

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable R. Markley Dennis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SIDNEY STCLAIR MOORER,

APPELLANT

APPELLATE CASE NO 2019-001636

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THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 1 (DVD INTERVIEW), STATE'S EXHIBIT NO. 33 (AERIAL MAP), STATE'S EXHIBIT NOS. 35-37 (PHOTOGRAPHS OF CAR), STATE'S EXHIBIT NO. 55 (DVD INTERVIEW), STATE'S EXHIBIT NO. 60 (WAL-MART VIDEO), STATE'S EXHIBIT NO. 61 (KANGAROO/PAYPHONE VIDEO), STATE'S EXHIBIT NO. 62 (WAL-MART RECEIPT), STATE'S EXHIBIT NO. 64 (MELSON SLIDE PRESENTATION), STATE'S EXHIBIT NO. 66 (AERIAL MAP), STATE'S EXHIBIT NOS. 91-95 (PHOTOGRAPHS), STATE'S EXHIBIT NO. 123 (FREDERICK'S REPORT), STATE'S EXHIBIT NO. 124 (FREDERICK'S REPORT ON DVD), AND STATE'S EXHIBIT NO. 127 (AERIAL MAP)

JURY SELECTION

1 JUROR: I'm the only person.

2 THE COURT: Doesn't qualify for an excuse. You
3 get to pick your week. If you will have a seat, the
4 clerk will give you a time. Understand now, that is
5 your week to serve, so make sure your company
6 understands it.

7 JUROR: It is just me.

8 THE COURT: You don't have any employees? Excuse
9 me, I thought you -- I thought you said you had a
10 company and -- but you are it?

11 JUROR: I'm it.

12 THE COURT: Oh, that changes. No. 18 -- I was a
13 little slow on the uptake on that one -- he's his boss
14 and employee, sole proprietor, claiming statutory
15 exemption. You are free to leave. Thank you, sir.
16 Good luck in your business.

17 JUROR: Thank you.

18 THE COURT: Your name and number?

19 JUROR: A Sharon Madden, 441. I'm moving to New
20 York, and my closing is on Monday, and my last day of
21 work -- I'm a paralegal -- is this Friday, so it's
22 kind of --

23 THE COURT: You're leaving Monday?

24 JUROR: We're going to New York. And I have my
25 contract if you wanted to see it.

JURY SELECTION

1 THE COURT: No, ma'am. 441 will be -- no need to
2 transfer her, because she will not be a citizen of
3 Horry County after Monday.

4 JUROR: Sorry. Sorry.

5 THE COURT: Yes, ma'am.

6 JUROR: Debra Inman.

7 THE COURT: 344. What is your situation?

8 JUROR: I had asked for medical reasons. I had
9 told the lady when I brought the summons in if I
10 needed a doctor's note, she said I would receive a
11 letter, but I haven't received anything.

12 THE COURT: What is your situation? What is your
13 doctor's care? What are you treated for?

14 JUROR: I'm treated for heart and arthritis in my
15 back.

16 THE COURT: Well, if you can get your note, you
17 can avoid the term. I'll transfer you to a term, but
18 if you get your doctor's excuse, and it satisfies the
19 clerk, then you can be excused. But you are being
20 transferred. If you will, take a seat over there.

21 Your name and number?

22 JUROR: Kapui Leon Rodriguez, 416.

23 THE COURT: And your situation?

24 JUROR: Single mom and only one that has income
25 in the household. I have a three-year-old son, and he

JURY SELECTION

1 requires therapy after school twice a week.

2 THE COURT: So you work so that you can take care
3 of that need as well?

4 JUROR: Yes.

5 THE COURT: 416 is entitled to the exemption of
6 small children care. You are free to leave.

7 Okay.

8 JUROR: I'm an EMT. I was just deployed and
9 returned on the 4th with FEMA for hurricane relief,
10 and I'm on mandatory now with my company for disaster
11 relief for Dorian here in this state.

12 THE COURT: Okay. 431 is transferred to another
13 term because of a conflict and special need. If you
14 will, take a seat on that first row or second row.
15 The clerk will be with you as soon as she's here.

16 Good morning. Name and number?

17 JUROR: Daniel McCosby, 438.

18 THE COURT: What is your situation?

19 JUROR: Starting a new position in my company. I
20 need to be there for the next couple of weeks to
21 oversee the transition and participate in job
22 training, and I also felt I wasn't able to be
23 impartial.

24 THE COURT: Why?

25 JUROR: Given how closely I have followed it in

JURY SELECTION

1 the media and discussions.

2 THE COURT: 438 is transferred to another term.

3 If you will, take a seat on that side.

4 Your name and number?

5 JUROR: Maureen Schmitz, 624. Yeah, since my
6 husband's passing, I'm the main breadwinner of the
7 family and also under a doctor's care.

8 THE COURT: For what?

9 JUROR: Post-traumatic Stress Disorder.

10 THE COURT: How long have you been under the
11 care?

12 JUROR: About two years now.

13 THE COURT: 624 is excused for statutory reasons.
14 Thank you.

15 Name and number?

16 JUROR: 738, Carol Vealey. I have this letter I
17 had sent in.

18 THE COURT: No. 438 is excused for statutory
19 reasons. Thank you.

20 Your name and number?

21 JUROR: Theresa Lange.

22 THE COURT: No. 402.

23 JUROR: Thank you. I have a doctor's note. I
24 have bad migraines where I can't concentrate and
25 sometimes get sick. It is not good.

JURY SELECTION

1 THE COURT: Have you sent that to the clerk?

2 JUROR: I sent it to you guys, but I brought a
3 copy.

4 THE COURT: If it's been filed, it is -- 402 is
5 excused for statutory reasons. Thank you.

6 JUROR: Thank you. Have a good day.

7 THE COURT: You, too.

8 Name and number?

9 JUROR: Christopher Olup, 534.

10 THE COURT: And what is your situation?

11 JUROR: Sole provider for my family, my wife and
12 my stepson. There is no other income and I also work
13 as an operations manager for Janiking, which I have to
14 take care of all of the clients. I'm the only one
15 that can do that. But, more importantly, it is a
16 financial hardship that I would endure.

17 THE COURT: I understand that, and that's a
18 legitimate complaint, but that does not excuse you
19 from jury service. I'll transfer you to a term where
20 you can make arrangements, but you need to make
21 arrangements. But that is the term you have to work,
22 all right. So you can pick a time that is a slow time
23 for you.

24 JUROR: Maybe something like that would work.

25 THE COURT: 534 will be transferred. Thank you.

JURY SELECTION

1 Take a seat over there and the clerk will deal with
2 you.

3 Name and number?

4 JUROR: I have a child -- Vanessa Yon, 796.

5 THE COURT: How old is your child?

6 JUROR: Five. I'm the only one that can pick him
7 up.

8 THE COURT: And you work arrangements so you can
9 pick him up when he needs to be?

10 JUROR: Yeah.

11 THE COURT: And your number -- 796, small child
12 exemption. She's free to leave. Thank you. She can
13 leave.

14 Yes, ma'am, your name and number?

15 JUROR: Elizabeth Mines.

16 THE COURT: 493. Your situation?

17 JUROR: Today is the anniversary of four months
18 since my grandchild died. He was 18 months old, and
19 I'm not doing well. I don't think I can -- I just
20 cry.

21 THE COURT: I understand, and that is normal.
22 I've had the unfortunate -- not as long as you had
23 your child, but I had a child that didn't live that
24 long, so I know the struggle that you have.

25 493 is excused for statutory reasons. Thank you.

JURY SELECTION

1 Your name and number?

2 JUROR: 325, Joyce Horton.

3 THE COURT: What is your situation?

4 JUROR: I'm a bad diabetic, and I have a son
5 incarcerated in Sumter Lee (sic) County.

6 THE COURT: So that would be, what, a problem for
7 you?

8 JUROR: I'm diabetic. I take insulin.

9 THE COURT: Well, diabetics sit on juries every
10 day, so that is not a problem. Thank you, ma'am. You
11 can remain. We'll have a second qualification that
12 may affect that, but 325 will remain. Take a seat.
13 Ma'am, you can go downstairs, and we'll be down with
14 you very shortly.

15 Name and number?

16 JUROR: Christina Devaney, 175.

17 THE COURT: What is your situation?

18 JUROR: My daddy just passed away in April, and I
19 moved in with my mother to be her primary caretaker.
20 She's 78 and has Parkinson's and in a wheelchair.

21 THE COURT: 175 is excused. She cares for a
22 person over 65. You are free to leave.

23 Your name?

24 JUROR: Jason Ouellette. I've been convicted of
25 a couple of felonies.

JURY SELECTION

1 THE COURT: What were they?

2 JUROR: Possession of meth. Also, I'm kind of
3 running a business.

4 THE COURT: 537 is excused for statutory reasons.
5 Thank you, sir.

6 Name and number?

7 JUROR: 502, Morales Vasquez. I'm a physician at
8 the VA clinic in Myrtle Beach. Their patients have
9 been waiting for over a month to see me, and that's
10 why I can't.....

11 THE COURT: I'll transfer you, but the clerk will
12 give you a term and you will have to serve then, so
13 make arrangements for that.

14 JUROR: Okay.

15 THE COURT: These are the ones I'm transferring.
16 I didn't know if you give a special term. Tell me
17 where they are to go, and I'll start sending them
18 there.

19 Take a seat over there.

20 THE CLERK: I'm sorry, I didn't know you were up
21 here.

22 THE COURT: Well, we just decided to do it.

23 JUROR: Derek Jordan, 372.

24 THE COURT: Mr. Jordan.

25 JUROR: Owner/operator of a dump truck and a

JURY SELECTION

1 grain farmer. I'm the only person.

2 THE COURT: You got it. You fit both, the
3 original, a grain farmer. Your number again?

4 JUROR: 372.

5 THE COURT: 372 is claiming statutory exemption
6 of sole proprietor. Thank you.

7 Don't see many of those anymore; it's a shame.

8 Yes, sir.

9 JUROR: I'm the head pastor of Living Vine
10 Ministries, and we have churches and families down in
11 the Bahamas that have been completely wiped out and
12 I'm heading up the disaster relief of getting down
13 there. I have to be on the ground tomorrow.

14 THE COURT: I got you. Thank you. No. 467 will
15 be transferred.

16 COURT REPORTER: I'm sorry, he didn't give his
17 name.

18 THE COURT: Yeah, your name?

19 JUROR: Brad McClendon.

20 THE COURT: I appreciate what you are doing down
21 there. God bless you.

22 Okay.

23 JUROR: 61, Courtney Branch. I'm a caregiver for
24 my parents in North Carolina, specifically my
25 66-year-old disabled mom. She's an amputee in a

JURY SELECTION

1 wheelchair.

2 THE COURT: So you live in North Carolina?

3 JUROR: I'm driving back and forth. I spend
4 probably three or four days there, and I come back.

5 THE COURT: And your number?

6 JUROR: 61.

7 THE COURT: 61 is claiming the exemption of
8 caregiver for a person over the age of 65.

9 Your name and number?

10 JUROR: Sandra Jeffcoat, 360.

11 THE COURT: Yes, ma'am.

12 JUROR: I didn't mark it on my paper because I
13 didn't know if I would be classified as a caregiver,
14 but I take care of a 77-year-old lady. She's on
15 oxygen and needs help.

16 THE COURT: I mean, are you paid to do that?

17 JUROR: No. I do it as a -- I help her out.

18 THE COURT: But you don't have --

19 JUROR: I'm not an actual caregiver, that is why
20 I said that, but I do take care of her, because she
21 has no one else to do it.

22 THE COURT: That may qualify for a transfer to
23 make arrangements to have someone take care of them
24 while you are not there. This case could go into next
25 week, so I'll transfer. 360 is transferred. Take a

JURY SELECTION

1 seat over there, they'll tell you when you need to
2 come back.

3 THE CLERK: Judge, as they come up, can you ask
4 their mileage. They were not asked downstairs for
5 their mileage.

6 THE COURT: I'm sorry.

7 THE CLERK: It's all right. It is my fault. I
8 didn't know you were up here.

9 THE COURT: No problem.

10 JUROR: I don't have the slip. I'm Janice Moore,
11 No. 500. My mother has multiple sclerosis, so I make
12 all of her medical decisions, and also I'm a
13 practitioner with Little River Medical Center and
14 so --

15 THE COURT: You care for your mom?

16 JUROR: She's at Loris Nursing Home, but she is
17 not able to make any decisions. She has a feeding
18 tube, seizures. I sent in a statement earlier in
19 regards to that. I do all of the decision-making.

20 THE COURT: That is fine, but that does not
21 qualify for the exemption. I can transfer you to a
22 term where you can make arrangements to provide care
23 for a period of time. What is your mileage?

24 JUROR: I drove from Little River.

25 THE COURT: Little River.

JURY SELECTION

1 THE CLERK: 25. If it is different, call us back
2 and let us know, but right now I'll put you down for
3 25.

4 JUROR: And I'm also a primary care provider at
5 Little River Medical Center.

6 THE COURT: That is fine. That doesn't give you
7 an excuse. 500 will be transferred. Thank you. Take
8 a seat over there.

9 Hello. Name and number?

10 JUROR: Oliver Watters, 758.

11 THE COURT: Your mileage, how far did you drive?

12 JUROR: About 20 miles.

13 THE COURT: Okay.

14 JUROR: The reason is I have a nine-month-old. I
15 work in the morning, and my wife works at night.

16 THE COURT: So you alternate?

17 JUROR: Yeah. Sometimes we have a babysitter,
18 and sometimes we don't.

19 THE COURT: That is one of my things. 758 is
20 claiming exemption for small children. You are free
21 to leave. Thank you.

22 Good morning. Name and number?

23 JUROR: Angelo Magliocco, 442. I have a wedding
24 on Saturday, and I plan to leave Wednesday. I have no
25 problem serving another time.

JURY SELECTION

1 THE COURT: I appreciate that. Your mileage
2 today?

3 JUROR: From Socastee, about 14 miles.

4 THE COURT: 442 is transferred. If you will,
5 take a seat over there. They'll tell you a new term.
6 Thank you.

7 JUROR: 292, Corey Harper.

8 THE COURT: Mileage?

9 JUROR: 11.4.

10 THE COURT: Thank you.

11 JUROR: I served on April 30th, 2018.

12 THE COURT: So you are claiming the three-year
13 exemption?

14 JUROR: Yeah.

15 THE COURT: Your number?

16 JUROR: 292.

17 THE COURT: 292 is claiming the exemption for
18 prior service. You are free to leave. Thank you,
19 sir.

20 Good morning.

21 JUROR: Krystal Causey, 103.

22 THE COURT: And your mileage?

23 JUROR: 22 miles. And my concerns, I have two.
24 I work for Horry County School District, Loris High
25 School. I had sent in a letter earlier requesting

JURY SELECTION

1 that --

2 THE COURT: You work in a school?

3 JUROR: Yes. I'm a year-round employee.

4 THE COURT: You want to claim the exemption for
5 school employee?

6 JUROR: Yes, please.

7 THE COURT: You got it. And your number?

8 JUROR: 103.

9 THE COURT: 103 is claiming her exemption for
10 school.

11 Yes.

12 JUROR: I'm a nuclear inspector and I'm working
13 over in Augusta, Georgia, and we have lots of
14 deadlines. I am the one that has to sign off on the
15 things.

16 THE COURT: Your name? Sonny Cross?

17 JUROR: Yes.

18 THE COURT: No. 145.

19 JUROR: Yes.

20 THE COURT: How far did you drive from your home?

21 JUROR: 250 miles.

22 THE COURT: No. No. Not where you are staying
23 now. Where is your home here?

24 JUROR: 25 miles.

25 THE COURT: All right. I can transfer you, but

JURY SELECTION

1 you have to serve a term.

2 JUROR: How long is the transfer?

3 THE COURT: Sir?

4 THE CLERK: Maybe two, three months out.

5 THE COURT: Two to three months out.

6 JUROR: Is this a one-week thing.

7 THE COURT: Could go into next week, I don't
8 know, but the next one will probably be a one-week
9 term.

10 JUROR: There is only two of us.

11 THE COURT: I appreciate it, and I know -- I
12 understand. That is one of the significant parts --
13 you won't hear this, but some of the ones will hear my
14 remarks about that, that is one of the beauties of our
15 system, no one here wants to be here, and people are
16 making sacrifices to be here.

17 (The following was had in open court.)

18 THE COURT: I'm going to share this with all of
19 you, but it sums it up. It has been about seven years
20 ago. I was holding court in Charleston, and some of
21 you -- I don't know -- you all probably haven't been
22 excused for that magical number, but if you reach that
23 magnificent age, and when I first started practicing
24 law I thought it was extremely old until I joined the
25 club, but if you reach your 65th birthday, you have an

JURY SELECTION

1 exemption. This gentleman was 81 and he decided to
2 serve. In fact, he was on the jury in a case that I
3 tried, and at the end of the case -- he had problems
4 with his legs. In fact, when we called his name, he
5 didn't respond, didn't respond. I called twice and,
6 finally, I heard, Come on legs, move. He stood up.
7 Well, he waited until all of the jurors would come in
8 or leave so he didn't hold them up. When everyone
9 finished the case, I told him, Mr. Smith, thank you
10 for serving, and the next breath, I mean it was
11 instantly and it gave me chills then and gives me
12 chills every time I say it, he said, You don't have to
13 thank me. There are men and women that are
14 sacrificing for you and I to be able to do this right
15 now. This is the least I can do for my country. And
16 I thought, Thank you, sir. You put it all in
17 perspective.

18 So that is why I understand it is a sacrifice,
19 but that is part of the game.

20 145 will be transferred. You will take a seat
21 there.

22 (Whereupon, each juror is brought up individually
23 for a bench conference out of the hearing of open
24 court, but with all attorneys present.)

25 JUROR: Sorry.

JURY SELECTION

1 THE COURT: That's me, I'm throwing things
2 around.

3 Your name and number?

4 JUROR: Kiera Marsh, 451.

5 THE COURT: What's your situation?

6 JUROR: Two small children, elementary school,
7 and I'm responsible for getting them and my niece off
8 the bus.

9 THE COURT: How old are they?

10 JUROR: Six -- five and eight. I'm also waiting
11 to accept a job that they told me I could get -- they
12 are not calling it --

13 THE COURT: You have one under seven?

14 JUROR: Yes.

15 THE COURT: You claim the exemption?

16 JUROR: Yeah. I've never done jury duty.

17 THE COURT: I understand. 451 claims exemption
18 for small children. And your mileage?

19 JUROR: I have no idea. I live on Highway 90
20 next to 22.

21 THE CLERK: I'll give you 20. If you find it is
22 different, call us back.

23 JUROR: Okay. Thank you so much.

24 (The following is had in open court.)

25 THE COURT: I didn't ask the first question for

JURY SELECTION

1 the first ones. We need to get your mileage to pay
2 you for coming if you are excused. So think how far
3 you drove. You heard the gentleman -- and I'm not
4 being critical, but I understand he drove 250 miles,
5 but that is not from his home, that is from where he
6 is working.

7 (Whereupon, each juror is brought up individually
8 for a bench conference out of the hearing of open
9 court, but with all attorneys present.)

10 THE COURT: Your name and number?

11 JUROR: Robert Shepherd, 642. I work out of
12 town, currently in Macon, Georgia, about 400 miles
13 away.

14 THE COURT: How long will you be working there?

15 JUROR: I've been there since June, and we have a
16 few more months. Then we're supposed to be moving and
17 switching to North Carolina, Asheville. It's
18 construction.

19 THE COURT: So you don't -- how often do you live
20 here?

21 JUROR: Depends on the break in between jobs.
22 Not much.

23 THE COURT: What do you want me to do with the
24 transfer? Can you accommodate him in a term?

25 THE CLERK: Yes, sir. We can -- I mean, if he

JURY SELECTION

1 can tell us a time that works best for him, we can
2 transfer him to that time.

3 THE COURT: You have to serve a term. Your
4 number?

5 JUROR: 642.

6 THE COURT: 642 will be transferred. Your
7 mileage?

8 JUROR: Round trip?

9 THE COURT: From your home.

10 JUROR: 20.

11 THE COURT: Thank you.

12 And your name?

13 JUROR: Laura Kennedy, 381.

14 THE COURT: How far did you travel?

15 JUROR: Four, five miles.

16 THE COURT: What is your situation?

17 JUROR: I have severe rheumatoid arthritis and
18 disabled because of it. I didn't get my paper until
19 Friday before the storm, and my doctor is in Murrells
20 Inlet to get a note. I can get a note, just today is
21 the first available day to go get one.

22 THE COURT: 381 is excused for statutory reasons.
23 Have a good day.

24 JUROR: Do I need to send a letter?

25 THE COURT: No, ma'am, you are good.

JURY SELECTION

1 You are good with that?

2 MR. HELMS: Yes, sir.

3 THE COURT: Mileage?

4 JUROR: Four, five.

5 THE COURT: Good morning.

6 JUROR: Diane Gaskins, 241.

7 THE COURT: How far did you drive?

8 JUROR: 23. We have moved. When I received
9 this, I looked at that address, but we have moved to
10 Georgetown, Murrells Inlet, just over the line.

11 THE COURT: Did you decide to move when you got
12 this? I'm teasing. No. 241, we may see her in
13 Georgetown, but can't serve here. She's no longer a
14 resident of Horry County. Thank you. You are free to
15 leave.

16 Name and number?

17 JUROR: 52, Laurissa Bittner. My parents are in
18 Pennsylvania, and my father is in and out of the
19 hospital since March. My mother just had surgery and
20 can't drive, and so this week is my week to take care
21 of her. My brother and I are alternating. Plus, I
22 served last March.

23 THE COURT: You served in circuit court?

24 JUROR: Yes.

25 THE COURT: Would you like to claim that

JURY SELECTION

1 exemption?

2 JUROR: I would like to.

3 THE COURT: 52 is excused for prior service in
4 circuit court. Thank you.

5 JUROR: Joan Smith, 659.

6 THE COURT: How far did you drive?

7 JUROR: 16 miles.

8 THE COURT: Thank you.

9 Next.

10 JUROR: I'm going on a cruise on the 24th .

11 THE COURT: You are good to go. You can take --
12 -- we'll make sure that you don't miss your cruise, I
13 promise. 659 will remain. If you will go back
14 downstairs.

15 I'm going to be finished by the 24th, and I'll
16 tell you this, we'll start popping whips if we have to
17 (laughing). 611(a) is a great rule (laughing).

18 Yes, ma'am, your number and name?

19 JUROR: 208, Anna Maria Eulo.

20 THE COURT: Your situation?

21 JUROR: I'm so nervous. I work two jobs. If I'm
22 not working, there is no one that helps me.

23 THE COURT: I understand.

24 JUROR: I have no family here. I'm going to go
25 under if I don't work. I mean that with all of my

JURY SELECTION

1 heart. I'm going under now.

2 THE COURT: Ma'am, I understand that, and I have
3 heard that. I've been doing this for 26 years, you
4 can't imagine how many times I have heard that. I'm
5 not a mean person, but that is not an excuse.

6 JUROR: They don't pay me, though.

7 THE COURT: If they don't pay you for jury
8 service, you need to go see a lawyer, because I can
9 tell you the case -- there is a case out of
10 Summerville, where I grew up, that got sued because
11 they didn't pay someone when they served on a jury.

12 JUROR: I can't --

13 THE COURT: Ma'am, I'm telling you to see a
14 lawyer. I can't give you legal advice. I'll transfer
15 you. I can postpone it for awhile. How far did you
16 drive?

17 JUROR: 27 miles.

18 THE COURT: Good morning. How are you?

19 JUROR: Great. No. 74, Michelle Brown. I
20 appreciated you what said about the veterans. I'm a
21 wife and a caretaker of a 100 percent disabled
22 veteran. I have his prescription form from his VA
23 doctor --

24 THE COURT: No, ma'am. Thank you for doing that.
25 How old is he?

JURY SELECTION

1 JUROR: My husband is 52.

2 THE COURT: But you are the caregiver?

3 JUROR: I am. He has chronic pain disorder and
4 permanently disabled.

5 THE COURT: That is under the exemption of the
6 care person of any age who has a physical or mental
7 condition requiring constant care, and you're that
8 caregiver.

9 JUROR: I am.

10 THE COURT: 74 is excused. Tell him thank you,
11 and thank you for what you do.

12 How are you?

13 JUROR: Good, thank you. 671, Terry Speck.

14 THE COURT: Yes, sir.

15 JUROR: I have a 1979/1980 marijuana conviction.

16 THE COURT: Simple possession?

17 JUROR: No, it's a felony. I never had it
18 expunged.

19 THE COURT: Listen, I won't give you my whole
20 spiel, but I think it is the biggest injustice we have
21 in this state if someone does that, but when was that?

22 JUROR: '79. Long time ago.

23 THE COURT: Tell me about it. I remember. I
24 lived it, Brother (laughing). Don't ask me what I was
25 doing in '69 and '70. 71 is excused for statutory

JURY SELECTION

1 reasons. How far did you drive?

2 JUROR: 25 miles.

3 THE COURT: Good. Take care of yourself.

4 He was convicted of possession with intent to
5 distribute marijuana in '79.

6 Okay. Good morning.

7 JUROR: Teresa Carol, 98.

8 THE COURT: And your situation?

9 JUROR: Unfortunately, I had failed back surgery
10 ten years ago and I'm restricted in sitting.

11 THE COURT: Have you given this to the clerk?

12 JUROR: Yes. I sent it with the questionnaire.

13 THE COURT: All right. That's fine. No. 98 is
14 excused for statutory reasons. Have a good day. How
15 far did you drive?

16 JUROR: 6 miles.

17 THE COURT: Good morning.

18 JUROR: Ida Small, 653. The reason I'm here, I
19 sent in a doctor's note saying I have chronic pain in
20 my back. I can't sit down much, and I can't stand
21 much. I'm a diabetic, and there is no one there to
22 take my son to and off the bus. I think her name is
23 Crystal Smalls, she works here and --

24 THE COURT: 653 is excused for statutory reasons.
25 Thank you. How far did you drive, Ms. Smalls?

JURY SELECTION

1 JUROR: 26.

2 THE COURT: 26.

3 Good morning. Your name and number?

4 JUROR: 300, Vernia Hawver.

5 THE COURT: Yes, ma'am.

6 JUROR: I would like to know if I can be excused.

7 My husband is 70 years old and had heart surgery, and
8 we've been down here five years, but really don't know
9 no one here to watch him.

10 THE COURT: So you take care of him?

11 JUROR: Yes.

12 THE COURT: 300 is excused because of exemption
13 for taking care of a person over the age of 65. How
14 far did you drive?

15 JUROR: Eight miles.

16 THE COURT: Thank you, ma'am.

17 Name and number?

18 JUROR: Jaquetta Armstrong, No. 13.

19 THE COURT: Okay. Yes, ma'am.

20 JUROR: When I got the summons to come to jury
21 duty, I was in the hospital and they sent the papers
22 to my mom's address, and I was trying to let them know
23 I have Lupus and multiple appointments to get
24 infusions two times a week.

25 THE COURT: 13 is excused for statutory reasons,

JURY SELECTION

1 medical reasons. You are free to leave. How far did
2 you drive?

3 JUROR: 22 miles.

4 THE COURT: Thank you.

5 Heather, I'm sorry.

6 THE CLERK: That's okay.

7 THE COURT: Good morning. Yes, ma'am.

8 JUROR: My name is Lynn Edge, Juror No. 199. I'm
9 the caregiver of my twin grandsons, two years old. I
10 keep them Monday through Friday 8:00 to 6:00.

11 THE COURT: Because why?

12 JUROR: Because I'm the babysitter and I'm
13 grandma and take care of them.

14 THE COURT: They don't have any physical issues
15 other than just being young?

16 JUROR: That is it. Rambunctious boys.

17 THE COURT: And you don't have custody either?

18 JUROR: No, sir.

19 THE COURT: I'm a grandparent, six of them, and
20 my wife takes care of ours, but that doesn't qualify
21 you, so.

22 JUROR: Can I transfer?

23 THE COURT: You are going back downstairs. See
24 you shortly. Thank you, ma'am.

25 Good morning. How are you?

JURY SELECTION

1 JUROR: Good.

2 THE COURT: Name and number?

3 JUROR: Rathell Dailey, 151.

4 THE COURT: And your situation?

5 JUROR: A few, sir. First of all, I live
6 paycheck to paycheck, sole proprietor. The case
7 before this, Tammy Moorner, I have watched her and the
8 attorneys the whole time. Me and Mr. Jerry are
9 associated.

10 THE COURT: 151 is excused. Thank you very much.
11 No objection?

12 MR. HELMS: No, sir.

13 THE COURT: Yes, sir.

14 JUROR: 583, Jeff Randall Richardson.

15 THE COURT: Yes, sir.

16 JUROR: Medical issues, lower back. Can't sit
17 that long. I sent a doctor's letter.

18 THE COURT: Doctor's letter, all right. 583 is
19 excused for medical reasons.

20 JUROR: 15 miles.

21 THE COURT: Thank you, appreciate it.

22 Yes, sir, your name and number?

23 JUROR: Eugene Horne, 324. When I got the
24 summons, I treat ponds and lakes for a living. I
25 basically kill algae, so it is peak season for me, so

JURY SELECTION

1 when I got the summons, they said get a letter from
2 your company, because I wanted to be transferred to
3 the winter. I sent them a letter, and they scheduled
4 me for September.

5 THE COURT: They had to, because we have to do
6 this -- to make a record. That's correct. 324 is
7 transferred to a time that is not peak season of his
8 business. If you will, have a seat. They will deal
9 with you.

10 JUROR: Also, came from Garden City.

11 MR. BOUCHETTE: About 25 miles.

12 THE COURT: Good morning.

13 JUROR: Good morning. 211, Fouad Fakhouri. I'm
14 a professional for Horry County Schools for special ed
15 kids. My principal e-mailed Ms. Lara about it is very
16 hard to replace me.

17 THE COURT: I can help you. I can help you. 211
18 is claiming exemption of necessary employee with the
19 school system. Thank you, sir. You are free to
20 leave.

21 Name and number?

22 JUROR: Joyce Fenney, 214. I can cancel my
23 request. My employer believes in civic duty and they
24 have cleared my schedule for two weeks.

25 THE COURT: Fantastic. Thank you. Looking

JURY SELECTION

1 forward to maybe working with you. You can go back
2 downstairs. We'll see you very shortly.

3 Yes, sir.

4 JUROR: Paul Jay Martin, 456. I'm a patent
5 attorney, and I own my own law firm and the sole
6 practitioner.

7 THE COURT: When you say you own your firm, do
8 you have someone working for you?

9 JUROR: Receptionist.

10 THE COURT: That doesn't meet the necessary --

11 JUROR: Well, she --

12 THE COURT: You aren't going to get by me, I'm
13 sorry. I'll tell you this, having been an attorney
14 for 21 years and owning my own firm, I know the
15 problems associated with it, but if I excuse you, I
16 have to excuse 90 percent of the people. Thank you,
17 sir. You can go downstairs.

18 MS. LIVESAY: Can we transfer him so he can make
19 plans?

20 JUROR: I have weekly filings and my docket goes
21 out, and she can't because she doesn't have a digital
22 certificate.

23 THE COURT: You've never been transferred before?

24 JUROR: No.

25 THE COURT: 456 will be transferred. Thank you,

JURY SELECTION

1 Nancy.

2 JUROR: I'm Aubree Bantugan, No. 23. I don't
3 think I'm appropriate for this jury because I work
4 with the cousin of Heather Elvis, and we've discussed
5 the case.

6 THE COURT: So you have knowledge?

7 JUROR: Yes.

8 THE COURT: And it would be difficult for you to
9 set that aside?

10 JUROR: Yes.

11 THE COURT: Your number?

12 JUROR: 23. 18 miles.

13 THE COURT: Thank you.

14 Yes, sir.

15 JUROR: Hi, how are you all doing?

16 THE COURT: Good. Name and number?

17 JUROR: 75, Quincy Brown.

18 THE COURT: Yes, sir.

19 JUROR: I thought I was sitting here for -- I'm
20 not sure why I'm here. I didn't tell them I wanted to
21 be excused.

22 THE COURT: We don't have a Quincy Brown. What
23 is your number?

24 JUROR: 75.

25 THE COURT: He's been excused.

JURY SELECTION

1 THE CLERK: I have both parties agreed to excuse
2 him.

3 THE COURT: You are free to go. You've been
4 previously excused, thank you.

5 MS. LIVESAY: Yes, sir.

6 THE COURT: What is your mileage?

7 JUROR: I think 30 miles.

8 THE COURT: Okay. Next.

9 JUROR: Ashley Clark, 114. I don't know why I'm
10 here. I don't know if it is because I put I'm a
11 student, but it's on-line. I don't know why I'm up
12 here.

13 THE COURT: All right. So nothing prevents you
14 from serving on the jury?

15 JUROR: I mean, I heard stuff on the news, but
16 other than that, no.

17 THE COURT: Does that cause you to not apply your
18 commonsense and fairly and impartially and base your
19 decision on the evidence and the law?

20 JUROR: No, sir.

21 THE COURT: And you would be fair to the State
22 and the defendant?

23 JUROR: Yes.

24 THE COURT: Go back downstairs. 114, thank you.

25 JUROR: And it was about 15 miles to get here.

JURY SELECTION

1 THE COURT: How are you?

2 JUROR: Good. How are you?

3 THE COURT: Good. Fine. Thank you. Better
4 every minute.

5 JUROR: Stephanie Coulis, 131. I was talking to
6 her, because I wasn't sure why I was called up here,
7 because I couldn't afford to lose a week's worth of
8 work, and I also have allergy testing to be done the
9 25th.

10 THE COURT: 25th, no problem with that.

11 JUROR: I also know M.E. [REDACTED], so I didn't
12 know if maybe that is why I got called up here. I
13 work at Starbucks and she comes in my store several
14 times a week.

15 THE COURT: Does that affect you?

16 JUROR: A little. I mean, I do like her, you
17 know what I mean.

18 THE COURT: There is nothing --

19 JUROR: And she also used to do my facials when I
20 went to Ultra, so I talked to her three, four times a
21 week.

22 THE COURT: 131 is excused.

23 Your name and number?

24 JUROR: John Fleischman, 220.

25 THE COURT: Yes, sir.

JURY SELECTION

1 JUROR: I'm not sure. I didn't formally request
2 to be excused.

3 THE COURT: Do you have knowledge of this case?

4 JUROR: Yes.

5 THE COURT: Would that affect you?

6 JUROR: Possibly. I'm nervous. Sorry.

7 THE COURT: Let me tell you -- one of the
8 things -- there is a second qualification, and that is
9 really what we're doing now, because we qualify you.
10 But as I would tell the jury, and if you go downstairs
11 I'll tell you again, the main question a juror has to
12 do is -- the second qualification is to whether --
13 help you decide whether you can be a judge with me.
14 We have two different roles. I'm the judge of the
15 law, and you are a juror, judge of the facts, and that
16 means that at the appropriate time, you apply your
17 commonsense, logic and reason, analyze the evidence,
18 testimony of the witnesses, exhibits that might be
19 introduced into that, and that is it, and decide what
20 you believe to be the truth. Then once making that
21 decision, you take the law and apply it fairly and
22 impartially to the facts. The question is, and it is
23 the last question I would ask, I ask all jurors, is
24 there anything that would give you any concern about
25 your ability to make that commitment to both sides,

JURY SELECTION

1 that your decision would be based on the evidence and
2 the law, and fair to both sides? Could you make that
3 commitment?

4 JUROR: I could do my best. I'm sorry.

5 THE COURT: I appreciate that, and that
6 hesitation is the biggest clue I've had in my 26
7 years. No. 220 is excused. Thank you. You are free
8 to leave. What is your mileage?

9 JUROR: I live up the street, not even a mile.

10 THE COURT: We'll give you a one-mile-and-a-half
11 because he stayed long (laughing).

12 Good morning. How are you?

13 JUROR: Good. How are you?

14 THE COURT: Great. Thanks. Your name and
15 number?

16 JUROR: Jennifer Gruca, 274.

17 THE COURT: What is your situation? You filed --
18 did you -- she was one of the --

19 THE CLERK: She has a lot of knowledge.

20 THE COURT: Have you reached a conclusion on this
21 case?

22 JUROR: No.

23 THE COURT: The fact that you have knowledge does
24 not affect you? You could set that aside and base
25 your decision on the evidence and the law?

JURY SELECTION

1 JUROR: Uh-huh.

2 THE COURT: And fair to both sides?

3 JUROR: Absolutely.

4 THE COURT: 274 will remain. If you will, go
5 downstairs. We'll be with you shortly.

6 JUROR: 15 miles.

7 THE COURT: Good morning.

8 JUROR: Good morning. I don't know why I'm up
9 here. I didn't ask to be up here. 329.

10 THE COURT: Do you have some knowledge about it,
11 read about it?

12 JUROR: Yeah.

13 THE COURT: But wouldn't affect you, influence
14 your decision?

15 JUROR: I don't think so, not if I -- I'm going
16 to hear both sides, if I'm chosen.

17 THE COURT: That is perfect. We'll talk about
18 that. 329 will remain. Go downstairs, and we'll be
19 with you shortly.

20 JUROR: I think -- it took me 30 minutes, so I'm
21 guessing 20 miles; is that about right?

22 THE COURT: In Charleston, it would be 15 -- no.
23 No. (laughing)

24 JUROR: Well, I wouldn't tell you if I was
25 speeding. (laughing)

JURY SELECTION

1 THE COURT: Good morning.

2 JUROR: Jere Johnson, 364. I'm asking for an
3 exemption today because my wife and I sold our home in
4 Myrtle Beach and closing on the 30th of this month
5 and moving to Lakeland, Florida.

6 THE COURT: No need to transfer you then. 364
7 will be excused. He's moving from the area fairly
8 shortly, no need to transfer. Good luck to you.
9 Thank you. Privilege being with you. How far did you
10 drive?

11 JUROR: 15. Thank you.

12 THE COURT: How are you doing?

13 JUROR: All right. 25 miles.

14 THE COURT: Michael Jones?

15 JUROR: Yes.

16 THE COURT: 370.

17 JUROR: Yes, sir. I knew one of the witnesses,
18 so I don't feel comfortable.

19 THE COURT: I appreciate that. And my
20 understanding is that you will not be able to consider
21 that witness the same as any other witness, that
22 witness you would --

23 JUROR: This particular case, not so.

24 THE COURT: That's fine. 370 is excused. Thank
25 you. Have a good day.

JURY SELECTION

1 Good morning, sir.

2 JUROR: Jessie Kaufer, 377. I had concerns about
3 missing out on work. It's the busy season here, and
4 how far I drive since I moved.

5 THE COURT: Where do you live?

6 JUROR: North Myrtle Beach.

7 THE COURT: We can transfer you to another term.
8 377 will be transferred. If you will take a seat over
9 there, the clerk will deal with you shortly.

10 Yes, sir.

11 JUROR: Michael Lee, 409.

12 THE COURT: Yes, sir.

13 JUROR: I don't know. She called my number and
14 told me to come up here.

15 THE CLERK: I saw that he had quite a bit of
16 knowledge.

17 THE COURT: Would that influence you in this
18 case?

19 JUROR: Yeah, probably. I would think so. I
20 mean, I seen a documentary on it and my fiancée would
21 love to be on the jury, just so you know.

22 THE COURT: I understand. Thank you for that
23 last statement. 409 is excused. That's a runaway
24 jury.

25 Yes, sir.

JURY SELECTION

1 JUROR: Juror No. 458. My wife is a plaintiff's
2 attorney, and I also record video depositions for
3 Horry County and Georgetown, and I didn't want to -- I
4 wanted to be sure that I was clear.

5 THE COURT: Not a problem. My question to you,
6 and you have to make that call, would that affect you
7 in how you applied your commonsense, sense of logic
8 and reason in analyzing the evidence?

9 JUROR: I believe I could be not biased, but I
10 would want -- I'm worried that I would end up the
11 person that hangs from a tree because they say --

12 THE COURT: No, sir. Don't worry about
13 anything -- the biggest question you have to ask, and
14 to me it is a question that sums it up, you have
15 familiarity with the system, the last thing I will
16 charge you is when you may start your deliberations,
17 but until that point, you have to keep an open mind
18 about everything and can only change that through your
19 analytical process. You decide what you find to be to
20 credible and believable, and then take that evidence
21 and/or the facts you conclude, apply the law and it
22 has to be fair to the state and to Mr. Moorner. Would
23 you be able to make that commitment to both sides?

24 JUROR: I possibly could, yes.

25 THE COURT: No. You really -- I mean, there is a

JURY SELECTION

1 second qualification. We'll identify some witnesses,
2 and you don't know all of them yet, so there could be
3 some things, but now I think we better deal with that.
4 458, if you will go back downstairs.

5 JUROR: Yeah. No problem. Thanks.

6 THE COURT: Question that one. Not sure which
7 way either. Plaintiff's lawyer?

8 Yes, sir.

9 JUROR: 688. I'm not sure why I'm here.

10 THE COURT: Did you say you have knowledge?

11 JUROR: Yeah. I have read and seen several
12 things over the years.

13 THE COURT: Would that affect you?

14 JUROR: I think so. I mean, it is hard for me to
15 distinguish what I already know and heard versus
16 facts.

17 THE COURT: So you couldn't follow the
18 instruction to set that aside?

19 JUROR: I don't know, you know, if I could
20 separate the two.

21 THE COURT: That doesn't mean you are bad, but
22 you are the only person that knows the answer to that.
23 Your number?

24 JUROR: 688.

25 THE COURT: 688 is excused. Thank you. Mileage?

JURY SELECTION

1 JUROR: 22.

2 THE COURT: Next.

3 JUROR: Good morning.

4 THE COURT: How are you?

5 JUROR: Fine, Your Honor. Ian Tripp, Juror 723.

6 THE COURT: What's your situation? Do you know
7 why you are here?

8 JUROR: I have no idea.

9 THE COURT: Did you say you had knowledge of this
10 case?

11 JUROR: I believe so, based on what I know from
12 the juror back here.

13 THE COURT: Have you made a conclusion about
14 that?

15 JUROR: In what way?

16 THE COURT: Would you be able to take that
17 knowledge, listen and base your decision solely on
18 what you hear in the courtroom?

19 JUROR: Certainly.

20 THE COURT: And apply it in -- your decision
21 would be based on the evidence and favorable on each
22 sides?

23 JUROR: Yes, sir.

24 THE COURT: 723, go downstairs and we'll be with
25 you shortly.

JURY SELECTION

1 Good morning.

2 JUROR: John Lowes. I'm an electrical
3 contractor. No. 432. I would like to be excused from
4 jury duty. I'm self-employed and only employee that I
5 have.

6 THE COURT: You are your boss and employee?

7 JUROR: Boss, ditchdigger and all.

8 THE COURT: I hear you. 432 is exercising the
9 exemption of sole proprietorship.

10 JUROR: Eight miles is my distance. Thank you.

11 THE COURT: Good morning. How are you?

12 JUROR: Doing good. Charles Hardee, No. 287.
13 I'm the caretaker of my wife; she's disabled.

14 THE COURT: How old is she?

15 JUROR: 55.

16 THE COURT: But totally disabled?

17 JUROR: Oh, she's been disabled for 20 years.

18 THE COURT: And your number?

19 JUROR: 287.

20 THE COURT: 287 exercising his exemption as
21 caregiver for a person who has a condition that
22 requires constant care, and you are the caregiver.
23 Thank you. Your mileage?

24 JUROR: 16.

25 THE COURT: Thank you, sir.

JURY SELECTION

1 Good morning.

2 JUROR: 317, Keith Hofseth. I recently have been
3 diagnosed with prostate cancer. I have pre-ops
4 Wednesday and surgery on the 23rd. I would like to
5 be excused.

6 THE COURT: I will. I hope all goes well. Being
7 a male, they say if we live long enough, we'll all
8 have that situation. I hope everything goes well.

9 JUROR: I'm pretty young for it, but thank you.
10 Also, three miles.

11 THE COURT: 317 is excused. Thank you, sir.

12 Next. How are you?

13 JUROR: Good. 447, Alicia Mancil. I have three
14 small children, ten, seven and three.

15 THE COURT: You got it. 417 -- 447 is exercising
16 the exemption for small children. Good luck, Mom.

17 I wouldn't trade places with her for anything.

18 Thank you all. And for those of you that were
19 transferred, what do they need to do?

20 THE CLERK: Give me a second and I'll get their
21 mileage. They'll receive a letter in the mail telling
22 them their new time.

23 THE COURT: She'll deal with that shortly. Thank
24 you for your patience, and hope you enjoy your term
25 when you have it. Thank you.

JURY SELECTION

1 (A recess was taken.)

2 THE COURT: All right. Ladies and gentlemen,
3 thank you very much. We're now moving to that second
4 qualification that I told you where I'm going to tell
5 you a little bit about this case and tell you some of
6 the persons that will be participating. And, of
7 course, as I stated, there are no correct answers to
8 this. These are questions that -- and I use this as a
9 very trite example for what I'm talking about, but
10 probably says it best. If you hear the name of
11 someone that you have been very close to in your life,
12 families have taken vacations together, you know, been
13 good friends for probably 20 years, you know, you
14 probably won't be a fair and impartial judge in that
15 situation and evaluating that creditability. The flip
16 side of that, if someone lives on your block and when
17 they come outside you make sure you go inside because
18 you don't want anything to do with them, you probably
19 won't be fair and impartial in that one either. Those
20 are the extreme bookends, but all that is designed --
21 the first -- in this case, it is a criminal case. In
22 every criminal case, the State of South Carolina is
23 one of the parties. They are the party that makes the
24 accusation. In this case they've accused Mr. Moorner
25 of the crimes of kidnapping and conspiracy to kidnap.

JURY SELECTION

1 First, I would like to introduce to you
2 Mr. Moorner. He's seated to the table at my left.
3 If you will stand and face the jury panel for me.
4 He's the gentleman on the end here to the left.
5 Thank you, you may be seated.

6 Are there any members of the jury panel related
7 by blood or marriage, have any business dealings,
8 socially or casually acquainted with, have any
9 connection with Mr. Moorner; if so, please stand?

10 Yes, sir.

11 JUROR: I worked at TGI Fridays. He was the
12 subcontractor for us, and I have probably about 20
13 times met him.

14 THE COURT: Would that affect or influence you?

15 JUROR: Yes, it would.

16 THE COURT: Your number, please?

17 JUROR: 637.

18 THE COURT: 637 will be excused. Have a great
19 day, sir.

20 Anyone else?

21 Thank you. There appears to be none.

22 Mr. Moorner is represented in this matter by
23 Mr. Gilmore (sic) and Mr. Bouchette. If you will
24 identify yourselves, please, and your law firm.

25 MR. GALMORE: I'm James Galmore from Horry County

JURY SELECTION

1 Public Defender's Office.

2 MR. BOUCHETTE: I'm Jarrett Bouchette. I'm
3 working with the Johnny Gardner Law Group.

4 THE COURT: Thank you. Are there any members of
5 the jury panel related by blood or marriage, have any
6 business dealings with, socially or casually
7 acquainted with, ever been represented by
8 Mr. Bouchette or Mr. Galmore or the public defender's
9 office or the Johnny Gardner Law Firm; if so, please
10 stand?

11 Thank you. There appears to be none.

12 The circuit public defender for this circuit
13 would encompass Horry County and Georgetown County --
14 yes, sir?

15 MR. GALMORE: Yes, sir, you said circuit public
16 defender?

17 THE COURT: Yeah, that is Ms. West.

18 MR. GALMORE: Yes, sir.

19 THE COURT: I was going to tell them that.

20 It is Ms. Orrie West. Any member of the jury
21 panel related by blood or marriage, have any business
22 dealings with, socially or casually acquainted with,
23 ever been represented by Ms. West; if so, please
24 stand?

25 Thank you. There are none.

JURY SELECTION

1 She has stated offices in Horry and Georgetown
2 County. Any member of the jury panel related by blood
3 or marriage, have any business dealings with, socially
4 or casually acquainted with anyone that works for
5 Ms. West in either of the offices; if so, please
6 stand?

7 Thank you. There appears to be none.

8 The solicitor for this circuit is Mr. Jimmy
9 Richardson. Are there any members of the jury panel
10 related by blood or marriage, have any business
11 dealings, socially or casually acquainted with, been
12 represented by Mr. Richardson; if so, please stand?

13 Thank you. There appears to be none.

14 As the circuit public defender, Mr. Richardson
15 has offices in Georgetown and in Horry County. If any
16 member of the jury panel is related by blood or
17 marriage, have any business dealings with or socially
18 or casually acquainted with anyone employed in either
19 of these offices; please stand.

20 Thank you. There are none -- I'm sorry, yes,
21 sir. Excuse me, sir.

22 JUROR: My older sister works for the solicitor's
23 office.

24 THE COURT: Would that affect you, sir?

25 JUROR: No, sir.

JURY SELECTION

1 THE COURT: Will you base your decision on the
2 evidence and the law, and would that decision be fair
3 to both the State and to Mr. Moorer?

4 JUROR: I would.

5 THE COURT: Thank you, sir. Your name and
6 number, please?

7 JUROR: 249.

8 THE COURT: Thank you, sir. You may be seated.
9 Anyone else?

10 Thank you. There appears to be none.

11 Mr. Richardson has a number of assistants and
12 deputies that assist them. We have two here that
13 assist him, Mr. Helms and Ms. Livesay, identify
14 yourselves, please.

15 MS. LIVESAY: Thank you, Judge. I'm Nancy
16 Livesay. I work with the solicitor's office here in
17 Horry County.

18 MR. HELMS: My name is Chris Helms, and I also
19 work with the solicitor's office here in Horry County.

20 THE COURT: Any member of the jury panel related
21 by blood or marriage, have any business dealings with,
22 socially or casually acquainted with, have any
23 connections with either, or ever been represented by
24 Ms. Livesay or Mr. Helms; if so, please stand?

25 Thank you. There appears to be none.

JURY SELECTION

1 I'm going to identify a number of persons, ladies
2 and gentlemen. If you are related by blood or
3 marriage to any of these persons, have any business
4 dealings with them, socially or casually acquainted
5 with them, you need to stand and share that
6 information. You can wait to stand until I've gone
7 through the entire list.

8 The following persons are employed with the Horry
9 County Police Department: John Martin, Kenneth
10 Canterbury, Greg Lent, Brian Wilson, Jill Domogauer,
11 Lindsey McGraw, Steven Hardee, Jeff Cauble, Brian
12 Scales, Derrick Ard, Heather Brummett, Lori Rabon,
13 Robbie Caulder, Suzanne Demarest, Drew Edwards,
14 Bernard Grate, Steven Hardee, James -- excuse me, Mack
15 -- Mic Kathman, John Lewis, Jonathan Martin, Thomas
16 McMillian, Jonathan Rabon, Steven Rhew --

17 MS. LIVESAY: Rhew (pronounes)

18 THE COURT: Rhew, Marcus Rhodes, Tabitha Smith,
19 Daniel Spencer, Jeffery Todd, Damon Vescovi, Casey
20 Guskiewicz. Any of these persons; if so, please
21 stand.

22 Yes.

23 JUROR: I'm close personal friends with Casey
24 Canterbury.

25 THE COURT: Would that affect you?

JURY SELECTION

1 JUROR: Absolutely.

2 THE COURT: You would not be able to consider the
3 testimony of that witness the same as other witnesses?

4 JUROR: Not a chance.

5 THE COURT: Name and number?

6 JUROR: Liz Dodge, 181.

7 THE COURT: You are excused.

8 Yes.

9 JUROR: I know Heather Brummett by just being
10 friends.

11 THE COURT: Would that affect you?

12 JUROR: No, sir.

13 THE COURT: Would you be able to consider
14 testimony the same as any other witness?

15 JUROR: I would.

16 THE COURT: And you could base your decision on
17 the evidence and the law and be fair to both sides?

18 JUROR: Yes, sir, I will.

19 THE COURT: 188, Mark Donevant.

20 THE COURT: Thank you, sir.

21 Anyone else?

22 Thank you. There appears to be none.

23 Also, Roxanne Bethea-Love with South Carolina Law
24 Enforcement, Jim Perry with the Greenville Sheriff's
25 Office, Lindsey McGraw with the Spartanburg County

JURY SELECTION

1 Sheriff's Office, Chip Squires with Horry County
2 Sheriff's Office, Bo Barton with SLED, South Carolina
3 Law Enforcement, James Johnson also with SLED, Randy
4 Truss with SLED, Trooper Leach, Trooper Alban, Trooper
5 Luther and Skipper, all with South Carolina Highway
6 Patrol; any of those persons?

7 Thank you. There appears to be none.

8 In the following: Jessica Cooke, Megan Bonfert,
9 Courtney Bazzarre, Brianna Warrelmann, Bob Rubb, Kevin
10 Suggs, Dale Buchanan, Tim Troxell, Jeff Cauble, Robert
11 Kegler, Terry Elvis, Debbie Elvis, M.E. [REDACTED], Polly
12 Caison, S.C.M. [REDACTED], N.M. [REDACTED], Ashley Caison,
13 Josh Michaels, Larry Moorner, Frank McCormick, Elaine
14 Moorner, J.M. [REDACTED], Laura Garlitz, Will Lynch, Grant
15 Fredericks, Jimmy Shirling, Aaron Edens, Pete Cestare,
16 Devin Soles, Ron Witt, Amanda Nigro, Joyce Aland,
17 Chris Teems, Jody Davenport, David Quandt, Susan
18 Johnson, Donald Demarino, Steven Schiraldi, Karen
19 Polhemus, Bud Henry, Jimmy Gunter, Carmen Muredu,
20 Shannon Boiling, Dennis Hart, Kevin Hummell, Caleb
21 Hemore, Beth Hemore, Tammy Moorner, Richard Rosenbaum,
22 Mitchell Sumpter, Matt Bieben, Todd Goings, Dave
23 Wheeler, Jimmy Shirling, Chemere Sherman, Grey Amick,
24 Heather Roche, Jack Stewart, John Aland, Dave Wheeler,
25 Chris Mason, Lori McClendon, LeAnn Wiland, Michele

JURY SELECTION

1 Fleury, Patricia Besselman, Penny Schiraldi, Sheila
2 Causey, Terri Prynick, Terry Richardson, Spence --
3 Ginger Popp with the solicitor's office, Steven Brown
4 also an investigator with the solicitor's office,
5 Marcus Bell with the South Carolina Department of
6 Corrections, Clifford Powell with South Carolina
7 Department of Corrections, James Rosenblume with South
8 Carolina Department of Corrections, Kevin Levon with
9 South Carolina Department of Corrections and Mitchell
10 Sumpter; any of those persons?

11 JUROR: Yes, Your Honor. M.E. [REDACTED], I went to
12 school with her pretty much from kindergarten through
13 graduation.

14 THE COURT: Would that affect you?

15 JUROR: No, sir.

16 THE COURT: Would you consider her testimony the
17 same as any other witness?

18 JUROR: Yes.

19 THE COURT: Would you base your decision on the
20 law and evidence and fair to both sides?

21 JUROR: Yes.

22 THE COURT: Name and number?

23 JUROR: Ian Tripp, 723.

24 MS. LIVESAY: We need to add one more, the name
25 Steven Silver.

JURY SELECTION

1 THE COURT: Steven Silver.

2 Yes, ma'am.

3 JUROR: I competed in pageants with M.E. .

4 THE COURT: Would that affect you?

5 JUROR: No, sir.

6 THE COURT: If that person would testify, would
7 you consider the testimony the same as any other
8 witness?

9 JUROR: Yes, sir.

10 THE COURT: Would your decision be based on the
11 law and evidence and fair to both sides?

12 JUROR: I'm sorry, could you repeat that?

13 THE COURT: Would your decision be based on the
14 evidence and the law and fair to both sides?

15 JUROR: Yes.

16 THE COURT: Your name and number?

17 JUROR: Allison Bratcher, 65.

18 THE COURT: Thank you so much. You may be
19 seated.

20 All right. Also the following: Stephanie Sutton
21 with Wells Fargo, Ellen Barry with Sam's Club, Mike
22 Melson with Hawk Analytics, Ryan Keep with Sprint,
23 he's a representative that works for Sprint, Bruce
24 Koenig with Video Forensic Analysis, Spencer
25 Macenvail, Eric Broboski, both of those with Envista

JURY SELECTION

1 Forensics, Dr. Kim Collins, the custodian of the
2 records with Waccamaw Mental Health. Any of those
3 persons?

4 Yes.

5 JUROR: Allen Barry from Sam's Club.

6 THE COURT: Would that affect you?

7 JUROR: No, sir.

8 THE COURT: Would you be able to consider his
9 testimony the same as any other witness?

10 JUROR: Yes, sir.

11 THE COURT: And, again, would your decision be
12 based on the evidence and law and fair to both sides?

13 JUROR: Yes, sir.

14 THE COURT: And your number?

15 JUROR: 245.

16 THE COURT: Thank you so much. You may be
17 seated.

18 Anyone else?

19 Thank you. There appears to be none.

20 Ladies and gentlemen, what brings us here is what
21 I'm going to share with you, and it is what it appears
22 to you to be two pieces of paper. The technical name
23 for them is called an indictment. It merely contains
24 the accusations against Mr. Moorser. It is not
25 evidence. It wouldn't accompany you to your jury room

JURY SELECTION

1 for those of you that will be selected as jurors. It
2 just merely brings the parties here and frames the
3 issues, so to speak, and that is the purpose of it.

4 I need to share with you what is alleged to ask
5 you questions about it. It is alleged that these two
6 indictments -- one charges Mr. Moorner with kidnapping,
7 and the other conspiracy to kidnap. It alleges that
8 Mr. Moorner did, in Horry County, on or about
9 December 18, 2013, unlawfully seized, confined,
10 inveigled, decoyed, kidnapped, abducted or carried
11 away one, Heather Elvis, without authority of the law
12 and in violation of the statute which prescribes the
13 conduct of kidnapping.

14 It is also alleged that Mr. Moorner, along with
15 Tammy Caison Moorner, did, in Horry County, on or about
16 December 18, 2013 entered into an agreement,
17 confederation or conspiracy to violate the provisions
18 of the section I just talked about, and that is to
19 kidnap Ms. Elvis, and did an overt act toward carrying
20 out such unlawful agreement, confederation or
21 conspiracy, which violates the statute prescribed in
22 conspiracy to kidnap.

23 I share that with you, ladies and gentlemen, to
24 find out if any member of the jury panel has heard
25 anything -- let me -- every member of this panel, did

JURY SELECTION

1 you file the information which was attached to your
2 jury summons? If anyone didn't, please stand.

3 Thank you.

4 Any member of the jury panel heard anything, read
5 anything, have any prior knowledge of this dispute
6 other than what you have placed on that report form
7 that you filed and sent back in? If there is any
8 additions or modifications you wish to make, please
9 stand.

10 JUROR: I grew up on 814 where, I guess, they
11 used to live.

12 THE COURT: Would that affect you?

13 JUROR: Yeah, kind of.

14 THE COURT: What is your name and number?

15 JUROR: Kevin Laughlin, 406.

16 THE COURT: 406 is excused. You are free to
17 leave.

18 Yes.

19 JUROR: Since I filled out that paper, I'm
20 relatively new to the State. I have been in touch
21 with my hairdresser and neighbor, and they all have
22 offered me different opinions.

23 THE COURT: You don't need to share what they
24 offered. Would that affect you?

25 JUROR: Yes.

JURY SELECTION

1 THE COURT: Thank you. And your name and number?

2 JUROR: 48, Laurie Biondi.

3 THE COURT: Thank you very much. Not to single
4 you out, but I appreciate it, because what I said to
5 you all downstairs when I qualified you of why I have
6 such respect for this process, you are an example of
7 that, and I thank you, because you have -- it's
8 changed your position, and that is precisely why I
9 believe so strongly in this. I think we need to take
10 this seriously.

11 JUROR: I am honest.

12 THE COURT: Ma'am, you have done everything you
13 are supposed to do to make this system work. Thank
14 you. Your number?

15 JUROR: 48.

16 THE COURT: No. 48 is excused. Have a great day.
17 Anyone else?

18 Yes, sir.

19 JUROR: Since filling that out, I did have
20 discussions with a friend of mine that --

21 THE COURT: It may have affected you?

22 JUROR: It affected me a lot, but without saying
23 something that, I may mess up.

24 THE COURT: I understand. It would affect your
25 ability to be fair and impartial?

JURY SELECTION

1 JUROR: I'm afraid it will.

2 THE COURT: Don't be afraid. Thank you again.

3 You are doing exactly what I asked, is there anything
4 about this case that would give you any concern about
5 your ability to be fair and impartial and applying
6 your common sense, and that is what you are telling
7 me.

8 JUROR: Yes.

9 THE COURT: Number, please?

10 JUROR: 385.

11 THE COURT: 385 is excused. Thank you. You are
12 another shining example of that.

13 The rest of you?

14 Yes.

15 JUROR: I worked at Broadway at the Beach, so I
16 have a lot of mutual friends.

17 THE COURT: You think that will affect you?

18 JUROR: Yes.

19 THE COURT: Number?

20 JUROR: 448.

21 THE COURT: 448 is excused. Thank you.

22 Yes, sir.

23 JUROR: I knew Heather. I worked with her at The
24 House of Blues.

25 THE COURT: You think it would affect you?

JURY SELECTION

1 JUROR: Yes. 51.

2 THE COURT: 51 is excused.

3 JUROR: My husband was --

4 COURT REPORTER: She needs to speak up.

5 JUROR: My husband was actually really good
6 friends with Heather.

7 THE COURT: That would affect you?

8 JUROR: Yes.

9 THE COURT: Your number?

10 JUROR: 640.

11 THE COURT: 640 is excused. Thank you.

12 Any others?

13 For those that did, that is why I said I believe
14 in it, but for those of you that sit, that is also why
15 I believe in it. You filled it out and stand by your
16 responses, and I appreciate that. Frankly, that
17 expedites it tremendously because we have your
18 recorded response, and the State and Mr. Moorner have
19 every right to rely on that to be a hundred percent
20 accurate, and they can now do so, so thank you very
21 much for that.

22 Are there any members of the jury panel that have
23 ever been involved in any type of criminal dispute,
24 either you were accused, knew someone, testified for
25 them or vice-versa, you were the person who against

JURY SELECTION

1 whom the crime was allegedly committed and you had to
2 testify, or you testified for someone who had been
3 accused or been a victim of a crime; if you had,
4 please stand?

5 All right. I'll ask you to come forward.

6 (Whereupon, the following jurors were brought up
7 for a bench conference one at a time so as to be out
8 of the hearing of open court or any other juror.)

9 JUROR: How are you?

10 THE COURT: Good.

11 JUROR: I'm a former federal agent. I appeared
12 before Congress on a number of cases testifying
13 against criminal acts against people and
14 infrastructure, aircraft. There was one incident
15 where an individual -- an incident happened on my
16 aircraft where they tried to pilot the aircraft. I
17 disclosed that in my questionnaire, but I don't
18 feel....

19 THE COURT: My question to you is would you apply
20 your life's experiences in that capacity fairly and
21 impartially?

22 JUROR: Oh, absolutely.

23 THE COURT: And you could base your decision on
24 the evidence and the law?

25 JUROR: Absolutely.

JURY SELECTION

1 THE COURT: And be fair to both the State and
2 Mr. Moorer?

3 JUROR: Absolutely.

4 THE COURT: Your number?

5 JUROR: 559.

6 THE COURT: Thank you. Yes, sir.

7 JUROR: It was so long ago, I don't know, but I
8 think it was Hurricane David, I was accused of
9 stealing a dock floating down the Waccamaw River,
10 because of the circumstances, we had a lot of money
11 from bike week, I pled guilty.

12 THE COURT: So you were accused?

13 JUROR: Yeah.

14 THE COURT: Would that affect you?

15 JUROR: No.

16 THE COURT: You can base your decision on the
17 evidence and the law and be fair to both sides?

18 JUROR: Yes.

19 THE COURT: And your number?

20 JUROR: 641.

21 THE COURT: 641 will remain. Thank you.

22 Next. Yes, sir.

23 JUROR: Okay. I've been a victim of a crime
24 involving my license plate being stolen from my car at
25 work. My mother has been a victim recently involving

JURY SELECTION

1 identity fraud, check fraud and credit card fraud.

2 THE COURT: Would any of that affect you?

3 JUROR: I'll be honest, not so much that, but the
4 fact I'm a night auditor and don't get a lot of sleep,
5 that would, I'll be honest with you.

6 THE COURT: All right. Your number?

7 JUROR: 277.

8 THE COURT: 277 is excused.

9 (The following is had as a bench conference with
10 the Court and the attorneys only.)

11 THE COURT: Anyone else? Any specific questions?

12 MR. HELMS: I don't.

13 MR. BOUCHETTE: No.

14 (The following was had in open court.)

15 THE COURT: Ladies and gentlemen, the last
16 question, as I mentioned to you, and I save it for
17 last because it sums up and encompasses everything
18 we're about. You are -- one of the first acts is that
19 you will stand and raise your right hand and take an
20 oath similar to the oath I gave. What you will do is
21 promise that at the appropriate time, you will apply
22 commonsense and sense of logic and reason, analyze the
23 evidence in this case fairly and impartially in
24 deciding what you find to be true facts. Once you
25 decide those true facts collectively as a jury, you

JURY SELECTION

1 will take the law and apply that law fairly and
2 impartially to both sides. Is there anything about
3 this case that would give you any concern -- I'll
4 teach you how to turn that down (laughing) -- the
5 reason I say that is I have to do it to my computer,
6 too. I share your pain.

7 MR. GALMORE: Sorry. Yes, sir.

8 THE COURT: Is there anything about this case,
9 anything that you have heard that would give you any
10 concern about your ability to make that commitment to
11 Mr. Moorer, the State, to the Court and each other; if
12 there is, please stand?

13 I'll ask you to come forward. Thank you.

14 (Whereupon, the following jurors were brought up
15 for a bench conference one at a time so as to be out
16 of the hearing of open court or any other juror.)

17 JUROR: The questionnaire, my sister-in-law was
18 murdered in 2006 in Horry County. Knowing what I know
19 about this case, I don't feel I can be impartial.

20 THE COURT: Again, I'll thank you. Your number?

21 JUROR: 212.

22 THE COURT: Sorry you had to endure that.

23 212 is excused. Have a great day, sir.

24 Yes, sir.

25 JUROR: I know a lot about this case. I know

JURY SELECTION

1 he's been convicted of lying, obstruction of justice.
2 Unfortunately, I don't think I can do this.

3 THE COURT: Don't be unfortunate. Thank you for
4 being honest. That is why I believe in this system.
5 Your number?

6 JUROR: 634.

7 THE COURT: 634 will be excused.

8 (The following is had in open court.)

9 THE COURT: Anybody else?

10 Thank you, ladies and gentlemen. What will
11 happen is your names will be drawn at random. I don't
12 know how they used to do it in 1973. In Berkeley
13 County, when I worked for a law firm, you had a child
14 or a person that had impaired vision to come draw out
15 of a drum the names, and that is how we selected the
16 jury. Then we got real sophisticated where we got
17 these capsules and stuck the names in so anyone can
18 draw it, except for one thing, if you wanted to draw
19 more than one jury, you had to get all the capsules to
20 go back in the box, so that didn't work. That is
21 wasted time. Computers, right? (Laughing)

22 MR. GALMORE: Yes, sir. (Laughing).

23 THE COURT: Now, we have a statute that says we
24 do it by computer. Your name is drawn at random. You
25 will be called one at a time, and I'll ask you to come

JURY SELECTION

1 forward and, basically -- you have them stand about
2 here?

3 MR. HELMS: Yes, sir.

4 THE COURT: About where this box is, and you face
5 your fellow jurors and the parties to this dispute.
6 Each side can have -- the State has five strikes.
7 Mr. Moorer has ten. Each side can excuse a juror, and
8 we go through the process. They'll say seat the
9 juror, or excuse the juror, swear the juror, something
10 similar. And we'll go through that until we fill the
11 box with 12 persons, and then we will select three
12 alternates.

13 Please understand something, if they say excuse
14 the juror, don't be offended by that. That is just
15 the way the process works. You shouldn't put any
16 emphasis on that. It doesn't mean a thing. If they
17 seat you, likewise, they are saying you can be a judge
18 and we look forward to working with you.

19 So we'll go through that process, and we'll have
20 the entire jury panel. It shouldn't take much longer.

21 You have our list? It is coming? Check is in
22 the mail?

23 THE CLERK: Do you want me to shuffle the whole
24 crew, or pull a list of 35? We have 107 left.

25 THE COURT: Let's do the first 50. It would be

JURY SELECTION

1 done quicker.

2 MS. LIVESAY: Whatever you think is best.

3 THE COURT: Well, we have a total of 15 strikes
4 and then nine, so that is 24 strikes, 15 people, that
5 is 39, so I think 50 is sufficient.

6 MS. LIVESAY: Yes, sir.

7 THE COURT: Do you agree?

8 MR. GALMORE: Yes, sir. That is fine.

9 THE COURT: 50 is a good number.

10 Once that is done, we'll start calling the names
11 and I'll turn it over to the clerk. Thank you for
12 your patience. I said 2:00. We're a little late, but
13 we're close.

14 (A brief pause in the proceedings.)

15 (Whereupon, a bench conference was had.)

16 THE COURT: Thank you very much. I appreciate
17 that. Oddly enough, it is not -- well, it is mine
18 because I work for the chief justice, but the former
19 chief justice said cell phones, if they go off in a
20 court proceeding, that that violates the order and
21 that means it is contempt of court. I, unfortunately,
22 had to do that three -- four occasions in my career.
23 One of them was here in a death penalty case. A phone
24 went off by one of the persons that had come from out
25 of state, just a support person. It was an old

JURY SELECTION

1 couple -- well, I was probably older than she was, but
2 I cautioned her. She was from another state, and I
3 told her to make sure you do that. The Solicitor was
4 Greg Hembree at that time. During his argument, I
5 said make sure your phones are off. Well, in the
6 middle of his argument, the phone rang, and it rang,
7 and it rang. Finally, I leaned over and said you come
8 back at 3 o'clock. It makes you realize -- it was
9 disruptive, there is no question. That is the reason
10 for it.

11 I did put one person in jail for that, and I was
12 prepared to do that, because it happened to be a
13 person that worked for a newspaper. I said -- he told
14 me when he went to work his son was ill and his wife
15 was out of town, so he called and said if anything
16 happens, I'll take you to school, but call me. I
17 thought, you know, I guess that is a small child.

18 But please don't have that on. Most of you won't
19 have to worry about it, because after today, you will
20 be sitting over there, and not here. You are welcome
21 to come back if you want, but I have a sneaky
22 suspicion you probably won't.

23 Are we ready?

24 THE CLERK: Yes, sir.

25 THE COURT: I'll turn it over to you.

JURY SELECTION

1 THE CLERK: When I call your name and juror
2 number, come to the front of the courtroom, stand in
3 front of Ms. Dahl, our court reporter, and face the
4 back of the courtroom.

5 Juror 641, Russell Shaw. What say the State?

6 MS. LIVESAY: Please present this juror.

7 THE CLERK: Defense.

8 MR. BOUCHETTE: Please seat the juror.

9 THE CLERK: Please be seated in the jury box.

10 Juror 329, Sharon Hubach.

11 MR. HELMS: Sorry, the number again?

12 THE CLERK: 329. What say the State?

13 MS. LIVESAY: Please present this juror.

14 THE CLERK: Defense.

15 MR. BOUCHETTE: Please excuse this juror.

16 THE CLERK: You're excused from this particular
17 case.

18 270, Charlotte Grissett. What say the State?

19 MS. LIVESAY: Please excuse this particular
20 juror.

21 THE CLERK: You're excused from this particular
22 case.

23 454, Everett Martin. What say the State?

24 MR. HELMS: I apologize, but we were downstairs;
25 we were going really fast and out of order. Can I ask

JURY SELECTION

1 what he does for a living and his spouse?

2 JUROR: I'm not married. I work for Extra Space
3 Storage. I'm manager.

4 MR. HELMS: Thank you, sir.

5 THE COURT: And same to you all, if you need
6 that.

7 MS. LIVESAY: Please present this juror.

8 THE CLERK: Defense.

9 MR. BOUCHETTE: We'll thank you, but excuse this
10 juror.

11 THE CLERK: You're excused from this particular
12 case.

13 648, Wanda Simms. What say the State?

14 MS. LIVESAY: Could you please present this
15 particular juror.

16 THE CLERK: Defense.

17 MR. BOUCHETTE: Please present this juror.

18 THE CLERK: Please be seated in the jury box.

19 274, Jennifer Gruca. What say the State?

20 MS. LIVESAY: Please present this juror.

21 THE CLERK: Defense.

22 MR. BOUCHETTE: Please excuse this juror from
23 service of this case.

24 THE CLERK: You're excused from this particular
25 case.

JURY SELECTION

1 279, Paul Guyton. What say the State?

2 MR. HELMS: Can we ask what he and his wife does
3 for a living?

4 JUROR: I'm a builder. She has a restaurant.

5 MS. LIVESAY: This is 270?

6 JUROR: 279.

7 MR. HELMS: 279.

8 MS. LIVESAY: Thank you. Please present this
9 juror.

10 THE CLERK: Defense.

11 MR. BOUCHETTE: Please present the juror.

12 THE CLERK: Please be seated in the jury box.

13 614, Jolie Sanchez.

14 MR. BOUCHETTE: What is the number again, madam?

15 THE CLERK: 614.

16 What say the State?

17 MS. LIVESAY: Could you please excuse this
18 particular juror.

19 THE CLERK: You're excused from this particular
20 case.

21 Juror No. 1, Sherri Abernathy. What say the
22 State?

23 MS. LIVESAY: Could you please present this
24 juror.

25 THE CLERK: Defense.

JURY SELECTION

1 MR. BOUCHETTE: Please thank and excuse this
2 juror from this case.

3 THE CLERK: You're excused from this particular
4 case.

5 Juror 443, Robert Mahon. What say the State?

6 MS. LIVESAY: Could you please present this
7 juror.

8 THE CLERK: Defense.

9 MR. BOUCHETTE: Please thank and excuse this
10 juror.

11 THE CLERK: You're excused from this particular
12 case.

13 Juror 553, Lisa Picchowiak. What say the State?

14 MS. LIVESAY: Could you please present this
15 juror.

16 THE CLERK: Defense.

17 MR. BOUCHETTE: Please present the juror.

18 THE CLERK: Please be seated in the jury box.

19 56, Ronald Bolster. What say the State?

20 MS. LIVESAY: Please present this juror.

21 THE CLERK: Defense.

22 MR. BOUCHETTE: Please present this juror.

23 THE CLERK: Please be seated in the jury box.

24 399, Tracey Lamb. What say the State?

25 MS. LIVESAY: Please present this juror.

JURY SELECTION

1 THE CLERK: Defense.

2 MR. BOUCHETTE: Please thank and excuse this
3 juror.

4 THE CLERK: You're excused from this particular
5 case.

6 602, Stephanie Rose. What say the State?

7 MR. HELMS: Can we ask her employment and spouse?

8 JUROR: I'm a manager at Chickland's of South
9 Carolina, and I'm single.

10 MS. LIVESAY: Please excuse this particular
11 juror.

12 THE CLERK: You are excused from this particular
13 case.

14 408, Vodessa Lawson. What say the State?

15 MS. LIVESAY: Please present this juror.

16 THE CLERK: Defense.

17 MR. BOUCHETTE: Please present the juror.

18 THE CLERK: Please be seated in the jury box.

19 365, Loretta Johnson. What say the State?

20 MR. HELMS: Can we ask her what she does for a
21 living?

22 JUROR: Housekeeper inspector.

23 MR. HELMS: Your spouse?

24 JUROR: Single.

25 MS. LIVESAY: Please present this juror.

JURY SELECTION

1 THE CLERK: Defense.

2 MR. BOUCHETTE: Please present the juror.

3 THE CLERK: Please be seated in the jury box.

4 572, James Rachel. What say the State?

5 MR. HELMS: Can we ask him what he does for a
6 living?

7 JUROR: Real estate agent.

8 MR. HELMS: And your spouse?

9 JUROR: Banker at First Citizens.

10 MS. LIVESAY: Could you please present this
11 juror.

12 THE CLERK: Defense.

13 MR. BOUCHETTE: Please present the juror.

14 THE CLERK: Please be seated in the jury box.

15 576, Maeghen Ramsey. What say the State?

16 MS. LIVESAY: Would you please excuse this juror.

17 THE CLERK: You're excused from this particular
18 case.

19 236, Gary Gamble. What say the State?

20 MS. LIVESAY: Could you please present this
21 juror.

22 THE CLERK: Defense.

23 MR. BOUCHETTE: Please present the juror.

24 THE CLERK: Please be seated in the jury box.

25 71, Tabitha Britt. What say the State?

JURY SELECTION

1 MS. LIVESAY: Would you please present this
2 juror.

3 THE CLERK: Defense.

4 MR. BOUCHETTE: Please present the juror.

5 THE CLERK: Please be seated in the jury box.
6 718, Ashley Todd. What say the State?

7 MR. HELMS: Could we ask Ms. Todd where she's
8 employed?

9 JUROR: I do private home healthcare.

10 MS. LIVESAY: Please excuse this particular
11 juror.

12 THE CLERK: You are excused from this particular
13 case.

14 199, Lynn Edge. What say the State?

15 MS. LIVESAY: Would you please present this
16 juror.

17 THE CLERK: Defense.

18 MR. BOUCHETTE: We would like to thank and excuse
19 Ms. Edge from this case.

20 THE CLERK: You're excused from this particular
21 case.

22 127, Joanne Contino. What say the State?

23 MS. LIVESAY: Please present this juror.

24 THE CLERK: Defense.

25 MR. BOUCHETTE: Please thank and excuse this

JURY SELECTION

1 juror from service.

2 THE CLERK: You're excused from this particular
3 case.

4 652, Teresa Slate. What say the State?

5 MR. HELMS: Can we ask where she's employed?

6 JUROR: Horry County Schools.

7 MS. LIVESAY: Would you please present this
8 juror.

9 THE CLERK: Defense.

10 MR. BOUCHETTE: Please thank and excuse this
11 juror from service.

12 THE CLERK: You're excused from this particular
13 case.

14 Juror 542, Paul Passey. What say the State?

15 MR. HELMS: Can we ask Mr. Passey where he and
16 his spouse are employed?

17 JUROR: Where we're from?

18 MR. HELMS: Where you are employed, sir.

19 JUROR: I'm a real estate agent, and my wife is a
20 genealogist, self-employed.

21 MS. LIVESAY: Please present this juror.

22 THE CLERK: Defense.

23 MR. BOUCHETTE: Please present the juror.

24 THE CLERK: Please be seated in the jury box.

25 188, Mark Donevant. What says the State?

JURY SELECTION

1 MS. LIVESAY: Could you please present this
2 juror.

3 THE CLERK: Defense.

4 MR. BOUCHETTE: Please thank and excuse this
5 juror from service.

6 THE CLERK: You're excused from this particular
7 case.

8 THE COURT: Each side has used their strikes.

9 THE CLERK: Juror 319, Victoria Holden. What say
10 the State?

11 MS. LIVESAY: Please present this juror.

12 THE CLERK: Defense.

13 MR. BOUCHETTE: Please present this juror.

14 THE COURT: Select alternates. Strikes are one
15 and two.

16 THE CLERK: Three, Judge?

17 THE COURT: Three, please.

18 THE CLERK: Juror 598, James Rodriguez. What say
19 the State?

20 MS. LIVESAY: Please present this juror.

21 THE CLERK: Defense.

22 MR. BOUCHETTE: Please present the juror.

23 THE CLERK: Please be seated in the jury box.

24 174, Deborah Detmer. What say the State?

25 MS. LIVESAY: Please present this juror.

JURY SELECTION

1 THE CLERK: Defense.

2 MR. BOUCHETTE: Please thank and excuse this
3 particular juror.

4 THE CLERK: You are excused from this particular
5 case.

6 559, Danny Poulos. What say the State?

7 MS. LIVESAY: Would you please present this
8 juror.

9 THE CLERK: Defense.

10 MR. BOUCHETTE: Please excuse this juror.

11 THE CLERK: You're excused from this particular
12 case.

13 676, Connie Stanley. What say the State?

14 MR. HELMS: Could I inquire where she's employed?

15 JUROR: Carolina Forest OB/GYN.

16 MS. LIVESAY: Could we present this juror.

17 THE CLERK: Defense.

18 MR. BOUCHETTE: Please present the juror.

19 THE CLERK: Please be seated in the jury box.

20 256, Morgan Gore. What say the State?

21 MR. HELMS: Can I inquire where Ms. Gore works?

22 JUROR: Hardwick Funeral Home.

23 MS. LIVESAY: Please excuse this juror.

24 THE CLERK: You're excused from this particular
25 case.

JURY SELECTION

1 445, Thomas Maillet. What says the State?

2 MS. LIVESAY: Would you please present this
3 juror.

4 THE CLERK: Defense.

5 MR. BOUCHETTE: Please present the juror.

6 THE CLERK: Please be seated in the jury box.

7 THE COURT: Any motions from the State regarding
8 the selection process?

9 MR. HELMS: No, Your Honor.

10 THE COURT: Any motions from Mr. Moorer regarding
11 the selection process?

12 MR. BOUCHETTE: No motions, Your Honor.

13 THE COURT: Thank you very much. Ladies and
14 gentlemen, if you were not selected, thank you very
15 much for your assistance and participation. I'm now
16 going to excuse you for the balance of today. You are
17 given a number, I think, to call. If you will, just
18 call that number tonight. More than likely, it will
19 say call back tomorrow. If it says to call back, just
20 keep calling it until you are excused. Have a good
21 day.

22 (The prospective jurors exit the courtroom.)

23 THE COURT: Fond memories. It's like when it was
24 the last day of high school and everyone went out
25 celebrating.

JURY SELECTION

1 Thank you for your patience as well, ladies and
2 gentlemen. I appreciate your patience. As I
3 mentioned to you, Ms. Dahl has the responsibility of
4 taking down everything we're saying, and obviously you
5 can't -- I can't talk until that is clear, so that is
6 why we had to wait.

7 You have been selected, of course, and
8 handpicked, as you saw. And the seats -- there are
9 three alternates here. We have Mr. Rodriguez,
10 Ms. Stanley and Mr. Maillet. Being an alternate
11 doesn't have a lot of significance right now. It just
12 means that right now I assume we'll have that chair
13 out like that.

14 Bobby, is that where it will be?

15 MR. ROPP: Yes.

16 THE COURT: The three of you are free to sit in
17 any one of the three chairs. While you are an
18 alternate, you have an assigned seat. If at the end
19 of the trial you -- the first 12 that were selected
20 are able to continue, then you won't participate in
21 the final deliberations, but I assure you it is not
22 uncommon to have a juror excused for various reasons,
23 and an alternate just moves on and takes the spot on
24 the jury panel, so do not let that detract your
25 attention from the trial, and I know it won't. My

JURY SELECTION

1 wife says I use sports analogies on most everything,
2 and I probably am guilty, but I remember when I first
3 started, Steve Young was a back-up to Joe Montana. He
4 had to get ready every ball game to play, and he
5 probably didn't play because Montana very seldom
6 didn't play. But that is what you have to be, you
7 have to be ready to go in a moment's notice. So,
8 please, let your attention be focused on this trial.
9 I know it will.

10 The rest of you may sit at any of the seats
11 there. Some have assigned seats. We don't do that
12 here. If you happen -- I've noticed over the years
13 sometimes jurors enjoy keeping a seat, and if that is
14 the case, you all can settle your differences in the
15 jury room about who can sit where, but if you are
16 going to sit at this end, make sure you come out first
17 so you don't have to crawl over everyone to get to
18 that spot.

19 There is only one other assigned seat, and that
20 seat is being occupied by Ms. Holden at this point,
21 and she, as any of the first 12 of you, is eligible to
22 serve. I call them presiding jurors, also known as
23 foreperson, forelady, foreman. The statute allows me
24 to appoint a presiding juror, and many judges do that.
25 I've never done that -- well, I think I did it once

JURY SELECTION

1 first in my career. I let the jury pick their
2 presiding juror. You will select that person from the
3 first 12. Only persons not eligible now are the
4 alternates. They would be eligible if you don't
5 select before a juror is excused, but if you are
6 selected while there are alternates, it has to be from
7 the first 12 of you. Any of you are qualified to
8 serve. The presiding juror has to be responsible for
9 signing the verdict form on behalf of the jury. If
10 there are exhibits introduced, which there will be, it
11 will be your responsibility to receive those, and when
12 the jury completed its deliberations, returning those
13 to the Court. And there may be occasions when it is
14 necessary for the jury to have some written
15 communication with the Court, and it would be your
16 responsibility on behalf of your fellow jurors to
17 actually write that communication. Other than that,
18 there is no additional responsibilities. It's been my
19 observations over the years, and I think that some
20 people are better facilitators than others, and that
21 is what a presiding juror does, facilitates the
22 deliberations and discussions.

23 After you get to know one another, maybe you can
24 select that person, and as I said, it doesn't have to
25 be done right away, but at some point. Once it is

JURY SELECTION

1 done, if you will make us aware of that, and once that
2 person is selected, I ask that that person occupy that
3 seat.

4 Is that how you normally do it, or this side?

5 MR. BOUCHETTE: I think normally on that side.

6 THE COURT: I misspoke. The front row seat on
7 this side. Thank you. I'm used to other places where
8 they come in, but that is okay. When in Rome. So if
9 you will take care of that.

10 You have now been selected. You will take an
11 oath to decide this case on what happens in this
12 courtroom. That is very critical to your decision,
13 and it's very important to the oath that you take
14 because you will make an oath to decide based on the
15 evidence and the law, and that's what you are given
16 here. For that reason, it would be totally
17 catastrophic, and I use that term really
18 intentionally, because we put in a lot of hours, you
19 have, too, and there's going to be more hours, but if
20 a juror discusses this case or gets any information
21 outside of this courtroom, it could jeopardize this
22 trial and it has to be retried. That is how important
23 it is.

24 I share this story, and I know the person didn't
25 mean anything by it. It was a civil case, and

JURY SELECTION

1 sometimes in civil cases we adjourn deliberations and
2 come back the next day. I have done it occasionally,
3 but rarely in a criminal case. But the next day the
4 foreman sent me a note and said, Judge, we have a
5 problem. I said, What was that? He said one of the
6 jurors mentioned this case -- it was a medical
7 malpractice case -- with her husband, and he said you
8 remember we had a niece that had that, that lived in
9 Tennessee. Well, the alternates had been excused at
10 that point, and so that left 11. Both sides would not
11 agree with 11. You can do it with civil, but not
12 criminal. So what did we have to do? Four days of
13 trial went under. I know that person didn't mean
14 anything, and it probably didn't affect that person
15 one iota, but it is that critical that you not discuss
16 it or allow anyone to talk with you about it.

17 Also, you are not to do any independent research.
18 We have computers and we can look up things, and that
19 is great. Once this trial is over, if you want to
20 research anything, please feel free, but until then,
21 do not look on Google and don't look on anything. I
22 share this story because I happened to administer a
23 county officer, and I didn't have -- I have a file in
24 my office, and I just thought I'm not going to go by
25 my office, just go straight and administer the oath

JURY SELECTION

1 first thing in morning. And I thought, Oh, I better
2 get up early and go to my office. Then I said, Wait a
3 minute, I'll Google it. So I Googled the statute, and
4 sure enough, it was there. But there was also a
5 provision, and I probably administered it as a judge
6 maybe five or six times in my career, and I thought,
7 My goodness, I never said that. I never included that
8 in my oath. So I left the next morning and went by my
9 office to check the statute. I checked the
10 supplement, supplement to the code, updates. Well,
11 Google hadn't bothered to check the supplement,
12 because that provision had been repealed. So if you
13 read that and thought it was the oath, it wasn't. So
14 that is the firsthand reason why you don't want to
15 Google anything about this case. You promise to take
16 the law as I give it to you and apply that law fairly
17 and impartially.

18 Also, another thing, and it is very difficult to
19 do, and I just -- you will be reminded of this a lot,
20 and, please, I'm not doing it to suggest that you are
21 not abiding by it, but it is critical you not watch
22 anything, watch any news programs about it, read
23 anything about it. It is not that they report bad
24 news or anything, it is just that sometimes some
25 reporters throw an opinion that sometimes is not just

JURY SELECTION

1 reporting facts. Don't hear that as criticism, I'm
2 not critical, but it's important because you can't
3 read anything or discuss anything until after this
4 trial. So, please, if a news program comes on, turn
5 it off. If you typically read the newspaper, I
6 suggest you don't do that, put it aside. When we
7 finish, you can catch up on the news. If you see an
8 article, just flip it. Don't read anything about it.
9 Because, again, the oath you take will be that you
10 will decide this case based on what happens in this
11 courtroom, and nothing else, so you have to honor that
12 in every respect.

13 Also, at home, if there is someone there, I
14 mentioned to you when I was qualifying about my wife
15 serving on a jury, and my concern about her taking the
16 law as I give it to her. Well, we had finished the
17 trial and we were going to do the last stages, which
18 we'll talk about tomorrow, the arguing and charge, and
19 one of the lawyers kind of acted out, I thought, a
20 little bit in court that day, and I made a comment to
21 her that night at home. I said, Boy, didn't so-and-so
22 act out today. She looked at me and said, You said
23 we're not supposed to talk about it. I said, Excuse
24 me, I'm sorry. Yes, ma'am. That is how serious it
25 has to be. So, I mean, you just can't talk about it,

JURY SELECTION

1 even with someone near and dear to your heart, so just
2 remember that. Just say as soon as I finish the
3 trial, I'll be happy to share it with you, but we'll
4 wait until that happens.

5 Thank you for your patience today. Thank you for
6 your endurance. It is 3 o'clock and none of you have
7 eaten. I'm sorry. You didn't know you were going on
8 the dentist diet plan, but, anyway, I promise you, we
9 won't do that anymore.

10 Do you all need to get information before they
11 leave?

12 MR. ROPP: Yes, sir. I'll take them back.

13 THE COURT: When you leave, you'll exit and the
14 bailiff will take you to where you need to report
15 tomorrow. No need for you to call that number; that
16 doesn't apply to you, obviously. Just come back, and
17 I'll ask you to be in your jury room, please, by
18 9:30 in the morning and we'll start the trial, resume
19 the trial at that time.

20 Have a great evening, and I'll see you tomorrow.

21 (The jury exits at 2:58 p.m., and the
22 following is heard out of the presence of the jury.)

23 THE COURT: Any exceptions or additions to the
24 Court's comments thus far from the State?

25 MS. LIVESAY: No, sir.

MOTIONS - JACKSON v. DENNO

1 THE COURT: From the defendant?

2 MR. BOUCHETTE: No, Your Honor.

3 THE COURT: All right. You want to take a break?
4 That would be a good idea. I don't know that Natalie
5 wants to go right on through.

6 What do you think? 45 minutes? An hour?

7 MS. LIVESAY: 45 is fine.

8 THE COURT: Let's plan to get together at
9 3:45 p.m. Thank you all, and thank you for your
10 patience as well.

11 We'll be at ease until 3:45.

12 (A lunch recess was taken.)

13 THE COURT: Before we get started, I thank the
14 media for their patience this morning with all of the
15 ins and outs and jury situation; that is a difficult
16 time to work out. One of the things that was
17 commented about streaming live stream, and I have no
18 problem with that, but there is one thing brought to
19 any attention in the past, and I have had one
20 occasion, and I don't remember if it was in Charleston
21 at a hearing, where my mic on the bench was picked up.
22 I don't want any of that. I don't want any mics
23 picked up between the attorneys' conversations. I
24 heard that the stream last time, or one time, you
25 could hear the attorneys talking among themselves;

MOTIONS

1 MR. BOUCHETTE: Well, Your Honor, other than the
2 motion that was addressed briefly this morning.

3 THE COURT: Let's do that. Let's put on the
4 record -- and you were kind enough to allow that, and
5 we protected it now here.

6 MR. BOUCHETTE: Your Honor, it is somewhat of a
7 sensitive issue, and I apologize to the Court of --

8 THE COURT: No, I apologize to you. I jumped. I
9 shouldn't have said what I said to you; that was not
10 fair.

11 MR. BOUCHETTE: Thank you, Your Honor. What
12 we're looking at is we have a situation here that, as
13 far as I can tell, it is a first impression. We have
14 the Horry County Clerk of Court, who was elected after
15 the first kidnapping trial, and we have not -- so
16 we're perfectly clear, we haven't alleged any
17 impropriety, bad intent, bad faith on intent of the
18 Clerk of Court, but to the understanding of the
19 defense, she is the aunt of the missing individual,
20 Ms. Elvis. We're looking at a situation where the
21 clerk is, essentially, an extension of the court, and
22 so I would submit that any conflict or anything that
23 would affect the possible perception of impartiality
24 has to be something for the Court to take time to look
25 at. We initially addressed this in our motion to

MOTIONS

1 reconsider on the venue issue, then raised it -- felt
2 like we had to say, listen, we're asking that this not
3 be done. We offered a couple of different
4 alternatives how to address the issue. But we said,
5 listen, we would submit that this is, at least, a
6 perceived conflict, and that you are not to go forward
7 on that ground. That is why the motion was made and
8 for filing it. I understand Your Honor's ruling,
9 certainly not arguing.

10 THE COURT: I understand that. No problem there.
11 The concern I have is -- I understand it. I
12 understand the essence of your position. Frankly, I
13 asked the clerk -- because she's very much involved
14 with this proceeding, as she should be, she's in
15 charge of the courthouse, but I asked her this morning
16 to not be in the courtroom, to let her assistants
17 handle it. If you recall -- and I typically identify
18 the clerk when I comment to the jury that so-and-so is
19 a great clerk and does a good job -- I never said her
20 name today. That was intentional.

21 But aside from that, we've had -- to me, this has
22 been -- I appreciate the work that both sides did in
23 getting the questionnaire, because I think it was
24 extremely helpful, at least for me it was. Especially
25 in getting a jury and having a summary, and we saw

MOTIONS

1 there were three or four that stood up and said, wait
2 a minute, I changed my mind.

3 For me to agree with you, because obviously when
4 you summoned -- I think Ms. Elvis is on the summons to
5 court and -- but nobody -- that means that of those
6 four -- and one of the things I thought was really,
7 for me, impressive and really spoke, and why I said
8 what I said to the jurors remaining, I don't know
9 about you, but in my lifetime if someone suddenly
10 says, wait a minute, I really don't think I can be
11 fair, if I have an inkling, that gives me a feeling,
12 well, I need to do the same thing, I need to stand up.
13 When they stood and they sat, and even at the last
14 question we had three that came forward that said, no,
15 I thought about it, I can't do this. I think all of
16 that is all encompassed in why I ruled why I did,
17 because we have a jury that really and truly, and the
18 majority weren't even on the list that we asked you to
19 look at that expressed an opinion. I don't think any
20 of them are. None of them are on that list. So,
21 basically, you have a jury that I would have to go and
22 say, you know what, they lied. Those 15 people just
23 misrepresented. I don't believe that. I just simply
24 -- it really reinforces, if you will, my decision.

25 I respect you, and I don't fault you for bringing

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1 the motion to reconsider absolutely to preserve the
2 record. I remember how important that is. But, for
3 me, as a judge, I felt better about it after we saw
4 the number of people that we had that were here to be
5 selected. And, frankly, I think the jury is quite
6 impressive, considering everything that we were
7 concerned about.

8 I think it -- let me say also, to credit you all
9 as officers of the court, thank you all for your
10 willingness to do that and get the ones, for the most
11 part, basically made their decisions. I think that
12 was helpful, too. I thank you for your willingness to
13 do that as well. I appreciate your position, and it
14 is protected fully. But if you feel the need to
15 supplement it, do not hesitate, because I know the
16 importance of protecting a record. I appreciate it so
17 much.

18 Anything else?

19 MS. LIVESAY: I have a couple, Judge, I'm sorry.
20 We just have a motion regarding a couple of witnesses,
21 Dennis Hart and J.M. [REDACTED]. They had a prior
22 record. We think under 608 and 609 it shouldn't come
23 up. We had this issue last time, though, because it
24 was asked about through a different witness, and you
25 can't un-ring the bell. So we're asking whether or

THE COURT TO THE JURY

1 MR. BOUCHETTE: No.

2 THE COURT: Bring in our jury.

3 (The jury enters at 9:39 a.m., and the
4 following is heard in the presence of the jury.)

5 THE COURT: Ms. Sims, 648.

6 JUROR: Yes, sir.

7 THE COURT: And the jury selected you as the
8 presiding juror?

9 JUROR: Yes, sir.

10 THE COURT: Thank you, Ms. Sims. That is your
11 seat for the balance of the trial, thank you.

12 I hope you had a good rest of your day, and thank
13 you again for your patience. I know it was an ordeal
14 all day, and we're ready to get started. I guess the
15 first thing I want to ask you is that each of you --
16 has any juror had any discussion among themselves or
17 with anyone or read anything or watched any program
18 about this trial; if you have, raise your hand.

19 Thank you. Each juror honored the request of the
20 Court.

21 Let me just say this. One of the things you do
22 sometimes, in cases that have publicity, is you used
23 to -- I've done it a couple of times in my career --
24 sequester jurors, where you stay in a hotel. I
25 stopped doing that about five, six years ago because I

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1 watched a trial, the end of a trial, and maybe you
2 recall it, it was one of the prolific persons in the
3 911 fiasco. That trial was held in Washington, and
4 that jury was not sequestered. I thought all of the
5 publicity of that, if that can function, we can
6 function as well.

7 What I do, and I'll tell you each morning I'll
8 administer an oath do you solemnly swear or affirm
9 that you have honored the Court's instruction in every
10 respect, and I would expect your answer being, yes, I
11 have, and I trust that you are accurate. But, that
12 way, we avoid having the necessity of having you
13 sequestered or making sure no one is contacting you.
14 So thank you for your patience for that as well, and
15 please do not consider that as a suggestion or
16 inferring that you are not complying, it's just for
17 the record in this case to preserve that, should that
18 ever become an issue.

19 Now, I'll ask you to give your attention to the
20 clerk as she administers the oath, if you would,
21 please.

22 THE CLERK: Yes, sir.

23 (Whereupon, the jury panel is sworn.)

24 THE CLERK: If you agree with this statement,
25 please be seated.

THE COURT TO THE JURY

1 THE COURT: Thank you very much, and thank you
2 very much, ladies and gentlemen. You and I are the
3 judges in place to resolve this dispute. As I
4 mentioned to you yesterday, you and I have very
5 specific roles. I'm the judge of the law, which means
6 I have to preside over the trial. I have to make
7 rulings on matters of law, and I have to give you the
8 law at the conclusion of the trial that you will take
9 and apply fairly and impartially, and the facts you
10 will determine at the end of this trial.

11 You, and you alone, are the sole judges of the
12 facts of this dispute. As we discussed when I
13 qualified you, you will make that determination when
14 you are instructed to begin your deliberations and
15 evaluate the evidence in this case. The evidence
16 consists of nothing but testimony of witnesses and
17 exhibits that are introduced.

18 You will hear remarks from me. You'll hear
19 remarks from the attorneys. I'll remind you
20 throughout the trial that my remarks, the attorneys'
21 remarks are not evidence. They are part and parcel of
22 this trial, but never to be considered evidence
23 because the testimony of the witnesses and the
24 exhibits introduced through their testimony is what
25 you ultimately will evaluate and make your ultimate

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1 determination.

2 I also mentioned to you yesterday, without
3 knowing you previously, that each one of you is
4 eminently qualified to perform the task you just
5 accepted. You brought with you everything you are
6 going to need, and that may sound silly, but it's
7 true. We, in every day of our lives, as I discussed,
8 assess what somebody says or what we read, and we
9 decide for ourselves whether we believe it or not.
10 Those tools that we use to assist us, you will use
11 when instructed to begin your deliberations. And,
12 frankly, it is nothing foreign to you. It is nothing
13 new. We've done it all of our lives. You've done it
14 all of your life.

15 You also brought -- while those tools are
16 important, you brought something else which I would
17 add is, really, equally important. In not so many
18 words, you saw me excuse some people because they said
19 I can't be fair, I can't fairly and impartially --
20 some of you responded and said, yes, I can set it
21 aside and make my decision based on the evidence and
22 it will be fair to both sides, and that is what the
23 oath just said: Based on the evidence and law. But
24 those that said we couldn't, they were excused. Why
25 was that? Because they didn't have an open mind as

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1 you did, as each one of you, without saying it
2 specifically, you said I have an open mind. I have
3 not heard or seen or read anything that causes me to
4 predetermine anything. That is important. It is
5 important for this entire process, probably the most
6 important part for you, because as human beings -- I
7 don't know about you, I have a tendency sometimes, and
8 the lawyers with whom I've had privilege working with
9 over the years would probably endorse this, of maybe
10 being a bottom-line person, get me to the point, I
11 know where you're going. Well, sometimes I'm right,
12 but sometimes I'm wrong. I happen to live with
13 someone who is not that way, and it drives me somewhat
14 -- I have issues with it. She's not that way. She
15 wants to hear it all and then think about it, and then
16 give a response. I tell her, You are getting a lot of
17 praise.

18 Seriously, that is precisely what each one of you
19 should be in this process. Do not -- if you happen to
20 have a tendency that I do, resist it. Tell yourself,
21 Don't do that. You can't. Because if you do, you
22 violate your oath. It's important to the entire
23 process that you keep that open mind throughout, and
24 can only change that when I give you an instruction to
25 begin your deliberations. Folks, that is the last

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1 thing you will hear from me before you leave this
2 courtroom is when you may begin your deliberations.
3 Until that instruction is given, you are under your
4 oath. You have to keep that open mind.

5 It is also important for this process because
6 there are four distinct parts of this process, and I
7 don't know whether you have been involved in any cases
8 as a juror in a civil trial or involved in your life
9 in a civil trial, but the four parts are the same.
10 There are differences in the criminal versus civil,
11 that we'll talk about those in a minute, but the four
12 parts are -- in just a moment, you will hear from the
13 attorneys in what we call "opening statements." You
14 hear from them twice, once before the evidence, and
15 once after you hear the evidence.

16 Now, their remarks as officers of the court are
17 very important, and I know you will give them your
18 undivided attention. The opening statement gives you
19 an overview of the dispute. They may discuss some of
20 the factual issues, some of the law that you may hear,
21 and it gives you a basic map of where this case will
22 be going and how we will proceed, so it is helpful in
23 that respect.

24 Following the opening statement, they speak to
25 you the next time after you hear the evidence, which

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1 will be the second portion. Unlike opening
2 statements, you would have heard all of the evidence,
3 and at that point, they'll discuss that evidence with
4 you and suggest reasonable inferences that you may
5 draw from that evidence, and I know you'll find those
6 remarks helpful when you are instructed to begin your
7 deliberations.

8 In between, you have the evidentiary portion.
9 Now, one of the major differences in criminal
10 prosecution versus civil cases, criminal trials versus
11 civil trials, is the burden of proof. There are
12 situations in civil proceedings where a defendant has
13 the burden of proof; not generally, but there are
14 some. It is not so in a criminal prosecution. The
15 only party that has any burden of proof in the
16 criminal prosecution in this state, and every state in
17 the United States, is a person who makes a charge, the
18 State of South Carolina. They have to prove each
19 element of each of the crimes they've alleged. They
20 have to prove it to a standard, which is another
21 distinction between a civil trial and a criminal
22 trial.

23 In a civil trial, typically the burden of proof
24 is a preponderance or greater weight of the evidence;
25 simply stated, is it more probable than not, more

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1 likely than not. In a criminal case, the burden of
2 proof -- and I'll define it for you in greater detail
3 when I give you the charge, which is the last stage of
4 this process, and it is beyond a reasonable doubt.
5 And I will tell you that a reasonable doubt is that
6 doubt that would make an honest, sincere,
7 conscientious juror who is searching and analyzing
8 what they find to be credible and believable. It is
9 that standard that you will be instructed to apply to
10 each of the elements, which I'll give for you for the
11 element of conspiracy to kidnap, and kidnapping. I'll
12 give you the elements of each one, and you will go
13 back and analyze the evidence and decide if the State
14 proved that, to my satisfaction, beyond a reasonable
15 doubt.

16 If on each of those elements your answer is
17 "yes," then as to you, the State has met its burden of
18 proof. If anyone says, Well, no, I'm not satisfied of
19 that, it might be, could be, it's possible, but that's
20 not beyond a reasonable doubt, then the State would
21 have failed to meet its burden of proof on that.

22 If collectively you agree that the State has
23 failed on one or more elements, you must return a
24 verdict of not guilty. That is what a verdict means
25 in a criminal prosecution. "Guilty," the State met

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1 its burden of proof. "Not guilty," the State failed
2 to meet its burden of proof and convince you to the
3 requisite standard.

4 On the other hand, if your answer to each one is,
5 yes, I'm convinced, then you must return a verdict of
6 guilty as to that charge. Why? Because the State
7 honored the law and met its burden of proof and is
8 entitled to a verdict of guilty because they proved
9 every element beyond a reasonable doubt. And that is
10 what this case will be about. You will be looking at
11 it. The only person, the only party, that has any
12 responsibility to present any evidence to your
13 consideration is the State. A person, such as
14 Mr. Moorer, has no burden to prove one thing at all.
15 They don't have to prove their innocence. They don't
16 have to explain anything. They don't have to say a
17 word. They don't have to present any evidence. So
18 you cannot -- the only person you look for for
19 evidence is the State.

20 Because the State has the burden of proof, they
21 go first. You'll hear the entire State's case. At
22 the end of the State's case, while Mr. Moorer doesn't
23 have to prove anything, he still has the right to
24 present any additional witnesses for your
25 consideration. So that is a very logical reason --

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1 again, besides the fact you need to go through all
2 four parts -- of why you don't want to jump to a
3 conclusion. You have to hear all of the evidence
4 before you make a decision. So it is very important.
5 That is just a commonsense reason. You just can't let
6 yourself make a decision until everything is done and
7 all four parts are completed.

8 Now, what will you be doing? We know you will
9 assess the creditability, and you and I both know that
10 as we go through life, there are situations where we
11 watch somebody, and what they are saying doesn't
12 connect with their body language or facial
13 expressions. It gives you a concern, and you say,
14 hmm, that generally is not something -- I don't think
15 that is credible or believable. If you have that
16 feeling during this trial, make a mental note of that.
17 Just don't jump to the conclusion that I don't believe
18 that. The reason I say that is this: When you get
19 back to begin your deliberations, you can raise that
20 issue and say, You know, it's been my experience in
21 life, maybe one of your jurors can allay that concern
22 and say, you know, I think this is really strong and
23 overrides that, and you are satisfied with that.

24 So it is, again, just an example of why you don't
25 want to leap to the end. Just make a note. When I

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1 say "mental notes," typically -- and you don't have to
2 make this decision early on, but one of the things
3 that I hear from time to time, and some judges -- we
4 all vary, some judges don't allow jurors to take
5 notes. I allow it, if they want to, but I hasten to
6 add that that situation -- some people are better
7 note-takers than others, but if you look down and miss
8 the facial expression or body language, then the
9 note-taking is detrimental to you, so keep that in
10 mind.

11 The second reason is this. Ms. Dahl is the court
12 reporter, and she has -- as I told you when we
13 qualified -- she has the responsibility of taking down
14 verbatim what everyone is saying, and what everyone
15 says throughout this trial. At the end, when you
16 begin your deliberations, if you have a disagreement
17 about what a witness said or didn't say, we can replay
18 that testimony for you so you can hear it again. That
19 is another reason why it may not be necessary. Some
20 people choose to do that. If you want that, let us
21 know and we'll make that available to you. I'll give
22 you further instruction concerning that.

23 But, most importantly, and I'll share this with
24 you of a time when I thought, well, that makes sense.
25 I had a trial years ago and the jury didn't take

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1 notes, but during the deliberations, they wanted to
2 rehear testimony, then they asked for notepads because
3 they were more focused on what that person said. They
4 already made the observations and judged all of the
5 other parts of it, but now they wanted to know
6 specific words, and I thought that is a very effective
7 way of using notepads, I think. I'll leave that to
8 your judgment. You can if you want, but you don't
9 have to; that is up to you.

10 Now, after we hear the evidence, the attorneys,
11 as I told you, will be given a chance to talk with you
12 about the case, discuss the evidence and discuss the
13 evidence, and they will help you work through this
14 process. I'm sure it is not something you do every
15 day, but don't be concerned about that. While you
16 don't -- you don't call it deliberations, but
17 everything we do in life, when we make a decision, is
18 a deliberation, and that is exactly what you want to
19 do. I'm privileged to try this case with you.

20 At the end of this case, the last thing I will
21 do, I'll give you the law. I'll go through the
22 various aspects of the law, and I'll discuss the
23 elements with you, and then, of course, we'll task you
24 with the decision-making, find what you decide to be
25 credible and believable, taking the law and applying

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1 it to those facts. We look forward to hearing your
2 decision at that time.

3 Thank you for your attention to my remarks. I
4 ask you to give that same attention to the attorneys
5 as they give their opening statements.

6 Solicitor.

7 MR. HELMS: Thank you, Your Honor. That's a
8 tough act to follow, but the Judge touched on things I
9 couldn't agree with more, words that made my ears perk
10 up: Logic. Commonsense. That is why you're here.
11 We need your logic. We need your commonsense. I
12 guess there could be a system like the Judge alluded
13 to yesterday where we could have professional jurors
14 to overthink this whole thing, overthink the facts,
15 which is what you are, the finders of facts and the
16 evidence, which is what we're going to present to you
17 from that witness stand right there in the form of
18 testimony and exhibits, like the Judge said. But they
19 wouldn't be using logic and commonsense, they would be
20 using analytics and overthinking, and we don't want
21 that in our system. We need you here with your
22 commonsense.

23 My daddy said, The person that talks too long
24 doesn't have a whole lot to say, so I'm trying not to
25 do that, but humor me for a minute. There is a young

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1 boy and he's fishing on a dock in a harbor. He does
2 this every day. It's his favorite thing to do. And
3 while he's fishing, an old man comes up to the young
4 boy and he says, Young man, you see those marlin
5 jumping out there in the ocean? Yes, sir. Would you
6 believe me if I told you that I had the world's record
7 for catching the biggest marlin out there? Yes, sir,
8 I believe you. I have no reason not to believe you.
9 I've seen you fishing out here my whole life. If you
10 say it, I believe you. Then, the young boy got to
11 thinking about what the old man told him. He loves
12 fishing, so he wants to hear more about it, so he
13 says, Sir, tell me about this fish. How big was it?
14 Can I see it? I mean, that must be a huge fish. I
15 know you mounted it and it is a trophy over your
16 mantle. No, I don't know how big it was. I don't
17 remember. I cut it up and used it as bait. You did
18 what? A game fish that big and you didn't mount it?
19 Cut it up and used it as bait? Okay. Well, did other
20 people see it? Other people had to help you pull a
21 fish that big up on the boat, it being that big on the
22 boat, you had to have help. Oh, yeah. Yeah. Yeah.
23 I had lots of help. I had me and my crew and first
24 mate, we were all out there. They helped me pull it
25 in the boat. Great. Can I talk to them? Can they

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1 tell me how big the fish was? Maybe they remember. I
2 want to be a fisherman like you one day. I want to
3 know what I have to do. I want to know what is in
4 store for me. No, you can't talk to them. I fired
5 them. They are missing. They are scattered to the
6 four winds. I don't even know where they are. Okay.
7 Fired your crew? Well, what about photographs, did
8 you take any photographs of the fish? You had to take
9 photographs. The old man said, oh, yeah, we all had
10 cameras. We all took pictures. Lots of pictures.
11 Great. Can I see a picture of the fish? I really,
12 really want to be like you one day. I want to be a
13 commercial fisherman. I want to know what to do and
14 what is in store for me. Can I see a picture of the
15 fish? No. No. No. You can't see a picture of the
16 fish, I burned all of those. You burned pictures of
17 your record-setting fish? Okay. Well, sir, what
18 about the gear you used, can I see what kind of gear
19 you used to pull up such a monstrous animal? I want
20 to know what I need to be like you one day. All
21 right. All right. All right. I'll show you my gear.
22 It's getting late. Come back in the morning and I'll
23 show you my gear. The young boy runs home and he's so
24 excited he can hardly sleep that night. He wakes up
25 with the sun and he goes back to the docks, and he

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1 sees the old man on the docks. He goes up and says,
2 Sir, I'm here. I'm here. Can you show it to me? Can
3 you show be the gear? Sorry, kid, after you left last
4 night, I sunk my boat in the harbor. What sense does
5 that make, sir? Never mind. The kid walks up the
6 dock and runs into another fisherman who sees the
7 disappointment on his face, and the fisherman said,
8 Son, I know why you are so disappointed, because that
9 old man told you he was the record-setting fisherman,
10 but he's lying. I'm the record-setting fisherman.
11 Here is the Guinness Book of World Records with my
12 photograph and my fish.

13 Now, ladies and gentlemen, the kid turned around
14 and walked home after that. But let me ask you this.
15 On his way home, do you think that young man thought
16 that fisherman still the record-setting fisherman that
17 he said he was? Of course not. Why not? Because he
18 used his logic and his commonsense. He used the
19 evidence that was presented to him to make a
20 determination of commonsense. Even as a child, he was
21 capable of doing that. What did he use? The
22 circumstances. What were the circumstances? The old
23 man said he caught the biggest fish. He believed him.
24 He had no reason not to, until he said he cut it up
25 for bait, until he said he fired his crew and doesn't

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1 remember a single one of them, until he says he burned
2 all of the photographs, until he says he sunk his gear
3 with his boat in the harbor. What sense did any of
4 that make? None. The old man altered, deleted or
5 destroyed every piece of evidence in his custody and
6 control. What he didn't alter, delete or destroy was
7 the Guinness Book of World Records that the other man
8 had. Why? Because it was not in his custody or
9 control.

10 This case is no different. This case is no
11 different. We're asking you, just like that young
12 man, to use your commonsense and your logic to come to
13 a reasonable conclusion, and that is why you are here.
14 This case is no different in that we're going to show
15 you their version of events is a fish tale; that is
16 all it is. We're going to show you that using the
17 circumstances surrounding this case. We're going to
18 show you that this man right here, Sidney Moorner, and
19 his wife, Tammy Moorner, conspired, planned, which is
20 what the word "conspire" means, and executed that plan
21 to kidnap Heather Elvis on December 18, 2013 during
22 the early morning dark hours. We'll show you that
23 using the circumstances surrounding this case.

24 "Circumstances," that is an important word here.
25 Because the defense very well may dwell on the fact

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1 that this is a circumstantial kind of case. They may
2 say that to you. They may say, You can't believe
3 anything the State says because everything we're going
4 to present to you is circumstantial. Let me say this
5 at the onset. I would love to show you everything
6 that was altered, deleted or destroyed that was in the
7 custody, care and control of Sidney and Tammy Moorer,
8 but I can't, because to their credit, they did a good
9 job in doing that. But you can't ignore the
10 circumstances.

11 Circumstances, that is the root word of
12 circumstantial. It is an event. Ladies and
13 gentlemen, eyewitness testimony is a fine thing, but
14 the law tells us one thing -- we learned this in law
15 school as lawyers -- it is the least reliable of all
16 evidence. People forgot things, misremember and then
17 they take the stand. We're fallible. So I'm okay
18 showing you circumstances. I'm okay showing you
19 events. I'm okay showing you history to prove our
20 case. Most cases in criminal law, ladies and
21 gentlemen of this jury, are circumstantial evidence.
22 You can't change them. History don't change. You can
23 deny it, but it still happened.

24 Folks, I didn't live through the Holocaust. I
25 don't know anyone that did. Quite frankly, I never

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1 talked to anyone that did, and there are millions of
2 people that deny that it ever happened. But I know it
3 occurred. I didn't see it, but I know it occurred.
4 How do I know? Because the circumstances I've been
5 presented with during my life tell me that the
6 Holocaust occurred. History cannot be changed.
7 December 18, 2013 cannot be changed. What they did on
8 that night cannot be changed. They can alter and
9 delete and destroy all they want to that is in their
10 custody and control, but, luckily, there were things
11 that were not in their custody and control, things
12 they did not bank on existing. We're going to show
13 you that, just like we will show you what they did get
14 rid of.

15 Ladies and gentlemen 2,093 days ago -- 2,093 days
16 ago I don't remember what I was doing. I can't tell
17 you what I was doing, what we were doing. I can't
18 tell you what you were doing. I can tell you what he
19 was doing: He was taking her. It's been 2,093 days
20 since Heather Elvis could wrap her arms around her
21 father, Terry, could kiss her mother, Debbie, and tell
22 her little sister, M.E. , that she loves her. 2,093
23 days ago, almost six years, six years come December,
24 2,093 days ago they took her from her community, from
25 her friends and from her family.

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1 So what are the circumstances? That is what
2 we're going to show you: The circumstances, the
3 events, the history. Here are the circumstances. In
4 the middle of 2013, this young lady meets that
5 defendant. They worked together at Tilted Kilt, a
6 restaurant in Myrtle Beach. She's a hostess. He is a
7 night maintenance man. They meet and an affair
8 develops. It develops passionately. It is romantic.
9 And I say "affair" in the truest sense of the word
10 because he's married to his co-defendant, Tammy
11 Moorer. Obviously, she doesn't know this affair.

12 It develops, and he brings her things to work,
13 even when he's not working. Brings her things like
14 coffee, donuts, bagels. He courts her, for lack of a
15 better term. This goes on for quite some time, and
16 they communicate extensively. When they are not in
17 person, they communicate that like every young girl
18 communicates with everyone in the world via telephone.
19 She uses her cell phone for everything. She texts
20 him, calls him. He texts her, he calls her. We're
21 going to show you that. We'll show you visibly
22 because it is a phone record that was not in their
23 custody or control, and they couldn't alter, delete or
24 destroy it. That is something we can show you.

25 Simultaneously, we'll show you where Sidney, from

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1 his phone, was talking with his wife, and rightfully
2 so, he's married to her. Just as extensively, he's
3 talking to her, she's talking to him. So we'll show
4 the communication between Heather and Sidney, and
5 Sidney and Tammy. It is constant communication, and
6 you'll see it. It is not out of the ordinary for
7 someone leading a double life having an affair and
8 married. It is constant communication that doesn't
9 stop, and then it does. It stops abruptly, and it
10 stops abruptly for one reason: Because that man's
11 wife finds out about her. She reaches out to her --
12 we'll show you that -- from her phone, and that causes
13 all communication to stop. One reason: The boss lady
14 lays down the law, and Sidney is put on probation. He
15 submits completely.

16 What does that mean? There are conditions now.
17 She doesn't leave him, but he doesn't get a phone
18 anymore. She takes his phone, and we'll present
19 evidence to show you that. He can't work at the
20 Tilted Kilt anymore. He can work at the other
21 restaurants he works at at night, but not the Tilted
22 Kilt, because she works there. She ain't having it.
23 Even when he can work at his other jobs, ladies and
24 gentlemen, she ain't leaving his side. They are stuck
25 at the hip. He is not going anywhere without her, and

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1 she's got his phone and hers.

2 There are other conditions. Sounds like I'm
3 making it up, and I'm not exaggerating, but we'll
4 present evidence of this, another condition is that
5 when he lays down in the bed, he's handcuffed to the
6 bed. I'm not exaggerating. Literally handcuffed to
7 the bed. She does not trust him enough to get up and
8 pee in the middle of the night.

9 Another condition: He gets branded, gets "Tammy"
10 tattooed across his lower abdomen. We'll present
11 evidence to show you that. So he's on probation.
12 Heather is done. She's caught. She knows she's made
13 a mistake. She wants no part of it. She's terrified
14 of his wife, rightfully so. She wants no part. She's
15 done. The communication stops. Sidney doesn't have a
16 phone to call. She doesn't want to call him. He
17 doesn't need to call his wife, because she's always
18 with him. We'll show you this visually. She tries to
19 move on with her life. She tries to see other people.
20 She gets happy again, and we'll present evidence to
21 show you that. Her co-workers will tell you that.
22 She's her old self again.

23 The Moorers, they move on, too, in their own way
24 I suppose. They buy a brand new F-150, take a trip
25 out west. In the meantime, Heather is trying to move

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1 on in her own way. There are other changes in
2 Heather, though, other than being her old self. There
3 are physical manifestations. She gains weight
4 rapidly. She goes up three bra sizes at work. Well,
5 that's a weird thing for you to know, Mr. Helms. I
6 know that, however, because we'll put testimony on the
7 stand from her supervisors who issues her uniform to
8 her. Part of her uniform is a bra, and she had to
9 issue her three new bras because of the succession
10 rate that -- the growth rate in her cup size. She
11 gains weight, goes up and she begins taking pregnancy
12 tests. You'll hear testimony. So she thinks she's
13 pregnant.

14 Now, the Moorers come back from their trip out
15 West, but still she wants nothing to do with him.
16 Ladies and gentlemen, she's legitimately terrified of
17 her, not necessarily Sidney, but his co-conspirator.
18 To illustrate that, we'll -- you'll hear a story where
19 her co-workers play a prank on her, once the affair is
20 discovered, they tell her that Tammy is coming to the
21 restaurant to confront her. You'll hear testimony
22 that she's so terrified of that woman, she gathers her
23 belongings and leaves in the middle of her shift.
24 Never done it before. You'll hear she was a great
25 employee, but she leaves in the middle of her shift.

OPENING STATEMENT - MR. HELMS

1 That is how scared she is of his co-conspirator, and
2 rightfully so.

3 December 18, 2013, this is where the story
4 develops. This is where it takes a turn. The Moorers
5 go out and have a big night, drink it up, go to
6 Broadway at the Beach. You all know Broadway; you are
7 all from Horry County. After midnight, we trace their
8 phones, they're together. Again, they couldn't cheat
9 the phone records, ladies and gentlemen. They go
10 after midnight to a Walmart in the middle of Myrtle
11 Beach. We traced the phones.

12 Furthermore, you will see a video from the
13 parking lot at Walmart. In that video, you'll see
14 that after midnight, in the black F-150, they drive up
15 in the parking lot and park in a handicap parking
16 spot. Sidney Moorer -- and it is a clear video --
17 gets out of that truck and goes into that Walmart. He
18 walks directly to the feminine aisle where he picks up
19 the most inexpensive pregnancy test for 88 cents. He
20 grabs that single item from the store and walks back
21 to the cash register. When he gets to the cash
22 register, he asks the cashier for a box of cigars,
23 Swishier Sweets, and she gives that to him and he pays
24 in the exact change. He does not use a debit card,
25 credit card, check. He uses the exact change to pay

OPENING STATEMENT - MR. HELMS

1 for the items. He leaves and goes back outside and
2 gets in the truck.

3 You'll see the truck with the Beach Ford tag on
4 the front. They drive down Seaboard Street, dark
5 Seaboard Street, in the early morning hours of 2018
6 with their two cell phones in tow. Despite having
7 those two cellular telephones, they go to a Circle-K
8 where there is a payphone, an empty Circle-K where
9 there is a payphone. When I say "empty," the whole
10 parking lot is empty, you'll see. But they don't park
11 in the parking lot. No, they park across a dark
12 street, Seaboard Street -- circumstances -- and walks
13 across that dark street -- Sidney does -- to that
14 payphone and picks it up. He picks up that phone and
15 he dials one number. After two months of zero contact
16 with Heather Elvis, he calls her from a payphone.
17 Despite having two working cellular telephones in
18 their possession, he calls her from a payphone after
19 hiding the truck. They have a four to five minute
20 conversation. It is not a voice mail, it is a
21 conversation.

22 After that conversation, he hangs up that phone,
23 walks across that dark street to his black F-150.
24 Heather immediately calls her friend and roommate,
25 Bri. You'll hear her testify. She'll tell about

OPENING STATEMENT - MR. HELMS

1 that. After she talks to Bri briefly, she picks up
2 her cell phone, and a number she's never heard from
3 before, a number she's never seen before, the payphone
4 number, she dials back nine times. A number that has
5 never dialed her phone, a number she's never dialed,
6 she calls back not once, twice, but reaches out to it
7 nine times. She's trying to reach the person she just
8 talked to. She has no idea it's a payphone. Who
9 talks on a payphone in 2013? The payphone is not even
10 there anymore. But I digress.

11 She doesn't get Sidney, because Sidney is gone.
12 Ladies and gentlemen, this payphone call is the
13 turning point in Heather Elvis' life. This is what
14 leads to her abduction. She, for the first time in
15 two months, picks up her phone after that nine-time
16 attempt to call that payphone and calls Sidney Moorner.
17 After she reaches out to Sidney Moorner's cell phone
18 and those phones communicate, she goes to the darkest
19 most desolate place in this county, Peachtree Boat
20 Landing. No indication she's ever been there before.
21 No indication she has any business there. There is no
22 one there, no parties.

23 We'll have an officer testify that was patrolling
24 the area that there were no people, no buildings, no
25 lights, no cameras. The darkest most desolate place.

OPENING STATEMENT - MR. HELMS

1 If you are going to Peachtree Boat Landing, you want
2 to; there is a reason at 4:00 a.m., and that is what
3 she did after talking to him.

4 Coincidentally, where do the Moorers live? Down
5 the other end of the street. A residential
6 neighborhood. No commercial buildings. No stores. A
7 residential neighborhood, nothing but houses, and
8 Sidney Moorer lives down the street. Heather Elvis
9 goes to the landing, and that is the last anyone hears
10 from her. Her phone dies. She's never heard from
11 again, ladies and gentlemen.

12 Coincidentally, you are going to hear testimony
13 and you are going to see a video of that man's truck
14 coming from his house down Highway 814 and Mill Pond
15 Road to the only destination on Mill Pond at the other
16 end, Peachtree Boat Landing. What is there? I just
17 told you: Nothing, except Heather. She disappears.
18 I would like to tell you I know what they did with
19 her, but I don't. Because she became their custody
20 and control. She was -- she disappeared, put it like
21 that.

22 Ladies and gentlemen, just as telling as their
23 behavior before her disappearance during, is their
24 behavior after her disappearance. December 19 marks a
25 new day, because on December 19th, the day after

OPENING STATEMENT - BY MR. BOUCHETTE

1 this young lady disappears, after talking to him last
2 and going to Peachtree Boat Landing, his life is
3 normal again. He's off of probation. Tammy is all
4 the sudden happy. Have your phone back. Go to work
5 by yourself. Get up in the middle of the night to go
6 to the bathroom without my permission. It's amazing.
7 It is a circumstance. You can't ignore it. It is
8 logic, and it is commonsense.

9 We'll show you what they deleted, altered and
10 destroyed, but we'll show you what they couldn't. I
11 want you to pay attention. It can get mundane, but
12 we'll try to do this as expeditiously as possible.

13 Thank you for your time and your attention.
14 Ladies and gentlemen, the family deserves this day in
15 court. The defendant is entitled to this day in
16 court. Heather deserves this day in court. 2,093
17 days in the making. Thank you.

18 THE COURT: Thank you, Solicitor.

19 Mr. Bouchette.

20 MR. BOUCHETTE: Madam clerk, can we get the
21 projector down?

22 I'm going to proceed as they get that ready.

23 THE COURT: That's fine. If you need a break,
24 that's fine.

25 MR. BOUCHETTE: May it please the Court, Your

OPENING STATEMENT - BY MR. BOUCHETTE

1 Honor, Madam Court Reporter, Solicitor, jury, good
2 morning. Before I respond to the State's
3 presentation, I would like to take the opportunity to
4 welcome all 15 of you, including our alternatives, to
5 the ranks of 3 percent. Just 3 percent of people that
6 put their lives on hold that actually serve as jurors
7 in a criminal case. Just 3 percent have done what you
8 are doing to ensure that this thing we have, this
9 thing we're born with, this kind of protection we're
10 born with simply because of the benefit of where we
11 are born, this presumption of innocence has not faded
12 away with instant media, social media where somebody,
13 anybody, can say anything and it gets spread and
14 shared, and nobody asks where is this the proof; is it
15 true? By being here today, you show us that that
16 proof, that proof beyond a reasonable doubt, still
17 matters, not just for my client, but for you and for
18 me and all of these folks out here in the audience.
19 So both as a co-counsel in this case, and as a
20 citizen, I want to thank you for being here and for
21 being a part of the 3 percent.

22 We've asked you to serve because if there was
23 ever a case that demanded to be heard inside of the
24 court of law by an impartial jury, it is this one.
25 You see, up until now, this case has largely been

OPENING STATEMENT - BY MR. BOUCHETTE

1 heard outside of these walls, out there in public. It
2 has gathered a lot of noise around it, misinformation,
3 half truths, conspiracy theories. The problem is,
4 after 2,093 days, noise gets so loud and gets repeated
5 so often, we think we know the story of this case.
6 But you all have that thankless job of listening to
7 the evidence come from that witness stand and
8 separating the fact from the fiction, the evidence
9 from the innuendos and, most importantly, the proof
10 from the speculation.

11 It is an important job because as a fellow
12 citizen that puts his life, and at least his freedom,
13 in your hands, my client, Sidney Moorer, who I have
14 the utter privilege to be here to represent him, the
15 man sits here in the shadow of the penitentiary
16 knowing that the State of South Carolina, Solicitor's
17 Office, Horry County government has spent 2,093 days
18 of resources, efforts, time and energy to ensure a
19 conviction in this case. Folks faced with those odds,
20 a lot of people -- maybe most people -- will say, you
21 know what, I don't stand a chance on that, there is no
22 way. That is a large reason why we don't have a lot
23 of jury trials. But Sidney Moorer says give me 12
24 total strangers and give them the final authority on
25 my fate because, folks, if we know it is 12 impartial

OPENING STATEMENT - BY MR. BOUCHETTE

1 strangers that fulfill their obligation to just listen
2 to the evidence with an open mind and apply the law
3 the Judge gives you, including the presumption of
4 innocence and the burden of proof, we know what that
5 outcome is going to be.

6 You are going to see that Sidney Moorner did not
7 abduct, kidnap or harm Heather Elvis and, folks, he
8 doesn't know who did. You are going to see that he
9 had no motive to wish any harm on Ms. Elvis, and he
10 didn't have the means to abduct her or make her
11 disappear without leaving any trace of physical
12 evidence, whatsoever. Moreover, you'll see the
13 decision to charge Sidney and the investigation that
14 led to that decision was rushed, and it was rushed
15 because they were reacting to the noise.

16 Let's take a moment here and let's talk about
17 what the evidence will show. I want to take us back
18 to the summer of 2013, June of 2013. This time Sidney
19 is a married father of three, earns his living as a
20 self-employed contractor, and what he does he has this
21 niche where he works primarily for restaurants. He
22 goes in after hours and does usually relatively small
23 repair jobs, renovation work before they open up for
24 the next shift, and he does it for a number of
25 different restaurants in the area, and that is how he

OPENING STATEMENT - BY MR. BOUCHETTE

1 makes his living. His wife is a freelance travel
2 agent. She works from home, and that allows her to
3 home school the three kids at the house in Socastee.

4 They live on this parcel they share with her
5 parents, Sidney's in-laws. They have child care and
6 things. So in a lot of ways, Sidney has everything
7 going for him. But like a lot of us, a lot of
8 families, people in general, there was trouble just
9 below the surface. He and his wife were in a bad
10 place. They talked about separation and divorce.
11 They got to a point where they had to decide, you
12 know, do we wait until the kids get older, do we do it
13 now, do we separate. You know, a lot of people have
14 had to have these conversations. So they are in this
15 sort of marital limbo back during this time. It is in
16 this context that he meets Heather Elvis, an outgoing
17 and funny hostess there at one of the restaurants he
18 was doing work at.

19 You'll hear that Ms. Elvis finds Sidney
20 attractive, initiates conversation and they engage in
21 a relationship. It is an affair; it has never been
22 denied. It is easy to understand, because everybody
23 we've talked to and all of the evidence we've seen
24 says Ms. Elvis is always with a smile on her face,
25 laughter in her voice, and we'll see that her life was

OPENING STATEMENT - BY MR. BOUCHETTE

1 a lot different than Sidney's. He's a father of
2 three, married. He's got that set of routines. He's
3 in his mid-30s at that point. Ms. Elvis' life is kind
4 of chaotic. What we mean is pretty much throughout
5 the entire year of 2013, we'll see that either it's
6 problems at home, or whatever the case may be, she
7 goes from living in a car, friends' couches, back to
8 her car, back to friends' couches, living with other
9 boyfriends, who we'll talk about in a moment. But in
10 any event, that is the circumstances under which they
11 meet, and this relationship goes on for a couple of
12 months. That takes us to early November of 2013.

13 In early November of 2013, late October, this is
14 the time period where the State spent most of their
15 time in opening statements. You'll hear Sidney's wife
16 found out about the affair, and she said things and
17 texted things that I'm sure she would like to have
18 back, but she found out. What is most interesting is
19 not what happens in early November 2013, but what
20 happens in the time period from early November 2013
21 until the night Heather Elvis goes missing on
22 December 17 of 2013.

23 Next slide.

24 You want to know what it is? You want to know
25 what is going on during this time period where these

OPENING STATEMENT - BY MR. BOUCHETTE

1 people are obsessed, stewing over this girl? Nothing.
2 Nothing. Communications that you will hear regarding
3 Ms. Elvis were limited to the ones referenced in the
4 opening statement; it is a handful at that time of the
5 breakup. Neither Sidney nor his wife made any scenes
6 at work, no threats, nothing of that nature. There is
7 no communications in any way, shape or form regarding
8 pregnancy that comes up during this time. Remember,
9 you will be bombarded with all kinds of communications
10 and e-mails and texts, cell tower data, all kinds of
11 experts that will take the stand, but out of all those
12 experts and all those communications, no one is going
13 to come in here and say, Listen, on such-and-such
14 date, Ms. Elvis said, Sidney, I might be pregnant, I
15 need to talk to you. There simply is no motive
16 because nothing happens during this time, period.

17 What you will see is after his wife finds out
18 about his affair, Sidney and his wife and whole family
19 go on -- I think it is about a four-week cross-country
20 vacation, down to Florida, down through the Gulf and
21 over to Disney in California. This will be verified
22 by the GPS data in his truck. That's right, there is
23 GPS data from his truck. That is what is going on.

24 This is a family -- if they are obsessed with
25 anything, they are obsessed with re-devoting

OPENING STATEMENT - BY MR. BOUCHETTE

1 themselves to their marriage. They are obsessed with
2 how they are going to get the kids through school, how
3 are they going to pay for health insurance. That is
4 what the evidence will show during this time period.

5 On December 17th, early morning hours of
6 December 18th, when Ms. Elvis goes missing, the next
7 question is what happens there from the end of
8 December? You will hear when she goes missing, Sidney
9 voluntarily comes in and gives multiple statements.
10 He didn't have to do that. His wife gives statements,
11 and he's pretty much instantly a suspect because of
12 the affair, which, again, he never denied. No one
13 ever denied. Everybody knew about it. But the police
14 developed sort of tunnel vision early on. So we'll
15 see that by the end of December, early January, search
16 warrants have been executed on his home, on his
17 vehicle, the F-150 we hear so much about. We'll hear
18 that all of these electronics in his house was seized
19 and searched by all kinds of experts, and so that
20 doesn't turn up anything incriminating.

21 So he's arrested in February of 2014, about two
22 months later. So what is the smoking gun? We'll see
23 that, you know what, we need to close this
24 investigation at this point because we have our guy.
25 Do they uncover anything incriminating from his cell

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1 phone data? No. The cell phone data, what we call
2 "ping data," that puts him at his house during the
3 time that Heather Elvis went missing, so that is not
4 important. Do they uncover blood, DNA, from his
5 vehicle or anything, hair strands, fingerprints,
6 anything from his F-150 relating to Ms. Elvis? No.
7 Does a witness come forward and say, hey, I saw
8 something. No, there is no witnesses.

9 We'll hear that they can't -- that this video we
10 keep hearing about, they can't identify that to be
11 Sidney's truck or anyone else's truck. So what is
12 going on in this time period that convinces law
13 enforcement at this early stage -- again, this is
14 2,093 days, and they effectively closed the book
15 within two months. What was it that forced them to
16 make that decision then? We'll hear that is when the
17 noise started to happen. We're going to get national,
18 state media, how they are getting constant, constant
19 pressure from all over the place. It's
20 understandable, because police are like everyone else;
21 they want to get justice for the family. They want to
22 make a community feel safe. They want to be able to
23 say, We got somebody. I submit that what we'll see is
24 that in doing so, with those influences, they rush.
25 They didn't ask the questions that you and I will ask

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1 during the course of this trial. What we're going to
2 see is once they decide to get a warrant -- and we'll
3 hear about something called a "probable cause
4 warrant," because you don't have to have proof beyond
5 a reasonable doubt to have an arrest warrant, you only
6 need probable cause, something much lower.

7 I'll submit to you that what we'll see is in
8 getting that arrest warrant, they hope that something
9 else would come up over time. But the problem with
10 doing it that way is something we call "confirmation
11 bias," and this is something that police officers are
12 often trained to be wary of.

13 Next slide.

14 Confirmation bias is where you make a decision in
15 your mind and you start viewing things in that context
16 to prove that decision you already came from. Here is
17 the definition from a police trade magazine. So I
18 will submit to you that what we'll see is a lot of
19 confirmation bias coming forward throughout this case.
20 We'll give you a couple of examples. We'll go back
21 through the timeline here.

22 There is other men in her life that the
23 prosecution didn't talk to you about. We'll hear
24 about a man named Jeremy Flemming, who was an abusive
25 boyfriend. They move in together in September of

OPENING STATEMENT - BY MR. BOUCHETTE

1 2013, which is during the time period where she's in
2 this relationship with Sidney, and she only moves out
3 with him on December 2nd, less than a couple of
4 weeks before her disappearance in sort of a blow-up
5 that occurs.

6 Then there is also men like Jerry Stevens. We'll
7 hear that she's in flirtatious communication with him
8 on December 16th saying, I'm coming over tomorrow,
9 the night of December 17, early 18th, the night she
10 goes missing. We'll see the difference between what
11 time, effort and energy was spent into investigating
12 and looking and examining those individuals versus
13 Sidney. I think we'll see the confirmation bias plays
14 a big role in how this case goes forward.

15 Next slide, please.

16 I think there probably isn't going to be a better
17 example of this idea of making up your mind and
18 rushing too early than the testimony of this man,
19 Grant Fredericks. Grant Fredericks is a nice guy.
20 He's a smart guy. He's sort of a professional witness
21 of sorts, but he is a former broadcaster and TV man
22 turned law enforcement agent. He kind of has been
23 certified in a field of science, forensic video
24 analysis. What that means, generally speaking, is,
25 for example, if you have a convenience store video

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1 camera and see someone on the video camera, different
2 measurements and different techniques made to help you
3 to determine is this person six feet tall or 5'4".
4 You can gather different information based on the
5 video and different measurements.

6 We don't have a dispute he can do these things
7 and it is a legitimate science, but a couple of things
8 you need to note: When was he hired? When is his
9 testimony that he is given that is to important, so
10 critical to this case? He wasn't brought in until
11 2013 when he was hired by the Solicitor's Office.
12 What is more important, we'll hear the conclusions he
13 reaches. They have not been substantiated by anyone
14 in his field, or any other field. He is coming to
15 tell you that he can look at the headlight spread
16 pattern, and he'll tell you that the various
17 headlights of all of the different automobiles that
18 come out by the thousands on assembly lines have such
19 a unique spread pattern that he can tell you if it is
20 that vehicle versus that vehicle; that, essentially,
21 the headlight shine is as unique as a human
22 fingerprint. Folks, that is never -- there is no
23 scientific evidence to substantiate that. He will not
24 be able to point to any scientific evidence. He is
25 the only person, to our knowledge, that ever testified

OPENING STATEMENT - BY MR. BOUCHETTE

1 to that being the case.

2 So I'll ask at the end of the case, and I may ask
3 you at this point, you can disregard Grant Fredericks'
4 conclusion and his testimony. So at the end of the
5 case, we'll look at a situation where Sidney's cell
6 phone data puts him at his house during the time that
7 Ms. Elvis goes missing. There is none of her DNA in
8 his truck, no blood, none of his DNA in her car,
9 landing, anywhere else. There is no one saying or
10 showing that he was anywhere near Peachtree Landing on
11 the night she went missing.

12 So how does the State intend to prove this case?
13 Well, we are going to rely on something called
14 "circumstantial evidence." My good friend, Chris
15 Helms, gave us a great example about the fish and the
16 fisherman, but the problem with using circumstantial
17 evidence and drawing these inferences that we've heard
18 about is that sometimes we draw these inferences
19 whenever -- maybe we've made up that conclusion in our
20 minds. Maybe we make a conclusion we really want to
21 reach.

22 I'll give you this example. I submit to you that
23 every one of us, as members of this community, deep
24 down, maybe not even so deep down, we want to be able
25 to convict Sidney of this crime. That is an odd thing

OPENING STATEMENT - BY MR. BOUCHETTE

1 for his lawyer to say, but I think it is true.
2 Because if we can convict somebody, convict anybody,
3 then we can give this family closure. We can feel
4 safer as a community. We don't feel helpless. But we
5 have to be wary of that, because, folks, we can't give
6 justice to Heather Elvis by giving an injustice to
7 another citizen like Sidney Moorner. We always have to
8 be careful of circumstantial evidence.

9 I want to talk to you briefly about the
10 presumptions in this case. You know, often we deal
11 with the presumption of guilt; that is how a lot of us
12 operate. We're sitting at home and the nightly news
13 comes on and someone is charged with some crime. We
14 don't intuitively sit there and say, well, I wonder
15 how reliable the eyewitnesses are? I wonder how sound
16 the evidence is or the science is? We don't generally
17 do that, we just wonder how much time he'll get, how
18 long will they lock him away. We all do that.

19 There are people in our lives that history showed
20 us that these people are not to be trusted, you know,
21 they are no good, family is no good. We all know
22 people like that. If we hear something that they've
23 done or alleged to have done, we say, That sounds like
24 them. So do we ever act with a presumption of
25 innocence in our daily life? Of course we do.

OPENING STATEMENT - BY MR. BOUCHETTE

1 I'll give you an example. A couple years ago I
2 get a knock on my door and it is a young man maybe, I
3 don't know, 11 or 12 at the time. He does landscaping
4 jobs. He has a landscaping business in the
5 neighborhood. When he shows up, he has a trailer with
6 all of his equipment, but he's too young to have a
7 driver's license, so he has a suped-up golf cart that
8 he drives around the neighborhood and does landscaping
9 jobs. I got to know him over the last couple of
10 years. As you can tell, I think the world of him and
11 probably talk about him like people talk about their
12 kids or grandkids, you know, he's going to be
13 president and billionaire, cure cancer, everything,
14 all at the same time. And so if someone came to me
15 and said, you know what, the kid down the street, he's
16 been accused of some crime, robbing a bank, maybe not
17 even something that bad, bouncing checks, what would
18 my reaction be? That can't be right. There must be
19 some mistake. You have people in your life that you
20 would have that same reaction to. That is what it
21 means when you are acting with presumption of
22 innocence.

23 If someone came to me and said I have
24 circumstantial evidence that the kid down the street
25 robbed a bank and bounced checks. Well, you have to

OPENING STATEMENT - BY MR. BOUCHETTE

1 prove that to me and show it to the exclusion of all
2 other possibilities, show to me that they examined and
3 evaluated all other possibilities before I give him to
4 the custody of the State. If those questions and that
5 evidence raised questions or other possibilities, the
6 State would have to answer each and every one of those
7 questions to my satisfaction, not one of them, or two
8 of them, or most of them, or a lot, but all of them.

9 As you sit here today, folks, I submit to you
10 that your oath -- you've not -- you don't know Sidney
11 Moorer. You haven't heard any evidence in this case.
12 But as you sit here, your obligation, if we're truly
13 working with presumption of innocence, is to say,
14 Mr. Solicitor, that can't be right. There must be
15 some mistake. You will have to prove it to us. That
16 is what the presumption of innocence means.

17 Folks, you have a tough job. You know, myself
18 and Mr. Galmore representing Sidney, we have a
19 difficult job in defending someone in a court of a
20 crime that is a terrible crime. My colleagues for the
21 prosecution, they have a difficult job in presenting
22 their case and meeting their burden of proof. Judge
23 Dennis has a difficult job trying to referee us and
24 try to ensure he instructs you correctly on the law.
25 But, ultimately, we can go -- when this case is over,

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1 we've done our best. We don't have to make the hard
2 decisions; that is reserved for you. You all have to
3 do that at the end of this case. I know that it will
4 be a heavy burden on you, like rocks on shoulders, to
5 know whether or not you did the right thing.

6 So I will tell you what, I'll make you this deal.
7 I'll ask for something from you and, in exchange, I'll
8 give you something. I just ask that you operate from
9 now until the end of the trial with that presumption
10 of innocence, listen attentively to the evidence that
11 is being presented. At the end of the trial, apply
12 the law that the Judge gives you. If you do that,
13 just give us that, I can give you the peace of mind to
14 know that years from now you won't have to wake up and
15 wonder whether or not there is an innocent man sitting
16 in jail that shouldn't be, because I'm going to give
17 you a chance during this trial, at the end of this
18 case, to send an innocent man home.

19 Thank you for your time.

20 THE COURT: Thank you.

21 Solicitor, you may call your first witness.

22 MS. LIVESAY: Thank you. We call Jessica Cook to
23 the stand, and I'll move this.

24 (JESSICA COOKE, having been duly sworn,
25 testified as follows:)

JESSICA COOKE - DIRECT EXAMINATION

THE WITNESS: Jessica Cooke, C-O-O-K-E.

(State's Exhibit 2 marked.)

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q Ms. Cooke, if you don't mind, tell this jury a little bit about -- where you from?

A Originally, Ohio.

Q How long have you been in Horry County?

A Almost ten years.

Q Okay. And are you married or have any kids?

A Married with four kids.

Q Wow. How old are they?

A 24, 18 and twin 16-year-olds.

Q Where are you currently working?

A I'm working at Residence Inn in Myrtle Beach.

Q What are your responsibilities there?

A I'm the food and beverage director for the hotel.

Q And were you here in Horry County in 2013?

A I was.

Q Where were you working then?

A Tilted Kilt at Broadway at the Beach.

Q And what were your responsibilities?

A I was front of the house manager. I did scheduling, basically anything front of the house needed.

JESSICA COOKE - DIRECT EXAMINATION

1 Q How long had you worked there?

2 A Three years.

3 Q And when did you end or when did you stop working
4 there?

5 A July of 2014.

6 Q And when you worked there, did you work with
7 Heather Elvis?

8 A I did.

9 Q Would you recognize a picture of her?

10 A Yes.

11 Q I will show you now what the State has marked as
12 State's Exhibit 2; do you recognize this young lady?

13 A I do.

14 Q And who is it?

15 A Heather Elvis.

16 MS. LIVESAY: At this time, the State wishes to
17 put State's Exhibit 2 into evidence and publish it to
18 the jury.

19 MR. BOUCHETTE: No objection.

20 THE COURT: Without objection.

21 (State's Exhibit 2 admitted.)

22 MS. LIVESAY: Thank you, Judge.

23 Q (MS. LIVESAY) Now, how did you know this young
24 lady?

25 A She was a hostess at Tilted Kilt.

JESSICA COOKE - DIRECT EXAMINATION

1 Q Was she old enough to wait tables?

2 A She could wait tables, yes.

3 Q Could she serve alcohol?

4 A She could serve it, but couldn't pour it.

5 Q Was she under 21?

6 A She was.

7 Q How old was Heather; do you remember?

8 A I believe she was 19.

9 Q And how long had she worked at Tilted Kilt?

10 A A year, year-and-a-half.

11 Q And was she a full-time employee?

12 A She worked full-time hours during the summer,
13 yes.

14 Q And tell this jury a little bit about what kind
15 of employee she was.

16 A Dependable, everybody loved her, telling jokes,
17 guests loved her.

18 Q Was she the type that just wouldn't show up for
19 work?

20 A No.

21 Q Was there ever a time before when you went
22 looking for her and couldn't find her?

23 A Not that I could recall, no.

24 Q Were you her manager the entire time?

25 A Yes.

JESSICA COOKE - DIRECT EXAMINATION

1 Q And, now, tell me a little bit about how she was
2 at 19 with her phone. Are they allowed to keep their
3 phone?

4 A They weren't supposed to, but she always snuck it
5 up to the stand. Typical 19-year-old always needed her
6 phone to know what was going on.

7 Q Was she always on it?

8 A Yes.

9 Q So she was a typical 19-year-old?

10 A Yes, sir.

11 Q Now, let me ask you something. While she worked
12 there, did she ever strike up a relationship with
13 another employee or someone that worked at the Tilted
14 Kilt?

15 A Like dating-wise?

16 Q Yes.

17 A Not an employee, no.

18 Q Did she ever have an occasion to meet this
19 defendant while she was at the Tilted Kilt?

20 A Yes, ma'am.

21 Q Now, explain what the defendant did at the Tilted
22 Kilt.

23 A He was hired as a maintenance man. He would come
24 in after working hours, so 11:30, 12:30, depending on
25 business, and he would do what he was asked to do:

JESSICA COOKE - DIRECT EXAMINATION

1 Putting up hooks for purses at the bar, anything that
2 was broken. He would be gone by the time the opening
3 manager would come in.

4 Q So he wasn't like a regular employee that had on
5 a uniform?

6 A No. He was contracted.

7 Q Contractor that came in and fixed whatever you
8 needed?

9 A Correct.

10 Q How long did you know him?

11 A Oh, six months.

12 Q And is that what he did at Tilted Kilt?

13 A Yes.

14 Q Now, tell me what, if any, relationship was
15 between the defendant and Heather Elvis.

16 A They seemed like just friends in the beginning,
17 and then it evolved after.

18 Q And tell me about how it evolved from there.

19 A He would bring her in tea and bagels or coffee on
20 days that -- during the day, for one, and days he
21 wasn't working, when she worked during the day.

22 Q And, to your knowledge, what was the relationship
23 between the two of them?

24 A It was a sexual relationship.

25 Q And how do you know that?

JESSICA COOKE - DIRECT EXAMINATION

1 A She had her phone charging in the office and it
2 was going off constantly while I was doing scheduling,
3 and I finally grabbed it to see who it was. I thought
4 maybe there was an emergency, and it was the defendant
5 texting her.

6 Q And what were the text messages indicating?

7 MR. BOUCHETTE: Objection, Your Honor.

8 THE COURT: Sustained.

9 Q (MS. LIVESAY) Were those text messages from this
10 defendant, Sidney Moorer?

11 A Yes.

12 MR. BOUCHETTE: Objection, Your Honor.

13 THE COURT: Sustained under 602.

14 MS. LIVESAY: Well, Your Honor --

15 THE COURT: Unless she can establish how she
16 knows it -- excuse me, Solicitor, I haven't finished
17 ruling -- because anything she discloses now, it would
18 be hearsay because she's reading from a text. Thank
19 you.

20 MS. LIVESAY: The hearsay would be party
21 opponent.

22 THE COURT: I just ruled, Solicitor. Lay your
23 foundation if you want to. Thank you.

24 MS. LIVESAY: Okay.

25 Q (MS. LIVESAY) Ms. Cooke, when you were looking

JESSICA COOKE - DIRECT EXAMINATION

1 at her phone, who was texting her?

2 MR. BOUCHETTE: Objection.

3 THE COURT: Sustained, Solicitor.

4 Q (MS. LIVESAY) Let me ask you something. When
5 you had that phone, what were you doing with it? Just
6 charging it?

7 A Yes, I was charging it for her.

8 Q But she was always nearby, close to the phone?

9 A Correct.

10 Q Now, let me ask you something. Tell me a little
11 bit about -- we've talked about how old Heather Elvis
12 was. About how old was Sidney Moorner at that time?

13 A Honestly, I don't know. I would guess upper 30s.

14 Q And did you know he was married?

15 A I did.

16 Q And did you ever see his wife?

17 A No.

18 Q So she never came to work with him while he was
19 at Tilted Kilt?

20 A Not that I saw, no.

21 Q Do you know if he had any kids?

22 A Yes.

23 Q And how many kids did he have?

24 A Three.

25 Q Did you know where he lived?

JESSICA COOKE - DIRECT EXAMINATION

1 A No. I knew he lived in the area.

2 Q Now, let me ask you something. During the time
3 this relationship was going on, and he was bringing her
4 coffee and bringing her bagels, coming to see her even
5 when he wasn't working, did at some point that
6 relationship end?

7 A It did.

8 Q Tell me about that.

9 A It was mid- to late October. I came into work,
10 and Heather was freaking out. She was very distraught,
11 nervous. I found out later that two of the girls
12 played a prank phone call to work saying it was Mrs.
13 Moorer and that she found out that her and Sidney were
14 having an affair. So we -- she wanted to leave. We
15 let her leave. After that, she said there was no
16 relationship and they had broken up.

17 Q When did that happen?

18 A Late October, early November.

19 Q Let me ask you something. Was she afraid of
20 Sidney's wife, Tammy?

21 A Yes.

22 Q And let me ask you this. Tell me what, if any,
23 changes you saw in her close in time to this breakup.

24 MR. BOUCHETTE: Objection, Your Honor.

25 THE COURT: What is the basis?

JESSICA COOKE - DIRECT EXAMINATION

1 MR. BOUCHETTE: May we --

2 THE COURT: What is the basis?

3 MR. BOUCHETTE: They were going into irrelevant
4 testimony.

5 THE COURT: Ladies and gentlemen, when we have an
6 objection, of course, it is a matter of law for my
7 consideration. It does not involve you, and it is
8 very appropriate for the attorneys to raise objections
9 from time to time. There are two ways in dealing with
10 objections: One, we can have a side-bar, which is out
11 of your hearing, and it is intended to be that way, or
12 we have to excuse you. We try to minimize the number
13 of times you have to get up and leave, so we may still
14 have to do that, but we'll have a side-bar.

15 If you will approach, please.

16 (Whereupon, a bench conference was had.)

17 THE COURT: Overruled. If necessary, we'll put
18 on the record the side-bar, objection as to relevance
19 and my overruling, we'll put it on the record at first
20 break.

21 MR. BOUCHETTE: Thank you, Judge.

22 Q (MS. LIVESAY) Ms. Cooke, if you don't mind, tell
23 this jury about the changes you saw in Heather.

24 A Physical changes, correct?

25 Q Yes.

JESSICA COOKE - DIRECT EXAMINATION

1 A I was in charge of uniforms there. So it was
2 three pieces: Bra, a shrug and a skirt. She went from
3 an A-cup to B-cup bra, and from a B-cup to C-cup and a
4 larger kilt, so she gained weight.

5 Q And let me ask you something. During that time
6 frame, was she seeing any other man that you know of
7 other than Sidney Moorner?

8 A Not that I was aware of, no.

9 Q Did you see any other man visually come up and
10 see her at Tilted Kilt?

11 A No.

12 Q Now, while you were working at Tilted Kilt, you
13 were a full-time employee?

14 A Yes.

15 Q So you were there about every day?

16 A Yes.

17 Q So, to your knowledge, did you see her in a
18 romantic or sexual relationship with any other employee
19 at Tilted Kilt?

20 A No.

21 Q Now, when -- tell me a little bit -- you told me
22 about her physical changes. Did you see anything
23 mentally? How was her demeanor after this breakup?

24 A After the breakup, she was sad. She eventually
25 started coming back to her joking and laughing and

JESSICA COOKE - DIRECT EXAMINATION

1 normal self that we knew.

2 Q Now, when she started gaining weight, clearly, if
3 you have to reorder a uniform, there is a visible
4 change. To your knowledge, did she ever take a
5 pregnancy test?

6 A Yes.

7 Q How do you know that?

8 A She did at work while I was there.

9 Q Did you see the pregnancy test?

10 A I did.

11 Q What did it say, the reading?

12 A It read "error."

13 Q Did you know what that meant?

14 A I didn't. I went and looked it up at the
15 computer at work.

16 Q But you actually saw the test that she had taken?

17 A Yes, ma'am.

18 Q So clearly there was a concern?

19 A Correct.

20 Q How did she act when she brought you this test
21 that said "error"?

22 A She didn't know what it meant. She was trying to
23 figure out, obviously, if she was pregnant or not, and
24 she was very confused as to why it would say "error."

25 Q Did she appear that she had taken a pregnancy

JESSICA COOKE - DIRECT EXAMINATION

1 test before?

2 MR. BOUCHETTE: Objection.

3 A No.

4 THE COURT: Sustained. You have to lay a
5 foundation for that.

6 Q (MS. LIVESAY) Let me ask you this, Jessica. You
7 said as time moved on, she began becoming her old
8 self. Tell me how she was in December.

9 A In December, she was her happy self. Like I
10 said, she was back to her joking around. She was at
11 work having fun with everybody. So she was back to
12 Heather.

13 Q Let me ask you this. Did she ever lose the
14 weight and go back to the old uniform?

15 A No.

16 Q So even in December, even though she was happy
17 and bubbly, clearly, the weight isn't going away; she's
18 continuing to gain weight?

19 A Correct.

20 Q Let me ask you this. Do you recognize Sidney
21 Moorer?

22 A Yes.

23 Q Is he in the courtroom?

24 A Yes.

25 Q Point him out to the jury.

JESSICA COOKE - DIRECT EXAMINATION

1 A (Indicates.)

2 Q Is that the man she was having an affair with?

3 A Yes.

4 Q And during that time frame, was she having an
5 affair with anyone else?

6 A Not that I was aware of, no.

7 Q Now, let me ask you something. You worked there
8 and had been working there full-time for awhile; you
9 said the defendant had been working there several
10 months?

11 A Correct.

12 Q Did you all park in the same area?

13 A Yes.

14 Q So did you know what kind of truck he drove when
15 he worked at Tilted Kilt?

16 A Yes.

17 Q What color truck did he drive then?

18 A It was white.

19 Q It was a white truck. So that was the only truck
20 you knew him to have?

21 A Correct.

22 Q So if he was driving a black truck in December,
23 you wouldn't recognize it?

24 A No.

25 Q Ms. Cooke, how long again did you work with

JESSICA COOKE - DIRECT EXAMINATION

1 Heather Elvis?

2 A It was a year, year-and-a-half.

3 Q And you are her direct supervisor?

4 A Correct.

5 Q So if there was an issue, you were the one that
6 she went to?

7 A Correct.

8 Q And at times did you have to call her just about,
9 Look, we need you now, or, We need to change the
10 schedule?

11 A Yeah.

12 Q So you had her phone number?

13 A Correct.

14 Q Can you give this Court her phone number?

15 A Yes.

16 Q If you don't mind, I'm going to pull this pad so
17 I can write it down. I know I won't remember it. When
18 I say "me," I mean Ms. Miller. If you don't mind,
19 we'll write Heather's name up here so we can keep up
20 with whose number is whose.

21 Okay. If you don't mind, tell Ms. Miller what
22 Heather Elvis' number was at that time.

23 A [REDACTED] 8152.

24 Q Thank you. Is that the only phone number you
25 knew her to have?

JESSICA COOKE - CROSS-EXAMINATION

1 A Yes, ma'am.

2 Q How many phones did you know her to have?

3 A Just one.

4 Q And, to your knowledge, is that the phone number
5 that belonged to that phone that was buzzing when it
6 was on the charger?

7 A Yes.

8 MS. LIVESAY: At this time, Ms. Cooke, that is
9 the only questions I have for you. Please answer any
10 questions they may have.

11 THE COURT: You may cross-examine.

12 MR. BOUCHETTE: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. BOUCHETTE:

15 Q Good morning, Ms. Cooke.

16 A Good morning.

17 Q Give me just a moment.

18 MR. BOUCHETTE: Ms. Natalie, can you hear me
19 okay?

20 COURT REPORTER: Yes, sir.

21 Q Ms. Cooke, I understand that at the time Heather
22 Elvis went missing, you had known her about a
23 year-and-a-half; is that correct?

24 A Around that time, yes.

25 Q How old were you around the time she went

JESSICA COOKE - CROSS-EXAMINATION

1 missing?

2 A So 33.

3 Q Okay.

4 A 34.

5 Q All right. So you were older than her?

6 A Yes.

7 Q And I kind of get the impression from your

8 testimony that this was sort of a --

9 MS. LIVESAY: Your Honor, if I may, can Mr.

10 Bouchette move just a little in one direction? I'm

11 having a hard time hearing the witness.

12 THE COURT: If you want to come up closer, you

13 can come up closer.

14 MR. BOUCHETTE: Is this okay?

15 MS. LIVESAY: Yeah, that would be great. Thank

16 you.

17 Q All right. I'm sorry.

18 I get the impression from your testimony that the

19 relationship between you and her was sort of maybe a

20 big sister/little sister type of relationship; is that

21 accurate?

22 A Somewhat, yes. That is the way I was with all of

23 the girls.

24 Q And you obviously spent a lot of time together at

25 work?

JESSICA COOKE - CROSS-EXAMINATION

1 A We were both always at work, yes.

2 Q I believe she even lived with you at your home
3 sometime in 2013?

4 A She stayed with me for a few days, yes.

5 Q Okay. Now, when was -- do you know approximately
6 when that was that she lived with you?

7 A Springtime. I couldn't give you a date.

8 Q What were the circumstances that led to her
9 ultimately living with you?

10 A She was staying in her car.

11 Q Did she ever -- do you have any personal
12 knowledge as to what led her to living in her car?

13 A All I know is there was an argument at home, and
14 she wasn't staying there.

15 Q To your knowledge, was that the only time she
16 resided in her car during the year of 2013?

17 A Yes.

18 Q How long did she stay with you?

19 A Two, three days.

20 Q Do you remember where she went after that?

21 A I don't.

22 Q You've given -- you gave a couple written
23 statements to police; is that correct?

24 A I gave one I believe, yes.

25 Q That was one in February of 2014; does that sound

JESSICA COOKE - CROSS-EXAMINATION

1 correct?

2 A Sounds about right, yes.

3 Q So that was about two months after Heather went
4 missing that they asked you for a written statement?

5 A No. I think it was right after.

6 Q This may refresh your recollection.

7 (Defendant's Exhibit 1 marked.)

8 Q I'll have you take a look at that. Do you
9 recognize that? Did that refresh your memory as to
10 when you gave a written statement?

11 A Yes, sir.

12 Q When was that?

13 A 2/18.

14 Q Of 2014?

15 A Yes.

16 Q And you didn't give any other written statements
17 to police, did you?

18 A Not that I can recall, no.

19 Q And, obviously, at that point you gave all the
20 information you knew regarding Heather and Sidney,
21 correct?

22 A Correct.

23 Q There wouldn't be anything that was not contained
24 in this statement, which is within your personal
25 knowledge, about the relationship during that time?

JESSICA COOKE - CROSS-EXAMINATION

1 A Not that I can recall, no.

2 Q All right. Now, you said she started working at
3 Tilted Kilt early 2013?

4 A Thereabouts.

5 Q Had she worked at the House of Blues before?

6 A I heard she did, yes.

7 Q She never indicated to you that she had?

8 A From her. She told me that, yes.

9 Q So you don't have any reason to believe that she
10 had not at some point worked at --

11 A Correct.

12 Q To your knowledge, had she sought employment
13 anywhere else during the year of 2013, other than
14 Tilted Kilt?

15 A Not that I can think of, no.

16 Q Do you have any personal knowledge as to -- you
17 mentioned a moment ago there were circumstances that
18 led to her living in her car; do you have any personal
19 knowledge as to the relationship with her family or
20 what specifically led to that decision to --

21 A No. She just told me there was an argument at
22 home. She didn't get into specifics of the argument,
23 no.

24 Q Now, are you aware of an individual named Jeremy
25 Flemming?

JESSICA COOKE - CROSS-EXAMINATION

1 A I have heard of him, yes. I think I met him
2 once.

3 Q Was he a former manager at the House of Blues?

4 MS. LIVESAY: I'm going to object to whether or
5 not she really, indeed, has personal knowledge.

6 THE COURT: She just testified to that. You can
7 redirect her, Solicitor. She just said that she knew
8 him a little bit, I think is what I heard. I'll allow
9 the next question. I don't know what he's going to
10 ask.

11 Q To your knowledge, was he an employee at the
12 House of Blues?

13 A I don't know that, no.

14 Q Was this a romantic relationship between Heather
15 and Jeremy Flemming?

16 A That is where I'm confused, because there were
17 two friends that were Jeremy, so I don't know which one
18 was Flemming, and which was the other one. I never met
19 the other one.

20 Q There was another individual named Jeremy as
21 well?

22 A Yeah. He was just a friend.

23 Q Did she have a romantic interest or boyfriend of
24 some kind that was named Jeremy?

25 A Yes.

JESSICA COOKE - CROSS-EXAMINATION

1 Q And, to your knowledge, did she reside with him
2 in 2013?

3 A Briefly, I believe. But I couldn't tell for
4 sure, but I think briefly.

5 Q Do you have any knowledge as to any abuse that
6 may have occurred in that relationship?

7 A Firsthand, no.

8 Q Have you become aware of any allegations of abuse
9 regarding Jeremy Flemming and --

10 MS. LIVESAY: Objection.

11 THE COURT: Sustain. She said she didn't have
12 firsthand knowledge.

13 Q How about a man named Jerry Stevens?

14 A I heard the name Jerry, but, again, I don't know
15 last names, so it could be the same person, could not
16 be.

17 Q You heard that from Heather?

18 A Yes.

19 Q How about a man named Bryant Form (phonetic)?

20 A I never heard that name.

21 Q I'll ask you about Tilted Kilt. There were two
22 employees named Dennis Hart?

23 A Correct.

24 Q Dennis Hart, Senior, is the father, and he was
25 working at the Tilted Kilt during the time Heather was

JESSICA COOKE - CROSS-EXAMINATION

1 still working there?

2 A Correct.

3 Q Now, didn't he also have a son, Dennis Hart,
4 Junior?

5 A Yes.

6 Q And he was not working at the Tilted Kilt when
7 Heather went missing?

8 A Correct. He moved back to Washington.

9 Q But he previously worked there?

10 A Correct.

11 Q Do you have any knowledge as to whether or not
12 her and Dennis Hart, Junior, were close or maintained a
13 relationship?

14 A They were friends, yeah.

15 Q Do you know -- did they stay in contact?

16 A I believe so, but I don't -- I know that they
17 talked through text, that was about it, after he moved.

18 Q Let's talk about -- we've heard a number of
19 discussions about phone calls and text messages.
20 Obviously, this was in 2013; she was 19 at the time?

21 A Correct.

22 Q She utilized Facebook?

23 A Yes.

24 Q And she utilized the various messenger apps on
25 Facebook?

JESSICA COOKE - CROSS-EXAMINATION

1 A They all did, yes.

2 Q Probably used Instagram and various messaging
3 applications associated with that?

4 A I would assume, yes.

5 Q And what about Snapchat?

6 A I don't know if she used it or not.

7 Q Are you familiar with the app of Snapchat?

8 A I am.

9 Q What is that, generally, to the best of your
10 knowledge?

11 A Take pictures, send them. Everyone knows it as a
12 cheater app.

13 Q Is there anything distinct about that messaging
14 app as opposed to others?

15 A Not really.

16 Q Was it a common occurrence among the girls at
17 Tilted Kilt during the time you worked there to utilize
18 the Snapchat app?

19 A That -- back then, I think it was just coming
20 out, if I remember correctly, Snapchat.

21 Q Let me put it this way. It would not be uncommon
22 for that?

23 A Oh, no. No.

24 Q I want to talk about the relationship between
25 Ms. Elvis and Sidney. She made known to you that she

JESSICA COOKE - CROSS-EXAMINATION

1 found him attractive?

2 A Correct.

3 Q And that was before they had initiated any type
4 of friendship or anything along those lines?

5 A Right.

6 Q And did she make her feelings known to other
7 employees, to your knowledge?

8 A To my knowledge, yes. Me, being one.

9 Q In other words, this was not a secret crush; she
10 made it very well-known?

11 A Correct.

12 Q Like I said, this was prior to the initiation of
13 any sexual relationship, at least to the best your
14 knowledge?

15 A Correct.

16 Q Kind of a weird question: Do you have any
17 knowledge as to when the first sexual encounter
18 occurred between the two of them?

19 A No. I'm glad I don't.

20 Q Do you have any knowledge as to when the
21 relationship between Heather and Jeremy Flemming ended?

22 A No.

23 Q Do you have any knowledge as to whether or not
24 she ever resided with Jerome Flemming?

25 A No -- well, I heard through the grapevine, yes,

JESSICA COOKE - CROSS-EXAMINATION

1 but....

2 Q That's....

3 A That is not straight from her.

4 Q If you don't know, that is fine.

5 Again, the relationship, once she engaged in it
6 with Sidney, this was widely known?

7 A Yes.

8 Q This was not something that she was attempting to
9 keep secret?

10 A No.

11 Q Correct? And Sidney was not attempting to keep
12 it secret, correct?

13 A No.

14 Q So he would show up, bring her coffee, bring her
15 food from time to time?

16 A Correct.

17 Q Now, at some point we know that his wife found
18 out, and you said that the breakup, at least to the
19 best of your observation, occurred around mid-October,
20 late October?

21 A Late October, early November, around there.

22 Q And at that point, Sidney stopped doing various
23 jobs at Tilted Kilt?

24 A Correct.

25 Q So is it safe to say, to the best of your

JESSICA COOKE - CROSS-EXAMINATION

1 knowledge, Sidney had no communication, at least that
2 he initiated with her, between the first part of
3 November and December 17, 2013?

4 A Best of my knowledge, yes.

5 Q Now, there were -- you also referenced there was
6 this incident where, apparently, Heather got upset over
7 what she thought was phone calls from Sidney's wife,
8 Tammy?

9 A One phone call, yes.

10 Q One phone call?

11 A Yes.

12 Q But that was not actually Mrs. Moorer, correct?

13 A Correct.

14 Q In fact, those were the girls at the Tilted Kilt
15 that were playing a prank on her?

16 A Correct.

17 Q And Tammy never came to the restaurant?

18 A Not that I saw with my eyes, no.

19 Q So safe to say everything is clearly over by
20 December of 2013 between Sidney and Heather?

21 A Yes.

22 Q Now, obviously, at this point, you and Heather
23 are very close; safe to say?

24 A For the most part, yes.

25 Q And she never told you that she was, in fact,

JESSICA COOKE - CROSS-EXAMINATION

1 pregnant, correct?

2 A No.

3 Q She never confirmed that. To your knowledge, she
4 never scheduled a doctor's appointment to evaluate the
5 possibility of being pregnant, correct?

6 A We weren't that close, but, no, she didn't tell
7 me that.

8 Q Did you ever observe her taking any prenatal
9 vitamins in 2013?

10 A No.

11 Q She never discussed with you, being her
12 supervisor, the scheduling of any maternity leave at
13 sometime in the future?

14 A No.

15 Q This is even a weirder question to say, but in
16 the first -- let me ask it this way. In early of
17 December of 2013, do you have any knowledge as to
18 whether or not Ms. Elvis got her period at that point?

19 A There was a post on Facebook, but not anything
20 confirming that she did actually have her period. She
21 did ask me if a woman could still have their period or
22 spot while pregnant.

23 Q Regarding the Facebook post, did that lead you to
24 believe that she did, in fact, get her period the first
25 of December?

JESSICA COOKE - CROSS-EXAMINATION

1 A No, because she asked me that question.

2 Q I'm going to mark Defendant's 2 for ID only.

3 (Defendant's Exhibit 2 marked.)

4 THE COURT: Before you resume your
5 cross-examination. Ladies and gentlemen, exhibits
6 that are marked for identification purposes only are
7 generally -- unless admitted -- will not accompany you
8 to your jury room. As a distinction, when it is
9 admitted, and we had some admitted already, those will
10 accompany you to the jury room and you will have a
11 chance to study them in detail. In ID only, the
12 testimony concerning it, you may consider it fully.
13 Thank you.

14 You may proceed.

15 Q This is something we received from the
16 Solicitor's Office. This is a Facebook post and
17 indicates you responded?

18 MS. LIVESAY: If we can, can we lay a foundation,
19 if she even recognizes that document?

20 THE COURT: He's doing that, Solicitor. Thank
21 you. But let him finish the question before she
22 answers. If you have an objection, I'll be happy to
23 -- I'm not going to instruct him how to do that. He
24 is in the process of it.

25 Q Do you recall responding to that Facebook message

JESSICA COOKE - CROSS-EXAMINATION

1 you referenced in December of 2013?

2 A Yes.

3 Q I'll show you this to see -- is that the -- just
4 text version, is that the text of you responding to a
5 post she made back in December of 2013?

6 A Yes.

7 Q And based on your response and her message, would
8 that seem to indicate that she did, in fact, get her
9 period the first of December?

10 A It would. But, again, the question she asked me
11 was around that same time.

12 Q So, again, by -- safe to say by mid-December of
13 2013, I think it is your words, she's going back to
14 being the "old Heather"?

15 A Correct.

16 Q There is no further information or any indication
17 regarding pregnancy one way or the other?

18 A No.

19 Q You had a Christmas party on December 10, 2013,
20 correct?

21 A I think it was the 11th, thereabouts.

22 Q Did she attend that Christmas party?

23 A Yes.

24 Q Did she consume any alcohol?

25 A Not that I saw.

JESSICA COOKE - CROSS-EXAMINATION

1 Q So you can't rule it out one way or another?

2 A No. I was bartending, and I did not give her any
3 alcohol.

4 Q You talked to Officer Danny Furr on approximately
5 December 18 through December 19, 2013?

6 A There were police officers there, yes. I don't
7 know who they were.

8 Q Okay. But let's put it in perspective: A day or
9 so after she was missing, officers came to speak to
10 you?

11 A Correct.

12 Q Were you asked to provide a written statement at
13 that time?

14 A I don't remember, to be honest. It's been almost
15 six years.

16 Q Understand. If you don't remember, you don't
17 remember. How many times have you met with law
18 enforcement officers between December of 2013, when she
19 goes missing, and February of 2014?

20 A The one time that they came into Tilted Kilt, and
21 then apparently when I gave the statement.

22 Q So during the period of the investigation when
23 she goes missing, until late February of 2014, police
24 only speak to you that initial time the day following
25 her disappearance; is that correct?

JESSICA COOKE - CROSS-EXAMINATION

1 A That I can recall, yes. They talked more to the
2 GM of the property rather than me about other things.

3 Q But you and her were very close, right? She was
4 living with you at some point, you were her direct
5 supervisor?

6 A Uh-huh.

7 THE COURT: Is that a yes?

8 A I'm sorry, yes.

9 Q Whenever you gave your statement in 2014, were
10 officers present for that?

11 A They had to have been, yeah.

12 Q And did you discuss in any way, shape or form
13 the -- what they wanted you to focus your statement on?

14 A No.

15 Q By February 2014, safe to say that the
16 disappearance of Heather and the investigation going on
17 was highly publicized?

18 A Yes.

19 Q You lived in Horry County at the time, I assume?

20 A Yes.

21 Q And still live in Horry County?

22 A Yes.

23 Q It was a highly publicized missing persons case?

24 A Yes.

25 MR. BOUCHETTE: Court's indulgence.

JESSICA COOKE - REDIRECT EXAMINATION

1 THE COURT: Sure.

2 (A brief pause in the proceedings.)

3 MR. BOUCHETTE: No further questions.

4 THE COURT: Redirect?

5 MS. LIVESAY: Just a few.

6 THE COURT: Sure.

7 MS. LIVESAY: Thank you, I appreciate it.

8 THE COURT: Yes, ma'am.

9 REDIRECT-EXAMINATION

10 BY MS. LIVESAY:

11 Q I just want to clarify to make sure I understand.

12 Mr. Bouchette asked you about Dennis Hart, Senior; do
13 you remember that?

14 A Yes.

15 Q And how long had Dennis Hart, Senior, been
16 working at Tilted Kilt?

17 A I would guess over a year.

18 Q And how long had you been working there?

19 A At that point, two-and-a-half years.

20 Q And Heather had been there maybe a year?

21 A Right.

22 Q During that time frame, to your knowledge, was
23 there any sexual relationship between her and Dennis
24 Hart?

25 A No.

JESSICA COOKE - REDIRECT EXAMINATION

1 Q You kind of seemed, no; so you are sure about
2 that?

3 A Yes.

4 Q And you never saw him bringing her any coffee or
5 Danishes?

6 A No.

7 Q Now, Mr. Bouchette also asked you did she ever
8 tell you that she was pregnant; do you remember him
9 asking you that?

10 A Yes, I do.

11 Q Did she ever tell you that she wasn't pregnant?

12 A No.

13 Q When was the last time you saw and spoke with
14 Heather Elvis before she went missing on December
15 18th?

16 A Her last shift was either the Sunday or Monday
17 before she disappeared.

18 Q So relatively close in time?

19 A Correct.

20 Q During that month.

21 At that time, did you know whether or not she was
22 pregnant?

23 A No, not for sure.

24 Q So the question was still out there?

25 A Correct.

OBJECTIONS

1 Q And, you know, I've asked you some questions,
2 Mr. Bouchette asked you quite a few questions about a
3 pregnancy and gaining weight; who was the only man you
4 knew she had a sexual relationship with prior to these
5 changes?

6 A The defendant.

7 MS. LIVESAY: Nothing further.

8 THE COURT: Recross?

9 MR. BOUCHETTE: Nothing further, Your Honor.

10 THE COURT: Thank you. You may step down.

11 Do you wish this witness to be excused?

12 MR. HELMS: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. BOUCHETTE: No, Your Honor.

15 THE COURT: At this point, ladies and gentlemen,
16 we'll let you take a break. I'll let you go to your
17 jury room. Do not begin your deliberations. Don't
18 discuss the case. We'll be back with you in 10 or 15
19 minutes. You may retire.

20 (The jury exits at 11:20 a.m., and the
21 following is heard out of the presence of the jury.)

22 THE COURT: Anything from the State before we
23 recess?

24 MS. LIVESAY: No, sir.

25 THE COURT: Anything from the defendant?

OBJECTIONS

1 MR. BOUCHETTE: Just put that objection at
2 side-bar.

3 THE COURT: We had an objection at side-bar
4 concerning the relevance, and it was dealt with the
5 issue of pregnancy. You said it was not relevant, and
6 I overruled the objection; I thought it was relevant.

7 MR. BOUCHETTE: My objection was going to -- they
8 were getting into the physical changes. I submit that
9 it was not relevant unless you were trying to imply
10 pregnancy, but I'm not arguing with --

11 THE COURT: As I stated, they have a right to
12 bring their issue. You cross-examined that and
13 brought out other aspects of it as well. So it is an
14 issue for the jury, and I felt it was relevant and I
15 thought it was proper for them to introduce it and for
16 the reasons, obviously, it is part of this case, and
17 is part of the case, and they are entitled to prove
18 it. Whether or not they prove it to that
19 satisfaction, obviously, we have already introduced
20 evidence of change in attitude, of weight, which means
21 could have been something else. The witness said she
22 didn't know whether she was or wasn't. So we have
23 evidence both ways. Thank you very much.

24 Anything else before recess?

25 MR. BOUCHETTE: No, Your Honor.

OBJECTIONS

1 THE COURT: Thank you. We'll be at ease for
2 about 10 minutes. Thank you.

3 (A recess was taken.)

4 THE COURT: Thank you. State ready to continue?

5 MS. LIVESAY: Yes.

6 MR. BOUCHETTE: Defense ready to continue?

7 MR. BOUCHETTE: Yes.

8 THE COURT: We can get the jury.

9 (The jury enters at 11:35 a.m., and the
10 following is heard in the presence of the jury.)

11 THE COURT: Thank you very much, ladies and
12 gentlemen. I appreciate -- it was indicated to you we
13 would like to go until 6 o'clock, and as I understand,
14 it is okay with you all except one juror has matters
15 already scheduled for today and needs to be there, I
16 think he said it takes 20 minutes, so I will make sure
17 we give you that time to be there. But if that works
18 with you all, we'll -- it gives us an extra hour.
19 Typically, we work til 5:00, but if we work til 6:00,
20 if that is okay with you all. The minute you have
21 anything that comes up during the week that you need
22 to deal with, do not hesitate to tell the bailiff, and
23 we'll work around that. Thank you very much, ladies
24 and gentlemen.

25 All right. Solicitor, call your next witness.

JODIE DAVENPORT - DIRECT EXAMINATION

1 MS. LIVESAY: The State calls Jodie Davenport.

2 (JODIE DAVENPORT, having been duly sworn,
3 testified as follows:)

4 THE WITNESS: Jodie Davenport, D-A-V-E-N-P-O-R-T.

5 DIRECT-EXAMINATION

6 BY MS. LIVESAY:

7 Q If you don't mind, tell this jury how old you
8 are, if you are married and how many kids.

9 A I'm 30, I'm married and I have children, yes.

10 Q And where do you currently live?

11 A I just moved to Hendersonville, North Carolina.

12 Q At one time did you live here in Horry County?

13 A Yes. For 30 years.

14 Q When did you live in Horry County?

15 A I just moved back in July, so I have lived here
16 my whole life.

17 Q So your whole life until you moved to Asheville.

18 And at some point did you work at Tilted Kilt?

19 A Yes, ma'am.

20 Q If you don't mind, tell them when you worked at
21 Tilted Kilt.

22 A I worked at Tilted Kilt for two years.

23 Q When you worked there -- we just heard from
24 Jessica Cooke, did you work with her?

25 A Yes.

JODIE DAVENPORT - DIRECT EXAMINATION

1 Q Was she also your manager or supervisor?

2 A Yes.

3 Q And did Heather Elvis also work at Tilted Kilt?

4 A Yes.

5 Q I'll show you a picture. It has been admitted
6 into evidence. Do you recognize this young lady?

7 A Yes.

8 Q Who is it?

9 A Heather Elvis.

10 Q Is this how she looked when she was working at
11 Tilted Kilt?

12 A Yes.

13 Q Now, while you and Jessica and Heather were all
14 working at Tilted Kilt, did Sidney Moorer, the
15 defendant, also work at Tilted Kilt?

16 A Yes, ma'am.

17 Q And what were your job responsibilities?

18 A I mainly worked a lot of day shifts because I had
19 kids, so I was usually the opening server. I would
20 come in in the morning, get everything prepared for the
21 day and start taking tables as soon as the building
22 opened.

23 Q What were Heather's responsibilities?

24 A She was a hostess.

25 Q Do you know what the defendant did while he

JODIE DAVENPORT - DIRECT EXAMINATION

1 worked there?

2 A As far as I know, he was the maintenance man.

3 Q When did he normally work?

4 A I'm -- I'm pretty sure he worked at night. I did
5 see him on a few occasions, because I did work some
6 night shifts, just not a lot.

7 Q Let me ask you something. Was Heather like a
8 full-time employee, someone she --

9 A Yes.

10 Q So you worked with her a good bit?

11 A Yes.

12 Q And tell this jury a little bit about the kind of
13 employee she was.

14 A She was always there. If she was going to be
15 late or wasn't going to be there, which was very rare,
16 she would call.

17 Q Now, let me ask you something. Did you ever see
18 her with a phone?

19 A Always.

20 Q And she worked at the hostess stand, correct?

21 A Yes, ma'am.

22 Q And she kept a phone on her?

23 A Yes, ma'am.

24 Q And about how old was she?

25 A I believe whenever we started working together,

JODIE DAVENPORT - DIRECT EXAMINATION

1 she was 18.

2 Q So she was under 21?

3 A Yes, ma'am.

4 Q Couldn't serve alcohol?

5 A Right.

6 Q Now, let me ask you something. During the time
7 that she was there at Tilted Kilt, tell me about your
8 knowledge about the relationship between her and the
9 defendant, Sidney Moorner.

10 A Over the summer, I started, you know, hearing
11 little tidbits from her about her seeing him, and it
12 progressed over the next few months. It stopped in
13 October, around the end of October.

14 Q Did you ever see him visiting her during the day
15 shift?

16 A I did see him a few times bring her bagels and
17 coffee during day shift.

18 Q So he would come see her even when he wasn't
19 working?

20 A Yes.

21 Q During that time frame, to your knowledge, was
22 she dating anyone else?

23 A No.

24 Q Did you see any other men coming to visit her
25 during the day, like men just to be thoughtful to bring

JODIE DAVENPORT - DIRECT EXAMINATION

1 something to drink or eat?

2 A No.

3 Q Now, at the time you were working there, was
4 Dennis Hart, Senior, also working there?

5 A Yes.

6 Q And to your knowledge, was there ever any kind of
7 sexual relationship between her and Dennis Hart?

8 A No.

9 Q To your knowledge, was there ever any kind of
10 sexual relationship between her and any other male
11 employee?

12 A Not to my knowledge, no.

13 Q Now, I want to go back. You were telling me that
14 the relationship ended, I think you said, the end of
15 October, beginning of November?

16 A Yes, ma'am.

17 Q Tell me about how she appeared physically and
18 mentally once this relationship ended.

19 A She was really distraught. I know she had been
20 receiving some text messages from his wife, and she was
21 really scared and upset. It was very obvious.

22 Q And this relationship between the two of them had
23 gone on from the summer until, let's say, the end of
24 October, November?

25 A Yes, ma'am.

JODIE DAVENPORT - DIRECT EXAMINATION

1 Q So about from July, August, September, October --
2 maybe four, five months?

3 A Yes, ma'am.

4 Q So there was some time under the belt?

5 A Yes.

6 Q Now, was she afraid of his wife, Tammy Moorner?

7 A Yes.

8 Q And, earlier, you weren't in here, but there was
9 discussion or talk about a prank that was played on
10 her; do you know anything about that?

11 A I remember hearing about it.

12 Q And that prank involved Tammy Moorner?

13 A Some of the girls were pretending to be her, as
14 far as I know.

15 Q How did Heather react to that?

16 A She was scared. She ended up going home that
17 day.

18 Q Let me ask you this. You told me a little bit
19 about her demeanor after the breakup; she clearly was
20 upset. This relationship had been going on for several
21 months?

22 A Yes.

23 Q Did you notice any physical changes in her?

24 A Yes.

25 Q Tell the jury about those physical changes.

JODIE DAVENPORT - DIRECT EXAMINATION

1 A She had put on weight. We had uniforms that were
2 very tight fitting, and the whole first, you know,
3 year-and-a-half we worked together, we wore the same
4 size, and she had to go up, you know, in her top. It
5 was actually part of the uniform to wear a bra, and she
6 had to go up in bra sizes as well. She looked a little
7 bit of -- like a little bit of weight was on kind of
8 all over.

9 Q So she was gaining weight?

10 A Yes.

11 Q Now, do you know whether or not she took a
12 pregnancy test?

13 A I do.

14 Q How do you know that?

15 A She actually took a pregnancy test before we
16 opened the restaurant one morning, when we were all
17 opening the restaurant up together.

18 Q Did you see the test?

19 A Yes.

20 Q What was the result?

21 A It said "error."

22 Q Now, when was the last time you saw this young
23 lady before she went missing?

24 A I believe it was a day or two before she went
25 missing. It was her last shift we worked together.

JODIE DAVENPORT - DIRECT EXAMINATION

1 Q So it was the last time you all worked together?

2 A Yes.

3 Q And at that time was it resolved whether or not
4 she was pregnant?

5 A To my knowledge, no.

6 Q So nobody knew for sure either way?

7 A Yes.

8 Q Now, when you worked at Tilted Kilt, did everyone
9 park kind of in the same area?

10 A Yes.

11 Q And Broadway at the Beach is where Tilted Kilt
12 is?

13 A Was, yes.

14 Q Was. Was. So there was multiple kinds of
15 restaurants, bars, that kind of thing out there?

16 A Yes.

17 Q So everyone parked close there, near, I'm
18 assuming, the Tilted Kilt?

19 A Yes. We had to actually park there for safety.
20 We would have, you know, male staff members walk us to
21 our cars at night. They wanted us to all park
22 together.

23 Q At that time, did you know what color truck
24 Sidney Moorner drove?

25 A Yes.

JODIE DAVENPORT - DIRECT EXAMINATION

1 Q What color was it?

2 A White.

3 Q Had you ever seen him in a black truck?

4 A No.

5 Q She worked there, you said, about a year?

6 A I'm not exactly sure how long she worked there,
7 but I worked there for two years, and she was there
8 when I started.

9 Q You know she was there at least from the summer
10 until December?

11 A Yes.

12 Q So at least six, seven months?

13 A Yes.

14 Q During that time, how would you describe her
15 general demeanor?

16 A Bubbly, sometimes very smart aleck, but very
17 bubbly girl.

18 Q Typical for an 18-, 19-year-old girl?

19 A Yes.

20 Q Young. Was she free spirited?

21 A Yes.

22 Q Now, you've told us earlier that she was upset
23 and distraught, you know, after this breakup happened
24 and all of these things unfolded with Sidney and his
25 wife; had you ever seen her like that before?

JODIE DAVENPORT - DIRECT EXAMINATION

1 A No.

2 Q Had she ever shown up to work with any bruising
3 or injuries on her?

4 A I did see her with a black eye.

5 Q When was that?

6 A It was shortly -- it was sometime in between the
7 breakup in October and her going missing in December.
8 I can't tell you an exact date.

9 Q So it was sometime between the breakup and when?

10 A When she went missing in December.

11 Q Had she ever, prior to that, before she had
12 gotten involved with Sidney and they had broken up and
13 there was, you know, this fear of Tammy, before that,
14 had there ever been any injuries to her that you saw?

15 A No.

16 Q And you said earlier the outfit for Tilted Kilt
17 was a little top?

18 A Yes, ma'am.

19 Q And a little kilt?

20 A Yes, ma'am.

21 Q So you could see a lot of skin?

22 A You could see the midriff area, and from the knee
23 to the upper thigh.

24 Q And all up here higher, of course (indicates)?

25 A Yes.

JODIE DAVENPORT - DIRECT EXAMINATION

1 Q And you had never seen her have any injuries
2 until after all of this unfolded?

3 A Yes, ma'am.

4 Q Do you have any knowledge who caused those
5 injuries?

6 A No.

7 Q You testified that they played this prank on
8 Heather, acted like they were Tammy, and she went home
9 and left. Do you know -- do you have any knowledge why
10 she was so afraid of Tammy Moorner?

11 A I know from talking to her about the whole
12 situation that to her -- in her opinion, she was crazy.
13 She actually used the words "crazy bitch."

14 Q So she definitely felt like there was something
15 to be afraid of?

16 A Yes.

17 Q During the time you worked with her and knew her
18 during these months, to your knowledge had she ever
19 appeared or been afraid of anybody else?

20 A No.

21 Q Did she have a sexual relationship, to your
22 knowledge, prior to this weight gain, other than with
23 Sidney Moorner?

24 A Not that I'm aware of.

25 Q Did she ever lose the weight?

JODIE DAVENPORT - CROSS-EXAMINATION

1 A No.

2 Q And to this day, you don't know whether she was
3 pregnant or not?

4 A No.

5 MS. LIVESAY: I don't have any further questions.

6 THE COURT: Cross-examination, Mr. Galmore.

7 CROSS-EXAMINATION

8 BY MR. GALMORE:

9 Q Ms. Davenport, you indicated that you worked at
10 the Twisted (sic) Kilt for two years?

11 A Tilted Kilt. Yes, two years.

12 Q And during the time you worked there, you
13 interacted or worked with Heather Elvis?

14 A Yes, sir.

15 Q And you also interacted and worked with Sidney
16 Moorer?

17 A I didn't work with him, but I saw him in passing.

18 Q How long during this period of time over -- what
19 was the overlap when you and Ms. Elvis were working
20 together?

21 A I know that she was already there when I started,
22 and I'm pretty sure that we worked together about a
23 year-and-a-half.

24 Q Now, when Mr. Moorer was working at Tilted Kilt,
25 do you know what amount of time he was working at the

JODIE DAVENPORT - CROSS-EXAMINATION

1 restaurant?

2 A No.

3 Q Because you worked morning shifts mostly?

4 A Yes.

5 Q And do you know what his job duties were?

6 A As far as I know, he took care of maintenance
7 issues around the building.

8 Q Was he mostly the night person to come in?

9 A Yes.

10 Q Do you know anything about Heather Elvis outside
11 of the work environment?

12 A We actually never hung out outside of work.

13 Q Do you know about her living arrangements?

14 A No, sir.

15 Q Do you know about the people she dated other than
16 Mr. Moorer?

17 A Just stories she told me from when she was
18 younger, but nothing of recent when we worked together.

19 Q Did she mention that she previously dated Jeremy
20 Flemming?

21 A No.

22 Q Did you all attend a Christmas party together?

23 A Yes.

24 Q And when was that Christmas party?

25 A December 10th.

JODIE DAVENPORT - CROSS-EXAMINATION

1 Q And that would have been a few days before all of
2 this?

3 A Yes.

4 Q Was there drinking taking place at the Christmas
5 party?

6 A Yes.

7 Q And I understand Heather was 19 years old; was
8 she drinking at the Christmas party?

9 A I did not see her drink.

10 Q Did you post any pictures of the Christmas party
11 on the Facebook page?

12 A I believe I posted a few, including one of her.

13 Q Was she drinking in the picture you posted?

14 A No.

15 Q You said you indicated that you saw Mr. Moorer
16 visit the restaurant during the day?

17 A Yes.

18 Q And he would bring her bagels, donuts, things of
19 that nature?

20 A Yes.

21 Q At this point, was the relationship that they had
22 a secret?

23 A It was a secret to his wife.

24 Q Was it a secret to the people at the restaurant?

25 A No.

JODIE DAVENPORT - CROSS-EXAMINATION

1 Q So you knew that this was a relationship?

2 A Yes.

3 Q I think you testified that the relationship came
4 to an end around October of 2013?

5 A Yes.

6 Q Would that have been before or after the prank
7 phone call?

8 A I believe it would -- I believe it was before. I
9 can't tell you for sure.

10 Q Now, this prank phone call, did you participate
11 in the prank phone call?

12 A No.

13 Q Did you make the phone call?

14 A No.

15 Q Was it one phone call or more than one?

16 A From my knowledge, it was a lot of phone calls.

17 Q From the other employees?

18 A Yes.

19 Q So it was more than one phone call?

20 A Yes.

21 Q To your knowledge, how many? Or take a guess.

22 A I just knew it was numerous.

23 Q More than ten phone calls?

24 A I can't say for sure.

25 Q Numerous phone calls from the employees to

JODIE DAVENPORT - CROSS-EXAMINATION

1 Ms. Elvis' phone?

2 A Yes. Yes.

3 Q And as a result of that, she took off of work?

4 A Yes.

5 Q And you indicated that Ms. Elvis had a fear of
6 Tammy Moorer?

7 A Yes.

8 Q Did she ever express to you a fear of Sidney
9 Moorer?

10 A No.

11 Q These prank phone calls, do you know if anyone
12 was reprimanded or disciplined for making those calls?

13 A I'm not sure.

14 Q You said the relationship ended around October of
15 2013?

16 A End of October.

17 Q When was this pregnancy test allegation?

18 A I can't remember an exact date.

19 Q Were you present when Ms. Elvis took the
20 pregnancy test?

21 A Yes, sir.

22 Q Did you actually look at the stick yourself?

23 A Yes, sir.

24 Q And the stick said "error"?

25 A Yes, sir.

JODIE DAVENPORT - CROSS-EXAMINATION

1 Q Was there ever a second pregnancy test taken?

2 A Not that I'm aware of.

3 Q Do you know if Ms. Elvis went to an emergency
4 room or OB/GYN?

5 A Not that I am aware.

6 Q Do you know if she was taking any prenatal
7 vitamins?

8 A Not that I'm aware of.

9 Q Lamaze classes?

10 A Not that I'm aware of.

11 Q Was there any conversation where Ms. Elvis came
12 back and relayed to you that she followed up and found
13 out that she was, in fact, pregnant?

14 A No.

15 Q Do you know if Ms. Elvis was on any medication?

16 A No.

17 Q No, you don't know or --

18 A I don't know.

19 Q Let me ask you about this black eye incident. Do
20 you know when that was?

21 A It was sometime after the breakup.

22 Q So we have a breakup in October, the black eye
23 incident sometime after that, and then the pregnancy
24 test sometime after that?

25 A Yes, sir.

JODIE DAVENPORT - CROSS-EXAMINATION

1 Q With this black eye incident, did Ms. Elvis
2 indicate to you how she became injured?

3 A No.

4 Q Did she tell you that Tammy Moorner, did it?

5 A No.

6 Q Did she tell you that anyone else did it?

7 A No.

8 Q Did she give you any explanation for that injury?

9 A No, I never asked her.

10 Q Did she say that Sidney Moorner did it?

11 A No.

12 Q Did she seek any medical treatment for it?

13 A Not that I'm aware of.

14 Q When was your first conversation with police
15 regarding this case?

16 A I can't remember.

17 Q Did you talk to the police like in the first few
18 days of when Ms. Elvis was missing?

19 A No.

20 Q Would it have been a few months later, 13 months
21 later?

22 A I believe so.

23 Q And did they ask you to give a written report at
24 that time, written statement?

25 A I can't remember.

JODIE DAVENPORT - CROSS-EXAMINATION

1 Q But your testimony is that you did not speak to
2 any police officers about this case for several
3 months?

4 A I can't remember when I first spoke to them.
5 It's been almost six years. I can't remember.

6 Q Let's try to clarify that. I asked you did you
7 speak to police officers within the first couple of
8 days of her going missing?

9 A Not that I remember.

10 Q Okay. And I asked you if you remember giving a
11 statement a few months later to law enforcement?

12 A I did at some point, I just don't remember
13 exactly when.

14 Q So you remember giving a statement, a written
15 statement?

16 A Yes.

17 Q Did you sit down and give like a tape-recorded or
18 video interview?

19 A I don't remember it being recorded.

20 Q The only thing you recall is giving a written
21 statement to the officers?

22 A Yes, sir.

23 Q Just to be clear, was that written statement
24 given in the first few days she was missing, or was it
25 given several months into this investigation?

JODIE DAVENPORT - CROSS-EXAMINATION

1 A It was after, so it could have been several
2 months.

3 MR. GALMORE: Court's indulgence.

4 THE COURT: Certainly.

5 (A brief pause in the proceedings.)

6 MR. GALMORE: No further questions. Thank you.

7 THE COURT: Redirect.

8 MS. LIVESAY: No further questions for this
9 witness.

10 THE COURT: Thank you. Do you wish for her to be
11 excused?

12 MS. LIVESAY: Yes.

13 MR. BOUCHETTE: No objection.

14 THE COURT: At this point, we'll take our lunch
15 break. I'll ask you -- you are -- I'll ask you to be
16 back in an hour. If you do go out, do not discuss the
17 case, of course, with anyone. Do not allow anyone to
18 talk with you about the case or talk about it in your
19 presence, and don't talk among yourselves. If you
20 will be back in your jury room at 1:00, we'll resume
21 the trial at that time. Thank you.

22 (The jury exits at 11:58 a.m., and the
23 following is heard out of the presence of the jury.)

24 THE COURT: Anything from the State before we
25 recess?

JODIE DAVENPORT - CROSS-EXAMINATION

1 MS. LIVESAY: No, sir.

2 THE COURT: Anything from the defendant?

3 MR. BOUCHETTE: No, Your Honor.

4 THE COURT: We'll be at ease. Please approach.

5 (A lunch recess was taken.)

6 THE COURT: Is the State ready to proceed?

7 MS. LIVESAY: We are calling Dennis Hart and we
8 had that motion earlier regarding the prior
9 conviction, and we're just asking for that to be kept
10 out.

11 THE COURT: What is --

12 MS. LIVESAY: Under Rule 609.

13 THE COURT: What is the conviction and the --
14 what is the date of conviction?

15 MS. LIVESAY: He was released Friday the
16 13th of 1999, that was for a charge regarding a
17 sexual abuse.

18 THE COURT: Over 20 years ago. So the only
19 purpose you can ask is the conviction itself, but that
20 is the essence of it, insofar as for impeachment
21 purposes. It is beyond the limit on the rule. The
22 rule is very clear about that.

23 MR. BOUCHETTE: Can I have a moment, Your Honor?

24 THE COURT: Yeah.

25 (A brief pause in the proceedings.)

JODIE DAVENPORT - CROSS-EXAMINATION

1 THE COURT: 609(b), the rule is not admissible if
2 the period is more than ten years, and you say he was
3 released in 1999?

4 MR. HELMS: That's correct, Your Honor.

5 MR. BOUCHETTE: I would agree. 609 is
6 referencing when the purpose is to attack the
7 creditability.

8 THE COURT: That's correct. That is the only
9 purpose it be can offered.

10 MR. BOUCHETTE: With this witness. So with this
11 witness we won't be using that as a tactic.

12 THE COURT: Okay. That's fine. If we talked
13 about -- if you decide that there is another reason
14 you can bring up that. We can ask the jury to be
15 excused, otherwise, it will be --

16 MR. BOUCHETTE: Okay. Very good.

17 THE COURT: Are we ready?

18 MS. LIVESAY: Yes, sir, we're ready.

19 THE COURT: Defense ready?

20 MR. BOUCHETTE: We're ready.

21 THE COURT: Let's bring in the jury, please.

22 (The jury enters at 1:05 p.m., and the
23 following is heard in the presence of the jury.)

24 THE COURT: Thank you, ladies and gentlemen. I
25 hope you had a good lunch break. And, generally,

DENNIS HART, SR. - DIRECT EXAMINATION

1 depending on where you are, an hour or
2 hour-and-a-half -- if an hour is not long enough, I've
3 been stationed here in Conway several times and lived
4 here for six months in 1995, but I assume it gives you
5 enough time to get something to eat, but if you need
6 longer, don't hesitate to let us know and I'll be
7 happy to accommodate that, but thank you very much.
8 We're ready to continue. Please give your attention
9 now to the next witness.

10 Solicitor, you may call your next witness.

11 MS. LIVESAY: Thank you, Your Honor. At this
12 time we call Dennis Hart, Senior.

13 (DENNIS HART, SENIOR, having been duly sworn,
14 testified as follows:)

15 THE WITNESS: Dennis Hart, H-A-R-T.

16 DIRECT-EXAMINATION

17 BY MS. LIVESAY:

18 Q If you don't mind, tell this jury where you
19 currently live.

20 A Myrtle Beach.

21 Q And how long have you been in Horry County?

22 A About 10, 11 years.

23 Q And are you currently married and have any kids?

24 A Married with three kids.

25 Q And how old are your kids now?

DENNIS HART, SR. - DIRECT EXAMINATION

1 A 23 and 17 and 18.

2 Q Okay. Okay. So lucky for you they are kind of
3 gone and take care of themselves, for the most part?

4 A Yes.

5 Q Where are you currently working?

6 A Harry's Breakfast of Pancakes.

7 Q Where were you working back in 2013?

8 A Tilted Kilt.

9 Q And about how long had you worked at Tilted Kilt?

10 A A little over three years.

11 Q And if you don't mind, tell this crowd what was
12 your job responsibilities?

13 A I was the kitchen manager, opened the restaurant
14 in the morning, set bars, get prep ready.

15 Q And earlier we had Jessica Cooke and Jodie
16 Davenport testify; did you know those ladies?

17 A Yes, ma'am.

18 Q Did you work with them?

19 A Yes, ma'am.

20 Q Did you work with Heather Elvis?

21 A Yes, ma'am.

22 Q How long had Heather worked there at the Tilted
23 Kilt?

24 A Three years, a little over three years.

25 Q And how about Sidney Moorner, did he work at the

DENNIS HART, SR. - DIRECT EXAMINATION

1 Tilted Kilt?

2 A Yes, ma'am.

3 Q And how did you know Sidney?

4 A I met Sidney when I worked at Red Robin. He was
5 a maintenance man there periodically. I remember him
6 from then. And when I got the kitchen manager job, I
7 needed maintenance work done and I remembered him. He
8 had good reviews and everything, professional. So I
9 brought him in to help me out at Tilted Kilt for
10 maintenance.

11 Q What did he do -- okay. So just general
12 maintenance?

13 A Plumbing, small repairs I needed, you know, that
14 he was able to do.

15 Q And about -- what were his hours at Tilted Kilt?
16 Did he normally work during the day or night?

17 A For the most part, it was in the evening. Every
18 now and again there was something he could do real
19 quick, so it was done while we were open. But for the
20 most part, it was after we closed.

21 Q When you worked at the Tilted Kilt, did you have
22 any knowledge of the relationship between Heather and
23 the defendant?

24 A Yes.

25 Q And what was that relationship.

DENNIS HART, SR. - DIRECT EXAMINATION

1 A It was that they were seeing each other and
2 having sex on the back patio after hours.

3 Q Okay. And did you ever ask Sidney about it or
4 have any conversation with him?

5 A Yes. I confronted Sidney about having sex with
6 one of my servers on the back patio and informed him
7 that is not why I hired him. I hired him to be my
8 maintenance man and not sleep with my servers.

9 Q Did he -- what did he say back?

10 A I asked how come he did it, and he said because
11 he was there.

12 Q Now, when you were there at Tilted Kilt working,
13 did you ever have any kind of relationship, other than
14 friendship, with Heather Elvis?

15 A No.

16 Q Did you know her to have any kind of relationship
17 with any other male employee at the Tilted Kilt?

18 A No.

19 Q Now, did you ever see Sidney come up during the
20 daytime and see her and visit?

21 A Yeah. He would bring her Starbucks, Danishes
22 while she was working.

23 Q And was their relationship at the Tilted Kilt,
24 was this a big secret, or everyone knew about it? What
25 was the --

DENNIS HART, SR. - DIRECT EXAMINATION

1 A No. They were pretty open about it, and once it
2 was out, they were open about it.

3 Q Okay. Okay. And it was not unusual to see him
4 come up and visit her during the day?

5 A No.

6 Q And when we say "come up and visit her during the
7 day," he wasn't working, just solely coming to see her?

8 A Yeah. He would pop up with a coffee or Danish
9 for her.

10 Q If you don't mind, where did you live? You don't
11 have to give me the exact address, I understand. But
12 in 2013, what area did you live in?

13 A Forestbrook area.

14 Q In Horry County?

15 A Yes.

16 Q And what was your phone number?

17 A [REDACTED] 2208.

18 Q We'll put this on this board because no one will
19 probably remember that five minutes from here.

20 A [REDACTED] 2208.

21 Q Thank you. That was the phone number you had in
22 December of 2013?

23 A At that time, yes.

24 Q Was that the only phone number you had?

25 A Yes.

DENNIS HART, SR. - DIRECT EXAMINATION

1 Q Now, the early morning of December 18th, in the
2 night of 17th when Heather went missing, did you talk
3 with her at all during that time frame?

4 A No.

5 Q And when was the last time you saw her?

6 A Probably her last shift, if I worked with her
7 then. I mean, only time I saw her was at the
8 restaurant. I didn't see her outside of work except
9 one time. We went to a baseball game. It was a reward
10 for employees that done a good job, and like ten of us
11 went to that, but other than that, it was always at
12 work.

13 Q So you all weren't even friends outside of work,
14 really?

15 A No.

16 Q Now, let me ask you something. Do you know about
17 when Heather and the defendant's relationship broke up?

18 A It was around the holidays.

19 Q And after they broke up, did Heather continue to
20 work at the Tilted Kilt?

21 A Yes.

22 Q Did Sidney continue to work at the Tilted Kilt?

23 A It was an abrupt end to Sidney working there. I
24 called him one day to see if he could do some repair
25 work for me. I called and he answered the phone, and I

DENNIS HART, SR. - DIRECT EXAMINATION

1 asked if he was tied up, and he said, What do you mean
2 by that? And I said, Are you available? And then the
3 conversation went into Heather Elvis and how she was a
4 bitch and a slut and spreading rumors about their
5 family.

6 Q Let me ask you something. How long did that
7 conversation last?

8 A Maybe a minute, minute-and-a-half maybe. I'm not
9 sure.

10 Q And to your knowledge did he know about the
11 rumors that she was pregnant?

12 A I mean -- yes. Yes. Because it was mentioned
13 that she was spreading rumors that she was pregnant and
14 trying to ruin his family.

15 Q Let me ask you this. Did you hear about these
16 rumors when you worked at Tilted Kilt, that she may be
17 pregnant?

18 A Yes.

19 Q Was that rumor ever resolved before she went
20 missing, one way or the other?

21 A Not to my knowledge.

22 Q Let me ask you something. The phone number that
23 you called him at, was that the phone number you always
24 used?

25 A Yes.

DENNIS HART, SR. - DIRECT EXAMINATION

1 Q And to your knowledge was that the only phone
2 number he had?

3 A Yes.

4 Q And you had known him for some time even before
5 Tilted Kilt?

6 A Yes.

7 Q You had many conversations with him?

8 A Just off and on. I would talk to him while he
9 was doing work.

10 Q You recognized his voice?

11 A Yes.

12 Q And when you called, Sidney picked up?

13 A Yes.

14 Q Now, you were saying some things were said in
15 this conversation, and I want to be clear for
16 everybody; who all was on that phone call?

17 A It was Sidney and his wife, Tammy.

18 Q So both of them were on the phone talking to you?

19 A Yes. It was on speaker phone.

20 Q And -- but when you first called, he clearly
21 picked up?

22 A Yes.

23 Q And that was the number you always called him on?

24 A Yes.

25 Q So, clearly, he could pick up the phone at that

DENNIS HART, SR. - DIRECT EXAMINATION

1 time?

2 A Yes.

3 Q And during the conversation she also got on the
4 phone?

5 A Yes.

6 Q During that conversation, you can't tell me what
7 Tammy said, but did Sidney ever tell Tammy to be quiet
8 or get off the phone, or anything like that?

9 A No.

10 Q So it was clear both of them were on the phone
11 talking to you?

12 A Yes.

13 Q And he never hung the phone up early to end the
14 conversation?

15 A No.

16 Q And he never told her to get off the phone?

17 A No.

18 Q So it was both of them talking to you?

19 A Yes.

20 Q Now, let me ask you this. When you worked there,
21 what kind of employee was Heather?

22 A She always showed up. I mean, she was always
23 there to do her job. If she would be late, she would
24 text. So, I mean, she was responsible.

25 Q So had there ever been a time prior to this time

DENNIS HART, SR. - DIRECT EXAMINATION

1 when she just didn't show up for work and nobody knew
2 anything and she didn't call in?

3 A No, not to my knowledge.

4 Q When did you hear that she was missing? When was
5 the first time you heard that?

6 A It was on the news they were filing a missing
7 person's report.

8 Q Once you had that knowledge, what did you do?

9 A The next morning I went to work and opened the
10 restaurant and waited until Jessica Cooke got there,
11 and I called Sidney.

12 Q And when you called Sidney, tell me about that
13 conversation.

14 A I called Sidney, asked him if he heard from
15 Heather, seen Heather or knew where Heather was because
16 we couldn't find her and everybody was looking for her
17 and we were worried about her.

18 Q And what did he say?

19 A He said, no, he hasn't seen her since their
20 family vacation to Disneyland. But at that time, there
21 were so many rumors going around about their
22 relationship, it was kind of hard to believe that he
23 hadn't seen her.

24 Q Let me ask you something. Other than Sidney, did
25 you reach out to any other men asking, hey, did you

DENNIS HART, SR. - CROSS-EXAMINATION

1 know where Heather might be?

2 A No.

3 Q And how long had you known Sidney?

4 A Known of Sidney, probably four, five years. I
5 worked at Red Robin about five years, Tilted Kilt, so
6 maybe a little longer.

7 Q And you knew her for at least a year?

8 A Yes.

9 Q And you were familiar with the relationship?

10 A Yes.

11 Q And after she went missing, he was the only one
12 you reached out to?

13 A He was the only one I could think of to contact.

14 MS. LIVESAY: No further questions for this
15 witness, Your Honor.

16 THE COURT: Cross-examination.

17 MS. LIVESAY: And I'll move this out of their
18 way.

19 THE COURT: Certainly.

20 (A brief pause in the proceedings.)

21 CROSS-EXAMINATION

22 BY MR. BOUCHETTE:

23 Q Mr. Hart, good morning -- good afternoon, I
24 guess, at this point.

25 You testified that you knew Sidney for a number

DENNIS HART, SR. - CROSS-EXAMINATION

1 of years prior to Ms. Elvis going missing?

2 A Yes.

3 Q You worked with Ms. Elvis while she was at Tilted
4 Kilt?

5 A Yes.

6 Q Were you and her personal friends? Did you all
7 spend a lot of time together?

8 A No.

9 Q So safe to say any of the various aspects of her
10 personal life, you would not be privy to one way or the
11 other, correct?

12 A The only thing I was privy to, when we went to
13 the baseball game, there was ten people. We ended up
14 outside on the balcony smoking and she was talking to
15 me about issues she was having in her personal life,
16 having to live in her car periodically because she was
17 fighting with her parents.

18 Q Other than that incident, were there many other
19 occasions where you and her did just that, you know, go
20 out and drinking and hang out?

21 A No. That was the only time.

22 Q Now, on this one occasion when you had the
23 opportunity to talk to her about what was going on, you
24 said she had some various things going on in her
25 personal life; were those struggles or problems

DENNIS HART, SR. - CROSS-EXAMINATION

1 separate and aside from any breakup with Sidney?

2 A I'm not sure.

3 Q You mentioned she was living in her car, is that
4 something she expressed to you?

5 A She said periodically she --

6 MR. HELMS: Your Honor, I'm going to object at
7 this time.

8 THE COURT: This is not your witness, Solicitor.
9 Thank you very much.

10 MS. LIVESAY: Sorry, Your Honor.

11 THE COURT: What is the basis of the objection?

12 MS. LIVESAY: At this time, we're going to object
13 to the relevancy.

14 THE COURT: Restate your question. Rephrase it.

15 Q (MR. BOUCHETTE) Did she express to you various
16 struggles she was having in her personal life during
17 this time period?

18 MS. LIVESAY: At this time, I'm objecting to
19 hearsay.

20 THE COURT: He asked if she expressed any
21 concerns at that time. I will allow that question,
22 but don't answer as to what.

23 A I'm not sure what time you are implying to,
24 because the only time she expressed that to me was at
25 the ballpark, at that outing.

DENNIS HART, SR. - CROSS-EXAMINATION

1 Q (MR. BOUCHETTE) Let me ask you this. Do you
2 know about when that outing was?

3 A I want to say -- it was baseball season,
4 obviously. October, maybe.

5 Q Early fall?

6 A Yeah, maybe.

7 Q And to your knowledge was Heather and Sidney
8 separated at that time; had their relationship ended?

9 A I'm not sure.

10 Q And what were the various struggles that she was
11 having in her personal life?

12 A Just disagreements with her parents. I mean, she
13 was a young girl that went back and forth. Her parents
14 wanted her to do stuff, and they would argue and she
15 would end up just going with a friend or staying in her
16 car kind of thing. That is the gist I got from the
17 conversation.

18 Q You have a son that used to work at Tilted Kilt
19 with you?

20 A Yes.

21 Q He goes by Junior?

22 A He goes by Dennis Hart.

23 Q He goes by Dennis Hart, okay. Now, at what point
24 did he move to Washington state; is that correct?

25 A Yes.

DENNIS HART, SR. - CROSS-EXAMINATION

1 Q Do you remember about when that would have been?

2 A It was before the holidays, so before October.
3 The holidays for me is like Halloween through New
4 Year's.

5 Q So he recently relocated?

6 A Well, he went back to be with his mom. He came
7 here to live with me for awhile and was getting, you
8 know, homesick, and decided he wanted to go back.

9 Q Now, before he left, was he and Heather close
10 from a relationship standpoint?

11 A They would text back and forth. They had a
12 friendly relationship. I'm not sure how far that
13 relationship went because I gave my son privacy. I
14 didn't pry. If he wanted to tell me, he could tell
15 me.

16 Q Sure. I understand. Well, let me ask you this.
17 Do you know if they continued any communication through
18 text, Snapchat or any other communication platform
19 after he went back to Washington?

20 A I'm not sure. I don't have access to his phone.

21 Q I understand that. This case has been -- I
22 withdraw that.

23 You were first interviewed about this case late
24 2013, correct?

25 A Okay.

DENNIS HART, SR. - CROSS-EXAMINATION

1 Q Is that correct?

2 A I'm sure, if that is what it was.

3 Q We're now in 2019, and you've had to give
4 testimony, at least provide a statement in this case,
5 multiple times, correct?

6 A Yes.

7 Q And you have had to speak to investigators over
8 the course of the last six years, correct?

9 A Yes.

10 Q Having to do all of that, have you ever had
11 occasion to ask your son as to whether or not he was
12 communicating with her at all in late 2013?

13 A The only thing I asked my son is if he had a
14 relationship with her, and he said they never had sex,
15 but he had talked to her and been talking like that,
16 but never, I guess, consummated the relationship.

17 Q And I'm not implying a sexual relationship. I'm
18 looking to do is -- to your knowledge, did they have
19 any communications or discussions regarding --

20 MS. LIVESAY: Your Honor, I want to object as to
21 the relevancy of whatever relationship his son had
22 with the victim.

23 THE COURT: Overruled.

24 Q (MR. BOUCHETTE) I'll start again. So to the
25 best of your knowledge, if you have any knowledge,

DENNIS HART, SR. - CROSS-EXAMINATION

1 were there ever any conversations between your son and
2 Ms. Elvis relating to, maybe, Ms. Elvis going to visit
3 him, or him coming here to visit her at some point in
4 2013?

5 A Again, sir, you would have to ask him.

6 Q So you don't have any personal knowledge?

7 A I do not.

8 Q Let me ask you this. When the police first came
9 to speak to you, I believe it was on the 18th of
10 December, the day or so after she went missing, did you
11 indicate to police or give the police your son's name
12 as someone that maybe had some recent communications
13 with her?

14 A I may have. I don't remember right off the bat.
15 I know I mentioned Sidney Moorner, that they might want
16 to speak to him because he was having a relationship
17 with Heather, but I don't think I told them they needed
18 to talk to my son.

19 Q What I'm saying is knowing that she was missing,
20 knowing that they had been close and knowing that they
21 had some degree of communication after he moved back to
22 Washington, did you think to call your son at that
23 point or give your son's number as someone they may
24 want to see if he had heard from her?

25 A It was a couple of days after all of this started

DENNIS HART, SR. - REDIRECT EXAMINATION

1 before I even contacted my son; that way, I knew more
2 of what was going on, because I didn't want to upset
3 him, you know, with no information to give him.

4 Q And, again, during the observations you had with
5 Sidney and Ms. Elvis, there was never any violence
6 indicated; is that correct?

7 A No, not to my knowledge.

8 Q You never observed any jealousy or
9 possessiveness?

10 A No.

11 Q And Mrs. Moorner never came into the restaurant,
12 correct?

13 A Not to my knowledge.

14 Q You are not aware of any overt threats that came
15 into the restaurant directed to Ms. Elvis or anyone
16 else at the restaurant?

17 A Only the rumors I heard.

18 Q And those are rumors, correct?

19 A Yes.

20 MR. BOUCHETTE: One moment, Your Honor.

21 THE COURT: Certainly.

22 MR. BOUCHETTE: No further questions.

23 THE COURT: Redirect.

24 MS. LIVESAY: Just a couple of questions.

25

DENNIS HART, SR. - REDIRECT EXAMINATION

1 REDIRECT-EXAMINATION

2 BY MS. LIVESAY:

3 Q Mr. Hart, Mr. Bouchette asked you some questions
4 on your son -- about your son; do you remember that,
5 with this jury?

6 A Yes, ma'am.

7 Q And I think it kind of got lost in the question,
8 so I want to be sure I'm clear and these people over
9 here are clear. Where did your son live in December of
10 2013?

11 A Washington state.

12 Q So it was not even in Horry County?

13 A Correct.

14 Q Now, did you ever have any kind of relationship
15 with her?

16 A No.

17 Q And this is your phone number, correct?

18 A Yes, ma'am.

19 Q Are we going to see this phone number on her
20 phone records for December 18th when she went
21 missing?

22 A No.

23 Q Are we going to see it for December 17th?

24 A Nope.

25 Q You said -- Mr. Bouchette asked you a few

RONALD WITT - DIRECT EXAMINATION

1 questions about how things went at Tilted Kilt and the
2 relationship between her and Sidney; do you remember
3 that?

4 A Yes.

5 Q Was she afraid of Sidney Moorer?

6 A No.

7 Q Was she afraid of his wife?

8 A Yes.

9 MS. LIVESAY: No further questions.

10 THE COURT: Recross?

11 MR. BOUCHETTE: No further questions.

12 THE COURT: Thank you. Do you wish for him to be
13 excused?

14 MR. HELMS: Yes, Your Honor, please.

15 THE COURT: Any objection?

16 MR. BOUCHETTE: No, Your Honor.

17 THE COURT: You are free to leave.

18 THE WITNESS: Thank you.

19 THE COURT: Call your next witness, please.

20 MS. LIVESAY: Thank you. At this time the State
21 calls Ronald Witt.

22 (RONALD WITT, having been duly sworn,
23 testified as follows:)

24 THE WITNESS: Ronald Witt, W-I-T-T.

25 (State's Exhibits 3 through 6 marked.)

RONALD WITT - DIRECT EXAMINATION

DIRECT-EXAMINATION

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BY MS. LIVESAY:

Q Mr. Witt, tell this jury where you are currently employed.

A I work for T-Mobile.

Q How long have you worked for T-Mobile?

A I'm in my 15th year.

Q Wow. And what do you do for T-Mobile?

A I work in what is known as the Law Enforcement Relations Group. Our group, it is primarily production of records when we receive an appropriate legal demand. We also provide assistance on a 24/7 basis to 911 and law enforcement for emergencies involving cell phones, and as a testifier, I appear in court to verify and attest to T-Mobile records.

Q And just so we're clear, when you mean "T-Mobile," you mean the cell phone provider?

A Yes.

Q And are you able to look at and identify T-Mobile records?

A Yes.

Q And can you tell this crowd here if it is a T-Mobile record and whether or not they are accurate?

A Yes.

Q I'm going to show you what is marked State's

RONALD WITT - DIRECT EXAMINATION

1 Exhibit 3 and 4. Can you look at these items and tell
2 me if you can identify them?

3 A (Witness examines documents.) Okay.

4 Q What are those items?

5 A 3 is a credit copy of cell phone records that we
6 provided previously in response to a legal demand, and
7 Exhibit 4 is an electronic -- a CD that contains the
8 electronic version of the printed copy.

9 Q And have those records been tampered with in any
10 form or fashion?

11 A Does not appear to be.

12 Q And if you don't mind, tell this Court what phone
13 number those records are for?

14 A [REDACTED] 8152.

15 Q And those records -- if you don't mind, tell
16 them, so we know, you know, what time span do we have
17 the records from?

18 A Okay. The records start on the 17th of July,
19 2013 and go up and include the 18th of December,
20 2013.

21 MS. LIVESAY: Your Honor, the State wishes to put
22 Exhibits 3 and 4 into evidence and publish them to the
23 jury.

24 THE COURT: Any objection?

25 MR. GALMORE: No objection.

RONALD WITT - DIRECT EXAMINATION

1 THE COURT: Without objection, State's 3 and 4.

2 (State's Exhibits 3 and 4 admitted.)

3 Q (MS. LIVESAY) I'll show you two more exhibits
4 that I already showed the defense attorneys, and they
5 are marked 5 and 6. Do you recognize this, and do you
6 recognize No. 6?

7 A Yes.

8 Q Tell this Court what they are.

9 A They are extracts from the complete copy,
10 electronic version, the printed copy extracted for a
11 certain time frame for the same records, and with some
12 columns redacted. In one case, an extra column was put
13 in to adjust the time to Eastern Time.

14 Q Are these accurate as to the phone records right
15 off the record, and as to the conversion when you
16 converted the text from Pacific Time to Eastern Time?

17 A Yes.

18 MS. LIVESAY: Your Honor, at this time the State
19 wishes to put 5 and 6 into evidence and publish them
20 to the jury.

21 THE COURT: 5 is the exact replication?

22 MS. LIVESAY: That is the converted one, and 6 is
23 the replication.

24 THE COURT: Okay. So 5 is the converted one, and
25 6 is the exact replication?

RONALD WITT - DIRECT EXAMINATION

1 MS. LIVESAY: Yes, sir.

2 THE COURT: Any objection to publishing and
3 admitting those?

4 MR. GALMORE: No, sir.

5 THE COURT: Thank you. They are admitted and you
6 may publish them.

7 (State's Exhibits 5 and 6 admitted.)

8 Q (MS. LIVESAY) Mr. Witt, before we publish these,
9 I would like for you to explain to this jury T-Mobile
10 records; what timezone are the phone calls kept in?

11 A For the records, from this time frame, there is
12 two data points on the record: You have voice calls,
13 and you'll see entries for text messages. The voice
14 calls are what is known as "local time" where the
15 caller is physically located, when they are making or
16 receiving the calls. The text messages are in Pacific
17 Time. So to adjust to Eastern Time, you have to add
18 three hours for the time shown on the records.

19 Q So when I look at these records from
20 December 2013, and this phone was in Horry County, the
21 records would show the phone calls in Eastern Time?

22 A Correct.

23 Q But the text messages would be in Pacific Time?

24 A Correct.

25 Q So when you look at the records, to really know

RONALD WITT - DIRECT EXAMINATION

1 what is going on in the phone in Horry County, you have
2 to convert the text messages from Pacific Time to
3 Eastern Time?

4 A Yes.

5 Q And that is what we've done this for?

6 A Yes.

7 Q If you don't mind, do you mind stepping down to
8 go through this?

9 Now, it's already come into evidence that this
10 phone number belonged to Heather Elvis. I want to
11 show you -- this is how they are going to view it on
12 the phone records; is that correct?

13 A Yes.

14 Q But in actuality, when you convert the text
15 messages this is how they come in on the phone in Horry
16 County?

17 A Well, this is on the records, and for the text
18 messages, this will be the correct time on the
19 converted column for the text messages.

20 Q Okay. And have you reviewed these records
21 extensively?

22 A Yes.

23 Q Tell this jury when the last phone call was made
24 on Heather's records.

25 A The last is on the 18th of December at

RONALD WITT - DIRECT EXAMINATION

1 3:41 a.m.

2 Q Now, sometimes with phone records, does that mean
3 that she didn't use the phone anymore, or was the phone
4 no longer talking to a cell tower?

5 A There was no activity user initiated on the
6 handset after that time.

7 Q And these are all the records? So the records
8 actually stop as far as her use of the phone on 12/18
9 at 3:41?

10 A Yes.

11 Q Now, even after you convert the phone records,
12 tell me the last phone number that she called.

13 A Outgoing call to [REDACTED] 3175.

14 Q So we can know how to do it, this is the
15 direction whether she was calling out or it was calling
16 her, correct?

17 A Yes.

18 Q And this over here shows how long the two phones
19 were connected?

20 A For voice calls, yes.

21 Q Now, on voice calls, what was the last phone call
22 that lasted more than a minute or two?

23 A The call here on the 18th of December,
24 3:17 a.m., and that call was a little over four
25 minutes.

RONALD WITT - DIRECT EXAMINATION

1 Q Now, what were the last two phone numbers she
2 called?

3 A The one that was previously read off, 3175, and
4 then there was an outgoing call to [REDACTED] 2462.

5 Q Now, we see that number again up here at 12/18,
6 1:35 a.m., is that right, the 444 number?

7 A Yes.

8 Q Now, have you reviewed the records from July
9 until December 18th?

10 A Yes.

11 Q Did you ever, in all of those records, see this
12 phone number prior to December 18th at 1:35,
13 [REDACTED] 2462?

14 A Not that I remember.

15 Q Now, did you see phone calls between her and
16 [REDACTED] 3175?

17 A Yes.

18 Q And have you actually counted up the contact
19 between her and that number?

20 A Yes.

21 Q If you don't mind, Mr. Witt, have a seat.

22 Mr. Witt, I have these phone records in numerical
23 form to make it easier. Earlier, I asked you if she
24 had had contact with [REDACTED] 2462, and you said you didn't
25 remember?

RONALD WITT - DIRECT EXAMINATION

1 A Not to my recollection.

2 Q Now, would you like to view the phone records to
3 see whether or not she ever had contact with that phone
4 number before?

5 A I could, yes.

6 Q Would you rather look at it in electronic format
7 or --

8 A Electronic would be better.

9 (A brief pause in the proceedings.)

10 MS. LIVESAY: Sorry for the delay, Judge.

11 THE COURT: It's okay.

12 (State's Exhibit 7 marked.)

13 A This one is not working -- I got it. Sorry,
14 could you repeat the question.

15 Q (MS. LIVESAY) When -- did the phone number,
16 [REDACTED] 2462, ever have contact with Heather's phone
17 prior to the early morning hours of December 18th,
18 2013?

19 A There was no other entries before that date.

20 Q I'm sorry?

21 A The entry was Pacific Time, there was a text at
22 11:21 Pacific Time, which is 2:21 a.m. Eastern Time.

23 Q And so when you convert it, the text message, on
24 the record it shows December 17th, but it is really
25 December 18th?

RONALD WITT - DIRECT EXAMINATION

1 A Correct.

2 Q So when you look at the record, when is the first
3 phone activity between that phone number and Heather
4 Elvis?

5 A There was an incoming call at 1:35 a.m. on the
6 18th.

7 Q So December 18th at 1:35 is the first time she
8 has contact with this phone number?

9 A During the time frame of these records, yes.

10 Q So from July until December?

11 A From July 17 to 18th of December.

12 THE COURT: You asked that question several
13 times. Move on. Thank you.

14 Q (MS. LIVESAY) Let me ask you this, Mr. Witt,
15 because I want to put it up on the board to keep our
16 memory refreshed. Where did the last two phone
17 numbers Ms. Elvis reach out to in the early morning
18 hours of December 18th? If you don't mind, label it
19 the last two phone calls. You can put it up here.

20 (A brief pause in the proceedings.)

21 A Last two numbers were [REDACTED] 3175, and then
22 [REDACTED] 2462.

23 Q (MS. LIVESAY) We know there is no contact with a
24 444 number prior to December?

25 A Correct.

RONALD WITT - DIRECT EXAMINATION

1 Q Now, did you count up the amount of contact
2 between her and the 3175 number?

3 A Yes.

4 Q And I'm going to show you what was marked for
5 identification as State's 7. I'll show it to
6 Mr. Galmore real quick first.

7 (A brief pause in the proceedings.)

8 MS. LIVESAY: Any objection?

9 MR. GALMORE: No.

10 Q (MS. LIVESAY) Look at State's Exhibit 7 and tell
11 me if that information is accurate as to the phone
12 calls between Heather and 3175?

13 A (Witness examines document.) Yes, ma'am.

14 Q Do you see any phone calls between Heather and
15 [REDACTED] 2462?

16 A Yes.

17 MS. LIVESAY: At this time, the State wishes to
18 place State's 7 into evidence and publish to the jury.

19 THE COURT: Any objection?

20 MR. GALMORE: No, sir.

21 THE COURT: Without objection, State's 7 is
22 admitted, and you may publish it.

23 (State's Exhibit 7 admitted.)

24 Q (MS. LIVESAY) Would you mind stepping down so
25 you can look along with us? These are the last two

RONALD WITT - DIRECT EXAMINATION

1 phone numbers you just testified that Heather made
2 contact with; is that correct?

3 A Yes.

4 Q And you looked at the contact in July between
5 Ms. Elvis and the 3175 number, correct?

6 A Yes.

7 THE COURT: Solicitor, if you could, switch sides
8 so you are speaking towards the court reporter that
9 helps her.

10 Q (MS. LIVESAY) I'll give you this so you can --
11 if you don't mind, tell us in July how much contact
12 was between Heather and 3175.

13 A There was a total of 411 contacts during that
14 month, between the number 3175 and Heather's number.

15 Q And if you don't mind, how many times did she
16 call that number?

17 A There were calls going to that number of 198.

18 Q How many times did she receive calls from that
19 number, calls or texts?

20 A 213.

21 Q Tell me about August.

22 A In August, there was a total of 564, the
23 difference between the two numbers.

24 Q How many times did she call that number?

25 A 213.

RONALD WITT - DIRECT EXAMINATION

1 Q How many times did that number reach out to her?

2 A 351.

3 Q How about September?

4 A A total of 558.

5 Q Just for the month of September?

6 A Yes.

7 Q And how many times did she reach out to that
8 number?

9 A 208 times.

10 Q And how many times did that number contact her?

11 A 350.

12 Q And how about October?

13 A Total of 517.

14 Q And how many times did she contact that number?

15 A 199.

16 Q And how many times did that number contact her?

17 A 318.

18 Q And how about November?

19 A Total of 64.

20 Q So now we have a drastic drop?

21 A Yes.

22 Q How many times now?

23 A 24.

24 Q And how about that number contacting her?

25 A 40.

RONALD WITT - DIRECT EXAMINATION

1 Q So the number is still contacting her more often,
2 correct?

3 A Yes.

4 Q How about December?

5 A Just a total of six.

6 Q So now there is a drastic dropoff?

7 A Yes.

8 Q And from her to 3175?

9 A Six.

10 Q And it never shows the person that this number
11 belongs to reaching out to her on the phone records,
12 correct?

13 A Correct.

14 Q How about the 444 number?

15 A From July to November, there was no contact
16 between those two numbers.

17 Q Tell me about now December. No contact for July,
18 August, September, October, five months. How about
19 December?

20 A There were ten contacts from Heather's number to
21 that number, and then one from that number to Heather.

22 Q Let me ask you this. In regards to this number,
23 who initiated the first contact; was it this number to
24 Heather, or was it vice-versa?

25 A I would have to look on the records; I didn't put

RONALD WITT - DIRECT EXAMINATION

1 it to my mind.

2 Q I have it right here, that is why we have it.

3 A It was an incoming call to Heather's number from
4 that number.

5 Q From the [REDACTED] 2462?

6 A Yes.

7 Q So that number initiated the contact?

8 A Yes.

9 Q First?

10 A Yes.

11 Q And in response, she contacts back ten times?

12 A Yes.

13 Q After never having contact with that number for
14 five months?

15 A Correct.

16 Q Is this accurate as to the last page of her phone
17 records?

18 A Yes.

19 Q And, again, this shows those two numbers are
20 clearly the last two numbers?

21 A Yes.

22 Q And there is a drastic dropoff on the phone calls
23 between 3175 and her in December; is that correct?

24 A Yes.

25 Q And then out of nowhere, all of a sudden,

RONALD WITT - DIRECT EXAMINATION

1 [REDACTED] 2462 contacts her?

2 A From previous, yes.

3 Q So never contacted her in the prior months?

4 A Yes.

5 Q And she had not reached out to 3175 in the month
6 of December until 12/18 at 3:16 a.m.; is that correct?

7 A Correct.

8 Q So for this entire month, all of the sudden, she
9 had no contact with these two numbers until the morning
10 of December 18th, 2013?

11 A Correct.

12 MS. LIVESAY: No further questions, Mr. Witt.

13 You can have a seat and we'll get these back in order.

14 Do you mind if I ask him one more question?

15 Thank you.

16 Q (MS. LIVESAY) Mr. Witt, we just went through --
17 and I'll give you this so you can refer to it. This
18 is State's Evidence 7, so I can identify what I'm
19 giving you for the record.

20 When we went through that, we see this drastic
21 drop in November between her phone and 3175?

22 A Correct.

23 Q In early November, when do you see the last
24 contact?

25 A I would have to look at the records -- oh. Oh, I

RONALD WITT - CROSS-EXAMINATION

1 looked at those previously. There was a contact on the
2 5th of November, I believe it was a text. Then the
3 next contact was on the 15th of November, and that
4 was it for November.

5 Q Okay. So there is contact up to the 5th, the
6 majority of it, and then there's two phone calls on the
7 15th?

8 A Right.

9 Q And then there is nothing until December 18th?

10 A Correct.

11 MS. LIVESAY: No further questions, Your Honor.

12 THE COURT: Mr. Galmore, you may cross-examine.

13 CROSS-EXAMINATION

14 BY MR. GALMORE:

15 Q Mr. Witt, let me ask you about these charts you
16 have. I think you testified on direct examination that
17 some columns were redacted?

18 A Correct.

19 Q Okay. What does that mean?

20 A Well, there is other columns, but they just show
21 the main date and time and calls and duration, and then
22 they added in this column here to make it easy to
23 understand the conversion from the text messages from
24 Pacific to Eastern Time.

25 Q Okay. So when you say "redacted," are you saying

RONALD WITT - CROSS-EXAMINATION

1 there is other columns here?

2 A Yes.

3 Q What is listed in the other columns that is not
4 on this poster board?

5 A You have information for the cell site, which is
6 the location of the tower that registered with the
7 handset, those are what is not on those charts.

8 Q Is that the only thing not on the charts?

9 A Yes.

10 Q Why did you choose to not include that
11 information?

12 A I did not make the charts.

13 Q Who made the charts?

14 A Prosecution.

15 Q Okay. Would that be the same for this chart
16 also, sir, (indicates)?

17 A Yes. After the duration, then the same thing,
18 those ending columns are not there.

19 Q So there are columns over here missing?

20 A Correct.

21 Q And those columns contain the cell tower site
22 information?

23 A Yes.

24 Q Now, you brought with you today the phone records
25 and the text records for the 8152 number, correct?

RONALD WITT - CROSS-EXAMINATION

1 A They are contained on the same report.

2 Q Right. Okay. Does T-Mobile keep records of
3 Internet searches?

4 A Of what?

5 Q Internet searches.

6 A No.

7 Q Does T-Mobile keep records of Facebook activity?

8 A No.

9 Q Does T-Mobile keep records of Snapchat activity?

10 A No.

11 Q What about Instagram activity?

12 A No.

13 Q Does T-Mobile keep records of pictures?

14 A No.

15 Q So if I take a picture on a T-Mobile phone, you
16 don't have that in your computer?

17 A The actual picture, no.

18 Q Phones can do these types of things? Phones can
19 get on the Internet, right?

20 A Yes.

21 Q T-Mobile phones can get on the Internet?

22 A Yes.

23 Q T-Mobile phones can access Facebook?

24 A Yes.

25 Q They can access Snapchat?

RONALD WITT - CROSS-EXAMINATION

1 A Yes.

2 Q And Instagram?

3 A Yes.

4 Q Is there any information that T-Mobile collects
5 that is not on these charts?

6 A Not that I'm aware of.

7 Q Now, you testified about the number of telephone
8 calls between the 8152 number and 3175 number?

9 A Yes.

10 Q And you went over that for several months, July
11 to December?

12 A Yes.

13 Q Are you able to tell us what other numbers the
14 1152 number was in contact with?

15 A That is on the records, yes.

16 Q So what you gave us was a snapshot that only
17 included those two phones?

18 A That was what was on the chart, correct.

19 Q Right. Okay. But there are more records, they
20 are just not in that particular exhibit?

21 A The complete records are in this exhibit.

22 THE COURT: Would you reference for the record
23 what exhibit that is?

24 THE WITNESS: I'm sorry, No. 3.

25 THE COURT: No. 3. Thank you, sir.

RONALD WITT - CROSS-EXAMINATION

1 THE WITNESS: Sorry.

2 Q (MR. GALMORE) Was T-Mobile asked to do a search
3 of any other telephone numbers?

4 A Not to my knowledge.

5 Q Were you all asked to do any research on any of
6 the numbers that were listed on the 8152 records?

7 A Not to my knowledge.

8 Q Does T-Mobile maintain social media information?

9 A No.

10 Q If someone were to make a purchase on one of your
11 phones, does T-Mobile keep records of that?

12 A I'm not sure what you mean by "purchase".

13 Q I mean as in Amazon Prime.

14 A That is part of the Internet activity, which we
15 don't track.

16 Q So if there was Internet use, then you wouldn't
17 know about it?

18 A It would not be on our records.

19 Q All right. Now, you indicated that the last
20 telephone number that Ms. Elvis called was the 3175
21 number; is that correct?

22 A Correct.

23 Q Can you confirm whether or not that phone call
24 was received?

25 A It only shows there was a connection.

RONALD WITT - CROSS-EXAMINATION

1 Q It shows there was a connection?

2 A Yes.

3 Q Was that call a routed call?

4 A No.

5 Q No, it was not. Did you have any routed calls on
6 this list?

7 A I did not notice a routing number on there, no.

8 Q All right. Now, as to the last telephone call on
9 the list, I think you said that there was a connection;
10 can you explain for the jury the length of time for
11 that connection?

12 A .03 minutes.

13 Q How much time does that translate to in seconds;
14 do you know?

15 A Just a couple of seconds.

16 Q And before that, there is another call to that
17 same number; the duration would be the same, .03?

18 A Right.

19 Q And, in fact, there is several calls with a .03
20 duration?

21 A Correct.

22 Q What does that indicate to you?

23 A There was a connection for that short period of
24 time to that number.

25 Q Do you think a conversation took place in .03

RONALD WITT - CROSS-EXAMINATION

1 seconds?

2 A All I can tell from the records is that there was
3 a connection to that number for that time frame, for
4 the time shown on the records.

5 Q You haven't given us any information about cell
6 phone towers; is that correct?

7 A I haven't been asked so far.

8 Q Can you tell us what determines how a phone
9 decides what tower to use?

10 A Your phone searches -- looks for the best signal;
11 it is known as "camping." It camps on that signal. The
12 tower will know what is called the "enable list"; in
13 other words, other sites you are within range of. It
14 may not have the best signal, but you are still able to
15 connect to. So once that call connects, and for these
16 records only voice calls show cell sites, and then you
17 register that cell site at the initiation of a call.

18 Q If I wanted to use a T-Mobile phone to get on the
19 Internet, does that go through a cell tower?

20 A It could.

21 Q But you don't have any records of that?

22 A If you connect for Internet activity, that does
23 not show on these records.

24 Q Okay. So you could not tell us if Ms. Elvis was
25 on the Internet?

RONALD WITT - CROSS-EXAMINATION

1 A No.

2 Q You received a subpoena from the Horry County
3 Police Department; is that correct?

4 A For?

5 Q For these records, for the 8152 number?

6 A Yes.

7 Q Did you receive any other subpoenas from the
8 Horry County Police Department, or just the one?

9 A Not that I'm aware of.

10 Q Were there any other subpoenas from any other law
11 enforcement agencies regarding that telephone number?

12 A Not that I'm aware of.

13 Q So the State Law Enforcement Division, SLED, they
14 did not subpoena telephone records?

15 A Again, I don't have knowledge of that.

16 Q So if there were any -- I think they call them --
17 mims?

18 A Mims?

19 Q Your records don't show those?

20 A If you send something as part of a text, it will
21 show the text on the records, it just doesn't show
22 content.

23 Q And you can't tell us as far as content
24 conversation?

25 A No, just that a text was sent or received.

RONALD WITT - CROSS-EXAMINATION

1 Q So T-Mobile doesn't record telephone
2 conversations somewhere?

3 A No.

4 Q So there is no record of any telephone
5 conversations between Ms. Elvis and anyone?

6 A No.

7 Q You all just don't record that information?
8 T-Mobile does not save that data?

9 A No.

10 MR. GALMORE: Court's indulgence, Your Honor.

11 (A brief pause in the proceedings.)

12 Q (MR. GALMORE) Let me very briefly ask you about
13 this chart, Exhibit No. 6, one more time. Tell us
14 when was the first contact from the 444 telephone?

15 A At 01:35 a.m. on the 18th.

16 Q That is this first one?

17 A Yes.

18 Q And the next number indicated is a 609 number,
19 can you tell us the time for that telephone call?

20 A 1:44 a.m.

21 Q All right. So that would be a 11-minute
22 difference between those two calls?

23 A Yes.

24 Q So whatever happened, she receives a phone call
25 here, there is a 11-minute delay, and then she makes a

RONALD WITT - REDIRECT EXAMINATION

1 phone call here?

2 A Nothing was between the time. She was on that
3 first call for four, almost five minutes.

4 Q Right. And then the next call is made 11 minutes
5 after the first phone call?

6 A Yes.

7 Q All right.

8 (A brief pause in the proceedings.)

9 MR. GALMORE: I have no further questions. Thank
10 you, sir.

11 THE COURT: Redirect.

12 MS. LIVESAY: A couple, Your Honor.

13 REDIRECT-EXAMINATION

14 BY MS. LIVESAY:

15 Q Mr. Witt, Mr. Galmore asked you some questions
16 about this column here, about the duration; do you
17 remember that?

18 A Yes.

19 Q And you told him that this column represents how
20 long the connection time is between Heather's phone and
21 whatever the other phone number is, correct?

22 A Yes.

23 Q And he was asking you about how long did these
24 phone calls last, correct?

25 A Yes.

RONALD WITT - REDIRECT EXAMINATION

1 Q Can you look -- and I'll show the other because
2 it shows the text messages and converted time, it shows
3 more accurately what was going on with her phone here
4 in Horry County.

5 Tell this jury what two phone numbers she had the
6 longest connection time with in the early morning
7 hours on December 18, 2013.

8 A The two longest calls was 3:17 a.m. for 4.15
9 minutes to the number ending in 3175, and then the
10 other was for the number ending in 2462, call for 4.83
11 minutes at 1:35 a.m. on the 18th.

12 Q So she had the longest connection time with the
13 same two phone numbers, that were the last two numbers
14 she called that night?

15 A Yes.

16 Q So there was no doubt she was connected to
17 [REDACTED] 2462 for at least four minutes?

18 A Yes.

19 Q And the number ending in 3175 at least four
20 minutes?

21 A Yes.

22 Q And those were the longest two calls --

23 MR. GALMORE: Objection, Your Honor,
24 accumulative.

25 THE COURT: Ask it one time, Solicitor.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 MS. LIVESAY: No further questions.

2 THE COURT: Recross.

3 MR. GALMORE: Nothing further, Your Honor.

4 THE COURT: Thank you. You may step down. Do
5 you wish this witness to be excused?

6 MR. HELMS: We do, Judge.

7 MS. LIVESAY: Please, Your Honor.

8 THE COURT: Any objections?

9 MR. GALMORE: No, sir.

10 THE COURT: You are free to leave. Thank you.
11 Call your next witness.

12 MR. HELMS: Thank you. At this time the State
13 calls Stephen Schiraldi.

14 (STEPHANO SCHIRALDI, having been duly sworn,
15 testified as follows:)

16 (State's Exhibit 8 marked.)

17 THE WITNESS: Stephano Schiraldi,
18 S-C-H-I-R-A-L-D-I.

19 DIRECT-EXAMINATION

20 BY MR. HELMS:

21 Q Where do you currently live?

22 A In Chicago.

23 Q And how long have you lived in Chicago?

24 A Almost five years.

25 Q Do you have any family in Chicago?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Two brothers.

2 Q Where did you live prior to Chicago?

3 A Murrells Inlet.

4 Q And how long did you live in Murrells Inlet?

5 A Around seven years.

6 Q Did you go to school here?

7 A Yes. I graduated from St. James High School.

8 Q How old are you?

9 A 26.

10 Q Did you have family when you lived here?

11 A Yes.

12 Q Do they live here, is what I mean?

13 A Yes.

14 Q And who was that?

15 A My mom and my younger brother.

16 Q Now, is that who you were living with when you
17 lived in Murrells Inlet?

18 A Yes.

19 Q So you were living here back in December of 2013?

20 A Yes.

21 Q Were you working?

22 A I was.

23 Q Do you remember how far you were in school back
24 in December of 2013, where you were in school?

25 A I was graduated from high school in 2013, and I

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 did not go to college.

2 Q Where were you working back in 2013?

3 A I was a line cook for Wicked Tuna in Murrells
4 Inlet.

5 Q So you lived and worked in Murrells Inlet?

6 A Yes.

7 Q What kind of restaurant is Wicked Tuna?

8 A It's an upscale seafood and sushi restaurant.

9 Q What was your job?

10 A I worked on the saute station making all the
11 daily specials.

12 Q How long did you work there?

13 A Few years. I worked for the company at multiple
14 restaurants.

15 Q Fair enough. So when you were living in Murrells
16 Inlet and working at Wicked Tuna, did you -- did you
17 ever know Heather Elvis?

18 A I knew her as an acquaintance from high school.

19 Q So you all went to school together at St. James?

20 A Yes.

21 Q Was she in the same grade as you?

22 A I believe she was at least one grade below me.

23 Q Were you all close in high school?

24 A Not at all.

25 Q After you graduated, did you maintain contact

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 with her?

2 A No.

3 Q Because you weren't friends, so to speak, in high
4 school?

5 A Just acquaintances.

6 Q And after you graduated, did you have an
7 opportunity to come back in contact with Heather
8 Elvis?

9 A Not previously before 2013.

10 Q Okay. So how long after you graduated was it
11 before you had contact again with Heather?

12 A Roughly, three years.

13 Q Oh, wow. So let me ask you this. How, after
14 three years, if you didn't know Heather in school, did
15 you come to contact her again, or her contact you
16 again?

17 A We followed each other on social media, and I
18 commented on a post that she made on Instagram, and she
19 replied.

20 Q Do you remember what the comment was?

21 A I don't.

22 Q So that initiated -- that comment initiated kind
23 of a reunion, for lack of a better term, between you
24 and a former classmate?

25 A Yes.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q Tell me a little bit about that reunion; what
2 came of that?

3 A It was pretty brief. We chatted and I ended up
4 asking her if I could take her out to dinner, and she
5 reciprocated, so we made plans later in the week.

6 Q But you never had taken her out before?

7 A No.

8 Q Do you remember when this dinner date was
9 scheduled for?

10 A I don't remember the day of the week, but I
11 believe it was December 17th.

12 Q But you do know that it was right up until the
13 time she disappeared?

14 A Correct.

15 Q Close in time?

16 A Yes.

17 Q Did you actually get to take her out?

18 A I did.

19 Q Tell me about that date.

20 A It was pretty nice. I picked her up from her
21 apartment building around 7:00 p.m. and we drove to
22 Banditos, which is a Mexican restaurant on Ocean
23 Boulevard on the water. It was later in the evening,
24 so we had the restaurant mostly to ourselves, so we had
25 some nice, quiet conversation all night. When we left

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 there, we drove south down towards Murrells Inlet Mall,
2 and while we were there, I taught her how to drive a
3 manual transmission, because my truck at the time was a
4 manual and she had expressed an interest in wanting to
5 learn.

6 Q Let's back up a little bit. So you picked her up
7 at her place?

8 A Yes.

9 Q Do you remember where she lived?

10 A Off of 501 near a golf course kind of where the
11 Bob Evans used to be.

12 Q You picked her up in your vehicle?

13 A Yes.

14 Q What kind of vehicle was that?

15 A 1998 Ford Ranger.

16 Q Do you still have it?

17 A No.

18 Q Is a Ford Ranger a big truck?

19 A Very small truck.

20 Q Do you know a little bit about trucks?

21 A Yes.

22 Q Do you know what an F-150 looks like?

23 A Yes.

24 Q Compared to an F-150, how does a Ford Ranger
25 compare?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Maybe less than half the size.

2 Q Oh, wow. So significantly smaller than an F-150?

3 A Uh-huh. It can depend on range, single cab,
4 extended cab, the size of the bed, but generally
5 speaking, yes.

6 Q Was your Ford Ranger a big, jacked-up Ford Ranger
7 like my buddies drove in high school?

8 A No. It was actually lower to the ground.

9 Q Oh, okay. Was it a two-wheel drive or four-wheel
10 drive?

11 A Two-wheel drive.

12 Q You said it was a manual transmission?

13 A Yes.

14 Q Do you remember about what time you picked
15 Heather up?

16 A I believe it was around 7:00 p.m.

17 Q Was it still daylight outside?

18 A I think so.

19 Q When you went to Banditos -- is that still there?

20 A I'm not sure. I haven't been down that way in
21 quite awhile.

22 Q When you went to Banditos -- Mexican restaurant,
23 right -- how long did you stay at Banditos?

24 A Approximately, an hour-and-a-half.

25 Q And, obviously, you had dinner?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Right.

2 Q Do you remember whose idea it was initially to go
3 on the date?

4 A It was mine.

5 Q When you went to pick her up, the first stop you
6 made was the restaurant?

7 A Yes.

8 Q After you left the restaurant, where did you and
9 Heather go?

10 A We went to the Murrells Inlet Square Mall.

11 Q About what time was this?

12 A I would say we arrived around 10:30. When we
13 left Banditos, they were closing up. It was the end of
14 their night.

15 Q Isn't the mall closed around 10:30?

16 A Yes. The parking lot was empty.

17 Q Why did you go to the mall if it is closed?

18 A We were driving around looking at Christmas
19 lights because it was the holiday season, and she
20 expressed an interest in learning to drive a manual
21 transmission, so we stopped there for that purpose.

22 Q So you were teaching her to drive the stick?

23 A Yes.

24 Q Do you remember what year your truck was; did you
25 tell me?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A 1998.

2 Q I'll back up one more time. When you went to her
3 apartment to pick her up earlier that night, did you
4 see anything suspicious?

5 A No. Everything looked pretty ordinary.

6 Q Did you go in?

7 A No.

8 Q She came out to your truck?

9 A She met me at the door.

10 Q Did you happen to see her car?

11 A I don't recall.

12 Q You don't recall? That's fair.

13 How many doors did your truck have?

14 A Two.

15 Q What color was your truck?

16 A Grayish-blue.

17 Q You said -- did you tell me if there was a
18 toolbox in the back of that truck?

19 A No toolbox.

20 Q Do you remember how old Heather was at this time?

21 A I don't remember. Under 21.

22 Q How old were you?

23 A I believe 22.

24 Q When you -- so you were of age -- well, you were
25 old enough to drink; she was not?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Right.

2 Q Let me ask you this. When you went to Banditos
3 and had dinner, was alcohol involved?

4 A Not at all.

5 Q Did you have anything to drink?

6 A I still don't drink to this day.

7 Q Did Heather have anything to drink?

8 A No.

9 Q How long did you stay at the mall parking lot
10 teaching Heather to drive?

11 A I'm not sure. Maybe an hour.

12 Q Did she learn to drive it?

13 A Yeah. She actually did very well.

14 Q What kind of mood was she in; was she sad?

15 A No, she seemed pretty chipperish. She was
16 upbeat.

17 Q She didn't act scared?

18 A No.

19 Q Did you argue about anything?

20 A Not at all.

21 Q So she seemed like she was having a good time to
22 you?

23 A Yes.

24 Q After you left the mall parking lot, did you go
25 anywhere else?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Yes. From there, we went back to where I was
2 living at the time, at my mom's house, and we watched a
3 movie.

4 Q Tell me where your mom lives.

5 A She lives in Murrells Inlet off of McDowell
6 Shortcut Road.

7 Q And that is where you went?

8 A Yes.

9 Q Was anyone there when you got there?

10 A I believe my mom might have been there, but I
11 don't think I saw her. I'm pretty sure she was asleep.

12 Q What movie did you watch?

13 A I don't remember.

14 Q That's fair. It was six years, right?

15 A Yeah.

16 Q Do you know how long you stayed at your house?

17 A Two hours or so; long enough to watch a movie.

18 Q During that whole two hours, did anyone else --
19 did you talk to anyone else in the house? Did you talk
20 to your mom?

21 A No.

22 Q But you said you think your mom was home?

23 A I think she may have been home, yes.

24 Q Do you remember where your mom worked at that
25 time?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A She was a customer service manager at Walmart, I
2 believe.

3 Q She had that back in 2013?

4 A Yes. She's been with that store since they
5 opened.

6 Q You may or may not know this, but do you know
7 about what time she got off normally at night?

8 A I'm not sure.

9 Q So you and Heather stay at your house for two
10 hours, and you just watch a movie?

11 A Right.

12 Q Anything else go on?

13 A No.

14 Q Anything romantic?

15 A No.

16 Q I know I'm prying, but I have to ask.

17 A I understand.

18 Q Fair enough. At the end of two hours, tell me
19 about what time it is now.

20 A It was probably, oh, a little after 12:30,
21 creeping on 1 o'clock, I would say.

22 Q What did you do after you got done watching the
23 movie? Where did you watch the movie specifically in
24 the house?

25 A In my bedroom.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q Was the door opened or closed?

2 A It was open.

3 Q Where is your bedroom in relation to your
4 mother's bedroom?

5 A Kind of diagonal, across the hallway.

6 Q Is it a particularly big house?

7 A Small four bedrooms, single-family home.

8 Q One story or two?

9 A Two stories.

10 Q Is your bedroom on the first floor or second
11 floor.

12 A Second floor.

13 Q And your mom's is, too?

14 A Yes.

15 Q After you left your house, where did you and
16 Heather go?

17 A After we left, I took Heather back to her
18 apartment.

19 Q And that was back on -- off of 501?

20 A Yes.

21 Q Do you remember how long it took you to get from
22 your house to Heather's house?

23 A I don't remember. Approximately, 20 minutes. It
24 was pretty late. It's not too far from where I was
25 living at the time.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q When you get to Heather's house, tell me what
2 happens.

3 A When we got there, I walked her to the door and
4 she invited me in. She just gave me a brief tour
5 around her apartment, like, hey, this is where I live.
6 It was pretty late, and I had to work in the morning,
7 so I made my way back to the door, and we shared a kiss
8 before I left.

9 Q So she did invite you in the house?

10 A Yes.

11 Q Was anyone else in the house?

12 A Not that I saw.

13 Q Tell me about the house. What kind of house was
14 it?

15 A It was an apartment building. I'm not sure how
16 many bedrooms. I didn't make it past the
17 kitchen/living room area. It was pretty messy, though.

18 Q It was a messy house?

19 A Clothes and bottles and things like that all over
20 the place.

21 Q So it was not a well-kept house?

22 A No.

23 Q Could you tell if more than one person lived
24 there?

25 A Definitely.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q What makes you say that?

2 A Just the amount of things all over the place.

3 Q So how long did you stay in the house; tell me
4 that again?

5 A Less than ten minutes.

6 Q And nothing romantic happened in the house?

7 A No. When we kissed, it was outside of her door.

8 Q What happened after the kiss?

9 A After we kissed, I got back in my truck and drove
10 back home and went to sleep.

11 Q About how long, total, Stephen, do you think you
12 were gone from the time you left your house with
13 Heather to take her home and come back home?

14 A I would say less than an hour.

15 Q When you got back home, was anyone home?

16 A I'm not sure.

17 Q You didn't see anyone?

18 A No.

19 Q Is it common that if you are home, you don't know
20 if your home is there or not, or vice-versa?

21 A Right.

22 Q So it is possible for you to be home and not see
23 her, and for her to be home and not see you?

24 A Very correct.

25 Q When you dropped Heather off, how was she?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A She seem pretty satisfied with how the evening
2 went. We made plans for the next day.

3 Q So you had intentions to go on a second date?

4 A Yes.

5 Q Did you plan on keeping those intentions?

6 A I did.

7 Q Was it your impression she did as well?

8 A Yes.

9 Q Did you make the plans for the second date before
10 or after the kiss?

11 A I believe it was before.

12 Q When you got home, tell me what you did, Stephen.

13 A When I got home, I sent her a message to let her
14 know I arrived. We chatted briefly before she stopped
15 responding, and I eventually fell asleep.

16 Q What do you mean you sent her a message?

17 A Just like a, hey, I just made it home.

18 Q Was it a Facebook message?

19 A Text message.

20 Q So you texted her when you got home?

21 A Yes.

22 Q Did she respond?

23 A Yes.

24 Q Did the response that she sent to you indicate to
25 you that there was any distress?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 MR. BOUCHETTE: Objection, Your Honor. My
2 objection is to hearsay -- trying to get
3 communications from the victim to him by couching it
4 in the terms of text messages.

5 THE COURT: I'll allow the question. He is
6 responding to present sense of impression. I'll allow
7 it. Overruled.

8 Q (MR. HELMS) After you dropped Heather off and
9 got home, you text her and -- did you go anywhere else
10 that night?

11 A No.

12 Q When is the next time you left your mom's house?

13 A For work the next morning.

14 Q At Wicked Tuna?

15 A Right.

16 Q When you were with Heather that night, do you
17 remember her ever receiving any telephone calls during
18 the course of the date?

19 A No.

20 Q You don't remember, or she definitely didn't?

21 A I don't remember.

22 Q Fair enough. Do you remember if she ever called
23 anyone during the course of the date?

24 A Not that I could see.

25 Q So if she did, it wasn't in your presence?

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Correct.

2 Q This may be redundant, but I'm going to ask it.
3 Do you remember if she had a phone conversation for
4 four minutes while you were on the date?

5 A Not that I saw, but she used the restroom while
6 watching the movie.

7 Q Do you recall how long she was gone at the
8 restroom?

9 A I don't.

10 Q So if she talked on the phone for four to five
11 minutes, it would have been outside of your presence or
12 after you dropped her off?

13 A Correct.

14 MR. HELMS: Court's indulgence.

15 THE COURT: Certainly.

16 Q (MR. HELMS) Stephen, I'll show what was marked
17 for identification as State's Exhibit 8.

18 Take a look at that for me. Do you recognize
19 that photograph?

20 A I do.

21 Q Tell this jury what that is a photograph of.

22 A This is a picture that I took of Heather while
23 she was driving my truck in the mall parking lot.

24 Q When?

25 A The night we went on the date.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q 17th of December?

2 A Yes.

3 Q 2013?

4 A Yes.

5 Q Is that substantially how she appeared that
6 night?

7 A Yeah, it is a pretty accurate representation.

8 Q Has it been tampered with in any way since you
9 took it?

10 A No.

11 MR. HELMS: At this time I tender State's 8 into
12 evidence.

13 THE COURT: Any objection?

14 MR. BOUCHETTE: No objection.

15 THE COURT: Without objection, State's 8
16 admitted.

17 (State's Exhibit 8 admitted.)

18 MR. HELMS: Thank you, Your Honor. Permission
19 to publish?

20 THE COURT: You may.

21 (State's Exhibit 8 published to the jury.)

22 Q (MR. HELMS) Stephen, I have one last question
23 for you. Do you remember the phone number you had
24 back in 2013?

25 A Yes.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 Q I'll ask Ms. Miller to write it, because I have
2 horrible handwriting. Give me one second, Stephen.

3 (A brief pause in the proceedings.)

4 Q (MR. HELMS) Go ahead, my friend. What was your
5 number back in 2013?

6 A [REDACTED] --

7 Q Is that [REDACTED]?

8 A [REDACTED] 6288.

9 Q So when you got home that night, the only way you
10 communicated with Heather was via text?

11 A Yes.

12 Q So on your phone records, or on Heather's phone
13 records, there would not be a telephone call -- a voice
14 call to your number, or from her number?

15 A No.

16 Q There wouldn't be a voice call from your number
17 to her number?

18 A No.

19 MR. HELMS: I'll ask Mr. Schiraldi, if he can,
20 step down and initial to validate that that is, in
21 fact, his number, if you don't mind?

22 THE COURT: You may step down.

23 Q (MR. HELMS) Look at that number, and if that was
24 your number in 2013, put your initials there for me,
25 sir.

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 A Sure. (Witness complied.)

2 Q I'll also show you what is entered into evidence
3 as State's Exhibit 5, and this is already in evidence.
4 I want you to look at this board, okay. Look over here
5 and see if you see your number from 2013 anywhere on
6 this board?

7 A Yes.

8 Q You do?

9 THE COURT: Speak up.

10 A Yes, I do see my phone number.

11 Q (MR. HELMS) Here is what I would like you to do,
12 take that same magic marker and write your name beside
13 that number, if you don't mind, out here to the right,
14 and I'll hold it for you.

15 A (Witness complied.)

16 Q Put your initial right there, if you don't mind.

17 A (Witness complied.)

18 MR. HELMS: Your Honor, I would like to note that
19 Mr. Schiraldi has indicated his number as an incoming
20 call from Heather Elvis' number at 2:24:17 a.m. -- a
21 text message, I'm sorry, Your Honor.

22 THE COURT: While they are doing that, ladies and
23 gentlemen, it is not uncommon to pass an exhibit, but
24 know that any exhibit that is introduced will
25 accompany you to your jury room so you can study it in

STEPHANO SCHIRALDI - DIRECT EXAMINATION

1 depth, if you need to, at that time.

2 Q (MR. HELMS) Again, my attention is on State's 5.
3 So, Stephen, you are saying this is your number right
4 here, this [REDACTED]?

5 A Yes.

6 Q And then 6288?

7 A Correct.

8 Q The next number is also [REDACTED] 6288?

9 A Yes.

10 Q And the next one?

11 A Yes.

12 Q The one after that?

13 A Yes.

14 Q The one after that?

15 A Yes.

16 Q Where is the next time your number appears?

17 A 2:34 a.m.

18 Q And how about after that?

19 A 2:35 and at 2:40, and then 2:42.

20 Q Now, would that be when you were communicating
21 with her when you got home?

22 A Yes.

23 Q After that time, and after those text messages --
24 and we know those are text messages because they are
25 indicated -- after those text messages, do you see your

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 number appear anywhere on this board under that, after
2 that time?

3 A No.

4 Q After 2:42?

5 A No.

6 Q Do you recognize the numbers that come after your
7 number?

8 A No.

9 Q How about 3175?

10 A No.

11 Q How about this 444 number?

12 A No.

13 Q You don't know those numbers?

14 A No, sir.

15 Q You don't know who those belong to back in 2013?

16 A No idea.

17 MR. HELMS: Court's indulgence, Your Honor.

18 (A brief pause in the proceedings.)

19 MR. HELMS: Nothing further.

20 THE COURT: Very well. You may cross-examine.

21 MR. BOUCHETTE: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23

24

25 CROSS-EXAMINATION

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 BY MR. BOUCHETTE:

2 Q Good afternoon.

3 A Good afternoon.

4 Q My understanding is that you spoke with
5 Detectives Lent and Hardee on December 19, 2013; is
6 that correct?

7 A I don't recall the names, but I did have two
8 detectives come and interview me while I was at work.

9 Q They came at your shift at Wicked Tuna?

10 A That's right.

11 Q Did they give you a call or any heads-up that
12 they might be coming, or did they just kind of show
13 up?

14 A I don't remember getting a call from them, but I
15 remember my mom reaching out to my job saying that
16 there were two detectives there looking for me and that
17 she sent them my way.

18 Q And since that time, you've spoken with
19 investigators working for the Solicitor's Office?

20 A Correct.

21 Q Do you remember how many times you had those
22 communications?

23 A I don't remember, but it was pretty frequently.

24 Q But all the statements or information you
25 provided to police back in 2013, and any of the

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 subsequent conversations with the solicitor or
2 investigators have been complete and truthful,
3 correct?

4 A To the best of my knowledge.

5 Q Absolutely.

6 Whenever you first spoke to Detectives Hardee and
7 Lent on the 19th, was your memory fresh as to the
8 timeline of the date?

9 A I would assume so.

10 Q The reason I ask is -- if I understand your
11 testimony now -- it is that you dropped Heather off
12 somewhere shortly after 1:00 a.m. at her apartment; is
13 that accurate?

14 A I'm not sure of the time.

15 Q You don't know the time?

16 A Not exactly, no.

17 Q Are you able to within an hour range give us an
18 idea when you would have dropped her off at her house?

19 A It probably would have been sometime between
20 1:45 and 2:15.

21 Q Between 1:45 and 2:50 (sic)?

22 A 2:15.

23 Q 2:15, all right.

24 If you would have told Detectives Hardee and Lent
25 you thought it was about 3:00 a.m. whenever you

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 dropped her off; do you recall saying that?

2 A I don't recall saying that.

3 Q Had you done that, based on what you reviewed
4 since then, that would seem to be inaccurate, correct?

5 A Correct. If I did say that, it was probably a
6 rough guesstimation, because I wasn't tracking the time
7 at the moment.

8 Q And you were not expecting to speak with them at
9 that time, right?

10 A Right.

11 Q Now, what social media platforms were you and
12 Heather connected?

13 A We were following each other on Instagram. I'm
14 not sure of any others.

15 Q To your knowledge, did she have any social media
16 accounts; Twitter, for example?

17 A I'm not on Twitter, so I'm not sure.

18 Q And in the year since have you learned one way or
19 the another as to whether or not she had any Twitter
20 accounts?

21 A I believe she had a Facebook account, but I'm
22 still not sure about Twitter.

23 Q Okay. How about Snapchat?

24 A Not sure.

25 Q You don't know one way or another?

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 A No.

2 Q You reached out to her that night via a message
3 on Instagram?

4 A It was a comment on one of her pictures.

5 Q You utilized the social media platform to
6 initiate the conversation with her, correct?

7 A Correct.

8 Q Now, at that point -- what prompted you at that
9 particular moment to initiate the interaction with her?

10 A Um, I'm honestly not sure. I would have to see
11 the picture or the comment to recall.

12 Q Did you have any knowledge at that time as to her
13 relationship status one way or another?

14 A No.

15 Q If I told you she was -- let me ask you this. I
16 withdraw that question.

17 Did you have any knowledge as to whether or not
18 she had been living with any other man in the
19 preceding month or two?

20 A I had no idea.

21 Q No knowledge one way or the other?

22 A None, whatsoever.

23 Q In the six years or so since this has happened,
24 have you come to learn any information regarding a
25 relationship of Heather Elvis during that time period?

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 A Yes.

2 Q Did that involve a guy named Jeremy Flemming?

3 A No. I actually have never heard that name
4 before.

5 Q You have not heard of Jeremy Flemming?

6 A No. The only name that I have heard in
7 relationship to Heather Elvis, as far as a romantic
8 relationship during that time frame, would have been
9 Sidney Moorer.

10 Q And did she mention Sidney Moorer's name at any
11 point during this date that you were on?

12 A No.

13 Q And whenever you went to the apartment, did you
14 have any information regarding how long Heather had
15 been living at the apartment?

16 A No, I don't think so.

17 Q She didn't tell you one way or another?

18 A No.

19 Q Was it your understanding -- let me back up. Was
20 this a one-bedroom, two-bedroom apartment?

21 A I'm not sure. Like I said previously, I didn't
22 make it past the kitchen/living room area.

23 Q Was it your understanding that she shared the
24 apartment with another individual?

25 A Yes.

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 Q You mentioned whenever you went inside that you
2 saw bottles and clothes and all of the other stuff,
3 right?

4 A Yes.

5 Q Were any of those bottles alcohol bottles?

6 A I don't think so. It seemed like 2 liters of
7 soda, tea, milk, things like that.

8 Q You didn't observe any bottles of alcohol or
9 anything laying around?

10 A No.

11 Q Now, did she ever indicate to you or talk to you
12 about having -- where she had been living prior to that
13 apartment that you took her home to?

14 A No. It didn't come up.

15 Q Now, you said you picked her up at her house
16 around 7:00; is that correct?

17 A Yes.

18 Q And we now believe that you drove her back at
19 approximately -- somewhere between a quarter of 3:00
20 and 3:15 -- excuse me, quarter to 2:00 and 2:15 a.m.?

21 A Approximately.

22 Q And you went inside just briefly, correct?

23 A Correct.

24 Q Did you ever sit down on the couch?

25 A No.

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 Q Were you ever asked by an investigator as to
2 whether or not you had sat down on the couch?

3 A No.

4 Q Were you ever asked by investigators if you had
5 ever gone into one of the bedrooms?

6 A No.

7 Q Investigators never asked you that?

8 A Not that I remember.

9 Q Did the police ask you if you and her had sex
10 that night?

11 A Yeah.

12 Q And let me ask you this. Whenever you are
13 speaking to police on -- I guess it was
14 December 19th, is it safe to say you are the last
15 known person to have seen Heather alive?

16 A I have no idea.

17 Q At that point?

18 A I have no idea.

19 Q When you gave that interview, were you asked to
20 provide a DNA sample?

21 A I don't recall.

22 Q You don't recall if you were asked to provide a
23 DNA sample?

24 A No.

25 Q Do you know if any subsequent encounters with law

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 enforcement, if you have been asked to provide a DNA
2 sample?

3 A I don't recall.

4 Q How about a fingerprint?

5 A I don't recall.

6 Q Did the police ever ask to inspect your vehicle?

7 A No.

8 Q Did the police ever ask to go to the house you
9 shared with your mother and do an any type of
10 inspection or review of that bedroom at that house?

11 A No.

12 Q Now, you said whenever you came home, you didn't
13 have direct contact with your mother; is that correct?

14 A That's correct.

15 Q So safe to say in terms of eyewitnesses there is
16 no one that would have been able to corroborate the
17 fact that you arrived home during this time frame you
18 told police back in December?

19 A As far as I know.

20 Q Now, you also said that -- I believe police
21 talked to your mother prior to talking to you; is that
22 correct?

23 A Yes.

24 Q Do you know whether or not she knew the substance
25 of what the police were looking to speak to you about?

STEPHEN SCHIRALDI - CROSS-EXAMINATION

1 A No. When she contacted me at work, she seemed
2 pretty concerned and worried. She had no idea what was
3 going on.

4 Q She knew it was the police, correct?

5 A Uh-huh.

6 THE COURT: Is that a yes?

7 A Yes, sir.

8 Q (MR. BOUCHETTE) She knew it involved a missing
9 girl, correct?

10 A At the time, I'm not sure. Potentially, after
11 the interview, once I had face-to-face time with her,
12 I'm sure I would have filled her in, but at the time, I
13 don't know how much she knew about the situation.

14 Q And she knew that the subject of that
15 investigation would have been the girl that you had
16 gone out with the previous night; is that correct?

17 A I would presume so.

18 Q During the course of your date, did you ever --
19 did you and her ever discuss any pregnancy or
20 anticipated pregnancy of Ms. Elvis?

21 A No.

22 Q Did you make any modifications to this Ford
23 Ranger?

24 A After she went missing, no.

25 Q One moment.

STEPHEN SCHIRALDI - REDIRECT EXAMINATION

1 THE COURT: Sure.

2 Q (MR. BOUCHETTE) Did the police take possession
3 of your cell phone?

4 A Yes. I gave it to them voluntarily.

5 MR. BOUCHETTE: Nothing further for this witness.

6 REDIRECT-EXAMINATION

7 BY MR. HELMS:

8 Q Stephen, you just testified as to your
9 interactions with law enforcement. You gave them your
10 cell phone you said, right?

11 A Yes.

12 Q Did they have to serve you with a search warrant
13 to make you give that cell phone up?

14 A No. Following my interview at my job, when my
15 shift ended, I drove to a precinct in Conway where I
16 voluntarily gave them my phone and let them get any
17 information off of it that they wanted or needed.

18 Q Why did you do that?

19 A Because I wanted to be as helpful as possible.

20 Q Had they asked you for a DNA sample, would you
21 have given it?

22 A Yes.

23 Q Had they asked you for a fingerprint, would you
24 have given it?

25 A Absolutely.

STEPHEN SCHIRALDI - RECROSS-EXAMINATION

1 Q Had they asked you to see your truck and search
2 it, would you have let them?

3 A Without any hesitation.

4 Q Would the same answers you have given here today
5 consist of what you told law enforcement in the past?

6 A Yes.

7 MR. HELMS: Nothing further, Your Honor.

8 THE COURT: Recross?

9 RECROSS-EXAMINATION

10 BY MR. BOUCHETTE:

11 Q Very briefly. Mr. Schiraldi, you had that
12 initial conversation we talked about on the 19th,
13 correct?

14 A Yes.

15 Q And you went to the Conway precinct, correct, and
16 gave them your phone?

17 A Correct.

18 Q And, again, at that time, with you being there,
19 with you being in the police building, there was no
20 request for hair follicle, fingerprint, DNA or anything
21 at that point in time, correct?

22 A Correct.

23 MR. BOUCHETTE: No further questions.

24 THE COURT: Do you wish the witness to be
25 excused?

STEPHEN SCHIRALDI - RECROSS-EXAMINATION

1 MR. HELMS: Yes, Your Honor.

2 THE COURT: Any objection?

3 MR. BOUCHETTE: No, Your Honor.

4 THE COURT: You are free to leave.

5 At this point, we'll take a recess and let you go
6 to your jury room for 10, 15 minute. Don't begin
7 deliberations or discuss the case, and we'll begin
8 shortly. Thank you.

9 (The jury exits at 2:44 p.m., and the
10 following is heard out of the presence of the jury.)

11 THE COURT: Anything from the State before we
12 recess?

13 MR. HELMS: No, Your Honor.

14 THE COURT: Anything from the defendant?

15 MR. BOUCHETTE: No, Your Honor.

16 THE COURT: We'll be at ease for about 15
17 minutes. Thank you.

18 (State's Exhibit 9 marked.)

19 THE COURT: State ready?

20 MR. HELMS: Yes, Your Honor.

21 THE COURT: Defendant ready?

22 MR. BOUCHETTE: Yes, sir.

23 THE COURT: Let the record reflect that the
24 defendant is present.

25 Bring in our jury, please.

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 (The jury enters at 3:00 p.m., and the
2 following is heard in the presence of the jury.)

3 THE COURT: Thank you very much, ladies and
4 gentlemen. We're ready to continue.

5 Solicitor, call your next witness.

6 MR. HELMS: At this time we call Penny Schiraldi.

7 (PENNY SCHIRALDI, having been duly sworn,
8 testified as follows:)

9 THE WITNESS: Pamela Schiraldi,
10 S-C-H-I-R-A-L-D-I.

11 DIRECT-EXAMINATION

12 BY MR. HELMS:

13 Q Ms. Schiraldi, where do you live?

14 A 136 Molinia Drive, Murrells Inlet.

15 Q How long have you lived there?

16 A Almost 13 years.

17 Q And where do you work?

18 A Walmart.

19 Q And how long have you worked there?

20 A Nine years.

21 Q What do you do there, if you don't mind me
22 asking?

23 A I'm a customer service manager. I run the
24 front-end.

25 Q Oh, okay. Now, do you have any children?

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 A Four.

2 Q Can you tell me their first names?

3 A Lauren, Richard, Stephano and Timothy.

4 Q Stephano also goes by Stephen? I call him
5 Stephen. He just left. He just testified?

6 A Yes.

7 Q So you lived there, obviously, back in 2013, that
8 same address?

9 A Yes.

10 Q And when you lived at that address back in 2013,
11 who lived there with you?

12 A Stephen and Timothy, I think Richie was already
13 gone.

14 Q But Stephen definitely lived there?

15 A Yes. Stephen and Timothy definitely.

16 Q Did Stephen have his own bedroom?

17 A Yes. They all had their own bedrooms.

18 Q Where was Stephen's bedroom?

19 A Diagonal from mine on the second floor.

20 Q Obviously, you were working at Walmart back in
21 2013?

22 A Yes.

23 Q I'm going to go ahead and cut right to the chase.
24 Back in 2013, did Stephen, to your knowledge, ever
25 bring the victim in this case, Heather Elvis, to the

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 house?

2 A Yes.

3 Q Tell me about that.

4 A It was night. I had the closing shift. I had
5 clocked out at 11:35. I was maybe six, seven minutes
6 away. I came home about a quarter of, ten of. They
7 were upstairs in his room watching TV. He introduced
8 me to Heather, and about maybe an hour later, 45
9 minutes, the movie was over. He told me that he was
10 bringing Heather home. She said good night, nice to
11 meet you. He left, and then less than an hour he was
12 back home.

13 Q Was that the first time you had ever met Heather?

14 A Yes.

15 Q To the best of your knowledge, was that the first
16 time that Stephen ever had a date with Heather?

17 A That I'm aware of.

18 Q So he never brought her to the house before?

19 A No.

20 Q But when you got home -- you said you clocked out
21 at what time?

22 A 11:35.

23 Q That is a very specific time, ma'am. I'm going
24 to ask you how do you know that from six years ago?

25 A I had personnel put a request into the corporate

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 office to pull my time clock.

2 Q I'm showing you what was marked for
3 identification purposes as State's 9. I would like you
4 to take a look at that document for me and tell me if
5 you know what that is?

6 A Yes. That is my time clock for the week.

7 Q Is that the time clock you retrieved from your
8 company?

9 A Yes.

10 Q Is that the record that is kept in the ordinary
11 course of business?

12 A In the computer system, corporate housing. After
13 so much time, they no longer have access to it at the
14 store level.

15 Q How do you get it then?

16 A I had to ask personnel who electronically put --
17 submitted a request to the corporate office for a copy
18 of it, and they e-mailed it back to her, and she
19 printed it out and gave it to me.

20 Q And since you have gotten it, does it appear to
21 have been tampered with?

22 A No, except for what I highlighted, the day.

23 Q What did you highlight, tell me?

24 A December 17, my clock -- my time clock punches.

25 Q Why did you highlight December 17th?

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 A To see it easier.

2 Q And that is the time clock -- the representation
3 of your hours worked that week?

4 A Yes, I have the original with me.

5 MR. HELMS: At this time, I would tender State's
6 9 into evidence.

7 THE COURT: Any objection?

8 MR. BOUCHETTE: Your Honor, I think they can use
9 it to refresh her recollection, which has already been
10 done, but she's not the records custodian, and she's,
11 essentially, testified in a manner that would require
12 the records custodian.

13 THE COURT: She's familiar with it. She asked
14 for it. She requested it. Subject to that objection,
15 I'll admit it. Thank you.

16 (State's Exhibit 9 was admitted.)

17 Q (MR. HELMS) Look at State's Exhibit 9. Tell me
18 again what time you clocked out on September 17?

19 A 11:35.

20 Q P.m.?

21 A Yes.

22 Q After you clocked out, where did you go?

23 A Home.

24 Q And how long does it take you to get home from
25 your place of work?

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 A About seven minutes.

2 Q And you testified a minute ago that Stephen and
3 Heather were present when you got home?

4 A Yes. They were in his room watching a movie.

5 Q How long after you arrived did they leave?

6 A Maybe an hour.

7 Q So you were there an hour before they left?

8 A Yes.

9 Q For Stephen to take her home?

10 A Yes.

11 Q When you met Heather, what was your impression,
12 ma'am?

13 A She seemed like a nice, sweet girl. Very polite.

14 Q Did she seem distraught?

15 A No.

16 Q Were they fighting?

17 A No.

18 Q Did she seem like they were having a good time?

19 A Yes.

20 Q So after Stephen left with Heather, how long was
21 he gone before he got back?

22 A Less than an hour.

23 Q And you knew he was taking her home?

24 A Yes.

25 Q When he got back, do you know when he returned?

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 A It was somewhere between 1:30 and 2:00.

2 Q How do you know he returned; how do you know?

3 A Just by doing the math -- I heard him come in the
4 door. He came up the stairs and went into his room.

5 Q Did you talk to him? Did you say anything to
6 him?

7 A No, I was in bed.

8 Q So when you came up -- let me ask you this. Is
9 it common for Stephen to be home, and you to be home,
10 and maybe one of you not know when the other is home;
11 can that happen?

12 A Not usually, no. Unless they are trying to sneak
13 in on me.

14 Q Has that ever happened?

15 A Yeah.

16 Q Fair enough. What did Stephen do once he arrived
17 home less than an hour later?

18 A Went into his room, went to bed.

19 Q Did you check --

20 A Maybe watched TV.

21 Q Did you check in on him at all?

22 A No. By that time, I was already in bed.

23 Q Do you remember what kind of truck Stephen drove
24 back in 2013?

25 A Light blue Ford Ranger.

PAMELA SCHIRALDI - DIRECT EXAMINATION

1 Q Do you know if it was two door, four door?

2 A Two door.

3 Q Big, high, jacked-up truck?

4 A No. He actually lowered it. It was low down to
5 the ground.

6 Q Was it a manual transmission?

7 A Stick, yes.

8 Q It was a stick shift, you had to change the gears
9 like this (indicates)?

10 A Uh-huh.

11 THE COURT: Is that a yes?

12 A Yes.

13 Q (MR. HELMS) And when Stephen got home, do you
14 remember about what time it was when he got home for
15 the final time?

16 A Between 1:30 and 2:00.

17 Q Did you hear him leave any time after that?

18 A No.

19 Q Do you know when the last time Stephen left your
20 house was?

21 A When he went to work the next day.

22 Q So you didn't hear any commotion when he arrived
23 home? I mean, he didn't come home crying?

24 A No. He was fine.

25 Q He didn't wake up and say, Mom, Mom, wake up?

PENNY SCHIRALDI - CROSS-EXAMINATION

1 A No.

2 Q Everything seemed fine?

3 A Yes.

4 Q By all accounts, it was a good night?

5 A Yes.

6 MR. HELMS: Nothing further, Your Honor.

7 THE COURT: Cross-examination.

8 MR. BOUCHETTE: Very briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BOUCHETTE:

11 Q Ms. Schiraldi, good afternoon.

12 A Hi.

13 Q Let's start off, have you provided any written
14 statements to police officers or to the Solicitor's
15 Office?

16 A No.

17 Q So during the initial time period when Heather
18 went missing, you weren't asked to provide any type of
19 a written statement?

20 A No.

21 Q What was introduced as State's Exhibit 9, when
22 did you provide that to the Solicitor's Office?

23 A Within the last month, few weeks ago maybe,
24 couple weeks ago.

25 Q So this document that was just entered, your time

PENNY SCHIRALDI - CROSS-EXAMINATION

1 card, that was just given to the Solicitor's Office
2 within the last week?

3 A More than a week, I would say.

4 Q Within the last 30 days or so?

5 A Yeah.

6 Q Now, your testimony, as I understand it, is that
7 Stephen and Ms. Elvis came out of his room and
8 communicated directly with you; is that your testimony?

9 A Yes. They were saying goodbye.

10 Q Reason why I ask is we just asked Stephen if he
11 had spoke --

12 MR. HELMS: Objection, pitting.

13 THE COURT: Sustained.

14 Q Let me ask you this. If Stephen had, in fact,
15 stated that he had not communicated with you, would he
16 be mistaken?

17 MR. HELMS: Pitting, Your Honor.

18 THE COURT: Sustained.

19 Q Let me ask you this. When you got contact from
20 police officers in late December, somewhere around
21 December 18th, when did you learn what they were
22 investigating?

23 A I wasn't home when they came to the house. I was
24 having a new heating and air conditioning unit
25 installed that day, and I ran to the store. And when I

PENNY SCHIRALDI - CROSS-EXAMINATION

1 came back, the workers told me that the police had been
2 there looking for Stephen. I didn't know what for.

3 Q How long did it take before you realized what the
4 police were investigating?

5 A I didn't know until maybe a couple hours later
6 when I finally got a hold of Stephen.

7 Q And after they talked to Stephen, did they come
8 talk to you?

9 A No.

10 Q They didn't?

11 A Not that I remember.

12 Q Do you know how many times you've talked to
13 investigators since Heather Elvis' disappearance?

14 A Maybe three times over the years.

15 Q Over the last six years?

16 A Uh-huh.

17 THE COURT: Is that a yes, ma'am?

18 A Yes. I'm sorry.

19 Q But there were none in, let's say, the 72 hours
20 following Heather's disappearance?

21 A Not that I recall. It's possible, but I don't
22 remember.

23 Q Did the police ever ask to search your home or
24 search Stephen's room or any property at your house?

25 A No.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 MR. BOUCHETTE: No further questions, Your Honor.

2 THE COURT: Redirect.

3 MR. HELMS: Nothing, Your Honor. I ask that she
4 be released.

5 THE COURT: Any objection?

6 MR. BOUCHETTE: Absolutely.

7 THE COURT: You are free to leave. You can step
8 down. Thank you, ma'am.

9 Call your next witness.

10 MS. LIVESAY: At this time the State calls
11 Brianna Warrelmann.

12 (BRIANNA WARRELMANN, having been duly sworn,
13 testified as follows:)

14 (State's Exhibits 10 through 31 marked.)

15 THE WITNESS: My name is Brianna Warrelmann,
16 W-A-R-R-E-L-M-A-N-N.

17 DIRECT-EXAMINATION

18 BY MS. LIVESAY:

19 Q When I called your name up here, I called Brianna
20 Warrelmann, but what is your last name now?

21 A I just got married again, so it's Kulzer,
22 K-U-L-Z-E-R.

23 Q But it was Warrelmann in 2013?

24 A Yes, ma'am.

25 Q But you are married now?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes, ma'am.

2 Q And how long have you been married?

3 A Since May.

4 Q And how many children do you have?

5 A Three.

6 Q And how old are they?

7 A Four, two-and-a-half and six weeks.

8 Q Wow. Now, how old are you currently?

9 A 28.

10 Q And have you ever -- where are you from?

11 A New Jersey.

12 Q And where are you living now?

13 A New Jersey.

14 Q And did you ever live here in Horry County?

15 A Yes, ma'am.

16 Q Tell this jury when you lived in Horry County.

17 A I moved here August/September 2012.

18 Q And when did you leave Horry County?

19 A Spring 2014.

20 Q So you were living here December/November 2013?

21 A Yes, ma'am.

22 Q If you don't mind, tell this jury where you
23 lived.

24 A River Oaks.

25 Q And is that an apartment or a house?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A It was an apartment.

2 Q And about how long had you lived there?

3 A About a year.

4 Q Now, when you were living there, where were you
5 working in 2013?

6 A Tilted Kilt.

7 Q Now, earlier, you weren't in here, but we met
8 Jessica Cooke and Jodie Davenport; do you know those
9 two ladies?

10 A Yes, ma'am.

11 Q How do you know them?

12 A One was a co-worker and another server, and Jess
13 was our supervisor.

14 Q So those were all people you worked with at
15 Tilted Kilt?

16 A Yes, ma'am.

17 Q Do you know Heather Elvis?

18 A Yes, ma'am.

19 Q Did you work with her at Tilted Kilt.

20 A Yes.

21 Q And if you don't mind, tell this jury, so they
22 know, what was your relationship with Heather Elvis?

23 A She was my best friend and she also was my
24 roommate.

25 Q If you don't mind, tell this jury when you became

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 close friends.

2 A We became really close June of 2013.

3 Q And when did she move in with you?

4 A Right before Thanksgiving of 2013.

5 Q So November of 2013?

6 A Yes, ma'am.

7 Q And did she live -- did she continue to live with
8 you?

9 A Yes.

10 Q Until she went missing?

11 A Yes, ma'am.

12 Q But you were close friends way before then, or at
13 least for a few months?

14 A Yes.

15 Q Now, during the time of June, August, September,
16 that time frame, before she had moved in, was she
17 seeing anyone at that time?

18 A Yes, ma'am.

19 Q Did she have a boyfriend?

20 A Yes.

21 Q Who was it?

22 A Sidney Moorner.

23 Q And you know Sidney?

24 A From work, yes.

25 Q And could you identify him?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes, ma'am.

2 Q Is he in the courtroom now?

3 A Yes, ma'am.

4 Q Point him out.

5 A Right there (indicates).

6 Q And that's the man she was seeing during that
7 time frame?

8 A Yes, ma'am.

9 Q Now, at some point did that relationship end?

10 A Yes.

11 Q During the time she was seeing him, was she
12 seeing anyone else?

13 A No.

14 Q Now, did you work with Sidney some at Tilted Kilt
15 or know him from Tilted Kilt?

16 A Yes, ma'am. He would do the maintenance stuff
17 around the restaurant.

18 Q So he would be there when you were there?

19 A Yes.

20 Q And what would he be doing or what was kind of
21 his job responsibilities?

22 A Fix things, building things. He built like an
23 umbrella cart to carry the umbrellas in and out of the
24 restaurant.

25 Q He was kind of the maintenance guy?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 Q Did you ever talk with him?

3 A Briefly, yes.

4 Q And do you know at the time if he was married?

5 A Yes.

6 Q And was he married?

7 A Yes, ma'am.

8 Q And do you know at the time if he had any kids?

9 A Yes.

10 Q And did he have kids?

11 A Yes, he did.

12 Q Now, when they were seeing each other, did you
13 ever see him come visit her at work?

14 A Yes, he did.

15 Q And tell the jury about that.

16 A He would come in, visit her at the hostess stand,
17 bring coffee, food, bagels.

18 Q So you would see them interact together?

19 A Yes.

20 Q Tell this jury what that looked like.

21 A They are were flirtatious. It was supposed to be
22 a secret, but everyone at the Tilted Kilt knew about
23 it.

24 Q So he would come in and bring her stuff in front
25 of everybody?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 Q Now, there was a time when that relationship
3 ended, correct?

4 A Yes.

5 Q And about when was that?

6 A I want to say October of 2013.

7 Q Towards the end of October?

8 A Yes.

9 Q How was she when that relationship ended?

10 A She was devastated.

11 Q And how long did it take before she started to
12 get over that relationship or breakup?

13 A It was about the time that she started to move in
14 with me was when she started to be happy and going back
15 to her happy self.

16 Q So several weeks?

17 A Yes, ma'am.

18 Q And do you know about how long her and Sidney had
19 a relationship?

20 A It was at least a couple of months. It started
21 right when she and I started to get close, so like
22 June.

23 Q In June, they were already seeing each other?

24 A Yes. At least starting to, I think.

25 Q And around the end of October it ended?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Right.

2 Q You told this jury kind of mentally how she was
3 after the breakup, did you see any changes in her
4 physically?

5 A She gained weight, because she would run around
6 the house talking about how she had to buy new Victoria
7 Secret bras, which are not cheap.

8 Q So she had to get a bigger bra size?

9 A Yes, ma'am.

10 Q Did she have to get a bigger size at work as
11 well?

12 A She had to get new clothes at work, and she had
13 to get new clothes in general. We would go shopping
14 for her.

15 Q Okay. And did she ever lose that weight before
16 she went missing?

17 A No.

18 Q Now, there was some questions asked earlier, and
19 I want to ask you, was there a question about whether
20 or not she was pregnant?

21 A Yes.

22 Q And was that question resolved prior to her going
23 missing?

24 A No.

25 Q So no one really knows if she was or wasn't?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A No idea.

2 Q Now, tell me a little bit about your all's living
3 arrangements; did she have her own room, or what was
4 that situation?

5 A It was a two-bedroom apartment, but the landlord
6 had her master bedroom locked for when she would come
7 down. Her things were there. So Heather, technically,
8 resided on the couch, which was a pull-out bed, but she
9 just usually slept on the couch or she stayed in my
10 bed. We did unlock the bedroom when she moved in
11 because she had too much stuff, so we just placed it in
12 the room.

13 Q So it was a two-bedroom apartment?

14 A Yes, ma'am.

15 Q Two bedrooms, two bathrooms?

16 A Yes, ma'am.

17 Q You had her own bedroom?

18 A Uh-huh.

19 Q But she slept on the couch?

20 A Yes.

21 Q And you kind of put her stuff in the other
22 bedroom?

23 A Yes.

24 Q Tell this jury, were you supposed to be using
25 that other bedroom?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A No, we were not supposed to be in there.

2 Q Is that why she wasn't actually sleeping and
3 putting her items in the drawers?

4 A Yes, that's why.

5 Q In fact, that bedroom was locked by whoever owned
6 the apartment?

7 A Yes.

8 Q And you were supposed to be --

9 MR. BOUCHETTE: Objection to leading.

10 THE COURT: Sustained.

11 Q (MS. LIVESAY) Were you renting one room in the
12 apartment?

13 A Yes, ma'am.

14 Q Now, who else lived in that apartment with you
15 and Heather?

16 A No one.

17 Q Now, in December of 2013, was it just you and her
18 living there?

19 A Yes, ma'am.

20 Q Now, tell me if you were at the apartment the
21 night of December 17?

22 A I was not.

23 Q Why not?

24 A I was in Florida visiting my father and
25 grandmother, who was in the hospital.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q Now, when did you leave town?

2 A The Monday before, so it would have been the
3 16th I believe.

4 Q You left to go back home?

5 A Yes, to New Jersey.

6 Q Had Heather, prior to that, ever stayed at your
7 all's apartment by herself for several days?

8 A No.

9 Q So this was the first time since moving there she
10 was by herself in the apartment?

11 A Yes, ma'am.

12 Q If I showed you pictures of your all's apartment,
13 would you recognize them?

14 A Yes.

15 Q I'll show you what is marked as State's Exhibits
16 10 through 31; do you mind looking and telling us if
17 you can identify these pictures?

18 A Yes, ma'am. The first picture is a picture of
19 the outside of the apartment building.

20 The second one is a picture of the door, outside
21 of the entrance.

22 The next one is a picture of the doorknob.

23 The next one is the entranceway into the
24 apartment; you see a closet on the right.

25 The next one is what is inside of the closet.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 The following one is walking into the living
2 room.

3 No. 16 is the kitchen.

4 No. 17 is like the refrigerator and the laundry
5 area.

6 No. 18 is the dining room and living room couch.

7 No. 19 is the couch.

8 20 is the couch.

9 21 is the mirror area where we would get ready.

10 22 is the master bedroom with Heather's
11 belongings in it.

12 23 is also her belongings in the master bedroom.

13 24 is the master bedroom.

14 25 is the master bedroom.

15 26 is the master bedroom bathroom.

16 27 is the doorway to the other bathroom.

17 28 is the bathroom we were allowed to use.

18 29 is my bedroom.

19 30 is also my bedroom.

20 31 is a picture of the dining room table.

21 Q That's the apartment you and Heather lived in in
22 December of 2013?

23 A Yes, ma'am.

24 Q And you recognize it and the items in the
25 pictures?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 MS. LIVESAY: At this time, Your Honor, the State
3 wishes to put into evidence 10 through 31 and publish
4 them to the jury.

5 MR. BOUCHETTE: No objection.

6 THE COURT: Whiteout objection, State's 10
7 through 31 are admitted.

8 (State's Exhibits 10 through 31 admitted.)

9 MS. LIVESAY: At this time the State is going
10 to ask Ms. Warrelmann to step down so she can go
11 through the photographs with the jury.

12 THE COURT: Keep your voice raised, please.
13 If you would position yourself so that you are
14 speaking back towards the court reporter.

15 Q Tell this jury what we're looking at.

16 A This is the outside of the apartment.

17 Q Where is your apartment?

18 THE COURT: For the record, Solicitor, you are
19 going to have to identify which State's Exhibit
20 because it will serve no useful purposes if not.

21 Q (MS. LIVESAY) Sure. Ms. Warrelmann, when you
22 are looking at what is marked previously, that you
23 have identified as State's No. 10, tell this jury what
24 we're looking at.

25 A This is the outside of the apartment building.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 This window right here is my bedroom window.

2 Q Where is your door?

3 A It is off to the corner.

4 Q So you would have to turn right here?

5 A Yes, ma'am.

6 Q Now, I'm going to ask you what is State's Exhibit
7 No. 11?

8 A This is the outside of the apartment door.

9 Q And is that the way it looked when you left town?

10 A Yes, ma'am.

11 Q And there was no damage to the door?

12 A No, ma'am.

13 Q When you returned to the apartment was there any
14 damage to the door?

15 A No, ma'am.

16 Q I'll show you 12; again, is that how it appeared?

17 A Yes.

18 Q And there was no damage?

19 A No.

20 Q 13?

21 A This is the entranceway into the apartment.

22 There is a closet on the right.

23 Q And when we're looking straight through, are we
24 looking now into the den area?

25 A Yes, ma'am. That is like the living room area.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q Now I'll show you State's 14.

2 A Inside that hallway closet.

3 Q To the right?

4 A Yes.

5 Q And is that how it looked when you left town?

6 A Yes.

7 Q State's 15, what is this area?

8 A To the right is a dishwasher and the start of the
9 kitchen, and straight is into the living room.

10 Q And that chair, was that always there like that?

11 A Yes. That is where we did our hair, our makeup.
12 There is a mirror there.

13 Q So everything there, the furniture, is still like
14 you left it?

15 A Yes.

16 Q And State's 16?

17 A This is the kitchen.

18 Q Is that pretty much how you left it?

19 A There are some more dishes in the sink, but,
20 yeah.

21 Q These bottles here, were they empty or full?

22 A They were empty.

23 Q Now, I'm showing you 17.

24 A The laundry area.

25 Q Is that how it appears when you were all living

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 there?

2 A Yes.

3 Q Now, 18, what are we looking at?

4 A That is the dining room table, and then the
5 living room area.

6 Q And where did she sleep?

7 A On that couch where the pillows and blanket are.

8 Q Let me ask you something. Before we get into
9 that room, what are these items on the table? Do you
10 know what those items are?

11 A Yes.

12 Q What are they?

13 A So this silver bag here is what she would bring
14 her clothes to work in. We weren't allowed to leave
15 work in uniform. It is Heather's uniform with her
16 makeup bag.

17 This is a tribal crop-top shirt and a gray skirt
18 she was wearing that night.

19 Q I'll show this jury now State's Evidence 8 again.
20 Are you familiar with this outfit, Brianna?

21 A Yes, ma'am.

22 Q Is this the outfit that's on the kitchen table?

23 A Yes. The sweater next to her arm is right here
24 on this chair.

25 Q And this is her uniform for work?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 Q Now, what is this cord?

3 A That is her phone charger.

4 Q And why is it here?

5 A She had to have it constantly next to her, her
6 phone. Even when it was charging, it had to be right
7 by her head. It was like an extended, long charger.

8 Q She would sleep here and have the phone charger
9 there to plug it in?

10 A Yes, ma'am.

11 Q Now, this phone case here, are you familiar with
12 that?

13 A Yes.

14 Q Tell me about it.

15 A She was using that one for a brief time, and then
16 right before I left she switched to like a pink one
17 with rhinestones all over the back of it.

18 Q Now let's move onto 19. All of these items you
19 had seen before?

20 A Except for the McDonald's cup, but other than
21 that, yes.

22 Q And you had been gone, what, a day?

23 A A day, two days.

24 Q And this blanket, is this the blanket she used to
25 lay on the couch and a pillow?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes, ma'am.

2 Q So all of this is her stuff where she would sleep
3 every night?

4 A Yes, ma'am.

5 Q Can we go to State's 20. Again, this phone
6 charger looks familiar?

7 A Yes, ma'am.

8 Q And she had already put -- sorry, phone case.
9 She already put a new case on?

10 A Yes.

11 Q 21. Whose stuff is this? Tell this jury, who
12 did that belong to?

13 A That belonged to Heather.

14 Q What is it?

15 A Her curling wand, makeup, stuff she wore on a
16 daily basis.

17 Q Is that the stuff she used kind of every day
18 makeup when you get ready?

19 A Yes.

20 Q Tell me about these bottles; were they empty or
21 did they have alcohol in them?

22 A I believe, for the most part, they were empty.

23 Q And none of this makeup is yours?

24 A No.

25 Q And the curling wand is not yours?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A No.

2 Q Was it your all's normal routine to get ready in
3 front of this big mirror?

4 A Yes.

5 Q Tell this jury what this is, 12.

6 A So this is Heather's stuff, and this is that
7 master bedroom where we kind of threw her stuff into.

8 Q Are you familiar with all this stuff?

9 A Yes.

10 Q Is this her clothes that she used every day?

11 A Yes.

12 Q And this here, is that her suitcase with her name
13 on it?

14 A Yes.

15 Q And was this stuff there since she moved in?

16 A Yes.

17 Q And this is pretty much all of her belongings?

18 A Yes.

19 Q Can we look at 23? Now, it looks like this bed
20 is made up; am I right about that?

21 A Yes.

22 Q These items over here, did they belong to you
23 all?

24 A I think the stuff in the corner was the
25 landlord's stuff.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q These chairs, printer, all of that?

2 A Yes.

3 Q And, originally, that room was locked?

4 A Correct.

5 Q Can we look at 24? Who did that stuff belong to?

6 A The landlord.

7 Q 25, who did this belong to?

8 A The landlord.

9 Q And 26?

10 MR. BOUCHETTE: Your Honor, I'm going to object
11 based on relevancy.

12 THE COURT: You didn't object. She's just
13 publishing it, that you agreed to.

14 MR. BOUCHETTE: Well, I agreed to it being
15 admitted into evidence, but the continuing questioning
16 of --

17 THE COURT: She can ask the questions if she
18 wants to. Overruled. The pictures speak for
19 themselves, but she can have them explained.
20 Overruled.

21 Q (MS. LIVESAY) No. 26, is this bathroom in your
22 all's apartment?

23 A Yes, ma'am.

24 Q Was this the bathroom you normally used?

25 A No. This was the master bathroom attached to the

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 master bedroom.

2 Q And did these items belong to you and Heather?

3 A No.

4 Q Can we look at 27? What is this door; do you
5 recognize it?

6 A Yes. This is the door into the bathroom that we
7 were allowed to use, and to the right is a little
8 closet for towels and things like that.

9 Q How about 28, is this the bathroom you used?

10 A Yes.

11 Q Tell me, these towels on the ground, were they
12 there when you left?

13 A No.

14 Q And whose brush and these items, who do they
15 belong to (indicates)?

16 A It looks like they were Heather's.

17 Q So her stuff was still in the apartment at that
18 time?

19 A Yes.

20 Q Now, let's look at 29; whose room is this?

21 A That is my room.

22 Q Is that how you left it?

23 A Yes.

24 Q And can we look at State's Evidence No. 30. Are
25 those your items in the room?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 Q Can we look at 31? Now, these items here, which
3 is State's Exhibit 31 -- who did this little bag belong
4 to?

5 A Heather.

6 Q Why was it on the kitchen table?

7 A It most likely came out of her work bag that was
8 on the chair.

9 Q Right here?

10 A Yes, ma'am.

11 Q And whose shoes are these on the kitchen table?

12 A Heather's.

13 Q And these bags here?

14 A The makeup bag and purse are also Heather's.

15 Q Now, tell this jury when did you get back to that
16 apartment?

17 A Beginning of January.

18 Q When you got back to the apartment, were her
19 items still in the apartment?

20 A Yes.

21 Q Now, at that time, did you pack up her items for
22 her family?

23 A Yes.

24 Q Were there any items missing when you packed her
25 stuff up?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Yes.

2 Q Tell this jury the items that were missing.

3 A She had a go-to comfy outfit, like black leggings
4 or Yoga pants, black Vans, a black leather jacket that
5 had like gray cotton sleeves and then she had these
6 ugly cut-off mittens where the fingertips would show,
7 and they were red.

8 Q That was her go-to, kind of, fall/winter outfit?

9 A Yeah, like they were comfy, like let-me-throw-on
10 clothes.

11 Q Those were the only items that were not in the
12 apartment?

13 A Yes, ma'am.

14 Q Just so I know, and this jury knows, I have
15 clothes that I throw on just to hang around the house;
16 are these clothes she would throw on to hang around the
17 house, or were these clothes that she would go out in
18 and go to the grocery store, run errands?

19 A It was hit or miss. Not a lot of times go out in
20 them, but sometimes like a quick outing.

21 Q So she would wear it outside of the house?

22 A Yes.

23 Q So it wasn't like pajamas?

24 A No.

25 Q Were there any other items missing?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A No.

2 Q If you don't mind, have a seat. I have a few
3 more questions.

4 A (Witness complied.)

5 Q This is already State's Evidence No. 5. I'm
6 going to ask you a little bit about when was the last
7 time you spoke with Heather Elvis?

8 A 1:44 in the morning on the December 18, 2013.

9 Q Do you remember -- or can you identify the phone
10 number you had at that time?

11 A Yes, ma'am.

12 Q And do you see that phone number on these phone
13 records?

14 A Yes, ma'am, second from the top.

15 Q If you don't mind, Ms. Miller is going to write
16 it down. What is the phone number you had in December
17 of 2013?

18 A [REDACTED] 3938.

19 Q If you don't mind, Mr. Schiraldi put his name by
20 his number; do you mind writing your name by your
21 number?

22 A (Witness complied.)

23 Q So you talked with her at 1:44 in the morning?

24 A Yes, ma'am.

25 Q Now, I'm going to ask you something. Looking at

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 these phone records, do you recognize [REDACTED] 2462?

2 A No.

3 Q She called you that morning, early morning,
4 1:44 a.m.; where were you at that time?

5 A I was in Florida.

6 Q Why were you in Florida?

7 A Visiting my dad and grandmother.

8 Q To your knowledge, was anyone in the apartment
9 other than Heather?

10 A No.

11 MR. BOUCHETTE: Objection, Your Honor,
12 speculation.

13 THE COURT: Sustained. 602.

14 MR. BOUCHETTE: I ask that there be no response.

15 THE COURT: Jury disregard the response.

16 Q (MS. LIVESAY) Ms. Warrelmann, how did she sound
17 on the phone?

18 A She was very upset.

19 Q Did you hear anyone in the background?

20 A No, I did not.

21 Q And when you say "very upset," was she crying?

22 A She was hysterically crying.

23 Q And was this a very long conversation that you
24 had with her?

25 A No, it was not.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q And at the time, to your knowledge, do you know
2 where she was?

3 A I was told she was at home.

4 Q Now, you can't tell me what she said, but what
5 did you say to her in response to what she told you.

6 MR. BOUCHETTE: Objection, Your Honor.

7 THE COURT: What is the basis?

8 MR. BOUCHETTE: The question is going to call for
9 that hearsay that Ms. Livesay is trying to get around.

10 THE COURT: She's asking what she reacted to, but
11 I'll overrule that objection, as long as it doesn't
12 deal with any response to what Heather Elvis said.
13 She can say what she said.

14 Q (MS. LIVESAY) Ms. Warrelmann, if you don't mind,
15 tell this jury what you told Heather Elvis that night,
16 the last thing you told her?

17 A The last thing I said to her was not to meet
18 Sidney, go to sleep and we would talk about it in the
19 morning.

20 Q And that's the last time you ever talked to her?

21 A Yes, ma'am.

22 Q How did Heather feel about Sidney?

23 MR. BOUCHETTE: Objection.

24 THE COURT: Sustained.

25 Q (MS. LIVESAY) Let me ask you this. In the time

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 you lived with her and in the time you worked with
2 her, did she ever look afraid of Sidney Moorer?

3 A No, ma'am.

4 Q Did she, during this time frame -- you worked
5 with her every day, seeing her every day, living with
6 her, did she ever appear afraid of his wife, Tammy
7 Moorer?

8 A Yes, ma'am.

9 Q Now, when you all worked at Tilted Kilt, did you
10 ever talk to Sidney Moorer?

11 A Yes, ma'am.

12 Q And did he ever talk about Heather to you?

13 A Briefly.

14 Q And what did he say?

15 A I told him not to hurt her one day in the
16 kitchen.

17 Q What did he say?

18 A I'm not, and then walked away.

19 Q Did you ever see his wife?

20 A No, ma'am.

21 Q During that time, did all of the employees kind
22 of park in the same parking area?

23 A Yes, we did.

24 Q Do you know what color truck he had?

25 A White.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q Had you ever seen him in a black truck?

2 A No, ma'am.

3 Q Now, Heather's vehicle, what kind of car did she
4 drive?

5 A She drove, I think, a Dodge Intrepid.

6 Q And tell this jury, is that the same vehicle she
7 had from -- when she was dating him and when she went
8 missing?

9 A Yes, it was.

10 Q So she never changed vehicles during that time?

11 A No.

12 Q Did she change jobs during that time?

13 A No, she did not.

14 Q How did she keep her car?

15 A A mess.

16 Q Could you even ride in it?

17 A No, I couldn't, unless I wanted to sit on a pile
18 of stuff.

19 Q At the time, what kind of car did you drive?

20 A At the time, I drove a Nissan 350-Z.

21 Q If you don't mind, tell the jury what it looked
22 like.

23 A It had blacked out headlights and blacked out
24 taillights and a black roof. It was a silver car.

25 Q It was something you wouldn't miss?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A Correct. It was very loud, too.

2 Q It was very distinguishable?

3 A Yes, it was.

4 Q So if you go out into a parking lot, you would
5 say, That one right there, that is Brianna's car?

6 A Yes.

7 Q There is nothing wrong with that, I like that.

8 How about Heather Elvis, was hers in any way
9 distinguishable?

10 A No.

11 Q So she had a regular, four-door sedan?

12 A Yes.

13 Q Nothing special about it, didn't have any real
14 bells or whistles?

15 A No.

16 Q When you all were living together, you stated
17 earlier that she had her phone charger right there by
18 her head; did you ever know her to go anywhere without
19 that phone?

20 A No. It was glued to her hip.

21 Q Was she one of those people that always kept it
22 charged up?

23 A Yes.

24 Q Now, do you know Dennis Hart, Senior?

25 A Yes.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q And, to your knowledge, did him and Heather have
2 any kind of sexual relationship?

3 A No.

4 Q Do you know Dennis Hart, Junior?

5 A Yes.

6 Q Do you know whether or not he was even living in
7 Horry County in December of 2013?

8 A No. He lived in Washington.

9 Q So he didn't even live in the county?

10 A No.

11 Q You were living with her during -- from the end
12 of November to December; was she dating anyone during
13 that time frame?

14 A No.

15 Q Did she date anyone during the time frame she was
16 with Sidney Moorner?

17 A No.

18 Q When you all were living together, did you all
19 ever ride by the defendant's house?

20 A No.

21 Q Did you all ever hang out at a local bar called
22 Long Beard's?

23 A No.

24 Q Did you ever hang out at Peachtree Landing?

25 A No.

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 Q Did you know where Sidney Moorer lived?

2 A No.

3 Q Do you know Heather's parents?

4 A Yes, ma'am.

5 Q Did you meet them in the course of you all living
6 together?

7 A Yes.

8 Q Tell us a little bit about her relationship with
9 her parents.

10 A Well, we went to her parents' house the weekend
11 beforehand, because I wanted to learn how to play
12 guitar. So we went there, and everything was fine when
13 we went there. We sat in the living room. We watched
14 videos, talked about -- M.E. was just in a play, I
15 think it was that night. Everything was fine. I had
16 heard from Heather that, you know, she didn't always
17 make decisions that her parents agreed with, prior to
18 that.

19 Q Let me ask you something. Heather had a tattoo?

20 A She had a few.

21 Q Did she like to go out and have a good time?

22 A Yes, she did.

23 Q Free spirited?

24 A Very free spirited.

25 Q Was she 21 yet?

BRIANNA WARRELMANN - DIRECT EXAMINATION

1 A No, she was not.

2 Q So there was that tug that a lot of teenagers
3 have with their parents?

4 A Yes.

5 Q That is kind of what she had going on with her
6 parents?

7 A Yes.

8 Q She's trying to break away?

9 A Yes.

10 Q Was that her dad's car she was driving, that
11 Dodge Intrepid?

12 A I believe so.

13 Q So she was kind of in that weird place, wanting
14 to be independent, but couldn't quite financially get
15 to that place?

16 A Correct.

17 Q We've all been there.

18 During this time, when you all became friends
19 from June, July, August, that time frame, did you know
20 her at that time to be afraid of anyone?

21 A No.

22 Q Did you know her to be afraid of anyone during
23 the entire time you knew her, other than Tammy Moorner?

24 A No.

25 Q Are you afraid of Tammy Moorner?

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 A Yes.

2 MS. LIVESAY: I don't have any more questions for
3 you at this time. Answer any questions that the
4 defense may have.

5 THE COURT: Are you going to be needing that?

6 MR. BOUCHETTE: No, Your Honor.

7 MS. LIVESAY: We'll move it back.

8 THE COURT: That's fine. Take your time, no
9 rush.

10 (A brief pause in the proceedings.)

11 CROSS-EXAMINATION

12 BY MR. BOUCHETTE:

13 Q Is it Warrelmann?

14 A That's fine.

15 Q Did I get it right?

16 A Yes.

17 Q I'll ask you a few questions. You said she moved
18 in with you in -- first of December of 2013?

19 A She moved in with me right around Thanksgiving.

20 Q Thanksgiving, okay.

21 Where was she residing prior to the time she
22 moved in with you?

23 A A guy she worked with at the House of Blues.

24 Q What was his name?

25 A Jeremy.

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 Q Was it Jeremy Flemming?

2 A I have no idea of the last name.

3 Q But she was living with this individual?

4 A Yes, and I believe like two or three girls that
5 also worked at the House of Blues.

6 Q To your knowledge, was there any prior romantic
7 relationship with her and Jeremy Flemming?

8 A I don't know if that was his last name. There
9 was more than one Jeremy she had been with.

10 Q Well, let's talk about that. You know there were
11 two Jeremys, but you don't know the last names?

12 A Correct.

13 Q Let me ask you this. Do you have a general
14 timeline as to when she would have been seeing or
15 involved with either one of the Jeremys?

16 A I know that there was one that they didn't really
17 get along, and that was before her and I ever became
18 friends. The Jeremy she lived with, they were not
19 romantic when she lived with him. He had like a
20 girlfriend or a girlfriend he wanted to be with living
21 at the same time.

22 Q I think -- wasn't she living with him, and the
23 reason for her decision to leave the residence was as a
24 result of one of the other women living in the
25 apartment?

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 A She didn't feel it was best to be there when they
2 had a history, and he was trying to get back together
3 with his girlfriend.

4 Q So they had this relationship, still living
5 together and he is now engaging in a relationship with
6 one of other women living there?

7 A She wasn't in a relationship with him when she
8 lived there; they were just friends.

9 Q How long -- what was the ending point of the
10 relationship with Jeremy she was living with?

11 A I know that was before her and I ever became
12 friends.

13 Q But the residence she's at immediately prior to
14 moving in with you, is the residence with Jeremy?

15 A Correct.

16 Q Okay. All right. Now, was there any discussion
17 about how long she might stay there? Obviously she's
18 living on the couch, did she have plans to move
19 anywhere else?

20 A When she lived with me?

21 Q Correct.

22 A We talked about getting a bigger apartment
23 together.

24 Q Now, you worked together, correct?

25 A Yes.

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 Q And you saw each other frequently?

2 A Yes.

3 Q And, obviously, saw each other at home, correct?

4 A Yes.

5 Q There was a discussion a moment ago about --

6 well, let me withdraw that question.

7 Did she ever indicate anything to you that she

8 said that she was pregnant?

9 A She thought she was pregnant. I want to say it
10 was brought up at work in October at sometime.

11 Q In October. And she's residing with you until
12 mid-December?

13 A Yes.

14 Q Again, you filled out written statements for the
15 police?

16 A Yes, I did.

17 Q And if I'm not mistaken, you filled out a written
18 statement around February of 2014?

19 A I believe it was January when I first got back to
20 the state.

21 Q But your written statement was somewhere in
22 February; does that sound correct?

23 A I thought it was January, but it could have been
24 February.

25 Q Okay. All right. And in that statement you told

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 everything you knew about Heather in the recent months,
2 correct?

3 A Yes.

4 Q Full and complete statement?

5 A Yes.

6 Q Now, whenever you gave that statement, was there
7 ever any indication that Ms. Elvis had any follow-up
8 OB/GYN appointments?

9 A No.

10 Q Any second or subsequent pregnancy tests taken by
11 her, to your knowledge?

12 A Other than the first one at Tilted Kilt, not to
13 my knowledge, no.

14 Q That was in the October time frame that raised
15 the issues at work?

16 A Yeah, I believe it was October. I believe it was
17 October.

18 Q So in October we have this inconclusive test,
19 correct?

20 A Yes.

21 Q So October and now in the middle of December, and
22 to the best of your knowledge, as someone that works
23 with her and lives with her, you never observed any
24 prenatal vitamins?

25 A No, I did not.

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 Q No subsequent tests?

2 A Not to my knowledge.

3 Q And, to your knowledge, she never made
4 arrangements regarding maternity leave at Tilted Kilt?

5 A Not to my knowledge.

6 Q Given that, wouldn't it be safe to say that at
7 this point, if we were to say she was pregnant, it is
8 pure speculation; wouldn't you agree with that?

9 A I have no way to know if she was or wasn't.

10 Q I think that kind of answers my question.

11 Let me ask you this. You said that she had
12 problems at home. How long had she lived at the
13 residence immediately preceding the one she shared
14 with Jeremy?

15 A You are saying at home?

16 Q Well, what I'm looking for is do you know where
17 she resided prior to the residence she shared with
18 Jeremy?

19 A I believe at home.

20 Q Had she lived in a car previously to that?

21 A I think there were a couple days, stints, things
22 like that where she would get into little arguments,
23 disagreements.

24 Q And she lived with Ms. Cooke at some point, too;
25 are you aware of that?

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 A I believe in the spring, beginning of the summer.

2 Q Do you know of a man named Jerry Stevens?

3 A Yes, I do. I don't know if that is the last
4 name, but I do know of a Jerry.

5 Q Is he another employee at the House of Blues?

6 A Yes, he is.

7 Q Did Heather have any romantic relationship at any
8 point in 2013 with Jerry Stevens?

9 A Not necessarily romantic. I would say physical,
10 and that would be in December.

11 Q There was a sexual relationship between Jerry
12 Stevens and Ms. Elvis?

13 A I don't know if that was his last name, but a
14 Jerry.

15 Q A Jerry that worked at House of Blues?

16 A Yes.

17 Q That's a person you are referencing?

18 A Yes.

19 Q And they had a sexual relationship in December?

20 A December.

21 Q I was confused from your statement. By the time
22 you got back in January of 2014, had anybody else
23 gotten inside of your apartment other than the police,
24 at least to your knowledge?

25 A To my knowledge, just the police.

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 Q Any of the family members or anyone else come
2 through, get personal items or anything?

3 A No. We talked about it, but decided just to wait
4 until I got back.

5 Q So no one else had been there, all right.

6 MR. BOUCHETTE: Give me just a moment.

7 THE COURT: Certainly.

8 (A brief pause in the proceedings.)

9 Q (MR. BOUCHETTE) Just a few more questions,
10 please.

11 We heard a lot about phone calls and text
12 messages; I understand she did both of those a lot?

13 A Yes, she did.

14 Q She also communicated via social media platforms?

15 A Yes.

16 Q So she would post or display on Facebook,
17 correct?

18 A Yes.

19 Q She would comment on other people's Facebook
20 pages to communicate with them, correct?

21 A Yes.

22 Q Did she utilize like a Facebook Messenger app or
23 different messaging apps associated with?

24 A I believe she had the Facebook Messenger app.

25 Q Did she utilize Instagram?

BRIANNA WARRELMANN - CROSS-EXAMINATION

1 A Yes.

2 Q Did she communicate with people directly via
3 Instagram?

4 A I don't know if direct messaging on Instagram was
5 a thing then, but she would comment on other people's
6 pictures.

7 Q But she would utilize that platform to
8 communicate with third parties?

9 A Yes.

10 Q How about Snapchat, did she have a Snapchat app?

11 A Yes, she did.

12 Q In 2013, was that a relatively new app?

13 A Yes, it was.

14 Q Can you give us the basic outlines for anyone
15 that may not be familiar with that application; what is
16 unique about it?

17 A You can send a picture and it disappears.

18 Q Not just pictures, you can do messages as well?

19 A Yes. I don't know if it did then, because that
20 was a fairly newer feature.

21 Q But you know now that is a feature, if it wasn't
22 before?

23 A Yes.

24 Q And you know she had the app?

25 A Yes.

BRIANNA WARRELMANN - REDIRECT EXAMINATION

1 Q Did she utilize that particular app?

2 A Yes, she did.

3 Q Would it be accurate to say she utilized it
4 frequently?

5 A Yes, she did.

6 Q So we have her frequently texting, correct?

7 A Yes.

8 Q And safe to say she utilized Facebook for
9 different forms of communication?

10 A Yes.

11 Q As well as Instagram?

12 A Yes.

13 Q And she's also utilizing the Snapchat app for
14 various forms of communication?

15 A Yes.

16 Q So with texts and calls, there is really only
17 about one of about four or five methodologies in which
18 she used to communicate with different people?

19 A Correct. Her main was probably texting.

20 MR. BOUCHETTE: No further questions.

21 MS. LIVESAY: Just a couple, Judge.

22 THE COURT: Sure.

23

24

25 REDIRECT-EXAMINATION

BRIANNA WARRELMANN - REDIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q Bri, the defense attorney asked you about
3 pregnancy tests; do you remember that?

4 A Yes.

5 Q Did you leave a pregnancy test in the trashcan
6 when you left town?

7 A No.

8 Q And did you clean the trashcans before you left
9 town?

10 A Yes, I did.

11 Q So when you left, the trashcans were clean?

12 A Yes.

13 Q And you hadn't left no pregnancy test in the
14 trashcan?

15 A No.

16 Q He asked you also about Jeremy and a Jerry, and
17 was there anyone else?

18 A I think just the two Jeremys and Jerry.

19 Q Jeremy and Jerry, okay. I think I may be
20 confused. When you talked to her at 1:44 a.m., the
21 morning of 12/18, probably a couple of hours before she
22 goes missing, do you remember that conversation?

23 A Yes, I do.

24 Q And you remember what you told her?

25 A Yes, I do.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q Did you tell her don't go meet Jeremy?

2 A No, I did not.

3 Q Did you tell her don't go meet Jared (sic)?

4 A No, I did not.

5 Q Did you tell her not to meet this defendant?

6 A Yes, ma'am, I did.

7 MS. LIVESAY: No further questions.

8 THE COURT: Recross?

9 MR. BOUCHETTE: None, Your Honor.

10 THE COURT: You may come down. Thank you.

11 Do you wish the witness to be accused?

12 MR. HELMS: Please.

13 THE COURT: Any objection?

14 MR. BOUCHETTE: Absolutely not, Your Honor.

15 THE COURT: You're free to leave, too. Thank
16 you, ma'am.

17 Call your next witness.

18 MR. HELMS: Court's indulgence.

19 (A brief pause in the proceedings.)

20 (State's Exhibits 32 through 37 marked.)

21 THE WITNESS: Casey Guskiewicz,

22 G-U-S-K-I-E-W-I-C-Z.

23 (CASEY GUSKIEWICZ, having been duly sworn,
24 testified as follows:)

25 DIRECT-EXAMINATION

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 BY MR. HELMS:

2 Q Where are you employed, sir?

3 A Horry County Police Department.

4 Q How long have you been working for them?

5 A Seven years.

6 Q What do you do?

7 A Assigned to patrol division, currently with the
8 rank of corporal.

9 Q What does that mean, "corporal"? I'm a civilian,
10 I don't know what that means.

11 A It's a shift supervisor position.

12 Q So you are a supervisor?

13 A Yes, sir.

14 Q How long have you been in that position?

15 A For approximately one year now.

16 Q So you were employed with Horry County Police
17 Department back in 2013?

18 A Yes, sir.

19 Q What did you do then?

20 A I was a patrolman. Basic functions were
21 answering calls for service, traffic enforcement and
22 being a deterrent to crimes through officer presence.

23 Q You may have said this; did you do patrols?

24 A Yes, sir.

25 Q So you are actually in a car riding around town?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A Yes, sir. I was assigned to the central
2 precinct, specifically Sector 14.

3 Q Tell us what that means.

4 A Horry County is divided into four precincts and
5 each precinct is divided into individual sectors, and
6 then each officer is assigned to that specific patrol
7 sector.

8 Q What does Sector 14 entail?

9 A Sector 14, it contains parts of Conway, mostly
10 the 544 corridor, 544 into Conway near Single Ridge
11 Road, and part of Myrtle Beach, which includes Socastee
12 and Peachtree area.

13 Q The Peachtree area and Mill Pond and 814, that is
14 all contained in Sector 14?

15 A Yes, sir.

16 Q So the bottom line is if you were patrolling
17 Sector 14, you would be patrolling Peachtree Road?

18 A Yes, sir.

19 Q Were you patrolling Sector 14 in December of 2018
20 (sic)?

21 A Yes, sir.

22 Q Were you specifically working on -- I meant 2013.

23 A 2013, yes, sir.

24 My shift was scheduled to start at 5:45 p.m. on
25 December 17th, and it was scheduled to end at

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 6:00 a.m. on Wednesday the 18th.

2 Q I'm showing you what was marked for
3 identification as State's 32; can you look at that and
4 tell us what that is, generally?

5 A Sure. What we're looking at is an aerial view of
6 Highway 814 and the Peachtree area.

7 Q Is that a fair and accurate representation of
8 that area?

9 A Yes.

10 Q Is this a 3D model, an aerial?

11 A It's an aerial view.

12 Q It does accurately reflect that area?

13 A Yes, sir.

14 MR. HELMS: Your Honor, permission to enter
15 State's 32 into evidence.

16 THE COURT: Any objection?

17 MR. BOUCHETTE: No objection.

18 THE COURT: Without objection, State's 32 is
19 admitted.

20 (State's Exhibit 32 admitted.)

21 MR. HELMS: Permission to publish?

22 THE COURT: Yes, you may.

23 (State's Exhibit 32 published to the jury.)

24 Q (MR. HELMS) So on December 18, 2013, you were
25 patrolling, in part, this area of Horry County; is

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 that correct?

2 A Yes, sir.

3 Q Do you remember your patrol that day?

4 A Specifically?

5 Q I mean do you remember anything of note that
6 evening?

7 A Yes, absolutely.

8 Q I would like you to come down here, if you will,
9 and show us the route you took when you were patrolling
10 that area and what times you took those routes, if you
11 don't mind, sir.

12 A Sure. Approximately, 3:45-ish, close to
13 4 o'clock --

14 Q A.m. or p.m.?

15 A A.m. I was on Highway 544, and I was beach
16 bound. From here, I made a left-hand turn onto Dick
17 Pond Road, and from Dick Pond Road I traveled down and
18 made a right on Peachtree Road.

19 Q You are following along Peachtree Road with your
20 finger right now?

21 A Yes, sir. From Peachtree Road, I stopped and
22 checked this first boat landing underneath the 544
23 bridge, that is called the Socastee Yacht Basin
24 Landing, and from there, after I checked it, I traveled
25 directly to the Peachtree Boat Landing and the end of

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Peachtree Road.

2 Q Let's talk about that. You said there is another
3 boat landing on Peachtree Road other than Peachtree
4 Landing?

5 A Yes, sir.

6 Q And you patrol both of those?

7 A Yes. Both of those are included in the sector,
8 yes, sir.

9 Q And if you are going the route that you went,
10 show me the first boat landing you would come to.

11 A The first boat landing I would have come to is
12 right here under the Socastee -- Highway 544 bridge,
13 and it's called the Socastee Yacht Basin Landing. It
14 is between two gated communities.

15 Q So you absolutely did patrol that boat landing as
16 well?

17 A Yes, sir.

18 Q Did you see anything of note when you patrolled
19 that boat landing?

20 A No, sir.

21 Q Is that boat landing well lit?

22 A Yes, sir. It is between two gated communities,
23 and there is lights there.

24 Q Tell me where you go from there. How long do you
25 spend at that boat landing?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A Not even a minute there, at that boat landing.

2 Q After you leave that boat landing you didn't see
3 anything of note, what route did you make?

4 A From that boat landing, I would have made a left
5 onto Peachtree Road and went directly to Peachtree Boat
6 Landing.

7 Q Now, when you got to Peachtree Boat Landing, do
8 you know about what time it was?

9 A It was shortly after 4 o'clock.

10 Q Dark outside?

11 A Very dark, yes, sir.

12 Q Let me ask you about Peachtree Boat Landing in
13 2013; is it a well-lit area?

14 A No, sir.

15 Q Are there a lot of people there?

16 A Not at that time of night.

17 Q Cameras?

18 A There is no cameras.

19 Q A lot of activity?

20 A The reason I patrol and check that area is very
21 now and again you catch people using the boat landing
22 for reasons that it's not intended for. People will be
23 down there occasionally drinking and smoking marijuana,
24 intimate relations every now and again. That is why it
25 was part of the routine patrol sector.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q So when you got there at 4:00 a.m. on December 18
2 of 2013, tell this jury what you saw.

3 A When I got to the boat landing, as you approach
4 the Peachtree Boat Landing, there is a traffic sign
5 that indicates there is a stop sign coming up, and once
6 you get to that next stop sign, that is what I would
7 call the entrance to Peachtree Boat Landing. That stop
8 sign is there just to get you to stop, because if you
9 don't stop, you will go directly into the Waccamaw
10 River. There is nowhere else to go. Once I came to
11 that stop sign, just off to the right side of the stop
12 sign is a dark color Dodge sedan.

13 Q Do you remember what kind of Dodge it was?

14 A I believe it was an Intrepid.

15 Q What color was it?

16 A It was dark in color. I don't recall exactly
17 what the color was.

18 Q Do you know if it was a two-door, four-door?

19 A Four-door, yes, sir.

20 Q Was it on? Was it running?

21 A It was not running, no, sir. It didn't appear
22 anyone was inside of it.

23 Q Did it appear to be in good working order?

24 A Yes, sir.

25 Q Were the tires flat?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A The tires were not flat. Did not seem anything
2 mechanically wrong with it.

3 Q Didn't look like it had been crashed or anything?

4 A No, sir. After I ran the plate, the license
5 plate came back with a local address and a subject with
6 the last name of Elvis. I got out of my vehicle to
7 inspect the vehicle. All the doors were locked,
8 windows were rolled up, tires were in good condition.
9 There didn't appear to be anything mechanically wrong
10 with it. The ignition hadn't been tampered with. The
11 license plates said it was not a stolen vehicle. So
12 after I checked the vehicle and made sure it was
13 secured, I checked the surrounding areas to make sure
14 that there was no one in the water or no other vehicles
15 parked there, and that is when I left.

16 Q You said you ran the plate?

17 A Yes, sir.

18 Q Did you find the car to be suspicious?

19 A No. There was nothing suspicious other than the
20 way it was parked.

21 Q Tell the jury about that; what do you mean?

22 A Again, at the time, the Peachtree Boat Landing
23 was basically just a paved parking lot. There was no
24 actual parking spaces and, really, no direction as to
25 where you should park your vehicles, but most people

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 would park as close as they could facing the river or
2 facing -- I believe it is the north direction --
3 towards the swamp area.

4 Q And --

5 A It was not in either one of those places. It was
6 just like it pulled into the stop sign and made a quick
7 right and just came to a stop right there.

8 Q Did the way the car was parked seem to impede the
9 use of the landing? I mean, if someone wanted to drop
10 a boat, could they have dropped a boat?

11 A Yes, they could at the time. With there being
12 another car there, yes. But if it became more
13 populated, it would be in the way, yes.

14 Q So what you are saying is normally when you saw a
15 car parked at the landing, they weren't parked in this
16 fashion?

17 A No.

18 Q Let me ask you this. As you were coming down
19 from Dick Pond Road towards Peachtree Boat Landing, how
20 many cars did you see, Officer?

21 A None that I can recall, sir.

22 Q Let's talk about the area you are in. Is it a
23 very commercial area?

24 A No, sir. It's mostly residential. There are a
25 few businesses, but not many.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q On Peachtree Road, are there any gas stations?

2 A No, sir.

3 Q Are there any convenience stores? Are there any
4 outlets stores, retail stores of any kind?

5 A No, sir. No, sir.

6 Q So, generally speaking, this is a residential
7 area?

8 A Yes, sir.

9 Q Is it a well-lit residential area?

10 A No, sir.

11 Q Not a lot of streetlights?

12 A No, sir.

13 Q Traffic lights?

14 A No, sir.

15 Q After you called the car in, and it did not come
16 back stolen, you said it came back to an "Elvis"?

17 A Yes, sir.

18 Q What did you do?

19 A As far as?

20 Q Patrol. How did you continue your patrol?

21 A Again, beyond it just being a vehicle parked at
22 the boat landing, there was no other reason to bother
23 with the vehicle, so I resumed my patrol. I exited
24 Peachtree Boat Landing through Peachtree Road, and from
25 Peachtree Road, I left onto Mill Pond Road.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q Can you show us with your finger the route you
2 took, please?

3 A Sure. Peachtree Boat Landing, Mill Pond Road is
4 highlighted in green, and it is up this way towards
5 814.

6 Q Okay. So you followed Mill Pond to 814?

7 A Yes, sir.

8 Q Do you go back here to 544?

9 A No. I went to Highway 814, all the way back to
10 544 that way (indicates).

11 Q When you got onto 814, is there a traffic light
12 here?

13 A No, sir. Just one single stop sign coming from
14 Highway 814, intersects here with Mill Pond Road.

15 Q So the stop sign can be seen coming from 814, but
16 can it be seen from Mill Pond Road?

17 A No, sir. Highway 814 is kind of -- especially
18 that time of night -- unless you know it is there,
19 you'll drive right past it. There is no sign
20 indicating that it is there.

21 Q If you wanted to get on 814, you have to kind of
22 know where it is?

23 A Yes, sir.

24 Q But you know because you are familiar with the
25 area?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A Yes, sir.

2 Q When you get on 814 and turn left onto Mill Pond
3 Road on 814, what is generally on 814?

4 A Just, again, a bunch of residential areas.

5 Q No gas stations?

6 A None.

7 Q No stores?

8 A No, sir.

9 Q No retail outlets of any kind?

10 A No, sir.

11 Q Is it well lit?

12 A No, sir.

13 Q Are there any stoplights?

14 A No stoplights.

15 Q Tell me this, after you turned left on Highway
16 814 off Mill Pond Road -- no, let's back up.

17 After you left Peachtree Boat Landing and went up
18 Mill Pond Road, how many cars did you see?

19 A None that I can recall.

20 Q When you got to Highway 814 and you turned left,
21 how many cars did you see?

22 A Again, none that I can recall.

23 Q As you went up 814, show me the route you took
24 again, please.

25 A 814, right here is a stop sign and it elbows back

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 to Highway 544.

2 Q So there is not an outlet here except to go back
3 to Highway 544?

4 A Yes, sir. At this point, yes, that is the only
5 way to get there.

6 Q Show me Highway 544.

7 A This is 544 right here.

8 Q Let me ask you this, Officer. From 814 to Mill
9 Pond Road, other than Mill Pond Road itself, that leg
10 of it, are there other roads that lead to Highway 544?

11 A Again, it just -- Highway 814 intersects directly
12 with Highway 544 with a functioning traffic light. If
13 you head back towards Mill Pond Road, this is Roscoe
14 Road here, and it T-intersects with Highway 544 at a
15 stop sign.

16 Now, there is two small residential roads here
17 that you can see to get back to Highway -- the names
18 are confusing, but there is a small road named
19 Peachtree Lane and it intersects with Peachtree Road
20 and Peachtree Drive, and Peachtree Drive leads out to
21 Highway 544.

22 Q You are saying these are routes to be generally
23 known by local residents?

24 A Local residents only.

25 Q Are there stop signs, stoplights at these routes?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A There are a couple stop signs in the residential
2 areas off of Peachtree Lane and Peachtree Drive, but
3 that is it.

4 Q If I'm on 814 and I want to get to 544, the
5 quickest way, how do I go?

6 A If you are on Highway 814 and trying to get to
7 544 the quickest?

8 Q Yes.

9 A Depends on which part of Highway 814. You can go
10 directly to Highway 814 from this area, or Roscoe Road,
11 or come down Mill Pond Road.

12 Q Let me ask you this. If I'm up here at the
13 corner of Highway 814 and I want to get to 544, would I
14 go down 814 to Mill Pond Road all the way down to
15 Peachtree Road?

16 A I would not. That is not the reasonable way. It
17 seems like you would just go straight to Highway 544.

18 Q Okay. Where are the closest stores and
19 commercial and retail areas to Highway 814 and Mill
20 Pond Road?

21 A The ones opened at that time of night?

22 Q Sure.

23 A At that time of night, I would say the -- there
24 is a convenience store down here on the other side of
25 Intracoastal Waterway down here in Socastee, and then

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 closer up towards Conway in the Myrtle Ridge area is a
2 convenience store there.

3 Q Are you familiar with where the defendant lived
4 in 2013?

5 A Not on that night, no, sir.

6 Q Had you become familiar since the investigation
7 began?

8 A Yes, sir.

9 Q Can you point to it on the map?

10 A Yes, sir.

11 Q Indicated by that red dot?

12 A Yes, sir.

13 Q How far would you say from where you indicated
14 the defendant lived, to the Peachtree Boat Landing, how
15 far would you say that is?

16 A A little over three-and-a-half miles.

17 Q How do you know that?

18 A I measured it.

19 Q About how long -- driving the speed limit --
20 would it take you to get from the defendant's house to
21 Peachtree Landing?

22 A A little over five minutes.

23 Q So to go from the defendant's house to the
24 landing and back, approximately ten minutes?

25 A Yes, sir.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q Is that fair to say?

2 A Yes, sir.

3 Q You said there were a couple shops or something
4 to that effect on Mill Pond Road; are you familiar with
5 a place called D&S Siteworks?

6 A Yes, sir.

7 Q Can you indicate where that is on that map?

8 A D&S Siteworks is marked right here on Mill Pond
9 Road.

10 Q What is D&S Siteworks?

11 A I believe they clear land for development.

12 Q So grading, basically?

13 A Yes, sir. Yes, sir.

14 Q Is that the only commercial building or type of
15 facility on that road?

16 A On Mill Pond Road?

17 Q Yes.

18 A Commercial, yes. And then there is a small
19 mechanic shop on Mill Pond not too far by, and there is
20 also a dog grooming place not too far away as well.

21 Q So to go the route you took from Peachtree
22 Landing up to -- tell me where I am at again -- the
23 corner of 814?

24 A Yeah.

25 Q You had to pass by D&S Siteworks?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Officer, were you aware back in 2013 as you were
3 patrolling that area of any cameras or surveillance
4 equipment at D&S Siteworks?

5 A No, sir.

6 Q Have you become aware since then?

7 A Yes, sir.

8 Q Have you had an opportunity to see a video from
9 that night from D&S Siteworks, a surveillance video?

10 A Yes, sir.

11 Q Were you able to see your car on that video?

12 A I was, yes, sir.

13 Q How did you identify it as your car?

14 A When the car drives passed the camera, the lights
15 in the parking lot, you can see the "Horry County
16 Police" decal reflecting off of it.

17 Q About what time was that that you saw it?

18 A About ten minutes after 4:00.

19 Q And that would coincide with you being at the
20 landing right about 4:00, 4:03?

21 A Yes, sir.

22 Q Speaking of which, what time did you call the car
23 in or check the tag?

24 A Right about 4:03.

25 Q How do you know that?

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A I was able to get the information from dispatch
2 by asking them.

3 Q So your car goes by that camera about what time?
4 You said 4:10?

5 A I believe 4:10, yes, sir.

6 Q And you didn't see any other vehicles on that
7 road?

8 A I don't recall any, no, sir.

9 Q How about people; did you see any people on that
10 road?

11 A There is nobody walking. If someone is walking
12 that time of night in that area, especially that time
13 of year, I would stop and see if they needed help.

14 Q Would you say the road was desolate that night?

15 A It was pretty clear.

16 Q Go back to Peachtree Landing real quick. When
17 you got there and saw the car, were you able to see the
18 water?

19 A I could see the water, yes, sir, with obviously
20 using light.

21 Q Why did you look in the water; just doing natural
22 police work?

23 A Just taking a walk, yes, sir.

24 Q Did you see anything in the water?

25 A I did not see anything in the water, no, sir.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q Did you see any signs of a struggle at Peachtree
2 Boat Landing?

3 A There was nothing to indicate there was a
4 struggle, no, sir.

5 Q Did you find any artifacts? Did you find a
6 telephone?

7 A No, sir.

8 Q Did you find any car keys?

9 A No car keys.

10 Q Did you find a pocketbook?

11 A No.

12 Q Was anybody swimming in the water?

13 A No one was swimming, sir.

14 Q Did you see anything out of the ordinary at
15 Peachtree Boat Landing?

16 A No, sir, just the vehicle.

17 Q Please have a seat for a second.

18 I'm showing you what has been marked for
19 identification as State's 35, 36 and 37. Take a look
20 at these, if you don't mind.

21 A Sure. (Witness examines document.)

22 Q Do you recognize those?

23 A Yes, sir, I do.

24 Q What are those?

25 A These are photographs taken with the Solicitor's

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Office. What we did -- we used a vehicle to
2 approximate the position of her vehicle parked at the
3 boat landing that night, as well my vehicle parked
4 behind hers to show how I was parked whenever I pulled
5 up to the boat landing.

6 Q So that is basically a reenactment?

7 A Yes, sir.

8 Q And you were a participant in that?

9 A I was, yes, sir.

10 Q So safe to say you were present when those
11 photographs were taken?

12 A Yes, sir, I was present.

13 Q And, obviously, you said this, and I want to
14 clarify so we're not misleading anyone, those were not
15 taken on December 18, 2013?

16 A No, sir.

17 Q Why did you choose that night to reenact those
18 photographs?

19 A We chose this time of night to recreate the
20 approximate night that I stumbled -- I shouldn't say
21 stumbled -- when I came across the vehicle at Peachtree
22 Boat Landing, as well as the lighting.

23 Q What do you mean "the lighting"?

24 A Just to show how dark it was down there.

25 Q Is that a fair and accurate recreation on what

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 you saw on December 18?

2 A Yes, as close as we could get.

3 MR. HELMS: Your Honor, at this time I would
4 enter State's 35 through 37.

5 THE COURT: Any objection?

6 MR. BOUCHETTE: No objection.

7 THE COURT: Without objection, 35 through 37.

8 (State's Exhibits 35 through 37 admitted.)

9 MR. HELMS: Your Honor, I would ask to publish.

10 THE COURT: Certainly.

11 Q (MR. HELMS) Again, Officer, the car in front of
12 your car is not the car you found, and it's not even
13 the color of the car you found?

14 A No, sir, it is not.

15 Q But it is parked in a similar or exact same
16 fashion?

17 A Yes, sir.

18 Q Officer, after you patrolled Sector 14 on
19 December 18, 2013, did you have an opportunity, other
20 than this reenactment -- that we're done with the
21 pictures of -- did you have an opportunity to do
22 anything else in assisting with this investigation?

23 A Yes.

24 Q Tell us what you had a chance to do there.

25 A Again, with the solicitors, we were able to use

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 dash cam to do a recording -- a video recording of the
2 route I took that night and, again, it was recorded at
3 the same time and also using a full moon, which would
4 have been the same kind of lighting conditions that
5 night, December 18th.

6 Q You used a dash cam -- would it be the same kind
7 of dash cam the night you found Heather Elvis' car?

8 A Yes, sir.

9 MR. HELMS: Court's indulgence, Your Honor.

10 THE COURT: Certainly.

11 (A brief pause in the proceedings.)

12 Q (MR. HELMS) I'm showing you now what has been
13 marked as identification as State's Exhibit 34; tell
14 me, if you know, what that is?

15 A I believe this is the disk containing the video.

16 Q The video of what?

17 A Of my dash cam that evening.

18 Q How do you know that that is the video of your
19 dash cam?

20 A It has my initials on it, sir.

21 MR. HELMS: Permission to enter State's 34 into
22 evidence?

23 THE COURT: Any objection?

24 MR. BOUCHETTE: No objection.

25 THE COURT: Without objection, State's 34 is

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 admitted.

2 (State's Exhibit 34 admitted.)

3 MR. HELMS: May we publish?

4 THE COURT: You may.

5 Q (MR. HELMS) While they are getting that ready, I
6 want to clarify one more time. This is a recreation
7 of the exact route you drove?

8 A Yes, sir.

9 Q And did you see the same things, or lack thereof,
10 that you saw that night?

11 A Yes, sir.

12 Q In this video, are we going to see any other cars
13 on the road?

14 A No, sir.

15 Q Any people walking?

16 A I think there is a dog.

17 Q A dog, but no people?

18 A No people.

19 Q And the lighting is the same?

20 A Yeah. Again, we chose that time, that specific
21 day, to simulate the same night, December 18, 2013.

22 Q Can you see this, Officer?

23 A Um, yes, sir.

24 Q Because I'm going to ask you some questions as it
25 is playing, so I want you to be able to see it.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 A Do you need me to step down again?

2 Q I don't think so, if you can see it. I'll just
3 stand up here and we'll talk and narrate as we watch.

4 MR. HELMS: Tonya, I'm ready when you are.

5 (State's Exhibit 34 published.)

6 Q (MR. HELMS) All right. Officer, who is this
7 driving?

8 A I'm driving this vehicle.

9 Q And about what time of night is this?

10 A It's right about 4 o'clock.

11 Q And what area of the county are you in here?

12 A Right here we're at the Circle-K gas station,
13 which is at the corner of Forestbrook Road and Dick
14 Pond Road.

15 Q Where are you driving towards?

16 A Right now I'm on Dick Pond Road heading towards
17 Socastee and Peachtree Road.

18 Q This is the same route you took before?

19 A Yes, sir.

20 Q Tell me where you are at.

21 A This is the Socastee Yacht Basin Landing. It is
22 a boat landing that leads into the Intracoastal
23 Waterway. This is the one that is underneath the 544
24 bridge, and it is the one -- it is bordered by two
25 gated communities.

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 Q Didn't you say this is the more well lit of the
2 two landings?

3 A Yes, sir.

4 Q But this is not the landing you found Heather
5 Elvis' car?

6 A No, sir.

7 Q Where are you going now, Officer?

8 A This it is Peachtree Road heading towards
9 Peachtree Boat Landing.

10 Q Is that the dog you were talking about?

11 A That would be the dog, yes, sir.

12 Q Is that the only thing different you saw that
13 night versus the first time?

14 A Yes, sir.

15 Q Tell me where we are.

16 A Right here, this is the entrance to Peachtree
17 Boat Landing.

18 Q Where was Heather's car?

19 A I angled it -- right where my car is angled, it
20 was parked right there where the spotlight points.

21 Q Right in the middle?

22 A It is a little further back from the spotlight,
23 like a little bit closer to my vehicle.

24 Q How was it oriented? Was it oriented; was the
25 bumper facing you, or was the front facing you, the

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 rear bumper or front bumper?

2 A The rear bumper was facing me, and the front was
3 facing the water.

4 Q If you keep driving there, if don't know the
5 landing is there and you keep driving, are you just
6 going to go off into the water?

7 A Straight into the water, yes, sir.

8 Q Other than the car not being there, is it about
9 as quiet and dark right now as it was the night you saw
10 her car?

11 A Yes, sir, and some of the cosmetic things that
12 they dressed it up, like those guideposts and stuff
13 were not there.

14 Q I take it you are back on Peachtree Road?

15 A Peachtree Road, yes, sir, heading back towards
16 Mill Pond.

17 Q Where are you going here, Officer?

18 A Making a left on Mill Pond Road heading towards
19 Highway 814.

20 Q Talk to me, Officer; where are you going now?

21 A Just turned left on Highway 814 from Mill Pond.

22 Q Was there any signs that indicated for you to
23 turn left there if you wanted to go to 814?

24 A No, sir.

25 Q What would have happened if you kept going

CASEY GUSKIEWICZ - DIRECT EXAMINATION

1 straight on Mill Pond Road?

2 A Mill Pond Road intersects with Highway 544.

3 Q Again, tell me how many cars have we seen?

4 A Haven't seen any yet.

5 Q Where are you turning?

6 A We're still on Highway 814. It is a stop sign
7 that elbows back to 544. If you look in the distance,
8 you can see the traffic light.

9 Q Officer, that was the same route and same sites
10 you saw on December 18, 2013?

11 A Yes, sir.

12 Q We're almost done, Officer. I'm going to show
13 you what was marked for identification as State's 33;
14 tell me if you know what that is?

15 A Again, that is another aerial view of a mapping
16 indicating the Peachtree Boat Landing and the residence
17 labeled [REDACTED] Highway 814, the Moorers' residence.

18 Q Does this accurately reflect where the Moorers'
19 residence in relation to Peachtree Boat Landing?

20 A Yes, it does.

21 Q Nothing else on there -- nothing else indicated?

22 A No, sir.

23 MR. HELMS: Your Honor, at this time I would
24 tender State's 33.

25 THE COURT: Any objection?

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 MR. BOUCHETTE: I haven't seen it.

2 THE COURT: Sure. Take your time.

3 MR. BOUCHETTE: No objection.

4 THE COURT: Without objection, State's 33 is
5 admitted 33.

6 (State's Exhibit 33 admitted.)

7 MR. HELMS: And, Your Honor, briefly permission
8 to publish this?

9 THE COURT: You may do so.

10 (State's Exhibit 33 published to the jury.)

11 Q (MR. HELMS) For the jury's edification, tell
12 them one more time what this is.

13 A It is an aerial view. It's a map, and, again, it
14 is where Peachtree Boat Landing is located, closer up
15 to the upper left-hand corner, and, again, a residence
16 labeled [REDACTED] Highway 814, Moorer's residence.

17 Q And this is the route you took that night?

18 A Yes, sir.

19 MR. HELMS: Thank you, Officer. Answer any
20 questions the defense may have.

21 THE COURT: You may cross-examine.

22 MR. BOUCHETTE: Thank you. I'll be very brief.

23 THE COURT: Sure.

24 MR. BOUCHETTE: I don't think I'll use the video.

25 CROSS-EXAMINATION

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 BY MR. BOUCHETTE:

2 Q I'm glad we had the video. We're talking about
3 the two different landings, right, on Peachtree Road?

4 A Yes, sir.

5 Q And I think the first one is called Drawbridge
6 Park or Drawbridge Landing, or something to that
7 effect?

8 A When we dispatch the calls there it would be
9 referred to as the Socastee Yacht Basin Landing.

10 Q Okay. But that is the one where 544 crosses over
11 the Waccamaw River?

12 A Yes, sir. Yes, sir.

13 Q And the landing is underneath the overpass there,
14 correct?

15 A Yes, sir. There is a dock that leads into the
16 Intracoastal Waterway?

17 Q And this is a pretty big landing, correct?

18 A It is very sizeable, yes, sir.

19 Q And there is housing developments on either side?

20 A Yes, sir.

21 Q But those housing developments -- before you
22 actually get to a residential structure, there is a
23 fairly decent buffer between the public landing and
24 when you would actually get to a residential structure?

25 A They are both gated, yes, sir.

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 Q Now, when we go down to Peachtree Boat Landing,
2 down at the end of Peachtree Road, that is a very small
3 landing?

4 A Very small, yes, sir.

5 Q When you pull in, it is almost tough to make a
6 simple turn without doing a three-point turn, right?

7 A Yes, sir.

8 Q Now, there is also housing sort of adjacent to
9 that landing, too, correct?

10 A Yes, sir. There is a thick wood line, and on the
11 other side is a small mobile home park and there's a
12 few houses back there as well.

13 Q That mobile home park, I mean it is directly
14 adjacent to the actual boat ramp where you put your
15 boat into the landing?

16 A Yes, sir. Again, separated by wood line.

17 Q In fact, some of those residences are looking
18 directly into the landing area, correct?

19 A Yes.

20 Q Now, you mentioned a moment ago that you
21 routinely check Peachtree Boat Landing; why was that?
22 What causes you to go there with any type of frequency?

23 A Like I said before, there is times whenever you
24 go down there and you see people using the boat landing
25 for things other than the intended use, which is to

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 launch a boat or even fish. Sometimes people are there
2 hanging out, drinking alcohol, smoking marijuana,
3 again, intimate relations.

4 Q And it is kind of known as a make-out spot,
5 correct?

6 A Yes, sir. I have seen people down there doing
7 that, yes, sir.

8 Q At times, people go down there to smoke pot or
9 drink, correct?

10 A Yes, sir.

11 Q Often high school or college-aged kids?

12 A All ages. You would be surprised.

13 Q It's been that way for a long time, true?

14 A It's kind of -- not since they've added more
15 lighting and cameras to the place, no.

16 Q Back in 2013, it had been that way -- it had that
17 status for a period of time?

18 A Yes, sir. That is why I checked on it on a
19 regular basis.

20 Q And that was generally known to residents in that
21 area, correct?

22 A Yes.

23 Q That after dark, this is -- at least to some
24 degree of frequency -- a spot that has people down
25 there?

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 A Yes, sir.

2 Q Just briefly. On your demonstration here, that
3 was -- when was that actually performed, your, sort of,
4 drive-around?

5 A The exact date, I'm not sure.

6 Q This calendar year?

7 A I believe it was last year.

8 Q Last calendar year?

9 A Yes, sir.

10 Q So that was 2018, so about four years after
11 Ms. Elvis went missing?

12 A Yes, sir.

13 Q And to be clear, it wasn't a scientific endeavor,
14 correct?

15 A No, sir.

16 Q Did not compare your dash cam to the lighting
17 here and utilize any type of reverse photogrammetry or
18 anything of that nature?

19 A Other than just the timing of the exact same time
20 and the moon, like the full moon, is what I'm trying to
21 say.

22 Q You went out late and it was also a full moon,
23 and just drove the same path?

24 A Yes, sir.

25 Q We can't precisely dictate or calibrate exactly

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 how fast you may have been going from Point A to Point
2 B or Point C or anything of that nature, right?

3 A Yes, sir. Driving the speed limit.

4 Q You were just trying to show -- to show and give
5 a visual to the jury the route that you drove that
6 night?

7 A Yes, sir.

8 MR. BOUCHETTE: Just a moment, Your Honor.

9 THE COURT: Certainly.

10 (A brief pause in the proceedings.)

11 Q (MR. BOUCHETTE) Officer Guskiewicz, on the early
12 morning of December 18th, did you go back -- did you
13 circle back on 814?

14 A Did I -- explain that.

15 Q Whenever you left Peachtree Boat Landing, did you
16 come back through 814?

17 A Yes, sir.

18 Q Did you pass the Moorer home?

19 A I would have, yes, sir.

20 Q You would have had to have passed the Moorer home
21 at that point?

22 A Yes. At that point, 814 leads straight out to
23 Highway 544.

24 MR. BOUCHETTE: No further questions.

25 THE COURT: Redirect.

CASEY GUSKIEWICZ - CROSS-EXAMINATION

1 MR. HELMS: Nothing on redirect.

2 THE COURT: Thank you. Do you wish this witness
3 to be excused?

4 MR. HELMS: We do.

5 THE COURT: Any objection?

6 MR. BOUCHETTE: No objection.

7 THE COURT: You are free to leave.

8 Given the situation, we'll recess for the
9 evening, ladies and gentlemen. You are not at liberty
10 to talk with anyone. It's even more critical than
11 yesterday because you didn't have anything to talk
12 about. But please remember that tomorrow I'll put you
13 under oath and ask if you did that. And I'll ask you
14 not to discuss this case with anyone, not watch any
15 news accounts or any other programs about it, and not
16 do any independent research.

17 I would ask you to be in your jury room by 9:30
18 in the morning. No need to call that number. Have a
19 good evening. Tomorrow we'll plan to go around 6
20 o'clock, if that is still okay with your approval.
21 Presiding Juror, if any time a juror has an issue,
22 don't hesitate to let us know and we'll address that.
23 Thank you so much. You are free to leave.

24 (The jury exits at 4:53 p.m., and the
25 following is heard out of the presence of the jury.)

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1 MS. LIVESAY: No, sir.

2 THE COURT: Anything from the defendant?

3 MR. GALMORE: No, sir.

4 THE COURT: Let me say to everyone. This is a
5 day I'll always remember; I'm sure you do as well. It
6 is a day that we'll always commemorate for the brave
7 souls that did a lot for this country and what it did
8 in standing up and doing something.

9 Let me say something to the people of Conway.
10 What a privilege it was to drive across that bridge
11 today to see those men and women holding flags up. It
12 warmed my heart, and I thought that is exactly what we
13 ought to be doing, be proud of. So thank you all for
14 that, and it really made the start of my day with a
15 bang, I can tell you that.

16 Let's bring in our jury, please.

17 (The jury enters at 9:35 a.m., and the
18 following is heard in the presence of the jury.)

19 THE COURT: Good morning, ladies and gentlemen.
20 Thank you. I hope you had a good evening. As I
21 mentioned, we will first do -- first part of business
22 is as each juror -- does each juror solemnly swear or
23 affirm that they have honored the Court's instruction
24 fully and specifically in that regard and not spoken
25 to anyone, not allowed anyone to speak to them, not

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1 viewed any news accounts, not read any articles and
2 didn't do any independent research; if you have, say
3 "I do."

4 (Jury panel all confirms with "I do.")

5 Any member of the panel unable to make that
6 commitment for any reason, please raise your right
7 hand.

8 Thank you very much. Thank you for that as well.
9 I appreciate your willingness to continue to do that.

10 Before we start this day, I just spoke to
11 everyone here, I will always remember it, and I hope
12 we will always remember what occurred on this day in
13 this country and the men and women that sacrificed
14 dearly for what this country is all about, and
15 continue to do so. It is an important day for me, and
16 it brings back a fond memory. I remember I was trying
17 a case, just like today, and I had my computer up.
18 The bailiff came and said a plane had just hit the
19 tower. I thought -- my first thought was it must have
20 gotten off track, how in the world. Then the second
21 one hits, and he said, We're at war, and I heard that
22 this morning as well. But when the jury came in, I
23 told them, they have been in the jury room and they
24 hadn't heard anything, and I shared that with them. I
25 said I don't know if any of you -- what your feelings

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1 are, but I respect those feelings. I said you may
2 have relatives in New York, you may have friends in
3 New York, you may be concerned about it and may want
4 to be home to be with your loved ones, whatever you
5 want to do. I said I'm willing to do whatever you
6 want to do, but, for me, someone wants to shut this
7 country down, and this country is bigger than that and
8 we can go forward. I said I want you to go back in
9 your jury room and you all talk, and if anyone wants
10 to stop, we'll stop. I'll never forgot it -- excuse
11 me.

12 (A brief pause in the proceedings.)

13 THE COURT: They came out and they said we want
14 to work, and I said, God, I'm proud to be a part of
15 this community. Thank you for being a part of the
16 community and doing the service you are rendering by
17 doing what we are doing today.

18 Now, with all of that, we're ready to begin.
19 If you will, give your attention to the next witness.

20 Solicitor, good morning. You may call your
21 next witness.

22 MS. LIVESAY: Thank you, Judge. At this time
23 State calls Danny Furr.

24 (DANNY FURR, having been duly sworn, testified
25 as follows:)

DANNY FURR - DIRECT EXAMINATION

1 THE WITNESS: Danny Furr, F-U-R-R.

2 DIRECT-EXAMINATION

3 BY MS. LIVESAY:

4 Q If you don't mind, Mr. Furr, tell this jury where
5 you are currently employed.

6 A Horry County Police Department.

7 Q How long have you been at the police department?

8 A 20 years.

9 Q And tell them a little bit about what your
10 current position is.

11 A My current position is sergeant in the training
12 division. I handle the training for the personnel
13 within the department on all levels.

14 Q Okay. And you worked with Horry County Police
15 Department in December of 2013?

16 A Yes, I did.

17 Q And if you don't mind, tell this jury a little
18 bit about what your responsibilities were at that
19 time.

20 A I was a corporal on the patrol division in the
21 south precinct, which encompasses the area that we are
22 going to speak about today. I was running the shift.
23 The sergeant that night was off, so I was actually
24 running the shift of personnel under me with
25 supervisory issues, help on calls, advise them on how

DANNY FURR - DIRECT EXAMINATION

1 to handle calls.

2 Q Okay. And were you working the night and morning
3 -- I'm sorry, the night of December 17th, early
4 morning of 18th and 19th?

5 A Yes, I was.

6 Q Tell this jury, did you happen to assist in the
7 investigation of the vehicle being at Peachtree
8 Landing?

9 A I did, yes.

10 Q And if you don't mind, tell them what you did to
11 assist with that investigation.

12 A Once my subordinate had taken the call, he
13 notified me once on scene that he was out with a
14 vehicle that had been abandoned or left at Peachtree
15 Landing. At that point, he advised me of the
16 situation, and I progressed from there into attempting
17 to locate who we thought may be missing.

18 Q Okay. And was that Heather Elvis?

19 A It was.

20 Q What did you do -- before we get too far, who was
21 your subordinate you talked with?

22 A Casey Canterbury.

23 Q And after you talked with him, where did you go
24 to locate Heather?

25 A Tilted Kilt Tavern.

DANNY FURR - DIRECT EXAMINATION

1 Q Did you talk with the people there?

2 A I did.

3 Q And after you talked with the people there and
4 gathered information, who did you call?

5 A Sidney Moorer.

6 Q And were you able to get the phone number from
7 the people at Tilted Kilt?

8 A I was, yes.

9 Q And about how long did you talk to those people?

10 A I was probably there for 10, 15 minutes.

11 Q Why did you go to Tilted Kilt?

12 A I was told that that is where she worked, Heather
13 Elvis worked.

14 Q Okay. And so you were looking to see if she was
15 there or if she was supposed to work?

16 A I was. I was actually seeing if she was actually
17 at work, and if she wasn't, when she would be working
18 again.

19 Q And you were there about 10, 15 minutes?

20 A I was.

21 Q And after talking to the folks there, you called
22 Sidney Moorer?

23 A I did.

24 Q Did you call anyone else?

25 A No, I did not.

DANNY FURR - DIRECT EXAMINATION

1 Q From your investigation in talking with them, did
2 you see a reason to call anyone else?

3 A No, I didn't.

4 Q And when you called him, did he pick up the
5 phone?

6 A He didn't.

7 Q And then what happened?

8 A He called me back. I left a message; he called
9 me back.

10 Q So he called back. Did he call back from a phone
11 number you reached out to?

12 A He did.

13 Q And when he called back, did you talk with him
14 then?

15 A I did.

16 Q And was there -- could you tell if anyone else
17 was on the phone other than Sidney?

18 A I couldn't. I just spoke with him.

19 Q And about how long did you talk with him?

20 A Maybe three, four minutes.

21 Q Was this during the nighttime hours?

22 A It was.

23 Q If you don't mind, tell this jury about the first
24 conversation you had with him.

25 A The first conversation I had -- of course I

DANNY FURR - DIRECT EXAMINATION

1 identified myself, who I was and what I was calling him
2 in reference to. Once we spoke about me looking for
3 Heather, or a possible location for Heather, and that
4 she may be missing, may not be, I asked if he could
5 shed any light on it, did he know anything, did he know
6 where she was exactly so we could put this to bed. For
7 us, at the time, we just couldn't make contact with
8 her. It's usual. It is not unusual. He stated that
9 he had not spoken to her in an extended time, six weeks
10 I believe. Then we kept talking about, you know, how
11 they knew each other, what drew them together or what
12 was going on there. And then he made the statement
13 that she had called him and they had spoken that night,
14 and that he had just called her to tell her to leave
15 him alone, to not call, not make any contact with him
16 anymore, which concerned me because the first time it
17 was I hadn't spoken to her in six weeks, and then it
18 was I just spoke to her to tell her it was not a -- you
19 know, don't call me anymore. So that kind of drew me
20 to the conclusion that we needed to do a follow-up with
21 what was happening.

22 Q And how early on was this?

23 A This was right after I had left the Tilted Kilt.
24 It was early on in the investigation.

25 Q Did he tell you anything about his relationship

DANNY FURR - DIRECT EXAMINATION

1 with Heather?

2 A He said they had a relationship, a romantic
3 relationship, but it was over.

4 Q And, originally, he said it was over and he
5 hadn't talked to her?

6 A He did, yes.

7 Q And then he said I have talked to her?

8 A Yes.

9 Q So once that unfolds, what do you do?

10 A Once that unfolds, it was pretty obvious to me
11 that I needed to send someone over there, either myself
12 or Casey Canterbury, who was the lead on the case, to
13 speak with him further. So that is what I did, I
14 notified Casey Canterbury to go to his residence to
15 speak with him.

16 Q And at that time what was your primary goal?

17 A My primary goal was just finding Heather. We
18 assumed that he may have a little bit more information
19 about where she may be and maybe he just wasn't
20 comfortable with speaking with me on the phone, so I
21 felt like a person-to-person conversation would be
22 better, maybe we would get more information about where
23 she was.

24 Q So at that time there is no investigating of a
25 crime, don't even know if a crime has been committed,

DANNY FURR - CROSS-EXAMINATION

1 we're just trying to locate this young girl?

2 A Oh, yes, it is just a matter of location, yes.

3 Q And did you call anybody else, other than Sidney
4 Moorer, during that time frame?

5 A No, I did not.

6 MS. LIVESAY: No further questions. Thank you,
7 Mr. Furr.

8 THE COURT: Cross-examination.

9 MR. BOUCHETTE: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. BOUCHETTE:

12 Q Officer Furr, good morning.

13 A Good morning.

14 Q I want to take a moment and, if you wouldn't
15 mind, restating your position you held at that time.

16 A I was corporal in the south precinct patrol
17 division.

18 Q You were the supervisor of that precinct?

19 A Yes. I was at that time, yes.

20 Q So, now, I imagine you received various forms of
21 training as part as being an Horry County police
22 officer, correct?

23 A Yes.

24 Q And you employed that training that you received
25 in your participation in this case?

DANNY FURR - CROSS-EXAMINATION

1 A Yes.

2 Q You graduated from the South Carolina Police
3 Academy, Criminal Justice Academy?

4 A Yes, I did. Yes.

5 Q And is your training and experience pretty much
6 limited to what you received at the Criminal Justice
7 Academy and any subsequent follow-up training?

8 A Yes.

9 Q Okay. All right. Now, when you are there, when
10 you are receiving that kind of training, I guess you
11 get an overview of basically whatever it takes to be a
12 police officer?

13 A Yes.

14 Q Before you go into various forms of
15 specialization?

16 A Yes, sir.

17 Q So at that point you are taught about various,
18 for example, the legal basics or basics of the legal
19 system?

20 A Yes.

21 Q You talk about what is necessary for an arrest
22 warrant, for example?

23 A Yes.

24 Q And what is necessary for an arrest warrant?

25 A Probable cause.

DANNY FURR - CROSS-EXAMINATION

1 Q Probable cause, okay. And you learn about
2 preparing various reports?

3 A Yes.

4 Q For example, an incident of any kind, preparing
5 reports is pretty important; wouldn't you agree?

6 A Yes.

7 Q And that is because it is used by the
8 prosecution, correct?

9 A It is.

10 Q It is used by your reviewing officers and various
11 administrative capacities, correct?

12 A Yes.

13 Q And people make decisions based on what you fill
14 out in the report?

15 A Yes, sir.

16 Q And at different times you are often -- let me
17 ask it this way. If you file a report, you ideally
18 want to do it close in time, correct, to whenever the
19 event was?

20 A Yes.

21 Q Because it may be months, years before you have
22 to come back and testify?

23 A True.

24 Q Correct. And so your memory is usually much
25 stronger at the time the incident occurred than it

DANNY FURR - CROSS-EXAMINATION

1 would be testifying at some point much later?

2 A Yes.

3 Q And I imagine you also learned and talked about,
4 you know, gathering statements from witnesses?

5 A Yes.

6 Q Because I imagine in an investigation you want to
7 have a record as to what they actually said, not what
8 you remember they said?

9 A Yes.

10 Q And that is why you learned to take witness
11 statements as soon as possible?

12 A True. Yes.

13 Q And that is a generally accepted principle that
14 you learned at the Criminal Justice Academy?

15 A Yes.

16 Q Now, in this case did you prepare a report?

17 A I did not.

18 Q Do you know if Casey Canterbury prepared a
19 report?

20 A He did.

21 Q And he would have prepared that report close in
22 time --

23 A Yes.

24 THE COURT: Hold on for a second. If you will
25 both pause just a minute. You have to remember

DANNY FURR - CROSS-EXAMINATION

1 something, someone is taking down everything you are
2 saying, and when you are answering before he finishes
3 his question, it creates problems. So let's allow the
4 question to be answered and asked before you answer.

5 Excuse me.

6 MR. BOUCHETTE: No problem.

7 Q (MR. BOUCHETTE) So you believe Mr. Canterbury
8 did fill out a report?

9 A Yes.

10 Q And that was done close in time to the
11 investigation, at least his involvement, correct?

12 A Yes.

13 Q Now, also, I guess at the Criminal Justice
14 Academy you learned various basic aspects about a crime
15 scene, correct?

16 A Yes.

17 Q In terms of preserving a crime scene?

18 A Yes.

19 Q And I'm sure you don't go into the details, but
20 you understand the various resources you would have at
21 your disposal, such as various CSI professionals that
22 can investigate the scene?

23 A Yes, absolutely.

24 Q You learn at least the basics or how to be aware
25 of things like fingerprints?

DANNY FURR - CROSS-EXAMINATION

1 A Yes, sir.

2 Q How DNA may be present in different
3 circumstances?

4 A Yes, sir.

5 Q Things like touch DNA, hair strands, things like
6 that?

7 A Absolutely.

8 Q And you understand that at different points
9 various experts can be engaged, for example, with
10 regard to even footprint indentations and different --

11 A Yes.

12 Q Tread marks can be identified in other
13 circumstances?

14 A Yes.

15 Q Even sometimes on a hard surface, true?

16 A True.

17 Q Right. For example, a tread mark could be
18 utilized by way of the dirt that has been accumulated
19 on the tire, and that can leave an impression under the
20 right circumstances --

21 A Well, I don't have specific training in that, but
22 I'll take your word for it.

23 Q Well, what I'm asking is you are trained at least
24 to identify and look for those types of issues?

25 A I am, yes.

DANNY FURR - CROSS-EXAMINATION

1 Q And that is standard with any crime scene,
2 correct?

3 A Yes.

4 Q Now, as it relates to a missing person's case, as
5 I imagine, it is safe to say that any time you are
6 dealing with a missing person, time is valuable; would
7 you agree?

8 A Oh, yes.

9 Q Resources, particularly the early responders, are
10 very scarce, correct?

11 A Yes.

12 Q I want to go back to your involvement in this
13 case. You got involved on -- was it December 19th;
14 is that correct?

15 A Yes. Whatever night the initial report was. It
16 was early evening in the shift.

17 Q Let me ask you this. Did you know Mr. Elvis, the
18 victim's father, at that time?

19 A No, I did not.

20 Q Do you know if Mr. Canterbury had a previous
21 relationship or knew Mr. Elvis at that time?

22 A I did not know that, no.

23 Q Do you now know that?

24 A I do know that, yes.

25 Q When you went to Tilted Kilt, you spoke to a man

DANNY FURR - CROSS-EXAMINATION

1 named Dennis Hart, Senior, correct?

2 A I don't think his name was Dennis.

3 Q Do you remember who you spoke to?

4 A He identified himself as the manager, a male.

5 Q Was he a male kitchen manager?

6 A I don't know he was not standing at the front
7 when I came in in uniform. I asked for a manager, can
8 I speak to a manager, and he presented himself as such.

9 Q Okay. All right. And did this individual that
10 was the male manager at the Tilted Kilt, did he -- let
11 me back up. Did you make it clear that you were
12 looking for anyone who may have communicated or have
13 any kind of contact with Heather in the recent days or
14 weeks?

15 A I did.

16 Q Now, did this manager mention anything about his
17 son being close with her or having any recent
18 communications?

19 MS. LIVESAY: Your Honor, I'm going to object
20 because we haven't established yet who Mr. Furr talked
21 with.

22 THE COURT: Thank you very much. He can ask the
23 question. If he can answer it, I don't know. You can
24 have a chance to follow up on redirect. Overruled.

25 A Can you repeat that?

DANNY FURR - CROSS-EXAMINATION

1 Q (MR. BOUCHETTE) Absolutely. So the manager that
2 you spoke with, did he -- like I said -- let me
3 rephrase.

4 Did you make it clear that you were looking for
5 anyone that may know anything regarding Heather Elvis?

6 A Yes, sir.

7 Q And you were looking for anyone that may have
8 communicated with her regularly, correct?

9 A Yes.

10 Q Because in a missing person's case, you often
11 look for two different classes of people, correct? And
12 what I mean by that is you are looking for people that
13 may have seen her most recently, true?

14 A Yes.

15 Q But also people that have frequent
16 communications, true?

17 A Anybody who can shed any light on communications,
18 where she may be, that is what I'm looking for.

19 Q So, like I said, this individual that was
20 identified as the male manager at Tilted Kilt, he did
21 not volunteer or give you any information indicating
22 that he had a son that was close friends or
23 communicated frequently with Heather Elvis?

24 A No, he did not.

25 Q He concealed that from you?

DANNY FURR - CROSS-EXAMINATION

1 A Well, he didn't tell me.

2 THE COURT: Rephrase that question because you
3 haven't established that it was -- thank you, sir.
4 That is an improper question under 611. Rephrase.

5 MR. BOUCHETTE: I understand.

6 Q (MR. BOUCHETTE) He did not disclose to you his
7 knowledge of any relationship or friendship or
8 communications between his son and Heather Elvis?

9 A No, sir, he did not.

10 Q He did not volunteer that to you?

11 A No, sir.

12 Q Let me ask you this. At that point in time,
13 based on where you were in the investigation, had you
14 known that his son had frequent communications or was a
15 close friend, would you have asked to speak with him to
16 see --

17 A Oh, yes. Sorry. Yes, I would have asked. Yes.

18 Q Now, based on this discussion with the manager at
19 Tilted Kilt -- let's be clear, he never indicated any
20 type of violence or anything that made him -- appear to
21 be a threat, in terms of Sidney Moorner?

22 A No, he did not.

23 Q He just told you, listen, Sidney and her had a
24 relationship at some point?

25 A Uh-huh, that is right.

DANNY FURR - CROSS-EXAMINATION

1 Q And Sidney confirmed that right off the bat?

2 A He did.

3 Q And when you spoke with Sidney, you said -- you
4 made a point that he had not spoken to her?

5 A Yes.

6 Q Is it possible that he mentioned or stated that
7 he had not seen her in the six weeks?

8 A No. I remember "spoken to." That is what
9 prompted my next action, was the answers he gave me and
10 the conversation, the two separate answers.

11 Q I mean, again, I know a lot was going on, but you
12 are saying it wasn't possible that maybe you misheard?

13 A I don't think that is possible, no.

14 Q It is not possible? Okay. It's been six years,
15 you have not filled out a report, correct?

16 A It was -- Casey Canterbury filled out the report.

17 Q Let me ask you this. If Casey Canterbury has in
18 his report where he indicates that you said that
19 Mr. Moorer had indicated that he had not seen her in
20 six weeks, would that be untrue?

21 A He did write that.

22 Q He did write that?

23 A Yes.

24 Q And that report was prepared --

25 A That night.

DANNY FURR - CROSS-EXAMINATION

1 Q -- contemporaneous with --

2 A Correct.

3 THE COURT: Sir, allow him to finish the
4 question.

5 Q (MR. BOUCHETTE) So, yes, that report that
6 indicated what we just talked about, was prepared
7 contemporaneous with his investigation on the night or
8 the day of the 19th, correct?

9 A Yes.

10 Q Now, based on that conversation you had with the
11 manager of Tilted Kilt, you then direct other officers
12 to speak to Sidney, correct, to go to his house?

13 A After my conversation with Sidney is when I
14 directed them to go.

15 Q Okay. And what time of night was this?

16 A Oh, I don't know. Um.....

17 Q I don't need an exact time.

18 A 10:30, 11 o'clock.

19 Q So it was late?

20 A It was late.

21 Q It was late at night. And is it safe to say at
22 this point -- are you already -- I know you indicated
23 you didn't believe he was a suspect at this time, but
24 was there anything unusual about the way he reacted in
25 terms of following up on this particular investigation?

DANNY FURR - CROSS-EXAMINATION

1 A Say that again.

2 Q Let me ask you this. Casey Canterbury went to
3 Mr. Moorer's house at 10:00, 11 o'clock, correct?

4 A I'm not sure when he went. He went subsequent --
5 after my conversation with Sidney.

6 Q So sometime after 10 o'clock?

7 A Yes.

8 Q And let me ask you this. Did other officers go
9 with him?

10 A Yes.

11 Q In fact, Brian Scales and Mr. Scott Calderwood
12 both went with Mr. Canterbury?

13 A Yes.

14 Q And all three officers went to Sidney's house
15 sometime after 10 o'clock, correct?

16 A Yes.

17 Q Is that standard operating procedure, to divert
18 three officers at a time when time is so valuable,
19 resources are so scarce, to speak to one person that is
20 not a suspect?

21 A I only dispatched one. The other two officers
22 were a different part of the county. I'm not sure how
23 they got involved in this. I dispatched one, because
24 he wasn't a suspect. It was just a matter of obtaining
25 information about where Heather was. If I had thought

DANNY FURR - REDIRECT EXAMINATION

1 there was a problem, I would have dispatched more than
2 one, but he wasn't a suspect. I sent one over there to
3 follow up on some information I received.

4 Q So those other officers, were they at Officer
5 Canterbury's instruction?

6 A I'm not sure where -- how those officers came to
7 be with Canterbury. I don't know how that occurred. I
8 learned of their presence after Canterbury had left the
9 scene, but I don't know how that occurred. They worked
10 at different precincts with a different supervisor.
11 I'm in south; they were from central.

12 MR. BOUCHETTE: Court's indulgence.

13 THE COURT: Certainly.

14 (A brief pause in the proceedings.)

15 MR. BOUCHETTE: No further questions.

16 THE COURT: Redirect.

17 MS. LIVESAY: Just a couple, Judge.

18 REDIRECT-EXAMINATION

19 BY MS. LIVESAY:

20 Q Mr. Bouchette, do you remember him asking you
21 about the manager that you spoke with at the Tilted
22 Kilt?

23 A Who? Do I remember who?

24 Q The defense attorney asking you.

25 A Yes.

DANNY FURR - REDIRECT EXAMINATION

1 Q Do you know or remember the manager's name you
2 spoke with?

3 A I remember it to be Matt, but I don't remember
4 the whole name.

5 Q So you just remember his name was Matt?

6 A Uh-huh.

7 Q So you don't remember him to be Dennis Hart,
8 Senior?

9 A I don't.

10 Q The kitchen manager?

11 A No, I do not.

12 Q Does that name even ring a bell to you?

13 A I've heard the name, but I've never spoken to
14 him.

15 Q So it was not Dennis Hart, Senior, that you spoke
16 with at the Tilted Kilt?

17 A No.

18 Q It was another guy named Matt?

19 A Yes.

20 Q Do you know if Matt had a son?

21 A I don't.

22 Q But you did not talk to Dennis Hart?

23 A I did not.

24 Q He also asked you some questions about
25 dispatching Casey Canterbury out to Sidney Moorner; do

DANNY FURR - REDIRECT EXAMINATION

1 you remember that?

2 A Yes, I do.

3 Q Did you dispatch an officer out there just on the
4 manager at Tilted Kilt's word, what he told you?

5 A I dispatched him out there because of the
6 information I received from the manager, yes.

7 Q How about Sidney Moorner, did anyone meet with him
8 in person prior to your conversation?

9 A No.

10 Q Okay. So no one met with Mr. Moorner until after
11 you spoke with him?

12 A That's correct.

13 Q And why did you then send an officer out there?

14 A Because the story during our conversation had
15 changed. During our conversation, the timeline changed
16 a little bit.

17 Q So something --

18 A So I felt like we needed to further the
19 investigation with Sidney.

20 Q So it was what the defendant told you that led
21 you to send somebody out there?

22 A Yes.

23 MS. LIVESAY: No further questions, Your Honor.

24 THE COURT: Recross.

25 MR. BOUCHETTE: No further questions, Your Honor.

CASEY CANTERBURY - DIRECT EXAMINATION

1 THE COURT: You may step down.

2 You wish for him to be excused?

3 MS. LIVESAY: Please.

4 THE COURT: Any objection?

5 MR. BOUCHETTE: None.

6 THE COURT: Call your next witness.

7 MR. HELMS: At this time, the State calls Casey
8 Canterbury.

9 (State's Exhibit 56 marked.)

10 (CASEY CANTERBURY, having been duly sworn,
11 testified as follows:)

12 THE WITNESS: Casey Canterbury. Last name is
13 C-A-N-T-E-R-B-U-R-Y.

14 DIRECT-EXAMINATION

15 BY MR. HELMS:

16 Q Where are you employed?

17 A Horry County Police Department.

18 Q And how long have you been employed there?

19 A A little over nine years.

20 Q What is your rank?

21 A I'm a lance corporal.

22 Q And what does that mean?

23 A You're a PFC for the first five years, and after
24 that, you are a lance corporal until you are promoted
25 to corporal.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Did you receive any kind of training to become an
2 officer, a lance corporal?

3 A Yes, sir.

4 Q Tell us about your training, sir.

5 A I went through the South Carolina Criminal
6 Justice Academy, graduated there and have taken
7 numerous classes since then in training every year to
8 keep my certifications.

9 Q So you continue education?

10 A Yes.

11 Q So fair to say you have climbed through the ranks
12 since you have become an officer?

13 A Yes, sir.

14 Q Obviously, you were an officer in December of
15 2013?

16 A Yes, sir.

17 Q What was your rank back then?

18 A PFC.

19 Q What does that mean?

20 A I worked patrol, answering calls for service.

21 Q Did you have an opportunity to become involved in
22 this case back then?

23 A Yes, sir.

24 Q Tell us about that involvement.

25 A There was a call for service at Peachtree Boat

CASEY CANTERBURY - DIRECT EXAMINATION

1 Landing about a suspicious vehicle, and I responded out
2 to it.

3 Q And when you arrived to Peachtree Boat Landing,
4 when did you arrive?

5 A It was at night; I don't remember the exact time.

6 Q Do you remember the date?

7 A It was -- I have to look at my report to give you
8 the exact -- 13th I think.

9 Q If you saw your report, would that refresh your
10 memory?

11 A It would, sir.

12 MR. HELMS: May I approach?

13 THE COURT: If you mark it first.

14 MR. HELMS: Yes, sir, for identification.

15 (State's Exhibit 57 marked.)

16 Q (MR. HELMS) I'm showing you what's marked for
17 identification as State's 57, take a look at that.
18 Take your time, sir.

19 A (Witness examines document.)

20 Q Do you know when you responded to Peachtree Boat
21 Landing in response to a suspicious vehicle?

22 A 17th of December at -- sorry, give me one second,
23 I apologize.

24 (A brief pause in the proceedings.)

25 A The evening of the 19th is when I was there.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Do you know approximately what time?

2 A It was after dark.

3 Q Now, when you responded to Peachtree Boat
4 Landing, what did you do? What did you see? Tell us
5 about that experience.

6 A I observed a vehicle parked on the -- as soon as
7 you come in to the right side facing the waterway or
8 river.

9 Q What kind of vehicle?

10 A It was -- I'll give you an exact. (Witness
11 examines document.) I believe it was a Dodge.

12 Q So car or a truck?

13 A It was a passenger vehicle.

14 Q Was it occupied?

15 A No, it was not.

16 Q Did it appear to be in good working order?

17 A From what I could tell, yes.

18 Q Were the tires flat?

19 A No, they weren't.

20 Q Were the lights on?

21 A No.

22 Q Were the doors open?

23 A No, sir.

24 Q Were the windows down?

25 A No, sir.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q All the windows were up?

2 A Yes, sir.

3 Q Did anything about the car to you make it appear
4 to be inoperable?

5 A No, sir.

6 Q And you said it was facing the river?

7 A Yes, sir.

8 Q Did you see anyone around the car?

9 A No, sir, I did not.

10 Q Did you see any signs of a struggle?

11 A No, sir.

12 Q Did you see any items around the car?

13 A No, sir.

14 Q You didn't? Did you see any keys?

15 A No, sir.

16 Q Telephone?

17 A No, sir.

18 Q Pocketbook?

19 A No, sir.

20 Q Did you see any people at the landing?

21 A No, sir.

22 Q When you get to the landing, is there a swamp on
23 one side of the landing?

24 A There is.

25 Q Is there a trailer -- trailers on the other side?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Were you able to see the swamp?

3 A I knew which area it was. It was dark outside,
4 you can't see a whole lot.

5 Q Did you have your headlights on?

6 A Yes, I did.

7 Q Was there light from the moon?

8 A Yes.

9 Q So if there was somebody in the river, you would
10 have seen them?

11 A Yes.

12 Q In the swamp?

13 A Yes, sir. I also had my own flashlight.

14 Q So the bottom line is you didn't see anything but
15 the car at the landing?

16 A Correct.

17 Q And the car appeared to be completely operable?

18 A Correct.

19 Q What did you do after you responded and saw the
20 car?

21 A I ran the South Carolina license plate on the
22 back of the car.

23 Q And how did that come back?

24 A It came back that it was not stolen and
25 registered to Mr. Terry Elvis.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q And what did you do then?

2 A I responded to the address associated with the
3 tag.

4 Q To Mr. Elvis' address?

5 A Yes.

6 Q Do you remember what address that was?

7 A [REDACTED] Trail.

8 Q Okay. I'm showing you what was marked for
9 identification as State's Exhibit 56; do you recognize
10 what that is a map of?

11 A Yes, sir, it is a map of Horry County.

12 Q And is this a fair and accurate map of Horry
13 County?

14 A It appears to be, yes, sir.

15 Q How long have you lived in Horry County?

16 A All my life, 38 years.

17 Q You are pretty well familiar with the layout of
18 Horry County?

19 A Yes, sir.

20 MR. HELMS: Your Honor, I would seek to introduce
21 State's 56 into evidence.

22 THE COURT: Any objection?

23 MR. BOUCHETTE: No, Your Honor.

24 THE COURT: Without objection, State's 56 is
25 admitted.

CASEY CANTERBURY - DIRECT EXAMINATION

1 (State's Exhibit 56 admitted.)

2 MR. HELMS: Permission to publish?

3 THE COURT: You may.

4 Q (MR. HELMS) Can you point out on this map -- if
5 you can come down here for just a second. I'll move
6 this out of the way.

7 Can you point out where Peachtree Boat Landing is
8 on the map?

9 THE COURT: Officer, if you could go on that side
10 so you are talking back in this direction.

11 THE WITNESS: Yes, sir.

12 A Peachtree Landing is here.

13 Q And do you see where Sly Fox Trail is on this
14 map, in the general area? It may or may not be marked.

15 A It is down in this area.

16 Q So you went from Peachtree Boat Landing to Sly
17 Fox Trail?

18 A Yes, sir.

19 Q You can take a seat again, thank you, sir.

20 When you got to Mr. Elvis' house at Sly Fox
21 Trail, tell me about that encounter; who did you talk
22 to?

23 A I talked to Mr. Elvis.

24 Q And what did you tell Mr. Elvis?

25 A Asked him if he owned the Dodge, the vehicle, and

CASEY CANTERBURY - DIRECT EXAMINATION

1 if he knew why it was at the boat landing or who was
2 driving the car.

3 Q What did you do next?

4 A He told me that his daughter, Heather, that was
5 the car that she drove, but it was registered to him.

6 Q And then?

7 A That he had no idea why it was down there. He
8 also told me that he had last spoken to his daughter on
9 the 17th of December at approximately 10:43 p.m.

10 Q Did you respond back to Peachtree Landing?

11 A We did. Mr. Elvis said he had another set of
12 keys to the vehicle, so I escorted him over to the boat
13 landing where the vehicle was.

14 Q You drove, and he rode with you?

15 A Right.

16 Q What did you do when you got back to the landing?

17 A We looked at the car. I looked around again,
18 looking around the boat landing with my flashlight.
19 With him being the registered owner of the car, he
20 opened the car.

21 Q Let me back up real quick. So this is the second
22 time tonight that you've been to the landing?

23 A Correct.

24 Q At either time you went to the landing that
25 night, did you hear anything?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A No, sir.

2 Q You didn't hear any people?

3 A No, sir.

4 Q Did you see anything suspicious?

5 A No, sir.

6 Q Would you say it was dark at the landing?

7 A Yes, sir.

8 Q No lights?

9 A No, sir.

10 Q No cameras?

11 A No.

12 Q So you and Mr. Elvis respond back to the landing
13 and you let him access the car. Why did you let him
14 access the car?

15 A He was the registered owner of the car.

16 Q And it didn't come back reported stolen?

17 A Correct.

18 Q When you accessed the car, did you open the
19 doors, or did he?

20 A He unlocked it. I don't recall which one of us
21 actually opened the door.

22 Q Let me ask you this. Did you ever touch the car?

23 A I did.

24 Q You touched the car, and Mr. Elvis touched the
25 car?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A Yes.

2 Q Did you wear gloves?

3 A We did.

4 Q When you say "we," you and Mr. Elvis?

5 A Yes, sir.

6 Q Why did you wear gloves?

7 A In case it moved forward or there was any kind of
8 evidence in the car, preserve anything that possibly we
9 would find or anything at that point.

10 Q Did you know that a crime was committed at this
11 point?

12 A No.

13 Q Did you suspect a crime was committed at this
14 point?

15 A No.

16 Q So would you say this was out of an abundance of
17 caution?

18 A Correct.

19 Q But the car was locked and had to be unlocked by
20 Mr. Elvis?

21 A Yes.

22 Q When he opened the car, was anyone in the car?

23 A No.

24 Q Tell me about the inside of the car, what did the
25 inside of the car look like?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A It was a mess. There was stuff everywhere inside
2 the car.

3 Q When you say "a mess," be specific. What was in
4 the car, as specific as you can be?

5 A It was filled with belongings, apparently, of
6 Heather, being it was her car.

7 Q When you say "filled," could you get in the car?

8 A Yes.

9 Q The driver's seat?

10 A Correct.

11 Q Could you sit in any other seat in the car?

12 A There was stuff in the passenger seat, and the
13 backseat was full.

14 Q So you would have to empty out the car to get in?

15 A Right.

16 Q In any other seat, other than the driver's side
17 seat?

18 A Correct.

19 Q So there wasn't a lot of room in the car?

20 A No.

21 Q Would you say you followed normal operating
22 procedure as you looked in the car?

23 A Yes, sir.

24 Q About how long did you spend at the landing --
25 let's go back to the first time. The first time before

CASEY CANTERBURY - DIRECT EXAMINATION

1 you went to Mr. Elvis' house to pick him up, how long
2 were you there?

3 A I don't recall the actual time period.

4 Q How long when you returned with Mr. Elvis did you
5 spend at the landing?

6 A It was obviously a longer time than it was
7 before.

8 Q Inspecting the car?

9 A Right.

10 Q Fair enough. When you got back to the car with
11 Mr. Elvis, did you hear anything at the landing?

12 A No, sir.

13 Q See anything suspicious?

14 A No, sir.

15 Q Was the landing any different when you returned
16 with Mr. Elvis than the first time you were there?

17 A No, sir.

18 Q Did you see any foul play as you were inspecting
19 the car?

20 A No, sir.

21 Q Inside the car, did you see any signs of a
22 struggle?

23 A No, sir.

24 Q Did you find any elicited substances?

25 A No, sir.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Any weapons?

2 A No, sir.

3 Q So after you and Mr. Elvis inspected the car and
4 made a determination that there was no foul play and no
5 signs of a struggle, what did you do?

6 A We allowed -- I allowed Mr. Elvis to take the car
7 back to his house.

8 Q Why did you do that?

9 A Because it was his car and not stolen.

10 Q So you didn't at that time have the authority to
11 impound the car?

12 A No. There was no reason to at that point.

13 Q Did you respond to Mr. Elvis' house with him?

14 A I did.

15 Q But you didn't see any reason to take the car to
16 the police department?

17 A No.

18 Q When you got back to Mr. Elvis' house, what
19 happened?

20 A After he was back in the car, correct?

21 Q I'm sorry?

22 A After he was already back?

23 Q Yeah, after you get back to Mr. Elvis' house --
24 was he able to provide you with any more information?

25 A Yes, sir, he did. He pulled up the phone records

CASEY CANTERBURY - DIRECT EXAMINATION

1 for Heather's phone.

2 Q Did he appear to be concerned about Heather's
3 whereabouts?

4 A Yes, sir.

5 Q So he was able to provide you with phone records?

6 A Correct.

7 Q And he did provide you with those phone records?

8 A Correct.

9 Q Did you inspect those phone records?

10 A Not at that time, no.

11 Q What did you do next? Did you talk to anybody?

12 A I did. I talked to her roommate.

13 Q How did you reach out to her roommate?

14 A Called her on her cell phone.

15 Q How did you get her cell phone number; was it off
16 the phone records Mr. Elvis provided?

17 A I believe so.

18 Q Did you document the number that you called her
19 on?

20 A I did.

21 Q And if you don't mind, looking at your report if
22 you need to, can you tell this jury what number you
23 called to reach out to her roommate and what her name
24 was, please.

25 A Brianna Warrelmann and it is [REDACTED] 3938.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Okay. So after you talked to Brianna, did you do
2 anything else? Did you reach out to anyone else?

3 A I did.

4 Q Tell me who else you reached out to.

5 A Steve Schiraldi.

6 Q How did you get Steve Schiraldi's phone number?

7 A He had been on a date with Heather and got it
8 from Mr. Elvis, from the phone records.

9 Q From the phone records that Mr. Elvis provided?

10 A Yes.

11 Q Why did you choose to call those two numbers?
12 Why did you reach out to those two numbers?

13 A Brianna -- Bri was her roommate, and then Steve
14 Schiraldi had been with her the last time that
15 Mr. Elvis had talked to his daughter.

16 Q Were you able to actually make contact with Bri?

17 A I was.

18 Q Were you able to make contact with Steve
19 Schiraldi?

20 A I did.

21 Q Were you able to gather information in
22 furtherance of your investigation?

23 A I did.

24 Q Do me a favor, if you can, and look on your
25 report if you need to, and tell this jury what number

CASEY CANTERBURY - DIRECT EXAMINATION

1 you reached out to Mr. Schiraldi on?

2 A Mr. Schiraldi was [REDACTED] 6288.

3 Q I'll show you what is entered into evidence as
4 State's Exhibit 5 -- actually, if you don't mind, step
5 down here one more time. I know I have you up and
6 down, but it's necessary, sir.

7 You remember that number you just told me?

8 A Yes, sir.

9 Q I want you to look at State's 5 -- and, again,
10 this is already in evidence -- and I want you to find
11 that number. Every time you see it on this record,
12 6288, 6288 that number you just read to this jury, I
13 would like you to write Stephen's name beside it, if
14 you don't mind, sir.

15 A Each one?

16 Q Each one. Each individual one, please. Take
17 your time, we're not in any hurry.

18 A (Witness complies.)

19 Q I believe you got it, sir. Was what
20 Mr. Schiraldi told you consistent with what you see in
21 the phone records, his communication with Ms. Elvis?

22 A Yes, sir.

23 Q So did you find anything suspicious -- go ahead
24 and sit back down, I'm sorry.

25 So after reviewing the phone records in

CASEY CANTERBURY - DIRECT EXAMINATION

1 conjunction with what Mr. Schiraldi told you during
2 your investigation, did you find any more reason to
3 investigate Mr. Schiraldi?

4 A No, sir.

5 Q Was what Brianna Warrelmann told you consistent
6 with what you saw in the phone records that Mr. Elvis
7 gave you?

8 A Yes, sir.

9 Q What else did you do, sir? After you spoke to
10 Mr. Schiraldi and you spoke to Brianna Warrelmann, what
11 did you do?

12 A I spoke with my corporal, then it was Corporal
13 Danny Furr. I explained what I had. We talked about
14 where she worked, Tilted Kilt, which he had gone up
15 there while I was with Mr. Elvis.

16 Q And subsequent to that, did he instruct you to
17 follow up with anything?

18 A Yes, sir.

19 Q What did he instruct you to do?

20 A He asked me to respond over to Mr. Moorers' house
21 to speak with him.

22 Q Mr. Moorers, the defendant?

23 A Yes.

24 Q Did you respond to Mr. Moorers' house?

25 A I did.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q And about what time, if you can remember, was
2 that?

3 A I would say between 1:00 and 2:00 a.m. I entered
4 my supplemental at 3 o'clock that morning, so sometime
5 before that.

6 Q And you enter those supplements as quickly as you
7 can after an event occurs?

8 A As free time permits.

9 Q I understand. Were you able to make contact with
10 Mr. Moorer?

11 A Yes, sir.

12 Q Let me ask you this. Prior to going to
13 Mr. Moorer's house, did you make contact with him?

14 A I had not.

15 Q You just responded to his address?

16 A Correct.

17 Q Did you call them before you went over?

18 A I didn't. Danny Furr made contact with him.

19 Q And arrangements were made for you to meet the
20 defendant at his home?

21 A Correct.

22 Q Going back to State's 5 real quick. Did you
23 recognize any of the other numbers after
24 Mr. Schiraldi's? Did you recognize the 2462 number?

25 A No.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q How about this [REDACTED] 2462, you didn't recognize
2 that number?

3 A No.

4 Q [REDACTED] 3175?

5 A Yes, sir. I have that one in my report.

6 Q Tell me whose number that belongs to?

7 A Mr. Sidney Moorner.

8 Q So the last number on the record is -- on
9 Ms. Elvis' record belongs to Sidney Moorner?

10 A Yes, sir.

11 Q And you documented that in your report, that his
12 number is 3175?

13 A Yes, I did.

14 Q When you got to his house after 1:00 a.m., tell
15 me what occurred.

16 A He walked out from the house, out of the
17 driveway, out into the street where we were parked.

18 Q So he met you outside?

19 A Yes, sir.

20 Q You didn't go up to the house?

21 A No.

22 Q Did he come out with anyone else?

23 A No, he did not.

24 Q Were you in a squad car?

25 A I was.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Was anyone else with you?

2 A Two other officers.

3 Q Do you remember who that was?

4 A Brian Scales and Scott Calderwood.

5 Q Were you all suspecting him of a crime at that
6 point?

7 A No, sir.

8 Q Were you there to arrest him?

9 A No, sir.

10 Q Did you arrest him that night?

11 A Did not.

12 Q Did you talk to him?

13 A Yes, I did.

14 Q Was that conversation recorded?

15 A Yes, it was.

16 Q Have you listened to that recording since?

17 A I have.

18 Q I'm showing you now what was marked for
19 identification as State's 55. I want you to take a
20 look at that envelope and what's in that envelope and
21 tell me if you recognize what that is?

22 A Yes, sir.

23 Q Tell me what that is, Officer.

24 A It is a DVD of the video from myself with
25 Mr. Moorer.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Video, does that mean dash cam?

2 A Dash cam, yes.

3 Q That is from inside the squad car?

4 A It is.

5 Q And does that accurately reflect the interview
6 that you had with Mr. Moorner on that night?

7 A Yes, sir.

8 Q Has it been tampered with in any way?

9 A No, sir.

10 Q Let me ask you a question. Have you watched this
11 recently?

12 A Yes, sir.

13 MR. HELMS: Your Honor, at this time we seek to
14 admit and publish State's 55 into evidence.

15 THE COURT: Any objection?

16 MR. BOUCHETTE: No, Your Honor.

17 THE COURT: Without objection, State's 55 is
18 admitted.

19 (State's Exhibit 55 admitted.)

20 THE COURT: And you may publish it.

21 Q (MR. HELMS) Officer, while she's getting that
22 ready, you said he wasn't under arrest?

23 A No, sir, he was not.

24 Q Did he volunteer to speak with you?

25 A He did.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Okay. One more thing I want you to do. That
2 number that you documented for Mr. Moorner, would you
3 step down one more time before we watch this video and
4 -- well, let's get Ms. Miller to do it.

5 MR. HELMS: Ms. Miller, if you don't mind
6 stepping up here to keep the handwriting consistent.

7 Q Let's publish one more time what that number was
8 that you documented for Mr. Moorner.

9 A Number was [REDACTED] 3175.

10 (State's Exhibit 55 published to the jury.)

11 Q Why don't we hear anything right now?

12 A When you activate our dash cams, it immediately
13 goes back 30 seconds, and there is no audio at that
14 time.

15 Q Neat.

16 (State's Exhibit 55 published to the jury.)

17 Q That was the substance of your interview with
18 Mr. Moorner?

19 A Yes.

20 Q Did you have any more interaction with him that
21 night?

22 A He came back a few minutes later from the house.

23 Q And what was that like?

24 A He asked us to leave.

25 Q Did you leave?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A We did.

2 Q Was that statement given voluntarily?

3 A Yes, it was.

4 Q Was he placed under arrest?

5 A No.

6 Q Let's talk about that statement, because it is
7 kind of muffled, because your dash cams are notoriously
8 bad.

9 When he came out, did he have anything in his
10 possession?

11 A His cell phone.

12 Q He did have a cell phone?

13 A Yes.

14 Q Did he present that cell phone to you?

15 A He did.

16 Q Do you remember why? Did you ask for it?

17 A He was looking for it and voluntarily showed it
18 to me. He was showing that he hadn't texted the victim
19 since November 2nd.

20 Q Did he mention that he had spoke with the victim
21 that night?

22 A No. During the interview, he said he hadn't
23 spoken with her since October.

24 Q Was that consistent with the information you had
25 already garnered during your investigation?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A No.

2 Q So is that why you were kind of pressing him at
3 one point to give you more information?

4 A Yes, sir.

5 Q So you would say there was inconsistencies with
6 what Mr. Moorner gave you and what your investigation
7 already revealed?

8 A Yes, sir.

9 Q And that was pursuant with your conversations
10 with Bri and Stephen?

11 A Correct.

12 Q Do you remember if there was a vehicle at that
13 house?

14 A I don't recall looking at the vehicles.

15 Q I don't mean looking or inspecting them, but were
16 there any in the driveway?

17 A There were vehicles there, yes.

18 Q Was there a truck there?

19 A I don't recall what was there, I just know that
20 there were vehicles in the driveway.

21 Q Did Mr. Moorner ever report that his truck was
22 stolen that night or anything?

23 A Not that I recall, no.

24 Q Describe the area of the house, was it bright?

25 A Of Mr. Moorner's house?

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Yeah.

2 A No.

3 Q It was dark?

4 A Yeah.

5 Q Is it a main highway, or dead-end road?

6 A It's a dead-end road.

7 Q Is there a lot of traffic on that road?

8 A No.

9 Q What is across the street from Mr. Moorers
10 house?

11 A There is an electric substation.

12 Q Now, do you know if that electric substation --
13 who that belongs to?

14 A I believe it is Horry County Electric, but....

15 Q Do you know if it is equipped with video
16 surveillance?

17 A I do not know.

18 Q Do you know if it was equipped with video
19 surveillance back then?

20 A No, sir, I don't have a clue.

21 Q So is what Sidney told you consistent with what
22 Bri told you about her conversation with Heather?

23 A No.

24 Q Did Mr. Moorers tell you anybody else was home?

25 A His kids were in the house.

CASEY CANTERBURY - DIRECT EXAMINATION

1 Q Did he say his wife was home?

2 A I believe she was, but I don't recall.

3 Q Did she come outside?

4 A No.

5 Q You were there in squad cars?

6 A Yes.

7 Q How many?

8 A There was three of us.

9 Q Three different squad cars?

10 A Yes.

11 Q And Mr. Moorer is the only one that came out of
12 the house?

13 A Yes.

14 Q Through the course of your investigation, were
15 you able to determine where Heather actually lived?

16 A Yes.

17 Q Could you tell the Court and jury where that was,
18 if you look at your report?

19 A Her address was 541 White River Drive, Apartment
20 16C.

21 Q If you wouldn't mind, for the last time, come
22 down off the stand. I'm going to show what has been
23 marked for identification as 56 and entered into
24 evidence State's 56 -- and, sir, you might need your
25 report for the rest of this, if you don't mind. We are

CASEY CANTERBURY - DIRECT EXAMINATION

1 going to go ahead and do all of these simultaneously so
2 you don't have to get up and down.

3 Read that address to the jury one more time, sir,
4 and try to indicate that on the map, if you don't
5 mind.

6 A The address was 541 White River Drive, Apartment
7 16C.

8 Q Is that address indicated on this map?

9 A Yes.

10 Q Can you point that out to the jury, please?

11 A (Witness indicates.)

12 Q Were you able to determine where the victim in
13 this case, Ms. Heather Elvis, worked?

14 A Yes.

15 Q And where was that?

16 A Tilted Kilt.

17 Q Do you know where that is?

18 A I believe in this area, Broadway at the Beach.

19 Q Broadway at the Beach, okay.

20 And, again, you located her car, where?

21 A Peachtree Landing.

22 Q Were you able to determine -- obviously you were
23 because you met him there -- where Mr. Moorer lived?

24 A Yes.

25 Q Will you point that out?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A Right here (indicates).

2 Q And did the locations you just indicated on this
3 map that has been entered into evidence accurately
4 reflect these locations?

5 A Yes, sir.

6 Q You can take your seat, sir.

7 After you interviewed Mr. Moorner and determined
8 inconsistencies were made, you wrote a report,
9 obviously?

10 A Yes, sir.

11 Q Did you do anything else in conjunction with this
12 investigation?

13 A No, sir, that was the end of it.

14 MR. HELMS: Court's indulgence, Your Honor.

15 THE COURT: Certainly.

16 (A brief pause in the proceedings.)

17 Q (MR. HELMS) How many cell phones did he come
18 outside with?

19 A One.

20 Q Did he indicate to you that he had any more than
21 one cell phone?

22 A No, sir.

23 Q Did Mr. Moorner ever tell you that night, during
24 the course of your interview, that he had reached out
25 to Ms. Elvis via payphone?

CASEY CANTERBURY - DIRECT EXAMINATION

1 A No, sir.

2 Q Did a payphone come up at all during the course
3 of your interview with him?

4 A No, sir.

5 Q You didn't bring it up?

6 A No, sir.

7 Q He didn't bring it up?

8 A No, sir.

9 Q Had you had any indication at that point in your
10 investigation that he called her from a payphone?

11 A No.

12 Q Let me ask you this question. Officer
13 Canterbury, had you known Mr. Moorer called Ms. Elvis
14 earlier that night from a payphone, would you have
15 addressed that with him?

16 A Yes.

17 Q Would that have changed the course of your
18 investigation?

19 A Yes, sir.

20 Q You would have acted differently?

21 A Uh-huh.

22 THE COURT: Is that a yes?

23 A Yes, sir. I'm sorry.

24 Q (MR. HELMS) Did he say anything about any other
25 phone he had called from that night?

CASEY CANTERBURY - CROSS-EXAMINATION

1 A No, sir.

2 Q When you left from your interview with
3 Mr. Moorer, did you have any indication from your
4 interview, your interaction with him, that he had
5 reached out to Heather Elvis that night, at all?

6 A No, sir, I didn't.

7 MR. HELMS: Please answer any questions that the
8 defense may have.

9 THE COURT: You may cross-examine.

10 MR. BOUCHETTE: Thank you, Judge.

11 CROSS-EXAMINATION

12 BY MR. BOUCHETTE:

13 Q Good morning.

14 A Good morning, sir.

15 Q You talked a little bit about your training. You
16 went to the Criminal Justice Academy, correct?

17 A Yes.

18 Q And we heard a little bit about that earlier, so
19 I won't rehash it in detail, but you learned about
20 preparing reports, right?

21 A Yes, sir.

22 Q And crime scenes?

23 A Correct.

24 Q Dealing with the public, things of that nature?

25 A Yes, sir.

CASEY CANTERBURY - CROSS-EXAMINATION

1 Q I want to go through -- when did you say you
2 received the call of the suspicious vehicle?

3 A According to my report, it says it occurred on
4 12/17/2013 -- excuse me, I'm sorry. That was the last
5 time that Mr. Elvis had spoken to her.

6 I entered my report on the 19th at 11:10 p.m.,
7 so just before that, a time period before that.

8 Q So shortly before 10:00 p.m. is when you
9 responded to the landing?

10 A Yes, sir, I believe so.

11 Q So it was dark outside?

12 A Yes, sir.

13 Q Whenever you ran the tag and it came back to
14 Terry Elvis, did you know Mr. Elvis prior to that?

15 A I met him, yes, sir.

16 Q On how many occasions have you and him spoken
17 before?

18 A My father and I used to have a shipping store,
19 and he shipped things. I know his brother as well.

20 Q So you know him relatively well?

21 A Yes, sir, I guess you could say that.

22 Q Okay. So he was not a stranger, in other words?

23 A No, he wasn't a stranger.

24 Q He was someone you knew?

25 A Yes.

CASEY CANTERBURY - CROSS-EXAMINATION

1 Q And did you have a phone number for Mr. Elvis or
2 did you have the ability to obtain a phone number from
3 Mr. Elvis?

4 A At that time I did not have his phone number, no.

5 Q So you then, without a phone number, you go to
6 Mr. Elvis' residence, which is the residence registered
7 to the license plate, correct?

8 A Yes, sir.

9 Q And as you were speaking to Mr. Elvis, or during
10 the course of this early investigation, was there any
11 significance between -- or any connection that you were
12 aware of regarding Heather Elvis and Peachtree Road or
13 Peachtree Boat Landing?

14 A I knew she grew up here in Horry County, but I
15 didn't know of any connection then.

16 Q Did you know if the family owned any property
17 close by that landing?

18 A No, sir, I didn't.

19 Q Have you learned of any of that since this time?

20 A No, sir.

21 Q Okay. Now, at that point, after you met with
22 Mr. Elvis, he rode back with you to the landing?

23 A Correct.

24 Q At that point, is that when he already had the
25 phone records?

CASEY CANTERBURY - CROSS-EXAMINATION

1 A I don't recall when he got them. I think it was
2 afterwards when I went back to the house.

3 Q Now, when you get back to the landing, is it safe
4 to say at this point it is -- at least in your
5 contemplation, that this could be a crime scene?

6 A All I was investigating was a missing person.

7 Q I understand, but you thought to put on gloves,
8 correct?

9 A Yes, sir.

10 Q You thought to have Mr. Elvis put on gloves?

11 A Yes.

12 Q And I believe that you also immediately asked
13 that the trunk be opened to be inspected, correct?

14 A We looked at the trunk as well.

15 Q Sure. Which would be standard in a procedure
16 like this?

17 A Yes.

18 Q So at least contemplated since we have a missing
19 girl that no one has spoken to for some period of time,
20 that this could be a crime scene?

21 A Well, at that time we had no idea if it was a
22 crime scene or not. We were looking for information
23 that might lead us to where she went to.

24 Q So it could be a possibility, but you hadn't made
25 a conclusion one way or another?

CASEY CANTERBURY - CROSS-EXAMINATION

1 A Correct.

2 Q Now, given that that was the case, and given it
3 was dark, did you -- before the car was released to
4 Mr. Elvis, did you take any efforts to document the
5 vicinity of the vehicle or the contents of the vehicle;
6 in other words, did you take any pictures of the scene
7 using your flashlight to show any items that may have
8 been in the vicinity of the vehicle where it was
9 parked?

10 A I don't recall whether we had pictures or not.

11 Q Did you take any pictures or document any of the
12 various items that was inside of the vehicle for future
13 use, if it was to be necessary?

14 A Give me a second to look at my report.

15 (A brief pause in the proceedings.)

16 A (Witness examines document.) I don't recall if I
17 took any pictures.

18 Q (MR. BOUCHETTE) The report doesn't indicate
19 such?

20 A Correct.

21 Q And given that -- had you done so, you probably
22 would have indicated that in your report, correct?

23 A Yes.

24 Q Now, during the course of the -- your
25 involvement, did the name Jeremy Flemming come to your

CASEY CANTERBURY - CROSS-EXAMINATION

1 attention?

2 (A brief pause in the proceedings.)

3 A (Witness examines document.) It did.

4 Q (MR. BOUCHETTE) In your investigation, did it
5 indicate that Ms. Elvis and Mr. Flemming had been in a
6 romantic relationship?

7 A Yes.

8 Q And had been in that romantic relationship up
9 until recently, correct?

10 A I believe so, yes.

11 Q And did your investigation indicate that the
12 relationship between Mr. Flemming and Ms. Elvis had at
13 least some allegations of abuse involved?

14 A It was brought up, yes, sir.

15 Q Now -- just a moment.

16 (A brief pause in the proceedings.)

17 Q (MR. BOUCHETTE) Now, I understand that Officer
18 Furr indicated you to go to Mr. Moorers's residence; is
19 that correct?

20 A Yes.

21 Q But you went and -- in the course of that time,
22 two other officers came with you, Mr. Scales and
23 Mr. Calderwood, correct?

24 A Yes.

25 Q And they were not part of your precinct, correct?

CASEY CANTERBURY - CROSS-EXAMINATION

1 A Correct.

2 Q So all three of you arrive at the Moorers'
3 residence after 10 o'clock?

4 A Yes.

5 Q Very late, right?

6 A Right.

7 Q Now, at this point, even though you've arrived at
8 the Moorers' residence at the instruction of Mr. Furr,
9 were you aware of Mr. Schiraldi at that point?

10 A Give me one second. I'm sorry, sir.

11 Q Take your time.

12 (A brief pause in the proceedings.)

13 A (Witness examines document.) Restate the
14 question. I'm sorry.

15 Q (MR. BOUCHETTE) Did you become aware of an
16 individual Stephen Schiraldi?

17 A Oh, yes, sir.

18 Q And did your investigation indicate that she was
19 on a date with Mr. Schiraldi the night before?

20 A Yes, sir.

21 Q After concluding your conversation with
22 Mr. Moorer, did you go and seek to interview
23 Mr. Schiraldi that same night?

24 A I did not.

25 Q Let me ask you this. You were aware that he had

CASEY CANTERBURY - CROSS-EXAMINATION

1 been on a date with her the night before, correct?

2 A Correct.

3 Q So, to your knowledge, at this point in the
4 investigation, this was the last individual that you
5 knew to have actually seen her in person, correct?

6 A At that time, I believe so, yes.

7 Q And you did not initiate or no one, at least at
8 this point in time, initiated or attempted to go to the
9 Schiraldi home to speak with him or just gather any
10 information he may have known regarding the previous
11 evening; is that safe to say?

12 A Yes, sir.

13 Q Let me ask this. After hearing what you heard
14 regarding Mr. Flemming, did you at that point initiate
15 or make any attempts to try to direct officers to
16 Mr. Flemming and try to get any information he may have
17 regarding his timeline or knowledge regarding
18 Ms. Elvis?

19 A At the time of my report, I didn't have a
20 positive identity of him or how to get in touch with
21 him.

22 Q Okay. Did you undertake any efforts to try to
23 find that information?

24 A I don't recall being able to find any
25 information.

CASEY CANTERBURY - CROSS-EXAMINATION

1 Q Do you recall seeking it or using any of the
2 resources that the Horry County Police Department has
3 to see if you can find a phone number?

4 A I don't recall.

5 Q It is not indicated in your report?

6 A No. I indicated in my report that I was unable
7 to positively identify him.

8 Q When you showed up at the Moorers residence, you
9 were -- you already had phone records, correct?

10 A Correct.

11 Q And we heard on the video -- you know, you are
12 asking -- you know, you are talking to him and
13 saying -- I think at one point I noted, You are
14 hindering the investigation, were your comments to him;
15 do you remember that?

16 A I don't believe that was my comment; it was
17 another officer.

18 Q You or one of the other officers. You heard one
19 of the officers mentioning that?

20 A I heard him mentioning that if you know where she
21 is, you need to tell us and not hinder the
22 investigation.

23 Q That wasn't you speaking; that was one of the
24 other officers?

25 A No, I believe that was another officer.

CASEY CANTERBURY - CROSS-EXAMINATION

1 Q Now, you are asking, at this point, very detailed
2 questions about any communication he may have had going
3 back to the time when they were in a relationship,
4 correct?

5 A Correct.

6 Q There was also a quote, and I'm a little
7 confused, someone tells him -- or I think Sidney asks
8 as long as he doesn't show up, and someone affirms and
9 says he's not going to come by; do you have any idea
10 who they are referring to when they say "he's not going
11 to come by"?

12 A Mr. Elvis.

13 Q Mr. Elvis.

14 In fact, Mr. Elvis already called after he had
15 left your vehicle, he already contacted Mr. Moorner
16 directly, correct?

17 A Correct.

18 Q And was that -- if you know -- was that kind of a
19 confrontational conversation?

20 A According to what Mr. Moorner said, yes.

21 Q At least he took it that way, in other words?

22 A Correct.

23 Q So at that point were you aware of him calling
24 911 after that phone call?

25 A Mr. Moorner calling 911?

CASEY CANTERBURY - REDIRECT EXAMINATION

1 Q Right.

2 A I was advised there was a 911 call, yes.

3 Q Would that explain the reason why he was waiting
4 outside whenever you are approaching?

5 A I can't explain why he was already outside.

6 Q That is not inconsistent with someone that
7 filed -- that just called 911 and expecting police
8 officers, right?

9 A No. People do come outside.

10 Q Right. Sure. I understand. Okay.

11 MR. BOUCHETTE: Court's indulgence.

12 THE COURT: Certainly.

13 (A brief pause in the proceedings.)

14 MR. BOUCHETTE: No further questions.

15 THE COURT: Redirect.

16 MR. HELMS: Yes, sir.

17 REDIRECT-EXAMINATION

18 BY MR. HELMS:

19 Q Mr. Bouchette, he said something about hindering
20 the investigation; do you remember that?

21 A Yes, sir.

22 Q Was that brought up because the information he
23 was giving was inconsistent with the information you
24 already had?

25 A Yes, sir.

CASEY CANTERBURY - REDIRECT EXAMINATION

1 Q He also brought up your interactions with
2 Mr. Elvis; was he cooperative with you?

3 A Yes, sir.

4 Q He gave you the phone records, you testified?

5 A Correct.

6 Q Did you ask for those phone records?

7 A No, he provided them.

8 Q Was it your impression that he was trying to
9 assist you in finding his daughter?

10 A Yes, sir.

11 Q And, finally, he asked you about someone named
12 Jeremy Flemming; do you know what his phone number
13 is?

14 A I did not have a phone number for him.

15 Q I'll show you one more time State's Exhibit 5 --
16 actually, if you will, come here one more time, please,
17 so I can make sure everyone sees this. You identified
18 a lot of numbers. You identified a lot of numbers
19 during the course of your investigation; one was
20 Heather Elvis', correct? You also identified -- you
21 identified 3175 as Mr. Moorers, Sidney Moorers?

22 A Correct.

23 MR. BOUCHETTE: Objection to the leading.

24 MR. HELMS: I apologize. I'll rephrase.

25 Q (MR. HELMS) Did you identify Sidney Moorers

CASEY CANTERBURY - REDIRECT EXAMINATION

1 phone number?

2 A I did.

3 Q Did you identify it as 3175?

4 A Yes, sir.

5 Q Did you identify Heather Elvis' number as 8152?

6 A Yes, sir.

7 Q Were you able to identify Stephen Schiraldi's

8 number?

9 A Yes, sir.

10 Q What were the last four digits of his number?

11 A 6288.

12 Q Were you able to identify Bri Warrelmann's

13 number?

14 A Yes, sir.

15 Q Tell me the last four digits of her number.

16 A 3938.

17 Q Now, on State's Exhibit 5, what are the last two
18 numbers Ms. Elvis had contact with? I believe they are
19 down here.

20 A It was a 3175 number.

21 Q We identified that as belonging to who?

22 A Mr. Moorer.

23 Q Tell me about the number prior to that. Read
24 that number out to the jury.

25 A [REDACTED] 2462.

CASEY CANTERBURY - REDIRECT EXAMINATION

1 Q Were you able to identify that number?

2 A No, sir, I was not.

3 Q Please have a seat.

4 MR. HELMS: Ms. Miller, if you will step up here
5 one more time, ma'am. I apologize, but if I write it,
6 everyone will regret it. If you will, write that as
7 Mr. Canterbury reads it out to you one more time.

8 Q State's Exhibit 5, second to last number she had
9 contact with, read that to Ms. Miller.

10 A [REDACTED] 2462.

11 Q That is the second to last number on her phone
12 records indicating that she had contact with him; am I
13 correct?

14 A Yes, sir.

15 Q And, again, were you able to identify who that
16 number belonged to?

17 A No, sir.

18 Q Looking back now, do you think that is a
19 significance to know who that belongs to?

20 A Yes, sir.

21 Q Would you have liked to know for purposes of your
22 investigation who that number belongs to?

23 A I would.

24 Q Let me ask you a question. Hypothetically
25 speaking --

CASEY CANTERBURY - REDIRECT EXAMINATION

1 MR. BOUCHETTE: Objection.

2 THE COURT: I don't know the question.

3 Q (MR. HELMS) He asked you about Jeremy Flemming;
4 say you found out that number did belong to Jeremy --

5 MR. BOUCHETTE: Objection.

6 THE COURT: No. You can't hypothetical because
7 he doesn't know that, so I'm sorry. State your
8 question without using hypothetical. What is your
9 question?

10 Q If that number belongs to Jeremy Flemming, would
11 you have interviewed him?

12 A Yes, sir.

13 MR. HELMS: Nothing further.

14 THE COURT: Recross.

15 MR. BOUCHETTE: Nothing further, Your Honor.

16 THE COURT: Thank you. Wish him to be excused?

17 MR. HELMS: Very much so.

18 THE COURT: You are free to leave, sir.

19 All right, ladies and gentlemen, at this point
20 let's take a recess and we'll let you go to the jury
21 room. Do not begin any deliberations. We'll be with
22 you in 10, 15 minutes.

23 (The jury exits at 10:58 a.m., and the
24 following is heard out of the presence of the jury.)

25 THE COURT: Anything from the State before

AMANDA NIGRO - DIRECT EXAMINATION

1 recessing?

2 MR. HELMS: No, sir, Your Honor.

3 THE COURT: Anything from the defendant?

4 MR. BOUCHETTE: No, Your Honor.

5 THE COURT: We'll be at ease for about 10, 15
6 minutes. Thank you.

7 (A recess was taken.)

8 THE COURT: State ready?

9 MR. HELMS: We are, Your Honor.

10 THE COURT: Defense ready?

11 MR. BROUCHETTE: We are, Your Honor.

12 THE COURT: And Mr. Moorer is present. Let's
13 bring in our jury, please.

14 (The jury enters at 11:13 a.m., and the
15 following is heard in the presence of the jury.)

16 THE COURT: We're ready to continue. Call your
17 next witness.

18 MR. HELMS: Thank you, Your Honor. At this time,
19 the State would call Ms. Amanda Nigro.

20 (AMANDA NIGRO, having been duly sworn,
21 testified as follows:)

22 THE WITNESS: Amanda Nigro, N-I-G-R-O.

23 (State's Exhibit 58 marked.)

24

25

AMANDA NIGRO - DIRECT EXAMINATION

1 DIRECT-EXAMINATION

2 BY MR. HELMS:

3 Q Hi, Ms. Nigro.

4 A Hi.

5 Q Where do you live?

6 A Washington state.

7 Q What do you do?

8 A I work for Frontier Communications.

9 Q Tell me what Frontier Communications is, ma'am.

10 A We supply telephone, Internet and video to homes
11 and businesses.

12 Q What is your title with Frontier Communications?

13 A Security supervisor.

14 Q How long have you worked there?

15 A 26 years.

16 Q As a security supervisor, what do your duties
17 entail?

18 A We provide records.

19 Q What kind of records?

20 A Telephone, Internet and cable.

21 Q For what purposes?

22 A Identifying locations or users.

23 Q So you were obviously employed in this capacity
24 back in 2013?

25 A Correct.

AMANDA NIGRO - DIRECT EXAMINATION

1 Q And back in 2013, did Frontier Communications
2 maintain payphones?

3 A Yes.

4 Q How about in Horry County, did you have any
5 payphones in Horry County?

6 A Yes.

7 Q And the payphones that you maintained in Horry
8 County, did you maintain records that were associated
9 with those payphones?

10 A Yes.

11 Q And what kind of records did you maintain?

12 A Location and call detail.

13 Q Okay. When you say "location," you can actually
14 give the address of a payphone?

15 A Correct.

16 Q How about the phone number associated with that
17 payphone?

18 A Yes.

19 Q So, basically, and I know I'm being rudimentary
20 here, but the records identify the location of the
21 payphone and telephone number associated with it?

22 A Yes.

23 Q Are those records maintained by Frontier?

24 A Yes.

25 Q Are these something you would regularly have

AMANDA NIGRO - DIRECT EXAMINATION

1 access to?

2 A Yes.

3 Q Were you asked to provide any records to us?

4 A Yes.

5 Q And did you?

6 A Yes.

7 Q I'm showing you now -- well, I will.

8 (A brief pause in the proceedings.)

9 Q (MR. HELMS) -- what was marked for
10 identification only as State's No. 58. Take a look at
11 that, Ms. Nigro, and tell me if you recognize that
12 document?

13 A Yes, I do.

14 Q And tell me what that document is.

15 A It provides a telephone number and physical
16 location for that telephone number.

17 Q And that telephone number is for what?

18 A Payphone.

19 Q A payphone. Is that a Frontier document?

20 A Yes.

21 Q Is that on Frontier letterhead?

22 A Yes.

23 Q Is that a Frontier payphone?

24 A Yes.

25 Q What county is that payphone located in?

AMANDA NIGRO - DIRECT EXAMINATION

1 A It would have been in Horry County.

2 Q Do you have a specific physical address
3 associated with that payphone?

4 A Yes.

5 Q As well as the number?

6 A Yes.

7 Q And this is a record you provided to us?

8 A Yes.

9 Q Has it been altered in any way?

10 A Not at all.

11 MR. HELMS: Your Honor, at this time I would seek
12 to enter State's 58 into evidence.

13 THE COURT: Any objection?

14 MR. GALMORE: No objection.

15 THE COURT: Without objection, State's 58 is
16 admitted.

17 (State's Exhibit 58 was admitted.)

18 MR. HELMS: Thank you, Your Honor.

19 Q (MR. HELMS) Actually, Ms. Nigro, I'll ask you to
20 hold onto that for me.

21 Okay. So, basically, that is a Horry County
22 payphone?

23 A Yes.

24 Q Was that a payphone that was present in 2013?

25 A Yes.

AMANDA NIGRO - DIRECT EXAMINATION

1 Q What section of Horry County; do you know?

2 A Myrtle Beach.

3 Q Can you tell this jury the address associated
4 with that payphone?

5 A Yes. It was located at [REDACTED] Mr. Joe White Avenue
6 in Myrtle Beach.

7 Q [REDACTED] Mr. Joe White Avenue in Myrtle Beach?

8 MR. HELMS: Ms. Miller, if you will come up here.

9 Q (MR. HELMS) Will you tell us the number
10 associated with that payphone on Mr. Joe White Avenue
11 in Myrtle Beach?

12 A [REDACTED] 2462.

13 Q That is a Frontier payphone that was present in
14 2013?

15 A Correct.

16 MR. HELMS: Please write "payphone" beside that,
17 if you don't mind.

18 (Ms. Miller complies.)

19 Q (MR. HELMS) Ma'am, I'll ask you to do one thing
20 for me, and I'll only ask you to get up one time, but
21 I'm going to show you what is entered into evidence as
22 State's Exhibit No. 5. I'm going to ask you to come
23 down here for me, if you don't mind, and look on
24 State's Exhibit No. 5 and tell me if you can find that
25 444 -- if you will stand right there for me, ma'am --

AMANDA NIGRO - DIRECT EXAMINATION

1 tell me if on this record you can find that [REDACTED] 2462
2 number?

3 A Yes.

4 Q If you will, take this magic marker. Every time
5 you see that number, write "PP" for "payphone," please.

6 A Where would you like it?

7 Q Just write it out beside every time you see that
8 number, please, just "P" and "P."

9 A (Witness complied.)

10 Q Do me a favor, Ms. Nigro, count how many times
11 you had to write that for me, please.

12 A Ten.

13 Q And there is one more right there.

14 A Oh, there is two more.

15 Q Two more, that's right. So how many times is
16 that?

17 A 12.

18 Q So 12 times that number is on this record.

19 You can have a seat. Thank you so much, ma'am.

20 So what does that tell you? That tells you 12
21 times that number reached out to this number, or
22 vice-versa?

23 A Correct.

24 Q Tell me the date, if you can, by looking at the
25 exhibit we just entered into evidence through you,

AMANDA NIGRO - DIRECT EXAMINATION

1 ma'am. Tell me what time that phone number reached
2 out -- the 444 number reached out to [REDACTED] 8152. If you
3 could look on that document and tell me what time that
4 phone dialed [REDACTED]-8152?

5 A [REDACTED] 8152?

6 Q Yes, ma'am.

7 A 1:33 a.m. on December 18, 2013.

8 Q So that called 8152 at 1:33 a.m.?

9 A Correct.

10 Q How long was that conversation from that payphone
11 to 8152?

12 A Four minutes and 50 seconds.

13 Q That is in the records just entered into
14 evidence?

15 A Yes.

16 Q Let me ask you this, Ms. Nigro. When a person
17 makes a call from a Frontier payphone, can you identify
18 who made that call by phone call?

19 A No.

20 Q Can you identify who made that call from the
21 subscriber records?

22 A No.

23 Q From the call records that you just read from?

24 A No.

25 Q It doesn't -- the payphone didn't take a picture

AMANDA NIGRO - DIRECT EXAMINATION

1 of the person calling?

2 A No.

3 Q They don't have to enter a special code, Social
4 Security number?

5 A No.

6 Q So it could have been a -- that phone call could
7 have been made by a person named Jerry?

8 A Correct.

9 Q Jim?

10 A Yes.

11 Q Jeremy?

12 A Yes.

13 Q Anybody?

14 A Anybody.

15 Q Could have been a female?

16 A Correct.

17 Q You don't know who made that call?

18 A No.

19 Q But we know it couldn't have been Mr. Moorer
20 because he already told law enforcement that he didn't
21 reach out to Heather Elvis that night; but you don't
22 know?

23 MR. BOUCHETTE: Objection.

24 THE COURT: Sustained. Refrain from making an
25 argument, please.

AMANDA NIGRO - CROSS-EXAMINATION

1 MR. HELMS: Yes, Your Honor.

2 Nothing further, Your Honor.

3 THE COURT: Cross-examination, Mr. Galmore.

4 CROSS-EXAMINATION

5 BY MR. GALMORE:

6 Q Ms. Nigro, very briefly. Frontier Communications
7 does not record telephone conversations from payphones?

8 A No, we do not.

9 Q No. So under any set of circumstances there is
10 no way for you or anybody at Frontier Communications to
11 tell us the gist of a conversation?

12 A No.

13 Q All right. Now, the Frontier payphones, do they
14 receive texts?

15 A No.

16 Q Do those payphones send texts?

17 A No.

18 Q Do your records record any texts that would have
19 been received by a payphone?

20 A No.

21 Q Would it be fair to say it is not possible to
22 send a text to a payphone?

23 A Correct. Yes.

24 Q Now, the records that you have are calls into the
25 payphone and calls -- out-going calls from the

AMANDA NIGRO - CROSS-EXAMINATION

1 payphone, correct?

2 A Yes.

3 Q Now, you used the phrase "location" and "call
4 detail," we need to clarify that just a little bit.
5 When you are talking about "location," you are
6 referring to the location of the payphone itself; is
7 that correct?

8 A The physical location of the payphone.

9 Q Right. Now, when you talk about "call detail,"
10 you are talking about incoming phone calls and outgoing
11 phone calls?

12 A Yes.

13 Q And Frontier does not cover any text
14 communication, incoming or outgoing?

15 A We do not, no.

16 Q Does Frontier record any type of Internet records
17 on their payphones?

18 A No.

19 Q So if someone was to make a Google search,
20 Frontier would have no information regarding that?

21 A It wouldn't be possible, no.

22 Q If someone were to use Facebook or Snapchat,
23 Frontier would not have any information on that?

24 A No.

25 Q All right.

JONATHAN MARTIN - DIRECT EXAMINATION

1 MR. GALMORE: Thank you, ma'am. No further
2 questions.

3 THE COURT: Redirect.

4 MR. HELMS: Nothing, Your Honor.

5 THE COURT: Thank you. You may come down.

6 Do you wish the witness to be excused?

7 MR. HELMS: Yes, please, sir.

8 THE COURT: Any objection?

9 MR. GALMORE: No, sir.

10 MS. LIVESAY: At this time we call Jon Martin?

11 (JONATHAN MARTIN, having been duly sworn,
12 testified as follows:)

13 THE WITNESS: Jonathan Lee Martin, M-A-R-T-I-N.

14 DIRECT-EXAMINATION

15 BY MS. LIVESAY:

16 Q If you don't mind, tell this jury where you are
17 currently employed.

18 A I'm currently employed with Manheim Township
19 Police Department in Pennsylvania.

20 Q How long have you been employed there?

21 A About two months.

22 Q And have you ever been employed here in Horry
23 County?

24 A I was with the Horry County Police Department
25 from 2006 to two months ago.

JONATHAN MARTIN - DIRECT EXAMINATION

1 Q And what were your job responsibilities in 2013?

2 A 2013, I was what they call a violent crimes
3 detective. It's someone that investigates your more
4 aggressive assaults, sexual assaults, murders, anything
5 that sounds violent, we did investigate it.

6 Q And, basically, anything with a victim?

7 A Mostly victim crimes, yeah. Pretty much that
8 would be a good example.

9 Q How long had you been working in that position
10 before 2013?

11 A I started back there in, I believe, 2011, so I've
12 been back there about two years.

13 Q Tell this crowd a little bit about your
14 responsibilities and what you did as an investigator in
15 that department.

16 A One of my main things that I was involved in was
17 a lot of cell phone type of searches. I assisted a lot
18 of the other detectives with that. Cell phone mapping,
19 you know, put where the tower was and who could connect
20 with that tower, doing search warrants, interviews and
21 lots of paperwork.

22 Q And let me ask you this. Did you do -- I know it
23 is paperwork, but did you do search warrants to assist
24 in the case with Heather Elvis?

25 A I did.

JONATHAN MARTIN - DIRECT EXAMINATION

1 Q Did you do search warrants for phone records?

2 A I did.

3 Q And did you get the results back for Heather's
4 phone records?

5 A I did.

6 Q I'll show you those phone records, and you tell
7 me if you can identify them. This is State's Evidence
8 No. 3.

9 A Yes. These are the records for Heather Elvis?

10 Q And had you reviewed those records in the course
11 of your investigation?

12 A I did.

13 Q I'll show you State's Evidence 58; do you
14 recognize those phone records? And these are Heather's
15 records, correct?

16 A Those were Heather's, yes. That was probably
17 some of the pages. You know, there are thousands of
18 pages over time.

19 Q Okay. And how about those phone records?

20 A These records are from Frontier Communications.
21 This is what they sent me when I communicated with them
22 in reference to a phone number we found in Heather's
23 records.

24 Q And did those records corroborate that a payphone
25 had called her?

JONATHAN MARTIN - DIRECT EXAMINATION

1 A Yes.

2 Q Now, let me ask you something. You already
3 reviewed her records?

4 A Yes.

5 Q Had she ever communicated with that payphone
6 prior to the morning of December 18th?

7 A We never located it anywhere in her phone
8 history.

9 Q So that was the first time she had communicated
10 with that number?

11 A Yes.

12 Q And that it ever reached out to her?

13 A Yes.

14 Q Let me ask you something. You're familiar with
15 her phone records, correct?

16 A Yes, ma'am.

17 Q And through your assistance, part of it was
18 figuring out who these phone numbers belonged to,
19 correct?

20 A Yes.

21 Q The people she last talked to?

22 A Yes.

23 MR. BOUCHETTE: Objection to the leading.

24 THE COURT: Sustained.

25 Q (MS. LIVESAY) Let me ask you this. Were you

JONATHAN MARTIN - DIRECT EXAMINATION

1 able to identify the phone number that belongs to
2 [REDACTED] 3175?

3 A I was.

4 Q Who did that phone number belong to?

5 A Mr. Sidney Moorner.

6 Q And how did you know that?

7 A We actually had his phone number early in the
8 investigation, and then also he told us his phone
9 number during an interview.

10 Q And officers had actually talked to him before
11 you did, correct?

12 A Yes. I believe -- I think it was Corporal Hardee
13 at the time, or Sergeant Hardee, and Officer Casey
14 Canterbury.

15 Q And if you don't mind, can you write out "Sidney"
16 beside his phone number?

17 A Sure. (Witness complied.)

18 Q Looking at those phone records, were all of those
19 phone calls from Heather to Sidney?

20 A They were.

21 Q And what time did they start? I'm going to put
22 it down here, if you don't mind; that way, the jury can
23 see. Do you mind stepping down, that way you can see,
24 too?

25 THE COURT: You can step down, just keep your

JONATHAN MARTIN - DIRECT EXAMINATION

1 voice elevated, please.

2 THE WITNESS: I will.

3 Q (MS. LIVESAY) Are all of those calls the morning
4 of December 18th, are they from Heather to Sidney's
5 phone?

6 A These calls here starting at 3:16 in the morning
7 were from Heather's phone, outgoing to Sidney's phone.

8 Q Do you know how long that phone call lasted?

9 A First one, 3:16, was for .13 minutes, so just a
10 fraction of a couple of seconds. Probably an attempt
11 to reach somebody that really didn't say anything.

12 Q How about the next phone call?

13 A The next one was for four-and-almost-a-quarter
14 minutes.

15 Q And the next?

16 A Next one was three-hundredths of a minute, so
17 seconds.

18 Q And how about the last three?

19 A Last three are the exact same, three-hundredths
20 of a minute, so maybe a second or two. Probably an
21 attempt, but not actual communication.

22 Q Are you familiar with her records for the month
23 of December?

24 A I am.

25 Q Now, prior to these phone calls, did Heather

JONATHAN MARTIN - DIRECT EXAMINATION

1 Elvis call Sidney Moorner?

2 A There were no outgoing calls or incoming calls to
3 Sidney Moorner during that time.

4 Q So she never called him during the month of
5 December until these phone calls?

6 A No.

7 Q Let me ask you something. Earlier in the night
8 you reviewed the phone records; this is just a summary
9 of the early morning hours, is that correct, of
10 December 18th?

11 A Yes.

12 Q Do you see in those early morning hours, did
13 Sidney Moorner's phone call Heather?

14 A No. No incoming calls from Sidney Moorner's
15 phone.

16 Q So it looks like he never reached out to her?

17 A Yes.

18 Q Let me ask you something. This call -- and you
19 know -- do you know this phone number?

20 A Yes.

21 Q How do you know that phone number?

22 A The Frontier Communications phone number that you
23 provided me a minute ago, that was -- that is that
24 number there, the [REDACTED] 2462.

25 Q Did those records indicate that that was a

JONATHAN MARTIN - DIRECT EXAMINATION

1 payphone?

2 A They did.

3 Q And was that the first call she received the
4 early morning hours of December 18th?

5 A Yes.

6 Q And that was one of the last phone numbers she
7 was reaching out to?

8 A Yes. Down here there is a .12, .13, .17, all
9 fractions of a minute, seconds; attempts, but no actual
10 communication.

11 Q And from her phone records, can you tell what the
12 two last -- sorry, not last -- longest conversations
13 were the morning of December 18th?

14 A The longest would have been this almost
15 five-minute phone call, and then the four-and-a-quarter
16 phone call to Mr. Moorner.

17 Q And so the last -- the longest calls were the
18 payphone and Sidney Moorner?

19 A Yeah. Total, together, almost nine minutes.

20 Q Okay. Now, let me ask you this. Did you --
21 during the course of your investigation, did you talk
22 with the defendant?

23 A We did.

24 Q And when you talked with him, did he -- where was
25 this conversation?

JONATHAN MARTIN - DIRECT EXAMINATION

1 A That occurred at the Horry County Police
2 Department in Conway.

3 Q And did he show up on his own, voluntarily?

4 A He did.

5 Q After the conversation was over, did he leave the
6 police department?

7 A He did.

8 Q And during your all's conversation, was he ever
9 detained in any form or fashion?

10 A No.

11 Q Was he ever denied anything that he asked for,
12 going to the bathroom, drink of water, anything?

13 A No. Actually, during -- near the end of the
14 interview, he asked -- he had asked for a water that we
15 had offered to him earlier. He said, I think I'll get
16 that water now.

17 Q When you spoke with him, were his answers
18 responsive to your questions?

19 A They were.

20 Q Did he ever tell you he didn't want to talk to
21 you?

22 A No.

23 Q Did he ever give you any inclination that he was
24 uncomfortable?

25 A No.

JONATHAN MARTIN - DIRECT EXAMINATION

1 Q So the conversation kind of flowed naturally?

2 A Yes.

3 Q And about how long did you talk with him?

4 A Maybe under an hour.

5 Q And I'll show you something real quick. This is
6 State's -- actually, give me one more minute because I
7 think I have another question.

8 I'm showing you now State's Exhibit 1. If you
9 don't mind, look at it and tell this jury what it is.

10 A This is a DVDR of the interview we did with
11 Mr. Moorer. I signed and dated it for August 20th,
12 2019. I listened to it a couple of weeks ago.

13 Q Is it accurate?

14 A It is.

15 Q And that is a recording of your conversation with
16 him on that day?

17 A Yes.

18 Q If you don't mind, tell this jury that date; when
19 did you talk with him?

20 A It was the 20th of December, so it was a couple
21 days after the 18th here, was her last phone call, so
22 about two days after that.

23 MS. LIVESAY: At this time, Your Honor, the State
24 wishes to put in evidence State's 1 and publish it at
25 the appropriate time.

JONATHAN MARTIN - DIRECT EXAMINATION

1 THE COURT: Any objection other than that which
2 was already argued?

3 MR. GALMORE: Subject to our previous objection.

4 THE COURT: Subject to the objection previously
5 on the record in this case, I'll admit it, and you may
6 publish it. It is State's, what? What's the number?

7 MS. LIVESAY: 1.

8 THE COURT: State's 1, thank you.

9 (State's Exhibit 1 admitted.)

10 Q (MS. LIVESAY) Tonya is going to be setting this
11 up. This is just audio; is that right, Mr. Martin,
12 it's just audio?

13 A It's just audio.

14 Q While she's setting that up, I'll ask you a
15 couple more questions about the interview. During the
16 course of talking with him, did you ever find out any
17 information about this payphone?

18 A We did.

19 Q And what did you find out?

20 A Initially, we asked him if he had made a payphone
21 call to her, and he told us that he had not. Actually
22 made the joke that, There was still payphones out
23 there? Then, after a couple more questions during the
24 interview, he did admit that he made a payphone call
25 and he had been untruthful about that fact.

JONATHAN MARTIN - DIRECT EXAMINATION

1 Q So he admitted that he made this payphone call?

2 A He did.

3 Q Okay. Now, let me ask you a question -- but
4 originally he said, no, I didn't make it?

5 A Yes.

6 Q Did you all ever have a video?

7 A We did. We didn't have the video at that moment.
8 The detective went to the payphone -- I believe it was
9 on Tenth Ave -- and actually looked at the video. It
10 was kind of a grainy video from the outside. It was
11 dark that night. They could tell it looked like a man
12 ran to the payphone from off screen and made a phone
13 call, and then left. So we believed it was a man that
14 made the payphone call, but we didn't have proof -- it
15 wasn't like one of those great camera shots where you
16 can tell directly it is him.

17 Q Let me ask you this -- and we'll listen to the
18 audio, I figured we would talk a little bit while she's
19 setting it up. So at that time, when you were talking
20 to him, you did know there was a video that showed
21 someone on the payphone?

22 A We did.

23 Q And it was the payphone that belonged to this
24 phone number?

25 A It was.

JONATHAN MARTIN - DIRECT EXAMINATION

1 Q Did the defendant know you had that video?

2 A Not immediately. I told him that -- after he
3 said that he didn't make the phone call, I told him we
4 had a video and, you know, he matched somewhat of the
5 descriptors, the size, build, hair length, but nothing
6 in more detail.

7 Q So after you told him you had the video, then
8 what happened?

9 A That's when he admitted, okay, I did make a phone
10 call.

11 Q Prior to that, he never admitted to making the
12 phone call?

13 A He denied any contact with Heather prior to her
14 reaching out to him at the end of the day, and that is
15 what he told the officers before, I believe.

16 Q Let me ask you this. Before we get it geared up,
17 did he tell you why he made the payphone call?

18 A Yes. After he admitted that I reached out to
19 her, it was so that she would stop reaching out to him,
20 trying to get -- like leaving notes, he said she was
21 leaving notes on his car.

22 Q Let me ask you this. He tells you, Look, I
23 called to tell her leave me alone. Do the phone
24 records, something tangible that we can look at black
25 and white, did they show that she ever reached out to

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1 him in December?

2 A We have no contact, no.

3 Q Let me ask you this. He said she's leaving notes
4 on his truck. At the time of the interview, did you
5 know that was a new truck he had bought?

6 A No.

7 Q So you thought that was the same truck he had
8 when he was seeing Heather?

9 A That is the vehicle we had. We didn't have a
10 date for it.

11 Q Not at that time?

12 A Not at that time.

13 Q Later on, do you get a date on it?

14 A We did.

15 Q But at the time you are talking with him, you
16 don't know that that truck is a new truck?

17 A No.

18 Q But you do know just from this --

19 MR. BOUCHETTE: Objection, leading.

20 THE COURT: It's not your witness.

21 MR. BOUCHETTE: I understand.

22 Q (MS. LIVESAY) In the course of your
23 conversation, does he lay out where he went that
24 night?

25 A He did. It took him awhile. He kept having -- I

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1 can't really remember the order or where I went, which
2 was odd, because it was two days ago. We weren't
3 asking weeks, but it was two days ago, what did you do.
4 He identified that there was a trip to Walmart to get a
5 pregnancy test. There was a trip to Broadway at the
6 Beach. I think there was -- I have to listen to the --
7 there was a restaurant he worked at that night, and
8 then there was a trip out to Carolina Forest area where
9 he said that he and his wife met and had sexual
10 relations.

11 Q Why don't we do this. Let's publish the
12 interview, Mr. Martin, and I may have some questions
13 afterwards, that way we can all get on the same page.

14 A Okay.

15 (State's Exhibit 1 published to the jury.)

16 Q Was that the end of your conversation with the
17 defendant?

18 A Yes.

19 Q And at that time you left the room?

20 A Yes.

21 Q And you talked to him about 45 minutes?

22 A It was about 45 minutes, yes.

23 Q Now, I think -- if you don't mind, I'll ask a
24 couple of questions just for clarification, because I
25 think I am a little confused.

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1 My question to you is: He told you where he had
2 gone that night, correct?

3 A Yes. In a little roundabout way, yes.

4 Q And did he tell you he had gone to Broadway at
5 the Beach?

6 A He did.

7 Q Now, did you know where the victim, Heather
8 Elvis, worked?

9 A She worked for the Tilted Kilt, which I think --
10 it is not there anymore, but it was at Broadway at the
11 Beach at the time.

12 Q So that night he was where the victim was
13 working?

14 A Yes.

15 Q And a little bit after that -- or we don't really
16 -- didn't seem like the order is sequential.

17 A It was not.

18 Q So you never really got a sequential order of one
19 thing happening after the next?

20 A No.

21 Q Just kind of a general where he went that night?

22 A Yes.

23 Q But we know one was Broadway at the Beach, which
24 is where the victim worked?

25 A Yes.

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1 Q And he did eventually tell you -- and correct me
2 if I'm wrong --

3 MR. GALMORE: Objection, leading.

4 THE COURT: Sustained.

5 Q (MS. LIVESAY) Did he tell you he called her that
6 night?

7 A He did.

8 Q And did he tell you what phone he used?

9 A Yes, the payphone.

10 Q Was there any evidence she reached out to him
11 that night?

12 A There was nothing.

13 Q Okay. Okay. Was there any evidence that she
14 reached out earlier in December?

15 A There was nothing, no. I thought it was odd
16 during the interview that there was no contact, no
17 contact, no contact, and then there was the phone call,
18 and now she's stalking him. Like, he didn't mention
19 any of those notes, any drive by the houses. It was
20 literally, No, haven't seen her, haven't talked to
21 her -- oh, yeah, I did call her and she's stalking me;
22 so it was kind of confusing.

23 Q Okay. Confusing because he was going by her
24 workplace that night?

25 A He went to Broadway at the Beach where she

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1 worked. It just didn't make sense.

2 Q Let me ask you this. Did he tell you whether or
3 not he had bought a pregnancy test?

4 A He did during that interview. He mentioned going
5 to Walmart to get a pregnancy test.

6 Q And did he tell you who he bought it for?

7 A He said it was for his wife.

8 Q And what is his wife's name?

9 A Tammy Moorner.

10 Q And did he mention whether or not his wife was
11 drinking during that time frame?

12 A He did. I mean, you are picking up a pregnancy
13 test and you're drinking to the point you are feeling
14 sick? So it was odd, also.

15 Q And even though it is not sequential, was it ever
16 clear to you if he called her from the payphone and
17 bought the pregnancy test all during the same time
18 frame?

19 A Yes -- well, we were able to confirm the time
20 with the Walmart. We eventually looked into that, and
21 then the time of the phone, we know what time that call
22 was made, because we have video and he admitted to
23 making that call.

24 Q Now, would you recognize that area of the
25 payphone?

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1 A Yes.

2 Q Okay. Could you -- you were a police officer
3 here for how long?

4 A Almost 13 years.

5 Q Okay.

6 (State's Exhibit 59 marked.)

7 Q I'm showing you what is marked as 59; do you
8 recognize what I'm showing you?

9 A Yes.

10 Q Don't show the jury yet.

11 A Sorry.

12 Q What am I showing you?

13 A An aerial view of Seaboard and Mr. Joe White
14 Avenue intersection.

15 Q And does it include where the payphone is?

16 A It does.

17 Q And does it include the area around it?

18 A It does.

19 Q Is it accurate as to that area in December of
20 2013?

21 A It is.

22 MS. LIVESAY: Your Honor, at this time the State
23 wishes to publish -- I'm sorry, put it into evidence
24 and then publish State's 60 (sic).

25 (State's Exhibit 59 admitted.)

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1 COURT REPORTER: 59.

2 MS. LIVESAY: 60 was the other one, sorry.

3 Q (MS. LIVESAY) Show this jury where the payphone
4 was located.

5 A Right there in front of the building Kangaroo Gas
6 Station.

7 Q Where did he tell you he came from?

8 A The way he described it, I think it was over in
9 this area, parked across the street.

10 Q And did he tell you he went across Seaboard
11 Street?

12 A He just said across the street. I don't know
13 that he said Seaboard, but, yes.

14 Q Let me ask you this. Is there another gas
15 station across the street from that particular gas
16 station?

17 A No. It's -- it used to be up here. I believe it
18 has been demolished. It used to be at the intersection
19 of Joe White and King's Highway, 17.

20 Q Do you know what time that payphone call was
21 made?

22 A I would have to look at the record. I don't know
23 exactly what time.

24 Q I'll show you now what is marked already in
25 evidence 58.

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1 A (Witness examines document.) 1:33.

2 Q So a.m.?

3 A A.m., yes.

4 Q Let me ask you something, and you may or may not
5 know. Do you know whether or not South Carolina Air
6 would have been opened at 1:30 a.m.?

7 A I believe all the businesses in that area are
8 closed. There is some strip clubs down this way that
9 are open that late, but nothing in that immediate area.
10 I think Socastee is closed that late.

11 Q So everything around across the street would have
12 been closed?

13 A Yes.

14 Q So he would have had to have parked at some
15 establishment that already closed down?

16 A Yes.

17 Q And then crossed the street to get to the
18 payphone?

19 A Yes.

20 Q Thank you, Mr. Martin. If you don't mind, have a
21 seat.

22 You told this jury earlier that you did a lot of
23 the search warrants coinciding with her phone records?

24 A I did.

25 Q Were you able -- see if I can -- were you able to

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1 determine every phone number she spoke with that night?

2 A I was.

3 Q And did you ever see where she spoke with a Jared
4 or Jeremy or Dennis Hart?

5 A No, there was no phone calls to them.

6 Q So all the phone numbers that went to the victim
7 are listed on this board here?

8 A They are. I think totaling -- three total
9 numbers. I have to look at it close, but I think there
10 is three different numbers she communicated with that
11 night.

12 Q Did you also get Tammy's number from him, his
13 wife?

14 A Yes. It is like the number right before his.

15 Q Were there any phone calls from her?

16 A There was no contact with Tammy, no.

17 Q And did he ever indicate to you whether or not
18 his wife had contacted the victim that night?

19 A He said to the best of his knowledge that she had
20 not.

21 Q So he was the only one that spoke to the victim
22 that night?

23 A Yes.

24 Q Did he indicate whether or not she was with him
25 all night?

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1 A The wife? He repeatedly said how they were
2 together all the time.

3 Q And who was the person that chained him to the
4 bed?

5 A It was Tammy.

6 Q And in that interview you asked the defendant
7 about whether or not he was planning on leaving his
8 wife; do you remember that?

9 A I do.

10 Q And was there ever any evidence in that long
11 conversation in your search warrants that indicated
12 that he had any intentions of leaving his wife?

13 A No. At one point he made -- when I was asking
14 him if he told Heather about leaving his wife, he kept
15 saying I'm not leaving my wife, I'm not leaving my wife
16 almost -- to me, it felt like deflecting the actual
17 question, like not saying I didn't say it, just I'm not
18 thinking about it.

19 Q But every indication to you was the two of them
20 were sticking together?

21 A Yes.

22 MS. LIVESAY: No further questions, Your Honor,
23 for this witness.

24 THE COURT: You may cross-examine, Mr. Galmore.

25 MR. HELMS: I'm sorry, I'm confused. The first

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1 objection on his direct examination was from
2 Mr. Bouchette, I just didn't know who was....

3 THE COURT: I told him -- he objected, I said it
4 is not his witness.

5 MR. HELMS: Okay. Yes, sir.

6 THE COURT: Mr. Gilmore (sic) responded to the
7 objection, so.

8 MR. HELMS: Yes, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. GALMORE:

11 Q Mr. Martin, let me ask you a few questions. I
12 understand you are currently a police officer in
13 Pennsylvania?

14 A Yes, sir.

15 Q And prior to that, you worked here in Horry
16 County for approximately 13 years?

17 A 12-and-a-half years about.

18 Q And I presume that you graduated from the
19 Criminal Justice Academy here?

20 A I did.

21 Q Do you remember when you graduated from the
22 academy?

23 A February '07. I started in October '06 and
24 graduated February of '07 from the academy.

25 Q And at the police academy, did they teach basic

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1 investigative techniques?

2 A Very basic. At that level, it is patrol level.
3 It is -- most of your stuff is more, you know, minor
4 like domestics, things like that. You do learn some
5 investigative techniques, yes, sir.

6 Q You learn how to lift fingerprints?

7 A I think they did, yeah.

8 Q You learned how to fill out police reports?

9 A That is pretty much what you do; a lot of
10 paperwork.

11 Q All right. In this case, can you tell us when
12 you were brought into this case?

13 A It was that morning of the 20th. I was -- I
14 think I just had gotten to work and I was notified that
15 there was a missing person's case that Detective Cauble
16 was going to be working on, and they asked me to help
17 him out with some of the phone record stuff and some of
18 the interviews.

19 Q Okay. So her car was found on the morning of the
20 18th, and you were brought in on the morning of the
21 20th?

22 A I believe the report and all of that was
23 documented on the 19th. I think the 18th there was
24 an officer noticed the car, and then the 19th it was
25 like something is wrong, so literally within probably

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1 ten hours of noticing something was off, we began
2 investigation, detectives began investigation.

3 Q So officers noticed a car -- I think it was
4 Officer Guskiewicz noticed a car on December 18th at
5 approximately 4:03 a.m.

6 A Yeah. I mean, there is lots of cars parked
7 everywhere, you know. We don't open up an
8 investigation just because we see a car. I think when
9 they saw it the second day is when it is like something
10 is weird with a car parked at a boat landing for two
11 days, I wonder if it is broken down or -- part of our
12 job is to make sure that boat landings are safe and
13 cleared out, and if it is a junked car or a problem
14 with it, we need to find out why and you need to get it
15 towed.

16 Q And I believe you told the jury that one of your
17 duties in this case was to collect cell phone records
18 and payphone records?

19 A Yes.

20 Q Did you process Ms. Elvis' vehicle at any time
21 during this case?

22 A I was not a crime scene investigator during this
23 time so, no, I didn't do any processing.

24 Q So you didn't take any fingerprints from her
25 vehicle?

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1 A I did not even -- I don't think I ever saw her
2 vehicle, personally.

3 Q Do you know if any other detectives took
4 fingerprints from her vehicle?

5 A I know there was like the crime scene -- head
6 over Crime Scene, Pete Cestare, had done processing. I
7 don't know exactly what things were processed, though.

8 Q Do you know if anybody attempted to collect any
9 DNA evidence out of her vehicle?

10 A I think I heard that they had. Again, I wasn't
11 there during the processing so, you know -- and, also,
12 I wasn't the lead case agent, so.

13 Q So that was not you?

14 A That was not me, no.

15 Q You can't tell the jury anything about it?

16 A About collecting DNA?

17 Q Yes.

18 A No, not on this case.

19 Q Not on this case. What about Ms. Elvis'
20 apartment, did you participate in a search or
21 processing of her apartment?

22 A No processing. It was more of, we'll say, a
23 cursory search to make sure, you know, that no one had
24 been to the house, and that was on the 20th also. We
25 went there to make sure that she wasn't, like, falling

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1 down in a bathtub or anything suspicious like a pool of
2 blood or something that made us -- so we did do a
3 search. It wasn't like a -- you know, taking evidence
4 at that time.

5 Q Okay. So you went by the house, and then you
6 started pulling phone records?

7 A I believe I started phone records earlier in the
8 day. Usually, when people go missing, everyone has
9 their cell phone on them all the time, so it is usually
10 the easiest way to find out where they are at, or find
11 out where they've been.

12 Q How many detectives were assigned to this case?

13 A Initially? I think it was a couple of us.
14 Three. There was multiple areas to just go look.

15 Q Which three are you aware of?

16 A I was involved. Detective Cauble, who was the
17 lead. Detective Allen Large talked to him briefly, I
18 think, when he came in. I think there was a Detective
19 Steven Hardee, went to the house and did a search, you
20 know, when we went to the house.

21 Q So that is four detectives?

22 A Yeah. I don't remember the exact number, though.

23 Q And you were not the lead detective?

24 A I was not.

25 Q That was who you said?

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1 A Detective Cauble, yes.

2 Q Okay. Were there officers from other agencies
3 involved in this case?

4 A I think eventually, yeah. Not immediately. But
5 after, you know, it became apparent it was suspicious
6 in nature, that is when we -- other agencies did help.

7 Q Could you tell us if agents from SLED were
8 assigned to this case?

9 A There were.

10 Q Do you know when they came onboard?

11 A I don't know the exact date. Maybe a week or
12 two.

13 Q Could you tell us if troopers from the Highway
14 Patrol MAIT team were assigned to this case?

15 A I believe to look at the vehicles, yes. I
16 think -- I'm not exactly sure on that, though.

17 Q All right. So what records specifically did you
18 collect via search warrant?

19 A Phone records, so it was Sidney, Tammy, Heather,
20 the Frontier Communications and any other people she
21 communicated with. I don't remember their names right
22 now. But the people that she was talking to -- I
23 believe there was a boy she had gone on a date with
24 earlier in the night; I can't remember his name.

25 Q Schiraldi?

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1 A That would be it, Schiraldi.

2 Q So you did a search warrant for his records,
3 also?

4 A For his records.

5 Q Now, the process of obtaining records --

6 A Uh-huh.

7 Q -- there are a couple of different ways you can
8 go about this, right?

9 A There is.

10 Q I understand you can send what's called a
11 preservation letter to a particular phone company; is
12 that right?

13 A You can.

14 Q What does that do? What does that entail?

15 A Preservation letter is just telling them, hey,
16 this number is of interest to us, we're going to get
17 you a search warrant, or maybe not, but can you just
18 make sure that all records are maintained on that
19 number. Phone record companies keep massive amounts of
20 data, so some companies within five days start purging
21 some of the non-important data. Like you'll be able to
22 go back a couple of years and find who you called, but
23 it might not have the information like where you were
24 at when you made the phone call or what Internet
25 connectivity you were doing, some of that, so you do a

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1 preservation on something like that.

2 Q Did you issue any preservation letters in this
3 case?

4 A I don't remember doing preservation. We just
5 did -- you know, with missing persons, there is an
6 exigency to it, so we are able to do exigent records
7 sometimes, and then we'll follow it up with search
8 warrants.

9 Q The exigent request is the same as a search
10 warrant, or different?

11 A It's different. It is just notifying them of the
12 exigency if we believe someone is in danger, can't
13 reach someone, it is out of the ordinary.

14 A normal search warrant could take a week, two
15 weeks. T-Mobile I think can take a month. That
16 doesn't help us when we get the records a month later
17 on the something like that; we need the records today,
18 so you can do an exigency on that and notify them that
19 there would be an immediate need for them and, like I
20 said, you follow up usually with a search warrant.

21 Q And when you do an exigent request, what
22 information do you receive from those telephone --

23 A It is usually limited to a very short time frame.
24 Like it's exigent, you don't need records months prior.
25 What will help you for this case? Usually a couple of

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1 days, rarely a week sometimes, depending.

2 Q So the records that you receive depends on what
3 you asked for?

4 A They do.

5 Q And you can ask for a small amount of records, or
6 you can ask for the whole thing?

7 A Yeah. Normally, we ask for everything because, I
8 mean, you want everything you can possibly get. Some
9 phone companies, like I say, keep massive amounts of
10 information, very detailed, and some keep bare bones,
11 like the phone numbers and maybe what tower you
12 connected to.

13 Q Okay. Let's go through some of these people.
14 You said you requested phone records for Stephen
15 Schiraldi?

16 A Yes.

17 Q What specifically did you request for
18 Mr. Schiraldi?

19 A We have to look at the search warrant, I'm sorry.
20 If you have a copy of it, I could look and tell you
21 what.

22 Q Did you request any Facebook records from
23 Mr. Schiraldi?

24 A I believe we did. At that time, Facebook was
25 still popular with the younger people, so we would do

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1 searches on Facebook.

2 Q What about any Snapchat records, did you request
3 those from Mr. Schiraldi?

4 A I don't remember Snapchat.

5 Q What about Instagram; did you request Instagram
6 records from Mr. Schiraldi?

7 A I don't believe so. Instagram is owned by
8 Facebook, I believe, so if we -- we would get notified
9 through Facebook that information also.

10 Q Would it be fair to say that people routinely
11 communicate through these different services?

12 A Facebook, yeah. I think Instagram really wasn't
13 that big back then. It was fairly new. This was six
14 years ago, so a lot of the technology was more texting
15 and Facebook. There was not all of these newer ones
16 like Kick messengers and things like that.

17 Q So if I wanted to get in communication with you,
18 I could call you, for example, right?

19 A You could.

20 Q Or I could send you a text?

21 A You could send me a text.

22 Q Or I could send you a Facebook if I have an
23 account and you have an account?

24 A Yeah, I think back then there was Messenger, yes.

25 Q And same with Snapchat and Instagram?

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1 A I don't know if Instagram has messages. I don't
2 have an Instagram account, but I think the Messenger
3 one you can.

4 Q Let's talk about the payphone. I understand that
5 the only records available for the payphone would be
6 call detail records, telephones only?

7 A Yeah, it doesn't help much to know tower
8 information because you know it's a stationary phone.

9 Q Right. And, likewise, a payphone doesn't have
10 any Google information or Facebook information?

11 A No. I think it is just a phone with a couple
12 buttons.

13 Q It is a limited amount of information?

14 A Yes. Yes.

15 Q Calls incoming and calls outgoing?

16 A Yeah. I don't know if you could even call into
17 it.

18 Q What about Ms. Tammy Moorer's phone, what
19 information did you request in the search warrant for
20 that?

21 A Same stuff: Call detail records, tower
22 information, I think Internet type connections. Pretty
23 much whatever -- I think it was a Sprint number,
24 whatever Sprint could provide, we asked for.

25 Q Okay. So Sprint can give you phone information,

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1 text information and Internet access information?

2 A Sometimes. Some companies have that stuff; some
3 don't. A lot of times they'll tell you when they did
4 Internet activity, but doesn't tell you where it was.
5 Like it used this many bytes up, or downloaded this
6 many bytes. It will tell you, but not really --
7 doesn't tell you what Website you went to.

8 Q So you could ask these telephone companies for
9 specific information for each number listed, correct?

10 A We usually ask about everything they have. They
11 change their technology sometimes and don't call law
12 enforcement and say, hey, we have this now. So you
13 pretty much do any and all records pertaining to this
14 phone number, and they'll give you what they deem to be
15 the most up-to-date list.

16 Q Now, as far as Sidney Moorner and Tammy Moorner,
17 did you collect any cell phone information from them?

18 A We did.

19 Q Did you collect any Internet information from
20 them?

21 A I would have to look back at what came back from
22 their phones; I'm not exactly sure.

23 Q Regarding Ms. Heather Elvis, did you issue a
24 search warrant for her telephone information?

25 A We did.

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1 Q And what information did you receive?

2 A Her phone was, like I said, a T-Mobile phone,
3 very limited information that T-Mobile actually
4 provides you. They don't keep your -- some cell phone
5 companies can tell you if you are 3 miles away from the
6 tower. T-Mobile tells you they hit this tower in this
7 direction; that's it. They are limited. They don't
8 keep text messages like some of the phone companies do,
9 so you don't know exactly what was communicated.

10 Q In fact, T-Mobile sends you a disclaimer when
11 they send you these records; is that correct?

12 A I believe there is a disclaimer on the front.

13 Q And does the disclaimer address the reliability
14 of the data?

15 A It's not so much the data, it is the locational
16 information, like the towers and the -- they can't --
17 they can say exactly what tower it hit, but the sectors
18 that go around the tower, if you look up there is like
19 three plates, they cover all the different angles so
20 they all kind -- if you are in this area, it faces up
21 that way (indicates). Could you be in a different
22 corner and still connect with that side of the tower?
23 You could be. So they say you can't use that to say,
24 well, he's absolutely here.

25 Q So T-Mobile does not guarantee its distance data?

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1 A They don't even give you distance data, I
2 believe.

3 Q They give you longitude and latitude?

4 A Of the tower.

5 Q Okay.

6 A The longitude/latitude of the tower, not
7 longitude/latitude of an actual cell phone. Some of
8 the other companies do, but there's room for error in
9 that.

10 Q So the data you received came with a disclaimer
11 from T-Mobile?

12 A Yes.

13 Q What about the information you received from
14 Sprint, did it also come with a disclaimer?

15 A I believe there is one in there also.

16 Q And, generally speaking, all wireless companies
17 kind of issue a disclaimer when they release records?

18 A They do.

19 Q And the disclaimer address the location
20 information?

21 A Yeah, the certain aspects of the location
22 information, like saying the distance or the -- I
23 believe Verizon, they use RTT, realtime tracking, that
24 gives you a distance from the tower. They say we can't
25 be a hundred percent reliable on that distance, could

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1 be more than or less, can't say exactly, but they are
2 absolute on the tower that it hits.

3 Q Okay. So the information that you received came
4 with a disclaimer that says we're not so sure about the
5 accuracy of some of this information?

6 A Of the -- like the distance type of stuff, yes.

7 Q Right, the distance information.

8 A Yeah. Yeah.

9 Q Correct.

10 A I don't think they mess up the phone numbers you
11 call and stuff like that; that is pretty accurate.
12 They are talking about the distance tools.

13 Q Right. So they can't tell us with any
14 specificity how far a phone is from a tower?

15 A They tell us, but they just say there is room for
16 error in it.

17 Q There is room for error?

18 A Yes.

19 Q Okay. Did you issue search warrants for any
20 other telephones?

21 A I probably did. I don't remember which ones.

22 Q Did you issue search warrants for any other
23 electronic devices like iPads, home computers?

24 A I believe we did some, yes. I don't -- sorry,
25 I'm not sure what exact ones, I would have to look at

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1 them.

2 Q Were you able to retrieve Ms. Elvis' Facebook
3 records?

4 A I believe we did; I'm not exactly sure.

5 Q Did you issue a search warrant for that, or was
6 that some other detective?

7 A I don't remember which, I'm sorry. It might have
8 been me. I got stuck with a lot of the search warrant
9 stuff. It may have been me or may have been one of the
10 other detectives.

11 Q And I think you -- did you testify -- were you
12 able to obtain Facebook records for Sidney Moorer?

13 A I'm not certain. I don't remember.

14 Q You don't remember if you got Facebook records
15 from Mr. Moorer?

16 A I don't remember. If we did, there was nothing
17 there that was significant, you know, like messages
18 between him and Heather, anything that stands out in my
19 mind, no.

20 Q Stephen Schiraldi, were you able to get Facebook
21 information for him?

22 A I don't remember.

23 Q But you did say you subpoenaed his telephone
24 records?

25 A I know we did, yes.

JONATHAN MARTIN - CROSS-EXAMINATION

1 Q And Jeremy Flemming, did you subpoena telephone
2 records for him?

3 A Yes, I believe so. I'm not sure if I'm the one
4 that did it, but I believe we did it for pretty much
5 everybody.

6 Q What about Internet connectivity records, Google,
7 Facebook, Instagram, Snapchat, do you have any of those
8 records for Mr. Flemming?

9 A I don't remember them.

10 Q The records you received from the payphone
11 company, they tell us the call, whether it was incoming
12 or outgoing, the number they were in contact with and
13 the length of the call; is that correct?

14 A Yes, and the time.

15 Q We don't have any additional information from the
16 payphone?

17 A No.

18 Q Now, as I understand it, Ms. Elvis -- Detective
19 Martin, let me approach and show you what was marked
20 for identification as State's No. 5. It is my
21 understanding here that the first telephone call is an
22 incoming call from the payphone; is that correct?

23 A It is.

24 Q And that call came in at what time,
25 approximately?

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1 A 1:35 in the morning.

2 Q Now, the next telephone call on here is an
3 outgoing call; is that correct?

4 A It is.

5 Q And that was an outgoing call to her roommate,
6 Ms. Warrelmann?

7 A I know her as Bri, but, yes.

8 Q Okay. Right. And what was the time of that
9 telephone call?

10 A 1:44.

11 Q So that gives us approximately nine minutes
12 between these two phone calls?

13 A That one is five minutes, so four minutes.

14 Q Okay. So it's four minutes between the incoming
15 call and the outgoing call?

16 A Yes.

17 Q Do you have any cell phone information or Google
18 information or Facebook information about any contact
19 that was made during that four minutes with any other
20 persons?

21 A I don't.

22 Q So you can't tell us if Ms. Elvis was in contact
23 with anyone in between those two phone calls?

24 A Not with the context we know.

25 Q Again, for this telephone number to Brianna, 609

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1 number, we have whether the call was incoming or
2 outgoing, the number that was called and the duration
3 or length of the phone call?

4 A Yes.

5 Q We don't have any other information about that
6 phone call?

7 A If you look at -- that is a summary of the phone
8 number. If you look at the original records, there are
9 -- there is tower information, too.

10 Q Tower information?

11 A Yeah.

12 Q Do we have any information regarding the content
13 of the phone call?

14 A No.

15 Q No. You can't subpoena content of phone calls,
16 can you?

17 A Unless T-Mobile is recording your phone calls,
18 no, which I don't think they are.

19 Q To the best of your knowledge?

20 A To the best of my knowledge they are not
21 recording your phone calls, yes.

22 Q So you can't tell us what was said in that
23 conversation?

24 A I cannot.

25 Q And then there is a call to Mr. Moorers' phone,

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1 the 3175 number; again, we're limited in the
2 information that we have. We have whether that call
3 was incoming or outgoing, we have the time of the call
4 and the duration of the call; is that correct?

5 A And the tower information, but like I said, that
6 is on this long one, that is a summary.

7 Q That is information that is left off of Exhibit
8 5?

9 A The tower information?

10 Q Yes, sir. So, basically, the tower information
11 would be in other columns over here?

12 A Lots of columns, yep.

13 Q Lots of columns?

14 A Yeah. But they have numbers, which don't tell
15 you anything. You have to have a tower list and then
16 -- to look at them.

17 Q So these two exhibits, State's Exhibit No. 3 and
18 State's 5 are the same, except the columns have been
19 taken off of No. 5 that are present in No. 3?

20 A The tower information, yes.

21 Q Tower information. And also certain calls have
22 not been included because that one is several pages
23 long?

24 A This is only looking at the December 18th from
25 the start of the morning until -- the phone never made

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1 phone calls again.

2 Q So you would agree with me that all of the
3 information that is contained in State's No. 3 is not
4 on this poster board?

5 A The tower information, yes, is not, and that
6 would be the only thing that is short.

7 Q Now, based on that payphone information, did you
8 issue a subpoena -- excuse me, a search warrant for
9 video of the payphone?

10 A I don't believe we had to do a search warrant; I
11 believe they just provided it.

12 Q Did you collect that video?

13 A I did not.

14 Q Do you know which officer did?

15 A I want to say it was Detective Brian Wilson, I
16 believe, but don't hold me to it. I believe it was
17 him. He was at least one of the ones that viewed it.
18 I don't know if he was the one that collected it.

19 Q Okay. So, wait a minute. Cauble is lead
20 detective?

21 A Yes.

22 Q And I think you said you and Hardee were on the
23 case, and now you indicated that Brian Wilson was
24 involved also?

25 A I think he went to -- like I said, there was a

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1 couple of detectives, multiple locations. As far as
2 how much they were involved, I'm not -- I'm not
3 certain. Yeah, I'll stop by quick, I'm already down
4 there, you know.

5 Q I think you also said Detective Large
6 participated in a portion of this case also?

7 A The beginning of an interview I think, or
8 something like that.

9 Q That's five detectives. Can you think of any
10 other detectives that worked on this?

11 A I can't remember, I'm sorry. I mean, Detective
12 Cauble and Steven Hardee were the main ones after the
13 investigation -- after a couple of days. They were the
14 ones that were working -- when SLED showed up to help,
15 they were the ones working on that. There was a lot of
16 other cases popping up, so other detectives might help,
17 but they weren't as involved. Those were the main ones
18 that were doing the main documenting and main
19 investigating.

20 Q Would it be fair to say that several detectives
21 played roles in this investigation?

22 A Yes.

23 Q Was this like all-hands-on-deck kind of
24 situation?

25 A Yeah. Missing people usually end up that way.

JONATHAN MARTIN - CROSS-EXAMINATION

1 There is a lot you have to investigate. You know, you
2 get an immediate murder or you find a body, you know
3 where the crime happened and you work out from there.
4 With a missing person, you don't know when, where, who.
5 It is a lot of details you have to fill in, so it
6 normally takes a little more hands-on work to do
7 that.

8 Q Now, let's talk about this interview. First of
9 all, I think you testified previously that during the
10 month of December there was no telephone calls from
11 Ms. Elvis' phone to Mr. Moorers' phone; is that
12 correct?

13 A No -- oh, yes, that is correct that there was
14 none.

15 Q Except for the --

16 A The night of the 18th -- sorry, morning of the
17 18th.

18 Q During the month of December, were there any
19 telephone calls from Mr. Moorers' phone to
20 Ms. Elvis' phone?

21 A There was none that I observed, no.

22 Q So he wasn't calling her?

23 A No, I don't believe.

24 Q Let me clarify, just to be clear. When we're
25 talking about these phone numbers and cell phones and

JONATHAN MARTIN - CROSS-EXAMINATION

1 things like that, we're not talking about actual
2 individuals, are we; we're talking about the phones
3 that the individuals own or use?

4 A No. And that is what we normally clarify when we
5 talk to people. Like we have evidence that Sidney's
6 phone communicated with Heather's phone.

7 Q And that is why you say it like that?

8 A And when Sidney says they communicated, we
9 clarify that.

10 Q Okay. Now, is it my understanding that
11 Mr. Moorer was provided Miranda rights prior to this
12 interview?

13 A I believe he was by Detective Large.

14 Q You didn't fill out the Miranda form with
15 Mr. Moorer?

16 A I did not.

17 Q Do you have a copy of the interview between
18 Mr. Large and Mr. Moorer?

19 A I don't personally have that, no.

20 Q Do you know what was said in the interview
21 between Detective Large and Mr. Moorer?

22 A I don't know the exact details. I think it is
23 more gathering basic information, not as detailed as
24 ours was.

25 Q Were you present for the interview?

JONATHAN MARTIN - CROSS-EXAMINATION

1 A I was not, though, no.

2 Q So you can't say for sure if all they did was
3 talk about gathering information?

4 A No, that is just what was provided to me. When
5 we showed up, I believe Detective Large indicated that
6 he just talked to him little bit and I don't -- there
7 was nothing major in it. Detective Large was very
8 early in the investigation and he didn't have the -- he
9 didn't know the house, he didn't know all of the little
10 things. He was someone that was there to kind of --
11 until Cauble and myself were able to do the interview.

12 Q But Detective Large began the interview with
13 Mr. Moorer?

14 A I believe, yes.

15 Q Okay. Because that tape kind of sounds like it
16 starts mid-stream or in the middle of the interview.

17 A That is where Detective Cauble and I came into
18 the room and began talking to him.

19 Q And Mr. Moorer also spoke with Canterbury the
20 night before at his house?

21 A Yes, Officer Canterbury.

22 Q Okay. So at this point he spoke with Canterbury,
23 spoken with Large, spoken with you and spoken with
24 Cauble, correct?

25 A Cauble and I were at the same time, yes. Yes.

JONATHAN MARTIN - CROSS-EXAMINATION

1 Q So he talked to three detectives, and I think
2 there was three patrolmen out there at his house that
3 night?

4 A Uh-huh.

5 THE COURT: Is that yes?

6 A Yes. I'm sorry. Yes. Yes.

7 Q (MR. GALMORE) So he talked to several officers
8 regarding this case?

9 A Yes.

10 Q And when he talked to you, he admitted to you
11 that he made a phone call from a payphone to
12 Ms. Elvis' phone?

13 A Yes, after lying about it first.

14 Q Right. Now, when you first asked him about it,
15 you had the payphone information in hand when you asked
16 the question, correct?

17 A That a payphone call was made?

18 Q Right.

19 A Yes.

20 Q And you also knew there was a video of the
21 payphone conversation at the time that you asked him
22 did he make a call from the payphone?

23 A We did know, yes.

24 Q And you told him there was a video?

25 A I did.

JONATHAN MARTIN - CROSS-EXAMINATION

1 Q And he said, yeah, I made a phone call?

2 A Yes. After, again, denying, and then he did
3 admit to it, yes.

4 Q Well, the jury can hear it for themselves. In
5 that interview with Mr. Moorer, you indicated to him
6 that the friend that was sitting next to Heather
7 relayed a different story than what he was relaying?

8 A I did.

9 Q Did you subsequently find out that the friend you
10 were referring to was Ms. Brianna?

11 A Yes. I knew she wasn't sitting next to Heather,
12 but just to try to see if he knew more information than
13 he was telling us, I told him -- I didn't say "Bri," I
14 said a friend was sitting near her.

15 Q So that is a standard police technique?

16 A Yes. It's been allowed. It is called police
17 deception. During interviews -- if we told criminals
18 right off the bat we have no evidence, people would
19 probably not tell us the truth. They would never admit
20 to anything if they knew right off the bat. Sometimes
21 we don't have anything, so.

22 Q So police officers are allowed to lie to people?

23 A We are allowed to deceive, yes.

24 Q So, for example, if you are looking for the owner
25 of a blue car, you might knock on the door and say,

JONATHAN MARTIN - CROSS-EXAMINATION

1 hey, do you own a blue car -- excuse me, you might
2 knock on the door and say I'm looking for an owner of a
3 red car, and that person would say, No, sir it's not
4 me, I own a blue car?

5 A That's a pretty good idea. Yes.

6 Q That is how police deception works?

7 A Sometimes, yes. Sometimes you say there is an
8 eyewitness to a crime, and there isn't an eyewitness,
9 or we know that you were at the scene, we have someone
10 that saw you there.

11 Q That is also a good example. Did you say to
12 Mr. Moorer we have an eyewitness that saw you do
13 something to Ms. Elvis?

14 A No, we did not.

15 Q Now, in fact, do you have an eyewitness that saw
16 him do anything to Ms. Elvis?

17 A I do not believe there is a witness.

18 Q So in that case police deception would not have
19 worked?

20 A If -- you almost have to not know what they know.
21 If they know there was no one around, that it happened
22 at an empty boat landing where no one would ever saw,
23 saying there is an eyewitness there probably would not
24 work. They would know that, no, there was no one
25 around.

JONATHAN MARTIN - CROSS-EXAMINATION

1 Q In this case, you said we have a video at the
2 payphone, and he says, yes, it was me?

3 A Yes.

4 Q He went on to tell you he went to Walmart,
5 correct?

6 A He did.

7 Q And he went on to tell you that he went to the
8 House of Blues -- excuse me, not House of Blues,
9 Broadway at Beach?

10 A There was Broadway and Sticky Fingers and another
11 restaurant he mentioned.

12 Q Now, I want to ask you about the devices that you
13 were able to collect in this case. I think you said
14 you collected some iPods and iPads and things like
15 that?

16 A Later in the investigation, I believe there was
17 some phones collected and some devices collected from
18 the family residence of the Moorers.

19 Q Do you know what was done with this information,
20 with these devices?

21 A I believe -- there is a company called Cellebrite
22 that makes a tool that downloads the information on the
23 phone. It hooks up and pulls everything off of it. A
24 computer may have been sent off, I believe. I was not
25 directly involved with those.

JONATHAN MARTIN - CROSS-EXAMINATION

1 Q So you did not do the Cellebrite extractions?

2 A I'm not a Cellebrite technician, so, no.

3 Q So you can't tell us anything about what was
4 downloaded from any of the devices collected from the
5 house?

6 A No. No.

7 Q So your role in this case was basically to
8 subpoena search warrants -- excuse me, subpoena phone
9 records or search warrants for phone records, and
10 conduct an interview with Mr. Moorer?

11 A That was it.

12 Q And then you went to the house, Ms. Elvis' home,
13 and did a cursory examination?

14 A Cursory search, yes.

15 MR. GALMORE: Court's indulgence.

16 THE COURT: Certainly.

17 (A brief pause in the proceedings.)

18 Q (MR. GALMORE) I think you indicated that you
19 collected records from several people's devices in the
20 course of this investigation, correct?

21 A Like cell phone information?

22 Q Well, you collected cell phone information as far
23 as calls --

24 A Cell phone, yes.

25 Q You collected text messaging information for

JONATHAN MARTIN - CROSS-EXAMINATION

1 certain people?

2 A The companies that have them. Very few keep text
3 messaging information.

4 Q Right. You got what information was available
5 for the different number of people you were asked to
6 get information from?

7 A Yes.

8 Q Okay. Now, one of those people was Jerry
9 Stevens. Did you issue a search warrant for
10 Mr. Stevens' phone?

11 A I don't remember. I would have to -- if I were
12 able to see all of the search warrants. I may have.

13 Q Okay.

14 A To me, a lot of them were just names on pieces of
15 paper. I wasn't involved with interviewing them, so it
16 is hard for me to, you know, remember every single name
17 I did a search warrant on.

18 Q Do you know if you received any text message
19 information regarding Mr. Stevens' telephone?

20 A Like I said, I don't remember.

21 Q But you did receive text message information
22 regarding Ms. Elvis' phone?

23 A Texting to and from, yes, but not like more
24 detail.

25 Q No, but you received the content of the texts

JONATHAN MARTIN - CROSS-EXAMINATION

1 sent back and forth?

2 A No content.

3 Q No content, just the fact that a text was made?

4 A Her company, T-Mobile, does not retain your
5 content.

6 Q Okay. So Ms. Elvis had a T-Mobile phone?

7 A She did.

8 Q So that means that we don't have any information
9 regarding what texts she would have sent?

10 A Like the content, no.

11 Q We do not have the content?

12 A No.

13 Q Do we have any content regarding the texts she
14 would have received?

15 A No, unless there was a company -- the other
16 company sending had that information.

17 Q Right. Right. Like if she was working --
18 receiving a text from someone who had Verizon and
19 Verizon said --

20 A Yes. So we would know the communication there
21 because we had the other number, but with this one, we
22 do not.

23 Q Okay.

24 MR. GALMORE: Thank you very much. That is all I
25 have.

JONATHAN MARTIN - REDIRECT EXAMINATION

1 THE COURT: Redirect.

2 MS. LIVESAY: Two quick questions, Judge. I know
3 we're getting close to lunchtime.

4 REDIRECT-EXAMINATION

5 BY MS. LIVESAY:

6 Q Ms. Galmore asked you about the information you
7 could get from phone companies, correct?

8 A Yes.

9 Q And he was asking you if you could get the
10 contents of text messages, correct?

11 A Yes.

12 Q And Heather Elvis had T-Mobile; is that right?

13 A It is.

14 Q Can you get the contents of those messages?

15 A No, you cannot.

16 Q So when we look here and we see an outgoing text
17 from her to the payphone, we don't know if it says I'm
18 on my way, I'm not coming, meet you in --

19 MR. GALMORE: Objection.

20 THE COURT: Sustained. That is leading and it's
21 already been covered. He testified to that several
22 times; there is no content. Nobody knows if he
23 doesn't have, so it is obvious. Go on to your next
24 question.

25 Q (MS. LIVESAY) Let me ask you something. If we

JONATHAN MARTIN - REDIRECT EXAMINATION

1 had her phone, would we have been able to get the
2 contents?

3 A Yes. Your phone usually retains a good amount of
4 the information for a good length of time. At some
5 point the phone begins to overwrite itself. So if you
6 actually had the phone, yes, you would be able to.

7 Q Do you know if we ever recovered her phone?

8 A We never have, no.

9 Q Now, he also asked you about Snapchat, Instagram
10 and Facebook; is that correct?

11 A He did.

12 Q And are those all things that you can use on your
13 phone?

14 A Yes.

15 Q And if we had her phone, could we have seen any
16 contact through Snapchat, Instagram and Facebook?

17 A Yes. We researched all the ones that people had
18 communication with her. If she communicated through
19 Facebook, we searched through Facebook.

20 Q But you would have been -- if you had her phone,
21 could you have seen Snapchat, Instagram and Facebook?

22 A Yes, we would have been able to get through
23 everybody's and we would know exactly what she was
24 doing.

25 Q But we were never able to recover the phone?