

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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INDEX

INDEX	i
TRANSCRIPT OF PRE-TRIAL HEARING HELD APRIL 18, 2016	1
TESTIMONY	
GRANT FREDERICKS	
Direct Examination by Ms. Livesay	10
Voir Dire Examination by Mr. Truslow	26
Direct Examination by Ms. Livesay	41
Cross Examination by Mr. Truslow	70
Redirect Examination by Ms. Livesay	74
Recross Examination by Mr. Truslow	79
BRUCE KOENIG	
Direct Examination by Mr. Truslow	82
Voir Dire Examination by Ms. Livesay	86
Direct Examination by Mr. Truslow	107
Cross Examination by Mr. Livesay	122
MOTION TO CHANGE VENUE	134
ORDER GRANTING CHANGE OF VENUE	135
VENUE MOTION	139
TRANSCRIPT OF PRE-TRIAL HEARING HELD JUNE 21, 2021	282
MOTION TO RECONSIDER REVERSAL OF ORDER CHANGING VENUE	335
DEFENSE MOTION TO EXCUSE JURY POOL AND CONTINUE TRIAL	414
TRANSCRIPT OF TRIAL HELD SEPTEMBER 9-18, 2019	473
JURY SELECTION	484
PRE-TRIAL MOTIONS	586
OPENING STATEMENT BY MR. HELMS	603
OPENING STATEMENT BY MR. BOUCHETTE	619

TESTIMONY

JESSICA COOKE

Direct Examination by Ms. Livesay	635
Cross Examination by Jessica Cooke	649
Redirect Examination by Ms. Livesay.....	666

JODIE DAVENPORT

Direct Examination by Ms. Livesay	671
Cross Examination by Mr. Galmore	682

DENNIS HART

Direct Examination by Ms. Livesay	693
Cross Examination by Mr. Bouchette.....	703
Redirect Examination by Ms. Livesay.....	711

RONALD WITT

Direct Examination by Ms. Livesay	713
Cross Examination by Mr. Galmore	728
Redirect Examination by Ms. Livesay.....	737

STEPHANO SCHIRALDI

Direct Examination by Mr. Helms.....	739
Cross Examination by Mr. Bouchette.....	762
Redirect Examination by Mr. Helms	771
Recross Examination by Mr. Bouchette	772

PAMELA SCHIRALDI

Direct Examination by Mr. Helms.....	774
Cross Examination by Mr. Bouchette.....	782

BRIANNA WARRELMANN

Direct Examination by Ms. Livesay	785
Cross Examination by Mr. Bouchette.....	817
Redirect Examination by Ms. Livesay.....	827

CASEY GUSKIEWICZ

Direct Examination by Mr. Helms.....	829
Cross Examination by Mr. Bouchette.....	857

DANNY FURR

Direct Examination by Ms. Livesay	866
Cross Examination by Mr. Bouchette.....	872
Redirect Examination by Ms. Livesay.....	885

CASEY CANTERBURY

Direct Examination by Mr. Helms.....	888
Cross Examination by Mr. Bouchette.....	918
Redirect Examination by Mr. Helms	928

AMANDA NIGRO

Direct Examination by Mr. Helms.....	934
Cross Examination by Mr. Galmore	942

JONATHAN MARTIN

Direct Examination by Ms. Livesay	944
Cross Examination by Mr. Galmore	967
Redirect Examination by Ms. Livesay.....	999
Recross Examination by Mr. Galmore.....	1005

ROXANNE LOVE

Direct Examination by Mr. Helms.....	1010
Cross Examination by Mr. Galmore	1024

BRIAN WILSON

Direct Examination by Mr. Helms.....	1031
Cross Examination by Mr. Bouchette.....	1046
Redirect Examination by Mr. Helms	1050
Recross Examination by Mr. Bouchette	1052

MICHAEL MELSON

Direct Examination by Ms. Livesay	1054
Cross Examination by Mr. Galmore	1098
Redirect Examination by Ms. Livesay.....	1139
Recross Examination by Mr. Galmore.....	1155

JOHN KEEP

Direct Examination by Ms. Livesay	1163
Cross Examination by Mr. Galmore	1170
Redirect Examination by Ms. Livesay.....	1175

JILL DOMOGAUER

Direct Examination by Mr. Helms.....	1176
Cross Examination by Mr. Bouchette.....	1209
Redirect Examination by Mr. Helms	1228
Recross Examination by Mr. Bouchette	1234

WILL LYNCH

Direct Examination by Ms. Livesay	1236
Cross Examination by Mr. Galmore	1277
Redirect Examination by Ms. Livesay	1292
Recross Examination by Mr. Galmore	1293

JAMES PERRY

Direct Examination by Ms. Livesay	1296
Voir Dire Examination by Mr. Bouchette	1298
Direct Examination by Ms. Livesay (Continued)	1301
Cross Examination by Mr. Bouchette	1312

JOHN CAULDER

Direct Examination by Ms. Livesay	1316
Cross Examination by Mr. Bouchette	1324
Redirect Examination by Ms. Livesay	1327
Recross Examination by Mr. Bouchette	1328

JIMMY GUNTER

Direct Examination by Mr. Helms	1331
Cross Examination by Mr. Bouchette	1349

JOYCE ALAND

Direct Examination by Mr. Helms	1352
Cross Examination by Mr. Bouchette	1371
Redirect Examination by Mr. Helms	1375

DAVID QUANDT

Direct Examination by Mr. Helms	1380
Cross Examination by Mr. Galmore	1403

JEREMY LEACH

Direct Examination by Ms. Livesay	1411
Cross Examination by Mr. Bouchette	1422

GRANT FREDERICKS

Direct Examination by Ms. Livesay	1426
Cross Examination by Mr. Bouchette	1496
Redirect Examination by Ms. Livesay	1529

PETER CESTARE

Direct Examination by Ms. Livesay	1532
Cross Examination by Mr. Bouchette	1578
Redirect Examination by Ms. Livesay	1595

JIMMY SCHROERING

Direct Examination by Mr. Helms.....	1602
Cross Examination by Mr. Galmore	1614
Redirect Examination by Mr. Helms	1618
Recross Examination by Mr. Galmore.....	1619

LINDSEY MCGRAW

Direct Examination by Ms. Livesay	1624
Cross Examination by Mr. Galmore	1642
Redirect Examination by Ms. Livesay.....	1661
Recross Examination by Mr. Galmore.....	1668

JEFFERY SILVER

Direct Examination by Mr. Helms.....	1670
Cross Examination by Mr. Galmore	1675

JACOB MELTON

Direct Examination by Ms. Livesay	1678
Cross Examination by Mr. Bouchette.....	1694

LAURA GARLITZ

Direct Examination by Mr. Helms.....	1699
Cross Examination by Mr. Galmore	1702

DONALD DEMARINO

Direct Examination by Mr. Helms.....	1705
Cross Examination by Mr. Galmore	1710
Redirect Examination by Mr. Helms	1717
Recross Examination by Mr. Galmore.....	1719

JESSICA ADAMS

Direct Examination by Mr. Helms.....	1721
Cross Examination by Mr. Bouchette.....	1725

THE STATE RESTS	1727

MOTION FOR MISTRIAL	1727

COURT'S RULING	1728

MOTION FOR DIRECTED VERDICT.....	1728

COURT'S RULING	1731

TESTIMONY

BRUCE KOENIG

Direct Examination by Mr. Bouchette	1740
Voir Dire Examination by Ms. Livesay	1748
Direct Examination by Mr. Bouchette (Continued).....	1753
Cross Examination by Ms. Livesay	1768
Redirect Examination by Mr. Bouchette	1779
Recross Examination by Ms. Livesay.....	1779

ASHLEY CAISON

Direct Examination by Mr. Galmore	1781
Cross Examination by Ms. Livesay	1794

WILL LYNCH

Direct Examination by Mr. Galmore	1814
Cross Examination by Ms. Livesay	1822
Redirect Examination by Mr. Galmore.....	1831

JERRY STEVENS

Direct Examination by Ms. Livesay	1832
Cross Examination by Mr. Galmore	1837
Redirect Examination by Ms. Livesay.....	1843

MICHAEL KATHMAN

Direct Examination by Mr. Helms.....	1844
Cross Examination by Mr. Bouchette.....	1848

RENEWAL OF MOTION FOR DIRECTED VERDICT	1851

COURTS RULING.....	1851

CLOSING ARGUMENT BY MS. LIVESAY	1854

CLOSING ARGUMENT BY MR. BOUCHETTE	1879

JURY CHARGE	1902

VERDICT	1931

SENTENCING	1936

STATE'S EXHIBIT NO. 7 (REIS E-MAIL)	1948

SENTENCING SHEET (OBSTRUCTION OF JUSTICE).....	1961

INDICTMENT (KIDNAPPING).....	1962
CERTIFICATE OF COUNSEL	1964

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)

JONATHAN MARTIN - REDIRECT EXAMINATION

1 A The phone was never found, no.

2 Q Now, he asked you several questions about tower
3 data?

4 A Yes.

5 Q And about sectors and distances and all of that
6 stuff; do you remember that?

7 A I do.

8 Q And you were able to answer it?

9 A Yes.

10 Q And, in fact, you told him you did some of that
11 stuff for the county; is that right?

12 A I have, yes.

13 Q Was there a software you used at Horry County
14 that allowed you to map those phone records?

15 A Yeah. There are two different ones. Cell Hawk
16 is one of the companies we use. It is a -- pretty much
17 all it does is it takes all of this information and you
18 drop it in and it makes it into -- puts it up on a map.
19 So there is actually no analysis, per se, it is just
20 taking information and showing it a different way, like
21 making a graph; so that is what it does.

22 Q Showing the phone records mapped out?

23 A Yes.

24 Q So you can visualize it?

25 A And you can look at the time of each call and

JONATHAN MARTIN - REDIRECT EXAMINATION

1 where the phone was when the call was, what tower it is
2 hitting. Like he mentioned distance, some phone
3 companies will tell you a distance from the tower, half
4 mile, .1 miles, and that software maps that out, also.

5 Q And you used Cell Hawk or Hawk Analytics to map
6 out the records?

7 A Yes.

8 Q And do you know who created Cell Hawk?

9 A Mike Melson. He developed it years ago. I think
10 he was in law enforcement originally, but he made it to
11 actually help find missing people. I started using it
12 when we had a missing person earlier in the year.

13 Q Did you know other agencies used that same
14 software to map it out?

15 A Myrtle Beach was using it for a time, some down
16 in Charleston, others across the nation use it.

17 Q And Mike Melson is the guy that created it?

18 A He is.

19 Q Let me ask you this. He asked you a little bit
20 about investigators being untruthful with people?

21 A Yes.

22 Q And that is a tactic you use all the time; is
23 that right?

24 A Yes.

25 Q And he asked you about talking with Sidney about

JONATHAN MARTIN - REDIRECT EXAMINATION

1 whether or not you were truthful with him; is that
2 correct?

3 A Yes.

4 Q Was there any indication to you in that interview
5 that he was ever going to tell you about the payphone
6 before you brought that video up?

7 MR. GALMORE: Objection, Your Honor, calls for
8 speculation on the part of this witness.

9 THE COURT: I'll allow him to answer the
10 question. You can recross.

11 A No. He denied it several times, and then
12 presented with possible evidence is when he told.

13 Q (MS. LIVESAY) And that was early on in the
14 interview?

15 A Yes.

16 Q Now, he also asked you, Well, Bri really wasn't
17 sitting with her; is that correct?

18 A I think I said that, but -- I offered that up
19 myself. He didn't ask me that.

20 Q But he asked you about whether or not you were
21 truthful about that with Mr. Moorer; is that right?

22 A Yes.

23 Q And were you truthful with Mr. Moorer when you
24 told him you had information he had said, told Heather
25 Elvis he left his wife?

JONATHAN MARTIN - REDIRECT EXAMINATION

1 A I was.

2 Q So that part was true?

3 A We've been having that -- I believe the Bri girl
4 said some of that to a detective.

5 Q But the part that Bri wasn't sitting right beside
6 her, that was a little deceptive?

7 A Yes.

8 Q And why did you do that?

9 A Someone's reaction sitting next to you is a lot
10 better than a phone call, if I called afterwards.
11 Sitting there, you would see the face, how the call
12 felt to her, you know, she was very excited, how she
13 actually responded to it. You would have more tangible
14 than someone listening on the phone.

15 Q And his reaction to that, how would you describe
16 that?

17 A He was -- it was odd because he didn't say I
18 didn't say it. It took me asking him several times,
19 Did you say it, did you say it, did you say it. His
20 response was not answering the question it was, I'm not
21 going to do that, I'm not going to do that, I'm not
22 going to leave my wife, I'm not going to leave my wife.
23 Then he did say, Okay, yeah, I did say it. It wasn't
24 immediate. It should have been something that he could
25 have easily said, I believe.

JONATHAN MARTIN - RECROSS-EXAMINATION

1 MS. LIVESAY: Nothing further, Your Honor.

2 THE COURT: Recross.

3 MR. GALMORE: Thank you.

4 RECROSS-EXAMINATION

5 BY MR. GALMORE:

6 Q Records for Snapchat, Facebook, Instagram, police
7 departments subpoena -- issue search warrants for those
8 all the time?

9 MS. LIVESAY: Your Honor, I'm going to object.
10 That was outside of my recross.

11 THE COURT: Overruled. Thank you. You asked him
12 all about those things, about how you can get them.
13 Thank you. Overruled.

14 Q (MR. GALMORE) Do police departments routinely
15 issue search warrants for records from Facebook,
16 Snapchat, Instagram?

17 A They do.

18 Q Now, whether or not you have a device, such as
19 Ms. Elvis' phone, you can still subpoena search
20 warrants for records from Snapchat, Facebook and
21 Instagram?

22 A You really can't. I can't just go to Snapchat
23 and say, Give me Heather Elvis' information, because
24 they don't know who Heather Elvis -- most times you
25 don't sign up with a name. Facebook is one of the few

JONATHAN MARTIN - RECROSS-EXAMINATION

1 ones you actually do. But there is hundreds of
2 Facebook profiles for each of our names, so you have to
3 have a user name, user handle. So, you know, if your
4 name was Galmore as your user name, I could search
5 Galmores, but they wouldn't let me do a search warrant
6 for James Galmore. It is not specific enough to them.
7 They wouldn't just give me all James Galmore Facebook
8 pages. They need that -- as she indicated, with having
9 the device, I would know the user name off her
10 Snapchat, if she had it. I would know the user name of
11 her Facebook, if she had it. Now, some of those things
12 we did have because people knew about them, and that is
13 how we search those.

14 Q To be specific regarding Ms. Elvis, did you
15 subpoena her Snapchat records?

16 A I do not remember. I don't believe so.

17 Q What about Facebook, did you issue a search
18 warrant for Ms. Elvis' Facebook?

19 A I believe we did her Facebook.

20 Q And, lastly, Instagram, did you issue a search
21 warrant for any Instagram records for Ms. Elvis?

22 A We might have; I don't remember.

23 Q Okay. So we have "we did," "I don't remember"
24 and "we might have"?

25 A If you have the search warrants -- it has been

JONATHAN MARTIN - RECROSS-EXAMINATION

1 several years, you know. If you gave me all the search
2 warrants, I could look at them and tell you for a
3 definite fact whether I did or didn't.

4 Q So you cannot tell this jury whether or not
5 Ms. Elvis was in communication with anybody by any of
6 those three various means of communication?

7 A I cannot.

8 Q Regarding this statement that Brianna says --
9 first of all, did Sidney admit to you that he made that
10 statement to Heather?

11 A He did not.

12 Q He did not, okay. He did admit to you that he
13 used the payphone?

14 A He did.

15 Q And you confronted him about it, and he corrected
16 his course?

17 A Yes.

18 Q When you confronted him with this statement, did
19 he correct his course yet again?

20 A It seemed like he tried, yes.

21 Q Did he admit to making the statement, or not?

22 A He said, I didn't say it.

23 Q So with the payphone, once you showed him or told
24 him you had information, he changed his answer?

25 A Yes.

JONATHAN MARTIN - RECROSS-EXAMINATION

1 Q And in this case, with the statement that Brianna
2 is claiming, you confronted him with the statement, and
3 he did not change his answer?

4 A No, he did not.

5 MR. GALMORE: Thank you. No further questions.

6 THE COURT: You may come down. Do you wish this
7 witness to be excused?

8 MR. HELMS: Yes, Your Honor.

9 THE COURT: You are free to leave. At this
10 point, we'll take a recess for lunch. Do not discuss
11 this case among yourselves. Do not begin your
12 deliberations in any fashion, and don't allow anyone
13 to discuss it in your presence. If you'll be back in
14 your jury room by 2:30. Thank you.

15 (The jury exits at 1:23 p.m., and the
16 following is heard out of the presence of the jury.)

17 THE COURT: Anything from the State?

18 MS. LIVESAY: No, sir, Judge.

19 THE COURT: Anything from the defense?

20 MR. GALMORE: No, sir, Your Honor.

21 THE COURT: When did you take early math? Two
22 questions, I didn't learn to count that way. It had
23 to -- you said I had two questions (laughing).

24 MS. LIVESAY: It was, Judge, but I was glad I got
25 them in (laughing).

JONATHAN MARTIN - RECROSS-EXAMINATION

1 THE COURT: Two plus (laughing) -- we'll see you
2 at 2:30. Thank you.

3 (A lunch recess was taken.)

4 (State's Exhibits 60 through 62 marked.)

5 THE COURT: State ready?

6 MR. HELMS: We are, Judge.

7 THE COURT: Defendant ready?

8 MR. BOUCHETTE: Yes, Your Honor.

9 THE COURT: Let the record reflect Mr. Moorner is
10 present.

11 Have the jury return.

12 I understand, the mic, you forgot to deaden it
13 when we left, when we broke down, because my wife said
14 I heard, Approach the bench, and then heard something
15 about you having macaroni.

16 (Laughter in courtroom.)

17 MS. LIVESAY: Anything that was said, that was
18 Chris.

19 (The jury enters at 2:30 p.m., and the
20 following is heard in the presence of the jury.)

21 THE COURT: Thank you. Ladies and gentlemen, I
22 hope you had a good lunch. We're ready to continue.

23 Solicitors, you may call your next witness.

24 MR. HELMS: Thank you, Your Honor. At this time
25 the State calls Roxanne Love.

ROXANNE LOVE - DIRECT-EXAMINATION

1 (ROXANNE LOVE, having been duly sworn,
2 testified as follows:)

3 THE WITNESS: Roxanne Love, L-O-V-E.

4 DIRECT-EXAMINATION

5 BY MR. HELMS:

6 Q Ms. Love, where are you employed?

7 A Currently employed with the 12th Judicial
8 Circuit, which is Florence -- Solicitor's Office, which
9 is Florence and Marion County.

10 Q What do you do there?

11 A I'm an investigator for the Solicitor's Office
12 there.

13 Q Now, how long have you done that?

14 A I've been employed with them since January of
15 this year, 2019.

16 Q What did you do before that?

17 A Prior to that, I have 30 years of law enforcement
18 experience. I started out with South Carolina Highway
19 Patrol, worked with the Control Commission, and then
20 was hired by the State Law Enforcement Division, which
21 is SLED.

22 Q And how long did you work for SLED?

23 A 25 years.

24 Q So, altogether, how long have you been in law
25 enforcement?

ROXANNE LOVE - DIRECT-EXAMINATION

1 A 30 years -- 30 plus years.

2 Q Now, let's go back. In the beginning, what kind
3 of training did you receive to initially become a law
4 enforcement officer?

5 A I went to the South Carolina Criminal Justice
6 Academy in Columbia, was certified as a Class 1
7 Officer.

8 Q Since then, have you had additional training?

9 A Yes. I have had investigations, narcotics,
10 things -- SWAT training, things of that nature.

11 Q Probably too much to list over 30 years?

12 A Yes, sir.

13 Q Fair enough. So 30 years in law enforcement,
14 obviously -- I'll state the obvious -- you were
15 employed with SLED back in 2013?

16 A Yes, sir.

17 Q And what did you do -- what was your title back
18 then?

19 A Lieutenant with SLED, South Carolina Law
20 Enforcement Division.

21 Q And what did your duties entail as a lieutenant
22 with the South Carolina Law Enforcement Division?

23 A I was a lieutenant in the Pee Dee region, which
24 includes Horry County with 11 other counties, and my
25 duties included reviewing reports, supervising agents

ROXANNE LOVE - DIRECT-EXAMINATION

1 and their cases and caseloads, and also working out in
2 the field on cases and investigations as they would
3 come in at the request of other agencies, such as the
4 city police departments and sheriff departments.

5 Q So although SLED is actually a state agency,
6 occasionally local law enforcement agencies would
7 request assistance from you all?

8 A Yes, sir.

9 Q Is that because you all sometimes specialize in
10 things local law enforcement agencies aren't capable of
11 specializing in?

12 A Yes. We do have units, like our lab and
13 behavioral science unit, we have a lot of different
14 units -- arson unit -- where they are considered more
15 specialized. We work regular criminal investigations
16 in the Pee Dee region which would include
17 officer-involved shootings, fraud, criminal sexual
18 conduct or murders.

19 Q Missing persons?

20 A Missing persons, yes, sir.

21 Q And I say that to ask you this: Did you have an
22 opportunity or were you asked to assist in the
23 investigation into the disappearance of Heather
24 Elvis?

25 A We were -- SLED was requested by the Horry County

ROXANNE LOVE - DIRECT-EXAMINATION

1 Police Department to assist them in their
2 investigation.

3 Q Did you, in fact, assist in our investigation?

4 A Yes, we did, myself and two other agents at the
5 time.

6 Q And what did you do to begin assisting in that
7 investigation?

8 A We met with their investigators and were briefed
9 on the facts up to the point that we got involved,
10 which is around January of 2014, and then we assisted
11 with anything that they requested of us in the sense of
12 leads -- additional leads, interviews, searches, search
13 warrants, things of that nature.

14 Q And, specifically, in terms of your role in this
15 investigation, what did you -- what were you asked to
16 do?

17 A I was asked -- well, we had information that came
18 from the Horry County investigators that Sidney Moorner
19 had been to the Walmart on Seaboard Street in Myrtle
20 Beach, which is located in Horry County. So I went
21 there and attempted to locate surveillance footage of
22 Sidney Moorner possibly being on that Walmart on
23 December 18th.

24 Q And when did you actually respond to the Walmart?

25 A I went to that Walmart January 27, 2014.

ROXANNE LOVE - DIRECT-EXAMINATION

1 Q When you arrived, who did you speak with?

2 A I spoke with their loss prevention agent, Chris
3 Mason, I believe was his name. I met with him and
4 briefed him what I was looking for, and we began
5 looking at video surveillance footage that they have
6 there at Walmart.

7 Q Did Mr. Mason have unfettered access to that
8 surveillance system?

9 A Yes, he did.

10 Q And did he grant you access to that surveillance
11 system?

12 A Yes, he did.

13 Q So you weren't required to secure a search
14 warrant?

15 A No, sir.

16 Q He was very cooperative?

17 A Yes.

18 Q Okay. And as you began to look at the video
19 surveillance system -- first of all, did you know what
20 you were looking for?

21 A Yes, I did. I -- I -- I had a general idea of
22 the time frame that he was -- Sidney Moorer was
23 supposed to be at that particular Walmart, so generally
24 I like to go back at least start an hour before, if not
25 a little more, in case the times are off or something

ROXANNE LOVE - DIRECT-EXAMINATION

1 like that, to start looking at video footage to see if
2 we could locate him in the parking lot or in the store.

3 Q You go back an hour just so you don't miss
4 something?

5 A Yes, sir.

6 Q And, generally speaking, and I know it's been a
7 long time, what was your time frame?

8 A I believe, what we were told, it was around
9 midnight or a little after, so that is kind of where I
10 requested for the viewing to start of their video
11 surveillance footage.

12 Q About how much video surveillance footage did you
13 actually view?

14 A We had to look at a good bit because we had to go
15 camera to camera at different times, and I can't recall
16 exactly how much I looked at, but I know we started at
17 a minimum of an hour before. So, you know, I would
18 have been looking at a minimum of an hour, looking at
19 surveillance footage before we actually were able to
20 locate Sidney Moorer coming into that Walmart.

21 Q But you did locate Sidney Moorer coming into the
22 Walmart?

23 A Yes, sir, we did.

24 Q And that was on what date?

25 A December 18th of 2013.

ROXANNE LOVE - DIRECT-EXAMINATION

1 Q And tell me a little bit about what you saw in
2 terms of -- and when you say "Mr. Moorner," you mean the
3 defendant sitting over there?

4 A Yes, sir.

5 Q Tell me what you saw on the video as far as it
6 concerns Mr. Moorner.

7 A You could see his vehicle entering the parking
8 lot, parking in the handicap parking space, entering
9 the front of the Walmart and then purchasing some
10 items, checking out, exiting the Walmart and then
11 reentering his vehicle and departing the parking
12 lot.

13 Q I'm showing you what was marked for
14 identification purposes only as State's Exhibit 60. I
15 want you to take a look at that envelope, open it up if
16 you need to, take a look inside that envelope and tell
17 me if you know what that is.

18 A That is the DVD recording of the surveillance
19 footage that I recovered from the Walmart on Seaboard
20 Street.

21 Q Is that the footage -- the entire footage of
22 Mr. Moorner inside that Walmart while parking and going
23 inside the Walmart and then exiting?

24 A Yes, sir, it is.

25 Q And that is the entirety of that footage?

ROXANNE LOVE - DIRECT-EXAMINATION

1 A Yes, sir.

2 Q As it concerns Mr. Moorer?

3 A Yes, sir.

4 Q And you watched it?

5 A Yes, sir.

6 Q Has it ever been tampered with in any way, shape
7 or form?

8 A No, sir.

9 MR. HELMS: Your Honor, at this time I seek to
10 enter State's 60 into evidence.

11 THE COURT: Any objection?

12 MR. GALMORE: No, sir.

13 THE COURT: Without objection, State's 60 is
14 admitted.

15 MR. HELMS: Permission to publish?

16 THE COURT: Yes, sir, you may.

17 (State's Exhibit 60 admitted and published.)

18 Q (MR. HELMS) You say you saw Mr. Moorer's vehicle
19 enter the parking lot of Walmart; do you know what he
20 drove before you were looking?

21 A Yes, sir, a Ford F-150.

22 Q So as you were looking for the video surveillance
23 footage, you had a pretty good idea what you were
24 looking for, you were briefed pretty well?

25 A Yes, sir.

ROXANNE LOVE - DIRECT-EXAMINATION

1 Q Were you aware of -- did you have a description
2 of Mr. Moorner himself?

3 A Yes, I did.

4 Q I want to be sure you can see that screen, too,
5 Ms. Love, so tell me if you can't. I'll let you tell
6 us what you see.

7 A At the top of the parking lot, there is Sidney
8 Moorner's vehicle coming into the Walmart parking lot.

9 Q What time is this?

10 A I believe that is around 1:12 a.m.

11 Q On December 18?

12 A December 18, 2013.

13 Q That is his truck?

14 A That is his truck, F-150.

15 Q What color does that truck appear to be, ma'am?

16 A Black. That is just another angle of the same,
17 of him pulling into the Walmart parking lot.

18 Q Yet another angle?

19 A Yes, sir.

20 He was parking his vehicle at a handicap parking
21 space.

22 You can see Sidney Moorner exiting, beginning to
23 exit his vehicle.

24 That is him walking into the entrance of Walmart.

25 That is Sidney Moorner entering the Walmart. He

ROXANNE LOVE - DIRECT-EXAMINATION

1 has a Sticky Fingers T-shirt on with a toboggan type
2 cap.

3 Q Would you say his pants are light colored?

4 A Light color, khaki-ish, tan.

5 Q What section of the store are we in here?

6 A That is like where beauty supplies and things of
7 that nature are, I guess the pharmacy side of Walmart.
8 He appears he is looking for an item there. It appears
9 he can't look at it, so he ends up talking to an
10 associate there.

11 That is him with the associate.

12 He appears to have picked up an item, goes to the
13 cash register.

14 Q Can you tell what item he picked up right there?

15 A I cannot tell what the item is right there.

16 Q Okay. Do you know what he is doing now?

17 A He is either -- he's talking to an associate or
18 waiting for an associate to checkout at the cash
19 register.

20 Q Okay. Fair enough.

21 A At this point he's asking for an item behind the
22 counter from the associate.

23 Q What is she doing there? What is she counting
24 out there?

25 A She is checking him out at this point, the two

ROXANNE LOVE - DIRECT-EXAMINATION

1 items that he had purchased.

2 Then he hands her change for the two items that
3 he's purchasing.

4 She's counting out the change he's just given
5 her, and then hands her additional money to finish
6 checking out.

7 Q Did she hand him a receipt right there?

8 A She does.

9 That is Sidney Moorner exiting the Walmart and
10 returning to his vehicle.

11 That is his taillights.

12 Sidney Moorner then enters his vehicle and he'll
13 eventually begin to back out and depart the parking
14 lot.

15 Q Right there, how many taillights can you count?

16 A Three.

17 Q Three?

18 A Yes, sir.

19 Q So that is two on the other side of the truck and
20 one on the top?

21 A Yes, sir.

22 Sidney Moorner then backs out of the parking space
23 and exits the parking lot.

24 MR. HELMS: Thank you, Tonya.

25 Q (MR. HELMS) Tell me this. Let's talk a little

ROXANNE LOVE - DIRECT-EXAMINATION

1 bit more. I know it is self-explanatory but I want to
2 make sure we get all of the nuisances. When Sidney
3 walks in, does he browse around the Walmart?

4 A No. It appears he knows what he's looking for
5 when he gets there.

6 Q So he doesn't go to the sporting goods section?

7 A No, sir.

8 Q Then men's wear station section?

9 A No, sir.

10 Q Or the outdoor section?

11 A No, sir.

12 Q He goes straight to one section of the store?

13 A Yes, sir.

14 Q And then does he look for something, it appears?

15 A It appears he's looking for something, can't find
16 it and ends up talking with an associate.

17 Q Does that associate escort him to a particular
18 aisle?

19 A Yes, sir, she does. And then he picks up the
20 item he was looking for and proceeds to the cash
21 register.

22 Q And it appears he bought how many items in total
23 from that Walmart?

24 A Two items.

25 Q And paid how?

ROXANNE LOVE - DIRECT-EXAMINATION

1 A With change, with cash.

2 Q Did it appear that he received any change back
3 from the cashier?

4 A He did not.

5 Q Ma'am, I'm showing you now what was marked for
6 identification only as State's Exhibit 62; I would like
7 you to take a look at that.

8 A Yes, sir. It was the receipt that I obtained
9 from Walmart of the purchase that Sidney Moorner made on
10 December -- excuse me, December 18 of 2013.

11 Q How did you obtain that receipt?

12 A Chris Mason was able to go into their system and
13 pull me a copy of it.

14 Q And he handed it to you directly?

15 A Yes, sir.

16 Q And you provided it to my office?

17 A Yes, sir.

18 Q And has it been tampered in any way, shape or
19 form?

20 A No, sir.

21 MR. HELMS: Your Honor, I seek to tender State's
22 62 into evidence.

23 THE COURT: Any objection?

24 MR. GALMORE: No, sir, Your Honor.

25 THE COURT: Without objection, it is admitted.

ROXANNE LOVE - DIRECT-EXAMINATION

(State's Exhibit 62 admitted.)

1
2 Q (MR. HELMS) Ma'am, I want you to take a look one
3 more time at State's 62 and tell me if the two items
4 that Mr. Moorer purchased are itemized on that
5 receipt?

6 A They are.

7 Q And what specifically were those two items?

8 A He purchased a pregnancy test and a Swisher Sweet
9 little cigar.

10 Q So Swisher Sweet and a pregnancy test.

11 Now, tell me how much the Swisher Sweets were.

12 A \$3.63.

13 Q How much was that pregnancy test?

14 A Eighty-eight cents.

15 Q Eighty-eight cents?

16 A Yes, sir.

17 Q He paid how?

18 A With cash, change actually, it looks like on the
19 video, but.

20 Q One more time, could you briefly describe the
21 kind of clothes he was wearing?

22 A He was wearing -- appeared to be burgundy color
23 T-shirt and tannish-khaki looking cargo pants.

24 Q So light-colored pants?

25 A Yes, sir, they were light colored.

ROXANNE LOVE - CROSS-EXAMINATION

1 Q Just one more thing, ma'am. Take a look one more
2 time as State's 62.

3 MR. HELMS: Ms. Miller, I'll ask you to step down
4 and borrow your steady hand one more time.

5 Q Is there a date on that receipt?

6 A Yes, sir, there is.

7 Q Tell me the date of the receipt.

8 A December 18, 2013.

9 Q Is there a time on that receipt?

10 A Yes, sir, there is.

11 Q Tell us what time those items were purchased from
12 that Walmart?

13 A At 1:19 a.m. and 43 seconds.

14 Q 1:19 a.m.?

15 A Uh-huh.

16 MR. HELMS: If you will, please answer any
17 questions the defense may have, ma'am.

18 THE COURT: You may cross-examine.

19 CROSS-EXAMINATION

20 BY MR. GALMORE:

21 Q Ms. Love, when did you say you were brought on to
22 this investigation?

23 A In January of 2014.

24 Q Do you have a specific date?

25 A We were requested on January 15th, I believe it

ROXANNE LOVE - CROSS-EXAMINATION

1 was, of 2014, and I believe we -- first day I was there
2 was January 21st, I believe, of 2014, but somewhere
3 thereabouts.

4 Q Do you know the date that Horry County Police
5 first found Ms. Elvis' automobile?

6 A Not off the top of my head. I don't recall the
7 date they found her automobile.

8 Q If I --

9 A But it was approximately close in proximity to
10 her missing, I believe.

11 Q Do you know that date?

12 A December 18, 2013 is the incident date.

13 Q So SLED was officially brought into the
14 investigation -- you said she went missing on
15 December 18th, and SLED was brought in
16 January 15th; is that correct?

17 A That is when the Pee Dee region was requested for
18 assistance, yes, sir.

19 Q And you were brought into the case approximately
20 a week after that, on the 21st of January?

21 A That is when I was able to be there, yes, sir.

22 Q Okay. Let's talk about SLED for a minute. You
23 said that SLED has different departments and they
24 support the local agencies, and I think you said that
25 one department was the arson department, and another

ROXANNE LOVE - CROSS-EXAMINATION

1 department was the Behavioral Sciences Unit?

2 A Yes, sir.

3 Q What department from SLED were you assigned to?

4 A I'm in the Pee Dee region. SLED has four regions
5 that includes Midlands, upstate, low county and Pee Dee
6 region. The Pee Dee region is composed of 12 counties
7 which we service for assistance when requested, and we
8 can be requested for numerous things as far as criminal
9 investigations or manpower. It could be a natural
10 disaster or a big event that they need our assistance
11 with.

12 Q So when you said that you were brought into the
13 case, you were brought in as a representative from the
14 Pee Dee region?

15 A Yes, sir. And our unit is an investigative unit.

16 Q Investigative unit, okay. Was the Behavioral
17 Sciences Unit also brought into this case?

18 A Yes, sir. I believe they did assist some in the
19 investigation, yes, sir.

20 Q And that would be under the supervision of
21 Lieutenant Bo Barton from SLED?

22 A Yeah, it would have been -- I think it was --
23 well, yes, sir.

24 Q So you're a lieutenant working with SLED, he's a
25 lieutenant working with SLED; were there any other SLED

ROXANNE LOVE - CROSS-EXAMINATION

1 agents assigned in this case?

2 A Yes, Randy Truss and James Johnson were agents
3 that assisted. They are from the Pee Dee regions.

4 Q So we have three Pee Dee region SLED agents, and
5 we have one BSU SLED Lieutenant assigned to this case;
6 four SLED agents, total?

7 A Yes, sir. There were other agents that would
8 come in and assist when needed, but, yes, sir.

9 Q So there were more than four agents assigned to
10 the case?

11 A That would assist when we needed the manpower or
12 something, yes, sir.

13 Q Right. Now, how long did you work at SLED?

14 A 25 years.

15 Q 25 years. Are you familiar with the unit called
16 the Fusion Center?

17 A Yes, sir.

18 Q Can you tell the jury what the Fusion Center
19 does?

20 A Some of -- the Fusion Center is a unit at SLED
21 and they have analysts answering the phones during
22 non-court hours, which is after 5:00 and before 8:30.
23 They can run anywhere from DMV tags, they can do
24 searches for you if you are looking for someone, and
25 they are responsible for after hours making sure an

ROXANNE LOVE - CROSS-EXAMINATION

1 agency request, Crime Scene Unit, getting those units
2 to the areas that they need responding to.

3 Q Do they do computer-related stuff also?

4 A Yes, sir.

5 Q Like cell phone extractions?

6 A We also have a Computer Crime Unit, and they do
7 cell extractions. I don't think the Fusion Center does
8 cell extractions themselves.

9 Q SLED has the capacity to do cell phone
10 extractions?

11 A Yes, sir.

12 Q And SLED does those on a regular basis?

13 A Yes, sir.

14 Q What about computers such as laptops, desktops;
15 SLED also has the capacity to extract the data off of
16 those?

17 A Yes, sir. Computer Crimes Unit would handle
18 that.

19 Q Right. I think you said you were in the
20 Investigative Unit?

21 A Yes, sir.

22 Q Now, I think your testimony is that you collected
23 the video, and you collected the receipt?

24 A Yes, sir.

25 Q What other work did you do on this case?

ROXANNE LOVE - CROSS-EXAMINATION

1 A We assisted with interviews, we helped with
2 searches, search warrants, followed up on leads with
3 the video footage, things of that nature.

4 Q Did you conduct any interviews?

5 A Yes, sir, I did.

6 Q Who did you --

7 A Or assisted. I assisted with some of the
8 interviews at the Tilted Kilt; those are the ones I
9 recall the most.

10 Q Did you interview any of the Moorer family?

11 A Yes, sir. I interviewed Tammy Moorer's mother, I
12 can't remember her first name, but the last name was
13 Caison.

14 Q Did you interview any of the Moorer children?

15 A No, sir, I did not.

16 Q Other than interviews, did you dust for
17 fingerprints?

18 A No, sir.

19 Q Did you take pictures of Ms. Elvis' car?

20 A No, sir.

21 Q Did you take pictures of Ms. Elvis' apartment?

22 A No, sir.

23 Q Did you collect any DNA evidence in this case?

24 A No, sir, I did not.

25 Q Now, the information that you did provide to this

ROXANNE LOVE - CROSS-EXAMINATION

1 jury, the video and the receipt, I think it is my
2 understanding that you already had the time frame that
3 you were looking for on the video, correct?

4 A Yes. Yes, sir.

5 Q How is it that you came by that information?

6 A We were provided that by an Horry County
7 investigator.

8 Q Do you know how Horry County came by that
9 information?

10 A If I'm not mistaken, they conducted an interview
11 with Sidney Moorner and he provided some of that
12 information.

13 Q So he told them that he was at Walmart?

14 A Yes, sir. Best I can remember, yes, sir.

15 Q And he told them that he was making a purchase of
16 a pregnancy test?

17 A I believe so, yes, sir.

18 Q So what you did with this TV was just go back and
19 give us what we already knew, correct?

20 A What that did was corroborate what information we
21 had been provided.

22 Q You corroborated Mr. Moorner's version of events
23 in that regard?

24 A For that moment, yes, sir.

25 MR. GALMORE: Thank you. No further questions.

BRIAN WILSON - DIRECT EXAMINATION

1 THE COURT: Redirect.

2 MR. HELMS: Nothing, Your Honor.

3 THE COURT: You may come down.

4 Do you wish this witness to be excused?

5 MR. HELMS: Yes, sir.

6 THE COURT: Any objection?

7 MR. GALMORE: No, sir.

8 THE COURT: You are also free to leave, sir,
9 thank you.

10 Call your next witness.

11 MR. HELMS: We call Detective Brian Wilson.

12 (BRIAN WILSON, having been duly sworn,
13 testified as follows:)

14 THE WITNESS: Brian Wilson, W-I-L-S-O-N.

15 DIRECT EXAMINATION

16 BY MR. HELMS

17 Q Mr. Wilson, where do you work?

18 A Horry County Police.

19 Q How long have you been there?

20 A 14 years.

21 Q What is your rank?

22 A Detective.

23 Q And as a detective, generally speaking, what do
24 your duties entail?

25 A We do investigations of crimes.

BRIAN WILSON - DIRECT EXAMINATION

1 Q Fair enough. What training did you do to become
2 a detective?

3 A Well, I went to the law enforcement academy in
4 Columbia, and I had some regional training as well.

5 Q You always undergo training, constantly, every
6 year?

7 A Yes.

8 Q What was your position back in 2013, December of
9 2013?

10 A Detective.

11 Q So you have been a detective a long time?

12 A Yeah.

13 Q Did you have an opportunity to assist on the case
14 we're here for today?

15 A I did.

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

17 A I was given the task to find video. There was a
18 receipt found in a car of McDonald's, and I was given
19 the task to find surveillance video from that
20 McDonald's. While I was out there doing that task, I
21 was given a phone call saying they developed
22 information about a phone call that came from a
23 possible payphone at a location in the City of Myrtle
24 Beach, I went there and collected that video.

25 Q Can you tell us what location you went to?

BRIAN WILSON - DIRECT EXAMINATION

1 A It was a gas station, don't know if it was a
2 Kangaroo or Circle-K, right there on the corner of
3 Mr. Joe White and Seaboard.

4 Q Is that down the road from Walmart?

5 A Up the road.

6 Q Up the road from Walmart?

7 A Yes.

8 Q Is it in the vicinity of a Walmart?

9 A Yes.

10 Q So when did you go and investigate this payphone
11 video?

12 A I believe it was the 20th of December.

13 Q Of 2013?

14 A Yes.

15 Q And when you got there, what did you encounter?

16 A I was able to see the place had several different
17 video cameras, one that pointed to a payphone on the
18 side of the building.

19 Q The only one pointed to the payphone?

20 A Yes.

21 Q Were you able to learn what the Kangaroo's hours
22 were?

23 A Yes.

24 Q Tell me about the hours.

25 A They were, I believe at the time, opened 24 hours

BRIAN WILSON - DIRECT EXAMINATION

1 a day.

2 Q So the payphone was available to anybody 24/7?

3 A Yeah, it was on the outside of the building.

4 Q Oh, okay. So you knew you were looking for video
5 from that specific payphone?

6 A Yes.

7 Q And were you able to make contact with someone
8 that granted you access to watch the video?

9 A Yeah, the manager.

10 Q Did he make you get a search warrant?

11 A No.

12 Q So he was just cooperative?

13 A Yes, he was.

14 Q Did he let you watch the video?

15 A He did.

16 Q What did you learn from watching the video?

17 A Well, the video was not the best quality, but you
18 could see, in the time frame I was given, someone walk
19 from the Seaboard side to the payphone and was on the
20 payphone for approximately five minutes, and then goes
21 -- leaves the way he came in in the parking lot.

22 Q Let's talk about that. The time frame you were
23 given, what time frame were you given, generally
24 speaking?

25 A I believe it was between 1:00 and 2:00 a.m.

BRIAN WILSON - DIRECT EXAMINATION

1 Q So you looked for video between that time frame?

2 A Yes.

3 Q And you did, in fact, secure video?

4 A I did.

5 Q And you did, in fact, witness someone during that
6 time frame use the payphone?

7 A Yes.

8 Q How many people during that time frame used that
9 payphone?

10 A One.

11 Q You secured that video from the manager?

12 A I did.

13 Q Tell me just a little bit more before we go any
14 further about that video. Before the person walks from
15 Seaboard street, you say --

16 A Yes.

17 Q -- to the payphone, do you see anything else?

18 A You see a car, a vehicle, come up Seaboard, and
19 it appears that they do -- kind of like turn around
20 because you see the headlights flash across the parking
21 lot where the payphone is, and you don't see it leave,
22 and then several seconds later, you see the person come
23 from that side.

24 Q Tell me this, the payphone itself, is it a phone
25 booth?

BRIAN WILSON - DIRECT EXAMINATION

1 A No, it is mounted to the side of the building.

2 Q Is it in an alley?

3 A No.

4 Q So it is in an open area?

5 A Correct.

6 Q And in front of that payphone, what do you have?

7 A Really, nothing. There is a parking lot.

8 Q Parking lot?

9 A The side of the building parking lot.

10 Q Spaces for cars to park?

11 A Absolutely.

12 Q In this video, between 1:00 and 2:00 a.m., how
13 many cars were parked in front of the payphone?

14 A None.

15 Q So there was space available in front of this
16 payphone to park?

17 A Yes.

18 Q Tight space, like compact car space?

19 A No. I believe the dumpsters are on that side of
20 the building, back of the building. So I would say
21 there is enough room for a garbage truck to pick up the
22 trashcans.

23 Q How many cars were in that parking lot when this
24 payphone was used?

25 A Zero.

BRIAN WILSON - DIRECT EXAMINATION

1 Q I'm showing you now what was marked for
2 identification purposes only as State's Exhibit 61.
3 Take a look at it, take a look at what's in it, and
4 tell this jury if you know what it is.

5 A It is the video that I initialed that I got from
6 the gas station.

7 Q You acquired that from the gas station?

8 A Yes, it is.

9 Q Does that encompass what you were looking for
10 that night?

11 A It does.

12 Q Has it been tampered with in any way?

13 A No.

14 Q You have seen that video?

15 A I have.

16 Q How do you know you've seen that video?

17 A It has my initials on it.

18 MR. HELMS: Your Honor, at this time I seek to
19 introduce State's 61 into evidence.

20 THE COURT: Any objection?

21 MR. BOUCHETTE: No objection.

22 THE COURT: Without objection, State's 61 is
23 admitted.

24 (State's Exhibit 61 admitted.)

25 MR. HELMS: Permission to publish?

BRIAN WILSON - DIRECT EXAMINATION

1 THE COURT: Yes, sir.

2 Q I want to ask you this, Detective, while she's
3 doing that. You said the video is not the best
4 quality?

5 A Yes.

6 Q Can you make out -- it is definitely a person on
7 the video?

8 A Yeah.

9 Q Tell me what you can make out about the person on
10 the video.

11 A The only thing you can make out is they are
12 wearing a dark color shirt, sweater, long sleeve and
13 lighter color pants.

14 Q Lighter color pants?

15 A Yeah.

16 Q Can you see the screen?

17 A Yes, I can.

18 Q Kind of narrate for us. You have seen it more
19 times than I have. Tell us what you see when we see
20 it.

21 A Okay. As you can see on the top part of the
22 video, come up like it is a vehicle coming up Seaboard
23 towards Tenth Avenue, or Mr. Joe White.

24 See how the headlights flash on that side of the
25 parking lot?

BRIAN WILSON - DIRECT EXAMINATION

1 Q I do.

2 A Right there.

3 Q What is across the street, Seaboard Street, from
4 this gas station?

5 A It's a commercial building.

6 Q Is it open at this time of night?

7 A No, it's not. In the video, the vehicle's
8 headlights turn; you don't see it go back the opposite
9 way.

10 Q So it appears it turns around; you don't see it
11 go back down Seaboard Street?

12 A Correct.

13 Q When you say up and down Seaboard Street, what
14 direction was the vehicle coming from?

15 A It was coming from 501 towards Mr. Joe White
16 Avenue, like coming north.

17 Q Where is the Walmart?

18 A It's south of here. We're facing the direction
19 of Walmart.

20 Q So it's coming from the direction of Walmart?

21 A Correct. And you see a person coming across the
22 video right to the payphone.

23 Q You say a dark top and light bottoms?

24 A Yeah. The quality of the video is not the
25 greatest, so.

BRIAN WILSON - DIRECT EXAMINATION

1 Q Right here, the person appears to be using the
2 payphone?

3 A Correct.

4 Q Since there is no audio, about how long does this
5 person use this payphone for?

6 A Approximately, five minutes.

7 Q During this course of five minutes, do you see
8 any other person on this video?

9 A No. As you can tell, at the time of the night,
10 there is not very much traffic coming up Seaboard
11 Street.

12 Q To the best of your knowledge, is that pretty
13 common this time of night in that area of Myrtle Beach?

14 A Yes.

15 Q Detective, tell me this while we're waiting and
16 watching, across the street where you said there is a
17 commercial building, are there any big impediments
18 blocking a view from that building to this payphone?

19 A Not that I remember.

20 Q No big trees?

21 A There is a couple of trees along the side of the
22 road, but they are small.

23 Q So you could see through them to the payphone?

24 A Yes.

25 Q Silly question, but no walls?

BRIAN WILSON - DIRECT EXAMINATION

1 A No.

2 Q Tell me what I'm looking at.

3 A The person that is on the phone is now exiting
4 across the parking lot the same way they came in.

5 Q Towards Seaboard Street?

6 A Yes.

7 Q Those cars I'm seeing pass by, they are on
8 Seaboard Street?

9 A Yes. The -- Tenth Avenue is behind you, and you
10 are looking right down, for the most part, Seaboard
11 Street.

12 Q This parking lot appears to be well lit; am I
13 correct?

14 A Yes.

15 Q Can you see this person any more on this video?

16 A No.

17 Q So we see a car come from the direction of
18 Walmart?

19 A Correct.

20 Q Fill in the blanks, go ahead.

21 A The vehicle comes traveling north on Seaboard
22 Street. Headlights appear to flash on the side parking
23 lot and does not go back the opposite direction of
24 Seaboard Street which it came. Several seconds later,
25 the person comes to the payphone. He is there about a

BRIAN WILSON - DIRECT EXAMINATION

1 little over five minutes, I believe, and then exits the
2 same way.

3 Q And the person's general clothing -- I know it is
4 blurry --

5 A Dark top and lighter pants.

6 Q Do you know what time that was? Do you know
7 exactly what time that phone call was made on the
8 video?

9 A Not exactly. It was around 1:30.

10 MR. HELMS: Ms. Miller, if you don't mind. If I
11 write it, you can't read it.

12 Q What date was that on?

13 A I'm not a hundred percent on what date -- I
14 collected it on the 20th.

15 Q You collected it on the 20th, but what time was
16 it on?

17 A Roughly, 1:30 in the morning.

18 MR. HELMS: Thank you, Ms. Miller.

19 Q I want to ask you another question.

20 A Sure.

21 Q The Walmart in relation to where this payphone is
22 -- here, let's do it this way. We'll use the big map.
23 I'm showing you what is entered into evidence as
24 State's -- good Lord -- 56. I'll hold it up for you.

25 MR. HELMS: Your Honor, if you don't mind?

BRIAN WILSON - DIRECT EXAMINATION

1 THE COURT: No, that is fine.

2 Q Can you point out to me where the gas station,
3 that payphone, was located on this map?

4 A It is right here (indicates).

5 Q And I know it is probably not marked, but
6 generally where is the Walmart on Seaboard Street?

7 A Right here (indicates).

8 Q And the truck drove what route -- not truck, the
9 vehicle you saw on the video?

10 A It was coming from this direction (indicates).

11 Q Towards -- okay. And let me ask you this
12 question. That Walmart, about how often is that
13 Walmart from the Kangaroo Gas Station?

14 A I would say around a mile, maybe.

15 Q How long would it take you to drive from that gas
16 station to that Walmart going down Seaboard Street?

17 A Probably less than five minutes, I imagine.

18 Q Less than five minutes. Less than five minutes.

19 Did you do anything else after you collected that
20 video, Detective Wilson, to help in this
21 investigation?

22 A I was part of the consent to search the Moorers'
23 house.

24 Q When did that happen?

25 A I believe the next day.

BRIAN WILSON - DIRECT EXAMINATION

1 Q The next day?

2 A On the 21st, maybe.

3 Q What did you do to assist in that search?

4 A Just I was there, Lieutenant Cestare and
5 Lieutenant Squires.

6 Q With Horry County Police Department?

7 A Correct.

8 Q And you say consent to search, tell the jury what
9 that means exactly.

10 A They have given us consent to search their home
11 at that point, which, like, they gave us permission to
12 go in their home.

13 Q So you didn't have a search warrant at that time?

14 A No, we did not.

15 Q So when you got there, who is present at the
16 Moorers' house?

17 A It was Tammy and her parents.

18 Q And who actually gave you consent to search?

19 A Tammy.

20 Q And how long were you at the house?

21 A Maybe an hour.

22 Q And when you got there, was Sidney there?

23 A No.

24 Q Do you know where he was?

25 A He was at our M.L. Brown building.

BRIAN WILSON - DIRECT EXAMINATION

1 Q What did you notice? Did you seize anything,
2 first of all, at the house?

3 A No.

4 Q Did you notice anything of possible evidentiary
5 value while you were at the house?

6 A When we were walking up to the front door, we saw
7 there was surveillance cameras outside.

8 Q Did that pique your interest?

9 A Yes.

10 Q Why?

11 A Because it would capture anything that would go
12 on.

13 Q When you said surveillance cameras, multiple
14 cameras?

15 A Yes.

16 Q And where did they appear to be aimed at?

17 A Mainly their driveway, front yard area.

18 Q Did they appear to be in good working order?

19 A Yes.

20 Q But you didn't have a warrant to seize those
21 cameras at that time?

22 A No, we did not.

23 Q Did you see any vehicles in the driveway?

24 A I don't recall any vehicles being there.

25 Q Let me ask you this. When you saw those cameras

BRIAN WILSON - CROSS-EXAMINATION

1 and took note of them of being possible evidentiary
2 value, did your department secure a search warrant
3 later for those cameras?

4 A I believe so, yes.

5 Q Did you go back to seize those cameras?

6 A Yes.

7 Q Were you able to seize those cameras?

8 A I was not part of that part.

9 MR. HELMS: Please answer any questions defense
10 may have.

11 THE COURT: You may cross-examine.

12 MR. BOUCHETTE: Court's indulgence.

13 THE COURT: Sure. Absolutely.

14 CROSS-EXAMINATION

15 BY MR. BOUCHETTE:

16 Q Good afternoon.

17 A Good afternoon.

18 Q Now, this was -- just so we get our timelines
19 right, this voluntary consent to search occurred on the
20 20th; is that correct?

21 A I believe so.

22 Q So Ms. Moorner (sic) goes missing the morning --
23 early morning of the 18th, are you aware of any
24 interaction between Mr. Moorner and law enforcement
25 between the 18th and when you went to his residence

BRIAN WILSON - CROSS-EXAMINATION

1 on the 20th?

2 A Well, that day we encountered him. He was --
3 Mr. Moorner was at the police department when we
4 went to the home.

5 Q Right. So we're now on the 20th, so this is
6 approximately 48 hours after the first report of
7 Ms. Elvis being missing, correct?

8 A Yes.

9 Q And by this point, Officer Calderwood, Officer
10 Scales and Officer Canterbury all have appeared at the
11 Moorner residence prior to your arrival, correct?

12 A Correct.

13 Q And you have now -- I withdraw that.

14 At this point, Sidney already has been questioned
15 at the M.L. police station, correct?

16 A Yes.

17 Q And while he's at the M.L. building being
18 questioned, you are requesting a search of his home,
19 correct?

20 A Yes.

21 Q Did you seek to take possession of any items that
22 you found during that consent to search?

23 A No.

24 Q Is it safe to say that since you did not ask for
25 custody or possession of any of those items, there was

BRIAN WILSON - CROSS-EXAMINATION

1 nothing -- other than what you mentioned a moment
2 ago -- that would be of evidentiary value that you saw
3 at that time?

4 A Correct.

5 Q And, again, this is in the -- about 48 hours
6 after she went missing, correct?

7 A Yes.

8 Q And you are trained as a detective to notice
9 various items that might appear suspicious under these
10 circumstances, correct?

11 A Yes.

12 Q Again, it goes without saying, but you noticed no
13 items that you believed to be related to Heather Elvis
14 in their home, correct?

15 A Correct.

16 Q I imagine you went to the residence -- did you
17 notice a truck?

18 A I did not.

19 Q You did not see a truck?

20 A No.

21 Q So you didn't notice any other -- anything that,
22 at least the best you could tell at that time, would
23 indicate a link between Mr. Moorer and Ms. Elvis at
24 that point?

25 A No.

BRIAN WILSON - CROSS-EXAMINATION

1 Q Did you prepare a report in this investigation?

2 A I did.

3 MR. BOUCHETTE: Give me just one moment, Your
4 Honor.

5 THE COURT: Sure.

6 (A brief pause in the proceedings.)

7 Q (MR. BOUCHETTE) You prepared a report in this
8 case, correct?

9 A Yes.

10 Q And do you recall in that report if you ever
11 indicated that you saw the surveillance videos?

12 A I did not.

13 Q Now, that is something you would have done, you
14 know, close in time to your involvement, correct?

15 A Yes.

16 Q Now, subsequent to that, you had a lot of
17 conversations with other investigators and with the
18 Solicitor's Office, correct?

19 A I personally didn't, but after the initial couple
20 of days, they took some of us off the investigation
21 because they were focusing on other agencies helping
22 out with it.

23 Q Because, at this point, when you went to the
24 Moorer residence, it was you and Lieutenant Cestare?

25 A Yes.

BRIAN WILSON - REDIRECT EXAMINATION

1 Q So actually two of you went at this point?

2 A Three.

3 Q Three of you. While Sidney was at the M.L. Brown
4 building, three of you went and asked Ms. Moorner to
5 search?

6 A Correct.

7 Q At that time, you did not ask to take possession
8 of these surveillance videos that you say you saw?

9 A Correct.

10 Q And in your report that was prepared
11 contemporaneous with your observation, you did not note
12 any surveillance footage at that time, correct?

13 A No.

14 Q But after subsequent discussions and subsequent
15 preparation for this case, you now remember that those
16 surveillance videos were in place; is that your
17 testimony?

18 A Yes.

19 MR. BOUCHETTE: Nothing further for this witness,
20 Your Honor.

21 THE COURT: Redirect.

22 REDIRECT-EXAMINATION

23 BY MR. HELMS:

24 Q Mr. Bouchette is absolutely correct, the consent
25 to search was actually done on the 20th?

BRIAN WILSON - REDIRECT EXAMINATION

1 A Yes.

2 Q Not the 21st?

3 A Correct.

4 Q The day before, okay. And that is what I
5 thought. So it was on the 20th that you actually saw
6 the surveillance cameras up in the Moorers' house?

7 A Yes.

8 Q And you all didn't seize them at that point?

9 A No.

10 Q Subsequent to that, your department sought a
11 search warrant for those cameras?

12 A Correct.

13 Q So someone thought they were of some evidentiary
14 value?

15 A Correct.

16 Q But you weren't a part of the group that went
17 back to execute that warrant later?

18 A No.

19 Q So you don't know if those same cameras were
20 seized or not?

21 A Correct.

22 Q Tell me about the truck that Mr. Bouchette asked
23 you about, because you didn't seem sure; is it possible
24 there was a vehicle in the driveway and you don't
25 recall?

BRIAN WILSON - RECROSS-EXAMINATION

1 A I don't recall.

2 MR. HELMS: No further questions.

3 THE COURT: Recross.

4 (A brief pause in the proceedings.)

5 RECROSS-EXAMINATION

6 BY MR. BOUCHETTE:

7 Q You were asked if you seized these cameras, and
8 you didn't, right?

9 A Huh-huh.

10 THE COURT: Is that a no?

11 A No.

12 Q (MR. BOUCHETTE) But when I asked you a moment
13 ago, you actually didn't even ask if you could take
14 possession of those, correct?

15 A Yeah. We did not.

16 Q You did not ask?

17 A No.

18 Q Because you are there at the allowance of the
19 Moorers, correct?

20 A Yes.

21 Q They allowed you to come into their home to
22 search?

23 A Yes.

24 Q And nothing stopping you from saying, ma'am, can
25 I look at the video surveillance from these?

MICHAEL MELSON - DIRECT EXAMINATION

1 A Yes. Correct.

2 Q And, again, you are sure they were there at that
3 time?

4 A Yes.

5 Q Even though it is not recorded in your report?

6 A Correct.

7 Q Now, after six years later, and after
8 conversations with the Solicitor's Office, you are sure
9 it was there?

10 A Yes.

11 Q But, again, you didn't undertake any efforts to
12 ask for possession of those, correct?

13 A Correct.

14 THE COURT: You may come down.

15 Do you wish for him to be excused?

16 MR. HELMS: By all means, Your Honor.

17 MR. BOUCHETTE: Absolutely.

18 THE COURT: You are free to leave, sir, thank
19 you.

20 Call your next witness, please.

21 MS. LIVESAY: Thank you, Your Honor. At this
22 time we call Mike Melson.

23 (MICHAEL MELSON, having been duly sworn,
24 testified as follows:)

25 THE WITNESS: Michael Melson, M-E-L-S-O-N.

MICHAEL MELSON - DIRECT EXAMINATION

1

2

DIRECT-EXAMINATION

3

BY MS. LIVESAY:

4

Q Mike, if you don't mind, tell this jury where you are from.

5

6

A I'm from the Dallas, Texas area.

7

8

Q And if you don't mind, tell them where you are currently employed.

9

10

A I'm employed at a company called Hawk Analytics. It's a company I found and am CEO of.

11

12

Q If you don't mind, tell them what your company does, what did you find, what did you create?

13

14

A It's a software company. I wrote the software. It analyzes cell phone records to understand what they say during investigations.

15

16

Q And what does the software analyze?

17

18

A It specifically -- we analyze call detail records that are provided from cell phone companies.

19

20

Q And tell this crowd a little bit about your background. What did you do before you found Hawk Analytics?

21

22

23

24

25

A I've always been in the software industry in some form or fashion. My schooling is in software, both a bachelor's and master's degree. My first job was actually on the space shuttle working on the flight

MICHAEL MELSON - DIRECT EXAMINATION

1 software. After that, I went to work as a contractor
2 for one of the cell phone companies in the early days,
3 spent about three, four years working on the billing
4 software that digested these types of records and
5 created phone bills.

6 Q And if you don't mind, tell them how many police
7 agencies use your software.

8 A Well, we have police agencies, as well as private
9 sectors. We have somewhere in the neighborhood of
10 about 500 customers, about 85 percent of those is law
11 enforcement.

12 Q If you don't mind, tell them a little bit about
13 how many times you testified -- before you tell them
14 that, do you teach as well?

15 A Yes. Part of the service we provide is teaching
16 people how to understand and analyze these records.

17 Q How long have you been teaching?

18 A Probably four years.

19 Q And have you ever testified in court?

20 A Yes, ma'am.

21 Q And have you been qualified as an expert?

22 A Yes, ma'am.

23 Q And what were you qualified as an expert in?

24 A Historical cellular records analysis.

25 Q Now, before we get too far into what you did in

MICHAEL MELSON - DIRECT EXAMINATION

1 this case, does your software do anything to alter the
2 records at all?

3 A We try to keep that to a minimum, but there are
4 some situations where the work product we put out from
5 the software will differ slightly. One of the most
6 important ones to understand is the timestamps. These
7 records are not always in Eastern Timezones; for
8 instance, in the Sprint records, we will have Eastern,
9 as well as Central. T-Mobile sometimes is something
10 called UTC. So we normalize those so we can look at
11 them in a timeline that makes sense. We also
12 standardize some of the fields, so instead of a zero,
13 we might say "incoming" so it is more readable.

14 Q I should have asked you this before. When you
15 were qualified, what court were you qualified in?

16 A In this court?

17 Q In circuit court?

18 A Yes.

19 Q And that was in cellular technology and
20 historical records analysis?

21 A Correct.

22 Q And does that entail, basically, mapping out the
23 phone records?

24 A Yes. We do several types of analysis, mapping to
25 understand locations, as well as who is talking to who,

MICHAEL MELSON - DIRECT EXAMINATION

1 that type of thing.

2 MS. LIVESAY: Your Honor, at this time the State
3 wishes to offer Mr. Melson as an expert in cellular
4 technology and historical records analysis.

5 MR. GALMORE: No objection.

6 THE COURT: Very well, I'll allow you to render
7 opinions in those areas.

8 MS. LIVESAY: Thank you, Your Honor.

9 Q (MS. LIVESAY) Mr. Melson, what phone numbers did
10 you analyze the records for in this case?

11 A The records -- the phone numbers were related to
12 a phone that was associated with Mr. Moorner, Ms. Moorner
13 and Heather Elvis. One ended in 74, I believe that was
14 Ms. Moorner's; 75 was Mr. Moorner's, and Heather's phone.

15 Q Tell this jury a little bit, first, about your
16 analysis. What did you look at? What did you find?

17 A What we look for are things that can help us
18 understand what is going on through these records in
19 the area of locations. Now, these records don't
20 contain the exact location of the phone. What they
21 tell us is the antenna that was used, so that can give
22 us a general area where the phone may have been. So we
23 look at it from a location analysis perspective, we
24 look at it from a connection perspective, who they
25 talked to first, last, most on a particular day, at a

MICHAEL MELSON - DIRECT EXAMINATION

1 particular time.

2 And then the last thing is what we teach is
3 pattern of life; our normal routine. Our phones are
4 with us almost all the time and document what is
5 normal for us. So we look at what the normal patterns
6 were and the usages of the phones, and then did those
7 patterns change, was there any difference, and see if
8 we can understand a little more why those patterns
9 might have changed.

10 Q Did you do a report to help explain your analysis
11 to the Court and this jury?

12 A Yes, I did.

13 (State's Exhibits 63 and 64 marked.)

14 Q (MS. LIVESAY) I'll show you State's Exhibit 63
15 and 64. If you don't mind, take a look at it and tell
16 this Court what it is?

17 A State's Exhibit 63 is a printout of PowerPoint
18 presentation I put together.

19 Q Would this assist you in explaining what you
20 found from their phone records, from Heather's,
21 Sidney's and Tammy's?

22 A Yes, ma'am.

23 MS. LIVESAY: Your Honor, at this time the State
24 wishes to put 63 and 64 into evidence and publish it
25 to the jury.

MICHAEL MELSON - DIRECT EXAMINATION

1 THE COURT: Any objection?

2 MR. GALMORE: No, sir.

3 THE COURT: Without objection, you may do so. It
4 is admitted.

5 (State's Exhibits 63 and 64 admitted.)

6 Q (MS. LIVESAY) Before I publish this, I want to
7 ask you, so the jury knows what to expect, are we
8 going to be able to tell at certain times where
9 Heather's phone is in relationship to the defendant's?

10 A We will be able to tell in a general area, and
11 I'll explain what that means. So, yes, we will be able
12 to see if they are in the same general area, or on
13 opposite sides of town.

14 Q Now, earlier, you weren't in here, but
15 Mr. Galmore was asking questions to Mr. Martin. Are
16 you going to be able to give exact locations of the
17 phone?

18 A No. These records do not contain the locations
19 of the phone. What we do have is the exact location of
20 the antenna that the phone used, and I'll explain more
21 about why you use that antenna. We can determine the
22 general area where the phone was, but the actual
23 location of the phone is not in these records.

24 Q Tell this jury when you got to Horry County.

25 A I flew in today. I got here about 2:30.

MICHAEL MELSON - DIRECT EXAMINATION

1 Q So you had to go straight from the airport to
2 here?

3 A Yes, ma'am.

4 Q If you don't mind, step down so you can go
5 through what your analysis was on what the records
6 show. I'll let you stand by the microphone.

7 MS. LIVESAY: Just so we're clear, this is
8 Tammy's phone, the defendant's and the victim's.

9 A Correct.

10 Q Okay. Take us through.

11 A Yes, ma'am. All right. This slide just
12 documents all the different files that I analyze from
13 the records. They are the same printouts that you may
14 have seen. They are the actual raw data from Mr. and
15 Mrs. Moorers' phones, Sprint, and then the T-Mobile's
16 records for Heather's phone.

17 During the analysis, Ms. Moorer's phone will be
18 either pink or purple, and I'll keep pointing that out
19 as we go through. Mr. Moorer's is blue or green, and
20 Ms. Elvis' will be red.

21 We're talking about these call detail records.
22 It is something I look at every day, but you probably
23 haven't, so let me show you what they look like and
24 what is in them and why we care. Where they come from
25 is every time anybody uses their cell phone or mobile

MICHAEL MELSON - DIRECT EXAMINATION

1 device, the phone company writes this down. They
2 write down what they did. They record it so they can
3 improve their network. They also record it so they
4 can send us phone bills.

5 So this is an example of one of the Sprint
6 records. What we have -- and it is the same, but will
7 look a little different, it is formatted different,
8 but it is the same type of data in the T-Mobile
9 report. The first thing we have is who called who.
10 So if it is a voice call or text message, who
11 initiated it and who received it. We have when it
12 started, how long it lasted, and then we have some
13 numbers that give us the cell tower that was used at
14 the very start of the call, and that is important. A
15 phone may use other towers, but this was the tower
16 that was selected at the very beginning of the call.

17 Those numbers -- actually, then we have to look
18 up in another spreadsheet that was listed on there.
19 What we find out is what I mentioned, we find those
20 numbers, and we get a latitude and longitude, the GPS
21 coordinates of the actual cell tower that you would
22 see out there. The other piece of information is
23 something called an ASMAT. If you have ever noticed,
24 those towers have three sides. Instead of one antenna
25 broadcasting its signal in a full circle, like an

MICHAEL MELSON - DIRECT EXAMINATION

1 incandescent lightbulb in a living room, these
2 antennas project a signal in one direction only, more
3 like a spotlight or flashlight. They will put three
4 of them on the tower so they can cover the three sides
5 more effectively.

6 So what we know is, for instance, in this case,
7 the particular antenna that was used is pointing due
8 south from that tower. Now we're going to be looking
9 at maps when we're talking about locations, and there
10 are three types of analysis we'll do. What we'll show
11 you is that the antenna is at the tip of that
12 spreadsheet. The graphic symbol points due south to
13 simply show you the direction the antenna is facing at
14 that location. In fact, if we take a look, we can
15 actually switch the satellite view and see that there
16 is an antenna there, and I do that regularly to make
17 sure that these graphic symbols are accurate, that
18 there is actually an antenna there.

19 One thing that is important to point out here,
20 the only thing we know is where the antenna is and
21 which way it faces. We don't know the actual area it
22 covers. These graphic symbols are not intended to
23 show any coverage areas, so please don't think that
24 the phone has to be inside that shaded area. The
25 phone can be anywhere, most likely in the general area

MICHAEL MELSON - DIRECT EXAMINATION

1 out in front. So we're just showing location and
2 direction. We know it is projecting its best area to
3 the south.

4 In this case, this was a record that was at about
5 11:20 at night, Mr. Moorer's phone. It is very likely
6 that he could have been at home, or his phone could
7 have. So it is perfectly reasonable that that would
8 be the antenna used, because it is providing the best
9 signal in the area of his phone.

10 Let me just talk really quickly, the phones do
11 not always pick the closest antenna. Often they do,
12 but the phones don't know where the antennas are.
13 They are listening to all the antennas all the time,
14 and they are picking ones that have a best signal.
15 All of these antennas are sending a signal every so
16 often, and our phones monitor those so they can tell,
17 oh, I like that one, it is the loudest and clearest,
18 or I like that one, that is the loudest and clearest.
19 The phone is the only thing listening. The phone is
20 the only thing that determines which is the first
21 tower used. The network doesn't know which tower the
22 phone is going to connect to, when we have that
23 written down here as first. So it is just the best
24 signal, and that is why it's chosen.

25 We have a second type of record from Sprint here.

MICHAEL MELSON - DIRECT EXAMINATION

1 They are similar to the first. They have all the same
2 information as the first records do. There are a
3 couple differences. One, we often have more of these
4 records, because that first pile from Sprint is
5 billing data. So if is not a billable call, we may
6 not know about it, a dropped call, that type of thing.
7 The second report contains more of the records that
8 wouldn't have shown up in the billing report, so
9 that's the first thing. You may see things in here
10 that you wouldn't have in the first file.

11 The second thing that we have, we have when it
12 starts, how long it lasts, the identifier, the antenna
13 that was used so we can determine where it was and
14 which way it faces. We have two additional pieces of
15 information in this report, and they are very useful.
16 The first is a distance measurement. That is the
17 distance that the phone was measured to be from that
18 antenna when the call started. They do this that
19 because the signals travel at speed of light, so if
20 you can time how long it takes for the signal to leave
21 the tower and get to the phone, you can turn it into a
22 distance measurement. So it's a timing, kind of like
23 a sonar ping.

24 The next thing is estimated phone location. The
25 engineers came up with their best guess, if you will,

MICHAEL MELSON - DIRECT EXAMINATION

1 where the phone was when this started. So those are
2 the additional pieces of information in this other
3 type of data. On the maps, what you will see, will
4 have that same graphic symbol to show you where the
5 antenna is and which way it faces. This curved line
6 is going at the distance the phone was measured to be
7 from the antenna. These are quite often -- about
8 78 percent of the time -- within a couple hundred
9 meters of being correct.

10 THE COURT: Just briefly, so I understand, before
11 you get too far in front of me. Now that we have a
12 distance that gives us a better idea of where that
13 phone is within the sector?

14 A Correct. Yes. What we would expect is that not
15 only that the phone is out in this general area, but
16 somewhere near that curved line. There is a dot where
17 the engineer thought the phone was, and this line
18 simply lets us find that dot more easily.

19 In this case, it is very reasonable that this
20 would be a record consistent with the phone being at
21 Mr. Moorers's residence. You see the distance line
22 goes right over the top of the residence, and the
23 engineers estimate the phone will be very close to
24 there, so we'll look at these as well. Again, just to
25 document, that is based on a timing signal there, that

MICHAEL MELSON - DIRECT EXAMINATION

1 they turned into a distance for us.

2 When it comes to looking at location records,
3 we'll use this map. There are some areas of interest
4 that are marked on here just so you can get your
5 reference. The Moorers' residence at the time here,
6 the Elvis residence at the time here, the boat
7 landing, Tilted Kilt, Walmart, phone booth, Long
8 Beard's Restaurant up in this area, as well as Sticky
9 Fingers Restaurant by the airport. So all of those
10 symbols will be shown on this map. Now, that is for
11 location analysis.

12 The next type of analysis we'll take a look at in
13 the records is who is calling who. So we'll use this
14 type of display. That is a timeline along on the
15 left, the three phones are at the top, and this will
16 simply show that, for instance, Tammy Moorers' phone
17 called Sidney Moorers' at this time, and we have the
18 details of those calls.

19 So let's start with that type of analysis, common
20 calls. Here are all of the calls between Tammy
21 Moorers' phone in pink, starting from the beginning of
22 the records I was provided, which was actually
23 March 1, 2013, and we have the records clear through
24 the end of that year. So we have ten months of data
25 on these phones. Mr. Moorers' phone is green, so

MICHAEL MELSON - DIRECT EXAMINATION

1 every time you see a pink arrow, it is either a voice
2 or text message from her phone to his phone. The
3 green arrow is one from his phone to hers.

4 Why we look at this is we see there is a very
5 normal routine. It started at the beginning of the
6 data and continued very consistently. Like a lot of
7 married couples, they are communicating back and forth
8 on a daily basis, up until the beginning of November.
9 This is that type of change that we're looking for.
10 There is a distinct change in the pattern of these
11 records. Their normal routine changed, so we wanted
12 to dig into that a little more and see if we could
13 understand what happened on or around November 2nd.

14 Q Now, Mr. Melson, before you get too far, did you
15 also look at how much phone activity was between the
16 defendant and the victim?

17 A Yes.

18 Q Tell us about that.

19 A So that is coming up here. We'll add the
20 victim's phone in. The red phone (sic) is Heather's
21 phone. So now what we're seeing are calls that involve
22 Heather's phone with either Mr. Moorers' or Ms.
23 Moorers' phone. We see a very clear start of
24 communication between Mr. Moorers and Ms. Elvis' phone
25 in July. It continues fairly consistently until about

MICHAEL MELSON - DIRECT EXAMINATION

1 that same time, November 2nd, and then their
2 communication stopped as well.

3 Q One second. Let me ask -- this is the contact
4 between the defendant and the victim?

5 A Correct.

6 Q This is the contact between the defendant and his
7 wife?

8 A Correct.

9 Q Would you agree there is more white space here
10 than over here?

11 A Yes.

12 Q What does that mean?

13 A We can see that during this time the
14 communication from Mr. Moorers' phone to Ms. Moorers'
15 has tailed off slightly, so he's not reaching out to
16 Tammy quite as much during those stages.

17 Q And he's clearly reaching out more to the victim?

18 A Yes, ma'am, that's correct.

19 What we're going to do is zoom in on
20 November 2nd and take a look at the communications
21 between the three phones on early morning hours. So
22 this is the same chart, but we've zoomed all the way
23 into just the -- at just midnight to 2:00 a.m.

24 What we have are two communications, either voice
25 or text, from Heather Elvis' phone to Mr. Moorers'

MICHAEL MELSON - DIRECT EXAMINATION

1 phone early that morning, about 12:20 time frame.

2 There is a return communication either by voice or
3 text from Mr. Moorers' phone, and then within a few
4 minutes, we see that Tammy Moorers' phone places a
5 phone call to Heather Elvis' phone. That is the first
6 time in the entire prior eight months of data that we
7 see a communication between Tammy's phone and
8 Heather's phone.

9 Q Do you ever see Heather reach out to Tammy?

10 A No. There is no documented records of a reverse
11 call between those two phones.

12 That first call from Tammy Moorers' phone was at
13 12:45 a.m. It was placed to Heather's phone and
14 lasted for 39 seconds, which is an indication that the
15 call probably did not go to voice mail, but was, in
16 fact, answered and there were two people who talked
17 using those two phones.

18 After that very brief conversation, there were
19 two more either voice or text from Mr. Moorers' phone
20 to Heather's phone. One more attempt from Tammy's
21 phone to Heather's phone, which only lasted seven
22 seconds, so there was likely no conversation at that
23 time. Several more attempts from Mr. Moorers' phone
24 in the next hour to Heather's phone as well.

25 Q Let me ask you real quick just so I'm clear. You

MICHAEL MELSON - DIRECT EXAMINATION

1 do include the month of December, at least a portion of
2 it; is that right?

3 A We'll zoom out. This is just in the two hours on
4 the morning, midnight to 2:00 a.m. Now what we'll do
5 is zoom out. Before we do that, this simply shows that
6 during this time Mr. Moorers' phone and Ms. Moorers'
7 phone are using the exact same towers, and that would
8 be consistent with them being at their home. So they
9 are both in the same general area, these phones are.
10 It doesn't prove they are together, but they are
11 certainly using the towers that are consistent with the
12 phones being at home while this communication is going
13 on during these two hours.

14 Q So, hold on. So while Tammy calls and he calls
15 Heather Elvis, both of them are together at home -- or
16 both phones are together?

17 A Both phones are using the exact same tower, so
18 they are both in the same coverage area of that tower.

19 Now, we've zoomed back out a little bit. We
20 zoomed away to adjust for the two hours, and now we're
21 zooming out just from November 2nd through the end
22 of December. So we see for the next month what
23 happened. Here is that second call from Tammy's phone
24 to Heather's. We see the communication then. These
25 lines across here may be hard to see, but the shaded

MICHAEL MELSON - DIRECT EXAMINATION

1 line represent the weekend, so we have Saturday and
2 Sunday. This happened at about 12:30 in the morning
3 on a Friday night/Saturday morning.

4 For the next 48 hours, we see communication back
5 and forth during the next two days between
6 Mr. Moorers' phone and Ms. Elvis' phone. After that,
7 a day-and-a-half later, we see one attempt from
8 Heather's phone to Mr. Moorers' phone, and then a few
9 weeks later another communication from Ms. Elvis'
10 phone to Mr. Moorers' phone, and then we have a
11 month-and-a-half where there is no communication or
12 records between those two phones at all.

13 The next time we see any communication is in the
14 early morning hours of December 18th when Heather's
15 phone calls Mr. Moorers' phone again. We'll look at
16 those particular days in more detail.

17 Q Let me ask you this. In December, does it look
18 like Tammy and the defendant had gotten back to their
19 normal pattern?

20 A No. As you can see -- I'm sorry, you said Tammy
21 and Sidney?

22 Q Yes.

23 A We see they do not pick up their normal
24 back-and-forth communications. The records don't
25 explain why, but they document that that constant daily

MICHAEL MELSON - DIRECT EXAMINATION

1 communication of voice and text messages back and forth
2 did not pick back up at any time.

3 Q Okay. Thank you.

4 A Uh-huh.

5 When we see November 2nd, clearly there was a
6 substantial change in all three of these people's
7 calling patterns. Their normal routine that has been
8 going on for months just abruptly changed. What I
9 want to do is see did that transfer over to their
10 normal routine as it pertains to locations; in other
11 words, they changed who they were calling, did they
12 change where they were going before that date and
13 after? So this is what we are looking at here.

14 These are the top towers used during all the
15 records I had available from November 2nd and
16 previous; so up until that time. These are the type
17 of locations Mr. Moorer's phone frequented during that
18 time. After that November 2nd early morning
19 exchange of calls when their calling patterns changed,
20 from that point forward, here are the top locations
21 and top towers that this phone connected to. What we
22 see is prior to November 2nd, he spent more time up
23 the coast towards North Myrtle Beach. Those towers
24 are no longer -- he may use them on occasion, but they
25 are no longer in his top ten. So his interest, in

MICHAEL MELSON - DIRECT EXAMINATION

1 terms of location, did switch, did change. We saw a
2 shift away from the northern area on November 2nd.

3 Heather Elvis' phone, prior to that 11/2 morning,
4 these were her top towers; and afterwards we see a
5 couple of changes. We see a distinct drop of interest
6 of the coastal area up north here. We see a
7 development of an interest here, and I do believe that
8 she had moved during the November time frame to the
9 apartment down here, so that would be consistent with
10 that, but we have this drop of activity up here.

11 We also did the same with Ms. Moorers' phone,
12 Tammy Moorers' phone. Before November 2, that was her
13 area of interest. After November 2nd, not a
14 significant difference, but we did see some interest
15 develop in the northern area. So since this area
16 seems to be where all three of their phones changed
17 their routine, I wanted to go look for what we call
18 proximity events; in other words, were there two or
19 three of these phones together using the same towers
20 or nearby towers within a reasonable amount of time?
21 Could we place them in the same general area?

22 Prior to November 2nd, on July 22nd, at 12:16
23 a.m., we have Mr. Moorers' phone represented in blue
24 here, so these are the antennas he used. His calls
25 started here, and ended here. It was a 131 second

MICHAEL MELSON - DIRECT EXAMINATION

1 phone call, that puts his phone in the general area
2 probably between these two towers, okay. The call at
3 12:16 a.m. was to Heather's phone. Heather's phone,
4 when she received that call, used the tower here. The
5 reason the symbol is a little different, a circle
6 instead of pie slice, we don't know which side of the
7 tower her phone was on. We just know it was certainly
8 not out in the ocean, so somewhere in this general
9 area. So we have both phones in that same area, one
10 is calling the other, and that is July 22, 12:16 a.m.

11 A few weeks later, on August 2nd, at 11:06 p.m.
12 we see a similar thing. Again, Mr. Moorers' phone was
13 used to call Ms. Elvis' phone, it was a 49-second
14 call. His phone used the tower here, which would put
15 him in this general area. She used these two towers,
16 which would put her in this general area. So both
17 phones were in that same general area while one called
18 the other at 11:00 p.m. on August 2nd.

19 A few hours later, this is actually just past
20 midnight, 1:48 on the 3rd. We have another call
21 where, in this case, it is from Heather's phone to
22 Mr. Moorers' phone. This call was a longer call, 11
23 minutes. Heather's phone started the call on this
24 tower up here, 11 minutes later the call ended down
25 here, which indicates she was traveling down the coast

MICHAEL MELSON - DIRECT EXAMINATION

1 during the 11-minute phone call. The call was to
2 Mr. Moorers' phone, which stayed up in this general
3 area during that 11 minutes.

4 Again, on the 16th, Mr. Moorers and Ms. Elvis'
5 phone, 2:53 a.m. his phone was in this general area,
6 her phone was there, and Heather's phone called
7 Sidney's; it was a three-minute call. I looked for
8 all common proximity events between any two or more of
9 these three phones. I did not find Tammy's phone
10 calling Mr. Moorers' or Ms. Elvis' at the time up
11 here, so if it had been, we would show it here. The
12 only proximity events that we have are between Sidney
13 and Heather Elvis' phone before November 2nd.

14 September 4th, again, 3:17 p.m. Heather's phone
15 calls Sidney's phone almost six minutes. Both phones
16 are using towers very close to each other for those
17 calls.

18 October 8th, 9:00 p.m. Heather's phone, almost
19 a three-minute phone call to Mr. Moorers' phone.
20 Again, towers are in the immediate vicinity of each
21 other placing the phones in the same general area,
22 which would include being together during that time.

23 October 11th, Mr. Moorers placed two calls, one
24 at 9:42 a.m., one at 9:43. Heather Elvis' phone used
25 this tower putting her up in this area. Mr. Moorers'

MICHAEL MELSON - DIRECT EXAMINATION

1 phone actually sequenced through towers that indicated
2 his phone was traveling up the coast heading up that
3 way towards those calls.

4 All right. We're going to look at the proximity
5 when either two or more of these phones are together
6 in the same or after November 2nd. On 11/4, just a
7 few days after that exchange that we saw in the early
8 morning hours, we have Heather's phone at 9:00 p.m. up
9 here. We then have Tammy's phone in the North Myrtle
10 Beach area at 11:20, and then two hours later at 1:20
11 the next morning, Heather's phone is again up here.
12 So this is the only time, so far, that I saw Tammy's
13 phone and Heather's phone up in this north area
14 generally at the same time on November 4th.

15 November 6th we actually have all three phones.
16 We start with Tammy's phone 6:23 and 6:24 using the
17 antenna facing this way; that puts her down here. And
18 then here this way, that brings her up here. So she's
19 moving up the coast. Within a minute or two, we have
20 Mr. Moorer's phone using towers just slightly up the
21 coast. So this would be consistent with the phones
22 traveling together. They were both using towers next
23 to each other within a few minutes of each other.
24 Ms. Moorer's phone, 7:30, North Myrtle Beach. 7:50 it
25 is up here putting it in this general area. This is

MICHAEL MELSON - DIRECT EXAMINATION

1 consistent, for instance, with the drive down here or
2 coming back down this way. And then we end at
3 8:02 with her phone heading back towards Myrtle Beach
4 proper. Within an hour-and-a-half of both Mr. and
5 Mrs. Moorers' phone being up in this area, we see that
6 Heather's phone is up here as well.

7 Again, on November 9th, all three phones are up
8 here. Multiple calls through this antenna by
9 Ms. Moorers' phone, and then we see Sidney and Tammy's
10 phone both using the exact same tower within seconds
11 of each other, which means they were both in the same
12 general area, and certainly would include being
13 together as it appears -- at least Tammy's phone is --
14 heading back down the coast. And then within 30
15 minutes, we see that Heather was up in this area, at
16 least her phone was, in this general area as well.

17 Those are all the proximity events we have there.
18 What we saw in the records is from 11/21 to 12/12. We
19 documented a road trip that went from here to Las
20 Vegas to Disneyland and back. So Mr. and
21 Mrs. Moorers' phones were out of state. In looking at
22 the records, the phones likely arrived no earlier than
23 the evening hours of December 11th, and no later
24 than the morning hours of December 12th.

25 When we pick up once they are back in town, on

MICHAEL MELSON - DIRECT EXAMINATION

1 the 12th, around 8:00 to 8:37 p.m. we see all three
2 phones in the general area of Myrtle Beach.

3 Q (MS. LIVESAY) Let me ask you this. The
4 12th is when they first arrive back in Horry County?

5 A Correct.

6 Q So after that cross-country trip, they come back.
7 Now, Heather's phone, is this consistent with her being
8 at home?

9 A Yes, it is.

10 Q And these phones here, are they consistent with
11 being in the area of Broadway at the Beach and Myrtle
12 Beach?

13 A Yes. This is projecting its best signal here so
14 we would expect that Mr. Moorer's phone would be in
15 this general area around 8:00 p.m. Heather's phone
16 8:04, 8:37 this general area, which would include
17 Broadway at the Beach as well. It is not unreasonable
18 for this antenna to be used.

19 Q As soon as they get back from California, they
20 literally drive into town on the 12th, correct? They
21 get right over here by Myrtle Beach around Broadway at
22 the Beach; is that right?

23 A Yes.

24 Q And when they are over here, our victim is in the
25 area of her home?

MICHAEL MELSON - DIRECT EXAMINATION

1 A Correct.

2 Q I want to be sure I was clear.

3 A Yes, ma'am.

4 Okay. Between the 12th and the 17th, there
5 wasn't really any other significant times where we see
6 the phones near each other, so we'll just move
7 forwards now to the 17th and 18th. These are critical
8 dates in this case, so we'll switch format. Same map,
9 but a timeline across the top. These little boxes up
10 here each represent one hour of the day, so we're
11 going to go ahead and take a look at not just when the
12 phones were next to each other, but all of the
13 movements of these phones during these 48 hours.

14 To try to speed things up, we'll take most of the
15 17th, from midnight to 9:14 p.m. Starting during
16 that time frame, Mr. Moorers used the antenna by his
17 home -- you see all these distances are down around
18 the residence, even all the estimated locations are
19 down here. This is very consistent with him being
20 home or near his home for most of the day, at least
21 until 9:14.

22 We didn't have much information on Tammy's phone.
23 During that time, we had four records, about 1:00 a.m.
24 and 4:00 p.m., but during those times, all of them
25 were consistent with being in the general vicinity as

MICHAEL MELSON - DIRECT EXAMINATION

1 well.

2 Heather roamed around town a little bit in the
3 afternoon, not much significant other than documenting
4 that she did drive around Myrtle Beach and south of
5 there a bit.

6 At 9:29, we see Mr. Moorers' phone. So he is no
7 longer at his residence. He is now using this
8 antenna. This is the one that has distance. So not
9 only is he probably in this general area, he's likely
10 somewhere along this curved line. If he -- the phone
11 is moving towards the east, so could be on Carolina
12 Bays, could be down here. We're looking for routes of
13 travel. It's very reasonable to think he would be
14 right in the general area, but the phone is no longer
15 in the area of the residence; that is at 9:29.

16 Between 9:38 and 9:53, Mr. Moorers' phone only
17 uses this antenna, which is facing directly at
18 Broadway at the Beach and, in fact, our distances are
19 right over the Broadway at the Beach area, so his
20 phone is somewhere in this general area at this time,
21 which would include being around Broadway at the
22 Beach.

23 Q Just quickly, the victim's phone is not located
24 in that area at that time, correct?

25 A We don't have any records on the victim's phone

MICHAEL MELSON - DIRECT EXAMINATION

1 at this time. We do have one at 10:03. This is
2 Heather Elvis' phone. The maps change a little bit to
3 show that she reported using a tower down in the Garden
4 City area during that time, so she was not anywhere in
5 the Myrtle Beach area around 10:00 p.m., she was down
6 the coast away.

7 Going back to Mr. Moorers' phone and the
8 timeline, looking at all three phones, between 10:12
9 and 10:51, we actually see two towers used by Mr. and
10 Mrs. Moorers' phones at the same time. Most of them
11 are used by Mr. Moorers' phone. We have four records
12 from Tammy's phone as well. These distances end up
13 putting the phones somewhere right in between these
14 towers. So this would be an area where the Sticky
15 Fingers is -- what is that -- just northeast of the
16 airport, in that general area. But these phones are
17 probably stationary during that time right in the
18 general area to the east/northeast of the airport.

19 From 10:52 to 10:59, we'll see a sequence of
20 changes that indicate movement. Instead of using
21 these two towers, Mr. Moorers' phone is using a
22 different set of antennas facing a different direction
23 off of the same tower. So it is showing that his
24 phone is probably starting to move. The distance arc
25 puts him somewhere out here, so he could be over here,

MICHAEL MELSON - DIRECT EXAMINATION

1 here, here. All of those are possible. But we watch
2 those estimated locations, and what we see is that
3 there is a trending heading this way. As the phone
4 appears to stay the same distance from the towers, so
5 we're not heading away, we tend to stay the same
6 distance heading this way.

7 Next, we sequence to a different tower, which
8 confirms we're seeing movement to the northeast along
9 this way.

10 Q And just so I'm clear, this here is where the
11 victim was living at the time (indicates)?

12 A Correct.

13 Now, when I look at these type of records, I see
14 distinct indications of movement from the southwest up
15 towards the northeast. So then I look at possible
16 routes of travel along here. We have two that are
17 obvious that we get the phone moving this way: River
18 Oaks Drive and 17. You'll notice the antennas that
19 were consistently selected were facing River Oaks
20 Drive, not facing 17. If the phone was heading 17, we
21 would expect the antennas pointing at 17 to be
22 selected, and not once were they. So we do know the
23 phone is moving this way. The records tend to be more
24 consistent with the phone coming up River Oaks than
25 17. I'm assuming it wasn't in a boat in the

MICHAEL MELSON - DIRECT EXAMINATION

1 Intracoastal Waterway, because that would work, too.

2 This is a very interesting set of records here.

3 This is from 11:03 to 11:06 p.m., Mr. and Mrs.

4 Moorers' phones. During a three-minute time frame, we

5 have close to ten records. So regardless of how the

6 phones moved, when we have the distances from two

7 different towers literally drawing an X on the map,

8 that is a very strong indication that the phone was in

9 this area right here. That is the area that doesn't

10 include Long Beard's. It is the general area around

11 there. So Mr. and Mrs. Moorers' phones both ended up

12 right in this area during this three minutes. So

13 however they got from down here to here, this is where

14 they ended up. The records are pretty strong for

15 that. They were there briefly. We maybe have five

16 minutes that we couldn't account for before

17 Mr. Moorers' phone is using an antenna here at

18 11:22 heading this way. So they left this area. They

19 are somehow up here, perhaps along Carolina Forest

20 Boulevard, perhaps along 31, but they are up here this

21 way, and we quickly understand where they end up

22 within ten minutes after that is up in the area of the

23 University. So for the next -- a little over an hour,

24 we have quite a bit of activity between both phones

25 from 11:32 to 12:38 all concentrated up around the

MICHAEL MELSON - DIRECT EXAMINATION

1 University. So both phones were together or certainly
2 in the same area by the University for a little over
3 an hour during this time.

4 The locations change, and we see there is a
5 difference again. So any time we start seeing new
6 towers, we got to assume that the phone is now
7 detecting this is the best signal, instead of this.
8 The most logical reason why this one now has the best
9 signal is because the phone moved closer to it. So
10 this is Tammy's phone at 12:39 having switched from
11 liking that antenna, to this one, and likely being up
12 here.

13 Mr. Moorers's phone is using the same towers
14 within minutes of Tammy's phone as well. So Tammy and
15 Sidney's phone both in the same general area at the
16 same time. When we see the antenna switch from the
17 northwest to the southeast side of the tower, that is
18 consistent with these phones coming down 501 towards
19 the Myrtle Beach area, so they passed that cell site
20 and moving on down.

21 We then see the exact same pattern that we saw
22 around 10:30, 10:50 in the prior evening. So wherever
23 they were before in this general area, it looks like
24 they may have returned to it. We have Mr. Moorers's
25 phone only at that particular time, but we saw that

MICHAEL MELSON - DIRECT EXAMINATION

1 Ms. Moorer's phone was traveling with him coming down
2 501.

3 Now, 1:12 a.m. to 1:14 a.m. there is a phone call
4 from the phone booth I believe at 1:35 a.m., I believe
5 it is, so we'll spend a little bit more time looking
6 at what is going on around this time. We are going to
7 see a sequence of records here. It may be hard to
8 see, but watch those distance arcs and the dots as I
9 sequence through multiple calls within 30 seconds.
10 The distances and estimated locations are moving
11 towards the antenna, that shows the phone is on the
12 move again, most likely.

13 And then we see within a very short time after
14 that, 15 seconds, it is actually moved into an area
15 where another antenna has the best signal. So it
16 moved enough to where a different antenna is giving it
17 its best signal.

18 We'll zoom in on those particular records so we
19 can study them a little better. We saw the phone
20 moving towards the antenna, wrapping around probably
21 to the north, but close to that cell site, and
22 switching to this site. So this means the phone has
23 moved from that side of the antenna, over here. We
24 see our distance arcs. It is actually inside the
25 shape. And, again, these don't represent coverage

MICHAEL MELSON - DIRECT EXAMINATION

1 areas, so the phone can be anywhere over here,
2 probably around this distance where at 1:12:56, and
3 then we see quite a few usages of the same antenna
4 within minutes of each other, right around 1:14 a.m.,
5 and that distance is actually consistent with being in
6 the general area of the Walmart at this time.

7 Within 15 minutes of the 1:14 records from Sidney
8 Moorer's phone, we see Tammy's phone is using the
9 exact same tower as well, so this confirms they are
10 continuing to be in the same general area, if not
11 together.

12 Q If you don't mind, Mr. Melson, I'll put up the
13 phone records so we can look at those as you are
14 showing those locations.

15 A At 1:29 to 1:30, we have a few more of
16 Mr. Moorer's records in use. The distances are going
17 to start being very consistent with each other, so it
18 is putting the phone somewhere in this general area,
19 which would certainly include the location of the phone
20 booth.

21 Here is a call at 1:35 a.m. It is to Heather's
22 phone. It comes from a phone number [REDACTED] 2462, which
23 my understanding is the number of the phone booth.

24 Q Yes, sir. So the jury can keep up, so now we're
25 at the first payphone call to the victim at 1:33 a.m.

MICHAEL MELSON - DIRECT EXAMINATION

1 Where is she in the area when she received that phone
2 call?

3 A 1:35 a.m.

4 Q 1:35 a.m.

5 A Heather's phone is using the antenna that we know
6 provides service to her residence. This doesn't prove
7 that she's at her residence, but if she were, she would
8 use this antenna. We do know she's in the general area
9 of her residence, if not there. She's not anywhere
10 down here in Myrtle Beach.

11 At that same time, we are going to see
12 Mr. Moorer's phone consistently pinging this same
13 distance using this same avenue. This call lasted
14 almost five minutes, so that is an indication that two
15 people using these two phone numbers talked. This was
16 not a voice mail. It was not a hang-up. Five-minute
17 duration usually indicates two people talked.

18 That record started at 1:35; it was just shy of
19 five minutes. At 1:39 through 1:40, right at the end
20 of that phone call, we still see Mr. Moorer's phone
21 using the same antenna facing this way, providing
22 general coverage up here, and the distance measured is
23 very consistently pinging right here.

24 Now, just a few minutes later Heather does place
25 an outgoing phone call to a different number, again,

MICHAEL MELSON - DIRECT EXAMINATION

1 using the antenna that provides service in the area of
2 her residence.

3 Q So at 1:44 is the call to Brianna?

4 A Yes, ma'am.

5 Q And she's in the area of her home?

6 A Yes.

7 Q And where is the defendant; do we know?

8 A We don't know. We have no data, no records, no
9 phone calls at this point for several hours on either
10 Mr. Moorers' or Ms. Moorers' phone. The last one is
11 right at the end of the phone booth, and is the last
12 for awhile.

13 Q So what do we see next on Heather's phone?

14 A After the call to her friend at 1:44, between
15 2:29 and 2:30, we see two calls also using the antennas
16 by her residence, both of these calls are to the phone
17 booth number.

18 Q And, again, she's still in the area of her home?

19 A Yes. I would expect that she's still at home, if
20 not immediately close.

21 Q And there is nothing on the Moorers' phone? No
22 use of the Moorers' phone?

23 A Correct. We have no indication where the
24 Moorers' phones might be at this time.

25 Q Let me ask you this. Earlier, Mr. Galmore was

MICHAEL MELSON - DIRECT EXAMINATION

1 asking about being on the Internet on the phone or
2 data, did we have any data information from the
3 defendant?

4 A From the defendant, no -- sorry, from the
5 defendant. From the victim's phone, no. On the
6 defendant, those distance arcs we see, when we have
7 those distance arcs, sometimes those might be data
8 connections. This was old enough that there wasn't
9 quite as much data usage as we see now.

10 Q So during this time frame, there is no phone,
11 text or any data connection from the defendant?

12 A Correct. Correct.

13 All right. So 2:29 and 2:30 a.m., within a
14 minute or so of each other, Heather places outbound
15 phone calls to the phone booth. Both of those are
16 very short duration, so there was -- nobody answered,
17 no conversation that went on.

18 At 2:32, Heather uses a different tower. This
19 would be consistent with the phone moving. We would
20 expect since the tower is to the east of the last
21 tower, that the phone is probably moving somewhere in
22 the general easterly direction away from her
23 residence. This call, again, as her phone is leaving
24 the residence, heading somewhere generally to the
25 east --

MICHAEL MELSON - DIRECT EXAMINATION

1 Q Who is that phone call to?

2 A -- she calls the phone number of the phone booth
3 again, so this is the third call back to the phone
4 booth.

5 Q Okay.

6 A We're going to zoom back out. This is the same
7 call just zooming the map back out to continue on with
8 a broader view to show that roughly 21 minutes later,
9 Heather made a total of six calls starting at 2:43 a.m.
10 and lasting over the course of about 21 minutes until
11 3:05 a.m. All six of those calls are outbound calls
12 from her phone to the phone booth number; none were
13 answered.

14 Q Let me ask you this. Where is the defendant's
15 phone at this time?

16 A We know that the phone is using the antenna that
17 is right here facing south. That puts her in this
18 general area here. We can't say any more specifically
19 than that.

20 Q How about the defendant, do we know where his
21 phone is during this time?

22 A No records, whatsoever, so we have no idea where
23 his phone may be.

24 Q So for at least an hour and 15 minutes, we have
25 no information on the defendant's phone?

MICHAEL MELSON - DIRECT EXAMINATION

1 A Correct.

2 Q And during that same time frame is when we see
3 the victim's phone leave home and go to this area
4 around 2:30, 3 o'clock in the morning?

5 A Correct. And from that area, she places a total
6 of six phone calls back to the phone booth. This is
7 the same general area where the distance arcs places
8 Mr. and Mrs. Moorers' phone at 11:06 p.m.,
9 approximately four hours earlier.

10 MR. GALMORE: Objection, relevance.

11 THE COURT: Overruled. You admitted this, he's
12 explaining it.

13 MR. GALMORE: He's explaining --

14 THE COURT: Mr. Galmore, you have an opportunity
15 to cross-examine. The document has been admitted. It
16 is relevant. Thank you, sir.

17 Q (MS. LIVESAY) Go ahead, Mr. Melson.

18 A At 3:16 p.m., we have Heather's phone using the
19 antenna that would be consistent in providing coverage
20 included in her residence. So she's gone back that
21 direction. Whether she's home or not, we can't tell
22 from the records, but this is consistent with going
23 back home. She makes two calls at this time. We're
24 showing the first one here. In this case, the phone
25 call is to Mr. Moorers' cell phone, the 3175 number.

MICHAEL MELSON - DIRECT EXAMINATION

1 So she places a phone call to Mr. Moorer's phone, and
2 within a minute or so, she places a second one to
3 Mr. Moorer's phone. Both of hers uses the antenna
4 consistent with her being at home, and both of his were
5 received through an antenna and distances consistent
6 with his phone being at home.

7 Now, when I dig into the nitty-gritty details of
8 this, the first call -- these numbers here are
9 documented at Sprint's documentation. That very first
10 phone call went to voice mail. So the first attempt
11 was not answered; it went to Mr. Moorer's voice mail.
12 The second call resulted in about a four-and-a-half
13 minute phone call. So the second call appears that
14 two people talked. So the first one went to voice
15 mail; second one, two people talked.

16 Then the last records we have from Heather's
17 phone is 3:38 to 3:41, that would be roughly 20
18 minutes later. Four phone calls are placed through
19 Heather's phone, they enter T-Mobile's network here on
20 this antenna, and all four of those calls reach
21 Mr. Moorer's phone through the antenna that is
22 consistent with his phone still being at the
23 residence.

24 Q So after the call at 3:17, she left her home and
25 went to the area of Peachtree Landing?

MICHAEL MELSON - DIRECT EXAMINATION

1 A She went into the coverage area where this was
2 providing the best signal; that is all we can tell from
3 the records. What I can say is that it is reasonable
4 that that would also include the landing.

5 Q Thank you.

6 A Now, the other thing that was interesting to note
7 on these records, have you ever called someone and it
8 rings and rings and rings and it goes to voice mail
9 because they didn't have their phone with them or chose
10 to not answer it? You will -- if you time it, it will
11 ring about 25 or 30 seconds before you roll over to
12 voice mail. In all four of these calls, the records do
13 document with that same code that all four ended up
14 going to Mr. Moorers's voice mail, but all four of them
15 lasted 26 seconds. What this is indicative of is the
16 phone ringing, but no one actually touching it at the
17 time.

18 The last thing we have -- we'll quickly time
19 lapse all three of these records during these two
20 days. We'll pick up the 9:30 p.m. record where
21 Mr. Moorers's phone appears to left the residence,
22 heading towards downtown Myrtle Beach. We'll see a
23 time lapse where one second here in the courtroom,
24 will actually show us five minutes worth of all of
25 these records. So it will move fairly quickly, and

MICHAEL MELSON - DIRECT EXAMINATION

1 I'll try to explain as we go through.

2 We see Mr. Moorers' phone in the area that would
3 include Broadway at the Beach, down here, this is
4 around 10:00 p.m. 10:15, we see using the towers, he
5 and Tammy, they are consistent with being to the
6 northwest area of the airport -- northeast, sorry. We
7 see that wrapping around this area over in this
8 general vicinity, and then Mr. Moorers' phone, as both
9 phones end up at the University. We then see multiple
10 records repeatedly in use on that same antenna up
11 there reporting very consistent distances. This is
12 what we see when the phone is not moving much.

13 Now we see the phones leave there just after
14 midnight. 12:50, we are down here seeing the same
15 pattern in this area. We then see the move over to
16 this general area. This is the phone booth, phone
17 call originally. There is the call to the friend.
18 Now we have the additional phone booth calls as the
19 phone moves up to this general area, repeatedly
20 ringing the phone booth. Before it heads back, calls
21 Mr. Moorers' phone twice, and then four times from the
22 tower.

23 Q Thank you, Mr. Melson.

24 MS. LIVESAY: Nothing further for this witness.

25 THE COURT: I anticipate, Mr. Galmore, your

MICHAEL MELSON - DIRECT EXAMINATION

1 examination is probably going to be lengthy, I would
2 think?

3 MR. GALMORE: Yes, sir.

4 THE COURT: I'm going to take a break at this
5 point and let you go to your jury room. Do not begin
6 your deliberations. We'll be with you in about 15
7 minutes. Thank you.

8 (The jury exits at 4:27 p.m., and the
9 following is heard out of the presence of the jury.)

10 THE COURT: Anything from the State before we
11 recess?

12 MR. HELMS: Not at this point.

13 MR. GALMORE: No, sir.

14 THE COURT: At this point, Mr. Melson, if you
15 want to stretch, step down and relax, feel free to do
16 so, but do not have any conversation with any of the
17 lawyers.

18 THE WITNESS: Yes, sir.

19 THE COURT: We'll be at ease for about 15
20 minutes.

21 (A recess was taken.)

22 THE COURT: State ready to continue?

23 MS. LIVESAY: Judge, I would like to ask, if I
24 can ask Mr. Melson two more questions before I rest?

25 THE COURT: I tell you what, that is asking a

MICHAEL MELSON - DIRECT EXAMINATION

1 lot, because -- Mr. Galmore.

2 MR. GALMORE: Respectively, Your Honor, she has
3 completed her direct examination of the witness.

4 THE COURT: Well, she has an opportunity of this
5 witness --

6 MR. GALMORE: Yes, sir.

7 THE COURT: She has an opportunity to ask
8 redirect, so what two questions -- I'm going to hold
9 you to two questions.

10 MS. LIVESAY: I know you are, Judge. You are
11 hard on me.

12 Actually, I just --

13 THE COURT: I don't know -- he's testified. You
14 don't need to testify anymore. He's testified enough.
15 If you understand -- if you get the drift of my
16 statement.

17 MS. LIVESAY: I don't have a real question, I
18 need to get a map into evidence, so it won't take but
19 a minute.

20 THE COURT: Do they object to the map?

21 MS. LIVESAY: No.

22 MR. GALMORE: She rested without introducing it.

23 THE COURT: She didn't rest it.

24 MR. GALMORE: Well, she concluded her direct
25 examination.

MICHAEL MELSON - CROSS-EXAMINATION

1 THE COURT: If you want to not ask him any
2 questions, then she's locked out, but guess what, if
3 you ask the first question about this thing, and I
4 assume the map has connection to the testimony, you
5 are going to open the door. So I tell you what,
6 Mr. Galmore objects, you can -- I'll give you some
7 leeway on redirect.

8 MR. GALMORE: Yes, sir.

9 THE COURT: Thank you. Do you need something,
10 Mr. Galmore?

11 (A brief pause in the proceedings.)

12 THE COURT: Let's bring in our jury, please.

13 (The jury enters at 4:44 p.m., and the
14 following is heard in the presence of the jury.)

15 THE COURT: Thank you. Ladies and gentlemen,
16 we're ready to continue. Mr. Galmore, thank you. You
17 may commence your cross-examination, sir.

18 CROSS-EXAMINATION

19 BY MR. GALMORE:

20 Q Mr. Melson, I understand we're in the 21st
21 century, and I guess at this point everyone has a cell
22 phone; is that fair to say?

23 A I believe the statistics are 90 percent,
24 93 percent, something like that, yes, sir.

25 Q And most people will keep their phones with them

MICHAEL MELSON - CROSS-EXAMINATION

1 almost at all times?

2 A I think that is a reasonable assumption, yes,
3 sir.

4 Q Now, is your testimony that the location that you
5 provided is location information for the tower and for
6 the sector used by the phone, correct?

7 A Yes. I'm testifying as to the location of the
8 antenna that was used and which direction it faces.

9 Q Okay. So you are not giving the jury the
10 location of the phone itself?

11 A That's correct.

12 Q So all of those graphics that we saw, some 70
13 pages of graphics, at no time can you tell the jury the
14 location of any particular phone?

15 A That's correct.

16 Q Including Ms. Elvis' phone?

17 A That's correct. What we can tell is a general
18 location, not a specific location.

19 Q Can you tell us where her phone is located within
20 a sector?

21 A No, sir.

22 Q So you are providing general location information
23 only?

24 A Yes, sir.

25 Q And by "sector," we're talking about the

MICHAEL MELSON - CROSS-EXAMINATION

1 pie-shaped wedges you have on the graphs?

2 A Well, I don't even get into the boundaries and
3 sector, that simply shows where the antenna is and
4 which way it faces. We know the phone was picked
5 because the antenna had the best signal, and we know by
6 design that that antenna will project its best signal
7 out in front and somewhere overlapping its neighbors.

8 Q So when we saw the pie-shaped graph and it had a
9 green section, that is supposed to be the sector that
10 Sidney Moorner's phone was using, you couldn't tell us
11 exactly where that phone is within that sector?

12 A Well, we can't even tell the exact shape of that
13 sector, and that graphic symbol only shows the antenna
14 location and direction. We know the phone used it
15 because it had the best signal, which is going to be in
16 the general area out in front.

17 Q And like you said, you can't tell the shape of
18 the sector either, correct?

19 A That's correct.

20 Q So on the graph, they all look like they are nice
21 pie shapes, but in reality, a sector is based on signal
22 strength; is that correct?

23 A I guess you could say it that way. Signal
24 quality is a better ratio. They are all projecting --
25 if you think of these antennas as projecting sound

MICHAEL MELSON - CROSS-EXAMINATION

1 instead of invisible waves, and they are playing music,
2 you can imagine that as you move around you'll hear
3 sound from two speakers, but if you move away from one
4 and toward the other, one will get less and one will
5 get more. You are always going to pick the speaker
6 with the best signal. We're not necessarily drawing
7 hard lines and saying it has to start here and stop
8 here. That sound travels. They overlap. So the phone
9 picks the one with the best signal, which generally is
10 going to be one in that location that area.

11 Q So according to the strength of the antenna
12 signal, that would dictate the area or circumference,
13 the arc, of the sector?

14 A When we get into trying to predict or determining
15 the coverage area, signal strength or power wattage of
16 the transmitter is one factor, but it is one of many,
17 terrain is another obstruction, so it involves a lot of
18 things.

19 Q Could you tell us an address where a phone is
20 located at any particular moment?

21 A From these records?

22 Q Yes.

23 A No, sir.

24 Q No. The records that you have testified to, are
25 those GPS records?

MICHAEL MELSON - CROSS-EXAMINATION

1 A No, sir.

2 Q No. Those are phone location records, correct?

3 A They are called "detail records" that include the
4 location of the antennas used.

5 Q Are those records as accurate as GPS records?

6 A No, sir -- well, I assume you mean with respect
7 to the location of the phone?

8 Q Yes, sir.

9 A Yes.

10 Q So what you presented to the jury is the second
11 most accurate information?

12 A I presented the jury an accurate map reflecting
13 the locations of the antennas used and an explanation
14 of why that antenna was used.

15 Q But you also testified that GPS is more accurate?

16 A In determining a location of, say, a phone that
17 has GPS along with the phone, yeah. If we had the GPS
18 next to the phone, we could tell more accurately where
19 the phone was.

20 Q So if I was driving around town and my phone was
21 navigating me, would my phone navigate me around town
22 using GPS, or would it use the data that you provided?

23 A Certainly the phones we have now are different
24 than the ones that were probably used six years ago in
25 this case. If you are navigating, you are using the

MICHAEL MELSON - CROSS-EXAMINATION

1 GPS on your smart phone now.

2 Q Did you do any testing to determine the coverage
3 areas of the towers that were analyzed in this case?

4 A No, sir, I did not.

5 Q The cell phone will typically use the tower with
6 the best signal; is that right?

7 A Yes, sir.

8 Q And, generally, that means the tower that is
9 closest to the phone?

10 A Often we will find that to be true. Where that
11 varies is if we have obstructions such as highrise
12 towers, terrain, those types of things will affect it
13 most of all. If it is a flat area, no obstructions,
14 generally it is not uncommon to see the closest, but
15 the phone has no idea where the towers are, it's just
16 the best signal, as simple as that.

17 Q Buildings would affect the signal?

18 A They can, yes.

19 Q Signage or postage outside might affect the
20 signal, too?

21 A Yes, sir.

22 Q When you are requested to do an analysis, you are
23 provided records from the State; is that correct?

24 A I do analysis for a lot of different
25 organizations. I look at records for prosecutors, for

MICHAEL MELSON - CROSS-EXAMINATION

1 defense teams, for insurance companies, so whoever
2 wants me to do the analysis, usually provides the
3 records.

4 Q And in this case, the State provided you the
5 records that you used?

6 A Yes.

7 Q And they provided you records from Sprint and
8 records from T-Mobile?

9 A Yes, sir.

10 Q Do they also provide you details such as dates,
11 times and locations?

12 A Eventually, yes. My approach to this, I tend to
13 prefer getting the records without much case
14 background. I'll do my initial analysis of the records
15 to see what they say without being influenced or bias
16 by anything, and then I'll start asking for additional
17 information such as facts of the case to see if my
18 analysis is consistent or contradicts the facts as
19 presented. So eventually, yes, I do get that
20 information, but I try to do that after my initial
21 analysis.

22 Q And in this case, the State also gave you address
23 information?

24 A Probably.

25 Q They gave you --

MICHAEL MELSON - CROSS-EXAMINATION

1 A Certainly the push-pins on the map.

2 Q Right. The Moorer residence, Peachtree Boat
3 Landing and the Elvis residence?

4 A That is common in any analysis. I do locations
5 of interest would be provided at some point, yes, sir.

6 Q And you had those, like you said, the push
7 buttons on that presentation?

8 A Yes, sir.

9 Q And the State provided you with a time frame to
10 look at?

11 A They had areas that they certainly wanted to
12 spend a little more time on, but as you saw, I did
13 display the entire set of records even going back to
14 March 1st. The challenge is to digest all of that
15 and present it quickly so we're not here for days
16 looking at meaningless data.

17 Q Did you conduct any testing of the signal
18 strength of the towers that were used in your report?

19 A No, sir, I did not.

20 Q So you can't tell us the coverage area for any
21 particular tower that you had listed on your report?

22 A Not to that level. What we can deduce from the
23 records is the general area. If you think of these
24 antennas similar to, say, sprinklers in a front lawn,
25 it is reasonable they'll overlap with their neighbors.

MICHAEL MELSON - CROSS-EXAMINATION

1 We don't have towers that are designed to cover the
2 entirety of Myrtle Beach, and then the next one the
3 entirety of Myrtle Beach. So, no, I didn't do any type
4 of drive testing, they call it, to determine it, but
5 the general area these phones are in is something that
6 we can determine from just these records.

7 Q So far you told us that the State provided you
8 with the second best data available and location
9 information, as opposed to GPS information, correct?

10 A Yes. They provided me the phone records and
11 those addresses, yes, sir.

12 Q And you also testified that you did not check the
13 signal strength of the towers that you put in your
14 report; is that correct?

15 A That's correct.

16 Q Let me hand you what has been marked for
17 identification as State's Exhibit 63 and ask if you
18 recognize this document?

19 A Yes, sir. It is Slide 5 from my presentation.

20 Q So this notebook is a copy of the presentation
21 that is big on the PowerPoint?

22 A Yes.

23 Q Now, on Page 5 of that presentation, you have
24 cell ID information?

25 A Yes, sir.

MICHAEL MELSON - CROSS-EXAMINATION

1 Q Correct? Now, regarding the cell location
2 graphics, I think you indicated that these graphics
3 indicate only the antenna location and direction; is
4 that correct?

5 A That's correct.

6 Q So that goes back to the signal strength; you
7 can't tell us anything about it?

8 A Correct.

9 Q And you also indicated that this data does not
10 represent any type of antenna radio frequency coverage
11 area?

12 A Right. These maps do not estimate a coverage
13 area for these antennas.

14 Q Does Sprint estimate coverage areas?

15 A They do estimate propagation analysis as part as
16 their planning.

17 Q Same with T-Mobile?

18 A I'm sure they do as well.

19 Q But the location information provided in this
20 case was -- does not represent the type of antenna
21 radio frequency coverage area?

22 A That's correct.

23 Q Now, let me ask you about PCMD. What is PCMD?

24 A It stands for "Per Call Measurement Data," and it
25 is exactly that, it's data measured for each call. The

MICHAEL MELSON - CROSS-EXAMINATION

1 original intent of that was for the engineers to help
2 tune the network. It would help them determine where
3 dead spots were so that they could improve coverage and
4 eliminate those dropped calls.

5 Q Do all wireless companies collect PCMD?

6 A I don't know about all companies. We have that
7 type of data from Sprint in this case.

8 Q So some companies collect this data, and some
9 companies do not?

10 A Again, I can't speak to all the companies out
11 there, I just know we have it for Sprint here.

12 Q So Sprint collected the data in this case, and
13 you used that data in the PowerPoint presentation,
14 correct?

15 A Yes.

16 Q And what was the purpose of that data being
17 collected?

18 A It's used, again, to help determine and improve
19 the network; that was its original intent. Whether
20 they use it for other things beyond that, I don't know.

21 Q Help to determine and improve the network, said
22 another way, is that a nice way to say this data is for
23 internal use only?

24 A Well, I suspect that if they felt that way, it
25 wouldn't have been disclosed in the search warrant.

MICHAEL MELSON - CROSS-EXAMINATION

1 They certainly hold those propagation maps that you
2 referred to and don't really release under warrant
3 because they do conclude that that is internal only.

4 Q But in this case, they released the PCMD
5 information, correct?

6 A Yes, sir.

7 Q Did they also give you a disclaimer with that
8 information?

9 A Yes, sir.

10 Q So there a written disclaimer from Sprint that
11 comes along with a PCMD data that says that this data
12 should not be used for location; is that correct?

13 A I don't have the exact disclaimer. I would be
14 happy to read it if you do have it.

15 (Defendant's Exhibit 3 marked.)

16 Q You are aware of the disclaimer?

17 A Yes.

18 Q Let me hand you what was marked for
19 identification purposes only as Defense Exhibit No. 3,
20 and ask you if you recognize what that is?

21 A Yes. This is the document Sprint produces
22 regarding that data.

23 Q So that is the actual disclaimer?

24 A Yes.

25 Q For the data that you just presented to this

MICHAEL MELSON - CROSS-EXAMINATION

1 jury?

2 A Yes.

3 Q Now, that data you received, did you receive it
4 from the Solicitor's Office, or did you receive it
5 directly from Sprint?

6 A I believe -- well, from the Solicitor's Office --
7 it may have come from law enforcement as opposed to the
8 Solicitor's Office, but it was not from Sprint.

9 Q Do you know if you received that data by way of
10 preservation letter or by way of search warrant?

11 A I do not.

12 Q Do you know if different types of data would be
13 received depending on whether or not the Solicitor's
14 Office or the police department issued a preservation
15 letter versus a search warrant?

16 A I do not. In general, it is normally the same.
17 The only difference is some of this data is perishable.
18 Search warrants take awhile, so the preservation letter
19 is actually not to produce records, but to keep them
20 from being deleted while a search warrant can be
21 obtained.

22 Q Does Sprint always issue a disclaimer with the
23 per call measurement data?

24 A It is common to get this disclaimer yes, sir.

25 Q Do other wireless network providers also issue a

MICHAEL MELSON - CROSS-EXAMINATION

1 disclaimer when it comes to per call measurement data?

2 A Yes. This is a common type disclaimer.

3 Q And why would Sprint issue a disclaimer for this
4 particular information?

5 A I can't speak as to Sprint's motivations. This
6 is typically the type of legalese that we would see at
7 the bottom of these reports.

8 Q Tell the jury how Per Call Measurement Data
9 works.

10 A May I read the disclaimer here for the record?

11 Q Yes, sir.

12 A Sprint will not guarantee the accuracy --

13 MS. LIVESAY: Your Honor, at this time, if he is
14 going to read it, has Mr. Galmore put it into
15 evidence?

16 THE COURT: He has not. So your objection is
17 sustained. If he wants to admit it, he can read it.

18 MR. GALMORE: Very well.

19 THE COURT: You want to admit it?

20 MR. GALMORE: Yes, sir.

21 THE COURT: Any objection?

22 MS. LIVESAY: No objection.

23 THE COURT: Now, you can publish.

24 MR. GALMORE: Okay.

25 (Defendant's Exhibit 3 admitted.)

MICHAEL MELSON - CROSS-EXAMINATION

1 Q Now this is Defense Exhibit No. 3. Please read
2 the disclaimer to the jury.

3 A Sprint will not guarantee the accuracy of the
4 location information. Now, I'll point out they don't
5 say it is inaccurate; they don't guarantee it.

6 Q What you read was from the bottom of Page 1 of a
7 two-page exhibit?

8 A Yes, sir.

9 Q So even though they sent you the data and they
10 sent you a disclaimer, that data was still incorporated
11 into your PowerPoint presentation?

12 A It was incorporated based on my years of
13 experience. I've used this same data to locate
14 numerous missing persons. In fact, I'm close to 20
15 missing persons that I've been involved in in helping
16 to recover, the vast majority of them were found using
17 these distances. So although Sprint's attorneys
18 probably wrote the disclaimer, my personal experience
19 in the field, and the families of those people that
20 were missing, would show that that accuracy can be
21 quite good.

22 Q Thank you for that, but the bottom line is Sprint
23 gave you the information with a disclaimer?

24 A Yes.

25 Q Can PCMD data show the actual location of a cell

MICHAEL MELSON - CROSS-EXAMINATION

1 phone?

2 A No, sir, it does not.

3 Q So any of your presentation that it never
4 purports to tell the location of a cell phone?

5 A Correct, and I did try to make that clear during
6 my presentation.

7 Q And we're making it clear now. And even with the
8 additional data, the PCMD data, you still cannot give
9 the location of a cell phone?

10 A No. I think it helps us take the general area
11 down around to that distance, but to the gentleman's
12 point, we still do not have an actual guarantee GPS
13 location of the phone.

14 Q Okay. Let me go back to sectors for a minute.
15 If you have two addresses that are within a tower, you
16 can't tell us with any degree of certainty whether or
17 not the phone was located at one address or the other,
18 can you?

19 A No, sir.

20 Q All you can really tell us is where the tower
21 itself is located?

22 A And we can make some pretty reasonable
23 determinations of the general area that that antenna
24 would provide the best signal, yes, sir.

25 Q And even if you know the exact coverage area of a

MICHAEL MELSON - CROSS-EXAMINATION

1 tower, you still cannot tell us where a phone is
2 located within that coverage area?

3 A That is correct, sir.

4 Q So you analyzed the call detail records for Tammy
5 Moorer's phone, Heather Elvis' phone and Sidney
6 Moorer's, correct?

7 A Yes, sir.

8 Q And based on your analysis of those call detail
9 records, can you tell us if two or more of the phones
10 were together at any point in time?

11 A What we can tell from the records as we --

12 Q Sir, can you answer my question and then you can
13 give an explanation.

14 MS. LIVESAY: Your Honor --

15 THE COURT: He's entitled to answer the question.
16 He's in the process of it, Mr. Galmore.

17 A Would you mind repeating the question?

18 Q (MR. GALMORE) Based on your analysis of call
19 detail records, can you tell us if two or more phones
20 were together at any point in time?

21 A We can talk to the general area. We can see that
22 they've moved the same distances at the same times. We
23 can see that they are using the exact same towers at
24 similar times. That does not necessarily put them in
25 the exact same vehicle, for instance, but overtime, as

MICHAEL MELSON - CROSS-EXAMINATION

1 we see them consistently using different towers around
2 town, we have to assume that they would have had to
3 have traveled to get there.

4 Q So the answer is, no, you cannot tell us if two
5 phones are together at any point in time?

6 A Not to the degree of certainty that I think you
7 are trying to get to here, sir, no.

8 Q Based on your analysis of these phone records,
9 can you tell us if Sidney's phone was with Heather
10 Elvis' phone at any time?

11 A No, sir, just in the same general area, at the
12 same time. That does not preclude them being together,
13 it just doesn't prove them together.

14 Q What time frame do the call detail records cover?

15 A We started the beginning of March all the way
16 through the end of December.

17 Q Right. And can you give us the date that Heather
18 Elvis went missing?

19 A I believe she was reported missing
20 December 18th.

21 Q So the call detail records cover the 17th and
22 18th?

23 A Yes, sir.

24 Q I'm going to ask you to look at Pages 8 through
25 12 of your report, sir. And those pages represent the

MICHAEL MELSON - CROSS-EXAMINATION

1 calls between Tammy and Heather and Sidney's
2 telephones; is that correct?

3 A Yes, sir.

4 Q And the arrows represent who made the call and
5 they point to who the call was made to?

6 A Yes, sir, voice or text.

7 Q Right. Now, you got boxes on this exhibit also,
8 right above here, and they say: Voice, text, data,
9 other, correct?

10 A Yes. Those are filters in our software. They
11 are all checked in here, which means we didn't remove
12 any of the evidence that might have been there. In our
13 analysis, we can uncheck the "text" box so that we
14 would only see the voice calls. If there were data,
15 unchecking "data" would take these out, although that
16 is not relevant here. So these are filters in the
17 software. They are all checked here, which means we
18 applied all the analysis that we had available.

19 Q Okay. So you have a box checked for "data call"?

20 A Uh-huh.

21 Q But there is no such thing as a data call?

22 A No. In this particular -- we're just simply
23 showing we didn't filter out any records.

24 Q Any other forms of communication in those --
25 between those numbers, other than the calls and the

MICHAEL MELSON - CROSS-EXAMINATION

1 texts in the call detail records?

2 A Yes. Folks can use apps that would not be known
3 to the phone company.

4 Q Right. Okay. You also have a box that says
5 "other," what does that box represent?

6 A It means if the software determined that a record
7 was not easily identified as "voice," "text" or "data,"
8 we would simply flag it as "other."

9 Q And you have these boxes checked on your
10 recitation, correct?

11 A Simply to indicate that we did not filter out any
12 of the available records of any type.

13 Q But they don't really mean anything, because
14 there is no such thing as a data call, correct?

15 A This is a general user interface used throughout
16 all records, so perhaps I could design the software a
17 little better.

18 Q And that is the key: Those boxes are checked
19 because your software decided to check those boxes?

20 A Well, I, as the user of the software, decided to
21 leave them checked during this analysis because I
22 didn't want to leave any records that may be in the raw
23 data out of my analysis, it is just that.

24 Q Do you have a box on there that is checked for
25 "routed"?

MICHAEL MELSON - CROSS-EXAMINATION

1 A Yes, sir.

2 Q And what does "routed" mean?

3 A Those are calls that are internal to the network,
4 such as routing to voice mail. It is not uncommon for
5 me to go ahead and use those in the analysis of common
6 calls because they do contain some useful phone numbers
7 at times.

8 Q Are routed calls completed calls?

9 A Routed calls are often associated with other
10 records to document an entire usage event, so they
11 can't be associated with completed calls. Completed
12 can also include going to voice mail.

13 Q So when a call is routed, that means it rang to
14 voice mail where someone didn't pick up; is that right?

15 A That is one use case. There are others within
16 the network. It simply means the network is needing to
17 link together different resources to complete the call,
18 and so the internal phone line that was used perhaps to
19 route a call from the Columbia switch to the Dallas
20 switch would be a routed call.

21 Q So if it is a routed call, that means the person
22 on the other end didn't pick up?

23 A Not necessarily, no, sir.

24 Q So is a routed call a completed call, or not?

25 A It is a leg of a usage.

MICHAEL MELSON - CROSS-EXAMINATION

1 Q Well, the information that we have been provided
2 in State's Exhibit No. 5 contained several routed calls
3 at the bottom of this graph; is that correct?

4 A I don't see the indication here. What I see is
5 that these at a direction are all indicating as
6 outgoing, so I don't see the word "routed" here.

7 Q Okay. So the word "routed" is not on this graph?

8 A No. These are Heather's records, the T-Mobile
9 records.

10 Q So in order for us to find out if the call was
11 routed or not, we need Mr. Moorers's Sprint records?

12 A Sprint does include routed calls in their
13 records.

14 Q But these calls lasted approximately .03 seconds?

15 A In the Sprint -- in the T-Mobile records, they
16 are documented in minutes of .03 minutes. The timing
17 of duration sometimes can be a little confusing in
18 these records. There is the setup time, which they
19 call "seizure time," there is the billable time. So
20 not all of the durations will always necessarily match
21 directly because they record different amounts of these
22 total completion events of calls.

23 Q The bottom line is that we don't know if these
24 calls were completed, the .03 second calls?

25 A In which regard, sir?

MICHAEL MELSON - CROSS-EXAMINATION

1 Q We don't know if these calls were received by
2 Mr. Moorers' phone?

3 A From Heather's records, we don't document that
4 the calls were received by Mr. Moorers' phone. In
5 Heather's records, we simply see that the calls did, in
6 fact, leave Heather's phone, connect to the network and
7 presumably leave the T-Mobile network.

8 Q So the call was made, the call got on the network
9 and left the Sprint network, but you can't tell us if
10 the call ended up with Mr. Moorers' telephone?

11 A Not from the T-Mobile records, no.

12 Q So we have no way of knowing if these calls were
13 completed?

14 A We see the corresponding records, or these same
15 four calls, in Mr. Moorers' records as well. So we
16 know they made them over to the Sprint network because
17 we have corresponding records in Mr. Moorers' records,
18 as we see in Ms. Elvis' records.

19 Q Were there any incoming calls or texts from
20 Ms. Elvis' phone to Mr. Moorers' phone on
21 December 17th or 18th?

22 A Yes, on the 18th.

23 Q Were there any outgoing calls from Sidney's phone
24 to Heather Elvis' phone on December 17th or 18th?

25 A I would certainly want to review the records to

MICHAEL MELSON - CROSS-EXAMINATION

1 make sure, but I don't recall any, no, sir.

2 Q So subject to your review of the records, you
3 don't recall seeing Mr. Moorers' phone make contact
4 with -- reach out and make contact with Ms. Elvis'
5 phone?

6 A To make sure I understand your question, as an
7 outbound call from Mr. Moorers' phone to Heather's
8 phone?

9 Q Yes.

10 A No, sir, I don't recall seeing those in the
11 records.

12 Q So based on that testimony, we can say that
13 Mr. Moorers' phone never called or texted Ms. Elvis'
14 phone on July (sic) 17th or July (sic) 18th?

15 A I can't say that. What I can say is I don't see
16 it in the records. It is possible, and I have seen
17 where not all the text messages that were placed make
18 it into the records. So I can't say with a hundred
19 percent certainty that that is true or not. What I can
20 say with a hundred percent certainty, and in looking at
21 my report here, there is no documented voice or text
22 calls through the Sprint network or as we see by the
23 T-Mobile network from Mr. Moorers' to Heather's phone.

24 THE COURT: You asked July 17th. I want to be
25 sure the record is clear. I don't know whether I

MICHAEL MELSON - CROSS-EXAMINATION

1 heard -- I hear July 17th and July 18th, but I
2 assume it is December?

3 MR. GALMORE: I'm sorry, yes, sir.

4 THE COURT: Excuse me.

5 A I answered for December.

6 THE COURT: I thought you did, but I want the
7 record to be consistent. Thank you.

8 Q (MR. GALMORE) Can you tell the jury what tower
9 and sector Sidney Moorner used the most, according to
10 his call detail records?

11 A Yes.

12 Q What tower was that?

13 A I don't have those by memory, but I do believe
14 that it was common that it was the tower north of his
15 residence and facing his residence.

16 Q Is that Tower 115?

17 A Yes, sir, I believe it is.

18 Q Can you tell us how many times Mr. Moorner's phone
19 used Tower 115 in the records that you have? I think
20 your records are from March of 2013 to December of
21 2013?

22 A I could, sir. I don't have that number in front
23 of me right now.

24 Q If I said it was over a thousand times, would you
25 disagree with that?

MICHAEL MELSON - CROSS-EXAMINATION

1 A That would seem reasonable.

2 Q Can you tell us which sector of Tower 115 faces
3 the Moorer residence?

4 A I believe it is Sector 2. Whichever sector it
5 is, it faces due south on 80 degrees.

6 Q You think it was Sector 2?

7 A Yes, sir.

8 Q Could you tell us how many calls were made off of
9 Sector 2 by Sidney Moorer's phone?

10 A I can't. I don't have that data in front of me
11 right now.

12 Q Can you tell us what tower and sector was used by
13 Sidney Moorer's phone from 3:16 a.m. to 3:41 a.m. on
14 December 18th?

15 A It was that same sector, the one facing south.

16 Q I think you said Sector 2?

17 A Yes, sir.

18 Q And that is the sector facing Sidney Moorer's
19 home?

20 A Yes.

21 Q And this would be the tower that covers Sidney
22 Moorer's home?

23 A It does appear so, yes.

24 Q So from 3:14 to 3:41, the only records that we
25 have for Mr. Moorer, are from the location of his

MICHAEL MELSON - CROSS-EXAMINATION

1 residence?

2 A Yes, sir.

3 Q And that is the same tower that he usually uses,
4 Tower 115?

5 A It is his most common. I suspect it provides
6 service to his home. We call that typically the "home
7 tower," and it was his tower that evening.

8 Q Can you tell us how far Tower 115 is from the
9 Moorer residence?

10 A I could. I don't have that in front of me, but
11 it certainly could be measured on a map.

12 Q Could you tell us how far Tower 115 is from
13 Peachtree Landing?

14 A No, sir. It certainly is further away from that,
15 but I can't tell you how far it is.

16 Q Is there a Sprint tower that is closer to
17 Peachtree Landing than Tower 115?

18 A I would suspect so, but I don't have that
19 information handy to make sure.

20 Q You didn't receive that information in subpoena?

21 A I do. I just haven't memorized every location of
22 every tower in the area.

23 Q Could you check and tell us if Tower 80 is the
24 Sprint tower that is closer to Peachtree Landing than
25 Tower 115?

MICHAEL MELSON - CROSS-EXAMINATION

1 A I don't have the records in front of me. It
2 would take some time to do that, but it is reasonable.
3 I would expect there to be other towers closer to
4 Peachtree Landing.

5 Q Did Sidney Moorner's phone ever use Tower 80 on
6 December 17 or December 18th?

7 A Do you have a location, sir? It is hard for me
8 to say. I want to be sure I'm accurate here.

9 Q I'm sorry, you can get whatever records you need
10 to get.

11 A Well, we're talking about a tower that I'm not
12 certain, based on not having memorized Sprint's entire
13 network from 2013 in the area. So if it is necessary,
14 I'm more than happy to go through all of the records
15 and see that, but I can't say it off-the-cuff, and I
16 want to be accurate.

17 Q Okay. But you've testified regarding Ms. Elvis'
18 records?

19 A I testified to all three of them yes.

20 Q And you testified that Ms. Elvis' was on Sprint?

21 A Ms. Elvis is on T-Mobile.

22 Q I'm sorry, T-Mobile.

23 A Yes, sir.

24 Q And you can't tell us if Mr. Moorner used Tower 80
25 on December 17 or December 18?

MICHAEL MELSON - CROSS-EXAMINATION

1 A I can't, sir. I just don't have that at my
2 fingertips.

3 Q Did you say that Tower 80 is closer to Peachtree
4 Boat Landing than Tower 115?

5 A I did not.

6 Q You did not. I asked, but you couldn't answer.

7 A Yes, sir, without going and looking it up in the
8 spreadsheet.

9 Q Could you tell us if Sidney's phone ever uses
10 Tower 80 at all?

11 A I could from the records; I don't have that
12 memorized.

13 Q You were provided these records?

14 A Yes, sir.

15 Q Pursuant to the search warrant, but you can't
16 answer the question?

17 A I did not memorize all the several thousands of
18 records, sir, so, I'm sorry, no.

19 Q Mr. Moorers's phone is using Tower 115, and you
20 can't say if Mr. Moorers is at Peachtree Boat Landing,
21 or if he is at his residence?

22 A No, sir. The records only document his use of
23 that tower.

24 Q I'm going to ask you to turn to Page 76 on
25 Exhibit 63 of your PowerPoint presentation.

MICHAEL MELSON - CROSS-EXAMINATION

1 A Yes, sir.

2 Q And the green sector that is displayed on that
3 page, is that a PCMD transaction?

4 A Yes, sir, it is.

5 Q And what time did that transaction occur?

6 A 3:16 a.m. on the 18th of December 2013.

7 Q Now, the green arc near the residence, Moorer
8 residence, what does that represent?

9 A That represents the measured distance
10 Mr. Moorer's phone was from that tower when that call
11 was initiated.

12 Q Now, that was an estimated distance?

13 A It is a measure of distance based on signal
14 timing, sir. It is the GPS coordinate that is in those
15 same records that was estimated.

16 Q And we already discussed that Sprint does not
17 rely on this information?

18 A Well, Sprint does not guarantee this information.
19 I would say Sprint wouldn't collect it if they weren't
20 relying on it for some valuable use.

21 Q Internal use only?

22 A I don't know the extent of their use. I know
23 they provided it to us in this case.

24 Q Okay. Now, on Page 76 of this exhibit, you have
25 a green dot here and a green area there, what does that

MICHAEL MELSON - CROSS-EXAMINATION

1 dot represent?

2 A So what we're looking at here, when I show how we
3 map the PCMD data, we saw the location of the tower, we
4 showed the direction the antenna faces, we show the
5 curve line, and in this case, on this record, it is
6 curving close to Mr. Moorers's residence, and then the
7 estimated location where the engineers thought that the
8 phone might be is the green dot he's referring to.
9 That green dot is out in a green area on the map, that
10 is the wildlife refuge.

11 Q So according to your map, Mr. Moorers's phone is
12 in the Waccamaw National Wildlife Refuge?

13 A No, sir. That is an incorrect understanding of
14 this map. As I said, that is an estimated location,
15 and it is an accurate map as to where Sprint put that.
16 It is not uncommon at all to see the estimated map
17 along in the general area. When we looked at the
18 grouping of all of these -- for instance, for most of
19 the day on the 17th, I showed you that those dots
20 were splattering all around his residence; in fact,
21 none of them were actually on the residence.
22 Especially with the estimated locations, we tend to not
23 trust those near as much as the distances. As I say,
24 trust physics over geeks all the time. The physics --
25 the distance is a measurement of physics, the timing.

MICHAEL MELSON - CROSS-EXAMINATION

1 Those estimates are for a guy like me, an engineer, who
2 had to come up an algorithm. They did that because
3 we're using these to find dead areas, so they wanted a
4 best estimate of where the phone was, and sometimes
5 they are off.

6 Q So your testimony is that the information is
7 accurate, but that it is only an estimate?

8 A I'm testifying that my math is accurate as to the
9 information that was in the records. So this is where
10 the location was that the lap long for this record was
11 given. As far as how to interpret this map properly,
12 those are an estimate. So to see it, you know, at
13 about the same distance as the distances are, but to
14 see this lap long perhaps, you know, off to the side by
15 as much as probably a half mile or more, that is
16 something we see.

17 Q So this could be off by up to a half a mile?

18 A Which part?

19 Q I'm sorry, I thought you just testified that it
20 might be off by a half a mile?

21 A If we're talking specific to the estimated
22 locations, we do see -- as I showed on the map -- that
23 they will splatter around a location. The distance
24 arcs are what I intend to trust much more than the
25 estimates when we do the analysis. It's these distance

MICHAEL MELSON - CROSS-EXAMINATION

1 arcs that have led me to find these missing persons in
2 these records.

3 Q So who put the estimate on that exhibit? You?

4 A I did, yes.

5 Q And that estimate -- you came up with that
6 estimate, or did Sprint come up with that estimate?

7 A Sprint did, sir.

8 Q But, then again, Sprint tells us that it is not
9 that accurate?

10 A Sprint says they don't guarantee the accuracy.

11 Q And, in this case, the estimate ended up with
12 Mr. Moorers' phone being in the National Wildlife
13 Refuge?

14 A Yes, sir.

15 Q And Sprint says they cannot guarantee the
16 accuracy of that information?

17 A That's correct.

18 Q Now, there is also a red sector displayed on that
19 page, and that would be Ms. Elvis' phone, right?

20 A Yes, sir, that's correct.

21 Q And at that time, Ms. Elvis' phone was using the
22 tower and sector closest to her residence?

23 A Yes, sir.

24 Q Can you tell us if Sidney Moorers' phone and
25 Heather Elvis' phone were together at that time?

MICHAEL MELSON - CROSS-EXAMINATION

1 A At this time, it's very un-probable that they
2 were together. I'm an engineer, so hundred percents
3 are hard for me, but extremely unlikely. They were
4 many, many miles apart. It is unlikely they were at
5 the same spot and used towers that far apart at those
6 times.

7 Q I'll ask you to turn your attention to Page 77 of
8 the PowerPoint presentation.

9 A Yes, sir.

10 Q And this is another PCMD transaction that is
11 indicated by the green dot on the map; is that correct?

12 A Yes, sir.

13 Q That is Sidney Moorers's phone?

14 A Yes, sir.

15 Q And that is based on an estimate?

16 A Yes, sir.

17 Q Based on information that Sprint says is
18 unreliable?

19 A They don't say it is unreasonable, they say they
20 won't guarantee it.

21 Q They issue a disclaimer for it.

22 What time did that transaction occur?

23 A 3:17.

24 Q If you go back to the picture on Page 67, and
25 then the picture on Page 77, Sidney's phone moves from

MICHAEL MELSON - CROSS-EXAMINATION

1 the National Wildlife Refuge closer to the Moorer
2 residence; is that correct?

3 A Well, the estimated location does. I actually
4 would expect that Mr. Moorer's phone did not move
5 within 30 seconds any substantial amount, so his phone
6 was in the same location. Sprint's estimation did
7 change slightly.

8 Q You keep using that word "estimate" a lot, sir;
9 can you tell this jury that this information is
10 accurate or not?

11 A Yes, it is. The maps are accurate. I'm just
12 using the terms that the carriers use. It is an
13 estimated phone location, it's as simple as that. You
14 understand that this data originally had its roots in
15 them trying to find those dead spots. What they would
16 do is they would find their dropped calls, get these
17 estimated locations and go out there with a van and
18 measure the signal and find the deadzone and then
19 adjust their network to fix it.

20 Q The green arc on Page 77, does that indicate the
21 distance from the tower that Sidney's phone was from
22 Tower 115?

23 A Yes.

24 Q And how accurate is the distance from the tower
25 measurement?

MICHAEL MELSON - CROSS-EXAMINATION

1 A What we find in those distances -- and, again,
2 this is from many, many times of actually using these
3 records to go find the phone out there, we find that
4 the vast majority of time, probably 80 percent of the
5 time, they are within 100 meters, plus or minus, of
6 that distance. That is why it is important when we
7 look at these, we don't just take a single distance.
8 So there was times I pointed out a very strong banding
9 of repeated distances showing the exact same thing. It
10 is when we have multiple records that are just
11 consistently saying the same thing, such as around the
12 time of the phone booth, that we know those distances
13 are more likely to have the phone within a few hundred
14 meters, and that's when we go out and find the missing
15 people is when we see that. If we only have one, it is
16 maybe one of those ones. Like these dots that he's
17 referring to where it wasn't quite as accurate as where
18 the phone actually was. So we don't look at any one of
19 these records in isolation, that is why we look at the
20 entire set of records and see the consistent story that
21 they tell.

22 Q Again, when you say within, I think you said, ten
23 meters?

24 A Generally, we see -- no, the raw data is a
25 hundredth of a mile. So the data itself, even if it

MICHAEL MELSON - CROSS-EXAMINATION

1 was measured more accurately, the reports are only
2 within 250 meters, plus or minus.

3 Q But that is also an estimate, correct?

4 A What do you mean, sir?

5 Q When you say that the distance is accurate to
6 within, I think you said, a hundredth of a mile or
7 tenth of a mile?

8 A The data -- they'll give 1.5 miles, so we only
9 have two digits after the decimal place, so that limits
10 how accurate it could be. My experience has been that
11 we often would not always find them within a couple
12 hundred meters of those distance arcs, especially when
13 we have repeating distances in a short period of time.

14 Q Again, it is an estimate?

15 A The data is not an estimate; it is a measure of
16 physics. As far as whether it is -- how accurate it
17 is? Well, we're probably splitting hairs here. Was it
18 within 10 feet? 20 feet? A hundred feet? We're
19 talking within a few hundred meters.

20 Q And then you said what you do is you take other
21 bands of arcs, but those are also estimates; is that
22 fair to say?

23 A I don't really call those estimates. I call
24 those measurements. We just have to understand the
25 accuracy of the measurements.

MICHAEL MELSON - CROSS-EXAMINATION

1 Q They are measurements based on PCMD data?

2 A They are PCMD data, yes, sir.

3 Q Okay. Right. Per Call Measurement Data, the
4 same data that Sprint issued a disclaimer for?

5 A Yes, sir.

6 Q So if Mr. Moorers' phone was using a tower at
7 Broadway at the Beach, we would see a different tower
8 being used; is that correct?

9 A From this one here? So you are saying at this
10 time if he were near Broadway at the Beach, would he
11 use this tower? No, he would not, he would use one of
12 the ones over there.

13 Q And there would be different Per Call Measurement
14 Data information?

15 A Yes, sir.

16 Q And is the distance from the tower shown on
17 Page 76 and 77, is it closer to the Moorers residence,
18 or to Peachtree Boat Landing?

19 A Those distances are consistent with a phone that
20 was probably, perhaps, at the residence. Again, we
21 don't have the exact location, but these are consistent
22 with the phone being at the residence.

23 Q So it's your testimony that those phones are
24 probably at the Moorers residence?

25 A These phones are consistent -- sorry. These

MICHAEL MELSON - CROSS-EXAMINATION

1 records are consistent with the phone being there at
2 this time.

3 Q And that is even based on the PCMD data?

4 A In this case, yes. On this particular chart,
5 yes.

6 Q I'll turn your attention to Page 78 of the
7 PowerPoint presentation. Does that slide show even
8 more PCMD records for Mr. Moorers's phone?

9 A Yes, sir, it does.

10 Q And do the green arcs still represent the
11 distance from the phone to Tower 115?

12 A Yes, sir.

13 Q Do the green arcs ever cross or get close to
14 Peachtree Boat Landing?

15 A No, sir, they do not.

16 Q Do any of those distance from tower arcs get near
17 Peachtree Boat Landing on December 17 or
18 December 18th?

19 A No, sir.

20 Q And based on your analysis, Sidney's phone was
21 using Tower 115 from 3:16 in the morning to 3:41 in the
22 morning?

23 A The two calls at 3:17, and four calls between
24 3:38 and 3:41, yes, sir, that is the tower that was
25 used.

MICHAEL MELSON - CROSS-EXAMINATION

1 Q Does his phone ever use the tower that is closest
2 to Peachtree Boat Landing, Tower 80?

3 A No, sir.

4 Q So at no point can you tell us that Sidney's
5 phone and Heather's phone were in the same location?

6 A During this particular time frame?

7 Q Yes.

8 A No, sir.

9 Q And during that time frame, Mr. Moorner is using
10 the tower that he usually uses?

11 A Well, I don't know about Mr. Moorner; I know his
12 phone is.

13 Q Yes, sir. Now, the Per Call Measurement Data
14 distance measurements of Sidney's phone from 3:16 to
15 3:41 cover his home residence, correct?

16 A Yes.

17 Q At no point is there a longitude or latitude dot
18 near Peachtree Boat Landing?

19 A No, sir.

20 Q So based on this report, can you tell me if
21 Sidney Moorner ever went to Peachtree Boat Landing?

22 A It does not support or preclude that, and
23 certainly not him, we're only talking his phone here,
24 of course.

25 MR. GALMORE: Court's indulgence.

MICHAEL MELSON - CROSS-EXAMINATION

1 THE COURT: Yes, sir.

2 Q (MR. GALMORE) Mr. Melson, did you do any
3 location analysis for any phones other than the three
4 you already have testified about?

5 A I'm not sure I understand.

6 Q Okay. Did you review any records for Steven
7 Schiraldi?

8 A Not that I'm aware of, sir.

9 Q Did you review any records for a Jeremy Flemming?

10 A Not that I'm aware of, sir.

11 Q Did you do a drive test on these towers?

12 A I did come out here, and we did drive around. It
13 was related to some timestamp issues that I wanted to
14 confirm. So, yes, there was a point where I did bring
15 a Sprint phone out here to determine the accuracy of
16 the timestamps on some of these PCMD records.

17 Q So what you did -- and I need to be clear about
18 it -- you obtained a phone that was similar to the
19 phone Ms. Elvis owned, yes?

20 A I had my own phone at the time. I believe it
21 might have been Mr. Moorers' phone -- it was a Sprint
22 phone. I wasn't necessarily concerned about make and
23 model of the phone.

24 Q What kind of analysis did you do?

25 A Well, what we saw on these PCMD records is that

MICHAEL MELSON - CROSS-EXAMINATION

1 the timestamp was off by one hour. I've seen that in
2 other areas of the country. It is something that
3 Sprint has confirmed and documented that it can happen.
4 Before I adjusted the timestamp on those records by
5 that one hour, I wanted to be extra cautious in doing
6 that, because I don't like altering the data without
7 good reason. So the point of that was to come out and
8 specifically check these records on the Sprint network.
9 We did, in fact, see that the time zones were off by an
10 hour at times, so that is why we adjusted the records
11 one hour on those.

12 Q So you didn't test the signal strength of the
13 towers?

14 A It wasn't something that we -- I was concerned
15 about, no.

16 Q Did you check the direction of the antennas on
17 top of the towers?

18 A Sorry, say that again.

19 Q Did you check the direction of the antennas on
20 top of the towers?

21 A No, sir.

22 Q And there are three of them up there, one for
23 each sector?

24 A Typically, yes.

25 Q So what you did was, what, again?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A We wanted to make sure that adjusting the
2 timestamps on the PCMD records by one hour was the
3 correct thing to do. So I came out specific to
4 understand the timestamps of records in the Sprint
5 network.

6 Q So for the testing you did on the network, the
7 only result of the testing is that you adjusted the
8 timestamp?

9 A Yes. And that is a known issue with the Sprint
10 network. I just wanted to make sure it was something
11 we were actually seeing here.

12 MR. GALMORE: Thank you, Mr. Melson. No further
13 questions.

14 THE COURT: Redirect.

15 MS. LIVESAY: Yes, sir, Your Honor, just a few
16 questions. Don't hold me to two.

17 THE COURT: You didn't say two, you said a few
18 (laughing).

19 REDIRECT-EXAMINATION

20 BY MS. LIVESAY:

21 Q The first question I wanted to ask you is,
22 Mr. Galmore asked you about GPS coordinates, correct?

23 A Yes.

24 Q And he was talking about how those are more
25 accurate; is that correct?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A Yes.

2 Q And tower data only gives us a general idea where
3 the phone is located?

4 A Yes.

5 Q Now, he also asked you what we provided you with,
6 correct?

7 A Yes.

8 Q So we could figure out what was going on?

9 A Correct.

10 Q Did we provide you with GPS records for the
11 defendant?

12 A Yes. Actually, there were some GPS coordinates
13 from a Google history report. It is not uncommon once
14 I do an analysis to ask for corroborating location
15 information, again, to make sure that everything is
16 consistent. So, yes, one of the things I did look at
17 was the Google location history.

18 Q What did the records show?

19 A It supported this analysis.

20 Q And how about Sidney Moorer's GPS records?

21 A I was provided the returns for that, but there
22 was no data.

23 Q Why wasn't there data?

24 A The information from Google on that said that the
25 data had been deleted and the account had been closed.

MICHAEL MELSON - REDIRECT EXAMINATION

1 Q And did it tell you when the data had been
2 deleted?

3 A Yes, ma'am.

4 Q When was it deleted?

5 A I believe it was December 25, 2013, right around
6 Christmastime that year.

7 Q So it was around sometime December 25, 2013?

8 A Yes, ma'am.

9 Q So Mr. Moorer had Google coordinates on his
10 phone, didn't he?

11 A Google would likely have had them, yes.

12 Q And just like Mr. Galmore was asking you, when
13 you are driving around, it's collecting information?

14 A Yes.

15 Q But that information wasn't available to you or
16 me?

17 A That's correct.

18 Q That information had been deleted on December 25?

19 A Yes, ma'am.

20 Q So the only thing we were left to map out for the
21 defendant was what you got, correct?

22 A Yes, ma'am.

23 Q And you would have mapped out the Google
24 coordinates for the defendant if they had not been
25 deleted?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A I would have certainly used them to verify my
2 maps and accuracy of my description of the data.

3 Q So you mapped out the only thing that was
4 available to us?

5 MR. GALMORE: Objection, leading.

6 THE COURT: Sustained. Rephrase your question.

7 MS. LIVESAY: Certainly, Your Honor.

8 Q (MS. LIVESAY) Did you map out the only data that
9 was available to us to show where this defendant was?

10 A Yes, ma'am.

11 Q Okay. So how about the victim, did we have GPS
12 coordinates for the victim?

13 A Yes.

14 Q So those had not been deleted?

15 A Correct.

16 Q Tell this jury whether or not those coordinates
17 confirmed and corroborated the data you showed earlier?

18 A What we're talking about, our phones will run an
19 Android operating system, we're familiar with that.
20 Google is the company behind that. One of the services
21 Google provides is records of our phone's location, and
22 so that is the type of data we're looking at. It
23 recorded a few different ways, including turning on our
24 phone's GPS and recording them. So that is the data
25 we're talking about. It is common for me to look at

MICHAEL MELSON - REDIRECT EXAMINATION

1 those sources of data to make sure that my analysis of
2 these records are correct, and those GPS coordinates
3 did, in fact, show that Heather was in these locations
4 that we've been talking about.

5 Q Let me ask you this. Google accounts, like I had
6 a gmail account at one time, I deleted it; can you call
7 up Sprint and delete the phone records that we mapped
8 out?

9 A No.

10 Q Okay. Okay. So Sprint isn't going to let you
11 delete those records?

12 A No, ma'am.

13 Q But Google will allow you to delete your account?

14 A Yes, ma'am.

15 Q And when it is deleted, you can't get no
16 coordinates, e-mails, nothing from Google?

17 A Correct.

18 Q Now, Mr. Moorner -- sorry, Mr. Galmore asked you
19 about routed calls?

20 A Yes.

21 Q And we asked you a lot about the location of the
22 phone, correct?

23 A Yes.

24 Q And we're trying to get some idea where that
25 individual is.

MICHAEL MELSON - REDIRECT EXAMINATION

1 Now, just so the jury is clear, what you mapped
2 out earlier included phone calls?

3 A Uh-huh.

4 Q Did it include text messages?

5 MR. GALMORE: Objection, Your Honor, leading.

6 THE COURT: She just asked did it include.

7 Overruled for that question.

8 A For the Sprint phones, in this case Mr. and
9 Mrs. Moorer's, yes, those do have text messages, but
10 they do not provide location information. T-Mobile did
11 not provide text messages. So specific to texts, we
12 know who texted who, but we do not know where the
13 phones were from the Sprint records, and we have no
14 information from T-Mobile.

15 Q (MS. LIVESAY) So for the Sprint phones, did it
16 include phone calls?

17 A Yes.

18 Q So when someone was actively dialing out or
19 picking up, it included the location?

20 A Yes.

21 Q And explain to this crowd what the data location
22 is; what is that?

23 A In terms of voice, text or data?

24 Q Yes.

25 A So data usage, and we see some of that, some of

MICHAEL MELSON - REDIRECT EXAMINATION

1 this PCMD data may have been data connections that
2 would be checking sports bars, e-mails, weather, any of
3 that type of thing.

4 Q But the only time we know that the phone is being
5 used by an individual is a phone call or a text
6 message, correct?

7 A Yes.

8 Q And Mr. Galtmore asked you about routed calls; do
9 you remember that?

10 A Yes, ma'am.

11 Q Now, he was asking you -- and correct me if I'm
12 wrong -- that routed calls were sometimes when they go
13 to voice mail?

14 A That is one use of a routing call.

15 Q And if that is how the call is routed, would it
16 indicate it on the phone records?

17 A Yes.

18 Q And would you recognize it on these phone calls
19 or phone records if it was routed to voice mail?

20 A Yes.

21 Q Are these the records that you looked at to
22 analyze?

23 THE COURT: Have those been marked? 'We need to
24 have the record know what he's looking at, so if you
25 want --

MICHAEL MELSON - REDIRECT EXAMINATION

1 MS. LIVESAY: I'm sorry, let me mark this.

2 (State's Exhibit 65 marked.)

3 THE COURT: 65, ID only.

4 A Yes, these are Mr. Moorers's Sprint records.

5 Q (MS. LIVESAY) Now, all of these questions about
6 routed calls, and all of this talk about the phone
7 calls at 3:38, 3:39, 3:40, 3:41 --

8 A Yes.

9 Q Do you remember Mr. Galmore asking you about
10 those phone calls?

11 A Yes, ma'am.

12 Q When you look at the defendant's records, does it
13 indicate whether or not those calls were routed?

14 A Yes. Let me see if I can quickly get to them. I
15 believe all four of those calls ended up routing to
16 voice mail.

17 Q So when he was asking you about 3:38, 3:39, 3:40
18 and 3:41 using the tower closest to the defendant's
19 home; do you remember that?

20 A Yes.

21 Q But, in reality, all of those phone calls were
22 going to voice mail?

23 A Yes, ma'am, they were.

24 Q So we don't have any evidence of whether the
25 defendant was with his phone?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A No, ma'am, we don't.

2 Q Because we know he didn't pick it up, did he?

3 A There is no indication that anyone touched the
4 phone, so the phone certainly range, it range that 26
5 seconds each time, and then timed out and went to voice
6 mail.

7 Q So all of those last phone calls went to the
8 defendant's voice mail?

9 A Yes, ma'am.

10 Q He never picked up one of them?

11 A No, ma'am.

12 Q So the phone was never picked up by the defendant
13 on those last four phone calls?

14 A Or by anyone else, no, ma'am.

15 Q Now, let me mark this.

16 (State's Exhibit 66 marked.)

17 Q (MS. LIVESAY) I'll show you State's 66; can you
18 look at this and tell me if this accurately marks
19 earlier the map that we looked at and the phone calls,
20 the last four phone calls, when they were and who they
21 were to and from?

22 A Yes, those are the timestamps of those phone
23 calls.

24 MS. LIVESAY: Your Honor, at this time can I
25 place it into evidence?

MICHAEL MELSON - REDIRECT EXAMINATION

1 THE COURT: Any objection?

2 MR. GALMORE: No, sir.

3 THE COURT: Without objection State's 66 is
4 admitted.

5 (State's Exhibit 66 admitted.)

6 Q (MS. LIVESAY) Now, Mr. Melson, earlier there
7 were all these questions about the reliability of the
8 phone records and the tower data; do you remember
9 that?

10 A Yes, ma'am.

11 Q It was hard to get a read, because it seemed like
12 Mr. Galmore, when the defendant was home, he was all
13 right with the data, but when he's riding by the
14 victim's house, then the data is no good.

15 But let me ask you something: How long have you
16 been using phone data from Sprint and T-Mobile in your
17 job?

18 A Well, before I started my company, I actually had
19 been volunteering for quite a number of years, pro
20 bono, just working missing persons cases, trying to
21 help find these missing persons through these phone
22 records, so I've been analyzing this type of data for
23 well over a decade.

24 Q Over a decade. And in your work and experience,
25 have you found the data to be reliable?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A Yes, ma'am.

2 Q And have you actually -- we called you in here
3 because you actually have been able to locate missing
4 persons using the phone data, haven't you?

5 A Yes, ma'am.

6 Q And that is how you and me met and got connected?

7 A Yes, ma'am.

8 Q Originally, we were using the data to try to
9 locate the victim?

10 A That's correct. I originally worked on this
11 case, as I do missing persons all over the country, pro
12 bono, to see if I could locate Heather.

13 Q And you have actually guided several law
14 enforcement agencies to missing persons; they were
15 ultimately located?

16 MR. GALMORE: Objection, Your Honor, she's
17 leading.

18 THE COURT: She's leading, and she's asked that
19 question three times now.

20 MS. LIVESAY: Thank you, Judge. I'll move on.

21 Q (MS. LIVESAY) I want to look at this disclaimer,
22 just to touch on it, that Mr. Galmore put in; are you
23 familiar with this?

24 A Yes, ma'am.

25 Q Tell this jury, does it say that the data and all

MICHAEL MELSON - REDIRECT EXAMINATION

1 of this information that Sprint puts out is inaccurate?

2 A No, ma'am. It says that they don't guarantee it.

3 Q And Sprint probably is a million dollar company,
4 correct?

5 A I suspect.

6 Q And they use this data partly to bill customers,
7 like me, and probably these people?

8 A Yes, ma'am.

9 Q So it is probably not too inaccurate, if
10 inaccurate at all?

11 A No, ma'am.

12 Q How long has Sprint been around?

13 A They've been around since the beginning in some
14 form or fashion, the beginning of cell phone
15 technology.

16 Q One more question. It is getting late, and we
17 need to tie it up. Mr. Galmore asked you earlier can
18 you put the two phones together; do you remember that?

19 A Yes, ma'am.

20 Q And I can't -- I can't remember, you tell me, was
21 he asking specifically about the morning of the
22 18th -- night of the 17th, morning of the 18th?

23 A I don't remember specifically. I believe it was
24 sent around those time frames.

25 Q Let me ask you something on that very question,

MICHAEL MELSON - REDIRECT EXAMINATION

1 when Heather's phone is moving around, do you remember
2 that time frame, from maybe around 1:00, maybe 2:30?

3 A Yes.

4 Q To 3:00 a.m., we see her phone moving around?

5 A Yes.

6 Q Tell this jury where the defendant's phone is at
7 that time.

8 A We have no data, no records, related to the
9 defendant's phone during that time, so we don't know
10 where his phone may have been.

11 Q But we have records from at least 9:00 p.m. right
12 up until the time of the payphone call?

13 A That's correct.

14 Q And then all of the sudden, dead silence?

15 A Correct.

16 Q While she's moving around?

17 A That's correct.

18 Q So we don't know where his phone is?

19 A No, we don't.

20 Q They could be together, we just don't know?

21 A That's correct.

22 Q The next time we see her phone is at 3:17,
23 correct?

24 A After she moved and came back, yes, at 3:17.

25 Q Who does she call?

MICHAEL MELSON - REDIRECT EXAMINATION

1 A Mr. Moorers's phone, the 75 phone number.

2 Q And all of the sudden, the phone is showing back
3 up on the towers, right?

4 A Yes.

5 Q And what area is it pinging off of at that time?

6 A Records are consistent with the general area of
7 his residence.

8 Q I'll show you what is put into evidence as
9 State's 32. I want to look at it this way -- well --
10 mapping is not a lot of women's strong points.

11 Let me ask you something, could you hold this for
12 me, and that way they can -- I won't be in their way
13 leaning over.

14 Now, Mr. Moorers's residence is here?

15 A Okay.

16 Q And this is the area that you are telling me he's
17 at at 3:17?

18 A Yes.

19 MS. LIVESAY: That small map wasn't enough,
20 Judge. I'm going quick. I promise you, we're
21 wrapping it up.

22 THE COURT: You know what, that one question is
23 20 now.

24 (Laughter in courtroom.)

25 Q (MS. LIVESAY) Heather's phone is around her

MICHAEL MELSON - REDIRECT EXAMINATION

1 residence at 3:17 a.m., correct?

2 A Yes.

3 Q Way over here?

4 A Uh-huh.

5 Q Correct? Over in the Myrtle Beach area.

6 When she calls, he's in the area of his house?

7 A Yes.

8 Q They talk for four minutes?

9 A Uh-huh.

10 Q Does her phone move after that phone call?

11 A It must in order to use this tower over here.

12 But during the phone call, no; after the phone call, it
13 had to have.

14 Q After the phone call, it then moves to this area?

15 A Yes.

16 Q And would that tower be consistent with the phone
17 being at Peachtree Landing?

18 A The tower that was used over here on the other
19 side of the river, yes, I think it is consistent with
20 the phone being at Peachtree.

21 Q And when you look at the GPS coordinates, did
22 that corroborate the phone being in the area of
23 Peachtree Landing?

24 A The Google data actually puts the phone exactly
25 at the landing.

MICHAEL MELSON - RECROSS-EXAMINATION

1 Q It actually puts it at Peachtree Landing?

2 A Correct.

3 Q So she moves from over here, to right up the road
4 from where his phone is?

5 A Correct.

6 Q And when she gets here, she starts making phone
7 calls again?

8 A Yes.

9 Q Who is she calling?

10 A Mr. Moorer's phone again.

11 Q Does he ever pick up?

12 A No, ma'am.

13 MS. LIVESAY: No further questions, Judge, with a
14 minute to spare.

15 THE COURT: You said give me a minute, but it's
16 6 o'clock (laughing.)

17 Mr. Galmore, any questions?

18 MR. GALMORE: Very briefly.

19 THE COURT: You are certainly free to ask as many
20 as you want, sir. You can have the one question that
21 she had.

22 MR. GALMORE: Thank you, sir.

23 RECROSS-EXAMINATION

24 BY MR. GALMORE:

25 Q It is your testimony that the presentation you

THE COURT

1 made to the jury today is accurate?

2 A Yes.

3 Q And your presentation indicated that Mr. Moorers
4 phone was at his residence at 3:41 in the morning?

5 A I did not testify that it was at his residence,
6 simply that it was in that general area, the distances
7 are consistent, and that his phone was not answered
8 during those last phone calls.

9 Q All right. Now, if the phone was not answered
10 during those last four calls, would that -- those would
11 be the routed calls, those last four?

12 A Those last four calls did go to voice mail.

13 Q Would that be consistent with someone calling and
14 then Mr. Moorers simply not answering the phone, just
15 maybe laying it down?

16 A Yes, sir.

17 Q And not going back to it?

18 A Yes.

19 Q Thank you, Mr. Melson.

20 MR. GALMORE: No further questions.

21 THE COURT: Mr. Melson, you are free to step
22 down, sir.

23 I assume you want this witness to be excused?

24 MR. HELMS: Absolutely.

25 THE COURT: Any objection?

THE COURT

1 MR. GALMORE: No, sir.

2 THE COURT: You are free to leave.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Thank you, appreciate it.

5 Ladies and gentlemen, thank you for your
6 endurance, and thank you for -- you know, in these
7 things, some people maybe get the wrong impression,
8 but this is serious, and we all understand that and
9 we're all adults, but it is nice to have a little
10 levity sometimes to break the tension, and I
11 appreciate your permitting that and appreciate the
12 parties, both sides, in this. It is just not putting
13 any emphasis on one thing, but I thank you for your --
14 you've been extremely diligent today, and I appreciate
15 that. I come out of my office and I see you all ready
16 to go. I say, Well, my ten minutes is cut to eight,
17 but that's okay. I appreciate that.

18 You are still -- of course you cannot discuss
19 this case with anyone, and you can't allow anyone to
20 talk with you about it or watch any projects or do any
21 independent research. I know that each of you will
22 honor that, and I'll ask you again tomorrow did you do
23 that for me, and I hope you have a restful evening.
24 If you will be back in your jury room at 9:30, we'll
25 resume the trial at that time. Have a great evening,

THE COURT

1 folks, thank you.

2 (The jury exits at 6:01 p.m., and the
3 following is heard out of the presence of the jury.)

4 THE COURT: Anything from the State before we
5 recess?

6 MR. HELMS: No, sir.

7 THE COURT: Anything from the defendant?

8 MR. GALMORE: No, sir.

9 THE COURT: Mr. Helms, if you can keep here for a
10 few minutes. Until the court reporter says you are
11 free to go, you must remain in the courtroom, both
12 sides. Make sure she has all of the exhibits and help
13 us with that.

14 Thank you all for having things ready to go and
15 moving this case, I appreciate it very much. Have a
16 good evening.

17 **(WHEREUPON, THE PROCEEDINGS OF SEPTEMBER 11, 2019**
18 **CONCLUDED. THE FOLLOWING WAS HAD ON SEPTEMBER 12,**
19 **2019 OUT OF THE PRESENCE OF THE JURY.)**

20 (State's 67 through 84 marked.)

21 THE COURT: Thank you. Good morning. James, I
22 received the documents, and I'll look at it. I'll read
23 it during the day and try to get that report to you as
24 quickly as I can. Thank you very much.

25 Is the State ready?

THE COURT

1 MR. HELMS: We are, Your Honor, just a brief
2 issue I would like to bring up, just really a
3 non-issue I think. During the course of today's
4 testimony, at some point we'll be introducing items
5 that were introduced at the codefendant's trial.
6 Those items were signed back out. Since that trial,
7 since the disposition of that trial, those items have
8 been in the custody and control of the Clerk of Court;
9 I don't want to reference that for obvious reasons.
10 The person who will be introducing those items
11 collected those items from the Moorers residence. They
12 are electronic devices. They are all non-tangible
13 items, as far as I'm concerned. They collected those
14 items from the Moorers evidence, they were in evidence,
15 took them from evidence for the last trial and brought
16 them to the courthouse. I would like to represent --
17 and I don't think it is a misrepresentation to the
18 jury -- that same chain. And that is absolutely still
19 true today, she seized those items from the Moorers'
20 residence and brought them to the courthouse and
21 they've been here ever since.

22 THE COURT: What is your position on the chain of
23 custody? The Court has spoken about that. You don't
24 have to prove every element and, to me, the potential
25 threat of having information both ways, really, having

THE COURT

1 retrial -- that is why we would mark these things.
2 The other concern I have is that we have two exhibit
3 numbers. I always -- I don't -- I know there is a
4 reason you have to keep them both. Is there an appeal
5 issue going on in the other one?

6 MR. HELMS: I'm -- I don't know.

7 MR. BOUCHETTE: As far as I know, it is going
8 through the appeal process.

9 THE COURT: So we can't change -- we will have to
10 have the two -- is there a reference on there about.

11 Natalie, does it say State versus so-and-so?

12 COURT REPORTER: What I did for this trial is I
13 have it marked in black magic marker and then it's
14 dated.

15 THE COURT: So there is nothing but a date on
16 there, so that won't give you a clue.

17 What is your position?

18 MR. BOUCHETTE: I don't really have an objection
19 to what they are trying to do. It is more of a
20 logistical issue to preserve whatever.

21 THE COURT: If you are not challenging the
22 custody chain -- what I'm understanding is you want to
23 say from the time you got it and brought it into
24 custody, the fact that it was out of that, to the
25 clerk, back to you all -- you don't want to put the

THE COURT

1 stage process in?

2 MR. HELMS: We haven't removed it from the
3 courthouse. So the chain that I would be representing
4 is absolutely --

5 THE COURT: So it's the original bringing it to
6 the courthouse?

7 MR. HELMS: Yes, sir. I wanted to leave the
8 clerk out of it so as not to reference a prior trial.

9 MR. BOUCHETTE: I have no objection.

10 THE COURT: I think that is by stipulation. We
11 will not require any additional testimony, other than
12 bringing it to the courthouse.

13 MR. HELMS: Yes, sir.

14 THE COURT: Thank you. Any other issues?

15 MR. HELMS: No, sir.

16 THE COURT: Anything?

17 MR. BOUCHETTE: Just to follow up what we were
18 talking about yesterday in terms of timing. I talked
19 to Chris this morning and it looks like probably
20 definitely will be into tomorrow, and not really sure
21 if we can conclude tomorrow afternoon. With that --

22 THE COURT: I'm going to address that. I want to
23 see -- as I understand, and I'm not holding you to
24 that, but approximately 15 more witnesses?

25 MR. HELMS: Approximately, Your Honor.

THE COURT

1 THE COURT: I want to see how quickly we move
2 this morning. My intention is you get a feel for
3 that, and then you said maybe seven?

4 MR. BOUCHETTE: Maybe. As many.

5 THE COURT: Okay. My thought is when we break
6 for lunch to discuss that with them, if I can get a
7 feel for it this morning, I'll let you know by
8 mid-afternoon. I've already been talking to the clerk
9 as well about the option of working tomorrow versus
10 coming back next week.

11 MR. BOUCHETTE: Does Your Honor have an answer as
12 to whether we'll go Saturday versus Monday?

13 THE COURT: That is precisely my point, yeah. I
14 will let the jury be involved in that decision.

15 MR. BOUCHETTE: Okay. Perfect.

16 THE COURT: But there is no need to approach that
17 subject at this point. I don't want them thinking
18 about that yet, okay.

19 Nancy, anything?

20 MS. LIVESAY: No, we're ready.

21 THE COURT: All right. We're ready for our jury?

22 MS. LIVESAY: Yes, sir, Your Honor.

23 THE COURT: It's all right. I just didn't know
24 if you had another issue. Sometimes I'm not good at
25 reading faces; sometimes I am. But I see someone like

THE COURT

1 that, oh, is there something I need to address.

2 That's no problem.

3 Let the record reflect Mr. Moorer is present.

4 Bring in the jury please.

5 (The jury enters at 9:35 a.m., and the
6 following is heard in the presence of the jury.)

7 THE COURT: Good morning, ladies and gentlemen.
8 I hope you had a good evening, and we're ready to
9 continue. As we've been doing, do each of you
10 solemnly swear or affirm that you have followed the
11 Court's instruction completely and have not viewed
12 anything, not talked with anyone, not discussed this
13 case among yourselves or with anyone else, and not
14 read or done any independent research; if you have,
15 say "I do."

16 (Jury panel all confirms with "I do,")

17 Any member of the jury unable to make that
18 commitment, please raise your hand.

19 Thank you very much again, and I appreciate you
20 -- you don't know how nice it is to come in and when I
21 walk up at times and I ask the bailiff if you all are
22 here, he's always, yes, they are. You're punctual and
23 that -- I promise you, that is not always the case.
24 I'm not being critical of other places, but it is nice
25 to have a group of people that don't know one another

JOHN RYAN KEEP - DIRECT EXAMINATION

1 somehow managed to mesh together and be as punctual as
2 you are, so thank you for that.

3 Solicitor, good morning. You may call your next
4 witness.

5 MS. LIVESAY: Thank you. Good morning, Judge.
6 State calls Ryan Keep.

7 (RYAN KEEP, having been duly sworn, testified
8 as follows:)

9 THE WITNESS: Yes. I am John Ryan Keep,
10 K-E-E-P.

11 DIRECT EXAMINATION

12 BY MS. LIVESAY:

13 Q And if you don't mind, Mr. Keep, tell this jury
14 where you are currently employed.

15 A I work for Sprint.

16 Q And how long have you been working for Sprint?

17 A Since October of 2009.

18 Q And what are your job responsibilities there?

19 A I'm a records custodian. I provide records based
20 on legal demands, and then I testify to those records.

21 Q So you can identify Sprint records, and you are
22 able to authenticate them as being unaltered?

23 A Yes.

24 Q And if you don't mind, I'll show you -- I just
25 showed it to defense counsel -- it is going to be

JOHN RYAN KEEP - DIRECT EXAMINATION

1 State's 82, 83 and 65. If you don't mind, take a look
2 at these and let me know if you are familiar with them,
3 and whether or not these are Sprint records.

4 A (Witness examines document.)

5 (A brief pause in the proceedings.)

6 A Yes. These appear to be the records we provided.

7 Q And do they appear to be unaltered?

8 A Yes.

9 Q And do these show the records from Sprint for the
10 numbers ending in 3175 and 3174?

11 A Yes.

12 Q And is one copy just an electronic copy?

13 A That's correct.

14 MS. LIVESAY: At this time, the State wishes to
15 place 65, 82 and 83 into the record and publish to the
16 jury at the appropriate time.

17 THE COURT: Any objection?

18 MR. GALMORE: No, sir.

19 THE COURT: 65, 82 and 83.

20 (State's Exhibits 65, 82 and 83 admitted.

21 Exhibit 84 is also Exhibit 83. It was double marked.)

22 Q Normally, when we send a search warrant or we
23 talk with you, normally the Sprint number is what we
24 call the "target number"; is that correct?

25 A That's correct.

JOHN RYAN KEEP - DIRECT EXAMINATION

1 Q So these numbers for 3175, that belongs to Sidney
2 Moorer, that is what you would call the "target
3 number"?

4 A That's right.

5 Q I want to ask you something, and I have to get
6 the board to remind me what that phone number is.

7 Let me ask you something. Did you view and go
8 through those records looking for the number

9 [REDACTED] 8152 belonging to Heather Elvis, the victim?

10 A I did.

11 Q Now, were you able to decipher if the target
12 number reached out to Heather first, or if she called
13 the target number first?

14 A The target number ending in 3175 placed the first
15 call.

16 Q Okay. So the -- so Sidney's number reached out
17 to Heather's first?

18 A That's correct.

19 Q And if you don't mind, tell this jury what date
20 frame you looked at.

21 A Yes. Actually, I wrote that down. That call was
22 placed on 7/11 of 2013 at 23:50 Eastern time, so that
23 is 11:50 p.m.

24 Q And what date frame did these records come from?

25 A The records came from March 1, 2013 through

JOHN RYAN KEEP - DIRECT EXAMINATION

1 December of 2013.

2 Q So March to December, and 3175 belonging to the
3 defendant reached out to her first?

4 A That's right.

5 Q Do Sprint numbers indicate when somebody dials
6 star 67, or B67, to hide the number?

7 A Yes, it will.

8 Q Now, when you looked at when he called her, did
9 it show B67 that he hid his number?

10 A Not that I saw.

11 Q Okay. So his number would have shown up on her
12 phone?

13 A That's right.

14 Q So if there is any question how she got the
15 number, it was from him calling?

16 A That's correct.

17 Q Let me ask you this. There was a lot of
18 discussion about the last four phone calls. They
19 weren't -- when is the last phone call for this
20 record?

21 THE COURT: Which exhibit are you referencing?

22 MS. LIVESAY: I'm sorry.

23 THE WITNESS: This is 65, Your Honor.

24 THE COURT: Thank you.

25 A Are you talking about the final phone call for

JOHN RYAN KEEP - DIRECT EXAMINATION

1 this report?

2 Q Yeah. Yeah. Just the last phone record.

3 A It was on December 20th of 2013.

4 Q So those records kept having incoming and
5 outgoing calls after December 18th?

6 A That's correct.

7 Q Now, I'm going to direct your attention to
8 December 18th, the early morning hours of 3:38, 3:39,
9 3:40, 3:41.

10 A Okay. I have that time frame.

11 Q Now, tell this jury who was calling him at 3:37,
12 3:38, 3:40, 3:41?

13 A Those were calls placed by [REDACTED] 8152.

14 Q Now, tell this jury whether or not the record
15 indicates whether or not the defendant picked up the
16 handset.

17 A The calls from 3:38 through 3:41 were routed to
18 voice mail; they were not picked up.

19 Q So no one picked up the phone?

20 A That's right.

21 Q It went to voice mail?

22 A Correct.

23 Q Now, tell this jury how quick those times were.

24 A The duration for those phone calls for the voice
25 mail lasted for three seconds, two seconds, three

JOHN RYAN KEEP - DIRECT EXAMINATION

1 seconds and three seconds.

2 Q Now, let me ask you something. You weren't in
3 here earlier, but it has already been put into
4 evidence, and I just want to lay the foundation so I
5 can ask you if it is consistent. The defendant says I
6 turned my phone down and I put it on the bedside table,
7 I never touched it. When you call a Sprint phone and
8 it goes to voice mail, about how many times does it
9 ring before it goes to voice mail?

10 A Roughly, four or five times.

11 Q Okay. Now I'm going to show you what's been
12 marked as Defendant's Exhibit No. 30 (sic).

13 A I see this.

14 Q Tell this jury what that is.

15 A This is our instruction set on how to read our
16 PCMD reports?

17 Q Earlier, Mr. Galmore talked about this is a
18 disclaimer saying the information from Sprint, they
19 couldn't guarantee that it was accurate?

20 A That's correct.

21 Q Have you ever worked with Sprint trying to find
22 missing persons?

23 A I have.

24 Q Did you use this very data to try to locate these
25 missing persons?

JOHN RYAN KEEP - DIRECT EXAMINATION

1 A I did.

2 Q In fact, were you able to find these missing
3 persons --

4 MR. GALMORE: Objection, leading, Your Honor.

5 THE COURT: Sustained. Rephrase your question.

6 Q Were you able to find missing persons using this
7 very data?

8 A I was.

9 Q More than one missing person?

10 A Yes.

11 Q How many years did you do that?

12 A 2009 through 2017.

13 Q One more question -- two more. Two more. I'll
14 hold myself to two more.

15 Earlier, before those calls at 3:38, 3:39, was
16 there also calls by the victim's phone to Sidney
17 Moorer around 3:16 and 3:17?

18 A Yes.

19 Q And did one of the calls route to voice mail?

20 A Yes.

21 Q And how long was the duration?

22 A There was a call on 12/18/2013 at 3:17 that was
23 routed to voice mail, and that duration was nine
24 seconds.

25 Q And was there a call after that?

JOHN RYAN KEEP - CROSS-EXAMINATION

1 A There was.

2 Q And tell me whether or not there was a connection
3 between her phone, [REDACTED] 8152, and the defendant's phone.

4 A Yes.

5 Q How long did that last?

6 A 261 seconds.

7 MS. LIVESAY: No further questions. Thank you,
8 Mr. Keep.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. GALMORE:

12 Q Let's talk about your actual testimony, Mr. Keep.
13 I think you testified that the first contact between
14 Mr. Moorer's phone and Ms. Elvis' phone was July 11 of
15 2013?

16 A That's correct.

17 Q And you indicated that that was a call from
18 Mr. Moorer's phone to Ms. Elvis' phone?

19 A That's right.

20 Q Can you tell us how Mr. Moorer would have
21 received Ms. Elvis' telephone number?

22 A I don't know that.

23 Q You did testify that she was able to receive his
24 number, because when the call went through, it didn't
25 say star 67?

JOHN RYAN KEEP - CROSS-EXAMINATION

1 A That's correct.

2 Q Now, regarding the last telephone calls on that
3 entry, I think you said between 3:38 and 3:41 a.m. on
4 December 18th, there were several routed calls?

5 A That's right.

6 Q Can you tell the jury what a routed call is?

7 A Yes. A routed call is a call -- well,
8 specifically for those calls, they were routed to voice
9 mail, that means that the receiving party does not
10 answer, so it sets the voice mail platform to allow the
11 caller to leave a message.

12 Q When you have this duration information, does
13 that duration time include the amount of the voice
14 mail?

15 A It will include the amount of voice mail, yes,
16 sir.

17 Q So if the duration of the call was .3 seconds,
18 does that mean no voice mail was left on the phone?

19 A It means that that call was active for three
20 seconds, but I don't know if they were able to leave a
21 message or not.

22 Q And because the call is routed, that means that
23 no one answered that phone call?

24 A That's right.

25 Q If you have four routed telephone calls, each in

JOHN RYAN KEEP - CROSS-EXAMINATION

1 a duration of approximately three seconds, would that
2 be consistent with someone simply refusing to answer
3 the phone?

4 A I can't answer that. I can just say that the
5 phone was not answered.

6 Q Fair enough.

7 Now, let's talk about this PCMD. Can you tell
8 the jury what that stands for?

9 A Yes. That stands for Per Call Measurement Data.

10 Q And what is Per Call Measurement Data?

11 A It is information where -- when a phone interacts
12 with our network, it measures the amount of time it
13 takes for the signal or message to get from the tower
14 to the phone and back, or in reverse, from the phone to
15 the tower and back to the phone.

16 Q Kind of like radar, bouncing a signal off and it
17 comes back?

18 A Yes.

19 Q And -- and just like math, it is distance, rate
20 and time?

21 A That's correct.

22 Q However, this is a little bit different because
23 there are often variables that affect the time and the
24 distance; is that correct?

25 A That's right.

JOHN RYAN KEEP - CROSS-EXAMINATION

1 Q And some of those variables include whether or
2 not there are buildings?

3 A Yes.

4 Q And those variables include whether or not there
5 is signs out there, billboards?

6 A That's right.

7 Q Those variables include whether the amount of
8 signal strength is coming off an antenna or tower at
9 any given moment?

10 A That's possible, yes.

11 Q Also, whether or not the phone that -- or the
12 device is in a one-way or two-way mode; is that an
13 issue?

14 A That, I actually do not know about. I don't have
15 that information.

16 Q Sprint devices -- let's see. Do Sprint devices
17 have a one-way connection or multiple hand-off
18 connection?

19 A That is -- that verbiage I believe would -- is in
20 reference to if it is connected to one tower or if it's
21 using multiple towers for connection.

22 Q So that affects the time that it takes for the
23 signal to bounce off and back?

24 A Not necessarily the time. If it has multiple
25 connections, it is more in reference to the accuracy.

JOHN RYAN KEEP - CROSS-EXAMINATION

1 Q So that affects the accuracy of the information?

2 A Yes.

3 Q And, in fact, Sprint does not guarantee the
4 accuracy of the location data?

5 A That's correct.

6 Q So why does Sprint collect this Per Call
7 Measurement Data?

8 A That information is collected by our engineering
9 team, and previously it was connected for engineering
10 data.

11 Q So it's for internal use for Sprint?

12 A Yes.

13 Q To check the network to make sure the network is
14 functioning properly?

15 A That's correct.

16 Q It is not designed to tell you the distance
17 between a phone and a device?

18 A Well, that was the purpose for the information,
19 but that was used, again, for just the engineering
20 purposes, for finding range and location.

21 Q And, once again, this information -- Sprint
22 doesn't guarantee the accuracy of this information?

23 A That's correct.

24 Q And Sprint says so when they give police
25 departments these records?

JOHN RYAN KEEP - REDIRECT EXAMINATION

1 A That's right.

2 Q You are the record custodian for Sprint. The
3 records you looked at, Exhibits 83 and 65, did those
4 phone records come with a disclaimer from Sprint?

5 A Those records are accurate. They are a separate
6 type of report from our PCMD.

7 Q So these are not PCMD data?

8 A That's right.

9 Q It tells you what tower was used?

10 A It does.

11 Q Does it tell you what sector off of a tower?

12 A It does.

13 Q To be clear, the Per Call Measurement Data,
14 Sprint does not guarantee the accuracy of that
15 information; is that correct?

16 A That's correct.

17 MR. GALMORE: Thank you. No further questions.

18 THE COURT: Redirect.

19 REDIRECT-EXAMINATION

20 BY MS. LIVESAY:

21 Q Mr. Keep, just to clarify, that data that
22 Mr. Galmore was asking you about, that Sprint won't
23 guarantee the accuracy of, that's the same data you
24 used as a Sprint employee to go help find missing
25 persons, correct?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A That's correct.

2 Q And numerous missing persons?

3 A Yes.

4 MS. LIVESAY: No further questions.

5 THE COURT: Recross.

6 MR. GALMORE: No, sir, Your Honor.

7 THE COURT: You may step down. Do you wish for
8 him to be released?

9 MS. LIVESAY: Yes, sir.

10 THE COURT: Any objection?

11 MR. GALMORE: No, sir.

12 THE COURT: You are also free to leave, sir.

13 Thank you.

14 You may call your next witness.

15 MR. HELMS: At this time the State calls Jill
16 Domogauer to the stand.

17 (JILL DOMOGAUER, having been duly sworn,
18 testified as follows:)

19 THE WITNESS: Jill Lee Domogauer

20 D-O-M-O-G-A-U-E-R.

21 DIRECT-EXAMINATION

22 BY MR. HELMS:

23 Q Ms. Domogauer, where are you employed?

24 A I'm currently employed with the Horry County
25 Police Department.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q How long have you been there?

2 A With Horry County, about 11 years.

3 Q And what is your title?

4 A I'm a crime scene investigator.

5 Q Have you been a crime scene investigator for
6 those 11 years?

7 A Nine of those years.

8 Q What did you do before you were a crime scene
9 investigator for Horry County?

10 A I was a road officer.

11 Q How long were you a road officer?

12 A For Horry County, about three years.

13 Q How much experience in law enforcement do you
14 have, total?

15 A Prior to coming to Horry County, I worked with
16 the City of Conway for 11 years, so about 20 -- 22, 23
17 years.

18 Q In law enforcement?

19 A Yes.

20 Q To become a crime scene investigator, what kind
21 of training do you need?

22 A In Horry County, both of the agencies I worked
23 for, you had to be a certified police officer, which I
24 am. Then you had to go through the official process,
25 and after that you have to have continuing education in

JILL DOMOGAUER - DIRECT EXAMINATION

1 some forensic fields, photography, fingerprinting, DNA
2 collection. There is multiple training.

3 Q Blood spatter and things of that nature?

4 A Yes.

5 Q So you have to have expedientially more training
6 than just a road officer?

7 A Absolutely, yes.

8 Q Do you continue education every year?

9 A Absolutely.

10 Q So were you employed in this capacity back in
11 December of 2013?

12 A Yes, I was.

13 Q Did you have an opportunity to become involved in
14 this case?

15 A Yes, I have.

16 Q Tell us how that involvement initiated.

17 A Back in December I was called to respond to a
18 home on Sly Fox Road.

19 Q Okay. And did you respond?

20 A Yes, I did.

21 Q And when you got there, were you told whose house
22 you were responding to?

23 A I was responding to -- I believe the house of
24 Terry Elvis.

25 Q And were you informed that he was the father of

JILL DOMOGAUER - DIRECT EXAMINATION

1 the subject, of this missing subject, in this case?

2 A Yes, sir.

3 Q And what were your -- speaking of duties, what do
4 your duties entail? I skipped over that. When you
5 respond to a scene, what are your duties? What are you
6 supposed to do?

7 A My duties can range anywhere from taking
8 photographs, sketching, collecting evidence, preserving
9 evidence, packaging evidence, testing or processing
10 using fingerprints, other sources of forensic tools.

11 Q So you do a multitude of things at any crime
12 scene depending on the situation?

13 A Yes, jack of all trades.

14 Q Fair enough.

15 When you arrived at Sly Fox Road, the victim's
16 father's home, what were your duties there? What were
17 you tasked with doing?

18 A I was responding to the home with my lieutenant,
19 Lieutenant Pete Cestare, and my task was to document
20 and process a vehicle that was at that location.

21 Q What kind of vehicle?

22 A A Dodge Intrepid, green in color.

23 Q Were you told why?

24 A It was a vehicle that that missing person was
25 last known to be in, in her car.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q Did you process that vehicle?

2 A Yes, I did.

3 Q When you say "process," tell us what you mean
4 when you say that?

5 A Processing goes from photographing the vehicle --
6 in this particular case, I photographed the vehicle,
7 collected swabs, fingerprinted the vehicle and did a --
8 basically a cursory search on the inside.

9 Q Did you complete all of these tasks on this Dodge
10 Intrepid?

11 A Yes, I did.

12 Q Including photographing?

13 A Yes, I did.

14 Q Did you provide those photographs to my office?

15 A Yes, I did.

16 Q Would you recognize them if you saw them again?

17 A Yes, sir, I would.

18 Q I'm showing you what was marked for
19 identification as State's 67 through 81. I would like
20 you to flip through those briefly and tell me if you
21 know what those are.

22 A (Witness examines document.)

23 (A brief pause in the proceedings.)

24 A These are copies of the photographs I took that
25 day.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q Are those exact copies of the photographs you
2 took?

3 A Yes.

4 Q Do they fairly and accurately represent the
5 vehicle as you saw it that day?

6 A Yes, it does.

7 Q Have they been tampered with?

8 A No, sir.

9 MR. HELMS: Your Honor, at this time I seek to
10 enter State's 67 through 81.

11 THE COURT: Any objection?

12 MR. BOUCHETTE: No objection.

13 THE COURT: Without objection, State's 67 through
14 81 is admitted, being the photographs of the vehicle.

15 (State's Exhibits 67 through 81 admitted.)

16 MR. HELMS: Permission to publish, Judge?

17 THE COURT: You may.

18 Q (MR. HELMS) I'll let you keep these in case you
19 can't see the screen well.

20 At this time, I would like the jury to see these
21 photographs and tell us what we're looking at as we
22 look at them. While we're waiting on that to load,
23 when were these pictures taken?

24 A I took these pictures on December 20th, 2013.

25 Q And did you need a search warrant for this

JILL DOMOGAUER - DIRECT EXAMINATION

1 operation?

2 A No, we were given consent by the property owner,
3 Mr. Elvis.

4 Q All right. Ms. Domogauer, lead us through here;
5 what do we see in here?

6 A This is State's Exhibit No. 67. This is just an
7 overall view of the residence, [REDACTED] Trail, and
8 you can see the green in color Dodge Intrepid in the
9 driveway.

10 This, again, is at the same location, this is
11 just the rear-end of the Dodge Intrepid where you can
12 see the license plate of the vehicle.

13 Q What exhibit number?

14 A Sorry, this is Exhibit 68.

15 Q Go ahead.

16 A This is State's Exhibit No. 69. This is a
17 passenger's side view of it taken from the backend of
18 the vehicle.

19 Q Now, while we're looking at the overall outside
20 of the vehicle, did you notice any damage to the
21 vehicle?

22 A Normal wear and tear for a 2001. The vehicle
23 appeared to be operational. No heavy damage, just
24 minor, you know, dings and scratches you would find on
25 a car that age.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q No flat tires?

2 A No.

3 Q Engine wasn't out of it?

4 A No, sir.

5 Q Okay.

6 A This is going to be State's Exhibit No. 70.

7 Again, it is a picture of the driver's side taken from
8 the rear angle of the vehicle.

9 Q And, again, no extensive damage on the inside of
10 the vehicle?

11 A No, sir.

12 This is State's Exhibit No. 71. This is the
13 driver's side front area of vehicle.

14 Q And, again, no significant damage, no windows
15 broken?

16 A No, sir.

17 Q The door locks weren't jimmied?

18 A No, sir.

19 This is State's Exhibit 72. This shows the hood
20 and passenger front fender.

21 This is State's Exhibit 73. This is the interior
22 of the vehicle taken from driver's side view.

23 Q How did you get the doors open?

24 A I was provided a key.

25 Q By?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A Terry Elvis.

2 Q When you opened the car, what was your initial
3 impression of the inside of the car?

4 A It was messy.

5 Q Did it look -- could you tell if it was driven by
6 multiple people or?

7 A When I first opened that car, I'm 5-foot-10,
8 whoever was in that car was a little bit smaller. The
9 seat seemed to be very close to the steering wheel.

10 Q Did anything in the car give you the impression
11 this was used as a family vehicle?

12 A No. It appeared that the only person that could
13 sit in the car is someone on the driver's side.

14 Q Okay. Go ahead.

15 A This is State's Exhibit No. 74. This is just a
16 picture of the rearview mirror and the visors.

17 This is State's Exhibit No. 75. This is a view
18 of the mileage on the vehicle.

19 This is going to be State's Exhibit No. 76. This
20 is just a showing of the passenger's seat, the center
21 console and cup holders.

22 This is going to be State's Exhibit No. 77. This
23 is the interior of the vehicle taken from the
24 passenger's side front.

25 Q When you saw this and took a photograph of this,

JILL DOMOGAUER - DIRECT EXAMINATION

1 did it appear that anyone had been sitting in the
2 passenger's seat?

3 A I would say, no, sir.

4 This is State's Exhibit 78. This is the back
5 rear seats of this vehicle.

6 Q When you took a picture of this, did it appear
7 that anyone could sit in the back rear seat of the
8 vehicle?

9 A No, sir.

10 This is State's Exhibit No. 79. Again, the rear
11 seats just showing the passenger's side view.

12 Q What are we looking at here? What is generally
13 in the backseat?

14 A Bags of clothes, miscellaneous items.

15 Q Men's clothes?

16 A I didn't see any men's clothes.

17 Q So these were -- all appeared to be women's
18 clothes?

19 A Appeared to be women's clothes, cosmetics,
20 toiletry items, grocery items, those kinds of things.

21 Q Okay.

22 A That is State's Exhibit 80, the trunk of the
23 vehicle.

24 MR. HELMS: Back up one, if you don't mind,
25 Tonya.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q This is State's what?

2 A That picture we're looking at now is State's 79.

3 Q Let me ask you a question. In the bottom,
4 right-hand side of that, you said there was groceries
5 and bags and things; in the bottom, right corner of
6 this photograph, what is that item you see there?

7 A It is orange juice.

8 Q A new bottle of orange juice?

9 A No, sir.

10 MR. HELMS: Go ahead, Tonya.

11 A Again, this is State's Exhibit 80. This is the
12 trunk of the vehicle.

13 Q Go ahead.

14 A This is State's Exhibit 81. These are
15 identification and the registration for the vehicle,
16 some of the paperwork and the cards I found in the
17 vehicle bearing the name of Heather Elvis, and the
18 registration of the vehicle.

19 Q So we have a Social Security card, a student ID,
20 what is the document on the far left?

21 A What you have is a cosmetology or some type of
22 license, the Social Security card, and I believe that
23 is a St. James High School ID card, the registration
24 for that vehicle, and the last column you're going to
25 have a Wells Fargo debit card and a Blue Green Resorts

JILL DOMOGAUER - DIRECT EXAMINATION

1 kind of card.

2 Q Whose name was on all of these documents?

3 A Heather Elvis.

4 Q And why did you think it pertinent to photograph
5 these items?

6 A These items were found in the vehicle showing who
7 is operating and who is in the vehicle.

8 Q Did you find any identification in the vehicle
9 that belonged to anyone else?

10 A No, sir, I did not.

11 Q Okay. Thank you.

12 Did you find any illicit items in the vehicle?

13 A No, sir, I did not.

14 Q Any drugs?

15 A No, sir, I did not.

16 Q Alcohol?

17 A No, sir, I did not.

18 Q Weapons?

19 A No, sir, I did not.

20 Q Did you see any signs of a struggle in or around
21 the vehicle?

22 A No, sir, I did not.

23 Q Did you see any blood?

24 A No, sir, not on the inside, nor on the outside.

25 Q So, no?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A No, sir.

2 Q Did you see any drug paraphernalia?

3 A No, sir.

4 Q Was the victim's laundry in the vehicle; is that
5 fair to say?

6 A Yes, sir.

7 Q Did you see any, for lack of a better term, red
8 flags in the vehicle, anything that would lead you to
9 believe what happened to the victim?

10 A No, sir.

11 Q And was that the entirety of your processing of
12 the vehicle?

13 A That day, yes, sir.

14 Q Did you do anything else, Inspector Domogauer, in
15 relation to this case after you processed Heather
16 Elvis' car?

17 A On that same day, December 20th, as I was
18 clearing up from Sly Fox with the vehicle, I was told
19 to respond with my lieutenant, Lieutenant Cestare, to
20 the Peachtree Landing.

21 Q That was the same day, you said?

22 A Yes, sir.

23 Q Did you, in fact, respond to Peachtree Landing?

24 A Yes, I did.

25 Q When you arrived, what did you see?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A Your typical boat landing in Horry County.

2 Q Was anyone else there other than you and
3 Lieutenant Cestare?

4 A At that time, no, it was just myself and
5 Lieutenant Cestare. There was a road officer who was
6 down the road stopping anyone from coming to the
7 landing.

8 Q And when you arrived, what did you and Lieutenant
9 Cestare do at the landing?

10 A Lieutenant Cestare was there as a supervisor. My
11 job was to document the landing so we would have an
12 idea what the landing looked like. To my knowledge,
13 this is where the vehicle was located, so we
14 photographed it. I photographed the landing. I also
15 did a search of the landing and some of the areas
16 surrounding it.

17 Q Did you see anything suspect at the landing?

18 A No, sir.

19 Q Did you see any signs of a struggle?

20 A No, sir.

21 Q Did you find any drugs?

22 A No, sir.

23 Q Did you find any weapons?

24 A No, sir.

25 Q Did you find any blood?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A No, sir.

2 Q Did you complete a ground search of the wood
3 line?

4 A As far as I could go without getting in water.

5 Q Did you find anything there?

6 A No, sir.

7 Q How about keys or a telephone?

8 A No, sir.

9 Q Identification?

10 A No, sir.

11 Q Purse?

12 A There was nothing there.

13 Q Okay. Did anything at that boat landing that you
14 responded to on December 20th indicate that there had
15 been an altercation at that landing?

16 A No, sir.

17 Q Did that complete your processing of the landing?

18 A No. I was -- I was told to respond to an
19 apartment on White River Drive, and Lieutenant Cestare
20 stayed behind at the landing, and I responded to the
21 apartment.

22 Q What apartment?

23 A If I can refer to my notes?

24 Q Sure.

25 A Apartment 541 -- excuse me, 541 White River

JILL DOMOGAUER - DIRECT EXAMINATION

1 Drive, Apartment C.

2 Q Why did you respond to that location?

3 A It was a location I was told where Heather Elvis
4 was staying.

5 Q Did you, in fact, respond?

6 A Yes, I did.

7 Q And what did you do when you got there?

8 A I met with Detective Cauble and other officers.
9 I was given a search warrant to execute, and I
10 photographed -- took photographs and executed the
11 search warrant.

12 Q I'm going to show you now what already is entered
13 into evidence as State's 11 through 31. If you don't
14 mind, take a look at those and tell me if those are the
15 photographs that you took of the apartment?

16 A (Witness examines document.)

17 (A brief pause in the proceedings.)

18 A These are the photographs I took that day.

19 Q (MR. HELMS) Those are the photographs of what?

20 A The inside of the apartment and the outside of
21 the apartment.

22 MR. HELMS: Your Honor, I won't republish these.
23 They've already been published previously through a
24 prior witness.

25 THE COURT: Thank you. Certainly.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q (MR. HELMS) But, again, you are the one that
2 took those photographs?

3 A Yes, I am.

4 Q I'll ask you a couple quick questions about them
5 without republishing them. When you arrived, did you
6 notice any signs of forced entry to that apartment?

7 A No. When I arrived, I take a photograph of the
8 door, doorjamb, door frame and I also pay attention to
9 the windows of the apartment, and I found no signs of
10 forced entry.

11 Q None of those were broken or busted in any way,
12 shape or form?

13 A No.

14 Q Did you -- obviously, you photographed the inside
15 of the apartment?

16 A Yes, I did.

17 Q What was your impression of the inside of the
18 apartment?

19 A It was well lived in.

20 Q Was it messy?

21 A Yes.

22 Q Was that consistent with the condition of
23 Heather's car?

24 A Yes.

25 Q And, again, inside of the apartment, did you find

JILL DOMOGAUER - DIRECT EXAMINATION

1 any illicit drugs of any kind?

2 A No, I did not.

3 Q Did you see any weapons of any kind?

4 A In the kitchen, I saw kitchen knives and cutlery,
5 but nothing that shouldn't be there.

6 Q Did you find any keys?

7 A Not to the apartment.

8 Q Did you find any car keys?

9 A Oh, no car keys, no. I found a storage key.

10 Q So you didn't find keys to the Dodge Intrepid?

11 A No, I did not.

12 Q Did you find a telephone?

13 A No, I did not.

14 Q Was there any signs of a struggle in the
15 apartment?

16 A Not that I saw.

17 Q Did you photograph the bathroom in the apartment?

18 A Both bathrooms, yes, I did.

19 Q Did you photograph the trash cans in the
20 apartment?

21 A I didn't photograph the trash cans, but I did
22 search the trash cans.

23 Q You did search the trash cans? Is that standard
24 during processing of a scene?

25 A I search all the trash cans, not only in the

JILL DOMOGAUER - DIRECT EXAMINATION

1 bathroom, but also in the kitchen.

2 Q When you searched the trash cans, was there
3 actually trash in the trash cans?

4 A Yes, there was.

5 Q Did you find anything of note looking back now,
6 Investigator Domogauer, in the trash cans?

7 A Yes, in the front hall bathroom I did.

8 Q And tell us a little bit about what you found in
9 that trash can, please.

10 A In the front trash can I found, of course,
11 tissues and things of that nature, but I also observed
12 a pregnancy box. There was no applicator, just the
13 box.

14 Q So you found the box for a pregnancy test in that
15 trash can?

16 A Yes, I did.

17 Q Without the applicator?

18 A No applicator. It was an open box.

19 Q Did you find the applicator anywhere in that
20 apartment?

21 A No, sir.

22 Q That seems like a strange thing to remember. If
23 you don't mind me asking, without photographing it, why
24 do you remember and how do you remember specifically
25 finding the box for a pregnancy test in that apartment?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A I was photographing the apartment. I was
2 searching the trash. You remember when you search
3 trash, but the pregnancy test box stuck out to me. I
4 recently had given birth to a child, for which I had a
5 difficult pregnancy, and I just kind of took note of
6 the pregnancy box.

7 Q That makes sense.

8 Let me ask you this. Why wasn't that object
9 collected at that time?

10 A At the time, it wasn't what we were there to look
11 for. It didn't seem -- at that time, there was nothing
12 to point to its significance.

13 Q This was still an open investigation for a
14 missing person?

15 A Yes.

16 Q So you didn't know if a crime had been committed
17 up to this point?

18 A No, sir, I did not.

19 Q So, to you, the pregnancy box didn't necessarily
20 have any evidentiary value at that point?

21 A It would be of no evidentiary value to the food
22 container boxes I found in the kitchen trash.

23 Q And, again, you testified that the only reason
24 you remembered it is because it hit a personal note
25 with you?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A It hit a personal note to me, yes.

2 Q Looking back and knowing what we know now, do you
3 think that would have had evidentiary value now?

4 A Yes.

5 Q Fair enough. Did that complete your processing
6 of that apartment?

7 A That day, yes, sir.

8 Q That was done on what day?

9 A That -- referring back to my notes, that was done
10 on December 20th. I went to three places on
11 December 20th.

12 Q So everything you've done thus far has been done
13 on December 20, 2013?

14 A Yes.

15 Q All right. Investigator Domogauer, subsequent to
16 that, have you done anything to assist in this
17 investigation?

18 A Yes, I have.

19 Q Tell the jury about that.

20 A I've done several searches. I've done several
21 land searches, processing evidence, transporting
22 evidence, I've also executed warrants and searches of
23 other locations.

24 Q What locations? Specifically, have you been to
25 the defendant's home?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A Yes, I have.

2 Q When did you go to the defendant's home?

3 A I'm referring back to my notes so I don't say the
4 wrong date, I apologize.

5 Q No, that's fine, ma'am.

6 A February 21, 2014 was the first time I was ever
7 there.

8 Q What was the purpose for going to the defendant's
9 home?

10 A There was a search warrant that was executed at
11 two homes that day.

12 Q And you were part of the party that executed that
13 warrant?

14 A At the Moorer's house, yes.

15 Q And when you got there, did you participate in
16 that execution?

17 A Yes, I did.

18 Q And during the course of that participation, did
19 you collect any items of evidentiary value?

20 A Yes, I collected several items.

21 MR. HELMS: Court's indulgence, Your Honor.

22 THE COURT: Yes, sir.

23 (A brief pause in the proceedings.)

24 MR. HELMS: I think the easiest way is if
25 Investigator Domogauer could come off the stand and

JILL DOMOGAUER - DIRECT EXAMINATION

1 help me.

2 THE COURT: That's fine.

3 MR. HELMS: Thank you, Your Honor.

4 Q (MR. HELMS) Investigator, if you don't mind,
5 come down here and let's do this as efficiently as
6 possible. Start on the bottom and work our way up.
7 I'll show you what was marked for identification as
8 State's 41; do you recognize this item?

9 A Yes, I do.

10 Q If you will take it and tell the jury what that
11 item is.

12 A It's an HP Pavilion Slim Line computer tower. It
13 has an evidence bar code on it that has serial numbers,
14 and also has a tag with my handwriting on it.

15 Q Can you tell --

16 MR. BOUCHETTE: Objection. May I approach
17 briefly?

18 THE COURT: Side-bar.

19 (Whereupon, a bench conference was had.)

20 Q (MR. HELMS) Investigator, if you don't mind,
21 continue -- I'll just set this down here so we can
22 keep going -- continue saying what you were saying
23 about this device.

24 A Like I said, the serial number, description of
25 it, the evidence bar code number with case number on

JILL DOMOGAUER - DIRECT EXAMINATION

1 it, and there is a sticky tape -- it is hard to see
2 unless you are looking at it -- with my handwriting on
3 there the day I collected it.

4 Q Did you collect that item from the Moorers'
5 household?

6 A Yes, I did.

7 MR. HELMS: At this time the State would seek to
8 introduce States 41 into evidence.

9 MR. BOUCHETTE: No objection.

10 THE COURT: Without objection, State's 41 is
11 admitted.

12 (State's Exhibit 41 admitted.)

13 Q (MR. HELMS) And, Investigator, if you will just
14 set these items in front of the bench, we'll try to
15 keep them out of everyone's way as best we can.

16 MR. HELMS: This is in no particular order, Your
17 Honor, because there is a lot of stuff here.

18 Q I'm showing you what was marked for
19 identification as State's 46. Can you tell us what
20 State's 46 is?

21 A State's 46 is a red Samsung cell phone that was
22 collected from [REDACTED] Highway 814, master bathroom
23 closet.

24 Q That is State's 46?

25 A Yes, sir.

JILL DOMOGAUER - DIRECT EXAMINATION

1 Q And tell us one more time what it is.

2 A Red Samsung cell phone collected from the master
3 bathroom closet at [REDACTED] Highway 814.

4 Q And remind us, who lives there?

5 A The Moorers do.

6 Q And you collected that and put it into evidence?

7 A Yes, I did, sir.

8 Q What did you do with it after that? Bring it to
9 the courthouse?

10 A I transported it to the police department, we
11 stored it and I brought it to the courthouse.

12 MR. HELMS: Your Honor, we seek to enter State's
13 46.

14 MR. BOUCHETTE: No objection.

15 THE COURT: Without objection, 46 is admitted.
16 (State's Exhibit 46 admitted.)

17 Q (MR. HELMS) If you could open up that box right
18 there and tell us what that is, if you can keep it
19 down there.

20 MR. HELMS: Your Honor, I'm directing the
21 witness' attention to State's 38 for identification
22 purposes at this time.

23 A You want me to bring it out, or just tell you?

24 Q Tell us what it is first, if you don't mind,
25 ma'am.

JILL DOMOGAUER - DIRECT EXAMINATION

1 THE COURT: Can the jury hear?

2 A It is a DVR recorder, Samsung DVR recorder.

3 Q (MR. HELMS) Where was that at -- was it in the
4 house?

5 A It was at the Moorers' house.

6 Q Where did you -- specifically, where did you get
7 it from in the house, do you know?

8 A I would have to look back at my notes to give you
9 the exact location. My label on here is pretty worn,
10 but I can tell that is what this is with the serial
11 number and model number, I can tell that is what this
12 device is.

13 Q You did seize that item and put it in evidence?

14 A Yes, I did.

15 Q And --

16 A Along with a mouse and power cords.

17 Q What exhibit number was that, Investigator?

18 A 38.

19 MR. HELMS: Your Honor, we seek to enter State's
20 38 into evidence.

21 THE COURT: Without objection?

22 MR. BOUCHETTE: Without objection.

23 THE COURT: State's 38 is admitted.

24 (State's Exhibit 38 admitted.)

25 Q (MR. HELMS) I'll show you what was marked for

JILL DOMOGAUER - DIRECT EXAMINATION

1 identification as State's 51. Can you tell us what
2 that is?

3 (A brief pause in the proceedings.)

4 A State's Exhibit 51 is a phone that was collected
5 from Sidney's room labeled Sidney's phone, and it has a
6 case inside of it.

7 Q (MR. HELMS) So it is a telephone with a case?

8 A Yes.

9 Q And you collected it from where?

10 A Sidney's room. The address, [REDACTED] Highway 814, I
11 apologize.

12 Q No, that's okay.

13 MR. HELMS: Your Honor, we seek to enter State's
14 51 at this time.

15 THE COURT: Without objection?

16 MR. BOUCHETTE: Without objection.

17 THE COURT: State's 51 is admitted.

18 (State's Exhibit 51 admitted.)

19 Q (MR. HELMS) Investigator, let me ask you this.
20 you read these notes -- whose notes are these?

21 A Those are mine. That's my handwriting.

22 Q And that's how you know what these are?

23 A That, and by looking at the description of the
24 item.

25 Q Thank you. If you will set that back down there,

JILL DOMOGAUER - DIRECT EXAMINATION

1 please.

2 I'll show you State's 52; can you tell us what
3 that is, please?

4 A State's Exhibit No. 52 is a purple Samsung
5 collected from the family room of [REDACTED] Highway 814.

6 Q Did you put that into evidence and bring it to
7 the courthouse?

8 A Yes, sir, I did.

9 MR. HELMS: Your Honor, we seek to enter State's
10 52.

11 THE COURT: Without objection, it is admitted.

12 (State's Exhibit 52 admitted.)

13 Q (MR. HELMS) It looks like Christmas over there.
14 I'll show you State's 45.

15 A A lot of envelopes, I apologize. This is an
16 iPhone, white in color, notation says "Sidney's room,"
17 collected at [REDACTED] Highway 814.

18 Q From what room?

19 A Sidney's room, is what it states.

20 MR. HELMS: Your Honor, we seek to enter State's
21 45.

22 THE COURT: Without objection, 45 is admitted.

23 (State's Exhibit 45 admitted.)

24 Q (MR. HELMS) I'll show you State's 44, ma'am.

25 A State's Exhibit 44, looking at the notation on

JILL DOMOGAUER - DIRECT EXAMINATION

1 the outside of the bag, it says: [REDACTED] Highway 814,
2 Sidney's room, Carson's iPod, is what is listed on the
3 notecard. And that is what this is. It has my marking
4 and my notation of the tape where I collected it from.
5 That was State's Exhibit 44.

6 MR. HELMS: Your Honor, we tender State's 44.

7 THE COURT: Without objection, State's 44 is
8 admitted.

9 (State's Exhibit 44 admitted.)

10 Q (MR. HELMS) I'm showing you State's 43.

11 A State's Exhibit 43, on the outside of the
12 envelope states: Master bathroom closet, [REDACTED] Highway
13 814, green LG Rumor -- I believe that is C.M. [REDACTED]'s
14 phone, is on the outside of the bag. There is sticky
15 notes I think with a phone number of what this phone
16 is.

17 Q Okay. But it is a telephone?

18 A It is a telephone, yes, I'm sorry, cell phone.
19 And that's State's Exhibit 43.

20 MR. HELMS: Tender State's 43, Judge.

21 THE COURT: Without objection, 43 is admitted.

22 (State's Exhibit 43 admitted.)

23 Q (MR. HELMS) I'm showing you State's 42.

24 A State's Exhibit 42, on the outside of the bag
25 there is a note card that says: Ashley's phone, [REDACTED]

JILL DOMOGAUER - DIRECT EXAMINATION

1 Highway 814.

2 Q Whose phone?

3 A Ashley's phone. This, I brought to the
4 courthouse.

5 Q And this was seized from [REDACTED] Highway 814?

6 A [REDACTED] Highway 814 by Heather Brommet (phonetic),
7 who is now known as Heather Wilson.

8 Q Who lives at [REDACTED]

9 A Cate Caison. That is the Caisons' residence.

10 Q In relation to the defendant, who are the
11 Caisons?

12 A I believe, to the defendant, it is in-laws.

13 Q You actually helped execute the search warrant?

14 A Not at that residence.

15 MR. HELMS: Your Honor, tender State's 42.

16 MR. BOUCHETTE: Without objection.

17 THE COURT: Without objection, State's 42 is
18 admitted.

19 (State's Exhibit 42 admitted.)

20 Q (MR. HELMS) State's 47, if you can tell us what
21 that is?

22 A State's 47, the outside of the label says:
23 Master bathroom closet, N.M. iPod.

24 Q This is an iPod. And did you seize this item?

25 A Yes. I just want to look at it and make sure,

JILL DOMOGAUER - DIRECT EXAMINATION

1 I'm sorry.

2 Yes, I did. I'm not going to put it all the way
3 back in there. That is, indeed, in fact what is in
4 this envelope, and that is State's 47.

5 MR. HELMS: Tender State's 47.

6 THE COURT: Without objection, 47 is admitted.

7 (State's Exhibit 47 admitted.)

8 Q (MR. HELMS) I'll show you State's 53.

9 A State's Exhibit 53, on the notecard notes says:
10 [REDACTED] Highway 814, Moorer iPad. That is what is in the
11 bag, and it is State's Exhibit 53.

12 Q Does it tell you where that iPad was seized from?

13 A Not on the notecard. I would have to look.

14 It's -- the residence is [REDACTED] Highway 814, Sidney's
15 room.

16 Q So it was seized from Sidney's room?

17 A Yes, I apologize.

18 MR. HELMS: Tender State's 53, Judge.

19 THE COURT: Without objection, 53 is admitted.

20 (State's Exhibit 53 admitted.)

21 Q (MR. HELMS) Almost done. I'll show you State's
22 50.

23 A [REDACTED] Highway 814, Sidney's room, labeled Tammy's
24 phone. State's Exhibit 50 is a cell phone.

25 Q Do you know what kind of phone it is?

JILL DOMOGAUER - DIRECT EXAMINATION

1 A I believe it is an iPhone.

2 Q And whose phone?

3 A It is labeled "Tammy's phone."

4 MR. HELMS: Tender State's 50, Your Honor.

5 THE COURT: Without objection, State's 50 is
6 admitted.

7 (State's Exhibit 50 admitted.)

8 Q Showing you State's 49.

9 A State's Exhibit 49 was something that was
10 collected at [REDACTED] Highway 814. It is described as
11 Ashley's iPod -- iPad, I'm sorry, and that is what this
12 is, State's Exhibit No. 49.

13 Q You seized that and brought it to the courthouse?

14 A I brought it to the courthouse; it was seized by
15 another....

16 MR. HELMS: Tender State's 49, Judge.

17 THE COURT: Without objection, 49 is admitted.

18 (State's Exhibit 49 admitted.)

19 Q (MR. HELMS) State's 48.

20 A State's Exhibit 48 on the outside is marked:
21 iPod, Sidney's room, [REDACTED] Highway 814. It is collected
22 from Sidney's room, State's Exhibit 48.

23 MR. HELMS: Tender 48, Judge.

24 THE COURT: Without objection, 48 is admitted.

25 (State's Exhibit 48 admitted.)

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q (MR. HELMS) And, finally, State's 39; tell us
2 what that State's 39 is.

3 A State's Exhibit 39 is a sync module from a 2015
4 Ford-150. This was taken off of the F-150 that
5 belonged to Mr. Moorer.

6 Q Tell us what that is one more time.

7 A Sync module, commuter part to a truck.

8 Q Thank you. And what exhibit number is that?

9 A State's 39.

10 MR. HELMS: Tender State's 39, Judge.

11 THE COURT: 39 is admitted without objection.

12 (State's Exhibit 39 admitted.)

13 Q (MR. HELMS) After you seized and transported
14 these electronic devices, you and your team, did you
15 do anything else that day to assist in this
16 investigation?

17 A That day?

18 Q Yes.

19 A No, sir, I did not.

20 MR. HELMS: Court's indulgence.

21 THE COURT: Certainly.

22 (A brief pause in the proceedings.)

23 MR. HELMS: Answer any questions the defense may
24 have.

25 THE COURT: Cross-examination.

JILL DOMOGAUER - CROSS-EXAMINATION

1

2

CROSS-EXAMINATION

3

BY MR. BOUCHETTE:

4

Q Good morning.

5

A Good morning, sir.

6

Q I want to talk briefly. You were a patrol agent
7 for a number of years; is that correct?

8

A I'm sorry, I couldn't hear you.

9

Q If I understood you, you were a patrol agent for
10 a number of years prior to becoming a CSI specialist?

11

A Yes, sir. Yes, sir.

12

Q Briefly, I know you touched on it, but
13 specifically as it relates to the CSI training, you go
14 through a fairly rigorous group of different courses
15 that you have to take through the Criminal Justice
16 Academy and others; is that right?

17

A Not only the Criminal Justice Academy, but there
18 are other facets of education we go to.

19

Q Right. And at that point you learned to sort of,
20 at the first opportunity, to document any scene in
21 which you are dispatched, correct?

22

A Yes, sir.

23

Q And I think you and I have had cases where you
24 are down there documenting down to the millimeter, a
25 centimeter or inch of different spatters or markings or

JILL DOMOGAUER - CROSS-EXAMINATION

1 things of that nature; is that right?

2 A Depending what the scene calls for, yes, sir.

3 Q And a lot of times whenever you arrive on the
4 scene, you don't necessarily know what the issues are
5 going to be at the case because often you arrive very
6 early on?

7 A Yes, sir.

8 Q So, at that point, it is something you look for,
9 to be able to try to document all you can, right?

10 A That's right, yes, sir.

11 Q Because you don't know what may be important or
12 what may become relevant at a later point, correct?

13 A Yes, sir.

14 Q And part of that, whenever you received your
15 training, your understanding is you utilize things like
16 DNA, correct?

17 A Oh, yes, sir.

18 Q And you are trained to try to search and take
19 samples of DNA from whatever scene you may be
20 investigating, whether it is a known crime scene, or
21 just a place you are dispatched to investigate; is that
22 correct?

23 A I am specifically trained for collection of DNA.

24 Q And with regard to DNA, for example, you can have
25 touch DNA, right?

JILL DOMOGAUER - CROSS-EXAMINATION

1 A Absolutely. There are many forms, and touch is
2 one of them.

3 Q And if someone is on a couch, different hair
4 strands can fall off and that can provide you an
5 adequate sample, correct, under the right
6 circumstances?

7 A Depending on the circumstances for hair, but
8 different surfaces can yield different sources of DNA,
9 yes, sir.

10 Q And fingerprints, obviously?

11 A Yes, sir.

12 Q Can utilize fingerprints. You can use -- and
13 under the right circumstances document -- say, for
14 example, foot indentations, correct, footprints?

15 A There is several forms of that, yes, sir.

16 Q That's right. Same thing, for example, with
17 tread marks, right?

18 A Yes, sir.

19 Q And sometimes those aren't even visible to the
20 naked eye, right?

21 A Sometimes they are not.

22 Q You have to use powders or big lighting in order
23 to make it appear to the naked eye?

24 A Yes, sir.

25 Q Now, you first were -- when you first got on the

JILL DOMOGAUER - CROSS-EXAMINATION

1 scene, if I understood you correctly, you went down to
2 the landing; is that correct?

3 A I went to Sly Fox first that day, and then I went
4 to the landing afterwards.

5 Q Now, at this point, the vehicle had been moved
6 from where it was initially found by investigators,
7 correct?

8 A From my understanding, yes, sir.

9 Q It had been moved from the landing. It is at the
10 Elvis residence whenever you get involved, correct?

11 A Yes, sir, by the time I get involved, that is
12 where the vehicle is.

13 Q You did your inspection at that time?

14 A At that time, yes, sir. It was the first time I
15 looked at the vehicle.

16 Q Now, I would imagine that in a situation like
17 that, where you have been dispatched, wouldn't it be
18 more ideal for you to take possession of that vehicle
19 and bring it to the M.L. Brown building or one of the
20 law enforcement centers to utilize your resources and
21 evaluate it in that context?

22 A You can. You can also do a search on scene.

23 Q Okay. All right. Did you ask to be able to take
24 the vehicle to the possession of the police department?

25 A I did.

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q And why didn't you do that?

2 A I didn't have a warrant for the vehicle at the
3 time. We were operating under what is called a
4 "consent to search." Mr. Elvis gave us consent to
5 search the vehicle, and we were searching it there at
6 that location.

7 Q But did he refuse consent for it to be
8 transported to the police department?

9 A He didn't want it to be transported.

10 Q Okay. So, at that point, you did not request or
11 seek a search warrant at that point?

12 A At that point, no, I did not. It was fresh.

13 Q I understand.

14 A And there was nothing overly alarming of the
15 vehicle saying, hey, red flag.

16 Q I understand. Given the amount of items in the
17 car, we notice a number of plastic bottles and
18 different items in the cup holders there; do you
19 remember seeing those?

20 A Yes, sir.

21 Q Did you take possession or seal them, any of
22 those items, just to have them in your custody for any
23 future investigation?

24 A Nothing of that nature was removed from the
25 vehicle at that time.

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q Most likely, any of those things probably
2 contained fingerprints of some kind?

3 A Possibly, yes.

4 Q So you went from the Elvis residence, and then
5 you went to the Peachtree Boat Landing; is that
6 correct?

7 A Yes, sir.

8 Q And when you got there, by this point, any
9 possibility of foot indentations or impressions or
10 tread marks that could have been recovered had probably
11 been demolished by that point and unrecoverable?

12 A I would probably say -- the landing itself is a
13 black asphalt surface, so unless there is skid marks,
14 which there wasn't, there was no tread wear there. The
15 landing itself is concrete, and around the landing you
16 do have grassy, dirt areas. It is generally where the
17 river comes up at high tide, but at that point in time,
18 there was nothing that was recoverable on
19 December 20th.

20 Q And even though it was a hard surface landing,
21 you did not observe the dirt that may accumulate on the
22 tread mark of the type that can give you the impression
23 of the tread mark; you didn't observe any of that?

24 A No, sir, I didn't. The road to get to the
25 landing is also asphalt, so in order to put a dirt

JILL DOMOGAUER - CROSS-EXAMINATION

1 tread impression, you have to have a lot of mud on your
2 tires prior.

3 Q Let me ask you this. Did you utilize any
4 overhead lighting or powders to try to look at the
5 swampy or muddy vicinity right there around the paved
6 area going into the boat landing?

7 A I'm not understanding.

8 Q You said you looked at the vicinity, right, not
9 just in the concrete spaces?

10 A Yes.

11 Q And given that we know that not all footprints or
12 indentations or marks are visible with a naked eye, did
13 you utilize any lighting or powders to see if anything
14 could be uncovered at that point?

15 A I don't know of any powders that work in water.
16 We did do flashlight looking, but also I cleared the
17 scene, but Lieutenant Cestare stayed behind, and a dive
18 team, DNR and search recovery teams at that point came
19 in and did their part.

20 Q They were already in place? In other words, they
21 were already conducting the water search?

22 A They didn't do anything until after I took my
23 initial photographs and searched, and then they came in
24 after me and did that.

25 Q Okay. Now, you did document -- I believe you

JILL DOMOGAUER - CROSS-EXAMINATION

1 took note of there was cigarette butts near where the
2 car would have been placed?

3 A Where any car would have been placed. It is a
4 big landing, but, yes, kind of towards like -- I don't
5 know if you have been to the landing. You have a
6 concrete area where people can park their boats and
7 trailers, and then you kind of have like this little
8 small patch of grass if you want to walk up there,
9 watch the water, fish, do whatever. Kind of in that
10 little area between the dirt and the pavement, I found
11 some cigarette butts there.

12 Q Now, were those cigarette butts ever tested for
13 Sidney Moorer's DNA?

14 A They were tested, yes.

15 Q And they were negative?

16 A Yes. I believe, in fact, he was excluded from
17 the cigarette butts.

18 Q Now, you went from the landing to the apartment
19 of Ms. Elvis; is that correct?

20 A Yes, sir, I did.

21 Q And you have seen all the number of photographs.
22 There are a number of -- among other things -- empty
23 alcohol bottles visible?

24 A Yes, sir.

25 Q And quite a number of them, correct?

JILL DOMOGAUER - CROSS-EXAMINATION

1 A Yes, sir.

2 Q Now, at this point, were you aware that she had
3 been on a date the night before with anyone; did you
4 know anything of the factual circumstances?

5 A At this point in the investigation, I wasn't
6 given any kind of factual information. The warrant --
7 basically, the only information that was passed on to
8 me in briefing is that this young person is missing,
9 unknown circumstances at this time, and I was in the
10 apartment to search for things to basically collect
11 some of her DNA, if need be, and the detectives who
12 were there did the searching of the apartment.

13 Q And you did collect DNA first, correct?

14 A Yes, I did.

15 Q And that was for the purpose that at some future
16 point you may want to see if her DNA would show up at
17 some other location, correct?

18 A We do it for several reasons, but generally when
19 you have a missing person, yes, you try to collect
20 sources of DNA soon in the investigation. Hopefully
21 you won't need it, but if you do, it is better to get
22 it as soon as you can.

23 Q All right. So you took and obtained her DNA
24 sample, took various photographs of the scene?

25 A Of the apartment, yes, sir.

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q Of the apartment, yes, ma'am. I'll ask you
2 something. There was a photo I have, and it is not a
3 very good -- not a very good copy; did you uncover a
4 driver's license for a Jamie Morse, M-O-R-S-E?

5 A I don't have my exact notes. If I can look at
6 that photograph? I don't recall from memory, but I
7 recall collecting a license.

8 Q Give me a moment.

9 (Defendant's Exhibits 4 through 6 marked.)

10 MS. LIVESAY: Objection. Can we take a look at
11 what he is now showing the witness?

12 MR. BOUCHETTE: I'm sorry.

13 THE COURT: Yes. He has not introduced them yet,
14 but you can look at it.

15 (A brief pause in the proceedings.)

16 Q (MR. BOUCHETTE) I'll show you what we've marked
17 as State's No. 5. I'll give you -- 4, 5 and 6; do you
18 remember seeing those?

19 A (Witness examines document.) Yes, sir, I do.

20 Q Did you take those photographs?

21 A They appear to be the photographs I took, and the
22 reason I'm saying that is they are black and white and
23 very blurry, so they appear to be the ones I took, but
24 I do recall items that looked like this there.

25 Q How was a driver's license -- where was it

JILL DOMOGAUER - CROSS-EXAMINATION

1 located whenever you came across it?

2 A It's tucked in a cigarette pack.

3 Q Did that seem of interest to you at the time?

4 A No, sir.

5 Q You took a photograph of it, though, right?

6 A Yes, sir.

7 Q Did you know who that Jamie Morse is or know of
8 any connection?

9 A No, sir. I believe that is probably why they
10 told me to take a photograph of it.

11 Q All right. Was that taken close to a debit card
12 for Ms. Elvis; were they in the same vicinity?

13 A Without seeing the overview photograph, I can't
14 tell you. I'm not quite sure, sir.

15 Q Would that surprise you?

16 A Pardon me?

17 Q You don't recall seeing a Heather Elvis debit
18 card in the vicinity of the ID and cigarette --

19 A Without seeing the overalls to refresh my memory,
20 I just don't recall at this time.

21 Q Tell you what. Let me do this. Let's do this
22 Defendant's 7 for ID only.

23 (Defendant's Exhibit 7 marked.)

24 A That appears to be the same wicker type container
25 that was in the other photographs, so, yes, sir.

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q The surface area is the same?

2 A It appears, yes, sir, absolutely.

3 Q So Ms. Elvis' debit card was in the vicinity of
4 this ID that was tucked into the cigarette container;
5 is that correct?

6 A Yes, sir.

7 Q Did you know at that time who that individual
8 was?

9 A Who Heather Elvis was?

10 Q No. No. The ID, Ms. Morse.

11 A Yeah. I had no idea at that time -- or even
12 today -- who that person is.

13 Q Okay. Is it possible -- was that used as like a
14 fake ID by someone?

15 A I have no idea, sir.

16 Q You don't know if there was any investigation to
17 find out who that was or figure out where that came
18 from or what it was for?

19 A I don't know if someone did or not, sir.

20 Q I'll show you -- and this is also kind of bad
21 quality, I apologize -- Defendant's 8 for ID only at
22 this point.

23 (Defendant's Exhibit 8 marked.)

24 Q Did you uncover -- I can't tell if it is a credit
25 card or some type of hotel card; do you remember

JILL DOMOGAUER - CROSS-EXAMINATION

1 recovering that?

2 A Okay. And I just want to remind you, I didn't do
3 the searching; Detective Cauble and his other officers
4 that were there at the apartment did the searching.
5 When they uncover items like this, they call for a
6 camera, and that is when I come in and take the
7 photograph. But, yes, this is a photograph I took on
8 the day, and I believe -- it looks like the couch area,
9 but I do recall seeing this.

10 Q You recall seeing it, and you recall taking that
11 photograph?

12 A Yes, I do. This is Defendant's Exhibit
13 No. 8.

14 Q Now, what's -- can you tell what that is?

15 A It says Pal's Players Club. I don't know if that
16 is a hotel keycard or a card of some sort.

17 Q Kind of has the arrows pointing down almost like
18 you would have when you have one of those --

19 A It looks like a hotel or keycard for some kind of
20 location.

21 MR. BOUCHETTE: At this point, we seek to admit
22 Defendant's 4 through 8 into evidence.

23 THE COURT: Any objection?

24 MR. HELMS: Can I take a look at them?

25 THE COURT: Sure. Take your time. You haven't

JILL DOMOGAUER - CROSS-EXAMINATION

1 seen them. Absolutely.

2 (A brief pause in the proceedings.)

3 THE COURT: They appear to be a copy, from what
4 she took, she said, so they are copies.

5 A They appear to be photocopies of photographs I
6 had taken.

7 Q (MR. BOUCHETTE) While they are doing that, do
8 you recall any discussion or any investigation as to
9 any connection with the Players Club, or whatever the
10 name was, on that total key or card?

11 A That would be something that the detectives would
12 discuss, not something that they would discuss with me.

13 MR. HELMS: Without objection.

14 THE COURT: Without objection, Defense's 4
15 through 8 admitted.

16 (Defendant's Exhibits 4 through 8 admitted.)

17 MR. BOUCHETTE: May I publish to the jury, Your
18 Honor?

19 THE COURT: Sure.

20 (Defendant's Exhibits 4 through 8 published to
21 the jury.)

22 Q (MR. BOUCHETTE) Ms. Domogauer, at some point,
23 whenever you concluded your investigation into Ms.
24 Elvis' apartment, at that time you went in late
25 February to execute the search warrant at the Moorers'

JILL DOMOGAUER - CROSS-EXAMINATION

1 residence, correct?

2 A Yes, sir.

3 Q Let me ask you this. Prior to the search warrant
4 at the Moorers' residence, had you been provided with
5 any DNA samples from Mr. Moorer or Mrs. Moorer?

6 A I can't recall. I believe there were some
7 samples.

8 Q Do you recall how those samples were obtained and
9 provided to you?

10 A No, sir.

11 Q You don't recall at all?

12 A No, sir.

13 Q Do you recall which detective obtained the
14 samples?

15 A Not without looking at a chain of custody, I
16 can't tell you, sir.

17 Q But, ultimately, you processed and went through
18 and reviewed the Moorer items you found?

19 A I'm sorry?

20 Q The items that you recovered from the Moorer
21 residence, you processed those and searched those for
22 DNA, correct?

23 A There are items that I collected -- if items
24 needed to be sent to our state lab for that kind of
25 processing, that would go to the state lab for that

JILL DOMOGAUER - CROSS-EXAMINATION

1 kind of processing.

2 Q Right. So, for example, you did that on the
3 F-150, correct?

4 A There were items taken from the F-150. I did not
5 process the F-150.

6 Q But you know the F-150 was processed and searched
7 for any indication of Ms. Elvis' DNA in that vehicle,
8 correct?

9 A Yes, sir, I believe so.

10 Q And those were negative?

11 A I believe so. Inconclusive, yes, sir.

12 Q And if anything was uncovered from the Moorers
13 residence, there was nothing at any point of any of the
14 items ever uncovered that ever contained Ms. Elvis'
15 DNA, correct?

16 A I believe so, yes, sir.

17 Q Okay. And Mr. Moorers -- excuse me --
18 Mr. Moorers' DNA was not uncovered at her apartment at
19 any time, correct?

20 A No, sir.

21 Q Let me ask you this. From the first time you
22 went out until late February, whenever you executed the
23 search warrant on Mr. Moorers' residence, were you ever
24 asked to go back and try to obtain or compare DNA
25 samples from a Mr. Schiraldi?

JILL DOMOGAUER - CROSS-EXAMINATION

1 A That name doesn't sound familiar to me.

2 Q No one came to you and said, listen, go check one
3 of the back bedrooms and see if he has any touch DNA on
4 the door handle, for example?

5 A No, sir.

6 Q That is something you could have done, correct,
7 or at least attempted to do?

8 A If that person is someone who would be in that
9 apartment, then you reasonably would expect his DNA to
10 be there.

11 Q Okay. All right. And were you ever asked to --
12 let me ask you this. Were you ever provided DNA
13 samples of Mr. Schiraldi of any kind?

14 A I have no idea, sir.

15 Q Would it be contained in your report if you had
16 been?

17 A It would be contained in evidence. I,
18 personally, did not collect it, so it would not be in
19 my report if I didn't collect it, no.

20 Q To the best of your knowledge, none was?

21 A I'm not sure, no, sir.

22 Q To the best of your knowledge, was any DNA
23 collected, or were you involved in collecting or
24 evaluating any DNA from Jeremy Flemming?

25 A I have no involvement with that name.

JILL DOMOGAUER - CROSS-EXAMINATION

1 MR. BOUCHETTE: Court's indulgence.

2 THE COURT: Sure.

3 (A brief pause in the proceedings.)

4 Q (MR. BOUCHETTE) When you executed the search
5 warrant on Mr. Moorer's residence, that was late
6 February, correct?

7 A Yeah, I believe. Yeah, late February,
8 February 21st.

9 Q But you went to Ms. Elvis' apartment in, I think
10 it was, on the 20th of December; is that correct?

11 A Roughly. After she was reported missing, I went
12 to Ms. Elvis' apartment.

13 Q In that interim time period from late December
14 through the end of February, were you ever asked to go
15 to the residence of Mr. Schiraldi or to evaluate or do
16 any investigation at that residence?

17 A No, sir.

18 Q Were you asked to go and evaluate or check for
19 DNA or any items of evidentiary value in the truck
20 driven by Mr. Schiraldi?

21 A No, sir.

22 Q Were you ever asked to go to the residence of a
23 Jeremy Flemming and evaluate or analyze anything of
24 investigatory value at that residence?

25 A No, sir.

JILL DOMOGAUER - CROSS-EXAMINATION

1 Q How about a Jerry Stevens, were you asked to go
2 to his residence and perform any kind of investigation?

3 A No, sir.

4 Q Let me ask you this. Was there any residence,
5 other than Ms. Elvis' and Mr. Moorers', where you were
6 asked to go and do an investigation?

7 A Those were the only two residences I was involved
8 with, sir.

9 Q How about anybody else's vehicle, were you asked
10 to go take a look at any other individual's vehicles
11 during the two months that this investigation was going
12 forward?

13 A The only vehicle I had dealings with in the
14 beginning was the Dodge Intrepid and the F-150 late in
15 February. Those are the only two vehicles I had
16 dealings with.

17 Q So no one else?

18 A No one else, no, sir.

19 Q Thank you.

20 Did you receive -- I know you took an item from
21 Mr. Moorers' truck, I think a smart box?

22 A Sync module.

23 Q Yeah. And what that contains is sort of tracking
24 data; is that correct?

25 A I have absolutely no idea what it contains. All

JILL DOMOGAUER - REDIRECT EXAMINATION

1 I know is we had to look for a sync module, and I was
2 there to collect it.

3 Q You don't know what a sync module does?

4 A Absolutely not.

5 Q All right. I won't ask you anything else then
6 about that.

7 MR. BOUCHETTE: No further questions.

8 THE COURT: Redirect.

9 MR. HELMS: Thank you, Your Honor.

10 REDIRECT-EXAMINATION

11 BY MR. HELMS:

12 Q What about a Billy Smith, did you check his DNA?

13 A No, sir.

14 Q What about a Jimmy Johnson?

15 A No, sir.

16 Q John Doe?

17 A No, sir.

18 Q Why were you searching Sidney Moorer's residence?

19 A There was reason to believe he was involved in
20 the case, sir.

21 Q Thank you. Let me talk to you about your
22 interaction with Mr. Elvis whenever you went to
23 photograph and process the car. Did Mr. Elvis inhibit
24 you in any way from processing that vehicle?

25 A Absolutely not. He was totally cooperative.

JILL DOMOGAUER - REDIRECT EXAMINATION

1 Q But he wanted to keep the car at the residence?

2 A Well, yes, sir.

3 Q Do you know why?

4 A I don't know why, personally, for him, but it is
5 not something that raises any alarms to me.

6 Q Did you get everything done that you wanted to do
7 to the car at that time?

8 A Yes, sir.

9 Q Let me ask you this. At that time did you know a
10 crime had been committed?

11 A At that time she was just a missing individual.
12 We were trying to see if we could find her.

13 Q What was your primary goal?

14 A To see if we could find Heather Elvis.

15 Q So you weren't processing that car as a crime
16 scene?

17 A No, sir. Nothing indicated from the visual of
18 the car that any crime took place in the car or around
19 the car.

20 Q On December 20th?

21 A On December 20th.

22 Q All right. So what about the landing on
23 December 20th, were you processing that as a crime
24 scene?

25 A No. It was just more for documentation

JILL DOMOGAUER - REDIRECT EXAMINATION

1 purposes. This car is found here, this person is
2 missing.

3 Q So, again, what was your primary goal at the
4 landing?

5 A To document it.

6 Q Were you trying to find Heather Elvis?

7 A The car was found there, this was the last known
8 area where the car was, so we document it and look for
9 it -- any kind of clues. We're trying to find Heather
10 at this point.

11 Q Fair enough. What about the apartment? When you
12 went to the apartment on the same day, were you
13 processing that as a crime scene?

14 A No, sir. Again, just trying to gather facts,
15 trying to find out where Heather could be.

16 Q Any of these places, if they were suspected at
17 this time of being a crime scene, would you have
18 processed them a little differently?

19 A Yes, sir.

20 Q You talked about finding keycards or something at
21 the apartment. Were you aware at the time of
22 processing that someone else lived there, other than
23 Heather?

24 A Yeah, there was another bedroom. I mean, you
25 could tell there was -- people stayed there.

JILL DOMOGAUER - REDIRECT EXAMINATION

1 Q So it was evident that someone, other than one
2 person, Heather Elvis, lived there?

3 A Yes, sir.

4 Q And how was that evident?

5 A You have a separate bedroom, I believe a
6 different name, Bri, in the bedroom. There was also
7 some notation of the landlady, I believe.

8 Q So it was evident to you in processing it or
9 photographing it that more than one person had been in
10 that apartment at any time?

11 A This is a young person's apartment.

12 Q I want to talk about the truck briefly, and then
13 I'll be done. The F-150 that you seized, State's
14 Exhibit 39, this Ford sync module, when did you seize
15 that Ford sync module?

16 A I would have to look at my notes, but it was
17 quite some time. It wasn't December 20th.

18 Q Was it February of 2014?

19 A It could have been, yes, sir.

20 Q Take a look for me, if you don't mind, and see if
21 you can tell them definitively, because I don't want to
22 testify for you.

23 A I would need my notebook with further notes.

24 Q I'll show you your notebook now, if you don't
25 mind, to refresh your memory, if that will help you.

JILL DOMOGAUER - REDIRECT EXAMINATION

1 Take a look and tell me when that truck was processed.

2 A I collected the sync module on February 18, 2016.

3 Q Oh, okay. So that is significantly after -- I'll
4 take that back if you want me to, or you can hold onto
5 it until we're done.

6 So the truck was actually processed significantly
7 later?

8 A Yes, sir.

9 Q Let me ask you a question. Would you -- and he
10 talked a lot about touch DNA; what is touch DNA?

11 A To make everyone understand, I just touched this,
12 my DNA is there.

13 Q 20 years from now, do you expect your DNA to
14 still be there?

15 A I don't expect it to be there past tonight.

16 Q Let me ask you this. If I wash something, do you
17 expect to find DNA on it?

18 A No. That is why I said -- I know the custodial
19 staff in the courtroom will wipe all of these surfaces,
20 so by tomorrow it most likely won't be there.

21 Q And, again, had you expected the truck, the
22 landing, the apartment, her car, any of those places to
23 be a crime scene, would you have processed them
24 differently?

25 A Yes, but touch DNA is tricky. I did process the

JILL DOMOGAUER - RECROSS-EXAMINATION

1 Intrepid for touch DNA. I did collect touch DNA
2 samples from the Intrepid. It came back inconclusive,
3 because touch DNA is something that is very sensitive,
4 it is very fresh. Anything can manipulate that,
5 whether it be the weather, time. You are talking about
6 something that is exterior, outside.

7 Q So if I wipe something down, that is going to
8 remove my touch DNA?

9 A It possibly can, yes, sir. Someone touching it
10 over you who secretes more bodily fluids will override
11 yours.

12 Q So if there was, for example, Heather's DNA on
13 the steering wheel, and Mr. Elvis drove the car home
14 with gloves on, or Casey Canterbury touched the
15 steering wheel with gloves on, that would have removed
16 her touch DNA?

17 A Yes.

18 Q And would that cause that DNA test to come back
19 inconclusive?

20 A Yes.

21 Q Thank you.

22 MR. HELMS: No further questions.

23 THE COURT: Recross.

24 MR. BOUCHETTE: Briefly, Your Honor.

25

JILL DOMOGAUER - RECROSS-EXAMINATION

1

2

RECROSS-EXAMINATION

3

BY MR. BOUCHETTE:

4

Q We know when you initially responded, you weren't processing it as a crime scene; is that correct?

5

A Yes, sir.

6

7

Q But we know that Mr. Moorer was -- in about two months -- was ultimately arrested and charged with her disappearance, correct?

8

A Yes, sir.

9

10

Q So safe to say at some point, between the time you first went out and the end of February 2014, it became the opinion of law enforcement that this was, in fact, a crime scene, correct?

11

A Yes, sir.

12

13

Q Okay. And you were not asked to go back out and conduct any more thorough evaluations at that point?

14

A No, sir.

15

16

THE COURT: Do you wish the witness to be excused?

17

MR. HELMS: Please.

18

THE COURT: Any objection?

19

MR. BOUCHETTE: No, Your Honor.

20

THE WITNESS: Am I still under subpoena?

21

THE COURT: No, ma'am, you are free to leave.

JILL DOMOGAUER - RECROSS-EXAMINATION

1 Ladies and gentlemen, let's take our break at
2 this point. We'll let you go to your jury room. Do
3 not begin your deliberations. We'll be with you in
4 about 10, 15 minutes.

5 (The jury exits at 11:03 a.m., and following
6 is heard out of the presence of the jury.)

7 THE COURT: Anything from the State before we
8 recess?

9 MR. HELMS: No, Your Honor.

10 THE COURT: Anything from the defendant?

11 MR. BOUCHETTE: No, Your Honor.

12 THE COURT: We'll be at ease for about 10, 15
13 minutes.

14 (A recess was taken.)

15 THE COURT: I don't know what 40 is, but there is
16 no 40. It doesn't -- I know we try to do it
17 sequentially, but it is not that big of a deal, as
18 long as everyone agrees. We have admitted what was
19 admitted, but there is just no Exhibit 40, so it jumps
20 from 39 to 41; everyone is in agreement?

21 MR. BOUCHETTE: Yes, Your Honor.

22 THE COURT: Defense?

23 MS. LIVESAY: Yes.

24 THE COURT: Let's bring in the jury.

25 (The jury enters at 11:23 a.m., and the

WILL LYNCH - DIRECT EXAMINATION

1 following is heard in the presence of the jury.)

2 THE COURT: Thank you very much. Call your next
3 witness.

4 MS. LIVESAY: At this time, we call Will Lynch to
5 the stand.

6 (WILL LYNCH, having been duly sworn, testified
7 as follows:)

8 THE WITNESS: Will Lynch, L-Y-N-C-H

9 DIRECT-EXAMINATION

10 BY MS. LIVESAY:

11 Q Mr. Lynch, if you don't mind tell this jury where
12 you are currently employed.

13 A Currently, I'm employed with the City of North
14 Myrtle Beach, Department of Public Safety.

15 Q And how long have you been with North Myrtle
16 Beach?

17 A Been employed with North Myrtle Beach for 25
18 years.

19 Q What are your current responsibilities?

20 A Currently, I'm assigned to the investigations
21 divisions there at the city.

22 Q And let me ask you this. What were you doing in
23 2013?

24 A In 2013, I was assigned to a multi-jurisdictional
25 drug task force, 15th Drug Enforcement Unit, and I

WILL LYNCH - DIRECT EXAMINATION

1 was actually stationed at an office here in Conway.

2 Q And what were your responsibilities when you
3 worked at what is known as the DEU?

4 A So when I was at DEU, our main responsibility was
5 to focus on mid- to upper-level narcotics activity, and
6 also I was assigned to do what they call "dumping cell
7 phones" or "cell phone extraction" as well.

8 Q If you don't mind, tell this jury a little bit
9 about the training you've had doing cell phone
10 extractions.

11 A So we use a machine that is designed by a company
12 called Cellebrite. The machine is called the "Touch"
13 or "Touch II." Now there is actually a newer version
14 of Touch II. They also make a program that you can run
15 on a stand-alone desktop called UFED 4 PC. I was
16 originally trained in this technology back in 2011, and
17 I've since been retrained again or updated my
18 certification last year June of 2018.

19 Q And if you don't mind, tell them between 2011,
20 when you first were trained in how to do it, and 2013,
21 when you got involved in this case, about how many
22 phone extractions -- cell phone extractions had you
23 done?

24 A So up until that point, when I became involved in
25 this case, it was probably between 100 to 200 cell

WILL LYNCH - DIRECT EXAMINATION

1 phones, probably up closer to around 200 cell phones.

2 Q If you don't mind, tell this jury what a cell
3 phone extraction is.

4 A So a cell phone extraction is basically pulling
5 the information off of a cell phone or, really, any
6 type of portable media device. It could be an iPad,
7 something of that nature, GPS unit, and they even do
8 drones now. It is basically pulling that information
9 off of a cell phone. It is kind of like when you go to
10 the cell phone store to get a new cell phone, they
11 actually have their version of our machine that will
12 transfer your data from your old cell phone to your new
13 cell phone, so it's basically the same process except
14 the machine we use is for law enforcement and pulls a
15 little more information than the typical one you get at
16 the phone store.

17 Q So, just so I'm clear, instead of -- your
18 version, instead of moving the information from one
19 phone to another, it pulls the information and puts it
20 in a report form?

21 A It does. It pulls it from the cell phone onto
22 some type of media device, whether it is a thumb drive
23 or an external hard drive, and then that information is
24 then running in another part of the program, which
25 generates a report into a readable report.

WILL LYNCH - DIRECT EXAMINATION

1 Q And what information is included in this report?

2 A So the -- there's different types of extractions
3 depending on how much information you are actually
4 trying to get, but long story short, it will pull all
5 of the information you can see off of your cell phone
6 where it is incoming/outgoing phone calls, your
7 contacts, SMS messages, MMS messages. It can pull
8 device locations, pictures, videos, browser history,
9 what you looked at on the Internet, and it can even
10 pull some deleted information as well.

11 Q Now, tell this jury, can you alter that report;
12 can anyone alter it?

13 A You cannot. The machine is set up just for what
14 they call "read only," it just reads what is on that
15 phone. You can't input anything on the phone through
16 the use of this machine.

17 Q Now, tell this jury what you did to assist in
18 this investigation.

19 A So I was at home over the Christmas holidays of
20 2013 and I received a phone call from Horry County
21 Police asking me if I could assist in examining some
22 cell phones in a case they were currently
23 investigating. I did say, yes, I could do that. I
24 don't know if they called me on the 23rd of December or
25 early morning of the 24th, but on December 24th I

WILL LYNCH - DIRECT EXAMINATION

1 actually went and met with an Horry County officer and
2 retrieved some cell phones from them and began doing
3 extractions on those cell phones.

4 (State's 85 through 88 marked.)

5 Q I'll show you what is marked first as State's 85
6 and 86; tell this Court what that is.

7 A So 85 appears to be a disk, CD/DVD disk, of the
8 report that was put onto this storage media, and then
9 86, State's 86, appears to be the actual report.

10 Q Now, that first page, tell this Court what that
11 is.

12 A This first page is just the extraction summary of
13 the phone. It basically says who the examiner was,
14 which it has my name on it, case number that may have
15 been assigned to the case, the time the extraction was
16 started, the time it was finished. It also goes into
17 the identifiers of the cell phone, as far as a phone
18 number, any other identifiers who may actually be the
19 owner of this cell phone.

20 Q And tell this Court what the phone number is.

21 A So the phone number assigned to this phone was
22 [REDACTED] 3175.

23 Q Is there any anything else on that summary
24 identifying who the phone belongs to?

25 A There's an Apple ID. It says: Sidney

WILL LYNCH - DIRECT EXAMINATION

1 Moorer77@gmail.com, and there is also a device name
2 that says "Sidney's iPhone."

3 MS. LIVESAY: Your Honor, at this time the State
4 wishes to put 85 and 86 into evidence and publish it
5 at the appropriate time.

6 THE COURT: Any objection?

7 MR. GALMORE: No, sir, no objection.

8 THE COURT: Without objection, State's 85 and 86
9 are admitted.

10 (State's Exhibits 85 and 86 admitted.)

11 Q (MS. LIVESAY) I'll show you now State's 87 and
12 88; take a look and tell this Court what you're
13 looking at.

14 A So 87 is labeled "Sidney's timeline" and it also
15 appears to be a disk with that information. It does
16 say "Sidney's timeline" on it and it has my initials.
17 There is also -- 88 would be excerpts from Sidney's
18 timeline. I guess to go a little bit further, the
19 timeline -- when you generate a report from a cell
20 phone, it will put all of this information in
21 categories. It will put all of the incoming/outgoing
22 phone calls, all the incoming/outgoing SMS,
23 incoming/outgoing MMS messages, photos, videos, et.
24 cetera. The timeline report is also generated by the
25 machine where it puts all of that stuff in

WILL LYNCH - DIRECT EXAMINATION

1 chronological order so you don't have to bounce around
2 between each of the individual categories. You can go
3 to the timeline and see in chronological order what the
4 person who had the cell phone did, whether they called
5 someone, then they texted someone, then looked up
6 information on the Internet. It puts it in
7 chronological order.

8 Q Now, are those -- what is labeled 87 and 88, are
9 those excerpts from the timeline?

10 A Yes, I believe they are events from the timeline.

11 Q Is that information identical to what is on the
12 timeline?

13 A Yes, it is.

14 MS. LIVESAY: At this time, the State wishes to
15 put 87 and 88 into evidence and publish it to the
16 jury.

17 THE COURT: Any objection, Counsel?

18 MR. GALMORE: No, sir.

19 THE COURT: Without objection, 87 and 88 are
20 admitted.

21 (State's Exhibits 87 and 88 admitted.)

22 Q (MS. LIVESAY) While she's getting this ready,
23 I'll ask you: There has been a lot of questions --
24 and you weren't in here earlier, when did you get
25 here?

WILL LYNCH - DIRECT EXAMINATION

1 A I arrived here at the courthouse at 8:30 this
2 morning.

3 Q And have you been here yesterday or the day
4 before?

5 A No, ma'am.

6 Q There was some testimony earlier about the phone
7 records and that they didn't collect the contents of
8 the message. Cellebrite allows you to actually collect
9 the contents of the text messages, correct?

10 A That's correct.

11 Q And sometimes when someone calls and leaves a
12 voice mail, you can listen to the voice mail?

13 A It did -- that's correct.

14 Q So it is kind of basically having the phone right
15 in front of you?

16 A That's correct.

17 Q And the time frame we've been talking about here
18 encompasses late October, early November; were you able
19 to collect the contents of text messages from
20 Mr. Moorer's phone during that time frame?

21 A Late October/November, yes.

22 Q And the other time frame we've been talking a lot
23 about is December 17 and 18th of 2013; were you able
24 to collect what was going on with the phone during that
25 time frame?

WILL LYNCH - DIRECT EXAMINATION

1 A Yes, that's correct.

2 Q Now, tell this jury -- sometimes people delete
3 messages off of their phone. Does this report tell us
4 if that message had been deleted or not?

5 A It does. So when you create a report, it puts
6 the information in columns, and one of the columns
7 specifically is columns labeled "deleted" or "DEL," and
8 it will usually put a red "X" or something to note that
9 this information was deleted off of the phone.

10 Q Okay. Now, when you look down the columns, just
11 so this crowd knows what they are looking for, were all
12 of them deleted?

13 A No, not everything was deleted.

14 Q Were some of them deleted?

15 A Yes.

16 Q So you had a couple that weren't, and then you
17 had one that was, and then a couple that wasn't?

18 A Correct.

19 Q If you don't mind, I'll ask you to step down and
20 go through these messages. I know some of them read
21 up. Before we get too far along, I want you to tell
22 the jury -- we talked a lot about some stuff is in
23 Eastern time, some stuff in Pacific time, tell them
24 what time the reports are sent.

25 A So back in 2013, when Cellebrite generated a

WILL LYNCH - DIRECT EXAMINATION

1 report, they would generate in what was called "UTC
2 time," which stands for "Universal Time Coordinated."
3 Some people may have heard it as "Greenwich Mean Time."
4 It is just basically a time that is recognized around
5 the world, and depending where you are and what time of
6 the year, you would have to either subtract or add
7 hours to get to the right time.

8 So this report is in UTC time. Now, the UTC
9 time, whether you subtract four hours or five hours is
10 going to depend on Daylight Savings Time to Standard
11 time. So back in November 13th -- excuse me,
12 November 2013, on November 3rd, at 2 o'clock in the
13 morning, we went from Daylight Savings Time to
14 Standard time. The report also -- that's when you
15 would have to subtract four hours prior to
16 November 3rd, 2:00 a.m., and then after November 3,
17 2:00 a.m. you have to subtract five hours. So it gets
18 a little confusing, but we'll go through it and
19 clarify that for you, but you have to convert this
20 time so you understand what the time is.

21 Q If you don't mind, Mr. Lynch, go ahead and start
22 telling us about the messages early November.

23 A The way this report was generated, you have to
24 start at the bottom and work your way up. You can kind
25 of see the time gets later as you go up, and being that

WILL LYNCH - DIRECT EXAMINATION

1 this was pre-November 3rd, you would be subtracting
2 four hours here at this time. So it says 4:30 a.m. on
3 the 2nd of November; it is really going to be 1:30 a.m.
4 here on the east coast. So it starts off 1:30 a.m. on
5 the 2nd of November. There is an incoming text
6 message, or SMS messages, from this number here
7 [REDACTED] 8152, and the person that sent this says:
8 Sidney.

9 Q Mr. Lynch, it's been put in evidence, but that
10 number belongs to Heather Elvis?

11 A Yes.

12 Q Keeping you from repeating the number.

13 A Okay. Thank you.

14 So, then, once this message comes through to
15 [REDACTED] 3175, the phone responds right after that,
16 1:46 a.m., and it goes to this number, which is
17 Heather Elvis' number, and they respond: Yeah.

18 And then they respond again: What's up?

19 They respond again, subtract four hours, so it is
20 1:20 -- excuse me, I have to back up. This is at
21 12:30, 12:46, 12:47 and 1:20.

22 Then they say: Who the fuck is this?

23 Then they say again at 1:23: Why would you
24 fucking text me at 12:30 and not respond, which they
25 are talking about this original text here 12:30. Why

WILL LYNCH - DIRECT EXAMINATION

1 would you fucking text me at 12:30 and not respond?

2 Then, later on that day, on the 2nd of November,
3 so you'll subtract four hours, it will actually be
4 8:37 a.m. So Heather's phone responds: What in the
5 world?

6 And then Heather responds again: Sorry, my phone
7 was fucking up all night. It wouldn't let me answer
8 calls and then it just froze, but you've got some
9 explaining to do.

10 And then Sidney's phone responds right after
11 that: Why is that?

12 It responds again: Who is this?

13 And then from Heather's phone it says: Nobody
14 you need to worry about anymore.

15 And then the messages go back to Heather's phone:
16 You want to call me right now and explain yourself, it
17 would be the wise thing to do.

18 So we're still -- with these messages, we're
19 still minus four hours. So, again, this is at 9:38 in
20 the morning, and after that, there is a message, it is
21 an instant message that says: What?

22 Then there's -- again, this would be on 3rd of
23 November at 12:21 a.m., so we have to subtract four
24 hours, so actually going back to November 2nd at
25 9:21 p.m. There is a message from Heather's phone

WILL LYNCH - DIRECT EXAMINATION

1 that says: So when does Sidney get his phone back?

2 And then the responding message about an
3 hour-and-a-half later says: This is him, but we can't
4 talk anymore.

5 Q Do these messages continue on between Heather and
6 Sidney's phone?

7 A Yes, they do.

8 Q If you don't mind, tell us about those. Before
9 we start going through messages, what does this
10 indicate over here?

11 A So this is the column over here where it would
12 show that the message was deleted from the cell phone.
13 So anything that has the "yes" along that message is
14 showing it was actually deleted from the cell phone.
15 These are not deleted.

16 Q And Cellebrite is sometimes able to collect the
17 deleted information?

18 A It does. It can't collect all of it, but
19 sometimes it collects a pretty good amount.

20 So go back down here to November 3rd,
21 1:57 a.m., and you have to subtract four hours, so
22 November 2nd, 9:57 p.m. That is a message from
23 Heather's phone: Can you just call me for a minute?

24 And right after that, less than a minute and 30
25 seconds it says: No.

WILL LYNCH - DIRECT EXAMINATION

1 Heather gets a message that says: No. I love
2 family.

3 Heather responds: Ha, okay.

4 And then from Sidney's phone to Heather's phone
5 says: Sorry. I made a mistake.

6 Again, Heather responds: You knew what you were
7 doing, it was no mistake. I understand this can't go
8 on anymore, I just want to know that your wife isn't
9 going to show up at my job.

10 She also goes on saying: Because I lost hours
11 today because they sent me home after she kept
12 calling.

13 Then a message comes to Heather's phone that
14 says: She doesn't care about you. It's fine. She
15 has a boyfriend.

16 It goes on to say: She was just mad at me for
17 lying.

18 And then a message comes to Heather's phone that
19 says: Wants me to take some tests to make sure I
20 didn't catch anything from you.

21 Heather's phone responds: Then why does this
22 have to end if she's got a boyfriend? Stop being such
23 a pushover and letting her control you.

24 And then it responds back to Heather: I can't do
25 it anymore, it's not right.

WILL LYNCH - DIRECT EXAMINATION

1 And then Heather responds: Yeah, okay.

2 And then, again, Sidney's phone responds back to
3 Heather's phone: What did you want to talk about?

4 Message back from Heather's phone says: I think
5 you're a little obsessed with me.

6 Sidney's phone responds: Nah, it was a bore.

7 And then there is another message to Heather's
8 phone that says: If you want to speak to me now, call
9 me -- if you want to speak to me, call now, otherwise
10 leave me alone forever.

11 And then Heather responds back: Really? So that
12 is why you are still childishly texting me from your
13 cheating husband's phone?

14 And then Sidney's phone responds back to Heather:
15 Call the number, it's me.

16 And Heather responds back: You call.

17 Q Let me ask you something. The messages that were
18 deleted are ones when Heather says I think you are a
19 little obsessed with me, and Sidney's phone is, like,
20 look, call me, call me; those were all deleted?

21 A Right. These all have been deleted.

22 Q Okay. And did this conversation continue on?

23 A It did.

24 All right. So this is November 3rd, and at
25 this point in time we'll be subtracting five hours

WILL LYNCH - DIRECT EXAMINATION

1 from here. So this is 2:08 in the morning, and then
2 there is a message that is going to -- it's going to
3 Heather's phone that says: Nah.

4 And then this is on the 4th -- correction, this
5 is November 3rd at 12:05 -- 11:05 I believe --
6 11:05 p.m. that says: Sidney.

7 And then it responds back from Sidney's phone to
8 Heather's phone: What?

9 Sidney's phone responds back to Heather's phone:
10 Your skank ass needs to leave me alone.

11 And then it responds again right after that to
12 Heather's phone: Stop stalking me you crazy fucking
13 whore.

14 And then we're talking about a day later, a
15 little longer than a day on the 5th of November at
16 1:00 p.m. there is a message from Heather's phone to
17 Sidney's phone that is just a period.

18 Q Let me ask you something. When the message is
19 deleted, if you were to look through the phone, would
20 you see it?

21 A You would not.

22 Q You would not see it?

23 A Correct.

24 Q So when the messages were deleted about call me
25 if you want to talk to me, call me, if you looked

WILL LYNCH - DIRECT EXAMINATION

1 through the phone, you wouldn't see it?

2 A If you manually looked through the phone, you
3 wouldn't see it.

4 Q But if a person called, you would just see that
5 they called you?

6 A Correct.

7 Q Let me ask you something. Did you look also at
8 what was on the phone closer in time to when she went
9 missing, which is the 16th, 17th and 18th?

10 A Yes, ma'am, I did.

11 Q Did you see the contents of those messages?

12 A I did.

13 Q If you don't mind, tell the jury about those
14 messages.

15 A Okay. So we're down again -- we'll start from
16 the bottom and go to the top. These are messages,
17 again, from Sidney's phone number, [REDACTED] 3175. This
18 would be at 1:40 in the morning on the 16th, and it
19 says: My pussy is so wet for you, Caleb.

20 And right after that, about three minutes, there
21 is a message that says: Ha ha. Smiley face. Well,
22 I'll text you tomorrow night.

23 And then a message from Sidney's phone that says:
24 Okay, baby.

25 Another message from Sidney's phone that says:

WILL LYNCH - DIRECT EXAMINATION

1 Sweet dreams.

2 Another message right after that from Sidney's
3 phone that says: I will take one last pick, if that's
4 okay.

5 Then there's another message from Sidney's phone
6 that is just five hearts.

7 And then there is a message 12 seconds after that
8 that says: That's fine.

9 Then there is a message from Sidney's phone that
10 says: Heart. I want you so bad.

11 And then right after that there's another message
12 from Sidney's phone that says: Caleb, with a question
13 mark.

14 And then about two hours later, there is another
15 message from Sidney's phone that says: Going to
16 sleep. Can you send a pict in the morning so I have
17 it when I wake up? XOXO.

18 And then there is another message from Sidney's
19 phone that says: I am in love.

20 Q Do these messages continue on?

21 A They do.

22 Q These are on what date and time when you
23 converted it?

24 A So starting down here on the bottom, it was
25 December 16th, and you have to subtract five hours,

WILL LYNCH - DIRECT EXAMINATION

1 so 1:40 in the morning, and they continue on. Here is
2 1:48, a little jump here, and this is 3:33 in the
3 morning.

4 Q And were they all deleted?

5 A Yes, they were.

6 Q Do these messages continue on into the 17th?

7 A Yes, they do.

8 Q If you don't mind, let's see some of those
9 messages.

10 A So then you'll subtract five hours, so it would
11 be 2:04 in the morning, there is an MMS messages. MMS
12 is basically a multimedia type of message when you send
13 a message that typically has an attachment, like a
14 picture or something like that. So it looks like there
15 is a multimedia message sent from Sidney's phone, just
16 blank, which is an indication that it's probably a
17 picture that was sent at that time.

18 There is another SMS message right after that
19 that says: That boy is fucking hot.

20 Then there is an instant message from Sidney's
21 phone, and, again, there is nothing there. Possibly a
22 picture.

23 Then there is an instant message again, and this
24 would be still on the 16th at 11:13 p.m. that says:
25 Well, that's good, and if you say so.

WILL LYNCH - DIRECT EXAMINATION

1 There is another instant message right after that
2 from Sidney's phone that says: I just had someone
3 cheat on me that I thought was my soulmate. You never
4 know who will screw you over in life. I felt totally
5 betrayed, but I said fuck it. He's a piece of shit
6 and I'm better off without the liar.

7 And then 30 seconds after that, there is another
8 message from Sidney's phone that says: You are
9 interesting to me, Caleb.

10 Right after that, another message from his phone:
11 You can tell me anything.

12 And then a message about 12 minutes after that
13 that says: Sorry, I'm falling asleep.

14 And then there is a message from Sidney's phone
15 that says: Well, damn.

16 And then there is another message right after
17 that that says: I'm sorry, long day.

18 Q Were all of those deleted?

19 A Yes, they were.

20 Q And does this conversation continue on into the
21 17th, which is prior to the 18th when Heather goes
22 missing?

23 A It does.

24 Q If you don't mind, tell us what is on the phone
25 then.

WILL LYNCH - DIRECT EXAMINATION

1 A So we'll start back down here. This is actually
2 going to be at 11:45 p.m. on the 16th from Sidney's
3 phone. It says: FYI, I have never needed lube for
4 myself, comma, ever.

5 Then there is a message just a few seconds right
6 after that that says: Boxers?

7 Another message right after that around the same
8 time: Thank you.

9 Another message right after that from Sidney's
10 phone that says: Oh, you wear undies, dot, dot, dot.

11 And then there is a call that comes in from this
12 number (585)369-9704.

13 And then there is an instant message right after
14 that from Sidney's phone that says: Dude, I think
15 your mom just called.

16 Right after that from Sidney's phone: I gave her
17 a fake name.

18 And then there is a message eight seconds after
19 that that says: What, with a question mark.

20 Then four minutes after that message from
21 Sidney's phone it says: I told her my name was Terry.

22 And then a message shortly after that says: Yes,
23 just now.

24 Q (MS. LIVESAY) Let me ask you something. Were
25 those messages deleted?

WILL LYNCH - DIRECT EXAMINATION

1 A All the messages were deleted. The incoming
2 phone call was not deleted.

3 Q But everything else was deleted?

4 A Yes.

5 Q And somebody gave somebody else the name Terry?

6 A Correct.

7 Q Is that correct?

8 A Yes.

9 Q Do you know the name of Heather Elvis' dad?

10 A I do now; it's Terry.

11 Q And do these messages continue on through the
12 17th, the day before she goes missing?

13 A They do.

14 Q Tell me about those messages.

15 A So you have, again, we're still on the 16th at
16 11:49 p.m. from Sidney's phone: Someone just called
17 from New York and asked why I was calling her underaged
18 son.

19 Then you have a message right after that that
20 says: That's weird. IDK. I'm sorry.

21 And then there's a message from Sidney's phone
22 that is just four question marks.

23 Message again that says: Didn't say anything,
24 but I'm not underage, I'm 18.

25 And then there is another message that says: I

WILL LYNCH - DIRECT EXAMINATION

1 didn't say anything I mean.

2 Then there is an outgoing message from Sidney's
3 phone saying: That was weird.

4 There is another message right after that that
5 says: I'm sorry.

6 And then the message from Sidney's phone outgoing
7 is: Is this her number?

8 And then there is another message that goes out
9 from Sidney's phone, more likely a picture, and then
10 the response is: That's my number.

11 And then the number from Sidney's phone, there is
12 a number that says: 585369.

13 And then the next message says 9704.

14 Q Do these messages continue from the 16th to the
15 17th?

16 A They do.

17 Q Can we see those?

18 A So, again, we're at 11:55 p.m. on the 16th.
19 There is a message that just says: Yes.

20 Right after that, there is a message from
21 Sidney's phone that said: So does she read your texts
22 or have something on your phone where she sees
23 everything you do?

24 And the response is: No, she doesn't.

25 And then there is another outgoing message from

WILL LYNCH - DIRECT EXAMINATION

1 Sidney's phone that says: Well, how did she know that
2 we talked last night, and why would she care?

3 And then there is a message from Sidney's phone
4 that says: Creepy.

5 Another message from Sidney's phone that says: I
6 don't blame you, but, geese, don't need a crazy mom
7 hating on me because I think her son is handsome.

8 And then the response is: Don't worry about it.

9 And then, again, outgoing, and now we're into the
10 17th of December now from Sidney's phone that says:
11 You sure? She sounded pissed.

12 And, again, another message from Sidney's phone
13 that says: And now I missed my pict.

14 The response is: Okay. I'm sorry.

15 And then from Sidney's phone outgoing is a
16 message: I deactivated my account.

17 Again from Sidney's phone shortly after that:
18 Just in case she was digging into it.

19 Again, response from Sidney's phone: Not your
20 fault.

21 Another response from Sidney's phone: Just
22 delete all of this in case she saw the messages maybe.

23 And then the response right after that says:
24 Yeah, I did that, too. And: Ha ha, yeah.

25 And then another response from Sidney's phone: I

WILL LYNCH - DIRECT EXAMINATION

1 put my number on FB, though, so maybe she saw that.

2 And that was on the 17th right after midnight, 12:09.

3 Q And were they deleted?

4 A Yes, they were.

5 Q These are all from his phone?

6 A Yeah, these are all excerpts from Sidney's phone.

7 Q Do these messages continue on?

8 A Yes, they do.

9 12:23 in the morning on the 17th there is another
10 message from Sidney's phone that says: Well, you
11 think she is mad about the age difference? We said
12 that on FB.

13 Again from Sidney's phone about three minutes
14 after that: I feel like she's reading everything we
15 say.

16 And then the response right after that, nine
17 seconds after that: Okay. Could be.

18 Another response, same time: Do you want to stop
19 talking?

20 Response from Sidney's phone says: Hell, no.

21 Another message from Sidney's phone right after
22 that: I want to buy you a ticket to come here so I
23 feel comfortable talking, LOL.

24 Another message from Sidney's phone: I would
25 never flirt with someone underage.

WILL LYNCH - DIRECT EXAMINATION

1 Message from Sidney's phone says: I wanted more
2 picts, now I'm scared to ask.

3 Another message from Sidney's phone right after
4 that: It's no biggy. I told her my name was Terry,
5 and it's not me.

6 Message from Sidney's phone again: I wasn't
7 talking to anyone underage, LOL.

8 And then the response to that was: No, you
9 didn't -- looks like a "V."

10 Right after that from Sidney's phone there is an
11 outgoing message: You sleeping again?

12 And the response again is: Yeah, sorry.

13 Q Were all of those deleted?

14 A Yes, they are all deleted.

15 Q And did this conversation carry on?

16 A It did.

17 Q If you don't mind, we're into the 17th of the
18 next message; is that correct?

19 A Yeah. We're into the, you know, p.m. hours of
20 the 17th .

21 Q So what time are we on?

22 A This is going to be 3:26 p.m. on the 17th.

23 Q So now we are on the afternoon before the victim
24 went missing?

25 A Correct.

WILL LYNCH - DIRECT EXAMINATION

1 Q So tell me about these messages.

2 A Again, there is a message from Sidney's phone,
3 outgoing message, that says: And that's not even
4 Ashley in the picture you sent.

5 Right after that, there is a response that says:
6 Charlie who, question mark. All I know is that a
7 woman is messaging my son and is claiming to be an
8 older woman along with a FB page. I don't want any of
9 you contacting my son and offering plane tickets to
10 come there. I'm just a mother protecting her son.

11 And then there's -- right after that there is a
12 message from Sidney's phone that says: I'm a very
13 strict uncle, too. This is my phone. She's home now.
14 From what I see, the boy started the pictures first.

15 The response is: Picture to a 40-year-old woman,
16 question mark, question mark, question mark. He's
17 punished as well. I want this to stop.

18 Another message: Pictures of him standing in the
19 bathroom with his shirt off.

20 Right after that, again, about 3:31 p.m. on the
21 17th from Sidney's phone: It's done. Ashley has
22 been punished, and I feel sure age (sic) won't be text
23 messaging anyone for a very long time.

24 The response is: Awesome. Thank you.

25 And then the response from Sidney's phone says:

WILL LYNCH - DIRECT EXAMINATION

1 No, comma, pictures of him naked, lots of them.

2 And the response right after that says: No,
3 question mark. Cops had nine, if those. And then
4 they put: None.

5 And then the response from Sidney's phone says:
6 There was three.

7 Response that came back was: That's strange.

8 And then Sidney's phone replies: How old is your
9 boy?

10 Response right after that is: 16.

11 And the response after that is: That's why I
12 called and said stop TXT my underaged son.

13 The response after that says: I'm thinking it
14 was the older woman in the pict and the FB page pict
15 was same older woman.

16 And then the response from Sidney's phone: Her
17 too.

18 And the response from Sidney's phone again was:
19 He told her he was 19.

20 Q And they were all deleted?

21 A Yes, they were.

22 Q And she's asking "Charlie who" in the below
23 message?

24 A Right here.

25 Q So maybe someone gave her the name Charlie?

WILL LYNCH - DIRECT EXAMINATION

1 A Maybe. Correct.

2 Q Now, if you don't mind, did this conversation
3 continue on?

4 A It does.

5 Q Tell me about it.

6 A So, again, we're talking about on the 17th at
7 5:34 -- or, excuse me, 3:34 p.m. a message that comes
8 in says: Ha. Well, she said she was in her early 40s.

9 Response from Sidney's phone says: No, she had
10 her aunt's picts from a long time ago on it. It's
11 closed.

12 And then the response right after that is: Who
13 is the woman in the pict?

14 The response from Sidney's phone says: My wife.

15 Response then says: I was worried it was an
16 older woman trying to snatch a young kid.

17 And right after that message it says: Okay.
18 Done deal.

19 And then the message after that from Sidney's
20 phone says: There was another man, too, she was
21 talking to. He is definitely not a teenager.

22 And then response is we have a friend whose
23 daughter disappeared in Myrtle Beach last year and it
24 started this same way. We're just scared of what
25 could happen.

WILL LYNCH - DIRECT EXAMINATION

1 And the response right after that from Sidney's
2 phone says: The kids did it. Stuff happens. She has
3 learned her lesson.

4 Then the response right after that: Mine has yet
5 to begin to learn a hard enough lesson. Sorry for the
6 trouble.

7 Response from Sidney's phone: I don't blame him.

8 Right after is: As long as he is her age, I get
9 it.

10 And then the response to that is: Well, he can't
11 do this crap.

12 And then the response from Sidney's phone says:
13 I did crazy stuff when was 16, too.

14 The response right after that, four seconds:
15 Yeah, but this is too much. Digital age sucks.

16 And right after that from Sidney's phone: It
17 does.

18 Right after that from Sidney's phone: I'm pissed
19 that she did this while at our house.

20 And then the message response to that was: I'm
21 sorry, frown face. It's hard raising kids. We have
22 five kids, boys and girls, and it's not easy.

23 And from Sidney's phone the response is: I get
24 it. The one thing we will not tolerate is lying.

25 Q Were they deleted?

WILL LYNCH - DIRECT EXAMINATION

1 A They were.

2 Q Now, we only looked at the 16th and 17th,
3 correct? Did you see messages even prior to that that
4 were part of this conversation?

5 A I believe there were, yeah. I believe there
6 were.

7 Q So this was just kind of a small snidbit leading
8 up to the time frame of the 18th?

9 A Correct.

10 Q But this is actually a continuation of at least
11 the sexual messages?

12 A Yeah. There are quite a few more of those.

13 Q But they are all prior to the 16th?

14 A Yes.

15 Q And we just picked them up on the 16th?

16 A Correct.

17 Q Let me ask you something. Do you see what goes
18 on on the phone in the early morning hours of
19 December 18th -- sorry, yeah, December 18th of
20 2013?

21 A Yes.

22 Q Tell me about that.

23 A So, again, these are outgoing calls. This would
24 be on the 18th, 1:09, 1:13, and again 1:13. These
25 are calls to this number (862)596-2011. There is three

WILL LYNCH - DIRECT EXAMINATION

1 of them pretty close in time. This would be at 1:09,
2 1:13:49, 1:13:55.

3 Q We know there is phone calls early
4 December 18th around -- starting at 3:17; is that on
5 this report?

6 A It is.

7 Q If you don't mind, show us those phone calls.

8 A So this would be an incoming call at 3:17; it
9 doesn't show who it is from. It appears that they left
10 a voice mail right after that. Then there is another
11 incoming call at 3:17 after the voice mail was left.
12 It doesn't say who it was from. Again, at 3:38 there
13 is an incoming call from -- this would be Heather
14 Elvis' phone, [REDACTED] 8152. Again, at 3:39 on the
15 18th in the morning there is another incoming call
16 from Heather Elvis' phone. At 3:40, another incoming
17 call from Heather Elvis' phone. And at 3:41 there is
18 another incoming call from Heather Elvis' phone.

19 Q What is the next time you see that phone active
20 that early morning hour?

21 A The next time you see it active would be this
22 time. It is around -- this would be minus five, so
23 4:37, 4:38, 4:38.

24 Q Let me ask you something. Did you also do an
25 extraction of Tammy Moorers', his wife?

WILL LYNCH - DIRECT EXAMINATION

1 A I did.

2 Q And did you see messages on her phone?

3 A I did.

4 Q Now, let me ask you something. There is no
5 number on that: Can you please bring me orange juice,
6 thank you, yes, ma'am?

7 A Correct.

8 Q Who were those messages to and from?

9 A So these are from Tammy Moorers -- what is
10 assigned as "Tammy Moorers' cell phone," [REDACTED] 3174,
11 because they are on her phone as outgoing messages.

12 Q So you see them on her phone as outgoing, and
13 then you see the message?

14 A Correct.

15 Q So who's asking: Can you please bring me an
16 orange juice with a pot sticker?

17 A So this would be from Tammy. She's asking
18 Sidney: Can you please bring me an orange juice with
19 the pot stickers?

20 She says: Thank you.

21 And he replies to Tammy, because it is on Tammy's
22 phone as well: Yes, ma'am.

23 Q So he replied to her "yes, ma'am"?

24 A Correct.

25 Q At what time in the morning on December 18th?

WILL LYNCH - DIRECT EXAMINATION

1 A These are, again, to be at 4:37, 4:38, 4:38.

2 Q Okay. So now the two phones are talking back and
3 forth?

4 A That's correct.

5 Q Let me ask you something. All of those messages
6 we saw before, were those on Tammy's phone?

7 A No.

8 Q So those messages were between Sidney's phone and
9 someone other than Tammy's?

10 A Correct.

11 Q Now, the 18th is kind of what we focused on.
12 Did you look at the messages after Heather Elvis went
13 missing to see then what the content of the phones
14 looked like?

15 A I did.

16 Q If you don't mind, show us those messages.

17 A So we're down here to shortly after midnight,
18 basically 12:07 a.m. on the 21st. There is a message
19 from Tammy's phone, it says: I know what C. M. wants
20 from Santa.

21 And then right after that, from Sidney's phone,
22 it say: Well, it's about time we told somebody.

23 And a message from Tammy's phone says: Legos, of
24 course. Aliens he said.

25 And then Sidney replies: What about S. C. M. ?

WILL LYNCH - DIRECT EXAMINATION

1 And Tammy says: No idea. **N.M.** asked for the
2 friends both for high school. All of it was sold out
3 at the store.

4 And Tammy replies: Carries back on. Let's
5 watch.

6 And Sidney replies: Well, that should be fun,
7 then.

8 And then there is a text message that comes in
9 from Sonic right after that.

10 And then there is another message from Sidney's
11 phone that says: Don't come today. We'll see you
12 next week.

13 Another messages from Sidney's phone that says:
14 Good luck.

15 Someone responds: Okay. It's 15 seconds after
16 that response was: Okay.

17 And then there's some phone calls. There is an
18 incoming phone call at the very top, all of these
19 around the 21st of December.

20 Q I want you to look at something. Let me get the
21 easel real quick so we can put it up.

22 MS. LIVESAY: If you don't mind, Tonya, can you
23 take us back to the pot stickers at 3:40?

24 Q (MS. LIVESAY) The message -- this is at 4:37?

25 A Correct.

WILL LYNCH - DIRECT EXAMINATION

1 Q Can you please bring me an orange juice?

2 A Yes.

3 Q And you looked at Tammy's phone?

4 A Correct.

5 Q So you know those messages are between him and
6 his wife?

7 A Correct. Yes.

8 Q And those messages were after her last phone call
9 at 3:41?

10 A Correct.

11 Q So after 3:41, she's telling him bring me pot
12 stickers, and he's saying, yes, ma'am?

13 A Correct.

14 Q But you also looked at the messages prior to 3:41
15 on 12/18, didn't you?

16 A Yes.

17 Q And you looked at Tammy's phone, and his phone?

18 A Correct.

19 Q And we looked at several days, to be fair,
20 16th, 17th and earlier on the 18th?

21 A Yes, ma'am.

22 Q Were there any messages between Tammy and Sidney
23 between that time frame?

24 A No, ma'am.

25 Q In fact, did you see any messages between the two

WILL LYNCH - DIRECT EXAMINATION

1 of them in the entire month of December?

2 A Well, not until we get up here to the 18th.

3 But prior to that, no, there was no messages between
4 them.

5 Q Okay. So all of a sudden, there is no messages.
6 Heather's last phone call is at 3:41, and shortly after
7 that, now the two phones are talking?

8 A That's correct.

9 Q Now, we saw some pretty -- I don't know what you
10 want to call it -- type of messages prior to the
11 18th, sexual in nature, correct?

12 A Yes, ma'am.

13 Q They were mentioning some guy named Caleb?

14 A That's correct.

15 Q And talking about "send me a pict"?

16 A Yes.

17 Q And talking sexual stuff?

18 A Yes.

19 Q After the 18th, at 3:41, do you see those type
20 of messages anymore?

21 A No, ma'am.

22 Q And does it now go back to Sidney and his wife
23 talking about send me -- show me the next message. So
24 now we're back on "Legos"?

25 A Correct.

WILL LYNCH - DIRECT EXAMINATION

1 Q So something happens prior to December 18th at
2 3:41?

3 A Yes.

4 Q And in a very short time after that, the two
5 phones are talking?

6 A Correct.

7 Q And they are no longer talking that same talk?

8 A Correct.

9 Q Now, when you -- are you familiar with the phone
10 records to match them up -- sometimes with the
11 Cellebrite -- to make sure that Cellebrite is showing
12 what is accurate on the phone?

13 A Yes, ma'am.

14 Q So you are familiar with checking, hey, this
15 phone call was made here, let me check the report,
16 check if that's correct?

17 A Correct.

18 Q Have a seat. I have a couple more questions I'll
19 ask you. I want you to look at December 18th and
20 tell me if those phone calls from Heather Elvis at
21 [REDACTED] 8152 at 3:38, 3:39, 3:4, if they are, indeed, on
22 the defendant's phone records.

23 A Okay. (Witness examines document.)

24 Q Do you need a piece of paper to line it up, or
25 are you good?

WILL LYNCH - DIRECT EXAMINATION

1 A I think I'm good.

2 (A brief pause in the proceedings.)

3 A (Witness examines document.)

4 Q (MS. LIVESAY) December 18, 3:38 and 3:39 a.m.

5 A Oh. You gave me November.

6 Q Oh, sorry.

7 A That's all right.

8 Q December. I spoke wrong.

9 A (Witness examines document.)

10 (A brief pause in the proceedings.)

11 A Yes, they are.

12 Q (MS. LIVESAY) Now, up here, does it tell us who
13 called at 12/18, at what is really 3:17?

14 A It does not show.

15 Q Does the records show who called?

16 A That is at 3:17?

17 Q Yes, sir, 3:17, 12/18.

18 A Yes, it does.

19 Q Does it show how long that conversation -- first
20 of all, who was the phone call from?

21 A Well, it looks like there was a phone call
22 between Heather Elvis and Sidney Moorner.

23 MR. GALMORE: Objection, Your Honor.

24 THE COURT: Yes, sir. What is the basis?

25 MR. GALMORE: Mr. Lynch can't say who the phone

WILL LYNCH - DIRECT EXAMINATION

1 calls were from.

2 THE COURT: Rephrase. We know he's talking about
3 the phone.

4 A There is a phone call to Heather Elvis' phone and
5 Sidney Moorer's phone.

6 THE COURT: That's correct.

7 Q (MS. LIVESAY) How long is the connection between
8 the two phones?

9 A So there is -- there's one at three -- it's like
10 261 seconds.

11 Q How many minutes is that?

12 A A little over four minutes.

13 Q So this phone call here at 3:17, he's talking on
14 the phone for four minutes?

15 A Correct.

16 Q Now, tell me about 3:38, 3:39, 3:40 and 3:41.

17 A 3:38, 3:39, 3:40, 3:41 looks like 3 seconds,
18 2 seconds, 3 seconds, 3 seconds.

19 Q Was that routed to voice mail?

20 A It says "routed call," so, yes.

21 Q So then these calls were all routed to voice
22 mail?

23 A Correct.

24 Q And then does it show on the phone records --
25 because it is an instant message, but then he's texting

WILL LYNCH - DIRECT EXAMINATION

1 on the phone again at 4:37 or responding back to the
2 "can you please bring me pot stickers"; is that
3 correct?

4 A Yes, ma'am.

5 Q So the only time he doesn't have the handset in
6 his hand talking or texting is between the time of 3:17
7 and 4:37; is that correct?

8 A Correct.

9 Q Because here he's talking on the phone for four
10 minutes?

11 A Correct, a little over four minutes.

12 Q And, here, am I correct by saying he's responding
13 with a text message at 4:38?

14 A Yes.

15 Q And these all went to voice mail?

16 A Yes.

17 Q But before and after this time frame, he's
18 actively on the phone?

19 A Yes.

20 Q So at 3:41, when Ms. Moorer is at the landing,
21 he's not on the phone?

22 A No.

23 Q But he's on the phone before, and he's on the
24 phone after?

25 A Correct.

WILL LYNCH - CROSS-EXAMINATION

1 MS. LIVESAY: No further questions.

2 THE COURT: Cross-examination, Mr. Galmore.

3 MS. LIVESAY: You want me to pull this back?

4 MR. GALMORE: Yes, please.

5 MS. LIVESAY: Okay.

6 (A brief pause in the proceedings.)

7 CROSS-EXAMINATION

8 BY MR. GALMORE:

9 Q Detective Lynch, when were you contacted to get
10 involved in this case?

11 A It would have been either December 23rd or
12 December 24th, I don't actually remember. I know I
13 obviously examined the phones on the 24th, but I
14 don't remember exactly when the conversation was, hey,
15 can you help us out.

16 Q You said at the time you were working for the
17 North Myrtle Beach Police Department, but you had been
18 tasked to the Drug Enforcement Unit?

19 A That's correct.

20 Q So was the North Myrtle Beach Police Department
21 brought in on this investigation?

22 A Not that I'm aware of.

23 Q Right. Okay. Was the Drug Enforcement Unit
24 brought in on the investigation?

25 A Not that I'm aware of.

WILL LYNCH - CROSS-EXAMINATION

1 Q So you were just individually called because of
2 your skills with Cellebrite?

3 A That's correct. It was my understanding, to be
4 honest with you, it didn't sound like anybody else
5 wanted to come in on Christmas Eve, so I volunteered.

6 Q Okay. Other than the Cellebrite records, did you
7 have any other involvement in this case?

8 A No, sir.

9 Q You did not search for physical evidence?

10 A No, sir.

11 Q Did you search Ms. Elvis' house?

12 A No, sir.

13 Q Did you search Ms. Elvis' car?

14 A No, sir.

15 Q Did you search Mr. Moorer's truck?

16 A I did not.

17 Q Did you go to Peachtree Boat Landing?

18 A I did not.

19 Q You didn't collect any type of DNA?

20 A No, sir.

21 Q You didn't collect any hair fibers, blood,
22 saliva?

23 A No, sir.

24 Q No fingerprints?

25 A No fingerprints, that's correct.

WILL LYNCH - CROSS-EXAMINATION

1 Q So your job was to download these devices?

2 A Yes, sir.

3 Q Which devices did you download?

4 A It would have been Tammy's iPhone and Sidney's
5 iPhone, what were labeled as "Tammy's iPhone" and
6 "Sidney's iPhone."

7 Q Did you do an extraction on Heather Elvis' phone?

8 A No, sir.

9 Q Did you do an extraction on Steven Schiraldi's
10 phone?

11 A I did not.

12 Q Did you do an extraction on Jeremy Flemming's
13 phone?

14 A No, sir.

15 Q Did you do an extraction on a phone belonging to
16 a gentleman named Jerry Stevens?

17 A No, sir.

18 Q Did you do extractions on any other devices?

19 A No.

20 Q All of these iPads and iPods, you didn't extract
21 any of these?

22 A No, sir.

23 Q There is other telephones here, too. Randomly,
24 this is item -- State's Exhibit No. 48, which appears
25 to be some type of iPod; did you do any type of

WILL LYNCH - CROSS-EXAMINATION

1 extraction or download on that device?

2 A No.

3 Q I'll hand you what has been marked as State's
4 Exhibit 45; can you tell us what that is?

5 A Appears to be an iPhone.

6 Q Did you do an extraction on this one?

7 A I mean, I would have to -- I would have to turn
8 it on to see what the phone number is associated with
9 this phone to say for sure.

10 Q Yes, sir. The bottom line is: You were given a
11 very specific task, which was to look at Mr. Moorers's
12 phone and Ms. Moorers's phone, correct?

13 A Yes, sir.

14 Q And all of these other electronic devices here,
15 you had nothing to do with those?

16 A Not initially, that's correct.

17 Q Let's talk about the process of extraction; how
18 is that done?

19 A So the Cellebrite is designed to, for the most
20 part, identify what phone it is going to be doing the
21 extraction, and there are, at this point in time, only
22 a couple of USB cables that are used for cell phones.
23 You have your IOS devices that uses one cable, and most
24 of your Androids use a different cable, depending on
25 which of the phones you are going to use, you choose

WILL LYNCH - CROSS-EXAMINATION

1 the appropriate cable, attach it to one side of the
2 Cellebrite, which is, I guess, the target, and then you
3 are going to have the other side of the Cellebrite,
4 you'll attach your storage media, USB or external hard
5 drive of some sort.

6 Q In this case, a phone?

7 A Correct. The Cellebrite is very user friendly.
8 It will walk you through the process and tell you what
9 you need to do to start the extraction process, as far
10 as changing the screen time out, if you are going to
11 take an Android phone and put it -- you know, enabled
12 developer options, different things like that. It is
13 very user friendly.

14 Q So with Cellebrite you can go through and select
15 certain things you want downloaded?

16 A In certain downloads. For a logical download, it
17 gives you the options of what you want to download, as
18 far as do you want to download everything you can see
19 on the phone, or do you just want to download, say,
20 text messages? For instance, if someone has a cell
21 phone that has 5,000 pictures on it, it will take a
22 long time to download 5,000 pictures if you are only
23 interested in the text messages. So you can choose I
24 just want text message, and not that. That is only on
25 certain types of downloads. There is other downloads

WILL LYNCH - CROSS-EXAMINATION

1 you will get everything, whether you want it or not.

2 Q So what type of extraction was done on Sidney
3 Moorer's phone?

4 A It was what they call an "advanced logical,"
5 which is a little bit of what-you-see-is-what-you-get.
6 When I say "what-you-see-is-what-you-get," if you look
7 on the phone, what you see is what you are going to
8 get, as well as always some of the file systems or some
9 of the deleted information.

10 Q So the types of different extractions that are
11 available, I think you said there is a thing called a
12 "logical extraction"?

13 A Yes, sir.

14 Q And what was done in Sidney Moorer's phone is an
15 "advanced logical extraction"?

16 A Correct.

17 Q Is there also such a thing as a "file system
18 extraction"?

19 A There is a file system and a physical extraction.

20 Q And a physical extraction?

21 A Yes, sir.

22 Q So there are four different ways you can get
23 information off of Mr. Moorer's phone?

24 A Basically. I mean, you could go as far as
25 looking at it.

WILL LYNCH - CROSS-EXAMINATION

1 Q Yeah, looking at it is No. 5?

2 A Sure.

3 Q So there are five different ways to get
4 information?

5 A Sure. And if a phone has a SIM card, you can get
6 information off of the SIM card. There is several
7 different ways to do it.

8 Q So for these different types of extractions
9 available, who chose to go with the advanced logical
10 extraction?

11 A I did.

12 Q And you could have chose to do a physical
13 extraction?

14 A I don't recall a hundred percent, but I'm not
15 sure if a physical extraction was available for that
16 model of iPhone back then. I could be mistaken, but
17 the advanced logical IOS device is usually a quicker
18 type of download, so to speak.

19 Q So you did a quick download?

20 A I didn't say it was a quick download; it is a
21 quicker download.

22 Q When you download a phone, do you get more
23 information from a physical extraction, or from an
24 advanced logical extraction?

25 A Typically, a physical. If the phone is supported

WILL LYNCH - CROSS-EXAMINATION

1 for a physical extraction, you'll get more information.

2 Q And if the phone is not supported for physical
3 extraction, do you get more information from an
4 advanced logical extraction, or for a file system
5 extraction?

6 A Well, if you read what Cellebrite has to say
7 about that, Cellebrite says that advanced logical is a
8 combination between file system and a logical. So, in
9 my opinion, they are saying advanced logical you'll
10 probably get more information.

11 Q It's like a logical, plus a little extra?

12 A Plus the file system, yes.

13 Q What is the difference between a file system
14 extraction and the logical extraction?

15 A Logical extraction is going to, basically, like I
16 said, going to be what-you-see-is-what-you-get. If you
17 go through the phone manually, that is what you are
18 going to get. The file system can go a little deeper.
19 It can go into hidden files. Say you have an
20 application on your phone that allows you to take a
21 picture, normally if you take a picture with your
22 phone, it goes right to the camera roll, so to speak.
23 Sometimes if you take a picture through another
24 application, it may go to a different file that is not
25 a camera role.

WILL LYNCH - CROSS-EXAMINATION

1 Q So, basically, these extractions come in three
2 different sizes -- small, medium and large -- which is
3 logical, file system and physical, correct?

4 A Correct.

5 Q And, in this case, you selected to do the logical
6 extraction on Sidney Moorer's phone?

7 A Advanced logical, yes.

8 Q So you gave us a small plus, somewhere between
9 logical and file system?

10 A File system may or may not give you deleted
11 information. Logical is not going to give you deleted
12 information. Advanced logical has a tendency to give
13 you deleted information, that is why I went to advanced
14 logical over the logical or file system.

15 Q So in terms of small, medium and large, you gave
16 us somewhere between a small and a medium?

17 A I would say more like a medium, and it may be
18 large because, again, I'm not sure if the phone he had
19 at the time was supported for a physical extraction.

20 Q Now, the Cellebrite has different versions of
21 Cellebrite software, correct? I mean, they upgrade
22 every year?

23 A They do, yes.

24 Q When did you download the information from
25 Mr. Moorer's phone?

WILL LYNCH - CROSS-EXAMINATION

1 A On December 24, 2013.

2 Q Okay. From 2013 to now, have you had an
3 opportunity to perhaps use a more advanced version of
4 Cellebrite on Mr. Moorers' phone?

5 A I took some of the dumps that were done from
6 another party and actually recreated some reports. I
7 didn't actually have phones in my hand like I did the
8 first time, so I don't know how to answer that
9 question. I never had them physically in my hand again
10 to do a different extraction. So I basically took
11 someone else's extraction and just created reports from
12 it.

13 Q So you took your extraction in 2013, and then you
14 took a report of someone else's extraction at a later
15 date?

16 A Correct.

17 Q Now, for Tammy Moorers' phone, what type of
18 extraction was done on hers?

19 A It would have been the same.

20 Q Would it also be fair to say that you took your
21 extraction from her phone in 2013, and then you had a
22 report of a subsequent extraction on her phone that you
23 also used to make your presentation today?

24 A No. None of that -- all of this presentation
25 today was from 2013, so there is nothing past my

WILL LYNCH - CROSS-EXAMINATION

1 original extraction that I talked about today.

2 Q Now, is Cellebrite the only software that can
3 extract information from cell phones?

4 A It is not.

5 Q It is the one that your agency had available?

6 A It is, and it seems to be more recognized
7 worldwide than any other software.

8 Q So there are other types of extractions that can
9 be done on Mr. Moorer's phone?

10 A There are, yes.

11 Q Other softwares?

12 A Yes.

13 Q And various types of extractions within the
14 Cellebrite software?

15 A Correct.

16 Q And so what you selected, like you said, is
17 advanced logical extraction?

18 A Yes, sir.

19 Q Now, the extraction you did gave us call data and
20 text data; is that correct?

21 A It did.

22 Q Did it provide any information about Internet
23 access?

24 A Without looking at the report, I can't be a
25 hundred percent sure if it shows Internet activity or

WILL LYNCH - CROSS-EXAMINATION

1 browser activity.

2 Q If you had done a physical extraction on
3 Mr. Moorer's phone, would you be able to see Internet
4 activity?

5 A It does -- if the physical is available, it
6 states that it should get Internet activity or browser
7 activity as well, searched items, things like that.

8 Q But it wasn't done in this case?

9 A Correct. There was not a physical done in this
10 case.

11 Q I think you said the advanced logical extraction
12 is the one that can pull back the deleted messages?

13 A It can, yes.

14 Q Now, there are a lot of deleted messages on
15 Mr. Moorer's phone?

16 A Yes, sir.

17 Q Can you tell us who deleted them?

18 A I cannot.

19 Q You can simply tell us they were deleted?

20 A That's correct.

21 Q Now, if you have the actual phone itself and you
22 delete a message and, say, your wife finds your phone,
23 if she looks at it, goes through your device, can she
24 find those deleted messages?

25 A No, sir.

WILL LYNCH - CROSS-EXAMINATION

1 Q Now, you have that same device and you deleted
2 some messages and, say, the police look at it, can they
3 go through and find deleted messages?

4 A With the use of Cellebrite, yes, sir. As far as
5 visually looking through it, no.

6 Q Right. Now, the PowerPoint presentation you gave
7 us went through December 16th and 17th, all the sexual
8 calls; could you tell us who Mr. Moorers' phone was in
9 communication with?

10 A All I know is that -- it's an out-of-state
11 number, and there is reference to someone by the name
12 of Caleb.

13 Q Let me say it like this. Was Mr. Moorers' phone
14 in communication with Ms. Elvis' phone?

15 A During?

16 Q Those messages that --

17 A That I was reading off?

18 Q That you detailed, yes.

19 A No.

20 Q So they didn't have anything to do with Heather
21 Elvis?

22 A There was no reference to Heather Elvis in those
23 messages, that's correct.

24 Q Now, regarding texts, there were some texts
25 between Mr. Moorers' phone and Ms. Elvis' phone you

WILL LYNCH - CROSS-EXAMINATION

1 detailed, and I think -- let's go back to a
2 November 2nd, the text was: So when does Sidney get
3 his phone back?

4 A Correct.

5 Q Right. And on November 5th, there was a --
6 wait. Wait. The text from November 2nd was from
7 Ms. Elvis' phone?

8 A Correct.

9 Q To Mr. Moorers' phone?

10 A Yes.

11 Q And November 5th there is a text from
12 Ms. Elvis' phone to Mr. Moorers' phone that is a
13 period?

14 A Correct.

15 Q Like a single dot?

16 A Yes.

17 Q Like, dot, dot, dot kind of thing?

18 A Correct.

19 Q After that text on November 5th, are there any
20 texts between Heather Elvis' phone and Sidney Moorers'
21 phone?

22 A Any texts?

23 Q After November 5th.

24 A Not that I recall or not that Cellebrite
25 reported.

WILL LYNCH - REDIRECT EXAMINATION

1 Q When you look at these text messages, do they
2 come with location data?

3 A They do not.

4 Q So there was some mention of a message about
5 bringing pot stickers?

6 A Correct.

7 Q Can you tell this jury where Ms. Tammy Moorers
8 phone was when that message was sent?

9 A I cannot.

10 Q Can you tell this jury where Sidney Moorers
11 phone was when that message was received?

12 A I cannot.

13 Q Based on your testimony, can you say if Sidney
14 Moorers was at Peachtree Boat Landing?

15 A No.

16 Q At any time?

17 A Not based on my testimony, no.

18 MR. GALMORE: Thank you, sir, no further
19 questions.

20 THE COURT: Redirect.

21 MS. LIVESAY: Thank you, Your Honor. I know
22 we're getting close to lunch.

23 THE COURT: That's fine. Take your time.

24 REDIRECT-EXAMINATION

25

WILL LYNCH - REDIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q After dumping close to over a hundred phones, did
3 you use the extraction you thought would yield the most
4 information?

5 A I did.

6 Q And whether you used physical, logical, advanced
7 logical, whatever extraction you used, the messages are
8 what the messages are, correct?

9 A That's correct.

10 Q So even if we used another extraction, we're
11 going to see the same messages?

12 A Correct.

13 Q We may yield some locations or images, but the
14 messages are what they are?

15 A That's correct.

16 Q And Mr. Galmore asked you about Peachtree
17 Landing; do you know whether or not Sidney went to
18 Peachtree Landing?

19 A I don't know that.

20 Q So he could have, and you don't know?

21 A Could have, sure.

22 Q And he may not have, correct?

23 A Correct.

24 MR. GALMORE: Objection, Your Honor,
25 argumentative.

WILL LYNCH - RECROSS- EXAMINATION

1 THE COURT: I'll allow the question. Overruled.

2 MR. GALMORE: Yes, sir.

3 Q (MS. LIVESAY) Now, the time I asked you earlier,
4 when he was asking you about did he go to Peachtree
5 Landing, I asked you earlier about 3:41 a.m. when the
6 victim was at Peachtree Landing; was there anything on
7 the device that indicated that that phone was in
8 Sidney's hand at that time?

9 A No.

10 Q How about before that time, were there phone
11 calls or texts before 3:41?

12 A Yes. Yes.

13 Q How about after that time, was there text
14 messages after that time?

15 A Well, after 4 o'clock, yes.

16 Q So the only time he ain't texting or talking is
17 around 3:41 when the victim is at the landing,
18 correct?

19 A Correct.

20 MS. LIVESAY: No further questions.

21 THE COURT: Recross.

22 MR. GALMORE: Briefly.

23 RECROSS-EXAMINATION

24 BY MR. GALMORE:

25 Q You were able to download the messages that were

WILL LYNCH - RECROSS- EXAMINATION

1 sent and received by Mr. Moorer's phone, correct?

2 A Correct.

3 Q Did any of the messages refer to pregnancy?

4 A No, sir.

5 MR. GALMORE: Thank you. No further questions.

6 THE COURT: You may step down.

7 Do you wish this witness to be excused?

8 MS. LIVESAY: Yes, Your Honor.

9 THE COURT: Any objection?

10 MR. GALMORE: No, sir.

11 THE COURT: You are free to leave.

12 All right, ladies and gentlemen, this is lunch.

13 we have reached that hour. I ask you to be back in

14 your jury room by 1:45. Don't begin your

15 deliberations or discuss the case.

16 Oh, before you go, ladies and gentlemen, it is

17 apparent that this case may carry over into next week

18 and I need for you, Madam Presiding Juror, to discuss

19 with the jury -- I'll have a better idea tomorrow, but

20 it appears there may be more to the case. We'll

21 finish next week, I assure everyone of that, but from

22 the standpoint -- I have worked on Saturdays, and I

23 have not worked on Saturdays. I let the jury make a

24 determination whether they prefer to work on Saturday.

25 I can't promise we will be finished and still not have

WILL LYNCH - RECROSS- EXAMINATION

1 to come back Monday, but I want you to talk about that
2 among yourselves. If one juror says they don't want
3 to work on Saturday, that is fine. We'll come back
4 Monday, but you all make the decision on how you want
5 to proceed. If you will talk about that during lunch
6 and see what the jury's decision is, I'll appreciate
7 it.

8 Thank you very much. Have a good lunch.

9 (The jury exits at 12:40 p.m., and following
10 is heard out of the presence of the jury.)

11 THE COURT: Anything further from the State?

12 MS. LIVESAY: No, sir, Your Honor.

13 THE COURT: Anything further from the defendant?

14 MR. GALMORE: No, sir.

15 THE COURT: Thank you. See you at 1:45.

16 (A lunch recess was taken.)

17 (State's Exhibits 89 and 90 marked.)

18 THE COURT: Thank you. Please be seated.

19 Is the State ready to proceed?

20 MS. LIVESAY: Yes, sir, Your Honor.

21 THE COURT: Defendant ready to proceed?

22 MR. BOUCHETTE: Yes, Your Honor.

23 THE COURT: Let the record reflect that the
24 defendant is present.

25 Let's bring the jury in, please.

JAMES "JIM" PERRY - DIRECT EXAMINATION

1 (The jury enters at 2:15 p.m., and the
2 following is heard in the presence of the jury.)

3 THE COURT: Thank you, ladies and gentlemen. I
4 hope you had a good lunch. I know we ran over a
5 little, but there was matters of law we tried to
6 expedite, and so sorry for keeping you waiting in the
7 jury room.

8 As I understand from the bailiff, the jury
9 decided it would like not to work on Saturday?

10 FOREPERSON: Correct.

11 THE COURT: That is fine. Thank you so much.
12 And I think you wanted to close business at about
13 5 o'clock tomorrow?

14 FOREPERSON: Yes, sir.

15 THE COURT: And I'll be happy to accommodate that
16 as well. Thank you so much.

17 Solicitor, you may call your next witness.

18 MS. LIVESAY: Thank you, Your Honor. At this
19 time we call Jim Perry.

20 (JAMES "JIM" PERRY, having been duly sworn,
21 testified as follows:)

22 THE WITNESS: James Phillip Perry.

23 DIRECT-EXAMINATION

24 BY MS. LIVESAY:

25 Q If you don't mind, tell this jury where you are

JAMES "JIM" PERRY - DIRECT EXAMINATION

1 currently employed.

2 A I'm from Greenwood County Sheriff's Office.

3 Q How long have you been employed there?

4 A With Greenwood County Sheriff's Office, I've been
5 employed right at 25 years.

6 Q And what are your responsibilities?

7 A I work in the Computer Crimes Investigation Unit.
8 I do computer cell phone investigations. Also, I'm a
9 member of the ICAC, which is Internet Crimes Against
10 Children Task Force, and we do on-line predators and
11 any cases that come to us from homicide, armed
12 robberies, sex crimes, we do the forensics for them.

13 Q And how long have you been doing analyses on
14 phones and computers?

15 A Since 2002.

16 Q And about how many cell phone extractions have
17 you done?

18 A I've done over 1500.

19 Q Okay. And how many computers have you look at
20 and analyzed?

21 A Probably between 2-, 300, in that neighborhood.

22 Q Okay. And have you ever been qualified as an
23 expert before?

24 A I have.

25 Q And what were you qualified as an expert in?

JAMES "JIM" PERRY - VOIR DIRE - MR. BOUCHETTE

1 A Cell phone forensics.

2 Q And how many -- what court were you qualified in?

3 A I believe in this court.

4 MS. LIVESAY: Your Honor, at this time the State
5 wishes to introduce him as an expert in cell phone
6 forensics.

7 THE COURT: Care to examine for qualifications?

8 MR. BOUCHETTE: Briefly. Just on qualifications,
9 correct?

10 THE COURT: Sure. Yes, sir. Yes, sir.

11 VOIR DIRE

12 BY MR. BOUCHETTE:

13 Q You are seeking to be certified in -- do I
14 understand you are certified in forensic examinations?

15 A Sorry. What our unit is called?

16 Q No. No. Your area of expertise you are seeking
17 to render an opinion in.

18 A Cell phone forensics.

19 Q Cell phone forensics. And what type of
20 undergraduate degree do you have?

21 A Undergraduate or cell phone?

22 Q No. No. I'm looking for your educational
23 background.

24 A I went to Clemson for four years.

25 Q And what major?

JAMES "JIM" PERRY - VOIR DIRE - MR. BOUCHETTE

1 A Administrative management.

2 Q And where did you develop any type of expertise
3 in forensic examination?

4 A Well, back in 2002 we -- when computer forensics
5 was starting, I was working a case that took me down to
6 SLED. At that point, I was -- sat with SLED for 40
7 hours going through, basically, hands-on training.
8 After we came back, that is when our department decided
9 that we needed to start getting into the forensics, and
10 at that point they started sending me to training.

11 Q So you've received -- training has been
12 coordinated through your employer since 2003?

13 A Yeah. I started in 2002. I went to M-Case
14 (phonetic), which is a foreign -- computer forensic
15 training. I went to their basic introductory, and also
16 in 2002, I went to the National Cyber Crime Training
17 Program Analysis in 2004, advanced data recovery and
18 analysis with the National White Collar Crime. 2005, I
19 went to M-Case, also a forensic program we use, an
20 intermediate analysis. 2005, I went to the National
21 White Collar Cyber Cop 302 training. 2006, National
22 White Collar Crime Cyber 2001, Intermediate Data
23 Recovery and Analysis. Then, starting with the cell
24 phone, in 2005 I did Paraben Corporation, which is a
25 type of cell phone forensics. I was a certified cell

JAMES "JIM" PERRY - VOIR DIRE - MR. BOUCHETTE
1 phone examiner. 2007, Search, I did investigations of
2 cell phones. 2013, I was certified by Cellebrite and
3 UFED and also the UFED physical examiner. 2014, cell
4 phone investigation interrogation by the U.S.
5 Department of Justice. Then, in 2019, June of this
6 year, I was certified by Cellebrite as physical
7 analyzer and cell phone certified operator.

8 Q You mentioned you had been certified in this
9 court one other time; is that the only time you've been
10 certified to give testimony like this?

11 A Sorry. As far as what now?

12 Q How many other times have you been certified as a
13 forensic examiner?

14 A Probably two or three more times. Once in family
15 court, once in civil court, also back down here in a
16 couple of other cases.

17 MR. BOUCHETTE: Court's indulgence.

18 THE COURT: Sure.

19 MR. BOUCHETTE: No objection to the
20 qualifications.

21 THE COURT: Very well. He will be permitted to
22 render opinions in cell phone forensics.

23 MS. LIVESAY: Thank you, Judge.

24 DIRECT-EXAMINATION (CONT.)
25

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 BY MS. LIVESAY:

2 Q Now, Mr. Perry, do you look at phones and
3 computers from other agencies?

4 A Occasionally, we do, yes.

5 Q And did you get a phone and computer from our
6 office?

7 A I did.

8 Q And did you get Sidney Moorer's phone and a HP
9 Pavilion computer that's already been put in evidence?

10 A That is correct.

11 Q And if you don't mind, explain to this jury what
12 you did with those two items and why it is key to have
13 the computer and the phone?

14 A Well, with these -- the cell phone, when I got
15 the cell phone, I connected it to our forensic
16 computer, and in using the Cellebrite UFED physical
17 analyzer, I imaged the iPhone in Method One and Method
18 Two.

19 Then, with the computer, I actually did not get
20 the physical computer. They sent me an external hard
21 drive that had a EL-1 image of that computer, and I
22 worked off of that image.

23 Q Why is it important to have the computer or image
24 of the computer and the phone or the image of the
25 phone?

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 A To see if there is any connection, if it has ever
2 been synced up with the computer.

3 Q To either download stuff from the phone or to
4 charge it, or whenever you hook that phone to the
5 computer?

6 A It can register, yes.

7 Q Those two things will talk?

8 A Correct.

9 Q And when you looked at the phone and computer
10 here, did the two of them talk?

11 A I found where there was a program that was on the
12 computer that was used as an iPhone backup program, and
13 Sidney's phone had been connected to this and actually
14 backed up to the computer.

15 Q And what did the backup show?

16 A It showed text messages, phone calls.

17 Q I'll show you what is marked as 89 and 90. Tell
18 this Court if you recognize those items.

19 A Yes.

20 Q And how about 90 -- or 89.

21 A Those are my initials.

22 Q And is that just the electronic format of the
23 paper documents?

24 A Yes.

25 Q Does that show what you are able to obtain off of

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 the computer?

2 A It does.

3 Q And were you able to connect text messages to the
4 phone?

5 A I was.

6 MS. LIVESAY: At this time the State asks to put
7 89 and 90 into evidence and publish to the jury.

8 THE COURT: Any objection?

9 MR. BOUCHETTE: No objection.

10 THE COURT: Without objection, 89 and 90 are
11 admitted. You may publish them.

12 Q (MS. LIVESAY) While she's getting that going,
13 all of these messages were found on the computer,
14 correct?

15 (State's Exhibits 89 and 90 admitted.)

16 A Yes. Those were all found on the computer.

17 Q And some of them were also found on the phone,
18 but not all of them?

19 A That's correct.

20 Q Now, we talked earlier with Mr. Lynch about phone
21 messages and messages being deleted and recovered; are
22 you able to recover all deleted messages, or just a
23 portion of them?

24 A It all depends when they are deleted, how long
25 it's been -- they've been deleted before you run

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 Cellebrite on it as to what you'll get. So to sit
2 there and say you'll get all the deleted messages, no,
3 you're not.

4 Q Let me ask you this. When you looked at the
5 phone through Cellebrite, were you able to find out
6 when the phone had been powered back on?

7 A Yes. There is a power-on event log that was on
8 the phone.

9 Q Does it show when it was powered off as well, or
10 just when it powered back on?

11 A No, just when it powered back on.

12 Q Did you find when this phone was -- don't tell me
13 when, but when this phone was powered back on on the
14 early morning hours of December 18th?

15 A I did.

16 Q Now, if you don't mind, can you continue down and
17 go through this presentation with the jury and explain
18 to them what messages you found where.

19 We're going to look at messages now. First,
20 explain to them the program on the computer and what
21 you found.

22 A When I found the text messages, they were in an
23 Excel spreadsheet, and the path leading to where they
24 were had a program called Tenorshare. I had never
25 heard of it at that time, so I started researching what

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 Tenorshare was and found out it was an iPhone backup
2 that you could hook your phone up to it, save your
3 messages or save your different items on your computer
4 and even recover items that were on your phone, so.

5 Q And what did you find about Tenorshare?

6 A About?

7 Q About the time difference.

8 A Oh. Well, there was a big time difference on
9 comparing the ones on Tenorshare on the computer to the
10 ones on the phone, so I sent Tenorshare an e-mail and
11 asked them -- I said, hey, what time zone are you in.
12 I explained the situation. They said they were in
13 Beijing time and that I would have to add eight hours
14 to the phone, so that is how that ended up being that.

15 Q And tell us about the messages you recovered.

16 A Now, this was the spreadsheet. This was the
17 number that it was connected to.

18 Q Heather Elvis?

19 A Reporting on that number at the top. Everything
20 that you are going to see on this slide, or on this
21 Excel spreadsheet, was on the computer. Everything
22 that is in black was on the phone, was on Sidney's
23 phone. What was in red was, obviously, what was on
24 Tenorshare, but not recovered by Cellebrite or was not
25 on the cell phone itself; you couldn't see it. Then,

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 as you scroll down, you'll see a purple, and if you see
2 a purple one, that is information that was, again, on
3 Tenorshare, recovered by Cellebrite, but not on the
4 phone itself. So it was recovered by Cellebrite. Even
5 if you picked up the phone, you wouldn't see it, but it
6 was recovered by Cellebrite off of the phone.

7 Q So the messages in red would not have been
8 recovered without looking at the computer?

9 A Correct.

10 Q If you don't mind, take us through the messages.
11 Are the messages in red? Do the contents read
12 consistent with the messages on the phone already
13 found?

14 A Yes.

15 Q And if you don't mind, take us through the
16 messages.

17 A It starts off with received message: Sidney.

18 And then he responds: Yeah. What's up. Who the
19 fuck is this?

20 Why would you fucking text at 12:30 and not
21 respond? Someone is about to get their ass beat down.
22 Your bitch is about to take his last breath.

23 And then received on the phone is: What in the
24 world? Sorry, my phone was fucking up all night. It
25 wouldn't let me answer calls, and then it just froze,

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 but you've got some explaining to do.

2 Why is that?

3 Who is this?

4 I frown upon people who hang up on me. Not cool.

5 You can tell me who you are right now or I will find
6 out another way, that way won't have a great turnout
7 for you.

8 Nobody you need to worry about anymore, she sends
9 the message.

10 You want to call me right now and explain
11 yourself, it would be a wise thing to do.

12 Then: I have been having Sidney followed since
13 January of 2012. It's best you call back and speak
14 immediately. Save yourself. I can give you one last
15 chance to answer before we meet in person, only one.

16 Hey, Sweetie, you ready to meet the Mrs.? The
17 kids want to meet you.

18 Q Now, Jim, everything that says "sent" was sent
19 from [REDACTED] 3175?

20 A Correct, to that number up there.

21 Q And everything "received" was received from
22 Heather's number?

23 A Correct.

24 Q And did this conversation continue?

25 A Correct. So when does Sidney get his phone back?

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 This is him, but we can't talk anymore.

2 Can you call just for a minute?

3 No. I love family.

4 Ha, okay.

5 Sorry. I made a mistake.

6 You knew what you were doing. It was no mistake.

7 I understand this can't go on anymore, I just want to
8 know that your wife isn't going -- because I lost
9 hours today because they sent me home after she kept
10 calling.

11 She doesn't care about you. It's fine. She has
12 a boyfriend. She was just mad at me for lying. Wants
13 me to take some tests to make sure I didn't catch
14 anything from you.

15 Then why does this have to end if she's got a
16 boyfriend? Stop being such a pushover and letting her
17 control you.

18 I can't do it anymore, it's not right.

19 Yeah, okay.

20 You up?

21 Yes, why?

22 Good stuff. Don't worry.

23 I'll put that to good use.

24 You can call me if you want.

25 DJ, you are silly.

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 Who is DJ?

2 Q Do the messages continue?

3 A They do.

4 Q And all the ones in red would not have been
5 recovered without looking at the computer?

6 A Correct.

7 You are DJ. Have you been drinking? LOL.

8 Didn't you want to talk? You can call me.

9 Ha, is that what he told you my name was? I
10 guess you're right, he is a liar.

11 Heather, you wanted to speak to me earlier, you
12 can call now. What did you want to talk about?

13 I think you're a little obsessed with me.

14 Nah, it was a bore. If you want to speak to me,
15 call now, otherwise leave me alone forever. My
16 daughter is getting this phone number.

17 Really? So that's why she -- why you are still
18 childishly texting me from your cheating husband's
19 phone?

20 Call the number, it's me.

21 You call.

22 No.

23 Sidney.

24 What?

25 Your skank ass needs to leave me alone. Stop

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 stalking me you crazy, fucking whore.

2 And then a period.

3 Q Now, tell me if you were able to recover when the
4 phone powered back on December 18th of 2013?

5 A At 3:02 a.m.

6 Q Show this jury what time it powered back on.

7 A It powered back on on the 18th -- let's see.

8 Right here, came back on at 3:02, basically 3:03 a.m.

9 in the morning.

10 Q So we don't know when exactly it turned off?

11 A No.

12 Q We just know it turned back on at 3:03?

13 A Correct.

14 Q Have a seat, Mr. Perry. Thank you, I appreciate
15 it.

16 Mr. Perry, do you also view phone records?

17 A Sorry, what now?

18 Q Do you also view phone records in connection to
19 Cellebrite sometimes to check to make sure what's on
20 phone records matches what is on the Cellebrite report?

21 A Yeah. I mean, we have in the past.

22 Q Okay. And you are saying the phone powered on at
23 3:03 a.m.?

24 A Correct.

25 Q So can you show us using his phone records the

JAMES "JIM" PERRY - DIRECT EXAMINATION (CONT.)

1 last phone or text before 3:03 a.m., what time that
2 would have been, December 13 of 2013?

3 A You are saying last call on the 13th?

4 Q Any call or text, the last action before the
5 phone was powered back on at 3:03.

6 A I see one -- I'm sorry. 21:44 hours.

7 Q And how about the early morning on the 18th,
8 the a.m.?

9 A It was 1:09 or 1:10 a.m.

10 Q So around 1:10 a.m. there was a phone call from
11 Sidney's phone, either from or to?

12 (A brief pause in the proceedings.)

13 A (Witness examines document.) I'm not sure exactly
14 -- okay, yeah, here is the number. Yeah.

15 Q (MS. LIVESAY) So around 1:10?

16 A Correct.

17 Q Was the last action you see on his phone?

18 A Correct.

19 Q And then you see it power back on at 3:03 a.m.?

20 A Correct.

21 Q So it had to be turned off sometime after 1:10?

22 A Right.

23 Q Then turned back on at 3:03?

24 A Correct.

25 MS. LIVESAY: No further questions, Your Honor.

JAMES "JIM" PERRY - CROSS-EXAMINATION

1 THE COURT: Cross-examination, Mr. Bouchette.

2 MR. BOUCHETTE: Very briefly, Judge.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. BOUCHETTE:

6 Q Mr. Perry, good morning.

7 Tenorshare is sort of a private software,
8 correct?

9 A Correct.

10 Q That is not something that comes standard on, for
11 example, Microsoft XP or Windows or any of those types
12 of programs, correct?

13 A No.

14 Q Generally, it costs about a hundred bucks or so
15 if you go to Walmart, something like that?

16 A I actually bought it so, yeah, it was a hundred
17 bucks, but I had to download it.

18 Q So you said that it acts as a backup -- excuse
19 me -- there we go. It acts as a backup, but in a lot
20 of cases it could work if you try to retrieve various
21 messages, correct?

22 A It can recover, correct.

23 Q So when people buy it, they may be buying it to
24 back it up, or they may be trying to retrieve those
25 messages that they know they've deleted at some point,

JAMES "JIM" PERRY - CROSS-EXAMINATION

1 correct?

2 A Possible.

3 Q Because, I mean, the software does that, right?

4 A Right, the software does it.

5 Q So it just depends on which purpose you are using
6 for, whether you buy it in advance to back up messages,
7 or whether you buy it after the fact to try to retrieve
8 what you may have deleted or lost, or anything like
9 that?

10 A Possible.

11 Q Now, you couldn't tell from your investigation
12 when that Tenorshare was downloaded or put on?

13 A Yeah, I can tell you when it was downloaded.

14 Q Okay. When was that?

15 A It was downloaded on 3/21/2013.

16 Q 3/21/13?

17 A Uh-huh.

18 Q Let me ask you this. We had some discussion
19 about the powering off; what was the -- we can't draw
20 any conclusions from that other than the fact that the
21 cell phone went off; is that correct?

22 A Well, it came on.

23 Q It came on?

24 A It wasn't a powering off of the device; it was
25 powering on. It came on at that time.

JAMES "JIM" PERRY - CROSS-EXAMINATION

1 Q So whether it's -- we can't tell if it was turned
2 off because it was charged, and then turned it back on?
3 We can't draw any conclusions what was going on during
4 that time frame other than the fact the phone turned
5 on?

6 A That is all I can tell you.

7 Q Again, we added -- saw the messages that we've
8 seen throughout this case and we've added some more,
9 but after the messages that you uncovered, those were
10 -- we still saw no messages between the phone number
11 associated with Sidney Moorner and the phone number
12 associated with Heather Elvis after
13 November 5th until December 18th; is that correct?
14 In other words, the window between November 5th of
15 2013 and the morning of December 8th, 2013, even with
16 the additional messages you uncovered, there was no
17 communications back and forth?

18 A Correct.

19 Q Okay. Could you tell if there was any computer
20 use on 12/17 or 12/18, December 17th,
21 December 18th?

22 A Any computer use?

23 Q Correct.

24 A No, I didn't look for that because that wasn't in
25 the scope of what I was looking for.

JAMES "JIM" PERRY - CROSS-EXAMINATION

1 Q Let me ask you this. Would it have been within
2 your ability to look at the computer and determine if
3 there was computer activity on that computer in the
4 early morning hours of December 18th?

5 A It could be determined.

6 Q Were you asked to do that?

7 A No.

8 Q You didn't do that?

9 A No, because the computer had already been
10 analyzed prior to me getting it.

11 Q Okay. Very good.

12 MR. BOUCHETTE: No further questions.

13 THE COURT: Redirect.

14 MS. LIVESAY: Nothing further, Your Honor.

15 THE COURT: You wish for Mr. Perry to be excused?

16 MS. LIVESAY: Please.

17 MR. BOUCHETTE: No objection.

18 MS. LIVESAY: Thank you. You may step down.

19 you're free to leave, sir.

20 You may call your next witness, please.

21 MS. LIVESAY: Thank you, Your Honor. At this
22 time the State calls Robbie Caulder?

23 (JOHN "ROBBIE" CAULDER, having been duly sworn,
24 testified as follows:)

25 THE WITNESS: John Caulder, C-A-U-L-D-E-R.

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

(State's Exhibits 91 to 105 marked.)

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q Mr. Caulder, at one time did you work at the police department?

A Yes, ma'am.

Q When did you retire?

A May of this year.

Q And how many years did you spend with the Horry County Police Department?

A 21 years.

Q And what were your responsibilities while you were at the police department?

A My final responsibilities was the senior investigator in the Crime Scene Unit.

Q If you don't mind, tell me what Crime Scene does.

A We respond out to assist during the investigative process crimes from burglaries to homicides. We go out, collect evidence, interpret information given at the scene that has a forensic value.

Q And did you assist on this case?

A Yes, ma'am, I did.

Q And did you assist during December of 2013?

A Yes, ma'am.

Q And if you don't mind, tell the jury what you did

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 to help?

2 A To assist in -- I was called out to search a Ford
3 F-150 that had been towed to the Horry County Police
4 Department.

5 Q And do you recognize 91 through 105?

6 A Yes, ma'am.

7 Q What are those pictures?

8 A Photographs that I took that day, that I searched
9 the F-150 at the police department.

10 Q Did that F-150 belong to the Moorers?

11 A To my knowledge, yes, ma'am.

12 Q And did you alter or do anything other than just
13 document the appearance of the outside and inside?

14 A That is correct.

15 Q And did you collect anything out of it at that
16 time?

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

18 MS. LIVESAY: Your Honor, at this time the State
19 wishes to put 91 to 105 into evidence and publish it
20 to the jury.

21 MR. BOUCHETTE: No objection.

22 THE COURT: Without objection, State's 91 through
23 105.

24 (State's Exhibits 91 through 105 admitted.)

25 Q (MS. LIVESAY) Do you mind stepping down and

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 showing this jury what you were documenting?

2 A Yes, ma'am. This photograph documents the
3 passenger's side exterior as I saw it.

4 Q Four-door truck with a toolbox?

5 A That is correct. The front view of truck.

6 Q Did it have any kind of license plate on it when
7 you saw?

8 A Not on the front, just the rear had a license
9 plate.

10 Q Tell this jury what date you were taking the
11 pictures on.

12 A That, I do not recall.

13 Q Was it in December of 2013?

14 A It was in December of 2013, but towards the end
15 of December.

16 Q Around the 28th?

17 A Yes, ma'am.

18 Driver's side view of the truck.

19 Q And did you see any damage to the truck?

20 A I did not. I did not note any.

21 That's the rear.

22 Q And the only thing in the back was the toolbox?

23 A There was a bed liner, a rubber -- hard rubber
24 bed liner in the bottom of the bed.

25 It shows the license tag on the vehicle.

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 Q Showing it had a handicap tag at the time?

2 A That's correct.

3 Q And did you document the inside of the truck bed?

4 A That's correct.

5 Q And you did not remove any of those items?

6 A No, ma'am.

7 Q And were these the bottles of water, is that how
8 it looked when you saw it late December?

9 A Yes, ma'am.

10 Q And you documented the inside?

11 A That is correct.

12 Q And the car doors open and close, and everything
13 about it was operable?

14 A Yes, ma'am.

15 Q And did you raise that back seat up?

16 A I did not. That is the way it was when I got it.
17 The photograph was taken, and nothing has been touched
18 by me other than to open the door.

19 Q Okay. So that is how it looked when it was
20 brought to Horry County Police Department?

21 A That's correct.

22 Q Now, what side of the truck is this?

23 A This is the passenger -- rear passenger's door.

24 Q And you just documented the overall appearance?

25 A That is correct.

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 Q At the time, what information did you have?

2 A The only information I have at this time -- I was
3 just called out to assist. The main investigator was
4 out of town. They had a missing person's call, and the
5 information I had was that this is a vehicle that the
6 missing person at the time had access or could have
7 possibly had access to, because it was -- belonged to a
8 guy she was seeing.

9 Q And, at the time, you didn't know if this was a
10 new truck he bought after they broke up?

11 A That's correct.

12 Q So, at the time, it was still a missing person?
13 There was not any kind of criminal investigation?

14 A That is correct. To my knowledge it was just an
15 involvement that I was called just to assist.

16 Q And can we look at the next one? This is the
17 inside showing all of the bells and whistles and the
18 electronics?

19 A Yes. Just an overview of the front driver --
20 front seat area from the back seat.

21 Q What is this?

22 A The center console in between the front and
23 passenger's seat.

24 Q And this is just documenting what was in there
25 late December?

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 A That's correct.

2 Q Now, when you say "late December," you mean after
3 Christmas?

4 A If I recall the date, it is after Christmas.

5 Q And what are we looking at here?

6 A This is at the same center console. The little
7 slide tray has been removed.

8 Q And this is showing how it looked straight from
9 their house to the police department?

10 A That's correct.

11 Q What is that a picture of?

12 A Glove compartment on the front passenger's side.

13 Q Have a seat. I have a couple more questions.

14 A (Witness complied.)

15 Q Now, you are saying that you took these pictures
16 towards the end of -- sometime after Christmastime?

17 A That's correct.

18 Q Now, at that time, were you really working --
19 like you are familiar with crime scenes, you've been
20 out to murders, burglaries, those kinds of things,
21 correct?

22 A That's correct.

23 Q But you weren't working it like that at this
24 time, correct?

25 A No, ma'am.

JOHN "ROBBIE" CAULDER - DIRECT EXAMINATION

1 Q At this time you were just working --

2 MR. BOUCHETTE: Objection to leading.

3 THE COURT: Sustained. Rephrase.

4 Q (MS. LIVESAY) Were you working as a missing
5 person's case?

6 A I was working it as a missing person from the
7 information that was given to me.

8 Q And, really, what were you looking for in the
9 truck?

10 A Anything that may have belonged to the missing
11 person at the time, any type of materials or purses,
12 identifiers, anything that would identify something
13 belonging to Ms. Elvis at that time and, also, just as
14 a normal routine thing, any type of blood or anything
15 that would be out of the normal.

16 Q And when you looked at it visually, you didn't
17 see anything like that that required you collecting it?

18 A No, ma'am.

19 Q Okay. And when you documented the truck, were
20 you working under the impression that that was the
21 truck he had when they dated?

22 A That's correct. That's correct.

23 Q If you had information that that was a new truck,
24 would you have done anything different?

25 A Yes, ma'am.

JOHN "ROBBIE" CAULDER - CROSS-EXAMINATION

1 Q What different would you have done?

2 A I would have dusted the vehicle. With
3 information that she never would have been inside the
4 vehicle, I would have processed the exterior and
5 interior, DNA swabs, fingerprints, everything to
6 process to see if I could put her inside of the
7 vehicle.

8 MS. LIVESAY: No further questions, Your Honor.

9 THE COURT: You may cross-examine.

10 CROSS-EXAMINATION

11 BY MR. BOUCHETTE:

12 Q Good afternoon.

13 A Good afternoon.

14 Q Now, we heard from Ms. Domogauer earlier; do you
15 know Ms. Domogauer?

16 A Yes, sir, I do.

17 Q I believe she did an investigation -- or rather
18 took possession, via search warrant, of this truck in
19 February of 2014; are you aware of that?

20 A It's real cloudy, because she was the main
21 investigator, so there may have been -- I know the
22 vehicle ended back at the police department, but I know
23 of no dates.

24 Q The reason I ask is that I think we might have
25 been lead to believe that that was the first time law

JOHN "ROBBIE" CAULDER - CROSS-EXAMINATION

1 enforcement had taken possession of that vehicle, but
2 you are saying you had it in the Horry County Police
3 Department's possession as of December 27th of 2013?

4 A It was the end of December, yes, sir.

5 Q How did you come to be in possession of the
6 vehicle?

7 A Took -- how it came to the police department? It
8 was towed. Whom it was towed by? At that time,
9 Squeaky's was our tow service. How it got there? I
10 don't know. Like I say, the only involvement I had
11 is -- I was not the main investigator for the missing
12 person's case, but Investigator Domogauer was out of
13 town, so they called me to assist Detective Lent. So
14 how it came to be at the police department? That, I
15 can't answer.

16 Q It's probably safe to say it was either by virtue
17 of a search warrant that was executed and towed at the
18 instruction of law enforcement, or it was with the
19 consent of Mr. Moorer?

20 A That's correct. And it was a search warrant,
21 because Detective Lent did come with a search warrant.

22 Q So they executed a search warrant on the vehicle
23 in December of 2013, correct?

24 A That's correct.

25 Q To your knowledge, all right.

JOHN "ROBBIE" CAULDER - CROSS-EXAMINATION

1 Pursuant to that search warrant, the vehicle is
2 brought to the county police department, correct?

3 A That's correct.

4 Q And this is about ten days following the
5 disappearance of Ms. Elvis, correct?

6 A There again, I do not know.

7 Q Well, if I represented to you that her
8 disappearance was on December 18th, that would be
9 about --

10 A Nine or ten days, yes.

11 Q Okay. Very good. And, again, I know your
12 position is that this is only a missing person
13 investigation; however, you were tasked with seeing if
14 there was anything indicating any connection between
15 Ms. Elvis and that vehicle nine days after her
16 disappearance; is that correct?

17 A That's correct.

18 Q And having followed through with your procedures,
19 did you find anything indicating Ms. Elvis' presence in
20 that vehicle at that time?

21 A No, sir, I did not.

22 Q And at some later point, Ms. Domogauer, pursuant
23 to a search warrant, took possession of the vehicle
24 again, correct?

25 A To my knowledge, yes, sir.

JOHN "ROBBIE" CAULDER - REDIRECT EXAMINATION

1 Q And do you have any knowledge whether or not they
2 then performed more thorough tests, DNA and et cetera?

3 A This, I cannot answer.

4 Q Okay. Given the fact you had Sidney's vehicle
5 nine days or eight days following the disappearance of
6 Ms. Elvis, were any other vehicles brought to you for
7 you to review at that time?

8 A Not to me, no, sir.

9 Q Were there any other vehicles that you were asked
10 to go review at somebody else's residence, someone's
11 home?

12 A Not to me, no, sir.

13 Q No, sir, all right.

14 MR. BOUCHETTE: No further questions for this
15 witness, Your Honor.

16 THE COURT: Redirect.

17 MS. LIVESAY: Thank you, Judge.

18 REDIRECT-EXAMINATION

19 BY MS. LIVESAY:

20 Q Mr. Caulder, do you recall Mr. Bouchette asking
21 you about DNA being in the truck, DNA -- anything from
22 the victim being in the truck, swabbing it?

23 A Yes, sir (sic).

24 Q And that you did have a search warrant, and you
25 could have done that, correct?

JOHN "ROBBIE" CAULDER - REDIRECT EXAMINATION

1 A That's correct.

2 Q Now, let me ask you something. As a crime scene
3 investigator, does it matter when you are trying to
4 collect DNA and hair, would it matter if that truck had
5 been washed, vacuumed and wiped down prior to this?

6 MR. BOUCHETTE: Objection, speculation.

7 THE COURT: I'll allow him to answer based on his
8 experience. Overruled.

9 A So could you phrase the question a different way,
10 because --

11 Q (MS. LIVESAY) Sure. Does it matter -- if I'm
12 going to collect DNA -- and you collected DNA, for
13 what, 15, 20 years?

14 A Yes, ma'am.

15 Q Okay. If I touched this and you wanted to
16 collect my DNA off of it, would it matter if before you
17 came along, someone came and wiped it and washed it?

18 A Yes, ma'am. If -- if DNA were to be left behind,
19 physically manipulating that by washing, cleaning,
20 vacuuming would deteriorate any possible DNA that would
21 be there.

22 Q If someone came in here to try to collect a hair
23 from off of this courtroom carpet, but the staff had
24 come and vacuumed it up, would that impede your ability
25 to collect hair, fibers, anything from me?

JOHN "ROBBIE" CAULDER - RECROSS-EXAMINATION

1 A That is correct.

2 Q Do you know whether or not that truck had been
3 washed before you had it at the end of December?

4 A I had no knowledge that day, no, ma'am.

5 Q Okay. So it could have been cleaned prior to you
6 getting it?

7 MR. BOUCHETTE: Objection, speculation.

8 THE COURT: Sustained. He answered the question
9 he doesn't know.

10 MS. LIVESAY: Give me one second.

11 THE COURT: Sure. Take your time. I'm sorry,
12 the screen blocked you.

13 MS. LIVESAY: No further questions.

14 THE COURT: Recross.

15 RECROSS-EXAMINATION

16 BY MR. BOUCHETTE:

17 Q Mr. Caulder, I'll hand you what is marked and
18 entered into as State's 98 through 103; are those
19 photographs of the inside of the vehicle?

20 A (Witness examines document.) Yes, sir.

21 Q And you see trash bags on the floor, or at least
22 food bags, like fast food bags?

23 A Yes.

24 Q You see a cup in the cup holders?

25 A Yes, sir.

JOHN "ROBBIE" CAULDER - RECROSS-EXAMINATION

1 Q You see dirt and trash of some kind on the
2 floorboards?

3 A Yes, sir.

4 Q Okay. Safe to say this was not a clean vehicle
5 whenever you inspected it on December 27 of 2013?

6 A That is correct.

7 Q It was not a tidy vehicle, correct?

8 A No, sir.

9 Q It was not a sterile vehicle, correct?

10 A That is correct.

11 Q And there was nothing necessarily stopping you
12 from -- or whoever sought the search warrant -- from
13 requesting you to do a search prior to December 27th,
14 true?

15 A There was nothing -- I guess --

16 Q In other words, anybody -- whoever sought the
17 search warrant at the time you did the inspection, they
18 could have sought that search warrant at any time
19 following the disappearance of Ms. Elvis, correct?

20 A If -- if -- as far as the investigation, yes,
21 sir. If they had to get a search warrant, they could
22 have done that.

23 Q And let me ask you this. How long was it in the
24 police department's possession at that time?

25 A Afterwards, or prior to?

JIMMY GUNTER - DIRECT EXAMINATION

1 Q Well, you did your inspection on the 27th; I
2 imagine you had it longer than a day, correct?

3 A As far as I know of. I only had anything to do
4 with it that day. I do not -- I do not know after that
5 day.

6 Q Okay. That's fine.

7 THE COURT: All right.

8 MR. BOUCHETTE: No further questions.

9 THE COURT: You may step down.

10 Do you wish for him to be excused?

11 MS. LIVESAY: Yes, please.

12 THE COURT: Any objection?

13 MR. BOUCHETTE: No, Your Honor.

14 THE COURT: You are also free to leave.

15 Call your next witness, please.

16 MR. HELMS: At this time, the State calls Jimmy
17 Gunter.

18 (JIMMY GUNTER, having been duly sworn,
19 testified as follows:)

20 THE WITNESS: Jimmy Owen Gunter, Jr.,
21 G-U-N-T-E-R.

22 DIRECT-EXAMINATION

23 BY MR. HELMS:

24 Q Mr. Gunter, where do you work, sir?

25 A I work at Beach Ford.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q And how long have you worked at Beach Ford?

2 A Been there about six, going on seven years,
3 somewhere in that area.

4 Q What do you do there?

5 A I am the finance manager.

6 Q And what does that mean exactly?

7 A Means I facilitate the paperwork for people
8 purchasing their vehicles.

9 Q So when I go buy a car -- which is a ridiculously
10 complicated process, by the way -- when I buy a car,
11 you are the guy that compiles all the paperwork?

12 A Correct.

13 Q Do people meet with you and sit down with you?

14 A Yes, sir.

15 Q And you go over things with them?

16 A I do all of the finances and -- yes, sir -- type
17 up the paperwork.

18 Q I'm sorry?

19 A I do all of the title paperwork and get ready for
20 DMV.

21 Q So you are the guy that does the leg work?

22 A Yes, sir.

23 Q Were you working there in 2013?

24 A Yes, I was.

25 Q Were you working there in December 2013?

JIMMY GUNTER - DIRECT EXAMINATION

1 A Yes, sir.

2 Q What did you do then?

3 A Same thing.

4 Q Have you ever had an opportunity to meet this
5 defendant right there?

6 A Yes, sir, I have.

7 Q And tell me about that experience. How did you
8 come to meet him?

9 A He and his wife came in to buy a 2014, I believe
10 it was, F-150 Limited from us.

11 Q Do you remember what color it was?

12 A It was black.

13 Q Nice truck?

14 A It was top of the line.

15 Q What do you call it?

16 A I call it the Texas Cadillac, because I had one
17 similar, but mine was a Platinum.

18 Q So the truck they bought, is that a
19 top-of-the-line truck?

20 A Yes, sir.

21 Q Comes with all the bells and whistles?

22 A Everything.

23 Q Power everything?

24 A Power everything, power running boards, HID
25 headlights, navigation, power seats, air conditioned

JIMMY GUNTER - DIRECT EXAMINATION

1 seats.

2 Q Air conditioned seats?

3 A Oh, yeah.

4 Q That's a thing?

5 A Oh, yeah. It's nice.

6 Q What are HID headlights; what does that mean?

7 A High Intensity Disbursement.

8 Q Is that different than the regular headlight on
9 my jalopy?

10 A Yes, sir. You can tell the difference with that
11 coming down the road than your jalopy.

12 Q I can say it; you can't say it (laughing).

13 A Okay (laughing).

14 Q What is the difference between Mr. Moorers' HID
15 headlights, and mine?

16 A They are a whole lot brighter, and you definitely
17 know they are coming down. They are a whole lot
18 brighter. They are white.

19 Q So the really bright white headlights coming
20 towards, those are HID headlights?

21 A Yeah, exactly.

22 Q So you sold them the truck?

23 A Yes, sir.

24 Q And when I say "them," you sold it to him and
25 who?

JIMMY GUNTER - DIRECT EXAMINATION

1 A Tammy, his wife.

2 Q And you remember that experience?

3 A Yes, sir.

4 Q Can you recount the experience a little bit for
5 me, whatever you remember? It was six years ago, but.

6 A First, he was in the office with me. We were
7 carrying on. I was telling him about it being the
8 Texas Cadillac, I had something similar, the Platinum
9 line. Then, when the wife walked in, she more or
10 less -- he became submissive, and it just stopped. She
11 took over. Actually, I couldn't wait to get the
12 paperwork done and get her out of my office. I'm
13 sorry, but that is the only way to put it.

14 Q So you did do paperwork?

15 A Yes.

16 Q Are those Ford records and paperwork?

17 A Yes, sir.

18 Q Do you keep those Ford records at Beach Ford?

19 A Yes, sir.

20 Q Would you recognize -- was it a stack of
21 paperwork?

22 A Oh, yes.

23 Q Like a whole contract?

24 A Oh, yes.

25 Q The Moorers signed that contract?

JIMMY GUNTER - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Did you sign that contract?

3 A Yes, sir.

4 Q Would --

5 A The contract I didn't, but the other paperwork, I
6 do. I don't sign the bank contract.

7 Q But you do sign some paperwork in that stack?

8 A Yes, sir.

9 Q Would you recognize that stack and your signature
10 in that stack if I showed it to you?

11 A Yes, sir.

12 MR. HELMS: Court's indulgence.

13 THE COURT: Yes, sir.

14 (A brief pause in the proceedings and State's
15 Exhibit 106 was marked.)

16 Q (MR. HELMS) I'm showing you what was marked for
17 identification purposes as State's Exhibit 106. Take
18 a look at that, and take all the time you need and
19 tell me if you recognize that stack of stuff?

20 A Yes, sir. My signature is on it.

21 Q And what is it, Jimmy?

22 A This is the purchase agreement, and my signature
23 is on the DMV title work. It is -- there is one more
24 signature on it. I don't know which one this is. It
25 only requires one signature.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q But it has your signature on it, too?

2 A Yes, sir.

3 Q And is that the contract and stack of paperwork
4 you used to sell Mr. Moorer a black 2014 F-150?

5 A Yes, sir.

6 Q And what is the date on that contract? When did
7 you sell him that truck?

8 A November 8, 2013.

9 Q And are those documents kept by Ford?

10 A They are kept here at our dealership.

11 Q And kept in the ordinary course of business?

12 A Yes, sir.

13 Q And you provided those in my office?

14 A Yes, sir.

15 Q Have they been tampered with in any way?

16 A Not that I can tell.

17 Q And you've seen those documents before?

18 A Yes, sir.

19 Q And flip it over and tell me how you know if you
20 have seen those before?

21 A It has my initials on it.

22 Q So you've seen these very documents?

23 A Yes.

24 Q And they have not been tampered with?

25 A No, sir.

JIMMY GUNTER - DIRECT EXAMINATION

1 MR. HELMS: Your Honor, I seek to introduce 106.

2 THE COURT: Any objection?

3 MR. BOUCHETTE: No objection.

4 THE COURT: Without objection, 106 is entered.

5 (State's Exhibit 106 admitted.)

6 Q (MR. HELMS) So the truck comes with all the
7 whistles and bells and HIV (sic) headlights and the
8 nav system?

9 A Uh-huh.

10 Q And you remember selling them the truck?

11 A Yes, sir.

12 Q Did they trade a truck in, or do you need the
13 records to look back?

14 A They traded in an old Ford white truck. The
15 year, I need to look at the paperwork.

16 Q So you know they traded in a white truck?

17 A Yes, sir.

18 Q Those HID, are these optional or standard on that
19 kind of truck?

20 A Standard on that truck.

21 Q Same with all of the other bells and whistles?

22 A Yes, sir. I want to say yes. I think the
23 sunroof might have been an option.

24 Q Do you remember if they bought a toolbox?

25 A I would need to see the paperwork, but I know the

JIMMY GUNTER - DIRECT EXAMINATION

1 truck had one on it.

2 Q It did?

3 A Yes. I don't know if it went through the
4 dealership, or we sent it to an outside source.

5 Q But you know there was one, but whether they
6 bought it extra or whatever --

7 A Yes. Yes.

8 Q I understand. Okay. I understand. I want to
9 show you a couple of photographs, and they've already
10 been entered into evidence as State's Exhibit 103 and
11 104. I want you to tell me if you recognize what I'm
12 showing you. Those are photographs from the inside of
13 Mr. Moorer's truck, but specifically I want you to tell
14 me if you recognize what those are photographs of?

15 A Inside the center console.

16 Q And in the center console, what do you have?

17 A You have where the SD card goes.

18 Q Tell me about this right here; what is this on
19 State's 104? What am I looking at in 104?

20 A This is where the ports are for like your radio
21 and where you have the SD card.

22 Q Hang on one second. Go back again. Right here.
23 This is 104. Is this the photograph you are looking
24 at?

25 A Yes, it is.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q So tell me again -- in fact, if you will just
2 step down, if Your Honor doesn't mind?

3 THE COURT: No, that's fine.

4 Q (MR. HELMS) Thank you, sir. Come down here for
5 a minute and let's talk to the jury. If you will,
6 step over there.

7 Tell the jury what we're looking at here.

8 A This is from the truck here. This is where the
9 SD card goes, and it looks like this one doesn't have a
10 SD card in it right now.

11 Q Tell me what an SD card is.

12 A That is for the navigation for the vehicle.

13 Q So this is for the navigation system?

14 A Correct.

15 Q And that comes standard in this truck?

16 A Yes.

17 Q Now, if you will click on 103, I think it is in
18 that picture. That's it.

19 MR. HELMS: You said -- go back one more time
20 Tonya, I apologize.

21 Q So you said the SD card goes where?

22 A Goes right here.

23 Q What is the SD card?

24 A That is for your navigation. Without it, it
25 doesn't work.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q What doesn't work? The truck?

2 A The tracking for the navigation of the vehicle.

3 Q So you mean that little card, you can take out?

4 A You can take it out, yes.

5 Q And if you take it out, the whole navigation
6 system isn't working?

7 A No.

8 Q Can't track the truck?

9 A Cannot track the truck.

10 Q Can you use the GPS?

11 A No.

12 Q Go to the next one.

13 MR. HELMS: I'm referring to State's 103, Your
14 Honor.

15 Q (MR. HELMS) Is this the same console?

16 A Yes.

17 Q Except it has a tray?

18 A Correct.

19 Q Let me ask you a question, Jimmy. You see that
20 little item right there?

21 A Yes, sir.

22 Q Tell me what that is.

23 A That is the SD card.

24 Q That is the SD card that goes in the navigation
25 system?

JIMMY GUNTER - DIRECT EXAMINATION

1 A Yes.

2 Q And you just testified that if that SD card is
3 not there, the navigation system does not work?

4 A Correct.

5 Q So the SD card is not where it's supposed to be?

6 A No.

7 Q So right now, in the state it's in, the
8 navigation for the truck is not working?

9 A Correct.

10 Q Take a seat, Jimmy, please. Thank you.

11 Let me ask you this.

12 A Yes, sir.

13 Q You sold them the truck. When you sold them the
14 truck, did you teach them how to take that navigation
15 card out?

16 A No, sir.

17 Q You don't do that?

18 A No, sir.

19 Q Have you ever done that?

20 A No, sir.

21 Q Has anyone ever asked you to do that?

22 A No, sir.

23 Q So that's not part of the selling and buying
24 process at Beach Ford?

25 A No, sir, not at all.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q Have you ever seen any other salesman, floor
2 manager or employee of Beach Ford teach a customer how
3 to disengage the navigation system?

4 A No, sir. It is not part of the delivery.

5 Q Does Ford recommend you do it?

6 A No, sir.

7 Q Have you had an opportunity, Jimmy, to do
8 anything else that I've asked you to do in regards to a
9 Ford truck?

10 A Take a truck very similar with the SD card and
11 take it out for a ride to show what it does with and
12 without the SD card.

13 Q Were you the one able to orchestrate all of that?

14 A Yes, sir.

15 Q And did we record that session?

16 A Yes, you did.

17 Q And you were there for that?

18 A Yes, sir.

19 Q And when did we do that, Jimmy?

20 A Couple weeks ago.

21 Q I'm showing you now --

22 (State's Exhibit 107 marked.)

23 Q I'll show you State's 107. Take that envelope
24 and tell me what that is.

25 A This is the disk where we took it out for a ride

JIMMY GUNTER - DIRECT EXAMINATION

1 and recorded onto it.

2 Q When you say "it," what did we take out for a
3 ride?

4 A Another F-150 very similar. Actually, it was the
5 exact setup except for it was, I think, a Lariat versus
6 a Limited.

7 Q Did it have the exact same navigation system?

8 A Yes.

9 Q Equipped with the same SD card?

10 A Yes.

11 Q No different?

12 A No different.

13 Q Is that the recording we took that day with you
14 in it?

15 A Yes, it is.

16 Q Has it been tampered with?

17 A No, sir.

18 MR. HELMS: Your Honor, I seek to enter State's
19 107 and publish it at the appropriate time.

20 THE COURT: Any objection?

21 MR. BOUCHETTE: Your Honor, I object at this
22 point to the relevance. I'm not sure what we're
23 showing for this recreation or experiment. I'm not
24 sure how it is relevant to ownership, as well as the
25 witness is here to testify about it.

JIMMY GUNTER - DIRECT EXAMINATION

1 THE COURT: Approach, please.

2 (Whereupon, a bench conference was had.)

3 Q (MR. HELMS) All right. Jimmy, we won't play the
4 video. You can tell us what we did. What did we do?

5 A I told you how the truck is tracked down the road
6 going down Jason Boulevard. I took the SD card out,
7 and when we took the SD card out, it came up showing
8 that it was malfunctioning and it could not track the
9 truck. Then, we came back to the dealership. I put
10 the SD card back in it, booted it back up and it showed
11 us exactly where we were.

12 Q Do you have to do anything to get the navigation
13 system -- let me ask you this. When you pulled it out,
14 how hard was it to pull it out?

15 A Just push down and it pops out.

16 Q When you push down and it pops out, you said
17 something comes up on the screen?

18 A It tells you it is malfunctioning.

19 Q What is malfunctioning?

20 A The navigation for tracking.

21 Q Can you still drive the truck?

22 A Yes.

23 Q Does it disengage any other part of the truck
24 when you pull that card out?

25 A No, sir.

JIMMY GUNTER - DIRECT EXAMINATION

1 Q Just the navigation?

2 A Just the navigation.

3 Q So you were actually able to drive the truck
4 without the card in it?

5 A Correct.

6 Q When you got to your destination, put the card
7 back in, how did the screen change?

8 A It came back up and booted itself back up and
9 came back and showed me exactly where the truck was.

10 Q You didn't have to reset the computer?

11 A No.

12 MR. BOUCHETTE: Objection to the leading.

13 Q (MR. HELMS) Did you have to reset the computer?

14 A No, sir.

15 Q Did you have to push any more buttons?

16 A No, sir.

17 Q Did you have to do anything exceptional to get
18 that computer to start working again?

19 A No, sir.

20 THE COURT: We don't need that.

21 Q (MR. HELMS) I want to ask you something else,
22 Jimmy. How do you advertise? How does Beach Ford
23 advertise?

24 A Internet, radio, some TV.

25 Q Do you put -- on my car I have a sticker from the

JIMMY GUNTER - DIRECT EXAMINATION

1 place I bought my car from, do you have those on your
2 cars?

3 A We have stickers. We have license plate
4 brackets. We also have a plate we put on the front,
5 when it is available. What I mean by "available," is
6 if there is a place for them. Some states require
7 front plates; South Carolina does not.

8 Q But do you all do that?

9 A Yes, sir.

10 Q Did you do it back in 2013?

11 A Yes, sir.

12 Q When you sold Mr. Moorer his truck, did you have
13 Beach Ford plates on the front?

14 A Yes, sir.

15 Q And were they in the center, top, bottom, were
16 they offset?

17 A They were offset to the side.

18 Q I'm showing you now -- and now I have all of
19 these out of order, I apologize -- what is entered into
20 evidence as State's 92. This has been documented to be
21 Mr. Moorer's black F-150; is that what you are talking
22 about right there?

23 A On the driver's side, yes, sir.

24 Q So when you sold the truck, there would have been
25 a Beach Ford emblem there?

JIMMY GUNTER - DIRECT EXAMINATION

1 A Yes, sir.

2 (State's 92 published to the jury.)

3 MR. HELMS: Court's indulgence --

4 THE COURT: Yes, sir.

5 Q (MR. HELMS) Do you know, Jimmy, if when you sold
6 the truck, that there was a Beach Ford emblem or tag
7 in that spot right there?

8 A I do not recall, but most of the time there is,
9 because they are supposed to put it on in detail.

10 Q Let me ask you this. If you saw that truck on a
11 video, would you be able to identify the front of the
12 truck, would you be able to identify if it was on there
13 or not?

14 A Yes, sir.

15 MR. HELMS: At this time, I would like to show
16 him the Walmart video, which is State's 60.

17 THE COURT: It's already in evidence. You can
18 play what you want.

19 MR. HELMS: This is a short video, Judge.

20 THE COURT: That video was introduced into
21 evidence?

22 MR. BOUCHETTE: Your Honor, we are getting
23 accumulative. I don't see what the purpose is of
24 going through the video.

25 THE COURT: I don't know, but he's entitled to

JIMMY GUNTER - DIRECT EXAMINATION

1 ask his witness questions, and at this point he is
2 asking him about a truck that he was involved in, so
3 I'll allow it, but I will entertain any objections you
4 want to make concerning the testimony. I just don't
5 know what the question will be at this point.

6 Q (MR. HELMS) We're referencing State's 60. It is
7 already in evidence, Jimmy. I'll freeze it and then
8 let him see it.

9 (A brief pause in the proceedings.)

10 Q (MR. HELMS) If you will, come here one second.
11 This is shown as a black F-150 that Mr. Moorner was
12 driving on December 18th, and you sold it to him
13 when?

14 A 8th of November.

15 Q 2013?

16 A Yes, sir.

17 Q Look right there on the driver's side and tell me
18 what that is.

19 A Looks like a Beach Ford plate.

20 Q But, again, when you look at State's 92, is that
21 plate there?

22 A No, sir.

23 Q Thank you very much. I appreciate your time and
24 patience.

25 MR. HELMS: Answer any questions that that

JIMMY GUNTER - CROSS-EXAMINATION

1 gentleman over there has. Nothing further.

2 THE COURT: You may cross-examine.

3 CROSS-EXAMINATION

4 BY MR. BOUCHETTE:

5 Q How long have you worked at Beach Ford?

6 A Six years, plus.

7 Q Would you say an F-150 is a popular brand of
8 vehicle?

9 A Yes, it is.

10 Q Sold a lot of those, correct?

11 A Correct.

12 Q Do you have any knowledge whether other Ford
13 dealerships sell a lot of F-150s?

14 A Yes, sir.

15 Q There are a lot of F-150s in Horry County; safe
16 to say?

17 A I would assume.

18 Q A lot of F-150s on the road, period?

19 A Correct.

20 Q Now, with regard to the HID headlights, are those
21 -- you said they are not standard on Ford models --
22 excuse me, they are standard on this particular model?

23 A Yes, sir.

24 Q Now, are the HID headlights unique to F-150
25 models?

JIMMY GUNTER - CROSS-EXAMINATION

1 A Yes, sir, they are very unique.

2 Q As to the F-150 models, but they are standard in
3 that particular model of F-150?

4 A That's right.

5 Q This was not an after-market or something that
6 was done at some later point?

7 A No.

8 Q When they came in and traded the white truck you
9 mentioned for this vehicle, do you have any knowledge
10 whether or not that was their only vehicle?

11 A No, sir.

12 Q So you don't know whether or not they had any
13 other vehicles at home or not?

14 A No.

15 Q Now, I also wanted to ask, Mr. Helms showed you a
16 picture of a glove compartment with the SD card
17 missing; you have no way of knowing when that card
18 would have been removed, true?

19 A I would not know.

20 Q And since that photo was taken in, I think,
21 December 27, of 2013, you can't testify when that would
22 have been removed or not removed, correct?

23 A I just answered that. Yes, sir, I would not
24 know.

25 Q And you don't know who would have done it?

JIMMY GUNTER - CROSS-EXAMINATION

1 A No, sir.

2 MR. BOUCHETTE: Court's indulgence.

3 THE COURT: Certainly.

4 (A brief pause in the proceedings.)

5 Q (MR. BOUCHETTE) Does the operating system in the
6 F-150, does it record when the card would be removed?

7 A I wouldn't know.

8 Q Would there be any place in the truck that we
9 could determine when that would -- in other words, if
10 it is recorded, do you know where it would be recorded?

11 A I would not know.

12 Q You don't know one way or the other?

13 A No. I'm not technical in that aspect.

14 Q Okay.

15 MR. BOUCHETTE: No further questions for this
16 witness.

17 THE COURT: Redirect.

18 MR. HELMS: No, sir, Your Honor.

19 THE COURT: You may step down. Thank you very
20 much you.

21 Do you wish him to be excused?

22 MS. LIVESAY: Yes, please.

23 MR. HELMS: Yes, Your Honor, please.

24 THE COURT: No objection to him being excused?

25 MR. BOUCHETTE: No, sir.

JOYCE ALAND - DIRECT EXAMINATION

1 THE COURT: Thank you.

2 Call your next witness.

3 MR. HELMS: At this time the State would call
4 Joyce Aland to the stand.

5 (JOYCE ALAND, having been duly sworn,
6 testified as follows:)

7 THE WITNESS: Joyce Aland, A-L-A-N-D.

8 (State's Exhibits 108 through 114 marked.)

9 DIRECT-EXAMINATION

10 BY MR. HELMS:

11 Q How are you doing?

12 A I'm doing all right. How are you?

13 Q Good. Ms. Aland, where do you live?

14 A I live at [REDACTED] Highway 814.

15 Q What section of -- that is in Horry County?

16 A Yes, sir.

17 Q What part of Horry County is that in?

18 A The Myrtle Beach area.

19 Q It's a Myrtle Beach address?

20 A Yes. I really don't understand what you are
21 asking me.

22 Q Let me ask you this. Is that anywhere near
23 Socastee?

24 A Yes.

25 Q Is that anywhere near Peachtree Landing?

JOYCE ALAND - DIRECT EXAMINATION

1 A Yes.

2 Q Would you recognize that area if I showed it to
3 you on a map?

4 A Yes, sir.

5 Q I'll show you what is marked for identification
6 as State's 108; take a look and tell me if you know
7 what that is a general map of?

8 A Yes.

9 Q What is that?

10 A It is a general map of 814 and beyond, and like
11 behind. 814 is in the center, and then back here is
12 your woodland area, and then up front is the road area
13 for 544.

14 Q So is that an overview of the area you live in?

15 A Yes, sir.

16 Q And can you see where your house is indicated on
17 there?

18 A Yes, sir.

19 Q Let me ask you a question. Do you know where the
20 defendants live?

21 A Yes, sir.

22 Q You do? Do you know in relation to where your
23 house is, where theirs is?

24 A You take a left out of my driveway and go all the
25 way to the end of the road where the stop sign is, and

JOYCE ALAND - DIRECT EXAMINATION

1 they live there to the left. They have a private
2 drive.

3 Q Is that indicated on that map?

4 A Yes, sir.

5 Q Does that fairly and accurately represent that
6 area?

7 A Yes.

8 Q And where your house and the defendant's house
9 is?

10 A Yes, sir.

11 MR. HELMS: Your Honor, I seek to enter and
12 publish State's 108.

13 THE COURT: Any objection?

14 MR. BOUCHETTE: No objection.

15 THE COURT: Without objection, State's 108 is
16 admitted.

17 (State's Exhibit 108 admitted.)

18 Q (MR. HELMS) What kind of house do you live in?

19 A Trailer.

20 Q How long have you lived there?

21 A Lived there about ten years.

22 Q Do you live off of the beaten path, or on the
23 road?

24 A I live on the road.

25 Q What road are we talking about?

JOYCE ALAND - DIRECT EXAMINATION

1 A Highway 814.

2 Q Can you see Highway 814 from your house?

3 A Yes, sir.

4 Q Can you see your house from Highway 814?

5 A Yes, sir.

6 Q And tell me, again, how long you have lived
7 there?

8 A About ten years.

9 Q So you did certainly live there in December of
10 2013?

11 A Yes, sir.

12 Q Okay.

13 MR. HELMS: Court's indulgence, Your Honor.

14 THE COURT: Yes, sir.

15 (A brief pause in the proceedings.)

16 Q (MR. HELMS) So you did live there in December of
17 2013?

18 A Yes, sir.

19 Q Let me ask you this. Do you know about this
20 case?

21 A Yes, sir.

22 Q When did you first hear about this situation?

23 A I first heard about this situation -- I do
24 believe it was January.

25 Q Of 2014?

JOYCE ALAND - DIRECT EXAMINATION

1 A 2014, yes, sir.

2 Q And how did you hear about it?

3 A A friend that I worked with sent me an article
4 about the case that a person of interest lived on
5 Highway 814.

6 Q And how did you become involved?

7 A I Googled the address for the person of interest
8 and noticed it was up above me. I know her car was
9 found at the landing, which is technically at the --
10 below me, down the street. So if they were going that
11 way, they would have probably passed by my house, and I
12 have cameras, so it may have caught something.

13 Q You say you have cameras, what kind of cameras?

14 A Surveillance cameras.

15 Q Why do you have surveillance cameras?

16 A Because someone in the neighborhood was stealing
17 our property.

18 Q Back in 2013?

19 A Yes, sir.

20 Q So you put surveillance cameras up?

21 A Yes, sir.

22 Q Where did you put them?

23 A I put one on the front, right side of my house
24 pointing towards the road, and then there is one on the
25 left -- no, on the right, back side towards the back of

JOYCE ALAND - DIRECT EXAMINATION

1 my house that points towards the road. One points this
2 way, and one points this way.

3 Q So you have two video surveillance cameras
4 outside of your house?

5 A I have three, because I also have one in my
6 backyard.

7 Q Fair enough. But you had two pointing towards
8 the road?

9 A Yes, sir.

10 Q Can both of those cameras see the road?

11 A Yes, sir.

12 Q Can you see those cameras from the road?

13 A No, sir.

14 Q They are not big ole' RCA cameras?

15 A No, sir.

16 Q How big are they?

17 A They are about the size of a Coke can.

18 Q They are really small?

19 A Yeah.

20 Q Did you put those up yourself?

21 A My husband did.

22 Q Do you remember where he bought them from?

23 A He bought them from Walmart.

24 Q I'll show you what has been marked for
25 identification purposes as State's 110 through 114.

JOYCE ALAND - DIRECT EXAMINATION

1 Take a look and tell me if you recognize what is in
2 those pictures, please.

3 A (Witness examines document.)

4 (A brief pause in the proceedings.)

5 A Yes, sir.

6 Q (MR. HELMS) What are those pictures?

7 A Pictures of my house and my yard.

8 Q That is your house on 814?

9 A Yes, sir.

10 Q That is the house you lived in in 2013?

11 A Yes, sir.

12 Q Does that fairly and accurately depict your
13 house?

14 A Yes, sir, it does.

15 Q Does it change anything about your house in these
16 pictures?

17 A No, sir.

18 MR. HELMS: Your Honor, I seek to enter State's
19 110 through 114.

20 MR. BOUCHETTE: No objection.

21 THE COURT: Without objection, State's 110
22 through 114 admitted.

23 (State's Exhibits 110 to 114 admitted.)

24 MR. HELMS: May I publish at the appropriate
25 time?

JOYCE ALAND - DIRECT EXAMINATION

1 THE COURT: Yes, you may.

2 MR. HELMS: Thank you, sir.

3 Q (MR. HELMS) Joyce, we won't bother the jury
4 right now, but I want you to tell them what you see in
5 these pictures. What is that a picture of?

6 A That is the side of my house and --

7 THE COURT: Which one?

8 MR. HELMS: State's 113, Your Honor.

9 THE COURT: Excuse me for interrupting.

10 A It's the right side of my house showing towards
11 the backyard, side view.

12 Q (MR. HELMS) And what is that little thing in the
13 top, left corner?

14 A That is my camera.

15 Q Is that a camera that is pointing towards 814?

16 A Yes, sir.

17 Q Now, I'm showing you -- hang on, let me get the
18 right one. Not that one.

19 Now I'm showing you State's 111; what is that a
20 picture of?

21 A The front of my house.

22 Q What is that thing in the top, left corner?

23 A It's my camera.

24 Q That little thing right there?

25 A Yes, sir.

JOYCE ALAND - DIRECT EXAMINATION

1 Q So these are both your house, and in these
2 pictures you can see your cameras?

3 A Yes, sir.

4 Q Would you say they are easy to see, or hard to
5 see?

6 A They are hard to see. They are easy for me
7 because I know where they are at.

8 Q What about at nighttime driving by, do you think
9 you can see them.

10 A No.

11 Q Why not?

12 A Because they are dark in color and they don't
13 have like some security cameras do where they have a
14 red light when it records, mine doesn't do any of that.

15 Q So yours don't flash?

16 A No.

17 Q What do they do?

18 A They just record onto a DVR system.

19 Q Are they always recording?

20 A Yes.

21 Q Are they night vision cameras?

22 A No. I mean, it shows nighttime, but, like, not
23 like when the police use night vision and you can see
24 the people and stuff. It's not like that. They have
25 to walk into a light.

JOYCE ALAND - DIRECT EXAMINATION

1 Q So one of those motion-activated cameras?

2 A Yes.

3 Q Does a light come on when something activates it?

4 A The side of my house has a security light that
5 comes on that is tripped when something moves.

6 Q How close does something have to be to make it
7 trip?

8 A I couldn't say. I know from the road, the road
9 itself can trip it.

10 Q So a car coming by can trip the lights?

11 A Yes.

12 Q So every time a car comes by your house at night
13 the light comes on?

14 A Yes, sir.

15 Q Joyce, I'm showing you now what was marked for
16 identification purposes as State's 109; tell me if you
17 know what this is?

18 A This is a video of my house probably, that I
19 looked at.

20 Q Let's open it up and make sure.

21 A Okay. Yes. That's the video from my
22 surveillance system.

23 Q How do you know that is a video from your
24 surveillance?

25 A I watched it prior to this trial.

JOYCE ALAND - DIRECT EXAMINATION

1 Q How do you know that is a video you watched?

2 A Because I signed it with my name, my initials.

3 Q That's right.

4 Let's talk about this video. How did you first
5 come in contact with law enforcement, Joyce?

6 A I reached out to someone through the Elvis family
7 or friends, and they gave law enforcement my phone
8 number.

9 Q Why did you reach out to them?

10 A I reached out to them because I had went and
11 looked and I noticed that I had the dates of
12 December 18th and 19th on my DVR. I unplugged it
13 and gave it to them to see if there was any evidence
14 that might help find Heather.

15 Q Why did you unplug it?

16 A Because my system was getting ready to record
17 over that day.

18 Q And you knew that?

19 A Yes, sir.

20 Q So you unplugged it to save it?

21 A Yes, sir.

22 Q That was smart. So you reached out; how did you
23 reach out?

24 A Facebook.

25 Q And did you get anyone to come in contact with

JOYCE ALAND - DIRECT EXAMINATION

1 you?

2 A I did have someone message me. I don't remember
3 who it was now, but they sent me a Facebook message in
4 Messenger and got my information and wanted to know if
5 it was okay if they turned it over to the police, and I
6 said, yes, and then I ended up getting a call from a
7 detective.

8 Q Did you talk to the detective?

9 A Yes, sir, I did.

10 Q And what did you tell him, Joyce?

11 A I told him that I had found out that a person of
12 interest in the Heather Elvis case lived up 814 from my
13 house, and that if they went to the landing, they would
14 have to go by my house, and I had cameras and I wanted
15 them to make sure that there wasn't anything on them,
16 and that I unplugged it because it was getting ready to
17 record over it.

18 Q And what did the detective do after that
19 conversation?

20 A They came out and got my DVR.

21 Q Did you give it to them?

22 A Yes, sir.

23 Q Is this the video they took off that DVR?

24 A Yes, sir.

25 MR. HELMS: Your Honor, at this time I would

JOYCE ALAND - DIRECT EXAMINATION

1 enter State's 109 and seek to publish.

2 THE COURT: Any objection?

3 MR. BOUCHETTE: No objection.

4 THE COURT: Without objection it's admitted, and
5 you may publish it.

6 (State's Exhibit 109 admitted.)

7 Q (MR. HELMS) Joyce, I want to make sure you can
8 see the screen. Can you see if I move it out of the
9 way?

10 A Yes. It is at an angle, but, yeah, I can see it.

11 Q Better?

12 A Yes, sir.

13 MR. HELMS: Can you see it, Judge?

14 THE COURT: Uh-huh.

15 Q And, Joyce, how many angles did we take off the
16 surveillance system of yours?

17 A Two.

18 Q So those two cameras you said were pointing to
19 184, those are the two cameras that we took?

20 A Yes, sir. This is the front -- sorry, this is
21 the side view of my house. That is my white car. You
22 can't see the Trailblazer sitting next to it. This is
23 the side light comes on when a vehicle comes down 814.

24 Q Joyce, it says 4:44 up there, but is that right?

25 A No, sir, it's not.

JOYCE ALAND - DIRECT EXAMINATION

1 Q What time is it really?

2 A 3:44.

3 Q How do you know? Did you check the time
4 yourself?

5 A Yes. Because when we set the system, I thought
6 it would automatically update, because as much as it
7 cost, you thought it would, but it didn't update for
8 Daylight Savings Time, so it was off.

9 Q That makes sense.

10 What did I just see, Joyce?

11 A A vehicle go by.

12 Q What time is it now?

13 A 3:45.

14 Q Tell me about how far Peachtree Landing is from
15 your house.

16 A About five minutes there.

17 Q So we just saw a vehicle go by, and what happened
18 when the vehicle went by?

19 A The light came on.

20 Q Tell me what time the vehicle went by again?

21 A 4:45 -- 3:45 -- sorry, 3:45.

22 Q You said Peachtree is down the road about five
23 minutes?

24 A Yes.

25 Q And that is going the speed limit, give or take?

JOYCE ALAND - DIRECT EXAMINATION

1 A Yes, give or take.

2 (A brief pause in the proceedings.)

3 Q (MR. HELMS) Looking at the clock, about how long
4 has it been since we saw that car pass by?

5 A About ten minutes.

6 Q Are you sure --

7 A No, I'm sorry, it's been about five minutes.

8 Q There you go. And you said Peachtree Landing is
9 about how far from your house?

10 A About five minutes.

11 Q What do we see there?

12 A A truck passing by.

13 Q What just happened?

14 A My light came on.

15 Q About how long has it been since it went down
16 that way the first time?

17 A About ten minutes.

18 Q Joyce, I mean, everybody saw it. Recap for me
19 what we just saw.

20 A We saw a vehicle that looks to be a truck come up
21 814 towards Mill Pond, and then come back from eight --
22 Mill Pond down 814 past my house.

23 Q Let's talk about your house. You said your house
24 is on 814. What kind of neighborhood is 814?

25 A 814 is a residential area. I mean, you have your

JOYCE ALAND - DIRECT EXAMINATION

1 bad seeds here and there, but it is fairly quiet.

2 Q How many shopping malls do you have over there?

3 A None.

4 Q Gas stations?

5 A None.

6 Q Retail stores?

7 A None.

8 Q How many commercial buildings?

9 A None, that I'm aware of.

10 Q Is it -- do you have stores on 814?

11 A No.

12 Q Is it a well-lit road?

13 A No.

14 Q Is it a highly traveled road?

15 A No.

16 Q What about at 3:40 in the morning or near 4

17 o'clock in the morning, are there a lot of people out
18 there?

19 A No.

20 Q What kind of people do you usually see on 814?

21 Tourists?

22 A No. Residential people heading to whether it be
23 a gas station or a grocery store, or something like
24 that.

25 Q And you lived there how long?

JOYCE ALAND - DIRECT EXAMINATION

1 A About ten years.

2 Q You don't get a lot of sightseers on 814 at 4:00
3 a.m.?

4 A No, sir.

5 Q Did you watch this video before you gave it to
6 law enforcement?

7 A No.

8 Q You have seen it a bunch now, though, haven't
9 you?

10 A Yes. When the DVR left, I didn't know what was
11 on there, but I know now.

12 Q On that DVR, you said there was another camera?

13 A Yes.

14 Q And another angle?

15 A Yes, sir.

16 Q Generally speaking, what does the other angle
17 show?

18 A It shows a vehicle coming up 814 from that
19 towards Mill Pond, and then it shows the vehicle, which
20 looks like a truck based on the taillights, go by
21 headed back down 814.

22 Q Basically shows the same thing we just saw?

23 A Yes, sir.

24 Q Just at a different angle?

25 A Yes, sir.

JOYCE ALAND - DIRECT EXAMINATION

1 MR. HELMS: If the defense wishes, I can publish
2 it, but her testimony is sufficient for me.

3 MR. BOUCHETTE: If they don't want to publish it.

4 MR. HELMS: It's in evidence.

5 THE COURT: It's in evidence.

6 MR. HELMS: Yes, sir.

7 Q (MR. HELMS) Do you know the defendant in this
8 case?

9 A No, sir.

10 Q Have you ever had an altercation with the
11 defendant in this case?

12 A No, sir.

13 Q Did you ever meet him before you called law
14 enforcement in 2013?

15 A No, sir, not personally.

16 Q Have you ever met him?

17 A Not to my knowledge. I mean, he might have been
18 in line at the gas station or something.

19 Q Do you have anything against the defendant?

20 A No, sir.

21 Q You have no beef with him?

22 A No, sir.

23 Q So you have no reason to be up here testifying
24 against him except to tell the truth?

25 A No, sir. And if you want to know the honest

JOYCE ALAND - DIRECT EXAMINATION

1 truth, when I found out I had video evidence, I thought
2 it was going to clear his name. He was just a person
3 of interest. So I wasn't turning it in because I
4 thought, oh, they can get someone on this.

5 Q Right. So you weren't trying to get anyone in
6 trouble?

7 A No, sir.

8 Q Let me ask you this last question. About how
9 long is it from the first time the car passes your
10 camera to the second time?

11 A About ten minutes.

12 Q You said Peachtree Landing is how far from your
13 house?

14 A About five minutes.

15 Q Joyce, this is my last question. Don't you think
16 it would be coincidental that that car passes by, and
17 then ten minutes passes by again?

18 A I don't believe in coincidences.

19 MR. BOUCHETTE: Objection.

20 THE COURT: That calls for pure speculation on
21 her part. Sustained and strike the answer --
22 disregard the answer.

23 MR. HELMS: Yes, Your Honor. No further
24 questions.

25 THE COURT: Cross-examination.

JOYCE ALAND - CROSS-EXAMINATION

1 MR. BOUCHETTE: Court's indulgence, Your Honor.

2 THE COURT: Yes.

3 (A brief pause in the proceedings.)

4 CROSS-EXAMINATION

5 BY MR. BOUCHETTE:

6 Q Is it Ms. Allen?

7 A Aland.

8 Q I apologize.

9 A It's okay; it happens all the time.

10 Q You said that you became aware of, basically, the
11 investigation in January of 2014?

12 A Yes, sir.

13 Q Do you remember approximately when in January?

14 A No. No, sir. I know it was towards the
15 beginning. I do believe in January.

16 Q So early January 2014?

17 A Yes, sir.

18 Q And you were also aware already by that time of
19 the defendant's name, correct?

20 A No, sir. I found out -- that night that article
21 was sent to me was the night I found out his name.

22 Q But at that point that is when you became aware?

23 A Yes.

24 Q So Sidney Moorer's name was already linked to
25 this investigation as early as January 2014, based on

JOYCE ALAND - CROSS-EXAMINATION

1 your experience?

2 A He was a person of interest in the case, yes,
3 sir.

4 Q Because this was known to you, correct?

5 A It was in the article, yes, sir.

6 Q And you are not involved in law enforcement or
7 the Solicitor's Office, or anything like that?

8 A No, sir.

9 Q Now, safe to say this case had a lot of publicity
10 by early January 2014?

11 A I wouldn't say it was a lot, because I didn't
12 know about it until a friend I worked with sent it to
13 me. I didn't see it on Facebook, because I'm not big
14 into the news. I didn't see it or anything like that.

15 Q They forwarded you an article of some kind?

16 A Yes, sir.

17 Q Now, the cameras you had on there -- you can see
18 it from the pictures, but these are small cameras?

19 A Yes, sir.

20 Q And you just bought these to try to deter theft
21 or intruders, something like that?

22 A Yes, sir. And it actually worked, so.

23 Q Well, good. It's not -- these were not sort of a
24 high-grade security type of camera we would see in a
25 commercial setting; safe to say?

JOYCE ALAND - CROSS-EXAMINATION

1 A No, sir. But based on cop shows, it seems less
2 grainy.

3 Q It worked for what you needed?

4 A Yes.

5 Q The other thing is dates and time. I know you
6 mentioned or stated to us that the times showing were
7 incorrect; do you have the capability to fix or alter
8 those dates and times?

9 A Yes, sir. Whenever you -- like, when I set up
10 the system, I set up the time, but I didn't go back
11 into the system after Daylight Savings Time and fixed
12 the time then. I thought it would automatically do it.

13 Q But, nonetheless, whoever the owner/operator is
14 can go in and make whatever changes and manipulate it?

15 A It would have to be on that date when you are
16 looking.

17 Q But the time is still subject to you or anyone's
18 adjustment, correct?

19 A Like before, on the day it is recorded.
20 Afterwards, you can't do anything with it.

21 Q You can't do that, okay. We mentioned about this
22 article indicating, you know, implicating Sidney as
23 part of this investigation. Apparently, by that point,
24 they also already had known his address; is that
25 correct?

JOYCE ALAND - CROSS-EXAMINATION

1 A The address was in the article, yes.

2 Q Because that is how you became aware of it,
3 right?

4 A Yes.

5 Q Now, you heard a lot about in discussing the
6 relationship to Peachtree Landing as it relates to your
7 house, Peachtree Landing is not on your road, correct?

8 A No, sir.

9 Q The direction you are going, you could be going
10 towards Highway 544 if you go the one way, correct?

11 A Which way? There is three exits to 544 off of
12 814.

13 Q Right. Well, let me ask you this. When you go
14 814, it goes in two different directions, right?

15 A Yes, it goes north and south.

16 Q But it's not at the end -- in other words,
17 Peachtree Landing is not at the end of --

18 A No, it doesn't dead end into Peachtree Landing.
19 It dead ends into Mill Pond Road, and you can take a
20 left to go to 544, or you can take a right and go down
21 Mill Pond, and then the landing is on the right.

22 Q In other words, we can't tell, based on this,
23 whether or not that vehicle was going to Peachtree
24 Landing, or not?

25 A I can't, no, sir.

JOYCE ALAND - REDIRECT EXAMINATION

1 Q Okay.

2 MR. BOUCHETTE: No further questions of this
3 witness.

4 THE COURT: Redirect.

5 MR. HELMS: Very brief, Judge.

6 REDIRECT-EXAMINATION

7 BY MR. HELMS:

8 Q Mr. Bouchette was asking you about the roads and
9 the outlooks, and all of that good stuff. I'll show
10 you what is in evidence as State's 32 real quick, and I
11 won't even ask you to come down.

12 MR. HELMS: Judge, is this okay?

13 THE COURT: Sure.

14 MR. HELMS: Thank you, sir.

15 Q (MR. HELMS) What are we looking at here, Joyce?

16 A We're looking at 814 coming down, and this is
17 Mill Pond Road, and then Peachtree Landing is off this
18 way, and the green line up there, I believe, is
19 Fentlock Drive, and it can go out to 544 at a red
20 light.

21 Q Point to your house.

22 A Right there.

23 Q The red dot?

24 A Yes, sir.

25 Q Now, this is 814, this is the road you live on?

JOYCE ALAND - REDIRECT EXAMINATION

1 A Yes.

2 Q And this is Mill Pond Road?

3 A Yes.

4 Q Let me ask you this. If you are coming down --
5 and where is that right there, whose house is that?

6 A The Moorers' residence.

7 Q If you are coming down this way and go to 544,
8 what is the quickest way off 814?

9 A Straight out the driveway to the red light.

10 Q But if you are coming down this way, and you
11 change your mind, you want to go to 544 --

12 A That would be Roscoe, which is right here.

13 Q Let me ask you, if you pass Roscoe by any chance,
14 you don't know it is there and you keep going and get
15 down here past your house, what is the next quickest
16 way to 544?

17 A Right here is a side road called Peachtree Road
18 that can lead out to streets down to the right that
19 leads to 544.

20 Q Let's say by some unfortunate accident you forget
21 about Roscoe, forget about Peachtree and you pass your
22 house and get here, what is the next quickest way to
23 544?

24 A Mill Pond Road. That is the last exit off of
25 Highway 814.

JOYCE ALAND - REDIRECT EXAMINATION

1 Q Once you pass your house, there is no more exits
2 to 544?

3 A No, sir.

4 Q Let me ask you this. What all is down here past
5 your house, south of your house, between your house and
6 Peachtree Landing; what is there?

7 A Couple of construction places and houses,
8 trailers, people with horses.

9 Q Are any of those places opened to the public at
10 3:00 a.m.?

11 A No, sir.

12 Q 4:00 a.m.?

13 A No, sir.

14 Q So is there any destinations between your house
15 and Peachtree Landing to go to at 3:00 and 4:00 a.m.?

16 A No, sir.

17 Q What is the next real destination after your
18 house going south on Mill Pond Road?

19 A Well, when you get here to the end of Mill Pond,
20 you can go right down Peachtree Lane, or you can take a
21 left and it will end up coming out to, I think it is,
22 Dick Pond Road, Swing Bridge Road.

23 Q That is what earlier testimony told us. Now, let
24 me ask you this. If you do that, and you go all the
25 way down to Mill Pond Road, and you take a left to go

COURT AND ATTORNEYS

1 out to Dick Pond Road, you reach Dick Pond Road, come
2 back and go past your house, would it take longer than
3 ten minutes?

4 A Yes, sir, it would.

5 Q Okay. I'm good with that.

6 MR. HELMS: No further questions.

7 THE COURT: Recross.

8 MR. BOUCHETTE: No, Your Honor.

9 THE COURT: You may step down.

10 Do you wish the witness to be excused?

11 MR. HELMS: Please.

12 THE COURT: You are free to leave.

13 You don't have an objection, do you?

14 MR. BOUCHETTE: Absolutely not. Thank you.

15 THE COURT: Ladies and gentlemen, we'll take a
16 recess, let you go to your jury room. Do not begin
17 your deliberations. Be back in about 10, 15 minutes.

18 (The jury exits at 1:06 p.m., and the
19 following is heard out of the presence of the jury.)

20 THE COURT: Anything from the State?

21 MR. HELMS: Your Honor, I'm curious, how long do
22 you intend for us to go today?

23 THE COURT: 6 o'clock, if you have witnesses.

24 MR. HELMS: Yes, sir. Understood, sir.

25 THE COURT: That is what we told them, that we

COURT AND ATTORNEYS

1 were willing to do that. I mean, that was the plan.

2 MR. HELMS: Yes, sir.

3 THE COURT: If you need to chat or something,
4 I'll be happy to.

5 MR. HELMS: Just for the Court and defense's
6 edification, my next witness should last about the
7 same length.

8 THE COURT: Last one for today?

9 MS. LIVESAY: For today.

10 MR. HELMS: We'll try to get one more.

11 THE COURT: Please do. Thank you, sir.

12 MR. HELMS: Yes, sir.

13 THE COURT: We'll be at ease.

14 (A recess was taken.)

15 THE COURT: Thank you. Please be seated.
16 State ready to proceed?

17 MR. HELMS: Yes, Your Honor.

18 THE COURT: Defense ready?

19 MR. BOUCHETTE: Yes, Your Honor.

20 THE COURT: Defendant is present. We had an
21 in-chambers conference and I indicated to you all the
22 folder given to me by Waccamaw Mental Health, and I
23 found that there is nothing in the documents that I
24 reviewed that would be probative to this case. I've
25 now prepared an order that I'm sealing it, resealing

DAVID QUANDT - DIRECT EXAMINATION

1 it, placing this order that it be retained with all
2 other records with the clerk's file and to be open
3 only by further order of the court.

4 MR. GALMORE: Yes, sir, Your Honor.

5 MR. HELMS: Yes, sir.

6 THE COURT: Thank you. Let's bring in our jury.

7 (The jury enters at 4:25 p.m., and the
8 following is heard in the presence of the jury.)

9 THE COURT: Thank you very much, ladies and
10 gentlemen. We are ready to continue.

11 Solicitor, you may call your next witness.

12 MR. HELMS: Your Honor, at this time the State
13 will call David Quandt.

14 (DAVID QUANDT, having been duly sworn,
15 testified as follows:)

16 THE WITNESS: David Quandt, Q-U-A-N-D-T.

17 (State's 115 through 122 marked.)

18 DIRECT-EXAMINATION

19 BY MR. HELMS:

20 Q Mr. Quandt, how are you doing today?

21 A Good.

22 Q Where are you from?

23 A Socastee, Myrtle Beach.

24 Q Originally?

25 A Since I was like four years old, so I guess so.

DAVID QUANDT - DIRECT EXAMINATION

1 Q How long -- how long have you lived there?

2 A 40 years.

3 Q You look good for your age.

4 A Thank you. Thank you. You, too.

5 Q I ain't that old.

6 (Laughing in courtroom.)

7 Q So you live in Socastee?

8 THE COURT: I think your response is appropriate.

9 Q (MR. HELMS) Let's change the subject (laughing).

10 You live in Socastee?

11 A Yes, sir.

12 Q Where do you live, exactly?

13 A Off of Peachtree Road.

14 Q Is that near Peachtree Landing?

15 A Yes, sir.

16 Q What do you do for a living?

17 A Partner in D&S Sitework.

18 Q Where?

19 A D&S Sitework, D&S Recycling.

20 Q What is D&S?

21 A We have a land clearing debris operation on Mill
22 Pond Road. We do site work, build subdivisions,
23 parking lots, whatever. Contractor, utility
24 contractor.

25 Q Do you have an actual facility there?

DAVID QUANDT - DIRECT EXAMINATION

1 A Yes, sir.

2 Q On Mill Pond Road?

3 A Yes, sir.

4 Q So your place of work is not far from your house,
5 is it?

6 A Correct.

7 Q So you are very familiar with that area; fair to
8 say?

9 A Yes, sir.

10 Q The lady that just testified, and I don't know if
11 you were in here, Joyce, do you know her?

12 A Not -- just from this trial.

13 Q How about the defendant, do you know him?

14 A No, sir.

15 Q I'll show you what is marked for identification
16 purpose as State's 115. Take a look at that map and
17 tell me if you recognize what that is?

18 A Map of the area.

19 Q Map of what?

20 A Map of Socastee.

21 Q And, on that map, does it indicate where your
22 place of work is?

23 A Yes, sir.

24 Q Does it accurately reflect where your place of
25 work is?

DAVID QUANDT - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Is that a fair representation of the area where
3 you work and live?

4 A Yes, sir.

5 MR. HELMS: Your Honor, I would seek to enter
6 State's 115 and publish?

7 THE COURT: Any objection?

8 MR. GALMORE: No objection.

9 THE COURT: Without objection, 115 is admitted,
10 and you may publish it.

11 (State's Exhibit 115 admitted and published.)

12 Q (MR. HELMS) I'll publish the hard copy. David,
13 this is 115 that was entered into evidence; point to
14 Peachtree Landing.

15 A Right here.

16 Q I understand. So this is Mill Pond Road?

17 A Yes, sir, correct.

18 Q And this is 814?

19 A Yes, sir.

20 Q All right. Point to D&S Sitework.

21 A Right here.

22 Q In relation to Peachtree Landing, where is D&S
23 Sitework?

24 A Maybe a mile from Peachtree Landing.

25 Q How long does it take to get from D&S Sitework to

DAVID QUANDT - DIRECT EXAMINATION

1 Peachtree Landing, give or take?

2 A Two to three minutes.

3 Q Here, you told this, State's 115. Tell me,
4 again, your place of business, D&S Sitework, is on Mill
5 Pond Road, right?

6 A Right.

7 Q And you said it is about how far from Peachtree
8 Landing?

9 A Two, three minutes driving time.

10 Q Driving time. When you drive, what route do you
11 take? Let's say you start at Peachtree Landing and you
12 want to go to D&S Sitework, where do you go from?

13 A Peachtree Road and take a left on Mill Pond Road.

14 Q And D&S Sitework is on the left or the right?

15 A Left.

16 Q On the left, on Mill Pond Road?

17 A Yes, sir.

18 Q Is D&S Sitework hidden by trees?

19 A No, sir.

20 Q I mean, is it a big building, little building,
21 what?

22 A Small.

23 Q Small building?

24 A Small building, I would say.

25 Q I'll take that back.

DAVID QUANDT - DIRECT EXAMINATION

1 Is it fenced in?

2 A No, sir -- well chain link fence.

3 Q So you have a fence around it?

4 A Chain link, yeah.

5 Q Tell me about that area. Is that area well lit
6 at night?

7 A No, sir.

8 Q Is it a high traffic area?

9 A No, sir.

10 Q So it's not very traveled?

11 A No, sir.

12 Q Is the area a large commercial area?

13 A No, sir.

14 Q A lot of stores?

15 A No, sir.

16 Q Shopping malls?

17 A No.

18 Q Gas stations?

19 A No.

20 Q What is it mostly?

21 A Residential.

22 Q Residential. Is most of the traffic in that area
23 residential?

24 A Yes, sir.

25 Q Is that during the daytime and nighttime?

DAVID QUANDT - DIRECT EXAMINATION

1 A I would say so, yeah.

2 Q So let me ask you this. In the middle of the
3 night, say 3:00 or 4:00 a.m., do you have a lot of
4 traffic?

5 A No, sir.

6 Q The traffic that you do have, mostly residential?

7 A Yes, sir, correct.

8 Q All right. I'll show you what also has been
9 marked for identification purposes as State's 117
10 through 122.

11 MR. HELMS: Mr. Galmore, would you like to see
12 these?

13 (A brief pause in the proceedings.)

14 Q (MR. HELMS) I want you to take a look at 117
15 through 122 and tell me if you know what each of those
16 are, sir. Just tell me if you know.

17 A They are pictures of our office building on Mill
18 Pond.

19 Q That is D&S Sitework?

20 A Yes, sir.

21 Q Do those photographs accurately reflect D&S
22 Sitework?

23 A Yes, sir.

24 MR. HELMS: Your Honor, I seek to introduce
25 State's 117 through 122.

DAVID QUANDT - DIRECT EXAMINATION

1 THE COURT: Any objection?

2 MR. GALMORE: No, sir.

3 THE COURT: Without objection, State's 117
4 through 122 is admitted.

5 (State's Exhibits 117 through 122 admitted.)

6 MR. HELMS: Your Honor, may I publish at the
7 appropriate time?

8 THE COURT: Yes, you may.

9 Q (MR. HELMS) I'll show you State's 122. Tell me
10 what that is a view of in the orientation. Tell me
11 where we are.

12 A We're standing on Mill Pond Road looking at the
13 office building.

14 Q So this is a straight-on view from the road?

15 A Yes, sir.

16 Q To the office building. All right.
17 What about that one, State's 121?

18 A Same thing.

19 Q Just --

20 A To the right a little bit.

21 Q To the right a little bit?

22 A Yep.

23 Q So there is not a lot of trees in front of it
24 covering the building?

25 A No, sir.

DAVID QUANDT - DIRECT EXAMINATION

1 Q You have a clear shot to the road, right?

2 A Yeah.

3 Q Talk to me.

4 A Same thing, zoomed in a little closer.

5 Q State's 120.

6 State's 119?

7 A Same view, but to the left.

8 Q So we're seeing a different angle from the

9 building?

10 A Correct.

11 Q From the left side a little bit.

12 State's 118?

13 A Same thing, zoomed in a little bit from Mill

14 Pond.

15 Q So we're zoomed in from the same angle, though?

16 Tell me what that is?

17 A Zoomed in of the side of the building.

18 Q That is State's 117. Now, while we're looking at

19 State's 117, I want you to tell me, in State's 117, on

20 the corners of the building, what am I looking at?

21 What are those things right there?

22 A Cameras.

23 Q What kind of cameras?

24 A Surveillance cameras.

25 Q And why do you have surveillance cameras?

DAVID QUANDT - DIRECT EXAMINATION

1 A For surveillance.

2 Q Why did you put them up; were you having
3 problems?

4 A No, sir, just precautionary, just to have
5 cameras.

6 Q Do they work?

7 A Yes, sir.

8 Q Did you have them up in 2013?

9 A Yes, sir.

10 Q Did they work then?

11 A Yes, sir.

12 Q What do the cameras see? What do they actually
13 show when you are looking at the cameras?

14 A Just anything around the office. It shows Mill
15 Pond Road, right-hand side of our yard and behind us.

16 Q Okay. So it does show Mill Pond Road?

17 A Yes, sir.

18 Q How many angles do you have on Mill Pond Road?

19 A Two.

20 Q Let me ask you this. Is it the same orientation
21 as it was back in 2013?

22 A Yes, sir.

23 Q So you haven't moved the cameras?

24 A No, sir.

25 Q When a car passed by your business on Mill Pond

DAVID QUANDT - DIRECT EXAMINATION

1 Road in 2013, could you see it on the cameras?

2 A Uh-huh.

3 THE COURT: Is that a yes?

4 A Yes, sir.

5 Q Is that true even if it was nighttime?

6 A Yes, sir.

7 Q Are they night vision cameras?

8 A I think infrared cameras, so they do pick up at
9 night.

10 Q Let me ask you this. Have you had an opportunity
11 to become involved in this case somehow?

12 A Yes, sir.

13 Q You said you didn't know the defendant, though,
14 right?

15 A Correct.

16 Q So how -- tell this jury how you became involved.

17 A I guess the Saturday or Sunday after Heather or
18 the missing person went missing, I had a detective come
19 up to my office and inquired about the cameras on the
20 building, that is how we all got involved in it.

21 Q So you say the Saturday after Heather
22 disappeared?

23 A It was a weekend, because we weren't at work. We
24 were off that day, so I assume it was a Saturday or
25 Sunday.

DAVID QUANDT - DIRECT EXAMINATION

1 Q You don't remember exactly how many days it was
2 after she disappeared?

3 A It was recently.

4 Q Did you know anything about Heather Elvis before
5 the officer came to you?

6 A No, sir.

7 Q And what did the officer want with you?

8 A He was inquiring about the cameras on the
9 building and wanted to know if he could look at the
10 footage, and we proceeded to go inside. They were
11 pretty new, and I wasn't real familiar with them, so he
12 came back and wanted to know if he could come back
13 Monday morning and with IT people and look at the
14 camera footage, and that is when they did that with
15 him, Monday morning.

16 Q Did you look at it with him?

17 A Yes, sir.

18 Q What did you look at?

19 A They pulled the camera -- the footage up and
20 wanted me to line up the date and time to look at is,
21 so we looked at it, and they told me what time to play,
22 and that is what we did.

23 Q Were you able to isolate a specific date and
24 time?

25 A Yes, sir.

DAVID QUANDT - DIRECT EXAMINATION

1 Q What date did he want to look at?

2 A The -- I think it was 18th.

3 Q Okay. Of December?

4 A Yeah, about 3:00 or 4:30 in morning.

5 Q You were able to isolate that time and show him.

6 A Yes, sir. We recorded it.

7 Q And you watched it with him?

8 A Yes, sir.

9 Q And what did you see in general terms on that
10 camera?

11 A You see a vehicle go by, and a vehicle come back
12 by.

13 Q When you say "go by," go towards what direction?

14 A Going towards Peachtree Road, and then I think it
15 was six or seven minutes later it came back by again.

16 Q Before we get into that, I want to show you what
17 is entered into evidence as State's 32. Do you see D&S
18 Sitework on State's 32?

19 A Yes, sir.

20 Q Point it out for me, please.

21 A (Witness complied.)

22 Q So D&S Sitework, on this map anyway, is south of
23 Highway 814, correct?

24 A Correct.

25 Q And once you -- if you are coming from Highway

DAVID QUANDT - DIRECT EXAMINATION

1 814, and going down towards D&S Sitework, is there any
2 outlook past D&S Sitework before you get to Peachtree
3 Road?

4 A No, sir.

5 Q So there is no road between D&S Sitework and
6 Peachtree Road?

7 A Not a major road. I think there is trailer park
8 right here.

9 Q But no outlet?

10 A No outlet.

11 Q Nothing connected to 544 or Dick Pond Road?

12 A No, sir.

13 Q So if you want to go from D&S Sitework to, say,
14 Peachtree Landing, you are going this direction?

15 A Correct.

16 Q And the same thing, if you want to go to Dick
17 Pond Road, you are still going towards Peachtree Road?

18 A Correct.

19 Q But there is nowhere to get out and go other than
20 all the way down to Peachtree?

21 A No, sir.

22 Q About, David, how long would it take, give or
23 take, to go from D&S Sitework to Peachtree Landing?

24 A One way, two or three minutes.

25 Q Okay. I'm showing now you what is marked for

DAVID QUANDT - DIRECT EXAMINATION

1 identification purposes as State's 116. Tell me if you
2 recognize what that is.

3 A Yes, sir.

4 Q What is that?

5 A CD, video, D&S video camera.

6 Q D&S video?

7 A Yes, sir.

8 Q Is that the footage you provided to law
9 enforcement?

10 A Yes, sir.

11 Q That is the footage from December 18th, early
12 morning hours of December 18th?

13 A Yes, sir.

14 Q Have you seen this footage?

15 A Yes, sir.

16 Q Has it been tampered with in any way?

17 A No, sir.

18 Q How do you know that is the footage you have
19 seen?

20 A I signed it.

21 Q Your initials are on it?

22 A Yes, sir.

23 Q And they haven't been tampered with?

24 A No, sir.

25 MR. HELMS: Your Honor, I seek to enter State's

DAVID QUANDT - DIRECT EXAMINATION

1 116.

2 THE COURT: Any objection?

3 MR. GALMORE: No, sir.

4 THE COURT: 116 is admitted, and you may publish
5 it.

6 (State's Exhibit 116 admitted.)

7 Q (THE COURT) David, how many times have you
8 watched this video?

9 A Oh, God, 10, 15 times probably.

10 Q When is the last time you watched this video?

11 A 8/12/2019.

12 Q So recently?

13 A Recently.

14 Q So on this --

15 MR. HELMS: Hold it. Don't play it yet, Tonya,
16 please.

17 Q On this video, what do you see on this video one
18 more time; sum it up before we watch it.

19 A This is a view of the parking lot and Mill Pond
20 Road from our -- if you are standing on Mill Pond Road,
21 it is the left-hand side of the building. It is
22 actually focusing in on our gate on Mill Pond.

23 Q But you can see Mill Pond Road?

24 A Yes, sir.

25 Q What are we going to see here in a minute?

DAVID QUANDT - DIRECT EXAMINATION

1 A You'll see a vehicle drive by going towards
2 Peachtree Road.

3 Q And then what?

4 A About six, seven minutes later, you see it come
5 back by again, going towards Highway 814 or 544.

6 Q In between a vehicle going down and coming back,
7 in between that time, do you see anything else?

8 A No, sir.

9 MR. HELMS: All right, Tonya, please.

10 THE COURT: Can you turn it a tad, just a little
11 bit?

12 MR. HELMS: Yes, sir, Your Honor.

13 THE COURT: That's fine. Can everyone see that?

14 (State's 116 published to the jury.)

15 Q What am I looking at?

16 A You see a vehicle coming by going towards
17 Peachtree Road.

18 Q Can you tell what kind of vehicle?

19 A No, sir.

20 Q Do you see the timestamp on that screen?

21 A Yes, sir.

22 Q Tell me about that. Is that correct?

23 A Yes, sir.

24 Q How do you know?

25 A When they set it up, installed it, that is what

DAVID QUANDT - DIRECT EXAMINATION

1 they put in there.

2 Q So you had it professionally installed?

3 A Yes.

4 Q And you installed it correctly, and you haven't
5 tinkered with it at all?

6 A No, sir.

7 Q When did you have those cameras installed?

8 A I think summer of 2013.

9 Q So these were new cameras when you put them up?

10 A Very new, yes, sir.

11 Q Tell me what you see now.

12 A A vehicle coming back from Peachtree Road going
13 back to Mill Pond on the left.

14 MR. HELMS: Tonya, pause it for me for one
15 moment, please.

16 Q So at 3:39, when you see a vehicle go down
17 towards Peachtree Road, and 3:46 when you see a vehicle
18 come back from Peachtree Road, did you see anything
19 else happen?

20 A No, sir.

21 Q About how much time elapsed, in your
22 guesstimation, between the vehicle going down and
23 coming back?

24 A About six minutes, seven minutes.

25 Q So three, three-and-a-half minutes down there,

DAVID QUANDT - DIRECT EXAMINATION

1 and three, three-and-a-half minutes back up?

2 A Yes, sir.

3 Q And would that be consistent with the distance
4 between D&S Sitework and Peachtree Landing?

5 A Yes, sir.

6 Q David, tell me again how many times you've seen
7 this video?

8 A 10, 15 times, probably.

9 Q So here is what I'm going to ask you. For the
10 next half hour on this video -- have you seen the next
11 half hour?

12 A Yes, sir.

13 Q More than once?

14 A Yes, sir.

15 Q David, for the next half hour, what happens?

16 A Nothing.

17 Q What do you mean?

18 A Nothing. No one drives by or nothing.

19 Q Does anyone walk by?

20 A No, sir.

21 Q Do you see any movement on this video for the
22 next half hour?

23 A No, sir.

24 MR. HELMS: Your Honor, we provided the video to
25 the defense a long time ago and I'm sure as diligent

DAVID QUANDT - DIRECT EXAMINATION

1 as they are, they have seen it as many times as I
2 have.

3 THE COURT: If the jury wants to view the
4 whole --

5 MR. HELMS: Oh, absolutely. But I'm asking if
6 they would be willing -- and they know what's on it --
7 to stipulate that nothing happens for the next half
8 hour, I would be willing to fast forward to the point
9 where something does happen next.

10 THE COURT: Any objection to fast forwarding?

11 MR. GALMORE: Your Honor, their trial strategy is
12 their choice; they can fast forward it.

13 THE COURT: You have access to it. You can do
14 whatever you wish as well. That is fine.

15 MR. GALMORE: Yes, sir.

16 THE COURT: That will be fine.

17 MR. HELMS: We are at 3:46. If you will, take us
18 to the next marker, which I think is about 4:09, 4:10,
19 somewhere in there.

20 Q You are sure nothing happens in that half hour?

21 A Nothing.

22 Q No cars pass by?

23 A No, sir.

24 Q No people walk by?

25 A No, sir.

DAVID QUANDT - DIRECT EXAMINATION

1 Q What am I seeing now?

2 A A vehicle coming from Peachtree Road, coming by
3 the building.

4 MR. HELMS: Pause it.

5 A Seems to be an emergency vehicle of some sort.

6 Q And you've seen this -- you've had the advantage
7 of seeing this way more than the jury has, but tell us
8 what you just said again, please.

9 A You can see a reflection off the side of the
10 vehicle as it comes by.

11 Q Some kind of an emergency vehicle?

12 A Yes, sir.

13 Q So when you say "a reflection," like the
14 reflective stickers?

15 A Reflective stickers, yes, sir.

16 Q David, between this -- and you said, but I'll ask
17 it one time -- between this and the last vehicle we see
18 go that same direction, did you see any cars go by?

19 A No, sir.

20 MR. HELMS: Push play, please.

21 Q Is that the last thing on the footage, David?

22 A Yes, sir.

23 MR. HELMS: Thank you, ma'am.

24 Q David, I'll show you once again State's 32. If
25 you are on -- if you were on Highway 814, say if you

DAVID QUANDT - DIRECT EXAMINATION

1 were right here at Ms. Joyce Aland's house, and you
2 wanted to go to Peachtree Landing, which way would you
3 have to go?

4 A Mill Pond Road, take a right, Peachtree Road,
5 take a right.

6 Q If you were up here at the defendant's house and
7 wanted to go to Peachtree Landing, which way would you
8 go?

9 A Go down 814 to Mill Pond, take a right on Mill
10 Pond to Peachtree.

11 Q Let me ask you this. If you were at the
12 defendant's house and you wanted to go to 544, which
13 way would you go?

14 A 814 to the red light.

15 Q What if this road was blocked off, how would you
16 get to 544?

17 A Come down here and take Roscoe Road.

18 Q What if that road is blocked off and Roscoe Road
19 is flooded, which way would you go to 544?

20 A 814 -- I mean come to Mill Pond, take a left to
21 544.

22 Q So you would take any of these roads to get to
23 544 before you go all the way down to Peachtree Road?

24 A Yes, sir.

25 Q Why?

DAVID QUANDT - DIRECT EXAMINATION

1 A It makes sense.

2 Q What do you mean?

3 A Just a lot shorter.

4 Q So you would never go all the way down if these
5 roads were open? You would never go all the way down
6 814, down to Mill Pond Road, down to Peachtree Road and
7 all the way back out to Dick Pond?

8 A No, sir.

9 Q What is between D&S and Peachtree Landing, David;
10 what is between there? What landmarks are there?

11 A Nothing.

12 Q What destinations are there?

13 A None.

14 Q What stores are there?

15 A None.

16 Q Is your business open at 4:00 a.m.?

17 A No, sir.

18 Q You have trucks at your business?

19 A Yes, sir.

20 Q Are your trucks operating at 4:00 a.m. on that
21 road?

22 A No, sir.

23 Q Are you up at 4:00 a.m. on that road?

24 A I doubt it, no, sir.

25 Q Was that your truck on that video?

DAVID QUANDT - CROSS-EXAMINATION

1 A No, sir.

2 MR. HELMS: Please answer any questions the
3 defense may have.

4 THE COURT: You may cross-examine, Mr. Galmore.

5 CROSS-EXAMINATION

6 BY MR. GALMORE:

7 Q Mr. Quandt, I believe you said you became
8 involved in the case when a police officer came to D&S
9 Sitework?

10 A Yes, sir.

11 Q Did you reach out to the police, or they simply
12 showed up one day?

13 A They showed up at the gate.

14 Q Did you receive any information from the Internet
15 or friends or rumors, information prior to the police
16 showing up --

17 A No, sir.

18 Q -- about this case? Okay.

19 And once you spoke to the police officers, did
20 you try to look at the tape without them?

21 A We tried. We went in there to look at the
22 footage, but didn't know how to use it then.

23 Q Didn't know how to use it?

24 A Right.

25 Q So you didn't try to, like, become an

DAVID QUANDT - CROSS-EXAMINATION

1 investigator on your own or anything like that?

2 A No, sir.

3 Q Did you reach out and contact any members of the
4 Elvis family to let them know you had a tape?

5 A No, sir.

6 Q So you said that you do not know Mr. Moorner,
7 correct?

8 A No, sir.

9 Q You do not know Heather Elvis, do you?

10 A No, sir.

11 Q So you have no friends to reward or enemies to
12 punish?

13 A No, sir.

14 Q Now, on December 18th, I think you just
15 testified for Mr. Helms, December 18th, 2013 between
16 3:00 and 4:30 a.m., you were not at work at that time?

17 A No, sir.

18 Q No. Okay.

19 So did you -- you weren't in the office when we
20 looked at this video?

21 A No, sir.

22 Q So it is not as though we see the video and then
23 you are walking outside? You are not there?

24 A No, sir, not there.

25 Q So did you see Sidney Moorner on

DAVID QUANDT - CROSS-EXAMINATION

1 December 18th in the early morning hours, 3:00 to
2 4:30 a.m.?

3 A No, sir. I didn't see him personally, no.

4 Q No. All right.

5 MR. GALMORE: No further questions, sir. Thank
6 you very much.

7 THE COURT: Thank you, Mr. Gilmore (sic).

8 Redirect.

9 MR. HELMS: No, Your Honor.

10 THE COURT: Thank you. You may step down, sir.

11 Is that the last witness for the State today?

12 MR. HELMS: Yes, Your Honor, unfortunately.

13 THE COURT: Ladies and gentlemen, you get an
14 early break today. Please, remember, you are not at
15 liability to talk about this case. Continue to
16 observe the no contact with anyone or discussion with
17 anyone, no watching of any videos, no watching of any
18 or reading any newspapers, and certainly no
19 independent research.

20 I ask you to be back in your jury room by 9:30 in
21 the morning. Have a good evening, thank you.

22 (The jury exits at 4:58 p.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?

DAVID QUANDT - CROSS-EXAMINATION

1 MR. HELMS: No, Your Honor.

2 THE COURT: Anything from the defendant?

3 MR. BOUCHETTE: No, Your Honor.

4 THE COURT: Do you want to have a conference now
5 about tomorrow so we can get a feel, please?

6 (A discussion was had off the record.)

7 THE COURT: We'll be at recess until 9:30 in the
8 morning, thank you.

9 **(WHEREUPON, THE PROCEEDINGS OF SEPTEMBER 12, 2019**
10 **CONCLUDED. THE FOLLOWING WAS HAD ON SEPTEMBER 13,**
11 **2019 OUT OF THE PRESENCE OF THE JURY.)**

12 (State's Exhibits 123 through 125 marked.)

13 THE COURT: Thank you. Please be seated. TGIF.

14 MR. HELMS: Yes, sir.

15 THE COURT: All right. Any matters from the
16 State before we bring in the jury?

17 MR. HELMS: No, Your Honor.

18 MS. LIVESAY: Actually, Jarrett brought up
19 something to me and I just didn't know when you wanted
20 to handle it. You wanted something regarding Grant
21 outside the jury.

22 MR. BOUCHETTE: Yes, Your Honor. What I
23 anticipate today is an expert witness coming forward,
24 and we're not participating objecting to his
25 qualifications in the field she's seeking him to be

DAVID QUANDT - CROSS-EXAMINATION

1 certified in; however, we do anticipate running an
2 objection as to him being able to render some of his
3 conclusions and his opinions as a result of what he is
4 certified in. So I think we could do that outside the
5 presence of the jury.

6 THE COURT: I think I know what some of your
7 questions are going to be. I've been down the road
8 before. The qualifications, when we render an
9 opinion, when you qualify him, he's entitled to render
10 an opinion. The extent and the breadth of that
11 opinion is limited to his qualifications, and therein
12 lies where it will be challenged. It will be
13 challenged only if he testifies to something that you
14 think is beyond his expertise, then I would excuse the
15 jury and we'll be happy to hear and go into how -- for
16 him to establish the necessary foundation for why
17 that -- for instance, peer review, scientific aspects
18 of it, all of those, I think there are four specific
19 things that I'm required --

20 MR. BOUCHETTE: Yes, sir, to establish.

21 THE COURT: Yes. So I don't -- I've already made
22 a determination that the essence of his -- and I'm --
23 I mean, we can have that relied upon. You have the
24 record of it. I mean, we had a hearing specifically
25 in this case where there was testimony taken, so that

DAVID QUANDT - CROSS-EXAMINATION

1 stands, as far as I'm concerned, from the standpoint
2 of the science itself, of looking at lights, being
3 able to look at vehicles and analyze -- really analyze
4 videography, is what basically it is, from a
5 standpoint of looking at a film and breaking it down.

6 But the extent -- for instance, I don't know that
7 he'll do that. I think my statement was at that time
8 -- and you made it in your opening statement, and I
9 remember that, my reaction was similar to yours -- is
10 that they are the same as fingerprints; I don't think
11 that's scientific.

12 MR. BOUCHETTE: Yes, sir.

13 THE COURT: Now, I said -- when I read his
14 report, he said in my experience I've never seen
15 lights that differ. That is totally different. That
16 is not -- he's not saying categorically there is no
17 such thing there is any light, he's saying from
18 personal experiences, which he's entitled to do that.
19 There is a distinction there, as far as I'm concerned.
20 But that is just an example of it, Mr. Bouchette.

21 From the standpoint of him testifying as an
22 expert, if you want to -- if you want me to revisit
23 that, and maybe there is some issue that I didn't
24 address earlier, and I'll be happy to do that, but I
25 think -- I think he's qualified to testify, but that

DAVID QUANDT - CROSS-EXAMINATION

1 doesn't open -- open the door.

2 Let me give you an example. Thank God we had
3 this Kate Watson and this Progeny, because before we
4 couldn't do that. If you recall, the basis was we
5 would charge the jury that that is a matter for the
6 jury as to whether they are qualified to render that
7 opinion based on their experience that they testified
8 to, and it is a jury issue. Then, finally, we moved
9 to Dalton, and the federal courts had it for a long
10 time, and I'm glad we finally got there, because I was
11 trying a case after Watson in Berkeley, it was an
12 automobile accident case, and a chiropractor was
13 testifying who treated him. He testified to what he
14 had done about getting mobility back in whatever part
15 of the body, I don't know whether it was shoulder or
16 what, but, anyway, he also had a potential brain -- a
17 head injury. All he wanted to ask him about
18 qualifications -- to testify about brain damage. I
19 said, well, he's been qualified as a chiropractor, now
20 you have to get a lot more before he can start talking
21 about brain damage.

22 MR. BOUCHETTE: Right. Right.

23 THE COURT: So that's -- that's what I'm saying.
24 Within the realm of his qualifications, I don't know
25 what his opinion will be, but I'll be happy to

DAVID QUANDT - CROSS-EXAMINATION

1 entertain an objection at that point, okay.

2 MR. BOUCHETTE: Yes, sir. Thank you.

3 THE COURT: Does that clarify, Solicitor?

4 MS. LIVESAY: Sure. We're ready.

5 THE COURT: Thank you all. I appreciate that.

6 Okay. Bring in our jury.

7 (The jury enters at 9:35 a.m., and the
8 following is heard in the presence of the jury.)

9 THE COURT: Good morning, ladies and gentlemen.
10 Thank you. I hope you had a restful evening and all.
11 We all said thank goodness it is Friday and we look
12 forward to our brief break here. I know you are
13 looking forward to that mental rest, too; that is so
14 important.

15 Before we start our last day of the week, we'll
16 ask you again: Do each of you swear or affirm that in
17 every respect you have honored the Court's
18 instructions by not talking with anyone, not allowing
19 anyone to talk with you, not reading anything,
20 watching anything or doing any independent research
21 concerning this case; if you have done that and can
22 make that commitment, does every juror say "I do"?

23 (Jury panel all confirms with "I do.")

24 Anybody unable to do that, please raise your
25 right hand.

JEREMY LEACH - DIRECT EXAMINATION

1 Thank you, again. And I appreciate your patience
2 with me for doing that, but it is so very important to
3 the integrity of this process that we do that, so
4 thank you tremendously.

5 Solicitor, good morning. You may call your first
6 witness this morning.

7 MS. LIVESAY: Good morning, Judge. At this time
8 we call Jeremy Leach.

9 (JEREMY LEACH, having been duly sworn,
10 testified as follows:)

11 THE WITNESS: Jeremy Leach, L-E-A-C-H.

12 DIRECT-EXAMINATION

13 BY MS. LIVESAY:

14 Q If you don't mind, I know you have your uniform
15 on, but tell this jury where are you employed?

16 A I'm employed with the South Carolina Highway
17 Patrol.

18 Q How long have you been employed there?

19 A Since 2000, 19 years.

20 Q And what kind of training have you undergone with
21 the highway patrol, from the beginning, all the way
22 until now?

23 A I am -- I'm a member of the MAIT Unit with the
24 highway patrol, we are the collision reconstruction and
25 investigative division of the highway patrol. So we've

JEREMY LEACH - DIRECT EXAMINATION

1 gone -- I started at basic training. I initially
2 started with the city of Hartsville Police Department
3 prior to joining the highway patrol. There, I started
4 with collision reconstruction classes, in addition to
5 the basic training. In 2000, I was employed with the
6 highway patrol, repeated the highway patrol's portion
7 of the basic training, and then again started
8 additional collision reconstruction classes,
9 investigation classes, that sort of thing.

10 Q Okay. And what are your current
11 responsibilities?

12 A I'm the lieutenant within the unit responsible,
13 essentially, for the State, as far as the MAIT Unit
14 itself. We handle the more serious, more severe
15 collisions, investigations that are investigated by the
16 highway patrol. We also assist outside law enforcement
17 agencies with different types of cases as needed,
18 because we are a state agency and have a little more
19 resources than some of the other police departments
20 have.

21 Q And I hate to even ask, but what does MAIT stand
22 for?

23 A It's Multi-disciplinary Accident Investigative
24 Team.

25 Q And what were your responsibilities back in 2014,

JEREMY LEACH - DIRECT EXAMINATION

1 January/February of 2014?

2 A In 2014, I was responsible for the MAIT Unit in
3 the Pee Dee region, which is the eight counties in the
4 northeast region of the state, central location. The
5 office for that is out of Florence, but we handle
6 everything from Darlington and Marlboro to Horry,
7 Georgetown and Williamsburg; we cover all of those
8 eight counties.

9 Q Now, did you happen to assist us with this
10 current case, with Heather Elvis and Sidney Moorner?

11 A Yes.

12 Q And if you don't mind, tell this jury what you
13 did?

14 A In, I think, January of 2014, the Horry County
15 Police Department contacted me, said they were
16 investigating a case, a missing person's case. They
17 had some surveillance video from a couple different
18 locations, and they were trying to identify a vehicle
19 that was captured on that surveillance to see if they
20 could -- they wanted to see if we could determine what
21 kind of vehicle that was.

22 Q If you don't mind, before you get too ahead of
23 me, because I'm making a little note, in your every day
24 as a highway patrolman, tell this jury a little bit why
25 they would be calling you trying to figure out what

JEREMY LEACH - DIRECT EXAMINATION

1 kind of vehicle it is?

2 A It's actually something we deal with quite a bit
3 with our hit-and-runs. We deal with video now, and
4 there is surveillance video everywhere. So we're using
5 video to calculate speeds of vehicles involving
6 crashes, identify vehicles in hit-and-runs, vehicles
7 that leave the scene. So it's something that we do
8 quite frequently as just part of our collision
9 reconstruction.

10 Q Okay. And, like, for example, correct me if I'm
11 wrong, with a hit-and-run, there would be a video of
12 the vehicle, and then you would decipher the type of
13 vehicle, the color and that way you would then know who
14 you're looking for -- or at least the vehicle you are
15 looking for?

16 A Correct. We may, depending on the type of
17 hit-and-run case, it may be video from before the
18 collision scene, or it may be video from after the
19 collision occurred. We'll take that video and we'll
20 look at the characteristics of the video to figure out
21 as much as we can determine off of that video what
22 we're looking for. It helps us to generate a suspect
23 vehicle standard, something that we're looking for that
24 we can tell our road troopers, hey, we believe this
25 vehicle involved in this is -- whatever it may be.

JEREMY LEACH - DIRECT EXAMINATION

1 Q Toyota Corolla or --

2 A Correct.

3 Q Now, tell us this crowd what you did to help them
4 in January.

5 A We looked at the videos that we were supplied and
6 just looked at the characteristics of the vehicle as it
7 traveled through the different locations. We were able
8 to, from that, give them an idea of what we believed
9 the vehicle was based off of some of the
10 characteristics we observed in the video. The -- for
11 example, the headlight of the pickup.

12 MR. BOUCHETTE: Objection, Your Honor. We're
13 getting into testimony that requires an expert
14 opinion.

15 MS. LIVESAY: He's not giving his opinion, Your
16 Honor. He's just telling --

17 THE COURT: At this point, I haven't heard him
18 say other than saying some of the things he looks at,
19 is what I understand. So, at this point, I overrule,
20 but you can renew if necessary. Thank you.

21 MR. BOUCHETTE: Okay.

22 A For example, the headlight we see on the vehicle
23 as it travels through the location, at this point it
24 matched many of our MAIT pickup trucks. It was a very
25 distinctive L-shape --

JEREMY LEACH - DIRECT EXAMINATION

1 MR. BOUCHETTE: Objection.

2 THE COURT: What is the basis?

3 MR. BOUCHETTE: Same thing, drawing a conclusion
4 which he has not been established as having an
5 expertise --

6 THE COURT: Subject to your objection, I'll allow
7 him to testify it matches a pickup truck. I'm not
8 saying what kind of pickup truck or anything else,
9 other than it matches a pickup truck. So I will allow
10 that based on his experience and his training in
11 working in what he does. Thank you. Overruled.

12 A So the headlight, the shape we observed in the
13 video, is very similar to that of our MAIT pickup
14 trucks at that point. So different characteristics
15 like that helped us to identify specific year, make,
16 model, range that we were able to give to the Horry
17 County Police Department and say this is what we
18 believe the vehicle was or this is the range of
19 vehicles that you should be looking for.

20 Q (MS. LIVESAY) Okay. And, at this time, it is
21 very preliminary in the investigation; is that
22 correct?

23 A Yes.

24 Q And were you able to give them what you believe
25 when you saw it, some of the characteristics?

JEREMY LEACH - DIRECT EXAMINATION

1 A Yes.

2 Q And could you determine, just by looking at it
3 with your experience as a highway patrolman and with
4 MAIT investigation, were you able to determine if it
5 was a truck or a vehicle?

6 A We believed it was a pickup truck, yes.

7 Q What, if anything else, can you testify when I
8 looked at this vehicle with my experience, with MAIT
9 and with the highway patrol, this is what I believe I
10 saw?

11 MR. BOUCHETTE: Objection, same basis.

12 THE COURT: The question is what did he see.
13 Overrule your objection. As long as it is confined to
14 what he saw.

15 A We observed the vehicle had very, very bright
16 headlights compared to the other vehicles that were in
17 the video. The pickup truck appeared to have a chrome
18 toolbox in the bed of the pickup truck as well. It was
19 dark in color.

20 Q (MS. LIVESAY) And that is basically what you
21 gave to the police department?

22 A Yes.

23 Q It is dark in color pickup truck with a toolbox?

24 A Correct.

25 Q Now, did you stop there, or did you continue on

JEREMY LEACH - DIRECT EXAMINATION

1 with the investigation trying to figure out more about
2 the details of the truck?

3 A No, we continued.

4 Q If you don't mind, tell this jury what else you
5 did?

6 A The --

7 Q Hold on -- before I ask -- I'm sorry.

8 At that time in January, you didn't actually have
9 a truck to compare it to; is that correct?

10 A Correct.

11 Q So what did you do next?

12 A In February of 2014, we were getting contacted by
13 the Horry County Police Department. They had seized a
14 vehicle from a suspect in the case, and they asked us
15 if there was anything that we needed with the vehicle
16 to aid him in what we had done prior, anything we could
17 do further with it. I said, well -- I discussed it
18 with them and said if we can actually drive that actual
19 vehicle through the surveillance locations where the
20 video captured it the first time, that video can be
21 used to compare to the video that was captured on the
22 original night of the case that they were
23 investigating, the original night of the disappearance.

24 So pursuant to a search warrant, we were able to
25 take that exact vehicle and drive it through the two

JEREMY LEACH - DIRECT EXAMINATION

1 locations that it was captured on video and record
2 that actual vehicle driving through those locations.

3 Q Okay. So, at that time, just so I'm clear, you
4 took what I guess we know as a known vehicle that
5 belonged to the Moorers?

6 A Correct.

7 Q And you drove it through the same cameras, the
8 same thing that went on December 18th?

9 A Correct.

10 Q And you were using that to compare to, at the
11 time, the questioned vehicle, the one they were trying
12 to figure out what is this vehicle and who does it
13 belong to?

14 A Correct.

15 Q Now, tell this jury, before you did the
16 recreation, did you do it in similar lighting? Tell me
17 about that. How exact was the recreation?

18 A Yes. We tried to make sure that the streetlights
19 were the same, it was close to -- it was close to a
20 full moon on the original night, we tried to get it as
21 close to that as possible when we did ours. On the
22 very first -- the mobile -- the home security video,
23 there's actually -- they have a motion sensor light
24 that comes on occasionally. When we would drive that
25 pickup truck through, it would set -- it was big enough

JEREMY LEACH - DIRECT EXAMINATION

1 it would set that motion light off. Other vehicles it
2 wouldn't set it off with, so we would always -- we
3 would wait until that motion light turned back off
4 again and then drive the vehicle through again and let
5 it turn the motion light on as it did in the original
6 video. We tried to make it as consistent and accurate
7 as possible.

8 Q Okay. I understand. And did you also drive it
9 down Mill Pond?

10 A Yes.

11 Q Now, prior to driving that vehicle -- and you did
12 this, when, in February?

13 A February 24th, I believe.

14 Q Now, prior to doing this, did you alter anything
15 on the defendant's truck before you drove it through
16 for the recreation?

17 A No.

18 Q Did you ever remove a headlight, touch a
19 headlight, even lift the hood and mess with anything
20 inside?

21 A No.

22 Q All you did was kind of walk around it, and then
23 do the recreation?

24 A Correct.

25 Q Now, after you did the recreation, did you help

JEREMY LEACH - DIRECT EXAMINATION

1 us at a later date?

2 A Yes.

3 Q Tell this jury how you helped us at a later date
4 after you did the recreation.

5 A After those set of videos were collected, I was
6 again contacted. Grant Fredericks was coming in and
7 was going to do a similar reenactment or recreation
8 with vehicles and those videos. We were able to shut
9 down the roadways in both of those locations and assist
10 with moving different vehicles within that -- vehicles
11 with similar characteristics that were used as a test,
12 move those through those locations as well to capture
13 their images on the video so that those vehicles could
14 be compared to the original suspect vehicle.

15 Q Was that also done again at the same location on
16 814, and the same location on Mill Pond?

17 A Yes, it was.

18 Q Now, did you give that recreation to our office
19 after it was completed?

20 A Yes.

21 Q And do you know whether or not Grant used that
22 recreation?

23 A I believe he did, yes.

24 MS. LIVESAY: No further questions for this
25 witness.

JEREMY LEACH - CROSS-EXAMINATION

1 THE COURT: You may cross-examine, Mr. Bouchette.

2 MR. BOUCHETTE: Court's indulgence, Your Honor.

3 THE COURT: Sure. Take your time.

4 (A brief pause in the proceedings.)

5 MR. BOUCHETTE: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. BOUCHETTE:

9 Q Mr. Leach, good morning.

10 A Good morning.

11 Q For the benefit of the jury, you mentioned you
12 were part of the MAIT Team, correct?

13 A Correct.

14 Q And the MAIT Team, for their benefit, they do a
15 number of different things, correct?

16 A Yes.

17 Q That is a division of SLED, right?

18 A No.

19 Q That is not a division of SLED?

20 A No.

21 Q But on the MAIT Team, you commonly analyze what
22 we call "accident reconstruction"?

23 A Correct.

24 Q For example, if there is some type of accident,
25 you look at skid marks and take measurements and try to

JEREMY LEACH - CROSS-EXAMINATION

1 determine maybe how fast someone was going?

2 A Correct.

3 Q That is one of the things. And I think your
4 testimony was that you started analyzing the various
5 images that you could compile to try to see what you
6 could gather from those images; is that correct?

7 A Correct.

8 Q Now, let me ask you this. I think you said you
9 first reviewed the video in -- was that late January of
10 2014?

11 A Yes.

12 Q And, at that point, you couldn't make out the
13 make or model of the vehicle, correct?

14 A In January?

15 Q That first -- what I'm looking for is your first
16 review of the video, you couldn't determine a make or
17 model with the video of the vehicle?

18 A Yes, we could.

19 Q You could at that point?

20 A Yes.

21 Q Now, that was based on a visual observation?

22 A Yes.

23 Q Just by looking at the video?

24 A Yes.

25 Q But then you couldn't tell that it was

JEREMY LEACH - CROSS-EXAMINATION

1 necessarily any particular vehicle, correct?

2 A That's correct.

3 Q You couldn't determine to the exclusion of any
4 other vehicles of similar make and model, correct?

5 A We couldn't say it was this particular vehicle.
6 We could say it was this type of year-range model
7 vehicle, yes.

8 Q That's right. And then you went and took another
9 test on, I think you said, February 24th or 4th?

10 A February 24th, I believe.

11 Q February 24th. So that was after the arrest of
12 Mr. Moorer, correct?

13 A Yes.

14 Q And you conducted a more thorough investigation
15 or analysis of this video you had, correct?

16 A Yes.

17 Q And, at that point, you were not able to conclude
18 that it was any one particular Ford F-150 to the
19 exclusion of any others, correct?

20 A Correct.

21 Q And there is no identifying attributes such as a
22 license plate or tag or anything like that, correct?

23 A No. We were able to identify a vehicle with
24 specific characteristics, year, make, model, range,
25 chrome toolbox, that sort of thing, not this vehicle

JEREMY LEACH - CROSS-EXAMINATION

1 with this license plate.

2 Q Correct. That's right. At this point, you are
3 identifying class and characteristics, correct?

4 A Correct.

5 Q So that is at the February 24th review. Now,
6 at some point, do you recall how much later the
7 experiment with Grant Fredericks was?

8 A I know it was cold, but I don't remember the
9 date.

10 Q Would it have been the following winter?

11 A It may have been, yes.

12 Q So about -- maybe between nine months and a year
13 later sound accurate to you?

14 A I really don't know for sure what the date was;
15 I'd hate to guess.

16 Q And I'm not asking for an exact date, but would
17 it be safe to --

18 THE COURT: He can't answer, because he said I
19 don't know. Go for something else, please.

20 MR. BOUCHETTE: I understand. One moment.

21 THE COURT: Sure.

22 (A brief pause in the proceedings.)

23 MR. BOUCHETTE: Nothing further.

24 THE COURT: Redirect.

25 MS. LIVESAY: No, sir, Your Honor.

GRANT FREDERICKS - DIRECT EXAMINATION

1 THE COURT: You may step down.

2 Do you wish this witness to be excused?

3 MS. LIVESAY: Yes, please.

4 MR. BOUCHETTE: No objection.

5 THE COURT: Call your next witness, please.

6 MS. LIVESAY: Thank you. At this time we call
7 Grant Fredericks.

8 (GRANT FREDERICKS, having been duly sworn,
9 testified as follows:)

10 THE WITNESS: Grant Fredericks,
11 F-R-E-D-E-R-I-C-K-S.

12 DIRECT-EXAMINATION

13 BY MS. LIVESAY:

14 Q Mr. Fredericks, if you don't mind, start off by
15 telling the jury what company you run.

16 A I own a company called Forensic Video Solutions
17 located in Spokane, Washington.

18 Q If you don't mind, start off by telling them a
19 little bit about what your company does.

20 A My company has about five different functions
21 that we do in the area of the examination and video
22 evidence, one is training. I teach forensic video
23 analysis in various parts of North America primarily,
24 but also in other parts of the world. My forensic
25 examination workflow is split between criminal defense,

GRANT FREDERICKS - DIRECT EXAMINATION

1 criminal prosecution, civil plaintiff work and civil
2 defendant work.

3 Q And if you don't mind, tell this jury a little
4 bit about how I originally came across you.

5 A I believe that I was working for a criminal
6 defendant for the attorney, who was representing a
7 criminal defendant, and I was doing the examination of
8 the video in that defense case, and then concurrent or
9 sort of after that period, then I was contacted on an
10 unrelated case by the prosecutor's office, and I recall
11 -- normally, I would feel that that might put me in a
12 conflict, so I notified the criminal defense attorney,
13 and he felt that the case was completely unrelated and
14 that it would not be inappropriate for me to also be
15 working for the prosecutor's office at that time.

16 Q Okay. So even here in Horry, you worked for
17 defense attorneys and you've worked for our office?

18 A Yes. And I've worked a few cases for the defense
19 here.

20 Q And would you say, overall, it was pretty much
21 50/50 percent of the time you were working for defense
22 attorneys, and 50 percent you are working for
23 prosecutors?

24 A We have a motto in our office where I have a case
25 manager, and my case manager's job, in part, is to keep

GRANT FREDERICKS - DIRECT EXAMINATION

1 a balance. So when we get contacted by a potential
2 client, we, number one, look for conflicts to make sure
3 we are not in a conflict of interest. Secondly, how
4 balanced are we? Are we a little heavy at that time
5 doing defense work? In that case, we might not take
6 another defense case, we will wait until we get more
7 balanced on the prosecution side. She does a very good
8 job of balancing that, so we kind of even it off.

9 Q And how long have you been testifying as an
10 expert in forensic video analysis?

11 A I've been examining video for over 30 years.
12 I've been testifying throughout Canada, the U.S., U.K.,
13 New Zealand and other countries probably for the past
14 25 years, roughly.

15 Q And about how many times have you been qualified
16 as an expert?

17 A Many hundreds of times.

18 Q And let me ask you this. Tell me a little bit
19 about your background.

20 A I have a degree in broadcast television. My
21 emphasis was on television engineering. I worked in
22 television for a few years, became a police officer. I
23 worked virtually video evidence while I was a street
24 police officer. I also worked major crime, and I was a
25 dog handler. Then, eventually, I was the head of the

GRANT FREDERICKS - DIRECT EXAMINATION

1 forensic video unit of my police agency. At about that
2 time, I began teaching at the FBI National Academy.
3 I've been a contract instructor at the FBI National
4 Academy for the past 17 years. I am a co-author of the
5 national standards for in-car video recording systems
6 for law enforcement, and I consult for companies that
7 are both producing tools for -- in coding in digital
8 video both for CCTV, body-worn video and in-car video,
9 and I lecture throughout the country and teach.

10 Q That is what I was going to ask you: How long
11 have you been teaching in this field?

12 A I started -- I was a lead instructor for an
13 organization called the Law Enforcement and Emergency
14 Services Video Association, which teaches video
15 analysis from both public and private sector throughout
16 the world, the lead instructor for that organization
17 starting about 1998 until 2014.

18 Q And is there any kind of certification in this
19 field an individual can get?

20 A Yes.

21 Q And do you have that certification?

22 A Yes.

23 Q And what is your role in that process?

24 A Well, initially, I was the head of the curriculum
25 development for that organization, and then I taught

GRANT FREDERICKS - DIRECT EXAMINATION

1 for their primary one-week courses. The courses ranged
2 from just the examination of video, basically to the
3 recovery, to doing things like photographic video
4 comparison, and that involved the reverse projection of
5 historic images or contemporary images to compare
6 objects, like vehicles.

7 So I do those four primary courses, the
8 curriculum development, and then I was on a few
9 committees to establish standards for video analysis.
10 I continue to teach for that organization periodically
11 at conferences, and then I do my own teaching.

12 MS. LIVESAY: At this time, Your Honor, I ask
13 that he be recognized as an expert in forensic video
14 analysis.

15 THE COURT: Do you care to examine his
16 qualifications?

17 MR. BOUCHETTE: Not as to qualifications.

18 THE COURT: Very well. Tell me specifically --

19 MS. LIVESAY: Forensic video analysis.

20 THE COURT: Very well. He will be permitted --

21 MS. LIVESAY: Is that correct, Mr. Fredericks?

22 THE WITNESS: Yes. Right.

23 THE COURT: I qualify him, and he will be
24 permitted to render opinions in the field of forensic
25 video analysis.

GRANT FREDERICKS - DIRECT EXAMINATION

1 MS. LIVESAY: Thank you, Judge.

2 Q Now, if you don't mind, forensic video analysis
3 is probably something most jurors, and even I, am not
4 that familiar with until just recently. Tell this
5 crowd before we get into my case, what does that
6 entail?

7 A Forensic video analysis is the examination and
8 comparison and evaluation of video, primarily for legal
9 matters. Primarily, it entails, today, the examination
10 of digital video. It was analog up until about the --
11 around just after 9/11. So in about 2001, 2002 we
12 began to migrate away from analog video into more of a
13 digital realm, so that affected training, affected
14 standards.

15 But the examination includes things like traffic
16 video comparisons, looking at how a piece of fabric or
17 clothing would appear on a video system given
18 different lighting conditions, to how the known
19 clothing might appear under different lighting
20 conditions. So when we look at comparison, we look at
21 something that is captured in the video, and we call
22 that the "questioned object," "questioned clothing,"
23 "questioned individual" or "questioned vehicle." If
24 something is recovered or seized by police and we want
25 to do a comparison, we call that the "known object."

GRANT FREDERICKS - DIRECT EXAMINATION

1 So when we do comparisons, we look at comparing
2 "question" to "known."

3 All objects appear slightly differently depending
4 on the light, and because we're really looking at the
5 reflection of light, and the consideration of how
6 digital technology may affect the reliability of the
7 recording. So compression, that is the process of
8 reducing the amount of data required to be stored on
9 the computer, to then later play back and replicate as
10 accurately as possible the images, they are subject to
11 all sorts of frailties based on edge pattern because
12 of compression, reflection of light, colors. So I
13 have to consider all of those issues, look at the
14 level of compression, how the compression creates the
15 images before I can even begin to examine the video.

16 The sampling of an image and the colors and the
17 brightness is dependent on the type of compression
18 technology. And so in evaluation of that technology,
19 it helps me to understand the limitations, and then I
20 can evaluate the reliability and the weight that
21 should be applied to that comparison. So that is
22 comparison work. It involves what is called "reverse
23 projection," involves what is referred to "headlight
24 spread analysis," identification of vehicles, clothing
25 identification, often results in an evaluation of

GRANT FREDERICKS - DIRECT EXAMINATION

1 infrared issues. So there is quite a bit to it.

2 Q That was pretty technical. Let me ask you to
3 make sure I'm clear. You need to bring it two steps
4 down probably for me.

5 Basically, if we had an individual that walked in
6 a convenient store and there was a surveillance camera
7 running and he was wearing, you know, a hoody, jeans,
8 whatever. He robs the convenient store and walks out.
9 Would your job as a forensic video analyst be to --
10 from the video -- find out the characteristics of the
11 individual, and then possibly compare those
12 characteristics to a known individual?

13 A The first process, under that circumstances,
14 would be to evaluate the recording system and to ensure
15 that the display system, the monitoring viewing, is
16 compatible to the original recording.

17 For instance, in that scenario, the compression
18 could cause a shirt that has a vertical stripe to
19 appear to have a jagged stripe or jagged design if the
20 video were not recovered correctly, if it were not
21 displayed correctly. So the first thing I want to do
22 is understand the technology that was used. Does it
23 accurately represent what it purports to show? A
24 whole slew of other things. Once that is done, then,
25 yes. Once I'm confident that I can reliably do the

GRANT FREDERICKS - DIRECT EXAMINATION

1 examination, and it is fit for the purpose that I've
2 been asked to do the examination, then I would compare
3 the questioned person on video, make observations
4 about what would be reliable, then I would look at the
5 known photographs perhaps of someone that might be in
6 custody and that clothing, and then do a comparison.

7 Q Okay. Now, in this case we asked you to compare
8 a known vehicle to the questioned vehicle seen on 814
9 and Mill Pond?

10 A Yes.

11 Q Had you done anything like that before?

12 A Yes.

13 Q And about how many times have you done something
14 like that previously?

15 A Many times in the U.K., Canada and throughout the
16 U.S.

17 Q So that is a big portion of what you do as a
18 forensic video analyst?

19 A It is a common request to examine vehicles, yes.

20 Q And you use the same technique throughout,
21 whether this is a vehicle or an individual or something
22 else, you are looking to ensure the integrity of what
23 is on the video?

24 A The methodology is the same. The process might
25 be different depending on the nature of the recording

GRANT FREDERICKS - DIRECT EXAMINATION

1 system and the kind of light that is being evaluated.

2 Q But the methodology is the same?

3 A Yes.

4 Q And that is pretty much what you do as a big part
5 in forensic video analysis?

6 A Yes.

7 Q And knowing the video equipment is key to make
8 sure when you look -- when you look at it, you are,
9 indeed, viewing the characteristics of whatever is on
10 that video?

11 A Yes.

12 Q Now, when did we contact you and ask you for
13 help?

14 A I believe I was first contacted around
15 October 2014.

16 Q And if you don't mind, tell this jury why we
17 contacted you. When you got involved, what was the
18 ultimate goal we were looking for?

19 A Well, the first contact was through my case
20 manager.

21 Q Okay.

22 A Who informed me about the request. I then
23 contacted the defense attorney, and once it was
24 determined that that defense attorney was okay with
25 there is no conflict, then I made contact with the

GRANT FREDERICKS - DIRECT EXAMINATION

1 prosecutor's office. The question was: We have video
2 of a vehicle, which I refer to as a questioned vehicle,
3 and the question was can it be compared? Can it be
4 contrasted with images of a known vehicle if we provide
5 those to you.

6 Q And, at that time, what did you do?

7 A At that time, I did an examination of video
8 images that were provided to me of a questioned
9 vehicle. There were two sets of locations where the
10 vehicle was depicted, and I made observations about the
11 vehicle, including the headlight spread pattern. That
12 is one thing that is quite unique to a vehicle, and if
13 there is enough resolution, if there is enough
14 reliability in the edge pattern, that an examination
15 and an evaluation of the headlight spread pattern can
16 be made, then I may proceed to say this is fit for the
17 purpose of doing that comparison.

18 Q Okay. And did you receive from us both the video
19 footage from 814 and Mill Pond?

20 A Yes.

21 Q And did you also receive from us a reenactment
22 from, what we call here, MAIT, South Carolina Highway
23 Patrol, did with the vehicle?

24 A Yes.

25 Q And are those things you used to look at as

GRANT FREDERICKS - DIRECT EXAMINATION

1 ultimately part of your conclusion?

2 A Yes.

3 Q Okay. Now, if you don't mind, I want to go ahead
4 and ask you before we get into how you reached your
5 conclusion, I want to know were you able to determine
6 whether or not the known vehicle, which was Sidney
7 Moorer's, was, indeed, a match to the vehicle on the
8 surveillance camera from 814 to Mill Pond?

9 THE COURT: Don't answer that question.

10 MR. BOUCHETTE: Objection. My objection is that
11 this completely goes outside the expertise of the
12 witness.

13 THE COURT: You asked, Solicitor, because it is
14 more leading whether it is a match. You can ask him
15 was he able to make a determination, so rephrase your
16 question, please. I sustain the objection based on
17 that basis. You asked was it a match.

18 Q Were you able to make a determination?

19 A I made some observations initially. After a
20 series of pretty extensive testing, I was then able to
21 make a determination.

22 Q Okay. And are you prepared today to show us
23 everything that you did to ultimately reach what your
24 determination was?

25 A Yes.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q Okay. If you don't mind, first, tell us what
2 your determination was, and then I would like you to
3 show this jury how you were able to make that
4 determination.

5 MR. BOUCHETTE: Objection.

6 THE COURT: He's established the basis of it, but
7 whether it is -- whether it meets the test first,
8 before he renders an opinion.

9 Q Mr. Fredericks, just briefly, before we get into
10 the nitty-gritty of it what you did to reach your
11 determination.

12 A The methodology is to compare and contrast all of
13 the features of a questioned object, in this case a
14 Vehicle to a known vehicle. That evaluation and
15 comparison is normally done through what is called
16 "reverse projection." It is where we go back to the
17 scene, we project the historic images of the object car
18 driving by each of the areas, over on top of a
19 contemporary view.

20 So we go back to the scene, look through the
21 camera, overlay the old images, sort of in a 50/50
22 view, and then place the known object into the roadway
23 in precisely the same position under the same lighting
24 conditions. You make observations of all of the
25 reflection off of the vehicle. Does the bumper

GRANT FREDERICKS - DIRECT EXAMINATION

1 reflect the same position? Does the headlight or
2 taillight top the vehicle? All the reflective
3 features give it available light, like the
4 streetlights in the area. Do they all reflect exactly
5 the same? In other words, did the vehicle share all
6 of same class characteristics. By "class" I mean
7 shape, size, color and any other features that might
8 be on the vehicle, that would be the first test.

9 The reflection of the vehicle includes the
10 reflection of the disbursement of a headlight pattern
11 over the roadway. The -- there is significant
12 research, studies and publications establishing that.
13 Headlight spread pattern is unique from vehicle to
14 vehicle. Vehicles of the same class, make, model,
15 year, there are a lot of reasons why -- which we'll
16 probably get into -- that establishes that the
17 diffusion of the light, the angle of the headlight on
18 the ground, the reflection off of the highway can be
19 compared to establish the uniqueness of a vehicle.
20 That is part of the reverse projection, all of which
21 is just evaluating the reflection of light. And so
22 that is the methodology. That would establish that a
23 vehicle could be the same or cannot be eliminated; it
24 might be the same.

25 The methodology also looks at comparing other

GRANT FREDERICKS - DIRECT EXAMINATION

1 vehicles of the same class and doing that same
2 comparison. Vehicles of the same class, make, model,
3 year compared to the known vehicle would also have
4 some differences. If they are exactly the same, then
5 the only potential difference would be the headlight
6 spread pattern. Other vehicles that look initially to
7 be similar in class might be a few inches longer, a
8 little bit taller, would have a few different
9 reflective features on the vehicle because they are
10 slightly different in class. They might be the same
11 make and model, but maybe a different year. They also
12 would employ different headlight technologies.

13 So all of those tests were done in this
14 particular test. I did the examination on 11 other
15 vehicles of a similar class or same class compared to
16 the known vehicle, and the results should be that all
17 of the vehicles tested, even if they are of the same
18 class, would have a different pattern on the roadway
19 with their headlights, but still may have the same
20 physical features. The testing showed that even
21 vehicles with the same make, model and year, their
22 structure appeared the same, but the headlight spread
23 pattern was different. Vehicles from different
24 classes look different both from the structure of the
25 vehicle to the headlight spread pattern, and the

GRANT FREDERICKS - DIRECT EXAMINATION

1 question would then be -- using the drive-by that the
2 investigators did shortly after the vehicle was
3 recovered, to the examination of the questioned
4 vehicle of the night of the events, what similarities
5 did they have?

6 So that examination was done, and they were both
7 identical in physical characteristics in reflection
8 off of the vehicle, including unique features that
9 were visible in the back of the vehicle, to the
10 headlight spread pattern. They were all identical.
11 So based on the elimination and understanding of how
12 vehicles that were of the same class and year were
13 different because of the headlight spread pattern, and
14 vehicles that were similar but different physically, I
15 was able to form an opinion.

16 Q Let me ask you this. In your experience, have
17 vehicles with the same make, model and year all had a
18 different headlight spread pattern?

19 A In all of the examinations I've done, all of the
20 tests that I've written -- the tests I've read, the
21 studies and publications that I've read and tests from
22 peers, my peers, with enough resolution, no vehicle
23 shares the same headlight spread pattern.

24 Q In this particular case, you looked at the make,
25 the model, the characteristics, the headlight spread

GRANT FREDERICKS - DIRECT EXAMINATION

1 pattern and anything that is particular to this
2 vehicle, maybe like the toolbox, and you found that
3 everything from the known vehicle, which belonged to
4 the Moorers, was identical to the vehicle belonging or
5 seen on 8/4 and Mill Pond?

6 A Yes.

7 Q And every vehicle, in your experience and from
8 the studies that you looked at in your field, showed
9 that every vehicle has a unique headlight spread
10 pattern?

11 A Yes.

12 Q And the headlight spread pattern in this case
13 matched on the Moorers to the vehicle on 814 and Mill
14 Pond?

15 A Yes.

16 Q And, if you don't mind, I want to clarify
17 something before we show the jury kind of everything
18 you did to come to this determination. When you were
19 looking at the vehicle, the questioned vehicle, we saw
20 the video yesterday, it goes down 814 and goes down
21 Mill Pond, and then Jeremy Leach -- you weren't here --
22 he told about how he did the recreation with the known
23 vehicle, and you compared the two. Tell this jury, are
24 you just eyeballing it, hey, this looks about the same?
25 Tell them what you are doing.

GRANT FREDERICKS - DIRECT EXAMINATION

1 A Yes, it goes beyond eyeballing. As I said
2 earlier, the evaluation of the video coding system, to
3 understand what is reliable about it, what we can put
4 weight to, as far as is the lighting the same, is the
5 reflection the same, how does the encoding impact the
6 reliability of the pixilation from image to image and
7 does the pixilation affect the pattern of the
8 reflection of the roadway. Given what is called the
9 "pixel format," which is a description of the
10 brightness and color of each pixel, is that fit for the
11 purpose of doing this kind of comparison in evaluation
12 of the pixel format?

13 So, basically, there are a whole series of
14 technical issues that I consider before doing the
15 examination to know what limitations there may be.

16 Q And we're getting ready to look at everything you
17 did to find your determination, correct?

18 A Yes.

19 Q And part of that you have already stated was
20 running 11 trucks past 814 and past Mill Pond to
21 eliminate that it could be another make or model?

22 A Other than the 11 trucks that were at 814, and
23 then I relied on the work done by the initial
24 investigator when they did the drive-by, and that was
25 done because when the drive-by was done, the headlights

GRANT FREDERICKS - DIRECT EXAMINATION

1 had not been touched. It was -- it was very helpful to
2 have that drive-by done soon after the vehicle was
3 recovered, and before the headlights had been removed
4 and examined, because that examination in and of
5 itself, if they put the headlights back in, it would
6 have made it completely different. They would have
7 been replicated if they were put back in.

8 Q Let me ask you this. When we contacted you and
9 asked you to make this determination, would you give us
10 an answer until you had done everything, including
11 coming to Horry County and being at the location of 814
12 and going through several makes and models, as well as
13 going through Mill Pond, would you give us any answer
14 until everything had been done?

15 A I didn't, no.

16 Q So you had to do this complete process, which
17 took months, before you said yes or no?

18 A That was the case. I felt that was necessary,
19 and it was also an audit that I did on the movement of
20 the vehicles back and forth past 814 to demonstrate --
21 it helped to demonstrate just the uniqueness of the
22 movement of that vehicle and headlight spread pattern.

23 Q So this was not -- so the jury knows -- just you
24 sitting in your office looking at a couple of videos?

25 A No.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q If you don't mind, show this jury all that was
2 done for you to be able to make a final determination.

3 THE COURT: Can you see everything?

4 MS. LIVESAY: Can we hit the light just a little
5 bit?

6 THE WITNESS: I don't think it is on the right
7 input.

8 THE COURT: While we're doing that, there is
9 going to be a video, we're going to put on the record
10 what we're doing.

11 MS. LIVESAY: I'm sorry, Judge.

12 THE COURT: You need that identified.

13 MS. LIVESAY: I got you.

14 Q Mr. Fredericks, I'm showing you 123, 124. I'll
15 hold it for you. Tell the Court what we're looking at.

16 A This is a disk. 123 is my report, written
17 report.

18 THE COURT: Thank you.

19 A 124 is a disk.

20 Q And the label is what on the envelope?

21 A It says "Fredericks report."

22 Q Which is a digital format of what 123 is?

23 A Correct.

24 Q Is that what you are showing to the jury?

25 A Embedded in the electronic version of that report

GRANT FREDERICKS - DIRECT EXAMINATION

1 are these exhibits, but I would -- once this is shown,
2 I suggest we put these exhibits onto a thumb drive and
3 admit that.

4 MS. LIVESAY: Can we do that, Judge?

5 THE COURT: Any objection?

6 MR. BOUCHETTE: No objection.

7 THE COURT: You want the video to be admitted as
8 -- the disk is admitted as -- any objection to 124?

9 MR. BOUCHETTE: No, Your Honor.

10 THE COURT: And the report, 123, is -- we're
11 going to put that on a disk, on a drive?

12 MS. LIVESAY: No, sir.

13 THE COURT: We are going to put a disk on a thumb
14 drive. No problem then --

15 MS. LIVESAY: Yes, sir.

16 THE COURT: -- substituting what the disk and
17 exhibits on the thumb drive for preservation?

18 MR. BOUCHETTE: No, Your Honor.

19 (State's Exhibits 123 and 124 admitted.)

20 THE WITNESS: Can you brighten that? Perfect.
21 Thank you.

22 THE COURT: Can every juror see the screen all
23 right? Good.

24 A The first document is just a Google Earth view.
25 This is part of my examination so I understood the

GRANT FREDERICKS - DIRECT EXAMINATION

1 relationship between each of the areas that were
2 covered by the camera and the surrounding area. So on
3 the first images there is a slide number at the bottom.
4 In case there is a question asked, I can refer to that
5 slide number so it goes onto the record.

6 I'm at Slide No. 2, and I'm showing you an aerial
7 view of the specific area of interest. And Slide 3
8 shows kind of an outline of that particular area of
9 interest. The Caroline Bay Parkway is identified at
10 the end of the red arrow. Highway 544. Highway 814.
11 Then Mill Pond Road. The Peachtree Boat Landing on
12 Slide 8. The Sitework camera location. An area house
13 at [REDACTED] Highway 814, a residential camera that has
14 been referred to as 814. And then a home at [REDACTED]
15 Highway 814. And then the area of interest.

16 Then, on Slide 13, I focus on one isolated area.
17 I'll make that a bit bigger so we can see a better
18 image of the Sitework's camera area and the 814
19 camera. The path of the vehicle that I've examined, I
20 examined it as it goes past 814 and then a short time
21 later, with a drive time, it goes past Sitework
22 camera, and then sometime later, you see it go
23 northbound on both cameras within the same time period
24 based on timing of the drive.

25 So the images at 814 can be seen by examining the

GRANT FREDERICKS - DIRECT EXAMINATION

1 position of the camera. So at Slide 22, the position
2 of the camera is located on the far right corner of
3 the home looking in the direction depicted by the blue
4 overlay, and this was the perspective on the top, left
5 corner of Camera 1.

6 Camera 2 depicts a slightly different area of the
7 roadway from its camera position, which is just at the
8 back of the home looking over the driveway towards the
9 roadway. So this shows there is an area that is not
10 captured by the two cameras. There is no overlay, so
11 there is just a second or two when vehicles are
12 driving left and right that they would appear on both
13 views based on the direction of travel.

14 Then, looking at the Sitework's camera, again, as
15 depicted earlier, the perspective of one of the
16 cameras at Sitework, from one corner of the parking
17 lot, to the roadway. The area of the visibility is
18 depicted in the blue area on Slide 29.

19 Then the secondary camera view, Camera 2, looks
20 directly out to the roadway, and we can see the
21 overlay depicted within the overlay of the covered
22 areas of Slide 3.

23 So, on 31, the path of the vehicle shows the
24 relationship. And so the examination that I did at
25 that point was then to determine what the offsets were

GRANT FREDERICKS - DIRECT EXAMINATION

1 between the camera timings, to show that when a
2 vehicle was left to right on 814, a certain period of
3 time later consistent with the distance of travel,
4 that vehicle would appear then on the Sitework's
5 camera if it went in that direction.

6 So I was able to track the movement of a
7 questioned vehicle that was the same vehicle going
8 past 814, past Sitework, and then sometime later, the
9 same vehicle went the other direction past Sitework in
10 the expected period of time, and then appeared going
11 right to left on 814. That is what that document is
12 -- was used, for me to understand what the
13 relationship was between the two areas, and then do my
14 measurement of examination of timing and timing
15 offset.

16 Q Now, show us a little bit -- that was the area
17 you looked at. Those were the two cameras. Show us a
18 little bit about what you did next to come to your
19 ultimate determination.

20 A So, at that point, then I wanted to create a
21 record of the movement of both vehicles, so I have a
22 number of quick exhibits here that start. This one is
23 called the "questioned vehicle." "QV" is "questioned
24 vehicle." Camera 1, south on Highway 814. This
25 on-camera timestamp showed 0:44:59; the realtime,

GRANT FREDERICKS - DIRECT EXAMINATION

1 according to the recovery report, was 03:35, and it was
2 on December 18, 2013 and shows the movement of a
3 vehicle starting at Slide 4, going southbound. I'm
4 just going to step through the slides.

5 The vehicle goes off slide at Slide 42, and that
6 was an on-screen timestamp -- again, we have an
7 offset -- of 04:45:04. And now the next video shows
8 Camera 2 starting at 05:45:04, and we see the
9 headlights at that vehicle coming into view, and then
10 that vehicle continues past the camera.

11 Then we have the questioned vehicle at Camera 1,
12 south on Mill Pond, so this is the secondary location.
13 This camera view is at 03:39:06, and we can see a
14 vehicle moving, continuing southbound. And then it
15 goes out of view at 03:39:10. And then 03:46:05 a
16 vehicle returning.

17 And then I have Camera 5, so the camera that
18 looks straight out from that facility at the same
19 time. The vehicle is going left to right so that is
20 the same vehicle we just viewed, just from a different
21 angle.

22 No. 6 is Camera 1 north on Mill Pond, so we just
23 looked at this. This was at 03:46:05. And then from
24 camera five, the same vehicle, at the same time. Then
25 a few minutes later we have in realtime 03:45. We are

GRANT FREDERICKS - DIRECT EXAMINATION

1 now back to the 814 address, and we see the same
2 vehicle moving northbound.

3 And then Slide No. 9 is Camera 1 at the same
4 time, just from a different perspective, seeing that
5 vehicle continue northbound.

6 I then conducted a comparison of the southbound
7 questioned vehicle versus the known vehicle, and this
8 comparison was done with the recreation. So this
9 Exhibit, Slide 2, has an annotation that says:
10 Recreation, Known Vehicle, on February 24, 2014. And
11 then a magnified view of the same exact area with the
12 questioned vehicle that was recorded to 814 at
13 12/18/2013, so just a couple of months between them.
14 The police record recreation video is on the
15 right-hand side, and the movement of the known vehicle
16 is on the bottom left-hand side. So we have the two
17 images side-by-side, and the comparison up top. So as
18 I move through these images, I'm making observations
19 on Slide 11 of a number of reflective lights on the
20 vehicle, and this is the known vehicle that the police
21 were using for the drive-by. Slide 12 shows the same
22 reflection on the questioned vehicle. I'm also
23 looking at pools of brightness and darkness, so where
24 the headlight diffuses where the reflection becomes
25 more intense, and then in tracking that diffusion over

GRANT FREDERICKS - DIRECT EXAMINATION

1 the roadway, including the distance and relationship
2 between the trees, and all other objects on the road.

3 We can see the diffusion in a number of different
4 areas in Slide 14. I pointed to one just past the
5 trees further ahead of the vehicle, there is a little
6 dark kind of inset area where there is more darkness.
7 These areas of reflection of darkness are caused by
8 the bulbs in the HID lights of the known vehicle, and
9 where the bulbs are placed, how far in or out the
10 bulbs are from the lens, any humidity issues within
11 the lens, any damage that would have been in the area
12 of the lens. As vehicles are on the road longer, they
13 are susceptible to hitting a speed bump or hitting
14 something in the roadway and the ball will slightly
15 shift. It also results in how the headlight is
16 actually placed into the car by a human, not by a
17 tool. The vehicles have to have their headlights
18 canted to the right to avoid glare. So the
19 requirements for having vehicles on the roadway in
20 North America is that the vehicles have to be -- there
21 is a little screw and a tool that moves them to the
22 right a certain amount. When I do this work in the
23 U.K. where they drive on the left-hand side of the
24 road, vehicles even manufactured in areas where they
25 have left-hand drivers or right-hand drivers, the

GRANT FREDERICKS - DIRECT EXAMINATION

1 vehicle still has to have their headlights canted
2 before they are sold. When I do this work in the
3 Cayman Islands where they bring in vehicles both from
4 the United States and Japan, where in Japan they drive
5 on the left-hand side of the road, so when they land
6 in the Cayman Islands, someone has to physically tilt
7 their headlights to the left. If they are
8 manufactured in the United States, someone has to go
9 and tilt them to the right. So I've done a lot of
10 comparisons in the Cayman Islands, and they are unique
11 because when you look at the camera views, I can tell
12 right away that a car is manufactured in the United
13 States or in Japan, because oftentimes they are canted
14 the wrong way because they don't do their due
15 diligence. So very often, if the vehicles will have a
16 cant to the right, they are North American; if they
17 are canted to the left, they are from Japan. So this
18 is why we can see these areas of diffusion and the
19 fact that they sit exactly in the same spot in these
20 comparison images.

21 So as the vehicle moves forward onto Slide 16,
22 17, as we move forward, we can see now that even the
23 rear of the vehicle, we're looking at the reflection
24 off of the bumper of the car, the amount of light, the
25 brightness and intensity of the light is the same. So

GRANT FREDERICKS - DIRECT EXAMINATION

1 the light source, the features that are being
2 reflected are the same location. Again, we're now on
3 Slide 20. We're looking at the diffusion, the
4 brightness of the vehicle. There is a little pool of
5 brightness that we can detect and make -- and observe.

6 As this video continues through, the field of
7 view past the trees on Slide 29 now, I can compare the
8 distance, approximate distance, of where the
9 brightness areas are in front of the vehicles. So
10 this is the forward-facing reflection of the vehicle.

11 There is also this kind of cloudy, sort of,
12 brightness diffusion with a sudden stop where it gets
13 darker, followed by -- you can see underneath that top
14 right-hand arrow, there is a pool of light, so we're
15 almost looking at the clouds and how the diffusion
16 strikes the roadway and how it reflects off of the
17 roadway in that particular area. The things that
18 would affect the reflection could be the surface. So
19 it is one particular area of the ground that the same
20 light strikes where you might have some road work
21 repairs done where the road itself might be a
22 different color, different reflective values, the fact
23 they reflect the same in all areas is something that
24 is notable. Then as the vehicle moves down the
25 roadway, we can see the reflection being diminished on

GRANT FREDERICKS - DIRECT EXAMINATION

1 the left side because the -- on the right side, we
2 have the wrap-around light that is facing more to the
3 camera. So more of the light is reflecting more
4 directly into the camera, so it would have a different
5 shape. And then on the left-hand side, the less of
6 the light is reflected towards the camera, so it is
7 diminished -- it is diminished in the same way.

8 The location of the area where we would have a
9 license plate, and the diffusion of that in
10 relationship between the other lights of where that
11 license plate is, again, is something that would be
12 evaluated that is a reflection off of the vehicle, and
13 their light is reflecting in the same manner. We can
14 see how the lights change their reflection as they
15 move down the roadway and become a little bit more
16 visible to the camera and, yet, the license plate
17 diminishes slightly. It is diminishing exactly the
18 same way as it moves down the roadway on the camera.

19 I have an Exhibit No. 11, which is just video
20 that shows the questioned vehicle, and then the known
21 vehicle moving southbound, and I'll open that up.
22 That is just a video of what we just looked at without
23 the annotations and observations such as the video
24 movement, and they are synchronized to the best they
25 can be given the recording.

GRANT FREDERICKS - DIRECT EXAMINATION

1 No. 12 is the questioned vehicle and the known
2 vehicle comparison on Mill Pond. This is south. As I
3 move through the exhibits, we see -- the slides we see
4 the lead light beam, which is moving southbound. You
5 can see how it strikes the posts as it is moving down
6 the roadway, and we can see the beam edge. So on
7 Slide 21 to 22, I'm going back and forth. Just see
8 how the edge is striking the roadway and the
9 reflection off of the fence in the background, they
10 move in the same manner. Their reflection is the
11 same. The edge pattern on the other roadway is the
12 same. As I move forward now, we can see the dark area
13 in the same positions, back and forth between 27 and
14 28. You can see how those reflective disbursements of
15 the light, and the edges of the disbursements are the
16 same. As I'm moving forward to Slide 32, we can
17 see -- again, the top of the image is the known
18 vehicle -- pardon me, the questioned vehicle. The
19 bottom image is the vehicle used by the police, the
20 known vehicle.

21 So Slide 34 is pointing a small reflective light
22 under the headlight, and then on Slide 35 I'm looking
23 at the intensity of the beam. These are the same
24 features, the same intensity, the same direction as we
25 saw on 814. So the same reflective features that

GRANT FREDERICKS - DIRECT EXAMINATION

1 appeared just a few minutes earlier on 814, are now
2 appearing in this vehicle.

3 As I move forward then, we can make the same
4 observations that we did in 814. We're looking at the
5 overall beam location shape and intensity. Likewise,
6 the rear of the vehicle, Slides 46 and 47, we see the
7 same thing, the wrap-around taillight, the
8 relationship to the area of the license plate, and the
9 fact that the left-rear taillight is diminished
10 because it is, obviously, facing away from the camera,
11 whereas the other light is facing towards the camera.

12 As we move forward, we can make observations that
13 the same features of the headlight, the same dark
14 areas remain in the same area. As we go through here,
15 we can continue to make observations of the rear light
16 features and reflective features, and they are
17 remaining the same. And then I have a number --
18 Number 13 is just a video that records that same
19 observation, and I'll just play it. No. 14 is now
20 northbound on Mill Road (sic). We'll take a look at
21 establishing that the questioned video is the top
22 image, and it is coming from full screen, that would
23 be depicted on the bottom left-hand corner, and the
24 Slide 4 shows that the known vehicle is the bottom
25 right-hand and the middle view. So the known vehicle

GRANT FREDERICKS - DIRECT EXAMINATION

1 is the one that the police had in their custody and
2 did this drive-by.

3 As I move toward through the slides, we can begin
4 to make observations of the consistency in the
5 vehicles. We can see on the left-hand side we have
6 that brighter area of reflection, the beam on the
7 front of the vehicle. I just noted here on Slide 76
8 that the questioned vehicle leaving the area is
9 driving faster now, so it's moving at a faster speed
10 than it was on the way down. It is moving a bit
11 faster than the test vehicle just slightly.

12 I've done a magnified view on Slide 88 of the
13 reflection of the front of the headlights, and this is
14 impacted by some of the compression. It has an impact
15 on the accurate shapes, so we have more of a blocky
16 shape than a bloomy shape, and we can see that -- you
17 can see the pattern of the lights. So what I've got
18 is the -- Slide 88, this is the magnified area of the
19 questioned vehicle, and then on Slide 89, I brought in
20 the image of the known vehicle used by police, and
21 even given the compression, we can see the
22 consistencies in the pattern, so how the reflection
23 off the front of the vehicle is the same, the same
24 reflection area off the bumpers and off the headlights
25 themselves.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Likewise, on Slide 145, I'm showing that as the
2 vehicle continues down the roadway, the amount of
3 reflection into the camera on the -- on the
4 passenger's side is diminished because of the
5 reflection, because of the canting to the right,
6 because of the angle to the camera. So we're seeing
7 the same features when they are in about the same
8 positions. In fact, we lose the right-hand headlight
9 as it moves by at pretty much at the same moment in
10 time based on the reflection. So this gives us an
11 idea of the contour of the front of the vehicle and
12 how the right headlight would no longer be visible to
13 the camera at exactly the same moment.

14 And now we can look at Slides 21 through 22, and
15 beyond that we can see more of the reflection on the
16 driver's side of the vehicle, and we can track the
17 diffusion of the light and the edge pattern of that
18 light, and they are identical.

19 No. 15 is a video copy without the annotations of
20 what we just looked at.

21 No. 16 is the comparison of the vehicle, that
22 same vehicle, as it appears going by northbound, same
23 length of time between camera views, comparing the
24 police recreation with the questioned vehicle. So
25 we're looking at the same vehicle, has all of the same

GRANT FREDERICKS - DIRECT EXAMINATION

1 features, and the features are consistent. The
2 reflection on the ground is consistent in each,
3 including we have a reflection off of the roof because
4 it is going underneath a light source. That is a
5 light standard on the street, and we can see that
6 reflection off of the vehicle is the same. We can see
7 the beam pattern in front of the vehicle, the dark
8 areas and light areas are the same.

9 No. 17 is a video record of the same without the
10 annotations observed, and normally looking at this, we
11 just go frame by frame through. Once those
12 observations were made, I felt it was important to
13 demonstrate to a trier of fact, judge or jury, how the
14 patterns would look different if they were compared to
15 vehicles that on -- when you watch them on the roadway
16 that it looks like the same kind of vehicle. Could we
17 compare those different vehicles to what we just
18 looked at, and would we see any differences? So we
19 identified 11 vehicles that were similar or -- similar
20 or the same in class, and we did a process of doing
21 that comparison.

22 Q If you don't mind, show the jurors how you are
23 able to eliminate vehicles of a different class.

24 A So No. 8 compares the known vehicles. The
25 difference with this vehicle, the known vehicle that

GRANT FREDERICKS - DIRECT EXAMINATION

1 the police had that they used the drive-by with, was --
2 once they finished their drive-by, they did other
3 examinations that included the removal of the
4 headlights. So once that was done, I could no longer
5 do a headlight comparison with the known vehicle.
6 Unfortunately, that was done by the investigators
7 already when they did the drive-by. So this one, I'm
8 only looking at the physical features and reflections
9 off the vehicle because I could no longer do the
10 headlights. So the rest of this is not considering the
11 headlights, but even though I'm not considering the
12 headlights, even with this examination, we can see that
13 every single headlight of every single vehicle we
14 tested was different from each other. None were even
15 similar. So as I go through this No. 18, I'm looking
16 at the known vehicle now compared to a Chevrolet
17 Silverado, and these are all, I believe, King Cabs.

18 So on January 16th, I attended the scene and
19 directed that the vehicles be placed in the same
20 position from vehicle to vehicle. So I took the known
21 vehicle, I had it placed in a unique position and I
22 had the tires marked so that every other vehicle, when
23 we are in each position, and this is called "Reverse
24 Projection Position One," all of the vehicles were
25 moved into Reverse Projection Position One based on

GRANT FREDERICKS - DIRECT EXAMINATION

1 the position of the tires and the reflective features
2 of the vehicle. So this is a magnified view of the
3 known vehicle on Slide 4. This is the known vehicle,
4 limited edition Ford F-150, black in color.

5 Then I placed -- I had the Chevy Silverado placed
6 in exactly the same position, and you can see that
7 from a video perspective. The video looks similar
8 from a -- watching them drive down the roadway, there
9 are a lot of similarities, but there are differences.
10 So the taillight position, if I switch between Slide 9
11 and 10, we can see the length of the vehicle is
12 slightly different. The taillight looks different.
13 The headlight looks significantly different, and the
14 reflection off of the bumper looks different between
15 the two vehicles. So the known to the questioned
16 Silverado. Each of the positions of the vehicle,
17 including with the known vehicle, it was being driven
18 forward, or placed into a certain position on the
19 roadway, we call it Reverse Projection Position No. 2.
20 And then we put the Silverado in that position to
21 compare the features. I'm going between Slide 18 and
22 19. Significant differences in headlight spread
23 pattern and placement of headlights, height of
24 headlights and shape of the vehicle. So the
25 reflections are all quite different. So as a result

GRANT FREDERICKS - DIRECT EXAMINATION

1 of that, I was able to say that the known vehicle can
2 be distinguished from a Chevrolet Silverado King Cab,
3 black in color, around the same years.

4 No. 19 compared the known vehicle to a silver
5 Chevrolet Silverado. And, again, in Reverse
6 Projection Position One, the known position that we
7 looked at, compared now to the silver Silverado, there
8 is a reflection off of the vehicle because it is
9 silver, but we can detect that. So there is some
10 brightness off the vehicle, which shows that if the
11 vehicle is not black, if it's silver in color, it can
12 be defined. What this helps me know is that the known
13 vehicle and the questioned vehicle are black, and that
14 if there were any silver qualities to it, it would be
15 detectable. So it helps me to find and eliminate
16 color from the questioned vehicle.

17 Also, the headlight now from Slide 9 -- pardon
18 me, the taillight, Slide 9 to 10, we can see there are
19 significant differences both in the length of the
20 vehicle, and in the reflective features. The shape
21 position of the headlights between 12 and 13 are also
22 significantly different. So we can see they reflect
23 differently off the roadway. We can see the spread
24 pattern on the roadway as it diffuses towards the
25 front of the vehicle. Here, it is quite different.

GRANT FREDERICKS - DIRECT EXAMINATION

1 And, again, the reflective features I can see.

2 The examination of the compression is showing me,
3 again, that if it's a black vehicle, there is not
4 going to be the full reflective letter features. So
5 this compression based on the pixel format and the
6 ability to detect reflection, tells me that if the
7 questioned vehicle were lighter in color, it would be
8 detectable.

9 Slides 18 through 20 we're then comparing the
10 position of the Chevrolet Silverado. The silver one
11 is placed in the same Reverse Projection Position Two,
12 as we did with the other two. If we look at the
13 different compression or reflection, we can see it.
14 So between 22 and 23, where I'm looking at the known
15 vehicle to the Silverado test vehicle, we can see that
16 it reflects heavily off of the upper reflective light
17 because of how many reflective features the silver
18 vehicle has. You can also see the many differences
19 between the headlight and, of course, the spread
20 pattern on the roadway in front.

21 Likewise, the shape of the taillight and the
22 location of the taillight, and the intensity of the
23 reflection in shape is different. You can look at the
24 two vehicles, and the known vehicle has a much
25 brighter wrap-around light, much larger than the

GRANT FREDERICKS - DIRECT EXAMINATION

1 Silverado. So, again, these vehicles were placed in
2 the same position, because the tires were marked in
3 the roadway with chalk, and placed in the same spot.

4 No. 20, this is a comparison between known
5 vehicle and a Dodge Ram using the same features. I'll
6 go through these quickly now. We can see that the --
7 there are differences when I go between Slide 9 and 10
8 between a Dodge ram 1500. Even though the vehicles
9 are of the same length, their head -- taillight
10 pattern is completely different, as is the headlight
11 pattern between the two, and the diffusion across the
12 roadway with the beam.

13 In Reverse Projection Position Two, we have the
14 same differences that we saw before, that they reflect
15 differently under the light and their headlight spread
16 pattern is quite different, and of course their
17 taillights are significantly different. I just kind
18 of go back and forth in the taillight for a moment.
19 Here, that is just looking at the taillight and you
20 can see how it is quite significantly different.

21 This is Reverse Projection Position No. 3. We
22 can see the intensity of the front right -- front left
23 headlight reflection off of the roof, and the
24 difference between the taillight. As a result of
25 that, the Dodge Ram 1500 was also eliminated.

GRANT FREDERICKS - DIRECT EXAMINATION

1 21 compares the known vehicle to a Dodge Ram
2 Laramie 1500. Reverse Projection Position No. 1,
3 again, the differences are easy to see, easy to
4 measure and easy to discuss. So the chrome pumper had
5 more reflection.

6 Reverse Projection Position No. 2, headlight
7 spread pattern of the known vehicle, we can see a
8 significant difference between the Ram. These were
9 all done under low beam conditions. And, again, the
10 taillights, you can see the difference. The reason
11 why the known vehicle and the questioned vehicle had
12 brighter taillights is simply because it is a
13 wrap-around, much bigger than the other vehicles, more
14 light reflection.

15 No. 22, comparing the known vehicle to a GMC
16 Denali. Again, in Reverse Projection Position One,
17 the rear lights are significantly different, front
18 lights -- headlights are completely different in the
19 reflection off of the roadway, it's completely
20 different.

21 In Reverse Projection Position Two, the position
22 of the headlights, height of the headlights, the shape
23 of the right headlight completely different. And,
24 again, the taillights are completely different as a
25 result of that. That vehicle was also -- in that

GRANT FREDERICKS - DIRECT EXAMINATION

1 class of vehicle -- could also be eliminated.

2 The known vehicle compared to the Ford F-150
3 four-by-four, so in the same make and model. This one
4 is red in color. In doing the comparisons of the
5 vehicle, apart from color, that looks indiscernible.
6 We can see that there is a significant difference in
7 the headlight spread pattern when I go between
8 Slides 9 and 10. And then looking at the front of the
9 vehicle and the headlight spread pattern, again, a
10 vehicle of the same class with the same HID
11 headlights, the headlight spread pattern is quite
12 different.

13 No. 24, Ford F-150 King Ranch. In Reverse
14 Projection Position One, this is a black King Ranch.
15 We can look at the headlight spread pattern and,
16 again, different.

17 Reverse Projection Position Two, we can see
18 differences in the headlight spread pattern. So these
19 vehicles of the same make, model -- or same make,
20 similar model, same headlights, but different
21 appearances on the roadway.

22 No. 25, a Ford F-150 Lariat, black. So very,
23 very similar vehicle. Same make, same manufacturer,
24 same year, same kind of headlights, but the
25 reflections and the disbursement is different.

GRANT FREDERICKS - DIRECT EXAMINATION

1 On Reverse Projection Position Two, same
2 observations, slightly different taillights, and the
3 taillight is quite different.

4 Reverse Projection Position Three, we can see the
5 differences. In this particular case, this vehicle
6 had a covered box area, and that covered box area is
7 reflected in -- underneath the headlamp, the light.
8 So the large area of the black cover reflects light so
9 we can eliminate any vehicle -- we can say the known
10 vehicle and the questioned vehicle had no covering in
11 back, so any vehicle like that could be eliminated.

12 Now, comparing the known vehicle to a Ford F-150
13 Lariat, red in color. And now this is just a
14 different vehicle, same kind of headlights. So we can
15 see the headlight spread pattern is different. The
16 reflection is different. Even though it is virtually
17 the same make and the same headlights, their
18 headlights are different.

19 In Reverse Projection Two, we can see a
20 difference in the pattern of the headlight diffusion
21 across the roadway, and some differences in the
22 reflection off of the front of the vehicle.

23 No. 27, Ford-150 Platinum model. These features
24 are getting very, very close to the same
25 characteristics like make, model, year as the known

GRANT FREDERICKS - DIRECT EXAMINATION

1 vehicle. Same headlights, but we can see, again,
2 diffusion of difference in the positioning and
3 diffusion and reflection on the roadway.

4 Slides 14 to 15 again shows the difference
5 between the known vehicle and the vehicle with the
6 same kind of headlights, same make, same years, King
7 Cab model. They are reflected differently.

8 Position No. 3, the headlight spread pattern is
9 quite different, as is the brightness of the
10 headlights because they are canted slightly
11 differently more towards the camera.

12 No. 28, known vehicle, Ford-150 Limited. This is
13 the same make, model, year of a vehicle with the same
14 headlights. We can see that the headlight spread
15 pattern, even from the same make, model and year, is
16 different. The reflective areas, when looking
17 directly at the vehicle, position location of the rear
18 taillight, position of the headlights, reflection off
19 the vehicle itself, not including the pattern, is the
20 same, and that is what we would expect it to be
21 because it is the same make, model and year. So when
22 we go back and forth, there is no discernible
23 difference between the reflections off of the vehicle
24 itself, but it is the pattern on the roadway that is
25 different.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q So this vehicle is identical when you look at it
2 to the defendant's truck?

3 A It's the same make, model and year, yes,
4 identical.

5 Q But then when we see the comparison, we see,
6 indeed, there is a different headlight spread pattern?

7 A Correct.

8 Q Even though it is the same year, Ford F-150?

9 A Yes, and HID headlights.

10 Q Okay.

11 A This is -- I've done a number of observations
12 here with the questioned vehicle with the silver -- the
13 Chevrolet Silverado. So now I've taken the historic
14 images of the questioned vehicle to compare those, and
15 as we look through the Silverado comparisons, the
16 Silverado vehicle can be eliminated. So this is the
17 actual questioned vehicle, and we look at the Silverado
18 vehicle between Slides 7 and 8. You can see they are
19 different in every way. The reflection off the
20 vehicles are different, the headlight spread pattern is
21 different, so the Silverado can be eliminated as a
22 result of that.

23 In Reverse Projection Two, same observations. It
24 is not the same vehicle. No features are consistent.

25 Same test was done between the questioned vehicle

GRANT FREDERICKS - DIRECT EXAMINATION

1 and the Chevrolet Silverado, black in color. Again,
2 the features of the vehicle are completely different,
3 and the headlight spread pattern is significantly
4 different. As a result of that, a Chevrolet Silverado
5 black in color can be eliminated as being the
6 questioned vehicle.

7 Comparing the questioned vehicle to the GMC
8 Denali, black in color, we can see that none of the
9 reflective features are the same, and none of the
10 headlight spread pattern characteristics are the same.
11 As a result of that, the GMC Denali can be eliminated
12 as the questioned vehicle.

13 Now, comparing the questioned vehicle with a Ford
14 Ram 1500. The features, the length of the vehicle,
15 physical features, the headlight spread pattern and
16 the headlight positioning in all of the reverse
17 projection positions can demonstrate that there are
18 differences in every aspect. As a result of that, the
19 Dodge Ram 1500 is eliminated as being the questioned
20 vehicle.

21 Comparing the questioned vehicle to a Dodge Ram
22 1500 Laramie, as with all the other vehicles, the
23 Laramie has different characteristics of all of the
24 reflective patterns off of both the rear and front of
25 the vehicle, and the headlight spread pattern is

GRANT FREDERICKS - DIRECT EXAMINATION

1 different in each of the comparison positions. As a
2 result of that test, the Dodge Ram Laramie is
3 eliminated as being the questioned vehicle.

4 Then, comparing now the questioned vehicle to a
5 King Ranch, this is the Ford F-150 King Ranch. So the
6 same manufacturer. Very similar vehicle with similar
7 headlights. They reflect the shape of the lights
8 slightly different, and the reflection off of the
9 roadway is different. Again, looking at the
10 questioned vehicle to the King Ranch, the reflection
11 off the roadway is not consistent; it is different.
12 As a result of that, that particular vehicle can be
13 eliminated due to the headlight spread pattern
14 analysis.

15 No. 35, comparing the questioned vehicle to a
16 Ford F-150 Platinum, which is very, very similar to
17 the known vehicle. The questioned vehicle and that
18 Ford F-150 Platinum can be eliminated primarily due to
19 the reflective pattern on the roadway, and some of the
20 reflection off of the vehicle itself. This particular
21 one has a grille. The grille is reflective, and there
22 is no -- as a result of that, we know that the
23 questioned vehicle does not have a grille because that
24 wouldn't be reflective -- a reflective chrome grille.

25 So we are narrowing the characteristics of the

GRANT FREDERICKS - DIRECT EXAMINATION

1 questioned vehicle by using the same vehicles of the
2 same make, model, year, but with slightly different
3 characteristics, one with a chrome grille to see is it
4 consistent, and we can see that the chrome grille is
5 visible under these lighting conditions, so we know
6 that is not a feature of the questioned vehicle.

7 Q So this idea that every black Ford F-150 truck
8 looks identical, you basically eliminated that as a
9 possibility?

10 A Can you repeat it?

11 Q The idea that the every four-door, black truck
12 looks identical on a surveillance camera, for this
13 jury, you have now eliminated that that is not
14 possible?

15 A That is not possible, correct.

16 So No. 36, the questioned vehicle compared to the
17 Ford F-150 Lariat, red in color. We tried to be
18 exhaustive with this examination just to make sure
19 there were not any features that could possibly show
20 some inconsistencies that would allow me to eliminate
21 the questioned vehicle as being the known vehicle, so
22 we're looking for any characteristics, any
23 manufacturing features that would reflect light that I
24 could see, and then compare that to the known to say,
25 oh, I can eliminate the known vehicle from being the

GRANT FREDERICKS - DIRECT EXAMINATION

1 questioned vehicle, and that is kind of the goal. I'm
2 going through this exercise to do that.

3 So this next one is just a comparison with the
4 questioned vehicle to a Ford F-150, now black in
5 color. So it is a very, very similar vehicle. Again,
6 we can see the significant differences in the
7 headlight spread pattern, the diffusion of the light
8 is quite different, even though we have the same type
9 of headlights, same shape of vehicle.

10 Reverse Projection Position No. 2, again, we can
11 see the diffusion of the light is quite different, so
12 that would eliminate that particular F-150 Lariat,
13 black in color, from being the questioned vehicle.

14 Now, the questioned vehicle compared to a Ford
15 F-150 -- we just did the black one, I'm sorry. Now, a
16 Ford F-150, four-by-four, red in color. Again, the
17 headlight spread pattern is quite different. Some of
18 the reflective features on the questioned vehicle are
19 different from this particular test vehicle, the Ford
20 F-150, four-by-four.

21 In Reverse Projection Position No. 2, we can see,
22 again, quite a difference between the headlight spread
23 pattern. As I went through these, all of the test
24 vehicles had different spread patterns from each other
25 and different reflective characteristics.

GRANT FREDERICKS - DIRECT EXAMINATION

1 And then the last vehicle comparison was now the
2 questioned vehicle to a vehicle of the same make,
3 model, year, headlights, including same color. So
4 this is a limited Ford F-150 vehicle. So everything
5 should be the same, but what's different about it is
6 the headlight spread pattern. One of the things that
7 I considered in this examination is what is called
8 motion blur. I'm just going to go back for a moment.
9 Motion blur is a characteristic created by the speed
10 of the object. So the camera takes in light over a
11 period of time to create a picture. The longer the
12 sample, the longer the camera is sampling light, then
13 the more likely it is that there is going to be blur
14 with an object that is in motion. The faster the
15 object is in motion, the longer the blur will be.

16 So in this particular case, the questioned
17 vehicle is a motion past the camera, so it has -- the
18 light is blurred. The test vehicles were stationary,
19 so we're not going to get blur, but we can measure the
20 length of the blur, that can be measured in pixels,
21 and we can see that as a result of the measurement, we
22 can see the comparison of the lights.

23 So I don't look at the image on Slide 7, look at
24 the rear taillight, and then the image on 8 and say
25 there is a difference between the taillights. There

GRANT FREDERICKS - DIRECT EXAMINATION

1 appears to be a difference, but this is one of the
2 considerations I would apply. I measure the blur and
3 say, no, that difference is simply because of motion,
4 not because of actual differences. So those are all
5 the considerations in doing these comparisons that I
6 looked at. The test vehicles the police used was in
7 motion, so all of the blur that was applied was
8 identical in both.

9 Q Let me ask you something -- I'm sorry, go ahead.

10 A And then, again, just to finish this off, same
11 make, model, year of the vehicle, we can see the
12 differences in the headlight spread pattern in each of
13 the images and, of course, we have the reflective rear
14 box cover that we saw on previous examination to see
15 that it reflected differently.

16 So those were the comparison of the vehicles.
17 There was some features inside the vehicle I also
18 compared.

19 THE COURT: At this point, let's take a break.
20 It is a good stopping point for the jury to take a
21 break and go to the jury room. Do not begin your
22 deliberations, don't discuss the case. We'll be back
23 in about ten minutes.

24 (The jury exits at 11:21 a.m., the following
25 is heard out of the presence of the jury.)

GRANT FREDERICKS - DIRECT EXAMINATION

1 THE COURT: I hate to break, but we were about
2 two hours into this.

3 MS. LIVESAY: No, you're fine. No, I understand.

4 THE COURT: Anything from the State before we
5 recess?

6 MS. LIVESAY: No, we'll put that on that drive.

7 THE COURT: You okay with that?

8 MR. BOUCHETTE: Yes, sir.

9 THE COURT: Anything from the defendant?

10 MR. BOUCHETTE: No, Your Honor.

11 THE COURT: We'll be at ease for about ten
12 minutes. Thank you.

13 (A recess was taken.)

14 (State's Exhibits 126 and 127 marked.)

15 THE COURT: We ready?

16 MR. BOUCHETTE: Yes, sir.

17 THE COURT: Okay. Let's bring in our jury,
18 please.

19 (The jury enters at???, and the following is
20 heard in the presence of the jury.)

21 THE COURT: Thank you, ladies and gentlemen.
22 We're ready to continue. Thank you for letting me
23 break your testimony, and you may resume, Solicitor.
24 Thank you.

25 DIRECT-EXAMINATION (CONT.)

GRANT FREDERICKS - DIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q Mr. Fredericks, if you don't mind, I kind of want
3 to move pretty quick, we're getting close to lunchtime.

4 THE COURT: No, you can take your time.

5 MS. LIVESAY: Thank you, Judge.

6 Q (MS. LIVESAY) Did I send you the camera to do an
7 audit of all the trucks that went by on 814?

8 A I had all of the video.

9 Q The image?

10 A Yes. Yes.

11 Q And I asked you to audit all of the vehicles that
12 went by 814, correct?

13 A Yes.

14 Q And we were looking -- or I was -- to see how
15 many vehicles rode by, and if we saw the questioned
16 vehicle again?

17 A Well, prior to that, there were other reflective
18 features of the questioned vehicle that I compared.
19 Once those comparisons were done, I have two more
20 slides, then I was asked to look at all vehicles for a
21 period of time that went by for a few days, several
22 days, that went by, and were there any other vehicles
23 that were consistent in class characteristics, make,
24 model, year, color and in headlight spread pattern or
25 pattern features of the vehicles. So it was a two-fold

GRANT FREDERICKS - DIRECT EXAMINATION

1 question.

2 Q Prior to the audit, we were looking to figure out
3 whether or not there was a toolbox in back of the
4 truck?

5 A Well, the question was what were -- were there
6 any vehicles that had similar reflection, and then
7 could we compare the toolbox in the known vehicle with
8 a reflection of objects in the rear of the questioned
9 vehicle.

10 Q Okay. And show this jury what you did to
11 determine whether or not there was a toolbox or any
12 other reflection in the rear?

13 A No. 40 is titled "toolbox observations." This is
14 at 814. When the questioned vehicle was northbound and
15 it went underneath the light, there was a reflective
16 object in the back of the vehicle. So what I did then
17 is placed the known vehicle into the same position, and
18 the toolbox reflected. The known vehicle is
19 stationary, so the reflection is slightly different
20 given the motion blur differences we discussed.

21 Then, I removed the box. I had the box removed.
22 It was a very heavy box, so a couple of gentlemen
23 removed it for me, and then that reflection changed.
24 As a result of that observation, I can say that there
25 was a reflective object of the same shape and same

GRANT FREDERICKS - DIRECT EXAMINATION

1 location in the questioned vehicle as the toolbox in
2 the known vehicle, and when the toolbox was removed,
3 that reflection went away.

4 Q Was there anything else, did you determine, that
5 was reflective in the bed of the truck?

6 A Not in this particular image. Then, the same
7 exercise was done in the Mill Pond video. So as the
8 vehicle moves northbound, we could see the questioned
9 vehicle had a reflective object that was visible when
10 it went underneath the light. And then that was then
11 compared -- that same object was visible as it went
12 through that light. The question of whether anything
13 else was visible in the back of the vehicle couldn't be
14 answered because of the angle of the camera and the
15 lack of reflection in that area that we can't know
16 whether or not there was anything else in the back of
17 the vehicle. So that question couldn't be answered
18 with the images provided.

19 Q Okay. And what did you do next?

20 A At that point, I was asked to conduct an
21 examination of many days of video, both daylight and
22 nighttime, to determine the likelihood of a vehicle,
23 car or truck, that went by that area at 814, how many
24 vehicles went by, how many could possibly be consistent
25 with the questioned vehicle --

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q And what did you find?

2 A -- and the known vehicle. I created an audit,
3 and this audit shows that between December the 17th,
4 2013 and January the 1, 2014, I had all of the video
5 from 814 for that period of time. There was 3,910
6 trucks, and 10,670 non-trucks. By "non-trucks," they
7 were motorcycles, cars, things that could be
8 distinguished from being a similar truck. So
9 27 percent of the vehicles were trucks, and I had a
10 breakdown per day of how many of each so we could see
11 at Christmastime. There were far fewer because of the
12 holidays and fewer people on the roadway; likewise,
13 January 1st. Each day I could break down truck,
14 non-truck. Of all of those, no vehicle had the same
15 headlight spread pattern as the questioned vehicle.

16 In the daytime, I found one vehicle that was
17 consistent that was of the same class as the -- as the
18 known vehicle, so only one vehicle during this entire
19 time, apart from the vehicles that we've tested in the
20 December date, there was one other vehicle during the
21 daytime that was of the same make, model and year.

22 Q Tell the jury about that.

23 A That was in 14,000 plus vehicles.

24 This vehicle appeared on December 23, so five
25 days later, at 12:40 in the afternoon. The actual

GRANT FREDERICKS - DIRECT EXAMINATION

1 time is 11:31 and this is southbound past 814. This
2 vehicle was towing a boat, and it was moving
3 southbound and it was there for a number of hours and
4 came back. So the last image of the vehicle was at
5 12:40.

6 Then at 17:48, so five hours later, the same
7 vehicle came past the camera going back now
8 northbound. So the same direction of travel as the
9 questioned vehicle we examined from five days earlier.
10 I did a comparison of that vehicle with the known
11 vehicle. So this is -- I call this the unknown
12 vehicle because I want to differentiate it from the
13 questioned vehicle we have been examining, and
14 comparing it to the known vehicle. So we have
15 reflective door handles. It is black in color. There
16 is a toolbox in the back of the vehicle. I've shown
17 on Slide 9 a closeup image of the reflective saw that
18 was in the back, and there's an object that has the
19 same reflective values in the same position in the
20 back of this vehicle.

21 Then, going the other way, five hours later, I
22 made observations of the features, the characteristics
23 that make the make, model and year of the known Ford
24 vehicle were identical to the unknown vehicle that is
25 towing the boat from the area of the boat launch. The

GRANT FREDERICKS - DIRECT EXAMINATION

1 known vehicle has a hitch, and although we can't see
2 the hitch specifically on the unknown vehicle, the tow
3 vehicle, the boat, is attached to the same location.
4 Underneath the unknown vehicle is a dark object
5 towards the center, kind of underneath the drive
6 console, and we see that same feature on the known
7 vehicle.

8 The headlights or -- sorry, the reflective door
9 handles are in the same position, reflective wheels
10 have the same reflective characteristics, and so we
11 have a vehicle that is indistinguishable. We don't
12 have the headlight spread pattern, so I couldn't make
13 observations of that level of uniqueness. So my
14 opinion about this vehicle is it is indiscernible that
15 it has the toolbox and it has an object in the back in
16 the same location, same size, same reflective values
17 as the saw in the back of the vehicle.

18 Q But you could not tell us that, indeed, it was a
19 match without the headlight pattern?

20 A Correct.

21 Q What did you do next to assist us with this
22 aspect of the case?

23 A At that point, I was also asked to examine video
24 recorded to a Walmart, and compare that video with
25 images of the known vehicle.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q Okay.

2 MS. LIVESAY: If you don't mind, Judge, I'm going
3 to put that Walmart video in, just for a second.

4 A I've got it here.

5 THE COURT: Sure.

6 Q (MS. LIVESAY) So this is an image, video, on
7 December 18th at purports a time of 1:13 in the
8 morning. I don't know whether or not this is
9 accurate, the time, it's just what the time says.
10 This shows a vehicle entering the parking lot. The
11 vehicle has a reflective object at the front left-hand
12 side where the license plate would be. I'm going to
13 stop the image for a moment as the vehicle comes
14 around to the front of the store. Again, at
15 1:13:05 he'll drive down the aisle, then turn and go
16 by front of the camera view.

17 If I stop it here, this is a Ford F-150 that has
18 all of the same lighting characteristics as our known
19 vehicle, and there is both a toolbox and -- when I
20 play it -- you'll see an object in the back of the
21 vehicle.

22 (A brief pause in the proceedings.)

23 Q (MS. LIVESAY) Now, Mr. Fredericks, in this
24 video, when you first see the truck coming up, there
25 appears to be a license plate of some kind on the

GRANT FREDERICKS - DIRECT EXAMINATION

1 right side; were you able to identify any kind of
2 reflection consistent with that?

3 A There was some type of reflective license plate
4 object on the right side, yes.

5 Q Could you tell us whether or not that showed up
6 on the footage from 814 and Mill Pond?

7 A The angle of cameras wouldn't let me know either
8 way. There is no reflective area, on that area of the
9 vehicle. I couldn't say whether or not there was a
10 license plate.

11 Q Okay. Now, we were just talking about the time;
12 did you convert the time for accuracy on the 814 video,
13 as well as the Mill Pond video?

14 A Yes.

15 Q And tell us, once you convert the time to the --
16 when did you give us the truck could have possibly
17 passed the camera on 814?

18 A I'll go back to that.

19 Q I'm sorry?

20 A I'll have to go back to that exhibit.

21 (A brief pause in the proceedings.)

22 A You said past 814; south or north?

23 Q Going towards the landing, let's start that way
24 first.

25 A So realtime would be about 3:46?

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q Did you give us a range in your report, because
2 there is no way to tell, kind of, when the second flips
3 over to the next minute. It could be.....

4 A Yes. So the issue of trying to calibrate timing
5 between two separate DVRs that are not connected, don't
6 share the same time; in other words, my microwave at
7 home flashes 12:00 because my wife and I don't set it
8 for the accurate time because it is not important to
9 us. Oftentimes, people who have DVRs in their homes or
10 businesses, it is not important to them. If the power
11 goes off of, it stops reporting; when the power comes
12 back on, it records again. So it is very common to
13 have time inconsistent with realtime. So we do our
14 best to do a calibration of time. In this particular
15 case, the time was off by about an hour, which means,
16 in my experience, usually that during Daylight Savings
17 Time, someone hasn't gone in and corrected the time
18 offset. The -- so it is common to have it off by an
19 hour, as this one was.

20 The time difference between this DVR, Digital
21 Video Recorder, and the one at Mill Pond will be
22 completely different because someone doesn't set
23 exactly the same, so there is some offset. So I
24 relied on the investigator to say this was the time
25 that the system was -- video was recovered, it is

GRANT FREDERICKS - DIRECT EXAMINATION

1 consistent with the time of day, and when I went there
2 and looked at the time of the day and the system, it
3 was consistent. So I could rely on it to within a
4 minute, but it is plus or minus a minute. So here is
5 what happened. This time only tells me to the minute.
6 So if the video was switching over at a particular
7 second, say, zero zero, it switched, it would record
8 at a certain minute. Then, if it went for 59 seconds,
9 it would still record the same time. So in 59
10 seconds, the video can get some distance.

11 Then, the other DVR, if it switched over -- if we
12 were recording the image before it switched over, but
13 it was 50 seconds, now we're almost talking about a
14 two minute difference, yet, the two DVRs would
15 purported to be the same time. So, really, timing is
16 plus or minus up to almost two minutes.

17 Q And if you don't mind, look at what I'm showing
18 you, 126 and 127. Tell me if that records the
19 calibration time from your report.

20 A Give me a moment, please.

21 Q Sorry?

22 A One moment please. (Witness examines document.)

23 (A brief pause in the proceedings.)

24 A Yes, it has the offsets and the potential margin
25 for error, which means because we have a plus or minus

GRANT FREDERICKS - DIRECT EXAMINATION

1 almost two minutes, I can't know exactly when the
2 vehicle passed 814 going south, and when it passed 814
3 going north, but this is accurate. It accurately
4 reflects the potential margin of error.

5 MS. LIVESAY: Can I place 126 and 127 into
6 evidence and publish to the jury?

7 THE COURT: Is there a difference between 126 --
8 I understand. This is what? 126 represents? What
9 calibration of time going north or south.

10 MS. LIVESAY: One is south, and one is north.

11 THE COURT: I understand.

12 THE WITNESS: Your Honor, 126 reflects the
13 southbound movement.

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

15 THE WITNESS: 127 reflects both northbound and
16 southbound.

17 THE COURT: Thank you, sir. That is the
18 distinction.

19 Without objection?

20 MR. BOUCHETTE: Without objection.

21 THE COURT: 126 and 127 admitted without
22 objection.

23 (State's Exhibits 126 and 127 admitted.)

24 Q (MS. LIVESAY) What are we looking at now,
25 Mr. Fredericks?

GRANT FREDERICKS - DIRECT EXAMINATION

1 A This is 126. This identifies in the larger
2 arrows my evidence. The top left-hand corner is not my
3 evidence, but the larger arrows are. It reflects that
4 the given -- the offset time and the inability to
5 define the exact second, so I can only do it by minute,
6 it says the vehicle movement would be between 3:35:09
7 and 3:37:01 past 814, and then it appears that by going
8 past Sitework at 3:38:08 to 3:40:06, and that is a
9 known time.

10 Q How about coming back?

11 A And then coming back, so this is now 1:37, and
12 this shows the vehicle passes the Sitework at 3:44 to
13 3:45, a one-minute period. Then, given the offsets, it
14 appears somewhere between 3:45:10 and 3:47. So it is
15 about a three or so minute difference in drive time
16 between the two. I drove that distance, and could do
17 it within that time.

18 Q Now, Let me ask you this. Even when we
19 calibrated the time, was the truck caught on camera at
20 3:41 a.m.?

21 A Yes.

22 Q When we calibrated the time?

23 A When we calibrated time here?

24 Q Yeah.

25 A Sorry?

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q Was the truck on camera at 3:41? It looks like
2 it went from 3:38 to 3:40.

3 A Yes. Yes. The truck, given the calibration,
4 would have been on camera going southbound between
5 3:35, and then appearing up to 3:40.

6 Q So at 3:41, after we calibrated the time, the
7 truck was not caught on camera, correct?

8 A Correct. It would have been south of that camera
9 location at 3:41.

10 Q And how about after 3:41?

11 A After 3:41, the next time it appeared would be
12 about 3:44, 3:45.

13 Q And that was on Mill Pond?

14 A Correct.

15 Q So the only time it wasn't caught on camera was
16 3:41?

17 A Well, between 3:40 and almost 3:45.

18 Q So between 3:40 and 3:45 it was not on camera?

19 A Correct.

20 Q So before that, it is on camera going towards the
21 landing?

22 A Yes.

23 Q And after 3:44, it is going back away from the
24 landing?

25 A Correct -- well, almost 3:45, 3:44:45 is when it

GRANT FREDERICKS - DIRECT EXAMINATION

1 first appears.

2 Q How many minutes are we talking about from the
3 last camera on Mill Pond until it comes back?

4 A About four minutes and 40 seconds.

5 Q When you were here, did you drive the route?

6 A Yes.

7 Q And would it be possible to go to Peachtree
8 Landing and back to DNS Sitework within that time
9 frame?

10 A Yes.

11 MS. LIVESAY: That's all I have, Judge.

12 THE WITNESS: It was --

13 THE COURT: Do you want to finish your answer?

14 THE WITNESS: I did, yes, sir.

15 THE COURT: He needs to finish his answer,
16 Ms. Livesay.

17 A We had -- you asked me a question earlier about
18 the Walmart, and then we had a question, so we changed,
19 and I would like to go back and finish that question.

20 Q (MS. LIVESAY) Okay. Sorry. Tell me a little
21 bit more about -- we were talking about the Walmart
22 video and the reflection?

23 A Yes.

24 Q Tell me about that.

25 A Yes. So I was asked to do a comparison of the

GRANT FREDERICKS - DIRECT EXAMINATION

1 reflection of features, and that is when we had a
2 question, so we switched, so I'll go back to it.

3 This is basically an examination of the known
4 vehicle and the questioned vehicle at Walmart. The
5 questioned vehicle at Walmart has these
6 distinguishable -- I'm sorry, thank you.

7 (A brief pause in the proceedings.)

8 A I think we have to change the input, thank you.
9 So we were talking about the vehicle as it was
10 entering, and I did a comparison between that, the
11 questioned vehicle, and the dark pickup, the known
12 vehicle. I'm pointing out on Slide 3 the reflective
13 headlights as the vehicle moves forward. You had asked
14 me about the reflective license plate. There is no
15 reflective license plate on the known vehicle, so this
16 -- I'm not sure what the --

17 Q (MS. LIVESAY) When this picture was taken?

18 A When this picture was taken, right, which was
19 sometime after this. So that is a difference. When we
20 are looking at that, we call that a difference in
21 between vehicles, but it's a difference that can be
22 explained. It is part of the methodology. So the
23 explainable difference was that either it's different
24 because it is not the same vehicle, or that it was
25 removed.

GRANT FREDERICKS - DIRECT EXAMINATION

1 Q But it was definitely there at the Walmart?

2 A At the Walmart there is a reflective object
3 consistent with a license plate, in the area where the
4 license plate would be here.

5 Q And, later, when the truck is at the police
6 department in this picture --

7 A Yes.

8 Q -- the license plate had been removed?

9 A Yes. So sometime in the month-and-a-half, or
10 whatever time it was, if this is the same vehicle, then
11 the license place had been removed.

12 As we move forward now, we see that there is --
13 the reflective grille is different from the other
14 reflective grilles. It is not as full. It is more of
15 an oblong, and it is visible here. As the vehicle
16 turns the corner now on Slide 13, we can see that
17 there is an object in the back of the questioned
18 vehicle that is the same features, shapes, size as the
19 cutting table of the saw in the back. And as the
20 vehicle goes by the camera, we can see it is the same
21 make, model and year, same hubcap characteristics, and
22 then in the back of the vehicle we can see the toolbox
23 clearly and, again, the same hubcap, same wheel type,
24 same, kind of, thin wheels. We can see the hitch and
25 other features of the vehicle. So the vehicle is

GRANT FREDERICKS - DIRECT EXAMINATION

1 virtually indistinguishable from the known vehicle.

2 Q (MS. LIVESAY) Thank you, Mr. Fredericks.

3 MS. LIVESAY: No further questions. Can I get
4 that for the clerk, the thumb drive? 128 will be the
5 thumb drive.

6 THE COURT: 128, without objection, is the thumb
7 drive.

8 That concludes your direct examination?

9 MS. LIVESAY: Yes, sir.

10 THE COURT: You have cross-examination?

11 MR. BOUCHETTE: I can do that after lunch.

12 THE COURT: Okay. That's fine. Ladies and
13 gentlemen, we reached a point that I'll let you have
14 your lunch break. I ask that you be back in your jury
15 room by 1 o'clock, and we'll resume the trial. Don't
16 begin your deliberations, don't discuss the case among
17 yourselves and don't let anyone talk about it in your
18 presence, thank you.

19 (The jury exits at 12:00 p.m., and the
20 following is heard out of the presence of the jury.)

21 (State's Exhibit 128 marked and admitted.)

22 THE COURT: Anything from the State before we
23 recess?

24 MS. LIVESAY: No, sir, Your Honor.

25 THE COURT: Anything from the defendant?

GRANT FREDERICKS - DIRECT EXAMINATION

1 MR. BOUCHETTE: No, Your Honor.

2 THE COURT: You can step down. I ask you during
3 the recess that you have no conversation with any of
4 the attorneys.

5 THE WITNESS: Yes, sir.

6 THE COURT: See you at 1 o'clock. Thank you.
7 Could I see you all for a second, please?

8 (Whereupon, a bench conference was had and a
9 lunch recess was taken.)

10 THE COURT: 40 has been discovered. 83 and 84
11 are the same, they just flipped over. The record --
12 there was some questions as to 83, and there were
13 questions in the record of 84. It's the same exhibit.
14 Everyone agrees that they are duplicates? Any
15 objection to leave them --

16 MR. BOUCHETTE: No, Your Honor.

17 THE COURT: Let the record reflect that the
18 defendant is present.

19 MR. BOUCHETTE: No, sir. That's fine.

20 THE COURT: Anything from the State before we
21 resume?

22 MS. LIVESAY: No, sir.

23 THE COURT: Anything from the defendant?

24 MR. BOUCHETTE: No, Your Honor.

25 THE COURT: Okay. Let's bring in the jury,

GRANT FREDERICKS - CROSS-EXAMINATION

1 please.

2 (Whereupon, the jury enters at 1:02 p.m., and
3 the following is had in the presence of the jury.)

4 THE COURT: Thank you. We will continue.

5 State completed its examination.

6 Mr. Bouchette, you may begin.

7 CROSS-EXAMINATION

8 BY MR. BOUCHETTE:

9 Q Good afternoon.

10 A Good afternoon, sir.

11 Q Let me begin briefly, I know it was a long time
12 ago, but you made reference to your undergraduate
13 degree; do you remember saying that?

14 A Yes.

15 Q If I recall, you said it -- was it in
16 broadcasting with an emphasis in engineering?

17 A My emphasis was in engineering, yes.

18 Q I'm a little confused. Was -- your actual degree
19 was in broadcasting?

20 A Correct.

21 Q And you also had a degree in drama, correct?

22 A Theater, yes.

23 Q Theater, from Gonzaga?

24 A Yes.

25 Q And when you say an emphasis, that is not part of

GRANT FREDERICKS - CROSS-EXAMINATION

1 the actual designation of the degree; is that correct?

2 A Correct. My emphasis in theater was in lighting,
3 lighting for stage and broadcasting was on engineering.

4 Q Okay. So you are just saying that when you were
5 going for broadcasting, you spent more time in whatever
6 those classes you consider to be the engineering side
7 of that?

8 A Yes.

9 Q Now, after college, I understand you worked as a
10 broadcaster for a number of years?

11 A Yes, and producer.

12 Q And how long did you do that?

13 A Five years.

14 Q And I understand you received a number of awards
15 while you were in the TV business?

16 A Yes.

17 Q And at some point, you transitioned from the TV
18 business to working at the Vancouver Police Department;
19 is that correct?

20 A Correct.

21 Q How long did you work there?

22 A 12 years.

23 Q And though you were -- let me ask it this way.
24 Safe to say, at least -- undergraduate degree and
25 initial training, that would not classify you as a

GRANT FREDERICKS - CROSS-EXAMINATION

1 scientist based on that particular set of experiences,
2 correct?

3 A No. They are foundational -- foundational
4 courses.

5 Q But you consider yourself to be a scientist based
6 on any subsequent training you have; is that safe to
7 say?

8 A Yes.

9 Q So you adhere to various aspects of the
10 scientific method, correct.

11 A Yes.

12 Q Particularly those which would adhere to peer
13 review?

14 A Yes.

15 Q Safe to say?

16 A Yes.

17 Q And let's -- particularly as it would relate to
18 any new or novel idea or concept; safe to say?

19 A The concept of novel or new science is something
20 we understand -- there are new methodologies that
21 eventually make its way from introduction into the
22 mainstream of analysis after publication and study and
23 peer review.

24 Q Right. That is what I want to talk about. For
25 example, the process of peer review and the process of

GRANT FREDERICKS - CROSS-EXAMINATION

1 the scientific method is consistent across a lot of
2 scientific disciplines, correct?

3 A Well, the question of peer review is, number one,
4 has the underlying science, underlying peer review;
5 secondary to that, has the particular report that has
6 been produced been reviewed by a peer.

7 Q But at this point I'm talking about a general
8 underlying theory of principle.

9 A Depending on the nature of the scientific
10 examination, yes.

11 Q Well, let's give an example. For example, the
12 medical field utilizes peer review and scientific
13 method, correct?

14 A I don't know much about that field apart from a
15 layperson's perspective perhaps. I understand there is
16 medical journals, there is publications and peer
17 review.

18 Q Correct. And the basic idea behind that is --
19 let's say for example, just using that simply for
20 illustrative purposes, if I'm a doctor and I have a
21 novel idea of a theory that perhaps a no-sugar diet
22 will reduce the rate of cancer growth and I wish to
23 start utilizing that belief or theory, I would publish
24 maybe in a peer review journal; true?

25 A It is outside of my area of expertise. I

GRANT FREDERICKS - CROSS-EXAMINATION

1 wouldn't disagree, but I don't know.

2 Q Would that be -- let me ask, do new or novel
3 ideas in your field, would you also engage a peer
4 review journal to be able to do that?

5 A I think that -- I don't engage in new or novel
6 ideas. I think the work that I do has already been
7 published by others and been practiced by others and is
8 generally accepted among my scientific community before
9 I would engage in it.

10 Q You are saying that the idea of headlight spread
11 pattern analysis to be able to identify one individual
12 vehicle to the exclusion of all others is generally
13 accepted in the field?

14 A Yes.

15 Q You are not the only one that has testified to
16 that, established that?

17 A No.

18 Q Let me ask you this. Is it identified as a
19 specialized field in the FBI's handbook?

20 A Well, I got my training from the FBI on reverse
21 projection for this purpose. It is defined by the
22 International Association for Identification and the
23 Law Enforcement Emergency Services Video Association in
24 its glossary. Headlight spread pattern analysis is
25 specifically identified and discussed in most of the