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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

Appellate Case No. 2020-000049

The Honorable Thomas Anthony Russo

The State of South Carolina ……Respondent,

v.

Royal Daniel Williams, III ……Appellant.

RECORD ON APPEAL

VOLUME II OF IV

Elizabeth Franklin-Best
S.C. Appellate Law Group, LLC
SC Bar #72555
2725 Devine Street
Columbia, South Carolina 29205
(803) 445-1333

Counsel for Appellant

Other Counsel:
William Blitch, Jr.
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-3372

Counsel for Respondent

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Q: Okay. Tell us what you found when you began to examine the body?

A: I noticed the body was fully clothed, all black clothing. The only indicator of any kind of uniform was a hat that was on the floor above the head. It was a Starbucks ball cap. The body, again, was fully clothed. Shoes in place. I believe one was kind of knocked loose.

The -- just from -- the body was supine, which is laying on its back in the positioning. Again, the feet were more positioned in one bedroom across the hallway. The legs were through the hallway across the hallway and then from approximately the waist up was in a bedroom across the hallway, straight across the hall. The -- the body itself, again, was fully clothed.

I did notice on the -- the female's head, there was a circular injury to the left side of the forehead that was consistent with, in my opinion, a gunshot injury at that point. Slight amount of blood around the face, which I had been told as we did the walk-through.

MR. BROOKER: I would object to the hearsay of being told.

THE COURT: Sustained as to anything anyone else said.

BY MR. CLEMENTS:

A: I did observe some -- some blood to the face just as part of my examination.

Q: What, if anything, did you observe about her extremities?

A: The -- as part of the death investigation and kind of narrowing down a time of death and how the body relates to the scene, part of the examination led me to look for lividity, which is the blood settling within the body after death.

Q: Explain how that works, lividity?

A: When -- when the heart stops pumping blood, it just settles. It's led by gravity and falls to the lowest portion of -- of a body. If a body is seated, most of the time the blood will settle to the -- to the feet, to the posterior, rear-end. In this case, she was lying flat on her back, which the lividity there -- because we were looking at a homicide investigation, I did not unclothe the body. We wanted to preserve all that for the autopsy purposes and their portion of the exam, but I was able to notice lividity in the victim's hands that were exposed.

There was some discoloring, some purpling in more or less the palm area of the hands, which, again, is part of the overall investigation. It helps me to determine that the crime occurred right there. Many times if lividity doesn't look like it should, then we can assume that maybe the crime took place somewhere else or the crime was staged in a way, and that did not appear to be the case here.

Q: Now, am I right thinking that that means the body was moved?

A: That's correct.

Q: All right. Did you see any signs of the body being moved here?

A: I did not.

Q: Okay. I'm going to show you a couple of items that have been marked for identification purposes. I'm going to show you Number 1-Q, State's for identification. Can you explain to me if you recognize what that picture and what it depicts?

A: I do, and that depicts the discoloration and the lividity of the victim's right hand.

Q: Okay. You talked about -- what was it you said about a wound that you noticed?

A: A head injury. There was a circular wound that I presumed to be a gunshot wound.

Q: I want to show you State's Exhibit 1-R and State's Exhibit 1-T.

A: Okay.

Q: Can you -- do you find these two photographs recognizable?

A: I do recognize those.

Q: Okay. Can you tell us about those?

A: That's the injury, the circular injury to the left side of the forehead.

Q: Okay. On both of those pictures?
A: Yes, sir.
Q: Okay. What, if anything, is lividity useful for for coming up with time of death?
A: More so as it relates to time of death, it would in an early -- a short-found death. Say if somebody dies and is found within minutes or up to an hour, typically we won't see lividity because the amount of time from the death to being found had not been substantial enough for the blood to start to settle. So once, you know, a couple hours take place is when lividity starts to show up. And that's -- as far as time of death, that's really where lividity would come in and assist us in narrowing down, again as a totality of that investigation.
Q: All right. Can you tell us lividity -- does it go by another name?
A: Livor mortis.
Q: Yes. Tell us again what livor mortis is?
A: It's the settling of the blood within the body after death because -- and it's caused because the heart is not circulating the blood anymore and, once it stops, it just -- it finds the lowest place in the body to rest.
Q: Can you tell us what other types of mortis there is?
A: There is algor mortis, which is a --
Q: What does that mean?

A: -- body temperature, the temperature of a body after death. What that indicates is, again, with a recent -- recently found body within minutes up to an hour or so, a couple of hours would be more so less than an hour would be more warm to the touch. As time goes on, because the blood is not flowing through the body, the muscles aren't working, the body tends to cool down and then that temperature just continues to drop. There are different --

Q: What was -- did you feel her body to try to detect what type of temperature it was?

A: I did.

Q: And what -- how did you quantify that?

A: We can quantify that from warm to the touch, cool to the touch or cold to the touch, and that again as the totality of the investigation narrows down for us a time frame. Ms. Joseph was specifically, as I recall, cold to the touch compared to the environment that she was in.

Q: And what does that mean as far as how long she had been there?

A: I would say longer than a few hours, and that's -- that's probably about as scientific as I could go with that statement. Other factors that control temperature would be the setting, if indoors, outdoors, hot room versus air-conditioned room. Even the floor, the flooring would be a factor. She was lying on a wooden floor, which would draw

some of the heat away, not insulate. So all those were factors.

The room, the apartment itself was generally comfortable, being January. It wasn't overly hot. It wasn't cold at all. So again, I compare the -- her exterior body temperature to the out -- the outside temperature and by outside temperature I mean just the environment of the room, which was comfortable.

Q: All right. Was there another kind of mortis?

A: There is rigor mortis.

Q: Okay. That's the one most familiar to me. Tell us about rigor mortis?

A: Rigor mortis is the tightening or the stiffening of the muscles after death. Like the other mortises, that change begins at the time of death. Now, the time frames can vary eight to ten hours before rigor mortis fully sets in. It begins setting in immediately, but eight to ten hours before it fully sets in and the body is completely stiff. That's --

Q: Where -- where does rigor mortis start?

A: Usually, extremity muscles like fingers, toes, ankles, wrists, jaw, neck is where we typically find that it begins. Near -- nearly immediately to the time of death, within a few minutes, it typically would start there.

Q: And how long does it last when you get full set rigor mortis?

A: Full rigor can last about 18 plus or minus hours. Again, there's no scientific theory to rigor mortis either. It's -- it's a tool that is used. After -- after that amount of time that it's fully fixed, as the body begins then to break down or decompose, rigor releases and the body would become flaccid again or loose.

Q: Now, what degree of rigor mortis would you say Ms. Joseph was in?

A: I felt her to be in about the half stage, which, you know, again is a tool with the overall investigation is more several hours than -- than a few and less than days. Less than days, more than a couple hours. So we kind of can narrow it down in that time.

Q: What did you -- did you make a determination as to the presumed -- that' the term y'all use; right?

A: Correct.

Q: Did you make a determination as to the presumed time of death and, if so, what was that and why?

A: I presumed her time of death to be approximately four o'clock.

MR. BROOKER: Objection, Your Honor.

THE COURT: All right. What's the objection?

MR. BROOKER: Can we approach, Your Honor?

THE COURT: Yeah.

(WHEREUPON, a bench conference was held in the presence

of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: Ladies and gentlemen, let me get you to step back into the jury room and let me go a little bit deeper into this legal question. If you need anything while you're back there, let the bailiff know, and we'll get you back out here as soon as we can.

Oh, wait a minute. I think -- do me a favor. Just come back in for a second. Y'all come back in.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: My lawyer back here informed me of the time. I'm going to take up this matter of law with the attorneys and I don't think that'll take terribly long, but it's getting -- it's lunchtime. It's past lunchtime for some people.

So I thought what I'm going to do is I'm going to let you go to lunch. We'll take up and resolve this legal matter. And then when we come back after the lunch break, we'll have the solicitor pick up where he left off with his examination. Okay?

Now, I'm going to ask you, if you would, to be back at 2:30, ready to go at 2:30. During the lunch break, please do not talk with anyone about the case. Do not allow anyone to

talk with you about it.

When you return back to the jury room and you reconvene back here, you're not to have any conversation about this case. You can talk about anything else. Just don't talk about the case, and we'll get -- and we'll pick up at 2:30 where we left off here. Okay?

So if everyone else will please remain seated, folks, we'll excuse you for lunch and see you back here at 2:30.

(WHEREUPON, the jury exited the courtroom at 12:50 p.m.)

THE COURT: All right. Solicitor, you -- I know you've asked the witness regarding his -- what was the term you used? Presumed time?

MR. CLEMENTS: Presumed. Yes, sir.

THE COURT: Presumed time of death. And then, Mr. Brooker, you then posed an objection at that point.

MR. BROOKER: That's correct, Your Honor.

THE COURT: All right. So I'll hear from you regarding your objection.

MR. BROOKER: The primary objection, Your Honor, is that he has not been qualified as an expert at this particular time and, of course, is is that I think --

THE COURT: I think you're right. I think time of death calls for testimony beyond that of a --

MR. BROOKER: Yeah. A layperson.

THE COURT: -- layperson.

MR. BROOKER: Yeah. A layperson's experience is is that it has to be performed by, I think, a qualified expert and, of course, is is that the next question was going to become is is that -- and, of course, I was just doing some research right now as to whether or not the estimate of the time of death is a -- is a science that involves a medical determination and, of course, if it is is is that the question then becomes is is that whether or not it is a medical determination that has to be performed by someone who is or who has medical experience to be able to estimate the time of death with respect to -- I know, for instance, is is that he talked about rigor mortis.

He also talked about -- I think it's algor mortis. I think I'm pronouncing it correctly, which deals with loss of -- you know, of heat from the body and, of course, is is that my concern is that he testified that he touched the body in order to determine whether or not it was warm or cold.

Normally, what a medical provider does is that -- medical providers do is they use a thermometer and, of course, is is that thermometer determines the body temperature so they can determine, you know, whether or not, you know, it's -- 98.6 I think is the normal temperature. Whether or not the body is at, you know, 88 or whether or not it is at 76 or that sort of stuff and, of course, is is that within the body I think another way is instead -- I think

medical examiners do is, obviously, when they perform an autopsy is I think he said that a collection of lower, you know, blood, of course, is I'm wondering whether or not that's a situation here.

You have to internally open the body up to see exactly whether or not there is blood that settled in the body and specifically blood that settled in the lungs to try to determine -- use that to determine cause of death and, of course, is is that our argument is is that because this is a medical science and, of course, is I have heard no testimony yet that -- that, one, he has internally examined the body or either externally examined the body using a thermometer.

Then, of course, is is that I don't know whether or not he is medically qualified to make a determination of cause of death. I think that is left to the medical examiner, who actually examined the body and, of course, is is that is qualified to, you know --

THE COURT: Well, I'm not sure. I guess I need to hear testimony regarding his background and his training. He may -- he may have the training involved in his training as the deputy coroner to make that assessment. I don't know.

MR. BROOKER: Certainly, Your Honor. Is is that I guess my objection right now is to -- is the point that that has not been established.

THE COURT: Correct. And I --

MR. BROOKER: If it is established, then -- you know, then --

THE COURT: Yeah.

MR. BROOKER: -- you know, it is what it is.

THE COURT: Yeah. And I -- and I agree with you that he has not been qualified as an expert, but I do think that that information, that testimony needs to come from an expert.

MR. BROOKER: Certainly. Thank you.

PROFFERED DIRECT TESTIMONY

BY MR. CLEMENTS:

Q: Coroner Myers --

A: Yes, sir.

Q: What, if any, training have you had in child fatalities?

A: Child fatalities have revolved around child abuse, neglect and --

Q: Any time of death issues in that?

A: Time of death issue with that that revolve specifically from the assaults, internally or externally.

Q: What problems would you have waiting until it got to a medical examiner in Charleston or Newberry, wherever the body is sent, to then try to determine the time of death?

A: Well, our issue with -- with our pathologist at MUSC is they require us to let them know what our presumed time of death is before it received -- before they receive the body.

Q: Okay.

A: And that's based on our overall training as coroners, my appointment under the elected coroner.
Q: Do you have, like, a three-day training, don't you, on these issues?
A: There have been -- yeah. There's a week long coroner certification class. There's three-day research advanced training classes that really overall revolve around several different aspects of time of death, death investigation overall. Thermometer use is a tool, just like anything else I've already described. It's -- it's not scientific.
Q: It's not scientific?
A: (No verbal response.)
Q: Okay. You testified, I think, earlier that you've been qualified as an expert in crime scene reconstruction and I ask you if that had anything to do with time of death issues?
A: In ways, it does. The crime scene reconstruction as a whole is much larger than death investigation, but in the -- in the death portion of that investigation, the reconstruction part, there's certainly valid -- valid areas of time of death as it relates specifically to death investigation.
Q: Okay.
A: But crime scene investigation or crime scene reconstruction is greater than just death investigation.
MR. CLEMENTS: Your Honor, I was going to ask a question

and he went ahead and answered it. I was going to ask whether the -- finding the presumed time of death is a medical calculation or a medical thing and he said it was not, but the medical examiners in Charleston require them to send them the presumed death. I think it's something coroners do all the time. I think the coroner can do it. It doesn't have to be a doctor.

Of course, a layperson like me cannot, but he's got a lot of training in these areas that relate to time of death, and there is -- there is terminology that they use. They say presumed time of death. So that's not like they're saying with absolute certainty they died at 4:05:03 and 10/10th of a second. They're not saying that. They have a presumed time of death, which I think goes to the weight of what's -- what's being presented and can certainly be attacked on cross-examination, but I don't think it requires a medical expert.

BY MR. CLEMENTS:

Q: And you had something else?

A: I was going to add our options are generally presumed or estimated, where a medical doctor in a medical setting, their option would be exact because there's somebody at the bedside. That physician that would call the time of death to the team. That's -- that's considered an exact time of death.

We -- we don't use an exact time of death unless we know that that death took place in a hospital setting. For instance, if a homicide victim was transported to the hospital and died therein, we would use that time of death because it was medically established.

Outside of that setting, we would use presumed or estimated if there is a matter of several hours that we can't determine or even days, and that's where we would use our pathologist's expertise if we're looking at weeks that have gone by and we're trying to narrow down a date of death. That's where we would use them, but more often than not, they want us to determine the time of death because that's not something that they will do at an autopsy.

MR. CLEMENTS: Your Honor, at this point, I can seek to presume what questions you need asked that I haven't been asking and I can go way further than I need to go. At this time, as proffer I would just submit the witness to you for whatever questions you may have.

THE COURT: Well --

MR. CLEMENTS: Or Mr. Brooker.

THE COURT: I'll allow Mr. Brooker to voir dire the witness.

MR. BROOKER: Just a few questions.

VOIR DIRE

BY MR. BROOKER:

Q: Is is that I know that you -- you talked about that the -- the medical examiners want you to -- to give them an estimate of the time of death; is that correct?
A: That's correct.
Q: Okay. And of course, is is that when the medical examiners are asking you to give them an estimate time of death, would you agree with me is is that there is a lay estimate of the time of death and, of course, is is that there is a scientific or either an expert opinion with respect to the time of death?
A: I think the expert would be in a hospital setting, as I mentioned before. That that would be when a doctor in the midst of a code would call the time of death. That would be the expert time. I certainly would not -- with my training and background and the training of the other coroners in my office, I don't think any of us would be considered laypeople.
Q: What medical training have you had?
A: Specifically, medical terminology training, based on the death investigation classes that we've attended. Again, that -- that are -- widely revolve around different types of -- of death, manners of death, techniques of death, and the investigation thereof.
Q: Yeah. I understand that is is that -- is that you said that -- that as a pathologist you would tend to think a

course that tells you about method and times of death; is that correct?

A: A pathologist, obviously, would have a true medical degree background training. We would -- we would have related training, but certainly not fully medical because a lot of our background is paramedic based, law enforcement based, so we can carry on an investigation and interview folks.

Q: Okay.

A: So I think all of that as a whole does not put us in the -- in the lay members part of -- part of this. We're certainly not -- I'm certainly not trying to qualify myself as a medical person.

Q: And that's what I'm talking about is is that -- is that you might be above the average layperson. I understand that. I'm above the average layperson in certain areas, but I'm not an expert just because I'm above the average layperson. I think I'm above the average layperson with respect to -- with respect to time of death because I know more about the time of death at least, you know, from my practice of law and studying this than the ordinary person, but that does not qualify me as an expert to testify on the stand.

MR. CLEMENTS: Your Honor, is there a question in there somewhere?

MR. BROOKER: That's what I'm trying to get to and

that's the distinction what I'm trying to make is is that --

THE COURT: Ask him questions about his qualifications to determine whether or not he has the expertise to determine a presumed time of death.

BY MR. BROOKER:

Q: Have you ever -- have you ever testified -- at least have you ever been qualified as an expert specifically for the purposes of testifying to the cause [sic] of death in a trial?

A: Specifically to that?

Q: Yes.

A: No, I have not.

Q: Never been qualified as an expert specifically with respect to identifying the time of death?

A: No, not as an expert.

Q: Okay.

A: But I've testified many, many times.

Q: In crime scene investigations?

A: Regarding crime scene death investigation.

Q: Okay.

A: And that --

Q: But not as an expert specifically for the time of death?

A: Correct.

Q: Okay. All right. And then, of course, is is that I'm assuming is is that you haven't had any -- I know that you

said you took a course. You haven't -- have you had any medical training? I just ask that question based -- I know you said you have a course where they tell you about, you know, time of death and that sort of stuff. How long is that?

A: It is -- that portion is interwoven within a five-day course and as well as a three-day course that's offered from the South Carolina Criminal Justice Academy. We've also been to -- I've also been to numerous trainings provided by the South Carolina Coroner's Association.

Q: And of that five-day course, how much of that time is specifically dedicated -- I know there's a lot of things that goes on. How much of that time is specifically dedicated to the hands-on scientific calculation of cause of death?

A: Fifteen to 20 percent maybe of the entire week in various areas.

Q: Okay. So it's more than a day or less than a day?

A: Approximately. I mean as total goes maybe little less than a day.

Q: A little less than a day?

A: I think, you know. I mean the other thing, if I can continue, this is -- I mean this is what we do on a day-in, day-out basis.

Q: I understand. I understand. I'm not saying that you can't. I'm not saying that you're not qualified to give a --

to -- well, I don't want to get --

THE COURT: Let's not have this conversation.

MR. BROOKER: That's why I stopped, Judge.

THE COURT: Yeah.

MR. BROOKER: That's why I stopped and I'll make my argument to you.

THE COURT: All right.

Deputy Coroner, you testified about rigor mortis and other types of mortises. Where did you learn that -- that training?

THE WITNESS: Partly through the death investigation classes, crime scene classes that I've had for over the numerous years.

THE COURT: Okay.

THE WITNESS: More concentrated my time being trained under our coroner when I took this position.

THE COURT: Yeah. And -- and is part of that training to teach you how to determine an estimated or a presumed time of death?

THE WITNESS: It is.

THE COURT: You testified about rigor mortis. Is it -- am I correct that -- as a layperson, I know that rigor mortis is where the bod stiffens.

THE WITNESS: Correct. Yes, sir.

THE COURT: Once that sets in, that doesn't remain that

way, does it?

THE WITNESS: For a -- for an amount of time, but then it releases.

THE COURT: Correct. Then -- then it releases.

THE WITNESS: Sure.

THE COURT: Which am I correct would also then make it very difficult for some pathologist who gets the body a day later or sometime later to use that type of evidence to make a scientific determination as to time of death?

THE WITNESS: As to time, I believe it would.

THE COURT: All right. You can make your argument against this testimony.

MR. BROOKER: Simply put, Your Honor, is is that I think he said that the total training that he had is a little less than a day and, of course, is that I think there's a difference between -- between a training to determine how it's done versus training to qualify -- to qualify you to be an expert to do it. And of course, is I think the type of training that he is talking about is the type of training in which they are told how these things are done.

Of course, is is that he also testified to the fact is is that although -- and that he also testified to the fact that -- that he has had experience in crime scene investigation and I guess I don't want to conflate the two and he has been -- I think, he said he's qualified as a crime

scene investigator, but I specifically asked him is that whether or not he's ever been qualified at any time as an expert specifically for the purposes of determining, you know, the cause of death in a murder trial and, of course, the answer was no, zero, none. And of course, is is that there's a number of cases in which --

THE COURT: He's not being asked about the cause of death.

MR. BROOKER: No, the time. I'm sorry. The time of death. I apologize.

THE COURT: Okay.

MR. BROOKER: I don't mean to say is is that he's testifying as to cause of death, but with respect to the time of death. I think he testified is he has never been qualified as an expert in any courtroom specifically for the purpose of testifying with respect to the time of death. He's only been qualified, I think, as a crime scene -- a general crime scene investigator.

And of course, is is that I think the Courts -- and I don't have any case law in front of me, but, of course, is is that the Courts have specifically talked about -- at least the South Carolina Supreme Court and the Court of Appeals have specifically talked about that the trial Courts have to jealously reserve lending out that title to people to label them as experts in front of the jury for the purposes of

using that title to bolster their testimony.

Of course, is is that you saw it the first place. You've seen a lot is is is that in child sexual assault cases with respect to -- what is it? These forensic examiners, you know, that trains for even more time than I think Mr. Myers does. I think they train for I think, you know, a couple days or so to be a forensic or child forensic interviewers so that they can interview children with respect to sexual assault. In those cases is is that the Courts have been very, very strict to warn the Court is is that to not simply apply that title loosely as an expert.

I do think that he has knowledge beyond the average person. I don't think that he has no more knowledge than I can acquire, you know, simply by picking up a book and reading it. I think he said he had a course that --

THE COURT: Well, I would disagree with that.

MR. BROOKER: Well -- and you can, sir. It provides him less than a day of instructions on how this is done.

THE COURT: He testified that his training was in several areas and the particular area less than a day. He also talked about his extensive training on the job working with the coroner and his experience in doing this on numerous occasions.

MR. BROOKER: And that's perfectly fine.

THE COURT: Which all goes toward someone's

qualifications.

MR. BROOKER: And I almost finished my argument, Your Honor, and you can deny me if you choose to. I just need to have it on the record, but of course, is is that --

THE COURT: Then make your argument.

MR. BROOKER: I am.

THE COURT: And make it succinctly.

MR. BROOKER: I am. And lastly, is that in response to what you just said is is that he's never been qualified to testify.

THE COURT: Every expert at some point has to be qualified for the first time.

Now, based upon his testimony, his experience, the training that he's had, I think that he can testify as to an estimated or an approximate time of death. He's certainly going to be open to extensive cross-examination regarding that.

I've had countless trials where coroners and deputy coroners are allowed to testify as to an estimated time of death based upon their training and experience as a coroner and, again, subject to extensive cross-examination. So I'm going to allow the testimony.

MR. CLEMENTS: Thank you, Your Honor.

THE COURT: All right. We're going to -- is there anything we need to take up before we break and start back?

MR. CLEMENTS: I don't think so, Your Honor, not from the State.

THE COURT: All right. And I wanted --

MR. BROOKER: Not from me, Your Honor.

THE COURT: I just for the record want to make sure I note Mr. Brooker's exception to that ruling.

MR. BROOKER: Thank you, Your Honor.

THE COURT: All right. All right. We'll start back at 2:30 then.

MR. CLEMENTS: I've just got one question. I want to step in in the right place and not redo something. What was my last question to you?

THE WITNESS: You had asked what I determined the time of death was.

MR. CLEMENTS: Okay. I gotcha. I don't want to backtrack and reiterate something, Your Honor.

THE COURT: And -- and I know you know this, Deputy Coroner, but during the lunch break, please have no conversation with anybody about your testimony.

THE WITNESS: Yes, sir.

THE COURT: Thank you. All right.

(WHEREUPON, there was a break in the proceedings from 1:12 p.m. until 2:42 p.m., after which the proceedings resumed as follows.)

THE COURT: We have got a juror who has realized that

she knows somebody and --

MR. CLEMENTS: The same one, Your Honor?

THE COURT: It is not the same lady. It is Juror Number 149, Terry McAllister-Timmons. She -- all I know is she thinks -- again, kind of like the lady before -- thinks she knows somebody. So I think what we have to do is bring her out and just kind of inquire as to who it is she thinks she knows and what, if any, effect that would have on her ability to be fair and impartial. Okay?

So would you ask -- is it -- Elaine, I'm right it was Ms. Timmons; right?

Would you ask Ms. McAllister-Timmons to step out, please?

(WHEREUPON, Juror Number 149 entered the courtroom at 2:43 p.m.)

THE COURT: Hey, Ms. McAllister-Timmons. How are you?

JUROR NUMBER 149: Good.

THE COURT: It was brought to my attention that you've realized that you may know someone or you may --

JUROR NUMBER 149: I know a friend of the victim.

THE COURT: Okay. So you have a -- you have a friend who knows the victim?

JUROR NUMBER 149: Right.

THE COURT: Okay. Do you know --

JUROR NUMBER 149: I didn't know her.

THE COURT: Okay. Would that have any effect on your ability to give both the State and the defense a fair trial?

JUROR NUMBER 149: No.

THE COURT: Okay. You just felt like we should know that --

JUROR NUMBER 149: Right.

THE COURT: -- since you realized that? Okay. But it doesn't have any bearing on your ability to be fair and impartial?

JUROR NUMBER 149: No.

THE COURT: Okay. Wonderful. Thank you very much, ma'am. You can go ahead and join the rest of the panel.

MR. BROOKER: Your Honor, can we approach just a second?

THE COURT: Yeah.

MR. BROOKER: Just approach you?

THE COURT: Yeah.

(WHEREUPON, a bench conference was held off the record, after which the proceedings resumed as follows.)

THE COURT: Has that friend talked to you about this case?

JUROR NUMBER 149: No.

THE COURT: Okay.

JUROR NUMBER 149: I mean this happened when it first happened.

THE COURT: Okay. Did you talk about it when it first

happened as far as do you know --

JUROR NUMBER 149: I was working at the place and she told me about it when it happened.

THE COURT: All right. Informed you that her friend had been killed or something? Did she go into any details or anything like that?

JUROR NUMBER 149: No. They didn't know at that point.

THE COURT: Okay.

MR. BROOKER: Where was she working?

THE COURT: I'm sorry?

MR. CLEMENTS: Where was she working?

THE COURT: Where were you working, ma'am?

JUROR NUMBER 149: Faith Healthcare.

THE COURT: Faith Healthcare.

(WHEREUPON, the bench conference continued off the record, after which the proceedings resumed as follows.)

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

JUROR NUMBER 149: Okay.

(WHEREUPON, Juror Number 149 exited the courtroom at 2:46 p.m.)

(WHEREUPON, a bench conference was held off the record.)

(WHEREUPON, there was a pause in the proceedings for defense counsel to speak with the defendant.)

(WHEREUPON, a bench conference was held off the record, after which the proceedings resumed as follows.)

THE COURT: All right. After having given Mr. Brooker time to speak with Mr. Williams regarding the situation, Mr. Brooker has indicated to the Court that Mr. Williams would prefer that Ms. McAllister-Timmons be relieved from any further duty and to substitute an alternate.

Is that correct, Mr. Brooker?

MR. BROOKER: That's correct, Your Honor.

THE COURT: All right. I think it's appropriate. So we will do that. The two alternates are Juror Number 100, Mitchell B. Hayes, and Juror Number 98, Alicia Gail Hatfield. I have taken those two names and have put them in this cup.

And, Elaine, would you be so kind as to reach in and grab one of those out of there? All right.

Okay. Mitchell B. Hayes. Then Mr. Hayes will be substituted for Ms. McAllister-Timmons.

Ann, would you please ask Ms. McAllister-Timmons to step back in the courtroom?

THE BAILIFF: Should she bring her belongings?

THE COURT: I'm sorry?

THE BAILIFF: Should I tell her to bring her belongings?

THE COURT: Yeah, I guess so.

MR. BROOKER: That would be a good idea for the juror now that she is excused.

THE COURT: Right.

(WHEREUPON, Juror Number 149 entered the courtroom at

2:52 p.m.)

THE COURT: All right. Ms. McAllister-Timmons, thank you for your candor. And I talked with the attorneys and stuff and, since we do have alternates, we felt like we probably wouldn't put you in that kind -- in that position to have to deal with a friend who has some relationship to the case. So we're going to excuse you.

I would tell you that that will conclude your service; so you don't have to call back or anything like that. You're free to go and we appreciate your willingness to serve. Thank you very much, ma'am.

JUROR NUMBER 149: Thank you.

THE COURT: All right. Have a good day.

JUROR NUMBER 149: Same to you.

(WHEREUPON, Juror Number 149 exited the courtroom at 2:53 p.m.)

THE COURT: All right. Anything? Yes, sir?

MR. BROOKER: Just -- and of course, is is that I've had these things happen once or twice. I don't know. Is there -- is there any sort of explanation you're going to give to the jury as to why that person is being replaced and, of course, a -- the alternate has been put into place?

THE COURT: Right. Typically, what I'll do when I bring them -- bring them out --

MR. BROOKER: Yes, sir.

THE COURT: I will just tell them that some issues were brought to the Court's attention that made it necessary to excuse Ms. McAllister-Timmons from any further service.

MR. BROOKER: Okay.

THE COURT: And that we have done -- we have done that and that the procedure is to -- and I'll explain to them that we have the two alternates and the procedure is to draw one name out of the hat and Mr. Hayes -- his name was drawn and now he is part of the main panel. Okay?

MR. BROOKER: Thank you, Your Honor.

THE COURT: Anything before we bring the jury back out from the State?

MR. CLEMENTS: Nothing from the State.

THE COURT: Anything further from the defense?

MR. BROOKER: No, sir.

THE COURT: All right. Let's bring the jury out, please.

(WHEREUPON, the jury entered the courtroom at 2:56 p.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. I hope everyone had a good lunch break.

You'll notice that -- you probably have noticed that you're down one -- one juror. Ms. McAllister-Timmons brought something to the Court's attention that necessitated her being excused from -- from any further participation and so we have accommodated her on that and have excused her from

any further participation. We have two alternates and the statute provides that we randomly select between the two alternates which one will then serve on the main panel.

And so we did that and, Mr. Hayes, your name was drawn. So you will -- you are now part of the main panel.

And, Ms. Hatfield, you will remain as an alternate if we need you for that purpose. Okay?

So if you'll recall when we broke for lunch, Mr. Clements was on his direct examination with the deputy coroner. So we will turn it back over to Mr. Clements to pick up where he left off with his questioning.

MR. CLEMENTS: Thank you, Your Honor. May it please the Court.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Deputy Coroner Myers --

A: Yes, sir.

Q: Did you reach any conclusion in regards to presumed time of death in this matter and, if so, how did you reach that conclusion and what was that conclusion?

A: As a culmination of information gathered from investigators, as well as my examination of the body, I determined that the presumed time of death was approximately 4 o'clock that afternoon on the same date.

MR. BROOKER: Your Honor, and just for the preservation

--

THE COURT: Yeah.

MR. BROOKER: -- I will repeat the objection.

THE COURT: I would note your objection to that.

MR. BROOKER: Thank you, Your Honor.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: Now, is this -- figuring out the presumption -- presumed time of death, is that something coroners do all the time?

A: That's -- that's part of our death investigation. That's just one basic piece of the puzzle. So yes. To answer that question, yes.

Q: So y'all do that every day?

A: Routinely.

Q: Okay. And when you determine a presumed time of death, who, if anyone, do you submit that information to?

A: The investigative team, as part of the conversation that takes place in their ongoing investigation. We also turn that information over to the pathology team. In this case, it was at the Medical University of South Carolina where the autopsy was scheduled. That's part of our basic information we turn over to them as we request a time slot for an autopsy to be performed.

Q: And is that done routinely as well?

A: It is.

Q: All right. What day was your first appearance in this investigation?

A: My first appearance was January 23rd of 2016.

Q: Okay. The day of the murder?

A: The day of. Yes, sir.

Q: And where at?

A: At the victim's address, 3618 Century Drive. I believe it was Apartment A.

Q: And what was your next act in this investigation?

A: Procedurally, we would -- because we believed that we were working a homicide investigation, we reach out to the staff at MUSC pathology suite to organize and schedule an autopsy for the victim's body, and that would have been my next step.

Q: What date did you do that?

A: I did it throughout my time at the scene and was advised that the autopsy would be scheduled and was on the 25th.

Q: Did you attend the autopsy?

A: I did not.

Q: Did you have occasion to have conversations with someone about that?

A: The pathologist would communicate back. The pathologist communicated back with me on the preliminary findings of the autopsy, and then further down the road some several weeks to months, we actually receive a full report of the autopsy.

Q: And was that on -- what day was it that you talked to Dr. Phillips?

A: She called me later on the 25th after -- after the actual autopsy and just gave me some preliminary information on the findings.

Q: What, if anything, happened on the 26th?

A: The 26th, possibly met with investigator Sgt. Clendenin to receive a disk of photos, as is our routine to share that as investigative information from the law enforcement agencies that are assisting us.

Q: And then what day did you receive the final autopsy report? Was it April 4th?

MR. BROOKER: Objection. Leading.

THE COURT: Sustained.

BY MR. CLEMENTS:

A: I've got the report. Here it is. April 4th is when my office received that final report.

Q: And that was the extent of your duties and extent of your activity in this investigation?

A: That's correct.

Q: Okay.

MR. CLEMENTS: Please answer any questions Mr. Brooker may have.

THE COURT: Cross.

MR. BROOKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: I don't have many questions, Mr. Myers. I think you testified on direct examination that you are the -- the deputy assistant coroner for Florence County?

A: That's correct.

Q: And of course, is is that was the position that you were in at the time?

A: It is.

Q: On January 23rd of 2016?

A: Yes, sir.

Q: Okay. And I think you also testified to the fact that prior to that you was a law enforcement officer with the City of Florence?

A: Yes, sir.

Q: And of course, is is that specifically you were trained in -- at least one area was crime scene investigations?

A: For the bulk of that career, yes, sir.

Q: For the bulk of that career? Okay. And of course, that was a 12-year career I believe you testified to?

A: Yes, sir. Twelve-and-a-half.

Q: Okay. Twelve-and-a-half? Okay. And how long have you been a coroner or the assistant to the coroner?

A: Approximately four years.

Q: Approximately four years? And so at the time of -- of

your reporting to this, I think, homicide scene on January 23rd of 2016, roughly how long would you have been the assistant deputy coroner at that time?

A: About three months at that time.

Q: So you were -- you were on the job for about three months?

A: Yes, sir.

Q: Okay. And of course, is is that just to ask this question is is that as you're on the job as the deputy assistant coroner for about three months, was that the -- was this the first crime scene that you had presented to as the deputy assistant coroner after being on the job for three months?

A: No, sir.

Q: You had done a few before this?

A: I had several already at that point.

Q: Several already at that point? Okay. And then, of course, is is that I think you testified to that as a part of a crime scene investigation that you sometime would -- would attempt to establish a cause of death; is that correct? Or excuse me. A time of death. I'm sorry. Is that correct?

A: That's correct.

Q: And of course, is is that you testified to the time of death in this case as being around 4 p.m.?

A: Approximately. Yes, sir.

Q: Okay. Approximately? And again, tell me how you reached the -- well, let me ask you this question is is that do you have any medical background?

A: Outside of terminology training and hands-on, on-the-job training, outside of -- there's no medical degrees or anything to go along with what we do.

Q: Okay. So you didn't attend any medical school or anything like that and obtain -- obtain any medical training in pathology or anything like that or anatomy or anything like that?

A: Outside of being attached to general death investigation classes and our training time actually in the autopsy suite alongside a pathologist, there's no formal training.

Q: Okay. And I think you previously stated is is that, I think, at least the main training for becoming a -- an assistant -- deputy assistant coroner was is that you attended a training course for roughly around five days?

A: There's a five-day and a three-day advanced course on top of the knowledge and experience that I brought with me from my previous career.

Q: Okay. And how much of that is dedicated to -- how much of that training that you just explained over the -- over the -- during those two courses is dedicated to specifically dealing with the science of calculating the time of death?

A: Specifically to that area, maybe a day or a little less.

Q: A day or less than a day that you had training with respect to the calculation of the time of death; is that correct?
A: Correct.
Q: And of course, is is that when you calculate the time of death, obviously is is that that is not a precise calculation, is it not?
A: That is correct. It is not precise at all unless it is an attended death in a medical setting.
Q: So -- and what you mean by an attended death is unless there is -- unless someone dies in the hospital and there's a doctor there and the doctor actually witnessed the exact time of death?
A: Exactly.
Q: Okay. But of course, is is that what you're doing is is that -- what you did, at least in this particular situation, is that you're giving it an estimate and, of course, you estimated that it was a time at least from your training and experience around 4 p.m.; is that correct?
A: That's correct. And that comes from communication with the investigative team, examination of the body, and just it encompasses several -- several areas to come to the -- the presumed time of death.
Q: Okay. All right. And -- and -- now, you said approximately 4 o'clock?

A: Yes, sir.
Q: Okay. Now, I guess my next question is is that how precise and accurate can you be in calculating the time of death?
A: A lot of it, again, depends on the information gathered from the investigative team as far as when friends or family may have seen a decedent or talked to a decedent last versus the time that they were found. All that takes into account of the narrowing of the time. We try to be as precise as possible, but again, the exactness of it is difficult to say outside of a -- a clinical setting.
Q: Okay, 4 o'clock, and just kind of let me -- let me rephrase that. I know that you said you can't be exact, but kind of give me a kind of range. That 4 o'clock date that you identified, could you be an hour off? Is it possible?
A: The possibility is less than or within an hour either -- either direction.
Q: Okay. And then, of course, is is that so you think -- you're thinking that the -- the -- I guess the -- the -- the window of error is an hour or so, give or take, an hour before, an hour after 4 p.m.? So you're saying -- and that's what I'm trying to figure out.
A: Uh-huh.
Q: How precise can you be?
A: We try to -- in the cases that there's -- that it's very

difficult to be precise, we actually call that an estimated time of death and we actually put a time frame on it from this hour to another hour. That was not the case here. We -- I was actually able to fairly with fair certainty narrow it down to approximately 4 o'clock.

Q: And let me -- and let me ask you at least this question is is that -- is is that I know you said is is that basically this is kind of a two-part process where you're taking information from the investigation and then, of course, is is that you're also taking information from the body to try and come up with what the approximate time of death is and, of course, is that I want you to ask -- I want to ask you this is is that can you determine the time of death absent information from the investigation but just from examination from the body?

A: Most of the time, that's what we do because we also investigate natural deaths that occur in a home and I don't have an investigative team around me. I am -- we are the investigative team as the coroner in that home. So we -- we lack that in 85 percent of the deaths that we investigate.

Q: So did you examine the body to the extent necessary to reach a conclusion solely based upon the physical condition of the body?

A: Primarily, that was -- that was my determination was based on the examination of the body.

Q: Okay.
A: We also do use information gathered as far as last contacted. That information, when we have that available, and that would've been in this case.
Q: How much of that opinion was based on just the pure analyzation of the body?
A: The majority.
Q: And is that 65 percent? 70 percent? 55 percent? 51 percent? Just your best guess because it's -- I think it's a relevant issue.
A: I'd say probably in the 70s.
Q: In the 70s was based upon your examination of the body?
A: Yes, sir.
Q: Okay. And of course, is is that I think you testified that there's a number of ways that you can determine the cause of death and, of course, that I think you said I think rigor mortis; is that correct?
A: Are you asking cause of death?
Q: No, I'm not. I apologize. I don't mean the cause of death. I mean the time of death. I apologize. Rigor mortis; is that correct?
A: That's one, yes.
Q: And of course, is is that -- and I hope I'm pronouncing this correctly. You said -- was it alvor mortis?
A: Algor.

Q: Algor mortis?
A: A-l-g-o-r mortis.
Q: Okay. And algor mortis, I think, you said is is that it's basically the time in which the body takes to cool or either the temperature of the body?
A: That process. Yes, sir.
Q: That process? And of course, is is that do you know what the temperature of Ms. Joseph's body was?
A: I don't.
Q: Okay. And isn't it true that normally most of the time when you're trying to determine how fast the body has cooled in order to -- in order to help you assist in estimating the time of death that isn't it more accurate to use a thermometer to see exactly what the temperature of the body is to see how far it has cooled versus simply touching it with your hand and giving an estimate as to whether or not it's warm or cold?
A: Actually, the use of thermometers as far as probing the liver is not as widely used as believed. It's -- if it is used, it's a -- it's an investigative tool like all these other things. It doesn't supersede anything else. You would take that reading and -- and apply it to the other information that we have before us.
Q: But the use of a thermometer would give you a more accurate -- would you agree with me that the use of a

thermometer would give you more -- give you a more accurate calculation of what the body temperature was that's much more accurate than simply touching the skin of the body with your -- touching the skin with your -- with your hands or with your palms?

A: It could be. None of the training that I've ever received was related to the use of a thermometer.

Q: Okay. But of course, is is that the extent of your training, I think is what you testified before, was simply a day or less; is that correct?

A: Of the time of death specifically?

Q: Yeah.

A: Yes, sir.

Q: A day or less on time?

A: Attached to a several day death investigation course.

Q: Okay. And no medical training whatsoever; is that correct?

A: No formal training.

Q: Formal medical training?

A: Just training time in the autopsy suite with a cadaver and a pathologist.

Q: Now, what other -- you said you tested the temperature of the body, you know, to use that to assist you in trying to help calculate a time of death. What other procedures did you perform in order to try to assist you in calculating --

medically calculating the time of death?

A: The tightness of the body, which again is rigor mortis, the tightness of the muscles. Also, livor mortis, which is the pooling or the settling of blood within the body and the discoloration under the skin that that makes.

Q: And of course, that's called what?

A: That is livor mortis.

Q: Livor mortis? Okay. Now, rigor mortis is that you're simply feeling the joints to see the tightness in the joints; is that correct?

A: Pulling. Sometimes it's more --

Q: Feeling the joints?

A: -- than just feeling. It's -- yeah, kind of pulling and getting the -- determining the resistance.

Q: Sure. And of course, is is that that is -- to some extent, I think it's a -- it's a -- you're then -- at least whenever you're pulling and feeling the body or bending the joints of the body, you're then trying to -- you know, subjectively trying to determine how much resistance, you know, etc., etc., to determine how much -- how much rigor mortis has set in?

A: That's correct.

Q: Do I have that correctly?

A: Yes, sir.

Q: Okay. So you're bending the arm and trying to figure

out how difficult it is to bend the arm, etc., etc.?

A: That's right.

Q: Okay.

A: And other joints.

Q: And then, of course, you're then making a calculation based upon how -- how much you think there's resistance in bending the arm as to how long you think, you know, the person has been deceased; is that correct?

A: That, plus the algor and livor mortis.

Q: Sure.

A: As part of a tool. Yes, sir.

Q: In the livor -- the livor mortis I think you're saying is is that you're trying to basically determine how much blood that’s in the liver?

A: No. It's just the overall pooling of the blood within the body.

Q: Pooling of the blood within the body?

A: The settling of the blood within the body.

Q: Okay. And then, of course, is is that you're making a calculation about the settling of the blood within the body based upon, I think, you said the color of the skin?

A: Right.

Q: Or changes in the color?

A: The discolor of the skin.

Q: The discolor of the skin? Okay. All right. And of

course, those were the three main techniques that you used? And I'm talking about the scientific techniques that you used to -- to determine -- at least try to estimate the time of death; is that correct?

A: Right.

Q: Okay.

A: And those are for us just as important as learning when the decedent was last spoken to or last seen, last made any communication or anything like that. It's all just -- it's all part of the investigation.

Q: Now, have you ever testified as an expert -- expert in any trial before regarding time of death?

A: No. Not regarding that.

Q: This is the first time that you've ever testified as an expert regarding the time of -- regarding the time of death?

A: Correct.

Q: The first time you've ever been qualified or at least seek to be qualified before the Court as an expert in the science of calculating the time of death; is that correct?

A: For that topic, yes, sir.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I want to make sure I don't have any further questions.

THE COURT: Yes, sir.

MR. BROOKER: But I think I'm almost finished.

THE COURT: Take your time.

BY MR. BROOKER:

Q: And I think absent -- absent what you testified to on direct examination, I think after -- after the 25th -- excuse me. After the 23rd, I think you testified to the fact that you spoke with, I think, investigators, I think, on the 25th. You also spoke with the -- the -- the -- the pathologist who performed the autopsy; is that correct?

A: I spoke with investigators throughout, not specifically on the 25th, but I did speak with the pathologist after the autopsy on the 25th. Yes, sir.

Q: And I think you testified to the last time that you were involved in this investigation was around April 4th, 2016? That was after you got back the autopsy report?

A: In the official sense, yes, but --

Q: Okay.

A: -- there's, you know, typing up my report and turning it in, and so it all -- it goes on from there, but that was the last piece that -- that my office needed.

Q: Okay. You had some ministerial duties that you did thereafter?

A: Yes, sir.

Q: But as far as -- as being involved in the investigation, that's pretty much it?

A: That's correct.

Q: Okay.

MR. BROOKER: If you can indulge me for a second, Your Honor? I want to make sure I don't have any further questions.

THE COURT: Sure.

MR. BROOKER: I think I've got one other one.

BY MR. BROOKER:

Q: Okay. And just one final question, Mr. Myers, is is that -- is is that I am assuming that you were not present at the time in which Ms. Joseph was killed?

A: That is correct.

Q: Okay. And so you're not a fact witness with respect to what took place at the time of her killing?

A: Yes, sir.

Q: Okay.

MR. BROOKER: No further questions, Your Honor.

THE COURT: Anything on redirect?

MR. CLEMENTS: Your Honor, we'd ask that Deputy Coroner Myers be released from his subpoena.

THE COURT: Any objection?

MR. BROOKER: Without objection, Your Honor.

THE COURT: All right. Thank you very much, sir. You're free to go.

MR. CLEMENTS: Your Honor, our next witness will be Dr. Angelina Phillips.

THE COURT: All right.

All right. Dr. Phillips, if you'd please come around to be sworn, ma'am.

THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated in the witness stand. Please state your name for the record.

THE WITNESS: Angelina Phillips.

DR. ANGELINA PHILLIPS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ma'am, can you please tell us where you work and in what capacity?

A: I work at the Medical University of South Carolina as a forensic pathologist.

Q: Can you please tell this jury what a forensic pathologist is and what you do?

A: A forensic pathologist is a pathologist who specializes in autopsy. An autopsy is the examination of the body for the purposes of determining cause and manner of death.

Q: Did you have an occasion -- well first, let me back up.

Doctor, can you please tell us what your educational background is?

A: Yes. I have an undergraduate degree in anthropology, a graduate degree in nutrition. I completed medical school in New York, upstate, and then completed my pathology training four years in Massachusetts before coming to South Carolina to do forensic pathology training, and I remained here to work.

Q: How long have you been working?

A: Three years.

Q: And that's at the Medical University of South Carolina?

A: Yes.

Q: In Charleston? What professional associations are you a member of and what continuing medical education have you done in the area of forensics?

A: I am a member of the National Association of Medical Examiners, AAFS, which is the American Association of Forensic Sciences, and CAP, which is the College of American Pathologists, and ASCP, which is the Association or Society for Clinical Pathology, and I complete continuing education for maintenance of my certifications, which requires at least 40 hours every year.

Q: Thank you. Doctor, have you ever been qualified to testify as an expert in state or federal court?

A: Yes.

Q: How many times?
A: Up to 20 times.
Q: In what field?
A: Forensic pathology.
Q: Okay.
MR. CLEMENTS: Your Honor, I would offer Dr. Phillips as an expert in the field of forensic pathology.
THE COURT: All right. Any objections or --
MR. BROOKER: No objection, Your Honor.
THE COURT: All right. Without objection, she's so qualified.
BY MR. CLEMENTS:
Q: Dr. Phillips, what do y'all do as far as determining as a pathologist, if anything, of presumed time of death?
A: The time of death determination we generally leave up to the coroner. However, we do contribute to an estimated time of death after looking at the body and looking at the decompositional changes on the body.
Q: So is that basically -- would that be to correct them or --
A: We would supplement any information they have. So if it were grossly out of proportion to what we were seeing, I see more decomposition than would be expected for the time interval they've given, I would give them my opinion and we will see why that is, whether it's something going on with

the body or something at the scene or they need to adjust the time frame that they've come up with.

Q: Did you have an occasion to do an autopsy on Sherilyn Joseph?

A: Yes.

Q: From Florence County?

A: Yes.

Q: And did you have the need to do any corrections or add information to her presumed time of death?

A: Not to my knowledge.

Q: Okay. When you did an autopsy on her, did you find a cause of death to a reasonable degree of medical certainty?

A: Yes.

Q: What was that cause of death?

A: A gunshot wound to the head.

Q: Okay. On which side of the head?

A: It was to the left side of the forehead.

Q: Okay. In gunshot wounds, there are -- is it true that there are many things other than just the bullet that come out of a gun barrel and do damage to the body or transform the body in some kind of way?

A: Yes.

Q: What are those other?

A: So when a gun is fired, the bullet is not the only thing coming out the end of the barrel. There is also heated

material, gunpowder, smoke, soot, things that can get deposited on the skin. And if it's close enough range, we can see that and document that.

Q: What is stippling?

A: Stippling is little burns on the skin from the gunpowder impacting on the skin.

Q: And is that the same as powder burns?

A: Yes.

Q: Okay. Were you able to detect any stippling or any powder burns or anything on Ms. Joseph?

A: No.

Q: Other than that, was there anything present that would give you the ability to determine whether this was a close wound, a contact wound or a distant wound?

A: Without the soot or stippling on the skin, we don't make an assumption about the range because it could be anything from intermediate to distant.

Q: Was there something found at the scene with her body that might have had some play in this?

A: I'm not aware of anything at the scene.

MR. CLEMENTS: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: Is this a copy of your report?

A: Yes.

Q: I'm going to show you a portion highlighted. Does that refresh your recollection?
A: Yes.
Q: Okay.
A: So that is a comforter that they had found at the scene with a hole in it. Beyond that description, I don't know that it would give me any information about the distance of the wound.
Q: Okay. Was there any other wounds on the body of any sort?
A: Let me refresh my memory here. I have abrasions on the mucosal surface of the inner surface of the lower lip and on the tip of the tongue, which may just be drying artifacts of drying from being exposed to air.
Q: Okay. Was there anything that could have been determined or been consistent with a defensive wound?
A: Not that I see.
Q: Nothing whatsoever?
A: No.
Q: Okay.
MR. CLEMENTS: I beg the Court's indulgence.
THE COURT: Yes, sir.
BY MR. CLEMENTS:
Q: Dr. Phillips, I appreciate your being here. I'm almost finished. Could you tell by the autopsy if there had been

any recent sexual activity of the victim?

A: Based on the superficial examination, I did not see anything indicative of trauma to the vaginal area. However, that doesn't mean there was not.

Q: Okay. When you do an autopsy, is any of the autopsy documented?

A: Yes.

Q: And how is it documented?

A: We take photographs and I make a handwritten diagram.

Q: I'm going to show you what's been marked as State's Exhibit 3-A, B, C, and D, and they're only for identification. So I just want to see if you recognize this. Tell us what that is?

A: This is the bullet labeled with FA-16-074, which is our number.

Q: And this is State's Exhibit 3-B?

A: This is the base of the bullet labelled FA-16-074. That's our number.

Q: State's Exhibit 3-C?

A: This would be an image showing a closer image of the gunshot wound entrance.

Q: In the forehead, left forehead?

A: Yes.

Q: And State's Exhibit 3-D?

A: This is an overall photo of the upper portion of the

decedent's body.

Q: Does it show the condition of the body?

A: Yes.

MR. CLEMENTS: I beg your indulgence for one moment.

Your Honor, at this time, I would enter into evidence State's 3-A and 3-B, I believe without objections.

THE COURT: Any objection to those two items?

MR. BROOKER: 3-A and 3-B? I don't think. Let me take a look at it again and see the exhibit numbers.

THE COURT: Yeah. Here you go.

MR. BROOKER: No objection, Your Honor.

THE COURT: All right. State's 3-A and 3-B are in evidence without objection.

(WHEREUPON, State's Exhibit 3-A, photograph, and State's Exhibit 3-B, photograph, were admitted into evidence.)

MR. CLEMENTS: State's 3-C and 3-D, we'll hold off on.

THE COURT: All right.

BY MR. CLEMENTS:

Q: Can you tell me if in your autopsy if you could determine what caliber bullet that was or do you have that information?

A: The autopsy -- we said it was a medium-caliber bullet. I generally do not do specific identification of projectiles.

Q: Okay. All right. And these are both pictures of the same item; is that correct?

A: Yes. From different angles.

Q: All right.

MR. CLEMENTS: Your Honor, request permission to go ahead and publish these to the jury?

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: Dr. Phillips, can you explain to this jury how the bullet depicted in those two exhibits -- how you retrieved that from the body and where it was on the body?

A: The bullet was retrieved from the back of the head in the subcutaneous tissue, and we make an incision into the skin adjacent to where the projectile is and work our way to remove that.

Q: Did it go through the skull?

A: It went through the skin, subcutaneous tissue, the skull, and the brain before ending up in the -- underneath the skin in the back of the head.

Q: Okay. And when you retrieved that bullet, what did you do with it?

A: After we retrieve the bullet, we clean it up and we photograph it and we mark it for evidence and transfer it to the investigators who attend.

Q: Okay. Do you know which investigator that was?

A: I can tell you. I have the bullet along with other evidence collected at the autopsy being transferred to Andrew

Clendenin, if I'm saying that correctly.

Q: Clendenin.

A: Yeah.

Q: Now, can you tell the jury please what were the items, all of the items that you gave to Investigator Clendenin?

A: I transferred to him right and left-hand fingernail clippings, pulled scalp hair, a CD with images from the autopsy, a blood spot on filter paper, and the projectile, the bullet from the back of the head.

Q: What is the purpose of the blood spot on the filter paper?

A: The blood spot on the filter paper is transferred for them to use if they need for DNA purposes to either match with a defendant or something from the scene and, beyond that, I don't know.

Q: I still -- can I have that copy of your report?

A: This is my copy.

Q: Okay. All right. I don't know what I did with mine.

MR. CLEMENTS: Dr. Phillips, thank you for coming today. Will you please answer any questions that Mr. broker may have?

THE WITNESS: Yes.

THE COURT: All right. Cross?

MR. BROOKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: I won't be long, Dr. Phillips. Just a couple of questions, Dr. Phillips.

A: Uh-huh.

Q: So I remember that you testified on direct examination that generally you rely on the coroner to provide an approximate cause of death?

A: Not the cause of death.

Q: Excuse me. I apologize. Not the cause of death. I'm sorry. The time of death. I keep getting that mixed up. The time of death?

A: Yes.

Q: Not the cause of death?

A: The time of death.

Q: Yes. So I think you testified that you sometimes rely on the coroner to give you an approximate time of death; is that correct?

A: Yes.

Q: Okay. But of course, if my understanding is correctly that you don't rely entirely on the coroner, that there's actually independent examinations or tests that you perform to try to see whether or not your estimated time of death is consistent with theirs or either whether or not their estimated time of death is kind of wildly out of the ballpark?

A: As part of the autopsy procedure, we document postmortem changes. So changes to the body. The temperature is usually cool because they have been refrigerated prior to coming to us. The livor, which is the settling of the blood in the body after your heart stops beating. Rigor mortis, which is the stiffening of the muscles. And if these changes, along with skin changes, green discoloration or bacterial changes, seem more advanced than what the coroner has told me, I will make a call to them and say is there a reason why you say the person has been deceased for an hour and I have changes that would be more consistent with 24 hours or whatever time period that I have, if I don't have something at the autopsy that gives me a different reason for that advance decomposition happening.

Q: When these -- when these sorts of examinations are performed to try and determine an approximate time of death, how accurate can they be?

A: They are not very accurate and we can’t give a specific time of death, which is why we depend on the information the coroner has for that.

Q: And when you say that they're not very accurate, I'm assuming is is that they cannot be used to calculate an exact time?

A: Not an exact time. We can give an estimation as to a time period, a time range, but not a specific time.

Q: And is that time range -- that time range, would it normally be in -- in the form of minutes or could it be in the form of hours?
A: It's generally hours.
Q: Okay. So basically is is that -- and roughly what is an approximate time range when you said hours? Two to four hours? One to two hours? Three to six hours?
A: I usually go over an hour or over six hours within 24 hours.
Q: So it can be -- it can be between an hour to six hours?
A: Yeah.
Q: Okay. That the -- that the calculation can be -- that the time of death can be between an hour and six hours?
A: It's an estimation. So when I say between an hour to six hours, it's not necessarily limited to that time. That's why it's very nonspecific.
Q: It's very nonspecific?
A: Yes.
Q: Okay. I think that you were also asked the question by Mr. Clements on your direct examination as to whether or not as a part of your evaluation you made a determination as to whether or not Ms. -- Ms. Joseph was recently sexually active?
A: Uh-huh.
Q: And I think -- what was your -- what was your response

to that?

A: I did a superficial examination of the genitalia. I didn't see any evidence of injury. However, that does not mean there was not sexual activity.

Q: Okay. So -- so it's not absolute? It's just that you didn't see any evidence of any injury?

A: Correct.

Q: But that's not conclusive?

A: Correct.

Q: Okay. Normally, as a part of your -- and let me ask you this question is is that the examination -- excuse me. The examination that you perform to try to determine whether or not there has -- there had been any recent sexual activity, is that something that you normally do as a part of the autopsy?

A: We normally do a superficial examination of the genitalia just to look for any injury. It's not specifically to identify if there was sexual activity.

Q: Okay. Now, when you -- I know that -- that you indicated that there was some evidence that was -- that was collected from the body. For instance, the -- the -- the bullet that was removed from the body. That sort of evidence is collected and was collected in this case and turned over, I think, to law enforcement; is that correct?

A: Yes.

Q: As a part of your -- as a part of your collection or as a part of your, I guess, examination, do you also try and collect other types of evidence like hair and saliva to turn over to law enforcement for purposes of comparison if it becomes relevant in connection with an investigation?

A: Our standard procedure for collecting evidence at a homicide type autopsy is to collect fingernail clippings from both hands and pulled scalp hair. We collect blood spots on all of our decedents and additional samples, such as blood and bile and vitreous fluid from the eyes, we would collect for toxicology and/or to save, not necessarily to give to law enforcement.

Q: So you don't specifically look for hair that might be found on the body that would appear not to belong to the victim?

A: No.

Q: Okay. And you didn't search for or either attempt to collect other DNA samples like saliva or either sweat, touch DNA samples, to try and -- and determine for the purposes of presenting to law enforcement for comparison?

A: No.

Q: Now, Dr. Phillips, I'm just about finished. You know, just a very simple question is is that were you present at the death of Ms. Phillips, the person who you performed an autopsy on?

A: I'm Dr. Phillips.

Q: I'm sorry, Doctor, excuse me. The victim, which is Ms. Josephine -- Ms. Josephs [sic]. Were you present during her death?

A: No.

Q: Okay. And I know it's a silly question, but I've got to ask. So I'm assuming is that you were not a fact witness with respect to what took place at the time in which she died; is that correct?

A: I'm not quite sure I understand the question, but --

Q: I can rephrase it if you need me to.

A: Please do.

Q: Basically, what I'm trying to figure out is is that -- is that whether or not you're not a fact witness -- you're not a physical fact witness to the identity of the person who took the life of Ms. Joseph?

A: No.

Q: Okay.

MR. BROOKER: If you can indulge me for just a second, Your Honor, let me make sure that I don't have any further follow-up questions.

THE COURT: Yes, sir.

MR. BROOKER: No further questions, Your Honor.

THE COURT: All right. Anything on redirect?

MR. CLEMENTS: Just one.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: I want to be sure I'm clear on this as far as presumed time of death. You didn't have to make any calls back to Florence to correct that, did you?

A: No.

MR. CLEMENTS: Thank you.

THE COURT: All right.

MR. CLEMENTS: Your Honor, we'd ask that she be released from her subpoena.

THE COURT: Any objection?

MR. BROOKER: No objections, Your Honor.

THE COURT: Thank you very much, Doctor. You're free to go, ma'am. Thank you for being here.

Yes, sir?

MR. CLEMENTS: Your Honor, we'd call Sgt. Andrew Clendenin of the Florence County Sheriff's Office.

THE COURT: All right.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated in the witness stand and please state your name for the record.

THE WITNESS: Andrew Robert Clendenin.

MR. CLEMENTS: May it please the Court, Your Honor.

THE COURT: Yes, sir.

ANDREW CLENDENIN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Sgt. Clendenin, how are you today?

A: Good.

Q: Can you tell this jury where you work and tell them what you do, your title and what you do and how long you've been doing it?

A: I work for the Florence County Sheriff's Office crime scene unit. I've been employed with the Sheriff's Office for the past 20 years and with the crime scene unit for the past 14 years.

Q: Do you do any supervision there in the crime scene unit?

A: I do.

Q: Okay. How many supervisors are in the crime scene unit?

A: We have one lieutenant and one sergeant and then four other employees.

Q: And you're the sergeant?

A: Yes, I am.

Q: Okay. Did you come to be called out to Century Drive on the evening of the 23rd of January, 2016?

A: Yes, I did.
Q: Can you please tell this jury, number one, about what time you got there, number two, who did you find there and, number three, what did you begin to do?
A: I got there at approximately 12 p.m. or a.m. at midnight. I was -- I met Investigator Thomas McFadden, Chad Collins, and Deputy Coroner Bo Myers at the scene and I also did a walk-through of the scene upon my arrival.
Q: Were you briefed by the others as to what they had found when they got there?
A: Yes, I was.
Q: Okay. Can you tell listing your steps what you do when you examine a crime scene and let the jury know, kind of tell them? The first thing you do is a walk-through. What else do you do?
A: After we do the walk-through, we start to photographing the scene, any kind of documentation.
Q: How many photographs do you normally take?
A: As many as it takes, possibly several hundred. It depends on the scene.
Q: Okay. But you're thorough in your documentation?
A: Correct.
Q: Okay. After you take pictures, then what do you do next?
A: After digital photographs, I'll do a field sketch, which

is a handwritten drawing of the scene itself.

Q: Okay. Do you do that freehand or do you have something that helps you with that?

A: I do it freehand on the scene and later I come back and I can do a computer enhancement drawing.

Q: Did you do that in this case?

A: Yes, I did.

MR. CLEMENTS: I beg the Court's indulgence one minute.

THE COURT: Yes, sir.

MR. CLEMENTS: Your Honor, I'm sorry. I found this. I need to get it marked.

THE COURT: All right.

BY MR. CLEMENTS:

Q: I'm going to show you what's been marked as State's Exhibit 4 for identification. Can you tell me whether you recognize that?

A: I do.

Q: Whose handiwork is that?

A: That is mine.

Q: Okay. All right. Can you tell us what's depicted there on that picture, both sides?

A: Both sides, this is 3618 Century Drive, Apartment A. In the same it would also be Apartment B, which I never went inside of, the reason you only see the outside perimeter for this side of the building.

Q: And what do you have there on the A side, what type of furniture and what's depicted there?
A: Currently, the furniture that was found inside the apartment, including the position of the victim at the time.
Q: Okay. And is that the victim right there?
A: That is correct.
Q: With head in one door and feet at the other?
A: That's correct.
Q: And where is the front door on this?
A: This would be the front door near the State's exhibit sticker going straight in.
Q: Okay.
MR. CLEMENTS: All right. Your Honor, I'd ask for permission to publish this to the jury, if I may?
THE COURT: I don't know it's been moved into evidence.
MR. CLEMENTS: I'll move it into evidence, Your Honor.
MR. BROOKER: And that's the same one you just showed me?
MR. CLEMENTS: Yeah.
MR. BROOKER: No objection, Your Honor.
THE COURT: All right. Without objection. What number is it?
MR. CLEMENTS: It is Exhibit -- State's Exhibit Number 4.
THE COURT: State's 4 is in evidence without -- without

objection. All right.

(WHEREUPON, State's Exhibit Number 4, crime scene sketch, was admitted into evidence.)

BY MR. CLEMENTS:

Q: Andy, you talked about taking photographs. I want to show you some exhibits for identification purposes and I just want you to tell me whether you can identify them and know what they are. State's Exhibit 1-O, did you -- do you recognize that picture?

A: I do recognize that picture.

Q: Who made that picture?

A: I did.

Q: State's Exhibit 1-N?

A: Another photograph that I took.

Q: State's Exhibit 1-M?

A: Another photograph that I took.

Q: State's Exhibit 1-Q?

A: Another photograph that I took.

Q: State's Exhibit 1-T?

A: Another photograph that I took.

Q: State's Exhibit 1-R?

A: Another photograph that I took.

Q: State's Exhibit 3-C, which is in evidence, I believe. No, no, no, it's not. My bad. State's Exhibit 3-C for identification?

A: I do recognize that photograph.
Q: And it came from where?
A: That came from the Medical University of South Carolina in Charleston, South Carolina.
Q: Made during the autopsy?
A: Made during the autopsy.
Q: You were present?
A: I was present when they took the photographs.
Q: State's Exhibit 3-D?
A: Same.
Q: Where at?
Q: Same as before. I was present when they took the photographs.
Q: I'm going to show you some other exhibits here, State's Exhibits 2-A through 2-G. Can you identify those and tell us what they are?
A: Those are photographs taken that I took at the Florence County Sheriff's Office impound yard of the victim's car.
MR. CLEMENTS: Your Honor, State's Exhibits 2-A through G, I would move into evidence at this time.
MR. BROOKER: Let me see them. Are those the photographs of the car? Without objection, Your Honor.
THE COURT: All right. And that was what again now?
MR. CLEMENTS: State's Exhibit 2-A through G.
THE COURT: A through G?

MR. CLEMENTS: Yes.

THE COURT: Okay. 2-A through G. All right. Those are in without objection.

(WHEREUPON, State's Exhibits Number 2-A through 2-G, photographs, were admitted into evidence.)

BY MR. CLEMENTS:

Q: Tell me about going to the compound. What was that all about? You said you had some pictures made at the compound. Tell us what was the reason for that and how that transpired?

A: At the impound yard?

Q: Yeah.

A: Any time we --

Q: Did I say compound? Impound. Sorry about that.

A: Impound. There's a club called the Compound. You had me a little confused.

Q: Yeah.

A: But any time before we proceed, we always take digital photographs before touching or moving anything.

Q: Okay. And you found her car at the scene that night?

A: We did.

Q: Okay. And took it to the impound yard?

A: It was towed back to the Florence County Sheriff's Office impound yard.

Q: Did you have any help or did you process that vehicle by yourself?

A: I processed the vehicle by myself.
Q: When you process a vehicle, can you explain to the jurors what that is exactly, what that entails, so they'll know exactly what you're doing when you say process?
A: First, it's digitally photographed and then from there we check, depending on the case it is, DNA, latents, trying to identify who and what subjects were inside the vehicle.
Q: Okay. And how do you try to collect DNA in a vehicle?
A: In this case, I took swabs from the inside door handle and head rest of the vehicle.
Q: Which side?
A: A cup that was found in the center console.
Q: On which side of the car? The driver's side or passenger side?
A: On the passenger side of the car.
Q: Okay. And when you gather those swabs, would do you do with them?
A: Those are packaged and then later forwarded to another lab for identification.
Q: Okay. Sgt. Clendenin, I'll show you some more exhibits for identification while I call out the name and then you tell me if you know what it is and if you know who took the photograph. State's Exhibit 1-B?
A: I do recognize the front entrance of the apartment. I took the photograph.

Q: State's Exhibit 1-C?

A: Also just inside the victim's apartment. I took the photograph.

Q: Okay. All right. Just in the interest of speed, just give me a yes or a no and we'll go back to them later?

Q: State's Exhibit 1-D?

A: Yes. I took the photograph.

Q: State's Exhibit 1-E?

A: I took that photograph.

Q: State's Exhibit 1-F?

A: I also took that photograph.

Q: State's Exhibit 1-U?

A: I took that photograph.

Q: State's Exhibit 1-V?

A: Yes. I took that photograph.

Q: State's Exhibit 1-W?

A: Yes.

Q: State's Exhibit 1-X?

A: Yes. I took that photograph.

Q: State's Exhibit 1-Y?

A: Yes. I took that photograph.

Q: State's Exhibit 1-Z?

A: Yes. I took that photograph.

Q: State's Exhibit 1-AA?

A: Yes. I took that photograph.

Q: And State's Exhibit 1-A? I don't know how that got to the bottom.

A: Yes. I took that photograph.

Q: Okay.

MR. CLEMENTS: Your Honor, these numbers I just called out I would move into evidence at this time and I believe without objection.

MR. BROOKER: That's correct, Your Honor. No objection.

THE COURT: All right. Those are in without objection.

(WHEREUPON, State's Exhibits Number 1-A, 1-B, 1-C, 1-D, 1-E, 1-F, 1-U, 1-V, 1-W, 1-X, 1-Y, 1-Z, and 1-AA, photographs, were admitted into evidence.)

BY MR. CLEMENTS:

Q: Just a few more to get you to identify, Sgt. Clendenin, and then we can move on. Can you tell me yes or no if you took these photographs? 1-F?

A: Yes.

Q: 1-G?

A: Yes.

Q: 1-H?

A: Yes.

Q: 1-J?

A: Yes.

Q: 1-K?

A: Yes.

Q: 1-L?

A: Yes.

Q: 1-P?

A: Yes.

Q: 1-S?

A: Yes.

MR. CLEMENTS: Your Honor, we have these marked for identification. I believe they are objected to and, Your Honor, we would ask to take these up at another time.

THE COURT: All right. We'll do that.

BY MR. CLEMENTS:

Q: All right. Sgt. Clendenin, we talked about you taking photographs at the scene and taking photographs at the impound with the vehicle and receiving photographs at the autopsy that you attended to?

A: That's correct.

Q: Okay. And what else other than a disk with some photos on it did you receive at the autopsy?

A: I also received the victim's clothing and personal belongings that she had in her pockets.

Q: All right. And what else did you receive, if anything, of a biological nature?

A: And also the projectile from the victim.

Q: And did you receive a blood spot?

A: Yes, I did.

Q: And what did you do with the blood spot?
A: It was carried back from MUSC to the Florence County Sheriff's Office, where it was put into the evidence room for secure storage until it could be later sent to another lab.
Q: Okay. And what lab did you send it to?
A: That was sent to the Richland County Sheriff's Office forensic lab.
Q: Okay. So let's go -- go back now. We've got all the photographs covered; right?
A: Correct.
Q: Okay. Let's go back to the scene. You did your walkaround and took your photos and, as you were taking your photos, what are some items you saw that were items of evidentiary value in your mind?
A: I seen a partially smoked cigar just as you walk through the front door that was laying on an end table.
Q: Okay. And what else did you notice?
A: Also, in the -- near the victim was a comforter, pillow, and pillowcase that was on top of the pillow. I observed it had a gunshot through it.
Q: All right. And how could you tell it was a gunshot?
A: It was very close contact, a burnt pattern, and I also done presumptive gunshot residue kit on the spot, which come back positive.
Q: And where was that comforter and that pillow in

conjunction with where Ms. Joseph's body was?

A: Just above her head area laying on the floor with her.

Q: What kind of clothes was she wearing?

A: She was wearing a Starbucks uniform.

Q: Did you make any attempts to collect any fingerprints at the scene?

A: I did. I attempted to go from the front door since it was unlocked. The rear door was locked and dead bolted, no signs of entry. So I attempted the front door and a few other areas, but I was unable to successfully lift any fingerprints.

Q: Are fingerprints kind of tricky and hard to get?

A: It all depends on the surface. Some surfaces are better than others.

Q: Okay. But then -- but you were unsuccessful in getting prints?

A: I was unsuccessful, yes.

Q: You mentioned something about the back door and the front door. Were there any signs whatsoever of forced entry?

A: There was no damage to both the rear and front doors.

Q: How about any windows?

A: None of the windows were damaged.

Q: You looked around through the entire apartment. Did you see any signs of a struggle?

A: No, I did not.

Q: Okay. Did you see anything in any of the trash cans or any of the bedrooms or anywhere in that apartment that you collected?

A: Yes, I did. In the master bedroom beside the bed, there was a small wastebasket. Inside the wastebasket was a used condom. So I collected the entire contents of the wastebasket.

Q: And did you notice anything else of hers around of an electronic nature?

A: Not at that point, no.

Q: Not at that point? Okay.

A: No.

Q: And at the scene that night -- and it was two days later at the impound or the next day?

A: It was two days later at the impound.

Q: All right. I'm going to show you these pictures from the impound and I'm going to ask now if you can more than identify them. You can explain to us what their significance were and why you took those pictures. I'm starting with State's Exhibit 2-A.

A: We always do a full 360 of anything we photograph. On this particular picture is the passenger side of the vehicle.

Q: Is there anything about that passenger side of the vehicle that stands out that was unusual?

A: The passenger side seat was extended backwards.

Q: How about on the outside of the car?

A: There was some damage to the front and rear fender.

Q: State's Exhibit 2-B?

A: That's inside of the passenger door.

Q: All right.

MR. CLEMENTS: Your Honor, as I'm doing this, can I have permission to publish these to the jury?

THE COURT: Yes, sir.

MR. CLEMENTS: All right.

BY MR. CLEMENTS:

Q: State's Exhibit 2-C?

A: A picture of the center console, driver's seat and, of course, the vehicle keys are inserted in the ignition.

Q: Okay. Were the keys in the ignition when you found the car at the scene or did you get the keys from out of the house?

A: I got the keys from out of the house.

Q: Okay. State's Exhibit 2-D. What does that depict?

A: A picture of the passenger side rear seat kind of extended backwards.

Q: Like somebody was laid back in there?

A: Was laid back in the seat.

Q: State's Exhibit 2-E?

A: Picture of the passenger side inside door and center console.

Q: Now, State's Exhibit 2-E shows the passenger side door; right?
A: Correct.
Q: Did you retrieve anything from the passenger side door?
A: I did swabs for DNA on the inside of the passenger door.
Q: And on 2-D, which I just passed on that had the head rest on that seat that was laid back, did you do anything there?
A: I also did swabs on that looking for DNA.
Q: So did you find DNA on both of those sites?
A: It was furthered to the Richland County lab where DNA was extracted.
Q: Okay. State's Exhibit 2-F?
A: A photograph of the rear of her vehicle.
Q: State's Exhibit 2-G?
A: A photograph of the center console.
Q: And what was in the center console?
A: Some receipts and other items.
Q: A coffee cup?
A: A Starbucks coffee cup that I also processed for DNA.
Q: State's Exhibit 1-B?
A: That's the front entrance of apartment 3618-A and B.
Q: Okay. And which apartment was hers?
A: A.
Q: State's Exhibit 1-C?

A: That's a photograph of the crime scene log and also, from my understanding, her phone.
Q: Okay.
A: Which was collected by some other officer.
Q: Okay. Was that Investigator McFadden?
A: That was Investigator McFadden.
Q: Okay. State's Exhibit 1-D?
A: That was a picture of a sofa that was just inside the residence.
Q: Anything significant there or just being thorough?
A: No. Just being thorough with photographing the entire apartment.
Q: Exhibit 1-E?
A: Photographs of the interior of the front door showing no damage to it.
Q: State's Exhibit 1-F?
A: That would be the master bedroom right beside the right-hand side of the bed.
Q: State's Exhibit 1-U?
A: Digital photograph of the rear door.
Q: Anything showing up there on the rear door?
A: Nothing.
Q: No signs of forced entry?
A: No signs of forced entry.
Q: State's Exhibit 1-V?

A: Lock on the rear door.
Q: And it was locked at the time?
A: Yes, it was.
Q: State's Exhibit 1-W?
A: A photograph of the inside of the comforter that was found near the victim.
Q: All right. And what -- what's depicted there above that ruler?
A: A projectile hole with a blood smear.
Q: State's Exhibit 1-X?
A: That would be the pillow and pillowcase I found wrapped up in the comforter beside the victim laying on the floor.
Q: Okay. And what's that hole there?
A: A projectile hole, probability of a gunshot.
Q: State's Exhibit 1-Y?
A: Again, this is the front of the comforter, it looks like where the gunpowder had burnt the comforter, the outside of the comforter, and also where I done the presumptive test.
Q: Is that where you did the presumptive test?
A: Yes, I did. It came positive.
Q: In a minute, we'll come right back to that and let you explain that, but we're almost finished with this. State's Exhibit 1-A?
A: The digital photograph of the outside of the apartment including the vehicles, the victim's vehicle that was parked

outside.

Q: Is that her mother's vehicle?

A: I'm unsure of whose vehicle that was parked beside of her.

Q: Were there any other cars back there than those two?

A: That was it, and law enforcement.

Q: State's Exhibit 1-Z?

A: The victim [sic] of the wastebasket that was sitting beside the bed.

Q: Okay. What's in there?

A: A condom wrapper and a used condom.

Q: All right. State's Exhibit 1-AA?

A: A little closer picture of the inside of the wastebasket with the used condom.

Q: Okay. Now, Sgt. Clendenin, you talked about a GSR kit and a presumptive GSR kit. Can you please explain to the jury what is GSR, what's a GSR kit, and what is a presumptive GSR kit?

A: GSR is gunshot residue. A presumptive kit tests presumptively for any form of gunshot residue, but it's not confirmed until we do a full GSR test, which consists of two stubs where it's later run through a GC mass spec to verify that it does contain the three elements of gunshot residue.

MR. CLEMENTS: Your Honor?

THE COURT: Yes, sir.

MR. CLEMENTS: At this time, I'd ask if Sgt. Clendenin can step down to the -- I don't know if it's an elbow or an Elmo. It's the 21st century technology I'm going to have to get help with, Mr. Godbold. But I want to show some pictures and have --

THE COURT: Sure.

MR. CLEMENTS: -- Clendenin talk about them.

THE COURT: Has it got a name? So it's got a name?

MR. GODBOLD: Oh, Elmo.

THE COURT: Fire Elmo up.

WHEREUPON, the witness left the witness stand.)

MR. CLEMENTS: Your Honor, if I wasn't such a dinosaur, we could've done this rather than me having to pass them around to the jury.

THE COURT: I was wondering why you weren't doing that. I was wondering why you weren't doing that earlier.

MR. CLEMENTS: Because I'm a dinosaur.

THE COURT: Oh, I gotcha. Okay.

MR. CLEMENTS: All right. And we have here State's Exhibit --

THE COURT: Excuse me. Solicitor, if I may just -- ladies and gentlemen, are those monitors all working? Okay. Because we had trouble with one the other week, but they're all good? Okay. Go ahead, sir.

BY MR. CLEMENTS:

Q: We've got State's Exhibit 2-D on there. Can you explain?

THE COURT: Solicitor, this one is working as well for the witness.

MR. CLEMENTS: Oh, there's one up there too.

THE COURT: Yeah.

MR. CLEMENTS: Have a seat, Andy.

THE COURT: And then that way he can speak into the microphone.

MR. CLEMENTS: Yes, sir.

(WHEREUPON, the witness returned to the stand.)

BY MR. CLEMENTS:

Q: Can you explain to us about 2-D and what you did there with swabs and how you tested that?

A: That is a digital photograph of the passenger side seat. I use a sterile-based water and dip a cotton swab into it and then I swab the actual cloth of the seat where I -- presumptively, I thought the skin would be making contact with. So I did the head rest of the vehicle for the passenger side seat.

Q: Why did you think that there probably would be material there on that particular location?

A: Thinking that unclothed skin would probably make contact with that particular area versus any other area on the seat.

Q: All right. I'm going to show State's Exhibit 2-B. Can

you point out there what you did on this exhibit?
A: In this particular area, I used cotton swabs by wetting them and then I did the inside of the passenger side door handle.
Q: And when you took those swabs, then what did you ultimately do with those swabs?
A: I packaged them for later submission at a forensic -- a different forensic lab.
Q: And what forensics lab did you submit it to?
A: I sent those to Richland County Sheriff's Office forensic lab.
Q: I'm going to show you State's Exhibit 1-W. Explain that for the jury?
A: That was a blood smear on the inside of the comforter found near the victim.
Q: And how was it -- how was the comforter and pillow, I guess, entangled or connected to each other?
A: The pillow and pillowcase was together inside of itself and then it was wrapped up inside the comforter.
Q: And State's Exhibit 1-X, what is that?
A: That is a digital photograph of the pillow and pillowcase.
Q: So there's no -- no burn marks or anything on the pillow?
A: No, there was not.

Q: So something was between the barrel of the gun and the pillow?
A: The only burn marks were found on the outside of the comforter.
Q: Okay. And State's Exhibit 1-Y? Tell me about that one?
A: That was the area I found the burnt area and also the projectile goes all the way through and that's where I performed a presumptive gunshot residue test kit on that area.
Q: It came up positive?
A: It came positive.
Q: Now, on the back side of the pillow and the comforter that were wrapped up with each other, away from the gun or on the opposite side of the gun, did you find anything on the pillow or the comforter on the back side?
A: On the back side, it was a through and through all the way through.
Q: And that one picture we showed, there was something present there as well as the hole. What was that?
A: It was a blood smear found on the inside of the comforter there.
Q: Were you able to collect anything from that and submit it to DNA or not?
A: Yes, I did. I took a swab of that and submitted it for DNA.

Q: And what was revealed?

A: It revealed it belonged to the victim.

Q: All right. Now, State's Exhibit 1-AA. Can you tell me how you collected that and what you did with it and where you sent it?

A: I collected the entire contents of the trashcan, where it was later taken to the Florence County Sheriff's Office. It was inventoried. The condom was taken out, dried, packaged, and later sent to a forensic laboratory at the Richland County Sheriff's Office.

Q: And you -- what did you send it to them with the request to do?

A: Request for DNA.

Q: Okay. During the investigation as it proceeded, were you provided with any other DNA swabs or samples of any DNA of individuals to check?

A: Yes, I was. Several individuals.

Q: What happened to all those individuals?

A: They were sent to the forensic laboratory for further testing.

Q: And what were the results?

MR. BROOKER: Objection, Your Honor. He can't. At least those results have to come in through the analytical expert after establishing a chain of custody.

MR. CLEMENTS: This is not on the defendant, Your Honor.

This is just some exclusionary material.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. CLEMENTS: There were several people that voluntarily gave their swabs and they were all excluded.

MR. BROOKER: Yeah, but that has to come in through the medical experts and, of course, because he's the last person to establish the chain of custody is the people who tested it and that's how it's normally done.

THE COURT: You still have to get it in --

MR. BROOKER: Yeah.

THE COURT: -- appropriately.

MR. CLEMENTS: Yeah. Yeah.

(WHEREUPON, the bench conference ended and the proceedings resumed as follows.)

THE COURT: All right. Sustained.

BY MR. CLEMENTS:

Q: At a later time, did you go retrieve any swabs from any other individual further down the road during this investigation?

A: Yes, I did.

Q: And whose DNA swabs did you obtain?

A: A list of individuals.

Q: The ones -- the one further down the road?

A: The furthest down the road, I actually collected one off of Mr. Royal Williams.

Q: Okay. And what did you do with that?

A: I sent it to the Richland County Sheriff's Office for further investigation.

Q: Okay. Did -- did you take any swab personally yourself and give it to John Barron?

A: I did.

Q: Okay. And whose swabs were those?

A: Those were of -- from Royal Williams.

Q: Okay. And who is John Barron?

A: He's a forensic analyst at the Richland County Sheriff's Office forensic lab.

MR. CLEMENTS: I beg the Court's indulgence just a moment.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: Now, when you examined the body, what condition was the body in during that time period?

A: I noticed lividity starting to set up. It was cold to the touch.

Q: And what does that mean?

A: After gravitational pull, the blood after the heart quits pumping tends to pull it in a downward direction and, in her case, it started to pull in a downward direction.

Q: Any signs of rigor mortis?
A: Yes, there were.
Q: And what does that mean, if anything, in regards to her being on that floor?
A: It's where the body came to rest.
Q: It had been there a while or not?
A: It's been there some time.
Q: Now, on the next day, did you have any contact with Chad Collins?
A: I did.
Q: As part of the investigation?
A: I did.
Q: And what did you work with Chad on?
A: Investigator Collins gave me a DVR system that he retrieved from a location near the scene.
Q: And what is a DVR system?
A: It's a digital recorder that captured surveillance near the victim's home.
Q: And when you received that DVR from Investigator Collins, what did you do with it?
A: I made a copy of the information that was inside of it and then gave it back to Investigator Collins.
Q: And what did Investigator Collins do?
A: At my knowledge, he returned it back to the owner of the DVR system so he could have it back.

Q: Okay. Is that all that you did with that DVR?
A: That's all I did with the DVR. After making a copy, I gave the copy over to Investigator Collins.
MR. CLEMENTS: I beg the Court's indulgence.
THE COURT: Yes, sir.
BY MR. CLEMENTS:
Q: Sgt. Clendenin, you testified that all the DNA material you got went to Richland County?
A: That is correct.
Q: Lab? Sheriff's Office lab?
A: Yes.
Q: Did you have any other items that you submitted to other places?
A: Yes, I did. I sent other items to the South Carolina Law Enforcement Division forensic laboratory.
Q: Okay. Did you ever have occasion to deal with a weapon in this case?
A: Yes, I did.
Q: And where did the weapon come from, if you know, and what did you do with the weapon?
A: It was submitted in by Investigator Thomas McFadden into our evidence room. I sent it up to the South Carolina Law Enforcement forensic division laboratory for testing.
Q: All right. And what was on that gun that you wanted tested?

A: There was some fibers that was found on the gun inside the slide.

Q: Did it match anything?

A: No, it did not.

Q: How about the bullet and the gun? Did they match?

A: No, they did not.

Q: Okay. Is there anything else of evidentiary value that went to SLED?

A: The gunshot residue kits went to SLED and also the comforter and pillow and pillowcase went to SLED.

Q: Okay. And all the DNA went to Richland County lab?

A: All the DNA went to Richland County Sheriff's Office.

MR. CLEMENTS: Sgt. Clendenin, that's all I have at the moment. Please answer any questions Mr. Brooker has.

THE COURT: All right. Cross?

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Sgt. Clendenin, I just want to start by asking you this is is that I think you came to the crime scene on the night of -- was it January 23rd, 2016? Is that correct?

A: Yes, that's correct.

Q: And of course, is is that you collected information from -- from the crime scene, including talking to at least, I think, the victim's mother; is that correct?

A: I understand the victim's mother there was first. She

was first on scene.
Q: She was the first to arrive?
A: Yes.
Q: And then, of course, is is that when -- when she arrived on scene -- I think she's already testified to this when I asked her. When she arrived on scene and went into her daughter's apartment, was the door locked or unlocked?
A: I'm not sure.
Q: Do you remember indicating in your report that -- that the door was unlocked when Ms. Stewart arrived on the scene?
A: I'm unsure. When I was -- when I arrived on scene, of course, individuals were already inside the residence.
Q: Okay. Would you like to take a look at your report --
A: Sure.
Q: -- to refresh your memory? And if you want to --
A: Yes. She stated she found the door unlocked.
Q: Okay. So -- so the door was -- I think you said that according in your investigation and, of course, is according to -- to your report that Ms. Stewart was the first person that arrived on the scene; is that correct?
A: That is correct.
Q: And that when she arrived on the scene, of course, and attempted to enter her daughter's apartment, her door was unlocked; is that correct?
A: That's correct.

Q: About what time did you arrive on the scene?
A: I arrived there at midnight.
Q: At around midnight?
A: Yes.
Q: And of course, is is that I think that you said that you walked throughout the -- the crime scene and, specifically, you walked throughout the apartment to survey the crime scene; is that correct?
A: That’s correct.
Q: At some point in time?
A: That's correct.
Q: Okay. And of course, the purpose of doing that would be to try to at least look for evidence on that related to the crime? Is that the reason why you were taking a walk through the crime scene?
A: That is correct. I’m examining each piece to let me know what equipment I need to bring back into inside the house.
Q: Okay. And of course, is is that when you walked through the crime scene, did you found [sic] any gun at the crime scene?
A: No, I did not.
Q: Did you find any spent shell casings at the crime scene?
A: No, I did not.
Q: And I think you testified to is that at some point in

time you began to document the crime scene with photographs; is that correct?

A: That's correct.

Q: And in addition to photographing the crime scene -- I think some of those photographs have already been in evidence and published to the jury. That it's also a part of your job to also collect anything that you may think of that you think is of evidentiary value; is that correct?

A: That's correct.

Q: And I think you testified too that you collected some things from the -- from the inside of the apartment and also attempted to collect evidence. I think, specifically, you testified to that you attempted to collect, I think, fingerprints?

A: That is correct.

Q: Okay. And where specifically did you attempt to collect fingerprints from the apartment?

A: The inside of the front door. I wanted to go around the handle and the deadbolt area.

Q: So the inside of the front door handle?

A: Yes. On the inside that would put someone inside opening and closing the door.

Q: Okay. And you said that you were not able to collect any fingerprints?

A: None of comparison value, no.

Q: Okay. Did you also attempt to obtain touch DNA from the front doorknob?
A: No, I did not.
Q: And just to explain to the jury, why don't you -- can you explain to the jury what touch DNA is?
A: DNA is left by epithelials applied to an object, say inside of someone's glasses where it touches your skin and leaves skin cells attached to it. That would be a sign of touch DNA.
Q: And touch DNA can be in the form of skin cells. Can it also be in the form of sweat?
A: Form of --
Q: Can touch DNA also be in the form of some sort of sweat or saliva?
A: It can, as long as there's enough of it there.
Q: Okay. And of course, is is that is it possible that -- that the assailant who left the apartment, assuming -- and of course, we don't know this. That assailant was not wearing gloves and that assailant grasps the front door and, of course, to open or close the front door, it's possible that that assailant would have left skin cells or either sweat?
MR. CLEMENTS: Your Honor, that calls for supposition. He wouldn't know.
THE COURT: He's on cross. I think he can ask that of him.

BY MR. BROOKER:

Q: Is that a possibility?

A: A possibility that he touched it long enough to leave enough skin cells to make a profile.

Q: Okay. Okay. Now, I know you said that you tried to see if you could collect fingerprints from the front door. Did you try to collect fingerprints from any place on the inside of the apartment?

A: No, I did not.

Q: Okay. And just this one question. I'll go back to the front door is is is that generally on any door obviously is that there's two knobs There's a door opening knob or handle on the outside and there's a doorknob or handle on the inside. Did you seek to get fingerprints on the outside of the door and also on the inside of the door?

A: No. Just on the inside of the door.

Q: Just on the inside of the door?

A: Yes.

Q: You did not try to get any fingerprints from the outside of the door?

A: No, I did not.

Q: Is it possible that fingerprints could've been on the outside of the door?

A: Possible, but anybody that entered and used that door would have left their fingerprints over top of those

fingerprints. So I did not attempt that, no.
Q: But that would also apply to the inside of the door, would it not?
A: The inside of the door, if they open and close that door from the inside.
Q: Okay. So that same philosophy would apply to the inside of the door. So people are coming in and out -- coming out -- in and out of the door and then, of course, it's possible that multiple people touched the inside of the door as they're coming and leaving the apartment?
A: It is possible on the inside, yes.
Q: Okay. But regardless of that eventuality, you still searched -- you -- I think you said you searched the outside, but did not search the inside; is that correct?
A: Search of?
Q: The outside doorknob. I apologize. Did you search the outside doorknob, but did not search the inside?
A: It was just photographed. It was never processed, no.
Q: Okay. I think you also testified that you didn't try to collect touch DNA from the outside of the -- of the door, the doorknob on the outside; is that correct?
A: That is correct.
Q: Okay. Did you try to collect -- collect touch DNA from the inside of the doorknob?
A: No, I did not.

Q: Okay. The same as fingerprints, I'm assuming that if an assailant was leaving the front door and, of course, opened the front door with his hand, it would be possible that that assailant would leave touch DNA on the inside of the door?
A: It would be possible.
Q: Now -- now, I think -- did you go into the kitchen of the home?
A: I did.
Q: Were there any dishes on the table or dishes on the countertop or anything like that, like glasses, used glasses or that sort of thing?
A: Standard kitchen area. Nothing really out of place. Nothing knocked over.
Q: Okay. Was there used utensils, cups, things that were in the kitchen?
A: I don't recall without looking at the photographs.
Q: And the reason why I asked you that is is that -- and of course, I'm not asking specifically in this scene, but I'm asking in general is is that when we use cups and forks and spoons or we drink from a bottle, is it possible that we could deposit DNA on the cups or glasses that we use, on spoons and forks and that sort of thing? Is that possible?
A: It's possible.
Q: Okay. So did you ever thought [sic] to look at those utensils and see whether or not there was any used utensils

or used glasses or cups or forks or spoons and, if there were, to try to determine whether or not there was DNA on those items?

Q: Nothing in the kitchen was processed, no.

Q: Okay. And you said the kitchen was processed and I think -- and I want to make sure that I understand and also that you're understanding. I think you said you don't recall whether or not there was those utensils out. Do you -- is -- that statement was true that you do not recall whether or not those utensils were out?

A: Correct. Without looking at the photographs from three years ago, I cannot recall right now.

Q: Do you have photographs of -- well, that's okay. Scratch that question. Just based upon your memory.

MR. BROOKER: If you can indulge me for just a second, Your Honor, and let me take a look at the photographs. I'm going to ask --

THE COURT: Okay.

MR. BROOKER: -- a couple questions in reference to the photographs that are in evidence.

THE COURT: Yes, sir.

BY MR. BROOKER:

Q: I think I'm looking at Exhibit 1-B and this -- this is already in evidence, I believe. I believe this is already in evidence, 1-B, if you could take a look at that? Is that a

photograph of the front door?

A: Yes, it is.

Q: And is that an accurate depiction of what that front door looks like?

A: It does.

Q: And of course, is is that I think the door is open in this picture, is it not?

A: It is. It was open at the time of my arrival.

Q: And of course, it just has a round -- it looks like a -- kind of a round doorknob or door handle; is that correct?

A: That's what it appears to be, yes.

Q: Okay. Okay. I'm looking at I think what's already in as evidence, I think is is in evidence as -- I think it's State's Exhibit C. I believe this is already in evidence. I don't think we object to this. Did you take that photograph, State's Exhibit C?

A: I did.

Q: Okay.

MR. BROOKER: And if you can indulge me, Your Honor, I might use the electronic gadget.

THE COURT: Absolutely.

MR. BROOKER: If I know how to use it. Let's see if I know how to use it. This might make it easier for everybody. I don't think it's ready for use right. I don't know if I'm using this correctly.

THE COURT: I don't know that it's on yet.

THE CLERK: The lens cap is on.

MR. BROOKER: Ah, lens cap. I didn't see that.

THE COURT: Technical glitch there.

MR. BROOKER: That's why I'm not a detective.

THE COURT: I do the same thing all the time. You may have to fool with the focus.

MR. BROOKER: It's maybe a little bit blurry.

THE COURT: I bet there's some focus button there somewhere.

MR. BROOKER: If you could help me, I'd appreciate it.

THE COURT: There you go.

THE CLERK: Did it work?

THE COURT: Yeah.

MR. BROOKER: Thank you very much.

THE COURT: Good job.

BY MR. BROOKER:

Q: Okay. I think I've already asked you about this photograph, but of course, is is that I think it's entered into evidence. This is State's 1-B. This is the picture of the front door; is that correct?

A: That is correct.

Q: And I think you testified to this is an accurate depiction of the front door and what it looks like?

A: That is correct.

Q: And of course, is is that the front doorknob is a kind of round kind of a metal doorknob?
A: Yes, it is.
Q: And of course, is is that -- and I think you previously testified that you did not seek to take any sort of DNA, touch DNA, from the inside or the outside of that doorknob; is that correct?
A: No, I did not.
Q: I have State's Exhibit 1-C and did you take this photograph as well?
A: I did.
Q: Okay. And it appears as if on State Exhibit C -- it looks as if -- and you correct me if I'm wrong. I think there's a cell phone that's depicted; is that correct?
A: That's correct.
Q: Okay. There's also some keys; is that correct?
A: That is correct.
Q: There's also what looks to be a -- I don't know whether or not that is a small magnifying glass that's blue and -- and yellow; is that correct?
A: That's correct.
Q: And of course, is is that right here, is that some sort of a cigarette or cigar?
A: It was a cigar.
Q: Okay. Did you collect the cigarette or cigar?

A: I did.
Q: Okay. Did you attempt to take any DNA off of that?
A: It was submitted to the Richland County lab where DNA was extracted.
Q: Okay. And then, of course, is is that there's other items that's contained at least within this photograph. Did you attempt to take any touch DNA or either any fingerprints off of any of the other items, including the desktop that's contained within this picture?
A: No, I did not.
Q: I think the next photograph is 1-D, State's Exhibit 1-D, and it looks as if that that's a picture of a futon; is that correct?
A: Correct.
Q: And of course, is is that there is a -- it looks like a blanket on it and, of course, it looks as if there is a plastic bag with some items on it; is that correct?
A: Correct.
Q: This is one of the photographs that you took?
A: Yes.
Q: Okay. With respect to that comforter, is that a cloth comforter?
A: Yes, it is.
Q: It looks -- it looks as if it's a cloth material; is that correct?

A: It's -- that is more like a fleece blanket laying there versus the comforter I found in the other room.
Q: Yeah. Yeah. You talked about the material that the -- that the -- that the futon is made of?
A: Oh, yes.
Q: Okay.
A: It's cloth.
Q: So that's kind of a cloth material? And of course, is is that did you try to see whether or not you can -- whether or not you could collect any hair fibers from a person's hair that might be left on that futon?
A: No, I did not.
Q: Now, the armrest on the futon is metal; is that correct?
A: That's correct.
Q: And of course, is is that, you know, metal is one of those type of surfaces, you know, that is a good conduit for fingerprint; is that correct?
A: Painted glossy, yes.
Q: Yeah. Okay. And of course, is is that that metal looks like painted arm on the futon, did you try to see whether or not you could take a finger -- take fingerprints off the arm of that chair?
A: No, I did not.
Q: The metal part that is?
A: No, I did not.

Q: Okay. Did you try and see whether or not you could take touch DNA off the metal part of that chair?
A: No, I did not.
Q: I have State's Exhibit E that I think that's in evidence. Is is that could you explain to the jury is this an -- is this an inner door or what is -- what is this a picture of?
A: A picture of the inside of the front door.
Q: Okay. This is a picture of the inside of the front door?
A: Correct.
Q: Okay. And of course, on the inside of the front door, I think as I asked you before, is is that the door -- the door handle or the doorknob itself is of metal material; is that correct?
A: Correct.
Q: Okay. And then, of course, it looks as if there is two metal deadbolt locks or locks on that door?
A: Yes.
Q: Okay. And of course, is is that -- and I think -- I know that you testified that you tried -- that you did not attempt to take any fingerprints off of the doorknob handle itself, but did you try to take any fingerprints off of the two deadlock -- deadbolt locks that -- that are on the inside of that door?

A: Yes. All three on the back side was attempted to be fingerprinted.
Q: You attempted to fingerprint all three of them?
A: Yes.
Q: Did you attempted [sic] to take any touch DNA --
A: No, I did not.
Q: -- off of anything? And let me ask you this question to make it clear for the jury is is that any -- on an object where fingerprints may not exist, touch DNA can exist on an object where fingerprints may not exist; is that correct?
A: I'm unaware of that stuff.
Q: And I can -- I can -- let me ask you this way is is that if -- if I run my hand across a metal surface, for instance like this doorknob, is is that my fingerprints may not be identified because they might be smeared; is that correct?
A: That would be correct.
Q: If I run it across instead of just grasping it. So if I run my fingers across, that may prevent you from being able to pick up any fingerprints; is that correct?
A: At the point that you stopped, I may be able to do something with that, but the run-through smearing, no.
Q: Yeah. Okay. So if you're twisting it and smearing, that may prevent from picking up fingerprints?
A: Yes.
Q: But even though fingerprints may not be picked up, even

if I twist or smear or run my hand across that metal surface, it still could pick up touch DNA even though it did not pick up fingerprints; is that correct?

A: An attempt would be made and then from there forwarded to another lab to find out if there was enough profile there to make a DNA profile.

Q: Okay. But you would have to try and see whether or not you could collect something; is that correct?

A: If fingerprinting wasn't attempted, yes.

Q: Okay. Yeah. So -- so -- but you didn't attempt it? Even though there was no fingerprints there, you didn't attempt to see whether or not there was touch DNA like skin fiber or either sweat that was left from someone grasping the door or either grasping the deadbolt locks to lock it or unlock it; is that correct?

A: After fingerprinting, DNA is not an option no more. My equipment is too dirty to attempt DNA.

Q: I'm sorry. Say that again?

A: My equipment is too dirty to attempt DNA.

Q: Too dirty to attempt DNA?

A: To attempt DNA, I would need a clean brush and clean powder and, because of financial stability in our department, the brushes are used multiple times. So in that turn, DNA could not be attempted if fingerprints have been attempted first.

Q: So you can't -- you can't use old brushes to pick up --
A: Correct. It has to be clean powder, clean brush, sterile and, in this case, it was not sterile.
Q: Touch me if I'm -- correct me if I'm wrong is is that the way that you collected touch DNA -- I think you testified on direct examination the way that you collect touch DNA is that you used a cotton swab?
A: That's correct.
Q: Okay.
A: Sterile cotton swab, sterile water.
Q: Okay. And so that would be the same technique that you used on the vehicle? That would be the same technique that you use to collect touch DNA on the doorknobs; is that correct?
A: If it was attempted prior to fingerprinting, yes.
Q: Okay. So -- so you don't need -- you don't need brushes to collect touch DNA; is that correct?
A: No. It would be to use the cotton swab.
Q: Okay. Okay. So the fact that you have dirty brushes is irrelevant; is that correct?
A: That's correct. But to answer your question, fingerprint was done first so I was unable to do latent DNA or DNA.
Q: Okay. And I think this is State's Exhibit 1. It's already in evidence. This is a photograph of Exhibit 1 --

State's 1-B and did you take that photograph?

A: Yes, I did.

Q: And is that an -- is that an interior door?

A: It's the interior rear door.

Q: It's an interior rear door?

A: Correct.

Q: Okay. And of course, is is that it was locked at the time in which you took pictures -- pictures of it?

A: Yes, it was.

Q: Okay. Did you try any fingerprint or either touch DNA on that?

A: No, I did not.

Q: I think State's Exhibit 1-U and I think I asked you about the kitchen and, of course, I think this depicts dirty dishes and that sort of thing and I think it looks as if there is a -- a juice bottle, an empty juice bottle that's sitting on the countertop and some other items. That empty juice bottle, did you try to collect DNA from that?

A: No, I did not.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I will be finished shortly.

THE COURT: Yes, sir.

BY MR. BROOKER:

Q: I think you said that you collected the wastebasket that was -- that was contained, I think, in a bedroom; is that

correct?

A: That's correct.

Q: The contents of a wastebasket; is that correct?

A: I collected the entire contents of the wastebasket, yes.

Q: Okay. And I think you indicated that -- that a used condom was found within that wastebasket?

A: Yes.

Q: Okay. And of course, you collected that used condom as evidence; is that correct?

A: Yes, I did.

Q: Now, when you collected that used condom, I think you testified that you took that to the Richland County Sheriff's Department?

A: Yes, I did.

Q: Did you took it [sic] -- I think you collected that -- is it not would've been on the 24th, January 24th?

A: Yes, it would be.

Q: 2016?

A: It would be the 24th because it would be after midnight.

Q: Yeah. Okay. And did you take it to -- did you take it to the Richland County Sheriff's Department on January 24th, 2015 [sic]?

A: No, I did not.

Q: When did you take it to the Richland County Sheriff's Department?

A: That was done -- bear with me just a second.
Q: Sure. Take your time.
A: That was released on February 6th, 2016, to the Richland County Sheriff's office.
Q: Okay. Okay. So it was released on February -- February 6th?
A: Yes.
Q: So it wouldn't have went directly to the Richland County Sheriff's Department; is that correct?
A: It came from the Florence County Sheriff's Office to the Richland County Sheriff's Office.
Q: Yeah. And that's what I'm getting to is is that when you collected it on that night -- when you collected the condom on that night, did you keep it yourself --
A: No.
Q: -- until February 6th or what did you do with it?
A: The Florence County Sheriff's Office evidence room where we store and house property until later on if needed in court or at another laboratory.
Q: Did you put it in a BEST evidence bag?
A: In that case, I put it in a brown paper bag so DNA in itself could breathe, as I call it.
Q: Okay. And did you seal that bag with something, with -- I guess in a way in which the bag could not be opened and tampered with?

A: We do. We use red evidence tape that upon trying to open it would break and show tampering.
Q: Okay. And of course, is is that -- is -- does that evidence -- that red evidence tape or either the bag that you put it in, did it have some sort of serial or control number so that it could be identified?
A: Yes. It's applied to by the evidence technician that works in the evidence room.
Q: Okay. And you deliver it directly to the evidence technician; is that correct?
A: Yes, I do.
Q: Okay. And who was the evidence technician that you delivered it to?
A: In 2016, that was Terry Christmas.
Q: Okay. Do you have a record of that showing that you delivered it to -- to -- to Terry Christmas?
A: Yes.
Q: Okay. And I think that you said is is that it was released from evidence on February 6th of 2016; is that correct?
A: That's correct.
Q: Did you check it out of evidence?
A: Yes.
Q: Okay. And you drove it to the Richland County Sheriff's Department to Columbia?

A: Yes. And then transferred it to their custody.
Q: I'm sorry?
A: And then transferred it to their custody.
Q: Okay. And you actually physically did that?
A: Yes.
Q: Okay. Now, just one more question about the trashcan and I'm going to move on from that. Did you make an inventory? I think you said you found the condom in the trashcan; is that correct?
A: Uh-huh.
Q: Did you?
A: I did.
Q: And you said you collected the entire contents of the trashcan; is that correct?
A: That's correct.
Q: Did you make an inventory of what was contained within the trashcan, of everything that was contained within that trashcan?
A: Not on the evidence log sheet because I found nothing of evidentiary value other than the condom.
Q: Well, even in your notes did you make a list of everything that was contained -- and I'm just looking for the picture of it. Did you make a list of everything that was contained within that trashcan? Even if you didn't put it on an evidentiary log, do you have, you know, maybe notes --

notes or that sort of stuff where you -- where you made an inventory of everything? And I have no idea. I apologize. This is, I think, State's Exhibit -- I think AA that's in evidence. Is that the trashcan where you retrieved the condom from?

A: That's correct.

Q: Okay. And of course, is is that did you make a list of every item that was in that trashcan along with that condom?

A: No, I did not. I just collected the entire thing and submitted it into the evidence room.

Q: Okay. Do you still have the contents? I know you said you collected it in evidences. Is is that are the contents of that trashcan still in evidence at the Florence County Sheriff's Department?

A: It is currently located here today.

Q: Okay. The entire contents of the trashcan?

A: The entire contents.

Q: Okay. So would we be able to look and see exactly -- I would be -- later on be able to look and see exactly what was contained in that trashcan?

A: That would be correct.

Q: Okay. Now, you also said that you collected DNA from -- I think from -- from Mr. Williams, Royal William; is that correct?

A: That is correct.

Q: And of course, when was the first time you collected DNA?

A: From Mr. Williams?

Q: That's correct. I'll tell you what. In order to save time, the exact time is not important, but you did collect DNA from him; is that correct?

A: Yes, I did. I've got one at 6/18, but I'm not sure if that was the last time I met with Mr. Williams. Yes, that was the last time I met with Mr. Williams.

Q: 6/18 of?

A: 2019.

Q: 2019. So 6/18 of this year, June -- June 18th, 2019?

A: Yes.

Q: Okay. Is that the only time that you collected any DNA evidence from Mr. Williams?

A: On February 6th, 2019, I also collected evidence from Mr. Williams.

Q: All right. February 26th, 2019? Okay.

A: I'm sorry?

Q: I'm sorry. I just repeated your date, February -- February 6th, I think, 2019?

A: Yes. February 6th.

Q: Now, you also indicated -- and I'm almost finished, I promise. It's a little after five. That a DVR system was given to you by, I think, Investigator Collins; is that

correct?

A: That's correct.

Q: And of course, is is that you testified that you downloaded, I think, some video footage from that DVR system; is that correct?

A: That's correct.

Q: Are you certain that you're the one that that DVR system was given to for purposes of downloading that footage?

A: Yes. I was given the DVR.

Q: Was that DVR footage given to anyone else to download, anyone else other than you to download footage from?

A: I'm unsure if anyone else downloaded it, but I know I did it. I did a copy of it.

Q: Okay. And of course, I think you testified on direct examination that you returned that DVR system to Investigator Collins after you made a copy; is that correct?

A: That's correct.

Q: Okay. Now, I think -- and if you don't know, just say you don't know. I'll ask Investigator Collins when he testifies. Do you know why Investigator Collins gave it to you for you to -- to extract the video footage?

A: I'm unaware. I just --

MR. CLEMENTS: Calls for speculation, Your Honor.

THE COURT: Sustained.

MR. BROOKER: Well, that's why I said if he didn't know.

He just said he didn't know. It's all right.

BY MR. BROOKER:

Q: Now, I think your -- I think you testified and, of course, correct me. I'm almost finished. Is that you're a crime -- you're a crime scene expert?

THE COURT: Excuse me. Make a note of your question right there. We're going to take a break.

MR. BROOKER: Certainly, that's fine.

THE COURT: Okay. But that make a note of that.

MR. BROOKER: Certainly.

THE COURT: All right. Ladies and gentlemen, we're going to take a break. Please have no conversation about the case. All right. Go ahead.

(WHEREUPON, the jury exited the courtroom at 5:10 p.m.)

THE COURT: Thurmond, I didn't mean to cut you off.

MR. BROOKER: No, that's fine.

THE COURT: That -- that gentleman had to go. He was doing this.

MR. BROOKER: That's fine. That's fine.

THE COURT: That's why I wanted you to note your question so you can get back to it, but he needed to go.

MR. BROOKER: Yeah, that's fine. I'll be finished with him in about five minutes --

THE COURT: Okay.

MR. BROOKER: -- once we get back.

(WHEREUPON, there was a break in the proceedings from 5:11 p.m. until 5:20 p.m., after which the proceedings resumed as follows.)

THE COURT: Let's go ahead and bring the jury back in.

(WHEREUPON, the jury entered the courtroom 5:23 p.m.)

THE COURT: All right. Folks, we're going to then recognize Mr. Brooker to pick up where he left off. So --

MR. BROOKER: Thank you, Your Honor.

BY MR. BROOKER:

Q: Sgt. Clendenin, I think on direct examination -- I was going to ask you about your expertise was are you considered to be a crime scene investigator?

A: Yes.

Q: Okay. Okay. And you mentioned on cross-examination that there was a gun that was found and, of course, that was tested, but it came back that it was -- that the results of that test didn't reveal anything; is that correct?

A: That's correct.

Q: Okay. And of course, is is that was -- that was not a gun that was discovered at the -- at Ms. Joseph's residence, the crime scene, was it not?

A: No, it was not. It was turned in later.

Q: Okay. Okay. But as you said is is that that gun was -- and I'll ask you this and I think you already said this, but I want to make sure. That gun was not the gun -- or let me

ask you this. Was that gun compared to the -- the slug?
A: Yes, it was.
Q: That was removed from Ms. Joseph's body during the autopsy?
A: Yes, it was.
Q: And of course, is that that comparison indicates that that gun that y'all had came in or collected, that gun was not the murder weapon; is that correct?
A: That's correct.
Q: Okay. And I think you also testified that there was a couple things that was -- that all of the -- that there was a couple things that were turned over to SLED and I think you indicated that what was submitted to SLED -- and you correct me if I'm wrong. I don't think I have a complete list. Was is is that you submitted, I think -- was it that pillow casing and was it also a comforter? What was submitted to SLED? I don't want to get it wrong.
A: Yes. It was the comforter and pillow and pillowcase that was submitted.
Q: Submitted to SLED?
A: Yes.
Q: Okay. All right.
MR. BROOKER: If you can indulge me for just a second, Your Honor? Let me make sure that I don't have any --
THE COURT: Yeah.

MR. BROOKER: -- follow-up questions before I sit down.

THE COURT: All right.

MR. BROOKER: No further questions, Your Honor.

THE COURT: All right. Anything on redirect?

MR. CLEMENTS: Just briefly, Your Honor.

THE COURT: All right, sir.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: I was listening to Mr. Brooker on his cross-examination. I want to be sure I understand what was being said there. What did you say about if you tried to raise fingerprints off of something that you could not do touch DNA? Did I understand that correctly?

A: Correct.

Q: Explain why?

A: Because I use the brush at multiple locations from scene to scene until the brush itself wears out. So if that brush is used at a scene where DNA is left behind, that DNA could attach itself to that brush. If I use it at another scene, now that DNA is transferred to the new scene. And if I attempt it on that occasion, I would have multiple DNAs that is not even supposed to be at that scene attached to that doorknob.

Q: Now, let me ask you this. If you would've had your choice, which would you choose to submit for DNA, touch off a

doorknob, some hair hunted for on a couch or a used condom?
A: A used condom. The hair doesn't always have a follicle to it. Touch DNA doesn't always make a complete profile because there's not enough there. So with a condom, there's a good chance for either semen or cell epithelials left behind from the male or the female.
Q: Okay.
MR. CLEMENTS: Thank you.
MR. BROOKER: Less than a minute, Your Honor, for --
THE COURT: Yes, sir.

RECROSS-EXAMINATION

BY MR. BROOKER:
Q: Now, that example with the brush is is that does the Florence County Sheriff's Department only have one brush?
A: We have multiple brushes, but we're limited on supplies. So we tend to use something until it wears out.
Q: Okay.
A: And then replace it.
Q: So -- so what you're -- what you're telling the jury is is that the Florence County Sheriff's Department -- how much do these brushes cost?
A: The one I use, they're $25 apiece just for the brush, not including the powder.
Q: So what you're telling me is is that the Florence County Sheriff's Department can't spend $25 on a new brush to use at

this crime scene? That that's too much money or too expensive for the Florence County Sheriff's Department?

A: For the multiple scenes we do in one day, the total cost per year would be more than we are budgeted. So we have to make limitations on what we do.

Q: So the answer is, yes, that is too expensive? A $25 brush is too expensive to buy for this -- for this murder scene? Is that what you're saying?

A: Yes. The 25 brushes -- if we did five scenes a day for 365 days, it would run over our budget.

Q: Not the -- yeah. Not the 25 brushes, the $25.

A: $25 per brush and if we did five scenes a day, it would be well over our budget to where we couldn't afford anything.

Q: And this murder scene didn't warrant a new brush? Do you think that this murder scene was not so important enough that it would warrant the use of a new brush?

A: In that case, I did not see the reason to warrant that.

MR. BROOKER: No further questions, Your Honor.

THE COURT: Anything further?

MR. CLEMENTS: No, Your Honor, not for him.

THE COURT: All right. Thank you very much, sir. You may step down.

All right. Ladies and gentleman, we're going to break for the afternoon and I would ask if you could be back in the jury room tomorrow morning at 9:30. We'll get started once

everybody reconvenes. I'm not aware of anything on my docket other than this. So we should start back at 9:30.

When you go home, family, friends or loved ones are going to be curious. You've heard a full-day of testimony now so you know more than you did yesterday. But you need to ask them to continue to remain patient, that you're still not allowed to discuss the matter, but just to remain patient and you will be happy to share with them whatever they want to know once the case is over. Okay?

So if everyone else would please remain seated, ladies and gentleman, we'll see you back here at 9:30 in the morning.

(WHEREUPON, the jury exited the courtroom at 5:33 p.m.)

THE COURT: Okay. Anything that we need to take up -- I'm sorry -- before tomorrow?

MR. CLEMENTS: Nothing from the State, Your Honor.

MR. BROOKER: Nothing from the defense, Your Honor.

THE COURT: Okay. Then I'll be here before. I'll be here early so if y'all need me, but we'll reconvene then at 9:30. Court will be in recess until that time.

(WHEREUPON, the proceedings adjourned for the day at 5:34 p.m.)

SEPTEMBER 11, 2019

(WHEREUPON, the proceedings resumed at 9:33 a.m.)

THE COURT: All right. Is there anything we need to

take up from the -- by the State before we begin?

MR. CLEMENTS: Yes, Your Honor. Your Honor, I inadvertently messed up yesterday and Mr. Brooker I don't think noticed it and I made a mistake on the pictures.

Mr. Brooker has objected to all of the pictures that show anything to do with the victim's body and I got -- of course, I had them all ID'd and was going to try to get them admitted over objection at a later time, but State's Exhibit 1-F, I put it in and I did not mean to; so I would like to withdraw it at this time because I know Mr. Brooker has an objection and would like to --

THE COURT: Okay.

MR. CLEMENTS: -- put an objection on this at this time.

THE COURT: That is Exhibit 1?

MR. BROOKER: 1-F.

THE COURT: 1 --

MR. CLEMENTS: 1-F.

THE COURT: 1-F. All right. But that hasn't been published, has it?

MR. CLEMENTS: No, sir.

MR. BROOKER: No.

THE COURT: All right. So Exhibit 1-F will be removed from -- from being admitted at this point and we'll take it up at some later time, I guess, whenever.

MR. BROOKER: Okay.

MR. CLEMENTS: Your Honor, it might be we can go ahead and take care of it now.

THE COURT: I was going to say I know you may not be ready to do it with the next witness, but can we go ahead and address the issues of any pictures where there's an -- I'm assuming the objections don't have anything to do with the foundation.

MR. CLEMENTS: Right.

THE COURT: They have to do with the picture itself.

MR. CLEMENTS: No, sir.

THE COURT: Is that correct?

MR. CLEMENTS: They do not.

MR. BROOKER: Yes.

MR. CLEMENTS: I would prefer if we could deal with this one right now because the others are a little more serious and will take more discussion because we've got witnesses waiting right now, but that one right now is -- I think that's pretty simple and we might could handle it.

THE COURT: Okay. Well, do you need it to make your arguments?

MR. CLEMENTS: Yes, sir. Your Honor, at this time, we would submit that -- and it's -- and it's with an objection and I'd defer to Mr. Brooker now to make his objection.

THE COURT: All right. Well, let him have the picture so he can refer to it.

MR. BROOKER: Your Honor, we object to this picture and not just this picture. We advised Mr. Clements that we object to any pictures that depicts the body and the reason why is is that -- is that normally sometimes in a trial pictures of the body may be admitted and, of course, they may be admitted for some relevant purpose. Maybe there's an issue, you know, with respect to angle of the body or there's an issue with respect to the angle of the wound or an issue with respect to something that deals with the body in which might be in controversy.

And as I advised Mr. Clements is is that -- and, of course, also, as you've noticed, when the -- when the forensic pathologist testified, when the assistant deputy coroner testified, that we made absolutely no challenge to the cause of death, absolutely no challenge to the description of how she died or where she was laying or anything that dealt with her death whatsoever, and the reason why we didn't make a challenge of that is is that we don't refute it.

We don't refute it so, of course, that then comes to the reasons for our objection is is that the only purpose of, I think, or the significant purpose of publishing these pictures would be to show the jury the dead body, which obviously is is that probably most of the people, if not all of the people sitting on that jury, has never seen a deceased

body before and, of course, is is that usually that's going to emote -- that's going to evoke some emotion and passion.

But of course, is is that these pictures are not relevant, you know, to, you know, any sort of issue that is in controversy. There is no issue that's in controversy that's involving how she died, that's involving the nature of her death, where the -- where the shot was, where she was lying in the house. All of that has been described to the jury and, of course, it's been amply described to the jury by multiple witnesses, you know, without any challenge from the defense whatsoever because we don't dispute that.

This is not a case about how she died, where she died, the circumstances surrounding her death. This is a case about who did it and, of course, that's the only thing that we challenge up to this particular point is that evidence that relates to the identity of the person who did it.

So unless they have a compelling reason for presenting these pictures for the purposes of showing some issue that's in controversy -- in controversy that the jury would need these pictures to help them to resolve this issue in controversy, I don't see the need for it other than to impassion the jury.

I think the prejudicial -- the prejudicial effect of these photographs, I think, significantly outweighs, you know, any probative value that they bring. I don't think

they bring any probative value whatsoever and, of course, like I said, that's the absolute reason why we have not challenged anything related to her death, how she died, where she died, where the bullet made impact, anything whatsoever.

THE COURT: Okay.

MR. BROOKER: Thank you, Your Honor.

THE COURT: Thank you.

Solicitor?

MR. CLEMENTS: Your Honor, right now we're not arguing about the rest of the pictures. Some will be dealing with blood and issues like that, but State's Exhibit 1-F just -- I think it just corroborates what some of the witnesses have testified to, which I think the State has the option to corroborate those when they feel like they need to by picture. There's certainly nothing in those -- in that picture right there that would inflame the passions or cause someone to be upset.

THE COURT: Okay. All right. And we're only -- only dealing with this picture now.

MR. CLEMENTS: Yes, sir.

THE COURT: Okay. Go ahead. I'm sorry.

MR. BROOKER: And of course, is is that -- and I know that Mr. Clements -- and I'll be very quick, Your Honor. I don't want to delay things.

I know Mr. Clements says, you know, that, hey, it's not

designed for that, but, of course, is is that obviously is is that he doesn't know the feelings of the jury. Obviously, seeing a dead body is going to evoke that.

And of course, one of the things I'll note is is that Mr. Clements didn't -- didn't state that, Your Honor, we need this picture for some specific evidentiary reason, for some issue in controversy. He just says we'd like to put it in. We don't think, you know, that it's going to -- that the jury is going to be shocked by it or --

THE COURT: All right.

MR. BROOKER: -- some folks be prejudiced, but no explanation as to what evidentiary issue it would intend to be used for.

THE COURT: Well, he did. He said that it's used to corroborate the earlier witness' testimony, and I'm going to allow this picture in because -- I understand your argument regarding people seeing a dead body. What you see here is the legs of someone laying on the floor. You don't see the body. You don't see the face. You don't see the arm. As a matter of fact, you don't see any skin. It's just a pair of pants. It could be a dummy laying on the floor.

In other words, my point being that I don't think this is inflammatory at all. I do think -- I do agree that they had the earlier witness, the mother I think it was, who came in and testified about what she saw as she came in and what

she observed. I think this corroborates that and I think it does it without any -- I mean it's -- there's absolutely nothing inflammatory about this.

I think -- I agree that its probative value is minimal, but I think it's appropriate and yet I don't think there's any prejudice involving -- and again, I'm only dealing with State's 1-F. We'll deal with those other matters and I certainly understand your position regarding that.

MR. BROOKER: Certainly, Your Honor. And of course, is is if makes it easier so that we don't have to specifically object when the jury is in, if you'd basically allow us to just have a running objection at any time in which that picture is being -- attempting to be introduced or do you want me to get up and specifically say we object?

THE COURT: I think what you'll need to do just to protect the record is just whenever he -- whenever he first introduces it, you can say, Judge, we renew our objection.

MR. BROOKER: Sure.

THE COURT: And do it that way. That way you don't have to keep popping up and making long interruptions, but I don't know that the law allows me to have a running objection. I think you have to.

MR. BROOKER: Sure, sure.

THE COURT: So -- but you can -- certainly, you can say -- simply just say, Judge, please note our objection.

MR. BROOKER: Sure. That's fine, Your Honor.

THE COURT: And I'll do that.

MR. BROOKER: Your Honor, we may want to take up one very brief issue so that we don't have to interrupt --

THE COURT: All right.

MR. BROOKER: -- once it gets rolling, and that is is that with respect to the -- I think that there is two things that Chimyra sent to you that said that it was from Royal Williams, two emails or something like that.

MR. CLEMENTS: One was an email and I believe the other one was a Facebook.

MR. BROOKER: A Facebook and an email. Okay. I have them right here if you don't have your copies.

(WHEREUPON, counsel conferred off the record.)

MR. CLEMENTS: Your Honor, we have two pages here. One is a Facebook and one looks like a text message. We've got them stapled together and have them marked as State's Exhibit for ID at this time.

THE COURT: Okay.

MR. CLEMENTS: Mr. Brooker is going to object to it and what we prefer to do, Your Honor, is he puts his objection on the record. We'll argue this at a later time if and when we seek to introduce it.

THE COURT: Okay.

MR. CLEMENTS: That's what we'd prefer in the interest

of time.

THE COURT: All right.

MR. CLEMENTS: But this -- it's State's Exhibit 5 for identification.

THE COURT: So it's one exhibit, State's 5?

MR. BROOKER: Yeah. You can just make it one. Well, I guess they are two separate things.

MR. CLEMENTS: I have them stapled together.

MR. BROOKER: Yeah. He may admit one and not admit the other.

THE COURT: Well, if we do, we'll split it.

MR. BROOKER: Okay. We'll split it.

THE COURT: We'll tag a letter on it.

MR. CLEMENTS: 5-A and B.

THE COURT: Yeah. 5-A and B.

MR. BROOKER: Okay.

THE COURT: But right now we'll leave it at 5 until we address it. Okay?

MR. CLEMENTS: Yes, sir.

THE COURT: Okay. All right.

MR. BROOKER: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. BROOKER: Your Honor, we're making a motion to -- motion in limine to suppress the use of this, these two statements -- excuse me -- these two documents.

THE COURT: I thought we were going to address this at a later time.

MR. BROOKER: Are we going to address it at a later time?

MR. CLEMENTS: Yeah. I would -- I would make my argument at a later time, but he can put --

THE COURT: Hold on.

MR. CLEMENTS: -- his objection on the record.

THE COURT: Yeah. Well, here's -- here's the thing. I don't -- I don't want to hear the defense's objection and then put up several witnesses and then come back and then have to hear the State's response to that.

MR. CLEMENTS: Yes, sir. We don't know if we're even going to put it in, Your Honor.

THE COURT: Well, so then why don't we just wait and see?

MR. BROOKER: That's fine.

THE COURT: Yeah.

MR. BROOKER: That's no problem.

THE COURT: That's what I thought we were going to do is --

MR. CLEMENTS: Yes, sir.

THE COURT: -- wait and see where the trial goes.

MR. BROOKER: Okay. That's fine.

THE COURT: Okay?

MR. BROOKER: I just need that offered because I didn't want to interrupt the flow of the trial once we get started and have to send the jury back.

THE COURT: Well, you know what though, Mr. Brooker? It might be -- things like that might be good. Because I'll be candid. Yesterday -- and it's my fault. I probably had the jury in here too long without a break. That's why that juror asked for a break.

MR. BROOKER: Okay.

THE COURT: I need to be more aware. We probably need to take a break, just a small break, probably every hour and half or so for folks that need to use the restroom and stuff like that. So this will be an opportunity if we need to do it.

MR. BROOKER: Sure. I agree, Your Honor. Thank you.

THE COURT: Okay. All right. Anything else then before the jury comes out?

MR. CLEMENTS: No, Your Honor.

THE COURT: You've got your next witness ready to go, Solicitor?

MR. CLEMENTS: We do, Your Honor.

THE COURT: All right. Let's bring the jury in, please.

(WHEREUPON, the jury entered the courtroom at 9:48 a.m.)

THE COURT: All right. Folks, welcome back. I hope everyone had a good evening.

If you recall when we broke yesterday, we were still on the State's case. So we'll recognize Mr. Clements on behalf of the State for the State's next witness.

MR. CLEMENTS: Thank you, Your Honor. We would call Mr. David Walker.

THE COURT: All right.

MR. CLEMENTS: I think he's back in this room right here.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated on the witness stand and please state your name for the record.

THE WITNESS: David Walker.

THE COURT: All right. Yes, sir.

MR. CLEMENTS: Thank you, Your Honor.

DAVID WALKER, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Walker, good morning.

A: Good morning.

Q: Where are you from?

A: Atlanta, Georgia.

Q: And how long have you lived in Atlanta?

A: Forty-one years.

Q: Okay. Can you tell this jury where you work?

A: I work for AT&T.

Q: How long have you worked for AT&T?

A: Forty-one years.

Q: Now, do you work in the same capacity that you started with AT&T with or have you held several positions with them?

A: I've held a number of positions over that course of time.

Q: Tell us how did you start with AT&T?

A: I started in the landline side of the business in 1978 doing design of circuits for business. So this is --

Q: As an engineer?

A: As an engineer, yes.

Q: Okay.

A: And then moved from that to the mobility side, so the wireless side in 1986. So in 1986 I became a cell site engineer and cell site planner for cell towers in AT&T.

Q: Okay.

A: And then I did that for the next 15 or so years and then went into switch planning. So designing the capacity for cellular switches, the telephone switches that build out our networks across the southeast. And I did that until my role

kind of changed in 2007 when I became a part-time custodian of record.

Q: Okay. Now, as a custodian of records, that's your capacity that you're working in now?

A: Yes.

Q: Can you please tell this jury what a custodian of records does for AT&T?

A: The primary responsibility is to authenticate the records that AT&T produces from our billing system. So as users do text, voice, and data, they create a bill in our network and then that bill is formatted, compiled, and then sent to our subscribers for billing.

Q: Okay. And how is that -- that data stored or created?

A: It's a main database that has all the billing records in it, subscriber information in it, and the kind of devices that our subscribers have. So all of that is contained in a -- kind of a master database.

Q: Okay. Now, when AT&T gets a request for records, how are those records compiled?

A: They are extracted from the billing system. So from that database I just described, the information that is requested is extracted from that database and compiled and then sent to the particular office of the subpoena.

Q: Now, as part of your duties now require you to testify?

A: Yes.

Q: And how often do you go to court?
A: I would say on average two to three times per month.
Q: Okay.
A: Around the United States.
Q: And what is your purpose in going to court again?
A: Again, to authenticate records produced by AT&T for billing.
Q: Okay. I am going to show you State's Exhibit -- we have it marked for ID as State's Exhibit Number 6. Can you look at those and tell me if you recognize those or not or if they're familiar to you or not?
A: Yes. These are records requested produced by AT&T. They contain a subscriber information page, which has the person that purchased the cellular device from us, along with their --
Q: Who was that person?
A: Here the name says Jessica Cortron -- Corthron [ph].
Q: Okay.
A: Did I say that right? Am I saying that word right?
Q: I'd have to look at that and see.
A: Right there.
Q: That's the name?
A: That's the financial -- the financial liable person.
Q: Yeah. I'm not sure about that.
A: Right there.

Q: Okay.
A: And right there is the billing person. Right there is the user.
Q: And who is the user?
A: The user is Jessica Craig.
Q: Okay. All right.
A: So it was purchased by -- I mean the billing information is to another person, but the user information is Jessica Craig.
Q: Okay. All right. And can you tell me what the number is?
A: Yeah.
Q: Okay.
A: The telephone number associated with this is 704-526-6079.
Q: All right. I might have handed you the wrong stack. Hold on one second here.
Q: Yeah, that doesn't match the compiled records.
Q: All right. What is the compiled records?
A: The compiled record number is 843-260-8624.
Q: And who is -- who is on that?
A: That may be on the other set of documents you've got. I don't see the subscriber name for that telephone number in here. Hang on a second. I do see -- okay. I see -- let me make sure this is right. Yeah, you've got it on the second

-- on the second page, I see here there's a Sherilyn Joseph.
Q: That's it.
A: That’s the subscriber.
Q: Okay.
A: For the telephone number that I just read off, the telephone number being 843-260-8624. That's associated with the financial liable person, Sherilyn Joseph.
Q: Okay. And are those the records for that phone number you just recited?
A: Yes, they are. It's voice usage and text usage for that subscriber.
Q: Okay. Can you tell me what’s contained in these records? I know there's different columns. Can you explain to us how that works?
A: Yes. So let me take this off. So these records are, like I said earlier, an extract of the billing system compiled in the format that we’re looking at now. There’s several columns across the top of this page, the first column being item number, which is just a row number for that -- for that column, and then there's a connect date, which is for voice usage. That’s the connect date of the call. There's a connect time, which is expressed in two things. One is expressed in military time, which is zero through 23, and then the UTC time, which means universal time coordinating.
Now, that means that when these records were created for

this telephone number, that was the timestamp of the mean time in England, Greenwich, England, at that moment the call was made. So in order to convert this timestamp on this page do Eastern Standard Time, you have to subtract five hours to subtract from what it was in England to what it would be on the East Coast at that moment in time.

Q: And why do they have a UTC? What's the purpose for that?

A: AT&T decided around 2014 to timestamp all calls based on one clock, so that clock was the world clock. So then any conversions -- you know, some jurisdictions don't subscribe to daylight savings and so across the country that varies. So AT&T needed a way to be consistent so each jurisdiction could do their own thing and we could identify the calls made based on that fact.

Q: All right. And that’s -- UTC is the same thing as Greenwich mean time?

A: Yes. The world clock.

Q: Greenwich, I guess it would be.

A: Greenwich mean time, yes.

Q: Okay.

A: It stands for universal time coordinating.

Q: What else is contained on the records?

A: The next column is seizure time, which is expressed in seconds. That's the number of seconds that the call was

ringing.

The next column is ET, which stands for elapsed time. That's the duration of the call. So if the call completes and someone talks for 25 seconds, the number 25 would appear in this column.

Q: All right. So explain seizure time to me one more time?

A: Seizure time is the number of rings. Okay? So when I push the send button on the phone and it rings five times, that's usually 25 seconds. So in the seizure time column, you'd see the number 25.

Q: Okay.

A: And if they talk for 25 seconds, it will be the same number 25 there. So a total of 50 seconds --

Q: Okay.

A: -- of time expired from the time I pushed send until I hung up the call.

Q: So the time -- the first time is when you hit send?

A: Yes.

Q: To when someone answers?

A: Correct.

Q: Okay. And then the second is from someone answers until you hang up the phone?

A: That's correct. Elapsed time.

Q: Okay. That's elapsed time?

A: Right.

Q: All right. The next column is originating number. What does that mean?
A: So that is the number. For this particular example in voice calling, that is the number who initiated the call. So that's the originating telephone number and then the next column is terminating number. That's the person or number that was dialed by the originating number. So originating and terminating are just kind of what they sound like.
Q: All right. So what is the originating number on these calls?
A: It depends on the date and time, but in the example I'm looking at -- let me go to the first page, if you want to.
Q: So the originating, that shows originating number for the numbers that call from these records?
A: Yes.
Q: And also it has the originating numbers calls from another number to this number?
A: Yes.
Q: Is that correct?
A: Yes.
Q: So the originating numbers are the numbers -- the number of the cell phone record itself and then the numbers of every other number that calls into that number?
A: Or called out by that number, yes.
Q: Or called out by that number?

A: Either way. All originating and terminating calls to and from that subscriber telephone number.

Q: Okay.

A: So in the example, line item one for example on this page, it shows the subscriber ending in 8624, which is our subscriber, calling the number 843-245-0835.

Q: Okay.

A: So that's the originating and terminating number.

Q: Okay. All right. What's the next column?

A: The next two columns are IMEI, which is an electronic serial number stamp, and IMSI, which is the SIM card chip stamp. Those two columns indicate a serial number assigned to the phone and a serial number assigned to the chip inside the phone. Those two things together help the telephone switch identify that this is an AT&T subscriber and, therefore, process the call. So those numbers are used in authenticating this as being an AT&T subscriber on our network versus any other subscriber or any other carrier for that matter trying to get on our network.

Q: Okay.

A: The next column is CT, which just stands for call type. In that first case, it's MO, which just means mobile originating.

The next column is feature, which can show things like call forwarding, but primarily the value of that column is if

there's a voicemail associated with the call, it would show VM in that column.

And then the last column is a series of numbers that identify the switch in our system by a number and then the cell tower by a number and then the next set of digits are the latitude and longitude of the tower that served that call at that moment in time.

Q: All right. We're going to back up here a minute. There's going to be a screen there and it will light up in a minute in front of you.

A: It is. I see it.

Q: All right. Now --

THE COURT: Oh, let me -- can I get y'all to step up here for minute?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: I jumped the gun there, Mr. Walker.

A: Understood.

Q: Now that I've got you to explain to us what it is, I would like at this time to ask you are these -- is this set of records -- can you tell us when it begins and when it ends as far as time frame?

A: For the -- for the --

Q: The requested records.

A: For the requested records, this shows on line item one, for the voicemail anyway, it's January the 1st, 2016, and it goes through January the -- January the 25th, 2016.

Q: Okay. Are these -- have you had a chance to review these complete records?

A: Yes.

Q: Okay.

MR. CLEMENTS: Your Honor, at this time, we would move the set of records into evidence.

THE COURT: Any objection?

MR. BROOKER: We just would renew, Your Honor, is our -- our pretrial objection.

THE COURT: All right. I'll certainly note those and will allow -- State's 6; correct?

MR. CLEMENTS: Yes, sir.

THE COURT: State's 6 into evidence.

(WHEREUPON, State's Exhibit Number 6, AT&T records for Sherilyn Joseph, was admitted into evidence.)

MR. CLEMENTS: Now, I'll get back. I'll let him focus it. As far as utilizing this material, I'm more like a rotary phone in my technological skills.

THE WITNESS: I can see it here.

MR. CLEMENTS: All right. How about that?

THE WITNESS: That's fine.

BY MR. CLEMENTS:

Q: Okay. Now, we start with item number one and then it has the conversion date; is that correct?

A: Connect date.

Q: Connect date?

A: Yes.

Q: And that was January the 1st, 2016?

A: That's correct.

Q: And then the UTC time, which is -- am I understanding correctly first you've got to correct it for military time to make sure it's on there so then you add five or subtract five?

A: Subtract five hours.

Q: Subtract five hours. So this would be UTC time of 1102. That would be 1602?

A: It would be 6:02 a.m.

Q: 6:02 a.m.?

A: Yes.

Q: Okay. All right. And the seizure time is when -- did you show us that's when you dial send?

A: Right.

Q: Until someone answers?

A: That's correct.

Q: Okay. Is it the same as when someone answers the phone is it would be if a recording picked up?

A: Yes.
Q: Okay. And then the elapsed time is what they -- what the -- the amount of time they talk?
A: That's correct.
Q: The originating number on this first call is the subscriber's number; is that correct?
A: That's correct.
Q: Okay. And then whoever she was talking to, that's the terminating number?
A: That's correct.
Q: All right. Now, the IMEI you'll notice has got a number there and then it says Apple iPhone 6s Plus?
A: Yes.
Q: What does that mean?
A: So in this particular record, it identified that the type of device is an Apple iPhone 6.
Q: All right. And the IMSI, can you tell me again what that is?
A: So inside our -- excuse me. Inside our devices, there is a SIM card, a little bitty white SIM card with kind of a gold thing on the back of it, but on the front of that card is a stamped serial number. That serial number is what the IMSI represents on this screen. It's also stamped on that little chip inside the phone.
Q: Okay. If you remove the SIM card and replace it, does

the number change then?

A: Yes.

Q: Okay. And then the CT column?

A: Call type.

Q: And this is a mobile phone? That's MO for mobile phone?

A: It means mobile originating.

Q: Okay.

A: MO. That's correct.

Q: And the feature is voice? That VCORR, what does that stand for?

A: So that's one of the features that can be applied to a device. However, the feature column in this case is only accurate when it shows a VM, which means voicemail. All the other feature codes listed there may or may not be what happened.

Q: Okay.

A: We just don't put any -- the system will create a code and put it in there just for a place holder.

Q: And the last column, cell location?

A: So that identifies the switch numerically. We have a number on every switch in the United States and then every cell tower in the United States has a number and those two numbers are on that first line there in that column. And then the next set of numbers is the latitude and longitude of that cell tower physically on the earth when that call was

made.
Q: Okay. So I guess in the vernacular put when a phone pings off of a cell phone tower, this information is recorded in these records?
A: That's correct.
Q: Okay. What page number is this on these records?
A: The first -- the page we just talked about was page 1.
Q: What's the last page in these records?
A: So for the voice usage, the last page is 52.
Q: And 52 is not the end of the records, just the end of --
A: It's the end -- it’s the end of the voicemail records --
Q: Okay.
A: -- for this section that we’re talking about.
Q: All right. So what -- what is the difference between voicemail records that go and end here on page 52 and the records contained on the remainder of the report that you have there?
A: So two types -- well, actually there are three types of records, but we only are talking about the voice and the text messaging records.
Q: Okay.
A: So what you have on the screen now is SMS usage report and it's for the same telephone number we’ve been talking about ending with 8624. So this contains all the text messages from this telephone number 8624 and to this

telephone number ending with 8624. So all text messages coming into and out of this device are recorded in the pages you're looking at now for the time period we're looking at.

Q: Okay. And this is the -- page 52 here is the first page of the text messages or not?

A: No, it's not. If you go back 51 pages, you'll see page 1 of the SMS text message report.

Q: Okay.

A: So just go back a little bit.

Q: All right.

A: Unless you want to talk about page 52.

Q: Well, no. I just thought that was where the text messages --

A: No, no. The reports are independently numbered. So the voice has a set of numbers and the text messages has a set of numbers.

Q: Okay.

A: Page numbers I mean.

Q: Okay.

A: So yeah, go back to page 1.

Q: All right.

A: Of SMS.

Q: Page 1? Does that contain both voicemails and text messages, voice conversations and text messages?

A: These -- these documents contain both, yes.

Q: Okay. All right. What's -- what's -- on page 68, the last page of the records we got requested? Can you explain in detail what that -- that page is and what columns are missing and why?

A: So this -- this is a summary of the text messages for the number ending with 8624. On this particular page, which is page 68 that you mentioned, is the end of that report. It ends with the date of January the 24th, 2016. This shows -- in this particular page we're looking at now it shows a lot of incoming messages or attempts to our subscriber 8624. The IMEI and the IMSI are not on this report because the device was not on the network at that time.

Q: What do you mean in layman's terms the device was not on the network? What does that mean?

A: The system did not recognize the phone as being active. So either it was destroyed or turned off.

Q: Okay. Now, you said there were a lot of calls or a lot of attempts to contact that were not -- not made?

A: These -- that last page you're looking at is all incoming text attempts to our subscriber's number.

Q: And what was the date on these?

A: The last -- the last date is January 24th, 2016.

Q: What is the first one?

A: On this page, the first date is January 23rd, 2016.

Q: Okay. Are all attempts and connected voice calls and

all text messages that are read shows up -- showing up on these records?

A: Yes.

Q: So what's contained here would be the complete records for voicemails and text messages?

A: For the time period requested, yes.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence one moment.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: I'm going to show you a document marked for identification Number 7. Can you tell me if you recognize that -- that form or that information or not?

A: Yeah. This is the subscriber information page for the phone number 843-260-8624, which is the number we've been talking about on the other records.

Q: Okay.

A: The financial liable party named associated with that number is Sherilyn Joseph, the billing party name is Sherilyn Joseph, and then the username is Sherilyn Joseph.

THE COURT: Okay.

MR. CLEMENTS: Your Honor, I would move this into evidence at this time.

MR. BROOKER: Just simply subject to our objection.

THE COURT: Subject to your earlier objection. All

right. Overruled and allowed in.

(WHEREUPON, State's Exhibit Number 7, subscriber information page, was admitted into evidence.)

BY MR. CLEMENTS:

Q: So the user and the financially responsible party and the billing party is all Sherilyn Joseph?

A: Correct.

Q: Florence, South Carolina?

A: Correct.

Q: Okay. Mr. Walker, bear with me one minute. The last little bit of information, the last column in the records --

A: Uh-huh.

Q: Cell locations? Cell tower locations?

A: Right.

Q: And the numbers. You said there were more than one set of numbers. Tell us again what those indicate? The latitude and longitude of the tower?

A: Right. The first set of numbers is the switch number, the second set of numbers is the cell site number, and then the next sets of numbers are the latitude and longitude of the cell tower that served that call or text or data session --

Q: Okay.

A: -- listed there.

Q: All right. And can you -- can you track the phone from

the cell site locations?

A: Yes.

Q: All right.

MR. CLEMENTS: I believe that's it.

THE COURT: All right.

MR. CLEMENTS: Please answer any questions Mr. Brooker may have.

THE COURT: Cross.

MR. BROOKER: Thank you, Your Honor. I'm going to be pretty quick.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Mr. Walker --

A: Good morning.

Q: I just want -- I just want to make sure that I understand at least the UTC thing on time and make sure that I understand how that's calculated and the jury is understanding how that's calculated and, of course, I think this has already been entered into evidence as State's Exhibit 6 and, of course, I have here page 1 that I'm going to -- I think this is page 1 of 52. Okay. And I think this is the -- the voicemail records?

A: It is.

Q: Is that correct?

A: That's correct.

Q: And the UTC time, could you explain to me how you -- explain to me again the UTC time?
A: So AT&T decided to identify the time stamp for all calls, voice, text, or data --
Q: Okay.
A: -- by one location on the earth.
Q: Okay.
A: That location on the earth is Greenwich Village, which is the world clock in England. Whatever the time is on that world clock and whenever a user uses their device in the United States, that time stamp of the world clock is placed on the record.
Q: I gotcha.
A: And then to convert based on where you are in the United States by time zone, you subtract five hours for Eastern time, six hours for Central and then so forth across the country on standard time. If daylight savings is invoked, it's subtract even an hour -- an hour less. So that example on the first page there on line 1 shows 1102 UTC time, which would really be 6:02 a.m. Eastern Standard Time.
Q: Okay. And of course, is is that this is five hours, but of course, military time?
A: Yes.
Q: You subtract five hours by military time?
A: Yes.

Q: Okay. So if it was -- you know, for instance, if it was 2000 hours, then you would subtract five from that, which would be 1500 hours, which would be 3 o'clock military time?

A: 3:00 p.m. That's correct.

Q: 3:00 p.m.?

A: That's correct.

Q: Okay. Okay. All right. I understand now. Now, these records that have been identified as State's Exhibit -- State's Exhibit 6, I think you said that these records are located in a main database; is that correct?

A: Yes.

Q: And where is that main database located at?

A: Where physically in the United States?

Q: Yes.

A: I do not know. I don't have the address or the city. There's more than one.

Q: Do you know how many?

A: I do not know how many.

Q: You have no idea how many?

A: I do not.

Q: The reason why I'm asking you is is that -- and I think that this letter was sent I think to the National Court Order Compliance Department at AT&T.

MR. CLEMENTS: Your Honor?

THE COURT: What?

MR. CLEMENTS: I'm not sure exactly what he's got and what he's about ask. If he's going to read something into the record, then I might need to object to it.

(WHEREUPON, counsel conferred.)

MR. BROOKER: If you could indulge me for just a second, Your Honor?

THE COURT: Yes, sir.

MR. BROOKER: I'm going to withdraw that question, Your Honor.

THE COURT: All right, sir.

MR. BROOKER: Okay.

BY MR. BROOKER:

Q: I think you said that they have databases where this -- where this stuff is maintained all over the country?

A: Yes. I mean I don't know how many. It could be two locations, it could be a dozen. I don't know.

Q: Okay.

A: That’s not part of what my responsibility is to be involved with.

Q: Okay. Do you collect the records?

A: No, I do not.

Q: Okay. You don’t collect them, you just simply authenticate them once they're collected?

A: That's correct.

Q: Okay. Okay.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I may not have any further questions.

THE COURT: Yes, sir.

MR. BROOKER: No further questions, Your Honor.

THE COURT: All right. Anything further of this witness?

MR. CLEMENTS: Your Honor, we'd ask that Mr. Walker be released from his subpoena.

THE COURT: Any objection to Mr. Walker being excused from his subpoena?

MR. BROOKER: No objection whatsoever.

THE COURT: Mr. Walker, thank you very much, sir.

THE WITNESS: Thank you, Your Honor.

THE COURT: You're free to go.

MR. CLEMENTS: Your Honor, our next witness will be Ashleigh Dixon from the Richland County Sheriff's Office.

THE COURT: All right.

THE CLERK: Ma'am?

THE WITNESS: Uh-huh.

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

THE WITNESS: Sorry.

THE CLERK: Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: You may be seated on the witness stand and please state your name for the record.

THE WITNESS: Ashleigh Dixon.

ASHLEIGH DIXON, being first duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ms. Dixon, good morning. How are you?

A: Good morning. Good.

Q: Tell us where you work?

A: Richland County Sheriff's Department DNA lab.

Q: All right. And what do you do there?

A: I am the serologist. So I assist the analysts in casework. I pick up the evidence for them and prepare the samples and give the samples to them.

Q: Can you please tell us what a serologist is?

A: So a serologist is I screen items of evidence for biological materials and cut out swabs and items like that.

Q: And how long have you been working in the lab there?

A: I've been in the lab for eight years.

Q: What kind of training do you have to have or education to be a serologist in that lab?

A: You have to have -- well, I have a bachelor of science degree in biology and we have in-house training in the lab.

So I was trained by two court-certified analysts.

Q: Okay. You're not an analyst yourself, are you?

A: No, sir.

Q: Okay. Did you have an occasion to handle any evidence submitted by the Florence County Sheriff's Office regarding the death of Sherilyn Joseph?

A: Yes.

Q: Can you please explain to the jury how that works, how y'all receive evidence --

A: So --

Q: -- generally speaking?

A: Investigators will bring in evidence and log it into our evidence room and then they will let us know what items they want us to pick up and I will go down to the evidence room, request those items, and then they will chain the evidence over to me and I will bring the evidence up to the DNA lab.

Q: Explain what the evidence room is like. Is it just someone can come and go or locked down?

A: It’s a locked door. You can't go past that door. The technicians will -- I'm sorry. They will sign over the evidence to you and nobody can come in or out of that evidence room.

Q: All right. So you couldn't come in or out? You have to sign for it?

A: Yes, sir.

Q: Okay. What -- what pieces of evidence did you handle in regards to this case we're here on?
A: I processed a used condom, a cigar with a wooden tip, a swab from a coffee cup, swab from headrest, swab from the inside door handle, a blood spot from Sherilyn Joseph, a buccal swab from Aaron Smith, and a buccal swab from Whitney.
Q: All right. Can you tell us what you did with the cigar?
A: So I --
Q: Slightly smoked, slightly used?
A: Yes, sir. So with a cigar tip, I've got a swab that's kind of like a Q-tip. I put distilled sterile water on that swab and swab the tip, and then with sterile scissors I cut out that tip, put the cuttings in a tube and then pass that tube on to the analyst for further analysis.
Q: Okay. What did you do with the condom?
A: The cotton from the swab?
Q: The condom?
A: Oh, the condom. I'm sorry. So with the condom, I swabbed the outside of it. The same thing. I got a sterile swab, put sterile water on it, swabbed the condom, the outside, and put that in a tube for the analyst. And then I also swabbed the inside of the condom and cut that out and put it in a tube for the analyst for further analysis.
Q: What did you do in regards to the cup?
A: So the swab from the coffee cup, it was two swabs. I

took a cutting from each swab and left about 20 percent and put that cutting in the tube and passed it on to the analyst for further analysis.

Q: All right. Did -- did you do anything in regards to the swabs from the headrest and the door handle of the car?

A: Yes, sir. I took sterile scissors, cut the swab from the headrest. There were two swabs. I took those cuttings, put it in a -- placed it in a tube and passed it on to the analyst, and the same for the door handle swab. I took sterile scissors, cut each swab up and put it in a tube for further analysis.

Q: What did you do with the blood spot, blood spot from the victim?

A: I took a small cutting from that filter paper and put it in a tube for further analysis.

Q: Where did the blood spot from the victim come from?

A: It was on filter paper in a container.

Q: Okay. All right. What -- is this part of what's normally done with autopsies?

A: I'm not sure about that. I just -- whatever came in from the evidence room, I picked it up and cut it for analysis.

Q: All right. And that's what you do is prepare it to be analyzed; is that correct?

A: Yes, sir.

Q: You don't do any analysis yourself?

A: No, sir.

Q: Who does the analysis?

A: We've got four analysts at the Sheriff's Department and whoever is up next to run -- take a run, that's who gets the samples.

Q: Do you know a John Barron?

A: Yes, sir.

Q: Who is he?

A: He is an analyst at the Richland County Sheriff's Department.

Q: Did you have any contact with him regarding this case?

A: Yes, sir.

Q: What was that?

A: I passed the samples that I cut out for this case to him and he was the analyst in this case.

Q: Okay. And then after that, what do you do with the evidence?

A: I seal each piece of evidence up, take it back down to the evidence room, and put it in a secured locker.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence, Your Honor.

THE COURT: Yes, sir.

MR. CLEMENTS: Thank you, ma'am. Please answer any questions Mr. Brooker may have.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Good morning, Ms. Dixon.

A: Good morning.

Q: I won't be long. Just to make sure that I have a list, what were the items that you handled?

A: Item -- you want the item numbers?

Q: Yeah. The item numbers and the items?

A: Okay. So Item 2 was a used condom and I put that -- I broke that up so I could have two separate swabs. So I broke that up into Items 2.1, which was the inside of the condom, and 2.2 was the outside of the condom. And then Item 1 was a cigar with a wooden tip. Item 6 is a swab from the coffee cup. Item 7, swab from the headrest. Item 8, swab inside door handle. 3 is a blood spot from Sherilyn Joseph, 4 is a buccal swab from Aaron Smith, and 5 is a buccal swab from Whitney.

Q: Okay. Now, these locations -- excuse me. These items, how did you come in possession of them?

A: I went down to the evidence room and they transferred them over to me.

Q: So when you went to get them, they were -- they were already in the evidence room?

A: Yes, sir.

Q: Do you know who put them in the evidence room?

A: I can look at the chain of custody. Would you like me to?
Q: Yes.
A: Okay. So it looks like Andrew -- I'm sorry if I can't pronounce this right -- Clendenin is the one who submitted them into our evidence room.
Q: Okay. And just a couple of questions in reference to that because I don't know how it works and I'm sure the jury doesn't know how it works. So when a law enforcement agency -- agent or law enforcement officer bring items to be, I guess, examined, do they physically put them in the evidence room or do they turn them over to someone at your office who then takes them and locks them up into the evidence room?
A: So with outside agencies with our agency, sometimes they'll submit them to a secured locker, sometimes they'll hand them over person-to-person to the evidence technician, if they're available, or sometimes they can put them in a locked drop box.
Q: Okay. Now, for purposes of those items that you -- that you just talked about, do you know whether or not those items were put in a secured lockbox or whether or not they were turned over to a technician?
A: I'm not sure.
Q: Okay. So you don't know if they were put in a locked box, you don’t know whether or not they were turned over to

the technician?

A: No, sir.

Q: Okay. The only thing that you know is when you went to get them out of -- out of the evidence locker that they were there in the evidence locker?

A: Out of the evidence room.

Q: Excuse me. The evidence room?

A: Yes, sir.

Q: But you're not quite sure who put them there?

A: No, sir.

Q: Now, the evidence room, how many people have access to the evidence room?

A: Just the technicians.

Q: Okay.

A: So there's three technicians that have keys to that.

Q: Do the analyzers have access to the evidence room?

A: No, sir.

Q: Just the three technicians?

A: Yes, sir.

Q: Do you know when the items were put in the evidence room?

A: I know when they were logged in. I can give you a date.

Q: Yes, ma'am. Thank you.

A: It looks like February 5th, 2016.

Q: February 5th, 2016. And what time -- what date did you

take them out?

A: I picked them up on February 5th, 2016.

Q: Okay. February 5th, 2016. And you would then deliver them to the technician?

A: I pick them up and process them.

Q: Okay. Process them is the -- is the -- the process that you testified to earlier about?

A: Yes, sir.

Q: Okay. And what did you do after you processed them?

A: I seal them up, put evidence tape on them, and put my initials and the date of sealing them and turn them back in to the evidence room into a secure locker.

Q: When you removed the items from the evidence locker, how were they packaged or sealed?

A: They were sealed properly.

Q: Could you explain how?

A: So dates and initials of when the items were sealed.

Q: And do you know whose initials were on those?

A: No, sir.

Q: And let me just make sure that I understand. These were the -- when the package is received at the lab or received from law enforcement at the lab, then -- and they are then put into the evidence locker? Excuse me. The evidence room, is is that they would be put into the evidence room when they initially come there in the same package that they arrived?

A: We would put them in our package. Well, if they're in a box, then we would put it in another box, not open it or anything, but so we can put our evidence label on the front because we have to name -- we have to put our own case number and everything on there, but it's not opened. It's just put in another box.

Q: Okay.

A: Like another box into another box and then put our -- our seal on it.

Q: Certainly. I think I understand. So -- so once -- let me make sure that I understand it correctly. I know this seems maybe monotonous, but, you know, I'm asking you for a reason. So when law enforcement brings it in, law enforcement might have it in their package or if they do and then you take what they bring it in included in their package and just put the -- put the entire thing into your package?

A: Yes, sir.

Q: Okay. You don't disturb their package?

A: No, sir.

Q: Okay. And that's what I'm asking you is is that when you took it out -- when you went to pick it up on February 5th from the lab, then, of course, is is that that law enforcement package would've been on the inside of your package?

A: Yes, sir.

Q: And that's what I'm asking about the law enforcement package. How was law enforcement -- how was the evidence packaged by law enforcement?
A: Well, whoever brought it in, whatever -- let's see, Mr. --
Q: Clendenin?
A: Yes. When he brought it in, he would have to seal it up with our evidence tape and put his initials on our package.
Q: Did he bring it in in a package?
A: I'm not sure.
Q: You don't know how it was sealed when he brought it in?
A: Correct.
Q: Or if it was --
A: Correct.
Q: -- properly sealed?
A: Well, it was properly sealed. Once I bring it up to the lab and process it, that's one of the things I look at to make sure that the items of evidence are properly sealed.
Q: No, I'm talking about -- I know you're saying it's properly sealed once y'all received it by your technician who received it from Mr. -- from the -- from Officer McClendon [sic].
A: Uh-huh.
Q: I know you said once y'all get it, y'all then properly seal it?

A: Yes.
Q: That's fine. I'm talking about prior to arriving whether or not it's properly sealed by law enforcement when they bring it to you and I know y'all then seal it again?
A: Yes.
Q: That's what I'm trying to figure out is how is it sealed by law enforcement before your technician or however it was sealed it in your -- in your bag and then put it into the evidence room?
A: So I bring up that evidence and the seal that officers or the detectives bring in, I'm the one that opens that up. So I have to make sure that it's properly sealed or I will not open it up.
Q: Okay. And I think you said someone's initials was on that seal?
A: Yes, sir.
Q: But you don't recall who it was?
A: No, sir.
Q: You don't document that?
A: No, sir.
Q: Almost finished. I promise. So you processed it and then you put it back into the evidence -- into the evidence room in an evidence locker?
A: Yes, sir.
Q: That same day on February 5?

A: I returned it on February 10th.
Q: Okay. February 10th. You took it out on February 5 and then, of course, returned it on February 10th?
A: Yes, sir.
Q: So you, I guess, had five days to process it?
A: Yes, sir. Or it could have been a weekend. I don't know the exact date the 10th is on or the 5th.
Q: Okay. But it was -- you took it out on February 5 and you did not return it until February 10th?
A: Correct.
Q: Okay. So -- and it -- and it was out of the locker -- it was out of the evidence room at least for those five days?
A: Yes, sir.
Q: And where was it?
A: It was in our DNA lab in a -- in secure lockers in our DNA lab.
Q: Who has access to the DNA lab?
A: Myself and the other analysts in the DNA department.
Q: When you said yourself, I'm assuming you said there's three technicians. Do all of y'all technicians have access to the lab?
A: Yes, sir.
Q: So -- so -- so there would be three technicians?
A: Well, I'm the only technician. There's three other analysts.

Q: I'm sorry. I apologize. So you're the only technician?
A: Yes, sir.
Q: And of course, so there's you and, of course, there's three analysts?
A: Yes.
Q: So a total of four people who have access to that room?
A: Yes, sir.
Q: Now, when you -- when it's inside of the DNA lab and I think you said -- let's say, for example, you work on it on Monday and, obviously, you're not finished processing it. You said that there is an evidence locker on the inside of the lab?
A: Uh-huh.
Q: You put it in there?
A: Correct.
Q: You don't reseal it, do you?
A: Yes. After I process the items, I reseal it.
Q: I'm talking about every day of the five days that it's out. At the end of day one, you're not finished. Do you reseal it and then on day two take it out and open it again and then you're not finished on day two and you reseal it, put it back into the -- put it back into the evidence locker, take it out, finish your work for that day and reseal it? I'm saying every time, the five days that it's in the -- it's in the DNA lab --

A: Uh-huh.
Q: -- and you're putting it out and in the DNA locker as you work on it, do you -- do you seal it every day during those five days that it's out?
A: So usually the evidence is sealed separately and in that big box. So I'll only work on one item of evidence at a time. There's never more than one piece of evidence open.

So after I have processed that piece of evidence, it is sealed up, put back in the big box, and then the next -- if I can't get to the other evidence, the next day then I will open up that piece of evidence the next day, process it, seal it up. So no more than one piece of evidence is open at a time.
Q: Okay. And you normally can process one item within one day?
A: Yes, sir.
Q: Okay. And then after the five days, you return it back to the evidence room and into the evidence locker?
A: (No verbal response.)
Q: Okay. Do you know what happened to it after that? What happened to those items?
A: Let's see here. So it looks like the evidence technician took it out of the locker and put it back into our evidence room.
Q: Who is the evidence technician?

A: Her name is Jennifer Lee.
Q: Okay. Do you know what date that she took it out?
A: It looks like February 10th, that same day I returned it.
Q: The same day you returned it, she took it out? Okay. I gotcha. And then how long was it out before it was returned back?
Q: How long was it out before? I couldn't hear you.
Q: It was returned back to the evidence room?
A: Well, it was in that locker just for that one day.
Q: Okay.
A: When I turned it in on the 10th, she put it back into the evidence room.
Q: And that's what I'm talking about. Do your notes go further to show after she put -- after Ms. Lee put it into -- back into the DNA lab, into the locker in the DNA lab, do you know how long it was in the locker?
A: Well, when -- there -- it's just an evidence room. So when I turn it in to the -- the lockers are in the evidence room area.
Q: Okay.
A: So she would get it out of the locker and bring it back into the evidence room itself, the secure location.
Q: Okay. And how long was it -- and after she took it out and took it to the evidence room, how long was it in the evidence room? Do you have those records?

A: I don't have that record.

Q: Okay. So -- and you wouldn't know who handled it in the evidence room? You wouldn't have the records showing who handled it after she took it out and brought it in the evidence room?

A: No, sir.

Q: You wouldn't have those records?

A: No, sir.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I may be finished.

THE COURT: Yes, sir.

MR. BROOKER: I have no further questions, Your Honor. Thank you.

THE COURT: Anything further of this witness?

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Let me -- let me be sure I understand this. Mr. Brooker was asking you about who handled it afterwards and you didn't have the records of who handled afterwards. That's when y'all were done with it; right?

A: Correct.

Q: After y'all are done with it, does it matter what happens to it afterwards?

A: No, sir. It goes straight into the evidence room, the secure location, and we're done processing it.

Q: So anything that happens afterwards can't affect your processing or your analysis; is that correct?

A: Correct.

Q: Y'all are done?

A: Correct.

Q: Okay.

MR. CLEMENTS: Your Honor, I don't have any further questions. I'd like to have Ms. Dixon released from her subpoena.

THE COURT: Any objection?

MR. BROOKER: If I can just ask her one or two follow-up questions?

THE COURT: Yes, sir.

MR. BROOKER: I'm going to be quick, Your Honor. I promise.

THE COURT: Don't say that anymore. Just ask your questions.

MR. BROOKER: Okay.

RECROSS-EXAMINATION

BY MR. BROOKER:

Q: And I just want to make sure is I think you said when you took it out for those five days, you did your processing. Does the -- does the analyst does his processing while it was out -- while it was out for those five days?

A: He doesn't do anything with the evidence. He works with

the work -- what we call work product. That would be the cuttings put in the tubes.

Q: Okay. Okay. I gotcha. I understand now. So he works with -- once you swab the items, then, of course, is is that those swabs is what he works with?

A: Yes. Correct.

Q: Okay. Okay. All right. I gotcha. And that's what I think the confusion was. So he doesn't work with those items. He only works with the swabs that you have?

A: Correct.

Q: The swabs that you took from the items or the DNA that you potentially collect from the items?

A: Correct. He only works with what I cut out of the items, like the swabs. He takes -- he just works with the cuttings from the swabs.

Q: Okay. What does he do with those swabs once you -- once you process them?

A: They are put back in the evidence packages and properly sealed.

Q: Okay. And do your records show when the next time those were taken out? And that's what I'm trying to figure out. I'm trying to -- I'm trying to track what was analyzed and that's where I think we're getting confused. I'm trying to figure out the process of what was analyzed.

MR. CLEMENTS: Your Honor, I think we've gone well

beyond anything that came out on redirect.

MR. BROOKER: And that's perfectly fine, Your Honor, but if we don't, then, of course, is is that we're just going to make an objection for chain of custody. I'm trying to help them establish the chain of custody because he has not done it, unless he's going to do it through another witness.

THE COURT: Go ahead.

MR. BROOKER: Okay.

BY MR. BROOKER:

Q: Yeah. I'm trying to establish the chain of custody for the items that were tested.

A: So after each item is tested, I seal it up, put it back in the box, and when I'm done with the complete case, that's when the evidence goes back into the evidence locker. I chain it over into the evidence locker. The evidence technicians then get it out the locker, put it in their evidence room.

Q: So --

THE COURT: All right.

MR. BROOKER: I'm sorry.

THE COURT: Now, if you would, make a note of your next question where you're at.

MR. BROOKER: Sure.

THE COURT: The jury needs a break. We're going to take a short break and then --

MR. BROOKER: Certainly.

THE COURT: -- we'll pick up where you left off.

MR. BROOKER: Certainly.

THE COURT: Okay. Ladies and gentlemen, please have no conversation about the case. If you need anything to snack on or whatever, let them know, and we'll -- we'll bring you back out shortly.

(WHEREUPON, the jury exited the courtroom at 10:55 a.m.)

THE COURT: All right. We'll be at ease for a few minutes and start back.

(WHEREUPON, there was a break in the proceedings from 10:55 a.m. until 11:13 a.m., after which the proceedings resumed as follows.)

THE COURT: All right. Ready to bring the jury back in?

MR. BROOKER: Yes, sir.

MR. CLEMENTS: Yes, sir.

THE COURT: All right. Let's bring them in, please.

(WHEREUPON, the jury entered the courtroom at 11:14 a.m.)

THE COURT: All right. Ladies and gentlemen, we'll pick up where we left off in Mr. Brooker's cross-examination.

MR. BROOKER: Thank you, Your Honor.

BY MR. BROOKER:

Q: Ms. Dixon, I'm sorry. I think I may have gotten confused, but I think I figured it out now and I think what I

was probably confusing is the submitted items versus the processed items and maybe -- and I want to make sure we have distinction between the two.

Once you -- once you process the submitted items and then, of course, you have the processed items is is that during the course of those 10 [sic] days that you talked about from February 5 to February 10, once you -- once you -- with the processed items, what did you do with the processed items once you processed them?

A: They go into a rack for the analyst to do their further analysis on.

Q: They stay in the laboratory?

A: Yes, sir.

Q: They don't go back to the evidence room?

A: No, sir.

Q: Okay. And so -- and of course -- excuse me. On February 10, 2016, when you said that you returned the submitted items back to the evidence -- back to the evidence locker, the processed items stay there in the -- in the -- the DNA lab?

A: Yes, sir. Correct.

Q: Okay. And -- and you said they go on a rack or something like that?

A: Yes, sir. In a rack and then the analyst will pick them up and do their further analysis.

Q: Okay. So -- so once you put them on that rack, do you have -- did you have any more involvement with the processed items?

A: No, sir.

Q: Okay. Okay. And -- okay. So do you know when they were processed?

A: I processed the items on --

Q: I apologize. When they were analyzed?

A: Oh, no, sir.

Q: Okay. You just left them on that rack and the last time you had contact with them was on the 10th?

A: The 9th.

Q: On the 9th?

A: Yes.

Q: Okay. You put them on the processing rack or -- excuse me -- the rack to be analyzed and then that's all the contact you had with them?

A: Correct.

Q: Okay. I understand.

MR. BROOKER: Thank you very much, Your Honor.

THE COURT: All right.

MR. CLEMENTS: No further questions, Your Honor.

THE COURT: Thank you very much, ma'am.

THE WITNESS: Thank you.

THE COURT: You're free to go.

MR. CLEMENTS: Your Honor, we'd like to call John Barron.

THE COURT: All right. Have Mr. Barron come in, please.

MR. CLEMENTS: Your Honor, may she be released from her subpoena?

THE COURT: Any objection?

MR. CLEMENTS: And be allowed to stay in the courtroom if she wishes to?

MR. BROOKER: Certainly.

THE COURT: All right. She's certainly free to go or you're welcome to stay.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, I do, ma'am.

THE CLERK: Please be seated in the witness stand and please state your name for the record.

THE WITNESS: My name is John Barron, B-a-r-r-o-n.

JOHN BARRON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good morning.

A: Good morning.

Q: It's still morning. Mr. Barron, can you tell us where you're from?
A: I live in Columbia, South Carolina. I work for Richland County Sheriff's Department.
Q: In what capacity are you working with Richland County Sheriff's Department?
A: I'm involved in the DNA laboratory as a DNA analyst.
Q: Are you the senior analyst or not?
A: I've got the most experience. I'll put it that way.
Q: Okay. How long have you worked for Sheriff Lott in his DNA lab?
A: I helped start his lab in 2004, but prior to that I began my DNA career at the State Law Enforcement Division, otherwise known as SLED, in the year 2000.
Q: So 15 years with Richland County and four years with SLED as a DNA analyst; am I correct?
A: That's correct.
Q: Okay. Now, I see a lot of TV shows, but as of yet I'm not quite sure. What exactly does it take to be a DNA analyst?
A: It does require a -- at least a bachelor's degree in a science that is related to DNA. It could be biology, microbiology, molecular biology, biochemistry, that type of science degree.
Q: How about pharmacy? Would that help?

A: That could help.

Q: Can you please tell us what your educational background is?

A: I have a bachelor of science degree in microbiology from Clemson University. And when I became interested in being a DNA analyst at SLED in 2000, I returned to the University of South Carolina and took a couple of graduate level courses in molecular biology and statistics.

Q: Okay. And are you a member of any type of associations or professional groups involved in DNA analysis?

A: Not as an official member, no. I'm associated with a lot of them.

Q: Okay. Explain what you mean by that?

A: Part of our yearly required training to be a DNA analyst is to attend professional meetings hosted by societies that host DNA analysts from sometimes just the United States, sometimes around the world. As a matter fact, in two weeks I'll be going to California to attend an international association of DNA analysts. At some of these associations, I've been a presenter of some of my -- my work as a DNA analyst, and just at least once a year I'm a part of something like that outside of the laboratory.

Q: And do you -- are you required to have any continuing education?

A: Yes. That's part of what I just described, yes.

Q: Okay. That includes education, not just a fun meeting?
A: Yes.
Q: Okay. How much would you say you average a year on continuing education hours or do y'all compute it that way? We compute it as legal education.
A: Right.
Q: So I'm asking from that perspective.
A: Well, I usually attend one or two conferences a year. They last anywhere from two to four days each. So approximately eight hours each day.
Q: Okay. Have you been qualified as an expert in state or federal court as a DNA analyst?
A: I have.
Q: Approximately how many times?
A: Approximately 70 times.
Q: Seventy?
A: Correct.
Q: Does that include state and federal court?
A: I've never had the opportunity to testify in federal court on DNA.
Q: Okay. You haven't worked with any national law enforcement agencies?
A: I have.
Q: Just state and local?
A: I have worked with them, but I've never had the

opportunity to go to a trial.

Q: All right.

MR. CLEMENTS: Your Honor, we would offer Mr. Barron as an expert in the field of DNA analysis.

THE COURT: Any objection?

MR. BROOKER: No objection, Your Honor.

THE COURT: All right. Without objection. You may proceed.

MR. CLEMENTS: All right. Thank you.

BY MR. CLEMENTS:

Q: Mr. Barron, did you have occasion to be involved in the analysis of any information or pieces of evidence regarding the death of Sherilyn Joseph?

A: I did.

Q: Can you please tell this jury what you did first, because I know you did a number of things, but what was the first batch of the items you dealt with?

A: I believe Ms. Dixon, who previously testified as our DNA serologist or serologist in our DNA laboratory, testified to sampling some evidence that was brought to our laboratory involving a cigar tip, a used condom, blood from the victim Sherilyn Joseph, buccal swabs from an individual by the name of Aaron Smith and an individual by the name of Whitney. I assume that's his last name. A swab from a coffee cup, a swab from a headrest of an automobile, a swab from the inside

door handle of an automobile.

Q: Okay. Could that Whitney, could that have possibly been -- instead of being Whitney, could it have been Whitten?

A: It could have been. A lot of times the writing -- we go by the exact writing on the piece of evidence and sometimes it's not very clear and so Ms. Dixon was just interpreting it as best she could.

Q: Okay. Those swabs on Aaron Smith and Whitney, what was the purpose of doing an analysis on those swabs?

A: I assumed they were swabs submitted for comparison to the evidence for inclusion or elimination or some type -- I'm not familiar with the full investigation of the case.

Q: Okay. Did you -- let me ask you this. How does it work when you get items submitted to your facility there at Richland County Sheriff's Office? Can you explain the evidence room and the room where y'all actually work at, the DNA room? What's the security on those rooms?

A: The security is it's got a key card entry. Only a few people are allowed entry into the laboratory. All the DNA analysts and the serologist and the director of the laboratory have access to the laboratory. Inside is two separate work areas. One is where we handle the evidence itself where Ms. Dixon primarily does her examinations searching for biological fluids or biological evidence, sampling them, putting them into small plastic tubes for DNA

extraction, and then there's another separate room that is involved in the actual amplification and development of the DNA results.

Q: Okay. Now, how does it work? Is it fair to say -- is the right term prepping? Is that the right term for what Ms. Dixon does for you?

A: Correct. She -- she preps the samples for my DNA analysis.

Q: Okay. So there's items of evidence. Correct me if I'm wrong. There's items of evidence that are presented, she takes those items of evidence, and then she looks for biological matter or biological fluid and she collects that for your later analysis; is that correct?

A: Yes. She would either cut it out directly from the item that it's on. So, for instance, if it's on clothing, she might cut a sample out. If it's on an object, she might swab it and then cut the swab out.

Q: So now y'all received a blood spot from Sherilyn Joseph?

A: Correct.

Q: What did y'all do with that blood spot and why?

A: The -- in any type of a DNA investigation, it's important to know the known DNA of the people that could be involved and, of course, a victim of a crime is one of the primary persons involved. So we would want to know what her DNA looks like so that we can compare it to the evidence

that's collected by the police and submitted to us.

Q: Okay. Did you do that?

A: Yes.

Q: Is that called a standard?

A: That's one of the expressions for it, yes.

Q: Okay. Did you examine the cigar with the wooden tip and compare it to Ms. Joseph's standard?

A: I did.

Q: And what did you conclude on that, if anything?

A: I concluded that the DNA found on the cigar tip was that of Ms. Joseph.

Q: Did you find any traces or mixtures or any other DNA?

A: No.

Q: Okay. Now, there was also a swab of a coffee cup; is that correct?

A: Correct.

Q: And who did you compare that -- whose standard did you compare that to?

A: Well, I would've compared it to any standard that I tested, but the standard from Ms. Joseph was a match to the DNA found on that coffee cup.

Q: Did you compare -- or did you develop a standard on Aaron Smith and Whitney?

A: Yes.

Q: Did you compare them to the cigar and the coffee cup?

A: Yes.
Q: Were they included or excluded?
A: They were excluded. The DNA from the cigar tip and the coffee cup was that from a single individual and when we have that type of results, we are able to positively identify the DNA.
Q: Now, did you examine a swab from a headrest of a car and an inside door handle of a car?
A: Yes, sir.
Q: Can you tell me what you compared the DNA from those two items on with who you -- what you compared them with and what your conclusions were?
A: All right. The -- the DNA result from the headrest and the door handle was a mixture of several people, which is to be understandable in a door handle that may have been entered and exited by several people. Any of the known individuals that I received, I would compare and see whether or not they would be included in that mixture of DNA, and in this case I included Ms. Joseph and also included another individual that I tested in this case.
Q: Okay. Did you test those at the same time, the other individual as well, or later on?
A: Later on.
Q: Okay. Now, was there anything else that you received that you collected and tested and developed a standard?

A: Yes. Ms. Dixon swabbed the -- a condom that was part of the evidence in this case and eventually I received another known sample from another individual.

Q: Well, did you -- did you test Ms. Joseph's standard against what was in the condom?

A: Yes.

Q: And did you find any -- any match or any evidence there?

A: Yes. On the condom again I found a mixture. This time I was certain that it was only two individuals. And when we are comparing DNA results, many times we have what we call a major contributor. In other words, the majority of the DNA belongs to a certain person. So in this case, the majority of the DNA did belong to Ms. Joseph.

Q: It did belong to Ms. Joseph?

A: Yeah. It belonged to Ms. Joseph.

Q: And was the remaining DNA -- could you determine whether it was male or female?

A: Yes. It was male.

Q: It was male?

A: Correct.

Q: From a single individual?

A: Correct. On one of the swabs from the condom, the other individual was a male.

Q: Okay. And did you test that against Aaron Smith and Whitney?

A: Yes.
Q: Were they excluded or included?
A: Excluded.
Q: Excluded? Okay. All right. And did you later on receive some swabs from another individual?
A: Yes.
Q: Who was that individual?
A: Royal Williams III.
Q: And did you make a comparison to any items that you had with Mr. Williams' DNA?
A: Yes.
Q: What items did you compare his DNA to and what were your findings?
A: Well, the mixtures that I discovered on the condom and the headrest and the door handle, Mr. Williams' DNA was compared to that to see whether or not he could be included in that mixture, and I found that he was included to some degree in all three of those samples.
Q: All right. Can you explain what you mean to by some degree?
A: In the analysis of DNA, it's based upon statistical analysis because the DNA results have a statistical probability associated with them based upon how common that DNA is or how uncommon it is. When we test DNA, I think I need to explain further about the testing and the process of

determining whether or not DNA is from somebody.

Q: Please, please do. Because when I went to law school, they decided that there would be no math. So if you can explain that to me, please?

A: Yes. Yes. All right. First of all, DNA is a molecule that exists in the nucleus of every cell in your body and it identifies you as who you are, not only as a human being, but it also includes everything about you. So it is unique to you, and every cell in your body that is from you will contain the same DNA. DNA is inherited from your mother and your father. So half of your DNA is from your mother and half of it is from your father.

DNA was discovered in the mid-1950s as the source of human identity, of human beings as to what comprises the code, if you will, of making us who we are, the biological code. And then about 30 years later, a scientist discovered how to sequence or how to determine the -- the exact code of that DNA molecule.

And in that process, they learned to copy certain segments of the DNA molecule and finally piece it all together. About in -- in about the late 1990s and early 2000s, the whole molecule then was put together.

And during that process, it was discovered that there are portions of the DNA molecule that could be used for human identification and what they discovered was that these points

on the DNA molecule had variations, statistical variations. So like 10 percent of the population might have this length of DNA at that point and other people might have maybe 20 percent of the likelihood of having a DNA a certain length at that point in the molecule.

So we are now testing 22 points of a DNA molecule by copying them, a biological copy machine, if you will. And since you receive half of your DNA from your mother and half of it from your father, you can -- you can inherit a certain length at each point on these DNA molecules from each person, and the length of that DNA section then is determined to be what proportion of the population would have that. So by testing an overall population data group, we can determine the likelihood that a certain portion or certain length of DNA exists in the general population.

So when you have a single individual's DNA, you have a length of DNA at that spot on the DNA molecule from your mother and you have another length from your father; so you have two. All right. So it could be -- most of the time they are different lengths. So one is a little bit longer than the other and they can be separated because of that and so because of that we can determine that combination of DNA at that position then is -- is called your genotype. It's called a -- it is what you are at that location on your DNA molecule and that section then is a certain percentage of the

population.

And so we're testing 22 sections that are independent of each other. So the probability of each section occurring in the general population then is different at each location. So if it's 10 percent at one location, it might be 5 percent at another location, it might be 20 percent at another location, but they're all independent of each other.

So if you think of having 22 dice in your hand and you rolled it and each dice has a one in six probability of rolling a six, what is your chance of rolling all sixes? So it will be one times six times one times six times six times six. So it becomes a very large, almost unbelievable number that you've probably never thought of.

And so the same statistical principle is used in DNA and so the probability then of -- or the likelihood of finding this sequence or this combination of links of DNA in your -- in you is so rare that we can say with confidence that it comes from you as opposed to someone else.

Now, when we're dealing with a mixture, what happens is you've got one or two -- you've got two links from one person and then two separate links from someone else and then you've got two from another person perhaps, depending on how many people contributed to that mixture.

And so now we're asking the question what is the probability of this -- this person's DNA result that we

developed being in that mixture and so that becomes a statistical analysis as well and it becomes a result that is described as, well, how likely is this person's DNA to be in this mixture versus just picking somebody at random, just going out there on the street and picking somebody and testing his DNA and finding out whether it could fit. All right?

So you come up with a -- what we call a likelihood ratio or how likely is it that this person is in there versus someone else. Now, when we're talking about exclusions, it's like 100 percent. Like, we can exclude people all day long, but when you get to a point where you include somebody, the question becomes, well, what is the likelihood that he's included versus a random person. That adds the weight to that -- that evidence. So the weight of the evidence depends on how strong that statistical data is. Okay?

So when we're talking about an individual DNA like on the cigar tip and on the coffee cup, it's only from one person. So the likelihood that DNA came from Ms. Joseph is one in a string of zeros, about 30 to 33 zeros. I mean you can't even -- I mean that number is a number so unfathomable since the world population is, like, going on 9 billion, 8 ½ to 9 billion. We're talking about a number thousands of magnitudes larger than that, rarer than that if you will.

So if you follow what I'm saying, then in a mixture

interpretation, then what is the likelihood this person is in that mixture. Then if it's a positive number, a number greater than zero, then the likelihood is stronger that they're in that mixture. If it's a negative number, in other words the number that we get is less than zero, then that excludes that person. All right.

So in the case of the mixture found on Item 7 and 8, Mr. -- well, first of all --

Q: What are Items 7 and 8 again?

A: Items 7 and 8 is the head rest and the door handle. On the headrest and the door handle were multiple individuals. One of them could be conclusively identified as that of the victim. The other three individuals, one of those people could be Mr. Williams and what is the probability? What is the chance that Mr. Williams versus a random person would be in that mixture?

Well, in the headrest, it's 2,800 times more likely that Mr. Williams is in that mixture versus any of us in that mixture, just picking somebody at random, just picking somebody off the street. So that's a positive number. So that's the stronger -- that is a strong indication that Mr. Williams is in that mixture.

Q: That's 2,800?

A: Correct. Now, in the Item 8, which is the door handle, the likelihood that Mr. Williams is in the mixture versus a

random person goes up to 120,000. So it's stronger. We see a stronger indication of Mr. Williams in that mixture.

Now, in the condom, which is only two people,, we see that Mr. Williams is 12 ½ times a thousand or 12 ½ thousand or 12,500 times more likely to be the source of that DNA than a random person. So in all those cases, we're in the -- in the thousands, if you will.

Now, on the -- the condom, since it's only one other male individual, we can do an additional test to target the Y chromosome. So you females, you have two X chromosomes. You probably have heard that. And we males have an X chromosome and a Y chromosome. That's what makes us a male. So that Y chromosome, females do not possess, only males.

So what we can do then is now target that Y chromosome and find out what is the DNA result from that, targeting 15 different locations on the Y chromosome. So by doing that, then we can compare that to any male individual involved in the case.

So I did that with the single male DNA on the condom and found that male DNA to -- on the Y chromosome to match that of Royal Williams, and that also has a statistical weight to it. And that -- that weight is 1,850 times more likely to be the source of the DNA of Mr. Williams.

Now, the interesting thing about the Y chromosome DNA is that my daddy and my brother would have the same result. So

it's related through the paternal line. So if you have the same father, then you would have the same Y DNA result. So that's why that number is not as strong, generally as strong as the other.

However, it is an independent test and so, therefore, it can be multiplied, if you will, because it's separate. The probabilities can be multiplied together to give you a larger number. And in this case, when you -- when you take -- on the condom you take the 12 ½ thousand times more likely to be Mr. Williams than somebody else, a random person, and then you take the 1,850 from the Y chromosome and consider that as a total package. Then we're talking about 23 million times more likely to be Mr. Williams versus a random person, which is very, very strong since the population of South Carolina is only 5 million, a little over 5 million. So it's not as large as the population of the whole United States, but it's pretty -- it's pretty incriminating as far as I'm concerned as a scientist.

Q: So if you add other factors in as far as whether somebody's in a geographical area and all those type of pieces of facts that may come in and have bearing, then the likelihood or probability would go even higher, would it not?

A: Yes. But those are unknown probabilities so we can't really actually calculate them, but certainly there are individuals in -- picked at random that could possibly fit

into this mixture as well, especially if they were related paternally to Mr. Williams, but they would also have to be tied in by criminal investigators as to being somewhere in the vicinity of the crime scene at the right time, etc.

Q: Did you prepare any reports on this?

A: Yes, sir.

Q: How many reports did you end up preparing on this case?

A: Well, the initial report did not involve Mr. Williams at all because we didn't have his known sample. So my initial report would have involved only the results from the items of evidence that Ms. Dixon described and comparing that to the victim, Ms. Joseph, and the two other male individuals that were submitted. Then later, Mr. Williams' sample or known sample was submitted and then I could take that result and compare it to -- for further additional reporting.

Q: I'm going to show you what's been marked as State's Exhibit Number 8 for identification purposes and ask you do you recognize this and if you can identify this?

A: Yes, sir. This is what is referred to as a supplemental report. So we have an initial report of what we do to start with and then we have -- if we do any additional work to the case, we issue supplemental reports that include the previous report with the added information in bold letters on the -- on the report.

Q: Who prepared that report?

A: I did.

Q: Okay.

MR. CLEMENTS: Your Honor, at this time, we would move State's Exhibit 8 into evidence.

MR. BROOKER: Your Honor, just subject to our previous objections that we made.

THE COURT: All right. I'm going to overrule and allow that in as State's -- 8 did you say?

MR. CLEMENTS: 8, yes, sir, Your Honor.

THE COURT: State's 8 and note those previous objections.

(WHEREUPON, State's Exhibit Number 8, DNA report, was admitted into evidence.)

BY MR. CLEMENTS:

Q: Mr. Barron, do you recall receiving anything from the Florence County Sheriff's Office in regards to Item Number 9 on your supplemental report? Excuse me. Item number 10? I'm sorry.

A: Yes. Item Number 10 is buccal swabs or mouth swabs from your cheek area, cheek and gum, which contain plenty of skin cells which is the same DNA in every other cell of his body. I received -- Item Number 10 are those samples from Mr. Williams.

Q: And who did you receive those from directly?

A: I received those from somebody from Florence County. I

don't recall who actually.

Q: Sgt. Clendenin?

A: Mr. Clendenin, yes. I believe he was the investigator involved in this case. I couldn't remember his name right off.

Q: And what were your conclusions on supplemental report 2? Were they your opinion to a reasonable degree of certainty in your field of DNA analysis and probabilities?

A: Yes, sir.

Q: And again, on the used condom, Item Number 2, and then Item Number 2.1 and 2.2 were the inside and outside of that?

A: Yes. What Ms. Dixon did was she sub-itemed the condom by swabbing one side and then the other side. And so one side she called 2.1 and the other she called 2.2.

Q: And the results from Item 2.1, which is the inside of the condom, the victim could not be excluded?

A: Correct.

Q: And it does not match Whitney, Smith or Williams on that side of the condom?

A: Correct.

Q: And on the outside of the condom, the victim could not be excluded and Williams could not be excluded; is that correct?

A: Correct.

Q: And then you testified about the probabilities and the

numbers --

A: Yes, sir.

Q: -- contained therein? It's kind of unusual and see if you can explain this to me why this might be the case, but you would -- normally, wouldn't you expect to have male on the inside of the condom and the female DNA on the outside of the condom and it's vice versa here?

A: I can't tell how the condom was used. So I don't know if it was used in reverse order or what. So --

Q: Have you ever, like, pulled your sock off and turned it inside out?

A: That's correct.

Q: Could it be like that?

A: It could be like that. Of course, Ms. Dixon could -- would have assumed --

MR. BROOKER: Objection, Your Honor. Calls for speculation.

THE COURT: I'm going to overrule. He's -- he's an expert. I think he can make that judgment.

BY MR. CLEMENTS:

Q: Go ahead.

A: All right. Now, what Ms. Dixon would've done is she would have done to the best of her knowledge or best of her assumptions based on her knowledge of condoms -- and she's looked at a lot of them and so have I, you know, what is the

inside and what is the outside. And so that's to the best that she could estimate, she just referred to one as inside and one as outside. Now, what was inside and what was outside of the condom when it was actually on the individual, nobody knows for sure.

Q: Just that their DNA is present?

A: Exactly.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence, Your Honor.

BY MR. CLEMENTS:

Q: Can I borrow your supplemental report number 2 there?

A: Sure.

Q: Evidentiary Item Number 8?

MR. CLEMENTS: Is it -- is there a way to rotate this?

THE COURT: There you go, with your hand.

BY MR. CLEMENTS:

Q: I got the top of it cut off, but this is your report, State's Exhibit Number 8; is that correct?

A: Correct.

Q: Can you point out to us on this report where -- where you made the probability computation under your conclusions?

A: Yes. The report includes what items were received, what the preliminary testing results were. In this case, there was some testing done on the condom to see whether or not there was seminal fluid present, which would be the

ejaculation from a male. In this case, there was no seminal fluid present, but that doesn't mean there wasn't DNA from a male. It could be from skin cells from just simply wearing the condom or handling the condom. And then a description of the DNA examinations that were performed and on what items, and then the conclusions section would have the statistical probabilities present.

Q: And you testified to a number of 23,125,000?

A: Yes.

Q: I don't see that on your report. Can you please explain that?

A: 23 million comes from -- you would have to go to page 2. All right. Keep in mind on this one we're dealing with 12 ½ thousand or 12,500 and, if you look at the Y-STRs, that's the Y chromosome. The Y chromosome from Item 2.2, which is one side of the condom, matches that of Williams, and the population then statistic is 1,850 times more likely to be the source of the DNA than -- or a paternal relative than a random person.

So those two tests are separate. So that number can be multiplied with the previous number and that's why I testified verbally to the 23 million number.

Q: And that's a strong statistical amount?

A: Right. When you take those two results in combination like that, that's the kind of probability you're now dealing

with or the likelihood that it belongs to Mr. Williams versus a random person, a random male person by the way, not just any person, but it has to be a male.

MR. CLEMENTS: Mr. Barron, I appreciate your time and your knowledge, and please answer any questions Mr. Brooker may have.

THE WITNESS: Yes, sir.

THE COURT: All right. Cross?

MR. BROOKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Mr. Barron, I'm just looking at your report and, of course, is is that I think you testified that you tested the items that's contained on State's Exhibit Number 8; is that correct?

A: Correct.

Q: And how did you receive those items?

A: I received those items as cut up Q-tips in a tube from Ms. Dixon.

Q: From who?

A: Ms. Dixon, the lady who testified prior to me.

Q: From Ms. Dixon?

A: Uh-huh.

Q: When did you receive it? Do you know what date that you received it?

A: I would have to look at some of our worksheets to answer that question. So I beg the Court's indulgence.
Q: I might want -- let me rephrase that question.
A: Okay.
Q: When did you test it? When did you start your testing of those -- of those items?
A: Okay. Hold on. Again, the testing is a step-by-step process. So each step then would have its beginning date, if you will. All right? So the evidence then would be tested separately from that of known samples so it was not cross contaminated. So I have a worksheet that involves the testing of the samples themselves, as well as the DNA testing. So the DNA testing -- and I apologize because I have a lot of paperwork.
Q: That's all right. That's all right. Take your time.
A: All right. Okay. Ms. Dixon cut out the samples on February 9th, 2016, and began the extraction process on February 11th, 2016. And then I did the DNA testing on those samples on February 11th, 2016.
Q: Okay. So just to make sure I've got it correctly is is that she did the extraction on February 11th, 2016, and then, of course, you started the DNA testing on February 11th, 2016?
A: Correct.
Q: Is that what you testified?
A: (No verbal response.)

Q: Did you receive that directly from Ms. Dixon?
A: Yes. They would have been -- we have racks that hold the little plastic tubes and she would have gave me the rack of tubes associated with this case, along with the paperwork that she had developed up to that point and then I would fill out further paperwork as further testing continued.
Q: She gave them to you -- she gave them physically to you on the 11th, on February 11th?
A: Correct.
Q: Okay. Now, let's talk about the -- the DNA process or the DNA -- the process of analyzing DNA.
A: Yes, sir.
Q: And of course, I'm looking at your report, which is State's Exhibit 8, and, of course, is is that where it says conclusions, do you have it?
A: Yes, sir.
Q: Okay. You have your report and it says PCR DNA type using STR. What is that? Loci?
A: Loci.
Q: And then, of course, it says that you used -- I guess this is a machine which is a PowerPlex Fusion System?
A: The PowerPlex Fusion System is the company that provides us with the reagents necessary to do the DNA testing.
Q: Okay. And explain to us -- explain to the jury how that works? So do you physically do the -- do, I guess, the --

like I said, my -- my terminology may not be the correct terminology. This is not my field. Do you physically do the analysis or does the machine does it?

A: I handle the evidence and properly load it on an instrument that can do the analysis, and then the DNA -- well, first of all, you used a couple in terms that might need to be explained to the jury. One is PCR. All right. And STR.

So STR is what is called a short tandem repeat. That's just an acronym. All right. So the size of the fractions that we're looking at are determined by how many of those short tandem repeats are present on that section of the DNA molecule. So if you have 10 -- 10 STRs versus someone -- someone else having 11 STRs, it's going to be different. Yours is going to be shorter than the other.

So then it's separated through an instrument that allows the smaller fragments or the ones that are only 10 copies, to travel through faster than the 11 copies, which makes sense because if you apply -- well, DNA is an electrically-charged molecule. So it's put into an electric field. It flows through a small thin glass tube that's filled with a certain polymer, if you will. It's kind of a thick mucus stuff that allows things to go through at a steady rate.

So anything shorter is going to going faster than anything longer, kind of like a shorter train goes by faster

in front of you than a longer train. All right? And so that's how it's separated.

So those are PCR fragments. That's the size I was talking about, the size of the DNA at that section, and the size of that DNA at that section when you consider all 22 locations that we're testing then becomes unique to you if it's a single individual involved.

Now, PCR is the method by which it is copied. It's called polymerase chain reaction. This method was developed in the 1980s by a gentleman who went to high school in Columbia, South Carolina, believe it or not, but he received the Nobel Prize for developing this -- this technique which enabled us to actually decode the DNA molecule, to find out where on the DNA all these genes are located.

It was mainly developed to target certain locations of certain genetic diseases so that they could -- medical science could then try to find cures for it and it's still being done today, but in doing that, we also found that there were locations on the DNA molecule that could be used for human identification, and that's what I'm interested in.

So PCR is the biological way of copying sections of the DNA molecule, and the STRs are the short tandem repeats. And depending on how many of those you have will determine the length of fragment at that location that you personally have yourself. Okay?

And of course, again, the shorter, the faster it goes through the instrument, and the longer, it takes -- I mean the longer the fragment, the longer time it takes, and then there's a detector as it travels through and when it reaches the detector, it's timed, and so we know exactly how long each fragment takes to go through this particular long glass tube.

Q: Okay.

A: Does that help?

Q: Well, I think so, but let me -- let me just re-ask my question. I understand. I think I understand what you're saying, but of course, is is that my question was is is that I think you testified to basically is what you do is you load the machine?

A: Correct.

Q: And I want to make sure the jury understands everything, the entire process. So obviously, I'm assuming you take the samples that are to be tested and, of course, is is that you prepare them to be loaded into the machine?

A: Correct. There are several steps, like I said.

Q: Yeah.

A: There's the extraction process.

Q: Yeah.

A: Then there's the copying process and then now we're going to run it through another instrument that tells us what

copies we have and how long they are.

Q: Do you do the extraction and the copying?

A: Yes. I do the -- I do the extraction. The copying is done by putting a sample in an instrument that is -- it's called a thermocycler. What it does is it raises and lowers the temperature very quickly and as it does so, all the ingredients necessary in the mixture then cause the soup to rise or the bread to rise or whatever. In other words, copy the DNA.

Q: Okay. So you don't -- you do the extraction and, of course, is is that -- and then, of course, is is that you said that you use the thermocycler machine?

A: Right.

Q: Okay. And that thermocycler machine again does what quickly? Just -- just quickly.

A: Right. Well, DNA is a double-stranded molecule. It's a twisted ladder, if you will, and so in order to copy it you've got to separate the ladder, copy it, and put it back together. All right. It does that through the temperature.

So if you raise the temperature, you'll separate the ladder, and then you lower the temperature a little bit and you copy it and then you take those copies and now you raise the temperature again and you separate it and then you lower the temperature and you copy it, and you do that, that cycling, over and over and over again and then you make

thousands and sometimes millions of copies of certain -- of those sections of the DNA molecule that we target.

Q: Okay.

A: All right.

Q: Okay. You're just duplicating that section of the DNA -- of the DNA strand or molecule that you have?

A: Right.

Q: That's what it does?

A: We're duplicating the strands that are used for human identification. We don't care anything about diseases or anything like that.

Q: Yeah. There's a -- there's limited strand that you're looking at for identification and you're duplicating that strand?

A: Correct.

Q: Okay. All right. And that's done by a machine?

A: Yes. It is done by my loading the instrument with the proper ingredients.

Q: Uh-huh.

A: Just like if I were to bake a cake, I would load the oven with the pan with the proper ingredients and put it in the oven and the temperature then would cause the cake to cook.

Q: Okay. All right. And then, of course, the machine that -- that -- the thermocycler machine, I'm assuming that's

something that's purchased by the lab?

A: Yes.

Q: Richland County Sheriff's Department?

A: Yes. It's a standard piece of equipment in every DNA laboratory.

Q: Sure. Is that maintained by the Richland County Sheriff's Department or do you have the manufacturer come in and maintenance and maintain the machine?

A: We have it tested once a year by an outside contractor that comes in to make sure that it's working properly.

Q: What time of the year do you have it tested?

A: We have it tested once a year. It just depends on the availability of the people involved. We also -- in our testing, we're also -- in every test that we do, we run controls. So we run a known sample of DNA that's going to copy, you know, and give us an exact result.

So if something goes wrong with that sample, then the entire run then is discarded and we're going to have to start all over because if that known control sample didn't work, then we know that the other one didn't work as well. So that's run every time the thermocycler instrument is used. We have a known positive control.

Q: Okay. And I'll ask the question again is is that when -- what time of the year is it -- is it -- is it maintained?

A: I would have to go to our laboratory and pull out our

maintenance schedule book and see when the technician came that was contracted to do the work. I imagine it's not the exact same day every year. It's according to the schedule that their company then is allowed to have that guy come to our particular place because he's going to other DNA laboratories as well.

Q: I understand. And so you don't have those records with you to show exactly -- I guess back in 2000 -- I think you did these test results actually this year. You did these test results this year. So you don't have the records to show exactly what time that -- when this year that machine was maintained and tested?

A: Well, I know that there's a record of the maintenance schedule and I know that when our laboratory is audited, which it's audited once a year, those record books are examined by an auditor to make sure that this was done to ensure the integrity of our test results.

Q: And my question is do you have the records with you?

A: No.

Q: Okay. Thank you. Trust me, I'm going to give you a chance to -- to respond like you want to, but, of course, when I ask a question, if you could just give me an answer to my question and, of course, if you need to elaborate on it, feel free to do that.

A: Okay.

Q: So you don't have those records with you?
A: No, sir. I never carry those records to court.
Q: Okay. Now, after you -- after the -- the -- the strands are copied by the thermocycler machine, what is the next step in the process?
A: The next step is to put them on the instrument that actually separates the copies that were made by their sizes.
Q: Okay. And what machine is that? What instrument is that?
A: It's called a genetic analyzer. It's an instrument that is used across the DNA field not only in forensic science, but it's also used in any medical research as far as DNA is concerned.
Q: And does -- does Richland County maintenance that -- that machine or does it employs [sic] an outside contractor, like the thermocycler machine?
A: Yes. We use an outside contractor. We use the manufacturers of these instruments to maintain them. We can tell when something's going wrong though so we can make a service call.
Q: Do you have the maintenance records for the genetic analyzer?
A: I do not bring those to court. No, sir. I think you're the first person who's ever asked me that question.
Q: I feel honored. Okay. Now, after -- after, obviously,

is is that you use the genetic analyzer, what's the next step in the process?

A: The genetic analyzer separates the fragments and then we use a software program to visualize the results, and I have copies of the visualized results of that instrumentation, which shows up as -- if you want to show this on the screen, if you would like. It looks -- it looks like it's a bunch of numbers across the page with different colors.

Q: Okay.

A: So those numbers represent the size of the fragments.

Q: You can’t show it to the jury unless we put it into evidence.

A: Okay.

Q: Okay.

A: Well, they probably couldn't see it from there anyways.

Q: Okay. Thank you. Okay. So once you use that machine -- is that a machine that does that?

A: It's a software program on my computer.

Q: It's on your computer?

A: Yes.

Q: Okay. And what software program is that?

A: Gene Marker.

Q: I'm sorry?

A: Gene Marker.

Q: Gene Marker?

A: Uh-huh.
Q: What's the next step in the process?
A: Well, I am the one who is manipulating the software program and all I do is bring in the raw data from the instrument, run it through the software program, which then shows me a printout of the results. And then I take the printout of the results of the evidence and I take the printout of the results of the known samples and I simply compare them.
Q: Okay. Is that -- is that the complete process we just went through?
A: Pardon me?
Q: Was that the complete process that we just went through or is there another step?
A: That would be the -- that would be -- unless there's some reason to analyze it further, that generally is the end of the process.
Q: Okay. Now, let me ask you at least a little bit of questions in reference to the results that you reached. Obviously, is is that you testified -- and I'm going to get straight to the condom. The condom is listed as Item -- the used condom is listed as Item Number 2 on the report; is that correct?
A: Yes.
Q: And then, of course, is is that swabs were taken from

that item -- taken from that used condom and, of course, is is that the substance collected from the used condom was then identified into a subset -- a subset as Item 2.1 and 2.2; is that correct?

A: That's correct.

Q: And Item 2.1 is identified as the swab from the inside of the condom and Item 2.2 is identified as the swab from the outside of the condom; is that correct?

A: That's correct.

Q: And of course, is is that in your report -- and are you using that one? Do you have an extra one?

A: This one?

Q: Yeah. I have a copy if you want to use this to refer to --

A: Okay.

Q: -- as we're talking.

MR. CLEMENTS: Your Honor, may we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

BY MR. BROOKER:

Q: Okay. Now -- and so the jury can follow us is is that right -- right below the conclusions, I think paragraph 1, it says that the DNA resulting from Item 2.1 is a mixture. That

the victim cannot be excluded, but the minor contributor from 2.1 does not match Whitney, Smith, or Williams. Now, when it says that -- that the -- that the victim cannot be excluded from the mixture in Item 2.1, what does that mean?

A: In this case, it means that the victim was the major contributor to that mixture and that there were -- there was another individual in that mixture as well.

Q: Okay. Now, can you positively say that -- that the victim's DNA is present? That the DNA that you found with the major contributor is the DNA of the victim, excluding all other persons?

A: Yes. The -- the DNA of the major contributor matches precisely that of the victim.

Q: Okay. So that's absolute?

A: That’s absolute.

Q: Okay. It's as positive as you can get?

A: Yes.

Q: Okay. And then, of course, is is that it goes on to say that the minor contributors to 2.1 -- the minor contributors to 2.1 and, of course, is that this is the inside of the condom, does not match Whitney, does not match Smith or does not match Williams III. When it says that it does not match those three individuals, what does that mean?

A: That means that the other DNA does not match those three people.

Q: Okay. What it means is is that they are -- they are absolutely excluded as the contributor or the contributors for that DNA that's on the inside of the condom?

A: For that -- that minor portion of that DNA that was mixed with the victim is not those three people.

Q: Yeah. It doesn't belong to them?

A: Correct.

Q: That DNA that was mixed, that DNA that was found on the inside of the condom doesn't belong to Williams or either any of the others, any of the other two -- two men; is that correct?

A: Well, that DNA was not matched to any -- it would not match to any male, period, because it's from another female.

Q: Okay. Okay. You're talking about the minor contributor?

A: Yes, sir.

Q: Okay. So the minor contributor from 2.1 does not match Whitney, Smith, or Williams?

A: Correct.

Q: Okay. And does -- is it listed on your report? Is it listed on your report anyplace? Because I may be missing it where it says that that that -- that that minor DNA belongs to a female?

A: No. That’s not reported, but I can look at my actual DNA results and see that. The -- like I said earlier, the

females have two X chromosomes and a male has an X and a Y. So in this sample, there's only an X chromosome. So even though it's a mixture, there's no Y chromosome. There's no male in that portion of the sample.

Q: Now, on Item Number 2, it says that DNA results -- that the DNA results from Items 2.2 is a mixture and, of course, 2.2 is the outside of the condom; is that correct? That's how it's identified at least on this report?

A: That's how it's identified, yes.

Q: Okay. The victim cannot be excluded and then, of course, again does that mean the same thing that when you said the victim cannot be excluded, that that's an absolute positive identification that the major contributor is the victim?

A: Correct.

Q: Exclusive of everyone else in the world?

A: Exclusive of all females.

Q: Exclusive of all females. Okay. Exclusive of all females. And it says the minor contributor from 2.2 does not match Whitney or Smith, and it says Williams cannot be excluded?

A: Correct.

Q: Okay. And of course, is is that when it says Williams cannot be excluded is is that does that mean that Williams is an absolute match excluding all other males?

A: Williams -- well, first of all, Whitney and Smith are excluded. All right? So that's a definite. Williams cannot be excluded. So the question is to what degree can he not be excluded. Well, that depends on how much DNA is there. In this case, we're dealing with a very, very small amount of male DNA in this particular test.

And when I get to the Y chromosome test, there's no doubt that it matches Williams, but in this test there's a very small amount of male DNA and there is a 12 -- 12,500 thousand times more likely to be him than some other random male picked out of the general population in Florence County, South Carolina, wherever you want to dictate.

Q: Mr. Barron, again, if you would just answer the question I ask you and then you can elaborate all you want.

A: I thought I did that.

Q: No, you didn't. I guess it requires a yes or no answer is is that for 2.2 -- for the Item 2.2 where it says that the minor contributor that Williams cannot be excluded, does that mean that he is positively identified exclusive of all other males? Is that yes or no and then you can elaborate?

A: Well, in order to say yes, the probability would have to be a very high number. In this case, it is not. So it is possible that it could belong to some other male, yes.

Q: It is possible that it could belong to some other male?

A: Yes.

Q: Is that correct?
A: That's correct.
Q: Okay. And so -- and of course, you correct me if I'm wrong is is that, like I said, I'm not a scientist, I'm not an expert at this, but my understanding is is that -- is that -- that genetically -- and you correct me if I'm wrong. That genetically that probably 99 percent of -- of the -- of all human beings probably -- I think it's something like 99 percent of all of our DNA is relatively similar and there's a small section of our DNA that is not; is that correct? So probably 99 percent of my DNA and your DNA might be very similar?
A: Well, most of our DNA is going to be similar because it identifies us as human beings. What's going to make it different is that I may have a gene that codes for a different height, weight, hair length, hair loss, race, etc.
Q: And I think the answer to that is yes and I'm going to get to that.
A: Okay.
Q: So the answer to that is yes, is it not? That primarily we share -- we all share similar DNA?
A: Yeah. But you quoted a certain percentage. I don't know if that's correct.
Q: Yeah. But --
A: So that's why I said most of the DNA would identify us

as humans as opposed to dogs, cats, monkeys, etc.

Q: Okay. Okay. Now, with respect to that -- with respect -- with respect to that specific strand that -- that is -- that is, you know, relatively different that is used to -- used for purposes of identification, I think that you said that there were -- like I said, my terms may not be the right terms, but something like 22 markers?

A: Yeah. Twenty-two markers, 22 points on the DNA molecule --

Q: Okay.

A: -- that is uniquely human, but doesn't have anything to do with identifying who you look -- what you look like or what diseases you might have, etc.

Q: Sure. And of course, of those 22 markers, those 22 markers are not unique to every single human being like a fingerprint would be? I think a fingerprint or at least as far as we know of as technology --

MR. CLEMENTS: Your Honor, I have to object. Mr. Brooker keeps talking about what he thinks and I would ask that he just ask questions and let the witness answer.

MR. BROOKER: Your Honor, he's there to correct me. I'm asking a question. If I'm wrong, he can say -- it's cross-examination. I can ask him leading questions. If what I say is wrong --

THE COURT: You can ask leading questions.

MR. BROOKER: Yeah. And what I'm saying is wrong, he can correct me.

THE COURT: Go ahead and ask your question.

MR. BROOKER: Okay.

BY MR. BROOKER:

Q: Now, my question is is that of those 22 strands that we've been talking about, the 22 strands that -- that are used for identification, my question is those 22 strands are not completely unique amongst every human being in the world? So there is some commonality in those 22 strands, is it not?

A: Well, if you isolate one strand, there would be some commonality.

Q: Okay.

A: But if you -- if you were to put all 22 together, then you get a statistical likelihood that it's impossible to be anybody else.

Q: Okay. And -- and I think what you're saying is -- and I'm going to repeat it and you correct me if I'm wrong -- is is that of those 22 strands, each individual strand there is commonality. So strand one there may be some commonality, strand two there may be some commonality, strand three there may be some commonality, but the probability that someone -- if you test all 22 markers, the probability that all 22 markers would be identical between two people is statistically unlikely? Is that what you're saying?

A: Impossible.
Q: Yeah. But --
A: Not unlikely.
Q: -- with respect -- but with respect to the -- with the -- with respect to each individual marker --
A: Correct.
Q: -- there is commonality?
A: Yes. Like I said, at each particular marker -- I answered yes.
Q: Yes. Go ahead and explain.
A: At each particular marker then a certain percentage of the population may have the same. So like in some cases, it might be 10 percent. In some cases, it might be two percent. It just depends on how rare your particular combination is at that location. Remember, you have two strands.
Q: Okay.
A You have one from mom and one from dad as well. So --
Q: Okay. Now, for Item Number -- for Item Number 22, the strand that you used to test Item Number 22, was that a complete strand that had all 22 markers?
A: Are you talking about 2.2?
A: Yeah. I'm sorry, 2.2.
A: Okay. In the -- in the case of the victim, yes, but in the case of the -- the male DNA, no.
Q: Okay. So --

A: And you have to --

Q: I'm sorry. Go ahead. I didn't mean to interrupt you.

A: Oh, that's okay. Each combination of strands from mom and dad is called a genotype. I hate to use the scientific term, but if you're familiar with that, then you -- if you took basic biology, you might know that, but it's referred to as a genotype.

So each of those strands is referred to as an allele. All right. So what scientists do is they will -- how often does a certain allele occur in the population? Some of them are very rare. Some of them are very common. But you have a combination of alleles. So you may have a very common allele and a very uncommon allele, but it would be your genotype at that spot. Okay? So if you have two common alleles at that spot, then you might share that with a lot of other people, say 10 percent of the population, which would be a lot of people in Florence County.

But each individual DNA location that's tested is independent. Like one dice rolling with another dice, they're independent. It doesn't affect each other. So the result of one then statistically is not added to the other, but is multiplied. So a one in six chance of rolling a six then is one in 36 of rolling two sixes. Does that make sense?

All right. So if you do that 22 times, you're going to

get an extremely large number. So it doesn't matter how common those strands are. You're still going to get a rare number when you're -- when you're dealing with all 22 locations.

Now, unfortunately, when we're dealing with a mixture, we don't always get all 22. We may get ten. We make get, you know, a partial result. So therefore, that number then is going to drop, and that's what's happening in this case is that the number is dropping down to 12,500 as opposed to 12 quadrillion or 12 quintillion or something like that. So even though it is not absolutely positive that it's Mr. Williams, it's a strong indication that it is.

Q: So -- so an absolute -- an absolute -- if you have all 12 markers -- if you have all 12 markers and you have an absolute determination, it could be -- like you -- I think the number that you used is that 12 zillion, you know, or whatever the number is?

A: Yeah. There's no zillion number, by the way.

Q: Twelve zillion, it could be. And of course, is that that's -- you know, that's almost absolute certainty; right?

A: Correct.

Q: Okay. Because you have all 12 markers and, of course, is --

A: Twenty-two.

Q: Excuse me. I'm sorry. All 22 markers because when you

have all 22 markers and then, of course, is that you can test all 22 markers, it increases the probability. You know, it increases the probability of absoluteness; is that correct?

A: Yes, it does.

Q: Okay. But of course, when you have less than 22 markers, then, of course, is is that it then begins to decrease -- decrease the percentage of absoluteness or the percentage of, I guess, accuracy; is that correct?

A: Well, it doesn't reduce the accuracy It reduces the probability.

Q: It reduces the probability?

A: Uh-huh.

Q: Which means is is that you're less sure than if you had all 12?

A: Right. We're dealing with probability.

Q: Excuse me. All 22.

A: So probabilities are how probable is it.

Q: Yeah.

A: All right. So like a football game, how probable is it so-and-so is going to win versus so-and-so. Okay? But it's all depending upon how much weight you put on that probability.

Q: And I think -- I think your answer to my question was yes, but let me -- let me ask to be certain for the benefit of the jury.

A: Okay.
Q: Because, obviously, is is that -- is that if you have less than 22 markers, then you're less sure than if you had 22 markers?
A: That would be correct.
Q: That would be correct?
A: Yeah.
Q: Okay. And I'm asking for -- for purposes -- and of course, we're going to get to the -- to the other -- the other test, but right now I'm just on page 1, number 2, and we're dealing with the -- dealing with Item 2.2, which is the swab from the outside of the condom. The strand that you used to calculate that, how many markers did you have? Of the 22, how many did you have? Did you have 10 markers? Five markers? Six markers? How many of those markers did you have?
A: Well, I had 22 from the victim.
Q: I'm not concerned about the victim. I'm talking about from Mr. -- yeah. I know you have 22 from the victim and that's why you said that we're absolutely certain --
A: Right.
Q: -- that the victim's DNA is on it, but of course, for the minor mixture --
A: Correct.
Q: For the minor mixture we're talking about, how many

markers did you have?

A: All right. The minor contributor then is present or the DNA that matches Mr. Williams is present at every location where there is DNA markers that are not the victim.

Q: How many markers?

A: So that's why I couldn't exclude him.

Q: I know. I understand.

A: You want to know a number?

Q: How many markers did you have?

A: All right. I have 22 altogether. I have a very, very small amount of male contribution because we're not dealing with a semen sample, which would probably give me all 22, but we're dealing with probably some type of skin cells, touch samples, that type of thing. All right?

And in a mixture, a male/female mixture that is the majority of it from the female, then a lot of her DNA is going to overwhelm that of the male. So if they have a similar allele, then I'm not going to be able to see him because she's going to cover him up. But every location where there's a different allele than the victim, that's going to be associated with the other person. So in this case at 12.

Q: Okay.

A: Twelve other locations I can clearly see that there's another contributor other than the female.

Q: Okay. So -- so for the major contributor, you have 22 markers?
A: Correct.
Q: Okay. And of course, for the minor contributor DNA, you have 12 markers?
A: I have 12 markers where I can see that there's another male, another individual which happens to be a male.
Q: Okay. Twelve markers where you can see that there's another individual?
A: Right.
Q: Okay. And because you don't have a full strand, that's the reason why you cannot give an absolute, you can't speak in absolute terms; is that correct?
A: Yes. Obviously, at some locations he has the same allele as the victim. As a matter of fact, I can look at their separate individual results and see where they -- where they share alleles.
Q: Okay. And of course, is is that of those 12 -- of those -- the 12 markers that you have for the minor contributor -- and I think you gave a statistical number and, of course, that statistical number is is that there's 12,000 -- 12.5 thousand times more likely that -- that Mr. Williams was the contributor?
A: Correct. Versus a random person.
Q: Okay. Twelve times -- 12.5 times?

A: 12.5 thousand.
Q: More likely compared to what size of population?
A: The random population of the human race.
Q: So so 12 -- so 12 -- 12,000 -- 12,500 times more likely?
A: Uh-huh.
Q: Out of a population of roughly 9 billion people?
A: Yes.
Q: Okay.
A: But I wouldn't say all 9 billion people were in Florence County at the time of this assault, but --
Q: But you couldn't say which of those 9 billion people is in Florence County, could you?
A: No.
Q: Okay. All right. All right. Now, which means is is that based upon that calculation, 12.5 thousand times more likely out of a population of roughly 9 billion people on the earth, is it possible that I could be a contributor? If you were to test my DNA, is it possible that my DNA could conclude that I was a potential contributor?
A: I can't say it's impossible, but I would think it's highly unlikely.
Q: Is it possible?
A: Possible.
Q: Is it possible that your DNA, if you were to test your own DNA?

A: Well, I have and it wouldn't match.
Q: It would not? Good.
A: We test everybody that works in the laboratory to make sure that we don't accidentally contaminate anything.
Q: Okay. Okay. I understand.
A: Yeah.
Q: But the -- but the point I'm trying to make is --
A: Uh-huh.
Q: -- is is that -- is is that you cannot tell the jury, you know, that I know that this DNA belongs to -- to Royal Williams? You can simply say that there's a 12.5 thousand times out of a population of 9 billion that it is him?
A: No. You're slightly misstating what I'm saying. It's 12,500 times more likely that it's him than picking an individual at random.
Q: Out of a population of 9 billion?
A: Right.
Q: Out of random?
A: Well, it would probably be approximately half of that if we're considering males, but anyway.
Q: Okay. All right. Now, let's go on to Item 2. I think -- just indulge me for just a second because I don't want to talk about -- I don't want to talk about items that we don't have to talk about.
A: Okay.

Q: Give me just a second to look at -- I think the page numbers are slightly inaccurate. I think on the second page, the start of the second page starts with paragraph 2. That probably should be a 3; right? So paragraph 2 on the second page is what I'm looking at, just so you can follow.

A: Yes. Right. It should be paragraph 3.

Q: Yes.

A: My apologies.

Q: That's all right. That's all right. That makes more sense. And of course, Number 7 was the headrest swab, I think a swab from the headrest from Ms. Joseph's vehicle; is that correct?

A: Okay. It's a swab from a headrest of a vehicle.

Q: Okay.

A: Now, I'm working in the blind. So I don't know whose vehicle it is.

Q: Okay. I'm sorry. I'm sorry.

A: All right.

Q: And of course, is is that report says the DNA results from Item 7 is a mixture, which means that it's -- it's -- there's multiple contributors; is that correct?

A: Correct. That means there's -- like I said --

Q: More than one person?

A: Yeah. Let me define a mixture just for clarification.

Q: Sure. Go ahead.

A: All right. So if I'm dealing with one person, then I have one strand from mom and one from dad. Now, let's -- I look at a DNA result and I got more than two alleles at a location, then we're talking about a mixture.

Q: Okay.

A: Just to clarify what a mixture is in DNA results.

Q: Okay. And let me ask one other question very quickly in reference to a mixture is that when you receive a mixture, can you -- can you tell how many people that may be involved in that mixture? Even once -- and I'm going to use this example and I'm just simply going to use -- I'm going to -- I'm going to -- to start off, let me ask you about the females. If you have a mixture that just contained -- that was just female DNA, you recognized as being female DNA, but it was a mixture, can you identify how many people that may have contributed to that mixture?

A: Well, if we're dealing with two -- the potential of two alleles per individual and you have a maximum of four alleles at any location, that would -- that would only be two people. Right? But if you've got more than four, then you're dealing with three people. If you've got more than six, then you're dealing with at least four people.

Q: It's possible?

A: See how that works? So if you're -- if you're dealing with the maximum potential of two from each person, so four

would be two, six would be three.

Q: I gotcha.

A: Eight would be four.

Q: I gotcha. And of course --

A: But unfortunately, sometimes --

Q: Go ahead. I didn't mean to interrupt you.

A: That's all right. At a location, we discussed earlier that some people could have the same allele. So even though I have three alleles, it still could be two people.

Q: You answered my next question.

A: All right.

Q: My next question would be is is that can -- can people share the same alleles? And so is if you had four alleles, then, of course, is is that it doesn't necessarily mean that there's two people? You know, it could be multiple people who share the same alleles, but obviously, you get into probabilities and what the probability of that is?

A: Right.

Q: But it's possible?

A: Right.

Q: And you wouldn't -- you would never be able to know exactly how many people were present who contributed to that mixture absolutely? You just can determine based upon probability, what is the probability, you know, that -- you know, that -- you know, these people would share the same

alleles?
A: Well, based upon my experience of 20 years of testing mixtures, I can look at the totality of the results and give you a very good estimate how many people it is.
Q: Okay. But that's what it is? It's an estimate? But --
A: Right.
Q: -- you can't say --
A: Based upon -- based upon experience and the knowledge that at no location can one person contribute more than two alleles.
Q: But again, that is -- again, you can't say for absolute is that that's -- that's an estimate based upon your years of experience?
A: Yes. We have to make some assumptions in science.
Q: Certainly, certainly. You've got to make some assumptions?
A: Right.
Q: Okay. Number 2 goes on to say that the victim cannot be eliminated, and I'm assuming that that language, as it does before, says that the victim is positively identified?
A: Well, in this case, I wouldn't say the victim is positively identified. I'm just saying that the genotypes present in the mixture have the DNA -- the DNA from the victim as well. And in the -- considering the fact that if this is the victim's vehicle, then we would assume she would

be present in her vehicle.

Q: Okay. And let me ask you something because now you're confusing just a little bit.

A: I know it's confusing.

Q: Because before in connection with Items -- paragraph 2 on the first page of -- excuse me -- paragraph 2 on the first -- paragraph 1 on the first page --

A: Yes. That's easily explained. I know what you're going to ask me.

Q: Yeah. Because you have the same language. On paragraph 2 and 3 on page 1, you said the victim cannot be excluded, the victim cannot be excluded, and then you said that means is that she is absolutely, positively identified, exclusive of all other women?

A: Correct.

Q: But of course, is is that the identical language is used on paragraph 2 of the second page where it says the victim cannot be eliminated, the exact same language, and then you just tell the jury it means something slightly different, that she's not positively identified. Why does -- why does the exact language on page -- on page 1 means [sic] something different than the exact language on page 2?

A: Okay. All right. We try to condense our reports as much as possible to make it easy to read and understand, but when we're dealing with a major contributor, that's when

we're dealing with a positive identification.

In the mixtures on the headrest and the door handle, we're not talking about a major contributor. We're talking about a mixture that has equal -- or not equal, not specifically equal, but variously amounts of contributions from different people of which one of those people there are strong indications could be that of the victim. So that's why we say she can't be eliminated.

Q: Okay.

A: But I know the results of the condom as being -- because I can look at the results here in front of me and say -- see that she's the major contributor and that major contributor matches perfectly with her known sample. So that's why I am more certain with the condom than I am with the other. Does that make sense?

Q: I understand, I think, and what you're saying is is that -- that the -- that the contribution from the female here is not as strong as the contribution from the female --

A: That's correct.

Q: -- for --

A: But she can't be eliminated.

Q: Yeah. She can't be eliminated, but she cannot be positively identified, like you were on the first page in paragraphs 1 and 2?

A: Well, it's pretty strong, but it's not as strong because

she's not the major contributor.

Q: Absolutely.

A: Okay.

Q: And of course, it goes on to say is is that -- of course, we're still on the second page.

A: Yes, sir.

Q: On paragraph 2 at the top, it says Whitney and Smith are excluded and it says Williams III cannot be excluded and, of course, is is that it's that same thing and, like I said, is I'm not going to go into a lot of detail, but the same analysis when it says can't be excluded is is that what you're saying is is that you cannot positively say that that DNA is Mr. Williams', but obviously is is that you can make a -- you can make a conclusion based upon probability; is that correct?

A: That's correct.

Q: Okay.

A: I can make a conclusion on the other two people that there is zero percent probability of them being in the mixture.

Q: Okay. And of course, it says based on the most recent population data and the genetic results contained, Williams is approximately 2.8 thousand times more likely to be -- to be the contributor. Again, out of a population of 9 -- roughly 9 --

A: Right.
Q: -- billion people; is that correct?
A: Correct. Of being a contributor to that mixture.
Q: Okay. So 2.5 thousand times out of a population of 9 billion?
A: Right.
Q: Okay.
A: And I actually have some notes here to indicate that the victim is, like, 6 million times more likely to be in that mixture as well.
Q: Okay. So she --
A: But I didn't make that as part of my report because if this belongs to the victim, it's expecting her to be there and usually a statistical value is not necessary.
Q: So you --
A: But I just wrote it down just in case.
Q: Yeah. You're more positive about her contribution?
A: Correct.
Q: Her being a contributor to that female DNA than --
A: Right.
Q: -- than he's the male?
A: Right.
Q: Now, I'll ask you the same question for -- for paragraph 2 on the second page. The strand of DNA that were used -- and are we using the same -- well, this is -- this is from

the headrest. So obviously, is is that of the 12 markers that we previously established is is that -- is what -- is what's necessary to make just an absolute positive identification. In this particular sample, how many of the male markers out of that 22 were present for this sample?

A: That would take some time because there -- the other sample was easy because there was only two people. This one has more than two people.

Q: Do you know how many people this one has?

A: It has -- it has at least three.

Q: It has at least three?

A: Right.

Q: Could potentially be more, but three you're certain of?

A: It's --

Q: In other words, at least three?

A: It's at least three and, in my estimation of mixtures, that's the more likely the number of contributors to this mixture.

Q: But it could be more?

A: It's possible to be more because of the fact that people share alleles.

Q: Yeah. People share alleles. Okay. And again, I'll ask you that question. If you don't -- if you don't know -- I think previously when I asked you about the condom, you said that of -- that of the 22 markers -- identifying markers that

-- that the strand that you used for comparison or at least for identification, there was 12. For this particular identification on 2 -- on paragraph 2 of the second page, of those -- of that 22 markers, identifying markers, how many was present at least for this strand of DNA? And I'm talking about male contributors.

A: You'll have to wait a second while I look at the data. Okay?

Q: Certainly. Certainly.

A: Fifteen.

Q: There's 15 in this one?

A: Fifteen where his DNA can obviously be seen.

Q: Okay. But the probability is less because there are more contributors?

A: Correct.

Q: Okay. So that's why you get 2.8 thousand -- 2.8 thousand times?

A: Right. Because the other contributors are probably overlapping some of his stuff too.

Q: I gotcha. I gotcha. Okay. And then, of course, for number 3 -- and of course, I'll go through this pretty quickly. It's pretty much we talked about the same stuff. Number 3 on paragraph 3 of the second page, we're dealing with Item Number 8, which is the inside door handle?

A: Uh-huh.

Q: Okay. Of the car. Well, you don't know that. I'm sorry. Inside door handle.

A: I assume that's a car.

Q: Okay. Inside door handle.

A: You're dealing with a headrest and a door handle. So I assume it's a car.

Q: And of course, it says again that the victim cannot be eliminated and I'm assuming pretty much the same thing is is that, you know, because in this particular -- in this particular sample, she is not the, I guess, major contributor. So you can't say for absolute. So that's why you have it there that the victim cannot be eliminated?

A: Right.

Q: Okay. Because -- all right.

A: Again, her -- the likelihood of her is 114,000 of being in the mixture. So --

Q: Okay.

A: She's not contributing as much in this one as she was in the headrest.

Q: Okay. And Whitney and Smith are excluded?

A: Correct.

Q: Okay. And it says Williams cannot be excluded, and then pretty much the same thing. I don't want to beat a dead horse is is that basically you're saying is is that you can't positively say that the DNA belongs to -- to Royal Williams,

but you can get a statistical probability?

A: That's correct.

Q: Is that right?

A: That's correct.

Q: And that's a statistical probability is 120,000 times more likely out of a population again of 9 billion roughly?

A: That's correct.

Q: The population of the earth?

A: Yes, sir.

Q: Okay. And now we get to the Y-STR DNA?

A: Oh, you're not going to ask me how many locations he's in?

Q: I'm sorry. Say that again?

A: You're not -- you're not going to ask me how many locations he's at on that mixture?

Q: Well, hold on. If you want to tell us, I mean --

A: Well, I was starting to count because I thought that was the next question. But anyway --

THE COURT: Don't get him started.

BY MR. BROOKER:

Q: No. Since we have the -- since we have the -- I guess the -- you know, we have the mathematical percentage --

A: Right.

Q: -- of probability, you know, I'm going to spare everybody.

A: Okay. Okay.
Q: Okay.
A: You spared me too. I appreciate it.
Q: All right. Okay. And of course, is is that when we get down to -- I think this is paragraph 5?
A: Right.
Q: And of course, underneath paragraph 5 we have a subparagraph 1 and, of course, is is that under that one is says the Y-STR DNA resulting -- result development from Item 2.2. And Item 2.2 is again what's identified as the outside of the condom, and I think you said based upon the most recent population data available and the genetic results obtained, Mr. Williams is approximately 1,850 times more likely to be the contributor, again out of a population of roughly 9 billion. Is that correct? We're dealing with the same population?
A: Well, we're talking about males because this is Y. We're dealing with a Y chromosome.
Q: Okay. Dealing with a Y chromosome. So that 9 billion, whatever the population is is males?
A: Yes. So since we're only dealing with the Y chromosome, your statistics are going to be much weaker, but the question is does it match and we did test 15 locations and it did match. Every single one of them completely. There's no partial here.

Q: Okay.
A: And statistically speaking, that occurs in about one in 1,850 males.
Q: Okay.
A: Based upon the population database that was used at that time. Now, in male DNA and Y-STR results, the results are being added constantly. So if I were to go to the database today, I'd probably get a larger number than that for a match because the database is being -- is growing as we speak.
Q: Is that -- is that an estimate of what you -- is that a speculation?
A: That was the estimate at the present -- at the time that that calculation was made, but that was made some time ago. So --
Q: I think this report is dated -- is it a couple months ago, July 8th of 2019?
A: Well, that was because I had to run his buccal swab twice.
Q: Okay.
A: The first one was tested a lot earlier.
Q: The first one was tested in February of 2019; right?
A: The first --
Q: Buccal swab.
A: Buccal swab from Mr. Royal? Mr. Williams?
Q: Mr. Williams, yes.

A: Right.
Q: Okay. That was tested this year though; right?
A: Correct.
Q: Okay. Tested this year and then, of course, a little bit earlier part of this year. This one was tested in July of this year?
A: Correct.
Q: So not that -- not that long?
A: It wouldn't be that much different, but it would probably be different.
Q: Probably; right?
A: Yeah. It would probably be a little bit more rare than that, maybe around 2,000.
Q: Okay. All right. Now -- okay. And give me just a second. I might be finished. And I think it just says on number 2 that the DNA results from Item 7 and 8 contains multiple male contributors and I think you've already said that?
A: Yes, sir.
Q: Okay. Now, I'm going to ask a couple more questions I think and I'll be finished. Is is that, obviously, I know that on -- on this report, State's Exhibit Number 8, I think on the first page, Items 9 and 10, both are buccal swabs from Royal Williams III; is that correct?
A: That's correct.

Q: Okay. Now, the buccal swab on Item Number 9 from Royal Williams III, was there something defective about that sample?
A: No.
Q: There was nothing defective about that sample?
A: No, sir.
Q: That was a perfectly good sample that allowed you to do your testing?
A: Yes, sir.
Q: Okay. And of course, the buccal swab for Royal Williams, I think, on Item Number 10, was that also a -- a -- that was not a defective sample, was it not?
A: No. They were both --
Q: And of course --
A: Both could have been used independently. I did not need to run it twice.
Q: You didn't need to run it twice?
A: No. But I was asked to, so I did.
Q: Okay.
MR. BROOKER: If you can indulge me for just a second, Your Honor.
THE COURT: Yeah.
MR. BROOKER: Let me make sure if I have any additional questions.
Mr. Barron, thank you very much. I have no further

questions for you.

THE COURT: Anything on redirect?

MR. CLEMENTS: No, Your Honor.

THE COURT: All right. Any objection to this witness being excused from you, Mr. Brooker?

MR. BROOKER: No objection from me, Your Honor.

THE COURT: All right.

THE WITNESS: I think this is your copy, sir.

MR. BROOKER: Thank you, sir.

THE COURT: Thank you very much for being here today.

THE WITNESS: No problem. Thank you, Judge.

THE COURT: Sir, you're free to go. Thank you.

All right. Ladies and gentlemen --

MR. CLEMENTS: Your Honor, the next witness will be a little lengthy.

THE COURT: Your next witness won't be 'til after lunch.

MR. CLEMENTS: All right.

THE COURT: Ladies and gentlemen, enjoy your lunch break. Please have no conversation. Don't allow anyone to talk with you about the case. In short, do everything within your power to maintain your ability to remain fair and impartial.

I ask, if you would, to be back in the jury room at 2:30 and we'll start back at that point. Everyone else please remain seated while the members of the jury are excused.

(WHEREUPON, the jury exited the courtroom at 1:06 p.m.)

THE COURT: All right. We'll start back at 2:30 and I'll be here if you need me for anything. Okay?

MR. CLEMENTS: Thank you, Your Honor.

MR. BROOKER: Thank you, sir.

(WHEREUPON, there was a break in the proceedings from 1:07 p.m. until 2:37 p.m., after which the proceedings resumed as follows.)

THE COURT: All right. Anything we need to take up before we get started from the State?

MR. CLEMENTS: Nothing from the State.

THE COURT: Anything from the defense?

MR. BROOKER: No, sir, Your Honor.

THE COURT: Okay. Your next witness, Solicitor? Who's your next witness?

MR. CLEMENTS: Ryan Keep.

THE COURT: Are they in the courtroom?

MR. CLEMENTS: No, sir. I think they're in that little room back there.

THE COURT: Let's go ahead and have them have a seat.

MR. CLEMENTS: Okay.

THE COURT: And then when you call them, we can just go. All right. Let's bring the jury in, please.

(WHEREUPON, the jury entered the courtroom at 2:38 p.m.)

(WHEREUPON, a bench conference was held in the presence

of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: All right. Solicitor, you may call your next witness.

MR. CLEMENTS: Your Honor, if it please the Court, we'd call Mr. Ryan Keep.

THE COURT: Mr. Keep, if you'd please come around to be sworn, sir.

THE CLERK: Sir, please raise your right hand and place your left hand on the Bible. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated in the witness stand and please state your full name for the record.

THE WITNESS: My full name is John Ryan Keep.

RYAN KEEP, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Keep, good afternoon.

A: Hello.

Q: Where are you from?

A: Kansas City, Missouri.

Q: And who do you work for?

A: I work for Sprint.
Q: In what capacity do you work for Sprint?
A: I'm a records custodian for their legal compliance department.
Q: Okay. Can you explain to the jury what a records custodian for the legal compliance department is?
A: Yes. I provide records based on legal demands like court orders and search warrants and then I come to court to testify to those records.
Q: All right. And is that what you're here for today?
A: It is.
Q: Okay.
MR. CLEMENTS: May I approach, Your Honor?
THE COURT: Yes, sir.
BY MR. CLEMENTS:
Q: I'm going to show you what's been marked as State's Exhibit, for identification, Number 9. Could you please tell me if you recognize this and know what this is?
A: I do.
Q: Okay. And I'm going to show you what's been marked as State's Exhibit 10 for identification. Do you recognize that and know what that is?
A: I do.
Q: In regards to State's Exhibit Number 9, what is that? Can you tell the jury, please?

A: Yes. This is a list of the cell towers and the relevant information, including latitude and longitude for each tower, for the Columbia market area.

Q: Columbia, South Carolina?

A: That's correct.

Q: For what dates?

A: This document was created on January 22nd, 2016, and so it would be a snapshot of the towers around that time frame.

Q: And State's Exhibit 10, can you tell us what that is?

A: Yes. State's Exhibit 10 includes a certification certifying the documents included hereafter, which is the compliance letter stating the -- the status of the request and how we replied to that request. It includes subscriber information and call detail records for a time frame of January 1st -- my apologies. January 1st, 2016, through January 25th, 2016.

Q: For what phone number?

A: That is for telephone number 843-468-6516.

Q: Do you know who the subscriber is on that number?

A: The name listed on the account is Royal Williams.

Q: Is he the one that is financially liable for that?

A: Yes.

Q: All right. Can you tell me in regards to State's Exhibit 9 how is this information maintained and what does your company do to keep those records? Why do they keep

those records? Do they keep them in the normal course of business?

A: They are kept in the normal course of business. This record is maintained to accurately keep track of the towers for each of our market areas, this one being specifically the Columbia market area.

Q: And what does it take to get those type of records from your company?

A: The -- the cell site list of just the towers for each market area is -- is available full time on what we have that's called the L-Site System [ph]. It's the law enforcement support web portal. It is a tool that can be used to deliver a court order or a search warrant or a subpoena and also retrieve records through that same system.

Q: Okay. And are these maintained separately from the -- from the actual telephone records?

A: They are.

Q: Different from AT&T?

A: Yes.

Q: Okay. Now, can you please answer the same questions to us in regards to State's Exhibit Number 10? Is that made in the normal course of business?

A: It is.

Q: And how is it maintained?

A: These are maintained electronically.

Q: Okay. And flesh that out a little bit. When you say it's maintained electronically, is that where it's accessible anywhere?

A: No. This information is -- it is generated at or around the time of the events for the phone calls and the text messages. For the subscriber information, that is maintained and created at the time the account is created or anytime there are changes made to the account. The production of this information is only made available with a valid legal demand, such as a search warrant, court order, or subpoena.

Q: Okay. All right.

MR. CLEMENTS: Your Honor, at this time, I would move State's Exhibit 9 and 10 into evidence.

MR. BROOKER: Just subject to our previous objections, Your Honor.

THE COURT: Okay. I'm going to note those objections and overrule and allow it in. That's State's?

MR. CLEMENTS: 9 and 10.

THE COURT: 9 and 10?

MR. CLEMENTS: 9 is the cell tower sites and 10 are the actual phone records.

THE COURT: All right.

(WHEREUPON, State's Exhibit Number 9, cell tower sites, and State's Exhibit Number 10, phone records, were admitted into evidence.)

BY MR. CLEMENTS:

Q: Mr. Keep, let me ask you just a few more questions. How long have you worked for Sprint?

A: I've worked for Sprint since 2009.

Q: In the same job title, same chores you did then as now?

A: Previously, I was an electronic surveillance technician until December of 2017 and then in January of 2018 and on I've been a records custodian.

Q: Okay. And have you testified in court before?

A: I have.

Q: Approximately how many times?

A: Between 80 and 100 times.

Q: Okay. All in regards to authentication of cell phone records?

A: Yes.

Q: All right. Okay. I'm going to show you the top page of State's Exhibit 10. Can you explain to the jury what that is exactly?

A: Yes. This is a certification document. This is a document that certifies the accuracy and authenticity of the documents attached to this -- this letter.

Q: Okay. And all it -- it just does in writing what you're here to do in person; is that correct?

A: That's right.

Q: And State's Exhibit 10, is it a packet of information?

A: It is.

Q: And it includes that certification, and I'm going to put a second page down and you can explain to us what that entails?

A: Yes. This is the compliance letter. This is the letter that we send out with the requested records. It is basically just -- it has routing information on who we're sending it to and then following this page it includes the status of the request, whether we were able to comply with them or not and, if we were able to comply with them, it includes that information.

Q: Okay. Can you explain to us what this document is?

A: Yes. This is the subscriber information portion of that response letter. It has at the top of the page the request type, which says subscription info basic. It has the date range that this information was requested for, again January 1st, 2016, through January 25th, 2016. The following line is the telephone number that this was requested in reference to.

After that, it has account details, the billing name, billing address, and alternate contact phone number. Following that are subscriber details. That just has some information specific to the account, such as the serial number of the device, the telephone number of the account, and the status for that number at specific time frames.

Q: All right. And what is this document?

A: And that is a continuation of that previous page. This has -- this actually has the page with the serial number for that device. It also has the features of the account. If we were to look at the bottom of this page, it also shows the request type that was made for voicemail access, and it says under the comments that there were no voicemail -- voicemail messages found for that time frame.

Q: Okay. And for no voice messages to be found, could that be for more than one reason?

A: It could be. I wouldn't know why the voicemail wouldn't be found.

Q: If there were -- if there were none, would that be a reason?

A: Yeah. Absolutely.

Q: How about if they were deleted?

A: That is also a valid reason.

Q: Okay. And what is this last document here for this section?

A: That is the final page of the response letter. This says the status of the request type for CDR with cell site. That stands for call detail records of the cell site. As you can see in the comments, it says a thorough search has been completed. Please see attached records found for the requested time period.

Q: I'll show you this next document. I'm so used to a copy

machine putting the thing face down. There you go. How about this document?

A: This is our instruction set on how to read the call detail records.

Q: All right. To understand what are on the call detail records, if you're a layperson, you really need this, don't you?

A: Yes. This is very useful if you've never read our records before.

Q: All right. And what's on the information contained on there?

A: This explains the columns that you'll find on the call detail records. It has the calling number. That's the phone number that placed the phone call. The called number is the number that received the phone call. The dialed digits are the -- the digits that were entered into the calling number's handset to place a phone call.

After that, we have mobile roll. That indicates if it was an outgoing, an incoming or a routed phone call. It may also list undetermined. If it says undetermined, you can infer the type of call by looking at the other columns in the report.

After that, we have start date. That's when the phone call started or actually was -- was active on the Sprint network. And that's -- that time zone is indicated in local

time zone to the switch for phone calls. For text messages, it will be stored in central time zone. And date is the time and date that the phone call ended.

After that, we have duration. That's how long the phone call lasts and that's indicated in seconds.

After that, we have call type. For this report, it should say voice for voice phone call or text detail if it was a text message. We also have Wi-Fi and Airave calls, though they are much less common and those are for all practical purposes just standard voice phone calls.

Q: Okay.

A: After that, we have NEID. That's the -- the network element ID that handled the call. That means the switch that handled the phone call.

Q: Okay. And you said switch. Is that attached to a cell phone site, a cell tower site?

A: It is. The -- the cell towers are the points that connect to the cell phones. The cell towers are then connected to the central switch to process those calls. It's much like a -- a switchboard where somebody made physical connections.

Q: The old-time switchboard where they plugged in the line and unplugged the line?

A: It works the same way, just now it's digital and high speed.

Q: Okay.

A: Then after that, we have first cell. That is the cell tower that was used at the very beginning of the phone call. It will have the side of the tower and the tower itself. And then the last cell is the cell tower and the side of that tower that was used when the phone call ended.

Q: Okay. The next page?

A: This page is a continuation of the previous page. It explains some of the details of our call detail records.

Q: Okay.

A: And again, a continuation of that key to understanding the instructions that this is the final page of plain text.

Here we have a list of star codes. This just explains if you find any star codes on the report, it explains what that star code could mean. That would be -- when I say star code, I mean dialing star and then, for example, star 2 dialed into a Sprint customer's handset takes you directly to customer service.

Q: Okay.

A: This is an explanation of our tower sector layouts. This shows just a quick example of how to look at our towers. Our towers have three sides. It also explains the sector orientation and the number that you look at on the call detail records for Lucent towers, which is the type of equipment used with this set of records, the numbers indicate

2, 3, 4 for the sides. On the list of call detail -- I'm sorry -- the list of cell sites, which is State's Exhibit 9, that will be referred to as 1, 2, 3.

Q: Okay. Lucent goes from 2, 3, 4?

A: Yes. Lucent says 2, 3, 4 needs to be converted to 1, 2, 3.

This is just a document explaining how we provide our records and the record file types that we use.

Q: That would be how you respond to a request?

A: More specifically, the -- the actual file extensions that we use. If it was an Excel file or a tagged image format or TIF. It's really just more of a technical document explaining the file -- the file type.

And this is our NEID list. This is the switch list, a list of all of the markets that Sprint operates in the United States.

Q: And are there several pages of that list?

A: There are. One useful thing to point out about that is it does indicate the time zone of each switch on that document.

And this document is the call detail records for telephone number 843-468-6516.

Q: And again, whose phone number was that?

A: That was -- I'm sorry. I don't actually have that document in front of me again.

Q: Okay.
A: But that was, I believe -- was that -- I would have to look at the document again. I'm sorry.
Q: Okay. Explain how many pages are in these records of telephone calls?
A: This says a document with 96 pages.
Q: Okay. And this is page number 1?
A: This is page number 1 of that document.
Q: Can you tell us about the columns and what those columns mean?
A: Yes. In this, I did go over the columns with the instructional set, but I'll go through it again so you can actually see the columns now.

The first column is calling number. That's the number that places the phone call or sends the text message.

The called number field, the second column, is the number that received the phone call or received the text message.

After that we have dialed digits. That's the telephone number that was dialed into the calling handset's phone to place the phone call.

The fourth column is mobile roll. That indicates if it was an incoming, outgoing or routed call.

Q: Okay. Let me ask you this. Where would -- where are the possibilities for the subscriber's number to show up on?

On one or two columns or more? And how does that relate to the mobile roll?

A: The -- for example, if you were to look at the very first call on here, the subscriber's phone number shows up in the called number field, the second column, and the mobile roll indicates that it was inbound. So that means that the subscriber's number received a phone call and it will show up in that called number field for that circumstance. If the subscriber places a phone call, that number will show up in the first column and mobile roll will indicate outbound.

Q: Okay. Now, what is the column that's designated start gate -- start date? Excuse me.

A: Start date indicates the time and date that a phone call starts on the Sprint network or when a text message was sent.

Q: All right. And what about the end date?

A: That's when a phone call ends on the Sprint network. In the circumstance of a text message, it will be the exact same as the start date because that message is sent instantaneously.

Q: So start date and end date on a text message is identical?

A: That's right.

Q: Okay. What's the next column?

A: That's duration. That's how long the phone call lasts on the Sprint network and that's indicated in seconds.

Q: So if it's a text call, how many seconds would it be?
A: Texts will have a duration of zero seconds.
Q: Okay. Voice call will have however many seconds, like 116 is down in the column. That would be 116 second call?
A: That's right.
Q: Okay. All right. The call type, I guess, is explanatory?
A: Yes. That is if it was a text message or a voice phone call.
Q: Okay. And then again the NEID?
A: The NEID stands for network element ID and that's just a numerical value that we give to the switch that handled that phone call.
Q: And the first cell?
A: That is the cell tower and the side of the tower that was used at the beginning of the phone call.
Q: Okay. And the last cell?
A: And that's the cell tower and the side of that tower that was used when the call ended.
Q: Let me ask you this question. What -- what shows up in the records if you start a cell call in one area and you're driving like, say, Florence and then you go down I-20 to Columbia and you end the call there? What's going to show up on the last cell and the first cell?
A: The first cell will be the tower here that you started

the phone call on and the last cell will show whatever tower you're connected to in Columbia when you disconnected that call.

Q: What about in between?

A: It will not keep a record of the towers utilized in between.

Q: Okay. Just the starting and the ending?

A: That's correct.

Q: Do these records -- do they contain the complete record of phone calls and text messages made on this subscriber's phone number from the 1st of January to the 23rd of January?

A: That's correct.

Q: I'm going to ask you about State's Exhibit Number 9. All right. Can you tell me about this document?

A: Yes. So this is the list of all the cell towers that exist in the Columbia market area. The first column indicates the cell tower number. You'll notice that each row has the same number for three rows. For example, you'll see rows 1, 2, and 3 have the number 1, 4 through 6 have the number 2. That's all the same cell tower.

Q: Okay.

A: After that we have cascade ID. That's just an internal identifier that we use to track each tower number.

The next column is switch. That indicates the Columbia market area. So that will be the same for this entire

document.

Following that is NEID 39. That is the numerical value for this market. So that will be the same all the way through.

After that is repoll number. That is just a numerical value that we used to use. It has now been replaced by NEID. So it was left on here for ease-of-use for people that are used to reading our older records. That'll also be the exact same for the entire document.

Following that, we have latitude and longitude. That is the latitude and longitude for where the tower is physically located.

Q: The physical location of the cell tower?

A: That's right. After that, we have BTS manufacturer. That indicates who the manufacturer of the switch equipment is. For this document, it is the exact same. It is Lucent. That is the one company that produced that equipment.

After that, we have sector. Each sector or -- I'm sorry. Each tower has three sectors. So you'll see 1, 2, and 3 listed in repetition here.

After that, we have azimuth. That indicates the direction that that antenna is facing on each tower. So, for example, on the first row with information, we have an azimuth of 10. That means that that set of radios is tilted 10 degrees clockwise from north, if you're looking down on

the tower.

Q: Okay. So that would be on a 360 degree circle?

A: That's correct.

Q: And it would be at 10 degrees?

A: Yes.

Q: Okay. All right. And what's the CDR status?

A: That indicates if that tower is active or inactive.

Q: And how big is the Columbia market?

A: It's a relatively large area. It covers most of, if not almost all of South Carolina.

Q: So according to this document, it would be 54 pages' worth?

A: Yes.

Q: So this is page 1 of 54?

A: That's correct.

Q: And it's the cell site locations for January 22nd, 2016?

A: That is when this list of towers was compiled.

Q: Okay.

MR. CLEMENTS: Your Honor, I'm going to hand off to Mr. Hoefer right now.

THE COURT: Okay.

MR. CLEMENTS: Please answer any questions Mr. Brooker may have.

THE COURT: All right. Mr. Brooker, cross?

MR. BROOKER: If you'll indulge me for just a second,

Your Honor?

THE COURT: Sure. It should be Exhibits 9 and 10.

MR. BROOKER: Yes, sir.

THE COURT: Yeah.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Mr. Keep, I know that you testified that you work for Sprint and that you are a records custodian?

A: That's right.

Q: Okay. And of course, is is that you're here today to authenticate the records that was requested of Sprint and that have been identified as State's Exhibit 10 -- 9 and 10; is that correct?

A: That's right.

Q: All right. Let me ask you a question in reference to what's identified as State's Exhibit 10 and I believe that those are the cell call records?

A: That's right.

Q: Okay. Where are these records maintained?

A: They are maintained electronically on Sprint servers.

Q: Okay. And electronically on Sprint servers? And where are those servers located at?

A: At the headquarters in Overland Park, Kansas, and at some of our offsite data centers.

Q: Okay. Those off -- and I'll ask you and you may not

know for certain, but at least what's been identified as State's Exhibit Number 10, which is those cell call detail records, was these maintained in a database in Kansas City? Excuse me. In Kansas?

A: I'm not certain. I know that we have redundancies. So they are stored in multiple locations for data integrity and safety.

Q: Okay. Okay. And do you know where they were compiled at?

A: The --

Q: The records?

A: These records -- the request for -- for that specific list of calls was submitted by somebody in my department at the Sprint headquarters in Overland Park, Kansas.

Q: Okay.

A: And it was compiled on the servers, wherever those were located, and then supplied to our systems in that department.

Q: Okay. So -- so wherever the servers were located at, you retrieve -- you retrieved that information from those servers and, of course, is is that -- and then, of course, you compiled them in Kansas?

A: That's right.

Q: Okay. And of course, the same thing for State's Exhibit 9, which is the cell site location information. Was these records compiled in the same way that you just explained?

A: They are -- they're not compiled using the same software. The cell towers are a list that our engineers are capable of keeping track of without needing to get our business records involved to collect those records.

Q: Uh-huh.

Q: So that file is something that we have maintained regularly on the Sprint headquarters in our internal device and then also, as I stated in questioning earlier, that file is also available through our L-site system.

Q: Okay. And so it's available I think you said in your headquarters in Kansas City?

A: Yes.

Q: Okay. And is that where these records that's specifically State's Exhibit 9, the cell site location records, is that where they were compiled at?

A: The -- I actually don't know where those are compiled at. I know it's compiled by one of our engineering teams. So I don't know if they're located at the headquarters or not.

Q: Okay. Thank you. And I just want to ask you this and, of course, is I'll put it on the projector so that you can see and, of course, is I'm looking at what's State's Exhibit Number 10 and, of course, is this would be the first page of the cell phone -- the cell call, I think, data. And the only thing I want to ask you about -- the only thing I want to ask

you about is is that the start date and, of course, is is that if you're looking at least what's on your screen and, of course, we're looking at that first call and, of course, the call number is 843-862-4299 and then, of course, the called number is 843-468-6516. Are we looking at the same line?

A: Yes. The very first line available with subscriber call information available?

Q: Yes. And of course, is is that the -- I think the start date is January 1, 2016, and of course, is is that the start time is 2:31:51. Is that Eastern Standard Time?

A: That is a text message; so that is stored in Central.

Q: That's stored in Central? Okay. So yeah, text messages are stored in Central and, of course, is is that voice calls are in Eastern Standard Time?

A: The -- specifically, the voice calls will be relative to the switch that processed the call and the -- the voice call switches in this document are all in Eastern. So for this report, the voice calls are in Eastern.

Q: Okay. Because -- because the switch -- because obviously, we're talking about the Columbia -- Columbia regional market?

A: That's right.

Q: Where all the calls were handled and so -- and so all of the voice calls would be Eastern Standard Time?

A: That's right.

Q: Okay. And then, of course, they would be in military time; is that correct?

A: That is correct.

Q: All right.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I might be completed with my questioning.

THE COURT: Yes, sir.

MR. BROOKER: Let me just check and make sure. I have no further questions.

THE COURT: All right. Anything on redirect?

MR. HOEFER: Nothing on redirect. May we approach?

THE COURT: Yeah.

MR. HOEFER: I would ask that Mr. Keep be excused.

THE COURT: Is there any objection?

MR. BROOKER: No objection, Your Honor.

THE COURT: Mr. Keep, thank you very much, sir.

THE WITNESS: Thank you.

THE COURT: You're free to go. Thank you.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: Before this next witness, folks, we're going to take a short break. So if you would, step back in the jury room. Please have no conversation about the case. I'll get you back out here shortly.

(WHEREUPON, the jury exited the courtroom at 3:15 p.m.)

(WHEREUPON, there was a break in the proceedings from 3:16 p.m. until 3:30 p.m., after which the proceedings resumed as follows.)

THE COURT: Is the State ready to proceed?

MR. CLEMENTS: Yes, sir.

THE COURT: Is the defense ready to proceed?

MR. BROOKER: Yes, sir, Your Honor.

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

THE BAILIFF: It'll be just a minute, Judge.

THE COURT: All right. That's fine.

(WHEREUPON, the jury entered the courtroom at 3:32 p.m.)

THE COURT: All right. Folks, we're ready to proceed. We'll pick up where we left off and would recognize Mr. Clements for the State's next witness.

MR. HOEFER: Your Honor, we would call Mr. James Swinton.

THE COURT: All right. Mr. Swinton, if you'd please come around to be sworn.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Please take a seat in the witness stand and

state your name for the record.

THE WITNESS: James Swinton.

JAMES SWINTON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Mr. Swinton, how are you doing today?

A: I'm doing all right.

Q: Where do you live, Mr. Swinton?

A: In Darlington, South Carolina.

Q: Have you lived there all your life?

A: Yes, sir.

Q: Back in January of 2016, who were you working for?

A: Speedy Cab Company.

Q: Do you still work -- still work for Speedy Cab?

A: No, sir.

Q: Okay. During that time, were you a cabdriver or something else?

A: I was a dispatcher.

Q: Dispatcher?

A: Yes, sir.

Q: Okay. Can you explain a little bit to us about how you do your job? Most people are familiar with a dispatcher, but tell us how you did your job there at Speedy Cab?

A: Well, when people call needing a cab somewhere, I write

it down in a book for a log and call a cabdriver and send it to the address where they're located at.

Q: Okay. Did you have occasion to get a call wanting a cab to come to 3618 Century Drive in Florence?

A: Yes, sir.

Q: Okay. And did you keep that on your log?

A: Yes, sir.

Q: Who did you send to pick up that cab drive -- that cab ride?

Q: Keya Goins.

Q: Okay. Is she -- is she a cabdriver for y'all for quite some time?

A: Yes, sir.

Q: Okay. I'm going to show you what's been marked State's Exhibit Number 11 for identification purposes. Can you identify this?

A: Yes, sir.

Q: What is that?

A: My log sheet from that day.

Q: Whose handwriting is that?

A: Mine.

Q: All right. Is it front and back?

A: Yes, sir.

Q: Okay.

(WHEREUPON, there was a pause in the proceedings for

counsel to confer.)

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. CLEMENTS: This has got a front and back. In all my stuff I had -- they had the original in evidence and I asked for it and I thought I had it. In all my stuff, I only had one side. Therefore, all Thurmond has got is one side, but it's got the back side here.

THE COURT: Yeah. Is any of that on the back side relevant to us?

MR. CLEMENTS: Sir?

THE COURT: Is any of that on the back side relevant to us?

MR. CLEMENTS: Yes, sir. Just where they received the call, right there at 3:40.

MR. BROOKER: It just wasn't produced to us. I think they -- when they copied it, they didn't realize there was a back side so they just copied the front side.

MR. CLEMENTS: But there's nothing -- nothing different than what we've been saying about the time frame of the phone call.

MR. BROOKER: Yeah. If you give me just a second, I'll talk with him and then I'll be back.

MR. CLEMENTS: All right.

THE COURT: Do you need me to send the jury out?

MR. BROOKER: Not right now.

THE COURT: Okay.

MR. BROOKER: Let me see if it's okay. If I can speak with him just quietly?

THE COURT: You just let me know.

(WHEREPON, the bench conference ended and the proceedings resumed as follows.)

MR. CLEMENTS: Mr. Swinton, I'm going to show you State's Exhibit Number 1 -- not 1 -- 11.

I'd move it into evidence at this time, Your Honor.

THE COURT: Any objection?

MR. BROOKER: Just without objection, Your Honor. I think they're just going to give us a copy of the back page.

THE COURT: Yeah.

MR. BROOKER: Other than that, we have no objection.

THE COURT: All right. Sounds good.

(WHEREUPON, State's Exhibit Number 11, cab company call log, was admitted into evidence.)

BY MR. CLEMENTS:

Q: And this is -- do you keep this? Would you keep this every day?

A: Yeah. I have a tablet each day.

Q: Okay.

A: Every day I work, I got my own special tablet and that's

my tablet.

Q: And they maintain that -- those records in the business?

A: Yes, sir.

Q: Can you tell me did you receive a call from Century Drive?

A: At 3:40.

Q: 3:40, requesting a cab?

A: Yes, sir.

Q: And what did you do as a result of that request?

A: I called Keya on the phone. Everybody got their personal cell phones and I called her on her cell phone and I said you got a call because she was the only one available.

Q: Okay.

A: She went there, picked him up like that, and after that later on in the afternoon, I seen the news. I said hold up. I sent a cab over there. And they said a girl got killed over there. I said hold up. I sent a cab, one of my cabs over there. And I called Keya and say what did you do with that person you picked up.

Q: Okay. Don't say what anybody else said. Just tell us what you did, what you said.

A: I asked her.

Q: Okay.

A: I said where did you pick him up from. Not pick him up from. I asked her where you drop him off at. I said because

on the news they said somebody got killed at that address. She said, what?

MR. BROOKER: Objection.

BY MR. CLEMENTS:

Q: Don't say what somebody -- don't say what she said.

A: Right.

Q: We'll talk to her. Okay.

A: Well, I sent her. I sent a cab there.

Q: Okay. All right. Do you know -- do you keep track of what time people come back from or how long it takes them to get a ride delivered and any of that?

A: No, sir. It's just we call them and see if they're available.

Q: Okay. What records, if any, do the cabdrivers keep?

A: They keep a sheet just like that.

Q: Okay.

A: Well, the company -- that's the way they can split the money at the end of the day.

Q: Okay. All right.

A: So her sheet should have said the same time my sheet got.

Q: All right. Thank you, sir. And this here listed that 3:40; is that correct?

A: Yes, sir.

Q: Okay.

A: That's what time I gave her the call.

Q: All right.

MR. CLEMENTS: Please answer any questions Mr. Brooker may have.

THE WITNESS: Okay.

THE COURT: All right. Cross.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: How are you doing, Mr. Swinton?

A: I'm doing all right.

Q: Good. Okay. Mr. Swinton, I think you testified State's Exhibit 11 is the -- is actually kind of a -- a handwritten list you make of all the calls that you would have received that day as a dispatcher?

A: Yeah. It's a 12-hour shift from 6 to 6.

Q: From 6 to 6? Okay. And then, of course, is that on the back of -- of State's Exhibit 12 [sic] --

A: Yep.

Q: -- that's already in the records, I think that there's an indication that you received a call at 3:40?

A: Yes, sir.

Q: That's 3:40 p.m.; right?

A: Yes, sir.

Q: And of course, is is that for a pickup at 3618 Century Drive, Apartment A?

A: Yes, sir.
Q: Okay. Now, when you receive a call, do you write -- do you take down the number of the person that calls you just in case if you need to call them back for some reason if the cabdriver can't find them?
A: No. We have -- like, on the phone we have, we have a caller ID.
Q: They have a caller ID? So there's a number on that?
A: Yes, sir.
Q: Okay. So if --
A: So if somebody was to call me back, I can go back to that time when I write it down --
Q: Uh-huh.
A: -- and recall them that way.
Q: Okay. Okay. I gotcha. I gotcha. Okay.
A: As soon as the call come in, I write it right then and there as they come in.
Q: Okay.
A: I look at the clock and I write it down as it go -- as of the day.
Q: Yes, sir. That's good. That's good. Let me just ask -- let me show you another document. This is not in evidence. I just want to see whether or not you know what this is.
MR. BROOKER: If I can approach, Your Honor?

THE COURT: Yes, sir.

BY MR. BROOKER:

Q: I think that you said that the drivers -- they also keep a log or a manifesto [sic] of -- is that -- is that the --

A: Like a manifest.

Q: That's the manifesto that they keep, the drivers?

A: Yep. They put the price for the owner of the company. So at the end of the day, they give that to them and they know what to split up.

Q: Okay. And each driver keeps a manifesto; is that correct?

A: Yes, sir.

Q: All right. Now, other than that, that’s -- that’s all the involvement that you had in this -- had in this case; is that correct?

A: Yes, sir.

Q: At the time in which the person, Ms. -- Ms. Joseph, was killed at that address at 3618 Century Drive, you wasn't present at the time of that murder, were you?

A: No, sir.

Q: Okay. So you're not a fact witness to what happened?

A: No.

MR. BROOKER: That’s all. No further questions, Your Honor.

THE COURT: Anything on redirect?

MR. CLEMENTS: No, Your Honor. I'd like to release Mr. Swinton from his subpoena.

THE COURT: Any objection, Mr. Brooker?

MR. BROOKER: No objection, Your Honor.

THE COURT: Mr. Swinton, thank you very much, sir. You're free to go.

THE WITNESS: Okay.

THE COURT: Appreciate you being here.

MR. CLEMENTS: Your Honor, I think my next witness is right out here.

THE COURT: All right.

MR. CLEMENTS: They're coming, Your Honor.

THE COURT: All right. That's fine.

THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

MR. CLEMENTS: Please state your name for the record.

THE WITNESS: Linda Jones.

LINDA JONES, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ms. Jones, where do you reside?

A: I reside in Florence.

Q: Florence County?

A: Yeah.

Q: Okay. Do you know Keya Bacote?

A: Yes.

Q: How well do you know Keya?

A: That's my cousin.

Q: And she's a cabdriver?

A: Yes.

Q: How often do you ride with her in the cab?

A: Not often, but back then I was riding pretty -- you know, pretty much because I was living in Darlington then. I just moved to Florence.

Q: When you say back then, do you mean January of 2016?

A: Uh-huh. Yeah.

Q: Did -- were you working on January the 23rd?

A: Yes.

Q: Of 2016?

A: Yes.

Q: What day of the week was that? Do you remember?

A: I think it was the weekend.

Q: Saturday?

A: Yeah. Because she came and picked me up. I called her

and she came and picked me up from work and then she had another call.

Q: Okay.

A: So instead of taking me home, we went on the second call.

Q: Did you ride with her to that other call?

A: Uh-huh.

Q: Where was that?

A: Some part of Florence. I don't even know.

Q: Okay. And who else was in the car? Do you recall?

A: When we went to pick him up?

Q: Yes, ma'am.

A: It was me, Keya, and another lady in the front seat.

Q: Another lady in the front seat?

A: Uh-huh.

Q: When kind of cab did she drive?

A: She drove a -- like, a van.

Q: A minivan?

A: Yeah.

Q: Okay.

A: Uh-huh.

Q: Where were you sitting?

A: I was sitting in the second row seat.

Q: On the passenger side --

A: Uh-huh.

Q: -- or the driver's side
A: No. On the passenger side.
Q: The passenger side?
A: Uh-huh.
Q: Okay. You don’t remember where it was y’all pulled up at, what the address was, do you?
A: No. I don't remember the address because we was riding up and down because we couldn't find the place at first.
Q: Okay.
A: And then she had to call back to dispatch to find out exactly where it was at or whatever.
Q: Can you describe what kind of dwelling it was?
A: It was an apartment complex.
Q: Okay.
A: Just one -- I think it was, like, one level or something like that.
Q: All right. Duplexes?
A: Yeah. Uh-huh.
Q: Now, when you went and pulled in there, you said you rode up and down the road first and couldn't find it?
A: Uh-huh.
Q: How did you attempt to get in touch with him or did they attempt to at all?
A: I think they did. That’s how we wind up finding out exactly where the place was at.

Q: Okay.
A: Yeah.
Q: And when you picked up the person, where did he -- where did -- was he outside, inside or where was he?
A: I think he was outside. I'm not sure. I can't -- I don't remember.
Q: It's been a while?
A: Yeah. It's been a while.
Q: Okay.
A: Yeah.
Q: So you can't tell whether he was inside or outside?
A: I think he was outside though. Yeah.
Q: Y'all picked him up?
A: Uh-huh.
Q: He got in the --
A: In the cab.
Q: In the cab?
A: Uh-huh.
Q: Where did he sit?
A: By me.
Q: Right beside of you?
A: He got in the other side. I got in this side. He was -- got in the other side.
Q: Okay. Did he talk much to anybody?
A: No, not really.

Q: Okay. Who -- and the other lady was in the front seat passenger side?
A: Uh-huh.
Q: Who had the best vantage point and the best ability to be able to see him?
A: Me. I was sitting next to him.
Q: Okay. Do you recall where he was dropped off?
A: No. Because I got out of the cab first.
Q: Okay.
A: Once I got to Darlington, I got dropped off at Boost Mobile.
Q: Okay.
A: By Food Lion.
Q: All right.
A: And then she took him -- Keya took him to where he had to go and then she came back and picked me up.
Q: Okay. All right. Did you ever have an occasion to be contacted by law enforcement about this?
A: Yes.
Q: Tell me about that?
A: They came to -- I think they came to my job, I think. Yeah. They came to my job, you know, and asked me about the situation, what happened about the car, you know, where we went that day and everything. And they asked me do I remember what he looked like or whatever. I said I think I

can and then they had me to go to do a sketch.

Q: Okay. With who?

A: Somebody came -- this lady came to the police station.

Q: Was she law enforcement?

A: Yeah.

Q: And y'all did this at the police station?

A: Uh-huh.

Q: How did that work?

A: It worked pretty good, you know.

Q: I mean did she draw it by hand?

A: No. You had to put different -- you know, put different things like the eyes, do I think this is how his eyes looked and his eyebrows and just -- you know, just different parts of his facial features.

Q: And what -- what about the end result? Was that a good result?

A: As to what I remember, yeah.

Q: Okay. All right. Did -- did she print that at all?

A: Uh-huh. Yeah, she printed it out.

Q: And what did you do? Did you notate it in any way?

A: Yeah, I think I did. Yeah.

MR. CLEMENTS: Your Honor, I would like to have this marked for identification purposes at this time.

THE COURT: All right, sir.

BY MR. CLEMENTS:

Q: I'm going to show you what's been marked as State's Exhibit, for identification, Number 12.
A: Uh-huh.
Q: Do you recognize that?
A: Uh-huh.
Q: What is that?
A: That's the picture that the lady did with me telling her the different things about facial features.
Q: Okay. And did you notate on that picture at all?
A: Yes.
Q: Where at?
A: The top.
Q: Okay. All right. And is there a date on this?
A: Uh-huh. Yeah. February the 5th, 2016.
Q: Okay. Is that when the --
A: Uh-huh.
Q: Y'all did the sketch?
A: Uh-huh.
Q: You had the best opportunity to see him because he was sitting right beside you?
A: Uh-huh.
Q: Do you recall what he had on or part of what he had on?
A: I think he had a -- he had a hoodie on.
Q: He had a hoodie on?
A: Uh-huh.

Q: You didn't see -- what did you see about hair or anything?
A: Like, low -- low -- low cut. It looked like it was, you know, like, low-cut hair.
Q: Could you see it very well with the hoodie?
A: No, not really.
Q: Okay. But it didn't obscure his face any?
A: No. Because I seen him when he first got into the --
Q: Okay.
A: -- came into the van and then he got back out and he got back in.
Q: He got back out and he got back in?
A: Yeah.
Q: All right. How did that happen?
A: Because when we was driving off, then he said he forgot something and so we had to go back up -- back up and then he went back in the apartment and he came back out.
Q: Okay.
A: Yeah.
Q: Anything else you remember about his clothes?
A: Not really.
Q: All right.
A: Boots. He had -- I know he had some Timberlands.
Q: Timberland boots?
A: Uh-huh.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence for one moment.

THE COURT: Yes, sir.

BY MR. CLEMENTS:

Q: You said he went back in?

A: Uh-huh.

Q: To get a phone charger; is that correct?

A: Uh-huh.

Q: Do you recall him having anything else in his hands and, if so, what? Or with him?

A: I think he had -- he had, like, a book bag or something like that and then I think Keya asked him about something to drink or whatever.

MR. BROOKER: Just an objection to the hearsay, Your Honor. She can't say what Keya said.

THE WITNESS: Okay. All right.

THE COURT: Sustained to any hearsay.

BY MR. CLEMENTS:

Q: You said he had a bag?

A: Uh-huh.

Q: Do you remember what color?

A: He already had that when he came in the --

Q: The first time?

A: Yeah. Uh-huh.

Q: And what color was that bag?

A: Black.

Q: Okay. All right. Can you please answer any questions Mr. Brooker may have?

A: Okay.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: How are you, Ms. Jones?

A: All right. Fine.

Q: Okay. Ms. Jones, I want to make sure that I understand your testimony correctly. I think that you said that you were riding -- you were riding in the taxicab that was being driven by your cousin, which is the Lakeya Bacote?

A: Uh-huh.

Q: And of course, is is that you were sitting in the back seat; is that correct?

A: Yes.

Q: And that's when y'all went to, I think, 1618 [sic] Century Drive?

A: Uh-huh.

Q: Okay. To pick up a passenger?

A: Yes.

Q: And I think you described him as -- I think you said he had a hoodie on?

A: Uh-huh.

Q: Okay. Now, you also said that -- that y'all went somewhere towards -- you said that you got out first before -- before the passenger got out?

A: Yes.

Q: Is that correct?

A: Uh-huh.

Q: And where did you get out at?

A: I got out by Food Lion in Darlington. I got out at the Boost Mobile place.

Q: Okay. Okay. And then, of course, you said the taxicab then came back and picked you up?

A: Uh-huh.

Q: Of course, he was not in there?

A: Right.

Q: When the taxicab came back to pick you up?

A: Right.

Q: And of course, you met with an investigator and talked with an investigator; is that correct?

A: Yes.

Q: And do you know which investigator that you talked with?

A: I talked to McFadden.

Q: Was it McFadden?

A: Uh-huh.

Q: Okay. All right. Do you know what date that was that they came and visited with you?

A: Not exactly.
Q: If you don't know, it's okay to say you don’t know.
A: Uh-huh. Yeah.
Q: I'm sorry?
A: I said not exactly.
Q: Okay. That's fine. That’s fine. Now, do you remember when -- do you remember whether or not when -- when you met with the investigators that they showed you different pictures of different guys on a phone and do you remember telling them that -- that -- that you couldn't identify any of the guys as being the one, but you said that they all had similar features as the guy in the car?
A: I don't remember.
Q: You don't remember telling him that?
A: I know they asked me do I think I can -- you know, if I was going to -- if they was to take me to a sketch do I think I could, you know, do a sketch of who I thought he looked like, what he looked like.
Q: Okay. Okay. And just to make sure, you don't remember them showing you pictures?
A: I don't remember. They might've showed me pictures, but I don’t know.
Q: And you don't remember whether or not you told them that I don't know whether or not these pictures is the person, but they -- you know, they’ve got similar features?

A: Yeah, I remember that.

MR. CLEMENTS: Your Honor, I object to that question. If she says she didn't remember seeing these pictures, I don't think she would remember.

THE WITNESS: Right.

MR. BROOKER: She just said she did remember that.

MR. CLEMENTS: Okay.

BY MR. BROOKER:

Q: So you remember -- you remember that, telling them that, you know, these pictures, they have similar features, but --

A: It's not that -- it's not -- it wasn't the person.

Q: That none of those pictures were the person?

A: Right.

Q: Okay.

MR. BROOKER: If you can indulge me for just a second, Your Honor, I may be finished.

THE COURT: Yes, sir.

MR. BROOKER: If you can give me just a second, Your Honor?

THE COURT: Yes, sir.

MR. BROOKER: I may be finished with my questions. No further questions, Your Honor. Thank you.

THE COURT: Anything on redirect?

MR. CLEMENTS: Nothing, Your Honor. I'd like for Ms. Jones to be released from her subpoena.

MR. BROOKER: Without objection, Your Honor.

THE COURT: All right. Thank you very much, Ms. Jones. You're free to go, ma'am. Thank you.

All right. You may call your next witness.

MR. CLEMENTS: Your Honor, our next witness will be SLED Agent Deborah Goff.

THE COURT: All right.

THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

THE WITNESS: My name is Deborah Goff, D-e-b-o-r-a-h G-o-f-f.

DEBORAH GOFF, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good afternoon, Ms. Goff. How are you doing?

A: I'm good. Thank you.

Q: Can you please tell this jury where you work?

A: I work for the South Carolina Law Enforcement Division.

Q: Also known as SLED?

A: Yes, sir.

Q: And for how long have you worked with SLED?

A: I've been with SLED for 13 years now.

Q: And what capacity do you work for SLED in now?

A: I'm a senior special agent assigned to the forensic art unit.

Q: And how long have you been with the forensic art unit?

A: The 13 years that I've been at SLED.

Q: The whole 13 years?

A: Yeah.

Q: Okay. What are some types of cases that the forensic art unit works with?

A: All kinds of cases. Anything from purse snatching to homicides, armed robberies, unidentified remains, all kinds of cases.

Q: On identification issues?

A: Yes, sir.

Q: Okay. Is there any other type of issues you work with?

A: Mostly identification, sir.

Q: Did you have occasion -- well, let me stop right there. You've been a forensic artist for how many years now?

A: I've been a forensic artist a total of about 16 years. I've been with SLED 13 years.

Q: Okay. For the first three years, did you work for another law enforcement agency?

A: Yeah. I worked for the North Carolina State Bureau of Investigation.

Q: And that is the North Carolina counterpart to SLED?

A: Yes, sir.

Q: Okay. Have you been trained or had any special training to go along with your experience and just, I guess, talent it takes to be a forensic artist?

A: Yes, sir.

Q: Can you tell us about what type of training you've had?

A: My degree, I have a bachelor of fine arts degree majoring in illustration from Georgia State University in Atlanta, Georgia, 1995. In 2003, I took a comprehensive composite drawing course from Karen Taylor. She's the leading forensic artist in the country basically.

And then in 2006, I attended a Federal Bureau of Investigations forensic facial imaging course. That's a three-week course in Quantico, Virginia. And in 2008, I attended the International Association for Identifications educational conference and it was there that I became certified as a forensic artist.

Q: Okay.

MR. CLEMENTS: Your Honor, at this time, I would offer Agent Goff as an expert in the field of forensic identification.

MR. BROOKER: Without objection, Your Honor.

THE COURT: All right. Without objection.

BY MR. CLEMENTS:

Q: Now, Agent Goff, how many composite sketches would you think you've done?

A: Over the course of my career, I've done approximately 730 composite sketches.

Q: And can you tell this jury exactly what is a composite sketch?

A: A composite sketch is an image made up of component parts that represents an eyewitness' memory of what a person looked like.

Q: What are component parts?

A: Basically, the different features, the head shape, the eyes, nose, mouth. We -- we pull together an image that represents the eyewitness' memory of what a suspect looked like.

Q: What's the purpose of a composite sketch?

A: The purpose of a composite sketch is to help identify an unknown suspect in a criminal investigation.

Q: How do police use composite sketches?

A: Usually, law enforcement will use a composite sketch usually as a plea to the public to help generate leads which may lead to an identification of who the suspect is and possibly lead to an arrest.

Q: Now, can you explain to the jury the process you use in

doing a composite sketch? I'm sure, you know, it's an interesting --

A: Yes, sir.

Q: -- thing that you do?

A: We -- I will meet with the witness at the local department. I'll do a preliminary interview with the witness to make sure that they have enough information and are able to do a composite sketch interview.

Q: Do you -- do you meet with the investigators and the witness or not?

A: Generally, I just get a phone call from the investigator that briefly tells me what kind of crime occurred and he'll let me know that he has a witness that got a good look at the person and can probably describe them, and then I interview the witness. So I get very minimal information from the investigator generally.

Q: Do you meet with the witness by themselves?

A: Yeah. I'll meet with the witness one-on-one in an interview room. No one else is in the room except me and the witness.

Q: Why is that?

A: That's so that I ensure that I'm getting my information directly from the witness and not --

Q: You don't want it tainted?

A: Not being influenced by anyone else or the investigators

or other witnesses. I interview the witness one-on-one, just me and that person alone in the room.

Q: I got you a little sidetracked. I was asking you about the process.

A: Yeah. So once we determine that the person probably has enough information to do a composite sketch, I'll begin by asking them very open-ended questions. I'll ask them to briefly tell me how they saw the person, what the circumstances were, and then open-ended questions. What can you tell me about what this person looked like? And I'll start taking notes and begin a sketch.

And as I progress in the sketch, I'll introduce some photo reference material and that helps us get more specific about the facial features and the look. And me and the witness work back and forth. I'll work on the sketch, show it to the witness, try to get them to remember the person's image in their mind and ask them to make changes to the sketch and we just keep working back and forth until we get as close enough to the eyewitness' memory that we can get before we conclude.

Q: What exactly is the witness' role in that?

A: The witness' -- the witness has a very significant role because they're the source of information. They're the person who saw -- they saw the person. I didn't. So all of the information that I'm getting on what the suspect looked

like or the resemblance of the person is all coming from the eyewitness. They -- they control and direct the sketch throughout the process.

Q: Okay. Did you have the opportunity to do a composite sketch in connection with this case?

A: Yes, sir.

Q: Okay. And do you know who your witness' name was?

A: It was Linda Jones.

Q: Okay. Where did you meet with Linda Jones and where was the sketch done?

A: I met with her at the Darlington County Sheriff's Office.

Q: Okay.

A: In an interview room.

Q: Okay. And I guess what kind of artistic technique do you use? Is it pen and ink or freehand --

A: It's totally --

Q: -- or computer assisted?

A: It's totally -- we freehand draw everything. We don't use some kind of face kit or identikit. We hand draw everything. That way, anything the witness can describe, I can make changes. I can draw. If they say that they had a tattoo, I can draw a tattoo.

Q: What if you -- what if you have to back up and erase something?

A: Right.
Q: They say it wasn't quite like that?
A: Right. Now we do our work digitally so it's still hand-drawn. We're just drawing on a digital tablet. And so that -- it makes it easier for us to make changes. If they have a change, I can back up and make changes more quickly than the traditional pencil and eraser.
Q: Okay. And you did -- did a drawing with Ms. Jones?
A: Yes, sir.
Q: I'm going to show you what's marked State's Exhibit Number 12 for identification purposes. Do you recognize this?
A: Yes, sir.
Q: Is that -- is this the drawing you did with Ms. Jones?
A: Yes, it is.
Q: How can you tell?
A: It has my initial and date and it also has the witness' signature.

MR. CLEMENTS: At this time, Your Honor, we'd move to have State's Exhibit 12 admitted into evidence.

THE COURT: Any objection?

MR. BROOKER: No objection, Your Honor.

THE COURT: All right. State's 12 is in evidence without objection.

(WHEREUPON, State's Exhibit Number 12, composite sketch,

was admitted into evidence.)

BY MR. CLEMENTS:

Q: Now, once this is done, what opportunity do you give the witness to make any changes whatsoever?

A: Towards the -- the conclusion of the composite sketch interview, we don't end until the witness is -- until the witness can't think of anymore changes to make to the sketch to make it look more like the person, and then I'll ask the witness to rate the drawing on a scale of 1 to 10 as to how close it is to their memory of what the person looked like.

Q: Did you do that with Ms. Jones?

A: Yes, sir.

Q: And what was her response?

A: In this case, on a scale to 1 to 10 with 1 being doesn't look anything like the person and 10 being looks exactly like the person, she rated the sketch an 8.

Q: Okay. Now, where did she sign on this page?

A: The top left corner.

Q: Okay. And where did you initial and date it?

A: The lower right.

Q: Is a composite sketch intended to be an exact likeness?

A: No, it's not. We're working from somebody's memory and we know that memory is not 100 percent. So a composite sketch is not expected to be an exact portrait. We're just hoping that it's a good enough resemblance or likeness to

help generate leads to who this person is.

Q: Okay. And the police use it by canvassing neighborhoods and putting it on news media?

A: Yes, sir. It's -- it's up to the investigators how they use the sketch, but generally they might use it in the media as a plea to the public to help generate leads.

Q: Okay. Now, how long did this process take with Ms. Jones? How much time did you spend with her?

A: We started the sketch at 9:37 a.m. and completed at 11:15 a.m. So --

Q: Almost 2 hours?

A: Yes. And that's typical. It usually takes about two hours.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence, Your Honor.

THE COURT: Yes, sir.

MR. CLEMENTS: Ms. Jones -- I don't mean Ms. Jones. I'm sorry. Agent Goff --

THE WITNESS: Yes, sir.

MR. CLEMENTS: Please answer any questions that Mr. Brooker may have for you.

THE WITNESS: Okay.

MR. CLEMENTS: Thank you.

THE WITNESS: Thank you.

THE COURT: Cross?

MR. BROOKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Agent Goff --

A: Yes, sir.

Q: I think you said you met -- met with Ms. Jones. She was the witness that provided you with, I guess, information that you used to create the sketch; is that correct?

A: Yes, sir.

Q: And of course, how many times did you meet with Ms. Jones?

A: One time.

Q: Okay. And what date was that?

A: The date was February 5th, 2016.

Q: Okay. And when you met with her on that date, did you keep notes of the description that she gave to you or do you video or record -- keep a video or recorded records of the description that the witness gives you?

A: We don't record our interviews. I have a basic facial identification sheet and then also the composite sketch is -- also acts as the results of my notes.

Q: Okay. And so -- and the reason why I'm asking you that is -- is is that I'm trying to figure out exactly what she said to you about the description. So do you have any notes as to, you know, with Ms. Jones saying, well, you know -- you

know, his nose was -- was, you know, this long or this short and, you know, his cheeks was puffy? Do you keep any notes of the description that she gives to you?

A: I have some basic notes on my facial identification sheet, but much of our work is done visually where I show her the sketch and she might say, well, his nose is a little bit smaller or his cheeks were a little bit wider. So the -- the visual communication is part of the interpretation of her memory to a sketch.

Q: Do you mind if I take a look at the basic notes?

A: That's fine.

Q: Sure. Okay. And of course, from the -- from the -- from the description that she gives to you, then, of course, you create the composite --

A: Yes, sir.

Q: -- sketch? And of course, from the description that Ms. Jones gave you, this was the composite sketch, which is State's Exhibit 12. This was the composite sketch that she generated; is that correct?

A: Yes, sir.

Q: Okay. Now, did -- when you draw a composite sketch, do you draw a composite sketch based upon the image that the individual saw?

A: It's based on their memory that they have of what they saw.

Q: Okay. And the reason why I'm asking is is that if the -- if the -- if the memory is -- if the memory of the individual is that the person had a hoodie on, do you then draw the hoodie on or do you leave that off?

A: If they tell me that they saw a hoodie, that they remember a hoodie, then I would draw a hoodie.

Q: Okay. You try to draw it exactly as they remembered?

A: Yes, sir.

Q: Okay. I'm assuming that you were not told that there was a hoodie because you didn't draw one on?

A: Correct.

Q: Okay.

MR. BROOKER: If you can indulge me for just a second, Your Honor. Let me make sure that I don't have any further questions.

THE COURT: Okay.

MR. BROOKER: I don't think I have any further questions, Your Honor.

THE COURT: All right. Anything on redirect?

MR. CLEMENTS: Your Honor, we would just ask for Ms. Goff to be released from her subpoena.

THE COURT: Any objection, Mr. Brooker?

MR. BROOKER: No objection, Your Honor.

THE COURT: All right. Agent Goff, thank you very much for being here. You're free to go.

THE WITNESS: Thank you.

MR. CLEMENTS: Our next witness, Your Honor, will be Lakeya Bacote.

THE COURT: All right.

THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: You may be seated in the witness stand and please state your full name for the record.

THE WITNESS: Lakeya Goins Bacote.

THE COURT: All right. Thank you, ma'am. You may have a seat.

LAKEYA BACOTE, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good afternoon, Ms. Bacote.

A: How are you doing?

Q: I'm going to ask if you will to kind of scoot up in that chair and get close to that microphone so we can hear you. Okay. Ms. Bacote, where do you live?

A: In Darlington County.

Q: And where do you work?

A: Speedy Cab.

Q: What do you do for Speedy Cab?

A: I'm a driver.

Q: Okay. How long have you been a driver for Speedy Cab?

A: About 25 years.

Q: Now, when you get a ride or a fare, is that what y'all call them?

A: Yes.

Q: Okay. When you get a fare that hires your cab to go take them somewhere, how do you get the call to go pick that person up?

A: It comes from the dispatcher from the base.

Q: And they call you on your cell phone or radio?

A: Call me on my cell phone.

Q: Okay. And they tell you the address?

A: They give you the address.

Q: All right. And do you work mostly in Darlington or Darlington and Florence or all over the area?

A: We go all over. We go all over.

Q: All over? Okay. Where do you think you spend most your time, in Darlington or Florence?

A: It varies.

Q: It varies? It depends on what time of year?

A: Yeah.

Q: And what day it is, I imagine. Now, do you recall being

told that you had a customer waiting at 3618 Century Drive, Apartment A, in Florence?

A: Yes.

Q: And do you remember that, getting that call that day?

A: Yeah.

Q: Okay. I'm going to show you what's been marked as State's Exhibit 13 for identification and ask you if you can identify this for me?

A: It's a manifest sheet.

Q: A manifest sheet? Okay.

A: And a call log.

Q: And whose call log is that?

A: It's mine.

Q: Okay. Of what date?

A: January the 23rd, 2016.

Q: Okay. And that's your -- that's your writing on it?

A: That's my writing.

Q: How about on this back page right here back here?

A: That's my writing.

Q: Okay. And do you see an address there for Florence?

A: Yes.

Q: What's that address?

A: 3618 Central Drive, Apartment A.

Q: Okay.

A: Going to Doneraile.

Q: Okay. And Doneraile is where you took the person?
A: Doneraile is where he said he was going, but he didn't get off at Doneraile. He got off on the side street.
Q: Okay.
THE COURT: I'm confident the jury can't hear her.
MR. CLEMENTS: Okay.
THE COURT: So would you please hit that button because that microphone is not on. All right. Now --
MR. CLEMENTS: Talk now.
THE COURT: Until the green light comes on. Let go of it now. Press it and let go. There.
Ms. Bacote, speak and see if that works.
THE WITNESS: Hello.
THE COURT: There we go. You can back up a little bit.
Okay. Now, if you would, re-ask your question because I'm confident the jury didn't hear that answer. I was right here and didn't hear it.
MR. CLEMENTS: Okay. All right.
BY MR. CLEMENTS:
Q: Ms. Keya --
A: Uh-huh.
Q: You told me that you picked up the customer at 3618 Century Drive. You've got Central Drive, but you meant Century; is that correct or not?
A: That's correct.

Q: Okay. And where was the destination?

A: Doneraile Street in Darlington, but he didn't get off on Doneraile. He got off on the side street.

Q: On a side street?

A: Yeah.

Q: Okay. All right.

MR. CLEMENTS: Your Honor, I'd move State's Exhibit 13 into evidence at this time.

THE COURT: Any objection?

MR. BROOKER: Without objection, Your Honor.

THE COURT: State's 13 without objection.

(WHEREUPON, State's Exhibit Number 13, cab call log sheet/manifest, was admitted into evidence.)

BY MR. CLEMENTS:

Q: So that was from Central -- Century to Doneraile in Darlington?

A: Yes.

Q: And do you know what time the call came in for a cab?

A: The call came in about 4 o'clock or 4:05.

Q: Okay.

A: Because I had another fare in Florence.

Q: Okay. And dispatch called you at about 4:05?

A: Yes.

Q: And that's not notated on here, is it?

A: No.

Q: Anywhere?

A: No. No time is on there.

Q: That's just your memory? Good memory?

A: My memory because I pick a fare up every day from work at that time.

Q: Okay. Okay. Was that Linda Jones?

A: Yes.

Q: Where was she working then?

A: It was called Ramada Inn then.

Q: Okay. And you picked her up. What, if anything, did you say to her about riding with you?

A: I told her I had another -- another fare in Florence and would she ride along with me, and she said yeah.

Q: All right. How do you get to addresses that you might not be familiar with?

A: I put it in GPS.

Q: Okay. And were you familiar with this address?

A: No. I put it in GPS.

Q: Okay. And you put it in GPS and you were coming from what used to be the Ramada Inn that's out there at 95 --

A: Yeah.

Q: -- and 52?

A: Yeah.

Q: What route did you take to get there?

A: It put me on 95.

Q: You went 95?
A: Uh-huh.
Q: Okay. When you got to the neighborhood where it was, did you have any trouble finding the place?
A: Yeah. I had trouble finding the street. So I rode down and then I called the number that he called me off the first time and he was trying to explain to me there was some tent sign and there was a red car parked in front of the apartments. So I turned back around and he called me back off another different number and that was the time I found it. I came down to Century, blowed the horn, and then he came out.
Q: Why did you call two numbers?
A: He called me. He called me on the 704 number.
Q: Okay.
A: And I was scared, like, calling me from Charlotte number and you're in Florence, but you're going to Darlington. So when I called back, he called me back off a 803 number.
Q: Okay.
A: So that's like sending a red flag, calling from two different numbers.
Q: Okay.
A: So I'm kind of, like, for my safety, you know, it's a red flag for us. So I writes everything down.
Q: All right. So you eventually found out where you were

going to?
A: Yeah.
Q: And you pulled into. Can you describe that, how that housing was set up down that road? Was it more than --
A: It's like --
Q: -- a block long?
A: You turn down. It was a brick house. Like, it was a brick board house. I went straight on down to, like, two apartments. It was the first apartment. I pulled in slanted and blowed the horn and he came out.
Q: You said he came out? He was inside the house when you pulled up?
A: He was inside the house.
Q: Okay. He came out. Did you see him lock anything?
A: No. He just pulled the door closed.
Q: Okay. And he got in -- got in your van?
A: He got in the back behind me, behind me in the van.
Q: Okay. And who was he sitting beside?
A: He was sitting beside Linda Jones.
Q: Who had the best opportunity to view him and to see what he looked like?
A: Well, she had the best opportunity, but I still looked in my rearview mirror too.
Q: Okay. All right. What did he have on his head?
A: I just know he had good wavy hair in the front. He had,

like, a low haircut, wavy in the front.

Q: Wavy in the front?

A: Yeah. Like, a good texture hair.

Q: Okay. And do you recall what clothes he had on at all?

A: I just know we had some Tims on and some blue jean pants and I know he was kind of built and muscular because I kind of looked out and he got in the cab and I kind of checked behind, like okay.

Q: Okay. Did he carry on much conversation?

A: He said nothing in the cab, just where he was going and that was it.

Q: Did you -- when he got in the cab, did you pull straight off?

A: Yeah. I backed up and then he told me to back up because he said he left his phone charger. So we backed up. I just backed up and he jumped out and opened the door and went back in the house, came back out and got in the van.

Q: And then you proceeded on to Doneraile?

A: Yeah. To Doneraile.

Q: Any conversation going on in the car?

A: No. Just -- just when we went the first time is eat some fish and I'm, like, my other girlfriend said that ask -- ask your girlfriend could we have a soda and he said she doesn't drink soda, she drink tea, but he never came back out with tea either.

Q: Okay. That's when he went to get his --

A: Charger.

Q: -- charger? Now, what route did you take from Century to Doneraile?

A: We went back -- I went back down Southborough and went, like, 340.

Q: Okay.

A: Timmonsville Highway.

Q: So you went by Traces golf course?

A: Yeah. But when you go back out, Traces golf is the other, like going towards Florence.

Q: All right.

A: It’s the opposite way.

Q: Okay. All right. And you say that he didn't go to Doneraile?

A: Well, when you come to Darlington off North Main, I came up to turn on Doneraile. So when I asked him what address he was going to on Doneraile, he said turn right here. I can’t think of the name of the street. I don’t know, but it's the first street you get there off Doneraile, and he got out right there.

Q: So he got out, like, on the corner?

Q: The corner of another street and the corner of Doneraile.

A: All right. Did you see where he went from there?

A: No. Because he was walking slow and I just backed up and went on about my business.

Q: How close are -- if they are close, are Doneraile and Plum Drive?

Q: It's around the corner. It's around the corner.

Q: Right around the corner? Okay.

A: Because the street I turned on only has, like, three houses on it and Plum Street sits right there.

Q: Now, do you recall him having anything with him?

A: He had a book bag on his back.

Q: What color?

A: Black.

Q: All right. Could you tell what was in it?

Q: I know he had, like, deodorant and toothpaste, the little travel stuff, the travel-sized stuff, because I teased him. When I got to the window, I said, oh, your girlfriend going to get you, you're cheating, you got, like, travel stuff. He said I don't cheat and that was it.

Q: Now, how could you see the toothpaste?

A: Because it was unzipped. It was -- it was unzipped, like I said.

Q: Okay.

A: It was open.

Q: And who did you take first? Did you take him or Linda or the other lady?

A: I took him -- I took him first.
Q: You took him first? Okay. How about the other lady that was riding in the cab with you?
A: She rode all day long with me.
Q: Okay. Did you ever have occasion to see him again and, if so, when and how soon to this event?
A: It was probably -- like, I think I -- I had weekend time and it was a Wednesday morning I got out and they were, like, time I got out -- I got out, like, five and got to work at six, the base was, like, the detective here. The sheriff was here. I said, oh, I ain't did nothing, I was in jail. It wasn't me, like that. So when I got there, it was McFadden there and he had -- he had a little notebook and he said you've been involved in a homicide. I said, a homicide? Not me. And he was showing me my van and wanting to know why I backed up.

MR. BROOKER: Just an objection to hearsay.

THE COURT: All right. Sustained to any hearsay.

MR. BROOKER: Thank you, Your Honor.

BY MR. CLEMENTS:
Q: And you understand what we mean when we talk about hearsay?
A: No.
Q: That's somebody you've heard say something and they can't -- you can't talk about hearsay.

A: Oh.
Q: Only what you saw and what you heard. I mean what you saw and what you can speak about yourself, but not what somebody else told you.
A: Oh, okay. So I can't speak about what he told me? Is that what you're saying? The detective?
Q: Slide up close to that microphone.
A: I can't speak on what the detective said, just what I saw?
Q: You can say that you saw him and then you did so-and-so, but don't say -- or you can say what you said, but you can't say with somebody else said.
A: Oh, okay.
Q: So you can back up and give it one more shot.
A: Okay. So I came to the cab stand and he showed me my van on camera backing up and asked me questions about that.
Q: And did they ask you about anything about anyone else?
A: Just asked me who I picked up.
Q: Did they show you anything?
A: Yeah. He came back. He came back later and had some pictures he showed me in a book.
Q: Okay. Were you able to identify any of those pictures?
A: I told him somebody that looked could be him, this person. I wasn't quite sure with the pictures he was showing me.

Q: I'm sorry. I couldn't hear you.
A: The pictures he was showing me, I told him I couldn't be sure if it's certain the pictures he was showing me.
Q: Okay. Now, did you see -- the person you gave the ride to that day, did you see him again?
A: Yeah, I saw him, like, two days later.
Q: Okay.
A: He called for a cab, another cab.
Q: Where at?
A: This time he called from 225 Plum Street.
Q: Okay. And did you notice anything different or not about his -- the way he looked?
A: He had shaved his head.
Q: Shaved his head? Did he have on a hoodie or anything that day?
A: No.
Q: Okay. All right.
MR. CLEMENTS: I beg the Court's indulgence a moment.
BY MR. CLEMENTS:
Q: Did you actually watch a video that you could identify your van in?
A: Yes.
Q: Okay. And who showed you that?
A: The gentleman right here in the blue suit.
Q: McFadden or Collins?

A: McFadden.

Q: McFadden? Okay. And you were able to identify it as being your van?

A: Yes.

Q: Okay.

MR. CLEMENTS: Please answer any questions Mr. Brooker may have.

MR. BROOKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Ms. Bacote, how did you prepare for your testimony for today?

A: How did I prepare for my testimony?

Q: Yeah. Did you read or look at something?

A: No.

Q: Did you talk with anybody?

A: No.

Q: You spoke with the prosecutor or the investigators?

A: No.

Q: Okay. Let me ask you a couple of questions. Now, I think this has already been entered into evidence. I think it's State's Exhibit -- I'll publish it, State's Exhibit 13. I think you indicated that you received a call somewhere around 4 or 4:05 to -- to pick up someone?

A: Yes.

Q: Okay. And you received that call from your dispatch?
A: Yes.
Q: And then, of course, is is that -- and that was to pick up someone at 3618 Century -- Century or Central Drive, Apartment A; is that correct?
A: Yes.
Q: All right. And do you remember giving the State -- do you remember giving Investigator Chad Collins a voice interview or recorded interview? Do you remember giving a recorded interview?
A: No.
Q: You don't remember a recorded interview?
A: No.
Q: Okay. Do you remember telling -- I think on this particular manifesto [sic], which is State's Exhibit 13, I think you testified on direct examination -- you testified on direct examination that -- that the person who wanted the ride called you directly from a 407 number?
A: 704 number.
Q: Excuse me, 704 number. That was your testimony on direct, was it not?
A: I don't remember giving -- that's when he called me off a 704 number.
Q: Okay. Do you remember telling Investigator Chad Collins that -- that once you were dispatched to the location, you

couldn't find him and that you called dispatch back and they provided you with that 704 number?

A: No. Because --

Q: But you said -- I'm sorry. Go ahead. I didn't mean to interrupt you. Please.

A: They gave me the number. When I called the number -- because we put it on the phone log. They log the time down and the number. So I got the number, called it back. He was trying to tell me where it was. Then he had my number, my cell phone number, once I called him off the 704 number. He called off the 803 -- called me back on the 803 number.

Q: Okay. And I want to confirm exactly what that number is, that 704 number, and if you can't see it from here, I can bring it to you. Is is that that number is -- it looks like 704-526-6079; is that correct?

A: I can't really see the last part on this -- on this thing.

Q: Do you need me to bring it to you?

A: Yeah.

Q: Okay. So you can take a look at it.

A: 704-526-6079.

Q: Okay. That's the number that -- that you're saying that -- that this person called for a pickup at; right?

A: Yes.

Q: And then, of course, is is that when you couldn't locate

them, I think you said that you -- you called that number is what you said and that person called you back on a different number?

A: He called me back on an 803 number that's at --

Q: And of course, is is --

A: That's at the top of the -- of the page.

Q: Okay. It's on the top of here. And that different number, it's on the second page of -- second page of State's Exhibit 13, and that different number is -- can you read it? I think it's 803 --

A: 803 -- it look like 803 --

Q: 807 --

A: -- 807 --

Q: -- 2989?

A: It looks like 2989, it look like.

Q: That's what it looks like? 2989? Okay. And that's the number that you called him back?

A: No. That's the number he called me back on.

Q: Okay. And do you remember telling Chad Collins during that interview that you -- that you looked at your cell phone? Do you remember doing the interview with Chad Collins where you looked at your cell phone and told him that that call -- that call on that 803 number was received at exactly 4:01 p.m.?

A: I don't. I don't recall that.

Q: Okay. Do you think it would refresh your memory to hear your videotape of the conversation that you had with Investigator Chad Collins?
A: Maybe.
Q: Okay. Now, you also gave Investigator Collins a description during that interview? Yeah?
A: Yes.
Q: Do you remember giving him a description?
A: Yes.
Q: Do you remember -- do you remember telling Investigator Chad Collins that he was about 5'9", 5'10", light-skinned, kind of good hair, pulled back in a ponytail, kind of built, and I know he had a back?
A: Yeah.
Q: Is that the description that you gave?
A: Yeah. I gave him the description.
Q: So he had good hair, pulled back in a ponytail; is that right?
A: That's the description I gave him.
Q: Okay. So if that was the description that you gave him, he had good hair pulled back in a ponytail, I'm assuming you could see his hair; right?
A: I could see his hair from the front. So I could see it was wavy going back. So I figured he had a ponytail, like I told him. You could see the front of his hair. He was

behind me and I'm driving.

Q: Okay. And the reason why I'm confused because is is that when you told Investigator Collins, you didn't equivocate, you didn't say I think, you said that he had good hair pulled back in a ponytail?

Q: Because when your hair is waving and it's pulled back, most of the time you have a ponytail, like I told him. I didn't never look at his hair after he got out of the car, out of the cab. I just looked at the bottom part of him.

Q: Okay. So are you now saying that he didn't have a ponytail?

A: I didn't look at the back of his head when he got out. I looked at the front of his head because he was sitting behind me. I just know it was wavy and it was like -- like you brush your hair to wave back. So I figured he had a ponytail.

Q: So now you're saying that -- that what you told Chad Collins maybe not wasn't right, maybe was false?

A: All I can -- all I can say is he had wavy hair.

Q: Okay. And when you told him that he had good hair pulled back in a ponytail, that ponytail part, you made it up?

A: Just a figure of speech. I think it was a ponytail, but I know he had good wavy hair.

Q: So -- so you're saying that you didn't lie, you just

guessed?

A: I guessed on the ponytail.

Q: Okay.

A: As far as good wavy hair, I didn't guess on that.

Q: Okay. Now, do you also recall telling -- do you also recall the investigators, either Chad Collins or either Investigator McFadden, showing you various photographs of individuals?

A: Yes.

Q: Do you remember telling Investigator McFadden and Collins when you looked at those photographs -- of course, these were multiple photographs -- that you couldn't identify any of those photographs as the person -- as the person that you picked up that night?

A: I told them I couldn't be certain.

Q: Did some of them -- I'm going to let you answer. I promise. Do you remember telling Investigator Chad Collins and Investigator McFadden that you -- that when you looked at those photographs that you could not identify those photographs as being any of the persons that you picked up that night, but that they had similar features?

A: Yes.

Q: And do you also remember Investigator McFadden showing you a picture of Royal Williams and you telling -- and you telling Investigator McFadden that he had -- that Royal

Williams, just like the other photographs, had similar features of the person that you picked up that night, but you couldn't say it was him?

A: He never showed me a photo of Royal Williams.

Q: He didn't?

A: I didn't see one until they made the sketch artist.

Q: They never showed you a photograph of Royal Williams?

A: No.

MR. BROOKER: If you can indulge me for just -- just a minute, Your Honor?

THE COURT: Yes, sir.

BY MR. BROOKER:

Q: And you're certain about that, that you never saw a photograph of Royal Williams that was shown to you by the investigators?

A: Yes.

Q: The first time you ever saw a photograph is -- I think you said that is when you were shown the composite sketch?

A: Yes.

Q: Okay. Do you know when you were shown that composite sketch?

A: I don't recall. About two years, three years. I don't recall.

Q: Now, you testified that two days later that that same person that you picked up, I think, at 3618 Century Drive on

Doneraile, that two days later you picked that person up and took them to Plum Street?

A: No. I picked him up from 225 Plum Street. He went to Springfield Apartments.

Q: I'm sorry. You picked him up from 225 Plum Street?

A: He told me he was going to Springfield Apartments. When I got to Springfield and asked which apartment, he told me to let him out at the -- almost at the building road. He went back through by the woods. He didn't get out at an apartment.

Q: Did you tell that to Investigator -- you never told this to Investigator McFadden or Investigator Collins, did you?

A: I told them later on -- later on after I seen him.

Q: You told them later on you thought you saw him?

A: I saw him again, but he had shaved his hair.

Q: Okay. And I want to be absolutely certain because this is an important case. Did you see him or did you thought you saw him?

A: I seen him because I picked him up and he kept looking back at me and I thought he recognized me, but I was in a different cab. I picked him up in a van the first time. I was in, like, a white car the next time. So I thought he recognized me, but I recognized him. Because I was going to take a picture, but he was in -- he was at the car too quick.

Q: And you said this time this person had shaved their

head?

A: His head was bald, all bald.

Q: And did you tell that part to Investigator McFadden or either Investigator Collins?

A: Yes.

Q: You did?

A: Yes.

Q: So if that was two days later and, of course, you picked him up on January 23rd, 2016, that would've been on January 25; right?

A: I picked him up on the 23rd. I went --

Q: Two days later, roughly January 25?

A: No. Because I had weekend time. I did weekend time so I got out. It was Wednesday when I seen McFadden and them. It was a few days after that.

Q: Let me make sure you understand my question. I think you said that you picked up the person from Century Drive, I think, on the 23rd; right?

A: Yes.

Q: And then you said you picked up that same person two days later?

A: No. What I said is I picked them up on the 23rd. I went to do weekend time. When I got out that Wednesday morning, McFadden was at the cab stand. After they -- after we was at the cab stand, I picked him up. I saw him a couple days

after that day, not after the 23rd.

Q: A couple days after what day?

A: The 23rd is when I picked him up. McFadden came that Wednesday morning. Whatever day the 23rd was on, the next Wednesday, I got out that morning. I saw him a couple days after that day, not the 23rd.

Q: Okay. A couple days after that. And you said that you told -- you told McFadden or either Collins this?

A: Yes.

Q: Okay.

MR. BROOKER: If you can indulge me for just a second, Your Honor. I want to make sure I don't have any further follow-up questions.

THE COURT: Okay.

MR. BROOKER: Just one more thing, and I want to ask you this because I'm going to do this because I want to avoid playing the tape.

THE WITNESS: Okay.

MR. BROOKER: And I think the Court would want me to avoid playing the tape.

THE WITNESS: Okay.

MR. BROOKER: I want to be absolutely certain.

THE COURT: You do whatever you want to do.

MR. BROOKER: Okay.

BY MR. BROOKER:

Q: You agree with me that you told Investigator Collins that he was about 5'9", 5'10", light skinny, good hair pulled back in a ponytail, kind of built, and I know he had a back. Do you agree making that statement --

A: I agree to that.

Q: -- to Investigator Collins?

A: I agree to that.

Q: You agree with that?

A: Uh-huh.

Q: Okay. It's no question that you made that statement; right?

A: No.

Q: Okay.

MR. BROOKER: Hold on for just a minute, Your Honor. Let me make sure I don't have any follow-up.

No further questions, Your Honor. Thank you.

THE COURT: Anything on redirect?

MR. CLEMENTS: I beg the Court's indulgence.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Ms. Bacote, Mr. Brooker just asked you if you said -- told Chad Collins he was light skinny. Did you say skinny or did you say light-skinned?

A: I said his skin complexion.

Q: You're talking about skin?

A: Yeah.

Q: Because you said he was built? He wasn't skinny?

A: No. I said he was built. His skin was light-skinned.

Q: Let me ask you this. When you said you saw him a few days later, did he look like this?

A: Yeah.

Q: He did?

A: Yeah.

MR. BROOKER: Can we approach, Your Honor?

THE COURT: Yep.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: All right. Folks, let me ask you to step back into the jury room for just a moment while I deal with this matter, and we'll get you back out.

(WHEREUPON, the jury exited the courtroom at 5:00 p.m.)

(WHEREUPON, that was a break in the proceedings from 5:03 p.m. until 5:18 p.m., after which the proceedings resumed as follows.)

(WHEREUPON, a bench conference was held off the record, after which the proceedings resumed as follows.)

THE COURT: So we'll go ahead and mark that as a Court's exhibit.

(WHEREUPON, the disk containing the statement of witness

Lakeya Bacote was marked as Court's Exhibit Number 1.)

MR. BROOKER: And I'll go ahead and put it in there and get it keyed up.

THE COURT: Yeah.

MR. BROOKER: So we don't have to be messing around with it when the jury gets in.

THE COURT: Solicitor, can I ask you real quick what are we looking at scheduling time-wise?

(WHEREUPON, a bench conference was held off the record, after which the proceedings resumed as follows.)

THE COURT: Are we ready to go, Thurmond?

MR. BROOKER: I think so, Your Honor. We're ready to go.

THE COURT: All right. Let's bring the jury in, please.

(WHEREUPON, the jury entered the courtroom at 5:27 p.m.)

THE COURT: All right. Mr. Brooker, I recognize you for your recross.

MR. BROOKER: Thank you, Your Honor.

RECROSS-EXAMINATION

BY MR. BROOKER:

Q: Ms. Bacote, I think on -- on redirect I think Mr. Clements asked you whether -- asked you that it was light-skinned and, of course, previously I told you that I thought it was light skinny. I think you previously testified that you remembered giving an audio-recorded statement to

Investigator Collins?

A: Uh-huh.

Q: Is that correct?

A: Yes.

Q: Okay. I want you to listen to that recorded statement and, of course, is is that -- and I'll play it to you and, of course, you tell me whether or not this is your statement to Investigator Collins. Okay?

A: Okay.

(WHEREUPON, a portion of Court's Exhibit Number 1 was played in open court.)

BY MR. BROOKER:

Q: Okay. Is that the statement that you gave to Investigator Collins?

A: Yes.

Q: Okay.

THE COURT: All right.

MR. BROOKER: Your Honor, for purposes of the jury, do you want to ask them to make sure that they heard that when I played it?

THE COURT: Could y'all hear that?

(WHEREUPON, jurors indicating.)

THE COURT: Okay.

MR. BROOKER: Okay. All right.

THE COURT: All right, folks.

BY MR. BROOKER:

Q: That was the statement that you gave to Investigator Colins; is that correct?

A: Yes.

Q: Okay.

THE COURT: All right. Anything further, Mr. Brooker?

MR. BROOKER: No, Your Honor. Is is that, obviously, this has been identified as Court's Exhibit 1 and then, of course, is is that for purposes of the record, we would move to enter the section that we simply played and, of course, it's a six-minute tape and we played from minute 2:00 to 2:26.

THE COURT: All right.

MR. BROOKER: So the two-minute part until --

THE COURT: From 2:00 to 2:26 is in the record.

MR. BROOKER: Yeah. To 2:26.

THE COURT: All right. Sounds good.

MR. BROOKER: Thank you, Your Honor.

THE COURT: Thank you, sir.

MR. BROOKER: No further questions.

THE COURT: Anything further, Solicitor?

MR. CLEMENTS: Well, not with this witness. You know, everybody can hear what they hear.

THE COURT: That's right. Any objection to Ms. Bacote being released from her subpoena?

MR. BROOKER: Not at all.

THE COURT: Solicitor, does that suit the State?

MR. CLEMENTS: That's fine with the State. Your Honor, I think I do have one question, if I --

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: Ms. Bacote, thank you very much, ma'am. You're free to go.

THE WITNESS: Thank you.

THE COURT: All right. Solicitor, you may call your next witness.

MR. CLEMENTS: Your Honor, we would call Leron Whitten to the stand.

THE COURT: All right. Bring Mr. Whitten around, please.

This is our last witness for today, ladies and gentlemen.

Right up here. Yes, sir.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: So help me God, yes.

THE CLERK: You may be seated in the witness stand and

please state your full name for the record.

THE WITNESS: Leron Jarvis Whitten. Leron Jarvis Whitten.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

LERON WHITTEN, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: Good afternoon, Mr. Whitten.

A: Good afternoon.

Q: How are you doing today?

A: Okay.

Q: I want you to -- I don't think we'll have any problem hearing you, but in case we do, be close to that microphone.

A: Okay.

Q: Listen carefully to my questions.

A: Okay.

Q: And answer my questions and listen carefully to Mr. Brooker’s questions and answer his slowly so that the jury can articulate and hear what you're -- what you’re saying.

A: Yes, sir.

Q: Can you please tell me where you live, Mr. Whitten?

A: Darlington.

Q: In the city?

A: County.

Q: In the county?

A: Yes.

Q: What's your address?

A: 225 Plum Street. 225 Plum Street.

Q: 225 Plum Street? How long have you lived in that present locale?

A: Like, almost 10 years.

Q: All right. So you were living there January 23rd, 2016?

A: Correct.

Q: Did you know Sherilyn Joseph?

A: No.

Q: Ever meet her?

A: Never.

Q: Did you know Royal Williams?

A: Yes.

Q: Would Royal ever come by your house on occasions?

A: From time to time.

Q: Okay. Did you ever recall being approached in January of 2016 by law enforcement from Florence County?

A: Yes.

Q: And what was their purpose?

A: They came -- let me see. Let me get this right.

Q: Well, tell me what happened.

A: Something about a bag.

Q: What had happened?

A: They approached me about a murder or something like that.

Q: Okay. Yeah.

A: And -- go ahead.

Q: And they came to your -- came to your house?

A: Yes.

Q: Did they tell you how they got your address?

A: Yes.

Q: How did they -- well, I'm going to back up right there. I'm not going to ask you what somebody else said, but the context of what they said.

A: Okay.

Q: But they came there based on a murder investigation; is that correct?

A: Correct.

Q: Okay. Did you cooperate with them?

A: Yes.

Q: Did you provide them any buccal swabs?

A: Any who?

Q: Buccal swabs where you take the --

A: Oh, yes, yes. Sorry about that. Yes.

Q: All right. And you complied with that?

A: Yes.

Q: Okay. Did you know what they were doing that for?
A: Yes. I guess they were trying to, you know, make sure, you know.
Q: Right. They were testing you for evidence?
A: Yes.
Q: Do you have a handgun?
A: Yes.
Q: What kind of gun is it?
A: A 9 millimeter.
Q: When they came and looked at your house and visited your house, did you show them your gun?
A: Yes. I let them know where I got one.
Q: And did you let them take it off to be tested?
A: Yes.
Q: Where did you keep that gun?
A: In my room at the top of the closet.
Q: Okay. Did you ever bring it out very often?
A: No.
Q: When they -- when you gave it to them, was it somewhat rusty?
A: I believe so.
Q: Okay. Now, you said Royal would come by your house on occasion?
A: Yeah.
Q: Would he ever leave anything at your house and, if so,

what?

A: He left a bookbag.

Q: Okay.

MR. CLEMENTS: I beg the Court's indulgence a moment.

BY MR. CLEMENTS:

Q: I'm going to show you what's been marked State's Exhibit 14 for identification. Does that look familiar to you?

A: Yes. That's it.

Q: Okay. And you can identify this?

A: Yes. I believe, yeah.

Q: Okay.

MR. CLEMENTS: Your Honor --

THE WITNESS: It's been a little minute.

MR. CLEMENTS: I think Thurmond may have an objection.

THE COURT: Mr. Brooker?

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

THE COURT: All right. What number is that?

MR. CLEMENTS: State's Exhibit Number 14.

THE COURT: State's 14.

MR. CLEMENTS: Your Honor, at this point in time, I would move State's Exhibit Number 14 into evidence.

THE COURT: All right. And that's without objection?

MR. BROOKER: Without objection, Your Honor.

THE COURT: All right. State's 14 is in evidence without objection.

(WHEREUPON, State's Exhibit Number 14, photograph of black book bag, was admitted into evidence.)

BY MR. CLEMENTS:

Q: Mr. Whitten --

A: Uh-huh.

Q: Can you tell us where that bag was and what it -- how it got there?

A: He asked me -- you know, he texted me one day, can you go to --

Q: Don't tell me what anybody said. You don't have to get into that background. Just tell me who left this bag at your house?

A: Royal Williams.

Q: And where was it found? What floor is that?

A: Mine.

Q: Which room?

A: Front room.

Q: Front room?

A: Yes.

Q: Okay. All right. Mr. Whitten --

A: Yes, sir.

Q: Would you have any knowledge as to how your address

would show up on Sherilyn Joseph's phone?

MR. BROOKER: Your Honor, objection. May we approach?

THE COURT: Yeah.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury off the record, after which the proceedings resumed as follows.)

MR. CLEMENTS: I'll withdraw that question.

THE COURT: All right. That question is stricken from the record.

BY MR. CLEMENTS:

Q: Mr. Whitten, did you receive your handgun back after you had given it to law enforcement --

A: No, sir.

Q: -- to get checked out?

A: No, sir.

Q: Okay. They still have it?

A: Yes.

Q: Okay. How long had you known Royal Williams?

A: For about three or four months, I would say.

Q: Okay. And did you know anybody else in his family?

A: I spoke to his mother a couple times.

Q: But you didn't know Sherilyn Joseph at all?

A: No.

Q: Okay. All right.

MR. CLEMENTS: Thank you. No further questions.

THE WITNESS: Okay. Thank you.

THE COURT: Hold on.

THE WITNESS: Okay.

THE COURT: Mr. Brooker?

MR. BROOKER: Sure. If you can indulge me for just a second, Your Honor?

THE COURT: Yes, sir. Sure.

CROSS-EXAMINATION

BY MR. BROOKER:

Q: Very quickly, Mr. Whitten.

A: Yes, sir.

Q: I don't have much questions for you.

A: Okay.

Q: So I think that -- that what's been identified as, I think, State's Exhibit Number 14, I think, is that black bag; is that correct?

A: Yes.

Q: Okay. And I think you testified on direct examination that Royal Williams dropped that off at your house?

A: Say that again?

Q: I think you said on -- I apologize. You said on direct examination that Royal Williams dropped that bag off at your house; is that correct?

A: Yeah. He was going to court or something like that.

Q: Just tell me yes or no. Did Royal Williams drop that

off at your house?

A: Yes. Correct.

Q: Okay. All right. And -- and do you know when he dropped that off at your house? Do you know what day?

A: The exact day? What do you mean?

Q: Well, yeah. Do you know what day he dropped that off at your house?

A: It was the day he was going to court or something like that.

THE COURT: Was it a Monday or Tuesday or Wednesday?

THE WITNESS: Oh.

THE COURT: Do you know?

BY MR. BROOKER:

A: Honestly, I can't remember, sir, not the exact date.

Q: Okay. You don't know the date?

A: Not exact day.

Q: Okay. All right. Do you know what month?

A: It's been a while. Honestly, I can't remember. It's been a while.

Q: Okay. You don't remember the month?

A: Not exactly.

Q: Okay.

MR. BROOKER: Indulge me for just a second, Your Honor.

THE COURT: Okay.

MR. BROOKER: Let me make sure that I don't have any

further follow-up questions.

THE COURT: Sure.

THE WITNESS: Okay.

MR. BROOKER: I'm almost finished, Mr. Whitten.

THE WITNESS: Okay.

BY MR. BROOKER:

Q: Just I think you said that -- that law enforcement came to your office as a result of the investigation of a murder of Ms. -- Ms. Joseph; is that correct?

A: My house. Correct.

Q: Okay. Now, were you present at the time in which Ms. -- were you present during Ms. Joseph's murder?

A: I never met her.

Q: Okay. So the answer would be no; is that correct?

A: What you mean present? Like --

Q: Were you present when she was -- when she was murdered? Were you present when she was killed?

THE COURT: Were you there?

BY MR. BROOKER:

Q: Yes.

A: No, no.

Q: All right. Thank you. That's all.

A: Okay.

Q: So you were not present when she was killed?

A: No. I didn't know her.

Q: Okay. All right.

A: Sorry about that.

MR. BROOKER: No further questions, Your Honor.

THE COURT: All right. Anything further?

MR. CLEMENTS: That's all we have for today, Your Honor.

THE COURT: All right. Sir, thank you very much for being here. You're free to go.

THE WITNESS: Okay. Thank you, Your Honor

THE COURT: Yes, sir.

All right. Ladies and gentlemen, we will -- I won't keep you any longer by giving you my speech. You know what my speech is. It's the same as I've given to you for the last couple days. Just continue to do everything in your power to maintain your ability to remain fair and impartial, and we'll see you here at 9:30. Okay?

(WHEREUPON, the jury exited the courtroom at 5:53 p.m.)

THE COURT: Anything we need to take up before we adjourn?

MR. CLEMENTS: Nothing from the State, Your Honor.

THE COURT: Go ahead.

MR. BROOKER: Nothing that I'm aware of, Your Honor. I'll talk with my client --

THE COURT: Okay.

MR. BROOKER: -- and let you know overnight, but nothing that I'm aware of.

THE COURT: Yeah. That's fine. Let me ask because I think we've -- I've got a little bit of an idea. Mr. Brooker, I think you've indicated to the Court that you do have some witnesses that you will be calling on the defense's case.

MR. BROOKER: That's correct.

THE COURT: For the State, Solicitor, how many more witnesses do you -- and I'm not holding you to it, but just ballpark what you think you've got left or -- or maybe you can just tell me do you think you can get the State's case in tomorrow?

MR. CLEMENTS: Judge, I thought we'd be finished today. So I don't know if I'm the right person to ask that -- ask that question of.

THE COURT: Well --

MR. CLEMENTS: But I've got three witnesses that are going to be kind of substantial and maybe a couple short witnesses, but probably just the three.

THE COURT: Okay. And then, Mr. Brooker, again not holding you to the number, but just --

MR. BROOKER: Yes, sir.

THE COURT: -- how many witnesses do you think you might have?

MR. BROOKER: It's going to be, I think, three or less.

THE COURT: Okay. Well, and again, it's not a problem

because we'll take -- I'm not trying to hurry anybody. We'll take all the time we need, but I'm just trying to get an idea.

If -- if we don't get finished Friday, then I would just anticipate us just coming in Saturday and having a -- treating Saturday as just another day. So just to give you that heads up on what we probably would do.

Sometime some judges will break and come back on the following Monday. I don't like to have that long of a break. Y'all have been presenting your case, you know, then the jury goes away for two days and they come back. I just -- I don't like to break that up. I think we need to just go until we're done. Okay?

So that's what we'll plan on doing, but -- and again, I don't say that for you to trim down anything. You put up your case. I'm not trying to affect that. I just want you to know that that's what we'll -- we're just going to continue to go until we're done. Okay?

All right. Well, if there's nothing for anything this evening, I'll be here early tomorrow. And listen, here's what I'd like to do. For our purposes, I would like for us to plan on -- I'm going to take the bench at 9 o'clock. If we have stuff, we'll deal with it. If we don't, that's fine. Then we'll just -- I'll go off the bench, but at 9:30 we'll call them out and get started so we can -- we've kind of been

getting them here at 9:30 and we've been running a little bit late getting started. So -- and there's nothing wrong with it. We've had some matters to take up, but let us get together at 9 in the morning and then if we have matters to take up, we can do that from nine to 9:30. Okay?

MR. BROOKER: Certainly.

THE COURT: So we'll -- we'll plan on starting back at nine tomorrow morning.

MR. CLEMENTS: Thank you, Your Honor.

(WHEREUPON, the proceedings adjourned for the day at 5:57 p.m.)

SEPTEMBER 12, 2019

(WHEREUPON, the proceedings resumed at 9:05 a.m.)

MR. CLEMENTS: Your Honor, during the investigator's testimony, we're going to use these two things. It'll be demonstrative evidence. It's just a list that he compiled in his investigation of the records, pulling out some things there. And this is on the video surveillance from Mr. Profitt's house. This is a list he's going to go through.

MR. BROOKER: A time line?

MR. CLEMENTS: A time line. It's kind of a time line.

THE COURT: Okay.

MR. CLEMENTS: Surveillance.

THE COURT: Okay. Is there any objection to any of that, to him using any of that?

MR. BROOKER: No, I don't have any objection to him using that time line. I'm a little bit curious about this though.

MR. CLEMENTS: As a matter of fact, the -- I think that's still going to be on a flip chart page.

MR. BROOKER: What time are you going to call that cell phone expert? Are you going to put him up first?

MR. CLEMENTS: No. I'm going to put up Chad and Thomas.

MR. BROOKER: And then -- and then put the cell phone expert up last?

MR. CLEMENTS: Yeah.

MR. BROOKER: Okay. Okay.

MR. CLEMENTS: All that is is just a list. Going through the records, they wrote it on the flip chart. You know, the big pad.

MR. BROOKER: Okay. This is not going to be entered into evidence, is it?

MR. CLEMENTS: This is going to be used. It will be used with the Elmo as a demonstrative.

MR. BROOKER: Okay. Okay. It's not going to go back to the jury.

THE COURT: But you're not entering it into evidence. You're using it for demonstrative purposes?

MR. CLEMENTS: Right.

THE COURT: Okay.

MR. CLEMENTS: I'm not entering it into evidence, but yet the jury is going to be able to see it. So --

THE COURT: Right, but they won't have it back in the jury room.

MR. CLEMENTS: Right.

MR. BROOKER: Okay.

THE COURT: Right.

MR. CLEMENTS: Your Honor, we're going to -- this morning, we're going to put in the surveillance cameras from Mr. Profitt. This is the whole thing that was downloaded. This is where Keith has made a smaller section of it, put it together, and this is what we would like to play to the jury, but it's taken off of this.

THE COURT: That is a part of that?

MR. CLEMENTS: Yes, sir.

THE COURT: Where you've excluded or extracted it?

MR. CLEMENTS: Extracted, yeah.

MR. BROOKER: Okay. This is a smaller part?

MR. CLEMENTS: Yes.

THE COURT: That's just an extraction.

MR. BROOKER: That's no problem.

MR. CLEMENTS: Yeah.

MR. BROOKER: Yeah. So you don't have to -- because I know -- I know that whole video is long.

MR. CLEMENTS: Yeah.

MR. BROOKER: That's fine.

THE COURT: All right. So we're going to put -- we're going to put this in as a Court's exhibit?

MR. CLEMENTS: This in as the -- as the evidence and this is a Court's exhibit, I guess. This is the evidence. This was what was taken off of the DVR.

MR. BROOKER: This is going to be a Court exhibit and this is going to be evidence because this is what's going to be played to the jury.

MR. CLEMENTS: Because either way, yeah.

THE COURT: In other words, if this is a Court's exhibit, then it's in the record if there's any need for an appellate --

MR. CLEMENTS: Right.

MR. BROOKER: Right.

THE COURT: -- decision down the road.

MR. CLEMENTS: Right.

THE COURT: But what will go into evidence --

MR. BROOKER: What the jury is going to see.

THE COURT: -- which is what they'll have in the jury room and, if they wanted to watch it, they -- it would be that.

MR. CLEMENTS: Yeah.

MR. BROOKER: Yeah. So that's going to go into evidence.

THE COURT: So we put this in as a Court's exhibit and we'll put this in as what you're admitting into evidence.

MR. CLEMENTS: Okay. All right.

MR. BROOKER: Okay.

THE COURT: The smaller one.

MR. BROOKER: Yeah.

(WHEREUPON, the full surveillance video was marked as Court's Exhibit Number 2.)

MR. BROOKER: Just for housekeeping purposes, I talked -- I think yesterday I told you that I would know whether or not he had a motion today. I talked with my client overnight. He don't -- he does want me to put that -- put a motion on the record for a mistrial and I don't know if you're going to grant that or not, but it needs to be on the record for purposes of appeal.

THE COURT: Okay.

MR. BROOKER: I talked with him.

THE COURT: Regarding the what?

MR. BROOKER: I guess regarding yesterday about the last two witnesses where -- where one is is that the -- the SCDC photograph was used and, of course, she made a positive identification of him using an SCDC photograph.

THE COURT: Okay.

MR. BROOKER: And of course, the other one would -- with the last witness, which was Mr. Whitten, when -- when Mr.

Whitten was asked how did -- how did your -- your address get into the victim's cell phone. I think we went up here and had a sidebar about that.

THE COURT: Right.

MR. BROOKER: And of course, it was a mistake, I think, you know.

MR. CLEMENTS: Yeah.

MR. BROOKER: And that's fine, but I still need to put it on the record just to protect him.

THE COURT: Okay.

MR. BROOKER: I talked with him about that and then, of course, he wants me to do it. It will only take about five minutes.

MR. CLEMENTS: All right.

THE COURT: Okay.

MR. CLEMENTS: And now, we've got these pictures, Your Honor. These are from the autopsy. That's the one that's cleaned up. We don't see where it's shocking or anything.

MR. BROOKER: That's not shocking.

MR. CLEMENTS: It could be shocking to some people.

MR. BROOKER: It's shocking to most people.

THE COURT: Yeah. I know what that is.

MR. CLEMENTS: Okay.

THE COURT: I know, obviously, you objected to that.

MR. BROOKER: Obviously.

THE COURT: Any objection to that?

MR. BROOKER: Absolutely.

THE COURT: Okay.

MR. BROOKER: Unless there's a basis for entering into the evidence in which the -- in which the -- in which the probative value of it would outweigh the prejudice, then Your Honor can make that balancing test. Like I said, is is that we don't challenge anything about how she was killed. It's been testified, I think, by four or five witnesses how she was killed, a single gunshot wound to the head. By -- it was testified by --

THE COURT: What is the -- what's the probative value, since there's no -- there's no challenge to the cause of death?

MR. CLEMENTS: It's just every time I've got a murder case and I've got a wound, I --

THE COURT: I know, but it has to have some probative value.

MR. CLEMENTS: Well, it shows the close contact was there, but the pathologist testified there was no stippling, there was no soot. It goes to show that that comforter and that pillow that has a hole in it was between the forehead and the gun. Otherwise, there would have been stippling and soot.

THE COURT: Okay.

MR. CLEMENTS: And powder burns.

THE COURT: Well, we won't argue it up here because we're going to have to put it on the record. So --

MR. BROOKER: Yeah. But that's not a contested --

THE COURT: But anyway --

MR. BROOKER: That's not an issue that's being contested though.

THE COURT: That one will certainly -- any -- anything else?

MR. CLEMENTS: These are some other pictures I know.

MR. BROOKER: I think he entered one of them in evidence. I think one --

THE COURT: You basically have that one in.

MR. BROOKER: Yeah. That one is already in in F. I think it was 1-F that you entered that one in.

MR. CLEMENTS: Yeah. It's just from down the hall.

MR. BROOKER: Yeah.

THE COURT: Okay.

MR. CLEMENTS: So this just shows what you couldn't see in F, where the feet are in the doorway.

MR. BROOKER: It's cumulative. What's the purpose of it? Is is that one photograph shows --

THE COURT: I mean what -- I mean you've got the photograph of her laying in the hallway, but this is -- what's -- and do you need this stuff? Why would you even

want to put that in?

MR. CLEMENTS: Well, her feet are in her bedroom and then her head is in a child's bedroom. I'm not going to -- I'm just submitting them. I'm not going to argue specifically about that one.

THE COURT: Okay.

MR. CLEMENTS: This, which is 1-I, I think we should be entitled to get in.

THE COURT: Yeah. I don't know what it is.

MR. BROOKER: Yeah. I think -- and I think I told you we had no objection to this. Although it's cumulative, I think that the relevance to this is is that that's the trashcan where the condom was taken out. There's already a picture already in of that trashcan.

THE COURT: Yeah. But I think the picture that's in is just a picture of the --

MR. BROOKER: It's a close-up.

THE COURT: -- what's in the contents.

MR. BROOKER: I don't have an objection to that.

THE COURT: I think that is --

MR. BROOKER: Yeah.

THE COURT: -- relevant to where it was.

MR. BROOKER: Where the condom was found.

THE COURT: So there's no objection to that one.

MR. CLEMENTS: So that's 1-I, I believe.

MR. BROOKER: I don't have an objection to that.

THE COURT REPORTER: That's 1-I?

THE COURT: It's 1-I is without objection. Okay. 1-I is without objection.

(WHEREUPON, State's Exhibit Number 1-I, photograph, was admitted into evidence.)

MR. CLEMENTS: This just is an angle. It shows that she stretches from one bedroom to the other, but he objects to it.

THE COURT: Yeah.

MR. CLEMENTS: I don't have a problem with it. I don't see anything shocking about that.

THE COURT: It's nothing shocking about it, but --

MR. BROOKER: It's not.

THE COURT: You've got the picture in --

MR. CLEMENTS: Yeah.

THE COURT: -- of her laying there.

MR. BROOKER: It has no evidentiary value because there's nothing in -- there's nothing that is being disputed about the dead body. There's no evidentiary value. It's been testified to that -- you know, that she's dead laying on the floor and all of that and never been contested whatsoever. It's been testified to with about five witnesses. Five witnesses testified to that.

MR. CLEMENTS: So --

THE COURT: I mean, again, I don't --

MR. BROOKER: If we had challenged that, I could see it. I could see it if we had challenged it, if we had said, no, she wasn't laying there or she wasn't laying this way or laying that way. Then you can put the photos in to say no, no, no, no, this is how she was found, this is what -- you know.

MR. CLEMENTS: This just shows her hand. It doesn't show -- I said it doesn't show the body.

MR. BROOKER: What's the purpose of it? If there's -- if there's -- if there's an evidentiary purpose.

MR. CLEMENTS: We're getting ready to get to it in a second.

MR. BROOKER: If there's an evidentiary purpose --

THE COURT: Because here's the thing. I don't know. Is your purpose with this photograph the hand?

MR. CLEMENTS: It's the hand because I want to follow up --

THE COURT: Because if I would let that in, I'd just as soon let one of these in. You know what I'm saying?

MR. CLEMENTS: Well, this is what the ultimate point that I want to get to. It goes with the lividity and the livor mortis.

MR. BROOKER: But there's no challenge to it.

MR. CLEMENTS: It shows the puddling of the -- the

puddling of the blood --

MR. BROOKER: The pathologist --

MR. CLEMENTS: -- the pull of gravity, but the State has the opportunity to prove their case and to prove what they think they need to prove in front of the jury, whether it's contested or not. We could just punt on stuff because he ain't contested it and the jury could go back in the jury room and they could go, what about this? So we -- I think we're provided the opportunity to present our case, not just whether there's a challenge to it or not.

MR. BROOKER: And you had, I think -- God, you've had so many witnesses testifying about this stuff. There's no evidentiary value to it other than just to shock the jury.

MR. CLEMENTS: There's evidentiary value to that.

MR. BROOKER: Other than to just to try to shock the jury. I mean just none whatsoever.

THE COURT: All right.

MR. CLEMENTS: Well, I don't see where that would shock the jury myself for that, but reasonable minds are discreet.

THE COURT: I'm going to allow one. Who are you going to use this with?

MR. CLEMENTS: We've already had testimony that he took the pictures.

THE COURT: I know. I understand that. I'm just saying what witness is going to testify as to what the relevance of

this photo is?

MR. CLEMENTS: They can testify that that was the hand.

THE COURT: I mean this -- this should have been used with --

MR. BROOKER: Probably with Bo or your pathologist.

THE COURT: -- one of your experts, with Bo Myers or your --

MR. BROOKER: Or the pathologist.

MR. CLEMENTS: Bo did it. Andy. He talked about lividity and showed him the hand and the pathologist talked about --

THE COURT: We've got -- these are laypeople out there. They don't know what this means.

MR. CLEMENTS: Well --

THE COURT: They don't -- they don't -- I mean you can't get up there and explain it.

MR. CLEMENTS: I think there's enough in the record that I can present it and is that it's just an example of lividity they talked about and it shows exactly what Bo Myers was talking about when he talked about --

THE COURT: Well, I don't know, but my point is -- and I think this is what his point is is that it's a layperson. For all I know, she's just a lady that has psoriasis or some type of a skin discoloration --

MR. BROOKER: And I --

THE COURT: -- that has nothing to do with -- for all I know, her hand looked like that always.

MR. BROOKER: Yeah, yeah. Someone would have to explain it that that is an example of pooling.

THE COURT: Someone would have to explain what that is.

MR. BROOKER: And that's not a bruise or --

MR. CLEMENTS: They did. They did in general.

THE COURT: They did, but you can't explain general and then try to come in and go this is what they were talking about because who is going to say that?

MR. CLEMENTS: Well, it's just a picture of exactly what he was talking about.

THE COURT: Then why didn't you use it with him?

MR. CLEMENTS: Because I figured I'd wait and take all the objections up at one time. I could have used it with him.

THE COURT: I'm not going to let that in.

MR. CLEMENTS: All right. Well, the others --

THE COURT: I think y'all -- I think that is relevant. I'm going to -- I'm going back to this and I'm going to -- I'm going to note your objection. I'm going to allow 3-C in.

(WHEREUPON, State's Exhibit Number 3-C, photograph, was admitted into evidence.)

MR. CLEMENTS: The rest of them, Your Honor, we'll -- we'll punt on those.

THE COURT: Okay. So just to recap, I'm going to allow 3-C and 1-F in. 1-F is without objection. 3-C is over defense objection.

THE COURT REPORTER: You mentioned 1-I before.

MR. CLEMENTS: You did.

THE COURT: Well, maybe that's what I'm talking about, I guess.

THE COURT REPORTER: 1-F is already in evidence.

THE COURT: Okay. 1-I.

MR. BROOKER: Yeah, F is already in.

THE COURT: Its 1-I is without objection. 3-C is over defense objection. I want to note their objection to that.

THE COURT REPORTER: This is all on the record.

THE COURT: Yeah. Because we're -- we're on the record. So we're --

MR. BROOKER: Okay.

THE COURT: -- good on that.

MR. CLEMENTS: So these are not going into evidence. Do you want me to remove them or --

THE COURT REPORTER: You can remove them or we can put them as Court's exhibits so that they are in there.

THE COURT: It doesn't matter to me.

MR. CLEMENTS: Let's do that.

(WHEREUPON, State's Exhibits Number 1-G, 1-H, 1-J, 1-K, 1-L, 1-M, 1-N, 1-O, 1-P, 1-Q, 1-R, 1-S, and 1-T were

marked as Court's Exhibit Number 3.)

THE COURT: is there anything else that we need to -- now, you know you've got the witnesses that you need here?

MR. CLEMENTS: Yes, sir.

MR. BROOKER: Our witnesses are going to be here around 2 o'clock after lunch.

THE COURT: Okay. I just was going to ask because I don't know how long it will take, but if we were to wrap up with the State's case, you would be ready --

MR. BROOKER: Yeah.

THE COURT: -- to go?

MR. BROOKER: I asked them to be here at 2 o'clock.

THE COURT: Well -- and we can do this at a later time too.

MR. BROOKER: We'll finish if we get -- if we start at 2 o'clock, we'll finish our witnesses today.

THE COURT: Well, I don't know that we'll get there, but if we do, we will.

MR. BROOKER: Yeah.

THE COURT: And then -- and y'all -- you know, between now and whenever the State rests, you can talk with Mr. Williams and then we'll go over whether or not --

MR. BROOKER: Yeah.

THE COURT: -- he intends to testify. I know you have other witnesses, but whether or not he intends to.

MR. BROOKER: I told him he needs to be thinking about that because that's going to be asked of him.

THE COURT: And so we probably need to discuss this at some point, which I would -- I would think he would need to know my ruling --

MR. BROOKER: Yeah. Before he makes a decision.

THE COURT: -- as to whether or not he's going to consider that.

MR. BROOKER: Yeah.

THE COURT: So I don't know when y'all want to do that. We could -- we could do it now or we could wait and do it.

MR. BROOKER: I don't have a preference. Whatever -- whatever you think is going to be the best.

MR. CLEMENTS: Can we wait on this?

THE COURT: Yeah. That's fine. We're going to have time. We're going to have an opportunity.

MR. BROOKER: Yeah.

THE COURT: Okay. All right.

(WHEREUPON, there was a break in the proceedings from 9:24 a.m. until 9:30 a.m., after which the proceedings resumed as follows)

THE COURT: Is there anything else we need to take up before we get started?

MR. BROOKER: Just that motion, Your Honor. That was it that I was explaining to you before.

THE COURT: All right. Well, let's -- let's go ahead and do that then.

MR. BROOKER: Are you ready for it at this time?

THE COURT: Yeah, I think so. Let's go ahead and hear that.

MR. BROOKER: Sure. Thank you, Your Honor.

Your Honor, we're making a motion for a mistrial, I think based upon the last two witnesses that occurred at the end of the day yesterday. And of course, is that I know at the end of the day I think you asked us whether or not we had something or whether not any of the parties had anything before we concluded for the day and I think I advised you that I would need to talk with my client to see. I have spoken with him and, of course, is is that we're making a motion for a mistrial.

THE COURT: Okay.

MR. BROOKER: And that mistrial is based upon, like I said, the last two witnesses. I think the last witness was Mr. Leron Whitten and, of course, is that there's two events that happened with Mr. Whitten -- Whitten's testimony that we think is highly prejudicial to our client.

One event was is -- and that was is that I think previously, I think in pretrial motions, we filed a motion basically advising the Court, you know, that anything that was contained within Ms. -- Ms. Joseph, the victim's, cell

phone could not be disclosed in court because that had not been produced and definitely was not in evidence at that particular period of time.

And of course, is that I think at the conclusion -- I think on redirect, Mr. Clements got up and asked Mr. Whitten how did your cell -- how did your house number, 225 Plum Street -- how did that get into the victim's phone and, of course, the purpose of that was is is that up until this particular point in time, I think, Mr. Whitten had previously testified that -- that Royal William stayed at his house occasionally and, of course, up until this -- up until this -- up until that point, there had been no connection between the victim's house and, of course, any house in which Royal Williams had stayed or either lived at.

And of course, is is that what that statement did was is is that it connected the victim's home and, specifically, the victim’s phone with an address that is associated with Royal Williams and, of course, there had been no evidence up until this particular point that makes such a -- such a connection and, of course, when they did that then, of course, is that it improperly, I think, provided the jury with that information in violation, I think, of the pretrial motion that it could not be disclosed.

THE COURT: Let me ask because I’m a little bit confused.

MR. BROOKER: Sure.

THE COURT: You said that up until that point there was nothing that would connect Mr. Williams to the victim's home?

MR. BROOKER: No. Yeah. There was nothing that -- there was nothing that -- that -- that connected the victim to any home in which Mr. -- to a home in which Mr. Williams was associated with. So that was a home in which Mr. Whitten says the victim [sic] sometimes stayed with me. So up until that point there was no association between the victim and any home that was associated -- any home in Darlington or anyplace else that was associated with Mr. Williams.

THE COURT: Okay. His testimony was that on occasion Mr. Williams would stay with him.

MR. BROOKER: Yes.

THE COURT: Mr. Whitten.

MR. BROOKER: Yes.

THE COURT: Yeah.

MR. BROOKER: And of course, is that I think what the prosecutor was attempting to do is to make -- make the connection between the two. Make a connection between the victim and that home that Mr. Williams stayed at at 225 Plum Street and, of course, that's what -- that's what it did is that it connected those two and, up until this point, there had been no connection.

And of course, the second thing would be, obviously,

Your Honor, is that I think -- I know Mr. Clements told, I think, the Court. I think we approached the Court -- approached the bench, I think prior to Mr. Whitten's testimony, and was really concerned about Mr. Whitten saying something about Mr. Williams being in jail or anything that related to that because it would obviously be prejudicial.

I think Mr. Clements said he had admonished him about a week ago to don't say anything related to that and, of course, is is that twice he said that Mr. Williams -- that the day that Mr. Williams brought the bag to his -- his apartment was the day that he was going to court. He didn't specifically say what he was going to court, but, of course, is is that he left it out there that he was going to court for something. Of course, he said that twice and, obviously, is is that --

THE COURT: He said it twice because you asked him twice.

MR. BROOKER: No. Yeah. I did not ask him.

THE COURT: The first time when he said it, it was in response to one of your questions, and you didn't ask him where Mr. Williams was that day.

MR. BROOKER: Yeah.

THE COURT: You simply asked a question about that day.

MR. BROOKER: Yeah.

THE COURT: And he volunteered that.

MR. BROOKER: Yeah.

THE COURT: And you went away from it.

MR. BROOKER: Yeah. I asked him what date -- what date was it that Mr. Williams brought the bag.

THE COURT: Right.

MR. BROOKER: But he had testified that Mr. Williams had brought the bag there and I just asked him --

THE COURT: Right.

MR. BROOKER: -- what day was that.

THE COURT: Right. And then he made -- he made reference to he had to go to court.

MR. BROOKER: Yes.

THE COURT: And you -- you got away from that.

MR. BROOKER: Yeah.

THE COURT: But then you went back to it and he said it again.

MR. BROOKER: Yeah. And what I -- and what I was --

THE COURT: And that's when I interjected and said was it a Monday, Tuesday or Wednesday --

MR. BROOKER: And that’s when --

THE COURT: -- to try to get him off that.

MR. BROOKER: And that was correct because I was trying to tell him and I think I did tell him that I'm looking for the day, what day it is. Tell me what day it is.

THE COURT: Right.

MR. BROOKER: And of course, is is that not some obscure reference to it and, of course, he said I can't remember it, but I know it was the day in which he went to court and, of course, is that we think that was highly prejudicial.

The second thing -- I'm going to move on so we can get this jury in here and get started.

The second reason, Your Honor, is the witness, I think -- the witness before Mr. Whitten and, of course, that was Ms. Bacote and, of course, is is that -- Lakeya Bacote. And of course, is I think what we object to that was is is that there was an improper identification of Mr. Williams by Ms. Bacote.

I think specifically on my -- I think on my -- I believe it was on my cross-examination. Ms. Williams [sic} -- I can't remember whether or not it was on my cross-examination or either his direct, Ms. Williams said that the person that she picked up on the 25th from the victim's apartment, that about a week or so ago -- about a week or so later, she picked up that same person again in Darlington and, of course, is is that she said at that time that person -- that person had shaved their head and was bald because I think I had questioned her extensively about, you know --

THE COURT: The hair.

MR. BROOKER: She testified that he had good hair pulled back in a ponytail.

THE COURT: All right.

MR. BROOKER: And of course, she then said that and I think it was on then redirect that Mr. Clements got up and, course, is took an SCDC photograph and, of course, brought it to her and says the second person -- that person that you picked up the second time, is this that person and, of course, she says yes and, of course, that was an SCDC photograph of Mr. Williams and, of course, there's two things that's extremely problematic with that.

One thing is is that it was an identification from an SCDC photograph that was not in evidence, you know, which is definitely a problem. The second thing is is is that -- that although the jury did not see the photograph, but I think the jury -- the jury was able to determine that Ms. -- Ms. Bacote was now testifying to the stand of a positive identification, you know, of that second person that she picked up as being Royal Williams and, of course, is is that --

THE COURT: Well, she had already testified it was Mr. Williams.

MR. BROOKER: No, she did not.

THE COURT: She testified it was the same guy she picked up the week earlier.

MR. BROOKER: Yeah. Yeah.

THE COURT: She didn't use a name.

MR. BROOKER: Absolutely.

THE COURT: Right.

MR. BROOKER: But of course, is is that the problem with that, Your Honor -- the problem with the in-court identification is is that she had previously -- she had previously told the detectives -- and of course, it's contained within their records and, of course, is that I think I asked -- I think I asked Linda Jones, who was the driver, the same question.

THE COURT: No. The other way around.

MR. BROOKER: I also asked --

THE COURT: I think Bacote was the driver and Jones was in the backseat.

MR. BROOKER: Yeah, yeah, I know. I know. I asked both of them this question and that is is that whether or not they -- whether or not they remembered being shown photographs of these defendants -- of people, including Mr. Williams, by law enforcement officers and they telling them -- and they're telling those law enforcement officers in response to those pictures, you know, that, you know, these people are not the people. We can’t say that it is the people, but they have similar features to that. So she could not identify him after being shown a photograph of him previously, but of course, is is that she then gives an in-court identification of him, which is highly not appropriate.

THE COURT: She doesn't -- but she doesn't. An in-court

identification would have been if the solicitor would have said is that the guy sitting right there? Is that the guy you picked up? And pointed at Mr. Williams. What occurred here was he showed her a photograph.

MR. BROOKER: Sure.

THE COURT: That the jury never saw. He showed her a photograph and asked is this the guy you picked up, and she said yes. You objected. We shut it down, brought it -- came to the bench and, at that point, I sustained the objection.

The photograph was never seen. The jury hasn't seen it. The jury doesn't know to this minute what -- what did he -- did he show a picture of the composite sketch. Did he show a picture? What did he show her? They don't know because it never got there. So there was no in-court identification of Mr. Williams.

MR. BROOKER: And I'll say this, Your Honor, and I'll sit down and then let you make a ruling. The point I was trying to make, of course, is is that I was defining an in-court identification is is that -- is that she was shown a photograph of Royal Williams and asked whether or not this was the person that you picked up the second time, which is the same person that you picked up the first time.

THE COURT: Correct.

MR. BROOKER: From Ms. Joseph's apartment on the day of the murder.

THE COURT: Correct.

MR. BROOKER: Okay. And so -- and her answer was yes.

THE COURT: Correct. But the jury was not told nor do they know that that photograph that she was shown was Mr. Williams. It could've been my photograph.

MR. BROOKER: That is true.

THE COURT: They don't know.

MR. BROOKER: That is true, Your Honor.

THE COURT: Because you did a good job of stopping it.

MR. BROOKER: Yeah. That is true, Your Honor, but of course, is is that the jury might assume because this is all about Mr. Williams that when she -- that when Ed Clements walked up and showed her a photograph, that photograph was of the defendant because his identification is the only identification that was in question during her testimony.

THE COURT: Well --

MR. BROOKER: So the jury can easily draw that conclusion that it was a photograph of Mr. Williams.

THE COURT: Okay.

MR. BROOKER: So -- and, like I said, that's why we're making that motion.

THE COURT: All right.

MR. BROOKER: Thank you very much, Your Honor.

THE COURT: All right.

(WHEREUPON, there was a pause in the proceedings, after

which the proceedings resumed as follows.)

THE COURT: All right. I'm going to deny the motion for a mistrial. Again, I -- and I go back to the one you argued second I'll deal with first was the issue regarding the photograph.

I don't disagree with you that it was improper to show that photograph and ask if that was the person that was picked up, but again, as I said earlier, there was no -- there's nothing in the record to indicate that what Ms. -- what Ms. Bacote was shown was a photograph of Mr. Williams or Mr. Brooker or Mr. Clements. It was -- she clearly was shown something and asked is that the same person that you picked up the week earlier. He didn't even ask is this a photograph of the defendant. He simply asked is this the person you picked up the week earlier.

There was an objection that was sustained. The photograph never went to the jury. The jury never saw it. And so I think that's relatively harmless. Even though I think it was improper, I think it's harmless and certainly doesn't rise to the level of a mistrial.

Regard the -- regarding the question as to the phone, the victim's phone and the address, again, I would agree that it was an improper question, but the question was withdrawn and the Court struck that question from the record.

At the appropriate time when I give the jury the charge

on the law, I will instruct them that any matters that were stricken from the record are, in fact, stricken from the record and they're to give it no consideration in their deliberations.

However, that -- it's not completely correct, I don't think. If I understood your -- your argument that that would have been the only connection between the victim's home and Mr. Whitten's home involving Mr. Williams because there was testimony -- there is -- and again, all of this is depending on how the jury views the testimony, but there was testimony in the record, depending on how the jury views it, that there was a condom found in the victim's home that had Mr. Williams's DNA on it and there was also testimony that there was a book bag or some type of a bag at Mr. Whitten's home that was identified as Mr. Williams' book bag. So there -- certainly, it makes that connection there.

But again, that -- that question, you immediately objected. There was no response to the question and I ordered that to be stricken from the record and will instruct the jury appropriately regarding that during my jury instructions.

So I don't think also that that rises to the level of a mistrial. I'm going to respectfully deny the motions for a mistrial.

Anything else we need to take up before we get started?

MR. BROOKER: Not from the defense, Your Honor.

MR. CLEMENTS: Not from the State, Your Honor.

THE COURT: All right. Is your next witness present?

MR. CLEMENTS: Yes, sir.

THE COURT: In the courtroom ready to go? Okay.

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

(WHEREUPON, there was a pause in the proceedings, after which the proceedings resumed as follows.)

THE COURT: Ann, hold off for just a minute, please. Close the door.

Folks, let me just address this. I'm really getting a little frustrated with it. Is anyone going to admit putting this in the clothing that you brought for Mr. Williams today? Who put this in the clothing that was brought for Mr. Williams today? Someone put this in the clothing that was brought to Mr. Williams today. No one is going to admit to that? Because I'm going to have people removed from this court and you won't be here for the balance of this trial.

UNIDENTIFIED FEMALE IN GALLERY: We didn’t bring the clothes.

THE COURT: Who brought the clothes?

UNIDENTIFIED FEMALE IN GALLERY: We didn't bring them.

THE DEPUTY: She’s not in the courtroom right now, Your Honor. I don’t know where she is.

THE COURT: Do we know who brought the clothes?

MR. BROOKER: Yeah. I think it -- I think it was his -- I think it was his -- his girlfriend. She's, I think, excluded from the courtroom. She's one of the ones that's a potential witness; so she is not allowed in the courtroom during testimony.

THE COURT: I want her to be brought in here for right now.

THE BAILIFF: Do you want me to get her, Judge?

THE COURT: Yes, sir, please.

Mr. Brooker, do you need -- do you think Mr. Herman might need your help in finding her?

MR. BROOKER: I'll look and see.

(WHEREUPON, Mr. Brooker exited the courtroom and then re-entered the courtroom.)

MR. BROOKER: Thank you, Your Honor. They're getting her. She went to the restroom.

THE COURT: Okay.

MR. CLEMENTS: Your Honor, while we're waiting on that, I've got a subject to take up and I want to make sure I don't step on stuff.

Part of the testimony that the two investigating officers are going to give regards to when they got to the scene of the crime and Investigator McFadden picked up her phone and started checking her phone to see what was in there for any leads, and his testimony is going to be that there

was several addresses in there. And he went to check out those addresses, including Mr. Whitten's, and talked to him and talked to other people, and that's going to be part of their testimony.

Later, the phone went back and it was not backed up soon enough so it went to reboot, and there was an attempt to take the phone and decrypt it and they were not able to do that. It was encrypted.

The only thing we have is what they can testify to that they saw, and I think they should be allowed to testify to that, whether the phone still is in existence or not. As far as prejudice, I think I'm prejudiced more by the phone records still not being there so I can't show the screen with the addresses on there. I only have the testimony of the officers, which can be challenged on cross-examination.

THE COURT: All right. Okay.

MR. CLEMENTS: So I think I'm the one that would be prejudiced by that and the failure to back that phone up. So I want to be sure I can ask them about what they -- what they saw in the phone and what leads were there and what they did to follow up on that.

THE COURT: All right.

MR. BROOKER: Your Honor, and I would -- I would disagree with him tremendously. We're actually the one that's prejudiced and the reason why we're actually the one

that's prejudiced is, first of all, we're entitled to have a copy of that data and, of course, is that I've been researching this just -- just in the eventuality of this is that anything that they intend to -- anything that they intend to testify to is is that they have to -- specifically, if it's -- if it's in physical form and, of course, data is in physical form, just like the cell tower data records, is that they could not testify to those cell tower data -- data information without providing us with a copy.

They have to provide us with a copy of what they're going to testify to, first of all, so that we can verify that what they're testifying to is actually that. Without us having that information, we're just simply left to rely on -- on the officers and hope that they're -- you know, that they tell the truth.

THE COURT: Aren't you that -- aren't you relying on that in every investigation?

MR. BROOKER: No.

THE COURT: So an officer testifies to what he observed at a scene and if it's not preserved, they can't testify about it.

MR. BROOKER: No. They can testify to what they preserved -- what they preserved at the scene.

THE COURT: Correct.

MR. BROOKER: But like I said, is is that if they're

testifying to something that is physical, like data, and of course, is is that that data is something that has to be produced to us in a phone and, of course, is that's why the Supreme Court basically says if you're going to search -- if you're going to search a phone, you've got to get a search warrant and then, of course, the contents of that search warrant -- the contents of that phone, if you're going to introduce that at trial, you've got to provide us with a copy of the contents of that phone and, of course, they attempted to comply with the law and, of course, they said -- they said that.

And obviously, you know, this thing with Investigator Hester, you know, that turns out to be, you know -- you know, a big mess where apparently, you know, he either copied the phone and then, of course, is is that his copy is encrypted. They lost the phone for a while and then they lost the copy of what he made for a while. When they didn't find the copy of it then, of course, it's encrypted is is that we have to have a copy of that and, of course, is is that it is flat out plain law. If they're going to testify to it -- to it, we have to be provided a copy of what they're going to testify to.

THE COURT: All right. Solicitor, why can't he testify that as a result of his investigation and his -- the things he came up with during his investigation of the scene that

led him to these various locations?

MR. CLEMENTS: We can approach it in several different areas to try to reach that point. I think we can get to that point.

THE COURT: In other words, rather than him simply saying I got this address off of this phone, that pursuant to my investigation and --

MR. CLEMENTS: It led me to this address.

THE COURT: My investigation led me and I followed up. It led me to this address.

MR. CLEMENTS: I think we can do that, Your Honor.

MR. BROOKER: Well -- and, Your Honor, like I said, is is that --

MR. CLEMENTS: I didn't hear what Mr. Brooker --

THE COURT: He didn’t say anything yet.

MR. BROOKER: I didn't want to interrupt. I thought you might have said something.

MR. CLEMENTS: Your Honor, he's known from the get-go. He can’t claim he doesn't know exactly what was in the record of their reports that he’s had for a long time that explains this is what we saw. We picked up the phone and followed the GPS.

THE COURT: I understand that.

MR. CLEMENTS: It would be like saying, you know, we were at the scene and we saw smoke. Well, the smoke is a

physical thing that's present, but it's not --

THE COURT: Well, it's not data. It's not data in a device.

MR. CLEMENTS: Yes, sir.

THE COURT: And I think that's treated differently.

MR. BROOKER: And then, of course, the second thing, Your Honor, is is that in addition to -- in addition to complying with Rule 5, they also have to comply with Rule 901 and, of course, is is that Rule 901 deals with the authentication of data.

And specifically, there is a case out there that deals with the authentication of a GPS device. If you're going to talk about your use of -- of GPS information is is that *State v. Brown*, which is 424 S.C. 472, which is a 2018 case, talks about the requirement that you have to go through -- go through to authenticate, you know, the GT -- the GPS information that you're testifying to and, of course, is is that that case basically says if you're testifying to information that you're receiving on a -- on a device that -- that mechanically calculates something, then, of course, is that you have to be able to testify to what that device is. You've got to be able to explain how that device works and, of course, testify to the veracity, which means the accuracy.

THE COURT: You're taking the position he can't testify at all regarding any information he got off that phone?

MR. BROOKER: He can't.

THE COURT: I disagree with you.

MR. BROOKER: And that's fine, Your Honor.

THE COURT: I disagree. I'm not going to allow him to testify that he got that information off the cell phone, but I would allow testimony that based upon our investigation, it led us to these various locations and we went to those locations and this is what we found.

MR. BROOKER: And I'll just say this and I'll sit down, Your Honor, because if that's what your ruling is, then, of course, is is that it ties our hands with respect to cross-examination because we cannot challenge them. We cannot challenge them then on how they acquired that information without then -- without then the solicitor saying, well, you opened the door. So we just --

THE COURT: Let's -- let's look at it this way. Let's say you had the information.

MR. BROOKER: Uh-huh.

THE COURT: They were able to download the cell phone, get it off there, then give it to you, give that content to you, and what that showed was that Mr. Whitten's address was in that phone and that's what led them to that address. Let's say that's what we have.

MR. BROOKER: Okay.

THE COURT: Then you have no grounds to challenge that.

MR. BROOKER: Yeah. We would have no grounds to challenge that. They would simply have to get on the stand and then, of course, they would have to lay the proper foundation and, as long as they lay the proper foundation, they can get it in. I'm not challenging that, Your Honor. I'm not saying that you could never use -- you could never use --

THE COURT: No. But what you're saying is that -- that their investigation has to end with the fact that they weren't able to get the data off that telephone. That ends their investigation. They can't testify to anything they did subsequent that was involving that data. That's what you're telling me is the law? I know it sounds ridiculous, but that is what you're arguing.

MR. BROOKER: Yeah. Your Honor, I'm really not quite -- but yeah, because -- and like I said, is that --

THE COURT: I know because I've heard -- I've heard the basis of your argument.

MR. BROOKER: It just handicaps us, Your Honor, because we cannot then challenge them on the veracity of that.

THE COURT: Yeah. It -- actually, it could bolster your case if you let him testify that he took it off the phone and then you can beat him up by the fact that they didn't preserve that data, but I agree with you they're not allowed to do that.

Mr. Hoefer?

MR. HOEFER: Judge, I know Solicitor Clements already spoke on this issue, but I wanted to. Maybe I can clarify something. I think there's a misapprehension about what it is we're discussing. The testimony from Mr. McFadden is not about GPS or anything like that. This is something -- what he's going to testify to is you open the phone and the contacts, she manually -- somebody manually entered this address into the phone book.

THE COURT: Right.

MR. HOEFER: It's not something that the phone generated, it's not data, it's not GPS that's electronic. This was something that -- that apparently Ms. Joseph manually plugged in.

THE COURT: Or somebody did.

MR. HOEFER: So it's not GPS data or any electronic data, and I think that's what he's focusing on. I want the Court to be aware that this is not that. This is actually something somebody put in the phone.

THE COURT: Right. It would -- it's no different than if -- if going through stuff they see an address on a piece of paper laying there.

MR. HOEFER: Exactly.

THE COURT: They don't preserve the piece of paper, but they go to that address.

MR. HOEFER: That's exactly what we're talking about.

MR. BROOKER: Five seconds, just for the record, Your Honor?

THE COURT: Yeah.

MR. BROOKER: Is is everything that's saved in a cell phone, a number, an address, is all data.

THE COURT: All right. I'm going to allow you to -- I'm going to overrule the objection that you can't discuss anything, but I will sustain as to the part that he can't testify that he got that information off of the victim's phone. But he can testify that pursuant to our investigation there at the scene, it led us to these various addresses and we went to these addresses and then whatever. I don't know what else is there. All right?

Did they find that young lady?

THE BAILIFF: Yes, sir.

THE COURT: Ma'am, did you put this in the clothing that you brought for Mr. Williams today?

MS. KENDRELL DAVIS: Yes, sir, I did.

THE COURT: What --

MS. KENDRELL DAVIS: Yes, sir. It was a prayer cloth. I didn't mean any harm by it.

THE COURT: No. All I'm saying is you should have been told this. It is highly improper for you to try to pass any messages or anything to Mr. Williams in any way. It's just

improper to do that. You can't do that.

MS. KENDRELL DAVIS: Okay.

THE COURT: All right? So we're going to have a couple more days here. Just keep that in mind, if you would.

MS. KENDREL DAVIS: Okay.

THE COURT: Now, the other thing I need to mention is -- and I think I recognize this young lady, but she hasn't been sequestered. Mr. Brooker, she's been in the courtroom all week.

MR. BROOKER: No, she has not. She's been in the back room.

THE COURT: No, not true. Ma'am, you've been in the courtroom this week, haven't you?

MS. KENDRELL DAVIS: Yeah. Monday and Tuesday.

THE COURT: Yes. She hasn't been sequestered.

MS. KENDRELL DAVIS: Not since the trial started I haven't been in here.

MR. BROOKER: She hasn't been in since the trial started. She was in Monday in pretrial and then, of course, when the trial started we took her -- we took her out on Tuesday and she hasn't been in here since.

THE COURT: Okay. So I recognized her from earlier in the week.

MR. BROOKER: Yeah, yeah.

MS. KENDRELL DAVIS: Yes, sir.

THE COURT: Okay.

MR. BROOKER: She hasn't been in for the trial.

THE COURT: Okay. All right. All right. Well, thank you, ma'am.

MS. KENDRELL DAVIS: Yes, sir.

THE COURT: But now, if you continue to bring in clothing or anything, you can't pass any messages, nothing of that nature. I'm going to suggest that we not go to this extent, but technically this is considered contraband and it could get him in trouble. So let's just don't do it.

MS. KENDRELL DAVIS: All right.

THE COURT: Okay. All right. Let's bring the jury in.

(WHEREUPON, the jury entered the courtroom at 10:05 a.m.)

THE COURT: Ladies and gentleman, you might -- you might be sitting back there thinking that you should take up a collection and get the judge a new watch because apparently mine doesn't work, but I promise it does. It does work.

There's a lot going on here at the courthouse. We've got two courtrooms running and there's a lot of things that are going on and some things kind of arose this morning that I didn't anticipate yesterday, things having nothing to do with this trial, some -- some pretrial matters that we deal with, but the bottom line is I do -- I do try to make every effort for us to start on time, but when these things come

up, I just have to deal with them because I'm the chief administrative judge for -- for this -- this term.

So I apologize for keeping you back there, but we are ready to proceed now and I would recognize the State for their next witness.

MR. CLEMENTS: Thank you, Your Honor. If it please the Court, we call Investigator Chad Collins.

THE COURT: All right. Investigator Collins, if you'd please come around to be sworn, sir.

THE WITNESS: Yes, sir.

THE CLERK: Sir, please place your left hand on the Bible and raise your right hand. Do you swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: You may be seated on the witness stand and please state your full name for the record.

THE WITNESS: Chad Michael Collins.

CHAD COLLINS, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q: And where do you work?

A: Florence County Sheriff's Office.

Q: And what's your title?

A: At the present moment, I'm a lieutenant.

Q: Okay. All right. Lt. Collins, how long have you worked in law enforcement?

A: I started with the Spartanburg County Sheriff's Office in 1998. I moved to Florence County in 1999 and have been with the Florence County Sheriff's Office since then to present.

Q: Did you have occasion to go out on a call -- well, let me ask you this before I go there. Have you worked as an investigator for the last number of years before you became a lieutenant?

A: Yes, sir, I did.

Q: Okay. And as an investigator, tell me how do you all work? Do y'all work certain hours or does it work that way?

A: Generally, the hours that we work are from 8:30 to 5. There are call hours for investigators. In that particular time frame, if I recall, we were on a rotation for any callouts for any major crimes, such as a murder or armed robbery or something of that sort.

Q: Okay. So you're on -- basically, you're on call and you're home and you've got your phone with you in case you get a call; right?

A: Yes.

Q: How did you get called out on January 23rd, 2016?

A: I was contacted by our dispatch and also the lieutenant

or supervisor on scene that night. I was contacted to respond at 3618 Century Drive, Apartment A, in Florence County.

Q: Was that Lt. Michael Brumbles?

A: If I recollect right, I believe it was probably Sgt. Somerset, but Michael Brumbles -- Lt. Brumbles was on scene when I arrived.

Q: Okay. At about what time on scene did you get there?

A: Drive time from my house was probably about 20 minutes. So I probably arrived between 11:30 and 12, somewhere around that time frame.

Q: Who did you find there at the scene when you got there?

A: Upon my arrival, I met with the responding deputies that were on scene at that time. It was Deputy Brian Proffitt, Sgt. Somerset, and Lt. Michael Brumbles.

Q: And was anybody there from forensics yet?

A: I do not recall anyone from forensics being there, but again, I was doing -- talking with the deputies on scene at that time.

Q: Okay. What, if any, family members were there?

A: I do remember the mother of Ms. Sherilyn Joseph being present and I did speak with her that night as well.

Q: Okay. Were you the sole investigator that responded that evening?

A: No, I was not. Along with Investigator Thomas McFadden.

Q: And did y'all work this case jointly?
A: We did.
Q: Okay. Did you work every aspect of it together or not?
A: No. There were other things that we did separately. He would get a lead and would work on it. I would get a lead and work on it separately. Sometimes it would take us outside the county, other areas.
Q: Did a lot of that -- did you work in tandem?
A: We did. We did. We did work together on some things.
Q: Okay. When you were there at the scene, can you please express to the jury what you saw when you first walked in, what you did to -- to get yourself up to speed with what the factual situation was?
A: Yes, sir. Generally, when I arrive on scene, I'll speak with the responding officers. They're the first ones on scene and they see what they -- what they see when they first arrive. I get as much information from them as I can.

At that point, I then start doing my own walk-through. I don't touch anything, just do the walk-through, look at the area, survey the scene. If there is a victim present, which there was in this case, I do an overview watch of the victim to see if there's any injuries visible that I can see.

And again, after that I'll back out and see if there are any witnesses available to talk to that evening, which in this case there was. At that point, I believe it was Ms.

Stewart, the mother of the victim, and I spoke with her. After that, forensics came in and did their thing.

Q: So as you did your walk-through or after you did your walk-through, what did that reveal?

A: Upon my arrival, again, I spoke with the deputies. My walk-through indicated that the apartment was sparsely populated with furniture. There wasn't a whole lot in there. I recollect a small futon chair sitting off to my left as I entered the apartment. There was a table along the wall as I entered, a small kitchen off to the front of me, and there was a hallway. As I entered the hallway, I noticed that the victim was lying on the floor face-up. There was a bathroom to the left prior to me reaching the victim and then there were two bedrooms, one opposite of each other in the apartment.

Q: Where was her body situated in conjunction to the two bedrooms?

A: The victim’s body -- her feet were in one bedroom, her legs, lower torso and partially her upper torso were across the hallway, and her upper portion of her torso and her head were in the bedroom opposite of the other bedroom face-up.

Q: When you go through a walk-through like that, do you make notes then or later?

A: I generally --

Q: Or do you let forensics take care of that part of it?

A: I generally do not make notes unless I speak with the victim. In this case, I did have a digital recorder that is supplied to be by the Florence County Sheriff's Office. I did record a statement with the victim's mother on scene.

Forensics generally does a very good job of detailing the scene with photographs and notes that they make and crime scene photos. So generally, unless I need to make notes, I do not, not on scene.

Q: I'm going to show you what's been marked as State's Exhibit 1-F in a moment. Can you see that --

A: Yes, I can.

Q: -- Lieutenant?

A: Yes, sir.

Q: Lieutenant, can you explain to the jury how that or does that portray what you explained in your --

A: Yes, that accurately depicts the victim's position when I entered the apartment.

Q: What -- what is to the right of her legs there?

A: To the right of her legs is a bedroom.

Q: Okay. And let me ask you this. What, if any, indications were there in that house of how many people lived there?

A: Based on my observations, it appeared that only one person lived there, along with --

MR. BROOKER: Objection, Your Honor. Calls for

speculation.

THE COURT: He can testify as to what his thoughts were regarding his observations, whether he's right or wrong I mean.

MR. BROOKER: He can't speculate as to how many people lived in the house.

THE COURT: He can testify based upon what he observed and things he observed and how he reacted to that.

MR. BROOKER: That he can. He can testify -- I agree, Your Honor, he can testify to what he observed, but of course, it's speculation.

THE COURT: Overruled.

MR. BROOKER: Thank you, Your Honor.

BY MR. CLEMENTS:

Q: Lt. Collins, how many bedrooms were there?

A: There were two.

Q: And was the victim in both bedrooms partially?

A: Based on the position of the victim, she was partially in one bedroom, across the hallway, and in another bedroom across from the one to the right, the bedroom to the right.

Q: So her body crossed across the hallway from one bedroom to the other?

A: Yes.

Q: The bedroom where her head was located, how was that furnished?

A: There was a small bed in the room. It appeared that there was some child toys in the room as well.
Q: So it appeared to be a child there?
A: Based on my observations and experience, there appeared to be at some point in there a child, yes.
Q: How about the other bedroom where her feet were?
A: It appeared to be more of an adult room. There were no children toys in the room that I could see visibly. It was, again, sparsely populated with furniture. There was a dresser and a bed, I believe, and a wastebasket next to the bed.
Q: So what did you conclude from your investigation of the scene there about who lived there? Adults? Children? Whatever?
A: Based on my experience and what I observed at the scene, it appeared that there were two that lived at the home, an adult and possibly a child.
Q: When -- when you talked to Ms. Stewart, did she give you information to confirm that or to refute that?
MR. BROOKER: Objection, Your Honor. Calls for hearsay.
THE COURT: Sustained.
BY MR. CLEMENTS:
Q: Let me see if I can ask this another way and hold off in case I don't get the question right. What did your -- what did your investigation reveal as far as the number of people

in that house when talking to witnesses?

A: The investigation revealed that there was an adult and a child that lived in the apartment.

Q: Okay. All right. Thank you. When you got there on the scene, how many vehicles were there, other than law enforcement vehicles?

A: When I arrived on scene, there were only two vehicles that I actually observed, a van and a red-in-color vehicle.

Q: Through your investigation, were you able to determine who those cars belonged to?

A: Yes. The van, to my recollection, belonged to the victim's mother or family, and then the red vehicle belonged to the victim, Sherilyn Joseph.

Q: Let me show you 1-A, State’s Exhibit 1-A. Is that how you found the vehicles when you got there on the scene?

A: When I arrived on scene, that appeared to be how they showed, yes.

Q: Okay. And where was -- what was the entrance -- entrance like in that building? How many entrances were there, first?

A: There were two entrances into the apartment, one in the front of the apartment and one to the rear of the apartment in the kitchen area of the apartment.

Q: Did you notice any signs of struggle or any signs of forced entry?

A: I did not see any signs of forced entry based on my experience, neither at the front door nor at the back door near the kitchen area, and there did not appear to be any signs of overt struggle in the apartment.

Q: I'm going to show you State's Exhibit 1-B. Can you explain to the jury what that was and what you found there in regards to that picture?

A: Yes. This depicts the front entrance to the apartment complex. It's a duplex-style apartment. The Apartment A is the apartment where the incident occurred. Apartment B was, if I recollect right, unoccupied at the time.

I entered through the front door, as other officers did. The back door in the kitchen area was still secured with a deadbolt slide lock. Again, the picture depicts the table that I observed at the entrance way. As you make entry into the room, this is the living area of the residence and off to the left was the futon chair that had a blanket and a bag on it, I believe.

Q: I'm going to show you what's been marked as Exhibit 1-I for the State. Is that familiar to you?

A: Yes, it is.

Q: What is that a photograph of?

A: This is a photograph depicting the bedroom to the right in the hallway where her feet were, according to the picture that was displayed earlier where her feet were in the

apartment.

Q: Was that an adult bedroom or a child's bedroom?

A: That was the adult bedroom that I could see, based on my experience.

Q: Okay. Now, can you explain to the jury what you found when you went in and looked at the body?

A: Yes. Upon my observation of the body, I determined it was an African-American female. She was laying, again, face up situated across the hallway. Again, lower torso and legs in the bedroom to the right. The upper torso and head was in the bedroom to the left.

She appeared to be fully clothed. There was one shoe that was partially off of her foot laying next to her body. If I recollect correctly, it was the left foot and left shoe. She was wearing a Starbucks smock. She, again, appeared to have just come home from work, and then I noticed an injury to her left front head, left front forehead, which appeared to be an entry wound of some sort.

Q: I'm going to show you what's been marked as State's Exhibit 3-C.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. CLEMENTS: I just wanted to be sure. You put that in over objection; right?

THE COURT: I did. It's in evidence.

MR. BROOKER: We don't need -- we don't need to object again, do we?

THE COURT: Yeah. Because it was outside, yeah.

MR. BROOKER: Okay.

(WHEREUPON, the bench conference ended and the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: I'm going to show you State's Exhibit 3-C.

MR. BROOKER: Just for the record, Your Honor, is is that this exhibit is subject to our previous objection.

THE COURT: All right. Overruled and I'll allow it.

BY MR. CLEMENTS:

Q: Is this familiar to you?

A: Yes, it is.

Q: What is that?

A: It is a photograph of an injury to a victim with an entry wound, which appears to be a bullet wound.

Q: Is there any soot or gunpowder burns or stippling or anything there at the present?

A: Based on my experience, I did not see any.

Q: I'm going to show you State's Exhibit 1-Y, and you may or may not know about this or what this is, but if you do, can you tell us what that is?

A: Yes. That is a comforter. The photo was taken by our

forensics officer on scene, Andrew Clendenin, which appears to have some sort of powder burn on.

Q: How about State's Exhibit 1-X?

A: Yes. Again, this photo was taken by our forensics officer on scene, Andrew Clendenin. It is a picture depicting a pillow with a bullet hole through -- through and through.

Q: State's Exhibit 1-W?

A: Again, this photo was taken by Sgt. Clendenin of the Florence County Sheriff's Office forensics unit. It depicts a bloodstain.

Q: Is there anything else present along with the stain?

A: It appears to be a hole on the -- in the -- in the material.

Q: Okay. And do you know what this was a picture -- where this hole and stain were?

A: I don't recollect where. I think that was taken outside of my purview.

Q: Okay. State's Exhibit 1-Z, did you notice that or did you look that closely in the room that you testified about earlier was the adult room?

A: Yes. That's the wastebasket that I testified earlier to that was next to the bed in the adult room.

Q: State's Exhibit 1-AA, what is that?

A: Again, that is a closer shot of the wastebasket that was

in the adult room near the bed.

Q: That shows the contents?

A: Yes, it clearly shows the contents inside that wastebasket.

Q: What, if anything, did you notice that stood out about the contents of that --

A: Particularly --

Q: -- trashcan?

A: I'm sorry. Particularly in this particular photo and again on scene that night, I noticed that there was a condom wrapper inside the trashcan.

Q: Did you yourself look and see what else was in the trashcan to catalog an inventory of what was present?

A: I did not.

Q: Whose job was that?

A: That would be the forensics officer that was on scene that night.

Q: Okay. And State's Exhibit 1-C, does that look familiar to you?

A: It does. It's upside down at this point.

Q: Okay.

A: But the entry point --

Q: Hold on.

A: That is a better depiction. Upon entry into the apartment at 3618, Apartment A, Century Drive, Florence

County, that is the table that was along the wall at the entry point and that's an accurate depiction of what I observed when I entered the apartment.

Q: What -- what is that white that is on the edge of the corner of that table. Do you know?

A: I'm sorry?

Q: There's something on the corner of that table at an angle. It's white. What is that?

A: That is a crime scene log.

Q: Okay. Is that something that law enforcement does every time they're on a crime scene?

A: Yes. Anytime a crime scene occurs, we fill out a crime scene log. The responding deputy's responsibility is to maintain that log. Anyone who enters the crime scene has to enter their name, agency, and reason.

Q: Do you know what that is on top of that crime scene log?

A: Yes. That is a cell phone that later was determined to be the victim's cell phone.

Q: Okay. All right. We're back now to you've done your walk-through and the details you just testified about. Who was the first person you talked to that was a witness?

A: The victim's mother, Ms. Stewart.

Q: And after talking with Ms. Stewart, what did you do next and as a result of that?

A: Shortly thereafter, Investigator McFadden arrived on

scene and I advised Mr. McFadden what I had found at that point and he began his overview of the scene as well.

Q: Okay. Did you do anything else other than that that evening?

A: No, sir. What we did after that was the vehicle. The victim's vehicle was towed back to our impound yard. We secured the residence as best we could and left the scene.

Q: Okay. The next day, what did you do in regards to this case?

A: The next day, I did not do a whole lot. The following day is when I began really looking at everything.

Q: Okay. The first day, were you trying to identify leads?

A: Yes. Anything that came in that day we would look into, but not a whole lot came in that day.

Q: Okay. But the second day after was a different story?

A: Yes.

Q: Can you please tell this jury what happened on that second day of your investigation?

A: Yes. I received information that led us to a residence located at Springdale -- or Springfield Road and Southborough Road. It was on the corner of that residence or that location. It was 3720 Springfield Road in Florence County.

At that location, I met with the homeowner, Mr. Profitt. The information that came in included that he had a camera system or some type of surveillance system on his residence.

After speaking with Mr. Profitt, I was given access to look at his video system and check any camera angles that may be helpful to our investigation and, based on what I observed, there did -- there did appear to be some angles that were helpful to us.

Q: When you determined that there was helpful information there and evidence there, what did you then do with this DVR system?

A: Initially, I tried to figure out a way to gather the information without removing the DVR from the home. He was concerned for the safety of his property as well. After we were unable to figure out a way for me to get the information that I needed to get from that DVR, I was given permission by the homeowner, Mr. Profitt, and property owner to take the device to the Sheriff's Office and have it downloaded at our office.

Q: Who downloaded it?

A: At this point, I was under the impression that another officer was going to do it, but it turned out to be Sgt. Andrew Clendenin.

Q: Okay. So Clendenin actually did the download?

A: Yes.

Q: Okay. And what did he do with the download when he -- when he finished with it?

A: He provided me with a copy of it for working and another

copy for -- for the Sheriff's Office.

Q: Okay. Now, did that take -- was that long or short?

A: The video itself is very lengthy. It covers several hours for the day of January 23rd, 2016. I looked through a lot of video that day and observed some things on the video that was -- that turned out to be helpful.

Q: Okay. And what did you do in regards to the relevant information on the video?

A: I then began looking into the information trying to determine what I saw and how I could make contact with the persons or parties involved in that.

Q: Did you reduce the amount of video in any way?

A: I did not.

Q: Did you have that done?

A: It was done eventually, but at that time I did not alter or touch the video in any way. I just watched the video through and through.

Q: Okay. All right. And later on, was the -- was it reduced to the relevant parts on a shorter disk?

A: It was. The increments in the video are at 30 minute intervals. It would go from 1:30 to two or two to 2:30, and I would have to watch each 30-minute increment. And certain times of that video were not necessarily relevant to the investigation; so I narrowed it down to the time frame that I needed.

Q: Okay. I'm going to show you what's been marked as State's Exhibit, for identification, 15. Do you recognize this?

A: I do.

Q: What is this?

A: This is a video or a short video of the longer video that was made from the DVR that belonged Mr. Profitt.

Q: Okay.

MR. CLEMENTS: Your Honor, at this time, we'd offer State's Exhibit 15 into evidence.

THE COURT: That's the -- the clip?

MR. BROOKER: Without objection.

THE COURT: All right. Without objection.

(WHEREUPON, State's Exhibit Number 15, DVD with surveillance video clips, was admitted into evidence.)

MR. CLEMENTS: Okay. At this time, Your Honor, we would ask to play it.

THE COURT: All right, sir.

MR. CLEMENTS: Lt Collins, we're going to publish this to the jury.

THE COURT: Does this -- does this have audio as well?

MR. CLEMENTS: No.

THE COURT: No? Okay.

MR. CLEMENTS: And then after that, I'm going to get you to explain in a little more detail.

THE WITNESS: Yes, sir.

MR. CLEMENTS: Okay.

(WHEREUPON, State's Exhibit Number 15 was played.)

MR. CLEMENTS: Pause it a second.

BY MR. CLEMENTS:

Q: Lt. Collins, can you orient the jury to what is being shown here, the angle and what that road is?

A: Yes, sir.

Q: First, let me ask you what is that road right there --

A: The road --

Q: -- where people are going past?

A: The road that I just highlighted is Southborough Road. It runs from Pine Needles Road all the way into Darlington County to, I think, Highway 340 and Timmonsville Highway.

MR. CLEMENTS: Hold on one second. Do we need to wait on the judge?

THE LAW CLERK: No. He said play the video.

MR. CLEMENTS: Okay. All right.

BY MR. CLEMENTS:

Q: All right. And that -- that white fence, whose property is that?

A: That borders the property of Mr. Profitt at 3720 Springfield Road.

Q: So this camera that's aiming in that direction would be attached to what part of his house?

A: If you are facing the front of his house, it is the right rear corner of the home if you're facing the front of the house.
Q: Right rear corner?
A: Yes.
Q: Aimed at his backyard?
A: Yes.
Q: Okay. Can you tell us please where Century Drive is? If that's Southborough, where is Century Drive?
A: Century Drive runs between these two duplexes here and runs behind the duplex here with a line through it and then the far building here at the very back that goes this far back, that is the first building on Century Drive to the right and then there is a secondary building, which is 3618, Apartment A and Apartment B.
Q: So between those two -- those two houses right there with the telephone pole coming up in the middle of them, that's Century Drive that goes between those two buildings?
A: Yes, sir.
Q: So you can't actually see what happens on Century Drive, can you?
A: You cannot.
Q: What can you see?
A: You can see vehicles pulling into Century Drive and pulling out of Century Drive, the direction of travel,

whether it be to the left towards Darlington or to the right back towards Pine Needles Road.

Q: Okay. So going -- if you're looking at this picture, going back towards the left goes where?

A: If you are stopped at Century Drive, the stop sign leading onto Southborough Road, and take a left, it will take you back towards Darlington County past Traces golf course.

Q: All right. And that would be to the right of this picture?

A: Yes. That is to the right of the picture, yes.

Q: Okay. All right. How about going towards the left of the picture? Where does that take you?

A: That takes you back to the intersection of Southborough Road and Pine Needles Road that leads back out to Ebenezer.

Q: Would that be past Lambs Chapel?

A: Yes, it would.

Q: Okay. So I want to be sure I understand. Will you circle where you'd -- where you'd be coming out on Century Road and there's a stop sign?

A: Yes. This particular area here is the stop sign area of Century Drive and the T section with Southborough Road.

Q: And going to -- if you turn to the right there coming out and you go towards --

A: You go towards Lambs Chapel or Pine Needles Road.

Q: If you turn to the left, you go towards?

A: Darlington County past Traces golf course.

Q: Okay. All right. Thank you.

MR. CLEMENTS: Now, let's go ahead and play the video again.

BY MR.CLEMENTS:

Q: And that car is turning where?

A: That vehicle is turning onto Century Drive off of Southborough Road.

Q: Okay.

MR. CLEMENTS: All right. Stop it right there.

BY MR. CLEMENTS:

Q: Where is that car turning into?

A: The vehicle, again, is turning onto Century Drive off of Southborough Road.

Q: And has your investigation revealed whose that -- whose car that was?

A: The investigation revealed that the vehicle in question in this video and in the previous video was Ms. Sherilyn Joseph's vehicle.

Q: So she's returning here to Century Drive?

A: It would appear so, yes.

Q: Okay. All right.

MR. CLEMENTS: Hold it right there.

BY MR. CLEMENTS:

Q: What's -- what's that vehicle that's coming from going

across the screen from the right side to the left side? What is that, Investigator Collins?

A: Based on my observation, it appeared to be a van that was a public conveyance, such as a taxi or some type of medical service transport, I thought at the time.

Q: Okay.

MR. CLEMENTS: All right. Let's continue on.

BY MR. CLEMENTS:

Q: And it's turning into Century Drive?

A: Yes. That direction, again, is Century Drive.

Q: What is that right there, that car coming?

A: It appears to be the same public conveyance vehicle that drove down Century Drive just a few seconds ago.

Q: Okay. That's at the stop sign there?

A: Yes.

Q: What's it doing now?

A: It's backing up.

Q: Okay. Is that the neighbor leaving from the driveway there?

A: Yes.

Q: Is that the cab there?

A: Again, that appeared to be the same public conveyance vehicle that drove down Century Drive.

Q: Okay. And that's going back which direction?

A: It is headed in the direction of Pine Needles Road past

Lambs Chapel.

Q: Okay. What's the date here?

A: The date stamp is January 23rd, 2016.

Q: And what's the time frame right now?

A: At this point, the timestamp is 4:59 or 1649 in the afternoon.

Q: So 1649? That's military time?

A: Yes.

Q: So all this happened close in proximity to around 4 o'clock?

A: Yes, it did.

Q: Okay. Did you continue to watch this video all the way until it got dark?

A: Yes, I did.

Q: And was there anything else of significance that you noticed on that video after this?

A: No, there was not.

Q: Why did you watch it for that extended period of time?

A: To verify if there were any other vehicles that may have driven down in that area, anything that stood out that I could follow up on.

Q: Did you find any or see any?

A: I did not.

Q: Okay. This will be available as evidence; correct?

A: Yes.

Q: Okay. And this is not the entire tape. I want to be sure of that, not the entire DVR?

A: It is not.

Q: Okay. But we've got that and that's a Court exhibit, isn't it?

A: Yes, it is.

Q: Okay.

Q: After reviewing this video, what did you then do next on the investigation?

A: Based on my observation of the video, I felt like I needed to go and look and talk with some of the local taxicab companies in and around the area. I began first in Florence County. I met at each location that I could find. Everyone was agreeable to me checking their logs for that day, the 23rd of January, 2016. No company in Florence had any callouts to 3618 Century Drive, Apartment A, on that date, nor did they have any calls around Century Drive on that date.

I then expanded my reach out to different locales, including Darlington County. I then came across a company named Speedy Cab that's based in Darlington County. I met with the dispatcher there that day after calling and arranging a time to meet, and they agreed to let me look at their call log. And when I went in and saw that their -- what their call log displayed, it displayed that there was a call at 3:40 or 1540 hours on January 23rd, 2016, at 3618

Century Drive, Apartment A.

Q: Okay. Did you collect that information from the cab company?

A: I did.

Q: Who did you collect that from?

A: James Swinton.

Q: And what was Mr. Swinton's job?

A: He was the dispatcher that day.

Q: State's Exhibit Number 11, do you recognize that?

A: I do.

Q: What is that?

A: That is the sheet from the call log that Mr. Swinton gave to me for me to have as a type of exhibit for informational and investigative purposes.

Q: And what's listed there at 3:40?

A: On the backside of the form, there are other calls and at 3:40 there is a call listed for 3618 Century Drive, Apartment A.

Q: Okay. In your investigation after you received this information, what did you do next?

A: I contacted Investigator McFadden to let him know what I had found. He said that he would come and meet me. He -- we met together at the location.

Q: Which location?

A: At the Speedy Cab Company in Darlington County.

Q: Okay.
A: I also asked to speak to the driver that was dispatched to 3618 Century Drive, Apartment A.
Q: Was she cooperative?
A: Yes.
Q: And what was that driver's name?
A: Lakeya Bacote.
Q: Did she also have a manifest or a log that she kept?
A: She did. The log was kept with the driver to compare with the end of day on the log sheet that was kept by the dispatcher.
Q: I'm going to show you what's been marked State's Exhibit 13. Do you recognize that?
A: I do.
Q: What is that?
A: That is the call log that Ms. Bacote provided to us to make a copy of with her calls for that day.
Q: Okay.
A: January 23rd, 2016.
Q: Here on the second page, what's there of significance on the second page?
A: On the continuing page, it displays a call at 3618 listed as Central Drive, Apartment A, and then Doneraile.
Q: And where is Doneraile?
A: Doneraile is in Darlington County.

Q: Okay. And what was Doneraile? Was that the destination?

A: From my understanding, that was the destination that the fare requested to be taken to.

Q: While you were investigating the video and what it had to reveal and figuring out which cab company you needed to talk to, was McFadden also carrying on an investigation on some other areas?

A: Yes.

Q: Some other leads?

A: Yes, he was.

Q: Okay. Y'all met together. You said you talked to the driver, Ms. Lakeya Bacote. Who else did you talk with, if anyone?

A: Once we spoke with Ms. Bacote, we received names of others that were possibly inside the vehicle with her or who were inside the vehicle with her. One was Linda Jones. She was a passenger that day in her van.

Q: Did you speak with her?

A: Yes, we did.

Q: Okay. And what eventually did you do as a result of talking with her?

A: After speaking with Ms. Jones, based on what we understood her position in the vehicle to be, we felt that there was the possibility she might be able to describe the

person that got into the vehicle at 3618 Century Drive, Apartment A, in Florence. I then contacted the SLED forensic sketch department and requested a forensic sketch artist to come in and do a forensic sketch with Ms. Jones.

Q: I'll show you State's Exhibit 12. Do you know what that is?

A: Yes. That is the sketch that was completed by Ms. Deborah Goff, the SLED agent forensic artist.

Q: Did you have any input or relay any information or have anything to do with the sketch?

A: No. The only -- the only thing I did was facilitate the location and the time with Ms. Goff and with Ms. Jones.

Q: Okay. You didn't talk to Ms. Goff about any facts?

A: Just briefly explained what the reason for the sketch was for.

Q: Okay. After they did the sketch, did you receive a copy?

A: Yes, we did.

Q: And did you and McFadden use that copy in your investigation?

A: Yes, we did.

Q: Now, y'all investigated at the scene, picked up any leads y'all could pick up, and then you found out about the cab and got that information. With those -- with that information and the other information that McFadden had been

gathering, what did y'all do next?

A: We begin to check different locations. One led to a location in Darlington County.

Q: Okay. So your investigation led to an address in Darlington County?

A: Yes, it did.

Q: What address was that?

A: 225 Plum Street.

Q: And did you go to that address?

A: Yes, we did.

Q: Who was there?

A: Leron Whitten.

Q: Did you speak with him?

A: Yes, we did.

Q: Was he cooperative?

A: He was.

Q: Did you have any thoughts or concerns that he might be a suspect?

A: At that point in the investigation, we were -- you know, it could've been anybody at that point. We hadn't necessarily narrowed it down to any one person. We were still feeling out possible leads and suspects.

Q: Did you have the sketch when you met with him?

A: Yes, we did.

Q: Okay. What, if anything, did y'all ask him to submit

to?

A: On scene, he agreed to let us check his residence. We requested the assistance of Darlington County, as it was outside our jurisdiction. Darlington County responded to the scene. They assisted us in checking the residence, and we also asked him if he would submit to a DNA swab.

Q: Did he?

A: Yes, he did.

Q: And what was the ultimate -- the ultimate decision on the DNA?

A: That Mr. Whitten was excluded.

Q: Okay. Did you also, you or McFadden or together, investigate any other possible leads on individuals?

A: Yes, we did. We checked other locales.

Q: Did you collect any other DNA swabs?

A: Yes, we did.

Q: Okay. And was one an Aaron Smith?

A: Yes. I personally didn't swab any of the persons that we spoke to, but swabs were given freely and voluntarily by the parties we spoke to.

Q: Okay. And what was the ultimate decision on their DNA?

A: Excluded.

Q: Okay. Were you able to determine if there was any connection or whether Leron Whitten knew Royal Williams or not?

A: Yes. We determined that Mr. Whitten was familiar with Mr. Williams.

Q: Did Mr. Williams ever come to Mr. Whitten's house?

A: Yes.

Q: Where else did your investigation lead you to?

A: It led us to a location in Marlboro County in Bennettsville, a location in Laurinburg, North Carolina, another location --

Q: Let's take one at a time.

A: Yes.

Q: All right. Did you go to the Marlboro County, Bennettsville, address?

A: Yes, I did with Investigator McFadden.

Q: And what was -- what was that address?

A: It was an apartment complex.

Q: Okay. You determined who lived there?

A: Yes, we did.

Q: And who was that?

A: It was Royal Williams' grandmother.

Q: What's her name?

A: I don't recall.

Q: Okay.

Q: Now, what was the next address that your investigation led you to?

A: The next one was 326 Orange Street in Darlington.

Q: And whose -- did you find out -- did you go to that location?

A: Yes, we did.

Q: Who did you find lived there?

A: Antonio Williams.

Q: Who was that?

A: The brother of Royal Williams.

Q: Were there any other sites or locations or addresses that you were led to in South Carolina?

A: I don't recall any others that I went to personally with Mr. McFadden. I did go to one outside of the state of South Carolina.

Q: Okay. As far as the ones you've testified to already, did you go to one on Springfield Avenue?

A: Yes. I responded with Investigator McFadden to Springfield, I believe, Apartments in Darlington. That was some time into the investigation.

Q: And who did you find lived there?

A: Chimyra Wright.

Q: And did she have any kind of relationship with Royal Williams?

A: Yes. She -- she had a relationship with Mr. Williams and they had a child together.

MR. BROOKER: May we approach, Your Honor?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. BROOKER: When he says trying to -- to whether or not there's a relationship between Chimyra Wright and -- and Royal Williams, is is that based upon the conversation that he had with Chimyra Wright, because otherwise he would be testifying to hearsay and you cannot bypass the hearsay rule just by simply saying my investigation revealed.

MR. CLEMENTS: There's all kind of different connections through Facebook messages that we saw, text messages that he sent to her. It said that -- you know, I hate that my baby's got a black bitch like you for a mom, and there were a lot of other connections. But I won't go any further with her, any questions about her right now.

MR. BROOKER: That's fine.

THE COURT: Okay.

(WHEREUPON, the bench conference ended and the proceedings resumed as follows.)

BY MR. CLEMENTS:

Q: I'm going to get to Laurinburg in a second, but as far as all these addresses that you looked at in this area, was there a common denominator with all of these addresses?

A: Yes, there was.

Q: What was that common denominator?

A: Royal Williams.

Q: Okay. You said you went to Laurinburg. Why did you go to Laurinburg? Back up a little bit and explain what led you there?

A: During the course of the investigation, I found some information that a purchase was made in Laurinburg, North Carolina, at a Walmart. I drove to -- this information was found in Ms. Joseph's apartment. I went to Laurinburg, spoke with the loss prevention services there. They agreed to show me the video that they had for the date of the purchase and for any type of investigative purposes that I may need. While on scene, I saw the video that was displayed on that date showing Ms. Joseph inside of Walmart at a register.

MR. BROOKER: Objection, Your Honor. He can't testify to a video that's not in evidence.

MR. CLEMENTS: I think he can testify to what he saw.

THE COURT: He can testify to what he saw. Hang on. Come here.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury as follows.)

MR. CLEMENTS: I can clear this up quick, Judge.

THE COURT: Yeah, you need to.

MR. BROOKER: That's not in evidence.

THE COURT: Exactly.