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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 A That means acquiring the data from the phone using
2 software and/or hardware.

3 MR. WILKINS: Your Honor, the State moves to certify
4 Special Agent Hudak as an expert in digital forensics.

5 THE COURT: Any objection?

6 MS. LIPINSKI: Cell phone --

7 MR. WILKINS: Cell phone extraction.

8 MS. LIPINSKI: That's fine.

9 THE COURT: Without objection.

10 BY MR. WILKINS:

11 Q Special Agent Hudak, were you asked to assist your
12 SLED brother in the download of certain phones in this
13 case?

14 A Yes, sir. I received three cell phones.

15 Q All right. I'm going to show you State's Exhibit
16 No. 76. And it's already been admitted into evidence.
17 You can open those up and identify if those are the phones
18 that you extracted?

19 A Yes, they are.

20 Q All right. Tell this jury how you would go about
21 extracting data off of these cell phones.

22 A For all three of the iPhones, I use a tool called
23 GrayKey, which I plugged that into the iPhone, which
24 extracts the data. From that data that was extracted, I
25 then import that data into a program called Cellebrite,

1 which parses through the data, basically, sorts it out
2 between various items that were pulled from the phone,
3 whether it be chat messages or media files, and lays it
4 out in an organized format.

5 Q And were you successful in extracting data from each
6 of these phones?

7 A Yes, I was.

8 Q All right. And when it's extracted, what does it
9 look like? Like, how do I know what I'm looking at?

10 A Basically, the data that's extracted is a zip file.
11 And the zip file is imported into Cellebrite, which goes
12 through all the data in that zip file to parse it out to
13 show that there was this many chat messages, this many
14 pictures, this many videos, audio recordings, just
15 whatever data was able to be recovered from the device.

16 Q I'm going to show you what's marked as State's
17 Exhibit Nos. 86, 87, and 88. I'm going to show you these
18 three, 87, 88, and 86, State's Exhibits. Can you look at
19 those and tell me what they are?

20 A All three appear to be, basically, what you might
21 consider the front page or table of contents for the
22 Cellebrite reports I generated from these items showing
23 information obtained from the device and contents of the
24 device, as well as information from the device itself for
25 three phones.

1 Q Okay. And I'm going to show you items 76, 76-1 and
2 76-2. And can you can match those up to -- which phone to
3 which extraction it applies to?

4 A This phone would be to this extraction.

5 Q Okay. So that's State's Exhibit No. 76 goes with
6 extraction 88. And tell this jury how you're doing that.

7 A I'm doing it based on the item number. As part of
8 the intake process, when an item is intaken [sic], it's
9 identified and assigned an item number, a case number, and
10 an item number for computer crimes. And then a label is
11 printed out identifying the case number and the item
12 number of the item. Which I did the intake on this case,
13 so I personally reported all the information and affixed
14 these labels to the items.

15 Q Okay. So that is State's Exhibit No. 76-2 with
16 State's Exhibit No. 86. And State's Exhibit No. 76-1 with
17 State's Exhibit No. 87?

18 A Yes.

19 MR. WILKINS: Your Honor, the State moves State's
20 Exhibit Nos. 86, 87, and 88 into evidence.

21 MS. LIPINSKI: Subject to our continuing objection
22 regarding the search warrant, Your Honor.

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit Nos. 86, 87, and 88 were
25 admitted into evidence.)

1 BY MR. WILKINS:

2 Q I'll start with State's Exhibit No. 88. All right.
3 What are we looking at?

4 A That is the front page table of contents for the
5 Cellebrite report I generated for evidence item -- my
6 evidence item number one.

7 Q And is this what the extraction report looks like?

8 A That's correct. That's what Cellebrite generates
9 with the information that it was able to parse out from
10 the actual extraction.

11 Q I'm going to zoom in a little bit so they can see.
12 What is the report creation time? And explain what the
13 document shows.

14 A So it shows -- the first line is the Cellebrite
15 physical analyzer version. That's the version of the
16 Cellebrite software I used to parse out the data. The
17 next line is the report creation time, which is
18 October 30th, 2020, 11:05:40 a.m. The time zone settings
19 for the report were set to UTC minus five New York, which
20 is the same as the item. And then the examiner name,
21 which is my name.

22 The location, we use whatever device this software
23 runs on the computer. We have multiple systems in our
24 laboratory that we can run, also, for identification.
25 This was my HP laptop I ran this report on. My case

1 number is 7020-0321. Item number 01, and then the
2 department is computer crimes and organization is SLED.

3 Q All right. I'm going to go down to where it says,
4 Device information. What does that tell us?

5 A That's information that GrayKey -- when I did the
6 extraction with GrayKey that I was able to retrieve from
7 the device about the actual device, the phone itself.

8 Q And what is the Apple ID?

9 A The Apple ID is raymond. [REDACTED]

10 Q All right. I'm going to show you -- at the top of
11 the next page, what is that?

12 A The further information, including the MSI scan
13 number, which is, essentially, the phone number for the
14 device.

15 Q What is the phone number?

16 A 1-631-336 [REDACTED].

17 Q So last is [REDACTED]?

18 A Correct.

19 Q And what is the rest of that information?

20 A Do you want me to read each line?

21 Q No. Just --

22 A It has the serial number of the phone itself, the
23 IMEI, which is the international mobile identifier. It's
24 another unique identifier that each cell phone or mobile
25 device has. The data was last backed up to the cloud, the

1 time zone of the item itself, the advertising ID and
2 Bluetooth device address, as well as the detected phone
3 model and other information.

4 Q All right. I'm showing you the contents. What is
5 the contents?

6 A So this is where I was saying it would parse out the
7 actual extractions. So in this case, it was able to
8 retrieve one contact, 10 device events, 669 installed
9 applications, 12 journeys, 10 locations, et cetera.

10 So for each one of those, that's the number of items
11 for each item. So in case of locations, 10 different
12 locations it was able to pull from this device.

13 Q All right. I'm going show you State's Exhibit
14 No. 48, which is already in evidence. Can you see that
15 information on file?

16 A Yes.

17 Q What is that number?

18 A The phone number is 516-273-[REDACTED].

19 Q And whose name is that? Can you see that?

20 A I'm sorry. I'm not seeing.

21 Q At the top, after visit summary?

22 A Oh, Ray Kelly.

23 Q All right. Can I get you to see last used M-I-S-S
24 right there?

25 A Yes.

1 Q What is that number?

2 A That is 1-516-273-[REDACTED].

3 Q Is that the same number I just showed you?

4 A Yes.

5 Q All right. So I'm going to show you what's been
6 admitted as State's Exhibit No. 87. What is that?

7 A That appears to be locations from a mobile device
8 from the cell phone location history.

9 Q Is that from the same -- State's Exhibit No. 87, the
10 same one we're looking at?

11 A Yes.

12 Q So location, what does that mean?

13 A That's any sort of locations, GPS coordinates that
14 the device -- or that GrayKey was able to extract from
15 this iPhone, which would come from anything from
16 connecting to wireless networks, pictures, just what --
17 any sort of location coordinates it was able to pick up
18 from whatever the artifact, actually, is.

19 Q So let me show you the first two, one -- number one
20 and number two. What are those?

21 A Those are locations that correspond to a Wifi ID,
22 Xfinity Wifi.

23 Q And what is this here that I'm pointing to?

24 A That's the actual GPS coordinates that you plug into
25 a map to get a -- basically, pin on a map.

1 Q Does that show you where that phone was located at
2 that time to the right?

3 A Correct. That should show when that phone was
4 connected to that.

5 Q All right. I'm going to show you State's Exhibit
6 No. 86. Is that another extraction report?

7 A Yes, it is.

8 Q All right. And does that tell us, basically, the
9 same thing as you described earlier?

10 A Same thing, just -- yep.

11 Q Yeah. So I'm going to show you the device
12 information. What does it say?

13 A Under device information, it's showing two Apple
14 ID's. One is crazy [REDACTED] as well as
15 K-H-A-L-I-F-A [REDACTED]

16 Q And what is the phone number of this one?

17 A It is 613-334-[REDACTED].

18 Q And then, again, go to the contents. And what's in
19 the contents?

20 A That's showing it was able to pull some application
21 usage logs, calendar events, items from the call log, and
22 items from various chats, to include Facebook messenger,
23 Instagram, native messages, which are your text messages
24 or MMS, SMS messages, and Snapchat, and WhatsApp messages.

25 Q And were there any, I guess, text messages or, I

1 guess, native messages?

2 A Under native messages, there were 239.

3 Q There it is, native messages.

4 A Under native messages, 239.

5 Q All right. I'm going to show you what's marked as
6 State's Exhibit No. 88.

7 MS. LIPINSKI: Your Honor, we would object to these
8 text messages coming in. They have been claimed by a
9 co-defendant -- came from a phone claimed by a
10 co-defendant. There's no indication that it can be tied
11 to this Defendant in any way.

12 THE COURT: Okay. That's -- your objections are
13 getting a little lengthy. Let me look at them. I don't
14 have any idea what you're talking about.

15 MS. LIPINSKI: Your Honor, I'd ask you to look at
16 State vs. Ostrowski. I think it's --

17 THE COURT: I'll tell you what, we'll take a short
18 break.

19 Ladies and gentlemen, please, don't discuss the case.
20 We'll get back with you in a few minutes.

21 (WHEREUPON, the jury was excused from open court at
22 approximately 3:10 p.m.)

23 THE COURT: I'll say objections -- I'm getting a
24 little tired of the speaking objections. Attorneys will
25 have ample opportunity to argue their case in front of the

1 jury at the appropriate time.

2 Now, what's your objection now that the jury is not
3 here?

4 MS. LIPINSKI: I apologize, Your Honor.

5 The evidence I believe proffered by the State are
6 text messages regarding what will be argued are purported
7 drug transactions not tied to the drugs in this case that
8 belonged to the co-defendant. And for that reason, I
9 think they bring in issues of Lyle and other issues which
10 would say the prejudicial value is outweighed and it
11 brings in -- there's a case, State vs. Ostrowski where
12 they try to bring up text messages of the Defendant 10
13 days prior on a charge of trafficking. And in that case,
14 the Supreme Court reversed it. And I'll hand up a copy to
15 the Court. It indicates that because that wasn't tied to
16 the trafficked drugs in question that it was an error to
17 admit those text messages. And in that case, it involved
18 the actual defendant.

19 In this case, the evidence the State has elicited is
20 not the Defendant, but the co-defendant. And so I think
21 it is even more egregious. And for that reason, the
22 State [sic] would object based on relevance and based on
23 the fact that it brings up bad character evidence raising
24 Lyle issues.

25 THE COURT: But it is your position that these phones

1 belong to the co-defendant and don't -- is that your
2 position?

3 MS. LIPINSKI: That, I believe, is the evidence at
4 this point. But I think they're trying to attribute it to
5 this Defendant without that. So it's twofold. One, it's
6 not relevant because they belong to the co-defendant. If
7 it is relevant and they're trying to somehow incriminate
8 Mr. Kelly with that, then I think it triggers Lyle
9 concerns raised in Ostrowski. So our objections are
10 twofold.

11 THE COURT: All right.

12 MR. WILKINS: Your Honor, in this case, the phones
13 are found in the car with both passengers. There's two
14 passengers. We've established that. We've established
15 where the phones were located.

16 Now, we've established the extraction information and
17 the cell phone data. They can decide if the text messages
18 are -- the weight of the evidence again, Your Honor. It
19 is downloads of phones from the owners of folks who have
20 been charged with a crime. It can't get any more
21 relevant --

22 THE COURT: For this Defendant?

23 MR. WILKINS: This Defendant has been charged with a
24 crime.

25 THE COURT: Okay.

1 MR. WILKINS: And I, also, have additional evidence
2 coming, if I could ever get there, showing that the
3 Defendant uses these phones through these text messages.

4 Does that make sense?

5 THE COURT: Is it related to the charges in this
6 case?

7 MR. WILKINS: Yes, Your Honor. It's going to say
8 that they bought dope in Atlanta.

9 THE COURT: Okay.

10 MR. WILKINS: At the time, you know, three days
11 before this car stop.

12 THE COURT: Well, none of that is in those text
13 messages; am I right? I didn't see that in those.

14 MR. WILKINS: No, Your Honor. The text message I'm
15 intending to introduce, it says, What's up, my guy? I'm
16 in the A, so who can I get some big dope from out here?
17 And it's to Derrick.

18 And it says, What part you in? And the owner of this
19 phone, the person -- this phone then says, East Point.
20 And the date on that is October 17th, three days before
21 this car stop.

22 THE COURT: At this point, I don't see how it's
23 connected to this Defendant.

24 MR. WILKINS: This is a phone that he was in the car
25 with.

1 THE COURT: Yeah.

2 MR. WILKINS: The phone was in the car.

3 THE COURT: I'm aware of that, Solicitor. How do you
4 directly connect it to this Defendant?

5 There's a co-defendant; correct?

6 MR. WILKINS: There is a co-defendant. But -- but
7 they can, certainly, use each other's phones. And the
8 next text message that I will have -- I can't -- I don't
9 have a video of them, you know, before this crime scene.

10 The next text message that we would submit would be,
11 Hey, girl. I cannot hear from you. Don't know if y'all
12 are dead or alive. Lock up or get rich. Hope all is
13 well. And it says, We should have a secret code so when I
14 text you, I know it's you answering.

15 So it shows that the phone was being used by
16 Mr. Kelly.

17 THE COURT: Well, just from my perspective, I have no
18 idea what you intend to prove with respect to the drugs.
19 So you --

20 MR. WILKINS: Possession.

21 THE COURT: Okay.

22 MR. WILKINS: Or not -- constructive knowledge.

23 THE COURT: Let me -- I haven't read through this
24 case in depth. But looking at it, it says the acid test
25 is it's logical relevancy to the particular accepted

1 purpose or purposes for which it is sought to be
2 introduced. The Court does not clearly perceive the
3 connection between the extraneous criminal transaction and
4 the crime charged. That is, it's logical relevancy. The
5 accused should be given the benefit of the doubt and the
6 evidence should be rejected.

7 So somehow, you've got to connect it with a little
8 more specificity. That's all she's saying. You can't get
9 convicted on a phone that you can't connect to him. I
10 mean, all you're doing -- you're relying heavily on
11 circumstantial evidence. Can you not --

12 MR. WILKINS: Well, Your Honor, I would submit the
13 fact that he's in the car with -- with the phone.

14 THE COURT: I got that. I ride around in a car with
15 people all the time. I am not responsible for what they
16 text on their phones.

17 MR. WILKINS: My next -- well, of course, the drug
18 charge encompasses conspiracy, aiding, and abetting. It
19 encompasses all of that as well.

20 Secondly, my next witness is going to show that these
21 phones traveled from New York all the way to Atlanta, were
22 in Atlanta together, and then left on the 20th and came to
23 Greenville, South Carolina. So I've got their path
24 together the entire -- the entire time. And I've got them
25 together.

1 THE COURT: Okay.

2 MR. WILKINS: So they're together. There's a text
3 message on here ordering up some dope in Atlanta where
4 they were. And then the car in which he was found in was
5 this cell phone, as well as the dope itself, crack
6 cocaine.

7 THE COURT: Okay. I'm not saying you're not going to
8 get it in. But you've got to get it in -- you've got to
9 connect the dots before you -- you can't leap from one dot
10 to the next and then come back and connect it, if that
11 makes any sense to you.

12 MR. WILKINS: Okay.

13 THE COURT: So you maybe introduce it for -- you may
14 have to bring this witness back. I'm not sure.

15 Ms. Lipinski, state for the Court what it is that you
16 object to so we're on the same relevant footing.

17 MS. LIPINSKI: First, I believe the evidence that
18 they have elicited is that the co-defendant claimed these
19 two cell phones. So I think that at that point, whether
20 or not there's any connection to him at this point has not
21 been established by the evidence.

22 I believe where the State is going is to use this
23 evidence as improper Lyle evidence. And what Ostrowski
24 talks about is -- and that was a trafficking case. And
25 they tried to use the same argument about conspiracy, and

1 those type things. And they said you can't just prove
2 he's an ongoing drug dealer. There has to be some nexus
3 between the text messages and the drugs for which he is
4 alleged to have been in possession.

5 And if there was something -- I mean, big dope and,
6 what that is, and who it is, and who's making that is just
7 not relevant and not discernable from these text messages.
8 If they have Ms. Tornell Laureano testifying, yeah, we're
9 together and he's texting with me or he's using my phone.
10 I just don't believe they have that. And if they can even
11 establish that nexus, then I think it triggers Lyle.

12 THE COURT: You found dope in the car; is that right?

13 MR. WILKINS: Yes, Your Honor.

14 THE COURT: Why do you even need the text messages?

15 MR. WILKINS: Because it shows where -- it shows his
16 knowledge of the dope.

17 THE COURT: Okay. So connect him to the phone that
18 shows the knowledge. Do you not see that missing link?

19 MR. WILKINS: I guess my position is he's in the car
20 with the phone, so he has access to the phone. And I
21 guess Your Honor is not saying that's not enough relationship.
22 It's not a random phone we found somewhere --

23 THE COURT: I'm well aware of that.

24 MR. WILKINS: We tied him -- as well as a cell phone
25 to him is in the car, as well and two other cell phones.

1 And I've got a text message talking -- my second exhibit
2 is talking about hey to Tornell Laureano's mom -- or two
3 people talking saying, When you're not using your phone, I
4 need to know it's you because you don't use your phone.
5 So that further supports our proposition that Mr. Kelly
6 was using that phone.

7 And, again, Your Honor, Ostrowski was a possession
8 case. This is a trafficking case with aiding, and
9 abetting, conspiracy.

10 THE COURT: I --

11 MR. WILKINS: I mean, it was a possession case. So
12 our theory --

13 THE COURT: With respect to what you're trying to do,
14 I don't think that has any bearing on it. Why do you even
15 need the text messages? You have him in the car with the
16 dope. You've got him sitting out on the street going
17 she's got nothing to do with it, referring to the woman up
18 against the concrete pillar. He must say that three or
19 four times.

20 MR. WILKINS: He does, Your Honor.

21 THE COURT: So my question to you is, why do you even
22 need this information in this case?

23 I'll tell you what, let's just take a short break and
24 think about it.

25 MR. WILKINS: Thank you, Your Honor.

1 THE COURT: Let me talk to the lawyers up here for a
2 second.

3 You can step down. Don't talk about your testimony.

4 THE WITNESS: Yes, sir.

5 (WHEREUPON, a break was taken.)

6 THE COURT: All right. Let's get the jury.

7 (WHEREUPON, the jury came into open court at
8 approximately 3:43 p.m.)

9 THE COURT: All right. Solicitor.

10 MR. WILKINS: Thank you, Your Honor.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. WILKINS:

13 Q Special Agent Hudak, I'm going to try to graze back
14 around real quick. I'm going to refer you to the screen.
15 This is State's Exhibit No. 86. And can you identify the
16 Apple ID and the information regarding this phone?

17 A The Apple ID is crazy [REDACTED] and, also,
18 Khalifa [REDACTED]

19 Q And what is the phone number for this phone? I'm
20 sorry.

21 A 631-334-[REDACTED].

22 Q All right. I'm going to show you what's been
23 marked -- I'm going to take you over to recordings. All
24 right. Right there. All right. What is that?

25 A Those would be audio recordings that were located on

1 the device.

2 Q And how many are there?

3 A Two.

4 Q I'm going to show you State's Exhibit No. 85.

5 MS. LIPINSKI: We would have the same Ostrowski
6 objection to this piece of evidence, Your Honor.

7 THE COURT: All right.

8 BY MR. WILKINS:

9 Q What is that?

10 A A detailed report of the two audio recordings found
11 on the device.

12 Q Okay. So it's -- so a report of two audio recordings
13 from the device I'm showing you right there, the
14 extraction for it?

15 A Correct.

16 Q I'm going to show you State's Exhibit No. 84 marked
17 for identification purposes only.

18 A That is a copy of the audio recording.

19 Q That you just referred to?

20 A Yes.

21 MR. WILKINS: Please answer any questions
22 Ms. Lipinski may have.

23 CROSS-EXAMINATION

24 BY MS. LIPINSKI:

25 Q You're just the phone guy; correct?

1 A Yes, ma'am, for the extractions on the cell phones.

2 Q So they don't ask you to do any voice identification;
3 correct?

4 A No, ma'am.

5 Q And all you can say is this device was used to do
6 this thing or this device was found at this GPS location.
7 But in terms of who's with that phone, you don't have any
8 knowledge of that?

9 A No, ma'am.

10 Q All right. And --

11 MS. LIPINSKI: Can I approach, Your Honor? Can I
12 approach the witness?

13 THE COURT: Yeah.

14 BY MS. LIPINSKI:

15 Q As to State's Exhibit No. 88, you gave an Apple ID,
16 but you didn't do anything beyond that to try to ascertain
17 that Apple ID identity, did you?

18 A No, ma'am.

19 Q And at one point, they asked you about the phone
20 number, and you say [REDACTED]. But at another point, I heard
21 you testify that there was another number?

22 A Yes. The -- the last used MS ID was the -- I'm
23 sorry, the [REDACTED] number. The difference for why there
24 could be multiple numbers, at one time, there were
25 probably multiple SIM cards, one SIM card, then another.

1 Q And that's why the phone has its own device ID. But
2 you change carriers, or you change numbers, or you give
3 your phone to your friend, Suzy, and she goes and gets
4 another number attached to that phone, that's why
5 different numbers can be attached to different devices;
6 correct?

7 A That's correct.

8 Q And all of this is kind of dependent upon the
9 authenticity of the data that you download; correct?

10 A Correct.

11 Q And it is possible, at least, to manipulate cell
12 phone data; correct?

13 A I'm afraid I don't understand.

14 Q It is possible for someone to hack someone's phone or
15 to manipulate some -- there's tell-tell signs of it, but
16 it is possible; correct?

17 A I'm unaware of hacking iPhones, per se.

18 Q Okay. It is possible to manipulate that data;
19 correct? Tamper with?

20 A I apologize. I don't understand what you mean.

21 Q For the most part, you're taking -- it's, basically,
22 a computer-generated report; correct?

23 A That's correct.

24 Q And like any other computer-generated report, it's
25 dependent on the authenticity of that data; correct?

1 A Yes.

2 Q Just like any other computer data, there are ways to
3 manipulate or change that data; correct?

4 A To my knowledge, not by any of the devices or
5 software that I use, no, ma'am.

6 Q Not that you use. But other people could do it;
7 correct?

8 A Again, besides having physical access to an iPhone,
9 I'm unaware of how somebody could manipulate data on an
10 iPhone.

11 Q But if you have physical access to it, you could;
12 correct?

13 A If by manipulate, you mean text with it or something,
14 or web surf, then, yeah, you could.

15 Q And then there's -- but you -- also, you don't know
16 in terms of who's logging into these WhatsApp, Snapchat,
17 Facebook, all of that; right?

18 A No, ma'am. I wasn't with the phone while it was
19 being used.

20 Q And all that takes is a login ID; correct?

21 A Yes, ma'am.

22 Q So even because a device accesses John Doe's Facebook
23 profile, that doesn't mean John Doe logged into Facebook
24 on that phone? That just indicates that profile was used;
25 correct?

1 A Correct. That account, yes.

2 MS. LIPINSKI: That's all we have, Your Honor.

3 THE COURT: All right. Any redirect?

4 MR. WILKINS: None, Your Honor.

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

6 You may stand down.

7 THE WITNESS: Yes, sir.

8 MR. WILKINS: The State calls Margaret Pauli.

9 THE CLERK: Please place your left hand on the Bible
10 and raise your right hand.

11 WHEREUPON,

12 MARGARET PAULI,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 Please be seated.

16 Please state your name for the record.

17 THE WITNESS: My name is Margaret Pauli.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. WILKINS:

21 Q Ms. Pauli, with whom are you employed?

22 A I'm employed with the South Carolina Law Enforcement
23 Division, commonly known as SLED.

24 Q And what is -- are you a special agent?

25 A I am, yes.

1 Q And what do you do for SLED?

2 A I am in the crime scene division.

3 Q And what does the crime scene division do?

4 A So SLED, as an agency, is an assisting agency. So
5 for the crime scene division, when a crime occurs anywhere
6 in the State and the agency that is local to that area
7 needs assistance or the regional agencies for SLED needs
8 assistance, they call and request us to come out and help
9 them document and process evidence and bring it back to
10 the forensic laboratory.

11 Q And how did you get involved in this case?

12 A So I was informed that an officer death had occurred
13 in Greenville. And I responded in my agency truck to the
14 scene and began processing then.

15 Q And evidence that you obtain, does it go back down to
16 SLED property and evidence?

17 A Yes. Any --

18 Q How does that work?

19 A Sure. So any evidence that I collect on scene that
20 needs to be processed by any of the departments at the
21 forensic laboratory comes with me in my truck. I then
22 store it in a -- in our evidence processing room, which is
23 a locked room that no one has access to but us.

24 Then when I'm able to, I log it in through our FLIM
25 system. It's, basically, a system that catalogs what we

1 have and assigns an item number to everything that we
2 collect. I then package that evidence, seal it, initial
3 it, and then take it to the evidence control center and
4 transfer it through, essentially, a chain of custody for
5 them to then take and disseminate or give to the other
6 units that need it.

7 So the latent prints department, the firearms
8 department, the drug analysis department, those are all
9 departments that I would get that evidence to through the
10 evidence control center.

11 Q And is it secure?

12 A Yes.

13 Q And when property is moved in and out or to different
14 locations, is it logged in?

15 A Yes. So we all have badges that have bar codes
16 associated with us. So as evidence is transferred from
17 one location to the other, we scan our bar code that says
18 it's leaving my custody and going to whoever is receiving
19 it. And they scan their bar code.

20 So there is an electronic chain that says who had it,
21 who received it, and then where it was stored until
22 whoever gets it can process it.

23 Q So you said that you came up to this particular crime
24 scene?

25 A Yes.

1 Q All right. And what did you do here?

2 A So for this particular scene, it was -- the location
3 was on I-85 northbound near Exit 43. And so we took
4 overall photographs of the roadway, damage to the vehicles
5 that were still on scene. And Deputy Jumper had already
6 been removed from the scene by the time we were able to
7 get there. So we took measurements of the approximate
8 location that his body was at.

9 We then processed the vehicle for the suspect and
10 collected items of evidence from that vehicle. So
11 everything was documented with photographs. And then the
12 items that I collected, I took them with me through that
13 process that I just explained.

14 Q All right. And can you tell this jury what items you
15 collected and what you asked to be done with them?

16 A Yes, absolutely.

17 Your Honor, may I refer to my notes?

18 THE COURT: Yes, ma'am.

19 THE WITNESS: Would you like for me to just go in
20 chronological order?

21 BY MR. WILKINS:

22 Q That would be fine.

23 A So we retrieved a handgun, a Glock 23, which was in a
24 Springfield Armory gun box. So I took the gun box, the
25 gun, the unfired cartridge and unfired cartridges that

1 were in the magazine, and then there was a box of
2 ammunition with 25 unfired cartridges. That was all
3 within the gun box. So I collected that. And that was
4 submitted to the DNA department for touch, to the latent
5 prints department to look for any latent prints, and then
6 to the firearms department.

7 We collected some money in the form of 100s, 50s,
8 20s, five and one-dollar bills, to total 3,145. And that
9 was given to our evidence control center for storage.

10 We then collected a metal grinder with suspected drug
11 evidence. And that was submitted for drug analysis, DNA
12 for the touch department and to the latent prints
13 department.

14 We collected a bag of suspected drug evidence with a
15 don't trip it's only spinach emblem on it, which was
16 submitted for drug analysis, DNA touch, and latent prints.

17 We collected a plastic gray Family Dollar bag and
18 that was submitted to drug analysis, DNA touch, and latent
19 prints. From within that Family Dollar bag, we collected
20 four baggies containing suspected drug evidence. That was
21 submitted to the drug analysis department, DNA touch
22 department, and the latent prints department.

23 And then a field test was done on the four baggies
24 within the Family Dollar bag on scene. And so that
25 positive field test for crack cocaine was, also,

1 collected. And it was submitted to storage.

2 I, also, submitted some blood that was transferred to
3 me on scene. So I have a green top tube, a clear top
4 tube, and a lavender top tube of trauma admission blood
5 collected from Ray Kelly at the hospital, which was
6 transferred to me. And that was submitted to the
7 toxicology department. And then I had two tubes of blood,
8 also, from Ray Kelly that, also, went to toxicology.

9 Would you like me to talk about the clothing as well?

10 Q Yes, please.

11 A I apologize. Before the clothing, there was, also, a
12 cup of urine that was collected at the hospital from Ray
13 Kelly.

14 I then had a Tommy Hilfiger tank top with suspected
15 blood collected from Ray Kelly at the hospital; a white in
16 color Port Company T-shirt with Dripping Nivez [phonetic]
17 logo and a price sticker on the back; two pieces of white
18 in color Adidas drawstring pants with suspected blood; one
19 pair of gray in color Izod underwear with suspected blood;
20 two white in color layer -- socks with suspected blood;
21 and two white in color Nike Air Hurricane shoes with
22 suspected blood. All were collected from Ray Kelly at the
23 hospital. And all were submitted to storage.

24 Then I have a blood spot, which was collected from
25 William Jumper at autopsy. And that would have been

1 transferred to me by Dr. Ward. I have a buccal swab or a
2 DNA swab that I collected from the inside cheek of William
3 Jumper, and known postmortem major case prints collected
4 from William Jumper at autopsy.

5 And postmortem major case prints are inked
6 fingerprint impressions that I take by putting ink on the
7 palms and the fingerprints of the hands. And then using a
8 placard card, I collect the prints from the individual.

9 The fingerprints were submitted to storage. The
10 buccal swab was submitted to DNA. And the blood standard
11 was submitted to DNA.

12 Then from William Jumper I have one blue in color
13 Greenville County Sheriff's Office long sleeve tactical
14 uniform shirt; one blue in color 511 tactical uniform
15 pants; one blue in color Reebok underwear; two gray in
16 color socks; one black in color Greenville County
17 Sheriff's Office short sleeved Port Company T-shirt; one
18 left black in color Gore-Tex Lowa boot; one right black in
19 color Gore-Tex Lowa boot. And those were all collected at
20 autopsy and were submitted for storage.

21 Then from Ray Kelly -- I'm sorry. Switching back
22 again to Ray Kelly, there was jewelry, a black cord
23 necklace with wire wrapped white stones and a black cord
24 necklace with wire wrapped black stones. That was, also,
25 submitted for storage, the jewelry.

1 And then I collected two swabs of suspected blood
2 from Ray Kelly's shoes at the lab during processing that
3 was submitted to DNA for blood. And then my photographs
4 were kept within the crime scene department.

5 Q Is that everything you took down to SLED?

6 A Yes, I believe so.

7 MR. WILKINS: Please answer any questions
8 Ms. Lipinski may have.

9 CROSS-EXAMINATION

10 BY MS. LIPINSKI:

11 Q Did you collect this clothing and other jewelry items
12 from Ray Kelly or did you get that from somebody else?

13 A They were transferred to me from someone else.

14 Q And did you document from whom you retrieved those
15 items?

16 A I did, yes.

17 Q And who was that?

18 A If you give me just a second.

19 It was a Greenville County deputy, I believe, who
20 chained over the clothing. Investigator -- Greenville
21 County Department of Public Safety Investigator Mike
22 DeRosa is who chained the cup of urine and the clothing
23 from Ray Kelly. And I believe that was collected at the
24 hospital.

25 The trauma blood was collected by Special Agent Davis

1 and transferred to me on scene. And then the --

2 Q Let me stop you right there. Are you -- to the best
3 of your knowledge -- you're familiar with Special Agent
4 Davis, are you not?

5 A I am, yes.

6 Q Are either of you trained to collect blood or is that
7 something -- like, you talked about the stuff from
8 Sergeant Jumper came from Dr. Ward; correct?

9 A Correct.

10 Q So you all aren't pulling blood; correct?

11 A No. Trauma blood would be collected by a nurse or
12 someone at a hospital and then transferred to us directly.
13 The blood spot would have been collected at autopsy once
14 the autopsy had begun from an incision and transferred to
15 me by Dr. Ward. I am not removing blood from living
16 individuals or deceased individuals.

17 Q But you understand the importance of documenting from
18 whom you get that blood; correct?

19 A I try to document where any evidence that has been
20 given to me comes from.

21 Q Particularly, blood; correct? Because it's fungible;
22 correct?

23 A Yes, ma'am.

24 Q Unlike a gun, a gun is going to remain a gun; right?
25 But blood, or drugs, or those type things are fungible.

1 They can be destroyed, they can be contaminated, those
2 type things; correct?

3 A So anything that comes into my custody, I do try my
4 best to document where I got it and where it ended up.

5 Q And that's why you took the important step of
6 documenting that Dr. Ward gave you the blood from Sergeant
7 Jumper; correct?

8 A Correct.

9 Q So in terms of the blood that allegedly came from Ray
10 Kelly, you didn't see that blood drawn; correct?

11 A No, ma'am. I did not.

12 Q You don't know who drew it; correct?

13 A No, ma'am.

14 Q And you do not know how or -- it was obtained by
15 Agent Davis; correct?

16 A No.

17 Q So when you're putting those names on it, when you're
18 purporting that this is clothes, or jewelry, or blood of
19 Ray Kelly, you're relying on the information of other
20 people; correct?

21 A It is a in good faith source of information, correct.

22 Q But if you don't know the source of that information,
23 then you're really just relying on the word of others;
24 correct?

25 A Correct.

1 Q You stated that you did a couple of swabbings. You
2 didn't do any examination independently; correct?

3 A No. So our process -- if we have clothing that has
4 suspected blood on it, as I stated, several of those items
5 of Ray Kelly did. When we bring those items back to the
6 laboratory, because of the state of the clothing or
7 because of how wet the blood might still be, per our
8 policy, we usually put those items into a drying chamber
9 and give it a certain amount of time to dry.

10 We then document those items of clothing
11 additionally, which I did at the lab a few days later once
12 the clothing had had time to dry. So at that time is when
13 I was taking photographs of those items of evidence and
14 then noticed an item that I took swabs from.

15 Q Right. But you didn't do any examination to confirm
16 is that blood, or whose blood it is, or anything like
17 that?

18 A No. So that is why when I state it's suspected
19 blood -- because I'm not doing the testing -- the DNA
20 department is confirming whether or not it is blood and
21 whose blood it is.

22 Q Sometimes you can believe it's blood and it turns out
23 not to be blood; correct?

24 A Yes.

25 Q And sometimes things you don't think are blood can

1 turn out to have some type of DNA or bodily fluid in them;
2 correct?

3 A Yes. You can get DNA from many things that are not
4 blood.

5 Q And that's why you use these terms suspected drug,
6 suspected blood, those kind of things because you're not
7 that examining agent; correct?

8 A Correct. I'm not going to do chemical tests or using
9 the equipment to test for the actual confirmation.

10 Q And when you collect these evidence, you do what --
11 we've seen there's SLED tape on this box; right? That's
12 so you know you collected that evidence and that's its
13 condition when you put it into the evidence storage
14 locker; right?

15 A Yes. So we seal items of evidence with -- it's
16 called seal tape. It's, basically, yellow tape that says
17 SLED on it. And it's to just show if a seal has been
18 broken. So we initial over that seal. And so that's
19 how -- when I say an item of evidence is sealed, it means
20 that I taped it and put my initials on it before
21 transferring it to the evidence control center.

22 Q And the importance of that is so that if someone
23 looks at it later, it could be easily discernable whether
24 or not somebody taped it; correct?

25 A Correct. As other departments go through evidence,

1 they will have to open up and break seals of evidence.
2 But then they will reseal and put their initials, if
3 possible, in a different spot or in a -- they'll cut it in
4 a way so that everyone who's been working with that
5 evidence, their initials, and the date, and time -- the
6 times are on that evidence.

7 Q That's the importance of getting these labels
8 correct. I understand you are all human and mistakes do
9 happen. But that's the importance of the accuracy of that
10 information; correct?

11 A Yes. To the best of our ability, yes.

12 Q Because you understand if that information is
13 inaccurate, if it's mislabeled, if that information is
14 incomplete, that can jeopardize the integrity of that
15 evidence and later even its admissibility into court;
16 correct?

17 A Yes.

18 MS. LIPINSKI: That's all we have of Special Agent
19 Pauli.

20 THE COURT: Any redirect?

21 MR. WILKINS: No, Your Honor.

22 THE COURT: All right. Thank you.
23 You can step down.

24 THE WITNESS: Thank you.

25 MS. MORONEY: The State calls Lynn Black.

1 THE CLERK: Please place your left hand on the Bible
2 and raise your right hand.

3 WHEREUPON,

4 LYNN BLACK,

5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 Please be seated.

8 Please state your name for the record.

9 THE WITNESS: My name is Lynn Black.

10 DIRECT EXAMINATION

11 BY MS. MORONEY:

12 Q Ms. Black, where are you currently employed?

13 A I work in the drug analysis department in the
14 forensic services laboratory at the South Carolina Law
15 Enforcement Division, commonly known as SLED.

16 Q And can you tell the jury a little about your
17 educational background and training?

18 A Yes. I have a Bachelor of Science Degree in
19 Chemistry from Kentucky Wesleyan College, a certificate of
20 medical technology from the University of Louisville, and
21 a Master of Science in Forensic Science from Marshall
22 University.

23 Do I need to go more into my work history?

24 Q Sure. Go ahead.

25 A Okay. Prior to my job at SLED, I worked as a drug

1 analyst at the Georgia Bureau of Investigation in Atlanta,
2 Georgia, for about eight years. And then I came to SLED.
3 I've been with SLED 14 years this month as a drug analyst,
4 also.

5 Q Can you describe some of your duties as a drug
6 analyst for SLED?

7 A I receive and analyze substances brought in by law
8 enforcement personnel and I determine whether they are
9 controlled substances or not.

10 Q And have you ever been qualified as an expert in
11 court before?

12 A Yes, I have.

13 Q And in what field?

14 A In drug chemistry.

15 Q And approximately how many times?

16 A 146 times, and that includes Georgia and South
17 Carolina.

18 MS. MORONEY: Your Honor, the State moves to qualify
19 Lynn Black as an expert in drug analysis.

20 MS. LIPINSKI: We have no objection.

21 THE COURT: All right. Without objection

22 BY MS. MORONEY:

23 Q Did you have an opportunity to test items related to
24 this case?

25 A Yes, I did.

1 Q Okay. Can you describe how the items come to you as
2 the drug analyst?

3 A Generally, they come into the laboratory through our
4 evidence control section. And then I get notified that
5 the case has been assigned to me or I -- excuse me, I go
6 down and pick up the cases and then they are assigned to
7 me. In this case, I did go down to evidence control.

8 And what happens when they come into the lab -- in
9 this case, it was a box. And so the law enforcement
10 personnel who brought the case in brings in the box, plus
11 some paperwork that identifies, you know, suspects and the
12 agency that's bringing it in, and other details like that.
13 And evidence control technicians enter that information
14 into our computer system. And it's assigned a unique
15 crime lab case number, our lab number.

16 And then that -- they, also, generate a bar code that
17 has that lab number on it. And then they scan that lab
18 number to themselves so that it shows it's in their
19 custody. And then they'll place it in the vault there.
20 And then they scan it to whatever shelf or area they
21 placed it in.

22 So when I come down, they will scan that piece of
23 evidence to me. So then that box or that piece of
24 evidence is shown to be in my custody. And that's how we
25 have an internal chain of custody to show who has had that

1 particular piece of evidence in their custody. And we
2 just track that throughout the time that the evidence is
3 at the lab.

4 Q Okay. I'm going to show you a box here. And if you
5 would, just identify what is in there without showing it
6 to the jury. If you could just look at the items
7 contained in the box.

8 A (Witness complied.)

9 Q And were those the items that came to you in the box
10 when you were requested to test items?

11 A Yes, they were.

12 Q Okay. Did you -- is there any other decisionmaking
13 that you make as the drug analyst who receives that box
14 about where these items are going to go for further
15 testing?

16 A Yes. In this particular case, I knew that the agency
17 wanted latent prints and, I guess, touch DNA, some sort of
18 DNA analysis on it, too. So I knew that the items that I
19 was going to have to take out of the box that I was going
20 to have to separate the drugs from whatever packaging they
21 were in so that it could go to those other departments.

22 And, also, I do not do the marijuana testing, the THC
23 testing. So I knew any potential marijuana was going to
24 have to go to another analyst in my department. So I had
25 to separate that out -- actually, I didn't separate that

1 out. When I finished my analysis, I gave that person the
2 box so that they could take out their part and they could,
3 also, remove the drugs from the packaging to send to
4 latent prints and the DNA.

5 Q Okay. And in this case, did you identify one of
6 those items in the box as being one you could test with
7 your equipment?

8 A Yes.

9 Q And what was that item number?

10 A That was item number seven.

11 Q Okay. And did you separate those -- the suspected
12 narcotics from the packings in this case?

13 A Yes, I did.

14 Q Okay. And then you sent that on, like you said, to
15 get further testing?

16 A Yes, the packages, the bags. I, also, separated or
17 took out -- I did not take it out -- well, no, I did take
18 that one out. There was just a bag, like a grocery bag,
19 like a Family Dollar bag that I separated and sent to
20 latent prints on its own.

21 Q Okay.

22 A It did not have any drugs in it.

23 Q Okay. So with respect to item seven, is item seven
24 in that box right there in front of you?

25 A Yes, it is.

1 Q And can you describe for the jury how you go about
2 identifying drugs?

3 A In general or in this particular case?

4 Q In this case. Sorry.

5 A In this particular case, what I received was a sealed
6 paper bag that had four gray plastic bags that contained a
7 rock substance.

8 MS. LIPINSKI: Your Honor, just -- and is item seven
9 State's Exhibit No. 7 or is that SLED --

10 MS. MORONEY: It's item seven for SLED lab purposes.

11 MS. LIPINSKI: Does it have a State's Exhibit number?

12 MS. MORONEY: I haven't had it identified yet.

13 MS. LIPINSKI: If she's going to go through in terms
14 of commenting on that evidence, I would just renew our
15 previous objection regarding the search of the car that
16 leads to this evidence.

17 THE COURT: That's a continuing objection.

18 Go ahead.

19 THE WITNESS: So I had four gray plastic bags that
20 contained a rock substance. So what I do, first, is I
21 will take out -- remove the substance from one of the bags
22 and weigh it. And how I do that is I have a balance that
23 I will put weight paper -- or weight boat in this case
24 that I will place on the balance and tear it, which means
25 to zero out the weight boat so it isn't considered in the

1 weight. And I place the substance only from one of the
2 bags in there and I take a net weight. So I did that
3 with, actually, each one of the bags. So I had weights
4 from all four of the bags.

5 Then I took a sample from two of them because their
6 weights turned out to be over statutory threshold,
7 according to our state laws. So I took a small portion
8 from each of those and did a color test, which is just
9 a -- a test that indicates what the substance could be.
10 It doesn't confirm what it is. It gives me an idea what
11 it might be and where to go next. So I did that test.

12 And then I took samples for my confirmatory test,
13 which in this case was called gas chromatography mass
14 spectrometry, which is a mouth full, I know. We shorten
15 it to GCMS because it's a lot easier to say. And this
16 instrumental test, that tells me more details about what
17 the substance can be.

18 And based on both of those tests, I was able to
19 identify the substance that was in two of the four bags.

20 BY MS. MORONEY:

21 Q Okay. And what did you identify that substance to
22 be?

23 A It was cocaine base, also, known as crack.

24 Q Okay. Now, can you go ahead and -- let me see. Can
25 you just pull that out underneath?

1 And how do you know that item seven was tested by
2 you? What do you have in your hand?

3 A It has the lab case number written on it, my initials
4 on the outer bag, and, also, on the two inner bags with --
5 well, the four inner bags -- excuse me -- that are the
6 substance only from each of the four bags.

7 MS. MORONEY: Your Honor, the State would move to
8 have State's Exhibit No. 91, which is SLED lab seven,
9 entered into evidence.

10 MS. LIPINSKI: Subject to our previous objection.

11 THE COURT: Okay. I'll overrule the objection.

12 (WHEREUPON, State's Exhibit No. 91 was admitted into
13 evidence.)

14 BY MS. MORONEY:

15 Q So you tested two of these baggies; correct?

16 A That's correct.

17 Q And what was the weight of that cocaine base?

18 A The total weight of the two bags that I tested was
19 55.30 grams.

20 Q Okay. And that's what we're looking at here on the
21 screen; correct?

22 A Well, that's all four of the bags.

23 Q All four of the bags?

24 A Yes.

25 Q The two here should be the tested ones; correct?

1 A One of them says 7-1. And the second one should say
2 7-2. I can't tell which one it is in there. One was on
3 top.

4 Q And like you said before, with the packaging -- the
5 smaller packaging around each of those bundles, you sent
6 that off?

7 A Correct.

8 Q And you sent the rest of this box to someone else?

9 A That's correct.

10 MS. MORONEY: Thank you.

11 Please answer any questions the Defense has.

12 CROSS-EXAMINATION

13 BY MS. LIPINSKI:

14 Q Is it Special Agent Black?

15 A Just Ms. Black.

16 Q Just Ms. Black. That's fine.

17 And you've been with SLED for approximately 14 years?

18 A That's correct.

19 Q And before that with the Greenville -- I'm sorry,
20 Georgia crime lab; fair to say?

21 A That's correct.

22 Q And you tested two of these bags; correct?

23 A Yes.

24 Q And you say you put them in this gas chromatograph
25 mass spectrometer; correct?

1 A Correct.

2 Q It's, basically, a big box that kind of vaporizes it
3 and creates little peaks and valleys that give you a
4 chemical signature of the substance; correct?

5 A That's a very basic explanation, but, yes.

6 Q I understand. I'm dumbing it down for people like me
7 that don't have your science background; fair to say?

8 A That's good.

9 Q And then based on these peaks and valleys, this
10 chemical printout, you then have known chemical signatures
11 for various items and you compare the two. And if it's
12 the same chemical compound, that's how you make this
13 determination; correct?

14 A That's, basically, it. There's more than just peaks
15 and valleys, though. There's another part to it that
16 breaks it down even further into I-lines. And then that
17 is more the signature of the compound you are comparing
18 with.

19 And, yes, we do compare it to known drug standards.
20 And we, also, take into consideration how long it takes
21 for the substance to go through the instrument, which is
22 called a retention time. So we're basing it on a couple
23 different things, plus the indicative test, as well.

24 Q And do you test more than one -- do you put more than
25 one item in the GCMS at a time, or is it just one item at

1 a time?

2 A It only samples it one at a time. There may be
3 multiple samples on there, but it only samples one at a
4 time.

5 Q So you put it in a tray with kind of a lot of little
6 tubes, for lack of a better --

7 A They're put in vials because we do an extraction. So
8 it's in a solvent and they're in vials that are closed up.
9 And then the instrument will take one vial at a time and
10 inject it into the instrument. And then once that
11 injection has gone all the way through and the data has
12 been printed out, then it will go on and collect the next
13 one. And we, generally, have a blank in between them, as
14 well.

15 Q And you do that so -- I mean, it runs it faster. You
16 do multiple -- you load the machine one time and it prints
17 them all kind of out; correct?

18 A Correct. It takes hours to do a whole run, but one
19 satchel will take maybe 15 minutes.

20 Q But you can do multiple samples. And you often do
21 that for efficiency; correct?

22 A Correct.

23 Q And then the GCMS is just going based on location on
24 that tray as it corresponds to what you tell it; right?

25 A That's correct. We put in -- we enter all the

1 information in the computer, the lab number, item number,
2 and what's called a sequence. And then we load the tray
3 according to that sequence. And then the instrument will
4 go along and pick them up.

5 Q All right. And you didn't do any other testing other
6 than the drug analysis; correct?

7 A That's correct.

8 Q And, specifically, the crack cocaine base analysis;
9 correct?

10 A That is all the analysis I did, yes.

11 Q Because the marijuana analysis is not done with GCMS;
12 is that correct?

13 A It is. But that's not what -- not my specialty.

14 Q Not your specialty?

15 A That's correct.

16 MS. LIPINSKI: That's all we have.

17 Thank you, Your Honor.

18 THE COURT: Any redirect?

19 MS. MORONEY: No Your Honor.

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

21 You may step down.

22 THE WITNESS: Thank you.

23 MS. MORONEY: The State calls Doug Robinson.

24 MS. LIPINSKI: Your Honor, as he approaches, my
25 understanding is this is probably going to the marijuana

1 analysis. We currently made an objection that he's not
2 charged with possession of marijuana. Therefore, we think
3 this evidence is irrelevant and prejudicial. We renew it
4 at this time.

5 THE COURT: Go ahead and swear him in.

6 THE CLERK: Okay.

7 WHEREUPON,

8 DOUGLAS ROBINSON,

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: Douglas Robinson.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. MORONEY:

17 Q Mr. Robinson, where are you currently employed?

18 A I'm employed with the South Carolina Law Enforcement
19 Division, commonly known as SLED.

20 Q In what capacity?

21 A I'm a forensic chemist assigned to the drug analysis
22 department.

23 Q And how long have you worked for SLED?

24 A About 14 and a half years.

25 Q How long have you been in that role at SLED?

1 A I've been with the department for all 14 and a half
2 years. For the last four and a half or so years, I've
3 been tasked primarily with analysis of suspected marijuana
4 and THC quantitation.

5 Q And can you tell the jury a little bit about your
6 educational background and the training you've received?

7 A Sure. I received my Bachelor of Science in Chemistry
8 from the University of South Carolina. After graduating,
9 I spent approximately three years performing chemical
10 analysis in the environmental chemistry field. Upon being
11 hired at SLED, I received law and legal training through
12 the South Carolina Criminal Justice Academy, as well as
13 in-house training through the SLED drug analysis
14 department on the analysis of suspected controlled
15 substances.

16 Q Okay. And have you ever been qualified as an expert
17 witness in court in this state?

18 A I have.

19 Q And how many times?

20 A 38.

21 Q And in what field?

22 A Drug analysis forensic chemistry.

23 MS. MORONEY: The State moves to qualify Doug
24 Robinson as an expert in drug analysis.

25 MS. LIPINSKI: Without objection.

1 THE COURT: Okay. Now, at this time, I -- go ahead.
2 You haven't moved anything in. So go ahead.

3 BY MS. MORONEY:

4 Q Mr. Robinson, did you receive items in this case for
5 testing?

6 A I did.

7 Q And how did you receive them?

8 A May I refer to my notes?

9 Q Yes, you may.

10 A I took possession of the evidence that I tested from
11 our drug vault that's located within our department
12 upstairs.

13 Q Okay. Do you recall what the packaging was like?

14 A I believe it was a box.

15 Q And do you recall who directed it to you?

16 A Again, it was scanned directly to -- it's my
17 understanding that Lynn Black did some analysis on other
18 evidence within the case prior to that. And she would
19 have placed the box there. But it was not a direct
20 transfer from the two of us.

21 Q I'm going to show you a box. Without showing that to
22 the jury, can you look in that box and see if those are
23 the items that you received?

24 A Yes.

25 Q Okay. And how do you know that?

1 A Two of the items correspond with -- or, actually, I'm
2 sorry. All three items that I can see in here correspond
3 with items on my drug analysis report.

4 Q Okay. And what kind of analysis were you asked to do
5 on those?

6 A Again, I'm tasked primarily with the analysis of
7 materials suspected to be marijuana. South Carolina
8 requires quantitation of THC. So that was the task at
9 hand here, analysis for marijuana.

10 Q And can you just describe for the jury why that is?
11 What is the quantitation?

12 A Sure. Quantitation is, basically, a test to see what
13 the concentration of something is, how strong something
14 is. So in this case, delta nine Tetrahydrocannabinol,
15 commonly referred to as THC is the primary active
16 ingredient in marijuana. Due to law changes in 2017, the
17 department was tasked with developing and implementing
18 testing methods to determine how potent the marijuana was
19 to legally classify it as either marijuana or hemp.

20 Q Okay. And then did you also -- was there packaging
21 of the suspected narcotics that were in those bags that
22 you have there?

23 A Yes, there were. One item that had been previously
24 handled by Lynn Black that was transferred through the
25 process I described through our evidence vault. There

1 were two other items. The two other items were still in
2 the original packaging. That packaging was forwarded for,
3 I believe, latent prints and DNA analysis, but for further
4 testing. So that was separated from the drug evidence and
5 forwarded to the latent prints department.

6 Q Okay. And did you, ultimately, perform testing on
7 two items and gain a result?

8 A That's correct.

9 Q Okay. And what were those SLED lab number items?

10 A The item numbers that were subjected to drug analysis
11 testing or, more specifically, marijuana testing were
12 items 4.1.1 and 5.1.1.

13 Q Okay. And are those in that box there?

14 A They are.

15 Q Okay. And what was the result for 4.1.1?

16 A 4.1.1 was described as plant material. The result
17 was marijuana C-1 found in the sample tested, one tested,
18 net weight 2.69 grams, total delta nine
19 Tetrahydrocannabinol percent dry weight greater than one
20 percent.

21 Q Okay. And for item 5.1.1?

22 A 5.1.1 was described as tar substance. The result was
23 marijuana C-1 in a form commonly known as hashish found in
24 the sample tested, one tested, net weight 4.09 grams,
25 total delta nine Tetrahydrocannabinol percent dry weight

1 greater than one percent.

2 MS. MORONEY: Your Honor, the State would request to
3 move State's Exhibit Nos. 93 and 92 into evidence, which
4 are items 5.1.1 and 4.1.1.

5 MS. LIPINSKI: We renew our objection because my
6 client's not charged with possession of marijuana. And
7 this violates Lyle. And the prejudicial value outweighs
8 the probative value.

9 THE COURT: Well, I overrule your objection.

10 (WHEREUPON, State's Exhibit Nos. 92 and 93 were
11 admitted into evidence.)

12 BY MS. MORONEY:

13 Q Are your results peer reviewed, as well?

14 A Yes. A hundred percent of our case work is technical
15 and administratively peer reviewed.

16 MS. MORONEY: Please answer any questions the Defense
17 has -- oh, sorry.

18 May I ask one more question?

19 MS. LIPINSKI: Sure.

20 THE COURT: Go ahead.

21 BY MS. MORONEY:

22 Q These final items in here, these were just the
23 packaging that was sent for --

24 A Yes. What you're holding onto there is labeled as
25 container E. So container E is what was forwarded. So it

1 would be a metal grinder that I performed no analysis on.
2 And then two different packets, one labeled 4.1 and one
3 5.1.

4 MS. MORONEY: Thank you.

5 THE COURT: Okay. Cross.

6 MS. LIPINSKI: Your Honor, my client is not charged
7 with possession of this. We have no questions.

8 THE COURT: Okay. Thank you.

9 You may step down.

10 MS. MORONEY: The State calls Kimberly Mears.

11 MS. LIPINSKI: Your Honor, can we approach real quick?

12 THE COURT: All right.

13 (WHEREUPON, a bench conference was held.)

14 THE CLERK: All set, Judge?

15 THE COURT: Yes, ma'am.

16 WHEREUPON,

17 KIMBERLY MEARS,

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: My name is Kimberly Mears.

23 DIRECT EXAMINATION

24 BY MS. MORONEY:

25 Q Ms. Mears, where are you currently employed?

1 A The South Carolina Law Enforcement Division, which is
2 commonly known as SLED.

3 Q Okay. And what is your role at SLED?

4 A I am a forensic scientist in the latent prints
5 department.

6 Q And what are some of your duties there?

7 A We receive evidence from crime scenes from agencies
8 all across the state to process for the presence of
9 fingerprints. We compare any unknown fingerprints to
10 known standards. We, also, submit fingerprints for search
11 on the Automated Fingerprint Identification System, which
12 is, also, known as AFIS.

13 Q Did you have the opportunity to receive some items in
14 this case?

15 A Yes, I did.

16 Q Okay. With respect to item one, what is that?

17 A Item -- SLED's item one is a Springfield armory case
18 containing one Glock handgun stamped Van Buren Police, and
19 miscellaneous accessories.

20 Q I'm going to show you what's already in evidence as
21 State's Exhibit No. 65. Can you identify what that is?

22 A Yes, I can. This is SLED's item one.

23 Q Okay. And were you requested to do swabbing of this
24 item?

25 A Yes. I was requested to do swabbing for DNA on that

1 item.

2 Q And can you just describe for the jury the process
3 you take when you are swabbing an item? And what were you
4 looking for, by the way?

5 A So I am looking for fingerprints on an item. When I
6 am, also, tasked with creating swabs for DNA, I do an
7 overall visual examination of the item, look for any
8 fingerprints that may stand out before any kind of
9 development. And then I, also, try to swab the item in an
10 area that is likely to have been touched, but is not a
11 good surface to contain any usable prints for comparison.

12 So any kind of textured surface on an item would
13 possibly be good for DNA, but not a solid surface for
14 latent prints.

15 Q Okay. And I'm going to show you what is already in
16 evidence as State's Exhibit No. 53, which is a photo of
17 65. And can you just describe for the jury where you
18 swabbed on that item, which is item one in the SLED lab
19 numbers?

20 A Okay. So my swab -- my item 1.1 -- excuse me, that
21 was from the case. So on the actual gun itself, my item
22 1.2 were two swabs taken from the trigger of this handgun.
23 And then my item 1.3 were two swabs taken from the
24 textured portion of the grip and slide on the handgun from
25 item one.

1 Q Okay.

2 A There were additional swabs not taken from the gun
3 itself, but from the overall item one.

4 Q And this is State's Exhibit No. 52 that's already in
5 evidence, a picture of that case?

6 A Okay. So my item 1.1 were two swabs taken from the
7 handle of this plastic case. And then my item 1.4 were
8 two swabs taken from the spare grips and base of the
9 magazine contained with item one.

10 Q Okay. And is that depicted in that photo there?

11 A Yes. The magazine is loaded into the gun. But you
12 can see it sticking out of the bottom. And then the spare
13 grips are down in the bottom corner of the case in this
14 photo.

15 Q And when you're swabbing items for DNA, are you doing
16 that one at a time with the packaging?

17 A So the process for swabbing for DNA, we have a
18 sterilized package of two swabs within one little
19 container. We figure out which area on an item we want to
20 swab. We then rip open those two swabs that's,
21 essentially, a long Q-tip. We moisten one with water, use
22 that moist one to go over the area first, and then go
23 behind it with the dry one. And then we allow them to air
24 dry before we package them.

25 Q And then are they then given a new number and

1 forwarded on for further analysis?

2 A Yes. Once I create the swabs, I then go into our
3 computer system to create what we call a sub item number.
4 So all of that, initially, came to me as item one. All of
5 my swabs became 1.1, 1.2, and so on to show that they came
6 from that parent item.

7 MS. MORONEY: The Court's indulgence.

8 (Pause.)

9 MS. MORONEY: Please answer any questions the Defense
10 has.

11 THE WITNESS: Okay.

12 THE COURT: Cross.

13 CROSS-EXAMINATION

14 BY MS. LIPINSKI:

15 Q You would have gotten item one from a storage locker;
16 correct?

17 A Yes. In this case, it came from our secure latent
18 incoming evidence vault within our department.

19 Q And then when you were done with it, you would have
20 returned it to that area?

21 A In this particular case, it was transferred directly
22 to a member of the SLED firearms department.

23 Q And you have SLED documents that show when the
24 transfer of evidence is from where you get it and who you
25 give it to; correct?

1 A That's correct.

2 Q And that's to protect the integrity of the item;
3 correct?

4 A That is correct.

5 Q And was that item sealed when you obtained it?

6 A Yes, it was. I have it notated in my documentation.

7 Q So it wasn't -- that box wasn't in the packaging, was
8 it -- you didn't just go get that black box out of a
9 locker somewhere; correct?

10 A No, I did not.

11 Q So someone would have heat-sealed it, or does it
12 indicate where the packaging was?

13 A I received that case in a sealed box. Then I
14 sealed -- if you can see that yellow tape, that's
15 tamper-evidence seal tape. And then within that sealed
16 box, it was further wrapped in sealed paper bags.

17 Q Paper bags?

18 A Yes.

19 Q And then when you then transferred it, what was its
20 condition?

21 A I put it -- the bags -- I didn't put it back in the
22 bags. Those normally get ripped and are not usable once
23 we've unpackaged. But it all went back into that original
24 sealed bag -- excuse me, the sealed box that I received it
25 in. I placed it in that inner bag just to preserve the

1 contents and make it easier to view for any further
2 reason.

3 MS. LIPINSKI: That's all we have.

4 Thank you, Your Honor.

5 THE COURT: All right. Any redirect?

6 MS. MORONEY: None from the State, Your Honor.

7 THE COURT: All right. Thank you.

8 You can step down.

9 MR. WILKINS: The State calls Courtney Thompson.

10 THE CLERK: Please pause at the end of the bench.

11 Place your left hand on the Bible and raise your
12 right hand.

13 WHEREUPON,

14 COURTNEY THOMPSON,

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: My name is Courtney Thompson.

20 DIRECT EXAMINATION

21 BY MR. WILKINS:

22 Q Ms. Thompson, with whom are you employed?

23 A I'm employed with the South Carolina Law Enforcement
24 Division, also, referred to as SLED.

25 Q And what do you do for SLED?

1 A I am a DNA analyst in the DNA casework department in
2 the forensic services laboratory.

3 Q And what are your principle duties?

4 A My principle duties at this time are to examine items
5 of evidence for possible DNA sources, that could include
6 bodily fluids such as blood, semen, or saliva. I can,
7 also, attempt to collect potential DNA left behind by
8 somebody potentially handling or wearing an item. I,
9 also, examine hairs for their potential for DNA analysis.

10 So I will attempt to collect any potential stains or
11 DNA off of items of evidence and prepare them for the DNA
12 analyst prior to them taking them on and completing the
13 DNA processes.

14 I'm, also, competent in performing part of the
15 laboratory work for DNA analysis. And I'm in training to
16 finish out the laboratory analysis at this time.

17 Q And how did you become involved in this case?

18 A I was involved with this case when my services were
19 requested as part of doing processing for some of the
20 items of evidence that were requested at a later time
21 earlier this year, actually.

22 Q Okay. And what were you requested to do?

23 A I was requested to examine some items of evidence for
24 potential ownership collection. Ownership collection is
25 simply implying the targeting collection towards somebody

1 who may be wearing something. So that's typically going
2 to involve an item of clothing. And I was requested to
3 perform ownership collection on some items of clothing.

4 Q Okay. And what items were you requested to perform
5 it on and who did you get it from?

6 A So the item I was requested to examine was SLED's
7 item 34, which was a black laundry bag containing
8 miscellaneous men and women's clothing. And I received
9 that item of evidence from our evidence control
10 department, which is the secure evidence location inside
11 of the forensic services laboratory.

12 Q And were you able to process those items?

13 A Yes, I was. I was, specifically, requested to look
14 for items of clothing that may be a female's item of
15 clothing. And so I examined the items inside of the
16 laundry bag and then targeted some specific items for
17 ownership collection that appeared to be potentially
18 belonging to a female.

19 Q And do you have a chain of custody form up there with
20 you?

21 A Yes, I do.

22 Q And did you receive those items from Special Agent
23 Matt Davis?

24 A So I received these items, like I said, from the
25 evidence control department. So they were submitted to

1 the evidence control department by Matt Davis. And then
2 they were placed on a secure storage shelf until it was
3 time for me to work on them.

4 And so I received the items from an evidence control
5 technician in the evidence control department directly
6 from her. And they were then placed into my custody.

7 Q All right. And what items were you received -- what
8 items, specifically, did you possess?

9 A I, specifically, received item 34, SLED item 34.

10 Q What about what was inside item 34?

11 A Right. So there were various items within item 34.
12 So I performed an inventory of what was, actually, inside
13 of this black laundry bag, as there were various items.

14 And then I went through and kind of assigned some --
15 what we refer to as sub items. So it is another item that
16 has come from an original SLED item. It's connected to
17 that item.

18 So I inventoried a pair of pink-colored underwear,
19 gray underwear, a blue sports bra, some black athletic
20 leggings, a tan shapewear suit, gray boxers, a black
21 bonnet, socks, and then some miscellaneous items, which is
22 a black lighter, two white charging blocks, and then some
23 money.

24 Q Okay. And can you -- do you have a SLED
25 identification number for each of those?

1 A Yes. I did -- I assigned these numbers to the items
2 after I performed inventory on the black laundry bag.

3 Q Can you tell the jury what those ID numbers are for
4 each of those?

5 A Sure. So for the pink-colored underwear, that is
6 item 34.1. The gray colored underwear, item 34.2. The
7 blue sports bra is item 34.3. Black athletic leggings are
8 34.4. Tan shapewear suit is 34.5. Gray boxers are 34.6.
9 Black bonnet is 34.7. Socks are 34.8. The lighter and
10 two white charging blocks are 34.9. And the dime that was
11 discovered was 34.10.

12 Q And what did you do to those items?

13 A So as I briefly stated, I was requested to,
14 specifically, identify some --

15 MS. LIPINSKI: Your Honor, the Defense objects to all
16 the testing of the female items of clothing. I don't
17 understand how that's relevant to the crimes charged. It,
18 obviously, pertains to the co-defendant.

19 THE COURT: Okay. She's objecting on the grounds of
20 relevance.

21 MR. WILKINS: Okay. The items were found in a -- a
22 laundry bag that had men's clothing and women's clothing.
23 And they were tested for DNA.

24 THE COURT: Okay. I'm going to overrule the
25 objection and allow her to go forward.

1 Go ahead.

2 THE WITNESS: Thank you.

3 So, like I said, I was requested to look at the items
4 of clothing that may potentially belong to a female and
5 perform ownership collection on those items of evidence.

6 BY MR. WILKINS:

7 Q So how do you do that?

8 A So with ownership collection, it is trying to target
9 the potential wearer of those items. So, typically, the
10 items are going to be targeted in a spot where they may
11 get high contact against the skin so that the cellular
12 material may potentially be trapped in the fibers of the
13 clothing.

14 And so it just kind of varies from item to item.
15 But, essentially, what is done for each of these items is
16 an area of interest is targeted. I then use a sterile
17 one-time use plastic scraper. And I scrape the area of
18 interest. And this is to agitate any potential DNA that
19 might be there and make it easier for me to remove.

20 Then I moisten a sterile swab with sterile water.
21 And then I rub over the area of interest with a sterile
22 swab in order to pick up any material that may have been
23 shed by the wearer of that item. I can't tell how much
24 DNA is there or if DNA is there. But I can attempt to
25 target an area that would be somewhere where somebody

1 might leave DNA behind.

2 Q And did you do that on the items you just described?

3 A Yes. I did ownership collection on item 34.1, the
4 pink underwear; 34.2, the gray underwear; 34.3, the blue
5 sports bra; 34.4, the black leggings; and 34.5, the tan
6 shapewear suit.

7 Q And once you do the scrapings, what do you do with
8 the swab?

9 A After the swab has completed drying, I will prepare
10 it for DNA analysis. And what that means is that the DNA
11 analyst does not require an entire swab in order to
12 perform their analysis.

13 So I take a small cutting off of that swab to retain
14 a sample for the future and place it into a sterile tube.
15 That tube is labeled with the SLED lab number and the
16 corresponding item number. And then it is sealed back
17 into a -- a tamper-evidence type of pouch that we use at
18 the lab. And it awaits analysis by the DNA analyst that
19 it would be assigned to.

20 Q And does each swab get a new item number inside your
21 lab?

22 A It does. It does get its new item number after I've
23 completed the collection in order so that swab may be
24 tracked appropriately as it travels through the lab.

25 Q And who did you give the swabs of the pink underwear,

1 gray underwear, blue sports bra, black leggings, and tan
2 shapewear suit to?

3 A So those were created by me. They were then,
4 actually, placed into a secure location within the DNA
5 department where they can be retrieved by whoever is next
6 in line to perform analysis. And then this case,
7 actually, at a later time and date was assigned to me to
8 perform part of the laboratory analysis on.

9 So I retrieved them back out of that secure location
10 in order to perform some of the DNA processes, some of the
11 lab processes on the swabs. And after I was finished with
12 my portion, I transferred the evidence in person to DNA
13 Analyst Maryann Boehm.

14 MR. WILKINS: Answer any questions Ms. Lipinski may
15 have.

16 CROSS-EXAMINATION

17 BY MS. LIPINSKI:

18 Q You didn't pick and choose what items to test out of
19 this laundry bag; fair to say?

20 A I was requested to -- to identify items that may be
21 female related or something a female would wear. So I
22 used my judgment in that sense in order to determine some
23 clothing that may appear feminine.

24 Q So you were predominantly looking for feminine
25 clothes and that's what you found in this bag?

1 A Yes. That's what I found in the bag. I only
2 identified another item of clothing that I did not do
3 ownership collection on, which was item 34.6, which was a
4 gray pair of boxers.

5 Q So the only other item you identified in the bag was
6 a gray pair of boxers. You didn't do anything because
7 that would seem to be a men's item of clothing?

8 A That's correct. I, also, found a bonnet and some
9 socks. But based on what was requested of me to perform
10 analysis on, I determined that the underwear and the bra,
11 especially, as those are items worn very close to the
12 body, those would be generally some of the best items to
13 perform ownership collection on.

14 So I didn't go any further with doing testing on the
15 bonnet or the socks.

16 Q And the bonnet is something like some women might
17 wear at night so that their hair doesn't get messed up?

18 A That is correct.

19 Q And the shapewear is, also, predominantly a women's
20 type item, kind of a legging, or other type item; correct?

21 A Yes. It was in nature similar to a one-piece
22 swimsuit. But it was, in my opinion, something you would
23 wear as shapewear underneath your clothing.

24 Q But that a woman would wear?

25 A Yes. It appeared something a woman would wear, if --

1 it was like traditionally worn by a female, yes.

2 Q So kind of consistent with a woman's one-piece
3 swimsuit?

4 A That's correct.

5 MS. LIPINSKI: We have nothing further, Your Honor.

6 THE COURT: Any redirect?

7 MR. WILKINS: No, Your Honor.

8 THE COURT: All right. You may step down.

9 Thank you.

10 MS. LIPINSKI: Your Honor, can we approach about a
11 scheduling matter?

12 THE COURT: All right.

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: Okay. Call your next witness.

15 MR. WILKINS: Your Honor, the State calls Maryann
16 Boehm.

17 THE CLERK: Please place your left hand on the Bible
18 and raise your right hand.

19 WHEREUPON,

20 MARYANN BOEHM,

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 Maryann Boehm.

DIRECT EXAMINATION

BY MR. WILKINS:

Q Ms. Boehm, where are you employed?

A I'm employed at the South Carolina Law Enforcement Division, commonly known as SLED.

Q And what is your position there?

A I am a DNA analyst. I'm assigned to the DNA case work department.

Q And how long have you been in that position?

A Approximately 17 years.

Q Tell this jury a little bit about your educational history and special training regarding DNA analysis.

A Yes, sir. I received a bachelor of science from James Madison University, that's in Harrisburg, Virginia, in integrated science and technology with a concentration in biotechnology. After I graduated, I worked as a DNA analyst for a private firm company and then -- for about two and a half years. And then I was employed at SLED.

I went through SLED's training program, which is about a year long. And I learned all the proper techniques and protocols used in their laboratory. Before I was signed off to do case work, I had to take a series of tests to prove I could do case work on my own. And I successfully completed those tests and I was signed off to do DNA case work.

1 Q And do you have any special certifications, or
2 anything?

3 A No. I am required to take eight hours of continuing
4 education every year.

5 Q What about your professional experience? How long
6 have you been doing DNA analysis work?

7 A I have been doing it for 17 years at SLED, and two
8 years before that. So 19 years in total.

9 Q All right. So what is DNA analysis? What does that
10 mean?

11 A DNA is Deoxyribonucleic. It's a chemical found in
12 all the cells of our body, except for red blood cells. It
13 makes you you. It gives us our hair color, our height.
14 We get our DNA from our mother and father. With the
15 exception of identical twins, no two individuals are the
16 same or have the same DNA.

17 So in forensic science, we're interested in portions
18 that differ between individuals. We test 23 of those
19 different locations. And a combination of those test
20 results make up a DNA profile.

21 Q And have you ever been qualified as an expert in DNA
22 analysis?

23 A I have.

24 Q Approximately how many times?

25 A Approximately 75 times.

1 MR. WILKINS: Your Honor, the State moves Maryann
2 Boehm as an expert in DNA analysis.

3 MS. LIPINSKI: No objection, Your Honor.

4 THE COURT: Without objection.

5 BY MR. WILKINS:

6 Q So, Ms. Boehm, were you asked to conduct some DNA
7 analysis in this particular case?

8 A I was.

9 Q How did you get involved?

10 A I was assigned this case as a part of my duties, I
11 guess, to perform the DNA analysis.

12 Q And when you perform DNA analysis, do you typically
13 do it against known samples?

14 A Typically. It depends on the case and what's
15 submitted to us. Some is out of our control. However, we
16 develop DNA profiles from unknowns, that would be the
17 evidence at the crime scene. And then we compare it to
18 known standards that are submitted within that case.

19 Q And in this particular case, what are your knowns?

20 A So I received a dried blood standard swab from Ray
21 Kelly.

22 MS. LIPINSKI: Your Honor, we renew our objection to
23 those swabbings. And they cannot identify --

24 THE COURT: Okay. Same ruling.

25 Go ahead.

1 THE WITNESS: That was our log number 9.1.1.1. Item
2 19 is a buccal swab collected from William Jumper. And
3 item 35 was buccal swabs from Tornell Laureano.

4 BY MR. WILKINS:

5 Q All right. I'm going to show you what's State's
6 Exhibit No. 90, and ask you if you can identify that?

7 A Yes, sir. I can identify it.

8 Q What is that?

9 A These are the buccal swabs from Tornell Laureano.

10 MR. WILKINS: Your Honor, the State moves State's
11 Exhibit 90 into evidence.

12 THE COURT: Same objection?

13 MS. LIPINSKI: These came from the co-defendant, Your
14 Honor. We have no objection to those.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit No. 90 was admitted into
17 evidence.)

18 BY MR. WILKINS:

19 Q So what are your two knowns again?

20 A I had three knowns. One was the Tornell Laureano
21 buccal swabs. I, also, had dried blood standard swabs
22 from Ray Kelly. And I had buccal swabs collected from
23 William Jumper.

24 Q All right. And I'm going to point you to State's
25 Exhibit No. 65. Did you receive swabs from State's

1 Exhibit No. 65?

2 A Yes. State's Exhibit No. 65 is our SLED item one.

3 And I received swabs from various areas from item one.

4 Q Were you able to develop any DNA profiles from any of
5 the evidence collected?

6 A I was able to develop DNA profiles from the swab from
7 item one.

8 Q Okay. Can you tell this jury the profiles you were
9 able to determine?

10 A Yes. There were a series of swabs. So I'll just go
11 swab by swab, if that's all right. Item 1.1 was swabs
12 from handle of the case of item 1. And I was able to
13 develop a DNA profile suitable for comparison.

14 So then I compared the known standards that I had to
15 this item. And the DNA profile is approximately 88
16 quadrillion times more likely if Ray Kelly and three
17 unidentified unrelated individuals contributed to the
18 mixture than if four unidentified unrelated individuals
19 contributed to the mixture.

20 Q And you said 88 quadrillion. Tell the jury what that
21 means in layman's terms.

22 A So what we in DNA analysis do is we determine how
23 likely the DNA profile of an unknown exists based on
24 whether an individual contributed to it. At the end of
25 our report, we have a table giving support and anything

1 over a million. That number that I just said, a million
2 is very strong support that that DNA profile exists
3 because that person and however many unknowns contributed
4 to that profile.

5 So with this item, it's very strong support because
6 my number was 88 quadrillion that Ray Kelly and three
7 unidentified individuals contributed to that profile.

8 Q And that was from the swab from the handle of the
9 case?

10 A Yes, sir.

11 Q All right. What was your -- what was the next --
12 your next item that you received that you --

13 A So our item 1.2 is swabs from the trigger of the
14 handgun from item one. And there was no DNA profile
15 developed from that item. So I did not make any
16 comparisons.

17 Q What about your item 1.3, which one was that?

18 A Item 1.3 was swabs from the textured portion of the
19 grip and slide of handgun. And I was able to develop a
20 DNA profile from that item suitable for comparison.

21 Q And what was that profile?

22 A The -- I determined that the DNA profile was a
23 mixture of, at least, four individuals. So I then
24 compared the known submitted in the case. And the results
25 were that the DNA profile is approximately 28 quadrillion

1 times more likely that Ray Kelly and three unidentified
2 unrelated individuals contributed to the mixture than if
3 four unidentified unrelated individuals contributed to the
4 mixture.

5 Q So it's 28 quadrillion that Ray Kelly's DNA is on the
6 textured portion of the grip of that item?

7 A So it's 24 -- or the DNA profile of the unknown was
8 developed as 28 times more likely -- it was developed
9 because Ray Kelly and three unidentified individuals
10 contributed to that mixture versus four unidentified
11 individuals.

12 Q Any other items?

13 A I, also, received from this item one swabs from the
14 spare grips and base of magazine contained within item
15 one. And there was a DNA profile that was developed.
16 However, due to the limited information obtained and the
17 inability to determine the number of contributors, no
18 further interpretation was offered.

19 Q And was that all the profiles you were able to
20 develop on that item in relation to Ray Kelly?

21 A Those are all the swabs that were submitted to me, so
22 yes.

23 Q All right. Were you asked to do profiles on some
24 other additional items?

25 A Yes, sir.

1 Q And what were those items?

2 A I received swabs from the top and bottom of item 3.1,
3 which is a metal grinder from the Nissan Altima. There
4 is, also, our item 4.1.2, which was swabs from the side
5 edges of item 4.1, which was a fold and clear Hawaii Runtz
6 plastic bag from the Nissan Altima.

7 Item 5.1.2 were swabs from the edges of 5.1, which
8 was the don't trip, it's only spinach bag from the Nissan
9 Altima. Item 6.1 were swabs from the handle of item 6,
10 which was a Family Dollar bag from the black bag in the
11 trunk of the Nissan Altima. Item 7.1.1 were swabs from
12 the ripped edges of 7.1, which was four baggies from the
13 Family Dollar bag. And item 29 was swabs from Ray Kelly's
14 shoes.

15 Q Were you able to develop any profiles on those?

16 A I was able to develop some profiles on some of those
17 items. However, they were very partial. And I could not
18 do any comparisons because there was not enough DNA there.

19 Q Explain to the jury -- you have to have enough DNA to
20 make a comparison?

21 A Yes, sir. So we have strict guidelines and protocols
22 in place regulating whether we can make comparisons on
23 items of evidence. And we do this first. So I did all of
24 the DNA profiles from an unknown piece of evidence. I
25 first assess the profile to determine whether it is

1 suitable for comparison or not. If I determine it is,
2 then I'll compare the known standard submitted in the
3 case. If I determine that it's not or that no DNA profile
4 is there to develop, then I quit my analysis on that item.

5 Q Okay. I'm going to refer you to -- I think it's your
6 item 34. Can you tell the jury what that is?

7 A Yes, sir. Item 34 was a black laundry bag containing
8 miscellaneous men's and women's clothing, a cigarette
9 lighter, and a USB power box from the trunk of the
10 vehicle.

11 Q And were you able to develop any profiles on any of
12 those items from the black laundry bag containing
13 miscellaneous men's and women's clothing?

14 A Yes, sir, I was.

15 Q Can you tell the jury the results?

16 A Yes. There are several items, so I'll just go item
17 by item. The first item was 34.1, which was pink-colored
18 underwear. A swab was taken from the interior of the
19 pink-colored underwear. I was able to develop a DNA
20 profile suitable for comparison. So then I compared my
21 known standards to this item. I determined it was a
22 mixture from, at least, two individuals.

23 And then after my comparisons, the results were that
24 the DNA profile is approximately 76 times more likely if
25 two unidentified unrelated individuals contributed to the

1 mixture than if Ray Kelly and an unidentified unrelated
2 individual contributed to the mixture. William Jumper is
3 excluded as a contributor to the mixture. And the DNA
4 profile is approximately 200 billion times more likely if
5 Tornell Laureano and an unidentified unrelated individual
6 contributed to the mixture than if two unidentified
7 unrelated individuals contributed to the mixture.

8 Q Okay. I'll refer you to 34.2.1. Were you able to
9 develop profiles on that one?

10 A Yes, sir, I was.

11 Q And what was that item?

12 A The item was a swab from scraping the entire interior
13 of the gray-colored underwear.

14 Q What were the results there?

15 A I was able to develop a DNA profile. I determined it
16 was a mixture of, at least, three -- or of three
17 individuals. And so I compared my known standards within
18 the case. The results for those comparisons were that the
19 DNA profile is approximately 62 octillion times more
20 likely if Ray Kelly and two unidentified unrelated
21 individuals contributed to the mixture than if three
22 unidentified unrelated individuals contributed to the
23 mixture.

24 I then compared William Jumper's standard. And
25 William Jumper is excluded as a contributor to the mixture

1 under the listed propositions. I, also, compared Tornell
2 Laureano's standard and the results were the DNA profile
3 is approximately 36 sextillion times more likely if
4 Tornell Laureano and two unidentified unrelated
5 individuals contributed to the mixture than if three
6 unidentified unrelated individuals contributed to the
7 mixture.

8 Q Okay. Did you get any profiles on any additional
9 items?

10 A I did.

11 Q Okay.

12 A So the next item I have listed is 34.3.1, which is a
13 swab from the scraping of the entire interior of a blue
14 sports bra. A DNA profile --

15 Q And, Ms. Boehm, these all came from the laundry bag,
16 as well?

17 A Yes, sir, all of these items.

18 Q And what were your profiles on the blue sports bra?

19 A I did develop a DNA profile suitable for comparison.
20 I determined it was a mixture from two individuals. So I
21 compared the known standards in the case. And those
22 results were the DNA profiles are approximately 360
23 quadrillion times likely if Ray Kelly and an unidentified
24 individual contributed to the mixture than if two
25 unidentified unrelated individuals contributed to the

1 mixture.

2 William Jumper is excluded as a contributor to the
3 mixture. And the DNA profile is approximately 83
4 septillion times likely if Tornell Laureano and an
5 unidentified unrelated individual contributed to the
6 mixture than if two unidentified unrelated individuals
7 contributed to the mixture.

8 Q All right. I'll move you on to, I think, 34.4, which
9 is black leggings. Is that your next one?

10 A Yes, sir.

11 Q Can you tell the jury your profile results on that?

12 A Yes, sir. I was able to develop a DNA profile
13 suitable for comparison. I determined it was a mixture
14 originating from two individuals. Then I performed the
15 comparisons of the known individuals. The DNA profile is
16 approximately 12 times more likely if Ray Kelly and an
17 unidentified unrelated individual contributed to the
18 mixture than if two unidentified unrelated individuals
19 contributed to the mixture.

20 And an uninformative statistical result was obtained,
21 no conclusions can be made regarding William Jumper as a
22 possible contributor to the profile under the listed
23 propositions. And the DNA profile is approximately 88
24 septillion times more likely if Tornell Laureano and an
25 unidentified unrelated individual contributed to the

1 mixture than if two unidentified unrelated individuals
2 contributed to the mixture.

3 Q All right. I'll be moving on to the next item,
4 which, I believe, is tan shapewear?

5 A Yes, sir. I was able to develop a DNA profile
6 suitable for comparison on this item, as well. I
7 determined it was a mixture originating from three
8 individuals. So I made comparisons with the known
9 standards within the case.

10 And those results were the DNA profile was
11 approximately seven times more likely if Ray Kelly and two
12 unidentified unrelated individuals contributed to the
13 mixture than if three unidentified unrelated individuals
14 contributed to the mixture.

15 William Jumper is excluded as a contributor to the
16 mixture. And the DNA profile is approximately 95 trillion
17 times more likely if Tornell Laureano and two unidentified
18 unrelated individuals contributed to the mixture than if
19 three unidentified unrelated individuals contributed to
20 the mixture.

21 Q Any other information on that one?

22 A So if we have inclusionary numbers, like ratios, we
23 will compare that, too, and make sure -- or see if the
24 profile can be explained when combining the two. And I
25 did do that on this item. And those results were the DNA

1 profile is approximately 910 trillion times more likely if
2 Ray Kelly, Tornell Laureano, and an unidentified unrelated
3 individual contributed to the mixture than if three
4 unidentified unrelated individuals contributed to the
5 mixture.

6 Q Did you perform any other profiles or did you obtain
7 any other profiles?

8 A The other -- the remaining items that were in the
9 laundry bag were inventoried, but no additional analysis
10 was performed.

11 MR. WILKINS: Please answer any questions Ms. Lipinski
12 might have.

13 CROSS-EXAMINATION

14 BY MS. LIPINSKI:

15 Q You don't know any of these people?

16 A No, ma'am.

17 Q You didn't draw any of the blood samples from any of
18 them?

19 A No, ma'am.

20 Q And you were entirely dependent upon the identity of
21 that coming from sources not of your own personal
22 knowledge; correct?

23 A That is correct.

24 Q So if somebody mislabeled a tube; correct, as being
25 from some individual, then you have no way of knowing if

1 that information -- that name you were given is
2 inaccurate; correct?

3 A We are -- yes. We are on a set to contain policy at
4 SLED. So whatever information we receive about an item or
5 a known standard is what we go with, essentially.

6 Q So, again, if it is mislabeled or misidentified, then
7 that would call into question the integrity of your
8 results, would it not?

9 A Yes. But there's no way of me knowing if it was.

10 Q I understand there's no way of you knowing. But you
11 didn't take any known sample from an individual by the
12 name of Ray Kelly; correct?

13 A I personally did not, no.

14 Q You didn't compare from any other alleged known
15 samples from this individual to make sure that that was
16 accurate; correct?

17 A I just had the three standards that were submitted.

18 Q All right. And you were entirely dependent upon the
19 reliability of those labels; correct?

20 A That's correct.

21 Q And in your time at SLED, you have been aware that,
22 at times, things have been mislabeled; correct?

23 A Not that I'm aware of.

24 Q So SLED has never made any mistake?

25 A Not that I'm aware of, no, ma'am. Not when it comes

1 to -- like I said, we're on a set to contain policy.
2 SLED, typically, in my role, we don't draw those items or
3 collect those items. So we go on the good faith of the
4 submitters with those names.

5 Q Okay. But you do sometimes take samples from a
6 presumed sample and then go back and say we'd like you to
7 submit a known sample from that individual; correct?

8 A I don't think I'm following your question. Can you
9 rephrase it, please?

10 Q So there are a number of DNA databases that are out
11 there; right? Thanks to 23 and Me and God knows what
12 else, there's known databases out there; correct?

13 A Those have nothing to do with the testing that I do.
14 23 and Me is different testing than forensic testing.

15 Q Right. But somebody could obtain that and SLED would
16 go, no, we don't trust 23 and Me, you have to submit a
17 known sample before we're going to do that one; correct?

18 A I still don't understand the question you're asking.
19 I'm sorry.

20 Q You're still dependent on the integrity of that
21 result; correct? You're still dependent on the integrity
22 of that initial known sample; correct?

23 A I'm dependent on they labeled it correctly. As far
24 as tampering and stuff like that, we definitely check that
25 before analysis.

1 Q Part of your continuing education is to be aware of
2 events and developments in DNA science, is it not?

3 A That's correct.

4 Q And things have changed dramatically over the past,
5 let's say, 10 to 15 years in DNA science, has it not?

6 A Absolutely.

7 Q And the way you used to categorize results is not how
8 you categorize results today; correct?

9 A I -- I'm sorry. I don't know what you mean by that.

10 Q This language where you're saying more likely than a
11 mixture of 88 quadrillion and those kind of things, that's
12 not how DNA results are used to read; is that correct?

13 A The statistics have changed, the science has not. So
14 we've been performing STR/PCR DNA analysis ever since I
15 started working at SLED and my private job. So that
16 comparison has not changed. The statistics and
17 interpretation has changed, but the DNA profile has not
18 changed.

19 Q Right. So the DNA science; right? What the DNA in
20 our blood and all of that, we've known that for a while.
21 We've gotten better at it in terms of mapping the human
22 gene, and those kind of things. But we've known DNA
23 science for quite sometime; correct?

24 A I believe so.

25 Q And then SLED, and the FBI, and other agencies have

1 gotten better at testing that; right? Correct?

2 A I don't know what you mean by better, I guess, is
3 where I'm getting confused. I'm sorry.

4 Q You used to have to have a lot more of a DNA sample
5 in order to do analysis; correct?

6 A Testing is getting more sensitive where we can
7 develop a DNA profile using less DNA available, yes.

8 Q So the methodology, PCR, repeat patterns, those kinds
9 of things have improved over time; correct?

10 A I think it's more of our extraction methods, but,
11 yes, ma'am.

12 Q But one area that has come under considerable
13 revamping is this statistical analysis; correct?

14 A We have a new way of doing it. The old statistics
15 that we did prior and labs are still doing is not bad,
16 it's just different.

17 Q But you've changed because certain people have called
18 into question that statistical science; correct?

19 A No. That's not why we changed. We've changed
20 because we can interpret more based on this new way of
21 performing statistics.

22 Q But you are aware that the FBI crime lab has gotten
23 into trouble for their statistical analysis; correct?

24 A Yes. They did what we are not doing. I don't know
25 all the details of it. But, of course, I'm privy to some

1 of that information. When it came to their mixture
2 interpretation, they were doing it differently than what
3 SLED was doing it. And it was proven not the best way to
4 calculate mixture statistics on mixture samples.

5 Q And that's because that mixture sample, in
6 particular; right? Where you don't have a purely -- it's
7 one known profile, where they're overlapping, the ability
8 to segment that out, the ability to determine who it is,
9 whether alleles drop off, whether they stack, whether they
10 stutter, those kind of things has come under question;
11 correct? And that's why the FBI had to change their
12 mixture analysis?

13 A Yes. In a way, it was -- what the FBI was doing was
14 low level mixtures where they were not using some
15 locations for statistics. Like I said, at SLED, we did
16 not do the statistics -- we use the same statistics
17 program, but did not calculate statistics the same way as
18 the FBI did.

19 Q And you're not a statistician?

20 A No, I'm not. I'm just trained in the statistics I
21 use.

22 Q And you didn't do any statistical computation? That,
23 basically, prints that out based on the allele locations;
24 correct?

25 A When I was trained, I had to calculate by hand, but

1 it takes a very long time. We do use a computer system
2 with old statistics and with new statistics now. I was
3 trained to have hand calculated, but it takes a very long
4 time to do. And I'm human, so I could make errors. So it
5 would take a very long time for reviews and to make sure
6 it was accurate, as well. So we do use computers now.

7 Q So you're dependent on that information, as well;
8 correct?

9 A Will you repeat that question?

10 Q You're dependent on the statistical information
11 within the computer being accurate; correct?

12 A Yes.

13 Q And the numbers that you're throwing out here,
14 quadrillion and all of that -- how many people are in the
15 United States?

16 A I believe it's -- I don't -- I'm not a hundred
17 percent sure in the United States. I know it's about
18 seven and a half billion in the world. I'm sorry. I
19 don't know exactly what it is in the United States.

20 Q And the reason you can get to these fantastical
21 numbers is it's kind of like lottery numbers. It's the
22 odds of this times this times this times this. And that
23 elevates that statistical number; correct?

24 A So yes. We calculate the frequency of each test
25 result. And since we test 23 locations, those results are

1 multiplied to determine how rare the statistic is.

2 Q So, again, you're dependent on those databases that
3 tell you how rare that is; correct?

4 A That is correct.

5 Q Okay. And so if you were given compromised
6 information or if those databases aren't based on reliable
7 statistical information, then that could call into
8 question the integrity of your results; correct?

9 A Based -- we do use published frequency databases.
10 However, before we perform any analysis method or
11 statistic at SLED, it goes through a very thorough
12 investigation we call validations to ensure that it is
13 reproducible and is giving the most accurate results as we
14 can.

15 Q And the FBI did the same thing. But their results
16 still came under strict scrutiny, did they not?

17 A That was with a former database. And we did use that
18 database many years ago. And it was someone -- their
19 mistakes were made by someone who calculated the
20 frequencies of the database. Once we were aware, we,
21 actually, switched to a different database and
22 recalculated the ones that used the old database.

23 Q And part of the reason it was called into question is
24 they looked at those results. They sent them out to 32
25 blind labs. And when they came back, the results varied

1 significantly. And, specifically, in terms of the
2 statistical results with some people saying as little as
3 one in 76 and other people giving these quadrillion,
4 quintillion numbers that you've quoted here today;
5 correct?

6 A Can you rephrase that question? I have no idea what
7 you're asking.

8 Q Part of the president's counsel on DNA analysts where
9 they brought it together, part of the reason --

10 MR. WILKINS: Your Honor, objection. This is well
11 outside the scope of this witness's testimony.

12 THE COURT: Where are you going with this?

13 MS. LIPINSKI: This is the DNA science upon she
14 relied and the statistical analysis she performed. I
15 think I'm allowed to go into questioning her knowledge of
16 it. And there have been questions about it.

17 THE COURT: Well, you can question about how she --
18 what tests she performed. But you're asking questions
19 about some other compromised system that she doesn't use.

20 MS. LIPINSKI: But she's an expert in that field and
21 stated she's aware of those issues.

22 THE COURT: Well, I'm going to require you to focus
23 on the processes used in this case.

24 BY MS. LIPINSKI:

25 Q So when they were, originally, using this previous

1 database, those problems weren't known; correct?

2 A Originally, yes, ma'am.

3 Q All right. And so this new database that you have;
4 correct, is a database -- it's a database? But it's still
5 a database that you're entirely relying on; correct?

6 A Are you referring to the frequency database?

7 Q Sure.

8 A Then yes.

9 Q So, like, one database could have had problems. Any
10 other database could, also, have problems; correct?

11 A That is correct. We definitely -- SLED did not
12 calculate a database on their own. We definitely use
13 published databases that are widely accepted in the
14 forensic community.

15 Q And at the time, the FBI was using databases that
16 were public databases that were widely accepted in the
17 scientific community; correct?

18 A That is correct.

19 Q And in terms of these mixtures of DNA -- we're
20 talking about items that are thrown into a laundry bag
21 together; correct?

22 A That's correct.

23 Q And so DNA can move from one item to the other;
24 correct?

25 A Absolutely, yes, ma'am.

1 Q So just because you find DNA on one item doesn't mean
2 that somebody, actually, touched or deposited their DNA on
3 that item; correct?

4 A No. One of the limitations of DNA analysis is I
5 can't tell you how the DNA got there or when it got there,
6 just that it's there.

7 Q So if items were put together -- like, if we put a
8 bunch of different people's dirty clothes in a bag and
9 they're all wet and sweaty and have all these kind of
10 bloody fluids, they're going to mix all together; correct?

11 A I would assume so. But I --

12 Q It's possible?

13 A It is possible.

14 Q It's likely?

15 A Yes. It's likely.

16 Q So that doesn't indicate in any way that that person,
17 especially found in these circumstances like a laundry
18 bag, ever touched any particular item; correct?

19 A No. Again, their DNA got on these items. I can't
20 tell you how or when, but it got there.

21 Q It could have been on there for years; correct?

22 A Depending on if it was washed and how it was
23 preserved and stored. Yes, ma'am. It could be on there
24 for years.

25 Q And the same with the swabbing from this gun box;

1 correct? You don't know when that DNA was allegedly
2 deposited; correct?

3 A No, ma'am. I cannot tell you.

4 Q You're, also, dependent on the accuracy of the known
5 samples that were submitted; correct? If they were
6 mislabeled as Ray Kelly -- you're saying 88 quadrillion to
7 Ray Kelly. You don't know that. It's really that DNA
8 profile to which someone else has already given a name?

9 A Absolutely. The standard was labeled Ray Kelly. And
10 that's what we go off of and use it for comparisons.

11 Q And, again, that, also, could have been transfer DNA,
12 meaning that it came from something to that box?

13 A The blood standard?

14 Q No, no, no. I'm sorry. The DNA profile from the gun
15 box, for example; correct?

16 A It could be transfer. Again, I can't tell you how
17 the DNA got there.

18 Q So if all of these items were in the trunk; right,
19 there could have been DNA moving amongst the two items
20 combining? Those are all stuffed down in his trunk;
21 correct?

22 A It may have happened that way.

23 Q It's possible?

24 A It's possible.

25 Q And even likely; correct?

1 A I can't tell you how likely it is. We don't do
2 activity level. Statistics -- I can't tell you how likely
3 it is.

4 Q But DNA is very fungible and something that is
5 readily transferrable; correct?

6 A Yes, ma'am.

7 MS. LIPINSKI: The Court's indulgence one moment,
8 Your Honor.

9 (Pause.)

10 MS. LIPINSKI: That's all we have.

11 THE COURT: Any redirect?

12 MR. WILKINS: No, Your Honor.

13 THE COURT: Thank, you ma'am.

14 You can step down.

15 Thank you.

16 All right. Ladies and gentlemen, we're going to
17 break for the day. And I ask you all to be back at 9:30
18 in the morning. Okay. Don't talk about it. Don't look
19 at the -- anything about this on the media, social media,
20 or rabbit ears TV. Just don't read about it or do any
21 research.

22 Y'all have a good night. And I'll see you in the
23 morning.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 5:30 p.m.)

1 THE COURT: All right. After the bench conference,
2 I've been led to believe that the State has one more
3 witness; is that correct?

4 MR. WILKINS: That's correct, Your Honor. With the
5 stipulation that we've agreed to earlier, yes.

6 THE COURT: All right. So, Mr. Kelly, I want to
7 speak with you so you can think about what I'm going to
8 tell you overnight. So I ask you -- I know you're
9 handcuffed, but raise your right hand as best you can.

10 (WHEREUPON, there was no response.)

11 THE COURT: I'll tell you what, I don't even need you
12 to be under oath.

13 You have an absolute right, a Constitutional right as
14 a citizen in this country to testify. You can -- you have
15 an equal absolute right not to testify. And it cannot be
16 held against you. I will so charge the jury that.
17 Whether or not you decide to testify involves many
18 factors. Some of which involve strategic decisions -- pay
19 attention to me -- that will be discussed by your
20 attorney, whether or not it behooves you to testify or
21 not. But it's your Constitutional right. And I urge
22 you -- of course, I've urged you before to listen to
23 attorneys, which you have refused to do, but, apparently,
24 now have changed your mind. I urge you to listen
25 carefully to the advice that she will give you. But in

1 the end, this Constitutional right belongs to you and to
2 you alone. So whether or not you decide to testify is up
3 to you.

4 Some things to be considered are whether or not there
5 are any prior offenses in your criminal history which
6 could be used to impeach your credibility.

7 So I'm now going to ask the State to put on the
8 record what impeachable offenses they would intend to use.

9 MR. WILKINS: Your Honor, he has offenses between
10 2002 and 2009 that are beyond the 10 years.

11 THE COURT: Okay.

12 MR. WILKINS: In 2016, he has aggravated unlicensed
13 operation of a motor vehicle first degree, which is a
14 felony. He has in 2016 an unlawful fleeing of police
15 third degree in a motor vehicle. That's a misdemeanor.
16 He has a 2006 operation while impaired by drugs first
17 offense, a misdemeanor; 2016, reckless driving,
18 misdemeanor; 2006, criminal use of drug paraphernalia
19 second, misdemeanor; 2018, criminal possession narcotics
20 fourth degree, which is a felony; 2018, criminal sale of a
21 controlled substance third narcotic drug, felony; and
22 2020, criminal possession third narcotic drug with intent
23 to sell, felony. They're all out of the state of New
24 York, Your Honor.

25 THE COURT: Well, how many of those would be

1 impeachable under Rule 609? I don't know the term of
2 imprisonment -- maximum term of imprisonment for each of
3 those.

4 MR. WILKINS: The felonies are Class B felonies. And
5 I think they carry up to 15 years. So that would be to
6 2018 and 2020, criminal sale of a controlled substance
7 third drug, and a criminal possession third narcotic drug
8 with intent to sell, 2018, 2020.

9 THE COURT: So you take into consideration that if
10 you do decide to testify that the State would be allowed
11 to impeach your credibility or believability by
12 questioning you about your -- those prior criminal
13 offenses.

14 Now, I would ask you, do you have any questions you
15 want to ask me about your right to testify?

16 DEFENDANT KELLY: I understand my rights. I don't
17 have any questions.

18 THE COURT: Okay.

19 DEFENDANT KELLY: I'm an American national. I'm not
20 a U.S. citizen.

21 THE COURT: Okay. Well, guess what? Even if you're
22 not a U.S. citizen, the same rights apply to you under the
23 United States Constitution.

24 I hope you have a good night.

25 We'll see you all in the morning at 9:30.

(WHEREUPON, the proceedings were concluded at
approximately 5:36 p.m., to be reconvened on
Thursday, September 29, 2022.)

1 THURSDAY, SEPTEMBER 29, 2022

2 (WHEREUPON, State's Exhibit Nos. 78, 79, 80, 81, and 85
3 were admitted into evidence.)

4 (WHEREUPON, State's Exhibit No. 99 was marked for
5 identification only.)

6 THE COURT: Anything before we get started?

7 MS. LIPINSKI: Your Honor, at this time, the Defense
8 renews our objection to the number of law enforcement
9 officers in uniform, particularly in the courtroom. It's
10 grown every day since I originally made the motion. At
11 this point, I think there is in excess of 20 to 25
12 officers here in the courtroom today. I have four SLED
13 officers around me, additional courtroom staff.

14 And then I understand it's law enforcement, but they
15 could be in plain clothes. We could live stream it in
16 another courtroom. I just think at this point it's
17 overwhelming. And I think it's unduly prejudicial to the
18 Defendant. I feel the need to renew our motion given the
19 number is climbing.

20 THE COURT: Okay.

21 MS. MORONEY: Your Honor, you're well aware that you
22 have all the discretion how to run the courtroom. This is
23 a matter of public concern as we know from the many court
24 reporters outside -- I'm sorry, journalists outside who
25 have been streaming this event. The community is

1 interested in the outcome of this case. It just so
2 happens that there are three law enforcement officers who
3 are victims in this case, which I think this a
4 proportionate showing for the victims.

5 I will note for the Court that Deputy Jumper served
6 for 28 years in Greenville County. The people of
7 Greenville County are concerned with the outcome of this
8 case. And his funeral was held at Bonn Secours.

9 THE COURT: Okay.

10 MS. MORONEY: If that gives any indication to
11 proportionality of the support in this case.

12 THE COURT: All right. Well, I think you're
13 protected on the record with that. And I'm going to deny
14 your motion.

15 Okay. Are we ready to go?

16 MR. WILKINS: Your Honor, one brief matter. We're
17 going to call our last witness, Agent Matt Davis. And he
18 is going to -- I'm going to attempt to introduce a
19 17-second audio clip. And I'd like Your Honor to do a 403
20 analysis before we go through that and get everybody out
21 here, if that's okay with you.

22 THE COURT: Have you heard it?

23 MS. LIPINSKI: I've heard a lot --
24 Which one is this?

25 MR. WILKINS: So, Your Honor, this is the audio clip

1 that was found located on the non-red phone that came out
2 of the glove compartment. It will be identified as the --
3 as belonging to -- or in the name of Tornell Laureano.

4 Investigator Davis has reviewed all the phones. He's
5 reviewed all the audio of -- of the in-car cameras. And
6 he is able to determine and will testify that the voice on
7 this audio is Mr. Kelly.

8 It, also, occurred on October 10th, 2020, in New
9 York. And he can tell that from the phone records that
10 are in evidence. He can review the phone records, which
11 tells him when calls were made on October 10th. That
12 phone was located in New York.

13 And Brian Hudak has already identified the recording
14 on that phone from the download. And he will testify that
15 it was a conversation between Ray Kelly and Tornell
16 Laureano. And I can read to you what it will say.

17 THE COURT: Well, we'll listen to it in just a
18 second.

19 MR. WILKINS: Okay.

20 THE COURT: While I'm thinking about it, I saw your
21 red sticker. There was a clerical misstep yesterday, I
22 guess, with the marking of some of the exhibits, two
23 exhibits. Two were marked with the same number 87. So
24 we're going to -- I'm going to request that the court
25 reporter mark one as 87A and the other as 87B.

1 Is there any objection to that from the State?

2 MR. WILKINS: No, Your Honor.

3 THE COURT: From the Defense?

4 MS. LIPINSKI: No, Your Honor.

5 (WHEREUPON, State's Exhibit Nos. 87-A and 87-B were
6 marked for identification and admitted into evidence.)

7 THE COURT: Okay. Why don't you just play the thing
8 so we can...

9 (WHEREUPON, State's Exhibit No. 99 was played in
10 open court.)

11 MR. WILKINS: Your Honor, we would submit that's a
12 statement against interest where the Defendant is charged
13 with trafficking crack cocaine and he's admitting to being
14 a drug dealer 10 days before he's found with 80 something
15 grams of crack in the trunk of the car he was driving.

16 THE COURT: Okay.

17 MS. LIPINSKI: Your Honor, I think this strikes at
18 the heart of the Ostrowski decision, which indicates that
19 similar time had passed, and not allowed to use this kind
20 of unrelated information to establish some type of proof
21 by character assassination. That's what this is. They
22 can't tie it to this actual thing.

23 They don't have anybody, actually, participating in
24 the phone call identifying Mr. Kelly as being the other
25 individual to say that the officer can say, you know, with

1 any definitiveness that it's him. But I do believe it
2 strikes at the heart of the Ostrowski decision. And for
3 the same reason that the text messages off somebody else's
4 phone should not be admitted in this trial --

5 THE COURT: They weren't offered.

6 MS. LIPINSKI: Pardon me?

7 THE COURT: I don't believe those were offered.

8 MR. WILKINS: They were not, Your Honor.

9 MS. LIPINSKI: I mean, they moved on from them. But
10 I'm just saying the same argument, same case law that I
11 presented when they attempted to offer those applies to
12 this, as well. And I believe these are even more remote
13 in time. So I just use that to try and make the same
14 argument, Your Honor.

15 THE COURT: Okay. Well, I'm going to overrule your
16 objection. I think you're well protected on the record.

17 Okay. Anything else before we --

18 MR. WILKINS: Your Honor, the State has two
19 stipulations. So if I could hand those up at the
20 appropriate time and you could read them to the jury.

21 THE COURT: Yeah. Let me take a look at them.

22 MR. WILKINS: And that's it, Your Honor. I promise.

23 THE COURT: Have you seen them? Do you know what
24 they are?

25 MR. WILKINS: She just signed them.

1 MS. LIPINSKI: I thought they were the same thing and
2 he had two copies of it.

3 THE COURT: No. One is a stipulation as to December
4 3, 2020, statement. And one is a stipulation as to May
5 2021, statement.

6 Do you want to take another look? Take another look.

7 MS. LIPINSKI: I apologize, Your Honor.

8 THE COURT: That's all right.

9 (Pause.)

10 MS. LIPINSKI: That's fine, Your Honor. I missed
11 that.

12 THE COURT: Okay. That's all right.

13 Well, I will read the stipulations, but I'm not going
14 to read the statements.

15 MR. WILKINS: No. Once you read the stipulations,
16 I'll just take them back from you and present them to
17 Special Agent Davis.

18 THE COURT: Let's -- on the stipulation, Madam Court
19 Reporter, let's make them Court's Exhibits.

20 MS. LIPINSKI: Your Honor, he can put in the
21 stipulations. We'll stipulate to it. They weren't made
22 in the presence of Agent Davis. I think they should just
23 be admitted as evidence and put it in through him.

24 MR. WILKINS: I'm not going -- I'm just going to
25 publish them -- it doesn't matter to me.

1 THE COURT: He's the chief case officer?

2 MR. WILKINS: Yeah.

3 THE COURT: Is he?

4 MR. WILKINS: Yes, sir.

5 THE COURT: I'll allow him to -- as chief case
6 officer, he can -- he can publish the statements, even if
7 he was not present.

8 Is there any objection to that from the Defense?

9 MS. LIPINSKI: None, Your Honor.

10 THE COURT: Okay. The statements will be State's
11 Exhibits, I guess, the actual statement.

12 MR. WILKINS: The statements will be State's Exhibit
13 whatever. And the stipulations will be --

14 THE COURT: Court's Exhibits.

15 MR. WILKINS: Court's Exhibits, yes, sir.

16 THE COURT: Is that your understanding, Ms. Lipinski?

17 MS. LIPINSKI: Yes, Your Honor.

18 (WHEREUPON, Court's Exhibit Nos. 7 and 8 were marked
19 for identification and admitted into evidence.)

20 (WHEREUPON, State's Exhibit Nos. 100 and 101 were
21 marked for identification and admitted into evidence.)

22 (WHEREUPON, the jury came into open court at
23 approximately 9:55 a.m.)

24 THE COURT: All right. Ladies and gentlemen, welcome
25 back.

1 If you can remember my opening comments to you, I
2 talked about the types of evidence that would be
3 introduced. One was oral testimony from the witness
4 stand. The second was the introduction of tangible items
5 or documents. And the third is when the parties agree
6 that some fact is so beyond dispute that you should accept
7 it as being true. And that's what we call a stipulation
8 of the parties.

9 Well, the parties have entered into two stipulations.
10 So I'm going to read those to you. The first one is a
11 stipulation as to the December 3, 2020 statement. The
12 State, through Solicitor W. Walter Wilkins, and the
13 Defendant, through his attorney, Mindy Lipinski, hereby
14 agree and stipulate to the following: One, the Defendant,
15 Ray Kelly, signed a statement on December 3, 2020. Number
16 two, in this stipulation, the statement was signed by the
17 Defendant, Ray Kelly, in the presence of Darren Haley,
18 who, at that time, was Defense Counsel for the
19 co-defendant, Tornell Laureano. And three, the Defendant
20 hereby stipulates that he knowingly and voluntarily signed
21 this statement. It is signed both by W. Walter Wilkins
22 and Mindy Lipinski. And the stipulation is dated
23 September 25, 2022.

24 The second stipulation is a stipulation as to the May
25 20, 2021 statement. It reads, The State, through

1 Solicitor W. Walter Wilkins, and the Defendant, through
2 his attorney, Mindy Lipinski, hereby agree and stipulate
3 to the following: One, the Defendant, Ray Kelly, signed a
4 statement on May 20, 2021. The statement was signed by
5 the Defendant, Ray Kelly, in the presence of Todd Davis, a
6 notary public of the State of South Carolina, then in the
7 employ of Alex Kornfeld, Defense Counsel for the
8 co-defendant, Tornell Laureano. Three, the Defendant
9 hereby stipulates that he knowingly and voluntarily signed
10 this statement. And this is signed by W. Walter Wilkins,
11 as circuit solicitor, and Mindy Lipinski, as attorney for
12 the Defendant. And it is dated September 29, 2022.

13 All right. And with that, I'll ask the State to call
14 their next witness.

15 MR. WILKINS: Your Honor, the State calls Special
16 Agent Matt Davis.

17 THE COURT: Investigator Davis, you are still under
18 oath.

19 DIRECT EXAMINATION

20 BY MR. WILKINS:

21 Q Special Agent Davis, briefly tell us what your duties
22 are with regard to this case.

23 A I was the lead case agent in this investigation,
24 which combines with gathering different items, evidence,
25 facts, videos. All the things you've heard testified to

1 at this point is all the stuff I gathered and put into an
2 adjustable report and submitted.

3 Q And as part of your investigation, did you obtain
4 phones from inside the Nissan Altima?

5 A I did.

6 Q And inside those phones -- what did you do with those
7 phones to figure out what's inside of them?

8 A I obtained -- search warrants were obtained. They
9 were sent for data extractions that comes back in a
10 digestible report where I'm able to look and review the
11 text messages, the audio files. And I can see the phone
12 number, anything that's been associated with that phone
13 that the extractions were able to pull from the phone.

14 Q And did you ask Special Agent Hudak to download those
15 phones?

16 A I did.

17 Q And you were here when he testified yesterday about
18 downloading those phones and how he does that?

19 A Yes, sir.

20 Q And was he able to download those three phones and
21 the information that was contained on them?

22 A He was.

23 Q And did you review all that information once he
24 downloaded it and presented it to you?

25 A I was -- I was able to.

1 Q Okay. Were you also -- did you, also, obtain the
2 phone records for two of those phones?

3 A I did.

4 Q Okay. Which two phones did you obtain the phone
5 records for?

6 A It would be the two phones that were located inside
7 the vehicle -- or that we were able to take from inside
8 the vehicle.

9 Q And who was the owner of those two phones? Who did
10 you determine was the owner of those two phones?

11 A I was able to determine that those phones were -- the
12 owner of Laureano -- the passenger of the car, Tornell
13 Laureano.

14 Q And did you review those phone records, as well?

15 A I did.

16 Q I'm going to show you State's Exhibit No. 85, and see
17 if you recognize this. What is that?

18 A That is audio files that were obtained off of one of
19 the phones.

20 Q Which phone was that?

21 A That would be what I always refer to as the non-red
22 phone taken out of the car. It's the one that had the
23 little tag on the back of it on the case that you could
24 see that was, like, a place to workout, or something.

25 Q And did you obtain that by reviewing the

1 Cellebrite -- or the download of that particular phone?

2 A Yes, sir, I did.

3 Q And what's the date of that download?

4 A The time stamp from when those occurred?

5 Q Yes.

6 A These two recordings show it occurred October 10th,
7 2020. The top one occurred at 9:18 and then 47 seconds
8 into that, the bottom one at 6:39:37 p.m. Both of those
9 are p.m.

10 Q And were you able to listen to these downloads?

11 A Yes, sir, I was.

12 Q And, specifically, to the first download?

13 A Yes, sir.

14 Q And were you able to determine where that phone was
15 located when that -- that download was made -- or that
16 audio was made?

17 A Yes.

18 MS. LIPINSKI: I'm going to object because he's not
19 the cell phone expert interpreting that data.

20 MR. WILKINS: Your Honor, he's reviewed State's
21 Exhibit Nos. 78 and 79. Those are the cell phone records.
22 They have that information on it.

23 THE COURT: Okay. She's objected to it. But these
24 are things in evidence. So I'm going to overrule the
25 objection.

1 THE WITNESS: So what we do is, if I see a recording,
2 or picture, or something that is of interest or in
3 reference to the investigation, I can then take the phone
4 information from the cell phone companies that gives us
5 the location data and I can see where that phone was on
6 that date. And depending on their activity on the phone
7 at the time, I can tell you real close to the time the
8 approximate location where people are.

9 BY MR. WILKINS:

10 Q So what was the approximate location where that phone
11 was located on October 10th, 2020, around 9:18?

12 A They were in the State of New York -- or the phone
13 was in the State of New York.

14 Q I showed Special Agent Hudak State's Exhibit No. 84
15 for identification purposes only. And he identified that
16 as a recording -- that recording there, as well. Have you
17 listened to that recording?

18 A I have.

19 Q The one I'm --

20 A The top recording.

21 Q Which is on State's Exhibit No. 84 for identification
22 purposes only. Have you listened to that recording, as
23 well?

24 A Yes, sir, I have.

25 Q And, again, you have reviewed all the downloads of

1 each of these phones?

2 A Yes, sir.

3 Q Have you reviewed the body cameras in this case?

4 A Yes.

5 Q Have you reviewed the in-car cameras in this case?

6 A Yes.

7 Q Are you able to recognize the voice of the Defendant,
8 Ray Kelly?

9 A I am.

10 Q And how are you able to do that?

11 A Through the countless videos that I've listened to,
12 phone conversations that I've listened to, being in court,
13 all those different things. I can recognize his voice
14 pretty well at this point.

15 Q And do you have experience in law enforcement? Is
16 that something that --

17 A Yes. I routinely speak to people I only meet once or
18 twice and then call them on the phone and I am able to
19 identify that's the person I'm speaking with.

20 Q And in that video -- in that audio recording that you
21 identified, who is the conversation -- who are you able to
22 determine the conversation was between?

23 A The conversation was between Mr. Ray Kelly and the
24 passenger of the vehicle, Tornell Laureano.

25 MS. LIPINSKI: I object to him identifying Laureano.

1 He's not indicated how he knows her voice.

2 THE COURT: Lay a foundation.

3 BY MR. WILKINS:

4 Q Let me ask you this, through your review of the three
5 phones -- and you've already testified this phone was
6 identified as Tornell Laureano's phone?

7 A Yes, sir.

8 Q And did you review text messages on this phone?

9 A I did.

10 Q Did you review text messages on the other phones?

11 A Every phone that had text messages I was able to
12 review.

13 Q And have you heard the voice of Tornell Laureano on
14 the other downloads and information on those phones?

15 A I have, as well as when I obtained her buccal swab.
16 I had a conversation with her then.

17 Q And were you able to identify her as the other party
18 in this audio?

19 A I recognized it to be her voice.

20 Q So is that how you determined who the parties were --
21 who was speaking on this audio?

22 A Yes, sir.

23 Q I'm going to show you what's marked as State's
24 Exhibit No. 99 --

25 MS. LIPINSKI: Your Honor, we just renew our

1 Ostrowski objection to this piece of evidence.

2 THE COURT: All right. Subject to the objection. I
3 guess he hasn't offered it yet.

4 MS. LIPINSKI: I'm sorry, Your Honor.

5 THE COURT: Go ahead.

6 BY MR. WILKINS:

7 Q Can you identify that for the jury, please?

8 A Yes. This is an audio clip of the top recording
9 there. It's got my initials on it where I made sure it
10 was a certain portion of it that came from that recording.

11 MR. WILKINS: The State moves State's Exhibit No. 99
12 into evidence.

13 THE COURT: Subject to that objection.

14 (WHEREUPON, State's Exhibit No. 99 was admitted into
15 evidence.)

16 (WHEREUPON, State's Exhibit No. 99 was played in
17 open court.)

18 BY MR. WILKINS:

19 Q Is that the audio that was on?

20 A Yes, sir.

21 Q All right. I'm going to show you what has already
22 been admitted into evidence as --

23 MR. WILKINS: Can I have the stipulations?

24 BY MR. WILKINS:

25 Q Pursuant to the stipulations that were just read to

1 the jury by the Judge -- and I'm just going to publish
2 these to the jury. And I just ask you to read it so that
3 the jury can -- you can just explain the top and then read
4 the body of it.

5 A The top is where it looks like someone is identifying
6 the State of South Carolina, County of Greenville like
7 they do on some legal paper work we have. It gives some
8 warrant numbers. It says the affiant of Ray Kelly. It's,
9 I, then there's a blank line drawn, do hereby truthfully
10 state that Tornell Laureano did not have any knowledge of
11 the contents of the car, including the trunk. I make this
12 statement of my own free will and am not under duress,
13 coercion, or having undue influence used against me so --
14 it's supposed to say so help me God, all rights reserved.
15 It says up under it Ray Kelly, identifying that signature.

16 Q And that's State's Exhibit --

17 A And notary -- somebody that notarized to make sure --
18 to ensure that was who signed it.

19 Q And that's State's Exhibit No. 100?

20 A Yes, sir.

21 Q All right. I'm going to show you the stipulation.
22 This was State's Exhibit No. 101, as well.

23 A I, Ray Kelly, do hereby truthfully state that Tornell
24 Laureano did not have any knowledge of the contents of the
25 car, including the trunk. I have not been forced to give

1 this statement, but do so voluntarily, 12/3/20. All
2 rights are reserved, Ray Kelly.

3 Q Now, you previously testified you've reviewed all the
4 audio and body cameras of the officers in this case as
5 part of your duties as the investigator?

6 A Yes.

7 Q All right. Did you review Officer DeRosa's in-car
8 video as well?

9 A Yes, sir.

10 Q All right. And how did you review that?

11 A I review cameras multiple times. I play them and
12 then, also, go into areas at our office or locations where
13 it's just me in the room to not be distracted. I'll use
14 ear buds, headphones. So that way I'm able to make out if
15 there's any conversations or statements that are being
16 said between officers or made by the Defendant.

17 Q And in this in-car -- Officer DeRosa's in-car, did
18 you hear the Defendant make a statement?

19 A I did.

20 Q All right. And was it kind of whispered?

21 A It was.

22 Q So what did you do in an effort to make sure you
23 could understand what he was saying?

24 A Pretty much blew my ear drums out by turning the
25 volume all the way up in one of those rooms and having the

1 headphones on.

2 Q And were you able to identify what the Defendant
3 said?

4 A I was.

5 MS. LIPINSKI: Your Honor, I object to this line of
6 questioning. I think the evidence speaks for itself. To
7 sit there and say that he somehow can hear better than the
8 evidence itself --

9 THE COURT: Well, he can -- okay. I -- he can
10 testify to what his state of mind is. But the
11 determination about what that, actually, says is left to
12 the jury. Okay.

13 BY MR. WILKINS:

14 Q Special Agent Davis, I'm going to play State's
15 Exhibit No. 13, which is Officer DeRosa's in-car.

16 MS. LIPINSKI: Your Honor, could we approach just
17 briefly before --

18 THE COURT: All right.

19 (WHEREUPON, a bench conference was held.)

20 MS. LIPINSKI: Your Honor, we -- just for the record,
21 we make an objection. The evidence should speak for
22 itself. And Sergeant Davis should not be allowed to
23 substitute what he believes the evidence is. We believe
24 the jury is the ultimate trier of fact.

25 THE COURT: Yes. I agree with that. And that's just

1 as I have ruled before.

2 Okay. Go ahead.

3 (WHEREUPON, State's Exhibit No. 13 was played in
4 open court.)

5 BY MR. WILKINS:

6 Q What did you hear the Defendant say there?

7 A Shit, they're going to try me for trying to kill a
8 cop.

9 MR. WILKINS: No further questions.

10 CROSS-EXAMINATION

11 BY MS. LIPINSKI:

12 Q You weren't present for that statement, were you?

13 A No, ma'am.

14 Q And you don't -- you didn't use any special
15 equipment, or anything like that?

16 A Volume all the way up, headphones, quiet room was the
17 equipment that I used.

18 Q Okay. But you're not, specifically, trained in any
19 way to enhance any audio besides turning the volume up;
20 right?

21 A No, ma'am. I don't try to alter any of the evidence.
22 I just --

23 Q I didn't ask you about altering the evidence. I just
24 said that you don't have any specific training similar to
25 Special Agent Hudak, who works with SLED, who downloaded

1 the files. You would admit he has special training in
2 equipment; correct?

3 A Yes. He does in his field of work.

4 Q All right. And as to the audio call from Tornell
5 Laureano's phone; correct?

6 A Uh-huh.

7 Q You weren't present for that conversation?

8 A No.

9 Q You did not overhear it in any way; correct?

10 A Not overhear it, no.

11 Q And the location that you can give for the phone --
12 you can give the location of the phone; correct?

13 A Correct.

14 Q You can't -- you don't have any video that says --
15 that corresponds to that audio; correct?

16 A No.

17 Q And you don't know where the two people are that that
18 is recording; correct?

19 A I know where the phone is that is recording both
20 people. So I would assume they're in proximate to that
21 phone since it's picking them up, which would be New York.

22 Q But you can use a phone to record a different
23 conversation; correct? You can use a phone to record the
24 audio off of a television show; right?

25 A I assume one could.

1 Q My question is simply that, what you can say is that
2 that recording was on that phone at that point. But you
3 don't know where any of the participants were at the time;
4 correct?

5 A No. I did not check to see if they were on TV at the
6 time, or anything like that, no.

7 Q And there's no corresponding video phone on the
8 phone; correct?

9 A Not for that conversation, no, ma'am.

10 Q And she had two phones; correct?

11 A Correct.

12 Q And so it could have been a recording of another time
13 or something to that nature that she was moving over onto
14 that phone; correct?

15 A I didn't find any evidence of that on the other
16 phone, like something had been transferred over. I didn't
17 see anything that would suggest that. And I didn't see --

18 Q But you don't have any independent knowledge of that,
19 do you?

20 A No.

21 Q And I ask this only -- the stipulations reference a
22 Notary Davis, that's not you; correct?

23 A No. I don't know who that Davis is.

24 Q You two just have the same name?

25 A Correct. Similar to the Ledbetter with us and the

1 Ledbetter involved in this case.

2 Q And I just point that out. You weren't present for
3 either of those; correct?

4 A No, ma'am.

5 Q All right. And as the case agent, you did have the
6 occasion to take statements from other people; correct?

7 A I do.

8 Q And you took statements from the two truck drivers;
9 correct?

10 A No. Another agent took statements from the two truck
11 drivers. I took statements from other people. It's a
12 joint effort. It's a large scale people --

13 Q But that was given to you as the case agent?

14 A Correct.

15 Q All right. And there was a statement from an
16 individual named -- by the name of Paul Bailey, who was on
17 the scene?

18 A Yes.

19 Q Okay. So there were a number of other witnesses you
20 took statements from; correct?

21 A That we did as part of the investigation, yes, ma'am.

22 Q All right.

23 A I believe Paul Bailey was the guy in purple wearing a
24 Clemson shirt, if I recall correctly.

25 Q And that's not the Anderson officer, Mr. Snipe or

1 Stipe, I believe his name is?

2 A No, ma'am. I believe, if memory serves me correct,
3 he was the one wearing a green shirt.

4 Q The Anderson officer was in a green shirt?

5 A The Anderson.

6 MS. LIPINSKI: All right. The Court's indulgence one
7 moment, Your Honor.

8 (Pause.)

9 MS. LIPINSKI: Nothing further of Agent Davis, Your
10 Honor.

11 THE COURT: Any redirect?

12 MR. WILKINS: No redirect, Your Honor.

13 THE COURT: You may stand down.

14 Thank you.

15 THE WITNESS: Thank you, sir.

16 MR. WILKINS: Your Honor, the State rests.

17 THE COURT: All right. Thank you.

18 All right. Mr. Foreman, ladies and gentlemen of the
19 jury, this is one of those times I need to have a
20 discussion about legal issues with the attorneys. And so
21 I'll excuse you at this time. And we'll get back with you
22 soon. Please don't discuss the case.

23 (WHEREUPON, the jury was excused from open court at
24 approximately 10:21 a.m.)

25 THE COURT: Okay. Any motions?

MOTIONS

1
2 MS. LIPINSKI: Your Honor, at this time, the Defense
3 would renew all of our pre-trial motions, including those
4 made by Mr. Kelly. I feel obligated to renew those. I
5 think he made some objections to the jurisdiction. So to
6 the extent that I need to renew those to protect the
7 record, I feel obligated to do that.

8 THE COURT: Okay.

9 MS. LIPINSKI: For the Defense, we would renew our
10 motion for a mistrial that we originally made, that
11 Counsel for the Defense should not have been substituted
12 at such a late hour. That I did not have time to
13 adequately prepare. That I had only been appointed on the
14 case less than 90 days. And that doing such at such a
15 late date prejudiced the Defendant and, therefore,
16 impaired his ability to get a fair and impartial trial.

17 I think that's been exacerbated by the admission of
18 certain evidence. But, most specifically, I think it's
19 been exacerbated by the fact that I was given access to
20 the records of the law enforcement officers after they
21 testified, and the overwhelming presence of law
22 enforcement and the press throughout the courtroom during
23 the trial. And so I think based on the totality of those
24 circumstances, a mistrial is appropriate at this
25 particular time.

1 In the alternative, the Defense makes a motion -- in
2 addition to renewing all of our pretrial motions, we renew
3 our objection, specifically, as to the search of the car.
4 That the car was searched prior to the search warrant
5 being obtained. That the blood evidence and subsequent
6 DNA evidence should not have been admitted because the
7 State could not establish a crucial link in the chain,
8 meaning the start of the link as to who drew the blood.
9 And that any subsequent evidence that fell from either the
10 search of the car or the taking of that blood should not
11 have been admitted. And so we renew those objections.

12 We, also, make a motion for a directed verdict on the
13 grounds that the State has failed to prove their case,
14 specifically, as to there's no video evidence of him
15 following too closely. The State intentionally omitted
16 the evidence of speeding and the speed of Deputy
17 Wesserling's [sic] patrol vehicle.

18 As to the assault, specifically, Deputy Wasserman,
19 the only evidence presented by the State is that he pulled
20 or jerked away from him, that that injury is not
21 necessarily indicative of an assault. That there was no
22 video evidence of an assault to exist -- of resisting
23 arrest on Officer Ledbetter or Officer Jumper.

24 I believe the testimony, instead, was that they were
25 striking Mr. Kelly in an attempt to subdue him. And we

1 feel the evidence falls short of establishing murder,
2 specifically, the issue of malice aforethought as it
3 relates to the charge for murder against Deputy Conley --
4 or Conley Jumper. And I apologize. There's a lot of
5 names, Your Honor.

6 And so for that reason, at this time, we'd make a
7 motion for directed verdict. We're renewing all our
8 pretrial motions, renewing our motion for a mistrial, and
9 making a motion for directed verdict.

10 THE COURT: Okay. Well, with respect to the -- to
11 your motion for a mistrial and assertions of prejudice
12 with respect to the -- your, as you characterize it, late
13 appointment or late insertion into the trial, first of
14 all, I would compliment you on an outstanding effort as a
15 zealous advocate for Mr. Kelly. And that if, in fact,
16 there was any prejudice that resulted as a result of the
17 timing of your active involvement in the case, Mr. Kelly
18 is solely responsible for that.

19 So I would deny -- and I just point out that's from
20 his relentless assertion that he wanted -- he didn't want
21 a lawyer, and that he was going to do it himself, and his
22 baseless assertions that this Court has no jurisdiction.

23 With respect to the timing of the search warrant,
24 your characterization, of course, is from your position as
25 an advocate for the Defense. But I recall that -- that

1 the testimony included an assertion or statement that a
2 mistake may well have been made. And I find that any
3 timing -- the writing of the timing is a clerical error.
4 And there is no prejudice to your client. And I renew all
5 of my previous rulings on all the other issues raised.

6 Now, do you intend to present a defense? Do you need
7 more time to talk about it with your client?

8 MS. LIPINSKI: Can I have -- he wants to give me
9 something, Your Honor.

10 THE COURT: Sure.

11 (Pause.)

12 MS. LIPINSKI: And, Your Honor, he would just like me
13 to bring to your attention that as it goes to the search
14 warrant issue that the Court should look at State vs.
15 Covert. And I told him that I would present that to the
16 Court on his behalf.

17 At this time, the Defense does not intend to present
18 a case. And I did have a short opportunity to speak with
19 Mr. Kelly this morning. And, at that time, he indicated
20 to me he did not wish to testify.

21 THE COURT: Okay. Mr. Kelly, I will ask you, for the
22 record, whether or not you intend to testify?

23 DEFENDANT KELLY: No.

24 THE COURT: Okay. Do you have any questions you want
25 to ask about your right to testify or not testify?

1 DEFENDANT KELLY: I'm aware of my rights. I have no
2 questions.

3 THE COURT: Okay. Is this your free and voluntary
4 choice?

5 DEFENDANT KELLY: Yes.

6 THE COURT: Okay. Do you need any more time to talk
7 about it with your attorney?

8 DEFENDANT KELLY: No.

9 THE COURT: Okay. Well --

10 MS. LIPINSKI: Your Honor, to protect the record, I
11 believe it's my obligation to make the same motions now
12 that the Defense has rested. And I understand --

13 THE COURT: Okay. That's fine. You're good.

14 MS. LIPINSKI: -- but you understand it's required.

15 THE COURT: Same motions.

16 MR. WILKINS: Sorry to interrupt, Your Honor. I
17 didn't, specifically, recall you denying her motion for a
18 directed verdict. You may have done that with the
19 overall --

20 THE COURT: Okay. Your motion for directed verdict
21 is denied.

22 MR. WILKINS: Thank you.

23 THE COURT: Okay. Now, let's talk about the charges
24 to be given.

25 MS. LIPINSKI: And we kind of got out of order. But

1 just so there's no question on the record, we would renew
2 the motion for a mistrial, the motions for directed
3 verdict -- I understand, Your Honor -- and the motion --
4 the objections to evidence, specifically, the blood
5 evidence and the evidence obtained pursuant to the search,
6 including the other objections made to other various
7 pieces of evidence. But I call the Court's attention to
8 those particularly two pieces.

9 THE COURT: All right. The rulings remain the same.

10 MS. LIPINSKI: Thank you, Your Honor.

11 THE COURT: Now, do you want a charge on the failure
12 of the Defendant to testify?

13 MS. LIPINSKI: Yes, Your Honor.

14 THE COURT: Anything else? What else?

15 MS. LIPINSKI: Your Honor, at this time, the
16 State [sic] would request charges on the lesser included
17 offenses, specifically, the State [sic] would request the
18 lesser included offense of voluntary manslaughter,
19 involuntary manslaughter, and resisting arrest pursuant to
20 subsection A, specifically, to the indictment pertaining
21 to Deputy Wasserman and Ledbetter.

22 THE COURT: Oh, under the resisting?

23 MS. LIPINSKI: Yes, Your Honor.

24 THE COURT: Okay. What does the State say?

25 MS. MORONEY: The State would argue that the

1 resisting arrest with assault has been proven.

2 As to Deputy Wasserman, there is video of where Ray
3 Kelly strikes his hand to get away from him prior to the
4 shirt pulling incident. That does qualify as an assault.
5 So we'd say we've met all the elements there.

6 As to voluntary, there's no sufficient legal
7 provocation in this case. And we've heard absolutely no
8 testimony on the record that the Defendant was in a heat
9 of passion.

10 It would be -- I would point to State vs. Pittman
11 where a 12-year-old boy killed both of his grandparents,
12 but was unable to prove that the spanking of him was the
13 legal provocation. And that the resistance of arrest is
14 not legally provoked under our law for the purposes of
15 voluntary manslaughter. That is typically when someone
16 loses all control and acts in a rage, is unable to --
17 incapable of calm and cool reflection.

18 So I don't think there's any evidence in the record
19 at this time that the Defendant was acting pursuant to
20 that. And to charge voluntary would not be proper in this
21 case.

22 As for involuntary, that is defined, of course, as
23 you know, the unintentional killing without malice
24 while -- sorry, one second.

25 (Pause.)

1 MR. WILKINS: It's the unintentional killing without
2 malice while engaged in, one, the commission of some
3 unlawful act not amounting to a felony, not naturally
4 tending to cause death or great bodily harm; or two, the
5 doing of some lawful act with a reckless disregard for the
6 safety of others. I think that fails as well.

7 I don't -- there's been no testimony or anything that
8 he was doing a lawful act with reckless disregard. And it
9 would be the State's position that he was engaged in a
10 felony, trafficking in drugs, and then resisting arrest
11 with assault on three officers when he killed Master
12 Deputy Jumper.

13 So the State would, also, ask Your Honor for an
14 additional charge on felony murder inference. And I have
15 a copy of that here, as well as a little bit of a meatier
16 malice definition if the Court -- if you're inclined.

17 THE COURT: Show it to Defense Counsel and see what
18 she...

19 (Pause.)

20 MS. LIPINSKI: Your Honor, I would object to the
21 felony murder inference, or their beefier malice,
22 specifically, implied malice. I think the Supreme Court
23 recently -- or Court of Appeals recently overturned the
24 charge on implied malice, which is use of a deadly weapon,
25 and has cautioned the trial courts against getting to that

1 point. And that that goes into a dangerous specter and
2 should be avoided by the courts.

3 I think the Court can adequately define malice,
4 expressed or implied, as is without going into that. I
5 think that presupposes that they've found him guilty of a
6 felony before they even get to that point, which is a
7 lesser included offense of resisting arrest that they
8 can't get there.

9 The State [sic] would ask in the alternative or --
10 the felony murder inference, it just says, the facts are
11 proved beyond a reasonable doubt. This inference should
12 simply be an evidentiary fact taken into consideration by
13 you, along with any other evidence, and that you may give
14 it the weight you decide it should receive.

15 I think it's -- I haven't tried a case in front of
16 Your Honor in some time, as you know. I recently returned
17 to this jurisdiction, so I'm not as familiar with your
18 standard charge. I don't know if you have it printed out.

19 THE COURT: Well, what were you --

20 MS. LIPINSKI: Just that any inference of malice is
21 like any other evidence, that they should give it the same
22 weight.

23 THE COURT: Okay.

24 MS. LIPINSKI: And I would oppose the Court saying
25 anything like felony murder inference or deadly weapon

1 inference given the recent case law.

2 THE COURT: Well, can I look at what it is you --

3 MS. LIPINSKI: Sure.

4 THE COURT: Okay. It's a lot of charges. I'm going
5 to have to take a few minutes to take a look at this.
6 I'll be perfectly honest with you, I have never charged in
7 circuit court speeding, following too closely, and no
8 driver's license. I'm going to have to go prepare a
9 charge on those. So we'll just take a short break and get
10 back as quick as we can.

11 Thank you.

12 (WHEREUPON, a break was taken.)

13 THE COURT: Do y'all want to take a look at the
14 verdict form -- proposed verdict form?

15 MR. WILKINS: Yes, please.

16 No objection from the State, Your Honor.

17 MS. LIPINSKI: No objection from the Defense, Your
18 Honor.

19 THE COURT: Okay. Other than, of course, you would
20 request lesser included offenses, which are not on that
21 verdict form?

22 MS. LIPINSKI: Yes, Your Honor. I apologize. I
23 meant as to the form itself. But, yes, we renew our
24 motions to have the lesser included offenses.

25 THE COURT: All right.

1 MS. LIPINSKI: And I, also, just -- in order to
2 protect the record because, obviously, there's some things
3 that aren't in the transcript. We would renew our motion
4 to limit the number of law enforcement officers in the
5 courtroom, particular during the closing arguments. We're
6 now upwards of 35 to 40 officers in this courtroom, some
7 in tactical gear, various uniforms of any kind.

8 And we feel at this point, the prejudice to the
9 Defendant is overwhelming. It could be live streamed in
10 another courtroom. They could have appeared in any --
11 plain clothes. There's any number of options that were
12 available and have been raised by the Defense that would
13 have mitigated that prejudice. And so for that, we ask
14 the Court to consider alternatives so as not to unduly
15 prejudice the jury.

16 THE COURT: Okay. My ruling remains the same.

17 I understand the State has --

18 Go ahead, Solicitor.

19 MR. WILKINS: Your Honor, I just want to put on the
20 record and let the Court know that I have two body worn
21 cameras from earlier in the week. They relate to the
22 removal of Mr. Kelly out of the cells. I'd just like to
23 place those in the record so the next courts can have the
24 opportunity to review them, if necessary.

25 Your Honor, I would request you make it a Court's

1 Exhibit.

2 THE COURT: Court's Exhibits. And these are body
3 worn cameras of the SLED officers involved that are
4 charged with the security of Mr. Kelly; is that correct?

5 MR. WILKINS: Yes, sir, Your Honor.

6 THE COURT: Okay. Anything else?

7 MR. WILKINS: Nothing from the State, Your Honor.

8 THE COURT: Anything from the Defense?

9 MS. LIPINSKI: No, Your Honor.

10 THE COURT: Okay. I would just caution the gallery
11 to maintain the propriety and sanctity of the courtroom.
12 If somebody gets excited or upset, I would ask you to
13 remove yourself as unobtrusively as possible. But I'm
14 sure that will be unnecessary.

15 Okay. Let's get them.

16 The order of -- before they come in, the order of
17 argument will be as follows, the State opens -- no. The
18 Defense opens fully -- no. State opens fully and then you
19 and then you.

20 MS. LIPINSKI: My argument, yes, sir.

21 THE COURT: Okay.

22 MR. WILKINS: The State and then Defense?

23 THE COURT: Yeah.

24 MR. WILKINS: And that's it?

25 THE COURT: Yeah.

1 (WHEREUPON, Court's Exhibit Nos. 9 and 10 were marked
2 for identification and admitted into evidence.)

3 (WHEREUPON, the jury came into open court at
4 approximately 11:42 a.m.)

5 THE COURT: Ladies and gentlemen, welcome back.
6 Sorry about the length of the little break we had. I
7 appreciate your patience. I will take full responsibility
8 for the length of the break.

9 If you remember my comments to you on Monday, I break
10 a trial into five parts. Opening statements, presentation
11 of the evidence. We have completed the first two parts.
12 So all of the evidence that's going to be presented in
13 this case is before you.

14 The next part, if you'll remember, is the closing
15 arguments of the attorneys. And this is when the
16 attorneys get up and get to present to you their position
17 with respect to the interpretation of the evidence and how
18 the case should be resolved, where they get to advocate on
19 behalf of their side of the suit.

20 So with that, ladies and gentlemen -- and I do want
21 to thank you for the attention you all have given all
22 week. And I ask you to continue to do so in the -- while
23 these attorneys present their arguments.

24 Thank you.

25 MR. WILKINS: Thank you, Your Honor.

1 May it please the Court.

2 THE COURT: Yes, sir.

3 CLOSING ARGUMENTS

4 MR. WILKINS: Good late morning, ladies and
5 gentlemen.

6 I, first, want to thank you for your service.

7 I've tried a lot of cases in this courtroom and
8 others. You've been an extremely attentive jury from my
9 perspective. And I just want to thank you for giving your
10 service to Greenville County today and giving your service
11 to this case.

12 This case is important to the State. It's important
13 to the Defense. And you, ladies and gentlemen, as I told
14 you earlier, are the triers of fact. Y'all are going to
15 decide what, actually, happened on that day. You have
16 evidence here. You've heard witness statements there.
17 And if you remember, the Defense has challenged us every
18 step of the way. And that's their job. That's what
19 they're supposed to do.

20 Ladies and gentlemen, I'm going to present to you the
21 facts that you are -- have before you through witness
22 testimony, through evidence, through everything that
23 you've seen. You have everything you need to find Ray
24 Kelly, Defendant -- Ray Kelly, Defendant [sic] of all the
25 charges.

1 (WHEREUPON, State's Exhibit No. 3 was played in open
2 court.)

3 MR. WILKINS: As I told you all, ladies and
4 gentlemen, in my opening statement, this case is about the
5 murder of Sergeant Jumper.

6 Now, how did we get here? When did this all begin?
7 What we really know now is that the actions of the
8 Defendant, Ray Kelly, and his intentional acts and
9 subsequent actions of him really started back on
10 October 10th of 2020 in New York. And we know that's when
11 Ray Kelly decided to drive down to Atlanta.

12 We know that he decided to take his time going down
13 to Atlanta with Tornell Laureano. And we know that
14 through the items that we found in his car. We have an
15 item in Maryland on October 11th. We have an item --
16 medical records on October 14th. And we have a new
17 car [sic] on October 19th that were found in the car. So
18 we know that he was -- we know that he was in New York on
19 October 20th, and drove south with Tornell Laureano.

20 Ladies and gentlemen, you're asked to review a number
21 of charges. I'm going to go over those charges just
22 briefly with you.

23 The Judge is going to charge you with the law. He's
24 going to let you know what the law is and how you apply it
25 to the facts. But the charges that you have before you

1 are trafficking cocaine base.

2 And what is trafficking cocaine base? That is
3 knowingly selling, delivering into South Carolina and
4 aiding, abetting, attempting, conspiring possession or
5 constructive possession of more than 28 grams of cocaine.
6 We know that there was over 50 grams of cocaine found in
7 that trunk.

8 Constructive possession, he'll charge you, doesn't
9 mean you have to have it in your possession. It just
10 means you have to have dominion and control over it. It
11 can be in another location, like the trunk of a car, but
12 it's still yours. You're still possessing it because you
13 have dominion and control over it.

14 You're going to be tasked with looking at possession
15 of a weapon during the commission of a crime. And that's
16 exactly what it is, it's possessing a weapon, either
17 constructive or actual, during the commission of a crime.
18 In this case, possessing -- possessing and trafficking in
19 crack cocaine. If you recall, the gun was just under a
20 bag of clothes with the crack cocaine inside of it.

21 You're going to be tasked with resisting arrest with
22 assault. That's to knowingly and willfully assault, beat,
23 or wound an officer when the person is resisting an arrest
24 being made by one whom the person knows or should know --
25 this is the fight on the side of the road that we just

1 watched.

2 And then, finally, murder. The definition of murder
3 is one of the shortest definitions of any crime we have in
4 South Carolina. It is the intentional killing of another
5 with malice aforethought. Malice aforethought. You're
6 going to hear the Judge -- he's going to give you a long
7 list of the ways you can find malice aforethought. It's
8 defined a lot of ways, but it's ill will, it's hatred,
9 it's a depraved heart. And it can be implied or inferred.
10 But what they're asking you to do is go inside Ray Kelly's
11 heart and mind and figure out what his intent was.

12 Well, we can't do that. So we have to look at the
13 evidence. You have to look at all this evidence. And you
14 have to listen to the testimony to figure out Ray Kelly's
15 intent, his malicious heart, his ill will, his hatred.

16 It can, also, be malignant recklessness. His extreme
17 recklessness and disregard for the safety of others. He's
18 got an angry heart. And his actions are so crazy that
19 death is a probable cause.

20 And, of course, ladies and gentlemen, you've got
21 speeding, following too close, and giving false
22 information to police.

23 So as I stated earlier, this case started
24 October 20th -- October 10th, 2020, when Ray Kelly decided
25 to leave to go to Atlanta. Ray Kelly, the admitted drug

1 dealer. He makes his way to Atlanta. And he leaves on
2 the 20th and he's coming back towards North Carolina --
3 New York. And he gets pulled over.

4 Master Deputy Wasserman is working with his team on
5 the side of the road, doing their job that they've done
6 day in and day out for years. Keeping the streets safe.
7 Keeping bad guys off the highway. Keeping people to slow
8 down so they won't have any more deaths in the State of
9 South Carolina. And he sees he's got a car speeding. He
10 doesn't know this car. It's just a random car going 84 in
11 a 60, 24 miles over. So it's his sworn duty that he has
12 to initiate a traffic stop. That's his job. That's what
13 he's tasked to do.

14 And he pulls over, just like any other traffic stop,
15 just like any other day, a car on the side of Highway 85.
16 And this stop, unbeknownst to him, was a stop that was
17 going to change so many lives. And he did what he always
18 did. Jesse Wasserman approached the car from the
19 driver's -- I mean, the passenger side. He spoke to the
20 folks inside. And he asked for a license and
21 registration, a typical thing that he's done a thousand
22 times.

23 In this particular case, he knew he was going to have
24 probable cause to search that car because he immediately
25 smelled marijuana. And we know Jesse Wasserman is telling

1 the truth because we found marijuana inside the car. It's
2 admitted into evidence. We found marijuana in the purse,
3 which was in the front seat, as well as in the trunk.

4 And so he does what he normally does, he continues to
5 investigate. So he asks the driver, who did not have a
6 driver's license, but we know that inside that purse was
7 his ID. But he came to Mr. Wasserman -- Deputy Wasserman
8 and he lied. My name is John Arthur Kelly with a date of
9 birth that was not his. So he gave him a fake name and he
10 gave him an incorrect date of birth.

11 Jesse Wasserman went and investigated. And that's
12 what he did. When he came out, he said this is not who I
13 think he is. And I need to search this car because I
14 don't know what these people are up to. I don't know
15 what's going on. I don't know what they might be up to.
16 But it's my duty, as a sworn law enforcement officer, to
17 continue that investigation to keep us safe.

18 Knowing that he's going to do a search, he calls for
19 backup, which is their protocol. He calls Deputy Nick
20 Ledbetter to assist him. And that's what they always do,
21 just like any other traffic stop.

22 And he continues his investigation and finds out that
23 Ray Kelly is -- he doesn't believe who he is. So he's
24 going to approach him and let him know I'm going to need
25 to search your car because I have probable cause. And he

1 does.

2 And if you'll notice during the videos that Mr. Kelly
3 is not uncompliant up until that moment. He's a little
4 antsy. He's a little nervous. He kind of walks back
5 towards the passenger side where Jesse Wasserman is
6 talking to the passenger in the car, Tornell Laureano.
7 And he's kind of going to -- and they call him back. And
8 he's compliant, for the most part.

9 And Jesse Wasserman goes and says, I'm going to need
10 to pat you down. I need to search your car. I have
11 probable cause because I smell marijuana all up in your
12 car. And this is where Ray Kelly made a decision. He
13 made a decision to turn a routine traffic stop into a
14 violent matter. That was his choice, not anyone else's.

15 So what happens? Ray Kelly pushes away. He pushes
16 Jesse Wasserman assaulting him, and a fight ensues. And
17 remember the testimony of the officers discussing this
18 fight. The most violent fight I'd ever been in. The most
19 dangerous situation I'd ever been in.

20 And Mr. Kelly gets to the side of the road. They're
21 in -- they're on the white line, in the highway fighting
22 in a small area trying to detain Ray Kelly. That's all
23 they're trying to do is do their job.

24 Nick Ledbetter is 300 pounds. He's assisting in the
25 detention of Ray Kelly, trying to get him away, trying to

1 get him off the highway. If one of them falls into one of
2 the lanes, Ray Kelly or the officer, there's a good chance
3 somebody is going to die.

4 So they're fighting in a confined space. And it's a
5 massive struggle. Nick Ledbetter, 300 pounds, is fighting
6 Ray Kelly. He's being hit by Ray Kelly. He's being
7 resistant to him, not complying with their commands. They
8 told him he's under arrest. And he continues to struggle
9 so far that Nick's shirt gets ripped. Y'all can look at
10 the material when you get back in deliberations. It is
11 thick material. The strength that it would take to rip
12 somebody's collar, move their neck to the side and pin
13 them so that they can't get you into custody, it's pretty
14 significant.

15 But then we have help. Sergeant Jumper is coming to
16 aid his team. He's coming there. He arrives on scene.
17 Nick Ledbetter had called him off and said, I'll take care
18 of it. You finish your paper work. But not Sergeant
19 Jumper. He was coming to take care of his team. And he
20 did. He arrived right at the moment.

21 So now you have Nick Ledbetter, 300 pounds, Sergeant
22 Jumper, 365 pounds, trying to take on Ray Kelly to get him
23 off of that highway, get him back to the side of the road
24 where everybody is safe. Ray Kelly did not want that.
25 Jesse Wasserman was trying to pull him back with his shirt

1 trying to get him back to the side. He rips a tendon in
2 his finger during the struggle.

3 Ray Kelly is so strong that he's able to withstand
4 650 pounds of men. And he's able to slide down the side
5 of that car and get back in and put himself in the
6 driver's seat. And Sergeant Jumper, a great officer, is
7 doing what he's supposed to do. And he ends up on top of
8 Ray Kelly and he tells Nick Ledbetter, I got this. Back
9 off.

10 (WHEREUPON, State's Exhibit No. 3 continued to be
11 played in open court.)

12 MR. WILKINS: Ladies and gentlemen, Sergeant Jumper
13 has got himself in a precarious situation. Here we are,
14 Sergeant Jumper is on top of Ray Kelly and Ray Kelly's
15 foot is on that brake right there. We know that because
16 we have other video cam. You can see the brake light is
17 on. And you can see Ray Kelly's foot right there.

18 Ray Kelly has a choice at this moment. All right.
19 He's given some fake names. He's assaulted a couple of
20 police officers. But here is the moment of truth. Here
21 he is right here. He has a decision. He can stop. He
22 can say, okay, no -- no problem. He knows he's got a
23 bunch of dope in the back of the trunk, a gun.

24 So he makes the intentional decision, I got to get
25 rid of Sergeant Jumper. And what does he do?

1 (WHEREUPON, State's Exhibit No. 3 continued to be
2 played in open court.)

3 MR. WILKINS: He drags Sergeant Jumper to his death,
4 murdering him. Chaos ensues. We know that the car was
5 hit and then it was pushed about 20 feet. And then it
6 runs perpendicular straight into that wall and is hit by
7 David Harrison.

8 Now, when Ray Kelly was in that car, hitting that
9 brake, making those decisions, he put the car in drive and
10 he slammed the gas. We know that from the MAIT report.
11 He floored it, got it up to 16.5 miles per hour before the
12 crash. Those were his intentional acts. Those were his
13 decisions. That was his angry heart at Sergeant Jumper.
14 That was his malignant recklessness against Sergeant
15 Jumper. That was his hate towards Sergeant Jumper.
16 Because he decided to drive straight into traffic,
17 straight into that truck right there.

18 You know, you've got to kind of look at Ray Kelly's
19 mind. He's got drugs in the car, a gun in the car. He's
20 fighting officers. He's got Sergeant Jumper on top of
21 him. That's what he does. His ill will and his hate
22 drives him to his death.

23 Now, the Defense talked a little bit about the
24 secondary crash. And we had three individuals testify
25 about the secondary crash. And what happened was -- and

1 the evidence reflects it -- the car drove straight over.
2 David Harrison is coming from about a mile away. And he
3 comes and he hits like that. And the question was, did
4 David Harrison hit Sergeant Jumper? And all the evidence
5 shows that he did not. There's not one scintilla of
6 evidence that shows that David Harrison hit Sergeant
7 Jumper.

8 Dr. Ward testified that all of his injuries were from
9 the waist below. So based on the way they hit, it's
10 impossible for him to have been hit by a car and have no
11 injuries above the torso. They were all -- he succumbed
12 to his death because of that truck and Ray Kelly pulling
13 out.

14 The MAIT team showed the location of Sergeant Jumper.
15 There was no indication that David Harrison hit him, as
16 well as the video itself. It shows Sergeant Jumper
17 falling off the car after he had been struck, murdered by
18 Ray Kelly, rolling and stopping right on that yellow line
19 and the car continuing on.

20 The car knocks the Altima this way and straight up 10
21 or 15 feet. And it knocks Ray Kelly out of the car. That
22 secondary crash is what knocks Ray Kelly out of the car.
23 He's out of the car the next time we see him, cell phone
24 on the ground.

25 Even if David Harrison did hit him, which he didn't,

1 it wouldn't matter as far as your decision is murder in
2 this case. Because Ray Kelly is the one that put all of
3 those actions into place. He's the one that started it
4 all. And he's the one who has to finish it.

5 So now, Sergeant Jumper dies in about 20 minutes.
6 And we've got to focus on what's Ray Kelly doing from now
7 until later. So we look at Ray Kelly's actions. Because
8 those actions are what you have to look at to determine
9 the murder case. They're what tells you what's inside his
10 heart and his mind. It's his actions, and his words, and
11 the evidence.

12 So he's taken into custody. And he's sitting behind
13 the car. And he's acting like he doesn't know what's
14 going on, what's happened. And he's still resisting as
15 they're trying to cuff him. And it takes a bystander to
16 come up to help Jesse Wasserman get him into custody.

17 And let me note, ladies and gentlemen, there were a
18 number of bystanders y'all saw on there. One was Daniel
19 Stipe, who was on the passenger side trying to get Tornell
20 Laureano out of the car. They weren't called there. They
21 came there because that fight on the side of the road was
22 so violent that they -- they pulled over to help law
23 enforcement in fulfilling their duties.

24 So he pulls over. And they get Ray Kelly there. And
25 what are his actions like? What are his actions? Think

1 about those. I don't know what's happened. I don't know
2 what happened. What's going on? What happened to me? He
3 says one time, I think I fell asleep. I don't know what
4 happened. Where am I? Oh, by the way, that girl over
5 there, she didn't have anything to do with anything.

6 So he's either coming in and out of consciousness or
7 understanding of what's going on or he's still in fight
8 mode. He's still in I'm going to act like I don't know
9 what's going on. He's evading detection. That is
10 evidence of his malice heart, his depraved heart. He's
11 continuing to evade detection.

12 So they put him in the car and they drive him to the
13 hospital. He's just been in two car wrecks. And you see
14 them pick him up. So he walks fine and gets in the back
15 of the car. And you've seen DeRosa's body camera. And
16 they take him back to the hospital. And they take him in
17 the hospital.

18 And if you remember, Special Agent Jeff Kindley and
19 on the video, they asked him six times, What's your name?
20 What's your name? Who are you? What's your name? No
21 name. He refuses to give it. And look at his actions in
22 the back on DeRosa's in-car camera. When somebody is
23 looking, he's acting like he doesn't know what's going on.
24 But when nobody is looking, he's cool, calm, collected.

25 So we get him back there. I think Special Agent

1 Kindley testified to the fact that he didn't find out who
2 Ray Kelly was until 10:00 that night. This is at 3:00.
3 So they start trying to figure it out. He's at the
4 hospital by 3:25, 3:30. So it took them six -- seven
5 hours to figure out who is this guy.

6 And so what do they do? They go and they search the
7 car. And they do a thorough search of the car. And what
8 do they find? In the purse, they find an ID in the name
9 of someone else other than the passenger. But they find
10 her passport, Tornell Laureano. And they're able to
11 identify her. They find an ID in the name of Ray Kelly,
12 not a driver's license, but an ID. And he chose not to
13 give that or identify himself when he was, initially,
14 pulled over.

15 They go to the trunk of the car and they find a gun.
16 This gun right here was sitting in the back in the case.
17 And they find a dirty clothes bag. And in that dirty
18 clothes bag is four baggies of crack cocaine. And they're
19 over 28 grams, the expert testified to it. And in another
20 baggy, they find what they refer to as hashish, marijuana.

21 And so how do we know that's Ray Kelly's stuff? How
22 do we know that's his? Well, we know he admitted to being
23 a drug dealer on October 10th. We know that his DNA --
24 from the DNA experts had his DNA on this gun. And they
25 swabbed everything else. And that was all they got. And

1 they know his DNA is all inside the clothes inside the bag
2 where the dope was located. A picture of him is inside
3 the car. These documents are inside the car.

4 That's his car. And everything points to that's his
5 dope. Some random person didn't put that dope in there.
6 Some random person didn't put over 28 grams of crack
7 cocaine, four baggies of crack cocaine in his dirty
8 laundry bag with his DNA all over it. And we know it's
9 his DNA because we got blood from the hospital that was
10 drawn when Ray Kelly was admitted.

11 So when you're admitted to the hospital, they
12 testified, they draw your blood. It called trauma blood.
13 And that was the indicator on State's Exhibit No. 77.
14 Because I tried to get it in, like, three times. I,
15 finally, got it in. That was the trauma blood. And
16 Special Agent Kindley didn't see who drew the blood.
17 Because the blood was for identification purposes. It was
18 to identify who Ray Kelly was, because we didn't know.

19 And we know that was Ray Kelly's blood because the
20 swabs from this and the swabs from the clothes match that
21 blood. That blood was drawn at the hospital. This came
22 out of the car where Ray Kelly was located and driving.
23 So we know that's his blood. And we know that's his DNA
24 on those items.

25 Ladies and gentlemen, you're charged with looking at

1 the Defendant's actions. What was in his mind? What was
2 in his heart? Who is Ray Kelly? Who is he? What does
3 the evidence tell you he is? Well, he's a drug dealing
4 person who went down to Atlanta. While driving back, he
5 got pulled over by a deputy. He gave fake names, fought
6 on the side of the highway, drove Sergeant Jumper to his
7 death, got arrested, and kept people from trying to figure
8 out who he was.

9 But the base -- the main way that you figure out who
10 somebody is, is you listen to them when nobody is around.
11 What would you do or what would you say when nobody is
12 around? That's what people always say. And that's the
13 kind of person you figure out who someone is, when you
14 know what they do and you know what they say when nobody
15 is around. That's how you know what kind of heart they
16 have and what kind of mind they have.

17 What did Ray Kelly say in the back of DeRosa's car
18 when nobody was around? They going to try me for trying
19 to kill that cop. That's who Ray Kelly is. And that's
20 exactly what we're doing today.

21 THE COURT: Ms. Lipinski.

22 MS. LIPINSKI: Thank you.

23 This is going to be a somewhat unusual closing
24 argument. I'm going to beg the Court's indulgence. I
25 know he sometimes thinks I talk too long and I talk too

1 much. But I've been doing this a number of years now.
2 And it's probably the first time I've given a closing
3 argument that I didn't give an opening argument at the
4 start of the trial. And, certainly, what we know kind of
5 now from 2020 when this happened is nothing's really
6 normal anymore. Everything -- the whole world has kind of
7 altered its course and changed its course.

8 But I just wanted to take this opportunity to
9 introduce myself and tell you that I am Mindy Lipinski.
10 You've probably heard that name. And I'm the Circuit
11 Public Defender for Greenville and Pickens County.

12 So what that means is that when you hear these things
13 on TV -- I imagine some of you probably watch all these
14 crime shows. I try not to watch them because to me, it's
15 like watching work. But when they say if you can't get a
16 lawyer on your own, the Court will give you one. And
17 that's my role.

18 And some people, you know, probably think that --
19 that that shouldn't happen. As a matter of fact, when I
20 was walking out, one of the press -- I heard one of them
21 say, why does he get a lawyer? He doesn't even deserve
22 one. Because what the U.S. Constitution says is we don't
23 award you Counsel based on merit, based on your ability to
24 pay, based on your resources. The U.S. Constitution says
25 that you get a lawyer regardless. And that is my job.

1 And I'm proud of that job. Because I know that this
2 system only works if that is in place.

3 The only way a public outside of here will have any
4 full faith and credit in this process and our criminal
5 justice system is if there is an advocate for everyone.
6 Because we don't convict people based on character. And
7 we don't convict people based on a popularity contest.

8 When you were selected here as jurors, you noticed it
9 was kind of random. You see things on TV where they
10 question jurors for weeks. Jury selection can take two to
11 three weeks. South Carolina is pretty much, let's take 12
12 people out of the community who have no enemies to punish
13 and no friends to reward.

14 You were selected here because you don't have any
15 affiliation with law enforcement. It's not that you're
16 not holding the blue line or standing in solidarity with
17 those kind of people. It's that you're brought in here
18 and you're kept in this bubble so that when you render a
19 verdict, it's not that.

20 So that when you render a verdict -- the word verdict
21 means to speak the truth. And the only way we know that
22 it wasn't the result of passion, of prejudice, of pressure
23 from law enforcement or the press is to take 12 people,
24 their common life experience, and ask you to make a
25 decision based solely on the evidence.

1 And you're right, I have challenged Solicitor Wilkins
2 to do his job. That is my role. The State with all of
3 their resources, and officers, and two to three different
4 law enforcement agencies, and everything they have to come
5 in here and come at Ray Kelly. That's my role. I play by
6 the rules. Do your job. You're going to claim you're the
7 white hats and you're the good guys, then don't rely on
8 character evidence, and prejudice, and pressure. Don't do
9 that.

10 The Judge will instruct you that that's not your
11 role. That you don't get to make this leap the Solicitor
12 wants you to make, this kind of hindsight is 20/20
13 conclusion that drug dealer, bad guy. Bad guys do bad
14 things. Drug dealers kill cops. That's not what the law
15 allows you to find. That's not where you start your
16 evaluation of the evidence. You start at the beginning.
17 And you listen to the evidence and you evaluate it.

18 The Judge will instruct you that you can believe some
19 of the evidence. You can believe all of the evidence.
20 You can believe none of the evidence. But that you don't
21 have to take it spoon fed to you by what Sergeant Davis
22 tells you is on that tape.

23 You, the jury, need to evaluate that evidence. And
24 you must look at each and every element of each and every
25 crime and find that they've proven him guilty beyond a

1 reasonable doubt.

2 Beyond a reasonable doubt. We hear that term on
3 television a lot, too; right? But most of the time, we
4 don't really sit there and go, what does that mean? It's
5 something we read in a John Grisham book, or something
6 like that. But it means beyond a reason to doubt the
7 guilt of the Defendant as to each and every element. That
8 you must be firmly convinced of what happened for each and
9 every element of each and every indictment. And that is
10 your role as jurors.

11 So I challenge you. I challenge you that when you go
12 back to your deliberation room and you begin to evaluate
13 the evidence that you take off these blue-colored lenses
14 that they've tried to put on this evidence. And that you
15 give it a fair, and earnest, and attentive evaluation and
16 see where does the evidence lead, not building a case of
17 where do we want it to go. And let's only look at the
18 stuff they want you to look at.

19 The Judge will further instruct you that your jury
20 verdict must be unanimous, that each and every one of you
21 must find the Defendant guilty of each and every
22 indictment. And that each and every one of you has the
23 right to find the Defendant not guilty of each and every
24 indictment. This is not a popularity contest. You are
25 not here to give meaning to Sergeant Jumper's death.

1 I submit to you that regardless of your verdict, his
2 sacrifice, his service happened. Your verdict is not in
3 any way a reflection of that. And I want to absolve you
4 of that, specifically. Your focus is not on him. It is
5 on the Defendant, Ray Kelly.

6 And he sits before you even know presumed innocent of
7 each and every indictment. The law says that unless and
8 until you return to your jury deliberation room and you
9 evaluate all of this and you determine he is guilty then
10 he is. But you cannot jump to this character
11 assassination that the Solicitor wants you to ride on.
12 That all drug dealers are all bad guys, and all do bad
13 things, and all want to kill cops. That's not your role.
14 That's not what this evidence says. And so I challenge
15 you to, actually, look at that evidence.

16 You have seen -- I listened to Solicitor Wilkins play
17 the videos and -- he's a very learned advocate. Solicitor
18 Wilkins and I have known each other a number of years.
19 But I don't buy into this fiction that he wants you to
20 believe in. That at this moment that he can pause the
21 video; right? And they want to say at that moment, Ray
22 Kelly slammed on the gas maliciously and with the intent
23 to kill Sergeant Jumper and drove into oncoming traffic.
24 That he had this choice. He at that specific moment could
25 pause just like this video paused and make that decision.

1 And that the only thing that could be in his heart at that
2 particular time was malice.

3 Life isn't like a cartoon. Life isn't like a video.
4 We don't get to pause. And I challenge you to look at Ray
5 Kelly's behavior before. If this is some drug dealer
6 willing to drive around the state and kill any cop he
7 finds, this monster they want you to make him out to be.
8 When Jesse Wasserman blue lights him, he immediately pulls
9 over. He signals.

10 If his heart was filled with malice, he never would
11 have stopped. But he moves over three separate lanes of
12 traffic. He doesn't run. He doesn't play games. He
13 doesn't weave in and out of traffic. He doesn't do any of
14 those things. When he pulls over, does he got a gun down
15 his waistband like this TV video game drug dealer they
16 want you to believe he is? No. The only weapon they find
17 in the car is in the trunk.

18 He gets out. He speaks to them. He says, yes, sir,
19 no, sir. Does he drive off? Does he mouth off? Does he
20 get in an argument with Deputy Wasserman? No, none of
21 that. He stands there and talks to him.

22 Deputy Wasserman, oh, well, he tried to go back to
23 the car. Yes, he asked to go sit in the car. Is that
24 evidence of malice? No. And how do you know that? When
25 they told him no, he sat down. He wasn't, no, I'm going

1 back to the car. He doesn't do that. His heart isn't
2 filled with malice towards law enforcement.

3 He sits down. And then Ledbetter comes by and sits
4 next to him. They talk about Long Island. They talk
5 about rental cars. They talk about car trouble. They
6 talk about the fact that he can't see out of one eye. He
7 tells them, I'm nervous. He vocalizes that. He doesn't
8 threaten them. He doesn't use profanity. He doesn't
9 mouth off to them. He sits down beside them -- beside
10 them and talks to them.

11 They were like, well, clearly, he was nervous. Only
12 bad people are nervous in traffic stops because innocent
13 people when we talk to you calm down. I don't know that
14 any African-American man pulled over in 2020 is not going
15 to be nervous. And I'm not saying he should be, he
16 shouldn't. But I'm saying that nervousness is not malice.
17 Nervousness is not ill will. Fear is not evil.

18 So they come out and they talk to him. And they ask
19 to pat him down. Does he say, no, no, don't touch me,
20 don't touch me? They don't get that. They don't get that
21 from Mr. Kelly. What does he do? Hand up, he turns
22 around. He stands there, let's the officer touch him up
23 and down one leg up, up and down the other leg.

24 And at that point -- because this is the danger of
25 what they want you to believe. At that point, he's

1 speeding, following too closely. And the only thing they
2 intend to do is give him a warning. That's what he
3 believes is going to happen. They want to say, oh, well,
4 there are drugs in the car and, therefore, the ends
5 justify the means. No. Because you're not looking at the
6 ends justifying the means. You're looking into Ray Kelly.

7 And at that point, what he knows they know about him
8 is speeding, following too closely, and about to get a
9 warning. When does this break bad? When does it turn
10 violent? When they lay hands on him. That's it.
11 Everything before that, he is, as Solicitor Wilkins said,
12 compliant, polite, and cooperative.

13 Let me make this abundantly clear. I'm not
14 challenging the right to lay hands on him and seize him at
15 that time or search the car. I'm not here to blame the
16 cops for what happened. I'm not here to say that they are
17 at fault in this. I'm not here to do any of those kind of
18 things. What I am here to do is to challenge you that
19 just because of that doesn't mean you get to say there's
20 malice in Ray Kelly's heart.

21 What you see is, oh, he's so strong. He's fighting
22 them off. He's panicked. He tries to pull away from
23 them. He never threatens them. You don't hear some
24 profanity laced tirade on this video. You don't hear
25 that. You don't see him striking the officers and whaling

1 on them, or trying to get to the weapon, or anything of
2 that nature. You never see that.

3 What do you see? You see an individual panicking
4 because, suddenly, two of the largest deputies probably
5 ever employed in the Greenville County Sheriff's Office
6 have him sandwiched between him and, according to Officer
7 Ledbetter's own testimony, is repeatedly striking him
8 trying to subdue him. And, again, I'm not saying what
9 they did was bad. What I'm saying is what you see in Ray
10 Kelly is panic and fear, but you don't see malice.

11 And how do we know that? Not from his brothers in
12 blue trying to give meaning to Sergeant Jumper's death.
13 But when you talk to the Anderson officer, does he
14 describe this as the fight of his life, the most violent
15 encounter he's ever occurred? No. What I see is kind of
16 arms flying, a lot of flailing around. It just doesn't
17 look like they have control, concerned because he's on the
18 side of the road.

19 His words back then even is that they want you to
20 convict Ray Kelly of resisting arrest on Sergeant
21 Wasserman because he says he hurt his finger. He probably
22 did. But does it get caught on something that Ray
23 Kelly [inaudible] away? Do you ever see him take the
24 finger and bend it back in some act of malice because he
25 hopes the cops get hurt? You don't see that anywhere.

1 What you see is him doing this and two 300-pound guys
2 coming at him and him trying to get away. That's what you
3 see.

4 Next, they want you to convict him of trying to choke
5 Nick Ledbetter. Again, another 300-pound guy. You never
6 see Ray Kelly's hands around his neck. You never hear him
7 on the video -- on his body cam say anything like stop
8 choking me, or let me go, or duh, duh, duh, none of that.

9 When does he tell you he's been choked? At the end
10 of his statement, he says, When I got home that night,
11 there was a rip in my shirt. And I realized he must have
12 been grabbing at me and pulling at me. I'm just saying
13 that's not an intent to injure him. That is the power of
14 a man who believes, Ray Kelly, just as much as Sergeant
15 Jumper and Ledbetter believe that he's in the fight for
16 his life. That is it. And it doesn't start until they
17 lay hands on him.

18 And then you get into the struggle of what happens.
19 You see Ray Kelly's not the one that opens the door. The
20 passenger is crawling through the door because she is
21 worried about what is happening to Ray Kelly on the side
22 of the road. She's the one that tries to come out and
23 come to his aid. And then she gets back in the car. The
24 Anderson officer tries to get her outside of the other
25 car [sic].

1 But the whole concept that this fiction, this stretch
2 of imagination, this reach to give greater meaning to
3 Sergeant Jumper sacrifice that Ray Kelly decides to get in
4 the car and then decides to drive off and doesn't care if
5 Sergeant Jumper dies, that's nowhere in that video. What
6 you see is these two struggling. They get to the point
7 where the door opens. They fall into the car that Jumper,
8 350 pounds, is across Ray Kelly.

9 You're in a -- you are in a car and you have this man
10 on top of you. But that he can make this split second,
11 conscious, malicious, intentional, fully thought out
12 consequential decision that I'm going to kill Jumper at
13 that point. Or do you have a man continuing to struggle
14 and panic?

15 Even Nick Ledbetter was, initially, part of that
16 because what he tells you is, Jumper says, Get off of me.
17 Because he knows that's the only way he gets out. And
18 they say, well, you can see his feet on the gas and it's
19 clearly a conscious decision. He, obviously, intended to
20 kill Sergeant Jumper. Is that - what you see on that
21 video is both feet moving. He's got this guy across him.
22 He's been surrounded by these two cops. He doesn't know
23 what's going on. And he's panicking, pure and simple.

24 You don't understand put the car in park or drive.
25 You don't know who does that. You don't know if it gets

1 knocked into gear in the struggle. And even their own
2 MAIT report says gas on and off, gas on. The engine is
3 fluctuating. This isn't a conscious decision. This is
4 panic, pure panic, pure fear, pure and simple. But it's
5 not an evil heart, a heart bent on mischief, a heart
6 designed to kill cops, a bad boy drug dealer that just
7 acts without the regard for anyone else. They don't have
8 that.

9 And what's more alarming is that the two people --
10 the two people in all of this, independent people who see
11 this entire event from collision one to collision two,
12 they don't testify. All their power, all their witnesses,
13 and all of this. Where are the two truck drivers? There
14 are two semi-tractor-trailers right there that see this
15 car, see the whole thing, give statements, cooperate. And
16 both tell the main officer that what they see is a
17 struggle over control of the steering wheel.

18 And I'm sure Jumper is fighting for control of the
19 car, same as Ray Kelly. Because they're both in that
20 fight. But to say that it's Ray Kelly going, no, I've got
21 to knock him off the car. I've got to do all that. The
22 two people who could answer that question for you don't
23 even make it in the courtroom.

24 And why not? Why not? Wouldn't you feel convinced
25 beyond a reasonable doubt? Wouldn't you feel like you

1 firmly knew what happened? Wouldn't you feel like you're
2 not jumping to this blue conclusion being fed to you by
3 the State if you had the benefit of what they had to see,
4 of what you could see if they could describe that
5 struggle, if they could say what they saw? Why not bring
6 those two?

7 Why not do a complete and thorough investigation?
8 Why not lay it all there? Why not sit there and say,
9 ladies and gentlemen of the jury, this is what happened.
10 We believe it's murder. And good, bad or indifferent,
11 this is the evidence of the case. And we're going to give
12 it to you and you decide. Because they want to stop
13 there. Because they don't want you to look at the second
14 collision.

15 And I am not for a moment in any way, shape, or form
16 blaming Deputy Harrison for Sergeant Jumper's death. He
17 is not responsible. And I'm not here to say that. And
18 the reason I know that is because I know there was no
19 malice in his heart. Because I do know that they were
20 colleagues.

21 But I ask you this in terms of whether or not you got
22 a thorough investigation, in terms of whether you know
23 what happened, in terms of whether or not you can be
24 firmly convinced. Ask yourself this simple question, one
25 question, am I getting a fair view of the evidence? If a

1 deputy hadn't been driving that Dodge Charger, do you
2 think this case would be different? Do you think this
3 investigation would have gone further?

4 Do you think the MAIT officer, who claims that he has
5 worked for the highway patrol for 17 years, would now know
6 what the word slow meant? Because when I asked him, the
7 truck driver slowing down. I don't know what slowing
8 means. You didn't even look at the Dodge Charger. I
9 don't need to look at the Dodge Charger. You didn't even
10 get the data from the truck so you could do the accident
11 reconstruction. Nope, didn't want to do that. Nope,
12 don't need it.

13 The State didn't even want you to know that he's
14 doing 103 miles per hour. They want you to find malice in
15 Mr. Kelly's heart at 16, but he's doing 103. And I say
16 that only to make this point. Speed is not necessarily in
17 this case an indication of malice, and certainly not at
18 16.3.

19 What you have here is a perfect storm. You have Ray
20 Kelly on the side of the road. You have officers who try
21 to seize him to detain him to search. A fight ensues.
22 It's in a bad spot. They fall into the car. Ray Kelly is
23 panicking. He's had two officers beating on him trying to
24 subdue him. At that time, he's only guilty of speeding
25 and following too closely, and maybe there's some weed in

1 the car. He's panicking. He's fighting for leverage, for
2 control. He's got this guy, this giant across his lap,
3 that he doesn't know what's coming next and he panics.
4 That's all the evidence showed you.

5 So I ask you to look at that evidence and understand
6 that's where it goes. I ask you to hold them to their
7 standard. I ask you to say you should have brought me the
8 full picture. I ask you to see that not every resisting
9 involves an assault. You can pull away or flee and not
10 assault an officer. Our law recognizes that. But they've
11 asked you to convict him of assault on all three officers.

12 And they have put blue-colored blinders on this
13 entire evidence and tried to spoon feed it to you to feed
14 you malice, to try and give greater meaning to an
15 officer's sacrifice. But that does not mean there is
16 malice in his heart. And you know it not only by his
17 actions and his words before they laid hands on him. They
18 want you to look at how he is after the scene.

19 What is he doing after the scene? He's been in two
20 violent collisions. He has suffered a head wound. He's
21 been fought by two officers, all in split seconds. And he
22 is confused about what happened. Do you hear malice?
23 Callousness? What do you hear? Please, sir, what
24 happened? Help me, sir. Do you hear him like, I don't
25 care about that cop? I don't care about him. It doesn't

1 matter. It's only about me. Why doesn't somebody help
2 me. You don't hear that. You hear an individual, who
3 even after all of that, what happened to him? Why is he
4 on the ground? Was I in an accident? Did I fall asleep?
5 What was going on? If you've been the subject of those
6 two collisions, you'd have the same thing.

7 They say no, no, no, clearly, that's an indication of
8 malice. Deputy Harrison gets to black out, come at him,
9 be all confused, threaten him, expressed malice. And we
10 forgive that because he was in a collision. But we want
11 to contort Ray Kelly's words and hold him to some higher
12 level of accountability. Oh, he's a drug dealer. We
13 don't care about him. But that's not how the system
14 works.

15 The Judge will charge you that it is your duty to be
16 fair and impartial, to listen to only the evidence that
17 was put before you, to look at it fairly, not through bias
18 or through blue-colored lenses, not because you want to
19 honor an officer. But where does the evidence, actually,
20 lead you? And did the State bring you the evidence that
21 you needed? Or did they hide facts and not bring
22 witnesses in hopes that you would take this very one-sided
23 facts of the case?

24 I submit to you that when you look at the evidence at
25 the end of the day, what you see is panic and fear and

1 that you don't see malice. And I ask you to return a
2 verdict accordingly.

3 CHARGE ON THE LAW

4 THE COURT: Okay. Ladies and gentlemen of the jury,
5 during this trial, you and I have certain duties to
6 perform. As the trial judge, it is my responsibility to
7 preside over the trial of the case and rule on the
8 admissibility of evidence offered during the trial. It
9 is, also, my duty to charge you the law applicable to the
10 case. And it is your duty, as jurors, to accept and apply
11 the law as I now state it to you.

12 If you have any idea as to what you think the law is
13 or what the law ought to be and it differs from what I now
14 tell you the law is, you have sworn an oath to set aside
15 your own opinion and apply the law precisely as I state it
16 to you.

17 I, also, remind you that in every case tried in this
18 court before a jury, the jury is the sole and exclusive
19 judge of the facts. And a trial Judge cannot comment on
20 or make any statement about the facts in the case. So,
21 please, don't think by anything I may have said or done
22 throughout the course of the trial that I have such an
23 opinion. It is up to you all to decide what to believe
24 and what not to believe.

25 I, again, instruct you that the fact the Defendant

1 was arrested, charged, and indicted in the case is not
2 evidence of guilt. Nor does it create any presumption or
3 inference of guilt. These documents are simply the formal
4 written instruments which contain the charges made against
5 this Defendant. And they serve as the formal documents by
6 which the case is processed and brought into court for
7 resolution.

8 The indictments in this case allege several different
9 offenses against the Defendant. And the charges are
10 murder, trafficking cocaine base, possession of a weapon
11 during a violent crime, assault -- resisting arrest with
12 assault on Officer William Conley Jumper, resisting arrest
13 with assault on Officer Jesse Wasserman, resisting arrest
14 with assault on Officer Nicolas Ledbetter, providing false
15 information to police, driving without a license,
16 following too closely, and speeding.

17 Now, ladies and gentlemen, each indictment charges a
18 separate and distinct offense. And you must decide each
19 indictment separately on the evidence and the law
20 applicable to it uninfluenced by your decision as to any
21 other indictment. And the Defendant may be convicted or
22 acquitted on any or all of the offenses charged. And you
23 will be asked to write a separate verdict of guilty or not
24 guilty for each indictment.

25 Now, necessarily, you must determine the credibility

1 or believability of the witnesses who have testified in
2 the case. And it becomes your duty, as jurors, to
3 evaluate the evidence and determine which evidence
4 convinces you it is true.

5 In determining the believability of the witnesses,
6 you may believe one witness over several or several over
7 one. You may believe a part of the testimony of a witness
8 and reject the remaining part. You may believe the
9 testimony of a witness in its entirety or reject that
10 testimony in its entirety.

11 You may consider whether the witness has an interest
12 in the result of the trial, whether the witness is
13 prejudiced towards either the State or the Defendant, the
14 opportunity for the witness to have seen the matters and
15 things about which that witness has testified, and the way
16 the witness acts on the witness stand, or what we call a
17 witness's demeanor.

18 The rules of evidence ordinarily do not permit
19 witnesses to testify to opinions or conclusions. An
20 exception to this rule exists for witnesses we call expert
21 witnesses. So a witness who by education and experience
22 has become an expert in some art, science, or profession
23 may give an opinion as to the subject in which the witness
24 has been qualified as an expert and may, also, give the
25 reasons for that opinion. And you should give any expert

1 opinion given by a witness, and like any other evidence,
2 give it the weight that you think it deserves.

3 I instruct you and I emphasize that the fact that the
4 Defendant did not testify is not a factor to be considered
5 by you in any way in your deliberations on the question of
6 the guilt or innocence of the Defendant. It must not be
7 considered by you in any manner whatsoever. A defendant
8 has the Constitutional right to remain silent. And the
9 assertion of this right must not be considered by you in
10 your deliberations.

11 The Defendant has pled not guilty to these
12 indictments. And that plea puts the burden on the State
13 to prove the Defendant guilty. A person charged with
14 committing a criminal offense in South Carolina is never
15 required to prove themselves innocent. And I charge you
16 that it is a cardinal and a signal rule of the law that
17 the Defendant in a criminal trial will always be presumed
18 to be innocent of the crime for which an indictment has
19 issued, unless guilt has been proven by evidence
20 satisfying you, the jury, of guilt beyond a reasonable
21 doubt.

22 Now, reasonable doubt is the kind of doubt which
23 would cause a reasonable person to hesitate to act. And
24 reasonable doubt may arise from the evidence which is in
25 the case or from the lack or absence of evidence in the

1 case. And you, the jury, must determine whether or not
2 reasonable doubt exists as to the guilt of this Defendant.

3 There are two types of evidence which are generally
4 presented during a trial, direct evidence and
5 circumstantial evidence. Direct evidence directly proves
6 the existence of a fact and does not require deduction.
7 Circumstantial evidence is proof of a chain of facts and
8 circumstances indicating the existence of a fact. And
9 crimes may be proven by circumstantial evidence.

10 The law makes no distinction between the weight or
11 value to be given to either direct or circumstantial
12 evidence. However, to the extent the State relies on
13 circumstantial evidence, the circumstances must be
14 consistent with each other and when taken together point
15 conclusively to the guilt of the accused beyond a
16 reasonable doubt. If these circumstances merely portray
17 the Defendant's behavior as suspicious, the proof has
18 failed.

19 The State has the burden of proving the Defendant
20 guilty beyond a reasonable doubt. And this burden rests
21 with the State regardless of whether the State relies on
22 direct evidence, circumstantial evidence, or some
23 combination thereof.

24 The Defendant is charged and indicted with murder.
25 And the State must prove beyond a reasonable doubt that

1 the Defendant killed another person with malice
2 aforethought. Malice is hatred, ill will, or hostility
3 towards another person. It is the intentional doing of a
4 wrongful act without just cause or excuse and with an
5 intent to inflict an injury or under circumstances that
6 the law will infer an evil intent.

7 Malice aforethought does not require that malice
8 exist for any particular length of time before the act is
9 committed. But malice must exist in the mind of the
10 Defendant just before and at the time the act is
11 committed. Therefore, there must be a combination of the
12 previous evil intent and the act.

13 Now, malice aforethought may be expressed or
14 inferred. These terms expressed and inferred do not mean
15 different kinds of malice, but merely the manner in which
16 malice may be shown to exist. That is either by direct
17 evidence or by inference from the facts and circumstances
18 which are proved.

19 Expressed malice is shown when a person speaks words
20 which express hatred or ill will for another or when the
21 person prepared beforehand to do the act which was later
22 accomplished. Malice may be inferred from conduct showing
23 a total disregard for human life. If facts are proven
24 beyond a reasonable doubt sufficient to raise an inference
25 of malice to your satisfaction, this inference would be

1 simply an evidentiary fact to be considered by you, along
2 with the other evidence in the case. And you may give it
3 the weight you decide it should receive.

4 Now, the Defendant is, also, charged with three
5 indictments with assaulting an officer while resisting an
6 arrest. The State must prove beyond a reasonable doubt
7 that the Defendant knowingly and willfully assaulted,
8 beat, or wounded a law enforcement officer who was
9 serving, executing, or attempting to serve or execute a
10 legal writ or process. Or that the Defendant assaulted,
11 beat, or wounded an officer when the Defendant was
12 resisting an arrest being made by a person the Defendant
13 knew or reasonably should have known was a law enforcement
14 officer.

15 Knowingly means with knowledge, consciously done.
16 Willfully means done intentionally and not done by
17 accident. So an assault occurs when a person violently or
18 forcefully attempts to hurt or injure another person and
19 has the present ability to complete the attempted injury.

20 An assault is the intentional creation of fear or
21 immediate bodily harm. It is not necessary that the
22 attempted injury or harm, actually, take place. For
23 example, if I walk up to you and when we are within arms
24 reach, I draw back to hit you, that is an assault.

25 A battery is the unlawful touching of another person

1 by a person who has committed the assault. An unlawful
2 touching can be caused by a part of the accused or by any
3 object the accused puts in motion. And a battery is the
4 completion of the assault by using or applying force to
5 another person, however slight, in a rude, angry,
6 resentful manner without legal justification for doing so.
7 Using my earlier example, if I carried through the assault
8 by hitting you, then that is a battery.

9 And a law enforcement officer means any duly
10 appointed or commissioned law enforcement officer of the
11 state, county, or municipality.

12 The Defendant is, also, charged and indicted with
13 trafficking in cocaine base. The State must prove beyond
14 a reasonable doubt that the Defendant knowingly sold,
15 manufactured, cultivated, delivered, purchased, brought
16 into this state, provided financial assistance, or
17 otherwise aided, abetted, attempted, or conspired to sell,
18 manufacture, cultivate, deliver, purchase, or bring into
19 this state, or was knowingly in actual or constructive
20 possession, or knowingly attempted to become in actual or
21 constructive possession of cocaine base.

22 And the State must, also, prove beyond a reasonable
23 doubt that the amount of the cocaine base or any mixture
24 containing cocaine base was greater than 28 grams, but
25 less than 100 grams.

1 Actual possession means that the cocaine base was in
2 the actual physical custody of the Defendant.

3 Constructive possession means that the Defendant had
4 dominion and control or the right to exercise dominion or
5 control over either the cocaine base itself or the
6 property on which the cocaine base was found.

7 Mere presence at the scene where the drugs were found
8 is not enough to prove possession. And actual knowledge
9 of the presence of the crack cocaine is strong evidence of
10 the Defendant's to control its disposition or use.

11 The Defendant is, also, indicted with possession of a
12 weapon during the commission of or attempt to commit a
13 violent crime. The State must prove beyond a reasonable
14 doubt that the Defendant was in possession of a firearm or
15 visibly displayed what appeared to be a firearm during the
16 commission of a violent crime.

17 A firearm means any machine gun, automatic rifle,
18 revolver, pistol, or other weapon which is designed to or
19 may be readily converted to expel a projectile.

20 In order to find the Defendant guilty of possession
21 of a weapon during the commission of a violent crime, you
22 must, first, find the Defendant guilty of either
23 committing a violent crime or attempting to commit a
24 violent crime. Trafficking in cocaine base is a violent
25 crime under the laws of our state.

1 So what that means is if you find the Defendant not
2 guilty of trafficking, you must not consider possession of
3 a weapon during the commission of a violent crime. If you
4 find the Defendant guilty of trafficking in cocaine --
5 cocaine base, then you must consider the other charge of
6 possession of a weapon during the commission of a violent
7 crime.

8 The Defendant is, also, indicted for providing false
9 information to police. The Code of Laws of South Carolina
10 Section 16-17-725 reads in part, It is unlawful for a
11 person to misrepresent his identification to a law
12 enforcement officer during a traffic stop or for the
13 purpose of avoiding arrest or criminal charges.

14 The Defendant is, also, indicted for driving without
15 a license. Section 56-1-20 reads in part as follows, That
16 no person shall drive any motor vehicle on a highway in
17 this state, unless such person has a valid motor vehicle
18 driver's license issued to him under the provisions of
19 this article.

20 The Defendant is, also, indicted with speeding.
21 Section 56-5-20 reads in part, That a person shall not
22 drive a vehicle on a highway at a speed greater than is
23 reasonable and prudent under the conditions and having
24 regard for the actual and potential hazards then existing.

25 Speed must be so controlled to avoid colliding with a

1 person, vehicle, or other conveyance on or entering the
2 highway in compliance with legal requirements and the duty
3 of a person to use care, except when a special hazard
4 exists that requires lower speed for compliance with the
5 above subsection, the limit specified in this section or
6 established as hereinafter authorized are maximum lawful
7 speeds.

8 And a person shall not drive a vehicle on a highway
9 at a speed in excess of the following maximum limited,
10 70 miles an hour on the interstate highway system and
11 other freeways where official signs giving notice of this
12 speed are posted. 60 miles an hour on multilane divided
13 primary highways where official signs giving notice of
14 this speed limit are posted. Or 55 miles an hour in other
15 locations or on other sections of highways, and unpaved
16 roads are limited to the speed of 40 miles an hour.

17 The Defendant is, also, indicted for following too
18 closely. And it -- Section 56-5-1930 reads in part, The
19 operator of a motor vehicle shall not follow another
20 vehicle more closely than is reasonable and prudent.
21 Having due regard for the speed of such vehicles and the
22 traffic upon and the conditions of the highway.

23 Mr. Foreman, and, ladies and gentlemen, with respect
24 to each of these indictments, you must consider them
25 independently and make a decision as to the resolution of

1 guilty or not guilty on each of those independent of the
2 other indictments, with the exception of the possession of
3 a weapon during the commission of a violent crime.

4 I want to tell you -- and we -- ladies and gentlemen,
5 all 12 of you must agree. Your decision on each
6 indictment must be unanimous. Your verdict cannot be
7 based on sympathy, passion, prejudice, emotion, or any
8 other consideration not in evidence in the case. You have
9 no friends to reward. You have no enemies to punish.

10 We have prepared a verdict form, Mr. Foreman, which
11 we will send back into the jury room with you. I believe
12 it is self-explanatory. But if you have any question
13 whatsoever about how to interpret the form, please, let me
14 know and I will explain it to you so that you fully
15 understand.

16 That was quite a mouthful.

17 And I'm going to excuse you all now back to your jury
18 room. I'm going to ask you not to begin your
19 deliberations just yet. I need to go over my charge that
20 I've just given you with the attorneys to ensure that I
21 have not misstated something or omitted something. But
22 when the verdict form comes back to you, along with all
23 the evidence in the case, then you can begin your
24 deliberations.

25 So with the exception of Ms. Calato [sic] and

1 Ms. Jacobs, I'll excuse you back to the jury room.

2 THE COURT: Is it Calato?

3 JUROR #75, MADISON COLORADO: Colorado.

4 JUROR #185, MELANIE JOHNSON: And Johnson.

5 THE COURT: Okay. Yes, I kind of missed that. There
6 was another page. I'm sorry.

7 Y'all just wait.

8 The others, everyone else, please, go. I didn't see
9 the second page.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 1:01 p.m.)

12 THE COURT: Again, I apologize.

13 JUROR #75, MADISON COLORADO: No worries.

14 THE COURT: I want to thank you for your service.
15 You all are just as qualified as the 12. You've been here
16 and paid just as much attention. I would love to let you
17 go back there and finish the job, but the law only allows
18 12.

19 So you all completed your service. I'm sure you're
20 happy to know that you're through for the week.

21 And I, also, would tell you that you're free to talk
22 about the case with anyone you want to. You're, also,
23 free not to talk about it. The case has garnered a lot of
24 public attention and people may try to talk to you. And
25 if you don't want them to talk to you, you tell them that.

1 And if they persist, please, let some court personnel
2 know. Because I will not have a juror intimidated or
3 harassed for their service.

4 So I believe there may be some lunch that you all can
5 have to take with you, stay here, whatever you want.

6 But thank you for your service.

7 (WHEREUPON, the alternate jurors exited the
8 courtroom.)

9 THE COURT: Any exception or objection to the charge
10 from the State?

11 MR. WILKINS: Nothing from the State, Your Honor.

12 THE COURT: Defense?

13 MS. LIPINSKI: Just that we renew our request for the
14 lesser included offenses that we originally made, Your
15 Honor.

16 THE COURT: All right. Thank you.

17 We'll be at ease.

18 I ask the lawyers to get together with Madam Court
19 Reporter to go through the evidence and make sure it all
20 goes back.

21 (WHEREUPON, the proceedings were recessed at
22 approximately 1:03 p.m.)

23 QUESTIONS FROM THE JURY

24 THE COURT: All right. I got a note from the jury.
25 It says, Can we get the instructions with the law

1 definitions as read by the Judge?

2 So what I'm going to do is put together exactly what
3 I read and make about three copies to send back there.

4 Do you all want to look at it before I get -- before
5 they go back?

6 MS. LIPINSKI: He says, yes, Your Honor. So I'll
7 just take a quick peek at it.

8 THE COURT: All right. Well, it's going to take a
9 little while.

10 MS. LIPINSKI: I understand.

11 MR. WILKINS: Your Honor, if this is what you read to
12 the jury, the State has no objection. We don't need to
13 read it.

14 (WHEREUPON, a break was taken.)

15 (WHEREUPON, Court's Exhibit Nos. 11 and 12 were marked
16 for identification and admitted into evidence.)

17 THE COURT: Okay. I've got two questions. Can we
18 see the truck drivers statements brought up in the trial?

19 And, Is manslaughter an option for a guilty charge or
20 is murder our only option?

21 The answer is no and no.

22 But -- all right. Any input from the State?

23 MR. WILKINS: No, Your Honor. I think --

24 THE COURT: Any input from the Defense?

25 MS. LIPINSKI: I don't have any input. I just renew

1 our motion for a mistrial based on the fact that the
2 lesser included offenses weren't charged. I understand.
3 I just felt the need to put it on the record.

4 THE COURT: Okay. It's on the record.

5 All right. I'm just going to bring them back and
6 tell them -- answer their questions.

7 (WHEREUPON, the jury came into open court at
8 approximately 3:34 p.m.)

9 THE COURT: Ladies and gentlemen, welcome back.
10 I have your note with two separate questions.

11 The first question is, Can we see the truck drivers
12 statements brought up in the trial?

13 And the answer I would give you is that all of the
14 evidence that is going to be presented in this case is
15 before you.

16 Okay. The second question, Is manslaughter an option
17 for a guilty charge or is murder our only option?

18 I would tell you that murder is your only option.
19 And there is no -- you have not been given a charge on
20 manslaughter.

21 Okay. I hope that answers your questions. If you
22 have more, just let me know.

23 All right. Thank you very much.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 3:35 p.m.)

1 THE COURT: Okay. We'll be at ease.

2 (WHEREUPON, Court's Exhibit No. 13 was marked for
3 identification and admitted into evidence.)

4 (WHEREUPON the proceedings were recessed at
5 approximately 3:36 p.m.)

6 THE COURT: All right. I've been informed that we
7 have a verdict. And this is an emotional case. I want no
8 outbreaks in the courtroom.

9 Okay. Get them.

10 (WHEREUPON, the jury came into open court at
11 approximately 4:55 p.m.)

12 THE COURT: All right. Mr. Foreman, I understand
13 you've reached a verdict.

14 JUROR #36, EDWARD BLAKEMORE: Yes, sir.

15 THE COURT: Okay. Would you, please, hand it to the
16 bailiff for me?

17 JUROR #36, EDWARD BLAKEMORE: Yes, sir.

18 THE COURT: Okay. Madam Clerk, would you publish
19 please.

20 VERDICT

21 THE CLERK: Your Honor, this is case number
22 2020-GS-23-6536, 2020-GS-23-5006A, 2020-GS-23-6541,
23 2020-GS-23-6547, 2020-GS-23-6548, 2020-GS-23-6550,
24 2020-GS-23-6551, 2020-GS-23-6552, and 2020-GS-23-6557, the
25 State of South Carolina vs. Ray Kelly.

1 As to indictment 2020-GS-23-6551, for the charge of
2 murder, we, the jury, find the Defendant guilty.

3 As to indictment 2020-GS-23-5006A, for the charge of
4 resisting arrest with assault with respect to Deputy
5 Jumper, we, the jury, find the Defendant guilty.

6 As to indictment 2020-GS-23-6541, for the charge of
7 resisting arrest with assault with respect to Deputy
8 Wasserman, we, the jury, find the Defendant guilty.

9 As to indictment 2020-GS-23-6552, for the charge of
10 resisting arrest with assault with respect to Deputy
11 Ledbetter, we, the jury, find the Defendant guilty.

12 As to the indictment 2020-GS-23-6536, for the charge
13 of trafficking in cocaine base more than 28 grams but less
14 than 100 grams, we, the jury, find the Defendant guilty.

15 As to indictment 2020-GS-23-6536, the charge of
16 possession of a weapon during the commission of a violent
17 crime, we, the jury, find the Defendant guilty.

18 As to indictment 2020-GS-23-6550, for the charge of
19 providing false information to law enforcement, we, the
20 jury, find the Defendant guilty.

21 As to indictment 2020-GS-23-6548, for the charge of
22 driving without a license, we, the jury, find the
23 Defendant guilty.

24 As to indictment 2020-GS-23-6547, for the charge of
25 following a vehicle too closely, we, the jury, find the

1 Defendant not guilty.

2 As to indictment 2020-GS-23-6557, for the charge of
3 speeding more than 15, but less than 25 miles per hour
4 over the speed limit, we, the jury, find the Defendant not
5 guilty.

6 I certify this was the unanimous decision of the
7 jury, signed by our foreperson.

8 Ladies and gentlemen, if this is the verdict you
9 reached in your deliberation room and this is your verdict
10 now, please, raise your right hand.

11 (WHEREUPON, all of the jurors raised their hand.)

12 THE CLERK: Thank you.

13 THE COURT: All right. Anything further of the jury
14 from the State?

15 MR. WILKINS: Nothing from the State, Your Honor.

16 THE COURT: From the Defense?

17 MS. LIPINSKI: Nothing from the jurors, Your Honor.

18 THE COURT: Mr. Foreman, ladies and gentlemen of the
19 jury, I want to thank you for your service.

20 You've been an outstanding jury in that you have paid
21 attention, you've been on time, you did your -- did the
22 hard work. And I hope that when you look back on your
23 service that you will feel proud of what you've done. Our
24 system doesn't work without fine people like you who come
25 forward and do their civic duty.

So with that, I'm happy to tell you that you're done for the week. Here we are Thursday afternoon at 5:00. And you're now free to talk about it with whoever you'd like to talk about it with. You're free not to talk about it.

This case has generated some public interest, people may want to try to talk to you about it. If you don't want to talk to them, you tell them that. If they persist, you let someone up here at the courthouse know. And we'll take care of that problem. We will not have jurors be harassed or intimidated for your service.

So with that, ladies and gentlemen, you're welcome to stay or go, whatever you would like to do.

Thank you again.

(WHEREUPON, the jury was excused from open court at approximately 5:01 p.m.)

THE COURT: Okay. Anything?

MOTIONS

MS. LIPINSKI: May it please the Court, Your Honor.

At this time, the Defense would renew all our pretrial motions, our trial motions, motions we made at the end of the State's case and the Defense case. At this time, I would ask for the Court to consider creating a motion for a new trial and setting aside the verdict. I think there's ample evidence this is a result of passion

1 and prejudice. The Defense raised multiple concerns that
2 the heavy law enforcement presence, press presence in the
3 courtroom put an undue pressure and burden on the jury to
4 reach a verdict in this case.

5 We believe there are legal issues notwithstanding.
6 We renew our objections to evidence that was presented and
7 admitted by the trial court. We renew our motions
8 regarding the fact that they should have been given a
9 lesser included offense. The jury, specifically, asked
10 for that charge in one of their notes, which I assume is
11 made as a Court's Exhibit. And we would ask the Court to
12 consider doing that, granting a mistrial and giving
13 Mr. Ray Kelly a new trial on all the charges.

14 THE COURT: Well, the notes from the jury are Court's
15 Exhibits. And there was -- I looked at the potential
16 lesser included and I didn't find a legal basis for it.
17 So all my prior rulings remain the same. And I will deny
18 your current motions.

19 And I would tell Mr. Kelly that he has 10 days to
20 file a notice of intent to appeal should he decide to do
21 so.

22 All right. Do you have --

23 MR. WILKINS: Your Honor, we need a brief break so we
24 can get the appropriate paperwork. Five minutes.

25 THE COURT: Okay. That's fine. We'll take about

1 five or 10 minutes.

2 (WHEREUPON, a break was taken.)

3 THE COURT: While we're waiting, how much jail time
4 credit does he get?

5 MR. WILKINS: 708 days, Your Honor.

6 THE COURT: 780?

7 MR. WILKINS: 708. And I've got certified convictions
8 from New York.

9 THE COURT: Okay.

10 MS. LIPINSKI: Do you want me to come around or do
11 you want me to stand here? I don't know your protocol.
12 And I apologize.

13 THE COURTROOM DEPUTY: You can stand there and that
14 would be all right.

15 THE COURT: You can stand right there. That would be
16 fine.

17 MS. LIPINSKI: Yeah. I just --

18 THE COURT: Yeah. That's fine.

19 MR. WILKINS: All right. Your Honor, we have two
20 victims that would like to address the Court before
21 sentencing.

22 THE COURT: Okay.

23 MS. LIPINSKI: Your Honor, do you mind if we just sit
24 during that portion?

25 THE COURT: That will be fine.

1 Okay. Yes, ma'am.

2 MS. SARAH JUMPER: Hi, Judge Miller. I'm Sarah
3 Jumper. I'm the widow of Conley Jumper. And this is our
4 daughter, Catherine.

5 THE COURT: Okay.

6 MS. SARAH JUMPER: To Judge Miller, the jury,
7 Solicitor Wilkins, Assistant Solicitor Moroney,
8 Investigator Phillips, Special Agent Owens, SLED, Sheriff
9 Lewis, and each and every deputy in the courtroom today,
10 thank you for giving my family justice for the murder of
11 my husband and the father of our daughter, Catherine,
12 Sergeant William Jumper Jr.

13 To Jesse, Nick, and David, Conley loved you and was
14 so proud of the amazing work you guys did on the
15 interstate day in and day out. Most people don't even
16 know that interdiction work is the most dangerous
17 assignments there is in law enforcement. Please know each
18 of you did everything right that day.

19 No one could have known that a simple traffic stop
20 would have resulted in the murder of someone as
21 indestructible as Conley. Thank you for everything you
22 guys do for me and Cat. You keep Conley alive for us by
23 our connection. Please remember one thing, that Conley
24 went out the only way he would have wanted to, and that
25 was fighting to his death for the safety of his team.

1 Finally, Judge Miller, if I could just clarify for
2 the record the names of my husband's teammates. First,
3 Master Deputy Jesse Ross Wasserman; Second, Deputy
4 Nicholas David Miles Ledbetter; and third, Master Deputy
5 Michael David Harrison.

6 Thank you.

7 THE COURT: Thank you very much.

8 DEPUTY JESSE WASSERMAN: So several weeks ago when we
9 met with the solicitor's office and it was explained to us
10 that we were going to be given the opportunity as victims
11 to say some words, I had a long speech generated, thought
12 about it a lot, everything that I wanted to say to the
13 suspect, tell him, you know, how I felt, what his actions
14 caused. But after speaking with a very good friend, Mike
15 DeRosa, I decided that he doesn't deserve any amount of my
16 time or thought.

17 So, instead, I'm going to direct all of my words to
18 the Court instead and everybody that's in the Court. We
19 talked about -- this week, everybody talked about how
20 Jumper died that day, but everybody needs to know how he
21 lived. He took care of us. Every single day, it didn't
22 matter who you were, if you wore badge, he was going to
23 check on you. He was going to talk to you. He was going
24 to get out with you.

25 David -- back in 2005, when David was working with

1 the highway patrol, he would get out and check on David.
2 He was -- he backed the blue. It didn't matter where you
3 came from, he was going to check on you. And he was going
4 to take care of you when you needed a friend.

5 The amount of stories that all of us have that
6 anybody that has ever worked with him, known him, the
7 amount of stories would fill volumes of encyclopedias.
8 All the funny things that we have that we can share and
9 that have been shared over the last two years. Every time
10 we get together, it's a different funny Jumper story. And
11 I know that everybody that has ever worked him has one.

12 And that's what -- that's what Jumper was. He was
13 somebody that looked over everybody, loved everybody. He
14 was a big teddy bear. And, you know, that's just who he
15 was. So it's important that we keep that alive, keep his
16 memory alive, keep telling funny ass stories and shit that
17 he did just keep it -- keep it alive.

18 THE COURT: All right.

19 MR. WILKINS: And, Your Honor, the State does have a
20 recommendation for sentencing.

21 THE COURT: Well, tell me what his prior criminal
22 history is.

23 Thank you.

24 MR. WILKINS: I've just got he is -- I put it on the
25 record earlier --

1 THE COURT: Do we have another victim?

2 MR. WILKINS: David Harrison would like to address
3 the Court, Your Honor.

4 THE COURT: Okay.

5 DEPUTY DAVID HARRISON: Your Honor, I'll keep it very
6 brief.

7 THE COURT: Thank you, sir.

8 DEPUTY DAVID HARRISON: My words today are for
9 Mr. Kelly. I'm going to start by reading a quote, and
10 then I'll try my best to explain it. Any man's death
11 diminishes me because I am involved in mankind.
12 Therefore, never send a note for whom the bell tolls, for
13 it tolls for thee.

14 What that means, in short, is that everyone in this
15 building, everyone that walks on this earth will
16 eventually die.

17 It is my hope, Mr. Kelly, that while you have some
18 time to yourself away from the bad influences that you
19 will learn to know Jesus Christ. I am not mad at you. I
20 do not hate you, even though you changed my life and
21 others. I hope that you save your soul. I like to think
22 of myself as a grown man. But I'm going to be honest with
23 you, Mr. Kelly, you have brought me to my knees.

24 This case is not -- or this verdict is not closure
25 for me. I can't speak for everyone else. I got my

1 closure the night of -- when I, finally, got out of the
2 hospital and I couldn't go to sleep. And I know that to
3 be forgiven, I had to forgive. And that's exactly what I
4 did. I forgive you.

5 My closure came when I realized that I did everything
6 that I could with what I had at the time. And I'm going
7 to continue to pray for you, just as I pray for Jumper's
8 family.

9 Thank you, Your Honor.

10 THE COURT: Thank you.

11 MR. WILKINS: All right. Your Honor, criminal
12 history is a 2002, disorderly conduct in Suffolk County
13 First District Court, New York; criminal trespass third
14 degree, 2002, Suffolk County First District Court, New
15 York; 2004, stalking fourth degree, Suffolk County First
16 District Court; 2004, criminal sale of a controlled
17 substance third narcotic, 2004; 2006, criminal possession
18 narcotics drug fourth degree in Suffolk County Court;
19 2008, criminal possession of a controlled substance,
20 Nassau County First District Court, New York; 2009,
21 criminal possession of a controlled substance third
22 narcotic drug, Suffolk County Court; 2016, criminal use of
23 drug paraphernalia second, Suffolk County First District
24 Court; 2016, aggravated unlicensed operation of a motor
25 vehicle first degree; 2016, unlawful fleeing of a --

1 fleeing a police officer in a motor vehicle third degree;
2 2016, operating a motor vehicle impaired by drugs; 2016,
3 reckless driving, all in Suffolk County Court, New York;
4 2018, criminal sale of a controlled substance third,
5 Suffolk County Court; 2020, criminal possession of a
6 controlled substance third, Suffolk County Court.

7 That's it, Your Honor.

8 THE COURT: Okay. Ms. Lipinski.

9 MR. WILKINS: And, Your Honor, he had pled guilty to
10 that last charge and was supposed to show up for
11 sentencing and was on the run and was charged with bail
12 jumping when this incident happened.

13 THE COURT: Okay.

14 MR. WILKINS: And, Your Honor, you've heard the facts
15 of this case. You know it as well as the rest of us do
16 after hearing all of this testimony. And the State's
17 position, we're asking Your Honor to give this Defendant a
18 life sentence.

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

20 All right. Ms. Lipinski.

21 MS. LIPINSKI: May it please the Court, Your Honor.

22 I've only, obviously, known Mr. Kelly a short while.
23 But I can tell you that he's always been this gentleman
24 with me. He's always been very straightforward. We've
25 had a lot of conversations. He's, also, been very

1 respectful with me. We haven't always seen everything on
2 the same level. But I can say that in terms of me and in
3 his dialogue with me, he's always just been very
4 respectful.

5 I think he regrets the events of that day. I think,
6 obviously, if he could go back and change things, he
7 would. I do know him to be a spiritual person. I think
8 he said on a number of occasions, even on the video that
9 he was sorry.

10 And we would just beg for the Court's mercy, Your
11 Honor, and respectfully ask for concurrent sentences.

12 THE COURT: All right. Anything you want to say?

13 DEFENDANT KELLY: I'm just sorry for all of this.

14 SENTENCING

15 THE COURT: Okay. Driving without a license, time
16 served. Providing false information to police, time
17 served. Resisting arrest with assault, 10 years, and that
18 is as to Jesse Wasserman. Resisting arrest with assault
19 as to Nicholas Ledbetter, 10 years. Resisting arrest with
20 assault as to William Conley Jumper, 10 years.
21 Trafficking cocaine base 28 to 100 grams third offense,
22 30 years. Possession of a weapon during the commission of
23 a violent crime, five years. Murder, life.

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

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 trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 26th, 27th, 28th, and 29th days of September, 2022.

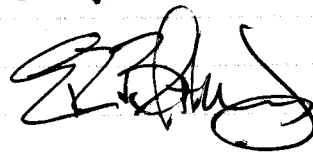
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 7, 2023

Hollie M. Jenkins, Court Reporter

EXHIBIT	
Court's	11
9/29/22	

Can we get the instructions
with law definitions as read
by the judge?



Can we see the truckdrivers
statements brought up
in the trial?

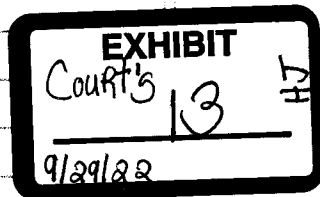
[Signature]

9/29/2022

Is manslaughter an
option for a guilty charge
or is murder the only option?

[Signature]

9/29/2022



WITNESSES

Matthew B Davis

SLED

10/20/2020

AMENDED INDICTMENT
DOCKET NO. 2020-GS-23-006536
www

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2021

THE STATE

VS.

RAY L KELLY

ARREST WARRANT NUMBER

2020A2330210329 / 2020A2330210350

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

0349 / 0549

Indictment for

TRAFFICKING COCAINE BASE

AND

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 44-53-0375(C)(2)(c) / § 16-23-0490

ENTERED

ACCT. BY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 TRAFFICKING COCAINE BASE
 AND
 POSSESSION OF A WEAPON DURING A VIOLENT CRIME

At a Court of General Sessions, convened on

SEP 14 2021

the Grand Jurors of Greenville

County present upon their oath:

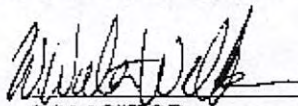
COUNT I: TRAFFICKING COCAINE BASE

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 28 grams but less than 100 grams of Cocaine Base. This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

COUNT II: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, possess or visibly display a firearm or knife during the commission or attempted commission of a violent crime, to wit: TRAFFICKING COCAINE BASE. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

BAR # 16740

WITNESSES

703 Matthew B Davis

SLED



10/20/2020

DOCKET NO. 2020-GS-23-

www

The State of South Carolina

County of Greenville

006541

COURT OF GENERAL SESSIONS

November TERM 2020

THE STATE

vs.

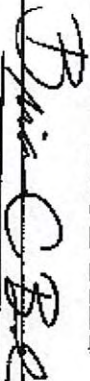
RAY L KELLY

ARREST WARRANT NUMBER

2020A2330210362

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0256

RESISTING ARREST WITH ASSAULT

VIOLATION § 16-09-0320(B)

Foreperson of Petit Jury

Date:

ENTERED
ACCT. 8/27

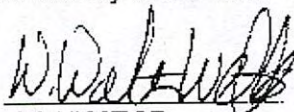
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
RESISTING ARREST WITH ASSAULT

At a Court of General Sessions, convened on **NOV 24 2020** the Grand Jurors of Greenville
County present upon their oath:

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, knowingly and
willfully and unlawfully assault, beat or wound Jesse Wasserman with the Greenville County Sheriff's Office
while resisting an arrest by one whom he knew or reasonably should have known was a law enforcement officer.
This is in violation of §16-9-320(B) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 16740

WITNESSES

David D Picone

Greenville County Sheriff's Office

10/20/2020

[Signature]

ARREST WARRANT NUMBER

2020A2330210324

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

VERDICT

0701

Indictment for

DRIVING WITHOUT A LICENSE

VIOLATION § 56-01-0440

DOCKET NO. 2020-GS-23-

WWW

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2020

THE STATE

VS.

RAY L KELLY

006548

705

Foreperson of Petit Jury
Date:

ENTERED
ACCT. *[Signature]*

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DRIVING WITHOUT A LICENSE

NOV 24 2020

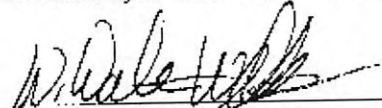
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That RAY L. KELLY did in Greenville County, on or about the 20th day of October, 2020, drive a motor vehicle on a public highway of this State without a driver's license. This is in violation of §56-1-440 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 16740

WITNESSES

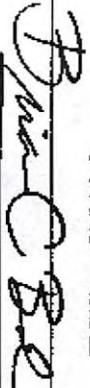
David D Picone

Greenville County Sheriffs Office

10/20/2020

**ARREST WARRANT NUMBER**

2020A2330210326

ACTION OF GRAND JURY**TRUE BILL**FOREMAN GRAND JURY
Foreperson of Grand Jury**VERDICT**

1223

Indictment for

PROVIDING FALSE INFORMATION TO POLICE

VIOLATION § 16-17-0725(B)

DOCKET NO. 2020-GS-23-

www

006550

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2020

THE STATE

vs.

RAY L KELLY

Foreperson of Petit Jury
Date:

ENTERED

ACCT. 13/3

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
PROVIDING FALSE INFORMATION TO POLICE

At a Court of General Sessions, convened on

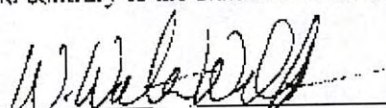
NOV 24 2020

the Grand Jurors of Greenville

County present upon their oath:

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, when stopped and/or while under arrest, give false information to a law enforcement officer. This is in violation of §16-17-725 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 16740

WITNESSES

Matthew B Davis

SLED



10/20/2020

DOCKET NO. 2020-GS-23-
www

006551

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2020

THE STATE

vs.

RAY L KELLY

ARREST WARRANT NUMBER

2020A2330210355

ACTION OF GRAND JURY
TRUE BILL


FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

0116

Indictment for

MURDER

VIOLATION § 16-03-0010, 0020

Foreperson of Petit Jury

Date:

ENTERED
ACCT. 

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on

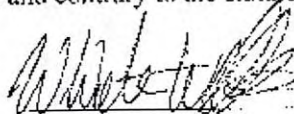
the Grand Jurors of Greenville

NOV 24 2020

County present upon their oath:

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, unlawfully and with malice aforethought kill William Conley Jumper by means of driving a vehicle across lanes of interstate traffic resulting in a collision, and that William Conley Jumper died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

BAR # 16740

WITNESSES

Matthew B Davis

711
SLED



10/20/2020

DOCKET NO. 2020-GS-23-

www

The State of South Carolina

County of Greenville

006552

COURT OF GENERAL SESSIONS

November

TERM 2020

THE STATE

VS.

RAY L KELLY

ARREST WARRANT NUMBER

2020A2330210361

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0256

RESISTING ARREST WITH ASSAULT

VIOLATION § 16-09-0320(B)

Foreperson of Petit Jury

Date:

ENTERED

ACCT. 000

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
RESISTING ARREST WITH ASSAULT

NOV 24 2020

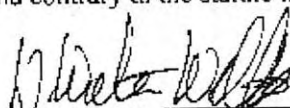
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, knowingly and willfully and unlawfully assault, beat or wound Nicholas Ledbetter with the Greenville County Sheriff's Office while resisting an arrest by one whom he knew or reasonably should have known was a law enforcement officer. This is in violation of §16-9-320(B) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 16740

WITNESSES

Matthew B Davis

Sled

10/21/2020

DOCKET NO. 2022-GS-23-

WAVV

The State of South Carolina

County of Greenville

005006A

COURT OF GENERAL SESSIONS

August

TERM 2022

THE STATE

VS.

RAY L KELLY

DIRECT PRESENTMENT

DOB: 09/07/1983 B/M SSN: 068-70-4483

ACTION OF GRAND JURY

TRUE BILL

FOREPERSON OF GRAND JURY

VERDICT

0256

Indictment for

RESISTING ARREST WITH ASSAULT

VIOLATION § 16-09-0320

Foreperson of Petit Jury
Date:

ENTERED
ACCT. Bm

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
RESISTING ARREST WITH ASSAULT

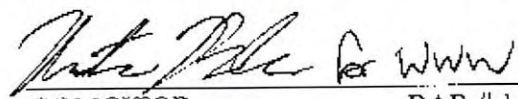
At a Court of General Sessions, convened on
County present upon their oath:

AUG 23 2022

the Grand Jurors of Greenville

That RAY L KELLY did in Greenville County, on or about the 20th day of October, 2020, knowingly and willfully and unlawfully assault, beat or wound William Conley Jumper with the Greenville County Sheriff's Office while resisting an arrest by one whom he knew or reasonably should have known was a law enforcement officer. This is in violation of § 16-09-0320 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 16740

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 1983 SS# [REDACTED]Address: Expressway NCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306536A/W#: 2020A2330210329Date of Offense: 10/20/2020S.C. Code § : 44-53-0375(C)(2)(CDR Code #: 0392

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Trafficking in Cocaine Base 28g-100g 3rd Offensein violation of § 44-53-0375(C)(2)(of the S.C. Code of Laws, bearing CDR Code # 0392☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 ~~days/months/years~~/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
708 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 083 SS# [REDACTED]Address: pressway NCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306536A/W#: 2020A2330210350Date of Offense: 10/20/2020S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of a weapon during a violent crimein violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
708 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

712107

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39

DOB: 1983 SS: [REDACTED]

Address: Expressway N

City, State, Zip: Medford, NY 11763

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306541

AW#: 2020A2330210352

Date of Offense: 10/20/2020

S.C. Code § : 16-09-0320(B)

CDR Code #: 0256

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Resisting Arrest with Assault

in violation of § 16-09-0320(B) of the S.C. Code of Laws, bearing CDR Code # 0256

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,

for a determinate term of 10 ~~days~~ months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

708 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 1983 SS [REDACTED]Address: Expressway NCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306548A/W#: 2020A2330210324Date of Offense: 10/20/2020S.C. Code § : 56-01-0440CDR Code #: 0701

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Driving Without A Licensein violation of § 56-01-0440 of the S.C. Code of Laws, bearing CDR Code # 0701
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of CTS days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
708 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 883 SS# [REDACTED]Address: [REDACTED] pressway NCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306550A/W#: 2020A2330210325Date of Offense: 10/20/2020S.C. Code § : 16-17-0725(B)CDR Code #: 1223

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Giving False Information To Law EnforcementIn violation of § 16-17-0725(B) of the S.C. Code of Laws, bearing CDR Code # 1223
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of CT5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.
708 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 1983 SS# [REDACTED]Address: Expressway NCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306551A/W#: 2020A2330210355Date of Offense: 10/20/2020S.C. Code § : 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murderin violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of LIFE days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
708 days/months-
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Ray L Kelly

AKA:

Race: BLACK Sex: M Age: 39DOB: 1983 SS# [REDACTED]Address: ExpresswayCity, State, Zip: Medford, NY 11763DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS2306552A/W#: 2020A2330210351Date of Offense: 10/20/2020S.C. Code § : 16-09-0320(B)CDR Code #: 0256

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Resisting Arrest with Assaultin violation of § 16-09-0320(B) of the S.C. Code of Laws, bearing CDR Code # 0256
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

16740

Wilkins, Walt

SC Bar#

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 ~~days/months~~ years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
708 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

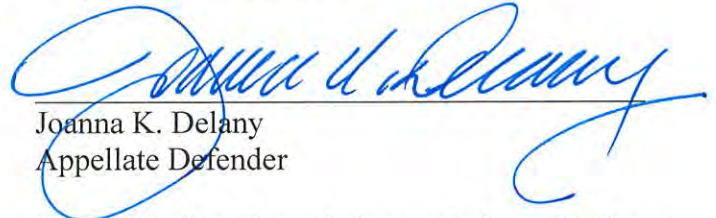
Jul 12 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of July, 2024.

RECEIVED

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

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary email address listed within the Attorney Information System (AIS) this 12th day of July, 2024.



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT