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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY JAMES THOMPSON,

APPELLANT.

APPELLATE CASE NO. 2022-000397

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #8 (POPS GAS STATION VIDEO)

STATE’S EXHIBIT #9 (OFFICER HARRIS DASH CAM)

STATE’S EXHIBIT #13 (HOUSE CAMERA VIDEO – SURVEILLANCE OF IMPACT)

STATE’S EXHIBIT #18 (INTERVIEW – T. THOMPSON)

State of South Carolina	)	
	)	Court of General Sessions
County of Fairfield	)	2020-GS-20-399
		2020-GS-20-400

The State	)	
	)	
vs.	)	Transcript of Record
	)	
Timothy James Thompson	)	

March 11, 2022
Fairfield, South Carolina

B E F O R E:

The Honorable Brian M. Gibbons, Judge.

A P P E A R A N C E S (All present by video or telephone):

Riley Maxwell
Attorney for the State

William P. Frick
Attorney for the Defendant

Polly Gillebaard
Transcriber



1 THE COURT: All right. Well, I'll tell you why. This
2 guy right here, that's the solicitor. This is the defense
3 attorney, Mr. Frick. And the defendant --

4 What his name, Mr. Frick?

5 MR. FRICK: Timothy Thompson.

6 THE COURT: Mr. Thompson is there at the jail in
7 Fairfield. We're having the hearing here in Chester because
8 I'm holding court here in Chester County this week. This is
9 for --

10 MR. BELL: All right.

11 THE COURT: This is for a trial which, I believe, is
12 scheduled for March 21st in Fairfield.

13 So Solicitor, why don't you tell me why we're here.

14 MR. MAXWELL: Your Honor, Mr. Bell lives in Pennsylvania
15 now. At the time he -- the time this incident occurred, he
16 was living in Winnsboro. I believe he's originally from
17 Pennsylvania. He is a witness in this case. Mr. Bell's told
18 me he is unable to travel by car or plane due to some -- due
19 to his age and some other health issues. He would just ask
20 that he be allowed to testify over the virtual courtroom
21 during the trial term. And he can, I believe, tell you some
22 more about his issues, briefly.

23 THE COURT: All right. What's the name again?

24 MR. MAXWELL: Tommy Bell.

25 THE COURT: All right. Mr. Bell, how you doing today?

1 MR. BELL: I'm doing okay. And you?

2 THE COURT: All right. Good. Can you see me?

3 MR. BELL: Yes, sir.

4 THE COURT: Isn't it weird how we're talking virtually
5 even though you're up in Pennsylvania and I'm down in South
6 Carolina?

7 MR. BELL: Yes, sir.

8 UNIDENTIFIED SPEAKER: (Indiscernible) y'all came from.

9 THE COURT: Well, yeah. I understand. That's just one
10 good thing that came out of COVID is that we have these -- we
11 have different accesses to virtual platforms now to allow
12 things to move forward.

13 So I just got a couple of questions for you.

14 TOMMY BELL, after being duly sworn, testified as
15 follows:

16 THE COURT: All right. Now, you heard what the solicitor
17 just told me. Do you wish -- do you -- you wish to testify in
18 this case, but you can't come to South Carolina; is that what
19 you're telling me?

20 MR. BELL: That's right. That's correct.

21 THE COURT: Tell me why you're not able to come to South
22 Carolina.

23 MR. BELL: Because the doctor won't let me call -- come
24 because of my breathing heavy and my health condition.

25 THE COURT: You can't fly? You cannot fly?

1 MR. MAXWELL: Yeah, it's on mute, I think.

2 THE COURT: No. He's fine. Something's happening.

3 Sir, I can't hear you. Did you accidentally hit a button
4 on the phone there? Okay.

5 UNIDENTIFIED SPEAKER 2: Turn off the Bluetooth.
6 Bluetooth.

7 He's in the car.

8 MR. MAXWELL: All right. I think he got it now.

9 (Indiscernible).

10 UNIDENTIFIED SPEAKER 2: Hold on, sir. I pulled up and
11 the Bluetooth connected. Hold on, please. Hold on. I don't
12 know how to turn it off.

13 THE COURT: I'll stay.

14 UNIDENTIFIED SPEAKER 2: Okay. There. Go, go, go. Is
15 it (indiscernible). Hello?

16 THE COURT: Hello.

17 UNIDENTIFIED SPEAKER 2: Oh, my gosh, it's still
18 connected. Hold on. I changed it.

19 MR. MAXWELL: One reason I want to do it this way
20 because --

21 UNIDENTIFIED SPEAKER: One second. Let me take this
22 (indiscernible).

23 THE COURT: Mr. Bell, can you hear me?

24 UNIDENTIFIED SPEAKER: Hold on one second. I got to take
25 you off of -- my wife pulled up with the car, and it -- it --

1 my blue (audio interference).

2 THE COURT: Okay.

3 UNIDENTIFIED SPEAKER: My Bluetooth. Hold on one sec.

4 THE COURT: All right.

5 UNIDENTIFIED SPEAKER 2: Can you hear now?

6 THE COURT: Yeah, I can hear you.

7 UNIDENTIFIED SPEAKER 2: Okay.

8 MR. BELL: All right. Hi. I'm back.

9 THE COURT: All right. You were telling me you're not
10 able to fly and you can't drive that long or travel that long?

11 MR. BELL: That's right. That's right.

12 THE COURT: And that's per your doctor's orders?

13 MR. BELL: Yes, sir.

14 THE COURT: All right. What's the Defense's position on
15 this, Mr. Frick?

16 MR. FRICK: Your Honor, I am concerned. First, we just
17 had some technical issues right there. I am concerned about
18 my client's right to full confrontation. I mean, I understand
19 I can cross-examine Mr. Bell over the technology, but I would
20 prefer it to be in person if possible.

21 THE COURT: All right. Well, here's what I'm -- I'm
22 going to allow you to testify virtually, Mr. Bell. When the
23 trial comes up, the solicitor will give you --

24 MR. BELL: Yes, sir.

25 THE COURT: -- (audio interference) to show up, just like

1 you're doing in this virtual courtroom, and you'll be --

2 MR. BELL: Yes, sir.

3 THE COURT: -- (audio interference) in front of a jury in
4 Fairfield County without actually being there. It'll be just
5 like you testified in court, as if you were in court. I'm
6 going to overrule the Defense objection and allow this to
7 happen, based upon the risk to your health and safety. And
8 you're just one witness out of whatever else the State's
9 presenting. So I am going to allow that to happen. Okay?

10 MR. BELL: All right, sir.

11 THE COURT: All right. Thank you, sir.

12 MR. BELL: I appreciate that.

13 THE COURT: The solicitor will be in touch with you about
14 when your testimony -- the hour and day of your testimony.
15 And just please make sure y'all remember the login
16 instructions. Remember, the password is sccourts. And make
17 sure it's not connected to any other Bluetooth device.

18 MR. BELL: All right.

19 UNIDENTIFIED SPEAKER 2: Yeah. (Indiscernible).

20 THE COURT: All right. Y'all have --

21 Okay. Anything else, Solicitor?

22 MR. MAXWELL: No, sir.

23 THE COURT: Anything else, Mr. Frick?

24 MR. FRICK: No, sir.

25 THE COURT: All right. That concludes this hearing. I'm

1 going to log off for everybody. Okay? Y'all have a good day.

2 MR. BELL: All right.

3 THE COURT: All right. Bye-bye.

4 UNIDENTIFIED SPEAKER: You take it easy, Your Honor.

5 THE COURT: Okay.

6 MR. BELL: (Indiscernible) the same.

7 THE COURT: Take care. Bye-bye.

8 MR. BELL: Yes, sir. You do the same.

9 (End of Transcript of Record)

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CERTIFICATE OF TRANSCRIBER

State of South Carolina)
)
County of Fairfield)

I, POLLY GILLEBAARD, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Fairfield County, South Carolina, on the 11th day of March, 2022.

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

February 21, 2023


Polly Gillebaard, CDLT-197
Transcriber

STATE OF SOUTH CAROLINA - COUNTY OF FAIRFIELD
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
) Docket No.
 PLAINTIFF,) 2020-GS-20-0399
) 2020-GS-20-0400
)
 V.)
)
) JURY TRIAL
 TIMOTHY J. THOMPSON)
)
 DEFENDANT)

MARCH 21, 2022
Fairfield, South Carolina

B-E-F-O-R-E:

THE HONORABLE BRIAN M. GIBBONS

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

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HENRY MC MASTER, ESQ.

Attorney(s) for the State of South Carolina

WILLIAM FRICK, ESQ.

Attorney for the Defendant

Maria DiScioscia, RPR
Official Court Reporter

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1 *(The State of South Carolina Versus Timothy J. Thompson)*

2 *(Trial began Monday, March 21, 2022.)*

3 THE COURT: Come to order.

4 Is your client here, Mr. Frick?

5 MR. FRICK: They're bringing him in now.

6 THE COURT: Solicitor, will you introduce the
7 case and tell me what we're here for?

8 MR. MAXWELL: Your Honor, the State intends to
9 call murder indictment against Timothy James Thompson,
10 Docket Number 2020-GS-2399.

11 Mr. Thompson was initially facing a charge of
12 hit and run involving death, Docket Number 2020-GS-2400,
13 from the same incident. The State's intention is to
14 just call the murder indictment alone.

15 Mr. Frick has filed a motion, I guess, for
16 joinder.

17 THE COURT: Okay. All right.

18 Mr. Frick, I've got your motion up here as
19 well as supporting case law. I'll be glad to hear from
20 you.

21 MR. FRICK: Judge, they're all out of the same
22 circumstances. As I said, they're -- I attached *State*
23 *v. Simons*, which is the case I'm relying upon. It says:
24 "If the offenses are one, same general nature -- "
25 we've got a murder. You got a hit and run. Death

1 results when you have a homicide case -- "are committed
2 by the same offender." They are alleged to have been
3 committed by my client, Mr. Thompson. "And require the
4 same or similar proof." It's the same exact case,
5 Judge. So I can't conceive any reason other than the
6 potential of the State holding this charge in abeyance
7 to prosecute my client. Should this case not turn out
8 like they'd wish, I think that's inappropriate and I
9 think both cases should be tried together.

10 THE COURT: Solicitor?

11 MR. MAXWELL: Your Honor, as far as the
12 factors in *State versus Simons* that the defense is
13 relying on.

14 Factor Number 3 requires -- "the charge
15 requires the same or similar proof." Of course, murder
16 we -- we would intend to offer evidence of malice,
17 threats that were made by Mr. Thompson to the
18 grandfather referencing the victim in this case. There
19 were statements to the grandfather that he was going
20 around looking for a gun. Those would not have anything
21 to do with a hit-and-run case. So I would make that
22 distinguished -- distinguish that from the *Simons* case.

23 Also, I gave Jack a copy of *State v. Page*, 406
24 SC 272. This is a case where -- a codefendant case,
25 where one of the codefendant's made motion for joinder

1 for the other codefendants because the State's intention
2 was to try them separately. It's a 2013 case where it
3 referenced -- it's a Court of Appeals, but it did
4 reference the *Langford* decision, that *Langford* removed
5 or found unconstitutional. It's the solicitor's right
6 to exclusively control the docket. And what this
7 opinion is talking about is *Langford* removed the -- our
8 solicitor's control over the order of the cases but not
9 in the manner of which cases are prosecuted and have
10 proceeded with the case.

11 We do retain -- according to the opinion,
12 "Solicitor retains discretion in choosing how to proceed
13 with a case." Then it kind of goes back to the
14 discretion of the Court. As long as we're not -- won't
15 effect -- we're within our duties to call that, gives
16 the Court the discretion to approve that. I think that
17 case covers it pretty easily. I think it's our
18 discretion to call a case as we see fit.

19 THE COURT: Reply?

20 MR. FRICK: I'm gonna say what I've always
21 heard when I've asked for the severance. Judicial
22 economy, your Honor. I don't understand why we want
23 to go -- it's gonna be the same witnesses; It's gonna be
24 the same everything.

25 Malice is an additional thing they've got to

1 prove in the murder case. But you've got a homicide
2 case where they're alleging that my client either
3 maliciously ran over this person and that's where the
4 murder charge comes from or they say he ran over this
5 person and left the scene of the accident. It's all the
6 same evidence.

7 THE COURT: All right. Give me a second while
8 I go over the case law.

9 What part of the case is *State v. Page*? What
10 page number are you looking at, Solicitor?

11 MR. MAXWELL: Your Honor, on the -- they begin
12 discussing joinder on the fourth page, but I think
13 there's more details on the fifth page under No. 1, the
14 circumstances of the case. I did not require joint
15 trial.

16 THE COURT: Okay.

17 I mean, there's nothing permitting the State
18 from deciding to dismiss this indictment.

19 MR. MAXWELL: I think that is accurate as
20 well.

21 THE COURT: But if the case -- if the State
22 dismisses the indictment, then we don't have an issue.

23 MR. MAXWELL: I don't think we're at that
24 stage just yet.

25 THE COURT: I understand.

1 MR. MAXWELL: I do agree with that statement.

2 THE COURT: All right.

3 I'm going to grant the defense's motion to
4 require that both of these indictments be tried. I do
5 find that under the case law cited by Mr. Frick, that
6 they are of the "same general nature" or character --
7 they say they spring from the same series of
8 transactions. They're committed allegedly by the same
9 offender and although the State relies on the main prong
10 to rely on, they require the same or similar proof.

11 Well, certainly the State has to prove malice
12 beyond a reasonable doubt for the murder charge. But
13 you have still have to prove, beyond a reasonable doubt
14 on the hit and run involving death as well.

15 I'm more relying upon the similar proof angle
16 in general of that. I've consider the State's argument,
17 and I've respectfully denied the State's position. And
18 I will grant the defense's motion to require the State
19 to proceed on both indictments.

20 MR. MAXWELL: A couple extra matters, mainly
21 for record purposes.

22 Just a refresher, by memory, you've met -- You
23 were holding court in Chester on March 11th and had a
24 quick hearing in which Tommy Bell was one of the State's
25 witnesses, appeared virtually --

1 THE COURT: Okay. Yeah.

2 MR. MAXWELL: He's 76 years old. Now resides
3 in Pennsylvania. Court did say he could testify
4 remotely for record purposes.

5 THE COURT: I did. And Mr. Frick, you're
6 protected in the record on that.

7 MR. FRICK: Yes, sir.

8 THE COURT: The mechanics on how that's gonna
9 happen, Solicitor, I don't know. Are you maybe going to
10 use the big screen there?

11 MR. MAXWELL: I believe so, your Honor. Once
12 you open up the virtual courtroom, we'll have a, I guess
13 a computer here for us to talk into that would be hooked
14 up to the screen. So the jury will be able to see him
15 and we might make it where he's the only person on the
16 screen, I think I had that option.

17 Like, if I'm a part of your virtual courtroom,
18 it's an option of who I'm looking at, I can make
19 somebody a big screen versus seeing all parties.

20 THE COURT: Yeah.

21 MR. MAXWELL: If I do that and choose him,
22 he's the only one on the screen.

23 THE COURT: That's fine. I'm just thinking
24 for in the purpose of cross-examination and for the
25 purpose of not having, you know, sound issues and all

1 that kind of stuff, how we're gonna accomplish that?
2 Are you going to be out of here or are you going to be
3 in here?

4 MR. MAXWELL: I plan to be in here.

5 THE COURT: Mr. Frick, do you plan to be in
6 there?

7 MR. FRICK: I think we should be in.

8 MR. MAXWELL: Once we get done, we have few
9 minutes if Jack wants to open it up.

10 THE COURT: We'll figure it out. When do you
11 intend on calling this witness?

12 MR. MAXWELL: Wednesday.

13 THE COURT: Wednesday morning?

14 MR. MAXWELL: About midmorning, I think.

15 THE COURT: 9:30 a.m. or something like that.
16 Okay. Before then, let's figure it out. Maybe we can
17 try it tomorrow when we have the victim's mother
18 appearing virtually for the purpose of the bond hearing
19 or something. Let's patch her into the big screen and
20 let's see how she sounds and how everything coincides.

21 MR. MAXWELL: Okay.

22 THE COURT: Can you make sure he's on a
23 computer and not a cellphone?

24 MR. MAXWELL: I can try.

25 THE COURT: And if he is on a cellphone, make

1 sure the Bluetooth is cutoff on the cars driving by.

2 Any other pretrial issues?

3 MR. MAXWELL: Just to go back, this case was
4 initially set for trial back in the January term of
5 court. Mr. Frick made the motion for a continuance so a
6 M'Naghten evaluation can be done. I haven't seen the
7 report and I'm not asking for it.

8 For record purposes, anything we need to
9 discuss about the M'Naghten evaluation?

10 MR. FRICK: Your Honor, as we did that in
11 preparation for possibility of requesting an NGRI
12 defense. I did that order as an ex parte order. The
13 evaluation has been completed and we are not pursuing
14 NGRI or GBMI at this time.

15 THE COURT: Understood. And that's in the
16 record.

17 Anything else from the State's prospective?

18 MR. MAXWELL: Not on that issue, your Honor.

19 THE COURT: Any other pretrial issues from
20 defense's prospective?

21 MR. FRICK: Judge, just to put back on the
22 record, we did -- at that hearing in January, we did go
23 forward with a couple of issues. We did the Denno
24 hearing where you admitted my client's statement to
25 Trooper Sisler. And I had a motion where they have the

1 searches. And I'm specifically instructing each one of
2 you to not independently research anybody's names or any
3 issues involved in this case because if you do so,
4 you'll have violated that oath that you just took to try
5 this case based upon the evidence presented in this
6 courtroom.

7 So on your honor, you cannot do that. And
8 I'll go into that in more depth tomorrow and as we move
9 forward to the trial in this case.

10 See you at 9:15 a.m. Have a good evening.

11 (Jury exited.)

12 THE COURT: Anything else today?

13 We are in recess until tomorrow morning.

14 (Court was adjourned for the day.)

15 **(Trial commenced on Tuesday, March 22, 2022.)**

16 THE COURT: Before we bring in the jury, is
17 there anything we need to know?

18 MR. MAXWELL: Nothing from the State.

19 THE COURT: Anything from the defense?

20 MR. FRICK: None from defense.

21 MR. MAXWELL: Just one quick update, Judge,
22 for tomorrow, for the virtual hearing, there's been some
23 change of circumstances. It looks like the witness will
24 be here now.

25 THE COURT: That's just -- that's wonderful.

1 That is great. That's good news.

2 All right. Let's bring the jury in.

3 (Jury entering courtroom.)

4 THE COURT: Good morning, ladies and
5 gentlemen. Hope you had a restful evening. We'll go
6 ahead and jump into it this morning. I'm going to speak
7 with you briefly about the manner in which a trial
8 proceeds. Let me tell you that this trial is probably
9 going to be different from what you might expect. Many
10 people don't have a chance to attend actual court much
11 less participate in it as a trial juror. And most
12 people tend to think what they see on TV or read in
13 books or see in the movies is the way the Court always
14 is. There's not a shortage of crime and drama TV shows
15 on TV right now. Trials are not always full of high
16 drama or riveting circumstances and things like that.
17 These things may be true at times but this trial is not
18 for entertainment, ladies and gentlemen.

19 It's a fundamental part of our democracy to
20 make sure -- in an effort to make sure that justice is
21 done between the parties before the Court. Making sure
22 that justice is done, whatever that is, can sometimes be
23 a slow and repetitive process, opposite of what you may
24 be expecting.

25 This courtroom's beautiful, old courthouse,

1 again for undertaking this very important and viable
2 responsibility.

3 We will now commence with opening statements.

4 Solicitor?

5 MR. MAXWELL: May it please the Court?

6 THE COURT: Yes, sir.

7 MR. MAXWELL: Good morning, ladies and
8 gentleman, my name is Riley Maxwell again. And me and
9 Mr. McMaster represent the State of South Carolina in
10 this matter in the prosecution of Timothy Thompson for
11 the charge of murder and leaving the scene of an
12 accident involving death.

13 Bruce Gibbs was a 33-year-old father who was
14 killed on September 6th, 2020. About 1:00 a.m., he was
15 struck by a vehicle driven by Timothy Thompson and we
16 would present evidence over the next couple of days that
17 will show you clearly and without a doubt that it was an
18 intentional act that Mr. Thompson drove his vehicle and
19 struck Mr. Gibbs who was on the sidewalk. His body flew
20 over 100 feet in the air, coming down in the middle of a
21 nearby intersection. He was dead almost instantly. He
22 was dead when law enforcement got there; he was dead
23 when EMS got there.

24 Now, this series of events began a couple
25 hours before this, before he was struck and killed. In

1 fact, these two families, Mr. Gibbs' family and
2 Mr. Thompsons' family, goes back a ways, goes back
3 years. These are two families that are very familiar
4 with each other. In fact, Mr. Gibbs has a child with
5 Mr. Thompson's sister. And September 6th, 1:00 a.m.,
6 when he was killed was a Sunday.

7 Saturday evening, people had gathered at
8 Mr. Gibbs' residences where he resided with his mother
9 Felicia Johnson to celebrate a friend's birthday. So
10 about 8:00 or 9:00 p.m. on that Saturday night, about
11 four or five hours before Mr. Gibbs was killed, people
12 were gathered there at the house having a fish fry,
13 enjoying themselves. Mr. Gibbs was there. The mother
14 of his child, Nikki Thompson, Defendant Thompson's
15 sister was there and Timothy Thompson himself was there.

16 At some point that evening, Mr. Gibbs and his
17 girlfriend, Nikki, get into an argument, no physicality
18 involved. Mr. Thompson involves himself in that
19 argument. Again, no physicality involved. At some
20 point Mr. Thompson leaves that spat, that dispute is
21 broken up again with no physicality between any of the
22 parties. Mr. Gibbs at that time remained at his
23 residence until he began walking some time after
24 midnight getting close to 1:00 a.m. from his house on
25 Doty Road Extension down to 11th Street.

1 When Mr. Thompson left that residence, he goes
2 to the grandfather of Mr. Gibbs, who he was good friends
3 with and was a former neighbor of, Tommy Bell. And
4 you'll hear from Tommy Bell. Mr. Thompson arrives at
5 his residence late that night on Saturday and made
6 threats and explicitly said that he was going to kill
7 Mr. Bell's grandson, Bruce Gibbs, later that night.

8 You'll hear from another witness who says that
9 Mr. Thompson went looking for a gun in order to kill
10 Mr. Gibbs. You'll see some video evidence of
11 Mr. Thompson in a black Chevy Impala at a gas station,
12 the only gas station that's open at 11:00 p.m., I
13 believe in the Winnsboro area, POPS gas station.

14 When he leaves POPS gas station, he heads back
15 down Columbia Road and takes a right onto 11th Street.
16 There will be video evidence of him coming down 11th
17 Street that you'll see, goes down the road towards the
18 Bridge on 11th Street. About three minutes later, you
19 can see in this video Mr. Gibbs comes walking up the
20 road. And then you see Mr. Thompson coming at a high
21 rate of speed and striking Mr. Gibbs as he was walking
22 down the road. And as Mr. Thompson was going away, a
23 clip that goes to the headlight of his vehicle is found
24 by the highway patrol in the middle of the road on 11th
25 Street that night after the investigation began around

1 1:00 a.m. that Sunday morning. That sometime around
2 late morning on the Sunday getting close to lunchtime,
3 Mr. Thompson's vehicle, the Chevy Impala is found at a
4 gas station down in Richland County by the highway
5 patrol after they've received some information locally
6 about where Mr. Thompson may have been -- where his
7 whereabouts were that morning.

8 Once that car is found, you clearly see
9 indentations on the grill of that car, on the front of
10 that car. There's also a chemical believed to be bleach
11 poured on top of it to try to cover up this act. That
12 car is processed. They compared that clip that they
13 found at the scene from a couple hours before. And that
14 clip is missing from the headlight of this vehicle.
15 This clip fits perfectly in there. There's little doubt
16 that this is the vehicle that struck and killed
17 Mr. Gibbs at 1:00 a.m., on September 6, 2020. And
18 you'll hear clear evidence, evidence beyond a reasonable
19 doubt that Mr. Thompson was behind the wheel. That he
20 had malice towards Mr. Gibbs. That he wanted to kill
21 Mr. Gibbs and he accomplished that objective.

22 As he stands now, he is innocent. He's not
23 guilty until the State meets this burden. And over the
24 next couple of days, I believe once you hear all the
25 evidence and hear from all these witnesses, it will be

1 clear that Mr. Thompson is guilty of murder and that
2 after he hit Mr. Gibbs on 11th Street, he left the
3 scene, which is another statute. For all intense
4 purposes, this is a murder case. We intend to prove
5 Mr. Thompson murdered Mr. Gibbs.

6 I'd ask you to just apply your common sense to
7 the evidence that's going to be shown to you over the
8 next couple of days. Apply the law as Judge Gibbons
9 gives it to you at the end of the trial and find
10 Mr. Thompson guilty of these charges. Thank you.

11 THE COURT: Thank you, Solicitor.

12 Mr. Frick?

13 MR. FRICK: Thank you, your Honor.

14 Solicitor, ladies and gentlemen of the jury,
15 good morning.

16 At some point when we were all in school or at
17 some point in our life, we heard in "1492 Columbus
18 sailed the ocean blue and discovered America." As you
19 study more and you research more and see some of the
20 facts that have come to light as we've study more of
21 this situation, you find out, one, he didn't discover
22 America, there are already people here; two, he never
23 stepped foot on North America; three, he wasn't trying
24 to discover anything; he was trying to go to India. So
25 the saying that we've been taught our wholes lives is

1 inaccurate.

2 Now, why did I give you this brief history
3 lesson? I do that to illustrate that the State is going
4 to portray a story up here. They are going to put
5 witnesses on the stand. They are going to have videos.
6 They're going to have photographs. They're going to
7 portray the story that Timothy Thompson, known as "Gus"
8 by some of the folks that will be on the stand,
9 maliciously killed Mr. Gibbs in this case. That he got
10 in his vehicle with the intent of seeking this man out,
11 run him over killing him. They must prove beyond a
12 reasonable doubt that he unlawfully killed someone with
13 malice aforethought.

14 Now, I'm not gonna get into what that is; I'll
15 save that for closing. But that's what the State's got
16 to prove beyond a reasonable doubt.

17 They also have to prove that there was this
18 traffic accident and he left the scene intentionally.
19 Again, they've got to prove that by competent evidence,
20 meaning believable evidence, beyond a reasonable doubt.
21 Highest burden we have. Highest burden we have. The
22 State has got a high burden to meet here. And I submit
23 to you, you're not gonna have any fancy forensic
24 evidence. I don't believe there's any DNA evidence
25 that's gonna show anything. I don't think they're gonna

1 have fingerprints or anything like that. I think
2 they're going to leave it to your speculation, quite
3 frankly, who was driving this vehicle. And in fact,
4 whether or not this is in fact the vehicle involved.

5 Now, I say that clearly what happened to
6 Mr. Gibbs was a tragedy. We're not trying to take away
7 from that at all. But they allege it was that man that
8 did it. And once they pointed the finger at him and
9 said, "You, Timothy Thompson, are the one who did this,"
10 then they come into this courtroom and they must prove
11 beyond a reasonable doubt.

12 And as the Judge says, it's a very "historic"
13 courtroom. You might not see it from where you are.
14 But there's a plaque over here to Sheriff Hood and
15 Deputy Boulware who gave their very lives on the steps
16 of this very courthouse to protect that rule of law.

17 Rather than going out and just having mob
18 justice and letting folks take the matters into their
19 own hands, that's the system that we've got now, where
20 we come in and settle disputes by bringing 12 folks who
21 are not related to the case listening to it, weighing
22 it.

23 As the Judge said, you're gonna hear me say
24 continually, "You get to judge the facts in this case."
25 When the folks get on that stand and testify, just

1 because they put their hand on the Bible and swear an
2 oath, you don't have to talk their word for it. You can
3 weigh it. You can decide whether or not you want to
4 believe what they tell you, whether you want to believe
5 part of what they tell you or if you just want to say,
6 "I don't believe anything they had to say."

7 Same thing with photographs and videos, ladies
8 and gentlemen. Every piece of evidence that comes
9 before you, it is the your sole province to weigh and
10 determine what you think is believable or not. And in
11 the end, I suggest to you, the State will not have met
12 its burden. Their evidence comes up short. They have
13 not set foot on North America. They have not discovered
14 anything. And Mr. Thompson is not guilty of the
15 charges. Thank you very much.

16 THE COURT: Thank you, Mr. Frick.

17 Is the State ready to proceed?

18 MR. MAXWELL: Yes, sir.

19 THE COURT: Call your first witness.

20 MR. MAXWELL: The State calls Al McCoy.

21
22 A-L-A-N M-C-C-O-Y, the Witness herein, having been
23 sworn by the Clerk of Court, was examined and testified
24 as follows:
25

1 THE COURT: All right. Solicitor, your
2 witness.

3

4

DIRECT EXAMINATION

5

BY MR. MAXWELL:

6

7

Q. Would you state your name for the record,
please.

8

A. Alan McCoy, Jr.

9

Q. And where are you employed?

10

A. Fairfield County Sheriff's Office.

11

12

Q. What's your position with the sheriff's
office?

13

A. Sergeant on patrol.

14

15

Q. Were you a sergeant on a patrol shift back on
September 6th, 2020?

16

A. No, sir. I was a corporal at the time.

17

Q. But you were on a patrol shift at the time?

18

A. Yes.

19

Q. How long have you been in law enforcement?

20

A. Sixteen years.

21

22

Q. How long have you been -- worked in Fairfield
County?

23

A. Five years.

24

25

Q. Were you working the night shift on
September -- starting on September 5th going to

1 September 6th, 2020?

2 A. Yes, sir.

3 Q. What are those times that you would normally
4 work?

5 A. 6:00 p.m. to 6:00 a.m.

6 Q. And how many people are on a shift roughly?

7 A. Five.

8 Q. And that's for the whole county?

9 A. Yes, sir.

10 Q. And were you in the Winnsboro area around 1:00
11 a.m. on the 6th of September?

12 A. Yes, sir, I was.

13 Q. Can you describe what you observed in the area
14 of 11th Street and Columbia Road.

15 A. Yes, sir. I was on routine patrol riding
16 north on Columbia Road. I was -- just instinct to look
17 up 11th Street as I'm coming down the road. At the time
18 that I noticed a vehicle coming to the stop sign of 11th
19 Street appeared to have no headlights on the vehicle.

20 Q. Did it have any lights on?

21 A. It had -- it appeared to be, like, fog lights
22 around the bottom of the bumper.

23 Q. And at that point had you heard anything that
24 drew your attention?

25 A. No, sir. No, sir.

1 Q. Did you observe anything about the driving of
2 the vehicle other than the lights?

3 A. Just the lights.

4 Q. And was that -- that vehicle was headed
5 towards what intersection?

6 A. The intersection of Columbia Road and 11th
7 Street.

8 Q. And you're on Columbia Road headed north?

9 A. Yes, sir.

10 Q. So what do you do after you noticed the
11 vehicle?

12 A. I passed 11th Street, continued to go north.
13 Once I approached the -- there's a tire store on the
14 other side of 12th Street. I made the decision that I
15 needed to turn around and see why this vehicle was
16 coming down the roadway with no headlights on.

17 Q. And did you do that?

18 A. I did that.

19 Q. And did you catch back up to the vehicle?

20 A. Once I turned around that car -- he made a
21 left-hand turn on to Columbia Road and a car that was
22 driving behind him got in between me and him so I
23 followed him south on Columbia Road approximately a
24 quarter mile to the intersection of 321 Bypass and
25 Columbia Road.

1 Q. Is that near where the Bi-Lo is, out in front
2 of that intersection?

3 A. Yes, sir.

4 Q. What did you observe when you got to that
5 intersection?

6 A. Once I got to the intersection, I just pulled
7 up beside the vehicle to make sure the headlights were
8 working on the vehicle. I wasn't behind it; I was to
9 the passenger's side of it.

10 Q. And at that point in time, are you making --
11 are the blue lights on, siren on, are you making a stop?

12 A. No, sir.

13 Q. Continue on with what you did, what you next
14 recall?

15 A. As I pulled up beside the vehicle, I noticed
16 the vehicle had a flat tire on the back right.

17 Q. What lane was the vehicle in?

18 A. The vehicle was in the -- it would be the
19 turning lane to make the left-hand turn.

20 Q. Left-hand -- what lane are you in?

21 A. I'm in the right lane to make a right-hand
22 turn.

23 Q. So you're parallel to the car?

24 A. Yes, sir.

25 Q. And that's when you observed -- is that when

1 you observed the right rear tire being flat?

2 A. Yes, sir.

3 Q. What did you notice about the headlights at
4 that point?

5 A. They appeared to be on at that time. It was
6 just very dim headlights and the flat tire on the
7 vehicle.

8 Q. Did you notice anything else about the car?

9 A. I noticed the -- it had tinted windows on the
10 vehicle and it was just bubbling, you know, like the
11 tint was peeling off of the window on the passengers
12 side.

13 Q. And do you know cars very well, make and
14 model?

15 A. Yes, sir. I do.

16 Q. When you saw this car, what -- how would you
17 describe this car?

18 A. Early model Chevrolet Impala.

19 Q. When you say "early," what do you mean?

20 A. Early 2000s, mid-2000s.

21 Q. Did you run the license plate?

22 A. I did not.

23 Q. And we'll get to that in a second.

24 Did you notice anything about the rims of the
25 car?

1 A. I noticed it did not have any hubcaps or rims;
2 it was just solid black rims as if the hubcaps were
3 removed from the vehicle.

4 Q. Were you able to see who was driving the car?

5 A. No, sir.

6 Q. Now, at that time, what happened next as you
7 were observing this stuff about the vehicle?

8 A. As -- the light turned green, he made a
9 left-hand turn. Like I said, after I seen it didn't
10 have headlights on, I said, oh, well, he's going to the
11 store to get air in that tire. So he made a left turn;
12 I made a right turn.

13 Q. What store is to the left if you'd made that
14 left-hand turn?

15 A. Pops.

16 Q. Is that the only store that's opened in the
17 Winnsboro area after 10:00 or 11 o'clock at night?

18 A. In the Winnsboro area, that's the only store
19 that stays open 24 hours.

20 Q. And as you decide -- you decide not to make a
21 traffic stop at that point?

22 A. Yes, sir.

23 Q. What happens next?

24 A. He made a left turn. Like I said before, I'm
25 thinking he's going to the store to put some air in that

1 tire that's flat. I make a right turn, after going a
2 quarter mile towards the Mexican restaurant, we received
3 a call of a subject laying in the roadway on Chestnut
4 Street.

5 Q. And you head back to that area?

6 A. I started riding to that area to try to locate
7 someone laying in the roadway.

8 Q. What intersection, specifically, were you
9 dispatched to or did you end up at?

10 A. They gave us Columbia Road. It's an area
11 known as the "burnt down" and the Columbia Road area,
12 that's what they were giving us on the radio.

13 Q. What intersection -- what roads intersect at
14 what's called the "burn down"?

15 A. That's 11th Street and Columbia Road.

16 Q. And is that where you saw the car coming up
17 from?

18 A. That's the same location I seen the car come
19 up.

20 Q. Do you go down 11th Street?

21 A. I ride around Columbia Road, around the burn
22 down area and at that point, I have not made it to
23 Chestnut Street.

24 Q. Do you know about what time it was that you
25 got dispatched?

1 A. It was around 1:00 a.m., 1:10, something like
2 that.

3 Q. And ultimately do you find Mr. Gibbs' body?

4 A. Yes, sir. Yes.

5 Q. And where's his body at that time?

6 A. It is at the intersection of Chestnut Street
7 and 11th approximately 15 feet from the stop sign.

8 Q. Is he in the roadway?

9 A. He is faced-down laying in the roadway.

10 Q. Did you know who it was at that point in time?

11 A. No, sir, I didn't.

12 Q. Did you know -- did the dispatch provide you
13 any information about the nature of why this body was
14 there?

15 A. The only thing we received was that a call was
16 made in to 911 as of a -- at that time of a juvenile
17 laying in the roadway.

18 Q. That's what the information that was provided
19 was?

20 A. That's what was given to me over the radio.

21 Q. Did you know whether or not it was a traffic
22 fatality?

23 A. I did not.

24 Q. Did you know whether or not it involved some
25 kind of shooting or anything?

1 A. Did not.

2 Q. Did you know if it was just a medical
3 emergency?

4 A. I just noticed a subject laying in the road.

5 Q. Was another officer in the same area?

6 A. Yes, sir.

7 Q. Who was that?

8 A. It would have been my lieutenant, Chris
9 Childers.

10 Q. Also on patrol that night?

11 A. Yes, sir.

12 Q. Do you know -- did you locate Mr. Gibbs' body
13 first?

14 A. I want to say we -- I found him and he came
15 in -- rolled in right behind me. It was like we got out
16 together and was looking at him at the same time.

17 Q. And you said it was on -- you said in the
18 middle of the road on Chestnut Street?

19 A. Yes.

20 Q. Is that the intersection of 11th Street?

21 A. The intersection of 11th and Chestnut. Yes,
22 sir.

23 Q. And is that location in Fairfield County?

24 A. Yes, sir.

25 Q. Did you or Lieutenant Childers, check on

1 Mr. Gibbs?

2 A. I did.

3 Q. What did you do?

4 A. I checked for a pulse.

5 Q. Did you find any?

6 A. I did not.

7 Q. Did he appear to be deceased at that -- when

8 you --

9 A. Yes, sir.

10 Q. -- first located him?

11 A. Yes, sir. He did.

12 Q. He certainly wasn't -- wasn't saying anything.

13 Didn't appear to be breathing?

14 A. No movement, no breathing.

15 Q. Did you do anything to identify him?

16 A. I did.

17 Q. What was that?

18 A. At that time I went into his back pocket to
19 retrieve a wallet that I could see bulging from his
20 pants. I knew he had a wallet. So I pulled his wallet
21 out and see if he had any type of identification which
22 he had ID card stating that he was Mr. Bruce Gibbs.

23 Q. And did you know who that was?

24 A. Yes, sir. I did.

25 Q. Had you -- how did you know who it was?

1 A. Prior to my -- law enforcement, I did
2 landscaping work and me and Mr. Gibbs worked together
3 for the same landscaping company.

4 Q. He was faced-down. You couldn't tell by
5 looking at him when you found him who it was?

6 A. No, sir, I couldn't.

7 Q. Did you do -- other than check him for a
8 pulse, did you move the body in any other -- any other
9 way?

10 A. I called out, tapped him -- tapped him on the
11 shoulder. Hollered at his name to see if he would
12 respond to anything I was asking him. I'm got no
13 response.

14 Q. You didn't turn him over or anything?

15 A. No, sir.

16 Q. Didn't try put him in you car to take him to
17 the hospital?

18 A. No, sir.

19 Q. Did you and Lieutenant Childers secure the
20 scene?

21 A. Yes, sir.

22 Q. What did y'all do to do that?

23 A. Usually just took the yellow tape and taped
24 off the area of Chestnut Street and blocked from any
25 oncoming traffic or anyone coming into the scene.

1 Q. Did you seen anything else that drew your
2 attention to the area?

3 A. At that time, after securing the scene, I did
4 not. Once the scene was secure, we had put the tape up,
5 me and Lieutenant Childers began walking around the area
6 and that's when we located a couple of items that
7 belonged to Mr. Gibbs.

8 Q. What are those items that you recall?

9 A. Around the intersection of Maple Street and
10 11th Street, we noticed a pair of tennis shoes and a
11 cell phone laying right at the stop sign area at the end
12 of Maple Street and 11th. That's one road over from
13 Chestnut Street.

14 Q. And one more thing. You said it was -- it was
15 about 1:10 when you think you got dispatched?

16 A. Around 1 o'clock. Yes, sir.

17 Q. Do you know what time you arrived on scene
18 where Mr. Gibbs was? You're welcome to look at your
19 report -- look at the sheriff's office report.

20 A. Said we were on scene at 1 o'clock when the
21 call come out. It says 1:14. We arrived around 1:14.

22 MR. MAXWELL: Beg the Court's indulgence?

23 THE COURT: Yes.

24 Q. (By Mr. Maxwell) Do you know who called 911?

25 A. It was a citizen, Mr. Brian Smith.

1 Q. Did you see him at some point that night
2 on-scene or near the scene?

3 A. Yes, sir. After the scene was secure, I did
4 notice Mr. Smith across the street. On Chestnut Street
5 but across 11th, there's a parking area. He was parked
6 there, leaned up against the fender of his vehicle
7 watching us.

8 MR. MAXWELL: No further questions, your
9 Honor.

10 THE COURT: All right. Mr. Frick, your
11 witness.

12 MR. FRICK: Thank you, your Honor.

13

14 CROSS-EXAMINATION

15 BY MR. FRICK:

16 Q. Al, what did you say your rank was again, I'm
17 sorry?

18 A. Sergeant.

19 Q. Sergeant.

20 Sergeant McCoy, you were just on routine
21 patrol; correct?

22 A. Yes, sir.

23 Q. Just out riding around. You were on Columbia
24 Road, just doing what a deputy does when they're out
25 riding around; correct?

1 A. Riding around, listening to music, looking.

2 Q. And you happened to look down 11th Street and
3 you see a vehicle?

4 A. Yes, sir.

5 Q. Could you notice at that time what kind of
6 vehicle it was?

7 A. At that time, no, sir.

8 Q. You said it looked like it might not have
9 headlights on?

10 A. Yes, sir.

11 Q. Could you tell whether or not -- I mean, did
12 you take a long look or just, okay, there's a car?

13 A. At glance, I could see around the lower part
14 of the front end of the vehicle had two headlights on
15 that didn't appear to have the actual headlights of the
16 vehicle on.

17 Q. Okay. And you get, what, a little bit past
18 the Strawberry Patch, decided you need to turn or did
19 you even get that far?

20 A. I didn't even make it to the Strawberry Patch.
21 I made it right on the other side of 12th Street when I
22 made my decision, we need to turn around and investigate
23 that vehicle a little more.

24 Q. And you said another car got in between you
25 and this car that you were curious about?

1 A. Once I turned around to -- I was going to --
2 like I said, I was going to make a traffic stop on the
3 vehicle. There was a car in between me and him and I
4 couldn't get to him without passing that other vehicle.

5 Q. And do you know what kind of car that was?

6 A. I do not recall.

7 Q. And then you just kind of followed both
8 vehicles?

9 A. To the intersection of the bypass and Columbia
10 Road.

11 Q. Right there where the -- I'm gonna always call
12 it the Bi-Lo. Bi-Lo. And I'm always gonna call it the
13 Days Inn; right?

14 Am I at the right intersection?

15 A. Where that light is at the intersection, yes,
16 sir.

17 Q. And the vehicle you're curious about is in the
18 left lane and you're right beside him?

19 A. Yes, sir.

20 Q. Where did the other car go?

21 A. He was behind him.

22 Q. So they were both turning?

23 A. Yes, sir.

24 Q. Did you observe anything about it, that other
25 car, at the time?

1 A. No, sir. I was -- my focus was on the
2 vehicle, I turned around.

3 Q. And as you say he was heading towards POPS,
4 you figured he was just getting some air?

5 A. Yes, sir.

6 Q. And it appeared the lights were on?

7 A. The lights -- yes, sir. And they were just
8 very dim. The lights were on, so I said, they're on,
9 you know, I don't need to stop him.

10 Q. Okay. Of course, you got the call to go to
11 the scene. You and Lieutenant Childers are there on the
12 scene. I guess y'all kind of secure the scene?

13 A. Yes.

14 Q. And the solicitor asked you about finding some
15 items. You said you found some tennis shoes, cell
16 phone?

17 A. Yes, sir.

18 Q. Do you recall anything else?

19 A. At that time that's all we located was the
20 tennis shoes and the cell phone.

21 Q. Do you recall a folding knife being found
22 somewhere?

23 A. No, sir.

24 Q. You didn't find one?

25 A. No, sir.

1 Q. What was your role after that? Were you
2 collecting anything or you were just, kind of, securing
3 the scene?

4 A. At the time highway -- like I said, it
5 appeared -- after finding him, it appeared to be hit by
6 a vehicle of some-sort and we notified highway patrol.

7 Q. And that was it, that was your role; right?

8 A. Yes. Once we turned it over to highway
9 patrol, we just did traffic and kept vehicles and stuff
10 from getting at the crime scene.

11 Q. Got you.

12 MR. FRICK: Beg the Court's indulgence, one
13 second.

14 THE COURT: All right.

15 MR. FRICK: Thank you, sir. That's all I
16 have.

17 THE COURT: Redirect?

18 MR. MAXWELL: Briefly, your Honor.

19

20 REDIRECT EXAMINATION

21 BY MR. MAXWELL:

22 Q. Sergeant McCoy, once highway patrol came
23 on-scene, did you provide information that you observed
24 about the car to them?

25 A. Yes, sir. I did an interview with a member of

1 the MAIT team inside of his vehicle, which was recorded.

2 I told him everything that I witnessed.

3 Q. And you told them the car you saw --

4 A. -- described the Chevy Impala --

5 Q. -- Chevy Impala?

6 A. Yes, sir. I did.

7 MR. MAXWELL: Nothing further.

8
9 RECROSS-EXAMINATION

10 BY MR. FRICK:

11 Q. Did you mention this other car that you said
12 today that you saw?

13 A. I do not recall if I made that statement to
14 the highway patrol.

15 MR. FRICK: Thank you, sir. You can step
16 down.

17 THE COURT: Thank you, sir. You can step
18 down.

19 MR. MAXWELL: The State's calls Chris
20 Childers.

21 THE COURT: Hang on one second.

22 Ladies and gentlemen of the jury, we have to
23 take a quick recess. I have two hearings in my virtual
24 courtroom starting in about five minutes. Shouldn't be
25 very long. Should be done within the next 15 minutes or

1 MR. MAXWELL: The State calls Chris Childers.

2

3 C-H-R-I-S C-H-I-L-D-E-R-S, the Witness herein, having
4 been sworn by the Clerk of Court, was examined and
5 testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. MAXWELL:

9 Q. Will you state your name for the record.

10 A. Christopher Eugene Childers.

11 Q. And where are you employed?

12 A. Fairfield County Sheriff's Office.

13 Q. How long have you been with the sheriff's
14 office?

15 A. Twenty-one years and about seven months.

16 Q. Can you describe your duties and what your
17 position is and what you're transitioning to.

18 A. At the time of this incident, I was the
19 lieutenant on patrol. My duties were the supervision of
20 four other deputies, still answering calls of service,
21 Ranging between alarm calls, all the way up to murder
22 cases.

23 Q. And what's your new position?

24 A. New position? As of yesterday, I am now a
25 sergeant over evidence and training.

1 Q. No more weekends and nights?

2 A. No more weekends and nightshifts and I get
3 holidays off.

4 Q. And you said you were the lieutenant on --
5 supervising the shift beginning September 5th and going
6 to September the 6th?

7 A. Yes, sir.

8 Q. And, again, what are those times?

9 A. 6:00 p.m. to 6:00 a.m.

10 Q. And around 1:00 a.m., shortly after 1:00 a.m.,
11 were you dispatched to the area of 11th Street and --

12 A. We were. Dispatch gave a call out saying that
13 the complainant saw a juvenile laying in the road in the
14 area of Columbia Road and 11th Street.

15 Q. Do you recall where you were when you got the
16 call?

17 A. I don't recall where I was at but I was close
18 by.

19 Q. In the area?

20 A. I could have been down near POPS, one of the
21 other stores, kind of, hanging out or something. I was
22 close but don't know exactly where.

23 Q. You know about what time the first dispatch
24 call came in?

25 A. I want to say around -- after reviewing the

1 tapes, around 1:09.

2 Q. And did you go to the area of 11th Street?

3 A. We did. Went straight there.

4 Q. Was Sergeant McCoy also one of the responding
5 officers?

6 A. Yes, sir.

7 Q. And can you describe what happened when you
8 got over there?

9 A. We got into the area and we couldn't find the
10 actual -- anything that resembled a person laying in the
11 road. There was some clothing at the intersection of
12 11th and Columbia Road, but it was an individual. So we
13 thought maybe he was talking about that. So we kept
14 having to get dispatch to get him back on the phone.
15 When I say "him" I mean, the complainant. And finally,
16 he told us, go -- "He's laying in front of James Getty's
17 house."

18 Q. And were you familiar with that description?

19 A. Yes. I knew exactly where James Getty lived.
20 So that's where we went and that's where we found the
21 body.

22 Q. And the body was laying in the roadway,
23 Mr. Gibbs' body?

24 A. It was laying in the front right corner of
25 Mr. Getty's house, close to the stop sign but in the

1 roadway.

2 Q. And is that location in Fairfield County?

3 A. It is.

4 Q. And what time did you arrive, you and Sergeant
5 McCoy?

6 A. Probably around 1:15 a.m., somewhere in that
7 area.

8 Q. Did you observe Mr. Gibbs' body in its
9 condition?

10 A. Yes.

11 Q. And what was your observation?

12 A. When we first walked up to him he was, I want
13 to say, kind of, semi-faced down towards where we
14 couldn't see his whole face. Lifeless, we checked for
15 any signs of life by pulse, sternum rub-type deal,
16 shaking his shoulder. No response. I noticed some road
17 rash on his skin. So by noticing that, I automatically
18 assumed that, hey, this is a hit and run. We need to
19 call highway.

20 Q. And did you do that?

21 A. Yes.

22 Q. Did you also call EMS?

23 A. We did call EMS.

24 Q. Even though you -- your observation was he was
25 likely deceased at that point in time?

1 A. Yes, sir. I'm not a medical, I can't make
2 those decisions on life or death as far as if someone's
3 still alive or someone's not. But we all know that if
4 an individual doesn't have a pulse, he's more likely
5 dead.

6 But EMS has to come in and actually verify it
7 before they can call the coroner and the coroner can
8 come out and say, yes, officially, he's deceased.

9 Q. And after you made notification to EMS and
10 highway patrol, what did you and Sergeant McCoy do?

11 A. We walked the area. I immediately went to my
12 patrol vehicle and grabbed the caution tape, crime scene
13 tape and started roping off the area.

14 Q. And did you remain on-scene until highway
15 patrol arrived there?

16 A. Remained on-scene until highway arrived. Yes,
17 sir.

18 Q. The scene was secured until they arrived?

19 A. Yes.

20 Q. Did they take over the investigation once they
21 arrived?

22 A. Once highway got on-scene, they took over the
23 investigation.

24 Q. Were you there when EMS got there?

25 A. I was.

1 Q. And do you know if EMS determined that he was
2 deceased at the scene?

3 A. When they hooked the machine up to him and
4 they called for the coroner, so I'm assuming that was
5 them saying, yeah, he was dead.

6 Q. They didn't put him in an ambulance to try to
7 take him to the hospital?

8 A. No.

9 Q. Did the coroner also arrive on-scene?

10 A. Yes.

11 Q. And you're aware the body was identified to be
12 that of Bruce Gibbs?

13 A. Yes.

14 Q. I want to show you what's been marked as
15 Plaintiff Exhibit Number 1.

16 Can you tell us what that is?

17 A. Yes, sir.

18 Q. What is that?

19 A. This is going to be an aerial view of 11th
20 Street, Chestnut, and Maple. Yes.

21 Q. Does that contain the area where you and
22 Sergeant McCoy found Mr. Gibbs' body?

23 A. Yes.

24 Q. And is that the same thing that's portrayed on
25 the screen?

1 A. Yes, sir.

2 MR. MAXWELL: Your Honor, we'd offer State's 1
3 into evidence. It's a map of the area.

4 MR. FRICK: No, objection.

5 THE COURT: Without objection introduced into
6 evidence.

7 (State's Exhibit 1, Aerial Map, was marked in
8 evidence.)

9 MR. MAXWELL: Permission for the witness to
10 leave the --

11 THE COURT: Yes, sir. You can step down and
12 go point to what you need to point to.

13 MR. FRICK: Judge, I'm gonna...

14 THE COURT: Yeah, you can come on over here
15 Mr. Frick see what he's doing.

16 Q. (By Mr. Maxwell) Is that map north, south or
17 as close north, south as we can get it?

18 A. Yes. We have the north end, the south end,
19 east and west.

20 Q. And where is 11th Street?

21 A. 11th Street would be this road right here
22 (indicating.)

23 Q. Running east, west?

24 A. Yes.

25 Q. Where is Columbia Road?

1 A. Columbia Road is this road right here
2 (indicating.) Also known as 321 Business.

3 Q. And can you point out the intersection where
4 you found Mr. Gibbs' body?

5 A. We found Mr. Gibb's body about at this corner
6 right here (indicating.)

7 Q. And what road is that intersecting with 11th
8 Street?

9 A. That is Chestnut.

10 Q. And what is the other road that kind of runs
11 together?

12 A. Maple Street runs where Chestnut takes over
13 here, so Maple Street would end right there. It's kind
14 of a triangle (indicating.)

15 Q. Going up to here, that's Maple Street?

16 A. Yes. Once you get up here, Maple Street, then
17 Chestnut continues the rest of the way.

18 Q. And you said that you and Sergeant McCoy taped
19 off the area.

20 Can you describe where you taped off the area?

21 A. Yes, sir. We initially taped off this area to
22 this fence line right here (indicating.) I want to say
23 this area of fence line to this house's fence line. And
24 from here to this fence line, we taped off using poles
25 or some type of structure, both streets here and we also

1 taped off this area right here.

2 Q. And, again, y'all's cars run on blue lights in
3 the area?

4 A. Yes, sir. Our cars were parked -- initially,
5 when we first pulled up, we was here (indicating) and
6 then we changed and put them outside the line and lined
7 them up about here.

8 Q. And new cars traveling off of Columbia Road
9 going down 11th --

10 A. We made sure that no vehicles would be able to
11 come down 11th, come down Chestnut, Maple or coming back
12 towards 11th.

13 Q. You have a seat. Thank you.

14 MR. MAXWELL: No further questions, your
15 Honor.

16 THE COURT: Your witness.

17

18 CROSS-EXAMINATION

19 BY MR. FRICK:

20 Q. Sergeant Childers, congratulations on that.

21 A. Thank you.

22 Q. So you and Sergeant McCoy, y'all were
23 essentially the responding officers on the scene?

24 A. Yes. We were the first ones to find him.

25 Q. And then I believe you said you've been in law

1 enforcement a long time. You saw a person. You said he
2 had some road rash; right?

3 A. Uh-huh.

4 Q. Based on that, you said, "this looks like a
5 hit and run." Y'all don't do that? Y'all don't
6 investigate that?

7 A. We do not investigate any traffic issues.

8 Q. Okay.

9 A. Traffic collisions, traffic accidents. We
10 turn that all over to highway patrol; they're the
11 experts in traffic. And like I said, we didn't see any
12 stab wounds, shot wounds or anything like that. All we
13 saw was kind of like a little road rash. So I assumed
14 it was a hit and run and that's the reason why we called
15 highway.

16 Q. And other than checking for vitals and trying
17 to get an identification, y'all weren't involved with
18 trying to collect any evidence?

19 A. No, sir.

20 Q. And you just taped off the scene?

21 A. We taped off the scene to preserve what might
22 have been evidence inside the scene.

23 Q. But as far as you, you didn't collect
24 anything?

25 A. No, sir.

1 Q. And just kind of made sure no traffic came
2 through and that --

3 A. Yes, sir.

4 Q. -- the scene was preserved?

5 A. Yes, sir.

6 Q. Thank you, sir.

7 MR. FRICK: That's all the questions I have.

8 THE COURT: Thank you, sir. You may step
9 down. The State may call it's next witness.

10 (State's Exhibit 2, 911 disc, was marked for
11 identification.)

12 MR. MC MASTER: State calls Brian Smith.

13
14 B-R-I-A-N S-M-I-T-H, the Witness herein, having been
15 sworn by the Clerk of Court, was examined and testified
16 as follows:

17
18 DIRECT EXAMINATION

19 BY MR. MC MASTER:

20 Q. Good morning, Mr. Smith.

21 A. Good morning.

22 Q. Can you state your name for the record?

23 A. Brian Floyd Smith.

24 Q. Do you live here, in Winnsboro?

25 A. Yes, sir.

1 Q. Do you live on Chestnut Street?

2 A. Yes, sir.

3 Q. Do you drive a car?

4 A. Yes, sir.

5 Q. Can you tell me what you drive?

6 A. Ford SUV.

7 Q. Were you on Chestnut Street the night of this
8 incident?

9 A. Yes, sir.

10 Q. And can you tell me what you were doing?

11 A. I was pulling up to my house.

12 Q. Did you ever leave your house?

13 A. Yes, sir.

14 Q. Can you tell me what happened when you left
15 your house on Chestnut?

16 A. I went to the other end of Chestnut. I'm at
17 one end, I went to the other where the stop signs are.
18 And I happened to notice right across 11th Street, right
19 there on Chestnut, in front of Mr. Getty's house I
20 thought there was a pile of clothes also. And Mr. James
21 has bad legs so I figured I pull up and get the clothes
22 so he wouldn't hurt himself the next morning. So when I
23 pulled up, I pulled up -- I'm like two or three foot
24 from, what I thought was clothes and when I looked down,
25 I noticed it was body. And I went to hollering.

1 Q. Can you tell me what you noticed about the
2 body?

3 A. I was laying -- I couldn't see none of his
4 face. He was kind of back to me. He was balled up.

5 Q. How close were you to it?

6 A. Three foot I reckon, in my car. I didn't get
7 out right there.

8 Q. Can you tell me anything else about the body?

9 A. I noticed he didn't have no shoes on him.

10 Q. You didn't get out to touch it?

11 A. No, sir. I backed up some and put a little
12 thing out in front. Cause if you would have been coming
13 from, I don't know what direction that would be in.
14 Somebody would have come back from, like, Columbia Road,
15 and come up that way. When they turned to the left on
16 Chestnut, they probably would have hit him again,
17 because they wouldn't have been able to see at the time,
18 I thought.

19 Q. Did you notice if it was moving?

20 A. No, sir. Any -- I -- when I first pulled up
21 and noticed it was a body I went screaming. "Please,
22 get up." I mean screaming, "Please, please, get up."
23 "Please, get up." And I never seen no movement.

24 Q. Do you recall what you did after that?

25 A. Called 911.

1 Q. Was that on your cell phone?

2 A. Yes, sir.

3 Q. Can you tell me about the 911 call?

4 A. I thought it was a young-in at first, like, a
5 10, 10 year old young-in at first. The way he was, kind
6 of, scrunched up, he looked real short to me, when I
7 first pull up. I told the lady on 911, they need to get
8 somebody here real quick, cause there was a child in the
9 road.

10 Q. Did you stay on scene?

11 A. No, sir. I stayed for a few minutes and then
12 I pulled off and went around the block to the cops got
13 there.

14 Q. Did you ever meet with law enforcement?

15 A. Yes, sir. I talk to them. I talk to
16 Mr. Chris for just a few minutes and then the next
17 day --

18 Q. We can stick with just that night. Do you
19 remember about what time it was?

20 A. When I called?

21 Q. Yes, sir.

22 A. I figured something, little after one.

23 Q. Have you listened to your 911 call --

24 A. Yes, sir.

25 Q. -- since then?

1 A. Yes, sir.

2 Q. Do you remember it?

3 A. Yes, sir.

4 Q. Was that a fair and accurate representation of
5 the call you made?

6 A. Yes, sir. Like I said, I live just a few
7 houses up. My nerves were so bad, I couldn't even give
8 them directions to where I was at.

9 MR. MAXWELL: Your Honor, the State would move
10 Plaintiff's Exhibit Number 2 into evidence and it
11 publish to the jury.

12 THE COURT: Any objection?

13 MR. FRICK: No objection.

14 THE COURT: Without objection, entered at
15 State's Number 2. Permission to publish. Is that what
16 you're wanting to do now?

17 MR. MC MASTER: Yes, sir.

18 THE COURT: Okay.

19 (State's Exhibit 2, 911 dispatch call was
20 entered into evidence.)

21 (911 call played for jury.)

22 Q. (By Mr. Maxwell) Mr. Smith, was that your
23 whole 911 call?

24 A. Yes, sir.

25 Q. When you were there on-scene, did you see any

1 other cars at the time you were calling?

2 A. No, sir. I didn't -- I looked on both sides
3 of the road, up where I live and at the other end. All
4 I seen was just pitch black. Wasn't nothing around.

5 Q. Thank you, Mr. Smith.

6 MR. MC MASTER: No further questions.

7 THE COURT: Mr. Frick, your witness.

8 MR. FRICK: Thank you, your Honor.

9

10 CROSS-EXAMINATION

11 BY MR. FRICK:

12 Q. Brian, how long have you lived on Chestnut
13 Street?

14 A. Since '78, '79.

15 Q. So you've grown up in the area?

16 A. Yes, sir. I've moved away a few times, but
17 yes, I grew up there.

18 Q. That's why you were able to identify things
19 like the burn down, the Strawberry Patch --

20 A. Yes, sir.

21 Q. -- the bridge over to Mexico --

22 A. Yes, sir.

23 Q. This is your -- this is your stomping grounds?

24 A. Yes, sir.

25 Q. That night, did you see anything that happen?

1 A. No, sir. I wasn't at home. I was out that
2 night and I come home and I was leaving out again and so
3 that's -- I just went that way. I reckon' I went in my
4 house and grabbed a change of clothes and I went and got
5 in my car and that's when I seen him.

6 Q. And I think you said it kind of looked like a
7 pile of clothes?

8 A. From across the -- from -- on my side of
9 Chestnut, because you have to cross 11th Street to get
10 over on the other -- to where he was at.

11 Q. Right.

12 A. So, you know, just that little two lane
13 highway.

14 Q. Right.

15 A. And it was right at 1 o'clock in the morning,
16 so it kind of looked like a pile of clothes.

17 Q. Gotcha.

18 And you're just trying to figure out what the
19 heck was in the middle of the road?

20 A. Yes, sir. I didn't want Mr. James to come
21 out, because he's got bad legs and trying to be picking
22 stuff up in the morning time and he'd fall and get hurt
23 or something. So I'd figure I'd pick it up. That's why
24 I pulled up so close.

25 Q. Right.

1 A. And that's when I looked up and noticed it was
2 a body.

3 Q. You realized it was a person?

4 A. Yes, sir. But he was kind of scrunched up, so
5 he looked a lot smaller, I reckon' to me, at the time.
6 That's why I reckon' I thought it was a child.

7 Q. And you couldn't really tell it was a person
8 until you got right up on him; correct?

9 A. Yes.

10 Q. In fact, I believe you said you put some kind
11 of marker?

12 A. Yes. I was scared if somebody come from
13 Columbia Road and would have turned on that road because
14 I was scared they would've hit him again. They wouldn't
15 have been able to see him is what I would have thought.

16 Q. Right.

17 A. I don't remember -- I know I remember setting
18 something out but I don't remember exactly what it was.

19 Q. You been there forever. I'd qualify you an
20 expert on Chestnut Street. Is that -- 11th, is that a
21 well lit road or?

22 A. 11th Street, I think is what's it's called --

23 Q. Right.

24 A. -- where the bridge runs at, I think that's
25 11th Street and I live on this side of Chestnut. Like,

1 if you was headed towards the bridge, you would take a
2 right to go to Chestnut where I live at and he was on
3 the left of Chestnut where it crosses over 11th.

4 Q. This little spot that we're talking about
5 though, does it got lights where you can see?

6 A. No, sir. I mean, it's got -- I think it's got
7 a few street lights down the road, but I mean, right
8 there, it weren't very bright.

9 Q. That's why you put a marker out?

10 A. Yes, sir.

11 Q. Thank you, sir.

12 MR. FRICK: That's all the questions I have.

13 THE COURT: Any redirect?

14 MR. MC MASTER: No, your Honor.

15 THE COURT: Thank you, sir. You can step
16 down.

17 State can call it's next witness.

18 (State's Exhibit 3 A/B vehicle clip photos was
19 premarked for Identification.)

20 MR. MC MASTER: State calls Tyler Holland.

21 THE COURT: Tyler Holland.

22

23 T-Y-L-E-R H-O-L-L-A-N-D, the Witness herein, having
24 been sworn by the Clerk of Court, was examined and
25 testified as follows:

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DIRECT EXAMINATION

BY MR. MC MASTER:

Q. Trooper First Class Holland?

A. Yes, sir.

Q. Can you tell me where you're employed?

A. Yes, sir. I'm employed with the South Carolina Highway Patrol.

Q. How long have you been there?

A. I've been with the South Carolina patrol for three years.

Q. Were you employed by the highway patrol on the night of this incident?

A. Yes, sir, I was.

Q. Were you dispatched to the location?

A. Yes, sir.

Q. Can you tell me about the dispatch?

A. I believe we received a call for a vehicle versus pedestrian at 11th Street and Chestnut Street. It was approximately 1:20 in the morning when we received this call.

Q. Do you remember what time you arrived at the location?

A. Approximately 1:42 a.m.

Q. Can you tell me about the scene when you got

1 there?

2 A. When I arrived on scene, the sheriff's office
3 was already on scene. They had the roadway blocked with
4 patrol vehicle. I believe it was Lieutenant Childers
5 vehicle. I believe there was caution tape up at this
6 point as well.

7 Q. Was the scene secure?

8 A. The scene was secure.

9 Q. Were any -- besides patrol vehicles, was there
10 any traffic able to drive through anywhere?

11 A. No, sir. No traffic would have been able to
12 get through that area at Chestnut and 11th Street.

13 Q. Was there any traffic that could have made its
14 way close to Chestnut Street?

15 A. They could travel along that road, but there's
16 nowhere to go.

17 Q. About where would you say the traffic was
18 blocked?

19 A. I can come over there and point it out, if you
20 would like.

21 Q. Sure.

22 THE COURT: Yeah, that's fine. You can do
23 that. Just talk loud.

24 MR. HOLLAND: Yes, sir.

25 Q. (By Mr. McMaster) Make sure the jury can see

1 where you're pointing, where would you say the traffic
2 was blocked.

3 A. So when we arrived Lieutenant Childers'
4 vehicle, it would have been here (indicating.) The
5 vehicles would have been here and then all of our
6 vehicles would have been lined as well along 11th Street
7 at this point and they had another vehicle --

8 Q. If someone were trying to drive from Columbia
9 Road down 11th Street towards the scene, where would
10 they be stopped?

11 A. They would have been stopping somewhere around
12 here along 11th Street (indicating.)

13 Q. Okay. Thank you, sir. Take a seat back up
14 there.

15 So what were your duties when you got to the
16 scene?

17 A. My initial duties when arriving on scene would
18 have been to walk the scene and observe, look for
19 evidence, start the painting and taking photographs.

20 Q. What was the information that you were given
21 that allowed you to look where you did; kind of explain
22 that process?

23 A. Given that it's a hit and run and we believe a
24 vehicle has struck a pedestrian, you start looking for
25 anything that would give you any kind of clue that a

1 vehicle was there to confirm it was a vehicle.

2 So you walk just the stretches of road within
3 your scene just to see if you can find tire marks or any
4 other physical evidence that might be left by a vehicle.

5 Q. Did y'all find any evidence?

6 A. Yes, we did.

7 Q. And as you're walking, did y'all have
8 flashlights?

9 A. Yes. We had flashlights.

10 Q. So you were mostly looking on the ground?

11 A. That's correct.

12 Q. Do you remember the evidence that you found,
13 the items that you found at the scene?

14 A. Yes. We did find shoes. There was a tire
15 track through the grass, a cell phone, a pocketknife and
16 some vehicle parts were found or a vehicle part.

17 Q. Okay. Safe to say there was a phone case as
18 well?

19 A. That's correct.

20 Q. Can you describe the vehicle part that you
21 said, can you describe where you found that in reference
22 to the scene?

23 A. It wasn't initially in the cornered off area.
24 It was a little bit further down 11th Street going
25 towards Columbia Road and that -- what lead us to that

1 point were some additional markings on the road we were
2 following out of the scene.

3 Q. And part of your duties, do you take pictures?

4 A. That's correct. We do.

5 Q. Do you remember who was taking pictures this
6 night?

7 A. Yes. It was Trooper Nickels that was taking
8 pictures of the scene.

9 Q. Is that how y'all document the scene?

10 A. That's correct.

11 Q. I'm going to hand you what's been premarked as
12 Plaintiff's Exhibit Number 3-A. Would you describe that
13 picture, please?

14 A. This is an approaching -- it would be an
15 approaching picture to, it looks like a vehicle part
16 laying on the ground.

17 Q. Do you recall who took that picture?

18 A. Yes. It would be Trooper Nickels.

19 Q. Were you present when he took that picture?

20 A. Yes, I was. We were both walking the scene at
21 that point in time.

22 Q. Do you recall seeing that part on the ground?

23 A. I do.

24 Q. Is that a fair and accurate representation of
25 what it looked like?

1 A. That is correct.

2 Q. I'm going to hand you what's been marked as
3 State's Exhibit 3-B. if you could describe that as well?

4 A. This is a straight up -- it should be a
5 straight up and down picture of the vehicle part, at the
6 exact point where it was laying.

7 Q. Is that the same part that you noticed in 3-A?

8 A. That is correct.

9 Q. And was it taken by the same person?

10 A. Yes, it was.

11 Q. You were also there when it was taken?

12 A. Yes, sir. I was.

13 Q. And it's a fair and accurate representation of
14 the part that you saw that night?

15 A. Yes, sir, it is.

16 MR. MC MASTER: The State would moved 3-A and
17 3-B into evidence.

18 THE COURT: Any objection?

19 MR. FRICK: No objection.

20 THE COURT: Without objection, introduced in
21 evidence.

22 (State's Exhibit 3-A/B, Photo, was entered
23 into evidence.)

24 Q. (By Mr. McMaster) Do you remember whose
25 camera it was that took the pictures?

1 A. That would be Corporal Hughes' camera.

2 MR. MC MASTER: Beg the Court's indulgence.

3 THE COURT: All right.

4 MR. MC MASTER: Permission to publish the
5 pictures, your Honor?

6 THE COURT: Permission granted.

7 Q. (By Mr. McMaster) Trooper Holland, do you see
8 the TV screen?

9 A. Yes, sir, I do.

10 Q. Does that portray State's Exhibit 3-A?

11 A. Yes, sir, it does.

12 Q. The picture on the TV screen now, does that
13 represent State's 3-B?

14 A. Yes, sir, it does.

15 Q. So explain to me the process of when highway
16 patrol finds an item they think is a piece of evidence,
17 what's the process that y'all go through?

18 A. During this process, we identify where it is.
19 You would mark that piece of evidence with paint. It's
20 usually orange or a bright color. And then you take
21 photographs of that piece of evidence as you move
22 towards it to show the area. You want to build a
23 picture of the crime scene or a picture leading up to
24 that.

25 If we put a string of pictures in front of

1 you, you can see the path to that piece of evidence and
2 then you document where that piece of evidence is so it
3 hasn't been moved.

4 Q. And the paint, is that like a spray paint?

5 A. Yes, that is a spray paint that we use.

6 Q. You don't notice any spray paint in this?

7 A. No, sir. This would be our initial discovery
8 of it before painting it.

9 Q. When you came across this piece, how did you
10 determine what it was?

11 A. At this -- we talked to MAIT. Our MAIT
12 supervisor was on the scene so we would talk to him to
13 determine what it is.

14 Q. And at that point, what did you determine it
15 was?

16 A. A clip to a headlight to a vehicle. It's an
17 internal piece to a headlight.

18 Q. You didn't collect this piece?

19 A. No, sir. We wouldn't have collected it.

20 Q. Who was it that would have collected it?

21 A. It would have been the MAIT officer on the
22 scene.

23 Q. When would that have happened?

24 A. After the discovery and after we have painted
25 and marked and taken photographs of that piece of

1 evidence. At that point, once we're done with all that,
2 that's when the evidence would be collected.

3 Q. Did you say MAIT collected the evidence?

4 A. Yes, I believe we did.

5 MR. MC MASTER: No further questions, your
6 Honor.

7 THE COURT: All right. Mr. Frick?

8

9 CROSS-EXAMINATION

10 BY MR. FRICK:

11 Q. Trooper Holland, you said highway patrol
12 responded or got dispatched about 1:20?

13 A. That's correct, sir. I believe so.

14 Q. Okay. I want to go back. I don't know that I
15 need you to step down. You were showing the solicitor
16 where stuff was outlined.

17 A. Okay.

18 Q. Essentially, this is where the tape area was;
19 correct?

20 A. Yes, sir. That's correct.

21 Q. Where did you find the stuff that's in State's
22 Number 3-A and B?

23 A. Okay. If you go left from Chestnut and start
24 towards that driveway, I want remember exactly how far
25 down but it was somewhere in that stretch of road on

1 11th -- it was on 11th Street. Yes, sir.

2 Q. Before you get to this little dirt road here?

3 A. Yes, sir. I don't even recall that dirt road
4 being there. But it's dark so I can't -- it might have
5 been that road right there. That dirt road. That
6 little dirt driveway.

7 Q. It was outside the type area; correct?

8 A. Yes, sir. It was.

9 Q. And you said you found some other stuff at the
10 scene? Shoes?

11 A. Yes, sir.

12 Q. Cell phone?

13 A. Yes, sir.

14 Q. Cell phone case?

15 A. Yes, sir.

16 Q. Pocketknife?

17 A. That's correct.

18 Q. Were all these things -- I guess instead of
19 putting an evidence marker, y'all put spray paint down?

20 A. Yes, sir. We circled that -- we would circle
21 that with paint.

22 Q. And I think the solicitor established, but you
23 don't collect the evidence but...

24 A. No, sir. We would not collect that evidence.
25 Once MAIT is -- once we know we're notifying MAIT, kind

1 of all procedures on our end stops. We're just securing
2 the scene until he gets there and gives us further
3 directive on what we need to do.

4 Q. And let's just clarify. I know what MAIT is.
5 You know what MAIT is?

6 A. Yes, sir.

7 Q. They probably --

8 A. They probably don't know what MAIT is. So
9 MAIT, they're the multi-accident -- or
10 multidisciplinary action --

11 Q. What do they do?

12 A. They investigate collisions. They have more
13 training and skill as opposed to what a standard trooper
14 does from day-to-day investigation. They can pull more
15 evidence from inside the cars and stuff like that. So
16 they investigate collisions deeper than what a standard
17 trooper would.

18 Q. So just so I'm clear. Fairfield Sheriff's
19 Department gets there, says hit and run, calls highway
20 patrol. They call y'all. You come out with other
21 troopers go, okay, we need MAIT?

22 A. That's correct.

23 Q. Kind of establish a scene? Mark stuff that
24 you believe is of interest and they come and collect it?

25 A. Yes, sir.

1 MR. FRICK: Thank you. That's all the
2 question I have.

3 THE COURT: Any redirect?

4 MR. MC MASTER: No, your Honor.

5 THE COURT: Thank you, sir. You can step
6 down.

7 State can call its next witness.

8 MR. MAXWELL: State calls Morgan Hughes.

9 (State's Exhibit 4, Map with markings was
10 premarked for identification.)

11
12 M-O-R-G-A-N H-U-G-H-E-S, the Witness herein, having
13 been sworn by the Clerk of Court, was examined and
14 testified as follows:

15
16 DIRECT EXAMINATION

17 BY MR. MAXWELL:

18 Q. Corporal Hughes, will you state your name?

19 A. Corporal Morgan E. Hughes.

20 Q. Where are you employee?

21 A. South Carolina Highway Patrol.

22 Q. How long have you been there?

23 A. Just under seven years.

24 Q. Were you employed the night of this incident?

25 A. I was.

1 Q. Did you respond to the scene?

2 A. Yes, sir.

3 Q. Can you tell me what you saw when you got to
4 the scene?

5 A. Yes, sir. I was the first highway patrol
6 office to arrive, maybe two minutes before Trooper
7 Holland and Trooper Nickles. When I arrived there was
8 Fairfield Sheriff Deputy's there, Childers and Corporal
9 McCoy. EMS was on scene at that time and it was blocked
10 off with caution tape of that area, what the officer's
11 have described before. As you're coming down 11th
12 Street from 321, pretty much all you can see is blue
13 lights and sneaking up 11th Street towards 321.

14 So when I arrived, I pulled up behind other
15 officers on scene, on the side of the road, and started
16 my investigation.

17 Q. And what were those other officers doing at
18 the time you got there?

19 A. The sheriff officers? They were just
20 establishing the scene, just securing it and just
21 standing by for us. And I think -- I believe they're
22 outside their vehicles maintaining the scene, making
23 sure no one was able to come in and disturb anything.

24 Q. Did you see highway patrol doing anything at
25 the time?

1 A. So I was the first highway patrol on-scene.

2 Q. What are your duties when it comes to securing
3 the scene?

4 A. Right.

5 At the time I was just a Lance Corporal. We
6 didn't have a supervisory position that was open on our
7 shift, so I was acting supervisor. So when we arrived,
8 what we were going to do was, like Trooper Holland said,
9 we were gonna walk the scene to try to determine what
10 was going on. Right at that point, we really had no --
11 nothing to go on. All we knew was that there was a
12 subject that got struck. So we're gonna -- the scene
13 was already secured. But what we're gonna do is walk
14 the scene, look for evidence, try to determine, if
15 anything, what we can about the series of events that
16 took place to cause the collision.

17 Once we get kind of a broad idea of what kind
18 of happened and identification to verify the person who
19 was deceased, at that point, I'm gonna call my
20 supervisor.

21 There has to be a supervisor on scene since I
22 wasn't technically a supervisor at the time. I had to
23 call Sergeant Darby to let him know what was going on to
24 start our process.

25 Q. For the time being, though, were you the

1 supervisor?

2 A. Yes, sir.

3 Q. And was the body still in the road when you
4 got there?

5 A. It was. I believe at that time there was a
6 sheet over him, when we first arrived.

7 Q. And part of y'all's duties are marking the
8 scene. Did you see anybody marking the scene while you
9 were there?

10 A. Yes. So I was kind of making some phone calls
11 and arranging the next steps. So I told Trooper Nickles
12 and Trooper Holland to go ahead and started walking the
13 scene to kind of get good grasp of what went on. They
14 took my paint and my state-issued camera at the time,
15 told them to go ahead and start marking anything that
16 they see, start marking tire marks, skid marks and
17 taking pictures.

18 It's kind of what -- we always have a system
19 that we do -- a series of events that we do for
20 fatalities that we always do. We work really well
21 together. I've trained both of them. We are a good
22 team and kind of all knew what to do during that
23 situation.

24 So you would walk the scene, take pictures as
25 they went. Like Trooper Holland said, kind of make a

1 good series of pictures to show the scene and what
2 happened. Mark anything that they saw, anything that
3 could possibly be important to this case and take
4 pictures as they went.

5 Q. And you said you were making some phone calls?

6 A. Yes, sir.

7 Q. Who would that have been to?

8 A. So I called Sergeant Darby at the time.

9 Q. Sergeant Darby, what team is he with?

10 A. So he was over -- we're Post C, Chester and
11 Fairfield County. We work with two counties. He was a
12 sergeant, so he would have been over the whole post.

13 Q. Any other calls that you were making?

14 A. After that, he told me to go ahead and notify,
15 at the time it was Lieutenant Benfield, who is now our
16 captain because Sergeant Darby was going to be heading
17 back to the scene, because he had to be on scene as the
18 supervisor.

19 So at that point, I call Lieutenant Benfield
20 which would have been the on-call supervisor for the
21 troop, Troop 4. Because you have to -- in order to get
22 MAIT, which is our advance investigating team for
23 collision, in order for them to come to the scene, it
24 has to be made by the lieutenant on-call, which would
25 have been Benfield at the time.

1 Q. What does MAIT stand for?

2 A. Multidisciplinary Accident Investigation Team.

3 So they're like our high tech, high speed collision
4 investigators. That's their specialty team. That's all
5 they do.

6 Q. Did you stay there until they got handed off
7 of MAIT?

8 A. Yes, sir.

9 Q. Corporal Hughes, I would ask if you could come
10 down here and ask if you could demonstrate a couple of
11 things on the map.

12 So when you got to the scene, did you remember
13 seeing any items?

14 A. Yes.

15 Q. Do you remember what those items were?

16 A. So there was two -- a pair of tennis shoes,
17 two sneakers. There was a phone case, a cell phone,
18 maybe a credit card near the cell phone, I don't quite
19 remember what that was, the body and his wallet with
20 identification next to the body.

21 Q. Can you show the jury where you found each of
22 those items?

23 A. So, again, going this way. So there was the
24 pair of shoes right here on the corner of 11th Street
25 and Maple Street in the roadway of Maple Street

1 (indicating.)

2 In between the two pairs of shoes was a cell
3 phone case and on this side of the intersection was a
4 cell phone, must be a credit card of some sort or phone
5 card, I'm not 100 percent sure. The body was laying in
6 this intersection on Chestnut Street with the wallet
7 next to his body.

8 I believe Corporal McCoy pulled it out for
9 identification and he kept the wallet next to the body.
10 And you want me to point out that there was some tire
11 marks too?

12 Q. Yes, please.

13 A. So there was tire marks starting here on the
14 edge outside the road. Not in the road, but on the side
15 of the road here, on the sidewalk, starting here and
16 again, through the grass area between Maple Street and
17 Chestnut Street going that way (indicating.) We marked
18 all that, took pictures of all that. That's what we do
19 with tire marks and all that.

20 Q. You can have seat. Thank you.

21 I'm going to hand you what was premarked as
22 State's Exhibit 4. That is -- can you tell me what that
23 is?

24 A. It's just an aerial view, same thing on the
25 screen right now. It's an aerial view of the scene, of

1 11th Street, Chestnut, Maple Street.

2 Q. That's a copy of what has been entered into
3 evidence as State's Exhibit 1; is that correct?

4 A. Yes, sir.

5 Q. Corporal Hughes, I'm going hand you a marker
6 and I'm going to ask you to label a couple things on the
7 map.

8 A. Okay.

9 Q. Just the items that you found, can you put a
10 "T" for the tire marks.

11 A. Okay.

12 Q. And can you draw an "S" for shoes?

13 A. Okay.

14 Q. And can you put a "P" for where you found the
15 cell phone?

16 A. Okay.

17 Q. And can you put a "B" where you found the
18 body?

19 A. Okay.

20 Q. Do you remember any other items that you might
21 have found?

22 A. Like Trooper Holland was saying, at that point
23 they were just walking around the scene. MAIT was there
24 at this time. So like I said, they kind of take control
25 of the scene.

1 Once we know MAIT is coming, we kind of stop
2 marking things because they like to have a clean slate,
3 make sure we don't disturb anything that they actually
4 want done. So they kept walking the scene to verify
5 that they saw everything. And Trooper Holland and
6 Trooper Nickles walked further down 11th Street, like we
7 said, towards 321 and they located that part of the
8 vehicle, that clip and they located that, so...

9 Q. And Corporal Hughes, those markings that you
10 just put on there, is that a fair and accurate depiction
11 of where you found each of those items that night?

12 A. Yes, sir.

13 MR. MAXWELL: Your Honor, State would move
14 Exhibit 4 into evidence.

15 MR. FRICK: If I can take a quick look at it?

16 THE COURT: Yep.

17 MR. FRICK: No objection.

18 THE COURT: Without objection, admitted into
19 evidence as State's Number 4 I believe.

20 (State's Exhibit 4, Map with markings was
21 entered into evidence.)

22 MR. MAXWELL: Nothing further, your Honor.

23 THE COURT: Mr. Frick?

24
25 CROSS-EXAMINATION

1 BY MR. FRICK:

2 Q. Trooper Hughes, you sent Trooper Nickles and
3 Holland to go mark the things; correct?

4 A. Yes, sir.

5 Q. You ranking as the supervisor, had to
6 coordinate things; correct?

7 A. Yes, that's right.

8 Q. So you didn't, yourself, actually collect or
9 document them; is that correct?

10 A. So I didn't collect -- no, we didn't collect
11 anything. But I walked with them to look at things, but
12 they were the ones that were doing the actual painting
13 and pictures.

14 Q. And you've been present when everybody
15 testified; correct?

16 A. Yes, sir.

17 Q. You were here when Trooper Holland just
18 testified; correct?

19 A. Yes, sir.

20 Q. He mentioned something about a knife?

21 A. So, yeah. And we took pictures of that too.
22 So with these scene, when we're not really sure what's
23 going on and we have nothing really to go off of,
24 anything in the area, we're just going to notate and
25 pictures and stuff like that. It might not be pertinent.

1 It might not be important. It might not have anything
2 to do with the collision, but we're just gonna take
3 pictures to verify that we saw it there in case it has
4 anything to do with it later on that we found out.

5 Q. Because you don't know?

6 A. Right. We don't know.

7 Q. You don't know what happened?

8 A. That's right.

9 Q. Can you -- well, he's made it an exhibit. I
10 don't necessarily want you to mark, but can you give me
11 an idea of where y'all saw the knife?

12 A. I'm -- honestly I --

13 Q. Don't know?

14 A. Yeah. I can't recall exactly where it was in
15 terms of that stuff.

16 Q. And the clip that we're talking about --

17 A. Yes, sir.

18 Q. -- was it inside the tape part or was it
19 outside the tape part?

20 A. Not inside the tape part, no.

21 Q. It was outside the tape part?

22 A. Yep.

23 Q. And just so I'm clear, sounds like y'all --
24 and I don't mean anything bad by this but y'all have a
25 very bureaucratic process it sounds like.

1 A. Yes. A lot of people are involved in
2 decisionmaking.

3 Q. Y'all have to call a supervisor to get further
4 investigators in; correct?

5 A. That's right. So MAIT doesn't come out to
6 every fatality scene, just hit and runs with death and
7 high case -- big case ones they come out too.

8 Q. And in this particular case they were called;
9 correct?

10 A. Yes, sir.

11 Q. And once they're called, y'all are essentially
12 working with the deputies to do traffic control and
13 securing the scene; correct?

14 A. Basically. We are still trying to find out
15 more details as we go. We're just not notating the
16 scene and collecting any evidence because they're gonna
17 be the ones that handle all of that. We're stilling
18 going through the steps and making sure -- we still have
19 to do a police report. We still have to do all the
20 reports and stuff like that. We're just working hand
21 and hand with them.

22 And since they have better technology then
23 everyday troopers get, we kind of let the scene and
24 evidence stay where it's at and secured until they get
25 there to handle that.

1 Q. And in this particular case, anything other
2 then the stuff we talked about, did you collect or
3 notate?

4 A. No, sir.

5 MR. FRICK: Thank you, ma'am.

6 THE COURT: Any redirect?

7 MR. MAXWELL: Nothing, your Honor.

8 THE COURT: Thank you, ma'am. You can step
9 down.

10 State can call it's next witness.

11 Is everybody good over there? Y'all need a
12 break or you good? Okay. Let's keep rolling.

13 MR. MAXWELL: State calls Miranda Sawyer.

14

15 M-I-R-A-N-D-A S-A-W-Y-E-R, the Witness herein, having
16 been sworn by the Clerk of Court, was examined and
17 testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. MAXWELL:

21 Q. Would you please state your name for the
22 record.

23 A. My name is Irene Miranda Sawyer.

24 Q. And what do you go by?

25 A. Miranda.

1 Q. Ms. Sawyer, are you from Fairfield County?

2 A. I am.

3 Q. How long have you lived here?

4 A. Um.

5 Q. You grew up here?

6 A. Yes, 47 years.

7 Q. And do you still reside here?

8 A. Yes.

9 Q. Do you know Felicia Johnson?

10 A. I do.

11 Q. And who is that?

12 A. My --

13 Q. How do you know her?

14 A. I know her -- me and Felicia been friends ever
15 since sixth grade.

16 Q. And are you still close friends?

17 A. Yes.

18 Q. And who is her son?

19 A. Her son is Bruce Johnson.

20 Q. And is he the victim in this case?

21 A. Yes.

22 Q. Do you recall being at Felicia's house on
23 Saturday September 5th, 2020?

24 A. Yes.

25 Q. Where does she reside? You don't have to give

1 her exact address, but what road is it on?

2 A. It's on Doty Road.

3 Q. Is that near 11th Street?

4 A. 11th Street is all the way down.

5 Q. It's a short distance?

6 A. Yeah, it's a little --

7 Q. A couple blocks away?

8 A. Yeah.

9 Q. Did her son, Bruce, reside with her at the
10 time on Doty Road Extension?

11 A. Yes.

12 Q. As far as you knew?

13 A. Uh-huh.

14 Q. What was the occasion of why you were at --

15 A. We had a fish fry for one of our friends
16 birthday.

17 Q. Who was that?

18 A. Annie Roach.

19 Q. Was there a good number of people there?

20 A. It was.

21 Q. Do you recall about what time you may have
22 been there? What timeframe?

23 A. I got there about, it had to be about 3:00 in
24 the afternoon.

25 Q. Do you know how long you would have stayed

1 there?

2 A. I think about 10:00, that afternoon to the
3 night.

4 Q. Do you recall -- you knew Bruce; right?

5 A. Right.

6 Q. Do you recall him being there?

7 A. Yes.

8 Q. Did you see him there?

9 A. Uh-huh.

10 Q. Do you know who his girlfriend or who he had a
11 child with?

12 A. Yes.

13 Q. And who was that?

14 A. Her name, we call her Nikki.

15 Q. Do you know what her last name is?

16 A. Thompson.

17 Q. Do you know who Timothy Thompson is or at the
18 time did you know who Timothy Thompson was?

19 A. At the time I knew him by Gus, but I didn't
20 really know his first name because we always call him
21 Gus.

22 Q. How did you know him?

23 A. I knew him by being around Felicia and by him
24 being there. He used to be there at functions, whatever
25 we have.

1 Q. And was he there --

2 A. Yes.

3 Q. -- on that Saturday night?

4 A. Uh-huh. He was.

5 Q. Where were people gathering? Where were you
6 at and where were other people?

7 A. I was sitting on the porch.

8 Q. Front or back?

9 A. Front, front porch. And at the time about
10 3:00 or 4:00, he was sitting -- Timothy was sitting in a
11 chair. I was sitting right here in the porch. He was
12 sitting in the chair right in front of me.

13 Q. In the front yard as well?

14 A. Uh-huh. Yeah, front yard.

15 Q. And did Bruce and Nikki arrive later?

16 A. Nikki came before Bruce.

17 Q. And did Nikki have children or a child with
18 her?

19 A. Yeah, she had the children -- she had three
20 children with her.

21 Q. Do you recall what Felicia, what she was doing
22 mostly?

23 A. When the children got there, Felicia, she went
24 in the house because the baby was an infant. She didn't
25 want the baby outside. Nikki and Bruce just had a

1 newborn, so I think she went in the house with the baby.

2 Q. Did you observe anything occur between Nikki
3 and Bruce?

4 A. Yes. Nikki and Bruce was at the mailbox and
5 they was having an argument.

6 Q. Is that out near the road?

7 A. Yes.

8 Q. Doty Road?

9 A. Doty Road, they was having an argument. And I
10 was right there on the porch. So I wasn't too far away
11 from -- it's not too far from the mailbox.

12 Q. Did you see any physical interaction --

13 A. There was no physical. They was just arguing,
14 verbally arguing.

15 Q. Would you describe it as volatile at all?

16 A. I wouldn't call it -- they was just having a
17 disagreement about something. And by that time, Timothy
18 had -- he had walked out from -- went around the house.
19 I don't know, was he using the bathroom or what he was
20 doing. But by that time, he had went around the house.
21 And Nikki and Bruce was still arguing in the front yard
22 and then he run -- Timothy -- Timothy runs from behind
23 the house and says, "Bruce, Bruce, Bruce. I'm tired of
24 you arguing with my sister."

25 And Bruce said, "I'm tired of you always in

1 our business."

2 So Bruce said to Timothy, "I'm tired of you
3 always in our business. Stay out of our business."

4 Q. When you heard that, anything else you want to
5 add about what you heard them say?

6 A. So when I heard that, they just kept on
7 arguing and fussing and being -- by that time I got up
8 and I went in the house and I got Felicia.

9 And Felicia came out and told Bruce, "Get in
10 here. Get in here."

11 And by that time, Timothy he had told him,
12 "Oh, I'm gonna get him."

13 Bruce said, "We can do it one-on-one. "We can
14 get it now. We can do it one-on-one."

15 Q. Who said that?

16 A. Timothy told Bruce that -- Bruce had told him,
17 "We can do it one-on-one," and he told him, he was going
18 to get him.

19 Q. Again, who said, "I'm gonna get you"?

20 A. Timothy told Bruce that he was going to get
21 him.

22 Q. And did Timothy leave at some point?

23 A. Yeah, he left walking down to his dad's house.

24 Q. Do you know what car he was driving at the
25 time?

1 A. It was a black Impala.

2 Q. Where was it -- was it parked there?

3 A. Yes, uh-huh.

4 Q. At the house?

5 A. Yes.

6 Q. Where was it parked at roughly?

7 A. It was parked -- okay. So the mailbox is a
8 couple mile -- a little feet over. It was like down in
9 a little ditch where they shoot basketball at. It was
10 by the basketball goal.

11 Q. Was it parked in front?

12 A. Yeah. It was parked in the front.

13 Q. Near the road?

14 A. Yes.

15 Q. At some point was that car gone?

16 A. It stayed there all until about 8:30 or 9:00
17 because Timothy went down the road and told his father
18 that nobody would let him get his car. So his father --
19 him and his father came back up and Timothy left
20 about -- had to be about 8:30, 9:00 that he got in the
21 car and left.

22 Q. When you left at 10 o'clock, was Timothy gone?

23 A. Yes.

24 Q. Was the car gone?

25 A. Yes.

1 Q. As far as you know Bruce was still there?

2 A. Yeah, he was still there.

3 Q. And you just went home that night when you
4 left?

5 A. Yeah. I just went home.

6 Q. Did you hear about what happened the next day?

7 A. I got a phone call about 5:00 a.m. that
8 morning saying that Bruce had got killed.

9 MR. MAXWELL: No further questions, your
10 Honor.

11 THE COURT: Mr. Frick?

12

13 CROSS-EXAMINATION

14 BY MR. FRICK:

15 Q. Ms. Sawyer, you said you-all were just -- it
16 was just a gathering?

17 A. Yeah. It was just a gathering, a fish fry.
18 It was just a fish fry.

19 Q. Nothing unusual, just people hanging out
20 frying fish, having a good time?

21 A. That what we always do, have a good time.

22 Q. And you said you seen -- you seen Timothy, I
23 call him Gus.

24 You call him Gus; right?

25 A. Uh-huh.

1 Q. You've seen Gus over there before?

2 A. Yes, sir.

3 Q. Nikki is his sister?

4 A. Yes.

5 Q. Would she hang out there regularly?

6 A. Yes.

7 Q. And Bruce, of course he lived there?

8 A. Yes.

9 Q. And they were -- let's get to the argument.

10 Okay. Nikki and Bruce arguing.

11 A. Yeah. Nikki and Bruce, they had an argument.
12 She was upset because she says Bruce always hanging with
13 his best friend instead of hanging with him and they
14 just had an argument. And they was arguing. And Gus
15 ran from behind the house calling Bruce names. Bruce
16 was telling him, "Stay out of our business. You always
17 be in our business.

18 Q. Was that unusual for Nikki and Bruce to argue?

19 A. No. They always argued.

20 Q. They always argued?

21 Okay. Was it unusual for Gus to come defend
22 his sister?

23 A. Well, that's my first time seeing Gus defend
24 his sister.

25 Q. Gotcha.

1 A. But Bruce and Nikki always argued.

2 Q. And you said he wasn't there when the argument
3 started, Gus? I'm sorry. He wasn't -- he was around
4 the house?

5 A. He was around the house. But it was loud, he
6 heard for himself.

7 Q. It was loud enough?

8 A. Uh-huh.

9 Q. Okay. Was it threatening arguing?

10 A. They weren't threatening. She was -- they
11 were just having a disagreement about, "You always never
12 with me. You always with your best friend." Stuff like
13 that. That's all it was. It wasn't --

14 Q. But it got loud?

15 A. Yeah.

16 Q. And then there's a discussion between Bruce
17 and Gus; right?

18 A. Yes. A discussion between -- because Bruce
19 told Gus, "Stay out my business. You always in our
20 business. You always taking something to do with it."

21 And he told him, he said, "Oh, I'm gonna get
22 you." "So you can get me now, one-on-one." And I went
23 in -- I ran in the house.

24 Q. Who say that? Did Bruce said, "You can get me
25 now"?

1 A. Yeah. Bruce said, "You can get me now,
2 one-on-one."

3 Q. Anybody take their shirt off or though their
4 arms --

5 A. No.

6 Q. -- up? Nothing like that?

7 A. No.

8 Q. No chest bumping?

9 A. No, and I ran in the house and got his mom.

10 Q. Were they still arguing when you went in the
11 house?

12 A. They was, but then when Felicia came out --
13 yeah, they was. But when Felicia came out, told Bruce,
14 "Get in the house." Bruce immediately came in the
15 house.

16 Q. Okay. So Felicia came and got him out of
17 there?

18 A. Uh-huh.

19 Q. And you said that Gus had taken off walking?

20 A. Yeah, walking down to his dad house.

21 Q. To his dad's house. Where did he stay at?

22 A. He stayed right there on Doty Road. He just
23 went -- Felicia's house right here, so Doty Road. They
24 stay right there on Doty Road. He's probably about
25 three houses from Felicia's house.

1 Q. Okay. So he goes to his dad's house. You
2 said his dad came up a little bit later?

3 A. His dad came up, it had to be about 8:30, 8:30
4 or a quarter to 9:00. His dad came up and said, "Why
5 y'all won't let him get his car"? And we was like, "He
6 can get his car. Ain't nobody stopping him from getting
7 his car."

8 So then he got in his Impala and he left with
9 his -- him and his dad pulled off.

10 Q. Okay. And that's the last you saw --

11 A. Uh-huh.

12 Q. -- Gus?

13 A. That's the last.

14 Q. Was Nikki still there?

15 A. Yeah -- no, Nikki had left. Nikki had -- she
16 had left.

17 Q. Nikki had left?

18 A. Yeah. She had got her kids and left. But she
19 left the baby, the infant there. She left the infant
20 there, but she got the other two and she left.

21 Q. Okay. Got any idea where she went?

22 A. No.

23 Q. When you left, Bruce was still at the house?

24 A. He was still there. We still having a good.

25 MR. FRICK: Thank you, ma'am. That's all the

1 questions I have.

2 THE COURT: Any redirect?

3 MR. MAXWELL: No, sir.

4 THE COURT: Thank you, ma'am. You can step
5 down.

6 Got another witness?

7 MR. MAXWELL: Yes, sir.

8 The State calls Felicia Johnson.

9

10 F-E-L-I-C-I-A J-O-H-N-S-O-N, the Witness herein, having
11 been sworn by the Clerk of Court, was examined and
12 testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. MAXWELL:

16 Q. Ms. Johnson, state your full name for the
17 record.

18 A. Felicia Elaine Johnson.

19 Q. And are you from Fairfield and Winnsboro?

20 A. Yes, sir.

21 Q. How long -- have you lived here your whole
22 life?

23 A. Yes, sir.

24 Q. Where do you -- what road do you currently
25 live on?

1 A. Doty Road Extension.

2 Q. Did you live there back in September of 2020?

3 A. Yes.

4 Q. Do you have children?

5 A. Yes.

6 Q. How many children do you have?

7 A. Two.

8 Q. And who are they?

9 A. Bruce Antonio Gibbs and Hakeem Gibbs.

10 Q. And Bruce Gibbs is the victim in this case;
11 correct?

12 A. Yes.

13 Q. How old was he when he passed away in
14 September?

15 A. Thirty-three.

16 Q. Did he have any children?

17 A. Four.

18 Q. How old are they?

19 A. Fourteen, 12, 13, and one.

20 Q. The one year old, who is the mother of that
21 child?

22 A. Santana Thompson, Nikki.

23 Q. Is her name Santana Thompson?

24 A. Yes.

25 Q. What do people call her?

1 A. Nikki.

2 Q. And do you know who her brother was --

3 A. Yes.

4 Q. Who her brother is?

5 A. Yes.

6 Q. And who is that?

7 A. Timothy Thompson, "Gus."

8 Q. People know him as Gus?

9 A. Yes.

10 Q. And are you referring to the individual
11 sitting here at the table?

12 A. Yes.

13 Q. On the end of the table over here?

14 A. Yes.

15 Q. How long have you known him?

16 A. About 15, 16 years.

17 Q. How do you know him?

18 A. He was like a brother to me. He's a friend of
19 the family.

20 Q. Did your son, Bruce, did he reside with you on
21 Doty Road?

22 A. Yes. Most of the time he stayed between me
23 and -- you know, he still at my house, but she had a
24 little baby, so he be with her sometimes.

25 Q. How old was the baby at this time?

1 A. About two months.

2 Q. And were you hosting a gathering on Saturday,
3 September the 5th --

4 A. Yes.

5 Q. -- at your house on Doty Road Extension?

6 A. Yes.

7 Q. And what was the purpose of that gathering?

8 A. For my friend Annie Roach.

9 Q. Was it for her birthday?

10 A. Yes.

11 Q. And was it a fish fry?

12 A. Yes, sir.

13 Q. Do you recall what you were doing?

14 A. I was on baby duty, that's what I call it.

15 Q. Were you inside or outside?

16 A. Inside.

17 Q. Did you have your young grandchild at the
18 time?

19 A. Did I -- what did you say?

20 Q. The two-month-old grandchild, did you have the
21 baby with you --

22 A. Yes, sir.

23 Q. -- and were some other children there as well?

24 A. Yes, sir. He had -- Bruce's other two kids
25 were there, the junior and his daughter, Breshana and

1 her two kids, her other two babies was there.

2 Q. When you said, "her," who are you referring
3 to?

4 A. Santana, Nikki.

5 Q. Nikki's other two children. The only child
6 that Nikki and Bruce had together was the two month old
7 baby at the time?

8 A. Yes, sir.

9 Q. What do you recall happening at your house
10 that night, about what was going on outside?

11 A. Well, Miranda came and got me. She said,
12 "Come get your baby, he out there. Him and Gus -- Gus
13 up in his face and they arguing out there, come and get
14 him."

15 Q. Do you recall about what time -- do you
16 remember that day?

17 A. I would say about 8:00 something, 9:00
18 something.

19 Q. It was dark out?

20 A. Yeah, it was dark out.

21 Q. And what did you observe when you walked
22 outside?

23 A. My son was mad and I just grabbed him and at
24 first he said, "Get off me," because I know he was mad.
25 And I said, "Wait a minute, baby, I'm your ma'am. Come

1 on, let's go in the house. We don't need these
2 problems. And he came with me. And him and Nikki was
3 still was bickering back and forth, but I told him,
4 "Come on."

5 Q. What did you see as you refer to him as Gus,
6 Timothy Thompson, do?

7 A. He was just standing there.

8 Q. Did you hear him say anything?

9 A. About that time I was focused on my son. No.

10 Q. Do you know what kind of car that Gus drove at
11 the time?

12 A. Yes. He had a black Impala '04.

13 Q. '04. Tell me why you know that.

14 A. Because I got the '05. And me and him -- like
15 I said, were so close. He was so proud of that car, you
16 know? Yeah, he loved that car.

17 Q. Did you drive a 2005 Chevy Impala as well?

18 A. I had one. I gave it to my baby son, Hakeem.

19 Q. And was Gus, Timothy Thompson, driving that
20 car at your house that night?

21 A. Yes.

22 Q. And you saw it there?

23 A. Yes.

24 Q. After you got Bruce to come in, did Timothy
25 leave?

1 A. Now, that -- I don't know if he left right
2 them. I went on in the house and I didn't come back out
3 right then.

4 Q. Did you see him again at your house?

5 A. No.

6 Q. At some point did you leave your house?

7 A. Yes, I did.

8 Q. What time was that and what were you doing?

9 A. I want to say about 9:00 something or close to
10 10:00 to take that baby -- take my little grandbaby
11 home.

12 Q. Nikki had already left?

13 A. Yes, she did. Yes, she did.

14 Q. And who were you taking the baby to?

15 A. To Santana, Nikki.

16 Q. She live elsewhere?

17 A. Yeah, she do. She live at the Deerwoods
18 Apartments.

19 Q. Did you see her and take the baby to her?

20 A. Yes. I called her first and told her I was
21 bringing the baby. And she said, "Well, Bruce got him."
22 I said, "No, Bruce been drinking and I have to go to
23 work in the morning. So, I'm gonna bring you your baby
24 'cause I don't want no problems, you calling the police,
25 said we done took your baby." So I took him home.

1 Q. When you left your house to go take the baby
2 to Nikki, did you see whether Gus's car, the 2004 Chevy
3 Impala was there or not?

4 A. At my house?

5 Q. Yes.

6 A. Oh, he was gone.

7 Q. So it's gone by 10 o'clock or so whenever you
8 left?

9 A. Yeah, it was gone.

10 Q. When you returned --

11 A. It was gone.

12 Q. -- it was still gone?

13 A. Yes.

14 Q. You didn't see that car or Gus, Timothy
15 Thompson, at your house again that evening?

16 A. No, sir.

17 Q. And did you go to bed at some point that
18 night?

19 A. Yeah. I want to say about 11:00 or 12:00,
20 somewhere around that I want to say. It was late.

21 Q. Do you recall if Bruce was still at your house
22 when you went to bed?

23 A. Yes, he was.

24 Q. Was there still other people there?

25 A. Yes, it was.

1 Q. Do you recall being woken up early morning
2 hours by the coroner's office and highway patrol?

3 A. Yes. About 4 o'clock.

4 Q. Is that when you learned what had happened to
5 Bruce?

6 A. Yes.

7 Q. And you don't know what he did -- at that time
8 what he had done between when you went to bed and
9 learning of what had happened at 4:00, 4:30 that
10 morning?

11 A. No, sir.

12 Q. After you were notified by the coroner's
13 office and the highway patrol, did you get some contact
14 information from the highway patrol person?

15 A. Yes.

16 Q. And do you recall who that was?

17 A. Officer Darby. I mean, Sergeant Darby.

18 Q. Sergeant Darby? Was he the supervisor as far
19 as you know --

20 A. Yes.

21 Q. -- at that point in time on the investigation?

22 A. Yes, sir.

23 Q. Later on, after you were notified, did you get
24 some information about your father and Timothy Thompson
25 encountering each other late that -- close to midnight

1 that night? Don't say what it was, but did you get some
2 information?

3 A. Yes.

4 Q. Did you, once you had that information
5 contact, Sergeant Darby --

6 A. Yes.

7 Q. -- and pass that information on?

8 A. Yes.

9 Q. Did you also tell Sergeant Darby what Timothy
10 Thompson was driving?

11 A. Yes.

12 Q. What his car was?

13 A. Yes.

14 Q. Again, what was that?

15 A. Impala '04.

16 Q. Do you recall what color it was?

17 A. Black.

18 Q. Do you recall about when that was when you
19 passed that information on?

20 A. No, I don't.

21 Q. Was it still morning time?

22 A. Yes, it was in somewhere --

23 Q. After the sun came up?

24 A. Yeah. The sun was up and everybody was there
25 for him, you know, for my son and everything.

1 Q. Did you later provide some more information
2 about where Timothy Thompson might be that Sunday
3 morning going into the afternoon or where his car might
4 be?

5 A. Yes.

6 Q. And did you pass that information onto the
7 highway patrol?

8 A. Yes. Yes.

9 Q. Do you recall where Gus was residing at the
10 time?

11 A. No. Because I thought he was staying with his
12 brother, Robert Thompson, but they say he had done
13 kicked him out or something or he left or something, I
14 don't know what had happened with that.

15 Q. Was he always driving this car?

16 A. Yes, when he got it. Yes, he loved that car.
17 I told you he loved that car. He was proud of it.

18 Q. Did Gus have any other vehicles that you're
19 aware of?

20 A. No. No, he didn't.

21 MR. MAXWELL: No further questions, your
22 Honor.

23 THE COURT: Mr. Frick?

24

25

CROSS-EXAMINATION

1 BY MR. FRICK:

2 Q. Ms. Gibbs, I am sorry for your loss.

3 A. Thank you.

4 Q. I do have to ask you some questions.

5 A. I know.

6 Q. You said Gus was like a brother to you?

7 A. He was. He called me his sister. Yeah.

8 Q. You know him for a long, long time?

9 A. Yes. He was at my reception.

10 Q. Got to ask you: You got an '05 Impala; right?

11 A. Yes.

12 Q. What color is your car?

13 A. Blue.

14 Q. Dark or light?

15 A. It's like a purple and blue mixed together.

16 Yeah.

17 Q. Okay. Let's get back a little bit to the
18 party here.

19 You said you was on baby duty?

20 A. That's what I call it, baby duty, my
21 grandbaby. My new grandbaby, yes.

22 Q. You're in the house with your grandchildren?

23 A. Yeah, my grandbaby. Yeah.

24 Q. I was trying to do quick math on this, I was
25 counting about four, you keeping up with --

1 A. No. I wasn't keeping up with nothing but my
2 new baby. No.

3 Q. Okay. But there were four children --

4 A. There, yeah. My two other grandbabies.
5 Bruce's other two kids. The junior and I got custody of
6 the oldest one. So she lives with me. So, and the
7 junior was up too for the weekend and spend time with
8 his daddy. Then her two kids, they like my grandkids
9 too. So they be there too. They was outside playing,
10 though.

11 Q. But these are essentially your grandchildren;
12 right?

13 A. Yeah, the three of them is. But two of them
14 not, but I love them like they mines.

15 Q. Got you.

16 So I mean, it sound like to me -- and I ain't
17 trying to talk bad about anybody having a good time at
18 the fish fry, but sounds like you were the one that was
19 being the responsible adult looking after the kids?

20 A. I was. She asked me to -- called me at work
21 and ask me, could I keep the baby till she go run some
22 errands when I get off from work? That's how that
23 started and I told her, you know, I don't mind, that's
24 my sweetie pie, you know.

25 Q. I understand. I understand.

1 Okay. And you said about 9:00, somewhere
2 around 9 to 10 o'clock, you decided, I got to go to work
3 and you didn't feel like Bruce was really in shape to be
4 watching after his baby?

5 A. Yes, you know.

6 Q. So you called up Nikki and said, "I'm bringing
7 this child back home."

8 A. Yeah. When she was backing out the yard, I
9 was trying to stop her to get the baby. She's like,
10 "Bruce got the baby." I said, "No, baby, you know, I
11 got to go to work in the morning."

12 Q. Right.

13 A. So with that baby there, I'm the one -- I
14 just, I don't know, I feel like I'm the daddy and the
15 momma 'cause I cut his navel cord, you know?

16 Q. I understand. But you also didn't feel that
17 Bruce really --

18 A. No. I wasn't going to let him keep the baby.
19 But he was -- he was. I'm not going to lie to you now.
20 He was steady. He wasn't appeared to be drunk or high
21 or nothing. He could have kept him. I'm just a mother
22 and got the mother instinct, you know? I got him.

23 Q. I understand. Pardon me. I have to get my
24 glasses so I can read my notes.

25 And you don't -- let's see. You went to bed

1 11, 12 o'clock; right?

2 A. Yeah. Somewhere along in that area.

3 Q. 'Cause you had to go to work?

4 A. Uh-huh.

5 Q. Was Bruce still up?

6 A. Yes. Him and two of -- Annie Roach, her
7 daughter was out there, her friend and -- yeah, they was
8 still outside because once -- I was up, before I went to
9 bed, he asked, "Could the girls come in and use the
10 bathroom"? The young ladies, and I told him, yes, it
11 was okay.

12 Q. So I mean, folks were still there having a
13 good time?

14 A. Yeah. Yes.

15 Q. You just had to go to bed because you got to
16 go to work?

17 A. Yes, that's right.

18 Q. So you don't know what time Bruce left the
19 house, do you?

20 A. No, I don't. His baby son, the junior was the
21 one that last talked to him.

22 Q. And after you went to bed, you don't know what
23 he did that night?

24 A. No.

25 Q. And of course you said Gus had left?

1 A. Uh-huh.

2 Q. And you didn't see him back anymore?

3 A. No. I ain't seen him no more.

4 Q. And essentially, I asked you still a little
5 bit earlier. The argument, all the way at the beginning
6 of whole thing there, you were inside on baby duty and
7 it was that somebody told you you needed to come get
8 Bruce?

9 A. Yeah.

10 Q. And you don't really know what the argument
11 was about?

12 A. Yeah. I know what the argument was about. It
13 was about, the guy is my cousin, Roderick Smalls. He
14 lived across the street. Well, he did. He done move
15 now with his mother and he'd repo cars. Bruce went out
16 and always helped him everyday after work, they'd repo
17 cars. So she got mad and she told -- the conversation
18 was told to me that, "You act like you effin' Roderick."
19 And he told her, "You act like you effin' Roderick."
20 That's what the whole conversation started about, the
21 argument about. Yes.

22 Q. And they got a little loud to your knowledge?

23 A. To my knowledge, yeah, they was loud, but I
24 was in the house. But I know that's what it was started
25 about because they done argue about it before.

1 Q. I got you. It's not unusual for them to
2 argue?

3 A. So they argue every day just about child.

4 Q. Did Timothy come stand up for his sister
5 often?

6 A. No. I never witnessed that, you know? No, I
7 never witnessed that. But I do know, was an incident
8 happened that she accused my son of flatting her tire
9 and Timothy had to go and change the tire. I paid for
10 the tire. I said, "Baby, if Bruce flatten your tire, I
11 pay for it." He said, "Momma, why did you pay for her
12 tire when I didn't flatten the tire? I told her to go
13 to the office and run the cameras, but she didn't."
14 That's what he told her to do, but she never did.

15 Q. Did Bruce and Gus get along?

16 A. From my point, he done threaten him before. I
17 done heard my nephew and my daddy said, "this ain't the
18 first time that he done threaten Bruce life." He must
19 have didn't like Bruce for some reason. I don't know.
20 I thought they got along.

21 Q. You didn't witness anything in particular?

22 A. No.

23 Q. You're just going on what your daddy told you?

24 A. Yes.

25 MR. FRICK: Thank you, ma'am. That's all the

1 questions I have.

2 THE COURT: Any redirect?

3 MR. MAXWELL: No, sir.

4 THE COURT: Thank you, ma'am. You can step
5 down.

6 MR. MAXWELL: It's a good breaking point for
7 today.

8 THE COURT: Ladies and gentlemen, let me
9 explain to you what's happening. The clerk of court and
10 some of the lawyers involved have a meeting down with
11 the Supreme Court in Columbia concerning docket issues
12 and all that kind -- I had a meeting two weeks ago. So
13 there's no court this afternoon as far as trial. So
14 we're going to break for today.

15 But for that meeting, they have to go down
16 there, we would be having a trial this afternoon. But
17 we're going to start back again tomorrow morning at 9:30
18 a.m.

19 Now, before I let y'all break, let me go ahead
20 and appoint forelady of the jury.

21 Ms. Harwell, where are you?

22 Ms. Harwell, I'm appointing you as the
23 forelady, the foreperson of the jury. You'll be in
24 charge of presiding over the deliberations whenever
25 y'all get the case to start deliberating. You'll also

1 sit at the seat right behind the bailiff and you'll be
2 the jury spokesperson in here if y'all need a break or
3 anything like that. And it will also be your job to
4 write on the verdict form but you can't write on there
5 until all 12 of you agree as to whatever the verdict's
6 gonna be. And we'll get to that point, I'll explain it
7 to you. I know you didn't volunteer for it. I always
8 appoint a foreperson so you just won the luck of the
9 draw. So thank you for doing that.

10 So remember what I told you, when we leave,
11 don't do any independent research. Don't talk to
12 anybody about the case. Don't look up for any media
13 reports about the case. We'll see you tomorrow morning
14 in your jury room 9:30. Y'all have a great evening.
15 Thank you.

16 (Jury exited courtroom.)

17 THE COURT: Anything else for today?

18 MR. MAXWELL: Not for this.

19 THE COURT: Anything else on this?

20 MR. FRICK: No, sir.

21 THE COURT: We're in recess with this case
22 until tomorrow morning at 9:30. Thank you.

23 (Court was adjourned for the day.)

24 **(Trial commenced on Wednesday, March 23, 2022.)**

25 (State's Exhibit 5, Autopsy, was premarked for

1 identification.)

2 THE COURT: Are both sides ready?

3 MR. MAXWELL: Yes, your Honor.

4 MR. FRICK: Yes, your Honor.

5 THE COURT: Let's bring in the jury.

6 (Jury entered courtroom.)

7 THE COURT: All jurors are present. Good
8 morning, ladies and gentleman. Hope you had a restful
9 day. We'll jump right in to it this morning.

10 Solicitor, you can call your next witness.

11 MR. MAXWELL: The State calls Dr. Kelly Rose.

12

13 K-E-L-L-Y R-O-S-E, M.D., the Witness herein, having been
14 sworn by the Clerk of Court, was examined and testified
15 as follows:

16

17 DIRECT EXAMINATION

18 BY MR. MAXWELL:

19 Q. Good morning, Dr. Rose.

20 A. Good morning.

21 Q. Can you state your name for the record?

22 A. Dr. Kelly Rose, R-O-S-E.

23 Q. And Dr. Rose, what is your occupation?

24 A. I am a forensic pathologist in Newberry, South
25 Carolina.

1 Q. And are you with Newberry Pathology?

2 A. Yes. I'm with Newberry Pathology Group.

3 Q. And do you all perform autopsy there?

4 A. We do.

5 Q. And can you talk about your educational
6 background?

7 A. I went to the College of Charleston. I
8 majored in biology. I had an emphasis in chemistry.
9 Then I went to medical school at Medical University of
10 South Carolina. From there, I started my residency in
11 pathology and I stayed there about two years and then I
12 switched to Emory in Atlanta to finish up. And then I
13 stayed in Atlanta to do my fellowship in forensics, so
14 that was an extra year.

15 Q. And how long have you been performing
16 pathological services and/or autopsies?

17 A. Since 2009.

18 Q. Any idea about how many -- either A, how many
19 autopsies you had or how may you perform in a week or
20 month or a given year?

21 A. It's about over 3,000 now, probably closer to
22 3500 total autopsies now.

23 Q. And have you testified as an expert in court
24 before?

25 A. I have.

1 MR. MAXWELL: Your Honor, we'd offer Dr. Rose
2 as an expert in forensic pathology.

3 MR. FRICK: No objection.

4 THE COURT: Without objection, she's qualified
5 as an expert in forensic pathology.

6 Ladies and gentlemen, quickly, let me explain
7 to you. Normally when a person testifies at trial, they
8 can only testify as to what they saw, heard, smell, et
9 cetera, or something like that. There's an exception
10 however for witnesses who we call "expert witnesses."
11 If they are qualified as an expert in a particular
12 field, because of their training, their education and
13 their experience, they can testify in the form of an
14 opinion. Just because an expert gives an opinion,
15 doesn't mean you have to accept that opinion. It's up
16 to you to consider when you consider the weight of all
17 the evidence when you start deliberating. I want you to
18 understand the difference between what we call a lay
19 witness can testify too versus what an expert witness
20 can testify to, okay? Thank you.

21 She's qualified.

22 Q. (By Mr. Maxwell) Can you describe what
23 pathology is?

24 A. Pathology is the study of disease. So there's
25 two components of regular pathology: There's anatomic

1 pathology and clinical pathology. Anatomic pathology is
2 diagnosing disease through tissue. If you get a biopsy
3 at a doctor's office and they send it off, they're
4 sending it to a pathologist and the pathologist is
5 diagnosing the disease.

6 Clinical pathology is diagnosing disease
7 through fluids. So when you get your blood drawn, you
8 get your lab results. Those are all managed in a lab by
9 a pathologist.

10 Forensic pathology is, you can think of it as
11 diagnosing the cause of death. So you are there to
12 figure out what the cause of death was in the person
13 that you're autopsying.

14 Q. Can you just generally describe what an
15 autopsy is and kind of the process of performing one.

16 A. You can think of it as a very thorough
17 physical exam. The first part we call the external
18 examination and we'll look from head to toe at the body
19 and we'll make notes like doctors do when they're
20 looking at you in the office. And we're looking for
21 diseases; we're looking for injuries. Any kind of clue
22 to why did this person die.

23 After we've done that, sometimes we'll do
24 X-rays if the case warrants them. We photograph
25 everything, every step along the way. When all of that

1 is complete, we will then do the internal examination
2 and look at each organ system. We look at the organs in
3 the body. We note any changes there. We'll weigh the
4 organs, then we'll cut the organs and we actually may
5 put them in little cassettes and look at them
6 microscopically. We look at them in the body, out of
7 the body and under the microscopy, if the case warrants.

8 Q. And in doing all that, you're trying to
9 determine the cause of death --

10 A. Yes.

11 Q. -- very simplistically?

12 A. Yes.

13 Q. Did you perform the autopsy of Bruce Gibbs?

14 A. I did.

15 Q. I'm going to show you what's been marked as
16 State's Exhibit 5.

17 Is that your report from your autopsy
18 examination of Mr. Gibbs?

19 A. Yes, it is.

20 Q. And on what date was the autopsy performed?

21 A. It was September 8, 2020.

22 Q. And again, just to go over it, do you know
23 what the date of his death is?

24 A. The date of his death was the 6th; so
25 September 6, 2020.

1 Q. And the autopsy was requested by the Fairfield
2 County Coroner's office?

3 A. Yes, that's right.

4 Q. They would have transported Mr. Gibb's --

5 A. Mr. George, uh-huh.

6 Q. -- body to Newberry Pathology, to your office
7 for the examination?

8 A. Yes.

9 Q. Can you go through the injuries of Mr. Gibbs?

10 A. Okay. He had a lot of injuries. So I've
11 tried, on the front sheet of my report, which is this,
12 tried to kind of list them by body region. So I'm just
13 gonna touch on the highlights.

14 If I had to list every -- talk about
15 everything, I'd be here for hours. So he had skull
16 fractures, a lot of them. He had hemorrhage, subgaleal.
17 And what that means is it was under his scalp. So when
18 we reflected the scalp and pulled it back to access it,
19 the brain underneath side of his scape was all white.
20 He had subarachnoid hemorrhage and that was diffuse and
21 that is bleeding. Meninges. I don't know if y'all have
22 heard that. They're coverings of your brain and one of
23 those layers is the arachnoid layer. And subarachnoid
24 means there's blood underneath. So there's blood
25 underneath the membrane of the brain. And you can see

1 it because the membrane is very thin. So there's blood
2 basically on the hemisphere of his brain. He had a torn
3 corpus callosum. That is an injury you don't see all
4 that often, but I do see them. It usually is indicative
5 of pretty severe trauma.

6 And the corpus callosum is the white matter
7 tract which just means a bunch of neurons that are
8 connecting; they make this white matter. It's what we
9 call it because it's white and it run in between the
10 hemisphere's of the brain.

11 So it connects the hemisphere, your right and
12 left hemisphere of your brain, the two halves of your
13 brain. So that membrane, which is deep in the brain was
14 torn. He had torn cerebellar peduncles and what all
15 this means -- I'll just tell you he also had a partial
16 pontomedullary rent. And what we're are saying, when we
17 talk about that is the structures of the brain stem and
18 the lower sections of the brain that connect to the
19 hemispheres, all those attachments were torn.

20 A pontomedullary rent is a fancy word for a
21 tear. And pons and your medulla are the two components
22 of your brain stem. So you've heard of your brain stem,
23 the two components of the brain stem were torn. It
24 wasn't fully torn, but it was torn. And that is a
25 devastating injury because you have very important

1 nerves that come out there that control your diaphragm.

2 If you damage that area of the brain, you are
3 also damaging those nerves and now you can't breath,
4 because your diaphragm no longer responds and doesn't
5 work. He had a complete atlanto-occipital dislocation.
6 And what that means is your cervical vertebrae number
7 one and number two, they have other fancy names, the
8 atlas and the axis and this is your cervical vertebrae
9 number 2 and this is your cervical vertebrae -- I mean,
10 that's number one and this is number two.

11 And number two has this little funny part we
12 call the den. It sits in the first, like this. And
13 that's a very important joint because what do we do with
14 our head that we don't do with our other joints? We can
15 do this. It can rotate. It has many different
16 movements, like say your knee joint does not have. So
17 it has a specialized structure and it also has
18 specialized membranes all around it to keep it in place
19 because it's an important joint. Those were totally
20 severed.

21 So when I would go to feel his head, it was
22 like a rag doll. It had lost all of its structural
23 integrity, basically. When you get those, you tend to
24 get brain stem injuries, which he also had that I was
25 mentioning earlier. And of course, we have the scraps

1 and cuts and bruises. Our fancy words for those are
2 abrasions and lacerations and contusions of the skin of
3 his face. Okay. So that was head and neck region.

4 Then he had some significant trauma of the
5 extremities. He had a closed compound fracture of both
6 femurs. And your femurs are these bones, your thigh
7 bones. Closed means that they don't poke through skin.
8 Compound means they're totally fractured. So you can
9 see them flailing basically but there is no skin that's
10 been perforated or you can't see the bone from outside.
11 That's what a closed fracture means.

12 Compound means the bones were totally
13 fractured, they were not intact at all. He had the
14 associated distal lower extremity flailing.

15 When I say that, that means it was such a
16 significant break, that the leg just flailed. It was
17 flipping and flopping basically, for lack of a better
18 way to describe it, both legs were doing that. He had
19 the abrasions and contusions and the scraps and bruises,
20 as well on his legs.

21 On the inside, I have blunt force trauma of
22 torso. When we open him up on the inside, we also saw
23 some injuries and those included contusions of the
24 lungs. So just like you can get a bruise on your skin,
25 your organs can get bruised. Your lungs are very

1 susceptible to bruises because they're spongy, they
2 don't have a lot of strength in and of themselves.

3 And when they get bruised by injury, they can
4 turn into pretty much, pools of blood is what you'll see
5 in certain sections of the lung. He had some
6 lacerations of the aorta and the aorta is the largest
7 artery in your body. It carries blood from your heart
8 to the rest of your body. It's anywhere from that big,
9 that round to that round. And if you've been struck
10 forcefully and there's been a great acceleration and
11 deceleration of the body. So you were speeding forward
12 and having to go back, the inside lining of the aorta,
13 this tearing. You don't see it on the outside but these
14 are torn because they stretch so much, that it tore. So
15 he had those. He had 800 milliliters, so a little under
16 a liter of blood in his left chest cavity. We call that
17 hemothorax.

18 So he had a left hemothorax. Your lungs are
19 in your chest cavity and there's space around so they
20 can inflate and deflate and have things not get in the
21 way. That space can fill up with blood and when that
22 does, your lungs can't inflate because there's blood on
23 the outside pushing them, squishing them basically. So
24 he had that on the left. And that was due to just the
25 soft tissue attachments in the chest cavity were

1 shredded.

2 They were torn so much that that much blood
3 has accumulated. There wasn't even perforation of that
4 large artery. There was just that much soft tissue
5 tearing.

6 Let's see he had -- he tore his liver, the
7 kidney and I mentioned that there was minimal
8 hemorrhage. So to me that tells me that by the time
9 that happened, he was already pretty much dead. His
10 heart had stopped pumping blood to that part of the
11 body. So they were torn, but there was not blood
12 associated with them.

13 All the soft tissues of his belly and his
14 pelvis had hemorrhaged, they were torn and bloody. And
15 he had bruises and scraps and lacerations of his skin.

16 Q. And Dr. Rose, do you have an opinion as to
17 what injuries actually caused his death?

18 A. I determined his cause of death to be blunt
19 force trauma of the head and neck, because of the AO
20 joint being totally dislocated and injuring the brain
21 stem and all those vital structures, his corpus
22 callosum, that had been damaged. And then I contributed
23 or I said that the blunt force trauma of his lower
24 extremities and torso contributed to his death, but the
25 brain is really what killed him.

1 Q. And based on the information that was provided
2 to you, as well as your examination, do you have an
3 opinion on what could have caused these injuries?

4 A. It was consistent with a motor vehicle versus
5 pedestrian. It was very severe, the injuries, more so
6 than I normally see. So it was also consistent with
7 maybe him being run over a couple times or being dragged
8 after being hit.

9 Q. Is it your opinion to a reasonable degree of
10 medical certainty that he died with injuries based on
11 being hit by a vehicle?

12 A. A hundred percent.

13 Q. And in your report, you indicate the manner of
14 death is what?

15 A. I indicated as an accident.

16 Q. Now, when you make that determination, are you
17 considering evidentiary things such as intentions of the
18 driver at all?

19 A. No. Sometimes when I'm doing an autopsy, it's
20 so early on in an investigation, we don't know exactly
21 what happened. So when I see a pedestrian versus a car,
22 my default would be accident. But that doesn't mean
23 that it couldn't have -- if there had been intention and
24 investigative stuff that shows there was intention, that
25 it couldn't have been other than accident, it can also

1 be a homicide.

2 Q. And also in determining the manner of death or
3 listing it as an accident, you wouldn't have been
4 provided any evidence about accident reconstruction --

5 A. No.

6 Q. -- evidence or material?

7 A. No.

8 Q. Basically, your determination of manner of
9 death is based on your examination and the information
10 that he was likely hit by a vehicle found in the middle
11 of the roadway?

12 A. Right; correct.

13 Q. Was there a toxicology --

14 A. There was.

15 Q. -- examination done?

16 What was determined -- first just describe
17 what is that and then, describe the results of that
18 examination.

19 A. Okay. We always draw blood during our
20 autopsies and send it either to SLED or this national
21 lab up in Pennsylvania and we ask for toxicology test.

22 So it's just standard protocol because I'll
23 have people that look like they die of heart attacks and
24 they come back with cocaine. So you can never really
25 feel like your examination is hundred percent complete

1 without it.

2 So we did draw some blood in this case and
3 send it to the national laboratory this time. And he
4 had below the legal limit of alcohol. So his blood
5 alcohol concentration was .062 and the -- is legal .08
6 still in South Carolina.

7 Q. Yes.

8 A. Okay. It's in different states. He also had
9 some caffeine and he had some THC metabolites and
10 components of marijuana.

11 Q. So he had marijuana and alcohol in his system?

12 A. Yes.

13 Q. But not even up to the legal limit of alcohol
14 in his system?

15 A. Correct.

16 Q. And he didn't die of an overdose of marijuana
17 or alcohol, did he?

18 A. No.

19 Q. And those wouldn't have contributed to any of
20 the injuries he received having been hit by the vehicle?

21 A. No.

22 Q. Again, is that your report there, Exhibit 5?

23 A. Yes.

24 MR. MAXWELL: Your Honor, we'd offer Exhibit 5
25 into evidence.

1 THE COURT: Any objection?

2 MR. FRICK: No objection.

3 THE COURT: Without objection, offered as
4 State's 5.

5 (State's Exhibit 5, Autopsy and Toxicology
6 Reports were entered into evidence.)

7 MR. MAXWELL: No further questions.

8 THE COURT: Mr. Frick, your witness.

9 MR. FRICK: Thank you.

10

11 CROSS-EXAMINATION

12 BY MR. FRICK:

13 Q. Morning, Dr. Rose.

14 A. Good morning.

15 Q. Let's talk about, the solicitor asked you
16 about manner of death in there. Do you have different
17 options that you can choose?

18 A. I do.

19 Q. What are the options that you can choose?

20 A. We have five manners of death and they don't
21 equate to legal definitions. So we have natural, a
22 natural disease, was the manner of death. We have
23 suicide, if someone takes their own life. We have
24 homicide, if the death is a result of another. We have
25 accident, if the death is related to an accident. And

1 then, we have undetermined, which means after a thorough
2 investigation of everything, we're not sure.

3 Q. Okay. And in this situation, clearly
4 Mr. Gibbs was a victim of being hit by a car?

5 A. Correct.

6 Q. I mean, there's really not a question about
7 that.

8 A. Correct.

9 Q. He didn't have stab wounds?

10 A. Correct.

11 Q. No gunshot wounds?

12 A. Correct. He was young, so no natural disease.

13 Q. Right. And the injuries that you saw, were
14 consistent in your experience with --

15 A. Definitely.

16 Q. -- being hit by a car. And the option that
17 you choose in this particular case was "accident"?

18 A. Yes.

19 Q. And you said, with toxicology, y'all -- y'all
20 issue a report and then sometimes when toxicology comes
21 back you may revise your report based on that?

22 A. Sometimes, it depends. If I don't feel that
23 it changes the cause or manner of death, I don't amend
24 it. I get crazy tox results back all the time in
25 gunshot wound cases, but if you've been shot 40 times,

1 then that's your cause of death.

2 Q. Okay. Although, in this case, that one in
3 particular, I have a copy of it, that's your final
4 report?

5 A. Yes, sir.

6 Q. You kind of wait until you got all the
7 information before you go, "Okay. This is the actual
8 final report."

9 A. Yeah, it depends. Like, if I think -- I will
10 wait for information if I'm pending a cause of death.
11 If I know the cause of death, I know that nothing is
12 going to trump that cause of death, I will issue a
13 report before I get the tox back.

14 Q. And in your -- I'll hand it to you if you need
15 it, but I don't think you do. In your report, you got
16 something that's titled Case History?

17 A. Yes.

18 Q. And you come about that how?

19 A. One of the individuals from the coroner's
20 office, right when they are notified of that death, they
21 call my office and depending on who's working the scene
22 for the coroner's office, they'll say: "Can we get on
23 the books, we have a case." It could be at 2:00 a.m.
24 that they're calling and they'll tell you the little bit
25 of information that they know at that time.

1 Q. Okay. So you get, I mean, obviously you need
2 some information to start your investigation; correct?

3 A. Yeah. Mainly to schedule. So I'm like, okay,
4 it's a motor vehicle collision, that takes -- it's gonna
5 have a lot of injuries, let's allot this much time for
6 it.

7 Q. Right.

8 A. But it's subject to change a lot.

9 Q. And in general, your information comes from
10 law enforcement or the coroner?

11 A. The coroner, when they're booking the case,
12 yeah. If the investigator's come to the autopsy, then I
13 get their information.

14 Q. You don't go out to the scene --

15 A. No --

16 Q. -- you do your work --

17 A. -- yes --

18 Q. -- in Newberry --

19 A. -- correct --

20 Q. -- that's your...

21 A. Correct.

22 Q. What do you call the facility? I've never
23 asked that question. I'm just curious.

24 A. It's Newberry County Memorial Hospital. It's
25 their morgue.

1 Q. The morgue, okay.

2 A. Medical examiners states, they'll still go to
3 the scene as needed, but coroner state's, very rarely.

4 Q. And of course, in this case, you didn't come
5 out to 11th Street and look at the scene. You just
6 examined what was presented to you; correct?

7 A. Yes.

8 Q. And of course, your findings are based on the
9 information that you find, but starts from information
10 that you were given?

11 A. Correct.

12 Q. And of course, you have the option to go back
13 later if you get more information; correct?

14 A. If I get more information and some of my
15 colleagues even make a little disclaimer that: I
16 reserve the right to change the cause or manner of death
17 based on more information blah, blah, blah. But I
18 thought that might make people call me up all the time
19 and change everything so... but, yes I can.

20 Q. And do have you the toxicology report up
21 there?

22 A. I do.

23 Q. I'm going to asking you a little bit about
24 that. And of course, I understand what you said, blood
25 alcohol. He had some alcohol in he system, he wasn't

1 what we would call, legally drunk, but he did have --

2 A. Yes.

3 Q. Two points below the legal limit?

4 A. Correct.

5 Q. And he had marijuana in his system?

6 A. Correct.

7 Q. And is there just -- I mean, when you get the
8 toxicology, does it say, he had marijuana in his system
9 or does it break it down into different types?

10 A. It breaks it down.

11 Q. Can you tell me what kind of types we're
12 talking about?

13 A. The 11 Hydroxy Delta 9 THC and Delta 9 Carboxy
14 THC and the Delta 9 THC.

15 Q. What in the heck do those mean?

16 A. They're just the different components. THC is
17 the active ingredient in marijuana and they're different
18 components and they're breaking the ones down, the Delta
19 9 THC is the active ingredient.

20 Q. Now, tell me what you mean by "active"?

21 A. It's the ones -- it's the THC that is giving
22 the person the desired effect of the drug.

23 Q. If you see that does that mean that they had
24 recently smoked marijuana?

25 A. I don't -- I don't know enough because I am

1 not a toxicologist to know how recent it is with THC,
2 because I see levels way higher than that. I don't know
3 if the different components break down slower or not.
4 That would be a toxicologist question.

5 Q. How about, take a look at your next page on
6 toxicology?

7 A. Okay.

8 Q. Do they give a break down about how long Delta
9 THC would be in your system?

10 A. Delta 9 Carboxy THC --

11 Q. I'm looking at Number 5 right there. It's
12 says 3 of 4 on mine. I don't exactly know which page it
13 is, but it's reference component Number 5, Delta 9 THC.

14 A. Okay. Peak levels in --

15 Q. -- it says, "Usually peak levels within six to
16 nine minutes; correct?

17 A. The peak levels, yeah, but you don't know what
18 the peak level is.

19 Q. Right. Right. And it decreases and it's gone
20 pretty quickly; right? In fact this says --

21 A. This is when they were doing a study with
22 percentage of certain known percentage of marijuana --

23 Q. Right.

24 A. -- cigarette. So we don't know how much he
25 smoked. So we can't extrapolate hundred percent based

1 on that.

2 Q. Delta 9 THC is the one that is there most
3 quickly and dissipates the most quickly; is that fair to
4 day?

5 A. Well, this is also an active metabolite. They
6 don't tell you what this one is.

7 Q. Okay. Of course the other ones, I think it
8 talks in there about Delta 9 Carboxy THC. That's -- you
9 would expect to see that for somebody who smoked a while
10 ago; is that correct?

11 A. This one does -- that one does seem to be the
12 one that last the longest.

13 Q. Okay. Then I'm trying to see, does it say
14 anything about the 11 --

15 A. On Number 1, it's an intermediate metabolite.

16 Q. An immediate metabolite?

17 A. Intermediate.

18 Q. Intermediate. Sorry.

19 A. And it's active and it doesn't tell you
20 anything about how long it last.

21 Q. Okay.

22 A. That's why I don't necessarily like these
23 comments, they're like hit and miss.

24 Q. Bur it's it fair, that some of them will show
25 if you smoke regularly it will be in your system and the

1 Delta 9 THC if it shows, is more indicative of recent
2 consumption?

3 A. That seems to be what it's saying. How
4 recent, I don't know. And I don't know the significance
5 of those levels. I've seen a lot higher.

6 Q. Sure. I'm sure you've seen a whole lot higher
7 in alcohol too?

8 A. Yeah. So I would have to defer the nuances of
9 that to a toxicologist.

10 Q. Right. Right. But of course, this is
11 something that you use in your determining of your
12 report; correct? I mean, if it's significant, why do we
13 have it?

14 A. It's not significant. So if it's not
15 significant, I don't worry about which one, how long,
16 how much. It had nothing to do with him getting run
17 over, the cause of death.

18 Q. Unless he stumbled in the middle of the road.
19 You're assuming he's not intoxicated at these
20 levels, is what you're saying?

21 A. That is what I'm saying. And I'm not a
22 toxicologist, but I'll say, in my experience with the
23 autopsies that I've done, this is -- does not even make
24 me raise one eyebrow, these levels so...

25 Q. Okay. In the toxicology does it show anything

1 else in his system?

2 A. It was positive for caffeine, cotinine. Just
3 random stuff.

4 Q. It says something about barbiturates, forth
5 page.

6 A. So he did not come back with a barbiturate.
7 Whether are you?

8 Q. It's page 4. The last one, it's only about a
9 half page.

10 A. That's just telling you. These are horrible
11 and confusing by the way. That just tells you what
12 their report limit is and what they test for.

13 Q. Okay.

14 A. It's not in him. If it's in him, it's on this
15 front sheet.

16 Q. Gotcha?

17 A. But like had said, had I been give any
18 indication he was passed out in the street or had these
19 levels come back much higher, I might have thought.
20 "Oh." I get people that are run over in the street.
21 These were not consistent with my -- all the other cases
22 that I've had where people have been passed out in the
23 street.

24 Q. Gotcha.

25 A. At all. This is probably a normal level.

1 Q. And of course, that's your opinion?

2 A. Yes.

3 Q. So given all the information you have, you
4 still left with the manner of death as an accident;
5 correct?

6 A. At the time.

7 Q. You don't have anything else to change that?

8 A. Correct.

9 MR. FRICK: Thank you, ma'am. That's all the
10 question I have.

11 THE COURT: Any redirect?

12 MR. MAXWELL: Brief redirect.

13 THE COURT: Okay.

14

15 REDIRECT EXAMINATION

16 BY MR. MAXWELL:

17 Q. Dr. Rose, your office doesn't as a normal
18 procedure doesn't have investigators and go interview
19 witnesses or anything like that?

20 A. No. We don't.

21 Q. Again, in this case, were you provided any
22 information about what witnesses said about anything?

23 A. No.

24 Q. And only person you would have gotten
25 information is the coroner's office?

1 A. Uh-huh.

2 MR. MAXWELL: No further questions.

3 THE COURT: Thank you, Doc. You may step
4 down, you're free to leave.

5 Ladies and gentlemen of the jury, let me have
6 you step back into your jury room for a moment. I have
7 some matters I need to take care of outside of your
8 presence and then, we'll get you right back out here.
9 Don't talk about the case.

10 (Jury exited courtroom).

11 (Whereupon, a short recess was taken.)

12 THE COURT: Mr. Frick, let's go back on the
13 record.

14 Let me hear from you again.

15 MR. FRICK: Your Honor, I'd renew my objection
16 to having the virtual testimony of Mr. Bell. I believe
17 he is now in Fairfield County. He is down the road. I
18 would ask that we get him transported here so I could
19 have live testimony. My chief concern is, if I need to
20 ask him about his previous statement, I think this is
21 going to be problematic and very difficult. I'm not
22 exactly sure how we're going to execute that.

23 I've got him cued up and ready to go to
24 attempt it though.

25 THE COURT: Thank you.

1 Mr. McMaster, leave your volume off. I will
2 use my volume right now and we will see what happens.

3 Mr. Bell?

4 Mr. Bell?

5 MR. BELL: Yes, sir.

6 THE COURT: Do you swear to tell me the truth?

7 MR. BELL: What did you say again, sir?

8 THE COURT: Do you swear to tell me the truth?

9 MR. BELL: Yes, sir.

10 THE COURT: What is your current health
11 situation right now?

12 Why can't you come to court?

13 MR. BELL: I've got -- I've got my back --
14 lower lumbar disc in my back is ruptured. So that's why
15 and my back is all upset and I can't go to court.

16 THE COURT: All right. And who is sitting
17 there with you?

18 MR. BELL: We've got two -- there's a --

19 MR. LEWIS: Judge, it's myself Keith Lewis,
20 Julie Hall and we've got Bill Dove from the sheriff's
21 office, he had a WiFi hotspot that we need.

22 THE COURT: Did y'all attempt to try to get
23 him in the car to bring him up to the courthouse.

24 MR. LEWIS: Yes, sir. We tried to get him up
25 out of his chair, but he's in a lot of pain when he

1 tries to move. And he says he's been sitting here at
2 this table for a good while this morning.

3 THE COURT: Thank you.

4 Based upon my prior ruling, I'm going to allow
5 this witness to testify over the objection of the
6 defense. I'm gonna allow this witness to testify
7 remotely via my virtual courtroom. We'll just deal with
8 the sound issues, the acoustics issues, the best we can.

9 But you're protected in the record Mr. Frick.

10 MR. FRICK: Thank you, your Honor.

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

13 MR. MAXWELL: Well --

14 THE COURT: Yes?

15 MR. MAXWELL: When Keith was talking, we were
16 good. The acoustics -- I just want to make sure
17 whatever we did --

18 THE COURT: I'm leaving it the way it is right
19 now.

20 MR. MC MASTER: And as soon as your Honor is
21 done speaking I will unmute my volume so you can hear
22 Mr. Bell.

23 THE COURT: Sounds good.

24 All right, jury's coming in.

25 Go get the jury.

1 Ms. Hall, did you have something to say?

2 MS. HALL: It's very echo-y on our end
3 especially when William talks.

4 William can you start talking again and see
5 how bad it is?

6 MR. FRICK: Sure. That's me, I'm talking.

7 MR. MAXWELL: The main part I was muted on.

8 MS. HALL: Okay. Well, still there's a lag.
9 We'll see how we go.

10 THE COURT: Only one computer can have volume
11 on. That's the problem. My volume is off.

12 MR. MAXWELL: And only one computer can be
13 unmuted.

14 (Whereupon, a brief off-the-record discussion
15 was held.)

16 THE COURT: Let's bring the jury in.

17 Thank you, ladies and gentlemen. You will see
18 there's a TV screen that is being shown right now. The
19 next State's witness that they're gonna call is
20 appearing virtually via my virtual courtroom. One of
21 the good things, that's arguable, but one of the good
22 things that came about as a result with COVID with the
23 Court system, was video court. We are able to move a
24 lot of cases and conduct a lot of business using virtual
25 court.

1 Now, having said that, it's got problems. The
2 problems are going to be the acoustics of the situation.
3 We've been in here trying to work these acoustics out.
4 There's reverberations, nobody knows what's happening.
5 We are going to try to make the best of it, so listen
6 carefully. Even though this witness is appearing
7 virtually, it's as if -- for your purposes, you are to
8 consider his testimony and give it the weight and
9 credibility you believe it is deserves even though he
10 may not physically be present testifying.

11 I've already ruled on that as a matter of law.
12 So I want you to imagine that he's sitting in this
13 witness stand like everybody else testifying.

14 I'm gonna swear him in and he's going to be
15 asked questions and I'm hoping that this will go
16 smoothly with the reverberations and the acoustics,
17 we'll try to make it the best we can.

18 THE COURT: I'll swear him in.

19 Mr. Bell, can you hear me?

20 Mr. Bell, can you hear me? We can't hear him.

21 Mr. Bell, can you hear me?

22 MR. BELL: Yes, sir.

23 THE COURT: Do you swear to tell the Court,
24 the truth, the whole truth, and nothing but the truth,
25 so help you God.

1 MR. BELL: I do.

2 THE COURT: Thank you.

3

4 T-O-M-M-Y B-E-L-L, the Witness herein, having been
5 sworn by the Judge of the Court, was examined and
6 testified as follows via the virtual courtroom:

7 THE COURT: Solicitor, your witness.

8

9 DIRECT EXAMINATION

10 BY MR. MAXWELL:

11 Q. Mr. Bell, can you hear me?

12 A. Yes, sir.

13 Q. Mr. Bell, how old are you?

14 A. I'm 76.

15 Q. And Mr. Bell, can you hear me --

16 THE COURT: Hang on.

17 (Whereupon, audio issues were addressed.)

18 Q. (By Mr. Maxwell) Mr. Bell, can you hear me?

19 A. Yes, sir.

20 Q. Mr. Bell, where you from?

21 A. Actually, I'm from South Carolina but I moved
22 to PA. I was up there with my son for a while. And so
23 now I moved back down here.

24 Q. At what point -- have you lived in South
25 Carolina for numerous years of your life?

1 A. Yes, sir. I'm born and raised down here.

2 Q. And back in September of 2020, were you living
3 in South Carolina?

4 A. Yes, sir.

5 Q. Were you living in Winnsboro?

6 A. That's right.

7 Q. And you don't have to give me a numeric
8 address, but what street were you living on?

9 A. I was living on Blair Circle, Number 23.

10 Q. Thank you.

11 Do you have a daughter named Felicia Johnson?

12 A. Yes, I do.

13 Q. And do you have a grandson that is
14 Ms. Johnson's son by the name of Bruce Gibbs?

15 A. Yes, sir.

16 Q. And do you know Timothy Tompson?

17 A. Yes, sir.

18 Q. Do you know him by a different name other than
19 Timothy?

20 A. We'll we used to called him Gus. That's what
21 We would call him from short, but the name is Timothy,
22 Timothy Tompson.

23 Q. And how do you know him?

24 A. Well, I ain't going to say I know. I know his
25 stepfather.

1 Q. Did he ever reside close to you?

2 A. Yes, sir. He used to live right next door to
3 me.

4 Q. Is that on Blair Circle?

5 A. Yes, sir.

6 Q. Do you know how long y'all lived next door to
7 each other?

8 A. I think he lived there about a year or two.

9 Q. Was he living there on September the 5th and
10 6th of 2020?

11 A. He moved out. They gave him an eviction
12 notice and he moved over there behind the health
13 department.

14 Q. So he wasn't living there on September 5th of
15 '20, Mr. Thompson?

16 A. Yes, sir.

17 Q. Was he not living there?

18 A. He was living there in 2020.

19 Q. Were you and him close while he was living
20 next door to you?

21 A. Yes, sir. We was.

22 Q. Did y'all talk a lot?

23 A. Yes, sir.

24 Q. And did y'all hang out a lot?

25 A. Well, we sat on our porch a lot and talked.

1 Q. Do you recall the evening of September 5th,
2 2020?

3 A. Yes, sir.

4 Q. Where were you at that evening?

5 A. I was sitting on my front porch.

6 Q. Is that on Blair Circle?

7 A. Yes, sir.

8 Q. And did you see Mr. Thompson that night?

9 A. Yes, I did.

10 Q. And where did you see him at?

11 A. He came over to my house, you know, and he
12 wanted to try and get a gun. So that's what I'm saying
13 (unintelligible) and he couldn't get a gun, so he told
14 me, my grandson, he had (unintelligible) that night.

15 Q. Let's jump back a second. Let's jump back for
16 a second and ask a couple more questions.

17 About what time did he get to your house?

18 A. He was there about -- between 11:00 and 11:30.

19 Q. P.M.?

20 A. Yes, sir, that night.

21 Q. Was that a Saturday night?

22 A. That was a Saturday night.

23 Q. Do you know how he arrived at your house?

24 A. Yes, sir. The car -- he drive the vehicle.

25 Q. Do you know what kind of car he had or what

1 color it was at least?

2 A. It was a Chevy, black. I think it was Impala
3 or something.

4 Q. And you saw him drive that car to your house
5 that night?

6 A. Yes, sir.

7 Q. And when he arrived at your house, what did he
8 say to you?

9 A. He came -- it looked like -- he came in the
10 yard and he said that he was going to kill my grandson.
11 I told him, I said, "Well, what's going on?"

12 He said, well, he had called his sister a
13 bitch, so I assumed -- before I said nothing, I said,
14 "Did you talk to his momma?"

15 He said, no, he hadn't talked to her. So I
16 told him, "Well, go back over there and talk to his
17 momma. His momma get that straight."

18 So he said, "No, sir. I'm not gonna do that."
19 He said, "I'm not gonna do this here." I made sure that
20 he had left about 12:00 or 12 o'clock that night.

21 Q. When he said he was going to kill your
22 grandson, do you know who he was referring to?

23 A. Yes, sir. Referring about my grandson, Bruce.

24 Q. Bruce Gibbs?

25 A. Yes, sir.

1 Q. Did he say anything else about what his
2 intentions were that night towards your grandson?

3 A. Well, he didn't say no more about it because
4 like I said after 12 -- after 12 -- after 12, he left.
5 After there, he went -- he and his sister came back
6 around because she was in her vehicle and he was in his
7 following with them. So he came back -- took about five
8 minutes and he came back.

9 Q. And that was all around midnight, before
10 midnight?

11 A. Yes, sir. Yes, sir.

12 Q. Just to jump back to make sure we're covering
13 what he said to you.

14 You mentioned something about a gun earlier.
15 What did he say about a gun?

16 A. Yeah. He asked, did I know anybody he could
17 get a gun from? When he said that, I told him, "No." He
18 said he was trying to get one from his dad, step-dad.
19 And after that, like I was saying, I don't think his
20 step-dad even have a gun.

21 Q. Did he mention anything on what he would do if
22 he wasn't able to find a gun?

23 A. No, sir. He didn't mention nothing else. He
24 just said he was going to kill him about midnight that
25 night.

1 Q. And did you take him that serious at that
2 time?

3 A. No, sir, I didn't because he had -- had a
4 couple -- that night before he moved out of the
5 residence he was living in, he had had some kind of
6 conflict at the end. So I figured that, you know,
7 either -- well, I assumed so, I figured that he was --
8 in this heart to do this as well. If I would have
9 thought he went evil-hearted, you know, see what he
10 would do.

11 Q. Did you make any effort to let anybody know
12 what he had told you?

13 A. Yes, sir. I called my daughter. My fiance,
14 she called my daughter and told my daughter, but she
15 wasn't at home. She was probably at POPS, so we left a
16 voicemail saying he said he was going to kill her son.
17 I let her know he was going to kill Bruce, her son.

18 Q. Do you remember finding out about Bruce being
19 killed?

20 A. Yes, sir. My daughter, Felicia, she had
21 called me and told me that did, I know Bruce is dead. I
22 said, no, I don't. But on the day, after I got up and
23 got dressed and went over to my daughter's house. Then
24 that's when I find out, he did get ran over with the
25 car.

1 Q. Did you provide at that time, tell your
2 daughter and other family members what Mr. Thompson had
3 told you the night before?

4 A. Yes, sir. I sure did.

5 Q. Did you and someone also talk with the highway
6 patrol when they were investigating this case?

7 A. Yes, sir. I sure did.

8 Q. Did you tell them what Mr. Thompson told you
9 that night at your house?

10 A. I definitely did. I sure did.

11 Q. Do you recall if he said anything about, it
12 might end up in the paper or the media?

13 A. No, sir. I don't remember that.

14 Q. How was Mr. Thompson acting? What was your
15 observation of how he was acting when his arrived at
16 your house?

17 A. Well, he was doing a lot of staring and he was
18 sweating a lot, you know, head, so I figured that he
19 must have been high off of something, you know? I don't
20 know what it was, but he was acting high on something.

21 Q. When he left your house, was he driving the
22 black Impala?

23 A. That's right.

24 MR. MAXWELL: No further questions.

25 THE COURT: All right. Mr. Frick, over here.

CROSS-EXAMINATION

BY MR. FRICK:

Q. Mr. Bell, how are you doing?

A. Doing good, beside the back problems.

Q. I understand. Mine was bothering me yesterday.

Mr. Bell, my name is William Frick. I'm Mr. Thompson's attorney, I'm gonna ask you some questions, okay?

A. Yes, sir. Yes, sir.

Q. The solicitor talked to you about you talking with some troopers. Do you recall giving them a video statement?

A. Well, me and him were sitting in the car. I don't know if he took a video statement or not.

Q. Okay. But you recall sitting in one of the troopers cars and talking to him?

A. Yes, sir. Yes, sir.

Q. And that was, I've got it as September 15th, you might not remember the exact date, but does that sound about right?

A. Yes, that sounds about right.

Q. Do you recall what you told him? And don't regurgitate all of it. Just do you recall -- have you gone back over that video recently?

1 A. Yes, sir.

2 Q. Okay. Do you recall telling the trooper that
3 this all happened on a Thursday night?

4 A. No, sir. This happened on Saturday night.

5 Q. I understand. But do you recall telling the
6 trooper that it happened on Thursday or Friday?

7 A. No. It happened on Saturday night.

8 Q. So you're saying that was not your statement
9 back in September '20?

10 A. No, sir. I didn't tell him no Thursday night.

11 Q. Okay. Your testimony is that -- about what
12 time do you recall Gus being over at your house that
13 night?

14 A. That night he was there about 11:00, about
15 11:00 or 11:30 he was doing his hair.

16 Q. And about how long did he stay?

17 A. I think he stayed about 30 minutes.

18 Q. So he left somewhere around midnight?

19 A. Yes, sir.

20 Q. And do you recall in your statement to the
21 trooper, you said that Gus said, that your grandson will
22 be dead between 12:00 and 1:00?

23 A. That's right.

24 Q. Okay. And I believe the solicitor talked
25 about this. I want to make sure I'm covering it. You

1 said that he had said something like this before, so you
2 weren't concerned about it?

3 THE COURT: Low bandwidth.

4 Mr. Bell, can you hear me?

5 Stay with us, don't leave.

6 MR. FRICK: Mr. Bell, can you hear me?

7 THE COURT: Come stand right in front of me.

8 MR. FRICK: Mr. Bell, sorry I had to switch
9 computers. Can you hear me?

10 MR. BELL: Yes, sir.

11 Q. (By Mr. Frick) Let's see. Gus was over at
12 your house. He left about midnight; correct?

13 A. (Audio disruption.)

14 Q. (By Mr. Frick) All right. Mr. Bell, we're
15 still working on this thing.

16 Can you hear me again?

17 A. Yes, sir.

18 Q. Okay. Thank you.

19 So you didn't have any concerns when really
20 when Gus said what you say he said; right?

21 A. Well, I don't because -- (unintelligible.)

22 Q. So you didn't call anybody and you just didn't
23 a have a concern?

24 A. That's right.

25 Q. Did you see Gus again that evening?

1 A. Yes, sir. He was with his sister. Came back
2 through with his sister and ran through there and came
3 through there -- last time I seen him.

4 Q. About when was that?

5 A. That was the same night.

6 Q. About what time. He had already left your
7 house at midnight?

8 A. That was somewhere around almost 1:00.

9 Q. Around 1:00?

10 A. Yes, sir.

11 Q. Was there anymore conversation?

12 A. No, sir. I ain't have no more conversations
13 with him.

14 Q. Okay.

15 MR. FRICK: Thank you, sir. That's all the
16 question I have.

17 THE COURT: Any redirect?

18 MR. MAXWELL: Just one question, your Honor.

19 THE COURT: All right. Come up here.

20

21 REDIRECT EXAMINATION

22 BY MR. MAXWELL:

23 Q. Mr. Bell.

24 A. Yes, sir.

25 Q. Was -- the night that Gus came to your house

1 and told you (unintelligible) was that the night before
2 that you learned that your grandson had been killed?

3 A. I know my grandson had been killed that Sunday
4 morning.

5 Q. But he came -- it was that Saturday night that
6 Mr. Thompson was at your house?

7 A. Yes, sir.

8 MR. MAXWELL: No further questions.

9 MR. FRICK: Can we approach real quick on this
10 witness.

11 THE COURT: Yes.

12 (Whereupon, a brief off-the record discussion
13 was held.)

14 THE COURT: Your testimony is complete. Thank
15 you very much. I'm logging off.

16 (Whereupon, the virtual courtroom ended.)

17 THE COURT: Call your next witness.

18 MR. MAXWELL: The State calls Annie Roach.

19

20 A-N-N-I-E R-O-A-C-H, the Witness herein, having been
21 sworn by the Clerk of Court, was examined and testified
22 as follows:

23

24 DIRECT EXAMINATION

25 BY MR. MAXWELL:

1 Q. Good morning, Ms. Roach. Can you state your
2 name for the record, please.

3 A. My name is Annie Roach.

4 THE COURT: You can slide that microphone
5 down. There you go.

6 Q. (By Mr. Maxwell) Ms. Roach, are you from
7 Fairfield County?

8 A. Yes, I am.

9 Q. How long you lived in Fairfield?

10 A. All my life.

11 Q. Grew up in the Winnsboro area?

12 A. Yes.

13 Q. Do you know Felicia Johnson?

14 A. Yes, I do.

15 Q. How do you know her?

16 A. We meet through husband and we've been friends
17 ever since. She's like a sister to me.

18 Q. How long have y'all been friends -- good
19 friends?

20 A. A while.

21 Q. Many years?

22 A. Yes, sir.

23 Q. Do you know her son, Bruce?

24 A. Yes, I do.

25 Q. Do you know Timothy Thompson?

1 A. Yes, I do.

2 Q. Do you know him by a name other than Timothy?

3 A. Gus.

4 Q. And do you know who Mr. Thompson's sister is?

5 A. Yes, I do.

6 Q. Who is that?

7 A. We call her Nikki.

8 Q. And is that who Bruce had a child with?

9 A. Yes.

10 Q. And were you at Felicia's house on September
11 5, 2020?

12 A. It was a Saturday.

13 Q. Saturday night?

14 A. Uh-huh.

15 Q. Were you there?

16 A. Yes, I was.

17 Q. What was the occasion?

18 A. My birthday.

19 Q. What were y'all having?

20 A. We had a cookout and fish fry.

21 Q. Did you see Mr. Gibbs there, Bruce? Did you
22 see Bruce there?

23 A. He had came when we was there.

24 Q. And where were you at, front or back of the
25 house, side of the house, inside?

1 A. I was outside.

2 Q. On the front or back side?

3 A. Front.

4 Q. Is that facing the road?

5 A. Yes, sir.

6 Q. Did you see Nikki there?

7 A. She was there.

8 Q. Did you see Gus Thompson there?

9 A. He came.

10 Q. What did you observed or what occurred that
11 you saw between Bruce and Nikki?

12 A. They was arguing, but I don't know what they
13 was arguing about 'cause all this was right in the yard.
14 And Gus, he came, and I don't know, and he put his two
15 cent in when they was arguing. And I think, I went over
16 in the house and got Felicia and Felicia came outside.

17 Q. What did she do when she came outside?

18 A. I don't know.

19 Q. Did Bruce come inside when Felicia came out
20 that you recall?

21 A. Yeah, he went inside.

22 Q. Before Felicia came outside who was Gus,
23 Timothy Thompson saying anything to?

24 A. He was saying something to Bruce.

25 Q. Do you recall what he said to him?

1 A. He said, he's tired of him messing with his
2 sister. And he mumbled that, "I got something for you."

3 Q. Gus said, "I got something for you" to Bruce.
4 Is that what you said?

5 A. Yes.

6 Q. When Bruce went inside when Felicia came
7 outside, did you see Timothy leave, Gus leave?

8 A. He left.

9 Q. Do you know how he left?

10 A. I don't know.

11 Q. Do you know about what time you left?

12 A. Between 10:00 and 11:00.

13 Q. Do you know what time the argument took place
14 roughly?

15 A. It was early. It was like, over in the
16 afternoon.

17 Q. And after that argument got broken up, did you
18 see Gus again that night?

19 A. No, I didn't.

20 MR. MAXWELL: No further questions.

21 THE COURT: MR. Frick?

22 MR. FRICK: Thank you, your Honor.

23

24 CROSS-EXAMINATION

25 BY MR. FRICK:

1 Q. Ms. Bell, I'm not gonna keep you long.

2 A. My name not Bell. My name's Roach.

3 Q. I'm sorry, Ms. Roach. I wrote down the wrong
4 thing. I apologize very much.

5 Ms. Roach, this was a celebration of your
6 birthday; correct?

7 A. Correct.

8 Q. I mean two people fussing in the front yard,
9 had you seen Bruce and Nikki fuse before?

10 A. No.

11 Q. First time you'd ever seen them fuse?

12 A. I don't be around them like that.

13 Q. But when they started fussing, wasn't anything
14 you figured you needed to worry about?

15 A. Well, not really because, he like a nephew to
16 me, you know.

17 Q. Right. And then when Gus, I think you said he
18 got and put his two cents in. You mean, just people up
19 at the mailbox fusing; right?

20 A. Yes, but that's between Bruce and Nikki, not
21 him.

22 Q. And I believe the Solicitor asked you what Gus
23 said. And you said, he told Bruce, "I got something for
24 you." Is that correct?

25 A. Correct.

1 Q. And then when he asked you about the
2 conversation between Bruce and Nikki, you don't know
3 what they said?

4 A. No, they was arguing, but I don't know what
5 they was arguing about.

6 Q. So you remember what he said, but you can't
7 remember what anybody else said?

8 A. Exactly, because he was close to me. They had
9 walked off.

10 Q. He interjected himself in the conversation and
11 they'd walked off?

12 A. Yeah, they was walking off.

13 Q. All right. And of course, this is a gathering
14 a happy occasion; correct?

15 A. Yes.

16 Q. And everybody having a good time; right?

17 A. Yes.

18 Q. And you weren't looking at your watch to
19 figure out what time people were having arguments, were
20 you?

21 A. This never happened. This the first it ever
22 happened.

23 Q. That's not my question Ms. Roach. You weren't
24 looking at your watch and you don't know --

25 A. No, I ain't look at my watch --

1 Q. -- exactly what time it happened, do you?

2 A. No.

3 MR. FRICK: Thank you, ma'am. That's all the
4 questions I have.

5 MR. MAXWELL: Just briefly, your Honor.

6 THE COURT: All right.

7

8 REDIRECT EXAMINATION

9 BY MR. MAXWELL:

10 Q. Ms. Roach, you said somebody was walking away.
11 Who are you referring to was walking away from him?

12 A. Bruce.

13 Q. Bruce?

14 A. Bruce and Nikki was walking away.

15 Q. And when this was going on, were they further
16 away from you then where Gus was?

17 A. Gus was like right here and Nikki and Bruce
18 was going that way.

19 Q. Away from you?

20 A. Yes, sir.

21 Q. So Gus was closer to you?

22 A. Yes.

23 MR. MAXWELL: No, further questions, your
24 Honor.

25 THE COURT: Thank you, ma'am. Call your next

1 witness.

2 MR. MC MASTER: State calls Santana Thompson.

3 THE COURT: Santana Thompson.

4

5 S-A-N-T-A-N-A T-H-O-M-P-S-O-N, the Witness herein,
6 having been sworn by the Clerk of Court, was examined
7 and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. MC MASTER:

11 Q. Good morning, Ms. Thompson.

12 A. Good morning.

13 Q. Can you state your whole name for the record?

14 A. Santana Nicole Thompson.

15 Q. Do you go by Nikki?

16 A. Yes.

17 Q. Are you the brother of the defendant,
18 Mr. Thompson?

19 A. Yes. I'm his sister.

20 Q. Do you call him another name?

21 A. Gus.

22 Q. And did you know the victim in this case
23 Mr. Bruce Gibbs?

24 A. Yes.

25 Q. What was your relationship to him?

1 A. He's my baby's father.

2 Q. Y'all shared one child in common?

3 A. Yes.

4 Q. Where did you live at the time this incident
5 occurred?

6 A. Deerwood.

7 Q. And where was he living?

8 A. With his mom.

9 Q. And what street that was on?

10 A. Where his mom live?

11 Q. Yes, ma'am.

12 A. Doty Road Extension.

13 Q. Ms. Thompson, were you at the fish fry party
14 that night?

15 A. Yes.

16 Q. Do you remember talking to Bruce Gibbs?

17 A. Yes.

18 Q. Do you recall what y'all were talking about?

19 A. We was arguing about, he thought that I was
20 looking at his homeboy too long. He was like, "Are you
21 effin' him?" And I was like, "No. Are you effin' him?"
22 And it was kind of like a little short argument.

23 Q. And did it ever get physical?

24 A. No.

25 Q. At any point did Mr. Thompson intervene?

1 A. Yeah. He walked up and was -- kind of was
2 like, "What's going on," like... and then I was like,
3 basically, "I ain't got time for this." Then I kind of
4 walked in the house and he followed me, Bruce followed
5 behind me.

6 Q. Do you remember about what time this all
7 occurred?

8 A. It was after 8:00 p.m.

9 Q. Do you remember anything that Mr. Thompson
10 said, anything else?

11 A. No.

12 Q. Do you remember what time you left the fish
13 fry?

14 A. It might have been 9:00, it wasn't -- I think
15 it was after -- it was probably like 8:30 when Bruce got
16 there. It wasn't long after he got home, that I left.

17 Q. How did you leave the party?

18 A. In my car with my kids, two of my kids.

19 Q. Was the baby that you and Bruce shared at
20 party?

21 A. Yeah.

22 Q. Who was watching the baby?

23 A. Well, I was going in the house to get the baby
24 and he was like -- Bruce was like, "That's my baby too.
25 You can leave him here." So I jumped in the car and I

1 left.

2 Q. And do you remember who was watching the baby
3 at the time?

4 A. His mom.

5 Q. When you left where were you heading?

6 A. Home.

7 Q. At some point did you get your baby?

8 A. Yeah. She brought him to the house.

9 Q. "She"? Who is "she"?

10 A. Ms. Felicia brought him to the house.

11 Q. Do you remember about what time that was that
12 you got your baby back?

13 A. I think it was like 11:00.

14 Q. Did you ever talk with Bruce after the party,
15 after you left the party?

16 A. Yeah. We was kind of like going back and
17 forth on the phone and stuff.

18 Q. Were you talking on the phone or were you
19 texting?

20 A. Both.

21 Q. Do you remember what those conversations
22 entailed?

23 A. Not really. Like, well, we was talking about,
24 I had gave him \$50 to get me some marijuana. And we was
25 kind of talking about that and we was just kind of -- I

1 was kind of, like, saying, I don't got time for you
2 attitude and stuff like that no more. I don't need this
3 and all that.

4 Q. And how old was the baby that y'all shared at
5 the time?

6 A. Two months.

7 Q. When would you say was the last conversation
8 that you had with Bruce?

9 A. I'm not sure, but I think it was like 12:00.

10 Q. And the following day would have been Sunday?

11 A. Uh-huh.

12 Q. Do you remember talking with Felicia early
13 that morning?

14 A. Yeah. It was like 4 o'clock in the morning.

15 Q. Do you remember the information that you
16 gathered from talking with her?

17 A. She said -- she said somebody hit her baby and
18 kept going. And she was like, "My baby's gone."

19 Q. Do you remember speaking with law enforcement?

20 A. Yeah.

21 Q. Do you remember who you talked to and when?

22 A. I want to say it was the state trooper. It
23 was two -- it was two people. It might have been the
24 sheriff and the state trooper. I'm not really sure, but
25 they came to my house.

1 Q. Did you give them all the information you had
2 about the incident?

3 A. Yes, sir.

4 Q. Did you consent to letting them look through
5 your phone?

6 A. Yeah.

7 Q. Do you recall where Mr. Thompson was living at
8 the time?

9 A. In his car. As far as I know, in his car,
10 which would be parked at my other brother house.

11 Q. Ms. Thompson, do you recall the car
12 Mr. Thompson drove?

13 A. A black, Chevrolet Impala I think.

14 Q. Did you see him driving the car at the -- the
15 night of the fish fry?

16 A. His car was parked. His car was still parked
17 when I left.

18 Q. His car was still there when you left the
19 party?

20 A. Uh-huh.

21 Q. Lastly, did you see Mr. Thompson leave the
22 party at any time?

23 A. As far as I know, I think he was still there
24 when I left.

25 MR. MC MASTER: No further questions.

1 THE COURT: Mr. Frick?

2 MR. FRICK: Thank you, your Honor.

3

4

CROSS-EXAMINATION

5 BY MR. FRICK:

6 Q. Ms. Thompson, let me make sure I've got this
7 straight. You said you left the fish fry about 9
8 o'clock or so?

9 A. Yes, sir.

10 Q. And your brother was still there?

11 A. Uh-huh.

12 Q. His car was still parked there?

13 A. Yeah.

14 Q. Do you go back at any time that night?

15 A. No.

16 Q. You were present when Mr. Bell testified over
17 the computer?

18 A. Yes, sir.

19 Q. Could you hear him?

20 A. Yep.

21 Q. Did you hear the part where he was talking
22 about you and Gus went over to his house?

23 A. Yeah.

24 Q. Is that accurate?

25 A. That didn't happen.

1 Q. That didn't happen?

2 A. No. Because I have two -- all six kids and we
3 was already kind of behind scheduled anyway. I was at
4 home getting them situated for bed.

5 Q. So 1 o'clock in the morning --

6 A. No.

7 Q. -- you were at your apartment?

8 A. Yeah.

9 Q. With all your children at this time?

10 A. Yes. Uh-huh.

11 Q. Now, you're taking care of the kids, about
12 what time did you go to bed, do you know?

13 A. It was after 12:00.

14 Q. It was after 12:00.

15 A. Not really sure exactly what time it was, but
16 it was after 12:00.

17 Q. That's fine. I'm not looking for an accurate
18 number on that one?

19 A. Yes, sir.

20 Q. Were you talking or texting with Bruce up
21 until that time?

22 A. Yeah.

23 Q. I mean, y'all were just kind of normal
24 chatting back and forth?

25 A. Yes. The normal arguments, like every day.

1 Q. I was going to ask you about that. There's
2 been testimony about y'all having this argument at the
3 fish fry.

4 A. Yeah.

5 Q. Y'all got in an argument?

6 A. Yeah.

7 Q. You told us what happened?

8 A. Yeah.

9 Q. Was it common for y'all to argue?

10 A. Yeah.

11 Q. Did it ever get physical?

12 A. Sometimes, but not that night.

13 Q. That night it didn't.

14 Would Gus come and step in all the time for
15 you?

16 A. No.

17 Q. I mean, did he really -- did he step in trying
18 to Interceed or was he just seeing what was going on?

19 A. I mean, he just asked what was go on. So I
20 don't know what his actions was, but he just kind of I
21 guess to see what was going on.

22 Q. And I believe the solicitor asked you about
23 your phone. You gave it to law enforcement for them to
24 look at?

25 A. Yes, sir.

1 Q. Do you know, did they take it and search it?

2 A. I don't know, I just gave it to them.

3 Whatever they needed out of the phone, they had my
4 permission.

5 Q. Did they give it back to you?

6 A. Yeah.

7 Q. So they just had it for a little bit?

8 A. Uh-huh.

9 Q. Looked at some stuff?

10 A. Yep.

11 Q. You don't know what they looked at?

12 A. Uh-uh.

13 MR. FRICK: That's all the questions I have.

14 Thank you, Ms. Thompson.

15 THE COURT: Redirect?

16 MR. MC MASTER: Just briefly, your Honor.

17

18 REDIRECT EXAMINATION

19 BY MR. MC MASTER:

20 Q. Ms. Thompson, going back to the fish fry where
21 you saw Gus. After you left the fish fry, did you ever
22 see Gus again?

23 A. No. This is the first time I've seen him
24 since I left that yard.

25 Q. Did you ever talk to him since the fish fry?

1 A. No, sir.

2 MR. MC MASTER: Thank you, ma'am.

3 THE COURT: All right. Thank you, ma'am. You
4 may step down.

5 State can call it's next witness.

6 MR. MAXWELL: State calls Kelvin Sampson.

7
8 K-E-L-V-I-N S-A-M-P-S-O-N, the Witness herein, having
9 been sworn by the Clerk of Court, was examined and
10 testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. MC MASTER:

14 Q. Morning, Mr. Sampson.

15 A. Good morning.

16 Q. Can you state your full name for the record?

17 A. Kelvin Sampson.

18 Q. And do you live here in Winnsboro?

19 A. Correct.

20 Q. Mr. Sampson, what is your relationship to
21 Mr. Thompson, the defendant?

22 A. I just know him as a friend.

23 Q. Were you at the fish fry the night this
24 happened?

25 A. No, sir.

1 Q. So where were you that night?

2 A. I was on Douglas 1 and Middlesex.

3 Q. Who's house were you at?

4 A. At a friends house.

5 Q. Do you remember what friend that was?

6 A. It was Shante.

7 Q. Who is that to you?

8 A. I was dating her at the time.

9 Q. While you were at her house, at any point, did
10 you see Mr. Thompson?

11 A. Yes, sir.

12 Q. Do you remember what time that was?

13 A. It had to be around 12:00 or 1:00, I'm not
14 great on time, but I saw him at night.

15 Q. It was late?

16 A. Yeah, it was late.

17 Q. Was he driving a car?

18 A. Yes, sir.

19 Q. Do you remember what car it was?

20 A. It was just a dark car, I couldn't see the
21 color, but I know it was an Impala.

22 Q. How long did he stay at the house?

23 A. Probably about -- he pulled up and asked a
24 question, then he left.

25 Q. Did he ever get out of his car?

1 A. No, sir.

2 Q. The question that he asked, do you remember
3 what he said?

4 A. He said -- we was still out in the yard and he
5 pulled up, he's like (unintelligible.) So I went to the
6 car and said, "Do anybody reckon' got a gun I can get?
7 They can have my car." And we said, "There ain't no gun
8 around here."

9 Q. What happened after that?

10 A. And he left.

11 Q. He left in his vehicle?

12 A. Yes.

13 Q. So at some point later that night, did you
14 leave the house?

15 A. Yes, sir.

16 Q. Can you tell me where you went?

17 A. I went to the Shell Station cause all the
18 stores were closed downtown.

19 Q. Do you recall what time that was?

20 A. Between -- about 12:30, something like that.

21 Q. Were you just -- was it an errand you were
22 running?

23 A. Yes.

24 Q. What were you going to get?

25 A. Some cigarettes.

1 Q. Then did you drive back home after that?

2 A. Yes.

3 Q. On your way home, did you observe anything on
4 the road?

5 A. Yes, sir.

6 Q. What road was it that you take to get back to
7 the house?

8 A. I take 11th Street down to Golf Course.

9 Q. Do you recall seeing any other cars on 11th
10 Street when you're driving down?

11 A. Yes, sir.

12 Q. Do you remember what you saw, can you tell me
13 what you observed?

14 A. When I got close to -- I got on 11th Street
15 and on 11th on the left you got Maple and on the right
16 you got another street. As I was approaching Maple
17 going straight on 11th Street, I saw a car come over the
18 bridge on 11th Street, like, come off Golf Course Road,
19 come off the bridge wide opened. So I just stopped. He
20 swerved one way, he swerved another way and then he
21 swerved to the right, like going to Maple Street then
22 swerved back over. And I said to myself, "He don't stop
23 that right there, they gonna kill somebody." Then
24 (unintelligible) busting a left on Columbia Road, and
25 never saw nothing.

1 Q. When you said, "driving wide open" what do you
2 mean?

3 A. When he came over the bridge he was flying, he
4 jumped the bridge and was doing side to side. I'm lucky
5 I didn't get hit.

6 Q. Did you see the car swerve off the road?

7 A. Yes, sir. Swerve all the way to the right. I
8 thought he hit a fence or something and got back in and
9 swerved again.

10 Q. Did you get a good look at the car?

11 A. No, sir.

12 Q. Did you recognize the car at all?

13 A. Yes, sir. It came -- he had left out fast on
14 11th, we had seen him prior to him leaving.

15 Q. Could you tell what kind of car it was?

16 A. No. I could tell it was an Impala though --
17 by the front, by the headlights, but I could tell.

18 Q. Could you tell the color at all?

19 A. No, sir.

20 Q. The car that you saw swerving on 11th Street,
21 did that look like the car that you saw Gus driving at
22 the house earlier?

23 A. Correct.

24 MR. MC MASTER: Thank you, sir. No further
25 questions.

1 THE COURT: MR. FRICK?

2

3 CROSS-EXAMINATION

4 BY MR. FRICK:

5 Q. Morning, Mr. Sampson. How you doing?

6 A. I'm doing okay. How you doing?

7 Q. Good. Good to see you.

8 I'm trying to get my geography right and I
9 need your help. You said you were on Douglas 1?

10 A. Yes. Correct.

11 Q. Tell me where Douglas 1 is.

12 A. That's in the middle section in a little
13 corner, in a little hole. Once you pass that hole, you
14 go around a little curve and you make a right.

15 Q. Okay. All right. You were heading that way.
16 Let's go that way.

17 Okay. You go down 11th, you go across the
18 bridge?

19 A. Yes. And you take Doty Road, you make a left
20 and end of stop sign you make a left.

21 Q. So I'm crossing Golf Course, keep on going to
22 Doty Road --

23 A. Yes, sir.

24 Q. -- and it's back over there?

25 A. Back on the left.

1 Q. Okay. That's where you were?

2 A. Yes.

3 Q. And then you said at some point you -- you
4 know Gus?

5 A. Yes.

6 Q. And you know him from the community?

7 A. Yes.

8 Q. You said he came by and said, "Hey, I've
9 anybody got a gun, I'll give you my car"?

10 A. Yes. Correct.

11 Q. He was willing to trade his entire car for a
12 gun?

13 A. Correct.

14 Q. Do you know about, what time that was?

15 A. I know it was late.

16 Q. Right. But you went to the POPS on the
17 Bypass; right?

18 A. Yes, all the other stores were closed, so I
19 know it had to be late.

20 Q. And you said that was about 12:30; right?

21 A. Yeah. 12:00, 12:30.

22 Q. And Gus came by before that; right?

23 A. Yes; correct.

24 Q. Of course, y'all -- I guess y'all had a little
25 bit of a conversation about not being able to have a

1 gun; right?

2 A. That's correct.

3 Q. You can't -- you didn't have a gun; right?

4 A. Yeah, nope.

5 Q. You can't have a gun, can you?

6 A. No.

7 Q. You are a convicted felon, aren't you?

8 A. Correct.

9 Q. You tell him this and he goes on his way;
10 correct?

11 A. Correct.

12 Q. And then let's go back. You're coming back
13 from POPS?

14 A. Yes.

15 Q. You turned onto 11th Street?

16 A. Yes.

17 Q. And you see this vehicle coming?

18 A. Yes.

19 Q. Did it have it's headlights on?

20 A. Yes.

21 Q. And you see it swerve to the right?

22 A. Yes.

23 Q. And you thought it hit a fence?

24 A. Yes.

25 Q. Did you see any body on the sidewalk?

1 A. No. I was going that way and he was coming
2 this way so.

3 Q. Right.

4 A. And I just kept on going. And when I got back
5 to the house, I was telling everybody, like. That
6 fellow driving on 11th driving like he's going to kill
7 somebody, just joking.

8 Q. Right?

9 A. Come about it, I find out he had really hit
10 someone.

11 Q. Right. Okay. But you didn't see anybody get
12 hit?

13 A. No, sir.

14 Q. You don't see anybody laying in the road?

15 A. No, sir.

16 Q. Didn't see anybody on the sidewalk?

17 A. No, sir.

18 Q. You just saw this car swerve and it looked
19 like it was gonna hit the fence?

20 A. Yes, sir.

21 Q. And you were worried he was gonna come left
22 and hit you, weren't you?

23 A. Yes, sir.

24 Q. But after you -- you passed this car at some
25 point; right?

1 A. Yes, sir.

2 Q. I mean, it didn't hit you; right?

3 A. No.

4 Q. After it passes you, did you look back to see
5 what it was doing?

6 A. As it passed me, he went all the way to the
7 right, I figured he hit the fence. We came over the
8 bridge, he came over wide open, like, he was swerving to
9 try to keep control of it. Once he passed me, he
10 swerved all the way to the right and tried to jack it
11 back and jack it that way and jack it back on the road
12 and made a left going down Columbia Road and that's the
13 last of him.

14 Q. Gotcha, gotcha. But you saw no person on the
15 sidewalk or saw that car hit anybody though?

16 A. No.

17 MR. FRICK: Thank you Mr. Sampson. That's all
18 the questions I have.

19 THE COURT: Redirect?

20 MR. MC MASTER: No your Honor.

21 THE COURT: Thank you, sir. You can step
22 down.

23 You can call your next witness.

24 MR. MAXWELL: I just have a quick question of,
25 your Honor.

1 (A brief off-the-record discussion was held.)

2 THE COURT: If you need a break, let the
3 forelady know. My plan is to keep on moving forward.
4 We'll probably break for lunch in about an hour or so.
5 That's obviously what we're moving for. Y'all okay with
6 that?

7 Call your next witness.

8 MR. MC MASTER: The State calls Donovan Lang.

9
10 D-O-N-O-V-A-N L-A-N-G, the Witness herein, having been
11 sworn by the Clerk of Court, was examined and testified
12 as follows:

13 (State's Exhibit 6, Chevy Impala Photos, were
14 marked for Identification.)

15

16 DIRECT EXAMINATION

17 BY MR. MC MASTER:

18 Q. Mr. Lang, can you state your full name.

19 A. Donovan J. Lang.

20 Q. Are you a trooper with South Carolina Highway
21 Patrol?

22 A. Yes.

23 Q. How long have you been at that capacity?

24 A. A little over four years.

25 Q. Were you on duty on September 6, 2020?

1 A. Yes.

2 Q. Do you recall being dispatched in regards to
3 this incident?

4 A. Yes, sir.

5 Q. Were you told it was as hit and run?

6 A. I was initially notified that it was as hit
7 and run.

8 Q. Can you tell me your duties when you are
9 dispatched for an investigation purpose like this?

10 A. I came on the dayshift afterwards and we were
11 tasked with going by multiple addresses, as far as, I
12 was advised that there was a Chevy Impala and we were
13 just going by any address that Fusion Center sent us.

14 Q. So you had information that you were looking
15 for a certain car?

16 A. Yes.

17 Q. And what is the process for you to investigate
18 looking for that car? Kind of tell us about that.

19 A. I believe the process of identifying the car
20 before I came on shift was already completed. And they
21 send that out to the Fusion Center and they give us a
22 list of addresses that that specific car had been
23 registered too. And I was tasked with going to door to
24 door, just trying to locate said vehicle.

25 Q. And what area were you going door to door in?

1 A. Blythewood area.

2 Q. And the area -- do they give you a radius to
3 look through residences?

4 A. Yes. There was an area in Blythewood and
5 another area within Fairfield County.

6 Q. And at some point when you were looking for
7 the car were you given some information that a car
8 matching the description was seen somewhere?

9 A. Yes.

10 Q. Can you tell me about that?

11 A. I was given information, a black Impala was
12 seen near I-20 near the Flying J in Columbia.

13 Q. What was the flying J?

14 A. A gas station attached with a restaurant, a
15 Denny's restaurant.

16 Q. Did you drive to that location?

17 A. Yes, I did.

18 Q. And did you locate an Impala?

19 A. Yes, I did.

20 Q. What do you do when you located the Impala?

21 A. Myself and Trooper Plyler located the Impala.
22 First things first, we just made sure that the car was
23 clear of any persons in it.

24 Q. Do you recall what kind of car it was?

25 A. A Chevy Impala.

1 Q. The color of it?

2 A. Black.

3 Q. Did you see anybody in the car?

4 A. No.

5 Q. At that point, what do you do in your duties?

6 A. I made contact with my supervisors and cleared
7 the scene of any other vehicles, that way they cannot
8 come into the area.

9 Q. Do y'all rope anything off?

10 A. We didn't have the rope. We blocked it off
11 with our cars.

12 Q. And who was with you?

13 A. Trooper Plyler.

14 Q. So just y'all two when you located the car?

15 A. Yes.

16 Q. Can you describe the cars condition when you
17 found it?

18 A. I noticed a large dent on the hood and there
19 was as spare tire on the vehicle.

20 Q. What section of the parking lot was it in?

21 A. It's in the far right corner.

22 Q. Was it parked near the Flying J or was it
23 parked somewhere --

24 A. It was parked directly against the curb of
25 where the Flying J's.

1 Q. Do you recall anything else about the
2 condition, what you saw when you were checking out the
3 car?

4 A. When I was observing the car, I notice there
5 was a white substance all over the vehicle, which I
6 believed to be bleach.

7 Q. Did you take pictures of the car?

8 A. Yes.

9 Q. I'm going to hand you what has been marked as
10 State's Exhibit 6. There's five exhibits.

11 Do you recognize those five pictures?

12 A. Yes.

13 Q. And maybe take a second to look through them
14 all.

15 Can you tell me what those pictures are of?

16 A. Of the Chevy Impala that we were looking for
17 when I was parked at the Flying J.

18 Q. Do you recall who took this pictures?

19 A. I did.

20 Q. Did you save those pictures on your camera?

21 A. Yes.

22 MR. MC MASTER: Your Honor, the State would
23 move State's Exhibit 6 into evidence.

24 MR. FRICK: I would like to see them.

25 That's fine. No objection, your Honor.

1 THE COURT: All right. Without objection,
2 they're introduced.

3 MR. MC MASTER: Your Honor, permission to
4 publish?

5 THE COURT: Yes. Permission to publish,
6 granted.

7 (State's Exhibit 6, Chevy Impala Photos, were
8 marked in evidence.)

9 Q. (By Mr. McMaster) Trooper Lang, can you
10 describe this picture that I've published on TV.

11 A. It's the rear of the vehicle that was located
12 at the Flying J.

13 Q. And the second picture?

14 A. It's the front right of the vehicle that was
15 located at the Flying J.

16 Q. And earlier you testified about a dent. Can
17 you see a dent in this picture?

18 A. Yes. It's on the very front of the car in the
19 middle.

20 Q. And this is picture 3, is that the same dent?

21 A. Yes.

22 Q. The substance that you described earlier, can
23 you see that in this picture?

24 A. Yes.

25 Q. Is this a different side view of the same car?

1 A. Yes. This is the front left of the vehicle.

2 Q. Do you notice anything about the front end of
3 the vehicle there?

4 A. It's damaged on the front.

5 Q. In the background, is that one of your trooper
6 cars?

7 A. Yes. That is my patrol vehicle in the
8 background of that picture.

9 Q. Is that how y'all had this area secured off?

10 A. Yes. Trooper Plyler's picture above, his car,
11 to the right blocking the parking spot to the right of
12 the vehicle and mine was parked right there.

13 Q. And finally, this picture?

14 A. Yes. That's the front of the vehicle.

15 Q. And can you describe what this picture is of.

16 A. Damage to the front of the vehicle usually
17 consistent with pedestrians.

18 Q. Trooper Lang, when you were given information
19 for a car to look for, how specific was it or was it
20 more general?

21 A. We did get a license plate, as well of the
22 vehicle that we were looking for.

23 Q. Before when you were looking in the Blythewood
24 area, what was the car that you were looking for, was it
25 general or more specific?

1 A. It was as Chevy Impala for sure I believe,
2 black with a dark color.

3 Q. Is that all y'all were looking for was a dark
4 color Chevy Impala?

5 A. At the time I believe.

6 Q. And now, when you were heading to the Flying
7 J, was the information that you were given that there
8 was a black Chevy Impala at the Flying J?

9 A. I believe so. They said his vehicle was seen
10 last around that area at the Flying J off of I-20 in
11 Columbia.

12 Q. So after you had taken pictures, did anybody
13 from the highway patrol meet you?

14 A. Yes, my supervisors.

15 Q. And what happened then?

16 A. I just -- they directed that we search the
17 immediate area for any persons, possibly him.

18 Q. Did y'all search the immediate area?

19 A. Yes.

20 Q. Do you remember where you searched?

21 A. Going to that picture, right behind that, my
22 car, there's a gully that goes down to a wooded area.
23 We searched all that area, as well as, behind the Flying
24 J and the gated fence.

25 Q. At that point, after your supervisor's had

1 meet you at the flying J, at the car, were you given
2 information about someone to look at?

3 A. Yes.

4 Q. And so that's who you were looking for in the
5 immediate areas --

6 A. Yes.

7 Q. -- after you found the car and after your
8 supervisor's got there --

9 A. Yes.

10 Q. -- is that correct?

11 A. Yes.

12 Q. Do you remember what businesses you checked
13 around there?

14 A. Bus stop, Tractor trailer repair place, the
15 gas station across the store, as well as, on down the
16 road, including grocery stores, laundromats, Just about
17 anywhere.

18 Q. This all happened Sunday --

19 A. Yes.

20 Q. -- during the day. Do you remember about what
21 time it was that you arrived at the car?

22 A. Around 1:30 p.m.

23 MR. MC MASTER: Thank you, sir. No more
24 further questions.

25 THE COURT: All right. Mr. Frick?

1 MR. FRICK: Thank you, your Honor.

2

3

CROSS-EXAMINATION

4

BY MR. FRICK:

5

Q. Trooper Lang, you mentioned something about
6 the Fusion Center. What the heck is the Fusion Center?

7

A. It's when they give a description of a car and
8 possible paint. The Fusion Center, I believe, is based
9 out of Columbia, they can give addresses matching that
10 vehicle and color.

11

Q. So they got some access to, I guess, the DMV's
12 data base?

13

A. I'm not sure to be honest.

14

Q. But I mean, they're able to give you a list of
15 addresses that correspond to Impala's?

16

A. Yes.

17

Q. In this radius that you had?

18

A. Yes.

19

Q. And the radius that you had was Blythewood,
20 Fairfield County?

21

A. Yes.

22

Q. And you were going door-to-door?

23

A. Yes.

24

Q. Do you recall about how many addresses that
25 they had told you?

1 A. I can't recall, it was at least a page.

2 Q. At least a page. How many is on a page?

3 A. I'm not sure.

4 Q. More than five less than 100?

5 A. No. 40, 50.

6 Q. 40 or 50. Okay. So you -- were you the only
7 one going door-to-door?

8 A. No.

9 Q. Okay. So was it just this one page or is that
10 the one page that you had?

11 A. At least one page I had.

12 Q. That was the one page you had. So other
13 trooper's had their pages that they were going to
14 addresses; right?

15 A. Yes.

16 Q. How many trooper's were going door-to-door?

17 A. About four or five.

18 Q. Four or five. Okay. Each one got at least a
19 page?

20 A. Yes, sir. Some of them were the same.

21 Q. Okay. And the pages have about 40 addresses
22 on them?

23 A. To my recollection, somewhere around that
24 number.

25 Q. How many addresses did you go knock on doors

1 at?

2 A. Probably about 15 to 20.

3 Q. 15 to 20. Okay. And that's when y'all got
4 alerted to go down to the Flying J?

5 A. At a later time afterwards.

6 Q. Later time afterwards. Okay. Are you
7 familiar with the Flying J, have you been there before?

8 A. I've drove passed it.

9 Q. You didn't stop there?

10 A. No.

11 Q. Never got coffee from there?

12 A. No.

13 Q. I think they give you coffee. You got to get
14 the red cup, it's for truckers.

15 All right. I'm trying to figure out which
16 photograph for the Court Reporter.

17 This is State's 6-A, is what we've got on the
18 screen here. That's where you found the vehicle?

19 A. Yes.

20 Q. And this is the Flying J here; right?

21 A. Yes.

22 Q. And I know you said you've been by it. Are
23 you familiar, that's a restaurant?

24 A. Deny's and the Flying J.

25 Q. Deny's and the Flying J, right.

1 Isn't the front door to that restaurant about
2 right there?

3 A. That's the side door.

4 Q. Well, to the Deny's. You can obviously get
5 there through the front door of the flying J, but
6 doesn't the Deny's also have a door that goes right
7 there?

8 A. Yes, there's a door there.

9 Q. Okay. And this vehicle was parked near that
10 front door or that door to that Deny's; correct?

11 A. Yes.

12 Q. And in fact, I'm showing you now 6-B. This is
13 that view back -- that's Fairfield Road; correct?

14 A. Yes.

15 Q. And you're familiar -- are you familiar,
16 that's Buckner Road right there?

17 A. Yes.

18 Q. And of course, that's the sign where the stop
19 light is; right?

20 A. Yes.

21 Q. And this is the parking lot where the car is
22 found; correct?

23 A. Yes.

24 Q. It's not really an isolated location, would
25 you say?

1 A. To each his own.

2 Q. So all these other cars don't exist?

3 A. They're there.

4 Q. Okay. Thank you. So you find the car. Did
5 y'all process the car there?

6 A. Process, how?

7 Q. I don't know, you're the one who did the
8 investigation. What did you do with the car?

9 A. Took photos.

10 Q. Okay?

11 A. Just stood back and didn't touch the evidence.

12 Q. And, I mean, fingerprints, DNA swabs?

13 A. No.

14 Q. Anything?

15 A. No, we didn't handle that.

16 Q. In fact, it ended up back up at the old
17 armory, at the training facility here in Fairfield;
18 right?

19 A. I'm not sure. I left before the vehicle was
20 towed.

21 Q. Okay. You don't know what happened to it.
22 Well, you know it got towed?

23 A. Yes.

24 Q. But you weren't there when it got towed;
25 right?

1 A. No.

2 Q. You know that it was towed and it was brought
3 back up here.

4 But as far as, right here, on the scene at the
5 Flying J when y'all get it, nobody came down and did any
6 processing of the car?

7 A. To my recollection, no.

8 Q. You didn't; right?

9 A. No.

10 Q. You took photographs?

11 A. Yes.

12 Q. I think you mentioned going to some places
13 around here. I guess there's a Pit Stop that's across
14 the street?

15 A. Yes.

16 Q. There's a Hardee's over here. I mean, did
17 y'all go to businesses that are around Buckner Road
18 there?

19 A. Yes.

20 Q. Did you go up the road, Mason Road?

21 A. Yes. I believe there's business down there as
22 the road comes to an end.

23 Q. I believe there's a large piece of land with a
24 vacant house right there. Did y'all go by there?

25 A. I'm not sure.

1 MR. FRICK: Thank you Trooper Lang. That's
2 all the question I have.

3 THE COURT: All right. Any redirect?

4 MR. MC MASTER: Nothing further, your Honor.

5 THE COURT: Thank you, sir. You can step
6 down.

7 Ladies and gentlemen of the jury, let's take a
8 quick comfort recess, get you back out here and my plan
9 is to still break around 12:30 for lunch. Okay. Y'all
10 head on back to your jury room and do not talk about the
11 case.

12 (Jury exited.)

13 (Whereupon, a short recess was taken.)

14 THE COURT: Let's bring the jury in.

15 (Jury entered.)

16 THE COURT: All right. Thank you, ladies and
17 gentleman.

18 Solicitor, you can call your next witness.

19 MR. MAXWELL: State calls Scott Darby.

20

21 S-C-O-T-T D-A-R-B-Y, the Witness herein, having been
22 sworn by the Clerk of Court, was examined and testified
23 as follows:

24 (State's Exhibit 7, DMV Registration, was
25 marked for identification.)

1 (State's Exhibit 8, POPS Gas Station
2 Surveillance, was marked for identification.)
3

4 DIRECT EXAMINATION

5 BY MR. MAXWELL:

6 Q. Would you state your name for the record,
7 please?

8 A. Anthony Scott Darby.

9 Q. Is it Lieutenant Darby?

10 A. Yes.

11 Q. Lieutenant Darby, where are you employed?

12 A. With the South Carolina Highway Patrol.

13 Q. How long have you been with the highway
14 patrol?

15 A. Twelve years.

16 Q. How long have you been in law enforcement?

17 A. Twenty-five years.

18 Q. And what is your current position?

19 A. I am a lieutenant assigned to Troop 4
20 Headquarters. I serve as an operational lieutenant in
21 charge of Chester, Fairfield, Lancaster and Chesterfield
22 counties.

23 Q. And back in September of 2020, what was your
24 position?

25 A. I was a sergeant in Troop 4 Post C, which is

1 comprised of Chester and Fairfield counties.

2 Q. Were you the supervisor over Fairfield and
3 Chester at the time of highway patrol?

4 A. Yes, sir.

5 Q. So the Trooper's that were working under you,
6 is that Morgan Hughes, does she work under you?

7 A. She does.

8 Q. Donovan Lang, who just testified?

9 A. He did.

10 Q. And Tyler Holland?

11 A. That's correct.

12 Q. All in September, they were all working under
13 your supervision?

14 A. Yes, sir. Every trooper that works Chester
15 and Fairfield County.

16 Q. And did you respond to this incident on 11th
17 Street, here, in Winnsboro on September 6, 2020?

18 A. I did.

19 Q. Do you recall about what time you arrived on
20 scene?

21 A. It was late in the morning or early in the
22 morning, I should say. It was after 2:00 a.m.

23 Q. Were you on duty that night?

24 A. Earlier that evening I was.

25 Q. Were you home?

1 A. I was.

2 Q. And got a call?

3 A. Yes, sir.

4 Q. The general nature of the call as it first
5 came out was what?

6 A. A hit and run involving a vehicle and a
7 pedestrian.

8 Q. And do you have troopers already on scene when
9 you arrived?

10 A. I did.

11 Q. Was that Hughes, Holland and Nickles?

12 A. That's correct.

13 Q. When you arrived was the sheriff's department
14 still there?

15 A. They were.

16 Q. Do you know if the coroner's office was there?

17 A. They were.

18 Q. Do you know if Mr. Gibbs had been identified
19 at that point when you arrived?

20 A. I don't believe so, sir.

21 Q. Did you get -- at some point was he
22 identified?

23 A. Yes, sir.

24 Q. With that information -- well, let me jump
25 back a second before I ask that question.

1 Was te MAIT Team notified?

2 A. They were.

3 Q. What is the MAIT Team?

4 A. It is the reconstruction unit of highway
5 patrol.

6 Q. And where do they come from generally?

7 A. Well, they're assigned to different areas.
8 Each area has their own reconstruction unit. The ones
9 that we use are classified as the Midlands Unit.
10 Depending on where the incident is, depend on where they
11 come from. They could come from different parts of the
12 state.

13 Q. And they're not local to Fairfield --

14 A. They are not.

15 Q. -- unless they're coming to a specific
16 incident in Fairfield?

17 A. That's correct.

18 Q. Do you know about what time the first MAIT
19 Team member arrived on scene?

20 A. It was around 3:30 in the morning.

21 Q. And who was that?

22 A. I was -- I think he was a lance corporal a the
23 time, but it's now Sergeant Sisler.

24 Q. Jeremy Sisler?

25 A. Yes, sir.

1 Q. Also, when you arrived on-scene, was the scene
2 secured?

3 A. It was.

4 Q. And did it remain secured until you left?

5 A. It did.

6 Q. About what time did you leave 11th Street?

7 A. It was a little after 4 o'clock in the
8 morning.

9 Q. From there, do you remember where you went?

10 A. I do.

11 Q. And where was that?

12 A. I went to the home of Bruce Gibbs, Felicia
13 Johnson's residence.

14 Q. And Ms. Johnson is Mr. Gibb's mother?

15 A. That's correct.

16 Q. Were y'all going there to notify her?

17 A. Yes.

18 Q. And who was with you when you went?

19 A. Coroner Chris Hill.

20 Q. Did you speak with Ms. Johnson?

21 A. We did.

22 Q. And did y'all inform her about what had
23 happened to her son?

24 A. We did.

25 Q. At that point in time, she did provide any

1 extra information that lead you in your investigation
2 when y'all first notified her at 4:00 a.m. --

3 A. No, sir.

4 Q. -- or around that time?

5 Did you take some time off, a couple of hours
6 off at that point after that notification?

7 A. Yes, sir.

8 Q. Can you describe next what information you
9 gathered as part of this investigation?

10 A. I had worked most of the dayshift and I think
11 that evening when I went home, it was late in the
12 evening when I got home. Corporal Hughes called me to
13 let me know what she had. So I got back out of the bed
14 and drove to Fairfield. We worked the scene there.

15 Like I said, I left the scene around a little
16 after 4:00, went to Ms. Johnson's house and notified
17 her. Followed up with the troopers that were still
18 on-scene. Made sure the MAIT Team didn't need anything.

19 I got home, I lived in Gaffney, so it takes me
20 a little while to get there. It was daylight when I got
21 home, so I would say it was around 7 o'clock in the
22 morning. I tried to get a couple of hours of sleep.

23 When I woke up, I had a voicemail from
24 Ms. Johnson.

25 Q. Did you end up calling her back and speaking

1 with her?

2 A. I did.

3 Q. And did she provide you with some information?

4 A. She did.

5 Q. What was that information?

6 A. That she was convinced that "Gus," the name
7 that she used for Mr. Thompson, was involved in someway
8 with her son's death.

9 Q. And she provided you information about what
10 kind of car he drove?

11 A. She did.

12 Q. And what was that?

13 A. It was an early model black, Chevy Impala.

14 Q. With that -- well, let me jump back a second.
15 And are you familiar with Sergeant Al McCoy from the
16 Sheriff's office?

17 A. I am.

18 Q. Are you familiar with some information of what
19 he provided of what he saw the night or around -- after
20 midnight that night?

21 A. Yes, sir.

22 Q. And do you know what that information was?

23 A. Yes, sir.

24 Q. What did he see or what information did he
25 provide?

1 A. He was on patrol traveling north on 321
2 Business, approaching the sheriff's office there at 11th
3 Street. As he was passing 11th Street, he saw a vehicle
4 traveling west towards 321 Business and something about
5 vehicle got his attention. It raised his suspension and
6 he went down the road to turn around to catch back up to
7 the vehicle to investigate it or see what it was doing.
8 He caught up behind it on 321 Business as it approached
9 Highway 321, the Bypass. And instead of going directly
10 behind it, he pulled beside it.

11 The black Impala was in the left turn lane to
12 turn left on 321 South headed towards Columbia. He
13 stayed in the straight lane to pull up beside it to get
14 a better idea of what was going on. At that time he saw
15 that it had a flat tire.

16 Q. And he described it as a black Impala?

17 A. Yes, sir. Black Chevy Impala.

18 Q. Is that consistent with the information that
19 Ms. Johnson provided you about what Gus Thompson drove?

20 A. That's correct.

21 Q. Let me jump back a little bit earlier in the
22 night.

23 Based on the information that Sergeant McCoy
24 had given you about seeing a black Impala, did you do
25 anything with that information?

1 A. Yes, sir. I did.

2 Q. And what was that?

3 A. I -- what we call BOLO'd. I put it out on the
4 radio for the dispatcher to notify the surround counties
5 including Troop 4, which is comprised of seven counties
6 and also Troop 1, which is the Lexington, Richland,
7 Kershaw, Lee, Sumpter, and Claridon Counties, to be on
8 the lookout of a black Chevy Impala with possible front
9 end damage.

10 Q. And did you make any contact with the SLED
11 Fusion?

12 A. I did.

13 Q. What is that, the best you can describe?

14 A. It's an information technology division of
15 SLED. They do all the computer stuff. They have access
16 to several databases that they use to provide
17 information to law enforcement to help us with our
18 investigations.

19 Q. And as far as you're aware is one of those
20 databases the Department of Motor Vehicles car
21 registration database?

22 A. Yes, sir.

23 Q. And did SLED Fusion provide a list of Chevy
24 Impala's in the area?

25 A. They did.

1 Q. Can you describe more specifically what that
2 list was comprised of?

3 A. Normally what we do, we give them whatever
4 information that we have at the time. I ask them to
5 provide a list of black Chevy Impala's registered within
6 a 15 mile radius of the incident location. A few
7 minutes later, they sent us an email wit a list of
8 several hundred cars within that radius.

9 Q. And it was 15 miles from what?

10 A. Yes, sir.

11 Q. From Winnsboro?

12 A. Yes, sir. As to the actual incident location,
13 the intersection there.

14 Q. Just so we're clear. You did that -- contact
15 the SLED Fusion and got that list before you got the
16 information about Gus Thompson from Ms. Johnson?

17 A. That's correct.

18 Q. What did you do once you received that list of
19 cars in the 15-mile radius area?

20 A. I disseminated it to my supervisors who pushed
21 it out to their road troopers to have them start going
22 door-to-door looking for a vehicle that matched that
23 description and to verify whether it had damage or not.

24 Q. And were there numerous troopers going out to
25 various addresses --

1 A. There were.

2 Q. -- in Fairfield County and perhaps into
3 Richland County?

4 A. Yes, sir.

5 Q. And what were they doing in trying to look for
6 it, going door-to-door?

7 A. The list starts at that epicenter of this
8 incident location and the closer registered addresses
9 are first on the list, and as you get away from that
10 location, they're further down on the list.

11 The trooper goes by to actually try to make
12 physical or visual contact with that vehicle and to
13 verify if it has any damage or anything that we needed
14 to be aware of, so we can focus in on that vehicle a
15 little bit more.

16 Q. Nothing was developed from that search in the
17 early part of that investigation?

18 A. No, sir.

19 Q. After you received the information from
20 Ms. Johnson about Mr. Thompson, what did you do with
21 that information?

22 A. I got up, started getting ready and I passed
23 it on to Jeff Wade who was the captain of Troop 4 at the
24 time so it could be disseminated so they could start
25 focusing. Instead of the list of vehicle, one specific

1 vehicle.

2 Q. Were you able to access the DMV database to
3 determine if there was a Chevy Impala registered to a
4 Timothy Thompson?

5 A. Yes, sir. We were able to.

6 Q. Was there one?

7 A. Yes, sir. There was.

8 Q. Was that information also pushed out to
9 troopers looking for a specific car at that time?

10 A. Yes, sir. We updated our BOLO, the
11 information the dispatch gives out. Instead of looking
12 for just a random black Chevy Impala, we were looking
13 for a specific one with a specific tag.

14 Q. So you had a license plage at that time?

15 A. Yes, sir.

16 Q. So you knew the registered owner was
17 Mr. Thompson?

18 A. Yes, sir.

19 Q. Did some time go by and did you get some more
20 information from Ms. Johnson?

21 A. I did.

22 Q. What did that information consist of?

23 A. Someone had seen Gus or Mr. Thompson walking
24 on Highway 321, Fairfield Road, in Richland County near
25 the Flying J truck stop.

1 Q. With that information, did you send troopers
2 to do check out that area?

3 A. I did.

4 Q. Who were those troopers?

5 A. Trooper Plyler and Trooper Lang.

6 Q. And do you know if they found anything when
7 they went down to the Flying J?

8 A. They did.

9 Q. Did they find the black Impala that was
10 registered to Gus Tompson, Timothy Tompson, at the
11 Flying J?

12 A. They did.

13 Q. Did they notify you and other supervisors what
14 they had found?

15 A. They did.

16 Q. Did they -- they took pictures at the scene?

17 A. Yes, sir. I believe they did.

18 Q. Did you go down to Richland County in that
19 area?

20 A. I did.

21 Q. What was the first thing you did when you went
22 down to Richland County?

23 A. To verify the tag by the license plate.

24 Q. So you went to the Flying J?

25 A. Yes, sir.

1 Q. And you saw the tag?

2 A. Yes, sir.

3 Q. And you ran it through?

4 A. Yes, sir.

5 Q. And was that car that you found within the
6 Flying J parking lot registered to Timothy Thompson?

7 A. It was.

8 Q. Let me show you what's been marked Plaintiff's
9 Exhibit 7.

10 Can you take a look at that?

11 A. (Complies.)

12 Q. What is that?

13 A. It's a DMV print-off of the registration of a
14 2004 Chevy Impala that is registered to Timothy James
15 Tompson.

16 Q. Is that what the current registration was back
17 on September 6, 2020?

18 A. It was.

19 Q. We'd offer the registration into evidence?

20 MR. FRICK: No objection.

21 THE COURT: Without objection, it's entered.

22 (State's Exhibit 7, DMV Registration was
23 entered into evidence.)

24 Q. (By Mr. Maxwell) Does that also include the
25 VIN Number, the Vehicle Identification Number?

1 A. The VIN Number and the tag.

2 Q. And were y'all able to check both of those on
3 scene at the Flying J?

4 A. Yes, sir. We were.

5 Q. And everything matched up?

6 A. It did.

7 Q. You had the right car. Did you also see the
8 make and observation of the car?

9 A. I did.

10 Q. How would you describe what you saw?

11 A. It had some type of white residue on the
12 exterior of the vehicle and there was damage to the
13 front and hood of the vehicle.

14 Q. Do you recall any odor coming from the car at
15 all?

16 A. I don't recall.

17 Q. Was there an effort to locate evidence or
18 locate Mr. Thompson in the area of the Flying J?

19 A. It was.

20 Q. Was Mr. Tompson found in the area that day?

21 A. He was not.

22 Q. Did you go get a search warrant for the
23 vehicle?

24 A. I did.

25 Q. Where did you get that from?

1 A. The Alvin S. Glenn Detention Center. I made
2 contact with the Richland County magistrate and obtained
3 a search warrant to take possession of the vehicle.

4 Q. Did you and other supervisors take possession
5 of the vehicle from the Flying J?

6 A. We did.

7 Q. Did y'all get a tow truck to tow it back?

8 A. Yes, sir. We did.

9 Q. Where was it towed back to?

10 A. Fairfield County Sheriff's office impound lot,
11 which is an old National Guard Armory on Airport Road.

12 Q. And that was for it to be later processed by
13 the MAIT Team?

14 A. Yes, sir. To get it out of the elements, they
15 have an indoor facility there that we keep vehicles, it
16 was taken there to be processed.

17 Q. Was it followed by any troopers while it was
18 being taken back?

19 A. It was.

20 Q. Who was that?

21 A. Captain Benfield now. He was the first
22 sergeant of Chester and Fairfield at the time.

23 Q. That's Captain Brian Benfield?

24 A. That's correct.

25 Q. Once it was secured up at the sheriff's office

1 facility, MAIT Team would have taken over the processing
2 the car from there?

3 A. That's correct.

4 Q. Did you continue to gather information from
5 witnesses, gather information from the community about
6 the events from Saturday into Sunday morning?

7 A. Yes.

8 Q. Did you speak to some of the witnesses that
9 have testified here in court this week?

10 A. Yes, sir. I did.

11 Q. Did you also get some information that
12 Mr. Thompson was at the POPS gas station at some point
13 after midnight that night on September 6th?

14 A. Yes, sir. We did.

15 Q. And with that information, was a request made
16 to Winnsboro Petroleum that owns POPS gas station to
17 look for surveillance video?

18 A. Yes, sir. It was.

19 Q. And how was that done?

20 A. Jeff Wade who was the captain of Troop 4 at
21 the time, made the request of Winnsboro Petroleum.

22 Q. Did Winnsboro Petroleum make that video
23 available for y'all to pick up?

24 A. They did.

25 Q. And did somebody go and pick it up?

1 A. Sergeant Morgan did.

2 Q. It was on a disc?

3 A. It was.

4 Q. Have you viewed that video?

5 A. I have.

6 Q. And do you now know who Mr. Thompson is?

7 A. Now, I do. Yes, sir.

8 Q. Didn't know him -- did you know him before
9 this?

10 A. No, sir. I did not.

11 Q. Have you encountered him, at least in some
12 aspect, as part of this investigation on that after this
13 investigation got going?

14 A. I have.

15 Q. Can you see Mr. Thompson on this video?

16 A. You can.

17 Q. Can you identify him on that video?

18 A. Yes, sir.

19 Q. Can you also identify the car that he's
20 driving in that video?

21 A. Yes, sir.

22 Q. And what is that?

23 A. It's a black Chevy Impala.

24 Q. And on the video, can you tell if there's any
25 damage to the car or if the rear tire's flat at the time

1 that he's at the POPS gas station?

2 A. I don't believe you can. No, sir.

3 MR. MAXWELL: Your Honor, we'd offer the POPS
4 video into evidence at this time.

5 MR. FRICK: No objection.

6 THE COURT: Without objection introduced.

7 (State's Exhibit 8, POPS Gas Station
8 Surveillance, was entered into evidence.)

9 Q. (By Mr. Maxwell) Can you see that, Lieutenant
10 Darby?

11 A. Yes, sir. I can.

12 Q. Is that Mr. Thompson, the individual with the
13 black shirt with white markings on it?

14 A. Yes, sir.

15 Q. Is that the exterior view of the surveillance
16 video?

17 A. It is.

18 Q. Does that appear to be consistent with the car
19 that was located at the Flying J Mr. Thompson was
20 driving that night?

21 A. Yes, it is.

22 Q. Again, that's just a different view of the
23 same car --

24 A. Yes, sir.

25 Q. -- pulling up at the far gas pump? Walking

1 from that car, does that again appear to be Mr. Thompson
2 with that black shirt with the white markings on it --

3 A. Yes, sir. It is.

4 Q. -- entering the gas station? And is that just
5 a view of the car pulling around the parking lot?

6 A. Yes, sir.

7 Q. Again, you can't look at that and say whether
8 there was damage to the car or whether the back rear
9 tire was flat at the time?

10 A. No, sir.

11 Q. I don't believe I put an exhibit on that. I
12 want to make sure that's exhibit number, State's Exhibit
13 Number 8.

14 When was Mr. Thompson arrested on this charge?

15 A. The morning of September the 9th.

16 Q. Do you know what day of the week that was?

17 A. Wednesday.

18 Q. The incident occurred early Sunday morning?

19 A. Yes, sir.

20 Q. Car was found Sunday afternoon roughly?

21 A. Yes, sir.

22 Q. So he's arrested on Wednesday the 9th, three
23 days later?

24 A. That's correct.

25 Q. Where was he arrested at?

1 A. At the Flying J Truck Stop in the parking lot
2 in Columbia where the vehicle was located.

3 Q. Do you know the circumstances of how he got
4 arrested there?

5 A. I do.

6 Q. And how is that?

7 A. A Columbia City Police Officer was in the
8 parking lot there working on an unrelated collision and
9 at that time Mr. Thompson approached him and told that
10 officer that, "Y'all were looking for me."

11 Q. And was he taken into custody at the time?

12 A. He was.

13 Q. And did somebody from highway patrol go down
14 and I guess detained him and transported him back to
15 Fairfield County?

16 A. That's correct.

17 Q. There was already a warrant issued at the time
18 for his arrest prior to him approaching that officer on
19 Wednesday?

20 A. It was and it was entered into NCIC database.

21 Q. Was is the NCIC database?

22 A. It's a national database that if you have a
23 warrant or if you're missing or stolen property, any
24 police officer in the nation can run your name or that
25 specific piece of property and it would let them know

1 that it's wanted in whatever jurisdiction.

2 Q. So the Columbia police officers, once they got
3 Mr. Thompson's name, they were able to check the system
4 to see whether Fairfield County or the highway patrol
5 wanted Mr. Thompson to arrest him?

6 A. That's correct.

7 Q. As far as the video we just watched, is that
8 spliced together to show the parts of the video that
9 Mr. Thompson or his car is seen in?

10 A. Yes, sir.

11 Q. The video is -- the original video might be
12 longer, but what we have is what Mr. Thompson is seen
13 in, would that be accurate?

14 A. That's correct.

15 MR. MAXWELL: No further questions.

16 THE COURT: Mr. Frick?

17 MR. FRICK: Thank you, your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. FRICK:

21 Q. Lieutenant -- damn it, I'm sorry.

22 A. Yes, sir. That's correct.

23 Q. I try to get those right.

24 Lieutenant Darby, the information you-all got
25 from the Fusion Center, I just want to be sure I'm

1 clear. What y'all were looking for at that time was an
2 Impala or a black Impala?

3 A. A black Chevy Impala.

4 Q. A black Chevy Impala, that's all the
5 information you had at the time?

6 A. Yes, that's correct.

7 Q. And when you sent that information to the SLED
8 Fusion Center, which is able to combine it with the DMV,
9 what's the specific radius you were looking for again?

10 A. 15 miles.

11 Q. 15 miles from that spot on --

12 A. The intersection where the collision or
13 assault took place.

14 Q. So right there at 11th and Maple, I guess
15 we'll call it?

16 A. The call was -- the 11th and Chestnut, was the
17 location given.

18 Q. It gets confusing.

19 A. Yes, sir.

20 Q. I don't know what the name of the road is
21 there either.

22 Okay. But that spot, 15 miles out from there,
23 y'all were looking for black Chevy Impalas?

24 A. Yes, sir.

25 Q. And I believe you said the list was several

1 hundred?

2 A. If my memory serves me correct, it was a
3 couple hundred Chevy Impalas.

4 Q. Okay. I'll give you a couple hundred Chevy
5 Impalas.

6 A. Yes.

7 Q. Within a 15 mile radius of that one spot in
8 the middle of Middle Village in Winnsboro?

9 A. Yes, sir.

10 Q. And then what narrowed it down for you-all is
11 the information that you got from Ms. Johnson; correct?

12 A. Correct.

13 Q. And that's when you narrowed down, you just
14 pinpointed in and said, let's look for Timothy
15 Thompson's specific car; right?

16 A. That's correct.

17 Q. And then to get us to the Flying J where y'all
18 find the black Chevy Impala, that was more information
19 from Ms. Johnson?

20 A. Yes, sir.

21 Q. Then when you're at the Flying J you said,
22 y'all obtained a search warrant in Richland County?

23 A. Yes, sir.

24 Q. Cause you're already in Richland County;
25 right?

1 A. Yes, sir.

2 Q. Can't use a Fairfield search warrant in
3 Richland County?

4 A. Yes, sir.

5 Q. Your search warrant was to take possession;
6 correct?

7 A. Correct.

8 Q. It wasn't to search it or process it at the
9 scene?

10 A. That's correct. The search warrant I obtained
11 was just to take possession of the vehicle.

12 Q. And it was later processed, but after it was
13 brought to Fairfield; correct?

14 A. Yes, sir.

15 Q. Do you know how it got transported to
16 Fairfield?

17 A. A wrecker service.

18 Q. And they picked it up right there on 321 and
19 just drove it up to the facility we got here off of, I
20 think it's Old Airport Road; right?

21 A. Yes, sir.

22 Q. Nothing happened to it, as far as,
23 investigative purposes at the Flying J parking lot.
24 Y'all took picture obviously?

25 A. Yes, sir.

1 Q. You ran the license plate, you checked the
2 VIN. But I mean, as far as, any processing of it at
3 that scene, none occurred there?

4 A. None that I'm aware of. No, sir.

5 Q. We just saw the video from POPS. Did y'all
6 try to get some video from the Flying J?

7 A. I did.

8 Q. Did you obtain anything?

9 A. No, sir. We didn't.

10 Q. Let me ask you, you said when Mr. Thompson --
11 you said, he approached a City of Columbia officer,
12 basically, at the parking lot at the Flying J?

13 A. Yes, sir. That's my understanding.

14 Q. And there was a warrant that was in NCIC?

15 A. Yes, sir.

16 Q. Are you aware of what the charge was on that
17 warrant?

18 A. It was a, leaving the scene with death.

19 Q. That was the only warrant at the time?

20 A. At the time. Yes, sir.

21 Q. And on the POPS video, I don't know how close
22 attention you paid to it. But is there a timestamp on
23 it?

24 A. I don't remember.

25 Q. Okay.

1 MR. FRICK: I'm going to mark this for defense
2 ID.

3 (Defendant's Exhibit 1, Still Photo,
4 POPS video, was marked for identification.)

5 Q. (By Mr. Frick) This is defense ID -- for ID
6 purposes only.

7 Do you recognize what that picture is?

8 A. Yes. It's a still from the video we just
9 watched.

10 Q. When you're looking at it, do you see a
11 timestamp on it?

12 A. It appears to be 12:23 and 59 seconds a.m.

13 Q. Do you have any idea if that timestamp is
14 accurate?

15 A. I have no idea.

16 MR. FRICK: I beg the Court's indulgence for
17 just a second.

18 THE COURT: Yes, sir.

19 Q. (By Mr. Frick) Lieutenant Darby, when you
20 were -- you continued to do an investigation for
21 sometime in this case; correct?

22 A. Correct.

23 Q. And you came up here, did you interview
24 witnesses?

25 A. I did.

1 Q. Did you interview them in your patrol vehicle?

2 A. I did.

3 Q. Were those interviews recorded?

4 A. They were.

5 Q. Do you remember interviewing Tommy Bell?

6 A. I do.

7 Q. And that was on or about September the 15th of
8 '20. Does that sound correct?

9 A. Sounds about right. Yes, sir.

10 Q. And that interview was captured on your in-car
11 camera?

12 A. It was.

13 Q. Now, admittedly, is the quality real good in
14 the video part?

15 A. I don't believe it was.

16 Q. But the audio works fine; right?

17 A. I think it was. Yes sir.

18 MR. FRICK: Your Honor, at this time I'd like
19 to play a portion of that video pursuant to 613.

20 MR. MAXWELL: No objection.

21 THE COURT: Without objection.

22 (Audio playing of Tommy Bells interview.)

23 Q. (By Mr. Frick) Do you recognize this?

24 A. I believe that's Mr. Bell.

25 Q. And it's quiet for about the first, I think

1 about 38 seconds; is that correct?

2 A. Yes, sir.

3 Q. Lieutenant Darby, does that fairly and
4 accurately depict the conversation you-all had in your
5 vehicle?

6 A. It does.

7 MR. FRICK: Thank you. No further questions.

8 THE COURT: Any redirect?
9

10 REDIRECT EXAMINATION

11 BY MR. MAXWELL:

12 Q. Lieutenant Darby, were you with MAIT Team, I
13 believe Sergeant Sisler, when y'all went to interview
14 Nikki Tompson, do you recall?

15 A. Is that Santana?

16 Q. Santana, yes. I'm sorry.

17 A. Yes, sir. I was.

18 Q. During the course of that interview, did y'all
19 look into her cell phone?

20 A. Sergeant Sisler did.

21 Q. Are you aware of any information that was
22 gained from looking at her cell phone, other than maybe
23 the last text she had with Mr. Gibbs?

24 A. It was just some texts going back and forth.
25 I think they were talking about Bruce coming over and

1 they were gonna smoke some weed.

2 Q. Nothing significant in relation to evidentiary
3 materiality of anything in this case?

4 A. No, sir.

5 MR. MAXWELL: No further questions, your
6 Honor.

7 MR. FRICK: One quick question.

8 THE COURT: Yeah.

9

10 RECROSS EXAMINATION

11 BY MR. FRICK:

12 Q. There was something about Mr. Gibbs' phone.
13 Did Mr. Gibbs phone get taken in evidence?

14 A. I believe it was collected. I don't know if
15 it was processed or not, sir.

16 Q. You don't know?

17 A. I don't know.

18 MR. FRICK: Thank you, sir.

19 THE COURT: All right. Thank you, sir. You
20 can step down.

21 Ladies and gentlemen of the jury, we can go
22 ahead and take our lunch recess at this time. Remember
23 don't do any independent research on the case, talk to
24 anybody about the case. We'll see you back here at 2:00
25 p.m. in your jury room, about an hour and-a-half.

1 Y'all have a good lunch.

2 (Jury exited courtroom.)

3 Anything else before we leave for recess? See
4 y'all back at 2:00 p.m.

5 (Whereupon, lunch recess was taken.)

6 THE COURT: Come to order. Do we have
7 anything before Mr. Thompson comes out?

8 MR. FRICK: No, your Honor.

9 THE COURT: Let's bring the jury out.

10 (Jury entered courtroom.)

11 THE COURT: The State can call its next
12 witness.

13 MR. MC MASTER: Thank you, your Honor.

14 State calls Jonathan Harris.

15

16 J-O-N-A-T-H-A-N H-A-R-R-I-S, the Witness herein, having
17 been sworn by the Clerk of Court, was examined and
18 testified as follows:

19 (State's Exhibit 9, Sergeant Harris' Dash Cam
20 was marked for Identification.)

21

22 DIRECT EXAMINATION

23 BY MR. MC MASTER:

24 Q. Sergeant Harris, can you state your full name
25 for the record.

1 A. Jonathan Alexander Harris.

2 THE COURT: Sir, can you pull that microphone
3 to you?

4 MR. HARRIS: Yes, sir.

5 THE COURT: There you go. That's better.

6 Q. (By Mr. Mc Master) Can you repeat that so the
7 Court reporter can hear you?

8 A. Jonathan Alexander Harris.

9 Q. And are you a sergeant with the Fairfield
10 County Sheriff's office?

11 A. Yes, sir.

12 Q. How long have you been employed there?

13 A. Since 2012.

14 Q. On the late night of September 5, 2020 to the
15 early morning, September 6th, that's a Saturday to
16 Sunday, were you employed?

17 A. Yes, sir.

18 Q. Were you on duty that night?

19 A. Yes, sir.

20 Q. What kind of duty were you on?

21 A. Regular patrol duty.

22 Q. Patrol. Did you receive a call from dispatch
23 directing you to head to somewhere in Ridgeway?

24 A. Yes, sir.

25 Q. Were you in route to Ridgeway in the early

1 morning of September 6th, on that Sunday morning?

2 A. Yes, sir.

3 Q. Were you -- do you remember which direction
4 you were heading? Were you going from Winnsboro to
5 Ridgeway?

6 A. Enroute from Winnsboro to Ridgeway. Yes, sir.

7 Q. Do you recall what that call from dispatch was
8 about?

9 A. The one in Ridgeway was the -- I believe it
10 was a domestic.

11 Q. But it was unrelated to this case that's
12 before us now?

13 A. Yes, sir.

14 Q. Did you receive a second call from dispatch on
15 your way to Ridgeway?

16 A. Yes, sir.

17 Q. Can you tell me about that call?

18 A. It was a security and check the area for a
19 motorist broke down.

20 Q. A what?

21 A. It was a security check on a vehicle.

22 Q. What information did you get from dispatch?

23 A. It was an individual, possibly an unknown
24 vehicle on the side of the Highway 34 near Palmetto
25 Imaging.

1 Q. And did you see the vehicle on 34?

2 A. Yes, sir.

3 Q. Were you in your patrol car?

4 A. Yes, sir.

5 Q. Was side of the road was the vehicle on?

6 A. The vehicle was on my right side.

7 Q. Was it in the direction heading towards I-77
8 or towards Winnsboro?

9 A. Heading towards I-77.

10 Q. So away from Winnsboro; is that correct?

11 A. Yes, sir.

12 Q. Do you recall what time you arrived at the
13 vehicle?

14 A. 1:07.

15 Q. Is that the time you received the call or is
16 that the time you arrived at the vehicle?

17 A. Correction, 1:17 was the time I arrived.

18 Q. And as far as you knew, you were just doing a
19 security check on a vehicle parked on the side of the
20 road; is that right?

21 A. Yes, sir.

22 Q. Was your dash-cam operating at the time?

23 A. Yes, sir.

24 Q. Can you describe the vehicle when you pull up
25 to it and can you describe how you pulled up to it?

1 A. I pulled up from behind the vehicle, activated
2 my blue lights and my emergency system. It was a black
3 vehicle and a black male was outside the vehicle. He
4 had all the stuff out the trunk like he was changing a
5 tire.

6 Q. Was your dash-cam pointed in his direction?

7 A. Yes, sir.

8 Q. Did your dash-cam capture that image of what
9 you saw?

10 A. Yes, sir.

11 Q. So could you tell what the person was doing?

12 A. He appeared to be in the process of changing
13 the tire that I saw.

14 Q. Did you get a description of him?

15 A. Black male, long hair, black outfit.

16 Q. And how did you know -- why did you think he
17 was changing a tire?

18 A. He had everything in his trunk outside the
19 trunk and I'd asked him, if he's changing a tire.

20 Q. So at what point -- did you have a
21 conversation with him?

22 A. We had a brief conversation right before I
23 pulled off. I asked him, if he was okay. He said, yes.

24 Q. And at any point was your dash-cam not
25 operating?

1 A. No, sir.

2 Q. Sergeant Harris, if you can refer to your
3 report briefly. If you can clarify when it was that you
4 arrived at the vehicle parked on the side of the road?

5 A. Correction, 1:26.

6 Q. 1:26. At this time, did have you any
7 information about a hit and run in the area?

8 A. No, sir.

9 Q. Did you see anybody else around the vehicle
10 when you pulled up?

11 A. No, sir. He was the only one.

12 Q. You asked if he was okay; is that right?

13 A. Yes, sir.

14 Q. Did you -- did he say anything to the
15 contrary?

16 A. He said, he was fine, just changing a tire.

17 Q. Sergeant Harris, have you had a chance to
18 review the video from your dash-cam from that night?

19 A. Yes, sir. I briefly reviewed it.

20 Q. Is it a fair and accurate representation of
21 what it was that you saw that night?

22 A. Yes, sir.

23 MR. MC MASTER: Your Honor, the State would
24 move Exhibit Number 9 into evidence. The State would
25 ask for permission to publish.

1 THE COURT: Without objection, admitted into
2 evidence. Permission to publish granted.

3 (State's Exhibit 9, Sergeant Harris' Dash Cam
4 was entered into evidence.)

5 Q. (By Mr. McMaster) Sergeant Harris, the video,
6 does it have any audio with it?

7 A. No, sir.

8 Q. Why would that be?

9 A. Because the body mic that comes with it was
10 not on.

11 Q. Does that happen sometimes?

12 A. Yes, sir. Most of the time we use our actual
13 body camera.

14 Q. Do you recognize that person Sergeant Harris?

15 A. Yes, sir.

16 Q. That's the person that you saw that night?

17 A. Yes, sir.

18 Q. At this point had you spoken to him yet?

19 A. No, sir I just pulled up next to him to see if
20 he was okay.

21 Q. And what are you doing at this point?

22 A. Asking him, Is he okay.

23 Q. And after you talked to him, is that when you
24 drove off?

25 A. Yes, sir.

1 Q. Were you able to describe or identify the car
2 at all that night when you pulled up to it. Did you get
3 a description of it?

4 A. Black Impala, older model Impala.

5 Q. Did you ever, in your conversation with that
6 person, did you ever identify him?

7 A. No, sir.

8 Q. Did you ever radio his plate number in to
9 check?

10 A. No, sir.

11 Q. Is that because at that time you had no
12 information about a hit and run?

13 A. Yes, sir.

14 Q. You were just there for security check?

15 A. Yes, sir.

16 Q. After you determined things were okay what did
17 you do?

18 A. Drove away.

19 Q. Earlier you said the person had long hair.
20 Can you elaborate on that?

21 A. Longer than mine.

22 Q. Does that mean, like, dreads in his hair?

23 A. Yes, sir.

24 Q. You could see those when you pulled up to him?

25 A. Yeah.

1 MR. MC MASTER: Thank you, sir. No further
2 questions.

3 THE COURT: Mr. Frick, your witness.

4 MR. FRICK: Thank you, your Honor.

5
6 CROSS-EXAMINATION

7 BY MR. FRICK:

8 Q. Sergeant Harris, how are you doing?

9 A. How you doing, sir.

10 Q. I'm all right. I'm all right.

11 So you were just on patrol that night?

12 A. Yes, sir.

13 Q. And you're just riding around fixing to go to
14 one call, but the call says, Hey, there's this car on
15 34, go check it out?

16 A. Yes, sir.

17 Q. And you stop because you were heading towards
18 Ridgeway anyway?

19 A. Yes, sir.

20 Q. And it was just right there on the side of the
21 road?

22 A. I was actually dispatched to it.

23 Q. And when you got there, I know we just showed
24 a little bit of this thing, but you sat there and
25 chatted with the person for a couple minutes. I mean,

1 it wasn't long, but you did chat for a couple minutes.

2 A. Basically, all I'm asking, if they're okay.

3 Do you need any assistance?

4 No.

5 Q. Right. Right. And how long have you been in
6 law enforcement now?

7 A. Almost ten years.

8 Q. Ten years. Okay. And how long have you been
9 out on the road?

10 A. Almost ten years.

11 Q. Almost ten years. Okay. So you've been in
12 law enforcement a long time. Obviously, one of the
13 things you do out when you're out on patrol even when
14 you come up on something like this is you see if
15 anything looks suspicious; right?

16 A. Yes, sir.

17 Q. I mean, you just observe the scene; right?

18 A. Uh-huh.

19 Q. If you roll up and there's blood all over the
20 front of the car, that would be something you would have
21 taken note of?

22 A. I didn't see the front of the car though.

23 Q. But if you did?

24 A. If I did, yes.

25 Q. That would be something you would note; right?

1 A. Yes, sir.

2 Q. And if you saw anything other suspicious about
3 this vehicle, you would have taken note of that;
4 correct?

5 A. Yes, sir.

6 Q. But there wasn't anything suspicious, was
7 there?

8 A. Not from my view point. No, sir.

9 Q. Right. Because it was just a guy changing the
10 tire; right?

11 A. Yes, sir.

12 Q. And when you stopped to talk to him, did he
13 seem nervous?

14 A. No, sir.

15 Q. Excited?

16 A. No, sir.

17 Q. I know it was September and he was changing a
18 tire, but was he sweating?

19 A. Not that I recall.

20 Q. I mean, there was just nothing terribly
21 remarkable about this. He's finished changing the tire.
22 Seemed to be packing it up and that's it; right?

23 A. Yes, sir.

24 Q. Do you recall, was there any traffic on 34?

25 A. No, sir.

1 Q. And of course, part of what you're doing is
2 making sure nobody would run up on the scene and run
3 into this car; right?

4 A. Actually, I was just there to make sure he was
5 okay.

6 Q. Okay. That's fine. And he was off on the
7 side of road, right? I mean, he out of the lane of
8 traffic?

9 A. Yes, sir.

10 Q. And you checked everything was fine. He said,
11 he was fine. You went on to the other call?

12 A. Yes, sir.

13 Q. Thank you, sir.

14 Quickly, quickly. I think you said, you got
15 there at 1:26. Is that what time you said you got
16 there?

17 A. According to my report. Yes, sir.

18 MR. FRICK: Thank you, sir. That's all the
19 questions I have.

20

21 REDIRECT EXAMINATION

22 BY MR. MC MASTER:

23 Q. Sergeant Harris, do you remember anything
24 about the lighting at this location?

25 A. At that point on 34, there's no lights. No

1 external lights, but the lights on my vehicle.

2 Q. You testified you didn't get a look at the
3 front of his vehicle; is that right?

4 A. No, sir. I didn't see the front of his
5 vehicle.

6 Q. So your headlights were on. And were there
7 any other lights on, could you see his headlights?

8 A. No, sir.

9 Q. Couldn't see his headlights?

10 A. No, sir.

11 Q. Do you remember if he had any other lights on
12 in this car?

13 A. At the time? No, sir. I don't recall.

14 MR. MC MASTER: No further questions.

15 THE COURT: Thank you, sir. You can step
16 down. You are free to leave if you need to.

17 SERGEANT HARRIS: Yes, sir. Thank you.

18 THE COURT: Call your next witness.

19 MR. MAXWELL: The State calls Travis McKinney,
20 William Travis McKinney.

21
22 W-I-L-L-I-A-M T-R-A-V-I-S M-C-K-I-N-N-E-Y, the Witness
23 herein, having been sworn by the Clerk of Court, was
24 examined and testified as follows:

25 (State's Exhibit 10, Photographs, were marked

1 for identification.)

2 (State's Exhibit 11, Photographs Daytime, was
3 marked for identification.)

4 (State's Exhibit 12, diagram, was marked for
5 identification.)

6

7 DIRECT EXAMINATION

8 BY MR. MAXWELL:

9 Q. State your name for the record, please, full
10 name.

11 A. William Travis McKinney.

12 Q. And what is your position and where do you
13 work?

14 A. I am Master Trooper with the South Carolina
15 Highway Patrol Midlands MAIT Team.

16 Q. What is the MAIT Team?

17 A. Multi- -- Multi-jurisdictional Accident
18 Investigation Team.

19 Q. What are the duties of a MAIT officer?

20 A. Reconstruction.

21 Q. Accident reconstruction?

22 A. Uh-huh.

23 Q. What kinds of accidents. Would you go to a
24 fender bender at a traffic light?

25 A. No, sir.

1 Q. What kinds of incidents would you investigate?

2 A. Felony DUIs, felony DUI with great bodily
3 injury, hit and runs with death, hit and runs with
4 injury, police pursuant with injury, hit and runs with
5 pedestrian, stuffs of that effect.

6 Q. Would it be fair to say the stand form MAIT to
7 respond would be either someone hurt really, really
8 badly with great bodily injury or incident involving
9 death?

10 A. Yes.

11 Q. And how long have you been with highway
12 patrol?

13 A. Seventeen years.

14 Q. And how long have you been with the MAIT team?

15 A. Almost three years.

16 Q. And prior to your service with the MAIT team
17 what was your position and duties before?

18 A. Road trooper.

19 Q. Just riding the highways?

20 A. Yes, sir.

21 Q. Making stops. Can you describe your
22 transition from patrol onto the MAIT team, what kind of
23 process you went through, education and so forth?

24 A. In the almost 3 years that I've been here I've
25 achieved approximately 500 hours of reconstruction

1 specific training. Been to 250 to 300 MAIT casualties,
2 which is individual collision.

3 Q. And when you work in MAIT cases, do you work
4 with a supervisor who's been there longer with more
5 experience until you become that person?

6 A. Yes.

7 Q. And maybe you just said, how many times you
8 think you -- or how often on average do you think you're
9 dispatched in a given week or month to investigate an
10 incident?

11 A. Probably several times a month, three or four.

12 Q. A lot of these are in the middle of the night?

13 A. Yes, sir.

14 Q. Do y'all follow up days later, next day and
15 even days later?

16 A. Yes.

17 Q. Sometimes.

18 MR. MAXWELL: I would offer Trooper McKinney
19 as an expert in general reconstruction.

20 MR. FRICK: No objection.

21 THE COURT: Without objection, he's qualified
22 as an expert in general reconstruction of --

23 MR. MAXWELL: General accident reconstruction.

24 THE COURT: Accident reconstruction.

25 Ladies and gentleman, remember an expert can

1 testify in the form of an opinion. That's something for
2 you to consider along with weight, credibility of all
3 the evidence when you consider it. Okay.

4 Q. (By Mr. Maxwell) And Trooper McKinney, you
5 were part of the investigation in this case that took
6 place on November 6, 2020 on 11th Street, September 6,
7 2020?

8 A. I was, sir.

9 Q. And did you respond on the 6th to the scene?

10 A. No, sir.

11 Q. Who did from the MAIT team?

12 A. At that time I believe Master Trooper Sisler.

13 Q. Is he your supervisor?

14 A. He is.

15 Q. And was he the only MAIT officer that
16 responded that night --

17 A. He was.

18 Q. -- that morning.

19 When did you become involved directly in the
20 investigation?

21 A. September the 8th.

22 Q. Is that Monday?

23 A. I'd have to look at the calendar, I believe
24 so. September 8, 2020.

25 Q. Where did you respond to?

1 A. To the Fairfield County Sheriff's Office
2 impound where the vehicle was located.

3 Q. When y'all saw the vehicle was it inside?

4 A. Yes, sir. It was locked inside, they had to
5 let us in.

6 Q. Was it secured as far as you know, where
7 nobody else was messing with it, driving it around or
8 going inside of it or anything?

9 A. Yes.

10 Q. Walk me through your process of examining the
11 car and, just kind of, how you go about things like
12 that?

13 A. On that day approximately 9:00 a.m. in the
14 morning we got there. MAIT team meets, as we always
15 look at the vehicle. Then we take digital pictures of
16 the vehicle all around the outside, side, every part of
17 the vehicle on the outside. Then we conduct a general
18 vehicle examination. We're looking for any damages
19 consistent to what the vehicle would have been involved
20 in.

21 Q. And what kind of vehicle were you looking at
22 in this case?

23 A. Black Chevrolet Impala.

24 Q. And do you know what year model?

25 A. I believe it's 2003.

1 Q. I'm going to hand you what's been marked State
2 Exhibit 7, it's the car registration. You can compare
3 that to any notes you have, just to --

4 A. 2004.

5 Q. -- confirm.

6 Is that the car you examined on September 8,
7 2020? I think it was a Tuesday actually.

8 A. It was.

9 Q. And who else was with you when you were doing
10 the examination?

11 A. Lance Corporal Lindsey and Sisler.

12 Q. And you mentioned y'all took photographs of
13 the car?

14 A. We did.

15 Q. I'm going to show you what's been marked
16 State's Exhibit 10 and ask you to take a look at those
17 picture. There is a total of 25 of them.

18 A. Yes, sir.

19 Q. Just take a second and go through them.

20 A. Yes, sir.

21 Q. Are those the pictures of the car on September
22 8, 2020 as you were examining it?

23 A. They are.

24 Q. Did you take those picture?

25 A. I did.

1 Q. Are they a fair and accurate depiction of the
2 car as you were examining it that day?

3 A. It is.

4 MR. MAXWELL: Your Honor, we would offer
5 State's 10 into evidence. I believe it's pictures 10A,
6 all the through 10Z, 26 pictures.

7 MR. FRICK: No objection.

8 THE COURT: Without objection, introduced.

9 MR. MAXWELL: Your Honor, I'd like to publish
10 these to the jury at this time?

11 THE COURT: Granted.

12 (State's Exhibit 10, Vehicle Photos, was
13 entered into evidence.)

14 Q. (By Mr. Maxwell) I'm going to hand these back
15 to you.

16 Can you see the television screen?

17 A. I can.

18 Q. And we'll just go through these Trooper
19 McKinney.

20 Is that just a picture of the back of the car?

21 A. It is.

22 Q. And does the license plate match the car
23 registration and so forth?

24 A. It does.

25 Q. Going on to the next. Is that just another

1 view of the car?

2 A. Yes.

3 Q. When you're taking these pictures, are you
4 just moving around in a circular pattern around the car?

5 A. MAIT protocol is not necessarily a circular
6 motion around the car. We take eight around pictures.
7 Some of us may start at the back, some may start at the
8 front. But it's a picture of -- like, I started at the
9 back and I just moved around the car. You start at the
10 back quarter panel --

11 Q. You're just moving around there; correct?

12 A. Yes, sir.

13 Q. On that one. Do you see any streaks in that
14 car, on the side of the car?

15 A. Yes, sir.

16 Q. In your observation, what did that appear to
17 be?

18 A. It's liquid that has made those streaks.

19 Q. Is there anything that you observed about the
20 back, the rear glass on the passengers side there.

21 Do you recall anything about the tint of the
22 vehicle?

23 A. Yeah, it's bubbled up.

24 Q. "Bubbled up," is that what you said?

25 A. Uh-huh.

1 Q. Is that, again, you moving around towards the
2 front of the car?

3 A. Yes, sir.

4 Q. Is that the front of the car?

5 A. It is.

6 Q. Can you described what you can see in that
7 picture?

8 A. More liquid, the same kind of liquid we just
9 saw on the side. Hoods damaged, pushed in. Grill's
10 damaged and pushed in.

11 Q. And I'm just gonna ask you, when you refer to
12 the "liquid," are you talking about these sort of white
13 streaks coming down --

14 A. And all over the windshield as well.

15 Q. -- and down here as well?

16 A. Yes.

17 Q. And were those also on the top of the vehicle?

18 A. They were.

19 Q. And again, is that you moving around?

20 A. Yes, sir.

21 Q. I want to direct your attention to the damage
22 down here at the bottom. Were you ever able to
23 determine what may have caused this, if that was old or
24 new damage?

25 A. It would have been striking something,

1 something hard. Could be a curb or something like that.

2 Q. And also from this view, can you see the
3 indentation on the hood here?

4 A. Yes.

5 Q. And again, you moving around, can you still
6 see the white liquid?

7 A. Yes.

8 Q. Streaks just coming down all over the car from
9 the top down?

10 A. Yes, sir.

11 Q. Again, do you see the same thing there?

12 A. Yes, sir.

13 Q. Did you notice anything about the back right
14 tire?

15 A. Yes, sir. It's a spare tire.

16 Q. And is that what we're looking at right there?

17 A. Yes, sir.

18 Q. Is that a close-up picture of it?

19 A. It is.

20 Q. Can you see what the writing is on the top of
21 that tire?

22 A. Spare tire.

23 Q. Again, is that just another close-up showing
24 the spare tire on it?

25 A. Yes sir.

1 Q. Were there any hubcaps on the vehicle when
2 y'all found it?

3 A. I wasn't at the -- when they found it, I
4 wouldn't --

5 Q. When you examined it, that's how it was?

6 A. Yes, sir.

7 Q. Y'all didn't remove anything --

8 A. No.

9 Q. -- any hubcaps or rims on the vehicle?

10 A. No, sir.

11 Q. Again, that's a close-up of the left front
12 tire. And again back right tire -- back left tire. I'm
13 sorry.

14 A. Yes, sir. Still with streaks.

15 Q. Is this just another view of this indentation
16 of the grill that follows up into the hood?

17 A. Yes, sir. That's just trying to get the
18 camera level even with the headlights and stuff like
19 that.

20 Q. And again, the front picture of the damage to
21 the car?

22 A. Yes, sir.

23 Q. And is that a close-up of the windshield?

24 A. It is.

25 Q. Also you can, again, see the streaks coming

1 down of this white liquid coming from the top down. And
2 again, down the drivers side of the vehicle here as
3 well?

4 A. Yes, sir.

5 Q. This is, again, another close-up of the white
6 liquid coming down from the hood towards the drivers
7 side headlight?

8 A. Yes, sir.

9 Q. What is that a picture of there?

10 A. A picture of the contents of the rear seat
11 when we opened the right rear, passenger rear door.

12 Q. And is there anything notable in that picture
13 that y'all observed once you opened the door and
14 examined the contents?

15 A. Yes, sir.

16 Q. What was that?

17 A. Bottle of bleach in the right rear floor door,
18 under that yellow bag.

19 Q. Are you referring to this blue top here?

20 A. Yes, sir.

21 Q. Did you actually look -- move this bag and
22 look at this bottle?

23 A. I did confirm it was bleach.

24 Q. Are you aware of Sergeant Sisler going to the
25 scene that night and collecting evidence?

1 A. Yes.

2 Q. Do you know what, specifically, he collected
3 that night?

4 A. He collected a white piece of plastic, which
5 is actually a bracket for a headlight.

6 Q. And did he leave the scene with that back to
7 y'all office?

8 A. He did.

9 Q. And he maintained control of it or put it in
10 an evidence locker?

11 A. He did.

12 Q. And when y'all went on the 8th, two days after
13 the car would found to process the car, did y'all take
14 the clip with you?

15 A. We did.

16 Q. Did y'all pop the hood?

17 A. We did.

18 Q. Can you describe in that picture, what that's
19 a picture of?

20 A. That is the right front -- the bottom left
21 part right there, would be part of the passenger side
22 headlight.

23 THE COURT: Just step down there and show them
24 what you're talking about.

25 Q. (By Mr. Maxwell) Just come down here, maybe

1 you could describe it a little bit better.

2 A. This right here -- this right here would be,
3 if you open the hood and you're looking down at your
4 passenger side headlight, this would be the headlight
5 assembly that bulbs are in. There's a zip-tie holding
6 that to keep the headlight assembly from falling out of
7 the bracket.

8 Q. What normally should be there?

9 A. A bracket.

10 Q. What is that picture, there, of?

11 A. This is the driver's side, that's what the
12 bracket looks like. That's holding the driver's side
13 headlight assembly on. That would be your assembly
14 light.

15 Q. That is properly as it was?

16 A. That's the way it should look coming from the
17 factory.

18 Q. And just to go back. The passenger side
19 headlight did not have this clip?

20 A. No.

21 Q. And what is that a picture of?

22 A. This is still the blue zip-tie that's holding
23 the assembly. This is the white clip that Sisler had
24 found on scene and took into evidence the night of the
25 collision.

1 Q. And it's there in that picture --

2 A. It's there to show that's where it went, but
3 it's got a zip-tie, that's was we call finding evidence
4 to see where evidence -- comparing it to the driver's
5 side that was there.

6 Q. And is that all the way down or is that just
7 partially in there --

8 A. There's nothing there, because we couldn't get
9 it to fit, because the zip-tie is still holding it
10 together. If the zip-tie was removed, that would that
11 would sit flush.

12 Q. Right. And what is that?

13 A. That is just the picture of the clip and
14 that's where the clip would of went.

15 Q. You can have a seat. Did that essentially,
16 complete your part, as far as, the examination of the
17 vehicle?

18 A. Yes, sir.

19 Q. There's a module in the car, if I'm using the
20 right term.

21 Was that also processed?

22 A. Airbag control module. Yes, sir.

23 Q. And who would have done that?

24 A. I believe that day it was Sisler, if I'm not
25 mistaken.

1 Q. After y'all finished up, that's the first
2 place y'all went on the morning of the 8th; right?

3 A. It was. Yes, sir.

4 Q. Where did you go after y'all completed the
5 examination of the car?

6 A. Myself and Lance Corporal Lindsey then left
7 the vehicle where it was at and went to 11th Street.

8 Q. Where the incident occurred?

9 A. Where the incident occurred.

10 Q. Any idea about what time y'all would have been
11 out there?

12 A. Approximately -- I would say, approximately,
13 we got there at 10:30.

14 Q. A.m.?

15 A. A.m. Yes, sir.

16 Q. Was it daylight?

17 A. It was.

18 Q. And Sergeant Sisler had been there the night
19 of or after it had occurred, and documented the scene
20 that night; correct?

21 A. He did, sir.

22 Q. When y'all went there that day, what are y'all
23 doing there?

24 A. When we respond back to a scene, if a
25 collision occurs at night, protocol for MAIT is, we take

1 daytime photographs of the scene, because as we all know,
2 you may see something in the daylight that you did not
3 see in the dark. So we go back to a scene. We conduct
4 what is called a "walk-through" of the scene. We walk
5 through the scene, we look at any evidence. We look --
6 just process, looking with eyes. Then we take daytime
7 photographs and we'll start at one end of the scene,
8 walk all the way through the scene documenting any
9 evidence, anything to that effect. All the way through
10 the scene, then turn around and then walk back through
11 the scene continuing to take pictures the entire time.
12 And we also take daytime video and we map the scene, to
13 map the roadway with a GPS, our system is DNSS system
14 and we plot the points of the roadway and map any
15 evidence.

16 Q. Are there -- are you aware that either the
17 initial responding MAIT officer or perhaps, other
18 troopers that are initially responding to the scene,
19 mark either where evidence was, inflexion points, impact
20 points on the road, tire marks, et cetera?

21 A. Yes.

22 Q. Are those still -- were they still going to be
23 there when you get there two days later?

24 A. They were.

25 Q. Did you take some pictures of the scene?

1 A. I did.

2 Q. I'm going to show you what's been marked as
3 State's Exhibit 11. I'd ask you to go through those.

4 Are those pictures you took processing scene
5 on September 8, 2020?

6 A. They are.

7 Q. Are those a fair and accurate depiction of the
8 scene as it was that day?

9 A. They are.

10 Q. Are you aware of any major -- major changes to
11 the roadway between the 6th and 8th of September?

12 A. No.

13 MR. MAXWELL: Your Honor, we'd offer States's
14 11 into evidence. There's a total of 28 pictures, 11A
15 through 11BB.

16 MR. FRICK: No objection.

17 THE COURT: Without objection, introduce into
18 evidence.

19 (State's Exhibit 11, Photographs daytime, was
20 entered into evidence.)

21 Q. (By Mr. Maxwell) Beginning with those
22 pictures, can you describe the view there?

23 A. All right. That's a picture as I tried to
24 explain earlier, when we go to a scene, we start and we
25 turn around and go towards the scene. That is looking

1 at 11th Street away from the scene. That's the -- you
2 can see the bridge there. So basically, the collision
3 scene would be to my back, going towards 321 business,
4 would be towards my back. That's looking down 11th
5 Street towards the bridge.

6 Q. That's traveling east, away from Columbia
7 Road; correct?

8 A. Yes.

9 Q. Go on. What is that picture?

10 A. I have now turned around. Now, the bridge is
11 at my back. Now, I'm walking towards the collision.

12 Q. And you're essentially at the same spot when
13 you just took that picture --

14 A. Yes.

15 Q. -- would that be accurate?

16 While we're looking at that picture and we'll
17 get to close ups in a minute. Can you say that picture
18 where the impact between the car and pedestrian was?

19 A. Approximately, up there on the sidewalk, but
20 that's so far back, as you get closer through the
21 pictures you can see.

22 Q. You're referring to this sidewalk here;
23 correct?

24 A. Yes.

25 Q. And that's just a short sidewalk right on the

1 corner --

2 A. Yes.

3 Q. -- would that be fair and accurate to say?

4 In just as second, you're gonna start walking
5 towards that area; is that accurate?

6 A. That is correct.

7 Q. And again, there's some marking, orange
8 markings in the grass right there. Can you describe
9 what those are?

10 A. That's how we mark tire marks. If there's a
11 tire mark -- like, the night of the collision, what we
12 do is either the road troopers or the MAIT team does it.
13 If there's a tire mark there, we put a dot of paint in
14 the tire mark. Then take a couple steps, put a dot of
15 paint in the tire mark and follow that tire mark out.
16 So when we go back for daytime pictures, we know that's
17 where the tire marks was.

18 Q. Those marks were already there from the night,
19 for y'all to basically come up with these to be able to
20 describe the scene from there?

21 A. Yes.

22 Q. Again, you're moving up towards that sidewalk
23 there; right?

24 A. Yes.

25 Q. And is that another mark in the middle of the

1 grass?

2 A. It is.

3 Q. Noting a tire mark?

4 A. Yes.

5 Q. Now, you have a close-up of the sidewalk?

6 A. Uh-huh.

7 Q. There's a mark to the right side of the
8 sidewalk. Is that another tire mark?

9 A. Yes.

10 Q. Right there at the sidewalk, there's a
11 horizontal line?

12 A. Uh-huh.

13 Q. What does that indicate?

14 A. On that line, I couldn't tell you. I didn't
15 put the paint down.

16 Q. Is that -- you see some marks on the left
17 side --

18 A. Yes.

19 Q. -- there. Can you describe what those marks
20 indicate?

21 A. Those two marks, how you see them together,
22 there is a scuff gouge mark on the curb, that's out
23 lining that.

24 Q. What could have caused the gouge mark?

25 A. From that gouge mark, having something like a

1 black rubber at the gouge, like a tire running up onto
2 the curb.

3 Q. Here you can see some circles out in the
4 roadway?

5 A. Yes.

6 Q. Do you know what those circles indicate?

7 A. They were, I believe, shoes and maybe a
8 cellphone.

9 Q. And that's just a close-up picture of those
10 items, where those items were?

11 A. Yes.

12 Q. Now, it's turning back around here, would that
13 be fair?

14 A. Yes.

15 Q. What you just described as the tire gouge mark
16 scuff?

17 A. Yes.

18 Q. Is that a close-up picture of that?

19 A. Yes.

20 Q. Are you referring to this indentation into
21 here?

22 A. Yes.

23 Q. Can you describe that anymore about how it was
24 caused?

25 A. If you hit a curb hard enough, the rubber can

1 run off the bead which, in turn, your wheel is going to
2 rub the concrete and put an indentation like that in
3 there.

4 Q. Now, moving back to where you were moving?

5 A. Following -- yes.

6 Q. Any idea what those marks are?

7 A. Scuff marks from, could be from the wheel or
8 the bumper dragging some part of the undercarriage.

9 Q. And that's a close-up of those marks?

10 A. It is.

11 Q. Is this a -- between these two marks --

12 A. Yes.

13 Q. -- is that scuff mark you're talking about?

14 A. Yes.

15 Q. It looks like a scrap?

16 A. Yes. Like digging.

17 Q. And you're moving on with perhaps, more
18 evidence, nothing scuffs mark that are still at the
19 bottom of the screen?

20 A. Yes.

21 Q. Now, you move to this median, kind of, in the
22 middle of the road. That's another close-up picture.
23 Is there more markings here?

24 A. Yes, sir.

25 Q. And what is showing?

1 A. You want me to use the --

2 Q. Sure, come on up here.

3 MR. MAXWELL: Is that fine, your Honor?

4 THE COURT: Yes, please.

5 A. It's easier to show you, than explaining to
6 you. When they put down the... see how it's following
7 that tire mark all the way out. That's basically,
8 paint, couple steps, paint. You have one distinct tire
9 mark there and one distinct tire mark there.

10 Q. What does that indicate to you?

11 A. Steering back to the left. Vehicle's
12 traveling this way and it's steering coming back this
13 way.

14 Q. Can you make a distinction between, side to
15 side, front to front, back?

16 A. This right here would be driver's side.

17 Q. And the distinction inside -- the one on the
18 left would that be front tire or back tire?

19 A. Yes.

20 Q. Which one?

21 A. This one should be front left. Yes. And this
22 would be the rear dragging inside the front tire as it's
23 turning.

24 Q. The outer -- the one on the left is the front?

25 A. Yes.

1 Q. Inner side is the rear?

2 A. Rear -- rear tire.

3 Q. And those are the driver's side?

4 A. Yes.

5 Q. Put the car, way in this area?

6 A. Yes. That's, approximately, how wide a
7 vehicle is. If it's turning. You can still see them
8 continuing on out. And you still, following them out,
9 like I said, every couple of steps. And that line right
10 there, is where they couldn't see anymore that night.
11 That's when they put that hard line over there.

12 Q. It's just we're clear. This is going to be
13 the front tire?

14 A. Yes.

15 Q. And that's going to be the back tire?

16 A. Yes.

17 Q. And Trooper McKinney, that's what you were
18 talking about, that last statement you made?

19 A. Yes. That's where they had moved around --
20 looks like they may have seen it there. But, that right
21 there, is what we do when we can't see any more.

22 Q. And this is a close-up of the same thing you
23 just described?

24 A. See, they may have seen that that night a
25 little father. But then again, they'd draw another

1 line.

2 Q. And that's -- is that the other line you're
3 referring to right there?

4 A. It is.

5 Q. And just so we know which direction we're
6 headed in. Off in the distance, what intersection is
7 that?

8 A. That's 11th Street and Columbia Road, 321
9 Business or Columbia Road.

10 Q. And again, just another close-up moving up in
11 that area?

12 A. Yes, sir. That's just taking a couple steps
13 taking another picture. Taking a couple steps --

14 Q. Now, we're in a little bit different view. Do
15 you know what's in that picture?

16 A. That was final rest where the body was.

17 Q. And do you know what intersection that is?

18 A. This was -- I would have to look at the map.

19 Q. You can have a seat back up there. I'll show
20 you State's Exhibit Number 1. Can you look at that and
21 describe the intersection of where --

22 A. That's Maple Street and 11th.

23 Q. And to go back to the marking where the
24 evidence was, where the scuff mark was on the sidewalk,
25 what intersection was that?

1 A. Chestnut Street.

2 Q. They kind of come together right there at 11th
3 Street, would that be accurate?

4 A. Yes, sir.

5 Q. And again, that's just looking up towards
6 Columbia road there. And that's a straight view looking
7 towards the intersection of Columbia?

8 A. Yes.

9 Q. Now, have you turned around at this point?

10 A. Yes. Columbia Road is at my back again and
11 now, I'm going back towards the --

12 Q. Now, we see the intersection a little bit
13 differently. Again, the intersection where Mr. Gibbs'
14 body came to rest, is what intersection?

15 A. Maple.

16 Q. And is that -- what road is this here?

17 A. This is Maple.

18 Q. He was in this intersection?

19 A. Yes.

20 Q. And if you go back here, would the point of
21 impact back at this intersection?

22 A. That's Chestnut.

23 Q. And again, we're just looking at the tire
24 marks coming through differently?

25 A. Yes.

1 Q. And again, moving back in the opposite
2 direction of what we just looked at.

3 And that's the sidewalk you've already passed
4 where the shoes were close to that and where the scuff
5 mark was?

6 A. Yes.

7 Q. Now, we're gonna get closer back to where we
8 started looking back towards the bridge, would that be
9 right?

10 A. Yes, sir.

11 Q. And I think we might be back to where we
12 started?

13 A. Yes, sir.

14 Q. After you took all those pictures, you
15 mentioned something called CAD, a forensic map we've
16 heard. Can you describe what that is?

17 A. Another thing we do is forensic map scene, so
18 we know where the road line is, the edge of pavement,
19 the yellow lines, those intersections, any evidence,
20 tire marks, we map. And it's one man mapping the
21 station and we plot those points and when we get back
22 into the office, we open up the thing and we have a
23 computer assisted program, CAD that prints a computer
24 diagram of the roadway with the vehicles and evidence
25 and the way it would look.

1 Q. And did you collect the information you would
2 need from the scene in this case?

3 A. I did the forensic mapping for the scene.

4 Q. And when you got back to the office, did you
5 use the computer soft system --

6 A. I did.

7 Q. -- to produce the CAD?

8 A. I did.

9 Q. Let me show you what's been marked State's
10 Exhibit 12, take a look at those.

11 Are those the diagrams you produced --

12 A. They are.

13 Q. -- in this case for forensic mapping?

14 A. They are.

15 MR. MAXWELL: We move the CAD diagrams into
16 evidence as State's 12A through D.

17 MR. FRICK: No objection.

18 THE COURT: Admitted into evidence.

19 (State's Exhibit 12A through 12D, CAD Diagram,
20 was entered into evidence.)

21 MR. MAXWELL: We'd ask to publish to the jury,
22 your Honor.

23 THE COURT: All right.

24 Q. (By Mr. Maxwell) Is that Exhibit 12A that you
25 have there in your hand?

1 A. It is.

2 Q. Describe that -- there's a total of four of
3 these; is that right?

4 A. Sorry.

5 Q. There's a total of four different drawings?

6 A. Yes, sir.

7 Q. Describe that for me and what it depicts?

8 A. Can I come down?

9 Q. Please do.

10 A. This what we call CAD sheet. This is what we
11 print when we do one. As I stated, I mapped points. So
12 where the white lines are, the fog line, your double
13 yellow line and the pavement, edges of the driveway in
14 some parts. All that stuff is what I was mapping and
15 then we bring it in and map the roadway as it appeared
16 on down and that is the roadway.

17 Q. What is that in 12B?

18 A. This is the impact line. This would be
19 evidence up to impact. This would be impact and this is
20 a callout box. As you can see, pedestrian, is over
21 here. You can't see him here, so that's a zoomed in
22 picture of that right there. And that's where we put --

23 Q. And that CAD showed the vehicle, all four --
24 almost all four tires, almost completely off the road
25 out of the line?

1 A. Oh, yes. This is a travel lane. As you can
2 see where the white line is and that's actually inside
3 the tire mark.

4 Q. And earlier, we were talking about the scuff
5 mark on the sidewalk. Can you kind of point out the
6 area where the sidewalk is and where that scuff mark
7 was?

8 A. Right in there.

9 Q. And when the car went off the road and struck
10 the pedestrian coming down, that was how the scuff mark
11 was made?

12 A. Yes, sir.

13 Q. That's 12C, now.

14 A. This is evidence and final rest. This is tire
15 marks. This is the gouge. This right here would be the
16 two tires marks that you've seen.

17 Q. In the grass?

18 A. Going towards Maple Street and this right here
19 was the three dots of final right. And we put three
20 dots indicating they hit the center last.

21 Q. And again, that's --

22 A. That's just the sequence of events. We bring
23 the car in, show how it was drove, going through here
24 and you also have the final rest with the pedestrian.

25 Q. Did you notice any indication of the car

1 loosing control and going multiple directions at all?

2 A. No.

3 Q. Did it come just straight off the roadway and
4 take that path and --

5 A. And goes here. And yes, off the road.

6 Q. Wasn't skidding sideways or anything like
7 that?

8 A. No previous skidding sideways or anything
9 prior too this.

10 MR. MAXWELL: No further questions.

11 THE COURT: All right.

12 Mr. Frick, your witness.

13 MR. FRICK: Thank you, your Honor.

14

15 CROSS-EXAMINATION

16 BY MR. FRICK:

17 Q. Is it Master Trooper?

18 A. Yes, sir.

19 Q. Master Trooper McKinney. Was anybody else
20 that examined the car with you? I mean, I know there
21 were people on scene. But are you the investigator for
22 the car when it's up here at the impound?

23 A. That's all of us.

24 Q. Right.

25 A. I took the pictures of the car, that was my

1 job.

2 Q. Okay. But I know they pulled that little
3 black box and examined it. That's not you; right?

4 A. No, sir.

5 Q. But you took pictures of the inside of the
6 car?

7 A. I did.

8 Q. The Solicitor showed you one about the
9 backseat. Y'all look pictures in the front seat as
10 well, right?

11 A. Yes.

12 Q. Do you recall if the airbag was deployed?

13 A. No.

14 Q. It was not. Okay. Do you know whether, did
15 this car have passenger side airbags?

16 A. I couldn't answer that question.

17 Q. That's fine. That's fine.

18 A. I would say, yes, but I don't know.

19 Q. Okay. But you don't -- there were no bags
20 that were deployed; right?

21 A. No.

22 Q. And the paint marks that are there that you
23 used to make this computer drawing as the Solicitor
24 asked you, the tire marks that are in the grass, it's
25 your opinion are the driver's side tires?

1 A. Are -- they're markings of that.

2 Q. Right. But I think he asked you and you
3 agreed that the tire --

4 A. Not there. It was further up. I believe they
5 were the driver's side tires.

6 Q. Okay. Because y'all marked even further back;
7 correct?

8 A. Yes.

9 Q. Indicating the car had gone into the grass
10 further back than this one?

11 A. No. Only point -- only points that would be
12 plotted is in there.

13 Q. Gotcha.

14 A. Not further back. Yep.

15 Q. So we're right here and it goes, that's the
16 driver's side, and through there and a little bit of
17 grass and then straight on?

18 A. There you go.

19 Q. Thank you, sir.

20 MR. FRICK: That's all the questions I have.

21 THE COURT: All right. Any redirect?

22 MR. MAXWELL: Just Briefly.

23 THE COURT: Okay.

24

25

REDIRECT EXAMINATION

1 BY MR. MAXWELL:

2 Q. As part of y'all's examination of the scene
3 when y'all we're out there, did y'all walk further east
4 on 11th Street to see if you saw any marking, tire marks
5 in the road or the grass or anything?

6 A. We did.

7 Q. Did you see anything beyond what was already
8 marked?

9 A. No.

10 Q. Did you go down to see if you saw anything
11 extra that wasn't already marked?

12 A. We did.

13 Q. Do you find anything extra?

14 A. No.

15 Q. No indication that the car was losing control
16 anywhere but back towards the bridge on 11th Street?

17 A. No. If you look in one of my pictures, we're
18 parked past the scene, our patrol vehicles, we actually
19 went all the down to the intersection that you see in
20 front of the bridge and turned around and came back to
21 the scene and parked our vehicles prior to the collision
22 scene.

23 MR. MAXWELL: Thank you.

24 THE COURT: Thank you, sir. You can step
25 down.

1 Ladies and gentlemen, let's take a quick
2 mid-afternoon short recess. Don't talk about the case.
3 We'll get you back out here momentarily.

4 (Jury exited courtroom.)

5 (Whereupon, a recess was taken.)

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

8 Who's your next witness?

9 (Jury entered courtroom.)

10 MR. MAXWELL: Mark Lindsay.

11 (State's Exhibit 13, House surveillance, was
12 marked for Identification.)

13
14 M-A-R-K L-I-N-D-S-A-Y, the Witness herein, having been
15 sworn by the Clerk of Court, was examined and testified
16 as follows:

17
18 DIRECT EXAMINATION

19 BY MR. MAXWELL:

20 Q. Lance Corporal Lindsay, could you state your
21 full name for the record?

22 A. Mark Daniel Lindsay.

23 Q. And where are you employed?

24 A. Employed with the South Carolina State Highway
25 Patrol.

1 Q. What's your position?

2 A. I'm a Lance Corporal on the MAIT team.

3 Q. And again, do you work with Trooper McKinney?

4 A. Yes, sir.

5 Q. And Sergeant Sisler?

6 A. Yes, sir.

7 Q. And on September 8, 2020 did you begin your
8 investigation, your involvement in the investigation in
9 this case?

10 A. Yes, sir.

11 Q. To go back to the 6th, did you go out to the
12 scene that night?

13 A. No, sir.

14 Q. So on the 8th where did you do initially?

15 A. Initially we responded to where the vehicle
16 was, which was at the Fairfield County Sheriff's Office.
17 They were holding it there for us so we can do an
18 inspection.

19 Q. Let me go back over a couple things. How long
20 have you been with the highway patrol?

21 A. I've been with the South Carolina State
22 Highway Patrol coming up on eight years now.

23 Q. And how long have you been with the MAIT team?

24 A. Almost two years now.

25 Q. And did you go through the same process as

1 Trooper McKinney just testified to in order to be an
2 effective MAIT investigator?

3 A. Yes I have.

4 MR. MAXWELL: Your Honor we'd offer Lance
5 Corporal Lindsay as an expert, again, in General
6 accident reconstruction.

7 MR. FRICK: No objection.

8 THE COURT: Without objection, so qualified.

9 Q. (By Mr. Maxwell) Were you there when y'all
10 processed the car?

11 A. Yes, sir.

12 Q. And your were there when Trooper McKinney took
13 photographs of the car as well?

14 A. I was.

15 Q. After y'all finished up the processing of car,
16 did you go to the scene with Trooper McKinney?

17 A. Yes, I did.

18 Q. Was it just the two of y'all there on that
19 daytime, of the 8th?

20 A. Yes, sir.

21 Q. What did you do?

22 A. I took daytime video, which is just a video
23 walkthrough of the scene. And then went to the house on
24 the corner of 11th Street and Maple Street, which is 470
25 Maple Street. I was informed they had security camera's

1 on the outside of the house and I wanted to see if they
2 captured the collision on camera.

3 Q. And as you approached the house, did you see
4 the surveillance cameras?

5 A. I did.

6 Q. Did you speak with the occupant of the home?

7 A. I did.

8 Q. Just describe -- you may not remember the
9 exact name, but who was it?

10 A. It was an African American women.

11 Q. Was it an elderly woman?

12 A. Yes, sir.

13 Q. Did she know much about how do operate her
14 surveillance system?

15 A. She did not.

16 Q. Did she give you access to the surveillance
17 system?

18 A. She did.

19 Q. What was it -- how was it on inside the house?

20 A. It was back in the kitchen near the back
21 sliding door access to driveway.

22 Q. Was it on a computer or laptop?

23 A. It was on computer.

24 Q. Did you sit down at the computer and try to
25 access the system?

1 A. I did.

2 Q. Were you able to find video of the collision
3 that took place on September 6, 2020?

4 A. Yes, I was.

5 Q. And how do you download it.

6 A. I used the snip function that the camera
7 system had and saved it to a flash drive.

8 Q. Did you take that with you?

9 A. I did.

10 Q. And did y'all go back to y'all's office and
11 all y'all watched it and analyzed it?

12 A. Yes, sir.

13 Q. I'm going to show you what has been marked as
14 State's Exhibit 1. If you would come down, stand to the
15 side so everybody can see. What house did you go to the
16 system?

17 A. It is this one right here on the corner of
18 11th and Maple.

19 Q. How many camera angles captured significance
20 of instances?

21 A. There were two.

22 Q. And named camera two or channel two and camera
23 two and channel three?

24 A. One is Channel 2 and one is Channel 3.

25 Q. Starting with Channel 2 I guess. Where does

1 Channel 2 face, where was the camera at?

2 A. Channel 2 was on the front of the house on the
3 right side of the porch, it is facing towards 11th
4 Street this way.

5 Q. Facing the intersection corner?

6 A. Facing the intersection and it catches this
7 portion of the sidewalk right here.

8 Q. And what about the other channel?

9 A. Channel 3 was on the backside of the house and
10 it is pointed down this way, so you get the sidewalk and
11 mostly this area right here.

12 Q. Is there any audio?

13 A. There is no audio in the video.

14 Q. Is it black and white or any color to it?

15 A. No. It's black and white.

16 Q. Pretty standard?

17 A. Yes, sir.

18 Q. Can you zoom in, zoom out with the system?

19 A. No.

20 Q. And if someone is -- can you see somebody
21 walking in the video?

22 A. Yes, you can.

23 Q. Can you make out who that person is? Is it
24 that close or that good?

25 A. You can tell it's a person, you can't tell

1 exactly who it is.

2 MR. MAXWELL: Your Honor, we would now offer
3 the video into evidence. There's two separate angles,
4 Channel 2 and Channel 3 and offer it as one exhibit.

5 MR. FRICK: No objection.

6 THE COURT: Without objection admitted into
7 evidence. Permission to publish.

8 (State's Exhibit 13, Surveillance, was
9 admitted into evidence.)

10 Q. (By Mr. Maxwell) You said Channel 3 was the
11 one looking towards 11th Street, towards the bridge?

12 A. Correct.

13 Q. There's a car driving by right there?

14 A. Yes, sir.

15 Q. Are you able to offer any opinion about that
16 car?

17 A. The taillights appears to be rounded, which
18 is -- that's similar to that model year Impala that we
19 had.

20 Q. That you processed?

21 A. Yes, sir.

22 Q. To a lot of cars have rounded taillights?

23 A. Not many. It's very common on the Impala
24 though.

25 Q. There's a timestamp on the camera; is that

1 right?

2 A. The timestamp is not correct. It is off.

3 Q. Is the date correct?

4 A. The date is correct.

5 Q. And the date says, "9/6/2020"?

6 A. Correct.

7 Q. It says, "Sunday"?

8 A. Yes, sir.

9 Q. Is that accurate?

10 A. That's accurate.

11 Q. The time on there, what time would that be if
12 that was right?

13 A. If that were correct it would be 1:46 in the
14 afternoon.

15 Q. P.m.?

16 A. P.m.

17 Q. And obviously, this is nighttime; correct?

18 A. Yes, sir.

19 Q. Did you look at a lot of video in order to
20 narrow it down to, this is what you wanted to get?

21 A. Yes, sir.

22 Q. Just so we're clear, that car is headed from
23 Columbia Road toward the bridge headed east; correct?

24 A. Correct. That is heading away from the
25 collision scene.

1 Q. Lance Corporal Lindsay, we are about three
2 minutes, or close to three minutes in; is that correct,
3 after the car went down the road?

4 A. Yes, sir.

5 Q. We're at 3:06, can you see someone walking
6 down the road in the video now?

7 A. Yes.

8 Q. Right behind these trees?

9 A. Yes, sir.

10 Q. You see the pedestrian walking behind the
11 trees, the brush?

12 A. Yes, sir.

13 Q. And then coming out the other side?

14 A. Yes, sir.

15 Q. You saw a car go by there. The car's going
16 too fast to identify or get any description of that car
17 at that point in time?

18 A. That's correct.

19 Q. Going to Channel 2, this was the channel
20 looking out towards the corner of 11th and Maple?

21 A. That's correct.

22 Q. The video we just watched, was as little over
23 four minutes long. This one's twice, and a little bit
24 different, it's up to seven minutes.

25 Describe the different there if you want to?

1 A. Honestly, I'm not sure of the difference. I'm
2 not the one that merged the videos together.

3 Q. We're just gonna fast forward to three
4 minutes.

5 Is this the stop sign on Maple Street and
6 11th?

7 A. Yes, sir. It is.

8 Q. Was there a car just traveling from Columbia
9 Road going down 11th Street?

10 A. That's correct.

11 Q. Headed east.

12 Corporal Lindsay, the sidewalk that has been
13 testified to, is that out here towards this area?

14 A. The sidewalk that -- where the vehicle first
15 runs off the road is actually further back.

16 Q. Towards this area?

17 A. Further back than that.

18 A little further.

19 Q. In that area?

20 A. In that general area on the left side of the
21 screen. Yes.

22 Q. We're about three minutes in from when you
23 first saw that car traveling east on 11th; would that be
24 accurate?

25 A. Yes, sir.

1 Q. At this point, can you see an individual
2 entering the screen to the left here?

3 And if you need to come look a little bit
4 closer, please do.

5 A. Yes, sir. I can.

6 Q. This pole is right there?

7 A. Yes, sir.

8 Q. Is this the same individual we've seen back
9 here, now coming through the other side of the house?

10 A. Yes, sir. It's got a similar timestamp to the
11 other video.

12 Q. Is this the individual walking here?

13 A. Yes, sir.

14 Q. Going back to the timestamp 6:39. As you see
15 the individual start walking, do the headlights
16 illuminate the pedestrian?

17 A. Yes, they do.

18 Q. That there?

19 A. Yes.

20 Q. And you see the car travels on towards
21 Columbia Road?

22 A. Yes, sir.

23 Q. At the tame time you see another car traveling
24 from Columbia Road east on 11th Street?

25 A. Yes.

1 MR. MAXWELL: No further questions.

2 THE COURT: Mr. Frick, your witness.

3 MR. FRICK: Thank you, your Honor.

4

5 CROSS-EXAMINATION

6 BY MR. FRICK:

7 Q. So just making sure your role in this is, you
8 did a daytime walkthrough video of the area?

9 A. That's correct.

10 Q. And then collected the video that we've seen
11 here; right?

12 A. That's correct.

13 Q. And Solicitor asked you on the first video, I
14 don't want to replay that. But he asked you about the
15 car going by and the rounded taillights.

16 I believe your response was, "That's common to
17 an Impala"?

18 A. Correct.

19 Q. I believe you also indicated that the date's
20 correct, but the timestamp's not correct?

21 A. Correct.

22 Q. And other than being able to say that the
23 taillights on that Impala, there's really no other --
24 taillights on an Impala are common to be round, there's
25 no other identifying features that we see?

1 A. Correct. The rounded taillights.

2 Q. Right.

3 MR. FRICK: Thank you, sir. That's all the
4 questions I have.

5 MR. MAXWELL: No redirect.

6 THE COURT: Thank you, sir. You can step down
7 next.

8 State can call it's next witness.

9 MR. MAXWELL: Sergeant Jeremy Sisler.

10

11 J-E-R-E-M-Y S-I-S-L-E-R, the Witness herein, having
12 been sworn by the Clerk of Court, was examined and
13 testified as follows:

14 (State's Exhibit 14, Scene Photos, were marked
15 for identification.)

16 (State's Exhibit 15, Diagram of Scene, was
17 marked for identification.)

18 (State's Exhibit 16, Headlight Clip, was
19 marked for identification.)

20 (State's Exhibit 17, Diagram, was marked for
21 identification.)

22 (State's Exhibit 18, Defendant's Recorded
23 Interview, was marked for identification.)

24

25

1 DIRECT EXAMINATION

2 BY MR. MAXWELL:

3 Q. State your name for the record, please.

4 A. Jeremy David Sisler.

5 Q. Sergeant Sisler, where are you employed?

6 A. With the highway patrol.

7 Q. What's your position with highway patrol?

8 A. I'm a sergeant over the Midlands MAIT team.

9 Q. How long have you been with the highway
10 patrol?

11 A. Twenty-four years.

12 Q. And how long have you been with the MAIT team?

13 A. Since 2009.

14 Q. And right now you're a supervisor with the
15 MAIT team?

16 A. Yes, sir. I'm over this team.

17 Q. Did you go through a process of taking classes
18 and learning and gaining experience in accident
19 reconstruction?20 A. Yes. Starting in 2001, I've taken collision
21 reconstruction class about 1500 hours of total training.

22 Q. Have you testified as an expert before?

23 A. Yes, sir. I have.

24 MR. MAXWELL: Your Honor, we'd offer Sergeant
25 Sisler as an expert in general accident reconstruction.

1 MR. FRICK: No objection.

2 THE COURT: So qualified.

3 Q. (By Mr. Maxwell) Did you respond to the scene
4 on September 6, 2020?

5 A. Yes, sir.

6 Q. Was that on 11th Street?

7 A. Yes.

8 Q. What time do you remember getting the call and
9 getting down there?

10 A. I think I got this call around 2:00 in the
11 morning from, at the time Sergeant Trotter, and I arrive
12 on scene I think at 3:00.

13 Q. When you arrived on scene were there already
14 law enforcement on scene?

15 A. Yes, sir.

16 Q. The sheriff's office?

17 A. The sheriff's office and the highway patrol
18 were both on the scene.

19 Q. Was the scene already secured when you
20 arrived?

21 A. Yes, sir.

22 Q. And had troopers already started marking
23 pieces of evidence things they had observed before you
24 got there?

25 A. Yes, sir.

1 Q. Did you, kind of, take over the scene once you
2 arrived?

3 A. Yes, sir.

4 Q. Were you directing people what to do?

5 A. They walk me through what they have done and
6 then, anything that I think they needed -- anything that
7 needs to be done further than that, I take over that.

8 Q. What kinds of things were marked, either
9 before or after you got there?

10 A. Tire marks off in the grass. The scratch on
11 the curb. A tire mark in the center of the curb. Then,
12 tire marks off on the grass again. Kind of a gouge or a
13 scuff in the roadway. And final -- the victim was
14 actually still there when I arrived. So if the
15 coroner's office isn't moving the body, that's when I
16 actually mark the body myself then.

17 Q. He had at least not been moved other than
18 perhaps to check for signs of life before you arrived?

19 A. Correct.

20 Q. I want to show you a group of pictures marked
21 State's Exhibit 14.

22 A. Yes, sir.

23 Q. Are those pictures you took?

24 A. Yes.

25 Q. Are they an accurate and fair depiction of the

1 scene, that night, when you arrived and processed it?

2 A. Yes, sir. They are.

3 MR. MAXWELL: Your Honor, we'd offer State's,
4 I believe it's 14, again if I'm not mistaken. That's 14
5 into evidence, a group of 24 pictures I believe.

6 MR. FRICK: No objection, your Honor.

7 THE COURT: Without objection, admitted into
8 evidence.

9 (State's Exhibit 14, Nighttime Photos, was
10 entered into evidence.)

11 MR. MAXWELL: We'd like to publish those at
12 this time, your Honor.

13 THE COURT: All right. Permission to publish,
14 granted.

15 Q. (By Mr. Maxwell) Sergeant Sisler, is that a
16 picture of Mr. Gibbs body at the intersection of 11th
17 and I think it was Chestnut?

18 A. 11th and Chestnut. Yes, sir.

19 Q. Is that the position he was in that you
20 believe he came to rest after the collision of the car
21 or close to it?

22 A. Yes, sir. I doesn't appear that EMS moved him
23 to check. They just checked him as he was.

24 Q. Now, we're a little bit more familiar with the
25 scene. Where is that picture of?

1 A. It's the same thing that Lance Corporal --
2 Master Trooper McKinney did. It's facing away from the
3 scene back towards the bridge. So the scene is to my
4 back.

5 Q. Again, you're doing the same process he
6 described with moving around and walking the scene,
7 trying to walkthrough it, then turn around and walk
8 back?

9 A. Yes, sir. It's the exact same thing, it's
10 just at the active scene that night.

11 Q. Again, you're just moving around here?

12 A. Yes, sir. This is just turning around to face
13 back towards the scene.

14 Q. Let me go ahead and ask you. The house that
15 Corporal Lindsay just testified about surveillance
16 cameras's, is that that house?

17 A. That is that house. Yes, sir.

18 Q. And is this the driveway here that is seen in,
19 I think, the first video we watched, Channel 3?

20 A. Yes, sir.

21 Q. And the other camera is on the front porch
22 facing the intersection, Channel 2?

23 A. Yes, sir.

24 Q. Again, just moving around, like of, 360
25 degrees at this point.

1 The tape here, was already there when you
2 arrived?

3 A. Yes, sir. I believe the sheriff's office put
4 that tape up to secure the scene.

5 Q. And now, you're moving towards the point of
6 impact where the body -- you're moving up towards
7 Columbia Road, west of 11th Street in this picture?

8 A. Yes, sir.

9 Q. Now, here we're looking at the sidewalk, is
10 there anything in that picture that you can notate or
11 move closer?

12 A. It's before it's painted. The scuff -- the
13 scratch on the curb, it's kind of dead center in that
14 picture. The white mark in the middle of the
15 sidewalk --

16 Q. If you want to step down and describe you're
17 welcomed to.

18 A. Yes, sir. This is before the mark. There's
19 the scuffing on the curb up in here. The white mark
20 hasn't been marked yet. Obviously, the shoes and the
21 phone have already been circled by the -- by the road
22 troopers.

23 The closer up of that same scratch mark on the
24 curb, a little rubbed up through here.

25 Q. And this, whatever this is, that had nothing

1 to do, as far as you're aware?

2 A. Correct.

3 Q. There's nothing material here?

4 A. Correct.

5 Q. What's that showing there?

6 A. You have his shoes and his cellphone up here
7 and then that white mark is here also. And again, the
8 shoes and a piece of his property near where I've
9 circled in the intersection.

10 Q. From that, can you tell the impact was at this
11 point back here to the right?

12 A. Yeah. Even without the video, from just
13 experience and training, people hit by cars at any
14 speeds above 20, 25 come out their shoes. And their
15 shoes and their property, anything in their hands, is
16 going to be pretty much right where they were standing
17 when they were struck by the car.

18 Q. At least closer to it then where the body
19 might end up?

20 A. If we didn't have video, we would have put him
21 probably right here on the sidewalk knowing his shoes
22 came that close.

23 Q. Let me just move over.

24 A. That's his right shoe and left shoe.

25 Q. And again, just moving along?

1 A. Yes. That's just closer pictures of his
2 items. As you move up, it's just more of his personal
3 property as you make it across Maple Street up towards
4 Chestnut.

5 Q. Describe that, what we're looking at here?

6 A. You've got the right-side tires of the car,
7 you notice they're not on top of each other, which just
8 means they're not tracking, this is turning hard to the
9 left. The back end, that's just slide out just a little
10 bit to the right. That's why the outside tires, they're
11 not on top of each other like they'll be on the drawing.
12 When you loose control, the car spins the outside -- the
13 right rear will come outside the front. He hasn't lost
14 control at this point. He's just turning hard enough
15 that the car is just slightly off track. All right,
16 this is his right front and that's his right rear.

17 Q. Just to clear something up. We heard from
18 Trooper McKinney about this maybe being the driver's
19 side. Can you clear up that, just so we're clear?

20 A. Yes. So, he did the CAD, which he showed you
21 at the end of his. Where on the CAD he has the correct
22 view, he just misspoke when he said these were the
23 passenger side tires.

24 Q. And this line here, what is that? Right here.

25 A. That's the fog line. So, he's supposed to --

1 the car, obviously, should be on the left of that white
2 line. Anything over here is not drivable portion of the
3 highway.

4 Q. So, even if this is the passenger side tires
5 here, it still would put the driver's side outside the
6 entire lane of travel?

7 A. And we'll track that car from probably around
8 five and-a-half, closer to six feet. So six feet, so
9 he's still over here. Nowhere near the travel portion
10 of the highway.

11 Q. And again, that's just a close-up view of
12 that?

13 A. Yes.

14 Q. Now, we can look in the background, back
15 towards the stop sign, the intersection where the other
16 tape is in the back.

17 A. Yes.

18 Q. Is the body of Mr. Gibbs back there?

19 A. He's back over here.

20 Q. Again, just moving up the road there.

21 A. That's the two tire marks on the right side
22 and where the victim came to rest.

23 Q. And again, just moving up. Is that still tire
24 marks?

25 A. Yes, sir. That's still tire marks and you can

1 kind of see it right here. There's gravel here, where
2 it moved the gravel as he came through there at a
3 relatively high speed.

4 Q. And now, we're looking at where Mr. Gibbs'
5 body came to rest there?

6 A. Yes, sir. I'm kind of going in that direction
7 to show where the body came to rest in relation to the
8 tire marks. And then, his head, center mass, and feet,
9 are the three pink dots.

10 Same thing, there's a little bit of blood from
11 hitting him center mass and his feet. And this is just
12 looking back where I had just come from. So the path
13 and turn around and came back this way.

14 Q. So the tire marks are still in this grassy
15 area here?

16 A. Yes, sir. The tire marks are still over here
17 and off to the right.

18 Q. And let's talk about -- when you arrived, had
19 you already been told or at some point you're there when
20 you're told about some Trooper, that Trooper Holland had
21 found a clip somewhere in the road?

22 A. He found a piece of plastic in the road. Yes,
23 sir.

24 Q. Okay. Is that a picture of that there that
25 you took?

1 A. Yes, sir.

2 Q. And had it already been marked?

3 A. I believe I actually made a mark.

4 Q. Did you collect that piece of evidence?

5 A. Yes, sir.

6 Q. When you collected it, did you know exactly
7 what it was or what it probably was?

8 A. No, sir. It was just a white piece of
9 plastic. It's a decently heavy traveled road and
10 there's not just debris in the road. Off the road,
11 sure. But in the roadway, cars are going to knock that
12 out pretty quickly. So, that being in the roadway -- a
13 major way we find hit and run from vehicles is from
14 debris left from cars. So, we'll collect anything found
15 there.

16 Q. Is that just a close-up of that?

17 A. Yes, sir.

18 Q. You can have a seat back there.

19 Did you collect that clip?

20 A. I did.

21 Q. And did you take it away from the scene with
22 you --

23 A. Yes, sir.

24 Q. -- and secure it?

25 A. Yes, sir.

1 Q. What's your -- kind of your evidence procedure
2 of have you secure evidence?

3 A. We take everything to our closest office or
4 the office we're headed to. So from this scene it would
5 be back towards the Rock Hill office. And it's secured
6 entered in evidence in Rock Hill as a temporary holding.
7 We kept it there until we can potentially can find the
8 vehicle.

9 Q. Was there anything that you could do to gain
10 information from that clip that lead you to anything?

11 A. Yes, sir. There are numbers on here. On one
12 side there's just a set of, what appear to be random
13 numbers and some letters. We just type that into Google
14 and see what pops up when you Google search it, and it
15 comes up to General Motors, but nothing more specific
16 than that.

17 Q. Did it tell you what kind of piece it was?

18 A. No, sir.

19 Q. Just know it was some kind of part to a
20 General Motors vehicle?

21 A. Yeah. General Motors is what popped up on
22 Google search.

23 Q. Who makes Chevy Impalas?

24 A. General Motors.

25 Q. And sometimes you can't tell from a piece of

1 evidence, there maybe some kind of vin or serial number
2 on it that gives you a specific make and model and
3 perhaps a range of years?

4 A. Yes, sir. Actually, the majority of our hit
5 and runs, we'll find something out there that will have
6 a number on it and that number gives a year, make, model
7 and the -- exactly what we're looking for.

8 Q. But is this case, you weren't able to get any
9 information off of that as far as a specific kind of
10 vehicle you might be looking for?

11 A. Correct.

12 Q. Did you make a diagram of the scene where
13 evidence was?

14 A. Yes, sir. Just a hand drawing.

15 Q. I'll show you what has been marked as State's
16 Exhibit 15.

17 Is that your drawing of where some evidence
18 was found?

19 A. Yes, sir. That's just a field sketch I made
20 out at the scene.

21 MR. MAXWELL: Your Honor, We'd offer 15 into
22 evidence.

23 MR. FRICK: No objection.

24 THE COURT: All right. Entered.

25 (State's Exhibit 15, Diagram, was entered into

1 evidence.)

2 THE COURT: Permission to publish?

3 Q. (By Mr. Maxwell) Is that your diagram?

4 A. Yes, sir.

5 Q. That's a little bit different view. That's
6 kind of, looking east down here, west up here?

7 A. Yes, sir. The bridge would be down at the
8 bottom --

9 Q. Columbia Road?

10 A. -- and 321 would be above the picture.

11 Q. And marked in this picture are a couple
12 numbers. Do have you this?

13 A. I do.

14 Q. And there is a marking at Number 1 at this
15 intersection. What does that denote?

16 A. That's where the victim came to rest.

17 Q. And you have some drawings of tire marks here.
18 Are those the same tire marks you referred to in the
19 pictures you were going through in the grass?

20 A. Yes, sir.

21 Q. And what is Number 2?

22 A. His cellphone.

23 Q. And Number 3?

24 A. Were the shoes.

25 Q. Did you go -- you cleared the scene that

1 night?

2 A. I did.

3 Q. And it doesn't remain taped-off or anything,
4 it's free to go travel once you completed your
5 investigation --

6 A. Yes, sir.

7 Q. -- that evening.

8 Did you respond back on the 8th of September?

9 A. Not to that scene. No, sir.

10 Q. To the processing of the car at Armory?

11 A. Yes, sir. I did.

12 Q. And were you there when Trooper McKinney and
13 Corporal Lindsay, did y'all bring the clip --

14 A. Yes, sir.

15 Q. -- that you collected from, that Sunday
16 morning?

17 A. Yes, sir.

18 Q. And were you there when y'all see if it fit
19 into the Chevy Impala that had been taken into evidence?

20 A. Yes, sir.

21 Q. And in your opinion, how would you describe
22 how that clip fit into that car?

23 A. It was the -- it would be the same as what was
24 missing from that vehicle, with damage -- the clip has
25 damage that would show that it broke off of the vehicle.

1 It wasn't on -- it wasn't the whole piece, it was that
2 piece was missing.

3 Q. I'll show you one of the pictures in State's
4 14. Can you point out any damage to that clip? Can you
5 come down please.

6 A. So you can see it's broken here, which you
7 just have a mere tab going down. The it has a little
8 tab missing here, that snaps down in. So this is a part
9 that if you need to replace a light bulb or a whole
10 headlight housing, you can pull on that tab and release
11 the whole housing back out. So that's meant to go in
12 and out. That's why it has flexible little tabs here
13 that locks in that headlight and this just guides that
14 into actually holding the headlight.

15 Q. And going back to State's Exhibit 10,
16 specifically, I believe 10Z. Is that the clip that was
17 already in there?

18 A. Yes, sir. That was the one that was still on
19 the vehicle when we made the connection.

20 Q. That was on which side?

21 A. That would be the driver's side.

22 Q. And the one on the passenger side was missing?

23 A. Correct. It had that little zip-tie for
24 replacing the clip.

25 Q. And referring to State's 10Y, is that where --

1 that is the passenger's side clip that was actually
2 missing until y'all put what you collected into the
3 slot?

4 A. Yes, sir. That's the white clip that was
5 collected from the scene and demonstratively put back
6 where it belongs. Obviously, without cutting that
7 zip-tie off, we couldn't make it snap back in, that it
8 was broken. So we showed it there, just to show that's
9 where that clip belonged. And contrasting that with the
10 one that was still installed from the factory on the
11 driver's side.

12 MR. MAXWELL: Your Honor, we'd offer the clip
13 into evidence at this point in time.

14 MR. FRICK: No objection.

15 THE COURT: Without objection, introduced as
16 State's next in order.

17 MR. MAXWELL: That would be State's 16.

18 (State's Exhibit 16, Headlight clip, was
19 entered into evidence.)

20 Q. (By Mr. Maxwell) Did you try to process the
21 module in the car?

22 A. Yes, sir. The airbag module.

23 Q. Can you describe what that is and what you
24 might be looking for?

25 A. Sure. Any vehicle that has an airbag in it,

1 has an airbag control module. It's a unit that when the
2 crash is severe enough it tells the car to deploy the
3 airbags. General Motors since, I think, 1999 has stored
4 data on that module that can tell us what happened in
5 the crash for the five seconds leading up to the point
6 the airbags deployed.

7 So we have a system Bosch that you can plug
8 into the connector under the dash or you can plug
9 directly into the module and read that module. It will
10 record data if the airbags deploy. It will record data
11 sometime even when the airbags don't, it's called a
12 non-deployment event. So anytime a vehicle that is
13 supported from our system for General Motors '99 and
14 newer, we're gonna plug into it even when there's no
15 airbag deployment to see if there's data there.

16 Q. Were you able to gain any data from the 2004
17 Chevy Impala?

18 A. No, sir. This older module is located under
19 the passenger's seat. And apparently, at some point
20 this car has been very wet. And we cut the passenger's
21 seat away and the carpet away to get out the module. It
22 looked like it had been sitting in the ocean. It was
23 corroded, like it had scales on it. So we plugged into
24 it there so see if it would happen to work, it didn't.
25 We removed it, locked it under the bumper of a armored

1 personnel carrier they had in their building there, to
2 try to get it directly from the module, that didn't
3 work. So, I took it to a shop that does this privately
4 and has high end technology to take it apart to see if
5 there's any way to repair it or if they could get that
6 off. And there's a place in Charlotte called Delta V
7 Forensic Engineering and we documented that the
8 motherboard inside had corroded and eaten the legs off
9 of the chips, so there was no way to recover any data
10 from it. And he could have hit a brick wall and those
11 airbags would not have deployed in that car.

12 Q. Did have you a chance to examine the
13 surveillance video taken from the house on the corner?

14 A. I did.

15 Q. And as part of y'all's investigation, did you
16 try to do some speed calculations?

17 A. Yes, sir.

18 Q. Did you use the surveillance video to, at
19 least in one method, try to determine the speed of the
20 car?

21 A. Yes, sir. That was one of two methods we
22 used.

23 Q. Can you just describe your methods, just each
24 someone and describe what your results -- what you
25 determined the cars speed to be?

1 A. Sure. We tried to calculate the speed of the
2 vehicle by two methods. One methods is how far the body
3 traveled from the point it hit the car -- from the point
4 the car hit the body until it stopped. That's a method
5 from scientist named Searle.

6 The other method is from video. Well, if you
7 know a distance and you know a time, you can tell how
8 fast that vehicle or anything was moving just time and
9 distance. So using the video is the first method that
10 we used. And we had to get a couple things. We needed
11 to know how far the vehicle traveled in the video. So
12 we need two points of reference. A point to start it
13 and a point to end and we know how long it took. The
14 video, in this case, was recorded at 15 frames per
15 second. When you clicked on the properties of video, it
16 telling 15 frames per second. To verify that we
17 actually put it in a video player that you can click
18 frame by frame. And you click the frames, the frame by
19 frame button until it changes to the next second. And
20 click it and count how many clicks until it changes to
21 the next second and the next one. And we did that for
22 multiple seconds and on this one we did it for four.
23 And it was 15 clicks or frames for every time it clicked
24 four to a second. So every frame is one-fifteenth of a
25 second.

1 So, this one -- from the -- the second part is
2 from the second video you watch from the porch, there's
3 two pillars that hold the porch up in the video and off
4 to the right is a stop sign. So we run the video to the
5 point, frame by frame until the car reaches --

6 Q. And this is what you're referring to?

7 A. If I can show you.

8 Q. Please, step over.

9 A. Very heavy off of the angle of the video. So
10 there's a porch pillar, and there's a porch pillar. In
11 our map, we map both of those and we map the camera
12 itself to we know where it's aiming and we have the stop
13 sign. So, the best -- it's best to do this with the
14 greatest amount of distance, because you have more
15 frames, you have less chance of error. So from this
16 pillar to the stop sign, obviously on the CAD draw two
17 lines straight out from the camera, out through those
18 and then the travel path of the car, I measure where the
19 car was and how many feet it traveled. I click through
20 all the frames. I put the car here at the very
21 beginning and click the button, frame by frame by frame
22 and counting the frames until the frame ends. So I know
23 how may frames it was and what distance it traveled and
24 it's just a simple formula of distance divided by time
25 and it gives you the speed -- in our calculation it

1 gives you the speed in velocity or feet per seconds
2 instead of mile an hour.

3 Q. I'm going to show you what's been marked
4 State's 17.

5 A. Yes.

6 Q. Is that your diagram of the measures that you
7 were just talking about?

8 A. Yes, sir. That's all the CAD without the
9 roadway turned on essentially.

10 MR. MAXWELL: Your Honor, we'd offer 17 into
11 evidence.

12 MR. FRICK: No objection.

13 THE COURT: All right. Admitted.

14 (State's Exhibit 17, Diagram Scene was entered
15 into evidence.)

16 MR. MAXWELL: Permission to publish?

17 THE COURT: Yes.

18 Q. (By Mr. Maxwell) Is that State's 17 on the
19 screen, your measurements?

20 A. Yes, sir.

21 Q. And what do those lines indicate?

22 A. That's if you're looking at the camera, those
23 are straight lines out through the northern middle one
24 at this point. The straight line to the farthest to the
25 right is the left of the two or the furthest away of the

1 two porch pillars. And the one furthest to the left is
2 a straight line from the camera through the stop sign.

3 Q. And with those measurements, what are you able
4 to determine?

5 A. The distance the car traveled when it -- from
6 that view of the camera, how far it went from point A to
7 point B, which was 98.12 feet.

8 Q. And using that number, how do you come up with
9 the speed?

10 A. Just divided by how long it took. It took 1.4
11 seconds, which is 21 frames. So click the button 21
12 times is how long it took to get from first pillar to
13 the stop sign. So 21 frames is 1.4 seconds. The
14 distance is 98 feet and 70 feet per second and that
15 converts to 47.8 mile an hour.

16 Q. 47 miles per hour?

17 A. Yes, sir.

18 Q. And do you know the speed limit on 11th
19 Street?

20 A. I believe it's 35.

21 Q. And you mentioned the Searle method as well,
22 it's a different method?

23 A. Yes. So Searle did studies to show or find,
24 can we tell how fast a car is going by how far it throws
25 something.

1 In this case, it's a body that it throws. And
2 if you had video enough to be able to get in and take --
3 to see the angel the body takes off, you can get down to
4 speed. But we don't have enough video for that, a good
5 enough video. So we use Searle's min and max.

6 It says this is the minimum speed the car can
7 be going for the body to travel that far and this is the
8 maximum that the car would be going to throw a body that
9 far. He later came back and said that it's about 10
10 percent underreported at best. It's underreported when
11 we get these speeds out.

12 Q. And how far did the body travel in this case?

13 A. It was 126.73 feet is what we measured in the
14 CAD.

15 Q. And that's point of impact to where the body
16 came to rest?

17 A. Yes, sir.

18 Q. Can you describe how the body travels once the
19 impact is made.

20 A. By the damage profile to the car, you can see
21 that it had damage to the front bumper wrapping up under
22 the hood. So he drove -- basically, the body wraps up
23 onto the hood and flips up to the air, lands to the
24 ground and tumbles as it hits the ground and tumbles to
25 final rest.

1 Q. And using that method were you able to get a
2 maximum and minimum speed of the car from the Searle
3 method?

4 A. Yes, sir. The Searle method showed that the
5 vehicle would have been traveling between 42 and 56 mile
6 an hour, which validated the video speed that was in
7 between the two at 47.

8 Q. Did you also have a chance to interview
9 Timothy Thompson after he had been taken into custody?

10 A. Yes, sir.

11 Q. And where did you meet him at?

12 A. At the Fairfield County Detention Center.

13 Q. He was already under arrest at this time?

14 A. Yes, sir.

15 Q. And he already been booked into the detention
16 center?

17 A. Yes, sir.

18 Q. Was he wearing like an orange jumpsuit and so
19 forth?

20 A. I don't remember what color jumpsuit. He was
21 wearing a prison jumpsuit I know.

22 Q. It wasn't his normal clothes at the time?

23 A. Correct.

24 Q. And were you wearing your normal uniform,
25 similar to what you have on now?

1 A. No, sir. Our normal uniform is a gray, dark
2 gray golf shirt with our badge number on it and blue, we
3 call them BTUs or pants with pockets on the side.

4 Q. Would have a badge and firearm?

5 A. Badge -- so, we don't carry firearms into the
6 jail. This badge is clipped to our belt. So it would
7 have just been my badge sewed onto my uniform.

8 Q. Did you just meet with him in a room at the
9 jail?

10 A. Yes, sir. In their normal booking room, they
11 had an open cell right across from their desk so they
12 could keep an eye on that person.

13 Q. Did you identify yourself as a law enforcement
14 officer from the Highway Patrol?

15 A. Yes, sir.

16 Q. And did you read Mr. Thompson his Miranda
17 Rights?

18 A. Yes, sir. I did.

19 Q. Do you know whether you used a card to read
20 them or anything?

21 A. Yes, sir. I keep a card when I go to do that.

22 Q. Did he have any questions about any of the
23 Miranda Rights as you gave them to him?

24 A. He did not have any questions.

25 Q. How long did you -- roughly, did you speak

1 with Mr. Thompson?

2 A. 15 to 20 minutes.

3 Q. Did you make a recording of that?

4 A. I did.

5 MR. MAXWELL: Your Honor, we'd offer the
6 recording of the interview with Mr. Thompson into
7 evidence at this time.

8 MR. FRICK: Nothing additional, it's already
9 been ruled upon.

10 THE COURT: Thank you.

11 MR. MAXWELL: State's --

12 THE COURT: Over objection. Admitted in
13 evidence. Permission to publish.

14 (State's Exhibit 18, Defendant's Recorded
15 Statement was marked into evidence.)

16 (Video played.)

17 Q. (By Mr. Maxwell) Sergeant Sisler, during the
18 course of that interview, did Mr. Thompson tell you that
19 he had been driving the Impala that night?

20 A. Yes.

21 Q. Did he tell you that he'd been at POPS gas
22 station that night in Fairfield?

23 A. Yes.

24 Q. -- City of Winnsboro. Did he acknowledge that
25 at some point, he had a flat tire he needed to change

1 it?

2 A. Yes, sir.

3 Q. Did he say whether he was with anybody else or
4 not?

5 A. No, sir.

6 Q. What did he say about that?

7 A. He didn't say he was with anybody.

8 Q. Did he say he was alone, by himself?

9 A. Yes, sir.

10 Q. He did say he had to calm down from something?

11 A. Yes, sir. He stated he had calmed down for
12 three hours.

13 Q. To go back to the video that you have viewed;
14 correct, Channel 3, camera 3 --

15 A. Yes, sir.

16 Q. -- looking up 11th Street west towards the
17 bridge. You didn't see that car coming across the
18 screen in the first part of the video?

19 A. Yes, sir. The car going away from the camera.

20 Q. Are you able to offer any opinion on what kind
21 of car that was or any other observation about it?

22 A. It was a small sedan with round taillights.

23 Q. Is an Impala a small sedan with round
24 taillights?

25 A. Yes.

1 Q. And if you go back, knowing from the video, as
2 well as your examination of the scene how the car was
3 driving, could a flat tire have been caused by going up
4 on the road, striking a pedestrian, coming off that curb
5 like he did?

6 A. Yes, sir. Either striking the sidewalk, the
7 curb up to the sidewalk or you can see in the video,
8 after he strikes the pedestrian the car kind of bounces
9 and he's sliding back to the left to get back in the
10 roadway and any of that could have caused that tire to
11 deflate.

12 Q. And it was the back right tire?

13 A. Yes, sir.

14 MR. MAXWELL: No further questions.

15 THE COURT: Mr. Frick, your witness.

16 MR. FRICK: Thank you, your Honor.

17

18 CROSS-EXAMINATION

19 BY MR. FRICK:

20 Q. Sergeant Sisler, let's go to the scene that
21 night, the photographs that you were taking, did you
22 have a flash?

23 A. Yes.

24 Q. You are the, essentially the chief
25 investigating officer in this case; is that fair to say?

1 A. For MAIT, yes, sir.

2 Q. For MAIT? Okay.

3 Anything that was collected at the scene,
4 you're aware of what items were collected; correct?

5 A. I'm aware of what MAIT collected.

6 Q. What MAIT collected? Okay.

7 But everyone of those orange markers was
8 indicative of something that was collected; correct?

9 A. No. So it's just what was there. So the
10 shoes are there, it can show where he was possibly stand
11 at. The cellphone, same type of thing. But it's not
12 evidence that leads to identifying a vehicle, which is
13 why we were called.

14 Q. Did y'all not collect the phone?

15 A. I will check to see if MAIT collected it or if
16 the road troopers collected it.

17 I don't believe so. It would be in our case
18 notes. I know we collected two items. One that I have
19 is the white piece of plastic that we collected.

20 Q. Your testimony -- you collected two items.
21 MAIT collected two items?

22 A. Yes, sir. We put two items into evidence.

23 Q. All right. That clip and what else?

24 A. I don't remember what the other item -- I'd
25 have to look in -- our full case notes would have that

1 other page.

2 Q. Can you guess what it is at this point?

3 A. No. I don't guess, sir.

4 Q. That's fine. To your knowledge, was there
5 anything collected about a knife?

6 A. Not that MAIT collected.

7 Q. Not that MAIT collected. And the clip that
8 we're talk about here. Was it inside the roped off
9 area, the taped off area?

10 A. It was at the outer edge of it. Coming off --
11 the closest outside edge back towards 321.

12 Q. Back towards Columbia Road, 321?

13 A. Yes, sir.

14 Q. Any idea how far away from the incident
15 location or I guess we'll call it the impact location,
16 more fair, it was located?

17 A. In our CAD that could be measured, but I
18 didn't measure it. It wasn't pertinent to anything we
19 did, it was just marked in the CAD. But it was mapped
20 so it can be measured.

21 Q. Is it fair to say it was about 350 feet away?

22 A. I don't know.

23 Q. Where would that be located?

24 A. Where could I measure it?

25 Q. Yeah.

1 A. I'd have to open the CAD up in the computer?

2 Q. It's not in your report?

3 A. The distance from impact to the piece of
4 plastic? No, sir. That wasn't listed as a measurement
5 that I remember.

6 Q. Okay.

7 A. That is of a pedestrian traveled from impact
8 that this car traveled from the sides of video.

9 Q. I'm going to show you this. I'm trying to
10 keep the page. Do you recognize this?

11 A. Yes, sir.

12 Q. That's the same thing you got there?

13 A. Yes, sir.

14 Q. Can you look at page 7 for me?

15 A. Yes, sir.

16 Q. I'm looking and you got a -- there's a bullet
17 point and it says, Item Number 1?

18 A. Yes, sir.

19 Q. Can you tell me what that says?

20 A. "Approximately, 350 feet west of the area of
21 impact."

22 Q. So it's 350 feet west of the area of impact?

23 A. Yes.

24 Q. And just to clarify, I heard what you said. I
25 want to make sure I got this right. I know y'all do a

1 lot of ver precise things. I know the CAD thing is a
2 very precise thing. The drawing you did here, you
3 referred to it as a field drawing?

4 A. Field sketch. Yes, sir.

5 Q. Field sketch. I'm sorry.

6 It's not to scale; correct?

7 A. That's is correct. It is not to scale.

8 Q. You didn't measure it out?

9 A. Yes, sir.

10 Q. This is just in general so you have it noted
11 for your notes where stuff was?

12 A. Yes, sir. And that aids the troopers going
13 out there the next day to map things, so they know this
14 circle was this or this circle was that. This is where
15 you should go look for the body.

16 Q. And if this is not fair, let me know. I will
17 try to do a better job of this. Instead of trying to
18 pull something else up. When I was talking to one of
19 the other troopers, I was asking about the tire marks.
20 I think you corrected that the tire marks that are in
21 the grass are in fact the passenger's side that we see?

22 A. The ones in the middle of the picture there
23 right below your index finger.

24 Q. Right here?

25 A. Those would be the right side tires; correct.

1 Q. I was specifically trying to refer to the ones
2 right here at this sidewalk area. Can you determine
3 whether those are driver's side or passenger side?

4 A. They would be driver's side.

5 Q. We clarified the items that y'all collected.
6 Two items, the clip and one other item; correct?

7 A. Yes, sir. Give me a few --

8 Q. Yeah. If you can find it that's fine.

9 A. It should be in this report that Sergeant
10 Trotter wrote.

11 So, yeah. The airbag control module was the
12 other item we collected.

13 Q. That make sense, cause y'all actually tried to
14 examine it and you couldn't get any results off of it
15 because it was just corroded?

16 A. That's correct. We tried three different
17 methods and got nothing.

18 Q. And so that means that there were no swabs
19 from the vehicle collected; correct?

20 A. That's correct.

21 Q. No fingerprint lifts?

22 A. Correct.

23 Q. Let's get to the video.

24 You are talking to Mr. Thompson. Obviously,
25 he's agitated in this video. He kind of jumps around in

1 his statement, tells you he was in the car. He was
2 alone in the car; correct?

3 A. Yes.

4 Q. He told you something about changing the tire
5 on 34?

6 A. Yes, sir.

7 Q. I believe his statement was, "Somewhere on 34
8 there's a tire"?

9 A. Yes, sir.

10 Q. Did anybody go look on 34 to see if there was
11 a tire?

12 A. No, sir.

13 MR. FRICK: Thank you Trooper Sisler, that's
14 all I got.

15 THE COURT: All right. Any redirect?

16 MR. MAXWELL: No, sir.

17 THE COURT: Thank you, sir. You may step
18 down.

19 Let me see the lawyers up here read quick.

20 (Discussion off the record.)

21 THE COURT: Ladies and gentlemen, now's a
22 really good time to stop. It's right at 4:30 for the
23 day. It's been a long day. It's been a very productive
24 day as far as moving the trial along. Thank you for
25 your patience and your level of attention. We are going

1 to go ahead and break. I want you back in your jury
2 room tomorrow morning at 9:30 a.m. and hopefully, we
3 will get everything done tomorrow.

4 Now, having said that, again, I will reiterate
5 to you, do not do any independent research on the case,
6 look at any news reports, hear any news reports, if
7 there are any. Go on social media or do anything about
8 that. Don't talk with anybody, even yourselves about
9 this case. Especially if anybody tries to talk to you
10 let me know and I will handle it. Y'all have a great
11 evening, see you back tomorrow morning.

12 (Jury exited the courtroom.)

13 THE COURT: Anything else before we leave for
14 the day?

15 MR. MAXWELL: You want to go over Fifth
16 Amendment and his right to testify?

17 THE COURT: No, he ain't rested yet. We'll do
18 all that tomorrow. I'll let you rest and I'll hear
19 motions and maybe them coming in and going back out, but
20 we'll figure it out. We can do that not a problem. We
21 are adjourned for the day. C.

22 (Court was adjourned for the day.)

23 (Trial commenced on Thursday, March 24, 2022.)

24 THE COURT: Good morning. All jurors are
25 present.

1 Y'all ready for the Jury?

2 MR. MAXWELL: Yes, sir.

3 MR. FRICK: Yes, sir.

4 THE COURT: Let's bring the jury in.

5 (Jury entered courtroom.)

6 THE COURT: Good morning, ladies and gentlemen
7 of the jury. Hope you had a good restful evening.
8 Looking to finish up everything today, like I indicated
9 yesterday, talking about scheduling issues with the
10 lawyers.

11 All right. Solicitor, you may call your next
12 witness.

13 MR. MAXWELL: Your Honor, the State rests at
14 this time.

15 THE COURT: The State rests.

16 So ladies and gentlemen, what that means, and
17 I know you just got in here but I got to send you right
18 back out again. I've got to deal with some legal
19 matters with the lawyers as well as some other things
20 before I get you back out here to continue with the
21 trial of the case.

22 I appreciate your patience. If you'll head on
23 back to your jury room. Don't talk about the case. I
24 promise you, we won't be too long. Thank you very much.

25 (Jury exited courtroom.)

1 THE COURT: That is the proposed verdict form
2 as well as proposed charge.

3 Mr. Frick, let me hear from you?

4 MR. FRICK: Your Honor, at this time the
5 defense would move for a directed verdict on both
6 charges taking the evidence in the light most favorable
7 to the State. I would suggest the State has not
8 introduced, quite frankly, any direct evidence and
9 they're relying entirely on circumstantial evidence.

10 And as the Court is very well aware, if
11 they're relying on circumstantial evidence, it's got to
12 be more than -- it's got to be substantial
13 circumstantial evidence.

14 I believe, while I understand they've got this
15 clip that purportedly fits the light on my car, you
16 heard testimony that it is just a GM product that can
17 fit any number of GM products. You heard that they were
18 looking for several hundred black Impala's within a
19 15-mile radius and there is no forensics that truly
20 matches this car up to the scene and quite frankly,
21 other than a DMV report, nothing ever matches the car to
22 my client.

23 With all that taken in, I would suggest that
24 it is not substantial circumstantial evidence and ask
25 you to direct a verdict of not guilty on both charges.

1 THE COURT: All right. Solicitor, in
2 response?

3 MR. MAXWELL: Your Honor, I think there's
4 clearly evidence that the defendant was -- this car that
5 was registered to him was on 11th Street. Plenty people
6 put him driving the car starting on Saturday evening,
7 all the way through Sunday when he admitted to being at
8 at Flying J in this statement.

9 When they found the car and took the car, he
10 was still at the Flying J when he turned himself in on
11 Wednesday. He made threats to the victim following an
12 argument or threats to the grandfather about the victim
13 that he was going to kill him and went looking for a
14 gun.

15 There's evidence of him having a flat tire,
16 being in possession of the car with the flat tire, that
17 flat tire could have been caused by striking Mr. Gibbs
18 and going over that curb. That's when Al McCoy would
19 have seen the Impala coming off the road, as matching
20 the Impala to what Sergeant McCoy saw to what was
21 actually found at the Flying J. He talks about the tint
22 bubbling up. Again, the flat tire. It was a black
23 Impala, around 2004, black in color.

24 Your Honor, I think there's plenty of evidence
25 both indicating that the defendant's car was involved in

1 the collision on 11th Street, that the defendant was
2 driving it and the defendant intended to strike
3 Mr. Gibbs and did not remain on the scene.

4 THE COURT: Any reply to the State's argument?

5 MR. FRICK: No, sir.

6 THE COURT: All right. I think it's kind of
7 funny how the law tells us that directed verdict
8 motions, that the standard that the Court must consider
9 is that there's any evidence. Yet under the
10 circumstantial evidence instruction that we give to the
11 jury and the argument that the defense makes, there must
12 be a substantial amount.

13 So that in and off itself is a legal conundrum
14 that I'm putting on the record so in the event of
15 whatever, if there is an appeal in this case, they can
16 decide how they want to do with that. That's certainly
17 calling for the circuit court or the trial court to
18 weigh or measure the evidence which we're not supposed
19 to do on direct verdict motion.

20 I think there's clearly enough evidence in the
21 record to support the State's theory. I respectfully
22 deny your motion.

23 I've handed the lawyers -- any objection from
24 the State as to the proposed instructions?

25 MR. MAXWELL: None from the State.

1 THE COURT: I'll let you finish flipping
2 through them. The proposed verdict form is right there
3 as well.

4 MR. FRICK: Judge, the only -- well, and I'll
5 put on the record just for any future purposes as we had
6 on a sidebar a little while ago. If you'd ask him about
7 a lessor include of voluntary on a Monday, I would have
8 told you I wanted that. As we have proceeded in this
9 case, I have reviewed that and I am not requesting that.

10 THE COURT: Is the State requesting any
11 instruction of the lessor offense of voluntary
12 manslaughter?

13 MR. MAXWELL: No, sir.

14 THE COURT: Obviously, I welcomed argument
15 into that because I recall what the defendant stated or
16 said in his statement. Obviously, I understand the
17 legal strategy offered by the defense here and not
18 requesting it. The State's not seeking it. I don't
19 think it applies. Is that correct Solicitor?

20 MR. MAXWELL: That's correct, your Honor.

21 THE COURT: All right. So I will not charge
22 the lessor offense of voluntary manslaughter.

23 So the jury's going to have two choices:
24 Guilty or not guilty of murder and guilty or not guilty
25 of hit and run involving death which is actually what

1 the indictment says, but the actual charge is leaving
2 the scene of an accident involving death but it's the
3 same statute number.

4 MR. FRICK: And that was going to be my next
5 issue.

6 I've reviewed the statute. I know the
7 Solicitor reviewed the statute. We've had a discussion
8 about this. In that statute, there is no definition of
9 what accident is. Obviously, there is a defensive
10 accident but I don't think that's the definition that
11 applied here necessarily.

12 I was just inquiring as to whether the Court
13 had any definition? As I said, I've reviewed it again
14 this morning. It looks like they define everything that
15 has to do with highways and words but the word
16 "accident." I didn't know if you wanted to use a
17 dictionary definition or just leave it as is and let the
18 jury sort that out.

19 THE COURT: Well, I thought about that as
20 well. And number one, we don't have in our proposed
21 instruction what the term accident means. I could do a
22 dictionary definition of accident but I think everybody
23 knows what an accident is and that's what you're going
24 to argue?

25 MR. FRICK: Right.

1 THE COURT: In the event the jury finds that
2 your client was driving, that it was his car, they can
3 consider the fact that this was an accident. I don't
4 want to confuse the jury any further by trying to pick
5 out a word that we all know what it means and try to
6 assign a some legal definition to it.

7 Solicitor, how do you feel about that?

8 MR. MAXWELL: I would suggest just using what
9 the charge says and not go any further than that and let
10 them figure it out.

11 THE COURT: Okay. That's what I'm going do.

12 MR. MAXWELL: I would tend to argue that when
13 they wrote the statute, what they meant was just any
14 collision no matter intent or lack of intent of the
15 driver. You're supposed to stay on the scene if you
16 strike somebody.

17 THE COURT: Sure. And again, without getting
18 into the weeds on that, I'm charging intent anyway. You
19 know, and -- anyway. Go ahead.

20 MR. FRICK: And your Honor, that kind of leads
21 me to my next issue is, and I will concede in *State v.*
22 *Westmoreland*, 421 S.C. 410. That was a case where a
23 person was charged with murder and hit-and-run death
24 resulted just like here. He was convicted of both
25 charges. They did not raise any issue as to whether

1 these two charges were mutually exclusive. I find it
2 interesting that we've got a situation where one is a
3 specific intent allegation and the other one is not
4 really, so it's an accident. Which wouldn't require
5 any -- necessarily any intent.

6 So I believe, although, I don't have a case to
7 give you and the case law in South Carolina even says
8 the opposite, I believe that they are mutually
9 exclusive. So I would suggest that the jury has to make
10 a choice; it's either one or the other.

11 THE COURT: Can't the Court make a choice? If
12 the jury finds him guilty on both, can I just use my
13 position as the trial judge, take care of the conviction
14 of the hit and run and that cures everything?

15 MR. FRICK: I suggest it could.

16 THE COURT: We'll see what happens. Why don't
17 we reserve -- I understand what you're saying and I
18 thought about that as well. Why don't we reserve that
19 to see what the jury does and we can deal with it
20 afterwards.

21 MR. FRICK: Okay.

22 THE COURT: Solicitor, anything you want to
23 say on that?

24 MR. MAXWELL: No, sir.

25 THE COURT: If the jury comes back with guilty

1 for the finding on murder, y'all ain't going to be
2 jumping up and down on the hit and run; correct?

3 MR. MAXWELL: The only concern and I don't
4 think it would be a concern if it were going to be an
5 appealable issue on the murder. If, for some reason
6 something happened years from now down the road on that,
7 I agree, I think there could still be ability to revisit
8 the issue if the Court made a finding postconviction.

9 THE COURT: Let's deal with that I think after
10 the verdict. I think, clearly from a legal standpoint
11 both charges, both indictments are proper and under the
12 law both indictments, can go before the jury. I'm gonna
13 charge the two offenses separately. You can find guilty
14 of one and not guilty of the other. I think that's
15 legally correct and then depending on what their verdict
16 is, then we can deal with his.

17 MR. FRICK: That's fine.

18 THE COURT: All right. Let me speak to
19 Mr. Thompson now.

20 Mr. Thompson, if you'll please stand, sir.

21 Raise your right hand for me.

22 You swear to tell the Court the truth, the
23 whole truth, and nothing but the truth so help you God?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Thank you, sir. You can be

1 seated.

2 Mr. Thompson, I'm going to ask that you speak
3 loud just like I'm talking. I've got to talk to you for
4 a moment to make sure you understand what's going on
5 right now.

6 Okay. The State has rested, okay. So now
7 it's your turn to present your defense, okay. And so, I
8 want to make sure you understand your rights. If you
9 don't understand anything I say, talk to your lawyers,
10 confer and I'll be glad to go over again.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Now, we've reached the
13 stage of the trial where you can present your defense.
14 And as part of your defense, you have the right to claim
15 the protections given to you by our United States
16 Constitution, specifically, the Fifth Amendment, which
17 says, "That no person shall be compelled in any criminal
18 case to be a witness against himself."

19 What that means is nobody can make you testify
20 in this case if you don't want to. Now, certainly, you
21 have the right to get up on this witness stand and
22 testify and tell your story and tell your testimony, but
23 nobody can make you do that.

24 You understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: That's a personal right that you
2 have, okay?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And I know you and your lawyers
5 have talked about that. And ultimately, it's your
6 decision; it's not their decision.

7 You understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, if you do decide to testify,
10 of course you would be subject to cross-examination in
11 the same rules which have governed other witnesses in
12 the case. That means, the solicitors, the lawyers, can
13 cross-examine you on any relevant issue and try to make
14 you look bad in front of the jury and maybe look not
15 believable in front of the jury.

16 And if you have any prior criminal
17 convictions, they could -- that, you know, involve
18 dishonestly or a false statement or certain -- pending
19 on the length of time you were facing on your prior
20 criminal record, the State could try to impeach your
21 credibility or make you look bad by bringing up those
22 past crimes.

23 Are there any solicitors that the State would
24 seek to impeach the witness?

25 MR. MAXWELL: He has a lewd act conviction in

1 2012. The Court may find that more prejudicial than
2 probative, and if that falls within the time window,
3 would be a felony. I don't have a specific date. I
4 know it's on here somewhere, I guess.

5 THE COURT: The date of conviction was 2012?

6 MR. FRICK: Yes, sir.

7 THE COURT: That's still within the ten year.

8 MR. MAXWELL: It looks like it was April 3,
9 2012.

10 THE COURT: It's right at the cusp.

11 Anything else?

12 MR. MAXWELL: Nothing within the timeframe and
13 nothing -- I've got a stolen property conviction from --
14 the Florida out-of-state stuff is hard to read whether
15 it's a conviction and the way they run their cycles. It
16 looks to be a conviction of stolen property in 2005 in
17 Florida.

18 THE COURT: Okay. And y'all would try to use
19 those two to impeach his credibility?

20 MR. MAXWELL: As far as dishonestly goes.

21 THE COURT: All right. And of course your
22 lawyer could argue against that but that potentially
23 could come in if you were to testify.

24 You understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. I've got some matters
2 I need to deal with in chambers here shortly. So why
3 don't we be in a short recess.

4 Before we do that, the charge and the proposed
5 verdict form are in agreement.

6 When the jury comes back out, does the defense
7 intend on presenting on any other defenses?

8 MR. FRICK: No, sir. We will rest.

9 THE COURT: What we're going to do is use this
10 time to go to the restroom, get spiffed up, the whole
11 thing you need to do. We'll come back out and I will
12 look at you and you'll say, "the defense rest." And
13 we'll go right into closing argument.

14 Then after that, I may give you a break and
15 then do the instructions. Depending on how they feel,
16 they probably want to get the case. We all good?

17 All right. We're in recess.

18 (Whereupon, a recess was taken.)

19 THE COURT: Are we ready for the jury?

20 MR. MAXWELL: Yes, sir.

21 THE COURT: Let's bring the jury in.

22 (Jury entered courtroom.)

23 THE COURT: Thank you, again ladies and
24 gentleman.

25 The State has rested.

1 Mr. Frick?

2 MR. FRICK: Defense rests, your Honor.

3 THE COURT: The defense rests.

4 Ladies and gentlemen of the jury, we have now
5 completed the testimony and evidence phase of the trial.
6 We will now proceed, as you may remember or may recall,
7 I told you a couple days ago, after the testimony and
8 evidence phase of the trial is concluded we go into
9 what's called "closing arguments." That's where the
10 lawyers get to address you directly and argue to you
11 what they believe the evidence has shown and argue to
12 you what they believe your verdict should be.

13 I'm gonna ask that you give the same level
14 attention to the lawyers that you've been showing to the
15 witnesses presented. After they argue, which we will do
16 all this right now, I'm going to instruct you on the law
17 that you must use, so you can start deliberating this
18 case later on this morning. Listen very carefully.

19 Solicitor?

20 MR. MAXWELL: May it please the Court.

21 THE COURT: Yes, sir.

22 MR. MAXWELL: Good morning, ladies and
23 gentlemen. Timothy Thompson's charged with murder in
24 this case. Murder is defined, and you will hear from
25 Judge Gibbons when he instructs you on the law in just a

1 little bit, that the intentional killing of another with
2 malice aforethought.

3 Malice is hatred or ill-will, hostility
4 towards another person. Intentional doing of a wrongful
5 act without just cause or excuse for an intent to
6 inflict an jury or other circumstances of the law would
7 infer an evil intent.

8 Ladies and gentlemen, I would submit to you,
9 you can look at that five -- just that couple seconds of
10 video and find Mr. Thompson guilty of murder. That he
11 intentionally killed Bruce Gibbs with malice. There's a
12 lot more evidence than that. I will walk you through
13 the timeline of how these events unfolded.

14 You will recall Saturday evening, it was
15 already maybe in the later part of the afternoon going
16 into the -- about 10 o'clock or so, people were gathered
17 at Felicia Johnson's house where Bruce Gibbs also lived.
18 That Bruce's girlfriend, mother of his child, Nikki
19 Thompson was there. Timothy Thompson, himself, was also
20 there.

21 At some point during the course of that party,
22 you heard from several witnesses about an argument that
23 started and took place between Bruce and Nikki, and that
24 Gus, everybody called him Gus. Gus Thompson involved
25 himself in that fight, in that argument. Nobody claimed

1 to be physical between any of the parties. That's
2 broken up. Felicia Gibbs and Bruce come inside and Gus
3 leaves. Around 11:00, 11:30 p.m., Gus goes to Tommy
4 Bell's house. And he tells Tommy bell, "I got no
5 problem with you. Nothing against you, but I'm gonna
6 kill your grandson tonight." And leaves there.

7 Then he's at the POPS gas station driving that
8 same car. And we'll get into that in more detail in a
9 little bit. Even his own statement, he admits being at
10 POPS before his tire was flat. He leaves POPS, from
11 there he travels up 321 Business. Makes a right onto
12 11th Street and on that video, you can see a car coming
13 down the road going east on 11th Street towards the
14 Bridge. About Three minutes later, Mr. Gibbs appears
15 walking in those two camera angels, right behind him
16 comes that same car striking him at that intersection.
17 At 1:09 a.m. on that Sunday, Al McCoy and Chris Childers
18 are dispatched to that area. They get there and they
19 find Mr. Gibbs' body in the middle of 11th and Chestnut
20 deceased already. They arrive on scene and find him at
21 1:14 a.m.

22 Then you have Sergeant Harris traveling
23 towards Ridgeway from Winnsboro on Highway 34, near
24 Palmetto Imaging, right off 321 and get's another call
25 about somebody changing their tire underneath the car,

1 may need some help on 34. He stops, sees a black Impala
2 and a black male changing a tire. Doesn't know about
3 the other incident that's occurred just 15 or so minutes
4 before, 15, 20 minutes or so. Checks on the guy,
5 doesn't run the license plate, doesn't get his ID.
6 Checks him out.

7 "Hey, you need help changing the tire."

8 "No, I'm good."

9 He travels on about his way; that was at 1:26
10 a.m. As investigator's begin coming to the scene,
11 you've heard from the sergeant with the sheriff's office
12 and the highway patrol came in and the MAIT team came
13 in. They begin collecting evidence and surveying the
14 scene, about what they had. You heard about Trooper
15 Holland finding that clip in the middle of the roadway
16 on 11th Street. You heard from Sergeant Sisler and all
17 the pictures he took, you will have all that in evidence
18 to look at. You'll have these videos in evidence to
19 look at. At 4:00 a.m. Ms. Johnson, Bruce Gibbs' mother,
20 was notified about her sons death. At that point in
21 time, she has not talked to her father. Later on that
22 morning, after she has talked to her father letting him
23 know or somebody in the family talked to her father
24 about what had happened, that Mr. Gibbs' was dead. He
25 said, "Well, Timothy Thompson was at my house last night

1 and said he was going to kill him." She then, Felicia
2 Johnson does, get's in contact with Lieutenant Darby
3 with Highway Patrol and says, "You might want to look
4 for Gus Thompson. He drives a 2004 black Impala.

5 Now, jump back before that, when they're
6 processing the scene and gathering information, Al McCoy
7 just before he got dispatched at 1:09 a.m. was traveling
8 down 321 Business, headed norther toward town, away from
9 321 -- the Bypass and the business parts frequently come
10 together, passes by 11th Street and sees a car coming
11 off of 11th Street and for whatever reason, I think it's
12 lights draws his attention, he turns around, follows the
13 car as it turns off of 11th Street on 321 Business
14 headed south, pulls up to it near the stoplight from the
15 BI-LO. Pulls up next to it and sees what he describes
16 as a black Impala and a couple other specifics he gives,
17 we'll get into in just as little bit. But with that
18 information, prior to the highway patrol finding out
19 about Gus Thompson, Lieutenant Darby he got the list
20 based on Al McCoy's description of that car being run
21 from the SLED Fusion Center of Impala's within a 15 mile
22 radius of the incident scene and he sends out troopers
23 looking door-to-door. When he gets information from
24 Felicia that Gus Thompson drives as black Impala, around
25 a 2004 black Impala. They focus in and narrow that

1 search down looking for him specifically and that car
2 specifically. And some more information comes in a
3 little after that, again, from Ms. Johnson or in her
4 family, they get some information about Mr. Thompson
5 being down in the Flying J area down in Richland County
6 where 321 and Interstate 20 come together. Lieutenant
7 Darby sends some troopers down there. Troopers Lang and
8 Plyler, they found the car in a parking lot. They run
9 the plate and determined it is Timothy Thompson's car
10 that they find. They clearly see damage to the front
11 end, the grill and to the hood. They can see the bleach
12 on what thought would be bleach, a chemical or liquid
13 poured over that car. That's about midday on Sunday,
14 about 12 or so hours after the collision itself
15 occurred. Then that car is seized at that point in
16 time, taken into custody where the MAIT team is able to
17 process it about two days later. And we will get into
18 more details of that in just a little bit. And then on
19 that following Wednesday, three days later is when
20 Mr. Thompson turns himself in near the Flying J. He
21 approaches a Columbia Police Department officer.

22 "They're looking for me."

23 Do the check, the warrant from Fairfield
24 County is already in the NCIC system. They check, he's
25 wanted out of Fairfield County. He's taken into custody

1 and arrested. He was later interviewed by Sergeant
2 Sisler from the MAIT team.

3 Now, we have to prove, I believe, three things
4 in this case. We first need to prove that it was Gus
5 Thompson's car that struck Bruce Gibbs on 11th Street
6 around 1:00 a.m. or shortly after 1:00 a.m. on September
7 the 6th. Then we must prove that Gus Thompson was
8 driving that car. We need to prove that Gus Thompson
9 intended to run over Mr. Gibbs during the incident.

10 Now, the evidence that Mr. Thompson's car was
11 involved, that 2004 black Impala begins again, with
12 Sergeant McCoy from the sheriff's office. You heard me
13 say, him noticing the car on 11th Street and turning
14 around and following up. Notice's this fact it is an
15 Impala, it's black. That the back right tire was flat.
16 Had no rims and no hubcaps on it. And the tint was
17 bubbled up on the passenger's side, back rear
18 passenger's side. You then have Sergeant Harris saying,
19 when he was out on 34, the person changing the flat
20 tire, that was a black Impala. It was a black male with
21 dreads changing the tire. Then, you heard from Trooper
22 McKinney from the MAIT team, when they processed the car
23 that Tuesday, that there was a spare tire on the back
24 right side. You can see written on this tire that says,
25 "spare tire." Another thing I want you to note and I

1 will tell you why in just a little bit, is this yellow
2 that you can see briefly, clearly there. You can also
3 see in the picture of the back rear door, the
4 passenger's rear door, the tint bubbling up there. You
5 can see the streaks of this liquid that had been poured
6 over. You can look at all these pictures, all angles of
7 the car, both at the Flying J and when they processed it
8 at Fairfield County Sheriff's Office Armory. And you
9 can clearly see that all over the car. You can see in
10 other pictures, there's no hubcaps on these tires. They
11 don't have any rims. Again, all of that is consistent
12 with the description Sergeant McCoy initially saw as
13 that car came off of 11th Street. I want to point out,
14 you see the damage to the front end, here's to the hood,
15 the damaged grill. Again, a different angle to that
16 damage of the hood. If you go back to the clip that was
17 found in the roadway by Trooper Holland and collected by
18 Sergeant Sisler when he took over the scene, just hours
19 after this incident occurred. Again, this was in the
20 middle of the roadway, Sergeant Sisler said:

21 If that had been there longer and cars would
22 have been going up and down 11th Street, it would have
23 probably been pushed to the side, like all debris does.
24 It doesn't stay in the middle of the roadway, it ends up
25 on side, kind of, piling up.

1 This is in the middle of the roadway, it
2 hadn't been there long. Then, when they're processing
3 the Impala, Trooper McKinney's pictures, they open up
4 the hood and it's missing the headlight clip from the
5 front passenger's side. And the zip-tie had been put in
6 there to hold the headlight in. You heard from Sergeant
7 Sisler and Trooper McKinney, this fits in like it
8 should.

9 I would submit to you, that there's clear
10 evidence, evidence beyond a reasonable doubt, that when
11 Gus Thompson struck Mr. Gibbs on 11th Street, hit that
12 curb and bounced, that clip was jarred loose and as he
13 was driving up the road towards Columbia Road at that
14 intersection, that falls out from underneath. And
15 that's why it was found there in the middle of the road
16 by Trooper Holland.

17 If we go back to the damage, this damage was
18 caused by Gus Thompson driving this car into the body of
19 Bruce Gibbs. That indentation there is Mr. Gibbs body
20 hitting that hood. And again, who is this car
21 registered to? Exhibit 7, is his car registration from
22 the DMV, just like everybody carries in their car,
23 Timothy James Thompson.

24 Now, I'd submit to you, that there's clear
25 evidence that at the time of this collision, that Gus

1 Thompson was driving that car. You heard from his
2 sister, Nikki, that he basically lived in his car. You
3 heard from some other witnesses, that he did not have a
4 second car. You heard from numerous witnesses who were
5 at the fish fry at Felicia's. While Timothy Thompson
6 was there, he was driving that black Impala.

7 You heard from Mr. Bell that when Thompson
8 came to his house that night and made those threats, he
9 was driving his black Impala.

10 You heard from Kelvin Sampson that when
11 Thompson drove up at a gathering over Douglas 1 Road and
12 was actually asking about a gun, he was driving a black
13 Impala.

14 You see on the video from POPS, Mr. Thompson
15 inside the store. It's not that clear, but you can see
16 the black Impala on the screen. I would ask you to pay
17 attention to the back right tire. You will not see
18 yellow on it and it does not appear to be flat. This
19 was before the collision on 11th Street. You see it
20 parked at the pump and then walking in the store. I
21 want to point out the shirt that he is wearing here.
22 It's a black shirt with white on it. Again, you see the
23 back right tire, no yellow on it and it doesn't appear
24 to be flat. I'd also want to direct your attention to
25 the white on his left shoulder here, because Sergeant

1 Harris' video at 1:26 a.m., the person changing the tire
2 here, has white on the shoulder, left shoulder, and the
3 same design on the front of the shirt.

4 You also heard from Kelvin Sampson, kind of a
5 coincidental thing that he saw Mr. Thompson earlier
6 looking for the gun, but that car coming towards the
7 intersection from Columbia Road, at the point of
8 collision, Kelvin Sampson says, he was in that car and
9 sees this car swerving and identified it as the same car
10 that he saw Thompson driving just a short while earlier.

11 The you have the defendant's statement. He
12 admits having the car and that no one else was driving
13 his car or was even with him that night.

14 Who was with you?

15 No one.

16 You were by yourself in your car?

17 Yes.

18 Here, he also admitted to having a flat tire
19 that night. He's talking about when Sergeant Harris
20 encounters him on Highway 34 at 1:26 a.m. He admits to
21 being at the Flying J. He sees them take his car and
22 hides out somewhere. I think he's inside taking a
23 shower and got lucky, I guess, they didn't find him
24 there. But, he admits to being at the Flying J with the
25 car. How else would the car have gotten there, but from

1 Timothy Thompson driving it there. He had the car the
2 whole night. Nobody else had the car. Nobody else was
3 with him that entire night.

4 A couple other things about his statement. He
5 calls Tommy Bell his best friend. They used to live
6 next door to each other before Thompson moved. And it's
7 Mr. Bell who says, again, that Gus came to his house
8 saying, "I'm gonna kill your grandson." He additionally
9 admits about being upset that night. He won't say why.
10 Those words did come out his mouth. He said, "I had to
11 calm down." "Took me three or four hours to calm down."
12 He won't say why. He's kind of giving you partial
13 truths. He's admitting to having his car. He's
14 admitting to having a flat tire. He's admitting to
15 being at the POPS gas station. He's admitting to being
16 at the Flying J, but won't quite go so far as to say he
17 was on 11th Street, which he clearly was.

18 Gus Thompson intended to strike and kill Bruce
19 Gibbs. It started with the argument during the course
20 of that argument, it was between Nikki and Bruce and he
21 involved himself in it. He said, according to Miranda
22 Sawyer, "I'm going to get you," is what he told Bruce.

23 According to Annie Roach he said, "I got
24 something for you." He leaves. People would probably
25 not even remember that interaction had it not been for

1 what happened just a couple hours later when he got
2 killed. He leaves there. He again, makes explicit
3 threats showing his malice towards Mr. Gibbs, when he
4 talks to Tommy Bell, "I'm going to kill your grandson."
5 He goes looking for a gun, according to Kelvin Sampson.
6 Again, driving that black Impala. Can't find one, so
7 he's gonna use that car as the weapon.

8 You heard from the MAIT team in their accident
9 reconstruction, the tire marks going through the grass.
10 This is after he's made his impact with Bruce Gibbs.
11 I'll point out, you see this white line here, that's the
12 right side if you were traveling towards Columbia Road.
13 These are the passenger side tires. These are the
14 driver's side tires here. He is completely off the
15 road.

16 Now, defense may want you to think he has lost
17 control, but he is not -- he is swerving to hit Bruce
18 Gibbs here, not swerving to avoid hitting him.
19 According to the MAIT team, he never lost control. He
20 drove straight off the road intending to make contact
21 and strike and kill Bruce Gibbs.

22 In this video, surveillance video on the
23 corner of 11th and Maple, this view is looking back
24 towards the bridge, looking kind of southeast, you see
25 this vehicle driving at the very beginning towards the

1 bridge. And you heard from Mark Lindsay and Sergeant
2 Sisler from the MAIT team, very familiar with cars and
3 experts in accident reconstruction, rounded taillights,
4 not very common but Chevy Impala's has round taillights.

5 I would submit to you that Mr. Thompson, who's
6 just left POPS, he took a right off of 321 Business on
7 11th Street and passing through that intersection and
8 passing by that house, going towards that bridge.

9 While down there, he sees Bruce Gibbs walking
10 down the road, so he turns around, follows Mr. Gibbs.
11 You can see Mr. Gibbs come walking down the side of the
12 road towards that intersection calmly, not looking
13 behind him. Then you see this car traveling different
14 then it did when it first went down there. There's
15 Kelvin Sampson's car as it comes into the picture. The
16 car he was driving in. Slows down, don't know exactly
17 what is happening. Never saw Mr. Gibbs on the sidewalk,
18 'cause he doesn't know that he's laying there dying or
19 dead at that point in time. That car is driving normal
20 there and when it comes back it's not.

21 You heard from the MAIT team that his speed
22 was over 45 miles per hour. They used two different
23 methods. They're somewhat complicated, but one is
24 pretty -- math that I don't want to try to it anymore,
25 trying to figure out how to do it, but he knows what

1 he's talking about. Determined that distance from the
2 camera, that Mr. Gibbs was thrown 126 feet and the car
3 was traveling somewhere about 46 miles per hour and 56
4 miles per hour.

5 And the other method he determined he was
6 traveling about 46, 47 miles per hour. This is three
7 minutes into this video, this is the car with the round
8 taillights driving through that intersection. Again,
9 pointing out fairly normal speed there. Three minutes
10 later, you see Mr. Gibbs coming from the other side of
11 the house, traveling here on foot calmly. Mr. Sampson's
12 car. That car's driving much different. Came straight
13 off the road. The intention was to strike Mr. Gibbs on
14 the side of the road. He had all for tires out of the
15 lane of travel.

16 As Mr. Gibbs is thrown by the car, 126 feet,
17 come to rest at the other intersection of 11th and
18 Chestnut, his neck's been broken, his legs are broken --
19 his femurs are broken. He had fractures to his torso.
20 And then from there he goes -- he's seen by Sergeant
21 McCoy traveling out to the 321 Bypass before he gets a
22 call and comes back.

23 Then Thompson's on 34 changing his tire when
24 he encounters Sergeant Harris from the police down in
25 Richland where he then pours bleach -- what I would

1 submit to you is bleach -- there was a bottle of bleach
2 found in the back of that car -- poured all over that
3 car to try to cover up what he had done. Then he got a
4 zip-tie to hold his taillight in because that clip had
5 fallen out on 11th Street.

6 This was an intended act. He took steps to
7 get out of town and cover this up.

8 And the defense is going to argue, this is
9 just -- he just lost control and happened to be right
10 there as some kind of a coincidence that the guy he was
11 arguing with earlier and going around threatening and
12 going to looking for a gun, that guy just happened to be
13 walking down the road at same spot that Timothy
14 Thompson, just wasn't paying attention and lost control
15 of his car. That is not sensible explanation about what
16 happened. He hunted him down. He saw him walking down
17 the road, he turned around and he ran him down.

18 The State must prove its case beyond a
19 reasonable doubt. And I've heard of this analogy. I'm
20 going to steal from another lawyer before a common sense
21 way to look what beyond a reasonable doubt is.

22 It's the State -- if you look at it as a
23 football team driving, offense driving down the field
24 trying to score a touchdown, for the State to prove
25 their case, we have to cross the goal line. Just get to

1 the one yard line, kick the field goal and get the ball
2 across the goal line to score a touchdown.

3 And I'll submit to you, ladies and gentleman,
4 we've scored the touch down, kicked off -- we stopped
5 the other offense. We got the ball back and we scored
6 again. Gus Timothy intentionally killed Bruce Gibbs,
7 and did with malice, he's guilty of murder.

8 He's also charged with leaving the scene of
9 the accident involving death. Obviously, Mr. Gibbs is
10 dead from this. I would submit to you that this was not
11 an unintended act, this was an intended collision. He
12 still has a duty to stop once he made that collision on
13 the roadway because he was traveling on the roadway. He
14 has a car, hits a person, you have to stop. You have to
15 give your name and cooperate with that party. He didn't
16 do that either, he's guilty of that as well.

17 Ladies and gentlemen, thank you for your time
18 and attention this week. I hope you found this very
19 interesting and meaningful. This means a lot to the
20 State of South Carolina. It especially means a lot to
21 Bruce Gibbs' family, Felicia Johnson and her relatives.

22 So I'm saying use your common sense, apply the
23 law as Judge Gibbons gives it to you. Look at these
24 exhibits, look at these videos as many times as you
25 need. And I know that it's tough to watch, but it's

1 important for you to understand what exactly what
2 happened in this case. Consider the testimony that
3 you've heard this week. I'm going ask you to find him
4 guilty of these charges. Thank you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Frick?

7 MR. FRICK: Thank you, your Honor.

8 Madam Forelady, ladies and gentlemen of the
9 jury, good morning.

10 As y'all know or no doubt aware in the matter
11 of the State of South Carolina versus Timothy Thompson.
12 I put that on there so I could make sure my technology
13 works. As I told you at the beginning and you're gonna
14 hear it again and we all tell you over and over again,
15 you are the judge of the facts. What that simply means
16 is you've heard the testimony, you've seen the evidence,
17 you've got plenty of exhibits, you've got video. You've
18 got all kinds of stuff. And you don't have to take
19 stock in any of it or you can believe all of it. That
20 is in your entire province; that's what you're here for.
21 You're to judge the evidence and decide what you want to
22 believe or not believe.

23 And what you want to accept or not of anything
24 you've seen, heard, observed, you can look at demeanor.
25 You can think if somebody had a bias or motive. You get

1 to go in to all the nitty gritty details on that to make
2 your determination and nobody can take that away from
3 you. And we keep talking about reasonable doubt and the
4 judge is gonna charge you on it again too.

5 But as I've told you and continue to tell you,
6 it's not -- you know, look at that, that car kind of
7 looks the same. He was driving a car that kind of
8 looked the same.

9 I mean, I know they don't have anything that
10 really matches it up but "I think he did it," or, "maybe
11 he didn't," or, "probably." Or as the Judge will tell
12 you, because this is a circumstantial case, that if it
13 just looks suspicious, that's not enough.

14 "I think he looks suspicious." That's not
15 enough.

16 It's -- or, "this is a bad case, I don't like
17 it and I'd just rather not do it."

18 Ladies and gentleman, that's not how it works.
19 They've got to prove beyond a reasonable doubt, that
20 there's no other explanation, but that Timothy Gus
21 Thompson is the person that drove that car and ran over
22 Bruce Gibbs.

23 We've got a couple of charges: First, the hit
24 and run. I think I've got the law right. The Judge is
25 gonna tell you what the law is but this is what I

1 suggest the statute says:

2 The driver of a vehicle involved in accident
3 resulting in injury or death of a person must stop as
4 close to the scene of the accident and must possibly
5 return if they leave, come back. And there's some
6 duties you've got to render and it references another
7 statute. That's hit and run.

8 In an accident, you drive off. You've got to
9 stay on-scene or at least return to the scene or report
10 it.

11 Murder. The State went even further as to
12 have him charged for the hit and run; they go further
13 and decide to charge Mr. Thompson with murder. It's the
14 unlawful killing of a person with malice aforethought.
15 What do those words mean? Well, essentially, I submit
16 to you, the State's gonna say, "That's the guy who did
17 it." They can prove beyond a reasonable doubt that it
18 was Timothy Thompson driving the vehicle that you see in
19 that video that ran over Bruce Gibbs.

20 They have to prove that beyond a reasonable
21 doubt. They have to prove that it was intentional.
22 They have to prove that it was premeditated and they
23 have to do that with credible evidence, which I submit
24 to you is believe evidence. Not just merely speculative
25 evidence.

1 And let's talk briefly about these witnesses
2 here. And this is not all of them. And of course y'all
3 can put stock in which ones you want to put stock in.
4 Each one of them is probably the key one in this case.

5 First you got Al McCoy. He's just on routine
6 patrol. He's driving down Columbia Road heading towards
7 town kind of -- you know, as a cop will do. Just kind
8 of head on swivel, kind of looking around. Kind of see,
9 I suspect, out of the corner of his eye a car coming
10 down 11th Street. Maybe he didn't have his headlights
11 on. He doesn't get too much further. Then you get to
12 the Strawberry Patch and decides, I need turn around on
13 this thing and see what's going on.

14 He tells you before he could get turned around
15 and get behind this car that he saw coming off 11th
16 Street, another car got in between them. He can tell
17 you every blatant detail about this Impala 'cause he's a
18 car guy and that's how he knew it was a 2004 Impala
19 because he's a car guy and he knows they have round
20 headlights. He can tell you every detail about that
21 car. It was a dark color Impala. Maybe even said it
22 was a black Impala with round taillights.

23 When he gets beside it, right there at the
24 intersection where the Days Inn, whatever we're calling
25 it now. I swear, it's always gonna be the Days Inn to

1 me. The Days Inn, his in the turn lane as he's going
2 down 321 heading back towards Columbia. He pulls up
3 beside this guy. It's got the bubbled up tint. It's
4 got this tire that's going flat. He can tell you all
5 these details. He even tells you, "when I got close
6 enough, I could tell the headlights were, in fact, on
7 there, it was just dim."

8 I asked him to tell me one detail about the
9 other car. "I don't remember anything about it.
10 Couldn't even tell you where he turned." Between 11th
11 Street and the Bi Lo. Couldn't tell you where it
12 turned. It disappears.

13 John Harris is on patrol too, just out there
14 in his truck going to a call out in Ridgeway. So he's
15 heading now 34. In the mean time, they say, hey,
16 there's a car on 34, check that out too. And low and
17 behold there's a vehicle on the side of the road. And
18 that person on the side of the road was Timothy Thompson
19 with his black Impala with a flat tire. The video
20 clearly shows Harris pulls up. He's behind him for a
21 little bit. He sees Timothy putting his stuff back in
22 the car. He's got, like many of us do, he's got to get
23 to the stuff to change the tire. You got a whole bunch
24 of junk that you've got to get out of the trunk to get
25 under there and get all the stuff out. He's clearly

1 done because he was putting the stuff back in.

2 This man who just brutally run over somebody
3 on 11th Street, when a Fairfield County Deputy pulls up
4 behind him, he's calmly putting his stuff back in the
5 trunk of his car. They even communicated for a little
6 while. There was nothing suspicious about this vehicle.
7 He already said he's been on patrol for ten years.

8 Just like, McCoy, I submit to you, a deputy on
9 patrol, got their head on a swivel, looking for anything
10 whether there's a call for service or not. They're
11 trained to do that. He says, "I don't notice anything
12 suspicious. I didn't even need to get the guy's ID."

13 Well, we know that was Timothy Thompson. He
14 told you that was him. We'll get to that in a second.

15 In fact, he leaves the tire out there on 34.
16 He tells you that later. He tells you that in his
17 interview. Now, I'll lump all the troopers and MAIT
18 team together because I will get into that a lot more
19 detail. They're the investigators on this case.

20 Then we have the family of Mr. Gibbs. Ladies
21 and gentlemen, I have nothing but sympathy for Mr.
22 Gibbs' family. They had a terrible loss. They did.
23 And that video shows it and it was traumatic and they
24 want answers. As anybody whose served a tragedy wants
25 answers. And we found an answer. I submit to you, it's

1 not the correct answer, but they found an answer. And
2 the answer was Timothy Thompson.

3 First you've got Bruce's mom and obviously
4 she's traumatized by this event as anybody would be,
5 hearing about her son getting run over. It's horrific.
6 And they tell the story and go back to the fish fry and
7 everybody talks about this argument that happens between
8 Nikki and Bruce and Timothy interjects himself. And
9 essentially, all these witnesses, the family members
10 tell you the same thing:

11 "I heard or somebody told me."

12 "On the street I heard."

13 "You know, what I heard was..."

14 "So and so told me."

15 Nobody can tell you what was said or what was
16 heard or what they saw of their own firsthand account.
17 Everybody's telling you what somebody else told them.
18 Same thing with Mr. Bell. And I submit to you, he's got
19 a lot of stuff going on. I mean, he says in his
20 testimony, it definitely happened on Saturday. In an
21 interview that he does a couple days after the incident,
22 he maintains it happened on a Thursday. And he even
23 goes so far to say that the person who discovered Bruce
24 was riding a bicycle.

25 Ladies and gentlemen, I respect these folks

1 and I respect what they've been through and I'm sorry
2 for their loss but they don't have any firsthand
3 information. Everybody just regurgitating hearsay, what
4 they heard from someone else. And nobody was on that
5 scene and nobody has any firsthand evidence to point the
6 finger at Timothy Thompson, other than to suggest the
7 motive for why he would be driving around the Middle
8 Village, trying to run over Bruce Gibbs is this argument
9 that happened much earlier in the day. That he, in
10 fact, says, I drove around for a while and I calmed
11 down.

12 Let's talk about Nikki for a quick second
13 here. She says, yeah, we had the argument. Yeah, I
14 mean, Timothy came up. She didn't even pay attention to
15 him though. It was like she gave him the Heisman and
16 walked off. He calm up and it's your sister. Who knows
17 what anybody said. Nobody can tell you because
18 everybody tells you something different.

19 Either Timothy says, "I got something for
20 you." Or, "I'm gonna get you." I mean, there's no
21 consistency in what is even said. She doesn't pay
22 attention to all that and she walks off. And she tells
23 you that later in the night, she got her kids back.
24 They're texting and talking on the phone. She gives the
25 trooper her phone to look at. What did they say? I

1 don't have the first clue. They didn't bring any of
2 that stuff in here.

3 And then we got other witnesses in this case.
4 We got Brian Smith who has been on Chestnut Street since
5 1978. I submit to you that that man knows everything
6 there is to know about Chestnut Street, Maple Street,
7 11th Street and that entire intersection. And when he
8 is heading out, he told you it was getting close to
9 about 1:00 and he was about to head out somewhere. And
10 he looks up and he sees as pile of clothes in the middle
11 of the road. And he thinks it looks odd.

12 So he drives up there to go check it out and
13 determines, that's not a pile of clothes, that's person.
14 I say that to you to remind you that this is not,
15 despite what the photographs may show you when Sisler's
16 out there taking them, which he stated, yes, I took
17 these photographs with a flash when I was out there that
18 night.

19 This is not a well lit area. It is dark.
20 Brian Smith, who is more familiar with that area than
21 probably anybody, looks down the road and can't tell a
22 pile of clothes from a person. It is not a well lit
23 area. And I suggest to you Kelvin Sampson, even
24 indicates that.

25 Now, this is where I'm glad I don't have to do

1 what y'all got to do. 'Cause I don't know what to do
2 with Kelvin. I suggest he's either lying about
3 everything or he's telling the truth, but again, that's
4 what y'all get to decide. His story is, I'm down in the
5 hole, we chillin' there on Douglas 1, which is not far
6 from where all this, where everybody, where everything
7 takes place and Timothy rolls up in his Impala that he
8 just got that everybody says he cherishes so much, that
9 he just rolls up and says, "Hey, man, I'll trade you my
10 car for a gun."

11 And Kelvin, who rightfully says, "I don't have
12 a gun 'cause I can't have a gun because I'm a convicted
13 felon." And of course he's obviously not concerned.
14 Because he's kind of like, "No, man, come on." And
15 Timothy leaves. No one trades his car for a gun. I
16 suggest that's a little ridiculous. You can put stock
17 in that if you want too, but if a person that is so into
18 his car, I don't think he's gonna trade it for gun.

19 Then, later on, Kelvin says, "I'm driving down
20 11, I come back from the POPS." If he's coming back at
21 the same time that Timothy's supposedly coming down to
22 see, they would have meet at the POPS. But we don't
23 have that. But anyway, Kelvin is coming down the road
24 and he's suggesting that his car is coming the other way
25 in the video. Okay, fine. If that's the case. He saw

1 this incident. It has to be. And he testifies, "I saw
2 this car swerving." He also maintains he never saw a
3 person.

4 The State suggested yesterday, when they were
5 showing the video, that the headlights from this Impala
6 that ran over Bruce, illuminated him, so the driver
7 should have been able to see him. So that's about the
8 same time Kelvin's coming down the road. He should have
9 seen him too. But his testimony is, I didn't see a
10 person. Again, if that's to be believed, that means
11 it's a dark area that nobody saw somebody on the
12 sidewalk. How did we start this whole thing?

13 So we had this terrible turn of events and get
14 information they need to start looking for an Impala and
15 even more specific, we need to look for a black Impala.
16 So they got this great thing with SLED that complied
17 everybody's information and they can say, okay, tell me
18 all the black Impala's within a specific area. And in
19 this specific area, they said a 15 mile radius from that
20 spot on 11th Street. And their testimony is, and I have
21 no reason to doubt this whatsoever, their testimony is,
22 within a 15 mile -- 15 -- one, five -- 15-mile radius on
23 that spot on 11th Street, they were looking for several
24 hundred or at least a couple hundred black Impala's.
25 That's how we started ladies and gentlemen. We start

1 with that. And then we get the, hearsay that Timothy
2 might have been involved with this.

3 And as Trooper Darby said, we just narrow it
4 down to one. Like that, they're going door-to-door,
5 we're looking around trying to find this Chevy Impala
6 and you get this word that Timothy could be involved in
7 this situation. Immediately stop looking at all the
8 other cars and hone in on Timothy Thompson.

9 And folks, this is what it comes down too.
10 We've got speculation. We've got hearsay and there's
11 emotion. And all of it's understandable. That's not
12 enough to overcome reasonable doubt. There is one other
13 thing, of an distinguishable piece of plastic.

14 This is it folks. This is it. This is what
15 their case is. It hinges on this piece of plastic that
16 has no identifiable features. Said, if you put it in
17 Google and came up, that it's a GM part. GM builds
18 Impalas, i.e., that car that's got a zip-tie on it, must
19 be the car. There it is in the road.

20 And after finally, referring his report,
21 Sisler realized or remembered that it was found 350 feet
22 from the impact incident, the impact site, 350 feet.

23 Now, if I were better at math then I'd
24 probably go into something beside law school, but I'm
25 not, so I did. That's over a football field away, 350

1 feet. In fact, it is outside of the marked off area
2 where they were looking for the evidence in this case.
3 And then we go, after we drive the car back up here to
4 Fairfield, we go... see, fits. Well, I mean -- you
5 know, I mean, if it didn't have a zip-tie on it, I mean,
6 it would fit flush. We see, I don't know it doesn't fit
7 flush, but I mean, if you took that off.

8 Well, why didn't they take it off? You've got
9 the car in evidence. You documented everything with
10 photographs. If it fits, clip it off and fit it. They
11 don't even bother to do that. They just stick it on
12 there and say, see? It fits. Trust us. And don't even
13 confirm it by clipping the tie off that they say is the
14 whole thing that ties this case together.

15 Now, let's talk about this. Timothy Thompson
16 has brutally murdered a man on 11th Street in Winnsboro
17 and then fleeing the scene, parks in front of the Flying
18 J. That's the Denny's around the front and, you know,
19 that's Fairfield Road, 321, Buchner Road is right there.
20 It's got the Hardee's there, the bus station down here
21 and some other businesses along the way.

22 I mean, everybody is familiar with this.
23 Everybody's gone there. They have the cheapest gasoline
24 around. He comes around and he parks right here.
25 That's the sign post that's at the corner of the road.

1 I mean, that's I-20 right back there. So if you hide
2 this weapon of destruction, he parks in probably one of
3 the busiest areas in this whole location. Parks it near
4 the door and it's down a little bit, but as you can see
5 a lot of spots are full anyway. So he parks it and
6 leaves it there. He, in fact, tells you why he went to
7 the Flying J.

8 You heard his sister say he got kicked out of
9 his house, doesn't have no place to stay. So Timothy's
10 just kind of riding around living in his car. He didn't
11 have a place to take a shower at. It's a truck stop,
12 you can get a shower at at Flying J. He told you,
13 that's what I was doing. Went to the Flying J, got a
14 shower. And obviously, they didn't get too far because
15 it's sometime later, I mean, he sees these cars.
16 They're parked around his car. Maybe he's trying to
17 figure out why they're all parked around my car. And he
18 hears they're charging him with something.

19 And he walks up to a police officer in the
20 parking lot, and says, "Hey, y'all looking for me?"
21 Baring in mind, not far down this road is the Greyhound
22 bus stop. But instead, he walks back over and turns
23 himself in to a City of Columbia Police officer to be
24 brought back to Fairfield County.

25 Now, when they discovered his car, what do we

1 do at the scene? Took pictures of it. Put it on a
2 rollback and brought it back to Fairfield. So, again, I
3 told you and you keep hearing, you get to determine
4 what's important, what's evidence, what's believable.

5 But you sure have heard a whole lot from the
6 State about, this isn't important. This isn't relevant.
7 You don't need to worry about that. Let's talk about
8 this. You heard testimony about a knife out there. We
9 saw it. Okay. Did it have anything to do with
10 anything? I don't know. I don't know.

11 A murder case and you find a knife, but it has
12 nothing to do with it. It ain't here. Cell phones.
13 Bruce's phone was laying on the ground right where he
14 got hit. Right where he got hit. Wouldn't you think
15 that would be important to look at to find out who he
16 had been talking to, what kind of conversation he may
17 have had just before he got hit and that phone fell out
18 of his hand? They don't have a phone. We have no clue
19 what's on that phone. Tire on the side of Highway 34.
20 Timothy Thompson told them and you have on video,
21 documented by the Fairfield County Sheriff's Department.
22 He's stopped on the side of 34, changed his tire. He
23 even tells Sisler, they should be a tire on 34. The
24 flat tire that is alleged to have been caused by this
25 horrific accident is sitting on the side of 34. And

1 when I asked:

2 "Did y'all go look for the tire?"

3 Sisler's response was, "No."

4 "Does it have anything on it?"

5 "I don't know."

6 But shouldn't you bother to look? If you're
7 accusing somebody of running over somebody and say
8 that's part of the evidence because he had a flat tire,
9 shouldn't he try to go find a flat tire?

10 Sergeant Al McCoy, already told you about
11 before and his disappearing car. I'm not gonna rehash
12 that. What other people said, I've kind of gone through
13 that. Everybody's saying, this is what other people
14 told me or I heard what Timothy said. I didn't hear,
15 what they were saying.

16 Timestamps on videos. Are they right, are
17 they wrong? It doesn't matter. The video at the house,
18 that timestamps wrong, dates wrong, dates right. Dates
19 right. Timestamps wrong, but you don't need to worry
20 about that. This is the time we found it. We looked
21 through hours and hours of video, but this is it, this
22 is it. Don't worry about the timestamp. The POPS,
23 Sisler says in his interview, you went to the POPS
24 before the wreck. Okay. Well, the timestamp says
25 12:30. "Do you know whether that's accurate or not?"

1 "Well, no, we don't."

2 Okay. We're trying to pinpoint a time and
3 we're using these things as evidence to pinpoint a time,
4 but we don't know if they're.

5 Toxicology. Look, I ain't saying that a .06
6 is knee walking drunk, 'cause it ain't. And I ain't
7 saying that Bruce Gibbs deserved to get run over because
8 he smoked some weed before the incident. But he had THC
9 in his system, short term and long term and alcohol in
10 his system. And the response is, it wasn't significant.
11 It's not relevant. I'm telling you, if they had a
12 report the other way, if it were a driver, it would be
13 very significant. But since it's not what we want to
14 hear, it's not important. Don't pay any attention to
15 it.

16 And what about DNA swab? They ain't none.
17 Fingerprint? Nope. Ladies and gentlemen, they didn't
18 even try. They didn't even try. This is what they find
19 when they get to the Flying J. This is the vehicle.
20 This is the damage. That is consistent with a
21 pedestrian versus vehicle as one of the troopers said,
22 master trooper I believe. Master trooper said, this is
23 consistent with a vehicle versus pedestrian. The bump
24 here and the big dent in hood. There's a lot of stuff
25 all on the front of this car. You see this little red

1 thing right here, what is it? I don't know. They
2 didn't bother. We photographed it. Oh, hold on, he
3 poured bleach all over it, see we wouldn't got nothing
4 so why we worry about trying to find it. I mean, he
5 poured bleach. I mean, I see this. I don't know what
6 is it. Might not be anything, but we didn't even try.
7 Didn't even go inside the car, to the steering wheel
8 that everybody touches when they get into a car and
9 track anything from that to confirm that the person
10 drive that car, was, in fact, Timothy Thompson. No, no,
11 no. We ran it through the DMV. It comes back to him,
12 it's got to be him. Because nobody could ever drive
13 anybody else's car. They didn't try to get any evidence
14 ladies and gentlemen. They found it. They got their
15 clip and said, "That's it, we got him." This is the
16 road. This is about where the incident location is.
17 This is about where the house that's got the videos.
18 You're looking back up 11th Street. That's Burch Street
19 right there. This is back up 11th Street, that's the
20 bridge over to Mexico and there is Golf Course on the
21 other side and goes straight across to Doty Road. This
22 is not a straight road. And I am not trying to tell you
23 he lost control. What I am telling you though, is,
24 whoever was driving that car and I'm not suggesting it
25 was Timothy Thompson, but somebody was driving a car

1 that hit Bruce Gibbs. But they have to prove intent and
2 they have to overcome this, I submit to you. The car
3 was speeding, doing at least 45 in a 35. Misses the
4 curb. This is about where it starts hitting the grass,
5 goes into the grass. The orange marks, equal tire
6 marks. Okay. There's the drivers side, passengers
7 side? That's the driver's side. It's the passengers.
8 No, we were wrong. Fine. Fine. You know what? I
9 don't care. I really don't care at this point. These
10 are the tire marks. The car goes off about right here.
11 Right. This is on the other side of the curb. It's
12 curved right here and goes straight that way and then
13 comes back in before it hits a house. Driving along.
14 I'm driving along, oh, oh. It's not intentional. And
15 they can't prove that's not what happened. Car goes off
16 into the grass. They don't show you the curb over here.
17 We just didn't need to worry about that. That's a
18 detail you don't need to worry about.

19 The car goes off, the passengers side is over
20 here, right? The passenger's side is over here. This
21 is the curb that it hit, that we got the mark on. This
22 is where the incident happened and comes back in. If
23 you leave out the house, it's pretty close. You know,
24 if I'm looking at my phone or whatever I'm doing, I get
25 back on the road because I didn't want to hit the house.

1 This is the mark. We have this little mark right here
2 on that sidewalk. The one right there. It's right
3 there. It's already marked. Right there. Okay.
4 Passengers tire, drivers side tire.

5 This is the mark that proves that the tire hit
6 the curb because it has rubber on it and that's
7 indicative of the impact. They focus on this side,
8 anyway they're expert fines. It has rubber on it.
9 Okay. Why is Timothy's tire flat on the back
10 passenger's side then? If that's the -- again, I'm glad
11 I don't have to do what y'all have to do.

12 The video, ladies and gentlemen, is horrible.
13 I'm not going to void that. I mean, you've got a video,
14 it's a very tough thing to watch, it shows the event.
15 It shows the event but that's what it shows. That's all
16 it shows. I doesn't show who is in the car. I doesn't
17 even show what car.

18 Even Trooper Sisler, when asked by the
19 Solicitor about what he could tell about that car. He
20 said -- shook his head. Shook his head and said, "Small
21 sedan with round taillights." That's all that video
22 shows you. That's all that video shows you. A small
23 sedan with round headlight. And then through
24 speculation through emotion and an indistinguishable
25 piece of plastic, they said it was Timothy Thompson.

1 At the end all they're relying on is emotion
2 and speculation, ladies and gentlemen, and that's just
3 simply not enough. I'd ask you to please put all that
4 aside. As difficult as watching that video is, if you
5 choose to watch it again, it's your province. We've got
6 all these pictures, which is why I'm not going to show
7 them all to you. At the end, all they have is
8 speculation. And maybe Timothy looks suspicious because
9 his car is down at the Flying J. That's all they got,
10 emotion and speculation, suspicious. It's possible.
11 It's not enough.

12 Timothy Thompson is not guilty of these
13 charges. Thank you for your time and attention in this
14 very serious matter.

15 THE COURT: Thank you, Mr. Frick.

16 Ladies and gentlemen, do y'all need a quick
17 recess before I instruct you on the law? My part will
18 take about 15, 20 minutes or y'all what to go ahead and
19 go through it? If you need to stretch, go ahead and do
20 it. I've got to move my chair over here.

21 Ladies and gentlemen, madam forelady, members
22 of the jury: You heard the testimony, the evidence,
23 arguments of both the State and the defense. I'm now
24 going to explain to you the law that applies in this
25 case. Again under the constitution of laws of our

1 state, you are the finders of fact. I don't have the
2 right to pass upon the facts or express any opinion that
3 I may have of them because that's your job. It is your
4 duty to determine the effect of the value, the weight,
5 and the relevance of the evidence that's been presented
6 to you do during this trial.

7 As a trial judge, it's been my responsibility
8 to preside over the trial and to rule upon the
9 admissibility of evidence that's been offered. You,
10 again, are to consider only the testimony which has been
11 presented from this witness stand together with any
12 exhibits, which have been made part of this record. I'm
13 charging you the law applicable to this case and as the
14 presiding judge; I am the sole judge of the law. It is
15 your duty as jurors to accept as correct and to apply
16 the law as I now state it to you and use that to reach
17 your verdict.

18 The fact that I may instruct you on various
19 subjects in this case must not be taken by you as
20 indicating what you think my opinion of the evidence is.
21 Finally, you should not be concerned with what you think
22 the law is, but rather what I tell you the law is.

23 There's two types of evidence which are
24 general presented during a trial: Direct evidence or
25 what we call circumstantial evidence.

1 Now, direct evidence directly proves the
2 existence of a fact and does not require any further
3 deduction, okay. Circumstantial evidence, I'm going to
4 give you a law school definition and then give you an
5 example to help make you understand.

6 Circumstantial evidence is a proof of a chain
7 of facts and circumstances which indicate the existence
8 of a fact. All right. What's that mean? Well, just
9 imagine, we still -- a lot of use still have dormant
10 lawns or front yards right now. So imagine if on a
11 night before you go -- a winter night before you go to
12 bed, you look outside and you see brown grass on the
13 lawn or whatever. The next morning you wake up and you
14 see snow on your lawn with footprints in it.

15 Well, first of all, you can infer that it
16 snowed while you were asleep. Second of all, you can
17 infer that somebody's been walking on your lawn.

18 See, these are things you can infer even
19 though you didn't see it snow and even though you didn't
20 see somebody walking. That's what circumstantial
21 evidence is.

22 Now, crimes can be proven by circumstantial
23 evidence and the law makes no distinction between the
24 weight or value to be given to either direct evidence or
25 circumstantial evidence. Now, the law is to the extent

1 the State relies on circumstantial evidence, all of the
2 circumstances must be consistent with each other and
3 when taken together point conclusively to the guilt of
4 the accused beyond a reasonable doubt. If these
5 circumstances merely portray the defendant's behavior as
6 suspicious, the proof has failed.

7 The State has the burden of proving the
8 defendant guilty beyond a reasonable doubt. This burden
9 rest with the State regardless of whether the State
10 relies on direct evidence, circumstantial evidence, or
11 some combination of the two.

12 Ladies and gentlemen, you're the judges of the
13 fact, as you know. You're also the judges -- the sole
14 judges of the credibility or what referred to as the
15 believability of the witnesses who have testified and of
16 the evidence, which has been admitted during this trial.

17 You know, in passing upon credibility or
18 believability, ladies and gentlemen, you can take into
19 consideration many things such as the demeanor or manner
20 in which a witness testified, whether or not a witness
21 have reason to be bias or prejudiced, whether or not a
22 witnesses testimony was contradicted on the one hand or
23 support and corroborated on the other hand. All these
24 things you'll consider bearing in mind that you should
25 give the defendant the benefit of any reasonable doubt.

1 Your duty as jurors is analyze and to evaluate the
2 evidence and determine that evidence which convinces you
3 of it's importance.

4 I told you what an expert witness is and the
5 rules of evidence ordinarily do not permit witnesses to
6 testify as to opinions or conclusion. However, there is
7 an exception for witnesses who are deemed experts in a
8 certain field or training or skill. There were several
9 experts who testified in this case and they gave various
10 opinions.

11 Now, to give opinion testimony does not mean
12 that you have to except the opinions, ladies and
13 gentlemen. It's simply evidence for you to use anyway
14 you see fit and give it the weight and credibility that
15 you believe is appropriate. And expert witnesses
16 testimony is to be given no greater weight then that of
17 other witnesses simply because the witness is an expert.
18 Again, you are not required to accept an experts opinion
19 even though it may not be contracted.

20 Now, a statement made by the defendant has
21 been admitted into evidence in this case. While I, the
22 Court, has determined that this statement is admissible
23 evidence. You must determine, ladies and gentleman,
24 whether the statement made by the defendant was
25 voluntary and of his own freewill. This means that the

1 statement was not caused by pressure, forced, fear,
2 threats, coercion, or intimidation, or by hope, or
3 promise of leniency or reward of any kind. In
4 determining whether or not the statement was voluntary,
5 you should consider both the characteristics of the
6 defendant and the details of the questioning. You can
7 consider factors such as his age, his education or lack
8 there of, his mental ability or capacity, his IQ or
9 intelligence, his background or environment, the place
10 and length of detention when he was being questioned.

11 The nature of the questions, the advice or
12 lack of advice to the defendant of this constitutional
13 rights including but not limited to the, right to remain
14 silent, any statement could be used against him in a
15 court of law. The right to have a lawyer present, if he
16 couldn't afford a lawyer, a lawyer would be appointed to
17 represent him without any cost.

18 Further, that he could stop making a statement
19 at any time. You can consider all these surrounding
20 circumstances before you give weight to any statement
21 made by the defendant.

22 The State bears the burden of proving a
23 statement -- that is statement is voluntary beyond a
24 reasonable doubt. If you determine that the State's met
25 this burden, you can give the statement any further

1 consideration that you deem proper, when you consider
2 all of the evidence. You must decide what weight, if
3 any, should be given to the statement. If you determine
4 the statement wasn't freely and voluntarily given, then
5 you shouldn't consider the statement at all.

6 The indictments in this case allege two
7 different offenses against the defendant: Murder and
8 leaving the scene of an accident involving death or what
9 we call hit and run involving death. Each indictment
10 charges a separate and distinct offense. You must
11 decide each indictment separately on the evidence that's
12 been presented and on the law applicable to it
13 uninfluenced by your decision as to the other
14 indictment.

15 The defendant can be convicted or acquitted on
16 any or both of the offenses charged. You will be asked
17 to write a separate verdict of guilty or not guilty for
18 each indictment. And, Madam Forelady, I'll go over that
19 with you in a moment because you'll be the one who fills
20 out the verdict form and I'll make sure all of you
21 understand it as well.

22 Ladies and gentlemen, let me talk to you about
23 the presumption of innocence.

24 The defendant, as you know, has plead not
25 guilty. And that plea puts the burden of proof on the

1 State to prove the defendant guilty beyond a reasonable
2 doubt. A person charged with committing a criminal
3 offense is never required to prove innocence. Now, I
4 charge you, ladies and gentlemen, that it is an
5 important rule of law that a defendant in a criminal
6 trial, no matter what the seriousness of the charge
7 maybe, will always be presumed innocent until proven
8 guilty by evidence satisfying you, the jury, of that
9 guilt beyond a reasonable doubt.

10 Now, this presumption of innocence doesn't end
11 when you start your deliberations. But it accompanies
12 the defendant throughout your deliberations until you've
13 reached a verdict of guilt, if that's what you find
14 there should be based on evidence satisfying you of that
15 guilt beyond a reasonable doubt.

16 Imagine if you will, a robe, like I'm wearing
17 a robe of righteousness, that's the term we use, a
18 metaphor, placed around the shoulders of the defendant
19 which remains with him until it has been stripped away
20 from evidence satisfying you of proof beyond a
21 reasonable doubt. This presumption of innocence, ladies
22 and gentlemen, is not just mere legal theory, it's not
23 just a legal phrase. It is a substantial right to which
24 every defendant is entitled unless you, the jury, is
25 satisfied from the evidence of his guilt beyond a

1 reasonable doubt. So what is reasonable doubt? What is
2 beyond a reasonable doubt? A reasonable doubt can be
3 defined as a doubt which makes an honest, sincere,
4 conscientious juror in search of a verdict to hesitate
5 to act.

6 Now, proof beyond a reasonable doubt must
7 therefore be proof of such a convincing character that a
8 reasonable person would not hesitate to rely on it or
9 act upon in it in the most important of his or her own
10 affairs. Now, proof beyond a reasonable doubt can also
11 be defined or described as proof that leaves you firmly
12 convinced of the defendant guilty, okay.

13 Now, ladies and gentlemen, there's very few
14 things in this world that we know with absolute
15 certainty and in criminal cases, the law does not
16 require proof that overcomes every possible doubt. The
17 law does not require that. If based upon your
18 consideration of the evidence, you're firmly convinced
19 that the defendant is guilty, then you must find him
20 guilty. If on the other hand you think there's a real
21 possibility he's not guilty, give him that benefit of
22 the doubt and find him not guilty.

23 Let's talk about criminal intent. In order to
24 establish criminal liability, criminal intent is
25 required. For example, the mental state required to be

1 proven by the State for a particular crime might be
2 purpose, intent, knowledge, recklessness, criminal
3 negligence.

4 Criminal intent must be proven by the State
5 beyond a reasonable doubt. Criminal intent is always a
6 matter that must be determined by you from the
7 circumstances surrounding a situation. There's no way
8 you can prove intent to a mathematical certainty.

9 Medical science cannot dissect a persons brain
10 to determine what that person had in mind. Okay. So
11 the law says, criminal intent maybe inferred by you from
12 the circumstances which have been shown to have existed.
13 That's how you make a determination of whether or not
14 the element requiring intent was present, okay. Its not
15 necessarily that the State have to establish intent, by
16 direct or positive evidence.

17 But intent may be established by inference in
18 the same way as any other fact by taking into
19 consideration the acts of the parties and all the facts
20 and circumstances. Criminal intent is a mental state; a
21 conscious wrongdoing. It is up to you to determine what
22 the defendant intended to do based upon the
23 circumstances which is shown to have existed.

24 Now, ladies and gentlemen, I instruct you and
25 emphasize to you that the fact that the defendant did

1 not testify in this case is not a factor to be consider
2 by you in anyway in your deliberations and in your
3 consideration on the question of his guilty or
4 innocence. It must not be considered by you in any
5 manner whatsoever.

6 A defendant has the constitutional right to
7 remain silent and the assertion of this right must not
8 been considered by you in your deliberations. So I will
9 repeat, ladies and gentlemen, under your oath, you are
10 to draw no conclusion whatsoever from the fact that the
11 defendant in this case did not testify.

12 The fact that he didn't testify should not
13 even been discussed in the jury room. The burden of
14 proof is always upon the State of South Carolina. The
15 defendant is not required to prove innocence.

16 Let me talk to you about murder. What is
17 murder? The State of South Carolina must prove beyond a
18 reasonable doubt that the defendant killed another
19 person with malice aforethought.

20 Malice. Now, malice is defined as hatred,
21 ill-will or hostility towards another person. It is
22 intentional doing of a wrongful act without just cause
23 or excuse and with an intent to inflict an injury or
24 under circumstances that the law will infer an evil
25 intent. Malice aforethought does not require that

1 malice exist for any particular length of time before an
2 act is committed, but malice must exist in the mind of
3 the defendant just before and at the time the act was
4 committed. Therefore, there must be a combination of
5 the previous evil intent and following through with the
6 act.

7 Now, malice aforethought or malice, can be
8 either expressed or inferred. These terms express and
9 interred don't mean different kinds of malice, but mean
10 simply a way of describing the manner in which the
11 malice may have been shown to have existed if you find
12 the evidence supports that. That can be proved either
13 by direct evidence or by inference, circumstantial
14 evidence of the facts and circumstances which have been
15 proved to you.

16 Expressed malice can be shown when a person
17 speaks word which express hatred or ill-will for another
18 or when, for example, when a person prepared before hand
19 to do the act, which was later accomplished. For
20 example, lying in wait for a person or any other acts of
21 preparation going to show that the deed was within the
22 defendant's mind, that's an example of expressed malice.

23 Malice can also be inferred by conduct which
24 shows a total disregard for human life.

25 Now, if facts have been proven to you beyond a

1 reasonable doubt, sufficient to raise an inference of
2 malice to your satisfaction, that's simply something for
3 you to consider as evidence along with the weight and
4 credibility of all the other evidence. And you may give
5 it the weight you believe it should receive.

6 Leaving the scene of an accident causing death
7 or hit and run involving death. The defendant's also
8 charged with leaving the scene of an accident causing
9 death to another person. The State must prove beyond a
10 reasonable doubt that the defendant was driving a
11 vehicle. The vehicle was involved in the accident. The
12 accident caused death to another person. The defendant
13 did not stop or failed to return or remain at the scene
14 and -- excuse me, the defendant failed to give his name,
15 address, vehicle registration number and if asked,
16 failed to show his driver's license and the defendant
17 failed to give reasonable assistance to the injured
18 person.

19 Reasonable assistance includes taking the
20 person to the doctor or hospital or making arrangements
21 to have that done. The State must also prove beyond a
22 reasonable doubt that the defendant knew or should have
23 known that the accident happened. This could be shown
24 again by circumstantial evidence or conditions which
25 would cause an ordinary reasonable person to believe

1 that the vehicle had been involved in an accident
2 resulting in personal injury or death to another person.

3 I'm almost done and let me talk to you about
4 deliberations and finally you'll be able to go back and
5 get the case.

6 Ladies and gentlemen, the word deliberation is
7 defined as a careful consideration weighing up with a
8 view to a decision.

9 You know, the genius -- everybody likes to
10 negatively comment about our justice system. I get it.
11 I understand. The genius of our jury system, ladies and
12 gentleman, is that it allows 12 good people, both men
13 and women from different backgrounds, life experiences
14 and prospective to consider the evidence, talk about it
15 and ultimately, reach a verdict.

16 The task of a juror is call deliberation for a
17 reason. You, the jury, are the fact finders as you
18 know. You are to carefully consider the evidence and
19 deliberately consider the evidence. Go through
20 everything, discuss it calmly, thoroughly, courteously.
21 Remember, you are not partisans or advocates for one
22 side or the other. You're judges of the facts. Your
23 sole duty is to sort through all the information you
24 received in this trial and find your verdict from the
25 evidence received in this courtroom.

1 Now, the supreme law of our land, our United
2 States Constitution affords everyone a day in court and
3 a fair trial. This case is very important to both sides
4 because it's their day. I charge you, ladies and
5 gentlemen, to listen to the vies of your fellow jurors,
6 carefully consider their viewpoints and curiously and
7 deliberately discuss the evidence.

8 Remember, you're doing somebody deliberately.
9 You're not in a big hurry and you're tasked with the
10 duty of utmost importance. Your verdict cannot be based
11 on sympathy, passion, prejudice, emotion, or any other
12 consideration that's not in the evidence.

13 In conclusion, ladies and gentlemen, you have
14 been selected by both the State and the defense do be
15 fair and impartial jurors. It is your duty in your
16 deliberations to determine the evidence in this case and
17 your verdict given the defendant the benefit of every
18 reasonable doubt on these charges.

19 Now, I've told you the standards you must
20 apply to these charges contained in theses indictments.
21 You've heard the evidence and now, you've heard the law.
22 Whatever your verdict is as to the indictments guilty or
23 not guilty, Madam Forelady, you will indicate it by
24 marking the juries decision in the respective blanks on
25 the verdict form. Mark only one blank. You will then

1 sign and date the verdict form.

2 Now, ladies and gentlemen, remember that
3 only -- even though the forelady is the only one who can
4 fill out the verdict form and sign it and date it and
5 fill in the blanks. She can't do that until y'all reach
6 a unanimous verdict. That means all 12 of you have to
7 agree. That's the way it works.

8 Now, it's straight forward, Madam Forelady.
9 It says "The Verdict Form." I'll read it to you, "State
10 of South Carolina versus Timothy J. Thompson." And it
11 lists the indictment numbers up here, the verdict form.
12 And then it says:

13 "As to each charge we, the jury, unanimously
14 find the defendant Timothy J. Thompson as follows:
15 Number one," indictment number and it gives the number
16 of the case. "Murder." You either check or put an X
17 whatever you want to do beside guilty or not guilty.
18 Okay. Same thing on the charge of hit and run involving
19 death. It's either guilty or not guilty. Then you'll
20 sign and date it. Remember, you can't do this until all
21 12 of you has agreed to a verdict.

22 Now, ladies and gentlemen, I'm gonna send you
23 to your jury room. Please do not start discussing this
24 case until you've received all those exhibits, along
25 with this verdict form. Once you are given that, that's

1 your signal you can finally start talking to each other
2 about this case. And once you start deliberating, you
3 will continue to deliberate until you have reached a
4 unanimous verdict, at which time you'll knock on door,
5 let the bailiff know, we'll bring you out here to
6 receive your verdict, okay.

7 I've called in lunch for you. That's where
8 madam clerk went, to go check to make sure it's being
9 delivered. It should be already there or close to being
10 there.

11 So remember, take your time, go through
12 everything, don't start discussing, however, until you
13 get all the evidence. Thank you very much. Head on
14 back. I need my alternates to stay with me.

15 (Jury exited courtroom.)

16 THE COURT: Any exceptions to the charge from
17 the State?

18 MR. MAXWELL: None from the State.

19 THE COURT: From the defense?

20 MR. FRICK? None from the defense.

21 THE COURT: Your jury service has now ended.
22 You'll don't get to deliberate because there's only a
23 jury of 12. Now, having said that, I don't want you to
24 miss out on free lunch. If you'll want to stick around.
25 You can't go back in the jury room. If you have any

1 personal effects, just tell the bailiff and they'll get
2 it for you. Y'all are more than welcomed to hang around
3 the courthouse and see what happens. You can sit out
4 there. You can't sit there but you can sit out there
5 and go back there and get something to eat and eat in
6 another room, but you don't have to. If you want to
7 leave, you can leave right now. Thank you very much for
8 your service and have a you good day.

9 *(Jury has been given exhibits and verdict form*
10 *to deliberate at 12:05 p.m.)*

11 *(Court's Exhibit 2, jury note, was marked*
12 *for Identification.)*

13 THE COURT: Bring in the jury.

14 *(Jury entered courtroom.)*

15 THE COURT: All members of the jury are
16 present.

17 Madam forelady, I've received following note.

18 "May we have equipment to play DVDs and
19 laptop?" No. They way we do it is, you'll come back
20 out here and look at it.

21 "The DVD we would like to hear in the
22 interview of Thompson by Sisler, Exhibit Number 18."

23 Permission to publish.

24 *(Playing Exhibit 18)*

25 THE COURT: Thank you, ladies and gentlemen,

1 you can return to your deliberations.

2 *(Jury resumed deliberations.)*

3 THE COURT: We'll be in recess.

4 *(Whereupon, a recess was taken.)*

5 THE COURT: Back on the record. Y'all can be
6 seated.

7 We have a verdict.

8 Let's bring in the jury.

9 *(Jury entered courtroom.)*

10 THE COURT: All members of the jury are
11 present.

12 Madam Forelady, it's my understanding the jury
13 has reached a verdict?

14 MADAM FORELADY: Yes, sir.

15 THE COURT: Is the verdict unanimous?

16 MADAM FORELADY: Yes, your Honor.

17 THE COURT: Hand it to my bailiff.

18 Madam clerk, you may publish the verdict.

19 THE CLERK: In the State of South Carolina
20 versus Timothy J. Thompson, as to each charge:

21 "We the jury, unanimously find, the defendant,
22 Timothy J. Thompson as follows:

23 Number 1, indictment number, 2020-GS-20-399
24 murder, guilty.

25 Number 2, indictment number, 2020-GS-12-400,

1 hit and run involving death, guilty."

2 Signed by the foreperson March 24, 2022.

3 THE COURT: Ladies and gentlemen of the jury,
4 thank you very much. I'll need you to step back in your
5 jury room for a few more moments and you'll have
6 completed your juror service. Thank you very much.

7 (Jury exited courtroom.)

8 THE COURT: Solicitor, while you prepare the
9 sentencing sheets and getting everything ready, the
10 verdict form had a typographical error on it that nobody
11 noticed. On the second charge of hit and run involving
12 death. Had indictment number, 2020-GS12-400. That's a
13 Chester County code instead of a Fairfield County code.
14 Any problem with me just striking through the 12 and
15 writing 20 and putting my initials on it?

16 MR. FRICK: No, none from the defense.

17 MR. MAXWELL: None from the State.

18 THE COURT: Thank you.

19 Do you want to make a legal argument at this
20 point in time concerning the indictment of hit and run
21 involving death?

22 MR. FRICK: Judge, as I stated before, I have
23 not been able to find any case law that differentiates
24 between the two. I do think it's inconsistent to be
25 convicted on one that requires a specific intent, that

1 being the murder indictment. And one I do not believe
2 would require specific intent, the hit and run.

3 In fact it uses the word "accidental" alone,
4 it does not define what that is, with the kind of
5 definition of accident being an unintentional act. I
6 think those are quite frankly mutually exclusive and I
7 think there should be an election of some sort.

8 THE COURT: All right. Solicitor?

9 MR. MAXWELL: Your Honor, while there is --
10 again, there's no definition of accident. And the jury
11 heard the evidence. They applied the law as it was
12 given to them and they found him guilty of that.
13 Understanding the murder sentence supercede the hit and
14 run, we would ask the Court to sentence him on both.
15 There's the element issues that can be handled down the
16 road. My concern is if an electable year, there's an
17 appellant issue on the murder charge down the road, how
18 would that effect. It would be just a bigger --
19 something to figure out down the road on the hit and
20 run. I would let them both stand and let the appeals
21 process take place.

22 THE COURT: I agree with the State on that
23 matter. You're protected in the record Mr. Frick. I
24 think the jury has spoken. I'm gonna recognize the
25 verdict as such and not other wise rule differently.

1 MR. FRICK I understand. Can I just make my
2 motion.

3 THE COURT: Yes, sir. Go ahead.

4 MR. FRICK: Your Honor, at this time the
5 defense would a new trial in this matter. I renew all
6 my previous objections. And I would request that the
7 Court set the verdict aside and grant us a new trial.

8 THE COURT: That motion is denied and all
9 previous rulings of the Court are in the record and
10 you're protected in the record.

11 All right. We're gonna be in recess for about
12 five minutes or so, while you get the sentencing sheet
13 prepared. If the family members would like to say
14 anything prior to sentencing, I'll be glad to do that.
15 I'll be glad to hear from them.

16 But we'll be down for about five minutes.

17 (Whereupon, a short recess was taken.)

18 THE COURT: Come to order. Y'all may be
19 seated.

20 Solicitor?

21 MR. MAXWELL: Your Honor, are you ready for
22 his prior record?

23 THE COURT: Yes, sir.

24 MR. MAXWELL: Your Honor, he's got some record
25 in Florida as stated earlier. It's a little bit hard to

1 understand the dispositions of them. As best I can
2 tell, in 2005 he was convicted of accessory after the
3 fact, a felony. He has a stolen property conviction
4 from the same year and attempted burglary. In 2016 in
5 North Carolina his has a conviction of obstructing
6 justice. Here in South Carolina, he has a 2010
7 conviction for assault and battery of a high and
8 aggravated nature. It was initially charged as CSC with
9 a minor, second-degree, that was -- looks to be plead
10 down. And then, in 2012 he plead guilty to lewd act on
11 a minor, that was plead down from another CSC with a
12 minor, second-degree.

13 THE COURT: Anything further from the State in
14 regards to sentencing?

15 MR. MAXWELL: We would ask for a disposition
16 of a life sentence. Mr. Thompson has shown no remorse
17 throughout this case. With his prior record and the
18 facts of this case, that calls for a maximum sentence.
19 And we'd just ask that you hear from the mother.

20 THE COURT: All right. I'll be glad to hear
21 from the mother.

22 MS. JOHNSON: I want to thank this Court for
23 giving me justice. And y'all, so obviously the judge
24 and everybody. I'm emotional now.

25 THE COURT: Yes, ma'am.

1 MS. JOHNSON: That's what I want to say to
2 y'all. I appreciate y'all doing y'all job and getting
3 justice. And hope y'all give him life in prison because
4 he done took my life. I'm going to need counselling
5 after this. And I'm going try to get some, but. I thank
6 y'all.

7 THE COURT: Thank you, ma'am.

8 Anything further from the State?

9 MR. MAXWELL: No, your Honor.

10 THE COURT: Mr. Frick?

11 MR. FRICK: Thank you, your Honor.

12 Judge, Mr. Thompson's 36 years of age. I've
13 known him for the better part of the last dozen years of
14 so. His issues he had in Fairfield County previously
15 the Solicitor just spoke about, I represented him at
16 that time. I will tell you that Mr. Thompson suffers
17 from mental health issues. In this Florida stent, he
18 was incarcerate. He was incarcerated in their mental
19 health facility in their Department of Corrections. He
20 also had some issues in North Carolina intervening the
21 last time he was in South Carolina and this incident and
22 he was hospitalized there as well.

23 As the Court knows we did a Blair evaluation,
24 a competency evaluation, back in December of 2020 and he
25 was determined to be competent to stand trial. I didn't

1 argue with that. I think he knows well what's going on.
2 He is competent to stand trial. My then concern came
3 when obviously we heard the interview with him. You
4 hear the inappropriate laughter. You hear rage. You
5 hear incoherent talking. I had that and I got some
6 medical record from Copestone facility that he's been
7 hospitalized at in Ashville several times, where
8 essentially when he would show up there, either by
9 police taking him or by his own volition and saying, "I
10 ain't acting right" or "I ain't feeling right," they
11 would medicate him with psychotropic drug and those were
12 the same symptoms he was exhibiting. His demeanor in
13 that interview is the same demeanor that they reported
14 him showing up to the hospital with. And they would
15 treatment him over a couple weeks and then you'd see the
16 calm person that we've seen in this courtroom all week
17 and the calm person I see every time I visit him over at
18 the detention center.

19 Your Honor, we did a M'Nughten evaluation
20 based on me receiving those records and requesting it.
21 That evaluation was done on January 31st of this year.
22 We got the report back March 3rd of this year. And as I
23 said, based on that, I was not going forward with an
24 NGRI or GBMI because they found no criminal
25 responsibility that he did not lack the capacity to

1 distinguish moral right from moral wrong. And on the
2 capacity to conform, they said, he did not lack
3 sufficient capacity to confirm. So, not believing that
4 I could overcome that, I did not pursue those possible
5 defenses. However, I do believe that Mr. Thompson has
6 significant mental health issues. And I do believe, and
7 I'm not saying that he is guilty of this offense. But I
8 do believe at the time, as exhibited in that interview
9 with Trooper Sisler, that he was going through some kind
10 of things. And while he understands, as he stated in
11 there. I mean, he talked about admissible evidence and,
12 "I don't have to talk to you," and stuff like that. So,
13 he understands the process, but I don't know that he was
14 in his right frame of mind.

15 Judge, he had been treated at Fairfield Mental
16 Health in the past. As I said, he's been treated up at
17 Copestone in Ashville. He's been treated in detention
18 centers in Florida. Currently, at the detention center
19 here in Fairfield, he has been receiving medication and
20 it has been working. Because, like I've said, I've had
21 no issues, ever, in any of my representation with
22 Mr. Thompson acting out. He's always been calm
23 respectful. So, this is someone, when he is properly
24 medicated, can do right and can do good.

25 Judge, they did diagnosis him in the -- or

1 confirm a diagnoses of Bipolar I disorder with psychic
2 features and cannabis abuse disorder. So, clearly, this
3 is someone when they're not on medication self-medicates
4 by smoking marijuana.

5 Your Honor, he has been in the detention
6 center since September 9th of 2020. I believe he is
7 entitled to all of that time. I don't know what
8 happened. I don't know if he knows what happened. But
9 judge, he's been convicted of -- I've talked to him
10 about where this goes forward. Obviously, these are
11 folks that he has known all his life. He has feeling
12 for them, but he doesn't want to stir up anything. And
13 also, to protect himself from anything going forward, he
14 does not wish to address the Court.

15 Judge, I always find it interesting, we talk
16 about not expressing remorse. This is a client who's
17 charged with something, that exercises his right to
18 trial; can't very well apologize for something and then
19 go to trial and say you're not guilty of it. So, I
20 would ask the Court to not hold anything like. I don't
21 think you will. I think you understand legally where we
22 stand on that.

23 Judge, we just ask for what mercy you can show
24 this young man who, has had his transgressions, but has
25 his demons as well.

1 THE COURT: Thank you, Mr. Frick.

2 Mr. Thompson, anything you want to tell me or
3 say prior me administering your sentence?

4 THE DEFENDANT: Well, your Honor, I've been on
5 medicine for over 20 years of my life. Different
6 medicines, everything from Trazodone to Hydroxyzine.
7 I've been on a lot of different type of medicines. I
8 don't recall what had actually happened that night.

9 I want to say I'm sorry to the family for
10 their loss and that's all I got to say.

11 THE COURT: Thank you, sir.

12 Mr. Thompson, I'll tell you, I certainly can
13 sympathize with your lawyer's argument about the state
14 of your mental health, You know. But of course, I can't
15 diminish your prior record prior to this happening. I've
16 heard the testimony. I mean, this was clearly, in my
17 opinion, as well as, they jury's opinion, a premeditated
18 attack on a young man who was minding his own business
19 walking down the side of the road, when you turned into
20 him and just turn him into a rag doll. I can't ignore
21 the violent nature of this killing. It's one thing to I
22 hear, unfortunately, people shooting other people.
23 That's bad -- a stabbing, that's bad enough, horrible.
24 But, to use your vehicle as a deadly weapon and kill him
25 the way you did, is just appalling.

1 On indictment 20-GS-20-399 the sentence of the
2 Court is life in prison. On indictment 400, 10 years
3 run concurrent.

4 Mr. Thompson, I hope you find the remedy you
5 seek. Good luck to you.

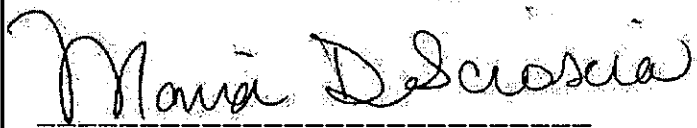
6 The Court's in recess until we have other
7 business this afternoon. Thank you very much.

8
9 *(In the matter of The State of South Carolina*
10 *versus Timothy J. Thompson, on Thursday, March 24, 2022*
11 *trial was concluded.)*

C E R T I F I C A T E

I, the undersigned Maria DiScioscia, Official Court Reporter for the Sixth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for Fairfield, South Carolina, on the 21st day of March, 2022.

I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Maria DiScioscia". The signature is written in dark ink and is positioned above a horizontal line.

Maria DiScioscia
Official Court Reporter

WITNESSES

HUGHES-SCHP

Barby

DOCKET NO. 2020-GS-20-400

The State of South Carolina

County of Fairfield

2020 DEC - 8 PM 12: 59

FAIRFIELD COUNTY
CLERK OF COURT
JUDY M BOWEN

COURT OF GENERAL SESSIONS

DECEMBER TERM 2020

ARREST WARRANT NUMBER/DOA

2020A2010200245 (DOA-09/09/2020)

ACTION OF GRAND JURY

TIMOTHY JAMES THOMPSON

THE STATE
vs.

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

Indictment for
Hit and Run Involving Death

SC Code: § 56-5-1210(A)(3)
CDR Code: 2463
Class: Felony, B

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

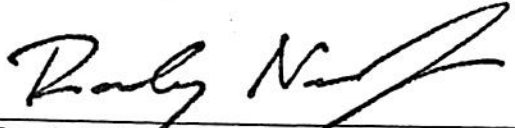
INDICTMENT

At a Court of General Sessions, convened on December 08, 2020, the Grand Jurors of Fairfield County present upon their oath:

Hit and Run Involving Death

That Timothy James Thompson did in Fairfield County on or about September 06, 2020, drive a vehicle that was involved in an accident which resulted in the death of Bruce Antonio Gibbs, victim, and the Timothy James Thompson did not immediately stop the vehicle at the scene of the accident or as close to the accident as possible and failed to fulfill the requirements of § 56-5-1230 in violation of § 56-05-1210, *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

DOCKET NO. 2020-GS-20- 399

The State of South Carolina

County of Fairfield

2020 DEC -8 PM 12: 59

FAIRFIELD COUNTY
CLERK OF COURT
JUDY M BOWDS

WITNESSES

DARBY-SCHP

ARREST WARRANT NUMBER/DOA

2020A2010100154 (DOA-09/18/2020)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 12-8-2020

VERDICT

Foreperson of Petit Jury

Date:

COURT OF GENERAL SESSIONS

DECEMBER TERM 2020

THE STATE

vs.

TIMOTHY JAMES THOMPSON

Indictment for

Murder

SC Code: §16-3-10
CDR Code: 0116
Class: Felony, EXM

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

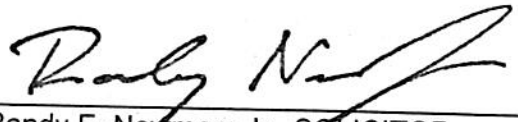
INDICTMENT

At a Court of General Sessions, convened on December 08, 2020, the Grand Jurors of Fairfield County present upon their oath:

MURDER

That Timothy James Thompson did in Fairfield County on or about September 06, 2020, feloniously, willfully and of his malice aforethought kill and murder Bruce Antonio Gibbs by intentionally striking the victim with his 2004 Chevrolet Impala and the victim did die as a proximate cause then and there (September 6, 2020), in violation of the common law of South Carolina and §16-3-10, *Code of Laws of South Carolina*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Randy E. Newman, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Fairfield

STATE

VS.

INDICTMENT/CASE#: 2020GS2000400Timothy James Thompson

AKA:

Race: BLACK Sex: M Age: 36DOB: 07-23-1985 SS#: 249-61-3049Address: 27 Blair CirCity, State, Zip: Winnsboro, SC 29180-8998DL#: 101834005 SID#: _____A/W#: 2020A2010200245Date of Offense: 9/6/2020S.C. Code §: 56-05-1210(A)(3)CDR Code #: 2463

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Traffic / Hit and run, duties of driver involved in accident with deathin violation of § 56-05-1210(A)(3) of the S.C. Code of Laws, bearing CDR Code # 2463
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives
 Presentment to Grand Jury. _____ (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

R. Maxwell 74878 SCB69739
 Maxwell, Riley J SC Bar # Defendant Frick, William SC Bar#
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 10 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.
 _____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Fairfield

STATE

VS.

Timothy James ThompsonINDICTMENT/CASE#: 2020GS2000399A/W#: 2020A2010100154Date of Offense: 9/6/2020S.C. Code §: 16-03-0010; 16-03-0020CDR Code #: 0116

AKA:

Race: BLACK Sex: M Age: 36DOB: 07-23-1985 SS#: 249-61-3049Address: 27 Blair CirCity, State, Zip: Winnsboro, SC 29180-8998DL#: 101834005 SID#: _____

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

R. Maxwell 74878
 Maxwell, Riley J SC Bar # Defendant

SCB69739

 Frick, William
 Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of LIFE days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC _____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

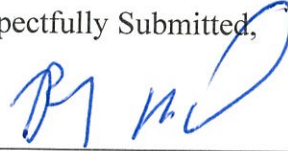
Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Jan 26 2024****SC Court of Appeals**

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of January, 2024.

RECEIVED

Jan 26 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County

Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

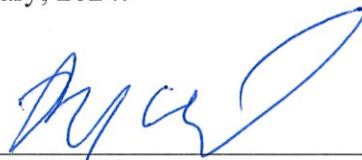
TIMOTHY JAMES THOMPSON,

APPELLANT.

APPELLATE CASE NO. 2022-000397

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 26th day of January, 2024.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT