

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

On Writ of Certiorari to the Court of Appeals
Appeal from Greenwood County
Honorable Donald B. Hocker, Circuit Court Judge
Appellate Case No. 2024-001039

THE STATE,

Petitioner,

v.

MARK ANTHONY HAILEY, JR.,

Respondent.

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V.

MARK ANTHONY HAILEY, JR.,

APPELLANT.

APPELLATE CASE NO. 2020-001276

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT NO. 1 (THUMB DRIVE OF YOUNG BODY CAMERA); STATE’S
EXHIBIT NO. 2 (THUMB DRIVE OF BONETTI IN CAR/BODY CAMERA); STATE’S
EXHIBIT NO. 149 (911 CALL DISK); STATE’S EXHIBIT NO. 152 (REDACTED
THUMB DRIVE OF YOUNG BODY CAMERA)**

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF GREENWOOD) COURT OF GENERAL SESSIONS

3
 4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
 5 PLAINTIFF,) OF
 6 VS.) RECORD
 7 MARK ANTHONY HAILEY, JUNIOR) 2019-GS-24-1076
 8 DEFENDANT.) 2019-GS-24-1077

9
 10 March 4th, 2020
 11 Greenwood, South Carolina
 12

13 B E F O R E:

14 THE HONORABLE DONALD B. HOCKER, Judge.

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

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 17 ASSISTANT SOLICITOR
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 21 Attorney for the Defendant

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 23 Circuit Court Reporter
 24

25 Transcribed by Pamela E. Green, Circuit Court Reporter

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E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
<u>State's Exhibits</u>			
S-1	CD		4
S-2	CD		4
S-3	CD		4
S-4	Text Messages		
S-5	Body Cam Video		

1

P R O C E E D I N G S

2

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(WHEREUPON, three CDs were marked as State's Exhibit Nos. 1 through 3 and received into evidence for purposes of this hearing only at this time.)

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THE COURT: All right. We're on the record this morning in the case of State versus Mark Hailey. The hearing's being held pursuant to motion by the defense seeking protection under the -- what we typically call the Castle Doctrine, Stand Your Ground Statute. Yates Brown's here for the State. Tristan Shaffer is here representing the Defendant. I did have a brief in chambers conference with the attorneys.

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19

But for purposes of this hearing, give the State first an opportunity just to give me a little overview of the allegations that are being brought forth against the Defendant, and then certainly give Mr. Shaffer an opportunity to, to respond before we go into any testimony or evidence to be presented today.

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25

Solicitor Brown.

SOLICITOR BROWN: Thank you, Your Honor.

Your Honor, this is the State versus Mark Anthony Hailey, Junior.

This incident occurred on or about March 6th, 2019, here in Greenwood County. Officers received or really

1 dispatch received a call from Ms. Loretta Hailey in the
2 early hours of 3/6/19 saying that her son was in her house.
3 He was acting extremely strange, and she believed that he
4 might of done something to somebody, but he would not really
5 say what was going on. So, requested law enforcement to
6 come out to her house to assist.

7 At that point Greenwood County Sheriff's Department did
8 arrive at Booker Road where Mr. Hailey was with his mom, 415
9 Booker Road, and talked to him a little bit. They did find
10 out a name, that his friend, Marty, or who he called his
11 brother, Marty, that he'd -- that he hurt him, that he's out
12 on Warner Road.

13 At that point another Greenwood County deputy arrived
14 at [REDACTED] Booker to assist with the initial responding officer
15 while a third officer went to Warner Road and searched for a
16 person that's described out on that road.

17 Ultimately, law enforcement did find Mr. Marty George
18 lying on the side of the road with an apparent gunshot wound
19 to his head. He was -- EMS was called. They called the
20 coroner. He was pronounced dead out on the scene.

21 Law enforcement took Mr. Hailey into custody after
22 Mirandizing him, and, during this time, there's blurts of
23 different things that Mr. Hailey says about that night. Law
24 enforcement talks with Mr. Hailey, and, later on the next
25 morning, Greenwood County investigators, Hal -- Mr. Murdock,

1 who was an investigator on this case, they did speak with a
2 girlfriend of Marty George, Joni Kitchens, and she kind of
3 gives a background as to what led up to that night, that
4 Marty George had gotten a call from an acquaintance saying
5 can you give Mark Hailey a ride home.

6 This all occurred here in Greenwood, not Ninety-Six,
7 but Mark Hailey was picked up by Marty George. They then
8 went back to where Marty George and Joni Kitchens lived I
9 believe around Phoenix Street, and, at that point, Ms.
10 Kitchens described, after she's interviewed, that Mr. Hailey
11 was acting odd, that he appeared to be acting -- maybe he
12 was on something, and she was asking Marty, through text
13 messages, to have him leave, to get him out of there. That
14 ultimately led, around one o'clock, I, I think around 1:00AM
15 that morning, where Mr. George got Mr. Hailey out of the
16 house, and was gonna give him a ride home.

17 So, that's initially how they came to be together that
18 night was Mr. George was giving Mr. Hailey a ride home, and
19 how they got in the car actually belonged to Ms. Kitchens.
20 It was her car that Mr. George, also deemed her boyfriend,
21 was allowed to use. So, to kind of give you an idea---

22 THE COURT: Sure.

23 SOLICITOR BROWN: ---of what belonged to who, and, with
24 that, we -- if there's anything I mischaracterized --.

25 THE COURT: Okay. Mr. Shaffer, anything by way of

1 background that you would like to add?

2 MR. SHAFFER: Your Honor, the only, the only thing I'd
3 like to add is that there was a, a BB pistol found inside
4 the car. It was a, it was a pellet pistol. It turned out
5 to be a pellet pistol, but there was a pistol found inside
6 the car. I, I believe that that did belong to Marty George,
7 Your Honor.

8 THE COURT: Okay.

9 MR. SHAFFER: That's the only thing I'd like to add --

10 THE COURT: Okay.

11 MR. SHAFFER: -- in way of background in the case.
12 Obviously we'll get into the facts.

13 THE COURT: Sure.

14 Okay. All right. Thank you very much.

15 State ready to call the first witness?

16 SOLICITOR BROWN: I think---

17 THE COURT: well, even though it's your motion, what
18 I've typically done in the past is had the State put up
19 their case first and then the defense followed. That's how
20 I've typically done these Castle Doctrine hearings.
21 However, if it's by agreement that the defense puts up its
22 case first, then we'll go in that direction.

23 SOLICITOR BROWN: Judge, I think we initially, when Mr.
24 Shaffer and I were talking, that he was gonna put up his
25 case---

1 THE COURT: That's fine.

2 SOLICITOR BROWN: ---and then I will fill in the gaps
3 if we need to.

4 THE COURT: Yeah, again, I recognize this is
5 Mr. Shaffer's motion. But I'm just telling you how
6 typically I have done these hearings. But I have no problem
7 whatsoever if Mr. Shaffer goes first.

8 MR. SHAFFER: Okay. And that's -- that's fine, Your
9 Honor. What we're gonna do, we're gonna call some of the
10 State's witnesses first anyways.

11 THE COURT: Okay.

12 MR. SHAFFER: So --.

13 THE COURT: Typically, with the State's witnesses, it
14 can provide typically more information that would be
15 relevant on, on the issue and -- okay. Mr. Shaffer, then---

16 MR. SHAFFER: All right.

17 THE COURT: ---go first, sir.

18 MR. SHAFFER: Thank you, Your Honor.

19 I'd, I'd call Joni Kitchens.

20 THE COURT: Okay.

21 JONI KITCHENS, being first duly
22 sworn, testified as follows:

23 THE CLERK: Step right up there.

24 THE COURT: State your name please, ma'am.

25 THE WITNESS: Joni Marie Kitchens.

1 DIRECT EXAMINATION

2 BY MR. SHAFFER:

3 Q Ms. Kitchens, tell us a little bit about yourself.

4 where are you from?

5 A I am from Ninety-Six, South Carolina.

6 Q Okay. How old are you?

7 A Thirty-seven.

8 Q Were you married or engaged or romantically involved
9 with Marty George?

10 A We were engaged, yes.

11 Q Okay. How long were y'all engaged for?

12 A A year and a half.

13 Q Before you got engaged, how long had you two been
14 together?

15 A A couple weeks --

16 Q Okay.

17 A -- just talking. That's about it.

18 Q Mr. George, obviously, is the alleged victim in this
19 case.

20 Tell us a little bit about him.

21 What did he do for a living?

22 A He was, he was mentally disabled also. He had a blood
23 clot pressing against his brain. So, he could not work.

24 Q Okay. And how did that affect him?

25 Do you know?

10 Joni Kitchens - Direct examination
By Mr. Shaffer

1 A Medical wise?

2 Q Yeah.

3 A He would forget things. He would -- it's hard to
4 explain really.

5 Q Okay. That's fine.

6 A Yeah, cause I've never been in that situation.

7 Q Okay.

8 A Yeah.

9 Q So, you said also.

10 Do you have any sort of mental disease or history of
11 mental illness?

12 A I am mentally disabled.

13 Q Okay. And you receive disability?

14 A Yes, sir.

15 Q Okay. What do you receive it for?
16 What's your diagnosis?

17 A I can not stay on task --

18 Q Okay.

19 A -- with work.

20 Q Okay.

21 A And I have a fourth, and fifth, and sixth grade average
22 level grade. My brain don't work.

23 Q Okay. So, you've been receiving disability, and
24 Mr. George also was receiving disability.

25 Is that correct?

1 A Yes.

2 Q Okay. Tell us about -- do you know my client,
3 Mr. Hailey?

4 Did you know him before --

5 A Yes.

6 Q -- I guess March 5th?

7 A No, sir.

8 Q You had never met him before March 5th?

9 A No, sir.

10 Q Do you know if Marty knew him before March 5th?

11 A No, sir.

12 Q Marty did not know him before March 5th?

13 A No, sir, he didn't.

14 Q Okay. Marty had never met him before March 5th to
15 your knowledge?

16 A Not to my knowledge.

17 Q Okay. How did he come to know Mr. Hailey?

18 A I have no idea.

19 Q Okay. But you're saying that, prior to March 5th, he
20 never had met Mr. Hailey or anything else?

21 A Not to my knowledge. We were never together 24/7.

22 Q Okay. How did you meet Mr. Hailey yourself?

23 A The night we picked him up.

24 Q Okay. Where did y'all pick him up from?

25 A We picked him up down the road from a friend of ours,

12 Joni Kitchens - Direct examination
By Mr. Shaffer

1 and he called us and said come get him. He's threatened to
2 go upstairs and he's talking out of his head. I was like
3 okay, we'll come to get him.

4 Q Okay. Around what time was this?

5 A That was around possibly 11:30, 12:00.

6 Q Okay. So, around 11:30 or 12:00 you got a call from a
7 friend.

8 who -- what friend is this?

9 A I'm not allowed to say that name without him being
10 present. I'm sorry.

11 Q All right. You, you can say the name. Please tell me
12 his name.

13 A His name is Joey.

14 Q Joey what?

15 A That's -- I really don't know his last name.

16 Q Okay.

17 A Yeah.

18 Q Where did this friend live at?

19 A He lives down on past the churches on Mulhaney Street.

20 THE COURT: On what street?

21 THE WITNESS: Past the churches on -- the church -- all
22 three of the, the -- on that street, there's two churches.

23 THE COURT: Okay. What is your street?

24 THE WITNESS: Phoenix Street.

25 THE COURT: Okay.

1 Q Okay. So, did Joey call you or did Joey call Marty?

2 A He called me.

3 Q He called you.

4 Okay. And this would around -- been around 11:30.

5 Is that correct?

6 A Yes, sir.

7 Q Okay. And he asked you to come down to his house,
8 correct?

9 A Yes, sir.

10 Q Can you provide us the address for the house or the
11 approximate address?

12 A There really wasn't no address. It was more like a
13 shed like I think.

14 Q Okay.

15 A So yeah --

16 Q Okay.

17 A -- possibly.

18 Q Okay. So, before that, to your knowledge, Marty had
19 never met with or anything else with Mr. Hailey?

20 Never seen him or anything?

21 A No, sir.

22 Q Okay. So, that was around 11:30 or so on the 5th,
23 correct?

24 A Sir?

25 Q That was around 11:30 on the 5th, a couple hours before

14 Joni Kitchens - Direct examination
By Mr. Shaffer

1 his death?

2 A Yes, sir.

3 Q Okay. why did Joey call you?

4 Do you know?

5 A Because he could not get a hold of Marty, and Marty's
6 phone was dying, and mine was charged up.

7 Q Okay. But why would he call Marty?

8 why would he call either of you to come pick up this
9 person you don't know?

10 A I have no idea. From what Joey told me that he had
11 been over at another person's house that he knew, and walked
12 from there to Joey's house.

13 Q Okay. why did you and Marty decide to go pick him up
14 if you had never met him before?

15 A Because I did not want this guy to hurt my friend.

16 Q Okay. would it be fair to say that Marty also was
17 concerned about Joey?

18 A Yes, he was.

19 Q So y'all pick him up about 11:30.

20 what happens next?

21 A Sir?

22 Q what happens after 11:30 when you pick him up?

23 A We -- me and Marty tried to get Mr. Hailey out of
24 Joey's house. He would not go. So, Joey said if you don't
25 get out, I'm calling the cops, and that's when I went, I

1 went in -- so, all three of us just left.

2 Q Did -- what do you mean y'all tried to get him out?

3 were y'all physically trying to remove him?

4 A No, we were just trying to convince him let's go, you
5 know, he don't want you here, let's go. He was trying to go
6 into my friend's bedroom. He -- my friend was like no,
7 that's my room.

8 Q Okay. So, after y'all get in the car, which car do
9 y'all get into?

10 A A 2003 Buick Century.

11 Q Okay. So, it's the same car that got searched as a
12 part of this case, correct?

13 A Yes, sir.

14 Q When you get into the car, is -- what time
15 approximately is this?

16 A Probably around 12:00, a little bit after.

17 Q Okay.

18 A Cause we stayed at my house at least 45 minutes.

19 Q And I'm sorry. I'm talking about when you leave Joey's
20 house.

21 How long does it take you leave to Joey's house cause
22 you said 11:30?

23 About how long were you at Joey's house?

24 A We were probably there at least 30 minutes, 30 to 45
25 minutes, and then we were at my house 30 to 45 minutes, and

16 Joni Kitchens - Direct examination
By Mr. Shaffer

1 it takes like 30 minutes to get from his house to mine.

2 Q Okay. So, so, you, you get to your house around 12:00?

3 Is that about correct, 12:00, 12:15?

4 A A little bit after it, yeah.

5 Q Okay. And then you're there for about 30 to 45

6 minutes?

7 A At least.

8 Q What's going on while you're there?

9 A I was on the couch just trying to relax and trying to
10 go to sleep. I was hurting. I was hungry and really didn't
11 feel good, and Mr. Hailey is back and forth from my living
12 room to the bathroom. Back and forth, back and forth. And
13 Marty's standing at the gas heater saying let's go, we got
14 to go, and Mr. Hailey's like just sitting there just
15 ignoring him like he didn't hear him.

16 Q Okay. So, where was -- where did it appear that Marty
17 was trying to take him?

18 A As in?

19 Q I mean where was -- you know, you said Marty was saying
20 to Mr. Hailey let's go.

21 Where do you think he was trying to take him?

22 A He was trying to get him out of the house and he could
23 take him home.

24 Q Okay. And where was his home?

25 A Ninety-Six.

1 Q Okay. How did y'all know that that was his home?

2 A Because Mr. Hailey told us.

3 Q Okay. Do you know if he described specifically where
4 it was in Ninety-Six?

5 A No, sir.

6 Q Okay. So, you're not sure exactly where it is in
7 Ninety-Six that Mr. Hailey lives.

8 Is that fair to say?

9 A That's fair to say, yes, sir.

10 Q Do you think Marty knew exactly where in Ninety-Six it
11 was?

12 A No, sir, he didn't.

13 Q So, it's fair to say that Mr. Hailey's description
14 wasn't exact, exact as to where the house is located.

15 Is that correct?

16 A Yes, sir.

17 Q Other than him trying to get him to go, during that 45
18 minutes that y'all are actually around Mr. Hailey at your
19 house, did anything else happen during that time period?

20 A Not that I can recall.

21 Q Any -- did Mr. Hailey say anything that you recall?

22 A No, sir.

23 Q Okay. Is there anything out there that you can think
24 of that may refresh your recollection as to what, what the
25 conversation was about during that time period?

18 Joni Kitchens - Direct examination
By Mr. Shaffer

1 A No, sir.

2 Q So, it's fair to say that, that a year later you don't
3 recall what he was talking about other than the fact he gave
4 general directions to Ninety-Six.

5 Is that correct?

6 A As far as I know, when they stepped out the door, I
7 don't know what was said.

8 Q Okay. Were they doing drugs together, Marty and
9 Mr. Hailey?

10 A I have no idea.

11 Q How long were you around both of them during this time
12 period?

13 A I'm gonna say about 30 to 45 minutes and that was it.
14 I just tried to keep to myself and didn't want to have
15 anything to do with taking anybody home.

16 MR. SHAFFER: Okay. Court's indulgence.

17 THE COURT: Sure. Take your time.

18 (Pause.)

19 Q So, did Mr. Hailey have anything with him?

20 A He had a box, a small box. I don't know what was, what
21 was in it. I didn't ask.

22 Q Okay. Did he have any sort of bag or anything like
23 that?

24 A Not that I can recall.

25 Q How big was the box if you can demonstrate?

1 A About like this.

2 Q About a foot by maybe a little less than a foot?

3 Is that fair to say?

4 A Something you would put dog food in, a little case of
5 dog food---

6 Q Okay.

7 A ---cat food.

8 Q Okay. Maybe -- and I'm sorry. This is a little
9 unusual because there's a court reporter, and I know you're
10 not use to this, but just for the record, is it fair to say
11 that you're demonstrating something about a foot by about
12 another foot or maybe less?

13 Is that fair to say?

14 A A little bit less.

15 Q A little bit less than a foot on either side?

16 A (Witness nods affirmatively.)

17 Q Okay. And about how tall was the box?

18 A About like that.

19 Q Eight inches maybe?

20 A About as tall as this.

21 Q Okay. Maybe 6-inches?

22 Is that fair to say?

23 A Yes, sir.

24 Q Okay. Did he ever have any guns with him?

25 A Not that I can recall.

1 Q Okay. When he left Joey's place, he didn't have a gun
2 with him?

3 Is that fair to say?

4 A Yes, sir.

5 Q And he being Mr. Hailey. That's who I'm referring to.
6 Is that your understanding?

7 A Yes, sir.

8 Q And whenever Mr. Hailey was at your house, you never
9 saw a gun, correct?

10 A No, sir, I didn't.

11 Q Okay. Whenever it was time for -- well, I, I guess
12 this -- whenever y'all left Joey's house, where were y'all
13 seated -- sitting at?

14 Where was -- who was driving the car?

15 A I was driving.

16 Q You were driving?

17 A Yeah.

18 Q Where was Marty at?

19 A He was in the passenger seat.

20 Q Okay. Where was Mr. Hailey at?

21 A In the back seat behind Marty.

22 Q Okay. So whenever y'all left there, you were driving
23 his, his -- Marty was in the passenger seat.

24 Whenever Marty was preparing to leave, were you -- do
25 you -- did you see them leave?

1 A No, sir, I didn't.

2 Q Okay. Where were you at during this time period?

3 A I was in my living room.

4 Q Okay. At any point did you say that you were going
5 with him?

6 A No, sir, I didn't.

7 Q Okay. Did you, did you ever -- do you know where their
8 seating configuration was when they left?

9 A No, sir, I don't.

10 Q Okay. So, around one o'clock they left, is that fair
11 to say, based off the 30, 45 minutes, maybe a little before,
12 maybe a little after?

13 A It was a few minutes after 1:00.

14 Q A few minutes after 1:00 they left.

15 A Uh-huh. (Affirmative).

16 Q Okay. And after they left at 1:00, did you communicate
17 at all with Marty?

18 Did you have any sort of communications whatsoever with
19 him?

20 A I tried to text him a few times. But he would not text
21 back because, when he drives, he does not text, and he does
22 not answer his phone.

23 Q Okay. Did you speak to him via a phone call at some
24 point?

25 A Yes, sir.

1 Q Okay. Around what time was that?

2 A Between 2:00AM and 2:16AM.

3 Q Okay. And that was a phone call to your phone,
4 correct?

5 A Yes, sir.

6 Q And that was from Marty's phone, correct?

7 A Yes, sir.

8 Q And what was the substance of that phone conversation?

9 A Letting me know that he had dropped off Mr. Hailey, and
10 he was on his way home, and he would see me in a few
11 minutes.

12 Q Okay. Did anything about that phone conversation seem
13 odd?

14 A Yes.

15 Q What was that?

16 A The end of the conversation.

17 Q Okay. What was odd about that?

18 A The way he ended the conversation.

19 Q How did he end the conversation?

20 A He told me that he loved me with all his heart,
21 sweetheart, and he never does that. He has never said that
22 to me.

23 Q Okay. Other than the end of the conversation, is there
24 anything else that you can think of that was odd during that
25 phone conversation?

1 A Not to my knowledge.

2 Q About how long were you talking on the phone during
3 that conversation?

4 A It was exactly eight seconds.

5 Q The phone call was eight seconds?

6 A Well, about eight minutes. I'm sorry.

7 Q Oh, eight minutes. Okay.

8 A It was about an eight minute phone call.

9 Q Okay. And this phone call was two and from or I guess
10 from Marty's -- well, what kind of service provider did
11 Marty have?

12 A Verizon.

13 Q Okay. So, it was from his Verizon telephone to your
14 phone, which is through who?

15 A Verizon.

16 Q Okay. So, it's from his Verizon cell to your Verizon
17 phone number.

18 Is that correct?

19 A Yes, sir.

20 Q Okay. And this wasn't some Facebook Messenger type
21 thing or anything like that.

22 Is that correct?

23 A No.

24 Q Okay. Outside of the end of the conversation, you said
25 there's nothing else that you can think of that made you

24 Joni Kitchens - Direct examination
By Mr. Shaffer

1 think that that conversation was unusual?

2 A No, sir.

3 Q Okay. Did it sound like he had other people in the car
4 with him at that time?

5 A No, sir.

6 Q You never heard any voices in the background or
7 anything?

8 A No, sir.

9 Q Did he have the radio playing in the background?
10 Do you recall?

11 A Very slight.

12 Q Okay. So, you said that call came in. It was at --
13 about an eight minute phone conversation.

14 Can you remember anything else about the -- what was
15 said during that phone conversation other than the end of
16 it?

17 A No, sir.

18 Q And obviously he said that he was on his way home.
19 Did y'all talk about anything else during that time
20 period?

21 A No, sir.

22 Q Okay. So -- and you're saying that was around 2:00 --
23 between 2:00 and 2:16, correct?

24 A Yes, sir.

25 Q How do you know that it was between 2:00 and 2:16?

1 A When I looked at the clock on my DVR, it said two
2 o'clock, and I didn't even notice the time until it say
3 2:16.

4 Q Okay. But you know it happened some time between those
5 two times?

6 A Yes, sir.

7 Q Okay. Is the clock on your DVR correct?

8 A Yes, sir, it is.

9 Q Okay. And if he would of left about -- I guess about
10 1:00 or 1:00 -- a little bit after 1:00 you said --

11 A Yes, sir.

12 Q -- he would of been gone 45 minutes or an hour by the
13 time you had that phone conversation.

14 Is that correct?

15 A Yes, sir.

16 Q Now, after that phone conversation, do you have any
17 more communication from Marty?

18 A No, sir.

19 Q Any other communication from Mr. Hailey?

20 A No, sir.

21 Q After Mr. Hailey left the house, you never had any
22 communication with him.

23 Is that correct?

24 A Yes, sir.

25 Q Did Marty seem agitated whenever he left the house?

1 A Not that I can recall. But he was calm and he was just
2 ready to go home -- go with him, take him home, and come
3 back.

4 Q Did Marty appear high whenever he left the house?

5 A No, sir, he didn't.

6 Q Have you been around Marty whenever he was high?

7 A Yes, sir, I have.

8 Q So, you would know what it -- what he would act like if
9 he was high whenever he left?

10 A Yes, sir.

11 Q Okay. And he was not acting like he was high, correct?

12 A No, sir.

13 Q And it's fair to say you, you weren't around Mr. Hailey
14 very much, correct, other than that maybe hour and a half
15 time period between the time y'all picked him up from Joey's
16 until --?

17 A That was it.

18 Q Earlier that evening before y'all picked him up from
19 Joey's, what did y'all do that evening?

20 A We went to Abbeville and picked up a friend of ours who
21 was working at the Belmont Inn at the time.

22 Q Okay. Around what time was that?

23 A About two o'clock.

24 Q Okay. Before that, were you and Marty together?

25 A Yes, we had been together all the way up until about

1 ten o'clock.

2 Q Okay. All the way until ten o'clock?

3 Is that, is that what you said?

4 A Yeah, until he -- he came and picked me up and we went
5 to Abbeville.

6 Q Okay. Where were y'all before you went to Abbeville?

7 A I can't recall.

8 Q Okay. But you were around each other, is that correct,
9 or not?

10 A We were.

11 Q Okay. So y'all had been around each other all evening
12 basically?

13 A Yes, sir.

14 Q And then you went to Abbeville together, correct?

15 A Yes, sir.

16 Q And then, whenever you came back from Abbeville,
17 obviously y'all were together about 11:30 whenever you went
18 to Joey's house, but during that time period between
19 10:00 and 11:30, were y'all together during that time
20 period?

21 A Not that I can recall.

22 Q Okay.

23 A He has a tendency to just up and leave.

24 Q Okay.

25 A So --.

1 Q Do you know what he was doing?

2 A No, sir, I don't.

3 Q Was he selling meth?

4 A I have no idea.

5 Q Okay. Was he doing meth on a regular basis during this
6 time period?

7 A At this time, every now and then --

8 Q Okay.

9 A -- we would.

10 Q And it's fair to say you can't say anything
11 specifically about what happened that actually caused the
12 death of Marty, correct?

13 A Correct.

14 Q Were you -- do you have any information whatsoever
15 about the location of where Marty was during that hour
16 period after he left?

17 A No, sir.

18 Q Okay. You were worried about him during that time
19 period, correct?

20 A Yes, sir.

21 Q Had you gotten any information from any source -- I
22 mean were you tracking him or anything like that during that
23 time period?

24 A I was trying to find him, yes.

25 Q Okay. How did you go about trying to find him during

1 that time period?

2 A I called family and friends that we knew, people we
3 hung out with. I called his sister. I called everybody I
4 knew. I'm sorry.

5 Q It's okay.

6 (Pause.)

7 THE COURT: You okay to proceed forward?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Thank you.

10 A I called everybody that we had hung out with, everybody
11 that we had come in contact with, and nobody had heard from
12 him.

13 Q Okay. were you calling all these people from your
14 phone?

15 A Yes, sir.

16 Q Do you have access, or that night, did you have access
17 to any other phone other than your phone?

18 A No, sir, I didn't.

19 Q Okay. were you calling any of these people through
20 Facebook Messenger or would they all of been regular,
21 traditional phone calls?

22 A Just phone calls. Some, some were on Facebook cause
23 they didn't have a regular cell phone --

24 Q Okay.

25 A -- and some were through text messages, and nobody

1 heard from him.

2 Q Okay. And that -- that's the Facebook page that you
3 currently use, correct?

4 A Yes.

5 Q And that's under the name Joni George.

6 Is that correct?

7 A Yes, sir.

8 Q Okay. So, you still have access to all of those calls,
9 correct?

10 A No, sir, I don't.

11 Q But you still have access to the Facebook account,
12 correct?

13 A Which Facebook account?

14 Q The Facebook account you used to communicate with
15 people during this time period, the Joni George one.

16 A Yes.

17 Q Okay. So, even though you may not have access to it
18 personally, you could -- Facebook may have it under that
19 account, correct?

20 A Yes, sir.

21 MR. SHAFFER: Okay. Court's indulgence.

22 (Pause.)

23 Q I'm gonna show you a couple of pictures.

24 Bear with me.

25 (Pause.)

1 Q Now, Marty carried a BB gun, correct?

2 A No, sir, he did not.

3 Q Marty collected BB guns, correct?

4 A He did collect them. But he did not carry them
5 personally.

6 Q Okay. So, he never carried BB guns?

7 A No, sir, he did not.

8 Q Okay. He never carried them for protection or anything
9 like that?

10 A Not unless I was in the vehicle with him.

11 Q So, if you were in the vehicle with him, he would carry
12 a BB gun for protection.

13 Is that correct?

14 A Yes, sir.

15 Q Okay. Why only if you were in the vehicle with him?

16 A He was very protective of me.

17 Q Okay. Did Marty have any real guns?

18 A No, sir, he did not.

19 Q Marty didn't own any shotguns?

20 A No, sir, he did not.

21 Q Did Marty collect any shotguns?

22 A Not that I know of and I mean I only been with him for
23 a year and a half. So, before then, I really don't know.

24 Q Okay. But during the year and a half that y'all were
25 together, he never -- you never saw him with a gun?

1 A No, sir, I did not.

2 Q Did -- that night -- well, if I was to tell you that
3 there was a shotgun found inside the vehicle, you would have
4 no idea how that got there.

5 Is that fair to say?

6 A No, sir, I would not.

7 Q Do you recall if y'all were eating anything that night?
8 Do you recall eating anything that night together?

9 A No, sir.

10 Q Do you recall asking him to pick up some Cool Ranch
11 Doritos?

12 A On his way back, yes.

13 Q On his way back from where?

14 A Taking Mr. Hailey home.

15 Q Okay. You would of sent a text message asking him
16 about the Cool Ranch Doritos, correct?

17 A Yes, I would have.

18 Q Whenever y'all left Joey's house, were there any Cool
19 Ranch Doritos in the car?

20 A I can't recall.

21 MR. SHAFFER: I'm sorry. I'm -- Judge, I'm trying to
22 find the picture I'm looking at. I have them all in one
23 file. So it takes a second.

24 Outside of that Verizon cell phone -- well, do you
25 recall that -- the phone number for the Verizon cell phone?

- 1 A which number?
- 2 Q The, the one that was Marty's.
- 3 A He had two of them.
- 4 Q Okay. which was -- what phone numbers did he have?
- 5 A He had a 706 number and a 205.
- 6 Q Okay. So he had a 706 phone number?
- 7 A Yes, sir, he did.
- 8 Q And that number would be saved in your, your contacts?
- 9 A No, sir, it wouldn't be. I deleted it.
- 10 Q Okay. when did you delete it?
- 11 A I deleted it after I found out he was dead.
- 12 Q Okay. why did you delete it after you found out he was
- 13 dead?
- 14 A Because that number was taking by somebody else cause
- 15 we had his number changed to a 205 number.
- 16 Q Okay. would it have been saved in your cell phone on
- 17 the morning of -- well, I'll just say on March 6th of last
- 18 year, would that have -- number still been in your cell
- 19 phone?
- 20 A Yes, it would have.
- 21 Q Okay. And what was the name associated with that
- 22 number?
- 23 A As in?
- 24 Q I mean when you save contacts, you -- sometimes you put
- 25 a name for the contact.

1 A Yes.

2 Q Did you put a name for the contact in that 706 number?

3 A Yes, I did.

4 Q Okay. What was the name associated with that contact?

5 A My husband.

6 Q Okay. And then the 205 number also would of had

7 something like that, correct?

8 A Yes, sir.

9 Q The 706 number, was that an active phone number on
10 March 6th of last year?

11 A No, it was not.

12 Q Okay. How long had he had the 205 number?

13 A Not very long.

14 Q Okay. The -- but the 205 number would of been the
15 number you were calling him on on that night.

16 Is that correct?

17 A Yes, sir.

18 Q And that would of been the number that he called you on
19 that night, correct?

20 A Yes, sir.

21 Q He would not have called you on the 706 number that
22 night, correct?

23 A No, he would have not.

24 Q And you would not have called out in that 706 number?

25 A No, I would have not.

1 Q Okay. I'm gonna show you a couple different exhibits
2 and I -- Court's indulgence.

3 THE COURT: Sure.

4 (Pause.)

5 MR. SHAFFER: Your Honor, Court's indulgence. I need
6 to -- in order to make the -- we may want to go off the
7 record for about two or three minutes.

8 THE COURT: Sure. That's fine.

9 (Pause.)

10 THE COURT: Has that CD been marked as an exhibit, Mr.
11 Shaffer?

12 MR. SHAFFER: Yes, Your Honor. This is State's 1.

13 THE COURT: Okay.

14 MR. SHAFFER: And I'm trying to find the same picture
15 that I pulled up, and make sure it's what I --.

16 THE COURT: Take your time.

17 Solicitor, is this the same CD you were referring to
18 back in chambers that has multiple pictures on it?

19 SOLICITOR BROWN: Yes, sir.

20 THE COURT: Okay. And I, I think the pictures are
21 numbered separately?

22 MR. SHAFFER: Yes, sir.

23 THE COURT: Okay.

24 SOLICITOR BROWN: Judge, they're pictures of --.

25 THE COURT: Okay.

1 (Pause.)

2 MR. SHAFFER: Your Honor, we can go back on the record
3 whenever you're ready.

4 THE COURT: Okay. All right. Now that CD, I saw where
5 you switched CDs.

6 Is that still No. 1 or --?

7 MR. SHAFFER: No, Your Honor. This is State's Exhibit
8 2.

9 THE COURT: Two.

10 MR. SHAFFER: And it's file number -- I think it's 177,
11 Your Honor, and just for the record, Your Honor, we're
12 stipulating to State's 1, 2, and 3 for the purposes of this
13 hearing only.

14 THE COURT: Go ahead and tell me what one is and what
15 three is.

16 MR. SHAFFER: One, Your Honor, is a disk full of car --
17 I mean disk full of photos from the roadside.

18 THE COURT: Okay.

19 MR. SHAFFER: No. 2 is a disk full of photos from the
20 search warrant of the car, and No. 3 is I believe is the
21 coroner's photos from the autopsy, Your Honor.

22 THE COURT: Okay. All right. You may proceed.

23 MR. SHAFFER: Thank you, Your Honor.

24 Q Ms. Kitchens, I'm showing you State's Exhibit 2, File
25 Number 177. It's a photo.

1 If you can, you -- do you see where those little number
2 markers are?

3 A Yes, sir.

4 Q I'm presuming those were placed there by the police.
5 They weren't in the car beforehand, correct?

6 A No, sir, they were not.

7 Q Now, the Number Marker 8 is over what appears to be a
8 pistol.

9 Is that a pellet pistol that Mr. George had?

10 A That was an air pistol, and it was working --

11 Q Okay.

12 A -- and we kept it in the car.

13 Q Okay. Where did you keep it at?

14 A Under the seat.

15 Q Okay. Why did you keep it under the seat in the car?

16 A I guess it didn't work --

17 Q Okay.

18 A -- and it was just in case anybody tried to rob us or
19 break into the car or something. It would be there just to
20 be there.

21 Q All right. So, in case somebody tried to rob you,
22 you'd use it for protection?

23 A Yes.

24 Q Is that fair to say?

25 Okay. To protect yourself, correct?

1 A Yes, sir.

2 Q And to protect your, your goods so you'd have an air
3 pistol there, right?

4 A Yes, sir.

5 Q Now, State's Exhibit, or I'm sorry, State's Exhibit 2,
6 Photo 177, the marker says seven up there.

7 Do you see that?

8 A Yes, sir.

9 Q That appears to be over a shotgun.

10 Is that correct?

11 A I have no idea.

12 Q Okay. It appears to be over some sort of firearm,
13 correct?

14 A Yes, sir.

15 Q Have you ever seen that firearm before?

16 A No, sir, I have not.

17 Q Okay. And that firearm would not have been in the car,
18 it's your testimony, whenever they left that house?

19 A Not to my knowledge.

20 Q Okay. All right. On this Photograph 177, the little
21 pin marker is over a bag.

22 Do you see that?

23 I can zoom in on it if you'd like.

24 THE COURT: What marker number?

25 MR. SHAFFER: Number 10.

1 THE COURT: Ten.

2 Q Do you see that little bag?

3 A Yes, sir.

4 Q Does that appear to be a Cool Ranch Doritos?

5 A It appears to be.

6 Q Okay. Do you know if those -- that bag of Cool Ranch
7 Doritos was in the car before he left your house?

8 A It was not.

9 Q Okay. State's Exhibit -- I mean, excuse me, Marker
10 Number 9 on this Photo 177, that appears to be a Mountain
11 Dew bottle.

12 Is that correct?

13 A Yes, sir.

14 Q Do you know if that Mountain Dew bottle was in the car
15 whenever they left?

16 A It was.

17 Q It was?

18 A It was.

19 Q Okay. But the Cool Ranch Doritos were not?

20 A No, sir.

21 Q Okay. What about Marker Number 11, that appears to be
22 a hat?

23 A That was not in the vehicle.

24 Q That was not in the vehicle?

25 A No, sir.

1 Q Okay. So, have you ever seen that hat before?

2 A No, sir, I have not.

3 Q Okay. Was Mr. Hailey wearing a hat that night?

4 A Not that I can recall. I really wasn't paying
5 attention.

6 Q Okay. So that green hat you're saying you've never
7 seen before, correct?

8 A Correct.

9 Q Rightly not Marty's, correct?

10 A It is not Marty's.

11 Q Okay. Do you know Jennifer Hatcher?

12 A Yes, sir, I do.

13 Q How do you know her?

14 A I met her through Marty.

15 Q Okay. How, how did Marty know her?

16 A I really can't tell you, that I have no idea, but me
17 and her became really good friends.

18 Q Okay. Did you have a conversation with Jennifer,
19 Jennifer Hatcher that night?

20 A Not that I can recall.

21 Q Okay. Is there any reason that Marty would have gone
22 in Jennifer Hatcher's house after leaving your place?

23 A No, sir.

24 Q Any reason for you to think that Jennifer Hatcher may
25 know where Marty is?

1 A She wouldn't of known.

2 Q Okay. And you don't recall ever speaking to her on
3 that night?

4 A No, sir.

5 MR. SHAFFER: Court's indulgence.

6 THE COURT: Sure.

7 (Pause.)

8 Q What's the friend's name that you picked up at the
9 Belmont in Abbeville earlier that evening?

10 A Jonathan.

11 Q Jonathan who?

12 A Young.

13 Q Jonathan Young?

14 And he worked at the Belmont during that time period?

15 A Yes, he did.

16 Q What did he work as?

17 A He was a cook.

18 Q Okay. Was Jonathan Young with y'all outside of just
19 picking him up and --?

20 A No, sir, he was not.

21 Q Was anybody else with y'all other than Joey at his
22 house?

23 A No, sir.

24 Q Mr. Hailey was with you obviously, correct?

25 A Yes.

42 Joni Kitchens - Direct examination
By Mr. Shaffer

1 Q So, it's -- at, at Joey's house, it was Joey,
2 Mr. Hailey, you and Marty.

3 Anybody else there?

4 A No, sir.

5 Q And during the three minute ride to your house, nobody
6 else other than you, Marty, and Mr. Hailey were there,
7 correct?

8 A Correct.

9 Q And during the 30 or 45 minutes at your house, the only
10 people there were Mr. Hailey, you, and Marty, correct?

11 A Yes, sir, in my apartment.

12 Q Okay.

13 A Because my mother's house is a side-by-side house.

14 Q Okay. But in your -- in your area -- and your mother
15 was sleeping next door, correct?

16 A Yes, sir.

17 Q Okay. There was nobody else outside the house,
18 correct?

19 A No, sir.

20 Q There was nobody else in the car with them as they left
21 to your knowledge, correct?

22 A Not to my knowledge.

23 Q Okay. And, to your knowledge, were they going anywhere
24 else other than to take Mr. Hailey home?

25 A No.

1 Q And, to your knowledge, Mr. George was not selling
2 methamphetamine, correct?

3 A Not at that point, no, he was not.

4 Q Okay. At what point was he selling methamphetamine?

5 A Earlier that day, but he did not at all that night.

6 Q Okay. So, earlier that day he was selling meth, but
7 that night he was not.

8 Is that correct?

9 A Yes, sir.

10 Q Do you have any knowledge that Marty may have been
11 selling methamphetamine to Mr. Hailey at all?

12 A No, not to my knowledge. I have no idea.

13 Q Where did, where did Marty get his methamphetamine?

14 A I have no idea. He wouldn't tell me.

15 Q Okay. Were you using methamphetamine that night?

16 A No, sir.

17 Q Okay. Were you using anything that's intoxicating that
18 night?

19 A No, sir.

20 Q So, Marty was a meth dealer.

21 Is that fair to say that?

22 A I wouldn't say a dealer, but he did -- he would help.
23 Marty would sell or buy or however you call it. But he did
24 use, yes.

25 Q But he also -- he sold as well, right?

44 Joni Kitchens - Direct examination
By Mr. Shaffer

1 A Every now and then, yes.

2 Q Did Marty, or while in your presence, did Marty or Mr.
3 Hailey ever talk about methamphetamine together?

4 A No, sir.

5 Q They never made any business transaction for
6 methamphetamine together, correct?

7 A Not in front of me, no, sir.

8 Q How did Marty use?

9 was he smoking meth or what?

10 A Just smoking, yes, sir.

11 Q Okay. Any other way that he possibly could of been
12 using?

13 A No, sir.

14 Q How much would he buy at a time whenever he went to go
15 --?

16 A Maybe half a gram or a gram.

17 Q Okay. So he was selling a small amount of
18 methamphetamine?

19 Is that --?

20 A Yes, sir.

21 MR. SHAFFER: Court's indulgence.

22 (Pause.)

23 Q Jonathan Young, whenever y'all dropped him off after,
24 after he got off of work when y'all picked him up, where did
25 y'all drop him off at?

1 A We dropped him off at his apartment complex.

2 Q Okay. And where's his apartment complex?

3 A It was in Greenwood.

4 Q Okay. Where's his apartment complex in Greenwood?

5 A Out towards Taco Bell. But he no longer lives in
6 Greenwood.

7 Q Okay. Do you know where he lives now?

8 A He lives in Abbeville where he works.

9 Q Okay. Do you know where in Abbeville he lives now?

10 A No, sir, I don't.

11 MR. SHAFFER: No further questions at this time.

12 THE COURT: Okay. Cross-examination.

13 SOLICITOR BROWN: Judge, can we take a quick two minute
14 break?

15 THE COURT: Okay. All right. We'll go -- how about
16 five minutes?

17 SOLICITOR BROWN: That will work.

18 THE COURT: All right. We'll be in recess for about
19 five minutes.

20 (WHEREUPON, a short recess was taken at this time.)

21 THE COURT: Come on back to the witness stand please,
22 ma'am.

23 (WHEREUPON, the witness complies.)

24 THE COURT: All right. Solicitor, you may proceed with
25 your cross-examination.

Joni Kitchens - Cross-examination
By Solicitor Brown

1 SOLICITOR BROWN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY SOLICITOR BROWN:

4 Q Ms. Kitchens, I never met you. My name is Yates Brown.
5 I am a Solicitor here.

6 A Okay.

7 Q I'm going to follow-up on some questions Mr. Shaffer
8 asked you regarding that night.

9 First of all, is Mr. Hailey, the person you saw that
10 night, is he in the courtroom today?

11 A Yes, sir.

12 Q Is he sitting over there -- is he the one in the orange
13 shirt, the orange outfit?

14 A Yes, sir.

15 Q So that's clear who we're talking about?

16 A Yes, sir.

17 THE COURT REPORTER: Pull up to the microphone a little
18 closer please.

19 (WHEREUPON, the witness complies.)

20 THE COURT REPORTER: Thank you.

21 Q Ms. Kitchens, that night, I'll say March 5th going
22 into March 6th, Mr. Shaffer asked you had you ever met
23 Mr. Hailey before, and what was your answer to that?

24 A No, sir.

25 Q And it wasn't until later that evening that you came to

1 know who Mr. Hailey was?

2 A Yes, sir.

3 Q And, again, where did you pick him up?

4 where did you and Marty pick him up from?

5 A We picked him up from a friend's house on Wade Street.

6 It's a shed he made into a home, and that person lived down

7 the street from us.

8 Q On Phoenix Street?

9 A Yes, sir.

10 Q And his name was Joey, right?

11 A Yes, sir.

12 Q Okay. Now, Ms. Kitchens, do you remember making a

13 statement to law enforcement?

14 It would of been March 6th, later on in the morning

15 or afternoon, talking to law enforcement --

16 A I---

17 Q -- after, after you found out what happened?

18 A And what statement would that be?

19 Q Just talking to law enforcement at the Sheriff's

20 Office?

21 A Yes, sir.

22 Q You do?

23 A I do.

24 Q Do you remember telling law enforcement about a person

25 named Stella?

Joni Kitchens - Cross-examination
By Solicitor Brown

1 A Yes, sir.

2 Q Who is that?

3 A I never really got to know her that well. She just
4 hung around, wanted to use my vehicle, wanted people to give
5 her rides, and, and she was using, and she was crazy.

6 Q Do you remember talking -- telling law enforcement
7 about Stella --

8 A Yes, sir.

9 Q -- and how that played into this night?

10 A Yes, sir.

11 Q What was Stella's role in Mr. Hailey?

12 How, how did that fit together?

13 A Stella had called me and had called Marty and left us a
14 voice mail saying that he was like irate.

15 Q And, and he being who?

16 A Mr. Hailey.

17 Q And when did this call take place?

18 A This call took place around -- I'm gonna say anywhere
19 between 6:30 and 8:30 that night.

20 Q Was that before or after you went to Abbeville to pick
21 up---

22 A Before.

23 Q Before.

24 Had you ever heard of Mr. Hailey before that phone
25 call?

1 A No, sir.

2 Q And where is Stella's home?

3 A I have no idea.

4 Q Okay. How did, how did, did Mark get to Stella's
5 house?

6 Do you remember that or do you remember telling law
7 enforcement how he got there?

8 A He said he walked. That's what he had told us, and he
9 changed his story and said somebody took him.

10 Q To Stella's house?

11 A Yes.

12 Q And was that somewhere on Foundary Road?

13 A Yes, sir.

14 Q Do you know how Mark got from Stella's house to Joey's
15 house?

16 A He walked.

17 Q He walked?

18 A From what he told us, he walked.

19 Q So that would of been 6:30PM, around that time, on
20 March 5th that initially Stella called and talked to y'all
21 about Mark Hailey, correct?

22 A Yes, sir.

23 Q And then you and Marty drove to Abbeville to pick up
24 your friend?

25 A Yes, sir.

1 Q And bring him back?

2 A Yes, sir.

3 Q And then, later on that night, Joey then calls, tries
4 to call Marty, but gets in touch with you?

5 A Yes, sir.

6 Q About the same Mr. Hailey?

7 A Yes, sir.

8 Q And that would of been 11:00 -- 11:00, 11:15---

9 A Yes, sir.

10 Q ---at night?

11 A Yes, sir.

12 Q Now, when you and Marty went to Joey's house, tell me
13 again how Mr. Hailey was acting.

14 A He was acting strange on -- he was like spaced out. He
15 was -- he kept asking Joey what's up the stairs. Joey told
16 him my bedroom, and several times Mr. Hailey tried to go up
17 them stairs, and Joey said that is my bedroom. Do not go up
18 there.

19 Q At that point was, was Joey kind of at the end of his
20 rope, wanted Mr. Hailey gone?

21 A Yes, sir.

22 Q And that's when you and Marty took him?

23 A Yes, sir.

24 Q When Mr. Hailey was getting in your vehicle, I believe
25 you said it's a 2003 Buick Century?

1 Is that right?

2 A Yes, sir.

3 Q Did you -- how -- tell me the progression -- who got in
4 the car first?

5 Did you see -- was anything put in the trunk of the
6 car?

7 A Not to my knowledge.

8 Q Could there have been something put in your trunk that
9 you don't know about?

10 A It could of been.

11 Q Belongings of Mr. Hailey's?

12 A Possibly.

13 Q You just don't know?

14 A No, sir.

15 Q Where were you sitting in the car?

16 A I was in the driver's seat.

17 Q Where was Marty?

18 A He was in the passenger's seat.

19 Q And where was Mr. Hailey?

20 A Sitting behind Marty.

21 Q In the back passenger seat?

22 A On the back.

23 Q Passenger side?

24 A Yes, sir.

25 Q After you left Joey's house on Phoenix, I believe you

1 said it was just a short drive to your house on Phoenix.

2 Is that right?

3 A Yes, sir.

4 Q All right. Tell me what happened next.

5 A We got back to my house. I pulled in the driveway and
6 I told Marty I had to use the restroom, and I was hungry,
7 and I wasn't feeling well, and Marty got out and opened the
8 front door. He unlocked it and I sat there waiting on
9 Mr. Hailey to get out, and I told him nobody gets -- nobody
10 sits in my car if I'm not in it, and he snapped at me that
11 he wasn't gonna take anything. I said well, I still don't
12 let nobody sit in my vehicle if I'm not in the vehicle.

13 So, Marty came back out, and I told Marty what he said,
14 and Marty convinced him to get out of my vehicle. And I
15 waited until Mr. Hailey was away from the vehicle. He
16 ordered me to lock my doors and shut my car door.

17 Q And after he got out of the car, and after all of you
18 got out of the car, what happened next?

19 A We went inside and I went straight to the restroom.
20 When I came out, Marty was standing by the gas heater, and
21 Mr. Hailey made a beeline to my bathroom.

22 Q Could you see what he was doing in the bathroom?

23 A No, sir.

24 Q How was Mr. Hailey acting in the bathroom or in -- once
25 he left the bathroom?

1 How was he acting in your house?

2 A He -- the same way he was acting over at Joey's. Just
3 spaced out, looking around, kind of saying you know, uh-huh
4 to hisself. Like he was trying to find a way to break in.

5 Q Did he appear to be -- in your -- based on your
6 observations, did he appear to be under the influence of
7 something?

8 A Yes, sir.

9 Q Are you familiar with people who are under the
10 influence when you -- if you saw somebody --

11 A Yes, sir.

12 Q -- the way they're acting?

13 When you were talking to law enforcement back on
14 March 6th, 2019, did you use a word that he acted
15 paranoid?

16 A Yes, sir, I did.

17 Q Mr. Hailey was acting paranoid?

18 A Yes, sir, he was.

19 Q During this time when you got out of the restroom, and
20 Mr. Hailey exited the restroom, where were you sitting?

21 A I was sitting on my couch watching TV.

22 Q Okay. And did -- where did Mr. Hailey go after that?

23 A He sat down on the couch, and then, maybe five minutes
24 later, made a beeline back to the bathroom, come back, went
25 back and forth, back and forth.

1 Q At this time, how did this make you feel?

2 A Uncomfortable.

3 Q What did you want to do with Mr. Hailey at that point?

4 A I wanted to yell and cuss at him and kick him out of my
5 house.

6 Q Did you yell and cuss at him?

7 A No, sir, I did not because that would of been
8 disrespectful for somebody who was under the influence.

9 Q What did you do to try to get him out of the house?

10 A I kindly asked Marty, through a text message, would you
11 get him out of my house.

12 Q And you stated that, just to get on the timeline, you
13 would of gotten to Joey's house between 11:15, 11:30, and
14 left there 12:00, 12:15---

15 Is that correct?

16 A Yes, sir.

17 Q ---PM and that you were at your house for 30 to 45
18 minutes?

19 A Yes, sir.

20 Q When talking to law enforcement on the 6th, the day
21 after this all happened, did you let them look at your cell
22 phone?

23 A Yes, sir, I did.

24 Q Did you let them download the information on your cell
25 phone?

1 A Yes, I did.

2 Q Text message included?

3 A (WHEREUPON, there was no audible response.)

4 Q I'll have to -- I can print this out and make this a
5 Court's Exhibit about text messages, but, for this purpose,
6 I believe it'd be State's Exhibit 4 printed out. I can do
7 that at the next break, but I'm going to direct you to
8 State's 4 --

9 THE COURT: Okay.

10 SOLICITOR BROWN: -- Page 59 from this report, and it
11 is currently on the screen.

12 Ms. Kitchens, I'm gonna point you to the middle text on
13 this screen, I'm not sure if you can read it, where it has
14 the first line that has the red emojis in it.

15 A Yes, sir.

16 Q And it says I'm getting pissed.

17 A Yes, sir.

18 Q Is that what you sent to Marty?

19 A Yes, sir.

20 Q Okay. And the timestamp on that is March 6th, 2019,
21 54 minutes 32 seconds.

22 So that would be 12:54 in the AM, correct?

23 A Yes, sir.

24 Q And then, roughly a minute later, another text with the
25 same emoji but several more.

1 Is that right?

2 A Yes, sir.

3 Q And are those -- is that text concerning Mr. Hailey and
4 getting him out of the house?

5 A Yes, sir, it was.

6 Q And then on March 6th, 2019, at 1:02AM and 52
7 seconds, you state I'm about to go off on him.

8 Did you go off on him though?

9 A No, sir, I did not.

10 Q What was Marty doing at this time?

11 A He was texting me back and he would look at me like I'm
12 trying, and he was trying to get Hailey's attention to get
13 him out. But he would not sit still long enough to get the
14 attention that he needed.

15 Q At 1:14AM on March 6th, 2019, another text, and this
16 number is [REDACTED]?

17 Is that your number?

18 A That's my number.

19 Q That's your number.

20 It says please search for anything that looks like mine
21 from the bathroom.

22 Is that from you?

23 A Yes.

24 Q All right. At that point of that text did you think he
25 was stealing from you?

1 A Possibly.

2 Q And another, right, 1:14 and 29 seconds, I'll go look
3 in a minute.

4 A Yes, sir.

5 Q Are y'all -- are -- you and Marty, are you texting to
6 his phone or is he looking at your phone sitting next to
7 you?

8 How is that working?

9 A He -- at this time he was not there.

10 Q Who was not there?

11 A Marty was not there. They were not there. They had
12 already left.

13 Q They had already left at that point?

14 A Yes.

15 Q Okay.

16 A And I wanted to make sure that Mr. Hailey did not steal
17 anything from me or Marty from our bathroom---

18 Q So, he---

19 A ---at the time.

20 Q Marty had already gotten Mr. Hailey out of the, out of
21 the house at that time?

22 A Yes, sir.

23 Q Okay. As we continue on all those texts, it kind of
24 gives the timeline.

25 A Yeah.

1 Q The next text after the one minute and 14 -- after
2 1:00AM -- 1:14AM when you said I'll go for -- I'll go look
3 in a minute, it jumps to 2:16AM and 45 seconds where you say
4 please hurry up and come home.

5 Is that right?

6 A Yes, sir, he had called me right before then.

7 Q And then at -- on March 6th, 2019, at 2:24 and five
8 seconds AM, the text, I'm going to bed, good night.

9 A Yes.

10 Q Did you receive any texts after that?

11 A No, sir, I did not.

12 Q After that, did you get a little upset that he wasn't
13 responding?

14 A Just a little bit cause he usually does respond, and at
15 this time I was not getting anything.

16 Q And March 6th, at 2:42AM and 45 seconds, I'll see how
17 it's going to be now. Go have fun with whoever. I'm going
18 to bed. Good night.

19 A Yes, sir.

20 Q And you didn't know what was going on, did you?

21 A No, I did not.

22 Q You sent a few more texts at 2:56AM. Hey. I need you
23 to hurry and come home because I think somebody's trying to
24 break in, and if you don't care about me and the kids, let
25 him break in and shoot all of us cause you're not answering

1 your bleet phone. So, evidently you're -- another girl.

2 Have fun with her and her pimp.

3 Did you text that?

4 A Yes, sir, I did.

5 Q Was somebody really trying to break into your home or
6 you're just trying to get him home?

7 A There is no glass in my back window in my kitchen. So,
8 yes, it felt like somebody was trying to break in, somebody
9 that either knew him or somebody that knew us, or somebody
10 that knew the house or had to try to break in before.

11 Q But nobody actually came in though?

12 A No.

13 Q And then the other texts after that you texted him
14 thinking he's with another girl?

15 A Yes, sir, I got accused all the time of being with
16 other men. So --.

17 Q And then another at 3:14AM. He's still not responding.

18 A No, sir.

19 Q And, at this time, you're, you're, you're upset.

20 So you're saying some stuff to him, right?

21 A Yes, sir.

22 Q Along those same lines with the text messages, I'm
23 gonna go backwards now. Mr. Shaffer asked you about some
24 Doritos that were in the seat in the car.

25 Do you remember him asking that question?

1 A Yes, sir.

2 Q This will be -- what's State's evidence -- State's
3 Exhibit No. 2, Picture 177. In the seat it says Item Number
4 10. It's a Doritos bag.

5 Do you see that Doritos bag?

6 A Yes, sir.

7 Q I believe you told Mr. Shaffer that you'd asked Marty
8 to pick up those Doritos on his way back from taking
9 Mr. Hailey?

10 A Yes, sir, I did.

11 Q Direct your attention to the same text messages. On
12 March 5th, 2019, at 18:53 and 4 seconds, which will be
13 6:53 on March 5th, there's a text saying I picked up a
14 pack of cigs. I said please, I said, of the Cool Ranch
15 Doritos. I love you, baby. Thank you.

16 A Yes, sir.

17 Q Are you sure you asked him when he took Mr. Hailey or
18 was the Doritos asked prior to that in that text in -- on
19 six -- at 6:53 an March 5th?

20 A Prior before he took him home or after he took him
21 home?

22 Q Before he took him home. So that would of been before
23 you even met up with him.

24 A No, sir. I wouldn't of asked him before because he
25 would not have made a special trip to the store just to go

1 get that. If he was out and about he would have done it on
2 his way home.

3 Q Okay.

4 A He didn't do things backwards.

5 Q But you agree, on March 3rd, on the texts, that you
6 sent something about Cool Ranch Doritos at 6:53?

7 A If I --.

8 Q If they're there.

9 A If -- yeah.

10 Q Okay. Now -- so, through that kind of going through
11 the timeline, call from Stella talking about Mr. Hailey.
12 You went to Abbeville to pick up a friend from the Belmont
13 and brought him back to Greenwood early on the evening of
14 March 5th around 11:00ish PM, watched it, got a call from
15 Joey to pick up Mr. Hailey, correct?

16 A Yes, sir.

17 Q Is that timeline right?

18 You go to Joey's, pick up Mr. Hailey, come back to the
19 house.

20 Is that right?

21 A Yes, sir.

22 Q When talking with law enforcement that next day, you
23 gave a description on what kind of clothes Mr. Hailey was
24 wearing.

25 Do you remember saying that or items that were put in

1 the back seat when you picked him up from Joey's?

2 A I know that there was items. But I can't remember what
3 they were cause they -- I really didn't pay attention. I
4 just wanted to get the guy out of my car and get him home.

5 Q Rubber boots, box of odds and ends.

6 Does that sound familiar?

7 A No, the box does, but not boots.

8 Q Two jackets and a hat black and silver?

9 A I don't recall that, no, sir.

10 Q And the hat had a sticker on the bill?

11 A I did not see that, no, sir.

12 Q You don't remember that now or you're saying you
13 don't---

14 A No, I did not, I did not see those I don't suppose in
15 my vehicle.

16 Q If you told that to law enforcement, you -- if you told
17 that to law enforcement, do you dispute saying that to law
18 enforcement or you just don't remember now?

19 A I don't remember. I know the box of items. Yes, I saw
20 that. It was in my apartment.

21 Q Okay. What about the clothes?

22 Would you like to hear that part or -- anyway we'll go
23 forward with it.

24 Did Marty -- when you were in -- you and Marty and Mark
25 were in your house, did Marty say anything to him like about

1 leaving?

2 How did he say you got to go?

3 A He -- just the way he would always say hey, guy, let's
4 go, hey, girl, let's go, we got to go, she's tired, she
5 don't feel good, I want to get back here, we got to go.

6 Q And what was Mr. Hailey's response?

7 A Wait a minute, man. Wait a minute. Just -- he, he
8 was, he was slurring his words, and just he was all over the
9 place. He wasn't even paying attention that he had to
10 leave.

11 Q Did he seem agitated at all?

12 A A little bit, yes.

13 Q Now, you mentioned Marty being in the photograph we saw
14 a few moments ago, and Marty had a BB gun, a pellet gun.

15 Is that right?

16 A Actually it was an air pistol.

17 Q Air pistol.

18 And you knew about that?

19 A Yes, sir, I did.

20 Q And you knew it'd be in the car?

21 A Yes, sir, I did.

22 Q That shotgun that's in that car, had you ever seen that
23 before?

24 A No, sir.

25 Q You never saw Marty use it?

Joni Kitchens - Cross-examination
By Solicitor Brown

1 A No, sir.

2 Q Later on you said you did speak with Marty again around
3 two o'clock --

4 A Yes, sir.

5 Q -- on the telephone.

6 Between 2:00 and 2:16?

7 A Yes, sir.

8 Q And Mr. Shaffer asked did it seem odd or did Marty seem
9 odd.

10 Can you describe that conversation with him?

11 A Basically he, when he called me, he said I just dropped
12 him off. I'm on my way home. I'll see you in a little bit,
13 and we ended the conversation. The way he said it and how
14 he said it, he would of never said what he said.

15 Q When Marty talked to you when he was in the car, did he
16 talk to you with the speakerphone or --?

17 A No.

18 Q He didn't?

19 A No, sir.

20 Q How would he talk to you?

21 A He held the phone up to his, to his ear.

22 Q But did Marty seem a little different on his cell phone
23 call?

24 A Not different. Just kind of unsure.

25 Q Would you say he wasn't himself?

1 A The way -- at the end of the conversation, no, he was
2 not.

3 Q Was he clear headed talking to you?

4 A No, sir.

5 Q How did you feel like when you got off the phone with
6 him?

7 A Nobody there to get on now.

8 Q After Marty took Mark from your house, do you have any
9 idea if they made any other stops?

10 A No, sir.

11 Q You don't know if they stopped back by Stella's?

12 A I don't.

13 Q I believe Mr., Mr. Shaffer was asking questions about
14 when Marty and Mark left your house. I think you said you
15 were worried about Marty when he left.

16 Is that accurate?

17 A Yes, sir, all I know is I just wanted him back when he
18 left.

19 Q Ms. Kitchens, just one last question. The hat in that
20 front seat -- and take your time if you need more time.

21 The hat in the front seat in State's 2, Picture 177, is
22 that Marty's hat?

23 A No, sir, it is not.

24 Q And I'm asking you earlier, you don't remember all the
25 clothes that Mr. Hailey was wearing or had on?

Joni Kitchens - Cross-examination
By Solicitor Brown

1 A (WHEREUPON, there was no audible answer.)

2 THE COURT: You need to verbally response.

3 A No, sir.

4 Q You just know that's not Marty's hat?

5 A That is not Marty's hat.

6 SOLICITOR BROWN: No further questions.

7 THE COURT: Okay. Any redirect, redirect as to any new
8 matters brought out in cross?

9 MR. SHAFFER: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. SHAFFER:

12 Q In State's Exhibit 2 for the purposes of this hearing,
13 Picture Number 177, the hat there, I know Number 11 -- I'm
14 sorry. And we're referring you to the picture of the, the
15 Marker Number 11 by that hat, ma'am.

16 That hat -- was that the hat that you saw Mark Hailey
17 wearing, correct?

18 A As I recall, he was not wearing a hat that night.

19 Q Okay. So, today, on March 4th, 2020, the best of
20 your recollection is he was not wearing a hat that night,
21 Mark Hailey?

22 Is that correct?

23 A That's right. Sorry.

24 Q You said something -- you said that you were always
25 worried about Marty when he left the house.

1 A Yes, sir.

2 Q Why were you always worried about Marty whenever he
3 left?

4 A Would you be worried about your wife every time she
5 left the house?

6 THE COURT: Provide an answer to the question instead
7 of asking the question.

8 A I'm always worried because he was worried about me.

9 Q Okay. Was there anything specific that you were
10 worried about?

11 A Everything.

12 Q Okay. Had anyone made threats against him or anything
13 like that?

14 A Not that I know of.

15 Q Did he live unusually recklessly or something like
16 that?

17 A Sometimes.

18 Q Okay. One of those text messages in State's Exhibit 4,
19 this is Page 59 I believe that Mr. Brown talked about, I
20 think it's in -- referenced something about have fun with
21 your pimp or something like that.

22 Do you have any reason to believe that Mark Hailey was
23 a pimp?

24 A No, sir, I would not know why if he was.

25 Q Any reason to believe he was a customer of Marty's?

1 A I have -- I wouldn't know. I wouldn't know.

2 Q Okay. So, that's a no, correct?

3 You have no evidence that he was a customer of Marty's?

4 A No, I wouldn't have known.

5 Q Okay. You said that Stella had called earlier that day
6 to complain about Mark Hailey, correct?

7 A Yes, sir.

8 Q And that -- I think you -- do you know what time that
9 was approximately?

10 A No, sir.

11 Q Was it before y'all went to Abbeville?

12 A Yes, sir, it was. She, she called me five or six times
13 that day.

14 Q Okay. And at some point you answered Stella's call,
15 correct?

16 A No, sir, I didn't. Marty did.

17 Q All right. Marty, Marty answered it?

18 A Yes, sir.

19 Q What did -- do you have any reason why Stella was
20 trying to call you about Mark Hailey?

21 A If she couldn't get in touch with Marty she'd get in
22 touch with me.

23 Q But I'm -- I guess I'm wondering why you -- why she
24 would pick you to call about this situation.

25 A Cause she couldn't get in touch with Marty --

1 Q About---

2 A -- about the same situation.

3 Q Why would she call you or Marty about Mark Hailey
4 earlier that day?

5 A She -- I guess she was trying to warn us because
6 neither one of us actually called until like the sixth call.

7 Q Okay. So, you think she was trying to warn you about
8 Mark Hailey earlier that day?

9 A Yes, sir.

10 Q But y'all didn't know Mark Hailey at that point?

11 A No.

12 Q Correct?

13 A No, sir.

14 Q And you had never met Mark Hailey at that point,
15 correct?

16 A No, sir.

17 Q But Stella had called you to warn you about this Mark
18 Hailey fellow?

19 A Yes, sir.

20 Q And then later Joey had called y'all to complain about
21 this Mark Hailey fellow, correct?

22 A Yes, sir.

23 Q And those were hours apart, minutes apart?

24 A Yes, sir, and I still didn't know who he was. I, I
25 asked who is he, who is this guy.

1 Q Okay. The solicitor asked you something about a gun
2 being put in the trunk or possibly being put in the trunk.

3 At Joey's house you said you never even saw Mark Hailey
4 with a gun, correct?

5 A Sir?

6 Q You never saw Mark Hailey with a gun, correct?

7 A I never saw anybody with a gun.

8 Q Okay. But specifically Mark Hailey never had a gun at
9 Joey's house, right?

10 A There was not one being shown. There was not one out
11 and about, no, there was none.

12 Q And y'all were trying to get him out the door, correct?

13 A Yes, sir.

14 Q And he was hard to get out the door, correct?

15 A Yes, sir.

16 Q But whenever y'all finally did get him out the door,
17 you put him in the car, correct?

18 A Yes, sir, cause I was, I was the last to get in the
19 vehicle.

20 Q Okay. So y'all are getting him out the door, and
21 putting him in the car, and you were the driver, correct?

22 A Yes, sir.

23 Q And at any point while he was getting into that car did
24 you see a gun?

25 A No, sir.

1 Q Okay. The solicitor asked you something about a
2 speakerphone.

3 You're saying that Marty, as a general basis, would
4 talk to you over the phone on an every day basis, correct?

5 A Yes, sir.

6 Q Okay. And he talked to you over the phone with the
7 phone to his ear, correct?

8 A Yes, sir.

9 Q He wouldn't put it on speakerphone for everyone to
10 hear, correct?

11 A No, sir, not unless he was -- not unless it was
12 something that wasn't private or personal.

13 Q Okay. So, it would be -- would it be unusual for him
14 to talk to you over speakerphone instead of talking to you
15 and holding the phone to his ear?

16 A Over the speakerphone, it would, it would be unusual,
17 yes, but to talk to me (indiscernible), no.

18 Q Okay. Now, in that, in that last call you got from
19 him, he was talking to you like he normally did, correct,
20 with the phone to his ear?

21 A Yes, sir.

22 Q It didn't sound like he was on speakerphone, correct?

23 A No, sir.

24 Q Okay. And that would of been the normal way he would
25 of talked to you most of the time, correct?

1 A Yes, sir.

2 Q The solicitor asked you a lot about how Mark was acting
3 and you said that he was moving around a lot.

4 was he acting crazy?

5 A Not crazy. He was -- just like he, he was out of it.
6 Just didn't have -- his, his mind was not paying -- was not
7 on what we were asking him to do. It was on what he wanted
8 to do.

9 Q Okay. And he was talking to himself, correct?

10 A Yeah, he was just like uh-huh, yeah. Like he was
11 talking to somebody else but not us.

12 Q Okay. So, it was almost like he was having a
13 conversation with somebody else?

14 A Yes, sir.

15 Q Was anybody else there?

16 A No, sir.

17 Q Fair to say he was out of touch with what was going on
18 around him?

19 A Yes, sir.

20 Q And on March 4th, 2020, today, you're saying that
21 you're sure that he called you between that 2:00 and
22 2:15 time, correct?

23 A I'm not sure. I'm a hundred percent positive.

24 Q You're a hundred percent positive today that he called
25 you during that time period, correct?

1 A Yes, he did.

2 Q And he would of called you from his phone, that 205
3 number, correct?

4 A Yes, sir.

5 Q And he would of called your phone number, the same
6 number or the same phone that you gave police, correct?

7 A Yes, sir.

8 Q Okay. And he would of called that phone number,
9 correct?

10 A My phone number, yes.

11 Q And it would of been about an eight minute phone
12 conversation, correct?

13 A Yes, sir.

14 MR. SHAFFER: Court's indulgence.

15 (Pause.)

16 MR. SHAFFER: I have no further questions, Your Honor.

17 SOLICITOR BROWN: Just a few, Your Honor.

18 THE COURT: Okay.

19 RE CROSS EXAMINATION

20 BY SOLICITOR BROWN:

21 Q Ms. Kitchens, the lady Stella the name again came up
22 just a few moments ago.

23 After you picked up Mr. Hailey, did y'all take
24 Mr. Hailey back to Stella's to look for something?

25 A A phone but they said it wasn't there, and when we told

1 him that, that it wasn't there, she had told him it wasn't
2 there, he kept complaining it's here, it's here, it's here.
3 I said look, I've got to go and he wanted to stay there, and
4 I was like do what you want to do, but I've got to go home.
5 So, he was arguing about the phone.

6 Q How did the phone come up after you picked him up from
7 Joey's?

8 A I have no idea.

9 Q Was he trying to collect his goods that he'd left out
10 and about?

11 A He probably was. I have no idea cause I was not paying
12 attention to it. I was -- my mind was going home.

13 Q And Mr. Shaffer -- I asked you an additional question.
14 Mr. Shaffer followed up about the phone, about when you
15 would talk to Marty.

16 When you talked to law enforcement, do you remember
17 talking to them about speaking with Marty, and how he would
18 talk to you on the phone?

19 A Yes, sir.

20 Q And specifically about that conversation -- that last
21 conversation you had with him?

22 A The last part of the conversation was on the way he
23 would end a phone call or a conversation between me and him.

24 Q I believe what you told law enforcement is, when he
25 would talk to you privately, or just you two talking, that

1 he would sometimes talk to you on speakerphone.

2 A Sometimes if there was nobody else around. And if
3 there was other people around, he would not.

4 Q And on that con -- that last phone conversation you had
5 with him, could you tell if he was on speakerphone or if it
6 was---

7 A He was not on speakerphone.

8 Q Did that make you question?

9 A No, it didn't.

10 Q Did that make it seem odd?

11 A It made it seem more like he was trying to tell me
12 something, but didn't want to or warn me about something and
13 he couldn't.

14 SOLICITOR BROWN: No further questions.

15 THE COURT: You can step down. Thank you.

16 MR. SHAFFER: Your Honor, he actually brought up
17 something totally different that's never been brought up
18 before.

19 Can I ask her a couple of questions about that?

20 THE COURT: Very briefly.

21 REDIRECT EXAMINATION

22 BY MR. SHAFFER:

23 Q All right. Ms. Kitchens, you said that you took
24 Mr. Hailey back to, to Stella's house, correct?

25 A Yes, sir, I did. We sit there and literally screaming

1 and begging for me to take him back, and I told him no, I
2 had to go home.

3 Q When did that happen?

4 where -- because it was my understanding that you
5 picked him up around or you went over to Joey's house around
6 11:30, and then you stayed there for 45 minutes or so, and
7 then you went -- took a three minute drive to your house
8 from Joey's house, and then you were there for about another
9 45 minutes, and then you -- he left.

10 When did this Stella house thing come into play?

11 A Probably we -- when we left Joey's, probably maybe as I
12 was turning and going to my house cause he lives on the
13 other end, and I have to turn to go to my house, that's like
14 oh, wait a minute. I got to go back to Stella's. I was
15 like Marty -- well, Marty, he's down here at my house.
16 They're like -- we just got aggravated. Like he was just
17 mad, and I was like fine. I'll go.

18 Q So, was it before you got to your house, correct?

19 A Yes.

20 Q Okay. How long did it take you between the time you
21 left Joey's till the time you got back to your place
22 approximately including going to Stella's place?

23 A Not long cause nobody got out of the car, and as soon
24 as Mr. Hailey said fine, whatever, just tell her to bring it
25 to me, we left.

1 Q So y'all drove to Stella's place and then basically
2 parked outside?

3 Is that --?

4 A I left the car running just in case.

5 Q But nobody got out of the car?

6 A Nobody got out of the car.

7 Q Okay. Did Stella come out to you?

8 A No, she did not.

9 Q Did you have a phone conversation with Stella at that
10 point?

11 A I did not. Marty did.

12 Q Okay. So---

13 A It's text messages.

14 Q So Marty communicated with Stella and indicated that
15 the phone was not there, correct?

16 A Yes, sir.

17 Q Okay. And then y'all left to go back to your place,
18 correct?

19 A Yes, sir.

20 Q And is there anything else, other than picking, picking
21 up Joey, you know, or going to Joey's house, trying to get
22 Mark to leave, driving by Stella's house and driving back to
23 your place, and then you being at your place for 45 minutes
24 or so, is there anything else that happened?

25 Did y'all go anywhere else anywhere?

Joni Kitchens - Redirect examination
By Mr. Shaffer

1 A No, sir.

2 Q Did y'all communicate with anybody during this time
3 period?

4 A No, sir.

5 Q Okay. So, it was just the three of y'all during this
6 time period outside the text messages to Stella, correct?

7 A Yes, sir.

8 MR. SHAFFER: Okay. No further questions.

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

10 Mr. Shaffer, next witness.

11 (Pause.)

12 MR. SHAFFER: Your Honor, can we approach real quick?

13 THE COURT: Sure.

14 (WHEREUPON, a bench conference was held at this time.)

15 THE COURT: All right. Gentlemen, we discussed at, at
16 the side bar the -- Officer Benetti's body cam video will be
17 marked once it's produced or placed on CD as State's Exhibit
18 5, and that I've been requested to view from zero to 40
19 minutes, skip 20 minutes, and then, at the one hour mark to
20 one hour and ten minutes of the body cam video, which I will
21 do. As I've already indicated, I'm gonna take this under
22 advisement.

23 MR. SHAFFER: Your Honor, we'll call next---

24 THE COURT: Hold, hold your thought just a minute.

25 Go ahead and do what you need to do, Mike.

1 (Pause.)

2 THE COURT: Okay. Mr. Shaffer.

3 MR. SHAFFER: We'll call Investigator Murdock.

4 THE COURT: Okay. Come around please, sir.

5 JOHN MURDOCK, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SHAFFER:

9 Q Investigator Murdock, tell us how you got involved in
10 this case, sir.

11 A I---

12 THE COURT: Go ahead and state your full name for the
13 record first, officer.

14 THE WITNESS: John Michael Murdock.

15 THE COURT: Okay.

16 A I was contacted by Major Bishop, who's the commander
17 over CID, and asked to respond to assist with the
18 investigation, a death investigation.

19 Q And what -- what's your rank currently at the Sheriff's
20 Office?

21 A Investigator.

22 Q Okay. That's what I thought. I just want to --

23 A Yes, sir.

24 Q -- get that---

25 A It's investigator.

1 Q Okay. So, at what time did you respond to actually --
2 what did you do first whenever you got the call?

3 A I, I can't -- counselor, I don't remember the exact
4 time I got the call, but I remember receiving the call,
5 briefly getting what had happened, getting dressed, and then
6 driving to the southern end of the county, and directed
7 where I needed to go once I got there.

8 Q Did you go to the -- I, I guess where the body was
9 found first or did you go to Mr. Hailey's house first?

10 A I never went to Mr. Hailey's house.

11 Q Okay. So, you went to where the body was found?

12 A I went, I went there, yes, sir.

13 Q Okay. And what did you do initially whenever you got
14 there?

15 A When I initially got there, uniform patrol deputies
16 were on the scene. I just kind of got the synopsis of what
17 had happened from them, when they responded, what they
18 found, viewed the scene, and waited on the crime scene
19 technician to come to process the scene.

20 Q Okay. So -- and I, I imagine that the State will ask
21 you this, but was it pretty clear what the cause of death
22 was in this case?

23 A Upon viewing the body of the victim, he had a clear
24 what appeared to me of gunshot wound to the head. He
25 appeared deceased. I think EMS had checked just his

1 protocol to make sure there were no vital signs. I didn't
2 declare death. When the coroner responds, he --

3 Q Okay.

4 A -- pronounced him deceased.

5 Q So, whenever you -- when you're there, did you have a
6 chance to -- did you find any evidence around the body or
7 was that mainly crime scene?

8 A That would be crime scene. When I get there, I kind of
9 walk around the peripheral, kind of view the victim just to
10 get a feel for it. Do not touch the victim with -- the
11 coroner's the only one, and I do not manipulate, touch,
12 remove anything until crime scene gets there and photographs
13 everything. I may walk around the peripheral and care --
14 try to walk through the best I can to see if there's
15 anything additional to make sure I try to point out to the
16 crime scene tech what I observed cause he's got a lot going
17 on. So, I try to make sure everything is covered.

18 Q Is there anything you saw that made you definitively
19 say that what happened leading up to the shooting?

20 A From the scene, I couldn't say what happened.

21 Q Okay.

22 A I could just tell what the end result was. But I
23 couldn't tell what led up to the end result.

24 Q Okay. And, in fact, from anything that you found out,
25 since you're the lead investigator, correct?

1 A I'm not the lead invest---

2 Q Oh, you're not the lead investigator?

3 A No, sir. Investigator Powell---

4 Q Powell.

5 A ---is the lead.

6 Q Okay.

7 A I'm assisting investigator.

8 Q Okay. But was there anything that made you think that
9 the, that the -- there was -- was there anything that, from
10 that scene or anything that you found out later, that would
11 definitively, definitively tell you what led up to the
12 shooting?

13 A From the scene I couldn't tell what led up to it.
14 There was nothing there that would tell me what led up to
15 it. I had not spoken to Mr. Hailey. I had not even been
16 there. I don't think I spoke with Mr. Hailey at all --

17 Q Okay.

18 A -- other, other than I think I did a GSR kit I believe
19 at the Detention Center. But until later on in the day,
20 comparing notes with Investigator Powell, I could not
21 determine what had led up to it.

22 Q Okay. And you ended up talking to Joni Kitchens,
23 correct?

24 A We -- myself and Lieutenant Russ did---

25 Q Okay.

1 A ---talk to Joni Kitchens and bring her to the office,
2 yes, sir.

3 Q And when you talked to her, you had access to her, her
4 phone, correct?

5 A We did.

6 Q And you also had access to her Facebook Messenger,
7 correct?

8 A If it was on her phone -- I didn't hold her phone
9 because remember that was Lieutenant Russ. If she can
10 access it through her phone, then there should of been
11 access to it.

12 Q All right.

13 A I didn't go through it.

14 Q You don't recall going---

15 A No, I don't recall going through it.

16 Q Okay. And if the video showed you looking at the
17 phone, you obviously aren't gonna dispute the video?

18 A Oh, certainly not. I don't, I don't remember me
19 specifically looking through it because I'm not that tech
20 savvy on a variety of phones. So, if -- she may of done it
21 and then showed it to me, and I scrolled through.
22 Lieutenant Russ may of done it. But how we got to that
23 particular point I won't dispute it if that -- if you see me
24 going through it.

25 Q Okay. But there wouldn't have been anything that you

John Murdock - Direct examination
By Mr. Shaffer

1 saw of particular evidentiary value in the Facebook
2 Messenger app that you currently do not recall?

3 A No.

4 Q That you currently do recall seeing, right?

5 A No, honestly, counselor, I don't even recall looking at
6 the Messenger app.

7 Q Okay.

8 A So, obviously there was nothing that stood out to me.

9 Q But if there was something in the Facebook Messenger
10 app that stood out to you, you likely would of documented
11 it, correct?

12 A Yes, sir.

13 MR. SHAFFER: Okay. Court's indulgence.

14 (Pause.)

15 MR. SHAFFER: Nothing further.

16 THE COURT: Okay. Any, anything, Solicitor, briefly?

17 SOLICITOR BROWN: Briefly, Your Honor.

18 CROSS-EXAMINATION

19 BY SOLICITOR BROWN:

20 Q Investigator Murdock, Mr. Shaffer was asking you about
21 locating the body, and the location of the body.

22 What road was that that you found Mr. George?

23 A It was on Warner Road.

24 Q Describe that road.

25 A It is a red dirt road, for lack of better terminology,

1 in the middle of nowhere in the southern end of the county.

2 Q Is it a heavily traveled road?

3 A No, sir.

4 Q Again, you say it was a dirt road?

5 A Yes, sir.

6 Q Any lighting out there on that road?

7 A No, sir.

8 Q When you pulled up, were other officers already there?

9 A Yes, sir.

10 Q Was the vicinity that Mr. George was found, was that
11 roped off, taped off?

12 A It was roped off. As well as I recall it was. They
13 had already roped it off.

14 Q During your initial looking around the scene, could you
15 tell anything about the dirt on the road next to Mr. George?

16 A Such as?

17 Q Would you like to read your report?

18 A Yes, sir.

19 You talking about was the dirt disturbed?

20 Q Yes, sir.

21 A Footprints?

22 Q And if you need to recall your report.

23 A Yes, sir, if I can accurately --.

24 (Pause.)

25 A Okay.

1 Q When you were out there looking around where Mr. George
2 was found, what did you observe?

3 A What I -- I observed the area around Mr. George, and
4 the dirt appeared disturbed in such a manner that it had
5 characteristics of something having been drug across it
6 causing -- like it's a flowing pattern that's disturbed dirt
7 that was going towards the direction of Mr. George.

8 Q Did you see any tire tracks?

9 A There were tire, tire tracks in the, in the road.

10 Q How far off the road was Mr. George?

11 A It's a single lane dirt road. Mr. George is -- was
12 located just to the edge of the road with the majority of
13 his body, his feet toward the woods. He was in kind of
14 in -- almost, as well as I remember, to the edge of the
15 road, and most of his body was in the ditch---

16 Q Okay.

17 A ---and feet towards the woods.

18 SOLICITOR BROWN: Okay. Judge, what I'm pulling up
19 right now is State's Exhibit No. 1 --

20 THE COURT: Okay.

21 SOLICITOR BROWN: -- the roadside photos.

22 Investigator Murdock, I know this is a little -- it's
23 dark outside in this picture.

24 Does that describe the road?

25 Is that Warner Road?

1 A Yes, sir.

2 Q Is this the location where Mr. George was found?

3 A Yes, sir.

4 Q And a dirt road?

5 A Yes, sir.

6 Q All right. It's clearly dark.

7 This is, for the Court's record, this is Picture 5 of
8 State's 1.

9 THE COURT: Picture 5?

10 SOLICITOR BROWN: Yes, sir.

11 THE COURT: Okay.

12 SOLICITOR BROWN: Judge, I'm trying to get to the --
13 now, Investigator Murdock, in this photograph where it has
14 Marker 1, what does that depict?

15 A From here it appears consistent with what I described
16 as the drag marks.

17 Q And this picture where would -- could you tell where
18 Mr. George's body would be?

19 I know he's not in this photograph, but --.

20 A He would of been probably just, let's see, slightly out
21 of camera range.

22 Q On the right side?

23 A Yeah.

24 THE WITNESS: May I step down?

25 THE COURT: Yeah. Just be sure you speak up loud

1 enough since you're away from the microphone.

2 THE WITNESS: Yes, sir.

3 This is -- can you hear me good?

4 THE COURT REPORTER: Yes, sir.

5 THE WITNESS: This is the -- would be the -- where
6 possibly consistent with the drag mark. Mr. George would of
7 been just slightly over here right in here.

8 Q Off the side of the road?

9 A Yes, sir. Been out of the camera angle.

10 Q And is that what you described as appeared that
11 Mr. George had been drug off the road?

12 A Yes, sir, that and I think you may see some there, and
13 then Mr. George's clothing was -- his pants would of been
14 pushed -- pulled up as if he was in a pulling motion. So
15 they were riding up.

16 SOLICITOR BROWN: For the Court's records, this is
17 Photograph 23 in State's --.

18 THE COURT: Well, I thought that was one.

19 SOLICITOR BROWN: State's 1. State's evidence---

20 THE COURT: Got you.

21 SOLICITOR BROWN: State's Evidence 1---

22 THE COURT: I've got you.

23 SOLICITOR BROWN: ---23.

24 THE COURT: Picture Number 23?

25 SOLICITOR BROWN: Yes, sir.

1 And this is -- Picture 24.

2 Is it -- again, is this another angle of the drag
3 marks?

4 A Yes, sir, it is.

5 Q And, again, in this photograph, you can't see
6 Mr. George, can you?

7 A No, sir.

8 Q He's completely off the road?

9 A Yes, sir.

10 Q Picture 26 is a close-up.

11 Is that correct?

12 A Yes, sir.

13 Q This is Picture Number 29.

14 Does this give a better -- is this a better picture
15 depicting what marks in the roadway you saw?

16 A It does.

17 Q That'd be Marker 2?

18 A (WHEREUPON, there was no audible response.)

19 Q And in the upside of the screen, can you see
20 Mr. George?

21 A Yes, sir, from this angle you can see Mr. George here.

22 Q So, he's -- how far from the time where it appears he
23 was -- where he come out of the car on the ground to where
24 he -- his final resting place?

25 Was that -- how many feet would you say that was?

John Murdock - Cross-examination
By Solicitor Brown

1 A Maybe -- just approximating, I didn't -- I don't know
2 what the crime scene drug a marker or not. Approximately
3 5-feet, give or take.

4 SOLICITOR BROWN: Your Honor, I'm not gonna show a
5 close-up of him right now.

6 THE COURT: Okay.

7 SOLICITOR BROWN: But you'll have these photographs for
8 this.

9 THE COURT: Sure.

10 Q You, you can take a seat back.

11 A (WHEREUPON, the witness returns to the stand.)

12 Q Investigator Murdock, once you and the rest of the team
13 finished up at Warner Road, did you have the opportunity to
14 look at the car?

15 A I did not look at the car that night. I think it was
16 later on in -- been the same day, just later on in the day
17 when the search warrant was executed on the vehicle at the
18 county impound on it. I was part of the group that did --
19 executed the search warrant.

20 Q So, at that point, you did get to see the car?

21 A Yes, sir.

22 Q Now, Investigator Murdock, is this the vehicle that was
23 towed from Mr. Hailey's location to the Greenwood County
24 impound lot?

25 A Yes, sir, that's the one that the search warrant was

1 executed on.

2 Q This would be State's 2 and Picture -- this says Page
3 81. Investigator Murdock, this is Picture 140 of State's 2.

4 Is this the front seat how you observed it on the day
5 at the impound lot?

6 A Yes, sir.

7 Q Is that front seat completely full like that?

8 A Yes, sir.

9 Q Now, Investigator Murdock, this is Picture 150.

10 Is that the driver's side door?

11 A Yes, sir.

12 Q Does that appear to be blood?

13 A It does. It appears to be.

14 Q I show you Picture 153.

15 What does this picture show?

16 A It shows a picture of the back seat of the vehicle
17 where the passenger door is opened.

18 Q Is -- that back passenger seat, was it opened and clear
19 --

20 A Yes, sir.

21 Q -- where somebody could sit there?

22 A It's depicted in the photo was like it was when I first
23 observed it.

24 Q Now, can you describe -- can you describe where the
25 entry wound to Mr. George occurred?

1 A Let me just clarify for the record. I'm, I'm not an
2 expert in gunshot wounds. So, I can't medically say what is
3 entry and exit. But based on experience and training, I
4 can -- the likely entry wound was to the back of the head
5 behind the ear.

6 Q Behind the right ear?

7 A Behind the right ear. And based on the severity of the
8 wounds, it appears that the exit wound would of come out at
9 the left eye.

10 Q I show you State's 156 or Picture 156 in State's
11 evidence 2.

12 what are we seeing in this photograph?

13 A You're -- it's a photo of the driver's side focusing on
14 the driver's side towards the outer rearview mirror, and it
15 appears to have the remnants of biological material.

16 Q Up around that, that combination of where the door
17 meets the, the windshield, would---

18 A would you like me to step down where I can show you?

19 THE COURT: Sure. If you'd like to.

20 (WHEREUPON, the witness comes down from the stand.)

21 A This would be the rearview mirror, the outside of the
22 rearview mirror, the steering wheel. This is the corner
23 right here, and this is consistent with what appeared to be
24 blood, and this appears to be biological material.

25 Q would you say brain matter or, or --?

1 A Yes, it's consistent with it.

2 (WHEREUPON, the witness returns to the stand.)

3 Q Part of your investigation, do you have a belief of
4 where the shot originated from in this car to have the
5 biological matter in that location?

6 A It would -- going that direction, the shot pattern
7 would have been going from Mr. George's right out to his
8 left. So, the shot would of had to come from on his right
9 side into the side or behind to his right.

10 Q In the front driver's passenger seat, how is that make
11 up?

12 Is it -- how is that seat?

13 Remember back from the photographs, was that seat
14 opened or was it covered in items?

15 A The, the front passenger seat?

16 Q Yeah.

17 A When I observed it, it, it had items in the -- where
18 the front passenger would of been sitting. It had a
19 Mountain Dew bottle, a chip bag, the air rifle -- the air
20 pistol, and other items---

21 Q And the back seat?

22 A ---where the passenger would of been seated.

23 Q In the back passenger seat?

24 A And the right rear passenger seat, it was empty, devoid
25 of any items.

94 John Murdock - Cross-examination
By Solicitor Brown

1 Q Was there any other blood in the car in the front
2 passenger, back passenger, back seat?

3 A The only -- what I recall was concentrated toward the
4 driver's seat, and going out towards the window around the
5 door.

6 Q Would that be consistent with Mr. George would of been
7 the driver?

8 A It, it would have, yes, sir. It would of been
9 inconsistent with his injury in my opinion.

10 SOLICITOR BROWN: I don't believe I have any further
11 questions.

12 THE COURT: Anything in follow-up, Mr. Shaffer?

13 MR. SHAFFER: A couple of things.

14 REDIRECT EXAMINATION

15 BY MR. SHAFFER:

16 Q Investigator Murdock, you said that there was a --
17 there were tire tracks sitting there when you got in the
18 scene, correct?

19 A Yes, sir.

20 Q Anything to indicate that a car did a U-turn or
21 anything like that around that area?

22 A No, sir.

23 Q Okay. The drag marks, you said there's drags marks
24 that went from the roadway to the side where the body was
25 found, correct?

1 A Yes, sir.

2 Q And those drag marks, did they appear to come from the
3 other side of the roadway or did they appear to come from
4 the -- I guess the same side of the road?

5 Did they cross all the way across the roadway?

6 A They did not.

7 Q Okay. So, from that point, were you able to get some
8 idea of which way the vehicle was heading -- which, which
9 way the vehicle was pointed at the time that the body was
10 taken out of the vehicle?

11 A At, at that time, I didn't. I had not seen the
12 vehicle.

13 Q Okay.

14 A I didn't -- so, I did not know where the evidence in
15 the vehicle had been located. So, I couldn't tell which way
16 the vehicle would of been going from the scene at that time.

17 Q Okay. But at this time now, do you have a theory as to
18 where the vehicle -- which way the vehicle would of been
19 pointing?

20 A The, the best theory I can say would -- it would -- the
21 vehicle would of been going on Warner Road. Forgive me,
22 counselor, I'm not familiar---

23 Q It's okay.

24 A ---with that end of the county. But it's going towards
25 I want to say Brook Road, whatever road I come in off of.

1 Q Okay.

2 A And I don't remember the exact streets on that end of
3 the county.

4 Q And that would of been basically where the body likely
5 would of been taken out of the driver's side and then
6 dragged to the --?

7 A It would of been consistent with that, yes, sir.

8 Q Okay. Any indication to you what or anything else that
9 would indicate that the body was dragged across to the
10 passenger side and pulled out of the passenger's seat?

11 A There again, I had not seen anything at the time --
12 car---

13 Q Oh.

14 A ---at that time. But there was -- no blood was located
15 or what appeared to be blood was on the -- anywhere on the
16 road except on the side Mr. George was, and there was no
17 drag marks consistent with having come all the way across
18 the road.

19 Q Okay. From looking in the car, did you see anything
20 that indicated that the body was dragged through the
21 passenger door as opposed to through the driver door?

22 A No, sir.

23 MR. SHAFFER: Okay. Court's indulgence.

24 (Pause.)

25 Q Now I'm showing you State's Exhibit 2, Picture Number

1 177, and I believe you indicated that these items that are
2 numbered that are sitting in the seat were like that
3 basically whenever you pulled -- whenever you initially
4 looked at the vehicle, correct?

5 A When I looked at the vehicle in the county impound --

6 Q Okay.

7 A -- that's what I saw when I looked at the vehicle at
8 the county impound. Prior to that I can not testify to.

9 MR. SHAFFER: Okay. No further questions.

10 THE COURT: Okay.

11 SOLICITOR BROWN: No follow-up.

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

13 Mr. Shaffer, you got another witness before we break
14 for lunch?

15 MR. SHAFFER: Investigator Powell. I believe it's
16 gonna be fairly quick, quick.

17 THE COURT: Okay. All right.

18 RONNIE POWELL, being first duly
19 sworn, testified as follows:

20 THE COURT: Would you state your full name for the
21 record please, sir?

22 THE WITNESS: Ronnie Elliott Powell.

23 DIRECT EXAMINATION

24 BY MR. SHAFFER:

25 Q Mr. Powell, what -- what's your current rank?

1 A I'm an investigator.

2 Q Okay. And tell us how you got involved in this case.

3 A On this evening I was the on call investigator when
4 dispatch was notified and officers responded. Once they
5 determined what type of scene they had, they notified me, as
6 the on call, and I responded to Booker Road I believe.

7 That's the address---

8 Q Okay.

9 A ---of the residence.

10 Q And you're the lead investigators on the case, correct?

11 A Yes, sir.

12 Q And part of that is knowing what's in evidence,
13 correct?

14 A Yes, sir.

15 Q Generally you know what -- and you make decisions based
16 off of that, correct?

17 A Generally, yes, sir.

18 Q And you make decisions on what to test and things like
19 that, right?

20 A Yes, sir.

21 Q So, one of the things you've tested in this case or one
22 of the things that ended up being tested in this case was
23 Joni Kitchens' phone, correct?

24 A Yes, sir.

25 Q And also the phone that was found inside the, the car

1 in question, correct --

2 A Yes, sir.

3 Q -- the Buick?

4 So, you -- the, the phone -- Joni Kitchens' phone was
5 tested in that, correct?

6 A Yes, sir.

7 Q And the---

8 A It was.

9 Q And the other phone was sent to SLED, correct?

10 A Yes, sir.

11 Q And was that phone dumped, the one that was sent to
12 SLED?

13 A From what I understand, SLED dumped it based on our
14 request.

15 Q Okay. And the, the -- you also had some DNA testing,
16 correct?

17 A I'm sure they did, yes, sir. It's standard procedure.

18 Q Where, where did you -- do you know where they tested
19 the DNA from?

20 A I, I don't know where the -- I'm sure there were
21 samples were taken from something. But I'm not sure what it
22 came from exactly.

23 Q Okay.

24 A That was part of the, part of the crime scene and he
25 took the samples at our request. I'm not sure where they

1 came from in the vehicle.

2 Q And from evidence that you gather and people you've
3 talked to, you basically developed a theory of the case,
4 correct?

5 A Yes, sir.

6 Q What's your theory of the case as we sit here on
7 March 4th, 2020?

8 A And my theory today is that, that the -- that
9 Mr. Hailey was, was positioned in, in the rear seat based on
10 the evidence that we see and he realized the, the shotgun,
11 and discharged it as the, as the victim was facing away as,
12 as described previously from the, the rear of the -- with
13 the head. Exit wound to the, to the eye and evidence in
14 the, in the vehicle supports that positioning in -- from
15 evidence -- from what we see.

16 Q Do you have any theory as to which direction the car
17 was heading at the -- as we sit here today?

18 A I have no reason to believe that it was not in what
19 they saw. I actually never was at the scene with the
20 victim's---

21 Q Okay.

22 A ---body. I'm (sic) stayed at the residence and, and
23 with the vehicle that was at the residence, the, the, the
24 Buick, and escorted it to the impound, and secured it there
25 until a search warrant was executed.

1 Q Okay. And the -- is there any reason, in your theory
2 of the case currently, is there any reason for you to think
3 that there's some motive involved in this case?

4 A At, at this point, I, I had no motive specifically.

5 Q Any reason to think that this wasn't an accident?

6 A I have no, no reason to think it was an accident.

7 Q Okay.

8 A Could be intentional.

9 Q Do you have any reason to think that it wasn't an
10 accident though?

11 A I have no conclusion other than it's -- it occurred how
12 it occurred. I never spoke to Mr. Hailey or had a, a
13 statement of his defense. All I can look at the evidence
14 that's presented before us that appears to be an intentional
15 act.

16 Q Okay. Any reason to think that this was self-defense?

17 A Based on the evidence that I see, I don't have any
18 reason to believe it's self-defense.

19 Q Any reason to think that it's not self-defense?

20 A I have no -- I have no reason to believe it's
21 self-defense.

22 Q But do you have any evidence demonstrating that it
23 clearly was not self-defense?

24 A I have no evidence determining that it was not
25 self-defense. But I have no evidence -- it appears to be an

1 intentional act.

2 Q Okay.

3 A There's no evidence to contradict that.

4 Q And sometimes people act in self-defense intentionally,
5 correct?

6 A Say again.

7 Q It's possible for an intentional act to be an act in
8 self-defense.

9 You would agree with that?

10 A Right.

11 Q Okay. So really you don't know exactly -- you know
12 that the gun went off, correct?

13 A Yes, sir.

14 Q But you don't really know why it went off, correct?

15 A I don't know why it went off.

16 Q Okay. Have you done any testing on the Doritos bag or
17 the, the Mountain Dew bottle?

18 A What kind of testing?

19 Q I mean did you send them off for any sort of forensic
20 testing?

21 A I, I don't think there's any forensic testing been done
22 on that.

23 Q Okay. Did any forensic testing on the -- and I'm
24 referring to State's Exhibit 2 for this hearing, Picture
25 Number 77, the hat that's listed as or marked near the

1 Number 11 marker.

2 A Yes, sir.

3 Q Any sort of forensic testing on that hat?

4 A Not time I'm aware. The hat is actually not in the
5 position that it was at the scene.

6 Q Okay.

7 A It was actually on the dashboard of the, of the
8 passenger seat. If you'll see the pictures from the actual
9 scene, it had -- apparently had fallen in transport while it
10 was loaded---

11 Q Okay.

12 A ---on the rollback. It was on the dashboard and it has
13 just fallen back into the seat.

14 Q And actually other items from that seat are not in the
15 same position they were, correct?

16 A Oh no.

17 Q Sure.

18 A They're relatively close compared to pictures. Any
19 movement would of been based on the transport. But there is
20 a photograph of it prior to in transport.

21 Q Okay. The airgun, where exactly did you find the
22 airgun at originally?

23 A It was positioned right there.

24 Q It---

25 A You can see it under the seat.

1 Q It was close to that position where it sits in the---

2 A It sits there, yes, sir.

3 Q ---State's Exhibit 2, Picture Number 177?

4 A You're right. The vehicle was secured at the scene and
5 was not entered or disturbed at the scene to where it was,
6 where it was taken into our possession.

7 Q Was it -- so the airgun was found basically in the
8 passenger seat?

9 A Right.

10 Q Is that what you're---

11 A Just as you see it. Other than the hat, everything is
12 as it is right now --

13 Q Okay.

14 A -- when you compare the pictures. Any slight movement
15 would be based on transportation from the residence to the
16 secured impound.

17 Q Have you done any -- do you have any evidence of what
18 kind of messages were sent from Joni Kitchens Facebook
19 Messenger account?

20 A We've dumped that phone. That is, from my knowledge,
21 that's the only messaging that we have in our possession.

22 Q And that's the only call history you have in your
23 possession for her, correct?

24 A Yes.

25 MR. SHAFFER: Okay. Court's indulgence.

1 (Pause.)

2 MR. SHAFFER: No further questions at this time.

3 THE COURT: Solicitor.

4 CROSS-EXAMINATION

5 BY SOLICITOR BROWN:

6 Q Investigator Powell, Mr. Shaffer was asking you about
7 the motive or anything like that. You stated it was an
8 intentional act.

9 A Yes, sir.

10 Q That he appeared to be -- the shot was discharged from
11 the back seat, from the back passenger seat going forward to
12 the driver's seat, and towards that front corner, correct?

13 A Yes, sir.

14 Q In the back or side back of Mr. George's head?

15 A Yes, sir.

16 Q Exiting through his left eye?

17 A Yes, sir.

18 Q Do you know who called this, this homicide in?

19 A Initially the, the report to 9-1-1 was Mr. Hailey's
20 mother who was at the residence on Booker Road that he
21 returned to. And as stated previously in testimony that his
22 behavior was, was erratic and she felt like something had
23 occurred. So, she notified law enforcement.

24 Q Mr. Hailey didn't call 9-1-1, did he?

25 A No, sir.

1 Q Out at the scene on Booker Road, did Mr. Hailey say
2 anything about self-defense?

3 A No, sir, Mr. Hailey was incoherent and could not make
4 any statements.

5 Q He didn't, he didn't make any statements to you?

6 A No, sir.

7 Q Have you been able to review body cam footage from
8 Mr. Benetti's body cam?

9 A If I have it's been maybe a while back and I wouldn't
10 be able to recall it. You can refresh me if you have a
11 specific question.

12 Q Would you say it's safe to say that there was never a
13 moment or a mention of self-defense at all from Mr. Hailey?

14 A Not to me.

15 Q Where was Mr. George's car -- Ms. Kitchens' car when
16 you arrived on the scene?

17 A In the driveway. It was, it was backed in. Prior to
18 where they normally would park their vehicles, it was backed
19 in. The, the firearms, the items were in the vehicle just
20 as you saw them. It was still on the property. Like I say,
21 not been disturbed.

22 Q At the Hailey household?

23 A At the Hailey household.

24 Q Not Mr. George?

25 A No, sir.

1 Q And not Ms. Kitchens?

2 A Not Ms. Kitchens, no, sir.

3 Q Based on your investigation, my understanding when
4 you're answering Mr. Shaffer's questions, you believe
5 Mr. George was the driver of the car?

6 A Yes, sir, I do.

7 Q Was, after shot, drug out of the car?

8 A Yes, sir.

9 Q And drug off the dirt road?

10 A Yes, sir.

11 Q Left in a ditch?

12 A Yes, sir.

13 Q His car was then taken?

14 A Yes, sir.

15 Q All right. Taken back to Mr. -- to his house?

16 A Yes, sir.

17 Q And Mr. Hailey never called 9-1-1?

18 A No, sir.

19 Q Based on body cam, Mr. Hailey never mentioned one time
20 about self-defense?

21 A Not that I'm aware of.

22 Q Have you had a chance to review the body cams or was it
23 a long time ago?

24 A It's been a while since the, since this case. I think
25 it's numerous body cams as a rule.

1 Q Do you remember Mr. Hailey, when reviewing that body
2 cam, at the six minute mark say a force of nature, I
3 couldn't reckon with it?

4 A This is Mr. Benetti's?

5 Q Yes, sir.

6 A I don't recall that. But if, if that's on the video, I
7 have faith that those are accurate.

8 Q And I told him to turn around at the 35, 40 mark?

9 A I'm not aware of it. But, yes, I do, I do feel like
10 the, the, the video recordings are correct.

11 Q Did the BB gun or air pistol, Number 8, you said that
12 was in the seat?

13 A Yes, sir.

14 Q About the same location it is in this photograph --

15 A Yes, sir.

16 Q -- when you initially saw it at the Hailey residence?

17 A Yes, sir.

18 Q When you looked at that seat, did you see any blood or
19 any kind of thing over there?

20 A No, sir, I, I didn't see any other blood in the
21 vehicle, and we got picture's of the passenger seat. There
22 was no blood or any evidence of blood in the passenger seat.
23 The only evidence of any blood was in the driver seat.

24 SOLICITOR BROWN: No further questions.

25 THE COURT: Anything in follow-up, Mr. Shaffer?

1 MR. SHAFFER: Nothing, Your Honor.

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

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: All right. Let me see the lawyers just
5 for a minute please.

6 (WHEREUPON, a bench conference was held at this time.)

7 THE COURT: We'll be in recess until 2:30.

8 (WHEREUPON, Court was in recess for the lunch hour.)

9 THE COURT: All right. We're back on the record in the
10 State versus Mark Anthony Hailey, Junior.

11 Mr. Shaffer.

12 MR. SHAFFER: Your Honor, I've spoken to my client over
13 the break. Mr. Hailey's exercising his right to remain
14 silent at this time. As a result, we're actually gonna
15 withdraw our request for immunity under the statute.

16 THE COURT: All right.

17 MR. SHAFFER: I can't, I can't see us going forward
18 without him testifying. He's elected to remain silent.

19 THE COURT: I understand.

20 Okay. Mr. Hailey, would you stand?

21 I need to have you sworn in and all I'm gonna ask you
22 is whether or not you agree with what Mr. Shaffer has just
23 told me.

24 Madam Clerk.

25 (WHEREUPON, the Defendant was placed under oath at this

1 time.)

2 THE COURT: Okay. Mr. Hailey, is it, is it your
3 decision, along with discussion with Mr. Shaffer, your
4 decision to withdraw your motion for immunity under the
5 Protection of Persons and Property Act, the Castle Doctrine,
6 Stand Your Ground statute?

7 THE DEFENDANT: I agree.

8 THE COURT: You, you say I agree?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Thank you, sir. You can have a
11 seat.

12 Okay. All right. The motion's withdrawn. This matter
13 is ended.

14 Thank you very much.

15 MR. SHAFFER: Thank you, Your Honor.

16

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18 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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State of South Carolina)
County of Greenwood) Court of General Sessions
2019-GS-24-1076-1078

State of South Carolina)
vs.) Transcript of Record
Mark Anthony Hailey, Jr.)
Defendant)

September 11th - 24th, 2020
Greenwood, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge

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

Yates Brown, Deputy Solicitor
Anna Sumner, Assistant Solicitor
Attorneys for the State

Chelsea McNeill, Deputy Public Defender
Tristan Shaffer, Assistant Public Defender
Attorneys for the Defendant

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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18	107	Photo	X		538
19	108	Photo		X	538
20	109	Photo		X	538
21	110	Photo		X	538
22	111	Photo	X		538
23	112	Photo		X	538
24	113	Photo		X	538
25	114	Photo		X	538

1	State's				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	115	Photo		X	538
4	116	Photo		X	538
5	117	Photo		X	538
6	118	Photo		X	538
7	119	Photo		X	538
8	120	Photo		X	538
9	121	Photo		X	538
10	122	Photo		X	538
11	123	Photo		X	538
12	124	Photo		X	538
13	125	Photo		X	538
14	126	Photo		X	471
15	127	Photo	X		555
16	128	Photo	X		555
17	129	Photo	X		555
18	130	Photo	X		555
19	131	Photo	X		555
20	132	Photo	X		555
21	133	Photo	X		555
22	134	Photo		X	555
23	135	Photo	X		555
24	136	Photo	X		555
25	137	Photo	X		555

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	138	Photo	X		555
4	139	Photo		X	461
5	140	Photo		X	461
6	141	Photo	X		461
7	142	Photo	X		461
8	143	Photo	X		461
9	144	Photo	X		461
10	145	Photo	X		461
11	146	Photo	X		461
12	147	Photo		X	463
13	148	Photo	X		461
14	149	911 Disc Call		X	277
15	150	GIS map		X	404
16	151	Box w/Gun		X	567
17	152	Redacted Thumb Drive-Young		X	401
18	153	Thumb Drive Pendergrass		X	429
19	154	Bag Jewelry		X	506
20	155	Shotgun Shell		X	510
21	156	Shoes		X	506
22	157	Shirt/Socks/Sweatshirt		X	508
23	158	Tank Top		X	507
24	159	Pants=Grey & Blue		X	508
25	160	Pellets/Bottle		X	562

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	161	Piece of Bible		X	562
4	162	Ball Cap Carolina Panthers		X	562
5	163	DNA		X	562
6	164	Ball Cap Georgia		X	562
7	165	Dorito Bag		X	562
8	166	Pellets/Lighter		X	562
9	167	Cell Phone		X	562
10	168	Phone Call List		X	792
11	169	Text Messages		X	794

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1	<u>Defendant's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	1	911 Report=CAD Report		X	280
4	2	Thumb Drive=Bonetti		X	327
5	3	Box W/Gun		X	423
6	4	Photo	X		467
7	5	Photo		X	471
8	6	Thumb Drive=Joni Kitchen	X		901
9	7	Transcript	X		901
10	8	DSMD Acute Stress Disorder	X		901
11	9	Photo		X	991
12	10	Photo		X	998
13	11	Photo		X	994
14	12	Photo		X	994
15	13	Photo		X	994
16	14	Photo		X	994

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1	<u>Court's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	1	Chain of Custody	X		348
4	2	2 Keys-Trigger Lock	X		348
5	3	Photo of State's 134	X		534
6	4	Request to Charge	X		1065
7	5	Request to Charge	X		1065
8	6	Jury Note	X		1140
9	7	Jury Note	X		1140
10	8	Jury Note	X		1141
11	9	Jury Note	X		1145
12	10	Jury Note	X		1145

1 training records or anything like that, their ability to
2 make such a determination, CD's, resumes, training
3 records, that stuff.

4 MR. BROWN: I think it is going to be based on
5 commonsense and their years of experience.

6 THE COURT: Well, if you have anything, if you have
7 any records provide them and what may, maybe streamline
8 and maybe cause the Defense not to raise an objection is
9 have an opportunity, get the officers up here sometime and
10 just have y'all talk with them, just kind of informally,
11 and let them kind of tell you what they -- and it may turn
12 out, Mr. Shaffer, that you don't have an issue with it.
13 So then we wouldn't even need to take in-camera testimony.
14 Of course, we can if it is necessary but we might can get
15 over that.

16 MR. SHAFFER: That's all, Your Honor.

17 THE COURT: Thank you very much and appreciate
18 y'all's hard work and I will see y'all bright and early
19 Monday morning.

20 MR. SHAFFER: Thank you, Your Honor.

21 (Whereupon, the trial will resume on Monday,
22 September 14th, 2020.)

23 September 14, 2020

24 FIRST JURY PANEL

25 THE COURT: Solicitor, can I have the indictments,

1 please.

2 MR. BROWN: Yes, sir.

3 THE COURT: Ladies and gentlemen, the first case that
4 has been called for trial is the State of South Carolina
5 versus Mark Anthony Hailey. Mr. Hailey, would you stand
6 for just a brief moment and face the jury panel, please.
7 And if you will just remove your mask, slip it down a
8 little bit.

9 (Whereupon, the Defendant stood for a brief moment.)

10 THE COURT: There you go, thank you. Very good, you
11 can have a seat. Ladies and gentlemen, Mr. Hailey has
12 been indicted with three criminal offenses. Now, before I
13 read the indictments to you, let me tell you right off the
14 bat, the fact that Mr. Hailey has been indicted with a
15 criminal offense is in no way, absolutely no way any proof
16 of any guilt on his part. The indictments contain
17 allegations and it is up to the State, it is their burden
18 of proof to prove beyond a reasonable doubt the
19 allegations contained in the indictment in support of the
20 various charges. So, again, you cannot use the
21 indictments against Mr. Hailey whatsoever. The
22 indictments basically serve two purposes. One, it puts
23 the Defendant, Mr. Hailey, and his attorneys on notice of
24 the charges, charge or charges that the State intends to
25 try Mr. Hailey on. And secondly, it is the document to

September 15, 2020

THE COURT: We're on the record. This morning we're just kind of following up a little bit with what we discussed yesterday before we broke. The body cam and in-car videos that the State has, the Defense has agreed to the admissibility of those -- of those videos which contain some statements of the Defense. Even though the Defense indicated they were not stipulating as to voluntariness and Miranda, the fact that you've agreed to the admissibility that would, therefore, indicate that there's no dispute or objection to the issue of voluntariness and the issue of Miranda. Anything else we need on the record before we bring the jury out for opening, Solicitor?

MR. BROWN: No, sir. I think that covers that. I have gone through on the body cams. I want to have those things redacted. Try to take out some of the dead period.

THE COURT: Right.

MR. BROWN: And I can go on and put that on the record now on those time stamps or I can do it in a little while.

THE COURT: Let's -- let's do it in a little while.

MR. BROWN: Okay.

THE COURT: And you may want to just -- during a break, just review what you've done with those videos with

1 the Defense just to make sure that they're -- they
2 understand what you've taken out.

3 MR. BROWN: Yes, sir. I'm going to give this to the
4 person that's going to do that.

5 THE COURT: Okay. And then the only other issue we
6 talked about, there's some pictures that we're going to
7 have to deal with. But we can't do it until the
8 pathologist comes, and I think you're going to go over
9 that. And then if you need any help from the Court then I
10 can assist there.

11 MR. BROWN: Yes, sir.

12 THE COURT: All right. Is the State ready for the
13 jury to come out?

14 MR. BROWN: Yes, sir.

15 THE COURT: Is the Defense ready for the jury to come
16 out?

17 MS. MCNEILL: Yes, sir.

18 THE COURT: Is that a yes, Ms. McNeill?

19 MS. MCNEILL: I said, yes sir.

20 THE COURT: Okay, thank you. Let's bring the jury
21 out, please.

22 (Whereupon, the jury came into open court at
23 approximately 10:22 a.m.)

24 THE COURT: Good morning, ladies and gentlemen.

25 THE JURY: Good morning.

1 THE COURT: Hope everyone is doing well and feeling
2 well and ready to get to work this morning. First item of
3 business, we need to have you sworn in as our trial jury.
4 Madam Clerk.

5 MADAM CLERK: If you would, please stand and raise
6 your right hand.

7 (WHEREUPON, the jury was sworn at 10:25 a.m.)

8 MADAM CLERK: Thank you. You may be seated.

9 THE COURT: Ladies and gentlemen, when we take our
10 first break of the morning, when you go back to the jury
11 room, I need for you to decide on who is going to be the
12 foreperson of your jury. If it is a male, we call him
13 foreman. Makes sense. If it is a female it is forelady.
14 Now, let me explain to you the role of the foreperson.
15 The vote of the foreperson carries no greater weight than
16 the vote of the other 11, but I need someone to serve as
17 spokesperson between the jury and the Court. If at any
18 time during the course of this trial something needs to be
19 brought to my attention, or when you begin your
20 deliberations if you have any questions that you need to
21 raise with the Court, then I need someone to be the
22 spokesperson to write out -- you have paper back there, or
23 you will have paper back there, to write out the question
24 or the issue and sign it and give it to the Bailiff in
25 order to give to me. Secondly, I need someone to make

1 sure that all of my instructions are being followed, even
2 though that's really everyone's responsibility. I need
3 someone just to make sure that everything's being followed
4 as -- as I have instructed. And thirdly, when you do get
5 the case to begin your deliberations, I need someone to
6 get the deliberations started and oversee the
7 deliberations and organize those deliberations. I'm
8 confident that all 14 of you will make good forepersons
9 but we only have one, so -- but I want you to decide on
10 who your foreperson is. The two alternates can -- you can
11 participate in that election process. Okay? So I want
12 you to do that when you go to the jury room for the first
13 break. And then when you decide, just write the name down
14 and give it to the Bailiffs so they can give it to me.
15 Okay? And again, you know, if you need to take a break
16 outside to get some fresh air, we'll allow that. Just
17 tell the Bailiffs that you need to do that. If during the
18 course of the trial you need a break and I haven't given a
19 break, just raise your hand and we can go ahead and break
20 then. Okay? Remember to keep -- either wear your masks,
21 or those who want to alternate with a shield be sure to do
22 that. Make sure you remain with the face covering in the
23 jury room, and even when you go to the restroom make sure
24 that you keep face covering on. Now, let me just make a
25 few preliminary remarks before the -- before the lawyers

1 make their opening arguments. It's very, very important
2 that you be attentive, be alert at all times, because when
3 you go back to the jury room to begin your deliberations
4 in order to reach a unanimous verdict you need to have a
5 good memory of what has been brought out. This is going
6 to be a lengthy trial, and even though you can't remember
7 -- or will not remember everything, collectively I want
8 you to have a real good memory. In order to have a real
9 good memory of what's been presented to you by way of
10 evidence and testimony, is for you to be attentive and be
11 alert. I don't allow note taking. Some Judges do. I
12 have found that when you are note taking sometimes jurors
13 pay more attention to the actual note taking than they are
14 listening to the witnesses testimony. Now, at night if
15 you want to go home and jot down a few notes that no one
16 sees and that your notes stay there just to kind of gather
17 your thoughts, that's fine. You just can't bring your
18 notes with you. You just can't allow anybody to see --
19 see those notes. So if you want to do that, that's
20 certainly an option. But during the course of the trial
21 you cannot take any notes. So you need to be attentive.
22 You need to be alert. What your role is as a jury in this
23 case, you are the sole judge of the facts in this case. I
24 can't tell you what the facts are, and the same law that
25 makes you the sole judge of the facts makes me the sole

1 Judge of the law. So I can't tell you what the facts are.
2 You can't tell me what the law is. That's your role in
3 this case. And in determining what the facts are in this
4 case the determination has to be based one-hundred percent
5 -- I think I touched on this yesterday, one-hundred
6 percent that is brought out in this courtroom by way of
7 witness testimony. There's going to be some exhibits.
8 The lawyers may stipulate or agree to certain things.
9 That's what you base your decision on, and you can't base
10 it on anything outside of this courtroom. That's why, as
11 I explained to you, that you can't do any independent
12 research into this case. You can't go on the internet, go
13 to social media and try to learn some things about this
14 case. Let me tell you a real life story of what happened.
15 We were trying a very serious case in Laurens about a year
16 and a half ago and I gave that jury the same instructions
17 that I'm giving you, and sadly enough three jurors went
18 contrary to my instructions and actually went on the
19 internet and obtained some information that was not
20 admissible information, and luckily I found out about it
21 before any sort of verdict was reached in the case, and
22 they -- they acted contrary to my instructions. And when
23 you disregard the instructions of the Court that is
24 contempt of Court and that's a very serious matter. So
25 don't do as those people did. Okay? After this case is

1 over with any research you want to do, have at it, but
2 just don't do it during the course of this -- of this
3 trial. And just keep in mind, ladies and gentlemen, and I
4 mentioned this yesterday, the burden is on the State of
5 South Carolina to prove this case to you. The Defendant
6 has no burden of proof whatsoever. It's up to the State
7 to prove this case to you beyond a reasonable of doubt.
8 And we'll explain all that in a lot more detail towards
9 the end of -- the end of this case. Now, there may be
10 times that I'll have to send you out to the jury room when
11 the lawyers have certain issues or legal matters that they
12 need to discuss with the Court. And one reason for
13 sending you out to the jury room is that I may have to
14 discuss the fact in the case with the lawyers in making a
15 ruling on whatever legal issue that they raise with me,
16 and I certainly don't want to discuss the facts in your
17 presence because, once again, ladies and gentlemen, you
18 are the sole judge of the facts in this case. All right?
19 Now, when you come back after that first break and have a
20 foreperson selected, that foreperson will sit in that
21 first seat right here where this gentleman is. Okay? The
22 two alternates, you'll maintain those same seats, and
23 everybody else you can sit where you like so long as you
24 sit in the designated seats. Let me explain the role of
25 the alternates. Your role is very important. It's not

1 unusual during the course of a trial, during the course of
2 a lengthy trial, that I may have to excuse one of the 12
3 because of an illness, an emergency at home, that sort of
4 thing. So I need someone who has sat through the trial up
5 to that point to fill those shoes of one of the 12. So
6 your role is very important. Certainly if I don't have to
7 excuse anybody, then you do not get to participate in the
8 deliberations even though you, again, get to participate
9 in the election of a foreperson. Now, the last comment I
10 want to make to you is you need to keep an open mind in
11 this case. Don't make any -- any quick judgments, any
12 quick decisions. Wait until all the evidence is in, the
13 lawyers have made their closing arguments to you and I've
14 instructed on the law at the end of this case. Keep an
15 open mind. Now, the lawyers are going to make their
16 opening arguments to you. It's not evidence what they
17 tell you. It's just what -- how they view this case and
18 what they may believe the evidence will -- will show you.
19 So give them your attention. Does the State have any
20 objections to the Court's preliminary remarks?

21 MR. BROWN: Not from the State.

22 THE COURT: And the Defense?

23 MS. MCNEILL: None from the Defense.

24 THE COURT: Okay. And let me just remind everybody
25 in wearing a mask, and it's very easy for the mask to slip

1 under the nose. I'm always having to pull mine up.
2 Everybody in the whole courtroom, including the jury, just
3 try to keep your mask over your nose as well. Okay? All
4 right. Is the State ready for opening?

5 MS. SUMNER: Yes, Your Honor. May it please the
6 Court?

7 THE COURT: Yes, ma'am.

8 MS. SUMNER: Ladies and gentlemen of the jury, good
9 morning. My name is Anna Sumner. As you heard yesterday,
10 I'm an Assistant Solicitor here in Greenwood County.
11 Sitting with me at counsel table, this is Mr. Yates Brown.
12 He's a Deputy Solicitor also here in Greenwood County. We
13 are prosecutors. We represent the State here in this case
14 here today. I want to thank you all for your jury
15 service. You heard the Judge say that yesterday. I'm a
16 believer in you don't say things like that too much. It
17 takes away from the genuineness of it. So you'll hear
18 that from me once, but I do want y'all to know that I
19 recognize that as we stand here in 2020 there are going to
20 be challenges both for the Court, as you all saw
21 yesterday, and for each of you individually for our
22 community. So I recognize that probably you being here is
23 creating some hardships at home. I recognize that. I
24 thank you for your time and your attention. Moving on,
25 why are we were? Why are we in this courtroom today? We

1 are here because Mark Hailey who is seated right over
2 here, he is charged with three criminal charges; murder,
3 carjacking, and possession of a weapon. So starting with
4 murder. What is murder in South Carolina? Murder is the
5 killing of any person with malice aforethought either
6 expressed or implied. Killing someone with malice. What
7 is malice? It's ill will. Showing hatred. Reckless
8 disregard for human life. Moving on to possession of a
9 weapon. During this murder, during this killing you're
10 going to hear that he had a shotgun. A 20-gauge shotgun
11 that he used to murder Marty George. Lastly, carjacking.
12 Carjacking is defined as if you take the motor vehicle
13 from another person by force, violence, and while that
14 person is in the vehicle or operating that vehicle.
15 Carjacking. What we commonly think of carjacking. So now
16 that we know what the three charges are we're here today
17 to prove, I'm going to walk you through a timeline. Give
18 you a base timeline so that you will be prepared to kind
19 of know where is the State going. What am I going to hear
20 next. The day of March 5th, 2019 Mr. Hailey over here
21 left his mother's house around 7:30, 8:00 o'clock, you're
22 going to hear early in the morning. His mother lives out
23 Booker Road. I am not familiar with that area. It is
24 down in the southern part of Greenwood County but going
25 towards Saluda. She lives down on Booker Road. So he

1 leaves that residence. The next time we catch up with him
2 that day is going to be around 4:00 o'clock. He's at the
3 Hardee's at Ninety Six around 4:00 p.m. His aunt works
4 there. She gets him a hamburger. He eats. She then
5 takes him from Ninety Six, the Hardee's in Ninety Six,
6 into Greenwood. She drops him off at a car lot. That's
7 around 4:30 to 5:30 in the afternoon here in Greenwood.
8 Mr. Marty George, who you're going to hear was murdered --
9 Marty George is someone who lives in or about downtown
10 Greenwood. He would give people rides. It was common
11 that that's kind of what he did to make a little side
12 money. He would give people rides. So he goes out, picks
13 up Mark Hailey, gives him a ride into town. Again, this
14 is -- we're getting into the 5:00 o'clock hour. So you
15 now have Mr. Mark Hailey has made his way from his mom's
16 on Booker Road into Ninety Six, gotten some food. We're
17 now in Greenwood. When he gets to Greenwood he's dropped
18 off by Marty George at a residence, an apartment here in
19 downtown where you're going to hear that some ladies were
20 there, particularly Stella Burton. Stella Burton is going
21 to tell you that she didn't know him. He came in and it
22 kind of threw her off. I don't know this guy. They
23 didn't want to leave him at that apartment. Again, they
24 don't know him, there's kids around, things of that
25 nature. So they take him with them to another residence

1 in Greenwood. There you're going to hear another name.
2 It's going to be a Joey Lawson. Joey Lawson, he lives at
3 this residence where Stella would come to do her laundry.
4 So from Stella and from Joey you're going to hear that
5 there was some drug use by Mark Hailey. You're later
6 going to hear that Marty George who was murdered, that
7 gave him that ride to connect with Stella and Joey, that
8 Marty George who is no longer with us, he also -- there's
9 drug use involved. We're not hiding that. So you're
10 going to hear about drug use by a lot of these witnesses.
11 We're putting that out there. We're not hiding that, but
12 I just want you to go ahead and know. You're going to
13 hear about drug use when they all get connected up in
14 Greenwood on the evening of March 5th. From there they go
15 back to where Marty George that gave him the ride where he
16 resides on Phoenix Street, he also resided there with his
17 fiance, a Joni Kitchens. You're going to hear from her.
18 She's going to tell you again that there was some drug use
19 going on, but that she becomes concerned that this
20 gentleman, Mark Hailey, is not acting right. He's just
21 off. And you're going to hear that from several people.
22 Now, that is where things turn dark. They're at this
23 residence. We are now midnight, 1:00 o'clock hour here on
24 Greenwood on Phoenix Street. And again, Marty George,
25 who's known around town if you need a ride, text him.

1 He'll pick you up. He'll take you. Marty George is going
2 to take Mark Hailey back home to Booker Road to where he
3 lives at his mama's house. When they leave the residence
4 on Phoenix Street they head out that way. The next thing
5 you're going to hear, and it's actually going to be the
6 first thing after opening statements, he gets home -- Mark
7 Hailey gets home. Marty George doesn't get home that
8 night. But what you're going to hear is the 911 call.
9 Mark Hailey gets home and his mama knows something has
10 gone wrong. Something very bad has happened. It didn't
11 happen on Booker Road, but it happened on Warner Road.
12 Again, it's an area I was not familiar with prior to this
13 case. Warner Road is a dark dirt road in the middle of
14 nowhere, quite frankly, surrounded by farmland. Very
15 desolate, very dark. And what you're going to begin to
16 hear unfold is that from the 911 call law enforcement
17 comes out there to his mama's house. They make contact
18 with Mark. And you're actually going to get to hear and
19 see this. You're going to get to watch the body cam
20 footage of law enforcement that responds that night. I
21 want you to pay close, close attention. You're going to
22 get to hear it. You're going to get to see it. Most
23 importantly, folks, I want you to pay close attention to
24 the demeanor and every word. It's pretty clear, but
25 there's some fast talking and there's some details that I

1 don't want you to miss from what Mark is telling law
2 enforcement out there that night. From there you're going
3 to see the dash cam. Law enforcement, after they get to
4 the mom's on Booker Road, unfortunately they realize
5 they're looking for a body. They're able to get enough
6 information to find out it sounds like it may be on Warner
7 Road. Law enforcement -- you're going to get to watch the
8 dash cam. They send a deputy over there. We think we're
9 looking for a body. You're going to get to watch that.
10 You're going to see where Mark Hailey murdered Marty
11 George and left his body. You're going to see it in a
12 ditch immediately beside the road in the dead of night.
13 Ladies and gentlemen, you all went through a grueling
14 process yesterday of getting selected on this jury.
15 There's no one better suited than the 14 of you to serve
16 on this jury here in Greenwood County. Again, I ask you
17 to pay close, close attention to every detail as you
18 analyze everything. You're perfectly suited for this.
19 Your life experience and your commonsense, don't leave
20 those at the door. That's why we want you here. So as
21 you go through and as you analyze every detail, pay close,
22 close attention. Judge Hocker, as he told you, he's the
23 Judge of the law. You all are going to decide the facts
24 at the end of this case. He will give you the law. He is
25 going to tell you that we must prove our case beyond a

1 reasonable doubt. It's the burden of the State. It's a
2 burden we welcome. Reasonable doubt doesn't mean beyond
3 every doubt. It does not mean beyond any doubt. It means
4 that you are firmly convinced that these three crimes
5 happened. You will have everything you need at the end of
6 this case to find Mark Hailey guilty of murder of Marty
7 George, of carjacking of Marty George's vehicle, and of
8 having that 20-gauge shotgun that he used to take his life
9 that night. Thank you for your attention.

10 THE COURT: Thank you, Solicitor. Ms. McNeill, you
11 ready?

12 MS. MCNEILL: Yes, sir. What would you do if a drug
13 dealer pointed a gun at you on this long dirt gravel road
14 that was just described to you? Let's go back to the date
15 of March 6th, 2019. The day that this all unfolded. Now,
16 earlier that day Mark Hailey, our client, woke up and
17 started collecting things to pawn. He and his mom the
18 night before had gotten into a bad argument. She was
19 going to cut his phone off, so he needed these items to
20 pawn to go get money to keep his phone on. Okay? So
21 because his mom and he had gotten into an argument he
22 really wanted to leave the house. Okay? Take a break
23 from her. Take a break from the house surroundings. So
24 he got his aunt to drive him to the Hardee's, as Ms.
25 Sumner stated, over in Ninety Six, and then afterwards to

1 a car dealership where she dropped him off. He was at
2 that car dealership in order to test drive a vehicle. But
3 that vehicle had problems with it, so he never got to do
4 that. And because he didn't have a phone that was working
5 he walked across the street to Nu-Way in order to make a
6 phone call for a ride to come pick him up from the car
7 dealership. That phone call was made to Marty George, the
8 deceased in this case. Marty George comes to that car
9 dealership and picks him up, and they go back to Mark
10 Hailey's house, my client, in order to collect the items
11 that he had gathered earlier that day to go and pawn, and
12 Marty was going to give Mark a ride to the pawn shop to go
13 pawn multiple items including a shotgun. So they go and
14 they pick this shotgun up. And Mark always has a shell
15 casing in the shotgun. So what he does is he opens that
16 gun, he removes the shotgun shell, closes the gun back up
17 so it's not loaded, and he puts that shotgun shell in the
18 center pocket of his hoodie that he's wearing. Now, this
19 is back in March and this was a cold day. So they get in
20 the car, and on the way to the pawn shop Marty gets a
21 phone call or a text or something saying that this girl
22 Stella, that Ms. Sumner mentioned to you, needs some
23 errands to be run for her. So what does Marty do? He
24 goes around and runs all these errands for this woman and
25 Mark's just kind of joyriding along with him waiting to

1 get to the pawn shop. By the time all these errands were
2 done and completed however the pawn shop had closed. So
3 what happens next is Marty gets another call. He has to
4 go to Abbeville to pick somebody else up, do a meth deal,
5 whatever. Mark doesn't want anything to do with going to
6 Abbeville for all this. So they drive back to Marty's
7 house where he lives with a girl named Joni who you will
8 hear from in this case. She is his girlfriend. They go
9 back to Marty and Joni's house and pick Joni up. And Mark
10 doesn't want them riding around with this shotgun, so he
11 leaves it at Marty and Joni's house. Okay? He doesn't
12 want to go to Abbeville with them, and I don't think they
13 want him to stay at his house, so what they do is they
14 drop Mark off to where Stella is staying with another
15 friend that Mark knows. Okay? I know this is kind of
16 confusing. I hope you all are following. So after
17 getting dropped off at this location where Stella and his
18 friend are, Marty and Joni go to Abbeville, they do their
19 meth deal, and then they eventually come back and pick
20 Mark back up. Okay? After picking Mark up they then go
21 to this other character's house who you will hear from
22 named Joey Lawson. They stay at Joey's Lawson's house for
23 a little while. You're going to hear testimony that there
24 was drug activity going on. All of these witnesses that
25 we've mentioned so far, you've got Joni, you've got

1 Stella, you have Joey Lawson, all of these people are
2 admitted meth users. Admitted drug addicts that the State
3 is going to put up. Okay? So after they leave Joey
4 Lawson's house Mark wants them to take him back home, but
5 first they've got to go back to Marty's house -- Marty and
6 Joni's house because, remember, Mark had left his shotgun
7 there, because he didn't want them driving all over to
8 Abbeville with that in the car. So they go back to Marty
9 and Joni's house. They retrieve the gun and Marty's other
10 -- I'm sorry, Mark's other things there. Mark goes
11 outside and he gets in the backseat of the car, of Joni's
12 car that Mark usually drives around, and he's waiting on
13 Joni and Marty to come out to the car so that they can
14 take him home back to Ninety Six. Turns out Joni ends up
15 staying behind. She -- it's late at this point. It's
16 like between 1:00 and 3:00 in the morning. So we're
17 talking late night. There's been drug activity. She's
18 tired. She doesn't want to get back in the car to drive
19 Mark all the way back home to Ninety Six. So Marty comes
20 outside and gets in the driver's seat of the car and Mark
21 is still sitting in the backseat. Mark asks Marty, do you
22 want me to sit in the front. He goes, no, just sit in the
23 back. They then leave Marty and Joni's house to take Mark
24 back to Ninety Six. Right? Remember, Joni stays behind.
25 At some point Joni texts Marty saying, I think that he's

1 stolen something out of my bathroom. Something along
2 those lines. Okay? So they're driving to Ninety Six to
3 Mark's house and Marty takes a wrong turn. An obvious
4 wrong turn down Warner Road. Warner Road, as Ms. Sumner
5 stated, is in the middle of nowhere surrounded by
6 farmland. It's in the middle of the woods. It's like
7 four miles long. It's a dirt and gravel road. It's not a
8 road that you can go fast on. You're going to hit a bunch
9 of potholes. The road kind of disappears in certain
10 areas. This is a four mile road down a long, long dark,
11 dark, street that Marty is taking Mark down. This street
12 also has been known for a lot of criminal activity. In
13 fact, there was three bodies found on this road, okay,
14 over time. Three bodies. And because Mark lives nearby
15 he's fully aware of this criminal activity that has gone
16 on down this road. It looks like a road one would hide a
17 body on. It looks like a road one would try to kill
18 someone on. Okay? This road is scary feeling at
19 nighttime, especially between 1:00 and 2:00 a.m. So that
20 text message that Marty received from Joni that was
21 accusing Mark of taking something out of the bathroom.
22 Okay? I think he's taking something out of our bathroom.
23 Check with him. Whatever she says, okay, which she will
24 testify to. Mark is in the backseat and he sees a
25 reflection of a gun in the windshield of the car.

1 Remember, he's in the backseat. Marty is driving the car.
2 Mark sees this reflection. He starts to panic. Marty's
3 unresponsive. He's not telling -- he's not responding to
4 anything that Mark is saying, hey, man. You went down the
5 wrong way. You need to turn around. You need to go back.
6 Okay? What is Mark doing? He's freaking out. What is
7 Marty doing? Driving along this four mile dirt road where
8 there's six houses about, a half a dozen houses on this
9 road and you don't see them until after driving for about
10 three and a half miles. That's how far out this is. So
11 Mark's in the backseat. Sees the reflection of the gun.
12 What does he do? He takes that shell casing, remember,
13 that he had earlier out of his center pocket of his hoodie
14 and he pops it back into the gun and he's waiting because
15 he is freaking out. He sees this other gun. Marty pulls
16 over the car and turns around with his gun in his hand and
17 starts badgering Mark, what did you take out of Joni's
18 bathroom? What did you take? Mark defends himself. What
19 would you do if a drug dealer was pointing a gun at you
20 down a long dark dirt road where you know there's other
21 bodies that have been found. You know there's criminal
22 activity that has been going on down that road. So Mark
23 defends himself. What does he do next? He panics. He
24 goes around to the car. He pulls Marty out of the
25 driver's seat and he gets in the car and he goes to the

1 closest place that he knows which is his house. Now, he
2 goes to his house and he immediately tells his mother what
3 happened, except for he can't tell her very clearly what
4 happened. He is in shock. Absolute shock. He has just
5 been in this awful trauma. So yes, Ms. Sumner asked you
6 to watch the video closely. And I am asking you the same.
7 Watch the video closely of when the cops arrive to Mark
8 and his mom's house. You will be able to witness a man
9 who has just defended himself and who is in a complete and
10 utter state of despair, a complete and utter state of
11 shock, and complete and utter state of pure grief over
12 this whole situation. That is what you are going to see
13 this man acting like. Now, the State is going to say, I
14 am assuming, that Mark was either high on drugs when he
15 did this -- that's why she said watch the video. This is
16 not the actions of a normal man or whatever. They're
17 going to say he was high on drugs. They're going to say
18 either that or he was mentally deranged. Okay? No,
19 neither one of those. You will see from his body
20 language. You will see from the things that he says. You
21 will hear the cops talk about how distraught he was. You
22 will hear all that. Those are not the actions of someone
23 who maliciously murders in cold blood another man. Those
24 are the actions of a man who has just defended his life
25 against a drug dealer pointing a gun at him down this dark

1 path road. A person that kills somebody in cold blood
2 maliciously doesn't run home and tell their momma, who
3 then calls the police, who then arrive on scene. Mark
4 didn't try to hide. Mark sat there with his Bible crying
5 hysterically, but being cooperative to law enforcement
6 telling them everything. That's not the man -- the
7 actions of a man who maliciously murders somebody. And
8 mom did know something bad had happened when her son came
9 home that distraught. She knew, because even these are
10 the actions that she's unfamiliar with. You know, you're
11 going to hear testimony from some of these drug users that
12 say that Mark was acting kind of off. Mark was acting
13 strange. Mark was acting weird. The thing is, they
14 didn't know him. They just met him that day. You're
15 going to hear testimony of that. People are different.
16 That doesn't mean that different, you know, rises to the
17 level of bizarre intoxication behavior. They were all
18 intoxicated. All of these people that you are going to
19 hear testify were intoxicated. And I want you to
20 understand Mark, in that video, he's not irritable. He is
21 upset. And his story told on that very day, which you
22 will hear in the video, remains consistent to this date.
23 And we ask that you really pay attention to all of that.
24 Pay attention to the credibility of the witnesses that
25 will testify before you and you will see that this was not

1 a malicious killing. Keep in mind also that the State
2 bears the burden of disproving self-defense. And I didn't
3 hear one thing in opening about a motive for the killing,
4 and I didn't hear anything about self-defense and that
5 burden lays on them. They have to disprove self-defense,
6 and you should find him not guilty. Thank you.

7 THE COURT: Thank you, Ms. McNeill. Is the State
8 ready to call it's first witness?

9 MS. SUMNER: The State calls Sharon Belcher.

10 SHARON BELCHER, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. Sumner:

14 Q Good morning, could you give us your name for the
15 record?

16 A Sharon Belcher.

17 Q And where are you employed?

18 A Greenwood County 911.

19 Q And how long have you been with 911?

20 A Twenty-four years.

21 Q And what is your role and title?

22 A Assistant director and training coordinator.

23 Q Are part of your duties ensuring that all of the 911
24 calls are stored properly?

25 A Yes.

1 Q And can you explain to the jury how those are stored?

2 A They're stored digitally. We use a software,
3 MediaWorks, and they're housed on the server in-house.

4 Q And was there a 911 call made in the case we're here
5 about today?

6 A Yes, ma'am.

7 Q And what was the incident location?

8 A [REDACTED] Booker Road, Ninety Six.

9 Q What time was that call made?

10 A The call was made at 3:26 in the morning.

11 Q So that's 3:26 a.m.?

12 A A.m., yes.

13 Q And what is the date of that call?

14 A It's dated March the 6th, 2019.

15 Q Okay. And just to make sure we're on the same page,
16 that's at 3:26 a.m. on March 6th, 2019?

17 A Yes, ma'am.

18 Q Now, was law enforcement dispatched as a result of
19 that call?

20 A Yes, ma'am. They were dispatched at 3:28 a.m.

21 Q And about what time did they arrive on scene?

22 A They arrived on scene at 3:45 a.m. I'm sorry. Yes,
23 3:45.

24 Q Now, was this one call that you have documented, is
25 this the only call made about this case we're here about

1 today?

2 A Yes, ma'am.

3 Q Are you aware of Mark Hailey making a call to 911 in
4 the early morning hours of March 6th, 2019?

5 A Not that I'm aware.

6 Q Now, the call that was made on 3:26 a.m., have you
7 had a chance to review that call?

8 A Yes, ma'am.

9 Q And is that call true and accurate to the best of
10 your knowledge?

11 A Yes, ma'am.

12 Q Has it been altered in any way?

13 A No, ma'am.

14 Q So it has been stored properly through the system
15 that you all use down in 911?

16 A Yes, ma'am.

17 MS. SUMNER: Your Honor, permission to approach the
18 witness?

19 THE COURT: Certainly.

20 Q Ms. Belcher, I am handing you what's been marked as
21 State's Exhibit 149. Can you tell me what that is?

22 A It's a recording on a DVD of a 911 call.

23 Q And is that the recording that you reviewed prior to
24 testifying here today?

25 A Yes, ma'am.

1 Q And have you, in fact, initialed and dated that, that
2 you have reviewed it for accuracy?

3 A Yes, ma'am.

4 MS. SUMNER: Your Honor, at this time the State would
5 move Exhibit No. 149 into evidence and ask for permission
6 to publish.

7 THE COURT: Okay. What says the Defense?

8 MR. SHAFFER: No objection.

9 THE COURT: All right. Without objection 149 is into
10 evidence for the State.

11 (Whereupon, State's Exhibit No. 149 was admitted into
12 evidence.)

13 THE COURT: About how long is the call, Solicitor?

14 MS. SUMNER: I believe it's about 15 minutes, Your
15 Honor.

16 THE COURT: Okay.

17 MS. SUMNER: Twenty. Excuse me, twenty. A little
18 longer.

19 THE COURT: Okay, that's fine.

20 (Whereupon, State's Exhibit No. 149 was published to
21 the jury starting at 11:04 a.m, ending at 11:25 a.m.)

22 MS. SUMNER: Ms. Belcher, thank you for your time.
23 Please answer any questions Defense counsel has for you.
24 Okay?

25 THE COURT: Any cross-examination?

CROSS-EXAMINATION

1

2 By Mr. Shaffer:

3 Q Hi, Ms. Belcher, how are you doing today?

4 A I'm great.

5 Q Tell us a little bit about your job there at the
6 communications center?

7 A As far as my title or just the job in general?

8 Q Yeah, the job in general.

9 A We are there to take and receive calls from the
10 public as well as the officers. We dispatch officers to
11 the scene, assist them with whatever they need, answer
12 emergency and non-emergency calls.13 Q Do you all only handle the county, or do you do like
14 the Sheriff's Office, or do you do other agencies?15 A We dispatch for Greenwood City, Greenwood County,
16 Wareshoals and Ninety Six.

17 Q Okay. And you also do EMS; right?

18 A Yes, sir.

19 Q Fire, too?

20 A And fire. Yes, sir.

21 Q Okay. And whenever you do a -- get a call, or do a
22 dispatch, you do what's called a CAD report; right?

23 A Yes, sir.

24 Q Tell us about what a CAD report is.

25 A Anytime anyone calls in, whether it be on the

1 non-emergency line or emergency line, we create a CAD in
2 the system, and basically what we do is we document the
3 incident location and the -- we get the caller's name, any
4 other pertinent information that they are giving us. And
5 we just document it in the CAD and we dispatch it out to
6 the appropriate agency.

7 Q And you all keep those, I guess, in the ordinary
8 course of business; right?

9 A Yes, sir.

10 Q How long do you all keep them for?

11 A The 911 report, State law requires that we keep them
12 for 60 days; however, we do keep them for 90 days in our
13 center. And the CAD reports, they are there for as long
14 as we have the system.

15 Q Okay.

16 A So they can go back several years.

17 Q How many years back are they currently?

18 A A minimum of 10. We've had an update that was
19 installed a couple of years ago and I do believe that
20 Officer Love has access to it.

21 Q So you can -- you can go back -- Officer Love, is he
22 like the IT guy?

23 A Yes.

24 Q And he works for the Sheriff's Office but he also
25 helps you all out; right?

1 A Yes, sir.

2 MR. SHAFFER: Your Honor, I'd like this marked.

3 (Whereupon, Defendant's Exhibit No. 1 was marked for
4 identification purposes.)

5 Q I'm showing you Defendant's Exhibit 1. Does that
6 appear to be the CAD report for this case?

7 A Yes, sir; it does.

8 MR. SHAFFER: At this time I'd move that into
9 evidence, Your Honor.

10 THE COURT: What says the State?

11 MS. SUMNER: No objection from the State, Your Honor.

12 THE COURT: All right. Without objection No. 1 into
13 evidence for the Defense.

14 (Whereupon, Defendant's Exhibit No. 1 was admitted
15 into evidence.)

16 Q Now, that has some fairly useful information. You
17 know what officers responded; right?

18 A Yes.

19 Q And you know whether or not EMS responded in this
20 case; correct?

21 A Yes, sir.

22 Q And you basically get sort of a rundown of what
23 happened, at least a summary; correct?

24 A Yes, sir.

25 Q And that's how normal CAD reports look; right?

1 A Yes, sir.

2 Q And if the Sheriff's Office or the prosecutor's
3 office needed a CAD report what they'd do is ask you all
4 for one; right?

5 A Yes, sir.

6 Q And that happened in this case; right?

7 A Yes, sir.

8 Q And in about -- I think about five days after they
9 asked for it they got it; right?

10 A I'm not sure of the date, the timeframe, but --

11 Q And the first page sort of says that. But it's
12 pretty quick; right?

13 A Yes, sir. Normally is.

14 Q Now I'm going to talk about a little bit of a
15 different subject. They say Booker Road -- I think they
16 said it was at the end of Booker Road.

17 A Uh-huh.

18 Q You're not familiar with Booker Road, are you?

19 A Just the fact that it's on the southern end of the
20 county off 246, in that area.

21 Q Okay. But you wouldn't know whether or not anyone
22 other than Mark's family lives on Booker Road; right?

23 A No, sir.

24 Q But it dead ends somewhere; right?

25 A Yes, sir.

1 Q And it dead ended at this house basically; correct,
2 accordingly to the lady on the phone?

3 A Yes, sir.

4 MR. SHAFFER: No further questions.

5 THE COURT: Anything on redirect?

6 MS. SUMNER: Just briefly, Your Honor.

7 THE COURT: Okay.

8 REDIRECT EXAMINATION

9 By Ms. Sumner:

10 Q Ms. Belcher, the CAD detail, is that a transcript of
11 everything said on the call?

12 A Not everything. We try and document everything as we
13 go along, but it just depends on what all was going on at
14 the time, but for the most part we try to document --

15 Q It's just -- is it just a summary of what the
16 dispatcher's getting down?

17 A Yes. Yes, ma'am.

18 MS. SUMNER: Thank you, ma'am.

19 THE COURT: Anything on recross?

20 MR. SHAFFER: No, Your Honor.

21 THE COURT: Okay. You can step down, ma'am. Thank
22 you.

23 (Whereupon, the witness stepped down from the witness
24 stand.)

25 THE COURT: All right. Let's take a short morning

1 break. Ladies and gentlemen, I'll remind you of a couple
2 of things. One, you need to elect a foreperson of the
3 jury. And secondly, as I mentioned to you yesterday,
4 Judge Joe Smithdeal, who's our resident Family Court
5 Judge, is in his office which is right next to the family
6 courtroom which you're using as the jury room. So just
7 don't speak up real loud. We don't want to bother him or
8 inconvenience him any. Okay? No discussion among
9 yourselves about this case, and we'll get you back out
10 here shortly. Okay?

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: All right. We'll be in recess about 10
14 minutes.

15 (Whereupon, a short break was taken.)

16 THE COURT: Let's bring the jury in.

17 (Whereupon, the jury came into open court at
18 approximately 11:45 a.m.)

19 THE COURT: Okay. The jury's back in and for the
20 record Marcus Lee is the duly elected foreperson of the
21 jury. Is the State ready to call it's next witness?

22 MR. BROWN: Yes, Your Honor. The State calls Loretta
23 Hailey.

24 THE COURT: Okay. Come around, please, ma'am.

25 LORETTA HAILEY, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Brown:

4 Q Good morning, Ms. Hailey.

5 A Good morning.

6 Q Could you please state your name and spell your name
7 for the record?

8 A Loretta Hailey, L-O-R-E-T-T-A, H-A-I-L-E-Y.

9 Q Thank you. Ms. Hailey, where do you live?

10 A [REDACTED] Booker Road in Ninety Six, South Carolina.

11 Q Is that here in Greenwood County?

12 A Yes, sir.

13 Q Ma'am, who is this gentleman sitting here?

14 A That's my son.

15 Q And what's his name?

16 A Mark Anthony Hailey, Jr.

17 Q And what did you call him most of the time?

18 A Andy.

19 Q Okay. Is that what he -- a lot of people called him
20 was Andy?

21 A That's his nickname from birth.

22 Q And how old is Andy?

23 A He's 34.

24 Q Thirty-four. Ms. Hailey, I know this is a difficult
25 topic we're here on and you're in a difficult position. I

1 want to go through with you just what happened on March
2 5th and March 6th. So, Ms. Hailey, did Andy live in the
3 house with you down at [REDACTED] Booker Road?

4 A Yes, sir.

5 Q On March 5th, 2019 do you remember when Andy left
6 your house?

7 A I think it was around about 7:30 that morning.
8 That's when I heard the door close.

9 Q Heard the door close. Did you see him at the house
10 when you got up?

11 A (Nonverbal response.)

12 Q Is that a no?

13 A No. I'm sorry.

14 Q Ms. Hailey, it was mentioned earlier during opening
15 statements that you and Andy had an argument before that
16 morning. Can you tell me what that argument was about?

17 A Yes. I had told him to do some things that he didn't
18 do. You know, natural mother/son.

19 Q Yes, ma'am. And how did that argument go?

20 A Just, you know, chitchatting back and forth.

21 Q That morning did Mark have -- or Andy have pretty
22 much all of his things in your house?

23 A Yes. He lived there.

24 Q I want to show you -- show you an item that was found
25 in a car on March 6th. Okay? Now, did Andy have a

1 shotgun?

2 A Yes, sir.

3 Q Do you know what gauge it was?

4 A I don't know.

5 MR. BROWN: Judge, would you rather mark the gun or
6 the box for ID?

7 THE COURT: You say you want to mark --

8 MR. BROWN: Yes, sir.

9 THE COURT: -- the box where the gun is in?

10 MR. BROWN: Yes, sir.

11 THE COURT: Okay, all right. Do you have a trigger
12 lock on that?

13 MR. BROWN: Judge, there's actually no trigger lock
14 on this gun. It is a shotgun and I can't reach the
15 barrel.

16 THE COURT: The Clerk indicates she's got -- she's
17 got a trigger lock.

18 MR. BROWN: I'll come back to that.

19 THE COURT: All right. That will be good.

20 MADAM COURT REPORT: Just mark this as ID right now?
21 So that will be 151.

22 THE COURT: All right. The gun is being marked 151
23 for ID. Okay.

24 (Whereupon, State's Exhibit No. 151 was marked for
25 identification purposes only.)

1 Q Ms. Hailey, you mentioned Andy did have a shotgun in
2 his possession?

3 A Yes. It was in the house.

4 Q Say that last thing?

5 A It was in the house.

6 Q In the house. That morning when he left did you know
7 what he took with him?

8 THE COURT: Hold a second, Solicitor. I've got Mr.
9 Shaffer standing.

10 MR. SHAFFER: Can we approach real quick?

11 THE COURT: Sure.

12 (Whereupon, a bench conference was held in the
13 presence of the jury but out of the hearing of the
14 jury.)

15 THE COURT: Do you want to just keep -- keep it open
16 at all times. But we may want to consider locating a
17 trigger lock for that type of gun, you know, before the
18 end of the case.

19 MR. BROWN: Yes, sir.

20 THE COURT: Okay.

21 Q Ms. Hailey, when you left that morning did you see
22 what he took with him?

23 A No, sir.

24 Q I want to show you what's been marked for ID purposes
25 as State's 151. Do you recognize that?

1 A Yes, sir.

2 Q You do?

3 A Yes, sir.

4 Q Is that Mr. Hailey's shotgun?

5 A It looks like it.

6 Q Your son, Andy?

7 A I would say so.

8 Q Yes, ma'am. When was the last time you saw that
9 shotgun?

10 A That afternoon in his room.

11 Q On March 5th?

12 A Yes, sir.

13 Q Okay. And then on March 6th do you remember seeing
14 that shotgun?

15 A In the car.

16 Q In the car. Ms. Hailey, when Andy -- did you see
17 Andy anymore on March 5th after 7:30 in the morning?

18 A No, sir.

19 Q So you don't know when he came back and got that
20 shotgun?

21 A The gun, yes, I remember -- it had to be in the
22 timeframe -- I noticed it missing that afternoon after I
23 picked up my granddaughter.

24 Q Where did he usually keep it?

25 A In his room.

1 Q In his room. Ms. Hailey, when did you next see Andy
2 after that --

3 A That morning.

4 Q On March 6th?

5 A Yes, sir.

6 Q Do you remember what time?

7 A Around 3:00 in the morning.

8 Q When he came into your house how was he acting?

9 A Strange.

10 Q He was acting strange?

11 A Yeah, he was crying.

12 Q Did Andy have a car that he drove?

13 A No, sir.

14 Q Was there an incident with the car earlier?

15 A Well, he -- the motor had locked down in the other
16 car I was letting him use. That was weeks before.

17 Q So he had no other transportation?

18 A No, sir.

19 Q When he came in the house around 3:00 a.m. you say he
20 was acting strange?

21 A (Nonverbal response.)

22 Q Is that a yes?

23 A Yes, sir. I'm sorry.

24 Q No, that's fine. I know it's -- sometimes it's not
25 natural just to respond every time. If you forget I'll

1 ask you. Okay? How long was Andy there in your house
2 before you called 911?

3 A Maybe 15 minutes.

4 Q And he was acting so strange, needed to call 911?

5 A Well, he said he had done something. It was an
6 accident. He had shot somebody.

7 Q At that time -- did he tell you who?

8 A No, sir.

9 Q Where did the name Josh Boyd come from?

10 A It's one of his school friends that has a car just
11 like that, that I took assumption.

12 Q And it obviously was not Josh Boyd?

13 A No, sir.

14 Q While you were on 911 did Andy correct you --

15 A No, sir.

16 Q -- ever about who Josh Boyd was, that it wasn't Josh?

17 A Huh-uh.

18 Q That was later on; is that correct?

19 A (Nonverbal response.)

20 MADAM COURT REPORTER: Is that a yes? Did she say
21 yes?

22 MR. BROWN: Yes, that he -- that was later on.

23 Q Ms. Hailey, you were in here while we played the 911
24 call; is that correct?

25 A Yes, sir.

1 Q When you were on the phone with 911 did you think Mr.
2 Hailey was on some type of drugs?

3 A I didn't know what was going on. He ain't never
4 acted like that before.

5 Q Did you -- when the question was asked, do you think
6 he's on something. What was your answer?

7 A When did they ask me that?

8 THE COURT: You need to speak up, ma'am.

9 A When did they ask me that?

10 Q About three minutes into the call.

11 A Three minutes into the call?

12 Q Yes, ma'am.

13 A They asked me was he on -- was he on anything? I
14 didn't -- I don't -- I don't remember saying -- I don't
15 think -- I think I said I don't know. I couldn't -- I
16 couldn't say.

17 Q Okay. Do you dispute that they asked you questions,
18 do you think he's on something?

19 A No.

20 Q Okay. And if your answer was, yes ma'am. Do you
21 dispute that? That you told them you believed he was on
22 some type of drugs?

23 A I don't remember even saying that.

24 Q If it was on the 911 call do you dispute that though?

25 A If it's on there I'm not going to dispute it.

1 Q Okay. Also was Andy saying things that were real
2 strange?

3 A Yes, sir.

4 Q Do you remember him saying something about three
5 dots?

6 A Yes, sir.

7 Q Did you think he was hallucinating?

8 A I have no idea.

9 Q Do you remember saying that to the 911 --

10 A Yes, I remember saying it.

11 Q After the 911 call did an officer arrive at your
12 house?

13 A Yes, sir.

14 Q An Officer Bonetti?

15 A Yes, sir.

16 Q Once the officer arrived where -- or when the officer
17 arrived where was Andy standing?

18 A In the kitchen.

19 Q What was he doing?

20 A Standing there holding his Bible.

21 Q What color was that Bible?

22 A It's green.

23 Q Is it like a green Gideons Bible?

24 A Yes, sir.

25 Q Once an officer arrived did Andy move from the

1 kitchen to another location in the house?

2 A No, sir. He only moved when the officer told him.

3 Q But did he ultimately end up on the couch?

4 A Yes, sir.

5 Q Did Andy say some other things while sitting on the
6 couch? Do you remember what Andy said that night on the
7 couch?

8 A I think that's when he told them where it was.

9 Q That it was out on Warner Road?

10 A On Warner Road. Yes, sir.

11 Q Did Andy also say -- correct you on Josh Boyd and
12 tell the name?

13 A Yes.

14 Q Who did he say?

15 A He just said Marty.

16 Q And that Marty was on Warner Road?

17 A Yes.

18 Q Ms. Hailey, how long have you lived down on Booker
19 Road?

20 A Since 1998.

21 Q And Booker Road is off of Highway 246; correct?

22 A Yes, sir.

23 Q Is it -- does 246 connect 178 to the town of Ninety
24 Six; is that correct?

25 A 246 goes straight to Ninety Six.

1 Q Goes straight to Ninety Six. And Booker Road is off
2 of that?

3 A Yes, sir.

4 Q Where is Tillman Territory Road?

5 A Tillman Territory would be the next road up from
6 Booker Road going toward Ninety Six and it crosses 246.
7 It would be the next intersection.

8 Q Yes, ma'am. Does Tillman Territory Road, does it
9 take you back towards Greenwood?

10 A Yes, sir.

11 Q Where is Warner Road?

12 A Warner Road turns off of Tillman Territory Road. It
13 comes out onto --

14 Q Brooks Road?

15 A Yeah, Brooks Road. That's it.

16 Q Is Warner Road very far from Booker Road?

17 A No, sir.

18 Q Is it a well traveled road?

19 A Which road?

20 Q Warner Road?

21 A Not to my knowledge it's not.

22 Q Do you go down that road very often?

23 A No, sir.

24 Q Are you familiar with that road? Are you familiar
25 with --

1 A I've heard things about that road.

2 Q Okay. Is that a road you travel down much?

3 A What, Warner Road?

4 Q Yes, ma'am.

5 A No, sir.

6 Q How long had Andy lived with you down on Booker Road?

7 A His whole life.

8 Q And how old is he?

9 A He moved away for probably six years and came back.

10 Q Had you ever traveled down Warner Road with Andy
11 before?

12 A No, sir.

13 Q Now, once the officer got there and Andy was on the
14 couch you mentioned he said Marty? He said Marty's name?

15 A (Nonverbal response.)

16 Q He said Warner Road?

17 THE COURT: You need to verbally respond.

18 A Oh, yes, sir. I'm sorry. I'm thinking I'm talking
19 to you. I'm sorry.

20 Q Yes, ma'am. That's fine. Did Marty (sic) say
21 anything else while sitting on the couch about seeing
22 symbols or signs?

23 A I remember him saying something about, you know,
24 black and green.

25 Q Did he ever mention anything about a voice telling

1 him to go to that spot the day before?

2 A No, sir.

3 Q You don't remember that?

4 A No, sir.

5 Q And that the voice was, I never heard a voice sound
6 like -- or a sound like that in my life?

7 A No, sir.

8 Q You don't remember that?

9 A I mean, I was in the room at that time, I was
10 walking.

11 Q Also while officers were there do you remember
12 telling them that he was paranoid and he thought you were
13 out to get him?

14 A He would say that sometimes. That's, get on my
15 nerves.

16 Q In fact, on March 5th, that afternoon, did he say
17 something that got on your nerves which resulted in you
18 canceling his phone?

19 A Yes.

20 Q What did he say?

21 A He told me that -- he had told my sister that, you
22 know, I didn't like her and all that kind of stuff, you
23 know. I'm like, you can't go around telling people, you
24 know, stuff like, you know -- you know, getting brownie
25 points or whatever.

1 Q Did he say anything about you putting roots on him?

2 A This is the part, you know -- the first time I heard
3 about this -- this root stuff. I've never heard him say
4 anything about roots until now.

5 Q Until when? Until today?

6 A Yeah.

7 Q You don't remember saying that to law enforcement
8 that night outside?

9 A I said that to law enforcement?

10 Q We're going to play that video.

11 A Okay, play it back. There's a lot of things I just
12 don't remember.

13 Q Ms. Hailey, before coming into the courtroom today
14 did you have the opportunity to watch the body cam of the
15 officers?

16 A Yes, sir.

17 Q You did? If it's on that body cam do you dispute
18 that as on the body cam?

19 A If it's on there I don't dispute it.

20 Q Okay. And if it's on that body cam do you dispute
21 what you told them that night as the truth?

22 A Yes, sir.

23 Q You do dispute it or you don't dispute it?

24 A I don't dispute it.

25 Q Okay. So everything you told law enforcement that

1 night you would say is the truth?

2 A Yes, sir.

3 Q Ms. Hailey, do you remember what Andy's telephone
4 number was on the number you cut off?

5 A Not offhand.

6 Q If I read you a number would you think you'd
7 recognize it?

8 A I hope so.

9 Q [REDACTED]?

10 A That sounds right.

11 Q Sounds like his number? Ms. Hailey, the night
12 officers were out there they were -- were they trying to
13 figure out what was going on --

14 A Yes, sir.

15 Q -- with Andy?

16 A Yes.

17 Q And figuring out whose car this was?

18 A Yes, sir.

19 Q Were they trying to figure out if there was actually
20 somebody up on Warner Road?

21 A Yes, sir.

22 Q Were they asking you a lot of questions to try to
23 fill those gaps?

24 A They asked questions about did I know where Warner --
25 I knew where it was.

1 Q Okay. They asked -- I think the question was asked
2 if Andy had any mental health history. Do you remember
3 that?

4 A Yes, sir. I remember.

5 Q Do you remember what you told them?

6 A Not to my knowledge.

7 Q If it was on a body cam do you dispute what you told
8 them?

9 A No, sir.

10 Q And what you told them that night, you were telling
11 them the truth?

12 A Yes, sir.

13 Q Ms. Hailey, if you were in Greenwood how would you
14 normally drive to your house on Booker Road?

15 A It all depends. I have several ways to get back
16 home. Sometimes I take Tillman Territory. That's the
17 shortest, or I go up 34 and turn down on 246. I go up 25
18 and turn on Brooks Road.

19 Q Did any of those routes take you down Warner Road?

20 A The one -- Tillman Territory and Brooks Road can take
21 you down Warner Road.

22 Q Is that a route you normally took?

23 A No.

24 Q But you are familiar with it?

25 A Yes.

1 Q Had you ever met Marty George before?

2 A No, sir.

3 Q You don't know him from Adam, do you?

4 A No, sir.

5 Q Ms. Hailey, did Andy have issues with drug use?

6 A In the past.

7 Q When was that?

8 A Probably about five or six years ago.

9 Q Do you remember telling law enforcement about his
10 drug use?

11 A Yes, sir.

12 Q Out there that night?

13 A Yes, sir.

14 Q Do you remember telling them what you thought that
15 night about drug use?

16 A Yeah, how I felt about, you know, not able to get any
17 help, you know.

18 Q Yes, ma'am.

19 A I remember saying that.

20 Q Do you also remember telling officers you believed he
21 was on drugs?

22 A I did not say that.

23 Q You didn't say that?

24 A No, sir.

25 Q If it was on a body cam, would you dispute what's on

1 body cam?

2 A If it's on body cam I don't dispute it.

3 Q Ms. Hailey, that night did Mark ever say he was
4 defending himself?

5 A He said it was an accident.

6 Q Or a mistake?

7 A Yes.

8 Q He never said anything about self-defense?

9 A No, sir.

10 Q Do you remember him saying something that energy was
11 out of his mind. I hurt him?

12 A Could you say that again, please.

13 Q Do you remember Andy saying on the couch, energy was
14 out of my mind. I hurt him.

15 A I don't remember hearing that part.

16 Q Or hallucinations I couldn't reckon with it?

17 A No, sir. I don't remember.

18 Q Or, what I heard yesterday took me right over to that
19 spot.

20 A I don't remember hearing that.

21 Q I never heard nothing in my life that sounded like
22 that. You don't remember that?

23 A I don't.

24 Q Do you remember him getting a little agitated with
25 you while sitting on the couch?

1 A Yes. When I asked him a question about why were you
2 down on Warner Road.

3 Q Do you remember what you asked him?

4 A I said, were you all out there doing drugs because of
5 the situation on that road.

6 Q Yes, ma'am.

7 A You know.

8 Q Do you know if Andy was on any type of medically
9 prescribed medication?

10 A No, sir.

11 Q He was not? Had he ever been diagnosed with any type
12 of medical condition?

13 A No, sir.

14 Q When Andy was not on drugs did he act like he did
15 that night?

16 A No, sir.

17 Q Would you say Andy was a different person when on
18 drugs?

19 A He would just be off to himself.

20 MR. BROWN: Beg the Court's indulgence.

21 THE COURT: Sure. Take your time.

22 MR. BROWN: Just a few more questions, Ms. Hailey.

23 THE COURT: Sure.

24 Q Ms. Hailey, you mentioned that the shotgun, the gun I
25 showed you and you identified --

1 A Yes, sir.

2 Q Where was that gun located that night -- that early
3 morning on March 6th? Where did you see that gun?

4 A In the car.

5 Q And where was that car parked?

6 A It was parked a little ways up from my driveway.

7 Q And how was it parked?

8 A It was parked facing the road.

9 Q Backed in?

10 A There's a circle there.

11 Q All right. But it was a little farther up --

12 A Yes.

13 Q -- from your house? Was it between two trees?

14 A Yes, sir.

15 Q And that is where you saw that shotgun?

16 A Yes, sir.

17 Q Where in the car was that shotgun?

18 A In the back.

19 Q It was in the backseat?

20 A Yes.

21 Q Are you sure about that?

22 A I'm pretty sure.

23 Q If law enforcement found it in the front seat would
24 you dispute that?

25 A If they found it, then no, sir.

1 Q Well, let me ask you this. Did you move that
2 shotgun?

3 A No. No, sir.

4 Q Did you move anything in that car?

5 A No, sir.

6 Q So when you saw it -- if it was -- if law enforcement
7 found it in the front seat you wouldn't dispute that?

8 A No.

9 Q And you didn't move it?

10 A No, sir.

11 MR. BROWN: No further questions of Ms. Hailey.

12 THE COURT: Cross-examination?

13 MR. SHAFFER: Yes, Your Honor. Can we approach?

14 THE COURT: Sure.

15 (Whereupon, a bench conference was held in the
16 presence of the jury but out of the hearing of the
17 jury.)

18 THE COURT: Ladies and gentlemen, after talking with
19 the lawyers, it appears that we probably need to go ahead
20 and take our lunch break now. If you were to go to a
21 local restaurant to eat lunch, if you don't mind, leave
22 your juror button visible. And the only reason for that
23 is that there may be some people in that same restaurant
24 that's in this courtroom and may not recognize you being
25 on the jury and I would not want them talking about the

1 case and you overhear something. So if they see the juror
2 button then they'll know not to talk too loud. All right.
3 So keep that visible if you were to go to a local
4 restaurant. Again, no discussion among yourselves or
5 anybody that you come into contact with. And I want to
6 start back at 1:45. So that will be an hour and a half
7 for lunch. And be -- be as prompt as you possibly can be
8 to get back here on time so we can start back. Okay?
9 Have a good lunch.

10 (Whereupon, the jury was excused from open court for
11 a lunch break.)

12 THE COURT: Okay. We'll be in recess until 1:45.
13 Ms. Hailey, you cannot talk with anybody about your
14 testimony over the lunch break. Okay? 1:45. Everybody
15 have a good lunch.

16 (Whereupon, a lunch break was taken.)

17 THE COURT: All right. Are we ready for the jury?

18 MS. SUMNER: Your Honor, we have one issue we want to
19 put on the record before the jury comes in.

20 THE COURT: Okay. All right, Solicitor.

21 MS. SUMNER: Your Honor, it's come to our attention
22 that the Defense intends to bring out in cross-examination
23 of the Defendant's mother that unfortunately Mr. Hailey
24 had a sister, a Camile Hailey, that died in a tragic car
25 accident back in April of 2018.

1 THE COURT: Okay.

2 MS. SUMNER: The State would argue that that is not
3 relevant. Also, that under 403 would be confusing the
4 jury as to the issues. If the Defense believes it is
5 relevant, it seems to me that that would go to some expert
6 opinion in regards to trauma or shock which we have not
7 been notified of. So at this time it does not appear to
8 be relevant and we would say that's something they need to
9 bring out in their case.

10 THE COURT: Okay. So Mr. Hailey has a sister,
11 Loretta Hailey has a daughter who died in a car accident
12 in 2018 and you want to bring that out for?

13 MR. SHAFFER: Your Honor, first of all, can I address
14 something? I think that they said yesterday afternoon --
15 we were talking about what our expert was going to testify
16 to and they said right up there -- obviously it was off
17 the record, but they said, oh, she's going to testify
18 about trauma and shock. So I don't think that we have to
19 disclose the fact that we said that we had an expert
20 testifying about that. Your Honor, basically it's our
21 contention that Mr. Hailey's mental health, or issues
22 involving that, actually began to decline, which they want
23 to bring into evidence. They want to say it's drug use.
24 But it started to decline at the point his sister passed
25 away. I can establish that through several different

1 witnesses. It goes to our theory of the case.

2 Additionally, it's also character evidence which we agreed
3 to let in. I think that it would be relevant. You know,
4 we sort of opened the door into all of that saying, so his
5 relationship and him being a loving brother is character
6 evidence. And we said, we're opening the door to
7 character evidence. So I wasn't going to go into how it
8 impacted the family. I was going to go into really how --
9 you know, how basically it impacted Mark and what -- what
10 changes they saw after she had died.

11 THE COURT: Okay, all right. So you're going to ask
12 mom to testify as to what she observed about Mark?

13 MR. SHAFFER: Yes, sir.

14 THE COURT: You're not going to try to get her to
15 render any sort of mental health diagnosis or anything of
16 that nature?

17 MR. SHAFFER: No, Your Honor. Just what she observed
18 about Mark afterwards versus before his sister passed
19 away.

20 THE COURT: I think since mental health has been
21 brought out and, I guess, we'll -- be to some extent, at
22 least, continue to be discussed, I'll allow it. But
23 again, it's got to be observations only and not any sort
24 of opinion that what she observed was related to some sort
25 of mental health illness or anything of that nature.

1 MR. SHAFFER: Yes, sir.

2 THE COURT: So I'm going to -- I'm going to overrule
3 the objection and allow -- allow them to get into that but
4 with those limitations. All right. Let's bring the jury
5 out. Let me go ahead and -- Ms. Hailey, do you want to go
6 back on the stand, please, ma'am. Since the jury was out
7 when they left and you were on the stand.

8 (Whereupon, the witness returns to the witness
9 stand.)

10 THE COURT: Okay, let's bring the jury out.

11 (Whereupon, the jury came into open court at
12 approximately 2:10 p.m.)

13 THE COURT: All right. Let the record reflect the
14 jury is back in. Ladies and gentleman, I hope you had a
15 good lunch. Everybody still feeling well? Okay, good.
16 And good job on the spacing out. All right. Mr. Shaffer,
17 I believe we're beginning your cross-examination of Ms.
18 Hailey.

19 MR. SHAFFER: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 By Mr. Shaffer:

22 Q Ms. Hailey, how you are you doing this afternoon?

23 A I'm doing okay.

24 Q Tell us a little bit about your background. Where
25 are you from?

1 A I'm from Ninety Six, South Carolina. Born, never
2 left there except to go to school.

3 Q And you live on Booker road; right?

4 A Yes, sir.

5 Q You live at the end of Booker Road; right?

6 A The end of Booker Road.

7 Q Who all lives -- tell us about Booker Road. We're
8 talking about Booker, not Warner. Booker Road. Tell us
9 about Booker Road.

10 A That's my family land, named after my relatives,
11 Booker Road.

12 Q Anyone else other than family live on Booker Road?

13 A No, sir.

14 Q And so, Mark grew up there; right?

15 A After he turned about 12. I think 12, yes.

16 Q But you've lived in Ninety Six your whole life?

17 A Yes. He has too.

18 Q And you all moved to Booker Road. Where did you all
19 live beforehand?

20 A I was living on [REDACTED] Carter Road.

21 Q Okay. But then you moved to Booker Road --

22 A Yes, sir.

23 Q -- and he went to Ninety Six schools; right?

24 A Yes, sir.

25 Q How many people are in your family?

1 A Just -- what you mean in my family?

2 Q I guess in your immediate family.

3 A Just --

4 Q How many people live with y'all?

5 A Oh, my granddaughter and Mark.

6 Q And your granddaughter, her mother passed; right?

7 A Yes, sir.

8 Q Mark's sister; right?

9 A Yes, sir.

10 Q Now, I guess tell me about Mark as a child. Was he a
11 good kid, bad kid?

12 A Good kid. He had his moments, you know. You have
13 to, you know, bring him down to earth a little bit, you
14 know. That's all kids. If they don't try you something's
15 wrong.

16 Q So did you raise him by yourself or did you -- did
17 Mark's dad have anything to do --

18 A Well, after the age of, I would say, six or seven I
19 separated from the father.

20 Q Okay. And you were the primary --

21 A Yes, sir.

22 Q -- primary caregiver and everything else; right?

23 A Yes, sir.

24 Q And that's for him and his sister; right?

25 A Yes, sir.

1 Q How old was his sister compared to him?

2 A She would have been maybe four.

3 Q Okay. So he was six and she was four?

4 A They were two years apart.

5 Q They're two years apart?

6 A Yes, sir.

7 Q Okay. Now, you've been sitting back there earlier
8 and there are several people back there. Are those people
9 you know?

10 A Yes, sir.

11 Q Who are those people?

12 A Family, church members, cousins, and some is friends.

13 Q Is it -- is church a big part of your life?

14 A Yes, sir.

15 Q Is the church a big part of Mark's life?

16 A Yes, sir.

17 Q He was raised in the church?

18 A Yes, sir.

19 Q What church did y'all go to?

20 A Mt. Olive Baptist Church.

21 Q Now, at some point Mark moved away from home; right?

22 A Yes, sir.

23 Q He moved down to like Hilton Head; is that right?

24 A Yes, sir.

25 Q And, but up until that point had he been going to

1 church on a regular basis?

2 A Yes, sir.

3 Q Pretty much every Sunday?

4 A I wouldn't say every Sunday.

5 Q Okay.

6 A No.

7 Q Now, when he came back from Hilton Head did he start
8 back going to y'all's church?

9 A Yes, sir.

10 Q There pretty much every Sunday again?

11 A Yeah, pretty much.

12 Q And he actually was active in the church. He did
13 different things; right?

14 A Yes, sir.

15 Q He did -- he was on the Sunday School Board?

16 A He was Sunday School secretary.

17 Q And he volunteered to do sound technician stuff;
18 right?

19 A And he would usher sometimes when asked.

20 Q So he would like help collect the money and --

21 A Yes sir, that too.

22 Q -- help count the money?

23 A Yes, sir.

24 Q So the trustees allowed him basically at the church
25 to do that; right?

1 A Hoping he would of been trained.

2 Q Okay. Now, growing up he had a couple different

3 friends; right? Like when he was in school he had some

4 friends that he would hang around?

5 A Yes, sir.

6 Q Like every kid does; right?

7 A Yes, sir.

8 Q But I guess Mr. Quarrels, his cousin?

9 A Yes, sir.

10 Q Is his cousin; right?

11 A Yes, sir.

12 Q What's -- what's Mr. Quarrels name?

13 A Brian.

14 Q Brian. Brian and him were good friends; right?

15 A Yes, sir. Real good friends.

16 Q And they were sort of close in age; right?

17 A Almost like brothers.

18 Q And Brian lived fairly close; right?

19 A Yes, sir.

20 Q He lived on that big piece of family land, too;

21 right?

22 A No, no. He didn't live there.

23 Q Oh, he didn't? Okay.

24 A He lived farther down.

25 Q Okay, okay. But he was close?

1 A Yes, sir.

2 Q Close enough that they were around each other on a
3 regular basis?

4 A Practically every day.

5 Q And, I guess, growing up he had done some -- he
6 played some rec league baseball and stuff like that;
7 right?

8 A Yes, sir.

9 Q Normal kid stuff; right?

10 A Yes, sir.

11 Q Played some football whenever he got to high school
12 just for a year?

13 A Yes, sir.

14 Q Even made Who's Who in ninth grade; right?

15 A Yes, sir.

16 Q And throughout the time he was growing up he was
17 pretty close with his sister?

18 A Yes, sir.

19 Q And he was pretty close with you; right?

20 A Yes, sir.

21 Q Now, you'd agree that he's -- personality-wise he's a
22 little different than you; right?

23 A Yes.

24 Q And I'm not saying you're not caring. Okay? But
25 he's very caring; right?

1 A Yes.

2 Q Tender-hearted?

3 A Yes, he is.

4 Q And he's sort of a loving kid?

5 A Yes.

6 Q And I'm sorry if I seem like I'm putting words in
7 your mouth. Normally I'm used to directing -- I mean,
8 crossing witnesses and asking leading questions. Feel
9 free to chime in if you want to. Okay?

10 A Yes.

11 Q Now, growing up he never really got into any real
12 trouble; right?

13 A No, sir.

14 Q You agree the only times he's been arrested, he's
15 been arrested for like some marijuana charge --

16 A It was a bench warrant.

17 Q Okay. But he got a marijuana ticket and a
18 paraphernalia ticket? That was several years back; right?

19 A Yeah.

20 Q And then he got like a driving under suspension;
21 right?

22 A Yes, sir.

23 Q But by the time this had happened he cleaned up his
24 license and he was not driving under suspension; right?

25 A Yes, sir.

1 Q But he'd never gotten anything violent or anything
2 like that on his --

3 A No, sir. No.

4 Q He's not a violent person?

5 A No, sir.

6 Q Now, at some point while he was an adult he began
7 using drugs; right?

8 A Yes, sir.

9 Q Tell us about around when that happened to the best
10 of your recollection?

11 A I think it was after he graduated from school.
12 That's when he left --

13 THE COURT: Ma'am, you need to speak up a little bit,
14 please, ma'am.

15 A That's when he left and went to Myrtle Beach, so I
16 thought, you know, he was okay.

17 Q And he -- had he had -- well, I guess what kind of
18 drugs -- do you know personally what kind of drugs he was
19 using?

20 A Not personally.

21 Q How did he act when he was on drugs?

22 A Well, to my knowledge, when he was around me he would
23 go off into his room and just stay there and not eat.
24 That's how I know something was wrong.

25 Q Now, he had also sought some drug treatment; right?

1 A Yes, sir.

2 Q Was that Court ordered or was that just him wanting
3 to get clean?

4 A It was voluntary.

5 Q Okay. So he wasn't like arrested for some drugs and
6 then went to rehab; right?

7 A No, sir.

8 Q Tell us about where he went to rehab.

9 A He went to the Faith Home, and also to Cornerstone.

10 Q Okay. And that would have been a couple of years
11 ago; right?

12 A Yeah.

13 Q It wouldn't have been -- you may not be able to tell
14 me exactly the time, but it wouldn't have been within a
15 couple of months or a year of him getting locked up;
16 right?

17 A No, sir.

18 Q Now, he's been locked up since last year; right?

19 A Since last year?

20 Q Yeah, since that night. The March 6th. He got
21 locked up. He got arrested; right?

22 A Yeah, that -- that day.

23 Q And he's been locked up since then?

24 A No, sir.

25 Q He got out since -- no, I'm talking about March 6th

1 of 2019.

2 A No, he hadn't been arrested since then.

3 Q No, I know he hasn't been arrested. But he hasn't
4 been out of jail either?

5 A Oh, no sir. No, sir.

6 Q He's been over across the street; right?

7 A Yes, sir.

8 Q So for the last year and a half he's been over at the
9 jail; right?

10 A Yes, sir.

11 Q But before that he had -- it had been several years
12 since he had been arrested?

13 A Yes, sir.

14 Q And it also had been a while since he had been --
15 been to the Faith Home and stuff like that; right?

16 A Yes, sir.

17 Q And you said that whenever he was using drugs he
18 would sort of stay to himself; right?

19 A Yes, sir.

20 Q But he wouldn't talk crazy, would he?

21 A No, sir.

22 Q He wouldn't sit there and just, you know, be
23 nonresponsive to you; correct?

24 A No, sir.

25 Q Was he more hyper whenever he was using drugs?

1 A No, sir. He was just quiet. Only when I asked him
2 questions he would answer.

3 Q But he would answer?

4 A Yes, sir.

5 Q So around a year before he got locked up, before this
6 whole thing happened -- okay? We're talking about before,
7 you know, March 6th. The incident we're here for.

8 A Yes, sir.

9 Q Your daughter passed; right?

10 A Yes, sir.

11 Q Even as an adult he was pretty close with his sister;
12 right?

13 A Yes, sir.

14 Q He had -- he spent a decent amount of time with her?

15 A Yes, sir.

16 Q Even as an adult?

17 A Yes, sir.

18 Q He would go help her out with stuff; right?

19 A Yes, sir.

20 Q He was closer than most adult siblings are; right?

21 A Yes, sir.

22 Q After your daughter passed away, around when was that
23 before -- how long before?

24 A It was -- it was on April -- April the 14th --

25 Q 2018?

1 A Yes.

2 Q Yes, ma'am. So we're talking about 11 months before
3 Mark got locked up; right?

4 A Yes, sir.

5 Q Did you see a change in his behavior?

6 A Yes, sir.

7 Q Now, I know you said he grew up in the church; right?

8 A Yes, sir.

9 Q Afterwards did he become -- he was -- he was very
10 religious still; right?

11 A Yes, sir.

12 Q Maybe even a little bit more so; right?

13 A More so. Yes, sir.

14 Q But he was also -- sort of had a fascination or
15 talked a lot about things that are not in mainstream
16 Christianity; right?

17 A Yes, sir.

18 Q Things like roots or not -- I guess Voodoo type
19 stuff; is that fair to say? And I'm not -- I'm not trying
20 to say -- I'm not trying to offend you or use the wrong
21 terminology.

22 A Uh-huh.

23 Q But is it fair to say that he was -- believed more
24 into -- believed that people had the power to do certain
25 things?

1 A Yeah, he was very concerned about people hurting his
2 family members.

3 Q So he was a little bit worried a lot?

4 A Yes, since his sister died.

5 Q And this wasn't the same behavior as what you had
6 seen when he was on drugs before he went to the rehabs --

7 A No, sir.

8 Q -- right?

9 A No, sir.

10 Q During this time period he was worried about people
11 hurting people; right?

12 A Yes, sir.

13 Q And sometimes he would say things that didn't make a
14 whole lot of since; right?

15 A Yes, sir.

16 Q Now, this -- that put a strain on your relationship
17 with him; correct?

18 A Yes. I'm -- you know, I don't worry about people
19 hurting me. I don't dwell on it. If something's going to
20 happen, it's going to happen. I believe God's going to
21 protect me.

22 Q But is it fair to say that Mark became a little bit
23 more distant after his sister died with people?

24 A Yes.

25 Q He wasn't around people as much; right?

1 A Most of the people he knows, you know. He -- he
2 needed to talk to people and confide in them.

3 THE COURT: Ma'am, you need to speak up.

4 THE WITNESS: I'm sorry.

5 Q Now, you all had more arguments more frequently after
6 his sister passed; right?

7 A Yes, probably more than normal.

8 Q At one point I think he said he took away a -- or did
9 he take away a dinosaur from you? Like something he made
10 as a child?

11 A Oh, yes sir.

12 Q Tell us about the dinosaur.

13 A He made a little pottery dinosaur that you could take
14 apart and put things inside, and I always kept it in my
15 kitchen sink window. And I noticed one day it wasn't
16 there and he had it. And I'm like, put it back up there
17 because you're going to lose it, you know. I want to keep
18 that.

19 Q It was something you were sort of proud of him for
20 making; right?

21 A Yes.

22 Q Why were you proud of him for making that?

23 A It was good. It really was. I mean, you could open
24 it up and put things inside. It was almost like a little
25 -- a little chest -- little treasure chest but it was

1 shaped as a --

2 Q As a dinosaur?

3 A -- dinosaur.

4 Q How old was he when he made that?

5 A It had to be in elementary school. I had it a long
6 time.

7 Q So you had it a long time?

8 A Yes, sir.

9 Q But I guess after his sister passed away he wasn't
10 the same ole Mark; right?

11 A No, sir.

12 Q Now, the State asked you a whole bunch of questions
13 about whether or not you believe or dis -- not believe a
14 video; right? That if the video said something would you
15 believe it.

16 A Yeah. Yeah. If it's on video, yes, I would believe
17 it.

18 Q Now, a whole bunch happened that night; right?

19 A Yes, sir.

20 Q You can't remember every single thing; right?

21 A No, sir.

22 Q And the best thing that can remind you of what
23 happened was things you saw in that video; right?

24 A Yes, sir.

25 Q Now, I've given you a chance to look at that video at

1 one point; right?

2 A Yes, sir.

3 Q But even then it wasn't exactly -- it's sort of a
4 long video and you can't see everything; right?

5 A Yes, sir.

6 MR. SHAFFER: Court's indulgence.

7 THE COURT: Sure, take your time.

8 Q If we viewed this video would it help you remember
9 what had happened?

10 A Yes, sir. I hope so.

11 Q And you -- you have the video -- I mean, you've seen
12 part of the video; right?

13 A Yes, sir.

14 Q And you were there when most of the video was being
15 made; right?

16 A Yes, sir.

17 Q So I think we should go ahead and play it.

18 MR. SHAFFER: I'd move this into evidence. Your
19 Honor, I'd move Defendant's Exhibit 2 into evidence.
20 She's viewed it already. It would be hard for me to -- I
21 mean, if you want her to view what it is first.

22 THE COURT: Okay. Which -- which body cam video is
23 that one?

24 MR. BROWN: Judge, it's my understanding it's James
25 Bonetti's body cam, or a portion of it. We plan on

1 calling him and a couple of witnesses and put his body cam
2 in at that time.

3 THE COURT: Is it your intent, Mr. Shaffer, to play
4 the entire video and let her watch it or are you just
5 going to show her portions and let her -- I mean, we don't
6 need to, you know, have it played twice naturally. And
7 so, what was your plan on that?

8 MR. SHAFFER: My plan was to play the first
9 approximately 20 minutes of it for her and for the jury
10 and go ahead and publish that part.

11 THE COURT: Okay.

12 MR. SHAFFER: And, you know, that way --

13 THE COURT: And then when -- and then I take it,
14 Solicitor, then when you put Officer Bonetti up then you
15 would play the remainder of the video or --

16 MR. BROWN: Judge, I'd be looking to play the body
17 cam from the beginning just to go through there with
18 Bonetti.

19 THE COURT: Well, Mr. Shaffer is saying he's going to
20 play 20 minutes of it. Was it your plan to still go ahead
21 and play the whole video so you could ask Officer Bonetti
22 some questions?

23 MR. BROWN: Yes, sir. That and -- I could -- I could
24 just play what he -- or pick up where he came on.

25 THE COURT: Okay.

1 MR. BROWN: But I do anticipate calling Officer Young
2 and his body cam --

3 THE COURT: -- right, right. Okay.

4 MR. BROWN: And that would be a different
5 perspective.

6 THE COURT: All right. Has some of the dead time
7 already been taken out? Because we talked about there was
8 some dead space that -- has that been taken out? And I
9 don't know if there's any dead space in the first 20
10 minutes, Bonetti's or not.

11 MR. SHAFFER: There's not really, Your Honor.

12 THE COURT: Right, okay.

13 MR. SHAFFER: Defendant's 2 is a full copy of
14 Bonetti's body cam. I think that they were planning on
15 redacting some -- some of the dash cam. Some of the areas
16 we have some dispute over whether it should be redacted or
17 played primarily, but we're working to cut some of it out
18 of the dash cam.

19 THE COURT: Okay, all right. So that -- even though
20 you're not going to play the whole video of Exhibit No. 2,
21 which is Officer Bonetti's video for right now with this
22 witness, you're going to play just the first 20 minutes?

23 MR. SHAFFER: Yes, sir.

24 THE COURT: All right. I mean, I trust the State
25 does not have any objection since your plan is to play it

1 anyways.

2 MR. BROWN: Judge, we're going to play it anyways.

3 THE COURT: Okay, all right. Okay. Number 2, which
4 is the complete video of Officer Bonetti, even though
5 right now only the first 20 minutes is going to be played,
6 that will be into evidence for the Defense.

7 (Whereupon, Defendant's Exhibit No. 2 was admitted
8 into evidence.)

9 MR. SHAFFER: And, Your Honor, I'm happy to play the
10 whole thing, just -- the whole thing's in evidence if they
11 want me to. I was just going to try to save some time by
12 not doing the whole thing.

13 THE COURT: Okay. So what's your plan, Mr. Shaffer?
14 The whole thing or just the first 20 minutes?

15 MR. SHAFFER: I'm going to play the whole thing, Your
16 Honor.

17 THE COURT: Okay, all right. Does the State have
18 any --

19 MR. BROWN: Judge, I think that would just speed up
20 everything. Just play it all at one time.

21 THE COURT: Okay, play it all at one time. And then
22 when you put Officer Bonetti up if it -- if portions have
23 to be replayed, then you certainly could do that.

24 MR. BROWN: Judge, one thing while we're getting this
25 set up. This video -- Officer Bonetti's full body cam is

1 an hour and a half. So I don't know if it would be a good
2 time to take --

3 THE COURT: Probably -- I think probably what we're
4 going to do is let's try maybe to play about half of it,
5 take a break. I'm going to leave that up to you guys as
6 far as when a good half is, or a good stopping point
7 maybe, and then we can take a break and then come back and
8 finish it up. Okay? So I'm going to leave that up to you
9 all when we're going to take the break. Unless anybody on
10 the jury indicates to me sooner than that. And somebody
11 get the lights. Let's see -- before you cut the lights
12 off, Lee, let's just see how good the video is with the
13 lights on.

14 (Whereupon, Defendant's Exhibit No. 2 was published
15 for the jury starting at 2:38 p.m.)

16 MR. SHAFFER: Your Honor --

17 THE COURT: Is that about halfway?

18 MR. SHAFFER: It looks like a little bit shy of
19 halfway. I didn't know if you --

20 THE COURT: Yeah, let's go ahead and get the lights
21 cut back on, please. Okay. Ladies and gentlemen, let's
22 take a short break this afternoon. And I remind you once
23 again no discussion, again, among yourselves. And if you
24 need to go outside for a brief moment to get some fresh
25 air, the Bailiffs can -- will be glad to take you out.

1 And we'll start back up in just a little bit. Okay.

2 (Whereupon, the jury was excused from open court for
3 a break.)

4 THE COURT: All right. We'll be in short recess.

5 (Whereupon, a short break was taken.)

6 THE COURT: Bring in Juror number 32.

7 (Whereupon, Juror 32, Michael McIntyre entered the
8 courtroom.)

9 THE COURT: All right. If everybody can hold down,
10 please. Mr. McIntyre, you're fine right there. Just to
11 remind you you're still under oath from yesterday. You
12 informed the Clerk that you, in fact, do know Officer Mike
13 Young?

14 JUROR: Yes, sir.

15 THE COURT: You just didn't hear his name called out?

16 JUROR: I just want to be truthful that I do know
17 him.

18 THE COURT: Okay. Do you feel like you have a close
19 personal relationship with him?

20 JUROR: I wouldn't say close/close, but if I saw him
21 on the street I'd speak to him.

22 THE COURT: Okay, all right. The fact that you know
23 Deputy Mike Young, would that prevent you from being fair
24 and impartial in this case? He is one of the primary
25 investigators --

1 JUROR: I understand, sir, once I saw that.

2 THE COURT: Yeah.

3 JUROR: It's not going to change my opinion or
4 anything or -- I'll be fair.

5 THE COURT: You can be fair and impartial?

6 JUROR: Yes, sir. I just want to be truthful.

7 THE COURT: Do you associate with -- with Deputy
8 Young on a regular basis or you just know him?

9 JUROR: No, sir. I know him from Boy Scouts and Cub
10 Scouts and stuff like that. I know his son.

11 THE COURT: Okay.

12 JUROR: But like I say, I probably haven't really
13 talked to him in over a year, but I do know him. Like I
14 said, I would speak to him.

15 THE COURT: Okay, all right. Thank you very much.
16 Go on back.

17 (Whereupon, Juror number 32, Michael McIntyre was
18 excused from the courtroom.)

19 THE COURT: Okay, you want to put anything on the
20 record?

21 MR. SHAFFER: No sir, Your Honor. We would move to
22 disqualify him. We would have used that as a basis for
23 using one of our strikes had that information come to
24 light prior to now. Obviously he didn't respond to it
25 correctly, so we would move to disqualify him as one of

1 the jurors.

2 THE COURT: State want to put anything on the record?

3 MR. BROWN: Judge, during the questioning I think you
4 asked if he could be fair and impartial. I think he said
5 that without any hesitation that he's not a close friend
6 and he doesn't really socialize with him. He just knows
7 him to speak on the street. So the State feels he can be
8 fair and impartial, but obviously --

9 THE COURT: Well, you know, these situations happen
10 all the time and it gets a little frustrating. I know for
11 me, and maybe it gets frustrating for you all when they,
12 for whatever reason, they don't indicate that they happen
13 to know somebody, and the possibility that the Defense
14 would have used a peremptory strike on him. I mean, I
15 don't think they can say for certain, nor can I say for
16 certain that they would, but the possibility. That's what
17 puts me in a difficult situation. I'm going to go ahead
18 and err on the side of caution and go ahead and excuse him
19 and -- before we bring the jury out, then I need to by
20 lottery method determine which -- which alternate is going
21 to fill the place.

22 MADAM COURT REPORTER: What was that juror's number,
23 please?

24 THE COURT: The juror was Mike McIntyre. I guess the
25 original juror number 32. Lee, if you would bring Mr.

1 McIntyre back out so I can go ahead and cut him loose.

2 (Whereupon, Juror number 32, Michael McIntyre entered
3 the courtroom.)

4 THE COURT: Mr. McIntyre, just to err on the side of
5 caution, and I don't -- I don't -- I'm not mad at you and
6 don't blame you, but I think to err on the side of
7 caution, since you did not respond to that, I'm going to
8 go ahead and excuse you as a juror. So I'll just put one
9 of the alternate's in your place.

10 JUROR: Okay, sir. I'm sorry.

11 THE COURT: That's okay. Not -- not a problem. So
12 you are -- turn your juror badge in and you are free to
13 go. Now, you have every right to sit as a member of the
14 general public and watch this trial if you'd like. But
15 you are free to go if you want to leave. Okay?

16 JUROR: Okay.

17 (Whereupon, Juror 32, Michael McIntyre was excused as
18 a juror in the trial of this case.)

19 THE COURT: All right. I have, as you know, the
20 selection of the alternate to fill that juror's place is
21 done by lottery method. I've written the last name down
22 on separate pieces of paper and I'm going to get my law
23 clerk to pick one. And she has selected the piece of
24 paper that has McGrath on it. So that is Alexis McGrath.
25 So when they come back out I'll inform Ms. McGrath that

1 she is now one of the 12. And we've decided that we're
2 going to play the remainder of the video with lights on
3 and hopefully it could still be, you know, seen pretty
4 well. If you'd go ahead and bring the --

5 BAILIFF: Do we need to get Ms. Hailey back in the --

6 THE COURT: -- I tell you what, she could just remain
7 where you are, Ms. Hailey, and then after the video is
8 played, if there needs to be some more examination you can
9 come up. Okay? So you can just keep your seat where you
10 are. If you'll get the jury out, please.

11 (Whereupon, the jury came into open court at
12 approximately 3:52 p.m.)

13 THE COURT: Ladies and gentlemen, one of the jurors I
14 had to excuse. I'm not suggesting he's done anything
15 wrong. So one of the alternate's will take that juror's
16 place. And the way we do it, we do it by lottery method.
17 I write the last name of the alternates on separate pieces
18 of paper, mix them up and then my law clerk pick one out
19 at random. And Ms. McGrath -- which one's Ms. McGrath?
20 You are now one of the 12 jurors. And so, you can -- if
21 you would, just move to that next seat there, ma'am.

22 THE JUROR: Right here?

23 THE COURT: Yes, ma'am. You are now -- you are now
24 one of the 12. And the remainder of the video we are
25 going to keep the lights on. If anybody has any problem

1 seeing the video with lights on let me know. With the
2 lights off it's caused some folks to get a little more
3 comfortable than they need to be, so we're going to keep
4 -- keep the lights on. Okay?

5 (Whereupon, the video continued to play starting at
6 3:55 p.m., ending at 4:46 p.m.)

7 THE COURT: Mr. Shaffer, you want Ms. Hailey back on
8 the stand?

9 MR. SHAFFER: Yes, Your Honor.

10 THE COURT: Okay. Ms. Hailey, would you come back
11 around, please? Take your time.

12 (Whereupon, the witness returns to the witness
13 stand.)

14 THE COURT: Okay. You may proceed.

15 MR. SHAFFER: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 Q Ms. Hailey, I know it's been a little while since we
18 saw it, but in the first 20 minutes of that video or so
19 you saw Mark's behavior; right?

20 A Yes, sir.

21 Q And you heard yourself; right?

22 A Yes, sir.

23 Q And you heard your sister; correct?

24 A Yes, sir.

25 Q And I imagine it sort of jogged your memory about

1 some of the stuff that was said; right?

2 A Yes, sir.

3 Q How, obviously, you know, before we ate lunch I think
4 that Mr. -- Mr. Brown -- Solicitor Brown had asked you
5 about some questions and maybe you -- maybe some of the
6 stuff you said was not exactly what was on the video;
7 correct?

8 A Yes, sir.

9 Q Were you trying to mislead the jury?

10 A No, sir. I didn't remember a lot of that.

11 Q Okay.

12 A I was kind of in trauma myself.

13 Q Yeah, I imagine it was quite an experience. But did
14 you say -- well, had you ever seen Mark act like he did in
15 that video?

16 A No, sir.

17 Q In the 32 years at that time, 32 years at that time
18 you had known him --

19 A No, sir.

20 Q -- never -- never seen that?

21 A No, not that.

22 Q Even when he was on drugs?

23 A No, sir.

24 Q Some of the stuff he's saying didn't seem like it
25 made a whole lot of sense, did it?

1 A No, sir.

2 Q And you're not -- you've known him obviously all his
3 life; right?

4 A Yes, sir.

5 Q Probably the best person to be able to say what he --
6 understand what he's saying in that video; correct?

7 A Yes, sir.

8 Q But you can't even make sense of a lot of it; right?

9 A No, sir.

10 Q They asked about that shotgun; correct?

11 A Yes, sir.

12 Q And you said you saw it in the car; right?

13 A Yes, sir.

14 Q Did you touch it?

15 A No, sir.

16 Q At that point did Mark come back out and try to touch
17 it?

18 A No, sir.

19 Q Did anyone touch that car that you know of?

20 A No, sir.

21 Q So from the time --

22 A Not to my knowledge.

23 Q Okay. From the time he went in the house until the
24 police got there, for your -- to your knowledge, no one
25 touched that car; right?

1 A Yes, sir.

2 Q Okay. And I'm going to ask you to see if you know
3 something.

4 THE COURT: Has that box been marked for
5 identification yet? If you're going to ask her about it,
6 Mr. Shaffer, you may just want to have it marked for ID.

7 MR. SHAFFER: That's fine. Do you want to make a
8 State's ID since it's in there?

9 MADAM COURT REPORTER: Which way you want to go?

10 MR. SHAFFER: Defendant's, I guess. Defendant's 3.
11 (Whereupon, Defendant's Exhibit No. 3 was marked for
12 identification purposes.)

13 Q You didn't see this in the car, did you?

14 A No, sir.

15 Q Were you looking for stuff in the seat? What were
16 you looking for?

17 A A person.

18 Q So you just happened to glance in the car and saw?

19 A Yes.

20 Q Something -- the shotgun?

21 A I saw it sticking out.

22 Q Okay. And you don't know if it was in the front or
23 the back? The shotgun?

24 A Tell you the truth, thinking about it, I know I saw
25 it.

1 Q Okay.

2 A I told the officers that night I saw it.

3 Q That's fine. Now, in this right here though you --
4 you weren't really looking for something in the seat, were
5 you?

6 A No, sir.

7 Q You were just looking for a person in that car;
8 right?

9 A Yes.

10 Q But nobody -- nobody went in the car in between the
11 time that Mark came to your door and the time the cops
12 showed up, to your knowledge?

13 A No, sir.

14 THE COURT: And you've been referring to Defense
15 Exhibit 3 for identification?

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

17 Q And we talked a while ago about Mark being a good
18 kid. He was a respectful guy, too, wasn't it?

19 A Yes, sir.

20 Q And he understood you had rules at your house;
21 correct?

22 A Yes, sir.

23 Q And even though you all would butt heads sometimes he
24 was respectful of those rules for the most part; right?

25 A Yes, sir.

1 Q And he didn't want to dispute you, did he?

2 A No, sir.

3 Q He wouldn't bring people around unless you approved
4 of them; right?

5 A Yes, sir.

6 Q So some of his friends you didn't really know; right?

7 A No, sir.

8 Q I think you said that -- and I just want
9 clarification on this. In the video or something you said
10 you went down the road?

11 A Yes, sir.

12 Q You were talking about Booker Road; right?

13 A Yes, sir.

14 Q Because you had no idea from what Mark was telling
15 you what actually happened; right?

16 A No, sir. He just said dirt road.

17 Q So you went down your dirt road?

18 A (Nonverbal response.)

19 THE COURT: You need to verbally respond, ma'am.

20 A Yes, sir.

21 Q Warner Road, you knew where that was; right?

22 A Yes, sir.

23 Q I think on direct you were asked about that and you
24 said you had heard things about that road?

25 A Yes, sir.

1 Q What kind of things had you heard about that road?

2 A Some people had died on that road and a lot of
3 illegal things are happening on that road.

4 Q That night, about 15 minutes after you -- or 15
5 minutes before you made that 911 call --

6 A Yes, sir.

7 Q -- Mark showed up at your door; right?

8 A Yes, sir.

9 Q He didn't say, help me hide a body, did he?

10 A No, sir.

11 Q He didn't say, help me get away, did he?

12 A No, sir.

13 Q He didn't say, give me money so I can escape, did he?

14 A No, sir.

15 Q He didn't say any of that stuff; right?

16 A No, sir.

17 Q He came to you; right?

18 A Yes, sir.

19 Q Would it be fair to say that you are the kind of
20 person that's inclined to call the police if somebody says
21 -- comes to you and says they shot somebody?

22 A Yes, sir.

23 Q And your son's known you for a long time; right?

24 A Yes, sir.

25 Q Probably would have known that about you?

1 A Yes, sir.

2 MR. SHAFFER: Thank you very much. No further
3 questions.

4 THE COURT: Anything in redirect, Solicitor?

5 MR. BROWN: Yes.

6 REDIRECT EXAMINATION

7 By Mr. Brown:

8 Q Ms. Hailey, just following up on that last question
9 about Mark coming in the house and Mr. Shaffer asked you,
10 he didn't ask you to hide a body --

11 A No, sir.

12 Q -- escape or --

13 A No, sir.

14 Q -- anything like that; right?

15 A No, sir.

16 Q However, he really didn't tell you much, did he?

17 A He just said he shot somebody and it was an accident.

18 Q He never told you who, did he?

19 A No, sir.

20 Q He didn't tell you where?

21 A He said on the dirt road.

22 Q Is it safe to say he doesn't really say much until
23 law enforcement gets there?

24 A Yes, sir. He was disturbed.

25 Q Ms. Hailey, Mr. Shaffer asked you about before law

1 enforcement got there did you get in your vehicle and
2 drive down your road?

3 A Yes. When he first -- because I was -- I was in
4 disbelief.

5 Q Yes, ma'am.

6 A So I said I'm going to go see if there's somebody,
7 maybe I can get help, because I took my phone with me.
8 You know, I need to go see how bad it is, or if -- if it
9 was anything at all.

10 Q And when you drove up the road you did see that car
11 parked on the --

12 A The car.

13 Q Did you get out of your vehicle?

14 A I stopped and looked. The light was still on in the
15 car.

16 Q And even though with the light on inside the car --

17 A I saw -- I didn't see no -- or whatever that is.

18 Q Defense 2 --

19 A I just looked --

20 Q -- or Defense No. 3?

21 A I didn't see a body.

22 Q And also when you looked in the car you didn't see
23 Defense No. 3?

24 A No, I wasn't looking for nothing --

25 Q -- however, did you see a shotgun in the car?

1 A It was sticking up.

2 Q And you didn't move anything in the car?

3 A No, sir.

4 Q Ms. Hailey, again, how far away from that house was
5 the car parked from your house?

6 A I believe it was 500 feet.

7 Q Did -- when Mark drove did he normally park up there?

8 A Yes, sometimes.

9 Q Sometimes?

10 A Yeah.

11 Q Or would he park closer to your house?

12 A Sometimes. It all depends.

13 Q Ms. Hailey, Mr. Shaffer asked you also about drug
14 use, and also the video. How long had he been dealing
15 with drugs?

16 A It was in and out over the years.

17 Q On video I think you said seven to nine. Is that
18 accurate?

19 A Yeah, but it wasn't all straight seven.

20 Q Do you know what type of drugs he was on?

21 A Crack, and I think he dealt in that meth.

22 Q Meth? Anything else with heroin or blue pills or
23 Fentanyl?

24 A No, sir.

25 Q Not to your knowledge?

1 A Not to my knowledge.

2 Q Just one last thing. Mr. Shaffer asked you basically
3 about Mark's character. Was he a respectful kid?

4 A Yes, sir.

5 Q You took him to church?

6 A Yes, sir.

7 Q You also agree that sometimes when children grow up
8 they make their own decisions?

9 A Yes, sir. They do.

10 Q Even if you taught him differently?

11 A Excuse me?

12 Q Even if you taught them differently?

13 A Yes, sometimes. Yeah, I would think so they do.

14 MR. BROWN: No further questions.

15 THE COURT: Anything on recross?

16 MR. SHAFFER: Yes, Your Honor.

17 RE CROSS-EXAMINATION

18 By Mr. Shaffer:

19 Q Was there anything weird about -- strange
20 particularly to you about that car being parked out there?
21 About Mark parking the car there versus parking any
22 closer?

23 A No, sir.

24 Q That was --

25 A He's driven three other cars before.

1 Q And generally that's sort of where he --

2 A Yeah.

3 Q -- or a lot of times he'd park up there; right?

4 A Uh-huh. Yes, sir.

5 Q When you got up to the car, did you get real close to
6 the car?

7 A No, sir. I looked at it just enough to where I could
8 look in.

9 Q And you're just looking for a body; right?

10 A Yes, sir.

11 Q You didn't like peer down and look in the --

12 A No, not that close. No, because I didn't want to see
13 anything that --

14 Q And you said that he -- I think that you used the
15 term he -- you think he may have dealt in that meth?

16 A Yes, sir.

17 Q The dealing, you mean using; right?

18 A Yes, sir.

19 Q You have no -- no idea -- or do you have any reason
20 to believe that he was ever selling drugs?

21 A No, sir.

22 Q Okay. He was -- he was using drugs; right?

23 A Yes, sir.

24 Q Is that what you meant by dealt?

25 A Yes.

1 Q And the last thing, related to Solicitor Brown's
2 question about sometimes kids not doing -- not doing what
3 -- you know, making their own choices.

4 A Uh-huh.

5 Q You've known Mark for all of his life, obviously.

6 A Yes, sir.

7 Q Has Mark, to your knowledge, ever done anything like
8 what happened that night?

9 A No, sir.

10 Q Has he ever acted in a way -- any way like what
11 happened that night?

12 A No, sir.

13 Q Have you ever seen him as upset as he was that night
14 after that shooting?

15 A No, sir.

16 MR. SHAFFER: Thank you. No further questions.

17 THE COURT: You can step down, ma'am. Be very, very
18 careful.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: All right. Ladies and gentlemen, it is
22 at the 5:00 o'clock hour. I believe this would be a good
23 time to go ahead and recess for the evening. We're going
24 to start back at 9:30 in the morning. I would just ask
25 you that you get some good rest tonight again. Try not to

1 be around large crowds or large gatherings. We know the
2 issue there. Try to stay close to home, if you would.
3 And again, get some good rest and we'll see you in the
4 morning at 9:30. Have a good evening. And again,
5 remember my instructions. No discussion among yourselves,
6 anybody that you see this evening, and no independent
7 research on your own. Remember those. See you in the
8 morning.

9 (Whereupon, the jury was excused from open court for
10 the day.)

11 THE COURT: All right. We'll see everybody at 9:30
12 in the morning.

13 (Whereupon, the trial will resume the next morning at
14 9:30 a.m.)

15 September 16, 2020

16 THE COURT: Let's bring the jury in, please.

17 MR. SHAFFER: Your Honor --

18 THE COURT: Do we need to hold off on the jury?

19 MR. SHAFFER: We can just say -- it's not something
20 the jury doesn't need to hear. We're making a Court's
21 exhibit out of the two keys for the gun locks.

22 THE COURT: Okay.

23 MADAM COURT REPORTER: And that's Court's No. 2.

24 MR. SHAFFER: And I think it's -- I forgot what it
25 is, but they'll figure it out.

1 MADAM COURT REPORTER: They got numbers on them.

2 THE COURT: What's Court's 1, Joy? Would that be the
3 Defense voir dire request?

4 MADAM COURT REPORTER: That's the chain of custody.
5 Chain of custody.

6 THE COURT: That's Court's 1?

7 MADAM COURT REPORTER: Yes, sir.

8 THE COURT: Oh, okay.

9 (Whereupon, Court's Exhibits 1 and 2 were marked for
10 identification only.)

11 (Whereupon, the jury came into open court at
12 approximately 9:35 a.m.)

13 THE COURT: Good morning, ladies and gentlemen.
14 Feeling well? Everybody's feeling good?

15 (Whereupon, jury responds in the affirmative.)

16 THE COURT: Okay, very good. Is the State ready to
17 call it's next witness?

18 MS. SUMNER: Yes, the State calls Priscilla Watts.

19 PRISCILLA WATTS, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Sumner:

23 Q Good morning.

24 A Good morning.

25 Q Can you give us your name for the record, please.

1 A Priscilla Watts.

2 Q Ms. Watts, are you related to Mark Hailey?

3 A Yes, ma'am. I'm his aunt.

4 Q What was that you just said?

5 A I'm his aunt.

6 Q Okay, you're his aunt. So are you also related to

7 Ms. Loretta Hailey?

8 A Yes, ma'am. That's my sister.

9 Q Okay. And where do you live?

10 A [REDACTED] Carter Road.

11 Q And can you tell the jury about how far that is from

12 Ms. Loretta Hailey's house?

13 A Probably about five or six miles.

14 Q So pretty close by?

15 A Yes, ma'am.

16 Q Now, have you lived in Ninety Six your whole life?

17 A Yes, ma'am.

18 Q Kind of like what we heard from Ms. Hailey yesterday?

19 A Yes, ma'am.

20 Q Now, I'm going to go back now to March 5th and 6th of

21 2019.

22 A Okay.

23 Q Back on March 5th of 2019 were you working somewhere?

24 A Yes, ma'am. Hardee's.

25 Q And where was that Hardee's?

1 A In Ninety Six, before it burnt down.

2 Q Now, back on March 5th while you're working, did you
3 have a chance to see your nephew, Mark Hailey?

4 A Yes, ma'am.

5 Q And where did you see him?

6 A At my job at Hardee's.

7 Q Do you recall about what time he came in?

8 A It was after lunch -- I mean, after breakfast, 12:00,
9 because I was counting my deposit to take to the bank.

10 Q And when he came in did he want something from you?

11 A Well, I was in the back counting the money. One of
12 my cashier's came and said, someone wants to see you, Ms.
13 Priscilla. So I came out of the office and around to the
14 front and it was my nephew.

15 Q And did he stay briefly, did he stay for -- how long
16 was he at Hardee's that day?

17 A He stayed there until I got off at 3:00.

18 Q Now, did he -- when you got off at 3:00 o'clock, did
19 you all leave together?

20 A Yes, ma'am.

21 Q Tell me about that.

22 A He wanted to go to Greenwood to be dropped off at the
23 car lot on 34, across from the Cheeseburger House.

24 Q And that's the Cheeseburger House on 34 in Greenwood?

25 A Yes, ma'am.

1 Q Now, do you know why he wanted to go to that car lot?

2 A He said he had left his driver's license and he
3 wanted to go back and get his driver's license.

4 Q And when you drove him to that car lot, about how
5 long is that drive from the Hardee's in Ninety Six to the
6 car lot on 34 in Greenwood?

7 A About 10, 15 minutes.

8 Q Did you all make any stops along the way? Did you
9 all go --

10 A No, ma'am.

11 Q You went directly from Hardee's to the car lot?

12 A Yes, ma'am.

13 Q How was he acting that day on that car ride?

14 A He was asking did I see the little -- the little --
15 three little dots.

16 Q He was asking you about three dots?

17 A Uh-huh.

18 Q Do you have any idea what that was about?

19 A No, ma'am.

20 Q Was he acting unusual to you?

21 A Yeah, about them three dots, because I asked him,
22 what is three dots.

23 Q Did he give any indication to you that he and his
24 mother, Ms. Hailey, had had an argument that morning?

25 A Yeah, about some -- taking off some trash or

1 something.

2 Q Did he seem to think that you or Ms. Hailey were out
3 to get him that day?

4 A No, ma'am.

5 Q If you said that on the body cam that we watched
6 yesterday that, he snapped on me, saying that you were
7 against him, would you disagree with that?

8 A No, ma'am.

9 Q So if that's on the body cam you would agree that you
10 said that that evening to law enforcement?

11 A Yes, ma'am.

12 Q So I'm going to go ahead and turn to that evening.
13 Okay?

14 A Okay.

15 Q So the evening of March 5th and the early morning of
16 March 6th, 2019.

17 A Okay.

18 Q And let me back up a second. After you dropped him
19 off at that car lot in Greenwood, about what time was
20 that?

21 A It was like about 3:30.

22 Q When did you see him again?

23 A The next day -- well, that night when my sister had
24 called -- well, that morning when my sister had called me.

25 Q And about what time was that?

1 A About 3:00. 3:00 or 3:30 that morning.

2 Q Okay. And his mom, Ms. Hailey, gave you a call?

3 A Yes, ma'am.

4 Q What was the nature of the call?

5 A She said come -- she said, Cilla, can you come to my
6 house and get Kaitlyn. I said, what's wrong. She said, I
7 don't know. Andy said he done did something. I said,
8 Okay, I'm on the way.

9 Q And is Kaitlyn, is that the granddaughter that lives
10 with Ms. Hailey?

11 A Yes, ma'am.

12 Q So you were going over to help Ms. Hailey out?

13 A Yes. I gone to pick her up and carried her back to
14 my house.

15 Q Now, when you got there, did you end up staying a
16 little bit?

17 A Yeah, because I got blocked in and couldn't get back
18 out.

19 Q So you were there when law enforcement arrived that
20 night?

21 A Yes, ma'am.

22 Q How was Mr. Hailey acting that night when you got to
23 Loretta's house?

24 A Still talking about them three dots.

25 Q Was he talking about anything else?

1 A About three dots and roots and -- I mean, he was just
2 talking out of his head.

3 Q Is it fair to say that when you got to Loretta
4 Hailey's house that you were trying to help with the
5 situation?

6 A Yes, because I wanted to know what happened. What --
7 I mean, what he had did.

8 Q And you -- after law enforcement arrived, did they at
9 some point walk him out to a deputy's car?

10 A Ma'am?

11 Q After law enforcement arrived that night, they were
12 first in the house; is that correct? Law enforcement?

13 A Yes, ma'am.

14 Q And then at some point did you walk outside with law
15 enforcement when they were taking Mark to the vehicle?

16 A I walked behind them.

17 Q Okay. But you did go outside with law enforcement?

18 A Yes, ma'am.

19 Q Did you continue to stay around and try and help with
20 the situation outside?

21 MR. SHAFFER: Your Honor, at this point I'm going to
22 object to the leading just because it is a --

23 THE COURT: -- try to -- try to avoid leading and
24 rephrase, please, Solicitor.

25 MS. SUMNER: Yes, Your Honor.

1 Q Ms. Watts, did you go outside with law enforcement on
2 the night, early morning hours of March 6th?

3 A When he went out I didn't go out. I waited a little
4 while, then I went out.

5 Q Did you continue to talk to law enforcement?

6 A Some point -- yes, ma'am. At some point I did.

7 Q Did you have any concern that Mark Hailey was on
8 drugs that morning?

9 A No, ma'am. I didn't. I mean, he was just talking
10 out of his head to me. I mean, I don't see -- I don't
11 know if he do drugs and I don't know how a person act when
12 they're on drugs.

13 Q If you said on the video that he's always thinking
14 someone is after him when he gets high, would you disagree
15 with that if it's on the video?

16 A If it's on the body cam and said it. I mean, that
17 been -- that been a couple of years. And, I mean, my mind
18 probably is not here, because I had a daughter who got
19 burnt Sunday.

20 Q I understand.

21 A Second degree burns. So, I mean --

22 Q -- you've got --

23 A My mind is on her.

24 Q You've got a lot going on. But you did have a chance
25 to watch the body cam with us all yesterday afternoon?

1 A Yes, ma'am.

2 Q One last question. Do you recall asking law
3 enforcement if they are going to cuff Mark that evening?

4 A I can't recall if I did.

5 Q But if it's on the video you'd agree with that?

6 A Yes, ma'am.

7 MS. SUMNER: Thank you, Ms. Watts. That's all I have
8 for you.

9 THE COURT: Any cross-examination?

10 MR. SHAFFER: Yes, sir.

11 CROSS-EXAMINATION

12 By Mr. Shaffer:

13 Q Priscilla -- or Ms. Watts. I'm sorry.

14 A You're okay.

15 Q I'm going to refer throughout my cross-examination --
16 I may refer to Mark -- I may call him Mark, and I may also
17 call him Andy; right?

18 A Yes, sir.

19 Q And you all -- you all call him Andy; right?

20 A Yes, sir.

21 Q So you'll know, if it's Mark or Andy we're talking
22 about the same person; right?

23 A Yes, sir.

24 Q I obviously haven't known him as long as you;
25 correct?

1 A Yes, sir.

2 Q So I probably don't know -- I probably -- I'm more
3 used to calling him Mark because that's how I know him.
4 Okay?

5 A Yes, sir.

6 Q So I apologize if we start interchanging those two
7 terms. Okay?

8 A You're okay.

9 Q So you said your daughter got burnt on Sunday. I
10 hope she's doing well and I'm sorry about that. But I
11 think you also said it's been a long time since this
12 happened; right?

13 A What?

14 Q I mean, it's been a -- it's been a long time since --

15 A Yes, sir.

16 Q -- Mark got locked up; right?

17 A Yes, sir.

18 Q It's been a year and a half; right?

19 A Yes, sir.

20 Q So your memory of everything you said that night may
21 not be exact; right?

22 A I can't remember everything I said, because I can't
23 remember some things I said yesterday.

24 Q Okay. It was a traumatic event; right?

25 A Yes, sir.

1 Q A lot of stuff going on?

2 A Yes, sir.

3 Q You weren't thinking that every single thing that you
4 said was going to be asked of you right now for you to
5 come up with it; right?

6 A No, sir.

7 Q So tell me a little bit about -- you've known Mark
8 all his life; right?

9 A Yes, sir.

10 Q You all live close; right?

11 A Yes, sir.

12 Q A close family?

13 A Yes, sir.

14 Q Spent a good amount of time over there?

15 A Yes, sir.

16 Q He spends a good amount of time over at your place,
17 too, doesn't he?

18 A Yes, sir.

19 Q He occasionally would help you out some?

20 A Yes, sir. Yardwork.

21 Q So if there was any yardwork that needed done at your
22 place sometimes Mark would come over and help you out?

23 A Yeah. I would call him. I'd say, Andy, can you come
24 over here and do this today.

25 Q Okay. And he'd come; right?

1 A Yeah. He'd say, you're going to feed me afterwards;
2 right. And I said, yes, I'm going to feed you.

3 Q But, so except for the time period that he moved
4 toward the beach, he'd been living close to you pretty
5 much his whole life and you had regular contact; right?

6 A Yes, sir.

7 Q Did you notice a change in him around the time his
8 sister passed?

9 A Yes, sir.

10 Q How did his sister pass?

11 A In a car wreck.

12 Q So about 11 months before he got locked up, right,
13 she passed away --

14 A Yes, sir.

15 Q -- in a car wreck? And did you notice any change in
16 him around that time period?

17 A Yes, sir. Because he just like kept to himself more.

18 Q Okay. Did he seem -- did he seem -- did he start
19 talking about stuff he's never talked about before?

20 A Yes, sir. He always said it should have been me, and
21 he was talking -- talking -- talking stuff out his head
22 that he don't usually -- wouldn't usually do.

23 Q And when you're using the term, out of his head, do
24 you mean basically stuff that a normal person wouldn't
25 understand unless it was something going on in his head?

1 A Something going on in his head that I didn't see.

2 Q During that time period did you ever see him go
3 without a meal?

4 A No, sir.

5 Q He didn't stop eating around that time; right?

6 A Well, I mean, he might would eat like early part of
7 the day and I'd say, Andy, you going to eat something
8 else? No, I'm okay. I'm okay. I'm okay.

9 Q Okay. But he was eating on a regular basis; right?

10 A Yes, sir.

11 Q And he actually ate that very day; right?

12 A Day when?

13 Q That day that you dropped him off. He came to the
14 Hardee's and --

15 A Yeah, he came to Hardee's. Yeah, I gave him some
16 food.

17 Q Okay. Do you recall what you gave him?

18 A It was fries, a drink and I think it was a double --
19 I think now, double cheeseburger and a spicy chicken
20 sandwich.

21 Q Okay. It's fair to say that you may not remember
22 exactly; right?

23 A Yes, sir.

24 Q But that was his normal thing whenever he came in?
25 That was his --

1 A No, that wasn't his normal food. He used to get the
2 monster burger.

3 Q Oh, okay.

4 A The burger with two pieces of meat on it and four
5 pieces of bacon.

6 Q Okay. But that day he didn't get the monster burger?
7 Instead he got a double cheeseburger?

8 A Uh-huh.

9 Q And he also got -- you think he got a chicken
10 sandwich as well?

11 A Yeah, chicken sandwich and a -- yeah, a double spicy
12 chicken sandwich and a fry and a drink.

13 Q Okay. And obviously you worked at Hardee's; right?

14 A Yes, sir.

15 Q That was a decent amount of food for somebody; right?

16 A Yes, sir.

17 Q A regular meal for somebody?

18 A Yes, sir.

19 Q Maybe even a little bit more than a regular meal for
20 somebody?

21 A Well, just depends on your size and your appetite.

22 Q Okay. But so, he -- he was eating that day; right?

23 A Yes, sir.

24 Q And then you dropped him off -- you said something
25 about a driver's license. Had he previously, or was he --

1 had he test drove a car there or something?

2 A Well, when I called my sister she said he test drove
3 a car a couple of days ago and he left his license there
4 and he wanted to go back and get his license.

5 Q What kind of car was it?

6 A I don't know what kind of car he test drove.

7 Q Okay. Do you recall a conversation about the car
8 with your sister?

9 A Well, he said he was -- he was going to get this car.
10 This car. And I said, what car you getting. I mean, he
11 never did say what kind of car he was going to get.

12 Q But he was looking forward to getting the car; right?

13 A Yes, sir.

14 Q And while you were there were you -- were you around
15 him at the point his phone stopped working that day?

16 A I mean, I didn't know he didn't have a phone. I
17 thought he had a phone.

18 Q Okay. Everything -- to your knowledge he had his
19 phone with him; right?

20 A Yes, sir.

21 Q Until at least you dropped him off; right?

22 A Yes, sir.

23 Q Did he have a shotgun with him?

24 A No, sir.

25 Q If he had a shotgun with him -- if he had that

1 shotgun over there would you have noticed it?

2 A He had a book bag but he didn't have no big shotgun
3 in it because he wouldn't get in my car with a shotgun.

4 Q He had a book bag but it was a small book bag; right?

5 A Yeah, a book bag with food in it.

6 Q Okay. But he didn't have any big shotgun like that;
7 right?

8 A No, sir.

9 Q You wouldn't have let him in your car?

10 A No, sir.

11 Q You probably wouldn't have walked him into Hardee's
12 with that, would you?

13 A No, sir.

14 Q It probably would cause a little bit of a problem;
15 right?

16 A Yes, sir.

17 Q When you dropped him off he didn't pull anything out
18 of your trunk or anything like that?

19 A No, sir.

20 Q Okay. You can pretty much definitively say that when
21 you dropped him off at that car lot he did not have that
22 shotgun?

23 A He did not have a shotgun on him.

24 MR. SHAFFER: Court's indulgence.

25 THE COURT: Sure. Take your time.

1 Q So in the time period you've known him he's generally
2 been a good kid; right?

3 A Yes, sir.

4 Q Maybe got two little misdemeanor things, but outside
5 of that nothing serious?

6 A Yes, sir. Nothing serious.

7 Q Never been violent really?

8 A No, sir.

9 Q Any sort of a history, at least as an adult, of
10 fighting?

11 A No, sir. Not as I know of.

12 Q Okay. Anything as a kid of fighting that you know
13 of?

14 A I mean, you know, him and my kids, you know, they
15 might disagree some and, you know, argue like that, and 10
16 or 15 minutes later --

17 Q Who are your kids?

18 A Tashima and Raven and Jermane.

19 Q Okay. Did they actually get into like a physical
20 fight or did they just --

21 A Just like a little push. You know, push your
22 shoulder and that's it.

23 Q Okay. And that was when he was a kid; right?

24 A Uh-huh. But it wasn't nothing serious. You know,
25 kids always fight each other and then they're back

1 together within five or 10 minutes.

2 Q Did they get -- anyone get hurt in those?

3 A No. They get back up and laugh. After they do it
4 they'll laugh at each other.

5 Q Okay. Just normal kid stuff; right?

6 A Normal kid stuff.

7 Q Do you all go to church at the same place?

8 A Yes, sir.

9 Q And he's pretty regular in that church; right?

10 A Yes, sir.

11 Q He's been -- he's had some positions in that church;
12 right?

13 A Yeah, he was on the choir. He did usher and trustee.

14 Q And the trustee, can you explain that for us, sort of
15 what that is in your church?

16 A Take up the money and then you got back to the back
17 of the church and count the money.

18 Q Okay. And obviously they don't want somebody who's
19 going to steal the money; right?

20 A Nope.

21 Q They want someone trust -- trustworthy?

22 A Somebody they can trust. Yes, sir.

23 Q Okay. And Mark was that person; right?

24 A Yes, sir.

25 MR. SHAFFER: No further questions.

1 THE COURT: Anything on redirect, Solicitor?

2 MS. SUMNER: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 By Ms. Sumner:

5 Q Ms. Watts, do you know how Mark got to Hardee's on
6 March 5th?

7 A No, ma'am.

8 Q All right. So you're not aware if he walked there,
9 if someone gave him a ride?

10 A No, ma'am.

11 Q You have no idea?

12 A No, ma'am.

13 Q Now, at Hardee's were you able to keep eyes on him
14 the whole time he was there?

15 A Yes, ma'am.

16 Q So you had your eyes on him the entire time he was at
17 Hardee's?

18 A Yes, ma'am. He went to the bathroom and came back.

19 Q Okay. So, but he was moving around some?

20 A Yes, ma'am.

21 Q So it's possible that there would be a few minutes
22 where you did not see him if he was in the restroom?

23 A No, because when he got up I walked to see where he
24 was going. He went to the bathroom, and I was standing
25 right there when he come out the bathroom. He came back

1 and sat down.

2 Q But you wouldn't have seen what he was doing in the
3 restroom; is that correct?

4 A Huh-uh.

5 Q All right. Now --

6 THE COURT: If you would give a verbal response,
7 please.

8 A No, ma'am.

9 Q Thank you, Ms. Watts. You mentioned to Mr. Shaffer
10 that he had a small book bag with him; correct?

11 A Yes, ma'am.

12 Q Could you demonstrate with your hands about how big
13 that was?

14 A Probably about the size of this mask.

15 Q Okay. So a small bag?

16 A Uh-huh.

17 THE COURT: You need to verbally respond, ma'am.

18 A Yes, ma'am. A small book bag.

19 Q Can you describe how he was acting that day on March
20 5th?

21 A He was just sitting there eating and asked me did I
22 have a cigarette. And I said, you know I don't smoke.
23 And, I mean, he just sat there. He was drinking and
24 eating his food and that's it.

25 Q How was he acting when he was talking about the three

1 dots?

2 A I mean, like he was saying stuff like -- I mean, just
3 like -- like something was going on up in his -- upside
4 his -- inside his head.

5 Q So would you say that's different than how Mark is
6 acting here today?

7 A Yes, ma'am.

8 Q And one last thing. The body cam we watched
9 yesterday, is everything you told law enforcement in those
10 early morning hours of March 6th the truth?

11 A To my knowledge. Yes, ma'am.

12 MS. SUMNER: Thank you, Ms. Watts for your time.

13 RECROSS-EXAMINATION

14 By Mr. Shaffer:

15 Q Now, you said to your knowledge; correct?

16 A Yes, sir.

17 Q And it's fair to say that sometimes we don't know
18 everything that we're talking about; right?

19 A Yes, sir. I can't remember everything being said.
20 It's a whole year. I can't -- I mean --

21 Q And sometimes we make assumptions based off of
22 things; right?

23 A Yes, sir.

24 Q Like maybe is it possible that the comments about
25 drug use were assumptions you made?

1 A Yes, sir. Because I ain't never seen him do drugs.

2 Q So you don't know for a fact that he actually did use
3 drugs; right?

4 A No, sir. I do not know.

5 Q You're just sort of assuming based off of how he was
6 acting; right?

7 A Yes, sir.

8 Q Now, Ms. Sumner asked you about -- about the -- I
9 guess she said some stuff about the behavior of how he was
10 acting that day and you said he was sort of -- earlier
11 that day, the 5th, you said he was sort of talking out of
12 his head; right?

13 A Yes, sir.

14 Q And she asked you if that's how he's acting now;
15 correct?

16 A Yes, sir.

17 Q And you said no, it's not how he's acting now; right?

18 A No, sir. He's not acting like that.

19 Q Okay. And it's also not how he was acting whenever
20 he came -- came back to his momma's house that night;
21 right?

22 A What you mean? Like he acting now?

23 Q No, no. How he was acting at Hardee's isn't the same
24 as how he was acting as his momma's house that night;
25 right?

1 A No, sir.

2 Q He was a lot more coherent; right?

3 A Yes, sir.

4 Q He was making at least some sense with what he was
5 saying; correct?

6 A When, at the house?

7 Q No, at Hardee's.

8 A At Hardee's. Yes, sir.

9 Q Okay. But at the house he wasn't making a whole lot
10 of sense at all?

11 A No, sir. I was like, what are you talking about?

12 Q Okay. But at Hardee's -- had he been acting like
13 that at Hardee's would you have dropped him off at that
14 car lot?

15 A If he was acting the way he was acting at home would
16 I have dropped -- no, I wouldn't have.

17 Q Okay. You probably would have thought that there was
18 --

19 A Called his mom and told her you meet me at such and
20 such and come get Andy.

21 Q Okay. Have you ever seen him act like he acted that
22 night?

23 A No, sir.

24 Q So that was totally different than you've ever seen
25 him act?

1 A Yes, sir.

2 MR. SHAFFER: No further questions.

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

4 (Whereupon, the witness stepped down from the witness
5 stand.)

6 THE COURT: Next witness.

7 MR. BROWN: Judge, may we approach?

8 THE COURT: Sure.

9 (Whereupon, a bench conference was held in the
10 presence of the jury but out of the hearing of the
11 jury.)

12 THE COURT: Ladies and gentlemen, the next witness
13 that the State intends to call is not here. He's on his
14 way. Should be here in just a few minutes, not long.
15 Let's go take a short break and -- and then we'll start
16 back very soon. Okay?

17 (Whereupon, the jury was excused from open court for
18 a break.)

19 THE COURT: All right. We'll be in a short break.

20 (Whereupon, a short break was taken.)

21 THE COURT: Let's bring the jury in, please.

22 (Whereupon, the jury came into open court at
23 approximately 10:25 a.m.)

24 THE COURT: Let the record reflect the jury is back
25 in. Is the State ready to call its next witness?

1 MR. BROWN: Yes, Your Honor. The State calls James
2 Bonetti.

3 THE COURT: Come around, please, sir.

4 JAMES BONETTI, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Brown:

8 Q Good morning.

9 A Good morning.

10 Q Mr. Bonetti, spell your -- state your full name for
11 the record and spell your last name for the court
12 reporter.

13 A James Bonetti. B, as in boy, O-N-E-T-T-I.

14 Q And, Mr. Bonetti, where do you work?

15 A Greenwood County Sheriff's Office.

16 Q How long have you been with the Greenwood County
17 Sheriff's Office?

18 A Two years in November.

19 Q Prior to working with Greenwood County did you work
20 in other law enforcement?

21 A No, sir.

22 Q Okay. And to become a law enforcement officer did
23 you have training?

24 A Yes, sir. Twelve weeks at the South Carolina
25 Criminal Justice Academy.

1 Q Okay. And what is your duty -- what are your duties
2 at the Greenwood County Sheriff's Office?

3 A I'm a patrol deputy. I work 12 hour shifts. I
4 answer calls throughout the county.

5 Q Now, Mr. Bonetti, were you a patrol officer back on
6 March 6th, 2019?

7 A Yes, sir.

8 Q Did you receive a call from dispatch, or receive a
9 call to go to [REDACTED] Booker Road?

10 A Yes, sir. I did.

11 Q And what county is that in?

12 A Greenwood County.

13 Q It's Greenwood County. Where is that located in
14 Greenwood County?

15 A On the south end of the county, so pretty far out
16 towards Ninety Six.

17 Q Do you remember when the 911 dispatched you?

18 A What do you -- the time?

19 Q Yes, sir.

20 A Roughly 2:00 o'clock in the morning. It was early in
21 the morning.

22 Q If I told you it was 3:26 does that sound familiar?

23 A Yes, sir.

24 Q Okay. And you arrived on scene around 3:45 that
25 morning?

1 A That is correct.

2 Q When you arrived on scene, when you get a call are
3 you equipped with body cam?

4 A Yes, sir.

5 Q Are you equipped with an in-car camera?

6 A Yes, sir.

7 Q And on this particular date on March 6th were both of
8 those cameras running?

9 A Yes.

10 Q When you arrived at [REDACTED] Booker Road, what did you
11 notice when you first got there?

12 A It's a long driveway, so I was just getting to the
13 address. I noticed several vehicles in the driveway and
14 just got out and tried to make contact and figure out what
15 was going on.

16 Q Did you have a lot of information at your disposal at
17 that time?

18 A It took me about roughly 20 minutes or so to get out
19 there, so information was being relayed to me by dispatch.
20 Just basically that an unknown -- unknown problem was
21 going on. A man was acting strange. A gun might have
22 gone off. So that was about the only thing I had to go
23 off of and just trying to figure out what was going on.

24 Q When you arrived did you enter the house?

25 A I did.

1 Q And again, did your body cam capture that?

2 A Yes, sir.

3 Q Yesterday you were actually in the courtroom; is that
4 correct?

5 A Correct.

6 Q Were you able to watch your body cam?

7 A Yes, sir.

8 Q And that was your camera on --

9 A Yes, sir.

10 Q So when you walked in where was Mr. Hailey?

11 A He was in the kitchen.

12 Q Okay. And is Mr. Hailey, the person you saw that
13 night, is he in the courtroom?

14 A Yes, sir.

15 Q And what is he wearing?

16 A He's wearing a blue suit.

17 MR. BROWN: Judge, let the record reflect that he's
18 identified --

19 THE COURT: So noted that this witness identified the
20 Defendant.

21 Q Mr. Bonetti, when you first started your interaction
22 with Mr. Mark Hailey what did you notice?

23 A He was crying. His demeanor was strange. I feel
24 like he was under the influence of something. Just
25 something was not right. I just knew there was something

1 going on with him and I didn't know what it was.

2 Q And at that time you patted him down for safety?

3 A Yes, I did.

4 Q For yours and his safety?

5 A Yes, correct.

6 Q In the kitchen, did he move from the kitchen
7 somewhere else?

8 A Yes, he did.

9 Q Okay. Anything on the couch that he said that sticks
10 out in your mind?

11 A He did make several statements, one of them being
12 force of nature and that it was -- the incident happened
13 on Booker Road with a friend.

14 Q Booker Road or Warner Road?

15 A I mean, excuse me. Warner Road. That's what it was.
16 Sorry.

17 Q And ultimately while you were standing there did he
18 give you another name?

19 A Yes.

20 Q And what was that name?

21 A Marty.

22 Q Marty. While you're talking with Mr. Hailey who else
23 was in the room with you?

24 A Two other females. I believe it was his mother and
25 another family member --

1 Q His aunt? Was it his aunt?

2 A Yes.

3 Q Were they also providing information at that time?

4 A Yes, they were.

5 Q But everything that was said that day is on that body
6 cam; is that correct?

7 A Correct.

8 Q Short time later did another officer arrive?

9 A Yes.

10 Q And what was his name?

11 A Sergeant -- at that time, Sergeant Mike Young.

12 Q Okay. And is he, I guess on the ranks, ranked higher
13 than you?

14 A Yes, he is.

15 Q Did he somewhat kind of take charge when he got
16 there?

17 A Yes, sir.

18 Q At the time you were in there and when Officer Young
19 arrived was Miranda read to Mr. Hailey?

20 A Yes. He was -- Mr. Hailey was sitting on the couch
21 and that's when his Miranda rights were read.

22 Q And while you were in there talking to him was he
23 responding to you? Giving you answers?

24 A Here and there, yes. It was just I would ask and
25 then kind of wait and maybe ask again, and it was just one

1 word or so, but it wasn't a full-on conversation.

2 Q But he understood what you were asking him on certain
3 questions?

4 A Yes. Yes.

5 Q Okay. Did Mr. Hailey give any indication that he was
6 seeing things?

7 A Yes. He did state that he saw stars, I believe, in
8 his mind, so --

9 Q Symbols or anything?

10 A Symbols. Yes, sir.

11 Q After Miranda was read by Mr. Young to Mr. Hailey
12 what did y'all do next?

13 A We decided to escort him to my vehicle and place him
14 in the rear of my vehicle.

15 Q Did y'all handcuff him?

16 A Not at that time, no.

17 Q What did he have in his hand?

18 A He had a Bible.

19 Q And why didn't y'all handcuff him then?

20 A Well, at that time we were still investigating what
21 was going on. We were still trying to figure out what was
22 legit and what was not. So that was the reason.

23 Q Were y'all trying not to upset him?

24 A I would say yes.

25 Q Officer Bonetti, again, I've already asked you about

1 your body cam that you were wearing, and that's already in
2 evidence. The in-car camera, have you had the chance to
3 review that, too?

4 A Yes, sir.

5 Q Okay. And it's a little over two hours long; is that
6 correct?

7 A Yes, sir.

8 Q Does that in-car camera capture, I guess, everything
9 it can of what's being said in that car?

10 A Yes, sir.

11 Q Was it running, again, from the time you entered
12 Booker Road responding to this call?

13 A Yes, it activated, yes.

14 Q And when did your in-car camera cut off?

15 A I believe at the hospital.

16 Q After Mr. Hailey would have left your car?

17 A Yes, sir.

18 Q So it captured everything in between?

19 A Yes.

20 MR. BROWN: Your Honor, at this time the State would
21 move State's No. 2, which was previously marked for ID
22 purposes only, into evidence at this time.

23 THE COURT: Okay.

24 MS. MCNEILL: Without objection, Your Honor.

25 THE COURT: Without objection, No. 2 into evidence

1 for the State.

2 (Whereupon, State's Exhibit No. 2 was admitted into
3 evidence.)

4 THE COURT: You intend to publish it at this time,
5 Solicitor?

6 MR. BROWN: Yes, sir.

7 THE COURT: Okay. Ladies and gentlemen, as the
8 Solicitor indicated, the -- this video is about two hours
9 long. What I've asked the lawyers to do, to approximately
10 halfway through or close, a breaking point, to go ahead
11 and indicate that to the Court and we'll take a recess at
12 that time. We're going to leave the lights on as we did
13 yesterday. Solicitor, I believe the sound picks up here
14 in just a minute, does it not?

15 MR. BROWN: It does.

16 (Whereupon, State's Exhibit No. 2 was published for
17 the jury starting at 10:37 a.m.)

18 MR. BROWN: Judge, that's about halfway through.

19 THE COURT: Okay, very good. Ladies and gentlemen,
20 we're going to take a -- take a break. I realize that
21 watching these lengthy videos is not easy, but you need to
22 remain as attentive as possible -- I've noticed one of
23 you, and I'm not going to single anybody out yet, but I
24 noticed one of you looks like you were kind of dozing off
25 a little bit. So as hard as it is, and I recognize that,

1 you need to remain as attentive as possible. Okay, go
2 back to the jury room and have a break. If you need to go
3 outside and get some fresh air just ask one of the
4 bailiffs.

5 (Whereupon, the jury was excused from open court for
6 a break.)

7 THE COURT: Officer Bonetti, you can step down from
8 the witness stand if you need to.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 THE COURT: All right. We'll be in a short recess.

12 (Whereupon, a short break was taken.)

13 THE COURT: Let's bring the jury in.

14 (Whereupon, the jury came into open court at
15 approximately 11:55 a.m.)

16 THE COURT: Let the record reflect the jury is back
17 in. Solicitor, you want to continue playing the video?

18 (Whereupon, the video continued to play for the jury
19 starting at 12:00 p.m., ending at 1:20 p.m.)

20 THE COURT: Solicitor, do you have anymore direct
21 examination?

22 MR. BROWN: Just two questions.

23 THE COURT: Okay. Go ahead and then we'll break for
24 lunch, and then we can pick back up with Defense cross.

25 CONTINUE DIRECT EXAMINATION

1 By Mr. Brown:

2 Q Mr. Bonetti, did that capture your whole time there
3 at the scene and to the hospital?

4 A Yes, sir.

5 Q The whistling at the end, was that you whistling?

6 A No, sir.

7 MR. BROWN: And, Judge, I have actually one more
8 question. So three in total.

9 THE COURT: Sure.

10 Q After you left there did you turn him over to other
11 -- the day shift at the Sheriff's Office?

12 A Yes, sir. That's correct.

13 Q Josh Hood and Gilbert Yates?

14 A Yes.

15 MR. BROWN: No further questions.

16 THE COURT: Okay. Ladies and gentlemen, we're going
17 to go ahead and take our lunch break, and let's take a
18 little bit longer of a lunch break. You've worked hard
19 and you spent a lot of time watching the video, so let's
20 be back at 3:00 o'clock. It's about almost 25 after 1:00
21 now, so that will give you a little more than an hour and
22 a half. Okay? Again, I'll remind you as I told you
23 yesterday, if you go to a public restaurant keep your
24 juror badge visible. No discussions about this case.
25 Have a good lunch and we'll see you back at 3:00 o'clock.

1 (Whereupon, the jury was excused from open court for
2 a lunch break.)

3 THE COURT: All right. We'll be in recess until 3:00
4 o'clock. Officer Bonetti, you can't talk to anybody about
5 your testimony, okay, since you're in the middle of it.

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you.

8 (Whereupon, a lunch break was taken.)

9 THE COURT: Bring the jury out, please.

10 (Whereupon, the jury came into open court at
11 approximately 3:05 p.m.)

12 THE COURT: Good afternoon, ladies and gentlemen,
13 hope you had a good lunch break. And we are ready to get
14 back to work. I do want to thank you. I did check with
15 Judge Smithdeal and his Administrative Assistant and asked
16 them, how was my jury doing as far as remaining reasonably
17 quiet back there. And they said that they haven't heard a
18 peep. So I appreciate that very much. Continue doing
19 that. I think we're in the Defense's cross of Officer
20 Bonetti.

21 CROSS-EXAMINATION

22 By Ms. McNeill:

23 Q Good afternoon, Officer Bonetti. How are you?

24 A Good afternoon. I'm doing well.

25 Q Good. So picking up from where we just saw your

1 video on yesterday. The body cam. When you first arrived
2 at the Hailey's residence you saw Mark standing in the
3 kitchen when you first walked in the house; is that
4 correct?

5 A That is correct.

6 Q And he was reading a Bible?

7 A Yes.

8 Q And there was other people in the kitchen along with
9 like his mom and his aunt and yourself; right?

10 A Correct.

11 Q And being in a kitchen you're around some utensils
12 like kitchen knives and forks and sharp objects naturally;
13 right?

14 A Correct.

15 Q And you didn't see Mark reach for a kitchen knife or
16 anything that was sharp in order to hurt anybody, did you?

17 A No.

18 Q And, in fact, you know, his mom and his aunt were
19 standing around them and you didn't think anybody was
20 necessarily in danger at that point, did you?

21 A No.

22 Q He wasn't holding anybody hostage, was he?

23 A No.

24 Q He didn't try to stab an officer with a screwdriver
25 or anything like that?

1 A No.

2 Q And you observed him crying a lot; correct?

3 A Correct.

4 Q And he was pacing around the kitchen?

5 A Correct.

6 Q And you said that you thought that he might be under
7 the influence of something but you just weren't sure; is
8 that right?

9 A Yes.

10 Q And have you had any sort of training in drug
11 addiction?

12 A No.

13 Q Okay. What about in any sort of mental health
14 awareness? Any training for that?

15 A No, ma'am.

16 Q So I think in a previous hearing on Friday of last
17 week you testified that should his mom have told you he
18 was a paranoid schizophrenic you -- that could have been
19 the case in describing his actions that day; correct?

20 A Correct.

21 Q So it's fair to say you didn't know if he was on
22 drugs or if he was having some sort of mental breakdown?

23 A Correct.

24 Q When Mark was in the kitchen he eventually moved to
25 the couch in the living room; right?

1 A Yes.

2 Q And when he walked there he didn't stumble or fall or
3 anything like that?

4 A No.

5 Q He walked straight from the kitchen to the couch;
6 right?

7 A Yes.

8 Q And we can see this all on body camera; right?

9 A Correct.

10 Q So he was kind of walking with purpose to get to the
11 couch?

12 A Correct.

13 Q And when he went to the couch, I mean, he was -- he
14 was pretty cooperative to you the whole time; right?

15 A I would say so, yes.

16 Q And he was answering questions to the best of his
17 ability during that breakdown that he was having?

18 A Yes.

19 Q And he wasn't argumentative?

20 A No.

21 Q And you felt that he was comprehending your
22 questions?

23 A To a degree. I mean, it was rough.

24 Q Right.

25 A Some of his answers were not complete.

1 Q Not complete, not coherent some of them?

2 A Correct.

3 Q But when you asked him, you know, who was hurt he
4 told you the name Marty; correct?

5 A Correct.

6 Q And he told you that name Marty pretty immediately?

7 A Yes.

8 Q And I understand that his family didn't know. I
9 think they told you that they thought it was some boy
10 named Josh that got hurt?

11 A Correct.

12 Q Okay. When Mark was talking to you he was extremely
13 well mannered and polite, was he not?

14 A Yes.

15 Q Yes, sir. No, sir. That sort of thing?

16 A Yes.

17 Q When you asked Marty where -- I'm sorry, Mark where
18 Marty was he told you he was on Warner Road; right? That
19 he had left him on Warner Road?

20 A Correct.

21 Q And he wasn't evasive about that, was he?

22 A No.

23 Q I think at one point in the body video and, of
24 course, we can review it, but he even said, I shot Marty.
25 Didn't he tell you that?

1 A I believe in the very beginning when I first made
2 contact, yes.

3 Q So at the very beginning when you first arrived he
4 told you that?

5 A Yes.

6 Q All right. So he was pretty up front with you that
7 he shot a man named Marty and Marty was on Warner Road?

8 A Correct.

9 Q Now, at the house, you know, we were -- when we
10 watched the body footage -- the body cam footage yesterday
11 the scene was a bit chaotic trying to figure out what was
12 going on, was it not?

13 A Yes.

14 Q Lots of talking, lots of crying, lots of questions,
15 that sort of thing?

16 A Yes.

17 Q But even though the scene was pretty chaotic you
18 still didn't feel like anybody -- any household member,
19 mom, aunt, or yourself or Marty was in any sort of danger
20 of being attacked -- I'm sorry, Mark of being attacked by
21 Mark, did you?

22 A No.

23 Q At one point towards the end of your body cam footage
24 from yesterday you were talking to other officers
25 naturally?

1 A Yes.

2 Q To fellow officers; right?

3 A Correct.

4 Q And at one point you did say to them that you didn't,
5 quote, "know if he was hallucinating or just crazy." Is
6 that right?

7 A I don't remember. I can't remember.

8 Q But if it's on the body cam footage you wouldn't
9 dispute it?

10 A I wouldn't, no. No.

11 Q And some of the officers, when you were talking to
12 them, you also said that the family said that he did have
13 some mental health issues but that they were saying they
14 never got help for it. They were never able to get help?

15 A Correct.

16 Q And that he had had episodes in the past?

17 A Yes.

18 Q But apparently nothing like this one?

19 A Correct.

20 Q And when you were at the scene of the house at the
21 Hailey residence you didn't handcuff him, right, until the
22 end of -- I guess today we saw the dash cam footage and
23 you handcuffed him in the car before taking him to the
24 hospital; is that right?

25 A Correct.

1 Q So he sat in the car for a good two hours before
2 being handcuffed and taken to the hospital?

3 A I don't know an exact time, but yes. That -- yes.

4 Q Sounds about right?

5 A Yes.

6 Q And Marty is a bigger guy; isn't he? I'm sorry,
7 Mark. I keep saying Marty. Mark is a bigger guy, isn't
8 he?

9 A Yes.

10 Q And I think you even told an officer that he looked
11 pretty strong?

12 A Yes.

13 Q But you still didn't feel like you were in danger?

14 A No.

15 Q And again, you didn't handcuff him because he was
16 being cooperative?

17 A Correct.

18 Q He didn't try to flee or run or anything like that?

19 A No.

20 Q He didn't try to resist arrest?

21 A No.

22 Q He didn't give you or another officer any sort of
23 problems, did he?

24 A No.

25 Q And when you all were walking him out of the house

1 and into your car he walked there without incident;
2 correct?

3 A We did have an outburst, I would call it. You know,
4 he stopped and kind of screamed.

5 Q Yeah.

6 A Other than that, then he went into the vehicle.

7 Q But even that outburst, as you call it, didn't rise
8 to the level of feeling that you needed to handcuff him;
9 correct?

10 A Not at that time.

11 Q And that outburst that we all saw on the -- on the
12 body cam footage, and on the dash cam footage, it was you
13 all walking him out and then him dropping to the ground
14 kind of and just screaming in pain kind of is what it
15 sounded like; correct?

16 A Yes.

17 Q Going to the time that Mark was sitting in the back
18 of your police vehicle on the footage that we got to see
19 today, you could hear a lot of noise in the vehicle that
20 Mark was making; correct?

21 A Yes.

22 Q Okay. He at some times was screaming; right?

23 A Yes.

24 Q And sometimes he was just mumbling some things?

25 A Yes.

1 Q Sometimes he was singing?

2 A Yes.

3 Q And on the way to the hospital he was whistling?

4 A Yes.

5 Q But never once did he try to, you know, shake your
6 car in any way? You never saw your car shaking, did you?

7 A No.

8 Q In no way did he try to kick out the cage that
9 separates the front seat from the backseat of the police
10 vehicle?

11 A No.

12 Q At no time did he try to kick out one of your windows
13 to try to escape?

14 A No.

15 Q And he was not cuffed?

16 A He was cuffed in --

17 Q Up until -- up until the two hours that he was
18 sitting in the car uncuffed; correct?

19 A Correct.

20 Q So in general, no problems while he was sitting in
21 the car either?

22 A Correct.

23 Q He was being completely compliant other than unable
24 to answer certain questions?

25 A Correct.

1 Q And you -- on the video -- and I think that you had
2 testified to this earlier today. You did try to keep him
3 calm; is that right?

4 A Yes.

5 Q What was keeping him calm?

6 A I would say the Bible in his hand.

7 Q The Bible in his hand. Okay. And he had the Bible
8 with him while sitting in the backseat of your police
9 vehicle; correct?

10 A Yes.

11 Q And even when you all handcuffed him I think that we
12 heard on the video, don't worry. You can still have your
13 Bible. You can still read your Bible.

14 A Yes.

15 Q Okay. Did he take it with him even into the
16 hospital?

17 A I couldn't recall if he did or not.

18 Q Okay. And you did run a criminal background check on
19 Mark when you gathered his information like his date of
20 birth and his full name; correct?

21 A Yes.

22 Q And this would have been still while you were at the
23 Hailey residence?

24 A No.

25 Q When would this have been?

1 A Probably when I was doing the report.

2 Q Okay.

3 A To get the charges and everything.

4 Q Okay. So that would have been after you left the
5 Hailey residence?

6 A Yes.

7 Q All right. And when you ran a criminal background
8 check on him you saw that he had basically three
9 misdemeanor offenses. Driving under suspension,
10 possession of marijuana and drug paraphernalia; is that
11 correct?

12 A I would not -- I don't --

13 Q You don't recall?

14 A -- reading that.

15 Q Okay. But you would recall if you saw something like
16 resisting arrest or possession of dangerous drugs or
17 assault on a police officer or attempted assault on a
18 police officer? He didn't have any of those things, did
19 he?

20 A Not to my knowledge.

21 Q He never had a possession of an illegal firearm --
22 illegal possession of a firearm, did he?

23 A Not to my knowledge.

24 MS. MCNEILL: Beg the Court's indulgence.

25 THE COURT: Sure. Take your time.

1 MS. MCNEILL: Thank you, Officer. No further
2 questions.

3 THE COURT: Anything on redirect, Solicitor?

4 MR. BROWN: Just briefly, Your Honor.

5 REDIRECT EXAMINATION

6 By Mr. Brown:

7 Q Officer Bonetti, when you arrived there at Booker
8 Road had you ever met Mr. Hailey before?

9 A No, sir.

10 Q Ms. Hailey?

11 A No. No, sir.

12 Q Okay. When you first entered the house and you
13 noticed Mr. Hailey's demeanor, what did you think his
14 demeanor was from?

15 A Being under the influence.

16 Q Later on while talking to his mom and aunt did you
17 get a background on Mr. Hailey?

18 A Yes.

19 Q And I think Ms. McNeill asked you about mental health
20 issues. Later on after you mentioned that to the other
21 officers that arrived, did you clarify that and say what
22 you were told about drug abuse, or the drug use?

23 A He's used drugs in the past and he's had several
24 episodes in the past. When he uses drugs he usually has
25 episodes is what I -- his mother had stated.

1 Q And that's what the mental health issues you're
2 referring to?

3 A Correct.

4 Q When asking the mother and aunt, they actually --
5 they told you he didn't have any other mental health
6 issues; is that correct?

7 A Right.

8 MR. BROWN: No further questions.

9 THE COURT: Anything on recross?

10 MS. MCNEILL: Just briefly, Judge.

11 RECROSS-EXAMINATION

12 By Ms. McNeill:

13 Q Officer Bonetti, Solicitor Brown just asked you where
14 you were getting that information from; right?

15 A Yes.

16 Q And you stated his mother and his aunt; correct?

17 A Yes.

18 Q And you were also getting the information of his drug
19 history from his mother and his aunt as well; correct?

20 A Correct.

21 Q And again, you don't have any mental health training?

22 A Correct.

23 Q And you don't have any drug addiction training?

24 A Correct.

25 Q And so, it's fair to say that you couldn't tell if he

1 was having a mental break episode or under the influence
2 of drugs; correct?

3 A Correct.

4 Q But he was walking pretty straight and not stumbling,
5 things of that nature?

6 A Correct.

7 MS. MCNEILL: Thank you. No further questions.

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

9 THE WITNESS: Yes, sir.

10 (Whereupon, the witness stepped down from the witness
11 stand.)

12 THE COURT: Next witness.

13 MR. BROWN: The State calls Mike Young.

14 THE COURT: Come around, please, sir.

15 MIKE YOUNG, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Brown:

19 Q Good afternoon, Officer Young.

20 A Good afternoon.

21 Q Officer Young, where do you work?

22 A With the Greenwood County Sheriff's Office.

23 Q And how long have you been with the Sheriff's Office?

24 A About 13 and a half years.

25 Q What's your role there?

1 A Right now I'm a lieutenant on the Uniform Patrol
2 Division.

3 Q Before you got to the Greenwood County Sheriff's
4 Office where did you work?

5 A I had two jobs in private industry, and prior to that
6 I worked with the South Carolina Department of Corrections
7 for six years. About six and a half years.

8 Q So you have over close to 20 years experience in law
9 enforcement?

10 A Yes, sir.

11 Q Officer Young, back on March 6th, the early morning
12 hours of March 6th, 2019, did you respond to a call?

13 A I did.

14 Q At [REDACTED] Booker Road?

15 A Yes, sir.

16 Q Is that here in Greenwood County?

17 A Yes, sir.

18 Q And then later over on Warner Road?

19 A Yes, sir.

20 Q Is that, too, in Greenwood County?

21 A Yes, sir.

22 Q Here in South Carolina?

23 A Yes, sir.

24 Q Officer Young, were you -- and I think you've been in
25 here. We've watched some videos. Were you the second

1 officer to arrive at Booker Road?

2 A Yes, sir.

3 Q And when you arrived did you have your in-car camera
4 on?

5 A I did.

6 Q And your body cam camera?

7 A Yes, sir.

8 Q Officer Young, do you recognize the man sitting over
9 here?

10 A Yes, sir.

11 Q Is that Mr. Mark Anthony Hailey, Jr.?

12 A Yes, sir.

13 Q How do you recognize him?

14 A He was the gentleman on scene that night that his
15 mother had called and said he'd shot someone.

16 Q When you arrived to the house what did you do first?

17 A While we were responding we had gotten some intel
18 that there was a car parked in the yard. So when I pulled
19 in I stopped prior to going all the way to the residence
20 because there was a car parked on the left. I stopped and
21 got out and looked inside the vehicle.

22 Q What did you see?

23 A I seen what appeared to be brain matter and blood on
24 the inside of the car. There was a shotgun and what
25 looked like a pellet BB gun inside the car on the seat.

1 Q Okay. After you noticed that in the car what did you
2 do next?

3 A Went back around the car, and then got into my car
4 and drove to the residence.

5 Q Inside what did you find?

6 A When I walked in Mr. Hailey, I think, was sitting on
7 the couch. On the sofa. He had some family members there
8 on the left towards the kitchen, and Deputy Bonetti was in
9 front of Mr. Hailey.

10 Q At that time did you try to figure out what was going
11 on?

12 A Yes, sir. I asked what was going on. What all
13 happened. You know, kind of why we're here.

14 Q And ultimately you Mirandized Mr. Hailey?

15 A Eventually. Yes, sir.

16 Q Everything you did that night was on body cam; is
17 that correct?

18 A Yes, sir.

19 Q When you arrived at the house what was the demeanor
20 of Mr. Hailey?

21 A He was upset and crying, kind of shaking. Rocking
22 back and forth a little bit. He was reading his Bible.
23 Just kind of out of it. He looked like he might be --
24 just upset. Really upset.

25 Q After talking with family outside did you learn of

1 any possibilities of why he was out of it?

2 A Yeah. It looked like he may have been under the
3 influence of something and they kind of confirmed it by
4 talking to them. They said that he kind of loses it a
5 little bit, hallucinates some when he's on drugs.

6 Q Prior to taking the stand did you get to witness --
7 or review your body cam footage?

8 A Yes, sir.

9 MR. BROWN: And just for the purposes of this video,
10 State's Exhibit 152 -- and, Judge, we would move that one
11 in as evidence.

12 THE COURT: Okay. What says the Defense?

13 MS. MCNEILL: No objection.

14 THE COURT: Okay.

15 (Whereupon, State's Exhibit No. 152 was admitted into
16 evidence.)

17 Q Mr. Young, you were -- you actually went to both
18 scenes that night; is that correct?

19 A Yes, sir.

20 Q You first arrived at Booker Road?

21 A At Booker Road?

22 Q At Booker Road. At Mr. Hailey's residence?

23 A I arrived after Deputy Bonetti.

24 Q But -- yeah, but you went there first; right?

25 A Yeah.

1 Q Tell me while you were outside what were you doing?

2 Being as a Lieutenant that night what was your role?

3 A I was trying to first figure out had somebody
4 actually been hurt, been shot. Based off what I seen in
5 the car I kind of had the indication that, yeah, somebody
6 had. So I felt like we needed to get all the information
7 we could to render aid. Try to find out if somebody's
8 still living, somebody's needing help. Find out where
9 they are. I was notifying -- getting dispatch to notify
10 the on-call investigators. I was notifying my supervisors
11 of what all was going on, and I was just trying to contain
12 things and make things as safe as I could while we were
13 determining what was happening.

14 Q Trying to maintain as safe as possible, was that one
15 of your judgment calls to not place Mr. Hailey in
16 handcuffs?

17 A Yes, sir.

18 Q And Mr. Hailey was placed in a secure area in the
19 backseat of the car?

20 A Yes, sir.

21 Q Now, Officer Young, you've been, you said, working
22 with the Sheriff's Office for 13 years?

23 A A little over.

24 Q A little over 13 years?

25 A Yes, sir.

1 Q Have you been on the road the majority of the time?

2 A Yes, sir.

3 Q You're familiar with Greenwood County?

4 A Yes, sir.

5 Q I'm going to show you what's been marked State's 50
6 for ID purposes at this time. This is a GIS map.

7 MR. BROWN: Judge, I don't know what would be the
8 easiest thing, if he stepped down off the --

9 THE COURT: Okay. Yeah, you'll need to go ahead and
10 put your mask on and just be sure to speak up louder since
11 you're away from the microphone.

12 THE WITNESS: Yes, sir. Your Honor.

13 (Whereupon, the witness stepped down from the witness
14 stand.)

15 MR. SHAFFER: Your Honor, I think that we were going
16 to stipulate to that map and they were going to stipulate
17 to one that's a little more --

18 MR. BROWN: That's fine. I just need to -- still
19 need to show him.

20 MR. SHAFFER: Okay. Oh, that's fine.

21 THE COURT: All right. So 50 is into evidence, but I
22 think maybe --

23 MR. BROWN: Judge, I misspoke. It's 150.

24 THE COURT: Excuse me?

25 MR. BROWN: It's 150.

1 THE COURT: Oh, I'm sorry.

2 MR. BROWN: Yes, sir.

3 THE COURT: All right. 150 is into evidence for the
4 State.

5 (Whereupon, State's Exhibit No. 150 was admitted into
6 evidence.)

7 Q Officer Young, State's 150. And this is a GIS map of
8 the area; is that correct?

9 A Yes, sir.

10 Q Could you point to Booker Road?

11 A Booker Road --

12 THE COURT: What you may want to do is go ahead and
13 get a little closer to the jury, and then stand to the
14 side so you wouldn't be blocking any of the jurors,
15 Officer Young, if you could, please.

16 THE WITNESS: Yes, Your Honor.

17 A Booker Road, if you come down 178 and turn left
18 Booker Road runs around past Mt. Olive and comes all the
19 way back over to 246. Oh, wait a minute. Booker Road,
20 okay. I thought you meant Brooks Road. My apologies.
21 Booker comes off of 246 and it's a dirt road traveling to
22 the residence.

23 Q Is that where you first approached was on Booker
24 Road?

25 A Yes, sir. Over in here.

1 Q Now, after receiving the call -- or putting out the
2 call, did ultimately another Sheriff's deputy find Marty
3 George's body?

4 A Yes, sir.

5 Q Okay. And where was that?

6 A On Warner Road. Booker Road's here. Come back out
7 of Booker and come around and it'll bring you back around
8 onto Brooks Road. And Warner Road is off of Brooks Road.
9 Warner Road goes all the way up to Tillman Territory.

10 Q And runs into Tillman Territory?

11 A Yes, sir.

12 Q Okay. And can you show where Highway 246 is just so
13 everybody has an idea.

14 A 246 comes out of Ninety Six and around, and it comes
15 back into 178 on up here.

16 Q If you were coming out of Greenwood, point again
17 where Tillman Territory is?

18 A Right here, and it goes on around.

19 Q And Tillman Territory runs into 246?

20 A Yes, sir. I believe right here at this intersection.
21 Tillman Territory runs into 246.

22 Q And where's Booker Road in relation to Tillman
23 Territory?

24 A It should be the next driveway -- or the next road to
25 the left if you're going south.

1 Q And Warner's where?

2 A Warner is -- if you continue south on 246 and turn
3 right on Brooks right here, Warner is on the right. So
4 there is Booker Road, there's Brooks Road, and here is
5 Warner Road.

6 Q And on this GIS map where that star is, is that close
7 to where Mr. Marty George was found?

8 A Yes, sir, approximately.

9 (Whereupon, the witness returned to the witness
10 stand.)

11 Q Now, Officer Young, approximately how long were you
12 out at the Hailey residence on Booker Road before you left
13 there?

14 A It would be hard to say. Maybe about an hour and a
15 half.

16 Q At Booker Road or --

17 A Or Booker Road, maybe --

18 Q Was it around 30 minutes or so?

19 A Yeah, probably about an hour. Thirty or 45 minutes,
20 something like that. Between 30 minutes and an hour.

21 MADAM COURT REPORTER: I can't hear you.

22 A Between 30 minutes and an hour, somewhere in that
23 timeframe.

24 MR. BROWN: Now, Your Honor, at this time we'll play
25 his portion of the body cam.

1 THE COURT: Okay. And the length of that you said
2 was about --

3 MR. BROWN: Forty minutes.

4 THE COURT: Forty minutes. Okay.

5 MR. BROWN: Yes, sir.

6 (Whereupon, State's Exhibit No. 150 was played for
7 the jury starting at 3:37 p.m., ending at 4:20 p.m.)

8 Q Deputy Young, you were one of the few deputies that
9 saw both scenes; is that correct?

10 A Yes, sir.

11 Q Going back to when you first got there and were
12 walking Mr. Hailey out of the house, before you reached
13 the car do you remember Mr. Hailey saying anything?

14 A You're talking about coming out of the house?

15 Q Yes, sir.

16 A He said something, may God have mercy on my soul, as
17 he was collapsing towards the ground.

18 Q And when he was sitting in Bonetti's vehicle and the
19 door was open and you were asking him a few questions do
20 you remember anything else that stuck out in your mind
21 that he said?

22 A I think at one point he said, I'm sorry. I'm sorry.
23 You know what, I'm not sorry. You know why.

24 Q He said I'm not sorry or was it sorry for nothing?

25 MS. MCNEILL: Objection.

1 A Sorry for nothing, or something like that.

2 THE COURT: Wait a minute. Do you have an objection?

3 MS. MCNEILL: He's calling for speculation at this
4 point.

5 THE COURT: You can repeat what he said. Don't
6 speculate on what maybe he meant by whatever he said.

7 MR. BROWN: Yes, sir.

8 THE COURT: You may want to repeat the question,
9 Solicitor.

10 Q Did he say -- did he say, "Sorry for nothing," quote?

11 A Yes, sir.

12 Q Now, when you went out -- while you were actually
13 there on Booker Road you did look in the vehicle?

14 A Yes, sir.

15 Q And again, how far away was that vehicle from the
16 house?

17 A It's hard to say. It was -- it was away from the
18 house. It was like as the yard first started opening up.
19 I'd say 100 yards --

20 Q Yes, sir.

21 A -- maybe.

22 Q Deputy Young, I want to show you photographs that
23 have been previously marked as State's ID 87, 88, 89, 90,
24 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 102 and see if
25 you recognize these photographs.

1 A This is the car from the scene that night.

2 Q Just take a look at all the photographs, and then at
3 the end of it just tell me if you recognize all of them.

4 A Yes, sir. I recognize the car.

5 MR. BROWN: Judge, at this time the State offers
6 State's 87 through 102 and minus 95. So not 95.
7 Everything other than 95.

8 THE COURT: Okay. What says the Defense?

9 MS. MCNEILL: No objection.

10 THE COURT: All right. Without objection 87 through
11 102 except 95 into evidence for the State.

12 MR. BROWN: Thank you.

13 (Whereupon, State's Exhibit Nos. 87 through 94 and 96
14 through 102 was admitted into evidence.)

15 Q I'm going to show you State's 87. Now, is that the
16 vehicle at the Booker residence?

17 A Yes, sir.

18 Q State's 88.

19 A Yes, sir.

20 Q State's 89?

21 A Yes, sir.

22 Q State's 90?

23 A Yes, sir.

24 Q State's 91?

25 A Yes, sir.

1 Q State's 92?

2 A Yes, sir.

3 Q State's 93?

4 A Yes, sir.

5 Q State's 94?

6 A Yes, sir.

7 Q What's in this picture that you see that's notable?

8 A You can see what appears to be brain matter and blood
9 on the window seal there, on the edge of the window near
10 the mirror and the black strip on the door. You can see a
11 shotgun in the passenger seat, and I think a hat in the
12 floorboard at that point.

13 Q And the passenger seat you're talking over here; is
14 that correct?

15 A Yes, sir.

16 Q State's 96?

17 A Yes, sir.

18 Q Is that just a closeup looking through?

19 A Yes, sir.

20 Q Is that just a closeup looking through?

21 A Yes, sir.

22 Q Is there anything on the steering wheel?

23 A It looks like blood on the steering wheel.

24 Q State's 97?

25 A Yes, sir. It looks like the backseat.

1 Q And again, these photographs, is this how the car
2 looked when you looked in the car when you initially got
3 there?

4 A Yes, sir.

5 Q State's 98?

6 A Yes, sir.

7 Q State's 99?

8 A Yes, sir.

9 Q What do you see in that seat?

10 A I see that shotgun, what looks like a pellet gun or
11 pellet pistol, cell phone and some kind of drink bottle.

12 Q And some other food in the seat?

13 A Yeah, some other stuff in the seat.

14 Q State's 100?

15 A I can't see it.

16 Q Is there a --

17 A I can't see it.

18 Q -- kind of reflection on the --

19 A Yes, sir.

20 Q Is that, again, just another angle of the passenger
21 -- front passenger seat?

22 A Yes, sir.

23 Q State's 101?

24 A Yes, sir.

25 Q And State's 102?

1 A Yes, sir.

2 Q Now, Officer Young, when you arrived out on Warner
3 Road are there any lights going down that road?

4 A No, sir.

5 Q Pretty dark?

6 A It was very dark.

7 Q When you approached Mr. George did you notice or see
8 where the apparent gunshot wound was?

9 A Yes, sir.

10 Q Where was that?

11 A In the head just behind -- right behind the ear kind
12 of towards the top of the ear is what I thought to be an
13 entry wound, and an exit wound coming out the front left
14 portion of his face near the eye socket.

15 Q Did you ultimately find an ID on Mr. George?

16 A Yes, sir.

17 Q And what was his name? Marty Anthony George, is that
18 what --

19 A Yes, sir.

20 Q How long did you say you've worked in Greenwood
21 County Sheriff's Office?

22 A Thirteen and a half years.

23 Q Had you ever run into --

24 A Almost 13 and a half.

25 Q -- did you ever run into Mr. George before then?

1 A No, sir. Not to my knowledge anyway. I can't -- I
2 don't remember talking to him or seeing him.

3 MR. BROWN: Beg the Court's indulgence. No further
4 questions.

5 THE COURT: Okay. Let's -- before we do any
6 cross-examination let's take a break. Ladies and
7 gentlemen, we're going to take an afternoon break. I ask
8 that you go back to the jury room and we'll get you back
9 out shortly.

10 (Whereupon, the jury was excused from open court for
11 a break.)

12 THE COURT: Okay. We'll be in short recess. You can
13 step down, if you'd like.

14 THE WITNESS: Thank you.

15 THE COURT: You just can't talk to anybody about your
16 testimony.

17 THE WITNESS: Yes, sir.

18 (Whereupon, the witness stepped down from the witness
19 stand.)

20 (Whereupon, a short break was taken.)

21 THE COURT: All right. Let's bring the jury out,
22 please.

23 (Whereupon, the jury came into open court at
24 approximately 4:45 p.m.)

25 THE COURT: Let the record reflect the jury is back

1 in. Defense, cross-examination?

2 MS. MCNEILL: May it please the Court.

3 CROSS-EXAMINATION

4 By Ms. McNeill:

5 Q Good afternoon, Officer Young. How are you?

6 A I'm done fine, ma'am. How are you?

7 Q I'm doing well. Thank you. So going back to your
8 body cam footage that we just watched -- and you've been
9 here throughout the trial. Did you see Officer Bonetti's
10 body cam footage as well?

11 A I've seen parts of it --

12 Q Parts.

13 A -- because I wasn't here the entire time.

14 Q Okay, fair enough. Going back to your body cam
15 footage then, you kept describing Mark as being very
16 upset; is that correct?

17 A Yes, ma'am.

18 Q What kinds of things was he doing? Was he rocking
19 back and forth?

20 A He was -- he was crying. He was like shaking a
21 little bit and kind of reading his Bible and just visibly
22 physically upset.

23 Q Visibly and physically upset?

24 A Yeah, you could see it. You could tell he was upset.

25 Q Okay. And would you say that he was pretty

1 hysterical at times?

2 A Maybe when he was coming out of the house when he
3 fell to the ground.

4 Q Okay. And when he fell to the ground what did he
5 say?

6 A God have mercy -- I think it was God have mercy on my
7 soul, or God help my soul, something along that lines.
8 Whatever the video is. I don't know.

9 Q Now, I believe that you had testified at a
10 preliminary hearing on Friday; is that right?

11 A Yes, ma'am.

12 Q And that -- what in your opinion was keeping him
13 calm, like as calm as possible the entire time that you
14 were witnessing him?

15 A Holding his Bible.

16 Q Okay.

17 A And reading.

18 Q I'm sorry?

19 A Reading his Bible. Holding his Bible.

20 Q And you had said that it was -- it looked like
21 something that was calming to him; is that right?

22 A Yes, ma'am.

23 Q And you did -- he was not handcuffed; correct?

24 A No, ma'am.

25 Q And you felt that that was the best decision for

1 everyone at that time?

2 A Yes, ma'am.

3 Q And you felt like everyone was pretty safe and secure
4 even though he was not handcuffed; is that correct?

5 A At the moment, yes. I felt like if we handcuffed him
6 it was going to agitate him, and I didn't know which way
7 it would take him, either --

8 Q Sure.

9 A -- up or down.

10 Q Okay. And so, you secured him or some -- had him
11 secured in the back of Officer Bonetti's patrol vehicle;
12 right?

13 A Yes, ma'am.

14 Q All right. And even though he was secured in the
15 patrol vehicle the window was down; is that right?

16 A Yes, ma'am.

17 Q And he had access to freely speak to family members?

18 A Yes, ma'am.

19 Q As well as officers?

20 A Yes, ma'am.

21 Q So he was in the backseat not handcuffed, window
22 down, and people were able to access him?

23 A Yes, ma'am.

24 Q And you didn't see him try to flee the scene or
25 resist arrest in any way, did you?

1 A No, ma'am.

2 Q He was pretty compliant?

3 A He complied.

4 Q And the first thing that you did when you first
5 interacted with Mark at his house was Mirandized him;
6 correct?

7 A Yes, ma'am.

8 Q And then after you Mirandized him I believe you had
9 told Officer Bonetti to take Mark outside and put him in
10 the patrol car; correct?

11 A Yes, ma'am.

12 Q And then after he was secured in the patrol vehicle
13 you went up to that patrol car and then asked him what had
14 happened essentially; is that right?

15 A Yes, ma'am.

16 Q And he immediately told you that he shot a man named
17 Marty; correct?

18 A Yes, ma'am.

19 Q And I believe when you asked him where Marty was he
20 told you on Warner Road?

21 A Yeah, I believe he said Warner -- Warner Road.

22 Q And he freely and voluntarily gave that information
23 to you?

24 A Yes, ma'am.

25 Q And at no time did he even ask for an attorney?

1 A No, ma'am.

2 Q That scene that night, would you say that it was
3 pretty chaotic?

4 A Yeah, it was -- it was busy.

5 Q It was a busy scene?

6 A Yes, ma'am.

7 Q Lots of talking going on?

8 A Yes, ma'am.

9 Q Lots of crying going on?

10 A Yes, ma'am.

11 Q Dogs barking going on?

12 A Yes, ma'am.

13 Q And we heard that several times in the video; right?

14 A Yes, ma'am.

15 Q Okay. I'm going to ask you to step down just for a
16 minute.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 Q And I'm sorry to be so redundant about this. I was
20 on the other side, and so I really couldn't see this. I'm
21 showing you what has been marked as State's Exhibit 150.
22 Can you again point out where the Hailey's residence is?

23 A The Hailey's residence is on Booker Road. It's back
24 here.

25 Q All right. So I'm going to put my finger where you

1 are, which is around 415?

2 A Yes, ma'am.

3 Q Okay. And then where was the body of Mr. Marty
4 George found?

5 A On Warner Road.

6 Q Where the star is?

7 A Yes, ma'am.

8 Q Okay. So where that yellow star is?

9 A Yes, ma'am.

10 Q Now, how far is -- do you know if this is like to
11 scale like mileage-wise?

12 A You want to know how many miles from --

13 Q Yes, sir.

14 A I couldn't begin to guess -- an accurate guess, but I
15 would say maybe five miles.

16 Q Five miles at the most?

17 A At the most, yeah.

18 Q Okay. Thank you, sir. You can have a seat.

19 (Whereupon, the witness returned to the witness
20 stand.)

21 Q And that area out there, it's pretty heavily wooded;
22 is it not?

23 A Yes, ma'am.

24 Q Okay. And it was around 3:00 something in the
25 morning?

1 A Yes, ma'am.

2 Q And it was 23 degrees out that night, was it not?

3 A It was cold.

4 Q It was freezing, I'm sure.

5 A Yes, ma'am.

6 Q And it was very dark?

7 A Yes, ma'am.

8 Q How -- and I know that we all just watched your
9 in-car dash video, but in your estimation how long do you
10 think it took you to get from the Hailey residence to the
11 location of where Mr. George's body was found?

12 A Maybe 10 minutes.

13 Q Maybe 10 minutes. So it was relatively close to the
14 Hailey's residence?

15 A Yes, ma'am.

16 Q And, sir, you really don't know what happened that
17 night, do you, as far as why Mark would have shot Marty?

18 A No, ma'am.

19 Q Okay. So you don't know if Mark shot Marty with a
20 depraved heart in cold blood or not, do you?

21 A No, ma'am.

22 Q And Mark was saying a lot of stuff that didn't really
23 make a whole lot of sense that day; is that correct?

24 A Yes, ma'am.

25 Q And some of the stuff he was saying did make some

1 sense?

2 A Yes, ma'am.

3 Q All right. So when Solicitor Brown asked you what
4 else you recalled Mark saying at the side of Mr -- Officer
5 Bonetti's patrol vehicle --

6 A Uh-huh.

7 Q -- and you said he said he was sorry, and Mr. Brown
8 said, But didn't he also say that he's -- you know, what
9 I'm not sorry. Do you recall that question?

10 A Yes, ma'am.

11 Q That wasn't actually a complete sentence from Mark
12 though, was it?

13 A What do you mean?

14 Q He said, Sorry, I'm not sorry. And then as you
15 waited and turned and walked away Mark also said, this has
16 been going on a long time. Isn't that correct?

17 A Now, I don't know what he said about been going on a
18 long time, but I did hear him say, I'm sorry. You know
19 what, I'm not sorry. And I don't know after that at that
20 point.

21 Q You don't know what he said after that?

22 A Right.

23 Q But if it was on the body cam video you wouldn't
24 dispute that; right?

25 A No, ma'am. Wouldn't dispute.

1 Q But you do recall him dropping to the ground and
2 saying, God have mercy on my soul, or something along the
3 lines of that?

4 A Yes, ma'am.

5 Q All right. And you probably heard him say he was
6 sorry a bunch of different times throughout that night?

7 A Yes, ma'am. I did.

8 Q Okay. Officer Young, Mr. Brown showed you a bunch of
9 pictures and admitted those into evidence.

10 MS. MCNEILL: Beg the Court's indulgence --

11 THE COURT: Sure.

12 MS. MCNEILL: -- while I get this up.

13 Q And, Officer Young, can you see that photo from where
14 you're sitting?

15 A I can see it.

16 Q Okay. So what I'm showing you is a photograph,
17 State's Exhibit 99.

18 A Okay.

19 Q All right. And do you recall this photo from when
20 Mr. -- Solicitor Brown just showed it to you?

21 A Yes, ma'am.

22 Q Okay. So can you repeat what you're looking at in
23 this photograph?

24 A I see a shotgun. I see what looks like a pellet
25 pistol. I see a cell phone, a drink bottle, and some

1 other things there on the seat.

2 Q Is this the pellet pistol that you saw in the car?

3 A It looks like it, yes.

4 MS. MCNEILL: Your Honor, I'd like to move this into
5 evidence, Defense Exhibit No. 3.

6 THE COURT: Okay, No. 3. What says the State?

7 MR. BROWN: No objection.

8 THE COURT: 3 into evidence for the Defense.

9 (Whereupon, Defendant's Exhibit No. 3 was admitted
10 into evidence.)

11 Q And, Officer Young, did you find this pistol in the
12 car just like that?

13 A It was laying there just like that. I've never moved
14 any of it.

15 Q And is this in the front seat or the backseat, or
16 where is this?

17 A It's in the front passenger seat.

18 Q The front passenger seat, okay. And laying kind of
19 next to the shotgun, the Mountain Dew bottle, or whatever
20 that is, and a cell phone; is that correct?

21 A Yes, ma'am.

22 Q And to your knowledge, sir, did anyone touch or
23 tamper with this particular -- these items in this photo
24 before you saw it?

25 A No, ma'am. Not to my knowledge.

1 Q Not to your knowledge, okay.

2 MS. MCNEILL: Beg the Court's indulgence.

3 THE COURT: Sure.

4 MS. MCNEILL: No further questions. Thank you for
5 your time, Officer.

6 THE COURT: Wait just a minute. Redirect, Solicitor?

7 MR. BROWN: Just briefly.

8 REDIRECT EXAMINATION

9 By Mr. Brown:

10 Q Officer Young, Ms. McNeill was asking about Mr.
11 Hailey was in the backseat of the car; correct?

12 A Yes, sir.

13 Q With the window down are there -- is there something
14 else there on the window?

15 A There's bars on the window. The window on those
16 Crown Vic's, if I'm not mistaken, only rolls about maybe
17 six or eight inches down. It don't go all the way down.
18 It's a safety feature for children originally, but when we
19 use them as police cars they put the bars over the window
20 and the window still only rolls a portion of the way down.

21 Q So it is a secure backseat?

22 A Yes, sir.

23 Q Mr. Young, the question again was -- I asked you
24 earlier do you remember saying anything -- or that Mr.
25 Hailey said inside the door when you were talking to him.

1 A Yes, sir.

2 Q And then Ms. McNeill followed up on that. Do you
3 remember exactly what he said?

4 A I don't remember word for word, but pretty much --

5 Q Would it help to refresh your memory?

6 A Yeah. Pretty much I think it was along the lines of,
7 I'm sorry. You know what, I'm not sorry.

8 Q And it's 6:40 -- in the six minute mark.

9 (Whereupon, the video was played for the jury for six
10 minutes.)

11 Q Does that refresh your memory?

12 A Yes, sir.

13 Q He said -- what did he say, sorry for nothing?

14 A Yes, sir.

15 Q And then he did followup by saying, it's been going
16 on?

17 A Yes, sir.

18 MR. BROWN: I believe that's all I have.

19 THE COURT: Anything in recross?

20 MS. MCNEILL: Briefly.

21 RECROSS-EXAMINATION

22 By Ms. McNeill:

23 Q Officer Young, did he ever explain what had been
24 going on?

25 A No, sir -- no, ma'am.

1 MS. MCNEILL: Thank you. No further questions.

2 THE COURT: You can step down, sir.

3 THE WITNESS: Thank you.

4 (Whereupon, the witness stepped down from the witness
5 stand.)

6 THE COURT: All right. Ladies and gentlemen, I think
7 this would be a good time to break for the evening. I
8 again remind you once again about the restrictions that
9 I've already placed on you. Again, it would be a good
10 idea to stay away from large crowds this afternoon and
11 this evening, and be sure to get some good rest again and
12 we'll start back at 9:30 in the morning. Have a good
13 evening.

14 (Whereupon, the jury was excused from open court for
15 the day at approximately 5:06 p.m.)

16 THE COURT: All right. We'll be in recess until 9:30
17 in the morning. Have a good evening.

18 (Whereupon, the trial will resume the next morning at
19 9:30 a.m.)

20 September 17, 2020.

21 THE COURT: Everybody ready for the jury to be
22 brought out?

23 MS. SUMNER: Your Honor, we just need to put one
24 thing on the record.

25 THE COURT: Sure.

1 MS. SUMNER: The next witness, there will be a in-car
2 video played. That video has been shortened to the first
3 31 minutes of that video. So everything after 31 minutes
4 has been redacted and I believe both sides are in
5 agreement to that.

6 THE COURT: The Defense good with that?

7 MS. MCNEILL: Yes, sir.

8 THE COURT: Is that Officer Pendergrass?

9 MS. SUMNER: Yes, Your Honor.

10 THE COURT: Very good. Let's bring the jury out
11 please.

12 (Whereupon, the jury came into open court at
13 approximately 9:40 a.m.)

14 THE COURT: Good morning, ladies and gentlemen, I
15 hope everyone's feeling well today. Good. Solicitor, you
16 want to call your next witness.

17 MS. SUMNER: Thank you, Your Honor. The State calls
18 David Pendergrass.

19 DAVID PENDERGRASS, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Sumner:

23 Q Can you give us your name for the record?

24 A My name is David Pendergrass.

25 Q Where are you employed?

1 A I'm employed with the Greenwood County Sheriff's
2 Office.

3 Q As we sit here today in September of 2020 what is
4 your role at the Sheriff's Department?

5 A My role is investigator over the Detention Center.

6 Q Back in March of 2019 were you employed at the
7 Sheriff's Department then?

8 A Yes, I was.

9 Q And what was your job at that time?

10 A I was a road deputy for Greenwood County Sheriff's
11 Office.

12 Q And were you, in fact, involved in the case that
13 we're here about today?

14 A I was.

15 Q What was that role you had?

16 A My role basically, I was on duty, just patrolling the
17 area. I was advised to go down Warner Road and see if
18 anybody was in distress.

19 Q So did you, in fact, go down Warner Road?

20 A I did.

21 Q Did you find anyone?

22 A I did.

23 Q When you located that person were they alive?

24 A To the best of my knowledge, they were not.

25 Q And your dash cam was on the entire time; is that

1 correct?

2 A Yes, ma'am, it was.

3 Q And have you had a chance to review that this
4 morning, the dash cam?

5 A I have.

6 MS. SUMNER: Your Honor, his dash cam has been marked
7 as Exhibit 153.

8 Q Deputy Pendergrass, is this the video you reviewed
9 this morning, Exhibit 153?

10 A Yes, ma'am. It is.

11 Q And does it appear to be what you recall seeing that
12 evening from the front of your patrol vehicle?

13 A Yes, ma'am.

14 MS. SUMNER: Your Honor, at this time the State would
15 move this into evidence and request permission to publish.

16 THE COURT: Okay. Any objection from the Defense?

17 MR. SHAFFER: No objection.

18 THE COURT: All right. Without objection, No. 153
19 for the State into evidence.

20 MS. SUMNER: Thank you, Your Honor.

21 (Whereupon, State's Exhibit No. 153 was admitted into
22 evidence.)

23 THE COURT: And, Solicitor, I believe you indicated
24 to the Court that this is about 31 minutes in length?

25 MS. SUMNER: That's correct, Your Honor.

1 THE COURT: Okay, all right.

2 (Whereupon, State's Exhibit No. 153 was published for
3 the jury starting at 9:45 a.m.)

4 Q Deputy Pendergrass, at this time while there's a --
5 on the video what are you doing in your patrol car?

6 A Contacting my superior officer, my command officer,
7 and letting him know that I discovered what appeared to be
8 a deceased individual.

9 Q And will we see others arrive here in a few minutes?

10 A You will.

11 (Whereupon, State's Exhibit No. 153 continued to
12 play, ended at 10:15 a.m.)

13 Q Deputy Pendergrass, after you located the body and
14 secured the scene as we saw on the video there, did you
15 have any further involvement with this case?

16 A I did not.

17 MS. SUMNER: Okay. Thank you for your time. Please
18 answer any questions that Defense counsel has for you.

19 THE WITNESS: Thank you.

20 THE COURT: Any cross-examination?

21 CROSS-EXAMINATION

22 By Mr. Shaffer:

23 Q Good morning, Deputy Pendergrass. How are you doing?

24 A Good morning. How are you doing?

25 Q It's Investigator Pendergrass; right?

1 A It is.

2 Q Okay. So your job at that time, you were basically
3 doing regular police work out on the road; is that
4 correct?

5 A Yes, sir. Patrolling the area in Greenwood County.

6 Q Yes, sir. And now you do stuff over at the jail;
7 right?

8 A I investigate issues, crimes, activities in the jail,
9 yes.

10 Q In the jail. Yes, sir. So you're the investigator
11 at the Detention Center across the street?

12 A Yes, sir.

13 Q Okay. I imagine that you've -- you've met Mark
14 Hailey since he's been over there this time; right?

15 A I have.

16 Q He's never given you any sort of problems, has he?

17 A He has not.

18 Q Now, at that time this roadway that this is on -- do
19 you mind stepping down? I'm going to show you, I think
20 it's 150. The State's GIS map.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 MR. SHAFFER: I'm going to prop this up for the jury
24 right here.

25 Q So did you come in the way that red line is to this

1 spot, or did you come in this other way? And I'm sorry.
2 I've got it upside down. Here you go. This might help
3 you some.

4 THE COURT: What you may need to do, Officer
5 Pendergrass, is stand to the side somehow so you just
6 won't be blocking the view by the jury, please.

7 THE WITNESS: Yes, sir.

8 Q Did you come in from the blue star to the yellow star
9 or did you come in this other way?

10 A I believe I came in front -- I believe I came here.

11 Q And this would be -- this right here is -- I can't
12 think of the name of it. 246, I believe. This is Booker
13 Road. Mr. Hailey lived down here. Okay? Did you come in
14 from this way or did you go around?

15 A I actually came down this way, because I was actually
16 headed to Booker Road to Mark Hailey's mom's residence.

17 Q So you were headed down Booker Road to Mark Hailey's
18 mom's?

19 A I was actually headed towards Booker. I never got on
20 Booker Road.

21 Q Okay. But then you ended up going down this way;
22 correct?

23 A Yes.

24 Q And then you ended up turning, I guess, here, and
25 then turning there; correct?

1 A Yes.

2 Q Okay. Now, this area right here, and I know you have
3 the map, but you were also on the ground there; right?
4 There's a couple of houses right here right when you turn
5 in Warner Road; right?

6 A Yes, I believe.

7 Q But then after that there's not much of anything;
8 correct?

9 A Correct.

10 Q Basically woods on either side?

11 A Woods, forest. You know, just empty lots.

12 Q Okay. And from here -- well, obviously, are you
13 familiar with that side of Booker -- I mean, Warner Road
14 or not?

15 A I'm not.

16 Q Okay. Then I'm not -- I won't go into that part.
17 But from here there's basically just not a whole lot;
18 correct?

19 A Correct.

20 Q And you drove about two miles down there; correct?
21 From this spot where you turned on to this spot; right?

22 A I believe it was approximately two miles.

23 Q So outside these half a dozen houses down here
24 there's like miles of nothing; correct? Timberland?

25 A I don't know the exact mileage. You know, like I'm

1 not familiar --

2 Q Yes, sir.

3 A -- with this part of Warner Road.

4 Q Okay. But there's a whole bunch of Timberland;
5 correct?

6 A I would assume so.

7 Q Okay. That's all I have for that. And the last
8 question I was going to ask you about is this.

9 A Okay.

10 (Whereupon, the witness returned to the witness
11 stand.)

12 Q And I'm going to play this from -- I forgot the
13 State's Exhibit this is, but this is your dash cam that
14 Ms. Sumner just played.

15 A Yes.

16 Q And I'm going to start it at 16:03.

17 (Whereupon, a portion of the video was played for the
18 jury.)

19 Q And I'll stop it right there at 16:27. Right there
20 is when -- right when you're approaching Mr. George's
21 body; correct?

22 A Yes.

23 Q And it was visible from the roadway; correct?

24 A It was.

25 Q It was basically sort of, sort of on the side of the

1 road; correct?

2 A It was.

3 Q There's not a real developed ditch, per se. It's
4 just sort of on the side; correct?

5 A Not really a big ditch but, you know, sort of like a
6 slope.

7 Q Sort of a slope, okay. And on either side there's
8 nothing, correct, except timberland; right?

9 A Correct.

10 Q His body wasn't out in the timberland, was it?

11 A It wasn't.

12 Q It was right there where you can see it driving down
13 the road; correct?

14 A Correct.

15 MR. SHAFFER: No further questions.

16 MS. SUMNER: Your Honor, may we approach?

17 THE COURT: Sure.

18 (Whereupon, a bench conference was held in the
19 presence of the jury but out of the hearing of the
20 jury.)

21 THE COURT: Ladies and gentlemen, we're going to take
22 a short morning break, so I'm going to ask that you go
23 back to the jury room and we'll get you back out shortly.
24 Okay.

25 (Whereupon, the jury was excused from open court for

1 stand.)

2 THE COURT: Just give me just a minute before you
3 call your next witness. Okay, let's bring the jury out,
4 please.

5 (Whereupon, the jury came into open court at
6 approximately 10:54 a.m.)

7 THE COURT: All right. Let the record reflect that
8 the jury's back in. Ladies and gentlemen, I have noticed,
9 and this is perfectly fine, that you now are kind of
10 maintaining the same seat, and that's fine. Usually -- I
11 don't think I even told you this at the beginning that
12 even the foreman has his own seat, the remaining alternate
13 has her own seat. That, you know, you can sit wherever
14 you like in the designated seats that we have spaced out,
15 or you can maintain your same seat. That's your call.
16 But I've just noticed here recently that you're keeping
17 your same seats. It's kind of like at church, you know,
18 you have your same seat and the same, you know, pew that
19 you're on and nobody better sit in your spot. So, but
20 anyways, that's perfectly fine for you all to do that. Is
21 the State ready to call it's next witness?

22 MS. SUMNER: Yes, Your Honor. The State calls Sonny
23 Cox.

24 THE COURT: Okay.

25 SONNY COX, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Ms. Sumner:

4 Q Good morning, will you introduce yourself to the
5 jury?

6 A I'm sorry?

7 Q Will you introduce yourself to the jury?

8 A Most certainly. My name is Sonny Cox. I'm the
9 Greenwood County Coroner.

10 Q How long have you been the Coroner?

11 A Eight years.

12 Q Were you involved in the case we're here about today?

13 A Yes.

14 Q Could you please tell us what your involvement was?

15 A I did the body transport. I responded to the scene,
16 pronounced death, and transported the body to the -- to
17 the morgue.

18 Q So you were on the scene where the body was located?

19 A No, I was called after the body was located.

20 Q But you did see where the body was located?

21 A Most certainly.

22 Q Where was it located?

23 A It was on the Warner Road, which is a very extreme
24 rural road in the Ninety Six area of Greenwood County.

25 Q After you arrived on Warner Road what did you do?

1 A I went in and spoke to the EMT's who arrived prior to
2 me. The EMT's is the ones that calls me. Then I was
3 directed to where the body was at and I made my way to the
4 crime scene, entered the crime scene tape, and I visually
5 observed the body.

6 Q Did you remove the body from the scene that night?

7 A Yes, ma'am, but not quite at that point.

8 Q But at some point on March 6th you did remove the
9 body from Warner Road?

10 A I did, uh-huh.

11 Q Where did you take the body at that point?

12 A Self Regional Healthcare. The morgue.

13 Q At some point did you transport that body somewhere
14 else?

15 A Yes, ma'am, I did. To the Abbeville Coroner's Office
16 where an autopsy was performed.

17 Q When was that done?

18 A The 7th of March.

19 Q And then after that autopsy did you transport the
20 body back to Self Regional?

21 A I did.

22 Q When was that?

23 A That was on the 7th as well. It was about 12:30 p.m.
24 The appointment for the autopsy was at 11:00 o'clock, and
25 I think, yeah, about 12:30 we returned to the morgue.

1 Q So it's part of your job to secure the body?

2 A To secure the integrity of the victim. We always
3 have -- we're met at the door with hospital security. We
4 transport them inside the morgue where there's four
5 coolers. He was secured in the upper right-hand cooler,
6 and the hospital security secured it with a lock and key.
7 And it was -- the bag was tagged with a number, and
8 identifying number and all.

9 Q What was identified as the cause of death?

10 A Gunshot wound to the head.

11 Q When you arrived on scene on March 6th could you tell
12 where the gunshot entered?

13 A Most certainly.

14 Q And where was that?

15 A Without even touching the body I could tell it was in
16 the upper right ear area around the upper part. It was --
17 it was a big hole there.

18 Q Was the exit wound apparent?

19 A Yes. And it looked, from where I was standing, it
20 looked like -- we don't disturb the integrity of the body.
21 But from what I could tell the exit wound would have been
22 around the left eye area.

23 Q When the body was transported to Abbeville for the
24 autopsy, who did that autopsy?

25 A Dr. Brett Woodard who is retired at this point.

1 Q Do you recall if he removed anything from the body at
2 the autopsy?

3 A I'm very close to the autopsy, very close to the
4 pathologist when it's done. I do recall him showing me
5 some wadding, or a projectile, or piece of a projectile.
6 But there was some wadding that he retrieved from the
7 wound area.

8 Q Did you have any other involvement in this case,
9 Coroner?

10 A Other than transporting and pronouncing, I did the
11 death certificate. But other than that, that's all.

12 Q One last thing. Is part of your duty to notify the
13 family of the death?

14 A Yes, it is.

15 Q So in this case you did notify Marty George's family
16 that he was deceased?

17 A Yes, we did.

18 MS. SUMNER: Thank you for your time. Please answer
19 any questions Defense counsel has for you.

20 THE COURT: Any cross-examination?

21 CROSS-EXAMINATION

22 By Mr. Shaffer:

23 Q How long have you been the Coroner?

24 A How long, sir?

25 Q Yes, sir.

1 A Eight years.

2 Q In that eight years you've been out to Warner Road at
3 least twice; right? Three times; right?

4 A I don't -- let me tell you something. I could go
5 every day and not find my way around out there. But I've
6 been out there maybe once or twice. Yes, sir.

7 Q You're not from the Ninety Six area; right?

8 A No. I'm from downtown Greenwood.

9 Q You don't have no family out there, do you?

10 A No, sir.

11 Q You don't have any family -- sorry about that. So
12 out there -- you went out there. Do you recall a -- do
13 you recall a lady from down toward the coast who --

14 MR. BROWN: Judge, objection. Relevance.

15 THE COURT: Is this another case?

16 MR. SHAFFER: Yes, Your Honor. It is.

17 THE COURT: Okay. And are you going to be able to
18 tie it in to this case?

19 MR. SHAFFER: Yes, Your Honor.

20 THE COURT: Let me go a little bit further with it.
21 Solicitor, you can certainly offer another objection if
22 you feel like he's not tying it in.

23 Q You have a -- do you recall a lady from down near the
24 coast who's body was found in a car with -- I guess there
25 was some burnt up stuff or, I guess, a --

1 A I'm familiar with that. Yes, sir.

2 Q That happened right out there near Warner Road;
3 right?

4 A Yes, sir. In that area. Yes, sir.

5 Q Side street?

6 A Yes, sir.

7 Q Hastings Road? Old Hastings Road which connects?

8 A I believe it was. Yes, sir.

9 Q If you don't mind, could you show us where Old
10 Hastings Road connects on this State's Exhibit 150?

11 THE COURT: Do you want to step down --

12 THE WITNESS: Yes.

13 THE COURT: -- Mr. Coroner?

14 THE WITNESS: Thank you, sir.

15 THE COURT: Watch your step. A little tricky.

16 (Whereupon, the witness steps down from the witness
17 stand.)

18 A I see Warner Road. There's Old Hastings Road that
19 comes in right here.

20 Q Okay. And that's also an abandoned dirt road; right?

21 A That's correct. Yes, sir.

22 (Whereupon, the witness returns to the witness
23 stand.)

24 Q Okay. You don't recall a Hispanic man who also got
25 killed out there a while back, do you?

1 A Without looking at my files, I can't recall right
2 off. No, sir.

3 Q But it's fair to say that you've seen quite a few --
4 you've gone to quite a few death scenes in the eight years
5 you've been here; right?

6 A Yes, sir. A lot.

7 Q You can't remember every single one of them; correct?

8 A That's correct. But I do remember the car. The lady
9 from the coast.

10 Q That was sort of unique; correct?

11 A Very unique. Yes, sir.

12 Q Now, because you can't remember everything you take
13 notes; correct?

14 A Yes, sir.

15 Q And you all took some notes in this case; right?

16 A Yes, sir.

17 Q And those notes are -- part of them is making sure
18 that they're accurate; right?

19 A To the best we can do. Yes, sir.

20 Q Okay. So you all take down details, right, in those
21 notes?

22 A Pretty much. Yes, sir.

23 Q Make sure that you don't -- make sure that you can
24 remember; correct?

25 A Yes, sir. What we feel is important to the case on

1 our part.

2 Q Okay. Now, in this case you had spoken with Ms.
3 Kitchens; correct?

4 A Yes.

5 Q And she had told you something about where he had
6 gone; correct?

7 A Now, this is the lady he was living with; is that
8 correct, sir?

9 Q Ms. Joni Kitchens. Yes, sir.

10 A Yes, sir. We spoke with her and she said that she
11 loaned him a car, I think, if I'm correct, and --

12 MS. SUMNER: Objection, Your Honor.

13 THE COURT: And your objection?

14 MS. SUMNER: Hearsay, Your Honor.

15 THE COURT: Okay, all right.

16 MR. SHAFFER: Fair enough.

17 THE COURT: I sustain the objection. You can't
18 repeat what somebody told you --

19 THE WITNESS: Yes, sir.

20 THE COURT: -- Mr. Cox. You can certainly testify as
21 to what you did as a result of your conversation with
22 someone, but just don't repeat what they told you.

23 THE WITNESS: Okay.

24 Q But safe to say that if you wrote that -- if you
25 wrote the details down of where she said they went

1 whenever you talked to her, those -- those -- if you wrote
2 it down in your report that would be accurate; right?

3 A If it's in the report, yes, sir. I would say so.

4 Q Okay. What are you doing for the next seven or eight
5 days? Are you going to be available? Are you going to be
6 around Greenwood?

7 A Yes, sir.

8 Q Okay. So you'll be available to come back up here
9 and testify if we need you; correct?

10 A If needed. Yes, sir.

11 MR. SHAFFER: No further questions.

12 THE COURT: Anything on redirect?

13 MS. SUMNER: No, Your Honor.

14 THE COURT: You can step down, sir.

15 THE WITNESS: Thank you.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 MR. SHAFFER: Your Honor, I ask that he not be
19 released from his subpoena.

20 THE COURT: Mr. Cox, apparently you are under
21 subpoena. That subpoena is still in full force and effect
22 if they were to need you back up here. Certainly I'll
23 make sure that they give you ample notice.

24 THE WITNESS: Thank you.

25 THE COURT: Thank you. Be careful on those steps.

1 MR. BROWN: Judge, may we approach?

2 THE COURT: Sure.

3 (Whereupon, a bench conference was held in the
4 presence of the jury but out of the hearing of the
5 jury.)

6 THE COURT: Ladies and gentlemen, we -- I have to do
7 a little work with the attorneys before the next witness
8 testifies. So if you'll go back to the jury room.
9 Appreciate your patience and understanding. We need to
10 work through a couple of issues and then we can bring you
11 out and we'll have that next witness testify, but got to
12 do a little work with the lawyers first. So if you'll go
13 back to the jury room, please.

14 (Whereupon, the jury was excused from open court.)

15 THE COURT: Okay. The State intends to offer into
16 evidence when the pathologist testifies, what I've got up
17 here on the bench are five photographs. Photograph 139
18 and 140 are agreed to by the -- by the Defense, and
19 photographs 126, 147 and 142 are not agreed to, at least
20 the complete picture. There may be some agreement as to a
21 portion of these photographs. So what we need to do is
22 the pathologist is here ready to testify. We'll take some
23 in-camera testimony from him and see if these photographs
24 will aid his testimony and his rendering of opinions, will
25 aid him in doing that as presented to the jury. So let's

1 MS. SUMNER: Yes, sir.

2 THE COURT: Okay. Mr. Shaffer?

3 MR. SHAFFER: Your Honor, I know you know this, but I
4 was objecting to those two pictures under -- even the one
5 that's a Defendant's Exhibit under 403 and relevance, Your
6 Honor.

7 THE COURT: Right.

8 MR. SHAFFER: I know you know that. I just want to
9 make sure we get it in the record.

10 THE COURT: Right. You need to make sure
11 everything's on the record so you're protected. So noted,
12 Mr. Shaffer. Let's bring the jury out, Lee. Waiting on
13 one? Sure.

14 (Whereupon, the jury came into open court at
15 approximately 11:37 a.m.)

16 THE COURT: Okay. Let the record reflect the jury is
17 back in. Solicitor?

18 MR. BROWN: The State calls Dr. Kyle Shaw.

19 THE COURT: Come around, Dr. Shaw.

20 KYLE SHAW, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Brown:

24 Q Good morning, Dr. Shaw.

25 A Good morning.

1 Q Dr. Shaw, tell me a little bit about your educational
2 background.

3 A Sure. I got my medical degree from the University of
4 Sydney in Sydney, Australia. Following that I did a one
5 year clinical internship with the Southeastern Sydney Area
6 Health Service also in Australia. Following that I
7 returned to the U.S. and did the first two years of my
8 general pathology residency at the Eastern Virginia
9 Medical School in Norfolk, Virginia. Following that I did
10 the final two years of my general pathology residency at
11 the University of Maryland Medical Center in Baltimore.
12 Following that I did a one year subspeciality fellowship
13 in forensic pathology at the Office of the Chief Medical
14 Examiner for the State of Maryland also in Baltimore. I
15 then moved to Florida and took a job there and worked for
16 about 10 years in Florida as a medical examiner. And then
17 I moved here to South Carolina where I've been working as
18 a forensic pathologist for about the last year.

19 Q Dr. Shaw, what is a forensic pathologist?

20 A A forensic pathologist is a medical doctor who
21 practices a subspeciality of medicine that basically
22 applies medical knowledge in a legal setting.

23 Q Dr. Shaw, have you ever testified in a Court of
24 General Sessions in South Carolina or a Court similar to
25 that in another state?

1 MR. SHAFFER: We'll stipulate that he's an expert if
2 you want to go ahead and move him in.

3 THE COURT: Okay.

4 MR. BROWN: At this point we'll move Dr. Shaw --

5 THE COURT: Do you want to go ahead and finish with
6 his qualifications or go ahead --

7 MR. BROWN: That's fine. Yes, sir.

8 THE COURT: Okay. The attorneys have stipulated that
9 Dr. Shaw is an expert in the area of pathology and
10 forensic pathology. Ladies and gentlemen, let me explain
11 to you for just a moment. When the Court declares a
12 witness to be an expert in a particular field because of
13 education, experience and that sort of thing, the expert
14 witness would be allowed to render opinions in this case.
15 Normally, with some exception, normally witnesses -- lay
16 witnesses cannot state opinions. They can only testify as
17 to what they have seen, heard, observed. That sort of
18 thing. But the exception in the law is that experts can
19 render opinions and the basis for those opinions. Now,
20 just because Dr. Shaw is an expert and experienced in the
21 field of pathology and forensic pathology you give his
22 testimony the same consideration and weight that you feel
23 like it deserves as you do with any other witnesses who
24 has or will testify in this case. You may proceed.

25 MR. BROWN: Thank you, Judge.

1 Q Dr. Shaw, regarding this case that we're here
2 discussing today, did you actually perform the autopsy on
3 Mr. Marty George?

4 A No, I did not.

5 Q Was it another doctor, Dr. Brett Woodard?

6 A Yes.

7 Q He's since retired; correct?

8 A That's correct.

9 Q And you've taken his place as the forensic
10 pathologist for our area?

11 A Correct.

12 Q Since coming on as the forensic pathologist that
13 Greenwood County uses have you had an opportunity to
14 review the autopsy report performed by Dr. Brett Woodard,
15 and also photographs in this case?

16 A Yes.

17 Q And based off this information have you been able to
18 make determinations or estimations on certain things for
19 this case?

20 A Yes.

21 Q Based on the report -- and I want to actually show
22 you what's been marked as State's 126, State's 139,
23 State's 140, and State's 147, in addition to --

24 THE COURT: Defense 5.

25 Q In addition to Defendant's Exhibit No. 5. I'll let

1 you review these photographs and tell me if you recognize
2 these.

3 A Yes.

4 Q And those are photographs that you've previously
5 reviewed?

6 A Yes.

7 Q Now, Dr. Shaw, can you tell me the cause of death to
8 Marty George?

9 A In my opinion the cause of death is shotgun wound of
10 head.

11 Q And what -- can you tell me where the entry wound and
12 exit wound?

13 A So the entrance wound is just at the very top of his
14 right ear. So there's a little bit of injury to the top
15 of the ear itself, but the main entrance is to the side of
16 the head right at the top of the right ear.

17 Q And once --

18 MR. BROWN: And, Judge, at this time I would move
19 those photographs in as evidence.

20 THE COURT: All right. Subject to what has
21 previously been noted on the record.

22 MR. BROWN: Thank you, Judge.

23 (Whereupon, State's 126, 139, 140 and 147 were
24 admitted into evidence. Defendant's 5 was admitted
25 into evidence.)

1 Q Once that shotgun -- or that wound to the head goes
2 through what -- what resulted as it's passing through Mr.
3 George?

4 A Well, with any kind of gunshot wound, but certainly
5 with a shotgun wound, there is massive injury to the head
6 itself. So injury to the skull and to the brain in this
7 case.

8 Q And where was the exit wound?

9 A The exit wound was approximately at the decedent's
10 left eye.

11 Q Now, I'll take those photographs from you.

12 MR. BROWN: Judge, permission to publish to the jury.

13 THE COURT: Certainly.

14 Q Now, Dr. Shaw, I'm going to show you the first
15 photograph of State's 126. Can you explain where the
16 entry wound is in this photograph?

17 A Again, we can see just at the top of his right ear,
18 we can see a large defect in the head and you can see some
19 injury to the very top of his ear which is basically
20 missing there. So that's the entrance wound. We see a
21 little bit of blood surrounding that. That's our
22 entrance.

23 Q Yes, sir. And where is the exit wound?

24 A And the exit wound is basically the opposite side of
25 his head where you can see his left eye would be. Beyond

1 his nose there you can see a little bit of tissue
2 protruding, and that is a portion of the exit wound.

3 Q Now, Dr. Shaw, part of being a forensic pathologist,
4 looking at the wound in particular above the right ear,
5 what kind of weapon was used in this case that you're
6 aware of?

7 A A shotgun.

8 Q And with a shotgun can you estimate distances based
9 on what you see on a -- especially in these photographs?

10 A To an extent, yes. So when we make a determination
11 or develop an opinion of range of fire for a weapon
12 generally we are able to -- or I am able to come up with
13 an opinion at closer ranges. There becomes a point,
14 however, where there is no longer markings on the body
15 beyond which we really can't draw any reasonable
16 conclusions. But in determining range of fire it's best
17 to understand some of the things that normally exit the
18 barrel of a gun. And in talking specifically about
19 shotguns -- there's some slight differences between
20 shotguns and rifles or most handguns. But among the
21 things that exits the barrel of the gun, obviously there's
22 the projectile, and with shotguns sometimes that
23 projectile is a single projectile, what we call a slug,
24 but often it is a number of pellets. And those pellets
25 can range in size from very small to moderately large,

1 almost the size of a small marble. So that exits the
2 barrel of the gun. Along with that is burned or mostly
3 burned gunpowder which comes out basically as smoke or
4 soot. That sooty material can layer onto the surface of
5 the skin if the barrel is close enough. Obviously because
6 it's very light material it doesn't travel very far.
7 There's also unburned gunpowder particles, much like very
8 tiny grains of sand. Basically when a gun is fired most
9 of the gunpowder tends to be burned up, but some of it
10 does not. And those tiny particles can impact the skin
11 and produce visible injuries. Additionally with shotguns
12 in particular there can be either a shot cup, and it's
13 basically just a cup that surrounds all those little
14 pellets. So when the shotgun is fired that cup comes out.
15 But it's very light, usually made of plastic, and it falls
16 away as the pellets continue forward. So sometimes we can
17 see impact injuries from the shot cup or from what's
18 called a was, which is just a disk of material that sits
19 usually between the gunpowder and the pellets, and
20 sometimes it sits in front of the pellets. And there can
21 be several of those, and it varies considerably depending
22 on the manufacturer and the specific shotgun ammunition
23 being used. So in going into a little bit more detail
24 with shotguns, the soot deposition that we see on the skin
25 is visible out to a range of about one foot. So if the

1 distance of the barrel from the end of the barrel to the
2 entrance wound on the skin is about a foot or less we can
3 usually see soot deposition. From about one foot further
4 out where -- well, let me start again. Gunpowder
5 stippling is visible from near contact all the way out to
6 about three feet. And additionally the pellet -- the
7 pellet mass, so originally when the pellets exit the
8 barrel of a gun they're all very tightly packed together.
9 As distance increases those pellets start to spread out.
10 And so, the further away the barrel is from the skin the
11 more likely it is to see satellite injuries, or pellet
12 spread. But when the barrel is very close it all goes
13 into the -- into the body in one big hole basically. The
14 pellet spread becomes visible as separate injuries around
15 four feet, but there is scalloping or a jagged appearance
16 of the entrance wound at around three feet. But less than
17 that, out to around two feet, we only see one fairly round
18 simple hole. And we'll come back to those -- the relevant
19 parts of that again in a moment.

20 Q Now, Dr. Shaw, in this picture is it a close enough
21 picture to be able to see stippling or any soot or
22 anything or would another picture be more appropriate?

23 A Yes, this isn't quite close enough. We can get a
24 hint of some of the stippling stuff but not -- not
25 everything.

1 Q Dr. Shaw, I'm going to show you what's State's 139.

2 What do we see in this picture?

3 A It's a little bit difficult for me to see from this
4 angle.

5 Q Would you like to stand down?

6 THE COURT: You can stand -- stand down.

7 THE WITNESS: It might be useful.

8 THE COURT: Since you're away from the microphone you
9 need to just be conscious about speaking up a little
10 louder if you would, please, sir.

11 THE WITNESS: Yes, sir.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 A So here we can see more of the entrance wound. And
15 what I'll draw your attention to are the small sort of
16 punctate dots of red discoloration in front of the ear and
17 some on the ear, and we can't quite see if there's
18 actually some behind the ear as well. Those little red
19 dots are gunpowder stippling impacts. In other words,
20 those tiny grains of unburned gunpowder are impacting the
21 skin and producing those very small surrounding injuries.
22 Now, the hair can basically interfere with that.
23 Clothing, hair, those sorts of things can prevent those
24 gunpowder particles from impacting the skin hard enough to
25 see something. So generally we see it on more of the

1 exposed skin. So again, on the ear and in front of the
2 ear basically up towards the cheek region there, that is
3 surrounding gunpowder stippling. Now, I am not able to
4 see visible soot deposition around this wound. It has
5 been cleaned up in this particular photo, but in review of
6 the case there was not visible clear soot deposition
7 around this wound. We can also see to some extent the
8 edges of the wound and they're fairly round. There's a
9 little bit of tissue there. Now, the top of the ear is
10 lacerated, but the main entrance is pretty round. It
11 doesn't have a particularly ragged or so called scalloped
12 appearance that we can see as those pellets start to
13 spread out, but they haven't spread out far enough to
14 produce separate injuries.

15 Q Dr. Shaw, I'm going to show you State's 140. Dr.
16 Shaw, in this photograph is there a clean line between
17 some of the redness behind his ear and then going towards
18 his hair?

19 A There is.

20 Q If he was wearing a ball cap would that also have an
21 impact on the entry wound?

22 A Yes. So again, as I was saying a little bit earlier
23 -- and I'll just stand up here, if I can, to point at
24 that.

25 Q Yes, sir.

1 A This is the area I'm talking about. There's a line
2 basically right here. So below that we see stipulating, a
3 little bit of abrasion which might actually be from the
4 ear impacting. But above this there's nothing. There's a
5 nice demarcation right here. And in addition to hair
6 interfering, clothing can do that. So a hat that has a
7 line that comes down around here can certainly produce
8 something like that. In this particular photograph we can
9 see some blackish -- it doesn't project as black, but
10 there's some black dots here and here, and those are
11 basically the unburned or partially burned gunpowder
12 particles that have -- that have impacted the skin there.

13 Q Dr. Shaw, this is State's 147. And again, what do we
14 see in this photograph?

15 A So again, here we have basically a ruler and some
16 closer up view of the wound, and this is the ear a little
17 bit before some of the material has been cleaned away.
18 But this is of value because it shows more clearly that
19 there is not visible soot deposition which would show up
20 as a black sort of smokey ring around the entrance wound,
21 and I do not see that. Some of these dots are just dots
22 of blood, but actually some of them are related to
23 gunpowder stippling impact.

24 Q And lastly Defendant's Exhibit No. 5. What do you
25 see in this photograph?

1 A This provides a little bit more -- a little bit
2 closer of a few of the exit wound towards his left eye up
3 in this area here, and that's just a little bit of the
4 skin and tissue that's protruding out at approximately the
5 left eye. And so, with both of these wounds visible here
6 we get a better visual representation of the direction of
7 that wound. We can also again see the area of stipple
8 impacts, gunpowder stippling, here on the cheek and down
9 -- down the ear.

10 Q And you just mentioned the direction of wound impact.

11 A Yes.

12 Q After the exit what would you expect to be coming out
13 of the left eye at that point?

14 A Well, a lot of -- a lot of tissue. Brain tissue can
15 both come out with the projectile and certainly come out
16 later just as a result of gravity.

17 (Whereupon, the witness returned to the witness
18 stand.)

19 Q Dr. Shaw, based on these photographs and your review
20 of the file, can you give an estimation on how far away
21 the shotgun would have been from Mr. George's head?

22 A Yes. So again, going back to the absence of soot, so
23 that -- that basically stops around one foot, and the
24 absence of definite scalloping, but the presence of pretty
25 quite clear gunpowder stippling, says this is probably

1 less than three feet. So we're looking at between those
2 ranges. And based on the relative density and number of
3 stipple injuries, the gunpowder stippling surrounding the
4 wound, I think this is somewhere in the neighborhood of
5 about two feet. Again, there's a lot of variables that go
6 into that, but a rough estimation, in my opinion, is
7 around two feet.

8 Q Could it have been as close as one or as far away as
9 three?

10 THE COURT: Wait a minute, Solicitor, I've got Mr.
11 Shaffer standing.

12 MR. SHAFFER: Your Honor, can we approach?

13 (Whereupon, a bench conference was held in the
14 presence of the jury but out of the hearing of the
15 jury.)

16 Q Dr. Shaw, when we had a prior meeting did you also
17 give, it could have been as close as one foot to two feet?

18 A As close as one foot to maybe as far as three feet.
19 But again, given the pattern it's probably less than the
20 three foot maximum basically. So that's why I think it's
21 in the neighborhood of two feet. And again, that's --
22 that's still a range. It's not a -- it's not a perfect
23 one-hundred percent determination at two feet. But
24 something in the neighborhood of that, but within one --
25 about one to three feet.

1 MR. BROWN: No further questions.

2 CROSS-EXAMINATION

3 By Mr. Shaffer:

4 Q Dr. Shaw, and I know that you're -- you're sort of at
5 a disadvantage on this case because you didn't actually do
6 the autopsy; correct?

7 A I did not do the autopsy; correct.

8 Q And you didn't do any sort of notes from the autopsy;
9 right?

10 A Correct.

11 Q So you're sort of -- you know, you just reviewed what
12 another doctor did; right?

13 A Correct.

14 Q Would you disagree with either Solicitor Sumner --
15 I'm sorry, Solicitor Sumner or Solicitor Brown, Anna or
16 Yates back there, you wouldn't disagree with them if they
17 said that you told them that it was between one to two
18 feet, not one to three feet; correct?

19 A No, that's -- that's probably fair, yeah, and that's
20 still in the same range.

21 Q Okay. But it's all ballpark; right?

22 A Correct. There's a lot of variables that go into it.
23 Length of the barrel, the exact gauge of the firearm, and
24 most importantly, generally speaking, the specific
25 ammunition being used. There's a lot of different kinds

1 of gunpowder, sizes of pellets, amount of force of
2 gunpowder behind any given shot. So there's a lot of
3 variables that go into that.

4 Q So in order to determine that amount of stuff you've
5 got to actually like -- determine those variables, you'd
6 actually have to test fire the gun; right?

7 A To be more precise than that broad range a test fire
8 is best. Again, there's some -- there are potential
9 issues with test fires because of the conditions that the
10 decedent received their wound are very difficult to
11 replicate. And most importantly what's difficult to
12 replicate is the actual surface. So we don't have a lot
13 of extra skin to test again, and so that can be difficult.
14 But certainly multiple test fires give us a more precise
15 idea of pellet spread and those sorts of things, yes.

16 Q And that's probably especially true with shotguns
17 because of the fact that different chokes in different
18 shotguns can change; right?

19 A Different chokes, different kinds of gunpowder.
20 There's flake powder and ball powder and those sorts of
21 things, yes.

22 Q Do you actually test fire stuff?

23 A Excuse me?

24 Q Do you test fire or is it somebody else that does
25 that?

1 A I do not test fire, no.

2 Q Would like crime lab, SLED kind of people do that
3 kind of --

4 A Something -- yeah, something like that. Someone in
5 more of the ballistics arena.

6 Q Okay. I have, I guess, a little bit of a relatively
7 odd question. How much blood is in the average human
8 body? Obviously ballpark because people are different
9 sizes.

10 A Yeah, it varies quite dramatically. But somewhere in
11 the range of maybe five liters. And again, it varies and
12 -- mainly on size but gender as well.

13 Q Okay. Ballpark is five, wouldn't you say?

14 A Something like that, yes.

15 Q As part of the autopsy you also looked at the
16 toxicology -- or as part of reviewing the other person's
17 autopsy, the other doctor's autopsy, you reviewed the
18 toxicology from SLED; correct?

19 A Correct.

20 Q And Mr. George had -- I think it was like 960
21 nanograms per milliliter of methamphetamine in his system;
22 correct?

23 A Yes, 960. Yes.

24 Q And in addition to that he had about 210 nanograms
25 per milliliter of amphetamine in his system; right?

1 A Yes.

2 Q Something like Adderall or something like that?

3 A Yes.

4 Q But it could also be -- if I'm getting outside your
5 area of expertise. I know this may be sort of a border
6 between forensic pathologist and a toxicologist question.
7 But it's fair to say that amphetamine is sort of a
8 metabolite of methamphetamine; correct?

9 A Yeah. So methamphetamine in the body, once the body
10 ingests or takes in methamphetamine, the body will break
11 the methamphetamine down into amphetamine as a primary or
12 one of the primary metabolites.

13 Q And the person who actually tested the blood was a
14 toxicologist; correct?

15 A It was someone at South Carolina Law Enforcement
16 Division, or SLED. And in reviewing the report, I have a
17 copy in front of me, they -- they signed it as a forensic
18 toxicologist, yes.

19 Q Okay. And the people at SLED obviously work for the
20 State; right?

21 A They're employees of the State is my understanding,
22 yes.

23 Q So the State has employees that are forensic
24 toxicologists; correct?

25 A That's my understanding.

1 Q Now, I'm going to ask you another question and you
2 may or may not be able to say this because if it's outside
3 your area of expertise, we can call in a toxicologist for
4 it.

5 A Sure.

6 Q But fair to say Marty George at the time of his death
7 was pretty high on methamphetamine; right?

8 A I couldn't say that. The issue with that, with that
9 kind of interpretation from my point of view is that any
10 given level in any given individual can have widely
11 different effects. So just because an individual, say,
12 has a very high level of ethanol, or alcohol, in their
13 system doesn't necessarily mean that they would be visibly
14 or appreciatively drunk or intoxicated. It depends a lot
15 on the individual, their level of individual tolerance and
16 those sorts of things. Having said that, this level of
17 methamphetamine is significant compared to other levels
18 that have turned up in cases that I do, say, for other
19 reasons. You know, potential overdoses or natural deaths
20 and those sorts of other kinds of unrelated cases.

21 Q It's fair to say that a ballpark of the amount of
22 methamphetamine it takes to kill an average human is about
23 twice that level; correct?

24 A Again, that really varies considerably.

25 Methamphetamine is unusual in that it can have cardiotoxic

1 effects even at relatively low levels. So even much lower
2 than this can potentially have -- cause heart problems. It
3 can cause arrhythmias and those sorts of things. So even
4 low levels of methamphetamine are potentially dangerous.
5 There may be published levels that are -- that are higher
6 than that. But something in this 900 range, it's a
7 significant amount of methamphetamine.

8 Q Are you familiar with any reports by the National
9 Highway Traffic Safety Administration concerning levels of
10 methamphetamine?

11 A Not to my recollection.

12 Q Okay. But that probably is more of a toxicologist
13 question; right?

14 A Yes, or just reviewing that particular data. I'm not
15 familiar with that specific data point.

16 Q And the State has that? The State has toxicologists
17 we've talked about; right?

18 A To my understanding, yes.

19 Q Tell me something. Methamphetamine is prescribed
20 occasionally, and certainly amphetamine is prescribed
21 fairly regularly; correct?

22 A Yeah. Amphetamine or a form of amphetamine or
23 compounds that also metabolize into amphetamine, yes.

24 Q And specifically related, the amphetamine, say --
25 just taking apart the 960 nanograms per milliliter of

1 methamphetamine, we're talking about only the amphetamine,
2 that's -- is it fair to say that's significantly higher
3 than the maximum therapeutic dosage?

4 A I actually don't have that memorized. I don't have
5 the normal therapeutic range of just the amphetamine
6 memorized, so I'm not sure.

7 Q And that's probably a toxicologist question, too?

8 A It could be. It's -- it's something that I review
9 depending on the individual case. In this particular case
10 I just don't have that memorized.

11 Q Okay. But you would say that it is significantly
12 higher, his methamphetamine level, than what you normally
13 see whenever you find methamphetamine in people; correct?

14 A It's -- it's significantly high. So, in other words,
15 if an individual had no other issues, obviously had no
16 trauma, no sorts of things, that's a dangerous level for
17 some individuals. Having said that, occasionally levels
18 like this can turn up in, you know, motor vehicle related
19 cases and those sorts of things. Much like, again, just
20 as a comparator, ethanol. Sometimes ethanol turns up
21 quite high to the point that an individual who normally
22 does not drink alcohol might not only be -- appear
23 intoxicated but could be unconscious, where as someone who
24 drinks quite a lot on a regular basis can function almost
25 normally in society.

1 MR. SHAFFER: Court's indulgence.

2 THE COURT: Sure. Take your time.

3 MR. SHAFFER: Nothing further.

4 THE COURT: Anything on redirect?

5 REDIRECT EXAMINATION

6 By Mr. Brown:

7 Q Let me just get that last point straight, Doctor.
8 Even though that 960 nanograms per milliliter is a
9 significantly high amount, it all depends on the person?

10 A Correct.

11 Q And would you -- and you compared that to somebody
12 who drinks alcohol a lot?

13 A Just as a -- as something people are a little more
14 familiar with, yes.

15 Q Okay. So somebody can drink an awful lot of -- large
16 amount of alcohol and appear to be functional normal?

17 A Potentially. Some individuals, yes.

18 Q And somebody on methamphetamine can do that same?

19 A Potentially.

20 MR. BROWN: No further questions.

21 THE COURT: Anything on recross?

22 RE CROSS-EXAMINATION

23 By Mr. Shaffer:

24 Q You have really no idea to tell how that would have
25 affected Mr. George; correct?

1 A Correct.

2 Q And is it fair to say that comparing levels of
3 methamphetamine to alcohol usage is not really based off
4 of science, it's just sort of anecdotal evidence?

5 A It's a comparator. They're not directly the same.
6 But to understand tolerance, people in general are more
7 familiar with alcohol and alcohol use in society and how
8 some individuals become more tolerant to it. Similar with
9 methamphetamine. But again, any given individual responds
10 to a given level of drugs quite differently.

11 Q Now, the amount of methamphetamine, are you able to
12 determine the amount of methamphetamine Mr. George would
13 have had to take in order to get his level that high?

14 A I am not able to do that. There's a lot of
15 variables, again, that go into because we don't know when
16 it was taken. We don't know if there's overlaps between
17 prior ingestions and this ingestion. So I'm not prepared
18 to try that sort of calculation.

19 Q And we were talking about sort of comparing that to
20 alcohol. You can't go -- you know, like with a beer you
21 can say a guy has one beer, you know, an hour later his
22 blood alcohol based off of his weight is within a general
23 range; right?

24 A To some extent. And again, that's more a factor of
25 having a lot of data from a lot of individuals. But, of

1 course, for that specific individual it can be different.
2 Our metabolism varies a little bit. How -- how alcohol is
3 absorbed varies a little bit in individuals, so it
4 depends.

5 Q But you can't tell whether Marty George took one puff
6 or 100 puffs off of a methamphetamine pipe?

7 A Correct.

8 Q Thank you.

9 THE COURT: Okay. You can step down, Dr. Shaw.
10 Thank you.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 THE COURT: You're free to leave, Dr. Shaw. Thank
14 you, sir.

15 THE WITNESS: Thank you.

16 THE COURT: All right. Ladies and gentlemen, I think
17 this is a good time now to break for lunch and I want you
18 to be back here at 1:45. So have a good lunch, and
19 remember all of my instructions.

20 (Whereupon, the jury was excused from open court for
21 a lunch break.)

22 THE COURT: All right. We'll be in recess until
23 1:45.

24 (Whereupon, a lunch break was taken.)

25 THE COURT: I've got three standing. All right.

1 MR. BROWN: We were standing because you came out.

2 MR. SHAFFER: I was standing because you came out,
3 too.

4 THE COURT: Well, I appreciate that.

5 MR. BROWN: Judge, for the housekeeping matters.
6 During the lunch break, Mr. Shaffer and I did go through
7 our notebook and there was just, Blake Moore had done a
8 memorandum of talking with Joni Kitchens prior to the
9 Castle Doctrine. I gave him a copy of that. There's
10 nothing inconsistent that I can see on that, but we've
11 gone through that notebook. So I don't think there's any
12 issues there. We do -- thinking ahead to our third
13 witness in the afternoon, Greg Allison, there are two
14 pictures I think Mr. Shaffer is objecting to out on the
15 scene. One thing -- the reason why we wanted them in.
16 They would be State's 130 and 134 and I can let Your Honor
17 review them.

18 THE COURT: Why don't we do this? Hand them to me --

19 MR. BROWN: Yes, sir.

20 THE COURT: -- and I can just be looking at them.
21 And then, before we get with Officer Allison, then we can
22 argue --

23 MR. BROWN: Yes, sir.

24 THE COURT: -- and discuss these.

25 MR. BROWN: I think -- just so it's in your mind, I

1 think it's been said that, you know, this road that
2 they're -- they didn't try to hide anything or hide
3 anybody, but just showing the position off the roadway is
4 the reason why we ask those two pictures come in.

5 THE COURT: We can get into these right before
6 Officer Allison testifies. All right. The next witness
7 is who?

8 MS. SUMNER: Josh Hood, Your Honor.

9 MR. SHAFFER: I believe that these are all of the
10 Defendant's stuff, which we have no objection to the
11 Defendant's clothing coming in.

12 MS. SUMNER: Do you want to stipulate to it or do you
13 just want to go ahead and --

14 MR. SHAFFER: I would -- the only thing I would -- I
15 would object if you were trying to introduce Mr. George's
16 clothing, but not the Defendant's clothing. I'll
17 stipulate to that.

18 MR. BROWN: We are not --

19 MS. SUMNER: Okay.

20 THE COURT: Very good. Let's bring the jury out,
21 please.

22 (Whereupon, the jury came into open court.)

23 THE COURT: Let the record reflect the jury is back
24 in. Ladies and gentleman, just to kind of give you the
25 heads up. It's my understanding from talking with the

1 lawyers that we may go a little longer this afternoon. So
2 as we get closer to that, we can take a break. If anybody
3 needs to call the home front or whatever, then just let
4 the bailiffs or let me know and we'll make sure that
5 you'll be able to do that. But I just wanted to go ahead
6 and give you the heads up that the lawyers requested that
7 we go a little bit longer today simply to get some more
8 witnesses in; okay? All right. Thank you very much. All
9 right. Solicitor, call your next witness.

10 MS. SUMNER: Your Honor, the State calls Josh Hood.

11 JOSH HOOD, being
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Ms. Sumner:

15 Q Good afternoon. Will you introduce yourself to the
16 jury?

17 A My name is Josh Hood. I'm currently a captain with
18 the Greenwood County Sheriff's Office, the uniform patrol
19 division.

20 Q How long have you been with the sheriff's department?

21 A I've been with the sheriff's department here for 14
22 -- 13 or 14 years.

23 Q And were you involved in the case that we're here
24 about today?

25 A Yes, I was briefly.

1 Q What was that involvement?

2 A The morning of the incident, I was -- when I came
3 on-duty, I was tasked with going to the hospital and
4 picking up the subject and bringing him to the detention
5 center.

6 Q So you picked up Mr. Hailey from Self Regional
7 Hospital?

8 A That's correct.

9 Q And the hospital, did they admit him or release him
10 back to law enforcement?

11 A They released to be housed at the detention center.

12 Q And so you transported him directly from the hospital
13 to the detention center?

14 A That's correct.

15 Q And was that the extent of your involvement with this
16 case?

17 A That is.

18 MS. SUMNER: That is all I have for you. Please,
19 answer any questions the Defense may have.

20 THE WITNESS: Okay.

21 CROSS-EXAMINATION

22 By Mr. Shaffer:

23 Q Were you with him at the hospital for any period of
24 time or was he already discharged by the time you got
25 there?

1 A No, he was -- it was very briefly. Less than a
2 minute or two, if anything.

3 Q To your knowledge, did you speak to anybody at the
4 hospital about him?

5 A I didn't speak to any doctors or the nurses. I think
6 that had already been done prior to our arrival. I was
7 just simply there to transport him back to the detention
8 center.

9 Q And you wouldn't know whether or not they actually
10 took him and drew blood from him, would you?

11 A No, I would not know that.

12 Q Someone was guarding him inside the hospital;
13 correct?

14 A Somebody was -- yes, somebody was there when I was
15 there. Yes.

16 Q So that person would be the person who would know
17 whether or not they took blood from him; right?

18 A I don't know who would know or if they were outside
19 the room, inside the room. I guess the hospital would be.
20 I don't know.

21 Q Is it your standard practice -- you've done this
22 before, haven't you? Sat with someone at the hospital?

23 A Yes.

24 Q Get them cleared to go to the jail?

25 A Yes.

1 Q Is it the standard practice to leave them by
2 themselves?

3 A They may be in the room by themselves at times or
4 with the doctor or nurse while you're at the door, but,
5 you know, they're attended to.

6 Q But there's somebody who is generally around; right?

7 A Yes.

8 Q Who was around him whenever -- who did you relieve, I
9 guess?

10 A I do not remember specifically. I really don't know.

11 Q Did you note any sort of injuries to his arm, track
12 marks, anything like that?

13 A No, sir. I wasn't -- I really wasn't looking for
14 anything like that.

15 MR. SHAFFER: No further questions.

16 THE COURT: Any redirect?

17 MS. SUMNER: No, Your Honor.

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

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 MS. SUMNER: The State calls Gilbert Yates to the
22 stand.

23 GILBERT YATES, being
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 By Ms. Sumner:

2 Q Good afternoon. Will you give us your name for the
3 record?

4 A Gilbert Yates.

5 Q And where are you employed?

6 A The Greenwood County Sheriff's Office.

7 Q How long have you been with the sheriff's department?

8 A Right around five years.

9 Q What's your rank?

10 A Sergeant.

11 Q Back in March of 2019, who was your supervisor at the
12 time?

13 A At the time, it was Lieutenant Josh Hood.

14 Q And were you involved in the case we're here about
15 today?

16 A Yes.

17 Q How were you involved?

18 A I was responsible for logging in the evidence, the
19 suspect's clothes and what was on his person at the time.

20 Q So were you present when he was booked into the
21 detention center?

22 A Yes.

23 Q And did you help with the collection of his clothing
24 at the jail?

25 A Yes, I did.

1 Q And then, once the clothing and items were removed
2 from his person, did you log those into evidence?

3 A Yes.

4 Q Did you have a chance to observe Mr. Hailey that day?

5 A I did right when we walked in and waiting on the
6 booking to get done with him.

7 Q Was he making any noise?

8 A I don't recall myself, no.

9 Q Do you recall if he was reading anything?

10 A I do recall he had a little Bible.

11 Q I'm going to ask you to step down to review some
12 items with you. If you'll put your mask back on. I am
13 handing you what's been previously marked as State's
14 Exhibit 154. Do you recognize these items?

15 A Yes.

16 Q Can you tell the jury what those are?

17 A These are necklaces and other items that he had on
18 him.

19 Q Flip that around so they can all see.

20 A Necklaces and whatnot that he had on his person, they
21 were in different pockets on his body.

22 MS. SUMNER: At this time, Your Honor, the State
23 would move 154 into evidence.

24 THE COURT: What says the Defense.

25 MR. SHAFFER: No objection. Is there any way you can

1 ask him up there? I'm not trying to be difficult. I just
2 can't hear him.

3 MS. SUMNER: I was trying to avoid --

4 THE COURT: Well, just -- Officer, if you'll just
5 speak louder, please, since your mask and we need to make
6 sure everybody hears you. Okay, sir?

7 THE WITNESS: Yes.

8 THE COURT: 154 into evidence for the State.

9 (Whereupon, State's Exhibit No. 154 was admitted into
10 evidence.)

11 MS. SUMNER: Thank you, Your Honor.

12 Q Officer, I'm handing you what's been previously
13 marked as State's 156. Do you recognize these?

14 A Yes, those are the shoes he had on.

15 Q So these are the shoes that Mr. Hailey was wearing?

16 A Yes.

17 MS. SUMNER: Your Honor, at this time, the State
18 would move 156 into evidence.

19 MR. SHAFFER: No objection.

20 THE COURT: Without objection, 156 for the State.

21 (Whereupon, State's Exhibit No. 156 was admitted into
22 evidence.)

23 Q And then, move here to 158. Is this familiar to you?

24 A Yes, that was on his person. It had another shirt on
25 top of it, but, yes.

1 Q So this was the undershirt he was wearing?

2 A Yes, ma'am.

3 MS. SUMNER: At this time, the State would move 158
4 also into evidence, Your Honor.

5 MR. SHAFFER: No objection.

6 THE COURT: Without objection, 158 for the State.

7 (Whereupon, State's Exhibit No. 158 was admitted into
8 evidence.)

9 Q I'm showing you what has been previously marked as
10 157. In this, we have a sock.

11 A Yes.

12 Q Does that look familiar?

13 A Yes, it does.

14 Q And what is this exactly?

15 A That's a sock he had on.

16 Q And moving along. There are two items here. A
17 hoodie, a camo hoodie. Does this look familiar to you?

18 A Yeah.

19 Q And what is this?

20 A That was the hoodie he had on his person at the time.

21 Q And then, additionally as a part of 157, is this the
22 shirt he was wearing, a long sleeve camo shirt?

23 A Yes.

24 MS. SUMNER: Your Honor, at this time, the State
25 would move 157 into evidence. That is a sock, a hoodie

1 and a long sleeve shirt.

2 MR. SHAFFER: No objection.

3 THE COURT: Without objection, 157 for the State.

4 (Whereupon, State's Exhibit No. 157 was admitted into
5 evidence.)

6 Q And lastly, Deputy. Here, we have underpants?

7 A Yeah, and he was wearing both of those at the time.

8 Q So are these the underneath pants?

9 A Yes.

10 Q And then, secondly, we have blue sweatpants here.
11 Was he also wearing these?

12 A Yes, he was.

13 Q So all of these clothing items were collected from
14 him that day in booking?

15 A Yes, ma'am.

16 MS. SUMNER: Your Honor, at this time, the State
17 would move 159 into evidence.

18 MR. SHAFFER: No objection.

19 THE COURT: Without objection, 159 into evidence.

20 (Whereupon, State's Exhibit No. 159 was admitted into
21 evidence.)

22 Q You can take your seat back, sir. Thank you.

23 THE COURT: Now, you skipped over 155. That's, I
24 assume, just another piece of evidence?

25 MS. SUMNER: I will be there in just a second. Thank

1 you, Your Honor.

2 THE COURT: I'm not trying to get ahead of you,
3 Solicitor.

4 MS. SUMNER: I appreciate it. Your Honor, permission
5 to approach the witness.

6 THE COURT: Sure.

7 Q Can you take a look at this for me and tell me what
8 that is?

9 A Yes, it's a .20 gauge expended shot shell.

10 Q Where was that located?

11 A That was in his pockets on his person amongst the
12 other necklaces and stuff.

13 Q So along with what's been marked in evidence, 154,
14 that spent shotgun shell, 155, was also located on Mr.
15 Hailey?

16 A Yes, ma'am.

17 Q And could you explain for the jury the difference in
18 a spent versus an unspent shotgun shell?

19 A Spent just means it has been fired. If it wasn't
20 fired, it would be self-contained, but there's no shot in
21 it and it does have a strike on the primer. So it has
22 been fired.

23 Q And what gauge is that shell?

24 A It's a .20 gauge.

25 MS. SUMNER: Deputy, thank you for your time.

1 Please, answer any questions the Defense has for you and,
2 Your Honor, just to be sure. That is marked as 155. I
3 want to make sure that's in evidence.

4 MR. SHAFFER: No objection.

5 THE COURT: No objection. 155 for the State into
6 evidence.

7 (Whereupon, State's Exhibit No. 155 was admitted into
8 evidence.)

9 CROSS-EXAMINATION

10 By Mr. Shaffer:

11 Q Sergeant Yates, you went to Ninety Six High School;
12 right?

13 A Yes.

14 Q Played football there?

15 A Yes.

16 Q You actually played with Mr. Hailey who used to be
17 called Andy; right? Not sure?

18 A Looking at it --

19 Q Freshman year?

20 A -- I'm not sure.

21 Q Freshman year, maybe?

22 A Hailey?

23 Q Yeah, Andy. It's okay.

24 A I'm not familiar.

25 Q Fair enough, but you don't recall that you did;

1 correct?

2 A No.

3 Q So when you got there at the hospital, you relieved,
4 I guess, Bonetti; correct?

5 A I did not. I believe that was Lieutenant Hood.

6 Q So Lieutenant Hood relieved Bonetti?

7 A Yes.

8 Q You didn't go in the hospital?

9 A I don't believe so.

10 Q And in your report, you had written about Lieutenant
11 Hood going to the hospital and relieving Bonetti; right?

12 A Yes.

13 Q So you were just sort of doing that for your
14 lieutenant so that he didn't have to write a separate
15 report; right?

16 A We were just trying to help relieve the oncoming
17 shift and let them, you know, get home. Whatever we can
18 help them out with.

19 Q But then, you -- basically, he went back and you --
20 I'm assuming you watched him take these clothes off;
21 right?

22 A I remember taking possession of the clothes. Fully
23 taking them off, I don't recall that. That is usually
24 what we do.

25 Q So that's the normal thing if you're going to take

1 the clothes into evidence. Obviously, his clothing had
2 evidentiary value, you thought; correct?

3 A Yes.

4 Q And certainly, it may or may not help determine
5 things that happen; right?

6 A Yes.

7 Q And you noted that there was a shotgun shell in his
8 pocket; right?

9 A Yes.

10 Q And that seemed like it had a lot of evidentiary
11 value, too; correct?

12 A Yes.

13 Q So bullets in a pocket may have a lot of evidentiary
14 value; right?

15 A That is -- yes.

16 Q Ammunition in a pocket, I should say.

17 A Yes.

18 Q Do you recall noting anything about track marks or
19 anything like that on Mr. Hailey at any point?

20 A No.

21 Q And you wouldn't be able to remember now, would you?

22 A Not that particular -- not unless it was relevant in
23 what was going on.

24 MR. SHAFFER: No further questions.

25 THE COURT: Any redirect?

1 MS. SUMNER: Nothing, Your Honor.

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

3 (Whereupon, the witness stepped off of the witness
4 stand.)

5 MR. BROWN: The State calls Greg Allison.

6 GREG ALLISON, being

7 first duly sworn, testified as follows:

8 THE COURT: Solicitor, just make us aware when we get
9 to that point that may require some discussion with the
10 Court and --

11 MR. BROWN: Yes, sir.

12 THE COURT: -- with the attorneys; okay? You know
13 what that would be at. So just let us know.

14 DIRECT EXAMINATION

15 By Mr. Brown:

16 Q Good afternoon, Mr. Allison.

17 A Good afternoon, sir.

18 Q Mr. Allison, where do you work?

19 A I work at the Greenwood County Sheriff's Office.

20 Q And how long have you been with the Sheriff's Office?

21 A It's going to be 10 years this month.

22 Q What are your duties at the sheriff's office?

23 A I am the crime scene investigator and processor and
24 I'm also the evidence technician.

25 Q And how long have you been in that role?

1 A Five years.

2 Q So back on March 6th of 2019, you were in that role?

3 A Yes, sir. I was.

4 Q Did you have the opportunity to respond to the scene?

5 A Yes, sir. I did.

6 Q Where did you respond to first?

7 A I responded to Warner Road, which I was called by the
8 Major, Cody Bishop, who gave me instructions.

9 Q To respond to Warner Road?

10 A Yes, sir.

11 Q How -- on Warner Road, how would you go about
12 documenting the scene?

13 A When we do we observe and make sure the crime scene
14 was secure, which it was. And me with the officer who was
15 making sure that the crime scene is being maintained with
16 the -- and the integrity of it.

17 Q And securing the scene would be putting up the yellow
18 tape?

19 A Yes, sir. To make sure no one goes in.

20 Q Try to tip-toe around to preserve it the best you
21 can?

22 A Right. Yes, sir.

23 Q After that is done, you know that's been taken care
24 of, what do you do next?

25 A The first thing I do is, I'll talk with the

1 investigator or the officer on-scene to get a rough idea
2 of what's going on. And then, we'll do a walk through of
3 the crime scene without touching anything and we'll
4 observe. And then I'll start photographing.

5 Q Start photographing?

6 A Yes, sir.

7 Q And did you photograph out on Warner Road?

8 A Yes, sir. I did.

9 Q As part of photographing, do you also put any type of
10 markers out to help?

11 A Yes, sir. First of all, we'll do an overall
12 photographing. We'll photograph the crime scene as is.
13 And then, once that's completed, we'll start with our
14 markers, putting down items that we think may have
15 evidential value.

16 Q And we'll come back to that scene out on Warner Road.
17 Later on, did you also process another scene?

18 A No, sir. Once I completed the scene out on Warner
19 Road, I asked my Major, Cody Bishop, did he want me to go
20 out to the other scene on -- what is it, Brooks Road.

21 Q Booker Road.

22 A Booker Road. And he said they would obtain a search
23 warrant for that vehicle the following day, which we did.

24 Q And where did the search warrant -- where did you
25 execute the search warrant that next day?

1 A We executed the search warrant in our impound lot
2 where we had the vehicle towed that night and it was
3 secured until the next morning when a search warrant was
4 obtained.

5 Q Are you aware -- were there pictures taken of the
6 vehicle at the Booker Road scene?

7 A I'm not sure. I didn't take any out there.

8 Q And then, the next day, you took photographs out
9 there?

10 A Yes, we met the next morning and when the search
11 warrant was obtained, my Captain and my Major met me out
12 there and we processed it.

13 Q Processed the scene by --

14 A Yeah.

15 Q -- taking photographs?

16 A We processed the vehicle.

17 Q And out on that scene, did you also take items in as
18 evidence?

19 A Yes, sir. We did the same thing with the vehicles,
20 we do a crime scene, we'll do an overall shoot of the
21 whole vehicle. And then, what we'll do is, we'll start
22 processing, putting flyers and numbers down and collecting
23 those items and document them as we collect them.

24 Q And a few of those items would have been Defense
25 Exhibit Number 3, which is a BB gun, pellet pistol?

1 A Pellet pistol. Yes, sir.

2 Q And then, State's 151, a .20 gauge shotgun?

3 A Yes, sir. That's correct.

4 Q There were a number of other items in that vehicle
5 that were also taken; is that correct?

6 A Yes, sir.

7 Q Do you remember off-hand what all you secured from
8 that vehicle?

9 A No, sir. I process a lot of evidence. It's hard to
10 retain everything.

11 Q But that would be documented in pictures?

12 A Yes, sir. It would be documented in photographs.

13 Q To further expand on your role after these items are
14 collected, you mentioned you're an evidence custodian?

15 A Yes, sir. That's correct.

16 Q What do you do with this evidence once you collect
17 it?

18 A I'm also the custodian. So what that does is, once I
19 process that crime scene and collect any evidence we may
20 obtain to process -- I mean, to put into evidence, my job
21 is to make sure that it's submitted into evidence
22 correctly and that maintains the integrity and also, the
23 chain of custody.

24 Q And for some items, they may eventually be sent down
25 to SLED; is that correct?

1 A Yes, sir. If it needs further processing, then I'll
2 take those items and further process them at the request
3 of the investigator over the case. He'll call down and
4 ask for DNA, GSR kits or whatever the case may be. It
5 could be drugs. I do further processing and preparing it
6 to go to SLED.

7 Q And once the evidence is submitted to the Greenwood
8 County Sheriff's Office, who else has access to those --
9 to that secured area where this evidence is collected and
10 kept?

11 A It would be my relief, which is Wes Lowe who was the
12 person I took the position over when he got promoted to
13 another position and we also have a relief guy known as
14 Investigator Womack, Andy Womack.

15 Q Who else has a key to that room?

16 A It would be the sheriff and that would be it other
17 than myself --

18 Q Somebody that's --

19 A -- that I know of, and the Major.

20 Q They control the area?

21 A Yes, sir.

22 Q Once you collect these items, does the Greenwood
23 County Sheriff's Office put a specific case number with
24 those items?

25 A Yes, sir. What normally happens is, the case number

1 that is used for the RMS report is also -- it carries
2 through the evidence. Our submitting system where
3 everything is into that system is under that case number.
4 Any item that we put in is under that case number.

5 Q And then, when you want to send items to SLED, what's
6 that process?

7 A It's the reverse process. One of the things that
8 happens is, once it gets prepared to go to SLED, I exit it
9 out of system, I take it down to SLED, which is
10 pre-submitted, and release it to SLED.

11 Q So when you say pre-submitted, you already tell them
12 you're bringing it down?

13 A What I do is, I go onto the -- it's a website called
14 ILAB website that SLED has created for us to do a
15 pre-submission each time, which we pre-submit everything
16 that we're going to take down. And basically, all we do
17 is, we put it in the same locker system that we have and
18 just shut the door on it. And then, they take care of it
19 through the computer system.

20 Q And anything that's being submitted down, for
21 example, a shotgun, clothing, that's all packaged up?

22 A Yes, sir. And they require certain standards of
23 packaging those items to make sure that, one, they're
24 safe; two, that the integrity of the evidence has not been
25 tainted or tampered with during transportation.

1 Q And if it was tampered with, the integrity with
2 questioning that, what would they do?

3 A They would notify me by email or they would notify my
4 supervisor.

5 Q And let you know there's something wrong?

6 A Yes, sir.

7 MR. BROWN: Judge, at this time, we might need to
8 take a quick break.

9 THE COURT: Ladies and gentlemen, we've got a legal
10 issue I need to deal with the lawyers. So if you'll go
11 back to the jury room and hopefully, I'll get you back out
12 soon. Thank you for your understanding and patience.

13 (Whereupon, the jury was excused from open court.)

14 THE COURT: I'd been handed previously two
15 photographs, State's ID 134 and 130. Both of them are
16 photographs of the victim, presumably, at the scene. It
17 looks like it's at the scene off the roadway and I think
18 the Defendant has objections to those two photographs. If
19 there are any others -- I haven't heard of any objections,
20 but at least these two, you do. So Mr. Shaffer, I'll be
21 glad to hear from you.

22 MR. SHAFFER: I believe that they are, first of all,
23 no longer relevant at this point. Essentially, they've
24 had several different photos and there's several different
25 photos over there that we've agreed to that show the body

1 (Whereupon, the jury came into open court at
2 approximately 3:10 p.m.)

3 THE COURT: Let the record reflect the jury is back
4 in. Solicitor, you may proceed.

5 MR. BROWN: Thank you, Your Honor.

6 CONTINUE DIRECT EXAMINATION

7 By Mr. Brown:

8 Q Now, Mr. Allison, we left off -- you took a number of
9 pictures; is that correct?

10 A Yes, sir.

11 Q I'm actually going to start at the pictures from the
12 following day or the early morning -- I guess the daylight
13 hours of March 6th. After you processed the scene out on
14 Warner Road, you said you ultimately executed a search
15 warrant on the vehicle?

16 A Yes, sir.

17 Q And that was at the impound lot?

18 A Yes, sir. That's correct.

19 Q I'm going to show you a number of photographs that
20 have been previously marked as State's ID's. If you can,
21 take a look at those and see if you recognize them.

22 THE COURT: Solicitor, that's the batch that begins
23 with Number 3?

24 MR. BROWN: Yes, sir.

25 A Yes, those photos, I took.

1 Q You took these photos on March 6th?

2 A Yes, sir.

3 Q Of 2019?

4 A Yes, sir.

5 Q Let's start out with showing you State's Number 3.

6 Now, this is a picture of the car once it's been moved?

7 A From the crime scene; yes, sir. That's correct.

8 Q That's another shot of it from the front?

9 A Yes, sir.

10 Q So that will be State's 3 and 4. State's 5.

11 A Yes, sir.

12 Q Initially, did you just take pictures all the way
13 around the car --

14 A Yes, sir.

15 Q -- to document everything? That was State's 5.
16 State's 6.

17 A Yes, sir.

18 Q That's just a picture without the sheet over it?

19 A Yes, sir.

20 Q State's 7.

21 A That's --

22 Q -- State's 8.

23 A That's the front windshield.

24 Q State's 9. What is this picture showing?

25 A It's pretty much trying to show some of the blood

1 spatter from the outside of the vehicle going inside of
2 the windshield.

3 Q And in this picture, are you looking over the front
4 of the steering wheel towards the back?

5 A Yes, sir. That is correct.

6 Q State's 10.

7 A That's the driver's side door.

8 Q What do we see in this picture?

9 A What you're seeing there is the opening of the
10 driver's side and that's where we do an overall shoot and
11 it's showing where, you know, blood spatter has gotten on
12 the door and down next to the floorboard.

13 Q And is it all on the window area?

14 A It's on the window area, but the actual -- the window
15 was rolled down at the time of the incident.

16 Q So the window was not actually shot out?

17 A No.

18 Q And the window was operational --

19 A Yes.

20 Q -- later on?

21 A Uh-huh, (affirmative response).

22 Q What's in the floorboard of that picture?

23 A From where I'm sitting, I can see the red ball cap.

24 Q State's 11.

25 A That's beside the seat, the driver's side seat where

1 the door's open and that would be between the door. The
2 driver's side door and the driver's seat.

3 Q And 12, State's 12.

4 A That is the same. It's showing the seatbelt.

5 MR. BROWN: Judge, I don't know if I've properly or
6 formally moved all of those into evidence. I don't think
7 there's any objection.

8 THE COURT: The batch -- even though there's some
9 numbers missing --

10 MR. BROWN: Yes.

11 THE COURT: -- it would be the batch that begins with
12 3 and ends with 125, you're moving those into evidence and
13 the Defense.

14 MR. SHAFFER: Without objection.

15 THE COURT: Without objection.

16 (Whereupon, State's Exhibit Nos. 3 through 125 was
17 admitted into evidence.)

18 (Whereupon, State's Exhibit No's 16, 18, 19, 20, 42,
19 49, 53, 64, 105, 106, 107, 111, were marked for
20 identification only.)

21 Q State's 13.

22 A That is the driver's side, as well.

23 Q What's up here in this top corner?

24 A I can't see from here to tell you the truth, sir.

25 Q If I brought it to you, State's 13.

1 A The top corner of the dash. It appears to be some
2 blood spatter and some brain matter.

3 Q And is that Georgia hat in the picture, as well?

4 A Yes, sir. It's in the floorboard on the bottom.

5 Q Across in the passenger seat, the front seat, what
6 can you see in this photograph?

7 A In front seat and the passenger seat, I can see, it
8 looks like, a brown jacket in the driver's seat and on the
9 passenger's side from where I'm sitting, I can't see it
10 from here.

11 Q I'll bring it back to you. State's 13.

12 A On the passenger side, I can see the butt end of the
13 shotgun.

14 Q Again, the butt end of the shotgun there?

15 A Yes, sir.

16 Q State's 14. Is that just a closer picture?

17 A Yes, sir. That's just a closer view of the driver's
18 seat and the console.

19 Q State's 15.

20 A That's another one, as well showing the butt end of
21 the shotgun from the passenger's side.

22 Q I'm going to show you a little closer on State's 15.
23 What else can you see in that front passenger seat?

24 A That is the pistol -- the pellet pistol.

25 Q Pellet pistol?

1 A Yes, sir.

2 Q On the right-hand side of the passenger seat?

3 A Yes, sir.

4 Q State's 17.

5 A That is the driver's side door panel.

6 Q And what do we see in this photograph?

7 A We're basically trying to show the blood spatter

8 pattern on the door panel.

9 Q State's 21.

10 A We're trying to show the blood spatter and the brain

11 matter on the dash of the vehicle.

12 Q State's 22.

13 A That's showing the positioning of the actual shotgun.

14 Q I want to show you -- that's State's 22. Yesterday,

15 a photograph was admitted. State's 98.

16 A Yes, sir.

17 Q You see that photograph?

18 A Yes, sir.

19 Q What is that?

20 A That is a Carolina Panthers camo ball hat.

21 Q And where is that?

22 A It's on the dash.

23 Q Of the passenger's side?

24 A Yes, sir.

25 Q Now then, State's 22. Is that the Carolina Panthers

1 cap in the front seat now?

2 A Yes, sir. It is.

3 Q And this is State's 98 from yesterday, the dash;
4 correct?

5 A Yes, sir.

6 Q Did that hat move while transporting from Booker Road
7 to --

8 A What happens is, when that vehicle's being towed,
9 it's towed on a flat bed truck. So when that flat bed
10 truck picks that vehicle up, it takes an incline like this
11 (indicating) and pulls that vehicle up. So when it goes
12 to that high pitch, anything that could possibly be on the
13 dash or on the console could potentially fall.

14 Q And we'll get back to that in a second. I'll show
15 you State's 23.

16 A That's showing the ball cap in the floorboard of the
17 vehicle.

18 Q State's 24.

19 A That's a closeup of the ball cap.

20 Q State's 25.

21 A I can't really see from here, sir.

22 Q I'll bring it to you. State's 25. Take a look at
23 that and tell me what area of the car that is.

24 A That is the back driver's side, passenger's side of
25 the vehicle.

1 Q Back driver's --

2 A Yeah, back driver's side.

3 Q Now, is that side pretty well full of items?

4 A Yes, sir. It was.

5 Q State's 26. That's just a closer version?

6 A Yes, sir.

7 Q Is it also showing the back right passenger's seat?

8 A Yes, sir.

9 Q Was that area pretty clear?

10 A Yes, sir.

11 Q State's 27.

12 A That's a photograph of an overall exterior going into
13 the interior of the vehicle from the passenger's side.

14 Q State's 28.

15 A That is the front passenger's side of the vehicle.

16 Q In this picture, that Panthers hat is in the seat
17 now?

18 A Yes, sir. That's correct.

19 Q Down in the floorboard, is that a cell phone?

20 A Yes, sir. That's correct.

21 Q I'm going to show you State's 99 from the night
22 before or earlier that morning.

23 A Yes, sir.

24 Q Where is that cell phone?

25 A I can't see it from here, sir.

1 Q I'll bring it to you. This is State's 99.

2 A The cell phone is in the front passenger seat next to
3 the shotgun.

4 Q That's from the scene at Booker Road.

5 A Okay.

6 Q And the cell phone is in the passenger seat. And
7 then, after transport, it's down in the floorboard?

8 A Yes, sir. That's where I found it. Yes, sir.

9 Q Between those two pictures, that shotgun and the
10 pellet pistol didn't move; is that correct?

11 A No, sir. That's correct.

12 Q State's 30.

13 A That's showing the items that are in the floorboard
14 of the passenger side.

15 Q Is that a speaker in the floor?

16 A A what, sir?

17 Q A speaker. Like a car speaker.

18 A I can't see it from here. I'd have to look at it and
19 see.

20 Q I'll bring it to you.

21 A I hate to keep running you back and forth.

22 Q No, that's fine. I want to make sure it's right.
23 Number 30.

24 A Yes, sir. That is correct.

25 Q That was State's 30. State's 31.

1 A That's showing the items in the front seat on the
2 passenger's seat.

3 Q State's 33.

4 A That is showing that the keys were in the ignition of
5 the vehicle.

6 Q State's 34. Is that just a closeup?

7 A Yes, sir.

8 Q State's 35. Is that just showing the cross angle --

9 A Yes, sir.

10 Q -- from the passenger's side?

11 A Yes, sir. And what we were doing -- excuse me. What
12 we were doing is -- I think it has the white sheet on it;
13 right?

14 Q Yes, sir.

15 A What we were doing is, we couldn't get a good enough
16 photo with shooting it through the windshield not -- and
17 the side window not covered. So we got a white sheet to
18 cover it so you could really see the blood spatter pattern
19 and the location of where it was on the windshield.

20 Q Yes, sir. Up there in the top?

21 A Yes, sir. That was the purpose of the sheet in that
22 photograph.

23 Q Again, State's 36.

24 A The same.

25 Q Are you talking about here in the windshield?

1 A Yes, sir.

2 Q State's 37. Again --

3 A That was to show that the pattern -- the direction of
4 the blood spatter pattern and that the window -- the
5 driver's side window was down because you can see how
6 clean and clear it is.

7 Q State's 39.

8 A That's a closer shot of the windshield showing the
9 blood spatter on the windshield.

10 Q State's 40.

11 A And that's showing the door panel on the passenger
12 side.

13 Q Yes, sir. State's 41.

14 A And that's showing the actual driver's side window.

15 Q It also shows some on the visor?

16 A Yes, sir. It does.

17 Q State's 43.

18 A I can't really see it from here to tell you what --

19 Q This is State's 43. What's in the seat? That front
20 seat next to this coat.

21 A Right at the bottom corner right there?

22 Q Yes, sir.

23 A I can't really tell you.

24 Q I have another --

25 A Yeah.

1 Q I'll show you another one here.

2 A All right.

3 Q State's 44.

4 A That is the back passenger side. It's showing the
5 exterior into the interior of the back passenger side of
6 the vehicle.

7 Q State's 45.

8 A That's showing an overview from the passenger's side
9 to the back driver's side of the vehicle.

10 Q And that back passenger side is pretty open, the
11 seat?

12 A Yes, sir. It's clear where the back driver's side is
13 -- it's cluttered.

14 Q And from that back side, there's kind of an angle
15 going towards the front steering wheel where the driver
16 would be?

17 A That's correct.

18 Q State's 46.

19 A And that's showing the items in the seat and as well
20 as the top right corner of the driver's side.

21 Q State's 47. What does this picture show?

22 A That's the photograph of the shot shooting from the
23 back passenger side to the front seat of the vehicle.

24 Q And in this photograph, can you still see that blood
25 up on the front windshield?

1 A Yes, sir. That's correct.

2 Q And from the other pictures, there's blood and brain
3 matter over on the door panel?

4 A That's correct. Since we seen the pattern in that
5 direction, we shot a photograph in that direction.

6 Q State's 48.

7 A That's the photograph of the steering wheel and the
8 front dash.

9 Q From that back passenger seat?

10 A Yes, sir.

11 Q State's 50.

12 A A photograph of the same -- from the same location.

13 Q State's 51.

14 A And that's the corner of the door panel.

15 Q State's 52.

16 A That is the trunk.

17 Q State's 54.

18 A That's a closer photograph of the content in the
19 trunk.

20 Q What's over here to the right side of the trunk? Can
21 you tell what that is?

22 A No, sir.

23 Q State's 54.

24 A The blue rubber boots?

25 Q Yes, sir.

1 A Uh-huh (affirmative response).

2 Q State's 54. Now, when you're taking these
3 photographs, are you trying to document everything in the
4 car?

5 A What we try to do is, we do a shot of an overview of
6 actually how that car was sitting when I arrived. I touch
7 nothing in that vehicle until I do an overview shooting.
8 Once I do the overview shooting, I'll do an evaluation of
9 what I think will link that piece of evidence to the
10 perpetrator or the suspect. Once I make that decision,
11 I'll put a number on it. Once I number that item, I'll
12 move on to the next one. Once I've completed all of my
13 items and numbered those items, only then, I'll go back
14 and photograph each one, an overall view of the car or the
15 house or whatever it may be. I'll do an overview showing
16 of everything, put a number on it and its location. Once
17 that's done, I'll pull it out and I'll start photographing
18 each item in its location. Once the item's been
19 photographed in that location -- if there's 30 items, once
20 I've photographed all 30 items in that actual location,
21 then I'll come back. I'll have an assistant whether it be
22 whoever's the Major, Captain or Deputy. I'll pull that
23 item, I'll bag it, put the number on the bag. The actual
24 number for that item will go on that item and stay with
25 that item until the life of that case. If it's item

1 number one, it will always be item number one. It will go
2 in that bag, I'll list what it is and basically, what
3 location I got it from. Once I do that, I'll go to the
4 next one. My assistant will log it on a log sheet. And
5 then, he'll, later on, put it on his report.

6 Q I'm going to tell you all the rest of these pictures
7 from the impound lot. State's 55. Again, you're just
8 taking a picture of the center console?

9 A Yes, that's correct. Showing the content inside of
10 the console.

11 Q State's 56. Again, that's a cross shot of the inside
12 of the car?

13 A Yes, sir.

14 Q State's 58. Is this where you're talking about
15 putting markers down?

16 A Yes, sir. I'll start putting markers down and once I
17 get those items marked, I'll go back and photograph those
18 items in that position and once I've completed
19 photographing every item in its original position, then
20 I'll start collecting.

21 Q State's 59. Are those your markers?

22 A Yes, sir.

23 Q A telephone, which is State's 60.

24 A Yes, sir.

25 Q State's 61. State's 66. You've removed now the hat?

1 A Yes, sir. I've removed those items and I'm just
2 doing a shoot of each individual item. And then, it will
3 be bagged, tagged and documented.

4 Q What was significant about this Georgia hat?

5 A The Georgia Bulldog hat, it looked like it had a
6 gunshot to one side of it with a possible blood stain
7 pattern.

8 Q And that would be, if we're looking at this
9 photograph on the right, where it's ripped?

10 A Yes, sir.

11 Q State's 67.

12 A That's the other side of the baseball hat.

13 Q State's 68.

14 A That's the actual tear of the -- a photograph of the
15 actual tear of the ball cap.

16 Q State's 3.

17 A And that is the cell phone that was collected from
18 the floorboard on the passenger's side.

19 Q State's 70 was just a Pepsi bottle in there?

20 A Yes, sir. That's correct.

21 Q State's 71. It's a shotgun?

22 A Yes, sir.

23 Q Mr. Allison, did you ever get a chance to measure the
24 length of that shotgun?

25 A We measured it at the beginning when it was processed

1 into the evidence room. And then, we measured it again
2 today.

3 Q How long is that gun?

4 A It was 40 inches.

5 Q Right around 40 inches?

6 A Yes, sir.

7 Q 72, State's 72.

8 A Yes, sir.

9 Q State's 73.

10 A Yes, sir.

11 Q When you were taking these photographs, did you check
12 to see if it had any shells in it?

13 A No, sir. I did not. I didn't check.

14 Q But ultimately, before it goes into evidence, it was
15 cleared?

16 A Yes, sir. Right.

17 Q It didn't have a shell in it?

18 A Right. We cleared -- I cleared it once I got it back
19 to the sheriff's office. I cleared it and put -- we put a
20 strap around it.

21 Q I'll show you State's 74 and what gauge was this
22 shotgun?

23 A .20 gauge.

24 Q State's 76. This is the breach in --

25 A Yes, sir.

1 Q -- the shotgun and again, there was no shell in it --

2 A Right.

3 Q -- when you looked at it? State's 77.

4 A Right.

5 Q Is that the BB pellet pistol?

6 A It is.

7 Q State's 78. You all cleared out the back a little
8 bit and looked around?

9 A Yes, sir. I had taken everything out of the trunk of
10 the vehicle. And then, placed it back in there, found
11 anything was not of any significance to the case.

12 Q And I previously showed you State's 43, the front
13 seat, the jacket and a small item next to it.

14 A Yes, sir.

15 Q I'm going to show you now State's -- what is that?

16 A That's the corner of a green Bible.

17 Q State's 81.

18 A That's the actual corner of the Bible in the seat.

19 Q In the front driver's seat?

20 A Yeah, once the jacket was removed.

21 Q State's 82. Is this just a receipt?

22 A Yeah, it is. Yes, sir.

23 Q And was the name on there Joni Kitchens?

24 A Yes, sir.

25 Q State's 83. Is this the back --

1 A Yes.

2 Q -- driver's side?

3 A The back driver's side floorboard.

4 Q State's 84. Is this just a closeup?

5 A Yes, sir.

6 Q State's 85. A Panthers ball cap?

7 A Yes, sir.

8 Q State's 86. The BB gun?

9 A Yeah, that's the information on the BB gun.

10 THE COURT: Is that the new 134?

11 MR. BROWN: Yes, sir.

12 Q I'm going to show you what's been previously marked
13 for identification purposes. It started with 103 and
14 ended with 134.

15 A Yes, sir.

16 Q See if you recognize these.

17 A Yes, sir.

18 Q Now, these photographs I just showed you, where were
19 these photos taken?

20 A They were taken on Warner Road.

21 Q And these were actually taken before the last set of
22 pictures that I showed you; is that correct?

23 A Yes, sir. That's correct. That was taken the night
24 of.

25 Q So it was still dark outside?

1 A Yes.

2 Q I'll show you first State's Exhibit 103 and is that
3 just a sign saying Warner Road?

4 A Yes, sir. That's the road sign. What I try to do
5 is, once I'm called out on a crime scene and they give me
6 the location, I try to actually photograph the street sign
7 verifying that is actually the road that we're on and any
8 house number if there would be one.

9 Q Again, Warner Road is in which county?

10 A Greenwood County.

11 Q State's Exhibit -- State's Evidence 104.

12 MR. BROWN: And Judge, we would move 103 -- that
13 group of pictures, 103 through 134 into evidence.

14 THE COURT: And what says the Defense?

15 MR. SHAFFER: Your Honor, I don't think that they're
16 all sequential in that --

17 THE COURT: They're not. There's some -- there's
18 just a batch that starts with 103 and ends with 134.

19 MR. SHAFFER: Yeah, so no objection then.

20 THE COURT: The new 134.

21 MR. SHAFFER: Yes, sir.

22 THE COURT: Into evidence for the State.

23 (Whereupon, State's Exhibit Nos. 103 through 134 were
24 admitted into evidence. See page 538, 3 through 125
25 have already been admitted into evidence.)

1 (Whereupon, State's Exhibits 127 through 138 were
2 marked for identification only.)

3 MR. BROWN: Thank you, Judge.

4 Q State's 104. Now, what does this photograph show?

5 A That's showing the location of the body from where I
6 actually arrived at the crime scene outside of the crime
7 scene tape.

8 Q And where was Mr. George's body located?

9 A He was on the side of the road on my right side
10 facing towards the vehicle.

11 Q Coming from Brooks Road --

12 A Yes, sir.

13 Q -- is that correct? And he was --

14 A Actually, coming from that side that I showed you --
15 that you have earlier.

16 Q Yes, sir.

17 A That's correct.

18 Q I'll show you 108, 109, 110, 112 all the way to 117.
19 Can you tell me what these are? They might be difficult
20 for you to see from there up on the stand. Have you had a
21 chance to review those?

22 A Yes, sir.

23 Q What do those pictures show?

24 A They appear to be drag marks.

25 Q And I'm going to show you State's 108. Does that

1 appear to be a drag mark on the road?

2 A Yes, sir. It's possibly a drag mark. That's
3 correct.

4 Q State's 109.

5 A Possibly another mark -- drag mark.

6 Q Do you also -- is that blood on the ground?

7 A It's possible. Yes, sir.

8 Q Possible blood. State's 110.

9 A That is more possible drag marks.

10 Q And is this George's body up in the right-hand
11 corner?

12 A Yes, sir. It is.

13 Q Is there red on the ground?

14 A It's possible. Yes, sir.

15 Q State's 112.

16 A That's also another drag mark with the victim in the
17 top of photograph.

18 MADAM COURT REPORTER: Wait, I can't hear.

19 Q Can you talk --

20 A Yes, it is. It is a drag mark -- possibly a drag
21 mark with the victim above in the top of the photograph,
22 as well.

23 Q When you were out there photographing, did the leaves
24 look like they were disturbed? Like there were drag marks
25 through the leaves?

1 A It was possible, yes.

2 Q And there were rough--

3 A -- yes, sir.

4 Q State's 113. Is that from the other side of the road
5 looking across?

6 A Yes, sir. It's actually photographing from the other
7 side of the road trying to get an overview from the drag
8 mark to the victim's body. It's showing the location of
9 both.

10 Q So there were multiple drag marks --

11 A Yes.

12 Q -- going off the --

13 A There were.

14 Q -- this side of the road and on the other side?

15 A And on the other side. Right. That's correct.

16 Q I'll show you State's 114. Is that the one on the --

17 A Yes, sir.

18 Q -- side of the road across from Mr. George?

19 A Yes, sir.

20 Q A closeup, State's 115. State's 116. Again, that's
21 on the --

22 A That's a different angle, yes.

23 Q On the other side of the road?

24 A Right. It's showing a different angle.

25 Q State's 117.

1 A That's the drag mark closest to the victim. What
2 we're trying to establish was, number one, the drag mark
3 -- possible drag mark from what we gather was him actually
4 getting out of the back seat of the vehicle, coming around
5 and pulling him out of the driver's side onto the side of
6 the road. That was the theory that I had.

7 Q State's 118.

8 A The same.

9 Q Approximately how many feet was that from the marker
10 number two to where Mr. George's final resting place?

11 A I couldn't tell you. A guesstimate, I'd say --

12 Q A few feet?

13 A I'd say at least four to five.

14 Q State's 119. That's another photo of it?

15 A Yes, sir.

16 Q State's 120.

17 A That's another angle, as well.

18 Q State's 121.

19 A That's a close shot giving the measurement of the
20 possible size.

21 Q You also see some of the --

22 A Yes.

23 Q -- red dots in there?

24 A That's right.

25 Q State's 122.

1 A And that's an overview showing the drag marks linking
2 to the -- I mean, to the victim.

3 Q Make sure you keep --

4 A The voice up?

5 Q -- your voice up a little bit.

6 A Yeah, that's just showing the drag mark one and two
7 and the victim in the top corner.

8 Q State's 123.

9 A And that's just another angle, as well.

10 Q In looking at this photograph from where we're
11 looking at it, where is Brooks Road? Is it to the right?

12 A According to the information I gathered, it was.
13 Yes, sir. It was -- because where I'm standing, I'm
14 standing on the left side of the dirt road right now
15 shooting towards the victim. So it would be to the right.
16 It would be exiting out of Warner Road to Brooks Road.

17 Q State's 124.

18 A Those were actually a license that the coroner had
19 gotten off of the victim.

20 Q The coroner is actually Mike Young? You might not
21 know this.

22 A No.

23 Q You don't know who pulled that log or that --

24 A No, usually when that's done, the coroner does it.
25 So I'm assuming it was the coroner.

1 Q But you're not positive?

2 A No, I'm not positive. No.

3 Q But either way, that's his ID?

4 A Yes.

5 Q The victim in this case?

6 A Yes, sir.

7 Q State's 125. What is that?

8 A That's a cigarette lighter and the pellets.

9 Q Do you know where the pellets were retrieved from?

10 A To my understanding, they were in his pocket.

11 Q In whose pocket?

12 A In the victim's pocket.

13 Q Lastly, State's 134. What does this show?

14 A It shows the positioning of the legs of the victim.

15 MADAM COURT REPORTER: Wait a minute.

16 Q Say that one more time.

17 A It shows the position of the legs of the victim.

18 Q Off the side of the road?

19 A Off the side of the road. Yes, sir.

20 Q State's 118 would be the other side?

21 A Yes, sir.

22 Q So the legs were more towards the briars or the
23 ditch?

24 A Yes, sir.

25 Q What's his left leg doing?

1 A It's bent behind him.

2 Q And his front right leg is pulled out straight?

3 A Yeah, it's straight forward.

4 Q Now, during -- I believe that's all of the photos.
5 During this case, it's part of your duties as an evidence
6 technician and in crime scene investigations, you
7 mentioned after you photograph, you bag up and collect
8 items; is that correct?

9 A Yes, sir.

10 Q Were there a number of items that you collected and
11 put into evidence?

12 A Yes, sir. There were.

13 Q Sir?

14 A Yes, sir. There were.

15 Q And a number of these items did go down to SLED?

16 A That is correct. They were submitted into evidence
17 by me and they were also submitted into -- I mean, to SLED
18 to me, as well.

19 Q I'm going to show you first several -- State's 160.
20 Was that kept over at the sheriff's office?

21 A Yes, sir. Sometimes, the medical examiner will send
22 them down and a lot of times, they will give them to
23 whoever goes to the autopsy to bring them to me and I
24 submitted that, as well.

25 Q Now, is this the wadding and pellets from the --

1 retrieved at the autopsy?

2 A Yes, sir. That's correct.

3 MR. BROWN: Your Honor, the State moves State's 160
4 into evidence.

5 THE COURT: It's my understanding that 160 --

6 MADAM COURT REPORTER: Through 167.

7 THE COURT: -- through 166 previously possibly when
8 we were --

9 MR. BROWN: Yes, sir.

10 THE COURT: -- outside of the presence of the jury
11 was already put into evidence and I think Mr. Shaffer
12 indicated no objection.

13 MR. SHAFFER: Yeah, subject to the one objection.

14 THE COURT: Subject to the one that we already
15 discussed and I ruled on.

16 MR. SHAFFER: Yes, sir.

17 MADAM COURT REPORTER: And Judge, I had that through
18 167.

19 THE COURT: 167. Did I say 166? Yeah, 167 is
20 correct.

21 (Whereupon, State's Exhibits 160 through 167 were
22 admitted into evidence.)

23 Q State's 161. Do you recognize that?

24 A Yes, sir.

25 Q What is that?

1 A That is the corner of a green Bible.

2 Q Was that retrieved in the front driver's seat of the
3 Buick?

4 A Yes, sir. It was.

5 Q I'll show you State's 162. Can you tell me what's in
6 that bag?

7 A It's one Carolina Panthers ball hat.

8 Q And this was submitted down to SLED?

9 A Yes, sir. It was.

10 Q State's 163. Can you tell me what that is?

11 A That is a DNA sample from Mark Hurley.

12 Q Mark Hailey?

13 A I mean, Hailey. Yeah, that we collected at the
14 sheriff's department.

15 Q And what is a buccal swab?

16 A A buccal swab is where we take DNA samples from
17 inside of the jaw. We use two swabs, one on each side and
18 we place it into a sterile container and seal it and we
19 send it down to SLED as a known standard where it is
20 tested against anything that we collected and sent down
21 for DNA testing.

22 Q 164. Can you tell me what that is?

23 A That is a red Georgia Bulldog baseball cap.

24 Q Is that the one we saw in the pictures?

25 A Yes, sir. It is.

1 Q 165. Is that just a bag of Doritos?

2 A Yes, sir. An open bag of Doritos Cool Ranch chips.

3 Q And again, you all collect --

4 A Yes.

5 Q -- about everything; right?

6 A Yes, sir. At the time, we really don't know who or
7 how to link a suspect to the crime scene. So what we do
8 is, we try to collect anything that might have some
9 evidential value that we could possibly collect to link
10 the suspect to the crime.

11 Q 166. What is that?

12 A That is the pack of pellets and the cigarette lighter
13 that came from out of his pockets.

14 Q Out of his pockets. 167.

15 A That is the -- that's number three, the cell phone
16 that was collected out of the floorboard on the
17 passenger's side of the Buick.

18 Q Now, Officer Allison, was GSR taken in this case?

19 A Yes, sir. It was.

20 Q What is GSR?

21 A GSR is a standard test. We collect gunshot particles
22 from the hands of a potential suspect who has possibly
23 fired a firearm and what we do is, we have these swabs
24 that are circular -- in a circular shape like little
25 buttons and we wipe the hands and they collect gunshot

1 particles if there's any on there and we send them to SLED
2 and they do an analysis on it to see if they have any
3 gunshot residue on them.

4 Q And that was done in this case?

5 A Yes, sir.

6 Q The gunshot residue kit for Mr. Hailey --

7 A Yes, sir.

8 Q -- and the victim in this case?

9 A Yes, sir.

10 Q Also, any items that were sent down to SLED. I
11 believe perhaps ocular fluid was sent down from the
12 victim's autopsy; is that correct?

13 A Yes, sir. And that's usually done from the medical
14 examiner's office. They sometimes directly send it
15 directly down.

16 MR. BROWN: Beg the Court's indulgence. I believe
17 that's all the questions I have for Mr. Allison.

18 THE COURT: Let's -- I think probably before we start
19 into cross-examination, it may be a good time to take a
20 break, at least for our benefit since we've been working
21 during the prior breaks. So ladies and gentlemen, if
22 you'll go back to the jury room, it shouldn't be too long
23 and we'll get you back out and we'll proceed forward.
24 Thank you.

25 (Whereupon, the jury was excused from open court for

1 a break.)

2 THE COURT: We will take a break.

3 (Whereupon, a short break was taken.)

4 THE COURT: Let's bring the jury back out, please.

5 (Whereupon, the jury came into open court at
6 approximately 4:20 p.m.)

7 THE COURT: Let the record reflect the jury is back
8 in. Solicitor Brown, I think you determined that you had a
9 couple more direct questions --

10 MR. BROWN: Yes, sir. I do.

11 THE COURT: -- before we go into cross. You may
12 proceed.

13 CONTINUE DIRECT EXAMINATION

14 Q Mr. Allison --

15 MR. BROWN: Judge, at this time, the State would move
16 150, the GIS map, into evidence and I'll get Mr. Allison
17 to identify this.

18 Q Mr. Allison, the night you went out there, is this
19 Warner Road where you found the body?

20 A Yes.

21 Q And that was -- you came off of Brooks Road onto
22 Warner?

23 A Yes, sir.

24 MR. BROWN: Judge, the State would move Exhibit 150
25 in as evidence.

1 THE COURT: I already -- 150 as into evidence.

2 MR. SHAFFER: I agree to the stipulated yesterday.

3 THE COURT: It's in. 150 for the State.

4 (Whereupon, State's Exhibit No. 150 was admitted into
5 evidence.)

6 MR. BROWN: And then, also, Judge --

7 Q Mr. Allison, State's 151. Do you recognize this
8 item?

9 A Yes, sir.

10 Q Is that the shotgun that you removed from the
11 vehicle?

12 A It is. It is number seven.

13 Q The .20 gauge shotgun?

14 A Yes, sir.

15 MR. BROWN: Judge, at this time, the State would move
16 151 into evidence.

17 MR. SHAFFER: No objection.

18 THE COURT: Without objection, 151 into evidence for
19 the State.

20 (Whereupon, State's Exhibit No. 151 was admitted into
21 evidence.)

22 MR. BROWN: No further questions.

23 THE COURT: Now, cross-examination?

24 MR. SHAFFER: Thank you, Your Honor. Court's
25 indulgence.

CROSS-EXAMINATION

1
2 By Mr. Shaffer:

3 Q Officer Allison.

4 A Yes, sir.

5 Q I don't know your rank. What is it?

6 A I don't have a rank, sir. I'm a class three deputy.

7 Q Well, Mr. Allison then or Officer Allison.

8 A Yes, sir.

9 Q You have -- you're the evidence custodian, as you
10 testified to; correct?

11 A That's correct. Yes, sir.

12 Q So you sort of know where all of the evidence is at
13 any given time; right?

14 A To the best of my ability; yes, sir.

15 Q And State's 151. This is a shell that was in the
16 evidence room; correct?

17 A Yes, sir.

18 Q And I think we heard earlier that Officer Yates found
19 it inside of a pocket, but he gave it to your department,
20 which is evidence; correct?

21 A Yes, sir.

22 Q Because it had evidentiary value; correct?

23 A Yes, sir.

24 Q Because this .20 gauge shell that was found inside
25 Mark Hailey's pocket may have gone to this .20 gauge

1 shotgun that was found inside the car; correct?

2 A It's possible.

3 Q Possible, yeah. And that had some evidentiary value;
4 correct?

5 A Possible. Yes, sir.

6 Q And there's a box of pellets right here, State's
7 Exhibit 66. What caliber are these pellets?

8 A I have no clue, sir.

9 Q I'm going to hand them to you.

10 A Okay. .177.

11 Q And those were placed into evidence, too; correct?

12 A Yes, sir.

13 Q Because they may have some evidentiary value;
14 correct?

15 A Yes, sir. It's possible.

16 Q And they were found inside Marty George's pocket;
17 correct?

18 A Yes, sir.

19 Q And if you don't mind, I'm showing you Defendant's 3.
20 Defendant's 3, I believe, is already in evidence.

21 A Yes, sir.

22 THE COURT: 3 is into evidence.

23 Q And tell me, Defendant's 3 -- about Defendant's 3.
24 What caliber is that?

25 A I'm trying to locate it. It's the same caliber as

1 the pellets.

2 Q Same caliber as the pellets that were found in Marty
3 George's pocket; correct?

4 A Yes, sir. Yes, sir.

5 Q And just like the shotgun shell and the shotgun,
6 these also have evidentiary value; correct?

7 A Yes, sir.

8 Q I believe that they showed you a picture at some
9 point -- and I won't go through all of them obviously, but
10 I believe they showed you a picture of Mr. George's
11 driver's license.

12 A Yes, sir.

13 THE COURT: Possibly, 124 or 125. Possibly. What's
14 the Exhibit number, Mr. Shaffer?

15 MR. SHAFFER: 124, Your Honor. Thank you.

16 THE COURT: You're welcome.

17 Q I'm showing you State's 124.

18 A Yes, sir.

19 Q And that appears to be the driver's license of -- or
20 an ID card at least for Mr. Marty George; correct?

21 A Yes, sir. That's correct.

22 Q And it has his size and weight on it; correct?

23 A Yes, sir. It does.

24 Q What size and weight is that?

25 A It says that he weighs 150 pounds and he's six foot.

1 Q Thank you, sir.

2 A Yes, sir.

3 Q Now, Officer Allison, between one and two --

4 A Yes, sir.

5 Q -- about how far is that?

6 A I would guesstimate 10 feet. Ten, 15 feet.

7 Q Did you ever measure it?

8 A I did not. No, sir. I didn't.

9 Q And I think the State said that one and two were both

10 drag marks.

11 A Possible ones. Yes, sir.

12 Q Possible drag marks?

13 A Yes, yes.

14 Q We don't know for sure, do we?

15 A No, sir.

16 Q And between two and three, which is where Mr. George

17 is at --

18 A Yes, sir.

19 Q -- about how far is that?

20 A I would guesstimate probably maybe seven or eight.

21 Q Now, this phone that was found inside the vehicle, it

22 had a password on it; correct? When you all found it.

23 A A password meaning -- we didn't have a password, no.

24 Q You all didn't have the password, but it was password

25 protected; right?

1 A Yes, sir. That's correct.

2 Q It's not now, they were able to get into it
3 eventually; correct?

4 A Sir?

5 Q People were able to get into it eventually?

6 A Yes, sir. That is correct.

7 Q But initially, it had a password on it; correct?

8 A That's right. Yes, sir. Preventing access.

9 Q You talked about submitting some stuff to SLED and
10 I'm going to talk to you a little bit about that process.

11 A Yes.

12 Q You mentioned the iLAB online submission?

13 A Yes, sir.

14 Q Now, with that, you're not just supposed to put in,
15 hey, test this. And don't give them any context; right?

16 A Meaning?

17 Q You've got to give SLED a little bit of context as to
18 what's going on with the case; correct?

19 A You can. Yes, sir.

20 Q If you're doing a DNA submission -- and you're
21 familiar with the evidence submission manual for SLED;
22 correct?

23 A Basically. Yes, sir.

24 Q And if you're doing a DNA submission, they prefer
25 having an incident report submitted to them; correct?

1 A Yeah, what we do is, we submit -- we actually submit
2 the incident report along with the DNA.

3 Q And did you provide any other additional instructions
4 to them in this case?

5 A Sometimes, we do. Yes, sir.

6 Q Sometimes, you do, but in this particular case
7 related to the DNA, did you provide any additional --

8 A I can't remember.

9 Q And the evidence submission manual, doesn't it say
10 something to the effect of, if you want one piece of
11 evidence tested for DNA, if you want it tested in more
12 than one spot, you've got to submit an additional
13 instruction for that; correct?

14 A Yes, you can. Yes, sir. You can call now.

15 Q Or you can call down?

16 A Yes, sir.

17 Q And whose responsibility would it be to notify them
18 of that? Would it be yours or would it be the lead
19 investigator's?

20 A It would be the lead investigator. What I did is,
21 once I get the evidence into the evidence room, they make
22 the decision of what, when and how much they want
23 processed. Sometimes, it's a little. Sometimes, it's a
24 lot. Sometimes, they come back later and say, hey, you
25 know, we hit a dead end. We want to try this. So

1 sometimes, you know, it just depends.

2 Q I imagine you understand --

3 MR. SHAFFER: And I'm sorry. Court's indulgence.

4 Q In this situation, you submitted the -- the shotgun
5 was submitted for testing; correct?

6 A Yes, sir.

7 Q It was submitted in the box; correct?

8 A Yes, sir.

9 Q So you took that whole box sealed up; correct?

10 A Yes, sir.

11 Q And you took it down to SLED; correct?

12 A Yes, sir.

13 Q And then they tested it; right?

14 A Yes, sir.

15 Q You're familiar with the concept of touch DNA;
16 correct?

17 A Yes, sir.

18 Q I know you're not an expert on touch DNA --

19 A That's right.

20 Q -- but the people at SLED may be experts on touch
21 DNA; correct?

22 A Yes, that's correct.

23 Q And in order to submit -- in order to get something
24 that -- the general concept of touch DNA, just for the
25 jury's education I guess, what is it?

1 A DNA is where you have -- you have DNA in your system
2 which gives -- it's a pattern that tells exactly who you
3 are and no one else has the same DNA that you have. So if
4 we send out a sample with your standard and we get a hit
5 on an item that has your standard on it, then you're the
6 perpetrator. You can have another standard that's related
7 closer to you. You can have like 48 DNA samples and it'll
8 take five to 10 tests to determine whether you're a
9 positive or not. And so we send it down to keep from
10 having to do that.

11 Q And I think you may be going over my head a little
12 bit, but with touch DNA, if I touch something, not with
13 these gloves on --

14 A You're talking about as far as --

15 Q Yeah.

16 A Yes, anything you touch will leave DNA and that's why
17 it's called touch DNA. So what we do is, we'll take that
18 item and we'll swab it and see -- and get a standard from
19 you and see if you're compatible with that DNA that's on
20 that.

21 Q So for example, if I touched with my bare hand this
22 part of this gun (indicating) --

23 A Yes, sir.

24 Q -- if it was my bare hand, I may leave a little bit
25 of my DNA on that part of the gun; correct?

1 A That's correct.

2 Q As opposed to if I touch this part of the gun
3 (indicating), I may leave a little bit of DNA on that part
4 of the gun; correct?

5 A Yes, sir.

6 Q So you can swab different areas of the gun to get
7 different DNA or figure out whether or not somebody has
8 touched one area versus another; correct?

9 A Yes, sir.

10 Q And that would be the purpose -- you know, in order
11 to do that under the SLED policies, you'd have to actually
12 request that that be done; correct?

13 A Yes, sir. That is correct.

14 Q Because otherwise, they're just going to swab the
15 whole thing and submit it most of the time; correct?

16 A Who?

17 Q SLED.

18 A I don't know their procedure.

19 Q But if you don't -- under the manual, at least the
20 evidence submission manual does say that if you want one
21 item tested, more than one -- in more than one spot, you
22 have to specifically ask for it; correct?

23 A I'm not sure. I can't answer that.

24 Q But no specific instructions were asked for in this
25 situation; correct?

1 A As in the testing of the gun?

2 Q Yes.

3 A No specifics. No, sir. We just asked for it. We
4 tested for DNA.

5 Q Have you ever asked for one particular gun to be
6 tested in one particular spot? Like for example, test the
7 trigger?

8 A No, no. Basically, if I were doing it, that's
9 usually how I do it.

10 Q Is swab the trigger?

11 A I would swab each area that I think maybe the suspect
12 had touched. That's correct. It would be the stock, the
13 trigger and maybe the forearm. I would not swab the whole
14 gun.

15 Q You wouldn't swab the whole gun?

16 A No, sir. But to yield better results, I let SLED do
17 it since it was a homicide. So I let them do it. If I
18 had done it, it would have been the stock, it would have
19 been the trigger and it would have been the forearm.

20 Q Now, in this situation, this was submitted to SLED in
21 a box and they did the swabbing and everything?

22 A Yes, sir. That is correct.

23 Q Now, one other thing about that. They did that
24 swabbing in 2020; correct?

25 A Yes, sir. They did.

1 Q It seems like most of the evidence was submitted in
2 2019 --

3 A Yes, sir.

4 Q -- except the gun and a Mountain Dew bottle I believe
5 --

6 A Yes, sir.

7 Q -- and maybe one or two other items, but the large
8 majority of the evidence you collected was submitted in
9 2019; correct?

10 A That's correct.

11 Q I guess why did you all wait -- I think it was May of
12 2020 that the gun was submitted. Why did you all wait --

13 A Right.

14 Q -- until May of 2020?

15 A Once again, it really depends on how much evidence
16 they feel comfortable that they have for the case. If
17 they feel like they need more, they can call down and have
18 -- they can have their evidence sent to SLED any time they
19 want to. We don't have a deadline or a particular time we
20 can take it. It's our evidence. We can take it and have
21 it tested any time or anywhere we want. It's at our
22 discretion.

23 Q Why did you all exercise that discretion with not
24 sending the gun until 2020?

25 A We initially was going to send that gun down prior to

1 the coronavirus epidemic and once it broke, we were not
2 allowed to send anything down. So everything was a
3 freeze.

4 Q So you submitted the majority of the evidence. Is it
5 fair to say you submitted it in March of 2019?

6 A Yes, sir.

7 Q And it's fair to say that you submitted the gun in
8 May of 2020; correct?

9 A Yes, sir.

10 Q And the coronavirus, obviously we all know when that
11 happened --

12 A Right.

13 Q -- but why did you not submit the gun for DNA testing
14 for over a year after you submitted everything else?

15 A It was suggested and it was sealed for DNA because
16 that was the initial procedure we were going to use on it
17 and we weren't really sure when or where we were really
18 going to need it. So when we found out that we did, we
19 were going to send it down. Now, to do that, you have to
20 have a known standard and a lot of times, they don't give
21 consent for a known standard. Then, you have to get a
22 Judge to court order it to get that known standard from
23 that suspect and that takes a while, as well.

24 Q So we ended up agreeing -- I think he ended up giving
25 consent. It obviously wasn't in March of 2020 -- 2019;

1 right?

2 A Right.

3 Q It was more like maybe December-ish; correct?

4 A To the best of my recollection; yes, sir.

5 Q So -- and then you all didn't initially send it, but
6 you all were planning on it; right?

7 A That's correct.

8 Q So that's sort of the reason there's a delay in
9 sending the gun down to SLED; correct?

10 A Sure. Yes, sir.

11 Q That's fair enough. How many items of evidence did
12 you collect in this case?

13 A A lot. I can't remember a total, to tell you the
14 truth. A lot of times -- say, for instance, I processed
15 and collected 30 items. And then, I sent some items down
16 to SLED for DNA testing. Say, the ball cap for instance
17 or a T-shirt, shoes and jeans and they do DNA testing on
18 it. Well, they take cuttings from those items. So that
19 creates more evidence for me. When I go and pick it up,
20 I'll get those standards. And so that multiplies those
21 items. So I really -- and when I pick those items up, I'm
22 not just picking up the items from that case. I'm picking
23 up cases from 2012, 2010, 2013. So I'm processing those
24 and putting those on the shelf, as well. So I really
25 didn't keep up with that many items at one time, but I do

1 the best I can.

2 Q So I'm going to ask you a few questions --

3 A Yes, sir.

4 Q -- just to sort of clear up some stuff that I just
5 thought that maybe, I wasn't one-hundred percent clear on.
6 Defendant's Exhibit 3 never had DNA testing; correct?

7 A No, sir. No, sir.

8 Q I was using it as a demonstration; correct?

9 A You are correct. Yes, sir. But it's a fact that we
10 did not.

11 Q Yeah, this has not had DNA testing. State's 15 --
12 151, the shotgun, has; correct?

13 A Yes, sir.

14 Q And also, that cell phone you recovered from inside
15 the car.

16 A Yes, sir.

17 Q That cell phone that was locked --

18 A Yes, sir.

19 Q -- inside the car or password protected.

20 A Yes, sir.

21 Q To your knowledge, that was Mr. George's cell phone;
22 correct?

23 A To the best of my knowledge; yes, sir.

24 Q Now, it's fair to say there's a ton of pictures that
25 the State went through with you; right?

1 A Yes, sir.

2 Q And also, a bunch of pieces of physical evidence;
3 correct?

4 A Yes, sir.

5 Q In those, is there anything saying that Mr. George --
6 like any physical evidence proving that Mr. George did not
7 point this at Mr. Hailey before he was killed?

8 A No, sir. There's not.

9 Q So there's no physical evidence in this case that
10 you're aware of that would show that Mr. George is not --
11 that Mr. George was not the aggressor in this altercation?

12 A Physical evidence. Reviewing the case. At any time?

13 Q Yeah.

14 A Any time. There's not physical evidence that can
15 prove that that gun was ever pointed at him at the time.
16 There's not proof that said he pointed it at any time, no.
17 I can't -- that can't be proved.

18 Q But the physical evidence also can't disprove that he
19 did point that gun at him; right?

20 A At any time, no. Not to my ability. I can't say
21 that he didn't point it at any time.

22 Q So the sum total of the physical evidence cannot
23 disprove that Mr. George was the aggressor --

24 A The aggressor?

25 Q -- in this case?

1 A Well, I'm going to tell you, man. That's going to be
2 -- as far as the aggressor --

3 Q I'm not asking for translation --

4 THE COURT: Let him finish his answer.

5 A As far as being the aggressor of him getting shot,
6 yeah. I mean, you can look -- he's got a hole in his head
7 and he's dead.

8 Q Yeah.

9 A According to my opinion and what I see --

10 MR. SHAFFER: Your Honor, this is unresponsive.

11 THE COURT: He can -- this is cross-examination. He
12 can answer the question.

13 A From my --

14 MR. SHAFFER: He lacks personal knowledge --

15 THE COURT: This is cross-examination. He can give
16 an answer.

17 MR. SHAFFER: Your Honor, can I put something -- can
18 I approach real quick?

19 THE COURT: Sure.

20 (Whereupon, a bench conference was held in the
21 presence of the jury but out of the hearing of the
22 jury.)

23 THE COURT: You can continue with your answer. If
24 you need the question asked again --

25 A Yeah, ask the question again because I'm getting

1 confused. One minute, it's was it ever pointed at him and
2 now, it's the aggressor?

3 Q Yeah, based off --

4 A So which one do you want?

5 Q Based off the physical evidence --

6 A Yes, sir.

7 Q -- that you have collected and stored over in the
8 sheriff's office across there; okay? All of the physical
9 evidence in this case, is there any piece of physical
10 evidence that says that Marty George did not point that
11 gun at Mark Hailey prior to the shooting?

12 MR. BROWN: Judge, I don't know if that was the
13 question he asked.

14 THE COURT: I think that the previous question, if I
15 remember correctly, was concerning Mr. George being the
16 aggressor --

17 MR. SHAFFER: Yeah, that was it.

18 THE COURT: -- as opposed to pointing the gun. Now,
19 I think that's how you initially framed your question and
20 certainly, you can followup with that last question, but I
21 think it was the aggressor aspect of it.

22 Q Is there any physical evidence that would disprove
23 that Marty George was the aggressor in this altercation?

24 MR. SHAFFER: I believe that was the question I
25 asked, Your Honor.

1 THE COURT: I think you're right.

2 A I would say from the way he was shot, I don't see how
3 he could have been the aggressor. I really don't.

4 Q So the way he was shot would prohibit him from having
5 pointed the gun beforehand?

6 A No, I can't say that.

7 Q So you can't say that there's any physical evidence
8 --

9 A That's right. That's right. You're right. There's
10 no way I can --

11 MR. SHAFFER: Thank you. No further questions.

12 THE COURT: Anything on redirect?

13 MR. BROWN: Yes.

14 REDIRECT EXAMINATION

15 By Mr. Brown:

16 Q Mr. Allison, keeping evidence over at the sheriff's
17 office, do you also keep videos?

18 A Yes, sir. Videos and photographs.

19 Q Videos of when law enforcement got to Booker Road
20 that night?

21 A Yes, sir.

22 Q Videos that capture Mr. Hailey's statement?

23 A Yes, sir.

24 Q Did he ever say anything about somebody pointing a
25 gun at him that night?

1 A I haven't seen any videos of that nature. I haven't
2 seen any videos at all to tell you the truth.

3 Q But if it's on that video, would that be evidence you
4 keep?

5 A Yes, sir.

6 Q Would that be evidence that'd also tell you if
7 somebody pointed a gun at him first?

8 A Yes, sir.

9 Q You'd think it would be on that video, wouldn't you?

10 A Yes, sir.

11 Q Also, photograph --

12 MR. SHAFFER: Your Honor, I actually would like to
13 approach on something else.

14 (Whereupon, a bench conference was held in the
15 presence of the jury but out of the hearing of the
16 jury.)

17 THE COURT: Ladies and gentlemen, the last -- and I
18 don't know how many questions were asked of this officer
19 about the videos and any mention by Mr. Hailey in the
20 videos concerning self-defense. Those questions and those
21 answers are stricken from the record in this case and not
22 to be considered by you whatsoever concerning this case;
23 okay? Anything further, Solicitor Brown?

24 MR. BROWN: Just briefly, Your Honor.

25 Q I believe Mr. Shaffer asked about any physical

1 evidence of the pistol being pointed or being the
2 aggressor. State's 99. Where's that pistol sitting?

3 A I can't see it from here, sir.

4 Q I'll bring it. State's 99.

5 A It's sitting in the front passenger seat.

6 Q And that photograph was taken out on Booker Road that
7 night or early morning, from what you recall?

8 A If it's mine, it was taken that morning.

9 Q And I'll show you State's 56. Is this a photograph
10 you took?

11 A Yes, sir.

12 Q Where is that pistol?

13 A It's in the front seat of the passenger.

14 Q Again, based on the photographs -- and you actually
15 saw Mr. George that night on the road?

16 A Yes, sir. I did.

17 Q Where was the entry? The gunshot wound entry.

18 A It was in the back of the head.

19 Q Behind the right ear?

20 A Behind the right ear. That's correct. That's why
21 when he asked, I was like, I don't see how -- due to the
22 gunshot, how he could have been the aggressor.

23 MR. BROWN: No further questions.

24 THE COURT: Anything to followup on recross?

25 MR. SHAFFER: Yes, Your Honor.

RECROSS-EXAMINATION

1
2 By Mr. Shaffer:

3 Q You said back of the head. It wasn't back here
4 (indicating), was it?

5 A No, sir. It wasn't.

6 Q It was right there (indicating) --

7 A Yeah.

8 Q -- right? He was in the back seat of that car. If
9 Marty George had pointed a gun at him, it's possible he
10 could have lifted that shotgun and defended himself;
11 correct?

12 A Yes, sir.

13 Q Now, we talked a little bit -- I think the State had
14 shown you some pictures of this.

15 A Yes, sir.

16 Q And it was on the passenger seat; correct?

17 A Yes, sir.

18 Q So the front passenger seat of the car; correct?

19 A Yes, sir.

20 Q The bullets that fit that or pellets that fit that
21 were in Marty George's pocket; correct?

22 A Yes, sir.

23 Q Marty George was not found -- his body was not found
24 near where that was; correct?

25 A That's correct.

1 Q They were inside his pocket where he was on the side
2 of the road; correct?

3 A Yes, sir.

4 Mr. SHAFFER: No further questions.

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

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8 MS. SUMNER: Your Honor, we may need a brief break
9 just to shift the evidence around before we start with
10 SLED.

11 THE COURT: Yeah, we can do that. Ladies and
12 gentlemen, you know, I had kind of given you the heads up
13 earlier about we're going to go a little bit longer
14 tonight. Does anybody need the opportunity to make a call
15 home or call just to give anybody the heads up that you're
16 going to be here a little bit longer? Does anybody need
17 to do that? Is everybody good? Okay. All right. We're
18 going to take just a very short break to get the evidence
19 lined up for the next witnesses. So if you'll go back to
20 the jury room and we'll get you back out shortly. Thank
21 you.

22 (Whereupon, the jury was excused from open court for
23 a break.)

24 THE COURT: We will take a short break.

25 (Whereupon, a short break was taken.)

1 THE COURT: Let's bring the jury in.

2 (Whereupon, the jury came into open court at
3 approximately 5:10 p.m.)

4 THE COURT: Let the record reflect the jury is back
5 in. Solicitor.

6 MS. SUMNER: Thank you, Your Honor. The State calls
7 Rachel Nguyen.

8 RACHEL NGUYEN, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Ms. Sumner:

12 Q Good afternoon. Will you introduce yourself to the
13 jury?

14 A My name is Rachael Nguyen.

15 Q Where are you employed, Ms. Nguyen?

16 A I'm employed at the South Carolina Law Enforcement
17 Division, more commonly known as SLED.

18 Q And what is your job at SLED?

19 A I am a forensics serologist within the DNA case work
20 department.

21 MADAM COURT REPORTER: Hold on. Just talk loud.

22 THE COURT: Repeat that last answer, please, ma'am.

23 A I am a forensics serologist within the DNA case work
24 department.

25 Q And can you tell us what serology is?

1 A Serology is essentially the identification of bodily
2 fluid.

3 Q And how long have you been at SLED?

4 A I have been at SLED for six years.

5 Q Now, in order to have a job like that, I imagine
6 you've had a great deal of education; is that correct?

7 A That's correct. I have two Bachelor of Science
8 degrees from the University of New Haven, one in forensic
9 science and one in biology.

10 Q And also, do you have any additional training or
11 certificates in the field of serology?

12 A So I received in-house training at SLED. I underwent
13 a year long training program under a court qualified
14 forensic serologist. During this time, I not only was
15 able to observe the different types of analysis and
16 evidence processing techniques, I worked on hundreds of
17 cases. So I was able to perform these techniques under
18 close supervision. I also was able to witness courtroom
19 testimony. Following this training period, I then entered
20 a competency phase to test my knowledge and ability in the
21 area of serology. This included a set of training samples
22 that I had to perform analysis on followed by a written
23 exam, a competency test, which was a mock case; an oral
24 exam, and then finally, a mock court. Once all of these
25 components were successfully completed, I was then deemed

1 able to do independent casework in the area of forensic
2 serology. I also have training in the area of DNA
3 extraction. It was much similar to my serology training.
4 There was an observation period as well as a period of me
5 performing the samples. At the end of that training
6 period, I then performed the competency phase again. I
7 was given 50 training samples to perform analysis on,
8 which was followed by a competency test, a written exam,
9 an oral exam and a mock court. And then, when I was
10 finished with those components and successfully completed
11 them, I was then able to perform independent casework in
12 the area of DNA extraction.

13 Q And have you testified before in the areas of
14 serology and DNA extraction?

15 A I have not.

16 Q So this is your first time testifying here today?

17 A This is my first time testifying for serology. I
18 have previously testified in the area of toxicology.

19 Q Thank you, Ms. Nguyen.

20 MS. SUMNER: At this time, Your Honor, the State
21 would offer Ms. Nguyen as an expert in the field of
22 serology and DNA extraction.

23 THE COURT: What says the Defense?

24 MR. SHAFFER: No objection.

25 THE COURT: Sir?

1 MR. SHAFFER: No objection.

2 THE COURT: Without objection, Agent Nguyen is found
3 to be an expert in forensic serology and DNA extractions.

4 MS. SUMNER: Thank you, Your Honor.

5 Q Ms. Nguyen, were you involved in the case that we're
6 here about today?

7 A I was.

8 Q What was your role?

9 A May I look at my notes?

10 Q Absolutely and just so the jury understands, did you
11 produce a report after doing your analysis in this case?

12 A I produced two reports for the analysis. I performed
13 -- I'm sorry. What was your question?

14 Q My question was, what was your role in the case we're
15 here about today?

16 A I performed evidence processing on various items that
17 were submitted in this case.

18 Q And did you do serology analysis on those items?

19 A On a few of them, they were screened for blood.

20 Q And then, additionally, you said you have a second
21 report; is that correct?

22 A Correct.

23 Q What was that second report in regards to?

24 A So the second report is actually the one where items
25 of evidence were screened for blood and the first report

1 was items of evidence that were processed for ownership or
2 touch DNA.

3 Q Ms. Nguyen, I'm going to start with that second
4 report in regards to serology.

5 A Okay.

6 Q And if you would, just walk us through each item you
7 tested and what was located on those items and as we go
8 through each item, if something was located on it. I'm
9 going to show you that item; okay?

10 A Perfect. So the first item was a cardboard box
11 containing the suspect's clothing. Within this box, I
12 found a camouflage sweatshirt, a camouflage long sleeve
13 shirt, a white tube sock, navy sweatpants, gray
14 hounds-tooth gray pants, a white tank top, gray Nike
15 sneakers and that was all that was in there.

16 Q Ms. Nguyen, so going back to the camouflage
17 sweatshirt. Was anything located on that sweatshirt?

18 A For the camouflage sweatshirt. I took a cutting,
19 which is, I'm cutting a small portion of the stain on that
20 item from the back of the sweatshirt.

21 Q Would this be the sweatshirt you are referring to
22 already in evidence?

23 A Correct.

24 Q So that would be the cutting on the back of the
25 sweatshirt?

1 A Correct.

2 Q And what was located on that item?

3 A So this item had presumptive testing for blood that
4 was positive. And that cutting was forwarded to the DNA
5 section.

6 Q Moving along to the camouflage long sleeve shirt.

7 Was there anything located on that item?

8 A No analysis was performed on this item.

9 Q Why would no analysis have been performed?

10 A So as I mentioned, there were several items of
11 clothing submitted in this box. So I tested the exterior
12 clothing. So that would have been the sweatshirt, the
13 pants and the shoes. Because due to layering effect, you
14 would assume that any stains would be on your exterior
15 person.

16 Q So that is the reason the long sleeve shirt was not
17 tested?

18 A That's right.

19 Q Moving along to the white tube sock. Was it also not
20 tested for the previously stated reason?

21 A That's right.

22 Q Next, we have the navy sweatpants. Was that tested?

23 A That was tested.

24 Q And would this be those navy sweatpants and the
25 cutting from the rear?

1 A Yes, my cutting was from the rear left leg of the
2 sweatpants.

3 Q And what was located on that cutting?

4 A So that cutting -- presumptive testing for blood was
5 positive and that item was forwarded to the DNA section.

6 Q Moving along. The gray hounds-tooth pattern pants.
7 Were those analyzed by you?

8 A I received them, but no analysis was performed.

9 Q And again, was that not analyzed due to the previous
10 reason stated? That would have been a second layer of
11 clothing?

12 A That is right.

13 Q And the same would be for the right tank top; is that
14 correct?

15 A Correct.

16 Q Now, the shoes which are previously in evidence, were
17 those analyzed by you?

18 A The green Nike sneakers, yeah.

19 Q That would be these shoes (indicating)?

20 A Yes.

21 Q And what part of those shoes were analyzed by you?

22 A So I took swabs from the right shoe, bottom outer
23 edge of the sneaker. By taking a swab, essentially, I am
24 taking two swabs.

25 Q And what was located on that shoe?

1 A Those swabs for presumptive testing for blood was
2 positive and those were forwarded to the DNA section.

3 Q So just to be clear that I'm understanding. Any item
4 where you located something, those were forwarded to DNA?

5 A That's correct.

6 Q And can you tell the jury what type of things you
7 were looking for in your analysis, what substances?

8 A So it goes back to the analysis requests that are
9 sent in to us. These items, I believe, were sent for
10 blood. So I was looking for a blood stain. Specifically,
11 a red/brown staining on the item.

12 Q And then, I believe you said that you had -- you
13 referred to it as your first report you initially did in
14 this case.

15 A Yes, ma'am.

16 Q What was the nature of that report?

17 A The first report, I did processing on a single barrel
18 .20 gauge shotgun and a Carolina Panthers ball cap.

19 Q And how did you process those?

20 A So I believe the shotgun was sent in for touch DNA.
21 So I swabbed the entire exterior of the shotgun. For the
22 Carolina Panthers ball cap, I believe the request was for
23 ownership. An ownership request is, they want to know who
24 the primary wearer of the item is. So for a ball cap, I
25 would scrape the interior headband as well as the cap to

1 kind of loosen any skin cells. Then, I will go back with
2 a swab and try to collect those skin cells. And then,
3 that swab will be sent to DNA.

4 Q Backing up to the shotgun. Can you explain to us how
5 you swabbed it?

6 A So I have that I swabbed the entire exterior of the
7 single barrel shotgun.

8 Q And again, why would that have been your procedure?

9 A If someone requests touch DNA, we want to give them
10 the best chance of collecting all of the DNA present. So
11 our general procedure is to swab the entire handgun or any
12 gun that's into SLED unless otherwise specified that they
13 would prefer it in another way.

14 Q And just to be clear, Ms. Nguyen, any items where you
15 did locate something, those were forwarded on to the DNA
16 section for further analysis?

17 A That is correct.

18 Q And you would have not been the agent at SLED to
19 process in the DNA section; is that correct?

20 A I'm sorry. Reword that.

21 Q I'm just asking that you were not the one who did the
22 DNA testing.

23 A Correct. I only perform the serology and evidence
24 processing on this case.

25 MS. SUMNER: Ms. Nguyen, that is all I have for you.

1 Please, answer any questions the Defense counsel has for
2 you.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 By Mr. Shaffer:

6 Q Ms. Nguyen, had the sheriff's department asked you to
7 swab the entire -- swab only a part of the shotgun? Like
8 say, the trigger.

9 A There was no specific swabbing requested.

10 Q Yeah, but had they done that, you would have done
11 that; correct?

12 A That's correct.

13 Q And touch DNA, whenever you process it from the swab,
14 it doesn't just pick up like skin cells; right? It can
15 pick up any kind of DNA; right?

16 A What other DNA are you thinking of?

17 Q Say that there was microscopic blood on the shotgun,
18 would it have picked that up as --

19 A If I received a shotgun that was only sent in for
20 touch DNA, but there was blood present based on my visual
21 examination, I would have tested that area for blood
22 presumptively. Based on what I forwarded to the DNA
23 section, it appears that I didn't see any areas that I
24 thought were blood. So I only swabbed the exterior for
25 touch DNA.

1 Q And that was from a visible inspection of it;
2 correct?

3 A That's correct.

4 Q And it was not necessarily from a microscopic or you
5 didn't apply any testing for that?

6 A I did not look at the shotgun under a microscope.

7 Q And you didn't do any sort of specific testing to
8 determine -- like serological testing on the shotgun
9 itself; correct?

10 A No, there was no serological testing done on the
11 shotgun.

12 Q So it was just basically looking? If you would have
13 seen blood, you would have done something different, but
14 you didn't see any blood just from looking at it; correct?

15 A That's correct.

16 Q And if there had been, say, two different people or
17 three different people in this case. Let's say three
18 different people had handled the trigger area of that
19 shotgun whereas only one of them touched the end of the
20 barrel. If you'd swabbed in two different places, you'd
21 get a match for three different people in the trigger
22 area; correct? If you found DNA.

23 A You could --

24 Q Am I confusing you?

25 A Slightly.

1 Q But if you --

2 A If your rhetorical questions is, if three people
3 handled it, it is possible that you could get three
4 people.

5 Q It's possible that if three people touched that
6 trigger, you'd get three different samples of DNA;
7 correct?

8 A I can only say that it's possible. If you want more
9 information, you would have to refer that question to the
10 DNA analyst.

11 Q And then, say, if a completely different person had
12 touched the end of the barrel of that gun and you swabbed
13 that separately than the trigger area, there would be
14 possibly one person's DNA only on the end of the barrel;
15 correct?

16 A It would be possible.

17 Q But if you had swabbed all of it together, it's
18 possible that you'd get four different people's DNA on
19 your swab that you test; right?

20 A I guess under your assumption, that could be
21 possible.

22 MR. SHAFFER: Thank you. No further questions.

23 THE COURT: Redirect?

24 MS. SUMNER: No, Your Honor.

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

1 (Whereupon, the witness stepped down from the witness
2 stand.)

3 MS. SUMNER: Your Honor, the State calls Sara
4 Goodman.

5 SARA GOODMAN, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Ms. Sumner:

9 Q Good afternoon.

10 A Good afternoon.

11 Q Will you introduce yourself to the jury?

12 A Yes, my name is Sara Goodman. The last name is,
13 G-O-O-D-M-A-N.

14 Q And where are you employed?

15 A I'm employed with the South Carolina Law Enforcement
16 Division, commonly referred to as SLED.

17 Q What is your position at SLED?

18 A I am a DNA analyst at SLED.

19 Q How long have you been with the department?

20 A Approximately five years.

21 Q Can you give us a little background on your
22 education?

23 A Sure. I have a bachelor of Science Degree in Biology
24 from Erskine College and a Master's of Science and
25 Forensic Science from Arcadia University in Pennsylvania.

1 Q Do you have any additional training or certificates
2 in the area of DNA?

3 A I do. So upon employment at SLED, I went through a
4 training program under another court qualified DNA
5 analyst, which lasted a little over a year. It included
6 both laboratory and written practical instruction. At the
7 end of that training, I successfully completed a series of
8 competency tests to be certified to perform DNA casework
9 and we are also required to have at least eight hours of
10 continuing education each year in our field.

11 MS. SUMNER: Your Honor, at this time, I would move
12 Ms. Goodman in as an expert in the field of forensic DNA.

13 MR. SHAFFER: No objection.

14 THE COURT: Without objection, Agent Goodman will be
15 deemed an expert in DNA analysis.

16 MS. SUMNER: Thank you, Your Honor.

17 Q Ms. Goodman, turning to the case we're all here about
18 today. How were you involved in that case?

19 A I performed DNA analysis on items in this case.

20 Q And did you produce a report as a result of your
21 analysis?

22 A I did.

23 Q If we could just go through that report. Starting
24 with -- can you explain to the jury what a standard is?

25 A Yeah, so a standard is typically either blood or a

1 swab of the inside of a person's mouth and it's from an
2 individual such as the victim or a suspect. So it's from
3 an individual whose DNA we know it belongs to and it's
4 used to compare to any of the evidence that we have in the
5 case.

6 Q Did you receive any standards in this case?

7 A I did. I received two standards.

8 Q Who were those individuals?

9 A I received a blood standard from Marty George as well
10 as buccal swabs from Mark Anthony Hailey.

11 Q Now, moving along to the first item of evidence that
12 you analyzed in this case. What was that?

13 A My item 1.1.1. It was a cutting from the back of a
14 camouflage sweatshirt.

15 Q And how did you process this for DNA?

16 A As to the specific process?

17 Q Yes.

18 A So I take a small portion of the item and take it
19 through all of the processes in our laboratory to generate
20 a DNA profile from that item of evidence and I then
21 compare it to any DNA profiles from the known standards
22 that I receive.

23 Q Was this item of evidence a match to either of the
24 known standards in this case?

25 A So for this DNA profile, a DNA profile suitable for

1 comparison was developed and likelihood ratios for the
2 profile were calculated using STRmix.

3 Q And can I stop you right there?

4 A Sure.

5 Q STRmix is a confusing topic to me. And so will you
6 please explain that to the jury so they will have a basic
7 understanding of what the STRmix means?

8 A STRmix is a statistical program that we use. It's a
9 computer program. It aids us in our analysis and
10 interpretation of the DNA profile as well as in our
11 statistical calculations. So the program helps us to
12 break down the DNA profile into possible explanations for
13 that DNA profile into possible people that it could be or
14 different combinations of DNA that could be in that
15 profile. Then, when we input it with known standards, it
16 helps us to calculate a statistic to give weight to any
17 possible inclusion.

18 Q So did you come up with a statistical number in this
19 case --

20 A I did.

21 Q -- that matched it? Okay. Can you explain that to
22 the jury?

23 A So as far as the statistic that STRmix calculates,
24 it's called a likelihood ratio. So what a likelihood
25 ratio in this scenario is, it's a mathematical calculation

1 of two possible explanations to explain or scenarios to
2 explain the DNA profile. And then, it gives a weight to
3 which one of those explanations is more likely to explain
4 the DNA profile.

5 Q What explanation was more likely in this case?

6 A So I calculated -- for this specific item, it was a
7 mixture originating from two individuals. I assume that
8 Mark Hailey is contributing to the mixture as it was told
9 to me that it was his clothing. So then, my two scenarios
10 that I compared were that Mark Anthony Hailey and Marty
11 George contributed to the mixture versus the idea that it
12 was Mark Hailey and an unidentified unrelated individual
13 contributing to the mixture and that result is, the DNA
14 profile is approximately 8.6 octillion, which is 8.6 E to
15 the 27 times more likely that Mark Anthony Hailey and
16 Marty George contributed to the mixture than if Mark
17 Anthony Hailey and unidentified unrelated individual
18 contributed to the mixture.

19 Q So in layman's terms, would you say that Mark Hailey
20 and Marty George were both matches to this DNA sample from
21 the sweatshirt?

22 A With likelihood ratios, we don't say match since it's
23 giving a weight to which is more likely, but this gives
24 very strong support that both of these individuals are
25 contributing to the mixture.

1 Q And just to give the jury an idea of how strong this
2 8.6 to the octillion number is. How many people are on
3 planet Earth?

4 A There's approximately 7.6 billion people on Earth.

5 Q So this number is much larger than that; is that
6 correct?

7 A Correct. A billion is E to the nine and this is E to
8 the 27.

9 Q We're going to move along to the navy pants. Did you
10 perform DNA analysis on that?

11 A I did on the cutting from the rear left leg of the
12 navy sweatpants.

13 Q And what proposition set was used?

14 A So for the first proposition set, the DNA profile was
15 interpreted as a mixture originating from two individuals.
16 And so the two scenarios that I compared in this
17 proposition set were that Marty George and an unidentified
18 unrelated individual contributed to the mixture versus
19 that two unidentified unrelated individuals contributed
20 and my result for that is that the DNA profile is
21 approximately 3.8 octillion or 3.8 E to the 27 times more
22 likely if Marty George and an unidentified unrelated
23 individual contributed to the mixture than if two
24 unidentified unrelated individuals contributed to the
25 mixture. And then, my second proposition set, it's a

1 mixture of two individuals for all of the proposition sets
2 for this item. So my next comparison was that Mark
3 Anthony Hailey and an unidentified unrelated individual
4 contributed versus that two unidentified unrelated
5 individuals contributed and the result for that is that
6 the DNA profile is approximately 5.6 million or 5.6 E to
7 the six times more than likely if Mark Anthony Hailey and
8 an unrelated individual contributed than if two
9 unidentified unrelated individuals contributed. And then,
10 a third proposition set was a comparison that Mark --
11 excuse me, Marty George and Mark Anthony Hailey
12 contributed to the mixture versus that it was two
13 unidentified unrelated individuals contributing and the
14 result for that is that the DNA profile is approximately
15 81 decillion, which is 81 E to the 34 times more likely if
16 Marty George and Mark Anthony Hailey contributed to the
17 mixture than if two unidentified unrelated individuals
18 contributed.

19 Q And just to make sure the jury understands what we're
20 talking about. We're talking about a cutting from the
21 sweatpants that was blood; is that correct?

22 A That's correct.

23 Q And so the number is very strong that it was both
24 contributing Mark and Marty for this DNA analysis?

25 A That's correct.

1 Q Going to the next item. Did you do any analysis on
2 the right shoe?

3 A I did not.

4 Q How about the hair from Marty George?

5 A No analysis was performed.

6 Q I'm going to move along to the .20 gauge shotgun.

7 A Okay.

8 Q What analysis did you perform on that item?

9 A I performed DNA analysis on this item.

10 Q And what proposition was used for that?

11 A For this item, the DNA profile was interpreted as a
12 mixture originating from four individuals for all of my
13 proposition sets. So the first proposition is comparing
14 the idea that Marty George and three unidentified
15 unrelated individuals contributed versus that it was four
16 unidentified individuals contributing to the mixture and
17 that result is, the DNA profile is approximately 61
18 sextillion or 6.1×10^{22} times more likely if Marty
19 George and three unidentified unrelated individuals
20 contributed than if four unidentified individuals
21 contributed to the mixture. For my second proposition
22 set, it's a comparison that Mark Hailey and three
23 unidentified individuals contributed versus that it was
24 four unidentified individuals contributing and the result
25 for that is that the DNA profile is approximately 4.6

1 octillion or 4.6 E to the 27 times more likely if Mark
2 Anthony Hailey and three unidentified individuals
3 contributed than if four unidentified individuals
4 contributed to the mixture. And then, again, I calculated
5 the idea that both individuals are contributing. So that
6 Marty George, Mark Hailey and two unidentified individuals
7 contributed to the mixture versus that it was four
8 unidentified individuals and the result for that is that
9 the DNA profile is approximately 3.8 sexdecillion, which
10 is 3.8 E to the 51 times more likely if Marty George, Mark
11 Anthony Hailey and two unidentified unrelated individuals
12 contributed to the mixture than if it were four
13 unidentified unrelated individuals.

14 Q And again, to try to break it down a little bit for
15 the jury. Your proposition -- all the propositions you
16 used on the shotgun used four individuals; is that
17 correct?

18 A Correct.

19 Q And the number for both Marty George, Mark Hailey,
20 and then two unidentified, that was a much stronger number
21 than the proposition that just involved Mark Hailey, and
22 then the separate one that involved Marty George?

23 A Correct. The combined one is a much higher number
24 than just their individuals.

25 Q And that was actually E to the 51; is that correct?

1 A Correct.

2 Q And just to clear -- be clear. This was a swab for
3 touch DNA that you analyzed; is that correct?

4 A Yes, the gun was swabbed for touch DNA.

5 Q Is there such a thing as transfer DNA?

6 A Yes, there is.

7 Q Can you explain that to the jury?

8 A Sure. So transfer DNA is when a person's DNA is
9 transferred from another -- from one item onto the next.
10 So for example, if I were to shake someone's hand, and
11 then they were to go touch a door knob, it's possible that
12 my DNA could end up on that door knob from them touching
13 it because I shook their hand.

14 Q So is it possible that the DNA on this shotgun was
15 transfer DNA?

16 A It could be possible.

17 Q Would it also be possible if Mark Hailey and Marty
18 George had spent some time together earlier in the day
19 before the gun was collected?

20 A It could be possible.

21 Q We're going to move to the next item. That is the
22 Carolina Panthers ball cap and could you just give me, I
23 guess, the result in this case for your first proposition?

24 A So this was also a mixture of four individuals and
25 the first proposition was comparing Marty George and three

1 unidentified individuals contributing versus four
2 unidentified individuals contributing. So the DNA profile
3 is approximately 14 sextillion or 1.4 E to the 22 times
4 more likely if Marty George and three unidentified
5 unrelated individuals contributed to the mixture than if
6 four unidentified unrelated individuals contributed to
7 this mixture.

8 Q And then, for the second proposition, you used the
9 standard of Mark Hailey; is that correct?

10 A Correct.

11 Q And were you able to exclude him?

12 A Yes, he is excluded as a contributor to this mixture
13 under the --

14 Q -- so just to go back and review. The Carolina
15 Panther hat, you were able to exclude Mark Hailey, but
16 Marty Hailey was a contributor?

17 A Marty --

18 Q Excuse me.

19 A Yes, there's very strong support that Marty George
20 was contributing.

21 Q Let me just repeat to make sure I didn't confuse
22 anyone. You were able to exclude Mark Hailey and Marty
23 George is a contributor on that item?

24 A Correct. I excluded Mark Hailey. And then, there's
25 very strong support that Marty George was contributing.

1 Q And then, going back to the shotgun. You had both
2 Mark Hailey and Marty George as well as two unidentified
3 individuals as strong contributors; is that correct?

4 A Correct. There was strong support for that.

5 Q And as far as the navy sweatpants. Again, both Marty
6 George -- and that was the cutting of blood from navy
7 sweatpants belonging to Mark Hailey. There was strong
8 contributor for both Mark Hailey and Marty George on that
9 item?

10 A Yes, very strong support that they were both
11 contributing.

12 Q And then, lastly, it's going to be the blood cutting
13 of that camouflage sweatshirt and again, was there strong
14 contributing evidence of both Mark Hailey and Marty
15 George?

16 A Yes, there was very strong support that they were
17 both contributing to that item, as well.

18 MS. SUMNER: Thank you very much, Ms. Goodman, for
19 walking us through that extremely technical information.
20 Please, answer any questions Defense counsel has for you.

21 THE COURT: Cross-examination?

22 MR. SHAFFER: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 By Mr. Shaffer:

25 Q You said you tested for touch DNA, not necessarily

1 transfer DNA; correct?

2 A Our processing would extract any type of DNA that's
3 there. So it could be touch or transfer DNA, but I can't
4 tell you exactly which one.

5 Q And that's sort of what I was getting at. You can't
6 tell the difference between touch and transfer at that
7 point; correct?

8 A No, sir.

9 Q There's no way to tell the difference; right?

10 A No, not specifically from the DNA profile.

11 Q And to sum things up. You didn't test the actual
12 gun; correct?

13 A I did not. I tested swabs from the gun.

14 Q So you got -- so someone else swabbed the whole gun,
15 and then sent you the swab; correct?

16 A Correct.

17 Q So you can't tell whether the DNA is from the trigger
18 or the barrel; correct?

19 A Not specifically, no.

20 Q Or anywhere else; right?

21 A Correct.

22 Q Had they only swabbed the trigger, you may have been
23 able to tell if it was only from the trigger; correct?

24 A Correct. Yes, sir.

25 Q And to sum things up. That swab that they rubbed all

1 over the exterior of the gun that came to you, that swab
2 had -- is consistent with four different people touching
3 some area where they swabbed; correct?

4 A Let me just refer back to my notes. Yes, that was
5 correct. It was a mixture of four individuals.

6 Q And there's absolutely no way that you can tell
7 whether the DNA you were testing was transferred or touch
8 DNA; correct?

9 A Correct. It's just the DNA profile that was
10 developed, but I can't tell you what kind of cell that DNA
11 was from.

12 Q So -- but it's consistent with Marty George touching
13 that gun; correct?

14 A There was very strong support that he was
15 contributing to that DNA profile.

16 MR. SHAFFER: Thank you. No further questions.

17 THE COURT: Anything on redirect?

18 MS. SUMNER: No, Your Honor.

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

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 MR. BROWN: The State calls Nicole Hardin.

23 NICOLE HARDIN, being
24 first duly sworn, testified as follows:

25 MR. BROWN: Judge, just for the Court's record. The

1 internal chain we've already talked about that's Court's
2 Number 1, I believe the Defense has stipulated to that.

3 THE COURT: Right. I believe previously, the Defense
4 stipulated to chain of custody and all the various items
5 that were put into evidence.

6 DIRECT EXAMINATION

7 By Mr. Brown:

8 Q Good afternoon.

9 A Hi.

10 Q Please, state your name.

11 A My name is Nicole Hardin. Last name --

12 Q Speak up.

13 A My name is Nicole Hardin. Last name, H-A-R-D-I-N.

14 Q Ms. Hardin, where do you work?

15 A I work for the South Carolina Law Enforcement
16 Division, also known as SLED.

17 Q And how long have you been with SLED?

18 A I've been with SLED for around two and a half years.

19 Q Tell me about your educational background.

20 A I have a Bachelor of Science Degree in chemistry with
21 a composition in forensic science from Methodist
22 University.

23 Q And what is your current role at SLED?

24 A I am a forensic scientist in the trace evidence
25 department of the forensic services laboratory.

1 Q And what additional training have you had to be in
2 this department?

3 A Upon arriving at SLED, I began a year and a half long
4 training program, which consisted of written, practical
5 and oral examination, all of which I had to pass. Those
6 covered things -- all of my duties. So an example would
7 be retrieving evidence from logging evidence control,
8 bringing them up to the trace evidence department,
9 preparing them for analysis, inventorying the kits, using
10 the scanning electron microscope, analyzing the data and
11 also writing reports. After I completed all of the
12 examinations, I had a competency exam where I had to
13 correctly report my findings. And then, also, a mock
14 court.

15 Q And Ms. Hardin, what is trace evidence?

16 A Trace evidence is evidence that is very small and is
17 hard to see with the naked eye and normally requires some
18 kind of instrumentation to view it. At SLED, that
19 includes things such as fire debris, fiber, glass analysis
20 as well as gunshot residue.

21 Q What is gunshot residue?

22 A Gunshot residue is the mixture of chemicals that
23 comes out of a gun when it is discharged. This comes from
24 the primer, the propellant and the projectile. What we're
25 specifically looking for comes from the primer portion and

1 are microscopic molten particles containing the elements
2 lead, barium and antimony. Molten just means that it has
3 a kind of bulbus more spherical shape because of the high
4 heat and high pressure.

5 MR. BROWN: Your Honor, at this time, the State would
6 move Ms. Nicole Hardin as an expert in trace evidence and
7 more specifically, gunshot residue analysis.

8 MR. SHAFFER: No objection.

9 THE COURT: Without objection, Agent Hardin is found
10 to be an expert in the area of gunshot residue and trace
11 evidence analysis. You may proceed.

12 MR. BROWN: Thank you, Judge.

13 Q Ms. Hardin, in this case, did you have the
14 opportunity to do an analysis on trace evidence?

15 A Yes, sir. I received two items with this case. Item
16 2, one GSR kit from Mark Anthony Hailey. And then, item 4
17 was one GSR kit from Marty Anthony George.

18 Q Tell me what a GSR kit is.

19 A I have an example, if I may show --

20 Q That would be great.

21 A This is a GSR kit. Inside of here, there is a couple
22 of different things. There is a GSR information sheet
23 that the investigator or officer will fill out as they are
24 collecting the kit. There is a direction sheet that tells
25 them what exactly to do. And then, there are gloves,

1 particle lifts and an evidence seal. So whenever the
2 officer opens up the kit, they will first put on the
3 gloves. And then, they will take out particle lifts. So
4 in this case, there was two particle lifts in each GSR
5 kit, one for the right hand and one for the left hand.
6 The GSR kit for the particle lift has a cap that is
7 removed and the particular lift itself looks like the top
8 of a roofing nail and has a carbon adhesive. So it's very
9 sticky like tape and what the officer will do is, they
10 will dab it repeatedly over, for the right hand or the
11 left hand of the individual the GSR kit is being taken
12 from. After the sticky is gone, they will cap it back,
13 put it into the GSR kit and fill out the relevant
14 information. That being who they just collected the GSR
15 from, the time of the shooting is important as well as the
16 time of the collection. They will package all of that
17 back up, seal it with evidence tape and this is what is
18 sent into the lab at SLED.

19 Q And Ms. Hardin, you received two of these kits?

20 A Yes, sir.

21 Q The first kit, item 2, I believe it's one GSR kit
22 from Mark Anthony Hailey, Jr. What were the results of
23 that kit?

24 A For item 2, I found particles characteristic of
25 gunshot primer residue.

1 Q And before we move onto Marty George. In this case,
2 a .20 gauge shotgun was found and if this was happening in
3 a tight quarter or a four door car, where would you expect
4 gunshot residue to be after it's discharged inside of the
5 vehicle?

6 A So when a trigger is pulled, the firing pin comes
7 down, strikes the base of the primer cap. Those create a
8 reaction and set the propellant on fire and high heat and
9 high pressure dislodges the bullet and shoots it towards
10 it's target. When that occurs, gunshot residue exists
11 through any opening of the gun. So the muzzle, the
12 ejection port, any opening and it settles on anything that
13 is in the vicinity to it. So this plume, this cloud of
14 gunshot residue will settle on anything that is near it.
15 The gunshot residue will follow the path of the bullet.
16 So I would expect to find it on whatever the target was if
17 the person had a gunshot wound as well as anything near
18 the vicinity to where the gun was shot.

19 Q I also have item 4. I believe it's one GSR kit from
20 Marty Anthony George. What were your results on that?

21 A For item 4, one GSR kit from Marty Anthony George,
22 particles characteristic of gunshot primer residue were
23 found.

24 Q And again, you said the target of a shotgun blast,
25 you would expect the target to have GSR?

1 A Yes, sir.

2 Q Do air rifles or pellet guns create GSR?

3 A An air rifle would not. Gunshot residue, what we're
4 looking for comes from the primer and the lead, barium and
5 antimony are specific to that. So an airsoft gun would
6 not have those elements.

7 MR. BROWN: No further questions.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 By Mr. Shaffer:

11 Q So it appears that based off what you're saying, if a
12 gun was fired inside a car, you would expect to find
13 gunshot residue anywhere in the car; correct?

14 A Yes, sir.

15 Q So -- and you did find gunshot residue everywhere?
16 If a body was inside the car, you found it on that? You
17 know, if Mr. George was inside the car -- you found it on
18 the test kit from his hands; correct?

19 A I have one GSR kit that was collected from Marty
20 Anthony George and one GSR kit from Mark Anthony Hailey.

21 Q So you expected to find it inside the car and if
22 Marty George was inside the car, you would expect to find
23 it on him; correct? You did find it?

24 A I found GSR from Marty Anthony George.

25 Q Yes, okay. But you could test pretty much anywhere

1 in that car and likely would be able to find it; right?

2 A If all of the windows were closed, the car would be
3 more contained and that plume of gunshot residue could
4 settle on anything in the surface. So there would be a
5 possibility that it would be there.

6 Q So the gunshot residue doesn't really tell us
7 anything about what happened in the car other than the
8 fact a gun went off inside the car; correct?

9 A It tells -- when I find gunshot residue, it tells us
10 one of three things. This person either discharged a
11 firearm, was in the vicinity to the discharge of a firearm
12 or came into contact with something that had gunshot
13 residue on it. It tells us one of those three things. I
14 can't tell you the likelihood of any of those scenarios.

15 Q You also can't tell us from your testing whether or
16 not this was pointed at my client; correct?

17 A No, sir.

18 MR. SHAFFER: No further questions.

19 THE COURT: Anything on redirect?

20 MR. BROWN: No questions.

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

22 (Whereupon, the witness stepped down from the witness
23 stand.)

24 MR. BROWN: The State calls Celia Modell.

25 CELIA MODELL, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Brown:

4 Q Good afternoon.

5 A Good afternoon.

6 Q Please, state your name and spell it for the record.

7 A My name is Celia Modell, C-E-L-I-A M-O-D-E-L-L.

8 Q Ms. Modell, where do you work?

9 A I work for the South Carolina Law Enforcement
10 Division, commonly known as SLED.

11 Q And how long have you worked at SLED?

12 A I've worked at SLED for five and a half years.

13 Q What's your current role at SLED?

14 A I am a forensic toxicologist.

15 Q Tell me about your educational background.

16 A I have a Bachelor's of Science in Forensic Chemistry
17 from the University of New Haven. I also have a Master's
18 of science in Forensic Toxicology from the University of
19 Florida.

20 Q And once you got to SLED, was there any other
21 in-house training, as well?

22 A Yes, I've had in-house training on buccal analysis,
23 preliminary drug screens as well as drug confirmation and
24 quantitation. I've also gone to the Robert F.
25 Bourkenstein School on alcohol, highway safety as well as

1 also attended the Center of Forensic Science Research
2 Institute pharmacology course. I've also had in-house
3 training as far as oral exams, competency tests as well as
4 training samples.

5 MR. BROWN: Your Honor, at this time, the State would
6 move Ms. Modell or offer her as an expert in forensic
7 toxicology and also be able to testify on the pharmacology
8 aspect.

9 MR. SHAFFER: No objection.

10 THE COURT: Without objection, she's found to be an
11 expert in the area of forensic toxicology and
12 pharmacology.

13 MR. BROWN: Thank you, Judge.

14 Q Ms. Modell, did you have the opportunity to analyze a
15 blood sample of Marty Anthony George?

16 A Can I refer to my report?

17 Q Yes.

18 A I did test a blood sample for George, Marty Anthony.
19 That's how it's labeled on the sheet.

20 Q And in your results, in the first page, ethanol. Did
21 he have much ethanol in his system?

22 A That is the minimum level of what we would consider
23 positive, which could be from post-mortem.

24 Q And that was a .010?

25 A That is correct.

1 Q So really, it was barely traceable?

2 A Correct.

3 Q What other findings did you find in the toxicology of
4 Mr. George?

5 A In the blood sample, I reported out, methamphetamine
6 and amphetamine found in the blood sample.

7 Q And what were the numbers on the amphetamine and the
8 methamphetamine?

9 A Sure. For methamphetamine, I reported out 960
10 nanograms per mill and amphetamine, 210 nanograms per mill
11 of amphetamine.

12 Q How would you consider the 960 nanograms per
13 millimeter of methamphetamine? What kind of level is
14 that?

15 A That is a relatively high level of methamphetamine in
16 someone's system.

17 Q And how does that translate with the amphetamine?
18 How does methamphetamine and amphetamine kind of work
19 together?

20 A So methamphetamine metabolizes into amphetamine, but
21 amphetamine also could be taken by itself, as well, but
22 more than likely, the methamphetamine is metabolizing into
23 amphetamine in someone's system at that time.

24 Q Now, you said the methamphetamine was a relatively
25 high amount. Based on that amount, how would that amount

1 affect different people? Could it affect different people
2 in different ways?

3 A That level of methamphetamine, if someone who was a
4 novice or never used meth before, it could impact them
5 greatly different than someone who is a chronic user or a
6 regular user of methamphetamine.

7 Q If somebody used that amount of methamphetamine
8 regularly, could they perform or appear normal?

9 A They could appear normal if they normally ingest a
10 large amount of methamphetamine. Their body -- you're
11 still going to see the physiological symptoms. So an
12 elevated heart rate because it is a stimulant, pinpoint
13 pupils. Those physiological effects are not going to be
14 able to be hidden, but as far as someone experiencing that
15 high, they might need more to get that high they desired
16 each time. So the impact of the high might not be the
17 same for everyone.

18 Q If somebody used greatly, it might not appear -- they
19 might not appear out of the ordinary; is that correct?

20 A Correct.

21 Q Now, how would, in general, using methamphetamine
22 over a long period of time, an example is a bender, affect
23 somebody or how could that affect somebody?

24 A So somebody that could use methamphetamine for over
25 extended periods of times or goes on a bender, they

1 usually lose sleep. So they'll become a little bit of an
2 insomniac. So they could be up for several days at a time
3 if they're on a bender. They can also become agitated and
4 start to hallucinate and start to see things if they are
5 on a long bender or up for a long period of time. Someone
6 who also is under the effect, they could also crash. So
7 they could be lethargic, not very responsive to things or
8 very agitated easily, anxiety at that level, as well.

9 Q You said anxiety, as well?

10 A Yes.

11 Q So really, when it comes down to it, it depends on
12 the person on how they respond --

13 A Yes.

14 Q -- to the drugs?

15 THE COURT: What was your verbal answer, ma'am?

16 THE WITNESS: I'm sorry.

17 A Yes.

18 Q Did Mr. George test positive for any other drugs in
19 his system?

20 A No.

21 MR. BROWN: Beg the Court's indulgence.

22 THE COURT: Sure.

23 MR. BROWN: No further questions.

24 THE COURT: Cross-examination?

25 CROSS-EXAMINATION

1 By Mr. Shaffer:

2 Q Ms. Modell, so he had 960; am I right? Is that
3 correct? 960 nanograms per millimeter of methamphetamine
4 in his blood and 210 nanograms per millimeter of
5 amphetamine in his blood; correct?

6 A Yes.

7 Q So -- and this is Marty George we're talking about;
8 correct?

9 A That is correct.

10 Q No one ever sent you a toxicology report for -- sent
11 you any blood samples to test for Mark Hailey, did they?

12 A This was the only blood sample I received for this
13 case.

14 Q So with that, there is -- you said that you had done
15 some training about, it sounded like, DUI's basically?

16 A I am able to testify as far as for post-mortem
17 toxicology, which is after death as well as human
18 performance toxicology.

19 Q So human performance is like DUI stuff; correct?

20 A Correct.

21 Q And sometimes like in South Carolina, you may get a
22 case where there's a felony DUI involving death, for
23 example, where you may get blood samples; correct?

24 A Yes.

25 Q And then, you would be called upon to testify about

1 the effects methamphetamine may have on somebody if
2 methamphetamine is the intoxicant; correct?

3 A Yes.

4 Q 260 nanograms per millimeter. Is that enough to
5 cause someone to be materially and appreciably impaired
6 for a DUI?

7 A Of amphetamine?

8 Q Yeah.

9 A Amphetamine has similar effects as methamphetamine.
10 It's still a stimulant in someone's system. It is active
11 on the human body, but the methamphetamine is going to
12 have a greater response to the dopamine, which is what is
13 -- the dopamine receptors in your body. So that's what
14 gives that essential high.

15 Q And I've confused several witnesses today and I think
16 I'm confusing you. If I go out there and kill someone and
17 they take my blood and I have 260, not 210, nanograms per
18 millimeter of methamphetamine and that blood sample came
19 to you. If you came to court, would you say that I was
20 likely impaired?

21 A It depends on the individual, but the effects of
22 methamphetamine -- we're talking about methamphetamine;
23 right?

24 Q Yeah.

25 A If it's at 260, someone still could be agitated.

1 Someone could still hallucinate or be fidgety, more alert.
2 At lower levels, you see people more alert and focused on
3 certain things. So they can't concentrate on a single
4 task specifically for long periods of time. So you'll see
5 them kind of -- that's why it's harmful as far as for
6 driving purposes.

7 Q So it's harmful for driving purposes. Well, you're
8 familiar -- I imagine you're familiar with the National
9 Highway Transportation Safety Administration report about
10 drugs; correct? Methamphetamine in particular; correct?

11 A I'm not sure what report you're referring to.

12 Q So you're -- are there any published reports that you
13 are familiar with involving methamphetamine effects on
14 driving?

15 A There are reports out there. I don't know the names
16 of them off the top of my head.

17 Q If I told you that one of them was sponsored by the
18 National Highway Traffic Safety Administration, you
19 wouldn't disagree with me; correct?

20 A I would need to read it myself. I wouldn't just
21 agree.

22 Q But you wouldn't disagree with me that they may have
23 sponsored, okay. Tell me what the -- so tell me what the
24 therapeutic dose -- because you can get methamphetamine
25 from a doctor; correct?

1 A You can.

2 Q Tell me what the therapeutic dose of methamphetamine
3 is. The concentration in your body.

4 A In your body?

5 Q Yeah.

6 A It depends on the dosage that's given. So if someone
7 is prescribed, you know, it for ADHD or narcolepsy,
8 depending on what the doctor prescribes, their level,
9 especially if they're not taking it as prescribed, it
10 really could vary as far as -- there's no direct
11 correlation as to someone takes this amount of drugs and
12 their body metabolizes it, it's the same for every single
13 person, you're always going to have the same level at the
14 end of it.

15 Q But there are studies involving the therapeutic
16 dosage -- the appropriate therapeutic -- excuse me, the
17 appropriate therapeutic concentration of methamphetamine
18 in your blood; correct?

19 A Yes, I don't know what off the top of my head.

20 Q Would you disagree with me if I said it was around 50
21 nanograms per millimeter?

22 A I would look it up myself, but it doesn't sound
23 unreasonable.

24 Q And Marty George had 960 nanograms per millimeter;
25 correct?

1 A Of methamphetamine?

2 Q Yes.

3 A 960 nanograms per millimeter.

4 Q It's fair to say in the medical community, they would
5 consider anything above 200 nanograms per millimeter abuse
6 of methamphetamine, would you agree with that statement?

7 A I would say that is a very high level of
8 methamphetamine.

9 Q Would you say anything above 200 is a high level of
10 methamphetamine?

11 A I would agree.

12 Q Would you agree with me that anything above 2,500
13 would be considered an almost fatal level of
14 methamphetamine?

15 A 2,500 nanograms per mill of meth?

16 Q Yeah.

17 A It could be, but some individuals, if they're chronic
18 users, their body -- it really depends on the individuals.
19 We have seen people who have -- or there's articles out
20 there that people have taken 500 -- 5,000 to 15,000
21 milligrams of meth in a day's time, especially if they're
22 a chronic user.

23 Q And do you know about the -- and I'm talking
24 specifically about concentration in blood. Not milligrams
25 that they've taken.

1 A I don't know concentration, but we have seen in the
2 lab as far as other casework goes high levels of
3 methamphetamine in someone's system.

4 Q And you've seen some higher than this; correct?

5 A Yes.

6 Q And you've seen some felony DUI cases with lower than
7 this; correct?

8 A Yes, but like I said, no individual acts the same on
9 the drug at certain levels. So there's always going to be
10 individual --

11 Q And methamphetamine can cause agitation; correct?

12 A It can, at high levels.

13 Q Can cause nervousness; correct?

14 A Anxiety, yes.

15 Q Can cause violent aggression?

16 A It can.

17 Q And you said that -- at some point, I think you said
18 that it could cause people to hallucinate; correct?

19 A Yes.

20 Q And the hallucinations, are those -- with
21 methamphetamine, those are generally visual
22 hallucinations; correct?

23 A They could be hearing, as well.

24 Q And so you could have visual or hearing
25 hallucinations on meth; correct?

1 A Yes.

2 Q And whenever you have those, are they generally -- do
3 you generally have someone who's responding to those at
4 the time? If you're currently hallucinating, isn't it
5 true that you generally respond to the hallucinations?

6 A I'm not exactly sure.

7 Q Is that something a doctor would need to testify to?

8 A Possibly.

9 Q It's beyond your scope of expertise; correct?

10 A Right.

11 Q So you can tell how it may have acted, but you can't
12 necessarily distinguish --

13 A I can distinguish individual from individual. The
14 general signs and symptoms of someone at a high level of
15 methamphetamine use would be anxiety, agitation, sometimes
16 hallucinations, but no individual is the same. Someone
17 that would hallucinate at that same level could not
18 hallucinate, it really depends on their psychosis
19 themselves and like I said, the individual.

20 Q Can you estimate when Marty George -- in relationship
21 to when that blood sample was taken, how long before he
22 had used methamphetamine?

23 A I cannot tell you when he ingested the
24 methamphetamine from the level that was reported out.

25 Q Now, one final question. How long does it take

1 generally for methamphetamine to leave your system?

2 A So methamphetamine has a half-life of about 10 to 12
3 hours, but if someone uses again in between those periods,
4 the level of methamphetamine could spike again, but it
5 doesn't mean that it's still not metabolizing in your
6 system.

7 Q If I smoked some meth right this moment, how long
8 would it take for me to no longer have any meth in my
9 system?

10 A It depends how much you smoked, but the half-life of
11 methamphetamine. So the time it takes for half of the
12 amount of meth that you consumed to get out of your system
13 if you no longer, in your scenario, smoked again, it would
14 be about 10 to 12 hours.

15 Q You wouldn't expect to find any methamphetamine in
16 someone's system 10 days later, would you? If I smoked
17 right now, even if I got really, really high, you wouldn't
18 expect 10 days from now to have methamphetamine in my
19 blood that's still affecting me from that one smoking if I
20 didn't use anymore?

21 A If you didn't use anymore, I wouldn't expect to see
22 meth in your system.

23 MR. SHAFFER: No further questions.

24 THE COURT: Redirect?

25 MR. BROWN: Just briefly, Your Honor.

REDIRECT EXAMINATION

By Mr. Brown:

Q I think I asked you and Mr. Shaffer asked you also. Metabolizing. What does that really mean?

A It means breaking down in your body. So in order for -- if a human ingests a chemical or a compound. So methamphetamine in this case. As your body is trying to get rid of it, it tries to break it down into a smaller, more, more compound to remove it from your system either in waste such as urine.

Q And again, you said it all depends on the person taking the methamphetamine, how they would react to it?

A If they're a chronic user or a novice user. Each person could experience different effects of the methamphetamine.

Q If somebody was taking a rather high level, would it be out of the norm if they actually crashed and went to sleep?

A It could happen. So methamphetamine, especially if they're on a bender, they could go through a crash cycle. So where the body no longer has the amount to produce that high that they crave and their body crashes. Meaning like become lethargic, sleepy, even more agitated.

Q And you said some of the symptoms on the bender or something like that is anxiety?

1 A Yes.

2 Q Nervousness?

3 A Yes, sometimes, your skin will crawl. Some chronic
4 meth users, their skin would crawl, feeling like they have
5 bugs under their skin.

6 Q Agitation and violent aggression?

7 A Yes.

8 Q And then hallucination?

9 A Yes.

10 Q And did you say they could be hearing voices and
11 seeing things?

12 A They could.

13 MR. BROWN: No further questions.

14 THE COURT: Anything on recross?

15 MR. SHAFFER: Nothing further, Your Honor.

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

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 THE COURT: Ladies and gentlemen, you have worked
20 extremely hard today and I certainly appreciate that.
21 You've been at this since about -- I think we got started
22 at around 9:45. So again, I appreciate your hard work.
23 We're going to go ahead and recess for the evening and
24 start back at 10:00 o'clock in the morning. Get you a
25 good night's rest. Again, remember all of my instructions

1 about not talking among yourselves, anybody that you come
2 into contact with, no independent research, don't go
3 around large crowds tonight and we'll see you in the
4 morning at 10:00 o'clock. Get you some good rest. Thank
5 you.

6 (Whereupon, the jury was excused from open court for
7 the day.)

8 THE COURT: We'll be in recess until 10:00 o'clock in
9 the morning. I appreciate the lawyers hard work in this
10 case.

11 (Whereupon, the trial will resume the next morning at
12 10:00 a.m.)

13 September 18, 2020.

14 THE COURT: Let's bring the jury in.

15 (Whereupon, the jury came into open court at
16 approximately 10:10 a.m.)

17 THE COURT: Let the record reflect the jury is back
18 in. Good morning, ladies and gentlemen.

19 THE JURY: Good morning.

20 THE COURT: I trust that everyone is feeling well
21 today, everybody's doing good. Is the jury room still
22 working out okay? Okay. Very good. Thank you. All
23 right. Is the State ready to call its next witness?

24 MR. BROWN: Yes, Your Honor. The State calls Stella
25 Burton.

1 STELLA BURTON, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Mr. Brown:

5 Q Good morning, Ms. Burton.

6 A Morning.

7 Q I want to have -- if you can, get close to that
8 microphone just so I can hear you and make sure I
9 understand what you're saying; all right? Ms. Burton, how
10 do you spell your last name?

11 A B-U-R-T-O-N.

12 Q Ms. Burton, do you live here in Greenwood?

13 A Yes, I do.

14 Q Have you lived here most of your life?

15 A Yes.

16 Q Ms. Burton, did you know Marty George?

17 A Yes, I did.

18 Q Was he a friend of yours?

19 A Yes, he was.

20 Q Do you know Joni Kitchens?

21 A Yes, I do.

22 Q And who is she?

23 A She was, at the time, his spouse.

24 Q Marty's spouse --

25 A Yes, sir.

1 Q -- or girlfriend?

2 A They were living together. I would say spouse.

3 Q Do you recognize this person over here, Mark Hailey?

4 A I do recognize him, yes.

5 Q Do you know Mark Hailey -- when did you first meet
6 Mark Hailey?

7 A That day, that very day.

8 Q And that very day, are you talking about March 5th of
9 2019?

10 A Yes, that was the day. I try not to remember.

11 Q Now, Ms. Burton, how long have you known Marty?

12 A Ten years.

13 Q How long have you known Joni?

14 A About the same amount of time. I met them both --
15 the same amount, yeah.

16 Q Do you know Joey Lawson?

17 A Yes, I do.

18 Q And how long did you know Joey?

19 A I've been knowing Joey a little bit longer than them.

20 Q Is it safe to say that, from time to time, you did
21 methamphetamine with him?

22 A Yes.

23 Q And you readily acknowledge that; right?

24 A Yes, I do.

25 Q Do you have a drug history?

1 A Yes, I do.

2 Q And before we get started, Ms. Burton, you've got a
3 criminal history; is that correct?

4 A That's correct.

5 Q A history going back to 1992; is that right?

6 THE COURT: You need to verbally respond, ma'am.

7 A Yes, sir.

8 Q And all the way up until here recently; is that
9 correct?

10 A Yes, sir. It is.

11 Q You've had drug charges?

12 A Yes, I do.

13 Q Are you trying to hide from that?

14 A No, I'm not.

15 Q Now, Ms. Burton, going back to March 5th of 2019,
16 when did you come in contact with Mark Hailey?

17 A When Marty George pulled up and dropped him off at
18 the apartment complex where I was staying.

19 Q And where was that?

20 A Margaret Court.

21 Q Is that here in Greenwood?

22 A Yes, it is.

23 Q You said you first came in contact when Marty George
24 dropped off Mark Hailey?

25 A Yes.

1 Q Who else was in that vehicle?

2 A I just saw those two.

3 Q You didn't see anybody else?

4 A No, nobody else.

5 Q What time of day was that? Do you remember?

6 A I would say it was around 4:00, between 4:00 and
7 5:00.

8 Q Somewhere in that general area?

9 A Yes.

10 Q Did you know Marty was dropping off Mark?

11 A No, sir. I had no idea. I had no idea.

12 Q Earlier that day, did you have Marty running errands
13 for you?

14 A Not that day. No, sir.

15 Q Had you been with Marty that day?

16 A No.

17 Q Once Marty dropped Mark off, did you actually have a
18 conversation with Marty or did he just drop him off?

19 A Marty just dropped him off and drove off.

20 Q And what did Marty drive off in? What car was it?

21 A It was a silver car, the car he died in.

22 Q What did Mark do after Marty dropped him off?

23 A He didn't know me either. So he just walked right
24 past me into the apartment where I was staying. Just
25 walked right past me.

1 Q Did he know anybody that lived there?

2 A Yes, he did, apparently.

3 Q Did you know that?

4 A No, I didn't.

5 Q Who was that?

6 A Debra Woods and there was another lady that was
7 staying there and her name was Tasha Parks.

8 Q And how do you know he knew them? Did he say
9 something about them?

10 A That's who he asked for, Tasha.

11 Q How did it make you feel when he walked by you?

12 A I was at unease. It was an uneasy feeling.

13 THE COURT: You'll need to speak up, please, ma'am.

14 A It was an uneasy feeling. It wasn't out of comfort.

15 Q And why is that?

16 A Because he just walked into my home and he was
17 familiar with it and I didn't even know who he was. He
18 was a complete stranger to me.

19 Q And Marty had left?

20 A Immediately dropped him off and left.

21 Q Did Mark have anything with him when he walked by you
22 that you could tell?

23 A Not to my knowledge. He was just in a shirt and a
24 pair of pants.

25 Q Once he went in the house, what did he do next?

1 A He started talking to Debra. I was kind of alarmed
2 because he just walked in. And so she was in the bedroom.
3 So I had to go in the bedroom to get her and bring her out
4 to let her know he was there and she seemed to be very
5 familiar with him.

6 Q What was Mr. Hailey's demeanor at that point?

7 A I would say normal. I mean, normal conversation,
8 normal -- hectic day, maybe been at work maybe. I don't
9 know. I mean, just what you would call normal.

10 Q How long did you all stay at that apartment that
11 afternoon?

12 A It wasn't but 15, 20 minutes.

13 Q And then, where did you go?

14 A We went to Highside, Mr. Joey Lawson's. And the
15 owner of the property, Wes, to do laundry.

16 Q Who all went with you at that point?

17 A In one particular car, I had called a gentleman named
18 Reginald Rucker to pick us up. It was me, Debra. If I'm
19 not mistaken, he rode with us. I asked him to ride with
20 us to get him away from that apartment complex.

21 Q And he rode with you over to Joey's?

22 A Yes, he did.

23 Q Where did you go after you got to Joey's?

24 A I went to Wes' to do laundry.

25 Q Where --

1 A I asked him to come and keep him company because I
2 didn't know what else to do. You know, Marty dropped him
3 off. So I figured him to be, you know, okay at that one
4 time.

5 Q So Mark went with you to keep Joey company?

6 A Yeah, I got him to come with me because I wasn't at
7 ease about him being at the apartment complex. I didn't
8 know what else to do.

9 Q And so when you got to Highside at Joey's place,
10 describe where Joey lived and where you did laundry.

11 A Okay. The house is in front on Main Street. And
12 then, there's another house behind it. I want to say 25
13 feet, 50 feet and that's where Joey stays.

14 Q Would you say that's kind of like a shed or a shack
15 out back?

16 A At that point, it was a studio garage type.

17 Q Studio garage?

18 A Yes.

19 Q Where did Mark go when you got there?

20 A I took him down to Joey's because I had previously
21 moved out and I figured he would be okay down there with
22 him while me and Debbie did laundry in the house in front.

23 Q And so you were doing laundry in the house in front?

24 A Uh-huh (affirmative response). And when we do -- the
25 laundry room sits at the back of the house. You can look

1 out the window and the front door and see Joey's.

2 Q Did Mark stay out there with Joey the entire time or
3 did he come up to the laundry room?

4 A Pretty much, he did. He came up to the laundry room,
5 I would say, a total of three or four times during the
6 whole time we was there.

7 Q And did you notice anything that he was doing when he
8 came to the laundry room?

9 A Not the first couple of times. When we got ready to
10 leave on the last load, that's when he had the can. He
11 had a can turned upside down and he had a set of works,
12 which are needles, points, whatever you want to call it.

13 Q And talk about -- what type of can are you talking
14 about?

15 A It was a soda can. A 12 ounce soda can.

16 Q And what was he doing with this can?

17 A He had it upside down. It was sort of like a spoon.
18 You know, like a bowl. It would hold whatever he put in
19 it.

20 Q And he had what else with him?

21 A A needle.

22 Q And you said you've been in drugs for a while; is
23 that correct?

24 A Yes, sir.

25 Q What did you see him doing? What did you --

1 A I just seen him with it. You know, he was taking it
2 and stirring up the bottom of the can, that's it. Did I
3 see him do it? No. I didn't want him in the house
4 because it wasn't allowed in the house. So I asked him --
5 I said, you need to do that down there because it's not
6 allowed in the house. And he had no problem with going
7 back out.

8 Q Flipping a soda can over and mixing up -- what would
9 you say he was doing?

10 A It could have been pills, it could have been
11 methamphetamine, it could have been anything. Heroine.
12 It could be any of that. Anything that you can break down
13 and run into your veins and get high.

14 Q After you saw him do that, where did he go?

15 A I went back in the house. To my knowledge, he went
16 back down to Joey's.

17 Q Did you see him again later on after that?

18 A It was a few minutes after that, yes, and that's when
19 it got alarming because he had said something about doing
20 his job, that he had something he had to do.

21 Q Doing a job or doing something he had to do?

22 A That he had a job to do. That he had to get ready to
23 do what he was supposed to do, do his job.

24 Q Did Mr. Hailey's demeanor change as the night went on
25 from what you could tell or did you have much interaction

1 with him?

2 A I didn't really have a lot of interaction with him.
3 But I know right before we left, I had went down to Joey's
4 because I had noticed that Marty and Joni's car was parked
5 in front after all these hours of dropping him off. I
6 called Marty several times. I texted and called Joni
7 several times about giving the gentleman a ride home since
8 they're the ones that dropped him off.

9 Q So you did talk to Marty several times in that
10 afternoon?

11 A No, I did not.

12 Q You talked to Joni?

13 A Joni. I texted Marty and never got a response.

14 Q But you did talk to Joni?

15 A Yes, I did. She kind of got angry with me because I
16 called her and texted her so many times.

17 Q And those texts and calls were about what?

18 A Giving this gentleman a ride home.

19 Q And why did you want to get him out of there?

20 A Because he wanted to go home. Every time he talked
21 to me, I need a ride home. Where's Marty? Where's Joni?
22 I'm ready to go home. It really didn't make that much
23 sense for Marty just to drop somebody off. It wasn't
24 normal.

25 Q Did you know where Marty went during that time?

1 A I did not.

2 Q Did you have any other conversations with Mr. Hailey
3 that night?

4 A I had one particular conversation where he was asking
5 about the colors in the rainbow.

6 Q About just colors and stuff?

7 A Colors in the rainbow. I think, the rainbow -- the
8 colors in the rainbow.

9 Q Where did that take place?

10 A That took place at Joey's. Right in between Joey's
11 and -- in the yard, I would say.

12 Q What time of night did that happen?

13 A It was like right at the last time. We didn't speak
14 but three or four times. I can't pinpoint which
15 conversation it was. In between four or five
16 conversations, yeah.

17 Q Was it dark outside?

18 A Yes, it was.

19 Q What time do you think you finally got done with your
20 laundry?

21 A About 12:30, 1:00 o'clock in the morning.

22 Q In the morning. And when you left, who took you home
23 after the laundry?

24 A A gentleman named Reginald Rucker.

25 Q And when you left, Marty and Joni had shown up at

1 Joey's at that point?

2 A No, when I went out the front door, like I said, I
3 seen the car parked in front. So I went around to Joey's
4 to speak with Joey and to speak with Marty and Joni and
5 make sure they was going to take this gentleman home
6 because he had been there all these hours. And, yeah, we
7 were upset. We were all kind of upset and -- but at the
8 same time, they were all getting high together.

9 Q All four of them?

10 A Yes.

11 Q You saw them --

12 A Yeah, passing what you would call a bowl with,
13 chalet, methamphetamine in it, smoking it.

14 Q Even Mr. Hailey?

15 A Yeah, I would assume. I mean, they were all -- yeah.

16 Q So from the time Mr. Hailey got to the apartment
17 complex where you were originally, you said around 4:30,
18 5:00?

19 A Yes, sir.

20 Q You were in off and on contact with him between then
21 and 12:30, 1:00 in the morning?

22 A I was texting Marty, but never got a response. Joni
23 replied. More than anything, she was very upset about,
24 you can't tell my husband what to do. That's my car.
25 He's going to do what I tell him to do. Such things as

1 that.

2 Q Well, Mr. Hailey was with you -- pretty much with you
3 from the time Marty dropped him off at the apartment --

4 A I wouldn't say with me, with me, but within my
5 vicinity. Yes, sir.

6 Q Now, you said you've known Joni and Joey and Marty
7 for quite some time?

8 A Yes, over five years, average. Five and a half.
9 Something like that.

10 Q And you said you've actually done methamphetamine
11 with Marty; correct?

12 A Yes, I have. With Marty?

13 Q Marty.

14 A Yes.

15 Q How did Marty react or act with methamphetamine?

16 A Being a drug user, we have -- I guess, we have a
17 different normal than you would say sober people do. To
18 me, he acted like Marty. He acted like Marty. He was a
19 little bit more comical than what he was, you know, when
20 he was sober, but yeah. He just acted like Marty.

21 Q He was comical?

22 A Very much so.

23 Q Did you ever see him get aggressive?

24 A Never. Never, ever. Some would say -- we would pick
25 on him a lot about being like a cat, being very docile.

1 Q Being like a cat?

2 A A cat. He was very tender. He was -- I'd never seen
3 an angry Marty at all.

4 Q Marty driving that car around, did Marty also kind of
5 act like a cab driver?

6 A No, I wouldn't say that. He drove a lot and did a
7 lot of things for people. When him and Joni were
8 together, Marty would always drive that car. Marty pretty
9 much always had the car.

10 Q Would he take people places?

11 A Yes, he would.

12 Q Pick them up?

13 A Pick them up, take them places. You know, he'd do
14 all kinds of things with that car.

15 Q Did Marty ever sell a little bit of drugs?

16 A I don't know about that, if he did sell them. We all
17 were affiliated through the drugs. We all did.

18 Q That night when you saw Marty and them passing around
19 the chalet, how was Marty? Could you tell?

20 A He didn't seem nervous. He just seemed like Marty,
21 you know. Him and Joni were kind of bickering back and
22 forth about the time. They were ready to be gone, but
23 other than that -- that was normal. Marty had been known
24 to take off for hours at a time.

25 Q From the time Mark Hailey got to the apartment, you

1 said the first impression you had of him when he walked by
2 you. How did that make you feel?

3 A It was an eerie, uneasy feeling. You can't explain
4 it. It's like some cold is walking past you and it's hot
5 outside. It was just a real cold rush. Like it just gave
6 you chill bumps.

7 Q And in one of the conversations, he said what to you?

8 A He was asking me about the colors in the rainbow.
9 You know, what did I think of a rainbow and the colors in
10 it.

11 Q And you said some other comment that he made that
12 stood out to you.

13 A At the end of the night, the last thing I remember
14 him saying was, he had to go. It was time for him to go
15 and do the job he had to do.

16 Q Do a job he had to do?

17 A He said he had to do -- he had to go do his job.

18 Q Is that the first time you met Mark Hailey?

19 A Yes, it is. The first time I ever set eyes on him.

20 Q And again, you're not hiding the fact that you've got
21 a criminal history?

22 A No, I do not.

23 Q And that you've done drugs?

24 A Yes, I have. I don't deny any of that.

25 Q So someone that does drugs over time, do you

1 recognize another person doing drugs?

2 A Absolutely.

3 MR. BROWN: No further questions.

4 THE COURT: Cross-examination?

5 CROSS-EXAMINATION

6 By Mr. Shaffer:

7 Q Ms. Burton, you have some pending charges right now;
8 right?

9 A Yes, I do.

10 Q Those are for a stolen pistol, possession of a
11 firearm by a person convicted of a violent crime, two
12 different meth charges and a weed charge; is that correct?

13 A Yes, yes. It is.

14 Q So -- and currently, you're out on bond?

15 A Yes.

16 Q Awaiting trial; right?

17 A Yes.

18 Q And it looks like by my count, that's -- since those
19 are third offenses, each of the possessions would carry up
20 to 10 years; right?

21 A I assume.

22 Q Each of the two pistol charges would carry five years
23 each; right?

24 A I assume.

25 Q And then, the weed charge probably doesn't carry all

1 that much time; right?

2 A I mean, I haven't been to trial and I cannot say.

3 Q The first time you gave a statement in this case was
4 about two weeks ago; right?

5 A I wouldn't say quite two weeks, yeah.

6 Q I notice you've been jittering sort of back and
7 forth; right?

8 A Me?

9 Q Yeah.

10 A Yeah, I'm nervous.

11 Q You're not on anything today?

12 A No, I'm not. I took a Benadryl before I got here.

13 Q But you're not on any sort of --

14 A No, I'm not.

15 Q -- intoxicant?

16 A No, I'm not.

17 Q When's the last time you used?

18 A I relapsed a couple of days ago.

19 Q So a couple of days ago?

20 A Yes.

21 Q And you use methamphetamine; right?

22 A Yes.

23 Q How long was a couple of days ago?

24 A About four days ago.

25 Q So you haven't used in four days; is that correct?

1 A I relapsed four days ago.

2 Q Huh?

3 A I relapsed four days ago.

4 Q So you were clean up until four days ago; right?

5 A Pretty much. For six months or so.

6 Q When's the last time you used?

7 A Four days ago.

8 Q So you only used one time that day?

9 A Twice.

10 Q You wouldn't still be feeling any effects from four
11 days ago?

12 A No, absolutely not.

13 MR. SHAFFER: Your Honor, I have a matter of law.

14 A Not to my --

15 THE COURT: Excuse me?

16 A Not to my -- it depends on how much you would do I
17 assume and your metabolism.

18 Q Are you feeling the effects of methamphetamine right
19 now or not?

20 A No, I'm not.

21 MR. SHAFFER: Your Honor, can we approach?

22 THE COURT: Sure. Ladies and gentlemen, just be at
23 ease for just a moment.

24 (Whereupon, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 Q Now, Ms. Burton, I know that the Solicitor said that
3 you had been -- you have a criminal history going back to
4 1992; correct?

5 A Yes, sir.

6 Q Fair to say you have a whole bunch of arrests; right?

7 A Yes.

8 Q Conviction-wise, you have a manufacture and
9 distribution of cocaine base or meth in 2017; correct?

10 A Yes.

11 Q And possession of crack, 2016? Was it meth or crack?

12 A It was meth. Same code. It's the same code. So the
13 same thing. Meth, cocaine. They use them -- it doesn't
14 matter. It's a speed.

15 Q You have -- it's safe to say you have a lot of drug
16 charges; right?

17 A Yes, it has nothing to do with Marty being killed.

18 Q I'm asking you because of the fact that it's not just
19 one or two. It's pretty consistent. You've spent most of
20 the last --

21 A However many years, yes. It's not something that I'm
22 proud of.

23 Q Yes, ma'am. And I'm not saying that. I'm just
24 saying, does it affect your ability to remember stuff?
25 The drug use.

1 A It could.

2 Q And you were using drugs that night; correct?

3 A Yes, I was.

4 Q And you said that before even finding out about --
5 before the shooting even happened, you said that whenever
6 Mark was around, you got chill bumps when he walked by; is
7 that right?

8 A Yes, I got an uneasy feeling. If someone you didn't
9 know walked by you and goes straight into your house and
10 you don't know who that is, why wouldn't you have an
11 uneasy feeling about that?

12 Q Did you have actual chill bumps on your arm?

13 A Yes.

14 Q So you had a physical reaction to it?

15 A To his presence, yes.

16 Q Did that last the whole time he was over there?

17 A No, it did not.

18 Q You were saying that he had the can upside down;
19 correct?

20 A Yes, I did.

21 Q Did you see him actually use that?

22 A No, I didn't.

23 Q Did you see track marks on his arms?

24 A No, I hadn't -- no, I did not see him use the needle.
25 No, I didn't. I didn't say that I did, no.

1 Q Is it fair to say that you lived in a house with
2 other people at that time; right?

3 A Yes.

4 Q How many people lived there?

5 A I lived with Debra Woods. One.

6 Q Just one?

7 A One other.

8 Q Did people come over there and regularly stay at that
9 time?

10 A There were young girls that would that Debbie would
11 allow to come over, yes.

12 Q How many young girls would Debbie allow to come over?

13 A It depended on what mood Debbie was in. A lot of
14 times, I wouldn't even be there. I would leave myself.

15 Q Did Debbie use drugs in that house?

16 A Yes.

17 Q Did the young girls use drugs in that house?

18 A Yes, and what I mean by young girls, I mean about 25.
19 Way younger than me.

20 Q It's fair to say there was a lot of traffic of drug
21 users in and out of that house; right?

22 A Pretty much females, yes.

23 Q Pretty much females?

24 A Yes.

25 Q You never had a male there?

1 A In a blue moon, I would imagine so, but it was pretty
2 much a bunch of females.

3 Q So there's plenty of incidences that despite your
4 drug use, you've called the cops on people; correct?

5 A I have been known to, yes. If they were bothering me
6 or I was afraid of them, of course.

7 MR. SHAFFER: Court's indulgence.

8 Q It's safe to say you weren't afraid to call the cops,
9 were you?

10 A No, if I'm in harm's way or I'm being harmed, no.
11 I'm not.

12 Q So your testimony was, Mark walked into the house;
13 right?

14 A Yes, he did. He walked past me and walked into the
15 house, yes.

16 Q He didn't say a word to you?

17 A No.

18 Q Really, had no idea other than he was dropped off by
19 Marty?

20 A I still don't.

21 Q You didn't call the cops on him?

22 A No, because I went into the house and he was talking
23 to Debra.

24 Q He was talking to Debra?

25 A Yes.

1 Q It appeared like he knew Debra; right?

2 A Yes.

3 Q It appeared like they were friends?

4 A Yes.

5 Q What was Debra's last name again?

6 A Woods, McKinley.

7 Q What time was it that he got dropped off?

8 A I want to say it was between 4:30 and 5:00, 4:00 and
9 5:00. Somewhere around that range.

10 Q He got dropped off between 4:00 and 5:00 at your
11 place?

12 A Somewhere about that range, yes.

13 Q It wasn't like 7:00 o'clock at night, was it?

14 A No.

15 Q You said something when they were asking -- when
16 Solicitor Brown was asking about smoking methamphetamine
17 and what you said was, you said that -- he asked if all
18 four of them were smoking, if Mark Hailey was smoking and
19 you said, yes, I assume. Right?

20 A Yeah.

21 Q You never actually saw him smoke; correct?

22 A Yes, I did.

23 Q Why did you say, I assume?

24 A Because there were certain periods during that time
25 that I saw him. It was only him and Joey there for a long