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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Courtney Clyburn Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMMIE GERRICK,

APPELLANT

APPELLATE CASE NO. 2023-002012

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VOLUME I OF II
PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED OCTOBER 29, 2013	1
TESTIMONY	
RICHARD FRIERSON (<i>IN-CAMERA</i>)	14
COURT FINDS DEFENDANT COMPETENT TO STAND TRIAL	26
TRIAL TRANSCRIPT DATED NOVEMBER 13, 2013	28
DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT BY MR. WILLIAMS	29
COURT DEFERS RULING	31
DEFENSE MOTION TO EXCLUDE AUTOPSY PHOTOS BY MR. WILLIAMS	33
RESPONSE BY MR. WATERS	33
DEFENSE MOTION TO SUPPRESS EVIDENCE SEIZED FROM TRUCK BY MR. WILLIAMS	36
RESPONSE BY MR. WATERS	38
COURT DEFERS RULING	46
TESTIMONY	
SHAUN HARLEY (<i>IN-CAMERA</i>)	62
CONTINUED DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT BY MR. WILLIAMS	70
RESPONSE BY MR. WATERS	71
COURT DEFERS RULING	76
TRIAL TRANSCRIPT DATED NOVEMBER 18-21, 2013	82
JURY <i>VOIR DIRE</i>	83
JURY SELECTION	109

OPENING STATEMENT BY MR. WATERS148

OPENING STATEMENT BY MR. WILLIAMS156

TESTIMONY

SHAUNTA SMITH.....160

MAURICE WILLIAMS175

JOHN RICE212

TAYLOR WHITE219

BRADLEY SMITH228

SHANKEA DELOACH234

JAMAAL BERRY241

KELSEA HALLINGQUEST.....253

JOHN HOLSTON.....263

XAVIER MCCOY (*IN-CAMERA*).....284

CHARLENE GERRICK (*IN-CAMERA*).....294

CHARLENE GERRICK.....302

SHAUN HARLEY.....310

DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW
ENFORCEMENT BY MR. WILLIAMS.....335

COURT DENIES MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW
ENFORCEMENT337

COURT DENIES MOTION TO SUPPRESS EVIDENCE SEIZED FROM TRUCK341

TESTIMONY

SHAUN HARLEY (CONTINUED).....343

JOHN BURNETT394

DEFENSE MOTION FOR A MISTRIAL BY MR. WILLIAMS396

COURT DENIES MOTION FOR A MISTRIAL.....399

TESTIMONY

JOHN BURNETT (CONTINUED).....400

MELISSA SKIPPER-WALLACE.....405

DEFENSE MOTION FOR A MISTRIAL BY MR. WILLIAMS428

COURT DENIES MOTION FOR A MISTRIAL.....428

TESTIMONY

MELISSA SKIPPER-WALLACE (CONTINUED)429

JANICE ROSS.....436

GREGORY HINES454

KAREN MILBRODT470

DANNY ABRAHAM.....485

LANA JOYNER490

MARYANN BOEHM503

CARL SHULTZ.....519

DOROTHY CREECH537

ANGELA COTTON.....549

ANDRE HIGHTOWER.....557

O'SHANE DIXON564

JOE THOMAS.....573

EARLY GLOVER.....579

JEFF CROFT591

JOMAR ALBAYALDE.....610

STATE RESTS.....617

DEFENSE MOTION FOR A DIRECTED VERDICT BY MR. WILLIAMS.....618

RESPONSE BY MR. WATERS.....623

COURT DENIES MOTION FOR A DIRECTED VERDICT629

TESTIMONY

DUSTIN WILLIAMSON (*IN-CAMERA*)633

SHAUN HARLEY (*IN-CAMERA*).....636

DEFENSE MOTION TO ADMIT STATEMENT BY WILLIAMSON INTO EVIDENCE
BY MR. WILLIAMS645

TESTIMONY

SHAUN HARLEY (CONTINUED) (*IN-CAMERA*).....647

RESPONSE BY MR. WATERS.....656

COURT DENIES MOTION TO ADMIT STATEMENT BY WILLIAMSON INTO
EVIDENCE662

TESTIMONY COLLOQUY663

CHARGE CONFERENCE671

STATE WITHDRAWS OBJECTION TO ADMITTING STATEMENT BY
WILLIAMSON INTO EVIDENCE.....675

CLOSING ARGUMENT BY MR. WATERS.....681

CLOSING ARGUMENT BY MR. WILLIAMS687

REPLY CLOSING ARGUMENT BY MR. WATERS696

CHARGE ON THE LAW745

VERDICT.....761

SENTENCING768

MOTION FOR A NEW TRIAL BASED ON AFTER DISCOVERED EVIDENCE FILED
JUNE 12, 2023771

HEARING TRANSCRIPT DATED JULY 20, 2023.....773

 MOTION FOR A NEW TRIAL BY MR. GERRICK779

 RESPONSE BY MS. ALLARD790

 COURT DEFERS RULING791

ORDER DENYING DEFENDANT’S MOTION FOR A NEW TRIAL FILED
JULY 26, 2023794

INDICTMENT.....795

SENTENCE SHEET.....797

CERTIFICATE OF COUNSEL798

	EXAMINATION INDEX	
1		
2	Hearing on 10-29-2013:	
3	RICHARD FRIERSON	
4	DIRECT BY MR. WATERS	14
5		
6	Hearing on 11-13-2013:	
7	SHAUN HARLEY	
8	DIRECT BY MR. WATERS	62
9	CROSS BY MR. WILLIAMS	67
10	REDIRECT BY MR. WATERS	69
11		
12	Trial, beginning on 11-18-2013:	
13	Opening Statements:	
14	By Mr. Waters - 148	
15	By Mr. Williams - 156	
16	SHAUNTA KIMBERLY SMITH	
17	DIRECT BY MR. WATERS	160
18	CROSS BY MR. WILLIAMS	172
19	REDIRECT BY MR. WATERS	174
20	MAURICE WILLIAMS	
21	DIRECT BY MR. WATERS	175
22	CROSS BY MR. WILLIAMS	202
23	REDIRECT BY MR. WATERS	207
24		
25		

1		
2	JOHN RICE	
3	DIRECT BY MR. ANDERS	212
4	CROSS BY MR. WILLIAMS	217
5	REDIRECT BY MR. ANDERS	218
6	TAYLOR SHARNELL WHITE	
7	DIRECT BY MR. WATERS	219
8	CROSS BY MR. WILLIAMS	225
9	REDIRECT BY MR. WATERS	227
10	BRADLEY LAMONT SMITH	
11	DIRECT BY MR. WATERS	228
12	CROSS BY MR. WILLIAMS	232
13	SHANEKA LAKEISHA DELOACH	
14	DIRECT BY MR. WATERS	234
15	CROSS BY MR. WILLIAMS	239
16	JAMAAL BERRY	
17	DIRECT BY MR. WATERS	240
18	CROSS BY MR. WILLIAMS	250
19	REDIRECT BY MR. WATERS	252
20	RECROSS BY MR. WILLIAMS	253
21	KELSEA DAMESHIA HALLINGQUEST	
22	DIRECT BY MR. ANDERS	254
23	CROSS BY MR. WILLIAMS	262
24		
25		

1	JOHN HOLSTON	
2	DIRECT BY MR. ANDERS	264
3	CROSS BY MR. WILLIAMS	276
4	REDIRECT BY MR. ANDERS	279
5	XAVIER McCOY (IN CAMERA)	
6	DIRECT BY MR. WATERS	284
7	CROSS BY MR. WILLIAMS	288
8	CHARLENE GERRICK (IN CAMERA)	
9	DIRECT BY MR. WATERS	294
10	BY THE COURT	294
11	DIRECT BY MR. WATERS	295
12	CHARLENE GERRICK	
13	DIRECT BY MR. WATERS	302
14	SHAUN E. HARLEY	
15	DIRECT BY MR. WATERS	310
16	CROSS BY MR. WILLIAMS	379
17	REDIRECT BY MR. WATERS	391
18	JOHN CHARLES BURNETT	
19	DIRECT BY MR. ANDERS	394
20	CROSS BY MR. WILLIAMS	403
21	MELISSA SKIPPER WALLACE	
22	DIRECT BY MR. WATERS	405
23	CROSS BY MR. WILLIAMS	429
24	REDIRECT BY MR. WATERS	435
25		

1	JANICE EDWARDS ROSS	
2	DIRECT BY MR. WATERS	436
3	CROSS BY MR. WILLIAMS	449
4	REDIRECT BY MR. WATERS	452
5	GEORGE THOMAS HINES	
6	DIRECT BY MR. WATERS	454
7	CROSS BY MR. WILLIAMS	469
8	KAREN MILBRODT	
9	DIRECT BY MR. WATERS	470
10	CROSS BY MR. WILLIAMS	478
11	DANNY ABRAHAM	
12	DIRECT BY MR. ANDERS	485
13	CROSS BY MR. WILLIAMS	489
14	LANA JOYNER	
15	DIRECT BY MR. WATERS	490
16	CROSS BY MR. WILLIAMS	501
17	REDIRECT BY MR. WATERS	502
18	MARYANN E. BOEHM	
19	DIRECT BY MR. WATERS	503
20	CROSS BY MR. WILLIAMS	515
21	REDIRECT BY MR. WATERS	518
22	CARL WAYNE SHULTZ	
23	DIRECT BY MR. ANDERS	519
24	CROSS BY MR. WILLIAMS	533
25	REDIRECT BY MR. ANDERS	536

1	DOROTHY CREECH	
2	DIRECT BY MR. ANDERS	537
3	CROSS BY MR. WILLIAMS	547
4	ANGELA COTTON	
5	DIRECT BY MR. ANDERS	548
6	CROSS BY MR. WILLIAMS	556
7	ANDRE HIGHTOWER	
8	DIRECT BY MR. ANDERS	557
9	CROSS BY MR. WILLIAMS	559
10	O'SHANE DIXON	
11	DIRECT BY MR. ANDERS	564
12	CROSS BY MR. WILLIAMS	570
13	JOE THOMAS	
14	DIRECT BY MR. ANDERS	573
15	CROSS BY MR. WILLIAMS	578
16	EARLY JEROME GLOVER	
17	DIRECT BY MR. WATERS	579
18	CROSS BY MR. WILLIAMS	590
19	JEFF CROFT	
20	DIRECT BY MR. ANDERS	591
21	CROSS BY MR. WILLIAMS	607
22	REDIRECT BY MR. ANDERS	609
23	JOMAR ALBAYALDE	
24	DIRECT BY MR. WATERS	610
25	CROSS BY MR. WILLIAMS	617

1	DUSTIN WILLIAMSON (IN CAMERA)	
2	DIRECT BY MR. WILLIAMS	635
3	SHAUN HARLEY (IN CAMERA)	
4	DIRECT BY MR. WILLIAMS	636
5	CROSS BY MR. WATERS	647
6		
7	CLOSING STATEMENTS:	
8	CLOSING ON THE LAW BY MR. WATERS....	681
9	CLOSING BY MR. WILLIAMS.....	687
10	CLOSING BY MR. WATERS.....	696
11	JUDGE'S CHARGE.....	745
12	VERDICT	761
13	SENTENCING.....	768
14	CERTIFICATE OF REPORTER.....	770
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1			
2		EXHIBIT INDEX	
3			MAR ADM
4	State's		
5	Hearing on 10-29-2013:		
6	1	Psychiatric evaluation	15
7	Hearing on 11-13-2013:		
8	1	Letter dated 10-02-2012	67
9	2	Xavier McCoy statement	67
10			
11	Jury Trial, beginning on 11-18-2013:		
12	1	SRP receipt	183
13	2	Text message email	198
14	3	Text message	197 199
15	4	Text message	197 199
16	5	Photograph	521
17	6	Handwritten note	403
18	7	Gerrick statement	268
19	8	Gerrick statement	322
20	9	Miranda rights form	361
21	10	Miranda rights form	373
22	11	Miranda rights form	348
23	13	AT&T record	196
24	14	AT&T record	164
25	15	AT&T record	458

1	16	AT&T record	458
2	17	Photograph	264 273
3	18	(Inadvertently skipped in numbering, no exhibit)	
4	19	Photograph	264 273
5	20	Photograph	264 273
6	21	Photograph	264 273
7	22	Photograph	264 273
8	23	Map	459
9	24	Map	459
10	25	Map	459
11	26	Map	459
12	27	Map	459
13	28	Map	459
14	29	Photograph	346
15	30	Photograph	347
16	31	Photograph	412
17	32	Photograph	412
18	33	Photograph	412
19	34	Photograph	412
20	35	Photograph	412
21	36	Photograph	412
22	37	Photograph	412
23	38	Photograph	412
24	39	Photograph	412
25		(withdrawn bef publication-became Court's No. 4 - pg 419)	

1	40	Photograph	412
2	41	Photograph	412
3	42	Photograph	412
4	43	Photograph	426
5	44	Photograph	426
6	45	Photograph	425
7	46	Photograph	426
8	47	ODPS worksheet - NOT ADMITTED	
9	48	Photograph - NOT ADMITTED	
10	49	Photograph	543
11	50	Photograph	546
12	51	Photograph - NOT ADMITTED	
13	52	CD	539
14	53	CD	539
15	54	SRP records	550
16	55	Photograph	441
17	56	Photograph	441
18	57	Photograph	441
19	58	Photograph	441
20	59	Photograph	441
21	60	Photograph	441
22	61	Photograph	441
23	62	Photograph	441
24	63	Photograph	525
25	64	Photograph	527

1	65	Photograph		527
2	66	Photograph		528
3	67	Photograph		529
4	68	Statement		585
5	69	Statement	589	586
6	70	Telephone records		612
7	71	Telephone records		614
8	72	Telephone records		615
9	73	Telephone records		611
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 Defendants :

2	1	Photograph	434
3	2	Photograph	434
4	3	Photograph	534
5	4	Photograph	534
6	5	Photograph	534

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	Court's		
2	1	Incident report	140
3	2	CD containing video interview	595
4	3	Motion to suppress	343
5	4	Photograph	417
6	5	Letter of Williamson	649
7	6	Memorandum of Williamson interview	647
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

FRIERSON - DIRECT/WATERS

1 TUESDAY, OCTOBER 29, 2013 AT 12:25 P.M.:

2 MR. WATERS: Your Honor, we're here today on the State
3 versus Samuel -- Sammie Lee Gerrick. That is 2012-GS-
4 06-00322.

5 Your Honor, we're here today for a Blair hearing for
6 Mr. Gerrick. Present today is Dr. Richard Frierson who
7 has evaluated Mr. Gerrick and the State is prepared to
8 present him and his findings.

9 THE COURT: You may call him.

10 MR. WATERS: Thank you, Your Honor. The State would
11 call Dr. Frierson.

12 THE COURT: Dr. Frierson, come around here, please,
13 sir.

14 RICHARD FRIERSON, having been duly sworn, was examined
15 and testified as follows:

16 THE COURT: Thank you.

17 DIRECT EXAMINATION

18 BY MR. WATERS:

19 Q. Dr. Frierson, how are you doing today?

20 A. I'm good.

21 Q. I know most of us are very familiar with you, but for
22 the record if you would very briefly give us your
23 educational background, your experience, your current
24 occupation, if you would.

25 A. Yes. I received a Bachelor's Degree in Music from the

FRIERSON - DIRECT/WATERS

1 University of South Carolina in 1984.

2 I received my Medical Doctorate from the University of
3 South Carolina School of Medicine, 1988.

4 I completed four years of residency training in
5 general psychiatry at the William S. Hall Psychiatric
6 Institute in 1992. I completed a one-year fellowship in
7 forensic psychiatry in 1993.

8 I am board certified in general and forensic
9 psychiatry by the American Board of Psychiatry and
10 Neurology. And currently I am professor of psychiatry and
11 vice chair for education at the Department of
12 Neuropsychiatry and Behavioral Science at the School of
13 Medicine in Columbia.

14 Q. And in the course of your career and within your
15 expertise, have you had call to perform evaluations of
16 criminal defendants for either competency to stand trial
17 or criminal responsibility?

18 A. Yes.

19 Q. And how many of those do you think you've done?

20 A. A few thousand.

21 Q. Okay. And so each time you're qualified as an expert
22 in forensic psychiatry; is that correct?

23 A. When I've been in court, yes.

24 MR. WATERS: Your Honor, at this time we would move to
25 qualify Dr. Frierson as an expert in forensic psychiatry.

FRIERSON - DIRECT/WATERS

1 THE COURT: Any cross-examination as to his
2 qualifications?

3 MR. WILLIAMS: No objection.

4 THE COURT: He is so qualified.

5 MR. WATERS: Thank you, Your Honor.

6 Q. Dr. Frierson, if you would, did you conduct an
7 evaluation of Mr. Sammie Lee Gerrick?

8 A. Yes.

9 Q. And specifically were you looking to evaluate his
10 competency to stand trial?

11 A. Yes.

12 Q. And before we begin, could you tell us quickly what
13 that test is. What are you looking to determine when you
14 make that evaluation?

15 A. Well, I'm looking to see if he meets the criteria as
16 outlined in South Carolina Code of Laws, Section 44-23-410
17 which means, does he have a factual and rational
18 understanding of the legal system and the present ability
19 to assist his attorney in the preparation of a defense.

20 Q. Okay. And does it also involve looking at whether or
21 not he has an understanding of the charges that are
22 pending against him?

23 A. Yes.

24 Q. And before we get any further, I want to show you
25 what's been marked as State's Exhibit One and see if you

FRIERSON - DIRECT/WATERS

1 recognize that.

2 A. This appears to be a copy of the report that we
3 prepared related to his competency to stand trial and our
4 opinion.

5 Q. Okay. And what was the date of, that prior evaluation
6 took place?

7 A. We saw him on November 8th of 2012.

8 Q. Okay.

9 Your Honor, at this time I would move the report in,
10 it's been marked as State's One, for purposes of this
11 hearing.

12 THE COURT: Any objection?

13 MR. WILLIAMS: No objection.

14 THE COURT: Without objection.

15 MR. WATERS: Okay.

16 (State's Exhibit No. 1, psychiatric evaluation,
17 received into evidence.)

18 BY MR. WATERS:

19 Q. And, Your Honor, (verbatim) if you would, go ahead and
20 tell us what was your conclusion with regard to
21 Mr. Gerrick's competency to stand trial when you performed
22 that evaluation back on November 8th, 2012.

23 A. Okay. You called me Your Honor.

24 Q. My apologies.

25 A. I assume you're talking to me.

FRIERSON - DIRECT/WATERS

1 Q. I didn't mean to promote you.

2 THE COURT: Or demote him, depending on how you look
3 at it. Go ahead.

4 THE WITNESS: Mr. Gerrick, when we saw him back in
5 November 2012, clearly understood the charges that he was
6 facing, the seriousness of those charges. He understood
7 the roles of the various court officers including the
8 Judge, the solicitor or attorney general in this case and
9 his attorney. He understands the role and function of a
10 jury. He was familiar with the pleas of guilty, not
11 guilty and nolo contendere. He understands the concepts
12 involved in plea bargaining. He was able to discuss
13 different types of evidence including material evidence,
14 in his case as well as hearsay. He had a fairly
15 complicated vocabulary related to legal matters. For
16 example, he was able to describe getting his rule fives
17 which most defendants that we see wouldn't know what a
18 rule five was.

19 BY MR. WATERS:

20 Q. Was he able to accurately explain what that is?

21 A. Yes. That's his discovery that he's being provided,
22 evidence in his case to review.

23 He appeared to be able to appreciate the strengths and
24 weaknesses of the case against him. And we opined at that
25 time that we believed that he had the capacity to stand

FRIERSON - DIRECT/WATERS

1 trial.

2 Q. Okay. And so he answered the questions to your
3 satisfaction about the charges, about the process, about
4 the roles of the various actors and the criminal process
5 to your satisfaction; correct?

6 A. Yes. And in addition, he does not have a history --

7 Q. And that would be my second question --

8 A. -- of a mental illness that would potentially impair
9 that, nor did he describe symptoms of mental illness.

10 Q. And that was my second question is obviously you don't
11 just ask him those questions. You also take a detailed
12 look at his substance abuse history, his history with the
13 legal system, his family history, his medical history and
14 any history of any mental illness to name a few things; is
15 that correct?

16 A. Yes.

17 Q. And was there anything about those that caused you
18 pause? And I believe you've already answered this but
19 there's nothing in the history that would cause you pause
20 to believe that he may have any mental illness or other
21 mental impairment that would preclude him from meeting the
22 test for competency to stand trial?

23 A. That's correct.

24 Q. Okay. Was there anything specific about his history
25 that stands out? And I believe -- did he have any mental

FRIERSON - DIRECT/WATERS

1 health diagnosis at all?

2 A. He did have a history of presentation in November of
3 2010 to the emergency room at what is now called, again,
4 the Medical College of Georgia (sic). It's been through
5 several name changes. He presented with complaints of
6 right-sided weakness and difficulty with his speech. And
7 at the time he thought he was having a stroke.

8 The medical work-up was negative. In other words,
9 there was -- the brain scans were normal. The
10 neurological exam was normal. They did not find evidence
11 that he was indeed having a stroke. The discharge
12 diagnosis from that stay was something called conversion
13 disorder or conversion reaction which means that the
14 symptoms that they observed they attributed to some
15 underlying psychological stress, that this is how he dealt
16 with it was to -- that his mind produces these physical
17 symptoms. Not purposeful, not faking, but there was a
18 more unconscious, psychological reason for these symptoms
19 than a medical one.

20 And they subsequently resolved and to my knowledge
21 he's not had further problems with that.

22 Q. Did you -- aside from that one issue, was there
23 anything else in his history that would cause you any
24 pause or concern about his mental status or his mental
25 history?

FRIERSON - DIRECT/WATERS

1 A. Not that I can recall, no.

2 Q. And did anything about that particular event, does
3 that change or call into question your conclusion that
4 he's competent to stand trial?

5 A. No.

6 Q. And does that change or call into question your
7 conclusion that he has no mental illness diagnosis?

8 A. No.

9 Q. Okay. Now you have also reevaluated Mr. Gerrick
10 today; is that correct?

11 A. Yes.

12 Q. And if you could, tell us what you found and if
13 anything you found today changes or calls into question
14 your conclusion that he's competent to stand trial and has
15 no mental illness.

16 A. Yes. I mean, I think it would be clearest for the
17 Court if I just outlined what we talked about today.

18 THE COURT: Certainly.

19 THE WITNESS: I asked him if he knew what was going on
20 in his case. He said he was having a Blair hearing. I
21 said, what does that mean. He said, to see if you are
22 competent.

23 I confirmed with a call to the jail that he is on no
24 medications for mental health reasons. He was able to
25 tell me the medicines he does take. He takes two blood

FRIERSON - DIRECT/WATERS

1 pressure medicines, Clonimide and Norvasc. It's a
2 medicine for an allergic reaction that he has called
3 angio-edema. He's on Prednisone which is a steroid and
4 some Benadryl. He was able to give me the doses of all of
5 those.

6 I asked him what's going on with his case. He said
7 it's due for trial November 18th. He indicated to me that
8 he plans on pleading not guilty. I asked him if there was
9 an offer, a plea offer or a bargain offer and he said not
10 his knowledge.

11 I wanted to ask him specifically about something his
12 attorney had told me related to if they find me guilty
13 they might as well give me the death penalty or he'd
14 rather get the death penalty. That allegedly he wrote in
15 a letter to his attorney. And he was able to discuss that
16 in a very rational way that doesn't indicate to me that
17 he's depressed or suicidal.

18 Basically he's read some law books. He was able to
19 tell me if this was a death penalty trial that he would
20 get a fairer trial, that it would be much fairer than a
21 regular trial. He would have two attorneys. They would
22 scrutinize the evidence much more clearly. That he would
23 have in some ways more legal protection if it were a death
24 penalty trial.

25 But he wants to be found not guilty and that's his

FRIERSON - DIRECT/WATERS

1 overall goal.

2 He's, his mood was described to me as okay. He is
3 eating well. He's gained significant weight. He's
4 getting adequate sleep. So there's no underlying symptoms
5 of depression which would make someone suicidal.

6 He knows that he is charged with murder. The worse
7 thing that could happen would be life without parole. He
8 was able to state his attorney's name. He wants -- the
9 job of his attorney is to, quote, give me the best legal
10 representation to a fair trial and to make sure it's fair,
11 end quote.

12 And he was able to state an outcome. He states the
13 Judge, if you go to trial he makes a finding and a last
14 decision. If not guilty he releases you and if guilty he
15 has to go by statutory law where it says a minimum of 30
16 or a maximum of life without parole.

17 He states that the jury consists of 12 people that
18 listen to both sides and go back and render a verdict,
19 either guilty or not guilty. He understood that all 12
20 jurors had to agree in order to find a verdict.

21 I asked him the role of the attorney general. And he
22 said, well, since Barnwell solicitor can't prosecute of
23 course due to a conflict, the attorney general is here to
24 make the jury believe that I'm guilty. I asked him about
25 that conflict and he was able to state that his first

FRIERSON - DIRECT/WATERS

1 attorney in this case is now employed by the solicitor's
2 office which made their, which created a conflict.

3 He was able to state and define the pleas of
4 guilty/not guilty and nolo contendere. He was able to
5 discuss potential evidence in his case. And was able to
6 appreciate the strength and weaknesses of the evidence in
7 his case.

8 He said the worst evidence is that someone said that,
9 someone said that he did it. I asked him if he told
10 anybody directly that he did it. And he was able to
11 discuss, his wife says I did. He indicated that his wife
12 his recanted that and she was forced to give that
13 statement but stated that she did not have to testify
14 against him to his knowledge because of marital privilege.

15 I asked him if he was going to testify, or if he had
16 to testify in this case and he said no but that he hadn't
17 decided whether he would testify or not. I asked him what
18 was the risk if he were to testify. And he said that,
19 quote, your prior arrest history could look incriminating,
20 end quote, period.

21 So I think he appreciates that if he has a criminal
22 record it could be used to undermine his credibility in
23 front of the jury which is a fairly sophisticated
24 understanding.

25 BY MR. WATERS:

FRIERSON - DIRECT/WATERS

1 Q. Sure.

2 A. He was able to discuss physical evidence in his case
3 including the autopsy report. I asked him whether he --
4 what he would do if someone was lying about him on the
5 witness stand. This question is asked to assess his
6 rational ability to problem solve. And he said he would
7 tell his attorney because if he yelled he would be held in
8 contempt and that would also draw a bad image to the jury
9 of him.

10 He was alert and oriented to who he was, where he was,
11 the date and the day, denied any psychiatric symptoms
12 including hallucinations. He was able to answer all of my
13 questions in a rational manner which leads me to believe
14 he could answer questions that his attorney poses of him
15 in a rational manner if he so chooses.

16 Based on that, my opinion has not changed from
17 November of 2012. I still believe that he understands the
18 charge against him, how the court works, and is capable of
19 assisting his attorney.

20 Q. Okay. Thank you, Dr. Frierson.

21 Your Honor, that would be the State's presentation.

22 THE COURT: Mr. Williams, any questions?

23 MR. WILLIAMS: No questions, Your Honor.

24 THE COURT: All right. You may step down. May he be
25 excused to go back to Columbia?

1 MR. WATERS: Yes, sir, Your Honor.

2 THE COURT: Any additional witnesses?

3 MR. WATERS: No, sir, Your Honor.

4 THE COURT: Dr. Frierson, obviously you haven't done a
5 written report from today because you came straight over
6 from Barnwell; is that correct?

7 THE WITNESS: That's correct.

8 THE COURT: Do you plan to do a written report?

9 THE WITNESS: I don't normally.

10 THE COURT: Thank you. I will not require it.

11 All right. Anything else?

12 MR. WATERS: Nothing further from the State, Your
13 Honor.

14 THE COURT: Anything else we need in this hearing?

15 MR. WATERS: No, sir, Your Honor.

16 THE COURT: All right. Obviously based on the
17 doctor's opinion, that I find the Defendant competent to
18 stand trial. He meets the qualifications under the
19 statute and we'll move forward.

20 Anything else?

21 MR. WILLIAMS: That's all.

22 MR. WATERS: Thank you, Judge.

23 THE COURT: All right.

24 Gentlemen, check with me. I think we've got that date
25 now set. That would be Wednesday the 13th at two

1 o'clock -- 2:30 in Aiken; is that right?

2 (Off-the-record discussion.)

3 END OF DAY'S PROCEEDINGS: 1:47 P.M.

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1 ON NOVEMBER 13, 2013 AT 2:17 P.M.:

2 THE COURT: Mr. Gerrick, how are you this afternoon?

3 THE DEFENDANT: Fine. How are you, sir?

4 THE COURT: Fine, thank you. How are you, sir?

5 THE BAILIFF: How are you doing, Judge?

6 THE COURT: Okay. We got some motions. How do you
7 want to start them?

8 MR. WILLIAMS: Your Honor, if it please the Court. I
9 think I've got eight or nine motions. Some of those we've
10 sort of worked out.

11 THE COURT: All right. Do you want to put on the
12 record what we've worked out and then go to what we can't
13 do after that?

14 MR. WILLIAMS: I think so.

15 THE COURT: Does that suit? Or, however it suits you.

16 MR. WILLIAMS: I'd just as soon go ahead and tell you
17 what we've got done --

18 THE COURT: That's okay.

19 MR. WILLIAMS: -- in the hopes that that will save
20 some time.

21 MR. WATERS: Yes, sir, Your Honor.

22 MR. WILLIAMS: I had filed a motion, Your Honor --

23 THE COURT: Hold on one second.

24 (Off-the-record discussion.)

25 MR. WILLIAMS: Your Honor, I had filed a motion to

1 exclude the video statements of Mr. Gerrick that was made
2 to police, I believe, on 8-17 of 2011 and 8-18. The
3 cumulative length of those tapes along with a polygraph
4 tape that they wanted to admit is, probably exceeds 10
5 hours.

6 They've told me that they're going to narrow it down.
7 They've given me a list of how they've narrowed it down so
8 far. And I need a chance just to look at what they've
9 done. They're going to add some more to it. And we may
10 be able to get this resolved so it's a relatively short
11 length. I think Mr. Waters said he was hoping to have 20
12 or 30 minutes of tape. And assuming it's not too unfairly
13 prejudicial, we would probably agree to that.

14 MR. WATERS: Yes, sir, Your Honor. Our intent is to
15 try to narrow it down to the meat and potatoes of each
16 various version of what was provided in those statements.
17 And we've been working on that. And I think we'll
18 ultimately come to an agreement or be close enough to an
19 agreement that we would can expeditiously resolve any
20 issues that remain.

21 THE COURT: What about the polygraph?

22 MR. WATERS: The polygraph, Your Honor, we would
23 assert, and we'll be glad -- I've got my computer here, we
24 can show Your Honor what we're talking about. But it's
25 not like the old-school polygraph where you've got the big

1 machine and the graphs and everything like that. It's
2 just a computer as they do those now.

3 And so I don't really think they -- obviously we would
4 not put in any reference to polygraph in the video that we
5 put in, but I don't think that the view of this that the
6 jurors would know what it is. It just looks like a
7 computer and some papers on a table just like people would
8 have in an office.

9 So I don't think it's apparent what that is. We
10 obviously don't want to mention polygraph. We actually
11 don't, you know, don't want to get anywhere near that
12 subject. And so I think that the statement itself, the
13 video itself will be admissible because it's not apparent
14 what it is from that video.

15 THE COURT: All right. We'll deal with that on Monday
16 then. Sounds like you all are working on that.

17 MR. WILLIAMS: Yes, sir.

18 MR. WATERS: And, you know, we'd be glad to show that
19 to Your Honor. I don't know if Mr. Williams --

20 THE COURT: Well, you know --

21 MR. WATERS: -- disagrees with --

22 THE COURT: -- if he's not going to object, then we're
23 okay. If he's going to object we'll need to look at it.
24 We can do that.

25 MR. WILLIAMS: I just need to see what it is first.

1 THE COURT: Sure. Absolutely.

2 MR. WILLIAMS: With regard to the polygraphs, I
3 disagree and think if he's going to put something in there
4 it ought to be audio only and not show any kind of
5 machines.

6 THE COURT: We'll discuss that on Monday.

7 MR. WATERS: Yes.

8 THE COURT: But there will be absolutely no mention of
9 a polygraph. And if they even come close to looking like
10 anything other than a computer, who's to say that people
11 on the jury don't know that that's the new polygraph. Who
12 knows. We'll see. We'll deal with it.

13 MR. WILLIAMS: Your Honor, just today I filed a motion
14 to exclude some testimony of O'Shane Dixon and Maurice
15 Williamson. This has to do with statements that, that
16 they've made to law enforcement that Mr. Gerrick told them
17 at some point in time that he had killed other people.
18 I've mentioned that and, of course, I have concerns about
19 the relevancy of that in this particular case.

20 I think Mr. Waters has said that he needs to go back
21 and talk to these witnesses and see if in fact it's
22 somehow related to what Mr. Gerrick is accused of doing in
23 this particular case.

24 THE COURT: Well it's got be related to this case
25 unless it's some kind of common scheme or plan.

1 MR. WATERS: I completely agree. And that's what I
2 said to Mr. Williams. I have no intent of putting
3 anything in that has nothing to do with this case, but I
4 just, I need to go back to this witness and clarify one
5 point to make sure that it's not related. If it's not
6 related, I won't put it in.

7 THE COURT: If it is related, don't do it until we
8 have an --

9 MR. WATERS: Absolutely.

10 THE COURT: -- out-of-the-jurors-presence in camera
11 proffer or some discussion.

12 MR. WATERS: Yes, sir

13 THE COURT: Not in opening statements, not in any way
14 until we can explore that thoroughly.

15 MR. WATERS: No, sir. That's -- my way of doing
16 things is to always work things out beforehand. But, yes,
17 sir, we'll certainly do that.

18 MR. WILLIAMS: I had also, Your Honor, filed a motion
19 to exclude some hearsay testimony of Mr. Gerrick. I think
20 that's better for me to wait until I see exactly what he
21 wants to present in the videotapes.

22 THE COURT: Well, obviously, we're not going to be
23 dealing with any hearsay but we'll cross that bridge when
24 we get to it.

25 MR. WILLIAMS: True.

1 And I think those are the things that -- oh. There's
2 some -- I had filed a motion also to exclude photos of the
3 autopsy and photos of the victim at the crime scene as
4 well as the actual clothing and ligatures that were on the
5 victim.

6 Mr. Waters has indicated to me that he's going to show
7 me the photos that he plans to introduce. He certainly
8 doesn't plan on introducing all of them. He has shown me
9 some, just a few minutes ago, of the crime scene. It is
10 not of the autopsy yet. I'd just like an opportunity to
11 see those to see if we can come to some kind of agreement
12 prior to them being introduced.

13 MR. WATERS: Again, Your Honor, I certainly understand
14 the rules. In my, in my other -- my job is to not, you
15 know, to be unduly cumulative and prejudicial.

16 I think some are necessary to show the crime scene,
17 the way the victim was found, to corroborate the shovels,
18 the hole that was dug, the effect of that decomposition on
19 the findings of the autopsy, the ligatures that were found
20 on the ankles and on the hands, the pathologist's finding
21 of probable suffocation.

22 And the reality is as you look at the cases about
23 pictures is that the scene is what the scene is. And
24 sometimes the pictures are graphic because that's just the
25 reality of what happened. And the Defendant can't leave a

1 graphic scene behind and say, oh, it's too graphic for the
2 jury to see.

3 So I have shown him some. I believe that these are
4 the middle of the road and limited in number, and --

5 THE COURT: Well, what we'll do is before, if y'all
6 cannot agree on it before you start introducing
7 photographs, let me know what you're intending to put in.
8 We'll probably do it -- I know we'll do it outside of the
9 presence of the jury.

10 Most of the time I allow enough to establish the
11 alleged facts. I don't go overboard and let you put in a
12 hundred dealing with one. And, you know --

13 MR. WATERS: Certainly.

14 THE COURT: -- I'll just a look at them.

15 MR. WATERS: And I actually took out two that
16 Mr. Williams expressed a particular objection to. The
17 ones that you see, they either show initially the scene,
18 they show the size of the hole, they show the depth of the
19 hole, they show the ligatures on the hands and the
20 ankles. And they just, you know, generally show the
21 decomposition and the manner in which the victim's body
22 was left.

23 And I think if you look at my response to this motion
24 the case law is clear that those sorts of limited
25 corroborative pictures are admissible.

1 THE COURT: Okay. We'll as I said, don't put any in
2 until we get to that stage of the trial and we'll deal
3 with them one at a time and make my rulings there. Just
4 don't put it out in front of the jury before we have a
5 chance to -- he can make his objections and you can tell
6 me what you got.

7 Mr. Harte, do you need me for a second?

8 MR. HARTE: Just one second, Your Honor.

9 (Off-the-record discussion.)

10 THE COURT: All right. Where are we at now?

11 MR. WATERS: And, Your Honor, just one other thing.
12 It was, the other part of his motion was that we do of
13 course have the physical ligatures. They're in evidence.
14 They -- we viewed those with the defense last week.

15 Obviously they're, they don't smell good. And my
16 intent is not to pop those open in front of the jury. I
17 will introduce them into evidence in their sealed
18 fashion. But I think that's another reason why the
19 pictures should be admitted as opposed to opening up these
20 ligatures in front of the jury that smell like decomposing
21 bodies, so.

22 MR. WILLIAMS: I agree with that. It shouldn't be
23 opened.

24 THE COURT: We'll get some curative instruction as to
25 why they're not being opened, just safety reasons or

1 other, you know, something. They don't need to be
2 opened. We'll deal with that.

3 MR. WILLIAMS: And I think that's our agreements thus
4 far.

5 Your Honor, I have a motion to suppress some evidence
6 that was found in Mr. Gerrick's truck pursuant to the
7 search warrant. There were actually two items found in
8 the truck and I can probably talk about them. I filed two
9 separate motions but I can probably talk about both of
10 them at the same time if that's all right.

11 One is a witch doctor that was found in the console of
12 Mr. Gerrick's truck. Right beside it was a can. And I
13 sent pictures, I believe --

14 THE COURT: You did. Keep the Law Away, Stay Away the
15 Law.

16 MR. WILLIAMS: Something like that, Your Honor.

17 And I don't know a whole lot about voodoo and
18 witchcraft and all of that, but my concern is that there's
19 a note wrapped up with this root. And the note in part
20 says, if I'm correct, save thee Sammie Gerrick from murder
21 and revoke bonds. It says your name, Judge, Jack Early
22 set me free, three times.

23 Then on the other side is a verse from Psalms 130.
24 I've attached to your material today something from, I
25 think it's from Ask dot com (ask.com), but I pulled off

1 the computer this, just to give me a little bit of
2 information on this. Apparently one of the things you do
3 in voodoo and witchcraft is you write Bible verses as part
4 of the incantation.

5 And, you know, one of my concerns is, first off, we
6 don't know who wrote this note. All we know is it's in
7 his truck, found in his truck by law enforcement. We
8 don't know what this note means. I guess somebody can
9 show it to be some kind of confession. It can be just as
10 easily, and I think more arguably, construed to be to
11 protect him from either from the charge or from being
12 murdered.

13 But more importantly than that is we're dealing with
14 something, a topic that I think in the community is
15 charged -- I think that there will be people in the jury
16 box who think that this is some kind of witchcraft, some
17 kind of devil worship. As soon as they hear it and they
18 connect it to Mr. Gerrick, they're going to form an
19 unfavorable opinion of him just because of that.

20 And they may want to convict him not based upon the
21 evidence but upon their emotions about root doctors and
22 witchcraft and things like that.

23 Conversely, there may be people in the jury box who
24 actually believe this stuff, who think there's some truth
25 to it, who think superstition is real and who they say,

1 well, he's under the protection of some kind of root. And
2 therefore it could be bad for the State.

3 But the rule says if it's evidence that's likely to
4 cause a jury to make a decision based upon emotion and not
5 upon the facts in front of them, then it should be
6 excluded. And for that reason, because it doesn't say who
7 wrote it, because it's not clear what it means, and
8 because it has or could have an unfair and prejudicial
9 effect in front of a jury, we think it should be excluded.

10 In addition, as to the little canister of Law Stay
11 Away, Mr. Waters has given to you some laws saying, well
12 it displays a guilty conscience. Well I would say a
13 guilty conscience of what? Because we all know from the
14 record that Mr. Gerrick was under other charges at that
15 time. This also appears to be part of this same
16 witchcraft or voodoo stuff or it's a novelty.

17 As Your Honor may know, he had an escape charge at
18 this time pending. He had other charges in Barnwell for
19 chop shop. So the other question is, if it's supposed to
20 prove a guilty conscience, a guilty conscience of what?
21 And therefore it should not be admitted.

22 MR. WATERS: Your Honor, we do think that the, not
23 only the brown piece of paper and, as well as the Law Keep
24 Away should be admitted. And it's because of long
25 standing law in South Carolina that -- and the way the

1 rule is stated is that any guilty act, conduct or
2 statements on the part of the accused are admissible as
3 some evidence of consciousness of guilt.

4 And if you read my memorandum, the case law goes on to
5 talk about that while we typically address this type of
6 evidence in terms of fright, the cases are very clear that
7 it can be applied to various other types of evidence. For
8 example, witness intimidation, destruction of evidence,
9 concealment of evidence.

10 And obviously though, the rule does require that there
11 be some sort of connection between the evidence that
12 you're trying to introduce and the particular crime that's
13 being charged and I think we clearly have that here.

14 Just to give Your Honor a little background. If you
15 look where these things were found, and I provided a
16 picture along with my response to his motion. They were
17 both found in Mr. Gerrick's truck in the console,
18 together, sitting together with one another. And as we
19 know, the console is where people keep personal items and
20 other things in their automobiles or their trucks which is
21 where most of us spend as much time in there as anywhere
22 else. So clearly there's a constructive possession of
23 these items to Mr. Gerrick.

24 At the time they were discovered, Mr. Gerrick had
25 already been interviewed repeatedly by police and was

1 clearly aware, not only of the victim's disappearance but
2 also that his role was sort of a central figure in this
3 particular investigation. He had been contacted by
4 friends saying, where's Tyrone, where's Tyrone. And he
5 had even responded, well -- to this particular text that
6 came in, well, maybe that will take some of the heat off
7 me. So he clearly knew that he was central to this
8 particular investigation.

9 And if we look at what the particular documents said
10 and what it is, it clearly is connected on four ways to
11 this particular crime. Number one, it refers to the
12 murder. And, again, at time this was found, it was
13 shortly after the body had been discovered.

14 So technically it wasn't even a murder yet but it
15 referred to the murder. It referred to the bond
16 revocation which was obviously something that he was
17 worried about related to the escape charges because he was
18 out. He gets indicted for murder, he might get revoked on
19 that. It refers, of course, to, Jack Early set me free.
20 And it, again, has this request to be set free.

21 So we have the bond revocation which, again, is
22 relevant to the motive for this particular crime which is
23 that Mr. Gerrick needed money to get out of jail, he
24 borrowed that money from the victim, couldn't pay him back
25 and so he killed the victim because he couldn't pay him

1 back.

2 So we have a clear connection to this particular
3 case. And it clearly raises the inference that this was
4 possessed by the Defendant in the hopes that it would ward
5 off, you know, any difficulty he may face from this
6 particular murder charge.

7 Again, the rule --

8 THE COURT: But doesn't that presuppose that everybody
9 knows what a root doctor does? I mean --

10 MR. WATERS: Well --

11 THE COURT: -- I don't know what he does.

12 MR. WATERS: -- and that may be true. And I think I'd
13 have two responses to that question.

14 The first one is that the case law is clear that the
15 fact that there may be an alternate explanation to what
16 the evidence is, the alleged guilty act, which goes to the
17 weight of the evidence, not the admissibility.

18 And that's what happened in the Beckham case where the
19 court held that evidence about an extinguished fire in the
20 defendant's back yard was still admissible even though
21 they didn't actually recover any evidence that had been
22 destroyed back there. It was relevant to the idea of
23 destruction of evidence.

24 And the same thing went in the Orozco's case where
25 they held that evidence of a suicide attempt was evidence

1 of a guilty act because even though the defense claimed
2 that the individual was committing suicide not because of
3 the fact that he had been caught molesting this individual
4 but because he didn't have any faith in the system and
5 therefore he was just going to take the easy way out. So
6 the fact that there's alternative explanations does not
7 mean that the evidence is inadmissible.

8 And the second part of the answer to that is, even
9 outside of the root, the text of the letter itself that
10 surrounded the stuff on the interior is in the nature of
11 the admission. Set me free, protect me from this murder,
12 Jack Early set me free, set me free. So clearly that's in
13 the nature of an admission.

14 It's certainly inferable. And that's all that matters
15 is for there to be a reasonable inference that this
16 relates to the crime, either as an attempt to protection
17 or as in the nature of a confession. And I think in this
18 particular case it does both.

19 The fact that the --

20 THE COURT: Well, what case do you think, if you
21 were -- told me to go look at that would allow this
22 evidence in, what case best supports your position?
23 You've cited a couple but those just a deal with Mattison
24 and Breslin. Those -- one's out of New York and one's out
25 of here, but what case would I look at to get a clear

1 analysis on evidence of a guilty consciousness and these
2 four relevant things that you talk about, the murder, the
3 bond revocation, et al, and the inference of consciousness
4 of guilt. What case should I go to?

5 MR. WATERS: Well, I would say that probably while
6 this might not be the case that factually is closest, the
7 one that provides the best overview of the law is a case,
8 State V Martin.

9 THE COURT: State V Martin?

10 MR. WATERS: It's cited on page three of my
11 memorandum.

12 THE COURT: Three? I'm sorry.

13 MR. WATERS: Yes, sir. 742 Southeastern Second 42.
14 And, but it's -- I apologize for not picking a single case
15 because it's a little difficult to do that, but if you
16 look again at the Beckham case which is cited on page five
17 of my brief. And, again, that's the case where they held
18 that evidence of an extinguished fire was admissible as
19 guilty consciousness even though no destroyed evidence was
20 found in there. That was Stephen Beckham. That was the
21 case of the son of the bishop who murdered his wife, the
22 son of -- the daughter of the representative. So that's a
23 pretty big case.

24 THE COURT: Up in the upper part of the state.

25 MR. WATERS: Yeah, I believe it was in maybe Newberry.

1 THE COURT: Yeah.

2 MR. WATERS: I think that was it. Something like
3 that.

4 And Orozco is the other one. And these are cited on
5 page five. And that's the one where the Court of
6 Appeals -- if I had to pick one it might be Orozco because
7 that went through a lot of the evidence on this, talked
8 about the fact that even though this type of evidence is
9 related in evidence of fright, that it can apply to
10 different things and it ultimately held that an attempted
11 suicide was admissible as a guilty act despite the fact
12 that, again, the defense had an alternate explanation but
13 again that's for the jury to decide. That goes to weight
14 not admissibility.

15 And again, if you look on those two cases I cited
16 right there the Mattison and the New York case, that was
17 just to kind of generally show, you know, the prevalence
18 of root in South Carolina. But if you look on page six in
19 the footnote, I cited two cases, both of course out of
20 this jurisdiction because there's no case in South
21 Carolina, but both of them noted, specifically admitted
22 evidence of voodoo related to the case because of that
23 very reason; that there was a case where they had a voodoo
24 doll and it had all the prosecutors and the judges and the
25 prosecutors written on it and the Court held that that was

1 highly probative of consciousness of guilt to have this
2 sort of thing.

3 And the Mattison case in South Carolina, that's really
4 the only case I found that specifically referred to
5 voodoo. And of course what they held there was, was that
6 the trial court allowed improperly expert evidence about
7 roots and voodoo for its effect on the Defendant in that
8 case who claimed that he was scared of his wife because
9 his wife was doing roots on him.

10 So, I mean, clearly, they held it was admissible
11 there. What they said was that the trial judge properly
12 excluded evidence about root on society in general. So
13 that's not really related to what we're talking about here
14 today but I think that does show, A, the prevalence of
15 root in South Carolina and, B, that the subject matter is
16 not off limits if in fact it's related to the case.

17 And here, I think it clearly is. It can't be more
18 directly related to this particular case. It talks about
19 a murder. It talks about a bond revocation. It asks to
20 be set free. And those are all what's going on in his
21 life at that very moment. And he's got it in his
22 constructive possession. So it's evidence of
23 consciousness of guilt and we submit it should be
24 admitted.

25 As to the Police Keep Away, again it was found next to

1 the letter, the root letter that had the specific
2 references to what was going on with this case at that
3 particular point in time. And, normally I would say
4 you're right, it's to attenuation but because it's found
5 right next to the root in the console at the same time
6 that this investigation is going on which Mr. Gerrick is
7 aware, that it's linked in with the root letter and it's
8 admissible on that basis.

9 THE COURT: Anything in reply?

10 MR. WILLIAMS: Once again, I just think that any
11 probative value it may have is substantially outweighed by
12 the unfair way the jury may look at it.

13 THE COURT: Prejudicial.

14 Well, gentlemen, I'm not going to rule on this today.
15 Very interesting subject, interesting issues.

16 Between now and Monday I will have an opportunity to
17 read these case that were cited by the State.

18 Mr. Williams, if you have anything you want to send me
19 by way of a case, just send me a cite.

20 And probably will need to take some proper testimony
21 to make a decision as to whether or not it is relevant and
22 if it's relevant whether or not its prejudicial value
23 outweighs the probative value.

24 Just right now I'm not going to rule on it and I would
25 ask that you not mention it in opening statement. And,

1 I'm not going to say that I'm going to preclude it or
2 admit it. I just have to take a look at it.

3 MR. WATERS: Okay.

4 THE COURT: And I appreciate you bringing it to my
5 attention now. Obviously it gives me a little head start
6 on reading all these cases.

7 MR. WATERS: And just to add to part of the concern,
8 Your Honor, it's not my intent nor is it my style to sit
9 up there and harp on witchcraft to make Sammie Gerrick
10 seem to be a satanist. I'm not going to do that at all.

11 My only point is to say he had it in his car and he
12 had constructive possession of it and it's evidence of his
13 guilty consciousness as the case law says.

14 THE COURT: We're not going to try a witch doctor
15 case. That's for sure.

16 MR. WATERS: Yes, sir.

17 (Off-the-record discussion.)

18 THE COURT: What's next? You know, Braithwaite's an
19 expert on that subject and maybe he should have been in
20 here while we argued it.

21 MR. WILLIAMS: Your Honor, the next motion I have is a
22 motion to exclude certain testimony of Charlene Gerrick
23 regarding communications with the Defendant.

24 THE COURT: Charlene is his wife?

25 MR. WILLIAMS: Is his wife. They were married, I

1 believe, in 1995 at the Bamberg County Courthouse.

2 THE COURT: And were married at the time.

3 MR. WILLIAMS: And were married at the time.

4 And this has to do with some communication that
5 actually took place between just him and just her. The
6 communications would have been in one of their vehicles
7 and I think maybe at her house. It has to do with her
8 statement that he confessed to killing Mr. Donaldson. It
9 also has to do with statements he made regarding this
10 particular car and taking it, why he was taking it to
11 Orangeburg. And I think there's a statement also in there
12 about how he was planning on making this look like some
13 kind of drug deal gone bad.

14 THE COURT: So, and you rely on 19-11-30?

15 MR. WILLIAMS: That's correct.

16 THE COURT: Which says that in any trial no husband or
17 wife may be required to disclose any confidential, or
18 communication made by one to the other during their
19 marriage.

20 Well, obviously you can't make Mr. Gerrick disclose
21 anything. And you can't make her disclose anything. You
22 can't make Mr. Gerrick make her not disclose.

23 MR. WILLIAMS: I think it's her -- honestly, Judge, I
24 think it is her decision not to testify. He does not have
25 the right to invoke that.

1 MR. WATERS: Right. Your Honor, in our memorandum we
2 cite State V Copeland which also cites State V Moaks and
3 those cases clearly held that the privilege is only the
4 privilege of the testifying spouse, not the --

5 THE COURT: If she gets up and says, I don't want to
6 say what I said to my husband, we can't go any further.
7 If she gets up there and says, this is what my husband and
8 I talked about, then she's not invoking the privilege.

9 MR. WILLIAMS: The only thing I'd ask, Your Honor,
10 that -- and she's with her daughter today at a doctor's
11 appointment -- is that she be asked first outside of the
12 presence of the jury.

13 THE COURT: That's fair.

14 MR. WATERS: That's fine.

15 And, Your Honor, though I do, we do take the position
16 and I believe Mr. Williams agrees with this, that -- and
17 Copeland pretty much shows this to be the case, that the
18 statute only refers to communications. And so she still
19 could be required to testify.

20 And we intend to call her to testify regardless of
21 what position she takes as to her own actions that
22 particular day and things of which she observed. In
23 particular, taking -- following Mr. Gerrick out to this
24 particular scene, getting the victim's car and taking it
25 somewhere else. And then also speaking with the police

1 and leading them out to the scene where of course the body
2 was found nearby.

3 Those are her actions, have nothing to do with marital
4 communications. And I think under the Copeland case
5 that's clearly admissible regardless of what position she
6 takes.

7 MR. WILLIAMS: I think that's correct.

8 MR. WATERS: And the only thing I would add, and not
9 to push the envelope, is I did in my memorandum discuss
10 the prospect of waiver. And I did cite some cases from
11 other jurisdictions that have held that because -- where
12 the spouse has disclosed these communications already to
13 another person, that that operates as a waiver. And of
14 course in this particular case she's disclosed those to
15 police.

16 Again, I put that in the memorandum. I might want to
17 toy around with that a little bit more but again, Your
18 Honor, I'm not going to pull any surprises whether in
19 opening or in testimony until, without letting the Court
20 know exactly what I intend to do.

21 THE COURT: When we get to Charlene Gerrick we'll do a
22 proffer. And I think she should be made aware that there
23 is that privilege there. If she wants to invoke it,
24 that's fine; if she doesn't, that's her call.

25 But I think as to the other things that were not

1 communication, obviously that is fertile ground for
2 everybody to look at.

3 MR. WATERS: Yes, sir.

4 THE COURT: All right. What else do we got?

5 MR. WILLIAMS: Your Honor, there is a Messiah hearing
6 motion for Xavier McCoy who is an inmate, I believe, at
7 Lieber. There was some confusion about getting him here
8 today.

9 THE COURT: That's Xavier McCoy?

10 MR. WILLIAMS: That's correct.

11 THE COURT: That's a Messiah hearing?

12 MR. WILLIAMS: Messiah hearing. He's not here today.
13 I think that we could put up testimony of Agent Harley and
14 then do the rest of the hearing next week, or we could do
15 the whole hearing next week. That's up to Your Honor.

16 MR. WATERS: I apologize, Your Honor. I made the
17 request. I put the right day but the wrong date on there
18 and that's why they're not here.

19 But we do have Agent Harley here who can address that
20 issue and then, you know, we can briefly in camera do
21 Mr. McCoy on specifically a Messiah issue. And Your Honor
22 could make a determination next week.

23 THE COURT: What do we need to do today to make our
24 time Monday more efficient?

25 MR. WATERS: Well, I think if we go ahead and do Agent

1 Harley we can knock that out. And then, again, all that I
2 believe would be left would be to question Mr. McCoy
3 unless the defense has some evidence they wish to
4 present.

5 But that's all that we would present, would be Agent
6 Harley -- Lieutenant Harley, excuse me, and Xavier McCoy
7 on the issue which of course deals with whether or not he
8 was put up to it by the government and we of course would
9 put in the evidence that that's not what happened at all.

10 THE COURT: Is he here?

11 MR. WATERS: He is right here.

12 (At 2:50 p.m., another matter was heard. This matter
13 resumed at 2:55 p.m.:)

14 MR. WATERS: Your Honor, I need to go ahead if I
15 could, before we get to the Xavier McCoy thing, one of the
16 developments and one of things that Mr. Williams and I had
17 already talked about putting on the record with you today
18 and what Your Honor may be aware of is this issue with an
19 inmate by the name of Dustin Williamson who wrote a letter
20 that Sammie Gerrick says he found on the floor of his cell
21 and took it to the guards in which Dustin Williamson
22 confesses to this particular crime.

23 Obviously --

24 THE COURT: That he confessed to the crime?

25 MR. WATERS: He confessed to this crime and said

1 Sammie Gerrick didn't do it, he had nothing to do with it,
2 it was just me.

3 And of course there's another issue I'm about to
4 address. This is the second person that's been in jail
5 with Sammie Gerrick who confessed to the crime. The last
6 person, the one who when the police went and talked to him
7 said, yeah, that's really total bunk. He promised me a
8 thousand dollars and, you know --

9 THE COURT: I saw that.

10 MR. WATERS: -- and protection.

11 So, you know, anyway, we got this. Obviously we still
12 have an obligation to look into this. And, you know, it
13 puts the prosecution in the position of not only being the
14 prosecutors of Sammie Gerrick but the defense attorneys
15 for Mr. Williamson.

16 And obviously though this has arisen only in the past
17 couple weeks and we've been diligently looking into it.
18 But it's getting more and more complicated. And I had
19 spoken with Mr. Williams about this. We wanted to put
20 Your Honor on notice that these issues are percolating and
21 there is concern that it could blow things up.

22 It actually got a little more touchy because
23 Mr. Williamson was conflicted from the PD's office and he
24 was appointed Mr. Jason Price who's present in the
25 courtroom and I'll let him address the Court in just a

1 moment with the Court's permission. And Mr. Price was,
2 obviously was representing Mr. Williamson and he's
3 obviously a crucial figure.

4 THE COURT: Mr. Williamson is the one who said it was
5 a thousand dollars?

6 MR. WATERS: No. Mr. Glover. That was a year ago.

7 THE COURT: Glover.

8 MR. WATERS: He's the one who when the police went and
9 talked to him said, yeah, I didn't have anything to do
10 with it.

11 THE COURT: The new one is Williamson.

12 MR. WATERS: The new one is Williamson. The old one
13 is -- Early Glover is the first one.

14 THE COURT: Okay.

15 MR. WATERS: Dustin Williamson is the one who just,
16 you know, in the past week and a half, two weeks, whatever
17 it is, wrote this letter.

18 He is represented or was represented by Mr. Price.
19 Mr. Price got him by conflict. However today, Mr. Price
20 realized that he represents Mr. Williamson's brother in
21 related charges. And therefore, and I think I'll let
22 Mr. Price explain it, but Mr. Dustin Williamson is
23 unrepresented at this point.

24 Obviously he's got to be talked to. And he's got to
25 have a lawyer to help navigate him through this very

1 crucial situation.

2 THE COURT: Well, do you intend to have him at trial
3 on Monday?

4 MR. WATERS: Yeah, but, I mean, we really need to
5 figure out the answers to these questions. And we also
6 have to do an investigation into -- to confirm or
7 contradict whether or not he could have had anything to do
8 with this, which we're working on.

9 But this inability -- his lack of representation
10 causes me great concern. He needs to have a lawyer, I
11 think, like, right now. So over the next few days --

12 THE COURT: Where is he, like, right now?

13 MR. WATERS: He's presently in Barnwell jail. And
14 Mr. Price?

15 MR. PRICE: I got a phone call this afternoon from my
16 paralegal, Mary Jeradeen (phonetically), and she tells me
17 that Dustin Williamson's mother called the office and
18 wanted to know information about his case along with Troy
19 Davis who is Dustin Williamson's brother.

20 My paralegal looks up the information on Troy Davis.
21 And the mother of both of them says Troy Davis's case is
22 related to Dustin Williamson's case. Our office had no
23 knowledge of that. We haven't received a rule five on
24 that. Our office received Troy Davis's case much earlier
25 than Dustin Williamson's case, and we just didn't catch

1 it.

2 I called Sandra Dobson down in the public defender's
3 office to try to confirm this information, whether --

4 THE COURT: You called who?

5 MR. PRICE: Sir?

6 THE COURT: Who did you call?

7 MR. PRICE: Sandra Dobson at the public defender's
8 office in Barnwell to confirm whether there was a real
9 conflict or not. And she did confirm there was a conflict
10 of me representing both Troy Davis and Dustin Williamson.
11 I told Ms. Dobson that it was urgent that Dustin had
12 representation considering the fact that he is of
13 particular interest with the AG's Office with this case
14 coming on Monday with Sammie Gerrick.

15 There's another development with this. I represent a
16 young man by the name of Byron Felder who has, he tells me
17 that Dustin Williamson had told him information about this
18 case, and that he's admitted certain information about
19 this case. And he's also written a letter to Attorney Dan
20 Williams and that he intends to get that letter to Mr. Dan
21 Williams.

22 THE COURT: What are you doing about the other guy,
23 Early what's-his-name?

24 MR. WATERS: Well, that's one of the motions that
25 Mr. Williams had today was to exclude Mr. Early

1 (verbatim). And of course we argue that his testimony
2 would be admissible and we'll address that in just a
3 moment but he's -- this issue doesn't deal with him. We
4 have the issue with Dustin to deal with.

5 THE COURT: Similar-type issue.

6 MR. WATERS: It is a similar-type issue.

7 THE COURT: What would your suggestion be?

8 MR. WATERS: Well, my suggestion is, right this very
9 minute is that we need to -- and I would ask the Court for
10 whatever aid it could offer to get a lawyer for
11 Mr. Williamson, like, now. So that that lawyer can assist
12 Mr. Williamson in navigating the next few days and
13 hopefully stop -- keep the train on the track so to speak
14 while we continue to do our best -- I mean, again, we
15 don't -- this Felder thing has been told to me by
16 Mr. Williams. We don't have a copy of any letter.
17 Apparently Sammie told -- Mr. Gerrick told Mr. Williams
18 about this. That's yet another avenue. And so we're, you
19 know, we've got --

20 THE COURT: Where is Mr. Gerrick being housed right
21 now?

22 MR. WATERS: He's in Barnwell Detention Center.

23 THE COURT: Where was the Early guy housed?

24 MR. WATERS: That was when Mr. Gerrick went to Kirkland
25 R&E.

1 THE COURT: On the escape charge?

2 MR. WATERS: On the escape charge and they met there.

3 THE COURT: So your suggestion is let's get

4 Mr. Williamson a lawyer ASAP.

5 MR. WATERS: We are doing our best to be in a
6 comfortable position as our obligation's not only to
7 fairly judge the developments and make sure we're doing
8 the right thing, but also to prosecute this case
9 adequately, to investigate all this new information. It
10 keeps getting more complicated.

11 But one thing that is essential to trying to get that
12 done is that Mr. Williamson has competent counsel who can
13 advise him and help him to navigate, not only the charges
14 that he's facing for -- of course, some very serious
15 charges --

16 THE COURT: What's he facing?

17 MR. WATERS: He's facing a murder and I think three
18 attempted murders, if I'm not mistaken. But they are very
19 serious charges.

20 And then he's also got -- he's sitting in there and
21 frankly, Your Honor, right now I believe it's just the
22 Early Glover thing. He got put up to it by Sammie
23 Gerrick.

24 But we've got to try to verify that and we need to --
25 he needs the help of counsel, someone we can talk to,

1 someone Mr. Williamson can talk to and someone who can
2 talk to him and say what's going on here and help us
3 navigate this.

4 Because frankly, Your Honor, unless we can get some
5 answers -- you know, I'm hesitant to swear a jury on my
6 one shot at this and have Mr. Williams do what he's
7 supposed to do as a good lawyer and just kind of get this
8 letter in for free. And there's not -- we don't have
9 sufficient information to refute it. And if we can
10 confirm it, then we're doing the wrong thing here and we
11 need to stop.

12 So that's what we're trying desperately to accomplish
13 but the lack of counsel for Mr. Williamson is a major
14 impediment for that.

15 THE COURT: And today is Wednesday.

16 MR. WATERS: Today is Wednesday. And we have been
17 dealing obviously with Mr. Price and Mr. Price came in
18 here today and they realized, like I said, they didn't
19 have the rule five, and they just realized a conflict.

20 THE COURT: It's not so imperative that we get
21 somebody to represent him in the current charges pending
22 against him but perhaps in connection with this
23 investigation.

24 MR. WATERS: That's accurate, Your Honor. Certainly.

25 MR. WILLIAMS: And, Your Honor, the same for

1 Mr. Felder. And I got to talk to him at some point in
2 time. There's this letter here --

3 THE COURT: How's Felder enter into the picture?

4 MR. WILLIAMS: Felder is another person in the
5 jailhouse who has heard Mr. Williamson admit that he
6 killed Tyrone Donaldson. So, and there's supposedly a
7 letter that he wants to give me that I don't want to take
8 until he has an attorney saying --

9 MR. PRICE: And I'm not Mr. Felder's attorney but just
10 being around Mr. Felder, too.

11 MR. WILLIAMS: And this is different than Early Glover
12 because they did interview Mr. Dustin Williamson and
13 Mr. Dustin Williamson admitted to writing a letter and I
14 think he told them, it says what it says.

15 MR. WATERS: Right, right. They were like, well, what
16 did you do. He's like, whatever that letter says. Well,
17 what happened; well, whatever that letter says.

18 THE COURT: Mr. Price, do you know their full names,
19 Williamson and Felder?

20 MR. PRICE: Excuse me?

21 THE COURT: Do you know their full names?

22 MR. PRICE: Not their middle name.

23 THE COURT: How about go out and get on the phone and
24 get me their full names so I can get somebody appointed
25 this afternoon.

1 MR. PRICE: Yes, Your Honor.

2 THE COURT: It may be young lawyers but competent
3 lawyers.

4 Gentlemen, I'm going to go ahead and appoint Adam Ness
5 to represent Mr. Williamson, and the Kirkland boy to
6 represent Mr. Felder.

7 (Off-the-record discussion.)

8 THE COURT: I'm going to go back and talk to these
9 guys on the phone. Both of y'all come back and be there
10 with me when I talk, just to answer any questions. I'll
11 have them immediately interview them in the morning, or
12 try to anyway.

13 And then you obviously open, start your investigation
14 immediately. I do not want to continue this case.
15 Obviously these things keep popping up and I can --

16 MR. WATERS: I don't want to either, and --

17 THE COURT: -- but these are matters that have to be
18 addressed.

19 MR. WILLIAMS: Right.

20 MR. WATERS: And, Your Honor, we -- you know, we have
21 been -- we have SLED out poking around about this. It's
22 not like we've just been waiting.

23 But I agree with Your Honor. We don't want to
24 continue it either, but obviously --

25 THE COURT: Will you please tell SLED Director Keel

SHAUN HARLEY - DIRECT/WATERS

1 that this case is on a, it's been set for a long time, for
2 them to please expedite their investigation? Tell
3 Director Keel that's a personal request from --

4 AGENT HARLEY: Yes, sir.

5 THE COURT: -- from the Court. How's he getting
6 along?

7 AGENT HARLEY: Pretty good, sir.

8 THE COURT: Off the record.

9 (Off-the-record discussion.)

10 THE COURT: We'll deal with that. Do you want to go
11 ahead and do the Messiah?

12 MR. WATERS: Yes, sir, Your Honor. At this time the
13 State would call Lieutenant Shaun Harley.

14 SHAUN HARLEY, having been duly sworn, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. WATERS:

18 Q. Agent Harley, how are you doing today?

19 THE COURT: Before you do that. Did you send a memo
20 on the Messiah?

21 MR. WATERS: No, sir. I didn't send any specific
22 memo. I think it's just purely an evidentiary matter. I
23 don't think we have any disputes about the case law. So,
24 I did not. I'll be glad to.

25 THE COURT: No, no. I was just looking at all of

SHAUN HARLEY - DIRECT/WATERS

1 them.

2 BY MR. WATERS:

3 Q. Lieutenant Harley, you're with SLED; correct?

4 A. Yes, sir.

5 Q. And were you the case agent in this particular
6 investigation?

7 A. Yes, sir; myself and Jomar Albayalde.

8 THE COURT: Joe who?

9 THE WITNESS: Jomar Albayalde.

10 BY MR. WATERS:

11 Q. Can you spell that for the court reporter?

12 A. Oh Lord. I'd set myself up.

13 THE COURT: That's okay.

14 MR. WATERS: I can get it to her.

15 Q. Are you familiar with an individual by the name of
16 Xavier McCoy?

17 A. Yes, sir.

18 Q. And could you tell the Court how Mr. McCoy, what's his
19 relevance to this particular investigation?

20 A. We -- SLED -- I received a phone call or a e-mail
21 through Kenny Bamberg who works for the solicitor's office
22 here under Strom Thurmond.

23 Q. In Barnwell?

24 A. Yes, sir.

25 Q. Okay.

SHAUN HARLEY - DIRECT/WATERS

1 THE COURT: He's an investigator with the solicitor's
2 office.

3 THE WITNESS: Investigator.

4 THE COURT: That's correct.

5 BY MR. WATERS:

6 Q. And what did Mr. Bamberg tell you?

7 A. He stated that at that time they received a letter
8 from a Xavier McCoy that was mailed to them and for me to
9 follow up on it.

10 Q. Okay. And I'm going to show you -- I'm going to get
11 what will be marked as State's Exhibit One for the
12 purposes of this hearing.

13 (State's Exhibit No. 1, letter dated 10-02-12, and
14 State's Exhibit No. 2, Xavier McCoy statement, marked for
15 identification.)

16 BY MR. WATERS:

17 Q. Lieutenant Harley, I'm going to show you what's been
18 marked as State's Exhibit One. See if you recognize
19 that.

20 A. Yes, sir.

21 Q. And can you tell us what that is?

22 A. It was a letter written to the clerk of court in
23 Barnwell County.

24 Q. And is that the letter that was passed on to you from
25 Kenny Bamberg at the solicitor's office?

SHAUN HARLEY - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Okay. Prior to you getting this communication from
3 Mr. Bamberg, had you ever heard of Xavier McCoy?

4 A. No, sir.

5 Q. Had you ever contacted Xavier McCoy for any reason
6 related to the Sammie Gerrick case?

7 A. No, sir; I had not.

8 Q. Had you ever instructed anybody to contact Mr. Xavier
9 McCoy in reference to the Sammie Gerrick case?

10 A. No, sir.

11 Q. Had anybody at the solicitor's office in the Second
12 Circuit ever told you that they were contacting Xavier
13 McCoy to tempt him to aid in the Sammie Gerrick case?

14 A. No, sir.

15 Q. Did anybody else in any sort of law enforcement or
16 prosecutorial position ever contact you and say that they
17 were going to enlist the aid of Xavier McCoy in the Sammie
18 Gerrick case?

19 A. No, sir.

20 Q. All right. So you received this letter. And so it
21 came out of the blue; is that fair to say?

22 A. Yes, sir.

23 Q. And what did you do after that?

24 A. I then followed up on it and went to Lieber Correction
25 Institute, interviewed Mr. Xavier McCoy.

SHAUN HARLEY - DIRECT/WATERS

1 Q. Okay. And did you do so?

2 A. Yes, sir.

3 Q. And I'm going to show you what's been marked as
4 State's Exhibit Two and see if you recognize that.

5 A. Yes, sir.

6 Q. And what is that?

7 A. It's a voluntary statement which, a written statement
8 from Xavier McCoy.

9 MR. WATERS: And, Your Honor, at this time I would put
10 into evidence for purposes of this hearing State's
11 Exhibits One and Two. I believe those are without
12 objection.

13 MR. WILLIAMS: That's correct.

14 THE COURT: What was Two?

15 MR. WATERS: Two is the written statement that
16 Lieutenant Harley took from Xavier McCoy.

17 THE COURT: Do I have that up here?

18 MR. WATERS: I'll hand it up to you. Here you go,
19 Judge.

20 (State's Exhibit No. 1, letter dated 10-02-12, and
21 State's Exhibit No. 2, Xavier McCoy statement, received
22 into evidence.)

23 BY MR. WATERS:

24 Q. Lieutenant Harley, when you took that statement from
25 Xavier McCoy, did he at any time tell you that he had --

SHAUN HARLEY - CROSS/WILLIAMS

1 that any sort of government agent had asked him to go try
2 to elicit information from Sammie Gerrick?

3 A. No, sir.

4 Q. When -- did anyone at the South Carolina Department of
5 Corrections tell you that they had put Xavier McCoy in
6 contact with Sammie Gerrick for the purpose of getting
7 Xavier McCoy to elicit information from Sammie Gerrick?

8 A. No, sir.

9 Q. Did anybody in law enforcement to your knowledge do
10 that?

11 A. No, sir.

12 Q. Did Xavier McCoy tell you that anybody had asked him
13 to do that?

14 A. No, sir.

15 MR. WATERS: Your Honor, that would be it for
16 Lieutenant Harley.

17 CROSS-EXAMINATION

18 BY MR. WILLIAMS:

19 Q. Lieutenant Harley, did you ask him those questions?
20 Did you ask him, hey, did somebody ask you to give a
21 statement to me?

22 A. No, sir. I just went on, based on what Kenny Bamberg
23 sent to us.

24 Q. And had you been to Lieber Correctional Institution in
25 the past three months prior to this?

SHAUN HARLEY - CROSS/WILLIAMS

1 A. Prior to this?

2 Q. Prior to this statement, had you been to Lieber at
3 all?

4 A. Not that I can recall, sir.

5 Q. Okay. So if we were to look at the records, I'm not
6 going to see you on the record as going into Lieber?

7 A. I said, not that I recall unless maybe there on some
8 other issue, but I can't recall.

9 Q. And this is all he told you; is that correct?

10 A. Yes, sir.

11 Q. And there's nothing that he told you that's left out
12 of his statement?

13 A. That's all that was given to me; yes, sir.

14 Q. Did he tell you where these conversations took place
15 in the jail?

16 A. Where this conversation took place? It was just at
17 the prison.

18 Q. Right. Did he tell you where he had this conversation
19 with Mr. Gerrick?

20 A. Just at the prison. With him in prison.

21 Q. Okay. Any more detail than that?

22 A. That's all he provided, sir.

23 Q. Okay. And did you inquire of the prison as to
24 whether anybody had asked him to give a statement against
25 Mr. Gerrick?

SHAUN HARLEY - REDIRECT/WATERS

1 A. Did I inquire from anybody from SCDC?

2 Q. Right.

3 A. No, sir.

4 MR. WILLIAMS: That's all I have, Your Honor.

5 THE COURT: Anything else? Redirect.

6 MR. WATERS: Very quickly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. WATERS:

9 Q. On Exhibit Two, the statement, just to be clear. When
10 you went down, you met with Mr. McCoy and you talked with
11 him for a while; correct?

12 A. Yes, sir.

13 Q. And then he kind of told you the basic story; is that
14 correct?

15 A. Correct.

16 Q. And then you asked him to hand write out in his own
17 handwriting a statement that covered what he told you?

18 A. Yes, sir; this here.

19 Q. So that's not like you just showed up and he handed
20 you that?

21 A. No, sir.

22 Q. But that, the substance of what he told you is
23 represented in that State's Exhibit Two?

24 A. Yes, sir.

25 MR. WATERS: Okay. Nothing further, Your Honor.

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

2 MR. WATERS: Your Honor, I believe that's all we have
3 right now pending the conclusion of that hearing next week
4 during the trial week.

5 THE COURT: Very well. All right. What can we do
6 now?

7 MR. WILLIAMS: Your Honor, we also have a motion to
8 suppress an August 17th statement, 2011, Mr. Gerrick to
9 law enforcement, given, I think, at the Barnwell County
10 Sheriff's Office. There were actually two or three
11 statements that day.

12 They're all videotaped. So we have the warnings on
13 the videotape and can show Your Honor what happened. But
14 in the first video that day, the first interview that day
15 Mr. Gerrick is in the room. He is in front of three
16 police officers. They have a beginning conversation and
17 in that conversation Mr. Gerrick tells them that I'd like
18 to talk to my lawyer first before we go any further with
19 this.

20 Lieutenant Harley is in the room. He says okay, but
21 I've got to give you this Miranda warning first. And then
22 he gives him the warning. And they get it signed up.

23 And instead of stopping at that point in time and
24 letting him talk to his lawyer, he keeps on with the
25 conversation.

1 And, Your Honor, I think, yeah, technically he gave
2 him the warning and he spoke right afterwards. What he
3 says contemporaneously at the same time, at the same
4 meeting that he wants a lawyer and then he doesn't give
5 him that opportunity to call his a lawyer and talk to him,
6 he's violated his Miranda rights and his right to
7 counsel.

8 And therefore that testimony should be excluded.

9 THE COURT: You want to do it not in a Jackson V Denno
10 but just let me look at the tapes? Is that how you --

11 MR. WILLIAMS: And it's in the first three minutes of
12 the tape.

13 MR. WATERS: We actually have it right here, Your
14 Honor, we'd be glad to cue it up. I think, and we've
15 talked to Mr. Williams, that this is kind of the only
16 statement-related issue aside from whittling the
17 statements down that we need to deal with.

18 And -- excuse me, Your Honor.

19 THE COURT: Well, you've looked at it. Does he ask
20 for a lawyer?

21 MR. WATERS: Well, Your Honor, no, we don't see it
22 that way. And I of course wrote a memo for Your Honor.

23 What happened here was Mr. Gerrick was apparently
24 revoked on the escape charges so he was in custody. He is
25 brought down on the 17th. He's not been charged yet, it's

1 my understanding, with Tyrone Donaldson's murder. He is
2 brought down to be interviewed and Lieutenant Harley tells
3 him, you know, hey, I got to interview you but because
4 you're in custody I need to give you your rights.

5 Mr. Gerrick says words to the effect, I don't got any
6 problem talking to you. I don't have any problem talking
7 to you. I do have a lawyer. He told me not to talk to
8 police. And, you know, maybe I should call and let him
9 know that I'm here. And at which point Lieutenant Harley
10 says, well, the reason why we got to give you your rights,
11 unlike the prior meetings that we had where you just
12 voluntarily came in, is because you're in custody. And so
13 I need to give you your rights.

14 So ultimately he gives him his rights. He does a full
15 waiver where he talks specifically about having the right
16 to counsel, y'all can consult beforehand as well as having
17 his right to counsel during questioning, as well as the
18 ability to stop questioning at any time.

19 After -- and I think he even uses the words, I want to
20 make sure you're comfortable. And Mr. Gerrick after
21 hearing the rights agrees to go forward.

22 So our position is threefold. Number one, there was
23 no unambiguous invocation of the right to counsel which
24 the case law is very clear. And I've detailed that in my
25 memo. I'll be happy to go through it in detail with Your

1 Honor.

2 But essentially the case law is very clear that an
3 invocation of the right to counsel has to be ambiguous and
4 that officers shouldn't be in the face of ambiguous
5 statements having to guess and then fails the threat of
6 suppression if they ultimately guess wrong. And that
7 comes from a recent Court of Appeals case citing a recent
8 US Supreme Court case.

9 And so in there they also cite another US Supreme
10 Court case, Davis V United States, where the individual
11 said, maybe I need lawyer. And the US Supreme Court held
12 that was not an unambiguous request for counsel.

13 Here he didn't say that. He didn't even -- he said, I
14 want to talk to you. I got that lawyer. Maybe I should
15 call and let him know I was here. He did not -- he never
16 said, I want to have him here, I need talk to him before I
17 do that. All he said was, maybe I should let him know I'm
18 here.

19 And so there was not the unambiguous request that the
20 law requires.

21 Secondly, of course, is the concept of re-initiation.
22 And I think that's what we have here as well. The police
23 did not badger or ask interrogation-type questions as the
24 statement was made. All they did was explain because
25 you're in custody for the Bamberg charges, I have to give

1 you rights before we can talk to you. And then they did a
2 full waiver. And Mr. Gerrick was agreeable to that.

3 So there wasn't this concept of the police going back
4 to the well without being invited by the Defendant. It
5 was all part of one conversation. And, again, all they
6 did was talk about the very rights that are at issue here.

7 And then the third concept is the ultimate waiver.
8 Here -- and I think that's important -- if you look at the
9 cases that I've cited, State V Binney and then also a
10 recent Court of Appeals case, Tracy B, and one thing that
11 State V Binney which is a death penalty case says is that
12 really the critical issue is the ultimate waiver. And
13 what Tracy B says is this whole rule about the invocation
14 and the re-initiation is purely a prophylactic rule and it
15 has to be viewed in that vein, and that it should not
16 suppress evidence when as a whole, when you look at the
17 particular statement that's taken, it's clear that there
18 was not badgering or coercive behavior that overcame the
19 defendant's will.

20 And that's what kind of what Binney says as well is
21 that the real critical issue is the validity of the
22 waiver. And if you look at this particular statement, you
23 look at Sammie Gerrick, he's been in to talk with these
24 guys repeatedly. He has experience with the system. He's
25 clearly an intelligent guy. He's clearly a strong-willed

1 individual.

2 And if you read this -- if you look at this particular
3 statement, it's clear as a bell that the police didn't
4 overbear Stanley -- excuse me, Sammie Gerrick's will to
5 extract this statement involuntarily.

6 And, like I say, from the very beginning Sammie
7 Gerrick's like, I ain't got no problem talking to you. I
8 want to talk to you. And so those three, I think,
9 concepts all working together but each individually are
10 sufficient to overcome any particular fifth amendment
11 problem.

12 THE COURT: Mr. Williams, anything in response?

13 MR. WILLIAMS: Certainly. I would like to have been
14 there to put better words in his mouth but he's not, I
15 don't think, required to use the words that I would use.
16 And I would like for him to say, I do not want to talk to
17 you until I have my lawyer here. But I think he said
18 enough to invoke his rights.

19 And if you look at the first three minutes where it
20 all takes place. And it's right there contemporaneously,
21 so. And I would agree that in the first 15 or 20 minutes
22 they're not badgering him.

23 In this interview, halfway through it they start
24 pulling out these photos of the autopsy and they start
25 talking about how they all went to the grave of Tyrone and

1 Tyrone is talking to them and telling them things, telling
2 them things about Sammie.

3 So that's a pretty high-pressure kind of thing that's
4 going on in an interview. And, you know, I think it needs
5 to be suppressed and I think that the thing that they
6 should have done is said, okay, now go talk to your lawyer
7 if you want to.

8 And you know what, later on that day they did that.
9 And he gave a blood sample. Later on that day he went
10 through the Miranda rights and he said, I'll talk to you.
11 This one time where he says, I want to talk to my lawyer
12 they didn't let him do that. And I think it needs to be
13 excluded on that ground.

14 THE COURT: I will -- can I -- do you have a copy that
15 we can --

16 MR. WATERS: Well, we can play it for you. It's like
17 the first minute and a half. We can play it for you right
18 now or we can provide you a copy as well, whichever Your
19 Honor prefers.

20 THE COURT: I'd rather have a copy and I can do it in
21 the quiet of my office with your memo and then decide.

22 MR. WATERS: Okay.

23 THE COURT: But will I be able to do it? My law clerk
24 will know.

25 MR. WILLIAMS: I hope so. I can do it.

1 THE COURT: Well, I can do it if you can do it.

2 MR. WATERS: And, again, Your Honor, it's in the first
3 couple minutes of that.

4 And Mr. Williams is right that the questioning does
5 progress on. However, that was after, again, a full,
6 complete waiver after which Mr. Gerrick agreed to talk.

7 And they did call the attorney later that day. That's
8 because they asked Mr. Gerrick for a swab for DNA. And
9 he, Mr. Gerrick says, yeah, I want to call my attorney and
10 they said okay. And so I think that's confirmatory that
11 the police were not trying to pull a fast one. They
12 honored his request and they did so here. They just went
13 on to explain his rights and after he did so he agreed to
14 talk.

15 THE COURT: Thank you. What else do we got?

16 MR. WILLIAMS: Your Honor, we're getting close to the
17 end.

18 THE COURT: I've given y'all all afternoon, so
19 whatever you need.

20 MR. WILLIAMS: I have a motion to testimony, exclude
21 the testimony of Early Glover as that it doesn't go to the
22 issue of whether he actually committed the murder or not.
23 It has to do with some activities between Mr. Glover and
24 Mr. Gerrick some two to three months after he's arrested
25 where Mr. Glover now claims that he wrote a false

1 statement on behalf of Mr. Gerrick.

2 We think that doesn't go to the issue of whether a
3 murder was committed and it should be excluded from
4 evidence.

5 MR. WATERS: Your Honor, again, this falls right --
6 and that's why I addressed all three of these issues in
7 the same memo: the root; the Law Keep Away; and Early
8 Glover. Because it's clearly admissible as evidence of a
9 guilty act. And as the rule is -- I mean guilty act or
10 conduct is admissible to show consciousness of guilt.

11 The cases that have already admitted destruction of
12 evidence under this concept, concealment of evidence,
13 witness intimidation and threats. And, again,
14 conceptually there's no difference between someone who
15 threatens a witness to get them to testify falsely and
16 someone who bribes a witness. And, of course, in here
17 there's also the idea of protection as well.

18 But there's no difference between somebody who threatens
19 (verbatim) or who bribes a witness to get them to testify
20 falsely. Those two are conceptually the same. It's still
21 manufacturing false evidence. And South Carolina case law
22 has already let that in.

23 The same thing goes as clearly concealment or
24 destruction. It's conceptually the same. And this is
25 just long standing. I think I cited a case in there

1 that's cited corpus juris not corpus juris prudence but
2 corpus juris and they just flatly say, manufacturing false
3 evidence is fair game in a case in chief.

4 And so I believe that's clearly admissible evidence.

5 THE COURT: I'll take a look at that rule before
6 Monday -- I mean, when we convene -- when we commence the
7 trial of the case on Monday is what I'm trying to say.

8 What else do we got, Mr. Williams?

9 MR. WILLIAMS: That's all I have today, Your Honor.
10 And I hope that's going to cover most of our pretrial
11 motions.

12 THE COURT: Well, if it doesn't you're certainly not
13 precluded from filing anything else between now and
14 Monday. Let me see.

15 Would you ask Cassie to look here? Ask my law clerk
16 to look here. We need to see what we can do about
17 getting these guys appointed lawyers.

18 Anything else by anybody right now?

19 MR. WILLIAMS: Nothing from the defense, Your Honor.

20 MR. WATERS: Your Honor, I believe that's it from the
21 State as well.

22 THE COURT: You still think it's going to take all
23 week to try it?

24 MR. WATERS: Yes, sir. Particularly as these sticky
25 issues have come up, that kind of adds to it.

1 You know, we're supposed to be doing that David Cannon
2 thing Monday the 25th. And, frankly, I'm a little worried
3 about us getting done if we're not done by Friday.

4 THE COURT: I'll talk to Judge McMahon for you.

5 MR. WATERS: Okay. I mean, would you want to work
6 through the weekend or would you agree to come back on
7 that Monday? I guess we'll figure that out Monday.

8 THE COURT: That's the weekend of the Clemson-Carolina
9 game.

10 MR. WATERS: I know.

11 THE COURT: If we get to that point, I get input from
12 the jury.

13 (Off-the-record discussion.)

14 THE COURT: We will adjourn now. Gentlemen, I ask you
15 to step back into chambers with me while I speak with
16 these lawyers. I have one that's probably available right
17 now. The other one I'll call him tonight.

18 And Mr. Gerrick, anything you need?

19 THE DEFENDANT: No, sir.

20 THE COURT: Not any -- don't ask me any advice or
21 anything like that. Any complaints or anything I need to
22 do for you?

23 THE DEFENDANT: No, sir. I think -- I guess I just
24 got one complaint with this Xavier McCoy --

25 THE COURT: No, no.

1 THE DEFENDANT: Okay.

2 THE COURT: Anything personal like you're not getting
3 something. Not legal.

4 THE DEFENDANT: No, sir. The last time I talked to
5 you I was taking my medicine pretty well. Are you taking
6 yours?

7 THE COURT: Yes, sir.

8 THE DEFENDANT: That's all I need to know.

9 THE COURT: Thank you.

10 THE DEFENDANT: All right, sir.

11 END OF PROCEEDINGS: 3:29 P.M.

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1 ON MONDAY, NOVEMBER 18, 2013 AT 10:39 A.M.:

2 THE COURT: Okay. You may call your first case.

3 MR. WATERS: Thank you, Your Honor. The State calls
4 the State versus Samuel (verbatim) Lee Gerrick, indictment
5 for murder.

6 THE COURT: Ladies and gentlemen, the State has called
7 for the first case for trial, State of South Carolina
8 versus Sammie Lee Gerrick, G-E-R-R-I-C-K.

9 Mr. Gerrick, good morning. Would you please stand and
10 face the jury panel?

11 THE DEFENDANT: (Complies.)

12 THE COURT: Thank you, sir. You may be seated.

13 Ladies and gentlemen, Mr. Gerrick has been indicted by
14 the Barnwell County Grand Jury for the offense of murder.

15 To this charge he has pled not guilty. By pleading
16 not guilty he has the constitutional presumption of being
17 innocent and the burden is on the State of South Carolina
18 to be able to prove the allegations of the indictment to
19 you by evidence beyond a reasonable doubt.

20 Now the fact that he has been charged and indicted,
21 that is not evidence in the case. This is simply the
22 formal document by way this case comes into the
23 courtroom. So you're not to infer anything about the fact
24 that he has been indicted. He's pled not guilty to these
25 charges.

1 So let me ask you some questions about this particular
2 case. If any of these questions apply to you, please
3 stand and we will address them. And once we go through
4 these questions, then we'll be in a position to strike the
5 jury.

6 First question. Is any member of the jury panel
7 related by blood or marriage, or do you now or have you in
8 the past had a close personal or social relationship with
9 the Defendant, Sammie Lee Gerrick, G-E-R-R-I-C-K? Please
10 stand.

11 Your name, please, sir?

12 THE JUROR: Robert Jones.

13 THE COURT: Mr. Johnson?

14 THE JUROR: Jones.

15 THE COURT: Jones. I'm sorry. Mr. Jones. And what
16 is your relationship?

17 THE JUROR: I'm related to the family over here and
18 then his brother has kids by my sister.

19 THE COURT: So his brother, so you're his brother-in-
20 law by children or something?

21 THE JUROR: Basically. Something like that.

22 THE COURT: And you're close to the family?

23 THE JUROR: I'm related to the family.

24 THE COURT: The family being the family of
25 Mr. Gerrick?

1 THE JUROR: Yeah -- no.

2 THE COURT: Of Mr. Donaldson?

3 THE JUROR: Yes.

4 THE COURT: Okay. Mr. Jones, I'm going to excuse you
5 from the trial of this case.

6 THE JUROR: Yes, sir.

7 THE COURT: We will send you a check. Thank you for
8 coming.

9 THE CLERK: Number 94.

10 THE COURT: Number what?

11 THE CLERK: Ninety-four.

12 THE COURT: Ninety-four.

13 Yes, ma'am. In the pretty red blouse on the front
14 row. Your name?

15 THE JUROR: My name is Rose Johnson-Raysor. I'm the
16 grand aunt of the deceased children and the aunt, the
17 cousin to the deceased.

18 THE COURT: Okay. Let me ask this question in a
19 little different way. I asked you if anyone was related
20 by blood or marriage, or do you now or have you in past
21 had a close personal or social relationship with the
22 Defendant, Mr. Sammie Lee Gerrick.

23 The deceased, the person alleged to have been murdered
24 is Tyrone Donaldson. So I'll ask the same question
25 dealing with Mr. Donaldson as well as Mr. Gerrick.

1 And, ma'am, your name again, please?

2 THE JUROR: Rose Johnson-Raysor.

3 THE CLERK: Number 92.

4 THE COURT: Ms. Raysor, Number 92. You are related to
5 the victim; is that correct?

6 THE JUROR: Yes.

7 THE COURT: Thank you. I'll excuse you from the trial
8 of the case.

9 Yes, ma'am, my schoolteacher. Your name again?

10 THE JUROR: Kimberly Williams.

11 THE COURT: Ms. Williams, your number, please?

12 THE JUROR: Two-thirteen.

13 THE COURT: And your situation?

14 THE JUROR: I'm related to the family, the victim's
15 family.

16 THE COURT: How are you related?

17 THE JUROR: Cousin.

18 THE COURT: Cousin. I'll release you from the trial
19 of this case. So both of you may step out.

20 Ma'am, in the -- I got two in blue back there. The
21 first blue nearest to me. Yes, ma'am. Your name?

22 THE JUROR: Willie Dale Thomas.

23 THE COURT: Ms. Thomas. And what's your situation,
24 Ms. Thomas?

25 THE JUROR: Family to the Donaldsons.

1 THE COURT: Ma'am?

2 THE JUROR: Family to the Donaldsons.

3 THE COURT: How are you related to the Donaldson
4 family?

5 THE JUROR: Cousin.

6 THE COURT: Cousin. All right. I will release you.
7 Thank you.

8 THE CLERK: Number 198.

9 THE COURT: One ninety-eight. My other blue blouse.
10 Ma'am, your name?

11 THE JUROR: He's the uncle --

12 THE COURT: I'm sorry. I can't hear.

13 THE JUROR: He's the uncle to three of my cousins and
14 me and Tyrone's family.

15 THE COURT: Your name, please?

16 THE JUROR: Chandra Williams.

17 THE COURT: Ms. Williams?

18 THE JUROR: Yes.

19 THE CLERK: Number 212.

20 THE COURT: Two-twelve. I will release you from the
21 trial of this case.

22 Last but not least. Ma'am, on the back row. Looks
23 like next-to-the-back row. Your name?

24 THE JUROR: Orlanda Anderson.

25 THE COURT: Ms. Anderson?

1 THE JUROR: Yes. My husband is the deceased, he's
2 his -- his niece has children by the deceased.

3 THE COURT: All right. You're a member of the family
4 in other words, by marriage?

5 THE JUROR: Yes.

6 THE COURT: I'll release you from the trial of the
7 case.

8 THE CLERK: That's number three.

9 THE COURT: Number three.

10 THE CLERK: Got one more, Judge.

11 THE COURT: Yes, ma'am. On the -- right here with the
12 dark blouse, top. Your name, please?

13 THE JUROR: My name is Tracie Brown. His brother is
14 my sister baby daddy.

15 THE COURT: His brother. Whose brother?

16 THE JUROR: Mr. Gerrick.

17 THE COURT: Say that again. Mr. Gerrick is your?

18 THE JUROR: Niece uncle.

19 THE COURT: You're a member of the family either by
20 blood or marriage; is that correct?

21 THE JUROR: They're not married.

22 THE COURT: I mean, but you are by relationship
23 with --

24 THE JUROR: Yeah.

25 THE COURT: I'll release you. Thank you, ma'am.

1 THE JUROR: Okay.

2 THE CLERK: Twenty-seven, Judge.

3 THE COURT: Number 27. My Clemson coach. Your name,
4 please?

5 THE JUROR: Dameatris Mays. I forgot my number.

6 THE COURT: Sir?

7 THE JUROR: I'm Dameatris Mays but I forgot my number
8 and I --

9 THE COURT: Hold on one second, Mr. Mays.

10 THE CLERK: Number 112.

11 THE COURT: One-twelve. What's your situation,
12 Mr. Mays?

13 THE JUROR: I know both of them. I just feel like I
14 --

15 THE COURT: How do you know them?

16 THE JUROR: From the same town.

17 THE COURT: Blackville?

18 THE JUROR: Yes, sir.

19 THE COURT: I'll release you.

20 Yes, sir, your name?

21 THE JUROR: One sixty-nine, Jeffery Sanders. I know
22 both families.

23 THE COURT: Well, I know -- I'm from Bamberg and I
24 know just about everybody in Bamberg.

25 THE JUROR: The deceased, I grew up with him.

1 THE COURT: Sir?

2 THE JUROR: The deceased, I grew up with him.

3 THE COURT: You grew up with Tyrone Donaldson?

4 THE JUROR: Yes, sir.

5 THE COURT: You feel too close to this to be a juror?

6 THE JUROR: Yes, sir.

7 THE COURT: All right. I'll excuse you.

8 THE CLERK: He's Number 169.

9 THE COURT: One what?

10 THE CLERK: One sixty-nine.

11 THE COURT: One-six-nine. Thank you. You give it to
12 the bailiff on the way out.

13 All right. Ladies and gentlemen, I'm going to read a
14 potential witness list. Please listen carefully. If you
15 are related by blood or marriage now or in the past, or if
16 you now or have in past had a close personal or social
17 relationship with any of the potential witnesses, please
18 stand. And I will ask the questions after I go through
19 the witness list.

20 Now there's a lot of people on this witness list. Do
21 not let that intimidate you as to the ability of the Court
22 to try this case by Thursday or Friday. We will, if at
23 all possible.

24 The witnesses are as follows:

25 Maurice Williams;

1 Kelsea Hallingquest;
2 Jamaal Kenneth Berry;
3 Chief John Holston, Blackville Police Department;
4 Investigator Jeff Croft with SLED, formerly of the
5 Barnwell County Sheriff's Department;
6 Charlene Gerrick;
7 Bradley Smith;
8 Claudette Daniels;
9 Early Glover;
10 John Rice;
11 Shaneka DeLoach;
12 Taylor White;
13 O'Shane Dixon;
14 Shaunta Kimberly Smith;
15 Lana Joyner;
16 Reginald Tyrone Eaddy, the Second;
17 Andre Hightower;
18 Carol Bracey;
19 Agent Shaun Harley, SLED;
20 Dorothy Creech;
21 Special Agent Jomar Albayalde, A-L-B-A-Y-A-L-D-E with
22 SLED; Lieutenant Jeff Crooks, SLED; Special Agent Melissa
23 Wallace Skipper, SLED;
24 Lloyd Ward, coroner;
25 Dr. Janice Ross, pathologist;

1 Xavier McCoy;

2 Special Agent Jimmy Dowling;

3 Officer Danny Abraham; Officer Carl Shultz;

4 Angela Cotton;

5 Joe Thomas;

6 Special Agent Michelle China;

7 Dustin Williamson;

8 Keith Glover;

9 Special Agent John Burnett with SLED;

10 J. Orso, Orangeburg Department of Public Safety;

11 Karen Hair, South Carolina Department of Corrections;

12 Karen Milbrodt, M-I-L-B-R-O-D-T;

13 And Special Agent George T. Hines with SLED;

14 Mr. Williams, the one you have's in yellow?

15 MR. WILLIAMS: I think that Joseph McFadden is the
16 only one you didn't call.

17 THE COURT: And Joseph McFadden.

18 MR. WILLIAMS: And John Harmon.

19 THE COURT: And John Harmon. Double-check, make sure.

20 All right. Anyone related by blood or marriage now or
21 in the past to any of the potential witnesses, or do you
22 now or have you in the past had a close personal or social
23 relationship or a business relationship with any of the
24 witnesses? Please stand.

25 We got one lady who worked with the coroner's office.

1 You need to stand. Anyone else?

2 Anyone else? Sir, on my left, your right.

3 Sunglasses. Your name, please?

4 THE JUROR: Ray Sanders.

5 THE COURT: Your situation?

6 THE JUROR: I go to church with Jeff Croft.

7 THE COURT: All right. The fact that you attend
8 church with one of the potential witnesses, would that in
9 any way keep you from being able to decide this case based
10 solely on what you hear in the courtroom, apply those
11 facts to the law as I give it to you?

12 THE JUROR: No, sir.

13 THE COURT: Thank you. You may be seated.

14 Sir, in the checked long-sleeve shirt, your name?

15 THE JUROR: Joseph Gillam.

16 THE COURT: Mr. Gillam?

17 THE JUROR: Jeff Croft is my cousin.

18 THE COURT: He's your cousin?

19 THE JUROR: Yes, sir.

20 THE COURT: I will excuse you from the trial of the
21 case. Thank you.

22 THE CLERK: Sixty-two.

23 THE COURT: Six-six?

24 THE CLERK: Sixty-two.

25 THE COURT: Sixty-two.

1 Ma'am, in the pretty multi-colored --

2 THE JUROR: I am 80, Michelle Holster. I know
3 Mr. John Holston.

4 THE COURT: And how do you know John Holston?

5 THE JUROR: He's related to my husband, Dwayne
6 Holston.

7 THE COURT: Where's your husband?

8 THE JUROR: Right here.

9 THE COURT: You know, about four or five years ago I
10 had a husband and wife that ended up on the jury together.
11 And bless their hearts, they were able to agree.

12 All right. So they're kin to you, to that particular
13 witness?

14 THE JUROR: Yes, sir.

15 THE COURT: I will excuse you from the trial of the
16 case. Your number again, ma'am?

17 THE JUROR: Number 80.

18 THE COURT: And I assume you're Mr. Holston?

19 THE JUROR: Exactly.

20 THE COURT: You're related as well?

21 THE JUROR: Right.

22 THE COURT: I'll release you.

23 THE CLERK: That's 79 and 80.

24 THE COURT: Ma'am?

25 THE CLERK: Seventy-nine, 80.

1 THE COURT: Seventy-nine and 80. Thank you. You may
2 leave.

3 Ma'am, in the dark sweater?

4 THE JUROR: Dawn Hollingsworth. I've worked with
5 Chief Holston.

6 THE COURT: You worked with him. In what capacity?

7 MR. WILLIAMS: He worked under me at Ashley Place.

8 THE COURT: Ashley Place what.

9 THE JUROR: As a temporary employee.

10 THE COURT: Ashley Place is a home for?

11 THE JUROR: Girls.

12 THE COURT: Girls. And the fact that you've had some
13 business relationship in the past with one of the
14 potential witnesses, ma'am, would that in any way keep you
15 from being fair and impartial in the trial of the case?

16 THE JUROR: I don't think so.

17 THE COURT: I need to know for sure.

18 THE JUROR: I don't, I don't know. I don't think so.

19 THE COURT: Thank you. You may be seated.

20 Sir, in the rust colored, short-sleeve shirt.

21 THE JUROR: Mark Cato. I worked at the Barnwell
22 County Sheriff's Office with Jeff Croft.

23 THE COURT: You worked or work now?

24 THE JUROR: No, sir. I was employed there then. I
25 don't work there now.

1 THE COURT: What did you do for the sheriff's
2 department?

3 THE JUROR: I was an investigator and also a road
4 deputy.

5 THE COURT: How long ago was that?

6 THE JUROR: Four years ago.

7 THE COURT: So you have no investigation into this
8 case at all; is that correct?

9 THE JUROR: Not that I know, sir.

10 THE COURT: I mean, this took place, allegedly, in?

11 MR. WATERS: July 2011.

12 THE COURT: July 2011.

13 THE JUROR: No, sir.

14 THE COURT: The fact that you were at one time
15 involved with law enforcement, would that in any way
16 preclude you from being fair and impartial, listening to
17 the testimony, deciding what the true facts are and
18 applying the law to those facts?

19 THE JUROR: No, sir.

20 THE COURT: Thank you. You may be seated.

21 Ma'am, your name again?

22 THE JUROR: Jessica Bogstad. I'm Juror 17.

23 THE COURT: Tell me exactly what you do for the
24 coroner's office, ma'am.

25 THE JUROR: I receive the transports to Newberry

1 Pathology for autopsy, and I do assist in autopsies also.

2 THE COURT: Okay. And did you have any involvement in
3 this matter which took place on, allegedly, July 21 of
4 2011?

5 THE JUROR: It's possible but I need to check my
6 records. And I don't have that with me but I could make a
7 phone call and check.

8 UNIDENTIFIED SPEAKER: She didn't transport because I
9 was with transport.

10 THE COURT: And the fact that you do some work for the
11 coroner's office and the fact that the coroner may be a
12 potential witness in the trial of the case, would that
13 preclude you from being fair and impartial?

14 THE JUROR: No, sir. But if I'm the one who did the
15 transport, then --

16 THE COURT: Then I will release you, but I don't think
17 you were.

18 THE JUROR: Okay.

19 THE COURT: Any motions by the State or by the
20 defense?

21 MR. WATERS: No, sir, Your Honor.

22 MR. WILLIAMS: We would strike for cause, Judge.

23 THE COURT: Thank you.

24 Ma'am, I'm not -- I know you can be fair and impartial
25 but I don't want any appearance of -- since you work with

1 the coroner, we have Dr. Ross who is a pathologist who
2 will be testifying who performed the autopsy. That's too
3 close for appearances. I'm going to excuse you from the
4 trial of the case.

5 THE JUROR: Okay.

6 THE CLERK: That's Juror Number 17.

7 THE COURT: Ma'am, with the pretty scarf on. Your
8 name?

9 THE JUROR: Marsha Gantt, Juror Number 57. Jeff Croft
10 is my brother-in-law.

11 THE COURT: I'm going to excuse you from the trial of
12 the case.

13 THE CLERK: Number 57.

14 THE COURT: Fifty-seven. Please be nice to him.
15 Yes, ma'am, in the brown. Your name?

16 THE JUROR: Number 65, Eileen Gunnells. Jeff Croft is
17 my first cousin.

18 THE COURT: Likewise, you're related to a potential
19 witness and I will disqualify you.

20 Sir, in the -- I can't see that shirt. It must be
21 camouflage.

22 THE JUROR: Samuel Moody, Juror 122. The coroner,
23 Lloyd Ward, is my uncle.

24 THE COURT: All right. I'll excuse you.

25 THE CLERK: Number 122.

1 THE COURT: Last but not least. Ma'am?

2 THE JUROR: Harriet Pritchard. I taught at
3 Blackville-Hilda a number of years ago. And I just a
4 recognize a lot of the names. I don't know them. I know
5 --

6 THE COURT: I understand. The fact that you were a
7 schoolteacher and obviously you probably, this is a
8 Blackville, alleged to have happened in the Blackville
9 Area with Blackville witnesses, would that, ma'am, the
10 fact that you know some of these people, would that keep
11 from you being fair and impartial in the trial of the
12 case?

13 THE JUROR: That's a really hard question.

14 THE COURT: Well, I understand that. Here's how the
15 system works. And I'm not trying to put you on the spot.

16 Obviously we're all from a small community. We're not
17 like in Columbia where you hardly know anybody. And I
18 think it's admirable that we do know -- I mean, you go to
19 church with people, go to school with people, you see them
20 in the grocery store. You just sort of know more people
21 in a small community than you would in a large community.
22 And that's fine. That's perfectly fine.

23 But the way the system works is is that as a juror you
24 will listen to the evidence and if this case is like the
25 thousands I've tried all over the state as a lawyer and as

1 a judge, you will hear one witness say one thing, the next
2 witness say another thing, the next witness say a third
3 thing. One may say it's nighttime, one may say it's
4 daytime, one may say it's in between.

5 Your job as a juror is to determine what the true
6 facts are, who's telling the truth. And once you decide,
7 all of you acting together, what the true facts are, you
8 apply it to the law that I give to you or I instruct you
9 on and then you make a decision.

10 Now obviously if you were a teacher you know some of
11 these people. But, can you set that aside and just listen
12 to the evidence and perform that task?

13 THE JUROR: I have a personality flaw in that I trust
14 everybody.

15 THE COURT: Well, I understand --

16 THE JUROR: I don't know that I can --

17 THE COURT: -- we all have flaws.

18 THE JUROR: I don't know that I can judge who's
19 telling the truth.

20 THE COURT: Well, you do that day in and day out,
21 ma'am.

22 THE JUROR: I get taken.

23 THE COURT: Ma'am?

24 THE JUROR: I get taken. So I'm not good at it.

25 THE COURT: Well, I mean, a lot of us aren't good at

1 judging the truth. Doesn't mean you can't do it.

2 THE JUROR: I'm going to let -- it's your call.

3 THE COURT: Thank you. I'll let you stay with me.
4 You're a schoolteacher. You know when little Johnny's
5 telling the truth and when he's not.

6 Thank you.

7 MR. WILLIAMS: Your Honor, can I approach for a
8 second?

9 THE COURT: Uh-huh.

10 (Off-the-record discussion.)

11 THE COURT: Let me give you few other witnesses,
12 potential witnesses. What does FS stand for?

13 MR. WILLIAMS: Forensic scientist.

14 THE COURT: Verona Gibson who is a forensic scientist;
15 Tracy McKinnon who is a scientist;
16 Ila Simmons;

17 Victor Shelburne;

18 And, Terrell Haynes. Does that cover it?

19 MR. WILLIAMS: That's fine.

20 THE COURT: Those are additional witnesses.

21 The trial of this case, the State is being represented
22 by members from the attorney general's office,
23 Mr. Creighton Waters.

24 MR. WATERS: Hello everyone. My name's Creighton
25 Waters from the attorney general's office, and I'll be

1 representing the State.

2 THE COURT: Along with assistant attorney general,
3 Jason Anders.

4 MR. ANDERS: Good morning.

5 THE COURT: Thank you.

6 Mr. Gerrick will be defended by local attorney Dan
7 Williams who practices right across the street.

8 MR. WILLIAMS: Good morning.

9 THE COURT: With the firm of Beddingfield and
10 Williams.

11 All right. A couple questions. First of all, anybody
12 now or in the past have had legal services performed by
13 any of the lawyers? If so, please stand.

14 (No response.)

15 THE COURT: Any member of the jury panel related by
16 blood or marriage or do you now or have you in the past
17 had a close personal or social relationship with any of
18 the three lawyers? If so, please stand.

19 (No response.)

20 THE COURT: Let me see you gentlemen up here, please.

21 (Off-the-record discussion.)

22 THE COURT: Ladies and gentlemen, the allegations in
23 this indictment, it is alleged, these are simply
24 allegations, the State has the burden of proving these
25 allegations to you beyond a reasonable doubt, but it is

1 alleged that here in Barnwell County between July 21 and
2 August 4 of the year 2011, that the Defendant,
3 Mr. Gerrick, murdered Tyrone Donaldson. In other words,
4 he caused his death with malice aforethought, willfully
5 and feloniously. Those are allegations.

6 Anybody know about this case? Have you read anything
7 about it? Anybody discussed it with you? Seen anything
8 on the Internet? Television? Heard it on the radio?
9 Read it in the newspaper? Discussed it on the street?
10 Know anything about an alleged murder of Tyrone Donaldson
11 that took place July 21, 2011 and August 4, 2011
12 (verbatim)?

13 (No response.)

14 Ladies and gentlemen, I started this job in May of
15 2004 when Judge Peeples retired after 30 years. I was
16 elected by the House and the Senate. Been doing it now
17 for over nine years. I practiced law in Bamberg for 30
18 years. And I guess as a trial judge, my most important
19 responsibility is to ensure that when people are accused
20 of a crime, notwithstanding the severity of it, and they
21 plead not guilty, that they along with the State receive a
22 fair trial.

23 And here's the way the system works. Whether we're
24 trying a civil case or a criminal case or whatever kind of
25 case, in the trial of the case there are two judges. My

1 position makes me the judge of the law. In other words, I
2 instruct or tell you what the law is and you are required
3 to accept the law as I give it to you. And my other
4 responsibility as the Judge is to rule on the
5 admissibility of evidence that is introduced into the
6 trial of the case.

7 So that's my role.

8 The most important judge the courtroom, though, is the
9 judge of the facts. And that judge is 12 jurors
10 collectively acting as one. And here's how it works. As
11 I've discussed it with a lady earlier, you will hear
12 testimony from the witness stand and from witnesses and/or
13 relevant exhibits that will be introduced. And it is not
14 uncommon, in fact it is common, it is more the rule than
15 the exception, that you will hear different sides of the
16 story. You will hear people testifying as different as
17 day and night.

18 And as the judge of the facts, your responsibility is
19 to determine what is the true testimony. You judge the
20 believability or the credibility of the witnesses who
21 testify. You do that every day in your ordinary life.
22 You have husbands, wives, employees, employers, friends.
23 You know how to judge someone's credibility or whether or
24 not they're telling you the truth.

25 So that's your job. You judge the credibility of the

1 witnesses who testify and you determine what the true
2 facts are. You're the judges of the facts. And once you
3 complete that task of determining what the true facts are,
4 you apply those true facts to the law and then you will be
5 in a position to render a verdict which speaks the truth.
6 That's what the Latin word means, speak the truth.
7 Veredicto.

8 Now my question is this. Do I have any member of the
9 jury panel who for any reason whatsoever, whether it be a
10 personal belief, a religious belief, a political belief,
11 any kind of belief, that you are unable to perform this
12 civic duty of listening to the testimony, determining what
13 the true facts are, applying those facts to the law and
14 rendering a verdict? Anybody that cannot do that, I need
15 to know now.

16 (No response.)

17 THE COURT: Does any member of the jury panel know of
18 any reason whatsoever why he or she cannot serve as a
19 juror in this case with particular emphasis being placed
20 on your ability to be fair and impartial, both to the
21 Defendant and to the State? If so, please stand.

22 (No response.)

23 THE COURT: Do I have any member of the jury panel who
24 was on the Barnwell County Grand Jury as of November 14,
25 2013?

1 (No response.)

2 THE COURT: Any additional questions by the State?

3 MR. WATERS: No, sir, Your Honor.

4 THE COURT: By Mr. Williams?

5 MR. WILLIAMS: Did I hand you this voir dire?

6 THE COURT: Any member of the jury panel ever work at
7 the Barnwell County Sheriff's Department, the Blackville
8 Police Department, SLED, or any other law enforcement
9 agency? If so, please stand.

10 THE JUROR: Juror 49, Kenneth Dyches.

11 THE COURT: Mr. Dyches.

12 THE JUROR: Formerly employed at the Blackville Police
13 Department.

14 THE COURT: How long ago was that?

15 THE JUROR: That was late 2000.

16 THE COURT: And the fact that you were at one time an
17 employee of the Blackville Police Department, would that
18 in any way preclude you from being fair and impartial?

19 THE JUROR: It would not, sir.

20 THE COURT: Thank you.

21 Yes, sir. In the blue shirt.

22 THE JUROR: Juror 56, William Gainey. My father was a
23 deputy with the Barnwell County Sheriff's Office and left
24 in, I think it was in 2000.

25 THE COURT: I remember your father. And the fact that

1 your dad worked for the police, would that keep you from
2 being fair and impartial?

3 THE JUROR: No, sir.

4 THE COURT: Thank you. You may be seated.

5 Sir, once again -- your name again?

6 THE JUROR: Mark Cato.

7 THE COURT: Mr. Cato, you were employed with the
8 Barnwell County Sheriff's Department and left in?

9 THE JUROR: Yes, sir. And my wife's the chief deputy
10 coroner.

11 THE COURT: Your wife is the chief deputy coroner?

12 THE JUROR: Yes, sir.

13 MR. WILLIAMS: We'd strike for cause.

14 THE COURT: All right. We're going to have testimony
15 perhaps from the coroner. If your wife is the chief
16 deputy coroner, that's too close. I'm going to excuse you
17 from the trial of the case.

18 THE JUROR: Okay. Thank you.

19 THE COURT: Yes, ma'am. In the green -- you may
20 leave. Yes, ma'am, in the green.

21 THE JUROR: Juror Number 134, Jeriah Owens. My
22 husband is currently a reserve officer in Williston and
23 previously the Barnwell County Sheriff's Department.

24 THE COURT: Previously what for Barnwell County?

25 THE JUROR: Right. Barnwell County

1 THE COURT: Was a reserve officer?

2 THE JUROR: He was a reserve officer; yes, sir.

3 THE COURT: Was he a reserve officer in 2011?

4 THE JUROR: No, sir.

5 THE COURT: And the fact that your husband performs
6 duties as a reserve officer, would that in any way keep
7 you from being fair and impartial?

8 THE JUROR: No, sir.

9 THE COURT: Thank you, ma'am.

10 Ma'am, last but not least. Your name?

11 THE JUROR: Sheryl Rutherford. I was employed by the
12 Barnwell County Sheriff's Office as the 9-1-1 coordinator
13 from 2008 through 2010.

14 THE COURT: Okay. And the fact that you were at one
15 time a 9-1-1 operator, would that in any way keep you from
16 being fair and impartial?

17 THE JUROR: No.

18 THE COURT: Thank you, ma'am.

19 Any member of the jury panel, you or your immediate
20 family ever been a victim of a violent crime? If so
21 please stand.

22 Yes, sir, your name?

23 THE JUROR: My name's Timothy Zissett, Juror 223.

24 THE COURT: Just give me sort of a little small
25 explanation of what happened.

1 THE JUROR: Okay. In 1981 my aunt, her husband and
2 their small child were murdered here in Barnwell County.

3 THE COURT: And the fact that you had to endure that
4 experience years ago, would that in any way keep you from
5 being a fair and impartial juror in the trial of the
6 case?

7 THE JUROR: No, sir.

8 THE COURT: Thank you. You may be seated.

9 Any additional questions by Mr. Williams?

10 MR. WILLIAMS: None, Your Honor.

11 THE COURT: By the State?

12 MR. WATERS: No, sir, Your Honor.

13 THE COURT: Ladies and gentlemen, we're going to draw
14 the jury now. I'm going to have 12 jurors and three
15 alternates.

16 Here's the way we do it. If we were here trying a car
17 wreck case or any kind of civil case where people are
18 seeking compensation for injuries they sustained or a
19 breach of contract or those sort of civil cases, we would
20 put 20 names on a piece of paper. The person suing, the
21 Plaintiff, would have four strikes, the Defendant would
22 have four strikes, leaving 12.

23 Cases in general sessions court where someone is
24 accused of committing a criminal offense, your names are
25 randomly chosen. If you are chosen your name will be

1 called, please come down and stand right here.

2 The State has five strikes, the Defendant has 10
3 strikes. And they can strike you for most any reason at
4 all. The lawyers know the restrictions. So don't have
5 your feelings hurt if they don't select you.

6 We'll go through that process until we end up with 12
7 regular jurors and three alternates. It is 11:15. I
8 suspect we can do that within about 15 minutes. Are you
9 ready to proceed, gentlemen, for the State?

10 MR. WATERS: Yes, sir.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: Yes, Your Honor.

13 THE COURT: All right. Listen carefully. If your
14 name is called, please come down, stand right here. If
15 you got a coat, pocketbook or any kind of personal
16 belongings, bring those with you in case you're selected.

17 (Pause.)

18 THE COURT: We're not dilly-dallying. They have to
19 put the information into the computer to program a random
20 selection. They obviously had to disqualify some people
21 by law so they had to be removed.

22 We'll be ready, up and running in just a second.

23 (Pause.)

24 THE CLERK: Number Nine, Nathalie Beasley.

25 (White female comes forward.)

1 THE CLERK: What says the State?
2 MR. WATERS: Please present Ms. Beasley.
3 THE CLERK: What says the defense?
4 MR. WILLIAMS: Please swear the juror.
5 THE CLERK: Have a seat back there, Ms. Beasley.
6 Juror Number 148, Rachel Price.
7 (White female comes forward.)
8 THE CLERK: What says the State?
9 MR. WATERS: Please present Ms. Price.
10 THE CLERK: What says the defense?
11 MR. WILLIAMS: Please present the juror.
12 THE CLERK: Juror Number 188, Reynolds Stewart.
13 (White male comes forward.)
14 THE CLERK: What says the State?
15 MR. WATERS: Please present Mr. Stewart.
16 THE CLERK: What says the defense?
17 MR. WILLIAMS: Please excuse this juror.
18 THE CLERK: Juror Number Eight, Catherine Beasley.
19 (White female comes forward.)
20 THE CLERK: What says the State?
21 MR. WATERS: Please present Ms. Beasley.
22 THE CLERK: What says the defense?
23 MR. WILLIAMS: Please excuse this juror.
24 THE CLERK: Juror Number 150, Edward Pritchard.
25 (White male comes forward.)

1 THE CLERK: What says the State?

2 MR. WATERS: Please present Mr. Pritchard.

3 THE CLERK: What says the defense?

4 MR. WILLIAMS: Please excuse this juror.

5 THE CLERK: Juror Number 190, Richard Still.

6 (White male comes forward.)

7 THE CLERK: What says the State?

8 MR. WATERS: Please present Mr. Still.

9 THE CLERK: What says the defense?

10 MR. WILLIAMS: Please present this juror.

11 THE CLERK: Juror 165, Sheryl Rutherford.

12 (White female comes forward.)

13 THE CLERK: What says the State?

14 MR. WATERS: Please present Ms. Rutherford.

15 THE CLERK: What says the defense?

16 MR. WILLIAMS: Please swear this juror.

17 THE CLERK: Juror Number 152, Gwendolyn Pryer.

18 (Black female comes forward.)

19 THE CLERK: What says the State?

20 MR. WATERS: Please present Ms. Pryer.

21 THE CLERK: What says the defense?

22 MR. WILLIAMS: Please present this juror.

23 THE CLERK: Juror 205, Howard Wallace.

24 (Black male comes forward.)

25 THE CLERK: What says the State?

1 MR. WATERS: Please present Mr. Wallace.

2 THE CLERK: What says the defense?

3 MR. WILLIAMS: Please present this juror.

4 THE CLERK: Juror Number 15, Randolph Bing.

5 (Black male comes forward.)

6 THE CLERK: What says the State?

7 MR. WATERS: Please present Mr. Bing.

8 THE CLERK: What says the defense?

9 MR. WILLIAMS: Please present this juror.

10 THE CLERK: Juror Number 134, Jeriah Owens.

11 (White female comes forward.)

12 THE CLERK: What says the State?

13 MR. WATERS: Please present Ms. Owens.

14 THE CLERK: What says the defense?

15 MR. WILLIAMS: Please excuse this juror.

16 THE CLERK: Juror Number 207, Mark Watford.

17 (White male comes forward.)

18 THE CLERK: What says the State?

19 MR. WATERS: Please present Mr. Watford.

20 THE CLERK: What says the defense?

21 MR. WILLIAMS: Please excuse this juror.

22 THE CLERK: Juror Number 45, Glen Davis.

23 (White male comes forward.)

24 THE CLERK: Juror Number 45. What says the State?

25 MR. WATERS: Please present Mr. Davis.

1 THE CLERK: What says the defense?

2 MR. WILLIAMS: Please present this juror.

3 THE CLERK: Juror Number 155, Shankia Rice.

4 (Black female comes forward.)

5 THE CLERK: What says the State?

6 MR. WATERS: Please excuse this juror.

7 THE CLERK: Juror Number 46, Davis Rome.

8 (White male comes forward.)

9 THE CLERK: What says the State?

10 MR. WATERS: Please present Mr. Davis.

11 THE CLERK: What says the defense?

12 MR. WILLIAMS: Please excuse this juror.

13 THE CLERK: Juror 135, Paul Owens.

14 (White male comes forward.)

15 THE CLERK: What says the State?

16 MR. WATERS: Please present Mr. Owens.

17 THE CLERK: What says the defense?

18 MR. WILLIAMS: Please excuse this juror.

19 THE CLERK: Juror Number 189, Gail Still.

20 (White female comes forward.)

21 THE CLERK: What says the State?

22 MR. WATERS: Please present Ms. Still.

23 THE CLERK: What says the defense?

24 MR. WILLIAMS: Please present the juror.

25 THE CLERK: Juror Number 197, Paul Thomas.

1 (White male comes forward.)
2 THE CLERK: What says the State?
3 MR. WATERS: Please present Mr. Thomas.
4 THE CLERK: What says the defense?
5 MR. WILLIAMS: Please present this juror.
6 THE CLERK: Juror Number 56, William Gainey.
7 (White male comes forward.)
8 THE CLERK: What says the State?
9 MR. WATERS: Please present Mr. Gainey.
10 THE CLERK: What says the defense?
11 MR. WILLIAMS: Please excuse this juror.
12 THE CLERK: Juror Number 141, Chris Patton.
13 (White male comes forward.)
14 THE CLERK: What says the State?
15 MR. WATERS: Please present Mr. Patton.
16 THE CLERK: What says the defense?
17 MR. WILLIAMS: Please present this juror.
18 THE CLERK: Juror Number 109, Suzanne Lott.
19 (White female comes forward.)
20 THE CLERK: What says the State?
21 MR. WATERS: Please present Ms. Lott.
22 THE CLERK: What says the defense?
23 MR. WILLIAMS: Please excuse this juror.
24 THE CLERK: Juror Number 161, Mary Robinson.
25 (Black female comes forward.)

1 THE CLERK: What says the State?

2 MR. WATERS: Please present Ms. Robinson.

3 THE CLERK: What says the defense?

4 MR. WILLIAMS: Please present this juror.

5 THE COURT: All right. Give me three alternates. Two
6 and one on each.

7 THE CLERK: Juror Number 23, Amanda Brown.

8 (Black female comes forward.)

9 THE CLERK: What says the State?

10 MR. WATERS: Please present Ms. Brown.

11 THE CLERK: What says the defense?

12 MR. WILLIAMS: Please present this juror.

13 THE CLERK: Juror Number 49, Kenneth Dyches.

14 (White male comes forward.)

15 THE CLERK: What says the State?

16 MR. WATERS: Please present Mr. Dyches.

17 THE CLERK: What says the defense?

18 MR. WILLIAMS: Please excuse this juror.

19 Juror Number 143, Pamela Peeples.

20 (White female comes forward.)

21 THE CLERK: What says the State?

22 MR. WATERS: Please present Ms. Peeples.

23 THE CLERK: What says the defense?

24 MR. WILLIAMS: Please present this juror.

25 THE CLERK: Juror Number 176, Judith Searson.

1 (White female comes forward.)

2 THE CLERK: What says the State?

3 MR. WATERS: Please present Ms. Searson.

4 THE CLERK: What says the defense?

5 MR. WILLIAMS: Please excuse this juror.

6 THE CLERK: Juror Number 58, David Gardner.

7 (White male comes forward.)

8 THE CLERK: What says the State?

9 MR. WATERS: Please excuse Mr. Gardner.

10 THE CLERK: Juror Number 78, Benjamin Holmes.

11 (Black male comes forward.)

12 THE CLERK: What says the State?

13 MR. WATERS: Please present Mr. Holmes.

14 THE CLERK: What says the defense?

15 MR. WILLIAMS: Please swear this juror.

16 THE COURT: Any exceptions by the State in connection
17 with the selection of the jury?

18 MR. WATERS: No, sir, Your Honor.

19 THE COURT: By the Defendant?

20 MR. WILLIAMS: None, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, those of
22 you who were not drawn, as promised, I will release you
23 now for the balance of the week. Obviously we cannot run
24 court without jurors ready, willing and able to come in.

25 This week's situation is a little different in that we

1 have a trial that's going to last about four days. So
2 this will take most of the week up. So we won't have any
3 need for another jury, even though we may do some other
4 business, obviously.

5 But I thank you on behalf of the citizens of Barnwell
6 and on the judiciary. The civic duty of performing jury
7 service is a high responsibility and I appreciate all of
8 you being here.

9 I'm going to now excuse you. You will be sent a
10 check. How much?

11 THE CLERK: Twenty-five.

12 THE COURT: Twenty-five dollars. Not much but a
13 small, small amount, but the checks will go out probably
14 this week sometime. And I thank you.

15 Everybody else please remain seated. My jurors are
16 free to exit out the back door. If any of you need the
17 assistance of an elevator, it is this way.

18 (Jury panel exits courtroom at 11:32 A.M.)

19 THE COURT: It's 11:30. If we start back at 1:30,
20 will that will be an imposition? Everybody okay with
21 1:30?

22 We're going to come back at 1:30 and we will start
23 right into the trial of the case. We're going to continue
24 to work and get all the pretrial matters completely out of
25 the way so you won't have to be sitting there waiting

1 while we're doing that.

2 So, I will wait until you get back to swear you in.
3 However, you're now on the jury. Please do not discuss
4 the case with anyone. Please do not let anyone discuss
5 the case with you. If anyone approaches you and tries to
6 talk about the case, please tell them that you're on the
7 jury and please obtain their names for me, give it to me
8 and I will investigate it.

9 Chief Darnell will show you where to return to the
10 jury room and we'll plan to go until about five o'clock
11 this afternoon. And then once we get to around five,
12 we'll sort of assess the situation and we'll discuss with
13 you what time we'll start tomorrow, where we want to try
14 go, and where we are.

15 Everybody else remain seated. My jurors go out with
16 Chief Darnell.

17 (Jury exits courtroom at 11:35 A.M.)

18 THE COURT: We're going to take about a five-minute
19 break. Stretch your legs, bathroom. I'll come back in
20 about five or 10 minutes and we'll commence with any
21 motions that you may have or any issues that we may need
22 to resolve.

23 (Break taken. At 11:49 A.M., the trial continued:)

24 THE COURT: Judge Keesley called and said Xavier --
25 MR. WATERS: McCoy.

1 THE COURT: -- McCoy has been delivered to Aiken. I
2 told them to send him over here. I mean, I don't know
3 what the order said.

4 MR. WATERS: Thank you, sir.

5 THE COURT: Mr. Waters?

6 MR. WATERS: Yes, sir, Your Honor.

7 The first matter we need to address is the issue of
8 Mr. Dustin Williamson. As Your Honor is aware,
9 Mr. Williamson has signed a letter, purportedly signed a
10 letter saying that he was present when the victim was
11 killed.

12 We -- he was -- of course, as Your Honor recalls from
13 last week, he was appointed Mr. Ness here as counsel. And
14 I believe that law enforcement with Mr. Ness met with
15 Mr. Williamson last week. Mr. Ness has advised me that
16 he's filed a motion to quash any subpoena of
17 Mr. Williamson, and has an issue as to accomplice
18 examination.

19 So I think we need to take that up. I think we need
20 to also determine --

21 THE COURT: Motion to quash him from testifying?
22 Quash the subpoena? Quash what?

23 MR. WATERS: Quash the subpoena. Mr. Ness, I would
24 obviously leave to make his arguments on behalf of his
25 client. But we would also, I believe, obviously in camera

1 we need to determine whether or not Mr. Williamson intends
2 to claim privilege or whether he intends to testify.

3 THE COURT: Privilege being against self-
4 incrimination?

5 MR. WATERS: Yes, sir.

6 THE COURT: Mr. Ness, have any motions been filed on
7 behalf of Mr. Williams (verbatim)?

8 MR. NESS: Yes, Your Honor. We filed a motion to
9 quash the subpoena.

10 THE COURT: Please just -- without telling me what has
11 transpired between you and your client, have you had an
12 ample opportunity since I appointed you last --

13 MR. WATERS: Wednesday, Your Honor.

14 THE COURT: -- Wednesday to meet with Mr. Williams and
15 advise him of the situation and had an adequate time to
16 discuss his situation?

17 MR. NESS: Yes, Your Honor; I have.

18 THE COURT: Let the record reflect with him present
19 obviously is Mr. Williams along with Mr. Ness.

20 Now you've filed a motion to quash the subpoena that's
21 been served upon Mr. Williams to testify in this case?

22 MR. NESS: That's right, Your Honor.

23 THE COURT: Be glad to hear from you.

24 MR. NESS: Your Honor, Mr. Williamson --

25 THE COURT: Is it Williamson?

1 MR. NESS: Williamson; yes, sir. Dustin Williamson
2 has been subpoenaed to testify in the trial of Sammie Lee
3 Gerrick. And the sole reason that he's been asked to come
4 in and testify is for a letter that was found in the
5 Defendant's cell. And that letter purportedly has his
6 signature on it.

7 THE COURT: His being Williamson's?

8 MR. NESS: Yes, sir; Mr. Williamson's signature on
9 it. However, there's a two-page document and
10 Mr. Williamson's signature is on the second of the two
11 pages and has very little written on it whatsoever.

12 However, Mr. Williamson and I have spoken. And he
13 does not desire to testify. He wishes to assert his Fifth
14 Amendment rights under the United States Constitution as
15 well as his rights under the South Carolina Constitution
16 and the State Code against self-incrimination.

17 THE COURT: There's no issue about competency?

18 MR. NESS: Well, Your Honor, in meeting with him it
19 seems several times that he didn't quite grasp the weight
20 of the situation that he was putting himself in. But
21 after discussing it with him in the last -- this morning
22 and explaining all of his rights to him, he has decided to
23 not testify in this matter because he fears it would
24 incriminate him.

25 THE COURT: Thank you.

1 Mr. Williamson, would you stand up for me, please?

2 Good morning. How are you doing?

3 MR. WILLIAMSON: All right. How about yourself?

4 THE COURT: I'm doing well. Thank you. Do you
5 understand what we're doing here?

6 MR. WILLIAMSON: Yes, sir.

7 THE COURT: Do you understand -- I don't want to know
8 anything about the facts, but your alleged involvement in
9 it concerning an alleged document that was found in the
10 Defendant's cell with allegedly your name on it.

11 MR. WILLIAMSON: Yes, sir.

12 THE COURT: And you've had an opportunity to discuss
13 the matter with Mr. Ness?

14 MR. WILLIAMSON: Yes, sir.

15 THE COURT: Been satisfied with his services?

16 MR. WILLIAMSON: Yes, sir.

17 THE COURT: Any questions you want to ask me?

18 MR. WILLIAMSON: No, sir.

19 THE COURT: And your lawyer tells me that you wish to
20 invoke your constitutional right to remain silent which
21 means that the State's going to make some arguments as to
22 maybe why you should be able to testify.

23 But do you have any questions about remaining silent?

24 MR. WILLIAMSON: No, sir.

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

1 Mr. Waters?

2 MR. WATERS: Thank you, Your Honor.

3 THE COURT: What's his status? What is his status
4 right now? Is he incarcerated for something totally
5 unrelated to this?

6 MR. WATERS: That's correct, Your Honor. Yes, sir.

7 THE COURT: If the document were believed, would that
8 incriminate him if the document were found to be true, the
9 facts alleged in the document?

10 MR. WATERS: If the facts alleged in the document were
11 alleged (verbatim) to be true, yes, there's a potential
12 for incrimination.

13 THE COURT: What's the State's position?

14 MR. WATERS: Well, Your Honor, I think there's
15 multiple layers here. We need to address the
16 admissibility of the letter to begin with.

17 And then as Your Honor knows this and may be the
18 more-crucial issue from the State's perspective as to our
19 ability to fairly address these issues, and that is
20 evidence from officers that interviewed Mr. Williamson
21 last week. And essentially what we had was Mr. Williamson
22 asked to be taken out of Barnwell and taken to Bamberg
23 because of fear. Once he arrived at Bamberg he, you know,
24 again said, well, whatever's in that letter is what I
25 stated.

1 But he also asked the officers, he said somebody was
2 going to die in six days which would be roughly today. He
3 asked the officers to keep an eye on his mother's house
4 and to watch out for her.

5 They discussed the letter and the concept of hand of
6 one is hand of all because Mr. Williamson said, well, I
7 didn't say I did anything with the -- you know, I didn't
8 kill the victim. And once they discussed the concept of
9 hand of one is hand of all, Mr. Williamson put his head
10 down on the table and said, they played me, they played
11 me.

12 So we have those issues and I believe that he -- first
13 of all, if there's any reason why Mr. Williamson's letter
14 is going to be admissible by the defense in this
15 particular case, that those other statements to law
16 enforcement are also admissible as well.

17 THE COURT: Let's take it one step at a time. Does
18 the State intend or wish to introduce the letter?

19 MR. WATERS: Your Honor, that will depend on whether
20 or not I can put it in the appropriate context.

21 THE COURT: What in your opinion is the appropriate
22 context?

23 MR. WATERS: Well, the other evidence. If I can get
24 in over any sort of hearsay and Crawford issues, I'll be
25 glad to address those, the statements that Mr. Williamson

1 made to law enforcement when they went and interviewed him
2 last week.

3 THE COURT: That's not my question. My question is
4 the letter itself.

5 MR. WATERS: Right.

6 THE COURT: At the present time.

7 MR. WATERS: The -- in the first instance, no. The
8 State does not intend to present that.

9 THE COURT: Then in what instance would they want to
10 present it?

11 MR. WATERS: In the event that Your Honor were to rule
12 that it is appropriate to get into the hearsay, around the
13 hearsay statements of the officers who interviewed
14 Mr. Williamson, then at that instance we might just go
15 ahead and put in the whole thing.

16 THE COURT: Well, are you going to call the officers
17 and attempt to put in what Mr. Williamson told them?

18 MR. WATERS: That's correct. And I have some various
19 arguments as to why that would be appropriate.

20 THE COURT: So, in your case in chief you intend now
21 to call the SLED agents who investigate -- strike that,
22 who interviewed Mr. Williamson, and have them testify
23 about what Mr. Williamson told them?

24 MR. WATERS: Yes, sir, Your Honor. And I believe that
25 that's admissible.

1 THE COURT: How is that admissible?

2 MR. WATERS: All right. Well, there's a number of
3 reasons. And, first of all -- and let me back up, Your
4 Honor. I'm going to call an audible right now and I will
5 say this. I don't plan on putting in --

6 THE COURT: Call an audible?

7 MR. WATERS: Football term. Changing the play at the
8 line of scrimmage.

9 I am not going to call Mr. -- and this is why it's
10 difficult for me to answer the question because if I --

11 THE COURT: Well, you probably don't know until we get
12 into the trial of case.

13 MR. WATERS: It's difficult to answer that question;
14 yes, sir. But what I do need to know and this is the most
15 important thing to me is whether or not Your Honor accepts
16 my arguments as to, as to Mr. Williamson's statements to
17 law enforcement being admissible, whether I put in the
18 letter or whether Mr. Williams puts in the letter.

19 And those arguments are, first of all, that, you know,
20 what we have here -- and as Your Honor is aware, we
21 already have one individual, an Early Glover, who
22 Mr. Gerrick put him up to writing a statement.

23 THE COURT: Allegedly.

24 MR. WATERS: Allegedly. And then Mr. Glover was
25 interviewed and stated that he, you know, he didn't do

1 that. He just wrote what Mr. Gerrick told him to write.

2 THE COURT: Are you going to call Early Glover?

3 MR. WATERS: Yes, sir.

4 THE COURT: Okay.

5 MR. WATERS: Yes, sir, we are.

6 Now, I think when we put that in context with what we
7 have here, the first argument is sort of under Rule 106
8 and there's about four layers to get through. But Rule
9 106, rule of completeness. And I believe if
10 Mr. Williamson's letter is going to come in, in fairness
11 to put the statements in context, then the other rules
12 need to, or the other statements to law enforcement need
13 to come in.

14 My second argument, Your Honor, is essentially under
15 Rule 403 in the interest of justice. I already have
16 information that Mr. Gerrick had gotten another individual
17 to write a false statement. And now we have this here
18 with this young man who's in jail with Mr. Gerrick also
19 and he writes a statement. And I think in the interest of
20 justice it would be unduly prejudicial to allow the
21 defense to just put in this particular statement by itself
22 without having the context.

23 THE COURT: Well, the Defendant may not put it in.

24 MR. WATERS: That's true. He may not.

25 But I still think that because of the short time

1 period in which this arose and the attempts that we made
2 to try to do what we could to gather information and
3 proceed with this trial today, from the State's
4 perspective I just need to know whether or not this letter
5 is going to come in by itself without any context.

6 THE COURT: I can't tell that you until I see what
7 context either you're trying to put it in or Mr. Williams
8 is trying to put it in.

9 MR. WATERS: Well, I think obviously Mr. Williams
10 would offer it as evidence of third-party guilt.

11 THE COURT: He may or may not. I don't know. That's
12 a whole, other whole issue.

13 MR. WATERS: Correct. And if he offers it as third-
14 party guilt, then my argument is that this evidence to the
15 officers comes in because it is not hearsay. It's not
16 offered for the truth of the matter asserted.

17 And this is the main argument, Your Honor, if I could
18 just focus on this. It's not hearsay because it comes in
19 not to, for the truth that, you know, officers need to go
20 look out at his mama's house but it comes in to show his
21 state of mind, to give context to his statements, to show
22 the fear that he had when he gave this particular
23 statement, to show that he felt like he had been tricked
24 when he gave these statements.

25 So it's not really offered for the truth of the matter

1 asserted that somebody is going to die in six days or
2 that, you know, somebody needs to go to his mama's house.
3 It's offered to show the state of mind of Mr. Williamson
4 when he gave this particular statement.

5 As such it is not hearsay under Rule 801 and since it
6 is not hearsay then Crawford is not implicated, then that
7 way this evidence comes in.

8 THE COURT: Anything else?

9 MR. WATERS: Well, I do --

10 THE COURT: I can't rule on it.

11 MR. WATERS: Do what?

12 THE COURT: I can't rule and tell you what I'm going
13 to do until I know how it's coming. I mean, obviously
14 you've got some interesting arguments but I can't cross
15 that bridge until somebody tries to put it in. I mean,
16 y'all might get with Mr. Ness and work out some kind of
17 immunity or whatever.

18 MR. WATERS: Well, that's certainly something I've
19 considered as well.

20 THE COURT: That might be the way to go but I don't
21 know. I don't know how, if you got anything to tie him to
22 it, if he would be a principal in it or an accessory.

23 MR. WATERS: No, sir. There's no evidence that we've
24 uncovered that connects Mr. Williamson to --

25 THE COURT: You might could cure all of that by some

1 discussion with Mr. Ness.

2 MR. WATERS: Sure. And that's something I've
3 considered. Obviously that's something you can't ever go
4 back from, but that's something I've considered as well as
5 a last resort. But I hear what Your Honor's saying.

6 THE COURT: Well, here's the deal. I can't rule now
7 on the admissibility or the inadmissibility of a letter.
8 I know the background concerning it, but until there's an
9 attempt made to introduce it, I don't -- I can't rule on
10 that and speculating as to how it's coming in or why it's
11 coming in or the reason it's coming in.

12 I sort of know the general information surrounding
13 it. I'll obviously be very alert when it gets to that
14 point. And when it gets to that point, obviously let's do
15 a proffer outside of the presence of the jury.

16 But I can't do that until we get right into it.

17 MR. WATERS: I understand. Thank you.

18 THE COURT: Mr. Williams, is there any comment you
19 want to make? I don't know if you're going to try to put
20 it in or not.

21 MR. WILLIAMS: I don't, Your Honor, but there's a good
22 chance that I will, but I don't know for certain.

23 THE COURT: I understand that.

24 MR. WILLIAMS: But --

25 THE COURT: I can appreciate that answer. But I think

1 until we get into the trial and see how it's flowing, you
2 can't make a call, you, Mr. Williams, you, Mr. Waters, you
3 can't make a call until we see where we are.

4 MR. WATERS: And I completely understand. The only
5 reason why I brought it up in this fashion is because of
6 the late date in which this arose.

7 THE COURT: I understand. But he's not claiming any
8 kind of mental deficiency or needs an evaluation. He's
9 just claiming a Fifth Amendment right to remain silent.
10 If the letter's incriminating, I think he has that right
11 unless something else is worked along those lines.

12 If you feel like he's implicated in the thing, then
13 that's one thing. If you feel that's a theory that you're
14 going on with Early Glover, then that may be another way
15 to handle it. That's a call you got to make with law
16 enforcement's input.

17 MR. WATERS: Yes, sir.

18 THE COURT: And everybody else. That would solve it,
19 though.

20 MR. WATERS: Okay.

21 THE COURT: Now what else do we got?

22 MR. WATERS: Well, Your Honor, obviously there were
23 some issues that were raised by Mr. Williams at the
24 pretrial hearing on Wednesday.

25 I guess -- again, I know Your Honor's kind of in the

1 same boat. You know, we obviously can't have a ruling
2 until, you know, the evidence comes out and Your Honor has
3 the full context of the evidence that's coming in.

4 But I would request Your Honor if perhaps you could
5 give me your thoughts on some of those issues so I just
6 have some guidance as to how to proceed as we're in the
7 early part of this case.

8 THE COURT: Here's how you proceed. Don't mention it
9 in front of the jury until you do a proffer on it.

10 I have looked at all of it over the weekend and unless
11 I hear some, and Lord knows doing these trials all kind of
12 stuff comes up but it appears that the statement that you
13 were concerned with where he, where the Miranda warnings
14 were at issue, that appears that will be admissible unless
15 something different arises.

16 My initial review of that, without ruling is, would be
17 that it more than likely would be admissible. I think the
18 letter that contains the alleged references to the root
19 doctor and the root itself and -- was it a can of some
20 item?

21 MR. WATERS: It was a can of Law Keep Away.

22 THE COURT: Law Keep Away. I think all of that
23 probably will be admissible if it plays out like has been
24 argued to me and represented to me.

25 And I'll put my reasons on the record but I've

1 reviewed the statement on the computer and looked at the
2 memorandum. I have -- on the questions concerning
3 admissibility of the root and the can, et cetera, I have
4 had an opportunity to read the cases in full of the State
5 versus Beckham -- that was the case tried in Newberry, I
6 think it was a preacher's son -- I've read State versus
7 Orozco, I guess is how you say it, State versus Martin,
8 State versus Mattison, in trying to look at the analysis
9 that both of you argued.

10 So unless -- I mean, I'm not going to make a ruling
11 now, but I've looked at all of that and obviously aware of
12 the rule that any guilty act, conduct or statements are
13 admissible as some evidence of consciousness of guilt. I
14 think that's what you're arguing, among other things, but
15 I can't do it until I see how it actually comes about.

16 What other? The marital communications. I'm not sure
17 what Ms. Charlene Gerrick is going to be -- what her
18 position is going to be, whether she invokes it or not.

19 MR. WATERS: Right.

20 THE COURT: And then there are some matters that
21 weren't communication, some events that took place that
22 probably would be admissible but I got to cross those
23 bridges when I get to them.

24 MR. WATERS: Okay. And, Your Honor, that -- bringing
25 up Ms. Gerrick. And I believe the defense had agreed it

1 was correct that, you know, the acts that she personally
2 took were in fact admissible. And so I just want to make
3 sure at least that we agree on, and we'll have to see what
4 she does as to communications beyond that.

5 THE COURT: I think if she claims the privilege, her
6 communication between her and her husband are privileged.
7 As to certain overt actions, I don't know that the
8 privilege protects that, but I'll have to listen to what
9 those overt acts are.

10 MR. WATERS: Okay.

11 THE COURT: It's just a like in a civil case where you
12 make a motion in limine, I can only -- and you're required
13 to renew your objections or whatever during the trial but
14 that's sort of where I'm standing. But it's not in stone
15 until we have listened to the testimony. Have --

16 MR. WATERS: I guess -- I'm sorry.

17 THE COURT: -- to see what context it's to be offered
18 as. That's about the best as I can give you.

19 MR. WATERS: Sure. And I understand. And as to
20 Ms. Gerrick, I think there's, that's something that's
21 specifically needs to address (verbatim) because I would
22 like to in opening statement at least mention, because
23 it's so crucial to the case, that at least after the
24 police talked to Ms. Gerrick they were led out to this
25 place out in the woods off Sunshine Road where she said

1 that she had gone to get the victim's car and in that area
2 is where they found the body of Tyrone Donaldson.

3 It's kind of hard to set the table without mentioning
4 that. And, again, I believe that everybody is kind of on
5 the same page that that is going to come in.

6 THE COURT: Well, I don't know if you can say what she
7 told the police but I think you can say that the wife led
8 them out.

9 MR. WATERS: Okay.

10 THE COURT: What do you say to that, Mr. Williams?

11 MR. WILLIAMS: Your Honor, I agreed with them that
12 whatever she actually did is probably going to -- she's
13 going to have to testify to it, so --

14 MR. WATERS: All right.

15 MR. WILLIAMS: -- I think he's right about that.

16 MR. WATERS: I just wanted to make sure that I didn't
17 cross a line in opening with that.

18 THE COURT: If you do it in we-intend-to-prove-that-
19 the-wife-led-the-police-out --

20 MR. WATERS: Right.

21 THE COURT: -- in that manner, not based on
22 conversations she had with her husband she told the police
23 blah-blah-blah, all of that. That's getting too far
24 afield.

25 MR. WATERS: All I'm going to say is that she admitted

1 to the police that she followed her husband out to the
2 spot out there where there was a white Honda. And then
3 she followed her husband to take that white Honda where he
4 left it behind the Chinese place and then they went home.
5 And that's what I'm going to say.

6 THE COURT: The body was found where the white Honda
7 was found?

8 MR. WATERS: Well, they started a grid search and
9 found it nearby; yes, sir.

10 THE COURT: I think that's proper.

11 MR. WATERS: And lastly, Your Honor, we did push
12 through or have the grand jury rule on a new indictment
13 last week. As we were here for trial prep we --
14 Lieutenant Harley realized that one of the individuals on
15 the grand jury had -- was a witness in the case. Not --
16 just kind of an auxiliary fact witness.

17 And so fortunately the grand jury was in session. So
18 we put the indictment through and she had recused herself
19 obviously for that, but I've served that indictment on
20 Mr. Williams. He's aware of that, but I just wanted to
21 make --

22 THE COURT: There's no motion to quash the indictment,
23 there's been no attack on the indictment; is that correct,
24 Mr. Williams?

25 MR. WILLIAMS: Your Honor, just for the record. He

1 has raised to me the fact that there is a time frame given
2 for the murder. I've looked at that and I've talked to
3 SLED. They've given me all of their evidence. So I'm
4 able to properly defend him in the indictment. And I know
5 what the charges are.

6 THE COURT: Thank you. Anything else, pretrial-wise?

7 MR. WATERS: Your Honor, I believe that that's it.
8 The only other thing that's outstanding is we, of course
9 as we discussed Wednesday, took the hours of tape
10 recordings of Mr. Gerrick and interviews and whittled that
11 down.

12 We provided that to Mr. Williams this past Friday. He
13 has advised us that he's got some issues with a few of
14 those, but I guess we can work through those during the
15 course of the case. But we have made a lot progress on
16 that and I think we'll have sort of a meat and potatoes of
17 those interviews.

18 THE COURT: Mr. Williams, anything I can do for you?

19 MR. WILLIAMS: Your Honor, the only thing, of course
20 at some point in time they want to call Charlene Gerrick.
21 I think you indicated last week we'd have an in-camera
22 review or off the record -- not off the record, but
23 out-of-the-presence-of-the-jury review prior to that
24 happening so she can invoke the privilege.

25 The other thing is there's a Messiah issue. And it's

1 changed a little bit because the State's informed me they
2 may not call Mr. McCoy.

3 THE COURT: And if they call him then we'll handle the
4 remainder of the Messiah.

5 MR. WILLIAMS: I have a scheduling issue. There's
6 some leaves in this grave and last Friday I named an
7 expert from Clemson named Xavier McCoy (verbatim). He's
8 available to be here Thursday. And the issue is that the
9 leaves in the grave he says aren't the same leaves in the
10 area around which leaves leave the fact, the theory of the
11 State is --

12 THE COURT: Leaves leave the fact.

13 MR. WILLIAMS: Sorry. Something.

14 THE COURT: The leaves lead to the fact of what?

15 MR. WILLIAMS: It leads to the fact that the body may
16 have been moved as opposed to what I think their theory is
17 going to be and that is that he was killed right there at
18 the grave site, so.

19 THE COURT: Or he died in the grave.

20 MR. WILLIAMS: So if -- we may need to call him out of
21 order if for some reason the case lasts longer than
22 Thursday.

23 THE COURT: What if you're in your case by Wednesday,
24 what are you going to do?

25 MR. WILLIAMS: I'll have him here by Wednesday.

1 THE COURT: Okay. We'll work around it.

2 MR. WILLIAMS: All right.

3 THE COURT: That's no problem. All right. We'll
4 stand at ease until 1, about 1:15. Let me see you all
5 back in here in about an hour.

6 The jury is going to be ready to go at 1:30.

7 Mr. Williamson is available to talk to if you so
8 choose as well as members of law enforcement. I would
9 assume that they're here to give their input as to
10 whatever decision you want to make.

11 MR. WATERS: Thank you, Judge.

12 THE COURT: All right. Start back at one -- trial
13 will start at 1:30. I'll see the lawyers at 1:15.
14 Mr. Gerrick, make sure he's got something to eat.

15 (Lunch break taken at 12:19 P.M. At 1:19 P.M., the
16 trial resumed:)

17 THE COURT: Let the record reflect that at the break
18 we have -- at the break, I had a discussion with the
19 representatives from the Attorney General's Office and
20 Mr. Williams concerning the Juror --

21 THE CLERK: Number Nine.

22 THE COURT: -- Number Nine, Ms. Beasley. She was the
23 first lady drawn.

24 I was presented with several incident reports from
25 Barnwell County Sheriff's Office that I shared with both

1 defense and State. It appears that that particular
2 witness (verbatim) has had a number of incidents in the
3 county dealing with mental health issues. Some of those
4 went before Mr. William's wife when she was serving as
5 probate judge. And from reading some of the others, it
6 gives me great concern as to her ability to serve as a
7 juror.

8 Therefore, on the Court's motion I have made a
9 decision to relieve her of her duties as a juror and
10 substitute one of the alternates.

11 Is that a correct recitation of what we decided,
12 Mr. Waters?

13 MR. WATERS: Yes, sir, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: Yes, sir, Your Honor.

16 THE COURT: Any objection to my removing Juror Number
17 Nine?

18 MR. WILLIAMS: Not from the defense, Your Honor.

19 MR. WATERS: None from the State, Your Honor.

20 THE COURT: All right. Ma'am, make this a Court's
21 Exhibit One, incident report.

22 (Court's Exhibit No. 1, incident report, marked and
23 received into evidence.)

24 THE COURT: I have asked the clerk, Ms. McElveen, to
25 randomly select one of the alternates. Alternates A-one,

1 two, and three. She put the names in the cigar box and
2 she has drawn out randomly Number 78 who was actually
3 alternate number three randomly. I will elevate Number 78
4 to the regular jury leaving us with two alternates.

5 I'm going to instruct the clerk to go back into the
6 jury room and just inform this Juror Number Nine that her
7 services are no longer needed. I think that's probably
8 the least intrusive way to do it and it will not cause her
9 any embarrassment.

10 Any objection to that by the State?

11 MR. WATERS: No, sir, Your Honor.

12 THE COURT: By the Defendant?

13 MR. WILLIAMS: None, Your Honor.

14 THE COURT: Thank you. If you'll do that. Just very
15 tactfully.

16 THE CLERK: Okay.

17 THE COURT: Anything we need to discuss before I bring
18 the jury in?

19 MR. WATERS: Can we approach briefly, Your Honor?

20 THE COURT: You may.

21 (Off-the-record discussion.)

22 THE COURT: State ready to proceed?

23 MR. WATERS: Yes, Your Honor.

24 THE COURT: Defense ready to proceed?

25 MR. WILLIAMS: Yes, Your Honor.

1 THE COURT: Do I got all the jurors?

2 THE CLERK: Yes, sir. All of them are back there.

3 THE COURT: Bring the jury in, please.

4 (Jury enters courtroom at 1:25 P.M..)

5 THE COURT: Mr. Holmes, I'm going to elevate you to
6 the regular jury, please. If you'll come have a seat
7 right -- am I missing one?

8 Just have a seat right back there, either one. Makes
9 no difference.

10 THE JUROR: (Complying.)

11 THE COURT: Ready to proceed?

12 MR. WATERS: Yes, sir, Your Honor.

13 THE COURT: All right. Ladies and gentlemen of the
14 jury panel. The first thing we have to do in order to
15 proceed is I have to swear you in for this particular
16 case. If you'd stand, please, and raise your right hand.

17 (Jury impaneled.)

18 THE COURT: Good afternoon, ladies and gentlemen.
19 We're about now to start the trial of this case. Let me
20 have the indictment.

21 Let me remind you, once again, the fact that the
22 Defendant has been charged, arrested and indicted for the
23 offense of murder, he's pled not guilty to that offense.
24 And by pleading not guilty, as I told you earlier, he has
25 the constitutional presumption of innocence unless the

1 State is able to prove each and every element of the
2 indictment to you beyond a reasonable doubt.

3 Please do not infer anything from the fact that he has
4 been indicted. This document, the indictment, is simply
5 the charging document by way this case comes into the
6 courtroom. It advises the Defendant of the charges
7 against him but it is not evidence. You can only consider
8 evidence that comes in by way of testimony, live testimony
9 and/or exhibits and/or any deposition that may be read
10 into the trial of the case.

11 Since the State has the burden of proof, they will
12 present their case first. And once they have completed
13 their case then the Defendant has the opportunity to
14 present his defense. So that will take care of all the
15 testimony. And at the end of the Defendant's case, in
16 some cases the State has the right to put up reply
17 testimony. So your testimony will go the State, the
18 Defendant, and any reply that may be forthcoming.

19 Before the testimony is started, in just a few minutes
20 you will hear opening remarks or opening statements by the
21 State and the Defendant. Please bear in mind that the
22 opening statements, they are not evidence in the case. It
23 is simply what the lawyers contend what the issues are,
24 what they intend to show to you, what they intend to prove
25 what their defense is, what their position is in the

1 case. It is sort of a road map that each one of them will
2 present to you, sort of tell you about the case.

3 But that is not evidence.

4 Once the opening statements are made we will take the
5 testimony which is evidence. And then after all the
6 evidence comes in, the lawyers will once again make
7 closing arguments. And after that is done then I will
8 instruct or charge you on the law in the case.

9 As I told you earlier, you and I have two functions to
10 perform in the trial of the case. My position makes me
11 the judge of the law. You've taken an oath to accept the
12 law as I give it to you. Therefore, if you come into the
13 courtroom with some preconceived idea about what the law
14 is or should be and it does not agree with what I tell
15 you, please set aside any preconceived ideas and accept
16 the law as I give it to you. I'm the judge of the law. I
17 give the law. I instruct you on what the actual law in
18 our state is.

19 My other responsibility is to rule on the
20 admissibility of the evidence. Obviously the lawyers have
21 to comply with our rules of evidence and our rules of
22 criminal procedure. I dare say that 95 percent of what
23 they ask will be proper. Every now and then there may be
24 an objection and I'll have to rule on whether or not that
25 particular evidence comes into the trial of the case.

1 Now, as I told you earlier, oftentimes what evidence
2 does come into the trial of the case will be in dispute.
3 Some people may say one thing, some say another. So it is
4 your job as the judges of the facts to determine the
5 credibility or the believability of the witnesses who
6 testify in the case.

7 So use your ordinary common sense, determine what the
8 true facts are, and at the conclusion when you 12 acting
9 collectively as one determine what those true facts are,
10 then you apply those facts to the law as I give it to you
11 and you will be in a position to render a verdict.

12 Now, some sort of general ground rules.

13 I try to be efficient with your time. I try to start
14 on time. If I take a 10-minute break, I try to take a
15 10-minute break, not a half an hour. I try not to make
16 you sit around and wait. Every now and then it will be
17 necessary for you to perhaps step back to the jury room
18 when we take up a matter of law. I try to do that not on
19 your time but on our time, after five o'clock or before
20 9:30 in the morning. It may be necessary sometimes to
21 send you back and let me discuss some matters with the
22 lawyers.

23 Even though we're trying to be efficient with your
24 time and move things along in an orderly fashion, I'm not
25 trying to run a race up here. Therefore, if at any time

1 during the trial of the case you become uncomfortable, you
2 need to use the restroom, you get tired of sitting, you
3 get tired of listening to me, you just need a break, you
4 get uncomfortable, you get hot, you get cold, please raise
5 your hand. Don't get uncomfortable. Let me address any
6 needs you may have.

7 I will tell you each time that we take a break, please
8 do not start any deliberations or discussions. Do not
9 talk about the case at all. It is not proper to discuss
10 the case until all of the evidence has been presented, the
11 final arguments have been made, and I've instructed you on
12 the law.

13 So please do not discuss the case when you go back to
14 the jury room. I will ask you when we break for the
15 evening, do not discuss it with family or friends or do
16 any independent research on the case.

17 I will also ask you that we need to have a foreperson
18 appointed. And normally what I do on that is when we take
19 the first break, I will ask that the 12 of you, not the
20 alternates but among the 12 of you, please select me a
21 foreperson. The foreperson is simply a spokesperson for
22 the jury. They will bring to me any matters that I need
23 to be advised of, any concerns you may have, and you will
24 obviously head up the deliberations when we start that
25 portion of the trial.

1 If you can't decide on somebody, I'm just going to
2 randomly select one.

3 I ask that you pay close attention. Obviously this is
4 an important case. It's a major felony case. And the
5 Defendant has pled not guilty. And it's a major case for
6 both sides. So please pay close attention.

7 We're now going to start the trial of the case by the
8 State making their opening statements followed by the
9 Defendant. Once that is concluded we'll get right into
10 the testimony.

11 We'll go until about five o'clock today. We'll take
12 an afternoon break at around three or 3:15, somewhere in
13 that neighborhood depending on where we stand and then
14 we'll go right up to five o'clock or perhaps a little bit
15 before or a little bit after just depending on where we
16 are. And then I'll discuss with you about tomorrow about
17 some times and some various things of that nature.

18 Any objections to my opening remarks by the State?

19 MR. WATERS: No, sir, Your Honor.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: None, Your Honor.

22 THE COURT: Thank you.

23 MR. WATERS: Thank you, Judge. May it please the
24 Court.

25 THE COURT: Yes, sir.

1 MR. WATERS: Selfishness and greed. That's what this
2 case is about.

3 The evidence is going to show that the Defendant over
4 there, Sammie Gerrick, murdered Tyrone Donaldson for money
5 and buried him in a shallow grave in a lonely stretch of
6 woods off of Sunshine Road in Barnwell County.

7 Selfishness and greed. The oldest motive in the book.
8 Some people will do anything for money. And the evidence
9 is going to show that Sammie Gerrick is one of those
10 people.

11 My name's Creighton Waters. I'm a prosecutor for the
12 State of South Carolina.

13 And it's my job, it's my privilege, it's my duty to
14 represent the people of the State of South Carolina and
15 prove this criminal case to you beyond a reasonable doubt.
16 As the Judge told you, it's my job to prove it beyond a
17 reasonable doubt. It's an important part of the system.
18 It's one that I believe in. And it's one that we plan to
19 honor, proof beyond a reasonable doubt.

20 The Judge -- as he told you, the Judge is over there.
21 He's the referee. He makes sure that the rules are being
22 followed and that the evidence that comes in is the
23 evidence that's supposed to come in.

24 And of course Mr. Williams over there represents the
25 Defendant, Sammie Gerrick. And his job is to defend him.

1 So everybody has their roles. But the most important job
2 in here is for y'all because y'all have a job, too. My
3 duty is to prove the case. The Judge's duty is to be the
4 referee. The defense lawyer's duty is to represent his
5 client.

6 But y'all's duty is to determine the facts. And
7 nobody ever said doing your duty was easy. And that's why
8 we have juries who are willing to come in here and make
9 the right call, no matter how hard a decision it may be.

10 Now, what happened in this case? What's the evidence
11 going to show? Well the evidence is going to show that
12 Sammie Gerrick, the Defendant over there, was in jail in
13 Bamberg and he wanted to get out. He wanted to get out
14 but he had to get some money together to do that. And he
15 managed to get in contact with his friend, Tyrone
16 Donaldson, the victim in this case.

17 And asked if he could get some money together to get
18 him out of jail. And Tyrone had some money. But it was a
19 lot of money, it was over \$6,000 that they needed to get
20 up to get Sammie Gerrick out of jail. So they went to
21 another person named Maurice Williams. And you're going
22 to hear from Maurice today. Okay. And Maurice had saved
23 up money to make a house payment because he was looking to
24 put a down payment on a house. And he was told that,
25 yeah, if you get Sammie out of jail, get that Defendant

1 out of jail, he'll have your money for you and he'll be
2 able to pay you back the same day. He's got it. We'll
3 just get him out and he'll pay you right back.

4 So Maurice and Tyrone, the victim in this case, agreed
5 to do so. And on July 21st, 2011, Maurice went to the
6 bank in Blackville and withdrew \$3,300. And he gave that
7 money to Ty. He gave that money to Tyrone and then he
8 went on back to work and with being told that he would
9 have his money when he got off work at 5:30 that day.

10 Maurice and Ty agreed to get him out of jail and to
11 pay that money. And the evidence is going to show that's
12 the biggest mistake Tyrone ever made.

13 So Maurice goes back to work. About one P.M. he gets
14 a phone call from Tyrone saying, I got Sammie out of jail,
15 he's with me now. They called Maurice about two o'clock
16 and said, we're going to get your money right now.

17 About three o'clock, Sammie Gerrick and Tyrone are
18 seen talking to one another at the gas station in
19 Blackville, and then after that Tyrone drops off the face
20 of the earth never to be seen alive again.

21 And the evidence is going to show that the last person
22 that Tyrone was seen with was Sammie Gerrick, right over
23 there. And the evidence is going to show that the last
24 four phone calls that Tyrone made or that he took was with
25 Sammie Gerrick, right over there. And the evidence is

1 going to show that Tyrone when he was talking to his
2 friends and family, where are you going, I'm going to get
3 money with Sammie.

4 Well, five o'clock rolls around. Maurice gets off
5 work. He hasn't heard anything from Tyrone. He's got
6 \$3,300 that's missing. So he calls. No answer. Tyrone's
7 girlfriend, Kim, you're going to hear from her today. She
8 gets home. She last texted him earlier that day. I love
9 you. I love you. She hadn't heard anything from him.
10 She's calling him. She's trying to get in touch with
11 him. He's not answering.

12 And the evidence is going to show that Tyrone was a
13 family man. He had two young girls and a teenager that he
14 was caring for. He was not the type of person to just go
15 off and not respond to anybody. He was always the type of
16 person to let people know where he was. And they got
17 worried because this wasn't like Tyrone. This wasn't like
18 him.

19 So they keep calling and they're not getting any
20 response. And meanwhile, Maurice goes home and he goes
21 over to see Sammie Gerrick. And Sammie Gerrick says, he's
22 like, what's up, where's my money. And Sammie Gerrick
23 says, well, me and Tyrone went out in the woods and we dug
24 up this safe I had, and I put \$100,000 in Tyrone's car and
25 he kissed me on the forehead and then he drove off with my

1 money. You don't think he stole my money, do you.

2 That was Sammie Gerrick's first story, the evidence is
3 going to show. And that's what he told Maurice. Maurice
4 is like, I don't think so.

5 That's the first story of many you're going to hear
6 from Sammie Gerrick.

7 Well, the next day is July 22nd, 2011. And nobody's
8 still heard from Tyrone. The family's worried. So they
9 call the police, of course. And the police start looking
10 into it because they don't know where Tyrone is, they
11 don't know where the car he was driving is. He hasn't
12 called anybody. He hasn't come back. Okay.

13 And, it just so happens that a family friend is in
14 Orangeburg and is driving home and sees Tyrone's car
15 parked behind an old Chinese restaurant in Orangeburg or
16 near Orangeburg. And so she calls the family and they
17 call the police and they go out to that, where that car is
18 and sure enough it's Tyrone's car parked behind that
19 Chinese restaurant in Orangeburg.

20 And you know whose fingerprints are in it? The
21 evidence is going to show, Sammie Gerrick's fingerprints
22 are in that car. So things start to piece together a
23 little bit.

24 Okay. The cops start looking into it. They start to
25 investigate it. And you're going to hear evidence that on

1 the day after Tyrone was missing Sammie Gerrick was using
2 Tyrone Donaldson's ATM card. And he was paying off some
3 serious past-due bills that he had. Okay.

4 Sammie Gerrick was using Tyrone Donaldson's ATM card.
5 And that evening, that evening some of Tyrone's friends
6 are -- they're still worried. They're wondering where he
7 is. And they get a text from some mysterious phone number
8 that they'd never seen before, that they never knew Tyrone
9 had seen before. And it says something to the effect of,
10 this Tyrone Kim's ex got me am hurt in Orangeburg help
11 me. And it said am hurt, A-M hurt, not I'm hurt, like I
12 apostrophe M. Am instead of I'm.

13 And the people who got that text -- first of all, it
14 wasn't a number that they ever knew to Tyrone use. And
15 secondly, they noticed one particular thing about that
16 particular text, that it used A-M for I'm, I-M. And you
17 know else always used am instead of I'm? Sammie Gerrick,
18 right over there, the evidence is going to show.

19 Well of course the police talked to Sammie Gerrick.
20 And you're to going hear a lot of Sammie Gerrick's various
21 versions of the events. It starts, the evidence is going
22 to show, with him telling the police, well, yeah, see,
23 Tyrone and I, we had some money in Tyrone's account, part
24 of it was mine. So Tyrone gave me his ATM card and then I
25 just never saw him again after that.

1 That was the first story.

2 And then as time goes on you're going to hear evidence
3 that Sammie called Chief Holston of Blackville PD and
4 said, hey, I just got this call from this person named
5 Black and Black says he's got Tyrone held for ransom and
6 he needs 25,000. And I talked to Tyrone and they've got
7 Tyrone. And Chief Holston is like, really. Well, where
8 do we need to go? What's the information? And Sammie
9 Gerrick's like, I'll call back. And of course he never
10 does. Okay.

11 Days go by. Tyrone dropped off the face of the earth
12 on July 21st. Days go by and nobody knows where he is.
13 And then the big break in the case happened on August 3rd.

14 And the evidence is going to show that Sammie's wife,
15 Charlene, finally admitted to the police that late on the
16 night of July 21st, late on the night that Tyrone
17 Donaldson went missing, she drove Sammie Gerrick out to a
18 secluded spot in the woods, out off of Sunshine Road and
19 there was Tyrone's white car. And Sammie Gerrick got in
20 that white car and she followed him to Orangeburg where he
21 dropped that car off behind the Chinese restaurant and
22 then they drove home. Sammie Gerrick's wife told the
23 police that.

24 And so what did the police do? Well, they did what
25 you expect. They got a bunch of police officers

1 together. And they all stood in a line and they started
2 walking through the woods near where she, where Sammie's
3 wife, Charlene, had taken them. And poking the ground.
4 And, sure enough, near where Charlene had taken them they
5 poked the ground and there's a soft spot. And they
6 smelled death. And they dig up Tyrone's body buried in a
7 shallow grave.

8 And you guys are going to see some evidence. You're
9 going to see some evidence from that crime scene. You're
10 going to see that Tyrone's hands were tied. You're going
11 to see that Tyrone's ankles were tied. You're going to
12 see probable defense wounds on his forearm. And it's not
13 going to be pretty, so brace yourselves.

14 Of course once they found this out, they obviously
15 went back to Sammie Gerrick. What you got to say now?
16 And of course Sammie Gerrick, the Defendant over there,
17 had some new stories to tell. Had a bunch of different
18 new stories to tell. And you're going to hear them all.
19 You're going to hear all of Sammie's stories.

20 And you're going to hear some other evidence, too.
21 This is like a puzzle. Okay. And as the pieces get put
22 in place, the picture starts to come together and you can
23 see what it is.

24 All right. It's not always like CSI on television.
25 Real life isn't always like that. Okay. There's not

1 always some magic piece of evidence. Sometimes it's just
2 old-fashioned police work, good old-fashioned police
3 work. Okay. Just good old common sense.

4 And those pieces will start to come together and
5 you'll see that picture. And you'll be able to see beyond
6 any reasonable doubt that Sammie Gerrick over there
7 murdered Tyrone Donaldson, buried his body in a shallow
8 grave, left him out there in those lonely woods off of
9 Sunshine Road.

10 Thank you.

11 MR. WILLIAMS: May it please the Court.

12 THE COURT: Yes, sir.

13 MR. WILLIAMS: Good afternoon.

14 You know, anytime something serious, as serious as
15 this happens, and this is about as serious as it gets, we
16 always want to find the answer. We always want to know
17 what happened.

18 The State's just told you what they think happened.
19 And we agree with some of the things they told you except
20 for this critical point: Tyrone was not murdered by
21 Sammie Gerrick.

22 Now, let me go through some of the things we are going
23 to agree on today and some of the things that we're not
24 going to agree on. And, quite frankly, some of the things
25 that I don't know that I can explain to you that I need

1 you to listen to and see if you can figure out in this
2 case exactly how it happened.

3 We're going to agree that around two clock on the 21st
4 of July, 2011, Tyrone Donaldson comes back to his house
5 after getting his friend, Sammie, out of jail. He goes
6 in, he changes his shoes, he gets his shotgun out of his
7 closet, he changes cars, from his Corvette into his Honda,
8 and he leaves.

9 We're going to agree that they're seen together at the
10 bank, like he said. We want to agree that they're seen at
11 Junior Food Mart. There's some dispute about when they
12 were seen or if they were seen out in the country. You're
13 going to have to decide that from the evidence.

14 We're going to agree that Tyrone Donaldson was
15 murdered.

16 But this is what we're going to have a hard time, we
17 don't agree on. There's going to be a coroner come
18 testify. And that coroner sees no blows or injuries on
19 this man that could have killed him. How did he die? We
20 don't know exactly how he got in this spot. We don't know
21 when he was killed.

22 All right. And I wish I could explain these things to
23 you but these are questions that I've got in my mind and
24 the State should have in their mind.

25 And they've got this story pieced together. And,

1 ladies and gentlemen, if they can prove this story beyond
2 a reasonable doubt, then maybe you should find my client
3 guilty. But I think when it's all said and done, you'll
4 find that the story doesn't fit. The puzzle, as he puts
5 it, and that's the right word for this, the puzzle can't
6 be completed.

7 You're going to hear about other individuals involved
8 with Tyrone. You're going to hear about other things that
9 Tyrone may have been doing. You're going to hear, I
10 think, about this car in Orangeburg. And you're going to
11 have questions how it got there.

12 But more importantly, he just talked to you about
13 fingerprints on that car. And, you know, you're going to
14 hear that Sammie took it over there and, yeah, Sammie did
15 take it over there. We're going to agree on that. All
16 right. But those other fingerprints on that car, and
17 you're going to have to ask yourself who they belong to.

18 You're going to hear when they found that car there
19 was a shotgun case in the car and there were nine buckshot
20 shells unfired in the shotgun case. But the shotgun's
21 gone. And no idea where it's at.

22 And finally when you hear all of this together and put
23 it together, you're going to say this was a terrible
24 thing. A man was killed. But you're going to ask
25 yourself, how did it happen. You're going to ask

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 yourself, who did it.

2 I wish I knew the answer to that. Sammie wishes he
3 knew the answer to that. Neither one of us do.

4 So, when the State puts all their evidence in and
5 you've heard all the evidence, please come back, we're
6 going to ask you to come back with a verdict of not
7 guilty.

8 And, it's important. One last thing, he's just got up
9 here, did a great job of telling you all he thinks he can
10 prove. It's important that you wait until the end, that
11 you listen to all the evidence until you decide from your
12 own good common sense from what you hear on the stand what
13 you believe and what you don't believe.

14 I can admit to you right now some of it's true, some
15 of it happened. A lot of it I can't. A lot of it you got
16 to figure out. And I think when it's all said and done,
17 in your mind you're going to say, gosh, we just don't
18 know.

19 Thank you.

20 THE COURT: You may call your first witness.

21 MR. WATERS: Thank you, Your Honor. We call you
22 Shaunta Kimberly Smith.

23 SHAUNTA KIMBERLY SMITH, having been duly sworn, was
24 examined and testified as follows:

25 DIRECT EXAMINATION

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 BY MR. WATERS:

2 Q. Ms. Smith, how are you doing today?

3 A. I'm fine.

4 THE COURT: Speak up for me, please, ma'am.

5 THE WITNESS: I'm fine.

6 BY MR. WATERS:

7 Q. You go by Kimberly?

8 A. (Nods head.)

9 THE COURT: If you'll stand back there.

10 MR. WATERS: Yes, sir. Thank you, Judge.

11 Q. You go by Kim? You go by Kimberly?

12 A. Kim.

13 Q. Okay. And, where do you live?

14 A. I live in Warrentville, South Carolina.

15 Q. Did you know Tyrone Donaldson?

16 A. Yes.

17 Q. Tell us how you knew Tyrone Donaldson if you would,
18 please.

19 A. Well, I knew Tyrone years ago from going to Blackville
20 High School. I known him for quite sometime but he was my
21 boyfriend during the time.

22 Q. Okay. And when did y'all start dating?

23 A. Around January, and that's 2011.

24 Q. Okay. Where was Tyrone staying at that time?

25 A. He was staying in Blackville, South Carolina.

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 Q. Okay. Blackville's in Barnwell County?

2 A. Yes.

3 Q. And where were you staying around that time?

4 A. I was staying in Orangeburg at the time.

5 Q. Okay. Did you ever have cause to stay over with
6 Tyrone?

7 A. Yes, I did.

8 Q. Explain to me how that would work if you would.

9 A. Me and Tyrone would actually, you know, get together
10 and meet. When we meet up, you know, I would go to his
11 house, stay for a couple hours but, you know, I would get
12 back home because I had to go to work the next day. So we
13 used to spend some time together during that time.

14 Q. Okay. Did you ever spend the night with him?

15 A. Yes, I have.

16 Q. Okay. And tell me a little bit about Tyrone. Did he
17 have any kids he was caring for?

18 A. Yes, he did.

19 Q. Can you tell us who they were and how old they were
20 back then to the best of your recollection?

21 A. He had a daughter, Tamara. I believe she was around
22 four or five at the time. He also had a daughter,
23 Makayla. She was around seven or eight, somewhere up in
24 there. He also had a stepsister that was there which was
25 Kelsea.

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 Q. Okay. And what about Tyrone, did he help take care of
2 those kids?

3 A. Yes, he did.

4 Q. Describe that to me if you would, please.

5 A. He would cook. He would clean. He would, you know,
6 help the kids with their homework and make sure they got
7 their baths, you know, and got ready for school the next
8 day. He would do all of that for them.

9 Q. He was kind of like Mr. Mom?

10 A. Yes, very much.

11 Q. Do you recall if Tyrone was married prior to all of
12 this happening in July of 2011?

13 A. I know he had been married but, you know, he had told
14 me, you know, his wife and mother-in-law was in a car
15 accident years ago.

16 Q. Uh-huh.

17 A. And he was still, you know, he was still kind of
18 affected by it, but he was trying to, you know, move on
19 with his life.

20 Q. Did he get any kind of settlement from that?

21 A. Yeah, he did say he got a settlement from it but he
22 didn't say how much he got or anything.

23 Q. Okay. What about Sammie Gerrick over there; do you
24 know him?

25 A. No, I didn't know him at the time until he came to

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 Tyrone's house one day and Tyrone introduced him to me.

2 Q. Do you see him in the courtroom today?

3 A. Yes.

4 Q. Can you point him out?

5 A. Right there (pointing).

6 Q. So you met Sam through Tyrone?

7 A. Yes, yes.

8 Q. Did you know Sammie Gerrick well?

9 A. No, I did not. I never met this man before in my
10 life. I don't know who he is.

11 Q. What cars did Tyrone have?

12 A. The time that, you know, when I got with him he had a
13 black Yukon and he had a Camaro, and he also had the
14 little Honda.

15 Q. And then shortly before his death did he get a
16 different car?

17 A. Yeah, he traded his Camaro in for a Corvette.

18 Q. All right. Let me take you back to July 21st. Do you
19 remember that day?

20 A. Yes.

21 Q. Tell me how that day started off, if you would.

22 A. It started off, I got up around 5:30 that morning for
23 work. I got dressed and was getting ready for work. I
24 usually leave around 6:15, 6:20 to go to work because I
25 was working in Orangeburg at the time.

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 I always -- every morning when I got up I would always
2 kiss Tyrone before I would leave, you know, because he
3 would always be asleep, so I kissed him on the cheek. I
4 told him I loved him and he said, I love you back. And I
5 left and I went to work.

6 Q. Okay. And where were you working then?

7 A. At Helena Chemicals in Orangeburg.

8 Q. What's the -- did you have any further contact with
9 Tyrone later on that day or later on that morning?

10 A. No, I didn't talk to him any time that morning because
11 I was busy at work all that day and usually we'll be
12 texting each other back and forth during that day, but
13 somehow or another I didn't hear from him. I text him
14 around one, 1:30 and I, you know, I was asking him, you
15 know, what he was doing or whatever. And he told me he
16 was at the Unemployment Office in Barnwell.

17 Q. Uh-huh.

18 A. I said, okay, very well. I love you, you know. And
19 he said I love you back. And that was it.

20 Q. Okay.

21 MR. WATERS: Your Honor, I have State's Exhibit 14. I
22 believe this is into evidence without objection.

23 MR. WILLIAMS: That's correct.

24 (State's Exhibit Nos. 14, AT&T telephone records,
25 received into evidence.)

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 BY MR. WATERS:

2 Q. Now you said you had texted Tyrone around that morning
3 sometime; is that correct?

4 A. That afternoon. It was roundabout one, 1:30.

5 Q. And do you remember what your number was then?

6 A. [REDACTED]-8528.

7 Q. Okay. And do you remember what Tyrone's number was?

8 A. I can't remember.

9 Q. All right. I'm going to show you this document what's
10 been marked as State's Exhibit 14 and show you this text
11 right there and have you take a look at that. Do you
12 recognize that?

13 A. Yes.

14 Q. And can you read it to us, please?

15 A. Which one? This one?

16 Q. Yeah. This one right there.

17 A. I'm sorry. You know your loving good, and
18 Unemployment Office my love.

19 Q. And is that the text that Tyrone sent back to you on
20 that day?

21 A. Yes.

22 Q. And tell me, how does he write the word -- how does he
23 spell the word when he says I'm sorry, how does he spell
24 it?

25 A. When he says I'm sorry?

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 Q. Yeah. How does he spell that?

2 A. Oh. I apostrophe M.

3 Q. What did you respond to him?

4 A. I said, oh okay baby love you.

5 Q. So that's the text around the middle of the day that
6 you just described to us; is that right?

7 A. Yes.

8 Q. What's the next contact you tried to have with him; do
9 you recall?

10 A. When I get off of work I would call him.

11 Q. Uh-huh.

12 A. And let him know that I'm on my way home. And I tried
13 calling him and texting him but I didn't get an answer.

14 Q. Okay.

15 A. Or response.

16 Q. And I'm going to show you on this document here, I
17 want you to look right there, Thursday, July 21st at
18 15:33.

19 A. Uh-huh.

20 Q. That text right there. Can you read that? Is that --
21 do you recognize that?

22 A. Yes, I do.

23 Q. And read that to the jury, if you would.

24 A. I might go to revival tonight at the church in
25 Springfield at seven. Would you and the girls want to go

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 with me?

2 Q. Is that a text that you sent to Tyrone?

3 A. Yes, it was.

4 Q. And then right here, looking at the text right after
5 that?

6 A. It says, where you at.

7 Q. Is that a text you sent to Tyrone?

8 A. Yes.

9 Q. Why did you send that text saying, where you at?

10 A. Because he wasn't responding to me when I, when I text
11 him or called him.

12 Q. Is that unusual?

13 A. No, it's not usual.

14 Q. It's unusual?

15 A. It's unusual for him not to call or text me.

16 Q. So what did you do when you got off work?

17 A. When I got off of work I called him. I tried to
18 contact him and text him. I didn't get any response so
19 when I got home and I got in the driveway, I noticed that
20 one of the cars was gone. So I called --

21 Q. Which car was gone?

22 A. The little small Honda.

23 Q. The little white Honda?

24 A. Yeah.

25 Q. Okay. So what did you do?

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 A. So I called him again. Kept calling, texting.

2 Q. Uh-huh.

3 A. No response.

4 Q. Who all was at the house when you got there, at
5 Tyrone's house?

6 A. Well, I noticed Makayla was in the living room.

7 Q. Uh-huh.

8 A. I don't -- I think Kelsea may have been in the room,
9 in the back room, but that was all that I seen in there.

10 Q. Did you ask them if they had seen Tyrone?

11 A. Yeah. I asked Makayla because she was watching TV at
12 the time.

13 Q. Had they seen him?

14 A. Yes, she said she had saw him. I asked her where did
15 he go. She said she didn't know where he went but he came
16 in the house and he changed his shoes and he went in the
17 closet and got a gun out and he left. Said he'd be right
18 back.

19 Q. What did you do?

20 A. When she told me that I was stunned about it and I was
21 like, oh my God. So I went and I looked in the closet
22 because he had shown me his guns, you know, prior. And I
23 looked in there and I saw one was missing because he does
24 like to hunt.

25 Q. Okay. Did you do anything to try to find Tyrone?

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 A. Yes, I did.

2 Q. What did you do?

3 A. I got back in the vehicle and I drove around
4 Blackville trying to find him, looking in areas that I
5 could possibly know where he would be that he would
6 actually hang out, you know, or whatever. I went to one
7 of his friend's house that he always have with him during
8 the time. And I went there and he wasn't there either.

9 Q. Okay. So you drove around looking for him?

10 A. Yes, I did.

11 Q. Couldn't find him?

12 A. Huh-uh, no, sir.

13 Q. Was this strange?

14 A. Yes, very strange.

15 Q. Were you worried?

16 A. Yes, very worried.

17 Q. Were you scared?

18 A. Yes.

19 Q. After you drove around, where did you go?

20 A. After I drove around and I couldn't find him anywhere
21 I came back home to the house where Makayla and Kelsea
22 were.

23 Q. And what did you do then?

24 A. I started calling again, texting again. Then I told
25 Makayla, I asked Makayla, because I didn't know his mom's

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 number. So I told her to call her for me so I could talk
2 to her and see if she knew anywhere, you know, anyplace
3 that Tyrone had been or if she knew, had she heard from
4 him or anything like that.

5 So she called Tyrone's mother and I talked to her on
6 the phone and I told her, you know, that Tyrone wasn't
7 there, had she heard from him or anything. And she told
8 me she heard from him one time that day and that was it.

9 Q. Okay. Did any of the family come over to the house to
10 wait with you, see if Tyrone called or anything like that?

11 A. Yes, his mother came over. Some other man was there,
12 and I think one of his cousins, he came over there as
13 well.

14 Q. And what were y'all doing?

15 A. We were sitting around. We were talking. We were
16 trying to find out where he was. We was making phone
17 calls, you know, trying to see if anybody had heard from
18 him or seen him or anything like that.

19 Q. Did you try his cell phone again?

20 A. Yes.

21 Q. Tyrone's cell phone?

22 A. Yes, kept calling that all night.

23 Q. No response?

24 A. No response.

25 Q. What happened when it got late that night?

SHAUNTA KIMBERLY SMITH - DIRECT/WATERS

1 A. When it got late that night, we just sat there and we
2 continued to wait. It got real late. So his mom was
3 like, well, I'm going to go home, but if I don't hear from
4 him by in the morning then she was going to go to the
5 police.

6 Q. And what did you do after everybody left?

7 A. After everybody left I sat up with the girls because
8 they were kind of scared and crying. So I sat up with
9 them the majority of the night and I told them, you know,
10 we got to lay down, y'all got to go school in the morning
11 so kind of -- well, not school because school wasn't going
12 on then but I told them, you know, they needed to go to
13 sleep because it was late. So they went to bed and I went
14 in the room and I laid down and I couldn't sleep.

15 Q. Okay.

16 A. I didn't sleep.

17 Q. Because you were worried?

18 A. Yes.

19 Q. And all the time that you've known Tyrone, have you
20 ever known him to loan out his debit card to anybody?

21 A. No, sir.

22 Q. And all the time you've known Tyrone, have you ever
23 known him to just leave and not call like this?

24 A. No, sir.

25 Q. And after that last text when you told him that you

SHAUNTA KIMBERLY SMITH - CROSS/WILLIAMS

1 loved him and he said he loved you, did you ever hear from
2 him again?

3 A. No.

4 MR. WATERS: Nothing further, Your Honor.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q. Ms. Sanders, you indicated that Tyrone had several
9 guns in his closet?

10 A. Uh-huh.

11 Q. And this is in July when this gun is missing;
12 correct?

13 A. Yes.

14 Q. Do you know what the other kinds of guns he had in the
15 closet were?

16 A. I don't remember. I know he had big guns.

17 Q. They were big guns?

18 A. Uh-huh. Like shotguns.

19 Q. Right. And Mr. Waters showed you some phone records?

20 A. Uh-huh.

21 Q. And one of the phone records you wrote a text to
22 Tyrone and it said way you at?

23 A. Uh-huh.

24 Q. You spelled W-A-I-U-A-T?

25 A. Uh-huh.

SHAUNTA KIMBERLY SMITH - CROSS/WILLIAMS

1 Q. Basically it's an abbreviation of where are you at?

2 A. Yes; uh-huh.

3 Q. And that's a common thing to do in text messages;

4 right?

5 A. Yes.

6 Q. And it's common in text messages to spell words

7 differently because you're just trying to get the message

8 out, you're not concerned about spelling; correct?

9 A. Right.

10 Q. All right. And the last time you had talked to Tyrone

11 he was at the Unemployment Office?

12 A. That's what he told me.

13 Q. How long had he been unemployed?

14 A. I think for about two years.

15 Q. Two years?

16 A. (Nods head.)

17 Q. Do you know anything about Tyrone's finances?

18 A. No.

19 Q. Did Tyrone share his financial information with you?

20 A. No.

21 Q. Either way?

22 A. No, he didn't.

23 Q. And, you had only met Sammie Gerrick through Tyrone

24 but you knew they were friends; correct?

25 A. Yes.

SHAUNTA KIMBERLY SMITH - REDIRECT/WATERS

1 Q. And there's no doubt about that.

2 A. Yes, because he would come over, you know, to his
3 house a lot and play cards and go back in that man cave
4 and drink.

5 Q. In the man cave?

6 A. Whatever else they done back there.

7 MR. WILLIAMS: Thank you, ma'am.

8 THE COURT: Redirect.

9 MR. WATERS: Very briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. WATERS:

12 Q. You mentioned the man cave.

13 A. Yes.

14 Q. Tyrone had kind of a barn back there; is that right?

15 A. Yes.

16 Q. Had a TV back there?

17 A. Yes.

18 Q. Fellows would come over and play some cards, watch the
19 game, that sort of thing?

20 A. Correct.

21 Q. And there were folks that liked to come over and hang
22 out in the barn; is that correct?

23 A. Correct.

24 Q. And you were asked about people abbreviating when
25 they're texting; right?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Uh-huh; correct.

2 Q. And that happens, doesn't it? But when Tyrone texted
3 you the word I'm, he spelled it I apostrophe M; is that
4 right?

5 A. Exactly.

6 Q. Not A-M?

7 A. Huh-uh.

8 MR. WATERS: Thank you.

9 THE COURT: Anything else? Anything else?

10 MR. WILLIAMS: No, sir.

11 THE COURT: You may step down. Next witness, please.

12 MR. WATERS: Thank you. Your Honor, at this time we
13 call Maurice Williams.

14 MAURICE WILLIAMS, having been duly sworn, was examined
15 and testified as follows:

16 THE COURT: Maurice Williams, please.

17 THE CLERK: Please have a seat and then state your
18 full name for the record.

19 THE WITNESS: Maurice Williams.

20 DIRECT EXAMINATION

21 BY MR. WATERS:

22 Q. Mr. Williams, how are you doing today?

23 A. I'm fine. How are you doing?

24 Q. Can you speak up just a little bit so everybody can
25 hear you? Put that microphone up by your mouth.

MAURICE WILLIAMS - DIRECT/WATERS

- 1 A. I'm fine. How are you doing?
- 2 Q. Good. Good. If you would just start off, tell us a
3 little bit about yourself. Where do you live?
- 4 A. I live in Blackville.
- 5 Q. Okay. And where do you work?
- 6 A. I work at Denmark Technical College.
- 7 Q. What do you do?
- 8 A. I'm a grants accountant.
- 9 Q. Did you go to school there?
- 10 A. No. I went to school at Claflin University.
- 11 Q. Okay. And you said you were a grant accountant?
- 12 A. Yes, sir.
- 13 Q. How long have you been working there?
- 14 A. Six years.
- 15 Q. Did you know Tyrone Donaldson?
- 16 A. Yes, sir.
- 17 Q. Well, tell us how long you've known Ty, Tyrone. Tell
18 us about that.
- 19 A. Well, I've known him basically all my life growing up,
20 but I really got to know him for, like, the last five
21 years. We've been hanging buddies.
- 22 Q. And describe Tyrone a little bit to the jury.
- 23 A. Nice guy. Very friendly. Very family oriented. Love
24 his kids. That's basically him.
- 25 Q. Did he have some young kids he was taking care of?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Did he do a lot to take care of those kids?

3 A. Yes, sir.

4 Q. What are some of the things he would do?

5 A. Everything from dressing them, cooking for them,
6 taking them to play. Everything.

7 Q. Was Tyrone the kind of man to just up and leave
8 without telling somebody where he was?

9 A. No, sir. Not at all.

10 Q. Okay. Well, how would you and Tyrone hang out? Where
11 would you hang out?

12 A. Well, most of time we'd be at his house because he had
13 a little barn in the backyard which was considered like a
14 man cave. Had a TV, refrigerator, stove. We'd like watch
15 a lot of sports, cook, eat, just sit back there and just
16 chill.

17 Q. Okay. And, was Tyrone married prior to this?

18 A. Yes, sir. He did have a wife.

19 Q. And what happened?

20 A. She was deceased. She died in a car accident.

21 Q. Okay. And did he receive a settlement from that?

22 A. Yes, sir.

23 Q. Okay. So you guys would hang out in the man cave out
24 in the barn; is that right?

25 A. Yes, sir.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. Do you know Sammie Gerrick?

2 A. Yes, sir.

3 Q. Do you see him in the courtroom today?

4 A. Yes, sir.

5 Q. Can you point him out?

6 A. (Complying.)

7 MR. WATERS: Your Honor, can the record reflect he's
8 identified the Defendant?

9 THE COURT: Thank you.

10 BY MR. WATERS:

11 Q. Tell me how you got to know Sammie Gerrick.

12 A. Sammie Gerrick was kind of part of my family. He
13 dated my cousin. We was neighbors. We lived right next
14 door to each other.

15 Q. Okay. And did you ever hang out at Tyrone's with
16 Sammie Gerrick?

17 A. Yes, sir. Plenty times.

18 Q. And where would y'all hang out?

19 A. In the back, in the barn, just in the yard, anywhere,
20 just wherever we was at.

21 Q. Okay. Let me take you back to July of 2011. Do you
22 remember that month?

23 A. Yes, sir.

24 Q. Do you remember getting contacted about Sammie Gerrick
25 being in jail?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Well, start us at the beginning and tell us what
3 happened with that.

4 A. Well, it was on a Friday. I think it was like July
5 15th. I was actually with my girlfriend. We was at the
6 nail salon. She was getting her nails done. And I got a
7 call from Sammie Gerrick in jail asking me did I have any
8 money and how I had to contribute towards getting him out
9 of jail.

10 Q. Uh-huh.

11 A. And I stated that I only had \$2,500 which I was saving
12 up for a down payment on a house.

13 Q. So you were saving up that money for a down payment on
14 a house --

15 A. Yes, sir.

16 Q. -- is that correct? Okay. So that was your
17 response?

18 A. Yes, sir.

19 Q. And so what happened next? What did y'all discuss
20 after that?

21 A. Well, he told me, he actually told me to get with
22 Tyrone. And that was basically the end of that
23 conversation. Then I did get with Tyrone and that's when
24 he was telling me that Sammie was wanting us to get him
25 out of jail. And he was like he'll get back with me when

MAURICE WILLIAMS - DIRECT/WATERS

1 he find out how much it cost.

2 Q. Tyrone said that?

3 A. Yes, sir.

4 Q. Okay. So what happened next? Or what did you say
5 when Tyrone said that?

6 A. Well, I was kind of skeptical about it and I was
7 talking to Tyrone about it, but he was just, we just left
8 the conversation like that. I maybe say, are you sure we
9 want to do this. And went from there. And left it like
10 that.

11 Then he contacted me a couple days later with a price
12 letting me know how much it would cost to get him out.

13 Q. And how much was that?

14 A. That was \$6,600.

15 Q. And that was how much you were going to have to pay or
16 that was the total price?

17 A. No, actually he came up with a plan and he said he
18 couldn't -- Tyrone stated that he couldn't pay it all by
19 himself. And, you know, would I help him. Would I give
20 half.

21 Q. Uh-huh. And what did you say?

22 A. Well, that's when I was, I was asking, like, you know,
23 how are we going to get it back. When are we going to get
24 it back, you know. Just all kind of questions. And he
25 stated that Sam said he'd give it to us 30 minutes after

MAURICE WILLIAMS - DIRECT/WATERS

1 he get out of jail.

2 Q. So you were told that you were going to get your money
3 back the same day?

4 A. Same day.

5 Q. When you were told that, what did you decide to do?

6 A. Well, I was still kind of iffy-iffy but after Tyrone,
7 you know, he was like yeah, Murph, let's do it. He a good
8 dude. He looked out for me, you know what I'm saying. I
9 want to get him out.

10 So that's how that conversation went. And we decided
11 to meet at the bank on the morning of July 21st, 2011.
12 SRP Federal Credit Union.

13 Q. And that was you and Tyrone decided to meet?

14 A. Yes, sir.

15 Q. Okay. Is that what happened?

16 A. Yeah. We met at the bank. I actually got to the bank
17 before him. I didn't see him --

18 Q. Well, let me back up. Did you go to work that
19 morning?

20 A. Yeah. Well, I went to work that morning.

21 Q. Uh-huh.

22 A. And he called me and we was, like, well, we going to
23 get him today. Meet me at the bank. And that's why I
24 left work around ten o'clock. Called him. I got to SRP
25 before him. Called him. Hey, where are you at. I'm on

MAURICE WILLIAMS - DIRECT/WATERS

1 the way, Murph, I'll be there in five minutes.

2 Q. You're saying Murphy? Is that what you're saying,
3 Murphy?

4 A. Murph. That's my nickname. That's what they call me.

5 Q. Your nickname is Murphy?

6 A. Murph.

7 Q. Okay. Let me stop you just real quick. What was your
8 cell phone number at that time; do you recall?

9 A. It was [REDACTED]-1000.

10 Q. Okay. So, continue on.

11 A. I got to the bank before him. I called him, where you
12 at. He say, I'll be there in five minutes. So that's
13 when I decided to go ahead and get out my car. And I went
14 in the bank and I withdrew \$3300.

15 Q. Okay. And, let me pause you right there. I'm going
16 to show you what's been marked as State's Exhibit One and
17 see if you recognize that document.

18 A. Yes.

19 Q. And what is that?

20 A. That is a bank receipt from SRP Federal Credit Union.

21 Q. Is that your receipt?

22 A. Yes, sir.

23 Q. And how much is the amount showing that you withdrew?

24 A. \$3300.

25 Q. And what's the date and the time on there?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. It's 7-21-11 and 10:29 A.M.

2 MR. WATERS: Your Honor, at this time I'd move State's
3 Exhibit One into evidence.

4 MR. WILLIAMS: No objection.

5 THE COURT: Without objection.

6 (State's Exhibit No. 1, SRP receipt, received into
7 evidence.)

8 BY MR. WATERS:

9 Q. So that's the receipt from when you got out your money
10 to give to Tyrone; correct?

11 A. Right.

12 Q. All right. And so you gave that money to Tyrone?

13 A. Yes, sir. Well, I returned to my car after I got the
14 money and he came. He pulled up. Pulled up right in the
15 parking spot right next to me.

16 Q. Tyrone did?

17 A. Right. So I gets out my driver's door and gets in his
18 passenger door. And I sit in the car with him. We talked
19 maybe 10, 15 minutes. Conversation strike up about us
20 doing it again and like, he's like, let's do it. He going
21 to give us our money back.

22 And then the conversation went elsewheres. It was
23 about him getting married. He was thinking about marrying
24 again. He was thinking about moving to Myrtle Beach to be
25 closer to his brother or he was going to get a job at a

MAURICE WILLIAMS - DIRECT/WATERS

1 plant in Aiken called Rieter, whichever came first.

2 Q. So y'all talked a little bit about the deal for Sammie
3 and then you all just started talking about life and that
4 sort of thing?

5 A. Right, right.

6 Q. So what happened when you finished your conversation?

7 A. Well, we finished the conversation. I handed him the
8 money. And I told him I was going back to work. I got
9 out of my car. At that time he got out of his car. I got
10 in my car. I was going to work and I'm assuming he went
11 in the bank and got his money or whatever.

12 Q. Did you see him go inside?

13 A. He was walking towards it when I was pulling off.

14 Q. All right. So you went on back to work; right?

15 A. Yes, sir.

16 Q. All right. So you're back on the job?

17 A. Right.

18 Q. And what's the next thing that happens relevant to
19 this case?

20 A. Well, the next thing that happens, I gets a call and
21 it's from Tyrone. He was like, Murph, I got him. He
22 right here. I got him. We're on our way back to
23 Blackville. Do you want to talk to him?

24 Q. When he says I got him, who was he talking about?

25 A. He was referring to Sammie Gerrick. He had went and

MAURICE WILLIAMS - DIRECT/WATERS

1 bailed him out.

2 Q. The Defendant right over there?

3 A. Right.

4 Q. So he says, I got him, do you want to talk to him?

5 A. Right.

6 Q. So what happened?

7 A. Put Sammie Gerrick on the phone. And Sammie Gerrick
8 refers to me as Cuz sometimes. So he was, like, I
9 appreciate that Cuz. I appreciate y'all doing that for
10 me. We going to get the money. I'm going to bless y'all
11 boys. I'm going to bless y'all.

12 Q. When he said, I'm going to bless you all, what did he
13 mean by that?

14 A. He was insinuating that he was going to give us more
15 money than we gave him.

16 Q. Okay. And about what time was that again?

17 A. That was between one and 1:30. Between one and 1:30,
18 something like that.

19 Q. Okay. Did you have another conversation with either
20 Tyrone or Sammie?

21 A. Yes, sir. I had another conversation with Tyrone at
22 about two, between two and 2:30.

23 Q. Okay. And what happened in that conversation?

24 A. Well, he told me that he had dropped Sam, Sammie
25 Gerrick off home. Said he was going to change clothes and

MAURICE WILLIAMS - DIRECT/WATERS

1 he was -- Tyrone was returning to his house. He was
2 saying he was going to change cars and then he was going
3 back to get the money.

4 Q. So Tyrone said that he and Sammie were going back to
5 get the money; is that correct?

6 A. Right.

7 Q. And did he tell you when you should have your money or
8 when you should expect your money?

9 A. Well, yeah. He said -- Mr. Gerrick told me that
10 Tyrone should have my money when I get off work.

11 Q. Okay. And that was your understanding of the
12 agreement that Sammie was going to pay you back when he
13 got out of jail?

14 A. Right.

15 Q. Okay. When's the next time you tried to call these
16 folks or tried to figure out what was going on?

17 A. Well, I had no more contact with neither one of them.
18 And when I got off, my natural instinct was to call Tyrone
19 because I was checking on my money. So I called Tyrone
20 maybe 5:30 because I got off at 5:30. I called once, no
21 answer. So I waited a couple minutes, called back couple,
22 two, three more times, still no answer.

23 Q. Okay. And hold up real quick.

24 And what did you say your number was again?

25 A. [REDACTED]-1000.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. All right. I'm going to show you what's been marked
2 as State's Exhibit 14. And for example if we look right
3 there, █████-1000. Is that your phone number?

4 A. Yes, sir.

5 Q. And █████-0064, who are you calling there?

6 A. Tyrone.

7 Q. These calls right here are calls that you're making to
8 Tyrone?

9 A. Right.

10 Q. So calls at 1406; is that right? Is that a call?

11 A. Uh-huh.

12 Q. Now do you know how to read military time?

13 A. Kind of, sort of. Twelve hours, after 12 that's like
14 2:06.

15 Q. 2:06?

16 A. Uh-huh.

17 Q. What about three -- █████-9543, who is that?

18 A. That's Mr. Sammie Gerrick's number.

19 Q. That's the Defendant's number?

20 A. Right.

21 Q. Okay. So these are -- these records right here show
22 the calls between you and Tyrone and you and Sammie; is
23 that right?

24 A. Right.

25 Q. All right. So you started to call Tyrone to find out

MAURICE WILLIAMS - DIRECT/WATERS

1 what was going on; right?

2 A. Right.

3 Q. And what happened?

4 A. No answer.

5 Q. Was that unusual?

6 A. Yes, definitely, considering we had been talking all
7 day.

8 Q. Say that again.

9 A. I said, definitely unusual considering that we had
10 been talking all day.

11 Q. Okay. Well, how did that make you feel when all of a
12 sudden you couldn't get in touch with him?

13 A. Well, I didn't know how to feel. It was just -- I
14 didn't know. I didn't know what was going on. I was,
15 like, worried, where is he, you know, just worried.

16 Q. Did you find it unusual?

17 A. Yes, sir.

18 Q. Did you find it strange?

19 A. Yes, sir.

20 Q. Did you eventually go home that day?

21 A. Yes, sir.

22 Q. And did you talk to anybody when you got home?

23 A. Yes, sir.

24 Q. Who did you talk to?

25 A. I talked to Sammie Gerrick.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. And about what time was that?

2 A. I'd say between seven and eight o'clock.

3 Q. And, tell me what happened in that conversation.

4 A. Well, I got out of my car and I was walking to the
5 back of his house in which he was meeting me. He was
6 coming around. So must have seen me come pulling up or
7 something like that. And we met kind of like on the side
8 of the house.

9 Q. Okay. And, what did you say?

10 A. Well, he was, he asked me did I see Tyrone. And I was
11 like, no, the last time I talked to him y'all was
12 together. He was like, well, I gave him the money. He
13 got your money. I was like, I don't know where he at. He
14 won't answer the phone for me.

15 Q. Did he describe specifically how he gave Tyrone the
16 money?

17 A. Yes, sir.

18 Q. What did he say?

19 A. What he said was, we went out there and when we dug
20 that safe up and got it open --

21 Q. You say, we went out there. Did he say where?

22 A. He never said where. He just said, we went out there
23 and dug the safe up.

24 Q. Okay. And what happened? What did Sammie Gerrick say
25 after that?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. He said, when we got the safe open and Tyrone seen all
2 those hundred dollar bills, he kissed me on my forehead.

3 Q. And did he say how much money was there?

4 A. Well, he said between be 90- and \$100,000.

5 Q. And what did Sammie Gerrick tell you that he did with
6 this 90- to \$100,000?

7 A. What he stated was we took that money and we loaded
8 that little Honda down with money. Had the back of that
9 Honda loaded down with money because I didn't want to ride
10 with it in the truck.

11 Q. Uh-huh.

12 A. He was, like, Tyrone took off going his way and he
13 went his way.

14 Q. Okay. Did he ask you anything?

15 A. Yeah.

16 Q. What did he ask you?

17 A. He was like, he looked at me and then he said, do you
18 reckon that nigger took my money. And I was like, no, he
19 wouldn't do that. Only thing we wanted back was the money
20 that we gave you.

21 Q. Did he make any phone call around that time?

22 A. Yes, sir.

23 Q. Well, who did he -- were you standing there when he
24 made this phone call?

25 A. Yes, sir.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. And who did he -- what did he do?

2 A. He pulled his phone out and he called Tyrone phone and
3 he put it on speaker phone and it rung and rung and rung.
4 No answer. Voice mail picked up. Left a voice mail.

5 Q. Who left a voice mail?

6 A. Sammie Gerrick.

7 Q. What did it says?

8 A. Classmate, where you at. I'm worried about you.
9 Where you at. Everybody worried about you. Hung the
10 phone up.

11 Q. What did you do after that?

12 A. Well, I stood there and I was just looking. I looked
13 at him and then I couldn't look at him no more so I just
14 start looking at the ground. And he pulled out his phone
15 out and made another phone call.

16 Q. Okay.

17 A. This phone call was to Kelsea.

18 THE COURT: To who?

19 THE WITNESS: Kelsea.

20 BY MR. WATERS:

21 Q. Who is Kelsea?

22 A. Kelsea is Tyrone's sister-in-law.

23 Q. Okay.

24 A. Which is his wife's sister.

25 Q. All right. Did you hear that conversation?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Yes, sir.

2 Q. What did he say?

3 A. Well, he -- when she first answered the phone he said,
4 y'all still haven't talked to him. And she was like, no.
5 And he was, like, what time did y'all say he left. She
6 like, he left two-something. Said, he left with a gun
7 saying he was going to pick up some money.

8 Then he looked at me and I looked at him and he said
9 okay and he close his phone.

10 Q. Okay. And what did you do after that?

11 A. Nothing. I just -- we stood there for a minute.
12 Nobody really said nothing. And I was, like, well, if you
13 talk to him, you know, let me know. And I walked off and
14 I was going home.

15 Q. How were you feeling?

16 A. I was, it just -- like a nervous feeling, you know,
17 how you get a nervous, like bubble gut. I was just real
18 nervous. And I didn't know what was going on.

19 Q. Did you call anybody and tell them what was going on?

20 A. Yes, sir.

21 Q. Who did you call?

22 A. As soon as I got from his house and got to a friend of
23 my house, I called Jamaal Berry.

24 Q. And did you tell him what was going on?

25 A. Yeah. I told him, well, I asked him where he was,

MAURICE WILLIAMS - DIRECT/WATERS

1 first of all. And he said he was on his way to
2 Blackville. And so I told him to come by my house when he
3 get in Blackville.

4 Q. Okay.

5 A. And he came.

6 Q. Why did you call Jamaal?

7 A. I just kind of needed somebody to talk to and, like,
8 explain the situation to and get somebody else's insight
9 on it, see what somebody else thought about it.

10 Q. Okay.

11 A. And I kind of was, it was like I was suspecting
12 something fishy. And I was, like, well I know a lot and
13 if it is something fishy going on, you know, something
14 maybe could happen to me.

15 Q. Well, let me ask you this. Did you get anything
16 before you went to see Jamaal?

17 A. Did I get anything?

18 Q. Yeah. Did you take anything?

19 A. No.

20 Q. Okay. All right. Were you trying to continue to see
21 if you could get in touch with Tyrone?

22 A. Yeah. I probably called a couple more times later on
23 that night.

24 Q. What about the next day? Did you ever talk to Sammie
25 Gerrick the next day?

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Yes.

2 Q. Tell me what happened there.

3 A. Well, I went to work the next morning regular time,
4 8:30.

5 Q. Uh-huh.

6 A. I got a phone call from him. I'm not sure what time
7 it was.

8 Q. Right.

9 A. I'd say between nine and 10 o'clock. And he asked me
10 have I, you know, he was, like, you still haven't talked
11 to him. I was like, no, have you talked to him. And he
12 was, like, no.

13 And then that conversation kind of ceased and the rest
14 of the conversation was about getting me my money back.

15 Q. Okay.

16 A. He was, like, I'm going to get you your money back,
17 cuz, I gotcha.

18 Q. And that's what Sammie Gerrick told you, that he was
19 going to get you your money back?

20 A. Yeah. That was the next day.

21 Q. Had you heard from Tyrone at any point up to this
22 point?

23 A. Not at all.

24 Q. You met with police officers later on; is that right?

25 A. Right.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. Okay. And did you provide them some texts that Sammie
2 Gerrick had sent you to the police officers?

3 A. Yes, sir.

4 Q. Okay. Before we get to that though, let's go back to
5 July 22nd. That afternoon, did you receive a text that
6 you didn't recognize or that was unusual?

7 A. It was that night.

8 Q. And tell me about that. Tell me what happened with
9 that.

10 A. Well, I got a text. I'm not sure of the number. I
11 think it was the 8647 number but it was, like, maybe
12 nine-something that night.

13 Q. Uh-huh.

14 A. And the text stated, help me this Tyrone am hurt Kim
15 ex got me help please.

16 Q. Okay. And was it from a number that you recognized?

17 A. No. I never seen this number before.

18 Q. All right. And I'm going to show you what's been
19 marked as State's Exhibit 13.

20 Your Honor, I'd move this into evidence, I believe
21 without objection.

22 MR. WILLIAMS: No objection, Your Honor.

23 THE COURT: What is 13?

24 MR. WATERS: It is AT&T phone records?

25 (State's Exhibit No. 13, AT&T phone records, received

MAURICE WILLIAMS - DIRECT/WATERS

1 into evidence.)

2 BY MR. WATERS:

3 Q. And what was your number again?

4 A. It's [REDACTED]-1000.

5 Q. Okay. And I'm going to show you -- is that your
6 number, right here, item 23 on the last page of this
7 exhibit?

8 A. Yes, sir.

9 Q. And [REDACTED]-8647, is that the number that this
10 mysterious text came from?

11 A. Yes, sir.

12 Q. And it reflects about 9:29 at night?

13 A. Yes, sir.

14 Q. Okay. What did you think when you got that text?

15 A. Well, I was kind of puzzled because I was, like, Kim
16 ex got him, you know. If he's not using his phone, how is
17 he getting to a phone to text? And if somebody really had
18 him and he had access to a phone, he would call.

19 So it kind of puzzled me. I didn't think about it at
20 the moment, but that's what I was thinking.

21 Q. Did you call anybody else about this text?

22 A. Yes, sir.

23 Q. Who did you call?

24 A. I called Jamaal. And I was telling him about the text
25 that I got.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. Uh-huh.

2 A. And that's when he told me he got basically the same
3 text.

4 Q. Okay.

5 A. From the same number.

6 Q. When you later -- you talked to police days later; is
7 that right?

8 A. Right.

9 Q. And when you talked to the police, did you provide
10 them some texts that Sammie Gerrick had sent you?

11 A. Yes, sir.

12 Q. And you mentioned what the mysterious text, what it
13 said?

14 A. Right.

15 Q. And was there something unusual or interesting that
16 you noticed about that that stuck out in your mind about
17 the way that text was spelled?

18 A. Yes, sir. The way he spelled I'm, it was spelled am,
19 A-M instead of I-M.

20 Q. Was there somebody that you knew that did that same
21 thing as a matter of course?

22 A. Yes, sir. When I paid attention to it, I was like, I
23 know somebody else that text like that. So I went to
24 going through my phone and I have some texts from Sammie
25 Gerrick in there. And all the text in there where he used

MAURICE WILLIAMS - DIRECT/WATERS

1 the word I'm, he misspelled it A-M. The same exact way.

2 Q. And I'm going to show you what's been marked as

3 State's Exhibit Two and see if you recognize that.

4 A. Yes, sir.

5 Q. Okay. And can you read that to the jury?

6 THE COURT: Hold on a second.

7 MR. WATERS: Excuse me. My apologies.

8 MR. WILLIAMS: I have no objection, Your Honor.

9 THE COURT: Without objection.

10 (State's Exhibit No. 2, text message, received into
11 evidence.)

12 THE COURT: Go ahead.

13 MR. WATERS: Thank you, Your Honor.

14 THE WITNESS: It says, help me Tyrone am hurt Kim ex
15 got me help please.

16 BY MR. WATERS:

17 Q. Okay. And is that the text that you had received from
18 this mystery number?

19 A. Yes, sir.

20 Q. That used the word am in it?

21 A. Yes, sir.

22 MR. WATERS: I believe we have State's Two already in.
23 Court's indulgence one moment, Your Honor.

24 (Pause.)

25 Your Honor, I have State's Three and Four, I believe

MAURICE WILLIAMS - DIRECT/WATERS

1 are in evidence -- or I'd move into evidence without
2 objection.

3 MR. WILLIAMS: That's correct, Your Honor.

4 (State's Exhibit No. 3, text message, and State's
5 Exhibit No. 4, text message, received into evidence.)

6 BY MR. WATERS:

7 Q. So you said you went and looked at some other texts
8 that you had received from Sammie Gerrick; is that right?

9 A. Yes, sir.

10 Q. And ultimately you forwarded those to police when you
11 were interviewed by them; is that correct?

12 A. Right.

13 Q. I'm going to show you what is marked State's Exhibit
14 Three and see if you recognize that document.

15 A. Yes, sir.

16 Q. What is that?

17 A. That's a text message I received from Sam.

18 Q. And read it to the jury if you would, please.

19 A. It says, man am worried like hell didn't sleep or eat
20 dog damn man damn.

21 Q. And how is am spelled there?

22 A. It's the same way. It's supposed to be I'm, but it's
23 spelled A-M, am.

24 Q. All right. I want to show you what's been marked as
25 State's Exhibit Four and see if you recognize that.

MAURICE WILLIAMS - DIRECT/WATERS

1 A. Yes, sir.

2 Q. All right. And can you tell me what that is?

3 A. This is a text I got from him about paying me my money
4 back.

5 Q. And, can you read it to the jury, please?

6 A. It says, since they are playing games with me am
7 meeting with my lawyer in the morning he said he would get
8 this straight I'll call you later.

9 Q. And how did he spell the word I'm in this particular
10 text?

11 A. He spelled it A-M. Same way.

12 Q. All right. Thank you.

13 When you got that text from that mystery number, did
14 you try to call the number back or try to contact the
15 number?

16 A. Yeah. I actually called it a couple times.

17 Q. Did you get an answer?

18 A. No answer.

19 Q. Now you said that -- or did you ever see Sammie on
20 July 22nd, the day after Tyrone disappeared?

21 A. Yes, sir.

22 Q. All right. And did you notice anything about his
23 physical appearance on that day?

24 A. Yes, sir. When I seen him he had some scratch marks
25 on his chest, like, scratches.

MAURICE WILLIAMS - DIRECT/WATERS

1 Q. Did you ask him how that happened or did he tell you
2 how that happened?

3 A. Yeah. Because when I first seen him I was, like, damn
4 man, what happened to you right there.

5 Q. What did he tell you?

6 A. Well, he told me it came from when he was arrested and
7 he was tazed during, when they was arresting him and they
8 had him face down in the parking lot on the pavement. So
9 I guess he was insinuating that the pavement rubbed
10 against his chest and scratched him.

11 Q. So he told you that he had been tazed and that's where
12 the scratches came from?

13 A. He was tazed and put on the ground while he was being
14 arrested.

15 Q. And this was the day after Tyrone Donaldson had
16 dropped off the face of the earth?

17 A. Yes, sir. That was that Friday, the next day.

18 Q. Was it like Tyrone just to drop off the face of the
19 earth like this?

20 A. No.

21 Q. Did you ever call Sammie Gerrick and ask him to move
22 the white Honda so that you could collect some insurance
23 money?

24 A. No, sir.

25 Q. Do you have any idea what that's about?

MAURICE WILLIAMS - CROSS/WILLIAMS

1 A. No, sir. Not at all.

2 Q. Did Sammie Gerrick ever pay you back the \$3300 you
3 lent him?

4 A. No, sir.

5 Q. When you last talked to Tyrone, where did he say he
6 was going?

7 A. He said he was going to Sam house and they was going
8 to get the money.

9 Q. Did you ever hear from him again?

10 A. No, sir.

11 MR. WATERS: Nothing further, Your Honor.

12 MR. WILLIAMS: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WILLIAMS:

15 Q. When did you graduate from Clafflin?

16 A. When?

17 Q. Yes, sir.

18 A. 2006.

19 Q. And what is your degree in?

20 A. Business administration.

21 Q. And you're currently employed, college graduate with
22 Denmark Tech; correct?

23 A. Yes, sir.

24 Q. And you're a grants administrator?

25 A. Grants accountant.

MAURICE WILLIAMS - CROSS/WILLIAMS

1 Q. All right. And you know the importance of keeping
2 good records; correct?

3 A. Yes, sir.

4 Q. And you know the importance of complete records?

5 A. Yes, sir.

6 Q. And what you provided with police -- to the police in
7 State's Exhibit Two and Four and Three aren't the complete
8 phone record of yours; correct? They're not your complete
9 record of texts, are they?

10 A. Excuse me? What -- can you rephrase? What do you
11 mean by complete record of text?

12 Q. Well, in 14 we've got Sammie Gerrick's complete text
13 record. Do we have your complete text record?

14 A. I'm not sure. That's just what he told me to look at.

15 Q. Okay. At the top of each of these exhibits we have
16 August the 3rd at 10:42, August the 3rd at 10:32, and
17 August the 3rd at 10:41; correct?

18 A. I can't see that.

19 Q. Well, I'm sorry.

20 A. Yes, sir. That's what you said.

21 Q. And these are three texts from when you sent them to a
22 police officer; correct?

23 A. Yes, sir.

24 Q. That's not when you got these texts?

25 A. No, sir.

MAURICE WILLIAMS - CROSS/WILLIAMS

1 Q. And did you bring your complete phone records so we
2 can see all the texts that you had during this period of
3 time with various people?

4 A. I never brought any phone records. I brought the
5 phone itself.

6 Q. The phone itself. And do you know if they copied the
7 phone itself?

8 A. I'm not sure. The only thing I was told to forward
9 the text messages to the officers and that's what I did.

10 Q. But you didn't forward every text message to the
11 officer; did you?

12 A. No, sir.

13 Q. There's some you didn't forward; correct?

14 A. Yes, sir.

15 Q. And as a grants accountant, you know that that gives
16 an incomplete picture; correct?

17 A. It gives an incomplete picture of?

18 Q. Of what the entire texts are and what they all say.

19 A. Well, I was cooperating with the law. I was
20 forwarding the text messages that they asked me to send.

21 Q. And you sent them some of them; correct?

22 A. Right.

23 Q. Not all of them but some of them.

24 A. Yes, sir.

25 Q. And after this happened, you had two interviews with

MAURICE WILLIAMS - CROSS/WILLIAMS

1 the police; correct?

2 A. Yes, sir.

3 Q. You had an interview on July 25th; correct?

4 A. Yes, sir.

5 Q. And then seven days later you had another interview;
6 correct?

7 A. Yes, sir.

8 Q. And how well -- you've known Sammie Gerrick for a long
9 time; correct?

10 A. Yeah, for a good amount of years. Yes, sir. You
11 could say that.

12 Q. And he's been in a little trouble before; hasn't he?

13 A. I guess. I'm not sure.

14 Q. But you didn't mind bailing him out of jail; correct?

15 A. Well, I didn't mind helping Tyrone bailing him out of
16 jail.

17 Q. Do you text a lot? I'm older, so I don't do this as
18 much as younger people, but do you text a lot?

19 A. Yes, sir. I have my fair share of texting.

20 Q. And you acknowledge people use abbreviations in
21 texting; correct?

22 A. Yes, sir.

23 Q. And the abbreviation a person uses can change from
24 text to text; correct?

25 A. Yes, sir.

MAURICE WILLIAMS - CROSS/WILLIAMS

1 Q. For example, the little bit of texting I do do,
2 sometimes I'll spell to T-O and sometimes I put the number
3 two; correct?

4 A. Right.

5 Q. And that's a common thing; right?

6 A. Yes, sir.

7 Q. Some people spell and with just an N; correct?

8 A. With an N?

9 Q. Right. N. I've seen that.

10 A. I, I'm not sure. I don't do that.

11 Q. Okay. But you acknowledge it can change from text to
12 text?

13 A. Yes, it could.

14 Q. All right. And your cell number was [REDACTED]-1000?

15 A. Yes, sir.

16 Q. And when you went to the police the first time, did
17 you tell them everything you told us here today?

18 A. No, sir. Not the first time.

19 Q. All right. And you've told us that you went and
20 talked to Jamaal Berry on 7-21.

21 A. Yes, sir.

22 Q. That's the day you gave the \$3300 and told him you
23 thought something was fishy?

24 A. Yes, sir.

25 Q. You had that suspicion back then; correct?

MAURICE WILLIAMS - REDIRECT/WATERS

1 A. Yes, sir.

2 Q. Yet when you go to the police on July 25th you don't
3 tell them everything you've told this jury today; correct?

4 A. That's right.

5 Q. And in fact, it's a full week later, August the 2nd,
6 until we get this entire story that you're telling us here
7 today; correct?

8 A. Right.

9 Q. Do you have any other source of income other than your
10 job?

11 A. No, sir.

12 Q. Have you ever sold drugs?

13 A. No, sir.

14 Q. Never?

15 A. Never.

16 MR. WILLIAMS: No further questions.

17 THE COURT: Redirect, if any.

18 MR. WATERS: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. WATERS:

21 Q. You were asked a little bit about these text messages
22 that you forwarded to the police; right?

23 A. Yes, sir.

24 Q. And the Wednesday, August 3rd, that's the day that you
25 sent the message to the police, correct, not the day that

MAURICE WILLIAMS - REDIRECT/WATERS

1 Sammie Gerrick sent it to you; is that right?

2 A. No. I actually sent them to them on August the 2nd
3 when I was interviewed for the second time.

4 Q. Okay. But you weren't trying to say that was the
5 day. Obviously that wouldn't fit.

6 A. No.

7 Q. That's later on; right?

8 A. Yeah.

9 Q. Okay. And when he was asking about why you didn't
10 provide all of your complete records, is that what the
11 officers were asking you to do?

12 A. When?

13 Q. When they was asking you to send some texts?

14 A. Yeah. They was asking me to send those specific
15 texts. That's after I was cooperating with the law.

16 Q. So you sent the specific texts that you thought were
17 relevant to what law enforcement was asking about; is that
18 right?

19 A. Yes.

20 Q. And you sent every one that you thought was relevant;
21 is that correct?

22 A. Yes.

23 Q. Okay. And looking, for example, at this text in
24 State's Exhibit Three, man am worried like hell didn't
25 sleep or eat dog damn man damn; right? That's a text that

MAURICE WILLIAMS - REDIRECT/WATERS

1 Sammie sent to you; right?

2 A. Uh-huh.

3 Q. Then right here on State's Exhibit 15, is that that
4 same text?

5 A. That's the same text.

6 Q. And who does it say -- whose number is that that's
7 sending that text?

8 A. Sammie Gerrick.

9 Q. And who's the number receiving that text?

10 A. Mine.

11 Q. And what's the date and the time?

12 A. The date is -- the time -- July 22nd.

13 Q. Uh-huh.

14 A. And 9:03.

15 Q. Okay. All right. That's the text that Sammie sent
16 you; correct?

17 A. Right.

18 Q. And when you're up here testifying about these calls,
19 I mean, you're not sitting there with the records in your
20 hand. You're remembering what went on two years ago;
21 right?

22 A. Right.

23 Q. Okay. So it may not, you know, you're doing your best
24 to remember but nobody writes down every single phone call
25 they make; correct?

MAURICE WILLIAMS - REDIRECT/WATERS

1 A. Right.

2 Q. He asked you why, the first time you were interviewed
3 by police why you didn't tell them everything until the
4 second statement. Why was that?

5 A. Well, at that point Mr. Gerrick was still on the
6 streets and I was just thinking, like, I know a lot. And
7 I was just really afraid.

8 Q. You were scared?

9 A. I was scared.

10 Q. Of who?

11 A. Mr. Gerrick.

12 Q. So you were scared if you ran your mouth too much it
13 might come back on you?

14 A. Right.

15 Q. From who?

16 A. Mr. Gerrick.

17 Q. And you said you graduated from Claflin College?

18 A. Yes, sir.

19 Q. And you work at Denmark Technical as a grants
20 accountant?

21 A. Yes, sir.

22 Q. How long have you been doing that job?

23 A. Six years.

24 Q. Six years?

25 A. Yes, sir.

1 MR. WATERS: Okay. No further questions, Your Honor.

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

3 Everybody okay? Ready for a little bathroom break?

4 THE JUROR: Bathroom.

5 THE COURT: Bathroom? We're going to take about a
6 15-minute break. Ladies and gentlemen of the jury panel,
7 please do not discuss the case. Do not deliberate. If
8 you would, please, get me a foreperson. Let me know who
9 it is when you come back. If y'all would step out.
10 Everybody else remain seated, please.

11 (Jury exits courtroom at 2:50 P.M.)

12 THE COURT: Anything from the State before we take a
13 break?

14 MR. WATERS: No, sir, Your Honor.

15 THE COURT: By the Defendant?

16 MR. WILLIAMS: Nothing, Your Honor.

17 THE COURT: All right. We'll take about a 15-minute
18 break. Stretch your legs.

19 (Break taken. After the break at 3:06 P.M., the trial
20 resumed:)

21 THE COURT: Ready to proceed?

22 MR. WATERS: Yes, sir, Your Honor.

23 MR. WILLIAMS: The defense is ready, Your Honor.

24 (Jury enters courtroom at 3:07 P.M.)

25 THE COURT: Y'all got me a foreperson?

JOHN RICE - DIRECT/ANDERS

1 FOREPERSON OF THE JURY: Yes, sir.

2 THE COURT: Congratulations. You may call your next
3 witness.

4 MR. WATERS: Thank you.

5 MR. ANDERS: Thank you, Your Honor. State calls John
6 Rice.

7 JOHN RICE, having been duly sworn, was examined and
8 testified as follows:

9 THE CLERK: If you would, please, sir, be seated and
10 state your full name for the record. Okay?

11 THE WITNESS: John Rice.

12 DIRECT EXAMINATION

13 BY MR. ANDERS:

14 Q. Good afternoon, Mr. Rice.

15 A. Good afternoon.

16 THE COURT: Mr. Anders, can you move just a tad this
17 way so my alternate can see?

18 MR. ANDERS: How is that?

19 THE COURT: Good.

20 BY MR. ANDERS:

21 Q. Mr. Rice, can you tell the jury a little bit about
22 yourself, where you're employed currently?

23 A. I'm -- my name is John Rice. I'm currently employed
24 at Bamberg County Detention Center.

25 Q. How long have you been there?

JOHN RICE - DIRECT/ANDERS

1 A. Four years.

2 Q. And what are your duties at the detention center?

3 A. To watch over the inmates and make sure no happening,
4 no fights or anything occur in the jailhouse.

5 Q. And would you say you've had a lot of interaction with
6 the inmates there?

7 A. Yes, sir.

8 Q. Do you sort of get to know them?

9 A. Yes, sir.

10 Q. Were you employed at the Bamberg County Detention
11 Center in July of 2011?

12 A. Yes, sir.

13 Q. Did you have an occasion to encounter Sammie Gerrick
14 at that point?

15 A. Yes, sir.

16 Q. What's your relationship with Sammie Gerrick?

17 A. Well, we went to school at Denmark-Olar together.

18 Q. Is that a high school?

19 A. Yes.

20 Q. Okay. Four years?

21 A. Yes, sir.

22 Q. All right. And you encountered him in July of 2011;
23 correct?

24 A. Correct.

25 Q. And can you describe to the jury the interaction that

JOHN RICE - DIRECT/ANDERS

1 you had with him in 2011? Was there anything asked of you
2 by Sammie Gerrick at that point in time?

3 A. Well, I came to work that morning. He asked me to,
4 can he use the telephone, make a phone call to Tyrone
5 because he wanted to get out on bail for child support.
6 So, let him use the phone. He couldn't get in touch with
7 him.

8 So that afternoon he came back after lunch, asked us
9 can he use the phone again. And my little corporal told
10 me no, just go and tell him get the number and we'll
11 call. So we called Tyrone and --

12 Q. Let me just stop you for one second. So at some point
13 you started to make a call or made calls on behalf of the
14 Defendant?

15 A. Yes, sir.

16 Q. And who were those calls made to?

17 A. Tyrone.

18 Q. All right. And did you have a chance to -- what was
19 the substance of those phone calls?

20 A. For him to get him out of jail.

21 Q. And ask Tyrone for anything?

22 A. Well, he asked us, tell him that he needed \$6,000 to
23 get out.

24 Q. That was his bond?

25 A. Yes, sir.

JOHN RICE - DIRECT/ANDERS

1 Q. And at some point they connected; correct?

2 A. Yes, sir.

3 Q. Sammie connected with Tyrone. Did he ever call
4 Maurice?

5 A. No. I couldn't get in touch with Maurice. So he give
6 me a number to call Maurice that I called Maurice for.

7 Q. And you left a message?

8 A. Yes.

9 Q. And what was the substance of that message?

10 A. When we talked to Tyrone, Tyrone said he didn't have
11 all the money. He just had 3,000. Supposed to get in
12 contact with Maurice. Maurice said he had the other
13 3,000. So that's where we left it at that.

14 Q. So you were somewhat privy to that action, that plan
15 to get Sammie out?

16 A. Yes, sir.

17 Q. Well, what did Sammie say to you as far as Maurice and
18 Tyrone being paid back?

19 A. He said he will give them the money when he get out.

20 Q. He said that to you?

21 A. Yes.

22 Q. Do you recall when he got out?

23 A. Yes, sir.

24 Q. When was that?

25 A. He got out, like, between 11:15 and 12 o'clock.

JOHN RICE - DIRECT/ANDERS

1 Q. All right. And in your job, the interaction you have
2 with the inmates, you get to know them, you see them on a
3 daily basis. What was Sammie Gerrick's physical
4 appearance when he left the detention center?

5 A. He was healthy to me when he left.

6 Q. Any marks? Scratches?

7 A. Well, he had probably had scratches on him but that
8 come prior to when they brought him back to jail after
9 that escape.

10 Q. Okay. So that might have been a result of --

11 A. Uh-huh.

12 Q. -- that? Were there any serious marks upon his arms
13 and chest that you noticed?

14 A. I didn't notice because he had his uniform on.

15 Q. Okay. And what kind of uniform do they wear?

16 A. Orange.

17 Q. Well, that's the color --

18 A. Well, I mean, like --

19 Q. -- but, are they long arms?

20 A. Short arms.

21 Q. Short arms?

22 A. Long pants.

23 Q. Okay. And how about around the neck?

24 A. It's a V cut around the neck.

25 Q. Okay. All right. And you gave a statement.

JOHN RICE - CROSS/WILLIAMS

1 Everything you testified to today you gave a statement to
2 law enforcement?

3 A. Yes, sir.

4 Q. July 26th?

5 A. Yes.

6 Q. Okay.

7 MR. ANDERS: Beg the Court's indulgence, Your Honor.

8 (Pause.)

9 No further questions. Please answer any questions of
10 Mr. Williams.

11 THE COURT: Mr. Williams, any questions?

12 CROSS-EXAMINATION

13 BY MR. WILLIAMS:

14 Q. And in the statement you gave, Mr. Rice, there's also
15 an indication that he had some problems walking at one
16 point in time. He reported that to you?

17 A. No, he reported to me that his head was sore. He
18 didn't say nothing about walking.

19 Q. Head. And you agree this has been two years ago?

20 A. Close to two. Two, three years; yes, sir.

21 Q. And you agree your memory back then is probably better
22 than it is now?

23 A. No.

24 Q. No? Well, let me show you the report that you wrote.
25 And, you know, I could read it wrong too. So look about

JOHN RICE - REDIRECT/ANDERS

1 the third or fourth line. See if you see something about
2 him saying he had problems walking.

3 A. Said his head was swelling and he can't walk. That's
4 what he reported to me.

5 MR. WILLIAMS: Okay. I don't have anything further.

6 THE COURT: Anything else, Mr. Anders?

7 MR. ANDERS: Your Honor, just briefly since
8 Mr. Williams brought it up. May I approach?

9 THE COURT: You may.

10 REDIRECT EXAMINATION

11 BY MR. ANDERS:

12 Q. This was part of your supplemental statement, I
13 believe, to law enforcement. And this was given on July
14 26, 2011?

15 A. Uh-huh.

16 Q. Correct?

17 A. Yes, sir.

18 Q. If you could just read that right there for the jury,
19 please.

20 A. Any bruise marks or cuts to Sammie body, no.

21 MR. ANDERS: Thank you. No further questions.

22 THE COURT: All right. You may step down. Thank you,
23 Mr. Rice. Can he go back to Bamberg, go to work?

24 MR. WATERS: Yes, sir, Your Honor.

25 MR. ANDERS: Yes, sir.

TAYLOR SHARNELL WHITE - DIRECT/WATERS

1 THE COURT: Thank you, Mr. Rice.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Next witness?

4 MR. WATERS: Thank you, Judge. We call Taylor White.

5 THE COURT: Come around, please.

6 TAYLOR SHARNELL WHITE, having been duly sworn, was
7 examined and testified as follows:

8 THE CLERK: Be seated and then state your full name
9 for the record. Okay?

10 THE WITNESS: My name is Taylor Sharnell White.

11 DIRECT EXAMINATION

12 BY MR. WATERS:

13 Q. Hey, Ms. White. How are you doing today?

14 A. I'm fine.

15 Q. Tell me a little bit about yourself. Where do you
16 work?

17 A. I'm a nurse at Windsor Manor Nursing Home in
18 Summerton.

19 Q. Okay. And what shift do you work?

20 A. Seven A to seven P. In the morning.

21 Q. Okay. And are you also going to school?

22 A. Yes.

23 Q. Where are you going to school?

24 A. South Carolina State University.

25 Q. So working as a nurse and going school, too?

TAYLOR SHARNELL WHITE - DIRECT/WATERS

- 1 A. Yes.
- 2 Q. Pretty busy day; isn't it?
- 3 A. It is.
- 4 Q. Do you know Sammie Gerrick?
- 5 A. Yes.
- 6 Q. And do you see him in the courtroom?
- 7 A. Yes.
- 8 Q. Can you point him out?
- 9 A. Right there.
- 10 Q. Okay. And I want to take you back to July of 2011.
- 11 Do you recall the day that Tyrone Donaldson went missing?
- 12 A. Yes.
- 13 Q. And that was on July 21st, 2011?
- 14 A. Yeah.
- 15 Q. Okay. And let me ask you this. How did you know
- 16 Sammie Gerrick? How did you get to know him?
- 17 A. Well, I didn't know him, like, personally.
- 18 Q. Uh-huh.
- 19 A. I just knew of him. He was dating my boyfriend's mom
- 20 at the time, so.
- 21 Q. Okay. And who was he dating?
- 22 A. Claudette.
- 23 Q. Claudette. And then who were you dating?
- 24 A. Terrell.
- 25 Q. Terrell who?

TAYLOR SHARNELL WHITE - DIRECT/WATERS

1 A. Terrell.

2 Q. What's the last name?

3 A. Haynes.

4 Q. So Terrell Haynes was your boyfriend and his mom was
5 Claudette and Claudette was dating Sammie Gerrick; is that
6 right?

7 A. Yes.

8 Q. Is that kind of how you kind of got to know him?

9 A. Yeah.

10 Q. But you didn't know him well; right?

11 A. No.

12 Q. Does Terrell have a half-brother?

13 A. Yes.

14 Q. And who is that?

15 A. Bradley. Bradley Smith.

16 Q. On the evening of July 21st, where were you?

17 A. I was at Terrell's house.

18 Q. And at that time who was staying at Terrell's house?
19 Who was living there?

20 A. From the best of my knowledge, Claudette, Terrell,
21 Bradley and Sam.

22 THE COURT: Speak up for me, please.

23 THE WITNESS: Claudette, Bradley, Terrell and Sam.

24 BY MR. WATERS:

25 Q. And Sammie Gerrick was staying there, too?

TAYLOR SHARNELL WHITE - DIRECT/WATERS

1 A. Yes.

2 Q. What time did you happen to go over to that house to
3 visit Terrell?

4 A. Earlier that day. Maybe like four, 4:30.

5 Q. Okay. And did you ever see Sammie Gerrick on that
6 day?

7 A. Yes.

8 Q. And about what time was that, to your recollection?

9 A. I would say around 7:30.

10 Q. Okay. And tell me what -- tell me what the Defendant
11 did when you saw him that evening.

12 A. He came in through the slide door into the back of the
13 house. He went to the room. He came back out the room.
14 He went outside. He came back in carrying some clothes
15 and whatnot.

16 He went into the -- well, he passed through the living
17 room which is where we were sitting on the chair. He went
18 into the laundry room, came back out, went into the
19 bedroom, changed into a wife beater and some basketball
20 shorts and he went back outside.

21 Q. So he came inside. He went back out. He came back in
22 and he had something in his hand?

23 A. Yes.

24 Q. What did he have in his hand?

25 A. It looked like white clothes.

TAYLOR SHARNELL WHITE - DIRECT/WATERS

1 Q. Had some clothes in his hand?

2 A. Yeah.

3 Q. And he took them towards where?

4 A. The laundry room.

5 Q. And when he came back from the laundry room area, did
6 he have the clothes in his hand?

7 A. No.

8 Q. Okay. Then you say -- where did he go after that?

9 A. He went back to the bedroom.

10 Q. Okay. Did he take a shower?

11 A. I can't say.

12 Q. Okay. What happened when he came out?

13 A. When he came out he was changed into some black
14 basketball shorts and a white wife beater.

15 Q. And what was he wearing when he first came in?

16 A. Some jeans, some light jeans and a striped collared
17 shirt.

18 Q. And how long did you stay at Terrell's that evening?

19 A. I left about, I want to say maybe around 9:30, 10
20 o'clock.

21 Q. Okay. And was Sammie Gerrick there when you left?

22 A. At the -- he was. I was sitting in my car with
23 Terrell and he was speaking with Murph and --

24 Q. And is Murph Maurice Williams?

25 A. Yes.

TAYLOR SHARNELL WHITE - DIRECT/WATERS

1 Q. And do you know Maurice?

2 A. Yes.

3 Q. And then you ultimately -- where did you go? You went
4 home?

5 A. Yeah. I went -- well, I had to pick up someone but I
6 went home.

7 Q. Okay. Did you him observe Mr. Gerrick make any
8 comment a few days later after Tyrone disappeared?

9 A. Not really. I --

10 Q. Well, let me ask you this. Were you over at
11 Claudette's house when you saw a pink car go down the
12 road?

13 A. Yes, I was there that day.

14 Q. And whose pink car was that?

15 A. I have -- I don't know, honestly. I seen the pink car
16 out the window because I was there that day --

17 Q. Right.

18 A. -- but...

19 Q. What was your understanding whose car that belonged
20 to?

21 A. From my understanding it was supposed to be Tyrone
22 sister car.

23 Q. And was Mr. Gerrick there when the pink car went down
24 the road?

25 A. Yes.

TAYLOR SHARNELL WHITE - CROSS/WILLIAMS

1 Q. And what did he do?

2 A. He called Officer Holston.

3 Q. Did he say anything before he called Chief Holston?

4 A. He was, like -- after he looked out the window, he's
5 like, I'm going to call Holston about this. Something of
6 that sort.

7 Q. Okay. So he saw the pink car coming down the road, he
8 looked out the window and said, I'm going to call Chief
9 Holston about this thing; is that accurate?

10 A. Yes.

11 Q. And so what did he do after that?

12 A. He went outside.

13 Q. Okay. Did he have his phone with him?

14 A. I really wasn't paying that any attention.

15 Q. Okay. But you heard him say that and then he went
16 outside?

17 A. Yes.

18 Q. Okay. All right. No further questions, Your Honor.

19 THE COURT: Cross, if any.

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q. Ms. White, are you still dating Mr. Haynes?

23 A. Yes.

24 Q. He still lives in Blackville?

25 A. Yes, sort of.

TAYLOR SHARNELL WHITE - CROSS/WILLIAMS

1 Q. Same address, same address?

2 A. Well, sort of. He goes to school in Orangeburg as
3 well.

4 Q. Okay. And you gave a fairly detailed description
5 about what Mr. Gerrick was wearing when he came in; is
6 that correct?

7 A. Yes.

8 Q. And you indicated he was wearing light jeans?

9 A. Yes.

10 Q. And you indicated he was wearing a brown and a white
11 striped shirt?

12 A. Yes.

13 Q. You didn't notice what kind of shoes he had on?

14 A. No.

15 Q. But you did notice a good deal of detail about them;
16 correct?

17 A. Yeah, because when he walked in he spoke which brought
18 my attention straight to him.

19 Q. Sure. And he wasn't covered with dirt and mud and
20 clay and all of that; was he?

21 A. No, sir.

22 Q. And you indicated he brought some white clothes in?

23 A. Yes.

24 Q. To wash them; correct?

25 A. Yes, sir.

BRADLEY LAMONT SMITH - DIRECT/WATERS

1 Q. Nothing out of the ordinary about those white clothes;
2 correct?

3 A. No, sir.

4 Q. They were clean; correct? Well, not covered with
5 mud.

6 A. Yes, sir.

7 MR. WILLIAMS: Thank you. No further questions.

8 THE COURT: Redirect, if any.

9 MR. WATERS: Very quickly.

10 REDIRECT EXAMINATION

11 BY MR. WATERS:

12 Q. When the Defendant went outside and he was talking
13 with Murph, what was he doing?

14 A. They would -- they were just standing --

15 MR. WILLIAMS: Your Honor.

16 THE COURT: Hold on. Hold on.

17 MR. WILLIAMS: Your Honor, that's beyond the scope
18 of --

19 THE COURT: Sustained.

20 MR. WATERS: Thank you, Judge.

21 THE COURT: You may step down. Next witness?

22 MR. WATERS: Your Honor, we would call Bradley Smith.

23 BRADLEY LAMONT SMITH, having been duly sworn, was
24 examined and testified as follows:

25 THE CLERK: Please be seated and state your full name

BRADLEY LAMONT SMITH - DIRECT/WATERS

1 for the record. Okay?

2 THE COURT: Have a seat up there and speak up for us,
3 please.

4 THE WITNESS: Bradley Lamont Smith.

5 DIRECT EXAMINATION

6 BY MR. WATERS:

7 Q. Mr. Smith, how are you doing today?

8 A. All right.

9 Q. Where are you from?

10 A. Blackville, South Carolina.

11 Q. You lived there all your life?

12 A. Yes, sir.

13 Q. And what do you do for a living?

14 A. I work at Masonite Door and Plant in Denmark, South
15 Carolina.

16 Q. How long have you been working there?

17 A. About eight months.

18 Q. Okay. Do you know the Defendant, Sammie Gerrick?

19 A. Yes, I do.

20 Q. Do you see him in the courtroom?

21 A. Yes.

22 Q. Can you point to him?

23 A. (Complying.)

24 Q. Okay. Tell us how you know Sammie Gerrick.

25 A. He dated my mother.

BRADLEY LAMONT SMITH - DIRECT/WATERS

1 Q. Now who's your mother?

2 A. Claudette Daniels.

3 Q. And how long was he dating your mother; do you recall?

4 A. I'd say about eight years, eight, seven, something
5 like that.

6 Q. And what time frame? What years, roughly, are we
7 talking about?

8 A. I'd say early 2000s.

9 Q. Early 2000s?

10 A. Uh-huh.

11 Q. Okay. And were they dating in July of 2011?

12 A. Yes.

13 Q. And where were you living back in July of 2011?

14 A. With my mother.

15 Q. All right. And anybody else living there?

16 A. My brother.

17 Q. And who's that?

18 A. Terrell Haynes.

19 Q. And anybody else living there?

20 A. My mother and Sam.

21 Q. And Sammie was living there?

22 A. Yes.

23 Q. The Defendant?

24 A. Yes.

25 Q. All right. And you and Terrell y'all are

BRADLEY LAMONT SMITH - DIRECT/WATERS

1 half-brothers; right?

2 A. Yes.

3 Q. And Claudette is y'all's mama; correct?

4 A. Yes.

5 Q. Do you know Tyrone Donaldson?

6 A. Yes, I know him.

7 Q. How long have you been knowing him?

8 A. I knew him a long -- a good while.

9 Q. Okay. Do you remember the day that Tyrone Donaldson
10 went missing?

11 A. Yes.

12 Q. And did you see Tyrone Donaldson and Sammie Gerrick on
13 that day?

14 A. Yes.

15 Q. And tell us about that if you would. About what time
16 was it, first?

17 A. I think about one o'clock, one, two o'clock, somewhere
18 around in there.

19 Q. Okay. And tell us what you observed.

20 A. Tyrone pulled up. Sam was in the car with him. He
21 dropped him off. Sam came in the house, changed. Tyrone
22 left. Tyrone probably about 30, 40 minutes later came
23 back. Tyrone was sitting outside on the phone. I looked
24 out the window and saw him. Then Sam came out the room,
25 got in the car with him. And they talked and he got back

BRADLEY LAMONT SMITH - DIRECT/WATERS

1 out the car, went behind the barn, grabbed two shovels,
2 put them in the back of his pickup truck. And he pulled
3 out first, then Tyrone pulled out after.

4 Q. So Sammie went out to the barn and picked up two
5 shovels --

6 A. Yes.

7 Q. -- out of the barn and put them in his truck and then
8 what happened after that? They left?

9 A. Sam left first and Tyrone followed behind him.

10 Q. And Tyrone followed behind Sammie Gerrick?

11 A. Yes.

12 Q. Did you see Sammie Gerrick later on that evening?

13 A. Yes. Probably about 10 o'clock.

14 Q. Okay. And did you notice anything unusual about him?

15 A. Yeah. You could tell something was wrong.

16 Q. And explain what you mean. How could you tell
17 something was wrong?

18 A. Because he was sitting outside on the step for hours.
19 He just looked -- just looked like he was facing -- like
20 he had a lot on his mind.

21 Q. Was that unusual?

22 A. Yes.

23 Q. Did you ever see him do that before?

24 A. No.

25 Q. Did you -- did y'all put down some sod at your house?

BRADLEY LAMONT SMITH - CROSS/WILLIAMS

1 A. Yes.

2 Q. Who put down the sod?

3 A. Me, Sam, Terrell and my mother.

4 Q. Okay. And did that sod have some sort of green
5 netting or something with it?

6 A. Yes.

7 Q. And how long before Tyrone went missing did that take
8 place?

9 A. That probably been about a year or probably a little
10 more.

11 Q. All right. No further. Please answer any questions
12 the defense may have.

13 THE COURT: Mr. Williams?

14 CROSS-EXAMINATION

15 BY MR. WILLIAMS:

16 Q. Now, you saw Sammie on the stoop at 10?

17 A. Yes.

18 Q. How long was he on the stoop?

19 A. I'd say probably about till 12.

20 Q. For two hours?

21 A. Yeah, something like that. Outside on the stoop.

22 Q. And this was on July 24th?

23 A. Yeah, the same day.

24 Q. And you saw him from ten o'clock until two o'clock on
25 the stoop?

BRADLEY LAMONT SMITH - CROSS/WILLIAMS

1 A. I said 12.

2 Q. I'm sorry. Twelve o'clock. Two hours?

3 A. Uh-huh.

4 Q. Now, where were you at when he got the shovel, shovels
5 or wherever?

6 A. I was standing at the slide door. You can see through
7 it.

8 Q. And was anybody else home with you?

9 A. My brother was.

10 Q. That's Terrell?

11 A. Yes.

12 Q. Did he see the same -- well...

13 A. No, he didn't.

14 Q. Okay. Did you have any conversations with Sammie
15 prior to him leaving with --

16 A. No.

17 Q. -- Tyrone?

18 A. No.

19 Q. Okay.

20 MR. WILLIAMS: No further questions.

21 THE COURT: Redirect, if any.

22 MR. WATERS: Nothing further, Your Honor.

23 THE COURT: You may step down. Next witness.

24 MR. WATERS: State calls Shaneka DeLoach.

25 SHANEKA LAKEISHA DELOACH, having been duly sworn, was

SHANEKA LAKEISHA DeLOACH - DIRECT/WATERS

1 examined and testified as follows:

2 THE CLERK: If you'll sit down and state your name for
3 me for the record.

4 THE WITNESS: My name is Shaneka Lakeisha DeLoach.

5 DIRECT EXAMINATION

6 BY MR. WATERS:

7 Q. Ms. DeLoach, how are you doing today?

8 A. I'm fine.

9 Q. Did you know Tyrone Donaldson?

10 A. Yes.

11 Q. Could you tell the jury how you knew Tyrone Donaldson?

12 A. Tyrone Donaldson is related to me.

13 Q. Okay. And can you tell us how?

14 A. That's my grandmother nephew.

15 Q. And how long have you been knowing him?

16 A. All my life.

17 Q. All your life. And how about Sammie Gerrick, do you
18 know Sammie Gerrick?

19 A. Personally I don't know him, but I know him from being
20 around in the area.

21 Q. So you just know him from in the community?

22 A. Right.

23 Q. And so you know him to recognize him, though; right?

24 A. Yes.

25 Q. Do you see him in the courtroom today?

SHANEKA LAKEISHA DeLOACH - DIRECT/WATERS

- 1 A. Yes.
- 2 Q. Can you point him it.
- 3 A. He right there.
- 4 Q. Do you recall the day that Tyrone went missing?
- 5 A. Yes.
- 6 Q. July 21st, 2011?
- 7 A. Yes.
- 8 Q. Okay. And on that particular day, did you ever
- 9 observe Sammie Gerrick or Tyrone Donaldson?
- 10 A. Yes, I did.
- 11 Q. And what time was that?
- 12 A. Around 3:15 P.M.
- 13 Q. All right. And where were you when you observed them?
- 14 A. I was at the Subway store in Blackville.
- 15 THE COURT: I'm sorry. Where?
- 16 THE WITNESS: Subway.
- 17 THE COURT: Subway.
- 18 BY MR. WATERS:
- 19 Q. And do you know what road that is?
- 20 A. That's Highway 70.
- 21 Q. Is it Highway 78?
- 22 A. Yes.
- 23 Q. You said that's a Subway store?
- 24 A. Yes.
- 25 Q. Were you at the Subway store?

SHANEKA LAKEISHA DeLOACH - DIRECT/WATERS

1 A. I was, yes.

2 Q. And who were you there with?

3 A. My husband.

4 Q. And what were y'all doing?

5 A. I was sitting in the car. My husband was pumping gas.

6 Q. Okay. So you were just sitting in the car looking
7 around waiting to be finished; right?

8 A. Right.

9 Q. And who did you see?

10 A. Across the street at BP, I seen Tyrone sitting in the
11 car. Tyrone never got out his car. And Sam was standing
12 to the driver's side talking to Tyrone. And I kept
13 noticing that they could have been fussing because he was
14 moving his hands and like looking real mean or whatever.

15 Q. Who was moving his hands?

16 A. Sam was moving his hands talking to Tyrone.

17 Q. So he was moving his hands around like that
18 (indicating)?

19 A. Right.

20 Q. And what about his face, what was his face like?

21 A. Sam face?

22 Q. Yeah.

23 A. He could have been looking mean.

24 Q. Okay. And they were -- he was talking -- well, let me
25 ask you this. Did you see their automobiles?

SHANEKA LAKEISHA DeLOACH - DIRECT/WATERS

1 A. Yes. Tyrone was in a white Honda Civic and Sam was in
2 a burgundy, I think that's a Dodge truck.

3 Q. He was in a truck?

4 A. Yes.

5 Q. Is that a truck that you know Sammie to have from
6 being in the community?

7 A. Yes.

8 Q. And how were the cars parked? Were they parked near
9 each other? Were they facing each other? Can you --

10 A. No, Sam truck was park in like towards Barnwell. He
11 was more closer to the gas pump. And Tyrone car was --
12 excuse me. I got it wrong.

13 Tyrone car was facing Blackville way and Sam truck was
14 turned towards Denmark way.

15 Q. They were kind of parked next to each other facing
16 opposite directions?

17 A. Right, but not too close. Right.

18 Q. And Sammie Gerrick was out of his car standing next to
19 Tyrone's car?

20 A. Right.

21 Q. And did you see Tyrone?

22 A. No. Tyrone never got out the car.

23 Q. Okay. And did Tyrone's car, did it have tint on it?

24 A. Yes.

25 Q. But you saw Sammie Gerrick talking and carrying on a

SHANEKA LAKEISHA DeLOACH - DIRECT/WATERS

1 conversation?

2 A. Right.

3 Q. Standing next to the car?

4 A. Right.

5 Q. With the person in the car?

6 A. Right.

7 Q. Okay. And what happened when they left? Did he leave
8 the --

9 A. Yeah, they left. But I can't remember which direction
10 Tyrone went but I know Sam spin off real fast, kicking
11 dirt down towards Denmark way. But I can't remember which
12 way Tyrone went.

13 Q. Okay. So he went sort of, I guess that would be east
14 down Highway 78?

15 A. Right.

16 Q. Okay. All right. Well, tell us why is it that you
17 remember this? Why did it stick out in your mind?

18 A. Because after I heard that he was missing, you know, I
19 had called his sister and I told her that I seen them at
20 that BP gas station. And she asked me, you know, would I,
21 you know, write a statement that I saw them. And I told
22 her yeah.

23 Q. So later on in the day that Tyrone went missing you
24 heard about it and thought about it and said, yeah, I saw
25 those two together?

SHANEKA LAKEISHA DeLOACH - CROSS/WILLIAMS

1 A. Right.

2 Q. Okay. And you told the family about that?

3 A. Right.

4 MR. WATERS: Okay. Nothing further, Your Honor.

5 THE COURT: Mr. Williams.

6 CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q. Ms. DeLoach, you're related to Tyrone so you knew him
9 fairly well; correct?

10 A. Right.

11 Q. And you knew that car that he drove; correct?

12 A. Right.

13 Q. But you didn't see him, you saw and recognized the
14 car; correct?

15 A. Right.

16 Q. But you don't know Sammie Gerrick that well; right?

17 A. No, I don't.

18 Q. And some people move their arms like this (indicating)
19 when they talk and some people don't; correct?

20 A. Yes.

21 Q. Okay. You agree with that; correct?

22 A. Yes.

23 Q. And you were over at the, across the highway, across
24 Highway 78 at the BP station; correct?

25 A. No, I wasn't at BP station. They was at BP station.

1 Q. I got them mixed up.

2 A. Right.

3 Q. I'm sorry. You were at Subway.

4 A. Right.

5 Q. Kelvin's?

6 A. Right.

7 Q. And so you didn't hear anything; right?

8 A. No, I didn't.

9 Q. And you saw one car heading this way and one car
10 heading that way?

11 A. Right.

12 Q. And you saw Tyrone -- no, I'm sorry. You saw Sammie
13 going down toward Denmark way?

14 A. Right.

15 Q. And you don't know where Tyrone went?

16 A. I can't remember; right.

17 Q. This is at 3:15?

18 A. Around that time.

19 MR. WILLIAMS: Thank you, ma'am.

20 THE COURT: Hold on one second, please.

21 MR. WATERS: Nothing further, Your Honor.

22 THE COURT: Thank you. You may step down. May be
23 excused if you'd like. You're welcome to stay.

24 Next witness, please.

25 MR. WATERS: Your Honor, the State calls Jamaal Berry.

JAMAAL BERRY - DIRECT/WATERS

1 THE COURT: Mr. Berry, come around.

2 JAMAAL BERRY, having been duly sworn, was examined and
3 testified as follows:

4 THE CLERK: Please be seated and state your full name
5 for the record.

6 THE WITNESS: Jamaal Kenneth Berry.

7 DIRECT EXAMINATION

8 BY MR. WATERS:

9 Q. Mr. Berry, how are you doing today?

10 A. All right.

11 Q. If you would, tell the jury where you're from.

12 A. I'm from Barnwell.

13 Q. Okay. And how long have you lived there?

14 A. Till I was about 17 and then I moved to Blackville.

15 Q. Is that where you live now?

16 A. Yes, sir.

17 Q. All right. And a little nervous?

18 A. Yeah.

19 Q. It's all right. Everybody is nervous in the
20 courtroom. What do you do? What do you do for a living?

21 A. I work at Plant Voghtl in Waynesboro, Georgia. I'm a
22 electrical apprentice.

23 Q. An electrical apprentice?

24 A. Yes, sir.

25 THE COURT: I'm sorry, what?

JAMAAL BERRY - DIRECT/WATERS

1 THE WITNESS: Apprentice.

2 BY MR. WATERS:

3 Q. And how long have you been working there?

4 A. About eight months.

5 Q. About eight months. Okay. How about Tyrone

6 Donaldson, did you know him?

7 A. Yes, sir.

8 Q. And tell us how you knew Tyrone.

9 A. I met him through his cousin, Roger Donaldson, after
10 his wife passed.

11 Q. After his wife passed?

12 A. Yes.

13 Q. And you met him through his cousin?

14 A. Yes, sir.

15 Q. Did you start hanging out with Tyrone?

16 A. Yes, sir.

17 Q. And tell us about that. Where did you start hanging
18 out with him? How did you all hang out?

19 A. He had a barn in his backyard and we all hung out
20 there.

21 Q. Is that the man cave?

22 A. Yes, sir.

23 Q. Well, tell us about the man cave. What was in there?

24 A. TV, cook, bed, and we'd play cards.

25 Q. Just a place for the fellows to hang out; right?

JAMAAL BERRY - DIRECT/WATERS

- 1 A. Yes, sir.
- 2 Q. Watch the game?
- 3 A. Yes, sir.
- 4 Q. How about the Defendant, Sammie Gerrick; do you know
5 him?
- 6 A. Yes, sir.
- 7 Q. Do you see him in the courtroom today?
- 8 A. Yes, sir.
- 9 Q. Can you point him out?
- 10 A. (Complying.)
- 11 Q. How did you know Sammie Gerrick?
- 12 A. I met him through Tyrone.
- 13 Q. And how did you meet him through Tyrone?
- 14 A. He used to be there also with us sometimes.
- 15 Q. So he'd sometimes come and hang out at the man cave?
- 16 A. Yes, sir.
- 17 Q. Did you know him that well?
- 18 A. Not really.
- 19 Q. How long did you know Tyrone, do you think, before
20 Tyrone passed?
- 21 A. I guess maybe a couple months after his wife passed.
22 I don't know, like, two, three years.
- 23 Q. And you met Sammie through Tyrone then?
- 24 A. Yes, sir.
- 25 Q. What about Maurice Williams; do you know him?

JAMAAL BERRY - DIRECT/WATERS

1 A. Yes, sir.

2 Q. And how do you know Maurice?

3 A. When I moved to Blackville he stayed near my
4 grandmother.

5 Q. And y'all became friends?

6 A. Yes, sir.

7 Q. Were y'all best friends?

8 A. I would consider him one of my best friends; yes, sir.

9 Q. One of your best friends. And Maurice goes by Murph
10 sometimes; is that right? Is that his nickname?

11 A. Yes, sir.

12 Q. And would he hang out at the barn, too?

13 A. Yes, sir.

14 Q. All right. Do you remember the day that Tyrone went
15 missing; right?

16 A. Yes, sir.

17 Q. July 21st, 2011?

18 A. Yes, sir.

19 Q. How did you first find out that he was missing; do you
20 recall?

21 A. Kim called me, his girlfriend at the time, asked me
22 had I seen or talked him to him that day and I told her
23 that I hadn't seen him.

24 Q. And did you receive a call from anybody else asking
25 about Tyrone that you recall?

JAMAAL BERRY - DIRECT/WATERS

- 1 A. Murph called me that evening.
- 2 Q. And Murph, you mean Maurice?
- 3 A. Yes, sir; Maurice Williams.
- 4 Q. Okay. And so Maurice calls you later on that evening?
- 5 A. Yes, sir.
- 6 Q. And what did he ask you to do?
- 7 A. He needed to talk to me real bad. Come to Blackville
- 8 right now.
- 9 Q. So he asked you to come over?
- 10 A. Yes, sir.
- 11 Q. And did you do that?
- 12 A. Yes, sir.
- 13 Q. About what time was that, do you think?
- 14 A. Probably just getting dark, I guess. Maybe like eight
- 15 or nine. I think I mentioned to him that Kim had been
- 16 calling saying she hadn't talked to him all day and that's
- 17 when he told me to come to Blackville.
- 18 Q. So you went over?
- 19 A. Yes, sir.
- 20 Q. Did he tell you what was going on with Sammie Gerrick
- 21 and the money?
- 22 A. Yes, sir.
- 23 Q. What was Maurice's demeanor like? What was his -- how
- 24 was he acting?
- 25 A. Well, he came outside. He had his gun in his lap.

JAMAAL BERRY - DIRECT/WATERS

1 And I could tell he was scared, something happened. And
2 he was really scared.

3 Q. He seemed scared?

4 A. Yes, sir.

5 Q. And did he tell you what all was going on?

6 A. Told me everything.

7 Q. All right. Did you -- at any time did you try to
8 contact Sammie Gerrick that day that you recall?

9 A. Not that day; no, sir.

10 Q. Okay. What about the next day? That would be July
11 22nd, 2011; right?

12 A. Yes, sir.

13 Q. And first of all, what was your number? What was your
14 cell phone number back then; do you recall?

15 A. Same as it is now. [REDACTED]-0970.

16 Q. Okay. [REDACTED]-0970?

17 A. Yes, sir.

18 Q. Did you receive an unusual text the day after Tyrone
19 disappeared?

20 A. Yes, sir.

21 Q. And tell me about that text. Tell me what happened
22 with that.

23 A. Help me I'm hurt Kim's ex-husband has me or something
24 similar to that or whatever.

25 Q. And was it from a number that you recognized?

JAMAAL BERRY - DIRECT/WATERS

1 A. Never seen it before.

2 Q. All right. Court's indulgence one moment.

3 (Pause.)

4 All right. I'm going to show you what's been marked
5 as State's Exhibit 13. And I'm going to ask you to look
6 right here down at line number 19. Is that your number
7 right there, the recipient, [REDACTED]-0970?

8 A. Yes, sir.

9 Q. And it shows it coming in from [REDACTED]-8647; is that
10 right?

11 A. Yes, sir.

12 Q. At 8:47 P.M.?

13 A. Yes, sir.

14 Q. Is that the number where you received that unusual
15 text from?

16 A. Yes, sir.

17 Q. Do you recall if you texted that number back after you
18 received any communication?

19 A. I think I said where are you, or that's all I could
20 have said. I mean, I don't remember but it says that I
21 text back so I know that's the only thing that I could
22 have said.

23 Q. It's been two years.

24 A. Yes, sir.

25 Q. But you may have texted it back or something trying --

JAMAAL BERRY - DIRECT/WATERS

- 1 A. Trying to figure out who it was.
- 2 Q. -- to figure out who it was and what was going on?
- 3 A. Yes, sir.
- 4 Q. Did you get any response?
- 5 A. No, sir.
- 6 Q. Did you try to call that number to your recollection?
- 7 A. I may have.
- 8 Q. May have?
- 9 A. I don't really remember.
- 10 Q. Did you get any response? Do you remember getting any
- 11 response whether by text or phone call?
- 12 A. I never got either.
- 13 Q. All right. Did you call anybody about -- once you
- 14 received that text, did you call anybody to talk about it?
- 15 A. I think I may have called Murph. Me and Murph and
- 16 Kelsea talked. I don't remember who called who, but we
- 17 all talked because we all got the same message.
- 18 Q. So you don't remember who called, what order it was?
- 19 A. All same message.
- 20 Q. Because you all three got that message; correct?
- 21 A. Yes, sir.
- 22 Q. When you got the text, did you call the Defendant?
- 23 A. Yes, sir.
- 24 Q. All right. And did he answer the phone? Did you talk
- 25 to him?

JAMAAL BERRY - DIRECT/WATERS

1 A. Yes, sir.

2 Q. And what did he say?

3 A. I told him about the text and he was, like, I told you
4 it wasn't me. Maybe this will take some heat off me, or
5 something like that.

6 Q. So you called Sammie and said, hey, I just got this
7 text that said, hey it's Tyrone I'm hurt. And you called
8 Sammie and he says, I told you I didn't do it, maybe this
9 will take the heat off me?

10 A. Yes, sir.

11 Q. And do you remember about when you called Sammie? Was
12 it the same night that you got that text?

13 A. Yeah, probably after I talked to Kelsea and Murph.
14 Couldn't have been no more than 30 minutes after.

15 Q. Okay. I'm going to show you right here on what's been
16 marked as State's Exhibit 15. And is that your number
17 right there, the second line from the top of that page?

18 A. Yes, sir.

19 Q. Okay. And is that Sammie Gerrick's number right
20 there?

21 A. I think so. I guess. I don't know his number.

22 Q. Okay.

23 A. Not by heart anyway.

24 Q. Not by heart?

25 A. No, sir.

JAMAAL BERRY - CROSS/WILLIAMS

1 Q. What's the date on that?

2 A. 7-22-2011. 2135.

3 Q. 2135?

4 A. Yes, sir.

5 MR. WATERS: Nothing further, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q. You got this message that you think was funny on, what
9 day?

10 A. Say that again.

11 Q. What day did you get this text message?

12 A. Friday the 22nd.

13 Q. The 22nd of July?

14 A. Yes, sir.

15 Q. And you gave a statement to the police about that on
16 August the 2nd?

17 A. I guess. I don't know.

18 Q. Ten days later?

19 A. Yes, sir.

20 Q. You waited 10 days to tell the police about it?

21 A. Yes, sir.

22 Q. You and Murphy are best friends?

23 A. Yes, sir.

24 Q. And Murphy when you saw him that night had a gun?

25 A. Yes, sir.

JAMAAL BERRY - CROSS/WILLIAMS

1 Q. Is that correct?

2 A. Yes, sir.

3 Q. And Murphy told you this story that he said he heard
4 from Sammie about this safe being buried out in the woods?

5 A. He told me all of that.

6 Q. Yeah. And it was like \$190,000 in the safe?

7 A. Something like that.

8 Q. Yeah. You got that from Murphy; right?

9 A. Yes, sir.

10 Q. And you never heard that from Sammie, did you? You
11 heard that from Murphy.

12 A. I did. I didn't talked to Sammie that day.

13 Q. Okay. And so when you heard that story and, you know,
14 you're friends with Murphy, you waited 10 days until you
15 went to the police with these messages; correct?

16 A. Yes, sir.

17 Q. And do you know if the police has your entire phone
18 record like they do Sammie Gerrick's?

19 A. I don't know.

20 Q. You don't know whether they looked at your records
21 like they have Sammie's?

22 A. I guess.

23 Q. And you know that Sammie and Tyrone were good friends;
24 correct?

25 A. It appeared that way.

JAMAAL BERRY - REDIRECT/WATERS

1 Q. Y'all hung out together; right?

2 A. Yes, sir.

3 Q. We keep hearing about Kim's ex. Who was Kim's ex?

4 A. Andre Smith.

5 Q. Andre?

6 A. Yes, sir.

7 MR. WILLIAMS: All right. Thank you.

8 MR. WATERS: Very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. WATERS:

11 Q. Mr. Williams asked you about the story that Murph,
12 that Maurice Williams told you when he asked you to come
13 over because he needed to talk to you; right?

14 A. Yes, sir.

15 Q. And what he told you was what he said Sammie Gerrick
16 had told him about that safe in the woods; is that right?

17 A. Yes, sir.

18 Q. About digging up the safe out in the woods and putting
19 that money in Tyrone's car?

20 A. Yes, sir.

21 Q. And that's what Maurice said that Sammie Gerrick told
22 him; is that right?

23 A. Yes, sir.

24 Q. Your best friend who called you over and was scared?

25 A. Yes, sir.

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 Q. He was scared; wasn't he?

2 A. Yes, sir.

3 Q. You know your best friend and he looked scared; didn't
4 he?

5 A. He said if anything happened to him tell the police
6 Sam did something to me.

7 MR. WATERS: Thank you very much.

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

9 MR. WILLIAMS: One question.

10 THE COURT: One.

11 RE-CROSS-EXAMINATION

12 BY MR. WILLIAMS:

13 Q. Have you ever used Tyrone's credit card?

14 A. No, sir. Never even seen it.

15 THE COURT: All right. You may step down. Next
16 witness.

17 MR. ANDERS: The State calls Kelsea Hallingquest.

18 KELSEA DAMESHIA HALLINGQUEST, having been duly sworn,
19 was examined and testified as follows:

20 THE CLERK: If you would, please have a seat and state
21 your full name for the record; okay?

22 THE WITNESS: My name's Kelsea Dameshia Hallingquest.

23 DIRECT EXAMINATION

24 BY MR. ANDERS:

25 Q. Kelsea, if you would tell the jury a little bit about

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 yourself, where you're from, where did you grow up, what
2 schools did you attend.

3 A. I'm from Blackville. I grew up in Blackville and I go
4 to USC-Salkehatchie in Allendale, South Carolina.

5 Q. Are you there currently?

6 A. Yes, sir.

7 Q. What are you studying?

8 A. Nursing.

9 Q. And let the jury know, what was your relationship with
10 Tyrone Donaldson?

11 A. I was Tyrone Donaldson's sister-in-law.

12 THE COURT: Sister-in-law?

13 THE WITNESS: (Nods head); yes, sir.

14 THE COURT: Thank you.

15 BY MR. ANDERS:

16 Q. And I believe there's been some testimony today about
17 your sister. How did she, how did she pass?

18 A. My sister pass in a car accident in 2009.

19 Q. That was 2009?

20 A. Yes, sir.

21 Q. Did you live with Tyrone and your sister at that
22 point?

23 A. I lived with Tyrone after my mother passed.

24 Q. Okay. And in July of 2011, where were you living?

25 A. With Tyrone Donaldson.

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 Q. And how long had you been living with him at that
2 point?

3 A. Since that March.

4 Q. Okay. And who was he dating at the time?

5 A. Kim. Shauntie -- Shaunta.

6 Q. And you would help out with the children?

7 A. Yes, sir.

8 Q. All right. I want to take you back to 2011. Could
9 you tell the jury what you recall happened that day?

10 A. I got up that -- when I got up, Tyrone was already
11 up. And he asked me, he came in the house and he asked me
12 would I keep the girls and I said, yeah, because it was
13 just like any other day. But when he came in the house he
14 left again. And when he came back he changed his shoes
15 and that wasn't the normal thing, and he left again.

16 Q. All right. So when you got up he was up and he left?

17 A. Uh-huh.

18 Q. About what time was that?

19 A. I don't remember the time. I just know it was in the
20 morning.

21 Q. Early morning or late morning?

22 A. Late morning.

23 Q. Okay. Did he tell you where he was going?

24 A. I just knew he was going. I knew he was going to get
25 Sammie out of jail, but I didn't know what jail he was in.

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 Q. Okay. And then did he take something with him at that
2 point?

3 A. After he came back the second time.

4 Q. Okay. So he comes back after that; correct?

5 A. Yes, sir.

6 Q. All right. What happens at that point?

7 A. When he left he took his shotgun with him.

8 Q. All right. So he came back. What time did he arrive
9 back at your house?

10 A. It was after one. I don't know the exact time. It
11 was after one o'clock.

12 Q. So at that point, what happens?

13 A. When he left that was the last time I seen him.

14 Q. And at that point did he take something with him?

15 A. Yes.

16 Q. What did he take with him?

17 A. A shotgun.

18 Q. Did he tell you where he was going?

19 A. No.

20 Q. Okay.

21 A. He didn't tell me where he was going. He was just
22 telling me, you know, he was leaving.

23 Q. He just said -- did he ask you to take care of the
24 girls?

25 A. Uh-huh.

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 Q. And he said he was leaving?

2 A. Uh-huh.

3 Q. Did you speak to Tyrone again that day?

4 A. No.

5 Q. Did you try?

6 A. Yes.

7 Q. How did you try?

8 A. Called and text. Tried to call him but he wouldn't
9 ever answer the phone.

10 Q. Because you're watching the children?

11 A. Yes, sir.

12 Q. What did you do when you couldn't get a response?

13 A. I called. I knew that he hung -- I knew who his
14 friends are, and I tried to call them but, I mean, I
15 couldn't get anybody.

16 Q. Do you recall names? Did you call one person? Three
17 people? Do you recall?

18 A. I called two other people and Sam.

19 Q. Were you worried at that point?

20 A. Yeah, because he didn't answer.

21 Q. What was your phone number in 2011?

22 A. [REDACTED]-6083.

23 Q. Is that your phone number today?

24 A. Yes, sir.

25 Q. Would you tell the jury about a text that you received

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 around July 21st and 22nd, when that was that you received
2 that text?

3 A. It was after seven o'clock. It was getting dark. And
4 I was on my way back to Blackville. It say, help me
5 sister-in-law Kim ex-husband got me am hurt.

6 Q. That was on the 22nd?

7 A. Uh-huh.

8 Q. All right. One more time. I'm sorry. What did the
9 text read?

10 A. Help me sister-in-law Kim ex-husband got me am hurt.

11 Q. Did Tyrone Donaldson, how did he refer to you when
12 y'all were talking?

13 A. I was either Kelsea or his sister. I was never his
14 sister-in-law.

15 Q. He never used that phrase?

16 A. He never called me sister-in-law.

17 Q. He would never use sister-in-law?

18 A. No.

19 Q. But that's what the text read?

20 A. Yes.

21 Q. Did you recognize the number --

22 A. No.

23 Q. -- from where the text originated?

24 A. No, sir.

25 Q. Had you ever seen that number before?

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 A. No, sir.

2 Q. Did you learn about any other texts that other people
3 might have received around that time?

4 A. Yes.

5 Q. All right. Could you tell the jury how you found out
6 about those texts?

7 A. Because I called, I talked to Jamaal.

8 Q. Jamaal received a text?

9 A. Uh-huh.

10 Q. Anybody else to your knowledge receive one of those
11 texts?

12 A. Maurice.

13 Q. Maurice Williamson?

14 A. Yes, sir.

15 Q. Williams. Do you know when they received those
16 texts?

17 A. The same night.

18 Q. Okay. Can you describe the mood late July 21st and
19 July 22nd around your house and around the community?

20 A. I can't really describe it.

21 Q. People were missing him?

22 A. Uh-huh.

23 Q. Trying to find him?

24 A. Everybody was.

25 Q. Do you recall July 22nd, the events that occurred on

KELSEA DAMESHIA HALLINGQUEST - DIRECT/ANDERS

1 July 22nd, 2011?

2 A. Yes.

3 Q. Do you recall receiving a phone call from Lana Joyner?

4 A. Yes.

5 Q. What did she say?

6 A. She just told me about the car that was found in
7 Orangeburg.

8 THE COURT: Speak up for me, please.

9 THE WITNESS: She just told me about the car that was
10 found in Orangeburg.

11 BY MR. ANDERS:

12 Q. When did she call you; do you recall?

13 A. I don't remember the time.

14 THE COURT: Who was it that called you?

15 THE WITNESS: Lana Joyner.

16 THE COURT: Spell the last name.

17 THE WITNESS: J-O-Y-N-E-R.

18 THE COURT: Joyner?

19 THE WITNESS: Uh-huh.

20 THE COURT: Thank you.

21 BY MR. ANDERS:

22 Q. Did she tell you where she found it?

23 A. Yes, sir.

24 Q. Where was that?

25 A. Behind a China -- Chinese place.

KELSEA DAMESHIA HALLINGQUEST - CROSS/WILLIAMS

1 Q. China Express?

2 A. China Express.

3 Q. Did she tell you how she found it?

4 A. She was just, she was just -- told me she was on her
5 way from work.

6 Q. All right. And so she called you. What did you do
7 after that?

8 A. I let the family know.

9 Q. Okay. Did you do anything else?

10 A. Yes, sir. I went to Orangeburg.

11 Q. Did you alert the Blackville Police Department?

12 A. Yes, sir.

13 Q. How long had you lived with Tyrone Donaldson before he
14 went missing on July 21st?

15 A. Since March.

16 Q. Total? In all those years?

17 A. No. I was back and forth, but I know, from July I had
18 just came back in March.

19 Q. Did he ever lend you his ATM or bank card?

20 A. No.

21 Q. To your knowledge did he lend anybody in his family
22 that bank card?

23 A. No.

24 MR. ANDERS: Beg the Court's indulgence. (Pause.)

25 No further questions.

KELSEA DAMESHIA HALLINGQUEST - CROSS/WILLIAMS

CROSS-EXAMINATION

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BY MR. WILLIAMS:

Q. Ms. Hallingquest, you indicated that when Tyrone didn't come home right away you couldn't hear from him, you contacted Sammie but you also called two other people?

A. Uh-huh.

Q. Who were those?

A. I knew I called -- I don't remember the other person but I knew it was Terrell.

Q. Terrell?

A. Haynes.

Q. Who's -- do you remember the other person?

A. Huh-uh.

Q. Did you look back at your phone records to see who that was?

A. No, sir.

Q. And the shotgun that was in the closet that he took with him was in a camouflage shotgun case; is that right?

A. Yes, sir.

Q. And you first spoke with the police, I think, on July 22nd; correct?

A. Yes, sir.

Q. And you told them about this message you got; correct?

A. Uh-huh.

Q. Is that right?

JOHN HOLSTON - DIRECT/ANDERS

1 A. Yes, sir.

2 Q. And you told them that at that time you thought it was
3 from Tyrone, correct, at least at that time?

4 A. I don't remember saying that.

5 Q. All right. Let me hand you your voluntary statement
6 dated July 22nd and ask you to look at the bottom of that
7 first long paragraph.

8 A. Uh-huh.

9 Q. And, in fact, did you tell them at least at that time
10 that you thought it was really from him?

11 A. I said I really believed it was him but Tyrone never
12 called me sister-in-law.

13 MR. WILLIAMS: Thank you. That's all the questions I
14 have.

15 THE COURT: Redirect.

16 MR. ANDERS: Nothing further, Your Honor.

17 THE COURT: Thank you. You may step down,
18 Ms. Hallingquest. Next witness, please.

19 MR. ANDERS: Your Honor, the State calls Chief John
20 Holston.

21 JOHN HOLSTON, having been duly sworn, was examined and
22 testified as follows:

23 THE CLERK: If you would, please sir, have a seat and
24 state your name for the record.

25 THE WITNESS: John Holston.

JOHN HOLSTON - DIRECT/ANDERS

1 (State's Exhibit Nos. 17, 19 through 22, photographs,
2 marked for identification.)

3 DIRECT EXAMINATION

4 BY MR. ANDERS:

5 Q. If you would, tell the jury a little bit about
6 yourself and your experience in law enforcement.

7 A. Well, my name is John Holston. I'm currently employed
8 with the Blackville Police Department as the Chief of
9 Police. I've been in law enforcement now for
10 approximately 18 years. I worked as a school resource
11 officer, a deputy on patrol, a patrol sergeant, a patrol
12 lieutenant, and I conducted numerous investigations
13 involving different types of criminal actions from...

14 Q. All right. Can you give the jury just a brief
15 overview of what you did in regards to this case?

16 A. Yes, I can.

17 On July 22nd, 2011, my agency was contacted by
18 Ms. Carol Bracey who is the mother of Tyrone Donaldson.
19 And she informed us that her son, she believed her son was
20 missing because he had not come home the night before
21 which would have been the 21st. That herself and other
22 family members had been trying to contact him via
23 telephone and no -- they weren't able to contact him.

24 Q. And you interviewed several people; correct?

25 A. Yes, we did. We -- in addition to Ms. Bracey, we also

JOHN HOLSTON - DIRECT/ANDERS

1 talked with Miss Kelsea Hallingquest. I also talked to
2 with Ms. Smith, Shaunta Smith and also through the course
3 of the investigation we talked with individuals from SRP
4 Federal Credit Union as well as Enterprise Bank.

5 Q. And at that point it is a missing person's case?

6 A. That's correct.

7 Q. And what was your conclusion after talking to those
8 witnesses and these people that were part of the family?

9 A. Well, we concluded that, you know, Mr. Donaldson, that
10 Tyrone's -- that him being missing, it was, it was out the
11 the ordinary for him. And that, you know, based on the
12 information that we had received that we needed to expand
13 and continue our investigation into this matter.

14 Q. On July 22nd were you contacted by the Orangeburg
15 Department of Public Safety?

16 A. Yeah. During the course of our investigation we
17 gathered information on the vehicle which Mr. Donaldson
18 was last seen driving which was a white Honda Civic. His
19 information along with the information of that vehicle was
20 entered into NCIC which is the National Crime Information
21 Center as a missing person and also the vehicle
22 information.

23 We were contacted by a representative from Orangeburg
24 Public Safety advising that they had located a vehicle
25 matching that description. After they confirmed the

JOHN HOLSTON - DIRECT/ANDERS

1 information we entered in NCIC, they'd notified us it was
2 indeed the vehicle that was last seen driven by
3 Mr. Donaldson.

4 Q. All right. And that vehicle was found where?

5 A. It was found in Orangeburg. I can't remember the
6 exact street, but it was behind the Chinese restaurant in
7 Orangeburg, South Carolina.

8 Q. And the date they found it was what?

9 A. That was on July 22nd.

10 Q. Okay. And had you or anyone else that you spoke to,
11 had they heard or had you heard from Mr. Donaldson during
12 that period of time?

13 A. No.

14 Q. When was the first time that you contacted the
15 Defendant, Sammie Gerrick?

16 A. I believe I spoke to Mr. Gerrick on the 22nd of July.

17 Q. Okay. And why did you contact him?

18 A. Well, it was brought to our attention through the
19 initial investigation that Mr. Gerrick was, had been in
20 the company of Mr. Donaldson the last time that he had
21 been seen.

22 Q. Where did you talk to Mr. Gerrick?

23 A. At my, at my office at the police department.

24 Q. And do you recall what he told you on July 22nd?

25 A. Well, he, he did state that Tyrone had gotten him out

JOHN HOLSTON - DIRECT/ANDERS

1 of jail and that he and Tyrone had been together that day.

2 He said that they had gone to the bank. He had cashed
3 a check at the -- he had gone to the bank, Enterprise Bank
4 and had cashed a check and that he and Mr. Donaldson left
5 the bank, then went to the Junior Food Mart which is the
6 BP station in Blackville. He said that they were there
7 for a while and they talked and that that was the last
8 time that he had seen Mr. Donaldson when they were, when
9 they left the BP station.

10 Q. Do you recall the next time that you spoke with Sammie
11 Gerrick?

12 A. I don't remember the specific date.

13 Q. Okay. Was it after you located the vehicle?

14 A. Yes. It was after we located the vehicle.

15 Q. If I told you July 3rd, does that sound correct to
16 you?

17 A. July 30th?

18 Q. I'm sorry. July 23rd?

19 A. July 23rd?

20 Q. Yes.

21 A. Yes.

22 Q. Do you recall where you spoke with Mr., the Defendant
23 Mr. Gerrick, that day?

24 A. That would have been also at the police department.

25 Q. Do you recall what he told you on that date?

JOHN HOLSTON - DIRECT/ANDERS

1 A. Well, I know he had mentioned about the -- well, I had
2 asked him about the ATM card. And he stated that he had
3 had -- that he did indeed have Mr. Donaldson's ATM card
4 and that Mr. Donaldson had given him his ATM card.

5 MR. ANDERS: May I approach, Your Honor?

6 Q. Chief Holston, I'm handing you what's been marked as
7 State's Exhibit Seven. What is that?

8 A. It's a written statement given to law enforcement by
9 Mr. Sammie L. Gerrick.

10 Q. Did you witness that statement?

11 A. I did.

12 Q. And when was that statement given?

13 A. 7-23-2011 at the hour of 1:58 A.M.

14 Q. And how many pages does that consist of?

15 A. It consists of two pages.

16 Q. Okay.

17 MR. ANDERS: Your Honor, at this time the State would
18 move this into evidence.

19 MR. WILLIAMS: No objection, Your Honor,
20 (State's Exhibit No. 7, Gerrick statement, received
21 into evidence.)

22 MR. ANDERS: Your Honor, permission to publish?

23 Q. Chief Holston, if you would, I know it's hard, the
24 handwriting's not the greatest, but could you read that
25 for the jury, please?

JOHN HOLSTON - DIRECT/ANDERS

1 A. When I was in Bamberg County Jail I had no way of
2 contacting so, to the fact of being sentenced to six
3 months in jail for child support. While being sentenced I
4 received some more charges by leaving out of the
5 courthouse and pushing down a sheriff's officer and
6 running through the door at the courthouse.

7 I was then arrested cross over from the Piggly
8 Wiggly. Then taken to the Bamberg, to Bamberg Hospital
9 and having X-rays -- I believe that's bone -- bone. They
10 doctor said there was nothing wrong so Bamberg Sheriff
11 carried me to jail.

12 I couldn't walk. They rolled me to the sheriff's car
13 in a wheelchair, then dragged me in back seat of the car.
14 And, looks like burst my pants. Once entering the cell
15 and change my clothes while I was trying on -- that looks
16 like mat -- once they changed my clothes they then
17 administered me any phone call I could get up -- I could
18 get up and I didn't have any water to do. Later Johnette,
19 and he's got Rice with his initials next to it, came on
20 and asked me -- and I honestly can't -- and that may be
21 who.

22 Q. It's hard.

23 A. To get some water. He then get me a cooler. So --
24 and I think that's am, and I put in my room and sat it
25 right beside me. I mean to go, me a cup of water to drink

JOHN HOLSTON - DIRECT/ANDERS

1 there. I asked him to call Tyrone for me and tell him to
2 please come get me. They're doing me wrong.

3 So Mr. Johnell didn't -- so Mr. Johnell called him
4 twice. No answer but ignored. Said he called back but
5 did not, but didn't know who to talk to. So the next day
6 Johnell got Tyrone and Tyrone told me, told Mr. Rice that
7 he will be here on Monday.

8 He never showed up. Johnell called him again. Then
9 let me talk to him so Slash told me that he had to go to
10 court about that \$12,000 check he cashed that he wasn't
11 supposed to, so he had to pay that back. I said okay.
12 Then you coming to get me. He said he called Johnell that
13 Thursday morning and said I -- said, tell Sam he got the
14 money and he is on the way. I said okay.

15 And says -- I can't make that word A, and I don't know
16 exactly what that is, but looks like it says many up,
17 got -- looks like it says money up to Bamberg to get me.
18 We then left the jail in a white Honda Civic. Tyrone
19 looks like -- I don't know if that's brought. I think
20 that's brought me home.

21 I got out of the car to my home and told him I needed
22 to get cleaned up. I then went in, shave, cut my hair and
23 showered. After I did that, me and Tyrone went to
24 Enterprise Bank for, cash my check \$104.

25 And I can't make out -- to, something, after cashing

JOHN HOLSTON - DIRECT/ANDERS

1 my check I went to JR's Mart driving my 1998 Dodge pickup
2 to put \$30 worth of gas in my truck while Tyrone was still
3 driving the white Honda Civic. After paying my gas and
4 talking with Tyrone he told me to chill out, take it easy,
5 and we're going to play cards. So I said, just give me a
6 call and I'll be over there to skin you guys.

7 I told him I was going home. He said he was going
8 home. After we departed I have not seen or heard from my
9 partner again.

10 Q. Thank you.

11 A. You're welcome.

12 Q. So on July 22nd, it tells you the basic outline of
13 what -- he gave you the first story?

14 A. Yes.

15 Q. That he was bonded out, that he went by the bank, they
16 went to Junior Food Mart, separated, never to see him
17 again?

18 A. Yes.

19 Q. On July 23rd, it's a little bit different. Tells you
20 a little bit more; doesn't he?

21 A. Yes.

22 Q. He brings up the ATM card. He admits to using that
23 card; correct?

24 A. Yes.

25 Q. And he says he's going to skin you guys which means,

JOHN HOLSTON - DIRECT/ANDERS

1 what?

2 A. I guess that's a card term.

3 Q. Possibly. Okay. Or possibly pay him?

4 A. I'm not certain.

5 Q. Gotcha. But he's giving a little bit more information
6 in this interview?

7 A. Yes.

8 Q. Do you recall anything else that was different about
9 the second interview than the first interview?

10 A. Yeah. He gave just a little bit more detail.

11 Q. Did you notice any marks on the Defendant during that
12 second interview?

13 A. Yeah. During the second interview, I did notice that
14 there was some scratches across the victim -- I mean,
15 across Mr. Gerrick's arms and across his chest.

16 MR. ANDERS: May I approach, Your Honor?

17 Q. I'm going to hand you State's Exhibit 17, 19, 20, 21,
18 22. What are those pictures of?

19 A. Yes, sir.

20 MR. WILLIAMS: I haven't seen those.

21 THE COURT: Hold on. Show them to the defense.

22 MR. ANDERS: (Complying.)

23 MR. WILLIAMS: Without objection.

24 BY MR. ANDERS:

25 Q. Did you take those pictures, Chief Holston?

JOHN HOLSTON - DIRECT/ANDERS

1 A. I did.

2 Q. Is that a fair and accurate depiction of what you saw
3 on the Defendant that day?

4 A. They are.

5 Q. Okay. Your Honor --

6 THE COURT: What date is that, please?

7 MR. ANDERS: Your Honor, this is July 23rd, 2011.

8 Your Honor, at this time we'd move to enter those into
9 evidence.

10 THE COURT: Without objection?

11 MR. WILLIAMS: No objection.

12 (State's Exhibit Nos. 17, 19, 20, 21, and 22,
13 photographs, received into evidence.)

14 MR. ANDERS: Permission to publish, Your Honor?

15 THE COURT: Any more questions, Mr. Anders?

16 MR. ANDERS: Your Honor, beg the Court's indulgence
17 one more second.

18 (Pause.)

19 BY MR. ANDERS:

20 Q. Chief Holston, do you recall Sammie Gerrick calling
21 you on July 30th, 2011?

22 A. I do.

23 Q. And what was the substance of that conversation?

24 A. Well, I was -- I was at home and my cell phone rang
25 and it was Sammie Gerrick. And at that time I had his

JOHN HOLSTON - DIRECT/ANDERS

1 number. And the phone that I had was actually programmed
2 with his name to the number. I answered the phone and it
3 was Sammie on the other line. And he said --

4 THE COURT: Hold on one second.

5 (Pause.)

6 THE COURT: Re-ask the question.

7 MR. ANDERS: Thank you, Your Honor.

8 Q. Chief Holston, who contacted you on July 30th, 2011?

9 A. Sammie Gerrick. And as I said, I was at home and my
10 cell phone rang. And I -- it was Sammie. At that time
11 the phone that I had, I had his number programmed in. I
12 had his name. And so when it rang it showed up Sammie.

13 And when I answered the phone he said that, he said
14 Tyrone, Tyrone's not -- he not dead, he said. He said,
15 they've got him. He said that Black's got Tyrone and they
16 want \$25,000 in cash for him. He said, I don't have that
17 kind of money, but I'll do anything to get him back. And
18 he said -- but then he said, I don't want to do this by
19 myself. I'm going to need some backup.

20 At that time I explained to him, I said, well, I said,
21 do you know where he got him. He said, over around
22 Springfield. And he said, that's -- and he started, he
23 said that, that's where Black was from.

24 And at that time I told him, I said, well, if you
25 would just, if you'd ask them to send what I referred to

JOHN HOLSTON - DIRECT/ANDERS

1 at that point as some, can you ask them to send some proof
2 of life. And he said, he said, man, he said, I'll do
3 anything. And then at that time, I said, well do me this,
4 I said, if they call you back, get more information and
5 then call me back and then we'll see where we'll go from
6 there.

7 And then that was the end of the conversation.

8 Q. Could he provide any information about Black?

9 A. No. Just that, the only thing he just said he was
10 from around Springfield but nothing beyond that.

11 Q. What was your reaction to that?

12 A. Well, truthfully, I was, I was puzzled. And I was
13 also concerned because, you know, that he was, he was
14 calling me asking me essentially to come and to go with
15 him to, you know, to go and look or go get Tyrone.

16 Q. I believe you testified the first thing he asked you
17 for was money?

18 A. Yes.

19 Q. 25,000?

20 A. \$25,000.

21 Q. And then he wanted backup?

22 A. Yes.

23 Q. Did he tell you what proof he had of Tyrone Donaldson
24 still being alive?

25 A. He said that he talked to him.

JOHN HOLSTON - CROSS/WILLIAMS

1 Q. Did he say what he said?

2 A. He said that he was hurt and that he needed help and,
3 they got me.

4 MR. ANDERS: No further questions, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. WILLIAMS:

7 Q. Chief, you've been in law enforcement for 18 years;
8 correct?

9 A. Yes.

10 Q. And, of course, I guess you run into all the time
11 citizens wanting to be policemen. Happens all the time;
12 correct?

13 A. Yeah, it happens.

14 Q. All right. And you knew, of course, you had a missing
15 person at that point in time. At least a missing person;
16 right?

17 A. Yes.

18 Q. And on 7-30-2011, SLED was already involved in this
19 investigation; correct?

20 A. That's correct.

21 Q. All right. And y'all had a lot of gang activity in
22 Blackville; right?

23 A. I can't say a lot of gang activity; no, sir.

24 Q. You've had some, though; haven't you?

25 A. We've had some.

JOHN HOLSTON - CROSS/WILLIAMS

1 Q. And what Sammie Gerrick gave on the 30th, certainly
2 you weren't going to give him a sack full of money to take
3 anywhere but he gave you a lead; didn't he?

4 A. He gave me some information.

5 Q. And you passed that information on; correct?

6 A. Yes.

7 Q. And, Sammie, when you took the earlier statements from
8 him, he told you straight up about this card, didn't he,
9 this debit card?

10 A. Yes, he did.

11 Q. All right. He didn't try to hide that; did he?

12 A. No.

13 Q. And, in fact, he would have to have a PIN number to
14 use the debit card in an ATM; correct?

15 A. That's correct.

16 Q. And the logical assumption is that had to come from
17 Tyrone; correct?

18 A. Yes, that would be a logical assumption.

19 Q. And you also saw where Sammie actually signed his name
20 using this card; correct?

21 A. Yes.

22 Q. And he didn't sign -- he didn't try to hide it and
23 sign it Tyrone; did he?

24 A. No.

25 Q. He signed it Sammie Gerrick; correct?

JOHN HOLSTON - REDIRECT/ANDERS

1 A. Correct.

2 Q. So he's never hid this fact from you; right?

3 A. That's correct.

4 Q. And, you know, Sammie was sort of in a sense brutally
5 honest about this trouble he got into in Bamberg; wasn't
6 he?

7 A. Yes.

8 Q. I mean, he was brutally honest to the point that he
9 told you he ran over a deputy and ran outside and tried to
10 escape; correct?

11 A. Yeah, that's what he said in his statement.

12 Q. You're the law, and he's telling you what happened
13 over there; correct?

14 A. That's correct.

15 Q. All right. And, you know, we're talking about a
16 little bit of conflict in Sammie's statement but were you
17 in on Maurice Williams' statement, the first statement?

18 A. I can't remember whether I sat in on that first
19 statement or not.

20 Q. Do you know whether his first statement and second
21 statement were the same?

22 A. I know that the second statement had more detail.

23 Q. A lot more detail; correct? Correct?

24 A. It had more detail.

25 Q. All right. And as a result of the fact that it had

JOHN HOLSTON - REDIRECT/ANDERS

1 more detail in it, did y'all start launching an
2 investigation against Maurice Williams? Did you
3 investigate him because his statement was more detailed?

4 A. I did not.

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

6 MR. ANDERS: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. ANDERS:

9 Q. Chief Holston, you had mentioned Mr. Gerrick being in
10 contact with Black?

11 A. Yes.

12 Q. What was the result of that kidnapping and ransom
13 conversation? I think you testified earlier that Black
14 was supposed to get back in touch with Sammie Gerrick.
15 Whatever happened with that?

16 A. There was no one. Sammie never contacted us and
17 informed us that anyone had contacted him further in
18 reference to that conversation.

19 MR. ANDERS: Thank you. No further questions.

20 THE COURT: You may step down. Next witness?

21 MR. WATERS: May we approach, Your Honor?

22 (Off-the-record discussion.)

23 THE COURT: We've moved a little more efficient than
24 sometimes we have plans for, so they're sort of out of
25 witnesses for the rest of the afternoon.

1 We've got a couple things we need to do outside of
2 your presence which will keep us here until about 5:30.
3 So I'm not going to make you sit here while we do that.

4 I'd like to start at 9:30. Is that an imposition to
5 anyone? I take that to mean no. And I will be more than
6 happy if you wish to have hot coffee. And somebody likes
7 sausage biscuits or doughnuts or if you want it -- I need,
8 Mr. Foreman, do you think they want it?

9 FOREPERSON OF THE JURY: I think they do; yes, sir.

10 THE COURT: That was an easy vote. Mr. Foreman, do
11 you think they would rather have doughnuts or sausage
12 biscuits?

13 FOREPERSON OF THE JURY: I'm thinking sausage
14 biscuits.

15 THE COURT: All right. We'll do sausage biscuits in
16 the morning.

17 All right. We're going to start taking testimony at
18 9:30. So if you would like a nice, fresh sausage biscuit
19 and some hot coffee, be here before that. You can't bring
20 it into the courtroom. Okay. Fair enough?

21 All right. Everybody else remain seated. We'll start
22 right at 9:30 in the morning.

23 Ms. Mary Robinson, would you please remain with me a
24 second, please?

25 (Jury exits courtroom at 4:31 P.M.)

1 THE COURT: Ms. Robinson, I find it necessary to
2 remove you from the jury. You've had, obviously
3 difficulty remaining awake. And I don't fuss at you for
4 that. I don't know what you have to do when you get home
5 and what kind of work you have to do. Sometimes I can't
6 keep my eyes open. And I don't mean to embarrass you, but
7 I think you realized you fell asleep there for a long time
8 and I didn't want to wake you up.

9 But I'm going to have to remove you. I'm so sorry.
10 You have a nice evening. You do not have to come back
11 tomorrow.

12 THE JUROR: All right.

13 THE COURT: Thank you, ma'am. Would you please select
14 between my last two?

15 All right, gentlemen. Any objection to that on behalf
16 of the State?

17 MR. WATERS: No, sir, Your Honor.

18 THE COURT: Mr. Williams?

19 MR. WILLIAMS: None, Your Honor.

20 THE COURT: Thank you.

21 And for the record, I verified that she was asleep
22 with the clerk of court. She was able to confirm my
23 suspicions and I also got some indication from members of
24 the solicitor's office that they felt like she was asleep
25 as well. Mr. Kenny Bamberg?

1 MR. BAMBERG: Yes, sir.

2 THE COURT: It was at least 30 minutes. Just draw
3 it.

4 THE CLERK: Okay.

5 THE COURT: Random selection of my two jurors left.
6 That's Ms. Amanda Brown and Ms. Pamela Peeples. And the
7 winner is?

8 THE CLERK: The winner is Amanda Brown.

9 THE COURT: Ms. Brown, you are elevated. So when you
10 come back in the morning just sit in the regular jury
11 box. Ms. Peeples, please don't leave me. They're
12 dropping out like flies. Thank you. Y'all step out.

13 (Jurors comply.)

14 THE COURT: What else do we need to do for the
15 attorney general?

16 MR. WATERS: Your Honor, we have transported
17 Mr. Xavier McCoy. He is the individual where we began a
18 Messiah hearing.

19 THE COURT: We had Agent Harley testify the other day.
20 Essentially it was simply a little small note that was
21 provided.

22 MR. WATERS: That's correct, Your Honor.

23 And Mr. McCoy is here. I would propose we finish that
24 Messiah hearing and see -- get Your Honor's ruling on that
25 in that matter. And I believe as it stands right now, I

XAVIER McCOY - IN CAMERA - DIRECT/WATERS

1 don't believe the State has anything else other than
2 proceeding tomorrow.

3 THE COURT: Well, I've been -- I did not lose my
4 patience over stopping for 25 or 35 minutes earlier, but
5 fair warning, please have enough witnesses to go to five
6 tomorrow.

7 MR. WATERS: I will, Your Honor. And I appreciate the
8 Court's indulgence.

9 THE COURT: I understand. I've been there and done
10 it. I've also run out of witnesses and been on the end of
11 that scold too. Mr. Williams.

12 MR. WILLIAMS: More than once, Judge.

13 THE COURT: Yes, sir. I understand. All right.
14 Bring in Mr. McCoy, please. Are you ready to
15 proceed?

16 MR. WILLIAMS: I am, Your Honor.

17 THE COURT: Mr. McCoy, how are you doing? Put your
18 hand on the Bible.

19 XAVIER McCOY, having been duly sworn, was examined and
20 testified as follows:

21 THE COURT: Have a seat there.

22 THE CLERK: State your full name for the record.
23 Okay?

24 THE COURT: Do you want to tell me something?

25 THE WITNESS: Yeah, because I'm telling -- I don't

XAVIER McCOY - IN CAMERA - DIRECT/WATERS

1 know.

2 THE COURT: You don't remember nothing?

3 THE WITNESS: No.

4 THE COURT: Then tell him that. He'll ask you the
5 questions.

6 THE CLERK: State your full name for the record.
7 Okay?

8 THE WITNESS: McCoy, Xavier McCoy.

9 DIRECT EXAMINATION

10 BY MR. WATERS:

11 Q. Mr. McCoy --

12 THE COURT: Read over that, Mr. McCoy. That's your
13 statement. Just read it silently. That's your
14 statement. Okay.

15 THE WITNESS: Yeah.

16 THE COURT: All right. Answer the questions.

17 BY MR. WATERS:

18 Q. All right. Mr. McCoy --

19 THE COURT: Let me see it one second.

20 (Document handed to the Court.)

21 THE COURT: All right. You may proceed.

22 MR. WATERS: Thank you, Your Honor.

23 Q. Mr. McCoy, you're currently incarcerated; is that
24 correct?

25 A. Yeah, I'm incarcerated.

XAVIER McCOY - IN CAMERA - DIRECT/WATERS

1 Q. And where are you incarcerated?

2 A. At Lieber.

3 Q. And how much time do you think you got remaining at
4 Lieber?

5 A. I'll go home next month.

6 Q. And you and I talked a little bit earlier today; is
7 that correct?

8 A. Yes.

9 Q. And you told me that you don't want to come out here
10 and testify because you're scared, scared to do that for
11 how it might affect you; is that correct?

12 A. Yes.

13 Q. Is that what you told me?

14 A. That's what I told you.

15 Q. Okay. All right. Do you recall -- and you've just
16 read a copy of that statement right there; correct?

17 A. Right.

18 Q. And that's in your handwriting; correct?

19 A. Right.

20 Q. And do you recall giving that statement?

21 A. Uh-huh.

22 THE COURT: Speak up for me.

23 THE WITNESS: Say again.

24 BY MR. WATERS:

25 Q. Do you recall giving that statement?

XAVIER McCOY - IN CAMERA - DIRECT/WATERS

1 A. Yeah. I remember writing the statement.

2 Q. Do you recall giving it to Lieutenant Harley?

3 A. Yes.

4 Q. Over there?

5 THE COURT: The man seated right over there.

6 THE WITNESS: Yeah.

7 THE COURT: Hold on a second. Mr. McCoy, speak up
8 loud. Speak into the microphone. Sit up for me.

9 THE WITNESS: Yeah. I remember writing it and giving
10 it to him.

11 BY MR. WATERS:

12 Q. Okay. Do you recall prior to Lieutenant Harley coming
13 visiting you, writing a letter to the Barnwell Clerk of
14 Court saying you had some information and to give it to
15 the solicitor's office?

16 A. I remember that.

17 Q. Did you do that?

18 A. Yeah.

19 THE COURT: Speak up.

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you.

22 BY MR. WATERS:

23 Q. Okay. When you did that, had Lieutenant Harley or
24 anybody from SLED contacted you about this case prior to
25 that?

XAVIER McCOY - IN CAMERA - DIRECT/WATERS

1 A. When I wrote that?

2 Q. No, prior to you --

3 A. Before I wrote it?

4 Q. Yeah.

5 A. No, no.

6 Q. Did anybody in the South Carolina Department of
7 Corrections contact you about trying to get a statement on
8 Sammie Gerrick or anything like that?

9 A. No, sir.

10 Q. So you just came into that information from talking to
11 Mr. Gerrick and sent it to the solicitor's office or to
12 the clerk's office; is that right?

13 A. Yes, sir.

14 Q. Okay. All right. Now in that statement -- well, let
15 me back up.

16 After you sent that letter, did you -- you got a visit
17 from Lieutenant Harley; correct?

18 A. Yes, sir.

19 Q. Did you know he was coming or did he just show up one
20 day?

21 A. No, he just pop up.

22 Q. And they brought you in and asked you what you knew;
23 is that right?

24 A. Right.

25 Q. And that was the first time you had had any contact

XAVIER McCOY - IN CAMERA - CROSS/WILLIAMS

1 with SLED about this case; is that correct?

2 A. Right.

3 MR. WATERS: All right. Nothing further, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. WILLIAMS:

6 Q. Mr. McCoy, you're housed at the time in cell A, A53;
7 is that correct?

8 A. As now?

9 Q. Well, back then. Do you know where you were housed?

10 A. I can't remember what cell that was.

11 THE COURT: Where were you? Where were you when this
12 took place?

13 THE WITNESS: It was actually on A side. I can't
14 remember cell. Cell 24 or I think 23, one of them cells.
15 It wasn't no 25.

16 THE COURT: At which jail?

17 THE WITNESS: In prison.

18 THE COURT: Which prison?

19 THE WITNESS: Lieber.

20 BY MR. WILLIAMS:

21 Q. And if I tell you that one of you were housed in A30
22 and one in A53, does that sound about right?

23 A. Well, you're talking about upstairs. Yeah. We were
24 upstairs then. Then I moved downstairs. I was in 53. He
25 was in room 30 downstairs.

XAVIER McCOY - IN CAMERA - CROSS/WILLIAMS

1 Q. And y'all were about 55 foot apart on different
2 floors?

3 A. Right.

4 Q. On the same side of the jail; correct?

5 A. Yeah. I was upstairs. He was downstairs.

6 Q. And you were on lock down, according to the jail
7 records, from July 2012 to October 2012; is that right?

8 A. Uh-huh; yes, sir.

9 Q. And lock down means just that, you stay in your cell;
10 correct?

11 A. Yeah. I stay in my cell, right, yeah.

12 Q. You were on horticulture duty; correct?

13 A. What's that?

14 Q. That was your job there. Outside?

15 THE COURT: Taking care of plants.

16 THE WITNESS: No, I ain't never had no job like that.

17 BY MR. WILLIAMS:

18 Q. You didn't?

19 A. (Shakes head.)

20 Q. Okay. And during lock down you don't go to your job;
21 correct?

22 A. Yeah, you don't go to your job.

23 Q. And, of course, saying you want to testify against
24 somebody gets you a ride out of prison; right?

25 A. Say that again.

XAVIER McCOY - IN CAMERA - CROSS/WILLIAMS

1 Q. Saying you're going to testify against somebody maybe
2 gets you a ride outside of the prison; right?

3 A. I guess. I mean, if you put it like that, I guess.

4 Q. All right. And in -- you've been in there since 2004;
5 correct? Does that sound right?

6 A. I mean, I was back -- I left and I came back.

7 Q. All right. And, one of the things in your
8 statement -- your statement's really, really short. But
9 one of the things it says is you do law work; is that
10 right?

11 A. (Nods head); yes, sir.

12 Q. You do law work for a bunch of people?

13 A. Yes, sir.

14 Q. And you wasn't doing law work for Sammie Gerrick, were
15 you?

16 A. No, sir.

17 Q. All right. And could somebody that you were doing law
18 work for have told you this as opposed to Sammie Gerrick?

19 A. No, sir.

20 Q. Okay.

21 A. I mean --

22 Q. But you agree you were on lock down that whole time;
23 correct?

24 A. Right.

25 Q. And Mr. Gerrick would have been also; correct?

1 A. No.

2 Q. All right.

3 MR. WILLIAMS: No further questions.

4 THE COURT: Did anybody -- listen to this question.
5 Did anybody from SLED -- do you know what SLED is?

6 THE WITNESS: Right.

7 THE COURT: State Law Enforcement, any police agency,
8 anybody from the solicitor's office, anybody from any kind
9 of law enforcement office, get with you to get this
10 statement? Were you acting in an undercover agent or
11 undercover capacity for law enforcement when you got this
12 statement?

13 THE WITNESS: (Shakes head.)

14 THE COURT: That's a no?

15 THE WITNESS: No, sir.

16 MR. WATERS: Nothing further, Your Honor.

17 THE COURT: All right. Now, before he goes back, I
18 need to know whether or not he needs to be brought back
19 tomorrow.

20 MR. WATERS: Your Honor, I -- yes. The answer is yes,
21 but we don't need an order. I can do it through a request
22 to SCDC.

23 THE COURT: Let's not have them incur the expense of
24 bringing him down here if you're not going to use him.

25 MR. WATERS: I understand.

1 THE COURT: So do you want to talk to him a little bit
2 before he goes back to determine if you want to use him?

3 MR. WATERS: I'll do that, but right now we plan to
4 bring him back.

5 THE COURT: I'll let you go back in a little while but
6 he's going to talk to you. Okay? Fair enough?

7 THE WITNESS: I'm good. It's cool, man.

8 THE COURT: Sir?

9 THE WITNESS: It's cool.

10 THE COURT: I'm glad you're cool.

11 THE WITNESS: You didn't want to hold me until next
12 month.

13 THE COURT: I won't get to keep you that long. You
14 get to go home next month. Where is home?

15 THE WITNESS: Sumter County.

16 THE COURT: We'll try to work with you. Okay?

17 MR. WILLIAMS: Could I have a minute to talk to him
18 also, Judge, since he's a witness?

19 THE COURT: Absolutely.

20 MR. WILLIAMS: Thank you. All right. You may step
21 down. We're going to keep you just a few more minutes,
22 but not any longer than we have to.

23 Did you enjoy your sandwich at lunch?

24 THE OFFICER: Yes, sir.

25 THE COURT: Anything else we need to do this afternoon

1 before we break for the evening?

2 MR. WATERS: I don't believe so, Your Honor. I mean,
3 outstanding issues as to Ms. Gerrick. She would likely be
4 called tomorrow. I guess we can assess the marital
5 privilege issue when she's called.

6 THE COURT: Is she here today?

7 MR. WATERS: She is sitting right there right now, if
8 you want to go ahead and do it.

9 THE COURT: What else?

10 MR. WATERS: There is the issue of the videos, Your
11 Honor, we can cue that up and play them for you if you
12 want to go ahead and take a look at that.

13 THE COURT: I need to know if Mr. Williams is going to
14 object to any portion of them.

15 MR. WATERS: Well, he sent us an e-mail last night in
16 which he had an objection to a few of the portions. So I
17 guess he might want to argue those, but we have whittled
18 them down in a great --

19 THE COURT: Well, why don't we try to whittle them
20 over in the evening, and I'll be here at nine o'clock in
21 the morning to address them?

22 MR. WATERS: Okay. We can do that.

23 THE COURT: All right. Call Ms. -- what's her name?

24 MR. WATERS: Charlene Gerrick.

25 THE COURT: Ms. Charlene Gerrick, are you in the

CHARLENE GERRICK - IN CAMERA - EXAM/THE COURT

1 courtroom?

2 MS. GERRICK: Yes, sir.

3 CHARLENE GERRICK, having been duly sworn, was examined
4 and testified as follows:

5 THE CLERK: Please be seated and state your full name
6 for the record. Okay?

7 THE WITNESS: Charlene Gerrick.

8 DIRECT EXAMINATION

9 BY MR. WATERS:

10 Q. Ms. Gerrick, how are you doing today?

11 A. Good.

12 MR. WATERS: Your Honor, do you want me to just
13 inquire about the privilege to begin, or do you want me to
14 elicit the entire amount, the entire statement?

15 THE COURT: It's your witness.

16 MR. WATERS: Okay.

17 THE COURT: Well, let me just ask her the questions.

18 MR. WATERS: All right.

19 EXAMINATION

20 BY THE COURT:

21 Q. Ms. Gerrick, are you currently married to Sammie Lee
22 Gerrick?

23 A. Yes, sir. Yes.

24 Q. When were the two of you married?

25 A. February 10th, 1995.

CHARLENE GERRICK - IN CAMERA - DIRECT/WATERS

1 Q. And not divorced as of today?

2 A. Right.

3 Q. And you were married back in July of 2011?

4 A. Yes, sir.

5 THE COURT: And, Mr. Solicitor, what questions are you
6 going to ask her about any communications she had with her
7 husband?

8 MR. WATERS: Yes, sir.

9 DIRECT EXAMINATION (CONTINUED)

10 BY MR. WATERS:

11 Q. Ms. Gerrick, do you recall ultimately giving a
12 statement to Lieutenant Harley; correct?

13 A. Yes, sir.

14 Q. And do you recall July 21st, 2011, the night that
15 Mr. Donaldson went missing; is that correct?

16 A. Yes, sir.

17 THE COURT: Speak up for me, please, ma'am.

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you.

20 BY MR. WATERS:

21 Q. And was that the day that Sammie had gotten out of
22 jail?

23 A. Yes, sir.

24 Q. And did you see Sammie that day?

25 A. I think it was that evening, close to dark. I'm

CHARLENE GERRICK - IN CAMERA - DIRECT/WATERS

1 trying to figure out the time but, maybe, I'm thinking
2 nine or 10 o'clock that night.

3 Q. Okay. And did he come over to your house?

4 A. Yes, sir.

5 Q. And what did y'all do?

6 A. He came over and, well, actually we got a daughter
7 together, you know. He came over, you know, spent a
8 little bit of time, you know. We slept together. And
9 then I'm thinking maybe -- let's see, I know, 15 maybe,
10 probably about 15 or 20 minutes later and he got up, you
11 know, got dressed.

12 Q. Uh-huh.

13 A. And he asked me to go take him to get a car.

14 Q. Okay. Now after y'all finished being together, did
15 you ask him what was wrong? Did he seem like something
16 was off and you asked him what was wrong?

17 A. Yes, but, you know, we --

18 THE COURT: Hold on a second. Let me just advise you
19 of this, ma'am. If the two of you are married --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- you, under our law you're not required
22 to tell us anything that y'all talked about.

23 THE WITNESS: Okay.

24 THE COURT: If you don't want to.

25 THE WITNESS: Right.

1 THE COURT: You can or you can't, but you don't have
2 to. Nobody can make you testify about what the two of you
3 talked about.

4 THE WITNESS: Okay.

5 THE COURT: Do you understand that?

6 THE WITNESS: Yes, sir.

7 THE COURT: Now if you want to tell us what y'all
8 talked about, that's entirely up to you.

9 Do you agree with that admonition, Mr. Williams?

10 MR. WILLIAMS: I do, Your Honor.

11 MR. WATERS: Yes, sir, Your Honor.

12 THE COURT: So, that's up to you as to whether or not
13 you want to tell us what y'all talked about.

14 THE WITNESS: No, sir; I don't.

15 THE COURT: You do not want to?

16 THE WITNESS: I do not want to.

17 THE COURT: Now you will be required to testify about
18 what you did.

19 THE WITNESS: Yes, sir.

20 THE COURT: Not what you talked about.

21 THE WITNESS: Right.

22 THE COURT: When I say what you did, in relation to
23 the car and how you got to the car and those sorts of
24 things.

25 THE WITNESS: Yes, sir.

1 THE COURT: But you don't have to disclose to us what
2 y'all talked about.

3 THE WITNESS: Okay.

4 THE COURT: And you don't want to do that, you want to
5 exercise your marital privilege; is that what you're
6 telling me?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. That's fair. So you know
9 where you stand.

10 MR. WATERS: Yes, sir.

11 THE COURT: All right. you may step down. I'm sorry,
12 Mr. Williams, anything?

13 MR. WILLIAMS: No, sir.

14 THE WITNESS: Thank you.

15 THE COURT: See you tomorrow. Okay. Anything else?

16 MR. WILLIAMS: Judge, this is going pretty quick. And
17 he thinks it's going quick. And I'm wondering if he
18 thinks he going to finish tomorrow. And I need to get
19 ready for anything on Wednesday.

20 THE COURT: I would suspect so.

21 MR. WATERS: I think it's going a lot quicker than we
22 expected.

23 THE COURT: I told you.

24 MR. WATERS: My only one issue is that we have a
25 custodian for the phone records who's going to be here

1 Wednesday, so we're going to have to take her --

2 THE COURT: You better have her here tomorrow.

3 MR. WATERS: Yeah, okay.

4 THE COURT: She's with what company?

5 MR. WATERS: She's with Verizon.

6 THE COURT: All you got to do is call and tell them
7 the subpoena has been amended for her to be here
8 tomorrow. I've amended it.

9 MR. WATERS: Yes, sir.

10 THE COURT: I would suggest she be here unless you all
11 want to stipulate that they're the records.

12 MR. WILLIAMS: I think I can agree they're the
13 records, but he's wanting somebody to explain some stuff
14 in there. And I can't stipulate to the explanation.

15 MR. WATERS: That's accurate. I mean, they've already
16 been admitted. And so he has stipulated to the
17 admissibility. I think that, again, that there's some
18 explanation needed, I would need her for, so.

19 THE COURT: I am ordering that the subpoena be amended
20 for her to be here tomorrow.

21 MR. WATERS: Yes, sir.

22 THE COURT: Thank you. So, very well. All right.
23 Gentlemen, please --

24 MR. WATERS: Very good.

25 THE COURT: -- get to me by e-mail so I can have it by

1 seven o'clock in the morning what you object to on the
2 videos so I can review it on the way over here with my law
3 clerk and your objections.

4 MR. WILLIAMS: Yes, sir.

5 THE COURT: I don't have the video themselves but you
6 can describe to me what you're objecting to.

7 MR. WILLIAMS: Okay.

8 THE COURT: So I can be prepared to go at nine
9 o'clock. Fair enough?

10 MR. WATERS: Fair enough.

11 THE COURT: Anything I can do for the State or
12 anything, requests or anything we need to put on the
13 record before we break for the evening?

14 MR. WATERS: I think we're good. Thank you, Your
15 Honor.

16 THE COURT: Mr. Williams?

17 MR. WILLIAMS: I'm fine.

18 THE COURT: Mr. Gerrick, anything you need from me?

19 THE DEFENDANT: No, I'm good. I'm going to sleep on
20 it.

21 THE COURT: For security purposes, this is your family
22 behind you, Mr. Gerrick?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Would the Gerrick family just please
25 remain seated while the Donaldson family exits the

1 courtroom?

2 See everybody in the morning.

3 END OF DAY'S PROCEEDINGS: 4:55 P.M.

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CHARLENE GERRICK - DIRECT/WATERS

1 ON TUESDAY, NOVEMBER 19, 2013 AT 9:32 A.M.:

2 THE COURT: Ready to proceed?

3 MR. WATERS: Yes, sir, Your Honor.

4 THE COURT: Mr. Williams? Let the record reflect the
5 Defendant is present. Bring the jury in, please.

6 (Jury enters courtroom at 9:34 A.M.)

7 THE COURT: Good morning.

8 THE JURY (COLLECTIVELY): Good morning.

9 THE COURT: Everybody ate their biscuits?

10 FOREPERSON OF THE JURY: Yes.

11 THE COURT: Got you a jacket this morning?

12 THE JUROR: Uh-huh.

13 THE COURT: You may call your next witness.

14 MR. WATERS: Thank you, Your Honor.

15 The State calls Charlene Gerrick.

16 THE COURT: Ms. Gerrick, come around please.

17 CHARLENE GERRICK, having been duly sworn, was examined
18 and testified as follows:.

19 THE CLERK: If you would, be seated and state your
20 name for the record. Okay? Thank you.

21 THE WITNESS: Charlene Gerrick.

22 DIRECT EXAMINATION

23 BY MR. WATERS:

24 Q. Ms. Gerrick, how are you doing today?

25 A. Pretty good.

CHARLENE GERRICK - DIRECT/WATERS

1 Q. Do you know the Defendant, Sammie Gerrick?

2 A. Yes, I do.

3 Q. And how do you know him?

4 A. That's my husband.

5 Q. How long have y'all been married?

6 A. Got married in 1995. I'm thinking almost 20-some
7 years.

8 Q. Okay. And you don't want to be here today; do you?

9 A. No, sir.

10 Q. I want to take you back to July 21st 2011, the night
11 that Tyrone disappeared. Do you recall that?

12 A. Yes, sir.

13 Q. Did you see the Defendant, Sammie Gerrick, that day?

14 A. Later on that night, I did.

15 Q. Okay. And did he come over to your house?

16 A. Yes, he did.

17 Q. About what time did he come over?

18 A. The best of my recollection, I'm thinking it was maybe
19 between nine and 10. I'm not sure I'm not correct on the
20 time.

21 Q. Okay. And how long was he there?

22 A. Maybe an hour.

23 Q. Y'all spent some time together?

24 A. Yes, sir. Yes, we did.

25 Q. Okay. And I'm not asking you anything that y'all

CHARLENE GERRICK - DIRECT/WATERS

1 talked about, but I want to ask you this. After y'all
2 spent some time together, did you go for a ride in the car
3 with him?

4 A. Yes.

5 Q. You did?

6 A. Yes.

7 Q. All right. And where did you go?

8 A. I took him -- I'm not sure the name of the road, but I
9 followed him -- well, I took him to go get a white car.

10 Q. And where did y'all go?

11 A. It was back up in the woods.

12 Q. Uh-huh.

13 A. It was like off a paved road, back up in the woods. I
14 don't know the name of the road.

15 Q. So you went down a paved road?

16 A. Yes.

17 Q. And then you turned and went on a dirt road?

18 A. Yes, sir.

19 Q. And you went way down the dirt road into the woods?

20 A. Yes.

21 Q. Okay. And what did you see when you got there?

22 A. It was like a white Honda Civics.

23 Q. Had you seen that car before that time --

24 A. No, sir.

25 Q. -- on that day?

CHARLENE GERRICK - DIRECT/WATERS

- 1 A. I've never seen that car.
- 2 Q. That was the first time you saw it?
- 3 A. Yes.
- 4 Q. And who were you with when you went out there?
- 5 A. My husband, Sammie Gerrick.
- 6 Q. So you saw that white car there?
- 7 A. Yes.
- 8 Q. All right. What did y'all do next?
- 9 A. Then he got out my car, got into that car, and we came
10 back out and he drove it over to Orangeburg.
- 11 Q. Okay. So your husband, Sammie Gerrick, the Defendant,
12 got out of the car you were in and went and got in that
13 white car; correct?
- 14 A. Yes, sir.
- 15 Q. Did he have the key?
- 16 A. Uh.
- 17 Q. He turned it on; didn't he?
- 18 A. Yes, yes.
- 19 Q. All right. Who drove out first, out of the woods, out
20 that long dirt road out to the paved road?
- 21 A. I believe, I backed up and I followed him.
- 22 Q. Okay.
- 23 A. I backed up and I think I let him -- I backed up
24 first, and he got in the car, you know, and he backed up
25 and then I followed behind him.

CHARLENE GERRICK - DIRECT/WATERS

- 1 Q. You followed behind him?
- 2 A. Yes, sir.
- 3 Q. And where did y'all drive to?
- 4 A. Orangeburg, South Carolina.
- 5 Q. And who was leading the way?
- 6 A. He was.
- 7 Q. And you were following behind him?
- 8 A. Yes.
- 9 Q. And he was driving that white car?
- 10 A. Yes.
- 11 Q. Where did y'all go to in Orangeburg?
- 12 A. I think it was China Express.
- 13 Q. And once you got to the China Express, what happened?
- 14 A. I pulled -- well, to China Express I pulled up and I
- 15 went I guess almost to the stop sign and, you know, he
- 16 parked the car and then, you know, after I guess he parked
- 17 the car or whatever we came home then he left.
- 18 Q. Let me back up.
- 19 A. Okay.
- 20 Q. He parked the car?
- 21 A. Yes.
- 22 Q. Where did he park it?
- 23 A. In the China Express parking lot.
- 24 Q. In their parking lot?
- 25 A. (Nods head.)

CHARLENE GERRICK - DIRECT/WATERS

1 Q. Okay. Did you know that's where -- well, let me
2 rephrase that. You were just following him?

3 A. Right.

4 Q. And he pulled in the China Express and you followed
5 him in there; is that correct?

6 A. Yes.

7 Q. All right. So after he parked the car, what happened?

8 A. After -- like I said, he parked the car. I pulled up,
9 you know, a little bit, you know, I guess a little bit
10 before the stop sign. And, you know, he came on, he got
11 into my car and then we went to Dodge's and he --

12 THE COURT: Where, ma'am?

13 THE WITNESS: Dodge's.

14 THE COURT: Dodge's?

15 THE WITNESS: Yes, sir. Dodge's in Orangeburg. And
16 he put some gas in my car and after, you know, he went
17 inside. I think he bought some Dodge's chicken and a
18 drink because my daughter was in the back seat with him.
19 And then after he put the gas in the car, him and my
20 daughter was eating the chicken. And we left and we came
21 back to my house.

22 BY MR. WATERS:

23 Q. So he got in the car out after y'all left the China
24 Express?

25 A. Yes.

CHARLENE GERRICK - DIRECT/WATERS

1 Q. Or at the China Express and then who was driving, you
2 or him?

3 A. I was driving my car.

4 Q. Okay.

5 A. He was in the back seat with our daughter.

6 Q. And y'all left the white car behind; right?

7 A. Yes.

8 Q. And then you drove to Dodge's and got some food?

9 A. Got some gas and then he bought some chicken and a
10 drink for him and my daughter.

11 Q. So was your daughter with you when you went out to
12 that wooded area and found the white car?

13 A. Yes.

14 Q. And how old is she?

15 A. She's six now.

16 Q. Okay. What did y'all do after y'all left Dodge's?

17 A. We came home.

18 Q. All right. And did he stay all night or did he leave?

19 A. No, he left.

20 Q. What time about do you think he left?

21 A. I'm not sure quite on the time, but I know he didn't
22 stay very long.

23 Q. Okay. All right. But you don't know about what time
24 that was. It was late at night; wasn't it?

25 A. Yes, sir. I'm thinking it might be between 12:30 and

CHARLENE GERRICK - DIRECT/WATERS

1 one o'clock, but I'm not quite sure on the time but I know
2 it was late.

3 Q. It was very late?

4 A. Yes, sir.

5 Q. All right. Do you remember in August, around August
6 3rd, talking to the police in this matter, talking to
7 Lieutenant Harley? Over here (indicating).

8 A. Yes.

9 Q. Okay. And, again, I'm not asking you anything that
10 you and your husband talked about, but did you tell
11 police, tell Lieutenant Harley about going with Sammie
12 Gerrick out into the woods to get that white car?

13 A. Yes.

14 Q. You told him that?

15 A. Yes.

16 Q. And did you tell them about following Sammie Gerrick
17 after y'all got that white car and he got in the white car
18 and following him, with him driving that white car to the
19 Chinese restaurant in Orangeburg?

20 A. Yes.

21 Q. You told him about that?

22 A. Yes.

23 Q. And did you tell them about after dropping off that
24 white car in Orangeburg, about then going to Dodge's for
25 gas and food and then going home?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Yes.

2 Q. And after you told them that, did you take the police
3 out to that wooded area off that dirt road where you had
4 gone with the Defendant, Sammie Gerrick, to pick up that
5 white car?

6 A. Yes.

7 Q. And you took them out there and showed them where it
8 was; didn't you?

9 A. Yes.

10 MR. WATERS: Nothing further, Your Honor.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: No questions, Your Honor.

13 THE COURT: You may step down. Next witness?

14 MR. WATERS: Thank you, Judge. At this time we would
15 call Shaun Harley.

16 SHAUN E. HARLEY, having been duly sworn, was examined
17 and testified as follows:

18 THE CLERK: State your name for the record.

19 THE WITNESS: Shaun E. Harley, H-A-R-L-E-Y.

20 DIRECT EXAMINATION

21 BY MR. WATERS:

22 Q. Agent Harley, how are you doing today?

23 A. Pretty good.

24 Q. Or Lieutenant Harley, I should say.

25 A. Yes, sir.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. If you would just real quick, tell the jury your rank,
2 who you work for and just give us a quick background of
3 your service in law enforcement, if you would.

4 A. Yes, sir. My name is Shaun Harley. I have 20 years
5 of law enforcement experience. Start off with Beaufort
6 City Police Department in November of 1993. I then worked
7 there as a patrol officer, rise up through the ranks of a
8 sergeant where I was a supervisor. I then got employed,
9 was employed with South Carolina Law Enforcement Division
10 better known as SLED in 2002 where I'm currently still
11 employed.

12 Q. Okay. And being at SLED, do y'all occasionally get
13 called in to assist or to take over various investigations
14 depending on what's going on to help the locals out, I
15 guess to say?

16 A. Yes, sir, we do. SLED, we're an assisting agency
17 where we assist local law enforcement, also federal law
18 enforcement. Where I work is the Low Country. Work out
19 of the Low Country office which consists of 12 counties
20 which we have to work out of to assist law enforcement
21 which is, Barnwell County one of the counties that we work
22 out of it.

23 What we do with the Low Country is for criminal
24 investigations, we investigate various crimes from violent
25 crime to white-collar crime.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. Okay. I want to take you to this case. Did you get a
2 request to assist in the investigation of the
3 disappearance of Tyrone Donaldson?

4 A. Yes, sir; I did.

5 Q. Tell us what happened with that, if you would.

6 A. On July 22nd of 2011, I was contacted by my Lieutenant
7 at the time, Ryan Neil, to assist the Blackville Police
8 Department in reference to a missing person. Chief
9 Holston, the Chief of Blackville Police Department
10 requested our assistance with the investigation.

11 At that time I was assigned with the case with several
12 other agents.

13 Q. Okay. And I see you got some documents there. Is
14 that your report that you prepared?

15 A. Yes, sir. This is a summary of report. It's not the
16 whole complete report.

17 Q. But that's your summary that you prepared?

18 A. Yes, sir.

19 Q. To memorialize what went on during the course of the
20 investigation --

21 A. Yes, sir.

22 Q. -- that sort of thing?

23 A. Yes, sir.

24 Q. Is that something y'all typically do at SLED agents --
25 as SLED agents?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Yes. Once the case is completed we -- not completed,
2 but once we finish the investigation we compile a report
3 with statements, evidence or whatever we take in. And we
4 compile it into a report. This is a little smaller
5 version of it. I do not have all the statements and
6 everything attached to this report. It's just a summary
7 of what I did.

8 Q. And you actually got that up there just in case you
9 need to refer to it to refresh your recollection and that
10 sort of thing?

11 A. Yes, sir.

12 Q. If you would, tell us when you got involved with
13 this. Tell us the first thing you did and what you were
14 informed about as you got involved in this investigation.

15 A. Yes, sir. On July 22nd, after we received the call,
16 after Lieutenant Neil assigned me the case, I then came
17 down to Blackville Police Department and met with Chief
18 Holston. Chief Holston then briefed me about the case.
19 Stated that he had a missing person which person was
20 Tyrone Donaldson.

21 Stated that the last time Tyrone was seen was on July
22 the 21st. He was seen with, the last person he had known
23 was with Sammie Gerrick. Stated that he had already
24 talked with Sammie Gerrick and from what he gathered that
25 Tyrone Donaldson had bailed Sammie Gerrick out of jail

SHAUN E. HARLEY - DIRECT/WATERS

1 from the Bamberg County Detention Center. They drove back
2 to Blackville. Tyrone Donaldson dropped Sammie Gerrick
3 off to his residence and then Tyrone Donaldson left and
4 went to his residence, came back to Sammie Gerrick's
5 residence and the two got in separate vehicles. Sammie
6 Gerrick got in his Dodge pickup truck and Tyrone Donaldson
7 was in his white Honda Civic. And they followed each
8 other. They went to Enterprise Bank which is located in
9 Blackville, South Carolina. After that they went to
10 Junior Food Mart which is also located in Blackville,
11 South Carolina.

12 And that was the last they were seen.

13 Q. Okay. And so that was what you had been advised by
14 Chief Holston to kind of get you started; is that correct?

15 A. Yes, sir.

16 Q. And did y'all -- after that, did you attempt to make
17 contact with Mr. Gerrick?

18 A. Yes, sir.

19 Q. Okay. And what date did that occur on?

20 A. That was July 22nd, but we really started talking to
21 him earlier that morning after 12 o'clock which would have
22 meant July 23rd. After 12 o'clock that morning.

23 Q. All right. And if you would, where did y'all meet?

24 A. At the Blackville Police Department.

25 Q. Okay. And tell me what happened with that, that

SHAUN E. HARLEY - DIRECT/WATERS

1 particular meeting.

2 A. We met with Mr. Gerrick at the Blackville Police
3 Department, myself along with Chief Holston and another
4 agent. I can't recall, I think Michelle China.

5 We spoke with Mr. Sammie Gerrick in reference to
6 that. We had gotten information he was the last one to be
7 with Mr. Tyrone Donaldson. And we spoke about that.

8 Go ahead, what he said?

9 Q. Yeah, please. If you would.

10 A. He then stated Tyrone Donaldson did get him out of
11 jail from the Bamberg County Detention Center. They drove
12 back to Blackville. Tyrone Donaldson dropped him off at
13 his residence. He then spoke with his kids, stepsons, for
14 a minute, washed up, got cleaned up.

15 After that -- Tyrone Donaldson had left when he was
16 doing that and then returned back to his residence. When
17 he returned back to his residence they two got into
18 separate vehicles and they went to Enterprise Bank where
19 Sammie Gerrick said he had \$104 check from, that he
20 received from the Bamberg County Detention Center that he
21 went to cash.

22 After cashing that, stated Tyrone Donaldson did follow
23 him to the Enterprise Bank. They then went to Junior Food
24 Mart where he pumped in gas for \$30 worth of gas at that
25 time. He and Tyrone Donaldson spoke briefly for a

SHAUN E. HARLEY - DIRECT/WATERS

1 minute. And that's when the two went their separate
2 ways. He went back home in his daughter's pickup truck
3 and he state he thought Tyrone Donaldson was going back to
4 his residence, but they went their separate ways.

5 Q. Okay. And after talking with Mr. Gerrick, did y'all
6 ask him to write a written statement?

7 A. Yes, sir; we did.

8 Q. Okay. And I want to show you what's been marked as
9 State's Exhibit Seven and I believe it's already in
10 evidence, and see if you recognize that.

11 A. Yes, sir.

12 Q. And what is that?

13 A. Voluntary written statement written by Sammie Gerrick
14 on, dated July 23rd, 2011. It was completed at 1:58 A.M.

15 Q. And that's the statement that you wrote -- or that he
16 wrote for you after that particular interview; is that
17 correct?

18 A. Yes, sir.

19 Q. Okay. All right. While you were talking to him, did
20 you notice any injuries or anything on his arms?

21 A. Yes, sir; we did. He had scratches on his arms which
22 was -- arms up here (indicating) on both arms. And he had
23 some scratches on his chest. We're asked him about the
24 injuries, how he received those scratches and stuff like
25 that.

SHAUN E. HARLEY - DIRECT/WATERS

1 And he stated that while he was incarcerated at the
2 Bamberg County Detention Center a light fixture fell on
3 top of him.

4 Q. Okay.

5 A. And at that time we then had Chief Holston, with his
6 consent, photograph his injuries.

7 Q. All right. And those are these pictures right here,
8 State's Exhibit 22, State's 19, State's 17, State's 20?

9 A. Yes, sir.

10 Q. Okay. That have already been admitted into evidence.
11 And also State's 21?

12 A. Yes, sir.

13 Q. All right. You got that written statement in front of
14 you?

15 A. Yes, sir.

16 Q. And that would be State's Seven?

17 A. Yes, sir.

18 Q. And looking at that, that was written by Mr. Gerrick
19 in his own handwriting; is that correct?

20 A. Correct.

21 Q. And you -- and he -- you just said, write down what
22 you want to tell us, and he wrote it down?

23 A. Correct. And we also had him put his initials at the
24 beginning and at the end.

25 Q. Okay. That's his initials right there?

SHAUN E. HARLEY - DIRECT/WATERS

- 1 A. Correct. On both pages.
- 2 Q. I want to point your attention down here to three
3 lines from the bottom. And can you just read that line
4 starting right there?
- 5 A. I said, I said, please help me man am down.
- 6 Q. All right. And how did he spell am?
- 7 A. A-M.
- 8 Q. He spelled it am, A-M, instead of I apostrophe M?
- 9 A. Correct.
- 10 Q. And then, read the next line, the bottom line on that
11 page if you would, please.
- 12 A. And I need -- and I need to get -- I need to get some
13 water. He then got me a cool -- he then got me a cooler
14 of ice and put on my room -- or put in my room and sat it
15 right -- rat besides me.
- 16 Q. How did he spell right?
- 17 A. R-A-T.
- 18 Q. So when he said he put it right beside me he spelled
19 it R-A-T, rat?
- 20 A. He was trying to put, I think, right but he spelled
21 rat, R-A-T.
- 22 Q. And then turn over to the next page, if you would.
- 23 A. (Complying.)
- 24 Q. All right. And looking about four, three lines down
25 starting right there with, so.

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Can you read right there?

3 A. So Mr. John, I guess, Mr. John Officer, I guess it's
4 Mr. John call him twice, no answer but Tyrone say he
5 called back but didn't know.

6 Q. Okay. How did he -- he said Tyrone called back but
7 didn't know.

8 A. Correct.

9 Q. How did he spell know? Did he spell it K-N-O-W or
10 some other way?

11 A. Spelled it N-O.

12 Q. Okay. All right. So just to recap. You had talked
13 with Sammie Gerrick and he gave you this written
14 statement. And you talked to him orally as well. And he
15 told you about, about the, the victim having money for a
16 backhoe; is that correct?

17 A. Yes, sir. That was another interview.

18 Q. Okay. I'm sorry. I apologize. I got that mixed up.

19 Well, let's go to the next time you talked to him, if
20 you would, please.

21 A. Okay.

22 Q. And let me ask you this. I'll do it this way. Did --
23 who was the next person to interview Mr. Gerrick?

24 A. John Burnett who was, also was employed with South
25 Carolina Law Enforcement Division, SLED.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. So he's a SLED agent as well; is that correct?

2 A. Yes, sir.

3 Q. And so, did that interview -- did -- how did it go?

4 Did y'all ask Mr. Gerrick to come down and talk with you
5 or what happened with regards to that?

6 A. Yes, we did. We asked him to come down and talk with
7 us at the Barnwell County Sheriff's Office.

8 Q. Okay. And was that interview videotaped?

9 A. Yes, sir; it was.

10 Q. And obviously we'll get to Agent Burnett later but,
11 did you watch some of that videotape?

12 A. Yes, sir; I did. I was in and out of the room where
13 they was talking so I wasn't there the whole entire
14 interview but I was in and out.

15 Q. Okay. And if you could, what generally -- could you
16 tell the jury what generally Mr. Gerrick said in that
17 interview?

18 THE COURT: Hold on a second.

19 MR. WILLIAMS: To the extent that he's in and out of
20 the room, I'm sort of wondering where this is going.

21 MR. WATERS: That's fine. We'll get into it with
22 Agent Burnett.

23 MR. WILLIAMS: Okay. Thank you, Your Honor.

24 MR. WATERS: That's fine. We'll move on. Thank you,
25 Judge.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. Well, let's move on. So he was interviewed by Agent
2 Burnett; is that correct?

3 A. Correct.

4 Q. And Agent Burnett monitored some of that particular
5 interview; correct?

6 A. Yes, sir. And we also got him to provide another
7 written statement --

8 Q. Okay.

9 A. -- with additional information.

10 Q. I'm going to get this marked. Oh. Already have it
11 marked.

12 I'm going to show you what's been marked as State's
13 Exhibit Eight and have you take a look at that if you
14 would, please.

15 A. Yes, sir.

16 Q. And is that the additional written statement that
17 Mr. Gerrick provided to you?

18 A. Yes, sir.

19 Q. And this was a voluntary statement he had willingly
20 come in to talk to you; is that correct?

21 A. Yes, sir; he did.

22 Q. And after being interviewed you asked him to write a
23 statement and he wrote that down; is that correct?

24 A. Yes, sir; he did.

25 MR. WATERS: Your Honor, I would move State's Eight

SHAUN E. HARLEY - DIRECT/WATERS

1 into evidence, please.

2 THE COURT: Any objection?

3 MR. WILLIAMS: I think I'm okay with it but I'd like
4 to see it.

5 (Document handed to defense counsel.)

6 MR. WILLIAMS: No objection.

7 (State's Exhibit No. 8, Gerrick statement, received
8 into evidence.)

9 BY MR. WATERS:

10 Q. Lieutenant, I know the handwriting can be a little
11 tough to read.

12 Permission to publish, Your Honor? If you could read
13 that to us.

14 A. Yes, sir. This -- this, this is additional statement
15 to my previous statement that was given to Agent Harley on
16 July 23rd, 2011. I had someone to call Maurice which was
17 with was John Rice to confirm that he, that he loaned me
18 3,000 to put with Tyrone to help get me out, out of jail.

19 They both, they both -- they both met in Barnwell
20 from, from my -- I'm having a little, tough time with this
21 one.

22 Q. Just do the best you can.

23 A. And stated that -- well, I guess he was saying both
24 said, say that the transaction was made. And Tyrone was
25 in his way -- was on his way to get, get -- to get me.

SHAUN E. HARLEY - DIRECT/WATERS

1 Also I didn't mention that the 18,000 I received from the
2 backhoe was Tyrone and mine because I didn't think that I
3 need to bring that up.

4 They also have Tyrone and I money together. After
5 Tyrone picked me up from, from the jail we needed to
6 discuss the money that he withdraw, that he withdraw
7 from -- so we both could get our numbers together as far
8 as how much he could have -- he could owe, owe me from
9 them.

10 He said no problem dog. Once he put, once he put me
11 out of the car -- or before he put me out, he put me out
12 and I asked him where was, where was the card. He didn't
13 have it he said. He will bring it back when -- he will
14 bring it which -- he will bring it when he come back to my
15 house. So I received the card from there and went to the
16 bank.

17 Q. Okay. And is that the statement that he gave you at
18 that time?

19 A. Yes, sir.

20 Q. All right. And so he talked about a backhoe?

21 A. Yes, sir.

22 Q. What did he tell you about that? Can you explain it
23 to us?

24 A. He and Tyrone Donaldson had gotten a backhoe, some
25 backhoe equipment which they had received, I guess,

SHAUN E. HARLEY - DIRECT/WATERS

1 \$18,000 from together, that they had gotten backhoe
2 equipment.

3 Q. This is what Sammie Gerrick's telling you?

4 A. Correct.

5 Q. Okay.

6 A. And some of the money, of that money went to Tyrone
7 Donaldson. He had it in his account.

8 Q. Okay. So Sammie Gerrick is claiming they had some
9 joint money and they put it in --

10 A. Tyrone Donaldson's account.

11 Q. And that's why Sammie said he was able to have access
12 to Donaldson's ATM card?

13 A. Correct.

14 Q. So that's what he told you on that day; correct?

15 A. Correct.

16 Q. All right. Did he talk about having a PIN number?
17 Did he say anything about that at this time that you
18 recall?

19 A. Let me -- I'm sorry. I apologize for this. He did
20 stated that once he told us that, once he -- Tyrone came
21 back to his house after he had gotten washed up and ready
22 to go, that Mr. Tyrone Donaldson provide him the bank card
23 and that he could use it, I guess.

24 Q. Okay. All right. Moving now to July 30th, 2011. Did
25 you receive any information from Chief Holston about a

SHAUN E. HARLEY - DIRECT/WATERS

1 call that he had received from Sammie Gerrick?

2 A. Yes, sir; I did.

3 Q. And we've already heard it, but just remind us again
4 very quickly what the substance of that call was.

5 A. On that day I received a call from Chief Holston from
6 Blackville Police Department. He contacted me by phone,
7 stated that Sammie Lee Gerrick had contacted him stating
8 that somebody had Tyrone Donaldson kept hostage, was
9 kidnapped, by the name of Black and that they was in
10 Springfield, South Carolina.

11 Chief Holston then relayed to me that Sammie Gerrick
12 told him that he heard Tyrone Donaldson in the background
13 saying, help me.

14 I then asked Chief Holston did Sammie Lee Gerrick ever
15 provide him specific information, like exact information,
16 who was this person named Black. He stated that Sammie
17 Gerrick told him that Black was supposed to call him back.

18 After that -- that was the last we heard about that.

19 Q. Okay. And, at some point in time around this time was
20 Mr. Gerrick re-incarcerated?

21 A. At that time; no, sir.

22 Q. And in the days after that, did that happen?

23 A. Yes, sir. He was incarcerated. I think he was on
24 violation of bond or probation. I'm not sure which one.

25 Q. Okay. And after that happened, did y'all make any

SHAUN E. HARLEY - DIRECT/WATERS

1 efforts to contact his wife, Charlene?

2 A. Yes, sir; we did.

3 Q. And tell us about that. And if you would, just tell
4 us -- did you go and speak with her?

5 A. Yes, sir. On August 3rd, we had her to come down to
6 the Blackville Police Department. First --

7 Q. Okay. And I don't want to get into what you said, and
8 don't want to get into anything she said to the
9 Defendant.

10 A. Correct.

11 Q. But I want to describe. You had an interview with
12 her; is that correct?

13 A. Correct. At the Blackville Police Department which
14 took about an hour. And then after that interview we then
15 came down to the Barnwell County Sheriff's Office where we
16 had the interviewed recorded.

17 Q. So y'all interviewed her at Blackville for a while.
18 Who was present at that interview?

19 A. Myself, Chief Holston.

20 Q. Okay. And then y'all went to Barnwell Sheriff's
21 Department then; correct?

22 A. Correct. Where the interview was video recorded.

23 Q. And how much time did y'all spend with her?

24 A. About two hours, I want to say, maybe longer.

25 Q. Okay. And as a result of the conversation that you

SHAUN E. HARLEY - DIRECT/WATERS

1 had with Ms. Charlene Gerrick, did you ask her to take
2 y'all somewhere?

3 A. Yes, sir; we did.

4 Q. And where did you ask her to take you?

5 A. We actually asked her to take us to where she took
6 Sammie Lee Gerrick in reference to the white Honda Civic
7 which belonged to Tyrone Donaldson.

8 Q. All right. And tell us where you went. Tell us where
9 she took you, if you would.

10 A. She took us down -- we had came back to Blackville
11 because we went back down on a road called Sunshine Road.
12 And off the Sunshine Road is a little dirt road called One
13 Way which is located in Barnwell County.

14 After we made the little left off of Sunshine Road
15 onto One Way, on the dirt road, you go down, it was like
16 two houses to your right. Farther in it goes into a heavy
17 wooded area, but before you get into the wooded area
18 there's an open field. And then it goes into a heavy
19 wooded area.

20 Q. And is that location in Barnwell County?

21 A. Yes, sir.

22 Q. Okay. And so she showed you in that wooded area where
23 she had gone with Sammie Gerrick to get that white car; is
24 that correct?

25 A. Correct.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. What -- after she showed you this location, what steps
2 did y'all take to investigate that scene?

3 A. After that -- the following day, which was August 4th,
4 I think, so, August 4th of 2011, we then had a search in
5 that area where she last took us where the car was at.
6 Along with SLED, we had the SLED helicopter, along with
7 other agents, had Barnwell County Sheriff's Office
8 Deputies, Blackville Police Department Officers, and
9 several more other officers out there to help search the
10 area.

11 Q. And that area is in Barnwell County; correct?

12 A. Correct.

13 Q. All right. And so you had a number of officers come
14 out there to search the area?

15 A. Yes, sir.

16 Q. And how did y'all go about searching? What method do
17 you use to search the area?

18 A. Well, the area -- how we did it that day, we were all
19 like parallel, like, spaced apart, but we're all in line
20 as we walk. Combed the area. Walked together in a line,
21 starting in one area. After we got to one area, then
22 we'll go back to the other end. Then we'll walk back to
23 the other area.

24 Q. And so you got everybody in a line and kind of moving
25 along. Just, what are you looking for?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Well, we was looking for anything that looked out of
2 place or disturbed.

3 Q. Okay. And after y'all did that for a while, did
4 somebody find something?

5 A. Yes, sir.

6 Q. And tell us what happened.

7 A. Captain, I forgot his name, with the Barnwell County
8 Sheriff's Office, while he was doing the search while
9 everybody was in line, he had a stick where he just had a
10 little stick was just going down. He came across a
11 disturbed area which looked disturbed, like soft, and when
12 he poked his stick into the ground that's when an odor
13 came up.

14 Q. Did you go over to that scene once somebody said, hey,
15 I got something over here?

16 A. Yes, sir; we did. I did.

17 Q. Did you smell that odor?

18 A. Yes, sir.

19 Q. What did that odor smell like to you?

20 A. It was stink. I mean, like --

21 Q. Decomposition?

22 A. Yes, sir.

23 Q. Okay. So y'all found this area and you smelled
24 decomposition. What did you all do at that point?

25 A. At that time we then contacted our SLED crime scene

SHAUN E. HARLEY - DIRECT/WATERS

1 out of Columbia, forensic team - crime scene, to have them
2 to come down to look at the area.

3 Q. And who are those people that came?

4 A. Crime scene technician Melissa Skipper Wallace, and a
5 Kiki Stanley and Al Brown. I'm sorry.

6 Q. And about what time was this, do you recall, or is it
7 in your notes?

8 A. About 11-something to that effect.

9 Q. And this is on August 4th; is that correct?

10 A. Correct.

11 Q. All right. And so, tell us how it works. Tell us a
12 little bit how it works and what y'all did to investigate
13 this suspicious area that you found.

14 A. At that time after we waited for crime scene to
15 arrive, we waited for them -- Melissa Skipper, she was in
16 charge of other crime scene at the time. She had us to
17 dig around that area but slowly, like pieces at a time.
18 It wasn't like we was just in there digging, digging,
19 digging, digging. It was like a certain way she wanted us
20 to dig around that area and took night, all day and all
21 night.

22 Q. Did you have to bring out spotlights and stuff?

23 A. Yes, sir. The Barnwell County Sheriff's Office
24 provided us spotlights.

25 Q. And so it's a very long process to do it the right

SHAUN E. HARLEY - DIRECT/WATERS

1 way; is that correct?

2 A. Yes, sir.

3 Q. The way that Melissa Skipper, the crime scene tech,
4 wanted to do it; correct?

5 A. Correct. To preserve evidence, I guess; yes, sir.

6 Q. All right. And what did y'all find in the hole?

7 A. We found a body of a black male.

8 Q. And now you said it took hours and hours to dig that
9 hole. If you had a man and he was just digging and not
10 worrying about preserving evidence, would it take hours
11 and hours to do that?

12 A. No, sir. We would have took about a, no -- at least
13 about an hour.

14 Q. About an hour. But it took so long for y'all because
15 you all were being very careful, the way the crime scene
16 tech wanted to do it to make sure you didn't corrupt or
17 miss any evidence?

18 A. Correct.

19 Q. Okay. All right. Y'all found the body of this black
20 male; is that correct?

21 A. Yes, sir.

22 Q. Were y'all able to identify that black male?

23 A. Yes, sir.

24 Q. And who was it?

25 A. It was the victim, Tyrone Donaldson.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. And just to be clear. That grave where you found the
2 victim, Tyrone Donaldson's body, that was in Barnwell
3 County; correct?

4 A. Yes, sir.

5 Q. So y'all found his body?

6 A. Yes, sir.

7 Q. And what did y'all do in the next few days after you
8 discovered the body? Did y'all search any other areas or
9 engage in any other investigation?

10 A. Yes, sir. After we discovered the body, identified,
11 we then got search warrants for Sammie Lee Gerrick's
12 vehicle which was his Dodge pickup truck, also his
13 residence at, in Blackville, and also the other residence,
14 at Charlene Gerrick's residence.

15 Q. Okay.

16 A. And also his parents' house, I think.

17 Q. All right. So y'all had -- y'all went and searched
18 the truck, searched the residence and that sort of thing.
19 Did you have the crime scene folks do that sort of thing?

20 A. Yes, sir. They did the following morning, I think,
21 sir.

22 Q. Okay. All right. Did you ever go back and interview
23 Mr. Gerrick again?

24 A. Yes, sir; we did.

25 Q. All right. And what day was that on?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. That was August 17th.

2 Q. Okay. And tell us how that interview came to pass, if
3 you would.

4 THE COURT: What day was that?

5 THE WITNESS: August the 17th of 2011.

6 THE COURT: Thank you.

7 THE WITNESS: Mr. Sammie Lee Gerrick, he was
8 transported by the US Marshall's Task Force because I
9 think he was incarcerated at the Charleston County
10 Detention Center at that time. And was transported back
11 here to Barnwell County to the sheriff's office where we
12 interviewed him at that time.

13 MR. WATERS: Court's indulgence. (Pause.)

14 Q. All right. So, tell us where Sammie Gerrick was.

15 A. He was at the Charleston County Detention Center.

16 Q. And y'all had him brought back to Barnwell; is that
17 correct?

18 A. He was transported by US Marshall's Task Force.

19 Q. And then you brought him in and said you wanted to
20 talk to him; is that correct?

21 A. Correct.

22 Q. Before talking to him because he was in custody, did
23 you advise him of his rights?

24 A. Yes, sir; I did.

25 Q. And I'm going to show you what's been marked as

1 State's Exhibit 11 and see if you recognize that.

2 A. Yes, sir.

3 Q. And what is that?

4 A. This is a SLED Miranda rights form, advising of his
5 rights.

6 Q. Okay. And tell us if you would -- and hold on real,
7 quick.

8 (Document shown to defense counsel.)

9 MR. WILLIAMS: Your Honor, we're going to have a
10 matter of law here in the next minute or two so.

11 THE COURT: I know we are.

12 MR. WILLIAMS: Do you want to take a break now?

13 THE COURT: Yeah. Ladies and gentlemen, we got a
14 matter of law we need to do it outside of your presence.
15 Let's take a quick break. Do not discuss the case. Do
16 not start any deliberations.

17 I'm going to send the clerk back there to discuss
18 lunch options with you so y'all can talk about that.

19 So if you'll step right out, and I'll be right back
20 with you in just a few minutes.

21 (Jury exits courtroom at 10:15 A.M.)

22 THE COURT: This is an interview that took place on or
23 about August 17, 2011?

24 MR. WATERS: Yes, sir. That's correct, Your Honor.

25 THE COURT: We have not had a Jackson V Denno on

1 this. Mr. Williams, is there any question about it being
2 done pursuant to Miranda and being voluntary?

3 MR. WILLIAMS: Your Honor, we brought this up last
4 week in the preliminary hearing (verbatim). And I think
5 what we gave to you was a tape of the hearing and
6 essentially what happened --

7 THE COURT: Okay. That's the same one we talked about
8 last week?

9 MR. WILLIAMS: That's correct.

10 THE COURT: Okay.

11 MR. WILLIAMS: And there are about two or three other
12 hearings and they're all on tape. So I could see what was
13 done on the subsequent hearings here, but I've got a
14 serious question about this one.

15 THE COURT: This is the one you argued last week about
16 him asking for his lawyer and then continuing on with the
17 hearing?

18 MR. WILLIAMS: That's right. In other words, he asked
19 for a lawyer and my recollection and what the tape says is
20 that Agent Harley then says, well, before I can talk to
21 you, you got to sign this document. And he goes through
22 the document and he signs it, and then they start their
23 conversation without him getting a chance to get a
24 lawyer.

25 And for that reason, since they're so

1 contemporaneously together, those two conversations, I
2 think the tape has to be excluded.

3 THE COURT: Is there anything else additional you need
4 to argue other than what was argued at the motions last
5 week in Aiken?

6 At that time the State presented to me, obviously your
7 motion to suppress, they presented to me a memo dealing
8 with the law, as they saw it, on the issue. And they also
9 gave to me a CD of the interview which we reviewed over
10 the weekend, my law clerk and I.

11 Is there anything else I need to have before I rule on
12 the admissibility of this particular interview?

13 MR. WILLIAMS: I think I disagree with their
14 characterization that this is being ambiguous.

15 I think he clearly said he wanted a lawyer. And I
16 think they clearly went ahead with the interview. And I
17 think that Mr. Waters and the State are trying to call
18 this an ambiguous statement or an ambiguous waiver of the
19 rights. In other words, he shouldn't have known. I think
20 in this instance he should have known because it was
21 clearly said on the tape.

22 THE COURT: Well, the tape says what it says.

23 MR. WILLIAMS: Yes, sir. That's right.

24 THE COURT: I've viewed the tape. Anything else?

25 MR. WILLIAMS: Nothing beyond that, Your Honor.

1 THE COURT: Anything else by the State other than your
2 memo?

3 MR. WATERS: No, sir, Your Honor. We would obviously
4 rely on our arguments made at the pretrial hearing. If
5 there's any questions Your Honor has, we'll be happy to
6 address them.

7 THE COURT: Thank you.

8 I will allow the statement. I have, as I've said
9 we've reviewed it along with my law clerk. I find that if
10 he did invoke his right to request a lawyer, it was
11 certainly ambiguous at best, and then he goes on to agree
12 to be interviewed.

13 So it was a re-initiation of the situation as well as
14 there was any waiver after sort of hem and hawed back
15 about a lawyer.

16 So I find that that statement is admissible. And as I
17 think I stated in the various motions we've had, I relied
18 on the case of Derghuis, D-E-R-G-H-U-I-S versus Thompson.
19 That's a US Supreme Court case. And this application to
20 the State, State versus Moses and the various cases cited
21 in the State's brief, also the Kennedy case. And I
22 respectfully rule that it is admissible. Also on the
23 waiver cases dealing with State versus Binney, B-I-N-N-E-Y
24 and the analysis as set forth in the State's memo.

25 All right. Anything else we need to do before we

1 bring the jury back in?

2 MR. WILLIAMS: Briefly, I think what's going to happen
3 here is that he's going to show some clips of a two-and-a
4 half, three-hour long tape which I have viewed, you know.
5 And while I may have some issue with them, you know, we --
6 if I don't agree to something he's going to try to put it
7 all in. And I think he's done a fair job of trying to
8 whittle it down. All being said, there's also some case
9 law out there that says that this can come in, so.

10 THE COURT: Well, we had, this issue was brought up at
11 the pretrial hearing that we had last week in Aiken. We
12 once again discussed it yesterday at the conclusion of the
13 testimony around 4:30 or five, at which time y'all were
14 going to make an additional attempt to pare it down
15 further. You were going to review it last night and
16 advise me if you had any objections.

17 We got an e-mail early this morning saying that you
18 did not. Then we had an in-chambers discussion wherein
19 you once again sort of verified to me that you looked at
20 it, had an opportunity to look at it, and that you think
21 that the solution to your problem had been met and that,
22 had no objection to it.

23 MR. WILLIAMS: That's correct. If they were to play
24 the whole thing, I think the solution is met.

25 THE COURT: Absolutely.

1 MR. WATERS: One thing --

2 THE COURT: Anything you want to add to that?

3 MR. WATERS: Yes, sir. One thing that we're going to,
4 -- obviously there was the issue with regards to Agent
5 Burnett's interview that showed the computer on the
6 table. And our position was you couldn't really tell that
7 was a polygraph but understanding Mr. Williams' concern
8 essentially what we're going to do is we're going to play
9 it and I'm going to take a little program box and just put
10 it right up on there so the full portion of the desk
11 cannot be seen by the jury so they won't be able to see
12 that and nobody who may know what that is can draw any
13 conclusions in that regard.

14 THE COURT: Very well. Do you agree with that,
15 Mr. Williams?

16 MR. WILLIAMS: I'd just like to see it before it goes
17 up in front of the jury, that's all.

18 THE COURT: I understand.

19 MR. WATERS: Right. And that would be my second
20 request is, I'm going to have to be doing some delicate
21 operations over there. So just to let the Court know,
22 we've got it ready to go but...

23 THE COURT: I'll let you be delicate.

24 MR. WATERS: Okay. Thank you, sir.

25 The other thing I would bring up now since we have the

1 jury out is there are a couple other issues we'd like to
2 discuss with Lieutenant Harley here. One of which is, of
3 course, the brown piece of paper that -- the root that was
4 found on, Mr. Gerrick's console in his truck.

5 Now it was Agent Skipper who actually found that and
6 I'm going to have her here. She'll be testifying
7 shortly. But it's one of those things where we can either
8 break up Lieutenant Harley, or we can go ahead and hear
9 the testimony now and Your Honor can rule on it so that we
10 can go into that testimony with Agent Harley and then tie
11 it up with Agent Skipper after that.

12 THE COURT: Well, are you going to try to introduce it
13 through Harley?

14 MR. WATERS: Well --

15 THE COURT: Whoever you're going to introduce it
16 through, that's who I need to hear from.

17 MR. WATERS: Skipper is necessary to show where it was
18 found and what she exactly found. Agent Harley is
19 necessary to discuss the content of that letter. So I can
20 either go --

21 THE COURT: Well, assuming that you're going to
22 establish where it was found, how it was found and you're
23 going to move to introduce it, Mr. Williams, I assume
24 you're going to have an objection to it?

25 MR. WILLIAMS: I have an objection.

1 THE COURT: And it's the same objection that we
2 discussed in Aiken last week?

3 MR. WILLIAMS: That's right.

4 THE COURT: Anything additional to that?

5 MR. WILLIAMS: No, sir.

6 THE COURT: All right. Any additional arguments by
7 the State?

8 MR. WATERS: No, sir, Your Honor. We rely on those
9 arguments we made. We'll be happy to answer any questions
10 you may have.

11 THE COURT: I have, as I told you yesterday at the
12 pretrial before the trial started yesterday, over the
13 weekend I had a chance to look, review the cases that I
14 said yesterday, State versus Beckham, the State versus
15 Orozco, O-R-O-Z-C-O, State versus Martin, State V Mattison
16 M-A-T-T-I-S-O-N, and I conclude that based on those cases
17 that, that this evidence should be admitted.

18 It is or could be construed by the jury as to some
19 type of evidence of consciousness of guilt. Therefore I
20 find that it should be admitted and then obviously the
21 jury can give it any weight, whatever weight, or no
22 weight, that it decides it should give it, if any.

23 And I've also made a full three analysis and I deem
24 that the probative value outweighs any prejudicial effect
25 or prejudicial value or effect on the Defendant. So I

1 have made a full three analysis. I've also analyzed it
2 under the cases that I've set out, and that it could be
3 construed or it is -- the jury could find it to be
4 evidence of consciousness of guilt and they can give it
5 whatever weight, as I said, they deem appropriate. So
6 that's my ruling.

7 And I think you're protected. You made the
8 appropriate objections and -- for any appellate matter.
9 Anything else?

10 MR. WATERS: And, Your Honor, while we're there, does
11 that go for the Law Keep Away?

12 THE COURT: It goes to the root letter, the root
13 itself, and the Law Stay Away can, I guess is what it was.

14 MR. WATERS: Okay. And then just finally just as a
15 heads up. We are, I'm not going to get into any crime
16 scene photographs with Agent Harley but obviously we'll
17 need to do that.

18 THE COURT: We'll do that.

19 MR. WATERS: And we'll do that at the appropriate
20 time.

21 THE COURT: Yes, sir.

22 MR. WATERS: Your Honor, just one second. Let me mark
23 two exhibits.

24 THE COURT: Now when we take another break, please
25 mark all your exhibits so we don't have to wait on

SHAUN E. HARLEY - DIRECT/WATERS

1 marking.

2 MR. WATERS: Yes, sir.

3 THE COURT: I thought they were already marked.

4 I want in the record the memo concerning the root,
5 can, and the letter that you presented over in Aiken. I
6 assume they were made part of the record as a Court's
7 Exhibit, please.

8 MR. WATERS: All right.

9 (Court's Exhibit No. 3, motion to suppress, received
10 into evidence.)

11 THE COURT: Anything else before we bring the jury
12 back?

13 (Jury enters courtroom at 10:28 A.M.)

14 THE COURT: You may proceed.

15 MR. WATERS: Thank you, Judge.

16 DIRECT EXAMINATION (CONTINUED)

17 BY MR. WATERS:

18 Q. Lieutenant Harley, I'm going to back up just real
19 quick before we get to Mr. Gerrick's statement on August
20 17th. You talked about finding the body on the 4th;
21 correct?

22 A. Yes, sir.

23 Q. August 4th. And then in the next couple days you all
24 had someone do a search warrant on the Defendant's truck;
25 is that correct?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Correct.

2 Q. And was there discovered in the console of the
3 Defendant's truck a little brown piece of paper, capsule
4 sort of thing?

5 A. Yes, sir; there was.

6 Q. Can you describe what that was to us?

7 A. The brown package, it was like tape or brown, like a
8 brown piece of paper bag, looked like. It was just taped
9 up. Once you open it, it had some dust, weed, twigs and a
10 penny in it.

11 THE COURT: The last thing in it? What was the last
12 thing?

13 THE WITNESS: Weeds, twigs, or something like that,
14 and a penny.

15 THE COURT: You said penny?

16 THE WITNESS: Penny.

17 BY MR. WATERS:

18 Q. So it was a brown piece of paper. It was all wrapped
19 up in, like, a capsule and taped up?

20 A. Correct. And it had words written on it, too.

21 Q. And then inside it had some dirt --

22 A. Dirt and stuff.

23 Q. -- and twigs and a penny and that sort of thing?

24 A. Yes, sir.

25 Q. Is that correct?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Yes, sir.

2 Q. And that was found in the Defendant's, in the console
3 of his truck; correct?

4 A. Yes, sir.

5 Q. And did y'all -- did you subsequently open up that
6 particular capsule and look at the words that were written
7 on that paper?

8 A. Yes, sir; we did.

9 Q. And, I'm going to show you what's been marked as
10 State's Exhibit 29, and see if you recognize that.

11 THE COURT: Just answer the question whether you
12 recognize it.

13 THE WITNESS: Yes, sir; I do.

14 BY MR. WATERS:

15 Q. Okay. And is that the words that were written on that
16 brown piece of paper that we've just been talking about?

17 A. Yes, sir.

18 MR. WATERS: Your Honor, at this time I'd move to
19 introduce that into evidence.

20 THE COURT: Mr. Williams, you are protected on your
21 objections.

22 MR. WILLIAMS: Thank you, Your Honor.

23 MR. WATERS: Your Honor, permission to publish that to
24 the jury.

25 THE COURT: That's the paper written around the

SHAUN E. HARLEY - DIRECT/WATERS

1 capsule?

2 MR. WATERS: That's the front page of it; yes, sir.

3 And then I'll have the back page next.

4 (State's Exhibit No. 29, photograph, received into
5 evidence.)

6 BY MR. WATERS:

7 Q. So that's the paper we're talking about that was this
8 capsule; correct?

9 A. Correct.

10 Q. Read to us -- the jury what it said on there.

11 A. Set me Sammie Gerrick free from murder and revoke
12 bond. Jack Early set me free now. Jack Early set me free
13 now. Jack Early set me free now. Sammie Gerrick, Sr.
14 Sammie Gerrick, Sr. Sammie Gerrick, Sr. So shall it be.
15 So shall it be. So shall it be. Amen. Amen. Amen.

16 Q. Okay. And that was this little capsule and that's
17 what it had on it?

18 A. Yes, sir.

19 Q. Now I want to show you what's been marked as State's
20 Exhibit 30. And that was State's 29; correct?

21 A. Correct.

22 Q. And now I want to show you State's Exhibit 30. And
23 just tell me if you recognize what that is.

24 A. Yes, sir.

25 Q. Is that what was written on the other side of that

SHAUN E. HARLEY - DIRECT/WATERS

1 piece of paper that you just read?

2 A. Yes, sir.

3 MR. WATERS: Your Honor, at this time I move State's
4 30 into evidence.

5 THE COURT: Same objection, same protection.

6 MR. WILLIAMS: Yes, sir.

7 (State's Exhibit No. 30, photograph, received into
8 evidence.)

9 MR. WILLIAMS: Yes.

10 BY MR. WATERS:

11 Q. And I'm not going to make you read that whole thing,
12 but tell us what was on that side of the paper.

13 A. It was a verse from the Bible from Psalms 130.

14 Q. So front and back here is 29 and 30; is that correct?

15 A. Yes.

16 Q. You have -- let's go back to your interview with
17 Mr. Gerrick. You said you brought him from Charleston to
18 Barnwell; correct?

19 A. Yes, sir.

20 Q. All right. And y'all went to an interview room;
21 correct?

22 A. Yes, sir.

23 Q. And you proceeded to advise him of his Miranda rights?

24 A. Yes, sir; we did.

25 Q. Okay. And I'm going to show you what's been marked as

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1 State's Exhibit 11, and see if you recognize that.

2 A. Yes.

3 Q. And what is that?

4 A. This is a SLED Miranda rights form.

5 Q. And is that standard procedure when you're
6 interrogating witnesses (verbatim) in custody, to advise
7 them of their Miranda rights?

8 A. Yes, sir. We read it out to him and had him to read
9 it too, and had him sign his initials, making sure he
10 understood his rights.

11 MR. WATERS: Your Honor, at this time I'd move State's
12 11 into evidence.

13 MR. WILLIAMS: Subject to previous objection.

14 THE COURT: Admitted.

15 (State's Exhibit No. 11, Miranda rights form, received
16 into evidence.)

17 BY MR. WATERS:

18 Q. Tell us if you would, just kind of go through what you
19 read to Mr. Gerrick before you all proceeded with your
20 questioning of him.

21 A. Okay. It states: Before we ask you questions you
22 must understand your rights. You have the right to remain
23 silent. Anything you say can be used in court as evidence
24 against you. You are entitled to talk to a lawyer now and
25 have him present now or at any time during questioning.

SHAUN E. HARLEY - DIRECT/WATERS

1 If you cannot afford an attorney, one will be appointed
2 for you without cost.

3 If you decide to answer questions now without a lawyer
4 present, you will still have the right to stop answering
5 at any time. You also have the right to stop answering at
6 any time until you talk to a lawyer.

7 Then it goes on: Do you understand these rights. Do
8 you wish to talk to us at this time.

9 Which he indicated yes and he initialed on these
10 lines, next to the lines.

11 Q. Okay. So that's his signature on there and that's his
12 initial under each right; correct?

13 A. Correct. And then it went on for the waiver of
14 rights.

15 Q. Okay. And what does that say?

16 A. It says: I have read this statement of my rights and
17 I understand what my rights are. I am willing to talk now
18 without a lawyer present. I understand and know what I am
19 doing. No promise, threats have been made to me. No
20 pressure or coercion of any kind has been used against
21 me.

22 And which he signed his signature at the bottom along
23 with my name and Agent Jimmy Dowling and Chief Holston.

24 Q. Okay. All right. So he -- after you explained all of
25 that to him, he agreed to talk with you; is that correct?

SHAUN E. HARLEY - DIRECT/WATERS

1 A. Correct.

2 Q. And you didn't threaten him; did you?

3 A. No, sir.

4 Q. You didn't promise him anything; did you?

5 A. No, sir.

6 Q. Didn't beat him with a rubber hose; did you?

7 A. No, sir.

8 Q. He agreed to talk to you after hearing those rights;
9 is that correct?

10 A. Yes, sir.

11 Q. And if you would -- was this videotape recorded?

12 A. Yes, sir; it was.

13 Q. If you would, just kind of tell us generally what he
14 told you in that particular interview and then we'll play
15 some of that video recording. Okay?

16 A. During this interview he maintained that the
17 information that he provided to us on the previous
18 interviews that we conducted with him, but he -- with the
19 addition of more information, which he stated after he
20 left the Junior Food convenience store he went back home.
21 After spending some time at home he then went to his
22 father's house which is located in Bamberg County.

23 While at his father house he then walked over to his
24 wife house which is Charlene Gerrick. And after he spend
25 some time with Charlene Gerrick, that's when he admitted

SHAUN E. HARLEY - DIRECT/WATERS

1 that he did go to Orangeburg, South Carolina, which in the
2 previous statements he never admitted going to Orangeburg
3 until then.

4 Q. Okay. And were y'all asking him about that now that
5 you had gathered new information?

6 A. Yes, sir. This was after the body was discovered.

7 Q. Okay. And tell me how that worked. I mean, did
8 y'all -- I mean, the stories starts to change a little
9 bit. How did that conversation with him develop that led
10 to this new version that was going on?

11 A. The last time before August the 17th before we
12 interviewed him, we hadn't gathered, we hadn't had all the
13 information that we had until he was incarcerated on his
14 bond violation.

15 After he was incarcerated that's when we gathered more
16 information in reference to what Charlene Gerrick, where
17 she led us to the vehicle. After that we located the body
18 and that's when we questioned him more about the
19 information.

20 Q. Okay.

21 A. Before all of this he never provided none of this
22 information to us.

23 Q. Okay. So now you've gotten the information about the
24 car being in Orangeburg and the location of the body and
25 all of a sudden he admits he went to Orangeburg; is that

SHAUN E. HARLEY - DIRECT/WATERS

1 correct?

2 A. Yes, sir. He admitted he go to Orangeburg but he
3 never admitted about moving, taking the car his self,
4 driving the car to Orangeburg during that interview.

5 Q. All right. Now was -- we already talked about, some
6 of that interview is recorded; is that correct?

7 A. Yes, sir, it was.

8 Q. All right.

9 And, Your Honor, at this time I would like to play a
10 portion of that interview.

11 THE COURT: All right. Subject to the objections
12 earlier --

13 MR. WILLIAMS: Right.

14 THE COURT: -- made, and subject to my earlier
15 rulings.

16 MR. WATERS: Court's indulgence while I make sure we
17 get it running right.

18 THE COURT: First of all, can all of my jurors see
19 this? I know my alternate can't. How about on the very
20 end, can y'all see it? Madam Alternate, if you want to
21 come down on this end. Get her a seat for this end,
22 please. Can you see it from there?

23 THE JUROR: Yeah.

24 THE COURT: If you have any problems, raise your hand.

25 THE JUROR: All right.

SHAUN E. HARLEY - DIRECT/WATERS

1 THE COURT: Thank you, Ms. Peeples.

2 MR. WATERS: Your Honor, I'm going to go ahead and
3 start playing it. And I would ask if any of the jurors
4 can't hear it, that they raise their hand so we can make
5 sure that they can hear it.

6 THE COURT: Thank you. Can you turn some lights off
7 for me?

8 BY MR. WATERS:

9 Q. And, everybody give me just one second to get it up.

10 Obviously, it's not the best video in the world but
11 just before we begin, Lieutenant Harley, who is this
12 individual right there?

13 A. That's Sammie Lee Gerrick.

14 Q. Okay. And who this is individual right here?

15 A. Special Agent Jimmy Dowling who worked for SLED.

16 Q. Okay. And who is that up there?

17 A. Chief Holston from Blackville Police Department.

18 Q. And whose little bit of a head is down here?

19 A. That's myself.

20 Q. Okay. All right.

21 Your Honor, permission to go ahead and play?

22 THE COURT: Yes, sir.

23 MR. WATERS: Thank you.

24 (Video played from 10:39 A.M., until 10:42 A.M.)

25 BY MR. WATERS:

1 Q. Agent Harley, was that a accurate reflection of that
2 first clip?

3 A. Yes, sir.

4 Q. All right. I'm going to bring up the second clip.
5 Same interview, same folks?

6 A. Yes, sir.

7 Q. MR. WATERS: All right. Here we go.

8 (Video played for the jury from 10:43 A.M., until
9 10:48 A.M.)

10 BY MR. WATERS:

11 Q. All right. Again, was that an accurate reflection of
12 what happened in the second clip?

13 A. Yes, sir.

14 (Video played for the jury from 10:48 A.M. until 11:17
15 A.M.)

16 THE COURT: Is this a good time to take a break?

17 MR. WATERS: Yes, sir; it is, Your Honor.

18 THE COURT: Mr. Foreman, ladies and gentlemen, we're
19 going to take about a 15-minute break so you can stretch
20 your legs. What time do you want to do lunch?

21 THE CLERK: Whatever time you'd want, sir.

22 THE COURT: Thank you.

23 We'll come back and go to 12:30, quarter till one.
24 Sort of give you an idea.

25 Please don't discuss the case. Please don't

1 deliberate. Everybody else remain seated, please. Y'all
2 step out.

3 (Jury exits courtroom at 11:17 A.M.)

4 THE COURT: We'll take about a 15-minute break. We'll
5 start back at 11:30.

6 (Break taken. At 11:39 A.M., the trial resumed:)

7 THE COURT: Anything from State before we proceed?

8 MR. WATERS: No, sir. We have one more clip. It's
9 about --

10 THE COURT: How long is it?

11 MR. WATERS: About 11 minutes, Your Honor. And then
12 we'll finish up with his testimony and then let Your Honor
13 decide whether it's time to break.

14 THE COURT: I'm going to go until about 12:30.

15 MR. WATERS: Yes, sir.

16 THE COURT: Anything from the defense?

17 MR. WILLIAMS: Nothing, Your Honor.

18 THE COURT: Bring the jury in, please. I'm going to
19 send one bailiff with the jurors and maybe two. They're
20 going to?

21 THE CLERK: Mr. B's.

22 THE COURT: Mr. B's for lunch. You got them a room
23 separate back there in the back?

24 THE CLERK: Yes, I do.

25 THE COURT: Any objection by the State?

1 MR. WATERS: No, sir, Your Honor.

2 THE COURT: Mr. Williams?

3 MR. WILLIAMS: None, Your Honor.

4 (Jury enters courtroom at 11:40 A.M.:)

5 THE COURT: All right. Just for your -- we're going
6 to go until about 12:30 or 12:40, depending on how we're
7 doing. Ms. Rhonda tells me you're all going down to
8 Mr. B's for lunch. Got you a private dining room.

9 And you're that cold?

10 THE JUROR: Yeah.

11 THE CLERK: And I told them no alcohol, Judge.

12 THE COURT: If you get cold, raise your hand back.
13 I'll take care of you. We're going to keep going.

14 MR. WATERS: Thank you, Your Honor.

15 THE COURT: As I understand, we've got one more
16 snippet on there. They tell me it's about 10 minutes,
17 so.

18 Madam Alternate, do you need a chair?

19 THE JUROR: Oh, no. I'm good.

20 MR. WATERS: Your Honor, I did misspeak. We've got
21 actually some others after that. So it's going to be, it
22 will probably carry us to the break, I believe, now that
23 I've looked at it.

24 Thank you, Judge.

25 THE COURT: Just letting the jury know it was you

SHAUN E. HARLEY - DIRECT/WATERS

1 misspeaking and not me.

2 MR. WATERS: It was completely me. I apologize, Your
3 Honor.

4 THE COURT: No problem. Thank you.

5 DIRECT EXAMINATION (CONTINUED)

6 BY MR. WATERS:

7 Q. All right. Lieutenant Harley, we're going to go back
8 to the tape again. I'm going to bring up this last clip.
9 And, the same folks that we talked about, the same
10 interview?

11 A. Yes, sir.

12 Q. So we got the Defendant sitting over in the far corner
13 and then you in the bottom, Agent Dowling and Chief
14 Holston present; correct?

15 A. Correct.

16 Q. And this is a continuation of the interview that we've
17 been watching earlier before the break?

18 A. Yes, sir.

19 MR. WATERS: All right. We'll go to the tape.

20 (Video played for the jury from 11:42 A.M., until
21 11:52 A.M.)

22 BY MR. WATERS:

23 Q. All right. Lieutenant Harley, did that fairly and
24 accurately represent part of that interview there?

25 A. Yes, sir.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. And that last clip there, that was when he first
2 started talking about Orangeburg. Is that -- admitted
3 going to Orangeburg; is that correct?

4 A. Yes, sir.

5 Q. And you asked him, you said, why did you just now --
6 why didn't you tell us before about Orangeburg; correct?

7 A. Yes, sir.

8 Q. And then he started talking about this Big Joe, but he
9 didn't have a name or an address for Big Joe that he
10 supposedly went and met; is that correct?

11 A. Correct.

12 Q. All right. So, y'all concluded that particular
13 interview that we've talked about and we've seen these
14 clips from; correct?

15 A. Yes, sir.

16 Q. Now this is that first interview. Just to recap,
17 because I know we've watched a lot of tape. This is that
18 first interview when you all brought Sammie Gerrick from
19 Charleston County; correct?

20 A. Yes, sir.

21 Q. And interviewed him and he gave you the story and
22 ultimately talked about Orangeburg. And after that was
23 over, what happened after y'all stopped talking with him?

24 A. After that interview, Sammie Gerrick was then served
25 with an arrest warrant for murder for Tyrone Donaldson.

SHAUN E. HARLEY - DIRECT/WATERS

1 He was then processed through the Barnwell County
2 Sheriff's Office and then transported to the Barnwell
3 County Detention Center.

4 Q. But we're still on the 17th; is that right?

5 A. Yes, sir.

6 Q. All right. Well, what -- did anything happen after
7 that, after y'all transported him over?

8 A. Yes, sir. Several -- about a couple hours later,
9 Sammie Gerrick then requested to talk back to us --

10 Q. Okay. And --

11 A. -- at his request.

12 Q. And how did that information come to you?

13 A. I guess he contacted somebody from the jail which he
14 was -- and then he reached out and then someone contacted
15 myself.

16 Q. So you got a message that Sammie says he wants to talk
17 to you?

18 A. Yes, sir.

19 Q. And that's the Defendant right over there; right?

20 A. Yes, sir.

21 Q. Okay. And so what did you do?

22 A. We then had him transported from the Barnwell County
23 Detention Center back over to the Barnwell County
24 Sheriff's Office.

25 Q. And did you go in the same interview room or go into

SHAUN E. HARLEY - DIRECT/WATERS

1 an interview room?

2 A. Yes, sir.

3 Q. And who was present this time; do you recall?

4 A. Myself and Special Agent Jomar Albayalde.

5 Q. So how did this start out? Did you start out and go
6 through the rights again?

7 A. Yes, sir. Special Agent Jomar Albayalde advised him
8 of his rights. And I think Special Agent Albayalde told
9 him, this is at your request. We want to make sure. This
10 is at your request. You're the one calling for us. And
11 he said, yes, yes.

12 And so that's when Joe Albayalde read him his Miranda
13 rights.

14 Q. Okay. And even though he was asking -- it was his
15 request and he was asking to speak to y'all, still out of
16 abundance of caution like you do, you went ahead and read
17 him his rights; is that correct?

18 A. Yes, sir; we did.

19 Q. I'm going to show you what's marked as State's Exhibit
20 Number Nine and see if you recognize that.

21 A. Yes, sir.

22 Q. And what is that?

23 A. A SLED Miranda rights form.

24 Q. And is that the Miranda rights form from this
25 interview we're talking about now?

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1 A. Yes, sir.

2 MR. WATERS: Your Honor, at this time I would move
3 State's Exhibit Nine into evidence.

4 MR. WILLIAMS: No objection, Your Honor.

5 (State's Exhibit No. 9, Miranda rights form, was
6 received into evidence.)

7 BY MR. WATERS:

8 Q. And just so we're clear, is this like the one you
9 described before, same language, same rights, signatures
10 of the Defendant. Is that his signature right there?

11 A. Yes, sir.

12 Q. And you witnessed him doing that?

13 A. Yes, sir.

14 Q. And witnessed him initialing all along here?

15 A. Yes, sir.

16 Q. It says down at the bottom, I have waived my rights
17 and I want to voluntarily talk to you, or words to that
18 effect?

19 A. Yes, sir.

20 Q. All right. Well, if you would, before we get to some
21 more tape, let's -- just give us an overview of what
22 happened in the second interview that -- the one we're
23 talking about.

24 A. Okay. When we got in there the second -- when we
25 started off, he came out and said, this is it. I'm going

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1 to give it in -- I'm going to put it all out there. This
2 is it. I'm going to just give it to you. This is the
3 truth.

4 He then went on to state that after Tyrone Donaldson
5 got him out of the Bamberg County Detention Center, after
6 they were driving back to Blackville Police Department the
7 two of them started talking about drugs transactions that
8 are -- drug transactions supposed to take place that day.
9 Supposedly Tyrone Donaldson was supposed to purchase a
10 kilo of cocaine for an amount, and that the person he was
11 dealing with was Andre Hightower, O'Shane Dixon and
12 another Big Joe.

13 Q. Let me stop you right there. Big Joe. That is what
14 we just saw on the clip when he first mentioned Big Joe;
15 right?

16 A. Yes, sir. But the difference with this one, the first
17 clip he said Big Joe, Johnny Evans at that time drove
18 truck. This time he stated Big Joe, this person was Big
19 Joe who was driving a Denali and I think he was out of
20 Georgia. That's all he knew.

21 Q. He mentioned Big Joe before but he couldn't give you
22 an address or anything like that, we saw in the last clip;
23 correct?

24 A. Correct.

25 Q. Now we got another Big Joe?

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1 A. Correct. That is from Georgia.

2 Q. The description changes a little bit?

3 A. Yes, sir.

4 Q. Keep going. He mentioned though that it was O'Shane,
5 Andre Hightower and Big Joe. And what was going to happen
6 according to Sammie?

7 A. A drug transaction is supposed to take place after he
8 got home, went to the bank and then went to the Junior
9 Food Mart, supposedly Tyrone Donaldson was to meet with
10 and Andre Hightower and Big Joe and O'Shane Dixon. And
11 they were supposed to do a drug transaction at that time.

12 Q. Did he say anything about money? About getting money,
13 receiving money and getting money back?

14 A. He stated that, I can't remember the exact amount but
15 it was supposed to be a large amount of money that Tyrone
16 Donaldson was supposed to get. And he was supposed to
17 give it to Sammie Gerrick.

18 And the question I gave to him was: How was Tyrone
19 Donaldson going to give you money when you owe him for the
20 bond.

21 Q. Okay. But this is the story where -- the latest story
22 we're hearing from Sammie Gerrick; is that correct?

23 A. Correct.

24 Q. And this is after he had already given you this
25 statement and then he was, he was served the arrest

SHAUN E. HARLEY - DIRECT/WATERS

1 warrant for this case; is that correct?

2 A. Correct. And then also with additional information
3 then he stated later on in that interview that Andre
4 Hightower instructed him later on that day to move Tyrone
5 Donaldson car, to move Tyrone Donaldson's white Honda
6 Civic. And this was the first time he stated -- this is
7 the first time he admitted about driving the car himself
8 to Orangeburg.

9 Q. And he said now though that -- now he's admitting it?

10 A. Yes, sir.

11 Q. Now he saying, yeah, okay, I did take that white Honda
12 to Orangeburg but I did it because Andre Hightower called
13 me and told me to do it.

14 A. Instructed him. Then he said Tyrone and Andre at one
15 time instructed him to move the car.

16 Q. Did he say he supposedly received any money for moving
17 the car?

18 A. Supposed to receive \$400 from Andre Hightower for
19 moving the car.

20 Q. If you would, take a look at page seven of your
21 report. And see if that will help refresh your
22 recollection as to the amounts that he mentioned that were
23 supposedly going to happen with this drug deal in his
24 latest story.

25 A. Like I say, Tyrone Donaldson was supposed to give him

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1 7,000. And that he, Sammie Gerrick, would have to repay
2 Tyrone Donaldson \$3,000 out of that 7,000.

3 Q. Supposedly there was going to be this drug deal and
4 then Tyrone was going to give Sammie 7,000 and Sammie was
5 going to give him \$3,000 back for the bond money?

6 A. Correct.

7 Q. That's the latest version?

8 A. Yes, sir.

9 Q. All right. Did -- and he admits he drove the Honda
10 this time. That's the first time we're hearing that;
11 right?

12 A. Yes, sir.

13 Q. Okay. When was the last time he said he saw Tyrone in
14 this particular version?

15 A. On this version he stated he never, he never saw --
16 the last time he saw him was at the Junior Food Mart
17 because they went their separate ways. Then later on said
18 he was instructed to get the car that night.

19 Q. And he said he didn't know what happened to Tyrone and
20 he had nothing to do with killing him at this point?

21 A. No, sir.

22 Q. Okay. All right. So that's kind of an overview of
23 the next version. After Sammie gets arrested he says,
24 hey, I want to talk to you. And then the story changes a
25 little bit more to kind of fit with some of the evidence.

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1 And that's where we're at now; correct?

2 A. Correct.

3 Q. All right. Well now, this second interview we're
4 talking about, it was recorded too. And we have some
5 clips from that; is that correct?

6 A. Yes, sir.

7 MR. WATERS: All right. Well, let's go to the tape.

8 (Pause.)

9 BY MR. WATERS:

10 Q. All right. Before we get started, just so we know who
11 everybody is. Obviously over here, who's that?

12 A. Sammie Gerrick.

13 Q. And who is this?

14 A. Special Agent Jomar Albayalde.

15 Q. And your corner of your head is not in there this
16 time; right?

17 A. Yes, sir.

18 Q. That would be where you are --

19 A. Correct.

20 Q. -- kind of down at the bottom there?

21 A. Correct.

22 Q. Okay.

23 (Audio clip played for the jury at 12:02 P.M.)

24 THE COURT: Can't hear him.

25 (Pause.)

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1 MR. WATERS: I'm sorry. Did somebody say we can't
2 hear it?

3 THE COURT: I can't hear it.

4 MR. WATERS: Oh.

5 THE COURT: If I can't, I doubt they do. I mean, I
6 couldn't hear Mr. Gerrick.

7 MR. WATERS: Unfortunately, we're limited by
8 technology. It's about as loud as I can get it.

9 THE COURT: Okay.

10 (Audio clip started again at 12:03 P.M.)

11 THE COURT: Can y'all hear it?

12 THE JUROR: No, I can't hear it that good.

13 THE JUROR: Some of it.

14 THE COURT: Go ahead. I mean, if that's the best you
15 can do, that's the best you can do.

16 (Video started again. Played from 12:04 P.M., until
17 12:13 P.M.)

18 BY MR. WATERS:

19 Q. All right. Lieutenant Harley, that was the first clip
20 from that particular interview; is that correct?

21 A. Yes, sir.

22 Q. All right. And this was when you were talking about
23 he came in, he said, I'm going to lay it out and tell you
24 the truth now?

25 A. Yes, sir.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. And went to talking about this drug deal with the kilo
2 and Big Joe and Andre and O'Shane?

3 A. Yes, sir.

4 Q. And then admitted that he moved the car, said he was
5 instructed to do that by Andre and Tyrone; correct?

6 A. Yes, sir.

7 Q. And I believe you asked him, you said, how many times
8 we talked and you never told us this; right?

9 A. Correct.

10 Q. All right. Let's continue on.

11 (Video played from 12:14 P.M. until 12:18 P.M.)

12 BY MR. WATERS:

13 Q. All right. That was clip number two?

14 A. Yes, sir.

15 Q. All right. Is that the third clip?

16 A. Yes, sir.

17 Q. All right. Last one.

18 (Video played for the jury from 12:18 P.M., until
19 12:19 P.M.)

20 BY MR. WATERS:

21 Q. All right. So those last two clips, again, he was
22 talking about being instructed to pick up the car by
23 Tyrone and Andre?

24 A. Yes, sir.

25 Q. Andre Hightower. And said he last talked to Tyrone

SHAUN E. HARLEY - DIRECT/WATERS

1 about 3:45 P.M.?

2 A. Yes, sir.

3 Q. And denied knowing what happened to him; correct?

4 A. Correct.

5 Q. And then in that very last clip he claimed now that he
6 was going to work at a shipyard and Tyrone had agreed to
7 let him pay him \$500 a week back?

8 A. Yes, sir.

9 Q. All right. That's enough tape for now.

10 And we're going to get to this with another witness.
11 But the next day, August 18th -- well, let me ask you
12 this. Was that the extent of the contact you had with
13 Mr. Gerrick on the 17th?

14 A. Yes, but the interview continued, when I continued
15 asking him more questions, you know, in reference to him
16 being in the wooded area --

17 Q. Okay.

18 A. -- where the car was.

19 Q. And what did he say in that regard?

20 A. I told him at the time, I say, I asked him was he ever
21 in the wooded area on that one-way dirt road where the car
22 was located and the body was discovered. Stated no.

23 I then told him that two houses that was on the right
24 as you first turn, make the left onto One Way on the dirt
25 road, I told him there was a witness that was a homeowner

SHAUN E. HARLEY - DIRECT/WATERS

1 there that described his vehicle which was the Dodge
2 pickup truck.

3 He looked at me like, I haven't -- I wasn't there, I
4 wasn't there. And I kept asking, I said, are you sure,
5 are you sure. I said, didn't match your description.
6 Because his Dodge pickup truck had rims on it where it can
7 be, you can see it from a distance or whatever. And a,
8 like, loud muffler on it. And it caught their attention.
9 He said, no, no, no. I said, are you sure, are you sure.
10 And he said, no, no.

11 At that time he say -- and he made a comment in that
12 same clip on that side of the tape. He said, you got me
13 there. Usually I come back at you with something but you
14 got me there. You got me there. I usually shoot the funk
15 back at you. I said, I know, you ain't count on that
16 one. And he said, yeah, you got me now. You got me on
17 that one.

18 Q. Now this truck, we're talking about Sammie Gerrick's
19 burgundy Dodge; is that right?

20 A. Correct.

21 Q. Dodge Ram?

22 A. Yes, sir.

23 Q. And you told him that it had been seen there?

24 A. Correct.

25 Q. And his response was?

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1 A. No, it wasn't there until later on in another
2 interview.

3 Q. Okay. And when you told him that, you were kind of
4 bluffing him a little bit; is that right?

5 A. Yes, sir; I was.

6 Q. And he said, oh, you got me there, you got me there,
7 when you bluffed him a little bit?

8 A. Yes, sir.

9 Q. All right. After you got done with your interview on
10 the 17th, what did you do? Transport him back to --

11 A. Yes, sir. He was then transported back to the
12 Barnwell County Detention Center.

13 Q. Okay. And the next day, and I don't want you to get
14 into specifics, but did another agent interview him as
15 well?

16 A. Yes, sir. Special Agent Jeff Croft who was at that
17 time employed with the Barnwell County Sheriff's
18 Department at that time.

19 Q. Okay. So Jeff Croft who was at the time with
20 Barnwell, now is with SLED?

21 A. Yes, sir.

22 Q. And he went and interviewed Mr. Gerrick. How did that
23 come about?

24 A. From -- Agent Croft advised me that Sammie Gerrick
25 requested to speak with him personally.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. Okay.

2 A. And he asked me was it okay and I said sure.

3 Q. Okay. And we'll get to that with Agent Croft in a
4 little bit.

5 Moving on. Did y'all, at a later time, did you get
6 any communication from Mr. Gerrick asking you to come see
7 him a couple months later?

8 A. Yes, sir; we did.

9 Q. And when abouts was that?

10 A. We received a letter, I want to say, on October the
11 21st of 2011. Mr. Gerrick had sent a letter to SLED
12 headquarters which is located in Columbia, South Carolina,
13 on Broad River, Broad River Road.

14 Q. Okay.

15 A. It was made attention to our chief, Chief Mark Hill,
16 stating he wanted to talk to an agent.

17 Q. All right. And, did you go out to where Sammie
18 Gerrick was and have an interview with him?

19 A. Yes, sir; I did.

20 Q. And prior to having that interview, did you -- where
21 did that take place?

22 A. At Lieber Correctional Institution.

23 Q. And did you -- prior to speaking with him, did you go
24 through his rights again?

25 A. Yes, sir.

SHAUN E. HARLEY - DIRECT/WATERS

1 Q. I'm going to show you what's been marked as State's
2 Exhibit 10 and see if you recognize that.

3 A. Yes, sir.

4 Q. And what is that?

5 A. SLED Miranda rights form.

6 Q. And is that the form you went through with Mr. Gerrick
7 before this interview in December of 2011?

8 A. Yes, sir.

9 MR. WATERS: Your Honor, at this time I'd move in
10 State's Exhibit 10.

11 MR. WILLIAMS: Without objection.

12 THE COURT: What was the date, December the what?

13 THE WITNESS: December the 5th, 2011.

14 THE COURT: Thank you.

15 (State's Exhibit No. 10, Miranda rights form, received
16 into evidence.)

17 BY MR. WATERS:

18 Q. And it's same verse, same as the first; right?

19 A. Yes, sir.

20 Q. Same rights. Go through it, he signed it, he
21 initialed it, all the rest of it?

22 A. Yes, sir.

23 Q. Tell us what he told you that time.

24 A. With that interview he stated that he had somebody
25 that could vouch for his innocence. He had an alibi by a

SHAUN E. HARLEY - DIRECT/WATERS

1 personal -- a person by the name of Mr. Early Glover.

2 Q. Okay. And did he tell you anything else?

3 A. He said that Mr. Early Glover had wrote a statement on
4 his behalf which was written by Mr. Early Glover and he
5 presented the letter to us.

6 Q. Did he tell you the story any, or tell you part of the
7 story?

8 A. He was just telling us part of the story and then he
9 presented the letter after we asked about it.

10 Q. All right. And after that y'all went and interviewed
11 Mr. Glover; is that correct?

12 A. Correct.

13 Q. Now, just to kind of go back and clean a few things
14 up. Y'all went out and collected some video from
15 Enterprise Bank; is that correct?

16 A. Yes, sir. Chief Holston did.

17 Q. Looking for videos of Mr. Gerrick making transactions;
18 correct?

19 A. Correct.

20 Q. And y'all collected some receipts showing Mr. Gerrick
21 spending the money; correct?

22 A. Yes, sir.

23 Q. And y'all gathered various evidence. And we'll get
24 in, into this some more, but you all gathered various
25 evidence and submitted it to SLED and all in the normal

SHAUN E. HARLEY - DIRECT/WATERS

1 course of business; is that correct?

2 A. Yes, sir.

3 Q. And did y'all, did y'all look into Kim's ex? We've
4 heard testimony about this message about Kim's ex that
5 was -- that some of the friends of Tyrone received. Did
6 y'all make an effort to look into that?

7 A. Yes, sir; we did.

8 Q. And tell us what you did in that regard.

9 A. We contacted -- after we learned about it the first
10 day in speaking with Kelsea Hallingquest in reference to
11 the text message, we then reached out to Mr. Andre Smith
12 who was Kim's, Tyrone Donaldson's girlfriend-at-the-time
13 ex-husband. We met with him that Saturday, late that
14 Saturday evening.

15 Q. Uh-huh.

16 A. And we spoke with him.

17 Q. Okay. And what did you talk about?

18 A. We asked him in reference to Tyrone Donaldson. He
19 stated that he did know Tyrone but he didn't know him that
20 well. And that was just the gist of it.

21 Q. Okay. Did -- so he said he didn't know anything about
22 it?

23 A. Correct. We met with him at the Blackville Police
24 Department. I think Chief Holston from Blackville Police
25 Department contacted him and he came to the police

SHAUN E. HARLEY - DIRECT/WATERS

1 department that night.

2 Q. Okay. Did you also interview O'Shane Dixon?

3 A. Yes, sir.

4 Q. Did you interview Andre Hightower?

5 A. Yes, sir.

6 Q. Did you ever find any evidence that corroborated or
7 pointed to any of those individuals having anything to do
8 with the disappearance and the murder of Tyrone
9 Donaldson?

10 A. No, sir.

11 Q. Did y'all look into whether or not Tyrone Donaldson
12 was involved with drugs?

13 A. No, sir. We contacted Barnwell County Sheriff's
14 Office which was Jeff Croft because he was working
15 narcotics at that time. And I asked him about it and also
16 Barnwell City Police Department and Blackville City Police
17 Department. And no one ever say anything, they had any
18 investigation reference to Tyrone Donaldson.

19 Q. So y'all looked into and that Tyrone Donaldson's name
20 wasn't anywhere near any drug activity?

21 A. No, sir. And also through the community, no one ever
22 mentioned about drug activity.

23 Q. Were there any other suspects based on your
24 interviews, the evidence that you gathered, the good old
25 fashioned police work other than man over there, Sammie

1 Gerrick?

2 A. No, sir. It was just Sammie Gerrick.

3 MR. WATERS: Thank you, Lieutenant Harley. Please
4 answer any questions the defense has.

5 MR. WILLIAMS: Thank you, Your Honor.

6 THE COURT: It's 12:30. So why don't we wait and do
7 it until after lunch. I assume it's not going to be
8 short.

9 MR. WILLIAMS: Longer than yesterday's.

10 THE COURT: More than three minutes?

11 MR. WILLIAMS: I would -- yes, sir.

12 THE COURT: All right. We'll break for lunch. I'm
13 going to let a bailiff go with you. How are we going to
14 get them there?

15 THE CLERK: They're going to use their own vehicles.

16 THE COURT: Use your own vehicles. Is that okay? You
17 can double up, some of you can ride with others.

18 Do you know where B's is? Down at the bottom of the
19 hill on the lake. Everybody know where that is? There
20 will be a separate room back there for you. Please enjoy
21 your lunch.

22 Please do not discuss the case and do not let anybody
23 discuss it with you.

24 We'll start back at two o'clock. So if you finish
25 your lunch and it's not two o'clock yet, you can enjoy the

1 fresh air, whatever. I've got a couple other matters I've
2 got to do over lunch so we're going to wait until two
3 o'clock so I can have all of that finished.

4 All right. Everyone else remain seated.

5 Whoever the bailiff is, take care of the ticket for
6 me, please.

7 (Jury exits courtroom at 12:30 P.M.)

8 THE COURT: Agent Harley, you're right in the middle
9 of your testimony. Please do not discuss it over the
10 lunch hour.

11 THE WITNESS: Yes, sir.

12 THE COURT: Anything by the State or the defense?

13 MR. WATERS: No, Your Honor.

14 MR. WILLIAMS: Your Honor, Ms. Gerrick desires to
15 leave. As she's already testified, she has a child she
16 needs to pick up, I think, around three or 3:30. She's
17 still under subpoena.

18 MR. WATERS: No objection, Your Honor.

19 THE COURT: Very well. Anything else?

20 MR. WILLIAMS: No, sir.

21 THE COURT: We'll start right back promptly at two
22 o'clock. Have a nice lunch.

23 (Lunch break taken at 12:30 P.M. Other matters were
24 heard by the Court. The trial of this case resumed at
25 1:54 P.M.:)

SHAUN E. HARLEY - CROSS/WILLIAMS

1 THE COURT: State ready to proceed?

2 MR. WATERS: Yes, sir, Your Honor.

3 THE COURT: Mr. Williams?

4 MR. WILLIAMS: Yes, sir, Your Honor.

5 THE COURT: Let the record reflect the Defendant's in
6 the courtroom.

7 (Jury enters courtroom at 2:07 P.M.)

8 THE COURT: Everybody enjoy their lunch?

9 FOREPERSON OF THE JURY: Yes, sir.

10 THE COURT: Thank Ms. Rhonda. She made special
11 arrangements for us. Thank you, Ms. Rhonda.

12 FOREPERSON OF THE JURY: Thank you.

13 THE CLERK: Only complaint they had, Judge, was they
14 did not have any fried chicken. It was only livers and
15 they were hard.

16 THE COURT: I'd complain about that too. I'll send
17 you to KFC tomorrow.

18 MR. WILLIAMS: Thank you, Your Honor. If it please
19 the Court.

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q. Lieutenant Harley, it would be fair to say that you're
23 sort of the linchpin police officer in this case, the main
24 one; is that correct?

25 A. The lead investigator?

SHAUN E. HARLEY - CROSS/WILLIAMS

1 Q. Yes, sir.

2 A. Yes, sir.

3 Q. Okay. And you're following pretty much everything in
4 the case; correct?

5 A. Yes, sir.

6 Q. All right. And, for example, you interviewed a lot of
7 witnesses in the case; correct?

8 A. Yes, sir.

9 Q. One of the witnesses you interviewed was a Shane
10 Dixon?

11 A. O'Shane Dixon.

12 Q. Right.

13 A. Yes, sir.

14 Q. And we've got a statement from him; right?

15 A. Yes, sir.

16 Q. And you interviewed Andre Hightower?

17 A. Yes, sir.

18 Q. And we have a statement from him?

19 A. Yes, sir.

20 Q. How about Andre Smith?

21 A. No, sir; we don't have one.

22 Q. Did you interview him?

23 A. Yes, sir.

24 Q. But you didn't get a statement from him?

25 A. No, sir.

SHAUN E. HARLEY - CROSS/WILLIAMS

1 Q. And Shaneka DeLoach, I believe who testified
2 yesterday; correct?

3 A. Yes, sir.

4 Q. And you got a statement from her?

5 A. I believe so; yes, sir.

6 Q. And in the videotapes we saw earlier sure enough we
7 saw Sammie Gerrick, even though he was handcuffed, using
8 his hands while talking; correct? Did you notice that?

9 A. Yeah, he was moving his hands around a little bit.

10 Q. Yeah, he does that. That's one of his things; right?

11 A. I don't -- he was just doing it at that time.

12 Q. Okay. And you indicated in the videotape toward the
13 end there that you used a little bit of a bluff; is that
14 correct?

15 A. Yes, sir.

16 Q. All right. And a bluff's another way of saying you
17 told something that wasn't quite true to Mr. Gerrick to
18 see what he would say; correct?

19 A. Yes, sir; I did.

20 Q. All right. And I notice that there were three of you
21 in there. It was, I think, Chief Holston part of the
22 time. At least in the first interview, Chief Holston,
23 Mr. Dowling, Agent Dowling and you?

24 A. Yes, sir; yes.

25 Q. Is that correct?

SHAUN E. HARLEY - CROSS/WILLIAMS

1 A. Yes, sir.

2 Q. And Agent Dowling asked him questions about a
3 cookout. Do you remember all of that?

4 A. Yes, sir.

5 Q. And he asked him questions about eating at Ryan's. Do
6 you remember that?

7 A. Yes, sir.

8 Q. Okay. And there is sort of a technique or a science
9 to the investigation or to the way that y'all interview
10 people?

11 A. No, sir. What he was referring to with the Ryan's
12 Steakhouse, if I can recall, was Sammie Gerrick before he
13 went to court because he was supposed to be in court one
14 day for his bond violation. He and his wife, Charlene
15 Gerrick, they went to Aiken or someone, was supposed to
16 went to the hospital.

17 Q. When he first refers to Ryan's, going to Augusta and
18 then he talks about Aiken and talking about reviewing
19 videotape at the Ryan's in Aiken?

20 A. Yes, sir.

21 Q. Do you know if he did that?

22 A. I don't believe he did that; no, sir.

23 Q. Okay. So that was another bluff?

24 A. No, that was in reference to that, going to -- not
25 coming to court the following day.

SHAUN E. HARLEY - CROSS/WILLIAMS

1 Q. Sure. But whether he reviewed the videotape. You
2 said in this video that he did. But you don't think he
3 did that; is that right?

4 A. No, sir.

5 Q. So that's another bluff that y'all used; is that
6 correct?

7 A. Well, he was just talking about it.

8 Q. Okay.

9 A. Uh-huh.

10 Q. All right. Just talking about it.

11 A. Yeah.

12 Q. Now, some of the things that you've done in this
13 investigation, we talked about talking to various
14 witnesses and following up on leads. Another person you
15 talked to was Maurice Williams; correct?

16 A. Yes, sir.

17 Q. And Maurice Williams gave one statement on July 25th,
18 and another way more detailed statement on August the 2nd;
19 is that not correct?

20 A. That's correct.

21 Q. And somebody, some people may view those as
22 inconsistent statements; correct?

23 A. Say that again.

24 Q. View those two differing statements as inconsistent;
25 correct?

SHAUN E. HARLEY - CROSS/WILLIAMS

1 A. No, sir. We just follow up on more information.

2 Q. In the first statement that he took, he didn't tell
3 you anything about this supposed safe buried out in the
4 woods; did he?

5 A. No, sir.

6 Q. And that would have been an important thing to know
7 early on in the investigation; right?

8 A. Yes, sir; at the time.

9 Q. And he didn't tell you about that; did he?

10 A. No, sir. We learned that through Jamaal and then we
11 went back to re-interview him.

12 Q. And then you went back to him?

13 A. Yes, sir.

14 Q. And there are some other things that he told you also;
15 correct?

16 A. Yes, sir.

17 Q. That he didn't tell you in the first statement; right?

18 A. Yes, sir. The reason he didn't is because he stated
19 he was in fear of his life.

20 Q. That's what he told you?

21 A. Yes, sir.

22 Q. Okay. And did you do anything further to investigate
23 him after that to see if he had any involvement in this
24 case?

25 A. No, sir. His name never came up in this case.

SHAUN E. HARLEY - CROSS/WILLIAMS

1 Q. All right. Now, there's a car that's found in
2 Orangeburg and we all know that Mr. Gerrick took it over
3 there; right?

4 A. Yes, sir.

5 Q. Were you involved in the investigation of what
6 evidence might be found in that car?

7 A. No, sir. The Orangeburg Public Safety Police
8 Department processed that vehicle and took in evidence.

9 Q. There was a shotgun missing from the home that was,
10 reportedly was taken by Tyrone on July 24 -- 21st, when he
11 left. Did you investigate that shotgun missing?

12 A. We never recovered the shotgun.

13 Q. All right. Did you investigate it missing? Did you
14 look for it?

15 A. It never came up. We never recovered it; no, sir.

16 Q. All right. And did you have anything to do with the
17 fingerprints on the car in Orangeburg?

18 A. No, sir. The Orangeburg Public Safety Department
19 processed that vehicle.

20 Q. Did they report that information back to you?

21 A. Yes, sir.

22 Q. Did they ask you for any other leads on other
23 fingerprints besides Sammie Gerrick that might be on the
24 car?

25 A. Whatever prints they discovered, I guess they ran

SHAUN E. HARLEY - CROSS/WILLIAMS

1 through CODIS. They ran it through like a CODIS or
2 whatever.

3 Q. What?

4 A. A CODIS. I'm not sure. I don't do fingerprints. I
5 don't deal with the crime scene.

6 Q. Do you know if some of the people that you talked to
7 in getting statements in this case had criminal records?

8 A. We didn't run all, all the witness's records; no, sir.

9 Q. You didn't run the records?

10 A. No, sir.

11 Q. Do you know if Andre Hightower has a criminal record?

12 A. Andre Hightower?

13 Q. Correct.

14 A. I think so. I'm not sure.

15 Q. You think so?

16 A. Right.

17 Q. Do you know what it's for?

18 A. No.

19 Q. How about O'Shane Dixon, do you know whether he had a
20 criminal record?

21 A. No, sir. Never ran one.

22 Q. Didn't run it?

23 A. No, sir.

24 Q. Didn't check?

25 A. No, sir.

SHAUN E. HARLEY - CROSS/WILLIAMS

1 Q. All right. And you mentioned this credit card that
2 Sammie was using. We all know he was using the credit
3 card; right?

4 A. Yes, sir. It belonged to Tyrone Donaldson.

5 Q. That's right. And he told you up front he was using
6 the credit card?

7 A. Yes, sir; he did.

8 Q. And he had to have the PIN number to use the credit
9 card; correct?

10 A. Yes, sir.

11 Q. And you mentioned in your testimony that you actually
12 recovered receipts where he had used the credit card also;
13 correct?

14 A. Yes, sir.

15 Q. And he didn't sign Tyrone Donaldson's name; did he?

16 A. No, sir. I would have to review those receipts again.

17 Q. Well, if you have those receipts and you look at them,
18 you'll see Sammie Gerrick's name on there.

19 A. Yes, sir, if they're...

20 Q. All right. And you helped in the investigation of the
21 truck; correct? Sammie's truck?

22 A. When they processed the truck -- crime scene did it
23 while I was there. I was present; yes, sir.

24 Q. Sure. And in the truck, did you notice a High Track
25 sign that allows him to go to work at High Track?

SHAUN E. HARLEY - CROSS/WILLIAMS

1 A. I didn't pay no attention; no, sir.

2 Q. You didn't?

3 A. No, sir.

4 Q. Okay. And did you notice -- you noticed this note,
5 correct, that's marked as an exhibit?

6 A. Brown page?

7 Q. Right.

8 A. Yes, sir.

9 Q. It's in somebody's handwriting; correct?

10 A. Yes, it's in somebody's writing.

11 Q. Did you ever ask anybody at SLED to look at the
12 handwriting to see if Sammie wrote that note?

13 A. Yes, sir. That note was compared to his handwriting.

14 Q. Did he write it?

15 A. According to the reports, no, I believe no.

16 Q. He didn't write that note; did he?

17 A. According to the report. You have to talk with the
18 handwriting expert for that.

19 Q. And you don't know how that note got in his car; do
20 you?

21 A. It was in his vehicle.

22 Q. But you don't know how it got there; do you?

23 A. I assume -- well, it was in his vehicle.

24 Q. All right. And you don't know when the note got in
25 his vehicle; do you?

SHAUN E. HARLEY - CROSS/WILLIAMS

1 A. No, sir.

2 Q. Now y'all -- Sammie showed you some scratches on him;
3 correct?

4 A. Correct.

5 Q. And you took pictures?

6 A. Yes, sir.

7 Q. Did you give those to the other forensic scientists at
8 SLED to look at when they were doing the autopsy and
9 things like that?

10 A. I don't believe so.

11 Q. All right. And you also were at the grave scene;
12 correct?

13 A. Yes, sir.

14 Q. Grave site. Excuse me.

15 And of course you described the slow process of making
16 sure that evidence is saved that's in the grave site;
17 correct?

18 A. Yes, sir.

19 Q. And in fact there was an actual tent set up over the
20 grave site; correct?

21 A. Yes, sir.

22 Q. That's to keep debris from falling in?

23 A. I think the tent was set up because it was a real hot
24 day that day also.

25 Q. It has two purposes. It keeps debris from falling and

SHAUN E. HARLEY - CROSS/WILLIAMS

1 it saves you from the heat; correct?

2 A. Yes, sir.

3 Q. And you're aware that, you testified that the body was
4 found in the grave site; correct?

5 A. It was buried in a shallow grave; yes, sir.

6 Q. And were you aware of anything else found at the grave
7 site?

8 A. As far as evidence?

9 Q. Correct.

10 A. Whatever crime scene Melissa Skipper recovered.

11 Q. All right. And there's one more witness you talked to
12 recently in this case; right?

13 A. Who are you referring to?

14 Q. I'm talking about Dustin Williams (verbatim);
15 correct?

16 A. Yes, sir.

17 MR. WATERS: Your Honor, I'd object at this point.

18 THE COURT: And your objection is?

19 MR. WATERS: Well, I'll let him ask his next question.

20 THE COURT: Thank you.

21 BY MR. WILLIAMS:

22 Q. And you're still talking to him or trying to; correct?

23 A. Yes, sir.

24 Q. As we sit here today; correct?

25 A. Yes, sir.

SHAUN E. HARLEY - REDIRECT/WATERS

1 MR. WILLIAMS: Can we approach, Your Honor?

2 (Off-the-record discussion.)

3 MR. WILLIAMS: That's all the questions I have at this
4 time. Thank you.

5 THE WITNESS: Yes, sir. Thank you.

6 THE COURT: Anything on redirect?

7 MR. WATERS: Very briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. WATERS:

10 Q. You were asked about O'Shane Dixon and Andre Hightower
11 and Andre Smith. And, you did go talk to those people;
12 didn't you?

13 A. Yes, sir.

14 Q. And you went and looked into them and found out what
15 they had to say; didn't you?

16 A. Correct.

17 Q. And did you find any evidence or any corroborating
18 evidence to say they had anything whatsoever to do with
19 the murder and the disappearance of Tyrone Donaldson?

20 A. No, sir.

21 Q. Okay. And you were asked about this, this thing that
22 was found in his console; correct?

23 A. Yes, sir.

24 Q. And this was all crumpled up like a capsule; wasn't
25 it?

SHAUN E. HARLEY - REDIRECT/WATERS

1 A. Yes, sir.

2 Q. It had all the dirt and everything in there, inside of
3 it?

4 A. Correct.

5 Q. What did you think that was when you saw it?

6 MR. WILLIAMS: Your Honor, we're getting beyond the
7 scope of redirect again.

8 THE COURT: Well, we are, but you asked him about the
9 note.

10 MR. WILLIAMS: I did.

11 MR. WATERS: Yes, he did.

12 THE COURT: You asked him about an opinion now, what
13 does he think that was about. Sustained.

14 BY MR. WATERS:

15 Q. All right. Well, let me -- just remind us. This
16 thing was up in a capsule and inside it had the dirt and
17 twigs and things like that; is that correct?

18 A. Yes, sir.

19 Q. And when you found that in Sammie Gerrick's console in
20 his truck, where was he? Was he in jail at that time?

21 A. Sammie Gerrick?

22 Q. Yeah.

23 A. Yes, sir.

24 Q. He was in jail; correct?

25 A. Yes, sir.

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 Q. And so his truck was at the place and locked up and
2 y'all went and looked inside the console where people keep
3 personal items in their car, and that's what you found
4 inside there; correct?

5 A. Yes, sir.

6 Q. And it had those words that you read to the jury
7 earlier written on there; correct?

8 A. Yes, sir.

9 Q. Set me free Sammie Gerrick from murder. Is that what
10 it said?

11 A. Yes, sir.

12 Q. Set me free Jack Early now. Is that what it said?

13 A. Yes, sir.

14 MR. WATERS: Nothing further, Your Honor,

15 THE COURT: You may step down. Next witness, please.

16 MR. ANDERS: Your Honor, the State calls John Burnett.

17 THE COURT: John who?

18 MR. ANDERS: Burnett.

19 JOHN CHARLES BURNETT, having been duly sworn, was
20 examined and testified as follows:

21 THE CLERK: Please be seated. State your full name
22 for the record.

23 THE WITNESS: John Charles Burnett.

24 THE COURT: Pursuant to pretrial rulings on the
25 screen, you know how to handle it.

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 MR. WATERS: Yes, sir. I'm setting that up right now
2 to be consistent with your ruling. Yes, sir.

3 THE COURT: Mr. Anders.

4 MR. ANDERS: May it please the Court.

5 DIRECT EXAMINATION

6 BY MR. ANDERS:

7 Q. Mr. Burnett, can you tell the jury a little bit about
8 yourself, what your occupation was before you retired?

9 A. Yes. I retired July 31st after 37 years in law
10 enforcement. The last 10 years of that was with the State
11 Law Enforcement Division.

12 THE COURT: Can you speak up a little bit for me,
13 please, sir?

14 BY MR. ANDERS:

15 Q. When did you retire?

16 A. July 31st of this year.

17 Q. And you were employed at SLED in July of 2011?

18 A. That's correct.

19 Q. Did you have an opportunity to interview the Defendant
20 in July of 2011?

21 A. I did.

22 Q. Do you recall when that interview took place?

23 A. On July the 25th, 2011, I believe is the day.

24 Q. Can you tell the jury briefly what that interview
25 consisted of?

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 A. The interview was concerning a gentleman who had gone
2 missing several days before. It was some information that
3 Mr. Gerrick was assisted by that gentleman in getting out
4 of jail and also that the victim's ATM card had been used
5 by Mr. Gerrick several times the day following the
6 gentleman's disappearance.

7 Q. And before you interviewed the Defendant, did you read
8 his Miranda rights to him?

9 A. I did.

10 Q. And have you reviewed -- was that interview recorded?

11 A. It was.

12 Q. And have you reviewed that recording?

13 A. I have.

14 Q. Is that a fair and accurate depiction of what took
15 place, July 25th?

16 A. It is.

17 MR. ANDERS: Your Honor, I believe his recorded
18 interview is a Court Exhibit. May I publish that, Your
19 Honor?

20 MR. WILLIAMS: That's correct.

21 THE COURT: Well, why don't we see if it was a Court
22 Exhibit? Let's now make it a regular exhibit.

23 MR. WATERS: Can we approach briefly?

24 MR. WILLIAMS: Can we approach?

25 THE COURT: Well, I understand. Court Exhibit.

1 MR. WATERS: Thank you, Your Honor.

2 MR. WILLIAMS: Thank you, Judge.

3 (Court's Exhibit No. 2, CD containing interview,
4 played for the jury.)

5 BY MR. ANDERS:

6 Q. Mr. Burnett, who is this person right here?

7 A. That's Mr. Gerrick. That's me.

8 THE COURT: Ladies and gentlemen, y'all step out a
9 second, please. Jury, please step out.

10 (Jury exits courtroom at 2:28 P.M.)

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: Your Honor, they did show the machine
13 on the tape. I sure don't want to move for a mistrial.

14 THE COURT: Either you do, or you don't.

15 MR. WILLIAMS: Well, I think for the record I need to.

16 THE COURT: Put it back up, let me look at it. Quite
17 frankly, I thought it was a computer. Let --

18 MR. WATERS: Your Honor, it's the State's position --

19 THE COURT: Hold on, hold on.

20 MR. WATERS: Yes, sir.

21 THE COURT: All right. The pretrial ruling was that
22 during the interview conducted by Mr. Burnett the machine
23 to his right, to Mr. Gerrick's left, would be covered to
24 avoid any appearance that this machine might be a
25 polygraph machine.

1 I'm looking at it right now. I can't tell what it
2 is. If anything, it looks like a computer.

3 THE WITNESS: If I can help, Your Honor. It is a
4 laptop computer.

5 THE COURT: All right. It's a laptop computer.
6 What's --

7 THE WITNESS: And my clipboard is to my right. And
8 there's some other paperwork in front of that.

9 THE COURT: And a laptop computer?

10 THE WITNESS: Yes, sir.

11 THE COURT: And what's that covered with a brown thing
12 to the right?

13 THE WITNESS: It's my folder. It's just paperwork.

14 THE COURT: Just folder, paper?

15 THE WITNESS: Yes, sir.

16 THE COURT: So, Mr. Williams, I'm not sure. Tell me
17 what, what's prejudicial about that.

18 MR. WILLIAMS: And perhaps it shows up better on my
19 computer than it does here on this big screen. But it
20 seems to me that this is a box here, there are wires here
21 that possibly run off to them. And I'm scared it's going
22 to -- somebody on there is going to identify it as a
23 polygraph.

24 THE COURT: Wires going to whom?

25 MR. WILLIAMS: I seem to see wires, not actually

1 hooked to him, but running along here and this seems to be
2 some kind of box, if I'm not mistaken, that would connect
3 to him.

4 THE COURT: Is there any wires connected to
5 Mr. Gerrick, sir?

6 THE WITNESS: No, sir.

7 MR. WILLIAMS: It's not connected. I'm not saying
8 that. I'm just saying the wires are there.

9 THE COURT: Are there any wires in that photograph?

10 THE WITNESS: There are wires there, but I can't see
11 them from --

12 THE COURT: I can't either. Mr. Williams, can you see
13 them on that?

14 MR. WILLIAMS: With the lights on it's hard to see
15 it. I got to admit. I can see it on my computer.

16 THE COURT: Well, your computer is not being shown to
17 the jury.

18 All right. I cannot see, as the Judge in the case,
19 how that photograph or that video with that, those
20 instruments, i.e., laptop computer -- and you say a black
21 box. I can't discern a black box. -- papers, I don't
22 see how that's prejudicial at all either, how it could be
23 deemed to be a machine of any type.

24 Mr. Coleman (verbatim) had it hid pursuant to our
25 pretrial instructions. And I think he inadvertently let

1 it slide off or something when he was trying to get the
2 sound off.

3 MR. WATERS: That's correct, Your Honor. I hit the
4 wrong button.

5 THE COURT: I'm not accusing you of doing anything
6 improperly, neither is Mr. Williams.

7 I'm going to deny the motion for mistrial.

8 Bring the jury back in. Let's make sure it stays
9 covered.

10 MR. WATERS: Yes, sir.

11 THE COURT: And before the jury comes back in, I
12 assume for purposes of any further doings in this case if
13 necessary, will that CD, will that be part of -- is that
14 the --

15 MR. WATERS: That's the Court's Exhibit. That's why
16 we're making it a Court's Exhibit because the CD itself
17 has the uncovered video and so if the jury during
18 deliberations --

19 THE COURT: Wanted to look at it.

20 MR. WATERS: Right.

21 THE COURT: But that CD will be made part of the
22 record for any appellate purposes, if necessary.

23 MR. WATERS: That's correct.

24 THE COURT: Fair enough?

25 MR. WILLIAMS: Yes, sir.

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 THE BAILIFF: Ready for the jury?

2 THE COURT: Yes, sir.

3 (Court's Exhibit No. 2, CD containing video interview,
4 was received into evidence.)

5 (Jury enters courtroom at 2:33 P.M.)

6 THE COURT: You may proceed.

7 MR. ANDERS: Thank you, Your Honor.

8 DIRECT-EXAMINATION (CONTINUED)

9 BY MR. ANDERS:

10 Q. Mr. Burnett, right now I'm going to show you several
11 clips from that interview. I'll follow up with some
12 questions after that.

13 A. Okay.

14 (Video played from 2:34 P.M., until 2:56 P.M.)

15 BY MR. ANDERS:

16 Q. Agent Burnett, I'm just going to go over a few things
17 with you, sort of your high points of your interview. You
18 had concern about his money problems?

19 A. Yes.

20 Q. Could you tell the jury briefly some of the money
21 that -- problems that you heard from him or that you found
22 out?

23 A. Well, the concern was, what occurred to me that he had
24 been in jail for 10 days and he insisted that he had the
25 means to get out of jail but they wouldn't allow him to

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 pursue that, making phone calls and so forth.

2 There was information that his electric bill was
3 behind by \$1,800, some other matters that needed to be
4 taken care of. And we knew that the victim in this case
5 went to the jail and got him from there and then later met
6 him at a bank.

7 So all of it together just did not make very much
8 sense.

9 Q. And what did he tell you -- where did he tell you his
10 monies were being kept?

11 A. He, he claimed that through some mutual business
12 between him and the victim that he had fronted the victim
13 some money that was placed into the victim's account. And
14 then that was the money that was later used to assist in
15 his extraction from the jail.

16 Q. And I believe you brought up the fact that he stayed
17 there for how many days?

18 A. Ten, 10 days, I believe. It was the 11th through the
19 21st of July.

20 Q. And if he had these means that were being kept in
21 Tyrone Donaldson's account, what was his explanation? Why
22 would he have to pay him back?

23 A. It's -- he didn't really have one as far as paying him
24 back. He alleged that the money that was in the victim's
25 account was his money, and that was the money that was

JOHN CHARLES BURNETT - DIRECT/ANDERS

1 used to get him out of jail.

2 When I pressed him on the issue of going to the bank,
3 he really couldn't provide an explanation why the victim
4 initially went to the jail and got him out, took him home
5 where he said he showered and shaved, cut his hair and
6 then made arrangements to meet the victim at the bank, and
7 then later from there to a convenience store. But he
8 would not provide a reason why they went to the bank which
9 did not make sense to me.

10 Q. And you saw the scratches on his arms and chest?

11 A. I did.

12 Q. Could you describe those to the jury?

13 A. They were scratches consistent with having been
14 exposed to the outdoors or, in other words they were
15 visible to the eye. They were not burns. They were
16 completely inconsistent with the way that he claimed he
17 got them which was from a light bulb in the ceiling.

18 Mr. Anders: May I approach, Your Honor?

19 Q. I'm handing to you what has been pre-marked as State's
20 Exhibit Six. What is that?

21 A. These were some handwritten notes that I had him write
22 down when we were discussing his unpaid bills. \$700 for a
23 light bill.

24 Q. Before you get into it, who wrote that letter?

25 A. Mr. Gerrick did.

JOHN CHARLES BURNETT - CROSS/WILLIAMS

1 Q. Whose name is at the bottom?

2 A. Mr. Gerrick. I wrote on here, written by Sammie Lee
3 Gerrick and the date and I initialed it.

4 MR. ANDERS: Your Honor, at this time we move this
5 into evidence, State's Six.

6 MR. WILLIAMS: No objection.

7 (State's Exhibit No. 6, handwritten note by Gerrick,
8 received into evidence.)

9 BY MR. ANDERS:

10 Q. If you could for the jury, just tell them what that
11 is. And if you could, just read the amounts and what's
12 owed on the bills.

13 A. It's basically a list of money that he had told me
14 that he owed. The first one is \$700, light bill; the
15 second one's \$300 for a house note; the third is \$300 to
16 pay probation; 260, balance of which he spent for a pair
17 of jumper cables and some fuses; and \$30 in gas.

18 MR. ANDERS: Thank you. No further questions.

19 THE COURT: Cross-exam.

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q. Agent Burnett, your total interview was about five
23 hours; is that correct? Four or five?

24 A. It may be. I couldn't be -- I don't know
25 specifically.

1 Q. Did you conduct any other part of this investigation,
2 for example, the grave site that we talked about earlier?

3 A. No, sir.

4 Q. The car in Orangeburg?

5 A. No, sir.

6 Q. The truck?

7 A. No, sir.

8 Q. Your involvement is limited to just this one
9 interview?

10 A. As far as Mr. Gerrick's concerned, yes.

11 Q. Okay. And part of your interview is relying on what
12 other people tell you, is that not correct, working with
13 SLED?

14 A. That's correct.

15 MR. WILLIAMS: No further questions.

16 MR. ANDERS: Nothing further from the State, Your
17 Honor.

18 THE COURT: All right. You may step down. May he be
19 released from his subpoena?

20 MR. ANDERS: He may.

21 MR. WILLIAMS: No objection.

22 THE COURT: Thank you, Mr. Burnett. Next witness,
23 please.

24 MR. WATERS: Can we approach real quick, Your Honor?

25 (Off-the-record discussion.)

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 MR. WATERS: Your Honor, the State calls Melissa
2 Skipper.

3 MELISSA SKIPPER WALLACE, having been duly sworn, was
4 examined and testified as follows:

5 THE CLERK: Please be seated and state your full name
6 for the record.

7 THE WITNESS: Okay. My name is Melissa Skipper
8 Wallace.

9 DIRECT EXAMINATION

10 BY MR. WATERS:

11 Q. Agent Wallace, how are you doing today?

12 A. I'm all right, thank you.

13 Q. Good. Can you just tell the jury who you are, who you
14 work for, your experience in law enforcement?

15 A. Yes. I am an agent with the South Carolina Law
16 Enforcement Division commonly known as SLED. I've worked
17 there about eight and a half years and I've been a police
18 officer for about 12 and a half years.

19 Q. Okay. And have you had any experience or involvement
20 in doing crime scene processing or crime scene
21 investigation?

22 A. Yes. For just under my first eight years at SLED I
23 was assigned to the crime scene and latent print
24 department within the forensic laboratory at SLED.

25 Q. Okay. So you did that about eight years?

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 A. That's correct.

2 Q. And recently you've moved on to a new assignment; is
3 that correct?

4 A. Yes. I'm currently assigned to the Piedmont Region
5 within our investigations section.

6 Q. And obviously to do crime scene investigation or in
7 order to do just regular investigation, you go through
8 various sorts of training and that sort of thing to learn
9 the proper techniques to process a crime scene; is that
10 correct?

11 A. That's correct.

12 Q. Is it fairly extensive?

13 A. Just my training with SLED, our department had a
14 two-year in-house training program under court qualified
15 senior examiners, and also completed outside training as
16 well.

17 Q. Okay. All right. Back in August of 2011, you were in
18 the crime scene division; is that correct?

19 A. That's correct.

20 Q. Okay. And were you contacted to respond to Barnwell
21 County in reference to a potential crime scene?

22 A. I was.

23 Q. All right. And could you describe how you were
24 contacted and how you arrived at the scene and what you
25 did?

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 A. If I can refer to my notes.

2 Q. Yeah. Absolutely. And when you say refer to your
3 notes, it's common practice for agents to maintain sort of
4 a running log of notes to document the activities that
5 they do to remember them later; is that correct?

6 A. That's correct.

7 Q. And that's what you're referring to now; correct?

8 A. That's correct.

9 Q. And those are notes that you prepared during the time
10 this all was going on?

11 A. That's right.

12 Q. Okay. All right.

13 A. I initially received a call on the 3rd of August about
14 10:30 P.M., in reference to responding the next day. And
15 then I responded on the 4th and we got there around 10:45
16 that morning.

17 Q. Okay. And what was the potential crime scene that you
18 were advised that you would be responding to?

19 A. Possible buried body.

20 Q. Okay. And so you got down here to Barnwell County the
21 next morning on the 4th; is that correct?

22 A. That's correct.

23 Q. Okay. And did you have to have somebody meet you to
24 tell you where to go?

25 A. An escort met us and then escorted us actually into

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 the scene because it's off the road in a hunt club.

2 Q. Well, tell us a little bit about the scene and what
3 you recall about it. It's off the road in the woods;
4 right?

5 A. That's correct. It was, you know, a grassy or a dirt
6 driveway out there to where we were.

7 Q. And about how far do you think it was off the roadway;
8 do you recall?

9 A. I don't remember.

10 Q. So when you got there, what was the first thing that
11 you did? Where did you go?

12 A. We met with Lieutenant Neal with SLED, Sheriff
13 Carroll, and two of the field agents that were assigned
14 the case. And they briefed us on what they knew up to
15 that point, what we were looking for, those sorts of
16 details.

17 Q. Okay. And then what did you do? Where did you go?

18 A. They did a grid search. They told us they had done a
19 grid search that morning, found a couple areas they wanted
20 us to look at as being potential burial sites. We went
21 out to those areas and probed the ground.

22 It's a probe. It's slightly pointed on one end. It's
23 kind of pushed down into the ground. You can tell the
24 differences in the soil density based on how easily it
25 goes into the ground.

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 The one area we checked out on, it was an area that
2 had been clear-cut. We didn't think there was anything to
3 it. We went back to the second area that we had probed
4 and probed it again. And we could actually smell some
5 decomp, decomposition at that point and we decided we were
6 at least going to try to do some digging there.

7 Q. When you say you smelled some decomposition, you could
8 smell a foul smell coming from that area?

9 A. It smelled like rotten meat.

10 Q. So tell me the steps and digging. What did you first
11 do and then how do you go about the process?

12 A. It's a very slow process and very tedious. You have
13 to remove the soil very slowly and then sift through or at
14 least search the dirt that you're removing. You have to
15 keep it separated so that you know what's already been
16 searched versus what's coming out and needs to be
17 searched.

18 So, we have what's called sifters. You put the dirt
19 in, you shake it a little bit and anything that doesn't
20 fall through you can look at and see what it is. A lot of
21 times it holds rocks, things like that.

22 So, once we got to a certain area we located what
23 looked like almost T-shirt material. At that point we
24 notified the coroner.

25 Q. Okay. So you started to go down a little bit and then

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 saw what appeared to be a T-shirt?

2 A. It was some type of cotton material, made me think
3 like a T-shirt.

4 Q. So you all notified the coroner. After the coroner
5 arrived on the scene, did you continue to dig and excavate
6 that area to determine what was under there?

7 A. We did.

8 Q. Okay. And, how long did it take you to do that,
9 roughly?

10 A. The body was removed from the ground about 10:30 that
11 night. So, roughly 12 hours.

12 Q. It took you 12 hours to do it. So it's, needless to
13 say, it was a -- the process that you use is a very slow,
14 painstaking process; is that correct?

15 A. Yes.

16 Q. It's not like somebody if they just went out there and
17 dug a hole it would take them that long to do it. It was
18 because you all were going slowly and sifting the soil; is
19 that correct?

20 A. That's correct.

21 Q. And correct me if I'm wrong, but when you have the
22 suspect area did you dig down holes on either side of that
23 and sort of work in, or how does that work?

24 A. That's what we did. We dug down to the side where it
25 looked like the soil was fairly consistent. When soil is

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 disturbed you'll see a difference in color, and, like I
2 said, density as well. So we removed soil away from the
3 body so basically we would have something to stand on as
4 opposed to the actual grave site.

5 Q. Okay. Let me ask you this. As you were looking at
6 some of the -- as you initially approached the area, the
7 suspect area, did you see anything interesting that was on
8 the ground?

9 A. There were, it looked like a burn area. There was
10 some burn debris on the ground, on top of it.

11 Q. Did you see a fishing lure?

12 A. Yes. There was, they were sparkley and that's the
13 only reason I remember them because it stood out. They
14 were odd, it looked burned.

15 Q. What about some green netting?

16 A. We also saw some green netting. The area wasn't
17 really clean so at the time we thought it could possibly
18 be trash.

19 Q. Okay. As y'all dug down on either side and moved in
20 towards the center, did you in fact uncover the victim?

21 A. We did.

22 MR. WATERS: Your Honor, we have a matter of law at
23 this time.

24 THE COURT: Well, are you objecting to all of them or
25 some of them or what?

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 MR. WILLIAMS: He showed me some of them, and I think
2 we're okay if I can look real quick, maybe we can --

3 THE COURT: Let's look at the ones. Do it over there.

4 (Pause.)

5 MR. WILLIAMS: No objection.

6 BY MR. WATERS:

7 Q. Agent Wallace, I'm going to show you what's been
8 marked as State's 33 -- excuse me, State's 32. Let me get
9 them in the right order.

10 All right. This is State's 31 through 40. I'm going
11 to ask you to take a look at those while I get our machine
12 on.

13 THE COURT: There's no objection to 31 through 40?

14 MR. WILLIAMS: That's correct.

15 (State's Exhibit Nos. 31 through 40, photographs,
16 received into evidence.)

17 THE COURT: Are we okay over there?

18 THE JUROR: (Nods head.)

19 BY MR. WATERS:

20 Q. Do you recognize those?

21 A. I do.

22 Q. And just generally tell us what those are, if you
23 would, please.

24 A. Those are photographs that we took that night as we
25 progressively uncovered the body.

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 Q. Okay.

2 MR. WATERS: And, Your Honor, again I would move in
3 State's 31 through actually 42, I believe, without
4 objection into evidence.

5 (State's Exhibit Nos. 41 and 42, photographs, received
6 into evidence.)

7 BY MR. WATERS:

8 Q. I'm going to start with State's 31. And tell us what
9 that picture is if you would. And then I'm going to put
10 it on the machine.

11 A. State's 31 is a photograph of the burial site after we
12 had raked off the leaves.

13 Q. Okay. So this is kind of the suspect area that you
14 had identified that you started to excavate?

15 A. It is.

16 Q. And where is the suspect area? Can you point to it?

17 A. It's approximately the center of the photograph.

18 Q. Okay. Now I'm going to show you State's 32. If you
19 can tell me what that is.

20 A. This is -- State's Exhibit 32 is a photograph, closer
21 photograph of the same area once we had uncovered that
22 cotton-like material.

23 Q. And is that what sparked you to notify the coroner at
24 that time?

25 A. It is.

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 Q. And this is that, the material that you're talking
2 about, right there?

3 A. Yes.

4 Q. All right. I'm going to show you State's 33. If you
5 can tell us what that is.

6 A. State's 33 is another photograph of that area. That's
7 after we had dug the holes on the side from which we could
8 work.

9 Q. So you dug down on either side, right here and right
10 here. And this is your subject area, right here?

11 A. It is.

12 Q. I'm going to show you State's 34. If you can tell me
13 what that is.

14 A. That's another photograph of that piece of cloth that
15 we exposed. It's just taken from a different angle.

16 Q. All right. And so we're talking about roughly in this
17 area; is that correct?

18 A. A little bit higher.

19 Q. Up there?

20 A. To your right.

21 MR. WATERS: Your Honor, may the witness get down and
22 point it out?

23 THE COURT: You don't want to try it one more time?
24 She may.

25 MR. WATERS: My eyes are not as good as they use to

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 be.

2 Q. Point to it on the picture and then I'll put it up for
3 the jury.

4 A. It's right here.

5 Q. Okay. So right here; correct?

6 A. Yes.

7 Q. That what I thought. I must have missed it.

8 So right here; correct?

9 A. Yes.

10 Q. All right. Before we get to the actual body, can you
11 tell us when you unearthed the body? Tell us what you
12 found, what condition it was in, and what you observed
13 with it.

14 A. It was decomposing. There were bindings around the
15 wrists and ankles. It was face down and the knees were
16 bent as if put into the ground on the stomach with the
17 legs bent up.

18 Q. Okay. And you said that Tyrone was bound. Were his
19 hands still bound or had the binding broken by that point?

20 A. The binding had broken at that point but his arms were
21 still up underneath him. His arms were underneath his
22 chest.

23 Q. Did you notice anything about a root that was of
24 note?

25 A. Right. As we were uncovering the body, most of the

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 pieces of root that we uncovered were loose meaning that
2 they had already been broken. But once we got down to his
3 arms, there was a piece of a root that actually went
4 through his arms. And it was connected on both ends so
5 his arm had gone through and around the root.

6 Q. His arm was kind of around the root like that
7 (indicating)?

8 A. Yes.

9 Q. Did you find any burned charcoal in the soil there?

10 A. Yes, we did.

11 Q. All right. All right. Well, I'm going to get to the
12 more graphic shots now. I'm going to show you State's
13 35. If you can tell us what that is.

14 A. State's 35 is another photograph as we progressively
15 uncovered him. The end that is closest to the bottom of
16 the photograph is where his head was. And one of his
17 feet's actually sticking up on the upper portion.

18 Q. So as we look at this picture, and this is after you
19 started working on either side here unearthing the body,
20 the head's at this end and that's his feet right there; is
21 that correct?

22 A. That's correct.

23 Q. I'm going to show you State's 36. And if you could
24 tell us what that depicts.

25 A. State's 36 is a another photograph. We had uncovered

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 a good bit of the body at this point, and we are denoting
2 about how deep he was buried.

3 Q. And what is it?

4 A. It was approximately two feet at that point.

5 Q. Okay. Is that one of your associates holding that
6 ruler there?

7 A. It is.

8 Q. Okay. And is -- here we have the head of Tyrone,
9 right there, going back to his feet this way; is that
10 correct?

11 A. Yes.

12 Q. All right. And it's kind of blotched out on the video
13 but it shows that's a ruler there. It shows that the
14 level of that hole had been about two feet; is that
15 correct?

16 A. Yes.

17 Q. I'm showing you State's 37. Can you tell me what that
18 is?

19 A. State's 37 is another photograph that actually shows
20 that root that was going through his arm, through the bend
21 of his arm. And it also measures the approximate depth.

22 Q. And that is, again, about two feet or so?

23 A. Yes.

24 Q. Again, this is the root that you're talking about and
25 that's the arm going around and his head's up this way?

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 A. Yes.

2 Q. And that's the two, you can see right there?

3 A. Yes.

4 Q. I'll show you State's 38.

5 A. State's 38 is a close-up photograph of one of the arms
6 with a binding around the wrist.

7 Q. A ligature where his hands were tied essentially?

8 A. Yes. It's got a knot on it.

9 Q. Okay. And so here we see the knot. This is his
10 shoulder to his elbow. And then right here we can see the
11 binding, the ligature that was around his wrist?

12 A. Yes.

13 Q. And then hanging down right there there's a knot right
14 there --

15 A. Yes.

16 Q. -- and then the rope hangs down?

17 A. That's correct.

18 Q. I'm going to show you what's been marked as State's
19 40. Can you tell me what that is?

20 A. State's 40 is another photograph of one of the wrists
21 denoting the binding is still around the wrist. You can
22 also see part of the body in the photograph.

23 Q. Okay. So, again, Tyrone's on his back and his hands
24 kind of on his chest. And then here you can see the
25 binding right there; is that correct?

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 A. That's correct.

2 Q. I'm going to show you State's 41. If you can tell me
3 what that is.

4 A. State's 41 is another photograph of the hand and
5 forearm. It also shows you the binding's still around the
6 wrists.

7 Q. So here we have the hand out, kind of like that
8 (indicating), and we can see the binding right through
9 there; is that correct?

10 A. That's correct.

11 Q. And we can also see what appears to be a tattoo on the
12 forearm, right here?

13 A. That's right.

14 MR. WATERS: Your Honor, for the record I have not
15 published State's 39. I'm going to withdraw that
16 exhibit.

17 (State's Exhibit No. 39, photograph, withdrawn from
18 evidence, became Court's Exhibit No. 4.)

19 BY MR. WATERS:

20 Q. I'm going to show you State's 42. And tell me what
21 that is.

22 A. State's 42 is a close-up photograph of the calves of
23 the victim and part of the feet. Also shows the bindings
24 around the ankles.

25 Q. Okay. Okay. So here we have one leg coming down, and

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 a foot this way, and the other leg and a foot that way.

2 And we can see binding right there and binding right

3 here. Some of the rope going off that way; is that

4 accurate?

5 A. That's right.

6 Q. All right. As you were looking through and sifting

7 through the dirt that you went through, did you find any

8 leaves that were in the soil?

9 A. Yes.

10 Q. And did you find any that appeared to be older and did

11 you find some that appeared to be newer?

12 A. Yes. Most of the leaves that were in the soil from

13 the spot from where we were removing the body were brown.

14 But there was some that were particularly green, and to me

15 that indicated possibly a length of time that he had been

16 there.

17 Q. Okay. All right. After y'all processed the scene,

18 excavated Tyrone, what did y'all do with Tyrone? What did

19 y'all do with him?

20 A. The coroner took him.

21 Q. The coroner took him. And did you collect any other

22 evidence at the scene aside from Tyrone himself?

23 A. Yes, we did.

24 Q. Can you just tell us what that was?

25 A. We collected an unfired shot shell for a shotgun; a

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 logging chain; a fired shot shell; a cigar butt that was
2 close by the body; a -- some gloves and a white appliance
3 top that looked like it had burned charcoal around in it.

4 Q. Okay. So these were just items. When you're out
5 there you're looking for anything, and a lot of times
6 you'll collect something just because it catches your eye;
7 is that correct?

8 A. That's correct.

9 Q. Does -- and you've done, how many crime scenes do you
10 think you've processed over the years? I mean roughly.

11 Not going to ...

12 A. A thousand at least.

13 Q. A thousand crime scenes?

14 A. (Nods head.)

15 Q. And is it true that even though as you collect things,
16 later it's determined and in fact for many things it's
17 later determined that they don't have any evidentiary
18 significance; is that fair to say?

19 A. Yes.

20 Q. Is that common?

21 A. Yes. It depends on what knowledge we have at the
22 time.

23 Q. Uh-huh.

24 A. In cases where we don't have a lot of knowledge, in
25 this case we didn't know how he was killed, so anything

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 that could potentially be something used to kill him we
2 thought we should collect.

3 Q. Okay. And just because you got something it doesn't
4 necessarily mean that it was a key to the case. You were
5 just being thorough in a case where you didn't know much
6 and gathering up various items of evidence around there;
7 is that fair to say?

8 A. Yes.

9 Q. And for example, that white appliance top. Did you
10 personally take a look at that? And if so, what did you
11 find?

12 A. Yes. We collected that and we carried it back to the
13 lab and I processed it for fingerprints and we didn't get
14 anything.

15 Q. Tell me a little bit about fingerprints. You know,
16 there's often the conception that, you know, forensic
17 fingerprints and things like that are just in absolutes.
18 What's the reality of them? How likely is it that you can
19 collect fingerprints? Does it depend on the surface, on
20 the weather, on the temperature, things like that? Just
21 enlighten the jury a little bit on that if you could.

22 A. Fingerprints in particular are mostly moisture so
23 they're fragile in nature, easily destroyed. If it's not
24 preserved in some manner it's not going to be there that
25 long.

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 Anything that's indoors one would expect to be there a
2 little bit longer than anything that's outside,
3 particularly during the summertime. The day we were there
4 was it was in it 90s. And being that fingerprints are, or
5 latent fingerprints are mostly moisture, they're going to
6 dehydrate just like anything else.

7 Q. So these conditions were not particularly good for the
8 collection of fingerprints given that it was outdoors, it
9 was hot, and the things had been weathered obviously?

10 A. Yes. And the surface itself for this appliance top
11 was textured. The best surfaces to recover a latent
12 fingerprint are smooth, hard surfaces. So when you get
13 texture in there when you're trying to recover a print, it
14 makes the prints more broken. So it's not as readily
15 identifiable.

16 Q. Let me move on now if I could. The following day did
17 you search the -- and process the Defendant's, Sammie
18 Gerrick's, Dodge Ram truck?

19 A. Yes, we did.

20 Q. Okay. And did you have -- do your notes reflect a
21 license plate for that?

22 A. Yes. South Carolina registration GLA-898 is what I
23 have in my notes.

24 Q. Okay. And if you would, is it similar in how you
25 process any crime scene? Are you going to meticulously go

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 through the automobile looking for anything of evidentiary
2 value?

3 A. Typically the basic run through of any type of crime
4 scene processing is going to be photographs, how it's
5 found. And then as you search it you also photograph it
6 as well just to document how you found it and what you
7 found.

8 Once photographs are taken in a house, car, whatever's
9 searched, then you're going to go about processing for any
10 DNA, fingerprints, anything like that that you're looking
11 for.

12 Q. All right. And did you collect any items of evidence
13 from the truck -- let me ask you first.

14 A. Yes.

15 Q. I'm going to show these to the defense real quick.

16 (Photographs shown to defense counsel.)

17 MR. WILLIAMS: Subject to prior objection, Your Honor.

18 BY MR. WATERS:

19 Q. All right. I'm going to first show you what's been
20 marked as State's 45 and see if you recognize that.

21 A. I do.

22 Q. All right. And could you tell us what that is?

23 A. State's 45 is a photograph of the console of the Dodge
24 truck after we had opened it.

25 MR. WATERS: Your Honor, at this time I move State's

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 45 into evidence, I believe, subject to prior objection by
2 Mr. Williams.

3 THE COURT: Correct.

4 (State's Exhibit No. 45, photograph, received into
5 evidence.)

6 BY MR. WATERS:

7 Q. And I want to point out two items. First of all, this
8 little brown thing right there. Can you tell me what that
9 is?

10 A. Yes. It was a taped-up package that we opened up and
11 it was later determined to be a -- it was told to me it
12 was a witchcraft root.

13 THE COURT: Whoa, whoa. Disregard that, ladies and
14 gentlemen of the jury.

15 BY MR. WATERS:

16 Q. Okay. And what's this other bottle, right there?

17 A. It was a canister that the title on it said something
18 about Law Away.

19 Q. Okay. All right. And if I could, this is the little
20 brown capsule that you were talking about right there?

21 A. The package, yes.

22 Q. And then that is the bottle of Law Away; is that
23 correct?

24 A. It is.

25 Q. All right. I'm going to show you what's been marked

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 as State's 44. See if you can recognize that.

2 A. Yes. State's 44 is a close-up photograph of that
3 brown package.

4 Q. Okay. And that's what it looked like, all put
5 together?

6 A. Yes.

7 Q. And then I'm going to show you what's been marked as
8 State's 43. Can you tell me what that is?

9 A. State's 43 is a close-up of that container titled Law
10 Stay Away.

11 Q. And that was found in the Defendant's truck's console
12 in proximity to the little brown piece of paper?

13 A. It was.

14 Q. Okay. All right. And finally I'm going to show you
15 State's 46. If you can tell me what that is.

16 A. State's 46 is a photograph of that brown package once
17 we opened it up.

18 Q. Okay. That's what it looked like when you opened it
19 up?

20 A. Yes.

21 Q. All right.

22 MR. WATERS: Your Honor, at this time I'd move in
23 State's 43, 44 and 46, I believe subject to prior
24 objection.

25 THE COURT: Very well.

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 (State's Exhibit Nos. 43, 44 and 46, photographs,
2 received into evidence.)

3 BY MR. WATERS:

4 Q. Did you process the Defendant's car for any prints?

5 A. No.

6 Q. And why is that?

7 A. Lieutenant Harley advised us that they had knowledge
8 of each other so that it wasn't a big deal if we found the
9 victim's prints in his vehicle.

10 Q. Were you advised also of any washing or cleaning of
11 the truck?

12 A. Yes.

13 Q. Did you also search the residence at [REDACTED] River Street
14 in Blackville?

15 A. Yes.

16 Q. And at that particular residence did you see any
17 fishing lures?

18 A. Yes. As soon as I stepped out of our truck I noticed
19 the green netting and fishing lures which were similar to
20 what we had seen at the body.

21 MR. WATERS: Nothing further, Your Honor.

22 THE COURT: Mr. Foreman, ladies and gentlemen, we're
23 going to take our afternoon break for about 15 minutes.
24 That puts us to about 10 to four. We're going to five
25 o'clock this afternoon. Please do not start discussing

MELISSA SKIPPER WALLACE - DIRECT/WATERS

1 the case. Please do not begin any deliberations.

2 Everybody else remain seated.

3 (Jury exits courtroom at 3:36 P.M.)

4 THE COURT: All right. Anything from the State before
5 we break?

6 MR. WATERS: No, sir, Your Honor.

7 THE COURT: Mr. Williams?

8 MR. WILLIAMS: Your Honor, and I realize it was
9 inadvertent but the mention of witchcraft creates a
10 problem. I move for a mistrial. And I realize you gave a
11 curative instruction, but sometimes that just draws more
12 attention to it.

13 THE COURT: She did. She's obviously not qualified to
14 give that opinion. Just sort of blurted it out. I gave a
15 curative instruction, and I'll respectfully deny the same.

16 MR. WATERS: And, Your Honor, in closing or anything,
17 I'm not going to make that allusion or anything like that.

18 THE COURT: I understand that but the cat's out of the
19 bag, but I hope the curative instruction -- and I
20 immediately gave it. So.

21 All right. We're going to break for about 15
22 minutes.

23 Ms. Wallace, you're still in the middle of examination
24 so don't discuss it with anybody.

25 We'll take a break.

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 THE WITNESS: Yes, Your Honor.

2 (Break taken at 3:38 P.M., until 3:59 P.M., and the
3 trial resumed:)

4 THE COURT: Thank you. Please be seated.

5 Anything for the record from the State?

6 MR. WATERS: No, sir, Your Honor.

7 THE COURT: Mr. Williams?

8 MR. WILLIAMS: Nothing, Your Honor.

9 (Jury enters courtroom at 4:00 P.M.)

10 THE COURT: Mr. Williams?

11 MR. WILLIAMS: Thank you, Your Honor. If it please
12 the Court.

13 CROSS-EXAMINATION.

14 BY MR. WILLIAMS:

15 Q. Agent Skipper-Wallace, make sure I'm correct. You
16 processed three different things: The actual grave site;
17 and then the Dodge Ram that belonged to Mr. Gerrick; and
18 then you went to the house of, where Mr. Gerrick was
19 living. Is that correct?

20 A. I'm not sure if that's where he was living. The
21 residence was [REDACTED] River Street in Blackville.

22 Q. Do you know who lived at that residence?

23 A. I do not have anything in my notes as to who, whose
24 residence that was.

25 Q. All right. But you collected a fishing lure and some

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 green netting from that residence?

2 A. Yes, sir; I did.

3 Q. And, you collected some green netting from the scene?

4 A. No, sir; I did not.

5 Q. You did not?

6 A. No, sir.

7 Q. All right. Did you collect a fishing lure from the
8 scene?

9 A. No, sir; I did not.

10 Q. All right. So we don't have that to look at to see if
11 it was there today?

12 A. Not my knowledge; no, sir.

13 Q. All right. Now, you all spread out, I guess, on the
14 perimeter and then found a soft spot; is that correct?

15 A. The agents and the sheriff's office did that prior to
16 our arrival. They just pointed out specific locations
17 that they wanted us to look at.

18 Q. And, when you got there, what time was it, roughly?

19 A. 10:43 in the morning.

20 Q. All right. And in some pictures that I think you took
21 I see a tent over a site. Is that where the excavation
22 took place?

23 A. Yes.

24 Q. All right. And you showed us some pictures a while
25 ago. And I'm going to show you again --

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 THE COURT: Number, please?

2 BY MR. WILLIAMS:

3 Q. I'm sorry. State's Exhibit 32.

4 A. Yes, sir.

5 Q. And I'm going to show you on this little device down
6 here in a second, if they'll show me how to work it, but
7 it looks like I see some brown-looking leaves in there?

8 A. Yes, sir.

9 Q. And what State's Exhibit 32 shows us is near where the
10 body was found; is that correct?

11 A. That is actually -- the dark spots are actually part
12 of the clothing that he was wearing.

13 Q. Okay.

14 MR. WILLIAMS: Thank you.

15 MR. WATERS: (Offers technical support.)

16 BY MR. WILLIAMS:

17 Q. And I'm going to point and tell me if I'm wrong but it
18 looks like a decayed leaf here?

19 A. It's brown.

20 Q. Brown leaf here?

21 A. Yes, sir.

22 Q. And this is July. I'm sorry. August 4th or 5th?

23 A. That day was August 4th.

24 Q. All right. Now, there were some green vegetation you
25 indicated also; is that right?

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 A. Yes, sir.

2 Q. Did you save that vegetation?

3 A. No, sir.

4 Q. You did take pictures of it?

5 A. Yes, sir.

6 Q. Did you identify the type of that vegetation?

7 A. No, sir. We documented it to show approximate length
8 of time.

9 Q. Okay. Let me show you what we've marked for
10 identification as Plaintiff's Exhibit One.

11 THE COURT: Not Plaintiff.

12 MR. WILLIAMS: Wrong Court, Judge. Defendant's
13 Exhibit One and Two.

14 THE COURT: Do you want to introduce those?

15 MR. WILLIAMS: I'm going to introduce them. Well,
16 I'll withdraw that for now.

17 Q. And what do these pictures show?

18 A. Those photographs show the green vegetation that we
19 found around the body.

20 Q. All right. And you had a tent sitting over the grave
21 site; correct?

22 A. That was put up a little bit later but, yes, we did
23 get one in.

24 Q. And that kept vegetation from falling into the grave.
25 You made sure of that, so you knew nothing was tampering

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 with your site because you wanted to do a thorough
2 investigation; right?

3 A. The point of that was so that we could have some shade
4 because it was really hot.

5 Q. Did it serve two purposes?

6 A. Yes, sir.

7 Q. Okay. And you indicated you found a shotgun shell or
8 two there?

9 A. Yes, sir.

10 Q. Do you know what gauge shotgun shell?

11 A. I don't have it noted in my notes.

12 Q. And in some photographs that I have seen of the crime
13 scene there was a tape that went around the, I guess the
14 perimeter where the excavation took place; is that
15 correct? A yellow tape?

16 A. I don't remember.

17 MR. WILLIAMS: May I show these?

18 THE COURT: (Nods head.)

19 BY MR. WILLIAMS:

20 Q. And so that the jury can see --

21 MR. WATERS: Your Honor.

22 THE COURT: Whoa, whoa, whoa.

23 MR. WATERS: I object at this point. They're not in
24 evidence. They can't see --

25 MR. WILLIAMS: Okay.

MELISSA SKIPPER WALLACE - CROSS/WILLIAMS

1 THE COURT: You're welcome to put them in evidence.

2 MR. WILLIAMS: I believe these -- move for these to be
3 introduced into evidence.

4 MR. WATERS: No objection, Your Honor.

5 THE COURT: That's Defendants One and Two. She's
6 identified them; hasn't she?

7 MR. WILLIAMS: Yes.

8 THE COURT: One and Two are photos --

9 MR. WILLIAMS: That's correct.

10 THE COURT: -- of the scene? Photos of the grave
11 site? Ma'am?

12 THE WITNESS: I'm sorry, Your Honor?

13 THE COURT: Photos of what?

14 THE WITNESS: Those are photographs of green
15 vegetation that was in the soil over the body.

16 (Defendant's Exhibit Nos. 1 and 2, photographs,
17 received into evidence.)

18 BY MR. WILLIAMS:

19 Q. And you did nothing to find out what kind of leaves
20 they were; correct?

21 A. That's correct.

22 Q. And do you know if there's a difference if any between
23 the leaf shown in Defendant's One versus the leaf shown in
24 Defendant's Two?

25 A. No, sir.

1 Q. And as we sit here today, the only thing that we would
2 have to identify the type of leaf is these photographs; is
3 that correct?

4 A. If there's any other photographs I'm not aware; so,
5 yes.

6 Q. And did you take pictures of the entire scene in a 360
7 view around the excavation site where the body was found?

8 A. Yes, sir.

9 MR. WILLIAMS: Thank you. That's all the questions I
10 have.

11 THE COURT: Redirect.

12 MR. WATERS: Very briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. WATERS:

15 Q. You were asked whether or not you collected the green
16 netting and the fishing lure at the burial site. And you
17 said you didn't, you just notate it in your report; is
18 that correct?

19 A. That's correct.

20 Q. And it wasn't until the next day that you went to [REDACTED]
21 Rivers Drive that you noticed similar items present at
22 that particular residence; is that correct?

23 A. That's right.

24 MR. WATERS: Okay. Nothing further, Your Honor.

25 THE COURT: You may step down. May she be released?

JANICE EDWARDS ROSS - DIRECT/WATERS

1 MR. WATERS: Yes. Yes, sir.

2 THE COURT: Mr. Williams?

3 MR. WILLIAMS: No problem.

4 THE COURT: You may go back to the upper part of the
5 state.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Next witness.

8 MR. WATERS: We would call Dr. Janice Ross.

9 JANICE EDWARDS ROSS, having been duly sworn, was
10 examined and testified as follows:

11 THE CLERK: Ma'am, please be seated and state your
12 full name for the record. Okay?

13 THE WITNESS: Janice Edwards Ross.

14 DIRECT EXAMINATION

15 BY MR. WATERS:

16 Q. Dr. Ross, thank you for coming today. I'm sorry it's
17 taken a while to get to you.

18 If you would, please tell the jury what your
19 profession is and your current occupation.

20 A. I'm a forensic pathologist in Newberry, South
21 Carolina. We do autopsies for coroners of the state.

22 Q. Okay. And if you would, if you could just give us
23 your education as you became a physician and then your
24 experience as a pathologist, please.

25 A. Yes. I have a Bachelor's Degree from the University

JANICE EDWARDS ROSS - DIRECT/WATERS

1 of South Carolina. And I received my MD from Upstate
2 Medical Center in Syracuse, New York, where I did
3 residency in pathology.

4 Pathology is the discipline in medicine where we are
5 trained to diagnose diseases by looking at tissue under
6 the microscope and by using laboratory work. We are
7 trained to do an autopsy.

8 In forensic pathology we're further trained to do
9 forensic autopsies to find a cause and manner of death.
10 And forensic autopsy is very detailed. And we learn how
11 to identify pattern of injuries and document injuries and
12 take fluids and tissues for the purpose of diagnosis and
13 toxicology.

14 Q. Okay. And so essentially you examine the body to
15 determine what sort of mechanisms were at work either for
16 disease or death; is that fair to say?

17 A. Yes.

18 Q. Okay. And how long have you been practicing as a
19 pathologist?

20 A. Since 1976.

21 Q. And where do you -- what's your current practice?
22 Where are you located?

23 A. Newberry Pathology Associates in Newberry, South
24 Carolina.

25 Q. Okay. And how many autopsies do you perform or how

JANICE EDWARDS ROSS - DIRECT/WATERS

1 many have you performed over the years?

2 A. Over 8,000.

3 Q. Over 8,000. Is that something you regularly do; is
4 that correct?

5 A. Yes.

6 Q. And whenever there is any sort of death where law
7 enforcement needs to attempt to determine the cause of
8 that particular death, are you one of the doctors that
9 they bring the body to to examine?

10 A. Yes.

11 MR. WATERS: Your Honor, at this time I would move to
12 qualify Dr. Ross as an expert in forensic pathology.

13 THE COURT: Any cross-examination as to her
14 qualifications?

15 MR. WILLIAMS: No. Without objection.

16 THE COURT: Mr. Foreman, ladies and gentlemen,
17 Dr. Ross will be allowed to give opinion testimony because
18 she's been qualified as an expert in the field of forensic
19 pathology.

20 BY MR. WATERS:

21 Q. Dr. Ross, if you could, did you examine the victim,
22 Tyrone Donaldson, in this particular case?

23 A. Yes.

24 Q. And what day did you receive Tyrone?

25 A. August 5th, 2011.

JANICE EDWARDS ROSS - DIRECT/WATERS

1 Q. And if you would, can you just give us a general
2 description of what the condition of the body was when it
3 arrived to you?

4 A. Yes. The body comes to us in a body bag. And we open
5 it up and take photographs, identify clothing. The body
6 was very much covered with dirt and was decomposing.

7 Q. Okay. And it was decomposing. Was there a level of
8 decomposition that you can quantify for us or expand on
9 that a little bit?

10 A. It was moderate to severe. There was -- in
11 decomposition the skin color darkens, tissue
12 deteriorates. So there's some, what we call skin
13 slippage. The skin actually falls away from the body.
14 The hair falls away from the body. The eyes are not
15 identifiable.

16 So it was fairly advanced.

17 Q. Fairly advanced decomposition?

18 A. Yes.

19 Q. Was it consistent with someone who had been buried for
20 12, 13, 14 days, something like that?

21 A. Yes.

22 Q. Okay. When you have a body that's at that moderate to
23 advanced stage of decomposition that's been buried for
24 that length of time, does that impair or affect your
25 ability to do your examination and to determine various

JANICE EDWARDS ROSS - DIRECT/WATERS

1 causes of death?

2 A. It does. It causes -- it makes it unidentifiable to
3 see certain types of wounds on the skin. We do full body
4 X-rays to look for broken bones, to look for lead bullets,
5 pieces of knives or whatever.

6 But, there are certain things that we would not be
7 able to see externally, especially bruising, some
8 abrasions, that kind of thing.

9 Q. All right. And let's talk about that. Did you X-ray
10 the body? Did you find any skull fractures or any sort of
11 fractures to the skeleton of Tyrone?

12 A. We found no fractures and we found no bullets.

13 Q. So no bullets, no evidence of a skull or a bone
14 fracture anywhere?

15 A. Correct.

16 Q. Okay. And what you were just saying though is because
17 of the decomposition it hinders your ability to see sort
18 of bruising, soft-tissue injuries, swelling and that sort
19 of thing?

20 A. Correct.

21 Q. If you would -- and I've got some pictures I'm going
22 to show you.

23 If you would for us -- before we get to the picture.
24 If you could show me or tell me generally the findings
25 that you had when you examined Mr. Donaldson's body.

JANICE EDWARDS ROSS - DIRECT/WATERS

1 A. First of all, besides the clothing that he had on, he
2 had some ligatures that were essentially like shoe strings
3 around his wrists and his ankles, but they were not
4 connected.

5 And then externally the only marks I could see were
6 some defects in the back of the left forearm. They were
7 splits in the skin consistent with a laceration.

8 Q. Okay. And now I'm going to show you those pictures.
9 I left them on defense counsel's table. And I want you to
10 take a look at those initially and after you've glanced
11 through them, if you could just generally tell me what
12 those are.

13 A. Yes. These are photographs from the autopsy of Tyrone
14 Donaldson depicting the ligatures --

15 THE COURT: Hold on a second now. Any objection to
16 them?

17 MR. WILLIAMS: None, Your Honor.

18 THE COURT: They're what? State's what numbers,
19 please?

20 MR. WATERS: Your Honor, they are 55 through 62.

21 THE COURT: Autopsy photos, 55 through 62?

22 MR. WATERS: Yes, sir.

23 THE COURT: Thank you.

24 (State's Exhibit Nos. 55 through 62, photographs,
25 received into evidence.)

JANICE EDWARDS ROSS - DIRECT/WATERS

1 BY MR. WATERS:

2 Q. Let's begin with State's Exhibit 55, if we could.

3 Could you tell me what that particular picture depicts?

4 A. This shows the ligature around one of the ankles.

5 Q. Okay. And I'm going to put it up on the screen. And

6 this is a photo y'all took in the course of your autopsy;

7 correct?

8 A. Yes.

9 Q. And what is this line right here?

10 A. That's from the ligature mark.

11 Q. So the ligature's removed. That's sort of the

12 indentation on the skin; is that correct?

13 A. Correct, correct.

14 Q. Okay. And I'm going to show you what's been marked as

15 State's 56. And if you would, tell me what that is.

16 A. This is the ligature in place on the left wrist.

17 Q. Okay. All right. And here again we see the ligature

18 right here; is that correct?

19 A. That's correct.

20 Q. And just real quickly. Is this something that you all

21 put down with the case number for measurement references?

22 A. Yes, it's our autopsy number 2011, and then the

23 number, 558th case of the year.

24 Q. And State's 57?

25 A. This depicts the ligature around the right wrist.

JANICE EDWARDS ROSS - DIRECT/WATERS

1 Q. Okay. And, again, this is the body going down this
2 way and the hand coming and the ligature area right here?

3 A. Correct.

4 Q. Okay. And then State's 58?

5 A. This is an ankle showing where the ligature was, the
6 ligature mark.

7 Q. Okay. And, again, this is the ligature mark area,
8 right here with the ligature removed?

9 A. Correct.

10 Q. All right. And I'm going to show you now what's been
11 marked as State's 59. See if you recognize that.

12 A. Yes. This is a tattoo that was on his right forearm
13 including a cross and the words, in loving memory of
14 Sherell, S-H-E-R-E-L-L.

15 Q. And how was the victim identified, how was he reported
16 to you?

17 A. With that tattoo.

18 Q. With this tattoo. Identified as Tyrone Donaldson;
19 correct?

20 A. Correct.

21 Q. So here we have, in loving memory Sherell, right
22 here. And then down here we can see the ligature mark as
23 well?

24 A. Yes.

25 Q. And now State's 60?

JANICE EDWARDS ROSS - DIRECT/WATERS

1 A. This is a ligature mark. You can't tell exactly from
2 whence.

3 Q. Okay.

4 THE COURT: What did you last say? The ligature mark
5 you can't tell from what?

6 THE WITNESS: From where, from what part of the body.

7 BY MR. WATERS:

8 Q. But we see right here, we see this dark area right
9 here. Is that what you're talking about, the ligature
10 mark?

11 A. Yes.

12 Q. And then finally State's 61. Can you tell me what
13 that is?

14 A. That shows a ligature in place and one of the arms,
15 wrist.

16 Q. Okay. And so on this one we can see the wrist and we
17 can actually see the string or the rope around the wrist
18 and then the knotted area right here; is that correct?

19 A. Correct.

20 Q. Okay. All right. If you could tell us, tell us in
21 your examination of the body you didn't find any
22 fractures. The decomposition hindered your ability to
23 look for soft-tissue injuries.

24 What process or what reasoning did you go through to
25 arrive at the cause of death in this particular case?

JANICE EDWARDS ROSS - DIRECT/WATERS

1 A. The fact that he was buried underneath dirt, and
2 without evidence of shooting or fractured skull, for
3 instance from a beating, it is most likely that there was
4 some kind of asphyxiation. In other words, some kind of
5 strangulation around the neck with a soft tissue or a
6 soft -- or an arm as a cause of death. But the whole
7 scenario makes, makes -- together makes it a homicide for
8 manner of death.

9 Q. Okay. And you then concluded that that mechanism was
10 suffocation then; is that correct?

11 A. Yes.

12 Q. And that could be either from being strangled with
13 some sort of soft item or something like that; is that
14 correct?

15 A. Yes.

16 Q. Could it also result from somebody being incapacitated
17 and then buried?

18 A. Yes.

19 Q. Okay. Just got a couple more questions for you.

20 I'm going to show you what's been marked as State's
21 17, 19, 21, 22 and 20, and have you take a look at those
22 real quick, please.

23 Have you had a chance to look at those?

24 A. Yes.

25 Q. Have you had a chance to review those prior to your

JANICE EDWARDS ROSS - DIRECT/WATERS

1 testimony today?

2 A. Yes.

3 Q. And in your line of work in your profession, it's
4 common that you're reviewing a case where there were an
5 assault on an individual; is that correct?

6 A. Correct.

7 Q. And you're familiar then with the concept of defensive
8 wounds or evidence that individuals were in some sort of a
9 struggle?

10 A. Yes.

11 Q. And looking at those pictures, are those pictures --
12 are those scratches consistent with an individual being
13 scratched by someone?

14 A. Yes. These are thin, very linear, what we call
15 scratch abrasions that can be seen with being scratched by
16 fingernails.

17 Q. By fingernails?

18 A. Uh-huh.

19 Q. Okay. And again, looking at the pictures, this is
20 what you're talking about here with these scratch, these
21 thin scratch marks. That can be consistent with being
22 scratched by fingernails?

23 A. Yes.

24 Q. And that would be State's 17 I just showed you. It
25 might not come out very well on the big screen, but the

JANICE EDWARDS ROSS - DIRECT/WATERS

1 scratching area's through here. Is that what you're
2 talking about as well?

3 A. Yes.

4 THE COURT: What number is that, please?

5 MR. WATERS: That's State's 21.

6 Q. Now, looking at State's 22. Again, this area right
7 here, is that what you're speaking about --

8 A. Yes.

9 Q. -- as the scratches? Now looking at State's 20, same
10 thing, scratches on the chest?

11 A. Yes.

12 Q. All right. And then finally again, State's 19,
13 scratches on the arm area?

14 A. Yes.

15 Q. And that's all consistent with being scratched by
16 fingernails; is that correct?

17 A. Yes.

18 Q. Which could be consistent with someone being in a
19 struggle with someone who was scratching them; is that
20 correct?

21 A. Yes.

22 Q. All right. I want to conclude, Dr. Ross, with one of
23 your other findings. And I believe you already mentioned
24 this before, but you found defensive wounds on Tyrone's
25 left forearm; is that correct?

JANICE EDWARDS ROSS - CROSS/WILLIAMS

1 A. Correct.

2 Q. And I'm going to show you what's been marked as
3 State's Exhibit 62. And if you can tell me what that is.

4 A. This is a photograph of the left anterior forearm of
5 Tyrone Williamson -- Donaldson, I'm sorry -- from the
6 autopsy. It depicts two defects in the skin that appear
7 to be lacerations.

8 Q. Okay. And is this what you were referring to in your
9 findings when you identified probable defensive wounds on
10 his arm?

11 A. Yes.

12 Q. And this is Tyrone's arm; right?

13 A. Correct.

14 Q. And this area right here is what you're talking about
15 as one of those defensive wounds?

16 A. Yes.

17 Q. And this is the other area where you talked about a
18 defensive wound?

19 A. Yes.

20 Q. And what is a defensive wound? That's when you put
21 your hands up to protect yourself; is that right?

22 A. Yes.

23 MR. WATERS: Thank you, Dr. Ross.

24 THE COURT: Mr. Williams?

25 MR. WILLIAMS: Thank you, Your Honor. If it please

JANICE EDWARDS ROSS - CROSS/WILLIAMS

1 the Court.

2 CROSS-EXAMINATION

3 BY MR. WILLIAMS:

4 Q. The photographs that the State showed you a few
5 minutes ago showing a little scratch marks --

6 THE COURT: Refer to the numbers, please.

7 MR. WILLIAMS: I'm sorry. State's Exhibit 19, 20, 22,
8 21, and 17.

9 Q. When's the first time you saw all these photos?

10 A. A couple weeks ago, I believe.

11 Q. Two weeks ago?

12 A. Yes.

13 Q. And you indicated they could be consistent --

14 A. Yes.

15 Q. -- with fingernail marks?

16 A. Yes.

17 Q. But they could be something else also; correct?

18 A. Yes.

19 Q. We don't know.

20 A. Correct.

21 Q. And had you seen State's Exhibit 19, 20, 21, 17 and
22 22, you would have paid more attention to Tyrone
23 Donaldson's fingernails when you examined him; correct?

24 A. We looked -- his hands and the gloves went to SLED,
25 and the fingernails because of the decomposition were

JANICE EDWARDS ROSS - CROSS/WILLIAMS

1 falling off.

2 Q. And did you attempt any kind of DNA test to see if any
3 kind of DNA was recoverable?

4 A. They went to SLED. I'm not sure. I never got a
5 report back from them. I don't know what they did.

6 Q. Okay. Now, Mr. Donaldson was a big guy; correct?

7 A. Yes.

8 Q. Almost six-foot tall?

9 A. Yes.

10 Q. Two hundred seventy pounds; is that correct?

11 A. That's our estimate, yes.

12 Q. And you indicated to us earlier that he had been dead,
13 you thought, for 13, 14 days?

14 A. It's consistent. It's difficult to tell exactly.

15 Q. All right. And what causes decomposition?

16 Decomposition of the body is death itself; correct?

17 A. Correct.

18 Q. When we die we start decomposing fairly quickly; is
19 that correct?

20 A. It depends on a lot of things including temperature.

21 Q. In the hot summertime in South Carolina it's fairly
22 quickly; correct?

23 A. Yes, but when you're underground it slows down a
24 little bit.

25 Q. And he was -- his decomposition was fairly moderate to

JANICE EDWARDS ROSS - CROSS/WILLIAMS

1 fairly severe, you said; correct?

2 A. Yes.

3 Q. And he could have been killed above ground; isn't that
4 right?

5 A. Yes.

6 Q. And, in fact, when you wrote your initial report in
7 this case, your finding was that the cause of death is
8 pending further investigation; right?

9 A. Correct.

10 Q. And so at that point in time you didn't know the cause
11 of death; correct?

12 A. Correct.

13 Q. And did you do any kind of probing into his nostrils
14 or into his throat to see if he may have dirt there?

15 A. There was none.

16 Q. Okay. There was none; right?

17 A. Not that we could see. I mean, there's a lot of ...

18 Q. And, as a coroner you don't know when he got, when his
19 body got in that grave in rural Blackville; do you?

20 A. No.

21 Q. Your report indicates there's -- that the neck area is
22 unremarkable; is that right?

23 A. Correct.

24 Q. So there's no indication of strangulation from what
25 you could see from looking at his body; correct?

JANICE EDWARDS ROSS - REDIRECT/WATERS

1 A. We could not see any -- see that because of the
2 decomposition.

3 Q. All right. Well, I guess my point is we all know he
4 died. I mean, we all know he was found buried, but we
5 just don't know exactly how it happened; do we?

6 A. Correct.

7 MR. WILLIAMS: No further questions.

8 THE COURT: Redirect.

9 MR. WATERS: Yes, sir.

10 REDIRECT EXAMINATION

11 BY MR. WATERS:

12 Q. Dr. Ross, you were asked about the fingernails and you
13 stated they were falling off; is that correct?

14 A. Correct.

15 Q. And this is kind of what you testified before was that
16 the decomposition here hinders forensic analysis; is that
17 correct?

18 A. Correct.

19 Q. And you were also asked about the level of
20 decomposition here. Was Mr. Donaldson, the presentation
21 to you consistent with someone who had been dead and
22 buried in a shallow grave for some 10 to 14 days?

23 A. Yes.

24 Q. And you were asked about your initial report where
25 you, you said pending further investigation; is that

1 correct?

2 A. Yes.

3 Q. What was the additional piece of investigation that
4 you were waiting for before you did your final conclusion?

5 A. Primarily we were waiting for the toxicology results
6 to see if there were any drugs in his system.

7 Q. Okay. So you would examine the body fully but you
8 just sent off his bodily tissues to see if there were any
9 drugs or other intoxicants in his system that could
10 explain his death other than what you had otherwise
11 identified, the probable suffocation; is that accurate?

12 A. Correct.

13 Q. And that's the thing you were waiting for and once you
14 got that in and it showed -- what did it show?

15 A. It was all negative.

16 Q. So he had no intoxicants in his system?

17 A. Correct.

18 Q. And so once you did that, then you did your final
19 report and it was suffocation; is that correct?

20 A. Yes.

21 MR. WATERS: Thank you very much.

22 THE COURT: Thank you. May she be released from her
23 subpoena?

24 MR. WATERS: Yes, sir, Your Honor.

25 THE COURT: Dr. Ross, thank you.

GEORGE THOMAS HINES - DIRECT/WATERS

1 THE WITNESS: Thank you.

2 THE COURT: Good to see you. Next witness.

3 MR. WATERS: Your Honor, at this time we would call
4 Karen Milbrodt.

5 THE COURT: Come around, Ms. Milbrodt, please.

6 (Pause.)

7 MR. WATERS: She was here earlier, Your Honor. I don't
8 know where she's gone.

9 (Off-the-record discussion.)

10 MR. WATERS: Your Honor, I can proceed with another
11 witness until we can locate her.

12 THE COURT: Thank you.

13 THE CLERK: Please be seated. State your full name
14 for the record.

15 GEORGE THOMAS HINES, having been duly sworn, was
16 examined and testified as follows:

17 THE WITNESS: George Thomas Hines, H-I-N-E-S.

18 DIRECT EXAMINATION

19 BY MR. WATERS:

20 Q. How are you doing today?

21 A. I'm doing well.

22 Q. Can you tell us where you work and your experience in
23 law enforcement if you would?

24 A. I work for the South Carolina Law Enforcement
25 Division. I've been with SLED for about six years now.

GEORGE THOMAS HINES - DIRECT/WATERS

1 The last three I've been with team three.

2 THE COURT: Been where?

3 THE WITNESS: Team three, sir.

4 THE COURT: Team three.

5 BY MR. WATERS:

6 Q. What does that refer to, team three?

7 A. Basically we gather, interpret, analyze intelligence
8 from a variety of sources, and we utilize that
9 intelligence in the apprehension of fugitives.

10 Q. So, intel?

11 A. Yes, sir.

12 Q. Okay. And as part of that, are you -- do you
13 occasionally interpret phone records to see what
14 information can be determined from those?

15 A. Yes, sir. Quite frequently.

16 Q. And, I'm going to show you some records in a minute.
17 But do the phone companies provide SLED -- you work for
18 SLED; correct?

19 A. Yes.

20 Q. Do they provide you with locations for the various
21 tower codes that are reflected in the records which y'all
22 maintain in the course of your business?

23 A. Yes, sir.

24 Q. And can you take those numbers and then plot those on
25 a map to determine which tower a certain cell phone was

GEORGE THOMAS HINES - DIRECT/WATERS

1 pinging off of at the time of a given call?

2 A. Yes, sir.

3 Q. Okay. And explain to me a little about how cell
4 towers work and particularly with an emphasis on how they
5 may work differently in the city as opposed to the country
6 like was the scene in this particular case.

7 A. Typically from my experience in a more rural area or
8 less populated, towers may extend farther than they
9 typically would in the city. In the city area where you
10 have a larger population you're going to have more people,
11 more users in an area and they're going, there's going to
12 be a need for more cell towers. They're not going to
13 extend quite as far.

14 In the country there's less users. There's going to
15 be less cell towers and they're going to extend a little
16 bit farther.

17 Q. Okay. And so when you're in the country and you've
18 got that, is that kind of like what you see when you're
19 going down the rural highway in Barnwell County for
20 example and you got four bars, then you get farther away
21 and you got three, two, one, and then it goes searching
22 because your phone doesn't have a signal anymore?

23 A. Yes, sir; that's exactly correct.

24 Q. So it kind of hangs on as long as it can and then lets
25 go; is that accurate?

GEORGE THOMAS HINES - DIRECT/WATERS

1 A. As long as it can connect to a tower it will maintain
2 that connection.

3 Q. All right. Were you provided some records in this
4 particular case?

5 A. Yes, sir; I was.

6 Q. All right. And did you take a look at those records
7 and attempt to make some maps for us as to the locations
8 of certain cell towers?

9 A. Yes, sir; I did.

10 Q. And I have what's been marked as State's 23 through 28
11 and I'm going to let you just take a look at those real
12 quick and I'm going to ask you a few questions about them.

13 A. (Reviewing documents.)

14 Q. You had a chance to look at them?

15 A. Yes, sir.

16 Q. All right. Were those maps that you made based on
17 some records that you were provided?

18 A. Yes, sir; they are the images of the maps I created.

19 Q. And I'm going to show you what's been marked as
20 State's 13, 14, 15 and 16. And does that appear to be
21 copies of the records that you were provided to make these
22 maps?

23 A. Yes, sir. This appears to be the records.

24 Q. Okay.

25 MR. WATERS: Your Honor, at this time I'd move in 15

GEORGE THOMAS HINES - DIRECT/WATERS

1 and 16 which are the Alltel records. I believe we have an
2 agreement. I just haven't done that yet.

3 MR. WILLIAMS: That's correct.

4 THE COURT: Alltel records is 15 and 16?

5 MR. WATERS: Fifteen and 16; yes, sir.

6 THE COURT: Alltel?

7 MR. WATERS: Yes, sir.

8 (State's Exhibit Nos. 15 and 16, Alltel records,
9 received into evidence.)

10 BY MR. WATERS:

11 Q. All right. I want to start right now with State's
12 Exhibit 23.

13 THE COURT: You haven't moved those in.

14 MR. WATERS: I have not. I'm about to do that.

15 Q. That's the map you prepared; correct?

16 A. Yes, sir.

17 Q. And that was a map you prepared based off the records
18 that were provided to you in Exhibit Number 13, the ATT
19 records?

20 A. Yes, sir; that's correct.

21 THE COURT: 13 and 14 are in?

22 MR. WATERS: Yes, sir. They were moved in before.

23 MR. WILLIAMS: Yes, sir. They were at the beginning.

24 THE COURT: I have a lot of notes. I have to keep up
25 with them.

GEORGE THOMAS HINES - DIRECT/WATERS

1 MR. WATERS: Yes, sir. So at this time I would move
2 in State's Exhibit 23.

3 THE COURT: I'm sorry. I'm looking for 13 and 14.
4 Now you're going to 23?

5 MR. WATERS: Yes, sir. I had moved those in with
6 Maurice, I believe, the first day.

7 THE COURT: Any objection to 23? How about 23 through
8 28?

9 MR. WILLIAMS: None, Your Honor.

10 THE COURT: Twenty-three through 28 that's the series
11 of maps; is that correct?

12 MR. WATERS: Yes, sir.

13 THE COURT: All of those are in without objection.

14 (State's Exhibit Nos. 23 through 28, maps, received
15 into evidence.)

16 BY MR. WATERS:

17 Q. You can hold onto that. I'm going to ask you a
18 question about that.

19 Now, you see right here you've got one tower in
20 Williston and one tower in the Denmark area; is that
21 correct?

22 A. Yes, sir.

23 Q. And how did you determine the location of those
24 particular towers?

25 A. Based off the records. AT&T will actually send the

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1 tower locations with the records. Anytime there is a
2 transaction that is connected to a tower, it lists the
3 tower number, the coordinates for that tower, and then the
4 final -- if you look in the column to, the farthest to
5 the right you see a series of numbers.

6 Q. That may not focus very well. But you're talking
7 about these numbers over here; is that correct?

8 A. Yes, sir; that's correct. The first column separated
9 by a colon will be the tower identification. After that
10 you're going to see a series of coordinates, longitude and
11 latitude. That's for the physical location of the tower.

12 Q. Okay.

13 A. And then the last numbers there that are separated by
14 the final colon is the azimuth for that section.

15 Q. That says 90 right there; correct?

16 A. Yes, sir; the azimuth. Basically that's the middle of
17 the sector, that tower. It's -- if you look at a compass
18 you have 0, 90, 180 and 270. Those are your cardinal
19 directions; north, east, south and west. Basically if you
20 look on here, whether it's -- the last one is 90 degrees.
21 So that's going to be directly east. So that's going to
22 be the middle of the sector.

23 Q. So just like a good old compass, we got zero -- if we
24 had a circle here we'd have zero at the top which is
25 north, we got 90 this way which is east, we got 180 down

GEORGE THOMAS HINES - DIRECT/WATERS

1 here which is south, and then we got 270 this way which is
2 west; correct?

3 A. Yes, sir.

4 Q. So you get, on the AT&T records they actually provide
5 you with the actual longitude and latitude coordinates,
6 and then sort of a directional signal whether -- and in
7 this particular case being 90?

8 A. Yes, sir.

9 Q. Let me see that map, if I could.

10 THE COURT: What number, please?

11 MR. WATERS: This would be State's 23, sir.

12 THE COURT: Thank you.

13 BY MR. WATERS:

14 Q. All right. And I'm going to show part of it right
15 now. So right here, this is the map that you plotted;
16 correct?

17 A. Yes, sir.

18 Q. And then you see these two. Those are the longitude
19 and latitude coordinates that you had up there; is that
20 correct?

21 A. Yes, sir.

22 Q. And then you have kind of a little Pacman sort of
23 thing heading this way; is that right?

24 A. Yes, sir. That would be the sector.

25 Q. And that would be the sector. In this instance it

GEORGE THOMAS HINES - DIRECT/WATERS

1 would be 90 because it's going this way; is that correct?

2 A. Yes, sir.

3 Q. Now you talked a little bit about the difference
4 between urban areas, cities and the country. And I see
5 you have these circles around the tower locations. Does
6 that mean that that's the hard range of that tower or does
7 it mean something different?

8 A. No, sir. I drew these to just a standard three
9 miles --

10 Q. Uh-huh.

11 A. -- based on the tower. There are several factors that
12 can go into it from tower height, to the power, to the
13 topography around the tower. That all determines how far
14 that tower could extend. Typically in a rural area such
15 as the area that these towers are in, they could extend
16 anywhere from three to 15 miles.

17 Q. As much as 15 miles?

18 A. It could go anywhere from 15 to 20 miles.

19 Q. And that's what I'm saying. If you had somebody way
20 down -- they're hooked up on this tower and they're way
21 down the road in Blackville, they could conceivably still
22 be connected until finally that phone loses connection?

23 A. Yes, sir.

24 Q. And then on the other side, we've got Denmark;
25 correct?

GEORGE THOMAS HINES - DIRECT/WATERS

1 A. Yes, sir.

2 Q. And that's where you plotted the tower from the
3 coordinates on those AT&T records; correct?

4 A. Yes, sir.

5 Q. So we kind of have Denmark on one side with one AT&T
6 tower and then -- and I'm sorry I'm not doing a better job
7 of that -- and then we got Williston on the other side;
8 correct?

9 A. Yes, sir.

10 Q. And then Blackville is in the middle; right?

11 A. Yes, sir.

12 THE COURT: What do the red marks signify?

13 THE WITNESS: I'm sorry, sir?

14 THE COURT: The little red things.

15 MR. WATERS: Right here. What is that?

16 THE WITNESS: That's a push pin. It just indicates
17 the tower.

18 THE COURT: That is the location of the tower?

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you.

21 BY MR. WATERS:

22 Q. So you plug in that longitude and latitude in your
23 computer and it goes donk and drops a pin where it's
24 supposed to be?

25 A. Yes, sir.

GEORGE THOMAS HINES - DIRECT/WATERS

1 Q. Okay. So we got a tower in the Williston area. We
2 got a tower in the Denmark area. You have a SLED phone;
3 don't you?

4 A. Yes, sir.

5 Q. Did you drive through Blackville on the way here?

6 A. Yes, sir.

7 Q. Did you have any service in Blackville?

8 A. I actually have -- my personal phone is AT&T, and I
9 didn't have any service on it.

10 Q. Okay. So this is AT&T. We got the records on those,
11 on that last page reflecting some of the text messages on
12 one side, on Williston and some on Denmark. And there's
13 no AT&T service in Blackville; is that correct?

14 A. From what I can tell.

15 Q. All right. Okay. Now, Alltel does things a little
16 differently; don't they?

17 A. Yes, sir.

18 Q. And I'm just going to pull out this one.

19 THE COURT: Exhibit number, please?

20 THE WITNESS: Yes, sir.

21 MR. WATERS: This is State's 14, Your Honor.

22 THE COURT: Thank you.

23 BY MR. WATERS:

24 Q. And I'm going to put it up on the screen. Hopefully
25 you'll be able to see it.

GEORGE THOMAS HINES - DIRECT/WATERS

1 All right. In State's Exhibit 14, what number is that
2 and what's the name on that; can you tell?

3 A. Subscriber number is [REDACTED]-0064.

4 Q. Uh-huh.

5 A. According to the phone company it belongs to Tyrone
6 Donaldson.

7 Q. Okay. All right. And if we look -- hopefully we can
8 see this. If we look at these calls that we have here, we
9 have the first cell and we have a four digit code there;
10 is that correct?

11 A. Yes, sir.

12 Q. And then a sector number?

13 A. Yes, sir.

14 Q. And then we have another cell tower reference and then
15 a final sector; is that correct?

16 A. Yes, sir.

17 Q. All right. What do those -- first of all, what does
18 that four-digit cell code right here mean?

19 A. That's going to be your tower identification number.
20 Each phone company assigns a distinct number to each
21 tower.

22 Q. And then what does the sector refer to?

23 A. That refers to either sector one, two or three,
24 determining the three different sectors of the tower.

25 Q. All right. And in this particular instance -- I'm

GEORGE THOMAS HINES - DIRECT/WATERS

1 going to grab the next map -- how did the cell sectors
2 work out? Which way does that point? I'm handing you
3 State's 24.

4 A. For Alltel, it's going to look like a peace symbol.
5 You're going to have -- sector one is going to be roughly
6 60 degrees, sector two is going to be facing 180 degrees,
7 and sector three is going to be facing 300 degrees.
8 That's every Alltel tower.

9 Q. All right. So one is kind of east-ish, two is kind of
10 south-ish and three is kind of west-ish?

11 A. Yes, sir.

12 Q. So in making these maps, did you take these tower
13 codes and then determine their location and then put the
14 location on these particular maps?

15 A. Yes, sir. The phone company sends us a spreadsheet
16 that has the locations of these towers.

17 Q. All right. And I'm going to just put this down as an
18 example. And these are Alltel; correct?

19 A. Yes, sir.

20 Q. Or at least at the time.

21 A. Yes, sir. These are Alltel towers.

22 Q. I'm sorry. I'm not doing a very good job. Give me
23 one second.

24 All right. So the Alltel tower, not AT&T but Alltel
25 tower. We've got this one near Blackville which is tower

GEORGE THOMAS HINES - DIRECT/WATERS

1 1752; correct?

2 A. Yes, sir.

3 Q. And then we got 1701 over here which is kind of
4 halfway between Blackville and Denmark, sort of in this
5 area; is that correct?

6 A. Yes, sir.

7 Q. And then we got 1709 down here which is in the Denmark
8 area; correct?

9 A. Yes, sir.

10 Q. And then we got other ones on this map as well but you
11 kind of have the various towers in the area that were
12 serving Alltel at the time and mapped on this particular
13 map; is that accurate?

14 A. Yes, sir.

15 Q. All right. I'm going to show you State's Exhibit --

16 A. Twenty-five.

17 Q. -- 25. And -- well, what does that reflect?

18 A. This reflects an overview of all the towers that I
19 mapped for this particular subscriber.

20 Q. All right. So, again, and I'm not going to go through
21 every single one, but what you've done is taken the
22 various tower codes that were reflected in the records and
23 put them on the map as to their locations; is that
24 correct?

25 A. Yes, sir.

GEORGE THOMAS HINES - DIRECT/WATERS

1 Q. And again, to be clear, these little circles are not a
2 hard range as you explained, particularly in a relatively
3 rural area like we're dealing with; is that accurate?

4 A. No, sir; that's correct. They can extend farther out
5 than what I've drawn here.

6 Q. Okay. All right. And then State's 26. This is again
7 a different area of the state. Same sort of thing, you've
8 mapped the various tower locations?

9 A. Yes, sir.

10 Q. All right. And this is a little bit north of here
11 where we've got Springfield. We've got Orangeburg over in
12 this way. We've got Norway down here; is that correct?

13 A. Yes, sir. That would be Neeses there where that 1713
14 tower is.

15 Q. Okay. All right. But in Orangeburg County, I guess?

16 A. Yes, sir.

17 Q. So that's 1713 over there. The push pin's kind of
18 like right on the G in Orangeburg; right?

19 A. Yes, sir.

20 Q. And only two more go to go. We got State's 27 there.
21 Same thing, the tower, just based on the tower location?

22 A. Yes, sir.

23 Q. And where -- can you tell me where this, what city
24 that is?

25 A. It's in Orangeburg, sir.

GEORGE THOMAS HINES - CROSS/WILLIAMS

1 Q. Okay. So we got 1750 is the tower over here with
2 Orangeburg; is that correct?

3 A. Yes, sir.

4 Q. All right. And then the last one, 28, is that kind of
5 an overview of south of Blackville in the Barnwell area?

6 A. Yes, sir.

7 Q. And, again, just a map of the towers that correspond
8 to the codes and the records?

9 A. Correct.

10 Q. All right. Lights, please. I think that's it.

11 Thank you very much.

12 MR. WILLIAMS: If it please the Court.

13 CROSS-EXAMINATION

14 BY MR. WILLIAMS:

15 Q. This just gives you the general location of where a
16 phone call is made from; correct?

17 A. It gives you the tower and the sector.

18 Q. And the tower and the sector means that's where the
19 call goes to; correct?

20 A. It means --

21 Q. Goes back down?

22 A. Basically what it's telling you, it's telling you that
23 the call was completed somewhere inside that sector.

24 Whether it's that -- that pod that he showed you that

25 comes off of that tower, it's going be somewhere in that

KAREN MILBRODT - DIRECT/WATERS

1 sector. And it could extend farther out.

2 Q. Okay. You've got a lot of these exhibits, a
3 three-mile radius. But it could be a lot longer than
4 that?

5 A. Yes, sir; absolutely.

6 Q. And that's about all we know; correct?

7 A. Yes, sir.

8 MR. WILLIAMS: No further questions.

9 MR. WATERS: Nothing further.

10 THE COURT: You got a four-minute witness?

11 MR. WATERS: I do. I have one last short witness.

12 Custodian.

13 THE COURT: You may step down. Next witness, please.

14 MR. WATERS: Your Honor, we call Karen Milbrodt.

15 KAREN MILBRODT, having been duly sworn, was examined
16 and testified as follows:

17 THE CLERK: Give them your full name.

18 THE WITNESS: Karen Milbrodt.

19 THE COURT: Spell your last.

20 THE WITNESS: M-I-L-B-R-O-D-T.

21 DIRECT EXAMINATION

22 BY MR. WATERS:

23 Q. I'm sorry. I mispronounced your name. I apologize
24 for that.

25 A. That's fine.

KAREN MILBRODT - DIRECT/WATERS

1 Q. How are you doing today?

2 A. Fine, thank you.

3 Q. Tell us where you work, if you would, please.

4 A. I'm with Verizon Wireless.

5 Q. And you're here today as a records custodian for
6 Verizon Wireless; is that correct?

7 A. I am; yes.

8 Q. Now I'm going to show you State's Exhibit 15 and
9 State's Exhibit 16. Right here. And are those records
10 that were produced in the ordinary course of business by
11 your company?

12 A. They are.

13 Q. And let's talk about that just a little bit. These
14 are Alltel records but you're with Verizon; correct?

15 A. Right.

16 Q. Can you explain why you're here as a Verizon witness
17 who's providing Alltel records?

18 A. Right. In 2009 Alltel and -- Verizon Wireless and
19 most of Alltel became one company as a merger. And there
20 were some areas where Alltel and Verizon could not merge
21 because of a competition. It wasn't enough, enough
22 competition.

23 So although we had the company under our umbrella we
24 had to sell this market to another company. And it was
25 AT&T. So we were running -- the records became our

KAREN MILBRODT - DIRECT/WATERS

1 records due to the merger and then when the buyout, the
2 buyer, or the sell to AT&T happened they became the
3 records custodian after the sale in 2011.

4 Q. So at the time these particular records that were
5 provided, even though they say Alltel the records were
6 being maintained and kept by Verizon in the normal course
7 of business; is that correct?

8 A. Yes, sir.

9 Q. And it was the regular practice of Verizon to keep
10 these records; is that correct?

11 A. It is.

12 Q. And these records were made with information at or
13 near a time by a person with knowledge?

14 A. Yes.

15 Q. And the three -- and I'm going to show you now State's
16 14. We've got 14, 15 and 16. Are those the three numbers
17 that were provided by your company?

18 A. Yes, sir.

19 Q. Okay. And can you tell us the three numbers on that?

20 A. Yes.

21 Q. And the name?

22 A. One of the subscriber -- the mobile number is
23 [REDACTED]-0064, and the subscriber's name is Tyrone
24 Donaldson.

25 Q. And which exhibit number is that?

KAREN MILBRODT - DIRECT/WATERS

1 A. Exhibit 14.

2 Q. All right.

3 A. We have Exhibit 15, the subscriber's name is Sammie
4 Gerrick. And the mobile number is [REDACTED]-9453.

5 Q. Okay.

6 A. And we have mobile number [REDACTED]-6083. Tyrone
7 Donaldson is the subscriber name.

8 Q. All right. Now I want to talk just a little bit if I
9 could about how to interpret some of these records. And
10 the records that we've been provided, they start with just
11 the subscriber information. And then we have the call
12 data; is that correct?

13 A. Yes, sir.

14 Q. Like voice calls?

15 A. Correct.

16 Q. And then at the end after all the voice calls we have
17 text message data; is that correct?

18 A. Yes, sir.

19 Q. And this text message data doesn't have a location
20 here; does it?

21 A. No.

22 Q. But the call data does; is that correct?

23 A. Location meaning cell tower?

24 Q. Right. The cell tower number's right there?

25 A. Yes, sir.

KAREN MILBRODT - DIRECT/WATERS

1 Q. And looking at these particular records, what is
2 the -- for the call data, what is the time that's
3 reflected on here, is that -- initial time, is that like
4 Eastern Time, Central Time; what is it?

5 A. Correct. Those calls were captured as coming out --
6 the user of the phone was in the eastern part of the
7 country. So it would be Eastern Time.

8 Q. So that represents Eastern Time, correct, the number
9 and the times in the calls section?

10 A. Yes.

11 Q. Now is it different for the text messages? Are they
12 on a different system?

13 A. They are on a different system. They don't run
14 through a cell tower and the switch was located in the
15 Central Time zone. So those text message times would be
16 Central.

17 Q. So for all three of these Alltel records for the call
18 data, the time reflected is actually local Eastern Time?

19 A. Right.

20 Q. For the text message data it would be local Central
21 time?

22 A. Correct.

23 Q. All right. All right. I'm going to show you what's
24 been marked as State's 14. I'll talk a little bit
25 about -- I'm going to the very last page. And, again,

KAREN MILBRODT - DIRECT/WATERS

1 what data are we looking at on that very last page there?

2 A. This is text records that we kept. And this would be
3 the date and time the text message was delivered to our
4 sever. The mobile number that sent and the mobile number
5 that received the message.

6 It also has the content, what was said in the
7 message. And then there are a coding that is either
8 delivered or undeliverable. Which is, if the message was
9 delivered it would say delivered, if we did not get the
10 message to the subscriber it would say undeliverable.

11 Q. Let's talk about that. First of all, the arrival time
12 and I'm going to put it up on the screen briefly so the
13 jurors can see what we're talking about, hopefully.

14 So right here we have, for example on this column, we
15 have a date and a time; correct?

16 A. Yes, sir.

17 Q. And is that the time that the person, like, read the
18 text or is that the time that the text arrived at the
19 phone provider's sever?

20 A. It's the latter. It's when we receive this text
21 message --

22 Q. Okay.

23 A. -- to be sent.

24 Q. And then you have the sender and the receiver;
25 correct?

KAREN MILBRODT - DIRECT/WATERS

1 A. That's correct.

2 Q. Sender number, receiver number?

3 A. Yes, sir.

4 Q. And then right here in this column we have delivered
5 and then we have undelivered and the status; is that
6 correct?

7 A. Right.

8 Q. All right. So when a message comes in to the server
9 at this particular time and it goes out, is that
10 necessarily the time that it gets delivered to the
11 recipient phone or device?

12 A. No. That could be at a later time.

13 Q. Okay. But once it is delivered, this time still says
14 stays the same as the time it arrived on your company's
15 server?

16 A. Right. For Alltel records they captured when the
17 message made it to us.

18 Q. Okay. And if -- and then we've got undelivered as
19 well which means it hasn't gone to a recipient device; is
20 that correct?

21 A. Right.

22 Q. If a message comes in on your server and the server
23 tries to send it out to the recipient's phone, in this
24 case Tyrone Donaldson's phone, and it can't, the phone
25 can't receive it, it's going to say undelivered; is that

KAREN MILBRODT - DIRECT/WATERS

1 correct?

2 A. Correct.

3 Q. And how long will it do that before -- I mean, will it
4 do that in perpetuity or what happens?

5 A. We will try to deliver the message for 72 hours or
6 three days. And then after that, then the message is
7 gone. We're no longer going to try to deliver it.

8 Q. Okay. And the reasons that a message would be unable
9 to be delivered and the server would finally give up would
10 be that the phone is either not on, it's not powered up?

11 A. Right.

12 Q. Or it's not in a service area anywhere?

13 A. Right.

14 Q. All right. And then you said over here this last
15 part, that's actually the content of the message, what
16 this person sent to that person; correct?

17 A. Yes, sir.

18 Q. And up here we see, it goes delivered and we have all
19 these undelivered; correct?

20 A. Yes, sir.

21 Q. Down in here at the bottom we've got all these
22 undelivered but two at the very bottom that do say
23 delivered and then it says message to such-and-such
24 deleted. Do you see those?

25 A. Yes.

KAREN MILBRODT - CROSS/WILLIAMS

1 Q. And can you explain that to us?

2 A. Yes. The sender had requested a read receipt and so
3 we sent back a message that the message was deleted,
4 meaning it been on for those three days and hadn't been
5 able to be delivered so the message is deleted.

6 Q. So right here we see [REDACTED]-9339 sent to Tyrone's phone
7 and then there's no text there. But this is one that had
8 a read receipt. And so when the server finally gave up it
9 e-mailed back to that number and said, sorry, guy never
10 picked up, guy never got it?

11 A. Right.

12 Q. Okay. And then the same thing, we can match this 8018
13 up to this one right here that says everybody's worried
14 about you; correct?

15 A. Correct.

16 Q. Some -- somebody sent a text saying everybody worried
17 about you and wanted a read receipt from Tyrone and it
18 never happened?

19 A. Correct.

20 MR. WATERS: Thank you very much.

21 THE COURT: Mr. Williams, any questions?

22 CROSS-EXAMINATION

23 BY MR. WILLIAMS:

24 Q. On the text messages and the phone -- if you send a
25 text message, is there going to be a record of that text

1 message on the phone record?

2 A. No.

3 Q. So they're two separate things?

4 A. Yes.

5 MR. WILLIAMS: That's all I have.

6 THE WITNESS: Thank you, sir.

7 MR. WATERS: Nothing further, Your Honor.

8 THE COURT: All right. You may step down. You're
9 released from your subpoena.

10 THE WITNESS: Thank you, Your Honor. Thank you, jury.

11 (Off-the-record discussion.)

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen, is 9:30 an imposition tomorrow? Can everybody
14 make 9:30?

15 All right. I think Ms. McElveen has discussed some
16 snacks in the morning with y'all; did she?

17 THE CLERK: Breakfast. Ham and eggs.

18 FOREPERSON OF THE JURY: Certainly I don't remember
19 hearing that.

20 THE COURT: Have a nice evening. We'll start at 9:30.
21 Please do not discuss the case tonight. Do not start any
22 deliberations, let anyone talk with you about it.

23 I think we may have some news here but I don't know if
24 that's daily or a weekly. But anyway, if there's anything
25 in the news, just don't read it. We're trying to try this

1 case based on what we have here in the courtroom.

2 My best guess, subject to change, is that we will get
3 very close to finishing the testimony tomorrow. It may be
4 that we have one witness Thursday morning, but I
5 anticipate the arguing and the charging Thursday morning
6 and y'all getting the case midday Thursday to start your
7 deliberations. So, and that's subject to change but
8 that's sort of probably a pretty good guesstimate. So you
9 can sort of plan your activities around that. If it goes
10 south, don't hold me to it but that's my best guess.

11 I want y'all to have a very pleasant evening. I'll
12 see y'all you back bright and early. Everybody got
13 rides? Are we okay?

14 And we'll work on lunch tomorrow. See where we
15 stand. Maybe we'll order some lunch in tomorrow so we can
16 keep moving, but we'll work it out.

17 Everyone else remain seated. All right. Y'all have a
18 nice evening.

19 (Jury exits courtroom at 5:12 P.M.)

20 THE COURT: Anything from the State before we break
21 for the evening?

22 MR. WATERS: No, sir, Your Honor.

23 THE COURT: Mr. Williams?

24 MR. WILLIAMS: Your Honor, you called us up there a
25 second ago and I had forgotten about the issue with Dustin

1 Williamson.

2 THE COURT: I'm not going to hold you to that.

3 MR. WILLIAMS: Thank you.

4 THE COURT: You know that. If we put him up there it
5 will be short and sweet.

6 MR. WILLIAMS: I would imagine it would be real short
7 and sweet.

8 THE COURT: We'll cross that bridge when we get to it.
9 All right.

10 We'll start at 9:30 in the morning. How about you all
11 be here by 9:15?

12 MR. WILLIAMS: Amanda Brown.

13 THE COURT: All right. Let me put this on the record
14 real quick.

15 Yesterday we elevated Ms. Brown, Amanda Brown, Juror
16 Number 23 to the regular jury panel. And as she was going
17 home last night she informed one of the deputies that on
18 her Facebook account she was a quote, friend, unquote, to
19 one of the witnesses who had testified yesterday. Quite
20 frankly, I forgot the lady's name. It was --

21 MR. WATERS: Taylor White, I believe.

22 THE COURT: The girl that was a nurse.

23 MR. WATERS: Taylor White.

24 THE COURT: Nursing school. And she said that she
25 really didn't even know that particular witness, they just

1 happened to be on Facebook. And she had no -- had not
2 corresponded with her by Facebook.

3 Is that the correct terminology?

4 MR. WATERS: That's correct; yes, sir.

5 THE COURT: And had really not received any
6 correspondence from her. She's simply on her Facebook
7 page. And we had that discussion in chambers. I had
8 Mr. Williams, solicitor's -- AG's office there, gave them
9 an opportunity for them, being Mr. Williams and
10 Mr. Waters, an opportunity to ask any questions after I
11 had talked with her. And they had none.

12 And I asked the juror if the fact that Facebook
13 situation existed did, would that preclude her from being
14 fair and impartial and deciding the case based solely on
15 the evidence. And she informed us that it would not have
16 any affect on her whatsoever.

17 And I asked both sides if they had any objection to
18 keeping her or did they want me to remove her. Both sides
19 advised me they were willing to continue with her.

20 Is that sort of a correct rehash of the in-chambers
21 discussion?

22 MR. WATERS: Yes, sir.

23 THE COURT: Recap's actually a better word than
24 rehash.

25 MR. WILLIAMS: That's correct, Your Honor.

1 THE COURT: All right. Anything else, gentlemen?

2 MR. WATERS: No, sir.

3 MR. WILLIAMS: Nothing.

4 THE COURT: Anything else we're supposed to put on the
5 record that I haven't?

6 MR. WATERS: I don't believe so.

7 THE COURT: Okay.

8 MR. WATERS: Well, there was the one potential witness
9 for tomorrow, Officer Shultz, who -- never mind, Your
10 Honor. Never mind, Your Honor.

11 THE COURT: Good way to stop; never mind, Your Honor.
12 Is that an objection or an observation?

13 MR. WATERS: That is a capitulation, Your Honor.

14 THE COURT: Listen, I want to thank all of you. Y'all
15 have done a great job. You're pleasant to work with so
16 far and you've been very prepared. It's nice to have
17 lawyers like that.

18 Well take it easy, Mr. Gerrick. Anything for me? Are
19 you okay? All right.

20 We will crank it up in the morning at 9:30. Please be
21 ready to go.

22 MR. WATERS: Thank you, Judge.

23 END OF DAY'S PROCEEDINGS: 5:17 P.M.

24

25

1 ON WEDNESDAY, NOVEMBER 20, 2013 AT 9:26 A.M.:

2 THE COURT: Thank you. Good morning.

3 Good morning, Mr. Gerrick.

4 THE DEFENDANT: How are you doing?

5 THE COURT: Fine, sir.

6 Let the record reflect the Defendant is present.

7 Anything from the State before we proceed?

8 MR. WATERS: Yes, sir. Just briefly.

9 We've got a number of witnesses this morning. We've
10 got one witness, Early Glover, who was the subject of a
11 pretrial motion to exclude. I don't know if Mr. Williams
12 is going to continue with that motion, so I thought we
13 might want to address that on the record to avoid having
14 to do it later.

15 THE COURT: Mr. Williams?

16 MR. WILLIAMS: I'm going to withdraw that motion based
17 upon some review of the law.

18 THE COURT: Thank you. Anything else?

19 MR. WATERS: And Mr. Anders, I believe, is having an
20 issue with regards to one of our upcoming witness's prior
21 record.

22 THE COURT: Mr. Anders?

23 MR. ANDERS: Your Honor, we have two witnesses, lay
24 witnesses, if we can just maybe approach.

25 THE COURT: Prior record.

DANNY ABRAHAM - DIRECT/ANDERS

1 MR. ANDERS: There was some mention, there's a
2 question asked by Mr. Williams yesterday.

3 (Off-the-record discussion.)

4 THE COURT: All right. Bring the jury in, please.

5 (Jury enters courtroom at 9:46 A.M.)

6 THE COURT: Good morning.

7 THE JURY (COLLECTIVELY): Good morning.

8 THE COURT: Sorry about the delay but not my fault or
9 your fault. Blame it on the cook. You may call your
10 first witness.

11 MR. ANDERS: Thank you, Your Honor. The State calls
12 Danny Abraham.

13 THE COURT: Mr. Abraham, please come around.

14 DANNY ABRAHAM, having been duly sworn, was examined
15 and testified as follows:

16 THE CLERK: If you would, be seated. State your name
17 for the record. Okay?

18 THE WITNESS: Danny Abraham.

19 DIRECT EXAMINATION

20 BY MR. ANDERS:

21 Q. Officer Abraham, what is your occupation?

22 A. I'm a correction officer at the Bamberg County
23 Detention Center.

24 Q. And how long have you been a correctional officer in
25 general?

DANNY ABRAHAM - DIRECT/ANDERS

1 A. For five years.

2 Q. Five years?

3 A. Yeah.

4 Q. Have those five years been all spent at Bamberg --

5 A. Yes.

6 Q. -- County?

7 A. Yes.

8 Q. Were you employed there in July of 2011?

9 A. Yes.

10 Q. Okay. And, what are your duties as a correctional
11 officer?

12 A. I book people, I do intake, I do head counts, cell
13 searches.

14 THE COURT: Speak a little more distinctly for us,
15 please.

16 THE WITNESS: I do cell searches.

17 MR. ANDERS: Back off that mic.

18 THE WITNESS: I do cell searches. I conduct head
19 counts.

20 BY MR. ANDERS:

21 Q. Okay. Would it be fair to say that you have a lot of
22 interaction with inmates?

23 A. Yes, I do.

24 Q. Did you have interaction with the Defendant in July of
25 2011?

DANNY ABRAHAM - DIRECT/ANDERS

1 A. Yes.

2 Q. Would you tell the jury how that came to be?

3 A. Sammie Gerrick reported to me around six P.M. He
4 stated to me that he had glass in his eye. And then I, I
5 went to the unit and he had glass all in his cell on the
6 floor, and he said he had glass in his eye. He was
7 bleeding from his eye. And I checked his eye out. He
8 didn't have any cuts or any bruises on his body.

9 Q. All right. And the glass, was that from a light bulb
10 in his cell?

11 A. It was from a light fixture.

12 Q. Okay. When you say light fixture, what do you mean?

13 A. The light bulb is in the light fixture.

14 Q. Okay. Right.

15 A. So, he stated that it came out, the light bulb came
16 out of the light fixture.

17 Q. Do you recall, was it a florescent bulb?

18 A. It was florescent.

19 Q. So is there was glass on the floor?

20 A. Yes, there was.

21 Q. And it was the Defendant who contacted you about the
22 incident?

23 A. He did.

24 Q. All right. And as part of your duties with Bamberg
25 County Detention Center, when something like that happens

DANNY ABRAHAM - DIRECT/ANDERS

1 you make a report?

2 A. I make a report and it's documented.

3 Q. All right. And have you reviewed that report?

4 A. Yes, I did.

5 Q. And did that report, when you made it -- do you recall
6 when you made that report?

7 A. Yes, I was.

8 Q. What was the date on that report; do you recall?

9 A. It was 19th, July 19th.

10 Q. All right. July 19th?

11 A. 2011.

12 Q. And one of your duties on July 19th was to inspect the
13 Defendant?

14 A. Exactly.

15 Q. Did he have any cuts to his eyes?

16 A. He had no cuts.

17 Q. Did he have any cuts to his arms?

18 A. No.

19 Q. Any cuts to his chest?

20 A. No cuts to his chest.

21 Q. All right. And was he sent for a medical checkup?

22 A. He wasn't. I checked him out. Everything was clear.

23 He had no cuts, no bleeding, no bruises.

24 Q. And that was on the 19th of July?

25 A. It was.

DANNY ABRAHAM - CROSS/WILLIAMS

1 Q. And you determined that there were no cuts, there was
2 no reason for a medical checkup?

3 A. Exactly. There was no reason because he had no cuts
4 or anything.

5 Q. And since he had this glass in his cell, did you
6 transport him or take him somewhere else?

7 A. I placed him to another cell and had the trustee to
8 clean all the glass out.

9 Q. All right. And -- after he went from the cell where
10 you moved him and brought him back to his cell?

11 A. Yes. Before I did that, I did a search to make sure
12 it was no glass anywhere in his cell.

13 Q. And what was the result of the search?

14 A. Excuse me?

15 Q. What was the result of your search?

16 A. Oh, everything was clear. It wasn't no glass found.

17 Q. No glass when he came back into the cell?

18 A. Exactly.

19 MR. ANDERS: Beg the Court's indulgence.

20 No further questions.

21 CROSS-EXAMINATION

22 BY MR. WILLIAMS:

23 Q. Officer Abraham, did you write a report on 7-19-2011?

24 A. Yes, I did.

25 Q. And there's no question clearly that you saw broke

LANA JOYNER - DIRECT/WATERS

1 glass on the floor?

2 A. I did. When he reported to me, I went in there, it
3 was broke glass all over the floor.

4 Q. All over the floor?

5 A. All over the floor.

6 MR. WILLIAMS: Thank you.

7 MR. ANDERS: No redirect, Your Honor.

8 THE COURT: Mr. Abraham, you may be excused. May he
9 be released from his subpoena?

10 MR. ANDERS: Yes, sir. He may, Your Honor.

11 THE COURT: All right. You can go back to work.

12 THE WITNESS: All right.

13 THE COURT: Thank you.

14 THE WITNESS: Okay.

15 THE COURT: Next witness.

16 MR. WATERS: Your Honor, we call Lana Joyner.

17 THE COURT: Come around, Ms. Joyner, please.

18 LANA JOYNER, having been duly sworn was examined and
19 testified as follows.

20 THE WITNESS: Lana Joyner.

21 DIRECT EXAMINATION

22 BY MR. WATERS:

23 Q. Ms. Joyner, how are you doing today?

24 A. Good.

25 Q. Did you ever testify before?

LANA JOYNER - DIRECT/WATERS

1 A. No, sir.

2 Q. All right. Well, tell us where you live and where you
3 work.

4 A. I live in Blackville and I work in Aiken at South
5 Carolina Metal Plant.

6 THE COURT: South Carolina what?

7 THE WITNESS: Metal Plant.

8 BY MR. WATERS:

9 Q. And you live in Blackville. Are you from Blackville?

10 A. Yes, sir.

11 Q. You lived there all your life?

12 A. Yes, sir.

13 Q. You grew up in Blackville?

14 A. Yes, sir.

15 Q. Went to high school there?

16 A. Yes, sir.

17 Q. Did you know Tyrone Donaldson?

18 A. Yes, sir.

19 Q. And tell us how you knew him.

20 A. I'm from Blackville. He's from Blackville, but after
21 his wife got killed in a car accident, me and him a couple
22 months later, like, around the end of the year, 2009, me
23 and him started conversating, and we've just been friends
24 ever since.

25 Q. So you've known him for years but were close friends

LANA JOYNER - DIRECT/WATERS

1 with him after his wife died; is that correct?

2 A. Yes, sir.

3 Q. And how about Sammie Gerrick over there. Do you know
4 him?

5 A. Not personally but I know that he, his brother has
6 three kids by my cousin. And he came around sometimes,
7 but not like that.

8 Q. So you know him from the community but you don't know
9 him --

10 A. Yes.

11 Q. -- as a friend then?

12 A. No.

13 Q. Now when Tyrone Donaldson -- did he -- can you tell us
14 what cars he had?

15 A. When we first start conversating he had the black
16 Yukon, I think that's what it was, the white Honda, and he
17 had a Camaro.

18 Q. And did he get another car shortly before he passed;
19 do you recall?

20 A. Yes, sir.

21 Q. And what was that?

22 A. A Corvette.

23 Q. Okay. Do you remember what happened to his wife?

24 A. She was killed in a car accident.

25 Q. And did he get a settlement from her death?

LANA JOYNER - DIRECT/WATERS

1 A. I think that's what I heard.

2 Q. All right. Well, all right.

3 You and Tyrone would talk fairly frequently; is that
4 fair to say?

5 A. Yes, sir.

6 Q. Either call on the phone or stuff like that?

7 A. Text. Yes, sir.

8 Q. And I want to take you back to July 21st, 2011. Do
9 you remember that day?

10 A. Yes, sir.

11 Q. Is that the day that Tyrone went missing?

12 A. Yes, sir.

13 Q. Well, tell me what happened that day. Tell me, you
14 know, start in the morning. Tell me the first time you
15 talked with Ty or any kind of contact you had with him and
16 what happened if you would.

17 A. I was on my way to work and normally when I'm on my
18 way to work we talk until I get to work.

19 Q. Uh-huh.

20 A. And when we were talking he said he had to go to
21 Bamberg. I asked him for what, and he said he had to go
22 get Mr. Sammie Gerrick out of jail.

23 Q. Okay.

24 A. And after that he said -- I pulled up to work and I
25 was like, well, I'm at work. And he said, well, I'll call

LANA JOYNER - DIRECT/WATERS

1 you on your break. He said, I love you. I said, I love
2 you too and I ain't never hear from him no more.

3 Q. Was he supposed to call you back later that day?

4 A. He was supposed to call me at 11:30 on my break.

5 Q. And he never did?

6 A. No, sir.

7 Q. Did you try to call him later or contact him later?

8 A. Yes, I did.

9 Q. About what time was that?

10 A. I called him on my break. And then I called him on my
11 lunch break. Still no answer. No response. I called him
12 when I got off. And I called him before I went to church
13 that night.

14 Q. Let me ask you just a little bit. What was Tyrone
15 like? Can you describe him to me?

16 A. He was nice. He was caring. He loved his kids, do
17 anything in the world for his kids. He ain't never
18 bothered nobody.

19 Q. Did you ever know Tyrone to be involved in drugs or
20 anything like that?

21 A. No, sir. Never.

22 Q. And you've known him all, pretty much all your life;
23 is that right?

24 A. Yes, sir.

25 Q. And you said he had those young kids that he took care

LANA JOYNER - DIRECT/WATERS

1 of; is that correct?

2 A. Yes, sir.

3 Q. And they were kind of central in his life; is that
4 right?

5 A. Yes, sir.

6 Q. Is he the type of person that would ever just
7 disappear and not call anybody and let them know where he
8 was going?

9 A. No, sir; he always let somebody know, especially if
10 they got the kids.

11 Q. Tell me -- where were you working back then?

12 A. Husqvarna.

13 Q. And you said you tried to call him on your break and
14 he didn't answer; correct?

15 A. Yes, sir.

16 Q. And you tried to call him on lunch and he didn't
17 answer?

18 A. Yes, sir.

19 Q. Did you try to call him once you got off work?

20 A. Yes, sir.

21 Q. About what time was that?

22 A. I got off at six. And I called and I text. He didn't
23 respond, he didn't answer and I knew it wasn't like him
24 because we always talked on my breaks and when I got off
25 work.

LANA JOYNER - DIRECT/WATERS

1 Q. How were you feeling at that point when you hadn't
2 talked to him?

3 A. I was a little worried but then I just went home
4 because I knew I had done promised my kids we were going
5 to church that day.

6 Q. Did y'all go on to church then?

7 A. Yes, sir.

8 Q. Well, let me -- before we get to that, did you -- all
9 right. Did you go on to church? What time did you go to
10 church?

11 A. Church started at 7:30.

12 Q. So you take the kids to church then?

13 A. Yes, sir.

14 Q. Did you ever find out that he was missing and nobody
15 knew where he was?

16 A. While I was at church I received a call from Kelsea
17 Hallingquest and I got up and went outside and called her
18 back. And that's when she was telling me he was missing
19 and would I try to call him to see if he would answer for
20 me. And I did but he still didn't answer.

21 Q. Okay. So Kelsea called you and said we don't know
22 where he is either?

23 A. She said Ty be missing, will you call and see if he
24 answer for you.

25 Q. When Kelsea called and she hadn't talked to him

LANA JOYNER - DIRECT/WATERS

1 either, how did that make you feel?

2 A. I was real worried. I went back in church and told my
3 mother what was going on. And we stayed until church was
4 over but after we left church I took my mother and my kids
5 home and I went around there to see what was going on.

6 Q. And obviously nobody could find Tyrone; is that right?

7 A. No, sir.

8 Q. Did you go home that night?

9 A. Yes, sir.

10 Q. Try to get some sleep?

11 A. I tried, but didn't get much.

12 Q. What did you do the next day? That would have been
13 the 22nd, correct, that's a Friday, I believe?

14 A. Yes, sir.

15 Q. Tell me what you did that day.

16 A. I went -- well, I got up that morning and got ready
17 for work. On my way to work I tried to call Mr. Donaldson
18 again. Still no answer. Text him, no response. So I
19 went on to work. So while I was at work I just felt funny
20 and I was a little worried so I end up getting off early
21 that day at two o'clock.

22 Q. Let me stop you there. Had you just recently lost a
23 family member, too?

24 A. Yes, sir; my sister. Buried her the Friday before.

25 Q. So, you were still upset about that, too?

LANA JOYNER - DIRECT/WATERS

1 A. Yes, sir.

2 Q. And so then you had this Tyrone missing thing going on
3 as well?

4 A. Yes, sir.

5 Q. So you were pretty much in a bad state; is that fair
6 to say?

7 A. Yes, sir.

8 Q. So they let you go early?

9 A. They let me go home early because everybody was asking
10 me what was going on, was I okay. So I went home, well --

11 Q. What time --

12 A. -- I left --

13 Q. -- was it you left?

14 A. I left work at two o'clock.

15 Q. Okay. And tell me what happened after that.

16 A. And they detoured me behind the Cookout in Orangeburg.

17 Q. Why did they detour you?

18 A. They were working on the railroad.

19 Q. So you had to take a different way than you normally
20 would?

21 A. Yes, sir.

22 Q. And what happened?

23 A. When they detoured me I saw the white car sitting
24 there and I rode on up. I was behind some other cars. So
25 I rode on up and I turned and I looked at the car and I

LANA JOYNER - DIRECT/WATERS

1 looked at the front and I saw the Blackville-Hilda School
2 parking pass in the front. And I called Ms. Kelsea
3 Hallingquest, and I told her that I saw the car.

4 Q. And let me stop you there. What kind of car was it?

5 A. The white Honda Civic.

6 Q. And you recognized the license plate as being one that
7 Tyrone had; is that right?

8 A. Yes, sir.

9 Q. It was on the front and it had Blackville-Hilda or
10 something like that?

11 A. No, sir; it was a parking pass.

12 Q. Oh, it was a parking pass?

13 A. And it had the Honda Civic plate on the front of car.

14 Q. Okay. So you recognized that car as being Tyrone's or
15 at least you thought it was; right?

16 A. Yes, sir.

17 Q. So who'd you call?

18 A. I called Ms. Kelsea Hallingquest.

19 Q. Okay. And what did you tell her?

20 A. I told her that I saw the car.

21 Q. And where was the car, exactly?

22 A. It was parked behind this old China Express.

23 Q. Okay.

24 A. It was backed up in the parking lot.

25 Q. And that was in Orangeburg County?

LANA JOYNER - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Okay. And do you remember exactly what road that was
3 on?

4 A. No, sir.

5 Q. But it was on your way home. You were heading back to
6 where, to Blackville?

7 A. To Blackville.

8 Q. All right. So you called Ms. Kelsea and told her that
9 you saw the car; is that right?

10 A. Yes, sir.

11 Q. And did you wait there to see what happened or what
12 happened?

13 A. No, sir. I left and went to the Piggly Wiggly.

14 Q. And why did you do that?

15 A. Because I was nervous. And I just wasn't going to go
16 up to the car by myself.

17 Q. You were scared?

18 A. Yes. Very.

19 Q. Didn't know what you might see in there?

20 A. No, sir.

21 Q. So you waited at the Piggly Wiggly for -- what
22 happened?

23 A. And I called my cousin to come get me because she
24 worked in Orangeburg and she was getting off. And then my
25 other cousin came and got me, too. All of them met me at