

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Lexington County

Honorable Daniel McLeod Coble, Circuit Court Judge

WILLIAM CRAIG CAUGHMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000060

APPENDIX

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3601

ATTORNEY FOR PETITIONER

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 East Main Street, Suite 309
Lexington, SC 29072
(803) 785-8352

ATTORNEYS FOR RESPONDENT

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1 State of South Carolina

Court of General Sessions

2 County of Lexington

3
4
5 State)

)

6) Transcript of Record

v.)

10-GS-32-2294

10-GS-32-2842

7 William C. Caughman)

8)

Defendant.)

9
10 May 20, 2013

11 Lexington, South Carolina

12
13 B E F O R E:

14 The Honorable Clifton Newman, Judge; and a
15 jury.

16
17 A P P E A R A N C E S:

Laura Suzanne Mayes, Assist. Solicitor

18 Robert E. McNair, III, Assist. Solicitor

Attorneys for the State

19 H. Wayne Floyd, Esquire

20 Attorney for the Defendant

21
22
23
24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

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1 (The following proceedings were held on May
2 20, 2013.)

3 **THE COURT:** Ms. Mayes.

4 **MS. MAYES:** May it please the Court.

5 **THE COURT:** Yes, ma'am.

6 **MS. MAYES:** Your Honor, before you is
7 indictment number 2010-GS-32-2294, the State of
8 South Carolina versus William Craig Caughman. The
9 indictment is for hit and run in an accident
10 resulting in death.

11 Indictment number 2010-GS-32-2842, the State of
12 South Carolina versus William Craig Caughman.
13 Indictment is for obstruction of justice.

14 Your Honor, Mr. Caughman is present in court
15 with his attorney, Mr. Floyd.

16 **THE COURT:** All right. Ladies and gentlemen,
17 the State has called for trial the case of the State
18 versus William Craig Caughman. This case comes into
19 court as a result of an indictment returned by the
20 grand jury -- as a result of two indictments
21 returned by the Grand Jury of Lexington County
22 charging Mr. Caughman with the offenses of hit and
23 run accident involving death and obstruction of
24 justice.

25 He's pled not guilty to these two charges.

1 He's presumed to be not guilty of these charges. He
2 cannot be found guilty unless the State presents
3 evidence which convinces a jury of his guilt beyond
4 a reasonable doubt. Mr. Caughman is in court
5 represented by counsel.

6 And, Counsel, if you'll introduce yourself and
7 anyone else you'd like to, including Mr. Caughman.

8 **MR. FLOYD:** Thank you, Your Honor.

9 **THE COURT:** Mr. Caughman, if you'll stand as
10 well.

11 **MR. FLOYD:** Ladies and gentlemen, my name is
12 Wayne Floyd. I practice law in West Columbia. This
13 is the defendant, Mr. William Craig Caughman.

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

15 The State's also represented through the
16 Solicitor's Office of the Eleventh Circuit -- the
17 Eleventh Circuit Solicitor's Office.

18 And you may introduce yourselves as well.

19 **MS. MAYES:** My name is Suzanne Mayes. I'm a
20 prosecutor here at the Lexington County Solicitor's
21 Office.

22 **MR. MCNAIR:** Good morning. I'm Robby McNair.
23 I'm an assistant solicitor at the Lexington County
24 Solicitor's Office.

25 **THE COURT:** All right. Ladies and gentlemen,

1 we're going to pick the jury in this case, and I
2 have a number of questions to ask. And if any of
3 these questions apply to any of you, as I indicated
4 earlier, under your oath, you're obligated to
5 respond to any questions that might apply to you.

6 Is any member of the jury panel related by
7 blood or marriage to the defendant, Mr. Craig
8 Caughman, of 1 Gunter Circle in West Columbia?
9 If you're related by blood or marriage to him or if
10 you are an acquaintance of his, a personal friend of
11 his, please stand.

12 No one is standing.

13 Has any member of the jury panel or any of your
14 immediate family members ever been represented by
15 Mr. Wayne -- Attorney Wayne Floyd of West Columbia
16 or by the Solicitor's Office of the Eleventh
17 Circuit; if so, please stand?

18 If the Solicitor's Office has handled cases for
19 you or if you have ever been represented by
20 Mr. Floyd, either you or any close family member or
21 personal friends.

22 (Jurors stand.)

23 **THE COURT:** Yes, ma'am, juror number?

24 **JUROR:** 125. Wayne Floyd represented my mom
25 years ago. I don't remember what kind of case,

1 probably a divorce.

2 **THE COURT:** All right. And would that fact
3 affect your ability to be fair and impartial if
4 picked in this case?

5 **JUROR:** No, sir.

6 **THE COURT:** All right. Thank you.
7 Yes, ma'am.

8 **JUROR:** 215. My aunt wasn't represented by
9 Mr. Floyd, but she was employed by Mr. Floyd.

10 **THE COURT:** And would that fact affect your
11 ability to be fair and impartial?

12 **JUROR:** No, sir.

13 **THE COURT:** All right. Thank you.
14 Yes, sir.

15 **JUROR:** Juror 106. Mr. Wayne Floyd represented
16 me I don't know how many years ago. I was 18 --
17 when I was 18 I think it was.

18 **THE COURT:** All right. And your juror number
19 one more time?

20 **JUROR:** 106.

21 **THE COURT:** And would that fact affect your
22 ability to be fair and impartial?

23 **JUROR:** No.

24 **THE COURT:** All right. Thank you.

25 Ladies and gentlemen, the indictment in this

1 case alleges a vehicle accident, on or about
2 February 21st, 2010, involving the defendant and the
3 alleged victim, Frederick Tobias Morriss.

4 The accident occurring in what area, Madame
5 Solicitor?

6 **MS. MAYES:** Your Honor, this accident was at
7 9th Street and Knox Abbott, and that's the
8 intersection located in the Cayce area of Lexington
9 County.

10 **THE COURT:** Has any member of the jury panel
11 heard about this matter, know anything about this
12 matter; if so, please stand?

13 No one's standing.

14 And the accident alleges that as a result of
15 this impact, Mr. Morriss was killed; is that right?

16 **MS. MAYES:** Yes, sir, Your Honor.

17 **THE COURT:** All right. Has any member of the
18 jury panel or an immediate family member ever been
19 investigated for or charged with an accident
20 involving a traffic fatality; if so, please stand?
21 If any member of the jury panel or any of your
22 immediate family members have ever been investigated
23 for or charged with an incident involving a traffic
24 fatality, if so, please stand.

25 (Jurors stand.)

1 **THE COURT:** Yes, sir.

2 **JUROR:** My brother-in-law.

3 **THE COURT:** You're juror number --

4 **JUROR:** Juror 10.

5 **THE COURT:** Number 10. Your brother-in-law was
6 investigated or charged?

7 **JUROR:** He was charged, vehicular manslaughter.

8 **THE COURT:** And would that fact affect your
9 ability to be fair and impartial in this case?

10 **JUROR:** No, sir.

11 **THE COURT:** All right. Thank you, sir.
12 Yes, ma'am, juror number 107.

13 **JUROR:** 107. My husband, back in 1990,
14 involved in a vehicular homicide. His cousin got
15 killed.

16 **THE COURT:** And would that affect your ability
17 to be fair and impartial if picked in this case?

18 **JUROR:** No, sir.

19 **THE COURT:** Thank you.

20 Has any member of the jury panel ever been
21 employed at the R.R. Donnelley Company, which is
22 located on Key Road in Columbia? If you've ever
23 been employed at R.R. Donnelley Company on Key Road
24 in Columbia, please stand.

25 (There was no response.)

1 **THE COURT:** If you have ever been a member of,
2 now or in the past, ever been a member of the
3 Masonic Lodge known as Sinclair Lodge Number 154 in
4 West Columbia? Either you or your spouse ever been
5 a member of that lodge, if so, please stand.

6 No one's standing.

7 If you have any religious or moral belief which
8 you believe would prevent you from passing judgment
9 on another person as a member of a jury, if you have
10 that religious or moral belief which would prevent
11 you from passing moral judgment on another person as
12 a member of a jury, please stand.

13 No one's standing.

14 If you knew Toby Morriss or if you were a
15 friend or a relative of his, please stand.

16 (There was no response.)

17 **THE COURT:** The following folks may testify in
18 this case -- and if any of you are here, please
19 stand -- Detective Edward -- how do you pronounce
20 that?

21 **DETECTIVE PEREIRA:** Pereira, Your Honor.

22 **THE COURT:** Pereira with Cayce Public Safety;
23 Marion "Greg" Green, Cayce Public Safety; Eric Keith
24 Darlack, Cayce Public Safety; Investigator James
25 Merrill, Cayce Public Safety; Lieutenant Jeff

1 Simmons, Cayce Public Safety; Detective Tim Shealy
2 of Cayce Public Safety; Sergeant Darwin Weaver,
3 Cayce Public Safety; Agent Mike Robinson of SLED;
4 Captain Joe Leatherman of SLED; Jennifer Prather of
5 Lexington; Sergeant Sally Farmer of the Highway
6 Patrol MAIT Team; Amanda Davis, Lexington EMS; Kevin
7 J. Washington of West Columbia; Charles Everett
8 Campbell of West Columbia; Lawrence Daniel Gilbert,
9 Jr. of West Columbia; Amy Dalton of Lexington; Pete
10 Koutrakas of Lexington; James M. Haggard, Jr. of
11 Lexington; Troy Bostick of Lexington; Clanton
12 Austell of Lexington; Dr. William Harmon of
13 Lexington; Amy Stephens of SLED; Agent Michael
14 Moskal of SLED; Dr. Elizabeth Jane Moffatt of
15 Lexington Medical Center; Dawn Hurley of Bank of
16 America; Tom Harmalik, Lexington Solid Waste
17 Management Department; Clarissa Mack, South Carolina
18 DMV; Leslie Hayes from U-Haul in Cayce; Tiffany
19 Caughman; Jerry Derrick; and Tommy Morin of Farm
20 Bureau in Columbia.

21 If you know any of those potential witnesses,
22 if you know any of them or if you're related by
23 friend, marriage or acquaintance to any of them,
24 please stand.

25 (Juror stands.)

1 **THE COURT:** Yes, ma'am, juror number --

2 **JUROR:** 134. I think Troy Bostick lives in my
3 neighborhood.

4 **THE COURT:** All right. And -- thank you very
5 much.

6 Yes, ma'am.

7 **JUROR:** Juror 210. Could you repeat the
8 Koutrakas name?

9 **THE COURT:** That name is Pete Koutrakas,
10 K-o-u-t-r-a-k-a-s.

11 **JUROR:** Not Koutrakas?

12 **MS. MAYES:** I believe Koutrakas is another
13 pronunciation.

14 **THE COURT:** Where is he from?

15 **MS. MAYES:** He is from the Lexington County
16 area, Your Honor. And he is the former owner of the
17 Hard Knox Grill on Knox Abbott, and I believe he is
18 currently a restaurant owner in Lexington.

19 **THE COURT:** He owns a restaurant in Lexington.

20 **JUROR:** I used to work for him.

21 **THE COURT:** All right. And would that fact
22 affect your ability to be fair and impartial?

23 **JUROR:** I don't think so.

24 **THE COURT:** All right. Thank you.

25 Yes, sir.

1 **JUROR:** Juror 163. Doctor -- my personal
2 physician's name is Dr. William Harmon at Lake
3 Murray Family Practice.

4 **THE COURT:** Yes, sir. All right. And he's
5 your doctor?

6 **JUROR:** Yes, sir.

7 **THE COURT:** All right. And would that affect
8 you to -- would you still be a fair and impartial
9 juror despite the fact that your doctor may be a
10 witness in this case?

11 **JUROR:** Yes, Your Honor.

12 **THE COURT:** All right. Thank you, sir.

13 **MR. FLOYD:** What was that juror number, please?

14 **THE COURT:** Juror number one more time?

15 **JUROR:** 163.

16 **THE COURT:** 163.

17 All right. Ladies and gentlemen, have you, a
18 relative or a close friend of yours taken courses at
19 or are currently enrolled in an arts course through
20 the University of South Carolina's College of Arts
21 and Sciences? If you or any close friends or
22 relatives of yours that you're aware of are
23 currently enrolled in or have taken courses through
24 the USC's College of Arts and Sciences, if so,
25 please stand.

1 (Jurors stand.)

2 **JUROR:** Number 119. My husband took classes at
3 USC at the School of Arts.

4 **THE COURT:** You have or are?

5 **JUROR:** My husband did.

6 **THE COURT:** Your husband did, all right. Thank
7 you.

8 **JUROR:** Juror number 60. My girlfriend just
9 graduated from USC Fine Arts or something like that.

10 **THE COURT:** All right. Thank you, sir.

11 Do you spend time at the Art Bar? If you spent
12 time at the Art Bar, please stand. Spend time at
13 the Art Bar.

14 No one spends time at the Art Bar.

15 Do you, a relative or a close friend of yours
16 belong to an organization for motorcycle
17 enthusiasts, motorcycle riders or any organization
18 that promotes motorcycle safety; if so, please
19 stand? Any motorcycle enthusiasts or supporters of
20 motorcycle safety, if so, please stand.

21 (There was no response.)

22 **THE COURT:** If you have any knowledge of the
23 allegations in this case from any source, including
24 media coverage or otherwise, please stand.

25 (There was no response.)

1 **THE COURT:** If you are a member of MADD, SADD,
2 CAVE, police boosters or any similar organization,
3 please stand.

4 (There was no response.)

5 **THE COURT:** Have you, a close friend or
6 relative of yours ever been in a traffic accident
7 where one of the drivers or passengers were
8 seriously injured or died as a result of those
9 injuries; if so, please stand? Anyone in an
10 accident where the passenger or driver was seriously
11 injured or died as a result of the injuries, if so,
12 please stand.

13 (Jurors stand.)

14 **THE COURT:** Yes, sir, juror number --

15 **JUROR:** 86. My son was hit by a vehicle while
16 he was on a motorcycle. He was in the hospital for
17 a week.

18 **THE COURT:** All right. And, sir, do you think
19 that fact will affect your ability to be fair and
20 impartial in this case?

21 **JUROR:** No, Your Honor.

22 **THE COURT:** Thank you.

23 Yes, ma'am.

24 **JUROR:** Juror 51. My father was killed in
25 1996.

1 **THE COURT:** And do you believe that fact will
2 affect your ability to be fair and impartial in this
3 case?

4 **JUROR:** (Juror shook head.)

5 **THE COURT:** Thank you.

6 If you or any member of your immediate family
7 possess a license to operate a motorcycle -- is that
8 a special license to operate a motorcycle? Do you
9 need one?

10 All right. If you or any family member possess
11 a license to operate a motorcycle, if so, please
12 stand.

13 (Jurors stand.)

14 **THE COURT:** All right. We'll get juror numbers
15 only. Yes, sir, in the black shirt.

16 **JUROR:** Ronnie McCormick, 133, motorcycle
17 license.

18 **THE COURT:** Thank you.

19 **JUROR:** Juror number 128. I have a motorcycle
20 license.

21 **THE COURT:** Thank you.

22 Yes, ma'am.

23 **JUROR:** Juror number 202. My brother.

24 **THE COURT:** All right.

25 **JUROR:** Juror 86. I have a motorcycle license.

1 **THE COURT:** Yes, ma'am.

2 **JUROR:** Juror number 49. My brother.

3 **THE COURT:** Thank you.

4 107.

5 **JUROR:** My husband and my son both have

6 motorcycle licenses.

7 **THE COURT:** Thank you.

8 **JUROR:** 59. My husband.

9 **THE COURT:** Thank you.

10 **JUROR:** Juror number 87. My father and uncle

11 have motorcycle licenses.

12 **THE COURT:** All right. Yes, sir, in the red,

13 in the red shirt.

14 **JUROR:** 61, motorcycle license.

15 **THE COURT:** All right. And next to --

16 **JUROR:** Jury 102. My husband has a motorcycle

17 license.

18 **THE COURT:** All right. Yes, ma'am.

19 **JUROR:** 78. My mother has a motorcycle

20 license.

21 **THE COURT:** All right.

22 **JUROR:** 74. I have a motorcycle license.

23 **JUROR:** Number 3. My husband has a motorcycle

24 license.

25 **JUROR:** Number 8. I have a motorcycle license.

1 **JUROR:** 123. I have a motorcycle license.

2 **THE COURT:** All right. Thank you.

3 Are you or any members of your family employed
4 in law enforcement? If you or any members of your
5 immediate family are employed in law enforcement, if
6 so, please stand.

7 (Jurors stand.)

8 **THE COURT:** Let us know who they are and where
9 they work and your juror number.

10 **JUROR:** Juror number 8. My son-in-law is just
11 recently in deputy training.

12 **THE COURT:** In Lexington County?

13 **JUROR:** Lexington County.

14 **THE COURT:** All right. Thank you.

15 **JUROR:** Juror number 86. My son, Trevor, is an
16 officer with the Orangeburg Public safety.

17 **JUROR:** Number 92. My brother works for the
18 City of Columbia.

19 **JUROR:** Juror 113. My father's a Lexington
20 County corrections officer.

21 **THE COURT:** All right. Thank you.

22 **JUROR:** 120. My brother-in-law is an assistant
23 attorney general for South Carolina.

24 **THE COURT:** All right. Thank you.

25 **JUROR:** Juror 51. My brother is with the

1 Kershaw County Department of Corrections.

2 **THE COURT:** All right. Thank you.

3 **JUROR:** Juror number 165. My husband is a
4 volunteer police officer with South Congaree.

5 **THE COURT:** All right. Yes, sir.

6 **JUROR:** 153. I have a brother that's an FBI
7 agent out of Washington D.C. and another brother
8 that is a chief investigator with the solicitor in
9 Charleston.

10 **THE COURT:** All right. Yes, sir.

11 **JUROR:** 133. My daughter works with the
12 department of corrections.

13 **THE COURT:** All right. Yes, ma'am.

14 **JUROR:** 124. My brother is a corrections
15 officer.

16 **THE COURT:** If any of you or any members of
17 your immediate family are employed by the University
18 of South Carolina, if so, please stand.

19 (Jurors stand.)

20 **THE COURT:** If you or any member of your
21 immediate family are employed by the University of
22 South Carolina, please stand.

23 Yes, ma'am.

24 **JUROR:** I'm dually employed by the school.

25 **THE COURT:** You said you are employed by USC?

1 **JUROR:** Correct.

2 **THE COURT:** And your juror number is?

3 **JUROR:** 141.

4 **THE COURT:** And what department do you work in?

5 **JUROR:** The School of Medicine.

6 **THE COURT:** School of Medicine. All right.

7 Thank you.

8 Yes, ma'am.

9 **JUROR:** My husband works for the grounds
10 department at USC.

11 **THE COURT:** Juror number -- tell me your juror
12 numbers when you stand.

13 **JUROR:** 196.

14 **THE COURT:** All right. Thank you.

15 **JUROR:** Juror number 102. I work for the USC
16 School of Medicine.

17 **THE COURT:** All right. Thank you.

18 **JUROR:** Juror number 45. My dad works for the
19 university in the technological services.

20 **THE COURT:** All right. Thank you.

21 **JUROR:** Juror number 16. My husband is an
22 occasional freelance sports --

23 **COURT REPORTER:** I couldn't hear her.

24 **THE COURT:** Say it one more time a little
25 louder.

1 **JUROR:** Sorry. My husband is an occasional
2 sports photographer, freelance, for USC.

3 **THE COURT:** And your juror number is?

4 **JUROR:** 16.

5 **THE COURT:** 16. Thank you.

6 **JUROR:** 71. My mother works in the office of
7 admissions.

8 **THE COURT:** Office of admissions.

9 Yes, ma'am.

10 **JUROR:** Juror number 87. My stepmother works
11 as a teacher in the biology department at USC.

12 **THE COURT:** All right. Thank you.

13 Yes, sir.

14 **JUROR:** Juror 177. My father's a program
15 manager.

16 **THE COURT:** All right. Thank you.

17 Ladies and gentlemen, if you know of any reason
18 why you should not be selected to be a juror in this
19 case or any reason why you cannot give both the
20 State and the defense a fair and impartial trial, if
21 you know of any reason whatsoever, please stand.

22 (There was no response.)

23 **THE COURT:** If you did not respond to any
24 questions that you did not wish to respond openly to
25 or if we went too fast and by the time your brain

1 caught up with it all, you didn't respond, but think
2 you need to respond, if so, please stand.

3 (Jurors stand.)

4 **THE COURT:** Yes, ma'am.

5 **JUROR:** Number 16. My mother-in-law was killed
6 in a car accident.

7 **THE COURT:** All right. Thank you very much.

8 **MS. MAYES:** That number again?

9 **THE COURT:** Number 16.

10 Yes, sir.

11 **JUROR:** When you asked about the association
12 being a part of, at one point, I was a part of the
13 Honda Riders Association, but I am no longer.

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

15 Any additional voir dire questions that the
16 State or the defense would like for me to ask?

17 **MS. MAYES:** Yes, sir, Your Honor. May we
18 approach?

19 **THE COURT:** Sure.

20 (Whereupon, a bench conference was held off
21 the record, in the presence of the jury panel, but
22 out of the hearing of the jury panel.)

23 **THE COURT:** I have the names of some additional
24 folks who might testify in this case, and if they
25 are -- any of them are here, please stand so the

1 jury can see you: Robert Caughman; Jackie Caughman,
2 on the right side there; Emily Caughman; Mike
3 Rucker; Jennifer Rucker; Tiffany Caughman; Brenda
4 Padgett; Kevin Jackson; Chris Horton; Mike Smith;
5 Nancy McArthy.

6 If you are a friend, relative, acquaintance or
7 if you know any of those prospective witnesses,
8 please stand.

9 (There was no response.)

10 **THE COURT:** Anything else by the State or the
11 defense?

12 **MS. MAYES:** Nothing further from the State,
13 Your Honor.

14 **MR. FLOYD:** Nothing from the defense, Your
15 Honor.

16 **THE COURT:** All right. Ladies and gentlemen,
17 if you will give the clerk your attention, we will
18 prepare to proceed with jury selection.

19 (Pause.)

20 **THE CLERK:** As I call your name, if you'll come
21 forward, make sure you bring your personal stuff and
22 your books, magazines, your pocketbooks, ladies,
23 whatever with you, and come forward and stand where
24 Mr. Dan is until I give you further instructions.

25 Number 79, Bruce Grammer.

1 (Whereupon, Bruce A. Grammer, a white male,
2 was called forward.)

3 **THE CLERK:** What say you for the State?

4 **MS. MAYES:** Please present the juror.

5 **THE CLERK:** What say you for the defense?

6 **MR. FLOYD:** Present Mr. Grammer.

7 **THE CLERK:** Have a seat in the jury box.
8 Number 98, Donald Hill.

9 (Whereupon, Donald C. Hill, a white male,
10 was called forward.)

11 **THE CLERK:** What say you for the State?

12 **MS. MAYES:** Please excuse the juror from the
13 trial of this case.

14 **THE CLERK:** Return to your seat, please, sir.
15 Number 148, Joseph Murphy.

16 (Whereupon, Joseph A. Murphy, a white male,
17 was called forward.)

18 **THE CLERK:** What say you for the State?

19 **MS. MAYES:** Please present the juror.

20 **THE CLERK:** What say you for the defense?

21 **MR. FLOYD:** Present Mr. Murphy.

22 **THE CLERK:** Have a seat in the jury box, sir.
23 94, Ryan Hart.

24 (Whereupon, Ryan G. Hart, a white male, was
25 called forward.)

1 **THE CLERK:** What say you for the State?

2 **MS. MAYES:** Please present the juror.

3 **THE CLERK:** What say you for the defense?

4 **MR. FLOYD:** Present Mr. Hart.

5 **THE CLERK:** Have a seat in the jury box, sir.

6 120, Nathan Logan.

7 (Whereupon, Nathan A. Logan, a white male,
8 was called forward.)

9 **THE CLERK:** What say you for the State?

10 **MS. MAYES:** Please present the juror.

11 **THE CLERK:** What say you for the defense?

12 **MR. FLOYD:** Excuse Mr. Logan, please.

13 **THE CLERK:** Return to your seat, please, sir.

14 Number 58, Jeffrey Dover, Jr.

15 (Whereupon, Jeffrey S. Dover, Jr., a white
16 male, was called forward.)

17 **THE CLERK:** What say you for the State?

18 **MS. MAYES:** Please present the juror.

19 **THE CLERK:** What say you for the defense?

20 **MR. FLOYD:** Present Mr. Dover.

21 **THE CLERK:** Have a seat in the jury box, sir.

22 211, Steven Welch.

23 (Whereupon, Steven J. Welch, a white male,
24 was called forward.)

25 **THE CLERK:** What say you for the State?

1 **MS. MAYES:** Please excuse the juror from the
2 trial of this case.

3 **THE CLERK:** Return to your seat, please, sir.
4 Number 180, Wayne Shull.

5 (Whereupon, Herbert W. Shull, a white male,
6 was called forward.)

7 **THE CLERK:** What say you for the State?

8 **MS. MAYES:** Please present the juror.

9 **THE CLERK:** What say you for the defense?

10 **MR. FLOYD:** Excuse Mr. Shull, please.

11 **THE CLERK:** Return to your seat, please, sir.
12 205, Kolleen Ulmer.

13 (Whereupon, Kolleen M. Ulmer, a white
14 female, was called forward.)

15 **THE CLERK:** What say you for the State?

16 **MS. MAYES:** Please present the juror.

17 **THE CLERK:** What say you for the defense?

18 **MR. FLOYD:** Present Ms. Ulmer.

19 **THE CLERK:** Have a seat in the jury box, ma'am.
20 169, Benjamin Rickman.

21 (Whereupon, Benjamin H. Rickman, a white
22 male, was called forward.)

23 **THE CLERK:** What say you for the State?

24 **MS. MAYES:** Please present the juror.

25 **THE CLERK:** What say you for the defense?

1 **MR. FLOYD:** Present Mr. Rickman.

2 **THE CLERK:** Have a seat in the jury box, sir.

3 78, Kimberly Graham.

4 (Whereupon, Kimberly B. Graham, a white
5 female, was called forward.)

6 **THE CLERK:** What say you for the State?

7 **MS. MAYES:** Please present the juror.

8 **THE CLERK:** What say you for the defense?

9 **MR. FLOYD:** Present Ms. Graham.

10 **THE CLERK:** Have a seat in the jury box, ma'am.

11 Number 1, Gulshan Abedi.

12 (Whereupon, Gulshan Abedi, a Asian female,
13 was called forward.)

14 **THE CLERK:** What say you for the State?

15 **MS. MAYES:** Please present the juror.

16 **THE CLERK:** What say you for the defense?

17 **MR. FLOYD:** Present Ms. Abedi.

18 **THE CLERK:** Have a seat in the jury box, ma'am.

19 Number 119, Renee Lewis.

20 (Whereupon, Renee L. Lewis, a white female,
21 was called forward.)

22 **THE CLERK:** What say you for the State?

23 **MS. MAYES:** Please present the juror.

24 **THE CLERK:** What say you for the defense?

25 **MR. FLOYD:** Excuse Ms. Lewis, please.

1 **THE CLERK:** Return to your seat, please, ma'am.
2 74, James Gentry.

3 (Whereupon, James D. Gentry, a white male,
4 was called forward.)

5 **THE CLERK:** What say you for the State?

6 **MS. MAYES:** Please present the juror.

7 **THE CLERK:** What say you for the defense?

8 **MR. FLOYD:** Excuse Mr. Gentry, please.

9 **THE CLERK:** Return to your seat, please, sir.
10 Number 115, Brad Lammers.

11 (Whereupon, Brad A. Lammers, a white male,
12 was called forward.)

13 **THE CLERK:** What say you for the State?

14 **MS. MAYES:** Please present the juror.

15 **THE CLERK:** What say you for the defense?

16 **MR. FLOYD:** Present Mr. Lammers, please.

17 **THE CLERK:** Have a seat in the jury box, sir.
18 147, Robert Munsell.

19 (Whereupon, Robert J. Munsell, a white male,
20 was called forward.)

21 **THE CLERK:** What say you for the State?

22 **MS. MAYES:** Please present the juror.

23 **THE CLERK:** What say you for the defense?

24 **MR. FLOYD:** Present Mr. Munsell, please.

25 **THE CLERK:** Have a seat in the jury box, sir.

1 49, Natalie Crumpton.

2 (Whereupon, Natalie D. Crumpton, a white
3 female, was called forward.)

4 **THE CLERK:** What say you for the State?

5 **MS. MAYES:** Please present the juror.

6 **THE CLERK:** What say you for the defense?

7 **MR. FLOYD:** Present Ms. Crumpton, please.

8 **THE COURT:** Have a seat in the jury box, ma'am.
9 207, Grace Ward.

10 (Whereupon, Grace M. Ward, a white female,
11 was called forward.)

12 **MR. FLOYD:** Number please?

13 **THE CLERK:** She's 207.

14 What say you for the State?

15 **MS. MAYES:** Please present the juror.

16 **THE CLERK:** What say you for the defense?

17 **MR. FLOYD:** Present Ms. Ward.

18 **THE CLERK:** Have a seat in the jury box, ma'am.
19 Alternates, Your Honor?

20 **THE COURT:** Two alternates.

21 **THE CLERK:** Number 212, Patrick Westcott.

22 (Whereupon, Patrick K. Westcott, a white
23 male, was called forward.)

24 **THE CLERK:** What say you for the State?

25 **MS. MAYES:** Please present the juror.

1 **THE CLERK:** What say you for the defense?

2 **MR. FLOYD:** Present Mr. Westcott.

3 **THE CLERK:** Have a seat in the jury box, sir.

4 That's alternate number one.

5 43, Tammy Clement.

6 (Whereupon, Tammy S. Clement, a white
7 female, was called forward.)

8 **THE CLERK:** What say you for the State?

9 **MS. MAYES:** Please present the juror.

10 **THE CLERK:** What say you for the defense?

11 **MR. FLOYD:** Present Ms. Clement.

12 **THE CLERK:** Have a seat in the jury box.

13 That's alternate number two, Your Honor.

14 **THE COURT:** Are there any matters of law
15 regarding the jury selection?

16 **MS. MAYES:** None from the State, Your Honor.

17 **MR. FLOYD:** No, Your Honor.

18 **THE COURT:** All right. Ladies and gentlemen,
19 you have been selected to be the jury in the trial
20 of this case. I'm going to have you go to the jury
21 room for a few minutes while I talk with the other
22 panel and while we get some scheduling things lined
23 up, and we will have you come back very soon.

24 Once you've been selected on a jury, you're not
25 to discuss the case in any form or fashion until

1 it's time to do so, which is at the end of the case
2 after everything's in, so please do not discuss the
3 case. You may talk about anything else.

4 Please go to the jury room. We'll have you
5 come back soon.

6 (The jury retires to the jury room.)

7 **THE COURT:** All right. Ladies and gentlemen,
8 those of you who were not selected, you are excused
9 for the balance of the day. It's anticipated that
10 this case will take three or four days, so we may
11 not get an opportunity to select another jury, but
12 we never know, something might happen to a case and
13 it may end abruptly or it may end short of the
14 estimated period of time. So you are free to go,
15 but you remain on jury duty.

16 We'll need you to call back after 6:00 p.m. on
17 a daily basis until we get a clear signal to let you
18 go for the rest of the week. So for the next few
19 days, you'll be calling in after 6:00 for any
20 message as to whether you'll need to come back and
21 when you'll need to come back. It's anticipated
22 that you will not need to come back if this case
23 goes the distance, but I have no way of knowing
24 that, and so, therefore, that's the best information
25 that I can give you at this time.

1 So you all are free to go. Please call back
2 after 6:00 for any messages. Thank you very much.

3 (The remaining jury panel was excused.)

4 **THE COURT:** All right. As far as this case is
5 concerned, what type of schedule do y'all want to
6 operate on?

7 **MS. MAYES:** Your Honor, may it please the
8 Court. It looks like some of the issues that we
9 know we'll have to go in, that could potentially be
10 lengthy. There is a statement that the State
11 intends to offer in this case. With that said, I
12 don't know the position of the defense for sure, but
13 we are prepared to go forward with a Jackson v.
14 Denno hearing, if necessary. That statement is
15 actually audio recorded. It's probably around 50
16 minutes to an hour in its full length. We have
17 already made certain redactions to that statement
18 after discussions with Mr. Floyd.

19 **THE COURT:** All right. Regarding the
20 statement, Mr. Floyd, what's the defense's position?

21 **MR. FLOYD:** Yes, Your Honor. I would think we
22 would need a hearing. I reviewed it again over the
23 weekend. There are some additional areas that I
24 feel should be redacted other than the ones we
25 discussed already with the Solicitor that I guess I

1 need to address with her.

2 **THE COURT:** Well, additional areas that you
3 have not discussed with the Solicitor?

4 **MR. FLOYD:** That's correct, Your Honor. I did
5 this last night, went back through it again last
6 night. There were some things --

7 **COURT REPORTER:** I can't hear.

8 **THE COURT:** You can't hear Mr. Floyd?
9 She's saying you're whispering.

10 **MR. FLOYD:** Yes, Your Honor. There are some
11 additional matters I came up with last night when I
12 went through the facts with the statement again.

13 **THE COURT:** As far as the statement's
14 concerned, how does that impact the beginning of the
15 trial?

16 **MS. MAYES:** Your Honor, there will be certain
17 references, I believe, in opening argument to the
18 statement, at least to the story given by the
19 defendant to police. It does sort of lay into the
20 entire presentation of the case I guess you could
21 say. We're actually -- our theory of the case is to
22 rebut multiple things that are alleged by the
23 defendant in his statement to the police.

24 **THE COURT:** All right. So we have a Jackson v.
25 Denno hearing that we need to do and what else?

1 **MR. FLOYD:** Your Honor, I had a motion in
2 limine concerning alleged alcohol consumption.

3 **THE COURT:** Say again.

4 **MR. FLOYD:** I have a motion in limine that I
5 think I alerted the Court to concerning alleged
6 alcohol consumption. I have that motion to quash on
7 the obstruction of justice.

8 **THE COURT:** Did you actually file a motion?

9 **MR. FLOYD:** No, Your Honor, only what I
10 e-mailed the Court about -- e-mailed Your Honor
11 about and copied to the Solicitor.

12 **THE COURT:** Do you have a transcript of the
13 statement?

14 **MS. MAYES:** We do not, Your Honor.

15 **MR. FLOYD:** Your Honor, I have one if you would
16 like it.

17 (Mr. Floyd hands document to the Judge.)

18 **THE COURT:** So from the -- from this
19 transcript, Mr. Floyd, is it your first position
20 that the entire statement is an involuntary
21 statement or just -- you just want certain parts of
22 it redacted?

23 **MR. FLOYD:** Your Honor, I think they will
24 testify that they gave him his Miranda rights and
25 there's a form that was signed. There are some

1 matters -- basically, the main things, there's
2 mentions in the statement about polygraph and I
3 have -- I think they may have redacted those
4 already.

5 The other parts that I found objectionable,
6 Your Honor, is in their conversation, there are
7 several parts where the officers, in their colloquy
8 with the defendant, attempt to get him to confess by
9 talking about how good the victim's people are, how
10 much it hurts them that they can't get closure, how
11 it's about Mother's day and she doesn't have her son
12 to spend Mother's day with, these matters to try to
13 get him to confess. And I feel those will be
14 inappropriate to disclose to the jury.

15 **THE COURT:** If you can give me the -- what
16 lines or pages from the transcript, I can review
17 that prior to us actually getting into testimony
18 concerning it.

19 **MR. FLOYD:** Thank you, Your Honor. Page 49
20 line 11 through page 50 line three; and then from 50
21 lines 18 to 24; page 53 line 12, line 21 to 22, line
22 24; page 58 line 12 to page 59 line 9. Then there's
23 page 78, page 81, page 87, and page 89 line 20 to
24 page 90 line 16.

25 **THE COURT:** Page 89 lines?

1 **MR. FLOYD:** 20 and 90 line 16.

2 **THE COURT:** All right. Well, we'll -- the
3 State can get an opportunity to consider whether
4 they agree with you on all of these redactions
5 before we actually hear this after lunch.

6 **MR. FLOYD:** That'll be fine, Your Honor. I'll
7 provide -- if they don't have a copy of the
8 statement, I'll provide them a copy I have if they
9 need to look at it.

10 **THE COURT:** All right. Now, with regard to the
11 motion to quash, we can hear that now.

12 **MR. FLOYD:** Thank you, Your Honor.

13 Your Honor, one of the charges which we're
14 facing is the common-law offense of obstruction of
15 justice. And, Your Honor, it's our position that a
16 large portion of the common-law obstruction of
17 justice charge has been superseded by statutes in
18 16-9-340, in that area.

19 Your Honor, the particular -- under 16-9-380,
20 the statute basically provides that this supercedes
21 -- these statutes supercede the common law, but it
22 does have a saving clause in there, 16-9-380. And I
23 do agree that the statute does not completely
24 abrogate the offense of common-law obstruction of
25 justice.

1 The particular portion of the statute, which is
2 our position is -- will be covered is under this
3 particular set of facts, it is the State's position
4 that the defendant, by secreting his vehicle and
5 removing, forcibly removing the doors from the
6 vehicle and the rocker panel from the vehicle, would
7 be obstruction of justice.

8 Your Honor, under 16-9-340, It's unlawful for a
9 person by threat or force to destroy, impede or
10 attempt to obstruct or impede the administration of
11 justice in any court.

12 It's our position that that code section would
13 cover that because he would be using force to remove
14 the vehicles from the -- the doors from the vehicle
15 and that would also be destroying evidence, and as
16 such, would be covered by the statute, and therefore
17 that would --

18 **THE COURT:** The force being the force to take a
19 door off a car?

20 **MR. FLOYD:** That's correct, Your Honor, because
21 the statute doesn't say what kind of force. But
22 that is a force, that's a physical force, and I
23 think Your Honor would recognize that.

24 **THE COURT:** You've read this case State v.
25 Lyles-Gray involving the Camden police officer?

1 **MR. FLOYD:** Yes, Your Honor.

2 **THE COURT:** All right. What says the State?

3 **MR. FLOYD:** Oh, wait -- I'm sorry.

4 **THE COURT:** Yes, sir.

5 **MR. FLOYD:** I thought you wanted to ask me
6 something.

7 **THE COURT:** No, I was going to hear the State's
8 response.

9 **MS. MAYES:** Yes, sir, Your Honor. That's
10 exactly the case that we were going to pass up for
11 the Court's consideration, and that is State versus
12 Lyles-Gray, and that is a recent Court of Appeals
13 decision or -- a decision from 1997, but it's 328
14 S.C. 458. And, Your Honor, in this case, they
15 specifically held that it did not -- that the
16 statute did not supercede the common-law obstruction
17 of justice charge.

18 Furthermore, obstruction of justice remains a
19 common-law offense with an active CDR code 0118.
20 There is absolutely no case law to support the idea
21 that the enactment of that statute, 16-9-340,
22 supercedes a prosecution for obstruction of justice.

23 (Ms. Mayes hands a document to the Judge.)

24 **THE COURT:** Well, the threat or force
25 contemplated by the statute is a threat or force

1 against an individual not against a door. The
2 statute is entitled Intimidation of Court Officials,
3 Jurors or Witnesses. And it is unlawful by -- for a
4 person by threat or force to do certain things,
5 including impede the administration of justice. And
6 the Lyles-Gray case clearly points out that the --
7 based on that language, unless the threat or force
8 is a part of the act of obstructing justice, that it
9 is not superseded by this -- does not supercede the
10 common-law obstruction of justice statute.

11 And the twist that Mr. Floyd puts on it that he
12 needed -- had to use some force to take the door off
13 a truck or whatever he took the door -- whatever
14 force was used, that is directed toward an object
15 and not a person. And, certainly, you can't -- that
16 would not -- does not come within the contemplation
17 of the Legislature or the statute. And I
18 respectfully deny your motion to suppress or a
19 motion to -- what was the motion to -- to quash. I
20 deny that motion.

21 All right. Well, it sounds as if we will take
22 lunch and -- we have another matter to hear. We'll
23 take lunch and come back at, say, two o'clock. And
24 within an hour's time, I think we can be ready to go
25 with the jury. I'll tell the jury to be back by

1 three o'clock. We should be ready to get started at
2 that time.

3 We're going to do a plea at 2:00 as well that
4 should only take a few minutes I understand. So
5 we'll be back at two o'clock or shortly thereafter.

6 **MR. FLOYD:** Thank you, Your Honor.

7 **MS. MAYES:** Beg the Court's indulgence.

8 (Pause.)

9 **MS. MAYES:** We're going to get a copy from
10 Mr. Floyd of the transcribed statement so we can
11 review the objections that he has noted.

12 **THE COURT:** If you will confer with him before
13 two o'clock.

14 **MS. MAYES:** Yes, sir, Your Honor.

15 **THE COURT:** Okay. We'll bring the jury in and
16 let them go until three o'clock.

17 (The jury returns to the courtroom.)

18 **THE COURT:** All right. Ladies and gentlemen,
19 we're going to give you all a break until three
20 o'clock as we deal with some other matters,
21 including some preliminary matters in this case, and
22 we won't need you all until about three o'clock. So
23 you all can take a break and be back in the jury
24 room by three o'clock. Please do not come through
25 the courtroom, and follow the bailiff's

1 instructions.

2 (The jury was excused for lunch.)

3 **THE COURT:** We'll take a break on this case
4 until two o'clock.

5 (Whereupon, there was a luncheon recess.)

6 **MS. MAYES:** The State calls Detective Ed
7 Pereira.

8 EDWARD LEWIS PEREIRA,
9 having been duly sworn, testified as follows:

10 **THE CLERK:** Once you're seated, state your full
11 name, spelling your last on the record, please.

12 **THE WITNESS:** My name's Edward Lewis Pereira.
13 Last name's spelled P-e-r-e-i-r-a.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 **Q** And, Detective Pereira, where are you employed
17 and in what capacity?

18 **A** I'm employed at the City of Cayce Department of
19 Public Safety, and I am a detective.

20 **Q** All right. And how long have you been with the
21 Cayce Department of Public Safety?

22 **A** Altogether about seven years.

23 **Q** Can you tell us how you became involved in the
24 investigation of a case involving a hit and run
25 collision which occurred at the intersection of 9th

1 Street and Knox Abbott Drive back in 2010?

2 **A** Yes, ma'am. I was assigned the case on the
3 22nd about an accident that had occurred at the
4 intersection of 9th Street and Knox Abbott in our
5 city to work that as a detective, do a follow up.

6 **Q** Okay. And, ultimately, did that charge evolve
7 into a hit and run accident which resulted in the
8 death of the other individual?

9 **A** It did.

10 **Q** Tell us how you became aware of the defendant,
11 William Craig Caughman, as a suspect in this case?

12 **A** We became aware when we received a tip that was
13 very detailed stating that Mr. Caughman was the
14 driver of the vehicle that we were looking for. And
15 the tip also told us where we could go find the
16 vehicle and locate the vehicle that had left the
17 scene that night.

18 **Q** Can you tell us whether any measures were taken
19 by yourself or other members of law enforcement to
20 follow up on that tip?

21 **A** Yes. Myself along with two additional agents
22 responded to the location that we were given by the
23 tipster, and we did confirm at that time that we did
24 see a vehicle that matched the description of what
25 the tipster said. And it did -- it was visible to

1 us. So we were able to corroborate the information
2 that was given to us on the tip.

3 **Q** All right. And, specifically, where did you
4 locate or observe what appeared to be consistent
5 with that vehicle?

6 **A** The tipster said that we would find the vehicle
7 parked at the rear of -- let me get my notes out.

8 The tipster said we would find the vehicle
9 located on 1 Gunter Circle. He said the vehicle
10 was covered up and it was parked in the backyard.

11 **Q** And did you, yourself, have an opportunity to
12 go to that location and observe it from a distance?

13 **A** I did.

14 **Q** Was the distance you observed it from, can you
15 tell us whether or not that was public property?

16 **A** That was -- that is correct. It was public
17 property.

18 **Q** Having followed up on that tip with some degree
19 of corroborating information, what did you do next
20 in terms of actually making contact with the
21 suspect?

22 **A** After observing the vehicle and corroborating
23 what was given to us in the tip, I directed an
24 investigator to type up a search warrant for me for
25 the address while myself and another agent went and

1 attempted to make contact with Mr. Caughman at his
2 place of employment.

3 **Q** All right. Now, specifically, going back to
4 the tip that you received, did you receive that tip
5 yourself or was it made to a sort of third-party
6 agency?

7 **A** It was through a third-party agency.

8 **Q** All right. And that agency is known as what?

9 **A** It's known as SLED.

10 **Q** Okay. What is the name of the tipster hotline
11 so to speak?

12 **A** It's called Crime Stoppers.

13 **Q** Okay. Can you tell us whether or not you've
14 been able to confirm that the tip to Crime Stoppers
15 actually named a suspect as the driver of the
16 vehicle?

17 **A** I did confirm it. It did name William Craig
18 Caughman as the driver of the vehicle.

19 **Q** All right. Where did you make initial contact
20 with William Craig Caughman?

21 **A** At his place of employment. It was R.R.
22 Donnelley.

23 **Q** And what happened next?

24 **A** At that point in time, we asked Mr. Caughman if
25 he would be willing to come back and speak with us

1 about the incident that had occurred that night.

2 **Q** Who was with you?

3 **A** An agent from SLED, Mike Robinson.

4 **Q** All right. So yourself and Agent Robinson went
5 to the defendant's place of business?

6 **A** Yes, we did.

7 **Q** All right. And that is R.R. Donnelley located
8 in Richland County?

9 **A** Yes, it is.

10 **Q** And was he in custody at that time?

11 **A** No, he was not.

12 **Q** And when you spoke with him about participating
13 in an interview, can you tell us whether or not he
14 agreed to do so?

15 **A** He did agree to do it.

16 **Q** Can you tell us whether he drove himself to the
17 interview location?

18 **A** I believe he did drive himself. I can't
19 remember exactly.

20 **Q** In other words, did you transport him or did he
21 have his own means of transportation?

22 **A** I didn't transport him.

23 **Q** Okay. Were you and Agent Robinson together?

24 **A** Yes, we were.

25 **Q** So you and Agent Robinson went where following

1 your contact with the defendant at R.R. Donnelley?

2 **A** We went to the Cayce Department of Public
3 Safety.

4 **Q** All right. And can you tell us whether the
5 defendant arrived there on the same date?

6 **A** Yes, he did.

7 **Q** And so, to your knowledge, he arrived there not
8 being escorted by law enforcement, but of his own
9 means?

10 **A** That's correct.

11 **Q** Where did the interview actually take place
12 within the Cayce Department of Public Safety?

13 **A** I believe that interview took place -- I
14 believe it was actually in our interview room.

15 **Q** All right. In the interview room, was he in
16 handcuffs at that time?

17 **A** No, he was not.

18 **Q** Was he advised of the nature of the
19 investigation?

20 **A** Yes, he was.

21 **Q** Can you tell us whether he freely and
22 voluntarily elected to speak with you?

23 **A** Yes, he did. I advised him of his rights.

24 **Q** Now, you mentioned that he was advised of his
25 rights. How did you go about doing that?

1 **A** I verbally advised him of his rights, and also,
2 at the same time, read a Miranda rights sheet to
3 him, which I had him sign, saying that he understood
4 his rights and he still wished to speak to us at
5 that time.

6 **Q** Can you tell us whether that use of the Miranda
7 rights notification form is standard procedure?

8 **A** It is.

9 **Q** And do you have that original waiver of Miranda
10 rights form with you today?

11 **A** I do.

12 **Q** And how do you recognize that as the original?

13 **A** It's one of a two-part original. And I
14 recognize the actual form itself.

15 **Q** All right. And whose signature is on the form?

16 **A** Myself and along with Mike Robinson and
17 Mr. Caughman's, Mr. William Caughman.

18 **Q** You're able to recognize your own signature on
19 the form?

20 **A** Yes, I am.

21 **Q** And can you tell us what is the date on the
22 form?

23 **A** The date is 5/5 of 2010.

24 **Q** All right.

25 **MS. MAYES:** Having identified this as the

1 original, Your Honor, at this time, the State offers
2 the advice of rights form as Court's Exhibit 1 for
3 purposes of this hearing.

4 **THE COURT:** What says the defense?

5 **MR. FLOYD:** No objection, Your Honor.

6 **THE COURT:** It's admitted.

7 (Court's Exhibit Number 1, advice of rights
8 form, marked for purposes of the record.)

9 BY MS. MAYES:

10 **Q** I'm going to hand you a copy of a document and
11 ask you whether or not it appears to be a true and
12 accurate copy of the document that was just labeled
13 as Court's Exhibit 1?

14 **A** Yes, it is.

15 **Q** All right. Detective Pereira, I'm going to ask
16 you to start at the very top of this document and go
17 through with us exactly what it says. And if you
18 could, please read slowly enough for the court
19 reporter to follow along. But if you could begin
20 with how the form is labeled.

21 **A** The form is labeled Advice of Rights.

22 **Q** All right. And what is the next portion?

23 **A** The next portion is the information that says,
24 I, William C. Caughman, am 45 years old. My address
25 is 1 Gunter Circle, West Columbia, South

1 Carolina.

2 It says, I have finished the 12th grade in
3 school and can/cannot read. I have been told by
4 Detective Pereira, who I understand is a law
5 enforcement officer, that he would like to question
6 me concerning the crime of leaving the scene of an
7 accident.

8 **Q** All right. Which portions of that part of the
9 advice of rights form did you fill out and which
10 portions did Mr. Caughman fill out?

11 **A** Mr. Caughman filled out his name, how old he
12 was, the address and what grade he was in -- he
13 completed in school.

14 **Q** All right. Was there ever any indication that
15 he could not read?

16 **A** No.

17 **Q** Okay. And which portions did you fill out?

18 **A** I filled out my name and the crime in which I
19 wanted to ask him about.

20 **Q** All right. And can you read for the Court
21 exactly what rights you advised Mr. Caughman of on
22 this particular date?

23 **A** Yes, I can. The first one says, I have the
24 right to remain silent, that means that I do not
25 have to say anything or answer any questions. The

1 second one is, Anything I say can be used against me
2 in a court of law. Third, I have the right to talk
3 to a lawyer and have a lawyer with me now and to
4 advise me before and during questioning. Four, if I
5 have to -- if I want to have a lawyer with me before
6 and during questioning but cannot afford to pay for
7 a lawyer, one will be provided to me at no cost
8 before and while I am questioned. Five, if I decide
9 to answer questions now without a lawyer here, I
10 still have the right to stop answering questions
11 whenever I want. Number six, I also have the right
12 to stop answering questions until I have talked to a
13 lawyer.

14 **Q** Can you tell us whether or not he appeared or
15 indicated that he understood these rights?

16 **A** Yes, he did say he understood the rights.

17 **Q** Did he sign this document?

18 **A** Yes, he did.

19 **Q** And in addition to his signature, what other
20 portions of this document did he sign or
21 acknowledge?

22 **A** He acknowledged just past that. It says that I
23 understand my rights as explained to me by officer
24 -- and where I've written Detective Pereira. It
25 states underneath that and in bold letters, I now

1 state that I do wish to answer questions at this
2 time and I do not wish to have a lawyer here before
3 or during questioning. My decision to answer
4 questions now without a lawyer is made freely and is
5 my own choice. No one has threatened or coerced me
6 in any way or promised me special treatment. To
7 show my decision, I am signing my name in the space
8 below.

9 **Q** And what is the date and time?

10 **A** It is 5/5 of 2010 at 7:02.

11 **Q** And who is the witness to his waiver of rights?

12 **A** Myself and Agent Robinson.

13 **Q** Detective Pereira, can you tell us whether,
14 based upon your observations, his waiver of those
15 rights appear to be freely and voluntarily?

16 **A** They were.

17 **Q** The individual rights that you previously
18 explained, the six separate rights that he
19 acknowledged, can you tell us how specifically he
20 was able to let you know that he understood them or
21 acknowledge that they had been read?

22 **A** He initialled beside each one of them as they
23 were written -- as they were read to him, he
24 initialled W.C.C. beside each one of them.

25 **Q** During the course of your interview with

1 Mr. Caughman, was his speech coherent?

2 **A** Yes, it was.

3 **Q** And you had indicated that you had first made
4 contact with him while he was at work earlier that
5 day. Did he appear to be under the influence of any
6 type of alcohol or drugs?

7 **A** No, he did not.

8 **Q** Did he appear to understand your questions and
9 be able to respond to them or communicate back with
10 you freely?

11 **A** Yes, he did.

12 **Q** Did you ever threaten him in any way in order
13 to have him participate in the interview?

14 **A** No, I did not.

15 **Q** Did you promise him anything in exchange for
16 his participation in the interview?

17 **A** No, I did not.

18 **Q** Was he coerced in any way during the course of
19 the interview?

20 **A** No, he was not.

21 **Q** Based upon your observations, can you tell us
22 whether or not his waiver of rights and
23 participation in the interview appear to be free and
24 voluntary?

25 **A** They appear to me to be free and voluntary.

1 **MS. MAYES:** Your Honor, at this time, I know
2 that a transcript has been submitted to the Court
3 that was prepared by defense counsel. We have no
4 objection to that being marked as a court's exhibit
5 for the Court to review concerning the portions that
6 deal with the waiver of Miranda or we can offer the
7 audio tape as a court's exhibit concerning the
8 waiver of Miranda rights, whichever the Court
9 prefers.

10 **THE COURT:** All right. Mr. Floyd.

11 **MR. FLOYD:** Your Honor, on that point,
12 whichever the Court prefers on that issue.

13 **THE COURT:** Well, I have the transcript, so the
14 transcript is sufficient.

15 **MS. MAYES:** Your Honor, at this time then, the
16 State would offer the transcript as Court's Exhibit
17 2. If we can have that marked.

18 **THE COURT:** All right. Mark it and hand it
19 back to me.

20 (Court's Exhibit Number 2, transcript,
21 marked for purposes of the record.)

22 **MS. MAYES:** That is all from the State at this
23 time, Your Honor.

24 **THE COURT:** All right. Mr. Floyd.

25 *****

1 CROSS-EXAMINATION

2 BY MR. FLOYD:

3 Q Detective Pereira, are you sure you allowed
4 Mr. Caughman to drive from his work to the Cayce
5 Police Department?

6 A I can't remember. I can't recall.

7 Q Do you recall -- do y'all have a maroon Crown
8 Vic? Did y'all have a maroon Crown Vic at that
9 time?

10 A No.

11 Q None of your officers had one?

12 A Not a maroon Crown Vic, no, we did not.

13 Q Did SLED have them?

14 A I'm not aware of what SLED has.

15 Q You don't recall someone having to take him
16 back to his work?

17 A Like I said, I just don't recall.

18 Q So you may have brought him over; you don't
19 recall?

20 A Yes, sir, I just don't recall it.

21 MR. FLOYD: Thank you.

22 I have no further questions, Your Honor.

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

24 Next witness.

25 MS. MAYES: That's all from the State on this

1 issue, Your Honor.

2 **THE COURT:** Any witnesses by the defense?

3 **MR. FLOYD:** No, Your Honor, not on that point.

4 **THE COURT:** I find the statement is freely and
5 voluntarily given after he was fully advised of his
6 constitutional rights.

7 Regarding this redaction issue, what's the
8 State's position on the -- redacting the portions
9 Mr. Floyd wants redacted?

10 **MS. MAYES:** Your Honor, there are some portions
11 of this which I think the State can concede or is
12 willing to have redacted. And that witness who is
13 going to testify concerning the statement, which is
14 Detective Pereira, is not expected to testify until
15 probably tomorrow afternoon, so that should allow us
16 time to make the appropriate redactions.

17 But as for portions that we object that he has
18 suggested, according to my notes and the information
19 he provided about what he objected to, it looks like
20 on page 64, there was an objection to a portion that
21 runs past the polygraph.

22 And just for the Court's information, the State
23 has already redacted the portion of page 64 which
24 begins on line 1 and runs through line 6 concerning
25 a reference to the polygraph.

1 Following the mention of the polygraph, the
2 officer states, That only sinks you further and
3 further and further down in this hole. Okay? If
4 you want to take your dad with you, I'll send him up
5 there with you, too. Okay? You're the one putting
6 him in it not me. So I want you to remember that
7 one as well. Okay? You put him there not me all
8 because you don't want to fess up, you don't want to
9 tell what you did wrong.

10 Your Honor, the State's position is that that
11 portion is relevant to the overall totality of the
12 interview and the flow of the conversation.
13 Throughout the interview, he was confronted with
14 different aspects of evidence that the State has in
15 this case. Throughout those confrontations
16 concerning the evidence, he remained steadfast in
17 denying any involvement in this offense. He gave at
18 least one explanation, which the State's position is
19 is a false explanation, for how his vehicle was
20 damaged. Following that, he was confronted with
21 certain evidence that would put him very near the
22 crime scene. His response to that was, Well, if I
23 was there, I didn't see anything.

24 So the State's position is that that part of
25 the interview should be relevant to an overall

1 understanding of the totality of the interview.

2 (Pause.)

3 **MS. MAYES:** And, Your Honor, it appears there
4 is no objection to that at this point from the
5 defense.

6 **MR. FLOYD:** I just admitted to lines 2 to 6 on
7 that page, Your Honor.

8 **THE COURT:** All right. That settles page 64
9 then. So what is unsettled at this point?

10 **MS. MAYES:** Your Honor, on page 78, there are
11 lines 22 through 25, a reference to the victim's
12 family members. The State agrees to redact the
13 portion which says, This is what kills me the most,
14 and continues on discussing the family through page
15 25. The State agrees to redact that portion.

16 On page 81, there is an objection, again, to a
17 statement concerning the family and Mother's day.
18 The State agrees to redact from line 1 through line
19 9 of page 81.

20 Now, on page 87, if there is an objection to a
21 portion of that page, the State opposes a redaction.

22 Your Honor, what the defense objects to
23 concerns a statement about the family wanting
24 closure, but, again, the State's position is that
25 that portion of the interview relates to the

1 totality of the conversation and the flow of the
2 conversation.

3 Law enforcement states, I tried to talk to you
4 just like I promised your dad that I would. And the
5 defendant states, Yeah. And the detective states, I
6 tried to talk to you and let you know that the
7 family only wants closure and that I was able to
8 work with the charges and that you decided that you
9 didn't want to do that. And continues on.

10 The State's position is that, again, they were
11 confronting him with various portions of evidence
12 and he continued to deny it, which we believe is
13 relevant to the overall explanations that he
14 provided which we allege were false. And we do
15 believe that portion is relevant.

16 **THE COURT:** All right. Mr. Floyd.

17 **MR. FLOYD:** Your Honor, first of all, it's
18 hearsay is what they're saying. They're saying
19 something that some other witnesses have told them.

20 And, secondly, it has nothing to do with his
21 statement. We're not objecting to anything he said.
22 We admit anything he said can come in. This is just
23 stuff the detectives are saying, which are kind of
24 like closing argument, if you would. They're not
25 evidence. It's all just hearsay statements that may

1 or may not be true, but has nothing to do with his
2 statement at all.

3 **THE COURT:** You're not seeking to strike his
4 statement. You're seeking to strike the officer's
5 statement?

6 **MR. FLOYD:** Yes, sir. All the things I object
7 to are just things the officer said not his
8 statement.

9 **THE COURT:** Tell me that page again, please.

10 **MS. MAYES:** Your Honor, that is page 87. And I
11 believe the objection from defense counsel is to
12 line 24 which states, The family only wants closure.

13 **THE COURT:** Anything else on that issue?

14 **MS. MAYES:** Not on that particular portion of
15 the interview, Your Honor.

16 I believe he has a page 89 objection. I'm just
17 not sure what the specific objection is.

18 **MR. FLOYD:** Your Honor, on that page, page 89,
19 it'd actually be -- what they've got, I overlooked
20 telling the Court. I think -- the one thing I would
21 object to that the defendant allegedly said is on
22 page 89 line 15 where he invokes his right to a
23 lawyer.

24 **THE COURT:** What do you say about that?

25 **MS. MAYES:** I have no objection to that.

1 **THE COURT:** All right. That's out.

2 **MR. FLOYD:** And, Your Honor, then if you go
3 down to the bottom, you start where it says,
4 Speaker.

5 **THE COURT:** Yes, sir.

6 **MR. FLOYD:** Well, you start above that, this,
7 Ms. Morriss is one of the nicest ladies you'll ever
8 talk to, starting on line 20. And then there's a
9 continuing statement about the Morriss family to the
10 top of page 90 through line 4 where they talk about
11 how somebody can hit her son and leaving him on the
12 road.

13 **THE COURT:** All right. What says the State
14 about that?

15 **MS. MAYES:** I have no objection, Your Honor, to
16 that being redacted.

17 **THE COURT:** All right. That's out.

18 I'm granting the motion to strike, The family
19 just wants closure, part on 87.

20 **MS. MAYES:** And for further specificity, Your
21 Honor, we could start that redaction on line 23
22 with, I tried to talk to you and let you know that
23 the family only wants closure, and then it continues
24 on. So the question would be where to pick back up?

25 Line 2 -- line 2 with, You decided you want to

1 lie the whole time, okay, from the beginning to the
2 very end. That is where the State would propose to
3 pick back up.

4 **THE COURT:** All right.

5 **MR. FLOYD:** Your Honor, may I just confer with
6 counsel a moment?

7 (Pause.)

8 **MS. MAYES:** Your Honor, based on the Court's
9 ruling concerning the previous mention that the
10 family wanted closure, the defense objects on page
11 53, again, to the statement that they want closure,
12 we can make that redaction and remove line 12.

13 And the defense also objects to the affect of
14 the crime on the family, which is line 21 -- line 21
15 through line 25. We can remove that information as
16 -- we can remove those portions as well.

17 Those are the only notes I have concerning
18 redactions.

19 **MR. FLOYD:** Your Honor, one other that we
20 discussed, on page 58 line 12 through page 59 line
21 9, there is a -- the detective speaking again
22 talking about, Talk with your folks, they have good
23 hearts, they're devastated, the mother's in town for
24 Mother's day and now she can't see her son on
25 Mother's day, just kind of a long -- it's about a

1 full page in there of that type of statement that we
2 object to. It goes all the way through 59 line 9.

3 **THE COURT:** What says the State?

4 **MS. MAYES:** We leave that in the Court's
5 discretion, Your Honor.

6 **THE COURT:** Why would the State want it in?

7 **MS. MAYES:** Well, there are portions --
8 portions that look like it relates to the previous
9 page, which has already been redacted, and I believe
10 that was on page 57. It mentioned a polygraph and
11 that's been redacted. But then we go back to what
12 would come in, which is on page 20 -- I'm sorry --
13 on page 57 starting line 20, we believe that would
14 come in and that is, They're going to say, hey, did
15 that accident occur at the Skyline? You're going to
16 say, yes, it did. And he states, Yes. And the
17 speaker states, But that isn't the truth. And he
18 stated, Yes, it is.

19 So we believe that would be relevant. And then
20 the portion from 2 down to 25, we agree to remove
21 and have out.

22 **THE COURT:** 2 through 25 on line what -- on
23 page?

24 **MS. MAYES:** Page 58, Your Honor, lines 2
25 through 25, we would agree to remove. And then on

1 the following, page 59 -- is there an objection to
2 59?

3 **MR. FLOYD:** Yeah, through line 9.

4 **MS. MAYES:** Okay. We can agree, Your Honor, to
5 remove actually through line 10 because line 10 is a
6 response to line 9.

7 **THE COURT:** All right.

8 **MS. MAYES:** Your Honor, in light of the
9 numerous redactions, I do think that the tape we'll
10 play to the jury as -- as a recording that has
11 obviously been edited or redacted in some way. And
12 we would just ask for some type of perhaps Court's
13 instruction that they are not to consider any
14 redactions, that they have been made pursuant to a
15 Court ruling and not for their consideration.

16 **THE COURT:** How about that, Mr. Floyd?

17 **MR. FLOYD:** We just assume them listen to it
18 just the way it is as is, Your Honor. I don't want
19 them to imply that it's something the defendant said
20 that's being removed.

21 **THE COURT:** Well, she said she wants me to say
22 the Court's -- as a result of the Court's redaction.

23 **MS. MAYES:** Your Honor, our concern with that
24 is that the jury could potentially reach the
25 conclusion that the State or law enforcement has

1 somehow altered or changed the audio, and we would
2 not want to make that representation to the jury or
3 leave them with that inference.

4 **THE COURT:** All right.

5 **MR. FLOYD:** We just wouldn't want an inference
6 that what they're not hearing are things the
7 defendant's somehow --

8 **THE COURT:** All right. We'll think about that
9 issue. You're not going to play it for them today
10 anyway.

11 **MS. MAYES:** That's correct, Your Honor. And I
12 would have no objection to a charge that said those
13 statements -- or those portions were redacted
14 because they're not relevant pursuant to the Court's
15 ruling.

16 **THE COURT:** All right. What else?

17 **MS. MAYES:** Your Honor, the State does not have
18 any additional motions other -- other than one that
19 will concern a witness who will be testifying
20 tomorrow, and we can address that at the close of
21 today's case at a later time.

22 **THE COURT:** All right. Mr. Floyd?

23 **MR. FLOYD:** Nothing further at this time, Your
24 Honor.

25 **THE COURT:** All right. Let's bring in the

1 jury.

2 (The jury returns to the courtroom.)

3 **THE COURT:** All right. Ladies and gentlemen,
4 you may stand to be sworn.

5 (The jury was duly sworn by the Clerk of
6 Court at 3:21 p.m.)

7 **THE COURT:** All right. Ladies and gentlemen,
8 you've now been selected and sworn to be the jury in
9 the trial of the case of the State versus William
10 Craig Caughman. As indicated earlier, he's been
11 indicted by the grand jury of this county and
12 charged with the offense of hit and run in an
13 accident involving death and also obstruction of
14 justice.

15 He has pled not guilty to these two charges.
16 He's presumed to be not guilty and cannot be found
17 guilty unless a jury determines that he is guilty
18 based on evidence presented by the State that
19 convinces you of his guilt beyond a reasonable
20 doubt. Otherwise, you must find him not guilty.

21 Now, the State having brought the charge has
22 the burden of proof in this case and the State must
23 prove the defendant guilty beyond a reasonable
24 doubt.

25 Your role as jurors will be to determine the

1 facts of this case and to decide whether the
2 defendant is guilty or not guilty based on evidence
3 presented during this trial. Only you can determine
4 the facts of this case. Only you can determine
5 whether the defendant is guilty or not guilty based
6 on the evidence presented.

7 Now, just as only you can determine the facts
8 of this case, as the presiding judge, I am the sole
9 judge of the law of the case, and you must accept as
10 correct the law as I state it to you.

11 Now, later in the process, I will appoint one
12 of you to serve as foreperson of the jury to be the
13 spokesperson for the jury and to preside over the
14 jury deliberations.

15 You are not to discuss the case in any form or
16 fashion until I tell you that it's time to do so,
17 and that will be after all of the evidence has been
18 presented and after arguments have been made by the
19 counsel. You're advised that you're not to read
20 anything about this case in the media, you're not to
21 listen to or watch any news reports concerning this
22 case, and you're not to engage in any form of
23 independent research or -- and engage in any form of
24 social media discussions concerning this case.

25 It is important that you abide by all of these

1 admonitions that I've given you because it is your
2 responsibility to keep an open mind concerning this
3 matter until you've heard the entire case, as well
4 as the instructions of law.

5 In just a moment, the Solicitor will make an
6 opening statement; after which, the defense will
7 have the right to make an opening statement, but
8 having no burden of proof, the defense has no
9 obligation to make an opening statement.

10 The role of the jury in addition to or in -- in
11 determining the facts of the case involves
12 evaluating the credibility of the witnesses who
13 testify, as well as the evidence that is presented.
14 So it is important that you focus on the testimony
15 and evidence as it has been presented, listen
16 intently so that you will be in a position to
17 participate in the jury deliberations based on the
18 evidence that you've heard during the course of the
19 trial.

20 The bailiff indicated that some of you may want
21 to take notes. There are two schools of thoughts
22 with regard to note taking: One is that when you
23 take notes, you take your eyes and focus off the
24 witnesses and you miss some of the keys that are
25 essential in evaluating credibility. You would not

1 want to have your head down so focused on taking
2 notes that you miss other things that might be
3 important in determining credibility of what is
4 being offered.

5 On the other hand, those of you who wish to
6 take notes, you must understand that the fact that
7 someone has taken a note on something is to be given
8 no more credence than what someone else may recall
9 because it is not given that a note that is taken
10 will be taken accurately.

11 But if any of you would like to take notes, the
12 bailiff will provide notepads for you, and they will
13 be collected as you come back and forth to the jury
14 box and will be given to you for use -- your own
15 personal use during the deliberations. Certainly,
16 you have a right to share them with others, but the
17 fact that you've taken a note does not give it
18 anymore credibility necessarily than what another
19 person may recollect the testimony to be.

20 I look forward to working with you on this
21 case. We'll do all that we can to keep the case
22 moving, not to drag it out, not to wear you out too
23 badly. We'll take breaks as often as we can to keep
24 everyone as fresh as we can. We'll now proceed to
25 opening statements.

1 Do you have notepads available already?

2 **BAILIFF:** Ms. Hope usually has them, Your
3 Honor.

4 **THE COURT:** All right.

5 (Pause.)

6 **THE COURT:** All right. Opening statements from
7 the State, Mr. McNair.

8 **MR. MCNAIR:** Thank you, Your Honor. May it
9 please the Court.

10 **THE COURT:** Yes, sir.

11 OPENING STATEMENT

12 **MR. MCNAIR:** Ladies and gentlemen, the
13 defendant, Mr. Caughman, didn't hit an animal, he
14 hit another human being on a motorcycle and didn't
15 even stop, didn't stop to check on him, didn't stop
16 to see whether he was dead or alive, didn't even
17 call 9-1-1. Instead, he drove home. And sometime
18 after that incident, he cut the passenger side doors
19 off of his Ford Ranger where that motorcycle had hit
20 and hid it behind a shed behind his property with a
21 tarp over it.

22 Ladies and gentlemen, the man that Mr. Caughman
23 hit that night was named Toby Morriss. He was 36
24 years old. He taught photography at Carolina. He
25 had a passion for motorcycles. When he wasn't

1 teaching, he actually worked at Clanton Austell's
2 motorcycle shop over here on Highway 6, not far from
3 here. He actually built the bike he was riding that
4 night.

5 As a result of this accident, Mr. Morriss
6 suffered multiple broken ribs, a couple broken
7 vertebrae, fractured wrist. And seven days after
8 this accident, he died from a blood clot, a blood
9 clot that was caused by the significant amount of
10 trauma that he suffered as a result of this
11 accident.

12 Ladies and gentlemen, the evidence will show
13 that on February 21st, 2010, Mr. Morriss had just
14 finished having dinner with his girlfriend, Jenny
15 Prather, who you'll hear from. They had dinner
16 downtown Columbia, and he was heading home. He
17 lives on -- lived on Highway 6 behind Doc's Garage.
18 Again, it's right beside Mr. Austell's motorcycle
19 shop not far from here.

20 He decided to take Knox Abbott Drive on his
21 route home. About that same time, 10:00 p.m., the
22 defendant was leaving the Hard Knox Grill. His
23 credit card was processed there at 10:00 p.m. that
24 night. Hard Knox is about a block away from where
25 the accident happened. His credit card was

1 processed at ten o'clock p.m.; the accident was
2 dispatched at 10:08 p.m.

3 As Toby approached the intersection of 9th
4 Avenue and Knox Abbott, the defendant was coming the
5 opposite direction heading towards -- into Columbia
6 and he cut right in front of Toby Morriss. Toby
7 Morriss' motorcycle slammed against the passenger
8 side of his green Ford Ranger.

9 Now, you're going to hear from officers at the
10 scene. You're going to hear from Officer Green.
11 You're going to hear when she {sic} first arrived,
12 they talked to a witness and the witness provided a
13 description of a red Ford Ranger. So, initially,
14 law enforcement thought they were looking for a red
15 Ford Ranger. They put that information out on the
16 news; nothing became of it. They didn't receive any
17 tips.

18 Detective Pereira then became involved. He
19 wasn't at the scene that night. He became involved
20 several days later that week. He went to Tillman's
21 Towing where they had taken the motorcycle and the
22 debris from the scene. He finds a pile of debris
23 where the motorcycle had been, looks through it, and
24 in that pile at the junkyard, he finds a piece of a
25 Toyota 4Runner. So law enforcement puts out on the

1 news that they're looking for a Toyota 4Runner at
2 that point.

3 And Detective Pereira is just doing what any
4 good law enforcement officer would do. They don't
5 have clues, he's digging, he's searching, he's
6 looking for any type of lead.

7 Well, they put that information on the news
8 that they're looking for a Toyota 4Runner; nothing
9 becomes of that. But he also finds a piece of
10 Toby's motorcycle fender in that pile at Tillman's.
11 He sends that off to SLED for testing.

12 And you're going to hear from Agent Moskal,
13 who's an expert in trace analysis, paint analysis.
14 He examines that fender and determines that there is
15 a foreign paint on that fender, a paint that got
16 there as a result of a transfer due to some sort of
17 impact. He analyzes that paint and decides that
18 that paint came from a green Ford vehicle between
19 the years 1998 and 2002.

20 So now law enforcement knows it wasn't a red
21 Ford Ranger, it wasn't a 4Runner. They have a
22 better idea of what type of vehicle they're looking
23 for, but they still don't have any leads as to who
24 the driver was.

25 And what blows this case open, ladies and

1 gentlemen, is that on May 5th, 2010, an anonymous
2 tip comes into Crime Stoppers, a man with a
3 conscience calls Crime Stoppers. He couldn't stand
4 to keep the information that he had silent anymore,
5 and you're going to hear from him. He tells Crime
6 Stoppers that the man -- The vehicle you are looking
7 for is a green Ford Ranger that was being driven by
8 Craig Caughman. That Ford Ranger is on his property
9 behind the shed with a tarp over it with the doors
10 cut off. This tipster even knew that Craig Caughman
11 had used his credit card at the Hard Knox that
12 night.

13 So law enforcement, that same day, drives by
14 the defendant's property. They see what appears to
15 be a green Ford Ranger -- or a Ford Ranger, they
16 couldn't see the color because it was under a tarp.
17 They see the Ford Ranger on the back of his
18 property. They get a search warrant. They execute
19 it, pull the tarp off the vehicle and there it is, a
20 green Ford Ranger with the doors cut off just as the
21 tipster had described. They also find the inside
22 panels from the door under Mr. Caughman's porch, the
23 molding on the inside of the door, but they don't
24 find the doors. The doors were nowhere to be found.

25 Ladies and gentlemen, after they have that

1 vehicle in hand, they're able to, again, have Agent
2 Moskal from SLED come out, take a paint sample from
3 that vehicle and match it to multiple places on that
4 motorcycle.

5 You're also going to hear from two close
6 friends of Mr. Caughman who he confided in and told
7 everything, confessed to, Danny Gilbert and Rett
8 Campbell. You're going to hear from both of them.

9 Now, ladies and gentlemen, as a result of all
10 of this, Mr. Caughman is charged with leaving the
11 scene of an accident involving death and obstruction
12 of justice.

13 Now, I'm sure all of you know that in a
14 criminal case, the burden of proof is beyond a
15 reasonable doubt. That's a burden that we, as the
16 State, welcome because that's the way it should be
17 in a criminal case.

18 And the Judge will give you a detailed
19 instruction on what that is at the end of the trial,
20 but just -- a lot of people have misconceptions
21 about what reasonable doubt really means. What I
22 want you to keep in mind is that it does not mean
23 beyond all doubt. It does not mean beyond any
24 doubt. What it means is that you are firmly
25 convinced. At the end of this trial, if you are

1 firmly convinced of this defendant's guilt, then you
2 do not have a reasonable doubt.

3 Ladies and gentlemen, the great thing about a
4 jury like yourselves is y'all all have a multitude
5 of life experiences that give y'all a wealth of
6 common sense and a powerful ability to determine the
7 truth.

8 Now, you don't have to leave your common sense
9 at the door; it belongs in this courtroom. This
10 isn't some type of lab experiment where we have to
11 account for every possible variable or every
12 imaginable possibility. You can absolutely use your
13 common sense to connect the dots here and determine
14 the truth.

15 Now, ladies and gentlemen, just like in life,
16 in a criminal investigation, we are sitting here
17 today with full information looking back on things
18 in hindsight. Law enforcement doesn't have that
19 benefit. They're having to make decisions on the
20 fly based on imperfect information or whatever
21 information they have at the time. So we may look
22 back on things and think, oh, well, you know, if we
23 had known then what we know now, we may have done
24 things different. And there may be some mistakes
25 made because of that.

1 I don't really play golf well, I don't play it
2 often, but there's a saying in golf that it's not
3 how you drive, it's how you arrive. And what it
4 means is it's not how you start, it's how you
5 finish. And even though law enforcement may have
6 followed a few false leads initially in this case
7 that didn't pan out as far as the red Ford Ranger or
8 the Toyota 4Runner, they finished in the right place
9 at 1 Gunter Circle where this defendant lived.
10 That's where the green Ford Ranger was with the
11 doors cut off. They got it right.

12 Now, ladies and gentlemen, there are going to
13 be certain, you know, lots of things come up in a
14 trial, but there are going to be certain immutable,
15 unchangeable facts in this case that this defendant
16 cannot escape:

17 Number one, he used his credit card at the Hard
18 Knox that night minutes before the accident a block
19 away. Number two, he confessed to two close friends
20 who didn't want to come forward, who don't want to
21 be a part of this, but they did the right thing.
22 Number three, paint from a green Ford Ranger was
23 found on Toby Morriss' motorcycle. Number four, the
24 defendant owns a green Ford Ranger that was in his
25 backyard with the doors cut off. Number five, he

1 bought a new vehicle to drive within days of this
2 accident. Number six, he lied to law enforcement
3 about where he was that night. And you're going to
4 hear the whole video. He told them he was at the
5 Skyline Club on Sunday. Skyline's not even open on
6 Sunday.

7 Now, a jury trial is sometimes referred to as a
8 defendant's day in court, and this is Mr. Caughman's
9 day in court. But this is also the day in court for
10 the State of South Carolina and the family of Toby
11 Morriss, and you know, it goes without saying, that
12 it's important to them.

13 And at the end of this trial, ladies and
14 gentlemen -- my name's Robby McNair. I represent
15 the State in this case along with Ms. Mayes. At the
16 end of this trial, we will come back before you and
17 we're going to ask you to return a verdict that
18 speaks the truth in this case and that verdict is
19 going to be guilty. Thank you.

20 **THE COURT:** For the defense.

21 **MR. FLOYD:** Thank you, Your Honor.

22 Ladies and gentlemen of the jury, this man is
23 William Craig Caughman. He goes by Craig. And he
24 is the defendant in this case. He's a man about who
25 you're going to make one of the most important

1 decisions you ever make about anybody and you just
2 now met him. But you're going to decide whether,
3 based upon the evidence you hear in this courtroom
4 over the next few days, whether or not Craig
5 Caughman should be branded a criminal because of
6 these charges.

7 Now, if you never served on a criminal jury
8 before, well, you almost have to set aside human
9 nature because you may have thought in your mind,
10 because Craig was arrested, which he was, because he
11 was charged with these crimes, which he was, because
12 he now sits before you to be judged, which he does,
13 well, you may have had a thought in your mind that
14 Craig must be guilty.

15 But if you've got that kind of thought, you've
16 got to erase it because, you see, Craig's got the
17 same rights we all have, and one of those most
18 important rights is what we call the presumption of
19 innocence. So when you look at Craig Caughman, you
20 must say in your heart and in your mind, Craig
21 Caughman is innocent.

22 I don't care what the Solicitor just said to
23 you, Craig Caughman is innocent. And he remains
24 innocent unless and until the State proves his guilt
25 on each and every element of each and every offense

1 with which he's charged beyond a reasonable doubt.

2 All we can ask is that you keep an open mind.
3 These are serious charges. The ramifications to
4 Mr. Caughman are significant. So all we ask is that
5 you keep an open mind, look behind some of the
6 things that you hear, get to the heart of the
7 matter.

8 And, you know, some things that you've just
9 been told, you're not going to hear that, and I'll
10 tell you one right off the top of my head. There's
11 no statement from Mr. Caughman that he was at the
12 Skyline Club on that Sunday night.

13 But you just listen closely. And we think if
14 you keep an open mind, listen to everything that
15 every witness has got to say, you'll conclude at the
16 end of this trial, that the only fair and just
17 verdict in these cases is not guilty.

18 We thank you for your attention. I look
19 forward to speaking with you again after you hear
20 all of the evidence in what we call the closing
21 statements in the trial. Thank you very much.

22 **THE COURT:** First witness.

23 **MS. MAYES:** State calls Jennifer Prather.

24 *****

25 *****

1 JENNIFER PRATHER,
2 having been duly sworn, testified as follows:

3 **THE CLERK:** Once you're seated, please speak up
4 loud and clear stating your full name, spelling your
5 last on the record.

6 **THE WITNESS:** My name is Jennifer Prather.
7 Last name is P, as in Paul, -r-a-t-h-e-r.

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 **Q** All right. Good afternoon, Ms. Prather. Could
11 you tell us a little bit about yourself? Where are
12 you currently employed?

13 **A** I'm the director of wellness at a continuing
14 care retirement community in Lexington. I live in
15 Columbia.

16 **Q** All right. And you mentioned that you live in
17 Columbia. Can you tell us whether or not you were
18 living in the Columbia area back in 2010?

19 **A** I was. My address was West Columbia in 2010.

20 **Q** All right. How is it, Ms. Prather, that you
21 know the victim in this case, Tobias, known as Toby,
22 Morriss?

23 **A** We were very, very dear friends, like family.
24 I'd known him about three years at that point, I
25 believe.

1 **Q** Three years leading up to the year 2010?

2 **A** That's correct.

3 **Q** So your estimation is that you would have met
4 and become close acquaintances back in 2007?

5 **A** Yes, ma'am.

6 **Q** Can you tell us a little bit, specifically,
7 about Toby? Where was he residing at the time?

8 **A** He --

9 **Q** What area?

10 **A** He lived in Lexington actually adjacent to the
11 motorcycle shop where he worked and loved to spend
12 time as his passion and his hobby.

13 **Q** I wanted to ask you a little bit about that.
14 You mentioned the motorcycle shop. Do you know the
15 area of Lexington County where that was located?

16 **A** It's called Porsche Drive. And I think it's --
17 I'm sometimes really bad with directions. I feel
18 like it's just off of Route 6.

19 **Q** Okay. All right. And so Porsche Drive is a
20 little side road there?

21 **A** Yes, ma'am.

22 **Q** Okay. And to get to that area of Lexington
23 County from Columbia, can you tell us whether or not
24 Knox Abbott Drive would be an appropriate route?

25 **A** Yes, it would, and that was one of his

1 favorites routes to go.

2 **Q** Okay. Ms. Prather, I want to take you back to
3 specifically in 2010, the date of February 21st,
4 2010. Do you recall that date?

5 **A** I do.

6 **Q** What day of the week was that?

7 **A** It was a Sunday.

8 **Q** So looking here at the calendar then, we'd be
9 talking specifically about Sunday, February 21st of
10 the year 2010?

11 **A** Yes, ma'am.

12 **Q** And are you able to see this board from where
13 you are right now?

14 **A** Yes.

15 **Q** Ms. Prather, what, if anything, is it that
16 stands out to you about this particular date that
17 allows you to have a specific memory?

18 **A** Well, being that's the day of his accident, it
19 definitely stands out in my memory. We had both had
20 weekend events. He had been camping that weekend
21 for a motorcycle competition and I had been at a
22 workshop. So we got together that afternoon to kind
23 of share about our weekends and catch up.

24 **Q** All right. Were you familiar with what type of
25 vehicle that Toby had?

3 **A** It was a BMW motorcycle that he had restored.
4 I can't specifically speak to the year or model.

5 **Q** All right. Okay. And you were familiar with
6 that motorcycle yourself?

7 **A** Yes.

8 **Q** How frequently or often would you see Toby with
9 his motorcycle?

10 **A** Almost daily, very regularly.

11 Q I'm going to show you a document and ask you
12 whether or not you recognize what's in the document?

13 **A** Yes. That's Toby's motorcycle that he was
14 riding on that day.

15 Q Can you tell us whether or not this photograph
16 is a fair and accurate depiction of the motorcycle
17 as you recall it on February 21st, 2010?

18 **A** Absolutely. Yes, it is.

19 **MS. MAYES:** Your Honor, at this time, the State
20 would offer this photograph as State's 1 for
21 evidence.

22 **THE COURT:** Any objection?

23 **MR. FLOYD:** No objection, Your Honor.

24 **THE COURT:** It's admitted.

25 (State's Exhibit Number 1, photograph,

1 marked and admitted into evidence.)

2 BY MS. MAYES:

3 Q Okay. And looking at this photograph,
4 Ms. Prather, you recognize this as the motorcycle
5 that he had on February 21st?

6 A Yes, ma'am.

7 Q All right. Specifically, on February 21st,
8 what form of transportation was he using?

9 A Well, during the time we had spent together, we
10 were in my car. And then at the end of the evening,
11 I had took him to where his motorcycle had been
12 parked for the weekend, which was at his friend's
13 residence near the One Eared Cow on Huger Street,
14 and we parted ways from there that night.

15 Q Okay. And when you saw this motorcycle, not
16 just on February 21st, but throughout the entire
17 period that you knew Toby leading up to February
18 21st, were you aware of any damage or defects to the
19 motorcycle?

20 A No, I was not. He was a mechanic for his
21 living, so he made sure that if he was riding a
22 bike, it was in good working condition before it was
23 on the road.

24 Q All right. And can you tell us whether or not
25 if there had been any damage to that motorcycle, you

1 would have been aware of it?

2 **A** There had not been damage. I would have been
3 aware, yes.

4 **Q** And how so?

5 **A** We spoke daily, saw each other daily. I spent
6 a good amount of time at the shop as well. And we
7 shared about things that were important to us, and
8 his bikes were important to him. So if there had
9 been damage, it was something that we would have
10 talked about and he would have told me.

11 **Q** All right. Now, can you tell us about Toby,
12 whether, physically, whether he was -- what can you
13 tell us about his state of health back on February
14 21st, 2010?

15 **A** He was in perfect health. He was very active.
16 He had been camping that weekend. He was always a
17 very active person. He had two jobs, as you heard,
18 at the university and also at the shop. So he was
19 very healthy.

20 **Q** All right. And, specifically, was he able to
21 go about his daily activities?

22 **A** Absolutely.

23 **Q** If he had any injuries or fractures, would you
24 have been aware of them?

25 **A** Yes.

1 **Q** And what type of work did he do?

2 **A** He was a professor of photography at the
3 University of South Carolina and he also worked at
4 Clanton Austell's motorcycle shop.

5 **Q** And can you tell us whether or not he was able
6 to complete his daily activities both as a professor
7 and at the motorcycle shop during that time period?

8 **A** Yes, absolutely.

9 **Q** Did he have any medical conditions that you
10 were aware of?

11 **A** Not at that time that I'm aware of.

12 **Q** And when you saw him getting on his motorcycle
13 on February 21st, what can you tell us about any
14 type of safety gear that he had?

15 **A** Well, Toby felt very strongly about always
16 wearing all of his safety gear all of the time. If
17 you knew him, you knew that about him. So he was in
18 full gear because he would always be in full gear,
19 his helmet, padded jackets, gloves, boots,
20 everything. He was very safety conscious.

21 **Q** Now, you mentioned that you had been together
22 throughout the evening. Specifically, where did you
23 go and what did you do on the late afternoon into
24 early evening of February 21st, 2010?

25 **A** I know we shared a meal together. I honestly

1 don't remember where that meal was, but we -- I'm
2 sure we went to a restaurant that we frequented. We
3 also had gone to a Bi-Lo to get a couple of supplies
4 to make a small repair on a friend's home for her,
5 and we took care of that. We had spent some time at
6 my apartment. And then late that night, I had took
7 him to where his motorcycle was and that's where we
8 parted ways.

9 **Q** Can you tell us whether or not, from the time
10 you first got together that day until you departed,
11 whether there was any alcohol consumption by either
12 of you?

13 **A** There was no alcohol consumption by either of
14 us. Toby actually never drank. That was a personal
15 choice of his. I never saw him drink ever.

16 **Q** Now, you mentioned that he got on the
17 motorcycle. Can you tell us whether the headlight
18 was working on that motorcycle?

19 **A** The headlight was working, yes.

20 **Q** To the best of your knowledge, was the
21 motorcycle in working condition?

22 **A** Absolutely.

23 **Q** In good working condition?

24 **A** Yes, it definitely was.

25 **Q** And when did you next see Toby?

1 **A** Somewhere around probably 3:00 a.m., I got a
2 call from the emergency room, and I went straight
3 there.

4 **Q** So it was around 3:00 a.m. that you were
5 actually notified by the emergency department?

6 **A** I think so. It may have been 2:00 or 3:00. It
7 was in the early hours of the morning, that I can
8 say.

9 **Q** All right. And that was of a hospital?

10 **A** Yes.

11 **Q** They were calling on Toby's behalf?

12 **A** Yes.

13 **Q** And what hospital was that?

14 **A** Lexington Medical Center.

15 **Q** And did you go see him?

16 **A** Yes, I did.

17 **Q** Can you tell us whether or not he was in the
18 same condition that you had last left him?

19 **A** He definitely was not in the same condition
20 that I had left him. He was pretty beat up. He was
21 conscious, but a little confused. And he didn't
22 remember the accident, but he knew who I was and all
23 of that.

24 **Q** Can you tell us, to your knowledge and based
25 upon your observations, was he treated for body

1 fractures?

2 **A** Yes.

3 **MS. MAYES:** Beg the Court's indulgence.

4 (Pause.)

5 **Q** When you last saw Mr. Morriss on his
6 motorcycle, where was he headed or in which
7 direction?

8 **A** If I remember correctly, as we were leaving the
9 parking lot of the -- it's right by the One Eared
10 Cow, I believe he turned right and I turned left.
11 Where I was living was just shortly after you turn
12 onto 378, so that's the way I headed.

13 **Q** Okay. And his direction would have taken him
14 towards Columbia or towards Lexington County?

15 **A** Well, he would be going toward Lexington
16 County, yeah.

17 **Q** And what was your understanding of his
18 destination?

19 **A** He was going to his home, which was on Porsche
20 Drive in Lexington.

21 **Q** And that's the residence by the Doc's Garage
22 and the motorcycle shop of Clanton Austell?

23 **A** Yes, ma'am.

24 **MS. MAYES:** Nothing further.

25 **THE COURT:** Mr. Floyd?

1 **MR. FLOYD:** Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. FLOYD:

4 **Q** Ms. Prather, you dropped him off at the One
5 Eared Glass?

6 **A** His friend had a shop right by there, yes.

7 **Q** And that's on Huger Street?

8 **A** Correct.

9 **Q** It's fairly close up toward Gervais Street,
10 isn't it?

11 **A** Yes.

12 **Q** Within a couple blocks?

13 **A** Correct.

14 **Q** And it's on the West Columbia side of Huger
15 Street as opposed to the Columbia side?

16 **A** I don't know if it is officially or not. I
17 honestly don't know.

18 **Q** Okay. Well, it's been a couple places over
19 there, hasn't it? It's been moved once or twice?

20 **A** I'm sorry?

21 **Q** Hasn't the business moved once or twice?

22 **A** I don't know the answer to that. I'm sorry.

23 **Q** And your testimony is you drove him there?

24 **A** Uh-huh.

25 **Q** Would that be from your apartment?

1 **A** Yes. Correct.

2 **Q** And your apartment was in West Columbia
3 somewhere?

4 **A** That's correct.

5 **Q** Was it out 378?

6 **A** Just off of 378, near where the chicken plant
7 is.

8 **Q** So you drove him back into Columbia and dropped
9 him off?

10 **A** Uh-huh.

11 **Q** Did you see him leave the parking lot?

12 **A** Yes.

13 **Q** And which way did he go?

14 **A** I don't remember correctly -- for certain
15 which -- I know I was going back to my apartment and
16 he was going home, but I can't say for certain,
17 leaving that parking lot, which way he turned. I
18 believe he turned right, but I'm not positive.

19 **Q** You're not positive. Now, did you meet him
20 there also that day?

21 **A** I believe I -- actually, I honestly don't
22 remember where I picked him up from. I think I may
23 have picked him up from the shop, if I -- I believe.
24 He had -- gosh, I mean, it's been three years,
25 that's a detail -- I honestly don't remember where I

1 picked him up.

2 **Q** So had you seen him ride his motorcycle that
3 day?

4 **A** Not prior to that evening, no.

5 **Q** So you had not looked at his motorcycle for a
6 while?

7 **A** Oh, I had seen it, I believe, on Friday before
8 he left. I saw it quite regularly.

9 **Q** But the last time would have been Friday before
10 he left for the weekend?

11 **A** I believe that's correct.

12 **Q** And did he take his motorcycle with him for
13 this camping trip?

14 **A** Not this particular one, no.

15 **Q** Where had it been parked the whole time?

16 **A** At the One Eared Cow.

17 **Q** Now, you next saw him then about three o'clock
18 or so in the morning in the emergency room?

19 **A** That's correct.

20 **Q** And did you continue to visit with him for
21 several days?

22 **A** I was pretty much there around the clock for
23 the entire week.

24 **Q** And did his condition improve?

25 **A** He had a lot of injuries. He had a surgery. I

1 don't know if that's a -- I don't know how to answer
2 that very well, but he was --

3 **Q** Well, he was slated to be discharged, wasn't
4 he?

5 **A** Yes.

6 **Q** And they don't discharge unless you improve, do
7 they?

8 **A** He was definitely, we hoped, doing better.

9 **Q** Okay. In fact, he was to be discharged the
10 next day when he died; is that correct?

11 **A** That's correct.

12 **Q** Were you with him at that point?

13 **A** Yes, I was.

14 **Q** And he was doing rehab, was he not?

15 **A** That's correct.

16 **Q** Was he walking upstairs?

17 **A** Yes, that's correct. That was part of his
18 rehab.

19 **Q** And how many stairs had he walked up?

20 **A** I believe it was maybe seven. I didn't count.

21 **Q** And had he been doing the rehab for several
22 days?

23 **A** He had done it twice before I believe.

24 **Q** So there was a period of time, from after you
25 first met him until he died, when he was coherent?

1 **A** Oh, absolutely. He was totally coherent.

2 **Q** And he could speak with you?

3 **A** Yes.

4 **Q** And converse with you?

5 **A** Yes.

6 **Q** Move about?

7 **A** To some extent, yes, with help.

8 **Q** But he was walking in the hallway, wasn't he?

9 **A** At this point, yes.

10 **Q** And, in fact, he was to be -- he was to go home
11 the next day, was he not?

12 **A** That was, hopefully, the plan, yes.

13 **MR. FLOYD:** Thank you, Ms. Prather. No further
14 questions.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 **Q** Further, on that matter, Ms. Prather, were you
18 there when he actually went through the physical
19 therapy or the rehab as Mr. Floyd termed it?

20 **A** Yes.

21 **Q** How often were you able to visit Toby in his
22 hospital room following this event on February 21st,
23 2010?

24 **A** I was basically there around the clock, except
25 twice a day, I would go let my dogs out.

1 **Q** All right. How was he able to go about
2 participating in the physical therapy that was part
3 of his treatment?

4 **A** He had assistance to stand up and he would walk
5 down the hall and he was supposed to go up one
6 flight of stairs and come back down and walk back.

7 **Q** And when you say assistance, what type of
8 assistance are you referring to?

9 **A** Just to kind of have your arm in the crook of
10 his arm, just kind of as, you know, a spot.

11 **Q** Can you tell us whether or not, based on your
12 observations, he was having discomfort or problems
13 associated with his injuries while hospitalized?

14 **A** Oh, absolutely. He was in a great deal of pain
15 the entire time.

16 **Q** Now, Mr. Floyd was asking you about when you
17 saw the motorcycle on the 15th and then when you saw
18 Toby leave on it on Sunday, February 21st, 2010.
19 Were you ever made aware in any way of any damage
20 that had occurred to the motorcycle?

21 **A** No, absolutely not. And it was in a -- it was
22 parked at a trusted -- trusted friend's place where
23 it was safe.

24 **Q** What do you mean by that?

25 **A** Well, Clark was a dear friend of his, that's

1 where his shop and where he resided. And so it was
2 parked -- it would be like parking it in your
3 friend's driveway and you'd know it's safe there.

4 **Q** Okay. And you're referring to what -- when you
5 said, he's a dear friend, who are you referring to?

6 **A** Clark Ellison.

7 **Q** And what does he do or where does he work?

8 **A** He is a local artisan, lives in Clark. And he
9 also is one of the owners of the Art Bar.

10 **Q** Okay. And what about it being parked at One
11 Eared Cow?

12 **A** I'm saying that as -- because it's easier to
13 tell you right where it is because that's right
14 where you turn to get to Clark's shop. It's right
15 next to that. So I don't think he's affiliated with
16 it, though.

17 **Q** Okay. So just to clarify a little bit more,
18 where exactly was the motorcycle parked while he was
19 on the camping trip?

20 **A** It was parked right in front of Clark's space.

21 **Q** When you say that's a secure location, describe
22 exactly what you mean by that.

23 **A** I guess I don't know how to say it any better
24 except that that was his friend's place and he knew
25 his friend would have an eye on it and there's not

1 through traffic on it or anything like that.

2 **Q** Is that private property?

3 **A** Yes, I believe so.

4 **Q** Is it a parking lot or a private driveway or
5 private area?

6 **A** I don't know how it's zoned to be honest. I
7 think it's his private parking area.

8 **Q** So with that said, at any point, were you aware
9 of any changes or damages to the vehicle other than
10 the condition you last saw it in?

11 **A** I am not aware of any changes or damages to the
12 vehicle.

13 **Q** And what was the approximate time that you and
14 Toby parted ways on the evening of February 21st?

15 **A** I don't remember exactly, but I think it was
16 around 10:00 p.m.

17 **MS. MAYES:** Thank you. Nothing further.

18 **THE COURT:** Anything further?

19 **MR. FLOYD:** Just very briefly, Your Honor.

20 RECROSS-EXAMINATION

21 BY MR. FLOYD:

22 **Q** Ms. Prather, when you dropped Mr. Morriss off
23 at his motorcycle that evening, did you get out and
24 examine the motorcycle?

25 **A** No, I did not.

1 **Q** Did he come back to your car after you let him
2 off or did you turn and leave at that point?

3 **A** I believe I pulled out behind him. So I let
4 him go first and then I went behind him, I think.

5 **Q** You don't recall which way he turned, which way
6 you turned?

7 **A** I know that I turned left and went to Gervais
8 because that's the way I would go home. I honestly
9 -- I can't say for certain his exact way that he
10 turned right then.

11 **Q** And when you were visiting him in the hospital,
12 when you would do the walk rehab, would you
13 accompany him at times other than the hospital
14 staff?

15 **A** Well, the very first time was with the physical
16 therapist. I know we did it three times. I don't
17 remember whether the physical therapist was there
18 all three times, but I know at least the first time.

19 **Q** And, in fact, the final time, it was just you
20 and him, wasn't it?

21 **A** Yes.

22 **Q** And up until that point in time, he was
23 competent, fully aware of things and so forth?

24 **A** Yes.

25 **Q** Had his wits about him?

1 **A** Yes.

2 **Q** And was up and walking about?

3 **A** Not walking a lot, but he could get up and walk
4 to go to the bathroom.

5 **MR. FLOYD:** Thank you.

6 No further questions, Your Honor.

7 **THE COURT:** Thank you. You may step down.

8 Next witness.

9 **MS. MAYES:** The State calls Leslie Hayes.

10 LESLIE HAYES,

11 having been duly sworn, testified as follows:

12 **THE CLERK:** Once you're seated, please speak up
13 loud and clear, stating your full name, spelling
14 your last on the record, please.

15 **THE WITNESS:** My name -- I'm hoarse. My name
16 is Leslie Hayes, H-a-y-e-s.

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 **Q** And, Ms. Hayes, where are you employed and in
20 what capacity?

21 **A** At U-Haul on Knox Abbott Drive in Cayce.

22 **Q** Okay. And I know you're having voice issues
23 today. I may need you to pull up just a little bit
24 closer to that microphone.

25 **A** (Witness complies.)

1 **Q** All right. Now, specifically, where is it that
2 you work?

3 **A** At the U-Haul on Knox Abbott Drive in Cayce.

4 **Q** All right. The U-Haul location on Knox Abbott;
5 correct?

6 **A** Uh-huh. Yes.

7 **Q** And what is your job title or description
8 there?

9 **A** I'm the general manager.

10 **Q** All right. Can you tell us whether or not the
11 U-Haul location has a surveillance video?

12 **A** It does.

13 **Q** Can you tell us whether or not the U-Haul
14 location was using surveillance video back during
15 the timeframe of February 21st, 2010?

16 **A** Yes, it was.

17 **Q** Can you tell us whether that video surveillance
18 is maintained there at U-Haul as part of your
19 routine course of business?

20 **A** Yes.

21 **Q** And you, as manager, oversee the video
22 surveillance?

23 **A** Yes.

24 **Q** Can you tell us whether the video surveillance
25 equipment was in good working order and in reliable

1 order back during the time period, February 21st,
2 2010?

3 **A** Yes.

4 **Q** Were aware of any problems with the equipment
5 during that time period?

6 **A** No.

7 **Q** Now, specifically, at your location, where does
8 that video camera point towards? What does it film
9 or record?

10 **A** The intersection of 9th and Knox Abbott.

11 **Q** All right. And is that always where your video
12 surveillance is pointed or directed?

13 **A** Yes.

14 **Q** Can you tell us whether or not you became aware
15 of an incident that had occurred during the evening
16 of February 21st, 2010, at the intersection of 9th
17 and Knox Abbott?

18 **A** Yes.

19 **Q** And, specifically, can you tell us whether or
20 not a law enforcement officer requested a copy of
21 your video surveillance, a recording?

22 **A** Yes.

23 **Q** Can you tell us whether or not you met with an
24 officer in this case?

25 **A** Yes.

1 **Q** Do you see him in the courtroom?

2 **A** I do.

3 **Q** Where is he?

4 **A** The detective (indicating).

5 **Q** Detective Pereira with the Cayce Department of
6 Public Safety?

7 **A** Yes, ma'am.

8 **Q** And when he made you aware that he wanted a
9 copy of your video surveillance recording, did --
10 ultimately, did he actually view that in your
11 presence?

12 **A** Yes, he did.

13 **Q** And that viewing of that recording took place
14 where?

15 **A** At the center at Knox Abbott Drive.

16 **Q** All right. And as manager, did you provide
17 him, ultimately, with a copy of the video
18 surveillance recording from February 21st, 2010?

19 **A** Yes.

20 **Q** And was the copy -- I'm sorry -- was the video
21 that you provided him a fair -- true and accurate
22 reflection of the video that you had actually
23 watched with him?

24 **A** Yes, ma'am.

25 **Q** And did you have an opportunity to review again

1 today a copy that the State has, meaning Solicitor's
2 Office, of that video recording?

3 **A** Yes.

4 **Q** Is what you viewed today a true and accurate
5 representation of the original recording that you
6 provided Detective Pereira?

7 **A** Yes, ma'am.

8 **MS. MAYES:** Your Honor, at this time, the State
9 would offer this video into evidence.

10 **MR. FLOYD:** Your Honor, may we approach?

11 **THE COURT:** Ladies and gentlemen, I'm going to
12 have you step to the jury room for a few minutes.
13 Please do not discuss the case.

14 (The jury retires to the jury room.)

15 **THE COURT:** Yes, sir.

16 **MR. FLOYD:** Your Honor, at this time, we would
17 object to the introduction of the video tape because
18 I don't think a proper foundation has been laid to
19 admit the tape. There's been no testimony that the
20 video accurately reflects what it purports to
21 record, and I don't think this witness can say that
22 because she wasn't present.

23 Unless she was present on the scene at ten
24 o'clock the night of February 21st, I don't think
25 she can testify as to it accurately portraying the

1 scene; nor can officers, who come on the scene
2 later, testify that it accurately portrays what it
3 purports to record. And so without their ability to
4 lay the proper foundation, we would object to the
5 introduction of the tape.

6 **THE COURT:** All right. Ms. Mayes.

7 **MS. MAYES:** Yes, sir, Your Honor. The State is
8 offering this pursuant to the Silent Witness Theory.
9 And I will submit to the Court, at this time, a copy
10 of United States versus Marshall. This is a Fourth
11 Circuit case which recognized the admission of video
12 taped footage under the Silent Witness Theory.

13 And, specifically, here we have offered
14 testimony and a foundation that the video tape
15 equipment and surveillance recording was in reliable
16 condition and working condition. She actually
17 viewed the video taped footage for that evening with
18 Detective Pereira, and ultimately a copy was
19 provided to Detective Pereira from U-Haul, but she
20 actually observed it herself. She's familiar with
21 what's shown on the video in terms of it being the
22 intersection of 9th and Knox Abbott. And there's
23 been no indication that the video equipment was not
24 in working order.

25 In addition, Your Honor, I'm going to offer to

1 the Court a copy of State versus -- I'm sorry -- the
2 People versus Dennis. This is an Illinois case that
3 again recognized the admission of video surveillance
4 evidence pursuant to the Silent Witness Theory.

5 Beyond that, Your Honor, the State has also
6 presented evidence that the video equipment and
7 surveillance recording is maintained as a routine
8 ordinary course of business. She would be the
9 business custodian or custodian of that record for
10 purposes of admission of it. I realize it's a data
11 compilation not in a written form, but it is, in
12 fact, a data compilation, and to that extent, can be
13 considered a business record.

14 **THE COURT:** Ma'am, can you explain how your
15 video system works and what it captures?

16 **THE WITNESS:** It's recorded on a DVR.

17 **THE COURT:** Say it again.

18 **THE WITNESS:** We have a DVR installed at the
19 work place and it just records on a day-to-day
20 basis. So, at any time, if anyone comes to me and I
21 need to review anything, I can go back and just
22 review certain dates and times that are requested.

23 **THE COURT:** What's reflected on the video that
24 you turned over to law enforcement?

25 **THE WITNESS:** It shows that night that the

1 incident happened, the motorcycle's coming down Knox
2 Abbott. At the corner of my parking lot, I did have
3 trucks blocking that area, but you can see the
4 motorcycle coming down and a vehicle passing and
5 turned around, but that's all you have. That's all
6 that was on the video.

7 **THE COURT:** And you recognize, based on your
8 viewing of that, as a video of the surroundings as
9 captured by your surveillance system?

10 **THE WITNESS:** Yes, sir.

11 **THE COURT:** All right. Mr. -- any questions
12 for the witness -- further questions for the
13 witness, Mr. Floyd?

14 **MR. FLOYD:** If I could ask her a couple
15 questions.

16 **THE COURT:** Yes, sir.

17 IN CAMERA EXAMINATION

18 BY MR. FLOYD:

19 **Q** Ms. Hayes, is it a continuous recording or does
20 it record periodically?

21 **A** A continuous recording.

22 **Q** Is there more than one camera?

23 **A** It is.

24 **Q** And does this video tape -- is this video that
25 you've got from both cameras or from just one

1 camera?

2 **A** No, from that one camera aiming towards the
3 intersection.

4 **Q** In your reviewing of it, it does not show the
5 collision itself, does it?

6 **A** No, sir.

7 **Q** In fact, you can't really see the full
8 intersection, can you?

9 **A** No, sir.

10 **Q** And you have no idea what went on that night of
11 your own personal knowledge, do you?

12 **A** No, sir.

13 **Q** So you have no way of knowing whether or not it
14 accurately portrays anything, do you?

15 **A** No, sir.

16 **MR. FLOYD:** Thank you.

17 No further questions, Your Honor.

18 **MS. MAYES:** And, Your Honor, just to clarify
19 one point.

20 IN CAMERA EXAMINATION

21 BY MS. MAYES:

22 **Q** Ms. Hayes, aside from the actual visual
23 recording of the events, does it have a time stamp?

24 **A** There is.

25 **Q** Okay. Is the time stamp necessarily correct

1 down to the last minute?

2 **A** Yes, ma'am, from my best knowledge that I know
3 of.

4 **Q** Okay. If it is not correct, if there is any --
5 anything about the time stamp that's not correct,
6 does it affect or alter the actual visual recording?

7 **A** No, ma'am.

8 **MS. MAYES:** Nothing further.

9 **THE COURT:** Any further argument by the State
10 or the defense?

11 **MR. FLOYD:** Nothing further from the defense,
12 Your Honor.

13 **THE COURT:** It's admitted over objection. I
14 find that it is admissible under various theories
15 advanced by the State.

16 We'll take about a five-minute break. And,
17 ma'am, you can step down and take a break. I'll
18 need you back in a few minutes.

19 (Brief recess.)

20 (State's Exhibit Number 2, video, marked and
21 admitted into evidence.)

22 **THE COURT:** Okay. Our witness may come back.

23 (Witness resumes the witness stand.)

24 **THE COURT:** You may bring in the jury.

25 (The jury returns to the courtroom.)

1 **THE COURT:** You may proceed.

2 BY MS. MAYES:

3 **Q** Ms. Hayes, the recording that was previously
4 mentioned, the U-Haul video surveillance recording,
5 which is now State's Exhibit 2, can you tell us
6 whether that is a true and accurate reflection of
7 what you viewed with Detective Pereira when you
8 pulled the events from that date?

9 **A** Yes, the same thing.

10 **Q** Now, specifically, what area of -- externally,
11 at U-Haul, what area is visualized on the recording?

12 **A** The intersection of 9th and Knox Abbott.

13 **Q** 9th and Knox Abbott?

14 **A** Uh-huh.

15 **Q** I'm going to show you a document and ask you
16 whether or not you recognize what is shown in this
17 document?

18 **A** Yes, ma'am.

19 **Q** What is this?

20 **A** The intersection of 9th and Knox Abbott.

21 **Q** Okay. I just need to get you to speak up loud
22 enough so that the court reporter can hear you.

23 **A** It's the intersection of 9th and Knox Abbott.

24 **Q** All right. Now, if you could briefly step down
25 and tell us exactly what we are looking at in this

1 photograph in terms of 9th and Knox Abbott?

2 **A** (Witness leaves the witness stand.)

3 Here's the U-Haul location right here, and then
4 over here (indicating) is the intersection of 9th
5 and Knox Abbott Drive.

6 **Q** All right. So this is Knox Abbott Drive going
7 this way?

8 **A** Yes, ma'am, and also this way as well.

9 **Q** Okay. And this road here that is going
10 vertically is which road?

11 **A** 9th Street.

12 **Q** Okay. And where is the U-Haul location?

13 **A** Right here (indicating).

14 **Q** Okay. And, approximately, where is your video
15 camera recording equipment set up?

16 **A** The camera itself, on the corner of my
17 building here --

18 **COURT REPORTER:** I couldn't hear. I'm sorry.

19 **THE WITNESS:** It's on the corner of the
20 building here. It faces out towards the
21 intersection.

22 BY MS. MAYES:

23 **Q** All right. Now, when you say that it's on the
24 corner of the building, so it's only as tall as the
25 building is?

1 **A** Yes, ma'am.

2 **Q** Okay. Now, on the actual recording, I know
3 Mr. Floyd was asking you, can you actually see the
4 collision?

5 **A** No, you cannot.

6 **Q** And why or why not?

7 **A** As you see over here to the corner, the trucks
8 are blocking. They were blocking that night as
9 well.

10 **Q** Okay. So these trucks here belong to what
11 company?

12 **A** U-Haul.

13 **Q** So those are U-Haul trucks?

14 **A** Yes, ma'am.

15 **Q** And they actually block the collision itself?

16 **A** Yes.

17 **Q** All right. Now, you had mentioned before that
18 you can visualize a certain --

19 **MR. FLOYD:** Your Honor, I'm going to object to
20 any kind of interpretation of the video. The
21 video's in evidence. The jury will be able to see
22 it and make their own interpretations of it as to
23 what it shows.

24 (Witness resumes the witness stand.)

25 **MS. MAYES:** I'll continue, Your Honor.

1 BY MS. MAYES:

2 **Q** Ms. Hayes, can you tell us whether this
3 photograph of the intersection of 9th and Knox
4 Abbott is a fair and accurate representation of 9th
5 and Knox Abbott as you know it?

6 **A** Yes.

7 **MS. MAYES:** This would be State's Exhibit 3 for
8 evidence, Your Honor.

9 **THE COURT:** Any objection?

10 **MR. FLOYD:** No objection, Your Honor.

11 **THE COURT:** It's admitted.

12 (State's Exhibit Number 3, aerial
13 photograph, marked and admitted into evidence.)

14 **MS. MAYES:** Nothing further of the witness,
15 Your Honor.

16 **THE COURT:** Mr. Floyd?

17 **MR. FLOYD:** No questions, Your Honor.

18 **THE COURT:** All right. Thank you.

19 Next witness.

20 **MR. MCNAIR:** The State calls Officer Marion
21 Green.

22 MARION GREGORY GREEN,

23 having been duly sworn, testified as follows:

24 **THE CLERK:** Once you're seated, speak up loud
25 and clear, stating your full name, spelling your

1 last on the record, please.

2 **THE WITNESS:** My name is Marion Gregory Green.

3 Last name spelling is G-r-e-e-n.

4 DIRECT EXAMINATION

5 BY MR. MCNAIR:

6 **Q** Officer Green, you were the first responding
7 officer to this accident; is that correct?

8 **A** Yes, sir, it is.

9 **Q** And were you working with Cayce Public Safety
10 at the time?

11 **A** Yes, sir, I was.

12 **Q** Are you still working there?

13 **A** No, sir, I'm not.

14 **Q** How long were you employed there?

15 **A** For five years.

16 **Q** What was your position?

17 **A** I was a master public safety officer.

18 **Q** And were you in your current position on
19 February 21st, 2010?

20 **A** Yes, I was.

21 **Q** Were you dispatched to an accident that night?

22 **A** Yes, I was.

23 **Q** What type of accident was it?

24 **A** I was told that it was a hit and run.

25 **Q** Where was it?

1 **A** At 9th Street and Knox Abbott Drive.

2 **Q** Is that in Lexington County?

3 **A** Lexington County, City of Cayce.

4 **Q** What time were you dispatched?

5 **A** I was dispatched at approximately 10:08.

6 **Q** Do you recall how long it took you to get
7 there?

8 **A** Took me about two minutes to get there.

9 **Q** So you got there about 10:10?

10 **A** Yes, sir.

11 **Q** Tell the jury what you saw when you first got
12 to the scene.

13 **A** When I arrived on the scene, I did see a
14 motorcycle that was heavily damaged, and I did see a
15 gentleman laying in the road with a couple people
16 around him seeing if he was okay.

17 **Q** Were you able to identify who that person in
18 the road was?

19 **A** Yes. It was Mr. Frederick Tobias Morris. I
20 spoke with him. He was able to tell me his name.

21 **Q** Okay. What did his condition appear to be?

22 **A** Like I said, he was able to tell me his name.
23 He was not able to tell me any further as far as
24 what happened. He just said he was riding his bike
25 and then there I was with him.

1 **Q** He couldn't recall anything that had happened?

2 **A** No, sir.

3 **Q** Did you talk with other possible witnesses at
4 the scene?

5 **A** I did. I talked with a Mr. Kevin Washington.

6 **Q** Okay. Was anybody able to provide you with a
7 potential suspect vehicle?

8 **A** Mr. Washington did tell me that he saw a red
9 Ford Ranger going down 9th Street, and he believed
10 that was the vehicle that had struck the motorcycle.

11 **Q** Okay. Now, was he able to provide you with a
12 description of the driver of that vehicle?

13 **A** No, he was not.

14 **Q** What about a tag number?

15 **A** No tag.

16 **Q** So nothing other than it was a red Ford Ranger
17 he said?

18 **A** That's correct.

19 **Q** Okay. Now, as the responding officer, is it
20 fair to say you're in charge of the scene?

21 **A** Yes, it is.

22 **Q** Did you walk around and examine things at the
23 scene?

24 **A** Yes, I did.

25 **Q** Did you observe any parts or debris on the

1 road?

2 **A** Yes. There were a multitude of motorcycle
3 parts. Specifically, I do remember seeing the front
4 fender of the motorcycle, as well as the speedometer
5 laying in the road.

6 **Q** Were photographs taken of the scene?

7 **A** Yes, photographs were taken.

8 **Q** And were photographs taken of all the parts and
9 debris in the road?

10 **A** Yes.

11 **Q** Do you recall seeing any automobile parts at
12 the scene?

13 **A** I do not recall seeing any car parts.

14 **Q** If you had seen automobile parts at the scene,
15 is that something that would have stood out to you?

16 **A** Most definitely. It was a hit and run, so, at
17 the time, we needed anything we could get to let us
18 know what the other vehicle was.

19 **Q** What would you have done if you had seen
20 automobile parts?

21 **A** It would help to identify what possible vehicle
22 other officers could look for and also it could have
23 been taken in evidence.

24 **Q** And would you have informed other people what
25 you had found, supervisors and such?

1 **A** Yes.

2 **Q** To your knowledge, did you see any Toyota
3 vehicle parts on the scene?

4 **A** No, I did not.

5 **Q** What ultimately happened to the parts and
6 debris and the motorcycle and everything that was in
7 the road?

8 **A** Any time we have an accident, once the tow
9 truck picks up the vehicle, or, in this case, the
10 motorcycle, the parts are also swept into a
11 container and taken along with the vehicle to the
12 tow yard.

13 **Q** Do you recall what tow company responded to
14 this accident?

15 **A** Tillman's Towing.

16 **Q** And did they take the motorcycle and any debris
17 with them?

18 **A** Yes.

19 **Q** Now, are you familiar with the area where this
20 accident happened, 9th Street and Knox Abbott?

21 **A** Yes, sir, I am.

22 **Q** Is that an area that you used to regularly
23 patrol?

24 **A** Yes.

25 (State's Exhibit Number 4, aerial

1 photograph, marked for identification.)

2 **MR. FLOYD:** No objection, Your Honor, to
3 Exhibit 4.

4 **MR. MCNAIR:** Yes, State's Exhibit 4.

5 (State's Exhibit Number 4, aerial
6 photograph, admitted into evidence.)

7 BY MR. MCNAIR:

8 **Q** I'm going to show you State's Exhibit 4 --
9 could you step down actually?

10 **A** (Witness leaves the witness stand.)

11 **Q** Do you recognize this aerial photo?

12 **A** Yes, I do.

13 **Q** What does this aerial photo show?

14 **A** This is Knox Abbott Drive here.

15 **Q** Uh-huh.

16 **A** And this is 9th Street.

17 **Q** 9th Street, okay. Did you observe -- well,
18 first of all, point out where you saw the motorcycle
19 laying in the roadway?

20 **A** The motorcycle was about right here
21 (indicating), which this would be closer -- it's
22 still on Knox Abbott, within that intersection,
23 closer to 9th.

24 **Q** Okay. And where is the U-Haul in this photo?

25 **A** U-Haul is right here (indicating).

1 **Q** Okay. Where is the Hard Knox?

2 **A** Hard Knox is right here (indicating).

3 **Q** So is that even a block away from the accident
4 scene?

5 **A** Um...

6 **Q** It's a short distance?

7 **A** It's about half a block.

8 **Q** Okay. Did you observe skid marks at the scene?

9 **A** There were skid marks within this area here,
10 but I was unable to, you know, determine where.

11 **Q** Okay. You don't recall where the skid marks
12 were?

13 **A** No.

14 **Q** Let me show you State's Exhibit 3. This is,
15 again, just the intersection of Knox Abbott and 9th
16 Street?

17 **A** Yes, with the U-Haul here. Just a closer view
18 of --

19 **Q** Okay. And just point out again where the
20 motorcycle was laying since it's a bigger photo.

21 **A** (Indicating).

22 **Q** Now, did you subsequently watch a U-Haul video
23 of this intersection?

24 **A** Yes, I did.

25 **Q** And were you able to see a motorcycle coming

1 down Knox Abbott?

2 **A** Yes. The angle of the video is probably from
3 here (indicating). So you can see this
4 intersection, but because of the trucks, you cannot
5 see the accident, but you can see a single light
6 motorcycle traveling this way.

7 **Q** Okay. And what direction would this be coming
8 from?

9 **A** Coming from Columbia going towards the airport.

10 **Q** Towards the airport. Okay. But these trucks,
11 did they -- they blocked everything else at that
12 intersection?

13 **A** Yes.

14 **Q** You can have a seat.

15 **A** (Witness resumes the witness stand.)

16 (State's Exhibit Numbers 5 through 9,
17 photographs, marked for identification.)

18 BY MR. MCNAIR:

19 **Q** I'm going to show you what's been premarked as
20 State's 5 through 9. State's 5, 6, 7, 8 and 9, do
21 you recognize these photos?

22 **A** Yes, I do.

23 **Q** What do these photos depict?

24 **A** Those are the photos of the incident.

25 **Q** And do they accurately depict the scene as it

1 was on February 21st, 2010?

2 **A** Yes.

3 **MR. MCNAIR:** Your Honor, the State offers
4 Exhibits 5 through 9 into evidence.

5 **MR. FLOYD:** No objection, Your Honor.

6 **THE COURT:** They're admitted without objection.
7 (State's Exhibits 5 through 9, photographs,
8 admitted into evidence.)

9 BY MR. MCNAIR:

10 **Q** Step down one more time for me.

11 **A** (Witness leaves the witness stand.)

12 **Q** What does State's 5 show here?

13 **A** This is a picture of the front fender of the
14 motorcycle.

15 **Q** And State's 6?

16 **A** This would be the victim's motorcycle here, the
17 fender here. There's the speedometer. And this is
18 just when the firefighter was putting down sand to
19 get up some of the fluid from the motorcycle.

20 **Q** State's 7?

21 **A** This is the -- another angle of the motorcycle.

22 **Q** Okay. What is this bag right here, whatever
23 that is?

24 **A** That's a first responder's bag. It's just got
25 typical first responder type stuff.

1 **Q** So that was not part of the scene?

2 **A** No, it was not.

3 **Q** What is this device right here?

4 **A** That's one of the first responder's radio.
5 They had apparently taken it off so they could work
6 a little better.

7 **Q** State's 8?

8 **A** This is the motorcycle, another angle of the
9 motorcycle again. And that's still the radio down
10 there.

11 **Q** Okay. And what does this area right here
12 depict?

13 **A** That is the front of the motorcycle. You can
14 see the headlights here with the front wheel kind of
15 turned off to the left, and it is missing the front
16 fender piece.

17 **Q** State's 9, again, photograph of the motorcycle?

18 **A** Yes. It's another angle of the bike again with
19 the missing front fender piece.

20 **Q** And State's 8, what is this thing here down at
21 the --

22 **A** That's the shovel from the sand.

23 **Q** Okay. That's just a shovel for sand?

24 **A** Yes.

25 **Q** And this (indicating), again, is what?

1 **A** Radio.

2 **Q** Okay. You can have a seat.

3 **A** (Witness resumes the witness stand.)

4 (State's Exhibit Number 10, fender, marked
5 for identification.)

6 **Q** I'll show you what's been premarked as State's
7 10. Take a look at this and tell me if you can
8 recognize it.

9 **A** Yes. It appears to be the fender from the
10 accident.

11 **Q** Okay. Is that the same piece of the fender
12 reflected in those photos that you just identified?

13 **A** Yes.

14 **Q** Does it appear in substantially the same
15 condition?

16 **A** Yes.

17 **MR. MCNAIR:** Your Honor, the State offers
18 State's 10 into evidence.

19 **MR. FLOYD:** Your Honor, I object unless he's
20 had possession of it since the wreck.

21 **THE COURT:** Pardon?

22 **MR. FLOYD:** I'm objecting unless he's had
23 possession of it since the wreck.

24 **THE COURT:** Mr. McNair?

25 **MR. FLOYD:** Does it have his name on it or

1 something?

2 **MR. MCNAIR:** Judge, it doesn't require a chain.
3 It's non-fungible evidence. It's uniquely
4 identifiable. If he can recognize this as being the
5 fender at the scene, I think that's sufficient.

6 **THE COURT:** The objection's overruled. It's
7 admitted over objection.

8 (State's Exhibit Number 10, fender, admitted
9 into evidence.)

10 **MR. MCNAIR:** Thank you, Your Honor.

11 BY MR. MCNAIR:

12 **Q** And you say that fender and everything else was
13 picked up at the scene that night by Tillman's
14 Towing?

15 **A** Yes, that's correct.

16 **Q** What were the conditions that night?

17 **A** It was a clear night. There's not any rain or
18 anything like that.

19 **Q** Is the area where the accident happened well
20 lit?

21 **A** It is well lit.

22 **Q** What color are the lights in that area?

23 **A** The street lights down Knox Abbott at the time
24 of this incident were actually kind of an amber
25 color.

1 **Q** What color was your patrol vehicle at the time?

2 **A** It was white with black stripes.

3 **Q** What color did your vehicle appear under those
4 lights?

5 **A** It did appear to have an orange tint to them.

6 **Q** So those lights could influence someone's
7 perception of color?

8 **A** Yes.

9 **MR. MCNAIR:** Beg the Court's indulgence.

10 (Pause.)

11 **Q** You say you previous -- you have watched this
12 U-Haul video previously?

13 **A** Yes, I have.

14 (State's Exhibit Number 2 was played for the
15 jury and the following occurred.)

16 **Q** You see the motorcycle that just went by at the
17 9 12 mark?

18 **MR. FLOYD:** Your Honor, I object to any
19 interpretation of the video by the officer unless
20 he's some kind of expert in video interpretation.
21 The jury can look at the video and make their own
22 interpretation of what they see.

23 **MR. MCNAIR:** I'm just having him identify
24 certain things on the video, Your Honor. He's not
25 interpreted anything.

1 **THE COURT:** I haven't heard the officer say
2 anything yet. I've heard the lawyers talking.

3 BY MR. MCNAIR:

4 **Q** Is that what you were describing as the
5 motorcycle that you just saw go by?

6 **A** Yes.

7 **MR. FLOYD:** That's what I'm objecting to, Your
8 Honor. I don't think he's entitled to try to
9 interpret the video for the jury. The video's in
10 evidence. The jury will be able to see the video.
11 They can make their own decisions about --

12 **THE COURT:** The objection is sustained as to
13 the leading nature of the question.

14 BY MR. MCNAIR:

15 **Q** Will you please just point out to us when you
16 see your vehicle on this video?

17 (State's Exhibit Number 2 was played for the
18 jury and the following occurred.)

19 **Q** Which direction were you coming from when you
20 were responding to the accident?

21 **A** 12th and Knox Abbott.

22 **Q** Would that have been heading towards Columbia?

23 **A** Towards Columbia as if from the airport.

24 My vehicle is approaching now.

25 **Q** All right. That's your vehicle reflected in

1 that video?

2 **A** Yes, sir.

3 **Q** So you had to do a U-turn because you're coming
4 from the opposite direction?

5 **A** Yes, sir.

6 **MR. MCNAIR:** All right. You can stop it.

7 (State's Exhibit 2 was concluded.)

8 **Q** Now, based on what the witness initially told
9 you, did you do some type of report?

10 **A** Yes, I did.

11 **Q** What's that report called?

12 **A** It's a TR-310, which is a traffic collision
13 report that's turned into the DMV.

14 **Q** Did you subsequently amend that report?

15 **A** Yes, I did.

16 **Q** Why was that?

17 **A** After further investigation, the incident was
18 given to Detective Pereira. And once he did a
19 further investigation, we noticed that between the
20 video and his knowledge as an accident
21 reconstruction person, that the initial report was
22 inaccurate.

23 **Q** So subsequent investigation led you to a
24 conclusion that the accident hadn't happened as the
25 initial witness had told you?

1 **A** That's correct.

2 **Q** Okay. And as a responding officer, do you
3 continue to investigate a case or is it turned over
4 to a detective?

5 **A** It's turned over to a detective.

6 **Q** Does your involvement in this case pretty much
7 end that night?

8 **A** Yes.

9 **Q** Okay.

10 (State's Exhibit Numbers 11 and 12,
11 photographs, marked for identification.)

12 **Q** I'm going to show you what's been premarked as
13 State's 11 and 12, and tell me if you can identify
14 these two photos. Take a look at them.

15 **A** Yes. These are from the intersection.

16 **Q** Okay. Those are the skid marks you referenced
17 earlier?

18 **A** Yes.

19 **MR. MCNAIR:** Your Honor, we offer State's 11
20 and 12 into evidence.

21 **MR. FLOYD:** No objection.

22 **THE COURT:** Admitted without objection.

23 (State's Exhibit Numbers 11 and 12,
24 photographs, admitted evidence.)

25 BY MR. MCNAIR:

1 **Q** And where were -- do you recall where those
2 skid marks were at the intersection? Are they on
3 the white line in this picture?

4 **A** They are on the white line.

5 **Q** Do you recall which white line they were on?

6 **A** The actual stop line.

7 **Q** Okay. The stop line on 9th Street?

8 **A** (No response.)

9 **Q** Do you recall?

10 **A** I'd have to look at the other photographs as
11 well. It should be in 9th Street. The fender is
12 actually in that photograph as well, so that will --

13 **Q** Okay. Talking about this photo?

14 **A** Yes, 9th Street.

15 **Q** Okay.

16 **MR. MCNAIR:** I have no further questions.

17 CROSS-EXAMINATION

18 BY MR. FLOYD:

19 **Q** Officer Green, just to clarify, because I can't
20 see from over there, are you saying these lines
21 are -- are they on 9th Street or Knox Abbott Drive?
22 Do you understand what I'm asking you?

23 **A** (No response.)

24 **Q** These lines, are they on Knox Abbott Drive or
25 9th Street?

1 **A** I do believe that will be 9th Street.

2 **Q** And this would be this -- the wide white line
3 (indicating)?

4 **A** When I saw the photographs, I saw them all laid
5 out, so I need to see them.

6 **Q** Okay. Well, I tell you what, I just saw one
7 down here that maybe can explain it for us. Okay?
8 I just want to make sure we get it right.

9 This is State's Exhibit 3. Can you see this
10 one okay?

11 **A** Yes.

12 **Q** Okay. Can you tell us where on this photograph
13 that one would be? You understand what I'm asking
14 you? You want to look at that one also?

15 **A** Yes, sir.

16 **Q** All right. This one is a closer up. You got
17 the motorcycle there, you got some debris and so
18 forth?

19 **A** So it's 9th Street right here (indicating).

20 **Q** So this would be this portion of 9th Street in
21 there?

22 **A** The motorcycle was here (indicating), which
23 would be in front of the pedestrian walkway.

24 **Q** Okay. So you got debris then along this area
25 over here (indicating)?

1 **A** Right here (indicating).

2 **Q** Okay. Thank you.

3 Now, when you first did your report, isn't it
4 true that you indicated that the vehicle that had a
5 collision with the motorcycle was a red truck?

6 **A** That's correct.

7 **Q** And isn't it true that you had in your report
8 that the way the accident happened was that the red
9 truck turned onto 9th Street and struck the
10 motorcycle which was waiting at the light on 9th
11 Street to enter Knox Abbott?

12 **A** That's correct.

13 **Q** And that kind of -- there was a lot of debris
14 over there in that 9th Street area, wasn't it?

15 **A** Throughout the intersection, yes.

16 **Q** Now, did you mark this in any way?

17 **A** No, sir.

18 **Q** And you have seen this none since -- for three
19 years? Have you seen this (indicating) in three
20 years?

21 **A** I have not.

22 **Q** And has it been in your possession?

23 **A** It has not.

24 **Q** Now, you testified, did you not, that the amber
25 lights could influence color?

1 **A** Yes.

2 **Q** But it doesn't affect your ability to remember
3 the color of the motorcycle fender?

4 **A** It affects the color of the entire scene, so
5 I'm not quite sure how to respond to that.

6 **Q** Well, you have no trouble today recognizing
7 that even though you saw it under amber lights?

8 **A** Correct.

9 **Q** So the color doesn't affect things very much,
10 does it?

11 **A** When you're close up, no, sir.

12 **Q** Now, you didn't yourself do any accident
13 reconstruction, did you, Officer Green?

14 **A** No, sir.

15 **Q** And can you identify for us -- I'm going to
16 show you State's Exhibit 11. Can you tell us what
17 that is?

18 **A** That appears to be a street reflector.

19 **Q** Pardon?

20 **A** A street reflector.

21 **Q** From where? Oh, you mean just like in the
22 street?

23 **A** Yes, sir.

24 **Q** And what would that be next to it?

25 **A** As far as the black lines around it?

1 Q Uh-huh.

2 A My assumption would be the glue.

3 Q Pardon?

4 A The glue that they use to put it on the
5 street --

6 Q Oh, okay. So you don't think that has anything
7 to do with this accident?

8 A No.

9 Q Okay. I'm just trying to clarify, that has
10 nothing to do with the accident? That's no debris
11 or anything?

12 A Correct.

13 Q So the only, I guess, evidentiary value of this
14 particular photograph would be the skid mark that
15 you see on it?

16 A That's correct.

17 Q Which may or may not be related to the
18 accident?

19 A That's correct.

20 MR. FLOYD: Thank you, Officer Green. I have
21 no further questions for you.

22 THE COURT: Any redirect?

23 REDIRECT EXAMINATION

24 BY MR. MCNAIR:

25 Q As far as the fender's concerned, you looked

1 pretty close at that at the scene, did you not?

2 **A** Yes.

3 **Q** And it wasn't moving, was it?

4 **A** No, it was not.

5 **Q** Okay. And after having viewed the U-Haul
6 video, can you tell us whether or not your amended
7 report is accurate?

8 **A** Yes.

9 **Q** And why was that different from what that
10 witness had told you?

11 **A** A lot of times witnesses tell us stuff and
12 that's all we have to base it on when we do our
13 accident reports, and then you have to go back and
14 investigate and actually figure out as close as
15 possible to what actually happened.

16 **Q** Well, tell me this: Based on what the witness
17 told you, where was the motorcycle?

18 **A** 9th Street.

19 **Q** Sitting at 9th Street?

20 **A** That's where he saw it, yes.

21 **Q** Okay. Is that reflected on the U-Haul video?

22 **A** It is not.

23 **Q** Where is the motorcycle on the U-Haul video?

24 **A** Coming from downtown Columbia into Cayce.

25 **Q** On Knox Abbott?

1 **A** On Knox Abbott Drive.

2 **MR. MCNAIR:** Thank you.

3 RECROSS-EXAMINATION

4 BY MR. FLOYD:

5 **Q** Officer Green, you can't see the collision on
6 the U-Haul video, can you?

7 **A** No, sir, you cannot.

8 **Q** So that's speculation that that -- that the
9 traffic coming from Knox Abbott is where the
10 collision occurs, isn't it? When it's coming from
11 the State Street area?

12 **A** That's just what I saw minutes before being
13 sent out to that call, so.

14 **Q** Okay. What I'm saying is the U-Haul video, you
15 cannot see the collision, can you?

16 **A** Correct.

17 **Q** So looking at that U-Haul video, you don't
18 really know whether or not what you were first told
19 is right or wrong, do you?

20 **A** The -- further investigation of it is not
21 solely based on the U-Haul, it's also based on
22 accident reconstruction, which again is not
23 something that I do.

24 **MR. FLOYD:** Okay. Thank you. No further
25 questions.

1 **THE COURT:** You may step down.

2 Next witness.

3 **MR. MCNAIR:** The State calls James Haggard,
4 Your Honor.

5 JAMES MONROE HAGGARD, JR.,
6 having been duly sworn, testified as follows:

7 **THE CLERK:** Once you're seated, state your full
8 name, spelling your last on the record, please.

9 **THE WITNESS:** My name is James Monroe Haggard,
10 Jr. Last name is spelled H-a-g-g-a-r-d.

11 DIRECT EXAMINATION

12 BY MR. MCNAIR:

13 **Q** Mr. Haggard, you were the tow truck operator
14 who responded to this accident; correct?

15 **A** That is correct.

16 **Q** Okay. You worked for Tillman Towing back then?

17 **A** Yes, sir, I did.

18 **Q** Do you still work there?

19 **A** No, sir, I do not.

20 **Q** But you were employed at Tillman's on February
21 21st, 2010?

22 **A** That is correct.

23 **Q** Did you respond to an accident that night?

24 **A** Yes, sir, I did.

25 **Q** Where was the accident?

1 **A** At Knox Abbott and 9th Street.

2 **Q** Is that in Lexington County?

3 **A** That is in Lexington County.

4 **Q** About what time did you get there?

5 **A** Approximately, about 10:30.

6 **Q** About 10:30?

7 **A** 10:20 to 10:30, somewhere in that range.

8 **Q** Did you learn what type of accident it was?

9 **A** Yes, sir, I did.

10 **Q** And what kind was that?

11 **A** I was told it was a hit and run.

12 **Q** Had you responded to hit and runs prior to this
13 night?

14 **A** Yes, sir, I have.

15 **Q** Tell the jury what you did when you got there
16 as a tow truck operator.

17 **A** Okay. First of all is in the towing industry,
18 when you first arrive at the scene, you have to find
19 out who the officer is, who's in charge. You speak
20 with them. Once they release the scene, then you
21 can take care of doing whatever has to be done.

22 In this particular case because it is a hit and
23 run, we have certain procedures we have to follow.
24 Basically, cleaning up the area is one of our
25 responsibilities as well. So, basically, after I

1 take a look at the scene, take a look at any debris
2 that's laying around, make sure it's been documented
3 by the police department, at that point in time, I
4 will clean up the debris, put it in a bucket or go
5 crate something to that nature and then load the
6 vehicle, whichever is involved in the incident, and
7 lock it down on the truck and then make sure the
8 area is clean.

9 **Q** Okay. Did you walk around the scene and look
10 at the various debris on the ground in this case?

11 **A** Yes, sir, I did.

12 **Q** And you sweep that debris up?

13 **A** Yes, sir, I did.

14 **Q** And load it on your tow truck?

15 **A** That is correct.

16 **Q** Did you load the motorcycle up as well?

17 **A** Yes, I did.

18 **Q** Where did you take all those items?

19 **A** They were taken to the yard at 1749 Airport
20 Boulevard, Tillman Towing.

21 **Q** Did you take them there that night?

22 **A** Yes, sir, I did.

23 **Q** Do you put the parts on anything in particular
24 other than the back of your tow truck?

25 **A** Yeah. Well, once again, it was placed in a

1 bucket on the truck itself from the scene. And then
2 once you get to the yard, because of this being
3 treated as a hit and run, there is a possibility to
4 criminal charges being involved. With that being
5 said, there's also certain procedures we have to
6 follow there. It's placed in a particular area of
7 the yard. The motorcycle was covered with a tarp
8 and the parts from the bucket that was picked up
9 from the scene are then placed on the tarp with the
10 motorcycle.

11 **Q** And do you put wrecked vehicles in any
12 particular area in your yard?

13 **A** Yes, sir. The yard is divided up from wrecked
14 vehicles versus violations versus impounds.

15 **Q** Okay. So wrecked vehicles are separated from
16 impounded vehicles?

17 **A** Everything else, yes, sir.

18 **Q** Now, do you recall any parts in particular that
19 you saw at the scene?

20 **A** Yeah. There was a fender that was laying down,
21 plus the instrument panel for the motorcycle as well
22 that were also laying there in the roadway. I
23 believe the mirror on the right side of the bike was
24 also detached from the handlebars of the motorcycle,
25 all other various little pieces.

1 **Q** Let me show you what's been admitted as State's
2 Exhibit 10. Do you recognize that?

3 **A** Yes, sir, I do.

4 **Q** What is that?

5 **A** That is the front fender from the BMW
6 motorcycle.

7 **Q** Okay. Are you familiar -- somewhat familiar
8 with motorcycles?

9 **A** Slightly.

10 **Q** Is there anything in particular about that
11 fender that stood out to you?

12 **A** It's made of fiberglass where you'll find that
13 most other vehicles, especially of that year, make
14 and model, would be a metal fender.

15 **Q** Okay. And you took that fender back to the tow
16 yard with the motorcycle that night?

17 **A** That is correct.

18 **Q** And how do you place the debris in the tow
19 yard?

20 **A** The thing of it is with it being, once again,
21 there was a criminal investigation going on, we
22 placed the items with this particular vehicle. With
23 other instances where there are accidents, if we
24 determine that the vehicle is a total loss, usually
25 the debris cleaned up from the wreck scene is just

1 dumped inside the vehicle. If the vehicle is
2 determined not to be a loss or if it's borderline,
3 those items would be dumped near the vehicle by its
4 side somewhere in the yard where it's parked.

5 **Q** Okay. Is a junkyard, for lack of a better
6 word, a neat environment?

7 **A** No.

8 **Q** Are there parts from other vehicles laying
9 around where you dump these parts?

10 **A** Yes, it could very well happen.

11 **Q** Now, you said you had experience in responding
12 to prior hit and runs; right?

13 **A** Yes, sir, that's correct.

14 **Q** Do you think if you had seen automobile parts
15 at the scene, is that something that you would have
16 brought to somebody's attention?

17 **A** Yes, sir, I would.

18 **Q** Do you recall seeing any automobile parts at
19 the scene?

20 **A** Not that I can recall.

21 **Q** Do you recall seeing any parts to a Toyota
22 4Runner at the scene?

23 **A** Not to my recollection.

24 **Q** And if you had seen that, would you have told
25 somebody?

1 **A** Certainly.

2 **Q** Now, when you took the debris to the tow yard,
3 you took it there on the 21st; correct?

4 **A** That's correct.

5 **Q** Were other drivers prohibited from dumping
6 debris near that area where you had dumped the
7 motorcycle parts?

8 **A** Not near it, no, exactly, but as far as on the
9 tarp itself, yes, they would have been prohibited.

10 **Q** Okay. After that night, after February 21st,
11 did anybody come to the tow yard to retrieve any of
12 the items?

13 **A** Yes. Officer -- I mean, a detective from Cayce
14 come by to retrieve some of the items.

15 **Q** Detective Pereira?

16 **A** Yes, Detective Pereira. I'm sorry.

17 **Q** When Detective Pereira came out there, was the
18 motorcycle still there?

19 **A** No, the motorcycle had already been taken.

20 **Q** Okay. Do you know who retrieved the
21 motorcycle?

22 **A** I was not there when that happened, so I'm not
23 completely familiar with who took the motorcycle.

24 **Q** Okay. But you recall Detective Pereira coming
25 by and grabbing the parts?

1 **A** That is correct, yes, sir.

2 (State's Exhibit Number 13, four
3 photographs, marked for identification.)

4 **Q** Let me show you what's been marked for
5 identification as State's 13. Do you recognize
6 these photos?

7 **A** Yes, sir, I do.

8 **Q** Okay. And what are these photos of?

9 **A** These photos are of the yard at Tillman Towing
10 where the wrecked vehicles are placed.

11 **Q** Okay. Is this how it looked when Detective
12 Pereira came out there?

13 **A** That would be -- yes.

14 **MR. MCNAIR:** Your Honor, the State offers
15 State's 13 into evidence.

16 **THE COURT:** Any objection?

17 **MR. FLOYD:** No objection, Your Honor.

18 **THE COURT:** It's admitted.

19 (State's Exhibit Number 13, four
20 photographs, admitted into evidence.)

21 BY MR. MCNAIR:

22 **Q** Can you step down for one second?

23 **A** Sure.

24 (Witness leaves the witness stand.)

25 **Q** Okay. Obviously the motorcycle is not in these

1 pictures. Where was the motorcycle when you took it
2 to the tow yard?

3 **A** The motorcycle would be laying approximately in
4 this area right here (indicating).

5 **Q** Okay. And when you took the motorcycle there,
6 you said you put a tarp down?

7 **A** That is correct.

8 **Q** And was the debris on top of the tarp?

9 **A** Yeah. The motorcycle was on the ground, the
10 tarp over the motorcycle, and the debris would be on
11 the edge of -- on the top of the tarp away from the
12 bulk of the motorcycle.

13 **Q** Okay. So in these pictures, obviously
14 somebody's come and already retrieved the
15 motorcycle?

16 **A** That's correct.

17 **Q** So they would have moved the tarp?

18 **A** Yes.

19 **Q** An now this vehicle that's beside this pile of
20 debris, what's the date on that?

21 **A** That's February the 24th.

22 **Q** Does that mean that that vehicle arrived at the
23 tow yard after the motorcycle?

24 **A** That would be correct.

25 **Q** Okay. And how would they have dumped it there?

1 **A** Once again, it would just depend on, you know,
2 what truck took the vehicle. If it was a flatbed,
3 they would have backed it up in there, rolled it off
4 their bed, or a hook truck which they would have
5 backed it up in there and then just dropped it right
6 in that area.

7 **Q** Okay. Tell me what this green item is in this
8 photo.

9 **A** That appears to be a soda bottle.

10 **Q** Did you recover a green soda bottle at the
11 scene of the accident?

12 **A** No, I did not.

13 **Q** What is this -- I'm kind of color blind -- but
14 yellow or --

15 **A** That looks to be something of a neon green in
16 color. There's actually about three pieces here of
17 it.

18 **Q** Did you recover any neon green parts from the
19 accident scene?

20 **A** No, I did not.

21 **Q** Okay. So this debris was either there or it
22 came after you put the pile there?

23 **A** That would be correct, yes, sir.

24 **Q** All right. You can have a seat.

25 **A** (Witness resumes the witness stand.)

1 (State's Exhibit Number 14, Tillman Towing
2 log sheet, marked for identification.)

3 **Q** Mr. Haggard, I'm going to show you what's been
4 marked as State's 14. Can you identify this?

5 **A** Yes, sir. This would be a police log sheet.

6 **Q** Okay. Who inputs the information on that
7 sheet?

8 **A** Most of the time it will be either the
9 dispatcher or the office manager.

10 **Q** Okay. Now, is that record kept in the ordinary
11 course of Tillman's business?

12 **A** Yes, sir, it is.

13 **MR. MCNAIR:** Your Honor, we offer State's 14
14 into evidence.

15 **MR. FLOYD:** No objection, Your Honor.

16 **THE COURT:** Admitted.

17 (State's Exhibit Number 14, Tillman Towing
18 log sheet, admitted into evidence.)

19 BY MR. MCNAIR:

20 **Q** And what does that log sheet reflect?

21 **A** This log -- I'm sorry. Go ahead.

22 **Q** Does that reflect the date that you responded
23 to the accident?

24 **A** Yes, sir, that would be correct.

25 **Q** And that's February 21st?

1 **A** Yes, sir.

2 **Q** What else is shown on that log sheet?

3 **A** Well, it basically shows what the storing --
4 towing storage would be. It gives you the location
5 of where the accident occurred or a violation. The
6 next column would show USAW for wrecker fee for
7 violation. And the next column over will give you
8 the description of the vehicle, also the tag number
9 in the following column and then the last four
10 digits of the VIN number of the vehicle and also,
11 too, the owner's name and/or address, then the
12 ticket number to follow.

13 **Q** So based on that log sheet, can you determine
14 what wrecked vehicles were brought to the yard
15 versus impounded vehicles?

16 **A** That is correct, yes, sir.

17 **Q** What dates does that log sheet encompass?

18 **A** This date -- the dates on this log sheet cover
19 from February the 18th until January -- or, excuse
20 me, until February the 22nd.

21 **Q** How many wrecked vehicles did Tillman's bring
22 to the yard between those dates?

23 **A** It appears to be seven.

24 **Q** So seven --

25 **A** In a four-day timeframe.

1 **Q** Four or five days?

2 **A** Uh-huh.

3 **Q** If you'll step down one more time, I'm going to
4 show you State's Exhibit 6.

5 **A** (Witness leaves the witness stand.)

6 **Q** Does this accurately reflect kind of the parts
7 that you saw on the scene that night?

8 **A** Yes, sir, it does.

9 **Q** Can you just point out the various parts that
10 you observed?

11 **A** This would be the speedometer or -- that was
12 part of the bike or you call it the instrument
13 panel, either one; the fender, which is laying right
14 here (indicating). There's some other small pieces
15 of debris that you'll see there laying in the
16 roadway as well.

17 **Q** Okay. What condition -- anything else about
18 the bike itself that you noticed?

19 **A** Such as the front fender? You could tell that
20 it was a fresh break, which I think there's one
21 of -- there it is.

22 **Q** Okay. All right. That's all. Thanks.

23 **A** (Witness resumes the witness stand.)

24 **MR. MCNAIR:** I don't have any further
25 questions. Please answer any Mr. Floyd has.

1 CROSS-EXAMINATION

2 BY MR. FLOYD:

3 Q Mr. Haggard, do you still work for Tillman's
4 Towing?

5 A No, sir, I do not.

6 Q How long did you work for them?

7 A Three and a half years.

8 Q How many wrecks did you tow away?

9 A It would be hard to even give you a close
10 number for that.

11 Q Hundreds?

12 A At the very least, yes.

13 Q And do you remember each and every wreck, the
14 debris you carried away?

15 A I can't say that I remember each and every one,
16 no.

17 Q Do you actually make a list of the debris that
18 you carry away from a wreck?

19 A No, sir, we do not make a list.

20 Q And what you're saying here is that with this
21 particular incident, these -- this that we see here,
22 these piles, are debris from that wreck?

23 A Some of the debris there is from the wreck,
24 yes, sir.

25 Q What do you mean some of it is?

1 **A** Because as you can see where there's some other
2 stuff that are in that picture that -- I mean, you
3 know, it's --

4 **Q** How about the piles? The pile, is that from
5 the wreck?

6 **A** Yes, sir.

7 **Q** Now, that's not the way you left it there,
8 though, is it?

9 **A** No, sir, it is not.

10 **Q** Because you had a motorcycle with a tarp on it,
11 did you not?

12 **A** That is correct.

13 **Q** And now that motorcycle's gone and the tarp's
14 gone?

15 **A** That is correct.

16 **Q** And can you tell us for sure that all the
17 debris is still there?

18 **A** I can't be a hundred percent certain that all
19 the debris is still there.

20 **Q** Can you be certain that half of the debris is
21 still there?

22 **A** No, sir, I cannot.

23 **Q** Can you be certain that this is debris from the
24 wreck?

25 **A** Yes, sir, I can.

1 **Q** And did you make a list of the debris?

2 **A** No, sir, I did not.

3 **Q** You don't know how many people have gone
4 through this debris before this picture was taken,
5 do you?

6 **A** No, sir, I'm not aware of that.

7 **Q** Is there just one pile of debris?

8 **A** It's --

9 **Q** I mean, these pictures, are they all of the
10 same pile of debris?

11 **A** Yes, those pictures are all of the same pile.

12 **Q** Were you present when the pictures were taken?

13 **A** I don't recall being there present when the
14 pictures were taken. I did escort the detective out
15 on the yard when he went out there. I have other
16 duties to do as well, so I can't stay there the
17 entire time.

18 **Q** There's no question that this is not the same
19 way you left this area after you delivered the
20 bicycle (sic) and the debris to Tillman's Towing?

21 **A** That is correct.

22 **MR. FLOYD:** Thank you. No further questions,
23 Your Honor.

24 **THE COURT:** Anything further?

25 **MR. MCNAIR:** No further questions, Your Honor.

1 **THE COURT:** All right. Thank you, sir. You
2 may step down.

3 Are you ready to break for today?

4 **MS. MAYES:** Whatever Your Honor prefers. Our
5 next witness could be past 6:00.

6 **THE COURT:** Pardon me?

7 **MS. MAYES:** Our next witness could take us past
8 6:00.

9 **THE COURT:** All right. Ladies and gentlemen,
10 we'll break for the day and start back at 9:30
11 tomorrow morning. Please do not discuss the case.
12 We'll see y'all tomorrow morning at 9:30.

13 (The jury was excused for the day.)

14 **THE COURT:** What's the status concerning the
15 defendant and bond?

16 **MS. MAYES:** Your Honor, he is out on bond. He
17 has been out on bond, I believe, since 2010. He was
18 wearing a GPS ankle monitor. I believe that is
19 still the case.

20 **MR. FLOYD:** Your Honor, this is a letter from
21 the bonding company agreeing to stay on his bond.

22 Your Honor, let me tell you one thing that's
23 not quite accurate with that letter. He mentions
24 that I'm a retained attorney because I'm the one who
25 contacted him. Actually, Mr. Caughman originally

1 had Richard Breibart as his lawyer, and I just kind
2 of stepped in, after Mr. Breibart left as an
3 appointed lawyer, to help out the court. That would
4 be the only -- and, of course, they didn't know
5 that.

6 **THE COURT:** All right. And, Mr. Caughman, if
7 you'll stand for me. Do you understand that
8 you're -- the condition of your bond requires you to
9 be here for the trial, the entire duration of the
10 trial?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** And do you understand that should
13 you fail to appear, number one, you'll be in
14 contempt of court, and, number two, you can be
15 charged with failing to appear, and, number three,
16 the trial would proceed in your absence?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** So we need you back at 9:30
19 tomorrow morning.

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** Anything else before we break for
22 the day?

23 **MS. MAYES:** Nothing further, Your Honor.

24 **MR. FLOYD:** Nothing from the defense, Your
25 Honor, but may I pose another matter?

1 **THE COURT:** Yes, sir.

2 (A bench conference was held off the
3 record.)

4 **THE COURT:** All right. We'll be in recess till
5 tomorrow morning.

6 (The proceedings were concluded for May 20,
7 2013.)

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 20th of May, 2013.

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

December 3, 2015

s/Stacy L. SheppardStacy L. Sheppard, RPR
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF LEXINGTON) IN THE COURT OF GENERAL SESSIONS
) Number 2010 GS 32 2294

3

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 WILLIAM CRAIG CAUGHMAN)
9 Defendant)

10 Lexington, South Carolina

11 May 21-23, 2013

12

13 B E F O R E :

14 HONORABLE CLIFTON NEWMAN, Judge, and a Jury

15

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

17 For the State: S. MAYES, Esq.
18 R. McNAIR, Esq.
 Solicitors

19 For the Defendant: W. FLOYD, Esq.

20

21 Reporter Present: CAROL THUEME

22

23 HARRIET P. BENNETT
24 Reporter, S. C. Court Administration
 46 Regency Oaks Drive
25 Summerville, S.C. 29485

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1 COURT'S EXHIBITS

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1 (TRANSCRIPTION NOTE: The first day of this trial
2 was taken by Reporter Stacy Sheppard)

3 (The matter came back before the Court on May 21
4 of 2013, the second day of trial)

5 THE COURT: Thank you. You may be seated.

6 Are we ready for the jury?

7 SOLICITOR MAYES: Well, Your Honor, we have a
8 couple of matters that we need to address concerning
9 some of the witnesses who will testify later on this
10 morning.

11 THE COURT: Later this morning? All right, if you
12 wish to address them now that will be fine.

13 SOLICITOR: Your Honor, I would say that -- I'd
14 say we have two fairly short witnesses and then we'll
15 get to that. It's with the next witness.

16 THE COURT: All right.

17 SOLICITOR: One of the issues, Your Honor, is a re-
18 port to Crimestoppers. That report to Crimestoppers
19 did result in a One Thousand Dollar reward.

20 So we want to go ahead and address that with the
21 Court, and we have previously disclosed that to Mr.
22 Floyd because . .

23 THE COURT: What is the issue there?

24 SOLICITOR: I think the issue would be is that a
25 question can be brought up before the jury.

1 The State's position is that Crimestoppers reports
2 would not be properly before the jury in the circum-
3 stance.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: Your Honor, it is our position that it
6 is subject to discovery, and we would like to discuss
7 it.

8 THE COURT: If that's the issue, Mr. Floyd, then
9 we can talk about it.

10 MR. FLOYD: That's great, Your Honor.

11 SOLICITOR: Your Honor, the second issue is some-
12 thing that Mr. Floyd has mentioned along the way, is
13 one witness, following a divorce between the Defendant
14 and the Defendant's wife, had a brief relationship with
15 the Defendant's wife and after their marriage was over.

16 We don't believe that is relevant to the facts in
17 this case.

18 THE COURT: Mr. Floyd?

19 MR. FLOYD: The person in testifying could do dam-
20 age to the Defendant.

21 SOLICITOR: I need some kind of guidance here. The
22 witness acknowledges that he had a brief sexual rela-
23 tionship with the Defendant's wfe, and it is the State's
24 position that the witness should not be asked about a
25 sexual relationship with her or otherwise.

1 THE COURT: Whether it is objectionable would de-
2 pend on the time frame. I would entertain an in-camera
3 hearing if that is necessary.

4 SOLICITOR: Your Honor, the other motion that Mr.
5 Floyd has previously advised of is a motion in limine
6 on alcohol use on the date of this offense by the De-
7 fendant.

8 Both of these witnesses who will testify observed
9 the Defendant using alcohol on the day of the offense,
10 on February 21st of 2010.

11 In fact, that it continued through the evening and
12 on after dark, and that he subsequently left, tell-
13 ing one witness I'm going to go get something to eat,
14 and that he never came back.

15 So the State would take the position that this al-
16 cohol use on this date is in fact admissible under the
17 case law.

18 MR. FLOYD: I have not raised a motion as to that.

19 SOLICITOR: I just wanted to make sure that every-
20 one of the witnesses that would be testifying to that
21 would not -- a motion for mistrial would not be raised
22 as to that.

23 THE COURT: All right.

24 MR. FLOYD: Of course, we have not argued as yet,
25 but it is our position, Your Honor, that the State

1 should not be allowed to put up evidence of alcohol use
2 prior to this incident. He is not being charged with
3 alcohol use.

4 THE COURT: All right.

5 MR. FLOYD: If the jury is allowed to hear about
6 alcohol use, it would be prejudicial and would outweigh
7 the probative value.

8 THE COURT: I would not grant the motion if it is
9 made.

10 MR. FLOYD: The mere inference of alcohol use will
11 have a prejudicial effect. The issue is not whether he
12 was drinking but whether he left the scene . .

13 THE COURT: All right. As I said, I will not
14 grant the motion if it is made.

15 MR. FLOYD: Thank you, Your Honor.

16 THE COURT: Let's take a moment before we bring
17 in the jury.

18 (Brief pause taken, after which the matter was
19 resumed)

20 THE COURT: Anything before we bring in the jury
21 from the State?

22 SOLICITOR MAYES: No, Your Honor.

23 THE COURT: All right, anything from the Defendant?

24 MR. FLOYD: Nothing further, Your Honor. Thank
25 you.

1 THE COURT: All right, bring the jury.

2 (Jury returned to the Courtroom at 9:43 A.M.)

3 THE COURT: All right, the State may call its wit-
4 ness.

5 SOLICITOR McNAIR: Your Honor, the State calls Troy
6 Bostick.

7 TROY BOSTICK, being
8 duly sworn, testified as follows:

9 CLERK: Once you're seated, state your full name,
10 spelling the last for the record, please, sir.

11 WITNESS: Troy Bostick, B O S T I C K.

12 DIRECT EXAMINATION

13 BY SOLICITOR McNAIR:

14 Q. Mr. Bostick, you own a garage, is that correct?

15 A. Yes, sir.

16 Q. What does Bostick Garage do?

17 A. Auto repair.

18 Q. What types of repair do you do?

19 A. Uh, cars, engines, Porsches.

20 Q. Automobiles?

21 A. Yes, sir.

22 Q. Where is your garage located?

23 A. It's on Porsche Drive in Lexington.

24 Q. Is that off of Highway Six?

25 A. Yes, sir.

T. BOSTICK ON DIRECT

- 1 Q. And that's not too far from here?
- 2 A. No, sir.
- 3 Q. How long have you owned Bostick's?
- 4 A. Six -- six and a half years.
- 5 Q. And did you own Bostick's in February of 2010 then?
- 6 A. Yes, sir.
- 7 Q. Do you know Toby Morris, or did you know Toby
- 8 Morris?
- 9 A. Yes, sir.
- 10 Q. How did you know Toby?
- 11 A. He worked at the business next door.
- 12 Q. Did it have a motorcycle center?
- 13 A. Yes, sir.
- 14 Q. Now, were you aware when Toby was in an accident on
- 15 February 21 of 2010?
- 16 A. Yes, sir.
- 17 Q. All right. Did you see Toby sometime after that ac-
- 18 cident?
- 19 A. Yes, sir.
- 20 Q. When?
- 21 A. That following day, on that Monday.
- 22 Q. On the following day --where was that?
- 23 A. He was at the Lexington Hospital.
- 24 Q. And what was the purpose of you going to the hospital
- 25 that day?

T. BOSTICK ON DIRECT

1 A. To get him to release the consent of his motorcycle
2 so I could pick it up from the tow yard where it was
3 carried.

4 Q. What tow yard was that?

5 A. Calvin Towing.

6 Q. And did you go to the towing company to retrieve
7 his motorcycle?

8 A. Yes, sir.

9 Q. When was that?

10 A. It was the following day, that Tuesday.

11 Q. On Tuesday you went to Calvin's?

12 A. Yes, sir.

13 Q. Was anybody with you when you went?

14 A. Yes, one of my employees, Gerald Zeigler.

15 Q. And what type of vehicle were you in there?

16 A. A Dodge Ram pickup truck.

17 Q. Do you remember what color it was?

18 A. White.

19 Q. So you did pick up his bike on that Tuesday?

20 A. Yes, sir.

21 Q. What did you do with it when you picked it up?

22 A. I brought it over to Dr. Harmon's building which is
23 across the street from my building.

24 Q. And was that the original Bostick's Garage?

25 A. Yes.

T. BOSTICK ON DIRECT

1 Q. Okay. Somebody bought the building from Dr. Harmon
2 and you moved your garage?

3 A. Yes, sir.

4 Q. Across the street?

5 A. Yes, sir.

6 Q. And you dropped the bike off at that location?

7 A. Yes, sir.

8 Q. Who was present when you dropped the bike off?

9 A. Sheriff Stabler, Clanton Austell, and Mike -- I
10 don't know his last name.

11 Q. Who had the key to that particular building?

12 A. As far as I know, Clanton Austell and Dr. Harmon.

13 Q. Did Clanton Austell let you in the building right
14 then?

15 A. Yes, sir.

16 Q. All right, and you put the bike in that building?

17 A. Yes, sir.

18 Q. And to your knowledge, was that bike in that build-
19 ing until law enforcement came to pick it up?

20 A. Yes, sir.

21 Q. To your knowledge, did anybody tamper with it in any
22 way while it was being stored there?

23 A. No, sir.

24 Q. Now, how often would you see that building?

25 A. Several times a day.

T. BOSTICK ON DIRECT

1 Q. Did you see the motorcycle on a regular basis as
2 well?

3 A. Yes, sir.

4 Q. Prior to February 21st of 2010, did you ever notice
5 any damage whatsoever on that bike?

6 A. No, sir.

7 Q. Is that something you would have noticed?

8 A. Yes, sir.

9 Q. Something you normally would have seen?

10 A. Yes, sir.

11 Q. I don't have any further questions. Please answer
12 any questions Mr. Floyd has.

13 THE COURT: Mr. Floyd.

14 MR. FLOYD: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. FLOYD:

17 Q. Mr. Bostick, the bike was stored in somebody else's
18 building?

19 A. Yes, sir.

20 Q. And you didn't have a key to the building?

21 A. No, sir.

22 Q. And do you know how long it was in that building?

23 A. About a week.

24 Q. About a week, and do you know who may have gone in
25 and out of that building during that time?

T. BOSTICK ON CROSS

1 A. I guess you could say it was Dr. Harmon.

2 Q. You never saw anyone else in there?

3 A. No, sir.

4 Q. Thank you very much.

5 THE COURT: Any further questions?

6 MR. McNAIR: Nothing further.

7 THE COURT: You may step down.

8 (Witness excused from stand)

9 THE COURT: Call your next witness.

10 SOLICITOR MAYES: The State would call Clanton Austell.
11 to the stand.

12 THE COURT: Come forward, please.

13 CLANTON AUSTELL, being
14 duly sworn, testified as follows:

15 BY SOLICITOR MAYES:

16 CLERK: Once you are seated, speak up loud and
17 clear, stating your full name and spelling your last
18 name.

19 WITNESS: I'm Clanton Austell, A U S T E L L.

20 Q. Now, if you would give us a little bit of informa-
21 tion about yourself. What is your background regarding
22 both your work and your current employment?

23 A. I started out in college as -- in mechanical engineer-
24 ing. I did that eleven years and I briefly owned a motor-
25 cycle dealership, and then I worked in teaching at a

C. AUSTELL ON DIRECT

1 technology center for about ten years.

2 I retired from that and opened a motorcycle repair
3 shop that I have now.

4 Q. All right. Now, how does a mechanical engineer be-
5 come involved in motorcycle work?

6 A. It is motorcycle repairs, the direct application of
7 that.

8 Q. All right. Now, tell us a little bit about the motor-
9 cycle shop that you currently have in Lexington County?

10 A. We have a specialty in doing mechanical restorations
11 on vintage motorcycles from the thirties up to about the
12 eighties.

13 Q. Would vintage motorcycles include motorcycles that
14 were manufactured in the nineteen eighties?

15 A. Yes.

16 Q. Okay. Now, how did you know the victim in this case,
17 Toby Morris ?

18 A. He worked for me part-time

19 Q. All right. Doing what?

20 A. Mechanical work and he also helped me with some styl-
21 ing work. We would occasionally build custom things and
22 he did some styling for me.

23 Q. All right. Was that at your motorcycle shop?

24 A. Yes. It's machinery and design.

25 Q. Now, was Mr. Morris working at your shop in February

C. AUSTELL ON DIRECT

1 of 2010?

2 A. Yes.

3 Q. And how often would you see Mr. Morris during the time
4 frame around February of 2010?

5 A. Usually daily.

6 Q. And how often would you see his motorcycle during
7 that time frame?

8 A. Daily. He used it as his transportation.

9 Q. How familiar were you with his motorcycle?

10 A. I built the thing. I built the mechanical part, and
11 Mr. Morris did some styling on it.

12 Q. I'm going to show you what is State's Exhibit 1 and
13 ask you if you recognize what it in the photograph?

14 A. Yes, that's his motorcycle.

15 Q. All right, and can you tell us whether or not this is
16 the condition you recall it in up until February 21st of
17 2010?

18 A. It is.

19 Q. Now, in regards to this motorcycle, can you tell us
20 whether it was in good working order on February 21st of
21 2010?

22 A. It was.

23 Q. How concerned, if at all, was Toby Morris about safety
24 issues?

25 A. Greatly, I'd say. Above average.

C. AUSTELL ON DIRECT

1 Q. And can you describe how it is that you are familiar
2 with that?

3 A. Well, he wore an Armour jacket, helmet, boots, the
4 usual protective gear.

5 Q. All right. Now, in regards to the motorcycle, can
6 you tell us if the headlights, accessory lights and things
7 of that nature were in working order?

8 A. Yes.

9 Q. Was there any previous damage or defect to that mo-
10 torcycle that you were aware of?

11 A. No.

12 Q. If there had been any damage or defect to the motor-
13 cycle prior to February 21st of 2010, do you think you
14 would have known about it?

15 A. Yes.

16 Q. How so?

17 A. Well, obviously by looking, and he would have dis-
18 cussed it with me I'm sure.

19 Q. And what about Toby himself as he did his work around
20 the shop, did that require actually him to use his arms
21 and legs and motor skills?

22 A. Oh, yes.

23 Q. And was Toby injured in any way prior to February
24 21st of 2010?

25 A. Not to my knowledge.

C. AUSTELL ON DIRECT

1 Q. All right. Did he have any obvious injuries or broken
2 bones or fractures?

3 A. No.

4 Q. How did you become aware of the accident that occurred
5 on February 21st of 2010?

6 A. I'm not sure who told me about it. I think Dr.
7 Harmon did.

8 Q. All right, and did you actually play any kind of role
9 in the motorcycle being returned there to the area of your
10 shop after the accident as Mr. Bostick testified to?

11 A. I helped to unload it.

12 Q. Okay. Now, I believe the testimony was that the mo-
13 torcycle was stored at the building owned by Dr. Harmon?

14 A. Correct.

15 Q. Are you familiar with Dr. Harmon?

16 A. Yes.

17 Q. And are you familiar with the storage facility that
18 Mr. Bostick mentioned?

19 A. Yes.

20 Q. How is it that you are familiar with it?

21 A. He and I had done some projects together, so I know
22 about his shop and he knows about my shop.

23 Q. Now, how close in proximity is Dr. Harmon's shop
24 and Bostick's Garage to your shop?

25 A. The garage that Bostick has is just across the small

C. AUSTELL ON DIRECT

1 parking lot -- fifty yards -- and the storage facility
2 that we used of Dr. Harmon is about the same distance --
3 just across Porsche Drive.

4 Q. Okay. So basically your shop and Dr. Harmon's shop
5 and then the garage of Mr. Bostick is within a hundred
6 yards of one another?

7 A. Yes.

8 Q. And you have said you are familiar with Dr. Harmon's
9 storage facility?

10 A. Yes.

11 Q. Who has keys to that facility?

12 A. As far as I know, he does and I do.

13 Q. And why would you have a key to his facility?

14 A. We've known each other for a very long time, and we
15 have like interests.

16 Q. All right, and can you tell us whether or not that
17 was the storage location from the time that Mr. Morris'
18 bike arrived there as discussed by Mr. Bostick?

19 A. Yes, it is.

20 Q. And can you tell us whether or not that is where that
21 motorcycle remained until the time law enforcement came
22 and retrieved the motorcycle?

23 A. It did.

24 Q. Are you aware of the extent of damage that would
25 have occurred to the motorcycle during the time it was

C. AUSTELL ON DIRECT

1 there or remained stored there?

2 A. None.

3 Q. Okay. Now, Mr. Austell, you observed the motorcy-
4 cle when it was brought to the storage area by Mr.
5 Bostick?

6 A. Yes.

7 Q. How did it appear?

8 A. Badly smashed, like it was at the scene.

9 Q. And what, if anything else, did you observe?

10 A. I just gave it a cursary exam and saw some paint on
11 it.

12 Q. All right.

13 A. And I remarked that it must have hit something that
14 was green.

15 Q. All right, and that was what you observed when you
16 first glanced at it?

17 A. Right, right.

18 Q. I want to show you a photograph and ask you whether
19 or not you recognize what is in the photograph?

20 A. . .

21 Q. Looking from this vantage point.

22 A. Yes, that's the remains of the motorcycle.

23 Q. Can you tell us whether or not that is a fair and
24 accurate representation of how you recall the motorcycle
25 appearing once it arrived back from Calvin's towing yard

C. AUSTELL ON DIRECT

1 to Dr. Harmon's garage?

2 A. It is.

3 SOLICITOR: Your Honor, at this time we would offer
4 these two Exhibits as evidence.

5 THE COURT: Any objection, Mr. Floyd?
6 What numbers are they?

7 SOLICITOR: Number 1 and 15.

8 MR. FLOYD: No objection.

9 (Photographs admitted in evidence as State's Ex-
10 hibits 1 and 15 without objection)

11 BY SOLICITOR MAYES:

12 Q. Mr. Austell, if you would step down for us, please?

13 A. Yes, maam.

14 Q. I'm going to use this board to show you this photo-
15 graph. This would be the bike in its original condi-
16 tion.

17 Can you tell us where you personally observed the
18 damage to the bike that you mentioned?

19 A. There on the back and along this part. You can
20 see the green paint.

21 Q. All right. When you mention green paint, which area
22 are you talking about?

23 A. It starts about here.

24 Q. And what area of the bike are you referring to?

25 A. The lower portion here.

C. AUSTELL ON DIRECT

1 Q. Now, with the lower portion being damaged, can you
2 tell us whether or not the bike would have been drive-
3 able in that condition?

4 A. No, it would not.

5 Q. And looking at this photograph, what are we looking
6 at here?

7 A. (Answer inaudible)

8 Q. All right.

9 A. Here, here and here on the bike.

10 Q. Did any of this green discoloration, or the green
11 paint as you put it, appear before February 21, 2010?

12 A. No.

13 Q. Okay. When you last saw the bike, was the large
14 reflector in place?

15 A. Yes.

16 Q. Thank you. All right, now, just a couple more of
17 the photographs I'd like to ask you about.

18 Are you familiar with the parts of the bike?

19 A. Yes.

20 Q. Were the parts of the bike necessarily all original
21 BMW parts?

22 A. All the chassis were, yes.

23 Q. This is a photograph, Number 6, actually from the
24 scene of the accident. Can you tell us what, if any,
25 parts related to the motorcycle that you're familiar with

C. AUSTELL ON DIRECT

1 are shown in this photograph?

2 A. (Answer inaudible)

3 Q. All right, and specifically this photo . .

4 A. Yes, looking from the back.

5 Q. You may return to your seat.

6 I'm going to show you State's Exhibit 10, and ask
7 if you recognize what's in this photo?

8 A. Yes. That's the same piece that we saw.

9 Q. And that is what portion of the bike?

10 A. The remains of the front fender.

11 Q. And when you had last seen the front fender, can
12 you tell us whether or not it was in good condition?

13 A. Yes, it was intact.

14 Q. Did it have any defect or damage?

15 A. No, it did not.

16 Q. Nothing further at this time.

17 THE COURT: Cross examine.

18 CROSS EXAMINATION

19 BY MR. FLOYD:

20 Q. Mr. Austell, did you see Mr. Morris or the bike on
21 the day of the accident, before it happened?

22 A. I did.

23 Q. Where did you see him?

24 A. He was at work that day at my shop.

25 Q. On a Sunday?

C. AUSTELL ON CROSS

- 1 A. Yeah, we worked sometimes seven days a week.
- 2 Q. So he wasn't gone on some type of camping trip?
- 3 A. No, not to my knowledge.
- 4 Q. Your testimony is that he was working with you on
- 5 that day?
- 6 A. Well, it's been quite a long time, but we had been
- 7 known over the years to work seven days a week, and I can't
- 8 say a hundred percent on that.
- 9 Q. What time did he leave your shop?
- 10 A. I can't -- I don't remember that.
- 11 Q. When did you hear about it?
- 12 A. Dr. Harmon told me about it the next day.
- 13 Q. And you say he had worked at your shop that Sunday?
- 14 A. I think so. Like I was saying, it's been three
- 15 years.
- 16 Q. And you don't recall what time he left the shop?
- 17 A. Right.
- 18 Q. Thank you. No further questions.
- 19 THE COURT: Anything further.

20 REDIRECT EXAMINATION

21 BY SOLICITOR MAYES:

- 22 Q. To the best of your knowledge, did you see Toby
- 23 Morris on an almost daily basis?
- 24 A. I did.
- 25 Q. Thank you. Nothing further.

1 THE COURT: You can step down.

2 (Witness excused from stand)

3 THE COURT: Call your next witness.

4 SOLICITOR MAYES: Charles Campbell.

5 CHARLES CAMPBELL,
6 being duly sworn, testified as follows:

7 CLERK: Please be seated and when you are seated
8 speak up loud and clear. Tell us your name and spell
9 your last name.

10 WITNESS: Charles Campbell, C A M P B E L L.

11 DIRECT EXAMINATION

12 BY SOLICITOR MAYES:

13 Q. Mr. Campbell, tell us a little bit about yourself.
14 Where do you currently reside?

15 A. I live at [REDACTED] (inaudible) Avenue in West Columbia.

16 Q. All right, and what kind of work do you do?

17 A. Back then it was wrecker service and body shop. I
18 drive a heavy duty tow truck.

19 Q. Okay, and as a result of your experience with wrecker
20 service and body shops, and with tow trucks, can you tell
21 us a little bit about how long you have worked around
22 cars and vehicles?

23 A. Off and on my whole life, and I began the towing
24 work about ten years ago.

25 Q. All right. Now, did you drive the tow trucks in

C. CAMPBELL ON DIRECT

1 Lexington County?

2 A. Yes, and West Columbia.

3 Q. And what area of West Columbia?

4 A. Off of Highway 378 near Twelfth Street. By where
5 -- about where the old Northside Baptist Church used to
6 be.

7 Q. How is it that you met the Defendant in this case?

8 A. We . . .

9 Q. Mr. Caughman.

10 A. He lives by me. Our back yards back up to each
11 other.

12 Q. All right. What name do you know him by?

13 A. Craig.

14 Q. And when you say your back yards back up to each
15 other, are they separated by anything?

16 A. We have a cyclone fence with a walk-through access
17 gate.

18 Q. All right, and is that in the West Columbia area?

19 A. Yes, maam.

20 Q. How long had you known Mr. Caughman prior to
21 February 21st of 2010?

22 A. Two or three years.

23 Q. During that two or three years, can you tell us whe-
24 ther you developed a friendship with him?

25 A. Yes, maam.

C. CAMPBELL ON DIRECT

1 Q. And what did that entail?

2 A. . .

3 Q. Have you met his wife? Been to his house?

4 A. Yes, maam. I saw them quite regularly.

5 Q. And what about -- has he been to your house before?

6 A. Yes, maam. We saw each other on a daily basis and
7 were always in our respective back yards. You know, if
8 he had a problem I'd help him, and if I had a problem he
9 would help me.

10 We were always both outside doing stuff, and a lot
11 of times we'd help each other.

12 Q. Now, from your yard could you actually visualize
13 his house?

14 A. Yes, maam.

15 Q. All right, and what area of his house or around his
16 house would you normally see him?

17 A. On his back porch.

18 Q. Now, the friendship that you had with him, did it
19 involve hanging out anywhere else?

20 A. Most of the time it was at our residences, you
21 know.

22 Q. So when you'd hang out together it would be at
23 your house or his house?

24 A. Yes, maam. A few occasions we would see each other
25 out for dinner. You know, you get home from work and

C. CAMPBELL ON DIRECT

1 you kind of stay there.

2 Q. Now, I'll take you back to February of 2010. Can
3 you tell us whether or not you had contact with Mr.
4 Caughman during that time?

5 A. Yes, maam.

6 Q. Now, who had contact with Mr. Caughman during that
7 time, to your knowledge?

8 A. My wife and I believe Mr. Gilbert.

9 Q. What is Mr. Gilbert's first name?

10 A. Danny Gilbert.

11 Q. On February 21st of 2010, that was what day of the
12 week?

13 A. Sunday.

14 Q. All right. What is it about that Sunday that made
15 it stand out for you?

16 A. . . .

17 Q. Do you usually work on Sunday?

18 A. It depends. That particular Sunday it was leading
19 up to my birthday, so I was not working.

20 Q. What were you doing that day?

21 A. We had cut down a tree in my back yard, and I had
22 brought one of our wreckers home to use the truck to get
23 the stump up.

24 And we were out there cutting on the tree and try-
25 ing to chop the wood up, you know. It was some process

C. CAMPBELL ON DIRECT

- 1 to try to get that stump up.
- 2 Q. All right, and who was involved in that?
- 3 A. Me and Craig.
- 4 Q. Was your wife there too?
- 5 A. Yes, maam.
- 6 Q. Now, at any point during that event on February
- 7 21st of 2010 was there alcohol consumption?
- 8 A. Yes, maam.
- 9 Q. All right, and what type of alcohol were you drink-
- 10 ing that day?
- 11 A. Beer.
- 12 Q. Okay, and who do you recall drinking beer on that
- 13 day?
- 14 A. Myself and Mr. Caughman.
- 15 Q. And at any point in time that day do you remember
- 16 going to purchase some beer?
- 17 A. My wife went to Richland County to purchase me some
- 18 more beer because we didn't have that much at the house.
- 19 Q. All right. Now, you said she went to Richland
- 20 County. Why did she have to go over to Richland County?
- 21 A. You can't buy beer in Lexington County on Sunday.
- 22 Q. Okay. What area of Lexington County do you live?
- 23 A. In West Columbia.
- 24 Q. In that area you were not able to buy beer on a
- 25 Sunday?

C. CAMPBELL ON DIRECT

- 1 A. No, maam.
- 2 Q. All right, and you say she went over to Richland
3 County?
- 4 A. Yes, maam.
- 5 Q. And what happened as the day progressed? Did Mr.
6 Caughman stay at your house or did he leave?
- 7 A. I can't recall what time but as it got dark I know
8 he left and that was the last I saw of him.
- 9 Q. All right. Do you remember what, if anything, he
10 said when he left?
- 11 A. He said he was going home to take a shower and
12 he might see us later.
- 13 Q. And did he ever come back to your house that night
14 of February 21st of 2010?
- 15 A. No, maam.
- 16 Q. When did you next see your friend?
- 17 A. It was a couple of days later.
- 18 Q. When you say a couple of days, do you mean two days
19 or . . .
- 20 A. I'm quite sure it was two days.
- 21 Q. So that would be on Tuesday, the 23rd?
- 22 A. Yes, maam.
- 23 Q. How did you come to see him on the 23rd?
- 24 A. He called me and asked me if he could borrow one
25 of my trucks. I had a connection to vehicles, and he

C. CAMPBELL ON DIRECT

1 said he needed to borrow one of my trucks to get to
2 work, and so I got the keys and he came by later to take
3 one of my trucks.

4 Q. Did you ask him about why he needed one of your
5 trucks?

6 A. Yes, maam.

7 Q. And was this conversation on the telephone or was
8 it a conversation in person?

9 A. I believe we talked on the phone and then I walked
10 to his house.

11 Q. And when you walked over to his house, what hap-
12 pened?

13 A. His truck was damaged on the right hand side, and
14 from the damage I saw I knew why he needed to borrow my
15 truck.

16 Q. All right. When you say it was damaged on the
17 right hand side, was that the driver's side or the pas-
18 senger's side?

19 A. Passenger's side.

20 Q. And where was it that you saw his damaged truck?

21 A. It was in his garage.

22 Q. What kind of truck did Mr. Caughman have that was
23 damaged on that day?

24 A. It was a green Ford Ranger.

25 Q. Let me show you a picture and ask you if you

C. CAMPBELL ON DIRECT

1 recognize what's in the picture?

2 A. Yes, maam.

3 Q. What is that location?

4 A. That is Craig's house.

5 Q. And can you tell us whether or not that is a fair
6 and accurate representation of Mr. Caughman's house as
7 it was in February of 2010?

8 A. Yes, maam.

9 SOLICITOR: Your Honor, at this time we would move
10 State's Exhibit 7 in evidence.

11 MR. FLOYD: No objection.

12 THE COURT: Okay, it's admitted.

13 (Photograph admitted in evidence without objection
14 as State's Exhibit 7)

15 BY SOLICITOR:

16 Q. Mr. Campbell, are you able to tell us if this is
17 where you saw the Ford green Ranger at Mr. Caughman's
18 residence?

19 A. Yes, maam. It was on his side of the garage.

20 Q. Was it physically inside the garage?

21 A. Yes, maam.

22 Q. How were you able to see it inside the garage?

23 A. It was backed in . .

24 Q. Can you speak up a little bit so the Court Reporter
25 can hear everything you say.

C. CAMPBELL ON DIRECT

1 Had you ever been inside Mr. Caughman's home before?

2 A. Yes, maam.

3 Q. Okay, and was that a routine thing for you to do
4 when you went over, to go inside the house?

5 A. Yes, maam.

6 Q. Okay. Describe to us where and in what condition
7 the vehicle was in, inside the garage?

8 A. The truck was backed in the garage, and that would
9 have the passenger side of the vehicle up beside the
10 wall.

11 Q. All right, and how were you able to visualize the
12 damage to the vehicle as it was positioned in the gar-
13 age?

14 A. I just kind of glimpsed the side, you know. I had
15 to pass by to go inside the house.

16 Q. All right, and did you have a conversation about the
17 damage to the vehicle?

18 A. Yes, maam.

19 Q. All right, and you mentioned that you work around
20 automobiles and work in the towing industry. Can you
21 tell us whether or not you had a conversation about the
22 extent of damage to the vehicle?

23 A. Yes, maam. I told him that it wouldn't be worth
24 fixing that truck and told him what areas were damaged,
25 and were it to be fixed what would need to be done as

C. CAMPBELL ON DIRECT

1 far as -- I don't have the skill set to fix the damage
2 on that truck.

3 I told him the damage was significant and it was
4 totaled.

5 Q. Your word was that it was totaled?

6 A. Yes, maam.

7 Q. Did Mr. Caughman at any point -- at any point, Mr.
8 Campbell, did you ask Mr. Caughman what happened?

9 A. Yes, maam.

10 Q. What did he say?

11 A. He said he didn't know what happened. He said he
12 thought he hit a motorcycle.

13 Q. He told you he thought he hit a motorcycle, but
14 did he tell you where he was when he thought he hit the
15 motorcycle?

16 A. Yes, maam.

17 Q. Where did he tell you?

18 A. By the street on seven.

19 Q. Did he say anything about whether he stopped or did
20 not stop?

21 A. I don't remember. I don't know.

22 Q. Can you tell us whether or not in your conversation
23 he said what he did?

24 A. Yes, maam. He said he had had something to eat at
25 the WalMart store.

C. CAMPBELL ON DIRECT

1 Q. And are you familiar with that location?

2 A. Yes, maam.

3 Q. Have you been there yourself?

4 A. Yes, maam.

5 Q. What road is it on?

6 A. Route 75 in Cayce.

7 Q. When he told you this information and that he had
8 hit a motorcycle, what was your reaction?

9 A. Shock, you know. I didn't know what to do, you
10 know.

11 Q. Did you report it to the police yourself?

12 A. No. No, I did not.

13 Q. Why didn't you?

14 A. I just didn't know what to do in the situation.

15 Q. Okay. Now, was there a conversation about what,
16 if anything, would happen if the police were to question
17 him or talk to him?

18 A. Yes, maam.

19 Q. Okay.

20 A. He told me that he would just say that he would --
21 that he had hit the side of a truck.

22 Q. He told you that's what he would tell the police?

23 A. Yes, maam.

24 Q. Mr. Campbell, were you ever questioned by the police
25 in this case?

C. CAMPBELL ON DIRECT

1 A. Yes, maam.

2 Q. How many times?

3 A. Twice.

4 Q. Do you recall meeting with the police in May of
5 2010, on May 10, 2010?

6 A. Yes, maam.

7 Q. When you met with law enforcement on May 10, 2010,
8 did you tell them everything you knew?

9 A. No, maam, I did not.

10 Q. Why not?

11 A. Because I didn't know what to do, and I was scared.

12 Q. What story did you tell the police on May 10th of
13 2010?

14 A. That his truck got hit by someone.

15 Q. Did you tell them that he had told you that he be-
16 lieved he had hit a motorcycle on Route 7?

17 A. No, maam, not in my first statement I didn't.

18 Q. Were you contacted again by the police on May 13th
19 of 2010?

20 A. Yes, maam.

21 Q. And do you know when you were contacted what you
22 told them then?

23 A. I told them then about the situation. I told them
24 that he thought he hit a motorcycle on Route 7.

25 Q. I show you a photograph and ask you whether or not

C. CAMPBELL ON DIRECT

1 you recognize what is in the photograph?

2 A. Yes, that's Craig's truck.

3 Q. That's the green Ford Ranger you testified about pre-
4 viously?

5 A. Yes, maam.

6 SOLICITOR: Your Honor, at this time the State would
7 enter State's 10 in evidence.

8 THE COURT: Any objection?

9 MR. FLOYD: No objection.

10 THE COURT: It's admitted.

11 (Photograph admitted without objection in evidence
12 as State's Exhibit 10)

13 BY SOLICITOR:

14 Q. All right. Now, first let me ask you about this.
15 You have described seeing the green Ford Ranger in the
16 Defendant's garage in damaged condition?

17 A. Yes, maam.

18 Q. And I believe your previous testimony was that it
19 was the passenger side that was damaged?

20 A. Yes, maam.

21 Q. Did it remain in the garage from that point on?

22 A. I can't tell you the exact time frame but he moved
23 it in the back yard.

24 Q. And how were you aware that he moved it into his
25 back yard?

C. CAMPBELL ON DIRECT

1 A. I could see it.

2 Q. You could see it from your house and your own yard?

3 A. Yes, maam.

4 Q. Did you ever see the truck in a different condition
5 that you saw it with the damaged passenger side?

6 A. Yes, maam.

7 Q. Okay.

8 A. I saw it with the doors removed and some cut out.

9 Q. How many days was it between when you saw it in the
10 -- how many days would you estimate it was between when
11 you saw it the garage with the damage and when you saw it
12 and the doors had been removed?

13 A. Three or four days. I'm not sure.

14 Q. Less than a week?

15 A. Yes, maam. Less than a week.

16 Q. Now, when you talk about the passenger side doors,
17 what is it about the passenger side -- can you describe
18 it for the jury?

19 A. It had two doors, almost like -- it was an extended
20 cab truck and if you open one door you can open -- you
21 have a second door from the inside.

22 Q. All right. Is the -- is one door bigger than the
23 other door?

24 A. Yes, maam.

25 Q. Okay, which one is the biggest door?

C. CAMPBELL ON DIRECT

1 A. The biggest one is the front one -- the front pas-
2 senger door.

3 Q. Let me show you a photograph and ask you whether
4 or not you can recognize what's in this photograph?

5 A. Yes, maam, I recognize it.

6 Q. And what is that?

7 A. Mr. Caughman's truck with the doors removed and the
8 panel removed.

9 Q. And is that a fair and accurate representation of
10 the green Ford Ranger after you saw it with the panel and
11 the doors removed?

12 A. Yes, maam.

13 SOLICITOR: Your Honor, this would be 19 for evi-
14 dence.

15 THE COURT: Any objection?

16 MR. FLOYD: No objection to the photograph.

17 (Photograph admitted in evidence without objection
18 as State's Exhibit 19)

19 BY SOLICITOR MAYES:

20 Q. Now, if you could, Mr. Campbell, describe to us ex-
21 actly what we are looking at in this picture?

22 A. That is the right side of the green Ford ranger,
23 and the doors are off.

24 Q. And did you ever have a conversation with him about
25 him taking the doors off?

C. CAMPBELL ON DIRECT

1 A. I can't remember after he took the doors off having
2 a conversation about it with Craig.

3 Q. Okay. When you are looking at this, where would
4 the missing panel be?

5 A. There.

6 Q. Okay.

7 A. Right there on the bottom.

8 Q. Below the passenger side doors?

9 A. Yes.

10 Q. All right, and is that as you saw it in this condi-
11 tion after seeing the passenger side doors damaged?

12 A. Yes, maam.

13 Q. Now, looking at this photograph, are we looking at
14 the driver's side or the passenger side?

15 A. That's the driver's side.

16 Q. And with this being the driver's side, and the pas-
17 senger side having the doors removed, can you tell us just
18 from looking at this photo as an analogy the location of
19 the damage that you recall seeing on the other side, on
20 the passenger side?

21 A. In the area of -- in other words, back of the front
22 door and the bottom part of that area and the other door.

23 Q. You're talking about the bottom panel area?

24 A. Yes, maam.

25 Q. And which area of the doors?

C. CAMPBELL ON DIRECT

1 A. The bottom was smashed in.

2 Q. Okay, and can you tell us whether that damage was
3 on the lower end of the truck or the higher end of the
4 truck?

5 A. The lower end.

6 Q. Finally, you testified that you were able to see where
7 the truck had been moved to after it left the garage?

8 A. Yes, maam.

9 Q. And specifically what area of the Defendant's back
10 yard?

11 A. Next to his tool shed.

12 Q. All right. Now, who actually lived in the area of
13 Mr. Caughman?

14 A. Him and his parents share a lot.

15 Q. All right, you say his parents shared a lot, so
16 how close in proximity was his parents' home to his home?

17 A. Twenty yards.

18 Q. Okay, and the tool shed, was it in front of the house
19 or behind the house?

20 A. Behind the house.

21 Q. And you had seen that tool shed there in February
22 of 2010?

23 A. Yes, maam.

24 Q. And did you visualize the truck after it was
25 moved?

C. CAMPBELL ON DIRECT

1 A. Yes, maam.

2 Q. Let me show you a picture and ask if you recognize
3 what's in this photograph?

4 A. Yes, maam.

5 Q. Okay.

6 A. That's a shot of the back of the Caughmans and it
7 shows the shed.

8 Q. All right, and is that a fair and accurate represen-
9 tation of the property and the lot and the home and the
10 tool shed as you recall it in February of 2010?

11 A. Yes, maam.

12 Q. All right.

13 SOLICITOR: Your Honor, this would be, I believe,
14 State's 20 for evidence.

15 THE COURT: Any objection?

16 MR. FLOYD: No objection.

17 THE COURT: Admitted.

18 (Photograph admitted in evidence without objection
19 as State's Exhibit 20)

20 BY SOLICITOR MAYES:

21 Q. All right, and if you could step down briefly and
22 describe for us what we are looking at in this photo-
23 graph that is State's Exhibit 20?

24 A. This is Craig's house and this is (portion inaud-
25 ible)

C. CAMPBELL ON DIRECT

1 Q. If you could keep your voice up. The Court Re-
2 porter has to take down what you say.

3 A. This is the shed in the back yard.

4 Q. Is the shed in this photograph?

5 A. It would be there in the back yard.

6 Q. All right, and where would your home be in rela-
7 tion to this back yard area?

8 A. It is right back here. The back of my house sits
9 parallel to the back of his house. That is the back of
10 my house.

11 Q. All right, and this right here is what?

12 A. He keeps the garbage cans back there.

13 Q. And is there also a fence around the property?

14 A. Yes, maam.

15 Q. All right. Now, where was it that -- after you had
16 seen the green Ford Ranger in the garage, where did you
17 next see it?

18 A. Right beside the tool shed that you can see from the
19 front yard.

20 Q. And did it remain in that location until it was
21 discovered by law enforcement?

22 A. No, maam.

23 Q. Is that the location where the truck was when it was
24 recovered by law enforcement?

25 A. No, maam. It was moved behind the shed.

C. CAMPBELL ON DIRECT

1 Q. All right, and when it got moved behind the tool
2 shed between the fence and the tool shed, was it out
3 in the open or how was it?

4 A. It had a cover over it.

5 Q. Do you remember seeing a cover over it?

6 A. Yes, maam.

7 Q. Thank you. You may return to your seat.

8 (Brief pause in proceeding)

9 SOLICITOR MAYES: I have no further questions at
10 this time, Your Honor.

11 THE COURT: Mr. Floyd.

12 CROSS EXAMINATION

13 BY MR. FLOYD:

14 Q. Mr. Campbell, you've known Mr. Caughman, Craig, for
15 a long time, haven't you?

16 A. Yes, sir.

17 Q. You all were neighbors essentially for years before
18 this incident?

19 A. Yes, sir.

20 Q. Did you consider him to be a good neighbor?

21 A. Yes, sir.

22 Q. And you would work in the yard together?

23 A. Yes, sir.

24 Q. On this particular day in question, he had helped you in
25 your yard with a tree stump?

C. CAMPBELL ON CROSS

1 A. Yes, sir.

2 Q. And you mentioned that Mr. Gilbert had come by and
3 offered to assist you?

4 A. He was there just for a short time.

5 Q. And how long would you say Mr. Gilbert was there?

6 A. I couldn't tell you.

7 Q. It was a long time ago, wasn't it?

8 A. Yes, sir.

9 Q. Now, you have said you had occasion back then to see
10 the damage to the side of the truck?

11 A. Yes, sir.

12 Q. And you did not call law enforcement about what you
13 had seen?

14 A. Not at first.

15 Q. But you later gave a statement?

16 A. Yes, sir, I did, after speaking with my family. I
17 decided to tell someone about the situation.

18 Q. And after you spoke to someone with law enforcement
19 did they come and pick up the truck?

20 A. They did that. I -- yeah, they did.

21 Q. And was there an incident later on after you had done
22 that when (inaudible)?

23 A. No, sir. What happened is I had -- several months
24 after the incident I had a driveway poured; had my drive-
25 way graded which was a gravel driveway and concrete was

C. CAMPBELL ON CROSS

1 poured. We graded out my driveway and poured concrete on
2 it. I wanted a concrete driveway.

3 Q. So did someone suggest to you that you should tear up
4 your driveway?

5 A. No one suggested it. I tore up my driveway. No one
6 said anything about it to me.

7 Q. And did law enforcement officers come and search your
8 property?

9 A. I don't think they searched my property. They -- I
10 wasn't there when there was an attempt to seize Mr. Caughman's
11 truck but my wife told me that they had been walking around
12 in my yard and stuff.

13 I don't know if there was a search warrant that they got
14 for my property or not.

15 Q. And on the date of February 21st you say he was on your
16 property helping you with a tree stump?

17 A. Yes, sir.

18 Q. And he left your home after doing that?

19 A. Yes, sir.

20 Q. Do you know about what time he left your home that day?

21 A. I don't know exactly but it was getting dark enough we
22 couldn't see what we were doing.

23 Q. So it was getting dark?

24 A. Yes, sir. It was winter time.

25 MR. FLOYD: That's all I have.

C. CAMPBELL ON CROSS

1 REDIRECT EXAMINATION

2 BY SOLICITOR MAYES:

3 Q. In your cooperation with law enforcement, Mr. Campbell,
4 initially you testified in your first statements to the
5 police you were truthful or not completely truthful?

6 A. It was not completely truthful.

7 Q. And did you become aware at any point that you could
8 be potentially charged with concealing information or not
9 being honest with law enforcement?

10 A. Yes, maam.

11 Q. And at that point, what decision did you make in
12 regard to that potential?

13 A. I made a decision to tell the police officers every-
14 thing that I knew about the situation.

15 Q. Nothing further.

16 THE COURT: Anything further, Mr. Floyd?

17 MR. FLOYD: No, sir.

18 THE COURT: Thank you, sir. You may step down.

19 (Witness excused from stand)

20 THE COURT: Call your next witness.

21 SOLICITOR McNAIR: Your Honor, the State would call
22 Lawrence Gilbert.

23 LAWRENCE GILBERT, JR.,
24 being duly sworn, testified as follows:

25 CLERK: Please have a seat, and once you are seated

L. GILBERT ON DIRECT

1 speak up loud and clear and state you full name, spell-
2 ing your last name.

3 WITNESS: Lawrence Gilbert, Junior. G I L B E R T.

4 DIRECT EXAMINATION

5 BY MR. McNAIR:

6 Q. Mr. Gilbert, where do you live?

7 A. At [REDACTED] (inaudible) Avenue in West Columbia.

8 Q. How long have you lived there?

9 A. Oh, five years.

10 Q. Did you grow up in Lexington County?

11 A. Yes, sir.

12 Q. What high school did you go to?

13 A. B C.

14 Q. How long have you lived in this area?

15 A. Ah, I'm from Georgia and came in '71, so about
16 forty-some years.

17 Q. Are you married?

18 A. No, sir.

19 Q. Divorced?

20 A. Yes.

21 Q. Do you have any children?

22 A. Yes.

23 Q. Girl or boy?

24 A. Boys.

25 Q. How many?

L. GILBERT ON DIRECT

- 1 A. Just the two.
- 2 Q. Now, how far do you live from Mr. Caughman?
- 3 A. About three or four streets over.
- 4 Q. How do you know Mr. Caughman?
- 5 A. I've known him nearly my whole life. He was one
- 6 of the first persons I met when we moved here.
- 7 We played baseball together, we vacationed to-
- 8 gether. I was in his wedding. He was in my wedding.
- 9 Q. You've known him since childhood?
- 10 A. Yes, sir.
- 11 Q. Do you know his family?
- 12 A. Yes, sir.
- 13 Q. Does he know your family?
- 14 A. Yes, sir.
- 15 Q. Do you know Mr. Campbell?
- 16 A. Yes, sir.
- 17 Q. How long have you known him?
- 18 A. Two or three years maybe. I know him by Rett.
- 19 Q. Did you know Mr. Campbell and Mr. Caughman live
- 20 close to each other?
- 21 A. Yes.
- 22 Q. And they used to hang out sometimes?
- 23 A. Yeah.
- 24 Q. Let's talk about February 21st. Do you recall
- 25 being with Mr. Caughman that day?

L. GILBERT ON DIRECT

- 1 A. That's the Sunday. The 21st?
- 2 Q. That would be Sunday.
- 3 A. Yes, sir. Craig -- I can't remember if he called or
- 4 came by, but he said they was clearing out a place and
- 5 they was using Rett's wrecker to pull tree stumps out of
- 6 the ground. He wanted me to ride by.
- 7 Q. And did you go by there?
- 8 A. Yes, sir.
- 9 Q. And who all were present other than Rett and Mr.
- 10 Caughman?
- 11 A. Rett's wife and I thought it was his neighbor out
- 12 there also, but I couldn't say for sure.
- 13 Q. Did you see any alcohol out there?
- 14 A. I saw alcohol out there but I don't remember anyone
- 15 drinking it.
- 16 Q. About what time did you go out there? Do you re-
- 17 call?
- 18 A. Four o'clock -- three thirty. Somewhere around in
- 19 there.
- 20 Q. In the afternoon?
- 21 A. Yes, sir.
- 22 Q. How long were you out there?
- 23 A. About thirty to forty-five minutes.
- 24 Q. Was Mr. Caughman still there when you left?
- 25 A. Yes.

L. GILBERT ON DIRECT

1 Q. Did you see him at any point again on that Sunday
2 night?

3 A. No, sir.

4 Q. When was the next time that you saw or heard from
5 Mr. Caughman?

6 A. He called me that next day about four o'clock.

7 Q. What, if anything, did Mr. Caughman say when he
8 called?

9 A. He said that he had messed up or he had screwed up
10 or something. I can't remember every word he said.

11 Q. Did you go to where he was?

12 A. Yes, sir.

13 Q. Where was Mr. Caughman when you arrived?

14 A. He was on his back porch.

15 Q. What happened when you got there?

16 A. Well, we always -- I went through his gate to his
17 back porch and when I walked on the porch we walked in to
18 his garage.

19 Q. Tell the jury what you observed in the garage?

20 A. His truck was to my right. His garage is about two
21 foot higher -- his house is about two foot higher than
22 the garage, and so I'm looking down at it, and looking
23 at the passenger side -- the truck was pulled straight
24 in, and the passenger window was broke.

25 The side door was dented up. It seems like that

L. GILBERT ON DIRECT

1 the mirrow was dangling down. I noticed that the bottom
2 of the foot jam -- there was a dent about three inches
3 wide and about three inches deep that was black.

4 Q. Foot jam -- is that the area that you would have to
5 -- the passenger would have to use to . .

6 A. Yes.

7 Q. Let me show you a picture that is marked as State
8 Exhibit 17. Do you recognize the building?

9 A. That's Craig's house.

10 Q. Is that 1 Gunner Circle? [REDACTED] . .

11 A. Yes.

12 Q. And is that the garage you went in that day?

13 A. Yes. I came . .

14 Q. You went on in the back as you testified to?

15 A. Yes, sir. I came through the house this way, so I
16 am standing at this door roughly right here.

17 Q. You went through the house to the garage?

18 A. Yes.

19 Q. And what side was the passenger side facing?

20 A. As I remember, his truck would have been pulled
21 straight in, so I am looking at his truck on . .

22 Q. The passenger side?

23 A. Yes, sir.

24 Q. And you saw damage to the passenger door area?

25 A. Yes, sir, it was dented in.

L. GILBERT ON DIRECT

1 Q. Would you step down for a second? Do you recognize
2 this vehicle?

3 A. Yes, sir. That's Craig's truck.

4 Q. Now, this, of course, is the driver's side area.

5 A. Yes, sir.

6 Q. And this would have been the passenger side where
7 the damage was?

8 A. Yes, sir, and the dented in area that was black.

9 Q. And you said that was about three inches wide?

10 A. Yes, sir. Three to four inches wide.

11 Q. And when you saw this damage, did you ask Mr.
12 Caughman what happened?

13 A. I said something like what the hell, and he then
14 proceeded to tell me what had happened

15 Q. What did he tell you happened?

16 A. He said that he had ate at Hard Rocks Cafe and was
17 leaving and heading toward Columbia on Knotts-Abbott. He
18 said that he had stopped at the light. Nothing was com-
19 ing and he said he turned and heard a loud bang.

20 And about then I said, oh, shit, you hit a car, and
21 he said, no, I hit an f-ing motorcycle.

22 Q. He said he hit a f-ing motorcycle

23 A. No, he didn't say f-ing. He said I hit a fucking
24 motorcycle.

25 Q. When you heard that, what was your reaction?

L. GILBERT ON DIRECT

1 A. I was floored and my whole body went numb. I can't
2 explain it.

3 Q. Did you wonder why he was telling you that?

4 A. That crossed my mind.

5 Q. Did you ask him what he did?

6 A. I can't remember what I did at that point.

7 Q. Did he mention if he had told anybody else what had
8 happened?

9 A. Not that day. Later on it seems like he said to
10 me that Rett was the only other one that knew anything
11 about it.

12 Q. How long were you at the house that day after you
13 saw the truck?

14 A. I don't remember. I don't remember leaving, but
15 I don't think I was there more than fifteen or twenty
16 minutes.

17 Q. Now, did you see him often after that?

18 A. No, I saw him from a distance as I was coming -- I
19 actually went by but I don't think I did.

20 Q. Did you eventually see a news report about the ac-
21 cident?

22 A. Yes, sir.

23 Q. Did Mr. Caughman ever mention anything to you about
24 what else he did that night?

25 A. He had said that he ate -- that when he ate at the

L. GILBERT ON DIRECT

1 Hard Rocks he wished he wouldn't have used his credit
2 cards because they had a time that he was there.

3 Q. Did he ever mention anything to you about the in-
4 vestigation into the accident?

5 A. . .

6 Q. Did he mention anything to you about his truck?

7 A. That he had taken the doors off and he said some-
8 thing like they was buried in his back yard or something
9 to that -- and then later at some point it seems like
10 he was -- he came by and said that he was going to -- he
11 had to move them, and then at some point he moved them
12 and he did say to the effect that they would never find
13 those doors again.

14 Q. Did he tell you why he moved them?

15 A. He said because they was searching for them.

16 Q. He told you they would never find the doors?

17 A. Yes, sir.

18 Q. After that Monday, did you ever see the vehicle
19 again?

20 A. It seems like I did. I can't remember the time
21 frame but like a week or maybe a month later, and I did
22 see it covered up. He had a white tarp, and he made a
23 remark that that's his truck.

24 But I don't think by looking at it that you could
25 tell that was the Ranger truck.

L. GILBERT ON DIRECT

- 1 Q. You say it had a tarp on it?
- 2 A. It had a tarp or some cover.
- 3 Q. Where was it that you saw it?
- 4 A. It was at his dad's -- beside his dad's shed.
- 5 Q. Did his dad live right beside him?
- 6 A. Yes, sir.
- 7 Q. This picture show . .
- 8 A. Yes, the white shed.
- 9 Q. You see the shed in this photograph?
- 10 A. Yes, sir.
- 11 Q. Was that shed actually on his father's property?
- 12 A. Yes, sir.
- 13 Q. And their yards kind of joined one another?
- 14 A. Yes, sir.
- 15 Q. Now, the next time you saw it, did you ever see it
- 16 with the doors off of it?
- 17 A. No, sir.
- 18 Q. Describe for the jury what you did with this inform-
- 19 ation. Did you hear of it at the time you were told by
- 20 Mr. Caughman what had happened?
- 21 A. It was about three days later that they said there
- 22 was a hit and run at the intersection of Knotts-Abbott
- 23 and the Ninth Street Extension.
- 24 Q. Did you learn that Mr. Morris had died?
- 25 A. It was later.

L. GILBERT ON DIRECT

1 Q. After you got the information and knew that somebody
2 had died, how did that affect you?

3 A. In a two month period I probably lost about twenty
4 pounds. I couldn't sleep. It was keeping me up.

5 Q. Were you worried about how to respond with the in-
6 formation you had?

7 A. Yes, sir. It was a very serious event, and it is
8 kind of hard to tell on somebody that have known your
9 whole life.

10 Q. You had known him a long time?

11 A. Yes, sir.

12 Q. And you had been friends a long time?

13 A. Yes, sir.

14 Q. Is it very uncomfortable to you being here today?

15 A. Yes.

16 Q. But what did you decide to do about the information
17 you had?

18 A. I just was stewing on it for about two months, and
19 I had called Crimestoppers. I mean, Mr. Caughman had
20 come by my house and . .

21 Q. How was his demeanor when you would see him after
22 that?

23 A. Well, I mean, he was hurt but he should have been
24 sorry.

25 Q. Did he . .

L. GILBERT ON DIRECT

1 A. I mean, he was hurt but it seemed like to me it was
2 hurting me more than him.

3 Q. When you called Crimestoppers, did you understand
4 that that would be anonymous?

5 A. Yes, sir.

6 Q. You didn't want your name to come out in the press
7 at all, did you?

8 A. No.

9 Q. And you don't want to be here today testifying, do
10 you?

11 A. No, sir.

12 Q. I mean, what happened when you called Crimestop-
13 pers?

14 A. . .

15 Q. Did law enforcement show up to talk to you?

16 A. Yes, sir.

17 Q. And was that shortly after you called?

18 A. It was a Friday. I remember that.

19 Q. And what did you tell law enforcement?

20 A. Actually I called on the third day and I didn't
21 tell them anything. I asked a couple of questions like
22 if I tell you this is it -- I mean, will my name have to
23 come back up.

24 I mean, I think I explained to that it involved a
25 hit and run, and to let me think about it because I still

L. GILBERT ON DIRECT

1 didn't want to do it, and then I called the next time and
2 told her what I just told you.

3 Q. Now, as you were watching the news reports, did you
4 see different vehicles and law enforcement agents looking
5 for the truck?

6 A. They had looked for -- a red Ranger is what first had
7 come out and then they were looking for a Ford or something.
8 I don't think they had a clue.

9 Q. So they didn't seem to know what year or model they
10 were looking for?

11 A. No, sir.

12 Q. Is that partly what led you to contact Crimestoppers?

13 A. Yes, sir.

14 Q. Now, describe whether there was said to be a basis
15 for some reward?

16 A. They say they pay a reward but they never tell you
17 how much.

18 Q. Were you aware how much of a reward . .

19 A. I didn't even know if there would be a reward. It
20 was pretty much eating me up.

21 Q. Now, one other thing I want to talk about. At some
22 point, did you have a relationship with Mr. Caughman's ex-
23 wife?

24 A. Yes, sir.

25 Q. And they were divorced at the time of the relationship?

L. GILBERT ON DIRECT

1 A. Yes, sir.

2 Q. When was that relationship?

3 A. She started calling me after the divorce. What had
4 happened was Craig had disappeared for two days. He had
5 not called anybody, and when I called her back -- I re-
6 turned her call and he showed up in a brand new Jeep and
7 his truck was wrecked.

8 So she was asking me or calling me to ask what had
9 happened, and I didn't tell her. I only had confided in
10 a friend of mine and my dad.

11 Q. And did . . .

12 A. It was bothering me so much I had to tell somebody.

13 Q. Prior to February 21st, 2010, had you observed any
14 damage to Mr. Caughman's vehicle?

15 A. I hadn't noticed any.

16 Q. Had he ever informed you that he had been in any
17 minor type of accident?

18 A. He told me he had hit a mailbox near his house, about
19 a block away from his house.

20 Q. Was the damage you saw on February 22nd of 2010 not
21 there prior to that?

22 A. No, sir.

23 Q. Did Mr. Caughman ever tell you what to tell people if
24 you were asked about the accident?

25 A. I can't think of what that was. It was talking --

L. GILBERT ON DIRECT

1 I can't think of where we were. More than likely . .

2 Q. Skyline?

3 A. Yes, sir.

4 Q. Were you at the Skyline with him on that Sunday?

5 A. That Sunday? No.

6 Q. Mr. Gilbert, do you see Mr. Caughman in the Courtroom
7 today?

8 A. Yes, sir.

9 Q. Would you point him out?

10 A. Beside Mr. Floyd?

11 A. Yes, sir.

12 MR. McNAIR: Let the record reflect he has identified
13 the Defendant.

14 BY MR. McNAIR:

15 Q. And that's the person who told you he hit the motor-
16 cycle at Vine Street and Knotts-Abott?

17 A. Yes, sir.

18 Q. Thank you.

19 THE COURT: Mr. Floyd.

20 (Brief pause in the proceeding)

21 CROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. Mr. Gilbert, did you receive a reward from the Crime-
24 stoppers?

25 A. Yes, sir.

L. GILBERT ON CROSS

1 Q. How much did you receive?

2 A. It was in cash. It was a Thousand Dollars.

3 Q. A Thousand?

4 A. Yes, sir.

5 Q. And are you applying for another reward?

6 A. I don't know. It seemed like my dad had told me about
7 a month later that there might be another reward.

8 Q. And are you in line for that?

9 A. I am assuming -- I never knew anything on that other
10 than what my dad had told me.

11 Q. Did you know about that prior to coming to trial?

12 A. Yes, sir, but today is the first day some one asked me
13 about that, prior to coming out there.

14 Q. How much is that reward?

15 A. Ten, I believe.

16 Q. Ten Thousand Dollars?

17 A. That sounds right. That's what I was told today.

18 Q. Now, this relationship with Mr. Caughman's wife began
19 after the accident?

20 A. Yes, sir. It was a month or two, maybe two months.

21 Q. And after you called Crimestoppers and you told them
22 all of this?

23 A. Yes, sir. Everything.

24 Q. Was it April that your relationship had started with
25 your friend's wife?

L. GILBERT ON CROSS

1 A. Yes, sir.

2 Q. Pardon me?

3 A. Yes, sir.

4 Q. And did you anticipate (portion inaudible)?

5 A. What is the question?

6 Q. Did you anticipate that if you told them . .

7 A. Yes, sir.

8 Q. . . as a result of your wretchedness over it that if
9 he went to jail he would be out of the way then?

10 A. Pardon me? Out of what way?

11 Q. If he was taken to jail that would leave the way clear
12 for you and his ex-wife?

13 A. There was nothing to interfere with before.

14 Q. Back in 2007 and 2008, did you have occasion to live
15 with Mr. Caughman?

16 A. Yes, sir. Well, I had a place to live but I stayed
17 with Craig for about two months before I bought a house.

18 Q. And his wife?

19 A. Yes, sir. It wasn't like I didn't have a place but I
20 did stay with Craig, yes, sir.

21 Q. And do you recall forming a relationship back then
22 . .

23 MR. McNAIR: Objection, Your Honor. Relevance.

24 THE COURT: Objection sustained.

25 BY MR. FLOYD:

L. GILBERT ON CROSS

1 Q. You did stay with him for a while?

2 A. Yes, sir.

3 Q. And you say that you went over to his house on the
4 22nd of February?

5 A. It was the morning after the tree pulling up. Yes,
6 sir.

7 Q. Thank you, Mr. Gilbert. No further questions.

8 THE COURT: Anything further from the State?

9 MR. McNAIR: Yes, sir.

10 REDIRECT EXAMINATION

11 BY MR. McNAIR:

12 Q. Mr. Gilbert, Mr. Floyd has mentioned Mr. Caughman's
13 ex-wife. Was she divorced at the time you all had your
14 relationship?

15 A. Yes, sir.

16 Q. Now, you gave a statement to law enforcement. Is that
17 correct?

18 A. Yes, sir.

19 Q. After the Crimestoppers tip?

20 A. Yes, sir.

21 Q. When you gave the statement to them were you even
22 aware of the (inaudible) group?

23 A. No, sir.

24 Q. When you gave your statement, was it accurate?

25 A. Yes, sir.

L. GILBERT ON REDIRECT

1 MR. McNAIR: Your Honor, we would move to admit this
2 into evidence.

3 THE COURT: What is it?

4 MR. McNAIR: Mr. Gilbert's statement to law enforce-
5 ment in April of 2010.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: He has testified, and I would object to
8 the statement coming in.

9 THE COURT: You can mark it for identification.

10 (Statement marked for identification only as State's
11 Exhibit 21)

12 BY MR. McNAIR:

13 Q. One further question, Mr. Gilbert.

14 A. Yes, sir.

15 Q. Did the promise of money or a potential of reward in-
16 fluence your decision to report this incident?

17 A. No, sir.

18 Q. Thank you.

19 RECROSS EXAMINATION

20 BY MR. FLOYD:

21 Q. But you didn't turn the reward down?

22 A. No, sir.

23 Q. Are you going to turn down the (inaudible) reward?

24 A. I don't know.

25 Q. You don't know?

L. GILBERT ON RECROSS

1 A. No. I haven't been offered it.

2 Q. Nothing further.

3 THE COURT: You can step down.

4 (Witness excused from stand)

5 THE COURT: Ladies and gentlemen, we will take a break
6 at this time. Please go to your jury room. Do not discuss
7 the case.

8 (Jury excused from courtroom)

9 THE COURT: Mr. Floyd, you have something to dis-
10 cuss for the record?

11 MR. FLOYD: Yes, sir. Your Honor, at this time we
12 would proffer some testimony or cross-examination of Mr.
13 Gilbert with regard to an incident that occurred in 2007
14 and 2008.

15 Mr. Gilbert was involved in an accident and fled the
16 scene on foot. He called Mr. Caughman . .

17 THE COURT: What would that have to do with this case,
18 Mr. Floyd?

19 MR. FLOYD: Your Honor, he was talking about having
20 a fit of conscience and felt bad about Mr. Caughman caus-
21 ing the accident with the motorcycle and his not reporting
22 it.

23 I would offer a proffer of that evidence at this time
24 to show that he fled . .

25 THE COURT: Mr. McNair?

1 MR. McNAIR: Your Honor, the incident we are here on
2 today was in 2010 and not in 2007 or 2008. He was not
3 charged with a crime at that time, and it would be immater-
4 ial, a car accident in 2007 or 2008.

5 THE COURT: With regard to the statement that was
6 marked for identification, what was the purpose of offering
7 that?

8 MR. McNAIR: Your Honor, I think that Mr. Floyd has ac-
9 cused Mr. Gilbert of doing what he did because of the Crime-
10 stoppers Reward that would be offered, but he was not even
11 aware of it at the time he made the statement to the law
12 enforcement.

13 I think that is admissible. It is admissible as to a
14 prior inconsistent statement.

15 THE COURT: And was it alleged to be a fabrication?

16 MR. McNAIR: He essentially implied that he was tes-
17 tifying because of a reward.

18 THE COURT: All right. It will remain out at this
19 time.

20 Let's take about ten minutes.

21 (The Court took brief recess, after which the case
22 was resumed)

23 THE COURT: Thank you. Be seated.

24 We were talking about the prior inconsistent state-
25 ment, Rule 613.

1 MR. McNAIR: Yes, Your Honor.

2 THE COURT: All right, and you are not claiming a prior
3 inconsistent statement, but you are claiming a prior consist-
4 ent statement.

5 MR. McNAIR: That's right.

6 THE COURT: A prior consistent statement, so under
7 Rule 801, B one. All right.

8 Declarant's testimony offered to rebut or express a
9 prior charge against the declarant . . (Reading from Rule)

10 It wasn't the part about the relationship with the
11 ex-wife of the Defendant. It was testified that that
12 relationship started at a later time.

13 So with regard to the cross examination, given that,
14 and given the nature of the cross examination, I would
15 deny as to that.

16 Now, with regard to the other issue of Mr. Gilbert,
17 Mr. Floyd wanted to cross examine him about allegedly hav-
18 ing an accident and leaving the scene of that accident.

19 MR. FLOYD: It would be our position that we should
20 be allowed to show he had done the same thing (portion
21 inaudible).

22 THE COURT: I think on that issue I would have to
23 agree since the credibility of the witness is always sub-
24 ject to wide latitude on cross examination. Here it was
25 alleged that the witness had done the same thing.

1 This is a hit and run situation, and that would in-
2 volve credibility.

3 MR. McNAIR: Your Honor, I think if that was just a
4 matter of property damage to a vehicle, and this scenario
5 involves the death of a person, and . .

6 THE COURT: But that isn't the question here. The
7 question is whether I should allow Mr. Floyd to cross the
8 witness about a prior accident and whether he left the
9 scene of that accident.

10 I have ruled on the question of the relationship of
11 the ex-wife with the witness that I would not allow any
12 further questioning as to that. That occurred prior to
13 the alleged incident here.

14 But we will get the jury back in, and I will allow
15 Mr. Floyd to question Mr. Gilbert in that regard.

16 MR. McNAIR: Your Honor, I think it will be found
17 that that did not occur.

18 THE COURT: But I will give him the right to recall
19 him.

20 Are you ready to go forward?

21 MS. MAYES: Yes, sir, Your Honor.

22 THE COURT: Let's give the jury a few more minutes
23 and then call them in.

24 (Brief pause occurring, after which the matter was
25 resumed)

1 THE COURT: Bring the jury.

2 (Jury returned to the Courtroom)

3 THE COURT: All right, the jury is present.

4 Call your next witness.

5 SOLICITOR: The State calls Peter Koutrakos.

6 PETER KOUTRAKOS, being duly
7 sworn, testified as follows:

8 CLERK: Please have a seat, and when you are seated
9 speak up loud and clear and state your name, spelling your
10 last name.

11 WITNESS: Sure. My name is Peter Koutrakos, spelled
12 K O U T R A K O S.

13 DIRECT EXAMINATION

14 BY SOLICITOR MAYES:

15 Q. All right. Where are you currently employed, Mr.
16 Koutrakos?

17 A. HUS Foods.

18 Q. All right, and how long have you been in food-related
19 business?

20 A. Twenty -- twenty-five years.

21 Q. All right, and what are some of the restaurants that
22 you have been involved with during that period of time?

23 A. (Inaudible) in West Columbia, Tavern Seafood on Broad
24 River, Hard Knocks Grill on Knotts-Abbott Drive.

25 Q. And in addition to yourself, you have other family

P. KOUTRAKOS ON DIRECT

1 members who are involved in the restaurant business?

2 A. Yes, I do.

3 Q. All right, and you mentioned the Hard Knocks Grill?

4 A. Yes.

5 Q. What affiliation did you have with the Hard Knocks
6 Grill?

7 A. I was the owner.

8 Q. All right, and can you tell us whether or not when
9 Hard Knocks Grill was open, were you in that business and
10 running that business in February of 2010?

11 A. Yes, I was.

12 Q. All right, and I want to ask you a little bit more
13 about that location. What area of Lexington County is
14 that?

15 A. It's in Cayce.

16 Q. All right. I'm going to show you what is State's
17 Exhibit 4. Could you step down a moment, please?

18 You said Hard Knocks Grill was on Knotts-Abbott Drive.
19 Is it shown on this Exhibit?

20 A. Yes.

21 Q. Is this the same as it appeared in 2010?

22 A. Yes.

23 Q. Thank you. You may return to your seat.

24 Did you have the opportunity, Mr. Koutrakos, to be ap-
25 proached by law enforcement in 2010 concerning any records

P. KOUTRAKOS ON DIRECT

1 or receipts that you may have in connection with a hit and
2 run investigation?

3 A. Yes. I don't remember which law enforcement division
4 it was. I assume Lexington County, but I don't remember.

5 Q. Okay. I'm going to present you some documents and
6 ask you whether or not you recognize these documents.

7 A. Yeah, this is a batch detail from that day. I guess
8 it was May 5, 2010.

9 Q. All right. Law enforcement came to you on May 5th of
10 2010, asking for information?

11 A. Yes.

12 Q. All right. Now, specifically were you asked to pull
13 records for the date of February 21st of 2010?

14 A. Yes, I was.

15 Q. All right, and talking about this day of February 21
16 of 2010, how does one go about producing records in May,
17 several months after the date they were asking for? How
18 did you go about producing those records?

19 A. I went on the computer and looked up the batch for
20 that day.

21 Q. All right. Now, what is your job as owner and oper-
22 ator of the Hard Knocks Grill -- are you responsible for
23 maintaining records in that position?

24 A. Yes, I was.

25 Q. And can you tell us whether or not the records that

P. KOUTRAKOS ON DIRECT

1 were produced for February 21st of 2010 were maintained in
2 the course of your business?

3 A. Yes.

4 SOLICITOR MAYES: Your Honor, at this time we would
5 offer these records as business records.

6 THE COURT: Any objection?

7 MR. FLOYD: No objection.

8 THE COURT: Admitted.

9 (Records of Hard Knocks Grill admitted into evidence
10 without objection as State's Exhibit 22)

11 BY SOLICITOR MAYES:

12 Q. All right. Now, when you pulled that detail, were
13 you able to itemize or figure out exactly what someone
14 ordered?

15 A. You can see the original amount that was entered
16 and the total amount.

17 Q. Is there information so as to determine exactly what
18 was purchased in food and beverages?

19 A. I mean, it was rung up by the night bartenders so
20 it could be anything there, but I can't determine exactly
21 what was ordered.

22 Q. All right. Did the Hard Knocks Grill sell food?

23 A. Yes.

24 Q. Does it sell beverages, including alcohol?

25 A. Yes.

P. KOUTRAKOS ON DIRECT

1 Q. And referring to records for February 21st of 2010,
2 let's start with whether or not you had any purchases for
3 a credit card number that ended with digits 7254?

4 A. Yes.

5 Q. And those would be what digits on a debit card or a
6 credit card?

7 A. The last four are shown and the total. The card
8 number just gives us the last four.

9 Q. All right, and why do they only record the last four
10 digits?

11 A. Just for safety purposes so nobody could pull up the
12 number, the card number, and use it in a wrong way.

13 Q. All right. So with the records you have before you,
14 do you have a record with the last digit of 7254?

15 A. Yes.

16 Q. And you said it was a purchase at the night bar?

17 A. Yes, the night bar of the tavern.

18 Q. And does that tell you it was a day-time purchase or
19 a night-time purchase?

20 A. In the evening.

21 Q. All right, and again do the records reflect an actual
22 date and time?

23 A. Yes, they do.

24 Q. All right. What is the date and time of the transac-
25 tion with the card number ending in 7254?

P. KOUTRAKOS ON DIRECT

1 A. The date would be February 22nd of 2010 and it has
2 a time of twenty-two hundred hours or ten P.M.

3 Q. And if you could refer back to exactly -- give me
4 exactly what is on the document for the date?

5 A. For that date it -- with the credit card number em-
6 bossed by the night bartender and authorization code, the
7 transaction amount of Nine Fifty and then it has a tip
8 added.

9 Q. What are the numbers for the date?

10 A. I'm sorry. The date of it?

11 Q. Yes.

12 A. Two twenty-one ten.

13 Q. So two twenty-one ten is the date shown. Correct?

14 A. Yes.

15 Q. So that is February 21st of 2010. Correct?

16 A. Yes.

17 Q. All right, and the amount of the actual purchase was
18 how much?

19 A. The Nine Fifty was the original amount and a tip was
20 added.

21 Q. It shows the purchase amount and the tip?

22 A. Yes, maam.

23 Q. So what was the total amount?

24 A. Fifteen Dollars.

25 Q. All right, a Fifteen Dollar purchase. Now, does it

P. KOUTRAKOS ON DIRECT

1 also show you the time of the transaction?

2 A. Yes, the transaction time was twenty-two hundred
3 hours, or ten P.M.

4 Q. Twenty-two hundred hours -- is that military time?

5 A. Yes, it is.

6 Q. So what would that be?

7 A. Ten P.M.

8 Q. All right. Ten o'clock P.M., correct?

9 A. Yes.

10 Q. So based upon your records from the Hard Knocks Grill,
11 we know there is a purchase receipt with the last four
12 digits occurring at ten P.M. on February 21, 2010?
13 Correct?

14 A. Yes.

15 Q. Now, did the Hard Knocks Grill have other locations
16 or was that the only location?

17 A. The only location.

18 Q. So any other credit card that would reflect a purchase
19 at the Hard Knocks Grill would only be at that location in
20 Cayce?

21 A. Yes.

22 Q. Thank you. Nothing further.

23 THE COURT: Mr. Floyd.

24 CROSS EXAMINATION

25 BY MR. FLOYD:

P. KOUTRAKOS ON CROSS

1 Q. All right. You sell food there also?

2 A. Yes, we do.

3 Q. And don't you have a receipt to show the particular
4 items that were purchased?

5 A. I don't have it currently on the items. There was a
6 check for whatever it was. The transaction was on an act-
7 ual check number that we use, but I don't have that or re-
8 call it.

9 Q. You don't recall or know the items at that time were
10 purchased?

11 A. No.

12 Q. Does the receipt not show what was purchased?

13 A. You mean the actual credit card receipt? No.

14 Q. The cash register receipt. Does that show the items
15 that . .

16 A. I don't think so, no.

17 Q. You don't have any way of getting that?

18 A. I don't.

19 Q. But you sell food?

20 A. Yes, we do.

21 Q. Do you sell seafood?

22 A. Yes, we do.

23 Q. How much would that be?

24 A. Oh, goodness, I don't remember. Back then it was
25 probably in the line of Four Ninety-five or something

P. KOUTRAKOS ON CROSS

1 like that for counter items.

2 Q. But you don't know what was purchased?

3 A. No, not specifically.

4 Q. You don't recall, but might there be somebody from
5 your business who might have handled the receipt?

6 A. No, I don't. Not the actual physical receipt. I
7 don't remember that.

8 Q. Now, Twelfth Street is near your bar?

9 A. Yes.

10 Q. How many blocks is Twelfth Street?

11 A. Oh, I mean, it's just a one block. A small area.

12 Q. Where Hard Knocks is located?

13 A. Yeah.

14 Q. And Knotts-Abbott is the side street?

15 A. Yes.

16 Q. Or Twelfth Street is a side street of Knotts-Abbott?

17 A. Yes.

18 Q. If you go outside the bar and take the side street
19 that's Twelfth Street?

20 A. Yes, correct.

21 Q. You can go out the side of the parking lot on the
22 -- go out the side of the parking lot and take Twelfth?

23 A. That's correct.

24 Q. Do you know what the name of that street is?

25 A. I am not a hundred percent sure.

P. KOUTRAKOS ON DIRECT

1 Q. The boundary of the block is to the parking lot on
2 the side?

3 A. Yes.

4 Q. Thank you. No further questions.

5 REDIRECT EXAMINATION

6 BY SOLICITOR MAYES:

7 Q. You said that law enforcement came to you in May of
8 2010 and asked you for records from February 21st of 2010?

9 A. Yes.

10 Q. And to the best of your knowledge, did you give them
11 everything you had associated with that day?

12 A. Yes.

13 Q. Nothing further.

14 THE COURT: Anything further?

15 MR. FLOYD: No, sir.

16 THE COURT: You may step down.

17 (Witness excused from stand)

18 THE COURT: Call your next witness.

19 SOLICITOR MAYES: The State calls Dawn Hurley.

20 DAWN HURLEY, being duly sworn,
21 testified as follows:

22 CLERK: Please have a seat and state your full name
23 and spell your last name.

24 WITNESS: My name is Dawn Hurley, H U R L E Y.

25 DIRECT EXAMINATION

D. HURLEY ON DIRECT

1 BY SOLICITOR MAYES:

2 Q. Ms. Hurley, where are you employed and in what ca-
3 pacity?

4 A. By the Bank of America, NA, and I represent Bank of
5 America as records custodian at Court appearances as well
6 as depositions.

7 Q. All right. So where do you actually reside and work
8 when you are not in Court?

9 A. I'm in Florida.

10 Q. Okay. So you actually live in Florida and are em-
11 ployed by the corporation of Bank of America?

12 A. That's correct.

13 Q. Now, the Bank of American keeps certain records, and
14 what is the process for keeping the records and certifying
15 them?

16 A. When records are subpoenaed they go to the proper
17 office and the records are then photocopied and sent to me.
18 Then I will bring them to Court.

19 Q. All right, and when records are sent to you, are you
20 able to verify whether such account records were maintained
21 by the Bank of America in the routine course of business?

22 A. Yes, maam.

23 Q. And does that include account information such as
24 name and account numbers?

25 A. Yes.

D. HURLEY ON DIRECT

1 Q. Does that include information on such things as debit
2 cards and bank cards?

3 A. Yes.

4 Q. And those debit cards and check cards would be for ac-
5 tual bank accounts?

6 A. Yes, that is correct.

7 Q. Now, when people use a bank card or checking account,
8 does the Bank of America pull records of such transactions?

9 A. Yes, we do.

10 Q. And do you keep a record of exactly the dates that
11 such transactions occur and the establishment of charging
12 or processing of credit cards?

13 A. Yes, we do.

14 Q. Including debit cards?

15 A. That is correct.

16 Q. And can you tell us whether or not you received a sub-
17 poena from Lexington County for information regarding the
18 credit card or debit card account of William Craig Caughman
19 the Defendant in this case?

20 A. Yes, we did.

21 Q. Okay, and can you tell us whether or not you were able
22 to learn that William Craig Caughman did have a debit card
23 account with the Bank of America?

24 A. Yes, we did.

25 Q. And were you able to pull his account information for

D. HURLEY ON DIRECT

1 the date of February 21, 2010? The dates on or around Feb
2 ruary 21st of 2010?

3 A. Yes, maam.

4 Q. Can you tell us whether the records for that day are
5 the same records maintained by the Bank of America in the
6 routine course of business?

7 A. Yes, they are.

8 SOLICITOR MAYES: Your Honor, at this time we would
9 offer the Bank of America records relating to the account
10 of William Craig Caughman as State's Exhibit 23 in evidence

11 MR. FLOYD: One moment, please, Your Honor.

12 THE COURT: Yes, sir.

13 (Brief pause in the proceeding)

14 MR. FLOYD: Without objection.

15 THE COURT: Admitted.

16 (Bank records admitted without objection as State's
17 Exhibit 23 in evidence)

18 BY SOL. MAYES:

19 Q. Ms. Hurley, I'm going to ask you -- I'm going to ha
20 you back what is State's Exhibit 23 regarding this acco
21 Is this the information that was requested?

22 A. Yes.

23 Q. Now, specifically, do you have a name associated
24 this account and a mailing address?

25 A. Yes, I do.

D. HURLEY ON DIRECT

1 for the bank account of William Craig Cauighman -- the last
2 four digits of that are 7254?

3 A. That is correct.

4 Q. Now specifically do the records you have with you con-
5 cern any transactions which occurred on or about February
6 21st of 2010?

7 A. Yes.

8 Q. All right. Now, when we talk about a transaction that
9 occurred, once you have a transaction does it post to the
10 account necessarily on the same day?

11 A. No.

12 Q. Okay. What is the difference between the transaction
13 date and the post date?

14 A. The transaction date is the actual date that the trans-
15 action was done, and the posted date is the date it was
16 debited from the account.

17 Q. So if a transaction occurred on a weekend, does it
18 necessarily post on that day?

19 A. No, maam.

20 Q. So the next business day it will post?

21 A. That is correct.

22 Q. And as far as there being a different post date, tell
23 us whether or not the records also reflect the true trans-
24 action date?

25 A. Oh, yes.

D. HURLEY ON DIRECT

1 Q. Can you tell us whether or not there was any type of
2 transaction involving this check card with the last two
3 digits of 7254 and a location known as Hard Knocks Grill?

4 A. Yes, maam.

5 Q. All right, and that actually shows up on the bank re-
6 cords?

7 A. Yes, maam, it does.

8 Q. And what is the actual date for that establishment
9 as it shows up on the record?

10 A. The check card on 2 21 at Hard Knocks Grill.

11 Q. Hard Knocks Grill, LLC?

12 A. That's correct.

13 Q. And what was the amount of that purchase?

14 A. Fifteen Dollars.

15 Q. Fifteen Dollars?

16 A. That is correct.

17 Q. Does it actually give the transaction date?

18 A. Yes, it does.

19 Q. All right, and that was for Fifteen Dollars at the
20 Hard Knocks Grill?

21 A. Yes.

22 Q. What was the transaction date?

23 A. Zero two twenty-one.

24 Q. So 2 21?

25 A. Correct.

D. HURLEY ON DIRECT

1 Q. We're talking about February 21st?

2 A. That is correct, 2010.

3 Q. The records requested were records from 2010. Cor-
4 rect?

5 A. That is correct.

6 SOL. MAYES: Nothing further, Your Honor.

7 MR. FLOYD: No questions of this witness.

8 THE COURT: You may step down.

9 (Witness excused from stand)

10 SOL. MAYES: Your Honor, at this time we would request
11 that this witness be excused.

12 MR. FLOYD: No objection.

13 THE COURT: You are excused.

14 If you all would approach?

15 (Conference at the bench between counsel and the
16 Court off the record)

17 THE COURT: Call your next witness.

18 SOL. McNAIR: The State would call Clarissa Mack.

19 CLARISSA MACK, being duly
20 sworn, testified as follows:

21 CLERK: Please be seated and when you are seated
22 in a loud voice state your name, spelling your last name.

23 WITNESS: Clarissa Mack, M A C K.

24 DIRECT EXAMINATION

25 BY SOL. McNAIR:

C. MACK ON DIRECT

1 Q. Ms. Mack, you are employed by the Department of
2 Motor Vehicles. Correct?

3 A. Correct.

4 Q. Known as DMV?

5 A. Yes.

6 Q. How long have you worked there?

7 A. Ten years.

8 Q. And you are here in Court as a custodian of records
9 for the Department?

10 A. Yes.

11 Q. DMV records?

12 A. Yes.

13 Q. And were you asked to bring certain DMV records to
14 Court today in relation to Mr. Caughman?

15 A. Yes.

16 Q. The Defendant?

17 A. Yes.

18 (Brief pause in the proceeding)

19 MR. FLOYD: No objection.

20 THE COURT: Let the Court Reporter mark themm

21 BY SOL. McNAIR:

22 Q. Ms. Mack, I'm going to show you State's Exhibit 24
23 first. What is that document?

24 A. This is a current white printout for a Ford Ranger.

25 Q. And who does that Ford Ranger belong to?

C. MACK ON DIRECT

1 A. William Craig Caughman.

2 Q. What was his registered address?

3 A. 1 [REDACTED] Gunner Circle, West Columbia,
4 South Carolina 29169.

5 Q. And that is listed as Mr. Caughman's home address on
6 February 21st, 2010?

7 A. Yes.

8 Q. Now, State's 25. Please tell the jury what this docu-
9 ment is?

10 A. This is tag listed for a 2001 Jeep that was regis-
11 tered to William Caughman, as registered on February 25th
12 of 2010.

13 Q. Okay. Now, does that mean he purchased that Jeep on
14 February 25th of 2010?

15 A. Correct.

16 Q. Did he keep the same tag number that he had on the
17 Ford Ranger or did he change it?

18 A. It changed.

19 Q. So on February 21st of 2010 he owned a Ford Ranger?

20 A. Correct.

21 Q. And then he purchased a new vehicle on February . .

22 A. The 25th, 2010.

23 Q. That was what?

24 A. It was a 2001 Jeep Wrangler.

25 Q. And the tag number changed from the first tag?

C. MACK ON DIRECT

1 A. Yes.

2 Q. No further questions.

3 MR. FLOYD: No questions.

4 THE COURT: You can step down.

5 (Witness excused from stand)

6 THE COURT: Call your next witness.

7 (Conference at the bench between counsel and the
8 Court off the record)

9 THE COURT: Ladies and gentlemen, we'll take a little
10 break at this time. You may go to your jury room and
11 please do not discuss the case.

12 (Jury excused from Courtroom)

13 THE COURT: We'll take a few minutes.

14 (Court took brief recess, after which the case was
15 resumed) (Jury returned to Courtroom)

16 THE COURT: Yes, sir.

17 MR. MCNAIR: Your Honor, Mr. Gilbert is back in the
18 Courtroom.

19 THE COURT: All right. He may take the stand, and,
20 Mr. Floyd, are you ready for him?

21 MR. FLOYD: Yes, sir.

22 THE COURT: All right, Mr. Gilbert. Come back up
23 again. Come and take the witness stand.

24 LAWRENCE GILBERT, re-taking the witness stand for
25 further examination.

MR. GILBERT RECALLED

1 THE COURT: All right, Mr. Gilbert is back on the
2 stand and under oath.

3 MR. FLOYD: Thank you.

4 BY MR. FLOYD:

5 Q. Mr. Gilbert, do you recall an incident sometime in
6 2008 when you had occasion to have an accident?

7 A. Yes, sir.

8 Q. And you left the scene of that accident, did you not?

9 A. I don't know that I'd call it leaving the scene of an
10 accident. I was, I'd say, fifty yards from my property,
11 and I tried to get it unstuck and I couldn't get it unstuck.
12 So I had a camper there and I said when daylight comes I
13 will get a shovel and help dig it out.

14 Q. Did the police arrive on the scene?

15 A. I know the tow truck came. I don't know if the po-
16 lice did but the tow truck came. There weren't any report
17 so I'm not sure.

18 Q. It wasn't the police who called for a tow truck?

19 A. No, sir. When I got up the next morning to see if
20 I could dig and get it out the tow truck had already been
21 and removed the truck.

22 Q. You didn't call anybody?

23 A. No, sir.

24 Q. You didn't call the owner of the truck?

25 A. I don't recall. I'm not saying no, but I just don't

MR. GILBERT RECALLED

1 remember. I'm not saying no, but I . .

2 Q. But you did leave the scene of where the accident
3 occurred?

4 A. There is some difference. I didn't actually kill
5 somebody.

6 Q. Did you have a wreck?

7 A. Yes, sir. It was off the road in a ditch.

8 Q. When you hit it?

9 A. Yes, sir.

10 Q. And you didn't report to the police about the acci-
11 dent?

12 A. I don't think I talked to the police. Someone called
13 the tow truck.

14 Q. Why didn't you call the police before that?

15 A. There was no damage done to anybody. I didn't have
16 to call them, according to the driver of the two truck.
17 He said he didn't have to call them unless there is prop-
18 erty damage.

19 Q. But there was property damage, wasn't there?

20 A. By somebody else, I believe. I think the way he
21 explained it to me he didn't have to unless there was
22 property damage like a dent or something like that to the
23 vehicle.

24 Q. Thank you.

25 THE COURT: Thank you, Mr. Gilbert.

MR. GILBERT RECALLED-

1 BY MR. McNAIR:

2 Q. Mr. Gilbert, nobody else was involved in the accident,
3 were they?

4 A. No, sir.

5 Q. You didn't leave another man laying for dead in the
6 roadway, did you?

7 A. No, sir.

8 Q. Thank you.

9 THE COURT: Anything else?

10 MR. FLOYD: Nothing further, Your Honor.

11 THE COURT: Thank you, sir. You may step down.

12 (Witness Gilbert excused from stand)

13 THE COURT: Call your next witness.

14 SOL. MAYES: The State calls Jeff Simmons.

15 JEFF SIMMONS, being duly
16 sworn, testified as follows:

17 CLERK: Please have a seat and state your name for
18 the record, spelling your last name.

19 WITNESS: My name is Jeffrey Scott Simmons. I'm a
20 Lieutenant for the Cayce Police Department, and I've been
21 employed by the Cayce Police Department since March 16, 1987.

22 DIRECT EXAMINATION

23 BY SOL. MAYES:

24 Q. All right, would you tell us a little bit about what
25 you do for the Cayce Police Department and a little bit

J. SIMMONS ON DIRECT

1 about that?

2 A. At the time of this incident I was the supervisor over
3 investigations, and I would assign cases to the investi-
4 gators and assist them in investigations.

5 Q. All right. Now, going back to the original incident
6 date of February 21st, 2010, ultimately was an investigator
7 assigned or a detective assigned to this incident?

8 A. At the time of the accident there was not an investi-
9 gator assigned to the cases. An investigation was assigned
10 to the case after the incident due to the nature of the
11 injuries involved.

12 Q. All right. So a detective or investigator was then
13 assigned to the incident shortly after it occurred?

14 A. Yes, maam.

15 Q. And who is that detective?

16 A. Detective Ed Pereira.

17 Q. All right, and is he a police officer with the Cayce
18 Police Department?

19 A. He is.

20 Q. All right. Now, would you classify Detective Pereira
21 as the chief investigating officer in this case?

22 A. Yes, maam. He was initially assigned to it so he'd
23 be the lead investigator.

24 Q. All right. Now, has Detective Pereira been trained
25 in accident reconstruction?

J. SIMMONS ON DIRECT

1 A. He has.

2 Q. And in addition to that, in criminal investigation?

3 A. He has.

4 Q. Now, between the time period of February 21st of 2010
5 which is the incident date until March when there was a
6 Crimestoppers' tip, had law enforcement even been aware
7 of the name William Craig Caughman?

8 A. No, ma'am, we did not.

9 Q. In connection with this investigation?

10 A. No.

11 Q. And ultimately on May 5th of 2010 were you aware of
12 a Crimestoppers' tip that came in?

13 A. I am.

14 Q. Who is the agency that actually oversees Crimestop-
15 pers?

16 A. It's a (inaudible) center.

17 Q. All right, and does connect with SLED or the Law En-
18 forcement Division?

19 A. It does.

20 Q. And when a Crimestoppers' tip comes in, what action
21 does SLED take to notify the investigating agency of a case
22 that would be applicable to them?

23 A. They usually transmit them to our agency via Email and
24 fax. We get them both ways.

25 Q. And can you tell us whether or not you received some

J. SIMMONS ON DIRECT

1 information on a case in 2010 in connection with a hit
2 and run that had occurred on Knotts-Abbott and Ninth Ave-
3 nue?

4 A. Yes, maam, we did. We received a tip which indicated
5 the Defendant's name, the description of the vehicle, and
6 where it was.

7 Q. All right. What action did you, yourself, take with
8 other law enforcement officers to go ahead and follow up on
9 the information obtained from Crimestoppers that led you
10 to William Craig Caughman and a green Ford Ranger?

11 A. Myself and some of the other officers went to Gunner
12 Circle which was in West Columbia. We were not able -- we
13 didn't locate the resident we are speaking of, but we did
14 observe a vehicle under a tarp hidden behind a shed in the
15 back of the residence.

16 As a result, we -- as we got closer to it and we
17 were walking through a public area which is a ballpark at
18 the end of the road, an open field, we could see a vehicle
19 covered with a grey tarp, a green truck that had been de-
20 scribed in the tip.

21 Q. All right. At this point you were able to actually
22 visualize that area?

23 A. Yes.

24 Q. And that was on his property without you actually
25 going on his property?

J. SIMMONS ON DIRECT

1 A. That is true.

2 Q. And the truck that was under the tarp was in plain
3 view to you?

4 A. Yes, it was.

5 Q. And at that point from your vantage point can you tell
6 us whether you were able to see the property in or around
7 1 Gunner Circle?

8 A. That is true, and at 2 as well.

9 Q. Now, why did you observe 2 Gunner Circle as well
10 as 1?

11 A. Because both properties -- you have the Defendant's
12 property and you have the Defendant's father's property.
13 They are cati--cornered to one another and are encompassed
14 by a cyclone fence.

15 Q. And did the tip you received mention anything about where
16 the vehicle was stored, or pursuant to the investigation
17 were you expecting to find the vehicle stored at that lo-
18 cation?

19 A. Yes. It was indicated that it was stored behind the
20 shed.

21 Q. And that would be at 2 or 1, or a combination
22 of . . .

23 A. It was actually at 2 by appearances. The shed --
24 you can tell by looking at these pictures that the shed was
25 closer to 2 which is the father of the Defendant.

J. SIMMONS ON DIRECT

1 The photograph shown overhead.

2 Q. Now, looking at this particular photograph, which was
3 not taken the day of the search but taken some days after
4 the vehicle had been discovered, can you tell us what you
5 are referring to in terms of the property location?

6 A. This is ² [REDACTED], the father of the Defendant. This is
7 the shed, and if you look at it the shed is a lot closer
8 to ² [REDACTED]. This is the path that goes between the two
9 houses. This is ¹ [REDACTED], the Defendant's house. This would
10 be his back yard. This is the back yard of the father.

11 Q. All right. Now, on the day that your Department re-
12 ceived the tip from Crimestoppers and you mentioned that
13 you went to a public area vantage point.

14 Where was it approximately that you observed what ap-
15 peared to be possibly the vehicle in question?

16 A. We were in this area right here.

17 Q. And what were you able to observe from there?

18 A. We were able to observe a grey tarp covering a vehicle,
19 and if you look closely you will see the back side of the
20 cyclon fence, and you can see it poking out on the side.

21 Q. Were you able to visualize the hubcap or rim of the
22 vehicle?

23 A. We weren't able to do that from that vantage point.
24 We had to walk over here where there is a ballpark.

25 Myself and Agent Robinson walked in behind it and we

J. SIMMONS ON DIRECT

1 were able to see that it was a vehicle or a truck, a Ford
2 Ranger, and it did have alloy mag wheels which were con-
3 sistent with a Ford Ranger.

4 Q. You saw it with Agent Mike Robinson of the State Law
5 Enforcement Division?

6 A. That is true. He's seated over there.

7 Q. All right. So at this point with the vehicle covered
8 by the tarp, did you have an opinion as to whether or not
9 the hubcaps or wheels were consistent with a Ford Ranger?

10 A. That would be consistent with a Ford Ranger. There
11 was a pattern that looked like a deer track for those of
12 you who hunt.

13 There is a picture of it here as well.

14 Q. Now, having made that observation, tell us whether or
15 not you also on that same date you confirmed that what you
16 saw on the property was the vehicle in question?

17 A. Yes.

18 Q. And ultimately was a search warrant obtained for the
19 property at **2** and **1** Gunner Circle?

20 A. That is correct.

21 Q. Now, a search warrant, did it give you the right to
22 -- once a search warrant is obtained by law enforcement,
23 does it give you the right to actually go on the property?

24 A. Absolutely.

25 Q. Did you take part in the execution of the search warrant

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1 on the property at 2 Gunner Circle and 1 Gunner Cir-
2 cle?

3 A. I did.

4 Q. And can you tell us whether or not that occurred on
5 the same day as the Crimestoppers' tip?

6 A. I'm sorry?

7 Q. What was the date of the search warrant?

8 A. The date of the search warrant was May 5th.

9 Q. Of 2010?

10 A. Yes, maam.

11 Q. All right, and was it the same day you went to the
12 property and made the observations you have just testified
13 about?

14 A. That's true.

15 Q. All right. So while you were actually on the property
16 making the observations, are you the one who gets the search
17 warrant or is that the responsibility of someone else?

18 A. The search warrant was obtained by one of the other
19 detectives and was brought to us while we stayed at that
20 scene, and we executed the search warrant after we had it
21 signed and the Magistrate saw probable cause to issue the
22 search warrant.

23 Q. All right, and you were present for that?

24 A. I was.

25 Q. Now, what was your role or responsibility during the
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1 execution of the search warrant once you went on the prop-
2 erty along with other members of law enforcement?

3 A. My role was to help search the properties and to cor-
4 roborate the information we had obtained in the tip.

5 Q. And that was in the hit and run investigation?

6 A. That's true.

7 Q. I want to show you a document and ask whether or not
8 you recognize this document?

9 A. Yes, I do recognize this picture. This is [1] Gunner
10 Circle and the residence of the Defendant.

11 Q. All right. Now, as you all went about the search on
12 the property, can you tell us whether or not you were tak-
13 ing photographs contemporaneous with that search?

14 A. I was.

15 Q. So as other members of law enforcement are finding
16 items you believe may be relevant, you are photographing
17 those items?

18 A. That is true.

19 Q. Can you tell us whether or not these photographs ap-
20 pear to be a fair and accurate representation of the search
21 of [2] and [1] Gunner Circle as you recall it to be?

22 A. Yes, it is. These pictures were taken during the
23 search at [1] and [2] Gunner Circle. I took these pic-
24 tures myself.

25 SOL. MAYES: Your Honor, at this time we would go

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1 ahead and offer this series of photographs from the search
2 warrant as evidence.

3 MR. FLOYD: Your Honor, we would object to the admis-
4 sion of these photographs and any other evidence that was
5 obtained by law enforcement during the execution of the
6 search warrant.

7 (Colloquy between counsel and the Court off the re-
8 cord at the bench)

9 SOL. MAYES: Your Honor, he was present and assisted
10 by an agent from the State Law Enforcement Division. The
11 State's position is that it was not outside the jurisdic-
12 tion of the agency he works for.

13 THE COURT: Mr. Bailiff, please take the jury back to
14 the jury room. Ladies and gentlemen, we will break now
15 for lunch, and we will be in a position to continue when
16 you come back. We have some matters to take up out of
17 your presence.

18 (Brief bench conference off the record)

19 THE COURT: Ladies and gentlemen, we have some mat-
20 ters scheduled for this afternoon in addition to this pre-
21 sent matter.

22 So we will break for lunch and have you come back at
23 three o'clock. Take your lunch break wherever you wish but
24 do not discuss the case.

25 Thank you.

1 (Jury excused from the Courtroom for the lunch period)

2 THE COURT: All right, as to the search warrant, we
3 have an issue -- there is a question or an issue that may
4 require taking some testimony as to the question.

5 SOL. MAYES: Well, your Honor, as to the jurisdiction
6 issue, if that is what the question is, I am not aware of
7 any issue that would limit the police from obtaining a
8 search warrant and executing it outside of their jurisdic-
9 tion.

10 THE COURT: Well, that is the question we have. The
11 motion is to suppress the identification by the officer
12 of items seized under the search warrant.

13 SOL. MAYES: Well, there may be some issue as to it
14 but I am not aware of any limitation due to a jurisdic-
15 tional matter. I would request to do futher investigation
16 on that.

17 If Mr. Floyd has some case law or an indication that
18 there is a restriction, then we would ask that he supply
19 us with that.

20 THE COURT: All right.

21 MR. FLOYD: Your Honor, I don't know that I came pre-
22 pared to do that. This is a matter involving jurisdiction,
23 and we take the position that the officer would have no
24 jurisdiction outside the City of Cayce.

25 SOL. MAYES: Your Honor, the warrant first of all

J. SIMMONS IN CAMERA

1 was obtained by Lexington County and not by the City of
2 Cayce. Obtained from a Lexington County Magistrate.

3 EXAMINATION IN CAMERA OF WITNESS SIMMONS

4 BY SOL. MAYES:

5 Q. Who was the search warrant obtained by?

6 A. The warrant was obtained by myself and Investigator
7 Jason Merrill. We met and he sought probable cause on
8 the issue of the search warrant.

9 As I mentioned earlier in my testimony, Agent Robinson
10 was with us from SLED, and also we had notified West Colum-
11 bia, and there is a metro agreement with West Columbia.

12 Q. What does that allow you to do in terms of executing
13 search warrants or in terms of jurisdiction?

14 A. To operate in West Columbia's jurisdiction with full
15 authority and that is in Cayce.

16 THE COURT: And you were with Agent Mike Robinson?

17 WITNESS: Yes, sir. He's sitting right there. I said
18 that in my testimony.

19 BY SOL. MAYES:

20 Q. And are you aware of any limitations that would pre-
21 vent you from executing a search warrant in the West Colum-
22 bia area under the agreement you have with West Columbia?

23 A. No, maam, I am not.

24 Q. Okay.

25 A. In fact, West Columbia did send an officer around to

J. SIMMONS IN CAMERA

1 the location as we executed the search warrant.

2 Q. And at that time that was Officer Collins?

3 A. Yes, maam.

4 Q. And what was your understanding at the
5 time of his jurisdiction?

6 A. He had jurisdiction throughout Lexington County.

7 SOL. MAYES: Nothing further, Your Honor.

8 THE COURT: All right, Mr. Floyd.

9 QUESTIONS BY MR. FLOYD IN CAMERA:

10 Q. Lieutenant Simmons, do you have a copy of the agree-
11 ment you say you have?

12 A. Not with me, but I'm on it every year as the super-
13 visor for investigations.

14 Q. May I see it?

15 A. I said I don't have a copy of it with me, but I know
16 for a fact that I was on it at the time.

17 Q. Do you know who signed off on it?

18 A. Who signed off on it? The Chief of West Columbia and
19 our chief. It also has the names of the agents for West
20 Columbia and the City of Cayce on it.

21 Q. So the two chiefs?

22 A. Yes, sir.

23 Q. You were not one who signed it?

24 A. No, sir.

25 Q. But you were one of the officers named?

J. SIMMONS IN CAMERA

1 A. Yes, sir.

2 Q. And it is just a simple agreement between the two De-
3 partments?

4 A. Yes, sir, and I think the main thing we need to key
5 on is that we had an agent from SLED who was there with
6 us.

7 Q. Thank you.

8 THE COURT: You may step down.

9 (Witness Simmons excused from stand)

10 SOL. MAYES: Your Honor, Lieutenant Simmons would be
11 subject to recall to the stand.

12 THE COURT: All right.

13 SOL. MAYES: Mike Robinson, Agent Robinson.

14 MIKE ROBINSON, being duly
15 sworn, testified as follows; out of the presence of the jury:

16 CLERK: Please have a seat and when you are seated
17 state your full name, spelling your last name.

18 WITNESS: My name is James Michael Robinson. The
19 spelling of my last name is R O B I N S O N.

20 DIRECT EXAMINATION

21 BY SOL. MAYES:

22 Q. All right, and how did you become involved in the in-
23 vestigation -- do you sometimes assist local law enforce-
24 ment agencies?

25 A. Yes, maam. SLED is an assisting agency.

M. ROBINSON IN CAMERA

1 Q. All right, and did you have occasion in this case to
2 assist the Cayce Department of Public Safety?

3 A. Yes, maam, I did.

4 Q. And back in February of 2010 were you involved with
5 them at that point?

6 A. That's correct. On or about February 28th, 2010, my
7 Lieutenant briefed me on the situation, and he asked that I
8 contact the Cayce Police Department and see if we could
9 give any assistance.

10 As a result, I made contact with Investigator Pereira
11 to offer assistance. I met with him and assisted him on
12 anything he asked me to do.

13 Q. All right. Now, does the State Law Enforcement Divis-
14 ion have State-wide jurisdiction?

15 A. Yes, maam, we do.

16 Q. And that included arrest warrants and search warrants
17 and things of that nature?

18 A. Yes, maam, that's correct.

19 Q. And were you involved in the investigation following
20 a tip given to Crimestoppers in May of 2010?

21 A. Yes, maam. The Crimestoppers' tip led us to the two
22 residences that were searched.

23 Q. And did you yourself have knowledge of that Crimestop-
24 pers' tip?

25 A. Yes, maam. I believe when we are working a case with

M. ROBINSON IN CAMERA

1 agencies such as this it is very common for us to make con-
2 tact with Crimestoppers to let them know that we are out
3 there, and if any information comes through Crimestoppers
4 we'd like to have the tip forwarded to us also.

5 The priority is to get it to that agency, and any in-
6 formation that I receive will be a very detailed Crimestop-
7 pers' tip in which the tipster relayed information in this
8 case that Craig -- it gave the full name, Craig William
9 Caughman, was the driver of the green Ford Ranger involved
10 in the hit and run.

11 Additional information the tipster gave was two addres-
12 ses, 2 [REDACTED] and 1 [REDACTED] Gunner Circle, West Columbia. That tip-
13 ster also stated that the vehicle was behind the shed lo-
14 cated on one of the properties there and covered with a
15 tarp.

16 The tipster also went so far as to provide information
17 that the Defendant, Mr. Caughman, had used his credit card
18 and/or debit card at the Hard Knocks Cafe the night of the
19 incident.

20 Q. All right, and with that same information given to you
21 through Crimestoppers, can you tell us whether or not you
22 spoke with law enforcement agents in Cayce on the same day?

23 A. Yes, maam.

24 Q. And was the follow-up in going to the property on the
25 same day?

M. ROBINSON IN CAMERA

1 A. Yes, maam.

2 Q. And was the search warrant obtained on the same day?

3 A. Yes, maam, it was.

4 Q. At what point did you become involved in assisting
5 with that search?

6 A. Well, once that tip came in we went to that residence
7 or those two residences on Gunner Circle. I was with Lieu-
8 tenant Simmons and I believe there were two other investi-
9 gators there.

10 Investigator Pereira may have been one of those, and
11 we looked at the property and could see the shed back be-
12 hind the property. We went around the property as described
13 by Lieutenant Simmons.

14 It was obvious that there was a vehicle of some type
15 consistent with possibly a Ford Ranger that was parked be-
16 hind an area between the back of the shed and a cyclone
17 fence, consistent with what the tipster had called in.

18 Q. All right, and you were able to make that observation
19 even without going onto the property?

20 A. Yes, maam.

21 Q. Having confirmed that, do you know whether other people
22 with the Cayce Department of Public Safety were working
23 on obtaining other information, such as the property owner?

24 A. Yes, maam, they were.

25 Q. And do you know whether that information was obtained?

M. ROBINSON IN CAMERA

1 A. To the best of my knowledge, it was. Yes, maam.

2 Q. And what about efforts to obtain information as to
3 who was the owner of the Ford Ranger?

4 A. Yes, maam. I think that was a part of the process,
5 and that is pretty much what was going on at that time.

6 Q. All right, so you were aware that that information was
7 being followed up on in the process of obtaining a search
8 warrant?

9 A. Yes, maam.

10 Q. And you were there when there was a discussion about
11 actually having a search warrant prepared and submitted to
12 a Judge?

13 A. Yes, maam, that's correct.

14 Q. And you were aware that a search warrant was obtained
15 for the two properties?

16 A. Yes, maam.

17 Q. And you were aware that you would have jurisdiction
18 there?

19 A. Yes, maam.

20 Q. No further questions. I'm sorry.

21 At what point after the search warrant was obtained
22 were you present for?

23 A. I was there for the initial start of the executing
24 the search warrant. I don't remember exactly how long af-
25 ter that, but thereafter Investigator Grey and myself went

M. ROBINSON IN CAMERA

1 to the place of employment of the Defendant and made con-
2 tact with him.

3 Q. All right. So at the same time the search warrant
4 was being executed, you also were making attempts to lo-
5 cate him?

6 A. At some point after the search warrant -- after the
7 execution was initiated. Yes, maam.

8 Q. All right, the execution was initiated after it was
9 actually obtained and signed by the Judge and brought to
10 the crime scene?

11 A. That's correct.

12 Q. Were you present for that portion?

13 A. Yes, and for a portion of the search of the property.

14 Q. Now, what is your understanding of Lieutenant Simmons
15 and other officers having jurisdiction through an agreement
16 that Cayce had with West Columbia?

17 A. I'm not familiar with that specific agreement, although
18 I know it is common for a memorandum of agreement or under-
19 standing to be drawn up between adjoining jurisdictions in
20 order to allow law enforcement to conduct investigations
21 or business as they need to across those jurisdictional
22 lines.

23 Q. When you say it is common, do you mean just Lexington
24 County or other counties across the State?

25 A. Counties and cities across the State.

M. ROBINSON IN CAMERA

1 Q. And that includes law enforcement agencies in municipi-
2 palities?

3 A. Yes, maam, it does.

4 Q. Such as Cayce and West Columbia?

5 A. It does.

6 Q. Are you aware of anything that would have prevented

7 the execution of the search warrant on May 5, 2010, at 2

8 and 1 Gunner Circle in West Columbia?

9 A. No, maam, I'm not.

10 SOL. MAYES: Nothing further, Your Honor.

11 THE COURT: Mr. Floyd, do you have anything?

12 CROSS EXAMINATION IN CAMERA

13 BY MR. FLOYD:

14 Q. Excuse me, but I think I missed part of what you said
15 earlier. Did you go over to the Judge's Office to get the
16 search warrant?

17 A. No, sir, I did not.

18 Q. And then after the search warrant was obtained, you left
19 shortly thereafter?

20 A. I don't recall how long exactly we were there, but it
21 was after it was initiated and some of the evidence that has
22 been presented -- after we saw what was there. It was some-
23 time after that that Investigator Pereira and I went to
24 contact the Defendant.

25 Q. Did you personally seize any items?

M. ROBINSON IN CAMERA

1 A. No, sir.

2 Q. No further questions.

3 THE COURT: Anything further?

4 SOL. MAYES: Yes, sir, Your Honor.

5 REDIRECT EXAMINATION IN CAMERA

6 BY SOL. MAYES:

7 Q. Although you weren't there when the search warrant was
8 obtained, were you aware it was being obtained?

9 A. Yes, maam, I was.

10 Q. And that was with your knowledge as an assisting agency
11 with Cayce?

12 A. Yes, maam.

13 Q. Nothing further, thank you.

14 THE COURT: You may step down.

15 (Witness excused from stand)

16 THE COURT: Anything further?

17 SOL. MAYES: That's all the witnesses at this time or
18 on this matter.

19 THE COURT: Mr. Floyd.

20 MR. FLOYD: Your Honor, if I may, the only basis on
21 which the seizure would be admissible is if there was some
22 kind of jurisdiction agreement between the City of Cayce
23 and West Columbia. We haven't seen it.

24 According to the testimony, there was an agreement
25 signed by the local police chief.

1 We haven't been provided any jurisdictional agreement,
2 and if there was an agreement that was ongoing as between the
3 counties and municipalities, it requires approval of the gov-
4 erning bodies of those entities.

5 Since we have not obtained a document as to that, we are
6 raising the issue. We have no document nor anything to show
7 an approval of the governing bodies.

8 So we have nothing to prove there was jurisdiction to
9 seize whatever was taken.

10 THE COURT: Reading 23 20 50, it says an agreement re-
11 ferred to in the chapter regarding law enforcement must be
12 approved by appropriate state and county for local law enforce-
13 ment employment.

14 Would that be the chief of police?

15 MR. FLOYD: What is the . .

16 THE COURT: It's 23 20 50.

17 (Brief pause in the proceeding)

18 THE COURT: The State has said it has no case law as to
19 that.

20 Do you have any case law?

21 (Conference at the bench between counsel and the Court
22 off the record)

23 THE COURT: There is a case here in Lexington where
24 the folks in Calhoun -- the case cites 23 20 50.

25 (Pause in the proceeding)

1 THE COURT: There is a case of a violent hot pursuit,
2 and in 1999 Sheriff Dennis Johnson made an agreement -- I be-
3 lieve in Calhoun Sheriff Johnson made an agreement for the
4 purpose of securing other benefits of mutual in a natural
5 disaster situation. That was in 1999.

6 The 2000 Legislature passed 23 20 50 to require the
7 approval in all kinds of jurisdictional agreements -- the
8 statute says such agreement must be approved by
9 the proper authorities to bring in officers.

10 MR. McNAIR: Your Honor, I think that may have been
11 county council.

12 THE COURT: It says local law enforcement authorities.
13 It says must be approved by the appropriate state, county or
14 local law enforcement authorities.

15 Some of that may have to do with the authority to ar-
16 rest, as I read this.

17 In one particular case, the general counsel for the
18 Lexington County Sheriff's Department made that agreement
19 without it having been voted on by county council.

20 (Reading from case) Could not be the basis for arrest,
21 and there is cited a Pennsylvania case which I think has to
22 do as well with probable cause, but this case says Lexington
23 County officers -- that agreement reverses the position as
24 they requested the assistance of officers of an adjoining
25 jurisdiction.

1 That agreement clearly intended for the Lexington County
2 officers to assist.

3 SOL. MAYES: Your Honor, we believe that the jurisdic-
4 tional agreement between Cayce and West Columbia would have
5 been valid, and that would have been empowered.

6 We are certainly willing to pursue that further and if
7 the Court would allow us to provide documentation or pro-
8 vide the agreement and, further, the authentication that is
9 provided for in 23 20 50.

10 THE COURT: All right. We will hold this issue in
11 abeyance then to allow you to do all of that during the lunch
12 time.

13 We will take up the other matter now, and resume with
14 this after the lunch period.

15 (Other business taken up by the Court, after which there
16 was a brief recess. This within case was then continued.)

17 THE COURT: What do we have to take up before the jury
18 comes in?

19 SOL. MAYES: Your Honor, the State would ask to be per-
20 mitted to proffer additional testimony in the matter of the
21 search warrant.

22 THE COURT: All right, you may proceed.

23 SOL. MAYES: Thank you, Your Honor. The State would
24 call Rick Collins.

25 THE COURT: Come on up.

1 RICK COLLINS, being
2 duly sworn, testified as follows out of the presence of the jury.

3 CLERK: Please have a seat and give us your name, spell-
4 ing your last name for the record.

5 WITNESS: Rick Collins, C O L L I N S.

6 MR. FLOYD: Your Honor, Mr. Collins is employed by the
7 Solicitor.

8 THE COURT: Go into that, please.

9 SOL. MAYES: Yes, sir, Your Honor. He is a currently
10 a member of the Solicitor's Office. During the time frame
11 of this event, he was the Magistrate who actually issued and
12 signed the search warrant. It was signed on May 5 of 2010.

13 THE COURT: How about that, Mr. Floyd?

14 MR. FLOYD: If he is allowed to be a witness in the
15 case it would cause a conflict if he testifies about issues
16 surrounding the search warrant.

17 THE COURT: What about that issue? I need to know
18 about it.

19 SOL. MAYES: Yes, sir, Your Honor.

20 The State's position is that it would not create a con-
21 flict with him testifying. He is not testifying before the
22 jury or about the facts of the case.

23 He is simply testifying about the circumstances under
24 which the search warrant was issued, and that is a factor
25 that has been known by Mr. Floyd.

1 That is the sole fact in this matter he has knowledge of,
2 and this is not going to get into any area involving opin-
3 ions of any kind of compliance.

4 (Brief pause in proceeding)

5 MR. FLOYD: First of all, Your Honor, this multi-juris-
6 dictional agreement isn't valid, and there are two statutes
7 involving jurisdiction. One of them is on a temporary basis
8 and one of them has to do with a more permanent basis.

9 (Conference at the bench between counsel and the Court off
10 the record)

11 THE COURT: All right. I'm going to step out for a
12 few minutes.

13 (Whereupon, there was a short recess, after which the
14 matter was continued)

15 THE COURT: Thank you. Please be seated.

16 I will allow the testimony outside of the presence of
17 the jury.

18 You may come up.

19 RICK COLLINS, having
20 been previously sworn by the Clerk, testified as follows:

21 CLERK: Have a seat and when you are seated please
22 state your name for the record, spelling your last name
23 for us.

24

25

1 WITNESS: My name is Rick Collins, C O L L I N S.

2 DIRECT EXAMINATION IN CAMERA

3 BY SOL. MAYES:

4 Q. Now, how were you employed in February of 2010?

5 A. In February of 2010 I was a Lexington County Magis-
6 trate. Of course, at that time I was the road magistrate
7 and acting as the Cayce magistrate.

8 Q. And was that still the case in May of 2010?

9 A. Yes.

10 Q. Now, did you have the opportunity to actually sign a
11 search warrant in this case?

12 A. I did.

13 THE COURT: I believe the question raised by Mr.
14 Floyd wasn't the content of the search warrant or whether
15 or not probable cause existed, but the question on the is-
16 sue of the search warrant was whether or not the officers
17 seizing the property had the authority to do so.

18 SOL. MAYES: Yes, Your Honor.

19 THE COURT: There is no question raised about the va-
20 lidity of the search warrant. I'm not sure why he needs
21 to be a witness on the issue before the Court.

22 SOL. MAYES: We are trying to establish in fact that
23 there was a validly obtained search warrant which we con-
24 tend the only issue could be the execution of the search
25 warrant.

R. COLLINS IN CAMERA

1 THE COURT: There is no question raised as to whether
2 or not it was a validly issued search warrant.

3 Is there any question as to that, Mr. Floyd?

4 MR. FLOYD: No, Your Honor.

5 SOL. HAYES: If I may just follow up with a few ques-
6 tions then.

7 BY SOL. MAYES:

8 Q. Did you as Magistrate have the authority to sign a
9 search warrant for any entity in Lexington County?

10 A. I did, that's correct.

11 Q. So that was County-wide?

12 A. Yes, right.

13 Q. Now, can you tell us whether or not you have an under-
14 standing as to the jurisdiction of SLED, the State Law En-
15 forcement Division, in assisting an agency, a city or a
16 municipality?

17 A. . .

18 MR. FLOYD: I would object, Your Honor, to what his
19 understanding . .

20 THE COURT: I sustain the objection. I don't think
21 any of that is relevant to the issue before us.

22 BY SOL. MAYES:

23 Q. Now, because of the execution of the search warrant,
24 once you sign a search warrant do you play any role in the
25 actual execution of it?

R. COLLINS IN CAMERA

1 A. No, I do not.

2 Q. What is the responsibility of law enforcement . .

3 MR. FLOYD: Objection. That has no probative value as
4 to the issue before the Court.

5 THE COURT: What has Mr. Collins' response to that
6 have to do with the search warrant issue?

7 I don't see what it can add as far as the issues be-
8 fore the Court. It hasn't clarified anything in what you
9 have asked him.

10 SOL. MAYES: No further questions, Your Honor.

11 THE COURT: Anything from the Defendant?

12 MR. FLOYD: No, Your Honor.

13 THE COURT: Call your next witness.

14 SOL. MAYES: The State calls Detective Pereira.

15 EDWARD PEREIRA, being duly
16 sworn, testified as follows, out of the presence of the
17 jury.

18 CLERK: State your name on the record, spelling your
19 last name.

20 WITNESS: Edward Pereira. Last name P E R E I R A.

21 DIRECT EXAMINATION IN CAMERA

22 BY SOL. MAYES:

23 Q. What was your role and responsibility in this parti-
24 cular case, Detective Pereira?

25 A. I was the lead case agent.

E. PEREIRA IN CAMERA

1 Q. And can you tell us what assistance, if any, you had
2 from the State Law Enforcement Division from the start of
3 the investigation to the execution of the search warrant
4 on May 5th, 2010?

5 A. Yes, at the start of the investigation I did request
6 assistance from SLED, and they were able to provide me with
7 an agent, Mike Robinson.

8 Q. All right, and can you tell us whether or not you all
9 worked on various aspects of the investigation leading up
10 to May 5, 2010?

11 A. Yes, we worked hand in hand in pretty much all aspects
12 of it.

13 Q. Now, statistically on May 5th of 2010, there is tes-
14 timony that a Crimestoppers' tip was received?

15 A. That's correct.

16 Q. What, if any, action did you and Agent Robinson take
17 following that tip?

18 A. The tip being very detailed as far as the vehicle and
19 what address, we responded to that address to verify some
20 of the things in the tip to corroborate and track the truck.

21 A truck in the back yard matched the description of
22 what was talked about. Through the Department of Motor Ve-
23 hicles we found that Mr. Caughman did in fact own a Ford
24 Ranger and that he lived at the address.

25 Q. All right, and ultimately state whether or not a

E. PEREIRA IN CAMERA

1 search warrant was obtained?

2 A. That is correct. Once we corroborated that informa-
3 tion and there was a search of DMV and property records,
4 we were able to get a search warrant signed for the prop-
5 erty.

6 Q. All right. Was Agent Robinson there along-side you
7 throughout that day?

8 A. Yes, he was.

9 Q. And that was May 5th of 2010?

10 A. That's correct.

11 Q. Was Agent Robinson aware that a search warrant was
12 being obtained?

13 A. He was.

14 Q. Was that something he would assist with?

15 A. Yes, he did.

16 Q. And ultimately did you become aware that the search
17 warrant had in fact been signed by a Magistrate?

18 A. I was aware.

19 Q. All right, and what, if anything, is your understand-
20 ing about execution of a search warrant if it outside of
21 Cayce?

22 A. That it would be . .

23 MR. FLOYD: Again, I would object to that.

24 SOL. MAYES: I'm asking him his understanding of what
25 his capabilities were.

E. PEREIRA IN CAMERA

1 THE COURT: I'll let him answer the question.

2 A. It is my understanding that we have an agreement that
3 was signed with official agencies that allows us to inves-
4 tigate, and especially in the traffic portion of it.

5 Q. And what, if any, impact would having an agent from
6 the State Law Enforcement Division assist as a part of the
7 investigation?

8 A. It has an significant impact because they have juris-
9 diction throughout the entire State.

10 Q. Can you tell us whether or not it is your understand-
11 ing that Agent Robinson would have jurisdiction in Cayce?

12 A. That is correct.

13 Q. And in Lexington County?

14 A. Yes, maam.

15 Q. And West Columbia?

16 A. Yes, maam.

17 THE COURT: That's been made clear. Move on.

18 SOL. MAYES: Yes, Your Honor.

19 BY SOL. MAYES:

20 Q. I show you a document and ask you whether you have
21 had a chance to read that before taking the stand a little
22 while ago?

23 A. Yes, maam.

24 Q. All right, and is that some type of agreement?

25 A. Yes.

E. PEREIRA IN CAMERA

1 Q. And what is your understanding of the agreement with
2 -- between Cayce and another jurisdiction?

3 A. It is a multi-jurisdictional agreement, and it is the
4 Eleventh Judicial Circuit traffic enforcement agreement.

5 Q. All right, and can you tell us in general what type
6 of -- what type of cases or investigations that agreement
7 seeks to accomplish?

8 A. It encompasses all traffic-related violations such as
9 driving under the influence and other traffic violations.

10 Q. Can you tell us whether hit and run allegations would
11 be considered a traffic violation?

12 A. That is correct. It would be.

13 SOL. MAYES: A this time we would mark this as a
14 Court's Exhibit. I believe it is Court's Exhibit 3, and
15 I will give Mr. Floyd a chance to review this as well.

16 MR. FLOYD: Yes, maam, I haven't seen it.

17 (Brief pause in the proceeding)

18 THE COURT: Why don't we put in a copy while we get
19 to another witness? We don't need the jury to stay out
20 this long.

21 SOL. MAYES: I'm not sure how much longer this will
22 take, Your Honor.

23 THE COURT: The agreement will speak for itself as to
24 what it says.

25 SOL. MAYES: Well, Your Honor, this is an agreement

E. PEREIRA IN CAMERA

1 for various agencies to be involved assisting one another.
2 That is one portion of the State's argument. The second
3 portion would be involving the State Law Enforcement Divis-
4 ion.

5 BY SOL. MAYES:

6 Q. Now, Detective Pereira, tell us whether or not Cayce
7 would be a jurisdiction included in the agreement?

8 A. Yes, it is.

9 Q. What about West Columbia?

10 A. Yes, it is.

11 Q. To your knowledge in 2013 it was in effect?

12 A. Yes, it would.

13 Q. You are not aware of it being discontinued?

14 A. No, to my knowledge it is still in effect.

15 Q. Now, in addition you spoke previously about Agent
16 Robinson assisting you. Can you tell us whether Agent
17 Robinson was present during the execution of the search war-
18 rant?

19 A. Yes, he was.

20 Q. And that was at 2 and 1 Gunner Circle?

21 A. That's correct.

22 Q. And upon entering the property, can you tell us whe-
23 ther or not the requirements of the search warrant were
24 met, such as announcing your presence?

25 A. Yes, it was.

E. PEREIRA IN CAMERA

1 Q. Were you and Agent Robinson present when the truck
2 was visualized during the search?

3 A. Yes, maam.

4 Q. Behind the shed?

5 A. Yes, maam.

6 SOL. MAYES: Nothing further, Your Honor.

7 THE COURT: Mr. Floyd.

8 MR. FLOYD: Thank you, Your Honor.

9 CROSS EXAMINATION IN CAMERA

10 BY MR. FLOYD:

11 Q. Detective Pereira, would you agree with me that this
12 agreement does not recite specific kinds of cases?

13 A. Yes, sir.

14 Q. It is not signed by the Mayor of the City of Cayce?

15 A. Yes, sir.

16 Q. Or the Lexington County Council?

17 A. Yes, sir.

18 Q. Thank you. No further questions.

19 THE COURT: You may step down.

20 (Witness excused from stand)

21 THE COURT: Any further witnesses?

22 SOL. MAYES: No, Your Honor.

23 THE COURT: Mr. Floyd, do you have any evidence you
24 want to offer on the question?

25 MR. FLOYD: No, Your Honor.

J. SIMMONS RESUMED ON DIRECT

1 Your Honor, will you note my continuing objection so
2 that I don't have to keep making it?

3 THE COURT: Yes, sir.

4 (Witness Jeffrey Simmons resumed the witness stand)

5 THE COURT: All right, bring the jury in.

6 (Jury returned to Courtroom at 4:19 P.M.)

7 DIRECT EXAMINATION CONTINUED

8 BY SOL. MAYES:

9 Q. Lieutenant Simmons, I had previously given you the
10 opportunity to review a series of photographs. Do you re-
11 call that?

12 A. Yes, maam, I do.

13 Q. And are these the photographs that are in question?

14 A. They are.

15 Q. All right, and I believe your testimony was that the
16 photographs were taken by who?

17 A. I took them myself.

18 Q. And they were taken during the execution of the search
19 warrant in this case?

20 A. Yes.

21 Q. On the Defendant's residence, is that correct?

22 A. That is correct.

23 Q. All right, and that would have been on May 5th of
24 2010, correct?

25 A. That is correct.

J. SIMMONS ON DIRECT

1 Q. Now, can you tell us whether or not a vehicle was
2 seized during the execution of the search warrant?

3 A. We did seize a vehicle. It was a green Ford Ranger.

4 Q. All right.

5 A. During the search warrant.

6 Q. All right, and the green Ford Ranger that has been in
7 question all day, where was it found on the premises that
8 were the subject of the search warrant?

9 A. It was found on 2, his father's property, which as
10 I explained earlier appeared to us to be a combined property.

11 It was not clear at the time of this warrant where the
12 property lines were so that is why in the search warrant we
13 included both properties.

14 Q. Okay, and once the search warrant was executed and
15 that green Ford Ranger was seen, was it taken into custody?

16 A. Yes.

17 Q. All right. Now, when you took it into custody, how
18 did you go about maintaining security on the vehicle from
19 the time it was seized at 2 Gunner Circle until it ar-
20 rived where it arrived?

21 A. The tow vehicle came and we managed to get it out from
22 behind the shed, and we placed it on a roll-back and took
23 it on the roll-back to our department where it was placed
24 in one of our bays and security tape was put around it.

25 It was maintained there until we collected further

J. SIMMONS ON DIRECT

1 evidence from it at a later date.

2 Q. So it left 1 Gunner Circle and was taken to the
3 Cayce Department of Public Safety?

4 A. That's true.

5 Q. And you mentioned that a tow truck was involved?

6 A. Yes, maam.

7 Q. How close were you to that tow truck?

8 A. I was right there the whole time. Until it left for
9 our Department, the vehicle never left my sight.

10 Q. All right, and as it remained in your sight throughout
11 the transport from 1 Gunner Circle to the Cayce Depart-
12 ment of Public Safety, was the vehicle tampered with or
13 altered in any way?

14 A. No.

15 Q. In your opinion, did it remain secured?

16 A. In my opinion it remained secure.

17 Q. And once it arrived at the Cayce Department of Public
18 Safety how was it secured?

19 A. It was placed in a fire bay and we put crime scene
20 evidence tape around it and it was kept there until further
21 evidence was collected from it.

22 Q. And the people who came in and collected further evi-
23 dence from it, that was who?

24 A. SLED.

25 Q. State Law Enforcement Division?

J. SIMMONS ON DIRECT

1 A. Yes, maam.

2 Q. And what further evidence . . .

3 A. Forensic analysis sort of things.

4 Q. Did that include paint analysis?

5 A. It does include paint analysis.

6 Q. I'm going to show you what is State's Exhibit 8. Can
7 you recognize this?

8 A. That would be the truck in question.

9 Q. Where is it located in this photograph?

10 A. In a fire bay in the Department of Public Safety or
11 our police department.

12 Q. And in your opinion did it remain secure from the day
13 it was seized up until a member of the State Law Enforce-
14 ment Division arrived to take various samples for analysis?

15 A. Yes, maam, it did.

16 Q. Now, if you would go through a series of photographs
17 that were taken by yourself during the execution of the
18 search warrant.

19 What are we looking at in this particular photograph?

20 A. We are looking at 1 Gunner Circle, the residence
21 of the Defendant.

22 Q. That would be Mr. Caughman?

23 A. That's true.

24 Q. Okay.

25 A. That would be the back porch of the residence. As you

J. SIMMONS ON DIRECT

1 look at the residence, you are facing the A side. The B
2 side would be the side of the building and the C side would
3 -- the B side would be the left-hand side of the building,
4 and the C side would be the back of the building, and the
5 right hand side would be the D side.

6 So we are looking at the rear of the residence or the
7 C side with a porch on it.

8 Q. Now, once you actually had members of the Cayce De-
9 partment of Public Safety at the -- you obtained the
10 search warrant and went on the property, can you tell us
11 what we're looking at here?

12 A. You're looking at the portion -- the back portion of
13 the truck that was sticking out from the shed. It was
14 covered with a grey tarp.

15 Q. What are we looking at here?

16 A. We are looking at a portion of the truck, and you can
17 actually see the grill and the headlights.

18 Q. Can you tell us whether or not this photograph is a
19 fair and accurate representation of how the truck appeared
20 when you arrived there?

21 A. That is exactly how it appeared when I arrived there,
22 and I took the picture.

23 Q. Now, what is the next step once this was recovered?

24 A. Usually we try to document things and see what we can
25 uncover and document with pictures.

J. SIMMONS ON DIRECT

1 Q. What happened next?

2 A. As I recall, we started taking the cover off, which
3 is the case -- this would be the front of the vehicle.

4 Q. And has it been altered to the extent that law enforce-
5 ment actually starting pulling the tarp off the vehicle?

6 A. That is true. It is basically a step by step proced-
7 ure. As we uncovered it, then I documented it.

8 Q. Okay. And is this the green Ford Ranger that you've
9 previously testified to?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. Now you're looking at the passenger side, the damaged
13 side of the vehicle, from the front passenger side fender.

14 Q. And this is how you discovered it?

15 A. That is true.

16 Q. And what are you looking at in State's Exhibit 32?

17 A. Here you're looking at the rocker panel testified to
18 previously where it was cut away and a portion of the
19 floorboard on the passenger side of the vehicle that has
20 been cut away.

21 Q. And State's Exhibit 33?

22 A. Another picture -- it shows how far the vehicle was
23 cut into to remove any evidence.

24 Q. All right. Now, do you yourself have knowledge of
25 what type of equipment was used to cut away this area?

J. SIMMONS ON DIRECT

1 A. Yes, maam, I do.

2 Q. Can you tell us whether or not a saw cut away the
3 metal in those areas?

4 A. Yes, maam, it did.

5 Q. Now, is this particular photograph -- what are we
6 looking at here?

7 A. We're still looking at the rocker panel and the
8 floorboard that was cut away, and the person is the wrecker
9 driver as we are trying to maneuver the vehicle out from the
10 shed where it was concealed.

11 Q. Now, what are we looking at here?

12 A. You're looking at a discovery of the inner panel on
13 the passenger side door, the damaged side of the truck, as
14 it is sitting underneath the back deck.

15 Q. And this item is what?

16 A. It's a door panel.

17 Q. That is how it was found, underneath the back porch?

18 A. Yes, it still has a bunch of leaves and things on it.

19 Q. And next we have State's Exhibit 36.

20 A. That would be the back deck and a saw that was recov-
21 ered from the garage of the residence that we believed to
22 be used in the removal of portions of the truck doors and
23 the floorboard, the panels previously mentioned.

24 Q. All right. Are you familiar with this type of equip-
25 ment?

J. SIMMONS ON DIRECT

1 A. I have one myself.

2 Q. And in your opinion could it be used to cut away the
3 door of the vehicle?

4 A. Most definitely. We used it -- as I said, we are re-
5 quired as policemen to be trained in auto extrication, and
6 a saw is one of the tools that we did utilize to cut peo-
7 ple out of cars.

8 Q. Next we have State's Exhibit 37.

9 A. That would be the back passenger window and door of
10 the vehicle that was propped up inside the garage

11 Q. Looking at this photograph, State's Exhibit 18, where
12 you can see the driver's side. Do you see a similar thing
13 as what is in this photograph?

14 A. Right. The back window -- what we're looking at in
15 this picture is the opposite side of the car after the
16 doors had been removed.

17 Q. This one here?

18 A. Yes.

19 Q. Now, State's Exhibit 38?

20 A. That is going to be the piece of trim or inner door
21 panel on the passenger side, and if you look at the hole in
22 the middle it's where you would grab a door handle in the
23 truck, and it also has something you can't see in this pic-
24 ture because it's dark, but switches for the -- I believe
25 it would be the door lock and window -- power window.

J. SIMMONS ON DIRECT

1 Q. And is this the Defendant's residence at 1 and the
2 father's residence at 2?

3 A. All of these pictures we have looked at are 2 and
4 1 Gunner Circle, the Defendant's residence.

5 Q. The residence of Craig Caughman?

6 A. This is the garage, the sidewalk here.

7 Q. All right, and next we have photograph number 33. Tell
8 us the significance of this photograph?

9 A. It doesn't look like much in this picture, but what
10 you are looking at is a tool box and beside the box is --
11 this is how I sequenced the pictures. At this point I can
12 see the trash can and its position by the tool box.

13 As you get closer, you can see down into the trash can
14 and several screws that have green paint to match the truck
15 that were removed from the vehicle during the process of
16 removing the door of the truck.

17 Q. What are we looking at here?

18 A. A picture of the screws and/or bolts taken from the
19 truck with green paint on them.

20 Q. And that trash can was in the garage?

21 A. That's true.

22 Q. In the Defendant's garage?

23 A. Yes, maam.

24 SOL. MAYES: Beg the Court's indulgence.

25 (Brief pause in proceeding)

J. SIMMONS ON DIRECT

1 SOL. MAYES: I have nothing else for the witness.

2 THE COURT: Cross examination.

3 CROSS EXAMINATION

4 BY MR. FLOYD:

5 Q. Lieutenant Simmons, you are the lead investigator in
6 the case?

7 A. That's true.

8 Q. And where is the Defendant's residence?

9 A. Gunner Circle, 1 [REDACTED].

10 Q. In the City of West Columbia?

11 A. That is true.

12 Q. Thank you. Nothing further.

13 THE COURT: Anything from the State?

14 SOL. MAYES: Nothing further.

15 THE COURT: You may step down. Thank you, sir.

16 (Witness excused from stand)

17 THE COURT: Call your next witness.

18 SOL. MAYES: The State calls Detective Pereira.

19 EDWARD PEREIRA, being duly
20 sworn, testified as follows:

21 CLERK: Once you are seated, speak up loud and clear,
22 stating your full name and spelling your last, please.

23 WITNESS: Yes, maam. Edward Louis Pereira. Last name
24 spelled P E R E I R A.

25 DIRECT EXAMINATION

E. PEREIRA ON DIRECT

1 BY SOL. MAYES:

2 Q. If you could, Detective Pereira, start with your in-
3 vestigation into this matter? Could you start with your
4 involvement with the Cayce Department of Public Safety as
5 an investigator?

6 A. Yes, I've been an investigator with the Cayce Police
7 Department for the past four years now. I've been thirteen
8 years total in law enforcement.

9 Q. Okay, and what date were you assigned as an investi-
10 gator with this particular case?

11 A. February 22nd of 2010, I was assigned this case for
12 investigation.

13 Q. February 22nd would be the day after the accident in
14 this case?

15 A. That is correct.

16 Q. And what were your initial steps in the investigation?

17 A. Well, prior to the cases being assigned, the investi-
18 gator may not be there on the day the case is assigned or
19 whoever it is assigned to.

20 I mean, it's in the computer so it may have actually
21 been a day or two until I actually realized I was assigned
22 the case. It was actually three days passed before I did
23 realize I was assigned the case.

24 Q. And when the case was originally assigned, was Toby
25 Morris still alive?

E. PEREIRA ON DIRECT

1 A. Yes.

2 Q. And did you speak to him yourself at the Lexington
3 Medical Center?

4 A. I did.

5 Q. And while you were there, were you able to observe
6 his injuries?

7 A. Yes. When I went there I asked him how he was doing
8 and if he could remember any portion of the accident, a
9 little bit more about what had occurred, and he told me
10 about his injuries.

11 I think he listed a broken wrist and . .

12 MR. FLOYD: Objection to hearsay.

13 SOL. MAYES: Your Honor, I can go on.

14 BY SOL. MAYES:

15 Q. Detective Pereira, were you able to observe any areas
16 of injury to Mr. Morris?

17 A. Yes, I could.

18 Q. Now, on that day were you able to get any further in-
19 formation from Toby Morris about a suspect vehicle?

20 A. No, I was not.

21 Q. All right. When you have a situation where you don't
22 have a known suspect vehicle, what is the next part of the
23 investigation?

24 A. Well, we back up and try to go back to the initial
25 scene itself and start from there, and having had a couple

E. PEREIRA ON DIRECT

1 of courses in accident reconstruction, I went to look for
2 some physical evidence as well as possible witnesses on
3 the scene that may give a statement.

4 The report of the initial officer who responds on a
5 scene -- it states everything he or she has observed, and
6 I went back to the initial report to look at the case
7 from there.

8 Q. All right. Did you have the occasion to visit the
9 scene during daylight hours?

10 A. Yes.

11 Q. And by the time you got visited the scene during day-
12 light hours were there any fresh skid marks present?

13 A. No, it was pretty much -- nothing was fresh. It was
14 all pavement at that time.

15 Q. All right. What, if anything, led you to a determina-
16 tion as to where the victim was proceeding at the time of
17 the accident?

18 A. Well, other than the police officer's initial traffic
19 accident report, I noticed that the report had the motorcy-
20 cle being on Ninth and the vehicle turning off of Knotts-
21 Abbott -- from some of my courses I realized that that would
22 kind of define where the motorcycle ended up or what we
23 call the point of rest.

24 Looking at the pictures that were taken of the scene
25 by Officer Green that night, I was able to look at the

E. PEREIRA ON DIRECT

1 motorcycle and the pictures and see that the motorcycle
2 was actually in what we call lane three of Knotts-Abbott
3 and coming from the inside lanes out. This has a turn
4 lane on each side of Knotts-Abbott, and it was in lane three.

5 So it wasn't back on Ninth Street at all but on Knotts-
6 Abbott, the resting place of the motorcycle.

7 Knowing that when a vehicle turns off of Knotts-Abbott
8 and the motorcycle is sitting on Ninth Street and the ve-
9 hicles strikes the motorcycle head-on, the motorcycle is
10 not going to go forward. The motorcycle would in fact go
11 backwards.

12 I noticed that obviously that something was wrong then
13 at that time as Green had written out the initial report.

14 Q. All right, and what other information did you have
15 or recovered that led you to make observations about where
16 Toby Morris was headed, in what direction?

17 A. I was able to obtain a copy of a video from U-haul
18 that is located right there at that intersection of Ninth
19 and Knotts-Abbott.

20 Q. And this would be Exhibit 2, the U-Haul video?

21 A. That's correct.

22 Q. Can you tell us whether or not at any point a vehicle
23 appeared on the U-Haul video that is consistent with a mo-
24 torcycle?

25 A. Yes, it does.

E. PEREIRA ON DIRECT

1 Q. And in what way is it consistent with a motorcycle?

2 A. You can see it is a very small vehicle, the size of
3 the actual vehicle, and it only has one headlight on it.
4 You can tell it's a motorcycle that is coming from Columbia
5 on Knotts-Abbott and down the road approaching Ninth Street.

6 Q. All right, and taking a look at this particular Exhi-
7 bit, State's Exhibit 3, can you tell us exactly what you
8 can see?

9 A. The camera is back of this intersection, and this is
10 kind of blocked here, so you can't see clearly what is tra-
11 veling in this lane but there is a vehicle and it disappears
12 further on.

13 Q. All right, and shortly after the motorcycle appears
14 as it is headed down Knotts-Abbott from Columbia, what is
15 the next thing you see on the video?

16 A. A car slowing down here and coming around to this
17 spot. You can see like a reaction of somebody coming and
18 going (inaudible), and also going up that way.

19 Q. Is that consistent with how you felt this accident
20 occurred?

21 A. Yes.

22 Q. And do you see Officer Green's vehicle when she is
23 coming to the scene?

24 A. Somewhere later you can see Officer Green's vehicle
25 coming.

E. PEREIRA ON DIRECT

1 Q. So she is there within a few minutes after the ac-
2 cident occurred?

3 A. That's correct.

4 SOL. MAYES: Your Honor, at this time we would ask
5 to publish the U-Haul video for the jury.

6 THE COURT: I believe it's in evidence.

7 MR. FLOYD: Yes, sir, but we would object to the of-
8 ficer giving his interpretation as to it.

9 SOL. MAYES: The witness has pointed out various
10 portions of the video and specifically the motorcycle pro-
11 ceeding through the intersection.

12 THE COURT: So is he saying that is the vehicle that
13 was involved in this accident?

14 SOL. MAYES: That's correct, Your Honor. He has just
15 laid a foundation that he saw a vehicle consistent with a
16 motorcycle, and then shortly thereafter another vehicle
17 made a turn, and then a few minutes later Officer Green
18 arrived as well.

19 THE COURT: The objection is overruled, and you may
20 show the video in question.

21 (Whereupon, U-Haul video was played for the jury)

22 BY SOL. MAYES:

23 Q. Can you tell us whether this is the portion you have
24 just referred to?

25 A. Yes, maam.

E. PEREIRA ON DIRECT

1 Q. And that is at approximately ten minutes -- at ten
2 hours and nine minutes?

3 A. Right.

4 (Video being shown)

5 Q. Can you tell us where the motorcycle was when it
6 was struck?

7 A. . .

8 MR. FLOYD: I would object, Your Honor.

9 THE COURT: You may proceed. Sustained.

10 SOL. MAYES: I can rephrase that, Your Honor.

11 THE COURT: Proceed.

12 BY SOL. MAYES:

13 Q. In this particular video, at what angle or direction
14 would the motorcycle be in with this one headlight as you
15 have described?

16 A. This is consistent with a motorcycle here, and at the
17 top of the screen, looking at this, in this direction, is
18 the bike.

19 Q. Tell us whether or not that you see a car here head-
20 ing toward the intersection?

21 A. That is correct.

22 SOL. MAYES: Your Honor, at this time we would request
23 to reshow that portion that he has described.

24 THE COURT: You have published it in evidence. You
25 can ask questions about it.

E. PEREIRA ON DIRECT

1 SOL. MAYES: Yes, sir, Your Honor.

2 BY SOL. MAYES:

3 Q. You may return to your seat.

4 Now, ultimately having all this information in hand,
5 was there an amendment to the original traffic report?

6 A. Yes.

7 Q. All right, and what steps, if any, were taken to lo-
8 cate a suspect?

9 A. Like I said, looking for physical evidence and I got
10 the video at that time, and I wasn't called to the scene
11 that night so I could look for vehicle parts and stuff
12 like that.

13 I knew that Tillman Towing had took the motorcycle
14 back to their lot, and the driver would clean up the area
15 and take a lot of that stuff with him.

16 I thought I may find some of the parts at the tow yard
17 so I went there to the tow yard to see if I could find
18 anything.

19 Q. And tell us whether or not that is protocol or is
20 common in an investigation?

21 A. It is common to try to find any vehicle parts. A lot
22 of times they will have something from the vehicle that
23 left the scene.

24 Q. And can you tell us whether you had any type of tag
25 number or anything from that vehicle?

E. PEREIRA ON DIRECT

1 A. No, we only had the initial witness that came and told
2 us that he saw the vehicles crash.

3 Q. And at that point in time, did you have anything else
4 to go on?

5 A. No, maam.

6 Q. And did you actually go to the tow yard?

7 A. I did.

8 Q. When did you go to the tow yard?

9 A. The 27th of February.

10 Q. All right, and let me show you the Exhibit that was
11 previously discussed in this case and is in evidence, and
12 this is the document from Tillman's Tow Yard, and a photo-
13 graph which is in evidence. Are you familiar with them?

14 A. I am.

15 Q. How many days was it that you went to Tillman after
16 the accident?

17 A. I think the accident was on a Sunday, and I made it
18 to Tillman the following Saturday.

19 Q. Six days later?

20 A. Right.

21 Q. Would you necessarily expect the condition at the tow
22 yard to be identical to what it was at the time it first
23 arrived?

24 A. No.

25 Q. And has any officer at the scene or any other officer

E. PEREIRA ON DIRECT

1 indicated that any car parts had been left behind by the
2 vehicles?

3 A. No, they did not.

4 Q. So at this point, you were following up on what you
5 can?

6 A. That's right.

7 Q. And when you stopped there at Tillman, how -- were
8 there were any parts that potentially could be related?

9 A. Well, I was unaware at that time that somebody had
10 come and picked up the motorcycle, and I was told the mo-
11 torcycle had in fact been picked up.

12 They showed me exactly where it was laying there.

13 Q. Okay, and there has been testimony about a truck being
14 used to transport the debris. Was the truck present when
15 you were out there?

16 A. No, it was not.

17 Q. And the motorcycle itself was gone?

18 A. Yes, maam.

19 Q. Okay, so at this point you are trying to retrieve any
20 potential evidence?

21 A. That's right.

22 Q. What about the vehicle?

23 A. When I looked at what they showed me, I could act-
24 ually see the fender and I immediately recognized it as
25 the same fender that I saw in the picture.

E. PEREIRA ON DIRECT

1 Then I was able to see that parts of the motorcycle
2 were consistent with an older motorcycle like that.

3 Q. All right, and from the information you received at
4 Tillman Towing, did you have the opportunity to investi-
5 gate further when you got back to the Department of Public
6 Safety?

7 A. Yes, I did.

8 Q. All right, and ultimately were any car parts discov-
9 ered?

10 A. Yes, I took the pieces from that pile and placed it
11 on a table and looked at each and every part. I was able
12 to actually find something from an automobile and it had
13 Toyota written on the back of it.

14 Q. And at this point in time, did that lead to a suspicion
15 about the involvement of a Toyota?

16 A. Yes. What it appeared to be was like the corner hous-
17 ing, so I went to the Toyota Center and talked to one of
18 the maintenance people there. He immediately recognized
19 the part I had in my hand and he went and retrieved a cor-
20 ner reflector or turn signal out of a Toyota parts record
21 that fit perfectly.

22 Q. And was it consistent with the motorcycle part you
23 saw later at Simons Tow Yard?

24 A. Right.

25 Q. Had there been any indication of where it was at the

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1 scene?

2 A. No, there was not.

3 Q. Now, you mentioned that the part was taken by yourself
4 actually there, and I believe that is State's Exhibit 10.
5 What efforts did you make to secure that item and keep it
6 secure up until it could be analyzed?

7 A. I bagged the item and labeled it as evidence. It was
8 secured in our evidence facility.

9 Q. And did it remain secure up until it underwent analy-
10 sis?

11 A. Yes.

12 Q. And where did it ultimately go for analysis?

13 A. To the State Law Enforcement Division.

14 Q. Now, were you able to actually retrieve the motorcycle
15 itself?

16 A. Yes, I was.

17 Q. And where did you secure it from?

18 A. I retrieved it from Dr. Harmon's garage.

19 Q. The garage that was across from Mr. Bostick's business
20 that was testified to previously?

21 A. Yes, maam.

22 Q. When it was recovered, can you tell us whether or not
23 -- what kind of condition it remained in?

24 A. When we went to the garage, we put it in an enclosed
25 area that we put stuff like that in, which is a trailer. I

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1 put it in that trailer and it was padlocked. The access
2 doors were locked and only I had the key to it.

3 We placed red evidence ^{tape} over the door so nobody would go
4 into it.

5 Q. All right. Can you tell us in that regard when the motor-
6 cycle was taken to the Cayce Department of Public Safety whe-
7 ther it was tampered with in any way?

8 A. No, it wasn't.

9 Q. And no damage was done to it?

10 A. No, no further damage other than the way we found it.

11 Q. And what was done in terms of having the motorcycle ana-
12 lyzed?

13 A. The motorcycle was also sent -- I carried it myself to
14 the South Carolina law Enforcement Division where the paint
15 on it and paint samples could be collected at that time.

16 Q. And what date was the motorcycle taken to the State Law
17 Enforcement Division for analysis?

18 A. March third of 2010.

19 Q. So on March third of 2010 the items were sent to SLED for
20 initial analysis?

21 A. That's correct.

22 Q. And that includes the motorcycle itself?

23 A. That's correct.

24 Q. Now, ultimately were you notified by the State Law En-
25 forcement Division that they found foreign paint on the

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1 motorcycle?

2 A. Yes, maam.

3 Q. What date were you notified by the State Law Enforcement
4 Division that they had discovered that?

5 A. The tenth of March.

6 Q. So on the tenth SLED notified you that they had found
7 -- they had done some additional analysis, and with that an-
8 alysis were they able to provide you any additional information
9 as to what that vehicle may be?

10 A. Yes, they did.

11 Q. All right. So what information did you obtain about that
12 vehicle after March 10th, 2010?

13 A. . .

14 MR. FLOYD: Objection, Your Honor. That would be hear-
15 say.

16 THE COURT: What was the question?

17 SOL. MAYES: What information did they obtain on that ve-
18 hicle, Your Honor.

19 THE COURT: Sustained.

20 BY SOL. MAYES:

21 Q. So, Detective Pereira, it was on March 10th that you got
22 information from SLED?

23 A. That's correct.

24 Q. And that information that was given you led you to the
25 suspect vehicle, is that correct?

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1 A. That's correct.

2 Q. And ultimately, without going into any details as to what
3 you were informed by SLED, but at that point in time were you
4 any further along as to who was the potential owner of the Ford
5 vehicle?

6 A. No, I was not.

7 Q. Can you tell us whether or not a Ford model was the . .

8 MR. FLOYD: I would object. That's the same question.

9 SOL. MAYES: Your Honor, it is our position that he is
10 able to say what he did in the investigation.

11 THE COURT: I'll allow the answer.

12 BY SOL. MAYES:

13 Q. Without going into detail, tell us whether or not at that
14 point in your investigation you knew you were looking for a
15 Ford model?

16 A. That's correct.

17 Q. Now, between March 10th, 2010, and May 5th, 2010, did you
18 have any significant lead in this case?

19 A. No, I did not.

20 Q. Other than being advised by SLED of the potential model
21 of the vehicle?

22 A. That's right. That was the only thing.

23 Q. What, if anything, occurred on May 5th of 2010 that changed
24 the investigation in this case?

25 A. We received a Crimestopper tip.

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1 Q. Did that Crimestoppers' tip come in to your Department in
2 Cayce or from another agency?

3 A. It actually comes in from the State Law Enforcement Divis-
4 ion.

5 Q. And then that information is provided to you?

6 A. Yes, maam, that is correct. It comes to the (inaudible)
7 center and into SLED, and then it goes out to the appropriate
8 agency that is investigating that particular crime that has
9 been reported on.

10 Q. All right. Now, the information that came in on Crime-
11 stoppers, did it actually provide a name of a suspect?

12 A. It did.

13 Q. Tell us whether or not Mr. Caughman became involved in
14 the case at that time as a suspect?

15 A. Yes, he did.

16 Q. And can you tell us whether or not you got information on
17 the involved vehicle of Craig Caughman? Was that also provided?

18 A. Yes, it was.

19 Q. And what was the make and model of the vehicle that may
20 be involved?

21 A. That it was a green in color Ford Ranger.

22 Q. What effort, if any, did you along with other members of
23 law enforcement make after getting the Crimestoppers' tip to
24 actually corroborate any information that was obtained?

25 A. The tip mentioned the name of the person who was operating

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1 the vehicle and what kind of vehicle it was and where it was
2 located.

3 Part of what we were doing was corroborate what the tip-
4 ster gave. We went to the location of where they said it was,
5 2 or 1 Gunner Circle. We went there to see if we could
6 view it from the roadway and common areas, to see if that ve-
7 hicle was where the tipster said it was, and it was.

8 Also something we would do was check the motor vehicle
9 records, and we had the name of Craig Caughman so we were able
10 to search motor vehicle records to see that he did in fact own
11 a Ford Ranger.

12 We also checked property records and found out actually
13 where he lived, which was 1 Gunner Circle. So everything
14 was consistent that was told us at that point.

15 We were able to corroborate it.

16 Q. All right. Is a Crimestoppers' tip considered to be any-
17 mous?

18 A. Yes, it is. They are.

19 Q. For the purpose of this proceeding, can you tell us whe-
20 ther or not you are aware who made the Crimestoppers' tip?

21 A. Yes, I was aware.

22 Q. Who is that person?

23 A. Lawrence Gilbert or Danny Gilbert.

24 Q. That would be someone who testified previously in this
25 case?

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1 A. That's correct.

2 Q. You mentioned that efforts were made to determine the
3 property. Were you able to confirm anything with the Depart-
4 ment of Motor Vehicles?

5 A. Only that he did in fact currently own at that time a
6 Ford Ranger pickup truck, and that this property record had
7 the address of 1 Gunner Circle.

8 What kind of interested me was that a few days later he
9 had bought a -- just a few days after the initial accident I
10 was investigating or just a few days after the accident he
11 had purchased another vehicle.

12 Q. And you received that information from the Department
13 of Motor Vehicles as well?

14 A. Yes, that he had purchased a new vehicle. That's cor-
15 rect.

16 Q. You mentioned before about actually going near the prop-
17 erty. Did you take part in that yourself?

18 A. I did.

19 Q. Okay, what information did you obtain, vehicle-wise, to
20 corroborate the Crimestoppers' tip?

21 A. I did see a vehicle that appeared to be consistent with
22 a Ford Ranger, a pickup truck with a cover over it, that was
23 parked in the back behind a shed.

24 Q. Ultimately, were you present for the execution of the
25 search warrant?

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1 A. I was initially, right.

2 Q. And are you aware that the State Law Enforcement Di-
3 vision was also present for execution of that search warrant?

4 A. That's correct. It was Mark Robinson.

5 Q. And upon obtaining lawful entry on those premises, can
6 you tell us whether a Ford Ranger vehicle was taken into cus-
7 tody by the Cayce Department of Public Safety?

8 A. That is correct.

9 Q. And it was stored in your facility?

10 A. That is correct.

11 Q. Now, how did you all go about making arrangements for
12 the State Law Enforcement Division to take paint samples off
13 the car?

14 A. We actually contacted the State Law Enforcement Division
15 and they put me in touch with the analyst person who would
16 come take samples from the truck, and I believe their crime
17 scene people actually came to our Department to obtain the
18 samples from the truck.

19 Q. And can you tell us whether or not that was done under
20 controlled measures?

21 A. Yes, it was. It was taken to our Department and put in
22 a fire bay as was said earlier. We were able to secure it by
23 locked doors and everything else, so no one could get access
24 into that area.

25 Q. All right, and the SLED agents took the samples, and

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1 tell us whether or not these were actually analyzed?

2 A. By their people it was.

3 Q. And they took the samples themselves?

4 A. I believe both of them they took.

5 Q. Any items that were not taken immediately by SLED, were
6 they taken to the State Law Enforcement Division for analysis?

7 A. I think any samples he took with him. I'd have to look
8 at my notes.

9 (Brief pause in proceeding)

10 Yes, maam. Their crime scene man came to Cayce and pro-
11 cessed the truck.

12 Q. And were you present for these events?

13 A. Yes, maam.

14 Q. And did anyone tamper with any of the samples in any way?

15 A. No, maam.

16 Q. Now, you mentioned the actual transport of the motorcy-
17 cle to SLED from Cayce. How did it get to SLED?

18 A. I pulled it behind my vehicle.

19 Q. Let me show you some photographs and ask you if you recog-
20 nize these?

21 A. Yes, maam.

22 Q. And what is depicted in the photographs?

23 A. This is the actual trailer that the motorcycle was trans-
24 ported in that I was talking about. I pulled the trailer be-
25 hind my vehicle.

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1 Q. And you were present for that?

2 A. Yes, maam.

3 Q. And are these photographs a fair and accurate representa-
4 tion of the motorcycle that was taken to the State Law En-
5 forcement Division?

6 A. Yes, maam.

7 SOL. MAYES: At this time, we would offer these for evi-
8 dence, Your Honor.

9 THE COURT: Mr. Floyd, any objection?

10 MR. FLOYD: There is no objection.

11 THE COURT: All right, they're admitted.

12 (Photographs admitted in evidence without objection as
13 State's Exhibit 42 through 46)

14 BY SOL. MAYES:

15 Q. Showing you State's Exhibit 42, can you tell us what
16 we're looking at?

17 A. We're looking at the rear left side of the enclosed
18 trailer.

19 Q. And this one?

20 A. We're looking at the rear of the trailer with the doors
21 open.

22 Q. And this particular photo?

23 A. Looking at a latch that is secure on the trailer with the
24 evidence tape and a padlock.

25 Q. And the initials there, whose initials are those?

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- 1 A. That's my initials.
- 2 Q. E L P?
- 3 A. E L P.
- 4 Q. Okay, and this red tape was placed by who?
- 5 A. By SLED.
- 6 Q. Okay, and was the motorcycle transported to the State
- 7 Law Enforcement Division for evidence collection?
- 8 A. Yes.
- 9 Q. How many times?
- 10 A. I believe two times.
- 11 Q. And the date of 5 4 11, was that the first analysis or
- 12 the second one?
- 13 A. The 5 4 would have been a re-submission.
- 14 Q. All right, and throughout the time the evidence was at
- 15 the law enforcement division and when it went back and forth
- 16 to the Law Enforcement Division, can you tell us whether or
- 17 not security measures were maintained?
- 18 A. Yes, they were.
- 19 Q. And the evidence was returned?
- 20 A. Yes, maam.
- 21 Q. And you observed when that was done?
- 22 A. Yes, maam.
- 23 Q. Was the motorcycle ever tampered with or altered in any
- 24 way on the first submission or the second submission?
- 25 A. No, it was not.

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1 Q. Now, there has been testimony about when the truck was
2 recovered that it was missing the passenger side door.

3 Detective Pereira, what, if any, efforts were undertaken
4 to try to locate those doors?

5 A. We attempted to locate the doors, and one of the things
6 that I did was I actually went to the Lexington County Waste
7 Management.

8 Q. Was that in an attempt to determine whether or not they
9 may still be at the dump if they had been removed in February?

10 A. That's correct. We checked to see whether they might be
11 possibly still at that recycling center. Unfortunately, they
12 said that they can't . .

13 MR. FLOYD: Objection.

14 THE COURT: Sustained.

15 BY SOL. MAYES:

16 Q. Don't go into that, but were you able to recover any evi-
17 dence in May that may have been put in the recycling center
18 in February?

19 A. No, we were not.

20 Q. And in addition to that, can you tell us if other efforts
21 were taken by you or other members of law enforcement to find
22 where the doors might be?

23 A. I want to say other officers went on the property and
24 looked at other areas of the ground that were possibly dis-
25 turbed that would have been like dug up and something like

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1 doors could have been put in.

2 We did notice a couple of areas on the ground that had
3 been disturbed.

4 Q. And State's Exhibit 20, are you familiar with that?

5 A. I am.

6 Q. All right, and did these aerial views take place before
7 -- the aerial helicopter views taken before or after you were
8 at the property on May 5th?

9 A. I believe it was after. Let me check.

10 (Brief pause)

11 Yes, maam, that would have been after. It was May 14.

12 Q. All right. So approximately nine days later these aerial
13 photos would have been taken?

14 A. That's correct.

15 Q. Were you on the helicopter yourself?

16 A. Yeah, I was the one taking them.

17 Q. So these were taken by you?

18 A. Yes.

19 Q. And this was where the truck was behind the shed that was
20 taken by law enforcement?

21 A. That's correct.

22 Q. Now, what, if any, follow-up was done in terms of the
23 possibility that the doors might be located after being bur-
24 ied or something of that nature?

25 A. Another search warrant was signed for the property, and

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1 we wanted to possibly see if the doors had been buried on the
2 property.

3 Q. Was there ever any firm indication that they had been
4 buried on the property?

5 A. The only word that we received was it was possible the
6 doors could have been buried.

7 Q. Did you ever find any indication that the ground was dug?
8 Any location where the doors may have been?

9 A. No, maam.

10 Q. So you were never able to recover the door of the ve-
11 hicle?

12 A. No, maam, we was not.

13 Q. Now, going back to the Crimestoppers' tip, May 5, 2010,
14 can you tell us whether or not you ever received any inform-
15 ation about the use of a debit card?

16 A. Yes, and in the tip it did state that Mr. Craig Caughman
17 had used his credit card at the Hard Knocks Grill that night
18 in question.

19 Q. Before you got the Crimestoppers' tip on May 5, 2010,
20 did law enforcement have any information that the Hard Knocks
21 Grill was involved at all?

22 A. No, maam.

23 Q. Was it ever a location that a suspect may have been?

24 A. No, maam.

25 Q. So receiving this information on May 5, 2010, what did

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1 you do to corroborate the information from the Crimestopper
2 tip, or what did law enforcement do?

3 A. Contact was made with management of Hard Knocks Grill
4 to see if, in fact, Mr. Caughman's card had been used there.

5 Q. And ultimately did you obtain records from the Hard Knocks
6 Grill and have copies made?

7 A. Yes, I did.

8 Q. And did that confirm the last four digits of the credit
9 card?

10 A. That's correct.

11 Q. What efforts were made after the execution of the search
12 warrant to actually locate Mr. Caughman and attempt to inter-
13 view him?

14 A. After the execution of the search warrant on May 5th of
15 2010 myself and Agent Robinson went to where the suspect, Mr.
16 Caughman, was working at the time, and made contact with him.

17 Q. And that was for what purpose?

18 A. To see if we could interview him.

19 (Brief pause in the proceeding. Conference at the bench
20 between counsel and the Court)

21 THE COURT: Ladies and gentlemen, we're going to break
22 now for the day. I'll ask you to be back at nine thirty to-
23 morrow morning.

24 Do not discuss the case.

25 Have a nice evening.

1 (Jury excused for the day at 5:20 P.M.)

2 THE COURT: All right, you may step down.

3 (Witness Pereira excused from the stand)

4 THE COURT: All right, I understand there are some mat-
5 ters we need to take up.

6 SOL. MAYES: Yes, Your Honor. We have completed the
7 redaction we have talked about previously, and we will need
8 to take that up.

9 THE COURT: All right. We'll take about ten minutes
10 and then take them up.

11 Thank you very much.

12 (Whereupon, the Court took a brief recess, after which
13 the matter was resumed)

14 THE COURT: All right, what do we need to take up?

15 SOL. MAYES: I am still conferring with Mr. Floyd on
16 this.

17 THE COURT: Let me know when you're ready.

18 SOL. MAYES: There is another part we need to take up,
19 I believe.

20 THE COURT: All right.

21 (Recess continued, after which the matter continued)

22 THE COURT: Are you ready?

23 SOL. MAYES: Not quite, Your Honor.

24 (Brief pause)

25 SOL. MAYES: Yes, we are ready, Your Honor.

1 THE COURT: What do you have?

2 SOL. MAYES: Your Honor, we have made an agreement as
3 to a redaction in the document that has been the subject
4 of the objection.

5 We are now in the process of making copies of that to
6 give to Mr. Floyd.

7 THE COURT: Is that correct, Mr. Floyd?

8 MR. FLOYD: Yes, Your Honor.

9 THE COURT: All right. Then I will see you all in
10 the morning.

11 SOL. MAYES: What time, Your Honor?

12 THE COURT: Nine thirty.

13 (Whereupon, the Court stood in recess for the
14 evening)

15 (The case was resumed on May 22, 2013)

16 TRANSCRIPTION NOTE: The first few minutes of the
17 audio disc was blank. The audio began with Detective E.
18 Pereira having resumed the witness stand, with the jury all
19 present in the Courtroom)

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1 EDWARD PEREIRA, having been
2 previously sworn, continued testifying:

3 DIRECT EXAMINATION RESUMED

4 BY SOL. MAYES:

5 Q. Detective Pereira, I believe where we left off, there
6 was mention that you had taken efforts to make actual per-
7 sonal contact with the Defendant in this case, William Craig
8 Caughman. Is that correct?

9 A. That's correct.

10 Q. All right, and would you state whether or not you were
11 able to interview Mr. Caughman?

12 A. I was.

13 Q. And where was that interview conducted?

14 A. At the Cayce Police Department.

15 Q. And on what date?

16 A. That would have been on the 5th -- 5 5 of 2010.

17 Q. All right, and that's the same day the search warrant
18 was executed you previously spoke of?

19 A. That's correct.

20 Q. And you already had certain knowledge and informa-
21 tion, having been on the premises of the Defendant's resi-
22 dence that day?

23 A. That's correct.

24 Q. And you mentioned the interview took place at the Cayce
25 Department of Public Safety. Can you tell us whether or

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1 not Mr. Caughman voluntarily agreed and came to this inter-
2 view?

3 A. He did.

4 Q. How do you go about advising someone of their rights,
5 their Miranda Rights, before conducting an interview?

6 A. We have a form that we actually fill out and have peo-
7 ple agree to them as well as having them sign, saying that
8 they understand their Miranda Rights and are willing to
9 speak to us without an attorney present.

10 I show you a document and ask you whether or not you
11 recognize this document?

12 A. I do.

13 Q. All right.

14 A. It's the document that I was talking about that is an
15 advisement of rights by the Defendant.

16 Q. All right, and do you recognize it because it has your
17 signature as well?

18 A. That's correct.

19 Q. All right.

20 A. My signature is on there.

21 Q. Does it also have the date?

22 A. It does.

23 Q. What is that date?

24 A. Five 5 of 10.

25 Q. All right, and can you tell us whether or not that is

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1 the original waiver of Miranda Rights that you
2 provided yourself to Mr. Caughman on May 5th of 2010?

3 A. Yes, maam, it is.

4 SOL. MAYES: The State would enter the State's Exhibit
5 47 in evidence.

6 THE COURT: All right. Do you have any objection to
7 this, Mr. Floyd?

8 MR. FLOYD: No objection.

9 THE COURT: It's admitted.

10 (Miranda Rights form admitted in evidence without ob-
11 jecton as State's Exhibit 47)

12 BY SOL. MAYES:

13 Q. Now, looking at State's Exhibit Number 47, Detective
14 Pereira, can you tell us whether or not Mr. Caughman per-
15 sonally acknowledged that he understood each of his Miranda
16 Rights when you advised him of them?

17 A. That is correct. On the form we have a specific spot
18 where they initial beside each individual right as we read
19 them to them.

20 Q. And was he aware of what he was being questioned about
21 in terms of this specific incident?

22 A. That is correct.

23 Q. Okay.

24 A. It is also written at the bottom, leaving the scene
25 of an accident.

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1 Q. All right. Now, if you could, please read slowly
2 enough for the Court Reporter to follow along.

3 Read into the record the actual Miranda Rights which
4 were advised to Mr. Caughman by you on May 5th of 2010?

5 A. Yes, maam. It says, I have the right to remain silent;
6 that means that I do not have to say anything or answer
7 any questions.

8 That anything I say can be used against me in a Court
9 of Law.

10 That I have the right to talk to a lawyer and to have
11 a lawyer with me now and to advise me before and during
12 questioning.

13 That if I want to have a lawyer with me before and dur-
14 ing questioning but cannot afford to pay for a lawyer, one
15 will be provided for me at no cost before and while I am
16 questioned.

17 That if I decide to answer questions now without a
18 lawyer here, I still have the right to stop --
19 I still have the right to stop answering questions whenever
20 I want to.

21 I also have a right to stop answering questions until
22 I talk to a lawyer.

23 Q. All right, and ultimately did Mr. Caughman waive his
24 Miranda Rights?

25 A. Yes.

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1 Q. And he agreed to speak with you on May 5th?

2 A. That is correct. He did.

3 Q. Now, at any point during the interview, was Mr.
4 Caughman threatened or coerced as he was participating in
5 the interview?

6 A. No, he was not.

7 Q. And was he promised anything in exchange for his par-
8 ticipating in the interview?

9 A. No, he was not.

10 Q. And did he appear to understand the questions that
11 were posed to him?

12 A. Yes, he did.

13 Q. And did he participate with you?

14 A. Yes, he did.

15 Q. He agreed to speak with you during the interview and
16 participate with you?

17 A. Yes, he did.

18 Q. Based upon your observations as you saw him
19 on that day, tell us whether or not he appeared to voluntar-
20 ily waive his Miranda Rights?

21 A. It appeared that he did.

22 Q. And in terms of the interview, can you tell us whether it
23 was audio-supported while you were with him ther?

24 A. Yes, it was.

25 Q. And have you had a chance to review the audio?

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1 A. That's correct.

2 Q. Whose voices are heard on the audio?

3 A. It will be myself. It will be SLED Agent Mike Robinson,
4 and it will be the Defendant, William Craig Caughman.

5 Q. Agent Mike Robinson of the State Law Enforcement Division?

6 A. That is correct.

7 Q. Is that the SLED Agent who was here in the Courtroom to-
8 day?

9 A. Yes, maam, I believe so.

10 Q. And does Agent Robinson remain in the Courtroom?

11 A. Yes, he is.

12 Q. Let me show you a CD and ask you whether or not you have
13 had the opportunity -- you had the opportunity to convert the
14 audio recording to the format of the CD?

15 A. That is correct.

16 SOL. MAYES: Your Honor, at this time we would offer the
17 audio portion of State's Exhibit Number 48.

18 MR. FLOYD: May we approach?

19 THE COURT: You may.

20 (Conference at the bench between counsel and the Court
21 off the record)

22 SOL. MAYES: Your Honor, at this time we would ask permission
23 to publish the CD.

24 (Whereupon, the audio from the CD which is State's Exhi-
25 bit 48 in evidence was played for the jury)

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1 THE COURT: Would you approach for a minute?

2 (Conference at the bench between counsel and the Court
3 off the record)

4 THE COURT: Okay.

5 BY SOL. MAYES:

6 Q. Detective Pereira, during the course of that interview
7 there was mention of the Defendant's father. What is his
8 name?

9 A. I believe his first name is Robert.

10 Q. All right. Can you tell us whether the Defendant's fa-
11 ther was a suspect at some point in time as an accessory to
12 this crime?

13 A. Yes, he was a suspect.

14 Q. And when the vehicle was stored behind the shed, whose
15 actual property was that on?

16 A. That's the father.

17 Q. And was the father ever charged with being an accessory?

18 A. No, he was not.

19 Q. Was he charged with anything in connection with this
20 case?

21 A. No, he was not.

22 Q. Now, one of the things that is discussed during the
23 audio is -- your term, I believe, was hacking the floorboard
24 out. What is significant about that based on that conver-
25 sation?

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1 A. When I was talking about hacking the floorboard, I
2 mean that you could see on each side when he was cutting with
3 the electric saw was -- it jerks up and down when it cuts,
4 in sort of a jagged cut, and it is not something that a man
5 could easily weld parts back into, and to think somebody may
6 be attempting to cut a piece out and put another piece in
7 the cuts would have been very straight and definitely at an
8 angle of some sort.

9 These cuts were very jagged. It was like the metal is
10 almost bent up and back to try to get that piece out.

11 Q. During the course of the interview, you mentioned the
12 saw and (inaudible). What were you referring to?

13 A. The actual (inaudible) that is mentioned is a saw that
14 had a blade on the end of it, and the motor inside basically
15 takes that blade back and forth real quick.

16 Q. Is that the saw we saw photographs of yesterday that
17 was actually out there when you went with the search warrant?

18 A. That's right.

19 Q. I show you a photograph and ask you if you recognize
20 what is shown in the photograph?

21 A. I do.

22 Q. What is shown in that photograph?

23 A. That is the rear portion of the passenger side of the
24 vehicle, the floorboard section of it.

25 Q. Let me stop you right there. Can you tell us whether

E. PEREIRA ON DIRECT

1 or not that is a fair and accurate representation of the ve-
2 hicle as you recall seeing it in May of 2010?

3 A. That's correct.

4 SOL. MAYES: Your Honor, at this time we would move
5 this photograph as I believe Exhibit 49.

6 THE COURT: Any objection?

7 MR. FLOYD: If I could look at it?

8 (Brief pause)

9 MR. FLOYD: Same objection as previously stated, Your
10 Honor.

11 THE COURT: It's admitted over objection.

12 (Photograph admitted over objection in evidence as
13 State's Exhibit 49)

14 BY SOL. MAYES:

15 Q. Now, Detective Pereira, if you could expound on what
16 you said before about hacking away the floorboard?

17 A. You can see that when it is cut into there is no uni-
18 form cut strain, as if somebody was maybe preparing to re-
19 place a piece. It looked like it was in a hurry, and you
20 can see the angle continues to keep changing.

21 I don't know if that would be from rush or what, but
22 the angle continuing to change would make the repair of the
23 vehicle extra difficult.

24 Q. Now, there was some mention of a video from Hard Knocks.
25 Were you ever able to actually locate any video from any

E. PEREIRA ON DIRECT

1 place other than the UHaul video?

2 A. No, I was not able to obtain video from Hard Knocks.

3 Q. And physically, in terms of the video from the UHaul
4 area location, there was mention in the course of your in-
5 terview with the suspect that there was a left turn. What,
6 if anything, were you referring to?

7 A. I was talking about the left turn -- the actual Ranger
8 turned left off of Knotts-Abbott Drive onto Ninth Street.

9 Q. Is that actually visible on the video?

10 A. No, it's not.

11 Q. All right, that not being visible, what led you to that
12 or to mention that during the course of your contact?

13 A. . .

14 Q. What led you to that conclusion?

15 A. The damage to the vehicle the back of the vehicle was
16 struck on would be consistent with the vehicle hitting the
17 motorcycle -- making an impact with the passenger side of the
18 vehicle.

19 Being that I could see two portions of the intersection
20 -- I could see the other section of Ninth and also I could
21 see the section of Knotts-Abbott leading back toward Columbia.

22 I came to that conclusion that the vehicles were either
23 both on -- one was on Knotts-Abbott and the other one was on
24 -- if both vehicles were on Knotts-Abbott, one turning, it
25 would make the damage there from what I was able to determine.

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1 Q. With that scenario, the Defendant's vehicle leaving Hard
2 Knocks and turning left onto Ninth Street, can you tell us
3 whether or not that would essentially cause damage to the
4 passenger side of that vehicle?

5 A. That's correct.

6 Q. And if you could step down briefly concerning this parti-
7 cular Exhibit, which is State's Exhibit 4, what are we look-
8 ing at here?

9 A. You're looking at Knotts-Abbott Drive here and Ninth
10 Street here.

11 Q. Now, there has been testimony before about Knotts-Abbott
12 and the Hard Knocks Grill. Where is the Hard Knocks Grill
13 in the picture?

14 A. It is there.

15 Q. All right, and if you are right there and someone comes
16 out of the parking lot and then turns onto Knotts-Abbott head-
17 ing toward Ninth, which direction would that be?

18 A. Here and right on down this way.

19 Q. All right, and this would be the intersection of Ninth
20 and Knotts-Abbott?

21 A. That's right.

22 Q. And the UHaul video was at an angle showing this inter-
23 section, here at Ninth and Knotts-Abbott?

24 A. Correct.

25 Q. And based on your scenario of someone turning left, can

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1 you show us how that would occur?

2 A. If you travel in this direction and turn left here,
3 (portion inaudible) the passenger side of the vehicle.

4 Q. And can you tell us based on your observation of the
5 vehicle and what we saw on the video, whether that was con-
6 sistent with a motorcycle traveling here and heading this
7 way?

8 A. That's correct.

9 Q. And in that scenario, who would have the right of way?

10 A. The motorcycle would have the right of way instead of
11 the vehicle.

12 Q. All right. Now, briefly, there was a portion of your
13 interview where you discussed that -- a question about how
14 he would have left the Hard Knocks Grill, is that right?

15 A. That's right.

16 Q. And there was discussion about construction in the area,
17 and why is that significant?

18 A. The actual lane of travel going through was shut down
19 for a period of time so you would have to take a different
20 path.

21 Q. Are you able to locate Knotts-Abbott Drive on this map?

22 A. . . .

23 Q. Now, in terms of Knotts-Abbott Drive, where is Ninth
24 Street on the map?

25 A. Here.

E. PEREIRA ON DIRECT

1 Q. So where approximately is Hard Knocks located on the
2 map?

3 A. Right about here.

4 Q. Show us what would be the most likely -- the most appro-
5 priate -- would Ninth Street be the best route to Gunner Cir-
6 cle?

7 A. Probably so and especially with the construction going
8 on (portion inaudible).

9 Q. So from Knotts-Abbott then Ninth Street would be the
10 closest route to Gunner Circle?

11 A. Yes, maam.

12 Q. Thank you. Take your seat.

13 Now, also during the course of the interview, you asked
14 Mr. Caughman about his use of the debit card. Correct?

15 A. Yes, maam. that is correct.

16 Q. And during the course of the interview, you actually
17 asked him if the credit card remained in his possession?

18 A. Correct.

19 Q. Did he comply with that?

20 A. Yes, he did.

21 Q. Did he actually show you the credit card?

22 A. Yes.

23 Q. Let me show you a document and ask whether or not you
24 recognize it and what's in the document?

25 A. Yes, these are my handwritten notes.

E. PEREIRA ON DIRECT

1 Q. Those are notes you took at what point in time?

2 A. During the interview.

3 Q. During the interview with Mr. Caughman?

4 A. Yes, maam.

5 Q. Notes you made while you were having this discussion?

6 A. Correct.

7 Q. And did you have occasion during the interview to record
8 the last four digits of the credit card?

9 A. I did. I recorded that from the credit card shown to
10 me by Mr. Caughman.

11 Q. Can you tell us whether or not you documented these num-
12 bers in connection with the credit card you had in your pos-
13 session?

14 A. I documented them from the card he had on him at the time.

15 Q. What type of card did you use to document it?

16 A. I documented a debit card with the last four being seven
17 two five four.

18 Q. So the card had 7254 as the last digits, the actual card
19 he had in his possession?

20 A. Yes.

21 Q. And this was on May 5, 2010?

22 A. That's correct.

23 Q. Now, were you also present for the autopsy of Mr. Morris
24 in this case?

25 A. Yes.

E. PEREIRA ON DIRECT

1 Q. And did you have the opportunity to talk with the path-
2 ologist in this case?

3 A. I did.

4 Q. Now, ultimately when was Mr. Caughman arrested?

5 A. On the 17th.

6 Q. Of what month?

7 A. I'm sorry -- May 17th of 2010.

8 Q. All right. So you interviewed him on May 5th of 2010,
9 twelve days prior to arrest?

10 A. That's correct.

11 Q. And what charge was he arrested for?

12 A. Leaving the scene of an accident involving death and
13 obstruction of justice.

14 Q. All right, and those were the only charges against him?

15 A. That is correct.

16 Q. And those are the charges he faces today?

17 A. That's correct.

18 Q. Now, I want to talk briefly -- yesterday there was some
19 testimony about how evidence was sealed and transported for
20 testing. I specifically want to ask you about the paint
21 chips or paint samples that were actually taken from the
22 truck.

23 Were you the person at the Cayce Department of Public
24 Safety who actually took the actual paint chips to the
25 State Law Enforcement Division?

E. PEREIRA ON DIRECT

1 A. I was.

2 Q. You were the person who actually took the paint samples
3 to SLED?

4 A. I was.

5 Q. And that was to Agent Michael Moskal at SLED?

6 A. That's correct.

7 Q. And those items -- tell us whether those items were sealed?

8 A. That is correct.

9 Q. And once SLED was done with the initial analysis, were the
10 items returned to the Cayce Department of Public Safety?

11 A. They were. That's correct.

12 Q. Were they sealed at that time?

13 A. Yes, they had been unsealed and then sealed back and were
14 brought back for evidence.

15 Q. And did you have an opportunity to resubmit those paint
16 chips for further analysis in May of 2011?

17 A. That's correct.

18 Q. And they remained sealed at that time?

19 A. Yes, maam.

20 Q. If there had been any change or alteration or tampering,
21 how would you know?

22 A. Because the seal would have been broken.

23 Q. And when you returned these items to the Cayce Depart-
24 ment of Public Safety, were the seals intact?

25 A. Yes, ma.

E. PEREIRA ON DIRECT

1 Q. Detective Pereira, at any point in time is there any
2 evidence that William Craig Caughman returned to that scene
3 on February 21, 2010, and provided information such as his
4 name, insurance provider?

5 A. No, maam.

6 Q. What jurisdiction would that be if an accident occurred
7 at Knotts-Abbott and Ninth Street?

8 A. That's in the jurisdiction of the City of Cayce.

9 Q. In Lexington County?

10 A. That is correct.

11 Q. All right. Now, specifically about your discussion of
12 the saw marks on what was removed, the doors, from the truck
13 taken at Gunner Circle, tell us where that was again?

14 A. In Lexington County.

15 SOL. MAYES: Beg the Court's indulgence.

16 (Brief pause in proceeding)

17 SOL. MAYES: Nothing further, Your Honor.

18 THE COURT: Mr. Floyd.

19 MR. FLOYD: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. FLOYD:

22 Q. Detective Pereira, you testified that there was con-
23 struction in the area as you described. Were all four lanes
24 involved in the construction?

25 A. The right ones.

E. PEREIRA ON CROSS

1 Q. But there were lanes going both ways on Twelfth Street,
2 weren't there?

3 A. I do not recall how much of it was blocked. I know that
4 at some point in time both lanes were blocked and one lane
5 of travel for one direction and then the other travel direc-
6 tion at some point in time. Both lanes were replaced.

7 Q. But there was always traffic on both lanes, was there
8 not?

9 A. I'd believe so. I'm sure it was.

10 Q. Was that the main thoroughfare from West Columbia?

11 A. Yes, it is.

12 Q. And it still is, isn't it?

13 A. Yes, it is.

14 Q. So it has always been lanes going both ways on Twelfth
15 Street? Is that correct?

16 A. I'm not sure about that time frame.

17 Q. At any time, one lane of traffic was not open?

18 A. I'm not saying any time. No, sir.

19 Q. It wasn't always open, was it?

20 A. I can't say.

21 Q. You told the jury Twelve Street was blocked, I think,
22 didn't you?

23 A. I do remember portions of time it was blocked at some
24 point. I know there was construction on it. At certain points
25 in time I had to drive through there, and I knew I had to

E. PEREIRA ON CROSS

1 change course a couple of times.

2 Q. Did you tell the jury that on February 21st of 2010
3 Twelfth Street was blocked?

4 A. That's correct.

5 Q. And was it?

6 A. To the best of my knowledge.

7 Q. So on February 21st you checked it out, and Twelfth
8 Street was blocked?

9 A. I'm telling you that during that time Twelfth Street
10 was under construction.

11 Q. And you are saying it was blocked?

12 A. Yes, sir.

13 Q. And all the traffic was one way?

14 A. I think at times it was but I do not know that, sir.

15 Q. Did you mean to imply to the jury that, that it was?

16 A. . . .

17 Q. You didn't know, did you?

18 A. I was aware of construction during that time.

19 Q. In fact, Twelfth Street was in a closed position when
20 you drove from Hard Knocks Cafe to Gunner Circle?

21 A. Yes, sir.

22 Q. Now that, going in that direction, was the best way to
23 go?

24 A. Yes, sir.

25 Q. Okay. Now, you told Mr. Caughman that you had a video

E. PEREIRA ON CROSS

1 from the Hard Knocks Cafe?

2 A. Yes, sir.

3 Q. Did you not?

4 A. Yes, sir.

5 Q. And that wasn't true, was it?

6 A. No, sir. On that same day we actually spoke then
7 with the Hard Knocks Grill about the receipt and retrieved
8 the actual receipt that we have.

9 Q. When was that?

10 A. That same day.

11 Q. But you hadn't gotten a video?

12 A. I had knowledge of it.

13 Q. And you told him you had the video?

14 A. Yes, sir, and it had been stated it showed the intersec-
15 tion.

16 Q. Did you say it showed him coming out?

17 A. Yes, sir.

18 Q. But that wasn't true, was it?

19 A. No, sir.

20 Q. Now, are there specialists in accident reconstruction
21 called the RAD team?

22 A. Yes, it is.

23 Q. And tell the jury what the RAD team is?

24 A. It the South Carolina Highway Patrol. It's a team that
25 what their primary job is is in reconstructing accidents

E. PEREIRA ON CROSS

- 1 after they have occurred.
- 2 Q. And did that team come to this accident?
- 3 A. Yes, they did.
- 4 Q. They are professionals in looking at accident scenes?
- 5 A. Yes, sir.
- 6 Q. And did you confer with them?
- 7 A. I talked to them about the scene, yes.
- 8 Q. Now, I think you testified that you actually went to
- 9 see Mr. Morris at the hospital?
- 10 A. Yes, sir.
- 11 Q. How soon after the accident did you go talk to him?
- 12 A. I believe it was that Wednesday or Thursday, the fol-
- 13 lowing week.
- 14 Q. And at that time was he coherent?
- 15 A. Yes, sir, he appeared to be. He was coherent. He
- 16 was talking to me.
- 17 Q. And he was supposed to be released soon?
- 18 A. I know he was talking something about it.
- 19 Q. Now, when you first -- you did not respond to the scene
- 20 scene on the night the accident happened?
- 21 A. No, sir.
- 22 Q. Okay.
- 23 A. I was not notified.
- 24 Q. You came in later to follow up on what happened?
- 25 A. Yes, sir.

E. PEREIRA ON CROSS

1 Q. Now, in connection with that, did you interview the
2 witnesses who gave their names?

3 A. Yes, sir.

4 Q. Did you interview Mr. Kevin Wise?

5 A. Yes, sir, I did.

6 Q. And Mr. Wise was the individual who stopped at the
7 scene to give assistance?

8 A. Yes, sir.

9 Q. And he's the man who talked about the Ford Crest?

10 A. Yes, sir.

11 Q. Basically he said that he was turning right off of
12 Twelfth Street and then this vehicle cut him off. He saw a
13 collision and turned around and went back?

14 I think he said he cut him off after he turned around
15 there, is that right?

16 A. Yes, sir, he said he was looking back at it and that
17 he . .

18 Q. Okay.

19 A. He said to the best of his knowledge and looking back
20 at it.

21 Q. Now, do you have expertise in automobile body work?

22 A. Automobile body work? No, I do not.

23 Q. So you are just speculating as to what you saw as to
24 cuts in the truck?

25 A. I have boxed up personally -- have done several vehicles.

E. PEREIRA ON CROSS

1 I do not have any license nor am I a professional by any
2 means.

3 Q. Thank you. No further questions.

4 REDIRECT EXAMINATION

5 BY SOL. MAYES:

6 Q. Now, one of the things that Mr. Floyd was just asking
7 you about was the interviewing techniques that you used in
8 having the interview with Mr. Caughman.

9 Have you had any training in that aspect of investiga-
10 tion?

11 A. Yes, I have.

12 Q. All right, and what are some interview techniques that
13 are used?

14 A. That we try to produce as much information or obtain
15 as much information as we can before we start to interview
16 somebody.

17 We try to know as much as we can about the incident
18 before we interview him, and you see first what they are
19 willing to offer or what is the story or alibi that they
20 want to give you at that time.

21 Then you introduce them into what you have as evidence
22 and everything else to try to get them to give the actual
23 truth about what happened.

24 Q. All right, and is this true in terms of your interview
25 with Mr. Caughman?

E. PEREIRA ON REDIRECT

1 A. Yes.

2 Q. What are some of the interview techniques you utilized
3 with reference to this case with Mr. Caughman?

4 A. It was to lead him with a little bit of defense, such
5 as saying that you could see the truck on the video as it
6 turned or something like that, to see if he will go ahead
7 and admit it at that time -- say, yes, it was me or what
8 answer he gives me or whatever.

9 Q. Can you tell us whether that is a common or uncommon
10 interview technique as a trained law enforcement officer?

11 A. Yes, it is common.

12 Q. Now, in addition, Mr. Floyd was asking you about some
13 information given you by a possible witness who was near
14 the scene, is that correct?

15 A. That is correct.

16 Q. And I believe the reference was to a Ford Crest?

17 A. That is correct.

18 Q. Is a Ford Crest a Ford?

19 A. Yes, it is. That's correct.

20 Q. And the truck given was incorrect?

21 A. Yes, maam.

22 Q. Now, following that were you able to go back and review
23 it to see whether that possible witness' account of seeing
24 a subject vehicle was consistent with what you already had
25 knowledge of?

E. PEREIRA ON REDIRECT

1 A. The damage was inconsistent with what the witness had
2 said happened.

3 Q. And during your investigation what information did
4 you receive from the Hard Knocks Grill?

5 A. The manager there produced a credit card receipt.

6 Q. At what point were they made available to the Cayce De-
7 partment of Public Safety?

8 A. We spoke to the manager and he produced what was used
9 on February 21st.

10 Q. Nothing further.

11 THE COURT: Any Recross, Mr. Floyd?

12 MR. FLOYD: Yes, sir.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. So it is accepted procedure for the police to lie?

16 A. Yes, sir, to use some sort of deception.

17 Q. To lie, in other words?

18 A. Yes, sir.

19 Q. Nothing further.

20 THE COURT: You may step down.

21 (Witness excused from stand)

22 THE COURT: Before we go further, I want to appoint Mr.
23 Grammar the Foreperson of the jury. If you would be seated
24 in the Foreperson's seat there. If you would always sit in
25 that chair.

1 The Foreperson is the spokesperson of the jury and will
2 preside over jury deliberations. He will have no greater
3 vote than any other person on the jury.

4 Let's take about ten minutes at this time. Please
5 take the jury out."

6 Do not discuss the case.

7 (Jury excused from Courtroom)

8 (Whereupon, the Court took a brief recess, after which
9 the matter was continued)

10 THE COURT: Thank you. Be seated.

11 Are you ready for the jury?

12 SOL. MAYES: Yes, sir, Your Honor.

13 THE COURT: Bring them in.

14 (Jury returned to Courtroom)

15 THE COURT: Call your next witness.

16 SOL. MAYES: The State calls Doctor Elizabeth Jane
17 Moffatt.

18 ELIZABETH JANE MOFFATT, being
19 duly sworn, testified as follows:

20 CLERK: Please have a seat and when you are seated if
21 you would state your name for the record, spelling your last
22 name.

23 WITNESS: My name is Elizabeth Jane Moffatt.

24 DIRECT EXAMINATION

25 BY SOL. MAYES:

E. MOFFATT ON DIRECT

1 Q. Dr. Moffatt, if you would pull the mike a little more
2 toward you.

3 A. Is that better?

4 Q. Yes. Now, would you tell us a little bit about your-
5 self? Where are you employed and in what capacity?

6 A. I am a full time pathologist at the Lexington Medical
7 Center. I'm with Pathology Associates.

8 Q. So you are a pathologist, and what can you tell us
9 about your educational background and training that led you
10 to that position?

11 A. I've been at Lexington for fifteen years full-time,
12 and I attended medical school at East Tennessee State Uni-
13 versity in Johnson City, Tennessee.

14 I did my pathology residency at Duke University in
15 Durham, and that is a five year residency in pathology in-
16 volving anatomic and clinical pathology.

17 I am board certified in both of those areas, and then
18 I did a sixth year fellowship, also at Duke University, and
19 I am board certified in that as well.

20 Q. So you are board certified as a pathologist, is that
21 correct?

22 A. Correct.

23 Q. Now, as a pathologist, have you had the opportunity to
24 become experienced in conducting or participating in autop-
25 sies?

E. MOFFATT ON DIRECT

1 A. Yes.

2 Q. Okay. Is it possible to estimate how many such autop-
3 sies you have participated in, going back to medical school
4 and in your residency?

5 A. I would say two to three hundred.

6 Q. All right, and while you have been at the Lexington
7 Medical Center, have you had the opportunity to perform
8 autopsy examinations specifically for the Lexington Medical
9 Center?

10 A. Yes.

11 Q. Is that part of your job responsibilities as a pathol-
12 ogist at the Lexington Medical Center?

13 A. It is.

14 Q. Have you testified previously and provided information
15 and medical opinions in the field of pathology?

16 A. Yes.

17 SOL. MAYES: Your Honor, at this time we would offer
18 Dr. Elizabeth Moffatt as an expert in pathology.

19 THE COURT: Objection?

20 MR. FLOYD: I have no objection.

21 THE COURT: Ladies and gentlemen, the Court would qual-
22 ify the witness as an expert in the field of pathology.

23 She may offer opinions and reasons for opinions that
24 lay witnesses cannot.

25 You may proceed.

E. MOFFATT ON DIRECT

1 BY SOL. MAYES:

2 Q. Dr. Moffatt, as a part of your job responsibilities
3 at the Lexington Medical Center, can you tell us whether or
4 not you conducted an autopsy on an individual by the name
5 of Tobias Morris?

6 A. I did.

7 Q. What is the actual date of the autopsy?

8 A. The first of March, 2010.

9 Q. What was the actual date on which Mr. Morris passed
10 away?

11 A. It was on the 28th of February, 2010.

12 Q. Okay. Now, on February 28, 2010, did you have informa-
13 tion as to whether or not he was still a patient at the
14 Lexington Medical Center when he passed away?

15 A. . .

16 MR. FLOYD: Your Honor, objection to hearsay.

17 SOL. MAYES: Your Honor, this would not be hearsay. I
18 can lay a foundation for her knowledge.

19 THE COURT: Lay some kind of foundation for the record
20 as it is hearsay.

21 Ladies and gentlemen, I'd have you step out for just a
22 moment.

23 (Jury excused from Courtroom)

24 THE COURT: What was the last question again that was
25 objected to?

E. MOFFATT ON DIRECT

1 SOL. MAYES: Your Honor, I asked the Doctor whether or
2 not he was still a patient at the Lexington Medical Center
3 when he passed away.

4 THE COURT: Do you want to be heard? I would overrule
5 the objection.

6 MR. FLOYD: Thank you, Your Honor. Your Honor, I had
7 advised the Court that we had an issue with the pathologist
8 report.

9 THE COURT: Yes, sir.

10 MR. FLOYD: I'm going to object, first of all, as it
11 is my understanding that Dr. Moffatt did not provide any of
12 the treatment to the victim or decedent, except for doing
13 the autopsy.

14 Since she did not provide any treatment, I think any
15 judgment or finding as to injuries, treatment received, or
16 anything concerning the hospital would be hearsay and inad-
17 missible.

18 THE COURT: All right.

19 MR. FLOYD: Your Honor, unless there is something the
20 Doctor did as far as treatment that is shown in the hos-
21 pital records her testimony would be hearsay. Anything else
22 would be hearsay, and that is my concern here.

23 (Portion inaudible)

24 SOL. MAYES: Your Honor, we are not offering any evi-
25 dence other than what she found at autopsy and what is in

E. MOFFATT ON DIRECT

1 the autopsy report, which has been provided to Defense Coun-
2 sel.

3 I would like to proffer at this time the basis for
4 that.

5 THE COURT: Very well.

6 QUESTIONS OF WITNESS IN CAMERA

7 BY SOL. MAYES:

8 Q. Dr. Moffatt, can you tell us whether or not in your
9 actual autopsy report whether it is common or uncommon to
10 obtain information of where someone expired?

11 A. Common.

12 Q. The place or location where someone expired?

13 A. Common.

14 Q. All right, and is that input to you an important fact?

15 A. Yes.

16 Q. Now, the history you rely upon to obtain that informa-
17 tion, can you tell us whether or not that is reasonably re-
18 lied upon for other experts in pathology in conducting autop-
19 sies?

20 A. Yes.

21 Q. And specifically can you tell us whether or not it is
22 relevant to learn the immediate medical history of the de-
23 cedent?

24 A. Yes, it is relevant.

25 Q. And if someone is actually a patient at that medical

E. MOFFATT IN CAMERA

1 facility at the point in which they expired, can you tell
2 us whether or not it is common or uncommon to use records
3 that pertain to their hospitalization?

4 A. Common.

5 Q. Can you tell us whether or not that relates to the
6 initial in-patient diagnosis?

7 A. Yes, it is related if it is available at the time of
8 the autopsy.

9 Q. All right, and information that you are mentioning now,
10 can you tell us whether or not you rely upon some of that
11 information and ultimately can lead to your opinion?

12 A. I would have, yes.

13 Q. And can you tell us whether or not that kind of infor-
14 mation would be relied upon by pathologists in performing
15 autopsies?

16 A. Yes, it is.

17 Q. In this case, were you able to actually observe poten-
18 tial injuries yourself?

19 A. I was.

20 Q. And does that include external and internal injuries?

21 A. Mostly internally.

22 Q. All right, and in terms of what you could see during
23 the autopsy, were you actually able to see physical injur-
24 ies externally on the victim?

25 A. He did have some very soft castments where he had

E. MOFFATT IN CAMERA

1 had surgery.

2 Q. All right.

3 A. Underneath that was an incision where he had the sur-
4 gery.

5 Q. Okay. So when a pathologist is doing an autopsy on
6 someone with a cast or are wearing a cast, for example,
7 can you tell us whether or not you would reasonably use a
8 medical record that led up to the autopsy?

9 A. Yes.

10 Q. And how would that be helpful?

11 A. You would need to know why he had a cast and what kind
12 of surgery was performed.

13 Q. All right, and is that -- can you tell us whether or
14 not that you would review medical records?

15 A. Yes.

16 Q. As they pertained to that injury or the surgery that
17 you were observing at autopsy?

18 A. Yes.

19 Q. Can you tell us whether or not in that situation that
20 would be relevant to your ultimate determination of cause
21 of death?

22 A. Yes.

23 Q. Can you tell us whether or not it would be relevant to
24 any opinion you may have from your own observation of
25 internal injuries?

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1 A. Yes.

2 Q. And, finally, can you tell us whether or not that type
3 of information is reasonably relied upon by other patholo-
4 gists in conducting their own autopsies?

5 A. Yes, it is.

6 SOL. MAYES: Your Honor, at this time the State's posi-
7 tion is that . .

8 THE COURT: Before you state your position, let me ask
9 Mr. Floyd if he wishes to ask any questions.

10 CROSS EXAMINATION OUT OF THE PRESENCE OF THE JURY

11 BY MR. FLOYD:

12 Q. Dr. Moffatt, the information that you obtained from
13 the Lexington Medical Center records, did they assist you
14 in arriving at your decision when you did your autopsy?

15 A. As necessary.

16 Q. As necessary, and it is a part of the procedure, was
17 it not?

18 A. Yes, sir.

19 Q. And do you believe without those records, your autopsy
20 results would be incomplete?

21 A. It would depend on the autopsy.

22 Q. Were they a crucial and integral part of this particu-
23 lar autopsy?

24 A. In terms of the final findings, yes, they were.

25 Q. Without those records, would you have been able to

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1 make your final findings?

2 A. I would still reach the same conclusion, in terms of
3 the diagnosis.

4 Q. Did you have any concern about them?

5 A. Yes.

6 Q. But were the records necessary to your making your
7 opinion in this case?

8 A. They are necessary because they are there and they are
9 available. It would be malpractice to not review them.

10 MR. FLOYD: No further questions, Your Honor.

11 THE COURT: You may state your position at
12 this time.

13 SOL. MAYES: Yes, sir, Your Honor. The State's posi-
14 tion, Your Honor, in this regard is consistent with her --
15 her testimony is consistent in regard to her autopsy report
16 of medical findings as supported by Rule 703, which allows
17 for an expert to make reference to any information that she
18 had reasonably relied upon as other input and in reaching
19 informed opinion.

20 In this case, that would be her ultimate opinion not
21 only as to the cause of death but medical findings in gen-
22 eral.

23 THE COURT: All right.

24 MR. FLOYD: But that isn't the question here, as what
25 they are trying to do is get into evidence information of

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1 medical records that do not provide any sort of connection
2 with the represented cause of death.

3 We would ask Your Honor to rule that the records pro-
4 vided her did not assist her in her findings.

5 THE COURT: This is a general Rule Five issue.

6 The issue is that under Rule Five she is entitled to
7 any information that she relied upon in forming her expert
8 opinion.

9 MR. FLOYD: I would say it's a little broader. The
10 fact is that they intend to produce this evidence through
11 this witness and this witness is going to be referring to
12 these records in her testimony.

13 Her testimony is that her conclusion would have been
14 the same without the medical records, so she did not rely
15 upon them. Since they did not provide information she re-
16 lied upon, we would ask for sanctions under Rule Five C two
17 which would prohibit the State from using the information
18 at the trial.

19 The issue here is whether the Defendant left the scene
20 of the accident and caused the death of the victim, and it
21 is our position that the State has to prove cause of death
22 in a manner that would satisfy the case authorities as to
23 the nexus between the leaving of the scene and the death.

24 She didn't treat the patient . .

25 THE COURT: You have mentioned Rule Five and mentioned

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1 hearsay. An expert can rely upon hearsay in forming an ex-
2 pert opinion. The Rule Five issue deals with whether the
3 statute requires the State to provide the defense with re-
4 cords that they are going to use with an expert reviewing
5 medical records; that that must be provided to you, the med-
6 ical records.

7 The State says, well, we provided the autopsy report
8 which gives the witness' findings, and that satisfies Rule
9 Five. The autopsy report gives the witness' findings and
10 opinions.

11 Outside of this position, I don't find the State is
12 required to provide or produce every record that formed the
13 basis of the party's opinion generally, since the autopsy
14 report was provided to the defense. The autopsy report pro-
15 vided her findings and conclusions.

16 Had the Defendant attempted to provide some independent
17 autopsy proceeding which alluded to the medical records of
18 the deceased, then they would have been provided to the De-
19 fendant.

20 I don't think that that constitutes a Rule Five viola-
21 tion.

22 I will allow the question.

23 SOL. MAYES: Thank you, Your Honor.

24 THE COURT: Are you ready for the jury?

25 SOL. MAYES: We are, Your Honor.

1 THE COURT: Bring them out.

2 (Jury returned to Courtroom)

3 THE COURT: You may proceed.

4 DIRECT EXAMINATION CONTINUED

5 BY SOL. MAYES:

6 Q. Dr. Moffatt, I believe before the break we had spoken
7 about the death of the victim. Can you share that date with
8 us?

9 A. Yes, he expired on the 28th of February of 2010.

10 Q. And can you tell us whether or not he had been released
11 from Lexington Medical Center or was he still a patient at
12 Lexington Medical Center when he expired?

13 A. He had not been released.

14 Q. All right. Now, tell us a little bit about the process
15 of an autopsy?

16 A. We perform it in the morgue always on the campus of
17 the Lexington Medical Center. We conduct an external exam-
18 ination and we are assisted by one or two physician assist-
19 ants who are also trained in this area. They are not doc-
20 tors but they are PAs trained in the area of autopsy path-
21 ology.

22 We conduct an external examination. We make sure we
23 have the identification correct by whatever means we have.
24 You know, if they are in a body bag from the coroner or hos-
25 pital van.

DR. MOFFATT ON DIRECT

1 We do document any external injuries and physical ap-
2 pearance, and then we do an examination of the internal or-
3 gans.

4 Q. What can you tell us about the age of the patient?

5 A. He was thirty-six.

6 Q. All right. So this was a 36 year old patient who had
7 expired on Febuary 28th of 2010, and the autopsy was con-
8 ducted on March first. Is that correct?

9 A. Yes.

10 Q. And it was conducted on the campus of the Lexington
11 Medical Center?

12 A. Yes.

13 Q. Now, you mentioned an external examination. How do
14 you go about making observations that seem out of the ordi-
15 nary on the patient at the time?

16 A. The only really significant thing was that he had a
17 soft cast on his left wrist.

18 Q. All right. Now, when you are doing an autopsy, can
19 you tell us whether or not it is necessary or relevant to
20 review available medical records from the hospital?

21 A. Yes.

22 Q. And did you in this case review the medical records
23 as to the nature of the cast?

24 A. Yes, it was routine.

25 Q. And were you able to review that information in this

DR. MOFFATT ON DIRECT

1 particular case and rely upon this information?

2 A. Yes.

3 Q. And as far as the internal examination, can you break
4 that down for us?

5 A. There are two or three standard methods of proceeding
6 through the examination of the organs. Most pathologists
7 do things in a fairly similar fashion; that is, an examina-
8 tion of the chest first as those are the most vital organs,
9 and most causes of death will be centered in the heart or
10 the lungs or the chest.

11 I essentially do full post-mortem examinations on all
12 autopsies, and so that includes the chest. You remove the
13 chest organs first, and then you remove the abdominal organs,
14 and then you proceed to the head and remove the brain.

15 Q. And ultimately can you tell us whether or not there was
16 evidence of trauma to the patient?

17 A. Yes.

18 Q. And specifically in the internal trauma, what is meant
19 by the term blunt force trauma?

20 A. Blunt force trauma refers to force by a blunt object
21 as opposed to a sharp penetrating object, such as a knife.

22 Q. And what are examples of the mechanism that may pro-
23 duce blunt force trauma?

24 A. Certainly motor vehicle accidents are an example of
25 blunt force trauma, where somebody is -- where a blunt object

DR. MOFFATT ON DIRECT

1 is hitting a victim, and it can also be the intentional
2 force with a deadly weapon that is blunt.

3 Q. And specifically in terms of Toby Morris, were you
4 able to identify or make a post-mortem autopsy finding that
5 was consistent with trauma?

6 A. Yes.

7 Q. What were those findings?

8 A. He had bilateral rib fractures. He had pulmonary con-
9 tusions, and those were actually beginning to heal.

10 Then he had the left wrist fracture. Those were the
11 main ones in my examination, and he also had hematomas or
12 basically a soft tissue bruise or blood clot in the area of
13 the adrenal glands or one of the adrenal glands, and then the
14 soft tissue around the pancreas in the fatty tissue there.

15 There was some old sort of organizing healing that is
16 also consistent with blunt trauma.

17 Q. Can you tell us whether or not those injuries were con-
18 sistent with what trauma can occur as a result of a motor
19 vehicle accident?

20 A. Yes.

21 Q. Now, in addition to the rib fractures and the fracture
22 or broken wrist, can you tell us whether or not there was
23 any type of spinal bruising that had occurred?

24 A. He did. He had thoracic vertebral fractures in the
25 spinal column in the thoracic vertebra and apparently he had

E. MOFFATT ON DIRECT

1 a fracture of the area where the base of the skull rests
2 upon the first vertebra. That is the underside of the skull,
3 and that was seen in imaging studies that were done after
4 his accident.

5 I wasn't able to see that because I didn't remove the
6 skull or the face to see that. That was right around the
7 first vertebra.

8 Q. Can you tell us whether or not that constellation of
9 injuries would cause a patient to be immobile or partially
10 immobile while being treated for those injuries?

11 A. Yes, that would be true.

12 Q. Let me show you a diagram here, and if you -- if you
13 would step down a moment.

14 You may refer to your notes if you wish to, and let me
15 start by asking you about the rib fractures that you have
16 mentioned, and I would ask you to show us, using this diagram,
17 what area of the body you saw those rib fractures?

18 A. In this area here, he had rib fractures (portion in-
19 audible) bilaterally.

20 Q. I need you to speak up.

21 A. Rib fractures in both areas here. Repairs to the wrist.

22 Q. If you could, speak up loudly enough that the Court Re-
23 porter can hear.

24 You mentioned repair to the wrist. Can you tell us
25 whether or not that was following surgery?

E. MOFFATT ON DIRECT

1 A. Yes.

2 Q. And can you tell us whether or not that treatment fol-
3 lowed after the patient was admitted to the hospital on Feb-
4 ruary 21st?

5 A. Yes, would have.

6 Q. Now, in addition to the rib fractures and the surgery
7 on the left wrist, what other injuries did you observe?

8 A. (Inaudible)

9 THE COURT: I can't hear you. You need to talk up.

10 A. He had a fracture of on the base of his skull at the
11 point of the first vertebra or the base of the skull that im-
12 pacts with that vertebra.

13 BY SOL. MAYES:

14 Q. You also mentioned pulmonary contusions, and show us
15 on the chart where he had pulmonary contusions?

16 A. An area of bruises on the side of the chest here, or
17 of the lung.

18 Q. Can you tell us whether or not bruises of the lungs
19 are consistent with the type of trauma that would cause a
20 rib fracture?

21 A. Yes, they are.

22 Q. Can you tell us whether or not that is consistent with
23 blunt force trauma such as sustained in a motor vehicle ac-
24 cident?

25 A. Yes, it would be consistent.

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1 THE COURT: I can't hear her.

2 A. It would be consistent with the motor vehicle accident
3 such as in this case.

4 BY SOL. MAYES:

5 Q. All right.

6 A. This is the area of the contusion (portion inaudible).

7 Q. Now, you also mentioned a hematoma to the adrenal
8 glands, and when you say hematoma what are you referring
9 to?

10 A. A soft tissue bruise or blood clot.

11 Q. Where are the adrenal glands located?

12 A. (Inaudible portion)

13 Q. Dr. Moffatt, what, if anything, was determined to be
14 the ultimate cause of death?

15 A. A pulmonary embolus was the cause of death.

16 Q. Now, in determining cause of death, is that a routine
17 procedure for a pathologist in conducting an autopsy?

18 A. Yes.

19 Q. And is that a part the reason for an autopsy?

20 A. Yes.

21 Q. So in describing a pulmonary embolus or embolism, what
22 is that in reference to the body?

23 A. It is a blood clot that is traveling through the blood
24 stream, and it is as a result of -- it started out as a
25 blood clot that is attached to the blood and then it breaks

E. MOFFATT ON DIRECT

1 free and travels through the vena system until it is stopped
2 somehow.

3 Q. Was there evidence of one blood clot or more than one
4 clot?

5 A. There were -- there was a blood clot straddling the pul-
6 monary arteries and there was blood clotting involved in both
7 pulmonary arteries.

8 There is a right pulmonary artery and a left pulmonary
9 artery, and these are carrying blood from the heart to the
10 lungs, and that is where the blood clot was sitting.

11 The blood clot starts in the vena system, as I have
12 mentioned, and the way that -- the most common cause of the
13 blood clot in the vena system is devena thrombosis or DVTs
14 for short.

15 The most common cause of that is immobility, and ninety-
16 five percent of all pulmonary emboli are caused by a risk
17 factor -- there is some risk factor, and so a very, very
18 small percentage have a spontaneous land and most probably
19 just don't have an identifying cause.

20 Another cause is the immobility or being on bedrest,
21 and surgery, trauma, fractures -- those are the top causes
22 but there are other causes like pregnancy, certain medica-
23 tions, smoking, emphysema.

24 Q. All right. Now, if a patient has been hospitalized
25 -- in a patient 37 years old who has been hospitalized

E. MOFFATT ON DIRECT

1 for up to seven days, can you tell us whether or not the
2 injury -- whether that would contribute to inability to
3 withstand the breaking off of the blot clot?

4 A. Yes.

5 Q. Other factors that you mentioned, would trauma and sur-
6 gery also relate to risk factors for a blood clot?

7 A. Yes, the mechanism first of all produced immobility or
8 when you have surgery or trauma the blood clotting system
9 is activated as a sort of mechanism of repair the body's
10 trauma by vascular intervention or trauma to the vessels,
11 and there are, of course, blood vessels all over the body
12 and in all organs, bones included.

13 So when that clotting system is activated, it can prop-
14 agate clot formation.

15 Q. Tell us, if any, the significance of multiple fractures
16 as opposed to one fracture?

17 A. Increased risk.

18 Q. Dr. Moffatt, do you have an opinion to a reasonable
19 degree of medical certainty as to whether the blood clot
20 was a result of trauma to Toby Morris on February 21st of
21 2010?

22 A. Yes, I do.

23 Q. What is that opinion?

24 A. That it was the result of trauma sustained in that
25 collision.

E. MOFFATT ON DIRECT

1 Q. Nothing further.

2 THE COURT: Mr. Floyd.

3 CROSS EXAMINATION

4 BY MR. FLOYD:

5 Q. Doctor, Mr. Morris was scheduled to be discharged?

6 A. Yes, he was.

7 Q. When was he to be discharged.

8 A. I'm not sure of the date he was to be discharged.

9 Q. In fact, he was up walking around, wasn't he?

10 A. That day he was.

11 Q. When did he begin walking?

12 A. I'm not sure when he was able to ambulate, or when he
13 began to ambulate.

14 Q. You don't . .

15 A. I was not privy to the date he started to ambulate.

16 Q. Now, not everyone who has surgery dies from a blood
17 clot?

18 A. Correct.

19 Q. And not everyone who is in the hospital seven days
20 dies from a blood clot?

21 A. No, sir.

22 Q. Blood clots can just form . .

23 A. Rarely, although I understand they can vary.

24 Q. Do they teach that?

25 A. I don't know if they teach that.

E. MOFFATT ON CROSS

1 Q. But they do vary?

2 A. They can, but what the literature says is that in most
3 cases where they can't find a risk factor, they just don't
4 know the risk factor. That doesn't mean there wasn't one.

5 Q. But some people die from a blood clot and they don't
6 find anything wrong with them?

7 A. But in most cases they have a risk factor and it is
8 known.

9 Q. But in some cases no risk factor is known?

10 A. Yes, sir.

11 Q. Now, from your testimony the only injury that required
12 surgery was the wrist, is that right?

13 A. Yes, sir.

14 Q. The wrist injury was to repair the broken bone and to
15 place it in proper form?

16 A. I don't know precisely what the surgery had done. It is
17 done with anesthesia and involves cutting open the wrist.

18 Q. The other injuries that you talked here about were
19 not a cause of death?

20 A. No, sir.

21 Q. Now, how do you determine in an injury whether it is
22 old or new?

23 A. It depends on what -- the object you are looking at,
24 that you are trying to determine the age of.

25 Q. You said all of these injuries were consistent with

E. MOFFATT ON CROSS

1 a motor vehicle accident -- all of them were?

2 A. That's correct.

3 Q. How long before death would you say they occurred?

4 A. A few days. Once again, it depends upon what item you
5 are speaking of. In terms of blood clot, if this was as
6 old as weeks old you might not even see it. But when you
7 can still see it and tell there is a blood clot, it is
8 probably a few days old.

9 Q. Now, blood clots are a risk of immobility?

10 A. Yes, sir.

11 Q. And are there treatments to prevent them?

12 A. There are -- I am not an expert in that field.

13 Q. And are blood thinners that can be used?

14 A. Yes, those are used.

15 Q. Do you know why they weren't given?

16 A. I do not.

17 Q. But would you agree that they can be used when there
18 is risk of a blood clot?

19 A. Yes, sir.

20 Q. Now, do you know how many days Mr. Morris had actu-
21 ally been immobile?

22 A. I do not.

23 Q. But for some period of time he was up and walking?

24 A. . .

25 Q. Wasn't he mobile on the day he passed away?

E. MOFFATT ON CROSS

1 A. I presume a day because he had somewhat of an inabil-
2 ity because he was wearing a cervical collar at some point.
3 I don't want to speculate on how many days but for some per-
4 iod of time. I would presume he was immobile.

5 Q. He wore a cervical collar?

6 A. Yes.

7 Q. You did not do any toxicology testing, did you?

8 A. We did not.

9 Q. No further questions.

10 THE COURT: Anything on Redirect?

11 REDIRECT EXAMINATION

12 BY SOL. MAYES:

13 Q. Dr. Moffatt, would you expect someone to be actively
14 mobile with that compilation of injuries?

15 A. I would not expect them to be actively mobile with
16 thoracic vertebral fractures, no.

17 Q. And in your opinion to a reasonable degree of medical
18 certainty, did this blood clot form spontaneously?

19 A. Based on the information that I have, no.

20 Q. Thank you. Nothing further.

21 THE COURT: Anything further?

22 MR. FLOYD: Yes, sir. May it please the Court?

23 RECROSS EXAMINATION

24 BY MR. FLOYD:

25 Q. And he was walking in the hospital prior to his death?

E. MOFFATT ON RECROSS

1 A. I know he was ambulating during a part of his admis-
2 sion.

3 Q. And you can't say with absolute certainty what caused
4 his death?

5 A. Very few things are a hundred percent, but based on
6 the evidence that I have he had those factors. Two or
7 three factors for a blood clot.

8 Q. So you can't say with absolute certainty and no one
9 can say with absolute certainty?

10 A. I don't know what you are asking me. What was your
11 question?

12 Q. I'm sorry. I thought you said two of the five.

13 A. Two of the five? Can you repeat your question? I
14 want to make sure I have it.

15 Q. Well, how many of the factors would have to be present
16 before you could say with absolute certainty that a blood
17 clot was not spontaneous?

18 A. I have confirmed the factors in my autopsy report and
19 in my testimony, but I cannot say with one hundred percent
20 certainty what was responsible for the blood clot.

21 Q. That's all I have. Thank you.

22 THE COURT: You may step down.

23 (Witness excused from stand)

24 SOL. MAYES: Your Honor, may Dr. Moffatt be excused?

25 THE COURT: Yes.

1 (Conference at the bench between counsel and the Court
2 off the record)

3 THE COURT: Solicitor, about how much longer will your
4 testimony run?

5 SOL. MAYES: Our testimony will probably run for about
6 an hour.

7 THE COURT: And you will be ready to proceed then, Mr.
8 Floyd?

9 MR. FLOYD: Yes, sir.

10 THE COURT: Ladies and gentlemen, we will stop for you
11 to get your lunch at this time. We will take an hour, and
12 please do not discuss the case.

13 (Jury excused from Courtroom)

14 (The Court stood in recess as to this matter, after
15 which the case was continued)

16 THE COURT: Thank you. You may be seated.

17 Are you ready for the jury?

18 SOL. MAYES: Yes, sir.

19 THE COURT: Bring them in.

20 (Jury returned to the Courtroom)

21 (TRANSCRIPTION NOTE: Audio portion not on disc which
22 next has Witness Amy Stephens on the stand. Direct Examina-
23 tion of witness by Solicitor not present. Audio beginning
24 with Cross Examinaton of witness by Mr. Floyd.)

25 CROSS EXAMINATION

A. STEPHENS ON CROSS

1 Q. So, Ms. Stephens, you were employed as a forensic
2 technician with SLED on March 15, of 2010 when the evi-
3 dence came in and was received by you that was previously
4 discussed, I believe Numbers 15 and 16.

5 A. The original items were taken in on March 15, 2010
6 and we also have the same items resubmitted to
7 our lab in 2011.

8 Q. And were these the same items that you had previously
9 received?

10 A. Yes, our records reflect they are the same items that
11 had been previously submitted on March 15, 2010.

12 Q. The same exactly?

13 A. Yes, sir.

14 Q. I don't have any further questions.

15 THE COURT: Anything further of the witness?

16 SOL. MAYES: Nothing further from the State, Your
17 Honor.

18 THE COURT: You may step down.

19 (Witness excused from stand)

20 THE COURT: Solicitor.

21 SOL. MAYES: The State calls Mike Moskal.

22 MICHAEL MOSKAL, being duly
23 sworn, testified as follows:

24 CLERK: Have a seat, please, and once you are seated
25 state your full name, spelling your last for the record,

M. MOSKAL ON DIRECT

1 please.

2 WITNESS: Michael Moskal, M O S K A L.

3 DIRECT EXAMINATION

4 BY SOL. MAYES:

5 Q. All right, and if you could tell us a little bit of
6 information about yourself. Where are you currently em-
7 ployed?

8 A. Currently I'm employed by the South Carolina Law En-
9 forcement Division, more commonly known as SLED, and I am
10 assigned to the Trace Evidence Department.

11 Q. All right, and what is your educational background
12 and training that led you to become an Agent at SLED?

13 A. I received a Bachelor of Science in chemistry from
14 the College of Charleston in 1998.

15 And upon beginning work with SLED, I went to the
16 Academy, the South Carolina Justice Academy, for two
17 weeks for legal training that is necessary to be a crimi-
18 nalist three.

19 Once hired by SLED, I went through internal training
20 in analysis of paint, glass, gunshot residue, fibers, ex-
21 plosives and trace evidence.

22 Portions of that in-house training was learning how
23 to use instruments that are required to analyze trace evi-
24 dence, and there were also specific areas training speci-
25 fically for paint.

M. MOSKAL ON DIRECT

1 Paint was about a one year training procedure where
2 we learned how to handle the evidence, how to analyze the
3 evidence, how to interpret the data, and how to make the
4 comparisons, in addition to the in-house training.

5 I had the opportunity to have several out-of-house
6 training. I was able to have one of the predominant
7 paint analysts come and conduct a week-long training
8 session at SLED where he specifically taught us about how
9 to handle evidence, how to compare it, and also added to
10 the class was a class with the Royal Canadian Mounted Po-
11 lice in utilizing something they have known as a paint
12 data base.

13 Q. All right. Now, what is meant by the term trace evi-
14 dence?

15 A. Trace evidence is often evidence that is too small to
16 be seen by the naked eye. The common things that we get in
17 the lab are paint, glass, fibers, explosives, white powder,
18 which are called trace evidence.

19 Q. All right, and specifically is trace analysis a di-
20 vision or subdivison of trace evidence analysis?

21 A. Yes, maam.

22 Q. And what is it specifically about paint that requires
23 formal education?

24 A. Would you restate that?

25 Q. Sure. What is it specifically about the analysis of

M. MOSKAL ON DIRECT

1 paint that is different from other types of evidence?

2 A. When you learn to analyze specific types of evidence,
3 there is information about how things are produced, how
4 they are used in day to day activities.

5 So paint itself has different characteristics than the
6 gunshot residue and fibers and glass, so there are several
7 this to learn about the analysis of paint.

8 Q. In trace evidence, have you been previously qualified
9 as an expert for Court proceedings?

10 A. Yes, maam.

11 Q. Have you testified previously as an expert concerning
12 trace evidence?

13 A. Yes, maam.

14 Q. All right. Is it possible to estimate how many times
15 you have testified as an expert?

16 A. Yes, in State and Federal Court I have testified about
17 nineteen times.

18 Q. All right.

19 SOL. MAYES: Your Honor, at this time the State would
20 offer Agent Moskal as an expert in the field of trace evi-
21 dence, including paint analysis.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: No objection.

24 THE COURT: He is so qualified.

25 BY SOL. MAYES:

M. MOSKAL ON DIRECT

1 Q. Now, at the lab at SLED, can you tell us a little bit
2 about that? How do you go about receiving evidence and
3 especially for paint analysis?

4 A. Evidence is received in the log-in department. The
5 technicians in log-in assign a case number and then we re-
6 ceive notification in each individual department that we
7 have a case down there with a specific lab number associ-
8 ated with it and a specific request.

9 Q. All right, and we heard previously from Amy Stephens
10 also with the State Law Enforcement Division.

11 Are you familiar with her?

12 A. Yes, maam.

13 Q. All right, and the procedure you just mentioned, that
14 applies to her as well?

15 A. Yes, maam.

16 Q. All right. Now, when we're talking about actual evi-
17 dence that you are going to analyze, does anyone else open
18 that evidence before it arrives to you?

19 A. The analyst working the case will be the first person
20 that opens that evidence.

21 Q. And in terms of this particular case number we are
22 concerned with, that would be you?

23 A. Yes, maam.

24 Q. All right. I want to ask you to tell us a little bit
25 about your education and training concerning taking paint

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1 from vehicles.

2 A. Yes, maam.

3 Q. What can you tell us in that regard? About your
4 training concerning vehicle paint?

5 A. Vehicle paint was predominantly what the gentleman
6 from the Department of Law Enforcement came and talked to
7 us, the one week class.

8 It was predominantly on analysis of paint where we
9 learned to analyze prior layers, covered-up layers, clear
10 coat layers -- all of those are part of what you see in
11 vehicle paint.

12 Q. All right. Now, can you tell us whether or not you
13 were involved in this case where there was particular men-
14 tion by Ms. Stephens as being from the victim, and that
15 is Mr. Morris -- as classified by the name of the victim?

16 A. Yes, maam. I received an analysis request for lab
17 number L one zero dash zero two three one three, where the
18 victim was Mr. Morris. My notes say Frederick Morris. It
19 was logged in and came to me.

20 Q. All right. Specifically in this case, how did SLED
21 or yourself initially become involved?

22 A. This was -- the request was made by Detective Edward
23 Pereira. He brought the evidence up to SLED and requested
24 paint analysis on the evidence.

25 Q. All right, and during your work at the Law Enforcement

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1 Division, do you have one accident or accidents where they
2 may not even have a known suspect?

3 Can you tell us whether that is common or uncommon
4 within the trace evidence department?

5 A. Yes, maam, it is very common for us to get paint evi-
6 dence in from different evidence for paint analysis with
7 hit and runs where it involved vehicle to vehicle, vehicle
8 to bicycle, vehicle to pedestrian.

9 Quite frequently they do not have a suspect when they
10 bring it in initially.

11 Q. All right, so how would you be able to aid the law
12 enforcement if you don't have a suspect vehicle?

13 A. If there is not a suspect vehicle, what we do is to
14 start with observation, looking at the particular pieces
15 of evidence.

16 If it's clothing we will scrape it down. If it is a
17 vehicle, we will look over it from one end to the other to
18 see if there is any type of foreign paint or something that
19 is not common to that particular vehicle.

20 If we are able to find a paint, then what we will do
21 is remove it from that particular item. We take it into
22 the laboratory and we analyze it.

23 We will look to see what type of a layer structure it
24 has, and what I mean by that is we look to see if it has a
25 primer or color coat under the clear coat, and if it goes

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1 on and continues beyond that.

2 Once we establish what the layer sequence is, then we
3 are able to chemically analyze each one of those layers.

4 We then are able to take that information of the chem-
5 ical makeup and apply it into a data-base that the Royal
6 Canadian Mounted Police produced.

7 We are able to put that data into their data-base with
8 a potential of coming up with a potential list of make,
9 model, year, paint colors for that particular vehicle that
10 it came from.

11 Q. And are you trained in utilizing that data-base in the
12 analyzing or analysis of paint?

13 A. Yes, maam. Yes, maam, I am.

14 Q. All right.

15 A. Part of my training in that year-long period -- we ac-
16 tually produce or we actually supply our COP for samples
17 every year, and there are materials that we supply that
18 are incorporated into the data-base.

19 Insofar as my year long training, I took about fif-
20 teen samples that we had supplied, analyzed them, and ran
21 them through their data-base to make sure that I was able
22 to come up with the correct data.

23 In addition to that, I had a two day class with RCMP
24 to learn specifically how to use their data-base.

25 Q. All right, and can you tell us whether or not that

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1 data-base is used by the F.B.I.?

2 A. Yes, maam, it is. It is the same data-base that is
3 used by the F.B.I.

4 Q. All right. Now, tell us whether or not you received a
5 motorcycle as evidence for analysis in this case?

6 A. Yes, maam. I received a BMW motorcycle with South
7 Carolina tag number ZV eight two six two seven.

8 Q. All right, and what day was the motorcycle received?

9 A. I received the motorcycle on March third of 2010.

10 Q. All right, you received the motorcycle, and can you
11 point out whether you received in addition to the motor-
12 cycle what is State's Exhibit 10, which is the fender which
13 is separate here?

14 A. Yes, maam. When I receive evidence one of the things
15 I do on the evidence is I will write the SLED lab number
16 on there, my initials, and if I have room I will put the
17 date on there.

18 This piece of fender does bear the lab number, my ini-
19 tials and the date on there.

20 Q. Now, what was the date of the initial submission of
21 that fender piece to the State Law Enforcement Division
22 for analysis?

23 A. That was March third, 2010, as well.

24 Q. So that was the same day the motorcycle was submitted
25 to SLED?

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1 A. Yes, maam.

2 Q. Now, when the motorcycle was submitted in what form
3 was it transported to you? How did it arrive?

4 A. This motorcycle was brought to us inside of a trailer
5 that was a large white trailer that was enclosed.

6 It had double doors on the rear side of it, and it
7 had a single door I believe on the right side of it. When
8 we received it, those doors were covered with evidence tape
9 and the integrity of the motorcycle was secure when I re-
10 ceived it.

11 Q. Was it also locked in any way?

12 A. I don't recall whether it was locked when I received
13 it, but after receiving it I put padlocks on the rear doors,
14 the side door and the front of it so that the trailer would
15 be secure.

16 Q. All right, so in the original position it had the
17 sealing tape around it?

18 A. Yes, maam.

19 Q. Was there any evidence of tampering?

20 A. No, maam.

21 Q. And once you put the locks on it, was there any tam-
22 pering from that point on?

23 A. No, maam.

24 Q. Okay, and so it remained there on the premises of SLED
25 if not actually inside the lab?

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1 A. Yes, maam. It remained on the premises. We have an
2 area where we receive large freight trucks when they de-
3 liver equipment or supplies or whatever we purchase. We
4 have an area there where they come in, and that is where
5 we kept that. It is under video surveillance all day, and
6 at night it has a rolling door that is secured and locked.

7 Q. All right, and what about the fender?

8 A. The fender would have remained inside the laboratory.

9 Q. Would that have been sealed under transmission to you?

10 A. Yes, maam.

11 Q. And ultimately unsealed by you?

12 A. Ultimately unsealed by me, yes, maam.

13 Q. All right. Now, once you had received those items,
14 the motorcycle and the fender, did you have a suspect ve-
15 hicle at that time?

16 A. On March third, we did not have a known suspect ve-
17 hicle.

18 Q. And so what are you trying to determine in your analy-
19 sis of the motorcycle and the fender in order to poten-
20 tentially aid law enforcement?

21 A. The initial request, since there was not a suspect,
22 was to see if I could find any foreign paint on the motor-
23 cycle or the fender, and then to potentially find a -- what
24 we call a hit list which is a list of potential vehicles that
25 would have the same paint chemistry and sequence.

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1 Q. Can you tell us whether or not you observed anything
2 that you determined to be foreign paint?

3 A. Yes, maam, I did.

4 Q. And tell us what you did about making that determina-
5 tion?

6 A. On the motorcycle I did a visual examination from the
7 front end of the motorcycle to the rear end of the motor-
8 cycle, and there were several places on the front tire where
9 I was able to observe paint embedded between the wheel
10 and the rim of the front tire on the right hand
11 side.

12 There were several paint chips embedded in there on the
13 right front -- what I call the shock which I now know on
14 motorcycles is called a Fordy.

15 There was paint transfer on that Fordy as well, and
16 then on the fender which has been submitted as State's Evi-
17 dence 10 I was also able to find some paint smears or paint
18 chips that were foreign to the fender.

19 Q. I'm going to show you what are State's Exhibits 15 and
20 16 and ask you whether or not you observed what is shown in
21 these photographs?

22 If you could just look at them from this vantage point
23 here.

24 A. Yes, maam. I can see some areas where I had collected
25 paint from, and you can still see some areas of paint as

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1 well on here.

2 Q. And State's Exhibit 15?

3 A. Yes, maam. That one as well.

4 Q. Okay. One moment, please.

5 I show you a document and ask you whether or not you
6 recognize what is shown in this document? The photograph.

7 A. Yes, maam, I recognize that.

8 Q. How so?

9 A. This is an area of the front tire where I removed
10 paint from, and you can see some residual paint there, as
11 I did not collect all of it.

12 Q. Okay, and can you tell us whether or not these are
13 fair and accurate representations of the motorcycle as you
14 recall it arriving at the State Law Enforcement Division?

15 A. That is the bike that some paint chips were removed
16 from, as I removed them before the photo documentation. Yes,
17 maam, that is a fair and accurate representation of the
18 front tire and motorcycle.

19 Q. Okay, and were you present for the photo documenta-
20 tion?

21 A. Yes, maam.

22 SOL. MAYES: Your Honor, at this time this would be
23 offered as State's Exhibit 51 in evidence.

24 THE COURT: Any objection?

25 MR. FLOYD: Just a moment, please.

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1 No objection.

2 THE COURT: This is in evidence without objection as
3 State's 51.

4 (State's Exhibit 51 in evidence without objection being
5 a photograph from the motorcycle)

6 BY SOL. MAYES:

7 Q. What, if any, determination were you able to make af-
8 ter you had collected samples from the motorcycle's tire
9 and from the Fordy area of the motorcycle?

10 A. I was able to determine that the paint on the motor-
11 cycle was an original manufacturer's paint from another
12 vehicle.

13 So I was able to remove the paint samples and ana-
14 lyze them and run them through the paint data-base, and at
15 that point I was able to produce a potential hit list of
16 vehicles that matched the chemistry and later sequences of
17 that paint chip.

18 Q. Did you notify the Department of Public Safety of the
19 result of that initial submission for analysis?

20 A. Yes, maam, I did.

21 Q. All right, and on what date did you notify them?

22 A. That would be on March 10th of 2010.

23 Q. All right. So on March 10, 2010, you had the initial
24 results of the analysis of paint from what was collected
25 from the motorcycle and front tire?

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1 A. Yes, maam.

2 Q. And what, if anything, did you determine about the
3 make or model of vehicle that would produce that type of
4 paint transfer?

5 A. May I be allowed to read that portion of the report?

6 Q. Yes, sir.

7 A. The paint chip I found was -- came back to a potential
8 match that Ford vehicles produce at the Ford Plant in Nor-
9 folk, Virginia, being a Ford S series vehicle from 1998 to
10 2001.

11 The Ford vehicle produced at the Twin Cities, Michi-
12 gan, plant, being Ford Rangers, 1999 to 2001.

13 Ford vehicles produced at the Wayne, Michigan, plant
14 being a Ford Escort from 1998 to 1999.

15 The Ford Expedition 1998 to 2001.

16 The Ford Focus 2000 to 2001.

17 Mercury Tracer 1998 to 1999.

18 Lincoln Navigator 1998 to 2000 and 2002.

19 Q. So those were possible vehicles?

20 A. Yes, maam.

21 Q. Now, can you tell us whether or not that covered a
22 Ford Ranger in the proper time frame?

23 A. Yes, maam. It included Ford Rangers from the Twin Cit-
24 ies plant between 1999 and 2001.

25 Q. Can you tell us whether or not there was a specific

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1 color involved in this type vehicle?

2 A. The paint chip I found was a green paint chip, and
3 one additional thing we were able to do at that point is
4 we have color books from each particular manufacturer, in-
5 dicating colors produced in those years range.

6 The green paint chip that I had found was produced by
7 Ford in that 1999 to 2001 period.

8 Q. All right. So in addition to this initial information
9 that you supplied to law enforcement, was there anything
10 else that could be done at that point in terms of aiding
11 law enforcement?

12 A. No, maam. At that point it was up to law enforcement
13 to find a potential suspect vehicle for us to make a com-
14 parison.

15 Q. All right. Now, I want to move ahead from March of
16 2010 until May of 2010. Can you tell us whether or not
17 you became aware of a suspect vehicle in May of 2010?

18 A. Yes, maam. I was made aware in May of 2010 that a
19 suspect vehicle had been detained.

20 Q. All right, and specifically do you have the date in
21 May of 2010 when you got that information?

22 A. On May 6, 2010, I responded to the Cayce Fire Depart-
23 ment to collect samples from a vehicle, and I believe I was
24 notified the evening prior that one was going to be re-
25 tained.

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1 Q. Okay, you mentioned collecting samples. Are you re-
2 ferring to paint chip samples?

3 A. Yes, maam. I'm referring to collecting paint chips
4 from a green Ford Ranger, South Carolina tag CVX536.

5 Q. And you retrieved those samples yourself?

6 A. Yes, maam.

7 Q. Tell us where you went to do that?

8 A. I went to the Cayce Fire Station or DPS to one of
9 the bays where they had the truck secured in a building
10 behind evidence tape.

11 I was able to collect the samples from various areas
12 of the vehicle.

13 Q. And was it securely maintained?

14 A. Yes, maam.

15 Q. What is shown in this photograph?

16 A. That appears to be the green Ford Ranger that I got
17 samples from.

18 Q. What about the location?

19 A. That appears to be the bay in the Fire Department or
20 DPS.

21 Q. And did you take samples on more than one day?

22 A. Yes, maam, I did.

23 Q. And do you remember who was with you on the date of
24 the paint chip samples that you took from the Ford Ranger
25 once it was in police custody?

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1 A. Yes, maam.

2 Q. All right.

3 A. Initial sampling was on May 6, 2010, and the second
4 sampling was on May 11, 2010, and the final sampling was
5 May 20, 2010.

6 Q. You were present for collection of all the samples?

7 A. Yes, maam.

8 Q. And can you tell us whether or not you retained cus-
9 tody of all samples until the analysis?

10 A. Yes, maam, I did.

11 Q. And they remained in your custody until you performed
12 the analysis?

13 A. They did.

14 Q. All right, how did you go about actually getting the
15 paint samples from the truck?

16 A. On the initial date, May 6th, we collected samples
17 from various locations not shown in that picture but on
18 the passenger side on the rear side. There were some po-
19 tential transfer of paint samples on there.

20 Those were cut and collected. In addition, I had a
21 saw where I cut samples from specific areas on that ve-
22 hicle.

23 Q. All right, and do you recognize these photos?

24 A. Yes, maam.

25 Q. Tell us about those.

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1 A. This is a picture of after I had cut the whole sample
2 out of the rear passenger side quarter panel of the pickup
3 truck.

4 Q. And can you tell us whether or not that is a fair and
5 accurate representation of the paint chip sample collec-
6 tion?

7 A. Yes, maam, it is.

8 SOL. MAYES: Your Honor, this would be State's 52, I
9 believe.

10 MR. FLOYD: Your Honor, we object to Exhibit 52.

11 (Conference at the bench between counsel and the Court
12 not audible on the record)

13 SOL. MAYES: Your Honor, we defer to the Court's pre-
14 vious ruling on that matter.

15 THE COURT: Admitted over objection.

16 (Photograph admitted as State's Exhibit 52 over
17 objection)

18 BY SOL. MAYES:

19 Q. And once the paint chip samples are actually collected
20 individually from a vehicle, how are they packaged?

21 A. They are sealed in packaging (portion inaudible).

22 Q. Let me ask you this, Agent Moskal.

23 A. Yes, maam.

24 Q. Were they packaged in a way so as to remain secure
25 until analysis?

1 A. Yes, maam.

2 Q. All right.

3 A. They would either have been in a manilla envelope or
4 a heat sealed pouch or a metal tin.

5 Q. All right. Now, once you had the potential samples
6 from the subject vehicle, what is the next step in compar-
7 ing these samples to the foreign paint transfers that you
8 collected from the motorcycle?

9 A. Once I collected the paint samples from the pickup
10 truck I would have taken those samples into the lab, and
11 I would have done a physical evaluation of them just like
12 I did with the paint chips on the motorcycle, so that I can
13 find out how many layers were in the sample, the colors in
14 each layer.

15 Once identifying the layer sequences, then I would
16 perform chemical analyses on them, using two instrumenta-
17 tions, a scanning electro-microscope, which we abbreviate
18 as SEM, that will allow me to potentially characterize pig-
19 ment components of each of those layers.

20 And the other instrument we utilized is a farrior trans-
21 form infrared spectrophotometer, which we always abbreviate
22 as IR or FTIR.

23 That allows us to identify bindings or binders in each
24 of those samples.

25 So once I collected those paint chips on the truck, I

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1 would have analyzed each of those layers and compared them
2 to the samples that I removed from the motorcycle.

3 Q. All right, and is every single area on a manufactured
4 vehicle -- does it necessarily retain the same paint com-
5 ponents at every aspect on the vehicle?

6 A. No, maam. Manufacturers often apply different types
7 of paint to different areas of the vehicle. There are some
8 areas that are prone to chipping so they may put hardners
9 in that paint so it is less affected by rocks hitting, and
10 there are areas of a vehicle that are going to scratch more
11 frequently than others.

12 In some portions they may put color-coordinator primer
13 in there so that when that surface layer does get scratched
14 you don't see the metal underneath or you don't see the
15 primer underneath.

16 Q. All right. Now, in this particular case, did you have
17 or receive a photograph of the Ford green Ranger -- the
18 green Ford Ranger from a driver's side viewpoint?

19 A. Yes.

20 Q. Did you actually have doors and a rocker panel on the
21 passenger side of the vehicle?

22 A. No, maam.

23 Q. Those had been cut away?

24 A. Yes, maam.

25 Q. So how did you go about making paint or collecting

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1 paint samples that were comparable to the passenger side
2 door rocker panel?

3 A. We -- I had to go to the next best thing. When we
4 look for paint on a vehicle that we suspect of being in-
5 volved in an accident, we ask the submitting agencies, or
6 in this case I went, to collect paint from as close the
7 area of the incident as possible.

8 And in this case because where the suspected incident
9 area had been removed, we had to go with the next best
10 thing which would have been the driver's side area.

11 Q. All right. Were you ultimately able to collect paint
12 chip samples from the driver's side door area and below
13 the driver's side door?

14 A. Yes, maam, I was.

15 Q. Were you able to collect paint samples from the rocker
16 panel in that area?

17 A. Yes, maam, I was.

18 Q. That would be the lower portion just below the
19 driver's door?

20 A. Yes, maam. The rocker panel is kind of difficult to
21 see in that area. It is the flat portion that meets up
22 with the door when the door closes.

23 If you are stepping into the vehicle, you are going
24 to drag across that as you come onto the floorboard.

25 Q. All right. Now, having collected those samples, what,

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1 if anything, were you able to determine when you did com-
2 parison analysis between the samples taken from the truck
3 and the foreign paint that had been collected from the body
4 of the motorcycle?

5 A. . .

6 MR. FLOYD: Objection, Your Honor.

7 THE COURT: The basis?

8 MR. FLOYD: The samples we have previously objected
9 to for the reasons stated.

10 THE COURT: Overruled.

11 BY SOL. MAYES:

12 Q. Agent Moskal, could you go through these individually?
13 You mentioned that you had collected paint from around the
14 tire area of the vehicle. Is that correct -- of the motor-
15 cycle? Is that correct?

16 A. Yes, maam. The tire of the motorcycle.

17 Q. All right, and looking at these photographs, tell me
18 whether or not you are referring to this area here?

19 A. Yes, maam. The way the picture is oriented, it would
20 be at the top where you see what looks like some white or
21 maybe green paint materials. That is where paint was act-
22 ually embedded between the tire and the metal portion of
23 the rim of the tire.

24 Q. What, if anything, allowed you to determine that these
25 markings were the result of a paint transfer and not original

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1 to the motorcycle?

2 A. Well, for starters, people don't typically paint that
3 portion of the motorcycle. Additionally, the colors and
4 the layer sequences of that particular chip were different
5 than the color sequences and layers on the motorcycle it-
6 self.

7 Q. All right, and having collected that, what determina-
8 tion, if any, did you make about the comparison between
9 these samples from the tire of the motorcycle and any sample
10 you took from the green Ford Ranger at the Cayce Depart-
11 ment of Public Safety?

12 A. What was pictured there was my SLED item number 2.3.
13 Those were paint chips again that were embedded on the tire
14 and the rim.

15 After analysis of those, I found that it contained a
16 Ford Motor paint chip that was the same as far as visible
17 characteristics and chemistry as paint I removed from the
18 Ford vehicle or Ford truck, my item number 8.3.

19 Q. So from the standpoint of chemistry and visible char-
20 acteristics, the paint matched?

21 A. The paint was similar, yes, maam. It matched in chem-
22 ical characteristics.

23 Q. All right, and what was the next step you took in the
24 comparison analysis?

25 A. Any particular item?

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1 Q. You testified previously about collecting a sample
2 from around the porch area of the motorcycle?

3 A. Yes, maam.

4 Q. And that has been identified as State's Exhibit 16.

5 A. On that area of the motorcycle, that was my SLED item
6 number 2.4. I collected additional green paint chips from
7 there, and after analyzing their layer sequence and the
8 chemistry, I found that those paint chips also were visibly
9 and chemically consistent with . .

10 MR. FLOYD: I object, Your Honor, to testimony con-
11 cerning comparison of the paint chips with chips from the
12 truck.

13 THE COURT: Objection overruled.

14 BY SOL. MAYES:

15 Q. Agent Moskal, you were talking paint collected from
16 the porch of the motorcycle. Were you able to relate it to
17 a specific -- were you able to compare it to a specific
18 area of the truck?

19 A. Yes, maam. I was able to compare it specifically to
20 an area of the truck.

21 Do you have the photos showing the driver side of the
22 vehicle again, of the Ford truck?

23 Q. This is State's Exhibit 18. If you would like to step
24 down and you can bring your notes with you, if it would aid
25 you in your testimony.

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1 A. Pointing at the driver's side, there are three holes.
2 One hole in the lower section on the front driver's door,
3 and another hole here on the driver's side, and there is a
4 hole here at the bottom portion of the rocker panel.

5 The paint samples taken from the area of the driver's
6 -- paint removed from the tire of the motorcycle that were
7 embedded in this area is consistent with paint samples as
8 taken from the driver's door of the Ford vehicle and the
9 rocker panel.

10 Q. To clarify, you are talking about the area of the mo-
11 torcycle tire and these areas here?

12 A. These areas, here. Near the bottom of the door.

13 Q. And what about the paint sample or foreign paint sam-
14 ple collected from the porch of the motorcycle?

15 A. It would also match this area just below the door.

16 Q. And you were speaking previously about the use of the
17 different chemical layers here?

18 A. Yes.

19 Q. Found in Ford automobiles?

20 A. Yes.

21 Q. And specifically why would there be a different or an
22 extra layer used in the lower portion of the vehicle?

23 A. It could be something added to the paint in an area
24 of the rocker to keep it from scratching or to better pro-
25 tect that portion of the vehicle.

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1 Q. And if you could go on to the next one. Well, you
2 mentioned the chemical characteristics. Have you developed
3 any type of exhibit to further explain that?

4 A. Yes, maam, I have.

5 Q. All right. Did you prepare these exhibits yourself?

6 A. Yes, maam, I did.

7 Q. In this particular exhibit, what are we looking at?

8 A. This is a depiction of the paint that I collected from
9 under the driver's side door area.

10 Q. Of the truck?

11 A. Of the truck, yes.

12 MR. FLOYD: Your Honor, I would object to this exhibit.
13 It is a sample that was collected from the wrong side of
14 the vehicle, the driver's side. Our position is . .

15 THE COURT: Objection is overruled.

16 BY SOL. MAYES:

17 Q. Now, in terms of the chemical layers and the analysis
18 if you would tell us what we're looking at?

19 A. Well, this is not to scale, but this is from my re-
20 cords of how the individual layers are, the colors also.
21 These are layers of different paint material and it may
22 have something added as I said before.

23 This is a grey primer layer, and over there is the
24 green paint layer. There is also the color of the paint
25 sample, the metallic green or something like that, and these

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1 had a nice shine to it.

2 Q. So these are potential layers of paint or paint chips
3 from the truck. What are we looking at here in this par-
4 ticular one?

5 A. This one is a picture of item 2.3 which was one of the
6 paint chips that I removed off of the right side of the mo-
7 torcycle tire, the front tire.

8 What you see here is a picture of the same type of
9 material as from the green Ford Ranger. The bottom paint
10 is the same grade as I saw, the grey primer, the same green
11 color and same clear coat as well.

12 Again, looking at the physical characteristics, the
13 layers, the color and coating, it is the same
14 on the front motorcycle tire as was found on the chips
15 taken from the truck.

16 The chemistry of each individual chip -- that is, again,
17 each layer -- that matched as far as each layer of the chips
18 analyzed.

19 Q. Can you tell us whether the layers as you have just
20 described are unique to certain makes and models by certain
21 manufacturers?

22 A. Well, as I talked about before, the same chemistry as
23 it was run through the paint data-base. It was potential
24 for all of the motor vehicles on that sheet over there and
25 would have had that same chemistry.

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1 The same layers, the same chemistry.

2 Q. All right, and does that include a 2000 Ford Ranger?

3 A. Yes, maam, it does.

4 Q. All right. Now, we were talking about paint analysis
5 of paint from the right front shock.

6 Tell us what you determined?

7 A. I determined that the paint I removed from the right
8 front shock, my item 2.4, also had paint chips that had the
9 same layer sequence and had the same chemistry in each of
10 the layers as the paint chips from the Ford truck.

11 Q. And were taken from the driver's side door of the Ford
12 Ranger?

13 A. Yes, maam. The area of the lower driver's side door.

14 Q. And this exhibit relates to foreign paint taken from
15 the right side of the motorcycle tire?

16 A. Again, item 2.5, additional paint chips I collected
17 from the area between the tire and the porch of the motor-
18 cycle. It had layers of paint chips under a clear coat and
19 the chemistry of each individual layer again was consistent
20 with layers and chemistry as item 2.3 and the driver's
21 side door of the truck.

22 Q. Now, how did you go about determining that the fender
23 that had been recovered from the scene of the collision
24 was in fact the fender that belonged to the motorcycle?

25 A. I took the motorcycle itself to make sure it had

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1 actually come from that. What I did at that point was to
2 cut a piece of paint out of the fender that was found in the
3 roadway, I believe, at the scene. I took a cutting out of
4 that to determine what the layers of paint were, how many
5 layers it would have, then what the chemistry of each layer
6 was.

7 Then I went to the motorcycle and cut a piece of the
8 paint out of that. I analyzed it to determine how many lay-
9 ers it had and what the chemistry was of them.

10 Q. And what determination were you able to make concern-
11 ing any connection between the piece found on the road at
12 the accident scene and the motorcycle itself?

13 A What I found is that both the piece that was off the
14 motorcycle and the piece that was still attached to the
15 motorcycle had the same number of layers, had the same color
16 to each layer, and had the same chemistry for each layer.

17 Q. Did you prepare an exhibit as to the motor cycle lay-
18 ers on the piece found and the motorcycle itself?

19 A. Yes, maam, I did.

20 (Brief pause in the proceeding)

21 BY SOL. MAYES:

22 Q. And if you could tell us what we are looking at and
23 please speak up. Tell us about this exhibit on the motor-
24 cycle paint layers?

25 A. This is a depiction of a paint chip that I removed off

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1 the motorcycle itself. It was still attached at the time,
2 and what I found was a nine layer paint chip, my item 2.3,
3 and it was on the motorcycle fender still attached to the
4 motorcycle fender.

5 What I found was a nine layer paint chip. It had a
6 layer of white, a layer that was not quite metallic, a coat
7 of red and then the green paint was showing.

8 As I said, that was still attached to the motorcycle.
9 A fender had been submitted separately, and I removed a
10 piece of paint from that. I cut it off, analyzed it and
11 it had the nine layers. It had the same sequence of layers
12 with the under layer, the near-metallic like, the red and
13 green.

14 Upon analyzing them, I found the composition of each
15 layer was consistent with the paint in the chip that was
16 removed, being still attached to the motorcycle.

17 Q. All right, and in your analysis, were you able to de-
18 termine whether the coat of paint on the motorcycle was the
19 original color, or had it been repainted?

20 A. I believe the motorcycle had been repainted.

21 Q. What led you to that determination?

22 A. The fact that we see several different color coats
23 here, and you can see three red layers and a green layer.
24 That was an indication the motorcycle had probably been re-
25 painted several times.

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1 Q. So there is a red layer and other layers before the
2 final coat?

3 A. Yes, maam. There were actually three red layers below
4 that top coat.

5 Q. All right. Now, you mentioned previously that you
6 also found evidence of some type of paint transfer on the
7 fender itself?

8 A. Yes, maam.

9 Q. What drew you to make that conclusion?

10 A. Once I had analyzed it or determined what type of
11 paint was original -- I use that term original but it was
12 a portion of that motorcycle. Once I had determined what
13 the type of motorcycle itself was, I was able then to locate
14 any other paint on there to see if it was consistent with
15 this paint layer structure.

16 Q. All right, and what, if anything, did you determine?

17 A. I was able to find some foreign paint chips on the
18 fender that was not attached to the motorcycle.

19 Q. When you talk about the foreign paint transfers that
20 you've described, what kind of physical transaction is
21 required to produce such a transfer?

22 A. When two objects or two vehicles collide with each
23 other, you have the potential for paint from one to trans-
24 fer to the other and vice versa.

25 You can either get a paint sample or a dent in the

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1 paint as metal bends. Paint would then fall, or you can
2 actually get a paint smear if such a transfer slide where
3 the layers of paint off one vehicle actually smears across
4 the other one.

5 Q. Ultimately, were you able to compare the foreign paint
6 transfer -- suspected foreign paint transfer off of the
7 fender to any portion of paint chip collected from the green
8 Ford Ranger?

9 A. Yes, maam, I was.

10 MR. FLOYD: Your Honor, I would object to the question.
11 The same objection as to transfers from the green Ford
12 Ranger.

13 (Colloquy at the bench between counsel and the Court
14 off the record)

15 THE COURT: Objection is overruled.

16 BY SOL. MAYES:

17 Q. Were you able to compare the foreign paint transfer
18 from the fender to any portion of the paint collected from
19 the truck?

20 A. Yes, maam, I was.

21 Q. And in what area had you collected the paint chip from
22 the truck?

23 A. I found on the broken portion of the fender of the
24 motorcycle matched layers and chemistry to the rocker por-
25 tion of paint in the top picture.

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1 Q. And are you talking about the driver side of the truck
2 since the passenger side was not available?

3 A. Yes, maam.

4 Q. All right, and do you have an exhibit showing that
5 comparison analysis?

6 A. Yes, maam.

7 Q. Can you tell us what you determined in that comparison
8 analysis?

9 A. On the fender that has been produced from the motorcy-
10 cle I found paint chips on one layer that was not consist-
11 ently ^{across} something, where there may have been overspray or
12 something, where the the portions did not merge.

13 On the rocker portion of the pickup truck, I found it
14 had the same sequence to it, again with that particular
15 layer that was not consistent, probably due to overspray.

16 Q. And could that occur during the original manufacturing
17 of the Ford green Ranger?

18 A. Yes, maam.

19 Q. Did you prepare an exhibit to that effect?

20 A. I did.

21 Q. All right. Can you tell us what we're looking at on
22 here in terms of that?

23 A. Item 1.1 again is a portion of foreign green paint I
24 removed from the fender that was not attached to the motor-
25 cycle.

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1 What I have depicted here are the five layers, the
2 white and grey layer, the basic primer, and the dark grey
3 where I'm showing the full layer coverage of the area that
4 could have been oversprayed and showed up in the sample.

5 Then we have a dark green fiber and then -- a green
6 and a clear coat.

7 Again, those were from the fender that had been re-
8 moved off the motorcycle.

9 On the vehicle itself I collected item 12.1, and I did
10 find the same series of paint chips. The light grey layer
11 and dark grey, an intermittent area of dark green and a
12 clear coat.

13 The comparison of the above paint chips were consis-
14 tent.

15 Q. Could that be an area of the manufacture where there
16 -- the manufacture of the green Ford Ranger where there was
17 a E-coat added?

18 A. And you could also find that on the body of the ve-
19 hicle that is bumped in traffic and that would allow the
20 vehicle not to rust.

21 It could also be something as I said that was added
22 in the manufacture.

23 Q. Can you tell us whether or not the same components
24 and the E-coat were present on the Ford Ranger that would
25 transfer onto the motorcycle?

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1 A. Yes, maam.

2 Q. Thank you. Now, was this information shared with the
3 Department of Public Safety?

4 A. Yes, maam, it was.

5 Q. And how did you go about relaying that information to
6 them?

7 A. Once our analysis is complete, we pass our entire case
8 packet of information to other analysts in the department
9 who are qualified in that discipline.

10 They review it from beginning to end as part of a peer
11 review process, so every report that I issue has a peer
12 review.

13 Once it is peer-reviewed, we issue a report to the
14 submitting agency.

15 Q. You mentioned there was an initial analysis in 2010,
16 and were you able to match other paint transfers to the
17 green Ford Ranger during 2010?

18 A. Yes, maam, I was.

19 Q. And then ultimately you mentioned that there was a
20 re-submission in the year 2011?

21 A. Yes, maam.

22 Q. What was the purpose of that re-submission?

23 A. The re-submission was for two purposes. One was to
24 establish that the fender that had been removed from the
25 motorcycle did indeed have the same paint layer sequence

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1 and chemistry as the fender still attached. It was ini-
2 tially one item.

3 The other fender was analyzed in 2011. Our basic
4 protocol was the side of the tire where I collected three
5 different areas of paint.

6 All three of those paint chips appeared physically
7 to have the same layer sequence, and they physically were
8 consistent with each other. When we focus on one of them,
9 we don't analyze the additional samples, and so it was re-
10 quested in 2011 that I go ahead and analyze the additional
11 samples.

12 Q. And you did so?

13 A. Yes, maam, I did.

14 Q. And can you tell us whether or not all of those were
15 matching the first one?

16 A. They all had the same layers and physical and chemical
17 properties that were consistent with an area of
18 the Ford vehicle.

19 Q. All right. Now, you mentioned nine individual layers
20 of paint that were on that motorcycle. So there was the
21 original paint and the repainting as to the others. Is
22 that correct?

23 A. Yes, maam.

24 Q. I want to show you what is State's Exhibit 16 and ask
25 you to take a look at this photo in terms of additional

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1 discoloration such as the white here and the reddish
2 color here?

3 A. Yes, maam.

4 Q. All right, and do you have an opinion as to whether
5 that involved a foreign paint or are those colors asso-
6 ciated with the motorcycle itself?

7 A. The white areas are going to be areas of fiberglass
8 that were exposed when the fender broke, and the brown-
9 ish areas are -- the way they look here I believe are
10 actually red areas that the portion of the motorcycle paint
11 chip.

12 Q. Of the previous underlying layer?

13 A. Of the previous underlying layer, yes, maam.

14 Q. All right, and, Agent Moskal, having -- when you were
15 actually collecting the foreign paint transfers from the
16 motorcycle, how thoroughly did you examine it?

17 A. The entire motorcycle from front to back.

18 Q. All right, and at any point during your collection
19 of paint samples, did you see any evidence of different
20 foreign paint transfers other than the green from the Ford
21 Ranger on the rim of the tires?

22 A. No, maam, I did not.

23 SOL. MAYES: May I have just a moment, Your Honor?

24 (Brief pause in proceeding)

25 BY SOL. MAYES:

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1 Q. Agent Moskal, you mentioned earlier when speaking of
2 paint transfer the term smearing. Can you tell us whether
3 or not there is evidence of paint smearing in this case?

4 A. There did appear to be some paint smearing on the
5 fender that had been removed of the motorcycle.

6 Q. All right, and that is State's Exhibit 10?

7 A. Yes, maam.

8 Q. Is there anything significant -- tell us what is sig-
9 nificant about paint smearing?

10 A. Paint smearing implies that it was put there with a
11 force. Paint chips may result when a piece of metal bends
12 or cracks or may just flake off and wind up on another piece
13 of material, but the actual smear itself implies the two
14 of them made contact with force behind it.

15 Q. Thank you.

16 SOL. MAYES: Nothing further from the State at this
17 time, Your Honor.

18 THE COURT: Mr. Floyd, cross examine.

19 CROSS EXAMINATION

20 BY MR. FLOYD:

21 Q. Agent Moskal, . .

22 A. Yes, sir.

23 Q. . . basically from what you've said you can go to the
24 data-base and say this is a paint chip that could be from
25 some manufacturer. Is that right?

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1 A. Yes, sir.

2 Q. And this was between 1999 and 2001 manufactured?

3 A. Yes, sir.

4 Q. A Ford Ranger 1999 to 2001 manufactured in Twin Cit-
5 ies, Michigan?

6 A. Yes, sir.

7 Q. Or a Ford Escort 1998 to 1999, a Ford Expedition 1998
8 to 2001, a Ford Focus 2000 to 2001, a Mercury Tracer 1998
9 to 1999, a Ford Navigator 1998 to 2000 and 2002?

10 A. Yes, sir.

11 Q. So basically this paint chip could come from any one
12 of these vehicles?

13 A. Yes, sir.

14 Q. Is that correct?

15 A. Yes.

16 Q. And all these vehicles were manufactured and painted
17 in the same fashion?

18 A. They have the same paint in them but different layers.
19 You're going to have different pigments in them to give
20 them different colors but the basics of each layer have a
21 potential to be found on each of those other vehicles.

22 But they would also have to have the exact same color
23 in them as well for us to say they were a match or poten-
24 tial . .

25 Q. So you've got a paint chip and you have a chip taken

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1 from the motorcycle, and this is a vehicle -- this is a
2 paint chip transferred to this vehicle?

3 A. Yes, sir.

4 Q. From a Ford Ranger, and basically that chip could have
5 come from any one of these vehicles you have listed?

6 A. Yes, sir, but when you apply different layers to a
7 sample it does become closer to a fingerprint. If you ap-
8 ply different repaints to a sample, two different vehicles
9 would have to be repainted at the exact same frequency,
10 the same color and same sequence of repaint.

11 So as you apply more layers you can get a fingerprint
12 that is not quite a fingerprint.

13 Q. This was an older vehicle?

14 A. Yes, sir.

15 Q. So basically what you've said is that this paint chip
16 removed from the motorcycle could be from this Ford Ranger
17 or it could be from one of these other vehicles?

18 A. Yes, sir.

19 Q. Is that correct?

20 A. That is correct.

21 Q. And there is no way you can say for certain that this
22 paint was from the Ford Ranger?

23 A. There's no way to say for certain but we have two dif-
24 ferent types of paint chips that match. So to get paint
25 chips from different areas of a vehicle, differently painted

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1 areas of a vehicle, I believe it comes to a point where it
2 starts to make it more likely that it came from this ve-
3 hicle than from something else.

4 Q. How many Ford Rangers are in use today?

5 A. They don't publish that information.

6 Q. Are many of them green?

7 A. Yes, sir, but, sir, again, to match the specific one
8 it would still have had to have the same paint color prim-
9 ers.

10 Manufacturers as they go through a daily process may
11 run out of a batch of paint and change it in mid-stream,
12 so portions of it may be similar but you could potentially
13 get some underlying colors on there.

14 Q. So are you saying there may be more than one particu-
15 lar paint on a vehicle?

16 A. Not on a vehicle, no, sir.

17 Q. And, for example, you said a while ago in the test on
18 the rocker panel that was not the rocker panel from the
19 side that was struck?

20 A. No, sir, it was not.

21 Q. So it was the rocker panel from the other side?

22 A. Yes, sir.

23 Q. And you could have a paint chip that would be differ-
24 ent from what you've said from one side to the other?

25 A. The potential does exist.

R. MOSKAL ON CROSS

1 Q. So from your testimony . .

2 A. Let me back up a little. I think I said earlier --
3 I don't think they would run out midstream in a particular
4 vehicle itself so the paint chemistry involved on a ve-
5 hicle would be the same although further down the line it
6 may have a different or is going to have a different paint
7 sequence to it.

8 Q. So what you are saying is that this paint chip could
9 have been from this Ford Ranger?

10 A. Yes, sir.

11 Q. However, it could possible come from another Ford
12 Ranger?

13 A. If it had the same paint sequence.

14 Q. Or a Ford Escort, 1998 to 1999, a Ford Expedition,
15 1998 to 2001, a Ford Focus, 2000 to 2001, a 1998 to 1999
16 Mercury Tracer, a 1998 to 2000 and 2002 Ford Navigator?

17 A. Any of those that would have the same layer sequence,
18 colors, chemistry, would be a potential. Yes, sir.

19 Q. Are they pretty much painted the same?

20 A. No, sir. I mean, every Ford truck that comes off the
21 line is not painted the same. You have different colors
22 and . .

23 Q. You have different colors?

24 A. Yes, sir.

25 Q. So what is different between the paint?

R. MOSKAL ON CROSS

1 A. The layer sequences on each of them in terms of your
2 Ecoat and your primers and your color coat and your clear
3 coat. They do basically have the same format.

4 Q. Same foremat?

5 A. Yes, sir.

6 Q. Thank you. No further questions.

7 THE COURT: Redirect.

8 REDIRECT EXAMINATION

9 BY SOL. MAYES:

10 Q. Agent Moskal, is every Ford Ranger manufactured the
11 same?

12 A. Could you say that one more time?

13 Q. Is every -- is the paint sequence
14 on every green Ford Ranger necessarily manufactured the
15 same?

16 A. No, maam.

17 Q. And why is that?

18 A. Again, as they are going through production, if they
19 run out of a color coordinated primer one day and they have
20 a demand to get vehicles out, they may grab another primer
21 they have. So they are going to paint things according to
22 what they have in supply at the time.

23 Q. And in this particular paint does every sequence of
24 the paint match?

25 A. Yes, maam.

M. MOSKAL ON REDIRECT

1 Q. Now, you mentioned before about the rocker panel. Do
2 Ford Escorts have a rocker panel?

3 A. Yes, maam. It's going to have a rocker panel, I be-
4 lieve.

5 Q. All right, and is every rocker panel necessarily --
6 on that list necessarily the same sequence down to the E-
7 coat?

8 A. I would have to see some of those vehicles to be able
9 to answer that one.

10 Q. All right, and in this particular paint the E-coat
11 existed on the rocker panel of the Ford Ranger?

12 A. Say that one more time. I'm sorry.

13 Q. The E-coat existed on the rocker panel of the Ford
14 Ranger?

15 A. Yes, maam.

16 Q. And it was also found on the fender?

17 A. Yes, maam.

18 Q. Now, what is the significance of the fact that dif-
19 ferent paint chips match?

20 A. There were actually two different paint chips. The
21 rocker panel as well as the portion on the exterior of the
22 vehicle that kind of went down and sloped underneath the
23 vehicle -- those two areas of that Ford pick-up truck had
24 different sequences and there was a section that matched
25 what was found on the fender and there was a piece of the

M. MOSKAL ON REDIRECT

1 other that matched what was found on the motorcycle.

2 Q. And the other cars that were manufactured by Ford,
3 would you necessarily expect them to contain all of the
4 same sequence of layers?

5 A. No, but that is a possibility.

6 Q. Let me ask you specifically about the rocker panel on
7 the driver's side. Is there any reason to believe that
8 the rocker panel on the driver's side would have been dif-
9 ferent from the rocker panel on the passenger side?

10 A. No, maam. There is no reason to believe that the two
11 sides would have been painted differently.

12 Q. Nothing further.

13 THE COURT: Anything further?

14 RECROSS EXAMINATION

15 BY MR. FLOYD:

16 Q. Agent Moskal, . .

17 A. Yes, sir.

18 Q. . . most all of them have E-coats on them?

19 A. Yes, sir. I believe most of them are.

20 Q. And all of them have primer?

21 A. Correct.

22 Q. So that doesn't make them unique, the vehicles that
23 have an E-coat?

24 A. That does not make those vehicles unique. No, sir.

25 Q. And do you have any information on whether or not the

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1 paint, the green paint, ran out?

2 A. I don't have any information on that, no, sir.

3 Q. Don't have any information on how long it might have
4 been out of use?

5 A. No, sir.

6 Q. And that is kind of speculation . .

7 A. It's not speculation. It is a factor that does occur.
8 Yes, sir.

9 Q. Does occur?

10 A. Yes, sir.

11 Q. How often?

12 A. That I don't have. I wouldn't have that information
13 as I was not given the information.

14 Q. Do you know if that had happened in the Twin Cities
15 plant?

16 A. I'm sorry.

17 Q. Do you know if that happened at the Twin Cities plant?

18 A. I don't know which plants it has or has not happened.

19 A. Thank you, sir.

20 THE COURT: All right, you can step down.

21 (Witness excused from stand)

22 THE COURT: Solicitor.

23 SOL. MAYES: The State rests, Your Honor.

24 THE COURT: Ladies and gentlemen, the State's case
25 is now complete.

1 If you would approach briefly?

2 (Conference at the bench between counsel and the Court
3 off the record)

4 THE COURT: Ladies and gentlemen, I'm going to send
5 you to your jury room at this time for a few minutes.

6 Please do not discuss the case.

7 (Jury excused from the Courtroom)

8 THE COURT: All right, Mr. Floyd.

9 MR. FLOYD: Your Honor, at this time the Defense would
10 move for a directed verdict of acquittal. The basis of
11 our motion -- we have several things.

12 First of all, I would like to address the obstruction
13 of justice. I would also renew my motion to quash the
14 Indictment, based on the statute referred to in our motion
15 to quash and the common law involving the crime of obstruc-
16 tion of justice.

17 It is our position that the State has failed to estab-
18 lish the required elements to convict on obstruction of
19 justice.

20 It is our position under the very premise of our
21 country that a person charged with a crime has a right not
22 to incriminate himself, and that my client in this case
23 would have the same right as anyone else in that regard,
24 Your Honor.

25 It was his own property that was involved and he would

1 have a right to privacy on his own property as he exercised
2 his right not to incriminate himself.

3 There was no proof obstruction of justice.

4 THE COURT: All right. Does the State wish to re-
5 spond?

6 SOL. MAYES: Yes, sir, Your Honor.

7 THE COURT: All right.

8 SOL. MAYES: In this particular case, it may be this
9 was property that he owned, but the evidence that the State
10 has presented is that he took preventative action toward
11 the authorities and the law enforcement agencies.

12 One of the State's witnesses testified that the De-
13 fendant had said to him that nobody would ever find the
14 door, which certainly indicates an action that he took
15 to conceal evidence of guilt related to himself.

16 He disposed of property, and although it was his
17 own property as Mr. Floyd said, it was crucial evidence
18 in the case as to his guilt, as he made efforts to con-
19 ceal the vehicle, as well as get rid of the truck door.

20 During the interview with law enforcement, he hid the
21 fact that he had gotten rid of evidence, and in that way
22 he certainly hindered law enforcement in their investi-
23 gation.

24 That is certainly relevant, and it is the State's posi-
25 tion that during the interview he maintained he was at a

1 certain location and that he knew nothing about this
2 event.

3 Plus the fact that he had gotten rid of evidence and
4 made efforts to hide the truck.

5 So he hindered the investigation by law enforcement
6 in several ways.

7 MR. FLOYD: There was evidence by a person who testi-
8 fied that he knew the Defendant had attempted to hide evi-
9 dence from the police when they came looking for it and
10 that person did not come forward at first.

11 He later did come forward with this information, and
12 that could as well be considered by the jury as obstruction
13 of justice.

14 He at first decided not to be involved and then he did
15 come forward which changed the events.

16 THE COURT: That is not before us here. We are here
17 on the question of whether the State has proven the guilt
18 of your client of hit and run involving the death of Mr.
19 Morris.

20 SOL. MAYES: Yes, sir, and it is the State's position
21 that he destroyed physical evidence of his guilt, so it
22 is not just the fact that he did not cooperate with the
23 law enforcement agencies in their investigation into the
24 case.

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1 That would create a separate action to destroy and to
2 hide physical evidence.

3 THE COURT: It is a matter for the jury to determine,
4 but as far as what crime . .

5 SOL. MAYES: I think the State . .

6 THE COURT: I would deny the motions. He is only on
7 trial for one crime, hit and run accident.

8 SOL. MAYES: It is the State's position that there
9 would have to be a separate action involving the hiding or
10 concealing evidence.

11 It appears that this was during the ongoing investiga-
12 tion being conducted by the police.

13 THE COURT: The question is whether he was the one
14 who was driving the vehicle at the time of the collision
15 and whether he left the scene without doing the necessary
16 things that are called for.

17 I believe it would be a separate crime, the destruc-
18 tion of evidence. I don't know of anything in the State
19 of South Carolina history or United States history where
20 it has not been considered a separate crime.

21 SOL. MAYES: And I don't have a case on point, Your
22 Honor, on the issue but it is the State's position it is
23 a separate act and would be a separate charge.

24 THE COURT: That is something for the State or the
25 proper prosecutor to look at.

1 SOL. MAYES: According to information provided by the
2 State's witnesses, that would have occurred several days
3 later.

4 One witness testified to seeing the truck in the gar-
5 age in damaged condition, after which the truck was moved
6 and then it was covered by a tarp behind a shed.

7 Then there was testimony by another witness that the
8 door had been removed when he saw it next.

9 So those would have been separate acts by the Defen-
10 dant. Your Honor.

11 THE COURT: So we will go forward at this time, Mr.
12 Floyd.

13 MR. FLOYD: Thank you, Your Honor.

14 We would next move for a directed verdict on these
15 two grounds. First of all, Your Honor, the State has failed
16 to prove that the collision is what caused the death of
17 Mr. Morris.

18 It has not proven that anything my client did was the
19 actual cause of death. There was testimony about a blood
20 clot but there is no proof that the blood clot did not oc-
21 cur simultaneously and unrelated to those injuries that
22 were described.

23 The State provided no evidence whatsoever that would
24 prove -- as to why he died. He survived the collision, was
25 taken to the hospital and was known to be mobile before he

1 died. There is no chain of causation as required between
2 the accident and this man's death.

3 We asked about the toxicology reports because that
4 would show whether or not he was being given any drugs to
5 -- any drug that would have prevented such a thing from oc-
6 ccurring such as a blood thinner of some kind.

7 There was no such testimony, and the State has failed
8 to establish causation of death.

9 THE COURT: Are you saying there was simple negligence
10 or gross negligence?

11 MR. FLOYD: I would say gross negligence, Your Honor,
12 because it is such a known risk factor.

13 THE COURT: The South Carolina Code says that all per-
14 sons driving a vehicle -- a driver of vehicle involved in
15 an accident resulting in injury or death of a person must
16 stop their vehicle and -- this is South Carolina Code 6 5
17 1210.

18 It says a driver involved in an accident resulting in
19 injury to or death of a person shall immediately stop --
20 no question. That's the code. It says the driver shall
21 immediately stop when involved in an accident.

22 Now, the South Carolina Code goes to the impact on
23 the victim so it is saying in the immediate sense -- so
24 it is required that a death -- charging a person with not
25 stopping immediately, regardless of the chain of causation,
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1 so I could not direct a verdict of acquittal on the charge
2 of leaving the scene of a wreck. You can see that when you
3 consider the statute.

4 The way the word immediately is used -- it says re-
5 sulting in death of a person immediately -- then it says
6 shall stop.

7 The (inaudible) Code says resulting in injury or death
8 shall immediately stop, rather than resulting in death imme-
9 diately shall stop. South Carolina says immediately shall
10 stop.

11 MR. FLOYD: We would suggest that immediately goes to
12 define injury or death of a person -- there is immediate
13 injury or death.

14 THE COURT: That would mean as long as there is indi-
15 cation a person is alive there is no indication to stop.
16 There is also mention of leaving the scene with great bod-
17 ily injury. You may have immediate injury and not have im-
18 mediate death.

19 How about it, Ms. Mayes?

20 SOL. MAYES: Yes, sir, Your Honor. The State does
21 not agree with the interpretation posed by Mr. Floyd. There
22 is absolutely nothing to suggest that that was what was in-
23 tended by the legislation.

24 The words, immediately shall stop at the scene of the
25 accident, describe the duty of the driver, regardless of

1 whether it resulted in injury or death.

2 THE COURT: If you look at the Georgia law, it is just
3 the opposite of South Carolina law, so it doesn't do any
4 good to consider that, to look at Georgia law.

5 MR. FLOYD: I think it would rise to the same inter-
6 pretation, Your Honor.

7 THE COURT: All right. Well, under a reasonable in-
8 terpretation of the statute, if the State's evidence is
9 correct, the Defendant could be found guilty of leaving
10 the scene of an accident involving injury or death.

11 It is up to the jury to determine whether or not the
12 death, Mr. Morris' death, was proximately caused by the
13 wreck as claimed by the State. They heard the pathologist.

14 It is the jury's determination to make. So, Mr. Floyd,
15 I would have to deny that motion.

16 MR. FLOYD: Thank you, Your Honor.

17 Specifically at this time we would move in behalf of
18 the Defendant to suppress all evidence seized at the De-
19 fendant's residence pursuant to the search warrant.

20 It is our position that the search warrant is invalid in
21 this case because it was issued actually in Cayce and it
22 was executed in West Columbia in Lexington County.

23 We have previously argued that motion.

24 THE COURT: Yes, sir, the Court heard argument on the
25 issue yesterday and concerning this agency agreement.

1 MR. FLOYD: We would move to suppress all of the evi-
2 dence that was obtained.

3 THE COURT: We spent a good bit of time on that issue
4 yesterday, and whether the agency agreement was signed by
5 County Council or the required officials and all of that,
6 and who had to approve the agreement.

7 The case that you had -- the issue came up in the
8 case of State versus Burgess which is a 2011 case, a Court
9 of Appeals case, and the agency agreement, so called, was
10 referenced, another Lexington case.

11 The State v. Burgess case is a multi-jurisdictional
12 drug enforcement case.

13 In this case we're talking about an agreement that
14 would pertain to traffic enforcement.
15 (Colloquy between the Court and Mr. Floyd that was not aud-
16 ible on the record)

17 THE COURT: I would deny your motion at this time. We
18 need to proceed on.

19 MR. FLOYD: Thank you, Your Honor.

20 THE COURT: All right, is there anything further, Mr.
21 Floyd?

22 MR. FLOYD: No, Your Honor.

23 THE COURT: All right. Mr. Caughman, the State at
24 this time has -- you need to be sworn.

25 (Whereupon, the Defendant, Mr. Caughman, was sworn

1 by the Clerk)

2 CLERK: Judge, I don't believe he can be heard on the
3 record.

4 What was your response?

5 DEFENDANT: Yes, maam.

6 THE COURT: The State as you heard has rested, and
7 the time has come for the Defense case. I need to explain
8 to you certain of your rights. If you do not understand
9 anything that I say or if you need me to explain anything
10 further, please let me know and I will do that.

11 We have now reached the stage of the trial where you
12 may present your defense. You have the right to claim the
13 protection given to you by the Fifth Amendment of the Con-
14 stitution of the United States.

15 This Amendment states in part that no person shall
16 be compelled in any criminal case to be a witness against
17 himself. This means you cannot be required to testify in
18 this case.

19 You have the right to testify in your own behalf if
20 you want to, but whether or not you choose to testify is a
21 personal right. No one can waive this right except you.

22 If you decide to testify you will be subject to the
23 same rules as govern other witnesses. You can be examined
24 and cross examined on any relevant issue in this case.

25 In addition, if you have a conviction that involves

1 dishonesty or false statements or crimes punishable by im-
2 prisonment for more than one year and I determine the pro-
3 bative value of the testimony outweighs the prejudicial ef-
4 fect to you, the Solicitor can question you as to your re-
5 cord as it may attack your credibility.

6 If you desire to testify, it must be a free, voluntary
7 and intelligent decision, made by you, considering the pro-
8 tections given to you by the Fifth Amendment as well as
9 the consequences of your decision.

10 If you decide not to testify, I would instruct the
11 jurors that they cannot give the fact that you did not tes-
12 tify any consideration whatsoever, and that there is to be
13 absolutely no prejudice to you that you did not testify.
14 They cannot even talk about the fact that you did not tes-
15 tify.

16 This must be a decision made solely by you. You can
17 talk with your lawyer, your family, friends or anyone else
18 you would like to, but the final decision will be left en-
19 tirely up to you as to whether or not you testify.

20 Do you understand what I've explained to you?

21 DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions regarding any-
23 thing I've told you?

24 DEFENDANT: No.

25 THE COURT: Have you talked with Mr. Floyd about whether

1 or not you should testify?

2 DEFENDANT: Yes, sir.

3 THE COURT: Do you want to talk to him any more about
4 it?

5 DEFENDANT: No, sir.

6 THE COURT: Have you made up your mind as to whether
7 or not you're going to testify?

8 DEFENDANT: Yes, sir.

9 THE COURT: Do you wish to testify?

10 DEFENDANT: No, sir.

11 THE COURT: All right. Does the Defense wish to call
12 any witnesses?

13 MR. FLOYD: No, Your Honor.

14 THE COURT: All right. We will go forward and allow
15 the Defense to rest in the presence of the jury, and then
16 we will talk about jury charges.

17 We'll come back tomorrow morning for arguments, charge
18 and deliberation.

19 Does that sound like a good plan?

20 SOL. MAYES: Yes, sir.

21 MR. FLOYD: Yes, sir.

22 THE COURT: Bring the jury in.

23 (Jury returned to the Courtroom)

24 THE COURT: All right, ladies and gentlemen. Since
25 the State has rested, it is the Defense's turn.

1 All right, Mr. Floyd.

2 MR. FLOYD: The Defense rests.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, the Defense has now rested its case, so you have now
5 heard all of the evidence to be presented in this
6 case.

7 Given that it is four o'clock, we are not going to
8 proceed further today. We will have closing arguments
9 and your deliberations tomorrow, as well as I will give
10 you my charge on the law.

11 So I am going to let you go at this time. Please be
12 back in your jury room at nine thirty tomorrow morning.

13 (Jurors were excused for the evening)

14 THE COURT: All right. We are going to talk about the
15 jury charges, and we will give the State overnight to work
16 on second indictment issues.

17 Then we will come back tomorrow morning for your open-
18 ing statements and the charge.

19 (The Court took a brief recess, after which the case
20 was resumed)

21 THE COURT: All right, thank you.

22 With respect to the charges, let me hear from the
23 State.

24 SOL. MAYES: Yes, sir, Your Honor. The only thing in
25 addition to what I've submitted as proposed charges, it

1 would be the Court's standard charge concerning direct and
2 circumstantial evidence.

3 THE COURT: All right. Mr. Floyd. Any objection to
4 what is submitted by the State?

5 What do you say about the statutes?

6 MR. FLOYD: I have no problem with the statutes.

7 THE COURT: Okay. Let me ask this question before we
8 go further with the charges. In one of the requests to
9 charge you handed up is concerning a lesser included of-
10 fense. What's your position on it?

11 MR. FLOYD: It is our contention that there is a ques-
12 tion of whether the death resulted from the accident.

13 THE COURT: What says the State?

14 SOL. MAYES: Your Honor, looking at the definition of
15 the great bodily injury, it is injury which creates a sub-
16 stantial risk of death.

17 It is true, however, that you can't have death with-
18 out substantial risk of death. If that is enough to create
19 an emphasis in that particular statute as a lesser included
20 offense we believe that is important, and we would like to
21 hand up case law on it.

22 We would leave that to the Court's discretion, Your
23 Honor.

24 THE COURT: Well, there can be great bodily injury not
25 resulting in death. I think it is an issue for the jury,

1 given the fact that you can leave the hospital and start
2 to take therapy with the expectation of recovery from
3 the great bodily injury.

4 The jury would have to determine the proximate cause
5 issue regarding the death. You have brought up the issue
6 of negligence, gross negligence, within the victim's hos-
7 pital treatment.

8 The great bodily injury could have been the cause of
9 death as well. If there was a charge of great bodily in-
10 jury, the jury would have to answer the question of whether
11 or not he is guilty of leaving the scene of the accident
12 causing great bodily injury, and not resulting in death.

13 All right. How about the other charges that have been
14 submitted?

15 MR. FLOYD: We would object to Number One. I think
16 that is taken out of content. I think the statute is suffi-
17 cient and gives the purpose of the statute, although it is
18 all somewhat cumulative.

19 Our position is that the State would have to show the
20 Defendant's failure to stop somehow lends to the possibil-
21 ity that the victim would die because of his failure to
22 stop.

23 We think that is not the intent of the statute, so
24 we would ask that it not be charged.

25 THE COURT: All right.

1 I think the evidence is clear that the victim did be-
2 gin to make a recovery until what happened that caused his
3 death.

4 All right. What says the State?

5 SOL. MAYES: Your Honor, on that portion of the stat-
6 ute that says the Defendant would have a duty to stop and
7 render aid and give information. The initial duty was not
8 to leave the scene after the impact.

9 It is possible the victim would not have died except
10 for the failure of that person to render aid. The Defen-
11 dant did leave the scene and the victim ultimately died at
12 the hospital after receiving initial treatment.

13 Our position is that the initial portion cannot set
14 up -- it is not relevant to what we have.

15 (Brief pause in the proceeding)

16 THE COURT: All right, the failure to stop and render
17 aid would benefit the person injured. Giving assistance --
18 the statute does not impose any duty but just gives the
19 -- does not impose any duty of proof but just gives the
20 stages, to stop and render aid.

21 The statutes says the driver has a duty to give the
22 information stated to the person injured and to render
23 assistance, including seeing the person is taken to a hos-
24 pital or arrange for treatment.

25 The statute is clear in its wording, duty to stop

1 and to render aid and so forth, as is stated therein.
2 I think the statute speaks for itself and so I'm going to
3 leave it in as it is stated with the requirements.

4 MR. FLOYD: Thank you, Your Honor.

5 THE COURT: As to number two, go ahead.

6 MR. FLOYD: Your Honor, number two we think is not
7 the wording of the statute. (Portion inaudible)

8 THE COURT: How about that, Ms. Mayes?

9 SOL. MAYES: Yes, sir, Your Honor. Again, I do not
10 believe the interpretation of the word immediately. It is
11 the State's position that it means the driver shall imme-
12 diately stop, speaking of the duty of the driver to stop,
13 rather than immediate death of the victim.

14 Beyond that, we believe the wording in the statute is
15 clear. Mr. Floyd would give a wrong application to the
16 wording.

17 MR. FLOYD: The statute speaks for itself.

18 THE COURT: All right.

19 (Brief pause in the proceeding)

20 THE COURT: I will give the statute as it exists, and
21 it is up to the jury to determine whether or not death or
22 serious bodily injury occurred as result of the accident.

23 (Whereupon, the disc ended for the day, and the case
24 resumed on May 23, 2013)

25 THE COURT: Good morning.

1 SOLICITOR MAYES: I have this ready as a redaction
2 of that other document.

3 THE COURT: Okay.

4 SOLICITOR MAYES: What we did is we leave the pages
5 that deal with the certification and the name, the ad-
6 dress and account number, and the transactions would
7 be substituted for the page.

8 THE COURT: All right.

9 (Brief pause)

10 (Colloquy between counsel and the Court off the
11 record)

12 THE COURT: Again, good morning.

13 There are a couple of things I understand we need
14 to take up.

15 SOLICITOR MAYES: Yes, sir. An exhibit was testi-
16 fied to on the stand by Detective Pereira, and it is
17 now with the Court Reporter.

18 The other item that we had addressed at the bench
19 this morning -- when we approached the bench the agree-
20 ment was the document would go into evidence subject to
21 later redaction.

22 We have now agreed upon a redacted page, which does
23 show the transaction in question on that particular day,
24 and we are going to pull out the other pages that are
25 dealing with other transactions and substitute that

1 PAGE. This is Exhibit 23.

2 I just wanted to verify that it is in evidence, Your
3 Honor.

4 (Bank of America document previously entered at page
5 84 of this record)

6 THE COURT: Are you satisfied with that, Mr. Floyd?

7 MR. FLOYD: Yes, Your Honor.

8 THE COURT: All right. We discussed the obstruction
9 of evidence charge that was requested, and rather than to
10 give that charge I would grant the Defendant's motion as to
11 that charge. I will not give the charge.

12 MR. FLOYD: Thank you, Your Honor.

13 THE COURT: Mr. Floyd had cases from Florida, Georgia
14 and Pennsylvania, I believe.

15 MR. FLOYD: And I believe there was a case from the
16 First Circuit on the issue.

17 THE COURT: All right.

18 MR. McNAIR: The grounds for wanting to not have the
19 Court give the obstruction of evidence charge is that it
20 would violate the Defendant's Fifth Amendment rights, and
21 I don't see how Fifth Amendment rights in this scenario
22 are involved.

23 THE COURT: What are you talking about?

24 MR. McNAIR: This Defendant. Mr. Floyd's grounds are
25 that his Fifth Amendment right to receive the protection

1 of the Fifth Amendment.

2 As you know, it has to be a statement of a testimonial
3 nature. This act of cutting the doors off were not com-
4 pelled by any government agency. It was a voluntary and a
5 wilful act on his part.

6 He is not charged with failing to turn the door over
7 to law enforcement so his Fifth Amendment rights are not
8 even invoked.

9 Second of all, I don't think his failure to testify
10 or communicate -- there is ample case law that states the
11 Fifth Amendment protections or his invoking those rights
12 are of a testimonial nature.

13 I thought this sort of case would have been helpful
14 to reenact that there was no violation. So I don't think
15 the Fifth Amendment applies in this case at all. This is a
16 case of a voluntary and wilful act, not compelled by law
17 enforcement.

18 Furthermore, Your Honor, there are cases -- there is
19 a murder case where the wife destroys the murder weapon,
20 and oftentimes they are not charged with obstruction al-
21 though that may not be common strategy. I don't think
22 there is anything to prohibit someone though from being
23 charged.

24 Your Honor, there is . .

25 THE COURT: I don't think there is a South Carolina

1 case on it. There is a jury trial where there was a des-
2 truction of a computer hard drive that was sought in the
3 investigation of the case, and I believe the charge was
4 possession of child pornography.

5 After learning that law enforcement agencies were seek-
6 ing it, he destroyed the hard drive, and he was charged
7 with destroying the evidence. Whether his Fifth Amend-
8 ment rights were violated were in question.

9 In this case, the Defendant is charged with leaving
10 an accident and before any communication by law enforcement
11 which was sometime later he -- some period of time later
12 he is said to have removed the door of his truck.

13 MR. McNAIR: Your Honor, the first sentence of that
14 case is that he destroyed the computer hard drive after
15 knowledge that the agencies were seeking that.

16 THE COURT: There they could not prosecute him for
17 the child pornography case, and he is on trial in this case
18 for leaving the scene of an accident. So this fact alone
19 -- if he were charged with something else in the case, it
20 might be different.

21 MR. McNAIR: Your Honor, in addition there were other
22 acts. He was aware that someone was injured and the next
23 day he told Mr. Gilbert he removed the doors or was going
24 to move the doors and nobody would ever find them.

25 THE COURT: I believe that was later though.

1 MR. McNAIR: But that puts knowledge in his mind. I
2 mean, he knows he is the target of an investigation. He
3 knows that there is an ongoing criminal investigation.

4 THE COURT: In some of those cases it says there was a
5 communication with law enforcement before the alleged de-
6 struction occurred.

7 In this case, the Defendant is charged with being in
8 an accident and leaving the scene.

9 So unless you have something else, I have ruled.

10 MR. McNAIR: Only that he had seen reports of an acci-
11 dent so that he was aware they could be looking for him.
12 It's just like that Hicks case.

13 THE COURT: Well, when we start questioning the stat-
14 utes, I mean, and any federal statutes that could apply --
15 I have said I would not charge obstruction. I would say
16 under the obstruction of justice charge which was handed
17 up, under the federal statute it would increase the Defen-
18 dant's potential duty to defend from the obstruction of
19 justice charge. He is not required to put up a defense.
20 Why should the State have to stretch its case when this
21 guy is charged with failure to hang around after the acci-
22 dent?

23 Why should the State be allowed to stretch the of-
24 fense and create a separate trial on something he was not
25 originally charged with?

1 I would think that people who commit crimes in every
2 case do something to help their situation, and the distinc-
3 tion in this case is clear. He was not arrested until a
4 call was made to the authorities giving his identity.

5 MR. McNAIR: Because you have no constitutional right
6 to destroy evidence, Your Honor, and that is obstruction
7 of justice, regardless of when a defendant was charged by
8 law enforcement.

9 THE COURT: But that's my question. Why -- the State
10 can try and convict him on what he's charged with, so why
11 try to create a separate offense?

12 I'm not questioning the action of the State, but this
13 can occur all the time where someone is charged
14 with a crime and you seek to charge him with as many as
15 possible.

16 The question is not whether it is a valid charge as
17 to what we have in this case.

18 MR. McNAIR: Your Honor, . .

19 THE COURT: Yes, sir.

20 MR. McNAIR: I don't think there is anything that pro-
21 hibits somebody from being charged with a principal offense
22 and then an investigation into . .

23 THE COURT: You all have not produced anything yet to
24 show it would be a valid charge. It is not a charge as
25 to the main offense, which is the one that he is on trial

1 for, the primary offense.

2 We should not re-invent the wheel on this case unless
3 there is something more that you have. If you don't have
4 anything more then there is no reason to add another charge
5 in when in reality is that what you've charged is a proper
6 charge and the primary charge.

7 Unfortunately, there is no South Carolina precedent,
8 but I don't see where the State could violate the Defen-
9 dant's Fifth Amendment rights . .

10 MR. McNAIR: It is our position that we are not vio-
11 lating his Fifth Amendment rights, but that he . .

12 THE COURT: It is my responsibility to rule in the
13 way I see is proper and not to allow violation of anyone's
14 rights.

15 Again, I'm going to charge the statute.

16 MR. McNAIR: I understand, Your Honor. There are
17 federal cases where someone has been charged with some-
18 thing like securities fraud and then they are charged with
19 obstruction in an investigation on securities fraud, and
20 that is similar to what we have here.

21 (Counsel and the Court speaking at the same time)

22 THE COURT: I have a (inaudible) where it says the
23 very parameters in obstruction of justice in American crim-
24 inal law -- this goes through some federal case law, and
25 some pending judicial proceedings, right not to put up any

1 testimony, obstruction of justice . .

2 MR. McNAIR: Your Honor, . .

3 THE COURT: Yes.

4 MR. McNAIR: The question is, did he know he was the
5 subject of an investigation or aware of an ongoing inves-
6 tigation, and I think there is evidence of that in the
7 record.

8 THE COURT: That would be a jury question, when he
9 knew about it.

10 MR. McNAIR: I think there is some evidence on that.

11 THE COURT: The Judge's charge is within the discre-
12 tion of the Judge.

13 In this case he can be found guilty or not guilty of
14 hit and run accident but he cannot be found guilty of ob-
15 struction of justice.

16 I will tell the jury they can find guilty of hit and
17 run accident, not guilty of hit and run accident, and that
18 is it.

19 If you have something else on it, show it to me, but
20 we need to move on.

21 (Discussion off the record between counsel and the
22 Court)

23 THE COURT: Let's take about two minutes and then we
24 will proceed.

25 SOL. MAYES: Your Honor, I have submitted a charge in

1 my initial proposal -- there was mention yesterday on the
2 offense of great bodily injury. I have submitted a pro-
3 posed charge in my initial proposal that is directly from
4 the statute, subsection C of 56-5-110, a definition of great
5 bodily injury.

6 THE COURT: I believe that is covered in my charge.
7 Just a minute.

8 Great bodily injury means bodily injury which would
9 cause a substantial risk of death or which causes serious
10 permanent disfigurement or extended loss or impairment of
11 function of any bodily member or organ.

12 SOL. MAYES: And then a charge on proximate cause.

13 THE COURT: Proximate cause would be the direct cause,
14 immediate cause, efficient cause. I have covered that.

15 It is the cause without which the death or serious in-
16 jury would not have occurred.

17 Well, from my charge, the State must prove that the
18 accident in question was the proximate cause of the great
19 bodily injury to or death of the victim.

20 Direct cause, immediate cause, efficient cause, that
21 cause without which the injury to or death of the victim
22 would not have resulted. Not the sole cause but contributing--
23 Must be a chain of causation and so forth. May be more
24 than one cause. Can be more than one proximate cause. Con-
25 tributing cause.

1 That's a pretty standard charge.

2 SOL. MAYES: And is the Court going to let the jury
3 hear the obstruction of justice charge?

4 THE COURT: The charge is long enough. That is too
5 long and not a charge the Defendant is facing. It is
6 not a part of the charge.

7 (Brief recess taken by the Court)

8 THE COURT: Thank you. Be seated.

9 THE COURT: As I said, I am granting a motion as to
10 the obstruction of justice charge.

11 SOL. MAYES: Your Honor, are you going to discuss it
12 with the jury in any manner?

13 THE COURT: I will tell them we are proceeding on the
14 hit and run accident. Do you want me to tell them that?

15 SOL. MAYES: Well, I just wasn't sure how to proceed
16 or whether to cover that.

17 THE COURT: Okay, bring the jury.

18 (Jury brought to Courtroom)

19 THE COURT: Welcome back, ladies and gentlemen, mem-
20 bers of the jury.

21 You will now hear the closing statements from the
22 State and Defendant.

23 (Closing statements to the jury were not transcribed
24 due to difficulty in hearing them. There were no objec-
25 tions made during these statements.)

1 THE COURT: Mr. Foreman and members of the jury,
2 you have heard the testimony, the evidence and the ar-
3 guments from the State and the Defendant.

4 You will last hear the law that applies to the case.
5 Under the Constitution and laws of South Carolina, you
6 are the finders of the facts. I do not have the right
7 to pass upon the facts or to express any opinion that I
8 might have because it is a matter solely for you, the
9 jury, to determine.

10 Now, as the jurors, it is your duty to determine the
11 value, the weight and the truth of the evidence presented
12 during this trial.

13 You are all judges, the sole judges, of the credi-
14 bility; that is, the believability, of the witnesses who
15 have testified and of the evidence which has been pre-
16 sented during the trial.

17 In passing upon credibility, you may take into con-
18 sideration many things, such as the demeanor or manner of
19 testifying, whether the witness had reason to be biased
20 or prejudiced, or whether a witness' testimony was con-
21 tradicted on the one hand or supported and corroborated
22 on the other hand.

23 All of these things you are to consider, bearing in
24 mind that you should give the Defendant the benefit of
25 any reasonable doubt.

1 It becomes your duty as jurors to analyze and to
2 evaluate the evidence and determine that evidence which
3 convinces you of its truth.

4 Our rules of evidence ordinarily do not permit wit-
5 nesses to testify to opinion or conclusion. An exception
6 to this ruling is a witness that we call an expert. A
7 witness who by education and experience has become expert
8 in some art, science, profession or calling may state an
9 opinion as to relevant and material matters in which the
10 witness claims to be an expert, and may also state the
11 reason for the opinion.

12 You should consider any expert opinion received in
13 evidence in this case and, like any other evidence, give
14 it the weight you think it deserves.

15 If you find that the opinion of an expert is not
16 based on sufficient education and experience, or if you
17 should conclude that the reasons in support of the opin-
18 ion are not valid, or that the opinion is outweighed by
19 other evidence, you may disregard the opinion entirely.

20 An expert witness' testimony is to be given no
21 greater weight than that of any other witness simply be-
22 cause the witness is an expert.

23 Further, you are not required to accept an expert's
24 opinion even though it is not contradicted.

25 There are two types of evidence that are generally

1 presented during a trial, direct evidence and circumstan-
2 tial evidence.

3 Direct evidence is the testimony of a person who
4 claims to have actual knowledge of a fact, such as an eye
5 witness.

6 It is evidence which immediately establishes the
7 main facts to be proven.

8 Circumstantial evidence is proof of a chain of facts
9 and circumstances indicating the existence of a fact. It
10 is evidence which immediately establishes collateral facts
11 from which the main fact may be inferred.

12 Circumstantial evidence is based on events and not
13 on personal knowledge or observation. The law in fact
14 makes no distinction between the weight or the value to
15 be given to direct or circumstantial evidence, nor is a
16 greater degree of certainty required for circumstantial
17 evidence than for direct evidence.

18 You should weigh all of the evidence in this case,
19 and after weighing all the evidence if you are not con-
20 vinced of the guilt of the Defendant beyond a reasonable
21 doubt you must find the Defendant not guilty.

22 Now, as the Trial Judge, it is my responsibillity to
23 preside over the trial of the case and to rule upon the
24 admissibility of the evidence during the trial.

25 You are to consider only the testimony that has been

1 presented from this witness stand, together with any
2 exhibits that may have been marked in the record.

3 I have the additional duty to charge you the law as
4 applicable to this case, and as the Presiding Judge I am
5 the sole judge of the law of this case.

6 It is your duty then as jurors to accept as correct
7 and to apply the law as I state it to you and then reach
8 your verdict.

9 Finally, I charge you in this regard, that you should
10 not be concerned with what you think the law ought to be,
11 but rather with what I charge you that the law is.

12 Now, the fact that the Defendant was arrested, was
13 charged and indicted is not evidence in this case and it
14 cannot be considered as evidence of guilt in this case, nor
15 is it to be any presumption or inference of guilt.

16 The Indictment is simply the formal written instru-
17 ment which contains the charge made against the Defendant.
18 The Indictment is the formal instrument by which the De-
19 fendant is brought into Court.

20 The Defendant has pled not guilty to the charge in
21 the Indictment, and that plea places the burden upon the
22 State to prove the Defendant guilty.

23 A person charged with a criminal offense in South
24 Carolina is never required to prove himself innocent. I
25 charge you that it is an important rule of the law that

1 a defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed
3 to be not guilty of the crime for which the Indictment
4 was issued unless guilt has been proven by evidence sat-
5 isfying you of his guilt beyond a reasonable doubt.

6 The presumption of innocence does not end as you be-
7 gin your deliberations, but it accompanies the Defendant
8 throughout the trial until you reach a verdict of guilt
9 based on evidence that satisfies you of that guilt beyond
10 a reasonable doubt.

11 The presumption of innocence is like a robe of
12 righteousness placed about the shoulders of the Defendant
13 which remains with the Defendant until it has been
14 stripped from the Defendant by evidence satisfying you of
15 the Defendant's guilt beyond a reasonable doubt.

16 Now, the presumption of innocence is not merely a
17 theory. It is not just a legal phrase, but it is a sub-
18 stantial right to which every defendant is entitled un-
19 less you, the jury, are satisfied from the evidence of
20 the Defendant's guilt beyond a reasonable doubt.

21 The State must prove the Defendant guilty beyond a
22 reasonable doubt, so what is a reasonable doubt in the
23 law?

24 A reasonable doubt is doubt which would leave an
25 honest, sincere and conscientious juror, in search of the

1 truth hesitate to act.

2 Proof beyond a reasonable doubt is that form of
3 proof that is of such a convincing character that a rea-
4 sonable person would not hesitate to rely and act upon
5 in the most important of his or her own affairs.

6 Proof beyond a reasonable doubt can be described as
7 proof that leaves you firmly convinced of a Defendant's
8 guilt.

9 There are very few things we know in this world with
10 absolute certainty, and in a criminal case the law does
11 not require proof that overcomes every possible doubt.

12 If, based on your consideration of the evidence, you
13 are firmly convinced that the Defendant is guilty, you
14 must find him guilty.

15 On the other hand, if you think that there is a rea-
16 sonable possibility that he is not guilty, you must give
17 to the Defendant the benefit of that reasonable doubt and
18 find him not guilty.

19 Now, I instruct you that the fact that the Defendant
20 did not testify is not a factor to be considered by you
21 in any way in your deliberations in your consideration
22 of the guilt or the innocence of the Defendant.

23 That must not be considered by you in any manner at
24 all whatsoever. The Defendant has a constitutional right
25 to remain silent, and the assertion of this right must

1 not be considered by you in your deliberations.

2 So I repeat that under your oath, you are to draw no
3 conclusion whatsoever from the fact that the Defendant in
4 this case did not testify. The fact that the Defendant
5 did not testify should not even be discussed in your jury
6 room.

7 The burden of proof, as I have stated to you, is
8 upon the State and is not placed upon the Defendant. It
9 remains -- the burden of proof remains on the State to
10 prove guilt beyond a reasonable doubt.

11 Now, a statement allegedly made by the Defendant has
12 been admitted into evidence in this case, and while the
13 Court has determined that the statement is admissible, I
14 instruct you that you make the ultimate decision of whe-
15 ther or not the Defendant made the statement.

16 If the Defendant did make the statement, then you
17 must determine whether the statement was made by the De-
18 fendant voluntarily and of his own free will, and this
19 means the statement was not caused by pressure, force,
20 fear or duress, by coercion or intimidation, or by hope
21 or a promise^{or hope} of a reward of any kind.

22 To determine whether a statement was voluntary, you
23 should consider both the characteristics of the Defendant
24 and the details of the questioning.

25 Other facts you must consider would be the age of

1 the Defendant, his education or lack of education, the
2 Defendant's mental ability or capacity, the Defendant's
3 IQ or intelligence, the Defendant's background, his men-
4 tal attention, the nature of the questioning, and the
5 advice or lack thereof of his constitutional rights, in-
6 cluding but not limited to his right to remain silent;
7 that any statement could be used against him in Court;
8 the right to have a lawyer present; that if he could not
9 afford one, one would be appointed to represent him with-
10 out any cost; that he could stop making the statement at
11 any time.

12 You must carefully consider all of the surrounding
13 circumstances before you give any weight to any alleged
14 statement, and, further, the State has the burden of
15 proving beyond a reasonable doubt that the alleged state-
16 ment was voluntary.

17 If you determine that it was, you may give the state-
18 ment such further consideration that you deem proper, and
19 you must decide what weight, if any, is to be given to
20 the alleged statement.

21 If you determine the alleged statement was not a free
22 and voluntary statement by the Defendant, you should not
23 consider the statement at all.

24 The Defendant is charged with the offense of hit and
25 run accident resulting in death.

1 The State must further prove beyond a reasonable doubt
2 that the Defendant was the driver of a vehicle involved in
3 an accident resulting in the death of a person, and that he
4 failed to immediately stop the vehicle at the scene of the
5 accident or as close to it as possible.

6 The driver -- our law in South Carolina provides that
7 the driver of a vehicle involved in an accident resulting
8 in injury to or the death of a person has a duty to imme-
9 diately stop the vehicle at the scene of the accident or
10 as close to it as possible.

11 The law requires the driver of a vehicle involved in an
12 accident resulting in injury to or death or any person or
13 damages to any vehicle which is driven or attended by any
14 person to give name, address and registration number of the
15 vehicle he is driving if someone is present and available --
16 give his driver's license to the person struck, the driver
17 or occupant or other person attending any vehicle collided
18 with.

19 He shall render to any person injured in such accident
20 reasonable assistance, including the carrying or making ar-
21 rangements for the carrying of such person to a physician,
22 surgeon or hospital for medical or surgical treatment if it
23 is apparent that such treatment is necessary, or if such car-
24 rying is requested by the injured person.

25 The driver has a duty to return to and in every event

1 shall remain at the scene of the accident until he has ful-
2 filled these requirements. However, he may temporarily
3 leave the scene to report the accident to the proper au-
4 thorities.

5 If you find the State has failed to prove beyond a
6 reasonable doubt that the Defendant committed the offense
7 of hit and run accident resulting in death, you may con-
8 sider whether the State has proven beyond a reasonable
9 doubt that the Defendant committed the offense of hit and
10 run accident resulting in great bodily injury.

11 To prove hit and run accident resulting in great bod-
12 ily injury, the State must prove beyond a reasonable doubt
13 that the Defendant was the driver of a vehicle involved
14 in an accident resulting in great bodily injury to a per-
15 son, and that he failed to immediately stop the vehicle at
16 the scene of the accident or as close to it as possible,
17 as I have previously explained.

18 Great bodily injury means bodily injury which would
19 have substantial risk of death or which causes serious per-
20 manent disfigurement or extended loss or impairment of the
21 function of any bodily member or organ.

22 Now, in order to be guilty of the offense -- in order
23 to prove the Defendant guilty of hit and run accident that
24 resulted in death, or hit and run accident resulting in
25 great bodily injury, the State must prove that the accident

1 in question was the proximate cause of the great bodily
2 injury to or death of the victim.

3 Proximate cause means the direct cause. It is the
4 immediate cause. It is the efficient cause. It is that
5 cause without which the injury to or death of the victim
6 would not have resulted.

7 There must be a chain of causation from the time of
8 the accident inflicted by the Defendant until the time of
9 the victim's death.

10 Proximate cause does not necessarily mean death oc-
11 ccurring immediately following the accident. There may
12 be more than one proximate cause.

13 In fact, two or more persons may combine together
14 to be the proximate cause of injury to or the death of a
15 person.

16 The Defendant may be regarded as the proximate
17 cause if it is a contributing cause of injury to or
18 the death of the victim.

19 The fact that more than one probable cause contri-
20 buted to the injury to or the death of the victim does
21 not relieve the Defendant of responsibility.

22 The Defendant's acts need not be the sole cause
23 of the injury or death but it must be the proximate
24 cause contributing to the injury of or death of the
25 victim.

1 It is not a defense to show that the victim might
2 have recovered if he had been treated according to the
3 most approved surgical or medical standards, or that if
4 a reasonably prudent doctor would have treated him, or
5 even by showing that the treatment was negligent.

6 If, however, the death was caused not by the wound
7 or injury that the victim had, but was caused by the
8 gross, erroneous, wilful, deliberate treatment, the De-
9 fendant would not be liable.

10 In other words, negligence on the part of someone
11 else would not relieve the Defendant from liability if
12 the injury was the proximate cause of the victim's
13 death.

14 However, gross negligent or intentional activity
15 on the part of the practitioner would relieve the Defen-
16 dant of liability.

17 The propriety of the medical procedure is a crit-
18 ical question to be determined. In order to establish
19 criminal liability, criminal intent is required.

20 For example, the negligence may be proven by other
21 things for a particular crime, which might be purpose,
22 intent, knowledge, recklessness or criminal negligence.

23 Criminal intent must be proven by the State be-
24 yond a reasonable doubt, and criminal intent is always
25 a matter that must be determined by the jury from the

1 circumstances arising in the situation.

2 There is no way medical science can dissect a per-
3 son's brain to determine what the person had in mind,
4 but the law says that criminal intent may be inferred
5 from the circumstances shown.

6 This is how you make a determination of whether
7 or not the element requiring intent was proven.

8 It is not necessary to establish intent by direct
9 and positive evidence, but intent may be established
10 by inference in the same way as any other fact, by a
11 taking into consideration the parties and all of the
12 facts and circumstances of the case.

13 Criminal intent is a mental state, a conscious
14 wrongdoing. It is up to you to determine what the De-
15 fendant intended to do based on the circumstances shown
16 to have existed.

17 Criminal intent may arise from actions or the fail-
18 ure to act. It may arise from negligence, recklessness
19 or an indifference to what the consequences are and it
20 is considered by the law to be criminal intent.

21 Mr. Foreman and members of the jury, I am required
22 to charge you the law as I have done. These instruc-
23 tions are being given to guide you to a just and lawful
24 verdict.

25 Whether some of these instructions will apply

1 will depend upon what you find to be the facts. The
2 fact that I've instructed you on varoius subjects of
3 this case is not indicated as an indication of any
4 opinion as to what you should find as facts or what
5 your verdict should be.

6 In conclusion, you have been selected by both
7 the State and the Defendant to be fair and impartial
8 jurors. It is your duty in your joint deliberations
9 to determine the truth in this case, giving the Defen-
10 dant the benefit of every reasonable doubt.

11 From the facts that you determine to be true, you
12 take and apply the law I have just given you and thus
13 bring back a verdict which speaks the truth. I have
14 told you the standards you have to apply to the charge
15 of hit and run accident resulting in death.

16 I will give you a copy of these instructions and
17 you may refer to these instructions in your deliberations
18 to guide you in your decision-making, as well as a ver-
19 dict form. You must consider the instructions as a whole
20 and apply them to the evidence. Whatever your verdict
21 is, Mr. Foreman, you must indicate it on the verdict
22 form which reads:

23 We, the jury, by unanimous consent, find the De-
24 fendant William Craig Caughman, as to the charge of hit
25 and run accident resulting in death,

1 Guilty of hit and run accident resulting in
2 death, or
3 Guilty of hit and run accident resulting in
4 great bodily injury, or
5 Not guilty.

6 You are to select the one of the three which have
7 been just stated. Remember that the verdict of each
8 juror is not his verdict alone, but it has to be a unan-
9 imous verdict.

10 Mr. Foreman, you are not authorized to write the
11 verdict until^{all} of you have agreed as to what the one ver-
12 dict should be.

13 Ladies and gentlemen, I am going to send you to the
14 jury room, all the jurors except for the last two jur-
15 ors who were selected as alternates.

16 Do not begin to discuss the case until you have
17 received a copy of this jury charge, the verdict form
18 and these exhibits.

19 Once you receive these things, that will be your
20 signal to begin your deliberations. Once you begin de-
21 liberations, you will deliberate until you have reached
22 a verdict, at which time you will knock on the door to
23 advise the bailiff. We will then bring you back out
24 to receive your verdict.

25 You may go to the jury room at this time.

1 (Twelve Jurors excused from Courtroom. Alternate
2 Jurors remained.)

3 THE COURT: I'll speak to you in just a moment,
4 but, first, are there any corrections or additions to
5 the charge by the State, or any objections?

6 SOLICITOR MAYES: Nothing from the State, Your
7 Honor.

8 THE COURT: From the Defendant?

9 MR. FLOYD: Your Honor, we would take exception to
10 Your Honor's failure to charge Defendant's Requests to
11 -- the Defendant takes exception to Your Honor refusing
12 to charge numbers 1, 2, 3, 4, 5, 6, 7.

13 THE COURT: Okay. I think we reviewed that yester-
14 day.

15 MR. FLOYD: I don't think you charged them that the
16 jury must consider whether or not the State has proved
17 beyond a reasonable doubt the charge of hit and run re-
18 sulting in death, but if they do not find the State did
19 prove that then they must consider the lesser charge of
20 hit and run resulting in . .

21 THE COURT: What says the State?

22 SOLICITOR MAYES: Your Honor, I believe that was
23 charged actually, although it is no longer required to
24 be charged.

25 MR. FLOYD: I believe that is Defendant's Request

1 Number 6.

2 THE COURT: If you have any doubt as to whether or
3 not the Defendant is guilty of a greater charge or a
4 lesser charge, you must give the Defendant the benefit
5 of the doubt and only convict in the lesser charge.

6 Likewise, if you have any doubt as to whether the
7 Defendant is guilty or not guilty of any charge, you
8 must give the benefit of that doubt to the Defendant
9 and find him not guilty.

10 MR. FLOYD: Yes, sir.

11 THE COURT: I think that I essentially told them
12 that. I am sure I told them what the State's burden
13 of proof is and they are to consider each charge.

14 MR. FLOYD: I would note my objection.

15 THE COURT: All right.

16 MR. FLOYD: What you have quoted is from the
17 charge, State versus King.

18 THE COURT: Check the exhibits before they are
19 taken back with the verdict form and the charge.

20 (Jury commenced deliberations at 11:47 A.M. The
21 alternate jurors were excused by the Court)

22 (The Court stood in recess as to this matter until
23 it continued at 2:55 P.M.)

24 THE COURT: I understand we have a verdict.

25 Please ask the jury to come in.

1 (Jury returned to the Courtroom)

2 THE COURT: I understand that you have reached a
3 verdict, Mr. Foreman.

4 FOREMAN: We have, Your Honor.

5 THE COURT: And is it a unanimous verdict?

6 FOREMAN: It is, Your Honor.

7 (Verdict form exhibited to the Court)

8 THE COURT: You may publish the verdict.

9 CLERK: Indictment 2010 GS 32 2294, the State ver-
10 sus William Craig Caughman, we, the jury, by unanimous
11 consent, find the Defendant, William Craig Caughman, as
12 to the charge of hit and run accident resulting in
13 death, guilty of the offense of hit and run accident
14 resulting in death.

15 It is so signed by the Foreman on, May 23rd, 2013.

16 Mr. Foreman, ladies and gentlemen of the jury,
17 if this is your verdict, please indicate each of you
18 by raising your right hands.

19 All hands are raised, Your Honor.

20 THE COURT: Thank you. Any additional polling
21 requested?

22 MR. FLOYD: We would request polling.

23 THE COURT: All right.

24 CLERK: As I call your name, if you will hold up
25 your hand so I can recognize you, please.

1 I will ask you as to the verdict was this your
2 verdict and is it still your verdict. At that time,
3 please respond.

4 (Whereupon, the name of each juror was called in-
5 dividually by the Clerk, and each juror answered in
6 the affirmative to both questions, that it was their
7 verdict and was still their verdict.)

8 CLERK: All jurors were polled, Your Honor.

9 THE COURT: The verdict is the unanimous verdict
10 of the jury

11 Are there any post-trial motions?

12 MR. FLOYD: Your Honor, we would move to reserve
13 our right to make post-trial motions.

14 THE COURT: All right. Solicitor, Mr. Floyd has
15 moved to reserve his right to make post-trial motions.
16 What is your response?

17 SOLICITOR MAYES: Your Honor, we would ask that
18 any post-trial motions be made on the record at this
19 time. It is our position that there is no additional
20 information concerning the case that has not been al-
21 ready heard.

22 THE COURT: Mr. Floyd, anything further regarding
23 your request?

24 MR. FLOYD: Your Honor, I believe under the rules
25 we are entitled to some additional time.

1 THE COURT: Well, under Rule 29 of the Rules of
2 Criminal Procedure -- motions for new trial based on
3 after-discovered evidence -- post-trial motions shall
4 be made within ten days after imposition of sentence, I
5 believe.

6 So we will proceed with sentencing.

7 MR. FLOYD: I would request of Your Honor the ten
8 days that we would be allowed . .

9 THE COURT: Well, I agree with you on that, but
10 that would not affect our proceeding with the sentenc-
11 ing portion.

12 Ladies and gentlemen, you have made your decision
13 and found the Defendant guilty of the charge. Given
14 your amount of time taken in reviewing the evidence and
15 your deliberations in the process, you twelve citizens
16 of this County have unanimously concluded that the De-
17 fendant is guilty as charged in this case.

18 When you find someone guilty, it is my duty to
19 impose sentence, and we will proceed with sentencing
20 at this time.

21 (Jury was excused by the Court)

22 THE COURT: With regard to discharge and also ob-
23 struction of justice charge, I decided as a matter of
24 law that that should not be charged, and those charges
25 were dismissed.

1 There is only one charge, and that is the charge
2 of hit and run resulting in death, and I just wanted
3 to say what happened to that and my decision as to that.

4 So we will now proceed with sentencing. Would you
5 state his record?

6 (Brief pause in proceeding)

7 SOLICITOR MAYES: Yes, sir, Your Honor.

8 Your Honor, as far as a prior record, there is a
9 1987 arrest for driving under the influence in the State
10 of Georgia.

11 That ended up being a plea of nolo contendere in
12 the State of Georgia to driving under the influence,
13 first offense. Also in 1988.

14 He was sentenced to ten days, Four Hundred Forty
15 Dollar fine, and was ordered to participate in some
16 type of alcohol education.

17 In addition there is a 2005 arrest for driving
18 under the influence, and he ended up pleading to that
19 charge as a reckless driving, and that conviction date
20 is 2005.

21 THE COURT: All right.

22 SOLICITOR MAYES: Present, Your Honor, to address
23 the Court in terms of victim impact are the mother and
24 father of Toby Morris. They are Mike Morris and (in-
25 audible) Morris.

1 They came down from Oklahoma for this trial.

2 Toby had actually been an employee of Tulane in
3 New Orleans, and he left New Orleans due to the Hur-
4 ricane Katrina hit.

5 He was working at the University of South Carolina
6 because he had associates in the area, and that is how
7 he became a professor at USC.

8 Also to address the Court is Eric Clay. He is a
9 close friend and associate of Toby.

10 THE COURT: Very well. Mr. Clay, I'll hear from
11 you first.

12 MR. CLAY: Thank you. Thank you.

13 THE COURT: Yes, sir.

14 MR. CLAY: Your Honor, when Toby Morris wasn't
15 working on motorcycles or developing pictures at USC's
16 photography lab, he spent a good bit of time on my
17 couch. Sometimes he slept there if he got off late or
18 between classes, or sometimes he would stay late at
19 something at school. I lived closer to campus and he
20 lived in Lexington.

21 He is the best male friend I've had in my life and
22 most of the time he spent on my couch was a great time
23 for me. We had many conversations when he was on my
24 couch.

25 We talked about innovative photography projects

1 and how to stretch ourselves in more compellg ways. We
2 talked about things to others, sometimes together and
3 sometimes on our own.

4 There were things we hoped to learn from those ex-
5 periences.

6 We talked about the women we loved at the moment
7 and how to make sense of our relationships with them.
8 We counseled one another on who were the right people
9 for us.

10 When I started dating Theresa he offered me the
11 soundest advice that anyone, any place, any time, has
12 even given me about how not to screw things up this
13 time around.

14 When I had to change apartments suddenly in 2009
15 because of a bad situation, Toby came over and helped
16 Theresa to pack up everything in my place, even though
17 it took a lot of time.

18 When they were done with the boxes, they sat down
19 on my couch, and Toby gave Theresa some invaluable re-
20 lationshp advice too, advice that Theresa and I rely on
21 to this day when we come up with some rough waters.

22 It was on that couch that we planned a business to-
23 gether. We both loved nature photography, and we both
24 feared the consequences of what we as a people are doing
25 to our most valuable natural and historic landscapes.

1 So we came up with a plan to build a mobile photo-
2 graphy lab in a panel van and drive to a different his-
3 toric site somewhere in this amazing country to teach a
4 dozen students how to do dark room photography on the
5 road.

6 We agreed that because of the skilled classroom
7 experience that the prints they made would then be do-
8 nated to the park in question to be used for publicity
9 or fund-raising for that park.

10 Not only would the photographs capture that astound-
11 ing beauty, but they would help to preserve it too. We
12 spent hours on that couch crunching numbers, talking to
13 figure out how to make everything work so we could scrape
14 out a living and also giving back to the places that
15 have changed our lives so many times, and teaching some
16 others how to give back too.

17 We were going to start in October to many places
18 in the State. Even though when Toby was at my house
19 and we were usually on my couch, we were often in my
20 kitchen cooking an amazing variety of and experiment-
21 ing with food.

22 Toby was a master at that and a generous soul in
23 sharing that with others. Toby and our closest friends
24 and I would share stories about the wondrous things
25 we had seen in our lives, the unbelievable places we've

1 been, and the dreams we wanted to fulfill one day, and
2 then when the food was ready we would plate everything
3 and make our way back to the couch to continue exactly
4 where we had left off.

5 I can safely say that to a soul everyone who took
6 part in those means would swear it was the most satis-
7 fying moment in their lives.

8 When Toby died, I sat with Toby's parents on that
9 couch and comforted them more times than I can count.
10 Yet it was never enough.

11 When I returned home one night two weeks later,
12 alone in the house on my own, I felt inconsolable grief.
13 I sat there on my couch and cried for a good long time.

14 Then I talked to Toby for a bit even though he
15 wasn't there in person because he really was there in
16 spirit. At that time it occurred to me that I should
17 just take a moment and slow down and (inaudible). Even
18 in death he was my closest friend.

19 Toby died more than three years ago, and three
20 months after his passing in May of 2010 the Defendant
21 was arrested and permitted to return to his home with an
22 ankle bracelet to monitor his trips to and from work,
23 to church, his lawyer's office, and to the grocery
24 store. This was the County's definition of imprisonment
25 of a person while awaiting trial.

1 This man left my best friend dying in the street
2 and then bragged to his own friends about how he had
3 committed this vile act and covered the door on his
4 truck to cover his crime. He didn't expect he would
5 ever be caught.

6 During the three years awaiting this trial, William
7 Craig Caughman was allowed to spend his days at home,
8 sitting on his own couch. He was allowed to have friends
9 and loved ones over to sit on that couch with him and
10 to talk with him about things that mattered to him, to
11 comfort him, laugh with him, share time and share many
12 meals with him, watch television and movies with him, to
13 take delight in his comforts.

14 There were no limitations on who could come and
15 go from Mr. Caughman's home, and they could sit on his
16 couch with him at any time, day and night.

17 I can't even begin to describe the depth of my anger
18 at how really unjust this is, that this man who has taken
19 so much from me and my life, from Toby's family and a
20 vast host of dear friends who feel regret at Toby's pass-
21 ing -- that this man nevertheless -- he nevertheless got
22 to sit on his couch for three years in lieu of jail, as
23 we suffered. As we suffered, he lounged.

24 And so as Your Honor weighs this man's fate, I ask
25 that you keep Toby and my couch in mind. I ask that

1 you think deeply about what justice is, and, if you have
2 the remotest thought of giving Mr. Caughman a break on
3 his sentence while he was wearing an ankle bracelet at
4 home, to remember this.

5 I would gladly, without even a second of hesitation,
6 sit -- sit there for three years in a row on my couch,
7 never leaving it, if it meant that for just one day of
8 that time Toby would come and sit on my couch with me.

9 Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 (Brief pause in the proceeding)

12 MOTHER OF MR. MORRIS: I am Toby's mother. Toby is
13 dead, but I am still his mother. He is still my son.

14 But our relationship was more than mother and son.
15 We were in tune, we were connected. We would read the
16 same books, take the same photographs, and we would think
17 similar thoughts.

18 He was the one who knew me best and still loved me,
19 not only as his mother but as a person. To be a true
20 friend with an offspring is rare. Toby was a rare person.
21 He was not a person-person, but a rare individual with
22 good values, good choices.

23 Toby was smart. He was creative, thoughtful, consid-
24 erate. He was easy to laugh and easy to shed a tear. He
25 has always been trust-worthy, honest and respectful.

1 What you saw was who he was. He lived with an open
2 mind and an open heart. He loved best the things of the
3 earth. He had both common sense and scholarly knowledge.
4 He was mechanical, analytical, an abstract thinker, and
5 he took time for people. He was very approachable. It
6 was his imperative to make sure that everyone he loved
7 knew he loved them every day.

8 Toby talked about reciprocity a lot. He listened
9 well to people without judging them.

10 He had a passion for creating (inaudible) photography
11 and he shared that passion and the craft at the University
12 of South Carolina. His students learned well, and it was
13 his care, counsel and concern for them personally that the
14 students most valued.

15 He validated their importance and led them to listen
16 to their true selves. To Toby it was okay to be an out-
17 sider, to be different, to think differently. He was a
18 hugger and he was caring.

19 Since he died, we have had Toby's laptop, and on it
20 we found a self-description. This is Toby speaking of
21 Toby.

22 Respecters of others and differing opinions is im-
23 portant to me. I understand the world is relative and that
24 we can possibly get along with acceptance of tolerance is
25 probably the best strategy.

1 That doesn't mean that I am a push-over in my core
2 values. It just means I can easily agree to disagree.

3 Don't smoke, don't drink. What do I do? I am no
4 goody-goody two-shoes. Boy, that's for sure. I am a non-
5 conformist with a purpose.

6 I look like a hippy biker to many. I ride a motor-
7 cycle everywhere I go. I go to a bar but never drink. I
8 am passionate and intense in a laid-back fashion.

9 I try to live my life without regret. I try to find
10 humor in most things, especially myself.

11 To those words I would add these thoughts. He loved
12 well and was well-loved.

13 Death is a part of living, part of everyone's life,
14 and the loss of a precious son and kindred spirit has neg-
15 atively impacted us spiritually, emotionally, financially,
16 physically, and creatively.

17 Between us, we express our feelings. We see the look
18 in the other one's eyes, and we hear that sudden intake of
19 breath of the other, that gut reaction to our loss. To
20 see that pain in those I love is excruciating. Pain sits
21 on the rim of my heart like a vulture, picking at the re-
22 mains of our lives.

23 The instant I heard Jim's voice say, he did not make
24 it, I have known the permanance of Toby being dead. Every
25 inch of me knows that, at every moment of every day. It is

1 like cutting off your left arm and you don't know either
2 awake or asleep that your arm is no longer attached to
3 your body. There is change, life is changed, life is now
4 harder, and it shows in my creativity, my projects, my pas-
5 sion, and what I was able to give to others had diminished.

6 Often I cannot listen to music. I cry every day, every
7 day.

8 We are here in the Courtroom one thousand one hundred
9 miles from home, our lives fractured by the indifference of
10 a stranger.

11 June 17th is Toby's birthday. He was born on Father's
12 Day. I don't think I have ever seen such sweetness, pure
13 sweetness, as Toby and his dad when they were together.
14 Hugging, talking, sharing, working, thinking, laughing,
15 and walking side by side, in full engagement with each
16 other.

17 I used to shed sweet tears watching them. Now, I have
18 tears of sadness and loss, overwhelming loss. Toby's older
19 brother is left without a companion of shared history, with
20 someone to talk to about his adventures, someone who would
21 always be there for him when we, their parents, are not.

22 Toby was a happy young boy who grew into a happy man
23 who listened and encouraged and loved his brother, no mat-
24 ter what.

25 Toby had so much more of life to experience. He was

1 robbed, we all were robbed.

2 Toby understood the sacredness of life. He was re-
3 spectful of and obeyed the law as we certainly do. Toby
4 has respect for every living thing.

5 When he was a teenager I found him crying in the
6 bathroom at the sink while trying to put a bandaid on a
7 toad that he had accidentally hit with the lawnmower.

8 As an adult, Toby was gentle even to road kill to move
9 it to the side of the road.

10 It is abhorrent to me that the Defendant cowardly and
11 callously left Toby lying on the road after fatally strik-
12 ing him with his truck.

13 Toby's older brother survived Desert Storm and two
14 Tours in Iraq with the Oklahoma National Guard and while
15 attired in protective gear from helmet to boots, while
16 Toby did not survive a short drive, a short drive home on
17 a South Carolina street.

18 We live in a culture that allows impaired drivers to
19 mimic other citizens and cause undeserved consequences
20 as this Defendant has done. He left Toby on the road, went
21 on his way and camouflaged his truck to conceal evidence
22 of his crime.

23 Further revealing his self-indulgent, unscrupulous
24 life choices. I hope you will sentence this man to as
25 long as the law allows.

1 SOL. MAYES: Finally, Your Honor, the family has asked
2 me to submit to the Court several photographs and letters
3 in support and recognition of Mr. Morris.

4 (Brief pause in proceeding)

5 (Portions of letters read to the Court)

6 THE COURT: That was one of the letters submitted, and
7 there are others as well, from his father, family members.

8 (Other statements made to the Court in behalf of the
9 victim)

10 THE COURT: Thank you. Anything further from the
11 State?

12 SOL. MAYES: Nothing further.

13 THE COURT: Mr. Floyd.

14 MR. FLOYD: Thank you, Your Honor.

15 Craig is forty-nine years of age, a lifetime resident
16 of the County, has been gainfully employed all of his life.

17 (Portion inaudible)

18 He has been a contributing member of society all of
19 his life. He raised a family with his ex-wife. As you
20 have heard, he doesn't have much of a record.

21 It is clear that he certainly never intended to kill
22 this man, and as shown by the evidence he was trying to
23 make a turn when the accident occurred. The way the acci-
24 dent occurred contributed to his panic, I believe, and he
25 did not stop the way he should have.

1 It is a situation that he deeply regrets, Your Honor,
2 and he regretted it as soon as that happened. If he had
3 gone back to the scene, I don't know that it would have
4 made a difference.

5 I don't know if he wishes to say anything.

6 (Brief pause)

7 He is not able to say anything, Your Honor. His fam-
8 ily has expressed to me, and I would pass it on, Your Honor,
9 their remorse and sympathy for the Morris Family. They
10 are sorry for what has occurred.

11 (Portion inaudible)

12 THE COURT: Anything further?

13 MR. FLOYD: Nothing further.

14 THE COURT: Under the Statute, Mr. Caughman, a person
15 who fails to stop or to aid and give information is guilty
16 of a felony.

17 It requires that you be sentenced to prison for not
18 less than one year nor more than twenty-five years, and a
19 fine of not less than Ten Thousand Dollars or more than
20 Twenty-five Thousand Dollars.

21 When we started off with the trial the State had in-
22 dicted Mr. Caughman for obstruction of justice which would
23 carry an additional ten years. It was determined that he
24 should be charged with the larger crime.

25 In some of the materials handed up by the State and

1 by Mr. McNair in particular, and in cases from other states.
2 including Massachusetts there is an issue as to whether
3 this obstruction charge should be charged.

4 When someone goes to the measures that Mr. Caughman
5 went to to try to conceal his guilt, it may not constitute
6 obstruction of justice but in this case it is something
7 that may go to enhance the penalty because of his conduct.

8 There are a number of police officers that dedicated
9 time to this case in trying to apprehend Mr. Caughman.

10 When he was arrested?

11 SOL. MAYES: He was arrested May 17, Your Honor, and
12 the incident occurred on February 21st.

13 THE COURT: I understand that the police officers had
14 worked almost around the clock in trying to nail this down
15 as a result of Mr. Caughman's decision to try to conceal
16 his vehicle and his guilt, and I think that the facts of
17 the situation are revealing as to the nature of the type of
18 person Mr. Caughman is.

19 He went to great lengths to try to avoid being appre-
20 hended for the crime and cover up his action. We have law
21 enforcement officers locally and Agent Robinson pleading
22 with him to come clean, and he just never did.

23 There is some question in my mind as to why -- first
24 of all, as to why he didn't stop, and we know he was drink-
25 ing which was probably why he didn't stop.

1 We have discussed cases where a person sought to cover
2 up detection, and in many instances they were successful.
3 That did not occur in this case due to good police work
4 and the decision of the person who turned him in, so he
5 did not get away and is here standing before the Bar of
6 Justice.

7 The actions Mr. Caughman took were shown by the tes-
8 timony of the police officers.

9 Since you could not bring yourself to the reality of
10 acknowledging what you did, Mr. Caughman, is something to
11 be considered.

12 Of course, you were under no obligation to say any-
13 thing to anyone then, nor are you at this time. You have
14 said nothing today. You had nothing to say to the offi-
15 cers when you were arrested.

16 All of that is telling to me as to making an assess-
17 ment in this case. The law says you must serve not less
18 than one nor more than twenty-five years. That wide range
19 is there because of the discretion given me, and I have
20 tried to figure out what kind of person is standing be-
21 fore the Court here today.

22 Whether you are someone who just panicked or for what-
23 ever reason, it really does not matter at this point. You
24 have not offered anything different, but as far as the
25 sentence that you should receive I will sentence you to

1 less than the maximum number of years. As you stand here
2 you are facing twenty-five years.

3 This is a sad situation for the family of Mr. Morris
4 as well as for your family. This was a well-known inci-
5 dent. Mr. Morris was well liked and respected. Maybe if
6 you had not been drinking and did not leave the scene after
7 the accident things would be different.

8 (Portion inaudible)

9 THE COURT: We know you had been drinking earlier on
10 that day.

11 Mrs. Morris said she had been attacked by a stranger
12 over a thousand miles away, and I could understand what
13 she said. She has asked for justice for her son, and has
14 described her sorrow.

15 A Judge must tender justice with mercy, and there
16 is, as I said, a wide range of sentence under the statute
17 for that reason.

18 The sentence, Mr. Caughman, is that you be committed
19 to the State Department of Corrections for a period of
20 twenty years, and you will be given credit for any time
21 that you may have served.

22 Good luck to you.

23 MR. FLOYD: Thank you, Your Honor.

24 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

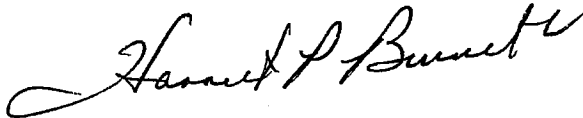
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1 CERTIFICATE

2 I, HARRIET P. BENNETT, Court Reporter for South Carolina
3 Court Administration, do hereby certify that the foregoing
4 Transcript was prepared from the records of Carol Thueme to
5 the best of my ability, having been heard in the Court of
6 General Sessions for Lexington County, South Carolina, on
7 May 21, 22, 23, 2013. The beginning day of the trial was
8 taken by another Reporter.

9 FURTHER, I Certify that I am neither of kin or coun-
10 sel, nor do I have any interest in the matter.

11 December 14, 2015

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON) DOCKET # 2010-GS-32-02294
MAY 31 2013

STATE OF SOUTH CAROLINA)

Plaintiff.)

vs.)

WILLIAM CRAIG CAUGHMAN,)

Defendant.)

**MOTION FOR NEW TRIAL AND
RECONSIDERATION OF SENTENCE**

Defendant moves this Court to grant him a new trial and to reconsider the sentence given to him on May 23, 2013 for the following reasons:

1. MOTION FOR NEW TRIAL

- A. The Court erred when it denied Defendant's Motion to Suppress all evidence seized by the Cayce Police Department during a search of Defendant's residence in the City of West Columbia as the Cayce Police Department did not have jurisdiction to execute a search warrant in the City of West Columbia.
- B. The Court erred when it denied Defendant's Motion in Limine to prevent the Pathologist from testifying as to the contents of the records of Lexington Medical Center concerning the victim as those records were hearsay and the records had not been provided to the Defendant in violation of Rule 5, South Carolina Rules of Criminal Procedures.
- C. The Court erred when it ruled that the 11th Judicial Circuit Selective Traffic Enforcement Unit Agreement (Court's Exhibit 3) was valid and that it authorized the Cayce Police Department to execute a Search Warrant in the City of West Columbia.
- D. The Court erred when it ruled that the initial presence of a SLED Agent on the premises to be searched made the search legal.

- E. The Court erred when it denied the Defendant's Motion for Directed Verdict on the charge of Hit and Run with Death as the evidence failed to prove that the victim died as a result of the accident rather than some other cause and the Defendant did not die at the scene or immediately thereafter.
- F. The Court erred when it refused Defendant's Request to Charge #1 as the Defendant leaving the scene must either enhance the possibility of death or decrease the possibility of survival to result in guilt.
- G. The Court erred when it refused Defendant's Request to Charge #2 as the Hit and Run Statute with death requires that the death occur on the scene or immediately thereafter.
- H. The Court erred when it refused to charge Defendant's Request to Charge #6 instructing the jury that it must resolve any doubt between a greater and lesser offense in favor of the Defendant and only convict on the lesser charge.

2. MOTION TO RECONSIDER THE SENTENCE

Defendant's only prior record was a DUI over twenty years ago. His actions of leaving the scene did not in any way compromise the victims condition as other people stopped immediately and medical help was immediately summoned.

Defendant is 48 years of age and the 20 year sentence will require him to serve seventeen years which is basically a life sentence. Defendant has worked all his life, raised a family and been a contributing member of society.

Defendant requests that the Court reconsider the sentence as it is unduly harsh for this one transgressions.

Respectfully submitted,
Wayne Floyd Law Office, P.A.
1611 Augusta Road
P.O. Box 3972
West Columbia, S.C. 29171
(803) 739-1824

By: Wayne Floyd

West Columbia, South Carolina

May 31, 2013.

COPY

CERTIFICATE OF SERVICE

This is to certify that the undersigned, Michelle M. Wash, Paralegal to Wayne Floyd, Esquire, has this 31st day of May, 2013, served the **MOTION FOR NEW TRIAL AND RECONSIDERATION OF SENTENCE**.

☐ Hand delivering a copy hereof.

☒ Depositing a copy hereof in the United States mail postage prepaid

☐ Certified Mail (Return Receipt Requested).

☐ Facsimile Transmission.

upon:

Suzanne Mayes, Assistant Solicitor
Lexington County Solicitor's Office
205 East Main Street, 3rd Floor
Lexington, SC 29072



Michelle M. Wash,
Paralegal to Wayne Floyd
WAYNE FLOYD LAW OFFICE, P.A.
1611 Augusta Road
P.O. Box 3972
West Columbia, S.C. 29171-3972
(803) 739-1824

FILED
CLERK OF COURT
LEXINGTON, SC
MAY 31 2013

MAY 31 P 12:31

1 State of South Carolina

Court of General Sessions

2 County of Lexington

3
4 State of South Carolina,)

Transcript of Record

5 vs.)

2010-GS-32-2294

6 William Craig Caughman,)

7 Defendant.)

8
9 May 21, 2015

Lexington, South Carolina

10 B E F O R E:

11 The Honorable Clifton Newman, Judge

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

14 Suzanne Mayes, Assistant Solicitor
15 Attorney for the State

16 H. Wayne Floyd, Esquire
17 Attorney for Defendant

18
19
20 Stacy S. Johnson, RPR
21 Circuit Court Reporter

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CERTIFICATE OF REPORTER

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NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held on May 21, 2015.)

2 **BAILIFF:** All rise. Court is now in session. The
3 Honorable Clifton Newman presiding.

4 **THE COURT:** All right. Good afternoon. You may be
5 seated. All right, Mr. Floyd.

6 **MR. FLOYD:** Thank you, Your Honor.

7 **THE COURT:** All right.

8 **MR. FLOYD:** Your Honor, of course, we're here today
9 on the motion we filed for both a new trial and for
10 reconsideration of the sentence. As to the motion for a
11 new trial, there are a couple of issues that -- that we
12 were concerned about and we wanted to ask Your Honor to
13 reconsider. The first issue has to do with the search of
14 the Defendant's residence, which also resulted in the
15 discovery of the pick-up truck that was involved in the
16 incident.

17 We moved to suppress the results of the search at
18 trial on the grounds that the search was conducted in the
19 city of West Columbia by the Cayce Police Department,
20 and it's our position they did not have territorial
21 jurisdiction or authority to conduct law enforcement
22 operations in the city of West Columbia. It's a pretty
23 well-established principle of law that unless there's
24 some kind of special authority, a municipal officer only
25 has authority to exercise police matters within the

1 territorial limitations of the municipality for which they
2 are employed. Now during the trial --

3 **THE COURT:** Well, how about the -- the case that the
4 State submitted, this Hammond case, that says that a search
5 warrant can be executed anyplace within the county?

6 **MR. FLOYD:** Well, I think it can be executed, but
7 then the Hammond case is distinguishable from the case
8 at bar because in the Hammond case a county -- I forget
9 which county it was in, but a county sheriff's department
10 employee actively participated in the search along with
11 the municipal officers and I think that in the Hammond
12 case that was what was the saving grace for the ruling in
13 favor of the admission of the evidence.

14 **THE COURT:** And the State says in this case you had a
15 SLED agent there.

16 **MR. FLOYD:** Well, there was a SLED agent on the scene,
17 but there was no testimony that the SLED agent actually
18 participated in the search and seizure.

19 **THE COURT:** What was he doing?

20 **MR. FLOYD:** He was just there as an observer. He
21 denied --

22 **THE COURT:** Did he happen to be looking around?

23 **MR. FLOYD:** He was there as an observer, did not
24 participate in the search.

25 **THE COURT:** He wasn't working or he was --

1 **MR. FLOYD:** I would assume he was on the clock, I
2 would assume that, but it didn't come out as to what his
3 actual role was there. So he was present, but he didn't
4 -- he admitted he did not participate in the search and
5 I think that's the distinguishing feature with the -- with
6 the Hammond case and this case.

7 There was an agreement that the State attempted to
8 rely upon, this Joint Traffic Enforcement Agreement;
9 however, we don't think it applies. It doesn't really
10 give any authority to the Cayce Police Department to
11 operate in West Columbia because that agreement -- if you
12 read it closely, that agreement is only for joint traffic
13 operations and this was not a joint traffic operation.
14 This particular incident for which Mr. Caughman was tried
15 was strictly a city of Cayce operation and West Columbia
16 was not involved in it at all.

17 And, furthermore, the agreement in our opinion does
18 not satisfy the requirements of 23-1-210 and 23-1-215,
19 the two statutes that apply to give extraterritorial
20 jurisdiction to law enforcement officers. First of all,
21 one of those sections, the 215 -- the 210 section only
22 applies to temporary transfers of officers. That was not
23 the case in this situation. And 23-215 requires the --
24 the approval of the governing bodies. That also requires
25 the approval of governing bodies. The other one requires

1 the approval of governing bodies within seventy-two hours
2 of the execution of the agreement, and there was no
3 evidence that was done either, nor is there any indication
4 in the form that the governing bodies ever considered the
5 agreement.

6 So we don't think the agreement gives them any
7 authority and for these reasons we feel that the Court
8 should have suppressed the introduction of the evidence.
9 And that was probably the most important piece of evidence
10 against the Defendant, that being the truck itself because
11 parts of the body had been removed, and also SLED was able
12 to match up some paint chips from the vehicle and the
13 motorcycle. So it's our position without that physical
14 evidence the State most likely would not have been able to
15 convict Mr. Caughman.

16 The second ground, Your Honor, has to do with cause
17 of death. And I'm sure Your Honor remembers, but may not
18 remember all the details of the case --

19 **THE COURT:** Well, which is -- the hearing was -- the
20 trial was when, May?

21 **MR. FLOYD:** May of 2013. Two years ago.

22 **THE COURT:** Two years ago. I mean, so that's -- you
23 know, if we had a transcript it certainly would be helpful.
24 And no one has ordered a transcript?

25 **MR. FLOYD:** No, we haven't ordered one, Judge. We did

1 include --

2 **THE COURT:** So we're just sort of going on memory of
3 who did what when.

4 **MR. FLOYD:** Well, somewhat; although we've got some
5 -- we did enclose the autopsy report and it has sufficient
6 evidence in it, I think, to consider this point.

7 **THE COURT:** You did what with it?

8 **MR. FLOYD:** We enclosed it with our memorandum.
9 Attached it to it. It's the last thing attached.

10 **THE COURT:** All right.

11 **MR. FLOYD:** Your Honor, I would suggest that what this
12 indicates is that Mr. Morriss was, of course, transported
13 to the hospital from the scene of the accident and he was
14 in distress and he had some broken bones and other evidence
15 of an impact with an -- an automobile collision. However,
16 after a short period of time in the hospital, his condition
17 markedly improved and he was up and walking around, and it
18 reflects that in the report. And actually at the time of
19 his death, he was actually walking up the steps -- I
20 believe it was with a friend of his, they kind of do
21 physical therapy on their own -- walking up the steps
22 when he collapsed and the primary cause of death was a
23 pulmonary embolism. Now the doctor, of course, opined
24 that the pulmonary embolism was as a result of the
25 accident, but she did have to admit that anybody could

1 have a pulmonary embolism at any time, which brings up
2 another point in connection with the pathologist's
3 testimony.

4 When she was testifying, she began referring to --
5 and she said she based her opinion somewhat on some records
6 from the hospital that she had used; however, those records
7 were never disclosed either to the State or to the defense,
8 even though we filed a Rule 5 Brady motion. We did file a
9 motion at that time -- or made a motion at that time.

10 **THE COURT:** So that would be a violation by who?

11 **MR. FLOYD:** Well, I think it was --

12 **THE COURT:** If it wasn't disclosed to the State or to
13 the defense, then who violated Rule 5?

14 **MR. FLOYD:** Well, I believe it would have to be the
15 State would be violating, even though they didn't have
16 them, because the State would be the one obligated to give
17 us all the records. Now I don't accuse them of withholding
18 because I agree -- I accept their statement that they
19 didn't have them; however, it's the Defendant that's
20 entitled to them, so if they're not given to him, who's got
21 to be held responsible and we would suggest it would have
22 to be the State.

23 **THE COURT:** So these are records that --

24 **MR. FLOYD:** The pathologist was using to render her
25 opinion.

1 **THE COURT:** These are records at this point in time
2 that you've never seen or have you --

3 **MR. FLOYD:** I don't think they were even put in
4 evidence. We moved in limine to prevent her from using the
5 records, but that was denied, and so that's part of -- part
6 and parcel, I guess, of our whole attack on the cause of
7 death argument.

8 **THE COURT:** The question is have you ever seen
9 whatever it is that you said you wanted to see, the
10 records?

11 **MR. FLOYD:** No, I don't think that they ever came out.

12 **MS. MAYES:** No.

13 **MR. FLOYD:** No, we never saw them. I didn't have in
14 my notes I'd seen them and --

15 **THE COURT:** It's just the doctor said that she saw
16 when she reviewed --

17 **MR. FLOYD:** Some records from the hospital.

18 **THE COURT:** -- some records from the hospital and you
19 wanted to see what records she saw?

20 **MR. FLOYD:** That's correct, sir.

21 **THE COURT:** All right.

22 **MR. FLOYD:** So that's our second major point, Your
23 Honor.

24 **THE COURT:** And you wanted me to do what that I didn't
25 do?

1 **MR. FLOYD:** Well, Your Honor, we would ask --

2 **THE COURT:** What did you want me to do at that time
3 that I didn't do or you thought I should have done?

4 **MR. FLOYD:** Oh, I'm sorry. We asked that -- we moved
5 in limine to prevent her from testifying as to anything
6 that was from those notes that had not been produced.

7 **THE COURT:** And what -- did she testify from the notes
8 that was produced?

9 **MR. FLOYD:** (Nods head.)

10 **THE COURT:** What did she say?

11 **MR. FLOYD:** In her opinion the cause of death was a
12 pulmonary embolism that would be related to the automobile
13 accident.

14 **THE COURT:** And she based it on some records from the
15 hospital or her own opinion?

16 **MR. FLOYD:** Well, her opinion based upon the records
17 that she had from the hospital that were not produced.

18 **THE COURT:** Okay.

19 **MR. FLOYD:** Your Honor, the -- the next point, Your
20 Honor, there's a statute, 56-5 -- 56-5-1210, which is a
21 statute that has to deal with hit and run with death.
22 Your Honor, the way it reads it's -- our interpretation
23 of the statute is that it requires that the death must
24 occur immediately or very shortly thereafter. The term
25 "immediately" is used in the statute and I was trying to

1 -- it's our position that the term "immediately" in the
2 statute refers to the death occurring immediately or
3 shortly thereafter and not to stopping immediately, which
4 I think is the interpretation --

5 **THE COURT:** How long was it before he died in this
6 case?

7 **MR. FLOYD:** Four to five days, Your Honor.

8 **THE COURT:** Four --

9 **MR. FLOYD:** Four to five days.

10 **THE COURT:** I beg your pardon?

11 **MR. FLOYD:** Four or five days.

12 **THE COURT:** Four or five days.

13 **MR. FLOYD:** And the statute -- depending on the
14 way you read what "immediately" is, it's our position
15 "immediately" refers to the death and not to the stopping
16 because the statute goes on to say that a person can
17 leave the scene, call for help and then return to the
18 scene. So the statute doesn't necessarily require
19 immediate stopping, so the adjective "immediately" -- or
20 the modifier "immediately" refers to the death is our
21 position on the statute.

22 **THE COURT:** All right. So the -- are you referring to
23 the indictment for a hit and run accident involving death
24 or --

25 **MR. FLOYD:** Yeah, and to the statute that covers it,

1 56-5-1210.

2 **THE COURT:** So he's -- the indictment says that he,
3 Mr. Caughman, being a driver involved in an accident
4 resulting in the death of Fredric T. Morriss, did
5 unlawfully fail to stop and remain at the scene of the
6 accident and fulfill the requirements of 56-5-1210,
7 relative to giving information and rendering aid, and
8 you're saying that -- what?

9 **MR. FLOYD:** Our position is that he would only be in
10 violation of that statute if the death of the decedent
11 occurred immediately upon the accident or very shortly
12 thereafter and in this situation --

13 **THE COURT:** And your interpretation of "shortly
14 thereafter" would not include four or five days?

15 **MR. FLOYD:** No, Your Honor; particularly when there
16 was a period of marked improvement in the decedent's
17 condition as occurred in this case.

18 **THE COURT:** Wasn't it a jury question as to whether
19 or not the death -- I mean, I don't have a copy of the
20 jury charge, but weren't they charged that the State has
21 to prove that the death resulted from the accident?

22 **MR. FLOYD:** Yes, Your Honor. And, of course, that
23 will get me to my next argument of the jury charges that
24 we had requested, but I agree with Your Honor that you did
25 charge something along those lines.

1 **THE COURT:** So what is it you're complaining about
2 then with regard to that?

3 **MR. FLOYD:** Because, Your Honor, we had requested a --
4 a different jury charge on that issue, and I've attached
5 those also to our memorandum. There was a Defendant's
6 Request to Charge Number 1 and Number 2 in which we stated
7 the interpretation of the statute which we felt should
8 apply in the case.

9 **THE COURT:** After the Court gave the jury charge, did
10 you make an objection to all of these things that you're
11 now objecting to?

12 **MR. FLOYD:** I think I did, Your Honor. I don't have
13 the transcript, but I think I did.

14 **THE COURT:** All right.

15 **MR. FLOYD:** But we -- we attached our --

16 **THE COURT:** It's kind of -- so that's why it's very
17 difficult for me sitting here, you know. You're -- even
18 including the next -- the next point you have mention of,
19 the jury had to consider between the greater and the lesser
20 that would give the Defendant the benefit of the doubt. If
21 they had a reasonable doubt as to whether he was guilty of
22 the greater offense, they would then give him the benefit
23 of the doubt and find him guilty of the lesser offense.
24 Now that's something typically included in a jury charge
25 when someone requests it. You're saying it wasn't in the