

Jul 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RAY L. KELLY,

APPELLANT

APPELLATE CASE NO. 2022-001449

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
COURT’S EXHIBIT NO. 4 (PHOTOGRAPH), COURT’S EXHIBIT NO. 5
(PHOTOGRAPH), COURT’S EXHIBIT NO. 9 (DVD- DOWNING BODY-WORN
CAMERA), COURT’S EXHIBIT NO. 10 (DVD- VAUGHN BODY-WORN CAMERA),
STATE’S EXHIBIT NO. 1 (DVD- WASSERMAN BODY-WORN CAMERA) STATE’S
EXHIBIT NO. 2 (DVD- WASSERMAN IN-CAR CAMERA), STATE’S EXHIBIT NO. 3
(DVD- WASSERMAN COMBINED VIDEOS), STATE’S EXHIBIT NO. 5 (DVD-
LEDBETTER BODY-WORN CAMERA), STATE’S EXHIBIT NO. 6 (DVD- LEDBETTER
COMBINED VIDEOS), STATE’S EXHIBIT NO. 7 (DVD- HARRISON IN-CAR
CAMERA), STATE’S EXHIBIT NO. 8 (DVD- HARRISON COMBINED VIEWS),
STATE’S EXHIBIT NO. 9 (DVD- RICHARDS BODY-WORN CAMERA), STATE’S
EXHIBIT NO. 13 (DVD- DEROSA IN-CAR CAMERA), AND STATE’S EXHIBIT NO. 26
(PHOTOGRAPH)]**

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

3
 4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
 5 PLAINTIFF,) OF
 6 vs.) RECORD
 7 RAY L. KELLY,) 2020-GS-23-6536, 6541
 8 DEFENDANT.) 2020-GS-23-6548, 5006(A)
 2020-GS-23-6550 - 6552

9
 10 February 16th, 2021

11
 12 B E F O R E:

13 THE HONORABLE LETITIA H. VERDIN, Judge.
 14

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

16 WALK WILKINS and GRACE BARRINGER
 17 SOLICITOR and ASSISTANT SOLICITOR
 Attorneys for the State

18 RAY L. KELLY
 19 Pro Se

20
 21
 22
 23 PAMELA E. GREEN
 24 Circuit Court Reporter
 25

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I N D E X

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(WHEREUPON, there were no exhibits marked or testimony
taken during this hearing.)

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P R O C E E D I N G S

SOLICITOR WILKINS: Your Honor?

THE COURT: Solicitor.

SOLICITOR WILKINS: Yes. Yes, ma'am, Your Honor.

We are here on United -- State -- State of South Carolina versus Ray Kelly.

Your Honor, for the record, I want to put on that we are, we are in person today. Pursuant to Chief Justice Beatty's order, this has been considered an emergency hearing and the reason for that was Mr. Kelly was refusing to come to the video monitor on December 11th. And, and so, with the seriousness of the charges against Mr. Kelly, we felt that he needed to be advised of his Faretta rights, his right to an attorney.

We are gonna -- asking for an order to appoint him an attorney. But I know you can go over that colloquy as well and also we can discuss -- there's been a number of -- they haven't been formally served on the Solicitor's Office or filed with the Clerk of Court's Office. But some filings have been made by an individual from New York. And so I don't want to -- I don't want any perception that we're ignoring those. But those may need to be addressed as well --

THE COURT: I understand.

1 SOLICITOR WILKINS: -- as well.

2 So, the purpose of this hearing really is to, to advise
3 Mr. Kelly of his rights and, and advise him of his right to
4 an attorney.

5 THE COURT: Mr. Kelly, good morning.

6 My name's Letitia Verdin and I want to speak to you
7 today a little bit about your case.

8 All right. First I want to just inform you on the
9 record of the offenses you've been charged with and you may
10 be familiar with them. But you've been charged with
11 trafficking in cocaine base 28 to a hundred grams, murder,
12 possession of a weapon during commission of a violent crime,
13 resisting arrest with assault, resisting arrest -- another
14 resisting arrest with assault, resisting arrest with a
15 deadly weapon, assault and battery of a high and aggravated
16 nature, and, of course, speeding, following too closely,
17 driving without a license, false information.

18 The reason that I wanted to speak with you in person
19 about this is because of the seriousness of especially the
20 murder charge. All the charges are serious. But you need
21 to understand that murder carries a minimum of 30 years up
22 to life. There's no -- if, if you were to get life, there
23 would be no possibility of parole and any sentence that you
24 get you have to serve day for day.

25 As I said, you've been charged with that. But before

1 you can plead guilty or you can plead not guilty to these
2 charges and ask for trial, you need to be informed in person
3 that you have the right to an attorney. And you may have
4 heard this. But if you can't afford an attorney, an
5 attorney will be appointed to represent you.

6 In fact, in the courtroom here today, the chief public
7 defender is present if you so choose. You have a
8 constitutional right to represent yourself and proceed
9 without an attorney. But if you decide to do that, I need
10 to inform you of the following things:

11 Self-representation could be dangerous and you've got
12 the right to have the assistance of a lawyer, excuse me, in
13 all stages of the proceedings. As I said, if you can't
14 afford a lawyer, a lawyer will be appointed for you.

15 You need to understand criminal defense, especially
16 with the charges you've got, is a highly specialized and
17 very technical area of the law. There may be certain legal,
18 factual defenses to the charges you're facing. And if you
19 proceed without a lawyer, you might not be aware of those
20 offenses that you could assert for yourself.

21 There may be issues related to the conduct of the trial
22 or guilty plea that you could -- they could arise in the
23 future and you might not be aware of those things either and
24 it would be your attorney's responsibility -- indeed an
25 attorney's trained in this particular area to be aware of

1 those issues and how to address them in the court and
2 preserve those issues for any possible appeal.

3 There may be collateral consequences of a conviction or
4 plea that you aren't aware of. And, as I said, for
5 instance, that any sentence you -- if you were to receive
6 any sentence on a murder charge, you could serve it day for
7 day.

8 If you exercise your right to proceed without the
9 services of an attorney, you're responsible for complying
10 with all the rules of Court including the rules of evidence
11 and procedural rules and proper behavior before the judge or
12 jury and you certainly have the right to hire a private
13 attorney if you so choose.

14 Now, I wanted just to speak with you a little bit about
15 that. I will start with saying that there have been several
16 filings made I believe by you or on your behalf. Any filing
17 that's made either has to be done by you or has to be done
18 by an attorney licensed in the State of South Carolina.

19 I'm gon' be honest with you, Mr. Kelly, some of those
20 filings came to my office and I don't want to call them
21 filings actually because they were not filed in the Clerk of
22 Court's Office. But those -- some of those documents came
23 to my office and I'm gonna be very honest with you and
24 upfront. They didn't make a lot of sense, okay, not a lot
25 of legal sense.

1 An attorney can advise you about those things. An
2 attorney can have things filed properly so those motions can
3 be heard.

4 This would be this -- this would be like setting off on
5 a journey and not having a map or any kind of idea where to
6 go on things. An attorney can guide you through that.

7 I need to ask you a few questions. I'm not gon' put
8 you under oath for these questions but I just need to ask
9 you a few questions.

10 Mr. Kelly, how old are you?

11 THE DEFENDANT: May I stand and speak?

12 THE COURT: Certainly.

13 THE DEFENDANT: Only for the record, I reserve all my
14 rights waiving none. I do not agree to any adhesion
15 contracts nor any assumptions or presumptions that I've
16 agreed to any contracts with this Court.

17 THE COURT: Understood.

18 THE DEFENDANT: I'm the beneficiary of this trust. I'm
19 appointing you, judge, as my fiduciary trustee. I want you
20 to eliminate this matter and reduce it on the record.

21 I accept the charges for value and consideration. In
22 return, please use my exemption and principal for
23 post-settlement and closure of this matter. We use cusive
24 (phonetic) and order trust account number 068704483 as this
25 account is prepaid and exempt from levy.

1 I'm not a U.S. citizen.

2 THE COURT: Okay.

3 THE DEFENDANT: I do not understand what's going on.

4 Has the Court taken judicial notice of your oath of
5 office?

6 THE COURT: Sir, I'm asking you the questions and
7 here's the thing. Your motion -- your earlier motion is
8 denied. I need to find out -- I need to find out a little
9 bit about you so I can decide where we're gon' go from here.

10 THE DEFENDANT: Only for the record, has the Court
11 taken judicial notice of your oath of office?

12 THE COURT: It -- sir, I, I have taken an oath of
13 office and I have certainly taken that oath of office and I
14 did it---

15 THE DEFENDANT: In that oath of office---

16 THE COURT: ---when I first started.

17 THE DEFENDANT: ---did you swear to uphold the
18 Constitution---

19 THE COURT: Sir, I'm not answering---

20 THE DEFENDANT: ---of the United States of America?

21 THE COURT: I'm not answering any more of your
22 questions with regard to my oath. My oath is a matter of
23 public record.

24 THE DEFENDANT: I do not understand what's going on
25 today.

1 THE COURT: Okay.

2 THE DEFENDANT: I do not wish to continue this
3 proceeding. I do not agree to any of this---

4 THE COURT: I understand.

5 THE DEFENDANT: ---contracts nor any assumptions or
6 presumptions---

7 THE COURT: You've been through that.

8 THE DEFENDANT: ---that I have any contracts with this
9 Court.

10 THE COURT: Mr. Tate -- I mean, excuse me, Mr. Kelly,
11 you've been through that. I just need to know---

12 THE DEFENDANT: I object---

13 THE COURT: ---how---

14 THE DEFENDANT: ---to any attorney and I object to
15 anyone speaking on my behalf.

16 THE COURT: Okay. Let me ask you this.

17 Do you have a -- do you want to have an attorney
18 appointed for you?

19 THE DEFENDANT: I object to any attorney and I
20 object---

21 THE COURT: Just answer. It's a yes or no.

22 THE DEFENDANT: ---to anyone speaking on my behalf.

23 THE COURT: Okay. Before I let you proceed---

24 THE DEFENDANT: And before I believe---

25 THE COURT: ---without an attorney I've got---

1 THE DEFENDANT: ---let my yes be my yes and my no be my
2 no.

3 THE COURT: Sir -- okay. All right. That's enough.

4 Here's the situation, Mr. Kelly. I've advised you of
5 your Faretta warnings. I've advised you of the dangers of
6 proceeding without an attorney. You indicate that you do
7 not want an attorney. However, before I'm going to let you
8 proceed without an attorney, I'm gonna order that, that you
9 be subject to a mental health evaluation. I've got some
10 concerns based on your behavior here today and I also have
11 some concerns based on the filings that you've sent in and,
12 therefore, I'm gonna order that.

13 All right. Thank you.

14 SOLICITOR WILKINS: Thank you, Your Honor.

15

16 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF GREENVILLE	)	COURT OF GENERAL SESSIONS
	)	2020-GS-23-06536
	)	
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
RAY KELLY,	)	
	)	
DEFENDANT.	)	
	)	

March 16, 2021
Greenville, South Carolina

B E F O R E:

THE HONORABLE LETITIA H. VERDIN, JUDGE.

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

WALT WILKINS, ESQ.
Solicitor

GRACE BARRINGER, ESQ.
Solicitor

CHRISTOPHER SCALZO, ESQ.
Attorney for the Defendant

AMBER PAYNE, CVR
Court Reporter

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There were no exhibits entered during this hearing.

P R O C E E D I N G S

(Whereupon, the hearing began at
9:48 a.m.)

THE COURT: All right. This is "State of South
Carolina vs. Ray Kelly," and I've reconvened a
hearing based on Mr. Royals' motion from the
Department of Mental Health.

Just to sum things up, it's -- it goes like
this: I had Mr. Kelly in court to advise him of his
Faretta rights -- I -- and give him his Faretta
warnings, I mean. And he made some comments during
it, and his affect concerned me in court. And,
therefore, I ordered that he be evaluated by the
Department of Mental Health.

Since that time, the Department of Mental
Health has gotten back in touch with the court, and
I believe the solicitor's office, as well, filing a
motion saying that -- that they are unable to
evaluate Mr. Kelly because he is currently
unrepresented; is that correct, Mr. Royals?

MR. ROYALS: Yes, Your Honor.

THE COURT: Okay. And does the solicitor's office
have any position about that? I -- I appreciate --
I'll note for the record that Mr. Scalzo, the chief
public defender in the 13th Circuit, is present for

1 his hearing and I certainly appreciate his being
2 here and I'm going to hear from him, as well. But
3 anything from the State about this?

4 MR. WILKINS: Your Honor, we -- we don't -- we don't
5 take position on this motion one way or the other,
6 other than sort of based on Mr. -- Mr. Kelly's
7 responses if he -- you know, can't get through
8 Faretta. But he needs to be evaluated but has to
9 have an attorney. I -- I don't want us to do
10 anything to violate Mr. -- Mr. Kelly's rights.

11 THE COURT: Certainly.

12 MR. WILKINS: To do anything to violate Mr. Kelly's
13 rights at this -- at this juncture. But, you know,
14 you -- you have the authority to appoint him an
15 attorney whether he wants one or not, I assume. And
16 then the Department of Mental Health can then
17 proceed with their evaluation, hopefully, and --

18 THE COURT: Well, and --

19 MR. WILKINS: -- get through the process.

20 THE COURT: -- and I also think that I have the
21 authority to appoint him an attorney for a limited
22 purpose perhaps.

23 Mr. Kelly, I would just ask you very briefly.
24 Do you understand what's going on here today?

25 THE DEFENDANT: Judge, in proceeding, I do not

1 understand the jurisdiction.

2 THE COURT: Okay. All righty. Thank you, sir.

3 THE DEFENDANT: Uh-huh.

4 THE COURT: Mr. Scalzo, is there anything from
5 the -- from the public defender's office with regard
6 to this?

7 MR. SCALZO: Well, I guess, that depends, Judge. I
8 mean, if we're going to be appointed, then, I guess,
9 I would have -- have to take some kind of legal
10 position. And, I mean, I don't have position on
11 whether or not we're going to be appointed or not.
12 That's --

13 THE COURT: I -- I can tell you where I -- I'm
14 leaning, and that's a very fair point, Mr. Scalzo.
15 I'll tell you where we're leaning. Mr. Kelly
16 indicated somewhat during the last hearing that he
17 didn't want a lawyer even though he's, you know,
18 facing the most serious of charges. He indicated
19 that. I -- like I said, I had some real concerns
20 about his competency and -- during that hearing, and
21 thus ordered a -- an evaluation to be done. I'm not
22 sure that I -- I'm not sure that based on the
23 testimony I heard from Mr. Kelly at the last hearing
24 that I felt like he could knowingly waive his right
25 to have an attorney, and so I'm leaning towards, at

1 this point, appointing the public defender's office
2 for the purpose -- at least at this point, for the
3 limited purpose of assisting Mr. Kelly with regards
4 to this evaluation. Whether that would be a long-
5 term appointment and what the nature of that
6 appointment would be, at this point, I do not know.
7 But it -- but for purposes of assisting in this
8 evaluation -- Mr. Scalzo, anything that you've got
9 with regard to that?

10 MR. SCALZO: Well, the -- the only thing I'll say,
11 Judge, is I understand Mr. Kelly does not want us.
12 I've spoken to Mr. Kelly. He's been very clear to
13 me that he does not want my office to represent him,
14 so I'm, obviously, gonna follow whatever the Court
15 orders me to do, but I want to make clear that it is
16 in -- it is in our effort to kind of get --

17 THE COURT: Okay.

18 MR. SCALZO: -- Mr. Kelly on our representation as I
19 see him walk out.

20 THE COURT: That's okay. That's fine.

21 MR. SCALZO: So, no. That -- that's -- that would
22 be the position I have --

23 THE COURT: Okay.

24 MR. SCALZO: -- right now. Obviously, if you're
25 appointing me, then I will take a legal position.

1 THE COURT: Okay.

2 MR. SCALZO: I don't have a legal position to say,
3 "Well, you -- you should not appoint me."

4 THE COURT: Okay. Well, I -- I do find that based
5 on Mr. Royals's motion that it is necessary to
6 effectuate my order that Mr. Kelly be evaluated by
7 the Department of Mental Health. It is necessary
8 that Mr. Kelly be represented. At least at this
9 point, Mr. Kelly has said that he did not want to be
10 represented. I do not -- I'm not entirely sure
11 based on my concerns from the last hearing that he
12 could knowingly waive his right to an attorney;
13 however, I will only appoint the -- the public
14 defender's office, at this point, for the limited
15 purpose of assisting in the evaluation. Any further
16 representation that that will -- we'll have to take
17 that up after the evaluation and certainly based
18 upon the results of that evaluation, all right?

19 MR. SCALZO: I understand that, Judge.

20 THE COURT: Yes.

21 MR. SCALZO: Can -- can I take a position then?

22 THE COURT: Go right ahead.

23 MR. SCALZO: It -- as his lawyer even for this
24 limited purpose. I guess what I would say, Judge,
25 is, one, an unwillingness to cooperate isn't

1 necessarily a lack of competence is the preliminary
2 thing, so I -- I would object to him being
3 evaluated. But, secondarily, if -- if you're gonna
4 forward with the evaluation, I'm gonna move that it
5 be done with -- whether we want to say "under seal"
6 or in some limited capacity because if he's -- if he
7 is competent, then the State has gotten a free run
8 at a psychological evaluation. If he is not
9 competent, then if I'm the lawyer, I can evaluate,
10 and I can make a proper motion, but there's no need
11 to have DMH, in essence, share his psychological
12 evaluation with the State. So I -- I'm gonna move
13 for some limited basis in terms of what is provided
14 at least initially unless there's an actual motion
15 for a competency, you know --

16 THE COURT: Does --

17 MR. SCALZO: -- determination.

18 THE COURT: Does the State have a position with
19 regard to that, Solicitor Wilkins?

20 MR. WILKINS: And if -- if I understand. So is --
21 is Mr. Scalzo asking to -- to have him evaluated,
22 but not share it with the State --

23 THE COURT: Right.

24 MR. WILKINS: -- is that -- is that what he's -
25 I -- I think we're entitled to it, Your Honor.

1 MR. SCALZO: What I'm saying is I don't think he
2 should be evaluated because there really isn't
3 evidence of lack of competency, he's just being --

4 THE COURT: I -- I based that --

5 MR. SCALZO: -- uncooperative.

6 THE COURT: -- on the last -- I -- I based on the
7 last hearing, not only by his responses, which were,
8 of course, noncooperative, but --

9 MR. SCALZO: Right.

10 THE COURT: -- but his affect in the courtroom
11 was -- was concerning.

12 MR. SCALZO: Right.

13 THE COURT: And --

14 MR. SCALZO: I mean, if I get a finding based on
15 (audio distortion) -- I would object as his lawyer.
16 If it's going to go forward, then I say it should be
17 done on a limited basis until we find out what the
18 information is because while we have a suspicion and
19 it may be the Court's finding's not reasonable, we
20 don't really know what the finding is going to be
21 until we get it. And we can't unring that bell if
22 that bell is, you know, rung for the State here.

23 THE COURT: All right. Here's what I'm gonna do.
24 And -- and, Mr. Royals, is there anything from
25 the -- from the Department of Mental Health with

1 regard to this?

2 MR. ROYALS: Yeah. Thank you, Your Honor. As a
3 nonparty, we do not have a position on that. I did
4 just want to call the -- the Court's attention to
5 both your already executed order from the 17th, and
6 it's part of the draft order for competency
7 evaluations. On Page 4, the -- the entire paragraph
8 related to the issuance and the admissibility of the
9 written report. It -- it does indicate that the
10 report will be forwarded to both the prosecutor and
11 defense counsel, but it does also touch on some of
12 Mr. Calz -- Scalzo -- excuse me -- concern regarding
13 what that information can be used for moving
14 forward. Any of the information that is related to
15 that competency evaluation could only be used for
16 competency purposes and would, in theory, not be
17 used for any other purposes down the road.

18 THE COURT: All right.

19 MR. SCALZO: Yeah. But, Judge, the -- the --I've
20 always objected to that language in -- in -- in the
21 order, but -- but even if we assume that that is
22 fair, puts us in a situation where if the defendant
23 is saying, "Hey, Steve, I want you to evaluate me.
24 I'm going to utilize the, in essence, free
25 evaluation," then it comes with some strings

1 attached. Mr. Kelly doesn't want to be evaluated.
2 I'm not asserting that he be evaluated. This is
3 being ordered for him to be evaluated over his
4 objection, I don't think the State should get a free
5 ride. Even if they can't use it, they get to see
6 it. They get to understand and they get to utilize
7 it in their strategy. And to protect his interest,
8 I mean, it would be my job to make sure that that
9 objection is limited to this evaluation. The State
10 certainly is going to see it if -- if he is
11 determined to be noncompetent there's gonna have to
12 be a basis for the noncompetency, so, at that point,
13 it'd have to be shared. I just don't know if DMH is
14 gonna determine that he is not competent. What if
15 they find him competent?

16 THE COURT: All right. Here's what I'm gonna do.
17 If -- if the Department of Mental Health finds him
18 to be competent, I'm gonna order that the report --
19 I'm gonna amend my previous order -- I'm gonna order
20 that the report at least be provided only to the
21 defense and to the State -- I mean, excuse me -- and
22 to the -- and to -- and to me. I -- I can tell you,
23 Mr. Scalzo, I am probably gonna turn that over to
24 the State because I believe they're entitled to it.
25 But I will do a brief en camera review of that

1 evaluation once it's issued.

2 Could I ask, Ms. Barringer, for you to prepare
3 an order in this case?

4 MS. BARRINGER: Yes, Your Honor.

5 THE COURT: Thank you very much.

6 All right. This concludes the hearing. Thank
7 you.

8 MR. SCALZO: Thank you, Judge.

9 THE DEFENDANT: Thank you, Judge.

10 MR. WILKINS: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (Whereupon, the within hearing was
13 concluded at 9:58 a.m.)

14 (*This transcript may contain quoted material.
15 Such material is reproduced as read or quoted by the
16 speaker.)

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2020A2330210329
COUNTY OF GREENVILLE	)	2020A2330210350
	)	2020A2330210351
	)	2020A2330210352
	)	2020A2330210353
	)	2020A2330210354
	)	2020A2330210355
STATE OF SOUTH CAROLINA,	)	2020A2330210322
PLAINTIFF,	)	2020A2330210323
	)	2020A2330210324
vs.	)	2020A2330210325
	)	
RAY L. KELLY,	)	
DEFENDANT.	)	TRANSCRIPT OF RECORD
_____	)	

May 13, 2021
Greenville, South Carolina

B E F O R E:

THE HONORABLE LETITIA H. VERDIN, JUDGE

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

WILLIAM WALTER WILKINS, III, ESQ.
Attorney for the Plaintiff

CHERYL A. SMITH
Circuit Court Reporter

INDEXPAGE

There were no witnesses called.

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

(Court's Exhibit)

1	*Department of Mental Health Evaluation	6	

*Exhibit was sealed by the Court.

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 1:59 PM.)

THE COURT: Mr. Kelly, you and I met a couple of months ago when I was giving you some warnings with regard to representation. I encouraged you to have representation. You indicated during that hearing that you did not want representation. Mr. Scalzo, the chief public defender of our circuit, had offered to represent you, and I think he's somewhat what we call stood with you for that hearing but did not represent you. I think he's come down and spoken with you again since you had an evaluation done, and you indicated to him and you indicated to me that you are not interested in having an attorney represent you in this case. I had some concerns. I wanted to make sure you are competent to be able to make that decision and that you'd be competent to represent yourself.

You went, had an evaluation, and I appreciate your cooperation with that evaluation. That evaluation has since been returned to me for the Court's use, and based on that evaluation, I found that you are competent. So I brought you back here today to ask you one last time if you want to have an attorney appointed for you, or do you want to proceed without an attorney, or are you hiring an attorney, a licensed attorney in South Carolina. So

1 that's what I brought you back here for today. And so
2 I'll turn it over to you and ask you, do you want
3 Mr. Scalzo to represent you?

4 DEFENDANT KELLY: Do I need to stand to speak?

5 THE COURT: Please do, just because the monitor.

6 DEFENDANT KELLY: For the record, I refuse all
7 proceedings. I object to all proceedings. I do not agree
8 to any adhesion contracts nor any assumption or
9 presumption that I've agreed to any contracts with this
10 court.

11 THE COURT: I've got you.

12 DEFENDANT KELLY: I accept the charges for value and
13 consideration, and in return, please use my exemption in
14 principle and full settlement and closure of this case.
15 Use -- use of the order, trust account number 068-70 [REDACTED]
16 as this account is prepaid and exempt from levy.

17 THE COURT: Okay. All right. Mr. Kelly, I'm going
18 to take that as you do not want Mr. Scalzo to represent
19 you in this case, and I'll just take it as you are doing
20 exactly what you said last time, and that is that you did
21 not want to have an attorney and you'd be representing
22 yourself, I believe.

23 I do want to inform you of this. Nothing else we
24 brought you over here for today. I'm going to attach the
25 evaluation to be an exhibit in this hearing. I'm going to

1 have it sealed because it was not for use by the
2 prosecutor, but rather by use for the Court and your
3 attorney if you did have one.

4 I do need to inform you that if you are representing
5 yourself, that you need to file everything through the
6 clerk of court's office. And I also need to inform you
7 that that cannot be someone else doing these things for
8 you. That would constitute the unauthorized practice of
9 law. Only you can represent you. You have the right to
10 do that before this court. But anyone else who represents
11 you who does not have a valid South Carolina bar license
12 is prohibited from filing things. That would be the
13 unauthorized practice of law, all right?

14 DEFENDANT KELLY: Only for the record, I request the
15 Court instruct the prosecution to certify my right to
16 subrogation.

17 THE COURT: All right. Is there anything else from
18 the State?

19 MR. WILKINS: No, Your Honor.

20 THE COURT: Very well.

21 MR. WILKINS: We understand the Court's ruling and
22 we'll proceed with the case.

23 DEFENDANT KELLY: Objection. Hearsay. Objection.

24 THE COURT: All right. Okay. Mr. Kelly, whatever
25 that you are trying to do here today is not going to be

1 successful in terms of slowing this process down. The
2 process is going to move forward. But I wish you the best
3 of luck, and that concludes our hearing.

4 DEFENDANT KELLY: I object to all proceedings. I
5 object.

6 THE COURT: Okay.

7 (WHEREUPON, proceedings concluded at 2:03 PM; Court's
8 Exhibit Number 1 was marked for identification.)
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1 State of South Carolina) Court of General Sessions
2 County of Greenville) Thirteenth Judicial Circuit
3
4 State of South Carolina,) Transcript of Record
5 vs.) 2020-GS-23-06551
6 Ray L. Kelly,)
7 Defendant.)

8
9 November 16, 2021
Greenville, South Carolina

10 B E F O R E:

11 The Honorable Edward W. Miller, Judge

12
13 A P P E A R A N C E S:

14 William Walter Wilkins, III, Solicitor
15 Grace H. Barringer, Assistant Solicitor
On behalf of the State of South Carolina

16 Ray L. Kelly, Pro Se Defendant

17
18 Reported by: Stacy S. Johnson,
19 Circuit Court Reporter
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I N D E X

PAGE

Certificate of Reporter

21

E X H I B I T S

NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held November 16,
2 2021, beginning at 12:09 PM.)

3 BAILIFF: All rise. Court is now in session. The
4 Honorable Judge Edward W. Miller presiding.

5 THE COURT: Thank you. Please be seated.

6 Okay. Yes, sir.

7 MR. WILKINS: Yes, Your Honor. May it please the
8 Court? Walt Wilkins for the State. Your Honor, this
9 is the case of State of South Carolina versus Ray Kelly.
10 Your Honor, there's about seven or eight indictments
11 that have been issued to Mr. Kelly. I can give those --
12 those out -- those numbers out if you want or if you --

13 THE COURT: That's all right.

14 MR. WILKINS: -- we're good.

15 And the purpose of -- of this hearing is, namely,
16 to issue him Faretta warnings. Mr. Kelly has proceeded
17 without an attorney. He had a public defender for a
18 short time who has been relieved as counsel, but we
19 want to advise Mr. Kelly of his Faretta warnings about
20 proceeding without an attorney and also explain the
21 pre-trial roster system that we have here and -- and
22 update him on that and we can update for the record,
23 Your Honor, discovery and the things that we have done
24 to make sure that Mr. Kelly had access to all of his
25 discovery as well. I just want to make sure the record

1 is clean on all of that stuff, so.

2 THE COURT: All right. What is -- what's the
3 timeline looking like here?

4 MR. WILKINS: Your Honor, he was put on the pre --
5 pre-trial roster, so it's eligible to be called, I
6 think, in December, but the timeline most likely is
7 February or March.

8 THE COURT: Okay.

9 MR. WILKINS: And we -- we can get into it, Your
10 Honor. I just want to let Your Honor know there is --
11 we've talked with prosecutors up in New York and it
12 appears that Mr. Kelly likes to go pro se and claim
13 that we don't have jurisdiction over him and those types
14 of things and then when they get to the eve of trial to
15 then ask for an attorney in an attempt to delay, so our
16 effort is to -- to keep that from happening again.

17 THE COURT: Okay.

18 MR. WILKINS: So if standby counsel needs to be
19 appointed, we would -- we would let the Court know that
20 that may be something you want to consider so that when
21 we do get to a trial date we are prepared to go forward
22 and everybody is ready to go.

23 THE COURT: Okay.

24 MR. WILKINS: Thank you, Your Honor.

25 THE COURT: All right. Mr. Kelly, how are you

1 doing?

2 THE DEFENDANT: (No response.)

3 THE COURT: Okay. Well, I understand you are
4 Ray L. Kelly. You are indicted for trafficking cocaine
5 base, 28 to 100 grams. I believe it's a third offense;
6 is that right?

7 MR. WILKINS: Yes, Your Honor.

8 THE COURT: Third offense. You're indicted for
9 murder. You're indicted for possession of a weapon
10 during the commission of a violent crime. You're
11 indicted for resisting arrest with assault.

12 And let me back up. The third offense trafficking
13 case carries twenty-five to what?

14 MR. WILKINS: Thirty.

15 THE COURT: To thirty. I will tell you that's a
16 most serious offense. It's a violent offense, which
17 impacts parole eligibility. The most serious offense
18 nature of it means that if you get convicted of that and
19 one other most serious offense, you're eligible for life
20 in prison without parole.

21 Murder carries thirty years to life. It's violent
22 and it's a most serious. Possession of a weapon during
23 the commission of a violent crime carries five years.
24 Resisting arrest with assault carries ten. You've got
25 two of those. You've got a resisting arrest with a

1 deadly weapon.

2 Is that ten?

3 MR. WILKINS: Two to ten, Your Honor.

4 THE COURT: Two to ten mandatory minimum. Assault
5 and battery high and aggravated nature, that carries
6 up to twenty, and that's also violent and most serious.
7 Speeding over fifteen miles per hour. I'm not sure of
8 that penalty. Following too closely. Driving without
9 a license. Giving false information to police.

10 So you're looking at life in prison without parole,
11 okay? And it's pretty serious stuff.

12 You have to understand that under our Constitution,
13 state and Federal, you have an absolute right to be
14 represented by an attorney, and if you can't afford one,
15 one will be appointed to you. In fact, you had one
16 appointed to you and for some reason that attorney was
17 relieved.

18 I will tell you that you also have a constitutional
19 right to represent yourself. You can go without an
20 attorney, what we call pro se. If you do that, I want
21 you to understand that representing yourself can be
22 dangerous and you do have a right to the assistance of
23 an attorney at all stages of the proceedings and if
24 you can't afford one, one will be appointed to you.

25 I would also inform you that criminal defense is

1 a highly specialized and technical area of the law.
2 There may be certain factual, legal or other defenses
3 to your charges and if you choose to proceed without
4 the services of an attorney, you may not be aware of
5 certain defenses.

6 There may be issues related to the conduct of the
7 trial or a guilty plea that could arise in the future
8 that you are -- may not be aware of. Your attorney
9 would be responsible to be aware of those issues and
10 tell you, advice you, how to properly address them in
11 the court and, if necessary, preserve issues for
12 appellate review.

13 There may be collateral consequences of a conviction
14 or plea that you're not aware of, including, but not
15 limited to, you could -- you could face increased
16 penalties for subsequent offenses, suspension of your
17 driver's license, a restriction of your right to possess
18 firearms or ammunition. And I don't know if there's any
19 immigration issue with your current circumstance, but
20 that could be affected as well. And if you exercise
21 your right to proceed without the services of a lawyer,
22 you are responsible for complying with all the rules
23 of the court, including rules of evidence, procedural
24 rules and proper behavior before the Court and/or a
25 jury.

1 You understand that if you waive screening for a
2 court-appointed attorney you are not responsible --
3 that you responsible for hiring a private attorney if
4 you decide you want one.

5 Those are what we call Faretta warnings that the
6 United States Supreme Court has kind of outlined so that
7 people in your circumstance will be aware.

8 Do you understand all of that?

9 THE DEFENDANT: No, sir.

10 THE COURT: No? What is it you don't understand?
11 Please tell me.

12 THE DEFENDANT: I don't -- I don't understand
13 what's going on. Let the record reflect that I reserve
14 all my rights, waiving none. The Court has yet to state
15 what jurisdiction they're operating under. It doesn't
16 seem to be operating under common law jurisdiction. The
17 prosecution has no firsthand knowledge of any of the
18 details of this alleged matter, so I object to everything
19 that they're saying.

20 And I object to the proceedings because the Court
21 has not taken judicial notice of your oath of office and
22 I have no idea what's going on.

23 I do not understand -- I do not understand the
24 language, I do not understand legalese, and I have no
25 idea what's going on.

1 THE COURT: Huh. Well, that's a little surprising.
2 You had a lawyer, right? You had one appointed.

3 THE DEFENDANT: I stand before the Court *propria*
4 *persona*. No one represents me.

5 THE COURT: Yeah, you had one and you asked that
6 he be relieved, wow, and now you claim you don't
7 understand with that is all about. I'm not sure I
8 believe what you're telling me now.

9 THE DEFENDANT: The Court is in violation of my
10 Speedy Trial Act rights that's protected by the
11 Constitution of the United States. I'm sitting here
12 under the presumption of innocence with no bond.

13 THE COURT: You definitely are, yeah. That's
14 correct.

15 THE DEFENDANT: So, therefore, I have no idea --
16 you guys don't seem to be operating under common law
17 jurisdiction, so I don't understand the proceedings, I
18 do not consent to the proceedings, and I object to the
19 proceedings.

20 THE COURT: Okay. That's good. All of this is
21 being taken down, so I would caution you before you say
22 too much don't say anything about the facts of the case
23 because it could be used against you at trial.

24 I have been informed that he has been evaluated
25 by the appropriate psychiatric personnel.

1 MR. WILKINS: Yes, Your Honor. In -- in March,
2 the Department of Mental Heath did an evaluation, I
3 think it was a virtual evaluation in March, and in May
4 of this year there was a hearing relieving the public
5 defender's office and they sealed the evaluation,
6 although the public defender's office, as well as the
7 Court, found him competent to -- to proceed.

8 THE COURT: Okay.

9 MR. WILKINS: So we have not had access. I don't
10 know what's in the -- in the evaluation, but the Court
11 has already found and we continue to pursue that he's
12 competent and we believe he is competent.

13 THE COURT: Okay. Good.

14 Well, you sound intelligent. You're well-spoken,
15 Mr. Kelly.

16 Now I ask you, do you want a lawyer?

17 THE DEFENDANT: I do not agree to any adhesion
18 contracts nor the assumption or presumption that I've
19 agreed to any contracts with this Court. I object to
20 all proceedings. I stand before the Court propria
21 persona. I'm a flesh and blood living being. I'm not
22 a corporation. I do not understand what's going on.
23 This Court has not recognized on the record what
24 jurisdiction are you operating under.

25 THE COURT: Well, you know, all that sounds

1 coherent, coherently spoken, and I'm not sure what
2 you're trying to accomplish with that. The most
3 important thing is --

4 THE DEFENDANT: It's a simple question, Judge.
5 Under what jurisdiction is this Court operating?

6 THE COURT: The most important --

7 THE DEFENDANT: Are you operating under common
8 law jurisdiction?

9 THE COURT: The most important thing for you to
10 consider I -- one of the most important things is
11 preservation of the record for appellate purposes,
12 which an attorney is gonna be much more familiar with.

13 THE DEFENDANT: I reserve all my rights waiving
14 none.

15 THE COURT: Well, we're gonna -- we're gonna
16 preserve all your rights.

17 THE DEFENDANT: I do not give up any of my right.
18 I do not agree to any continuances. I do not agree to
19 any of the proceedings. I object to all proceedings
20 and I object to all of the hearsay that's coming out
21 of the prosecutor's mouth.

22 THE COURT: Okay. Well, that's noted for the
23 record. I don't think there's any merit to what you're
24 saying, but I'm -- so I'm just here to find out whether
25 or not you want an attorney. And you can have one who

1 can give you full representation or I'll be happy to
2 appoint someone to serve as backup counsel, can give
3 you advice during the course of the proceedings when
4 you requested it.

5 What are your feelings about that, Mr. Kelly?

6 THE DEFENDANT: My feelings are irrelevant to the
7 case.

8 THE COURT: Okay. Well, I'll change the adjective.
9 What do you -- would you like to have an attorney
10 appointed as backup counsel for you?

11 THE DEFENDANT: I do not understand what's going
12 on. I object to all proceedings. You still have not --

13 THE COURT: Okay. Let's -- you've got a driver's
14 license.

15 THE DEFENDANT: Like what jurisdiction is this
16 Court operating under?

17 THE COURT: Does he have a driver's license?

18 MR. WILKINS: Yes, Your Honor.

19 THE COURT: Okay. He was -- he was driving on
20 the highways of this state when this offense occurred?
21 Is that the theory of the State's case?

22 MR. WILKINS: He -- he was, Your Honor. He
23 was alleged -- he was driving on the Highway 85 in
24 Greenville county. He was pulled over by Greenville
25 County sheriff's deputies.

1 THE COURT: Okay. All right.

2 Well --

3 THE DEFENDANT: Let the record reflect that I
4 challenge the subject matter jurisdiction.

5 THE COURT: Okay. Well, that's fine. Again --

6 THE DEFENDANT: Let the record reflect that the
7 Court has still refused to elaborate under what
8 jurisdiction they are operating.

9 Is this Court operating under common law
10 jurisdiction? Has the Court taken judicial notice of
11 your oath of office?

12 THE COURT: That has nothing to do with this case.

13 THE DEFENDANT: Let the record reflect that the
14 judge is operating and practicing law from the bench,
15 acting ultra varies and I continuously object to all
16 proceedings. I do not understand what's going on
17 because I don't understand the jurisdiction.

18 THE COURT: Okay. Well, I will just -- you know,
19 Mr. Kelly, I -- you -- it could be characterized that
20 your behavior is trying to play a game with the Court
21 and I'm just trying to decide whether or not I appoint
22 somebody to act as backup counsel for you in case you
23 want them because we're not gonna wait until the last
24 minute and have you pull some shenanigans with respect
25 to representation by an attorney.

1 Do you have any input into that?

2 THE DEFENDANT: I object to all proceedings.

3 THE COURT: Totally object? Well, you're being
4 very difficult here, Mr. Kelly.

5 All right. Well, I think what I'm gonna do is
6 I'm gonna appoint someone off the 608 list to serve
7 as backup counsel.

8 Have you provided all of the discovery to
9 Mr. Kelly?

10 MR. WILKINS: Yes, Your Honor, and I can go through
11 that for the record.

12 THE COURT: All right.

13 MR. WILKINS: I'd ask Your Honor if any -- any
14 objections that he's made, if you would just rule on any
15 objection or challenges, I'll assume those as motions,
16 challenges, if those could be denied for the record.

17 I think he challenged subject matter jurisdiction.
18 We would argue that you do have subject matter and
19 general jurisdiction over this particular case and --

20 THE COURT: Okay.

21 THE DEFENDANT: I object to that. That's hearsay.
22 I object to that as hearsay.

23 THE COURT: Talk to the --

24 THE DEFENDANT: He has no firsthand knowledge of
25 any of the facts of this alleged offense, so anything

1 he says is hearsay.

2 THE COURT: Okay. With respect to your objections,
3 overruled.

4 Now tell us about the discovery.

5 MR. WILKINS: All right. Your Honor, we began
6 giving Mr. Kelly discovery early on in this case and
7 we provided him paper copies of the entire file, so
8 it's -- it's a couple of thousand pieces of paper.

9 There are a number of videos. Actually there are
10 a lot of videos. There's about 70 hours of body camera
11 video. So we provided a laptop that was given to the
12 jail under the custody of John Vandermosten, who runs
13 the jail. He has set that computer up and every couple
14 of hours -- couple of hours during the week he is
15 provided access to that computer so that he can review
16 every minute of those videos as well.

17 There's also other cell phone downloads as well
18 that are on there that he's been able to do that
19 relevant to this case, so he's been provided all
20 discovery and access to view or read all of the
21 discovery in this case.

22 We -- if you calculated up the hours for him
23 to be able to review all the cameras footage, he's
24 probably about three-fourth's of the way through the
25 amount of hours that would be needed to watch every

1 single minute of -- of the case. And the jail, John
2 -- John Vandermosten, has documented that along the way
3 and he's able to provide that to the Court on exactly
4 what he's given and how long, any access to the computer
5 that we've provided Mr. Kelly there.

6 THE COURT: Okay.

7 MR. WILKINS: So that is -- that can all be
8 documented as well.

9 THE COURT: I want to ensure that the trial date
10 is not set until there's been a full expiration of
11 the time.

12 MR. WILKINS: Absolutely. Yes, we would -- we
13 would make sure of that, Your Honor.

14 There are -- there are two things that he has not
15 been provided. One is the autopsy photos, which we
16 don't hand out to -- we would hand to his -- we would
17 have his -- his lawyer would be able to view them, so
18 if Mr. Kelly would like to actually view them, we would
19 provide him that opportunity to view them, but not have
20 copies of them obviously.

21 And then in his phone -- there are a number of
22 phones that were -- download extractions were --
23 occurred. There are unrelated photos and videos,
24 many of a pornography-related nature that we did not
25 provide over there, just the related materials. If

1 Mr. Kelly wanted to sit down and look at the entire
2 phone download, we would certainly provide him that
3 ability, but we would need notice and availability to
4 go do that.

5 THE COURT: Okay.

6 MR. WILKINS: But other than that, all discovery
7 has been complied with as well.

8 THE COURT: All right. Mr. Kelly, is there any --
9 do you have any comment on the --

10 THE DEFENDANT: Let the record reflect that I do
11 not understand what's going on. I do not understand
12 the jurisdiction. I do not understand.

13 THE COURT: Okay. Well, that's where an attorney
14 could help you, but -- and I am gonna appoint a standby
15 counsel.

16 THE DEFENDANT: I object.

17 THE COURT: Okay. Well, that objection's overruled
18 clearly.

19 The Court does have jurisdiction. The crime was
20 committed within the boundaries of this county and within
21 the boundaries of this state and that is elemental --
22 or jurisdiction is elemental based on that.

23 THE DEFENDANT: I want to know for the record
24 what jurisdiction is this Court operating under? Are
25 you operating under common law jurisdiction?

1 THE COURT: Another thing that you probably need
2 to understand is that I don't answer your questions,
3 okay?

4 So --

5 THE DEFENDANT: I don't understand.

6 THE COURT: Okay. Well, I just think that you
7 would be better off with an attorney. We're gonna
8 provide this standby counsel.

9 Do you have anything you want to say with respect
10 to your -- the discovery that has been described to me?

11 THE DEFENDANT: I do not understand.

12 THE COURT: Okay. I -- with all due respect, I --
13 I don't think that that's correct, but...

14 All right. Anything else we can take care of?

15 MR. WILKINS: One final thing, Your Honor. You
16 know, we have put this on the pre-trial roster, and in
17 effort to explain that to Mr. Kelly, is that once the
18 pre-trial roster has been -- a case has been placed on
19 there, thirty days has passed, the case can be called
20 for trial once that thirty days has expired. So the
21 case could be -- could be called for trial as early as
22 December. Not likely, Your Honor, based on December
23 is already full with other trials, so it would be in
24 the early part of next year would be the approximate
25 time for trial just for notice -- notice to Mr. Kelly.

1 THE COURT: Okay.

2 All right. Do you understand that, Mr. Kelly?

3 THE DEFENDANT: I do not understand.

4 THE COURT: You don't understand the Gregorian
5 calendar? Okay. I'm sorry. I don't believe you.

6 All right. Well, I can't -- is there anything
7 else we need to cover?

8 MR. WILKINS: No, Your Honor.

9 THE COURT: Any -- anything from you, Mr. Kelly?
10 Anything else you want to cover?

11 MR. WILKINS: The -- the only thing there is,
12 there is a motion to sever by a co-defendant Tornell
13 Laureano. She was charged with trafficking cocaine 28
14 to 100 grams first offense. She was a passenger in the
15 -- in the car in this case, Your Honor.

16 So that motion will need to be heard at some point
17 in time in the future. So it is related to Mr. --
18 Mr. Kelly's case because they are co-defendants in this
19 case.

20 THE COURT: All right.

21 MR. WILKINS: Nothing else.

22 THE COURT: Do you have any comments on that,
23 Mr. Kelly? I'm gonna give you an opportunity to
24 speak.

25 THE DEFENDANT: I do not understand.

1 THE COURT: Okay. Well, a motion to sever is,
2 whoever your co-defendant is, you're both charged in
3 the same case and she is, I guess, asking to sever
4 defendants?

5 MR. WILKINS: She is.

6 THE COURT: She doesn't want to be tried with you.
7 Do you understand that?

8 THE DEFENDANT: I do not understand that.

9 THE COURT: You don't understand that? Okay.
10 Well, we'll have to have a hearing on that at some
11 point and you should consider how you want to engage
12 with that issue when the time comes, Mr. Kelly.

13 Okay. Any other comments or complaints or worries
14 that you have, Mr. Kelly?

15 THE DEFENDANT: Let the record reflect that I
16 reserve all my rights, waiving none, including my right
17 to a speedy trial by jury.

18 THE COURT: Okay. Well, you're gonna get that.

19 And if those are all your comments, concerns or
20 complaints, then we'll adjourn this hearing.

21 Thank you.

22 (Whereupon, the proceedings were concluded at
23 12:31 PM.)

24

25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2020-GS-23-06536
	)	2020-GS-23-06540
	)	2020-GS-23-06541
	)	2020-GS-23-06542
	)	2020-GS-23-06547
	)	2020-GS-23-06548
STATE OF SOUTH CAROLINA,	)	2020-GS-23-06550
	)	2020-GS-23-06551
	)	2020-GS-23-06552
vs.	)	2020-GS-23-06557
	)	
RAY L. KELLY,	)	TRANSCRIPT OF RECORD
DEFENDANT.	)	
_____	)	

June 27, 2022
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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

W. WALTER WILKINS, III, ESQ.
Solicitor

CASSANDRA P. GORTON, ESQ.

MINDY H. LIPINSKI, ESQ.
Circuit Public Defender

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: All right. Solicitor --

MR. WILKINS: Yes, sir.

THE COURT: -- will you introduce the case before us, please?

MR. WILKINS: Yes, sir. This is the case of the State vs. Ray Kelly.

I think we're here on Defense Counsel's motion to be relieved as counsel and have substitute counsel appointed as standby counsel.

THE COURT: Okay.

MR. WILKINS: And the definition to which you have been very distinct and obvious about.

THE COURT: All right. Yeah.

Yes, ma'am.

MS. GORTON: Yes, Judge. As we discussed at the status conference, I have a conflict. And I understand that Family -- that General Sessions trumps Family Court. But I would respectfully ask the Court to allow me to attend that Family Court trial during the week of September 26th.

I'm flexible, I mean, if we could reschedule. But as we discussed at the last status conference, the State indicates they're in -- unable to schedule it for any other week.

1 That Family Court case was set prior to General
2 Sessions. I know it doesn't matter in the priorities. It
3 is an A case, which means that it's first to go. It's a
4 three-day trial. It's been pending well over a year. And
5 it's very complex. I'm the guardian ad litem in that
6 case. And it involves mental illness. It involves
7 suicide attempts --

8 THE COURT: Okay. That's -- I -- I don't need to
9 hear any more about that.

10 MS. GORTON: Okay.

11 THE COURT: Do the -- how is your current relationship
12 with Mr. Kelly?

13 MS. GORTON: He, finally, did come down to a ProV
14 visit, but he would not discuss the case. My experience
15 has been he either refuses -- or refuses to discuss the
16 case. I believe Mr. Kelly's position is that I have no
17 authority, even as standby counsel, to be meeting with
18 him. Because he objects to me being standby counsel, I
19 think.

20 THE COURT: All right.

21 MS. GORTON: That's what I understand.

22 THE COURT: All right. Thank you.

23 Mr. Kelly, anything you want to tell me?

24 DEFENDANT KELLY: Let the record reflect that I
25 reserve all my rights. I don't waive any of my rights.

1 For the record, she's not my counsel. I don't know
2 who she is. I did not hire her. And I object to the
3 proceedings. I challenge subject matter jurisdiction.

4 And who is the State? Who is the State? I would
5 like to know. That's a question that I have. Who is the
6 State? Because --

7 Mr. Solicitor, can you provide --

8 THE COURT: No --

9 DEFENDANT KELLY: -- a birth certificate or documents
10 stating --

11 THE COURT: Mr. Kelly --

12 DEFENDANT KELLY: -- that -- your name as the State?

13 THE COURT: Mr. Kelly, you address me. And --

14 DEFENDANT KELLY: Can you provide a birth certificate
15 or any documentation with your name as the State, sir?

16 THE COURT: Okay. I see the Circuit Public Defender
17 in the courtroom, Ms. Lipinski.

18 MS. LIPINSKI: Yes, Your Honor.

19 DEFENDANT KELLY: I demand that all of these charges
20 be dropped or I'll be filing a federal lawsuit --

21 THE COURT: Okay.

22 DEFENDANT KELLY: -- against you, against the Court,
23 and against the Solicitor.

24 THE COURT: Okay. Thank you for that advance --

25 DEFENDANT KELLY: I object to -- no -- no one is my

1 counsel. No one is my lawyer. No one represents me.

2 THE COURT: Okay. Well, Ms. Lipinski --

3 MS. LIPINSKI: Yes, sir.

4 THE COURT: -- as Circuit Public Defender, I am going
5 to substitute you in as standby counsel and --

6 DEFENDANT KELLY: I object.

7 THE COURT: And thank you very much.

8 DEFENDANT KELLY: I object.

9 THE COURT: Okay. Thank you very much.

10 DEFENDANT KELLY: No one is my counsel.

11 THE COURT: Okay. And relieve Ms. Gorton.

12 DEFENDANT KELLY: You will, also, be named in the
13 federal lawsuit.

14 THE COURT: Okay. Thank you for that advance
15 warning.

16 Thank you very much.

17 So, Ms. Gorton, you're relieved. I would require
18 that you turn over to Ms. Lipinski any and all documents
19 related to this case. And, also, at Ms. Lipinski's
20 request, if she should need to meet and talk with you,
21 then as part of this order, I would require you to do
22 that.

23 MS. GORTON: Yes, sir.

24 DEFENDANT KELLY: I object.

25 THE COURT: Well, thank you.

1 DEFENDANT KELLY: I object to anyone standing in as
2 counsel.

3 THE COURT: Okay. Well, they probably won't have a
4 big role because --

5 DEFENDANT KELLY: Mr. Solicitor, can you provide
6 documentation such as a birth certificate with your name
7 as the State? That's the question, sir.

8 THE COURT: Okay. Ms. Lipinski, anything --

9 DEFENDANT KELLY: I take that as a no.

10 THE COURT: Ms. -- Ms. Lipinski, anything --

11 DEFENDANT KELLY: Let the record reflect that the
12 Court has not properly identified itself or its
13 jurisdiction. And I object to the proceedings. And I
14 challenge subject matter jurisdiction.

15 THE COURT: Okay. Thank you very much.

16 Ms. Lipinski, anything you -- at this time?

17 MS. LIPINSKI: Just, Your Honor, I understand it's
18 somewhat late in the game, but I just want to clarify, for
19 the record, I've looked at my calendar. I think I could
20 meet with Mr. Kelly, at least, twice a month between now
21 and when the trial is scheduled --

22 DEFENDANT KELLY: Let the record reflect I will not
23 be meeting with anyone from this Court.

24 MS. LIPINSKI: I'd be glad to assist him on the
25 record with serving any subpoenas, securing any subpoenas

1 or witnesses or documents that he wishes to have available
2 for him at trial, and answering any legal questions that
3 he has, and help him review any evidence that's been made
4 available to Ms. Gorton or to him personally. I don't
5 know how discovery has been handled.

6 And that I will be here for the duration of the trial
7 to meet with him on breaks and answer any legal questions
8 that he has. And if he objects to me, it may be best that
9 I not sit at counsel table with him. But I will be in the
10 courtroom for the duration of the trial for his benefit,
11 should he need to ask me any questions regarding pre-trial
12 motions, questioning witnesses, or anything else on how he
13 wishes to proceed during his trial.

14 THE COURT: All right. Thank you very much.

15 And this is set for the week of September 21; is that
16 right?

17 MR. WILKINS: September 26th, Your Honor.

18 THE COURT: The 26th.

19 MR. WILKINS: And, just for the record, Mr. --
20 Mr. Kelly is under an attorney order from Judge Verdin.
21 And so I just put that on the record to know that this
22 trial will go forward on September 26th. We'll object to
23 any delays, any request for continuances, substitutions of
24 counsel, or any new counsel that maybe -- may want to show
25 up.

1 THE COURT: Okay.

2 MR. WILKINS: And Mr. Kelly needs to be on -- be
3 aware of that. This trial will go forward on September
4 26th.

5 THE COURT: Okay. Very good.

6 All right. Anything else?

7 Ms. Gorton, I'm going to ask you ask to prepare an
8 order reflecting the rulings of today's hearing.

9 MS. GORTON: Yes, Your Honor.

10 Thank you so much.

11 THE COURT: All right. Is there anything else you'd
12 like to address at this hearing since you're here,
13 Mr. Kelly?

14 DEFENDANT KELLY: Mr. Solicitor, can you provide
15 documentation --

16 MR. WILKINS: Your Honor, if you'll ask him to
17 address the Court, please.

18 THE COURT: I -- I've already done that.

19 Is there anything --

20 DEFENDANT KELLY: Can the Solicitor provide
21 documentation, such as a birth certificate with his name
22 as the State? And who is the person that has a claim
23 against me? Who is the corpus delicti?

24 Because I have a right to face my accuser. So,
25 therefore, if my accuser is the State, can the Solicitor

1 provide documentation, such as a birth certificate with
2 his name as the State?

3 THE COURT: Well, that's not going to be necessary
4 for this case to go forward. But he can, certainly, show
5 you the commission that he's received as a representative
6 of the State, duly elected by the citizenry of the
7 Thirteenth Circuit.

8 DEFENDANT KELLY: Can he provide documentation with
9 his name as the State, such as a birth certificate?

10 THE COURT: Okay. I've answered your question. And
11 is there -- if there's no other issue to address at this
12 time --

13 DEFENDANT KELLY: As I stated, let the record reflect
14 I reserve all my rights, waiving none of them. I do not
15 agree to any adhesion contracts, nor any assumption or
16 presumption that I agree to any contracts with this Court.
17 I'm out -- out of any adhesion contracts.

18 And I demand that all charges be dismissed with
19 prejudice. And if you do not dismiss the charges, as I
20 stated, I will be filing a federal lawsuit against you,
21 against the Court, and against the Solicitor.

22 THE COURT: Well, thank you for that forewarning.

23 And I guess, apparently, there are no other issues.
24 So we'll adjourn this hearing.

25 *****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 27th day of June, 2022.

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

April 7, 2023

Hollie M. Jenkins, Court Reporter

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	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2020-GS-23-05006A
	)	2020-GS-23-06536
	)	2020-GS-23-06541
	)	2020-GS-23-06547
	)	2020-GS-23-06548
	)	2020-GS-23-06550
STATE OF SOUTH CAROLINA,	)	2020-GS-23-06551
	)	2020-GS-23-06552
	)	2020-GS-23-06557
vs.	)	
	)	
RAY L. KELLY,	)	TRANSCRIPT OF RECORD
DEFENDANT.	)	
_____	)	

September 26, 27, 28, and 29, 2022
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE; and a jury.

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

W. WALTER WILKINS, III, ESQ.
Solicitor

GRACE B. MORONEY, ESQ.
Assistant Solicitor

MINDY H. LIPINSKI, ESQ.
Circuit Public Defender

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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P R O C E E D I N G S

1
2 THE COURT: Okay. I understand there's some question
3 from the media. We have handed out an order. It will be
4 followed. Failure to follow the order will result in
5 potential contempt of court. I thought I told everybody
6 that you could stream. You have one camera. And you all
7 share a stream. No live streaming.

8 Can y'all organize that?

9 UNIDENTIFIED MALE: Yes, Your Honor.

10 THE COURT: Okay. Other than that, thank you.

11 And, of course, please follow all the -- the order as
12 outlined.

13 All right. Where -- let's bring Mr. Kelly out.

14 (WHEREUPON, Defendant Kelly entered the courtroom.)

15 THE COURT: Good morning, Mr. Kelly.

16 I hope you're doing well.

17 And as I'm sure you've been informed, we are going to
18 commence the proceedings, which will result in a jury
19 trial on the charges against you.

20 Is there anything you want to say or tell me at this
21 point?

22 DEFENDANT KELLY: On or for the record, I reserve all
23 my rights waiving none. I do not agree to any adhesion
24 contracts, nor the assumption or presumption that I agree
25 to any contracts with this Court.

1 Are you saying the trust that you are now
2 administering is the Ray Kelly trust?

3 THE COURT: So we are going to --

4 DEFENDANT KELLY: Let the record reflect that I'm the
5 beneficiary of the trust. Judge, you are the trustee and
6 you are the executor. As the beneficiary of this trust, I
7 authorize you to handle the accounting and dissolve the
8 constructive trust. I claim my body and my [inaudible]
9 this trust that there is no value in it.

10 THE COURT: Okay.

11 DEFENDANT KELLY: And I object to any and all
12 proceedings as this Court has yet to identify itself not
13 only for the record.

14 What jurisdiction are you operating under?

15 THE COURT: Okay.

16 DEFENDANT KELLY: As beneficiary of the trust, I -- I
17 collapse this trust. There is no value in it. I claim my
18 body. I'm a flesh and blood living man. I'm not a
19 corporation. I am not a U.S. citizen. I am not a
20 defendant. I am not a dissident. I am not a corporate
21 entity.

22 And I object to any and all further proceedings until
23 the Court properly identifies itself on or for the record.

24 THE COURT: Okay. The question I -- you are not --
25 you are dressed in jail garb. I believe regular street

1 clothing has been offered to you; is that correct?

2 (WHEREUPON, there was no response.)

3 THE COURT: Well, for the record, I will say I have
4 been informed that that offer has been made and that you
5 have refused it.

6 DEFENDANT KELLY: I object to any and all proceedings.

7 THE COURT: Okay.

8 DEFENDANT KELLY: I do not consent to the jurisdiction.

9 THE COURT: Okay. I see --

10 Ms. Lipinski.

11 MS. LIPINSKI: For the record, Your Honor, I did meet
12 with Mr. --

13 DEFENDANT KELLY: Let the record reflect she's not my
14 lawyer. She does not speak for me. She is not my
15 representation.

16 I stand before the Court in propria persona sui juris.
17 I do not have no dealings with that lady. I don't know
18 who she is or who she works for. And she does not work
19 for me or with me. Let the record reflect that.

20 MS. LIPINSKI: I understand the limitations on my
21 role. For the record, we did meet with Mr. Kelly both
22 last week and this week. And we did offer dress clothes
23 that would be more appropriate for court. He told me that
24 he was not interested.

25 THE COURT: All right. Thank you very much.

1 DEFENDANT KELLY: I have documents here that I need
2 placed into the record for identification.

3 THE COURT: Before we get to that --

4 And, Ms. Lipinski, you have met with him and he
5 continues to refuse to accept your representation; is that
6 correct?

7 MS. LIPINSKI: Yes, Your Honor. Since the Court
8 appointed me, I've made multiple efforts to meet with
9 Mr. Kelly approximately once a week, although I was in
10 trial one week. A couple of times, there were issues with
11 the jail, me not being able to get to him. But I, for the
12 most part, have met with him.

13 Sometimes, he did engage and ask questions. But most
14 recently, he has refused to speak with me. He'll walk
15 into the visitation area. As soon as he sees me, he'll
16 immediately walk out.

17 In an effort that if I did -- something personal with
18 me, I, also, sent my investigator down there alone to
19 offer to issue subpoenas on his behalf, to file any
20 motions on his behalf, to offer him cloths. And he
21 refused to engage with her as well.

22 So we've made all efforts to make ourselves available
23 for Mr. Kelly and to do those things that I think were
24 appropriate for the role of standby Counsel.

25 THE COURT: Okay. Thank you very much.

1 Anything from the State?

2 MR. WILKINS: A couple of things, Your Honor. The
3 State is providing our witness list for the trial. I'm
4 providing that to Mr. Kelly right here and putting it on
5 the table --

6 DEFENDANT KELLY: I object.

7 MR. WILKINS: -- for him to have.

8 THE COURT: Okay.

9 MR. WILKINS: And so he's been served with a copy of
10 our witness list so we can proceed with trial.

11 I would ask him -- we are -- we are proceeding to
12 trial under his representation pro se. He's representing
13 himself --

14 DEFENDANT KELLY: Let the record reflect that I am
15 not --

16 MR. WILKINS: -- for these matters.

17 DEFENDANT KELLY: -- pro se. I stand before the
18 Court in propria persona sui juris. I am not pro se. Let
19 the record reflect that I am not pro se. I stand before
20 this Court in propria persona sui juris. I am not pro se.

21 MR. WILKINS: Your Honor, we're proceeding as if he's
22 pro se. And I'd ask that you read him the Faretta --
23 Faretta warnings one more time just so that he's fully
24 aware of proceeding and the risks of proceeding at his
25 peril without the -- the assistance of an attorney.

1 THE COURT: Well, let me ask you this, how many times
2 has he received the -- what's known as the Faretta
3 warnings?

4 MR. WILKINS: He received -- twice, Your Honor. This
5 would be the third time. The last time was --

6 THE COURT: Well, I gave it to him in June --

7 MR. WILKINS: -- back in -- November 16th, 2021 is
8 when you gave it to him.

9 THE COURT: All right. Well, I want to check this
10 out.

11 MR. WILKINS: And, Your Honor, I'm prepared to put on
12 all the -- all the Court appearances for the record. But
13 I was going to do that once we had picked a jury and were
14 proceeding to trial.

15 I have a copy of the Faretta warnings, if you want
16 them.

17 THE COURT: Just for the record, how many different
18 attorneys have been assigned to this case?

19 MR. WILKINS: Three, Your Honor. He was, initially,
20 appointed --

21 DEFENDANT KELLY: I object. I have --

22 MR. WILKINS: -- representation --

23 MR. KELLY: -- never had an attorney.

24 THE COURT: Mr. Kelly, I --

25 DEFENDANT KELLY: I have never had anyone

1 representing me. I stand before the Court in propia
2 persona sui juris. No one represents me. No one is my
3 attorney. I have yet to accept an attorney. I have yet
4 to understand the jurisdiction of this Court.

5 I object to anything he's saying. Who is he? He has
6 no personal knowledge of any of the alleged events.

7 Who are you?

8 THE COURT: Mr. Kelly, at some point, there will be
9 repercussions if you continue to -- to interrupt. I hope
10 that's clear to you.

11 All right. Go ahead, Solicitor.

12 MR. WILKINS: Your Honor, he was, initially,
13 appointed representation by Chris Scalzo. Chris Scalzo
14 was relieved. And Cassandra Gorton was -- was appointed
15 to represent him. And she was relieved. And now
16 federal [sic] public defender, Mindy Lipinski is -- is
17 standby Counsel.

18 THE COURT: Circuit Public Defender.

19 MR. WILKINS: Circuit Public Defender.

20 THE COURT: I would note for the record that, at the
21 time, Mr. Scalzo was the Circuit Public Defender.

22 All right. What else did you want to tell me?

23 MR. WILKINS: And, just on the record, that he was
24 read Farettas warnings back in November of 2021. He was
25 also, given an order of appointment and discussed -- well,

1 Your Honor, I can go through the long list or we can save
2 that for pretrial motions right before we go to trial, or
3 I can do it now. I have -- I have a list of all the dates
4 and times he's appeared in court and the purpose of that.
5 And I wanted to put that on the record just for purposes
6 of this trial.

7 THE COURT: Okay.

8 MR. WILKINS: It won't take me two minutes to do it.
9 But I can do it now, or I can do it later before the trial
10 starts --

11 THE COURT: Yeah.

12 MR. WILKINS: -- before the pretrial.

13 THE COURT: Right. Why don't you go ahead and do it now.

14 MR. WILKINS: Okay. Thank you, Your Honor.

15 THE COURT: Do you have a written record that would
16 be suitable to introduce as an exhibit?

17 MR. WILKINS: I don't have a written record of every
18 single proceeding.

19 THE COURT: All right. Well, go ahead.

20 MR. WILKINS: I just have a timeline where on
21 February 16th, 2021, Mr. Kelly made a first appearance
22 after having two bond hearings. And the appearance was
23 with Judge Verdin where he was advised of the charges
24 against him. Judge Verdin --

25 DEFENDANT KELLY: Objection.

1 MR. WILKINS: -- signed an order --

2 DEFENDANT KELLY: Objection. Hearsay.

3 MR. WILKINS: -- an order of appointment of attorney.

4 And he was advised of the right to an attorney and the
5 perils of going forward without one. Competency was
6 discussed to stand trial at that moment. And she ordered
7 a competency evaluation pursuant to Blair.

8 March 10th, 2021, Mr. Kelly was ordered an attorney
9 for limited purposes so the Department of Mental Health
10 could conduct a competency evaluation. Your Honor, that
11 was Circuit Public Defender Chris Scalzo.

12 And On May 13th, Chris Scalzo -- May 13th, 2021,
13 Chris Scalzo was relieved. And the Judge ordered the
14 competency evaluation sealed, and made a finding that Ray
15 Kelly was competent to stand trial on that day.

16 September 13th, 2021, Ray Kelly's previous motions
17 regarding venue and jurisdiction were denied by a formal
18 order.

19 DEFENDANT KELLY: I object. Let the record reflect I
20 have never put a motion in. I have put in writs and
21 affidavits. I have never put in a motion.

22 MR. WILKINS: On November 16th --

23 DEFENDANT KELLY: I object.

24 MR. WILKINS: -- 2021, Your Honor gave Ray Kelly
25 Faretta warnings. And the entire -- the entire form was

1 read to him during that time.

2 June 2nd, 2022, a status conference was held. And
3 the record reflected all the discovery that had been given
4 to Mr. Kelly. And Major Stowers from the South Carolina
5 Department of Public Safety, actually, testified as to the
6 discovery that was given to Mr. Kelly, his ability to
7 review it, that we provided him a computer and access to
8 that computer to review all audio and videos that were
9 available. And Mr. Kelly has been given all discovery
10 pursuant to Rule 5 from the State.

11 June 27, 2022, Counsel was substituted for Mindy
12 Lipinski, the Circuit Public Defender. And she's been
13 appointed standby Counsel. She's here today.

14 And July 1st, 2022, the State received a motion
15 called a Letter Rogatory and Relief. Your Honor has not
16 formally ruled on that motion. It's still pending.

17 DEFENDANT KELLY: Objection. Let the record reflect
18 I have never provided any motion. I provided a writ. And
19 I've provided numerous affidavits, which have been
20 continuously --

21 THE COURT: Okay.

22 DEFENDANT KELLY: -- refused to be on the record,
23 which is legal evidence of it being refused to be put on
24 the record. I have never provided a motion to anyone in
25 this Court. Let the record reflect that.

1 THE COURT: Okay.

2 MR. WILKINS: And then on September 12th, 2002 [sic],
3 he was arraigned on the charge of resisting arrest with
4 assault by Judge Verdin and was -- was read that
5 indictment as well. So he's been arraigned on -- on that.
6 So he's been arraigned on all indictments.

7 DEFENDANT KELLY: Objection. Hearsay.

8 MR. WILKINS: And the State is ready to proceed to
9 jury selection and trial.

10 THE COURT: All right. Mr. Kelly, you have some
11 documents you wanted to introduce into the record.

12 Have you all had an opportunity to view these?

13 MR. WILKINS: No, we have not, Your Honor.

14 THE COURT: Do you want to hand them -- let them look
15 at them before I see them.

16 MR. WILKINS: Thank you, Your Honor.

17 (Pause.)

18 DEFENDANT KELLY: Please let the record reflect that
19 I challenge subject matter jurisdiction. And if there is
20 a person here who has a cause or a claim against me, I
21 would like them to come forward as I have a right to face
22 my accuser. I would like to see a contract that's binding
23 me to these proceedings.

24 Is Mr. Wickensimer here? Is Mr. Paul Wickensimer
25 present in the courtroom? Paul Wickensimer? Anybody Paul

1 Wickensimer?

2 (WHEREUPON, there was no response.)

3 DEFENDANT KELLY: Is the clerk of court present in
4 the courtroom?

5 (WHEREUPON, there was no response.)

6 DEFENDANT KELLY: There's no clerk of court here?

7 (WHEREUPON, there was no response.)

8 DEFENDANT KELLY: Just let the record reflect that
9 I'm the beneficiary of this trust. And I collapse this
10 trust. And I claim my body. This trust has no value in
11 it. The Judge is binded [phonetic] as trustee. And the
12 Solicitor -- I believe a Mr. Walker -- Walter Wilkins is
13 the executor of this trust.

14 And I claim my body. And I collapse this trust. I
15 do not pledge my body or my rights to any program. I'm a
16 flesh and blood living man. I'm not a corporation.

17 THE COURT: Okay. I am -- I have reviewed the
18 document handed to me by Mr. Kelly, which he's entitled
19 State of South Carolina vs. Kelly -- Ray Kelly. He calls
20 it a Writ, Letter Rogatory and Judicial Notice for Relief
21 under the The Hague convention.

22 We will make this a Court's Exhibit and put it in the
23 record.

24 (WHEREUPON, Court's Exhibit No. 1 was marked for
25 identification and admitted into evidence.)

1 THE COURT: And for the record, to the extent that
2 he's asking for relief in that document, I deny it.

3 Now, you asked about Mr. Paul Wickensimer. He is our
4 elected clerk of court. He is not currently in the
5 courtroom, but he -- his representatives are here.

6 Now, I want you to understand -- I'll tell you once
7 again that it is to your benefit to have an attorney
8 represent you. And we have appointed the Chief Public
9 Defender for the circuit of the Thirteenth Circuit to act
10 as your standby Counsel. And she is --

11 DEFENDANT KELLY: I object.

12 THE COURT: -- available -- don't interrupt me. She
13 is you available for consultation, advice, and to answer
14 questions that you might have. She is available. She is
15 seated in the front row right behind your table.

16 A lawyer can be of great benefit to you. They have
17 been trained. They've been to school, generally, around
18 19 years, at a minimum, and are trained in the legal
19 process and the substance matter -- substance of the
20 actual charges against you. They can go -- and I believe
21 she has gone through the State's case to determine whether
22 or not you have a legal or a factual defense.

23 And as you have said on prior occasions, you are not
24 interested in having an attorney represent you. And you
25 wish to proceed on your own. At this time and throughout

1 the course of the trial, I will provide you with an
2 opportunity to change that position and allow Ms. Lipinski
3 to act as your Counsel.

4 Do you understand all that, Mr. Kelly?

5 DEFENDANT KELLY: No.

6 THE COURT: You don't. What part of it do you not
7 understand?

8 DEFENDANT KELLY: I do not understand the jurisdiction.

9 THE COURT: Okay.

10 DEFENDANT KELLY: Is the Court taking judicial notice
11 of your oath of office?

12 THE COURT: And so at any time during the course of
13 the proceedings, you decide that you want her to step
14 in --

15 DEFENDANT KELLY: I do not understand.

16 THE COURT: -- and assist, then just let me know.

17 DEFENDANT KELLY: For the record, has the Court taken
18 judicial notice of your oath of office?

19 THE COURT: All right. What else?

20 MR. WILKINS: Your Honor, nothing from the State as
21 far as for this -- for this hearing.

22 We are ready for jury qualification and jury
23 selection.

24 THE COURT: All right. Do you have any proposed voir
25 dire?

1 MR. WILKINS: We do not, Your Honor.

2 THE COURT: All right. And I need a witness list.

3 Mr. Kelly, do you have any proposed voir dire that
4 you'd like me to ask the jury?

5 DEFENDANT KELLY: I do not understand the
6 proceedings. I object to the proceedings. I do not
7 consent.

8 THE COURT: Okay. Just for the record, at this time,
9 does Mr. Kelly have a prior criminal history?

10 MR. WILKINS: Yes, Your Honor.

11 THE COURT: Okay. Can you read that into the record
12 for us?

13 MR. WILKINS: Just give me two seconds, Your Honor.

14 THE COURT: Sure.

15 MR. WILKINS: And while we're grabbing that, I'm
16 going to hand you up the State's witness list.

17 THE COURT: Thank you.

18 (Pause.)

19 MR. WILKINS: All right. Your Honor, I'm going to do
20 my best. I'm going to go through this NCIC.

21 THE COURT: Okay.

22 MR. WILKINS: It may be a little -- a little choppy.

23 THE COURT: That's all right.

24 MR. WILKINS: May 21st 2002, he was convicted of
25 disorderly conduct.

1 THE COURT: Give us the jurisdiction, if it's --

2 MR. WILKINS: In Suffolk County, First District
3 Court, New York.

4 THE COURT: Okay.

5 MR. WILKINS: June 12th of 2002, in Suffolk County
6 First District Court, New York, he was convicted of
7 criminal trespass third degree.

8 DEFENDANT KELLY: Objection. Hearsay.

9 MR. WILKINS: On January 21st of 2004, in Suffolk
10 County First District Court in New York, he was convicted
11 of stalking fourth degree.

12 DEFENDANT KELLY: Objection. Hearsay.

13 MR. WILKINS: February 11th of 2004, he was convicted
14 in Suffolk County court, criminal sale of a controlled
15 substance third.

16 DEFENDANT KELLY: Objection. Hearsay.

17 MR. WILKINS: August 7th of 2006, in Suffolk County
18 court, he was convicted of criminal possession of a
19 narcotics drug fourth degree.

20 DEFENDANT KELLY: Objection. Hearsay.

21 MR. WILKINS: May 22nd of 2008, he was convicted in
22 Nassau County First District Court in New York of criminal
23 possession of a controlled substance seventh degree.

24 DEFENDANT KELLY: Objection. Hearsay.

25 MR. WILKINS: May 7th of 2009, he -- in Suffolk

1 County court, he was convicted of criminal possession of a
2 controlled substance third.

3 DEFENDANT KELLY: Objection. Hearsay.

4 MR. WILKINS: August 16th of 2016, in Suffolk County
5 First District Court in New York, he was convicted of
6 criminal use of drug paraphernalia second.

7 DEFENDANT KELLY: Objection. Hearsay.

8 MR. WILKINS: And the following were on June 29th of
9 2016 in Suffolk County court, New York, aggravated
10 unlicensed operation of a motor vehicle first degree.

11 DEFENDANT KELLY: Objection. Hearsay.

12 MR. WILKINS: Unlawful fleeing of a police officer in
13 a motor vehicle third degree.

14 DEFENDANT KELLY: Objection. Hearsay.

15 MR. WILKINS: Operating a motor vehicle impaired by
16 drugs first offense.

17 DEFENDANT KELLY: Objection. Hearsay.

18 MR. WILKINS: And reckless driving.

19 DEFENDANT KELLY: Objection. Hearsay.

20 MR. WILKINS: All were on June 29th of 2016, in
21 Suffolk County court, New York.

22 April 25th, 2018, in Suffolk County court, he was
23 convicted of criminal possession of a narcotic drug fourth
24 degree.

25 DEFENDANT KELLY: Objection. Hearsay.

1 MR. WILKINS: April 25th, 2018, in Suffolk County
2 court, New York, he was convicted of criminal sale of a
3 controlled substance third.

4 DEFENDANT KELLY: Objection. Hearsay.

5 MR. WILKINS: February 3rd, 2020, he was convicted of
6 criminal possession of a controlled substance third in
7 Suffolk County court --

8 DEFENDANT KELLY: Objection. Hearsay.

9 MR. WILKINS: -- New York.

10 And, Your Honor, on that last conviction, he pled
11 guilty, but had not been sentenced. And there was an
12 active warrant out for -- for his arrest at the time of
13 his arrest here in South Carolina.

14 THE COURT: Okay.

15 MR. WILKINS: And we have certified convictions from
16 the Suffolk County and Nassau County courts available for
17 the Court as well.

18 THE COURT: Okay. So I asked that that be read into
19 the record so the record would be clear that Mr. Kelly is
20 familiar with the criminal justice system.

21 Mr. Kelly --

22 And I would instruct the gallery that this is --
23 could be a contentious trial. So I would expect everyone
24 in the gallery to be on their best behavior. I don't know
25 how else to say it.

1 And, Mr. Kelly, as you are aware, if you misbehave in
2 the court, the State has the capacity to implement a
3 process that would -- you probably don't want to get
4 involved in. And I already -- I understand that you have
5 said that you're not going to cooperate with a stun belt,
6 which at this juncture because you've offered no reason to
7 use it, we're not going to implement. But it is
8 available.

9 And should things get out of hand, we will ensure
10 that the propriety of the courtroom is maintained. And if
11 that includes putting a stun belt on you, that's what will
12 happen.

13 All right. We have to wait, I think, while the jury
14 is qualified downstairs.

15 And when we bring a panel up, for the gallery, I
16 would ask that you, please, follow the instructions of the
17 bailiffs as to where to sit so that we can properly pick
18 the jury and -- qualify and pick.

19 The other thing I'm going to require is that this
20 table in front of the jury be moved forward towards the
21 center of the courtroom. And I would instruct the -- it
22 doesn't have to be moved -- you know, just forward so that
23 there's some space there. And I instruct anyone who is
24 speaking with the jury or examining a witness that they
25 are not to go -- to violate that plain. So we're going to

1 keep this -- keep it a clear area. Okay.

2 All right. Anything else from the State?

3 MR. WILKINS: Your Honor, just on -- as far as
4 Mr. Kelly, obviously, has chosen to not dress in -- in
5 civilian clothes. He has handcuffs on his -- on his
6 wrists right now.

7 As far as the jury is concerned, what is Your Honor
8 going to do as far as --

9 THE COURT: Well, we -- he's going to have an
10 opportunity to address the jury. We'll -- we will remove
11 his -- the handcuffs. And I will instruct the jury with
12 respect to his clothing and the leg shackles. And we --

13 Has he been provided with a writing implement, a
14 felt-tipped pen.

15 MR. WILKINS: We will provide him with one, Your
16 Honor.

17 THE COURT: Okay. As long as that doesn't violate
18 any security process, that's great. And if you have a pad
19 or paper for him as well.

20 All right. Anything from you, Mr. Kelly?

21 DEFENDANT KELLY: Let the record reflect I do not
22 understand the proceedings. I do not consent to the
23 proceedings. I object to the proceedings. I will not be
24 participating in the proceedings.

25 THE COURT: Okay.

1 DEFENDANT KELLY: I do not understand what's going
2 on.

3 THE COURT: All right. Well, we'll be at ease.

4 (WHEREUPON, a break was taken.)

5 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,
6 8, and 9 were was marked for identification only.)

7 DEFENDANT KELLY: Let the record reflect that I was
8 physically assaulted by these men in suits. I was
9 physically assaulted by this man in the blue jacket, the
10 man with the blue jacket on the right side behind me, and
11 the man over there in the gray suit with the brown tie.
12 And I don't know who this guy is right here.

13 I do not consent to any of the proceedings. I object
14 to any jury trial. I have a right -- inalienable right
15 protected by the Constitution for the United States for
16 America to a trial by jury. And I do not consent to any
17 of the proceedings.

18 I do not understand the jurisdiction. And I
19 continuously challenge subject matter jurisdiction. The
20 Judge is acting [inaudible] and with partiality on the
21 [inaudible] and Plaintiff. And I don't consent to
22 anything. I do not understand what's going on here today.
23 And I object to this.

24 THE COURT: Okay. Well, you've referenced a jury
25 trial, which is what we're going to do --

1 DEFENDANT KELLY: I have never referenced a jury
2 trial. Let the record reflect I have an inalienable right
3 protected by the United States Constitution to a trial by
4 jury.

5 THE COURT: Okay. I agree with that. We're going to
6 make sure you have that right --

7 DEFENDANT KELLY: I object.

8 THE COURT: Okay. Mr. Kelly, we are going to proceed
9 with the trial.

10 DEFENDANT KELLY: I object.

11 THE COURT: I know you do. And my --

12 DEFENDANT KELLY: I do not consent.

13 THE COURT: -- ruling is that there is --

14 DEFENDANT KELLY: I do not consent.

15 THE COURT: -- no reason to object.

16 DEFENDANT KELLY: I do not consent.

17 THE COURT: And we are going to proceed.

18 I want to tell you what could happen if you
19 misbehave. The United States Supreme Court would allow
20 you to be bound and gagged in the courtroom. So just keep
21 that in mind. And there are other measures that could be
22 taken, including a stun -- stun bracelet or anklet.

23 So what we're going to do is get a jury panel up here
24 and qualify them to serve in this case and then proceed to
25 the trial.

1 DEFENDANT KELLY: Are you saying that the trust in
2 which you are now administrating is the Ray Kelly trust?
3 Which I've asked you before and you didn't answer. I've
4 asked you before.

5 THE COURT: I -- I've told you what we're going to
6 do. And that's how we're going to proceed --

7 DEFENDANT KELLY: Are you saying that the trust in
8 which you are now administrating is the Ray Kelly trust?

9 THE COURT: And I will tell you that during the jury
10 proceedings, the qualification and selection, there will
11 be no filming.

12 DEFENDANT KELLY: I ask you for the third time, are
13 you saying that the trust in which you are now administrating
14 is the Ray Kelly trust?

15 THE COURT: All right. Do we --

16 DEFENDANT KELLY: And once again, I previously -- I
17 am the beneficiary of the trust. You're the trustee. You
18 are the executor. And I [inaudible] the trust that there
19 is no value in the trust which I am charged. I do not
20 consent. I claim my body. I'm a flesh and blood living
21 being, a man with two hands and two feet. I will not
22 consent.

23 Let the record reflect I have a separate charge for
24 value and consideration. This is my account 06870 [REDACTED].
25 This account is prepaid. Only for the record, I do not

1 dispute any of the facts of this alleged case, cause, or
2 action.

3 (Pause.)

4 THE COURT: I'll be right back. Stand at ease for
5 just a second.

6 (WHEREUPON, a break was taken.)

7 THE COURT: Yes, Mr. Wilkins.

8 MR. WILKINS: May I approach, Your Honor?

9 THE COURT: No. You can't without --

10 MR. WILKINS: Yeah.

11 THE COURT: What we're going to do at this time is
12 we've got 50 potential jurors coming up. So we're going
13 to need quite a bit of space.

14 MR. WILKINS: Are we live? Are we videoing the jury
15 selection?

16 THE COURT: No. They -- they -- he heard me. He
17 knows. He's on it.

18 MR. WILKINS: Okay.

19 MS. LIPINSKI: Your Honor, could I just -- Juror #41,
20 just because of --

21 THE COURT: Yeah.

22 MS. LIPINSKI: I would request that Juror #41 not be
23 a part of our panel.

24 THE COURT: Right, right. We'll -- I don't --
25 haven't seen the panel. I don't know who they are.

1 THE BAILIFF: Are they coming now?

2 THE COURT: Yeah. They're going to be on their way.

3 Mr. Kelly, when the jury gets here, we will go
4 through the normal procedure. And you will have an
5 opportunity to participate in the selection of the jury --

6 DEFENDANT KELLY: I object to all the proceedings.

7 THE COURT: -- and the clerk will ask whether you
8 accept or reject a juror.

9 DEFENDANT KELLY: I object to all the proceedings.

10 THE COURT: If you -- if you don't move to strike a
11 potential juror, then we will deem that to be acceptance
12 of the juror.

13 DEFENDANT KELLY: I don't understand what's going on.

14 THE COURT: Okay. It's going to be several minutes
15 I've been told. I'm waiting to hear. I've told them to
16 speed it up. And we'll just see what happens.

17 (Pause.)

18 THE COURT: I'm going to check on this jury. I'll be
19 right back.

20 (WHEREUPON, a break was taken.)

21 THE COURT: Mr. Kelly, I'm going to ask when you
22 speak that you, please, keep your voice level up so we can
23 hear what you say.

24 DEFENDANT KELLY: Is this Court operating under
25 common law jurisdiction?

1 Mr. Miller, is this Court operating under common law
2 jurisdiction? Is this Court operating under common law
3 jurisdiction, Judge?

4 THE COURT: This Court operates under the
5 Constitution of the State of South Carolina, the common
6 law and codified law of this state.

7 DEFENDANT KELLY: So this Court is operating under
8 common law jurisdiction. Do I understand you correctly?

9 (WHEREUPON, there was no response.)

10 DEFENDANT KELLY: Can the Court, please, present its
11 corpus delicti, the person who has a cause or claim
12 against me?

13 (WHEREUPON, there was no response.)

14 THE COURT: Can the Court present its corpus delicti
15 and the person who has a cause or a claim against me?

16 (WHEREUPON, there was no response.)

17 DEFENDANT KELLY: Can the Court present its corpus
18 delicti or the person who has a cause or a claim against
19 me?

20 (WHEREUPON, there was no response.)

21 DEFENDANT KELLY: Has the Court taken judicial notice
22 of the oath of office? Besides the oath of office, do you
23 swear to uphold the Constitution for the United States of
24 America, Judge Miller?

25 (WHEREUPON, there was no response.)

1 DEFENDANT KELLY: Excuse me, Judge.

2 THE COURT: Mr. Kelly --

3 DEFENDANT KELLY: Has the Court taken judicial
4 notice --

5 THE COURT: -- I do not respond to your questions.

6 DEFENDANT KELLY: Has the Court taken judicial notice
7 of your oath of office? Inside that oath of office, did
8 you swear to uphold the Constitution for the United States
9 of America?

10 (WHEREUPON, there was no response.)

11 DEFENDANT KELLY: This Court is not operating under
12 common law jurisdiction. This Court is operating as a
13 private entity, a corporation with claims in equity and
14 operating under trust law. Is that not correct, Judge
15 Miller?

16 (WHEREUPON, there was no response.)

17 DEFENDANT KELLY: Where is the CPU, the trust in
18 which you are now administering the Ray Kelly trust, Judge
19 Miller?

20 (WHEREUPON, there was no response.)

21 DEFENDANT KELLY: I am the beneficiary and the title
22 holder of the Ray Kelly estate and the CPU trust. And as
23 beneficiary of that trust, I collapse the trust because it
24 has no value in it. You are the fiduciary trustee of that
25 trust.

1 Is the Clerk of Court present or its representative
2 present in the courtroom, Judge Miller?

3 (WHEREUPON, there was no response.)

4 DEFENDANT KELLY: Please let the record reflect that
5 the Judge is showing partiality again. The Judge is
6 supposed to be a neutral party, a detached party.

7 So I can't understand why the Judge refuses to answer
8 questions, legal questions. Present the contract which is
9 binding me to these proceedings. I object to all
10 proceedings. I do not consent to any proceedings. I am
11 an American national. I am not an U.S. citizen. I claim
12 my body. I collapsed this trust. It has no value in it.

13 Mr. Prosecutor, can you present a birth certificate
14 in which your name is the State?

15 (WHEREUPON, there was no response.)

16 DEFENDANT KELLY: Mr. Prosecutor, do you have a cause
17 or a claim against me in which you have firsthand
18 knowledge of that cause or claim, which would be legal in
19 an article to the Court under the United States
20 Constitution?

21 Mr. Prosecutor, what is your name, Mr. Prosecutor?

22 (WHEREUPON, there was no response.)

23 DEFENDANT KELLY: Let the record reflect that I do
24 not consent to these proceedings. I object to all
25 proceedings. And I will not participate in any

1 proceedings. I do not dispute any of the facts of this
2 case.

3 (WHEREUPON, the jury panel entered the courtroom.)

4 THE COURT: Ladies and gentlemen, welcome up to
5 courtroom eight.

6 I have not had an opportunity to introduce myself to
7 you, so let me do that at this time. My name is Ned
8 Miller. And I am one of your local Thirteenth Circuit
9 judges. And it is my privilege and responsibility to hold
10 a term of General Sessions court this week, which would
11 commonly be known as criminal court.

12 And Judge Morgan has qualified you all to serve,
13 generally, under our law as jurors for the week. And,
14 now, we begin the process to qualify you to serve as
15 jurors for this particular case.

16 So with that in mind, I would remind you that you're
17 still under oath. And, please, give full, accurate, and
18 truthful answers to the questions which I will propound to
19 you.

20 Now, before I begin the voir dire, let me introduce
21 the case to you. This is a case with multiple
22 indictments. The first indictment is indictment
23 2020-6551, the State vs. Ray L. Kelly. This is an
24 indictment for murder. It alleges that Ray L. Kelly did
25 in Greenville County on or about the 20th day of October,

1 2020, unlawfully and with malice aforethought kill William
2 Conley Jumper by means of driving a vehicle across lanes
3 of interstate traffic resulting in a collision. And that
4 William Conley Jumper died as a proximate result thereof.

5 The next indictment is a two-count indictment. It is
6 2020-6536. And it -- count one is for trafficking cocaine
7 base. And it alleges that Ray L. Kelly did in Greenville
8 County on or about the 20th day of October, 2020,
9 knowingly sell, manufacture, deliver, or bring into the
10 State of South Carolina or did knowingly provide financial
11 assistance or otherwise aid, abet, attempt, or conspire to
12 sell, manufacture, deliver, or bring into the State or was
13 knowingly in actual or constructive possession of more
14 than 28 grams but less than 100 grams of cocaine base.

15 Count two is possession of a weapon during a violent
16 crime. And it alleges that Ray L. Kelly did in Greenville
17 County on or about the 20th day of October, 2020, possess
18 or visibly display a firearm or a knife during the
19 commission or attempted commission of a violent crime.
20 And that would be trafficking cocaine base.

21 The next indictment is 2020-6552. And it alleges
22 that Ray L. Kelly did in Greenville County on or about the
23 20th day of October, 2020, knowingly, and willfully, and
24 unlawfully assault, beat, or wound Nicholas Ledbetter with
25 the Greenville County Sheriff's Office while resisting an

1 arrest by one whom he knew or reasonably should have known
2 was a law enforcement officer.

3 The next indictment, 2020-6541 alleges that Ray L.
4 Kelly did in Greenville County on or about the 20th day of
5 October, 2020, knowingly, and willfully, and unlawfully
6 assault, beat, or wound Jesse Wasserman with the
7 Greenville County Sheriff's Office while resisting an
8 arrest by one whom he knew or reasonably should have known
9 was a law enforcement officer.

10 The next one is 2020-5006A. And it alleges that Ray
11 L. Kelly did in Greenville County on or about the 20th day
12 of October, 2020, knowingly, and willfully, and unlawfully
13 assault, beat, or wound William Conley Jumper with the
14 Greenville County Sheriff's Office while resisting an
15 arrest by one whom he knew or reasonably should have known
16 was a law enforcement officer.

17 The next indictment, 2020-6550, alleges that Ray L.
18 Kelly did in Greenville County on or about the 20th day of
19 October, 2020, when stopped and/or while under arrest give
20 false information to a law enforcement officer.

21 The next indictment, 2020-6548, alleges that Ray L.
22 Kelly did in Greenville County on or about the 20th day of
23 October, 2020, drive a motor vehicle on a public highway
24 of this state without a driver's license.

25 The next one alleges -- and this is 2020-6547,

1 alleges that Ray L. Kelly did in Greenville County on or
2 about the 20th day of October, 2020, drive a vehicle on a
3 public highway in this state while following another
4 vehicle more closely than is reasonable and prudent.

5 And, finally, the last indictment, 2020-6557, alleges
6 that Ray L. Kelly did in Greenville County on or about the
7 20th day of October, 2020, drive a motor vehicle on a
8 public highway of this state while exceeding the posted
9 speed limit by, at least, 15 miles per hour, but less than
10 25 miles per hour.

11 Now, ladies and gentlemen, to these indictments,
12 Mr. Kelly has pled not guilty. And as such, certain
13 rights attach, which belong to every person who is charged
14 with a crime in this country. And that is he is presumed
15 innocent, unless and until the charging body, in this case
16 the State of South Carolina, can prove to a jury beyond
17 any reasonable doubt each and every element of each
18 offense that that person is charged with. Please keep
19 that in mind throughout the course of these proceedings.

20 The other thing that I would tell you and instruct
21 you is that the indictments which I have read to you are
22 nothing more than they appear to be. They contain --
23 they're just the formal charging documents which contain
24 the allegations made against this Defendant. And they are
25 the documents which allow this case to wind its way

1 through our court system to arrive here in court for
2 disposition. So, please, keep that in mind throughout the
3 course of these proceedings as well.

4 With that, ladies and gentlemen, before I start, I
5 would ask at this time for the parties to introduce
6 themselves.

7 So I'll turn it over to you, Solicitor.

8 MR. WILKINS: Thank you, Your Honor.

9 May it please the Court.

10 Good afternoon, ladies and gentlemen. My name is
11 Walt Wilkins. And I represent the State in this case.

12 With me is Grace Moroney. She's assisting me in the
13 prosecution in this case. This is Andrea Phillips, who's
14 helping us. And this is Special Agent Matt Davis with the
15 South Carolina Law Enforcement Division.

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

17 Mr. Kelly, would you care to introduce yourself.

18 (WHEREUPON, there was no response.)

19 THE COURT: I will tell you all, ladies and
20 gentlemen, that seated in the -- in -- the table to your
21 left wearing orange is Mr. Ray Kelly.

22 JURY QUALIFICATION

23 THE COURT: So, ladies and gentlemen, is there any
24 member of the jury panel related by blood or marriage or
25 who has a business, personal, or social relationship with

1 any of the attorneys involved in this case or with Mr. Ray
2 Kelly? If so, please, stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: I'm going to read a list of potential
5 witnesses in the case. And I'll need to know the same
6 about each of these. Matt Davis with the State Law
7 Enforcement Division, also known as SLED; Jesse Wasserman
8 with the Greenville County Sheriff's Office; Michael
9 DeRosa with the sheriff's office; Brian Hudak with SLED;
10 Kimberly Meres or Mears, M-E-A-R-S, with SLED; Nick
11 Ledbetter with the sheriff's office; Blake Richards with
12 the sheriff's office; David Harrison with the sheriff's
13 office; John James with the sheriff's office; David Andis
14 with the South Carolina Highway Patrol; Jeff Kindley with
15 SLED; Crystal Minwegen with the Greenville County
16 Department of Public Safety; Tyler Bucholtz with the
17 Greenville County Department of Public Safety; Todd Davis,
18 a notary public; Dr. Michael Ward, Greenville County Chief
19 Medical Examiner; Indertijit Kaur, K-A-U-R, with the
20 Spartanburg Police Department; Charles Moore with the
21 Greenville County Detention Center; Daniel Stipe with the
22 Anderson Police Department, DEA task force; Margaret Pauli
23 with SLED; Douglas Robinson with SLED; Darren Haley,
24 attorney at law; Courtney Thompson with SLED; Lynn Black
25 with SLED; Maryann Bome -- or Boehm, B-O-E-H-M, with SLED;

1 and Dmoya Kelly.

2 Is there any member of the jury panel related by
3 blood or marriage or who has a business, personal, or
4 social relationship with any of those potential witnesses
5 whose names I have just read? If so, please, stand.

6 Okay. Yes, ma'am. If you would, what is your juror
7 number?

8 PROSPECTIVE JUROR: I am #333.

9 THE COURT: I'm sorry.

10 PROSPECTIVE JUROR: #333.

11 THE COURT: Okay. And who is it you're acquainted
12 with?

13 PROSPECTIVE JUROR: I went to school, I believe, with
14 Tyler Bucholtz.

15 THE COURT: Okay. And when was that?

16 PROSPECTIVE JUROR: We graduated college in 2005.

17 THE COURT: All right. And have you had any ongoing
18 friendship with him since that time?

19 PROSPECTIVE JUROR: (There was no verbal response.)

20 THE COURT: You have to speak.

21 PROSPECTIVE JUROR: No, I have not. Sorry.

22 THE COURT: All right. Would -- the fact that you
23 had that experience with Mr. Bucholtz, would that impair
24 your ability to be fair and impartial in this case to
25 either the State or the Defense?

1 PROSPECTIVE JUROR: I don't believe so.

2 THE COURT: Okay. And could you judge this case
3 based solely on the merits of the evidence presented in
4 this courtroom and the law as I will give it to you?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Thank you very much.

7 All right. Ladies and gentlemen, this case received,
8 at the time, some media attention. So I ask you to search
9 your memories to determine whether or not any of you have
10 any knowledge about the events that are alleged in these
11 indictments.

12 (WHEREUPON, there was no response.)

13 THE COURT: Okay. Is there any member of the jury
14 panel --

15 Yes, ma'am.

16 PROSPECTIVE JUROR: Do you want us to stand?

17 THE COURT: Yes. Stand. I'm sorry.

18 Okay. And, yes, ma'am. Your number?

19 PROSPECTIVE JUROR: #41.

20 THE COURT: All right. And the lady behind you, your
21 number?

22 PROSPECTIVE JUROR: #305.

23 THE COURT: Okay. And, yes, sir. Your number?

24 PROSPECTIVE JUROR: #108.

25 THE COURT: All right. And excuse me for using your

1 number. But, #41, what do you -- well, I'm going to ask
2 each of you -- I'll tell you what, we'll come back to you
3 all in just a minute. Okay.

4 All right. Is there any member of the jury panel, or
5 a family member, or close personal friend who has ever
6 been a victim of or charged with any of these type of
7 offenses? If so, please, stand.

8 All right. Yes, ma'am. Your number?

9 PROSPECTIVE JUROR: #94.

10 THE COURT: Okay. And what can you tell me about
11 that?

12 PROSPECTIVE JUROR: I have a great nephew who is in
13 prison for murder.

14 THE COURT: All right. Would -- the fact that you
15 have that relationship, would that impair your ability to
16 be fair and impartial in this case?

17 PROSPECTIVE JUROR: I don't believe so.

18 THE COURT: All right. And could you judge the
19 resolution of this case based solely on the merits of the
20 evidence presented in court and the law as I would give it
21 to you?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Thank you very much.

24 All right. Is there any --

25 Oh, I'm sorry. Yes, ma'am. Your number?

1 PROSPECTIVE JUROR: #338.

2 THE COURT: Okay. Tell me --

3 PROSPECTIVE JUROR: I have -- I have a younger
4 brother who was incarcerated for about 10 years for
5 attempted murder.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: And drug charges along with that
8 as well.

9 THE COURT: Okay. Would -- the fact that you have
10 that relationship, would that impair your ability to be
11 fair and impartial to either the State or the Defense in
12 this case?

13 PROSPECTIVE JUROR: No.

14 THE COURT: And could you judge this case based
15 solely on the merits of the evidence presented in court
16 and the law as I would give it to you?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you, ma'am.

19 Okay. Is there any member of the jury panel who's
20 aware of any bias or prejudice towards either the State or
21 the Defense? If so, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: Is there any member of the jury panel who
24 is a member of or a contributor to a group whose primary
25 concern is the promotion of law enforcement or victim's

1 rights? Examples might be MADD, SADD, or CAVE. If so,
2 please, stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: Is there any juror who knows of any
5 reason whatsoever why you shouldn't be -- why you
6 shouldn't serve in this case, based on your ability to be
7 fair and impartial to both the State and the Defense, and
8 to judge this case based solely on the merits of the
9 evidence and the law as you would hear it in this
10 courtroom? If you can't do that, please, let us know
11 right now.

12 All right. Your number, sir?

13 PROSPECTIVE JUROR: #43.

14 THE COURT: And, please, expound for me.

15 PROSPECTIVE JUROR: I knew Sergeant Jumper as a
16 friend.

17 THE COURT: Oh, okay. All right. Well, thank you
18 very much.

19 I appreciate that. You may have a seat.

20 Thank you.

21 Okay. Is there anything further from the State?

22 MR. WILKINS: Nothing, Your Honor.

23 THE COURT: Anything further from the Defense?

24 (WHEREUPON, there was no response.)

25 THE COURT: All right. And Juror #43 I will excuse

1 from service in this case.

2 Ladies and gentlemen, we are now going to begin the
3 process of striking the jury. We're going to pick 12 and
4 two alternates.

5 And this will be five strikes for the State, 10 for
6 the Defense.

7 So when your name is called, please, stand in place
8 and await further instructions.

9 Go ahead, Donna.

10 THE CLERK: Didn't you want to speak to the three
11 that stood?

12 THE COURT: Oh, correct. I'm sorry.

13 We do need to go back. If I could get #41, #305, and
14 #108 to form a line right here.

15 (WHEREUPON, a sidebar was held with the Court,
16 Solicitor Wilkins, Assistant Solicitor Grace Moroney,
17 Circuit Public Defender Mindy Lipinski, and prospective
18 jurors.)

19 THE COURT: All right. Ma'am, come on up. Come on
20 up.

21 Hey. How are you?

22 I would ask standby Counsel to approach.

23 MS. LIPINSKI: Your Honor, this is the juror I talked
24 to you about before we began.

25 THE COURT: Oh, okay. Yes. Correct.

1 MS. LIPINSKI: If that influences your decision.

2 THE COURT: Yeah. All right.

3 Thank you.

4 You do know --

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: That's my fault.

7 Thank you, ma'am.

8 You may be seated.

9 PROSPECTIVE JUROR: Thank you.

10 THE COURT: All right. Juror #305, please come up.

11 Yes, ma'am. Tell me what you --

12 PROSPECTIVE JUROR: I just remember [inaudible] --

13 THE COURT REPORTER: Judge, I can't hear.

14 THE COURT: Come -- come right here.

15 PROSPECTIVE JUROR: I remember all the media
16 attention when he was run over and killed by someone. We
17 pay close attention to that because we were friends with
18 Allen Jacobs --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: -- his wife and I. We know Jesse
21 and his parents.

22 THE COURT: All right. You just take a minute to
23 compose yourself. Okay. And the reason I'm asking you to
24 do that is so that the other jurors won't be --

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: -- bothered by it.

2 So and I want to tell you we do appreciate your
3 service up here and -- are you okay?

4 PROSPECTIVE JUROR: I am.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 PROSPECTIVE JUROR: Thank you.

8 Do I go back?

9 THE COURT: Yes. Go back and have a seat.
10 Thank you.

11 Yes, sir. #108, please.

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Hey. How are you?
14 Tell me what you --

15 PROSPECTIVE JUROR: I believe this is the case
16 concerning the traffic stop that happened on Interstate
17 85. And that the Defendant tried to flee and ended up
18 running over him and killing him, also.

19 THE COURT: All right. Thank you very much for what
20 you -- for coming forward. Thank you.

21 Please have a seat.

22 I will tell you both of them are going to be excused,
23 #41, #43, #305, and #108.

24 MR. WILKINS: Your Honor, I believe the State gets 10
25 strikes.

1 THE COURT: Okay. Yeah. I'm sorry.

2 I was wrong. It's 10 and 10.

3 But did you get the numbers, Donna?

4 THE CLERK: We couldn't hear you very well.

5 THE COURT: #41, #43, #305, and #108. Okay.

6 THE CLERK: Okay.

7 (WHEREUPON, the sidebar was concluded.)

8 THE COURT: Ladies and gentlemen, I just note that a
9 minute ago -- I misspoke a minute ago, not that it
10 concerns you. But 10 and 10.

11 THE CLERK: Just one second, Judge.

12 (Pause.)

13 JURY SELECTION

14 THE CLERK: When I say your name, please, stand and
15 await for further instruction.

16 Randolph Barnett.

17 (WHEREUPON, Randolph Barnett, a white male, stood.)

18 THE CLERK: What says the State?

19 MR. WILKINS: What juror number?

20 THE CLERK: Oh, Juror #16.

21 MR. WILKINS: Thank you.

22 Please seat the juror.

23 THE CLERK: What says the Defendant?

24 DEFENDANT KELLY: I object to the proceedings. I do
25 not understand the jurisdiction.

1 THE CLERK: Seat him?

2 THE COURT: Strike -- we'll consider that a strike.

3 Thank you.

4 DEFENDANT KELLY: I object.

5 THE CLERK: Juror #223, Karen Massey.

6 (WHEREUPON, Karen Massey, a white female, stood.)

7 THE CLERK: What says the State?

8 MR. WILKINS: Please seat the juror.

9 THE CLERK: What says the Defendant.

10 (WHEREUPON, there was no response.)

11 THE COURT: Okay. We'll consider that a strike -- or
12 we'll seat the juror.

13 THE CLERK: Okay. Ma'am, please, gather your things
14 and have a seat in the jury box.

15 Juror #267, Andrew Recknagel.

16 (WHEREUPON, Andrew Recknagel, a white male, stood.)

17 THE CLERK: What says the State?

18 MR. WILKINS: Please seat the juror.

19 THE CLERK: What says the Defendant?

20 DEFENDANT KELLY: I don't understand the proceedings.
21 I don't consent to the proceedings.

22 THE COURT: All right. Consider that a strike.

23 Thank you.

24 THE CLERK: You may be seated. You've been excused
25 from this case.

1 Juror #10, Michael Avery.

2 (WHEREUPON, Michael Avery, a white male, stood.)

3 THE CLERK: What says the State?

4 MR. WILKINS: Please seat the juror.

5 THE CLERK: What says the Defendant?

6 DEFENDANT KELLY: I don't understand the
7 jurisdiction. I don't understand the proceedings.

8 THE COURT: Consider that a strike.

9 THE CLERK: Okay. Sir, you may be seated. You've
10 been excused from this case.

11 Juror #333, Erin Tilson.

12 (WHEREUPON, Erin Tilson, a white female, stood.)

13 THE CLERK: What says the State?

14 MR. WILKINS: Please seat the juror.

15 THE CLERK: What says the Defendant?

16 (WHEREUPON, there was no response.)

17 THE COURT: Please seat the juror.

18 THE CLERK: Ma'am, please, have a seat in the jury
19 box.

20 Juror #243, Mark Monroe.

21 (WHEREUPON, Mark Monroe, a white male, stood.)

22 THE CLERK: What says the State?

23 MR. WILKINS: Please seat the juror.

24 THE CLERK: What says the Defendant?

25 DEFENDANT KELLY: I don't understand the jurisdiction.

1 THE COURT: Consider that a strike.

2 THE CLERK: Juror #36, Edward Blakemore.

3 (WHEREUPON, Edward Blakemore, a white male, stood.)

4 THE CLERK: What says the State?

5 MR. WILKINS: Please seat the juror.

6 THE CLERK: What says the Defendant?

7 (WHEREUPON, there was no response.)

8 THE COURT: Okay. Please seat the juror.

9 THE CLERK: Sir, please have a seat in the jury box.

10 Juror #238, Vernon Miller.

11 (WHEREUPON, Vernon Miller, a white male, stood.)

12 THE CLERK: What says the State?

13 MR. WILKINS: Please seat the juror.

14 THE CLERK: What says the Defendant?

15 DEFENDANT KELLY: I don't understand what's going on
16 here.

17 THE COURT: Okay. Consider that a strike.

18 You may be seated.

19 Thank you, sir.

20 THE CLERK: Sorry.

21 Juror #7, Mary Bennett.

22 (WHEREUPON, Mary Bennett, a white female, stood.)

23 THE CLERK: What says the State?

24 MR. WILKINS: Please excuse the juror.

25 THE CLERK: Ma'am, you may be seated. You've been

1 excused from this case.

2 Juror #3, Angela Albany.

3 (WHEREUPON, Angela Albany, a black female, stood.)

4 THE CLERK: What says the State?

5 MR. WILKINS: Please excuse the juror.

6 THE CLERK: Ma'am, you may be seated. You've been
7 excused from this case.

8 Juror #125, Donald Floyd.

9 (WHEREUPON, Donald Floyd, a white male, stood.)

10 THE CLERK: What says the State?

11 MR. WILKINS: Please excuse the juror.

12 THE CLERK: Sir, you may be seated. You've been
13 excused from this case.

14 Juror #381, Craig Wright.

15 (WHEREUPON, Craig Wright, a black male, stood.)

16 THE CLERK: What says the State?

17 MR. WILKINS: Please seat the juror.

18 THE CLERK: What says the Defendant?

19 (WHEREUPON, there was no response.)

20 THE COURT: Okay. Please seat the juror.

21 THE CLERK: Sir, please, take a seat in the jury box.

22 Juror #283, Martin Sanchez.

23 (WHEREUPON, Martin Sanchez, a Hispanic male, stood.)

24 THE CLERK: What says the State?

25 MR. WILKINS: Please seat the juror.

1 THE CLERK: What says the Defendant?

2 (WHEREUPON, there was no response.)

3 THE COURT: Please seat the juror.

4 THE CLERK: Sir, please, have a seat in the jury box.

5 Juror #99, Latoya Dodson.

6 (WHEREUPON, Latoya Dodson, a black female, stood.)

7 THE CLERK: What says the State?

8 MR. WILKINS: Please seat the juror.

9 THE CLERK: What says the Defendant?

10 (WHEREUPON, there was no response.)

11 THE COURT: Please seat the juror.

12 THE CLERK: Ma'am, please, have a seat in the jury
13 box.

14 Juror #134, Craig Galloway.

15 (WHEREUPON, Craig Galloway, a white male, stood.)

16 THE CLERK: What says the State?

17 MR. WILKINS: Please excuse the juror.

18 THE CLERK: Sir, you may be seated. You've been
19 excused from this case.

20 Juror #281, Sebastian Saenz.

21 (WHEREUPON, Sebastian Saenz, a Hispanic male, stood.)

22 THE CLERK: What says the State?

23 MR. WILKINS: Please seat the juror.

24 THE CLERK: What says the Defendant?

25 (WHEREUPON, there was no response.)

1 THE COURT: Please seat the juror.

2 THE CLERK: Sir, please, have a seat in the jury box.

3 Juror #168, Carl Herron.

4 (WHEREUPON, Carl Herron, a white male, stood.)

5 THE CLERK: What says the State?

6 MR. WILKINS: Please seat the juror.

7 THE CLERK: What says the Defendant?

8 DEFENDANT KELLY: I don't understand what's going on
9 here.

10 THE COURT: Okay. We'll consider that a strike.

11 THE CLERK: Juror #94, Eva Dickerson-Fox.

12 (WHEREUPON, Eva Dickerson-Fox, a white female,
13 stood.)

14 THE CLERK: What says the State?

15 MR. WILKINS: Please seat the juror.

16 THE CLERK: What says the Defendant?

17 DEFENDANT KELLY: I object to the proceedings. I
18 don't know what's going on.

19 THE COURT: Okay. We'll consider that a strike.

20 THE CLERK: Ma'am, you may be seated. You've been
21 excused from this case.

22 Juror #369, Samuel Wilder.

23 (WHEREUPON, Samuel Wilder, a white male, stood.)

24 THE CLERK: What says the State?

25 MR. WILKINS: Please seat the juror.

1 THE CLERK: What says the Defendant?

2 (WHEREUPON, there was no response.)

3 THE COURT: Okay.

4 THE CLERK: Seat him?

5 THE COURT: Seat him.

6 THE CLERK: Sir, please, have a seat in the jury box.

7 Juror #289, Taylor Schroeder.

8 (WHEREUPON, Taylor Schroeder, a white female, stood.)

9 THE CLERK: What says the State?

10 MR. WILKINS: Please seat the juror.

11 THE CLERK: What says the Defendant?

12 (WHEREUPON, there was no response.)

13 THE COURT: Okay. Let's seat the juror.

14 Thank you.

15 THE CLERK: Ma'am, have a seat in the jury box.

16 Juror #110, Michael Eckstein.

17 (WHEREUPON, Michael Eckstein, a white male, stood.)

18 THE CLERK: What says the State?

19 MR. WILKINS: Please seat the juror.

20 THE CLERK: What says the Defendant?

21 DEFENDANT KELLY: I don't consent to the proceedings.

22 THE COURT: That's considered a strike.

23 THE CLERK: You may be seated. You've been excused
24 from this case.

25 Juror #240, Christie Mina.

1 (WHEREUPON, Christie Mina, a white female, stood.)

2 THE CLERK: What says the State?

3 MR. WILKINS: Please seat the juror.

4 THE CLERK: What says the Defendant?

5 DEFENDANT KELLY: I don't consent to the proceedings.

6 I do not understand what's going on here.

7 THE COURT: All right. We'll consider that a strike.

8 THE CLERK: You may be seated. You've been excused
9 from this case.

10 Juror #40, Richard Bodden.

11 (WHEREUPON, Richard Bodden, a white male, stood.)

12 THE CLERK: What says the State?

13 MR. WILKINS: Please seat the juror.

14 THE CLERK: What says the Defendant?

15 (WHEREUPON, there was no response.)

16 THE COURT: All right. We'll consider that -- please
17 be seated. I mean --

18 THE CLERK: Please have a seat in the jury box.

19 THE COURT: Thank you.

20 THE CLERK: Juror #327, William Thomas.

21 (WHEREUPON, William Thomas, a white male, stood.)

22 THE CLERK: What says the State?

23 MR. WILKINS: Please seat the juror.

24 THE CLERK: What says the Defendant?

25 DEFENDANT KELLY: I object to the proceedings.

1 THE COURT: Okay. That's a strike.

2 That's 10.

3 THE CLERK: Sir, you may be seated. You've been
4 excused from this case.

5 Juror #216, Bridget Mangle.

6 (WHEREUPON, Bridget Mangle, a black female, stood.)

7 THE CLERK: What says the State?

8 MR. WILKINS: Please excuse the juror.

9 THE CLERK: Ma'am, you may be seated. You've been
10 excused from this case.

11 THE COURT: All right. Before we -- I would ask
12 Counsel and standby Counsel to approach, please.

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: All right.

15 THE CLERK: Juror #58, Christine Calato.

16 (WHEREUPON, Christine Calato, a white female, stood.)

17 THE CLERK: What says the State?

18 MR. WILKINS: Please seat the juror.

19 THE CLERK: What says the Defendant?

20 (WHEREUPON, there was no response.)

21 THE COURT: Please have a seat. Come on.

22 THE CLERK: Juror #181, Gretchen Jacobs.

23 (WHEREUPON, Gretchen Jacobs, a white female, stood.)

24 THE CLERK: What says the State?

25 MR. WILKINS: Please seat the juror.

1 THE CLERK: What says the Defendant?

2 DEFENDANT KELLY: Listen, I don't understand these
3 proceedings. I don't know what's going on. I don't know
4 why I got to keep repeating myself over and over.

5 THE COURT: Okay. Come on up and have a seat, ma'am.
6 We're going to have two alternates.
7 And it's one and two.

8 THE CLERK: Juror #338, Tiffany Trunell.

9 (WHEREUPON, Tiffany Trunell, a white female, stood.)

10 THE CLERK: What says the State?

11 MR. WILKINS: Please excuse the juror.

12 THE CLERK: Ma'am, you may be seated. You've been
13 excused from this case.

14 Juror #75, Madison Colorado.

15 (WHEREUPON, Madison Colorado, a white female, stood.)

16 THE CLERK: What says the State?

17 MR. WILKINS: Please seat the juror.

18 THE CLERK: What says the Defendant?

19 (WHEREUPON, there was no response.)

20 THE COURT: All right. Please have a seat up in the
21 jury box, please, ma'am.

22 THE CLERK: Juror #378, Cynthia Worley.

23 THE COURT: No, no. That one -- I'm sorry. She has
24 protection.

25 THE CLERK: Okay. I'm sorry. I don't have that one.

1 Juror #185, Melanie Johnson.

2 (WHEREUPON, Melanie Johnson, a white female, stood.)

3 THE CLERK: What says the State?

4 MR. WILKINS: Please seat the juror.

5 THE CLERK: What says the Defendant?

6 (WHEREUPON, there was no response.)

7 THE COURT: All right. Ma'am, come have a seat up in
8 the jury box.

9 Any exception or objection to the jury as impanelled
10 pursuant to Batson or J.E.B. from the State?

11 MR. WILKINS: None from the State, Your Honor.

12 THE COURT: From the Defense?

13 DEFENDANT KELLY: I object to the proceedings. I do
14 not understand the jurisdiction.

15 THE COURT: Okay. Nonspecific. I'm going to -- it's
16 not pursuant to Batson or J.E.B.

17 All right. Ladies and gentlemen, we have two groups
18 in here. And one of you may feel like you're lucky today,
19 and the other one might not. But I will tell you that I
20 think the group that's been selected are the fortunate
21 ones.

22 It is a rare thing to be called up to the courthouse
23 to sit in the jury pool, rarer still to be called to the
24 courtroom, and very rare to be sworn and -- selected and
25 sworn to serve on a jury.

1 So while you all are not getting an opportunity in
2 this case, ladies and gentlemen, I hope you will get an
3 opportunity either this week or sometime down the line.
4 Because it is a great privilege and a great responsibility
5 to serve in our justice system, which belongs to each and
6 every one of us.

7 With that, ladies and gentlemen, I would excuse you
8 all back down to the jury assembly room for more
9 instructions.

10 (WHEREUPON, the remaining jury panel members exited
11 the courtroom.)

12 INTRODUCTORY REMARKS

13 THE COURT: All right. Ladies and gentlemen, I am
14 very serious when I say that I think you all are the
15 fortunate ones to be selected. We -- this justice system
16 doesn't belong to me or anybody else that wears a black
17 robe. It doesn't belong to the lawyers. It doesn't
18 belong to all the other court personnel in here. It
19 belongs to each and every one of us.

20 And this is our justice system. And you all are
21 fulfilling a vital and important role. And it is a great
22 privilege. And it, also, is a great responsibility.

23 We went through -- I want to tell you that we have a
24 dispute about the facts in the case, which can't be
25 resolved in any fashion other than to ask a jury to come

1 up and listen to the evidence presented in this courtroom,
2 and the law as I will give it to you, and come to a
3 decision at the conclusion of the case which resolves the
4 dispute. That's the job we ask of you. And it is a great
5 responsibility.

6 I would, again, remind you that the indictments that
7 I read to you are not evidence. And you should take no
8 presumption or any inference from the fact that they
9 issued. They are just the documents which contain
10 allegations and allow this case to wind its way through
11 our system to arrive here in court for resolution.

12 I, also, remind you that every person charged with a
13 crime in this case -- in this country is presumed
14 innocent -- excuse me, innocent, unless and until the
15 charging body, in this case the State of South Carolina,
16 can prove to you all beyond any reasonable doubt each and
17 every element of each offense that is charged. Please
18 keep that in mind throughout the course of the
19 proceedings.

20 I would -- I, generally, when I'm talking to juries,
21 I divide a trial into five parts. And that's so you all
22 have a procedural road map to know where you are, where
23 you've been, and what's coming next. So the first part of
24 the trial will -- I -- I guess we're kind of engaged in it
25 right now. And those are the opening statements to you

1 from the attorneys.

2 The second part of the trial are the meat and
3 potatoes of every case. And that is the presentation of
4 the evidence in the case. And the evidence will come to
5 you in, generally, one of three ways. The first most
6 commonly thought of way in my mind is through oral
7 testimony from this witness stand.

8 The second most common way is through the
9 introduction of tangible items or documents. And the
10 third most common way is when the parties agree that some
11 fact is so beyond dispute that you should accept it as
12 true. And that's what we call a stipulation of the
13 parties. I don't know the combination of how the evidence
14 will be presented. But you will, generally, receive it in
15 one of those three ways.

16 The third part of the trial will be at the conclusion
17 of the evidence when all of the evidence has been
18 presented, the attorneys or the parties will make their
19 closing arguments to you. So it's an opening statement,
20 which is brief and non-argumentative, and a closing
21 argument when the lawyers or parties advocate their
22 position to you and urge you to resolve the dispute in
23 their favor.

24 The fourth part of the trial will be when I charge
25 you as to what the law is as it applies to this case. And

1 the fifth part of the trial will be when you all retire to
2 your jury room to deliberate this case and resolve the
3 dispute.

4 The parts are not of equal length. But if you can
5 remember that little road map, you'll know where you are
6 and what you can expect to come next.

7 I'll ask you to do a number of things in this case.
8 But there are three important things that I really
9 emphasize to you. The first one is to keep an open mind.
10 We go through the questioning to ensure that we have a
11 jury that doesn't come in with some preset notion about
12 how the case should be decided.

13 Listen to the evidence. Keep an open mind. And
14 don't make a decision until you are in your jury room, and
15 you're deliberating, and you've had an opportunity to
16 think about and discuss all the evidence and the law
17 that's been presented to you.

18 The second thing I ask you to do, which may seem very
19 simple, is to pay attention. If you were to let your mind
20 wander off during the course of the trial, you might miss
21 an important answer to a question or the way a witness
22 answers a question or what we call their demeanor. And
23 in -- in your deliberations, it may turn out that that's
24 an important consideration. And if you had let your mind
25 wander off, you would be at a disadvantage when you were

1 deliberating the case.

2 The last thing I ask you to do and I instruct you to
3 do -- and this will be very important in this case, that
4 is to not discuss this case with anyone until the
5 conclusion of the case when you are allowed to deliberate
6 with your fellow jurors. That means -- we're going to
7 break for lunch in just a second. And you all will see --
8 and you may see friends, family, coworkers. I don't know.
9 You don't know much about the case. But do not discuss
10 the facts of this case with them.

11 It will take more than one day. You'll be home
12 either with family, friends, or seeing coworkers. I don't
13 know who all you'll see. You cannot discuss it with them.
14 And you cannot go read any news, watch any news, any
15 social media about this case.

16 That is vital in this case because this -- this case
17 will receive some media attention. You can see the camera
18 back there. And I want to assure each of you that strict
19 instructions -- and I've issued an order that none of you
20 are to ever be photographed. Okay. So that -- I want you
21 to feel confident about that.

22 But when I say you can't talk about it, that means
23 with the bailiffs, with anybody else you see, with your
24 fellow jurors. Don't talk about the facts of the case
25 until deliberations.

1 Even an innocent comment from someone who you like
2 and trust or even someone who you don't like could impact
3 your state of mind. And that would not be fair to the
4 parties involved in this case. It wouldn't be fair to
5 your fellow jurors. And it would not be fair to yourself
6 to allow someone who is not making the sacrifices that
7 each of you are going to make to have any input in the
8 outcome of this case. They're not in here. They're not
9 watching the presentation of the evidence and the
10 law. And it would be totally unfair to allow that to
11 happen.

12 So, please, keep that in mind. Because what you're
13 going to hear in this courtroom will be subject to
14 Constitutional protection and scrutiny.

15 I'm sure there are going to be other things I'm going
16 to ask you to do. A couple of things I want tell you, I
17 asked the lawyers to come up here so you all couldn't hear
18 what we were talking about. And, please, believe me,
19 we're not trying to deceive you in any way. But we may
20 well be trying to keep something from you. And if it's
21 about some disputed piece of evidence that shouldn't be
22 allowed in, I think you can understand why.

23 Quite often, we talk about logistical things, about
24 how long is this going to take, when do we need to break,
25 and that sort of thing. So that's what goes on in those

1 conferences. Or there may be from time to time when I
2 will excuse you back to your jury room so we can talk
3 about a point of law. And as you can imagine, the same
4 thing applies, if it shouldn't be admitted, you shouldn't
5 hear it. So that's what we're doing.

6 I will tell you that you all are the sole judges of
7 the facts. The law does not allow a trial judge to have
8 any opinion about the facts of the case. So don't think
9 by anything I say or do that I have such an opinion. I
10 don't. It's up to you all to decide what to believe and
11 what not to believe.

12 Now, the same law that makes you all the sole judge
13 of the facts makes me the sole judge of the law. And so
14 if you have any idea as to what you think the law is or
15 what the law ought to be and it differs from what I tell
16 you the law is, you're going to swear an oath in just a
17 second to set aside your own opinion and apply the law
18 precisely as I state it to you.

19 The last thing I would talk to you about and tell you
20 is that Mr. Kelly has decided to represent himself in this
21 case. And we have -- the Court has appointed standby
22 Counsel, who is available for consultation should he
23 decide to avail himself of that resource. Please do not
24 take -- hold anything against him because of that choice.
25 That is a choice everyone has.

1 And, additionally, I would tell you that his choice
2 of clothing is, also, his own choice. So, please, do not
3 infer anything or make any presumptions from his clothing
4 choice.

5 And with that, ladies and gentlemen --

6 Is there any reason I should not have the jury sworn
7 at this time?

8 MR. WILKINS: None from the State, Your Honor.

9 THE COURT: From the Defense?

10 DEFENDANT KELLY: I object to the proceedings.

11 THE COURT: All right. Well, we're going to ask you
12 to stand and take your oath.

13 THE CLERK: Please raise your right hand.

14 (WHEREUPON, the jury was sworn at approximately
15 1:12 p.m.)

16 THE CLERK: Thank you.

17 THE COURT: All right. Ladies and gentlemen, at this
18 time, we're going to excuse you all for lunch. I ask you
19 to be back at --

20 Would an hour and 15 minutes do it?

21 At 2:30. And we're going to show you the dark secret
22 hallways of the courthouse. We're going to show you where
23 your jury room is and how you all come in and out for jury
24 service.

25 Thank you.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 1:13 p.m.)

3 THE COURT: Anything further from the State at this
4 time?

5 MR. WILKINS: Nothing, Your Honor.

6 THE COURT: From the Defense?

7 DEFENDANT KELLY: I object to the proceedings. I do
8 not consent to the jurisdiction.

9 THE COURT: Okay. We'll see you all at 2:30.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: Has any member of the media not received
12 the order I handed out?

13 (WHEREUPON, there was no response.)

14 THE COURT: Okay. I assume all the media got it.
15 And it's been brought to my attention that there's already
16 been a violation of that. That there's been some tweet
17 that was taken while the Court was not in session.

18 So, to be clear, the next violation will result in a
19 contempt of court ruling. I'm trying to protect the
20 integrity of this proceeding.

21 So does anyone have any questions about when the
22 Court is in session?

23 (WHEREUPON, there was no response.)

24 THE COURT: The Court is in session when the Judge
25 arrives on the bench.

1 All right. Are y'all ready to go?

2 MR. WILKINS: Yes, Your Honor. I have one brief
3 pretrial --

4 THE COURT: All right. What's that?

5 MR. WILKINS: -- issue. Your Honor, before I
6 referred to discovery compliance pursuant to Rule 5. And
7 I've got an affidavit of Marshall Stowers that I want to
8 introduce into the record before we begin this jury trial,
9 as well as the -- his log that -- that he -- he did
10 showing when Mr. Kelly looked at discovery, how often,
11 when he refused, just -- just to have it for the record,
12 Your Honor.

13 THE COURT: All right. Anything you want to tell me
14 about that, Mr. Kelly?

15 DEFENDANT KELLY: Let the record reflect that I'm not
16 here willingly. I'm handcuffed, shackled. I'm tied to a
17 chair. I was insulted. And I do not choose to
18 participate in any of the proceedings. I object to the
19 proceedings. I am not of corporate fiction. I'm a flesh
20 and blood living man. And my rights have been
21 continuously violated over and over with no repercussions.

22 THE COURT: Okay.

23 MR. WILKINS: Your Honor, I'm providing a copy of
24 what I'm presenting to the Court.

25 THE COURT: Yeah.

1 MR. WILKINS: If you'll just make this part of the
2 record.

3 (WHEREUPON, State's Exhibit Nos. 10 and 11 were marked
4 for identification and admitted into evidence.)

5 THE COURT: There's been a new development with
6 Mr. Kelly. I see he's in a special chair; is that
7 correct?

8 THE SLED OFFICER: Yes, sir.

9 THE COURT: All right. And for the record, the
10 reason for that.

11 THE SLED OFFICER: Your Honor, it was when -- he
12 refused to come out of his cell. And then when we went to
13 assist him in standing, it was active resistance towards
14 us at that point in time. So he was placed in the chair
15 and brought to the courtroom.

16 THE COURT: Okay.

17 DEFENDANT KELLY: I object. That's a lie. I was
18 physically assaulted.

19 THE COURT: Okay.

20 DEFENDANT KELLY: It's on camera.

21 THE COURT: All right. Well, let me --

22 Mr. Kelly, we're just doing our best to accommodate
23 you.

24 DEFENDANT KELLY: I don't want any accommodations.

25 THE COURT: Okay.

1 DEFENDANT KELLY: I don't want any participation in
2 this circus.

3 THE COURT: All right. Well, this is your day in
4 court, so to speak.

5 All right. Well, let's -- let's bring the jury in.
6 Hold them one second, the jury I'm talking about.

7 Just for the record, I want to make a finding that
8 the Defendant has been disruptive. And that because of
9 that behavior, pursuant to the guidelines, as I understand
10 them from the United States Supreme Court laid out in
11 Illinois vs. Allen, I approve the use of this restraint
12 chair.

13 All right. Now, bring them in.

14 (WHEREUPON, the jury came into open court at
15 approximately 2:48 p.m.)

16 THE COURT: All right. Ladies and gentlemen, welcome
17 back. I hope y'all had a pleasant lunch. And we are now
18 ready to begin the trial of the case.

19 I'll turn it over to the Solicitor for his opening
20 comments.

21 MR. WILKINS: Your Honor, may it please the Court.

22 THE COURT: Yes, sir.

23 OPENING STATEMENT

24 MR. WILKINS: Good afternoon, ladies and gentlemen.

25 Again, my name the Walt Wilkins. And I'm the

1 Prosecutor in this case. This is Grace Moroney. She's an
2 assistant solicitor assisting in the trial of this case,
3 and Andrea Phillips as well, and Matt Davis with the South
4 Carolina Law Enforcement Division, who's the lead
5 investigator in this case.

6 I, first, want to thank you for your service. I
7 appreciate you being here to help us resolve this -- this
8 particular dispute.

9 And the way that this courtroom is going to run, the
10 way that you're going to receive information is going to
11 be evidence presented by the State. And it's our
12 obligation to prove this case and the charges that you
13 heard from the Judge earlier beyond a reasonable doubt.

14 And everybody in this courtroom has a role. So as I
15 said, we are the prosecutors in this state -- in this
16 case. We are the State. We are -- we are pursuing the
17 charges against the Defendant, Ray Kelly. And our job is
18 to prove that case beyond a reasonable doubt.

19 The Defendant is seated over here as well. He has
20 chose not to have counsel with him. You've heard --

21 DEFENDANT KELLY: I object.

22 MR. WILKINS: -- instructions from the Judge about
23 that.

24 Over here, you have the Judge. And his job is to
25 sort of maintain the rules of the courtroom. As you can

1 see, he sits a little higher than everybody else. He's a
2 really important person in this situation.

3 However, ladies and gentlemen, the most important
4 people in this -- in this -- in this case is you, the
5 jurors. You are the finders of the fact. You are the
6 triers of fact. You decide what the facts are.

7 And you're going to do that by hearing evidence
8 presented from that witness stand. So witnesses are going
9 to be called. And they're going to give testimony. It's
10 direct evidence. They're going to give testimony about
11 what happened regarding this particular case.

12 You're going to see videos. You're going to see
13 photographs. You're going to hear expert testimony of --
14 of different -- different sorts to help you come to your
15 conclusion to prove -- so that we can prove our case
16 beyond a reasonable doubt.

17 So, ladies and gentlemen, this case that you're
18 getting ready to hear and you're going to hear for the
19 next couple of days is about the case -- it's about the
20 murder of Master Deputy Conley Jumper. And you're going
21 to hear evidence about October 20th, 2020, about a routine
22 car stop made by a fellow officer. You're going to hear
23 from them. And you're going to see what happened during
24 that car stop.

25 And you're going to see the actions of the Defendant,

1 Ray Kelly, during that car stop. And you're going to see
2 how his actions resulted in his murder.

3 You're, also, going to hear from SLED agents about
4 the follow-up investigation of that. You're going to hear
5 about the search of the car, and the location of we --
6 what we intend to prove are illegal narcotics, cack --
7 crack cocaine or cocaine base. You're going to hear from
8 those experts about those drugs and where they were
9 located and proving -- proving that they were trafficking
10 drugs.

11 So you're -- you're tasked with a number of duties
12 and the charges that you're sitting -- that are sitting
13 before you. So you've got murder is your -- is the first
14 charge. You've got trafficking drugs is the second
15 charge. Possession of a weapon during the commission of a
16 crime. That is possession of a weapon while trafficking
17 illegal drugs. You've got the resisting arrest of three
18 officers, so three separate cases for each officer in
19 which -- which Mr. Kelly resisted arrest with assault on
20 all three of those. Then you've got a myriad of traffic
21 violations, speeding, following too close, giving false
22 information to police.

23 And so with all that information, you're going to
24 hear from that jury -- from that box right there from the
25 witness stand. And you're going to -- you're going to

1 receive all this information that we're going to present
2 to you.

3 And, ladies and gentlemen, at the end of that
4 presentation, we're going to ask you to convict Ray Kelly
5 of all those charges and -- that -- that we have
6 presented. And you will find after you hear the
7 conclusion of our evidence that Ray Kelly did, in fact,
8 murder Deputy -- Master Deputy Conley Jumper and traffic
9 in drugs.

10 Thank you.

11 THE COURT: All right. Mr. Kelly, anything you'd
12 like to tell the jury in opening statement?

13 DEFENDANT KELLY: I object to the proceedings.

14 THE COURT: Okay. Call your first witness.

15 MR. WILKINS: Thank you, Your Honor.

16 The State calls Master Deputy Jesse Wasserman.

17 THE CLERK: Place your left hand on the Bible and
18 raise your right hand.

19 WHEREUPON,

20 JESSE WASSERMAN,

21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 Please be seated.

24 Please state your name for the record.

25 THE WITNESS: My name is Jesse Wasserman.

DIRECT EXAMINATION

BY MR. WILKINS:

Q Master Deputy Wasserman, what do you do?

A I'm a K9 handler. I'm employed with the Greenville County Sheriff's office. I'm assigned to our traffic unit and I work Interstate 85.

Q And how long have you been with the Greenville County Sheriff's Office?

A I was hired by the sheriff's office in February of 2009, so about 13 years.

Q And have you always done traffic interdiction stops?

A I have done interdiction. We started the interdiction unit in January of 2017. And I was one of the founding members, so.

Q And did you work for any law enforcement prior to the Greenville County Sheriff's Office?

A I did. I worked as a Pennsylvania state trooper for two years before moving to South Carolina.

Q And you said that you worked for the Greenville County interdiction team. What is that and what do y'all do? Can you tell this jury kind of your job duties and how it's conducted?

A Yes. We are a criminal interdiction unit. We work on -- primarily on Interstate 85. And we are searching for criminals that traffic narcotics, illegal guns,

1 humans, human smuggling, trafficking on the interstate by
2 conducting large volume traffic stops. So we stop about
3 15 to 20 cars a day per deputy.

4 Q And do y'all work in teams, or how do y'all operate
5 on the highway?

6 A Yeah. We work in teams. In October of 2020, it was
7 two K9 handlers, myself and Master Deputy, at the time,
8 Jumper, and two just regular interdiction units that don't
9 have dogs.

10 Q All right. I'm going to take you back to
11 October 20th of 2020, were you working as a interdiction
12 specialist at that time?

13 A Yes, sir, I was.

14 Q And who were you working with?

15 A I was working with Master Deputy David Harrison, with
16 Master Deputy Conley Jumper, and with Deputy Nick
17 Ledbetter.

18 Q Okay. And where were y'all working?

19 A We were working Interstate 85 northbound. I had just
20 stopped a car southbound and had used Byrd [phonetic] Road
21 in Anderson County to turn around because it's impossible
22 to get across 153 in the middle of the day.

23 Q So were you on the border of Anderson and Greenville
24 County?

25 A Yes, sir.

1 Q Working north?

2 A Correct.

3 Q Okay. And did you happen to engage in a traffic stop
4 that day?

5 A I did.

6 Q Tell us about that.

7 A So, like I said, I had just flipped at Byrd Road to
8 travel back northbound. We usually set up when we're
9 working northbound traffic on -- right at 185, where 185
10 and 85 come together, we'll sit perpendicular to the
11 roadway.

12 And what we do is we're looking for inconsistencies
13 is the normal motoring public. Just the littlest things
14 is what we're looking for when somebody goes by, you know.
15 Most people when they drive, they're super relaxed, you
16 know, one hand up on the steering wheel. They'll see us
17 on the side of the road, you know. They might give us a
18 honk, or wave, or a little look. And it's the little
19 things we look for, the thousand-yard stare, the hand, you
20 know, tended to locked down. So those are the things that
21 we look for when we sit perpendicular to the roadway.

22 However, on this particular traffic stop, I had just
23 crossed over from Anderson County into Greenville County.
24 And I saw a car way up ahead of me that I could tell was
25 going way above the speed limit. The speed limit out

1 there is 60 miles an hour. And I've been with the traffic
2 unit long enough and seen enough cars go by that you can
3 judge what the speed is based on how fast the car is
4 pulling away and the speed of which they're passing other
5 traffic.

6 And I, also, noticed in addition to driving way too
7 fast, the car was way up too close to the vehicles that
8 were in front of it. Most people don't know,
9 unfortunately, in South Carolina, we lead the nation in
10 fatalities. Greenville County is always one of the top
11 two. So we have some of the most horrific driving
12 conditions in the United States, which is why -- in
13 addition to criminal interdiction, we're, also, saddled
14 with trying to keep everybody that drives 85 safe, the
15 hundreds of thousands of people that drive that road every
16 day.

17 Q Did you initiate -- well, let me ask you this, do you
18 wear -- are your cars equipment with in-car cameras?

19 A They are. We have in-car cameras. When we activate
20 our blue lights, the camera backs up 30 seconds so we can
21 get any evidence of any traffic offense that occurred 30
22 seconds prior to activating blue lights.

23 That activation, also, activates our body cameras.
24 So any time we activate the blue lights in the cars, not
25 only does the in-car camera turn on, but our body worn

1 cameras, also, turn on.

2 Q So you have in-car camera and body-worn camera?

3 A Yes, sir.

4 Q Both operating when you initiate a stop?

5 A Yes.

6 Q And on this day, did you initiate a stop of a blue
7 Nissan Altima?

8 A Yes, sir, I did.

9 Q How did you initiate that stop?

10 A Like I said, I saw the car as I was coming into
11 Greenville County. It looked -- there's a little hill
12 coming out of Anderson coming up into Greenville. And I
13 could see the car ahead of me. So I sped up to catch up
14 to the car and activated my blue lights and conducted the
15 traffic stop on that Nissan right at, like, the White
16 Horse Road exit.

17 Q And is that in Greenville County?

18 A Yes, sir, it is.

19 Q I'm going to show you some exhibits.

20 A Yes, sir.

21 MR. WILKINS: And I'm going to ask you to identify
22 these.

23 Your Honor, I'm showing these to the Defendant.

24 THE COURT: Okay.

25 MR. WILKINS: It appears he's not interested.

1 THE COURT: He doesn't want to look at them.

2 Go ahead.

3 MR. WILKINS: Thank you, Your Honor.

4 BY MR. WILKINS:

5 Q I'm going to show you what's marked as State's
6 Exhibit No. 1. See if you recognize that?

7 A Yes, sir. That's a copy of my body camera.

8 Q Your body-worn camera?

9 A Yes, sir.

10 Q Okay. And I'm going to show you what's marked as
11 State's Exhibit No. 2. Do you recognize that?

12 A Yes, sir. That is a copy of my in-car camera.

13 Q Okay. And are those true and accurate
14 representations -- have you reviewed these prior to trial?

15 A Yes, sir.

16 Q Okay. And are those true and accurate
17 representations of what occurred on that day when you made
18 this traffic stop?

19 A Yes, sir.

20 Q And I'm going to show you State's Exhibit No. 3 and
21 see if you recognize that?

22 A Yes, sir, I do.

23 Q What is that?

24 A That is a combined video of my in-car camera and my
25 body camera.

1 Q And have you reviewed that as well?

2 A I have.

3 Q And is that a true and accurate representation of
4 your in-car camera and your body camera?

5 A Yes, sir, it is.

6 MR. WILKINS: Your Honor, the State moves State's
7 Exhibit Nos. 1, 2, and 3 into evidence.

8 THE COURT: Is there any objection relating to the
9 admission of these exhibits?

10 (WHEREUPON, there was no response.)

11 THE COURT: Okay. Admitted.

12 (WHEREUPON, State's Exhibit Nos. 1, 2, and 3 were
13 admitted into evidence.)

14 MR. WILKINS: I request to publish State's Exhibit
15 No. 3.

16 THE COURT: Yes, sir.

17 BY MR. WILKINS:

18 Q All right. Master Deputy Wasserman, I'm going to
19 show you that combination of in-car camera and your body
20 camera. I'm going to publish it to the jury and ask you
21 some questions about what's going on at certain stages of
22 this.

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit No. 3 was played in open
25 court.)

1 BY MR. WILKINS:

2 Q So is this your car?

3 A Yes, sir, it is.

4 Q Are you driving it?

5 A I am.

6 Q What are you doing right here?

7 A So this is the 30 seconds of just video when you
8 activate the blue lights. Like I explained before, the
9 video system is always taping. So any time you hit the
10 blue lights, it will automatically back up and you'll get
11 30 seconds of video. And then after that 30 seconds of
12 video, audio will kick in.

13 (WHEREUPON, State's Exhibit No. 3 continued to be
14 played in open court.)

15 BY MR. WILKINS:

16 Q All right. I'm going to point you to the right side
17 of the screen that I'm looking at.

18 A Yes, sir.

19 Q There's some cars on the side that look like they're
20 perpendicular?

21 A Yes, sir.

22 Q Can you tell us who they are and what they're doing?

23 A The first car is Master Deputy Harrison. The second
24 car is Deputy Nick Ledbetter. And the third SUV closer to
25 the bridge is Master Deputy Jumper.

1 Q And you discussed how you work in teams. Is this the
2 team working 85 on this day?

3 A Yes, sir, it was.

4 Q I noticed -- we notice the sound came on. So that's
5 the 30 seconds prior?

6 A Yes.

7 Q Now, did you notify others that you were engaging in
8 a traffic stop?

9 A Yeah. Any time we conduct a traffic stop, we get on
10 the radio and we call out and notify dispatch so that they
11 know where we're at, so that our partners know where we're
12 at and everybody has a -- they know that we're out on a
13 traffic stop.

14 Q Okay. So you initiated this stop, you previously
15 testified, because you saw the car going at a high rate of
16 speed?

17 A Yes, sir.

18 Q Were you able to calculate how fast that car was
19 going?

20 A Yes, sir. 84 hours miles an hour.

21 Q How were you able to do that?

22 A Using our certified calibrating speed measuring
23 equipment inside the vehicle.

24 (WHEREUPON, State's Exhibit No. 3 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q And then did you view the car following close behind
3 another car?

4 A I did. Less than two car lengths, which at that
5 speed is entirely too close. The National Highway Traffic
6 Safety Administration dictates that for every 10 miles an
7 hour you travel, you have to leave a car length in
8 between.

9 So with the speed limit being 60 on the interstate,
10 that's six car lengths. He was traveling 24 miles an hour
11 over the speed limit and was less than two cars length
12 away from the vehicle in front of him, which really
13 increases the likelihood of a collision.

14 Q So it appeared -- did the car comply with pulling
15 over?

16 A It did.

17 (WHEREUPON, State's Exhibit No. 3 continued to be
18 played in open court.)

19 BY MR. WILKINS:

20 Q All right. And so is this you pulling the car over?

21 A Yes, sir, it is.

22 Q What did you notice anything about once you pulled
23 this car over?

24 A Well, so in criminal interdiction, we're taught to
25 look at very minute things when we're speaking to people.

1 It might be something as small as a micro twitch in
2 their -- on their face or how they position their car when
3 they pull over.

4 When I pulled this vehicle over, I noticed that it
5 was very close to the fog line, the white line. It's
6 something in the industry that we call white lining. It
7 is something that criminals will do. Assuming that we're
8 making a driver's side approach on a traffic stop, they
9 want us to feel as uncomfortable as possible limiting the
10 time that we spend at that driver's side window.

11 And so most people when they pull over, they want to
12 get as far away from the interstate as possible. Most
13 people will, actually, park in the grass as close to that
14 guardrail as they can because that's the safest place to
15 be. And on this traffic stop, I noticed it. It might
16 have meant something, might have meant nothing. But at
17 the time, it was something I picked up on.

18 I, also, noticed that the right turn signal remained
19 on. Again, something minute that we look for. Most
20 people get super annoyed by that clicking sound of the
21 turn signal. And they will turn the turn signal off once
22 they come to a final stop. People that are extremely
23 nervous, they don't hear it. It just drowns out.

24 Q So white lining and your blinker on doesn't
25 necessarily mean criminal activity --

1 A It doesn't.

2 Q -- is afoot?

3 A Correct.

4 Q Is it just an indicator?

5 A Just something -- just some small things that we look
6 for. Again, it may not mean anything, it may mean
7 something.

8 Q I notice there's a black bag to the right of the car.
9 Does that have anything to do with this particular stop?

10 A It didn't. I think they were doing trash pickup
11 earlier in the week where they were cleaning up the side
12 of the interstate.

13 Q So what do you, typically, do once the car pulls over
14 and you get out?

15 A So we always make passenger side approaches, A,
16 because it's farther away from the interstate. B, from
17 that passenger side, you can see a lot of what's going on
18 inside the car. You can see the passenger. You can -- we
19 use the passenger side mirror to look into the car so you
20 can see the driver's hand, make sure they're not reaching
21 for any weapons. You can see what the passenger is
22 doing. So that's why we always make that passenger side
23 approach.

24 (WHEREUPON, State's Exhibit No. 3 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q So in this particular case, what did you do when you
3 went to the passenger side?

4 A I made contact with the driver. He had only rolled
5 the passenger side window down a little bit, which is
6 something that criminals often do to try to mask the odor
7 of illegal narcotics from inside the vehicle. However,
8 all that it does is kind of funnels them into a smaller
9 area like a garden hose.

10 So I made contact with the driver. I asked him for
11 his driver's license. He patted his pants and told me
12 that he didn't have his driver's license on him. When I
13 was speaking with him, the overwhelming odor of marijuana
14 from inside the vehicle hit me in the face like a ton of
15 bricks.

16 Q And so how many passengers are in this car?

17 A It is just the driver and the front seat passenger.

18 Q And you didn't know these individuals before you made
19 this traffic stop?

20 A No.

21 Q So at this moment, you've just got two individuals
22 and you're just asking for license and registration?

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit No. 3 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q So do you normally ask individuals to get outside --
3 to exit their car when you're talking to them?

4 A We do. We do it for several reasons. The first
5 reason is the interstate is extremely loud. And it's
6 nearly impossible to hear somebody from inside the motor
7 vehicle. So when we're face-to-face, it's a lot easier to
8 communicate.

9 Secondly, especially with passengers you don't want
10 to be screaming back and forth across that poor passenger
11 that's sitting there. And the third reason that we do it
12 is to separate the driver and passenger so that we can
13 qualify the questions and answers that we receive from
14 both of them to see if they match up or if they're
15 completely different.

16 (WHEREUPON, State's Exhibit No. 3 continued to be
17 played in open court.)

18 BY MR. WILKINS:

19 Q So at this point, you testified you smelled marijuana
20 in the car?

21 A Yes, sir.

22 Q And then you asked that individual to step out. What
23 name did he give you?

24 A John Arthur Kelly.

25 Q And were -- what -- what were -- what were you

1 intending to do next once you got his information?

2 A So when you saw me walk back from the initial
3 contact, you could see me on my radio. I knew that we
4 were going to be searching the car based on the odor of
5 marijuana. Marijuana is still illegal in South Carolina.
6 And the odor of it from the vehicle gives us probable
7 cause to search the car.

8 So I was radioing for backup because I knew that,
9 ultimately, a search of the car was going to be conducted.

10 Q So once -- you got that individual's name?

11 A Yes.

12 Q And I can ask you, do you see that individual in the
13 courtroom today?

14 A I do. It's the gentleman seated in the orange
15 jumpsuit.

16 Q Do you know him as Ray Kelly?

17 A I do now.

18 Q And so do you go check the information that he's
19 given you?

20 A I -- I do, yes. So we have computers inside our cars
21 that allow us to run people's information, name, dates of
22 birth, driver's licenses. So I ran the name and date of
23 birth through my computer using the State of New York,
24 which is where he said his license was out of.

25 Now, when the computer generates that information, it

1 will tell us -- it gives us -- it's just like the driver's
2 license. It tells you how tall the person is, how much
3 they weigh, hair color, eye color. I noticed that when
4 that information came back on the computer that it did not
5 match the characteristics of the person that I had made
6 contact with.

7 I believe the -- when I ran it on the computer, it
8 gave a height of six foot. And I knew that we were about
9 eye-to-eye and I am not six-foot tall. So I was pretty
10 certain at that point that he was lying about who he was.

11 Q And had he given you any sort of identification at
12 this point?

13 A He had not.

14 (WHEREUPON, State's Exhibit No. 3 continued to be
15 played in open court.)

16 BY MR. WILKINS:

17 Q So what were you doing now talking to the passenger?

18 A Yes. So the driver had mentioned that the vehicle
19 was a rental car. When they rent you a vehicle, they give
20 you a rental agreement. So I was making contact with the
21 passenger to acquire the rental agreement. Also, because
22 he didn't have a driver's license in his possession, which
23 is against the law, I was asking for her driver's license.

24 Q And did she provide you one?

25 A She did.

1 Q And did she provide you a rental agreement?

2 A She did.

3 (WHEREUPON, State's Exhibit No. 3 continued to be
4 played in open court.)

5 BY MR. WILKINS:

6 Q So did she initially -- what did she, initially, tell
7 you about who rented the car?

8 A So, initially, she told me that the name on top of
9 the rental agreement was hers. And then when I asked for
10 her ID, she changed her story and said that it was not her
11 name, but it was the name of the sister of the driver.

12 Q Okay. And then did she provide you an ID?

13 A She did.

14 Q So at this point, what indicators have you -- do you
15 have sort of in your head right now that something is not
16 right with this stop?

17 A So the indicators of criminal activity we had are,
18 number one, the overwhelming odor of marijuana from inside
19 the car. Number two, the driver not having his license on
20 him. I don't know anybody who's ever gone across multiple
21 states without a driver's license. Number three, the
22 female passenger, at first, said she was the renter of the
23 car. But then when I asked her for her ID, she changed
24 her story and said, No, I'm sorry. That's not my name.
25 And she gave me her ID -- or, excuse me, an ID.

1 Q So what did you do next?

2 A At that point, I went back to my patrol car to run
3 the information that he gave me, the name and date of
4 birth, as well as the ID that she had given me.

5 Q And now, I notice another officer in the background
6 right there. Who is that?

7 A That's Deputy Nick Ledbetter.

8 Q And did you call him there?

9 A I did. So, initially, I called for Master Deputy
10 Jumper to come back me up. We had just worked -- if
11 anybody has been through Spartanburg rolling thunder, it's
12 when a lot of interdiction units get together and work
13 Spartanburg County for a week. We had done that the week
14 prior. And Master Deputy Jumper was down on some reports.

15 So I had, originally, called for him. And Deputy
16 Ledbetter canceled him so that he could work on his
17 paperwork. And he came to back me up.

18 MR. WILKINS: I'm going to show you what's been
19 marked as State's Exhibit No. 4.

20 I'm providing it to the Defendant. He doesn't appear
21 to want to view it.

22 THE COURT: Okay. Go ahead.

23 BY MR. WILKINS:

24 Q I'm going to show it to you. Do you recognize that?

25 A Yes.

1 Q What is that?

2 A That's a Hertz rental agreement, as well as a copy of
3 the warning that I had written for Mr. Kelly.

4 MR. WILKINS: Your Honor, the State moves State's
5 Exhibit No. 4 into evidence.

6 THE COURT: Any objection?

7 (WHEREUPON, there was no response.)

8 THE COURT: Okay. Without objection.

9 (WHEREUPON, State's Exhibit No. 4 was admitted into
10 evidence.)

11 MR. WILKINS: Your Honor, I'm going to publish this
12 to the jury.

13 BY MR. WILKINS:

14 Q All right. And so is this the rental agreement?

15 A Yes, it is.

16 Q That was previously identified?

17 A Uh-huh.

18 Q And whose name is the rental agreement in?

19 A Dmoya Kelly.

20 Q And is that the vehicle right there?

21 A It is, a 2020 Nissan Altima. And it, also, list the
22 license plate number. And it, also, gives information
23 when the vehicle was rented, and where it was rented, and
24 when it's due to be returned.

25 Q Did either of these individuals identify themselves

1 as Dmoya Kelly?

2 A They did not.

3 Q I'm going to show you -- is this the ticket that you
4 wrote?

5 A Yes.

6 Q And that was the information you could see on the
7 body cam?

8 A Correct.

9 Q And so that's the name up there?

10 A Yes.

11 Q What's the name that you wrote down?

12 A John Arthur Kelly.

13 Q All right. I'm going to go back to the body cam -- I
14 mean the body and in-car camera.

15 (WHEREUPON, State's Exhibit No. 3 continued to be
16 played in open court.)

17 BY MR. WILKINS:

18 Q What did we now know that Mr. Kelly asked you to do
19 when you were going to your car?

20 A He wanted to go sit back in the car, his car.

21 Q Did that seem suspicious to you?

22 A Yes.

23 Q Now, are you just putting information in your
24 computer?

25 A Yes.

1 Q While you're doing this, what is Deputy Ledbetter
2 doing?

3 A He's speaking with the driver of the car.

4 Q Is that common when y'all -- when stops like this
5 happen?

6 A Yeah. When we work in groups, the backup deputy will
7 come and talk to the driver and make casual conversation,
8 and try to extract any bits of information that I may not
9 have gotten initially. And it's something that we can
10 compare, you know, stories, you know, where did he tell
11 you he was coming from, and where did he tell you he was
12 going, and stuff like that.

13 (WHEREUPON, State's Exhibit No. 3 continued to be
14 played in open court.)

15 BY MR. WILKINS:

16 Q I noticed you put the passenger's identification and
17 the paperwork under your windshield wiper?

18 A Yes, sir.

19 Q What -- what purpose does that serve?

20 A It's a nonverbal queue that we use to our backup unit
21 to let them know that we're going to be searching the car,
22 you know. It's like an unspoken thing. They see the
23 information go under the passenger wiper, they know we're
24 about to search the car.

25 Because Nick and I hadn't spoken prior. So he didn't

1 know that I smelled the marijuana or that the driver
2 didn't have the driver's license and I thought he was
3 lying about his name based on the characteristics that
4 came back when I ran that name and date of birth.

5 (WHEREUPON, State's Exhibit No. 3 continued to be
6 played in open court.)

7 BY MR. WILKINS:

8 Q So what did you go explain to the Defendant at that
9 moment?

10 A I explained to him that due to the overwhelming odor
11 of marijuana from inside the car that in South Carolina
12 that gave us probable cause to search the car.

13 Q And was Mr. Kelly under arrest?

14 A Mr. Kelly was under arrest when I put hands on him
15 and he pulled away. At that point, he was under arrest.

16 (WHEREUPON, State's Exhibit No. 3 continued to be
17 played in open court.)

18 BY MR. WILKINS:

19 Q Okay. So what's happened here? It looks like it
20 escalated quick.

21 A It did. I went to arrest Mr. Kelly. He resisted and
22 pushed back, tried to make a break for the car. Deputy
23 Ledbetter got involved. And the blue Tahoe that you see
24 is Master Deputy Jumper.

25 Q Okay. So Master Deputy Jumper came on scene. And

1 when did he arrive?

2 A I think as soon as I put -- I think he was pulling up
3 as soon as I put hands on Mr. Kelly.

4 Q And then what -- what happens in this video?

5 A The worst fight of my life.

6 (WHEREUPON, State's Exhibit No. 3 continued to be
7 played in court.)

8 BY MR. WILKINS:

9 Q So what happened?

10 A The suspect was able to fight back into the driver's
11 seat. He was able to fight both Deputy Ledbetter and
12 Master Deputy Jumper. He was able to break free and get
13 into the driver's seat. And he was then able to put the
14 car in gear and take off across the interstate.

15 Q All right. So I want to back up to -- to the
16 struggle with the Defendant. Tell this jury what kind of
17 struggle it was and what, specifically, was going on.
18 Were you being hit? Were you being pulled? And did you
19 suffer any injuries?

20 A Yeah. So the Defendant was fighting viciously back.
21 He had a hold of Deputy Ledbetter's uniform shirt trying
22 to choke him. He was pushing us both back. He was
23 striking Master Deputy Jumper. It was a hellacious fight.

24 What made it even worse was the location it was. Had
25 we not been fighting that close to the roadway, we would

1 have simply taken him to the ground which would have ended
2 the fight. But because we were on the driver's side of
3 the suspect vehicle, that close -- because of where he
4 placed the suspect vehicle that close to the fog line, we
5 were, basically, in traffic.

6 You can see at one point in the video when Deputy
7 Ledbetter and I were fighting him, you could see me
8 pulling on the suspect's white T-shirt to try to pull both
9 of them to get them back behind the vehicle and to safety.
10 And in doing so, I tore a tendon in my hand, that right
11 there.

12 (WHEREUPON, State's Exhibit No. 3 continued to be
13 played in open court.)

14 BY MR. WILKINS:

15 Q Is that when you tore a tendon trying to get
16 Mr. Kelly from the highway?

17 A Trying to pull Mr. Kelly and Deputy Ledbetter away
18 from the highway.

19 Q And it appears you're extremely close to the highway?

20 A Extremely close.

21 Q And what is the speed limit?

22 A 60.

23 Q And were cars going that during this time?

24 A They were.

25 Q And if someone fell into the highway, would it --

1 A That would be it.

2 Q -- be a risky proposition?

3 A Yeah. That would be it.

4 Q What is Master Deputy Jumper doing?

5 A He is trying to get the suspect under control. He is
6 trying to place him under arrest. He's trying to push him
7 back toward the rear of the car, again, so that we can get
8 away from traffic into the grass to put him on the ground
9 to put him in handcuffs.

10 Q And is the Defendant struggling with Master Deputy
11 Jumper as well?

12 A He is.

13 You can see -- if you back up 10 seconds, you can see
14 just how close we were to the interstate. You can,
15 actually, see Jumper's boots right -- yep, right there.
16 You can, actually, see Deputy Jumper boots are on that
17 white fog line, which is extremely close to traffic.

18 Q Did you even go into one of the lanes --

19 A Yes.

20 Q -- trying to warn traffic away?

21 A Yes, I did.

22 (WHEREUPON, State's Exhibit No. 3 continued to be
23 played in open court.)

24 BY MR. WILKINS:

25 Q All right. What happens here?

1 A The passenger opened the driver's side door to try to
2 get out to see what was going on. And I directed her back
3 in to the suspect vehicle. Because I wanted to get her
4 out of the passenger side door and not in the middle of
5 the interstate traffic and the ensuing fight.

6 Q All right. And I see right now this moment the --
7 what -- it appears the taillights are on; is that correct?

8 A Yes, sir.

9 Q How does that happen?

10 A When you put your foot on the brake.

11 Q And where was Master Deputy Jumper positioned at this
12 time?

13 A He is now in the driver's -- in the driver's
14 compartment still fighting with the suspect.

15 Q And is he sort of -- is his torso on top of him?

16 A Yes.

17 Q All right. And then there's a new individual to the
18 right side there in a green shirt?

19 A Yes, sir.

20 Q Do you know who that is at that time?

21 A At that time, I did not. I don't even remember
22 seeing him.

23 Q Is it somebody that was just trying to help at that
24 moment?

25 A Yeah.

1 (WHEREUPON, State's Exhibit No. 3 continued to be
2 played in open court.)

3 BY MR. WILKINS:

4 Q All right. So when the car took off, what happened?

5 A It got hit by a tractor-trailer.

6 Q And then what did you do?

7 A I ran over to Master Deputy Jumper to tell him not to
8 move. I didn't know the extent of his injuries.

9 Q How long have you known -- did you know Master Deputy
10 Jumper?

11 A At that point, 10 years.

12 Q Was he a good friend of yours and y'all worked
13 professionally for that long?

14 A (There was no verbal response.)

15 MR. WILKINS: I'm going to ask you if you'd like
16 to -- if you'll answer any questions the Defense may have.

17 THE COURT: Do you have any questions?

18 DEFENDANT KELLY: I need to speak to Ms. Lipinski.

19 THE COURT: I'm sorry. I couldn't hear you.

20 MS. LIPINSKI: He would like to speak to me, Your
21 Honor. Could we have a moment outside?

22 THE COURT: Yeah. This is probably a good time --
23 we'll just take a short break.

24 And, Officer, please, stay. We'll get back to you in
25 a minute.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 3:35 p.m.)

3 THE COURT: All right. Ms. Lipinski.

4 MS. LIPINSKI: Yes, Your Honor. Can I talk to him
5 back here?

6 THE COURT: Yeah. We'll be at ease.

7 Deputy Wasserman, you can stand down. Please don't
8 discuss your testimony with anybody.

9 All right. We'll take a short break.

10 (WHEREUPON, a break was taken.)

11 MS. LIPINSKI: Your Honor, I told him you would
12 inquire with him how he wants to proceed. He said he
13 would walk out here, Your Honor. And SLED seemed fine
14 with that.

15 THE SLED OFFICER: Are you ready, Judge?

16 THE COURT: Yes, sir.

17 (WHEREUPON, Defendant Kelly entered the courtroom.)

18 THE COURT: All right. For the record, we broke at
19 Mr. Kelly's request so he could speak with standby
20 Counsel.

21 And, also, I would like to note that he is no longer
22 in the restraint chair. And he is going to have access to
23 his writing hand, which I understand is his left hand.

24 Is that correct, Mr. Kelly?

25 DEFENDANT KELLY: Yes.

1 THE COURT: All right. Now, I want to ask you how
2 you want to proceed. It's going to be -- now is the time
3 for your cross-examination of this witness.

4 DEFENDANT KELLY: Ms. Lipinski is going to
5 cross-examine him.

6 THE COURT: I'm sorry. I could not hear you.

7 DEFENDANT KELLY: Ms. Lipinski is going to
8 cross-examine him.

9 THE COURT: You -- Officer, can you move that
10 microphone closer to his mouth so we can hear him?

11 THE SLED OFFICER: Yes, sir.

12 THE COURT: I believe you said -- Ms. Lipinski,
13 you're requesting that she begin representing you; is that
14 right?

15 DEFENDANT KELLY: Yes.

16 THE COURT: Okay. Well, I want to caution you that
17 she has been -- because of your conduct up to this point,
18 she is not as prepared as she would be. She is an
19 experienced, excellent criminal defense lawyer. But your
20 conduct and your -- the choices you have made are going to
21 make it difficult for her. But I'm sure she will do the
22 best that she can under the circumstances.

23 Ms. Lipinski.

24 MS. LIPINSKI: Yes, Your Honor.

25 THE COURT: He, I think, is asking you to step in and

1 begin representation.

2 MS. LIPINSKI: And, Your Honor, pursuant to the
3 conversations we had pretrial, if that's the case, as the
4 Court is aware, I've only had this case since, I think,
5 the beginning of July. I did not prepare to assume
6 representation of Mr. Kelly. While I did review discovery
7 so that I would be able and willing to review discovery
8 with him and answer any legal questions he has, I do not
9 have an opening. I do not have cross-examination. I
10 would ask the Court for the -- it's only 4:00 today, but,
11 at least, the balance of the day to try and prepare for
12 the cross-examination of this witness and any other
13 witness.

14 I will tell the Court that I advised Mr. Kelly it
15 can't be a tag team. If I take over, then it's now on me.
16 And I, also, advised him that while I can attempt to
17 preserve the jurisdictional and other issues that he
18 raised at the beginning of trial that my defense would
19 take a different tactic in that I let him know that just
20 so there would be no question of who would be in control
21 of the Defense going forward.

22 But I feel I'm not prepared to take over. I would
23 ask the Court out of all candor to declare a mistrial and
24 give me adequate time to prepare. This is a complex
25 murder case involving a law enforcement officer. I

1 understand Mr. Kelly boxed himself kind of into this
2 corner. But I still think he is deserving of a full and
3 fair defense and would want an attorney who has full
4 opportunity -- I would have subpoenaed certain documents.
5 I may have subpoenaed certain witnesses. I would have
6 made pretrial motions, any number of things, and different
7 tactics that Mr. Kelly was not open to or willing to
8 discuss with me.

9 So out of an abundance of caution, I do believe that
10 I have to make a motion for a mistrial and ask for that
11 out of manifest necessity so that I may adequately prepare
12 and go forward on Mr. Kelly's behalf. And if the Court is
13 not inclined to grant that, then I would ask for, at
14 least, a continuance until late tomorrow morning so that I
15 have some time to adequately try and conjure a defense and
16 preparation on behalf of Mr. Kelly as we go forward here
17 today.

18 THE COURT: Okay. Well, I've been over this with
19 Mr. Kelly multiple times. We are not going to declare a
20 mistrial. We're going to proceed with this case.

21 And so that the record is clear, I believe you have
22 put it on the record very accurately about the limitations
23 that are going to be involved with your representation.
24 And, certainly, this Court and I would think all courts
25 reviewing this record will note that and not allow that to

1 besmirch the work that you will do in this trial.

2 Is there anything else, Mr. Kelly?

3 DEFENDANT KELLY: (There was no verbal response.)

4 THE COURT: He shakes his head no.

5 All right. From the State, anything?

6 MR. WILKINS: Just to clarify, Your Honor, so we're
7 going to continue it until tomorrow morning?

8 THE COURT: We'll break. It's 10 after 4:00. So --
9 and I normally do not break testimony, a witnesses
10 testimony at a time like this. But because of the
11 extraordinary circumstances, which Mr. Kelly is
12 responsible for, I'm going to do it.

13 And I'm going to ask the jury to come back. And I'll
14 explain to them the circumstances.

15 But do you understand, Mr. Kelly, she is the lawyer
16 and you are the client from now on? And you don't get to
17 make arguments and you don't get to make motions. It's up
18 to your lawyer to do it.

19 Is that clear?

20 DEFENDANT KELLY: Yes.

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

22 Deputy, I'm going to -- Deputy Wasserman, if you want
23 to step down, that's great. I, again, instruct you not to
24 discuss your testimony with anyone. And I ask you to be
25 back in the morning for cross-examination.

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you very much.

3 It looks like we're going to need another chair.

4 MS. LIPINSKI: Do you want me to come around, Your
5 Honor?

6 THE COURT: Yes. Come on around.

7 MR. WILKINS: Your Honor, have you decided what time
8 we'll start in the morning? I know Ms. Lipinski asked for
9 a late morning. But we have a witness that has to leave
10 at noon.

11 THE COURT: We're going to start at 10:00.

12 And the Court deeply appreciates Ms. Lipinski's
13 participation.

14 (WHEREUPON, the jury came into open court at
15 approximately 4:08 p.m.)

16 THE COURT: All right. Ladies and gentlemen, this,
17 as you may or may not be aware, is kind of an abnormal
18 case and some of the circumstances of the process.

19 We are -- Mr. Kelly, who had, originally, requested
20 that he represent himself, has now changed his mind and
21 standby Counsel is going to step in. So what we're going
22 to do is to give standby Counsel an opportunity to become
23 a little more prepared is to break for the evening. And
24 to be -- I'm going to ask you to be back at 10:00 in the
25 morning. Okay.

1 And we all know that it's human nature that you will
2 want to talk about this. And it's human nature that the
3 people you see and know every day, if you have family or
4 friends like that, they're going to want to know about it.
5 As you can tell, the media is very interested in this
6 case. Do not watch it. Because what they report is not
7 evidence. And we don't want to -- I'm going to tell you,
8 protect -- follow your oath, protect that in this case so
9 that we can protect our system of justice.

10 They can report whatever they want as long as they
11 follow the orders of the Court. But you all don't look at
12 it. And don't let somebody tell you what they're
13 reporting. Everything you need to know to decide this
14 case, you'll hear in this courtroom. And it will be
15 subject to Constitutional protection and scrutiny.

16 So the other thing I'm going to ask you to do in the
17 morning when you get back is see if you can decide from
18 among the first 12 who you would like to serve as your
19 foreperson. It's a promotion without a raise in pay.

20 You -- the foreperson is the moderator of your
21 deliberations at the conclusion of the trial and your
22 spokesperson in the courtroom should that become
23 necessary. And if you all can decide -- I always think
24 that -- I've had a lot of juries. And they always make a
25 good choice. But if it's a problem, I can help you out

1 and help you make that decision. But when you come back
2 in the morning, see if you can decide who you would like
3 to be your foreperson.

4 So don't do any research. Don't go visit the scene.
5 Don't get on social media. This is -- I mean, I can't
6 emphasize that enough.

7 And with that, I hope you all have a pleasant night.
8 It's a beautiful day out there.

9 Thank you.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 4:12 p.m.)

12 THE COURT: Okay. Anything else before we break?

13 MR. WILKINS: Nothing from the State, Your Honor.

14 THE COURT: All right.

15 MS. LIPINSKI: Just a couple of things. One is if I
16 have any additional items in discovery that I think we
17 should have or that I might wish to try and have, could I
18 just e-mail that to the solicitor's office so they can try
19 to get them overnight?

20 Is there a person they want me to e-mail particularly?

21 THE COURT: Ms. Moroney.

22 MS. LIPINSKI: And then if I could just -- I know
23 SLED's busy, and that kind of thing. There's a room out
24 here where I think they can control the two doors very
25 quickly, or I can go downstairs. I know I've done that in

1 the past, kind of talked in the squad room.

2 But could I have the opportunity to have an hour with
3 Mr. Kelly so that I can just talk to him briefly about the
4 defense and the questioning of witnesses tomorrow?

5 THE COURT: In the morning, you mean?

6 MS. LIPINSKI: Yes, Your Honor.

7 THE COURT: Is that agreeable with you all?

8 THE SLED OFFICER: Yes, sir. That's fine.

9 THE COURT: Yeah. They'll make that happen.

10 All right. Thank you very much.

11 MS. LIPINSKI: Thank you.

12 THE COURT: And, Mr. Kelly, I believe you've made a
13 good choice.

14 All right. We'll see everybody in the morning.

15 (WHEREUPON, the proceedings were concluded at
16 approximately 4:13 p.m., to be reconvened on
17 Tuesday, September 27, 2022.)

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1 TUESDAY, SEPTEMBER 27, 2022

2 THE COURT: Anything before we get started?

3 MS. LIPINSKI: Yes, Your Honor. May I put some
4 motions on the record?

5 THE COURT: Sure.

6 MOTIONS

7 MS. LIPINSKI: First and foremost, the Defense renews
8 its motion for a mistrial and continuance in this case. I
9 know that we had some -- I don't know if they were all on
10 the record, or in chambers, or in the back hallway. But I
11 feel the need to protect the record and preserve the
12 record.

13 I was approached about this case probably, I believe,
14 in late June. At that time, they had determined that the
15 then appointed standby Counsel, Cass Gorton, had a
16 scheduling conflict and could not proceed with this trial
17 at that time. I was approached as to whether or not I
18 would consent to being substituted as standby Counsel.
19 Only that was presented to me at that time. Mr. Kelly had
20 been emphatic of his desire to represent himself. And
21 standby Counsel had been appointed.

22 In that I had only taken over this job and been in
23 the jurisdiction since March 2nd of this year and had not
24 had any prior involvement in this case or with Mr. Kelly,
25 I was clear with the Court at that time that I didn't have

1 any objection to filling in as standby Counsel, but that I
2 had limited time and means available to me between now and
3 the court date, specifically, that I could meet with him,
4 discuss trial strategy with him, offer legal advice, offer
5 to serve subpoenas, offer to assist him in filing pretrial
6 motions. But that I was not prepared or in any way taking
7 on the onerous of representing an individual charged with
8 murder against a law enforcement officer and being
9 prepared in less than 90 days.

10 I did exactly what I told the Court I would do. But,
11 obviously, extraordinarily that's happened and here I am.
12 But, nonetheless, given that was my limited role,
13 originally, that I did not have the time or the ability or
14 not been on the length of the case to do things that I
15 think are necessary to represent an individual charged
16 with this most serious of all cases, I do believe that a
17 mistrial is appropriate.

18 We've only called and done the direct of one witness.
19 I think the prejudice to the State would be de minimus at
20 that point. And I think even a continuance for 30 days or
21 90 days would be sufficient or, at least, more time for
22 the Defense to be adequately prepared to represent
23 Mr. Kelly in this case.

24 I understand the Court's belief that he boxed himself
25 in here. But I am now the attorney of record. And I'm

1 now tasked with this task. I will say that of particular
2 concern to the Defense is that upon reviewing the witness
3 list, which I only got a copy of it at the close of
4 business yesterday. Because in my role as standby
5 Counsel, that wasn't there. There are two primary
6 eyewitnesses, namely, two truck drivers who are not on
7 that witness list. They both had a birds eye view of the
8 encounter and are not part of the State's case.

9 The Defense is trying to subpoena them, but whether
10 or not we can do that in this limited time poses a grave
11 concern to the Defense in our ability to present an
12 effective defense, meaning that I would have availability
13 of witnesses on which to rely. That I would think they
14 would be material to that defense that I would choose to
15 present had I been involved in the case originally.

16 Yesterday, when I mentioned the issue and the
17 continuance to the Court, I raised the issue of manifest
18 necessity being the standard of review. I believe that's
19 the standard when the prosecution asks for a mistrial. I
20 believe the burden is much less when the Defense presents
21 a motion for a mistrial. And I just feel my inability to
22 review all the evidence, to investigate the case, to meet
23 with witnesses, and those type things is substantially
24 hampered in what is largely I know the murder of a law
25 enforcement officer.

1 And as a result of that and my limited time involved
2 in this case, I really haven't been able to discuss trial
3 strategy with Mr. Kelly. SLED was nice enough to allow me
4 to meet with him yesterday for about an hour and a half.
5 But my ability to do that and even get him to engage in
6 that is of concern to me.

7 I was not part of -- and I'm not calling into
8 question. But I was not part of or provided with the
9 Blair materials where there's a previous rule about
10 competency and evaluation. And I don't know if that is
11 something that -- I mean, I've always been able to
12 communicate with Mr. Kelly. In all candor, I'll represent
13 that to the Court. While we've not always had the best
14 relationship, he has always communicated with me more
15 often, not just his desire not to communicate with me.
16 But in making myself available, he has engaged in what I
17 call cogent and intelligent conversations on topics he
18 wished to discuss.

19 But I think just out of an abundance of caution to
20 ensure fair due process in this particular case to produce
21 a verdict in which the community, the victims, and
22 everyone can have faith in that verdict, I think I am
23 obligated and ethically need to make a motion for a
24 continuance and a mistrial as a result of that and the
25 fact that I'm being ejected into this trial at such a late

1 nature. So I wanted to put that motion on the record,
2 Your Honor.

3 THE COURT: Thank you very much.

4 Does the State have anything they want to say?

5 MR. WILKINS: Your Honor, just briefly. We would
6 respectfully oppose that motion for a continuance. We put
7 on the record starting almost 18 months ago all the
8 procedures and processes for Mr. Kelly's compliance with
9 discovery.

10 He's been read Farettas warnings three times advising
11 him of his right to counsel. He has chosen over and over
12 and over not to have the assistance of counsel. That is
13 his Constitutional right to have one. He has waived it
14 three times. The Court prophylactically put standby
15 Counsel in. And that's the purpose of standby Counsel so
16 when these situations occur. So I think Mr. Kelly's due
17 process rights have been exceedingly met. And here we
18 are.

19 The State has put in a lot of time, energy, and
20 preparation for this trial. We set this trial date
21 certain, Your Honor, I think four or five months ago
22 giving Mr. Kelly notice of when this date was going to
23 occur so he could aptly make those decisions. And, again,
24 in relation to discovery review, we made everything
25 available to him with access to computers and paperwork as

1 well.

2 And in relation to the truck driver, Your Honor, he
3 is not on our witness list, but he is under subpoena. And
4 he was here yesterday. So he's here and available if the
5 Defense would like to call him. The State does not intend
6 to call him. We did not put him on our witness list. But
7 he is available to the Defense and he is under subpoena
8 this week.

9 THE COURT: Okay.

10 MS. LIPINSKI: My concern is those witnesses haven't
11 been -- and this kind of raises the next issue. That
12 while I recognize one of the people on the potential jury
13 pool and just thought me sitting behind Mr. Kelly may
14 raise some issues and not given the juror contact issues
15 that have happened in this circuit, out of an abundance of
16 caution, I ask #41 to be removed. My office was not
17 properly voir dired or vetted with this jury. That
18 witness wasn't properly voir dired or vetted with this
19 jury.

20 So in a normal scope of action, the Defense would,
21 you know, voir dire the jury, do they know these
22 witnesses, could they be fair and impartial, do they have
23 any connection with my office and any of the attorneys in
24 my office. And my interjection at this time, I think,
25 raises issues that we may need to poll them. I don't

1 foresee it. But out of an abundance of caution -- and
2 that wasn't done at the start of trial, and even in my
3 limited role of standby Counsel wasn't identified. I
4 raise that concern with the Court in terms of that.

5 THE COURT: Okay. Well, I do not intend to grant
6 your motion for a mistrial. I do not intend to continue
7 this case.

8 And I would express on behalf of our judicial system
9 our appreciation for you being required to step in at the
10 last minute. As I have said, and I don't know if it was
11 on the record or if it was in the in-camera conference,
12 this is the bed that Mr. Kelly has made and he has to lie
13 in it -- lay in it.

14 And the only thing I would consider doing would be
15 restoring your position as standby Counsel. Because I
16 don't want there to be any repercussions on you because of
17 the circumstances that we're in. But, again, that is the
18 result of Mr. Kelly's conduct. So -- and I think he is in
19 a much better place. His rights are much better protected
20 having you actively involved in the case. I understand
21 your concerns. But I am not going to grant a continuance.
22 And I am not going to mistry the case based on those
23 issues.

24 Okay. Anything else before we get going?

25 MS. LIPINSKI: I apologize.

1 THE COURT: No. That's all right.

2 MS. LIPINSKI: I'll be as succinct as I can, Your
3 Honor. If you look around the room, obviously,
4 you've tasked -- or I don't know. I wasn't part of the
5 security meeting. But at some point, SLED became involved
6 in terms of providing security. I think at any given
7 time, there are, at least, four SLED officers in plain
8 clothes surrounding me. In addition to that, there are
9 the typical two security officers that we have and then,
10 at any time yesterday, I saw any number of officers in the
11 courtroom.

12 I think the danger is of unfair prejudice that
13 Mr. Kelly is somehow this violent person that requires
14 this top-level security. I'll say that in my meetings
15 with him -- and I've communicated this with SLED -- I've
16 had very peaceful meetings with him. Voices have been
17 raised, but that is it. I've been doing this 25 some odd
18 years now. I've been in the room with a lot of people I
19 wasn't comfortable to be in. And I've never had those
20 issues or concerns with Mr. Kelly.

21 And I am concerned that the multitude of officers
22 present presents an unfair prejudice to which he cannot
23 sufficiently respond. I do appreciate the plain clothes
24 officers. I believe in other trials I have been in the
25 Court has instructed that any officers who aren't

1 witnesses not appear in uniform so we don't kind of get
2 this thin blue line law enforcement kind of pressure on
3 the secure [sic]. And I would ask that the Court impose
4 that similar restriction, that if you're not a witness and
5 you want to come and support your fellow officer that you
6 do so in plain clothes.

7 I would, also, make a motion to sequester the
8 witnesses. I understand the victims, Mr. Ledbetter,
9 Wasserman, and Special Agent Davis would necessarily be
10 involved. But to mitigate the number of law enforcement
11 officers, particularly in uniform in the courtroom in and
12 around Mr. Kelly, I would at this point and would have,
13 originally, had I been involved at the start of the trial
14 made a motion to both sequester the witnesses, and ask
15 that any law enforcement not involved in the case or
16 appearing as a witness be present solely in plain clothes
17 or in some way that does not identify them, ribbon,
18 clothing, whatever as a law enforcement officer. And I do
19 that to mitigate the prejudice to Mr. Kelly.

20 THE COURT: Okay. I would note for the record that
21 the reason that the State Law Enforcement Division has
22 been asked to participate is because one -- because the
23 principle victim and the other victims are Greenville
24 County Sheriff's Office deputies. And to eliminate any
25 potential -- to put a barrier between the victims and the

1 Defendant, SLED has graciously agreed to step in to
2 monitor Mr. Kelly's conduct and act as his -- the security
3 for the Court.

4 Are there witnesses that need to be sequestered?

5 MR. WILKINS: We don't believe so, Your Honor.

6 THE COURT: Well, it's your witness list. I don't
7 know who's in here and who's not. The victims are allowed
8 to be here.

9 MR. WILKINS: We don't believe that they need to be
10 sequestered. And I don't think the law --

11 THE COURT: Well, I'm not going to sequester victims.
12 Okay. Are there other witnesses in the courtroom?

13 MR. WILKINS: Yes, there are.

14 THE COURT: Okay. Well, I'm going to grant her
15 motion to sequester those witnesses and would instruct
16 them not to discuss their testimony once they're finished.
17 Of course, that excludes the victims. Okay.

18 MS. LIPINSKI: Just for the record, could you rule on
19 the plain clothes motion?

20 THE COURT: Well, I don't know -- I've already made a
21 finding that Mr. Kelly is a disruptive defendant. And I
22 don't know who all is here in support and who all is here
23 actively participating in their role as courthouse
24 security.

25 So it is -- and I appreciate your concern. But this

1 is a matter involving three victims who were sheriff's
2 deputies. And that's just the fact of the matter. And I
3 am not inclined to grant that motion requiring them to
4 change clothes. Okay.

5 MS. LIPINSKI: Will you note the objections?

6 THE COURT: Yeah. It's noted for the record.

7 MR. WILKINS: And, Your Honor, I've notified -- there
8 were two or three witnesses that were in the courtroom.
9 They've left the courtroom and they're now outside.

10 THE COURT: Okay. Yes, ma'am. Anything else?

11 MS. LIPINSKI: Yes, Your Honor, just briefly. These
12 are the indictments I asked to see just out of an
13 abundance of caution. And I'm going to hand those back to
14 the clerk --

15 THE COURT: Sure.

16 MS. LIPINSKI: -- just so the Court is aware of what
17 I'm handing up. Obviously, I was, also, not privy to --
18 and I understand it's largely the province of the Court to
19 control the press and the press's participation and/or
20 observation of the trial.

21 I had a lot to do last night. But you can imagine
22 given what was probably on the news, my phone lit up like
23 a Christmas tree for the better part of the evening. And
24 I largely kind of left it in another room so I could
25 focus.

1 But I do want to mark as Court's Exhibits or Defense
2 Exhibits -- I don't know which you prefer -- at least, two
3 articles where, number one, it is him in the restraint
4 chair that was on WYFF. And then, number two, being Fox
5 Carolina. I think that was a tweet to which the Court
6 referred to earlier. I was made aware by my staff that,
7 obviously, there was a video that is still on the Internet
8 of my client being drug into the courtroom kind of hobble
9 tied before they got the restraint chair. That was not
10 done on the record. It's my belief that the Court's --

11 THE COURT: That's still on the Internet?

12 MS. LIPINSKI: Yes. And as a result of that, the
13 Defense would make a motion to exclude cameras and
14 reporters with cell phones from the courtroom as we feel
15 that -- especially in this day and age when the jury is
16 not sequestered, when it comes up on your social media --
17 you know, when you and I started, you just didn't watch
18 the 6:00 or the 11:00 news. But in this day and age, it's
19 hard to remove yourself from that given the notifications
20 that come up on your phone, and Instagram, and Facebook,
21 which are not news necessarily organizations.

22 So I believe that there's been extraordinary
23 prejudice to Mr. Kelly. I think the press has
24 demonstrated -- and I think that him in the restraint
25 chair may have been him on the record. But it's still

1 just overwhelming character assassination of Mr. Kelly.
2 And I understand any trial is that. But we still seem to
3 be keeping it on. And the press seems to be, at least, to
4 my knowledge, exceeding the scope based on the caution
5 that you gave them yesterday.

6 This video of the four officers, you know, hauling
7 him in here kind of hog tied, for lack of a better term, I
8 think is just unduly prejudicial. Based on that, I would
9 renew my motion for a mistrial just because I think it's
10 out there. And I feel the need to add that because it is
11 not part of my original motion.

12 THE COURT: Okay.

13 MS. LIPINSKI: I would, also, make a motion to ban
14 the use of cameras and/or cell phones by reporters in the
15 courtroom. They're, obviously, free to report on what
16 transpires here. But I think they've demonstrated a
17 propensity to violate the Court's ruling and are
18 threatening Mr. Kelly's ability to get a fair and
19 impartial trial.

20 So we would move to bar that type of photographic or
21 video evidence -- video of the Court. And I'd, also,
22 respectfully ask the Court to consider polling the jury to
23 make sure -- I'm sure they followed your instructions.
24 But that doesn't mean that they didn't have contact,
25 whether inadvertent or otherwise to the instructions given

1 the egregious nature of the press coverage.

2 THE COURT: All right. Madam Court Reporter, do you
3 have a copy of the order that I --

4 THE COURT REPORTER: No. That has not been marked as
5 a Court's Exhibit.

6 MR. WILKINS: Your Honor, I have a copy, if you'd
7 like.

8 THE COURT: If you've got an extra copy, we're going
9 to make it part of the record as a Court's Exhibit.

10 And I will tell you, it's been distributed, to my
11 understanding, to all the media personnel who have
12 requested to use cameras and recording devices. It was an
13 absolute clear violation of that order yesterday. And I
14 do not see the reporter responsible for that in the
15 courtroom.

16 But I will say this, if it is still up and running,
17 that tweet by -- it's 10:30, by noon, that -- I will
18 consider that to be a blatant act of contempt of court.
19 And if it's not gone, I may grant her motion to remove all
20 cameras from the courtroom.

21 So I don't know if there's a representative here from
22 Fox. But they need to make sure it's down and gone.

23 MS. LIPINSKI: And, Your Honor, just for
24 clarification, it's been made part of their website. It's
25 not just a tweet. And I just wanted to make sure -- it's

1 hard to --

2 THE COURT: Okay. I don't --

3 MS. LIPINSKI: -- the internet at this point. But I
4 would just object to that video in any format that it's
5 being broadcast.

6 THE COURT: It had best be removed. It is a
7 violation of a court order. I'm not going to remove --
8 absent their failure to comply with the order, I'm not
9 going to remove the cameras. So I trust that will be done
10 by noon.

11 Is there a representative here from Fox?

12 UNIDENTIFIED FEMALE: I believe they're sitting
13 outside, Your Honor.

14 THE COURT: Watching. Okay. This is being streamed.
15 Okay. That needs to be down and gone.

16 All right. Anything else?

17 MS. LIPINSKI: Just briefly, Your Honor. And I
18 promise I'm wrapping it up to the extent that I can. I've
19 made several requests of the State, who, by and large,
20 have participated in Herculean efforts to try to help me
21 rise to the challenge the Court has put before me.

22 We asked for drone footage, which they say they have
23 given me. There's an insurmountable number of videos. I
24 think there's over 40 officers on this scene. I did not,
25 originally, see the drone coverage. But they immediately

1 made me a DVD and made that available.

2 So I asked them to physically inspect the evidence.
3 I made that offer to Mr. Kelly. He told me he didn't,
4 originally, want me to participate in that way. But they
5 did give me a brief preview of the evidence. They've
6 given me a witness list and an evidence list, which I
7 understand they're under no obligation to share. So
8 they're going above and beyond.

9 So I don't make these motions with any aspersion
10 towards them. I did ask them -- I don't believe I have
11 copies of the certified convictions. I would just like
12 that. I don't think it's a -- I sent her an e-mail. And
13 I sent her that this morning.

14 MR. WILKINS: I'm handing that over to Ms. Lipinski.

15 THE COURT: Okay.

16 MS. LIPINSKI: I also -- and I appreciate that. I'm
17 not going to make a motion for a continuance. I just
18 wanted to put it on the record so you would understand the
19 things I'm without that I made a motion for.

20 THE COURT: Okay.

21 MS. LIPINSKI: I, also, sent an e-mail to Ms. Moroney
22 this morning asking her for any use of force reports
23 involving the three officers who were involved in the
24 original stop, mainly Sergeant Jumper -- I believe he was
25 a sergeant -- Deputy Ledbetter and Deputy Wasserman. They

1 told me they didn't do any use of force for this stop.

2 But just as it may impact their credibility, I ask
3 for any use of force reports that they had completed in
4 the past or that are tied to their traffic interdiction
5 team. I asked them for the personnel file of these three
6 officers. I don't want the social security number and
7 personnel information, all that stuff that I know is
8 protected and privileged.

9 But to the extent there are any disciplinary actions,
10 internal affairs investigations, reprimands, or anything
11 negative in terms of that light that, again, may call into
12 question the tactics and conduct of the officer, which I
13 think would be a motion I would have made pursuant to
14 Brady. And it may not go anywhere.

15 But I feel the need and the obligation to investigate
16 it in the limited time that I've asked for that
17 information as a -- and Officer Harrison. So there's four
18 to those four officers. I understand they've been
19 preparing for trial as I have. But I did ask for that.
20 And I would ask the Court to make it available to me. I
21 think without it, it kind of ties into my motion for a
22 continuance.

23 But even though I'm going to have to proceed sooner
24 rather than later --

25 THE COURT: Okay.

1 MS. LIPINSKI: -- is always a thing. So I did kind
2 of want to make that -- I know -- I just wanted to make
3 that -- they may have an objection. Typically, the State
4 makes an objection to giving me those kind of things. So
5 I wanted to raise that particularly here on the record.

6 MS. MORONEY: Your Honor.

7 THE COURT: Yes, ma'am.

8 MS. MORONEY: We're actively working on getting all
9 the personnel files brought over OPS. We do not keep
10 those files. Those are not ours. So they are willing to
11 bring it to the Court for a review. And if you determine
12 there's parts of those files that should be turned over to
13 the Defense, we have no objection with that.

14 As for the use of force documents, there are none
15 that were completed in this case because it was an
16 officer-involved death. But we are still going through
17 the past three years on-site of those forms. And those
18 are being brought over as soon as possible.

19 THE COURT: Okay. Thank you.

20 MS. LIPINSKI: I would make a motion -- I understand
21 security is in the province of the Court. I will tell you
22 that I would make a motion to have Mr. Kelly's handcuffs
23 undone. They've undone his left hand. Yesterday, they
24 gave him a pen. But the jail confiscated it because it's
25 not a jail pen. And it's --

1 THE COURT: Okay. We're going to -- we'll see how he
2 behaves. He's earned the way he's being treated now. And
3 his clothing has been his choice.

4 MS. LIPINSKI: It has been his choice and I do not
5 raise that issue. I, again, last night offered to find
6 him non-jail clothes to wear, obviously. And I think to
7 some extent, he's right, that cat is out of the bag. But
8 even in the manner of comfort for him being here through
9 the trial made that offer to him and he declined it. But
10 I do think it would help.

11 My concern is, you know, even yesterday, his mere
12 movement, you could hear the shackles. All this about,
13 you know, picnic screens and whatnot that we have around
14 the table is somewhat secondary if you can nonetheless
15 hear the metal, the belly chain that he's in, the
16 handcuffs that's he's in, the leg restraints that he's in.

17 And so the Defense is making a motion to remove those
18 so as to mitigate it. I understand it's up to the Court,
19 but I felt the need to make that motion.

20 THE COURT: Okay. Well, I'm -- again, I go back to
21 the seminal case of Illinois vs. Allen about he could be
22 gagged and it would be appropriate if he earned that. So
23 he is where he is based on his conduct up to this point.
24 And we'll continue to monitor that conduct throughout the
25 course of this case.

1 All right. Anything else?

2 MS. LIPINSKI: Just -- and I'm moving into the meat
3 of the case. I had to put some pretrial once
4 Mr. Wilkins -- you know, the Court is going to have to
5 give me a little indulgence and patience.

6 THE COURT: Oh, we've been very indulgent with
7 Mr. Kelly.

8 MS. LIPINSKI: With me, Your Honor. And I apologize.

9 THE COURT: Well, I can be harder on you.

10 MS. LIPINSKI: You always can, Your Honor. And
11 you've demonstrated numerous times in the past. And I
12 appreciate your restraint here these last couple of days.

13 THE COURT: All right.

14 MS. LIPINSKI: Mr. -- I'm sorry. Solicitor Wilkins
15 notified me that he intends at some point in the not too
16 distant future to introduce video evidence of Mr. Kelly on
17 the scene after the collision. At that point, I believe
18 he is in custody.

19 And I'm not aware of a Mirandizing of him. And I did
20 not see the Court do a Jackson vs. Denno hearing. But
21 before any custodial statements of Mr. Kelly are put
22 before the jury, the Defense would move for an appropriate
23 Jackson vs. Denno hearing.

24 THE COURT: Do you have statements from him?

25 MR. WILKINS: Yes, Your Honor. There -- there --

1 there are post-accident excited utterances. And at some
2 point, he is handcuffed and --

3 THE COURT: Was he interrogated?

4 MR. WILKINS: No. He was not interrogated, not one
5 time.

6 THE COURT: All right.

7 MR. WILKINS: They're all his statements without
8 questions.

9 THE COURT: Okay.

10 MS. LIPINSKI: I would just ask that it be proffered
11 before it's put before the jury. Once that's out, it --

12 MR. WILKINS: And there was no Miranda ever given,
13 Your Honor.

14 THE COURT: Okay. Well, who did he make the -- where
15 are the statements going to be --

16 MR. WILKINS: Body cameras. They're his excited
17 utterances. And it's body cameras of numerous officers
18 and in-car camera on the transportation. He's not being
19 questioned by the driver.

20 THE COURT: Okay.

21 MS. LIPINSKI: I still believe that they're custodial
22 statements. He does have interaction with law
23 enforcement. They do talk to him. I don't think that's
24 his characterization of it. But I think before that
25 matter is put before the jury, the Defense believes an

1 appropriate Jackson vs. Denno review of the statements
2 proffered by the State would be appropriate.

3 THE COURT: Well, as long as it's not subject to
4 custodial interrogation, I don't believe that that
5 applies. But we'll -- we'll monitor that as -- as we go
6 forward.

7 All right. Anything else?

8 MS. LIPINSKI: One second, Your Honor.

9 (WHEREUPON, Court's Exhibit No. 2 was marked for
10 identification and admitted into evidence.)

11 MS. LIPINSKI: May I hand some case law up to the
12 Court?

13 At this point, the Defense would make a motion to
14 suppress any and all evidence as result of a seizure and
15 search of Mr. Kelly. In officer -- or Deputy Wasserman's
16 testimony yesterday, what he testified to and I think what
17 the evidence the State presented in which we would have
18 largely elicited at a pretrial hearing suggested that they
19 make this stop. At this point, it's just for speeding and
20 following too closely.

21 Deputy Wasserman testifies that when he approaches
22 the passenger of the car, he detects an odor of marijuana.
23 But at that point, he doesn't take any efforts as a result
24 of that. That he goes back to his car. That he
25 investigates the rental car agreement and the identity

1 provided by Mr. Kelly. And that while he had concerns
2 that the identity that he was given by Mr. Kelly may not
3 have been authentic due to a height disparity, at that
4 point, he made the executive decision to just issue a
5 warning ticket.

6 That warning ticket was put into evidence as State's
7 Exhibit No. 1. It's a warning. It's not a citation.
8 It's not a ticket you've got a court date and you could be
9 confined to jail. At that point, that is the limited
10 basis of it.

11 The Defense would point to the cases of State vs.
12 Provet, Arizona vs. Johnson, and in particular, State vs.
13 Tindall and State vs. Pichardo, which says once a ticket
14 has been resolved and the purpose of the stop has expired
15 that any additional seizure or search of Mr. Kelly,
16 whether consented to or not, is violative of the Fourth
17 Amendment.

18 And based on that and these case holdings and their
19 progeny, the Defense believes any further seizure or
20 search of Mr. Kelly was in violation of his Fourth
21 Amendment rights.

22 THE COURT: Okay. Does the State have anything to
23 say?

24 MR. WILKINS: Your Honor, you heard the testimony
25 yesterday, reasonable suspicion was ongoing. He smelled

1 marijuana. He had probable cause to search the car. And
2 before he could even search it, Mr. Kelly began what we
3 refer to as the assaults --

4 THE COURT: Okay.

5 MR. WILKINS: -- on the three officers.

6 MS. LIPINSKI: That brings up the issue of marijuana,
7 which I did want to raise to the Court. I went over the
8 indictments this morning. And he's not -- I think there
9 was, originally, a charge for marijuana, but he has not
10 been indicted for marijuana. I don't know if that's
11 because marijuana is more easily attributed to the
12 co-defendant or what the case is.

13 The Defense would object to the State's efforts to
14 introduce any evidence regarding marijuana found in the
15 car as that is an offense for which Mr. Kelly is not on
16 trial. We believe it is unduly prejudicial and, again,
17 delves instead into character evidence as opposed to the
18 evidence that is properly put before the jury. The only
19 drug indictments I saw are related to the crack cocaine
20 that is subsequently discovered in the car.

21 THE COURT: Okay. With respect to that, if they
22 found marijuana in the car, I'm going to allow them to
23 testify to that. Whether or not he's been charged with it
24 is not relevant with respect to that because there was a
25 passenger in the car. And it can, certainly, be

1 attributed to the passenger.

2 All right. Anything else?

3 MS. LIPINSKI: I would just note for the record that
4 I don't believe the passenger was ever charged with the
5 marijuana either. That's an executive decision they made
6 to walk away from that charge and walk away from that
7 evidence. The Defense just puts our objection to that on
8 the record.

9 THE COURT: All right. Your objection is there. And
10 it might be a good jury argument. I don't know.

11 All right. Anything else?

12 (WHEREUPON, there was no response.)

13 THE COURT: Okay. Let's get the jury.

14 MR. WILKINS: Your Honor, I'm going to put Deputy
15 Wasserman on the stand.

16 THE COURT: Yeah.

17 Come on back up, Deputy -- or, actually, just hang
18 on. Let me talk to them first.

19 MS. LIPINSKI: Your Honor, just -- and I may have
20 missed it. But did the Court rule on the motion to
21 exclude the evidence -- I know Mr. Wilkins responded to
22 the motion about the search and seizure of Mr. Kelly being
23 in violation of his Fourth Amendment rights. But for
24 clarity of the record, I don't believe I ever heard you
25 rule on it. And I may have missed it.

1 THE COURT: Well, if I didn't, it was just a clerical
2 error because --

3 MS. LIPINSKI: I understand that. I just --

4 THE COURT: Denied.

5 MS. LIPINSKI: Thank you, Your Honor.

6 (WHEREUPON, the jury came into open court at
7 approximately 10:47 a.m.)

8 THE COURT: Ladies and gentlemen, welcome back. I
9 hope you had a pleasant evening.

10 And I trust that none of you were -- discussed the
11 case or reviewed any of the potential media sources.

12 Does anybody have anything to report about that?

13 (WHEREUPON, there was no response.)

14 THE COURT: Okay. Great, great.

15 And, sir, thank you very much for agreeing to serve
16 as the foreperson.

17 It's Juror #36.

18 All right. Ladies and gentlemen, we are -- if you'll
19 remember, yesterday, we had finished the direct
20 examination of Deputy Wasserman. We are going to recall
21 him back to the stand. He knows he's still under oath.
22 And we will at this time --

23 MS. LIPINSKI: Your Honor --

24 THE COURT: -- proceed --

25 MS. LIPINSKI: -- can we approach? And I apologize.

1 I apologize.

2 THE COURT: Okay. Come on.

3 (WHEREUPON, a bench conference was held.)

4 (WHEREUPON, Court's Exhibit No. 3 was marked for
5 identification and admitted into evidence.)

6 THE COURT: And so, ladies and gentlemen, it was
7 brought to my attention that there has been a little bit
8 of a procedural change in the -- in the case. You may
9 have noticed that yesterday there was no attorney present
10 at the counsel table for Defense. At the request of
11 Mr. Kelly, and yesterday, he has changed his mind and
12 requested that Counsel step in.

13 I would tell you that Counsel is Ms. Mindy Lipinski.
14 She is the Chief Circuit Public Defender for the
15 Thirteenth Circuit. She had been -- she had been
16 appointed as standby Counsel prior to this. So if you
17 notice that, that is a change. And I don't want you to
18 think it's -- and as you may have noticed, she was in the
19 courtroom yesterday.

20 All right. Deputy, please, come on up.

21 You're still under oath.

22 Thank you, sir.

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. Cross-examination.

25 MS. LIPINSKI: May it please the Court, Your Honor.

1 THE COURT: Yes, ma'am.

2 CROSS-EXAMINATION

3 BY MS. LIPINSKI:

4 Q I didn't get your rank yesterday. I see you've got
5 some stripes on your arm, but what is your rank?

6 A I'm a Master Deputy.

7 Q Master Deputy?

8 A Yes, ma'am.

9 Q All right. And I just didn't want to refer to you by
10 the wrong title, so to speak.

11 A Thank you.

12 Q I apologize. Sometimes, I use deputy and officer
13 interchangeable. Although, I know that you all prefer
14 deputy for the sheriff and officer for the city, or
15 something like that; is that fair to say?

16 A Yes, ma'am.

17 Q All right. And, Master Deputy Wasserman, you
18 testified yesterday about the fact that you were traveling
19 in traffic anyway. There was a lot of testimony about you
20 being positioned on the side of the road with your team,
21 and those kind of things.

22 But, ultimately, that really wasn't what was
23 happening yesterday. You were -- instead, you just
24 happened to be in between stops or in between activities
25 and happened to be traveling northbound on 75 -- or 85

1 when you saw the blue Nissan Altima; correct?

2 A Yes, ma'am.

3 Q All right. And so this wasn't anything where you
4 clocked him with the radar gun, or anything like that?

5 A The traffic unit -- I'm on the traffic unit. All our
6 vehicles are equipped with radar devices.

7 Q All right. Is that anywhere on the in-car camera?
8 I've worked with some where when you see the in-car
9 camera, you can kind of see your speed, and sometimes even
10 the speed of the car in front of you, or anything like
11 that. Is that documented in any way?

12 A I'm not sure.

13 Q You can't -- but you didn't see it?

14 A I didn't see it.

15 Q And you have reviewed your in-car camera; correct?

16 A I have.

17 Q And not just this time, but other times. That's
18 something you routinely rely on; correct?

19 A Correct.

20 Q And you've been trained on it; correct?

21 A Correct.

22 Q So, certainly, at some point in your training, if
23 they said, hey, by the way, your speed is up here in the
24 corner, that's something you would have noticed as a
25 traffic officer; correct?

1 A Correct.

2 Q But in this particular case, other than your
3 recollection, there's no independent documentation of the
4 speed that the Altima was traveling at the time you,
5 initially, see it; correct?

6 A I don't believe the -- the in-car video, the one that
7 I've watched didn't have the speed. I believe you can add
8 the speed to that video. I'm not sure how the settings on
9 that work.

10 Q Okay. But you didn't see it on that what was
11 presented yesterday?

12 A Correct.

13 Q And is that your speed, or is that his speed?

14 A That would be the patrol car speed.

15 Q The patrol car speed?

16 A Correct.

17 Q Okay. And you talked a lot about the fact that at
18 some point whenever you activate blue lights, the camera
19 is always recording for issues like data storage; right?
20 You don't download a full 12-hour shift at the end of the
21 shift; correct?

22 A Correct.

23 Q So while it always has the capability to record, when
24 you activate blue lights, then it kind of is like we need
25 to save this clip, so to speak. Would that be a fair --

1 A When you activate the blue lights, the video goes
2 back 30 seconds.

3 Q Right. And starts saving there; correct?

4 A Right.

5 Q But 31 seconds back, it doesn't capture that?

6 A Correct.

7 Q All right. And so the video at this point, largely,
8 starts about 30 seconds before that blue light, you kick
9 on those blue lights; correct?

10 A 30 seconds before, right.

11 Q And you go through this process and blue light
12 Mr. Kelly -- or the blue Altima; correct?

13 A Yes.

14 Q And you -- and I didn't catch this. And I didn't
15 necessarily see it, but I can't see everything. We don't
16 have 360 degrees. At some point, there's some indication
17 whether he might pull into the inner shoulder, as I call
18 it, right up against that barrier, so to speak. But he
19 then makes the decision to move across the three lanes of
20 traffic to the outer shoulder where the grassy area is;
21 correct?

22 A I believe so.

23 Q Was that at your direction or his decision?

24 A That would have been his decision.

25 Q All right. So he voluntarily -- because I was

1 confused. You mentioned it yesterday like there might
2 have been you telling him or motioning him. But,
3 ultimately, it's his voluntary decision without any
4 involvement on your part to move across those three lanes
5 of traffic and pull off to the side of the road; correct?

6 A Correct. Yeah. When you conduct traffic stops on
7 the interstate, everybody always goes to the right to
8 stop. That's normal.

9 Q That's what I thought. But yesterday, when you
10 talked about the inner lane, I got confused. But here, he
11 signals. He pulls between two cars; right? And then you
12 say at some point, there's a van between you guys. And
13 then once you get off to this, we don't have a diagram
14 yet, but maybe it's called the number one lane, the lane
15 closest to the grassy shoulder, as I'll call it. And then
16 he moves off onto that shoulder area; correct?

17 A Correct. That would be the number three lane.
18 Number one lane is the lane closest to that concrete
19 center barrier. And then the number two lane is the
20 middle lane between the two. And number three lane is the
21 lane that's all the way to the right-hand side closer to
22 the grass.

23 Q Thank you for correcting me.

24 A Absolutely.

25 Q So he moves from one, two, and three on his own

1 volition after being blue lighted; correct?

2 A Correct.

3 Q And signals, if you recall him doing that; correct?

4 A Uh-huh.

5 Q And you gave a lot of testimony about criminals, and
6 fog lighting, and things like that. But he pulled
7 relatively quickly to a stop; correct?

8 A Correct.

9 Q This isn't some kind of chase or you're not two exits
10 back and it takes you that long to catch up with him, or
11 anything like that; correct?

12 A Correct.

13 Q And you make -- you tell the jury all about fog
14 lighting and being so close. But you even said -- and
15 it's clear on the video, I think, that there's some bag of
16 debris where he, ultimately, comes to a stop; correct?

17 A Correct.

18 Q So really, at that point -- isn't it possible at that
19 point where the bag is located for him to be much farther
20 off that white fog line, as you call it? Correct?

21 A Where he stopped was his decision.

22 Q I understand that. But at that point, there's debris
23 where he stopped; correct?

24 A Correct.

25 Q And is your car, also, equipped with some type of

1 microphone, or something like that?

2 A Yes.

3 Q Where you can, like, talk to the car without getting
4 out of the car?

5 A Yes.

6 Q Because I've seen that. Occasionally, you know, you
7 get on the intercom -- what do you all call it?

8 A It's called a PA.

9 Q PA?

10 A Public address.

11 Q Public address. Awesome. So you could have got on
12 the PA and said, you know, could you, please, move up?
13 Could you move over to the shoulder? You have that
14 capacity; correct?

15 A Yes.

16 Q And you didn't do that?

17 A No.

18 Q So even at that particular time where he stopped,
19 this kind of fog lighting that you have concerns of isn't
20 so much that you make that determination or take that
21 corrective action; correct?

22 A Like I explained yesterday, the white lining is just
23 something that we notice. Again, not -- it may or may not
24 mean anything. It's just something small we pick up on.
25 Ultimately, he made the decision where he stopped. He

1 could have pulled past the debris. He could have stopped
2 before the debris. That was on him.

3 Q But, again, he didn't go any great distance; correct?

4 A Correct.

5 Q So he pretty much came to a natural stop once he was
6 able to decelerate and move across those lanes; correct?

7 A Yes.

8 Q You've had individuals who kind of, if there's not a
9 shoulder, continue a more significant distance down the
10 road before they, ultimately, come to a stop; correct?

11 A No, not on the interstate. There's a nice wide
12 shoulder everywhere that we patrol.

13 Q Okay. But some people don't come to an immediate
14 stop; correct?

15 A Correct.

16 Q Some people travel. Some people travel to the next
17 exit so they're not right on the roadway even; correct?

18 A Correct.

19 Q All right. And so you could have told him to pull
20 forward and you did not. You could have asked him to pull
21 past the debris and closer to the guardrail and you did
22 not?

23 A (There was no response.)

24 Q Yes or no?

25 A Is that a question?

1 Q Yes.

2 A Correct.

3 Q All right. And even when you approached the car --
4 maybe you didn't appreciate it when you immediately pulled
5 over. Even when you approached the car, you could have,
6 at that time, asked him to turn off the car, pull a little
7 bit forward so that you would have had more room there.
8 And you didn't do that; correct?

9 A I didn't need him to move. We make passenger side
10 approaches. I had plenty of room on the passenger side of
11 the car to conduct the business that I had to conduct.

12 Q Okay. But you made a big deal about it being fog
13 lining and this area of concern and space yesterday. I'm
14 just saying you had the opportunity to correct that -- I
15 understand you're not psychic or clairvoyant. You don't
16 know what's going to go on. I'm just trying to make the
17 point that you had the ability to address that; correct?

18 A Okay.

19 Q All right. And so you approached the car, you talked
20 to the passenger of the car; correct?

21 A When?

22 Q When you approached the car, the passenger side
23 approach.

24 A Uh-huh.

25 Q You, initially, speak to him and the passenger; correct?

1 A I spoke to the driver, correct.

2 Q And you additionally spoke -- you didn't say anything
3 to the passenger?

4 A I would have to see the video. I don't recall.

5 Q All right. Is it possible that you, also, asked her
6 some questions? You just asked them, in general, for the
7 license and registration; correct?

8 A Correct. When you -- when we, initially, approach
9 the vehicle, we ask the driver for their driver's license.

10 Q But you've been in traffic stops -- because the
11 passenger is right there between you. And, oftentimes,
12 the vehicle registration is in the glove box that she
13 could have removed that rental agreement, or been in
14 possession of that, or any of those kind of things;
15 correct? So she could have heard that; correct?

16 A I don't understand your question.

17 Q When you asked them for ID and registration, she was
18 in earshot of that conversation, was she not?

19 A When I asked for the driver's license?

20 Q Yes.

21 A I don't --

22 Q She could have heard that conversation?

23 A Correct.

24 Q It's not a trick question, Deputy Wasserman. I'm
25 really just trying to figure out the foray of events. Okay.

1 A Uh-huh.

2 Q And after that when he doesn't have his license,
3 that's when you get him out of the car?

4 A Correct.

5 Q And you ask him to walk to the -- kind of the space
6 between your car and his car; correct?

7 A Correct.

8 Q And he walks back there with you; correct?

9 A He does.

10 Q And you have a conversation with him at that point,
11 where you going, where you been, those kind of things;
12 correct?

13 A Yes, ma'am.

14 Q And he responds to those questions; correct?

15 A He does.

16 Q And at some point, I don't remember if you tell him
17 to sit on the guardrail, but he ends up seated kind of on
18 the guardrail; correct?

19 A Yes, ma'am.

20 Q And you testified and you told the jury yesterday, at
21 some point, he asked if he could go sit in the car while
22 you went and ran the license; right?

23 A Yes, ma'am.

24 Q And he asked you that or did he ask Deputy Ledbetter
25 that?

1 A He asked me that.

2 Q And you told him "no"?

3 A Correct.

4 Q But he follows that command; correct?

5 A He does.

6 Q At that point, he remains in the space where he's at
7 and he doesn't walk back to the driver's side, or walk
8 back up and talk to the passenger, or anything like that;
9 correct?

10 A Correct.

11 Q So he remains compliant with that command; correct?

12 A Yes, ma'am.

13 Q All right. And then you go back and you kind of run
14 the information he gave you; right?

15 A Yes.

16 Q And he gave you the name of John Arthur Kelly and
17 date of birth; right?

18 A Yes, ma'am.

19 Q And the only thing you say at that point is -- that
20 kind of sets your spidey [phonetic] senses, for lack of a
21 better term, off is that person comes back as being six
22 foot. And based on your gauge of Mr. Kelly, he was not
23 that tall?

24 A Yeah. I would have to look at that information. I
25 believe it was six foot. But the characteristics were

1 completely different, height and weight.

2 Q Okay. Height; correct?

3 A Correct.

4 Q But you've been doing this a long time; right? A lot
5 of peoples driver's license height and weight might not be
6 entirely accurate; correct?

7 A No.

8 Q No?

9 A No.

10 Q The DMV makes you get on the scale and they see how
11 tall you are based on something?

12 A There's a huge difference between 5'8' and six foot.

13 Q So it's your testimony that you believe Mr. Kelly was
14 5'8"?

15 A 5'8" or 5'9". We were about eye-to-eye. And I'm
16 nowhere close to six foot.

17 Q Okay. Would it surprise you to learn that on other
18 documents, he's listed as 5'10" or 5'11"? And that's a
19 lot closer to six foot; is it not?

20 A It is.

21 Q All right. And the only thing -- and weight can
22 fluctuate over time?

23 A Certainly.

24 Q So, certainly, somebody when they go to the DMV,
25 especially now, when you only have to go every 10 years,

1 you could be one weight and then later on be a different
2 weight; correct?

3 A Yes.

4 Q And you, similar to the DMV or anybody else, don't
5 have some little -- your in-car camera doesn't have some
6 little scale kind of thing that says the person in front
7 of you is X amount tall; correct?

8 A Sure.

9 Q So at that point, that was your concern; right?

10 A That he was --

11 Q That the height --

12 A That he was lying about who he was?

13 Q That the height and the weight were off?

14 A Correct.

15 Q But you don't recall what the weight came up as or
16 described that as what you believed Mr. Kelly -- what you
17 testified to yesterday was limited to it came back as six
18 foot and you did not believe him to be that tall; correct?

19 A Correct.

20 Q And at that point, even though you have made --
21 testified that he was speeding and following too closely,
22 you could have written him a ticket for that citation;
23 correct?

24 A Yes, ma'am.

25 Q And that is different than what you did in this

1 particular case; correct?

2 A Yes, ma'am.

3 Q There's a difference between what's called a warning;
4 right, and an actual ticket or -- they're both blue
5 tickets. So I don't want to confuse the jargon --

6 A No. I understand.

7 Q But there's a difference between a warning and a
8 court date, I'll call it; fair to say?

9 A Yes, ma'am.

10 Q And you've, certainly, written a lot of things for
11 speeding, particularly 84, or whatever you claim he was
12 doing. You could have written him a speeding ticket that
13 said you have a court date, and you have to come back, and
14 all those kind of things?

15 A Yes, ma'am.

16 Q And you chose not to do that?

17 A Correct.

18 Q And even following too closely is something that you
19 could write someone a ticket for, even if they weren't
20 speeding in this particular case; correct?

21 A Yes, ma'am.

22 Q And while you stated it was his speed that -- that
23 drew your attention, that particular stretch of 85 is
24 known for people speeding; correct?

25 A Yes, ma'am.

1 Q Even ones who aren't the target of your traffic
2 interdiction unit; correct?

3 A Correct.

4 Q And let's be clear, when you say "traffic
5 interdiction unit," you're not out there really targeting
6 speeders. I mean, if that happens, that's great. But you
7 are there targeting drugs, and human trafficking, and all
8 those other bad things. That's really your target market,
9 is it not?

10 A Yes, ma'am. We are a criminal interdiction unit. We
11 look for, like I explained yesterday, criminals of all
12 sorts.

13 Q So we've kind of foregone stopping speeding on 85,
14 except as a pretext to which it allows you to investigate
15 people for drugs or whatever else criminal activity you
16 believe is afoot on 85; fair to say?

17 A No, ma'am. As I testified yesterday, we are, also,
18 tasked with trying to keep the people on the interstate
19 safe. And when we do see a gross violation, you know, 24
20 miles an hour over the speed limit and following too
21 closely, we do make those traffic stops.

22 Q But when you look at your in-car camera footage,
23 there are other cars very much keeping up with Mr. Kelly
24 that you opted not to stop?

25 A Well, if anybody has ever been fishing, you can only

1 catch one at a time.

2 Q I understand that. But there was something about the
3 fact -- were you running the tag when you decided to stop
4 him?

5 A No, ma'am.

6 Q You do that at a subsequent time?

7 A Yes.

8 Q Were you aware whether or not it was a rental car at
9 that time?

10 A No, ma'am.

11 Q But you do know that it's occupied at that point by
12 two African-American occupants?

13 A Not from the distance of which I saw the car.

14 Q All right. But once you get up on it, as you're
15 pulling it over, you're aware of that; correct?

16 A I don't remember.

17 Q You don't remember now. It was a very memorable day.
18 You don't remember that?

19 A I don't remember if the two occupants were high
20 enough that you could see them over the back of the seat.

21 Q Okay. And so once you pull him over, you have this
22 conversation with him, you talked to him. You go back in,
23 you get out of the car. You say that you're concerned
24 about the height and you go out to speak to him again;
25 correct?

1 A Yes, ma'am.

2 Q And at that point, you asked him if he has any
3 weapons on him and whether or not he -- you can pat him
4 down for weapons; correct?

5 A I -- yes. I asked him if I could search him for
6 weapons.

7 Q And at that particular time, Deputy Ledbetter has
8 arrived on the scene and has been speaking with him for
9 some time; correct?

10 A Yes, ma'am.

11 Q And he's engaging in that conversation. You can't
12 hear what he's saying to Deputy Ledbetter, but he appears
13 to be engaging in a conversation with him; correct?

14 A Yes, ma'am.

15 Q And you don't know anything about his behavior or
16 anything like that during that conversation that -- that
17 sets off any red flags to you; correct?

18 A Correct.

19 Q They're just over there talking, leaning up against
20 the guardrail for the most part; correct?

21 A Yes, ma'am.

22 Q And when you approach him and ask to pat him down for
23 weapons, he stands up; correct?

24 A Yes, ma'am.

25 Q And puts out his arms; correct?

1 A Yes, ma'am.

2 Q And turns; correct?

3 A Correct.

4 Q And allows you to fully, what they call, frisk him
5 for weapons; correct?

6 A Yes, ma'am.

7 Q And there are no weapons found on him; correct?

8 A Correct.

9 Q So at that point, he has been compliant with all your
10 commands. He's pulled over quickly. He's come to a full
11 and complete stop; right? But you decide based on the
12 odor of marijuana in the car that at that point, you're
13 going to search the car; correct?

14 A Yes, ma'am.

15 Q And you make this -- answered Solicitor Wilkins
16 questions that you take kind of the registration and the
17 ticket and you put it under the passenger window and
18 that's some secret sign to Officer Ledbetter that you're
19 about to search the car; correct?

20 A Yes. We take the information and we place it under
21 the passenger side windshield wiper.

22 Q That's not commonly known; right?

23 A Amongst who?

24 Q Amongst the general public.

25 A Yes.

1 Q It's commonly known amongst the general public?

2 A No, it's not.

3 Q Okay. That's my question.

4 A Yeah.

5 Q So Mr. Kelly had no way of knowing that that's what
6 that secret signal was; correct?

7 A Correct.

8 Q All right. And so at some point, based on the signal
9 that you give Officer Ledbetter, you two decide -- and if
10 you're going to search the car, you're at that point going
11 to put him in cuffs; correct?

12 A Incorrect.

13 Q You weren't going to put him in cuffs?

14 A No, ma'am.

15 Q But you lay hands on him?

16 A Yes. When he tried to break back to the vehicle is
17 when I placed hands on him.

18 Q You didn't have hands on him at that point?

19 A At what point?

20 Q At the point that he breaks bad and goes back to the
21 vehicle.

22 A That's when I put hands on him, yes.

23 Q Okay. But, obviously, your body-worn camera and your
24 in-car camera capture that event; correct?

25 A Yes, ma'am. I believe we watched it yesterday.

1 Q And at some point, you all lay hands on him.
2 Ledbetter is telling him he's under arrest. That's when
3 he makes the break back to the car is your testimony;
4 correct?

5 A Yes, ma'am.

6 Q All right. And that -- up until that point, prior to
7 that, he had been compliant with all your commands;
8 correct?

9 A Yes, ma'am.

10 Q And I understand there's a struggle. But, you know,
11 at that point, you haven't had the opportunity to explain
12 to him that -- probable cause, and search, and that we're
13 about to search the car. I think those comments are being
14 made as that is going on; is that fair to say?

15 A No. Those comments occurred while I was searching
16 him for weapons. I explained to him that the probable
17 cause -- the odor of marijuana gave us probable cause to
18 search the car and that's what we were getting ready to
19 do.

20 Q But he had told you that there was no marijuana in
21 the car?

22 A Correct.

23 Q And you didn't ask him for consent to search the car?

24 A I don't need consent to search the car.

25 Q That wasn't my question, was it? Had you asked him

1 for consent to search? I'm not asking you legally whether
2 you had to, I'm asking you factually whether you did.

3 A I did not.

4 Q But you did factually ask him to be frisked for
5 weapons; correct?

6 A Yes.

7 Q You don't legally have to ask him that either, do
8 you?

9 A I do not.

10 Q All right. So at that point, you say you got into
11 this struggle with Mr. Kelly. And at some point when you
12 and Deputy Ledbetter are trying to seize him, lay hands on
13 him, those kind of things, you do hear Officer Ledbetter
14 tell him he's under arrest?

15 A Yes, ma'am.

16 Q And at that point or around that time -- and I
17 understand it's a very quick chronology. So I'm not
18 trying to sketch you up. But Sergeant -- is it Sergeant
19 Jumper?

20 A Yes, ma'am.

21 Q Sergeant Jumper arrives on the scene; correct?

22 A Yes.

23 Q And for the most part -- because Ledbetter is a big
24 guy. We'll see that later. But he's bigger than you;
25 fair to say?

1 A Yes, ma'am.

2 Q And, obviously, Sergeant Jumper is probably even
3 bigger than Ledbetter or about the same size?

4 A Bigger.

5 Q They kind of take over the physical scuffle with
6 Mr. Kelly; fair to say?

7 A Yes, ma'am.

8 Q And I think even at some point, you were trying to
9 make the -- you, initially, are trying to shuffle them
10 around. But at some point, I think you even are trying to
11 get back to their car thinking that a chase may soon take
12 off; correct?

13 A No.

14 Q So you never kind of turned back to the car, or
15 anything like that?

16 A I don't believe so. I may have turned back toward
17 the direction of my car. But I never -- it never crossed
18 my mind that I was to go back to the car and that we were
19 going to be chasing.

20 Q But at some point, you do let Ledbetter and Jumper
21 take over the physical encounter with Mr. Kelly?

22 A Yes, ma'am.

23 Q All right. And you step away because there's just --

24 A Not enough space.

25 Q Not enough space. And if there's too many of you,

1 you kind of, actually, impair each other's efforts to,
2 actually, sometimes gain physical control of someone;
3 correct?

4 A Yes, ma'am.

5 Q Do you have any recollection about the door being
6 opened, when the door was opened or any of that? Or is
7 that all based on your review of your in-car camera?

8 A That was based on my review of my in-car camera.

9 Q All right. So you don't remember --

10 A My camera.

11 Q Obviously, you don't have any independent knowledge
12 of that, or anything like that; correct?

13 A Of which --

14 Q Of when the door came open, how the door got open, or
15 anything like that?

16 A Not until I reviewed my body camera.

17 Q And even at that point, you're at the back of the
18 car; correct? So there is Officer Jumper, Ledbetter --
19 Sergeant Jumper, Ledbetter, and Mr. Kelly between you and
20 the door. So your ability to see that is somewhat
21 compromised. Would that be fair to say?

22 A I believe so. I'd have to watch the video.

23 Q All right. And you don't have any further
24 interaction with the passenger?

25 A The passenger opened the driver's side door and was

1 starting to come out. And I ordered her back into the
2 car. And that's when I move around to -- around the back
3 of the car to the passenger side to get her out.

4 Q All right. So when you leave the struggle -- I'm
5 trying to choose my words carefully. Leave the struggle
6 with Mr. Kelly, you go around to try and direct the
7 behavior of the passenger; fair to say?

8 A Yes, ma'am.

9 Q All right. And I believe some other officer not
10 affiliated with Greenville County arrives on scene, or
11 something like that around the same time?

12 A Yes, ma'am.

13 Q You stated that Mr. Kelly -- other than the height,
14 you stated at one point that he appeared to be nervous.
15 But a lot of people get nervous in traffic stops; correct?

16 A Yes, ma'am.

17 Q And people with different backgrounds, different
18 health situations, all of those kind of things react
19 differently to traffic stops. That isn't necessarily
20 dispositive or indicative of criminal behavior; correct?

21 A (There was no response.)

22 Q Some people are nervous Nellies and they always get
23 nervous, regardless of why you're pulling them over; fair
24 to say?

25 A Yes, ma'am.

1 Q All right. So, like you said, all of these little
2 things that you paid attention to, while they can be
3 indicators of criminal behavior, and all those other
4 things, they can, also, be indicators of non-criminal
5 behavior and just personality; correct?

6 A Correct. However, that's why we are -- when we speak
7 to people, we try to be super nice. The conversations
8 that we have are extremely casual. And that to the normal
9 motoring public -- if I stopped you for speeding and we
10 have that conversation on the side of the road, your level
11 of nervousness will subside very quickly when you realize
12 that, you know, this is not going to be a -- a bad
13 engagement with law enforcement.

14 And that's -- we use that casual conversation as a
15 way to bring down that nervousness so that when we see the
16 normal motoring public and after speaking to them for a
17 minute or so, they start to breathe easy and become less
18 nervous. That's how we -- that helps us weed out the
19 normal motoring public from someone who's nervousness
20 never comes down.

21 Q Okay. But at that point, you're no longer talking to
22 Mr. Kelly, that's Mr. Ledbetter; correct, in terms of
23 gauging his nervousness. You've gone back to the car and
24 all of those things; correct?

25 A Right.

1 Q And while -- people aren't robots. So while you have
2 all of these deescalation techniques, they don't
3 necessarily always work; correct?

4 A Yes, ma'am.

5 Q Even with people who aren't engaged in this criminal
6 behavior, as you call it, that you're trying to profile or
7 target; correct?

8 A Yes, ma'am.

9 Q There are people that you've been exceedingly nice to
10 who stay nervous the whole time; correct?

11 A Yes, ma'am.

12 Q There have been people who are angry for no reason;
13 correct?

14 A Yes, ma'am.

15 Q And, obviously, people's health backgrounds,
16 socio-economic backgrounds, race backgrounds, all of those
17 things contribute to how they interact with you; correct?

18 A Yes, ma'am.

19 Q And that may impact nervousness more so or less so
20 than criminal behavior; correct?

21 A Yes, ma'am.

22 MS. LIPINSKI: The Court's indulgence one moment,
23 Your Honor.

24 (Pause.)

25 MS. LIPINSKI: The Court's indulgence. Just a couple

1 more questions. I promise to be brief.

2 BY MS. LIPINSKI:

3 Q You testified before the jury that your initial
4 assessment of Mr. Kelly's speed was 84 miles per hour;
5 correct?

6 A Yes, ma'am.

7 Q The ticket, because it was a warning, didn't,
8 actually, say that specific speed; correct?

9 A Yes, ma'am. On the warning tickets, there's no block
10 where you put the actual speed. You just -- there's a
11 check mark where you click what the violation was.

12 Q But that is something that you would have relayed to
13 other officers -- certainly, other officers who would
14 subsequently issue an arrest warrant for speeding;
15 correct?

16 A I'm sorry. I don't understand the question.

17 Q You're the only one that saw Mr. Kelly speeding on
18 that particular day; correct?

19 A Yes.

20 Q So if anybody was going to subsequently issue a
21 warrant or a ticket for speeding, elevate your warning
22 ticket, they would have done that based on information you
23 relayed to them; correct?

24 A No. No one else would have issued a ticket for
25 speeding. That falls upon the deputy that makes the

1 traffic stop. So if a speeding ticket were to be issued,
2 it would have been issued by me and no one else.

3 Q So if a warrant was issued for speeding --

4 A It would have been issued by me.

5 Q Was it issued by you in this case?

6 A A warrant for speeding?

7 Q Uh-huh.

8 A It was not because of the officer-involved death.

9 Q Okay. But if that -- if those warrants indicated a
10 speed of 80, they would have gotten that from you;
11 correct?

12 A Yes, ma'am.

13 Q Because no one else saw him speeding; correct?

14 A Correct.

15 Q And it is important that you relay accurate
16 information to other officers who may be participating in
17 the investigation; correct?

18 A Yes, ma'am.

19 Q And so if those documents at that time indicated a
20 speed of 80, that information would have come from you;
21 correct?

22 A I don't understand what you're asking me.

23 Q If other people in their reports indicated a speed of
24 Mr. Kelly as the basis for the stop, either in a report or
25 a warrant, and reflected a speed of 80 and you were the

1 only one who witnessed him speeding, that information
2 would have come from you; correct?

3 A The information would have come from me. And I
4 believe on the video, I told Mr. Kelly that he was doing
5 84 miles an hour. So that information would have come
6 from me and from the camera footage.

7 Q Do you have any explanation as to why other documents
8 reflect 80?

9 A I have no idea.

10 MS. LIPINSKI: Thank you.

11 THE COURT: All right. Any redirect?

12 MR. WILKINS: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. WILKINS:

15 Q I know Ms. Lipinski was talking about speeding. How
16 did you gauge the speed of the Nissan Altima when you saw
17 him speed by? How did you gauge it? And how did you get
18 to 84?

19 A So our traffic cars, like I explained, are equipped
20 with in-car devices that we can capture the speed of
21 vehicles that are traveling the same distance as us or
22 opposite directions that our camera -- we have a radar
23 camera in front and the back that allows us to capture the
24 speeds of vehicles that are around us.

25 Q And you gauged him at what speed?

1 A 84.

2 Q Now, when you approached the driver's side -- the
3 passenger side to conduct the initial traffic stop and you
4 interacted, you testified earlier about -- about the smell
5 of marijuana and talking with the passengers?

6 A Yes, sir.

7 Q All right. So did you smell marijuana when you had
8 the initial interaction with the passengers in the car?

9 A Yes, I did.

10 Q And you've had training in drug interdiction?

11 A I have.

12 Q A lot of training in it?

13 A Yes, sir.

14 Q How many stops have you made in your 10-year career?

15 A Oh, thousands.

16 Q And have you had interactions where you smelled
17 marijuana in cars before?

18 A Yes.

19 Q So you know what the smell of marijuana is?

20 A I do.

21 Q And then you wrote a warning ticket before you
22 asked -- before you notified Mr. Kelly of the search that
23 you were going to conduct?

24 A Correct.

25 Q Why did you do that?

1 A It's -- it's a typical technique that we use on the
2 interstate. The tickets that we generate are on a
3 computer, which does not allow us to have casual
4 conversations with people because the computer is inside
5 the car. So we use a contact form or a warning that
6 allows us to talk to the -- to the operator of the vehicle
7 while, you know, filling out that form.

8 Q Had you had the opportunity, would you have written
9 him a ticket for speeding, and following too close, and no
10 driver's license?

11 A Yes.

12 Q And, finally, at that time, just for clarification,
13 what was -- what was Conley Jumper's rank at the time of
14 this incident?

15 A At the time, he was a master deputy. And he was
16 promoted postdeath to sergeant.

17 MR. WILKINS: Thank you.

18 I don't have any further questions, Your Honor.

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

20 You may stand down.

21 Okay. Call your next witness.

22 MR. WILKINS: Your Honor, the State calls Nick
23 Ledbetter.

24 MS. LIPINSKI: Your Honor, just for the record, could
25 we ask that Deputy Wasserman just remain available to the

1 Defense, based on the documents we requested that are
2 still in production?

3 THE COURT: Yes. He'll be here, yes.

4 MS. LIPINSKI: Thank you, Your Honor.

5 THE CLERK: Place your left hand on the Bible and
6 raise your right hand.

7 WHEREUPON,

8 NICHOLAS DAVID MILES LEDBETTER,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 Please be seated.

12 Please state your name for the record.

13 THE WITNESS: Nicholas David Miles Ledbetter.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MR. WILKINS:

17 Q Deputy Ledbetter, with whom are you employed?

18 A Greenville County Sheriff's Office.

19 Q And how long have you been employed with the
20 Greenville County Sheriff's Office?

21 A Five years.

22 Q And what do you do for the Greenville County
23 Sheriff's Office?

24 A Currently, I'm assigned to the interdiction team on
25 the traffic unit of the sheriff's office.

1 Q And what is the Greenville County interdiction team?

2 A The Greenville County interdiction team is -- well,
3 now, it's a team of two people. At the time, it was four.
4 Our job is tasked with working on the interstate, I-85,
5 which is a major corridor in South Carolina. We're tasked
6 with enforcing traffic laws and, also, looking for any
7 kind of criminal activity. It's kind of going beyond the
8 stop, just looking for things that are out of place,
9 looking for anything that is out of the ordinary for a
10 regular motorist that we stop.

11 Q What types of cases do y'all get involved in during
12 your interdiction stops?

13 A All kinds. We get involved in human trafficking
14 cases, drug cases. We've had DUI's on 85 involving drug
15 impairment, wanted fugitives from out of state, wanted
16 fugitives from instate, pretty much anything within the
17 scope of crime, for the most part.

18 Q In addition to that, are y'all tasked with trying to
19 maintain the safety of the highway, as well?

20 A Yes, sir.

21 Q How do y'all do that?

22 A We enforce the traffic laws on the interstate. And
23 as far as I'm aware, we're the only team with the
24 Greenville County Sheriff's Office that exclusively works
25 on Interstate 85 out of the hundreds of deputies that we

1 have with the sheriff's office.

2 Q And do y'all receive special training on how to
3 conduct traffic stops, and recognizing criminal afoot, and
4 those types of things?

5 A Yes, sir.

6 Q I'm going to take you back to October 10th of 2020.

7 A Yes, sir.

8 Q Were you working with the interdiction team that day?

9 A Yes, sir.

10 Q And who were you working with?

11 A I was working with Master Deputy Conley Jumper,
12 Master Deputy David Harrison, and Deputy Jesse Wasserman.

13 Q And how do y'all operate your interdiction team?

14 A Yes, sir.

15 Q And on that day, how were y'all operating?

16 A As I said before, at the time in 2020, we were a
17 four-man unit. We had two master deputies, which were
18 kind of like quasi-supervisor to look after us. That was
19 David Harrison and Conley Jumper. And then we had two
20 just deputy twos, which is a standard deputy. That was me
21 and Jesse.

22 Jesse and Jumper both had narcotics dogs that they
23 had in their vehicles. And then David and I were just
24 regular deputies with cages in the back.

25 Q All right. And did you have the occasion to get

1 involved with a car stop made by Master Deputy Wasserman?

2 A Yes, sir.

3 Q How did you get involved in that car stop?

4 A So the week -- the week prior in Spartanburg County,
5 Sheriff Wright, he -- typically, it was an annual thing.
6 It's called operation rolling thunder. What he does is he
7 invites interdiction teams, traffic teams throughout the
8 state to come and work in Spartanburg County exclusively
9 on I-85 and I-26.

10 So for that whole week, the entire county of
11 Spartanburg is saturated with deputies --

12 MS. LIPINSKI: Your Honor, I'm going to object to
13 this rolling thunder. I'm not really sure how it is
14 relevant to this particular trial.

15 THE COURT: Yeah. What's the --

16 MR. WILKINS: The relevance is -- it relates to what
17 Sergeant Jumper was doing at the time of this stop.

18 BY MR. WILKINS:

19 Q But move on.

20 A Yes, sir. I was with Jumper riding with him for two
21 days that week. Jumper has a K9. Any time narcotics are
22 found -- we had several cases that week where he had
23 reports he had to do. He had to catch up from the week
24 before. And that was our first day back to work that
25 week.

1 So Jumper had been kind of doing other stuff because
2 we just got back to Greenville and then working on his
3 reports, as well. It was about 3:00 in the afternoon. We
4 get off at 5:00, typically, during the week.

5 So at the time Jesse stopped this vehicle, he asked
6 for Jumper to come back him up. I was trying to help
7 Jumper out and get his reports done, so I cancelled Jumper
8 on our radio and told dispatch I was going to come over
9 there and back up Jesse.

10 Q And did you, in fact, go back up Jesse?

11 A Yes, sir.

12 Q So how did you -- where did you come from and how did
13 you get to where Jesse's car stop had occurred?

14 A Yes, sir. So on the camera yesterday, you saw two
15 black cars sitting next to each other on the side of the
16 interstate. I was the second one. It was a Chevrolet
17 Caprice. I was sitting next to David. And I pulled out
18 and entered traffic and got behind Jesse on his traffic
19 stop.

20 Q And you were there to assist Jesse in his traffic
21 stop?

22 A Yes, sir.

23 Q And did he call you for assistance?

24 A He called Jumper. And I cancelled Jumper on the
25 radio so he could work on his reports. And I went instead.

1 Q And when y'all are working these traffic stops, do
2 you have body cameras?

3 A Yes, sir.

4 Q And do you have in-car cameras?

5 A Yes, sir.

6 Q And were you wearing a body camera that day?

7 A Yes, sir. I had -- we don't wear the particular
8 model anymore, but I had a Panasonic body camera on my
9 vest.

10 Q And in-car camera, as well?

11 A Yes, sir.

12 Q I'm going to show you State's Exhibit Nos. 5 and 6.

13 MS. LIPINSKI: The Court's indulgence.

14 (Pause.)

15 BY MR. WILKINS:

16 Q All right. I'm going to show you what's marked as
17 State's Exhibit No. 5, and ask you if you recognize that?

18 A Yes, sir.

19 Q All right. What is that?

20 A That is my body camera on the disk.

21 Q Okay.

22 A It has my autograph -- my signature on it.

23 Q And have you reviewed it before?

24 A Yes, sir.

25 Q And is it a true and accurate representation of what

1 was on your body cam that day?

2 A Yes, sir.

3 MR. WILKINS: Your Honor, the State moves State's
4 Exhibit No. 5 into evidence.

5 MS. LIPINSKI: State's Exhibit No. 5 is the single
6 view?

7 MR. WILKINS: State's Exhibit No. 5 is the
8 single-vision body camera.

9 MS. LIPINSKI: We have no objection.

10 THE COURT: All right. Without objection.

11 (WHEREUPON, State's Exhibit No. 5 was admitted into
12 evidence.)

13 BY MR. WILKINS:

14 Q I'm going to show you State's Exhibit No. 6. Do you
15 recognize that?

16 A Yes, sir.

17 Q What is that?

18 A That's, also, the combination view of my body camera
19 and Deputy Wasserman's dash camera.

20 Q So it's got two separate body cameras on there?

21 A Yes, sir.

22 Q So it's got State's Exhibit No. 3 that's already been
23 admitted into evidence. And it's got your body camera,
24 which is State's Exhibit No. 5, which has already been
25 admitted into evidence?

1 A Yes, sir.

2 Q And is it a true and accurate representation of what
3 happened that day?

4 A Yes, sir.

5 MR. WILKINS: The State moves State's Exhibit No. 6
6 in, Your Honor.

7 MS. LIPINSKI: We object because it's a combined
8 view. It's not provided to the Defense. I don't have any
9 exception to Mr. Wilkins' representation. But because I
10 didn't get that combined view and didn't have the
11 opportunity to review it, we would just note our
12 objection.

13 THE COURT: All right. I'm going to overrule and
14 admit the evidence.

15 (WHEREUPON, State's Exhibit No. 6 was admitted into
16 evidence.)

17 BY MR. WILKINS:

18 Q Deputy Ledbetter, I'm going to show you what's been
19 marked as State's Exhibit No. 6, which has been introduced
20 into evidence.

21 A Yes, sir.

22 (WHEREUPON, State's Exhibit No. 6 was played in open
23 court.)

24 BY MR. WILKINS:

25 Q All right. And for the jury, what are we seeing

1 right here?

2 A This is me sitting in my patrol car snacking on some
3 peanuts.

4 Q And how are you positioned on the highway?

5 A I'm parked behind Deputy Wasserman on his traffic
6 stop.

7 Q All right. So at this moment, you had been -- had
8 you been called by Master Deputy Wasserman?

9 A He called for Jumper and I -- yes, sir.

10 Q So where is your car positioned in relation to his car?

11 A My car is positioned behind him. And I'm slightly a
12 little bit off from Jesse's Charger to kind of get a
13 little closer to the guardrail.

14 Q And at this moment, do you know anything about this
15 traffic stop whatsoever?

16 A No, sir.

17 Q You're showing up cold, in essence?

18 A Yes, sir.

19 (WHEREUPON, State's Exhibit No. 6 continued to be
20 played in open court.)

21 BY MR. WILKINS:

22 Q So you approached the Defendant at this moment?

23 A Yes, sir. I walked up to him, threw a bolt that was
24 on the road so you wouldn't get flat tires. And I noticed
25 that he was kind of walking back and forth between Jesse's

1 Charger and the Nissan. And I was trying -- I asked him
2 to come back over to where I was at.

3 Q Did that indicate anything to you?

4 A At the time, I wasn't really paying attention. I was
5 still munching on my peanuts. It is what it is. But as
6 the stop progressively progressed more and I started
7 watching Mr. Kelly, I could tell there was an indication
8 of nervous behavior.

9 (WHEREUPON, State's Exhibit No. 6 continued to be
10 played in open court.)

11 THE WITNESS: And he, actually, at one point while
12 Deputy Wasserman -- you can see on the camera, he's trying
13 to walk up to Deputy Wasserman while he's talking to the
14 passenger in the front seat.

15 (WHEREUPON, State's Exhibit No. 6 continued to be
16 played in open court.)

17 BY MR. WILKINS:

18 Q What did you ask Mr. Kelly there?

19 A I asked him to come back to where I was at so he
20 doesn't get hit by a car.

21 Q And did he comply?

22 A He started walking back and then walked back to
23 Jesse. And Jesse started walking back.

24 (WHEREUPON, State's Exhibit No. 6 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q So what's going on here? You look like you're
3 engaging in conversation?

4 A Yes. I asked him to come back over to me again. And
5 I was just engaging in conversation, talking to him. As
6 Deputy Wasserman stated in his testimony, the backup
7 officer will talk to him and see what his story is
8 compared to what the story is that he gave the initial
9 driver [sic].

10 It's, also, just being friendly. I'm not trying to
11 be a roadblock on the side of the road. I want to talk to
12 somebody. We do enough of these that I don't want to sit
13 there like a roadblock and not talk to somebody. Because
14 it gets real boring real quick.

15 (WHEREUPON, State's Exhibit No. 6 continued to be
16 played in open court.)

17 BY MR. WILKINS:

18 Q So you're having a conversation with Mr. Kelly?

19 A Yes, sir.

20 Q He just referred to somebody in there. Who did he
21 refer to?

22 A I didn't catch the name. But he was -- I think he
23 was referring to the front passenger.

24 (WHEREUPON, State's Exhibit No. 6 continued to be
25 played in open court.)

1 THE WITNESS: He referred to a lady named Brittany.

2 BY MR. WILKINS:

3 Q Was he referring to the passenger?

4 A Yes.

5 (WHEREUPON, State's Exhibit No. 6 continued to be
6 played in open court.)

7 BY MR. WILKINS:

8 Q So further conversation, I guess?

9 A Yes, sir.

10 Q Is that the chitchat you referred to earlier?

11 A Yes, sir.

12 Q And now I see Master Deputy Wasserman. Did you see
13 what he was doing?

14 A Yes, sir.

15 Q And what happened there?

16 A He took his warning book and the paperwork that he
17 had and placed it on the windshield of his patrol car.

18 Q Does that mean anything to you?

19 A It's a non-verbal queue that he's about to search the
20 vehicle or ask for consent to search the vehicle.

21 Q Because you haven't approached that vehicle, have
22 you?

23 A No, sir, I had not.

24 Q Had you smelled any marijuana inside?

25 A No, sir.

1 Q So you didn't know anything about this traffic stop
2 still to this point?

3 A The only thing that I knew and shows on my body
4 camera, when Jesse was walking back to his car, he was
5 talking to him about a license. And I overheard him
6 talking about Mr. Kelly not having a license.

7 Q So you knew the Defendant didn't have a license at
8 that point?

9 A Yes, sir.

10 (WHEREUPON, State's Exhibit No. 6 continued to be
11 played in open court.)

12 BY MR. WILKINS:

13 Q All right. So what happened there?

14 A Jesse went to search him and he pulled away from
15 Jesse and started trying to go back to the car.

16 Q All right. And so -- at that moment, what is your
17 intent there?

18 A To place him in handcuffs, keep him from trying to
19 get back to the car.

20 Q So, obviously, a struggle ensues?

21 A Yes, sir.

22 Q All right. Tell this jury about that struggle. And
23 tell this jury how Sergeant Jumper got involved.

24 A The driver -- Mr. Kelly started trying to get back to
25 his car. And I was trying to prevent that. So I got

1 between him and the driver door and was trying to do my
2 best to get him in custody.

3 At this point, I've been a cop for 10 years. Before
4 Greenville County, I worked in Mount Pleasant down in
5 Charleston. And this fight that we had on the side of the
6 road was the most dangerous predicament I've ever been in.
7 It was very violent.

8 Jumper showed up to -- I never even saw him. I felt
9 him next to me on my left because he's a big guy. He's a
10 gorilla. He's 6'6", 360 pounds. I felt him next to me.
11 And I was scared, terrified.

12 Q Did you know Sergeant Jumper was coming to assist?

13 A I did not, no, sir.

14 Q Did you just see him kind of show up?

15 A I felt him next to me.

16 Q I noticed that there are some kind of blows to the --
17 to Mr. Kelly. What were those? And was that you?

18 A Yes, sir.

19 Q Why -- why did you -- why were those going on?

20 A At one point, Mr. Kelly had grabbed hold of my collar
21 on my uniform and was choking me with my collar across my
22 throat. And he, also, had his arms locked out. He was
23 very tensed up on, I'm guessing, adrenaline.

24 At the police academy, when you do -- you're taught
25 tactics and to strike the meaty portions of somebody's

1 arms or legs. And that's what I was doing, I was trying
2 to strike his arms to get control of him because of how
3 dangerous this was. I mean, we were inches from the fog
4 line on the side of the interstate.

5 Q I guess in your training, you could have done some
6 other moves to detain Mr. Kelly. But you were next to the
7 highway?

8 A Yes, sir.

9 Q What would happen if somebody ended up on -- on lane
10 one?

11 A We would have got hit by a car.

12 Q So this struggle was in a very small space?

13 A Yes, sir.

14 Q I'm going to show you --

15 (WHEREUPON, State's Exhibit No. 12 was marked for
16 identification only.)

17 MR. WILKINS: This is State's Exhibit No. 12.

18 MS. LIPINSKI: We reviewed that this morning, Your
19 Honor. We have no objection.

20 THE COURT: All right. Without objection.

21 (WHEREUPON, State's Exhibit No. 12 was admitted into
22 evidence.)

23 MR. WILKINS: I'm going to open it up.

24 BY MR. WILKINS:

25 Q I'm showing you State's Exhibit No. 12. And I'm

1 going to show you -- I think you've looked at the box, as
2 well. You were able to identify it?

3 A Yes, sir.

4 Q What is this?

5 A That is my uniform and the box that the uniform is
6 in.

7 Q And is this your uniform that you were wearing that
8 day?

9 A Yes, sir.

10 Q And I'm going to show you the collar of it.

11 A Yes, sir.

12 Q Do you see that?

13 A Yes, sir.

14 Q What is -- what is on that collar?

15 A There's a hole in it from being ripped.

16 Q And can you tell this jury how that happened during
17 this struggle?

18 A From Mr. Kelly pulling it across my throat.

19 Q Is it during the struggle we're seeing on the scene
20 right here?

21 A Yes, sir.

22 Q This material is issued by you -- issued to you by
23 the Greenville County Sheriff's Office?

24 A Yes, sir.

25 Q All police officers wore this?

1 A The interdiction team, as well as the directed patrol
2 unit.

3 Q It's pretty strong material?

4 A Yes, sir.

5 Q And then, again, how did he pull it across your neck?
6 Did you sustain injuries?

7 A I didn't have a mark or anything, but my throat was
8 sore for a few days after this.

9 (WHEREUPON, State's Exhibit No. 6 continued to be
10 played in open court.)

11 BY MR. WILKINS:

12 Q The struggle is going on and now, we don't have any
13 sound. Why is that?

14 A Like I said before, we had Panasonic body cameras.
15 There is the button for -- the mute button is at the top
16 of the body camera. At some point during the fight, that
17 button got pressed.

18 Q And I'll refer you to the paused still right there.
19 Are those your hands in the video right there?

20 A Yes, sir.

21 Q What are you trying to do?

22 A Trying to get control of his wrists and bring him
23 back to the back of the car.

24 (WHEREUPON, State's Exhibit No. 6 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q So what happens here? You described the struggle
3 outside of the car. What's happened here?

4 A Mr. Kelly has managed to get back in the front seat
5 of the car and Jumper is with him.

6 Q Okay. And is -- how is Mr. Kelly positioned in the
7 car?

8 A He's sitting in the front seat.

9 Q Like, is it like he was trying to -- he could
10 drive -- a normal person --

11 MS. LIPINSKI: Your Honor, I object as to leading,
12 Your Honor.

13 Just ask him what he's able to see.

14 THE COURT: All right. Don't lead.

15 BY MR. WILKINS:

16 Q How is he positioned?

17 A He's trying to get back in the car.

18 (WHEREUPON, State's Exhibit No. 6 continued to be
19 played in open court.)

20 BY MR. WILKINS:

21 Q All right. And the sound came on. What happened?

22 A I think that's the -- the dash camera.

23 Q All right. At this moment, how is Mr. Kelly
24 positioned? And how is Sergeant Jumper positioned?

25 A Mr. Kelly is sitting in the front seat. And Jumper

1 is on top of him trying to pull him out.

2 Q Is that Sergeant Jumper right there on the screen?

3 A Yes, sir.

4 (WHEREUPON, State's Exhibit No. 6 continued to be
5 played in open court.)

6 BY MR. WILKINS:

7 Q Now, on your body camera, can you see inside the --
8 the Altima?

9 A Yes, sir.

10 Q And I focus your attention down towards the brake
11 pedal. What's going on there?

12 A He has his foot on the brake.

13 Q Who has his foot on the brake?

14 A Mr. Kelly.

15 Q Mr. Kelly has his foot on the brake.

16 (WHEREUPON, State's Exhibit No. 6 continued to be
17 played in open court.)

18 BY MR. WILKINS:

19 Q So what happened there?

20 A Mr. Kelly got the car into drive and turned it into
21 traffic. And the car was hit by an 18-wheeler.

22 (WHEREUPON, State's Exhibit No. 6 continued to be
23 played in open court.)

24 BY MR. WILKINS:

25 Q All right. So what did you do next?

1 A After the collision, I noticed Jesse went to Jumper
2 to help him. And I saw Mr. Kelly get up. And he was
3 still trying to get back to his car. And I was not going
4 to let him leave that scene.

5 (WHEREUPON, State's Exhibit No. 6 continued to be
6 played in open court.)

7 BY MR. WILKINS:

8 Q I see another individual in the top right-hand screen
9 right there. Do you know who that is?

10 A I don't know who that is. When I got -- I got to
11 Mr. Kelly, he was still resisting me. He was still
12 resisting me putting the handcuffs on. He kept pulling
13 his arms away from me.

14 And I was strained from the fight. I called for
15 help. And I don't know who this guy was, but he came over
16 to help me get this guy into custody.

17 Q Was this person involved in law enforcement?

18 A Not that I'm aware of.

19 (WHEREUPON, State's Exhibit No. 6 continued to be
20 played in open court.)

21 BY MR. WILKINS:

22 Q So you just told somebody to go stand over there.
23 Who was that?

24 A That was the passenger of the Nissan.

25

1 (WHEREUPON, State's Exhibit No. 6 continued to be
2 played in open court.)

3 BY MR. WILKINS:

4 Q So what's going on here?

5 A He was still trying to get up and running his mouth.
6 And I was pissed. I was mad. I was angry about what just
7 happened. And I was trying my best to keep my cool.

8 Q And he -- he -- he says on the video -- refers to a
9 female. What did he say? And who is he referring to?

10 A He's referring to the passenger saying she wasn't
11 involved.

12 Q And where is she sitting?

13 A She's over near the cement wall.

14 (WHEREUPON, State's Exhibit No. 6 continued to be
15 played in open court.)

16 BY MR. WILKINS:

17 Q Again, he just referred to the female. What did he
18 say?

19 A You'd have to play it back.

20 (WHEREUPON, State's Exhibit No. 6 continued to be
21 played in open court.)

22 BY MR. WILKINS:

23 Q What are you doing here?

24 A Going to go check on Jumper.

25 MS. LIPINSKI: Your Honor, I object at this point as

1 to this portion of the video.

2 THE COURT: I'm sorry?

3 MS. LIPINSKI: I said I'm going to object to this
4 portion of the video. I think it's solely meant to
5 inflame the passion --

6 THE COURT: All right. Hang on. We'll --

7 MR. WILKINS: Your Honor, it's --

8 THE COURT: Hang on.

9 I tell you what, it's noon. We've been at it for a
10 while. We'll take a short break. We've got an issue to
11 discuss. And we'll get back to you. Don't talk about the
12 case. And we'll be with you in a minute.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 11:58 a.m.)

15 THE COURT: Okay. Your objection?

16 MS. LIPINSKI: Your Honor, I object to this portion
17 of the video where they're rendering aid to Jumper. I
18 think at this point, the act itself has been committed.
19 Mr. Kelly has been detained.

20 And to highlight this portion of the video where
21 they're rendering aid to Mr. Jumper, I -- or Deputy
22 Jumper -- I apologize -- at this point, it's just designed
23 to inflame the passions and prejudice of the jury.
24 They've seen the collision multiple times. To see that
25 kind of --

1 THE COURT: Okay. You're -- play it and keep track
2 of exactly where you are. And I'm going to review it for
3 403 analysis.

4 (WHEREUPON, State's Exhibit No. 6 continued to be
5 played in open court.)

6 MR. WILKINS: That's it. And, Your Honor, for the
7 record, I would say the evidentiary value to the State is
8 Sergeant Jumper's position on the road.

9 THE COURT: Okay.

10 MR. WILKINS: Because there was a second wreck we
11 haven't gotten into yet. So where he's positioned does
12 matter as to proximate cause of death.

13 THE COURT: Is that what you object to?

14 MS. LIPINSKI: There's --

15 THE COURT: Is there more is what I'm asking.

16 MS. LIPINSKI: There are other body cams. And I
17 apologize. Because I am kind of at the last minute --

18 THE COURT: That's all right.

19 MS. LIPINSKI: There's a lot of them where they kind
20 of have this last conversation with him and making very
21 emotional contact with him. And that's what I thought was
22 coming. And that was my concern at that point. I didn't
23 know that he intended to stop it at that point.

24 THE COURT: Okay. Well, I'm going to overrule your
25 objection and find it -- the prejudice is not above

1 probative value.

2 We'll take about a 10-minute break so the jury can
3 get organized.

4 And, Officer, you may -- Deputy, you can stand down.
5 Don't discuss your testimony.

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. We'll take a short break.

8 (WHEREUPON, a break was taken.)

9 (WHEREUPON, Court's Exhibit Nos. 4 and 5 were marked
10 for identification and admitted into evidence.)

11 THE COURT: All right. Are we ready to resume?

12 MS. LIPINSKI: One moment, Your Honor.

13 (Pause.)

14 MS. LIPINSKI: I apologize.

15 THE COURT: Yeah, yeah. That's fine.

16 Okay. Let's bring the jury in.

17 (WHEREUPON, the jury came into open court at
18 approximately 12:15 p.m.)

19 THE COURT: Ladies and gentlemen, welcome back.
20 Please resume.

21 MR. WILKINS: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibit No. 6 continued to be
23 played in open court.)

24 BY MR. WILKINS:

25 Q And just tell us, where is Jumper -- Sergeant Jumper

1 positioned on the highway?

2 A He's facing towards the median in the road.

3 Q Is he on the highway side of that yellow line or on
4 the shoulder side of the yellow line?

5 A He's on the highway side.

6 Q I'm going to take you briefly back to the struggle.
7 You previously testified that the Defendant was in the
8 driver's seat and Conley -- Sergeant Jumper was on top of
9 him. Did Jumper -- did Sergeant Jumper say anything to
10 you when y'all were engaged in the struggle?

11 A Yes, sir. The reason I backed up was when Jumper got
12 in the car with him, he said, Nick, get off me. He was
13 very nonchalant about it.

14 So knowing Jumper, I assumed that he had Mr. Kelly
15 and he was about to pull him out of the car. So I was
16 backing up to give him space to pull him out so we could
17 put him in handcuffs and go back to what we were doing.

18 Q And when you backed up, what happened?

19 A The car took off.

20 MR. WILKINS: Please answer any questions Ms. Lipinski
21 may have for you.

22 THE WITNESS: Yes, sir.

23 CROSS-EXAMINATION

24 BY MS. LIPINSKI:

25 Q I'll try and be brief. Deputy Ledbetter -- Master

1 Deputy Ledbetter?

2 A Just Deputy, sir -- I mean, ma'am.

3 Q Okay. I'll answer to that.

4 I just want to ask you a couple of questions about
5 your encounter with Mr. Kelly that day. Were they good
6 peanuts? Were they salted?

7 A They were the -- the honey flavored.

8 Q Oh, those are good.

9 And I didn't understand because they kind of edited
10 your video. You said even when you arrived on the scene,
11 you were kind of, initially, just sitting in your car
12 making sure that Deputy Wasserman had the situation under
13 control; correct?

14 A Ma'am, I was sitting in my car watching their
15 interaction.

16 Q And then at some point, you decided to get out to see
17 if you could be of assistance. You see that he's gotten
18 in the car to do paperwork. So you decide to go engage
19 Mr. Kelly in conversation; correct?

20 A Yes, ma'am.

21 Q And during that time, he does sit with you for the
22 most part on the guardrail during most of that encounter;
23 correct?

24 A He does sit down at some point.

25 Q And never -- while you're there kind of talking until

1 Deputy Wasserman comes out, he never makes any other
2 efforts about going back to the car or anything like that
3 once he's seated at the guardrail with you; correct?

4 A He tried to walk up to Jesse while Jesse was talking
5 to the passenger. And then once while we were sitting
6 there, he sat there at the guardrail and was talking to
7 me, yes, ma'am.

8 Q And he was trying to -- could have been trying to
9 find out from Deputy Wasserman, you know, what was going
10 on with the stop and where they were; correct?

11 A I wish I knew what he was thinking.

12 Q All right. And then at some point during your
13 conversation with Mr. Kelly, you talk about the fact that
14 he has some type of eye injury. I think I can hear you
15 talk about -- is it pink eye, or something like that?

16 A Yeah. It looked like there was something red in his
17 eye or pink in his eye. I couldn't tell what it was. So
18 I asked him about it.

19 Q He had some kind of injury, though; correct?

20 A Yeah. There was something with his eye causing it to
21 be red other than the normal way.

22 Q And, obviously, having that vision impairment or that
23 kind of thing would, certainly, put someone at a more
24 vulnerable state. Would that be fair to say?

25 A Depending on any kind of medical issue he may have

1 had.

2 Q All right. But you wouldn't want to be working if
3 you had that kind of eye injury, would you?

4 A It depends on the circumstances.

5 Q But having an eye injury wouldn't be the ideal
6 situation for you to work and encounter people out on the
7 road; correct?

8 A If I had a serious eye injury, I would probably not
9 be working out there.

10 Q Right. They could put you on light duty, or
11 something like that?

12 A Yes, ma'am.

13 Q All right. And so you then are, initially, there
14 with Deputy Wasserman. You attempt to arrest or seize
15 Mr. Kelly and then get into that struggle. And then
16 Officer Jumper arrives on the scene. And the two of you
17 are struggling with Mr. Kelly; correct?

18 A No, ma'am. We were, originally, not going to arrest
19 him. We were just going to search the vehicle. We
20 weren't planning on placing him in handcuffs, or anything.
21 But when he made that decision to try to go back to the
22 car is when he was going to be placed in handcuffs.

23 Q You're the one who, actually, verbalizes kind of
24 like, you're under arrest?

25 A Yes, ma'am. I told him he was under arrest.

1 Q So you're the one -- once the struggle has ensued is
2 the one that kind of makes that emphatically clear; is
3 that fair to say?

4 A If it wasn't already clear on camera, yes, I made it
5 verbally clear that he was under arrest.

6 Q And after this, you didn't do kind of a typical
7 Greenville County Sheriff's Office report they way some of
8 the other officers involved were; correct?

9 A Yes, ma'am. That is correct.

10 Q Instead, you assisted SLED. And SLED conducted the
11 primary investigation in this incident; correct?

12 A That is correct, because of the line of duty death.

13 Q And you -- Solicitor Wilkins showed you this tear in
14 your shirt. You are -- you -- and I know it's kind of
15 hard because they're all blue. You're entire wardrobe is
16 that color; right, in terms of law enforcement?

17 A Pretty much, yes, ma'am, different shades.

18 Q But you don't have a tie on out there that day. For
19 the most part, you guys are in short sleeves; is that fair
20 to say?

21 A No, ma'am. We're in long sleeves and we have an open
22 collar.

23 Q But is it, actually, buttoned or is there, like, a
24 zipper or Velcro --

25 A There's a zipper that comes up to about right here.

1 Q About here?

2 A Uh-huh.

3 Q But it's deceptive. It looks like there's buttons,
4 but there's really not; right?

5 A No. You should be able to see the zipper.

6 Q You can -- on those BDUs [phonetic], you can see it?

7 A Yes. That's when you're usually wearing it, you can
8 see the zipper.

9 Q And in addition to that shirt, were you wearing a
10 vest that day?

11 A Yes, ma'am.

12 Q And so that would have been worn over that shirt;
13 fair to say?

14 A Yes, ma'am.

15 Q And those vests are fairly tight; correct?

16 A They squeeze me in there.

17 Q Right. At some point, you say, I am so agitated.
18 And you're struggling to breathe, just, you know, the
19 adrenaline, the physical exertion that you, actually, take
20 off your vest after it's all gone down to kind of help you
21 kind of recover. Do you remember that?

22 A Yes. I took off my vest after the suspects were in
23 custody.

24 Q All right. So in some kind of struggle with you;
25 right? That shirt being pinned against you, it's not

1 moving freely because that vest has limited its movement;
2 correct?

3 A That's correct.

4 Q All right. So you -- do you remember giving a
5 statement to SLED?

6 A Yes, ma'am.

7 MS. LIPINSKI: Any objection to me showing this?

8 MR. WILKINS: You're going to show it to him?

9 MS. LIPINSKI: Uh-huh.

10 BY MS. LIPINSKI:

11 Q Does this look like the statement you gave the
12 officers?

13 A Yes, ma'am.

14 Q I'm just going to draw your attention to this last
15 sentence, actually. Okay. And it says -- can you just
16 read that? And I'll ask if you remember giving that
17 statement.

18 A After watching the camera footage, I know now it was
19 from the suspect pushing me against -- pushing against me
20 as he was trying to get back in the car and getting my
21 shirt -- something to choke me.

22 Q All right. So -- and I say that in that that's
23 something that you deduced after you watched all this.
24 You don't necessarily have an independent recollection of
25 those events. And I understand it was chaotic that day.

1 But the way that's written is you kind of -- it's how you
2 pieced it back together after watching your body camera
3 and in-camera?

4 A No, ma'am. When I went to the hospital, I realized
5 my shirt was ripped. That night when I got to my house, I
6 have an enclosed garage that's attached to the house. And
7 I took my uniform off. I noticed that there was blood on
8 the pants and that my shirt had been ripped. And I,
9 actually, contacted Investigator Davis later and asked him
10 if he wanted me to bring my uniform in the next time I was
11 there.

12 Q All right. Maybe that was -- that wasn't my
13 question. The question was, that indication that that rip
14 came from that struggle or where his hands were grabbing
15 at your shirt is something you kind of pieced together
16 after watching the body cam; correct?

17 A It -- I gathered it based on what I saw when I got to
18 the hospital and how I felt.

19 Q But the way you described it to Sergeant Davis is
20 once you see the tear in the shirt and look at the body
21 cam, that's when you piece everything together?

22 A That's when I realized that's how it had been ripped.

23 Q I know it was muted, but there are, also, portions of
24 the audio where you can hear at times he's telling you get
25 off of me; correct?

1 A Uh-huh. Yes, ma'am.

2 Q At times -- you don't have any bruising or anything
3 like that from any blows to your head, or anything like
4 that?

5 A No, ma'am.

6 Q But you do admit -- and I understand it's a restraint
7 device, but that you do strike Mr. Kelly in kind of -- you
8 call it the meaty part of his arms or torso kind of thing?

9 A Yes, ma'am.

10 Q And that, obviously, he's wrestling with both you and
11 Jumper, who you've acknowledge is, perhaps, even slightly
12 bigger than you are; fair to say?

13 A Yes, ma'am.

14 Q And he is, depending of whose view of him, obviously,
15 at a considerable height disadvantage, a weight
16 disadvantage, and pinned up against the car; correct?

17 A Yes, ma'am.

18 Q All right. And you state in terms of he got back in
19 the car. They more or less fall back into the car;
20 correct, once the door is open?

21 A I don't know how they ended up getting back in the
22 car, but I know they got in the car.

23 Q So you don't, actually, see that or have any
24 independent recollection of that event?

25 A No, ma'am.

1 Q So in terms of where his feet are, what he's doing to
2 impact the car in any way, you're not aware of that?

3 A I'm aware of it once watching body-cam footage. You
4 can see him --

5 Q But you don't recall that?

6 A At the time of the incident, I did not.

7 Q And you're not -- you stated, initially, you were
8 even on top of him in the car or as he kind of falls into
9 the car?

10 A No, ma'am. Jumper was on top of Mr. Kelly. And I
11 was in the process of getting in there with them when he
12 told me, Nick, get off of me.

13 Q That's when he told you to get off?

14 A Yes, ma'am.

15 Q Because, obviously, if you're on top of him and he's
16 on top of Mr. Kelly, there's really, in a sedan, not a lot
17 of places for any of you to go?

18 A No, ma'am.

19 Q And, obviously, just the mere presence of one or both
20 of you in that front passenger compartment did limit his
21 ability to move about freely; correct?

22 A I can imagine.

23 Q All right. And in terms of what happens after, when
24 you run up to him after he's out of the car, you don't see
25 whether or not he's thrown from the car or how he gets out

1 of the car; correct?

2 A No, ma'am.

3 Q And you could tell, at that point, he's got a pretty
4 significant head injury; correct?

5 A Yes, ma'am.

6 Q And you state that he was trying to get up to get
7 back to the car. But he's really just kind of rolling
8 around. He kind of gets up and he stumbles. But he can't
9 even really make any intentional direction in any one way
10 before he regains his feet; is that fair to say?

11 A I would disagree. I believe he was still trying to
12 get back to the car.

13 Q That's what you believe?

14 A Yes, ma'am.

15 Q But you don't see him, actually, regain control of
16 his feet and move in that direction. He is kind of
17 waffling around; correct?

18 A I saw him trying to get up and get back to the car,
19 yes, ma'am.

20 Q You saw him trying to get back up. And you, at that
21 point, force him back to the ground?

22 A Yes, ma'am.

23 Q And, at some point, you state that you were sitting
24 or kneeling on top of him or on top --

25 A I was sitting on top of him, yes, ma'am.

1 Q And then you state that he was still kind of not
2 giving you his hands. But they are, also, pinned
3 underneath him and you're on top of him; correct?

4 A No, ma'am. He -- I would try to grab his wrists and
5 he would move his wrists and his hands underneath him to
6 keep from getting arrested.

7 Q But once this other gentleman comes up; correct, he
8 starts talking to him in kind of a calm tone and
9 everything like that, telling him he's okay? At some
10 point, he does put both of his hands behind his back so
11 that you can cuff him?

12 A The gentleman managed to get his left wrist and
13 helped me get him into custody, yes, ma'am.

14 Q And when you hear him on the tape, he's referring to
15 you all as "sir"?

16 A Yes, ma'am.

17 Q He's saying "please" --

18 A Yes, ma'am.

19 Q -- correct?

20 And once you kind of get him up where he can breathe
21 and kind of positioned against the car, he remains in that
22 location; correct?

23 A Yes, ma'am. Our policy is to sit a suspect up after
24 he's put into custody, rest him against the car, try to
25 give him something to rest against. And I asked for an

1 ambulance.

2 Q And at that point, you kind of turned him over to
3 other deputies. You stayed with him for a while. And
4 then at some point, you kind of turn him over?

5 A Yes, ma'am. I -- I stayed with him to the point
6 where I couldn't stand staying with him any more. And I
7 asked for Deputy Richards to come over.

8 MS. LIPINSKI: All right. The Court's indulgence.
9 One moment, Your Honor.

10 (Pause.)

11 MS. LIPINSKI: Nothing further.

12 Thank you, Your Honor.

13 THE COURT: Any redirect?

14 MR. WILKINS: No redirect, Your Honor.

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

16 You can step down.

17 THE WITNESS: Thank you, Your Honor.

18 MS. LIPINSKI: Can we approach about scheduling, Your
19 Honor?

20 THE COURT: Yeah. Come up. We need to talk about
21 that.

22 (WHEREUPON, a bench conference was held.)

23 THE COURT: All right. We just had one of those
24 little secret sidebar conferences. And what we were
25 discussing was whether or not we should go forward with

1 the next witness.

2 It's 12:30. I think we'll go ahead and break. I ask
3 you all to be back at 2:15. That's an hour and 15
4 minutes. I hope that will give everybody enough time.

5 Please remember you are not to talk about the case.
6 Don't do any research. Don't go visit the scene, anything
7 like that. Let's protect the sanctity of our court
8 system.

9 You all have a good lunch. See you at 2:15.

10 Wait a minute. Whoa, whoa, whoa. 2:15 is too long.
11 How about 1:45? Is that good? An hour and 15 minutes.
12 Sorry about that.

13 Thank you.

14 Quarter of 2:00.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 12:31 p.m.)

17 THE COURT: Anything before we break?

18 MR. WILKINS: Your Honor, one thing in regards to
19 Ms. Lipinski's Jackson v. Denno motion, I guess, as a
20 prophylactic measure. There is a -- there's a body camera
21 of Deputy Blake Richards where Mr. Kelly is making
22 statements and law enforcement are there. They're not
23 interrogating him. I know Jackson v. Denno requires the
24 State to even, you know, have these hearings even if they
25 don't request it to make sure that it was knowing and

1 voluntary.

2 So I would maybe give Your Honor State's Exhibit
3 No. 9. Have your law clerk look at it. We've got the
4 time on there. It takes two minutes. Just so when we get
5 to Richards, we're not having to stop and we can handle
6 this now.

7 THE COURT: Is it admitted into evidence?

8 MR. WILKINS: No, it's not. So I was going to have
9 Your Honor review it in-camera and then we can speed up
10 the process.

11 THE COURT: Have you seen it?

12 MS. LIPINSKI: I have been provided all the videos.
13 If he wants to give me the time stamp of the statement he
14 intends to introduce, I'll look at that over lunch.

15 MR. WILKINS: Zero minutes to three minutes and 30
16 seconds --

17 THE COURT: Okay.

18 MR. WILKINS: -- is the time stamp.

19 THE COURT: Okay. We'll review it over lunch.

20 MR. WILKINS: Thank you, Your Honor.

21 THE COURT: All right. A quarter till 2:00.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: All right. For the record, I've reviewed
24 the three and a half minutes of the disk. I can't
25 remember the number.

1 MR. WILKINS: It's the disk of Blake Richards -- body
2 camera of Deputy Blake Richards.

3 THE COURT: I don't find any violation that would
4 require any suppression.

5 Okay. Anything else before we get going?

6 MS. MORONEY: Briefly, Your Honor. The documents
7 that Ms. Lipinski requested from the sheriff's office
8 personnel records, they have now come over. We have
9 Captain McAllister here with a bunch of disks for Your
10 Honor's review. We have all the use of force documents
11 for any of the deputies involved since 2009. And the
12 personnel records are pretty hefty. One of them is about
13 1,400 pages.

14 So I just wanted to put that on the record. But they
15 are here with the disks.

16 THE COURT: A disk of scanned files?

17 MS. MORONEY: Yes, Your Honor, PDF's.

18 THE COURT: Okay. Well, I'm not going to go through
19 them right at the moment.

20 MS. LIPINSKI: Your Honor, just -- just at this
21 point, obviously, I understand it's a box he put himself
22 in, but I feel the need to renew the motion.

23 THE COURT: Okay.

24 MS. LIPINSKI: The Defense would make a motion for a
25 continuance. I understand they could produce the

1 documents to me under some type of seal or protective
2 order such that I could review them so it wouldn't delay
3 the in-camera review process that the Court would have to
4 go through.

5 So I would request that that happen versus this kind
6 of in-camera review pass through. And I would abide by
7 any restrictions the Court would like to put into place.
8 But I just -- I feel like I have an ethical obligation to,
9 at least, try and peruse them and try and do some type of
10 investigation into it to see if the --

11 THE COURT: Where are the disks currently?

12 MS. MORONEY: Deputy McAllister.

13 THE COURT: Well, just bring them up to me. And how
14 are they organized?

15 MS. MORONEY: I believe they're per deputy probably
16 for personnel files.

17 THE COURT: Okay. And who -- is it captain?

18 MS. MORONEY: Captain McAllister.

19 THE COURT: Captain, would you -- is there some --
20 what is the format on the -- in each disk?

21 CAPTAIN MCALLISTER: I'm not sure. I didn't download
22 them. They were brought over here from internal affairs.

23 THE COURT: Okay. So you don't know how they're --
24 if there's an index, or anything like that?

25 CAPTAIN MCALLISTER: No, sir.

1 THE COURT: Okay. And these are the entire personnel
2 records for the officers involved; is that right?

3 CAPTAIN MCALLISTER: Except Sergeant Jumper.

4 THE COURT: All right. We'll take a look at them.
5 And if we need to, we'll --

6 MS. LIPINSKI: Your Honor, we would renew our
7 motion -- I just have to --

8 THE COURT: I know you are. And I haven't ruled on
9 it yet, so you can't really renew it.

10 MS. LIPINSKI: Well, he said it didn't include
11 Sergeant Jumper. That was one of the ones we asked for.
12 So that's why I wanted to renew my motion.

13 THE COURT: Okay. Well, why -- is there a reason why
14 Sergeant Jumper's is not included?

15 MS. MORONEY: Your Honor, I'm sorry. I just got
16 clarification. It is included. But it's just not as far
17 back as the rest of the other deputies.

18 THE COURT: All right.

19 MS. MORONEY: They got as much as they could in the
20 limited time.

21 THE COURT: All right.

22 MS. MORONEY: We're understanding Ms. Lipinski made
23 this request this morning. We got it as fast as we could.

24 THE COURT: Okay. Very efficient, as a matter of
25 fact.

1 I'm going to ask my clerk to take a look at them.
2 But we're going to proceed with the trial.

3 Okay. Anything else?

4 MR. WILKINS: Nothing from the State, Your Honor.

5 THE COURT: All right. Bring the jury in.

6 (WHEREUPON, the jury came into open court at
7 approximately 1:58 p.m.)

8 THE COURT: All right. Ladies and gentlemen, welcome
9 back.

10 Call your next witness.

11 MS. MORONEY: Thank you, Your Honor.

12 The State calls Investigator David Harrison.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right hand.

15 WHEREUPON,

16 MICHAEL DAVID HARRISON, JR.,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 Please be seated.

20 Please state your name for the record.

21 THE WITNESS: Michael David Harrison, Jr.

22 DIRECT EXAMINATION

23 BY MS. MORONEY:

24 Q Deputy Harrison, where do you currently work?

25 A I'm employed with the Greenville County Sheriff's

1 Office.

2 Q In what capacity?

3 A Investigator.

4 Q Now, you said your first name is Michael?

5 A Yes.

6 Q Do you go by David?

7 A I go by David.

8 Q Okay. Prior to working at Greenville County, did you
9 work in law enforcement?

10 A Yes, ma'am.

11 Q And where was that?

12 A The South Carolina Department of Public Safety as a
13 highway patrolman -- or trooper.

14 Q Okay. How long did you do that?

15 A From July 16th of 2000, until January the 8th of
16 2017.

17 Q And is that when you started with Greenville County?

18 A Yes, a day later.

19 Q Okay. And what unit did you go into at the county?

20 A So when I was hired here, I was put on the traffic
21 unit and more, specifically, the criminal interdiction
22 team.

23 Q Okay. And the juries heard a couple of times about
24 the interdiction unit. But if you want to go into your
25 background about interdiction and how long you've been

1 doing that.

2 A So when I worked for the State -- excuse me, the
3 South Carolina Highway Patrol, about four years into my
4 career, I started taking an interest in criminal
5 interdiction. And I worked with a small county over in
6 Oconee. And we had the first four miles of Interstate 85
7 that comes out of Georgia.

8 So around 8:00 at night, the sidewalks kind of roll
9 up in Oconee County. And I had to find something else to
10 do. And there's always traffic on 85. And I kind of fell
11 into that line of work, working the interstate. But I
12 started out doing that around 2004.

13 And I was reassigned from the road to the highway
14 patrol's criminal interdiction unit in Columbia, which
15 is -- or used to be referred to as the Ace team. And I
16 was assigned the upstate region working the major highways
17 like 85, U.S. 25, roadways like that. And I did that
18 pretty much my entire career. My last four or five years
19 with the highway patrol, I was a K9 handler. And that's
20 what I was doing when I came to the sheriff's office in
21 2017.

22 Q Okay. And at that time, who was on the interdiction
23 unit?

24 A So it was newly formed at that time. There was four
25 of us. It was myself, Master Deputy Jumper, and Deputy

1 Wasserman, and at the time, Deputy Reese.

2 Q Okay. Now, let's go to October 20th, 2020.

3 A Okay.

4 Q Were you working that day?

5 A Yes, ma'am.

6 Q And what were you doing that afternoon?

7 A So that afternoon, I, actually, had some training.
8 We have a lot of -- police officers have a lot of updated
9 training. It seems like we train constantly. But it was
10 via video over my in-car computer. And it's just X amount
11 of segments we have to watch for updated training. And
12 that's what I was doing at the time. Sitting -- I was in
13 my patrol car. I was sitting on the northbound side right
14 about where 185 crosses 85.

15 Q And you were just watching that video. But you were
16 sitting in your car as you, typically, would for an
17 interdiction day?

18 A Yes, ma'am.

19 Q Did you hear anything over the radio at that time
20 while you were watching that video?

21 A Yes. So it's normal for us to -- even if we are kind
22 of distracted with some kind of training or something like
23 that, or even a phone call to constantly be monitoring the
24 radio traffic. And I did hear Deputy Wasserman stop a
25 vehicle just north of my location on the northbound side

1 of 85.

2 Q Okay. Now, is your patrol car outfitted with a dash
3 cam?

4 A Yes.

5 Q Okay. I'm going to show you what's been previously
6 marked as State's Exhibit No. 7. Can you tell me what
7 that is?

8 A Yes. That is my in-car video.

9 Q Okay. And how do you know that?

10 A I have initialed and dated it when I viewed it.

11 MS. MORONEY: The State moves to have State's Exhibit
12 No. 7 entered into evidence.

13 THE COURT: Any objection?

14 MS. LIPINSKI: Just the previous objection that the
15 replay of the collision at this point is cumulative.

16 THE COURT: Go ahead. Admitted.

17 (WHEREUPON, State's Exhibit No. 7 was admitted into
18 evidence.)

19 BY MS. MORONEY:

20 Q Now, can you explain how that in-car works? How it
21 comes on? What does it do?

22 A Yes. So my in-car camera activates any time the blue
23 lights are switched on. You can manually turn it on, but
24 there's really not a lot of reasons for that out there.
25 So our cameras are activated when we turn our blue lights

1 on.

2 Q And does it do a preload of time prior to when the
3 blue lights are activated? Is there a blank period where
4 it's still recording?

5 A Yes. So I do know that it's always recording. I
6 don't know the necessary time that, you know, it gets
7 prior to my blue lights coming on.

8 Q Okay. Sure.

9 MS. LIPINSKI: Your Honor, I've seen the individual
10 videos. I haven't seen the split screens side-by-side.
11 So I object just because I haven't seen what they've done
12 to the videos. Similar to the objection we made
13 previously to a similar split screen.

14 THE COURT: Okay. Is that what this is, Solicitor?

15 MS. MORONEY: It's a combination of that exhibit with
16 State's Exhibit No. 2, Jesse Wasserman's in-car.

17 THE COURT: Okay. Same ruling.

18 BY MS. MORONEY:

19 Q I'm going to show you what's been marked as State's
20 Exhibit 8. Do you know what that is?

21 A Yes, ma'am. That is my in-car, along with Deputy
22 Wasserman's in-car video.

23 Q And have you watched that video?

24 A Yes, ma'am.

25 Q And have you initialed that disk?

1 A Yes, ma'am, initialed and date.

2 MS. MORONEY: The State moves to have State's Exhibit
3 No. 8 entered.

4 THE COURT: Subject to her objection, yeah.

5 (WHEREUPON, State's Exhibit No. 8 was admitted into
6 evidence.)

7 MS. LIPINSKI: And, Your Honor, just for the record,
8 I did reach out to them prior to the trial commencing and
9 asked them if they were going to have any highlight reels,
10 or clip reels, or anything like that. I just wanted to
11 put on the record that even before this trial, I asked for
12 that from the State.

13 THE COURT: All right. Go ahead.

14 Oh, you want to publish?

15 MS. MORONEY: Yes, Your Honor.

16 BY MS. MORONEY:

17 Q So now, this video has just started. We're not going
18 to start it just yet. What are we looking at here on the
19 screen?

20 A So on the left-hand side of the screen, that is the
21 view from inside my patrol car, my in-car video camera.

22 Q Okay.

23 A The right side is Deputy Wasserman's view from the
24 inside of his patrol car.

25 Q And at this point, your blue lights have not been

1 activated yet?

2 A No, ma'am.

3 (WHEREUPON, State's Exhibit No. 8 was played in open
4 court.)

5 MS. LIPINSKI: Your Honor, just at this point, he's
6 not even responded to the scene. The necessity of showing
7 the collision or showing Deputy Wasserman's video again
8 and again, we would argue at this point the prejudicial
9 value outweighs the probative effect. If they want to do
10 it once, obviously, Deputy Harrison --

11 THE COURT: Okay. Your objection is on the record.
12 And it's overruled.

13 Go ahead.

14 (WHEREUPON, State's Exhibit No. 8 continued to be
15 played in open court.)

16 BY MS. MORONEY:

17 Q So we just heard Deputy Wasserman say something.
18 What did that mean?

19 A So he's called 1041B over our traffic channel that we
20 use. It's, basically, you're requesting emergency help.
21 Typically, 41B for me means that they're fighting someone
22 or, you know, having a tough time detaining someone.

23 Q Okay. And, again, we saw earlier, but if you could
24 go over it, how far away are you from that traffic stop
25 from where we're seeing your in-car right now

1 approximately?

2 A It's approximate, yeah. It's not exact. But I would
3 say a mile, maybe less than a mile.

4 Q And is that in Greenville County?

5 A Yes, ma'am.

6 Q Okay. So what did you do when you heard that call go
7 out? What was the next thing you did?

8 A So, you know, the least important thing to me at that
9 time was the video training. So I slammed my computer
10 shut and looked for a break in traffic to get out on 85 so
11 that I could respond and help out with whatever they had
12 going on.

13 Q And is that when you activated your blue lights?

14 A Yes, ma'am.

15 (WHEREUPON, State's Exhibit No. 8 continued to be
16 played in open court.)

17 BY MS. MORONEY:

18 Q I don't know if you heard it, but it sounded like
19 a -- someone put something over the radio. Was that you?

20 A I -- it was hard for me to tell.

21 Q Let's see just a few seconds more.

22 (WHEREUPON, State's Exhibit No. 8 continued to be
23 played in open court.)

24 BY MS. MORONEY:

25 Q So as of this moment as you're coming up on the

1 scene, what do you think is going on?

2 A So I -- I asked Deputy Wasserman, basically, what
3 they had, what was going on. And I heard him say that
4 we're fighting one in a car.

5 Q Okay.

6 A So now, I'm trying to figure out what I'm going to
7 do, how I can be of help when I get there.

8 Q Okay. So -- but you knew where they were, so you
9 were headed to their location; correct?

10 A Correct.

11 (WHEREUPON, State's Exhibit No. 8 continued to be
12 played in open court.)

13 BY MS. MORONEY:

14 Q Now, did you see that first collision when you were
15 coming up on the scene?

16 A So what I saw from my point of view -- and, you know,
17 again, the videos are two-dimensional. My adrenaline is
18 already starting to rise. I'm getting tunnel vision. I
19 see a cloud of debris, dust. I've been around wrecks so
20 long in my career that I know something has been hit,
21 something has happened.

22 I see that on the far right-hand side of the road
23 towards where the traffic stop was taking place. And I
24 remember I went from the far right lane, which would be in
25 my world lane number four, which is, actually, an entrance

1 ramp and an exit ramp for White Horse. I went from that
2 side all the way back to the far left side of the highway,
3 which is lane one or the passing lane or the hammer lane,
4 as some people call it.

5 The reason I did that, after hearing Deputy
6 Wasserman's radio traffic about fighting one in the car,
7 seeing what I see down the road, I assume that the guy is
8 trying to leave the area in a car.

9 Q Okay. So you're getting in the left lane to do what?

10 A At the time, I wanted to get as far over as I could
11 to get a better field of vision to see -- because I have
12 no idea what type of car I'd be looking for. At the time,
13 I have no idea what the charges are going to be. I don't
14 know if my deputies are hurt. I don't know if my two dogs
15 are hurt. I have no clue.

16 So I wanted to get the best advantage point that I
17 could at the time. And I thought that was going to be
18 from that far left lane.

19 (WHEREUPON, State's Exhibit No. 8 continued to be
20 played in open court.)

21 BY MS. MORONEY:

22 Q So what are we looking at here now?

23 A So when this comes into my field of vision -- the
24 first thing, again, because of my adrenaline is I get
25 hyper focused on what I recognize as Master Deputy Jumper.

1 And the reason I know it's him, number one, his uniform,
2 number two, his size. He's -- he was bigger than I am.
3 And I know without a doubt that that's Jump. And that
4 he's being dragged by what I assume is the suspect vehicle
5 that has come in perpendicular in front of my vehicle.

6 Q And what do you do with your vehicle at that time?

7 A Natural reaction took over, you know. Obviously,
8 with an impending collision, I try to get out of the way,
9 get over.

10 And so I positioned my patrol car in the, what I
11 would consider, emergency lane, which would be to the left
12 of the yellow lane in lane one. And if there was no
13 barrier -- if I could have gotten over further, I would
14 have done that as well. And I, also, applied the brakes.

15 Q And, of course, this happened within seconds;
16 correct? It happened very fast?

17 A Very fast, yes.

18 Q Okay. So you've reviewed this video now. And what
19 are we looking at here?

20 A So this is just prior to impact. And based on the
21 camera angle and now the -- where the yellow line is at
22 and the vehicle, I can tell that I'm already working over
23 that yellow line, again, trying to avoid what I perceived
24 at the time was an unavoidable collision.

25 Q Okay.

1 A And I see Jump again. It appears to me that he was
2 trying to get out or get away from the vehicle the best
3 that he could.

4 Q And so there you've collided with the blue Nissan;
5 correct?

6 A Yes, ma'am.

7 Q Now, did you receive any injuries in that?

8 A I did.

9 Q What happened?

10 A So I broke my left hand, multiple bones in my left
11 hand. My left wrist was injured. My right hand was,
12 also, injured. I didn't break any bones in it. And I had
13 a nice knot on my head.

14 Q Okay. Did the air bags deploy?

15 A All the airbags deployed, yes, ma'am.

16 Q How were you able to get out of the vehicle?

17 A So post-collision, I was stunned. This was -- there
18 was a lot of dust in the car from the air bags coming out.
19 And I just remember that I couldn't breathe very well.
20 There was -- I was trying to get Deputy Wasserman to knock
21 one of my windows out to try to suck out the dust so that
22 I could breathe. And then I could figure out how to get
23 out from there.

24 Luckily, there was an off-duty officer that got out
25 with us. And he found a baton and was able to breach my

1 window on the passenger side. And he was, also, able to
2 come around between the concrete barrier and my driver's
3 door and get it opened up just enough so that I could
4 wedge out.

5 Q Okay. And were you wearing a body cam as well?

6 A Yes, ma'am.

7 Q And what was that attached to?

8 A That was attached to my outer carrier for my vest.

9 Q Now, Deputy Harrison, we've seen some video of you
10 getting out of the vehicle, your vehicle. Can you tell
11 the jury about how you felt getting out of that vehicle?

12 A Yes. I will do my best to explain. Based on what
13 happened, my adrenaline was -- was sky high. I was angry.
14 It's not something that you deal with every day.

15 I didn't know where I was at or even what I was going
16 to do. Some of us in the business refer to it as
17 condition black. You lose control. I think I was kind of
18 teetering that. I was on the verge of losing control
19 because of the adrenaline, the excitement, the things that
20 I observed just a minute prior to. So it was a very -- it
21 was a very traumatic event.

22 Q How long have you known -- how long did you know
23 Deputy Jumper before --

24 MS. LIPINSKI: Your Honor, I will object at this
25 point to the relevance of this testimony.

1 THE COURT: Well, I think she's going to his state of
2 mind with what happened, and that would play into it.

3 Go ahead.

4 BY MS. MORONEY:

5 Q How long had you known Deputy Conley Jumper prior to
6 October 20th, 2020?

7 A I would say the first time I met Jump was probably in
8 2005 when I got reassigned to the Ace team with the
9 highway patrol. We worked a lot in Greenville. It was
10 kind of central to where we all lived around the upstate.

11 And Jump was good about backing you up. It didn't
12 matter what agency you worked for or who you were, he was
13 very good about getting out and checking on you, making
14 sure you're okay.

15 MS. LIPINSKI: Your Honor, I'm going to object. I
16 understand that they want to share this about Officer
17 Jumper, but that doesn't go to the relevance of the issues
18 before the jury.

19 THE COURT: Okay.

20 MS. LIPINSKI: I think the prejudicial value is --

21 THE COURT: Okay. That one is sustained.

22 BY MS. MORONEY:

23 Q Deputy Harrison, you don't work on the interdiction
24 unit anymore?

25 A No, ma'am.

1 Q Why is that?

2 A Once I got healed up and was able to come back to
3 work, I -- I worked on the interstate for a couple -- few
4 weeks, maybe. I don't remember the exact time. And I
5 requested a meeting with the sheriff and just expressed to
6 him that after being out there for the length of time that
7 I have, that I felt like it was a good idea for me to do
8 other things.

9 MS. MORONEY: The Court's indulgence, Your Honor.

10 (Pause.)

11 MS. MORONEY: Please answer any questions the Defense
12 has.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Okay. Cross-examination.

15 MS. LIPINSKI: Just briefly, Your Honor. And before
16 I begin, I'd ask for the opportunity to review the files
17 that we mentioned in pretrial rulings regarding the
18 officers. And not having that at this point to begin
19 cross-examination --

20 THE COURT: Okay. Well, he'll be made available if
21 that becomes relevant.

22 MS. LIPINSKI: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. LIPINSKI:

25 Q I just have a few questions of you. So I'll try and

1 keep it brief.

2 A Yes, ma'am.

3 Q So in viewing your video testimony, you related that
4 you were parked, you believe, about a mile back; correct?
5 Mile to --

6 A Approximately.

7 Q -- mile and a half? I know it's not --

8 A Yes, ma'am, approximately.

9 Q And that you were stationary at that point? You're
10 not traveling with traffic, or anything like that?

11 A That's correct.

12 Q So from the point that you take off to the point that
13 the collision occurs, at that point, you're for the most
14 part accelerating; fair to say, most of that?

15 A At which point? I'm sorry.

16 Q From the time you take off from the side of the road
17 responding to aid the other officers. At that point,
18 you're accelerating mostly that entire time; correct?

19 A To a certain extent, yes, ma'am.

20 Q All right. But we're not driving at 60 miles an hour
21 just hoping we kind of get there before everything -- you
22 want to respond. You want to be there to render aid. You
23 said your adrenaline is running. You know they're
24 fighting someone on the side of the road; right? Time is
25 of the essence; correct?

1 A Yes.

2 Q All right. And you stated either in viewing your
3 body cam or from your own personal recollection that you
4 were -- and I apologize. Because I don't have the diagram
5 up. And I haven't worked traffic all this long. You were
6 in the outer lane closer to the grassy shoulder,
7 initially; correct?

8 A To the right?

9 Q Yes.

10 A Yes, ma'am.

11 Q And that at some point, you moved to -- you called it
12 the hammer lane where some people really hammer the gas
13 trying to get around people. Is that where that term
14 comes from?

15 A What I testified to is in my world, it's the number
16 one lane or the passing lane. But some folks refer to it
17 as the hammer lane.

18 Q I had never heard that. Is that hit the hammer and
19 try and pass? I was just making sure I interpreted that
20 correctly.

21 A Yeah. Fast lane, hammer lane, passing lane. It's
22 got a lot of names.

23 Q And before you make that drift, right -- before you
24 make that course adjustment, you see debris letting you
25 know that a collision has already occurred; correct?

1 A What I assumed was some sort of a collision, yes,
2 ma'am.

3 Q So in your training, though, as a traffic officer and
4 those kind of things, you do understand the need to
5 approach collision scenes with care; correct?

6 A No. Would you like for me to explain?

7 Q Some part of your training at some point did educate
8 you that you should approach some collision scenes with
9 care. I'm not talking about this one. Just, in general,
10 it's hard to predict where cars will go in collisions;
11 fair to say?

12 A It's fair to say, yes, ma'am.

13 Q And we don't want to be driving at high speeds
14 through collision scenes. That's not, obviously, a good
15 tactic to have; correct?

16 A Yes, ma'am.

17 Q All right. And so that while I understand there's a
18 lot going on and you're responding to -- do you need to
19 speak with them that you're looking in their direction?

20 A No, ma'am.

21 Q I promise to keep it brief. I really do. If I can
22 just have your attention for a little while longer. All
23 right.

24 A Yes, ma'am. You got it.

25 Q All right. Realizing that -- realizing that there's

1 been a struggle, you, instead, for the most part are
2 accelerating up until the point you see the car and Deputy
3 Jumper, you say, coming past the tractor trailer. Because
4 you go kind of around or behind two tractor-trailers at
5 that point; correct?

6 A Yes.

7 Q And you stated that a lot of things kicked in when
8 you saw that, that you're trying to get out of the way,
9 trying to get as far to the barrier as you possibly could
10 to avoid a secondary collision; correct?

11 A Correct.

12 Q With the car and with Deputy Jumper at that point;
13 correct?

14 A With the vehicle, yes, ma'am.

15 Q But at that point, you stated that you felt you had
16 nowhere to go; correct?

17 A Yes, ma'am. That's correct.

18 Q But one of the things about in terms of everyone
19 having an obligation driving on the highway is to drive
20 where you do have control of your car; correct?

21 A Yes, ma'am.

22 Q And that's so you can avoid collisions that -- that
23 could occur in lanes of travel beside you that don't have
24 anything to do with you; correct?

25 A I'm sorry. Could you repeat that?

1 Q You have an obligation when you're on the highway to
2 operate your vehicle in a safe manner because you never
3 know, somebody -- you know, there may be a collision
4 beside you. And you need to maintain control of your car.
5 Obviously, some collisions are unavoidable. But you do
6 have an obligation to try and exercise in a safe manner to
7 the extent that you can?

8 A Yes, ma'am.

9 Q All right. When Ms. Moroney talked to you about
10 after the collision, you stated there was a lot of debris
11 in the car as a result of the air bag; correct?

12 A Within my vehicle?

13 Q Yes.

14 A Yes, ma'am.

15 Q And you, obviously, during your time with traffic
16 have responded to other collisions; fair to say?

17 A Yes.

18 Q And when the airbags deploy, that in and of itself is
19 a traumatic event for most people; correct?

20 A I can't speak for others.

21 Q Okay. But you've responded to other people who have
22 seemed disoriented after a collision, particularly, when
23 the airbag has deployed; correct?

24 A Yes.

25 Q And you've responded to other collisions where when

1 people were involved in those type collisions, just like
2 you kind of stated you were in the blackout, some people
3 kind of have a momentary lapse of situational awareness or
4 what happened to them; correct?

5 A No. That is not what I testified to.

6 Q All right.

7 A So --

8 Q But I'm asking you, has it been your experience in
9 responding to other collisions that sometimes other people
10 involved in those collisions don't know what happened,
11 can't remember the collision, can't describe it to you in
12 detail?

13 A That's true, yes.

14 Q All right. And you stated that, in part, that was
15 some of kind of -- you're involved in this collision and
16 everything is going on, you were kind of in that same fog
17 or haze of processing that with the dust, and the airbag,
18 and the injuries, those type of things; fair to say?

19 A What I testified to was that I was briefly stunned,
20 yes, ma'am.

21 Q Okay. Stunned. I'm sorry. That was your word.

22 And you stated that you had a -- there was a lot of
23 injury to your hand and kind of shoulder-type area; right?

24 A Hand and wrist.

25 Q And you had a knot on your head?

1 A I did.

2 Q Did you have an open head wound of any kind?

3 A It was bleeding. But it didn't require any kind of
4 stitches.

5 Q So no type of medical attention. Maybe somebody
6 stopped the bleeding at some point?

7 A Correct.

8 Q And that somebody used an ASP baton. And that once
9 they were able to clear that kind of -- airbags and use a
10 gas to inflate; right? And once they were able to clear
11 that kind of cloud, you stated that it was easier for you
12 to breathe and then get out of the car?

13 A Correct.

14 MS. LIPINSKI: All right. The Court's indulgence
15 briefly, Your Honor.

16 (Pause.)

17 MS. LIPINSKI: Just -- and I apologize, Your Honor.

18 I will try and expedite things to the extent that I can.

19 BY MS. LIPINSKI:

20 Q You stated that shortly after this -- and I'm not
21 asking you the specific dates, but within the same year,
22 that you, initially, returned to interstate work and then
23 asked to be reassigned; correct?

24 A Correct.

25 Q But you did not during the month of October, like

1 your fellow officers, meet or speak with SLED or give a
2 statement?

3 A (There was no response.)

4 Q Do you remember speaking with them or when you did
5 that?

6 A You're saying prior to this incident?

7 Q No, no, no. After this incident, do you remember
8 speaking with SLED?

9 A I do not.

10 Q Do you remember if you talked to them or how long
11 after the event that you did speak with them?

12 A I think -- and, again, this is my recollection. It
13 was after I returned to work.

14 Q All right. But it could have been some period of
15 time after that?

16 A Yes.

17 MS. LIPINSKI: That's all we have of this witness,
18 Your Honor.

19 THE COURT: Any redirect?

20 MS. MORONEY: Nothing from the State, Your Honor.

21 THE COURT: All right. You may stand down, sir.

22 Thank you.

23 THE WITNESS: Thank you.

24 MS. MORONEY: May this witness be excused from his
25 subpoena, Your Honor?

1 MS. LIPINSKI: We would ask that he would not because
2 we have not had --

3 THE COURT: We're -- no. We're going to make him
4 available once we've reviewed these files.

5 MS. MORONEY: The State calls Daniel Stipe.

6 THE CLERK: Please place your left hand on the Bible
7 and raise your right hand.

8 WHEREUPON,

9 DANIEL STIPE,
10 after first having been duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 Please be seated.

13 Please state your name for the record.

14 THE WITNESS: Daniel Stipe.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. MORONEY:

18 Q Officer Stipe?

19 A Yes.

20 Q Officer Stipe, where are you employed?

21 A With the Anderson Police Department.

22 Q And what is your title?

23 A I'm a narcotics investigator.

24 Q And do you work with any other law enforcement
25 agencies?

1 A I do. Currently, I'm on the task force with the Drug
2 Enforcement Administration.

3 Q Is that the DEA?

4 A It is.

5 Q Were you working for those two agencies on the
6 afternoon of October 20th, 2020?

7 A I was.

8 Q And what were you doing that afternoon?

9 A I was traveling from Anderson back to Greenville.

10 Q To do what?

11 A We had executed a search warrant in Anderson, and the
12 paperwork and everything was processed in Greenville. So
13 I was headed up the interstate.

14 Q Do you commonly travel that stretch of highway?

15 A Almost every day.

16 Q And were you familiar with the Greenville County
17 interdiction unit?

18 A I was. I see them there regularly.

19 Q And as you come up to that area where they usually
20 sit, what did you see?

21 A Initially, I had seen one car parked on the side of
22 the road. And then as I approached the traffic stop, I
23 seen the vehicles on the right side -- right shoulder of
24 the roadway with their lights activated.

25 Q And what lane were you in at that time?

1 A At that time, I was in the far left lane.

2 Q Okay. And what did you notice about that traffic
3 stop?

4 A As I was approaching the stop, almost like right
5 beside it, I seen officers outside of the vehicle. I
6 think they were to the rear of the vehicle. And as I was
7 passing by, it looked like they were in some sort of
8 scuffle or something was going on at the back of the
9 vehicle.

10 Q And what did you decide to do?

11 A So I moved -- at the time, I didn't know how many
12 officers were out there. So I pulled over. And I ended
13 up parking in front of where the traffic stop happened.
14 So I was in the far -- on the shoulder in front of the
15 original traffic stop.

16 Q Do you recall what you were wearing that day,
17 generally?

18 A Plain clothes is, typically, what I wear every day,
19 so blue jeans and a shirt.

20 Q And what did you do as you approached the deputies on
21 scene?

22 A Because I don't know a lot of Greenville County
23 deputies, I did get my badge out of the car -- or my
24 truck. I know I had it in my hand. And I was going to
25 approach the deputies, let them know I'm a law enforcement

1 officer to see if there was any way that I could assist
2 with the traffic stop.

3 Q And did you, ultimately, try to assist?

4 A I did. So I approached the vehicle. Like I said, I
5 was approaching from in front of the vehicle. My initial
6 thought was to help the deputies with the suspect they had
7 back there at the back of the car. That's when I seen, at
8 least, two or three deputies back there.

9 I seen another occupant in the car in the front
10 passenger seat. So I knew maybe, if nothing else, I could
11 be as a backup role to watch over her as they were dealing
12 with him.

13 Q Okay. And what happened after that?

14 A So, essentially, I was -- I had just -- I had walked
15 over to the front passenger side of the car. I just told
16 her I was just watching over them. I told her just to
17 keep her hands as -- like a normal traffic stop, just to
18 keep her hands where I could see them to know nothing else
19 was going to go on.

20 I didn't know what had transpired up to this point
21 during the traffic stop. And I was just staying there up
22 until the suspect got back into the driver's seat of the
23 car.

24 At that point, I was going to try to remove her from
25 the car. Because I figured if he was going to drive off

1 or, at minimum, if he was in the front seat, then another
2 officer could help out from the passenger side of the car.
3 So I was going to try to remove her. And that was when
4 the vehicle drove off.

5 Q So were you successful in getting the female out?

6 A I was not.

7 Q What did you observe when the vehicle took off?

8 A The vehicle took off. It went back into the lane of
9 travel on the interstate. That's when I heard the initial
10 collision. And from there, I went to where the collision
11 was.

12 Initially, I seen the suspect that drove off in the
13 car sitting down behind the car. I was going to help put
14 him in custody. There was another deputy there with him.
15 And then I observed the deputy laying in the interstate.
16 That's when I was going to go help him. My medical
17 knowledge is limited and there was deputies with him.

18 And then I realized there was a second crash involved
19 with another deputy. So I assisted in getting him out of
20 the car.

21 Q And did you happen to know that deputy?

22 A Which one?

23 Q In the second car?

24 A I did.

25 Q And who was that?

1 A David Harrison.

2 Q And how did you help him?

3 A Initially, I busted out a window of his car. Because
4 he was on the concrete barrier between the north and the
5 south lanes. I busted out the window of his car, not
6 realizing that I could fit in between his car and the
7 barrier.

8 And then I realized I could fit there. So I just,
9 basically, fit myself and helped him get out of the car.
10 He wasn't trapped. I just helped him open the door and
11 get out of the car.

12 Q And after that, did you leave the scene or stick
13 around?

14 A I stuck around. I talked to highway patrol on the
15 scene. I gave them my information and let them know that
16 I was involved -- or I had been there before the initial
17 car took off.

18 MS. MORONEY: Please answer any questions the Defense
19 has.

20 CROSS-EXAMINATION

21 BY MS. LIPINSKI:

22 Q Just briefly. Immediately after this, you had the
23 occasion, I believe, to talk with agents with the South
24 Carolina Law Enforcement Division --

25 A I did.

1 Q -- that were investigating it. Do you remember
2 speaking with them?

3 A I do.

4 Q And that was closer in proximity to when this,
5 actually, transpired; is that fair to say?

6 A Yes, ma'am.

7 Q So your recollection at that time would be the
8 freshest of what you remember; true?

9 A Yes, ma'am.

10 Q And do you remember giving them a statement, both an
11 oral and then I think they asked you to just memorialize
12 it in writing?

13 A Yes, ma'am.

14 Q As a law enforcement officer does; correct?

15 A Yes, ma'am.

16 Q And do you remember that during your interview with
17 SLED, you stated that you really didn't see fists flying,
18 or anything like that?

19 A Correct. I knew it was a scuffle. I don't -- I
20 mean, I didn't see the fists flying. But I knew -- as I
21 was driving by, it looked like they were trying to get him
22 in custody.

23 Q All right. But you never saw Mr. Kelly strike any of
24 the officers involved?

25 A I can't say that.

1 Q All right. And you never saw him choke any of the
2 officers involved?

3 A I can't say that.

4 Q You just saw this kind of -- I believe one word --
5 your words may have been something like flailing, or that
6 type thing?

7 A Correct.

8 Q Arms flying? Maybe flying or flailing?

9 A It looked like to me they were trying to get him in
10 custody.

11 Q Okay. And that you are kind of keeping an eye on
12 that situation, but, also, trying to address the
13 passenger; correct?

14 A Correct.

15 Q But you don't ever describe any motions or behavior
16 on the part of Mr. Kelly inside of the car once he and
17 Sergeant Jumper are back inside the car; correct?

18 A Correct.

19 Q You don't have a birds eye view of the steering
20 wheel, the gear shift, the brake pedal, the gas pedal,
21 anything like that?

22 A Correct. Because when that happened, I was going to
23 get her out of the car.

24 Q You were focused on her?

25 A Correct.

1 Q And I understand it's chaos. But I just want to make
2 sure you never see anything like that?

3 A Correct.

4 Q All right. And are -- you stated that -- do you
5 recall what you were wearing that day? Were you there in
6 a Clemson shirt, or no?

7 A Blue jeans probably. I don't remember what kind of
8 shirt I had on.

9 Q Are you part of the cuffing of Mr. Kelly?

10 A I don't think so.

11 MS. LIPINSKI: That's all we have of this witness.

12 Thank you, Your Honor.

13 THE COURT: Any redirect?

14 MS. MORONEY: None, Your Honor.

15 THE COURT: Thank you, sir.

16 You may stand down.

17 MS. MORONEY: May this witness be excused?

18 THE COURT: Yes.

19 MS. MORONEY: Thank you.

20 THE COURT: Next witness.

21 MR. WILKINS: Your Honor, the State calls Deputy
22 Blake Richards -- Your Honor, I take it that he is on his
23 way. So I'm going to call --

24 MS. LIPINSKI: Your Honor, I apologize. I know we've
25 been going about -- if he's on his way, can I, perhaps,

1 have a restroom break, very short?

2 THE COURT: Okay. Ladies and gentlemen, we'll take a
3 short 10-minute break. We'll be back in a few minutes.
4 Don't talk about it.

5 (WHEREUPON, the jury was excused from open court at
6 approximately 2:40 p.m.)

7 THE COURT: Okay.

8 MS. LIPINSKI: I apologize, Your Honor.

9 THE COURT: That's all right.

10 (WHEREUPON, a break was taken.)

11 (WHEREUPON, Court's Exhibit No. 6 was marked for
12 identification and admitted into evidence.)

13 THE COURT: During the break, after a cursory review
14 of the personnel files provided, I am going to provide
15 these to Counsel for the Defendant for her inspection and
16 her eyes only. No disclosures are to be made with respect
17 to what's in these.

18 If she is able to find something that she believes
19 might be useful to the Defense, prior to using it or
20 disclosing it, she must come to the Court for
21 determination as to its relevance and admissibility. This
22 is -- I put -- made this vanilla envelope containing five
23 disks a Court's Exhibit. And I'll turn it over to her at
24 the break today.

25 All right. Are you ready to go? Have you got your

1 witness?

2 MR. WILKINS: Sort of.

3 THE COURT: Sort of. Are you ready to go?

4 MR. WILKINS: Yes, sir, Your Honor.

5 THE COURT: Okay. Let's go.

6 (WHEREUPON, the jury came into open court at
7 approximately 2:58 p.m.)

8 THE COURT: Okay. Call your next witness.

9 MR. WILKINS: Your Honor, the State calls Deputy Mike
10 DeRosa.

11 THE CLERK: Please place your left hand on the Bible
12 and raise your right hand.

13 WHEREUPON,

14 MICHAEL DEROSA,

15 after first having been duly sworn, testified as follows:

16 THE CLERK: Thank you.

17 Please be seated.

18 Please state your name for the record.

19 THE WITNESS: It's Michael DeRosa, D-E-R-O-S-A.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. WILKINS:

23 Q Mr. DeRosa, with whom are you employed?

24 A I currently work for the Charleston County Aviation
25 Authority Police Department.

1 Q And before that, where were you employed?

2 A I was assigned to uniform patrol as a master deputy
3 with the Greenville County Sheriff's Office.

4 Q And how long were you employed with the Greenville
5 County Sheriff's Office?

6 A Since 2008.

7 Q And what were your duties with the Greenville County
8 Sheriff's Office?

9 A I was a master deputy. So I was assigned to the
10 uniform patrol division. So I conducted low level first
11 line supervision to assist the sergeants, and field
12 training, and assisting of the deputies.

13 Q I'm going to refer you back to October 20th, 2020.
14 Were you called out to Highway 85 in relation to a traffic
15 stop?

16 A Yes, sir. I responded after hearing a call on the
17 radio for emergency backup.

18 Q And did you respond?

19 A Yes, sir, I did.

20 Q And what did you do when you got there?

21 A Upon my arrival, I immediately got out of the car. I
22 saw several deputies working on Master Deputy Jumper. And
23 I went over to Deputy Richardson, who was with Mr. Kelly
24 placing him in handcuffs. I took control over Mr. Kelly
25 and brought him back to my patrol vehicle. A short time

1 later, I transported him to Prisma Health.

2 Q So how long were you with Richards and Mr. Kelly on
3 the side of the highway before he was in your car?

4 A I would say mere minutes, maybe a minute or two
5 before we got him into the patrol vehicle.

6 Q And then -- and were you tasked by someone to do
7 those duties or did you just do them on your own?

8 A It was just a matter of, for lack of a better word,
9 scene management. It was, obviously, very chaotic while
10 the deputies were working on Jumper. We just had to pick
11 up the other areas of responsibility.

12 Q All right. And so did you -- did you place Mr. Kelly
13 in the -- in your patrol car?

14 A I did, sir.

15 Q Did you get assistance by anyone?

16 A I believe Deputy Richards assisted me just going over
17 to the patrol vehicle and trying to get him inside.

18 Q And that day, were you equipped with a body camera?

19 A Yes, sir.

20 Q And were you equipped with an in-car camera?

21 A Yes, sir, I was.

22 Q All right. I'm going to show you --

23 (WHEREUPON, State's Exhibit No. 13 was marked for
24 identification only.)

25 MS. LIPINSKI: Your Honor, subject to the previous

1 objection that we raised regarding Jackson V. Denno.

2 THE COURT: All right.

3 BY MR. WILKINS:

4 Q Mr. DeRosa, I'm going to show you what's marked as
5 State's Exhibit No. 13, and ask you if you recognize that?

6 A Yes, sir.

7 Q How do you recognize it?

8 A That is a copy that I viewed not too long ago of the
9 backseat recording from my patrol vehicle.

10 Q And who is in the backseat and who was it recording?

11 A Mr. Kelly was in the backseat. I'm the one who
12 initiated the camera to record the backseat.

13 Q Is it a true and accurate representation of the
14 backseat during that time?

15 A Yes, sir, it is.

16 MR. WILKINS: Your Honor, the State moves State's
17 Exhibit No. 13 into evidence.

18 (WHEREUPON, State's Exhibit No. 13 was admitted into
19 evidence.)

20 MR. WILKINS: Your Honor, these two screens are not
21 projecting.

22 (Pause.)

23 THE COURT: We're having a little technical
24 difficulty.

25 MR. WILKINS: Here we go. I think it's good.

1 THE COURT: Let me see the lawyers up here for one
2 second, please.

3 They're working?

4 MR. WILKINS: It works. We're good.

5 THE COURT: Okay.

6 BY MR. WILKINS:

7 Q So is this your in-car camera?

8 A Yes, sir.

9 Q Is there one situated where it points to the back of
10 the car?

11 A So there's two cameras on the system. The first one
12 faces forward. It, also, activates all the microphones in
13 the car. And that turns on when we turn on our lights or
14 our siren.

15 This particular camera, I have to manually turn it
16 on. So that's why some of the audio and the video is off
17 in the beginning because the microphone is recording
18 before the video.

19 Q Okay. So it's recording what's being said inside the
20 car?

21 A Yes, sir.

22 Q But there's no movement on the video?

23 A Yes, sir. That's why if you see in the beginning of
24 the video, it's just kind of frozen for a second and audio
25 is capturing what's being said before I have a chance to

1 go back to the driver's seat and turn it on.

2 MR. WILKINS: We will publish to the jury, Your
3 Honor.

4 (WHEREUPON, State's Exhibit No. 13 was played in
5 open court.)

6 MS. LIPINSKI: Your Honor, is it playing? We can
7 hear the audio, but the video doesn't appear --

8 THE COURT: He just explained it.

9 MS. LIPINSKI: Oh, okay.

10 THE COURT: That's what his testimony was.

11 Okay. Go ahead.

12 BY MR. WILKINS:

13 Q Is that your in-car?

14 A Yes, sir. That's the in-car radio that you're
15 hearing.

16 (WHEREUPON, State's Exhibit No. 13 continued to be
17 played in open court.)

18 BY MR. WILKINS:

19 Q So what did you do? Were you asking --

20 A So that voice you hear is mine. As soon as we put
21 him in the car, I stopped to just assess what the deputies
22 were doing. That was kind of my role as master deputy as
23 well.

24 Once everybody kind of had their jobs and was doing
25 what they needed to do for that situation, I returned to

1 him to check on him because he was in an auto crash. And
2 I tried to assess and triage him as far as medically, and
3 who he was, and what was hurting him. So that voice you
4 hear is mine standing at the door that he is facing in the
5 still frame.

6 Q And what are you asking him?

7 A I'm just asking basic questions, what's hurting you,
8 trying to triage him medically, as a patient, someone who
9 needs to be assessed.

10 Q And did you ask him his name?

11 A I did, sir.

12 Q And what did he respond?

13 A So through my entire encounter with him, he refused
14 to provide a name.

15 (WHEREUPON, State's Exhibit No. 13 continued to be
16 played in open court.)

17 BY MR. WILKINS:

18 Q Now, is the video accurate now?

19 A Yes. So at this point, I had a chance to go back to
20 the driver's side of my car and activate it on my in-car
21 computer.

22 Q And that's when you're seeing the actual --

23 A Yes, sir.

24 Q -- live -- or not the live -- it was a live
25 feed then, but the actual feed?

1 A That's correct.

2 (WHEREUPON, State's Exhibit No. 13 continued to be
3 played in open court.)

4 BY MR. WILKINS:

5 Q Did you ask him his name again?

6 A I asked his name repeatedly.

7 (WHEREUPON, State's Exhibit No. 13 continued to be
8 played in open court.)

9 BY MR. WILKINS:

10 Q Now, at this moment, have you arrived at the
11 hospital?

12 A Yes, sir. I pulled right into the ambulance bay of
13 Prisma Health and requested -- they had already been
14 notified that we were coming with him. So I requested
15 that they meet us out there with a stretcher and try to
16 get him treatment.

17 (WHEREUPON, State's Exhibit No. 13 continued to be
18 played in open court.)

19 MR. WILKINS: I'm going to back it up 10 seconds.

20 (WHEREUPON, State's Exhibit No. 13 continued to be
21 played in open court.)

22 MR. WILKINS: Please answer any questions Ms. Lipinski
23 has.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. Cross.

CROSS-EXAMINATION

BY MS. LIPINSKI:

Q Just briefly. Do you remember where you were when you were -- responded to this scene?

A When the call came out, I believe I was on White Horse Road closer to Old Grove.

Q I'm sorry?

A Closer to the intersection of Old Grove Road.

Q Old Grove?

A Yes, ma'am.

Q Old Grove Road?

A Yes, ma'am.

Q So kind of up Grove past the hospital where it intersects with White Horse kind of thing; correct?

A Yes, ma'am.

Q So, obviously, when that call came out, you responded very quickly?

A Yes.

Q And did you approach that -- were you able to kind of approach that solely in the northbound direction and then kind of pull into where everyone had stopped, or did you approach it from the front and kind of back into that?

A So I approached it -- I went the wrong way down the off ramp for White Horse Road. And I approached it from what would be a face-on position. So they were just south

1 of there.

2 Q So you went ahead of where the collisions had
3 occurred and approached it from that direction on the
4 shoulder?

5 A Yes, ma'am.

6 Q Obviously, driving at a pretty significant rate of
7 speed. You wanted to respond quickly; correct?

8 A Yes, ma'am.

9 Q Did you collide with anyone?

10 A No, I did not.

11 Q And when you got to the actual collision scene
12 itself, did you slow down?

13 A Yes.

14 Q So that you wouldn't drive too far into the collision
15 scene or that --

16 A Yes, ma'am.

17 Q And so even though you were in a hurry to get there,
18 you were able to exercise care and control over your car;
19 correct?

20 A Yes, ma'am.

21 Q And we saw -- that's your in-car, but you, actually,
22 do get out of the car and engage Mr. Kelly outside your
23 car; is that correct?

24 A That is correct, ma'am. I took custody of him right
25 behind his Altima.

1 Q And was he already propped up against the car when
2 you get there or did you assist him?

3 A Yes, ma'am. He was already outside of his vehicle
4 being handcuffed.

5 Q Do you assist him to where he's seated up or is he
6 already seated up against the car?

7 A No. He was standing when I took control of him. And
8 I walked him to the back of my patrol vehicle.

9 Q So when you get there, they already have him on his
10 feet?

11 A Yes.

12 Q You're not part of the handcuffing, or anything like
13 that?

14 A No, ma'am.

15 Q And you stated a few times that you triaged him and
16 you were treating him as a patient. But you never,
17 actually, rendered any medical aid; correct?

18 A No, ma'am. I was trying to solicit to him what was
19 hurting -- or solicit from him what was hurting, who he
20 was, what kind of symptoms he had, as you could see.

21 Q But you could see that he, obviously, had a fairly
22 significant head wound; correct?

23 A He had blood on his head. But, I mean, I can't tell
24 you if it was significant or not. It didn't appear to me
25 to be life threatening, which --

1 Q But you're not a medical doctor?

2 A That's what I was about to say. With my skill level,
3 I would say it was a bloody injury. But I was not
4 concerned about his life as far as --

5 Q You weren't concerned about his life?

6 A I was very concerned about him. But I wasn't
7 concerned about him having an immediate issue. I did
8 decide to take him to the hospital, as opposed to waiting
9 for the ambulance. But a lot of that was because --

10 Q They were dedicating resources to the other officers,
11 as well?

12 A Yes, ma'am.

13 Q And I understand that. I'm not taking exception to
14 that. But you characterized it as triaging him like a
15 patient. You were really triaging him like a suspect at
16 that point more so than anything else; correct?

17 A I think it's dual roles. Obviously, I do want to
18 know who he is. That's part of my job as a law
19 enforcement officer. Also, part of my job is to make sure
20 I can get him to the hospital and get him treated, if
21 that's the most efficient means.

22 Q But you have been on scene of individuals such as
23 this where you were, perhaps, providing pressure to stop
24 the bleeding, and those type of things; correct?

25 A Yeah. That's not something we would do for an injury

1 on the top of his eye.

2 Q But you don't ever take -- you don't ever take a look
3 at his eye trying to assess how bad that wound is, or
4 anything like that. You just kind of take him as he is
5 and put him in the back of your patrol car; correct?

6 A Yeah. I just -- I've been to a great number of
7 crashes. It just looked like he got blood from hitting
8 the window, or something along those lines. There was no
9 gaping wound or anything that I had to worry about a
10 tourniquet, or anything like that.

11 Q And he repeatedly says, "Sir"?

12 A Yes, ma'am.

13 Q And he repeatedly says, "Please"?

14 A Yes.

15 MS. LIPINSKI: That's all we have, Your Honor.

16 THE COURT: Any redirect?

17 MR. WILKINS: No, sir, Your Honor. No redirect.

18 THE COURT: Thank you.

19 You may stand down.

20 MR. WILKINS: Your Honor, we'd ask that you excuse
21 this witness from his subpoena.

22 MS. LIPINSKI: We don't have --

23 THE COURT: Without objection.

24 Go ahead.

25 MR. WILKINS: Your Honor, the State calls Deputy

1 Blake Richards.

2 MS. LIPINSKI: Your Honor, the Court's indulgence for
3 one moment.

4 (Pause.)

5 THE CLERK: Please place your left hand on the Bible
6 and raise your right hand.

7 WHEREUPON,

8 BLAKE RICHARDS,

9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 Please be seated.

12 Please state your name for the record.

13 THE WITNESS: Deputy Blake Richards.

14 DIRECT EXAMINATION

15 BY MR. WILKINS:

16 Q Deputy Richards, with whom are you employed?

17 A Greenville County Sheriff's Office, sir.

18 Q How long have you been employed with the Greenville
19 County Sheriff's Office?

20 A This December will be four years.

21 Q Four years?

22 A Yes, sir.

23 Q Did you do any law enforcement before that?

24 A Yes, sir.

25 Q What did you do?

1 A I worked for the Greenwood County Sheriff's Office
2 for about six years.

3 Q And what have been your roles with law enforcement
4 during your career?

5 A I've been in uniform patrol, on the community action
6 team in Greenwood, on SWAT in Greenwood. And now, I'm K9
7 in Greenville.

8 Q Is that your primary duty with Greenville County is K9?

9 A Yes, sir.

10 Q So are you one of those guys that has a dog in the
11 back of your car?

12 A Yes, sir.

13 Q What's your dog's name?

14 A Hugo.

15 Q Hugo. All right. Were you asked to respond to a
16 wreck on October 20th, 2020?

17 A Yes, sir.

18 Q And how did you -- how did you get that call to go
19 out there?

20 A We had just completed a training scenario with our
21 K9s and I heard the emergency request for assistance come
22 out over the radio.

23 Q And how did you get there?

24 A With my patrol car, lights and sirens, sir.

25 Q How far away were you when you went?

1 A I was on Dan Hart right off of White Horse Road,
2 probably a mile, mile and a half, maybe.

3 Q You were close?

4 A Yes, sir, very close.

5 Q So when you responded -- what did you do when you
6 responded?

7 A I left our training location, went down White Horse.
8 I went to the interstate. Due to the nature of the call
9 and some of the stuff that I heard on the radio, I made
10 the decision to go down the interstate against oncoming
11 traffic to make it to the incident location.

12 Q And how do you go down the interstate? You go on the
13 shoulder?

14 A Yes, sir. I rode on the shoulder. As soon as I got
15 on the interstate, I could tell it was no cars coming my
16 way and all the traffic had been shut down.

17 Q And do you have lights or siren?

18 A I have blue lights and a siren.

19 Q Were you using those?

20 A Yes, sir. They were activated.

21 Q So when you arrived on scene, what did you do?

22 A When I arrived on scene, I exited my patrol car. I
23 noticed Sergeant Jumper laying on the ground. I kind of
24 went up to him. There was some -- I believe there was
25 somebody rendering aid already. I'm not -- I can't recall

1 who that was. At that point, I made the decision to
2 assist Deputy Wasserman with Mr. Kelly.

3 Q Okay. Do you have a body camera?

4 A I do, sir.

5 Q And were you wearing a body camera that day?

6 A Yes, sir, I was.

7 Q All right. Deputy Richards, I'm going to show you
8 what's marked as State's Exhibit No. 9, and ask you to
9 identify that for me?

10 A Those are my initials on September 7th, 2022.

11 Q And what is that a DVD of?

12 A My body-worn camera, sir.

13 Q And is that DVD a true and accurate representation of
14 your body camera on that day?

15 A Yes, sir.

16 MR. WILKINS: Your Honor, the State moves State's
17 Exhibit No. 9 into evidence.

18 MS. LIPINSKI: Your Honor, at this point, we would
19 object to it being cumulative. I think this portion of
20 the interaction with Mr. Kelly has already been displayed
21 on other officers cameras.

22 THE COURT: Okay. Overruled.

23 Go ahead.

24 (WHEREUPON, State's Exhibit No. 9 was admitted into
25 evidence.)

1 (WHEREUPON, State's Exhibit No. 9 was played in open
2 court.)

3 BY MR. WILKINS:

4 Q So what are you doing there?

5 A I'm realizing that there's plenty personnel rendering
6 aid. So I'm, essentially -- we say find a job. So I'm
7 trying to find where I can assist.

8 (WHEREUPON, State's Exhibit No. 9 continued to be
9 played in open court.)

10 BY MR. WILKINS:

11 Q And what was to the right of your body cam? Did
12 you notice anything over there? Did you notice any
13 debris?

14 A Yes, sir. I noticed debris from the 18-wheeler. I
15 believe the bumper was on the ground.

16 (WHEREUPON, State's Exhibit No. 9 continued to be
17 played in open court.)

18 BY MR. WILKINS:

19 Q So what happened there?

20 A Deputy Harrison was pretty distraught, sir. So I
21 removed his firearm from his person.

22 Q Did he tell you to do that?

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit No. 9 continued to be
25 played in open court.)

1 BY MR. WILKINS:

2 Q So what are you doing now?

3 A I heard Deputy Ledbetter calling my name. So I go
4 over there to see what he needed.

5 (WHEREUPON, State's Exhibit No. 9 continued to be
6 played in open court.)

7 BY MR. WILKINS:

8 Q So what did Mr. Kelly tell you right there?

9 A He thinks he fell asleep.

10 (WHEREUPON, State's Exhibit No. 9 continued to be
11 played in open court.)

12 BY MR. WILKINS:

13 Q And who is Mr. Kelly referring to right there?

14 A At the time, I didn't know. I just knew it was a
15 female passenger.

16 Q And was he pointing to the person sitting on the
17 ground right there?

18 A Yes, sir. He was motioning towards her saying that
19 she didn't have anything to do with it.

20 (WHEREUPON, State's Exhibit No. 9 continued to be
21 played in open court.)

22 BY MR. WILKINS:

23 Q So that individual -- and I believe it's a Clemson
24 shirt right there. Did you know who that was?

25 A No, sir.

1 Q Okay. Is that person in law enforcement?

2 A I believe he was. I learned a couple minutes -- or
3 after the incident that he was in law enforcement. I
4 think he was out of Anderson.

5 (WHEREUPON, State's Exhibit No. 9 continued to be
6 played in open court.)

7 BY MR. WILKINS:

8 Q And was that Deputy DeRosa putting him in the car
9 right there?

10 A Yes, sir.

11 MR. WILKINS: If you'll just answer any questions
12 Ms. Lipinski has for you.

13 THE WITNESS: Yes, sir.

14 CROSS-EXAMINATION

15 BY MS. LIPINSKI:

16 Q You stated that you arrived on scene and you drove
17 into oncoming traffic as you approached the collision
18 scene; correct?

19 A I drove in the northbound lane heading southbound.
20 There was no traffic. The road -- the incident caused all
21 traffic to stop.

22 Q All right. But you were approaching at a high rate
23 of speed or quickly; correct?

24 A No, ma'am.

25 Q You drove slowly?

1 A Yes, ma'am. I'm not sure of my speed. But I was not
2 at a high rate of speed on that interstate. It was --
3 from the exit ramp to the incident location, it was a
4 matter of a couple hundred yards.

5 Q Oh, so you were -- from where you entered the
6 interstate was a couple hundred yards or where you were
7 prior to you hearing the call go out was a couple hundred
8 yards?

9 A From where I entered the interstate.

10 Q Okay.

11 A From the exit ramp to the incident location was a
12 couple hundred yards.

13 Q But you, originally, were a greater distance than
14 that away?

15 A Correct. I was off Dan Hart Road -- on Dan Hart Road
16 off of White Horse.

17 Q And you would have responded signal one?

18 A Yes, ma'am.

19 Q And you would have been driving quickly?

20 A Ma'am, we still have to follow traffic laws in
21 driving --

22 Q Okay. But you understand the need to respond
23 quickly?

24 A Yes, ma'am, I do.

25 Q And, oftentimes, when you all respond signal one, you

1 are responding -- you know, the call that was going out
2 was that there had been a fight, and those kind of things.
3 You were responding quickly; correct?

4 A Well, signal one doesn't mean quickly.

5 Q Okay. But you understood the need to get there
6 quickly; right?

7 A Yes, ma'am.

8 Q All right. So it's not a trick question, I promise
9 you. All right. And then when you got to the interstate,
10 you approached into oncoming traffic. But at that point,
11 there's no traffic; correct?

12 A Correct.

13 Q You're able to control your car; correct?

14 A Yes, ma'am.

15 Q You didn't collide with any other patrol cars; correct?

16 A No, ma'am.

17 Q You didn't collide with any other deputies; correct?

18 A No, ma'am.

19 Q So you were able to maintain control of your car for
20 that; correct?

21 A Yes, ma'am.

22 Q Are you there when Deputy Harrison threatens
23 Mr. Kelly, or do you arrive at some point after that?

24 A I didn't hear any threats from the body-worn camera.
25 I heard a commotion and I approached.

1 Q You approached him from behind?

2 A Correct.

3 Q And you disarmed him?

4 A Correct.

5 Q And you then would secure that weapon somewhere, I
6 believe?

7 A It was placed in Deputy Ledbetter's trunk.

8 Q And then other officers physically kind of removed
9 him from the area?

10 A Yes, ma'am.

11 Q And then you approached and engaged Mr. Kelly; correct?

12 A Yes, ma'am.

13 MS. LIPINSKI: We have nothing further of this
14 witness.

15 THE COURT: Any redirect?

16 MR. WILKINS: None from the State, Your Honor.

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

18 You may stand down.

19 MS. MORONEY: The State calls Deputy John James.

20 THE CLERK: Please pause at the end of the bench.

21 Place your left hand on the Bible and raise your
22 right hand.

23 WHEREUPON,

24 JOHN JAMES,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please be seated.

3 Please state your name for the record.

4 THE WITNESS: Master Deputy John James.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MS. MORONEY:

8 Q Deputy James, where are you currently employed?

9 A Greenville County Sheriff's Office.

10 Q And how long have you been a deputy?

11 A Since 2011.

12 Q Okay. And prior to that, did you have a career
13 change from a different career?

14 A Yes. I was a paramedic with Greenville County.

15 Q And how long did you do that?

16 A Well, I started working at the county in 1992.

17 Q And so you worked as a paramedic. What goes into
18 being a paramedic?

19 A Oh, goodness. Providing medical care to sick and
20 injured individuals who call 911, and provide care in
21 their homes, and transport them to the hospital.

22 Q Okay. And at a certain point, did you reach a
23 supervisor-type role as a paramedic?

24 A That's correct. I was a shift commander there from
25 2005 until I made the career change full-time to the

1 sheriff's office in 2016.

2 Q Okay. And why did you change career paths from
3 paramedic to deputy?

4 A I get that question a lot, I do. And there was a lot
5 of factors that led into that, but, really, the position
6 opened up. They were needing full-time medical support in
7 the sheriff's office. And me and my wife talked about it
8 and we prayed about it. And that was the direction the
9 Lord was leading me.

10 Q Okay. So when you came to the sheriff's office --
11 well, let me ask this. Were you working in that role in
12 October of 2020 as a deputy with medic training?

13 A Yes, ma'am. I was a deputy paramedic. And I was --
14 in October of 2020, I was assigned to the directive patrol
15 unit, which is a street crimes unit.

16 Q Is that because they sometimes run into situations
17 where they might need a paramedic immediately with that
18 unit?

19 A Well, yes. Keep in mind, my -- obviously, outside
20 of my law enforcement duties, my role as a paramedic, I
21 provide medical care in scenes that aren't secure enough
22 for, like, traditional medical providers to arrive on
23 scene. This can be search warrants, or arrest warrants,
24 high risk type situations like that.

25 Q And were you working the afternoon of October 20th,

1 2020?

2 A Yes, ma'am.

3 Q And did you respond to the area of Interstate 85?

4 A I did.

5 Q And when -- do you remember about when you got there?

6 A I remember it was -- I don't remember the exact time.

7 I can look on my report, if you --

8 Q Sure, if you need to refresh your memory.

9 A -- need me to. I know that it was around 3:00 when I
10 heard the radio call. Obviously, the directive patrol
11 unit operates off of one of our radio channels that is
12 shared by our traffic division. So I heard the initial
13 traffic stop. And then I heard the commotion and,
14 ultimately, the call for assistance. And so I immediately
15 started responding to scene.

16 Q Okay. And do you have the approximate time when you
17 arrived?

18 A 15:10.

19 Q And in -- I'm not great with that.

20 A That's 10 minutes after 3:00 in the afternoon, p.m.

21 Q Okay. And what did you do when you got on scene?

22 A Well, when I got on scene, obviously, there were
23 other responders who were already there that had kind of
24 sorted the injured. And I knew before I got there that a
25 deputy was injured, and there was multiple vehicles

1 involved, and had multiple people hurt.

2 So one of the things that I did was I -- during my
3 response, I switched over to the EMS channel to ensure
4 that they knew they needed multiple resources coming to
5 this.

6 Q Okay.

7 A So I knew with it being a deputy injured that I was
8 going to kind of immediately be interjected into a chaotic
9 situation. I've been that time -- I've been in those
10 types of scenes before in my career. So I tried to
11 mentally prepare myself for that as I was getting to the
12 scene.

13 When I stepped out of my car, obviously, the sorting
14 of the injured had kind of already occurred. And I was
15 directed toward Jumper, who was in the roadway. And I
16 could immediately see him when I got out of my car.

17 Q And when you saw him, did you -- what did you do
18 next?

19 A I went to him.

20 Q Was there anything about his appearance that
21 indicated what you would need to do next?

22 A I knew from his appearance that he had -- he was
23 seriously hurt.

24 Q And can you explain that for the jury?

25 A His color, it was the palest pale that you could

1 imagine. If anybody has ever had the unfortunate pleasure
2 of having to identify somebody in a morgue who's dead and
3 you've seen the color on their face and, more importantly,
4 the color in their lips, it's just kind of devoid of
5 blood. That was his color. And that's what I saw.

6 Q And so when you had that information, did you
7 communicate any of that to anyone else?

8 A Obviously, the scene was chaotic. Like I said, these
9 types of scenes are chaotic. So what I tried to do -- as
10 soon as the medical providers got there, I did indicate
11 that to them, how severe this was. And it wasn't -- I
12 don't remember the exact timeline, but it wasn't very long
13 until they got there.

14 Q Okay.

15 A But I did not indicate, like, my feelings of how bad
16 he was to the other deputies who were there helping me.
17 Because I knew -- I knew when I saw him that he did not
18 have -- he had this color. But to look at him, I mean, he
19 had an obvious leg fracture. But that wasn't what was
20 causing the color. He had no blood around him. So when I
21 looked at him and I saw that he was devoid of blood in his
22 skin, then I knew I had some massive internal injuries
23 going on. And I knew the only chance that we had was to
24 work as fast as we possibly could to get him into the
25 ambulance.

1 So I was trying to get him prepared and use the other
2 deputies there as kind of a team approach to get him onto
3 a backboard so when the ambulance got there, we could
4 immediately go to the hospital. Because the only chance
5 he had was getting him to the hospital.

6 Q And were you able to do that? Were you able to get
7 him into that ambulance when they arrived?

8 A Absolutely.

9 Q And set off straight for the ER?

10 A Yes, ma'am, we did.

11 Q And where were you in the ambulance?

12 A I was in the back.

13 Q And helping?

14 A At Jumper's head. Oh, yes, ma'am. I never stopped
15 until we got to the hospital and I transferred care over
16 to the physicians there.

17 Q Prior to leaving the roadside, was Deputy Jumper, at
18 least, alert to your questions and directions?

19 A Yes.

20 Q And --

21 A When I, initially, found him, he was lying on -- he
22 was in the roadway lying -- we call it prone. But he was
23 kind of face down, like your belly is toward the ground,
24 but his arms were pressed up like this. And his face was
25 up like this. And I could tell from his facial expression

1 that he was in extreme pain.

2 And, like I said, there was a lot of noise. There
3 were a lot of people talking loudly. So I just leaned
4 down to him by his left ear just to let him know that I
5 was there and asked him where he was hurting. And he told
6 me that I can't breathe.

7 So there again, he was able to talk fine. So I knew
8 from my medical training that it's -- his brain is feeling
9 that he can't breathe. But the reason is for that lack of
10 blood that's getting to his brain because he's got so much
11 internal bleeding.

12 Q Okay. And so back to -- you're in the ambulance.
13 You're on the way to Prisma. Can you kind of go through
14 the timeline before y'all got there to the ER bay?

15 A Again, we were pretty close to the hospital. I mean,
16 it wasn't that far away. We were fortunate there. But it
17 wasn't -- I mean, his condition started to deteriorate
18 about the time we turned onto Grove there at the QT, Quick
19 Trip, right there at White Horse and Grove.

20 And, you know, at that point, I started having to
21 manually ventilate him with a device called a
22 Bag-Valve-Mask. It has a mask that goes over the face.
23 And we squeeze it because he's, obviously, not taking
24 enough breath to fill his lungs. I inserted an adjunct
25 airway, a nasopharyngeal airway into his nose to help that

1 process. His condition continued to deteriorate.

2 And we even tried a medical procedure, it's called a
3 plural decompression where you insert a needle through the
4 chest wall into the plural space to relieve any air
5 pressure. Because I knew he had internal injuries. I
6 just didn't know where they were coming from. And it was
7 about the time we got to the intersection of Grove and
8 Faris when he went into traumatic cardiac arrest.

9 Q And in layman's, what does that mean?

10 A His heart stopped beating and he's not breathing.

11 Q And then, ultimately, did you take Deputy Jumper into
12 the ER bay and transfer care?

13 A I did.

14 Q To the physicians there?

15 A Yes, ma'am.

16 MS. MORONEY: Please answer any questions the Defense
17 has.

18 CROSS-EXAMINATION

19 BY MS. LIPINSKI:

20 Q So it's clear for me, you arrive on the scene. At
21 that point, you stated that there are already people
22 around Deputy Jumper?

23 A Yes, ma'am. That's correct.

24 Q You're not the first person to rush up to him?

25 A No, ma'am.

1 Q You were just probably the most medically qualified
2 at that point or is the ambulance or EMS --

3 A I was the first advanced life support person on
4 scene, yes.

5 Q All right. And so you weren't there in between the
6 two collisions; correct?

7 A No, ma'am. I arrived after all the collisions had
8 occurred.

9 Q So you weren't able to assess what injuries may have
10 came from the first collision versus the second collision,
11 or how that may have impacted his state?

12 A No, ma'am. I have no...

13 Q You referred to some notes that you have up there?

14 A Yes, ma'am.

15 Q Can I look at those real quick?

16 A Absolutely. I just have a copy of my report.

17 MS. LIPINSKI: The Court's indulgence. I have his
18 report, but not patient care report.

19 Can I just look at it just briefly?

20 THE COURT: Yeah.

21 MS. LIPINSKI: Thank you, Your Honor.

22 (Pause.)

23 BY MS. LIPINSKI:

24 Q Thank you, Officer.

25 I hadn't seen that document.

1 You don't ever provide any aid or care to anyone else
2 other than Jumper?

3 A On this particular incident?

4 Q Yes, on this particular --

5 A No, ma'am. I never got to that. By the time -- like
6 I said, other medical providers got there very quickly and
7 completed the secondary triage assessment.

8 Q You described his injuries resulting from the
9 collision with the semi-tractor-trailer?

10 A Yes, ma'am.

11 Q Did anyone ever tell you that there had been a second
12 collision?

13 A No, ma'am.

14 MS. LIPINSKI: That's all we have, Your Honor.

15 THE COURT: Any redirect?

16 MS. MORONEY: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. MORONEY:

19 Q Referring to your notes, did you note the time that
20 the cardiac arrest occurred?

21 A There is -- hold on one second. Give me one second.

22 Okay. The traumatic arrest alert, which is,
23 basically, as I said, when I -- when we were approaching
24 that intersection of West Faris, I grabbed the radio --
25 the EMS radio to have them tell the hospital that he was

1 in traumatic cardiac arrest. And that's at 15:20.

2 Q Which was 3:20?

3 A Yeah, 20 minutes after 3:00 p.m.

4 MS. MORONEY: Thank you.

5 No further questions.

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

7 You may step down.

8 MS. MORONEY: The State calls Dr. Ward.

9 MS. LIPINSKI: Can we approach on a scheduling matter
10 real quick? And I apologize, Your Honor.

11 THE COURT: All right.

12 (WHEREUPON, a bench conference was held.)

13 THE CLERK: Please pause at the end of the bench.

14 Please place your left hand on the Bible and raise
15 your right hand.

16 WHEREUPON,

17 MICHAEL EUGENE WARD, M.D.,

18 after first having been duly sworn, testified as follows:

19 THE CLERK: Thank you.

20 Please be seated.

21 Please state your name for the record.

22 THE WITNESS: Michael Eugene Ward.

23 DIRECT EXAMINATION

24 BY MS. MORONEY:

25 Q Good afternoon, Dr. Ward.

1 Can you tell the jury a little bit about how you --
2 what your profession is?

3 A I'm a forensic pathologist, which means I am a
4 licensed physician in the State of South Carolina with
5 training in pathology and forensic pathology. My job --
6 what I try to do is determine cause and manner of death of
7 individuals who die in Greenville County.

8 Q And do you have a title related to that?

9 A I'm the chief medical examiner for Greenville County.

10 Q Okay. And can you tell the jury a little bit about
11 your educational background?

12 A I have a Bachelor's Degree in Biology from the
13 University of Alabama. I have a Master's Degree in
14 Forensic Science from the University of Alabama in
15 Birmingham. I received my medical degree from the
16 University of South Alabama, which is in Mobile. I did a
17 four-year anatomic pathology residency at the Medical
18 University of South Carolina, and a one-year fellowship in
19 forensic pathology at the University of New Mexico. I'm
20 board certified by the American Board of Pathology in both
21 anatomic and forensic pathology.

22 Q Okay. And are you a member of any professional
23 associations?

24 A I am. I'm a member of the American Medical
25 Association, the National Association of Medical

1 Examiners, and the American Academy of Forensic
2 Scientists.

3 Q And do you have the opportunity to publish papers and
4 attend -- or peer review other papers in your field?

5 A Yes, I have.

6 Q Okay. And have you ever been qualified as an expert?

7 A Yes, I have.

8 Q And in what field?

9 A In the field of anatomic and forensic pathology.

10 Q And can you explain to the jury a little bit about
11 what that is, if you didn't already?

12 A Pathology is the study of disease and disease
13 processes and how they effect man. Forensic pathology
14 takes that one step further, including trauma and how we
15 die, and then the presentation of that information in the
16 court of law.

17 Q And approximately how many times have you been
18 qualified as an expert?

19 A Well over a hundred times.

20 Q And in General Sessions in Greenville County?

21 A In Greenville County, New Mexico, and in federal
22 court.

23 MS. MORONEY: The State moves to qualify Dr. Ward as
24 an expert in forensic pathology.

25 MS. LIPINSKI: Without objection, Your Honor.

1 THE COURT: Okay.

2 BY MS. MORONEY:

3 Q Dr. Ward, did you perform an autopsy on William
4 Conley Jumper?

5 A Yes, I did.

6 Q In October of 2020?

7 A October 21st, 2020.

8 Q And did you receive any information prior to doing
9 that autopsy that helped you determine -- make a finding
10 in this case?

11 A I knew the details of the incident that occurred,
12 yes.

13 Q And can you tell the jury what you found when you
14 performed that autopsy on Deputy Jumper?

15 A Mr. Jumper had multiple blunt force injuries. He had
16 an impact -- well, blunt force trauma to the region of the
17 right hip and buttock with multiple bruises and abrasions
18 or scratches of the skin in that region.

19 As we dissected into the tissues of his right buttock
20 and hip, there's what we call an avulsion pocket, which is
21 when a blunt surface strikes the skin, it tears the skin
22 away from the underlying musculature. That, basically,
23 becomes a space where there's not supposed to be a space.
24 That avulsion was filled with blood and there was
25 extensive hemorrhage or bleeding into the soft tissues of

1 the buttock and hip, including the fat and the underlying
2 musculature.

3 There were multiple fractures of the pelvis to
4 include the symphysis pubis, which is where the two bones
5 come together in the front. And there was separation of
6 the bones in the back of the -- of the right hip, the
7 right sacral iliac joint. That was separated. There was
8 a fracture of the right acetabulum, which is where the
9 socket of the femur fits into the pelvic bone. This bone
10 was fractured. And the head of the femoral bone, which is
11 on the outside, had been driven into the pelvis.

12 There was, also, a separate area of contusion of the
13 skin with abrasion involving the left hip, again, with
14 multiple bruises and a smaller avulsion pocket within the
15 skin of that side, again, with extensive bleeding.

16 This was a separate avulsion pocket of the lower
17 back, indicating a broad area of blunt force trauma to the
18 hips and back. There was bleeding into the tissues of the
19 lower back and fracture of the sacrum, which is the lowest
20 part of our vertebral column. Again, there were other
21 superficial abrasions of the knees and the left elbow.

22 Q Okay. And were you able to determine cause of death?

23 A Yes, I was.

24 Q And what was that?

25 A Mr. Jumper died as a result of multiple blunt force

1 injuries.

2 Q Did you determine a mechanism of death?

3 A A manner of death, yes.

4 Q Manner of death. Sorry. And what was that?

5 A The manner of death was homicide.

6 Q And I think you just stated it, but were there any
7 injuries from Deputy Jumper's belly button above?

8 A This were no injuries to the chest or to the head.

9 MS. MORONEY: Please answer any questions the Defense
10 has.

11 CROSS-EXAMINATION

12 BY MS. LIPINSKI:

13 Q So just to be clear, when you use the term homicide,
14 when you render an autopsy, at that point, you're not
15 making a finding of murder, or voluntary manslaughter, or
16 the degree of the kind of criminal death. You're making
17 an assessment was it an accident, was it a natural death,
18 or was it some intervening cause causing that death;
19 correct?

20 A That's correct. Homicide is -- in this situation is
21 a death that results during an altercation with another
22 individual.

23 Q But the injuries in this case didn't come from
24 another individual. Did they describe to you that they
25 were, actually, the result of a collision between

1 vehicles?

2 A Yes, it was.

3 Q And so when you say "another individual," you're
4 purporting that the other people. But this was a result,
5 basically, of a car crash; correct?

6 A A car crash that resulted during an altercation with
7 another individual.

8 Q But you're not out there on the scene?

9 A That's correct.

10 Q And you did not witness any altercation with any
11 other individuals; correct?

12 A That is correct.

13 Q And you were not out there in terms of whether these
14 injuries were the result of the first or second collision?

15 A I believe they were the result of the first
16 collision.

17 Q All right. But you weren't out there; correct?

18 A That's correct.

19 Q And you weren't able to assess his state after the
20 first -- in between the two collisions; correct?

21 A No, I was not.

22 Q You didn't go to the scene on this particular
23 occasion?

24 A I did not.

25 Q And so the information that you're receiving or that

1 you're using to make that determination in terms of
2 whether it happened from the first or second collision is
3 based on information received from law enforcement;
4 correct?

5 A Partially on that information, partially on the
6 injuries and the location of those injuries and the broad
7 distribution. They are much more consistent with the
8 broad front of a truck as opposed to the more narrow front
9 of a sedan or automobile.

10 Q But it could have been that there were some injuries
11 resulting from the truck and that a second collision may
12 have compounded or added to those injuries, particularly
13 if it was in the same target area. That's possible;
14 correct?

15 A That's possible.

16 Q All right. And so, certainly, the second collision
17 exacerbated any preexisting injuries. Would that be fair
18 to say?

19 A If there was impact to Mr. Jumper from the second
20 vehicle, then that's possible, yes.

21 (Disruption in the courtroom.)

22 THE COURT: My apologies. It's not a phone. It's my
23 watch. I'm sorry. I apologize.

24 Go ahead.

25 MS. LIPINSKI: Thank you.

1 BY MS. LIPINSKI:

2 Q Certainly, any secondary collision could have
3 exacerbated or worsened those injuries; correct?

4 A If there was impact from the second vehicle, yes,
5 they could have exacerbated any previous injuries.

6 Q There was nothing about the body in terms of paint,
7 or chips, or anything like that that you retrieved to try
8 and ascertain whether they came from a white-colored car
9 versus a red-colored car, or anything like that; correct?

10 A That is correct. There was no trace evidence
11 transfer that I saw.

12 Q And you have been involved in situations where people
13 die as a result of their injuries from car accidents that
14 you have not ruled it a homicide; correct?

15 A That is correct.

16 Q And so, again, that information was something you
17 garnered from law enforcement; correct?

18 A That is correct, from law enforcement and from
19 coroner office investigators at the scene.

20 Q All right. But not anything that you independently
21 knew; correct?

22 A That is correct.

23 Q So you're basing that on the accuracy of the
24 information that they provided to you; correct?

25 A Yes.

1 MS. LIPINSKI: That's all we have for Dr. Ward.

2 THE COURT: Any redirect?

3 MS. MORONEY: None, Your Honor.

4 THE COURT: All right. Thank you, Dr. Ward.

5 You may stand down.

6 THE WITNESS: Thank you.

7 THE COURT: Let me talk to the lawyers up here for
8 one second, please.

9 (WHEREUPON, a bench conference was held.)

10 (WHEREUPON, State's Exhibit Nos. 14, 15, 16, and 17
11 were marked for identification only.)

12 THE COURT: All right. Ladies and gentlemen, we're
13 going to break for the day. Normally, we would be working
14 longer. We're trying to accommodate everybody so that
15 they can have plenty of time to be prepared. I would ask
16 y'all to be back up here at 9:30 in the morning.

17 Do not discuss the case. And it's just human nature,
18 the more you learn about it, the longer it goes, the more
19 you're going to want to talk about it, and the more the
20 people you see are going to want to talk about it. It
21 doesn't change the oath that you've given. And it doesn't
22 change the importance of protecting the sanctity of our
23 system, our legal system.

24 So you all have a nice night. And we'll see you at
25 9:30.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:09 p.m.)

3 THE COURT: All right. Anything else?

4 Just for the record, I'm going to point out that
5 this -- it's 4:10 in the afternoon. Normally, we would
6 work later. We are trying to accommodate Counsel for
7 Defense who has come in at a late hour. And the State is
8 prepared to go forward. But this gives the Defense
9 Counsel a bit more opportunity to try and get up to speed.

10 So with that, anything else?

11 MR. WILKINS: Nothing from the State, Your Honor.

12 THE COURT: From the Defense?

13 MS. LIPINSKI: Nothing from the Defense.

14 THE COURT: And here is Court's Exhibit No. 6, the
15 disks that you have subject -- that I'm giving you
16 subjective to the protective order.

17 MS. LIPINSKI: Thank you, Your Honor.

18 THE COURT: All right. 9:30 in the morning.

19 (WHEREUPON, the proceedings were concluded at
20 approximately 4:10 p.m., to be reconvened on
21 Wednesday, September 28, 2022.)

22

23

24

25

1 WEDNESDAY, SEPTEMBER 28, 2022

2 (WHEREUPON, State's Exhibit Nos. 18, 19, 20, 21, 22,
3 23, 24, 25, and 26 were marked for identification
4 only.)

5 THE COURT: All right. Are we ready to go?

6 MS. MORONEY: The State's ready, Your Honor.

7 THE COURT: Oh, just a second. Sorry.

8 (Pause.)

9 THE COURT: All right. Anything before we start?

10 MS. MORONEY: Nothing from the State.

11 MS. LIPINSKI: Nothing from the Defense, Your Honor.

12 THE COURT: All right. Let's get them in.

13 (WHEREUPON, the jury came into open court at
14 approximately 9:44 a.m.)

15 THE COURT: All right. Ladies and gentlemen, welcome
16 back. We are ready to resume the trial.

17 MS. MORONEY: Thank you, Your Honor.

18 The State calls Sergeant David Andis.

19 THE CLERK: Place your left hand on the Bible and
20 raise your right hand.

21 WHEREUPON,

22 DAVID ANDIS,

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Thank you.

25 Please be seated.

1 Please state your name for the record.

2 THE WITNESS: David Andis.

3 DIRECT EXAMINATION

4 BY MS. MORONEY:

5 Q Sergeant Andis, where do you currently work?

6 A South Carolina Highway Patrol.

7 Q And how long have you worked there?

8 A 17 years.

9 Q And you're the -- excuse me. You're the Sergeant.
10 What is your title with the highway patrol?

11 A Sergeant over the post A MAIT unit.

12 Q And what is MAIT?

13 A MAIT stands for the Multidisciplinary Accident
14 Investigation Team.

15 Q Okay. And what -- what does your team usually do?

16 A We're called in to reconstruct complex motor vehicle
17 collisions and/or assist other agencies with their
18 investigations.

19 Q And what kind of tools do you use to reconstruct a
20 scene like that?

21 A We use a lot of -- we use digital cameras. We use
22 video. We use drones, UAV's is what we call them. We use
23 forensic mapping equipment in order to -- in order to
24 produce a to-scale diagram of the collision scene. We do
25 interviews.

1 Q And what is forensic mapping? How do you do that?

2 A Forensic mapping, a simple term is kind of like
3 surveying equipment. In this case, we used GMS system,
4 which uses satellites to try to angulate the position of a
5 receiver, somebody standing there with a pole with the
6 receiver at the top.

7 At least, three satellites around the world are
8 tracking where that position, that receiver is. Whoever
9 is mapping the -- the scene would be standing at a
10 particular point, whether it be a line in the road, such
11 as a lane line, fog line, yellow line, or evidence where
12 the vehicles were at where fluid's at, where the tire
13 marks are at.

14 And the person doing the forensic mapping is entering
15 in a data collector, basically, saying this point is the
16 right front tire, this point is the left front tire, or
17 this point is the start of a tire mark and then would
18 create a line. All that is part of the forensic mapping
19 to scale diagram of what's out there.

20 Q And so you take that forensic mapping and that is
21 generated into a diagram is what you're saying?

22 A Yes. We take the forensic mapping, which is just all
23 the points and lines that are created from the forensic
24 mapping. We then use -- our program we use is Edge FX,
25 which is a CAD program or a computer-assisted diagram

1 program, import that in and it gives us a to-scale
2 diagram. We go in there and label this is the vehicle
3 here. This is the tire mark. We color code it according
4 to the tire mark, gouge mark. And that helps us go back
5 and -- from the final rest, we then go back to where the
6 impacts are located at.

7 Q You said computer-assisted diagram. Is that commonly
8 referred to as a CAD?

9 A Yes.

10 Q And back to your time with MAIT. Approximately how
11 many collision reconstructions have you participated in?

12 A Probably 1,700 or 1,800.

13 Q And have you ever been qualified as an expert in
14 General Sessions before?

15 A I have.

16 Q And in what fields?

17 A In general reconstruction, collision reconstruction,
18 and, also, event data recorder analyst expert.

19 Q Event data recorder analyst, is that what you said?

20 A Uh-huh.

21 Q And do you have ongoing training on collision
22 reconstruction through MAIT?

23 A Yes.

24 Q And how many hours?

25 A I have probably 1,400 or 1,500 hours of,

1 specifically, collision-reconstruction-related training.

2 Q And what is an event data recorder?

3 A An event data recorder is -- most people refer to it
4 as a black box in passenger vehicles. It's not like an
5 airplane. It's what's designed to either make your airbag
6 deploy or make your seat belts tighten up. As a
7 byproduct, the reconstruction field is able to tap into
8 that resource, it's a module in vehicles, and image that
9 data and records an event.

10 MS. MORONEY: Your Honor, the State moves to qualify
11 Sergeant David Andis as an expert in collision
12 reconstruction and event data recorder analyst.

13 MS. LIPINSKI: Could I just ask the witness two voir
14 dire questions?

15 THE COURT: All right.

16 VOIR DIRE EXAMINATION

17 BY MS. LIPINSKI:

18 Q Just briefly, do you have a college degree?

19 A I do.

20 Q In what field?

21 A Economics.

22 Q Okay. But not germane to this. You don't have a
23 degree in physics, or mathematics, or anything of that
24 nature; correct?

25 A No, ma'am.

1 Q So just unrelated to this?

2 A Correct.

3 Q So your qualifications are really the on-the-job
4 training you've received with the highway patrol?

5 A Yes.

6 Q All right. But no degrees in science, not even an
7 Associate's Degree in anything of that field; correct?

8 A No degree, no, ma'am.

9 MS. LIPINSKI: That's all, Your Honor. We'll
10 stipulate to his qualifications.

11 THE COURT: All right. Go ahead.

12 So qualified.

13 MS. MORONEY: Thank you.

14 CONTINUED DIRECT EXAMINATION

15 BY MS. MORONEY:

16 Q Did you respond to Interstate 85 on October 20th,
17 2020?

18 A I did.

19 Q And was that location in Greenville County?

20 A Yes.

21 Q Okay. And what was the purpose of MAIT responding to
22 that scene that day?

23 A So MAIT was, originally, called to assist the highway
24 patrol. We were called to respond to a collision out on
25 the interstate involving the sheriff's office. We

1 responded, initially, to assist them.

2 We arrived on scene. The investigating agency, being
3 the highway patrol at that time, determined that this was
4 to be possibly an intentional act. Therefore, it would
5 have been turned over to the sheriff's office. However,
6 since the sheriff's office was involved, SLED was then
7 called in to be the primary investigating agency. At
8 which time, SLED requested that we assist them. Because
9 they're not -- they don't normally deal with
10 collision-related events.

11 Q Okay. And when your team got on scene -- what's the
12 initial things that you start doing when you go to a scene
13 like that?

14 A We always -- first thing we do, we walk through the
15 scene to see what physical evidence we need to collect
16 immediately, if there's any witnesses. We then start
17 taking digital pictures of the scene, video of the scene
18 as a -- typically, it's just a backup to the digital
19 pictures. Sometimes video will capture something a
20 picture will not or you may miss with a camera.

21 Then we do the forensic mapping. We document the
22 vehicles on the scene, including general vehicle
23 examinations. That's about all we do on the scene.

24 Q Sergeant Andis, I'm going to show you what's been
25 premarked at State's Exhibit Nos. 19 through 25. Can you

1 take a look at those? Do you recognize what those are?

2 A I do.

3 Q And what are those?

4 A Those are digital pictures taken of the scene by
5 Corporal Pratcher.

6 Q And are they a fair and accurate representation of
7 the scene that you saw?

8 A Yes, they are.

9 MS. MORONEY: Your Honor, the State moves to have
10 State's Exhibit Nos. 19 through 25 entered into evidence.

11 THE COURT: Any objection?

12 MS. LIPINSKI: Without objection, Your Honor.

13 THE COURT: Okay.

14 (WHEREUPON, State's Exhibit Nos. 19, 20, 21, 22, 23,
15 24, and 25 were admitted into evidence.)

16 BY MS. MORONEY:

17 Q You explained the forensic mapping. And you said
18 there's a diagram that comes from that after you do the
19 forensic mapping?

20 A Yeah. That's correct.

21 Q Okay. I'm going to show you what has been premarked
22 for identification as State's Exhibits Nos. 14, 15, 16,
23 and 18. Do you recognize those?

24 A Yes.

25 Q And what are those?

1 A These are the -- some of the CAD plates from the CAD.

2 Q So these are diagrams that come from forensic mapping
3 on scene?

4 A That's correct.

5 Q Okay. And these are created by your team?

6 A Correct. Corporal Pratcher did that.

7 MS. MORONEY: Your Honor, the State moves to admit
8 State's Exhibit Nos. 14, 15, 16, and 18 into evidence.

9 MS. LIPINSKI: No objection.

10 THE COURT: All right. No objection.

11 (WHEREUPON, State's Exhibit Nos. 14, 15, 16, and 18
12 were admitted into evidence.)

13 BY MS. MORONEY:

14 Q This is State's Exhibit No. 16. Can you describe for
15 the jury what this CAD shows?

16 A This particular CAD places the initial impact between
17 the CMV, the blue Nissan and Deputy Jumper.

18 Q And the tractor-trailer there?

19 A Yes. I'm sorry. CMV is what we commonly refer to
20 them as. Sorry.

21 Q And what are those other two cars that are towards
22 the back of the tractor-trailer?

23 A Those are two patrol cars behind it, and one patrol
24 vehicle in front on the shoulder.

25 Q Okay. So when you were on scene, you were taking

1 photos that -- in doing the forensic mapping that led you
2 to create this. So there should be points that you mapped
3 out that show --

4 A Correct. If you went into the CAD program, you'd be
5 able to turn on the measurement player and show every
6 point that was shot and how the lane lines the evidence,
7 which is not depicted in this CAD plate.

8 Q And so you use tire marks to determine kind of --

9 A We use tire marks, scuff marks, gouge marks, whatever
10 leads us to show us the area of impact.

11 Q I'm going to show you State's Exhibit No. 19 here.
12 Can you kind of describe for the jury what we're looking
13 at here?

14 THE WITNESS: Permission to stand?

15 THE COURT: Yes.

16 THE WITNESS: All right. So what you're looking at
17 here is --

18 MS. LIPINSKI: Your Honor, if he's going to stand
19 between me and the photo, may I relocate?

20 THE COURT: Yes, you may.

21 MS. LIPINSKI: Thank you.

22 THE WITNESS: How we determine the area of initial
23 impact is this mark coming right here is a scuff mark
24 determined to be the boot from Jumper as he is being drug
25 across from the shoulder. This is tire marks from the

1 tractor-trailer going straight down northbound on 85
2 leading to impact.

3 So these tire marks are from the Nissan as it's
4 coming across dragging. So if you can picture, the car is
5 this way. Deputy Jumper's in the driver's door area. And
6 the tractor-trailer is going straight northbound.

7 BY MS. MORONEY:

8 Q And so you said there's scuff marks from --

9 A Yes. This is a shoe scuff from Deputy Jumper's boot
10 as he's being drug along -- as its dragging across the
11 roadway surface.

12 Q I'll show you another one. This is State's Exhibit
13 No. 25. Do you see the scuff mark in that photo as well?

14 A The same one, starts at the shoulder and goes all the
15 way over to that same area.

16 Q So that helped you to determine where the initial
17 impact occurred?

18 A It helps us determine not only where the vehicle is,
19 but, also, where Deputy Jumper is at the initial impact,
20 yes.

21 Q So it seems like a silly question, but that's how you
22 determined that Deputy Jumper was in the vehicle?

23 A Partially in the vehicle.

24 Q Partially in the vehicle. Okay. Next, I will show
25 you State's Exhibit No. 18. What does this CAD depict?

1 A This CAD plate is depicting the second impact between
2 Deputy Harrison's vehicle and the blue Nissan.

3 Q Okay. And this is State's Exhibit No. 21. Is
4 this -- what is this a photo of?

5 A So this is, again, showing the area of impact. How
6 we know that is there's some slight gouging here. But if
7 you follow this mark all the way up, it goes all the way
8 up to the left front tire of the Nissan. So that's how we
9 know where the Nissan is. These marks are from the deputy
10 just after impact.

11 THE COURT: Sergeant, keep your voice level up a
12 little bit if you would --

13 THE WITNESS: I'm sorry.

14 THE COURT: -- so everyone can hear.

15 THE WITNESS: Does anyone need me to repeat that?

16 (WHEREUPON, there was no response.)

17 BY MS. MORONEY:

18 Q This is State's Exhibit No. 22. Is this just a
19 closer version of that one showing the --

20 A It is.

21 Q Okay. And can you show for the jury again what
22 you're talking about with the left front tire of the
23 Nissan?

24 A So, again, this is the left front tire after it's
25 struck by Deputy Harrison's vehicle with the Nissan. And

1 you can see it travel all the way up to the final rest of
2 the Nissan.

3 Q So that would be the second impact?

4 A Correct.

5 Q Okay. Now, I'm showing you -- this is State's
6 Exhibit No. 15. What does this CAD show?

7 A This is showing the evidence and final rest as
8 depicted based on the forensic mapping.

9 Q Okay.

10 A So these are showing the tire marks left by the
11 tractor-trailer prior to and leading to the final rest of
12 the tractor-trailer, the tire marks up where the second
13 impact happens and final rest of the three vehicles and,
14 also, Deputy Jumper.

15 Q Okay. And it's hard to see in this photo, but did
16 the boot scuff mark, also, get mapped on this?

17 A Yeah. I'm sorry. It's, also, on the scene right
18 there.

19 Q Okay. And then we're seeing something up towards the
20 yellow line near Deputy Harrison's vehicle. What is --
21 what is that unit right there?

22 A What is that?

23 Q Up towards right here, this one?

24 A That's Deputy Jumper.

25 Q And how did you determine that's where Deputy Jumper

1 was?

2 A We determined that based on witness statements and,
3 also, from body camera from the sheriff's office.

4 MS. LIPINSKI: Your Honor, we would have an objection
5 to this exhibit.

6 THE COURT: Approach.

7 (WHEREUPON, a bench conference was held.)

8 THE COURT: All right. The objection is overruled.
9 It's admitted subject to that objection.

10 MS. MORONEY: Thank you, Your Honor.

11 (WHEREUPON, State's Exhibit No. 26 was admitted into
12 evidence.)

13 BY MS. MORONEY:

14 Q I'll show you that one. That's State's Exhibit
15 No. 26. Do you recognize what that is?

16 A That's Deputy Jumper's final rest position from the
17 body camera from the sheriff's office.

18 Q I'm going to put it here on the screen so we can all
19 see it.

20 So this is a body-worn camera screen shot is what you
21 said?

22 A Yes.

23 Q So that's just showing where he was in relation to
24 where those scuff marks begin?

25 A Yes.

1 Q Okay. Now, again, this is State's Exhibit No. 23.
2 What is being depicted in this photo?

3 A That's showing the final rest of the Chevrolet -- or
4 Deputy Harrison's vehicle, the Nissan, the area of impact
5 between the Nissan and Deputy Harrison's vehicle over on
6 the emergency lane and two orange dots marked.

7 Q So were those placed there before you got there?

8 A They were.

9 Q Okay. By the trooper -- the initial responding
10 troopers?

11 A Yes.

12 Q Okay. And all of this information goes into how you
13 created this diagram; correct?

14 A Correct.

15 Q Finally, I'm going to show you State's Exhibit
16 No. 14. It looks like a lot is going on here. Can you
17 walk us through what we're looking at?

18 A So this is the sequence of events of what happened
19 throughout the entire collision sequence. So here, we
20 have the initial start, the Nissan, Deputy Jumper, the
21 tractor-trailer traveling northbound. You see the
22 vehicles travels, including the boot mark or shoe scuff
23 across the lanes.

24 After impact with the tractor-trailer, both the
25 Nissan and Deputy Jumper are forced northward on 85. The

1 tractor-trailer comes to a controlled stop. The Nissan
2 then proceeds to travel toward the median wall, at which
3 time, the -- Deputy Jumper falls from the vehicle and the
4 Nissan subsequently is struck by Deputy Harrison's vehicle
5 in this position. And then they go to their final rest
6 locations.

7 Q And so that's just more information than what is
8 contained in State's Exhibit No. 15, it's more movement?

9 A Yes.

10 Q All right. Now, when your team was out on scene, did
11 someone get some information from the Nissan from the
12 event data recorder?

13 A Yes. Now, Master Trooper Clark imaged the event data
14 recorder.

15 Q You say "imaged." What does that mean?

16 A Image means simply that we don't remove anything from
17 the module. We simply plug in with the computer and it
18 takes, basically, a screen shot, or snapshot, or image of
19 what's on that module. So if we went in today, that same
20 information would still be on that module.

21 Q I'm going to show you what's been premarked as
22 State's Exhibit No. 17. Do you recognize what that is?

23 A That's part of the printout from Bosch for the event
24 data recorder that was imaged from that vehicle.

25 Q From the Nissan?

1 A From the Nissan. That's correct.

2 Q And that -- again, that -- you said that that is an
3 image. So it's not something that can be altered in any
4 way?

5 A That's correct.

6 Q It just -- it spits it out and that's what it is?

7 A That's correct.

8 Q Fair to call it a screen shot of the information?

9 A Yes.

10 MS. MORONEY: Your Honor, the State moves to enter
11 State's Exhibit No. 17.

12 MS. LIPINSKI: Without objection.

13 THE COURT: All right. No objection.

14 (WHEREUPON, State's Exhibit No. 17 was admitted into
15 evidence.)

16 BY MS. MORONEY:

17 Q All right. So this is that printout. Can you walk
18 the jury through what each of these columns are and what
19 they mean?

20 A Okay. So this is pre-crash data. This particular
21 module reported five seconds of pre-crash, meaning prior
22 to the impact, recorded in half-second intervals.

23 So the time is over here in seconds. So minus five
24 would be five seconds prior to the event or impact. And
25 zero would be the impact.

1 The vehicle speed is in miles per hour, also,
2 recorded in kilometers per hour. So zero minus five
3 seconds at 16.8 miles per hour at impact.

4 Accelerator pedal percent full is simply how much
5 pressure as a percentage you have on the gas. So either
6 zero, all the way up to a hundred. So here, it's zero,
7 there, it's a 100, 76, 100, 95, 100, and so forth.

8 Q So real quick before we move on. Zero would be not
9 pressing the gas?

10 A Correct.

11 Q And what would a hundred be?

12 A Fully depressing the gas.

13 Q Flooring it?

14 A Yes.

15 Q Okay. What's the next step column there?

16 A Engine RPM and motor RPM. A little technical.
17 Engine RPM is, basically, in relation to how you're
18 pressing the gas in relation to the gear it's in. So if
19 you're in -- if you're in neutral or you're parked and
20 you're doing -- you stomp the gas, the RPM's are going to
21 go up, but you're not going to be -- your motor RPM will
22 not go up because you're not in gear. So the motor RPM's
23 is, actually, more indicative of the RPM's of the vehicle
24 as it's traveling.

25 Q And then Service Brake On/Off?

1 A Service Brake On/Off is very simple. If it's on,
2 that means the brake is on. Off, the brake is off.

3 Q And then that final column, what does that mean?

4 A Steering input is the degrees of the steering wheel,
5 whether it's turned left to right from zero. So zero
6 would be your 10 and two position.

7 In this case, for this particular module, the
8 positive number indicates a leftward turn of the steering
9 wheel. Negative indicates rightward turn of the steering
10 wheel.

11 Q Okay. You can go ahead and have a seat there.

12 A (Witness complied.)

13 Q Okay. Let's go through some of these time stamps
14 here.

15 Okay. So at negative five, which you said is five
16 seconds before the impact, can you talk to us about the
17 information in that row.

18 A Again, it's showing that it's zero. The vehicle is
19 stopped, foot on the brake, slight steering input to the
20 left.

21 Q So the accelerator is not being pressed, but --

22 MS. LIPINSKI: Your Honor, I'm going to object to
23 this as leading, and allow the expert to answer the
24 question.

25 MS. MORONEY: Sorry.

1 BY MS. MORONEY:

2 Q So the zero on the accelerator pedal column means
3 what, again?

4 A Their foot is not on the gas.

5 Q And the service brake appears?

6 A Service brake is on.

7 Q Okay. And in the next half second, can you describe
8 some of the changes from the half second before at
9 negative 4.5?

10 A The change is the accelerator pedal went to 100
11 percent. And the brake is then off.

12 Q Okay. And then is there anything else that indicates
13 the accelerator being depressed all the way from those
14 other columns?

15 A The engine RPM is there and the clipping, but there's
16 still zero miles per hour. So it's possibly in neutral at
17 that point.

18 Q And then how is our steering doing at that point?

19 A Still relatively the same as it was the time stamp
20 before.

21 Q Let's jump ahead to negative 2.5. How fast is the
22 Nissan going at that time?

23 A 5.6 miles per hour or nine kilometers per hour.

24 Q And I see a jump in the steering degree?

25 A Yeah.

1 Q Is the bigger number more left?

2 A Yeah. So it goes from zero all the way to 250
3 degrees. So 250 would be the maximum you can go to the
4 left.

5 Q And then if it was negative, that would be right?

6 A Right.

7 Q So bigger number, more steering?

8 A Yes.

9 Q And are the RPM's still climbing?

10 A RPM's -- you'll notice the motor RPM is, also,
11 climbing. Service brake is still off.

12 Q Okay. And just before I forget, because I'm not a
13 car person, what is an RPM?

14 A Revolutions per minute.

15 Q Okay. And then, finally, let's go to at zero. What
16 are we looking at there?

17 A Zero is showing the speed of the Nissan at 16.8 miles
18 per hour or 27 kilometers per hour, percent throttle or
19 accelerator pedal position, 85 percent. RPM -- motor
20 RPM's at 2,500, still off the brake. And the negative is
21 most likely the result of the impact forcing the Nissan to
22 the right.

23 Q Okay. So then that would be kind of like the wheels
24 are driving the car now, just turning?

25 A Correct.

1 Q Okay. And from time negative five to time zero, does
2 the service brake ever come on again?

3 A It does not.

4 Q Okay. And let's see. I'll go back to State's
5 Exhibit No. 16, which you said shows the initial impact;
6 correct?

7 A Yes. That's correct.

8 Q So that would be time zero --

9 A Yes.

10 Q -- on this printout?

11 Okay. On the Nissan Altima, once the first event
12 occurs, does that data recorder continue recording past
13 zero?

14 A In this case, it did not.

15 Q Okay. Do some cars do that?

16 A Some do.

17 Q But this one did not?

18 A It depends on the module. And in this particular
19 case, it did not.

20 Q So after that initial impact, we have no further
21 information from the event data recorder to talk about
22 what is going on inside that car?

23 A Not from the Nissan, no.

24 Q I'm going to show you what's already in evidence as
25 State's Exhibit No. 2.

1 (WHEREUPON, State's Exhibit No. 2 was played in
2 open court.)

3 BY MS. MORONEY:

4 Q All right. So that is what we've been talking about,
5 event one or impact one; correct?

6 A Yes.

7 (WHEREUPON, State's Exhibit No. 2 continued to be
8 played in open court.)

9 BY MS. MORONEY:

10 Q At this point, can you point out where the Nissan is
11 and what part we're looking at?

12 A So here is our tractor-trailer. Here is our Nissan.
13 This is going to be the rear of the Nissan facing toward
14 the median wall.

15 (WHEREUPON, State's Exhibit No. 2 continued to be
16 played in open court.)

17 BY MS. MORONEY:

18 Q Did it appear to just move there?

19 A Yes.

20 Q Now, we don't have event data recorder information.
21 But, in your opinion as an expert, why is that car moving?

22 A It's hard to say if somebody is --

23 MS. LIPINSKI: I'm going to object to the form of
24 that question and causing him to speculate. If he's
25 saying that that data is not available to him, then

1 he's no longer basing that information based on --

2 MS. MORONEY: I'll rephrase the question.

3 THE COURT: Okay. Rephrase your question.

4 But he has been qualified as expert, so he can give
5 his opinion

6 BY MS. MORONEY:

7 Q In your opinion, is the service brake being depressed
8 at that time while that vehicle is moving?

9 A No.

10 (WHEREUPON, State's Exhibit No. 2 continued to be
11 played in open court.)

12 BY MS. MORONEY:

13 Q And then that is when the second impact occurs. It
14 moves away from the front --

15 MS. LIPINSKI: Your Honor, I'm going to object --

16 THE COURT: Don't lead. Ask questions.

17 MS. MORONEY: Thank you, Your Honor.

18 BY MS. MORONEY:

19 Q What happens after the car moves out of the screen
20 there?

21 A It moves toward the median wall and is struck by
22 Deputy Harrison's vehicle.

23 Q Now, I'm going to show you what's already in evidence
24 as State's Exhibit No. 8. And this is State's Exhibit No.
25 8, which is Deputy Harrison's in-car. Can you describe

1 what we're looking at here?

2 (WHEREUPON, State's Exhibit No. 8 was played in open
3 court.)

4 THE WITNESS: This is the Nissan with Deputy Jumper
5 still partially in the vehicle traveling toward the median
6 wall.

7 BY MS. MORONEY:

8 Q And in the scene, what can we see there?

9 A That's going to be just prior to impact. Deputy
10 Jumper is coming off of the vehicle and the second impact
11 is getting ready to occur.

12 Q And we see someone in the driver's seat. What are
13 they holding onto?

14 A The steering wheel.

15 Q And what is Master Deputy Jumper holding onto?

16 A His left arm.

17 Q All right. Sergeant Andis, based on your training
18 and experience and all the evidence collected at the scene
19 and your collision reconstruction, do you have an opinion
20 as to whether Master Deputy Harrison's vehicle ever made
21 contact with Master Deputy Jumper?

22 A No. With witness statements, the forensic mapping,
23 MAIT was unable to determine if contact was made between
24 the two.

25 MS. MORONEY: Okay. Please answer any questions the

1 Defense has.

2 THE COURT: Cross.

3 MS. LIPINSKI: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. LIPINSKI:

6 Q Sergeant, is it?

7 A Yes, ma'am.

8 Q All right. And you talked about how you've been with
9 the highway patrol, you said, for about 17, 18 years?

10 A 17 plus, yes, ma'am.

11 Q And have you been with the MAIT team the entire time?

12 A For 12 years.

13 Q All right. And so, for the most part, that is your
14 specialty. You're not so much traffic?

15 A I don't work the road anymore.

16 Q Right. You, for the most part, only respond -- and
17 do you work kind of the Piedmont or the upstate region?

18 A Yes. So the way MAIT is comprised, it's comprised of
19 four regions. I'm the team leader over the Piedmont
20 region, which is the upstate region. And there's three
21 other regions across the state.

22 Q And you don't respond to all traffic fatalities, but
23 you do respond to the more complex ones; is that correct?

24 A Typically, that's correct, yes.

25 Q If it's a one-car accident or something like that,

1 it's not something you all, typically, respond to. But
2 the other more complex things, sometimes where there's a
3 suspicion of criminal activity, you're, obviously,
4 involved in those; correct?

5 A We're involved in those, as well as single-vehicle
6 collisions.

7 Q All right. And, certainly, any collision involving a
8 law enforcement agency, you're often asked to come out
9 sometimes and assist in that; is that fair?

10 A Yes. That's our policy.

11 Q Even if it doesn't involve a fatality, you're
12 occasionally asked to go out and be involved in those;
13 correct?

14 A Law enforcement related with a serious injury, we're
15 always involved, yes.

16 Q All right. And while -- and you described your
17 process. But for the most part, you rely on software; is
18 that fair to say?

19 A No.

20 Q You go out and you do the mapping, and all of those
21 kind of things; correct?

22 A Correct.

23 Q And then you plug that into programs that tell you
24 things about that accident; fair to say?

25 A No. It just -- it imports the forensic mapping.

1 Q Okay.

2 A The computer software just helps us pretty it up.

3 Q Pretty it up?

4 A Yes. We have the pretty roadway and tire marks be in
5 a certain color.

6 Q But in terms of speed and those kind of things, you
7 are reliant on these modules that now come out of cars;
8 fair to say?

9 A In this case, we were asked to image those; correct.

10 Q And that's something you, typically, rely on;
11 correct?

12 A In addition to --

13 Q Other things?

14 A -- math and physics, yes.

15 Q But you've stated that you don't have a math degree;
16 correct?

17 A Correct.

18 Q And you don't have a physics degree; correct?

19 A That's correct.

20 Q So did you do any mathematical or physics computations
21 as it relates to this accident reconstruction?

22 A No. We were -- MAIT was not requested to do that.

23 Q But you're capable of doing that?

24 A We are, yes.

25 Q But you didn't do that in this case?

1 A Not in this case, no.

2 Q But that is another tool at your disposal?

3 A It is.

4 Q But you stopped short of involving that -- those
5 tools?

6 A SLED didn't request that or us to do interviews. We
7 do what they request of us.

8 Q But you did state that you relied on interviews, did
9 you not?

10 A I relied on the two interviews that I did. That's
11 correct.

12 Q And you interviewed the two tractor-trailer drivers;
13 correct?

14 A That's correct.

15 Q There was one who was involved in the collision;
16 correct?

17 A Correct.

18 Q And on some of these maps -- or diagrams -- I
19 apologize -- like State's Exhibit No. 15; correct? And I
20 know it's hard to see, but you only show the
21 tractor-trailer involved in the collision; correct?

22 A (There was no response.)

23 MS. LIPINSKI: Can I approach him, Your Honor?

24 THE COURT: Yes.

25 THE WITNESS: This is the evidence and final rest --

1 BY MS. LIPINSKI:

2 Q I understand that.

3 A Yes.

4 Q But on the diagrams the State just showed you, you're
5 only showing one tractor-trailer; correct?

6 A Yes. Because that's the only --

7 Q The only one involved in the collision?

8 A Yes.

9 Q But this is another tractor-trailer present in this
10 area. You could see it on the video we just saw?

11 A Actually, there's lots of traffic --

12 Q Multiple cars?

13 A Yes.

14 Q But, in particular, you talked to those two truck
15 drivers; is that fair to say?

16 A Yes.

17 Q You didn't talk to a truck driver passing by, or one
18 that came up later, or one that was looking in his
19 rearview mirror. Those were the two tractor-trailer
20 drivers that you talked to; correct?

21 A That's correct.

22 Q And you did that because they weren't law enforcement;
23 correct?

24 A Not -- not --

25 Q You didn't uncover that they were law enforcement;

1 correct?

2 A When I interviewed them, we were still working as --
3 highway patrol was still working it as not an intentional
4 act. Had it continued to be a non-intentional act as a
5 normal collision that the highway patrol would have
6 worked, then we would have interviewed everybody out
7 there, including the deputies, including Mr. Kelly.

8 Q But you left that to SLED?

9 A Yes. Because they didn't request us to do that.

10 Q But you interviewed those two tractor-trailers who
11 had -- or has a birds eye view of both collisions;
12 correct?

13 A Correct.

14 Q And you took statements from them; correct?

15 A We did audio interviews; correct.

16 Q Whether audio or written, you took some type of
17 statement from them?

18 A Yes.

19 Q And that was input, just like all the other
20 information that you were given that you relied on in
21 forming your opinion; correct?

22 A My opinion or MAIT's opinion?

23 Q Well, aren't you here as a representative of MAIT?

24 A Yes.

25 Q Okay. So that information, just like all the other

1 information that you compiled formed the basis of your
2 opinion; correct?

3 A We only -- MAIT only reports the facts of the
4 collision.

5 Q Right. But how you interpret that data, how you give
6 meaning to that, how you say these other things when you
7 testify that you're unable to determine, that is based on
8 the information that you garner from witnesses such as
9 this; correct?

10 A For the totality of the investigation?

11 Q Yes.

12 A Yes.

13 Q And both of those truck drivers told you they saw
14 Deputy Jumper fighting for the steering wheel or holding
15 onto the steering wheel; correct?

16 A That's correct.

17 Q And they, also, told you that at some point, he
18 barrel rolled or moved post impact; correct?

19 A Right.

20 Q All right. So in terms of a final resting spot,
21 that -- that's not necessarily -- he may have moved after
22 he was either hit by Deputy Harrison's car or separated
23 from the Nissan; correct?

24 A Can you repeat that? Sorry.

25 Q You've indicated a final resting spot; right?

1 A Yes.

2 Q And you stated that that was based on these body worn
3 cameras and other information about where he came to a
4 rest; right? Just like where the cars came to a rest;
5 correct?

6 A That's correct.

7 Q But just like in this case, it could have been in
8 other cases as a result of impact or freeing himself from
9 either one of the cars. He could have barrel rolled or
10 moved as a result of that; correct?

11 A The final rest position that we have is the best
12 evidence we have for his final rest location.

13 Q That's not my question, sir. And, perhaps, I'm not
14 phrasing it correctly.

15 You've responded to a number of fatalities and
16 collisions where people are ejected from vehicles, have
17 you not?

18 A Yes.

19 Q And they don't always just stop in one spot; correct?
20 Because they have a lot of momentum sometimes from the
21 collision; correct?

22 A They always stop in one spot. How you get to that
23 stopping point is different.

24 Q So my point is post-collision -- or post-impact,
25 individuals who are involved in those traumatic events

1 often carry forward with them momentum where they move as
2 a result of that; correct? They carry that momentum with
3 them; right?

4 A Yes.

5 Q And so that's my point. It's not like you
6 necessarily fall out of, off of, get thrown from involved
7 in the collision and then that's where you stop. Because
8 of things like physics --

9 A Physics, you don't stop.

10 Q In the contribution of momentum; right?

11 A Right.

12 Q You're going to carry some of that with you; correct?

13 A That's correct.

14 Q So just the fact that you call that his final resting
15 spot -- you have stated you were unable to determine what
16 happened in that second collision; correct?

17 A (There was no response.)

18 Q Whether he was involved in the second collision;
19 correct?

20 A We had no physical evidence that contact was made
21 between the two.

22 Q Your words to Ms. Moroney were that you were unable
23 to determine whether he was involved; correct?

24 A Correct.

25 Q Now, Ms. Moroney asked you a lot of questions about

1 the speed and what's going on with the Nissan in terms of
2 the accelerator, and those type things; correct?

3 A Yes, ma'am.

4 Q And there are -- there is variation. And it appears
5 the foot is on and off the gas; correct?

6 A That's correct.

7 Q So at one point on it, then off of it, then back on
8 it; correct?

9 A That's correct.

10 Q And that's why you say that it may -- you can rev an
11 engine with a car being in place; right? Because you can
12 hit the gas and hit the brake at the same time and the
13 engine revs. We all know that; right? Correct?

14 A Correct.

15 Q And that's why kind of there's this difference as you
16 call it in engine RPM versus motor RPM, because the motor
17 has got to respond to that; right?

18 A Correct. It has to be in gear.

19 Q And you, also, looked at the similar data from the
20 tractor-trailer, did you not?

21 A No.

22 Q You never determined the speed of the tractor-trailer
23 involved in the collision?

24 A No.

25 Q You never looked at the black box?

1 A No, we did not.

2 Q Were you given the opportunity to do so?

3 A We were not requested to do so.

4 Q You could have done so?

5 A I believe it was an HVEDR supported vehicle, so.

6 Q I'm not sure what all those letters mean --

7 A Heavy vehicle event data recorder. It's different
8 than the event data recorder.

9 Q But it had an event data recorder?

10 A I believe so.

11 Q You could have recovered it?

12 A Possibly, yes.

13 Q You've been able to do that in other accidents?

14 A That's correct.

15 Q They cooperated with the investigation, didn't they?

16 A Yes.

17 Q The truck driver spoke to you, didn't he?

18 A Yes.

19 Q At any time, you could have asked him for that
20 information, couldn't you?

21 A Again, I wasn't --

22 Q I didn't say did you. "Yes" or "no"?

23 A I did not, no.

24 Q All right. You did talk to him about speed, did you
25 not?

1 A In his interview, yes.

2 Q And in that, he indicated that he was traveling
3 quickly coming out of Elberton, Georgia; correct?

4 A No. I believe he said he was doing 55 or 60.

5 Q And that he slowed to 55 or 60 as he approached this
6 area; correct?

7 A Right.

8 Q All right. And when he says I slowed to that, that
9 would have indicated prior to that, he was going faster
10 than that; correct?

11 A (There was no response.)

12 Q He didn't accelerate? He didn't say I sped up to 55;
13 did he?

14 A Possibly.

15 Q You don't recall?

16 A I don't know what -- I don't -- I can't speculate how
17 fast he was going prior to that.

18 Q Well, you do know what the word slow means, don't
19 you?

20 A Everybody has a different -- I mean, it could be one
21 mile an hour or it could be 20 miles an hour.

22 Q I'm not asking you to quantify it. It means a
23 reduction in speed, does it not?

24 A Yes, ma'am.

25 Q So when he says he slowed, that is an indication to

1 you that he reduced his speed to 50 or 55 miles per hour;
2 correct?

3 A That's correct.

4 Q You were, also, given the same information off of
5 Deputy Harrelson's [sic] vehicle, were you not?

6 A Deputy Harrison, yes.

7 Q And what was his speed as he approached the area?

8 A I'd have to look at the...

9 Q You understood you were coming here to testify;
10 correct?

11 A Yes, ma'am.

12 Q You understood the significance that you would be
13 questioned about your findings; correct?

14 A Yes, ma'am.

15 Q You received a subpoena well in advance; correct?

16 A Yes, ma'am.

17 Q So you, obviously, had the opportunity to review your
18 report; correct?

19 A Yes, ma'am.

20 Q And refresh your recollection as to the information
21 contained in that report; correct?

22 A Yes. But I don't want to misquote something that's
23 on a piece of paper.

24 Q All right. But did you not anticipate -- did the
25 State not indicate that might be a question you would be

1 asked when you prepared for your testimony?

2 A No.

3 Q This is the report compiled by your agency; correct?

4 A Yes, ma'am.

5 Q And it comports with your findings as a result of
6 this investigation; correct?

7 A That's correct.

8 Q And it talks about the forensic mapping and the CAD
9 that you did; correct?

10 A Yes, ma'am.

11 Q And you talk about unit one in this report. And
12 that's where you're referencing that 16.8 from that
13 diagram that Ms. Moroney asked you about; correct?

14 A Correct.

15 Q And you received the same information from Deputy
16 Harrison; correct?

17 A That's correct.

18 Q And he is unit three in your report; is that correct?

19 A That's correct.

20 Q And does it state in that paragraph what his speed
21 was?

22 A Yes, ma'am.

23 Q What does it state?

24 A It shows 103 miles per hour five seconds before time
25 zero and 50 miles a half second prior to time zero.

1 Q 103 miles per hour; correct?

2 A Yes, ma'am.

3 Q Deputy Harrison is traveling at 103 miles per hour;
4 correct?

5 A Yes, ma'am.

6 Q Approaching an emergency response scene; correct? I
7 mean, there's blue lights, and sirens, and all of that off
8 to the side of the road; correct?

9 A Yes.

10 Q And that South Carolina -- there are tractor-trailers
11 involved in the flow of traffic; correct?

12 A Yes.

13 Q Obstructing the view of what is going on, fair to
14 say?

15 A I wasn't there, but I'm sure there was.

16 Q Can you see through a tractor-trailer, sir?

17 A No. But I don't know how many tractor-trailers were
18 out there either.

19 Q If you're driving at 103 miles per hour, would that
20 not impair your ability to view and assess the scene in a
21 safe manner?

22 A I don't think so.

23 Q You don't think so?

24 A No.

25 Q All right. Well, certainly, you aren't aware that he

1 had any special powers to see through tractor-trailers, do
2 you?

3 A No.

4 Q And, certainly, the faster you're traveling, the
5 longer response time you're going to have; correct?

6 A (There was no response.)

7 Q The longer it will take your car to come to a stop;
8 is that accurate?

9 A Yes. That's accurate.

10 Q That's accurate. Okay. Finally, something we can
11 agree on. So you agree that traveling at that speed --
12 correct -- it was going to take a long time to slow that
13 vehicle; correct?

14 A Correct.

15 Q And that is why the posted speed limit is 60 miles
16 per hour in that area; correct?

17 A I don't know if that's why it's 60. But it is 60
18 through there.

19 Q You do work for the highway patrol, do you not?

20 A I do.

21 Q You're familiar with 85, are you not?

22 A Yes.

23 Q You're familiar that it is a traffic dense area, is
24 it not?

25 A Most times of the day, yes.

1 Q And you're aware that speed contributes to damage
2 caused in collisions, are you not?

3 A That's correct.

4 Q Did -- you make reference to this boot or scrape mark
5 that you found. Did you take any samples from the scene?

6 A I did not.

7 Q Did you examine any footwear?

8 A I did not.

9 Q I'm sorry. What?

10 A We did not, specifically.

11 Q You did not. Okay. And there are a lot of scuff
12 marks and marks up and down 85; is that true?

13 A That's true.

14 Q There have been a number of collisions in these
15 areas. Even not collisions, there's other marks that come
16 from debris and any number of things that are out there;
17 correct?

18 A That's correct.

19 Q And so you do have the capacity -- or have you ever
20 been where you did take any type of physical evidence or
21 collect physical evidence to make any comparison?

22 A Sure.

23 Q You have that ability?

24 A Yes.

25 MS. LIPINSKI: The Court's indulgence one moment,

1 Your Honor.

2 (Pause.)

3 BY MS. LIPINSKI:

4 Q Just, finally, as to the Nissan. You said it didn't
5 record the second collision; correct?

6 A That's correct.

7 Q And you -- I do not recall whether or not you
8 rendered an opinion. Was that the limitation of this
9 software, or was it done to damage caused to the module or
10 the computer or power supply, or anything like that?

11 A This was no -- there was no other data on the
12 recording.

13 Q But one of the things you can look for sometimes is
14 whether or not certain mechanics of a car do fail as a
15 result of the collision; correct?

16 A Correct.

17 Q All right. But you just -- and I'm not causing you
18 to speculate. At this point, you don't know why that
19 second collision wasn't recorded; correct?

20 A I cannot say, no.

21 Q It could have been by damage, it could have been
22 limitation of the module or the software?

23 A It could have been.

24 MS. LIPINSKI: All right.

25 MS. MORONEY: Briefly, Your Honor.

1 THE COURT: I don't know. Is she done?

2 MS. LIPINSKI: I am.

3 THE COURT: All right.

4 REDIRECT EXAMINATION

5 BY MS. MORONEY:

6 Q Real quick. Just on that point, you're not saying
7 that it didn't record as a result of your software being
8 limited? There was nothing to down --

9 A No. There was nothing there.

10 Q Okay. Ms. Lipinski referred to your MAIT report.
11 Backing up on how those reports are reviewed, can you walk
12 us through that process?

13 A Okay. So MAIT picks up a case. We are the
14 geographic region, the Piedmont. The team leader, being
15 me, in that case, it was Sergeant Brooks, would comprise
16 all the data. The investigation is then vetted through an
17 internal review committee, which is the other three team
18 leaders, our captain and our lieutenant. You have to go
19 and present the case to them to see if they want anything
20 else done on the collision, any questions they have.

21 After that, typically, it's available for the public,
22 or prosecutors, or defense. In this case, since it's law
23 enforcement involved, we go one step further. And it's
24 then -- the captain then presents that to the director of
25 our department, who's over the highway patrol, DPS, all

1 the South Carolina Department of Public Safety.

2 Q So it goes even above the highway patrol?

3 A Yes.

4 Q To the director of public safety is what you're
5 saying?

6 A Yes.

7 Q For the State of South Carolina?

8 A Yes.

9 Q And that's a precaution that --

10 A We do that for all law enforcement, whether it's
11 pursuit, law enforcement is at fault, whatever the case
12 may be just to reduce that -- any chance for a bias as
13 part of our investigation.

14 Q Okay. And we already talked about this, but when
15 SLED took over this investigation, they're the ones who
16 gave you what they wanted to know about the accident -- or
17 the collision reconstruction? They told you --

18 A That's correct. In the case report, they gave us
19 specific issues. They wanted us to do document the scene,
20 complete a forensic mapping CAD, image and analyze the
21 EDR, event data recorder for the two -- the Nissan and
22 Deputy Harrison's vehicle, and, also, what happened in the
23 incident.

24 Q Okay. And Ms. Lipinski showed you a copy of the --
25 that final page of the report just a moment ago?

1 A Yes.

2 Q I'm going to show you that same page. You were asked
3 to determine how the event occurred; correct?

4 A Yes, ma'am.

5 Q In the MAIT report, can you read that last paragraph?

6 A Unit one attempting to flee on traffic stop drags
7 unit number two into the northbound lanes of travel on
8 Interstate 85. And number one and two are both struck by
9 uniform four, who is in the northbound number three lane.

10 After unit four skids to a stop, unit one continues
11 to cross the number two lane into the number one lane,
12 where unit number two fell free and one was then struck by
13 unit number three. Unit one being the Nissan, and number
14 two being Deputy Jumper, unit number three being Deputy
15 Harrison, and unit number four being the tractor-trailer.

16 Q So if you were able to determine through your
17 investigation that unit three, Deputy Harrison, struck
18 unit two, Deputy Jumper, would that be reflected in that
19 page right there?

20 A Yes. It would, also, be reflected in a separate --

21 MS. MORONEY: Thank you.

22 No further questions.

23 MS. LIPINSKI: Just briefly. I apologize, Your
24 Honor.

25 THE COURT: All right. Go ahead.

RE CROSS-EXAMINATION

BY MS. LIPINSKI:

Q But your statement was you were unable to determine that; correct?

A Correct.

Q And it doesn't put in these findings your comment that it was an intentional act; correct?

A We don't -- MAIT does not determine intent or impairment or...

Q You don't determine that?

A MAIT does not.

Q So your testimony earlier that it was an intentional act was outside of the scope of your findings?

A After?

Q You're not sure?

A You have to tell me what you're referring to. If you asked me why we were out there, that's why we were out there.

Q So the limitations of the findings in which you can state to a reasonable degree of scientific certainty are contained in those final findings of your report; correct?

A Yes.

MS. LIPINSKI: Thank you, Your Honor.

THE COURT: All right. Thank you, sir.

You may step down.

1 Ladies and gentlemen, how are you doing? Would you
2 like to take a short morning break?

3 (WHEREUPON, some jurors were indicating in the
4 affirmative.)

5 THE COURT: All right. Let's take a short break,
6 about 10 minutes.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 10:48 a.m.)

9 THE COURT: Okay. What's on tap?

10 MR. WILKINS: Who's my next witness, is that what
11 you're asking?

12 THE COURT: Uh-huh.

13 MR. WILKINS: It is Captain Jeff Kindley.

14 THE COURT: All right. Well, we'll take a 10-minute
15 break.

16 (WHEREUPON, a break was taken.)

17 THE COURT: Yes.

18 MS. LIPINSKI: Two things, Your Honor. One is I
19 wanted to go ahead and put on the record, we reached -- at
20 some point, the Defense objected to State's Exhibit No.
21 26, which shows the final resting place of Sergeant
22 Jumper. The argument that the Defense advanced to your
23 court when we approached was that because of the multitude
24 of evidence already in place indicating his final resting
25 spot that we thought that this picture was cumulative.

1 And at this point, the presentation of the State's case
2 has approached the level -- I believe I've made the
3 objection it's approached that level before.

4 But we renew that motion that the probative value is
5 outweighed by the overwhelming prejudicial effect. And
6 that the efforts at this point on the State are to inflame
7 the passions and prejudice of the jury. I just wanted to
8 put that on the record because it was in a sidebar
9 conference.

10 THE COURT: Yes. We discussed that at the sidebar.
11 But I'll give you an opportunity to do that. And my
12 ruling was that it -- the probative value far outweighed
13 the prejudicial effect, particularly in light of the
14 question about causation.

15 MS. LIPINSKI: And I understand it's a little out of
16 order. And I'll ask the Court's indulgence. I'm trying
17 to do this in a manner where we kind of streamline --

18 THE COURT: Go ahead.

19 MS. LIPINSKI: -- taking the jury out.

20 THE COURT: Yeah.

21 MS. LIPINSKI: It's my understanding that the State
22 is going to move into presenting evidence regarding the
23 search of the car.

24 At this point, the Defense would make a motion that
25 the search of the car and any items seized as a result of

1 the search warrant signed by Special Agent Colby Grigg on
2 October 20th of 2020, should be excluded as items were --
3 that car was searched prior to the obtaining of a search
4 warrant. And in that Captain Kindley, as he's ranked now,
5 is the next witness and he is the one that signed a return
6 as to that, which I think demarcates that defect and
7 reveals that that occurred.

8 I would ask the Court's indulgence to call him as a
9 witness to bring that out, which supports the Defense's
10 motion to suppress that evidence. Namely, being that if
11 you look at the reason for the affiant's belief that the
12 property sought on the subject's premises is signed by the
13 magistrate, I believe, at 7:48 p.m., indicating that's
14 what time the magistrate approved the search warrant. And
15 if you look at the return signed by Special Agent Kindley,
16 it indicates that he searched the car at 7:40, eight
17 minutes prior to the search warrant being signed.

18 And I would just like to illicit that testimony for
19 the record in support of the Defense's motion. I promise
20 to keep it very brief, Your Honor.

21 MR. WILKINS: Your Honor, they -- we've started the
22 trial. They had every opportunity to file pre-trial
23 motions in regards to a motion to suppress. None were
24 filed. We are 11 witnesses into this trial. We're
25 getting ready to call our next witness regarding that.

1 There's been no motions regarding the search of that car.
2 It's a little too late for that. And so we're prepared to
3 go forward.

4 MS. LIPINSKI: I don't believe --

5 MR. WILKINS: There's been no challenge to the
6 search.

7 MS. LIPINSKI: I am challenging the search. I wasn't
8 involved at the start of the trial. I think I can object
9 to the evidence when it's offered by the State --

10 THE COURT: Yes. She can either object pre-trial
11 or -- I'm going to let her put the evidence up. If I
12 don't, what's the consequence? It comes back later. So
13 we'll let her make her challenge.

14 MS. LIPINSKI: Thank you, Your Honor.

15 MR. WILKINS: So I don't understand. So who are you
16 wanting to call?

17 MS. LIPINSKI: Special Agent Kindley, your next
18 witness.

19 MR. WILKINS: So you want --

20 MS. LIPINSKI: Just to ask --

21 MR. WILKINS: Before the jury comes in?

22 MS. LIPINSKI: Yeah.

23 THE COURT: Yeah, out of the presence of the jury.

24 MS. LIPINSKI: I'm doing that now. So that once that
25 happens, it's streamlined.

1 MR. WILKINS: Okay. I didn't quite -- I thought you
2 were trying to call the --

3 MS. LIPINSKI: No, no, no.

4 MR. WILKINS: Well, somebody go get Jeff Kindley.

5 (Pause.)

6 MR. WILKINS: Your Honor, while we're sitting here, I
7 do have a minor little witness issue. And I've done this
8 in other trials with Your Honor. Our next witness is the
9 lead investigator, Matt Davis. He is involved in chain
10 testimony. But I would like to recall him later on as the
11 lead investigator. So I would call him twice. And I want
12 to make sure Your Honor is -- will allow me to do that so
13 that --

14 THE COURT: Just to establish chain?

15 MR. WILKINS: Yeah. He was involved in the search
16 and taking stuff down to SLED, and chain, and those kind
17 of things. So he would -- it would be weird to the jury
18 if I had him testify about other things before we get to
19 that.

20 THE COURT: Okay. I don't -- do you have any
21 objection to that?

22 MS. LIPINSKI: No, Your Honor.

23 THE COURT: Do you have any stipulations as to chain?

24 MS. LIPINSKI: No, Your Honor.

25 THE COURT: Okay.

1 MS. LIPINSKI: We did work out one stipulation with
2 the State earlier this morning, Your Honor, as it relates
3 to another exhibit.

4 THE COURT: Okay. Before us currently is a -- well,
5 make your motion now that the --

6 MS. LIPINSKI: The Defense would move to suppress any
7 and all evidence obtained from the search warrant,
8 originally, obtained by Special Agent Colby B. Grigg. At
9 that point, that was secured on behalf of SLED.

10 The original motion and affidavit as signed by the
11 magistrate indicates that he signed the search warrant at
12 7:48 p.m. The return signed by Special Agent -- and it's
13 marked 7:48 again at the top of the page that is kind of
14 the warrant, actually, authorizing officers to search.
15 But the return signed by Special Agent Kindley indicates
16 that he searched the car at 7:40, eight minutes prior.

17 And the Defense would like to call Special Agent
18 Kindley in support of our motion to suppress.

19 THE COURT: All right.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 JEFFREY KINDLEY,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Thank you.

1 Please be seated.

2 Please state your name for the record.

3 THE WITNESS: It's Jeffrey Kindley. J-E-F-F-R-E-Y.

4 THE CLERK: Thank you.

5 THE WITNESS: K-I-N-D-L-E-Y.

6 DIRECT EXAMINATION

7 BY MS. LIPINSKI:

8 Q I believe you're, actually, Captain Kindley; correct?

9 A Yes, ma'am.

10 Q And you supervise the Piedmont region of SLED; is
11 that correct?

12 A Yes, ma'am.

13 Q And you've been in law enforcement for a significant
14 amount of time; correct?

15 A Yes, ma'am.

16 Q Approximately how many years?

17 A 34 years.

18 Q And, obviously, during that time, both in your role
19 as -- you were, actually, originally, with the Greenville
20 County Sheriff's Office, were you not?

21 A Yes, ma'am.

22 Q And approximately what year did you move over to
23 SLED?

24 A 1999.

25 Q And how long have you been captain of the division?

1 A A little over a year.

2 Q And, obviously, during your tenure with law
3 enforcement, you understand the significance of the
4 attention to detail, do you not?

5 A Yes.

6 Q You understand the significance of when you generate
7 reports or documents associated with the case that those
8 items need to be accurate; correct?

9 A Yes.

10 Q And for that reason, you always exercise due care in
11 executing those documents, do you not?

12 A Yes, ma'am, to the best of my ability.

13 Q And in terms of obtaining a search warrant, you go to
14 obtain a search warrant first; correct?

15 A Yes.

16 Q We don't search first and obtain a warrant later;
17 correct?

18 A Correct.

19 Q And so a search warrant is comprised of a multitude
20 of documents. One, being an affidavit by the officer
21 saying this is why we want to search. And then a warrant
22 signed by the judge saying I authorize you to search. And
23 then, finally, a return indicating what time you searched.
24 And then what items you seized and that you then returned
25 that return document to the magistrate; correct?

1 A Yes, ma'am.

2 Q All right. I want to --

3 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
4 identification only.)

5 BY MS. LIPINSKI:

6 Q Let me show you what's been marked for identification
7 purposes as Defense Exhibit No. 1. This was a search
8 warrant, originally, secured by Agent Colby Grigg, who's
9 with your division, is he not?

10 A He is.

11 Q Someone you supervise; correct?

12 A Yes.

13 Q And were you in that supervisory capacity in October
14 of 2020?

15 A I was a lieutenant.

16 Q A lieutenant. So you still would have supervised
17 him, but in a -- not quite as captain, but as a
18 lieutenant; correct?

19 A Yes, ma'am.

20 Q All right. And this is an affidavit secured during
21 your office's investigation of this matter; correct?

22 A Yes.

23 Q And you participated in this search to the extent
24 that you signed the return and presented the return to the
25 magistrate; correct?

1 A Yes.

2 Q And in so doing before doing that, turning to Page 3
3 of the document, it indicates that the magistrate signed
4 it at 7:48 p.m.; correct?

5 A That's correct.

6 Q And, also, on Page 4, it, also, indicates where the
7 magistrate, also, signs that he signed it again at 7:48
8 p.m.; correct?

9 A That's correct.

10 Q And this final page is, actually, a document I
11 believe you personally executed; correct?

12 A Yes.

13 Q That's your signature at the bottom?

14 A Yes, ma'am.

15 Q And that's your SLED number or unit number. What is
16 that?

17 A That's my unit number at that time, yes.

18 Q And at the top of this begins the return; correct?

19 A Yes.

20 Q And this states on October 20th, 2020, at 7:40 p.m.,
21 I searched the vehicle --

22 MR. WILKINS: Your Honor, I understand --

23 THE COURT: Wait --

24 MR. WILKINS: This is not cross-examination. I think
25 this is direct --

1 THE COURT: It's all right. I'll allow it. The jury
2 is not in here. Let's get to the point.

3 BY MS. LIPINSKI:

4 Q That's what that says; correct?

5 A Yes.

6 Q And that would be eight minutes before these
7 documents are signed by the judge; correct?

8 A According to that, yes.

9 Q According to this?

10 A Uh-huh.

11 Q But you do understand it's important to be accurate
12 in this?

13 A I do.

14 Q Right. We don't want to -- time is important;
15 correct?

16 A Yes.

17 Q And, obviously, this search warrant being signed, you
18 then had to go to the vehicle; correct?

19 A Yes.

20 Q The magistrate isn't out there roadside with the
21 vehicle or wherever the vehicle is located doing the
22 paperwork, is he?

23 A No. The magistrate was, actually, at the law
24 enforcement center. Colby Grigg went to the law
25 enforcement center. And the information was transmitted.

1 We talked by telephone. And then the search warrant was,
2 eventually, brought out to the scene.

3 Q All right. But the time the magistrate authorized
4 you to search that car was 7:48; correct?

5 A Correct.

6 Q And your return says that you searched that car eight
7 minutes prior at 7:40; correct?

8 A This section was filled out by crime scene. And you
9 can see it's made in the presence of them. I signed
10 authorizing it -- or I signed validating that everything
11 on here is what we took from the vehicle.

12 The time that it was signed back before the judge is
13 on here is the next day. But this time up here is what we
14 took probably from a watch. So that eight-minute
15 discrepancy was probably on the time part. But it was
16 communicated to us and we had it and it was transferred
17 out.

18 Q But you understand the importance of getting the
19 accuracy of this information; correct?

20 A I do.

21 Q And you understand you could have -- as a supervisor
22 and the person who is signing off on this, you had an
23 obligation to correct any inaccuracy in this document, do
24 you not?

25 A I do.

1 Q And eight minutes is more than a couple minutes off;
2 correct?

3 A It is.

4 Q In reality, the search warrant should be signed at
5 one time. And then you would expect, at least, some kind
6 of couple-minute delay to report to you that, yes, we have
7 the search warrant and, yes, you can go ahead and search
8 the vehicle; correct?

9 A Yes.

10 Q And --

11 MS. LIPINSKI: The Court's indulgence one moment.

12 (Pause.)

13 MS. LIPINSKI: That's all we have in support of our
14 motion, Your Honor.

15 Thank you.

16 EXAMINATION

17 BY THE COURT:

18 Q Okay. You don't have any independent recollection or
19 you didn't date stamp it in some machine, did you?

20 A No, sir.

21 THE COURT: Okay. Do you have any questions you want
22 to ask?

23 MR. WILKINS: No, Your Honor.

24 THE COURT: All right. Thank you.

25 You can step down.

1 THE WITNESS: Thank you, sir.

2 THE COURT: All right. Anything else?

3 (WHEREUPON, there was no response.)

4 THE COURT: All right. Well, I'm going to deny the
5 motion to suppress. If anything, this is a clerical
6 error.

7 Are we ready to go?

8 MR. WILKINS: We are ready to go, Your Honor.

9 THE COURT: Okay.

10 (WHEREUPON, the jury came into open court at
11 approximately 11:21 a.m.)

12 THE COURT: Okay. Next witness.

13 MR. WILKINS: Your Honor, the State calls Jeff
14 Kindley.

15 WHEREUPON,

16 JEFFREY KINDLEY,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 Please be seated.

20 Please state your name for the record.

21 THE WITNESS: It's Jeffrey Kindley. J-E-F-F-R-E-Y,
22 K-I-N-D-L-E-Y.

23 DIRECT EXAMINATION

24 BY MR. WILKINS:

25 Q Captain Kindley, with whom are you employed?

1 A With the State Law Enforcement Division.

2 Q How long have you been with the State Law Enforcement
3 Division?

4 A For 23 years.

5 Q Is the State Law Enforcement Division, also, referred
6 to as SLED?

7 A Yes, sir.

8 Q And what do you do for SLED?

9 A I'm a captain in the Piedmont region. SLED has
10 investigators distributed in every county in the state.
11 And SLED split the state into four separate regions. The
12 Piedmont region encompasses the 12 upstate counties. And
13 I'm the captain in the Piedmont region.

14 Q Prior to SLED, did you have any other law enforcement
15 experience?

16 A Yes, sir, I did.

17 Q Where did you work?

18 A I worked for the Greenville sheriff's office.

19 Q And what did you do for the sheriff's office?

20 A I was a uniform patrol officer for several years,
21 went into investigations. And at the time I left, I was
22 with the violent crimes unit there.

23 Q I'm going to take you back to October 20th, 2020.

24 A Yes, sir.

25 Q Were you asked to get involved in the accident -- or

1 the collision that occurred and the death of Sergeant
2 Jumper?

3 A Yes, sir.

4 Q How did you get involved in that?

5 A I was monitoring radio traffic and I heard the call
6 for emergency backup. I heard that an incident occurred
7 and deputies were injured on 85. I tried to respond
8 there. I heard radio traffic that it was very congested,
9 that they were trying to seal off the crime scene and
10 officers were being transported to the hospital.

11 I called Joe Browning, who was the chief of the
12 hospital police here in Greenville. I told him that
13 deputies were being transported so they could prepare.
14 And I made diversion to the hospital to see if I could
15 make contact and see if we could assist.

16 Q Okay. Were you asked to become the investigative
17 agency in this case?

18 A Yes, sir.

19 Q How's that?

20 A Shortly after I got to the hospital and learned that
21 Deputy Jumper had passed from his injuries, I was
22 contacted by my supervisor and told to go back to the
23 scene, that the colonel at the highway patrol had
24 requested that SLED adopt the investigation and to make
25 contact with the law enforcement officials there.

1 Q So once you got informed that you and your team were
2 going to be the investigators, what did y'all do?

3 A I responded to the scene. I notified crime scene.
4 And I notified some of our local agents to respond to
5 assist with starting the investigation.

6 Q Who did you notify to respond and assist you?

7 A My crime scene unit. I notified Agent Davis. I
8 notified Agent Grigg and Agent Ledbetter. There were
9 several, Agent Drake. So there was four or five different
10 coming, initially, plus our crime scene unit.

11 Q Does SLED have its own crime scene forensic unit?

12 A Yes, sir.

13 Q And did you request that they attend the crime scene,
14 as well?

15 A Yes, sir.

16 Q And who with them did they bring?

17 A Maggie Pauly and the -- there's another gentleman
18 with her. His name has left me.

19 Q So once you sort of got your team assembled, what was
20 the first thing you decided to do?

21 A We got our team assembled. I met with law
22 enforcement there. I met with Captain Carson with the
23 highway patrol. I met with -- then it was Lieutenant
24 Westmoreland with the sheriff's office. I told them we
25 were assuming the investigation.

1 They were blocking -- highway patrol was blocking off
2 the entire interstate so it was secured. I had -- because
3 the vehicle that was involved, a Nissan Altima, needed to
4 be -- we didn't know who was in the car at that time. We
5 had not been able to ascertain their identities or what
6 precipitated this whole event. So I asked for a search
7 warrant to be obtained for that vehicle.

8 Q About what time did you -- did you obtain that search
9 warrant?

10 A I would have to look at the search warrant to tell
11 you.

12 Q Approximately?

13 A I can't recall. I think 7:00.

14 Q Later on in the afternoon?

15 A Yes, sir.

16 Q Okay. So once you received that search warrant, what
17 did y'all intend to do?

18 A Search the vehicle there at the scene, take
19 photographs, process it. And then continue on with the
20 investigation from there.

21 (WHEREUPON, State's Exhibit Nos. 27, 28, 29, 30, 31,
22 32, 33, 34, and 35 were marked for identification
23 only.)

24 BY MR. WILKINS:

25 Q Captain Kindley, I'm going to show you State's

1 Exhibit Nos. 27 through 34, and ask you if you can
2 identify those?

3 A Yes, sir. These are pictures of the vehicle -- let
4 me start with, Greenville County has its own forensic
5 unit. And they had responded to the scene to offer to
6 help if they could prior to the arrival of our crime scene
7 unit.

8 Our crime scene unit is headquartered in Columbia.
9 So it's a two-hour drive in good traffic for them to get
10 here. And crime scene changes, lighting conditions
11 change, weather -- so I asked them to take some
12 photographs, just initial photographs of the scene at that
13 time. And these are pictures that they took for us of the
14 vehicle and the contents of the vehicle.

15 Q Just check each one of those.

16 A Okay.

17 Q I mean, you can just check them yourself real quick.

18 A Okay. This is --

19 Q You don't need to describe what it is. Just look at
20 them yourself real quick.

21 A Some of these are in the darkness. And those were
22 done by our crime scene unit, as well.

23 Q Are these true and accurate representations of the
24 scene that you saw out there?

25 A Yes, sir.

1 MS. LIPINSKI: Your Honor, before we publish them to
2 the jury, I think he needs to move them into evidence.

3 MR. WILKINS: The State moves State's Exhibit Nos. 27
4 through 34 into evidence.

5 MS. LIPINSKI: And just briefly, Your Honor, I
6 believe the last couple of pictures contain the car later
7 on, not necessarily at the scene. And to the extent that
8 the Defense challenges the search of the car, we would
9 renew our objection to that evidence as it relates --

10 THE COURT: All right. Subject to that, they're
11 admitted.

12 (WHEREUPON, State's Exhibit Nos. 27, 28, 29, 30, 31,
13 32, 33, and 34 were admitted into evidence.)

14 BY MR. WILKINS:

15 Q I'm going to show you State's Exhibit No. 27. What
16 is that?

17 A That is -- as you can tell, it's in the daylight
18 hours. That's a photograph that was taken by Greenville
19 forensics. That's a photograph of the vehicle. You can
20 see orange markings down near the tires that the troopers
21 made. Inside, you can see a purse there, a brown designer
22 purse inside the vehicle, and the damage to the side of
23 it.

24 Q I'm going to show you what's marked as State's
25 Exhibit No. 28. What is that?

1 A That's the back of the vehicle. And down at the
2 lower left-hand corner, you can see a cell phone on the
3 outside. But that's the vehicle where it came to rest.

4 Q And did y'all collect that cell phone?

5 A Yes, sir, we did.

6 Q State's Exhibit 29?

7 A Okay. That's, again, during the daytime hours. It
8 looks like a MAIT team member in the background. You can
9 tell it's in the daytime. That's the passenger side of
10 the vehicle with the door open and contents inside.

11 Q I'm going to show you what's State's Exhibit Nos. 30
12 and 31. This is State's Exhibit No. 30.

13 A Okay. That is a picture of looking south. We were
14 on the northbound side of 85. That's looking south. And
15 that's the big truck that struck the vehicle and the
16 damage to the front of it.

17 Q And where is the damage?

18 A It's on the left-hand and in the front, left front
19 corner.

20 Q So it would be the -- would that be the passenger
21 side or the driver's side?

22 A Passenger side.

23 Q And then State's Exhibit No. 31?

24 A That's a closer picture -- excuse me -- of that same
25 truck. And you can see there's damage not only to the

1 headlight area, but to the bumper and the grill.

2 Q And then State's Exhibit No. 32?

3 A Yes, sir. That's in the nighttime hours. That's,
4 obviously, a picture taken by our crime scene unit. We
5 lost daylight as this is going on. But this is the
6 same -- the passenger side of the vehicle, more toward the
7 rear. And you can see the damage to the side of it and
8 the marks made by the trooper. So it hasn't been moved at
9 that point.

10 Q And State's Exhibit No. 33?

11 A That one is, also, in the nighttime hours. Again,
12 you can see the bag there in the middle. And there was a
13 purse inside the bag. But that was the bag that was
14 inside the passenger -- I mean, the -- yes, the passenger
15 compartment of the vehicle.

16 Q And State's Exhibit No. 34?

17 A That's a picture of that same bag opened up. And you
18 can see a purse inside, and a thing that says some kind of
19 leaf on the side, and another package in there and the
20 contents of that bag.

21 Q And, Captain Kindley, did the search warrant that you
22 were executing there encompass the purses and contents
23 that are, also, inside the car?

24 A Yes, sir.

25 Q Did it allow you to search inside that purse?

1 A Yes, sir.

2 Q I'm going to show you some more photos.

3 (WHEREUPON, State's Exhibit Nos. 36, 37, 38, 39, 40,
4 41, 42, 43, 44, 45, 46, 47, 48, and 49 were marked for
5 identification only.)

6 MS. LIPINSKI: Your Honor, we would object to items
7 37 through 46 -- State's Exhibit Nos. 36 through 47 as
8 they relate to the contents of the purse and belong to the
9 codefendant, who is not on trial here. So we believe that
10 those items are behind the scope of which Mr. Kelly is
11 charged. And we would object to the inclusion of those
12 items being presented at his trial. And that they relate
13 to her and not him.

14 THE COURT: Well, I'm going to allow the admission of
15 those photographs.

16 MS. LIPINSKI: And just to preserve, also, subject to
17 our --

18 THE COURT: Yes.

19 MS. LIPINSKI: -- objection earlier.

20 Thank you, Your Honor.

21 (WHEREUPON, State's Exhibit Nos. 35, 36, 37, 38, 39,
22 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49 were
23 admitted into evidence.)

24 BY MR. WILKINS:

25 Q All right. Mr. Kindley, I'm going to show you

1 State's Exhibit Nos. 36 through 46. And if you'll just
2 take a quick look at those.

3 A Okay, sir.

4 Q And tell this jury how you're going about the search
5 of this car.

6 A Crime scene takes photographs before we look at
7 things. If we were looking at the Bible here, they would
8 take pictures, overall pictures before we touch it or
9 manipulate it. So they take out photographs. And then we
10 would go through and take out things little by little and
11 keep those together and photograph those together.

12 Q And so did you search the contents of that purse?

13 A Yes, sir.

14 Q I'm going to show you what's State's Exhibit No. 40.
15 What is that?

16 A That is a culmination of the things in the purse.
17 Like, up in the upper left-hand corner, there's a device
18 called a grinder that is used -- is drug paraphernalia.
19 There's currency there. There's a card holder with
20 different bank cards, some more money, a passport, some
21 rolling papers, and a lighter. And then a package of --
22 that whole leaf package that was visible in the picture
23 from the top of the purse before.

24 Q Okay. I'm going to show you State's Exhibit No. 41.

25 A Okay. This is more contents of the purse. You can

1 see the rolling paper -- starting from the right-hand side
2 on the top, the money, those rolling papers there, the
3 lighter. And then different items that were inside the
4 purse, a phone charger, more rolling papers. And then
5 there's something in the package up on the upper left-hand
6 side that was like a green, leafy, plant-like material.

7 Q And I'm going to show you State's Exhibit No. 42.

8 A That was a bag that was inside there that contained a
9 green, leafy, plant-like material, also.

10 Q And what does it say on the front of that? Can you
11 read that?

12 A Hawaii -- I can't make out the bottom of it. But it
13 had some type of writing and marker on it.

14 Q And State's Exhibit No. 43?

15 A That's that bag of the green, leafy, plant-like
16 material again.

17 Q Is the green, leafy material the back side of that
18 Hawaiian Runtz?

19 A Yes, sir.

20 Q Which is seen in State's Exhibit No. 42?

21 A Yes, sir.

22 Q So that's the front side of it and this is the back
23 side of it?

24 A Correct.

25 Q State's Exhibit No. 43 and State's Exhibit No. 44?

1 A Those are some rolling papers that were in the purse.

2 Q Now, did you discover any identifications inside that
3 purse?

4 A Yes, sir, we did.

5 Q Okay. I'm going to show you what's marked as State's
6 Exhibit No. 35.

7 A Yes, sir.

8 Q What is that?

9 A That's a New York State driver's license for Tamara
10 Murray.

11 Q And in your investigation, was there a passenger in
12 this car?

13 A Yes, sir, there was.

14 Q Okay. And did you ever speak with that passenger?

15 A No, sir. But I learned of her identity later.

16 Q Did you ever see her?

17 A Yes, sir.

18 Q And is that her in that identification -- is that her
19 identification?

20 A No, sir, it's not.

21 Q I'm going to show you what's marked as State's
22 Exhibit No. 36.

23 A Yes, sir.

24 Q What is that?

25 A That's a U.S. passport with the name Tornell

1 Laureano.

2 Q And is that the identification of the passenger?

3 A Yes, sir.

4 Q I'm going to show you State's Exhibit No. 37. I'll
5 zoom in.

6 A I've got my glasses.

7 Q I've got mine, too.

8 A That's a New York State identification card for Ray
9 Kelly.

10 Q Is that a driver's license?

11 A No, sir. It's just an identification card.

12 Q And what is the date of birth on that document?

13 A [REDACTED] of 1983.

14 Q All right. And I'm going to show you State's Exhibit
15 No. 39.

16 A Yes, sir. That's a chime card. I had never heard of
17 a chime card before, but it has the name Ray Kelly on it,
18 also.

19 Q And State's Exhibit No. 38?

20 A Okay. Those are the cards that you saw in the side.
21 There were multiple Visa. They're debit cards, bank cards
22 with Tornell Laureano's name on them that were inside that
23 purse.

24 Q I'm sorry. What did you say the name was?

25 A Tornell Laureano.

1 Q And then State's Exhibit No. 46?

2 A Yes, sir. That's more contents of the purse. And
3 you can see the ID in the background. But that's a -- a
4 stack of money. And I think it totaled -- I don't have
5 the total amount, but there was, like, \$3,000.

6 Q And that was found inside the purse?

7 A Yes, sir.

8 Q Did y'all continue to conduct a search of the car?

9 A Yes, sir.

10 Q And did you find any documents?

11 A Yes, sir, we did.

12 Q I'm going to show you what's marked as State's
13 Exhibit Nos. 45, 47, 48, and 49?

14 MS. LIPINSKI: Your Honor, if these contain items
15 recovered during the search of the car, we would make a
16 contemporaneous objection to the items seized from that
17 car.

18 THE COURT: Okay.

19 MS. LIPINSKI: Thank you.

20 BY MR. WILKINS:

21 Q I'm going to ask you to take a look at State's
22 Exhibit Nos. 45, 47, 48, and 49.

23 A All right, sir.

24 Q All right. What are those?

25 A Those are documents that we found inside the car.

1 MR. WILKINS: Your Honor, the State moves State's
2 Exhibit Nos. 45, 47, 48 and 49 into evidence.

3 THE COURT: Subject to the objection.

4 (WHEREUPON, State's Exhibit Nos. 45, 47, 48, and 49
5 were admitted into evidence.)

6 BY MR. WILKINS:

7 Q I'm going to show you what's State's Exhibit No. 45.

8 A Yes, sir.

9 Q What is that?

10 A That's the receipt for a chocolate mini and a candy
11 sour bite that was purchased. And it says on the top
12 Chesapeake House Service Plaza. I had never heard of that
13 before, so I Googled it. That's, actually, in Maryland.

14 Q What is the date of that purchase?

15 A October the 11th of 2020.

16 Q I'm going to show you what's marked as State's
17 Exhibit No. 49.

18 A Yes, sir.

19 Q All right. What is that?

20 A That's an after-visit summary from October the 12th,
21 2020. If I'm not mistaken -- I'd have to see the rest of
22 it, but I think there was an urgent care by Well Street
23 Virginia High.

24 Q And I'll show you State's Exhibit No. 48. But,
25 first, I want to show you -- who's name is that in?

1 A Ray Kelly.

2 Q What's the date on that?

3 A October the 12th of 2020.

4 Q And there's the full version of it. I can zoom in.

5 A Okay. That's good. As you can see down on the
6 bottom, it says, Information on file. And then it has the
7 address here in Atlanta, Georgia.

8 Q Okay. And then the information on file, what does it
9 say under the information on file?

10 A It's got a home phone and date of birth of [REDACTED]/83, a
11 couple telephone numbers, and then the address of the
12 medical facility in Atlanta.

13 Q So where is that medical facility located?

14 A It's [REDACTED] Landrum Drive Southwest, in Atlanta,
15 Georgia.

16 Q Atlanta, Georgia?

17 A Yes, sir.

18 Q I'm going to show you State's Exhibit No. 47.

19 A Yes, sir.

20 Q What is that?

21 A That is where a tire was purchased or repaired. As
22 you can see down in the description section, it says it
23 was for an Altima. It gives the tire size with the tire
24 for a hundred dollars. And that one is dated October the
25 19th of 2020. And it's also -- that location is in

1 Atlanta, also.

2 Q All right. Did y'all proceed to search the trunk of
3 the car?

4 A Yes, sir, we did.

5 (WHEREUPON, State's Exhibit Nos. 50, 51, 52, 53, 54,
6 55, 56, 57, 58, 59, 60, 61, 62, and 63 were marked for
7 identification only.)

8 MS. LIPINSKI: Your Honor, the Defense objects to
9 State's Exhibit Nos. 50 through 63 contemporaneous with
10 our --

11 THE COURT: Same objection.

12 MS. LIPINSKI: Thank you, Your Honor.

13 BY MR. WILKINS:

14 Q I'm going to show you State's Exhibit Nos. 50 through
15 63.

16 A Yes, sir.

17 Q I'm going to ask you to take a quick look at those.

18 A All right, sir.

19 Q What are those photos of?

20 A The contents of the trunk of the vehicle.

21 Q Are they a true and accurate representation of what
22 you saw that -- during your search?

23 A Yes, sir.

24 MR. WILKINS: The State moves State's Exhibit Nos. 50
25 through 63 in.

1 THE COURT: All right. Subject to the objection.

2 MS. LIPINSKI: Oh, Your Honor, I thought we had
3 already done that. My apologies.

4 (WHEREUPON, State's Exhibit Nos. 50, 51, 52, 53, 54,
5 55, 56, 57, 58, 59, 60, 61, 62, and 63 were admitted
6 into evidence.)

7 BY MR. WILKINS:

8 Q I'm going to show you State's Exhibit No. 50. What
9 is that?

10 A That's the trunk of the vehicle. You can see on the
11 left side, that's a plastic -- like a garbage kind of
12 thing. And there's some other bags inside the trunk.

13 Q Is that what the trunk looked like when you opened
14 it?

15 A Yes, sir.

16 Q State's Exhibit No. 51?

17 A Okay. Those are more bags. As I said earlier, we
18 photograph things as they're removed. So as the crime
19 scene agents removed bags, this would be when the plastic
20 bags are out of the way. You see the camouflage bag there
21 on the left, a kind of silky garment drawstring kind of
22 bag above that, and then a plastic box underneath.

23 Q And did you retrieve that black plastic box right
24 there?

25 A Yes, sir.

1 Q And when you retrieved it, what was it?

2 A The crime scene agent pulled it out, but I was
3 standing beside him when he did it. It was, actually, a
4 box made to house a Springfield firearm.

5 Q I'm going to show you State's Exhibit No. 52.

6 A Yes, sir.

7 Q Is that the box that y'all retrieved from the trunk
8 there?

9 A It is. And you can see on the top, it says XDM,
10 which is a Springfield firearm. But the firearm inside
11 here is, actually, a Glock. And there's some ammunition
12 in the box on the left-hand side.

13 Q And I'm going to show you State's Exhibit No. 53.

14 A Yes, sir.

15 Q Is that the gun?

16 A It is, yes, sir.

17 (WHEREUPON, State's Exhibit No. 65 was marked for
18 identification only.)

19 BY MR. WILKINS:

20 Q I'm going to show you State's Exhibit 65.

21 MS. LIPINSKI: Subject to our previous objection to
22 the search of the car and the contents therein.

23 THE COURT: Okay.

24 BY MR. WILKINS:

25 Q I'll ask you if you recognize this? You can take it

1 out and open it up if you'd like to.

2 A Okay. So this is the box. As you can see, it says
3 XDM, which is a Springfield box.

4 Do you want me to take it out?

5 Q I just need you to identify it.

6 A That's the same pistol. You can see, it has -- in
7 the photograph, it has red markings on the -- where you
8 drop the slide and the pins that are in there. And it,
9 also, has some script on the slide section up towards the
10 barrel. So that's the same pistol.

11 MR. WILKINS: Your Honor, the State moves State's
12 Exhibit No. 65 into evidence.

13 THE COURT: Subject to the objection.

14 (WHEREUPON, State's Exhibit No. 65 was admitted into
15 evidence.)

16 BY MR. WILKINS:

17 Q What did you do with the gun after you retrieved it?

18 A We turned it over to crime scene agents.

19 Q And who did you turn it over to?

20 A Agent Maggie Pauli.

21 Q All right. I'm going to show you what's State's
22 Exhibit No. 54.

23 A Yes, sir.

24 Q What is that?

25 A That's that silky drawstring kind of bag. It's like

1 a dirty laundry bag. And you can see underneath it, there
2 are items as they're being removed. But that's an actual
3 bag that there was clothing inside.

4 Q Did y'all remove the contents of that bag?

5 A Yes, sir.

6 Q Where did you remove them? Onto what?

7 A We had placed some things on the roadway. But we
8 took it out right there at the rear of the car.

9 Q State's Exhibit No. 55?

10 A Yes, sir. That's after those bags were taken out.
11 You can see some loose clothing in there. But you can,
12 also, see a Victoria's bag, kind of a hard shell bag. It
13 has Victoria's Secret on it and then a pink container to
14 the side of it.

15 Q And what is mostly in that bag?

16 A Makeup in the Victoria's Secret bag.

17 Q And what about the entire bag?

18 A The laundry bag?

19 Q Uh-huh.

20 A Men and women's clothing. And we, also, found drugs
21 in the bag.

22 Q State's Exhibit No. 56?

23 A Yes, sir. That's the Victoria's Secret container.
24 And you can see there's money there. And there was, also,
25 a package of oily, plant-looking material in it.

1 Q All right. I'm going to show you State's Exhibit No.
2 57.

3 A Yes, sir.

4 Q What is that?

5 A That's another plastic bag that was inside the silky
6 bag that contained additional smaller bags inside it. And
7 inside those smaller bags was a white rock-like crystal
8 and -- substance.

9 Q And State's Exhibit No. 58?

10 A Yes, sir. Those are the smaller bags that were
11 inside this bag. And you can see that rock-like substance
12 there.

13 Q So, specifically, tell us where was that located when
14 y'all dumped out the bag.

15 A It was about midway down inside the bag with the
16 clothing, the men's and women's clothing in the silky bag.

17 Q And did crime scene forensics collect those drugs?

18 A Yes, sir.

19 Q And who would have done that?

20 A Maggie Pauli would have done that.

21 Q State's Exhibit No. 59?

22 A That's another bag. And you can see a container over
23 on the right-hand side. But that's after everything has
24 been moved.

25 Q And that was in the trunk, as well?

1 A Yes, sir.

2 Q I'll show you State's Exhibit No. 60.

3 A Yes, sir. More men's and women's clothing inside.

4 As you can see, there's a package here that says, Don't

5 trip, it's only spinach with a cartoon of Popeye on it.

6 And it had a substance inside it.

7 Q State's Exhibit No. 61, is that the substance you're
8 referring to?

9 A That's it, yes, sir. That greasy, plant-like
10 material there.

11 Q And what did you do with that material?

12 A That was turned over to crime scene --

13 Q And that would be Maggie Pauli?

14 A Yes, sir.

15 Q All right. Let me show you State's Exhibit No. 62.

16 A That was a scale that was, also, there, a digital
17 scale that you press and can weigh small items on.

18 Q And, finally, State's Exhibit No. 63?

19 A That's a photograph of two individuals that we were
20 able to identify later.

21 Q So you mentioned earlier there were some cell phones?

22 A Yes, sir.

23 Q Were you able to collect some cell phones?

24 A Yes, sir, I was.

25 Q How many cell phones did you collect?

1 A Three.

2 Q I'm going to show you some photos.

3 A Okay.

4 (WHEREUPON, State's Exhibit Nos. 64, 66, 67, 68, 69,
5 70, 71, 72, 73, 74, and 75 were marked for
6 identification only.)

7 MR. WILKINS: Your Honor, the State moves State's
8 Exhibit Nos. 68, 69, 70, 71, 64, 66, 67, 72, 73, 74, and
9 75.

10 THE COURT: Same objection?

11 MS. LIPINSKI: Same objection, Your Honor.

12 THE COURT: All right. Subject to that objection.

13 BY MR. WILKINS:

14 Q Just, briefly, look at those real quick.

15 A Yes, sir.

16 Q What are those?

17 A Those are pictures of the cell phones that we
18 collected.

19 MR. WILKINS: The State moves State's Exhibit Nos.
20 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, and 75 into
21 evidence?

22 THE COURT: Is there any objection? Subject to your
23 objection?

24 MS. LIPINSKI: Yes, sir.

25 THE COURT: Okay. Go ahead.

1 (WHEREUPON, State's Exhibit Nos. 64, 66, 67, 68, 69,
2 70, 71, 72, 73, 74, and 75 were admitted into
3 evidence.)

4 BY MR. WILKINS:

5 Q I'm going to show you State's Exhibit No. 64, and
6 refer you to there.

7 A Yes, sir.

8 Q What is that?

9 A That's one of the cell phones that we collected.

10 Q And where is it located?

11 A It's on the rear of the car on the ground face up.
12 It seems like the screen was cracked on it.

13 Q I'm going to show you State's Exhibit No. 66.

14 A Yes, sir.

15 Q Is that the same phone?

16 A That is. In the picture, it looks like -- the little
17 marks all over it look like it's really broken up badly.
18 But it has cracks in it. That's just debris.

19 Q State's Exhibit No. 67?

20 A That's that same phone, yes, sir.

21 Q State's Exhibit No. 68?

22 A Yes, sir. That's the same phone. And you can see it
23 has some directions, a map on the phone.

24 Q Were you able to determine where that map was going?

25 A I can't remember off the top of my head. I know it

1 was coming from Atlanta going somewhere. But it was going
2 north on I-85.

3 Q And then State's Exhibit No. 69?

4 A Yes, sir. That's that same map.

5 Q Is that somewhere in Virginia?

6 A Yes, sir. It starts out around the -- looks like
7 Greenville Charlotte and goes up to above Virginia.

8 Q All right. I'm going to show you State's Exhibit
9 Nos. 70 and 71. What is that?

10 A That's a cell phone that we recovered, as well.

11 Q All right. And State's Exhibit No. 70?

12 A The red phone is the phone that -- it's hard to tell
13 them apart sometimes because on the exterior of this
14 phone, you can see the case looks almost brown. But the
15 one that has red on the back, actually, came out of the
16 purse.

17 Q That came out of the designer purse that we saw
18 earlier?

19 A Yes, sir.

20 Q And then State's Exhibit No. 75, what is that?

21 A That is a -- the contents of the glove box. Over on
22 the left, you can see a plastic bag. There was, also, a
23 phone in this bag. And there's a vehicle registration and
24 some other paperwork, like an owner's manual, that was in
25 the glove box.

1 Q So that phone came out of the glove box?

2 A Yes, sir.

3 Q Exhibit -- I'm sorry. State's Exhibit No. 74?

4 A Yes, sir. That's that phone.

5 Q State's Exhibit No. 72?

6 A Yes, sir. That's it, same phone that came out of the
7 glove box.

8 Q And what does it have on the back?

9 A That's a sticker, it looks like for a gym that says,
10 Sport Fitness, open 24/7, 365.

11 Q And State's Exhibit No. 73?

12 A That's the front of that same phone. And you can see
13 it has -- someone was requesting to FaceTime.

14 Q Was that happening while y'all were attempting --
15 recovering the phone?

16 A Yes, sir.

17 (WHEREUPON, State's Exhibit No. 76 was marked for
18 identification only.)

19 BY MR. WILKINS:

20 Q I'm going to show you State's Exhibit No. 76.

21 A Yes, sir.

22 Q You're welcome to open it up.

23 A Okay.

24 THE COURT: It's not in evidence, so don't display it
25 to the jury yet.

1 BY MR. WILKINS:

2 Q Just look inside.

3 A Okay, sir.

4 Q What's inside?

5 A Those three cell phones.

6 MR. WILKINS: Your Honor, the State moves State's
7 Exhibit No. 76 into evidence.

8 THE COURT: Same objection?

9 MS. LIPINSKI: I think they need to further establish
10 chain, Your Honor, before they do that.

11 MR. WILKINS: He's testified that he collected them.

12 MS. LIPINSKI: Has anybody examined them? He has to
13 establish that.

14 MR. WILKINS: I haven't moved the contents in. I've
15 just moved the phones themselves in.

16 THE COURT: Well, y'all come up here for a second.

17 (WHEREUPON, a bench conference was held.)

18 BY MR. WILKINS:

19 Q Captain Kindley, if you could tell this jury, you
20 collected these -- you've already testified you collected
21 these?

22 A Yes, sir.

23 Q What happened to these phones once you collected
24 them?

25 A Crime scene normally will not take telephones. There

1 are certain things they won't take because we have those
2 tested, the contents extracted at a different location.
3 We have our crime scene lab and then our computer crimes
4 area are in two different buildings. So, normally, we
5 will go ahead and take possession of the phones and then
6 drive them down to computer crimes.

7 This was collected on October 20th. It has my name
8 on it and Agent Davis. And then it shows on October the
9 26th, I transported it to the region office. Prior to it
10 going there, we lock them in a lockbox in our vehicles and
11 keep them there.

12 Then on October the 27th, I signed it out of the
13 evidence section and transported it to computer crimes in
14 Columbia. It stayed there and was examined. Then on
15 November the 17th of 2020, it was picked up from computer
16 crimes by another one of our agents, Jacob Pridgen, who
17 returned it to the region. We have a vault in our office
18 here in Greenville.

19 And then on November 18th, 2020, it was turned over
20 to Agent Davis again, who brought it into the regional
21 office. He picked it up from Pridgen and brought it into
22 the regional office. And then on November the 19th, 2020,
23 Agent Davis signed it back into evidence. I took
24 possession of it as the evidence custodian and signed it
25 in. And that's where it remained until September the

1 26th, when we checked it out to Agent Davis then.

2 Q To bring it to court?

3 A Yes, sir.

4 MR. WILKINS: Your Honor, the State moves State's
5 Exhibit No. 76 into evidence.

6 MS. LIPINSKI: Now that chain has been established,
7 Your Honor.

8 Thank you.

9 THE COURT: All right. Subject to prior objections.

10 (WHEREUPON, State's Exhibit No. 76 was admitted into
11 evidence.)

12 BY MR. WILKINS:

13 Q Agent Kindley, when your team was assembled to
14 investigate this case, had y'all identified who was
15 driving the car at the time of this incident?

16 A No, sir.

17 Q And you said y'all assembled around 7:00 to begin the
18 search?

19 A I arrived on the scene probably 4:00 or 4:30. And we
20 had people going in different directions. Around 7:00 is
21 when we all got together. And crime scene, I think, had
22 arrived around that time.

23 Q And when did you learn the identity of Ray Kelly?

24 A Later that evening. He was -- we had an agent
25 that -- in fact, Agent Davis went to the hospital --

1 MS. LIPINSKI: Objection to hearsay, unless he was
2 present for that.

3 THE COURT: Well, he hasn't said any hearsay yet.
4 Go ahead.

5 THE WITNESS: Yes, sir.

6 Agent Davis responded to the hospital and attempted
7 to determine the identity. We still didn't know who was
8 in the car. And he was unable to communicate that
9 information to me.

10 We were -- we discussed using a -- we have a
11 fingerprint reader that we can check your thumbprint with.
12 We discussed taking a buccal swab or fingerprints. But
13 that was -- I don't want to overstep the hearsay thing.
14 BY MR. WILKINS:

15 Q So about -- approximately when did you learn of
16 Mr. Kelly's identity?

17 MS. LIPINSKI: Objection, Your Honor. The only way
18 he learns it is from hearsay, unless he does that
19 identification procedure himself.

20 THE COURT: Is he the chief case agent in this case?

21 MS. LIPINSKI: He is.

22 THE COURT: In his capacity as a chief agent?

23 MR. WILKINS: He is.

24 MS. LIPINSKI: I'm sorry. I thought Agent Davis was
25 the chief case agent.

1 MR. WILKINS: He's the chief agent's boss.

2 THE COURT: All right. Well, just don't get into
3 hearsay.

4 MR. WILKINS: No further questions, Your Honor.

5 Answer any questions Ms. Lipinski may have.

6 THE WITNESS: Yes, sir.

7 CROSS-EXAMINATION

8 BY MS. LIPINSKI:

9 Q Captain Kindley, you've testified as to the
10 authenticity of these photographs; correct?

11 A Yes, ma'am.

12 Q And while you stated that -- did you ever go out to
13 the car -- I'm sorry, out to I-85?

14 A I'm sorry?

15 Q Did you ever go out to I-85?

16 A Yes, ma'am.

17 Q And you understand as you -- in your supervisory
18 role, your experience with law enforcement the importance
19 of trying to preserve and protect the integrity of the
20 crime scene; correct?

21 A Yes, ma'am.

22 Q And it's important -- part of that is we don't want
23 to move things before we document them; correct?

24 A Correct.

25 Q And you stated that you were asked to participate in

1 this investigation at the behest of highway patrol;
2 correct?

3 A Yes, ma'am.

4 Q So Greenville County didn't want to involve it
5 because it involved one of their own; correct?

6 A I'm not sure.

7 Q All right. But in your experience, you've
8 investigated other things involving officers for
9 Greenville County because they don't want to investigate
10 their own. The reason SLED is often called when officers
11 are involved in any type of collision, shooting, use of
12 force is often because you are a separate agency; correct?

13 A That's correct.

14 Q But you worked for Greenville County? You started
15 your career there; correct?

16 A Yes, ma'am.

17 Q And, obviously, you still have friends there;
18 correct?

19 A Yes, ma'am.

20 Q And, actually, you knew Sergeant Jumper during your
21 time there; correct?

22 A Yes, ma'am.

23 Q All right. And you stated that you called a number
24 of officers to the scene; correct?

25 A Yes, ma'am.

1 Q And you said an Agent Ledbetter; correct?

2 A Yes, ma'am.

3 Q But there was a Deputy Ledbetter involved here;
4 correct?

5 A Yes.

6 Q All right. And there are a number of officers with
7 your division, in fact, perhaps, a majority, certainly, in
8 the Greenville office who started out with the Greenville
9 County Sheriff's Office; correct?

10 A No. I think I'm the only one in my -- and I'd have
11 to go through -- maybe one other that worked here a year
12 or two. But I think I'm the only --

13 Q One currently; correct?

14 A Currently, that's employed?

15 Q Yeah.

16 A Yes.

17 Q So did you have command of the crime scene?

18 A Yes, ma'am.

19 Q All right. And so it's important, obviously, for you
20 that items not be moved prior to their examination;
21 correct?

22 A Yes, ma'am.

23 Q And, certainly, it's important that items not be
24 moved and searched prior to you obtaining a search
25 warrant; correct?

1 A Yes, ma'am.

2 Q All right. I want to show you State's Exhibit
3 No. 27. That's a photograph you previously authenticated;
4 correct?

5 A It is.

6 Q And that is a photograph -- obviously, you can tell
7 where it's still daylight?

8 A Yes.

9 Q And that depicts -- and correct me if I'm wrong --
10 the front seat capacity of that car; correct?

11 A It does.

12 Q And the purse at that time is located in the driver's
13 side compartment of that vehicle; correct?

14 A Yes.

15 Q And that is the blue Nissan Altima; correct?

16 A It is.

17 Q Then I want to show you what's been marked as State's
18 Exhibit No. 33. It's darker; correct?

19 A It is.

20 Q It's a little harder to tell. But you can see things
21 from that purse has since moved from that location, is it
22 not?

23 A It is.

24 Q And so from item 27 to item 33, that purse is moved
25 from the front driver's seat to what appears to me to

1 be -- and correct me if I'm wrong -- the middle console of
2 the rear?

3 A Correct.

4 Q So someone prior to you searching it has moved that
5 item?

6 A No. I think what occurred here is as we processed
7 the car and moved from one -- from the front, the seat,
8 under the seat, the console here in the front, the front
9 passenger side, I think the purse was moved there, then we
10 searched the contents. As we did with the trunk, we
11 search the contents after we go over the area it's in.

12 Q But you had the opportunity to remove the purse and
13 secure it; correct?

14 A Yes.

15 Q And empty the contents later; correct?

16 A I did. But I was on the -- I was on a four-lane
17 interstate.

18 Q I understand that. But you could easily get to the
19 glove box in the passenger seat if the purse is in the
20 driver's seat; correct?

21 A I suppose so, yes.

22 Q And -- but at the time of this photograph, what we
23 believe to be the first photograph taken of the front
24 seat, that purse is in the driver's seat of that car;
25 correct?

1 A That's correct.

2 Q And this is a fairly small car compartment. It's a
3 four-door sedan; correct? It's not a compact car, but
4 it's a smaller car; correct?

5 A It is.

6 Q And that purse being there, you don't have any
7 independent knowledge that somebody put that purse there
8 at any time that moved it post-collision, do you?

9 A No.

10 Q You don't have any independent knowledge of that;
11 correct?

12 A I don't.

13 Q None of these officers said that; correct?

14 A Not to my recollection.

15 Q And given the events and allegations believed to have
16 occurred here, we weren't going to let any occupants go
17 back into the car and retrieve anything, were we?

18 A No.

19 Q So there's no indication that any -- either Mr. Kelly
20 or any other occupant of the car would have moved the
21 contents on their own post-collision; correct?

22 A I suppose not.

23 Q All right. And so if Mr. Kelly is seated in the
24 front passenger and that purse happened to still be there
25 when he reentered the car, that would have been a

1 substantial thing in that front passenger -- driver's side
2 seat; correct?

3 A It would. I don't know how he would have sat in that
4 seat with the purse there.

5 Q He could have squished up against it, you don't know;
6 correct?

7 A That's true.

8 Q And that in addition to that, in this very small
9 compartment, allegations -- or statements have been made
10 that Sergeant Jumper is, also, at least, partially into
11 that front passenger compartment; correct?

12 A Yes.

13 Q And you're familiar with Sergeant Jumper; correct?

14 A I am.

15 Q He's a big boy?

16 A Uh-huh.

17 Q Approximately 6'8"?

18 A I have no idea how tall he is. He's a big guy.

19 Q Well above average height? Not even just 6'4", he
20 would have been taller than that; correct?

21 A I think that's --

22 Q One of the tallest individuals probably when you were
23 with him at the Greenville County Sheriff's Office;
24 correct?

25 A I think so, maybe.

1 Q Maybe even the tallest; correct?

2 A Could be.

3 Q All right. And he's also -- in addition to that, he
4 was a very muscular, well-built man; correct?

5 A Yes.

6 Q Upwards of 350?

7 A I -- I'm not good with weight.

8 Q I understand. But that could be an accurate
9 neighborhood for him; correct?

10 A Yes.

11 Q And him being in that front compartment with an
12 entire another adult male would have been a very cramped
13 compartment, would it not?

14 A It would.

15 Q You stated that you retrieved several documents from
16 the purse, I believe, that Solicitor Wilkins showed you;
17 correct?

18 A I retrieved a -- from the purse, I retrieved cards.

19 Which documents are you talking about specifically?

20 Q Do you recall the documents you retrieved from the
21 purse or is that a better question for one of the crime
22 scene techs? Would that have been itemized anywhere?

23 A I can tell you that the receipt I don't believe was
24 in the purse. I think it was just in the passenger
25 compartment.

1 Q The passenger glove box? Do you even know?

2 A If you asked me, specifically, I would be able to
3 tell you.

4 Q I'm reshowing you what's been marked as State's
5 Exhibit Nos. 34, 38, 39, 37, 36, basically, through 46.
6 This was a -- Solicitor Wilkins even left a sticky note on
7 it for you. For these photographs, State's Exhibit Nos.
8 35 through -- I believe 34 through 36 are the contents of
9 the purse. Would that be accurate to say?

10 A Yes.

11 Q All right. And it is a female's purse; correct?

12 A It is.

13 Q Containing a number of credit cards with a female's
14 name; correct?

15 A Correct.

16 Q There's one ID purporting to be belonging to
17 Mr. Kelly; correct?

18 A Yes.

19 Q But all of those, including all of the cash; correct?

20 A Correct.

21 Q You didn't locate any other cash outside that purse;
22 correct?

23 A I did not.

24 Q The search of the car that was done during your
25 supervision, you're not aware of any cash found outside of

1 that purse; correct?

2 A That's true.

3 Q And the rolling papers, the green, leafy material,
4 all of that, the number of credit cards are all found
5 inside the purse; correct?

6 A Except for the item that was found in the Victoria's
7 Secret case.

8 Q Right. The oily green --

9 A Correct.

10 Q All right. And then items 47, 49, 48, 45, about the
11 tire and those kind of things, that you say came from
12 where?

13 A That's the glove box and interior contents, also.

14 Q Interior contents of purse, interior of car?

15 A Of the car.

16 Q Of the car. But, again, you didn't call any of these
17 places. You didn't get any video of who's sourcing any of
18 these things. You can't testify to their authenticity,
19 other than you removed these papers from this car?

20 A That's correct.

21 Q And then let me show you what's been marked as
22 State's Exhibit No. 28. And correct me if I'm wrong. Is
23 this item here near the yellow line? Is that the cell
24 phone you keep talking about that was found outside the
25 car?

1 A It is.

2 Q All right. So there's pavement phone with a lot of
3 debris on it; correct?

4 A Yes.

5 Q Consistent with being outside of the car
6 subsequent -- prior to the collision. I guess debris is
7 landing on top of it; correct?

8 A Being outside the car prior to the collision?

9 Q Right.

10 A I don't know that I can say that.

11 Q Okay. There's debris on it; correct?

12 A Yes.

13 Q Consistent with collision debris; correct?

14 A I don't know that I can say that.

15 Q All right.

16 A The phone was outside of the car where Mr. Kelly was
17 seated after the collision.

18 Q All right. But that's, also, around the impact
19 scene, around where Deputy Harrison's car has come to a
20 rest. That car [sic] could have been ejected during the
21 collision; correct?

22 A The phone?

23 Q Yes.

24 A I don't think I can say that.

25 Q You can't rule that out?

1 A No.

2 Q No. So you have nothing one way or the other whether
3 or not the car was inside -- whether the pavement phone
4 was inside the car prior to or after the collision;
5 correct? All you know is you found it on the ground
6 outside and there's debris on it; correct?

7 A That's true.

8 Q All right. The other two phones, we'll call one the
9 purse phone and the glove box phone because simple things
10 help me keep them straight. All right.

11 A Okay.

12 Q The red phone is the purse phone; correct?

13 A It is.

14 Q And then there's another debris-free phone taken from
15 the glove box; correct?

16 A That's correct.

17 Q All right. And as you go through -- in the contents
18 of the purse, you say there's a grinder, a metal grinder;
19 correct?

20 A Yes.

21 Q It looks like some part of a revolver, though;
22 correct?

23 A It does.

24 Q But it's not; correct?

25 A It is not. That's true.

1 Q It kind of looks like either the barrel or what I've
2 seen called a speed loader, but it's just disguised to
3 look like that; correct?

4 A Yes.

5 Q No bullets, nothing like that; correct?

6 A That's correct.

7 Q All right. But that was in the contents of the
8 purse; correct?

9 A Yes.

10 Q Containing multiple ID's of Tornell Laureano;
11 correct?

12 A Yes.

13 Q And in terms of the contents of the trunk, there's
14 still a number of female items in the trunk; correct?

15 A There are.

16 Q Pieces of female clothing, female makeup, all of
17 those type things; correct?

18 A Male and female, yes, ma'am.

19 Q Right. There's still a number of female, as well;
20 correct?

21 A Yes.

22 Q All right. And then you, actually, did the search
23 warrant for this, did you not?

24 A For the vehicle?

25 Q Yes.

1 A Agent Grigg obtained the search warrant.

2 Q But you're the one that signed the return; correct?

3 A Yes, ma'am.

4 Q And a search warrant, just so the jury understands,
5 is your authority to search that vehicle; correct?

6 A It is.

7 Q And it's important in executing those search warrants
8 that we're accurate; correct?

9 A Yes.

10 Q Because here we are some two years later. You don't
11 have an independent recollection about things like time or
12 events; correct?

13 A Yes.

14 Q And you encourage your officers who you supervise
15 that accuracy is important; correct?

16 A Yes.

17 Q And the way that a search warrant should work is that
18 the search warrant is obtained prior to searching the
19 subject of that search warrant; correct?

20 A Yes.

21 Q You're supposed to go to a magistrate, I believe, a
22 judge; right?

23 A Yes.

24 Q And tell the judge we want to search thing A and here
25 is why we think we ought to be entitled. Here's a

1 probable cause to search thing A. And then the magistrate
2 either says, yes, you can or, no, you can't. And then
3 after that, you're supposed to then go search whatever it
4 is; correct?

5 A Yes, ma'am.

6 Q And as a supervising agent, you were involved and
7 aware of the search warrants in this case; correct?

8 A I was.

9 Q And I'm showing you what's been previously marked for
10 ID as Defense Exhibit No. 1. That indicates the search
11 warrant for the car, the judge authorized you to search
12 that car at 7:48; correct?

13 A It is.

14 Q And a return, which is where you indicate what we got
15 out of the car and you go back and say this is what we
16 took out of the car and you're supposed to leave a copy;
17 right? And at the top of it, it indicates that the car
18 was searched at 7:40, some eight minutes prior?

19 A Okay.

20 Q Is that correct?

21 A It is.

22 Q And that is your signature at the bottom?

23 A It is.

24 Q Indicating that you are agreeing as to the
25 authenticity, not only the time that the car was searched,

1 but, also, the items that were taken; correct?

2 A Yes. The time the search started and the -- that's
3 correct, yes.

4 Q And it appears that some initials are written.
5 That's the -- is that Margaret Pauli taking those items?

6 A Yes.

7 Q Is that what that indicates?

8 A I'm not sure what her notation means on there, but
9 those are her initials.

10 Q But they're not by every item that was removed;
11 correct?

12 A That's true.

13 Q And you stated that some items were turned over to
14 her and some items you maintained, such as the cell
15 phones; correct?

16 A Yes.

17 Q So, obviously, you were participating in making sure
18 that that information was accurate, to the best of your
19 ability; correct?

20 A Yes.

21 Q And you all, as members of law enforcement, you know,
22 always kind of synchronize your watches off of CAD
23 reports, and computers, and things like that; right?

24 A We do. But we don't synchronize with judges or other
25 officials.

1 Q I understand that. But you try to get the time as
2 accurate as possible; right?

3 A I try, yes.

4 MS. LIPINSKI: The Court's indulgence one moment,
5 Your Honor.

6 (Pause.)

7 BY MS. LIPINSKI:

8 Q Just going back just briefly. You're not aware of
9 who would have moved the purse from the front to the back
10 of the car; correct?

11 A A specific person?

12 Q Yes.

13 A No. I could tell you it was a member of law
14 enforcement, but I couldn't tell you who.

15 Q And you don't know if when it moved from one spot to
16 the other whether they went through the contents or they
17 did anything to look through it at that time?

18 A Oh, I was on the scene. And once we assumed control
19 of the scene, nobody entered that car. I can testify to
20 that, yes.

21 Q But you weren't there when it went from the front
22 seat to getting to the backseat?

23 A I was probably there, yes.

24 Q Were your eyes on it at all times?

25 A I didn't see it moved, if that's what you're asking

1 me.

2 Q Yeah. And you don't know if the contents changed in
3 any way when it moved from the front to the backseat?

4 A I can testify that I saw nothing leave that vehicle
5 until we processed it.

6 MS. LIPINSKI: That's all we have.

7 Thank you.

8 THE COURT: Any redirect?

9 MR. WILKINS: Briefly.

10 REDIRECT EXAMINATION

11 BY MR. WILKINS:

12 Q Did you search that car with a valid search warrant?

13 A Yes, sir.

14 MR. WILKINS: No further questions.

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

16 You may step down.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Who is your next witness?

19 MR. WILKINS: It would be the lead investigator, Matt
20 Davis, for some chain. It would possibly take -- I don't
21 know, 10, 15 minutes, I guess, depending on opposing
22 Counsel.

23 THE COURT: Okay. Well, let's --

24 Are y'all good for another 20 or 30 minutes?

25 (WHEREUPON, the jurors indicated in the affirmative.)

1 THE COURT: Okay.

2 MR. WILKINS: The State calls Investigator Matt
3 Davis.

4 WHEREUPON,

5 MATTHEW BRIAN DAVIS,

6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 Please be seated.

9 Please state your name for the record.

10 THE WITNESS: Matthew Brian Davis.

11 DIRECT EXAMINATION

12 BY MR. WILKINS:

13 Q Mr. Davis, with whom are you employed?

14 A South Carolina Law Enforcement Division.

15 Q And how long have you been employed there?

16 A Since 2017. I just finished five years.

17 Q Do you have any prior law enforcement experience?

18 A Yes, sir. I've got a total of just -- finished 18
19 years in July. Before that, I was an investigator with
20 the Spartanburg County Sheriff's Office for a number of
21 years. And then before that, four years at the
22 Spartanburg City Police Department. The -- my total was
23 three years on the road approximately, with the rest being
24 in investigations -- assigned to the investigations
25 division.

1 Q And were you assigned to investigate the death of
2 Conley Jumper?

3 A Yes, sir, I was.

4 Q And how did you got involved in that investigation?

5 A I received a phone call from at the time Lieutenant,
6 now Captain Jeff Kindley to respond to the scene. And
7 then I was diverted on the way to the law enforcement
8 center to obtain search warrants, along with Colby Grigg.

9 Q And what kind of search warrant did you obtain?

10 A I obtained a search warrant for the person of who we
11 later determined to be Ray Kelly, the Defendant, over
12 there in orange.

13 Q Okay. And did you go to a magistrate to get that
14 search warrant?

15 A I did.

16 Q Did you present information to that magistrate
17 regarding probable cause to search?

18 A Yes, sir. I presented him with the information we
19 knew at the time.

20 Q All right. And did you obtain a search warrant?

21 A I did.

22 Q And what did you obtain a search warrant for?

23 A At the time, I obtained a search warrant for Mr. --
24 who we later learned was Mr. Kelly, his person. The only
25 thing I knew was what they would call a trauma number

1 that's assigned to him. When he's brought into the
2 hospital, they -- Greenville Hospital will assign that
3 almost to every person that comes in from an incident to
4 the ER.

5 So the only thing we knew at the time was he was in
6 there under that number, that letter and number
7 combination. I call it a trauma name. And so that's what
8 I used in order to identify the person that I would be
9 trying to potentially identify.

10 Q And so did you obtain possession of any materials
11 from Mr. Kelly?

12 A Yes, I did. I had asked the judge for authorization
13 to get buccal swabs, latent prints, blood, anything that I
14 knew could help in identification.

15 Q I'm going to show you what's marked as State's
16 Exhibit --

17 (WHEREUPON, State's Exhibit No. 77 was marked for
18 identification only.)

19 BY MR. WILKINS:

20 Q -- No. 77. What is that?

21 A That would be trauma blood identified that I obtained
22 directly from the hospital.

23 MR. WILKINS: The State moves State's Exhibit No. 77
24 into evidence.

25 MS. LIPINSKI: Your Honor, we would object. I

1 believe they took legal blood. While they switched over
2 to trauma blood, I think the legal blood was authorized by
3 the search warrant. And I would just object based on
4 that, Your Honor.

5 MR. WILKINS: Let me rephrase.

6 BY MR. WILKINS:

7 Q Did you obtain a search warrant for a blood draw for
8 the Defendant?

9 A I did for blood, yes, sir.

10 Q Did you, also, obtain blood from the hospital that it
11 drew?

12 A Yes, sir.

13 Q All right. And I'm going to show you -- I showed you
14 State's Exhibit No. 77. What was that blood?

15 A That blood would have been the blood the hospital had
16 drawn.

17 MR. WILKINS: The State moves State's Exhibit No. 77
18 into evidence.

19 MS. LIPINSKI: Your Honor, we object. The search
20 warrant was for legal blood. They drew that legal blood.
21 The search warrant did not authorize that. But I don't
22 know when the trauma blood was removed. I don't know the
23 chain of that trauma blood. And because it was different
24 and they haven't established that, that's depicted in the
25 photograph.

1 THE COURT: All right.

2 BY MR. WILKINS:

3 Q I'm sorry. Agent Davis, didn't you obtain a search
4 warrant for all blood, trauma blood, legal blood, and
5 buccal swabs?

6 A Yes, sir. Referring to my copy of the search warrant
7 was for buccal swabs, saliva and blood, fingerprints,
8 photographs of the male, and anything that would aid in
9 the identification for law enforcement and medical
10 treatment, in addition to clothing and any other items in
11 possession of medical personnel which are believed to be
12 the property of the male.

13 Q And did you obtain the blood of Ray Kelly pursuant to
14 that search warrant?

15 A Yes, sir.

16 Q All right. And I showed you State's Exhibit No. 77.
17 What is that blood?

18 A That blood was identified as having come from him.

19 MR. WILKINS: Your Honor, the State moves State's
20 Exhibit No. 77 into evidence.

21 MS. LIPINSKI: Your Honor, who drew the blood? Is he
22 aware of that? Because I think that that is pertinent. I
23 mean, that's the start of the chain.

24 So before we go into that, I think --

25 THE COURT: All right. That's -- where -- ask him

1 where the blood came from.

2 BY MR. WILKINS:

3 Q Where did you get the blood?

4 A Greenville Hospital System from a secure area that
5 they have us go to routinely that we show them a copy of
6 the search warrant. And they give us what is under that
7 person in their records as to what that person is
8 marked -- as to be from that person.

9 MR. WILKINS: The State moves State's Exhibit No.
10 77 --

11 MS. LIPINSKI: Does it say -- I hate to ask. But who
12 drew the blood? The Defense believes until they establish
13 who did it -- saying Greenville Hospital System --

14 THE COURT: All right. Technically speaking, she's
15 correct.

16 BY MR. WILKINS:

17 Q Do you know who gave you the blood?

18 A Medical -- the -- it would be by the lab person there
19 signed -- I signed for it from the lab directly from them.

20 MR. WILKINS: The Court's indulgence, Your Honor.

21 THE COURT: Uh-huh.

22 (Pause.)

23 BY MR. WILKINS:

24 Q Agent Davis, I'm going to show you a document to help
25 you refresh your memory. What is that?

1 A This is a chain of custody form used the by State Law
2 Enforcement Division, SLED, for forensic services
3 laboratory.

4 Q And what does it say?

5 A It says, All collected from Ray Kelly. It says, Two
6 gray topped tubes of blood, one green topped tube of
7 blood, one clear topped tube of blood, one purple topped
8 tube of blood, green, clear, and purple were showing. Out
9 to the side it says, Admission blood.

10 Q I'm going to show you State's Exhibit No. 77. Is
11 that the blood that you received pursuant to that chain of
12 custody form?

13 A Yes, sir.

14 MR. WILKINS: Your Honor, he has identified that it
15 came -- it was Ray Kelly's trauma blood from the
16 Greenville Hospital System.

17 MS. LIPINSKI: Your Honor, but he doesn't know that.
18 He didn't draw the blood. He ought to be able to identify
19 the person who --

20 THE COURT: I'll tell you what, ladies and gentlemen,
21 we're going to talk -- we're going to break for lunch.
22 Y'all go have a good lunch. I'll look for you back at
23 shortly after 2:00. I'm trying to do about an hour and
24 15 minutes for you.

25 Don't talk about it. Don't do any research.

1 We'll see you at, let's say, 2:10, how about that?

2 Okay.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 12:45 p.m.)

5 THE COURT: Okay. Do you want the person who drew
6 the blood?

7 MS. LIPINSKI: I think they need to, at least, be
8 able to identify that person. At this point, I don't
9 even -- they haven't shown that. This is where the chain
10 starts. This isn't somebody in some intermediary role who
11 just moves the blood from refrigerator A to refrigerator
12 B. This is the person who, actually, says, I drew blood
13 from this individual. And that's the start of the chain.
14 It's the most important --

15 THE COURT: All right. You've made your point.

16 MR. WILKINS: Your Honor, the case law is clear. You
17 don't have to have every step in the chain. He's
18 identified that it came from Greenville Memorial Hospital,
19 trauma blood. Trauma blood is coming in through the ER.
20 So there's doctors everywhere, nurses drawing blood.

21 And sometimes, they don't identify nurse A. They
22 just -- it was drawn from trauma unit A. It's identified
23 as trauma Montana, whatever. They have an assignment that
24 he identified. And then that blood is -- he's testified
25 it is given to him. On the chain of custody form, it was

1 Ray Kelly's blood, trauma blood as trauma Montana 220, I
2 think is what it's called. And he's connected those to --
3 so that's the chain.

4 THE COURT: Okay.

5 MS. LIPINSKI: Your Honor, the Defense believes that
6 this is the start of the chain. This isn't a weak link
7 where I moved it from refrigerator A to B. They want to
8 report that this is the blood drawn from Ray Kelly.

9 They ought to, at least, be able to identify who --
10 on the tube a name, something that establishes that. It
11 doesn't come --

12 THE COURT: Okay. Thank you.

13 EXAMINATION

14 BY THE COURT:

15 Q Investigator --

16 A Yes, sir.

17 Q -- the blood that you seized pursuant to this warrant
18 was taken from Greenville Hospital or Prisma Health
19 System; is that correct?

20 A Yes, sir.

21 Q And this contained -- it was in a container marked
22 with the identifying information that belonged to the
23 individual who was later determined to be Ray Kelly; is
24 that correct?

25 A Yes, sir. I showed them the search warrant and said

1 this is the person, the subject's blood I'm looking for
2 that I had the search warrant for. And they brought me
3 and said this would be what matches under that. This is
4 it right here.

5 THE COURT: All right. I'm going to find that
6 they've established the chain of custody.

7 So I overrule your objection.

8 We will now break until -- for about -- until a
9 little bit after 2:00.

10 And, Officer, of course, don't discuss your
11 testimony -- Investigator.

12 THE WITNESS: Yes, sir. I've been called worse.

13 THE COURT: For the record, I don't know the number,
14 but we're going to check -- courthouse security is going
15 to check the gun to ensure it is safe, made safe.

16 Go ahead and do that right now.

17 THE COURTROOM DEPUTY: Yeah. He's got a lock on it.

18 THE COURT: We're all set.

19 (WHEREUPON, a lunch break was taken.)

20 (WHEREUPON, State's Exhibit Nos. 78, 79, 80, 81, 82,
21 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96,
22 97, and 98 were marked for identification only.)

23 THE COURT: I guess we need Investigator Davis back.

24 MS. LIPINSKI: Your Honor, before we begin, if I
25 could bring two cases to the Court's attention regarding

1 the Defense's motion regarding chain.

2 THE COURT: Okay.

3 MS. LIPINSKI: It -- just State vs. Williams --
4 there's two cases called State vs. Williams, just by the
5 same name. But they both address the same issue. One
6 happens in 1989 where they identified the nurse, but she
7 was not available to testify. The Court ruled in that
8 case the blood evidence could come in.

9 But then there's a subsequent case State vs.
10 Williams, again, I believe unrelated, just by the same
11 name in 1990 where the Supreme Court stated that while
12 proof of the chain of custody need not negate all
13 possibility when no one present in the emergency room can
14 identify the person who sealed and labeled the blood, the
15 breakdown renders the chain of custody fatally defective.

16 So for that reason, the Defense believes their
17 failure to identify the person who drew and labeled the
18 blood purported to be that of Mr. Kelly renders the chain
19 fatally defective. And we would renew our motion to
20 exclude the blood evidence in this case.

21 THE COURT: Yeah.

22 MR. WILKINS: Your Honor, we would respond. Chain of
23 custody has been held in South Carolina Department of
24 Social Services vs. Cochran that where a chain of custody
25 has been established depends on the unique factors and

1 circumstances in each case.

2 And then State vs. Governor, a 2005 Court of Appeals
3 case says it goes to the weight of evidence at the end of
4 the day, not the admissibility. And in 2001, State vs.
5 Carter, a complete chain of custody as far as practical.

6 THE COURT: Okay. Well, my ruling is going to stay
7 the same. And you're relying on, I guess, the 1990
8 Williams case. And I believe in that, there seemed to be
9 cumulative breaks in the chain.

10 MS. LIPINSKI: Yes, sir. They identified,
11 specifically, that no one present in the ER could identify
12 the person who sealed and labeled the blood. And no one
13 in the emergency room could recall by whom it was
14 transported. And they, also, said it was mislabeled as
15 someone else.

16 So I think here, they can't identify who drew the
17 blood or who transported it to this refrigerator from
18 which the Special Agent retrieved it. And that it doesn't
19 bear his name, but instead, it says Montana 478. They
20 don't have anyone from the emergency room to establish
21 that that is the identity of Mr. Kelly. We would indicate
22 that we believe this chain is, also, fatally defective.

23 MR. WILKINS: Your Honor, I would refer you to State
24 vs. Freiburger --

25 THE COURT: Mr. Solicitor, we do stand in South

1 Carolina --

2 MR. WILKINS: Yes, sir, Your Honor.

3 THE COURT: -- when you address the Court.

4 MR. WILKINS: The establishment of a strict chain of
5 custody is not required. So you don't have to -- you can
6 have lapses in the chain. Agent Davis has testified
7 that --

8 THE COURT: I'm going to agree with you that this
9 goes to the weight, not the admissibility.

10 Okay. Overruled.

11 All right. Now, I think we can get him back, or have
12 you completed -- what else do you need to do with
13 Investigator Davis?

14 MR. WILKINS: I need to introduce my photo and then
15 some phone records.

16 THE COURT: Okay.

17 MR. WILKINS: And, Your Honor, let's go ahead and
18 address the phone records so I don't have to object -- the
19 objections.

20 THE COURT: Okay.

21 MR. WILKINS: The phone records are through affidavit
22 from T-Mobile pursuant to Section 19-5-510 -- 19-5-520,
23 certified business records. It's where an affidavit of a
24 custodian is sufficient to authenticate the records for
25 purposes of admissibility. It's similar to federal rule

1 902-11. So that's how I'll be introducing phone records,
2 not from a representative of T-Mobile.

3 MS. LIPINSKI: If I could just see the affidavit,
4 Your Honor. Is it to all three phones or just two of
5 them, I would just inquire?

6 MR. WILKINS: Yeah, two phone records. We have phone
7 records for two phones.

8 THE COURT: Which phones?

9 MR. WILKINS: I can give you the phone numbers or
10 show you the pictures.

11 THE COURT: Well, not to me.

12 MR. WILKINS: Well, who's asking?

13 MS. LIPINSKI: I'll do it the simple way. Is it the
14 glove box phone, the purse phone, or the street phone?

15 MR. WILKINS: It is not the street phone.

16 MS. LIPINSKI: All right. So the two phones removed
17 from the car, one from the person and one from the glove
18 box are what the T-Mobile affidavits purport to
19 authenticate.

20 THE COURT: Okay.

21 MR. WILKINS: Those phone records.

22 MS. LIPINSKI: I understand that's how they admit
23 phone records. We acknowledge that, Your Honor.

24 THE COURT: All right.

25 MS. LIPINSKI: And I don't want to belabor the issue,

1 but that blood is going to lead to other evidence,
2 subsequently, other testimony. Similar to how we objected
3 to items in the search, if I could just --

4 THE COURT: Be a continuing objection.

5 MS. LIPINSKI: Be a continuing objection and
6 reference that chain issue that we object to.

7 Thank you, Your Honor.

8 THE COURT: All right. Come on back.

9 Let's get the jury.

10 (WHEREUPON, the jury came into open court at
11 approximately 2:24 p.m.)

12 THE COURT: All right. Solicitor.

13 MR. WILKINS: Your Honor, may it please the Court.

14 CONTINUED DIRECT EXAMINATION

15 BY MR. WILKINS:

16 Q Investigator Davis, I believe you were previously
17 testifying.

18 A Yes, sir.

19 Q And I believe we were talking about search warrants
20 for the blood of Ray Kelly?

21 A Yes, sir.

22 Q All right. So I'm going to kind of take us back --
23 back to there. I'm just going to ask you again, did you
24 obtain a search warrant for the blood of Ray Kelly?

25 A I did.

1 Q Okay. And what did you do with that search warrant
2 and how did you execute that search warrant?

3 A I met Greenville County Public Safety, their forensic
4 services at the hospital. And with the -- and some
5 Greenville County deputies that were either sitting with
6 at the time later identified as Mr. Kelly or other
7 detectives that were there that weren't immediately
8 related to anything going on at the ER to go with me up
9 there.

10 I identified the search warrant to the attending
11 nurse for him to confirm that that was the subject who I
12 had listed in the search warrants since we only knew him
13 by a trauma name to execute the search warrant. And then
14 I, also, took the search warrant over to where the blood
15 was kept and showed them that in order to obtain the
16 correlating blood to that trauma name.

17 Q Okay. I'm going to show you what's marked as State's
18 Exhibit No. 77.

19 MS. LIPINSKI: Subject to the previous objection,
20 they can't identify the nurse, Your Honor.

21 BY MR. WILKINS:

22 Q And do you recognize that?

23 A Yes, sir.

24 Q What is that?

25 A That would be the blood vials that I obtained from

1 the secure area at the hospital lab. The trauma blood is
2 what they refer to it as that which they drew when he came
3 in.

4 MR. WILKINS: The State moves State's Exhibit No. 77
5 into evidence.

6 THE COURT: Subject to that objection.

7 (WHEREUPON, State's Exhibit No. 77 was admitted into
8 evidence.)

9 BY MR. WILKINS:

10 Q Can you tell this jury what -- how you identified it?

11 A So you take the search warrant, especially when the
12 person is unknown and you only have them identified by a
13 number, and you show them the search warrant. It gives a
14 section that says exactly what you're looking for and how
15 the person is uniquely identified so you don't get mine or
16 anybody else's.

17 I show that to them so they can then look through
18 their system so they can identify properly what they have
19 attached to that. Because if there's anything -- they
20 keep a record of how that stuff is done or changed.

21 So, therefore, when they handed me this, I confirmed
22 with the person that I was getting it from, the medical
23 staff, I said, I just want to be sure with this guy not
24 being identified yet who I have listed under this trauma
25 name and this blood right here correlates to this person

1 right here. And they said, Yes, it does.

2 MS. LIPINSKI: Objection as to hearsay, Your Honor.
3 I move to strike. He can't testify as to what an unknown
4 person said to him.

5 THE COURT: Okay. He can testify to what he
6 understood from his --

7 THE WITNESS: Yeah.

8 THE COURT: Go ahead.

9 THE WITNESS: What I understood was that that was the
10 blood that I was requesting in the lawful search warrant I
11 obtained from the judge earlier that night.

12 BY MR. WILKINS:

13 Q And what's on the vials that you --

14 A On the vials, it says, TR 2020 Montana 078. And then
15 it has a bunch of bar codes and other things that the
16 hospital uses in their tracking purposes.

17 Q And what did you do with this blood once you obtained
18 it?

19 A I took the stuff I had gathered from the hospital
20 that would need to be transported to our lab in Columbia.
21 I left the hospital, traveled to the incident location,
22 met with SLED crime scene agents. Out there was Nicholas
23 Sprouse and -- we call her Maggie, Margaret Pauli, Agent
24 Pauli. And I turned the items over to Agent Pauli for her
25 to take on down and secure.

1 Q And -- all right. And where did she -- well, never
2 mind.

3 Did you, also, get a search warrant for some phones?

4 A I did.

5 Q Were you able to identify phones that were found at
6 the scene?

7 A I was able to.

8 Q And what did you do with those phones and how did you
9 get a search warrant?

10 A After I received information from the phones from
11 data extractions that were done, I was able to identify
12 from that the cell phone carrier and the phone numbers.
13 And it gives you a list of other information.

14 So then I was able to go to a judge, obtain a search
15 warrant in order to get the time period that I needed the
16 phone records that would give me additional information.

17 Q Okay. And did you receive those phone records?

18 A I did. Two of them were from T-Mobile that I had
19 sent.

20 Q All right. I'm going to show you State's Exhibit
21 Nos. 78 and 79.

22 MS. LIPINSKI: Could he just identify for the record
23 which phones we're talking about? I know we talked about
24 it earlier.

25 MR. WILKINS: I'm going to do that.

1 THE COURT: Okay. He'll get it. Do you want to move
2 these into the record?

3 Do you have any objection?

4 I don't know what they are.

5 MR. WILKINS: These are phone records.

6 MS. LIPINSKI: Of which phones? So the objection is
7 succinct.

8 THE COURT: Get him to identify which is which.

9 MR. WILKINS: I've got to show him the disks.

10 THE COURT: Show it to him, yeah.

11 BY MR. WILKINS:

12 Q I'm going to show you State's Exhibit Nos. 79 and 78.
13 Can you tell this Court what those are and where you got
14 them from?

15 A Yes. These are two of the phones out of the three
16 that I sent to identify that their registered carrier,
17 according to the phone data I received, was through
18 T-Mobile. One of them is a phone number 631-334-.
19 And the other one was 347-228-.

20 Q All right. And do you know where those phones were
21 located -- which phones?

22 A These were the phones from the vehicle. The phone --
23 not the phone that was shown to be in the picture outside
24 the vehicle.

25 Q I'm going to show you what's marked as State's

1 Exhibit No. 76, which has already been admitted into
2 evidence. And can you identify the phones that those cell
3 phone records match up to?

4 A This would be one of the phones right here, one of
5 those.

6 Q And that is State's Exhibit -- well, they're all
7 State's Exhibit No. 76.

8 A And then this one would be the other T-Mobile phone
9 right here. This is not related to those phone records.

10 (WHEREUPON, State's Exhibit Nos. 76-1 and 76-2 were
11 marked for identification only.)

12 BY MR. WILKINS:

13 Q I'm going to show you State's Exhibit No. 76-1.
14 Could you identify that phone by that marker there?

15 A Yes. It's got the XS Sports Fitness.

16 Q And where did that phone come out of?

17 A That came out of the car.

18 Q And State's Exhibit No. 76-2 is identified as the --

19 A It's the red phone that, also, came out of the car.

20 MR. WILKINS: Your Honor, I have affidavits from
21 T-Mobile regarding State's Exhibit Nos. 76-1 and 76-2
22 authenticating that those are true and accurate business
23 records from T-Mobile signed by Sydney Day, a
24 representative of T-Mobile.

25 And pursuant to the previously established statute, I

1 move these into evidence.

2 MS. LIPINSKI: We would just renew our objection to
3 any items seized from the car. And we would,
4 specifically, object not as to the records as to
5 authenticity, as I believe that's -- records by affidavits
6 established, but until the State could tie those to
7 Mr. Kelly or show that they are in any way related to
8 these crimes.

9 THE COURT: Okay. That's weight, not admissibility.

10 MS. LIPINSKI: I understand that, but we would object.
11 Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit Nos. 76-1 and 76-2 were
13 admitted into evidence.)

14 BY MR. WILKINS:

15 Q All right. Did you have the occasion to get a search
16 warrant or consent to get the buccal swabs of the
17 passenger of the vehicle?

18 A Yes.

19 Q Were you able to identify the passenger of the vehicle?

20 A Yes. We identified the passenger of the vehicle
21 as -- I'll probably misstate it, but Larelle [sic]
22 Toreono [sic].

23 Q And did you --

24 A Tornell Laureano. I knew it would come to me.

25 Q Did you try to get buccal swabs from her?

1 A Yes.

2 Q And were you successful?

3 A I was. She consented to that.

4 Q She consented to buccal swabs?

5 A Yes.

6 Q I'm going to show you what's marked as State's
7 Exhibit No. 90 for identification purposes only.

8 A Yes. This is mine. After I obtained it from another
9 agent, I heat-sealed it. I had to initial the date I
10 heat-sealed it down at headquarters at the lab. And it's
11 got my marking on the back and everything where I filled
12 out on the front identifying this.

13 Q Tell this jury how you got the buccal swabs, and what
14 is a buccal swab, those types of things.

15 A A buccal swab is non-invasive. It's the easiest way
16 to get DNA. You, basically, have a Q-tip and you have
17 somebody stick it -- it's a sterile Q-tip, obviously. But
18 they'll take it and stick it on the inside of their cheek.
19 And they'll roll it for about five seconds.

20 They'll pull it out. You have a little box. You've
21 got a glove on. They'll slide it in. They'll take the
22 other one, roll it around on other side, put it in, fold
23 it up, and put it in an envelope and write all their
24 information on the outside of it.

25 Consent. You have a form that you usually go over

1 with them so they understand that it's them consenting to
2 that. And then it's sealed up in their presence,
3 initialed, head on out. And then you take it on down to
4 the lab and request what type of analysis you need on it,
5 if you need it compared for something or a standard.

6 Q And taking you back to the crime scene, did you take
7 any items out of the trunk of the car?

8 A Later on. Not at the crime scene, no, but later.

9 Q From the car?

10 A Yes.

11 Q Where -- from where were they removed?

12 A They were removed from the trunk. I took them from
13 the black -- I call it a laundry bag, the linen bag that
14 was shown in pictures earlier. I went there. I pulled
15 clothing items out of that, different clothing, packaged
16 it up, took it down to headquarters for them to do an
17 analysis on it in the lab.

18 Q So you took it down to SLED?

19 A Yes, sir. I took it down to the lab.

20 Q All the clothes in that bag?

21 A Yes, sir.

22 Q Did you happen to collect Sergeant Jumper's clothes,
23 or vest, or anything like that?

24 A I was able to collect his vest and his duty belt from
25 his vehicle.

1 Q And what did you do with that?

2 A I then took it, packaged it -- the vest up. The duty
3 belt was a little different. I was able to seal it on the
4 outside, packaged it up, and initialed it. And that
5 could, actually, be stored locally at our regional office
6 in our secure vault there.

7 So that item, I took and put it in the vault. It
8 remained there until I brought it this week for court.

9 Q And just to make sure, I want to make sure I asked
10 you, what did you do with the buccal swab after you
11 obtained it from Tornell Laureano?

12 A After I took the buccal swab, packaged it, we have to
13 get the lab to fill out the paperwork. I take it down to
14 headquarters to the lab building. That's where I
15 heat-sealed it and put it in there for it to be tested.
16 And I asked for it to be eventually -- one of the things I
17 requested was that it be a DNA standard tested along with
18 those clothes.

19 MR. WILKINS: Please answer any questions Ms. Lipinski
20 has.

21 CROSS-EXAMINATION

22 BY MS. LIPINSKI:

23 Q The two phones from which you received the T-Mobile
24 records, those were, also, claimed as Tornell Laureano;
25 correct?

1 A That's what my investigation -- I believe those came
2 back to her.

3 Q She stated she had, like, a work phone and a personal
4 phone?

5 A I believe so.

6 Q And so as to -- you went through with great detail
7 explaining collecting the buccal -- or the cheek swabs
8 from Ms. Laureano; correct?

9 A Yes. That's kind of the spiel I give to everybody
10 when I collect them to let them know. That's what rolls
11 off my tongue now.

12 Q Right. And the reason we go through all of this is
13 for the integrity of evidence; correct?

14 A I go through that so they know it's not invasive. A
15 lot of people -- you say DNA, they think you're holding
16 them down and pulling some blood, or something. I do that
17 mainly to ease and calm them down so they know this is
18 something that's less than brushing your teeth.

19 Q But the whole reason that we do the whole thing -- we
20 make sure that it's a sterile kit; right? When we start
21 off with -- correct -- so there's no contamination;
22 correct?

23 A Correct.

24 Q If there's any indication of contamination, then you
25 discard that kit; correct?

1 A I do.

2 Q And you've been in law enforcement how long?

3 A 18 years.

4 Q And during that, you've received repetitive training
5 about the importance of adhering to these principles in
6 collecting evidence; correct?

7 A In collecting buccal swabs, yes.

8 Q Any evidence is important that we make sure that we
9 maintain a chain of custody; correct?

10 A Uh-huh.

11 Q That we put it -- or preserve it in a way that
12 prevents it or, at least, tries to document that there's
13 been no tampering with the evidence; correct?

14 A Document how it is received to us from that period
15 forward, correct. Yes.

16 Q Right. But you document who -- from whom you receive
17 it; correct?

18 A Depending on what form it is, that's what we do, yes.
19 If it's a search warrant, you exchange a search warrant
20 for it and you take it.

21 Q Let me show you just the envelope of State's Exhibit
22 No. 76.

23 A Yes.

24 Q You're familiar with this document?

25 A I am.

1 Q It's a receipt of -- for property; correct?

2 A Uh-huh.

3 Q And that is -- it indicates your name and your then
4 lieutenant's name, Kindley, I certify that I received
5 these articles listed above; correct?

6 A Listed above, yes.

7 Q And it says, Signature of person from whom property
8 is obtained; correct?

9 A Which has nothing there, yes.

10 Q But you all collected these cell phones; right?

11 A Right. From the Nissan Altima.

12 Q Right. So you and Agent Kindley collected these cell
13 phones; right? You started this chain?

14 A Uh-huh.

15 Q That's why there's no signature of a person from whom
16 the property is obtained; correct?

17 A Correct.

18 Q And then every time there's a hand off between when
19 you collect it and when they checked it out for court,
20 there's a signature of somebody; correct?

21 A Yes.

22 Q And when you took the buccal swabs from Tornell
23 Laureano, you started that same process with that piece of
24 evidence; correct?

25 A I would have to refresh my -- but I believe I've got

1 some paperwork that shows it went from me to the lab.
2 That's in the form of the submission.

3 Q There are standard SLED documents where you are to
4 document from whom you obtain evidence; correct?

5 A On some stuff, yes.

6 Q On all evidence; correct?

7 A When we're taking it from one to the other, there is
8 different ways we document it, yes.

9 Q But there is a methodology or a document that you are
10 supposed to utilize. It may vary from the various
11 physical types of evidence --

12 A Yes.

13 Q -- but there is always a document involved; correct?

14 A Correct.

15 Q SLED doesn't want you moving or touching evidence
16 unless it is documented who is in that chain; correct?

17 A Correct.

18 Q And it is particularly important who starts that
19 chain, who collects that piece of evidence; correct?

20 A Yes.

21 Q And as for the Montana 478 and State's Exhibit
22 No. 77, you don't know who that is; correct?

23 A Are you talking about today I don't know who that is?

24 Q Right.

25 A No. Today I know --

1 Q No, no, no. Who drew this blood?

2 A It was not law enforcement.

3 Q That's all you know -- it's not law enforcement?

4 A Yes. Because I keep a chain when it comes into law
5 enforcement saying what you were describing, that's from
6 law enforcement. I don't have a way of forcing the
7 hospital to develop a --

8 Q You've never gotten --

9 A -- chain of evidence for me if they don't know I'm
10 ever going to come and show up to get something. I only
11 do the chain from when I get it forward. That one, I
12 didn't have to fill out a piece of paper because I had a
13 search warrant that said I was getting it from the
14 hospital.

15 Q The phones were pursuant to a search warrant and you
16 still got a piece of paper; correct?

17 A That's because it was leaving crime scenes -- a crime
18 scene. We put it on the search warrant and we take it to
19 a different area.

20 Q So blood --

21 A So that was it coming into my custody to go. Just
22 like I did a custody of that from me to the crime scene
23 lab.

24 Q But you could have put on that record who drew you
25 this blood. And you don't know who that is?

1 A I've never done that on a search warrant. I've
2 never --

3 Q You've never documented who drew blood?

4 A Not on the search warrant. The document has a part
5 that is who it's served on. It doesn't say who drew.

6 Q You don't think it's necessary to document who drew
7 the blood?

8 A I request that stuff from them.

9 Q But you don't know who them is. You keep saying them
10 and they. You don't know who them is?

11 A If I could have the medical records, I've got it up
12 here, a computer. I can go through and I can --

13 Q You knew you were coming here today --

14 THE COURT: Whoa, whoa. Let him finish his answer
15 before you ask another question.

16 MS. LIPINSKI: Sure.

17 THE WITNESS: And I have the medical records where
18 I've requested all that, yes.

19 BY MS. LIPINSKI:

20 Q But you knew you were coming here today?

21 A Yes, ma'am.

22 Q And you didn't fill out a document that says I took
23 this blood from Suzy Jones, RN, at Greenville Memorial
24 Hospital?

25 A No, ma'am.

1 Q And it does not bear Mr. Kelly's name?

2 A No, ma'am. He was not providing any information, so
3 they couldn't provide his name.

4 Q But you took a buccal swab from Tornell Laureano
5 yourself and you documented that?

6 A Yes. Because she gave her name.

7 Q But you didn't need her name to indicate who took it.
8 You were documenting that you started the chain, were you
9 not?

10 A Yes. Because law enforcement was starting the chain
11 with me, yes. Just like after I got that, I started the
12 chain from me to the crime scene.

13 Q But you didn't document who drew you the blood?

14 A No, ma'am. I was not present when it was collected.

15 Q And you didn't do -- other than -- you didn't do any
16 examination of the phone. You're not a phone expert, or
17 anything like that; correct?

18 A No, ma'am.

19 Q You don't work for T-Mobile?

20 A No, ma'am.

21 Q And so in terms of authenticating or testifying to
22 the veracity of what those things contain, you don't know
23 that; correct? Your role is limited to I collect it;
24 right?

25 A And then after an examination was done, I receive the

1 data from that.

2 Q Right. And you documented that; correct?

3 A Uh-huh.

4 MS. LIPINSKI: All right. The Court's indulgence one
5 moment, Your Honor.

6 (Pause.)

7 MS. LIPINSKI: That's all, Your Honor.

8 THE COURT: Any redirect?

9 MR. WILKINS: Briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. WILKINS:

12 Q I believe you read this in your -- prior to lunch,
13 Investigator Davis?

14 A Yes.

15 Q But I'm going to show you a document to refresh your
16 memory. What is that?

17 A That is our chain form where it went from me to Crime
18 Scene Agent Maggie Pauli.

19 Q And what does your chain form say?

20 A Relinquished by me to her at October 20th, 2020, at
21 11:00 p.m.

22 Q For what?

23 A This was the blood chain of custody. It was for it
24 to go to the lab.

25 Q I know. But what was it for?

1 A Oh, it was for the admission of blood.

2 Q For whom?

3 A Ray Kelly.

4 MR. WILKINS: Thank you.

5 No further questions.

6 MS. LIPINSKI: Just one recross. He brought up the
7 document, Your Honor.

8 THE COURT: Go ahead.

9 RECROSS-EXAMINATION

10 BY MS. LIPINSKI:

11 Q You didn't draw that blood from Ray Kelly; correct?

12 A No.

13 Q And you weren't present when that was done;
14 correct?

15 A Not that one, no, ma'am.

16 THE COURT: Okay. Thank you.

17 You can step down.

18 MR. WILKINS: Your Honor, we would just move to
19 recall Agent Davis.

20 THE COURT: What?

21 MR. WILKINS: I move to recall him at a later time.

22 THE COURT: Yeah. That's fine.

23 MR. WILKINS: The State calls Brian Hudak.

24 THE CLERK: Please place your left hand on the Bible
25 and raise your right hand.

1 WHEREUPON,

2 BRIAN HUDAK,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 Please be seated.

6 Please state your name for the record.

7 THE WITNESS: Brian Hudak, H-U-D-A-K.

8 DIRECT EXAMINATION

9 BY MR. WILKINS:

10 Q Mr. Hudak, who do you work for?

11 A The South Carolina Law Enforcement Division, also,
12 known as SLED.

13 Q Are you Agent Hudak?

14 A Special Agent.

15 Q Special Agent Hudak?

16 A Yes, sir.

17 Q Special Agent Hudak. And what do you do for them?

18 A I work in the computer crimes doing forensic analysis
19 of digital evidence of cell phones, computers, also,
20 investigations into network intrusions and ransom ware.

21 Q And what kind of education do you have?

22 A I have a bachelor's degree from Winthrop University
23 in sociology with a concentration in criminology.

24 Q And are you a member of any associations?

25 A Yes. I'm a member of the South Carolina Internet

1 Crimes Against Children Task Force, which is run by the
2 South Carolina Attorney General's Office, the Cyber Fraud
3 Task Force, which is run by the United States Secret
4 Service. I'm, also, a task force officer with the FBI as
5 side work.

6 Q And what kind of career experience do you have?

7 A I've been at SLED for almost seven years, all of it
8 in computer crimes. I've conducted hundreds of
9 examinations on cell phones, computers. I've attended
10 many training courses through the National White Collar
11 Crime Center with basic computer skills for law
12 enforcement, identifying and seizing electronic evidence,
13 introduction to cell phone investigations, basic data
14 recovery analysis, Internet data recovery analysis through
15 the National Computer Forensic Institute.

16 I've been through the basic investigation of computer
17 and electronics crimes program, basic network intrusion
18 investigations, network intrusion response program,
19 forensic and malware analysis, as well as other courses.
20 As well as annually as part of the computer crimes, I do
21 complete a proficiency exam in either cell phones or
22 computers.

23 Q And how many phones do you think you've extracted?

24 A Probably between 200 and 300, at the least.

25 Q And when I say "extraction," what does that mean?