Exhibit
6 No. 88 for identification purposes containing a white
7 envelope. Do you recognize that?

8 A Yes, sir.

9 Q What is that, please, sir?

10 A This is the gunshot residue kit that was performed on
11 Ronald Davis.

12 Q Okay. Explain to us what gunshot residue is, just in
13 your training and experience. And then how you go about
14 collecting that evidence?

15 A We normally -- in an incident location where
16 gunshots -- a person has fired a gun, we take and open
17 this up. And it has little things that we dab on the hand
18 for gunshot residue. We take it and we seal it back up
19 and send it to SLED.

20 Q What are you attempting to find?

21 A To determine if a gun had been fired.

22 Q Okay. And that's what you did in this case?

23 A Yes, sir.

24 Q And that was delivered to SLED?

25 A Yes, sir.

1 Q Is that right?

2 A Yes, sir.

3 Q What did you do with this kit once you got it?

4 A Once I got it, I sealed it up. And then it was given
5 to a SLED agent.

6 Q Okay. Describe, if you would, just a little bit of
7 how you go about performing that test, or collecting the
8 evidence.

9 A Okay. It has a sheet that gives you direction one
10 for the left hand. That's marked for the left hand. And
11 then if you do it on the left hand, it says outer or the
12 back of left hand. So you do the back left hand.

13 And then you seal that up and then you do the palm.
14 That's one -- that's designed for the palm as well. And
15 then you seal that up. And then you go to the right hand.
16 And it's for the outer on the right hand as well. Then
17 you have another one just designed for the inner.

18 Q So you've got four little dabs that you use; is that
19 right?

20 A Yes, sir.

21 Q For the front and back of each hand?

22 A Yes, sir.

23 Q And you did that in this case?

24 A Yes, sir.

25 Q And what did you do with this evidence to further the

1 investigation?

2 A I sealed it up and I gave it to a SLED agent.

3 Q Do you recall what her name was? Let me ask you
4 this. Was it Jovonya Key?

5 A Yes, sir.

6 Q Okay. Where did you meet her?

7 A I think it was on 385.

8 Q At 221?

9 A 221-385, yes, sir.

10 Q Did you have any other part in this investigation?

11 A We re-interviewed Mr. Davis on another occasion.

12 Q All right. And when was that?

13 A That was on July the 5th.

14 Q All right. A couple of days later; right?

15 A A couple days later, yes, sir.

16 Q Where did that take place?

17 A It took place at the Johnson Detention Center.

18 Q About what time of day was it? In the morning or
19 afternoon?

20 A In the morning.

21 Q Let me hand you what's already been admitted as
22 State's Exhibit No. 85, and ask you if you recognize that?

23 A Yes, sir.

24 Q What is that, please, sir?

25 A It's another advisement of rights on a different

1 date.

2 Q Okay. The same sort of process; is that right?

3 A Same process, yes, sir.

4 Q On this occasion, did you go through the same rights
5 with the Defendant?

6 A Yes, sir.

7 Q And what was his indication to you? Did he wish to
8 speak with you?

9 A Yes, sir.

10 Q Did you -- on this occasion, was there any kind of
11 threat?

12 A No, sir.

13 Q Or promise?

14 A No, sir.

15 Q Or hope of reward?

16 A No, sir.

17 Q Any kind of inducement whatsoever to get him to talk?

18 A No, sir.

19 Q Was his waiver voluntary?

20 A Yes, sir.

21 Q In your opinion?

22 A Yes, sir.

23 Q Did he indicate that it was voluntary?

24 A Yes, sir.

25 Q And did he, in fact, sign it?

1 A Yes, sir.

2 Q All right. I believe you, also, signed it; is that
3 right?

4 A Yes, sir.

5 Q Okay. How did you record that statement? Was it
6 another written statement?

7 A No. This time, we went into the courtroom. It was
8 videoed.

9 Q Okay. Who else was present at various times during
10 the recording?

11 A Lieutenant Keith McIntosh and Lieutenant Ben
12 Blackmon.

13 Q You indicated Lieutenant McIntosh earlier is the
14 gentleman in the blue suit and the red tie?

15 A That's Lieutenant Blackmon.

16 Q Okay. Let me hand you what's been marked for
17 identification as State's Exhibit No. 80. Do you
18 recognize that?

19 A Yes, sir.

20 Q What is that, please, sir?

21 A It's a copy of the videotaped interview.

22 Q Is it a fair and accurate depiction of what went on
23 in that location?

24 A Yes, sir.

25 MR. MOWRY: All right. I would offer State's Exhibit

1 No. 80 into evidence at this time, Your Honor.

2 MR. SHAFFER: Your Honor, may we approach?

3 THE COURT: Sure.

4 (WHEREUPON, a bench conference was held.)

5 MR. SHAFFER: Subject to our objection.

6 THE COURT: All right. State's Exhibit No. 80 into
7 evidence for the State.

8 (WHEREUPON, State's Exhibit No. 80 was admitted into
9 evidence.)

10 BY MR. MOWRY:

11 Q Lieutenant Cheek, do you have any listing of the
12 Defendant's height and weight?

13 A From the incident location, 6'4', 210 pounds.

14 MR. MOWRY: Okay. Thank you, sir.

15 I believe that's all I have. If you would answer any
16 of the Defense's questions, please.

17 THE COURT: Okay. Cross-examination.

18 MR. SHAFFER: Yes, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. SHAFFER:

21 Q Lieutenant Cheek, you are the lead investigator in
22 this case; correct?

23 A No, sir. Lieutenant Keith McIntosh is the lead
24 investigator.

25 Q Okay. So you were not the lead investigator on this

1 case?

2 A No, sir.

3 Q Have you ever been a lead investigator in any case?

4 A Yes, sir.

5 Q Plenty of them probably; right?

6 A Yes, sir.

7 Q And whenever you're lead investigator, what's your
8 responsibilities?

9 A Each -- each case is different. Each incident
10 location is different. Usually, the lead investigator
11 gives out directions, and instructions, guidance to what
12 he wants done to make sure we cover the bases of
13 everything.

14 Q Okay. Do you collect evidence?

15 A No, sir.

16 Q Okay. As lead investigator, are you responsible to
17 make sure other people are collecting evidence?

18 A Again, each -- we usually -- each incident location
19 is different. There are times we have collected evidence.
20 And there are times we let South Carolina Law Enforcement
21 Division collect evidence.

22 Q Okay. But I'm talking about specifically -- I'm not
23 talking about this particular case. But as a lead
24 investigator in a case, would it have been Lieutenant
25 McIntosh's job to make sure that all the evidence was

1 collected?

2 A Yes, sir.

3 Q And all the relevant tests were run by SLED?

4 A Yes, sir.

5 Q Okay. And, basically, to keep track of it; right?

6 A Yes, sir.

7 Q Okay. Sort of the captain of the ship; is that fair
8 to say?

9 A Yes, sir.

10 Q Okay. Now, I'm going to take you back to that night.
11 You had made calls to Mr. Davis on your -- you said you
12 tried to call him on your work cell phone, but that wasn't
13 going through; right?

14 A Yes, sir.

15 Q So you called him on your personal cell phone;
16 correct?

17 A Yes, sir.

18 Q And that personal cell phone, the last four digits
19 was 2808; is that fair to say?

20 A Yes, sir.

21 Q And your first call to him, is it fair to say, that
22 that came in sometime around 3:00 in the morning?

23 A Yes, sir.

24 Q Okay. And you called him back several times during
25 that time period; correct?

1 A Yes, sir.

2 Q And he was talking to you; correct?

3 A Yes, sir.

4 Q And during that time period, he was telling you he
5 may commit suicide; correct?

6 A Yes, sir.

7 Q So it's fair to say he was emotional about that;
8 correct?

9 A Yes, sir.

10 Q And anyone would be; correct?

11 A Yes, sir.

12 Q And that's one of the things you were, actually,
13 trained to deal with; correct?

14 A Yes, sir.

15 Q So he was emotional. He was saying he may kill
16 himself; correct?

17 A Yes, sir.

18 Q And your primary goal was to get him not to kill
19 himself and turn himself in; right?

20 A My primary goal at that time was to preserve his
21 life, keep him from killing himself.

22 Q And you were successful in doing that; correct?

23 A Yes, sir.

24 Q And now, you ended up getting him to turn himself in.
25 Was that single handedly, or did someone else help you to

1 get him to turn himself in?

2 A Someone else like?

3 Q He was, also, speaking to his ex-wife; right?

4 A Yes.

5 Q And his ex-wife was trying to talk him out of it,
6 that's your understanding?

7 A Yes, sir.

8 Q How long did you talk to him during that time period?

9 A I'm not sure.

10 Q You said that you've reviewed cell phone records;
11 correct?

12 A Yes, sir.

13 Q It's fair to say that you talked to him for a decent
14 amount of time, at least; right?

15 A (There was no response.)

16 Q I mean, it wasn't just, you know, a one-minute call
17 or a two-minute call; right?

18 A Yes, sir.

19 Q You talked to him, I think, at one point for about
20 13 minutes; is that fair to say?

21 A Yes, sir.

22 Q Now, eventually, he did decide to turn himself in;
23 right?

24 A Yes, sir.

25 Q And you went to the sheriff's department. And he

1 called you whenever he got there; right?

2 A He called me and told me he was going to turn himself
3 in.

4 Q Okay.

5 A Yes, sir.

6 Q And how did you go about getting him to turn himself
7 in -- or how did you go about getting him to not kill
8 himself?

9 A I guess the art of negotiation is just talking to a
10 person. Usually -- and I'm just kind of basing it on my
11 past experience. If a person is contemplating suicide, if
12 we can make contact with them and get them on the phone to
13 get them to start talking, usually, they don't commit
14 suicide.

15 Q Okay. Do you try to relate to them?

16 A Yes, sir.

17 Q Were you able to do that in this case?

18 A Yes, sir.

19 Q In part, it's because you're a pastor; correct?

20 A Yes, sir.

21 Q And Mr. Davis had been trying to preach as well;
22 correct?

23 A Yes, sir.

24 Q And that was something y'all related over; correct?

25 A Yes, sir.

1 Q And he ended up -- can you estimate how much time he,
2 actually, talked to you during that two-hour period?

3 A No, sir. I can't give an estimated time because we
4 talked, got disconnected, attempted to call, didn't
5 connect, attempted to call again, got connected, got
6 disconnected. So I'm not sure how long we talked.

7 Q But you ended up doing a GSR kit on him whenever he
8 got there; right?

9 A Yes, sir.

10 Q And you, initially, advised him of his rights in the
11 back attorney room at the jail; correct?

12 A Yes, sir.

13 Q And then you ended up going up to the front and
14 typing up a statement; correct?

15 A Yes, sir.

16 Q So he was standing there when you were typing the
17 statement; correct?

18 A He was sitting in a chair on the other side of the
19 counter.

20 Q But you were typing it for him?

21 A Yes, sir.

22 Q And I'm going to show you State's Exhibit No. 86.

23 A Yes, sir.

24 Q Now, what time did you advise him of his rights?

25 A At 5:44 a.m.

1 Q And you, actually, put down the minute when you do
2 things; right?

3 A Yes, sir.

4 Q Because it's part of recordkeeping; right?

5 A Yes, sir.

6 Q And it's important that you keep good records in
7 cases like this; right?

8 A Yes, sir.

9 Q You document a lot of things; right?

10 A Yes, sir.

11 Q And you want to be accurate; right?

12 A Yes, sir.

13 Q Okay. Now, I'm showing you State's Exhibit No. 87.

14 A Yes, sir.

15 Q Which is the typed statement. When was that,
16 actually, signed?

17 A This was signed at 7:25 a.m.

18 Q Okay. So you were talking to him from 5:45 until
19 7:25; is that fair to say?

20 A Yes, sir.

21 Q And you typed down his statement; correct?

22 A Yes, sir.

23 Q And that was based off of what he told you; correct?

24 A Yes, sir.

25 Q Now, how was he dressed during this time?

1 A I can't remember. I think he had on -- I can't
2 remember the...

3 Q Was he on suicide watch at this point?

4 A Yes.

5 Q And that was what you were saying they put you on
6 whenever they think you may kill yourself?

7 A Yes, sir.

8 Q So -- and is that, like, a special suit?

9 A Yes, sir.

10 Q Okay. So you ended up taking that statement from
11 him. But two days later, you came back; right?

12 A Yes, sir.

13 Q It was, actually, two days, not one day; right?

14 A Yes, sir. Two days, the 5th.

15 Q Okay. Now, I'm showing you the advisement of rights
16 form?

17 A Yes, sir.

18 Q And, obviously, that says -- that would have been two
19 days later. That was done on the 5th; right?

20 A Yes, sir.

21 Q Okay. And I think you said one on the 1st, but you
22 were just mistaken on the date; right? I mean, on direct
23 examination, I think you said it was the next day. It
24 was, actually, two days?

25 A Two days. Yes. It was, actually, two days.

1 Q I just wanted to clarify that.

2 A Yes, sir.

3 Q Like, the next day, you wouldn't have gone to see
4 him. It would have been two days later; correct?

5 A Yes, sir.

6 Q Okay. So two days later, you go to see him. What
7 were you doing during that two-day time period? Were you
8 working on this case?

9 A Yes, sir.

10 Q Okay. Had you gone out to the scene?

11 A I don't recall going out to the scene that day, or
12 the next day, or -- I'm not sure what you're asking me.

13 Q Well, had you had a chance to talk to the SLED people
14 before then?

15 A I didn't talk with SLED.

16 Q Okay. You didn't talk to SLED?

17 A No, sir.

18 Q You weren't alone on the second statement, were you?

19 A Sir?

20 Q You weren't the only officer in there on the second
21 statement; correct?

22 A No, sir.

23 Q You, actually, had Ben Blackmon with you; correct?

24 A Yes, sir.

25 Q And you had Lieutenant McIntosh with you; correct?

1 A Yes, sir.

2 Q And why did y'all go back to talk to him a second
3 time?

4 A To get some clarifications. I think the next day, we
5 went to the autopsy. And then we went back to talk with
6 him.

7 Q Okay. So y'all had gone to the autopsy. Y'all had
8 found out a little bit more information about what was
9 going on; right?

10 A Yes, sir.

11 Q And then you went to go get clarification on that;
12 correct?

13 A Yes, sir.

14 Q To see if his story matches up with what was at the
15 autopsy; correct?

16 A Yes, sir.

17 Q Now, on this second statement -- and, obviously, it
18 was recorded; right?

19 A Yes, sir.

20 Q Where was it recorded at? What kind of camera was it
21 recorded on?

22 A At the time, we were in the courtroom -- the
23 magistrate courtroom.

24 Q And that's attached to the jail; right?

25 A Yes, sir.

1 Q Okay. And the magistrate courtroom was -- had a
2 video camera; correct?

3 A Yes, sir.

4 Q The first statement is probably not on camera or, at
5 least, we didn't keep the camera; right?

6 A Yes, sir.

7 Q There might have been a security camera, but not
8 audio; right?

9 A Possibly, yes, sir.

10 Q So you go in there to get a second statement and see
11 if it matches up to what y'all learned from the autopsy;
12 correct?

13 A Yes, sir.

14 Q And to get a little clarification on some of the
15 holes in the case; right?

16 A Yes, sir.

17 Q Now, would you say, generally, he was fairly
18 cooperative with you?

19 A Yes, sir.

20 Q And it's fair to say that even when people are
21 cooperative, sometimes they hold a little bit back; right?

22 A Yes, sir.

23 Q That's the reason it's good to get a second statement
24 from somebody; right?

25 A Yes, sir.

1 Q Maybe even a third statement from somebody; right?

2 A Yes, sir.

3 Q Now, the first one -- the first -- I'm going to
4 switch gears a little bit here. Well, actually, hold on a
5 second. I'm going to bring that up in a minute.

6 Now, you said on this second statement, he says that
7 he came into the house; right? On the second statement,
8 he came into the house; is that fair to say?

9 A On the first statement that I read?

10 Q Okay. The second statement, he, also, says he came
11 into the house; right?

12 A I'm not sure.

13 Q You don't recall?

14 A I don't recall.

15 Q Okay. Do you recall whether -- well, on the first
16 statement, he says, She shot at me; right?

17 A Yes, sir.

18 Q Okay. In the second statement, he says she shot at
19 his feet; right?

20 A Yes, sir.

21 Q At least, one of the shots were at his feet. Do you
22 recall that?

23 A I don't recall.

24 Q Okay. But it's fair to say that it would be on this
25 video; correct?

1 A Yes, sir.

2 Q Okay. You were at the autopsy; correct?

3 A Yes, sir.

4 Q What did y'all do with the clothing?

5 A I don't recall.

6 Q Did y'all give it to SLED? Do you know?

7 A I don't recall.

8 Q Who will be the best person to talk to about that?

9 A Lieutenant Keith McIntosh.

10 Q Okay. State's Exhibit No. 87 is the statement from
11 Ronald Davis; right?

12 A Yes, sir.

13 MR. SHAFFER: Okay. I'm going to publish it to the
14 jury. I'm not sure -- or hand out to the jury -- I'm not
15 sure if they had a chance to --

16 THE COURT: Sure. No problem.

17 But I want to make sure, though, since it's -- well,
18 one page. But I don't want the jury not to -- read that
19 and not listen to the testimony. So I just -- I think it
20 may be good after we finish his testimony, I'll leave them
21 in the courtroom and then they can each take a turn
22 reading it.

23 MR. MOWRY: Thank you, Your Honor.

24 I was going to suggest that.

25 THE COURT: Madam Forelady, if you would just lay it

1 up on the bench there. I want to make sure you still hear
2 testimony. And, sometimes, reading and hearing kind of
3 interferes with each other. Not to suggest y'all can't
4 multitask. Okay.

5 MR. SHAFFER: Probably not the best idea on my part,
6 Judge. I'm sorry.

7 BY MR. SHAFFER:

8 Q Now, State's Exhibit No. 88 is the gunshot residue
9 test on Ronald Davis; correct?

10 A Correct.

11 Q And you took that; correct?

12 A Yes, sir.

13 Q And you would have measured the front in one test and
14 the back in the other; is that right?

15 A Yes, sir.

16 Q And those two swabs are kept different; correct?

17 A Yes, sir.

18 Q And why is that?

19 A Because in the bottle, it has left palm, left outer.
20 And you do it one at a time. So when I do the outer, I
21 put it back. Then I take the next one and do the inner,
22 and I put it back. And I do it one at a time.

23 Q Okay. And then you send it off separate so they know
24 whether the gunshot residue was found on the front or the
25 back; is that right?

1 A No. It's all packaged together and SLED determines
2 that.

3 Q Okay. But SLED could figure out if it's front or
4 back?

5 A Yes, sir.

6 Q Did you do the gunshot residue test for Shana
7 Prophet?

8 A No, sir.

9 Q Did you ever handle the gunshot residue test for
10 Shana Prophet?

11 A No, sir.

12 Q Did you ever witness anyone do the gunshot residue
13 test for Shana Prophet?

14 A No, sir.

15 Q In your experience as an investigator, is that fairly
16 common to do a gunshot residue test on an alleged victim
17 of a crime?

18 A Yes, sir. We do a gunshot residue any time, whether
19 it's homicide or suicide.

20 Q Okay. But I'm not saying that y'all didn't do it.
21 But you just haven't seen it; is that right?

22 A The victim, no, sir.

23 MR. SHAFFER: Okay. The Court's indulgence.

24 THE COURT: Sure. Take your time.

25 (Pause.)

1 BY MR. SHAFFER:

2 Q Now, during the second statement to law enforcement,
3 the one that took place on the 5th --

4 A Yes, sir.

5 Q -- that second statement, that was -- Mr. Davis
6 indicated that -- that the gun that was used, he threw it
7 in the woods on the side of I-26; is that right?

8 A Yes, sir.

9 Q Okay. And he gave y'all an approximate mile marker;
10 correct?

11 A Yes, sir.

12 Q What kind of -- I mean, can you tell us a
13 description -- to the best of your recollection, where it
14 was?

15 A Outside of I-26, down an embankment wooded area.

16 Q Okay.

17 A A lot of trees.

18 Q Okay. So he threw the gun in the woods -- according
19 to him, he threw the gun in the woods on the side of I-26;
20 right?

21 A Yes, sir.

22 Q Did y'all go look for it?

23 A Yes, sir.

24 Q Did y'all -- he actually -- and at some point, he,
25 actually, offered to go out there with y'all and help

1 y'all find the gun; is that right?

2 A I don't recall.

3 Q Okay. But if it's on the video, you --

4 A Yes, sir.

5 Q You wouldn't deny it?

6 A If it's on the video, yes, sir.

7 Q Okay. So did y'all actually -- y'all never found the
8 gun; right?

9 A No, sir.

10 Q But y'all did look; right?

11 A Yes, sir.

12 Q How long did y'all look?

13 A For hours.

14 Q It was tough?

15 A Yes, sir.

16 Q Yeah. Ultimately, it's sort of hard to find
17 something on the side of the interstate; right?

18 A Yes, sir.

19 MR. SHAFFER: No further questions.

20 THE COURT: Any redirect, Solicitor?

21 MR. MOWRY: Just a few, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. MOWRY:

24 Q You said the Defendant was emotional on the phone,
25 or, at least, the Defense implied that on

1 cross-examination; is that right?

2 A Yes, sir.

3 Q What led you to that conclusion?

4 A (There was no response.)

5 Q Was it just the fact that he was threatening

6 suicide --

7 A Yeah. Yes, sir.

8 Q -- or something in his voice?

9 A Just the fact that he was threatening suicide.

10 Q Was there anything in his voice that gave you that

11 impression, about his tone of voice?

12 A No, sir. He was just kind of calm. And I was just

13 going off what dispatch said, that he had a gun.

14 Q All right. And he said -- as a matter of fact,

15 you -- he told you he had the gun; right?

16 A Yes, sir.

17 Q And he had it in his hand; is that right?

18 A Yes, sir.

19 Q When the Defendant gave you indications as to where

20 he put the gun, did he give you any other description as

21 to where he had thrown the gun?

22 A No, sir.

23 Q Any mile marker or anything --

24 A Well, he had given us the mile marker, yes. I can't

25 recall the mile marker, but he had given us a mile marker.

1 Q And the Defense brought up that he was a preacher.
2 Did you have -- prior to this, did you have any personal
3 knowledge of him as a preacher?

4 A No, sir.

5 Q So you're relying only on what he told you?

6 A Yes, sir. When I introduced myself to him, he said
7 he had heard of me in the community.

8 MR. MOWRY: Thank you, sir.

9 THE COURT: Recross?

10 MS. MCNEILL: I beg the Court's indulgence.

11 (Pause.)

12 RECROSS-EXAMINATION

13 BY MR. SHAFFER:

14 Q So you had lengthy discussions about him trying to
15 kill himself; correct?

16 A Yes, sir.

17 Q And you were worried about that; correct?

18 A I didn't hear. Say it again.

19 Q You were worried he was going to kill himself; right?

20 A Yes, sir.

21 Q And you were worried enough to -- well, that was your
22 primary focus; right?

23 A Yes, sir.

24 Q And you were worried enough to tell the jail that he
25 may kill himself?

1 A Yes, sir.

2 Q Put him on suicide watch; right?

3 A Yes, sir.

4 Q And really up until the point he, actually, got in
5 the jail, your primary focus -- or your primary motivation
6 by talking to him was to get him -- keep him from killing
7 himself; right?

8 A Yes, sir.

9 Q Okay. Now, the mile marker he gave, is there an exit
10 at that mile marker?

11 A I can't recall.

12 Q Okay. Is it fair to say he said he thinks it's
13 between two different mile markers?

14 A Yes, sir.

15 Q Okay. Do you recall seeing an exit when y'all went
16 out there and searched?

17 A I don't recall seeing an exit. I know we had to go
18 down and come back up. We went down. As to the location
19 of the exit, I'm not sure.

20 Q Do you know if it was before or after the rest area
21 on I-26 that's in close proximity -- maybe 10 miles away
22 from the 26-385 split?

23 A I'm not sure.

24 Q Okay. And just for clarification. You never,
25 actually, took him out there and said, hey, show us where

1 the gun is; right?

2 A No, sir.

3 MR. SHAFFER: Okay. No further questions.

4 THE COURT: You can step down, sir.

5 MR. MOWRY: At this time, Your Honor, we would like
6 to publish the remaining 911 calls.

7 THE COURT: Okay. Y'all come up here just a minute.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: All right. Madam Forelady, ladies and
10 gentlemen of the jury, we're going to take about a
11 10-minute break. So if you'll go back to the jury room.

12 Again, I remind you, no discussion among yourselves
13 about this case. We'll bring you back out and do a little
14 bit more and then probably break for lunch.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 12:23 p.m.)

17 THE COURT: Mr. Shaffer, after we bring the jury out
18 and do the 911 calls, do you want the jury to have an
19 opportunity to read the statement that was handed to them?
20 I don't even know what happened to the statement.

21 MR. SHAFFER: Yes, Your Honor.

22 MR. MOWRY: It's still up here, Your Honor.

23 THE COURT: I'll tell them anybody that wants to read
24 the statement, they can do it. They can do it in the
25 courtroom.

1 All right. We'll be in recess about 10 minutes.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Okay. We are back on the record.

4 Before we bring the jury out for the 911 calls, after
5 that -- we had copies made of the statement. As we
6 discussed earlier, anybody that wants to read it, let's do
7 it in the courtroom so everybody will have a copy instead
8 of reading it and passing it around. That will take
9 forever.

10 MR. MOWRY: And, Your Honor, based on what the
11 Defense cross-examined Lieutenant Cheek on, I would have
12 about a three-minute, I think, direct examination of
13 Mr. Bentley just talking about a search for the gun.

14 THE COURT: Okay.

15 MR. MOWRY: And before -- well, I guess I kind of
16 need to do that on the record.

17 But did you have State's Exhibit Nos. 80, 81, and 83
18 admitted, Your Honor?

19 THE COURT: No. The only video I had admitted was
20 State's Exhibit No. 80.

21 MR. MOWRY: And that is the interview -- no -- yes,
22 the interview.

23 THE COURT: Right.

24 MR. MOWRY: And I would move the other two into
25 evidence.

1 THE COURT: What numbers are those?

2 MR. MOWRY: These are State's Exhibit Nos. 81 and 83.

3 I'll do that on the record when the jury comes out.

4 THE COURT: Okay. Mr. Bolt, bring the jury out.

5 (WHEREUPON, the jury came into open court at
6 approximately 12:45 p.m.)

7 THE BAILIFF: All jurors are present, Your Honor.

8 THE COURT: Thank you, Mr. Bolt.

9 Solicitor.

10 MR. MOWRY: Your Honor, before we proceed, I would at
11 this time move State's Exhibit No. 81 into evidence.

12 MS. MCNEILL: No objection.

13 THE COURT: And that is what, Solicitor?

14 MR. MOWRY: This is the 911 calls.

15 (WHEREUPON, State's Exhibit No. 81 was admitted into
16 evidence.)

17 THE COURT: And how many other 911 calls?

18 MR. MOWRY: I think there will be two. Basically,
19 it's about 10 minutes worth.

20 THE COURT: Without objection, State's Exhibit No. 81
21 is in evidence for the State.

22 MR. MOWRY: And I'll go ahead and play them right
23 now, Your Honor. And then we would have one short witness
24 after that.

25 THE COURT: Okay. Very good.

1 (WHEREUPON, State's Exhibit No. 81 was played in
2 open court.)

3 THE COURT: All right. Solicitor.

4 MR. MOWRY: Thank you, Your Honor.

5 We would call Walter Bentley for just a few minutes.

6 WHEREUPON,

7 WALTER BENTLEY,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MOWRY:

11 Q You are Walter Bentley?

12 A Yes, sir.

13 Q And I believe you are an investigator with the
14 Thirteenth Circuit -- excuse me, the Eighth Circuit
15 Solicitor's Office; is that right?

16 A Yes, sir, the Eighth Circuit.

17 Q I'm going back to my former life. Sorry about that.
18 Are you a law enforcement officer?

19 A I am.

20 Q What is your previous experience before coming to the
21 Solicitor's Office?

22 A 1996, I began working for the Laurens County
23 Sheriff's Office. I became a certified officer in 1997
24 when I turned 21 years old. In 1998, going into 1999, I
25 became an investigator for Laurens County Sheriff's

1 Office. In the year 2000, I went on to the Laurens Police
2 Department where I served for 13 years there as an
3 investigator, also. In May of 2013, I came to work for
4 Solicitor Stumbo and Mr. Mowry here in the solicitor's
5 office.

6 Q And you do a lot to help us prepare for cases; is
7 that right?

8 A Yes.

9 Q Including a lot of back and forth with defense
10 attorneys; is that right?

11 A Yes.

12 Q You heard some of the testimony about the location of
13 the gun in this case; is that right?

14 A I did, yes.

15 Q You were in the courtroom for that. Did you receive
16 other information last week about the possible location of
17 that gun?

18 A Yes. On Thursday, the 22nd, I received some
19 information about another possible location relatively in
20 the same vicinity as had been searched prior.

21 Q Where did you get the information from?

22 A I got it from Defense Counsel.

23 Q And what did you do in response to the information?

24 A When I received the information, I was, actually,
25 already in Newberry County working on some other aspects

1 of this case and some other cases.

2 Q And let me just -- Newberry is part of this circuit;
3 is that right?

4 A Yes. I have responsibilities in -- not just Laurens
5 County, but Newberry County, also.

6 After receiving that information, I finished up doing
7 the things I was there to do. And I proceeded out to
8 Interstate 26.

9 Q And what was your purpose in going out there?

10 A I was attempting to locate the area that had been
11 described to me in earlier conversations that day by
12 Defense Counsel.

13 Q Describe the steps that you went through.

14 A I went up and down 26 a couple of times trying to
15 locate the area. I was told that it was a short guardrail
16 prior to the rest area, which is right around the -- Exit
17 60 -- right around mile marker 64 area, which is just on
18 the outskirts of Laurens County and Newberry County.

19 I looked on both sides for probably 30 minutes
20 looking up and down the interstate looking on both sides
21 for a short-type guardrail. I found a lot of really long
22 guardrails.

23 I found what I deemed to be the shortest guardrail.
24 And I began a search, a grid search down into the -- it
25 was on an embankment. And I began looking for anything

1 that looked like it could have been similar to what was
2 described to me. I had some challenges.

3 It was a -- you know, we're talking almost two years.
4 A lot of foliation is different in July than it is now, as
5 well as leaves had fallen for two seasons.

6 Q What other steps did you take? Anything mechanical?

7 A Yes. There's a gentleman at the sheriff's office who
8 I've worked with a lot in my career, Don Evans. He's a
9 trained officer for the sheriff's office. He, also, was a
10 sergeant major in the National Guard here in South
11 Carolina.

12 I know that he has access to a lot of National Guard
13 type tools and Army type tools that I don't have access
14 to. I gave him a call. He provided me -- came to me and
15 provided me with a military grade mine detector, which
16 looks 24 inches into the ground, which really would help
17 me with this search due to the fact of these leaves on the
18 ground.

19 Q How many folks did y'all have out there?

20 A For a good while, it was just me, and then Don Evans.
21 Ben Blackmon joined us. And Robert Wilkie joined us for a
22 brief period of time, also.

23 Q How long did you look?

24 A I was there slightly over two hours looking.

25 Q How long was the metal detector or mine detector

1 employed?

2 A I think we used it for about an hour.

3 Q Any success?

4 A No. We found a lot of aluminum cans, and car rims,
5 and all kinds of stuff. But we did not locate a firearm.

6 MR. MOWRY: Thank you, sir.

7 That's all I have.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. SHAFFER:

11 Q Was this Thursday or Friday?

12 A It was Thursday.

13 Q Thursday. And you were in Newberry and I had called
14 you; right?

15 A That's correct.

16 Q Okay. So I called you on my cell phone. I said I
17 had just left the jail; right?

18 A I -- yes. Actually, I think I called you. But we
19 were in a conversation.

20 Q But I said, essentially, I had videotaped a stretch
21 of highway that he had previously described to law
22 enforcement. I think it was 61 to 62; is that right?

23 A Yeah. I think that was in our second conversation.
24 You did tell me that in our second conversation.

25 Q And I said I videotaped it. And that he's saying it

1 was -- or that Mr. Davis said that he may have been wrong,
2 because it may have been before the rest area; right?

3 A Correct.

4 Q Okay. So -- and I had told you that me, Ms. McNeill,
5 and a private investigator were planning on going out
6 there Friday afternoon with a metal detector ourselves;
7 right?

8 A Yes.

9 Q I think I even told you that you could join us if you
10 wanted; right?

11 A I think you may have, yes.

12 Q But I, certainly, told you as soon as we found
13 something, we would definitely call law enforcement first
14 thing; right?

15 A Yeah. Absolutely.

16 Q Okay. And you said you were out there for about two
17 hours; right?

18 A Maybe a little over two hours.

19 Q What -- what stretch of interstate did you, actually,
20 check?

21 A I, actually, looked at two different locations, based
22 on prior knowledge from working on this case and from what
23 you told me. The stretch that I ended up focussing on,
24 based on the conversation with you, is a stretch before
25 the 64 mile marker on the Newberry side. I was looking

1 for a short guardrail as described to me by Mr. Shaffer.

2 Every guardrail I could find in that area was quite
3 lengthy, over a tenth or two-tenths of a mile long to be
4 estimating. I did find one that was much shorter that was
5 probably -- I can't give you exact distance. I'm not good
6 with measurement. But it was less than any of the other
7 guardrails. So that was the one I put my focus on.

8 Also, Mr. Shaffer described to me some -- some type
9 of area I was looking for. And this seemed to have some
10 of the area that I -- that he told me to focus on.

11 Q Okay. And that area being a hole in the ground and
12 some trees out?

13 A Yes.

14 Q About 20 yards away, I think I said. Is that --

15 A That sounds right. This area did have a hole in the
16 ground, which was, actually, a culvert that ran under the
17 interstate. I didn't know that until I got down there
18 and, actually, physically looked at it. And, also, it was
19 a creek running into the culvert. And it was around
20 the -- 20 yards or so from the interstate.

21 Q Okay. Do you recall the mile markers that the two
22 places you looked were at?

23 A Well, the first one I looked at was more of what
24 Mr. Davis describes in his interview. I didn't look at
25 that one long because I knew from conversations with the

1 sheriff's office that at the time of this incident, which
2 would have been the best time to try to find it, that they
3 did an extensive search there. And that was more up
4 towards where he describes.

5 The area I focused on, based on Mr. Shaffer's
6 description, was just slightly below the 70 on the
7 westbound side before you get to the rest area.

8 Q Okay. I'm sorry. Which -- you said the 70?

9 A It was right below the 70. I can't remember.

10 Q Mile marker?

11 A Yeah. And that was based on Mr. Shaffer's
12 description of a very small guardrail. Every guardrail in
13 that area was very, very lengthy, except for this one
14 small guardrail.

15 Q Okay. Are you pretty familiar with that stretch of
16 interstate?

17 A Somewhat. I drive it quite often when traveling for
18 the Eighth Circuit.

19 Q Are there a lot of -- between Newberry and 385, are
20 there a lot of exits?

21 A Between Newberry and 385, there are -- there's three
22 Newberry exits, 76, 74 and 72. And then there's the
23 Jalapa exit, which I think is Exit 66. And then the first
24 exit in Laurens County is Highway 66.

25 Q Okay. Do you know if there's any -- specifically, in

1 this area, there's a rest area; correct?

2 A Yes. It's around the 64 mile marker.

3 Q And do you know if there's any exits that are real
4 close within a mile of the area described either by
5 Mr. Davis or related to you through me?

6 A Well, there's Exit 66, which is the Jalapa exit. And
7 I did look in that area when driving by several times to
8 find a guardrail that fit that description with land that
9 fit the description. There was one short guardrail that
10 was connected to that bridge, an exit ramp. But it was
11 flat terrain. And it was not even wooded. There was some
12 trees, but it wasn't way off the road or wooded. It was
13 an exit to the interstate on the other side.

14 Q Now, fairly recently, is it fair to say that they had
15 cut back a lot of the trees off of I-26?

16 A Yeah. I do remember -- and, actually, I think part
17 of the area I was in, I could tell there had been some
18 cutting going on.

19 Q Did they chip up the stuff?

20 A In the area I was in, it wasn't chipped up. I was in
21 heavy leaves.

22 MR. SHAFFER: Okay. No further questions.

23 MR. MOWRY: Nothing in reply, Your Honor.

24 THE COURT: You can step down, Mr. Bentley.

25 Ladies and gentlemen, what we're going to do before

1 we break for lunch -- and I apologize for going past the
2 lunch a little bit when we usually take it. If you
3 remember earlier, Mr. Shaffer wanted to give you an
4 opportunity to read the statement. And I said, well,
5 don't read it yet because then you wouldn't be able to
6 listen to the testimony. We have made copies of that
7 statement.

8 So what I want you -- in the jury box, each of you
9 read it if that's what you want to do. You don't have to.
10 But if you want to read it, each of you will be given a
11 copy.

12 And, Madam Clerk, if you would hand out -- I assume
13 we've got 15 copies made.

14 THE CLERK: I hope so.

15 THE COURT: And then when you're finished, just lay
16 it up on the rail, or hand it to Mr. Bolt, or whatever.
17 And we'll go ahead and -- and dismiss you for lunch at
18 that time.

19 (Pause.)

20 THE COURT: All right. Ladies and gentlemen, we're
21 going to take a lunch break. Be back here at 2:45. It's
22 1:15 now. So that will give you an hour and a half.

23 And again, I remind you, if you're out at a local
24 restaurant, keep your jury button on, please. No
25 discussion with anyone you come in contact with. And

1 we'll see you back at 2:45.

2 Have a good lunch.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 1:16 p.m.)

5 THE COURT: We'll be in recess until 2:45.

6 Have a good lunch.

7 (WHEREUPON, a lunch break was taken.)

8 (WHEREUPON, State's Exhibit Nos. 89, 90, 91, 92, 93,
9 94, 95, 96, 97, 98, 99, 100, 101, 102, and 103 were
10 marked for identification only.)

11 THE COURT: Is everybody ready?

12 MR. MOWRY: Yes, sir.

13 THE COURT: Okay. Mr. Bolt, bring the jury out.

14 (WHEREUPON, the jury came into open court at
15 approximately 2:58 p.m.)

16 THE BAILIFF: All jurors are present, Your Honor.

17 THE COURT: Thank you, Mr. Bolt.

18 Is the State ready?

19 MR. MOWRY: Yes, Your Honor. We would call Jovonya
20 Key.

21 WHEREUPON,

22 JOVONYA KEY,

23 after first having been duly sworn, testified as follows:

24 THE COURT: Okay. Solicitor, you may proceed.

25 MR. MOWRY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. MOWRY:

Q You are Jovonya Key?

A Yes, sir. That's correct.

Q Ms. Key, where do you currently work?

A I currently work at the Department of South Carolina Probation, Pardon, and Parole Services.

Q And back in July of 2016, where did you work?

A I worked at the South Carolina Law Enforcement Division, which is, also, known as SLED.

Q What were your duties at SLED?

A I was a crime scene agent.

Q You explained to me why you made that switch. Can you explain to the jury why you are no longer at SLED and working for Probation, Pardon, and Parole?

A At SLED, I was a crime scene agent. However, I moved from SLED due to family -- to start a family. I, actually, just had a baby two months ago.

Q A little more stable hours at Probation, Pardon, and Parole; is that right?

A Yes.

Q But back in July of 2016, you worked for SLED as a crime scene agent?

A Yes. That's correct.

Q Explain exactly what your duties were as a crime

1 scene technician -- or crime scene agent.

2 A As a crime scene agent, we are considered an
3 assisting agency. So we provide additional resources to
4 offices that need our services. So we go and process
5 crime scenes for DNA evidence, firearms evidence, latent
6 prints evidence. I mean, whatever the scene would entail,
7 we would process it, the crime scene.

8 Q And how long did you do that kind of work?

9 A I did that kind of work approximately two years.

10 Q Okay. What sort of specialized training did you have
11 in that area?

12 A I had specialized training in DNA, latent prints,
13 firearms evidence, and, also, on-the-job training. So
14 that consisted of over -- at that point, 30 crime scenes
15 that I worked as an assistant crime scene agent.

16 Q So you went out with a more experienced agent working
17 in tandem with that agent; is that right?

18 A That is correct.

19 Q And did you kind of graduate to first chair at that
20 point?

21 A Yes. I did graduate to first chair at that point. I
22 believe this was my first crime scene I worked right after
23 graduating from -- to process crime scenes.

24 Q To lead --

25 A Yes, to lead.

1 Q -- crime scene processor?

2 What is your education in the criminal justice realm?
3 What sort of education did you have prior to coming to
4 SLED?

5 A Prior to coming to SLED, I was -- I worked at
6 [inaudible] County Coroner's Office where I was an intern
7 there. And we would work through scenes, and talk about
8 what would happen on the scene, or what happened at the
9 scene.

10 Q And as far as education is concerned?

11 A Education, as far as college is concerned, as far as
12 crime scene, I have a Bachelor's in Biology and a Minor in
13 Psychology.

14 Q And have you ever been declared an expert in crime
15 scene processing before?

16 A Yes, sir, I have.

17 MR. MOWRY: Your Honor, I would offer her as an
18 expert in crime scene processing.

19 MS. MCNEILL: No objection.

20 THE COURT: Without objection, she is deemed an
21 expert in that field.

22 BY MR. MOWRY:

23 Q Okay. Let's talk about the specifics on this
24 particular case, Ms. Key. How did you find out about
25 this? How did you get called out to this case?

1 A If I may refer to my crime scene notes?

2 Q Of course.

3 A So I was notified on July the 3rd, 2016, by our SLED
4 operations desk that a crime scene was needed in Laurens
5 County.

6 Q Okay. About what time did you get that call?

7 A That was approximately 2:23 in the morning.

8 Q I'm sure you loved that call at that hour. What did
9 you do when you got the call?

10 A So as a part of procedure, we are provided --
11 operation does provide us a point of contact. Usually,
12 that's the lead person at the scene. And I contacted him
13 and notified him that I would be the lead agent for that
14 scene. So he provided me with preliminary information
15 about the scene.

16 Q And who did you speak with? Do you recall?

17 A That would have been Investigator McIntosh.

18 Q And did you later meet with Investigator McIntosh?

19 A That is correct, I did.

20 Q And is that this gentleman here in the burgundy shirt
21 a few rows back?

22 A Yes.

23 Q So you got a rundown of what they knew at that point;
24 is that right?

25 A That is correct.

1 Q What time did you arrive at the scene in Laurens?

2 A I arrived at Laurens at approximately 3:40 a.m.

3 Q And this was at [REDACTED] Allen Bridge Road in Laurens
4 County; is that right?

5 A That is correct.

6 Q What did you find when you got there? Describe the
7 scene for us a little bit, if you would.

8 A Of course. Once I arrived on scene, the scene was
9 secured with law enforcement personnel and barrier tape.
10 There were, also, Investigator McIntosh and the Laurens
11 County Coroner's Office there as well on scene.

12 Q Okay. Did you go into the house immediately?

13 A No. I did not immediately go into the house. We
14 waited for the search warrant.

15 Q Okay. So you were waiting for the search warrant to
16 arrive before you processed the house?

17 A That is correct.

18 Q About what time did the search warrant get there?

19 A The search warrant was executed at approximately 4:12
20 a.m.

21 Q Okay. And at that point, did you go into the house
22 and begin processing?

23 A No, not at that point. What we do, we -- prior to
24 going in the house, photographs were documented on the
25 exterior of the residence. And then another crime scene

1 agent, who would have been my partner, he walked in and he
2 photographed the residence, how the scene was before
3 anything was touched or manipulated.

4 Q Okay. But you saw what he was photographing as well;
5 is that correct?

6 A Yes. I saw what he was photographing.

7 Q Okay. Let me hand you a few -- let's see. There we
8 go. What have already been admitted as State's Exhibit
9 Nos. 1, 2, 3, and 11, and ask you if you can identify
10 those?

11 A Yes.

12 Q What do those depict, please, ma'am? Let's start
13 with State's Exhibit No. 1.

14 A State's Exhibit No. 1 is the exterior of the
15 residence. This is the front of the residence.

16 Q And is that how it looked when you got there?

17 A Yes. That's how it looked.

18 Q Let's go to State's Exhibit No. 2.

19 A This is the rear of the residence showing the back
20 porch and the side steps of the residence.

21 Q All right. And State's Exhibit No. 3?

22 A State's Exhibit No. 3 is the rear of the residence.

23 Q Okay. And, lastly, No. 4 -- State's Exhibit No. 13.

24 Pardon me. Let me back out of that for a moment. Not 13,
25 State's Exhibit No. 11. There we go.

1 A This would be a photograph of the interior of the
2 residence showing that the sliding glass door was open.
3 This marker was put down by the Laurens County Sheriff's
4 Office.

5 Q Okay. And that's how it appeared to you when you got
6 there; is that correct?

7 A Yes. That is correct.

8 Q All right. What else did y'all do?

9 A So in addition to photographing inside the residence,
10 we -- it was a three-bedroom residence. So we checked
11 each bedroom for anything remarkable. There was a child's
12 room that we checked. There was nothing remarkable in
13 that bedroom. There was another bedroom with a bed.
14 There was nothing remarkable.

15 So we continued photographing within residence. And
16 in the back bedroom, that is where we located the crime
17 scene took place.

18 Q Let me ask you this. As part of your work there at
19 the scene, did you create a crime scene sketch?

20 A Yes, I did.

21 Q How did you go about doing that?

22 A So with the crime scene sketch, it's all approximate.
23 But it's a birds eye view of how -- if you were looking on
24 top of the residence how it would look inside the
25 residence.

1 So I did a rough sketch with measurements potentially
2 where the crime scene took place. I measured with a laser
3 measurer. We call it LT. And I measured the bedroom, and
4 then how the evidence was placed inside the bedroom.

5 Q Okay. I'm going to show you what's been marked --

6 MR. MOWRY: Do y'all have any objection to this?

7 MS. MCNEILL: No objection.

8 MR. MOWRY: What is marked as State's Exhibit No. 78,
9 I would offer it as evidence, Your Honor.

10 THE COURT: Without objection?

11 MS. MCNEILL: Without objection.

12 THE COURT: State's Exhibit No. 78 into evidence.

13 (WHEREUPON, State's Exhibit No. 78 was admitted into
14 evidence.)

15 BY MR. MOWRY:

16 Q Is this a blowup of the crime scene sketch that you
17 drew?

18 A Yes, sir.

19 Q Okay. We'll come back to that in a minute. Let me
20 show you several photographs. First of all, let's start
21 out with these. I'll show you what have been marked as
22 State's Exhibit Nos. 12, 10, 9, and 6, and ask you if you
23 can identify those?

24 A The first photo is of the child's bedroom. And that
25 would have been at the front of the residence to the

1 right.

2 Q And which number is that on the back?

3 A State's Exhibit No. 12.

4 Q And that would have been where?

5 A That would have been -- well, where I'm sitting, that
6 would be the left of -- yes. That's his bedroom.

7 Q Down here?

8 A Yes.

9 Q The front left?

10 A The front left.

11 Q Okay. Or lower left.

12 A And the next photograph is of the kitchen. And it's
13 showing into the den area.

14 Q All right. So that would be here and in here,
15 referring to the chart?

16 A Yes.

17 Q Is that right?

18 A That's correct.

19 Q Okay.

20 A The next photograph is of the kitchen with a view
21 showing toward the sliding glass door.

22 Q All right. And the sliding glass door?

23 A It would have been at marker 11.

24 Q Marker 11 right there?

25 A That's correct.

1 Q All right.

2 A And the last photo is of the living room showing in a
3 direction toward that second bedroom right across from the
4 child's bedroom.

5 Q All right. So this angle; is that right?

6 A That's correct.

7 MR. MOWRY: Your Honor, I would offer all of those
8 pictures into evidence at this time.

9 MS. MCNEILL: No objection.

10 THE COURT: Without objection State's Exhibit Nos.
11 12, 10, 9, and 6 into evidence for the State.

12 (WHEREUPON, State's Exhibit Nos. 6, 9, 10, and 12 were
13 admitted into evidence.)

14 BY MR. MOWRY:

15 Q Now, you say that you, also, found another bedroom;
16 is that right?

17 A That is correct.

18 Q Was -- well, what did you find when you went in that
19 bedroom?

20 A That bedroom was in disarray. The majority of the
21 disarray was toward the left side of the bedroom. And the
22 victim was, also, found in that bedroom.

23 Q All right. And referring, again, to I believe it's
24 State's Exhibit No. 78, the chart, is this the room in the
25 top middle? Is this where you're talking about?

1 A That is correct.

2 Q All right. This -- this portion here is the bedroom.
3 What is this right here where the head of the body outline
4 is drawn?

5 A That would be the bathroom where she was laying
6 across the threshold of the bedroom. So her bottom
7 portion was in the bedroom and the top portion where she
8 was laying was in the bathroom.

9 Q Okay. Let me show you -- let's see. I want to refer
10 to State's Exhibit Nos. 13, 14, 15, 16, and 17 that are
11 already in evidence. Do you recognize those?

12 A Yes, I do.

13 Q Okay. What do those depict?

14 A These depict the location of the cartridge casings
15 that was in the bedroom and, also, shows the disarray and
16 the medical equipment that was in the bedroom. It, also,
17 shows a green Crown Royal bag that was located, along with
18 some other defects from firearms.

19 Q Okay. How did you go about beginning your work in
20 this particular room? Did you -- did you, basically,
21 determine this was the main one you needed to focus on?

22 A Yes. That's correct.

23 Q Okay. What kind of process did you go through in
24 that room?

25 A So, of course, the photographs were taken prior to

1 manipulating anything. We noticed where there were
2 markers already down previously to mark firearm evidence,
3 also, to mark suspected bullet defects. So it's a
4 systematic process. We don't want to move anything. So
5 you take overall photographs of the bedroom. You take a
6 midpoint photograph and a close-up. So we would start at
7 the markers. And, essentially, it was marker 3 the first
8 to mark a cartridge casing.

9 So once the photographs were taken close up, we would
10 document it and collect it. And we went from three to
11 eight to collect the cartridge casings. And we would do
12 an initial search around the area to look for additional
13 cartridge casings. So those were all collected.

14 Q All right. Where did you find cartridge casings,
15 referring again to State's Exhibit No. 78?

16 A So a cartridge casing --

17 Q And if you need to look at a blow-up of your diagram,
18 that might be easier for you.

19 A Yeah, sure. So a cartridge casing was located at
20 marker 3. That would have been in front of the dresser.

21 Q So for the jury, right down here?

22 A Yes. That is correct.

23 Q Okay.

24 A A cartridge case was located on the bed at four.

25 Q That's up here?

1 A That is correct.

2 Q Okay.

3 A A cartridge case was located at marker 5, 6, 7, and 8
4 on the floor.

5 Q 5, 6, 7, and 8 on the floor?

6 A That is correct.

7 Q Right up here near the body; is that right?

8 A Yes. That is correct.

9 Q Okay.

10 A An additional cartridge case was located at the foot
11 of the bed. That would have been to the -- where the
12 photograph is would have been to the bottom left.

13 Q Down in here?

14 A That is correct.

15 Q And there's a green X up here. What is that? Up
16 near the top, near the nightstand?

17 A That X would have indicated a green Crown Royal bag.
18 We had previous knowledge to look for a green Crown Royal
19 bag. And that's where it was located.

20 Q Okay. Give me just a second. You may have it up
21 there. Sorry. There we go.

22 Referring to State's Exhibit No. 16, does that depict
23 the Crown Royal bag?

24 A Yes. The Crown Royal is right beside marker 6.

25 Q Okay. Let's go to that. Was that 16? I'm sorry.

1 A 16.

2 Q There we go. Got it.

3 All right. Does that depict the Crown Royal bag
4 right there?

5 A Yes, sir. That's correct.

6 Q All right. There is a -- an item peeking out from
7 under the nightstand there. You can just see a corner of
8 something black. What is that?

9 A That appears to be a cell phone.

10 Q All right. Let's see. Let me hand you what has been
11 marked for evidence as State's Exhibit No. 84, and ask you
12 to take a look at that content and see if you recognize
13 that.

14 A Yes. I recognize this.

15 Q What is that, please, ma'am?

16 A This is a broken cell phone that was located
17 underneath the dresser.

18 Q So this is the cell phone you found right here?

19 A That is correct.

20 Q Okay. Was it in that condition when you found it?

21 A It was.

22 Q Thank you, ma'am.

23 A Yes, sir.

24 MR. MOWRY: I would offer this into evidence at this
25 time, Your Honor.

1 MS. MCNEILL: Without objection.

2 THE COURT: Without objection, State's Exhibit No. 84
3 into evidence for the State.

4 (WHEREUPON, State's Exhibit No. 84 was admitted into
5 evidence.)

6 BY MR. MOWRY:

7 Q Let's take a look at a few more pictures, if we
8 could. Let me hand you State's Exhibit Nos. 31 and 32 for
9 identification, and ask you if you can identify those?

10 A Yes. State's Exhibit No. 31 shows the interior of
11 that green Crown Royal bag. There was nothing inside the
12 bag.

13 Q Okay.

14 A And the next picture shows another photo of the green
15 Crown Royal bag, and partially of the broken cell phone.

16 MR. MOWRY: Your Honor, I would offer those into
17 evidence at this time, State's Exhibit Nos. 31 and 32.

18 MS. MCNEILL: No objection.

19 THE COURT: Without objection, State's Exhibit
20 Nos. 31 and 32 into evidence for the State.

21 (WHEREUPON, State's Exhibit Nos. 31 and 32 were
22 admitted into evidence.)

23 BY MR. MOWRY:

24 Q All right. What else did you do as far as processing
25 was concerned?

1 A As far as processing was concerned, after the
2 cartridge casings were collected, we noticed there were
3 suspected bullet defects to the bed, to the walls, and to
4 the headboard of the bed. So part of that, we scaled with
5 scaling tape and we -- identified where it was located.
6 So we marked those with letter markers with the scaling
7 tape. So a part of that -- if there was a suspected
8 bullet defect, you expect to find a bullet.

9 So we process that in searching for a bullet and
10 created viewing windows, what we call a viewing window.
11 And, essentially, what that is, imagine if you were
12 digging for a bone. But we created a wide enough window
13 where the bullet hole was to search for to be pulled by
14 layers. "

15 So there was a suspected bullet to the bed. And we
16 made layers searching for a bullet and, essentially, found
17 to the mattress and, also, to the walls. We found -- at
18 marker A, we made a viewing window, created a window big
19 enough. And we pulled the wall back and found a bullet
20 there and, also, at marker B.

21 Q Okay. Let's go back just for a second and talk about
22 the cartridge casings. You've already discussed those a
23 little bit. And I'm going to hand you what have been
24 marked for identification as State's Exhibit Nos. 94
25 through 100, and ask you if you can identify those?

1 A Yes. These are cartridge casings that were collected
2 within that bedroom at each marker. So it was at marker
3 6, marker 5, marker 4, marker 8, marker 7, marker 3, and
4 at the bottom left corner of the bed frame.

5 Q Okay. So down in here, you've got one that's not
6 marked on this chart; is that right?

7 A Yes. That one was not marked. That was found with
8 additional searching.

9 Q Okay. But these are the ones that you found. And
10 you took these into evidence; is that right?

11 A Yes, sir. That's correct.

12 MR. MOWRY: I would offer these into evidence at this
13 time, Your Honor.

14 MS. MCNEILL: No objection.

15 THE COURT: All right. Without objection State's
16 Exhibit Nos. 94 through 100 into evidence for the State.

17 (WHEREUPON, State's Exhibit Nos. 94, 95, 96, 97, 98,
18 99, and 100 were admitted into evidence.)

19 BY MR. MOWRY:

20 Q Before we go to the projectile -- well --

21 MR. MOWRY: I'm sorry about this.

22 THE COURT: Take your time.

23 (Pause.)

24 BY MR. MOWRY:

25 Q Let me hand you these two photographs, State's

1 Exhibit Nos. 48 and 49. What do those depict?

2 A These are pictures of the cell phone that we found
3 underneath the nightstand. And the cell phone was bent.

4 Q And that corresponds to State's Exhibit No. 84; is
5 that right?

6 A That is correct.

7 MR. MOWRY: I would offer these into evidence at this
8 time, Your Honor.

9 MS. MCNEILL: No objection.

10 THE COURT: All right. Without objection, State's
11 Exhibit Nos. 48 and 49 into evidence.

12 (WHEREUPON, State's Exhibit Nos. 48 and 49 were
13 admitted into evidence.)

14 BY MR. MOWRY:

15 Q And this would be State's Exhibit No. 48?

16 A That's correct.

17 Q And that would be State's Exhibit No. 49; is that
18 right?

19 A That is correct.

20 Q The cover was off of it; is that right?

21 A Yes, sir. The cover was off.

22 Q You found the white cover with it, but it was bent
23 off; is that right?

24 A Yes. That's correct.

25 Q All right. Let's talk about the projectiles. You

1 had begun discussing a little bit about how you had
2 collected those. Can you -- can you kind of go back into
3 a little bit more detail on that?

4 A Yes. So we saw a suspected bullet defect to the
5 mattress -- well, to the bed on the pillow case and
6 comforter. So what we do is we scale it and we mark it,
7 and layer by layer, we pull back.

8 So we pulled back the layers and pulled back the
9 sheet following that suspected bullet defect. And the one
10 that was to the bed, we noticed there was not an exit of
11 that bullet.

12 So we created a viewing window. So we made a square
13 wide enough where we could possibly locate that bullet.
14 So we pulled back the mattress bit by bit in layers until
15 we located the projectile in the mattress bedding. And,
16 also, to -- at markers A and B, those were to the wall.
17 And we pulled the wall back to find the bullet in the
18 wall.

19 Q Okay. Let me show you State's Exhibit Nos. 40, 41,
20 42, 43, 44, 45, 46, 50, and 51, and ask you if you can
21 identify those?

22 A State's Exhibit No. 51 is a projectile that was
23 located in the mattress.

24 Q Okay.

25 A State's Exhibit No. 50 is an overall photograph of

1 the mattress. State's Exhibit No. 46 shows the defect
2 that was to the mattress, like, the mattress protector.
3 State's Exhibit No. 45 shows suspected bullet defect to
4 the red, gray, and black comforter. State's Exhibit
5 No. 44 shows you an overall of the defect to the
6 comforter. State's Exhibit No. 43 shows you a close-up to
7 the bullet defect to the comforter, on the back side of
8 the comforter. State's Exhibit No. 42 is showing you
9 another overall photograph of the defect of the bullet to
10 the comforter. State's Exhibit No. 41 is showing you a
11 defect to the linen on the bed. And State's Exhibit
12 No. 40 is showing you the defect to the edge of the pillow
13 case that's on the bed.

14 Q Those are, again -- that's what you saw and those are
15 pictures that y'all took that night; is that right?

16 A That is correct.

17 MR. MOWRY: Your Honor, I would offer these into
18 evidence at this time.

19 MS. MCNEILL: No objection.

20 THE COURT: State's Exhibit Nos. 40 to 46, and 50,
21 and 51 into evidence for the State.

22 (WHEREUPON, State's Exhibit Nos. 40, 41, 42, 43, 44,
23 45, 46, 50, and 51 were admitted into evidence.)

24 BY MR. MOWRY:

25 Q So this is State's Exhibit No. 40; is that right?

1 Well, it would be helpful if you had them.

2 A Yes. That's correct.

3 Q All right. Explain how y'all would go through this
4 process.

5 A Okay. So when we see the defect there, we would
6 scale it.

7 Q Okay.

8 A And that one, we would scale it and mark it.

9 Q Okay.

10 A And then we would follow that defect to see where --
11 the second defect. And so we followed it and -- well,
12 that's a close-up of the edge of that pillow case.

13 Q Right.

14 A And so we made corresponding marks, because that's
15 where it came from. So we pulled the pillow back and
16 that's now on the comforter.

17 Q Okay.

18 A So we mark that, scale it, and follow it again. And
19 that's a close-up of it.

20 Q Right.

21 A And so we followed the defect and taking more
22 photographs of it still trying to locate the bullet. So
23 after we have pulled back everything, that shows you the
24 protector on the mattress.

25 Q Okay. Oops, that's not the one. There we go.

1 A And that's after us pulling back layer by layer
2 looking for that bullet. And that shows you the whole
3 mattress over there, the viewing window that we have
4 created to locate the bullet.

5 Q And did you, in fact, find the bullet?

6 A We did find the bullet.

7 Q And --

8 A That's a picture of the bullet.

9 Q -- is that it?

10 A Yes, sir. That's correct.

11 Q And you collected that bullet; is that right?

12 A That was collected, yes, sir.

13 Q Now, when you and I have spoken before, I suggested
14 it was like an archaeological dig almost, the way y'all
15 were doing it; is that fairly accurate?

16 A Yes, sir.

17 MS. MCNEILL: Objection. Leading.

18 THE COURT: Excuse me, Ms. McNeill.

19 MS. MCNEILL: Objection. Leading.

20 THE COURT: Try to rephrase.

21 BY MR. MOWRY:

22 Q Is that fairly accurate?

23 A Yes.

24 Q Thank you.

25 Okay. Where else did you find a defect?

1 A A defect was found along the walls. They were found
2 on the headboard, into the wall behind the headboard to
3 the window. And after the victim was moved, there was a
4 defect found on the floor in the bathroom.

5 Q Let me show you -- let's see here. Let me show you
6 these three pictures. These are State's Exhibit Nos. 37,
7 38, and 39, and ask you if you can identify those?

8 A Yes.

9 Q What are those, please, ma'am?

10 A State's Exhibit Nos. 37 through 39 show suspected
11 bullet defects to the headboard.

12 MR. MOWRY: I would offer these into evidence at this
13 time, Your Honor.

14 MS. MCNEILL: No objection.

15 THE COURT: All right. Without objection, State's
16 Exhibit Nos. 37, 38, and 39 into evidence for the State.

17 (WHEREUPON, State's Exhibit Nos. 37, 38, and 39 were
18 admitted into evidence.)

19 BY MR. MOWRY:

20 Q And is this one of the pictures we just talked about?

21 A Yes. That's correct.

22 Q And these pieces of tape here, what do those depict?

23 A Those depict the suspected bullet defects to the
24 headboard, what we had marked as C and D.

25 Q All right. What did you do to try to tail [phonetic]

1 those bullet defects?

2 A So, again, we're following the bullet defect trying
3 to find where a possible bullet could be. So we scale it
4 and then the corresponding bullet defect. So there was a
5 corresponding bullet defect to the back of the headboard
6 to the -- that's another picture of a bullet defect. So
7 to the back of the headboard to the wall. There's bullet
8 defects to the window and on the exterior of the
9 residence, the vinyl siding.

10 Q All right. Let me show you these pictures -- oops, I
11 need one more. Sorry. Let me hand you State's Exhibit
12 Nos. 52 and 53 for right now.

13 A Yes. State's Exhibit No. 53 shows the backside of
14 the headboard. That would have been the corresponding
15 defect to C and D.

16 And State's Exhibit No. 52 shows a defect to the wall
17 behind the headboard, and to the blinds, and to the
18 window. You'll see part of the blinds there.

19 MR. MOWRY: I would offer those into evidence at this
20 time, Your Honor.

21 MS. MCNEILL: No objection.

22 THE COURT: Without objection State's Exhibit Nos. 52
23 and 53 into evidence for the State.

24 (WHEREUPON, State's Exhibit Nos. 52 and 53 were
25 admitted into evidence.)

1 MR. MOWRY: And just to make sure that we have
2 State's Exhibit Nos. 16, 43 through 51 as well.

3 THE COURT: Give me those numbers again, please.

4 MR. MOWRY: State's Exhibit Nos. 16, and then 43
5 through 51.

6 MS. MCNEILL: If I can look.

7 MR. MOWRY: And then State's Exhibit Nos. 40 through
8 42, just to make sure about that.

9 THE COURT: State's Exhibit Nos. 40 through 42?

10 MR. MOWRY: Yes, sir.

11 THE COURT: Are you offering these into evidence?

12 MR. MOWRY: I am.

13 MS. MCNEILL: No objection.

14 THE COURT: Without objection, State's Exhibit Nos.
15 16, 40 through 42, 43 through 51 into evidence for the
16 State.

17 (WHEREUPON, State's Exhibit Nos. 16, 40, 41, 42, 43,
18 44, 45, 46, 48, 49, 50, and 51 were previously admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 47 was admitted into
21 evidence.)

22 BY MR. MOWRY:

23 Q Then let me show you State's Exhibit Nos. 35, 33, 34,
24 and 36. Let's start with those. Can you tell me what
25 those are?

1 A State's Exhibit No. 36 shows a defect at marker B.
2 State's Exhibit No. 34 shows a close-up of a green Crown
3 Royal bag, and partial of the broken cell phone.

4 Q Okay.

5 A State's Exhibit No. 33 shows hairpieces that's on the
6 floor. And State's Exhibit No. 35 shows another suspected
7 bullet defect. And that's at marker A.

8 MS. MCNEILL: Your Honor, may we approach?

9 THE COURT: Sure.

10 (WHEREUPON, a bench conference was held.)

11 BY MR. MOWRY:

12 Q So you recognize those; right?

13 A Yes. That's correct.

14 Q And we're talking about State's Exhibit Nos. 30, 29,
15 28, and 27. What do those depict?

16 A Those you have in your hand there?

17 Q Yes. What do these depict?

18 A State's Exhibit No. 30 is the exterior of the
19 residence with a suspected bullet defect. State's Exhibit
20 No. 29 shows the suspected bullet defect to the glass over
21 the window. State's Exhibit No. 28 shows a midpoint of
22 the suspected bullet defects of the exterior. And State's
23 Exhibit No. 27 shows the defect to the window.

24 Q Okay. The window that we're talking about is located
25 where?

1 A That would be where marker C is. It's right behind
2 marker C.

3 Q Right here at the head of the bed?

4 A Yes.

5 MR. MOWRY: Your Honor, I would offer those
6 photographs into evidence. That would be State's Exhibit
7 Nos. 27, 28, 29, and 30.

8 MS. MCNEILL: No objection.

9 THE COURT: Without objection they're into evidence.
10 And I'm not sure if you moved -- State's Exhibit Nos. 35,
11 33, 34, and 36, I'm not sure if you moved those into
12 evidence.

13 MR. MOWRY: I am offering them at this time, Your
14 Honor.

15 (WHEREUPON, State's Exhibit Nos. 27, 28, 29, 30, 33,
16 34, 35, and 36 were admitted into evidence.)

17 BY MR. MOWRY:

18 Q And as part of your collection process, how many
19 bullets -- how many projectiles did you find at that
20 location?

21 A If I may refer to my notes?

22 Q Yes.

23 A Four projectiles were located at that residence.

24 Q Okay. I'm going to hand you what have been marked
25 for identification as State's Exhibit Nos. 90 through 93,

1 and ask you if you can identify those?

2 A Yes. A projectile from the doorway of the bathroom
3 floor, a projectile from the mattress, a projectile from
4 marker A and B.

5 Q Okay. Marker A is here, this wall; right?

6 A That is correct.

7 Q Marker B is here, this exterior wall?

8 A That is correct.

9 Q The bathroom floor you're talking about is where the
10 body is; is that right?

11 A Yes. That projectile was located after the body was
12 moved.

13 Q And then you found the one here?

14 A From the mattress.

15 MR. MOWRY: I offer them into evidence at this time,
16 Your Honor.

17 MS. MCNEILL: No objection.

18 THE COURT: Without objection, State's Exhibit Nos.
19 90 through 93 into evidence for the State.

20 (WHEREUPON, State's Exhibit Nos. 90, 91, 92, and 93
21 were admitted into evidence.)

22 BY MR. MOWRY:

23 Q Lastly, let me hand you this little collection.
24 First of all, let me hand you State's Exhibit No. 54 for
25 identification. What does that depict?

1 A This shows the case -- or the backing of that bent
2 cell phone.

3 Q Then I want to hand you State's Exhibit No. 72. What
4 does that show?

5 A That shows the suspected bullet defect to the wall at
6 marker A.

7 Q Okay. And State's Exhibit No. 55?

8 A That shows the projectile that was located from the
9 wall.

10 Q And State's Exhibit No. 56?

11 A That shows the projectile that was located in the
12 bathroom floor.

13 Q Okay. And that was collected?

14 A Yes. They were all collected.

15 Q And you've marked those projectiles; is that right?

16 A That is correct.

17 Q As to where they were located, where they were found?

18 A Yes.

19 MR. MOWRY: And I would offer all of those
20 photographs into evidence at this time, Your Honor.

21 MS. MCNEILL: No objection.

22 THE COURT: Without objection, State's Exhibit Nos.
23 54, 72, 55, and 56 into evidence for the State.

24 (WHEREUPON, State's Exhibit Nos. 54, 55, 56, and 72
25 were admitted into evidence.)

1 BY MR. MOWRY:

2 Q What else did you do at [REDACTED] Allen Bridge Road?

3 A So while the victim was at the residence, we
4 photographed the victim for defects. Defects were located
5 to the victim. So with the help of the coroner, the
6 coroner manipulated the victim. We collected GSR from the
7 victim's hand. We collected fingernail scrapings. And we
8 collected postmortem fingerprints.

9 Q Okay. Let me hand you what has been marked for
10 identification as State's Exhibit No. 101. Do you
11 recognize that?

12 A Yes. This is the gunshot residue that was collected
13 from the victim.

14 Q And just -- we've heard some testimony about GSR.
15 Can you, also, talk about it just a bit?

16 A Yeah, sure. Whenever a bullet or a firearm is
17 discharged, you expect to find gunshot residue. It can,
18 also, determine whether or not the victim fired or a
19 suspect fired a gun.

20 Q Okay. Thank you, ma'am.

21 THE COURT: What number is that for identification?

22 MR. MOWRY: This is for identification State's
23 Exhibit No. 101, Your Honor.

24 BY MR. MOWRY:

25 Q When you saw the victim, what was her position? How

1 was she?

2 A The victim was what we call supine. She was on her
3 back. So she was across the threshold of the bedroom
4 door -- the bedroom and the bathroom. So one of her hands
5 was above her head and the other stretched was
6 outstretched to her side.

7 Q You don't know whether -- well, you said you saw a
8 lot of material that had been left behind by EMS; is that
9 right?

10 A Yes. That's correct.

11 Q So if she had had any kind of medical treatment or
12 attempts at resuscitation, would that have been a surprise
13 to you?

14 A No. That would not have been a surprise.

15 Q Did you do anything else with the victim?

16 A We documented what she was wearing. We documented
17 locations of tattoos. She had several tattoos on her
18 body. So we did locate those regions and photographed
19 them. And she was removed after the GSR, the scrapings,
20 and postmortem prints were --

21 Q Talk about the scrapings just a little bit. What was
22 the purpose of those?

23 A The fingernail scrapings we would search for to
24 indicate if there was a possible struggle. You would tend
25 to find blood, skin, or dirt underneath her nails. But

1 nothing was located underneath her nails.

2 Q Okay. You did attempt to get --

3 A We did attempt. Yes. That's correct.

4 Q So what else did you do at the scene?

5 A So at the scene, we -- after we collected the
6 firearms evidence within the residence, we moved to the
7 exterior of the residence. We scaled the exterior where
8 the suspected bullet defects were. We searched to find
9 additional bullets. But we did not locate any additional
10 bullets.

11 Q Okay. So you had seven projectile -- seven shell
12 casing; is that right?

13 A That is correct.

14 Q And how many projectiles had you found at the scene?

15 A At that scene, we located four.

16 THE COURT: Solicitor, let me stop you just a second.

17 Ladies and gentlemen of the jury, I'm going to give
18 one more reminder to the jury to pay close attention to
19 the testimony. And we're going to take a break in just a
20 minute. I know, as I said earlier, it's difficult to sit
21 here and remain focused.

22 But if I have to call out any particular juror or
23 jurors again, I will do it. This is the last warning.

24 Okay. So this is directed to all 15 of you, not to
25 suggest all 15 of you are not paying attention. But if I

1 have to call out a juror or jurors again, then there will
2 be consequences.

3 Okay. We're going to take a break. Just as soon as
4 direct examination is concluded of this witness by
5 Solicitor Mowry, we will take a break.

6 Okay. Thank you.

7 You may proceed.

8 BY MR. MOWRY:

9 Q So your search, basically, was going for the other
10 three; is that right, the other three projectiles?

11 A That is correct.

12 Q How did you carry out that search?

13 A So we searched the outside of the residence. And
14 looking for a bullet on the exterior of a residence is
15 like finding a needle in a haystack. There was a wooded
16 area and a lot of grass. So we did an overall search.

17 But we, also, had extra knowledge that there was a
18 vehicle parked on the exterior of the residence. So that
19 is where we believed another bullet or possible other
20 projectiles could be located where -- directly behind
21 where the defects were to the house.

22 Q So you had gotten an indication that the Defendant's
23 car had been parked back there; is that right?

24 A That is correct.

25 Q At -- was there anything else that you did at Allen

1 Bridge Road?

2 A No. We, also -- there were two cars on the exterior
3 of the residence. We documented those with photographs
4 and we searched. We were, also, looking for a possible
5 firearm. We did not locate a firearm at the residence.

6 Q Was there anything of evidentiary value found in
7 either one of those cars?

8 A There was nothing found of evidentiary value.

9 Q Did that about wrap it up at Allen Bridge Road?

10 A That is correct.

11 Q By the time you were done -- let me ask you, what
12 time was that?

13 A If I may refer to my notes?

14 Q Of course.

15 A The scene was released at 8:10 that morning.

16 Q So you were there for several hours?

17 A That is correct.

18 Q Was there another place that you needed to go with
19 regard to this scene?

20 A Yes. We had knowledge that the suspect had turned
21 himself in. And Lieutenant Cheek had collected a GSR from
22 his hands. So I met with him at 21 360 U.S. 221, Laurens.

23 Q All right. So out on Highway 221, basically, at 385;
24 is that right?

25 A That is correct.

1 Q Is that the Waffle House?

2 A It was the Waffle House.

3 Q Let me hand you State's Exhibit No. 88 for
4 identification, and ask you if you know what that is?

5 A Yes. This is the GSR that was collected from the
6 suspect. And it was transferred by a chain of custody
7 from Lieutenant Bryant Cheek at 8:25 that morning.

8 Q So Bryant Cheek gave you that?

9 A Yes. That's correct.

10 Q And what did you do with that?

11 A I collected it. And we had a chain of custody where
12 he transferred it over to me. And this was taken back to
13 our forensic laboratory and submitted.

14 Q Okay. And you did that not only with State's Exhibit
15 No. 88, the Defendant's GSR, but the -- you -- the GSR kit
16 you had collected from the victim, which is State's
17 Exhibit No. 101?

18 A Yes.

19 Q Once you had collected that kit, where did you go
20 next?

21 A So we had knowledge that the suspect's vehicle was at
22 another location. And that is where we went to locate the
23 suspect's vehicle.

24 Q And where was that?

25 A That was at 13347 CR Coon Highway in Newberry.

1 Q Once you left the Waffle House, what time did you
2 arrive at -- in Newberry?

3 A I arrived at Newberry at 9:11.

4 Q Okay. Did you wait on a search warrant again at the
5 house, or what did you do?

6 A I met with the law enforcement personnel that was
7 already out there. They wanted to conduct a search of the
8 residence. So that was a part of what they did. But we
9 did photograph within the residence. The concern was the
10 vehicle on the outside of that residence.

11 Q Let me hand you what has been marked as State's
12 Exhibit Nos. 57 and 58. Do you recognize those?

13 A Yes.

14 Q What are those, please, ma'am?

15 A This shows the exterior of the suspect's residence.

16 MR. MOWRY: And I'll offer them into evidence, Your
17 Honor.

18 MS. MCNEILL: No objection.

19 THE COURT: Without objection, State's Exhibit
20 Nos. 57 and 58 into evidence for the State.

21 (WHEREUPON, State's Exhibit Nos. 57 and 58 were
22 admitted into evidence.)

23 BY MR. MOWRY:

24 Q These depict the Defendant's residence; is that
25 right?

1 A That is correct.

2 Q A search warrant was obtained; is that correct?

3 A We did not have a copy. But the search warrant -- we
4 had knowledge that the search warrant was obtained.

5 Q All right. What did you do first? What were you
6 looking at first?

7 A Well, first, we -- just like at the initial scene, we
8 documented with photographs on the exterior of the
9 residence. The Toyota Avalon -- red Toyota Avalon is what
10 we were focused on. Because that's what we were told that
11 the suspect was driving at the time.

12 Q Okay.

13 A And we did locate that vehicle in the yard in
14 addition to several other vehicles.

15 Q All right. Let me hand you what have been marked for
16 identification -- we're almost done -- as State's Exhibit
17 Nos. 64, 63, 62, 70, and 71, and ask you if you can
18 identify those?

19 A Yes.

20 Q What are those, please?

21 A State's Exhibit No. 62 shows the exterior of the red
22 Toyota Avalon. And you can, also, see a suspected bullet
23 defect to the exterior of the driver door. State's
24 Exhibit No. 64 shows the back seat of the Toyota Avalon.
25 It was clothes -- a lot of clothes in the backseat.

1 State's Exhibit No. 71 shows a projectile that was
2 collected. State's Exhibit No. 70 shows a picture of the
3 projectile on the driver's seat. And State's Exhibit No.
4 63 shows a bullet defect to the exterior driving door.

5 MR. MOWRY: Okay. I would offer those into evidence
6 at this time, Your Honor.

7 MS. MCNEILL: No objection.

8 THE COURT: All right. Without objection, State's
9 Exhibit Nos. 62, 63, 64, 70, and 71 are in evidence for
10 the State.

11 (WHEREUPON, State's Exhibit Nos. 62, 63, 64, 70, and 71
12 were admitted into evidence.)

13 BY MR. MOWRY:

14 Q Is this the Toyota Avalon that you're talking about?

15 A That is correct.

16 Q Is this, what I'm pointing to here, the bullet --
17 suspected bullet defect in the driver's door?

18 A That is correct.

19 Q How did y'all go about trying to find the bullet?

20 A So a part of that is like we pulled the wall apart at
21 the initial scene. We had to pull the door apart. And so
22 we -- my partner is good at pulling things apart. So he
23 pulled the -- he pulled apart the interior of the door
24 trying to locate the suspected bullet defect. We did not
25 find one in the door. That bullet was, actually, located

1 on the driver's seat.

2 Q Not dug in, just on the seat?

3 A On the seat.

4 MR. MOWRY: Walter, if you'd go to State's Exhibit
5 No. 70.

6 BY MR. MOWRY:

7 Q Where was it located?

8 A It was located on the driver's seat.

9 Q Is this it right here?

10 A That is correct.

11 Q Hiding in plain sight?

12 A In plain sight.

13 Q What did you do after that, after you had looked at
14 the car and collected that projectile -- oh, before I go
15 any further. Let me show you what has been marked as
16 State's Exhibit No. 89, and ask you if you can identify
17 that?

18 A Yes. That is a projectile that was collected from
19 the driver's seat.

20 MR. MOWRY: Your Honor, I would offer that into
21 evidence -- or excuse me. No, I will not at this time.
22 I'm sorry.

23 THE COURT: Just remain ID?

24 MR. MOWRY: Yes, sir.

25 THE COURT: Okay.

1 BY MR. MOWRY:

2 Q Did you do anything else with the car?

3 A We continued to search the vehicle looking for a gun.
4 We did not locate a gun in the vehicle. So we just
5 documented the photographs and looked for any additional
6 projectiles that we could possibly find.

7 Q Did you find any?

8 A We did not.

9 Q Was there anything else of evidentiary value from the
10 car?

11 A No, nothing else of evidentiary value from the car.

12 Q What did you do next?

13 A So we continued to document. There were other cars
14 in the yard. We documented those with photographs. The
15 interior of the residence was documented with photographs.

16 Q Okay. Let me hand you what has been marked for
17 identification as State's Exhibit No. 69, and ask you if
18 you can identify that?

19 A Yes. This is a piece of mail that has the
20 Defendant's name and address on it.

21 Q All right. And what was the purpose in taking that
22 photograph?

23 A To show that the Defendant -- that is his residence,
24 or he does receive mail at that residence.

25 MR. MOWRY: Your Honor, I would offer State's Exhibit

1 No. 69 into evidence at this time.

2 MS. MCNEILL: No objection.

3 THE COURT: Without objection, State's Exhibit No. 69
4 for the State into evidence.

5 MR. MOWRY: And I apologize, Your Honor. Did we get
6 State's Exhibit Nos. 62, 63, 64, 70, and 71 in?

7 THE COURT: State's Exhibit Nos. 62 to 64, 70 to 71
8 are in evidence.

9 MR. MOWRY: Good.

10 Thank you.

11 (WHEREUPON, State's Exhibit No. 69 was admitted into
12 evidence.)

13 BY MR. MOWRY:

14 Q Let me hand you this series of photographs, State's
15 Exhibit Nos. 59, 60, and 61, and ask you if you can
16 identify those?

17 A Yes. They show a photograph of the kitchen and a
18 close-up of green Crown Royal bags that were located
19 inside one of the drawers within the kitchen, the same
20 type of bag that was located at the initial scene, the
21 green Crown Royal bag.

22 MR. MOWRY: Okay. Your Honor, I would offer these
23 into evidence at this time.

24 MS. MCNEILL: No objection.

25 THE COURT: Without objection, State's Exhibit

1 Nos. 59, 60, and 61 into evidence for the State.

2 (WHEREUPON, State's Exhibit Nos. 59, 60, and 61 were
3 admitted into evidence.)

4 BY MR. MOWRY:

5 Q So this is the kitchen area; is that right?

6 A That's correct.

7 Q Where were the Crown Royal bags?

8 A They were located in the drawer within the kitchen,
9 that top drawer there.

10 Q Right here?

11 A That's correct.

12 Q Okay. And let's go to State's Exhibit No. 60, I
13 believe.

14 A And that's a close-up of the Crown Royal bags.

15 Q And there were three of them; is that right?

16 A There are three.

17 Q All right. And that's even closer; is that right?

18 A That is correct.

19 Q Okay. Lastly, I want to show you a series of
20 photographs. These would be State's Exhibit Nos. 65, 66,
21 67, and 68 -- oops, before I do that. I would ask you if
22 you can identify those?

23 A Yes. These are photographs of -- inside a bedroom of
24 inside of a drawer where a box of cartridges were found,
25 bullet cartridges that were found in the drawer. And they

1 were not full. And it matched, also, the head stamp that
2 was on the cartridges that were located -- the cartridge
3 casings that were located at the initial scene.

4 Q Okay. And let's see. Let me just hand you what has
5 been marked as State's Exhibit No. 103 for identification.
6 Do you recognize that?

7 A Yes, I do.

8 Q Okay. What is that, please, ma'am?

9 A This is the box of bullets that was located within
10 that drawer.

11 Q Now, did you take that into evidence yourself?

12 A I did not. These were located -- these were directly
13 collected by law enforcement that was on the scene.

14 Q But you photographed them. And the photograph
15 depicts those bullets; is that right?

16 A That is correct.

17 MR. MOWRY: Your Honor, I would offer State's Exhibit
18 Nos. 67, 66, 65, and 68 into evidence.

19 MS. MCNEILL: No objection.

20 THE COURT: Without objection, those four exhibits
21 are in evidence for the State.

22 (WHEREUPON, State's Exhibit Nos. 65, 66, 67, and 68
23 were admitted into evidence.)

24 BY MR. MOWRY:

25 Q Does that show the bullets as you found them?

1 A That is correct.

2 Q And that's how they looked?

3 A That is correct.

4 Q In the box?

5 A (There was verbal no response.)

6 MR. MOWRY: Thank you, ma'am.

7 I believe that's all I have.

8 THE WITNESS: Thank you.

9 THE COURT: All right. Madam Forelady, and, ladies
10 and gentlemen of the jury, we're going to take an
11 afternoon break. So I would ask that you go back to the
12 jury room. And we'll get you back out shortly.

13 Again, I remind you, no discussion about this case
14 among yourselves.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 4:00 p.m.)

17 THE COURT: All right. Let me just -- I want to make
18 sure I understand. I, certainly, didn't want to ask this
19 in the presence of the jury. The three Crown Royal bags
20 found in the kitchen and a box of bullets found in a
21 bedroom drawer, is that Newberry?

22 MR. MOWRY: That's in Newberry, yes, sir.

23 THE COURT: Okay. We'll be in recess for about 15
24 minutes.

25 Let me, also, note for the record, the one juror that

1 I saw appearing to be dozing off is the young
2 Afro-American gentleman on the back row on the end with
3 glasses. Just so -- and I didn't really see anybody else.

4 MS. MCNEILL: I did, Your Honor. There's several.

5 THE COURT: The gentleman on the front row right in
6 front of him?

7 MS. MCNEILL: The gentleman on the front row.
8 There's a lady on the back row. There's a lady on the
9 front row. There's, like, three or four that keep nodding
10 off.

11 THE COURT: Okay. I did see that, but it was not as
12 significant to me, at least, as the young gentleman on the
13 back row.

14 MR. MOWRY: Your Honor, that seems to have been a
15 fairly persistent problem.

16 THE COURT: Well, we'll just have to -- do they have
17 any coffee back there?

18 THE BAILIFF: Yes, sir.

19 THE COURT: Well, maybe they'll all get a cup of
20 coffee.

21 MS. MCNEILL: An espresso.

22 THE COURT: Yeah.

23 MR. MOWRY: I have never heard of anybody having
24 trouble staying awake with my voice, Your Honor.

25 THE COURT: All right. We'll be in recess for a few

1 minutes.

2 Ms. Key, you can step down and take a break. You're
3 free to move around, but just don't talk about your
4 testimony.

5 THE WITNESS: Okay.

6 (WHEREUPON, a break was taken.)

7 THE COURT: Okay. Mr. Bolt, if you'll bring the jury
8 in, please, sir.

9 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
10 identification only.)

11 THE BAILIFF: They're all present, Your Honor.

12 THE COURT: Okay. Mr. Bolt, thank you.
13 Solicitor.

14 MR. MOWRY: Your Honor, may it please the Court.

15 We consulted with the court reporter and the Defense
16 during the break, and with all of that, there were two
17 items that I did not offer into evidence. And they are
18 State's Exhibit No. 25, this photograph, and State's
19 Exhibit No. 89, this projectile. And I would offer them
20 into evidence at this time.

21 MS. MCNEILL: No objection.

22 THE COURT: Okay. State's Exhibit Nos. 89 and 25 for
23 the State into evidence.

24 (WHEREUPON, State's Exhibit Nos. 25 and 89 were
25 admitted into evidence.)

1 THE COURT: Ms. McNeill, are you ready for
2 cross-examination?

3 MS. MCNEILL: Yes, sir, I am.

4 THE COURT: Okay.

5 CROSS-EXAMINATION

6 BY MS. MCNEILL.

7 Q Good afternoon. How are you?

8 A (There was no verbal response.)

9 Q So Agent Key, I just want to go over some of your
10 previous testimony.

11 In your line of work, you document absolutely
12 everything in a report; right?

13 A Everything in a report?

14 Q In the report that you type up.

15 A Yes.

16 Q Okay. And in this case, you did type up a crime
17 scene investigation summary and report?

18 A A summary and report, yes, ma'am.

19 MS. MCNEILL: May I approach the witness?

20 THE COURT: You sure can.

21 BY MS. MCNEILL:

22 Q Is that your report?

23 A These are copies of the crime scene summary, the
24 crime scene report, a copy of the chain of custody, the
25 items that were submitted into our forensic laboratory,

1 and a copy of the sketch that was completed.

2 Q Okay. And it's 15 pages total; correct?

3 A Well, I didn't count it. I can count it.

4 Q I think it's listed at the top, 1 of 15, 2 of 15, 3
5 of 15, et cetera.

6 A Yes.

7 MS. MCNEILL: Okay. At this time, I'd like to submit
8 this as Defendant's Exhibit No. 2 into evidence.

9 MR. MOWRY: No objection, Your Honor.

10 THE COURT: All right. Without objection,
11 Defendant's Exhibit No. 2 for the Defense into evidence.

12 (WHEREUPON, Defendant's Exhibit No. 2 was admitted into
13 evidence.)

14 BY MS. MCNEILL:

15 Q And, ma'am, a lot of this in your report you just
16 testified to on direct examination with Mr. Mowry; right?

17 A That's correct.

18 Q So when you first got the call that Laurens County
19 needed your assistance, you said that SLED provides
20 additional resources and assistance in matters involving
21 crimes such as murder; right?

22 A Yes.

23 Q Okay. And so you were contacted by Investigator
24 McIntosh with the Laurens County Sheriff's Office; right?

25 A I was given his information when I contacted him --

1 the operations desk gave me his information.

2 Q Okay. So you contacted Investigator McIntosh?

3 A That is correct.

4 Q And you had received information from agent -- I'm
5 sorry, Officer McIntosh about the incident that you needed
6 to respond to?

7 A That is correct.

8 Q Okay. And that information included that a male and
9 a female were involved in an altercation?

10 A That is correct.

11 Q And that resulted in the female being shot?

12 A That's correct.

13 Q Okay. And you, also, received information that the
14 Laurens County Sheriff's Office was in the works of trying
15 to locate the suspect in the case?

16 A That is correct.

17 Q So when you arrived at the location -- what time was
18 that again?

19 A That was -- let me refer to my notes.

20 Q Sure.

21 A That was approximately 3:40 in the morning.

22 Q Okay. And what time did you -- were you told that
23 the shooting had occurred?

24 A I -- it was earlier that morning. There was not an
25 exact time, but I was told it was earlier that morning.

1 Q And then you were, also -- upon arrival, you met with
2 Investigator McIntosh?

3 A Correct.

4 Q All right. And he, also, gave you information that
5 the victim and suspect were in an argument, and the victim
6 reportedly retrieved a handgun from a green bag in the
7 bedroom and fired the weapon at the suspect?

8 A That's the information I was told, correct.

9 Q So this is information that you were told upon
10 arrival before processing the scene?

11 A Correct.

12 Q Okay. And you were, also, told that the suspect and
13 the victim reportedly became involved in a physical
14 struggle over the handgun?

15 A That's correct.

16 Q Okay. And that the suspect reportedly gained control
17 of the weapon and fired the handgun at the victim,
18 shooting her multiple times?

19 A That is correct.

20 Q And then you were, also, told that the suspect called
21 911 to report the incident?

22 A That is correct.

23 Q And that he, also, had left the scene prior to the
24 Laurens County Sheriff's Office arriving at the incident
25 location?

1 A Yes, ma'am. That's correct.

2 Q Okay. And this incident location was in Fountain
3 Inn?

4 A This primary location, that's correct.

5 Q Yes, ma'am.

6 Thank you.

7 Did you document the scene with any photographs
8 yourself?

9 A No. My secondary would have been photographing.

10 Q Okay. You documented the scene with notes and
11 sketches with measurements?

12 A That's correct.

13 Q Okay. And then that would be -- what's this marked
14 as? State's Exhibit No. 78, which is a blown-up diagram
15 that you made?

16 A Yes, ma'am.

17 MS. MCNEILL: Can you put this on the screen?

18 BY MS. MCNEILL:

19 Q So knowing this information that you retrieved upon
20 arrival, it was possible that that information was
21 correct, and that there was a struggle over the gun?

22 A I'm sorry. Would you repeat that?

23 Q Sure. When you arrived at the scene and you were
24 given information that an argument had ensued and that a
25 struggle over the weapon occurred, you would then be

1 looking for signs of a struggle at the crime scene itself;
2 correct?

3 A Yes. Correct.

4 Q Okay. To possibly rule out whether that was true or
5 not true?

6 A Correct.

7 Q I see that there was suspected blood that was
8 observed on the interior side of the screen door and below
9 the door handle. Was that observed by yourself?

10 A Yes. That was observed by me, along with my partner.

11 Q Okay. Did you take any latent prints of those?

12 A No. Latent prints were not collected.

13 Q Okay. Now, in this diagram that you drew -- or that
14 you made, you said that the master bedroom would be
15 located here where the picture -- where the diagram of the
16 bed and the body lay in between the bedroom and the
17 bathroom?

18 A That's correct.

19 Q So this is the master bedroom?

20 A Yes, ma'am.

21 Q Okay. And then what was this bedroom that is to the
22 immediate left of the bathroom wall?

23 A That would have been an additional bedroom. It's --
24 you can't really show how and why -- all the photos -- I
25 mean, sketches are approximate. So that would show

1 like -- where it be [sic], that's just a second bedroom.
2 It was nothing -- it was a bed and some other things in
3 there.

4 Q Okay. So this was not the child's bedroom?

5 A No. The child's bedroom is at the bottom.

6 Q So the child's bedroom would be, according to this
7 diagram, kind of down the hall and to the left to the
8 front of the house; is that correct?

9 A Yes, ma'am.

10 Q Okay. So none of the child's bedroom walls were
11 adjacent to the master bedroom?

12 A That's correct.

13 Q Okay. And the bullet holes, I think you called them
14 defects?

15 A Yes. That's correct.

16 Q So defects and bullet holes are the same thing?

17 A They're the same thing.

18 Q So for purposes of me, I'm going to use the word
19 bullet hole. So the bullet holes would have been marked
20 as A, B, C, D, and E; correct?

21 A That is correct.

22 Q All right. And so bullet hole A is going from
23 either -- it's in between the bathroom and the master
24 bedroom that are adjacent to each other; right?

25 A That's correct.

1 Q And then bullet hole B is at the exterior wall of the
2 residence?

3 A It's on the back wall of the residence, yes.

4 Q Okay. So if -- bullet hole B, would that be -- like,
5 with my finger pointing behind the diagram of B, would
6 this be the yard?

7 A That would be the yard.

8 Q And bullet holes C and D, those were at the headboard
9 of the bed?

10 A That's correct.

11 Q Okay. And would you agree with me that the footboard
12 of the bed is closer to the living room than the
13 headboard?

14 A That's correct.

15 Q Okay. So C and D are the headboard. And then bullet
16 hole E is where, into the mattress?

17 A That -- essentially, into the mattress. But that was
18 a pillow case.

19 Q That was a pillow case?

20 A Yeah, the edge of the pillowcase. It was a pillow,
21 but the edge of the pillowcase.

22 Q So am I to understand that these two white blocks
23 that are on top of the diagram of the bed, those represent
24 pillows?

25 A That's correct.

1 Q Okay. And then we have cartridge casings -- seven, I
2 think, total were collected?

3 A That is correct. Yes, ma'am.

4 Q Okay. So then the cartridge casings -- you have
5 cartridge casing three, which is located -- I guess this
6 is a dresser, kind of by the dresser and the TV area at
7 the foot of the bed?

8 A Yes. That's correct.

9 Q All right. And then we have cartridge casing four is
10 pretty much in the middle of the two pillows; is that
11 correct?

12 A Yes. That's correct.

13 Q All right. And then we have nine -- cartridge nine,
14 which is, also, kind of on the bed?

15 A Nine was not a cartridge.

16 Q What is nine?

17 A Nine was a marker that was placed by Laurens County
18 prior to us arriving to the scene. They were using it to
19 mark what was, essentially, marked as E as a defect.

20 Q As a defect?

21 A Yes.

22 Q So then is that the same with 10?

23 A Yes, nine and 10.

24 Q All right.

25 A They were marked as defects.

1 Q And then five, seven, and six are kind of in a
2 cluster on the front left side of the bed near the night
3 stand?

4 A That is correct.

5 Q All right. And then eight is over in the corner of
6 the room towards the bathroom and the headboard?

7 A That is correct.

8 Q Okay. And then you have an X here in front of
9 cartridge number six -- in between cartridge number six
10 and the nightstand. And that marks the green Crown Royal
11 bag?

12 A That is correct.

13 Q Okay. And did you identify that as a Crown Royal bag
14 immediately upon seeing it?

15 A Not immediately upon seeing it. It was on the floor.
16 So once we picked it up and photographed it further, Crown
17 Royal was on the front.

18 Q And when you were first, I guess, exploring and
19 processing this crime scene, you had been given
20 information that the suspect stated that the female who
21 had been shot had, initially, pulled a gun out of a green
22 bag; right?

23 A I'm sorry. Could you repeat that?

24 Q Sure. When you first arrived at the crime scene and
25 were told about the alleged altercation, that the female