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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM MARION COUNTY  
Court of General Sessions

Appellate Case No. 2023-000408

The Honorable William H. Seals, Circuit Court Judge

State of South Carolina.....Respondent,

v.

Isaac Kareem Hemingway .....Appellant.

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**RECORD ON APPEAL  
VOLUME I OF III**

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ALAN WILSON  
Attorney General

J. ANTHONY MABRY  
Assistant Attorney General

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

*Attorneys for Respondent*

JILLIAN LESLEY  
ELIZABETH FRANKLIN-BEST

Elizabeth Franklin-Best, P.C.  
3710 Landmark Drive, Suite 113  
Columbia, South Carolina 29204

*Attorneys for Appellant*

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- **No. 62 – CD;**
- **No. 60 – disk – are all on file with this Court.)**

1 State of South Carolina ) **TRANSCRIPT OF RECORD**  
2 COUNTY OF MARION ) CASE NO. : 2021-65-33-00273  
3

4

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February 24, 2023

6

7

**BEFORE:** The Honorable William H. Seals

8

9

State of South Carolina,

10

vs.

11

Issac Kareem Hemingway,

12

Defendant.

13

14

APPEARANCES:

15

Ryan White, Todd Tucker  
Assistant Solicitor,  
For the State.

16

17

18

Thurmond Brooker,  
For the Defendant.

19

20

Julie A. Kevish  
Official Court Reporter

21

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23

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25

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1                                   **P-R-O-C-E-E-D-I-N-G-S**

2                   MR. WHITE: Judge Seals, I did want to take this  
3 opportunity to move the items that were moved into evidence in  
4 camera only, I would like to go ahead and move those items into  
5 evidence for the purposes of trial. I think you have ruled on  
6 those issues. I'd like to move those into evidence now so I  
7 don't forget going forward, to be honest with you, Judge.  
8 That's State's Exhibit 53, 54, 55, 56, 57, 58, 59 and State's  
9 Exhibit 61. Those are the DNA swabs, and what have you, and  
10 the report from the DNA analyst, respectfully.

11                  THE COURT: Mr. Brooker, do you renew your  
12 objections?

13                  MR. BROOKER: Your Honor, we renew our objections,  
14 but one of the things that I would suggest, Your Honor, is that  
15 they wait until the DNA analyst testifies at trial because her  
16 testimony at trial may not be the same as her testimony at the  
17 pretrial hearing, and so if she testifies to anything that's of  
18 variance, then of course, that would affect, then, what comes  
19 into evidence.

20                  THE COURT: We'll wait until the trial. You may  
21 bring in the jury.

22                  (Jury entered the courtroom at this time.)

23                  THE COURT: Call your first witness.

24                  THE CLERK: You're okay. You have been previously  
25 sworn.

## Shkyria Edmunds-Redirect by Mr. White

1 MR. WHITE: Thank you, Judge. At this time the State  
2 would recall Shakyria Edmunds.

3 **Redirect Examination**

4 BY MR. WHITE:

5 Q. Shakyria, I know you've already testified once and we're  
6 just go over a few things here today. Alright?

7 A. Okay.

8 Q. Shakyria, I want to go back to when you discovered your  
9 mom in her home on that Monday, that's the 13th. When you  
10 arrived inside the home, did you go down the hallway?

11 A. No.

12 Q. And who else was with you when you got there?

13 A. My brother, Tristin, and Craig Hopkins, Jr.

14 Q. Did they go down the hallway?

15 A. No.

16 Q. After your mother is seen down the hallway, what, if  
17 anything, did you all do?

18 A. We left out.

19 Q. Did you all immediately exit the house?

20 A. Yes.

21 Q. Did you all ever go back into the house?

22 A. No.

23 Q. Did you ever go around the house?

24 A. No.

25 Q. Did you ever go to the back door of the house?

## Shkyria Edmunds-Redirect by Mr. White

1 A. No.

2 Q. Okay. Shakyria, you were in here, correct me if I'm  
3 wrong, yesterday when we played a statement given by Issac  
4 Hemingway, were you not?

5 A. Yes.

6 Q. I'm going to play a couple clips for you and then ask  
7 you some questions, alright?

8 A. Okay.

9 (video playing.)

10 Q. On the 13th, when you found your mother, it was your  
11 testimony that you called Issac Hemingway; is that right?

12 A. Yes.

13 Q. After that, did you ever hear from him on the 13th?

14 A. No.

15 Q. Did he come by your house?

16 A. No.

17 Q. Did he call?

18 A. No.

19 Q. Did you have all the kids with you on the 13th?

20 A. Yes.

21 Q. On the 14th, did you hear from Issac Hemingway?

22 A. No.

23 Q. Did he call?

24 A. No.

25 Q. Did he come by the house?

1       A.     No.

2       Q.     How would he have known what mental state the kids were  
3     in when he gave his statement on the 15th?

4       A.     I have no clue.

5                               (video playing.)

6               MR. BROOKER:  May we approach, Your Honor?

7               THE COURT:  Yes.

8               **The following proceedings were held at the bench by**  
9     **Court and counsel:**

10              MR. BROOKER:  Just for the record, Your Honor, I'm  
11     going to object to this complete line of questioning that he  
12     just questioned her to, and the reason why I'm going to object  
13     to that is that normally whenever a witness testifies, whenever  
14     a witness testifies, gets on the stand and testifies, then, of  
15     course, that witness is testifying to their own knowledge  
16     without any assistance from lawyers, and generally while  
17     they're on the stand if we take a break or something like that  
18     they can't talk with anyone so that no one can assist them in  
19     their testimony.

20              MR. WHITE:  While they're on the stand.

21              MR. BROOKER:  Hold on.  When she completed her  
22     testimony yesterday, and, of course, direct, cross, redirect  
23     and recross, and then she steps off the stand, then of course,  
24     what that does is is allow them to then coach her and then  
25     re-put her back on the stand, which defeats the whole purpose



## Shkyria Edmunds-Redirect by Mr. White

1 of trying to make sure that her testimony is not being coached  
2 by the attorneys.

3 THE COURT: She's called in rebuttal; is that right?

4 MR. BROOKER: This is not a rebuttal --

5 MR. WHITE: I just recalled the witness to ask her  
6 about the statement.

7 MR. BROOKER: He's in his case in chief, this is not  
8 a rebuttal.

9 MR. WHITE: I won't ask her anymore.

10 THE COURT: As a rebuttal, I think that would be  
11 fine, but I think to call her up there and keep her going --

12 MR. BROOKER: Especially along the same questions,  
13 the same questions that's she was called to before, so I want  
14 to strike all of her testimony.

15 MR. WHITE: I don't think that's appropriate.

16 MR. BROOKER: I'm motioning to strike all of her  
17 testimony, it's not rebuttal.

18 THE COURT: She hadn't said anything yet, you were  
19 smart enough to object quick enough but --

20 MR. BROOKER: He's went into the stuff that she  
21 testified to the first time, and of course, if she can critique  
22 and correct it, and you can't do that.

23 THE COURT: You cannot do that, in all fairness.

24 MR. BROOKER: That would like me putting my witness  
25 up and then he gets killed and then he gets off the stand, I

## Shkyria Edmunds-Redirect by Mr. White

1 coach him and then put him back on again.

2 THE COURT: I'm fine with rebuttal but I don't think  
3 we need to recall her round two. You know, out of fairness, we  
4 could all do that over and over and over again and they could  
5 hear each other and they could continue to correct themselves,  
6 and correct themselves, the trial would never end, so you all  
7 just exhaust your witnesses when you get them up there. He  
8 does, you go pretty good, too.

9 MR. WHITE: Thank you, Shakyria, that's all the  
10 questions I have for you.

11 THE COURT: Members of the jury, I'm going to  
12 instruct you to strike any of her testimony, just put it out of  
13 your mind, don't use it in your deliberations in any form or  
14 fashion. You may step down. Thank you.

15 MR. WHITE: Judge, I would just ask that it be  
16 limited to just the testimony that she just gave and not her  
17 prior testimony.

18 THE COURT: That's correct, what you heard this  
19 morning. You can call your next witness.

20 MR. WHITE: Thank you, Judge. At this time the State  
21 would call Kareema Hemingway.

22 **Kareema Hemingway being first duly sworn, testified**  
23 **as follows:**

24 MR. WHITE: Good morning Kareema. I know you're soft  
25 spoken, make sure you speak into the microphone the best you

## Kareema Hemingway-Direct by Mr. White

1 can, alright? You have to answer yes or no so the court  
2 reporter can hear you. Can you do that?

3 THE WITNESS: Yes, sir.

4 MR. WHITE: Are you a little nervous? Alright, just  
5 answer my questions and everything's gonna be alright.

6 **DIRECT EXAMINATION**

7 BY MR. WHITE:

8 Q. Kareema, I'll start with a simple one. How old are you?

9 A. Sixteen.

10 Q. Let me do this. Spit that gum out for me. I'll throw  
11 it away for you. Okay? Thank you, Kareema. Kareema, how old  
12 are you?

13 A. Sixteen.

14 Q. Where are you from?

15 A. Marion.

16 Q. Where are you living now?

17 A. Centenary.

18 Q. Speak up for me, okay?

19 A. Centenary.

20 Q. And back in January of 2020, where were you living?

21 A. Centenary with my mama.

22 Q. Who is your mama?

23 A. Maisha Burch.

24 Q. And who is your dad?

25 A. Issac Hemingway.

## Kareema Hemingway-Direct by Mr. White

1 Q. Now, during that time, 2019 leading up to January of  
2 2020, how often would you say you saw your dad?

3 A. About three weekends.

4 Q. In that whole year?

5 A. Yes, sir, three years.

6 Q. And on that weekend or that Saturday, January 12th, so  
7 your mom's found on -- or I guess that's the 11th is a  
8 Saturday, and your mom's found on the 13th. Did your dad come  
9 and pick you up?

10 A. Yes, sir.

11 Q. And where had you been when your dad came and picked you  
12 up?

13 A. At a church for my community service.

14 Q. And when he came and picked you up where were your  
15 siblings?

16 A. Down in Conway.

17 Q. And he came back to get you?

18 A. Yes, sir.

19 Q. Had he ever done that before?

20 A. No, sir.

21 Q. Was that strange to you?

22 A. No, sir.

23 Q. You didn't think anything of it at the time?

24 A. Uh-uh, no, sir.

25 Q. But again, he had never come and gotten some kids, drove

## Kareema Hemingway-Direct by Mr. White

1 home, and come back and gotten you; is that right?

2 A. Yes, sir.

3 Q. Alright, when he comes and picks you up, what, if  
4 anything, did you all do?

5 A. We had went my grannie's house at first.

6 Q. And what did you all do there?

7 A. I was talking to my granny and my dad was in the  
8 bedroom, I don't know what he was doing.

9 Q. And after you left there, where did you go?

10 A. Straight to Conway.

11 Q. What happened when you got to Conway?

12 A. I put my stuff down and then went in the room with my  
13 sisters and brothers.

14 THE COURT: She needs to speak up a little bit.

15 MR. WHITE: Kareema, I know you're soft spoken, but  
16 we can barely hear you. Okay? If you'll direct your voice  
17 into this microphone, that will make things lot easier. Okay?

18 THE COURT: Thank you.

19 BY MR. WHITE:

20 Q. When you get to Conway, what did you do?

21 A. I put my stuff down and went in the room with my  
22 brothers and my sisters.

23 Q. And where was your dad?

24 A. In the room.

25 Q. In the room, which room?

## Kareema Hemingway-Direct by Mr. White

- 1       A.    Their room, their bedroom.
- 2       Q.    So he wasn't out there with you all?
- 3       A.    No, sir.
- 4       Q.    At some point did your dad and his girlfriend leave the  
5 house?
- 6       A.    Yes, sir.
- 7       Q.    About what time was that?
- 8       A.    About 9:10.
- 9       Q.    What time did they get back?
- 10      A.    About 12.
- 11      Q.    And at that point does everybody just kind of go to  
12 sleep?
- 13      A.    Yes, sir.
- 14      Q.    And then do you remember what time you woke up the next  
15 day?
- 16      A.    No, sir.
- 17      Q.    Do you remember about what time you saw your dad?
- 18      A.    About 11.
- 19      Q.    11:00 on Sunday?
- 20      A.    Yes, sir.
- 21      Q.    And then what did you do for the rest of the day?
- 22      A.    I'm not sure.
- 23      Q.    You can't remember?
- 24      A.    No, sir.
- 25      Q.    Do you remember getting in the car to come back to your

## Kareema Hemingway-Direct by Mr. White

1 mom's house?

2 A. Yes, sir.

3 Q. Do you remember about what time that was?

4 A. About seven or eight.

5 Q. Seven or eight at night?

6 A. Yes, sir.

7 Q. When you get home and you pull into your mom's driveway,  
8 what did it appear to be?

9 A. It was pitch dark when me and my brother was attempting  
10 to get out of the car, just opening up the door --

11 Q. I'm going to stop you right there. I just want you to  
12 talk about how the house looked.

13 A. Okay. It was pitch dark.

14 Q. Inside the house was pitch dark?

15 A. Yes, sir.

16 Q. Was that normal?

17 A. No, sir.

18 Q. And when you normally pull up to the house, whether it  
19 be with your dad or with anybody, what do you all usually do?

20 A. We get out of the car and go up to the house.

21 Q. Did you all get out of the car this time?

22 A. No, sir.

23 Q. Why didn't you get out of the car?

24 A. Because when my brother was -- when my brother opened  
25 the door to get out of the car my dad told him to get back in

## Kareema Hemingway-Direct by Mr. White

1 the car, he was gonna call my mom.

2 Q. So he wouldn't let ya'll get out of the car?

3 A. No, sir.

4 Q. What happened next?

5 A. She didn't answer so I told him to call my phone because  
6 she took my phone. My phone was just ringing and her phone was  
7 going to voice mail, so up the street is my mom's friend, her  
8 name is Nun-nae (phonetic), and we went there. The door was  
9 just opened so I just walked in, and I'm, like, ya'll see my  
10 mom? And they was like, no. So we sat at the end of the dirt  
11 road and I called Kera (phonetic) and I asked Kera (phonetic)  
12 has she talked to my mom and she told me, no.

13 Q. Did you end up with Kera (phonetic) that night?

14 A. Yes, sir.

15 Q. Now, were your younger siblings there with you, too?

16 A. Yes, sir.

17 Q. Did you all spend the next day with Kera (phonetic)?

18 A. Yes, sir.

19 Q. Did you spend most of the days from there on out with  
20 Kera (phonetic) that week?

21 A. Yes, sir.

22 Q. Did you ever get a phone call from your dad?

23 A. No, sir.

24 Q. Did he ever come and check on you?

25 A. On the 15th.



## Kareema Hemingway-Direct by Mr. White

1 Q. Why did he show up on the 15th?

2 A. Because Kera (phonetic) did call him to invite him to  
3 the party.

4 Q. Did he show up?

5 A. He did.

6 Q. Did he speak to you?

7 A. I don't remember.

8 Q. Did he check on you, did he talk to you about anything?

9 A. No, sir.

10 Q. Other than him showing up to the party, did he call you,  
11 call any of the kids, check on the kids?

12 A. No, sir.

13 Q. Did he show up at your mom's funeral?

14 A. No.

15 Q. Were you in the courtroom, Kareema, when we played his  
16 statement yesterday?

17 A. Yes, sir.

18 Q. Can I show you a few of the clips --

19 A. Yes, sir.

20 Q. -- and get your reaction to them?

21 (video playing.)

22 Q. And you heard, he said any weekend is the weekend he  
23 spends time with you all. If you could tell us again, in all  
24 the year leading up to your mom's death how many weekends did  
25 you spend with your dad?

## Kareema Hemingway-Direct by Mr. White

1       A.     Three.

2                               (video playing.)

3       Q.     Were you with your dad Christmas that year?

4       A.     Yes, sir.

5       Q.     How much time did you spend with your dad that weekend?

6       A.     I don't even think we on the list.

7       Q.     So you don't have much interaction with him?

8       A.     Uh-uh, he always in the room.

9                               (video playing.)

10       Q.     When your dad got you all back to Horry County that  
11 weekend did he promptly go out drinking and playing cards?

12       A.     Yes, sir.

13       Q.     And he said here that he would have you all the majority  
14 of the summer, is that true?

15       A.     No, sir.

16                               (video playing.)

17       Q.     Did you ever get out of that car when you all pulled  
18 back up?

19       A.     No, sir.

20                               (video playing.)

21       Q.     Did you hear that bit, Kareema, where your dad says he  
22 didn't own a gun?

23       A.     Yes, sir.

24       Q.     Had you ever seen him with a gun?

25       A.     Yes, sir.

## Kareema Hemingway-Direct by Mr. White

1 Q. Could you tell us about the time you saw him with a gun?

2 A. It was Tristin's last football game.

3 Q. And you remember that specifically because it was your  
4 younger brother's football game, it was his last game of the  
5 season?

6 A. Yes, sir.

7 Q. And could you tell us, tell the jury exactly what  
8 happened?

9 A. Well, I do not remember -- I don't know what made my  
10 brother pull the towel back, but he pulled the towel back.

11 Q. Is this in the backseat?

12 A. Yes, sir. He pulled the towel back and he was, like,  
13 Kareema, look, and I looked, I seen him, and I was, like, put  
14 the towel back on top of it.

15 Q. When you say, you saw it, what did you see?

16 A. The gun laying on the chair.

17 Q. And then what happened?

18 A. I told him put the towel back. My dad ended up coming  
19 out the store and when he came out the store he went straight  
20 to the back seat and grabbed the towel and put it in the trunk.

21 Q. And that's the towel that had the gun in it?

22 A. Yes, sir.

23 Q. Can you describe the gun to us?

24 A. You put bullets in and you spin it and you pop it back  
25 in.

## Kareema Hemingway-Cross by Mr. Brooker

1 Q. And just making sure that I can hear you okay. Alright?  
2 But your testimony is that it's a gun that you spin and you put  
3 bullets in it and you slide it back in?

4 A. Yes, sir.

5 MR. WHITE: Beg the Court's indulgence. Kareema,  
6 thank you so much. Please answer any questions the defense  
7 attorney may have. Okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: Cross?

10 MR. BROOKER: Thank you.

11 **CROSS-EXAMINATION**

12 BY MR. BROOKER:

13 Q. How are you doing, Kareema?

14 A. Good.

15 Q. I want to ask you a basic question I normally ask  
16 everyone, all witnesses, specifically lay witnesses. How did  
17 you prepare for your testimony here today?

18 A. What do you mean?

19 Q. Did you talk with anybody from the prosecutor's office?

20 A. Yes, I have.

21 Q. Did you talk with Mr. White there?

22 A. Yes.

23 Q. How many times did you talk with Mr. White?

24 A. About three times.

25 Q. And what did you all talk about?

## Kareema Hemingway-Cross by Mr. Brooker

1 A. Does that matter?

2 Q. Yes.

3 A. He was asking me questions about when we pulled up to my  
4 mom's house, what time we left, when did my dad come and get  
5 me, and stuff like that.

6 Q. So you all were talking about the testimony that you  
7 were going to give in trial here today?

8 A. Yes.

9 Q. And you all were preparing for that? Did you talk with  
10 anyone else about your testimony today?

11 A. No, sir.

12 Q. You didn't talk with any of your family members about  
13 your testimony?

14 A. No, sir.

15 Q. Now, let me start off by asking you some questions. I  
16 think you testified that for the entire time that you were  
17 living with your mother that your father only visited you, I  
18 think, on three weekends --

19 A. Uh-huh.

20 Q. -- is that your testimony?

21 A. Yes, sir.

22 Q. Kareema, isn't it true, I think it was in 2018 or 2019  
23 that you lived with your father for almost eight months and you  
24 were enrolled in Blackwood Middle School in Conway, South  
25 Carolina while you were living with them?

## Kareema Hemingway-Cross by Mr. Brooker

1       A.    Yes, and it was only four months.

2       Q.    Well, if it was four months then why did you just tell  
3 the jury that for three weekends, and forget about the number  
4 of months, why did you just tell the jury that for the entire  
5 time that you've been living with your mother that your father  
6 only visited you on three weekends, when you just confessed  
7 that you lived with them, four months you say, and went to  
8 Blackwood, or Blackwater Middle School, in Conway, South  
9 Carolina?

10      A.    Uh-huh.

11      Q.    Why did you say that? Was that first statement that you  
12 gave, three weeks in the entire time, was that not true?

13      A.    No, sir.

14      Q.    Well, if it was not true then why did you state it?

15      A.    I didn't remember, that wasn't on my mind. I only  
16 remember him picking all of us up three weekends.

17      Q.    But when I asked you, you suddenly, instantaneously,  
18 remembered staying with your father and his new family at least  
19 four months and also attending school in Conway, South  
20 Carolina, so you just instantly remembered that?

21      A.    You brought it back up.

22      Q.    I brought it back up. Are there other times that you  
23 forgot? Didn't you also went with your father and his family  
24 to the Macy's Thanksgiving Day Parade in New York and took  
25 pictures with them evidencing that? Do you remember them

## Kareema Hemingway-Cross by Mr. Brooker

1 taking you to the Thanksgiving Day Parade in New York?

2 A. Yes.

3 Q. So that first statement that he only visited you three  
4 times, that was not true, that's a lie, isn't it?

5 A. I mean, that's all I have remembered. I mean, you're  
6 bringing up things that I didn't remember, but now I'm  
7 remembering them.

8 Q. Also, back in June of 2019 when your mother's lights was  
9 out, when your mother's electricity was out in the home, didn't  
10 you come and stay with them for a short period of time while  
11 your mother's electricity was out?

12 A. No, I did not.

13 Q. Do you remember going to the beach and taking pictures  
14 with your mother, taking pictures with your mom, your dad, and  
15 of course, with your brothers at the beach? Do you remember  
16 going to the beach and taking pictures with them?

17 A. No.

18 Q. I hate to have to do this because I don't like  
19 questioning kids about their parents, and I even put you on the  
20 stand, but I want to talk with you a little bit about that home  
21 life. Wasn't the Department of Social Services called in to  
22 investigate abuse and neglect in your home?

23 A. No.

24 Q. So the Department of Social Services did not come in, I  
25 think, in June --

## Kareema Hemingway-Cross by Mr. Brooker

1 A. Oh, wait. No, no, no, they did. I do remember, yeah.

2 Q. So you remember that now?

3 A. Yes.

4 Q. And that they came in to investigate abuse and neglect  
5 in your home?

6 A. No, it wasn't about that.

7 Q. Didn't they investigate that the use of cocaine by your  
8 mom and that also the condition of the home?

9 A. I'm not sure.

10 Q. You're not sure what they were investigating?

11 A. No, I'm not.

12 Q. And I'm sorry, I don't want to -- I apologize. If you  
13 wait until I finish my question, and the reason why, I'm not  
14 being mean to you, the reason why is is that the court  
15 reporter, she has to record everything that you say and then  
16 she has to record everything that I say, and if both of us talk  
17 at the same time she can't record us. I'll make sure that I  
18 try to do the same, as well, too, I'm going to try not to talk  
19 over you so that we don't anger the court reporter. And go  
20 ahead, finish the statement that you were making.

21 A. I was finished.

22 Q. Okay. And so do you admit that the Department of Social  
23 Services did come in for investigating, you just don't know why  
24 they came in to investigate?

25 A. Yes, sir.



## Kareema Hemingway-Cross by Mr. Brooker

1 Q. And that wasn't the first time the Department of Social  
2 Services had been called?

3 A. No, it wasn't the first.

4 Q. Now, I want to ask you a few more questions about your  
5 testimony on direct examination with Mr. White. I think you  
6 said that your dad came and picked you up after you had done  
7 your community service; is that correct?

8 A. Yes, sir.

9 Q. I think that was on a Saturday?

10 A. Yes, sir.

11 Q. Okay. And I think your testimony was that you all went  
12 by his father's house?

13 A. Yes, sir.

14 Q. And did his father talk with you?

15 A. Yes, sir.

16 Q. And was it about the trouble that you had gotten into?

17 A. No, sir.

18 Q. He talked with you about something else?

19 A. Yes, sir.

20 Q. And then I think your testimony was -- let me back up.  
21 That was the second trip, right, when he came back to pick you  
22 up?

23 A. Uh-huh.

24 Q. He had come back -- I'm sorry. He had come earlier on  
25 Saturday and picked up your three siblings; is that correct?

## Kareema Hemingway-Cross by Mr. Brooker

1 A. Yes, sir.

2 Q. And when he came early to pick up your three siblings do  
3 you know who was there, who came with him?

4 A. His girlfriend.

5 Q. His girlfriend came with him?

6 A. Yes, sir.

7 Q. And are you talking about Latasha Baines?

8 A. Yes, sir.

9 Q. So he and his girlfriend came, and of course they pick  
10 up the three small kids?

11 A. Yes, sir.

12 Q. Were you there at that time?

13 A. Yes, sir.

14 Q. And I'm assuming your mom was there?

15 A. Yes, sir.

16 Q. Was anybody else there?

17 A. No, sir.

18 Q. Did he talk with your mom about Tristin?

19 A. Yes, sir.

20 Q. I'm sorry?

21 A. Yes, sir. Yes, sir.

22 Q. Okay. And do you know why he was talking to your mom  
23 about Tristin?

24 A. He did. My mother was, like, letting him pick him up --

25 Q. So your mother wanted him to talk with Tristin about

## Kareema Hemingway-Cross by Mr. Brooker

1     that?

2     A.    Yes, sir.

3     Q.    And did he do that?

4     A.    I don't remember.

5     Q.    Where was you when he arrived?

6     A.    Outside.

7     Q.    You were outside.  Where did he talk with your mom at?

8     A.    In the living room.

9     Q.    In the living room?

10    A.    Yes, sir.

11    Q.    How long did he talk with your mom?

12    A.    Not long.  I don't remember.

13    Q.    And then they left?

14    A.    Yes, sir.

15    Q.    And then, of course, and to pick up where you were,  
16    that's when later on that afternoon he came back and picked you  
17    up after your community service?

18    A.    May you repeat yourself?

19    Q.    Yes, ma'am.  After he talked with your mom about  
20    Christian then your father and his girlfriend and the kids all  
21    left; is that correct?

22    A.    Yes, sir.  Hold on.  She wasn't with him when he came.  
23    It was the son, her son.

24    Q.    So it was the son that was with him and not her?

25    A.    Yes, sir.

## Kareema Hemingway-Cross by Mr. Brooker

1 Q. And you're sure about that?

2 A. Yes, sir.

3 Q. Now, so they left and then he came back and picked you  
4 up after your community service; is that correct?

5 A. Yes, sir.

6 Q. And I think his testimony was, when he picked you up you  
7 all went straight to his father's house?

8 A. Yes, sir.

9 Q. His father lives in Gresham; is that correct?

10 A. Friendship.

11 Q. I'm sorry?

12 A. Friendship.

13 Q. His father lives in Friendship?

14 A. (Shakes head, yes.)

15 Q. And roughly how long did you all stay at his father's  
16 house?

17 A. About 15, 20 minutes.

18 Q. And then you all left and drove back to --

19 A. Conway. I'm sorry.

20 Q. No, no. That's okay. Like I said, I don't have a  
21 problem with it, it's just that the court reporter can't record  
22 both of us. I promise you I'm going to let you get your  
23 answers in. I promise I'm going to let you say whatever it is  
24 you want to say in response to my questions. So once you all  
25 left his father's house you all went back to Conway to his

## Kareema Hemingway-Cross by Mr. Brooker

1 apartment?

2 A. Yes, sir.

3 Q. Who was there at that apartment when you all got there?

4 A. My brothers and my sisters, Latasha's daughter and her  
5 son and her.

6 Q. Okay. So there was at the apartment was your father,  
7 your father's girlfriend, Latasha, Latasha's two children, you,  
8 and then of course your three younger siblings?

9 A. Yes, sir.

10 Q. And I think your testimony was that he states all of you  
11 all stayed there at the house until I think your father and  
12 Latasha left at around, about, I think you said nine or tenish?

13 A. Yes, sir. The son was with them, too.

14 Q. And the son was with them. Okay. So your dad, his  
15 girlfriend, and their son left at around nine or ten, and I  
16 think your testimony was that they came back somewhere around  
17 midnight?

18 A. Yes, sir.

19 Q. What time did you go to sleep that night?

20 A. I'm not sure. A little after they went in the room and  
21 settled down.

22 Q. I'm sorry?

23 A. A little after they went in the room and settled down.

24 Q. And I want to make sure that I understand. That was  
25 after they got back at midnight or even before they left at

## Kareema Hemingway-Cross by Mr. Brooker

1 nine or ten?

2 A. That was when they got back at midnight.

3 Q. When they got back at midnight, a little after they got  
4 back at midnight that you went in your room and went to sleep,  
5 where you went to sleep?

6 A. We sleep in the living room.

7 Q. Okay. So a little after they left they went to sleep.

8 Okay. And I you testified you don't remember what time you  
9 woke up that morning?

10 A. Yes, sir.

11 Q. But you think you saw your father around about 11:00  
12 that Sunday?

13 A. I know I saw him around 11 that Sunday.

14 Q. Around 11 that Sunday. What did you all do between the  
15 time in which you woke up that Sunday, I think you said you saw  
16 him around 11, and the time in which it was time for you all to  
17 go back to sitting there, and I think you said that was around  
18 about seven or eight, what did you all do in those hours?

19 A. I don't remember.

20 Q. Did you all go any place or leave the house?

21 A. I don't remember.

22 Q. Did your dad leave the house?

23 A. He did.

24 Q. About when did he leave the house?

25 A. I don't know the exact time, I don't know.

## Kareema Hemingway-Cross by Mr. Brooker

1 Q. Did anyone else leave the house?

2 A. I don't remember.

3 Q. When he left the house was he with anyone?

4 A. I don't remember.

5 Q. You said you got back at around, I think your testimony  
6 was around seven or eight your dad took you all back?

7 A. Yes, sir.

8 Q. Did his girlfriend, Latasha, go with him to take you all  
9 back?

10 A. Yes, sir.

11 Q. So it was, on the trip back it was your dad, his  
12 girlfriend and the four of you all kids?

13 A. Yes, sir.

14 Q. And I think you said when you arrived to sitting there  
15 at your mom's house that it was dark; is that correct?

16 A. Yes, sir.

17 Q. And I think your testimony was that your dad called or  
18 attempted to call your mom?

19 A. Yes, sir.

20 Q. But he couldn't reach her?

21 A. Yes, sir.

22 Q. And then somehow the decision was made that you all  
23 would go around to the neighbor; is that correct?

24 A. Yes, sir.

25 Q. Do you know that neighbor's name?

## Kareema Hemingway-Cross by Mr. Brooker

1 A. Valorie Peaton (phonetic), she go by Nun-nae (phonetic).

2 Q. So you all went around to her house. And how far does  
3 she live from where your mom lived?

4 A. Down the street, a little bit down the street.

5 Q. Okay, in the same neighborhood. You all drove? You all  
6 didn't walk, you all drove?

7 A. Yes, sir.

8 Q. And your mom wasn't there, is that correct?

9 A. Yes, sir.

10 Q. And I think your testimony was that she didn't know  
11 where your mom was?

12 A. Yes, sir.

13 Q. And is that when you all called -- that's when you all  
14 called your sister, and that's Shakyria?

15 A. Yes, sir.

16 Q. I'm sorry?

17 A. Yes, sir.

18 Q. And you all were able to get in touch with Shakyria?

19 A. Say that again.

20 Q. You were able to get in touch with Shakyria?

21 A. Yes, sir.

22 Q. And you all went to where Shakyria lived at?

23 A. Yes, sir.

24 Q. And were you all dropped off with a neighbor until  
25 Shakyria gets home?



## Kareema Hemingway-Cross by Mr. Brooker

1       A.    Yes, sir.

2       Q.    Now, not really important, but I'm going to ask you  
3   about this anyway because it was brought up on direct  
4   examination. I think you said that your father didn't go to  
5   your mom's funeral?

6       A.    Yes, sir.

7       Q.    Are you mad at him for that?

8       A.    I am.

9       Q.    I said are you mad at him for that?

10      A.    Yes, sir. I was.

11      Q.    You was mad at him? Are you still mad at him a little?

12      A.    No.

13      Q.    He did go to your mother's wake, didn't he?

14      A.    He did. He didn't stay long.

15      Q.    Just a last question and then I'm going to sit down. I  
16   think that you said that, and you correct me if I'm wrong, I  
17   may have written down wrong, but that the first time that your  
18   dad had called I think your mom had passed away?

19      A.    Huh?

20      Q.    I said, your mama passed away, well at least she was  
21   discovered I think on January 13th; is that correct?

22      A.    Yes, sir.

23      Q.    And I believe it was your testimony, and you correct me  
24   if I'm wrong, that first time you had heard from your father  
25   was on the 15th?

## Kareema Hemingway-Redirect by Mr. White

1 A. Yes, sir.

2 Q. Now, do you know whether or not your father had made  
3 other calls to other people checking on you all?

4 A. No, sir.

5 MR. BROOKER: If you can indulge me for just a  
6 second, Your Honor, I want to make sure I don't have any  
7 further questions for her. Thank you, Kareema. No further  
8 questions.

9 THE COURT: Redirect?

10 **REDIRECT EXAMINATION**

11 BY MR. WHITE:

12 Q. Kareema, at that time that you went to school down in  
13 Horry County, was that in 2018?

14 A. It was.

15 Q. And I asked you specifically about how many times he  
16 picked you up in 2019; isn't that right?

17 A. Yes, sir.

18 Q. And so what you said was the truth; is that right?

19 A. Yes, sir.

20 Q. And when we met I just asked you these questions; is  
21 that right?

22 A. Yes, sir.

23 Q. Did I tell you to get up here and tell the truth?

24 A. No, sir -- I mean, yes, sir.

25 Q. You gave me a heart attack. And did I tell you to

## Kareema Hemingway-Recross by Mr. Brooker

1 answer Mr. Brooker's questions truthfully?

2 A. Yes, sir.

3 Q. And did you?

4 A. Yes, sir.

5 Q. Now, Mr. Brooker didn't ask you about it, but you say  
6 that you knew, despite him saying otherwise, that your dad had  
7 a gun?

8 A. Yes, sir.

9 Q. And you say in 2019 he only picked you up about three  
10 times and that he rarely ever picked up all the kids at one  
11 time; is that right?

12 A. Yes, sir.

13 Q. Thank you, Kareema.

14 THE COURT: Any follow up?

15 **RECROSS-EXAMINATION**

16 BY MR. BROOKER:

17 Q. Just very briefly, and I promise I'm going to let you  
18 off the stand, I'm gonna ask you one question. Regardless of  
19 what the prosecutor told you, I had asked you whether or not  
20 you had testified that in the entire time that you were staying  
21 with your mom that your dad only picked you up for three  
22 weekends, and you said yes. So my question was pertaining to  
23 the entire time you were staying with your mom. Did you not  
24 understand my question?

25 A. Say that again.

## Kareema Hemingway-Further Redirect by Mr. White

1 Q. When I asked you whether or not it was your testimony  
2 that the entire time that you were living with your mom that  
3 your dad had only picked you up three weekends?

4 A. Yes, that's true.

5 Q. So only three weekends the entire time that he picked  
6 you up when you were living with your mom?

7 A. Yes.

8 MR. BROOKER: No further questions, Your Honor.

9 MR. WHITE: One last question.

10 **FURTHER REDIRECT EXAMINATION**

11 BY MR. WHITE:

12 Q. Kareema, how old are you?

13 A. Sixteen.

14 Q. Would that make you 13 when all of this transpired?

15 A. Yes, sir.

16 Q. Thank you.

17 MR. BROOKER: Nothing further, Your Honor.

18 THE COURT: Thank you. You may step down. You can  
19 call your next witness.

20 MR. WHITE: Thank you, Judge. At this time the State  
21 would call Stephanie Reed.

22

23

24

25

Stephanie Reed-Direct by Mr. White

1                   **Stephanie Reed being first duly sworn, testified as**  
2   **follows:**

3                                   **DIRECT EXAMINATION**

4   BY MR. WHITE:

5       Q.    Good morning, Ms. Stephanie.

6       A.    Good morning.

7       Q.    I've got some questions for you, okay?

8       A.    Yes, sir.

9       Q.    Ms. Stephanie, where do you live?

10      A.    I live on 5211 Taft Watson Drive, Centenary, South  
11   Carolina.

12      Q.    In Centenary. And how long have you lived there?

13      A.    Maybe about five years.

14      Q.    And back in 2020 who was your neighbor, I guess when you  
15   walked out your front door, your neighbor over there to the  
16   right?

17      A.    Maisha Burch.

18      Q.    And were you guys close?

19      A.    Yeah.

20      Q.    Did you with spend a lot of time together?

21      A.    Yes.

22      Q.    Did you spend a lot of time with her kids?

23      A.    Yes. They stayed at my house.

24      Q.    And did her kids spend a lot of time over there with her  
25   and her kids?

Stephanie Reed-Direct by Mr. White

1 A. Yes, sir.

2 Q. How often would you see her?

3 A. I'd see her like every other day.

4 Q. And in 2019 were you aware that she was in a child  
5 support dispute --

6 A. Yes, I was.

7 Q. -- with the father of her children?

8 A. Yes.

9 Q. And did you know the father of her children was Issac  
10 Hemingway?

11 A. Yes.

12 Q. How long, you said you lived there for about how long at  
13 that time?

14 A. At that time, I think probably about five years with my  
15 grandma, I knew her before she came.

16 Q. And how long had she lived in that area?

17 A. I think she did about three years, I think about 2017.

18 Q. And you said you saw her every day?

19 A. Like every other day I would see Maisha.

20 Q. And during that three years or however long that she  
21 lived there, how often would you see Issac Hemingway?

22 A. Four times, but he only came and got Kareema and Izi.

23 Q. And so you're saying he rarely ever would get all the  
24 kids?

25 A. Yes, sir.

## Stephanie Reed-Direct by Mr. White

1 Q. And you're saying in three years you only knew him to  
2 come four times?

3 A. Four times.

4 Q. And were you aware that not only was there a child  
5 support case going on, but that Issac Hemingway was disputing  
6 the case?

7 A. Yes.

8 Q. And were you aware that he was contesting that the  
9 children were even his?

10 A. Yes.

11 Q. Now, I just kind of want to orient the jury, Ms.  
12 Stephanie, real quick, if I could.

13 MR. WHITE: And Judge, could I ask Ms. Stephanie to  
14 step off the stand for just a minute?

15 THE COURT: Sure. You can step down.

16 BY MR. WHITE:

17 Q. Ms. Stephanie, you can stand on the other side of this  
18 poster board for me and I'm going to show you Taft Watson  
19 Boulevard right here, and this is the house belonging to Maisha  
20 Burch at that time; is that right?

21 A. Yes.

22 Q. Where's your house?

23 A. Right there (indicating.)

24 Q. And what's this area here?

25 A. Terrell's Bay High School.

## Stephanie Reed-Direct by Mr. White

1 Q. Is it still operational?

2 A. No.

3 Q. Was it operational at that time?

4 A. No.

5 Q. Is it abandoned?

6 A. Yeah.

7 Q. And again, this is her house and you guys were next door  
8 neighbors; is that right?

9 A. Uh-huh.

10 Q. Thank you. You can have a seat. So you guys were  
11 close. Were you good friends?

12 A. Yes.

13 Q. Did you care about Maisha?

14 A. Yes, I did. I loved her kids.

15 Q. And was she a good mom?

16 A. Yes, she was.

17 Q. I heard she was a strict mom.

18 A. Yes, she was.

19 MR. WHITE: May I have the Court's indulgence for one  
20 moment?

21 THE COURT: Yes.

22 BY MR. WHITE:

23 Q. Now, you're aware that her body was discovered on the  
24 13th; is that right?

25 A. Yes.



## Stephanie Reed-Direct by Mr. White

1 Q. And so on Saturday, that would have been the 11th,  
2 Sunday is the 12th, and Monday is the 13th, when is the last  
3 time that you had spoken to her?

4 A. I spoke to her on the 11th.

5 Q. So that was a Saturday?

6 A. That Saturday.

7 Q. And at that point were the kids gone?

8 A. No, they weren't gone.

9 Q. And what did you all talk about?

10 A. She came, hollered across the field to ask me to give  
11 her two cigarettes and tell Andrew to go to the store and then  
12 she told me to come back over there later and I had already  
13 been back from Florence.

14 Q. So she was in good spirits?

15 A. Yeah.

16 Q. And when is the next time you checked in on Maisha?

17 A. I got a phone call at seven in the morning, I was about  
18 ready to go to church, they told me to go over there and see if  
19 Kareema was gonna come do community because she was doing  
20 community service at our church. So when I walked over there  
21 and knocked on the door at 7:00 in the morning, nobody come to  
22 the door, and normally she'd have her window cracked, I always  
23 go to her window and say, Maisha, girl, get up, but I didn't  
24 see her laying on the bed or nothin' so I figured she probably  
25 went to the store or walked to Ms. Nun-nae (phonetic) house.

Stephanie Reed-Direct by Mr. White

1 Q. Did you go inside the house?

2 A. No.

3 Q. And then on the 13th when her body is discovered can you  
4 tell us how you found out about that?

5 A. Well, my grandma lived on that street and she started  
6 hollering, this little girl out here hollering in the streets.  
7 So I jumped up and that's before I could get to the door to see  
8 if it was Kera (phonetic) and before I could get to the door  
9 her son Christian was knocking my door to tell me someone was  
10 in the street talking about Mr. Andrew, so that's when I went  
11 over there and I walked in the door and I went to go see Andrew  
12 because when you walk in there he looked like he was on the  
13 chair sleep, but when I got closer he had a bullet like  
14 somebody shot him through his eye and his brains was on the  
15 back of the chair.

16 Q. Was that hard to see?

17 A. Yeah, it was, because it looked to me like somebody --  
18 he literally looked like he was sleeping.

19 Q. At that point did you exit the house?

20 A. No. Then I called Maisha's name. So when I turned that  
21 corner and I saw her, that's when I said, oh my God, somebody  
22 killed them, and I went back out the door and that's when I  
23 grabbed my phone and I called 911.

24 Q. Did you touch anything while you were inside?

25 A. No, I didn't, I just stood, like, stood right there

## Stephanie Reed-Direct by Mr. White

1 looking at Andrew before I went back, turned the corner and  
2 seen Maisha.

3 Q. And when you saw Maisha did you go down that hallway?

4 A. No, I did not. That was enough looking at Andrew, did  
5 not go no further.

6 Q. And so you exited right back out the doorway?

7 A. Yes, sir.

8 MR. WHITE: I beg the Court's indulgence?

9 THE COURT: Okay.

10 BY MR. WHITE:

11 Q. Who lives in your house with you?

12 A. Me, my sons, and I got three boys -- and at the time my  
13 grandma was staying with me.

14 Q. And so one of your sons name is Savion; is that right?

15 A. Yes, sir.

16 Q. Now, traffic down that road, I think we saw it, is down  
17 that end of the road is really just you and Maisha; is that  
18 right?

19 A. Yes, sir.

20 Q. Is there a lot of traffic that comes down that road?

21 A. Not much.

22 Q. And so when you hear a car coming does that kind of draw  
23 your attention?

24 A. Yes.

25 Q. And describe that road that you're driving on?

## Stephanie Reed-Cross by Mr. Brooker

1 A. It's dark. When you get around that curb it's dark in  
2 that area around the schoolhouse and you can either go around  
3 the schoolhouse and come back or you can go around the corner.

4 Q. And so you don't get a lot of traffic?

5 A. No. Most of the people that come over there you know  
6 the cars.

7 Q. And at night, I assume you get even less traffic?

8 A. Yes.

9 MR. WHITE: Thank you, Ms. Stephanie, I don't have  
10 anything else for you, but you do have to answer any questions  
11 Mr. Brooker may have. Okay? Thank you.

12 THE WITNESS: Okay.

13 **CROSS-EXAMINATION**

14 BY MR. BROOKER:

15 Q. Good morning.

16 A. Good morning.

17 Q. I'm just going to ask you a couple questions. I think  
18 you testified that you were Maisha's neighbor?

19 A. Yes, sir.

20 Q. And that you all were friends; is that correct?

21 A. Yes, sir, from the time she moved there.

22 Q. Okay. And I think it was your testimony that the last  
23 time that you saw her would have been prior to Issac picking up  
24 the kids?

25 A. No. I never saw him pick the kids up. I was in

Stephanie Reed-Cross by Mr. Brooker

1 Florence.

2 Q. Let me repeat that. You saw -- my question was, did you  
3 see her before Issac picked up the kids?

4 A. Yes.

5 Q. And that's what I was trying to establish.

6 A. Okay.

7 Q. So he had not picked up the kids yet?

8 A. No.

9 Q. And of course, when he came to pick up the kids you had  
10 already gone to Florence, I believe, you said?

11 A. Yes, sir.

12 Q. So you wasn't there when he picked up the kids?

13 A. No, sir.

14 Q. And I think you said that when you saw her you talked  
15 with her and that you also saw Andrew?

16 A. Yes. Andrew came to my gate, came to my back stairs to  
17 pick two cigarettes up.

18 Q. And that was the last time that you saw her that day,  
19 that Saturday?

20 A. Yeah.

21 Q. And I think it was your testimony that on Sunday that  
22 you came over to the house to try and see if, I think, one of  
23 the kids or the kids to go to church with you, get the kids to  
24 go to church with you?

25 A. Yeah. She was, Kareema was doing community service at

## Stephanie Reed-Cross by Mr. Brooker

1     our church.

2       Q.     Okay.  So she was doing community service at your  
3     church?

4       A.     Yes, Centerville Baptist Church.

5       Q.     Do you know about what time it was that you went over  
6     there to get Kareema?

7       A.     About 9:00.

8       Q.     About 9:00?

9       A.     Sunday school started at 10:00.

10      Q.     Okay.  So it was about 9:00.  And then your testimony  
11     was that no one came to the door.

12      A.     That's right.

13      Q.     And that you left?

14      A.     Yes, sir.

15      Q.     And I think it was also your testimony was that you were  
16     aware that there was a child support issue that was going on  
17     between her and Issac?

18      A.     Yes.

19      Q.     And I'm not asking you to tell me what she said, it  
20     would be hearsay, but would she often talk with you about what  
21     was going on in her life?

22      A.     Yes.

23      Q.     And that's how you knew about the child support issue?

24      A.     How I knew about it is because she came to my house to  
25     use my phone to send him copies of it because her phone was

## Stephanie Reed-Cross by Mr. Brooker

1 out, but the results she got through the mail, I guess it came  
2 through the mail.

3 Q. Uh-huh. Did you also know about the Department of  
4 Social Services investigating her for abuse and neglect?

5 A. No, I didn't know that.

6 Q. You didn't know that. Did you also know about the  
7 Department of Social Services suspecting her of -- or she  
8 testing positive for cocaine use?

9 A. No, I didn't know that.

10 Q. Had you ever been in that house?

11 A. Yes, sir. Yes.

12 Q. That house is often a mess, isn't it?

13 A. No. No, no, no. She kept her house clean.

14 Q. Now, I think you said on Sunday you didn't see her?

15 A. No, sir.

16 Q. And I think you said that on Monday, and that's what I  
17 want to try to straighten out because I'm a little confused  
18 about Monday. Monday you said that when you came over to the  
19 house, who was there when you came over to the house?

20 A. When I came over to the house, I don't really know the  
21 man's name, but the young man that was with Kera (phonetic).  
22 He was standing at his car, he didn't go in that house.

23 Q. So he didn't go in the house?

24 A. No, because when I asked him what was going on, he said,  
25 I do not know, Kera (phonetic) came out of their hollering, and

## Stephanie Reed-Cross by Mr. Brooker

1 I said, what's going on? He was like, no, I haven't been in  
2 there, so I walked in there.

3 Q. Okay. So it was you that walked in, of course not the  
4 young man that walked in to discover the bodies?

5 A. Yes.

6 Q. And I think it was your testimony that when you walked  
7 in that you first walk over to Andrew, and of course he was  
8 laying on the couch?

9 A. Uh-huh, yes, sir.

10 Q. And then, of course, I think you said that you didn't go  
11 all the way down the hall but you walked --

12 A. When you walk through, like, when you turn, you can go  
13 straight, when you look you can look down to that hallway.

14 Q. And here's a diagram here if you want to use that. It's  
15 already into evidence. I'll hold this up. I'll let you use  
16 this illustration.

17 A. Okay.

18 Q. So this would be the front door?

19 A. Yes.

20 THE COURT: You can step down if you want to.

21 Q. It's on the illustration?

22 A. Yes.

23 Q. This would be the front door?

24 A. Yes. I came in the door about right here, I watched  
25 Andrew, I stood there for like a minute. I actually couldn't



## Stephanie Reed-Cross by Mr. Brooker

1 move, that's when I went down the hallway and I stood to the  
2 hallway and I saw her laying there.

3 Q. And you looked down and you saw her laying there?

4 A. Yeah, and I came back out here.

5 Q. You told Mr. White that before you came out the door you  
6 took your phone and called 911?

7 A. Yeah, yes, sir.

8 Q. I think you also testified to the fact that you and  
9 Maisha was the only one that stayed kind of down that roadway?

10 A. Yes.

11 Q. Her home was the last one on that roadway; is that  
12 correct?

13 A. Yes, but there's a house behind the schoolhouse, a  
14 little apartment building.

15 Q. And I think you said that people rarely went down there?

16 A. Yes.

17 Q. Do you ever remember telling law enforcement when you  
18 were interviewed by them that she would often have a lot of  
19 people over and would have a lot of parties or get-togethers?

20 A. Yeah. She had birthday parties for her kids, that's the  
21 only time.

22 MR. BROOKER: If you can indulge me for just a  
23 second, Your Honor? I want to make sure I don't have any  
24 further questions for Ms. Reed. No further questions for Ms.  
25 Reed, Your Honor.

## Stephanie Reed-Redirect by Mr. White

1 THE COURT: Redirect? Hold on.

2 MR. WHITE: Hold on, Ms. Stephanie, I promise you I'm  
3 going to be brief. Okay, Ms. Stephanie, and then you're out of  
4 here, alright?

5 THE WITNESS: Yes.

6 **REDIRECT EXAMINATION**

7 BY MR. WHITE:

8 Q. Ms. Stephanie, you said that when you stood there you  
9 stood there over Andrew?

10 A. Yeah.

11 Q. You stood there for a long time, you couldn't move?

12 A. No, I couldn't.

13 Q. Why is that?

14 A. Because he looked like he was dead for, like, a long,  
15 like, he was gray. He was gray looking and you could see,  
16 like, there was no blood nowhere around and it was like his  
17 brains was on the back of the chair.

18 Q. Is it fair to say you were kind of traumatized?

19 A. Yes, I was. That was a lot, that was a lot.

20 Q. Were you in shock?

21 A. Yes.

22 Q. Were you very upset?

23 A. Yes.

24 Q. Now, you said that you went in the house, peered down  
25 the hallway, came right back out, but before you arrived you

## Stephanie Reed-Recross by Mr. Brooker

1 don't know, you didn't see who went in and out of that house?

2 MR. BROOKER: Objection, Your Honor. It's a leading  
3 question.

4 THE COURT: Sustained.

5 Q. Did you see who went in and out of that house before  
6 you?

7 A. No.

8 MR. WHITE: Beg the Court's indulgence. Thank you,  
9 Stephanie, that's all I have.

10 THE COURT: Hold on. Any follow up?

11 MR. BROOKER: Just one follow up.

12 **RECROSS-EXAMINATION**

13 BY MR. BROOKER:

14 Q. Ms. Stephanie, I know he asked you, you didn't see  
15 anybody go in and out of that house, but you did testify on  
16 cross-examination, you did testify that the young man who was  
17 there told you that he didn't go in the house and he didn't  
18 know what was going on?

19 A. He was standing by the car. I asked him that. He said  
20 that only thing he know because Kera (phonetic) went hollering  
21 down the street. She wouldn't -- I was trying to call her, she  
22 wasn't talking to anybody, she was just hollering and I could  
23 understand why after I went in there.

24 Q. But that young man did tell you? I think that's what  
25 you told me, right?

## Savion Frasier-Direct by Mr. White

1 A. Yeah, he said he didn't go in the house.

2 MR. BROOKER: No further questions.

3 THE COURT: You can step down. You can call your  
4 next witness.

5 MR. WHITE: Thank you, Judge. At this time the State  
6 would call Savion Frasier.

7 **Savion Frasier being first duly sworn, testified as**  
8 **follows:**

9 **DIRECT EXAMINATION**

10 BY MR. WHITE:

11 Q. Savion, I'm going to ask you a few questions. I hope  
12 that yours is going to be nice and brief. Now, are you a  
13 little nervous?

14 A. Yes, sir.

15 Q. Don't be nervous. Speak up nice and loud. I know  
16 you're also kind of soft spoken. Alright? Savion, where do  
17 you live?

18 A. 5211 Taft Watson Drive, Centenary, South Carolina.

19 Q. How long have you lived there?

20 A. About five years.

21 Q. How old are you?

22 A. Nineteen.

23 Q. And who lives there in the house with you?

24 A. My mom and brothers.

25 Q. And back in 2020, January of 2020, is that where you

## Savion Frasier-Direct by Mr. White

1     were living?

2     A.    Yes, sir.

3     Q.    And who were your neighbors?

4     A.    Maisha Burch.

5     Q.    And if I could, I want to point out, Savion, is this  
6   Maisha Burch's house here (indicating?)

7     A.    Yes, sir.

8     Q.    And if I'm looking at this map, is this your house here?

9     A.    Yes, sir.

10    Q.    So you guys were next door neighbors; is that right?

11    A.    Yes, sir.

12    Q.    Now, were you made aware that on that Monday, that's  
13   January 13th of 2020, that Maisha Burch and Andrew Legette  
14   bodies were found in that house?

15    A.    Yes, sir.

16    Q.    Now, so the night before that would have been Sunday  
17   night, and the night before that would have been Saturday night  
18   into Sunday morning.

19    A.    Yes, sir.

20    Q.    Did you see anything in those early morning hours?

21    A.    Yes, sir.

22    Q.    If I could, I want you to hop down off that stand and  
23   come hang out with me for a little bit down here, Savion.

24   Stand right there, and again, if you'll point to Maisha Burch's  
25   house for me.

## Savion Frasier-Direct by Mr. White

1       A.    There.   (Indicating.)

2       Q.    Okay.  And where is your house?

3       A.    There.   (Indicating.)

4       Q.    Okay.  And what did you see that morning?

5       A.    The car drove slow down my road, came out around the  
6    schoolhouse and drove up into the front and into the parking  
7    lot and came back up.

8       Q.    So just to rephrase what you said here is, you went  
9    heard a car coming, they went down the street, went around the  
10   school, came here and parked here facing this way; is that  
11   right?

12      A.    Yes, sir.

13      Q.    Could you tell what kind of car it was?

14      A.    No, sir.

15      Q.    Was it dark out?

16      A.    Yes, sir.

17      Q.    Why were you looking out the window?

18      A.    I was in the bathroom and around that time I was looking  
19   out the window.

20      Q.    When cars come down this road can you hear them coming?

21      A.    Yes, sir.

22      Q.    Did you hear this one coming?

23      A.    Yes, sir.

24      Q.    And do you recall about what time of night this was?

25      A.    A little bit after midnight.

## Savion Frasier-Cross by Mr. Brooker

1 Q. After midnight. Can you tell exactly what time it was?

2 A. No, sir.

3 Q. Now, how long did this car stay here?

4 A. About 15 minutes.

5 Q. And then it left?

6 A. Yes, sir.

7 Q. Could you see anybody coming or going?

8 A. No, sir.

9 Q. So the culmination of your testimony is you heard a car  
10 coming down this road, you saw it come down this road, it goes  
11 around the turn, parks here, stays for about 15 minutes and  
12 then leaves; is that right?

13 A. Yes, sir.

14 MR. WHITE: That's all I have for you, Savion, thank  
15 you so much.

16 THE COURT: Cross-examination?

17 MR. BROOKER: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MR. BROOKER:

20 Q. Savion, I may want to make sure, I didn't catch all of  
21 that, but I may want to make sure that I understand you  
22 correctly in what you just testified to. Okay? And I want the  
23 jury to be able to see it, if I can. And if I say anything  
24 that's wrong or if you need to come down, please feel free to  
25 come down. And I want to make sure that I understand your

## Savion Frasier-Cross by Mr. Brooker

1 testimony. Your testimony was that somewhere around midnight,  
2 I know you said you're not sure of the time, but it was around  
3 midnight, and this would have been Saturday night, Sunday  
4 morning?

5 A. Yes, sir.

6 Q. Okay. Give me just a second. I'm looking for -- you  
7 said that this is your home, right? (indicating)

8 A. Yes, sir.

9 Q. And of course, this is the home -- can everybody see  
10 over there? And this is Maisha Burch's home; is that correct?

11 A. Yes, sir.

12 Q. And I think that your testimony was that around midnight  
13 that you saw a car come down the road past your house and past  
14 Ms. Burch's house; is that correct?

15 A. Yes, sir.

16 Q. And what did that car do? Did it move all the way  
17 around?

18 A. It angled that way, straight, came all the way around,  
19 turned on that curve, right there and came up by the --

20 Q. Come show me which curve. I want to make sure the jury  
21 understands this. And you can stand right here next to me so  
22 that the jury can see what you're talking about.

23 A. Came all the way down, came around this curve and came  
24 up, parked here (indicating.)

25 Q. And parked right here in this parking area?



## Savion Frasier-Cross by Mr. Brooker

1 A. Yes.

2 Q. And you said stayed there for about 15 minutes?

3 A. Yes, sir.

4 Q. And of course, after 15 minutes, of course they left?

5 A. Yes.

6 Q. Did you hear it leave or see it when it left?

7 A. Yeah. I could hear a car leaving out and I just looked  
8 out the window, but I didn't actually see it leave, I heard it.

9 Q. You heard it. Okay. And I think you said that you  
10 didn't see what type of car it was?

11 A. No.

12 Q. I think the first time you saw it coming down when you  
13 were in the bathroom did you get to see the car?

14 A. (Shakes head no.)

15 Q. You didn't see it?

16 A. (Shakes head no.) I just saw like the taillights come  
17 right here at the end of the schoolhouse.

18 Q. Okay. You just saw to taillights?

19 A. Yes.

20 Q. And you said about 15 minutes here?

21 A. Yes, sir.

22 Q. And then, of course, you heard it when it left?

23 A. Yes, sir.

24 MR. BROOKER: If you can indulge me for just a  
25 second, Your Honor, I may not have any further questions for

## Savion Frasier-Redirect by Mr. White

1     this young man.

2       Q.     And just a couple more questions, Savion. Were you ever  
3 interviewed by law enforcement?

4       A.     Like the police?

5       Q.     Yeah, the police.

6       A.     No.

7       Q.     Okay. Now, what you just explained to me, who was the  
8 first person that you told this to?

9       A.     No one.

10      Q.     No one? Is this the first time that you ever said this  
11 to anyone?

12      A.     I told the lawyer.

13      Q.     You told Mr. White?

14      A.     Yeah.

15      Q.     Okay.

16             MR. BROOKER: No further questions, Your Honor.

17             THE COURT: Redirect?

18                             **REDIRECT EXAMINATION**

19 BY MR. WHITE:

20      Q.     We talked about this several months; is that right,  
21 Savion?

22      A.     Yes, sir.

23      Q.     And when I told you I was going to call you to testify,  
24 I told you to tell me --

25             MR. BROOKER: Your Honor, he can't lead him.

1 THE COURT: Sustained.

2 Q. Did I tell you to tell the truth?

3 MR. BROOKER: Your Honor, he can't --

4 Q. Did I ask you to tell the truth?

5 MR. BROOKER: Can we approach, Your Honor?

6 **The following proceedings were held at the bench by**  
7 **Court and counsel:**

8 MR. BROOKER: He can't bolster the witnesses  
9 testimony, Your Honor, by asking him whether or not I told you  
10 to tell the truth, you can't bolster the witnesses testimony.

11 THE COURT: The issue that maybe he was coached or --

12 MR. BROOKER: I didn't ask him whether he was  
13 coached.

14 Q. One more time, Savion, did I tell you to tell the truth  
15 when you took that stand?

16 A. Yes, sir.

17 Q. And I want to make sure that we got the time, because on  
18 direct, if I'm not mistaken, you said that it was sometime  
19 after midnight; is that right?

20 A. Yes, sir.

21 Q. But you didn't have a watch on, you weren't checking the  
22 clock?

23 A. No, sir.

24 Q. So is it fair to say you don't know exactly what time it  
25 was?

Nicole Woodle-Direct by Mr. White

1 A. No, sir.

2 MR. WHITE: I have nothing further. Thank you,  
3 Judge.

4 THE COURT: Anything further?

5 MR. BROOKER: No follow up, Your Honor.

6 THE COURT: You may step down. Thank you. You can  
7 call your next witness.

8 MR. WHITE: At this time the State would call Nicole  
9 Woodle. Judge, may we approach for one moment?

10 THE COURT: Yes.

11 **Nicole Woodle being first duly sworn, testified as**  
12 **follows:**

13 **DIRECT EXAMINATION**

14 BY MR. WHITE:

15 Q. Good morning, Ms. Nicole, how are you?

16 A. Good, how are you?

17 Q. Ms. Woodle, if you could tell us, where are you  
18 employed?

19 A. The Clerk of Courts in Marion child support division.

20 Q. How long have you been employed there?

21 A. Three years.

22 Q. And in what capacity? What do you do for the family  
23 court/child support division?

24 A. We do child support.

25 Q. And are you monitoring child support?

Nicole Woodle-Direct by Mr. White

1 A. Yes. We do enforcements.

2 Q. Are you familiar with the cases as they come in?

3 A. Yes.

4 Q. Are you familiar with the files and the documents that  
5 you generate?

6 A. Yes.

7 Q. And the documents that are generated and they come into  
8 your office, are they kept in specific individual files?

9 A. Yes.

10 Q. Are they kept in the ordinary course of business?

11 A. Yes.

12 (State's Exhibit No. 63 was marked for identification.)

13 Q. I'm going to show you State's Exhibit 63. And if you  
14 can tell me, just flip through those and tell me if you  
15 recognize those items.

16 A. Yes.

17 Q. And you've seen these items before?

18 A. Yes.

19 Q. Are these documents filed in connection with a child  
20 support case between Issac Hemingway and Maisha Burch?

21 A. Yes.

22 Q. And again, these are kept in the ordinary course of  
23 business?

24 A. Yes.

25 Q. And I believe there's a seal on those documents. Is it

Nicole Woodle-Direct by Mr. White

1 on each and every one?

2 A. Yes.

3 Q. And what does that show?

4 A. It shows that it's a true certified copy.

5 MR. WHITE: Judge, I'd move State's Exhibit 63 into  
6 evidence.

7 THE COURT: Any objections?

8 MR. BROOKER: Judge, if you could indulge me for a  
9 second, Your Honor, I'm flipping through them. I want to make  
10 sure that there are no Crawford versus Washington issues. If  
11 you give me just a second, Your Honor. Without objection, Your  
12 Honor.

13 THE COURT: State's Exhibit 63 is in evidence without  
14 objection.

15 MR. WHITE: Thank you, Judge.

16 (State's Exhibit No. 63 was admitted into evidence.)

17 Q. And the copies that I just showed you, do you have  
18 copies of those with you?

19 A. Yes.

20 Q. And are you familiar with those documents and kind of  
21 what they say?

22 A. Yes.

23 Q. And what I'd like to do, if it's alright with you, you  
24 tell me if not. There are one, two, three, four, five, six,  
25 seven dates and significant times that those documents depict.

Nicole Woodle-Direct by Mr. White

1 If I ask you about a certain date could you tell me what  
2 happened as it pertains to that file?

3 A. Yes.

4 Q. Okay. Very good. Let's start with the first action.  
5 It has February 12, 2019. What does that file indicate?

6 A. Can I look through it?

7 Q. Yes, yes, absolutely.

8 MR. BROOKER: Which one are you on? Are you using  
9 the records?

10 MR. WHITE: It's the very first action on  
11 February 12, 2019.

12 Q. That would be, and you correct me if I'm wrong, and so  
13 Mr. Brooker is aware, this is the notice of financial  
14 responsibility and paternity determination?

15 A. Yes.

16 Q. And is that the first action in this case?

17 A. Yes.

18 Q. And you don't have to tell me, I know that's a long  
19 document, you don't have to tell me everything, but just  
20 general summation of what that document says?

21 A. Now, it's to notify them that there is a notice of a  
22 financial responsibility, it's basically breaking down what's  
23 going to be done in the hearing. It also states the child  
24 support process and everything that goes along with the child  
25 support process.

Nicole Woodle-Direct by Mr. White

1 Q. And the meat of it, is this a Court ordered duty of  
2 support?

3 A. Yes.

4 Q. And for which kids is this a duty of support for?

5 A. Just Izi.

6 Q. Is that on February 13, 2019?

7 A. Yes, sorry.

8 Q. That's okay. I want to discuss that one, too, so that's  
9 alright that we jumped ahead. I want to start, first, with  
10 February 12, 2019, and I believe, and you just correct me if  
11 I'm wrong, that that's a Court ordered duty of support for  
12 Iziana, Kareema, Tristin and Reiley?

13 A. Yes.

14 Q. And then the one that you just referred to, that's the  
15 next day, February 13, 2019?

16 A. Correct.

17 Q. And that's for Izi, correct?

18 A. Yes.

19 Q. And so that's five children in total?

20 A. Right.

21 Q. And you tell me if I'm wrong, but those documents are  
22 ordering that he pay child support on those five kids?

23 A. Right.

24 Q. Now, it appears to me in these documents, both  
25 February 12th and February 13th document, that a negotiation



Nicole Woodle-Direct by Mr. White

1 conference is scheduled; is that correct?

2 A. Yes.

3 Q. And when is that scheduled for?

4 A. It's April 17, 2019 at 10:00 a.m.

5 Q. Can you tell us, what is a negotiation conference, what  
6 is that?

7 A. That's when they decide on the actual amounts and they  
8 do an order for a support.

9 Q. Very good. And that's scheduled for April 17, 2019?

10 A. Yes.

11 Q. And once a negotiation conference takes place is there a  
12 document in your file that says what happened at that  
13 conference?

14 A. Yes. I have an order.

15 Q. What was that result or what happened at that April 17,  
16 2019 negotiation conference?

17 A. There was a support order done for one child and then it  
18 states that the NCP requested genetic testing for the other  
19 four.

20 Q. Okay. So one child, he was ordered to pay for and that  
21 he's requesting genetic testing on the other children?

22 A. Correct.

23 Q. So he's saying these kids aren't mine?

24 A. I'm assuming.

25 Q. Now, at that time how much is he ordered to pay?

Nicole Woodle-Direct by Mr. White

1 A. For the one child?

2 Q. Yes, ma'am.

3 A. He is ordered to pay \$307 plus five percent court costs  
4 for a total monthly payment of \$322.35 beginning May 1, 2019.

5 Q. Very good. And the next action that I have notes on in  
6 those documents that you have and that have been entered into  
7 evidence is September 10, 2019, and that's a notice of  
8 financial responsibility, and correct me if I'm wrong, at that  
9 time he's court ordered duty of support for all children; is  
10 that right?

11 A. You said September the 10th?

12 Q. Yes, ma'am.

13 A. Yes.

14 Q. And a negotiation conference is scheduled for when?

15 A. The next hearing?

16 Q. Yes, ma'am.

17 A. Was scheduled for January 16th of 2020.

18 Q. And maybe I asked it wrong, and that's okay. We'll walk  
19 through it. We got nothing but time. I realize the next  
20 hearing, but when in that September 10th document, when does it  
21 say the next negotiation conference is scheduled?

22 A. You mean on the notice of hearing for the --

23 Q. Still not seeing it?

24 A. No.

25 Q. My notes indicate that a negotiation conference was

Nicole Woodle-Direct by Mr. White

1 scheduled for December 11, 2019. I'm going to point your  
2 attention to this document here, notice of financial  
3 responsibility dated September 10, 2019. Do you have that  
4 document in your records?

5 A. Yes.

6 Q. If you look at the top where it says: You are required  
7 to appear. It's subsection two.

8 A. It's on April 17, 2019.

9 Q. I think we're on the wrong document. If you could just  
10 read this document right here, subsection two, the first line,  
11 if you could read that for us.

12 A. They were to appear December 11, 2019 at 11:00 a.m.

13 Q. Is that a negotiation conference at that time?

14 A. Yes.

15 Q. Okay. Now, during that negotiation conference were they  
16 able to reach an agreement as to the amount owed on all five  
17 kids?

18 A. I don't have an obligation. I mean, I don't have an  
19 actual order for --

20 Q. And is that why they scheduled the January 16th hearing?

21 A. Yes.

22 Q. So the January 16, 2020 hearing, why is that scheduled?

23 A. Because he requested genetic testing for all of the  
24 other four children.

25 Q. So was the January 16, 2020 hearing a final hearing on

Nicole Woodle-Cross by Mr. Brooker

1     this matter?

2     A.     Yes.

3     Q.     And what was the result of that hearing?

4     A.     Neither party appeared. The hearing was scheduled to  
5     add children to an existing support. Neither party appeared,  
6     case is non-tan (phonetic), I think that's what it says.

7     Q.     Does that mean it was dismissed?

8     A.     Pretty much.

9     Q.     And what is the next document in this file?

10    A.     I have a motion and order for dismissal due to the CP  
11    passed.

12    Q.     When you say, "passed," passed away, died?

13    A.     Yes.

14           MR. WHITE: Thank you, Judge. I have nothing  
15    further.

16           THE COURT: Cross?

17                           **CROSS-EXAMINATION**

18    BY MR. BROOKER:

19    Q.     How are you doing, Ms. Woodle? This is going to be real  
20    quick. Ms. Woodle, were you a fact witness to the murder  
21    that's under consideration by this jury today?

22    A.     (No audible response.)

23    Q.     I know you might find it unusual, but a very simple  
24    question. Were you a fact witness to whoever killed the two  
25    people that we're here in connection with today?

Dr. Ellen Riemer-Voir Dire by Mr. White

1 A. No.

2 Q. Okay. So you're not here testifying with respect to any  
3 evidence about that, whatsoever, are you?

4 A. No.

5 MR. BROOKER: No further questions.

6 THE COURT: Any further?

7 MR. WHITE: No, sir.

8 THE COURT: You have a good day. Call your next  
9 witness.

10 MR. WHITE: Judge, may we approach?

11 THE COURT: Sure. Members of the jury, the next  
12 witness is scheduled for 1:00 this afternoon, so we're going to  
13 give you a long lunch break but be back at 1:00. Everybody  
14 else remain seated while the jury is excused.

15 (Recess taken.)

16 THE COURT: Call your next witness.

17 MR. WHITE: Thank you, Your Honor, at this time the  
18 State would call Dr. Ellen Riemer.

19 **Dr. Ellen Riemer being first duly sworn, testified as**  
20 **follows:**

21 **VOIR DIRE**

22 BY MR. WHITE:

23 Q. Good afternoon, Dr. Riemer.

24 A. Good afternoon.

25 Q. If you could, tell us where are you employed?

Dr. Ellen Riemer-Voir Dire by Mr. White

1       A.     I'm employed at the Medical University of South Carolina  
2     where I work as a forensic pathologist.

3       Q.     And what does a forensic pathologist do?

4       A.     So a forensic pathologist is a medical doctor who  
5     specializes in determination of the cause and manner of death  
6     by performing autopsies on deceased individuals.

7       Q.     What kind of education, training and experience do you  
8     have to become a forensic pathologist?

9       A.     Yes.   So college, then medical school, so I graduated  
10    from medical school in 1997 and then I did a residency.  You  
11    can't just jump right into forensic pathology so I did a  
12    residency in pathology and I was at New York Presbyterian  
13    Hospital, Columbia University Medical Center in the City of New  
14    York and that was four years followed by a forensic pathology  
15    fellowship which was a one-year fellowship training at the  
16    office of the Chief Medical Examiner of the State of Maryland.  
17    I did an additional year of fellowship training in  
18    cardiovascular and pulmonary pathology at John Hopkins Hospital  
19    and I am board certified in anatomic pathology and forensic  
20    pathology.

21      Q.     Very good.  That's a lot of education.  And that led you  
22    to the Medical University of South Carolina?

23      A.     Well, actually, before -- I've been at MUSC for 14  
24    years.  When I finished up at John Hopkins, which was my most  
25    recent fellowship, I took a job at Wake Forest University

Dr. Ellen Riemer-Voir Dire by Mr. White

1 Baptist Medical Center in North Carolina and I remained there  
2 for almost six years until I was recruited by MUSC, so now I  
3 live in Charleston.

4 Q. It's a beautiful place down there. And in your time  
5 with MUSC, I know this is hard question to answer, but in your  
6 14 years, if you had to ballpark it, how many autopsies do you  
7 think you've conducted?

8 A. Well, over the course of my career I've done definitely  
9 over 5,000 autopsies, probably 5,500 including the autopsies I  
10 did during that one year fellowship training, so approximately  
11 5,500. It's probably 250 to 275 per year so, of the 5,500 they  
12 weren't all at MUSC, but probably 4,000 of them.

13 Q. You've been a very busy lady, to say the least. And  
14 during that time have you been to court before, have you  
15 testified as an expert in the field of forensic pathology?

16 A. Yes. So again, I'm not, like, marking off every time I  
17 come, but it's probably in the mid-200's. That's estimated  
18 because I'll say, well, it's usually about once a month and if  
19 that's over 20 years that would be, like, 250.

20 MR. WHITE: Judge, at this time I think I would move  
21 Dr. Riemer as an expert in the field of forensic pathology.

22 MR. BROOKER: Without objection, Your Honor.

23 THE COURT: Motion granted.

24 MR. WHITE: Thank you, Judge.

25

Dr. Ellen Riemer-Direct by Mr. White

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 Q. Now getting to this specific case, Dr. Riemer, did you  
4 have the occasion to perform autopsies on both Andrew Legette  
5 and Maisha Burch?

6 A. Yes.

7 Q. And how were each of those persons, how did you receive  
8 them at MUSC?

9 A. Yes. So the coroner, there's a coroner with each county  
10 and Marion County Coroner, Jerry Richardson, he may still be  
11 the coroner now, but at that time he was the coroner and he  
12 called up our office and said he needed autopsies performed by  
13 two individuals and so he scheduled them and then they arrived  
14 and I don't really know much else about the case.

15 Q. Now, when you're conducting an autopsy what are you  
16 looking for?

17 A. So I'm a pathologist. I'm an expert at what, you know,  
18 the disease process. So not everybody who comes to the autopsy  
19 room, you know, dies of traumatic injuries, so I have to, you  
20 know, do an autopsy and figure out why somebody died. Every  
21 person gets, you know, a complete examination. I'm not just  
22 looking externally. I examine everything internal and  
23 sometimes I do find injuries on the body. This is one of the  
24 specialties of forensic pathology. So not just am I  
25 knowledgeable about disease processes and to determine how



Dr. Ellen Riemer-Direct by Mr. White

1 somebody died of natural disease, but when there's injuries I  
2 can determine how the person may have come to their death.

3 Q. And when you're conducting an autopsy do you take notes  
4 as you go along?

5 A. Yes. So it's -- you know, I want to make sure that --  
6 the notes that I take are really for me to use so I can write a  
7 complete autopsy report and make sure I don't forget any  
8 details, so I write the critical pieces of information on,  
9 usually, a diagram, and then there's another sheet where I  
10 write the organ weights and if there's anything wrong with any  
11 of the internal organs, like, somebody could have coronary  
12 disease or something like that as well. So you know, anything  
13 that's wrong, not just trauma from, you know, and anywhere on  
14 the body. I start with the external exam and only after that  
15 will I perform the internal examination. Now, in this case  
16 because I observed gunshot wounds on the bodies of both these  
17 individuals, it's standard that not everybody gets x-rays done  
18 but I call -- I have x-ray technicians available. They come  
19 with a portable x-ray machine and do x-rays on areas of the  
20 body that I want and the purpose of this is for me to see, it  
21 doesn't replace the autopsy, it's like doing kind of a GPS, you  
22 know, before I get started so I know, like, what kind of  
23 projectile, if there's projectiles inside and I want to make  
24 sure to recover those, so the x-rays help me locate where those  
25 are.

Dr. Ellen Riemer-Direct by Mr. White

1 Q. And did those x-rays determine anything in this  
2 particular case?

3 A. Well, yeah, so when I did x-rays on both of these  
4 individuals they each had projectiles, metallic projectiles  
5 remaining in the body and I recovered all of them.

6 Q. And when you recovered them, what if anything did you do  
7 with them next?

8 A. Yeah. So you know, I put them in envelopes with a label  
9 from the individual that, you know, the projectile came from  
10 and they are transferred through, you know, the usual methods  
11 to an investigator who the coroner sends to collect evidence.

12 Q. Okay. Very good. Now, projectiles are kind of  
13 recovered as you go along in your autopsy process; is that  
14 correct?

15 A. Yes. So I'm not leaving until I get everything out of  
16 there. Sometimes it's fast, sometimes it takes a really long  
17 time, but, you know, I'm not just there to collect projectiles.  
18 I'm, you know, I'm tracking the wound paths through the body,  
19 and you know, as a result of my autopsy I can explain what  
20 organs the bullets may have gone through, where they started,  
21 where they went through, where they ended, and that is  
22 frequently, like in the case of multiple gunshot wounds, or  
23 gunshot wounds, you know, that's frequently the cause of death.

24 Q. And when you're going through your autopsy you mentioned  
25 that you take copious notes. Do you also use a diagram?

Dr. Ellen Riemer-Direct by Mr. White

1       A.    Yes.  So the notes that I take are frequently on the  
2    diagram because, you know, this way if I just say on the left  
3    cheek I can actually draw something on the left cheek and so it  
4    kind of gives me an idea of, you know, what I'm seeing which it  
5    helps me, you know, basically remember what I saw.  I'll take  
6    photographs, also, but the diagram, it really tells the whole  
7    story.

8           (State's Exhibit No. 67 was marked for identification.)

9       Q.    Very good.  And States Exhibit 67 is what I'm showing  
10   you now.  Is this a draft of the diagrams that you use?

11      A.    Yes.  So we have the autopsy room, it has like a bunch  
12   of, you know, blank diagrams, or sort of, like, start with a  
13   man, take this as a man diagram, and then when I have a woman  
14   I'll start with woman diagram and then I just, you know, mark  
15   on the body where I see, you know, anything wrong externally  
16   and then, you know, I can use any papers I want.  I'm not just  
17   limited to a diagram, but it's helpful, you know, on every  
18   case.

19      Q.    Very good.

20           MR. WHITE:  Judge, at this time I'd ask for  
21   permission to publish this item for demonstrative purposes  
22   only.

23           THE COURT:  Any objection?

24           MR. BROOKER:  No objection.

25      Q.    Dr. Riemer, if I could, I'd like for you to come down

Dr. Ellen Riemer-Direct by Mr. White

1 with the Court's permission and get you to show us with a  
2 marker on State's Exhibit 67 the injuries that were sustained  
3 by Andrew Legette.

4 A. Okay. I'll do that. So I'm just going to bring my file  
5 with me in case I leave something out. So he had two gunshot  
6 wounds. They were both on the face. One was to the left  
7 eyelid, kind of like over there (indicating,) and the other was  
8 to the left eyebrow (indicating.) Now, when I say "left," I  
9 mean, the patient's left. So it's right when we're looking at  
10 him, but it's his left. Okay? So he had two gunshot wounds,  
11 they were pretty close to each other and they both were going  
12 in a front to back direction, and bullets, there were two  
13 bullets, two entrance wounds, two bullets, and they were both  
14 in the right side of the brain. So they're going from front to  
15 back and then slightly from his left to his right because they  
16 were recovered in the right side of the brain, so I'll just  
17 kind of make up like a mark like they are kind of recovered in  
18 there. These are the entrance wounds and then they're  
19 recovered in the right side.

20 Q. And let me ask you this. On these entrance wounds was  
21 there any soot or stippling present?

22 A. Yes. So I'll explain so the jury can understand what  
23 that is. So when a projectile, a bullet, leaves the barrel of  
24 the gun, what propels it forward at the high rate of speed,  
25 it's gun powder, and gun powder is basically burning. Now, the

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1 bullet can potentially travel a very long distance but the gun  
2 powder as it leaves the barrel of the gun can only travel like  
3 two to three feet max. So if somebody shot at close range,  
4 like your body is within two or three feet from the barrel of a  
5 gun, some of that gun powder actually lands on their skin. So  
6 not only do I have a defect, like a hole from the bullet, but  
7 on the skin I see some, like, basically there's scrapes,  
8 abrasions from pieces of gun powder, and in this case he did,  
9 actually, Mr. Legette actually had some stippling, which is  
10 some particles of gun powder. It wasn't a contact range,  
11 because contact we see actual burning, but this was actually  
12 gun powder and what that looks like is, like, a bunch of dots  
13 around, and so I can see that that was shot at, you know, not a  
14 contact range, but you know, within two to three feet.

15 Q. Very good.

16 MR. WHITE: Judge, at this time I would move State's  
17 Exhibit 67 into evidence.

18 THE COURT: Any objection?

19 MR. BROOKER: Without objection, Your Honor.

20 THE COURT: State's 67 is in evidence without  
21 objection.

22 (State's Exhibit No. 67 was admitted into evidence.)

23 Q. And Dr. Riemer, if you'll stay with me I'm going to ask  
24 you to do the same thing --

25 MR. WHITE: And Judge, permission to publish State's

Dr. Ellen Riemer-Direct by Mr. White

1 Exhibit 66 for demonstrative purposes only.

2 THE COURT: Any objection?

3 MR. BROOKER: Without objection, Your Honor.

4 (State's Exhibit 66 was marked for identification.)

5 Q. And Dr. Riemer, if you could, if you'll do the same  
6 thing and walk us through the injuries sustained by Ms. Maisha  
7 Burch.

8 A. Okay. So she actually had more gunshot wounds than he  
9 did. Andrew Legette had two gunshot wounds. Remember, one was  
10 the left eye area, and she actually had five total. So she had  
11 five gunshot wounds, and so we'll go through each one of them.  
12 Okay? So three of them were fairly close together on the top  
13 of the head. We can't actually see the top of the head here.  
14 I can see the front and the back, but they were kind of really  
15 just at the top of the head. I actually couldn't see the  
16 entrance wounds without shaving her hair and then I saw them,  
17 but I could tell there were entrance wounds there because, you  
18 know, I could feel them, and then, you know, there's some blood  
19 in her hair, but I was able to visualize the actual holes and  
20 there was no soot or stippling so those were not from a close  
21 range. Okay? They were not from within two to three feet, and  
22 those three bullets, they were really close together and they  
23 followed a very similar trajectory which is downward, so  
24 they're all kind of going down like that. Okay? And slightly  
25 from her right, slightly, and the three bullets, they were

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1 small, you know, three small caliber bullets. You know, this  
2 is just the front of her face but you have to imagine, you  
3 know, we've done a three-dimensional head, so when I've just  
4 explained where the three bullets were recovered, they weren't  
5 all recovered in exactly the same location, but the wound has  
6 kind of overlapped with each other and one of the bullets was  
7 recovered, like, in the cranial cavity. So when I removed the  
8 brain -- it went through the brain. Each one of them went  
9 through the brain. Okay? But they kind of ended up in  
10 slightly different locations. One of the bullets stayed in the  
11 cranial cavity so that went through the brain, it was sitting  
12 there like right below the brain. Okay? And then the other  
13 two, one of them went through the base of the skull, so we  
14 have, our brain is kind of underneath the top of our head,  
15 obviously, but then there's also a bone that kind of holds it  
16 up, that separates, like, the brain from the face, otherwise  
17 the brain would just fall down. Right? So we have, you know,  
18 a skull that actually encloses, not just at the top but at the  
19 bottom, as well, one of them continued through the base of the  
20 skull and ended up in, like, the spinal canal. So you know,  
21 the brain is connected to the spinal cord and it was right in  
22 the spinal canal. So it started on the right side of the top  
23 of the head, ended up in the middle because the spinal column  
24 is right in the middle. Okay? So any kind of -- so all three  
25 are going in a downward direction, so we have one that was

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1 basically recovered in the, you know, in the cranial cavity,  
2 we'll call it that, and then one recovered in the spinal column  
3 of the neck, and then the third one was recovered in the same  
4 little cavity where the pituitary gland sits. That's right  
5 beneath the brain. So it didn't get quite as far as the one  
6 that ended up in the spinal cord, but it's like a little bit  
7 lower than here. So we've got the three of them came in and  
8 they stopped in different locations. The wounds paths  
9 overlapped so, you know, I just, I couldn't 100 percent tell  
10 because, you know, there's a lot of overlap of these paths of  
11 which bullet it was from, which entrance wound, but you know,  
12 they were three parallel closely clustered entrance wounds and  
13 the three bullets ended up in different locations. So again,  
14 there was no close range or stippling or soot on those three.  
15 Okay. Then she had one to the top of the right shoulder and  
16 that one was -- so her right shoulder -- okay. You know,  
17 sometimes it helps me, even though I've done 5,500 autopsies,  
18 to make a right and a left, because it's easy to get turned  
19 around while you're, like, looking at these bodies. So I want  
20 to make sure I draw everything on the right correct side. So  
21 the top of the right shoulder and this went -- this didn't  
22 really kill her, this wound, it was just kind of going downward  
23 like that, and then there was a bullet, like, right underneath  
24 the skin, over there. So she has an entrance wound, but it  
25 didn't really -- she would have survived that one if that was



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1 the only gunshot wound she had. The three to the top of the  
2 head, each one of them on its own would have been fatal. Okay.  
3 And then, so that's four: One, two, three four. And I don't  
4 know, you know, I examined the body, I don't know anything  
5 about the, you know, the investigation, I don't visit the  
6 scene, I don't have any idea what order these were fired.  
7 Okay? But on her body, then she had one other gunshot wound,  
8 and this was to the left cheek of the face, okay, so I'm using  
9 red here. I'll just stay there. Okay. So she had one to the  
10 left cheek of the face, kind of like right over there  
11 (indicating,) and that one, amazingly enough, just kind of --  
12 that one actually had stippling on it, so that was fired within  
13 two to three feet. Okay, so a bunch of dots around there so I  
14 could tell that it was a closer range than the ones to the top  
15 of the head or the shoulder, and that was going, like, straight  
16 across from her left cheek, and actually went through the  
17 bottom of her nose. Like, it went in, like, it almost went in  
18 one nostril and went out the other, so you know, that's  
19 actually possible, and that's what happened with her, and so  
20 then it actually exited. So it entered the left cheek and then  
21 went through the, kind of the tip of the nose area, and I  
22 didn't recover anything from that because it exited, and then,  
23 you know, didn't come to me. So those are the -- and that also  
24 would have not resulted in her death. Okay? So she would have  
25 needed some stitches and maybe some surgery to patch things up

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1 but that, you know, would not have been expected kill her on  
2 its own, but the three to the head, I made the determination  
3 after doing this that she didn't have anything else wrong with  
4 her that could have been responsible for her death, that the  
5 cause of death is gunshot wounds, in parentheses, three to  
6 head.

7 Q. And the last thing before I'll let you sit down, Dr.  
8 Riemer, I think as it pertains to Ms. Maisha Burch, your report  
9 indicated a contusion to her face. Were you aware of that  
10 particular injury?

11 A. Yes. So I don't think that what I've described as a  
12 contusion, I can review my notes, but I'm pretty sure -- the  
13 thing is when the bullets went through the base of the skull,  
14 we have bones that -- it's not just the base of the skull, but  
15 then they're on top of our eyes. So when there are fractures  
16 at the base of the skull it allows blood to seep in around the  
17 eye, and in this case she had bruising around the left eye, not  
18 from the direct impact but from the damage to the base of the  
19 skull that allowed blood to seep in around the eye. So it  
20 looks bruised, it looks like she's got, like, some kind of a  
21 black eye, but it wasn't from an impact, it was from the damage  
22 to the base of the skull. So I don't believe that -- you know,  
23 I didn't describe that as some kind of a blunt force or, you  
24 know, it wasn't punctured.

25 Q. I understand. Thank you, Dr. Riemer.

Dr. Ellen Riemer-Direct by Mr. White

1 MR. WHITE: Judge, at this time I'll move State's  
2 Exhibit 66 into evidence.

3 THE COURT: Any objections?

4 MR. BROOKER: Without objection, Your Honor.

5 THE COURT: State's Exhibit 66 is in evidence without  
6 objection.

7 (State's Exhibit No. 66 was admitted into evidence.)

8 MR. WHITE: Thanks, Dr. Riemer. You can have a seat.  
9 Thank you.

10 BY MR. WHITE:

11 Q. Now, Dr. Riemer, you indicated that you take notes and  
12 most of those are kept on a diagram such as the one you just  
13 went through; is that right?

14 A. Yes.

15 Q. And then once the autopsy is completed do you finalize  
16 your findings in a final report?

17 A. Yes. So you know, after I leave the autopsy my job's  
18 not done, you know, now I have to actually write the report and  
19 I make sure that the autopsy report is completely logical, it  
20 has all my findings so that when I have to go to court two  
21 years later or, you know, then it refreshes my memory and it  
22 accurately captures everything that I saw at the autopsy. So  
23 that's also what I do and then also every person that has an  
24 autopsy, that's ordered by the coroner, gets a full toxicology,  
25 tests done, we don't perform those toxicology tests at MUSC,

Dr. Ellen Riemer-Direct by Mr. White

1 but I collect blood from the body, that's part of my role at  
2 the autopsies, to collect the blood and to package it up and to  
3 send it out to a, you know, like a certified professional  
4 toxicology lab whose only job is to actually test blood or  
5 tissue for everything that could possibly be in. I always say  
6 there's no secrets of autopsy, everything that's in your body  
7 is going to be identified.

8 (State's Exhibit No. 64 was marked for identification.)

9 Q. Very good. Dr. Riemer, I'm going show you State's  
10 Exhibit 64 first. Could you tell me if you recognize that  
11 document.

12 A. Yes. So this is a copy of my final autopsy report that  
13 I wrote on Maisha Burch.

14 Q. And is it a fair and accurate depiction of the report  
15 that you --

16 A. Yeah, it's basically a xerox of it so --

17 MR. WHITE: Judge, I would move State's Exhibit 64  
18 into evidence.

19 THE COURT: Any objection?

20 MR. BROOKER: No objection, Your Honor.

21 THE COURT: State's 64 is in evidence without  
22 objection.

23 (State's Exhibit No. 64 was admitted into evidence.)

24 (State's Exhibit No. 65 was marked for identification.)

25 Q. And the same with State's Exhibit 65.

Dr. Ellen Riemer-Direct by Mr. White

1       A.     Yes.   This is Andrew Legette's autopsy report and then  
2       there's also a toxicology report attached to the report.

3               MR. WHITE:   I'll move State's Exhibit 65 into  
4       evidence, Judge.

5               THE COURT:   Any objections?

6               MR. BROOKER:   Without objection, Your Honor.

7               THE COURT:   State's 65 is in evidence without  
8       objection.

9               (State's Exhibit No. 65 was admitted into evidence.)

10       Q.     We're almost done, Dr. Riemer.   I just want to ask you a  
11       few more questions about the toxicology.   As it pertains  
12       to both of these individuals did you observe on the toxicology  
13       that they tested positive for alcohol?

14       A.     Yes.   So they both had alcohol in their system, and  
15       other than that they only had cotinine, which is a breakdown  
16       product of nicotine from cigarettes, that was it.

17       Q.     So no marijuana in their system?

18       A.     No marijuana or other drugs.

19       Q.     No cocaine?

20       A.     No cocaine, nothing except for alcohol and the nicotine  
21       metabolite, the breakdown coming from nicotine.

22       Q.     Very good.   And based on your medical expertise and  
23       within a reasonable degree of scientific certainty, what did  
24       you determine to be the cause and manner of death of both  
25       Andrew Legette and Maisha Burch?

Dr. Ellen Riemer-Cross by Mr. Brooker

1       A.     So for Maisha Burch, I stated she died of gunshot  
2     wounds, in parentheses, three to head. Remember, I said each  
3     one of them would have been sufficient so I grouped together.  
4     And the manner of death is homicide, which means death at the  
5     hands of another.

6       Q.     And for the next?

7       A.     And then Andrew, remember he had those two to the left  
8     eye and both of those went into the brain, so in his case he  
9     died of gunshot wounds, in parentheses, two, to head. So she  
10    died of gunshot wounds, three, three gunshot wounds to head, he  
11    died of two gunshot wounds to the head.

12    Q.     And the manner?

13    A.     The manner is homicide, which is death at the hands of  
14    another.

15               MR. WHITE: Beg the Court's indulgence. Thank you,  
16    Dr. Riemer, that's all I have for you. Please answer any  
17    questions the defense may have.

18                               **CROSS-EXAMINATION**

19    BY MR. BROOKER:

20    Q.     Dr. Riemer, I'll be extremely quick. I'm going to ask  
21    you, State's Exhibit, I think 64, which is the autopsy report  
22    for Maisha Burch, this autopsy report basically states how she  
23    died; is that correct?

24    A.     Yes.

25    Q.     Does this autopsy report state who killed her?

Dr. Ellen Riemer-Cross by Mr. Brooker

1 A. No.

2 Q. State's Exhibit Number 65, this autopsy report is for  
3 Andrew Legette, and of course, this autopsy report states how  
4 Mr. Legette died; is that correct?

5 A. Yes.

6 Q. Does this autopsy report state who killed Mr. Legette?

7 A. No.

8 MR. BROOKER: No further questions, Your Honor.

9 THE COURT: Any Redirect?

10 MR. WHITE: That's it, Judge. Thank you very much,  
11 Dr. Riemer. I would ask that she be released from her  
12 subpoena.

13 MR. BROOKER: Without objection, Your Honor.

14 THE COURT: Have a good day. You can call your next  
15 witness.

16 MR. WHITE: May we approach?

17 THE COURT: Yes.

18 **The following proceedings were held at the bench by**  
19 **Court and counsel:**

20 THE COURT: My next witness is Agent Barkdoll and  
21 that's two hours of video. I certainly don't want to make the  
22 jury, you know, it's Friday afternoon.

23 MR. BROOKER: Yeah, and we do have to talk with them  
24 about the redactions.

25 MR. WHITE: That's true. He has an objection the

1 video.

2 THE COURT: So you're finished for the day?

3 MR. WHITE: I think so.

4 THE COURT: Done for the day.

5 MR. WHITE: That sounds great.

6 THE COURT: Members of the jury, I don't do this  
7 often, but I'm going to need you to come back at 9:30 Monday  
8 morning. We're going to stay here and we're going to continue  
9 to work and try to get this streamlined for you. I anticipate  
10 to finish with this case maybe Tuesday, so I'm hoping Monday  
11 and Tuesday and then we'll be done. As I told you before,  
12 don't research the case, don't discuss the case, don't talk to  
13 anybody about this case, and if you haven't already figured it  
14 out, it's an extremely important case to the State of South  
15 Carolina, it's extremely important to the defendant, and you  
16 are the most important factor in this trial and we appreciate  
17 you being here. Hope you have a good weekend, we're going to  
18 stay and work, don't talk about it, don't research it.  
19 Everybody remain seated while the jury is excused.

20 (Jury excused for the day)

21 THE COURT: Anything we need to take up before  
22 Monday?

23 MR. WHITE: I do believe Mr. Brooker has a motion,  
24 Judge.

25 THE COURT: Okay. Yes, sir?



1           MR. BROOKER: Your Honor, we have a motion regarding,  
2 I think, the December 20th video, and specifically, obviously,  
3 we made a pretrial objection with respect to that, and you've  
4 already ruled on that, that's not what it's about, and you've  
5 determined that the video was going to be admissible. We still  
6 object to the entire video. Now it's coming into play -- now  
7 it's coming into evidence, and of course we have some specific  
8 objection to specific parts of the video. When I reviewed the  
9 redaction, the redacted video from that 2020 interview, Your  
10 Honor, I think the first 12 minutes and 14 seconds of that  
11 video was done without Miranda Warnings. I think he came in  
12 and changed, so he was clearly in custody, and I think they  
13 talk with him for at least 12 minutes and 48 seconds before  
14 they mirandized him, so because he was not mirandized for well  
15 over ten minutes, any of that pre-miranda questions should be  
16 struck. Now, I know there may be an argument saying, well, he  
17 voluntarily talked with him. Now, he wasn't voluntarily there.  
18 He was arrested, he was brought to the, I think it's -- what is  
19 it? The Horry County Police Department headquarters. He was  
20 put in an interview room in handcuffs, and of course, two  
21 officers came in and started interrogating him. So they should  
22 have, and it's required, I think this is undisputable, should  
23 have mirandized him before they started questioning. So  
24 anything that occurred, any conversations, questions that they  
25 asked him pre-miranda, should be redacted. The other things,

1 Your Honor, and this is in various portions throughout the  
2 tape, in various portions throughout the tape, and of course, I  
3 made specific locations within the tape where these challenges  
4 occurred, but there is conversations and reference to him being  
5 arrested for a bench warrant for child support, and of course,  
6 that falls underneath prior bad acts. So they are saying  
7 you're being arrested because you didn't pay your child  
8 support, and of course the judge issues a bench warrant for  
9 your arrest. So we're asking for any mention of him being  
10 arrested for child support to be redacted. And then, of  
11 course, the other main portions of the -- the other areas of  
12 objections that we're making, Your Honor, and this is the third  
13 and final one, is that the interpretation of the DNA evidence,  
14 I think we had the DNA expert doing the pretrial -- doing the  
15 pretrial hearing that we had yesterday, we had the expert get  
16 up and testify to the DNA evidence and specifically what that  
17 DNA evidence means. I know that she testified that their  
18 interpretation is what's called, I think, likelihood ratio,  
19 which was pretty much no different than what they used before  
20 from a probability ratio, but she called it a likelihood ratio,  
21 and basically what she testified to is is that this was  
22 evidence that could not exclude him as a contributor but not  
23 evidence, and I asked her this a ton of times, you know, can  
24 you say that he is a contributor to the DNA. On all three of  
25 the samples, on all three of those samples in which I think

1   there was likelihood ratios relating to Issac, and I think on  
2   each and every one of them she says, well, no, we can't say  
3   that, we can only talk in likelihood ratios. What is the  
4   likelihood that he was a contributor? If you would take a look  
5   at the December 20th interview, law enforcement officers are  
6   saying to him, it is absolute positive that it's your DNA. You  
7   know, we have scientific evidence that is your DNA on the back  
8   door, that is your DNA on the wall, that is your DNA underneath  
9   her fingernails, scientifically, you know, it's absolute, it is  
10   your DNA. And the reason why I raise that question is that  
11   when we go back to Phillips in which Phillips, if you remember  
12   from reading Phillips, there was a tremendous amount of  
13   criticism about the jury, not only the judge, but the jury  
14   being presented evidence that was misleading and false, which  
15   would then affect the jury's ability to be able to interpret  
16   what this complicated evidence means. But law enforcement in  
17   that video says what this means is is that it's positively his  
18   DNA, his DNA, absolutely know something about it, and I think  
19   if you could take a look at the video of his there's no doubt  
20   for them saying, you know, hey, there was a two-person mixture  
21   or a three-person mixture, that you cannot be excluded as a  
22   contributor to that mixture. They said it's absolutely your  
23   DNA evidence, no question about it, we know you were there  
24   because the DNA evidence puts you there. That is also going to  
25   be something that's going to mislead the jury because if you

1 heard the DNA expert, the DNA expert testified to there's two  
2 things that DNA evidence can't do. One, DNA evidence can't  
3 age -- DNA analysis can't age DNA, so they can't determine  
4 whether or not DNA was deposited two days ago, five days ago,  
5 ten days ago, a week ago, or even three weeks ago, so it can't  
6 determine exactly when that DNA got there. And then, also, two  
7 is is that she said that the other weaknesses of DNA evidence  
8 is DNA evidence cannot determine exactly who is responsible for  
9 placing that DNA evidence there, because if you can remember I  
10 asked her about secondary transfer, which means is is that I  
11 can collect someone else's DNA and deposit that DNA at a place  
12 that they've never been, and that's the theory of secondary  
13 transfer, and she said, no, that is the limit of DNA. She said  
14 she can't say how that DNA got there. She can't say whether or  
15 not that DNA came directly from who they suspect is the source  
16 or even whether or not that DNA was transferred by a third  
17 party through, you know, this secondary transfer. So but when  
18 the police officers in the video, they said, absolutely it's  
19 your DNA, absolutely that means that you were there, absolutely  
20 that means that you killed her. That's what they say, and that  
21 is tremendously misleading. I think that is right in the  
22 wheelhouse of what Phillips was trying to protect against  
23 because DNA evidence is very complicated and I think the  
24 Supreme Court was tremendously concerned about, you know,  
25 jurors being confused with respect to what this complicated

1 evidence means. Again, I'll say this quickly or I'll say it  
2 after Ryan speaks, because I think, and I've talked with Ryan  
3 briefly, and I think we kind of talked about this, and of  
4 course, I think one of the arguments he made to me was that  
5 police officers are allowed to use deception and deceit in  
6 interrogation somewhat --

7 THE COURT: That's right.

8 MR. BROOKER: -- and they are absolutely right, but  
9 of course, if you do the research, Your Honor, the only time  
10 that deception and deceit comes into play is that when someone  
11 is seeking to -- when someone is seeking to have a confession  
12 suppressed on the grounds that they were lied to and confused,  
13 and of course, the Court says, just because law enforcement may  
14 have provided you false information during the interrogation  
15 that that is not grounds for suppressing the confession. And  
16 all of those cases are, I would say, or just about all of them  
17 that I've seen are pre-Phillips cases. Phillips changed a lot,  
18 and we're not talking about suppression of a confession, we're  
19 talking about DNA evidence and we're talking about providing  
20 accurate information to the jury on a complex issue of DNA  
21 evidence and what that means, and Phillips clearly says that  
22 the jury was misled and that was one of the reasons why, said  
23 they were misled by the prosecutor, said they were misled by  
24 the DNA expert, and that was clearly --

25 THE COURT: The DNA expert didn't even take the

1 stand in Phillips.

2 MR. BROOKER: That was pretrial, there was no  
3 pretrial hearing, but the DNA expert did testify at trial, but  
4 there was no pretrial hearing which I think Phillips says was  
5 an error because the judge couldn't make a determination at  
6 pretrial whether or not the evidence was admissible, you know,  
7 under 702 and 403 because there was no pretrial testimony, but  
8 she did testify at trial, and I think it was her trial  
9 testimony in which the Court says that when she testified at  
10 trial that she had misled the jury at trial, but that's what  
11 this evidence is gonna do. This evidence is gonna do exactly  
12 what Phillips says that we can't do when we're talking about  
13 touch DNA and this type of, you know, probability, or  
14 likelihood ratio DNA, says we can't confuse the jury because  
15 it's extremely complicated.

16 THE COURT: I'm not sure if Phillips is applicable to  
17 an interrogation by an officer.

18 MR. BROOKER: I'm sorry?

19 THE COURT: I'm not sure Phillips is applicable to  
20 the interrogation by an officer. They can be deceptive. They  
21 can say things that are not true. They cannot use hearsay, but  
22 they can be deceptive. Do you want to respond to it?

23 MR. WHITE: Judge, I agree. I think what Phillips is  
24 dealing with is --

25 THE COURT: Totally different.

1           MR. WHITE: -- is a totally different issue, and  
2 we've covered Phillips, Judge, and you've made a ruling. Here,  
3 I think that they should -- they did, and they should be  
4 allowed to use allowable deception, I mean --

5           THE COURT: So long as it's not hearsay.

6           MR. WHITE: Correct.

7           THE COURT: They can't say somebody said that you had  
8 DNA, or say things of that nature.

9           MR. WHITE: Correct, Judge.

10          THE COURT: Because the case came down on me so I'm  
11 familiar with it, from the Supreme Court.

12          MR. WHITE: Yes, sir, and the expert is going to  
13 testify here and one of the officers who was in the room is  
14 going to be available for testimony and he can cross on all of  
15 those issues.

16          THE COURT: That's right.

17          MR. WHITE: Mr. Brooker, if you'd just give me a  
18 minute, I gave you plenty of time --

19          THE COURT: And I agree with that. Why don't we  
20 redact the child support bench warrant.

21          MR. WHITE: Here's my argument against that, Judge.  
22 First of all, he brings it up. Mr. Hemingway brings it up.

23          THE COURT: After being many mirandized?

24          MR. WHITE: Well, throughout. He's constantly asking  
25 the officers, you know, what about this bench warrant, what

1 about this bench warrant, and the other thing is it goes to the  
2 heart of motive here. He claims that he's this good father.  
3 You've heard it on the video earlier. He's this good dad, you  
4 know, he paints himself as a good dad, but yet, he's being  
5 picked up on a child support bench warrant, so it goes to the  
6 heart of our motive. And then the first issue that Mr. Brooker  
7 brought up, I don't think that's applicable either, Miranda is  
8 two-fold, it has to be in custody but also in response to  
9 interrogation, and you can see, up until he's mirandized, these  
10 officers are just waiting for him to be quiet and he keeps  
11 talking and talking and talking, and in fact, at one point when  
12 he's mirandized Investigator Hotaling has to stop, okay, now,  
13 I've got to go ahead and mirandize you, so I don't think any of  
14 that should be excluded just because he can't shut up.

15 MR. BROOKER: I can say one thing, Your Honor, and  
16 I'll be very quickly, I imagine I'll be less than two minutes.  
17 Your Honor, I disagree with Ryan's characterization. You need  
18 to take a look at the video yourself. This is over 12 minutes  
19 and they are actively asking him questions.

20 THE COURT: Do you have something I could play the  
21 video with, or can you play it while I'm here?

22 MR. WHITE: Yes, sir, I could e-mail it to you.

23 THE COURT: How long is that second video?

24 MR. WHITE: It's two hours.

25 THE COURT: Well, at least let me look at the first



1 12 minutes.

2 MR. WHITE: Yes, sir. Right now?

3 THE COURT: Yeah, if you can, and let's just take a  
4 look and see what happens.

5 MR. WHITE: Yes, sir.

6 MR. BROOKER: Let me say one more thing, Your Honor,  
7 in rebuttal in reference to deception and deceit, and of course  
8 it's that, Your Honor, when a law enforcement officer says  
9 something that in deception and deceit, everything that they  
10 say in -- everything that they say during that video, deception  
11 is -- because deceit is legitimate for purposes of soliciting  
12 testimony or soliciting a confession, but everything that they  
13 say at pretrial is not admissible in trial. We're not talking  
14 about pretrial and so that's one of the reasons why if they say  
15 something about prior criminal record and says, you're scum  
16 because you did this, that's not admissible. It is routinely  
17 redacted because -- now, does it invalidate the confession if  
18 your guy gives a confession? It does not invalidate a  
19 confession, but it does not come into evidence, and so this  
20 argument that everything that you said during the interrogation  
21 room comes into evidence is not redacted is just flat out  
22 false. Bad faith evidence is redacted all the time during  
23 interrogations, and that's why we have to go in and clean it  
24 up. So the fact that they made the argument or the fact that  
25 they sent this to an interrogation, that doesn't, that doesn't

1     --

2               THE COURT:  The fact that they said what?  Are you  
3     talking about the DNA?

4               MR. BROOKER:  Yeah.  That doesn't waive what the  
5     Court says in Phillips.  If they mention that he has a prior  
6     criminal record that doesn't waive, you know, the rule of  
7     evidence, you know, the bad acts, it has to be redacted out.  
8     And so everything that you say in a confession doesn't  
9     automatically -- Excuse me, during an interview, doesn't  
10    automatically come in.  If there are things that violates  
11    principles or law that the Court has set out, it has to be  
12    taken out, and I think Phillips basically sets the principle  
13    and says that information that is going to mislead the jury and  
14    deceive the jury has to be taken out.  It can't be presented to  
15    the jury, and that was the basis of, you know, the Court  
16    saying, hey, we're going to overturn this conviction.

17              THE COURT:  And there is a lot going on in Phillips.  
18    I mean, there's a whole lot going on.

19              MR. BROOKER:  There's a tremendous amount, yes, sir.

20              THE COURT:  It's not quite as simple as you're making  
21    it sound.  Let me see the first 12 minutes.

22                               (video playing.)

23              MR. WHITE:  Judge, I apologize for wasting your time.  
24    I think we'll concede at that point.  I will cut that out and  
25    stop at the miranda point.

1           THE COURT: I think so. Give me just a few minutes.  
2 Let me research the child support issue and the deceit and I'll  
3 be back with you.

4           MR. WHITE: Yes, sir. Thank you.

5                               (Recess taken.)

6           THE COURT: So there's three parts to this objection  
7 from the defense and we're going to grant the first part,  
8 they've conceded to it. Let's cut the interview all the way up  
9 to the point he's mirandized.

10          MR. WHITE: Yes, sir.

11          THE COURT: So that's done. In regarding the child  
12 support, child support in this case has already been  
13 established in the record -- let me finish -- numerous,  
14 numerous times. It has been established by the State as to  
15 State's theory, his motive for the killing. It is a large  
16 part, essential part, of the State's case, and in my opinion,  
17 it's extremely relevant, and in this case that substantially  
18 outweighs his prejudicial effect, any confusion or any  
19 misleading the jury. I don't think that child support would in  
20 any form or fashion make that jury convict him of murder just  
21 because he didn't pay child support. A lot of people in this  
22 town don't pay child support. And then as far as the  
23 interrogation goes and the DNA analysis goes, the United States  
24 Supreme Court and the South Carolina Supreme Court, they've  
25 clearly established that deceit and trickery can be used in an

1   interrogation. It just simply cannot be hearsay. They cannot  
2   say we heard that you said or we heard that you were there or  
3   that we heard that a DNA report said so and so, but if they  
4   said we have DNA and so forth and so forth, even if it's not  
5   true, it doesn't matter, they could still do it. That's the  
6   way I see it based on the case law I've read. Now you can  
7   respond to it.

8               MR. BROOKER: I'll only take a couple seconds, Your  
9   Honor. I'm not complaining about them mentioning child  
10   support, I'm complaining about them mentioning him being  
11   arrested for the child support bench warrant. That's the part  
12   that I'm talking about. Child support is already in, you're  
13   absolutely right about that. Any discussions about child  
14   support, that is not what my argument is. It's the arguments  
15   about him being arrested on a child support bench warrant for  
16   not paying child support.

17              THE COURT: But how would that prejudice him? I  
18   mean, what's the problem with that? Do you think it's a prior  
19   bad act and that jury is going to confuse child support with  
20   murder? And I'm just asking.

21              MR. BROOKER: Well, Your Honor, obviously, they think  
22   it is because that's the motive that they choose.

23              THE COURT: That's right.

24              MR. BROOKER: And then so, obviously, if they're  
25   choosing as murder -- choosing as a motive for murder then they

1 think it's relevant to murder, so I think that point has  
2 already been proved by the prosecutor choosing to do that. I'm  
3 not complaining about them mentioning child support, it's  
4 already been testified to, I'm talking about him being arrested  
5 on the child support bench warrant. That's the part that I'm  
6 asking to exclude and I just wanted to get that part corrected  
7 for the record. It's not that he is on child support, that's  
8 not what we're talk about. We're talking about the arrest on  
9 the child support bench warrant.

10 THE COURT: Any response to that?

11 MR. WHITE: And again, it goes to motive, Judge. I  
12 mean, I respect your ruling and I think it's appropriate.

13 THE COURT: I think it does, too. It's obviously  
14 relevant. We all agree it's relevant, and I don't think the  
15 jury is going to confuse him not paying child support with  
16 murder, that's just my opinion. Let's come back Monday morning  
17 9:30.

18 MR. WHITE: Yes, sir, and just one brief matter and I  
19 promise then you can all go home, I'm sorry. I just want --  
20 and just in case out of abundance of caution, I would ask the  
21 Court to make the defendant aware that if he does not show up  
22 Monday morning that he will be tried in his absence.

23 THE COURT: That's right, and I'm sure he understands  
24 that, and certainly, don't talk to anybody, don't talk to any  
25 jurors, nobody on the street, you or your family, just relax

1 and come back Monday morning at 9:30 and we'll move on.

2 MR. WHITE: Thank you, Judge.

3 THE COURT: Thank you all.

4 CERTIFICATE

5 STATE OF SOUTH CAROLINA

6 COUNTY OF MARION

7 I, Julie A. Kevish, Official Court Reporter for the  
8 State of South Carolina, do hereby certify that the foregoing  
9 is a true, accurate and complete Transcript of Record of the  
10 proceedings had and evidence introduced in the Court of General  
11 Sessions for Marion County, South Carolina, on the 24th day of  
12 February, 2023.

13 I do further certify that I am neither of kin,  
14 counsel, nor interest to any party hereto.

15

16 February 24, 2023

17

18

*Julie Kevish*

19

JULIE A. KEVISH  
OFFICIAL COURT REPORTER

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) COURT OF GENERAL SESSIONS  
) 2021-GS-33-00273  
) 2021-GS-33-00275  
) 2021-GS-33-00276

) TRANSCRIPT OF RECORD

) Marion, South Carolina

) February 21-23, 2023

DEFENDANT) Feb. 27 - March 2, 2023

|    |                           | <u>I N D E X</u> |              |                                |
|----|---------------------------|------------------|--------------|--------------------------------|
|    | <u>WITNESS</u>            | <u>DIRECT</u>    | <u>CROSS</u> | <u>REDIRECT</u> <u>RECROSS</u> |
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|    | <u>I N D E X</u>        |               |              |                                |
|----|-------------------------|---------------|--------------|--------------------------------|
|    | <u>WITNESS</u>          | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> <u>RECROSS</u> |
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| 2  |                         |               |              |                                |
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| 13 | Mr. Brooker             |               | 306          | 361                            |
| 14 |                         |               |              |                                |
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| 16 | Mr. White               | 367           |              | 440                            |
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| 20 | Mr. White               | 454           |              | 515                            |
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| 1  |                   | <u>I N D E X</u> |              |                 |                |
| 2  | <u>WITNESS</u>    | <u>DIRECT</u>    | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
| 3  | Chris Johnson     |                  |              |                 |                |
| 4  | Mr. White         | 534              |              | 590             |                |
| 5  | Mr. Brooker       |                  | 547          |                 | 591            |
| 6  |                   |                  |              |                 |                |
| 7  | Maryann Boehm     |                  |              |                 |                |
| 8  | Mr. White         | 596              |              | 671             |                |
| 9  | Mr. Brooker       |                  | 623          |                 | 677            |
| 10 |                   |                  |              |                 |                |
| 11 | Nicole Woodle     |                  |              |                 |                |
| 12 | Mr. Brooker       | 709              |              |                 |                |
| 13 |                   |                  |              |                 |                |
| 14 | Latosha Baines    |                  |              |                 |                |
| 15 | Mr. Brooker       | 711              |              | 761             |                |
| 16 | Mr. White         |                  | 743          |                 | 766            |
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| 19 | Mr. Brooker       | 767              |              |                 |                |
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|----|-------------------------|---------------|--------------|-----------------|----------------|
| 1  | <u>I N D E X</u>        |               |              |                 |                |
| 2  | <u>WITNESS</u>          | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
| 3  | Charge of the Court     | 874           |              |                 |                |
| 4  | Verdict of the Jury     | 893           |              |                 |                |
| 5  | Sentence of the Court   | 911           |              |                 |                |
| 6  | Certificate of Reporter | 912           |              |                 |                |
| 7  |                         |               |              |                 |                |
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|    | <u>E X H I B I T S</u> |                    |            |             |
|----|------------------------|--------------------|------------|-------------|
|    | <u>NO.</u>             | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
| 1  |                        |                    |            |             |
| 2  |                        |                    |            |             |
| 3  | S-1                    | Miranda Warning    |            | 299         |
| 4  | S-2                    | Miranda Warning    |            | 60          |
| 5  | S-3                    | Photo              |            | 220         |
| 6  | S-4                    | Photo              |            | 220         |
| 7  | S-5                    | Photo              |            | 220         |
| 8  | S-6                    | Photo              |            | 220         |
| 9  | S-7                    | Photo              |            | 220         |
| 10 | S-8                    | Photo              |            | 220         |
| 11 | S-9                    | Photo              |            | 220         |
| 12 | S-10                   | Photo              |            | 220         |
| 13 | S-11                   | Photo              |            | 220         |
| 14 | S-12                   | Photo              |            | 220         |
| 15 | S-13                   | Photo              |            | 220         |
| 16 | S-14                   | Photo              |            | 220         |
| 17 | S-15                   | Photo              |            | 220         |
| 18 | S-16                   | Photo              |            | 220         |
| 19 | S-17                   | Photo              |            | 220         |
| 20 | S-18                   | Photo              |            | 220         |
| 21 | S-19                   | Photo              | 89         |             |
| 22 | S-20                   | Photo              |            | 220         |
| 23 | S-21                   | Photo              |            | 220         |
| 24 | S-22                   | Photo              |            | 220         |
| 25 | S-23                   | Photo              |            | 220         |

| <u>I N D E X</u> |            |                    |            |             |
|------------------|------------|--------------------|------------|-------------|
|                  | <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
| 1                |            |                    |            |             |
| 2                |            |                    |            |             |
| 3                | S-24       | Photo              |            | 220         |
| 4                | S-25       | Photo              |            | 220         |
| 5                | S-26       | Photo              |            | 220         |
| 6                | S-27       | Photo              |            | 220         |
| 7                | S-28       | Photo              |            | 220         |
| 8                | S-29       | Photo              |            | 220         |
| 9                | S-30       | Photo              |            | 220         |
| 10               | S-31       | Photo              |            | 220         |
| 11               | S-32       | Photo              |            | 220         |
| 12               | S-33       | Photo              |            | 220         |
| 13               | S-34       | Photo              |            | 220         |
| 14               | S-35       | Photo              |            | 220         |
| 15               | S-36       | Photo ID           | 81         |             |
| 16               | S-37       | Photo              |            | 220         |
| 17               | S-38       | Photo              |            | 220         |
| 18               | S-39       | Photo ID           | 91         |             |
| 19               | S-40       | Photo ID           | 83         |             |
| 20               | S-41       | Photo              |            | 220         |
| 21               | S-42       | Photo              |            | 220         |
| 22               | S-43       | Photo              |            | 220         |
| 23               | S-44       | Photo ID           | 88         |             |
| 24               | S-45       | Photo              |            | 220         |
| 25               | S-46       | Photo ID           | 83         |             |

|    |                        |                                 |            |             |
|----|------------------------|---------------------------------|------------|-------------|
| 1  | <u>E X H I B I T S</u> |                                 |            |             |
| 2  | <u>NO.</u>             | <u>DESCRIPTION</u>              | <u>ID.</u> | <u>EVD.</u> |
| 3  | S-47                   | Photo                           |            | 220         |
| 4  | S-48                   | Photo                           |            | 220         |
| 5  | S-49                   | 9-1-1 Disk                      |            | 158         |
| 6  | S-50                   | Aerial Photo                    |            | 205         |
| 7  | S-51                   | Crime Scene Sketch              |            | 234         |
| 8  | S-52                   | Verizon Wireless Record on Disk |            | 280         |
| 9  | S-53                   | Buccal Swab                     | 400        | 599         |
| 10 | S-54                   | Hair DNA                        | 400        | 599         |
| 11 | S-55                   | Buccal Swab                     | 400        | 599         |
| 12 | S-56                   | Tissue DNA                      | 400        | 599         |
| 13 | S-57                   | Fingernail Clippings            | 400        | 599         |
| 14 | S-58                   | Buccal Swab                     | 400        | 599         |
| 15 | S-59                   | Fingernail Clippings            | 400        | 599         |
| 16 | S-60                   | First Interview on Disk         |            | 300         |
| 17 | S-61                   | DNA Report                      | 395        | 600         |
| 18 | S-62                   | CD                              |            | 466         |
| 19 | S-68                   | Cell Phone Log                  |            | 538         |
| 20 | S-69                   | Projectiles                     |            | 523         |
| 21 | S-70                   | DNA                             |            | 599         |
| 22 | S-71                   | DNA                             |            | 599         |
| 23 | S-72                   | DNA                             |            | 599         |
| 24 |                        |                                 |            |             |
| 25 |                        |                                 |            |             |

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|----|------------------------|-----------------------|------------|-------------|
| 1  | <u>E X H I B I T S</u> |                       |            |             |
| 2  | <u>NO.</u>             | <u>DESCRIPTION</u>    | <u>ID.</u> | <u>EVD.</u> |
| 3  | D-1                    | Motion to Suppress ID | 92         | 314         |
| 4  | D-2                    | Motion to Suppress ID | 116        |             |
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| 6  | D-4                    | Cellular Analysis     |            | 559         |
| 7  | D-5                    | Photo                 |            | 715         |
| 8  | D-6                    | Photo                 |            | 715         |
| 9  | D-7                    | Photo                 |            | 715         |
| 10 | D-8                    | Photo                 |            | 715         |
| 11 | D-9                    | Photo                 |            | 715         |
| 12 | D-10                   | Photo                 |            | 715         |
| 13 | D-11                   | Photo                 |            | 715         |
| 14 | D-12                   | Photo                 |            | 715         |
| 15 | D-13                   | Photo                 |            | 715         |
| 16 | D-14                   | Photo                 |            | 715         |
| 17 | D-16                   | Photo                 |            | 715         |
| 18 | D-17                   | Photo                 |            | 715         |
| 19 | D-18                   | Photo                 |            | 715         |
| 20 | D-19                   | Photo                 |            | 715         |
| 21 | D-20                   | Photo                 |            | 715         |
| 22 | D-21                   | Photo                 |            | 715         |
| 23 | D-21                   | Photo                 |            | 715         |
| 24 | D-22                   | Photo                 |            | 715         |
| 25 | D-23                   | Photo                 |            | 715         |

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|----|------------------------|--------------------|------------|-------------|
| 1  | <u>E X H I B I T S</u> |                    |            |             |
| 2  | <u>NO.</u>             | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
| 3  | D-24                   | Photo              |            | 715         |
| 4  | D-25                   | Photo              |            | 715         |
| 5  | D-26                   | Photo              |            | 715         |
| 6  | D-27                   | Photo              |            | 715         |
| 7  | D-28                   | Photo              |            | 715         |
| 8  | D-29                   | Photo              |            | 715         |
| 9  | D-30                   | Photo              |            | 715         |
| 10 | D-31                   | Photo              |            | 715         |
| 11 | D-32                   | Photo              |            | 715         |
| 12 |                        |                    |            |             |
| 13 | C-1                    | Note from Jury     |            | 776         |
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| 25 |                        |                    |            |             |



1 THE COURT: Are you all ready to move forward  
2 with jury selection?

3 MR. WHITE: Yes, sir.

4 THE COURT: All right. At this point in time, I  
5 need to ask you a third series of questions in order to  
6 make sure that you're qualified to serve on a particular  
7 case. If any of these questions apply to you, I need for  
8 you to stand and respond. I'll have the State call their  
9 case at this time.

10 MR. WHITE: Thank you, Judge. At this time the  
11 State would call the case of the State vs. Issac Kareem  
12 Hemingway who's charged on indictments 2021-GS-33-00273,  
13 275 and 276 with two counts of murder and one count of  
14 possession of a weapon during a violent crime.

15 THE COURT: All right. Members of the jury  
16 panel, in this case the State of South Carolina alleges  
17 that Issac Kareem Hemingway did in Marion County on or  
18 about January 12th 2020, willfully and intentionally  
19 killed Maisha Burch and Andrew Legette. Therefore,  
20 charges two counts of murder as well as that he is charged  
21 with possession of a weapon during a violent crime. In  
22 this regard, he has pled not guilty and requested a jury  
23 trial.

24 Now, has any member of the jury panel heard  
25 anything about this case or read anything about this case,

1 talk to anybody about this or do you know anything at all  
2 about this case, if so please stand? All right, I'm going  
3 to have you come on up here. Juror 204. Okay, how does  
4 this question apply to you?

5 (WHEREUPON, this is juror 204 Shawn Pee.)

6 PROSPECTIVE JUROR: Andrew is my cousin.

7 THE COURT: I'll excuse you from this trial.  
8 You don't need to stand up for any more questions, okay.  
9 He's excused.

10 What's your number?

11 PROSPECTIVE JUROR: I don't know my number.

12 THE COURT: Let me look it up real quick.

13 PROSPECTIVE JUROR: Michael Cusac C-U-S-A-C.

14 (WHEREUPON, this is juror number 56 Michael  
15 Cusac.)

16 THE COURT: Okay. You were the math teacher,  
17 right?

18 PROSPECTIVE JUROR: Yes. I don't know much. I  
19 vaguely recall it was a home invasion case, that's it.

20 THE COURT: You just heard about it on the news  
21 or whatever?

22 PROSPECTIVE JUROR: I saw a headline or  
23 something.

24 THE COURT: All right. Well, taking that into  
25 account, if you were selected to serve on a jury in this

1 case, could you be fair and impartial to both sides?

2 PROSPECTIVE JUROR: I believe so.

3 THE COURT: Is that a yes?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Would you be fair to the State and  
6 the defense? Would you be fair to the defense ---

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Okay, good. Thank you. I  
9 appreciate you coming forward.

10 (WHEREUPON, this is juror 291 Terri Williamson.)

11 THE COURT: Can I get your number real quick?

12 PROSPECTIVE JUROR: 291.

13 THE COURT: 291 all right.

14 PROSPECTIVE JUROR: I was the neighbor.

15 THE COURT: Are you the neighbor?

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: Of the victims or the defendant?  
18 The victims?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Is that a yes?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: All right. Taking that into  
23 account, if you were selected to serve on this case, could  
24 you be fair and impartial to the State and the defendant?

25 PROSPECTIVE JUROR: Uh-uh.

1 THE COURT: That's a no?

2 PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: I need you to say no, yes. Taking  
4 all that into account, I'm going to excuse you from this  
5 trial.

6 PROSPECTIVE JUROR: Okay.

7 THE COURT: If you'll just go have a seat up  
8 there on that front row next to that man in the green  
9 shirt, you can go at the end of it.

10 (WHEREUPON, this is juror number 86 Soynia  
11 Evans.)

12 THE COURT: How does that question apply to you?

13 PROSPECTIVE JUROR: I seen it on the news.

14 THE COURT: You heard about it on the news.

15 PROSPECTIVE JUROR: Uh-huh.

16 THE COURT: Okay. Well, taking that into  
17 account, if you were selected to serve on this jury,  
18 could you be fair and impartial to both sides?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: The State and the defense?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Good. Thank you for coming forward.

23 (WHEREUPON, this is juror number 84 Linda  
24 Emanuel.)

25 THE COURT: And how does that question apply to

1     you?

2                 PROSPECTIVE JUROR: I seen it on the news. And  
3 I have heard a couple people talk on it, but my thing is I  
4 have a heart for people I don't feel that I could be a  
5 judge.

6                 THE COURT: What you mean by that you don't  
7 think you can be fair to both sides?

8                 PROSPECTIVE JUROR: No, I just don't feel -- I  
9 couldn't live with it.

10                THE COURT: Who would you be bias against?

11                PROSPECTIVE JUROR: I just don't want to be a  
12 judge.

13                THE COURT: All right, I tell you what if you go  
14 have a seat over there by those people on the front row,  
15 I'll excuse you.

16                (WHEREUPON, this is juror number 288 Sharon  
17 Williamson.)

18                THE COURT: Yes, ma'am.

19                PROSPECTIVE JUROR: I related to his father in  
20 some way, and I work with ---

21                THE COURT: Related to whose father?

22                PROSPECTIVE JUROR: The defendant and I work  
23 with him for many years with his father.

24                THE COURT: With the father?

25                PROSPECTIVE JUROR: Uh-huh.

1 THE COURT: Okay. I'm going to excuse you since  
2 you're related to him indirectly. If you would just go  
3 have a seat over there.

4 (WHEREUPON, this is juror number 27.)

5 THE COURT: Yes, sir, what do you know?

6 PROSPECTIVE JUROR: Sir, I live right there in  
7 the community. Also, I'm afraid of the family.

8 THE COURT: You afraid of who?

9 PROSPECTIVE JUROR: Of the family too. I heard  
10 that in the community, which I live in that community  
11 where it happen at.

12 THE COURT: You afraid of the defendant's  
13 family?

14 PROSPECTIVE JUROR: Uh-huh.

15 THE COURT: Tell you what I'm going to excuse  
16 you. You go have a seat on that front row over there.  
17 You don't have to stand up to anything else.

18 (WHEREUPON, this is juror number 78 Lee Dunkin,  
19 Jr.)

20 PROSPECTIVE JUROR: Your Honor, I hear about it,  
21 I don't know how true it is, but I know him by my  
22 stepdaughter. He use to date my stepdaughter.

23 THE COURT: You talking about the defendant?

24 PROSPECTIVE JUROR: Yes, sir. He use to date my  
25 stepdaughter and that's how I know him.

1 THE COURT: He use to date your stepdaughter?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Well, taking that into account if  
4 you were selected to serve on this case, could you be fair  
5 and impartial to the State and the defendant?

6 PROSPECTIVE JUROR: Say that again?

7 THE COURT: Could you be fair and impartial to  
8 both sides in this case?

9 PROSPECTIVE JUROR: I really don't know, sir, to  
10 be honest with you. I ain't gone lie to you. I really  
11 don't know because I know him, you know, like I say  
12 through my stepdaughter and my wife, so, you know, I don't  
13 know.

14 THE COURT: Do you think you could be biased in  
15 his favor is that what you're saying?

16 PROSPECTIVE JUROR: I don't know I can't answer  
17 that to be honest with you. I'm not gone sit here tell  
18 you yeah or no. To be honest with you, I don't know until  
19 I get on the case.

20 THE COURT: All right. If you heard the whole  
21 case, could you be fair and impartial?

22 PROSPECTIVE JUROR: I don't know to be honest.

23 THE COURT: All right. We'll excuse you. You  
24 can have a seat over there on the front. You don't have  
25 to stand up for anything else. And the Defendant Mr.

1 Issac Kareem Hemingway, if you'd please stand and just  
2 turn and face the jury panel. All right, you may be  
3 seated. Thank you. Is any member of the jury panel  
4 related by blood or marriage or has a close personal or  
5 social connection with the defendant Issac Hemingway, if  
6 so please stand?

7 (WHEREUPON, this is juror number 86 Soynia  
8 Evans.)

9 THE COURT: That's your second time up here what  
10 you got?

11 PROSPECTIVE JUROR: Yes. Well, we went to  
12 school together, rode the same bus, that's about it.

13 THE COURT: Okay. Taking that into account, if  
14 you were selected to serve on the jury in this case, could  
15 you be fair and impartial to both sides the State and the  
16 defense?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay, thank you. Appreciate you  
19 coming forward. She stays.

20 MR. WHITE: Judge, we have one more issue. The  
21 gentleman in the front back with the blue sweat shirt on  
22 seated directly behind the guy with the beard. He walked  
23 in. He spoke to the defendant, defendant spoke back. His  
24 girlfriend said I know him, so there's some connection  
25 there.



1 THE COURT: What's his name and where is he?  
2 MR. WHITE: He's in the front back blue shirt.  
3 THE COURT: Would, Mr. Lester, juror number 177  
4 please come forward. Do you by chance know the defendant  
5 Issac Hemingway?  
6 PROSPECTIVE JUROR: I know of him.  
7 THE COURT: Did you speak to him when you came  
8 into court this morning? Is that a yes?  
9 PROSPECTIVE JUROR: Yes, sir.  
10 THE COURT: Did he speak back to you?  
11 PROSPECTIVE JUROR: Yes, sir.  
12 THE COURT: And why did you all speak if you  
13 didn't know him?  
14 PROSPECTIVE JUROR: I said I knew of him.  
15 THE COURT: You know him well?  
16 PROSPECTIVE JUROR: No, I know of him.  
17 THE COURT: And how do you know of him?  
18 PROSPECTIVE JUROR: His kids. His kids.  
19 THE COURT: His children?  
20 PROSPECTIVE JUROR: Yes, sir.  
21 THE COURT: Do you know his children?  
22 PROSPECTIVE JUROR: Yes, sir.  
23 THE COURT: You friends with his children?  
24 PROSPECTIVE JUROR: Yes, sir.  
25 THE COURT: All right. Taking that into

1 account, if you were selected to serve on this case, could  
2 you still be fair and impartial not only to him, but the  
3 State as well? Could you be fair and impartial to both  
4 sides?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: All right. No problem with that at  
7 all?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: All right. Thank you. He stays.

10 MR. WHITE: Judge, my only objection there is  
11 that he obviously does know him and did not disclose it.  
12 I think based on that he did not disclose the relationship  
13 clearly. I'd ask that he be excused.

14 THE COURT: He's not related by blood or  
15 marriage. And the question does he close personal or  
16 social relationship. It's my understanding he just knows  
17 his children. I asked if he could be fair and impartial.  
18 Any objections to that?

19 MR. BROOKER: No, I think he is qualified.

20 THE COURT: I think he is too.

21 MR. WHITE: Thank you.

22 THE COURT: At this time if the Solicitor would  
23 stand up introduce yourself, any members of your staff.

24 MR. WHITE: Thank you, Judge. Morning, ladies  
25 and gentlemen, my name is Ryan White. I prosecute violent

1 crime in the Twelfth Judicial Circuit, which covers Marion  
2 and Florence County. I'm happy to be here with you all  
3 this morning and throughout the week. I'm trying this  
4 case along side Deputy Solicitor Todd Tucker. Thank you.

5 THE COURT: Is any member of the jury panel  
6 related by blood or marriage or has a close personal or  
7 social relationship with either of these Solicitors or any  
8 Solicitor from Marion County, if so please stand?

9 (WHEREUPON, there are none.)

10 THE COURT: Mr. Brooker, if you'd stand and  
11 introduce yourself and any members of your firm?

12 MR. BROOKER: Good morning, ladies and  
13 gentlemen, my name is Thurmond Brooker. I'm a private  
14 attorney. My office is located in Florence, South  
15 Carolina.

16 THE COURT: Thank you. Is any member of the  
17 jury panel related by blood or marriage or has a close  
18 personal or social relationship with Mr. Brooker or has  
19 been represented by him at any point in time, if so please  
20 stand?

21 (WHEREUPON, there are none.)

22 THE COURT: All right. The witnesses on behalf  
23 of the State of South Carolina will be Reggie Hotaling,  
24 Dewayne Rogers both of which are with the Marion County  
25 sheriff's department, Jarad Barkdoll, Todd Schenk, James

1 Green, Maryann Boehm and Chris Johnson with SLED South  
2 Carolina Law Enforcement Division, and Dr. Ellen Riemer  
3 with MUSC, Courtney Daniels with Verizon, Wanda Harrelson  
4 Marion County 9-1-1, Nicole Woodle with the Marion County  
5 family court, and Stephanie Reed, Izayana Hemingway,  
6 Kareema Hemingway, Savion Frazier, Rakeya Edwards. In  
7 this regard is any member of the jury panel related by  
8 blood or marriage or has a close personal or social  
9 relationship with any of the State's witnesses, if so  
10 please stand? All right, come on up.

11 (WHEREUPON, this is juror number 31 William  
12 Brown.)

13 THE CLERK: Juror number 31.

14 THE COURT: What's your number again I'm sorry?

15 PROSPECTIVE JUROR: William Brown 31.

16 THE COURT: All right.

17 PROSPECTIVE JUROR: I know Ms. Wanda Harrelson  
18 dispatcher just from my work with Marion fire department  
19 which is work friends.

20 THE COURT: Taking that into account, if you  
21 were selected to serve on this case, could you be fair and  
22 impartial to both sides?

23 PROSPECTIVE JUROR: Absolutely.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR: Thank you.

1 (WHEREUPON, this is juror number 104 Julialyn  
2 Gerrald.)

3 PROSPECTIVE JUROR: Hi, I taught Kareema in high  
4 school his daughter. I have taught her for a couple of  
5 years, so I kind of know a little bit about what she has  
6 told me.

7 THE COURT: About this case?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Taking that into account, if you  
10 were selected to serve on a jury in this case, could you  
11 still be fair and impartial to the State and the defense?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Could you be fair and impartial to  
14 both sides?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Positive?

17 PROSPECTIVE JUROR: Yes, sir.

18 MR.BROOKER: She talked with who about this  
19 case?

20 PROSPECTIVE JUROR: Kareema. She's told me some  
21 things about her dad.

22 THE COURT: What did she tell you if you don't  
23 mind telling us?

24 PROSPECTIVE JUROR: She said that her dad had  
25 been in contact with her. She's told me that she's been

1 in contact with her dad. She said that her dad and mom  
2 didn't have a very good relationship. And then I heard  
3 from another teacher, who has passed last year, she said  
4 that ---

5 THE COURT: He what last year?

6 PROSPECTIVE JUROR: That the teacher had passed  
7 away last year and I had heard from this teacher that she  
8 was witness to the murder.

9 THE COURT: She was a witness to it?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: She told you what she witnessed?

12 PROSPECTIVE JUROR: No, Kareema did not, but the  
13 teacher told me that Kareema told her that she had  
14 witnessed her dad shoot both of them and then she took off  
15 out of the house.

16 THE COURT: What you all think?

17 COURT REPORTER: I can't hear you, Mr. Brooker.

18 MR. BROOKER: I apologize.

19 THE COURT: What's your number again?

20 PROSPECTIVE JUROR: My phone number?

21 THE COURT: No, your juror number.

22 PROSPECTIVE JUROR: 104.

23 THE COURT: Tell you what, I think I'm going to  
24 excuse you. You know a lot about it reasonably close with  
25 the family even though you said you can be fair and

1 impartial. If you would go have a seat over there on the  
2 front row, and I'll excuse you.

3 (WHEREUPON, this is juror number 161 Jeffery  
4 Johnson.)

5 PROSPECTIVE JUROR: I got a cousin that's on law  
6 enforcement. I think he work with SLED Chris Johnson.  
7 I'm not sure if it's him, but I just want to sure.

8 THE COURT: Taking that into account, if you  
9 were selected to serve on this case, could you be fair and  
10 impartial to both sides?

11 PROSPECTIVE JUROR: Do what now?

12 THE COURT: Could you be fair and impartial to  
13 both sides?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Appreciate it.

16 (WHEREUPON, this is juror number 137 Justin  
17 Harrelson.)

18 PROSPECTIVE JUROR: Did you say a Wanda  
19 Harrelson?

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR: I'm not sure if that's her,  
22 but I have a cousin that I think does something like that.  
23 I just wanted to be sure.

24 THE COURT: Do you know her real well? Does she  
25 talk to you about this case?

1 PROSPECTIVE JUROR: No, sir. I don't know her  
2 that well.

3 THE COURT: Are you all close friends?

4 PROSPECTIVE JUROR: Yes, sir. I just want to  
5 make -- if that's the person I think it is.

6 THE COURT: Okay. All right. Well, taking that  
7 into account, if you were selected to serve on this case,  
8 could you be fair and impartial to both sides?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Would you be fair and impartial?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Thank you. There were three more  
13 witnesses on behalf of the State Ethan Allen with the  
14 Marion County probation and parole, Dejohna Baxter with  
15 probation and parole, and Maquita Johnson, does any member  
16 of the jury panel have any close, personal or business or  
17 social relationship with either of those witnesses, if so  
18 please stand?

19 (WHEREUPON, there are none.)

20 THE COURT: All right. The witnesses on behalf  
21 of the defense could be Latosha Baines, Antwan Kelly,  
22 Michael Boone. Is any member of the jury panel related by  
23 blood or marriage or has a close personal or social  
24 relationship with any of the defense witnesses, if so  
25 please stand?



1 (WHEREUPON, there are none.)

2 THE COURT: All right. Is any member of the  
3 jury panel related by blood or marriage to any law  
4 enforcement officer that could be a city policeman, a  
5 sheriff, SLED, FBI, any law enforcement at all if you're  
6 related to them please stand?

7 (WHEREUPON, this is juror number 195 Comanetta  
8 Murray.)

9 THE COURT: And who are you related to?

10 PROSPECTIVE JUROR: Bobby Davis.

11 THE COURT: All right. Taking that into  
12 account, if you were selected to serve on this case, could  
13 you be fair and impartial to both sides?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Would you be fair and impartial to  
16 both sides?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Thank you. Appreciate you coming  
19 up.

20 (WHEREUPON, this is juror number 161 Jeffery  
21 Johnson.)

22 PROSPECTIVE JUROR: Chris Johnson.

23 THE COURT: Taking that into account, if you  
24 were selected to serve on this case, could you be fair and  
25 impartial to both sides?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: State and the defense?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Appreciate you coming up.

5 (WHEREUPON, this is juror number 182 Stephan  
6 McGiboney, Jr.)

7 THE COURT: All right, who are you related to?

8 PROSPECTIVE JUROR: Ethan McGiboney DNR.

9 THE COURT: All right. Taking that into  
10 account, if you were selected to serve as a juror in this  
11 case, could you be fair and impartial to the State and the  
12 defense?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Why is that?

15 PROSPECTIVE JUROR: I'm confuse with the  
16 question.

17 THE COURT: Could you be fair and impartial to  
18 both sides?

19 PROSPECTIVE JUROR: No, no.

20 THE COURT: Who would be fair and impartial  
21 against?

22 PROSPECTIVE JUROR: I'm confused.

23 THE COURT: Could you be fair and impartial to  
24 both sides in this case listen to the facts and be fair to  
25 both sides?

1 PROSPECTIVE JUROR: Yes, yes.

2 THE COURT: Would you be fair and impartial to  
3 both sides?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: All right, thank you.

6 (WHEREUPON, this is juror number 101 Dennis  
7 Gerald.)

8 THE COURT: All right, how does that question  
9 apply to you?

10 PROSPECTIVE JUROR: My nephew works at the  
11 jailhouse. He's a correction officer.

12 THE COURT: What's his name?

13 PROSPECTIVE JUROR: Brandon Mason.

14 THE COURT: Taking that into account, if you  
15 were selected to serve on a jury in this case, could you  
16 be fair and impartial to the State and the defense?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Would you be fair to both sides?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Good appreciate you coming forward.

21 MR. WHITE: Judge, just in case this thing  
22 stretches into next week, would a question to the jury  
23 have any conflicts next week.

24 THE COURT: Everybody would stand up. Is any  
25 member of the jury panel aware of any bias or prejudice

1 for or against the State in this case, if so please stand?

2 (WHEREUPON, there are none.)

3 THE COURT: Has any member of the jury panel  
4 formed an opinion as to the guilt or innocence of the  
5 defendant in this case, if so please stand?

6 (WHEREUPON, there are none.)

7 THE COURT: Is there any member of the jury  
8 panel who is a member of or a contributor to any group  
9 which has as its primary concern promotion of law  
10 enforcement or victims' rights? These groups would  
11 include but certainly not be limited to MADD, SADD or CAVE  
12 Citizens Against Violent Crimes, to Fraternal Order of the  
13 Police or South Carolina Law Enforcement Association, if  
14 so please stand?

15 (WHEREUPON, there are none.)

16 THE COURT: Has any member of the jury panel or  
17 any member of your immediate family ever been involved in  
18 a crime of personal violence? This could be including  
19 but not limited to criminal sexual conduct, assault and  
20 battery of a high and aggravated nature, murder,  
21 manslaughter, kidnapping, arm robbery et cetra. Now, if  
22 you or any member of your immediate family have ever been  
23 a victim or defendant in a crime such as these just  
24 mentioned or anything similar to them please stand?

25 THE CLERK: 31.

1 (WHEREUPON, this is juror number 31 William  
2 Brown.)

3 PROSPECTIVE JUROR: My mom is the branch manager  
4 for First Citizens, and when her bank was robbed, she was  
5 held at gun point.

6 THE COURT: Taking that into account, if you  
7 were selected as a juror in this case, could you be fair  
8 and impartial to both sides?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Thank you. Appreciate you coming  
11 forward again.

12 THE CLERK: 126.

13 (WHEREUPON, this is juror 126 Charlene Green.)

14 THE COURT: All right, Ms. Green.

15 PROSPECTIVE JUROR: My father Donald Green.

16 THE COURT: What happened to him?

17 PROSPECTIVE JUROR: He's dead now. He had a lot  
18 of charges.

19 THE COURT: Taking that into account, if you  
20 were selected to serve on the jury in this case, could you  
21 be fair to the State and the defense?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Thank you.

24 THE CLERK: 86.

25 (WHEREUPON, this is juror number 86 Soynia

1 Evans.)

2 PROSPECTIVE JUROR: My niece was one of the  
3 seven from Florence County that got shot.

4 THE COURT: Okay. Well, taking that into  
5 account again, if you were selected to serve on the jury  
6 in this case, could you be fair and impartial to the State  
7 and the defense?

8 PROSPECTIVE JUROR: I could.

9 THE COURT: Would you be fair to both sides?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Thank you. Appreciate you coming.

12 THE CLERK: 127.

13 (WHEREUPON, this is juror number 127 Elizabeth  
14 Green.)

15 THE COURT: All right, Ms. Green.

16 PROSPECTIVE JUROR: I don't know if this  
17 applies, but I have an uncle that was convicted. It was  
18 some kind of sexual assault against his grandson. I don't  
19 know if that applies. It's my uncle.

20 THE COURT: Well, taking that into account, if  
21 you were selected to serve on a jury in this case taking  
22 that into account, could you be still be fair and  
23 impartial to the State and the defense? Just hear the  
24 facts and the evidence that's within it and be fair and  
25 impartial to both sides.

1 PROSPECTIVE JUROR: I don't know.  
2 THE COURT: And why is that?  
3 PROSPECTIVE JUROR: I don't know exactly what  
4 he's being charged with.  
5 THE COURT: This guy?  
6 PROSPECTIVE JUROR: Yes, sir.  
7 THE COURT: He's being charged with two counts  
8 of murder and possession of a weapon during the commission  
9 of a violent crime. And he pled not guilty and he's  
10 requesting a jury trial.  
11 PROSPECTIVE JUROR: I can't decide, so I have to  
12 say no.  
13 THE COURT: What's that?  
14 PROSPECTIVE JUROR: I said I can't -- I'm not  
15 sure, so I'm going to say no.  
16 THE COURT: Could you be open minded?  
17 PROSPECTIVE JUROR: I could be open minded.  
18 THE COURT: And just make a decision based on  
19 what you think is right.  
20 PROSPECTIVE JUROR: I wouldn't want the burden  
21 of it.  
22 THE COURT: Do we have enough jurors?  
23 THE CLERK: We have 55.  
24 THE COURT: We got enough. Tell you what I'll  
25 excuse you. If you'll have a seat over there with those

1 people.

2 MR. WHITE: Judge, 190 there's some  
3 communication he has a disability, but he is related ---  
4 he doesn't understand the questions that are being asked.

5 THE COURT: You want me to bring him up here or  
6 just go ahead and cut him?

7 MR. WHITE: I mean, if he's falling asleep now  
8 and he's having trouble understanding, I would lean  
9 towards cutting him.

10 THE COURT: How about you?

11 MR. BROOKER: This is 190.

12 THE COURT: 190.

13 MR. BROOKER: I don't have any objection for  
14 cause, your Honor.

15 THE COURT: Does any member of the jury panel  
16 have any religious or philosophical objections to  
17 rendering judgment against their fellow man, if so please  
18 stand?

19 (WHEREUPON, there are none.)

20 THE COURT: Has any member of the jury panel or  
21 any member of your family ever been prosecuted by this  
22 Solicitor or any member of the Solicitor's staff  
23 regardless of whether the case was dismissed or not, if so  
24 please stand?

25 (WHEREUPON, there are none.)



1 THE COURT: All right. Any further questions  
2 from the State?

3 MR. WHITE: No, sir, Judge.

4 THE COURT: Any further questions from the  
5 defense?

6 MR. BROOKER: No, sir.

7 THE COURT: All right, except for those I've  
8 excused, I find the jury panel qualified. Ms. Clerk, if  
9 you'll proceed forward with picking us a jury.

10 Members of the jury panel, we're going to take a  
11 15 minute break. I need you to be back up here in the  
12 courtroom at 11:45 sharp, and we're going to pick a jury.  
13 So do not discuss anything about this case with anybody  
14 you know and these people up here on the front row, you  
15 all can go. All right.

16 (WHEREUPON, a break was taken.)

17 THE COURT: We ready to pick a jury.

18 THE CLERK: You ready, sir?

19 THE COURT: Ready.

20 THE CLERK: When I call your name, if you'll  
21 come up front right here in front of me and turn around  
22 and face the audience please. Helen Gerrald.

23 (WHEREUPON, a white female juror number 103,  
24 comes forward.)

25 THE CLERK: What say the State?

1 MR. WHITE: Please present Ms. Gerrald.  
2 THE CLERK: What say the defense?  
3 MR. BROOKER: Indulge me for just a second.  
4 (WHEREUPON, a pause in the proceedings.)  
5 MR. BROOKER: Please present the juror.  
6 THE CLERK: Ms. Gerrald, if you will come and  
7 take a seat in the jury box please. Alecia Rogers.  
8 (WHEREUPON, a black female juror number 227,  
9 comes forward.)  
10 THE CLERK: What say the State?  
11 MR. WHITE: Please present Ms. Rogers.  
12 THE CLERK: What say the defense?  
13 MR. BROOKER: If you will indulge me for just a  
14 second please.  
15 (WHEREUPON, a pause in the proceedings.)  
16 MR. BROOKER: We excuse this juror for purpose  
17 of this trial.  
18 THE CLERK: Mr. Rogers, you can go ahead and  
19 take a seat back in the audience. Thank you. William  
20 Brown.  
21 (WHEREUPON, a white male juror number 31, comes  
22 forward.)  
23 THE CLERK: What say the State?  
24 MR. WHITE: Please present Mr. Brown.  
25 THE CLERK: What say the defense?

1 MR. BROOKER: Please present the juror.

2 THE CLERK: Mr. Brown, if you'll take a seat in

3 the jury box please. Marcia Williams.

4 (WHEREUPON, a black female juror number 286,

5 comes forward.)

6 THE CLERK: What say the State?

7 MR. WHITE: Please present Ms. Williams.

8 THE CLERK: What say the defense?

9 MR. BROOKER: If you will indulge me for just a

10 second Ms. Williams.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. BROOKER: I apologize. We excuse this juror

13 for the purpose of this trial only.

14 THE CLERK: Ms. Williams, you can take a seat

15 back out in the audience. Thank you. Danny Bilton.

16 (WHEREUPON, a white male juror number 23, comes

17 forward.)

18 THE CLERK: What say the State?

19 MR. WHITE: Please present Mr. Bilton.

20 THE CLERK: What say the defense?

21 (WHEREUPON, a pause in the proceedings.)

22 MR. BROOKER: I'm sorry for taking so long.

23 Please excuse this juror for purpose of this trial only.

24 THE CLERK: Mr. Bilton, you can take a seat back

25 out in the audience please. Thank you. Mary Nealy.

1 (WHEREUPON, a white female juror number 196,  
2 comes forward.)

3 THE CLERK: What say the State?

4 MR. WHITE: Please present Ms. Nealy.

5 THE CLERK: What say the defense?

6 MR. BROOKER: Beg the Court's indulgence for  
7 just a second.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. BROOKER: Please present the juror.

10 THE CLERK: Ms. Mary, go ahead and take a seat  
11 in the jury box. Thank you. Charlene Green.

12 (WHEREUPON, a white female juror number 126,  
13 comes forward.)

14 THE CLERK: What say the State?

15 MR. WHITE: Please excuse Ms. Green.

16 THE CLERK: Ms. Green, you can take a seat back  
17 out in the audience. Alex Rouse.

18 (WHEREUPON, a white male juror number 236, comes  
19 forward.)

20 THE CLERK: What say the State?

21 MR. WHITE: Please present Mr. Rouse.

22 THE CLERK: What say the defense?

23 MR. BROOKER: Please present the juror.

24 THE CLERK: Mr. Rouse, if you'll take a seat in  
25 the jury box please, sir. Cheryl Williamson.

1 (WHEREUPON, a white female juror number 290,  
2 comes forward.)  
3 THE CLERK: What say the State?  
4 MR. WHITE: Please present Ms. Williamson.  
5 THE CLERK: What say the defense?  
6 MR. BROOKER: I'm sorry what was that number  
7 again?  
8 THE CLERK: Juror number 290 Cheryl Williamson.  
9 MR. BROOKER: Thank you.  
10 (WHEREUPON, a pause in the proceedings.)  
11 MR. BROOKER: Please excuse this juror.  
12 THE CLERK: Thank you, Ms. Cheryl. Christopher  
13 Cribb.  
14 (WHEREUPON, a white male juror number 54, comes  
15 forward.)  
16 THE CLERK: What say the State?  
17 MR. WHITE: Please present Mr. Cribb.  
18 THE CLERK: What say the defense?  
19 (WHEREUPON, a pause in the proceedings.)  
20 MR. BROOKER: Please excuse this juror.  
21 THE CLERK: Mr. Cribb, you can take a seat back  
22 out in the audience. Thank you. Soynia Evans.  
23 (WHEREUPON, a black female juror number 86,  
24 comes forward.)  
25 THE CLERK: What say the State?

1 MR. WHITE: Please present Ms. Evans.  
2 THE CLERK: What say the defense?  
3 MR. BROOKER: Please present the juror.  
4 THE CLERK: Ms. Evans, if you will take a seat  
5 in the jury box please. Brandon Bass.  
6 (WHEREUPON, a white male juror number 14, comes  
7 forward.)  
8 THE CLERK: What say the State?  
9 MR. WHITE: Please present Mr. Bass.  
10 THE CLERK: What say the defense?  
11 (WHEREUPON, a pause in the proceedings.)  
12 MR. BROOKER: Please present the juror.  
13 THE CLERK: Mr. Bass, if you'll take a seat in  
14 the jury box please. Heather Gratia.  
15 (WHEREUPON, a white female juror number 122,  
16 comes forward.)  
17 THE CLERK: What say the State?  
18 MR. WHITE: Please present Ms. Gratia.  
19 THE CLERK: Whey say the defense?  
20 MR. BROOKER: What's Ms. Gratia's number?  
21 THE CLERK: 122.  
22 (WHEREUPON, a pause in the proceedings.)  
23 MR. BROOKER: Please excuse Ms. Gratia.  
24 THE CLERK: Ms. Gratia, have a seat back out in  
25 the audience. Tyrone Godfrey.

1 (WHEREUPON, a black male juror number 112, comes  
2 forward.)

3 THE CLERK: What say the State?

4 MR. WHITE: Please excuse Mr. Godfrey.

5 THE CLERK: Mr. Godfrey, thank you. Annie Tart.

6 (WHEREUPON, a black female juror number 258,  
7 comes forward.)

8 THE CLERK: What say the State?

9 MR. WHITE: Please present Ms. Tart.

10 THE CLERK: What say the defense?

11 MR. BROOKER: Could I ask you to remove your  
12 mask?

13 (WHEREUPON, a pause in the proceedings.)

14 MR. BROOKER: Please excuse this juror for the  
15 purposes of this trial.

16 THE CLERK: Ms. Annie, you can take a seat back  
17 out in the audience. Roberta Smith.

18 (WHEREUPON, a white female juror number 250,  
19 comes forward.)

20 THE CLERK: What say the State?

21 MR. WHITE: Please present Ms. Smith.

22 THE CLERK: What say the defense?

23 (WHEREUPON, a pause in the proceedings.)

24 MR. BROOKER: Please present the juror.

25 THE COURT: Ms. Smith, if you'll take a seat out

1 in the jury box please. Billy Coleman.

2 (WHEREUPON, a white male juror number 43, comes  
3 forward.)

4 THE CLERK: What say the State?

5 MR. WHITE: Please present Mr. Coleman.

6 THE CLERK: What say the defense?

7 (WHEREUPON, a pause in the proceedings.)

8 MR. BROOKER: Please present the juror.

9 THE CLERK: Mr. Coleman, take a seat in the jury  
10 box please. Erin Moore.

11 (WHEREUPON, a white female juror number 192,  
12 comes forward.)

13 THE CLERK: What say the State?

14 MR. WHITE: Please present Ms. Moore.

15 THE CLERK: What say the defense?

16 MR. BROOKER: Your Honor, may I ask -- may we  
17 ask the witness one question? She indicated she was a  
18 paralegal in a law firm if I could get the name of that  
19 law firm again?

20 PROSPECTIVE JUROR: Gordon and Reeves.

21 MR. BROOKER: Gordon and Reeves.

22 PROSPECTIVE JUROR: I only been there two weeks.

23 MR. BROOKER: Where is that located at?

24 PROSPECTIVE JUROR: In California.

25 MR. BROOKER: In California?



1 PROSPECTIVE JUROR: Yes. I work from home.  
2 MR. BROOKER: Okay. Please present the juror.  
3 THE CLERK: Ms. Moore, thank you. Justin  
4 Harrelson.  
5 (WHEREUPON, a white male juror number 137, comes  
6 forward.)  
7 THE CLERK: What say the State?  
8 MR. WHITE: Please present Mr. Harrelson.  
9 THE CLERK: What say the defense?  
10 MR. BROOKER: Please present the juror.  
11 THE CLERK: Mr. Harrelson, please take a seat in  
12 the jury box please. Alicia Green.  
13 (WHEREUPON, a black female juror number 125,  
14 comes forward.)  
15 THE CLERK: What say the State?  
16 MR. WHITE: Please present Ms. Green.  
17 THE CLERK: What say the defense?  
18 MR. BROOKER: Please excuse this juror.  
19 THE CLERK: Ms. Green, you can take a seat back  
20 out in the audience. Thank you. Zacheria Ladlee.  
21 (WHEREUPON, a white male juror number 172, comes  
22 forward.)  
23 THE CLERK: What say the State?  
24 MR. WHITE: Please present Mr. Ladlee.  
25 THE CLERK: What say the defense?

1 MR. BROOKER: I'm sorry what was his number  
2 again?

3 THE CLERK: 172.

4 MR. BROOKER: 172.

5 (WHEREUPON, a pause in the proceedings.)

6 MR. BROOKER: Please excuse the juror.

7 THE CLERK: Thank you, Mr. Ladlee. Wanda  
8 Shelley.

9 (WHEREUPON, a white female juror number 244,  
10 comes forward.)

11 THE CLERK: What say the State?

12 MR. WHITE: Please present Ms. Shelley.

13 THE CLERK: What say the defense?

14 (WHEREUPON, a pause in the proceedings.)

15 MR. BROOKER: Please present the juror.

16 THE CLERK: Ms. Shelley, you can go ahead in the  
17 jury box please. Thomas Coleman.

18 (WHEREUPON, a white male juror number 44, comes  
19 forward.)

20 THE CLERK: What say the State?

21 MR. WHITE: Please present Mr. Coleman.

22 THE CLERK: What say the defense?

23 MR. BROOKER: Please present the juror.

24 THE COURT: Let's get two alternates.

25 THE CLERK: Two alternates. For our alternate

1 Michael Cusac.

2 (WHEREUPON, a white male juror number 56, comes

3 forward.)

4 MR. BROOKER: What number is that please?

5 THE CLERK: 56. What say the State?

6 MR. WHITE: Please present Mr. Cusac.

7 THE CLERK: What say the defense?

8 MR. BROOKER: Please present Mr. Cusac.

9 THE CLERK: Mr. Cusac, if you'll take a seat in

10 one of the alternate chairs please. Jadacei Hambrick.

11 (WHEREUPON, a black female juror number 134,

12 comes forward.)

13 THE CLERK: What say the State?

14 MR. WHITE: Please excuse Ms. Hambrick.

15 THE CLERK: Thank you, Ms. Hambrick. Melissa

16 Calhoun.

17 (WHEREUPON, a white female juror number 39,

18 comes forward.)

19 THE CLERK: What say the State?

20 MR. WHITE: Please present Ms. Calhoun.

21 THE CLERK: What say the defense?

22 (WHEREUPON, a pause in the proceedings.)

23 MR. BROOKER: Please present the juror.

24 THE CLERK: Ms. Calhoun, if you'll take a seat

25 in the alternates chair.

1 THE COURT: All right. Any objections to the  
2 jury or the process for which they were drawn what says  
3 the State?

4 MR. WHITE: None on behalf of the State, Judge.

5 THE COURT: How about the defense?

6 MR. BROOKER: No objection, your Honor.

7 THE COURT: All right. Solicitor, do you need  
8 the jury to call back in or they excused?

9 MR. TUCKER: Yes, your Honor, if they could call  
10 back today will be fine.

11 THE COURT: The rest of the jury panel is  
12 excused. If you would call back in after six this evening  
13 to see if there any further duties for you, but you are  
14 excused at this time.

15 (WHEREUPON, the jury panel was excused.)

16 THE COURT: All right. Ladies and gentlemen of  
17 the jury, we're going to start at 9:30 in the morning, but  
18 I do want to instruct you that you are not to research  
19 this case at all. Don't get on the computer and Google  
20 anybody's names. Do not look up the facts in this case.  
21 Do not talk to anybody about this case. Just put it  
22 completely out of your mind and be back here at 9:30 in  
23 the morning, and we'll start the case at that time. All  
24 right. We're going to stay here this afternoon, and we're  
25 going to work. We're going to hear pretrial motions and

1 so forth kind of get ready for you, but you're excused at  
2 this time. I'll see you at 9:30 in the morning.

3 (WHEREUPON, the jury was excused.)

4 JUROR: I have a doctor's appointment tomorrow.

5 THE COURT: What time?

6 JUROR: Two o'clock.

7 THE COURT: What kind of doctor is it?

8 JUROR: It's a family doctor. I have to get in  
9 for medication. I'm a teacher. This is my break.

10 THE COURT: Does he have to see you at two?  
11 Could he see you by one by chance over lunch?

12 JUROR: I can check.

13 THE COURT: Check and see. If you have a  
14 problem, just let us know.

15 JUROR: All right.

16 THE COURT: And what's your juror number? Or  
17 your name, give me your name? It should be on the little  
18 packet that you have. Are you on the jury or you're an  
19 alternate?

20 JUROR: On the jury.

21 THE COURT: Give me your name?

22 JUROR: Thomas Coleman.

23 THE COURT: Thomas Coleman.

24 JUROR: Yes.

25 THE COURT: He has a doctor's appointment at two

1 o'clock tomorrow to get medication. Do you all want to go  
2 ahead and replace him with an alternate or do you want to  
3 see if he can meet with the doctor at one?

4 MR. WHITE: Judge, I think the way we kind of  
5 mapped it out beforehand, that might be a logical time to  
6 take that one hour break that we discussed in chambers.

7 THE COURT: At two o'clock.

8 MR. WHITE: It could be, yes, sir, I think. I  
9 think that might work out fine.

10 THE COURT: All right. See if you can't get it  
11 at two o'clock and be back by three.

12 MR. BROOKER: That is fine.

13 JUROR: Thank you.

14 THE COURT: All right, thank you. What time do  
15 you all want to be back here this afternoon?

16 MR. WHITE: Whatever you want to do, Judge.

17 THE COURT: Whatever suits you.

18 MR. BROOKER: Up to you, your Honor.

19 THE COURT: You tell me? You want to be back at  
20 two?

21 MR. WHITE: Sounds good to me, Judge.

22 THE COURT: You all want to come up here real  
23 quick. Keshia, this is on the record. We read pretty  
24 quick the Phillips case outlined it. It looks -- if he's  
25 going to object to the DNA and the DNA expert, you

1 probably better read the Phillips case and put up some  
2 testimony.

3 MR. WHITE: Okay.

4 MR. BROOKER: Yeah, I think it's required.

5 MR. TUCKER: And I think there's some factual  
6 differences and distinctions between the two.

7 THE COURT: Regarding 702 and 404. Yes, sir.  
8 All right, we'll see you back at two.

9 MR. WHITE: Sounds good.

10 MR. TUCKER: Thank you, your Honor.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: I'm ready to proceed with any  
13 pretrial motions from either you or the defense side.

14 MR. WHITE: Yes, sir, Judge. As far as the  
15 State is concerned, we just have a Jackson v. Denno, and  
16 then just some ancillary matters. In reviewing the video,  
17 Judge, I -- the polygraph information was left in there  
18 out of an abundance of precaution. I redacted that  
19 information out. We're in the process of doing that now.  
20 And I can address this now, but the other issue with the  
21 video as it stands now, I don't know if you had a chance  
22 to watch it yet, Judge, but there is just a lot of  
23 mentioning of molestation. It seems like at every  
24 juncture the defendant gets to lay blame on someone else.  
25 He brings up that the children are being molested in the

1 house. Judge, I don't think that's appropriate. I think  
2 it would confuse the jury. I mean, it's not an issue  
3 here, that's not what we're dealing with here at all.  
4 There were no police reports filed and nothing of that  
5 nature, so I would ask that the State be allowed to redact  
6 that information out as well. And I got somebody working  
7 on that right now as we speak too. And I'll take up the  
8 rest of the matters as they come.

9 THE COURT: How do you feel about that? Any  
10 objection to that?

11 MR. BROOKER: Your Honor, I don't have any  
12 problem with them redacting that out. I would agree with  
13 Mr. White. It's not admissible. You know, unless during  
14 the course of the trial, you know, it's somehow touched  
15 upon or raise, and, of course -- that, of course, it  
16 becomes appropriate to discuss it, but other than that, I  
17 think initially it's not appropriate and I would agree.

18 THE COURT: Sounds good.

19 MR. WHITE: And I'll work on redacting that,  
20 Judge.

21 THE COURT: Okay. All right. And I'm ready to  
22 proceed on anything else that you have.

23 MR. WHITE: Thank you, Judge. At this time the  
24 State would proceed with a Jackson v. Denno hearing. We  
25 would call to the stand former investigator Reggie



1 Hotaling.

2 THE CLERK: Do you swear to tell the truth, the  
3 whole truth and nothing but the truth so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you.

6 THE COURT: Yes, sir.

7 MR. WHITE: Thank you, Judge.

8 WHEREUPON,

9 Reggie Hotaling, Jr.

10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION IN-CAMERA

12 BY MR. WHITE:

13 Q Investigator Hotaling -- former ---

14 MR. WHITE: Was he sworn in, Judge?

15 THE CLERK: Yes, sir.

16 MR. WHITE: Okay.

17 BY MR. WHITE:

18 Q And if you state your name for the record?

19 A Arthur Reginald Hotaling, Jr.

20 Q Now, Mr. Hotaling, where are you employed?

21 A Self-employed.

22 Q And back in January -- well, back in 2020 where were  
23 you employed at that time?

24 A Marion County sheriff's office.

25 Q And in what capacity were you employed?

1 A Detective.

2 Q And did you have occasion to be called upon to be the  
3 lead investigator in the case that brings us here today?

4 A I was.

5 Q Do you recall the date that the body of Maisha Burch  
6 was found?

7 A I believe it was January the 13th, 14th.

8 Q And that would have been a Monday, correct?

9 A Monday, yes.

10 Q At some point thereafter do you start interviewing  
11 potential suspects and witnesses?

12 A Yes.

13 Q And was one of those potential suspects Issac  
14 Hemingway who's seated here in the courtroom?

15 A It was.

16 Q And you recall on what day -- Keshia, I'm sorry I  
17 need these two marked. What day he was -- date he was  
18 initially interviewed?

19 A Maybe January 15th.

20 Q That's correct. And was he taken into custody or he  
21 come in under his own volition?

22 A On his own freewill.

23 Q And he drove himself to the sheriff's office, is that  
24 right?

25 A He did.

1 Q And did he agree to participate in your interview?

2 A He did.

3 Q And at that time before initiating the interview, did  
4 you go over what's commonly referred to as Miranda  
5 warnings?

6 A I did.

7 Q I'm going to show you State's Exhibit 1. If you  
8 could tell me what that documents?

9 A It's a Miranda form from the sheriff's office.

10 Q And is that the original that you use on the date in  
11 question?

12 A It is.

13 MR. WHITE: Judge, I move State's Exhibit 1 into  
14 evidence.

15 THE COURT: Any objections.

16 MR. BROOKER: No objection, your Honor.

17 THE COURT: State's Number 1 is in evidence  
18 without objection.

19 (WHEREUPON, State's Exhibit No. 1 was admitted  
20 into evidence.)

21 BY MR. WHITE:

22 Q Now, when you brought him in if you could describe  
23 the room that you're in?

24 A It was -- it was originally -- our office it was  
25 actually the sheriff's office. We moved -- the sheriff

1 moved in there, so we were in just a small office.

2 Q Is it well lit?

3 A It is.

4 Q Windows?

5 A Windows, yes.

6 Q Is it temperature controlled?

7 A It is.

8 Q If he would have asked to go to the bathroom and I

9 think he did at one point, would he have been allowed to

10 use the restroom?

11 A Sure.

12 Q Was he provided water or drinks if he needed one?

13 A As far as I know, as far as I remember, yeah. We

14 always or we did if they're thirsty need to use the

15 bathroom or whatever, we provided with something.

16 Q And, again, when he came in he was not in custody, is

17 that right?

18 A That's right.

19 Q Was he free to go at any time?

20 A He was.

21 Q And did he leave that interview of his own accord?

22 A He did.

23 Q When you went over his Miranda rights, does this

24 sheet -- is it just kind of help you go over each and

25 every Miranda, right?

1 A It does. It does. What we do is we read each  
2 sentence, and they put their initials on the line. That's  
3 just so that they understand each sentence. And by  
4 putting their initials on there, they understand what we  
5 read to them.

6 Q And you went over each and every right with them?

7 A Everyone.

8 Q Did you go over his rights to remain silent?

9 A I did.

10 Q And did he initial that he understood?

11 A He did.

12 Q Did you go over anything he said could and would be  
13 used against him in a court of law?

14 A Yes.

15 Q And did he initial having understood?

16 A Yes.

17 Q And did you go over he had the right to speak to an  
18 attorney and have him or her present while he's being  
19 questioned?

20 A Yes.

21 Q And did he initial that he understood?

22 A He did.

23 Q Did you go over that he could not afford to hire an  
24 attorney he could have one appointed, did you go over that  
25 right?

1 A I did.

2 Q Did he initial that he understood?

3 A He did.

4 Q And did you go over that if at any time he wanted to  
5 stop the interview and not ask him questions, he could do  
6 so?

7 A He did.

8 Q And then at the end did he acknowledge and sign and  
9 wave his rights?

10 A He did.

11 Q And is that his signature there on the bottom of  
12 State's Exhibit 1?

13 A It is.

14 Q And is that your signature there as well?

15 A It is.

16 Q And why are you signing it?

17 A Just as a witness that he signed it and that he  
18 understood everything.

19 Q Now, did he appear to you to be intoxicated in any  
20 way?

21 A No.

22 Q Under the influence of drugs or alcohol?

23 A No.

24 Q Did he seem to know everything that was being asked  
25 of him?

1 A Appear to.

2 Q Did he participate in the discourse in the  
3 conversation?

4 A Yes.

5 Q Did you promise him anything or coerce him in any way  
6 to get him to talk to you?

7 A No.

8 Q Now, did you have occasion to conduct a second  
9 interview with Mr. Hemingway?

10 A I did.

11 Q Now, at that time do you recall when that second  
12 interview took place?

13 A Early December ---

14 Q Refresh your recollection. You tell us the date?

15 A It was actually December the 1st of 2020.

16 Q And during that interview, he was not -- he did not  
17 come into the interview room under his own volition at  
18 that time?

19 A He did not.

20 Q And how was he brought to the interview room?

21 A He was arrested on -- I believe it was child support  
22 bench warrant back then and we picked him up in Horry  
23 County at his residence.

24 Q And when you picked him up at his residence, where  
25 did you bring him to?

1 A Horry County police department whatever their station  
2 is in Conway.

3 Q And could you describe to us the room where you  
4 brought him?

5 A That room was a small interview room -- just a small  
6 room with a camera and table, a couple chairs in it.

7 Q Well lit.

8 A It was well lit, yes.

9 Q Temperature controlled?

10 A Temperature controlled.

11 Q And you brought up a good point, it was audio and  
12 video recorded?

13 A It was.

14 Q Back when you conducted that first interview -- was  
15 that also audio and video recorded?

16 A It was.

17 Q And were both of those interviews pulled and then  
18 turned over to our office?

19 A It was.

20 Q Now, when you first brought him in, did it take much  
21 for him to start talking?

22 A The first one you said?

23 Q The second one?

24 A Second one, no, not really.

25 Q Did you ask him any direct questions in regards to



1 his involvement in the murder case before you Mirandized  
2 him?

3 A No.

4 Q Everything he was saying he was just kind of  
5 volunteering that information, is that right?

6 A Correct.

7 Q And then at some point I think you had to -- correct  
8 me if I'm wrong now, I think you had to stop him said hold  
9 on now let me Mirandize you, is that right?

10 A If I remember correctly from that, yeah.

11 Q And did you do that with the same kind of form that  
12 you used back during that first interview?

13 A Yes.

14 Q I'm going to show you State's Exhibit 2. If you  
15 could tell me recognize that particular document?

16 A I do.

17 Q Is that the Miranda form that you used during your  
18 second interview?

19 A It is.

20 Q And did you go over each and every right with him at  
21 that time just as you did in the first one?

22 A I did.

23 Q Did he initial that he acknowledge each and every one  
24 of those rights?

25 A He did.

1 Q And then he ultimately signed that he was waiving  
2 those rights?

3 A He did.

4 MR. WHITE: Judge, I'd move State's Exhibit 2  
5 into evidence.

6 THE COURT: Any objections?

7 MR. BROOKER: No objection, your Honor.

8 THE COURT: State's Exhibit Number 2 is in  
9 evidence without objection.

10 (WHEREUPON, State's Exhibit No. 2 was admitted  
11 into evidence.)

12 BY MR. WHITE:

13 Q During the course of that interview, did he appear to  
14 understand everything you were asking him?

15 A He did.

16 Q Did he participate in that interview?

17 A He did.

18 Q Was he coerced in any way, was he promised anything?

19 A No.

20 Q Did he appear to be under the influence of drugs or  
21 alcohol?

22 A No.

23 Q Did he appear to be suffering from any sort of mental  
24 defect?

25 A No.

1 MR. WHITE: Beg the Court's indulgence. Judge,  
2 that's all I have. Thank you, Investigator Hotaling. You  
3 answer any questions the defense may have.

4 THE COURT: Mr. Brooker.

5 CROSS-EXAMINATION IN-CAMERA

6 BY MR. BROOKER:

7 Q Mr. Hoteling, I'm going to start off by asking you  
8 questions in reference to the December 1, 2021 interview.

9 A Okay.

10 Q And I think it was your testimony -- you already  
11 testified to the fact that Mr. Hemingway did not come in  
12 voluntarily?

13 A Correct.

14 Q That he was actually arrested in Conway, South  
15 Carolina?

16 A He was.

17 Q Okay.

18 A Yeah, I think it's Conway.

19 Q Conway, South Carolina. And, of course, from when he  
20 was arrested when you were there as part of that arrest?

21 A I was.

22 Q Okay. Was anyone else there besides you that was  
23 part of that arrest?

24 A Yes, Horry County police department and SLED. I  
25 think one SLED agent. I think that's it.

1 Q And would this have been the SLED agent that was  
2 involved in the murder trial -- in the murder  
3 investigation?

4 A Yes.

5 Q Okay. All right. Because normally SLED agents don't  
6 show up for certain bench warrants, is that correct?

7 A Correct.

8 Q Okay. All right. Now, and, of course, is I think in  
9 Horry County -- Horry County I think you said Horry County  
10 showed up. I'm assuming that Horry County showed up  
11 because it was necessary for them to show up because you  
12 all were out of jurisdiction and would have any authority  
13 to arrest someone in Horry County, is that correct?

14 A Me alone, correct.

15 Q You if you're alone?

16 A Yes, SLED agent could.

17 Q Okay. SLED agent could, but you could not?

18 A Correct.

19 Q Of course, y'all were making this arrest based upon a  
20 bench warrant?

21 A Yes.

22 Q Okay. Do you have a copy of that bench warrant or  
23 ever seen that bench warrant?

24 A I don't know that I have a copy of it. We had a copy  
25 of that it that night because we had to enter it into

1 NCIC.

2 Q You had to enter it into NCIC?

3 A Yes, sir.

4 Q Okay. Did you ever provide that -- did you ever  
5 include that bench warrant as part of the discovery in  
6 this murder investigation case?

7 A I don't know what ended up happening with the bench  
8 warrant, the child support bench warrant. I don't even  
9 know what the deal was with it as far as getting into the  
10 child support court.

11 Q Okay. But y'all did told him -- y'all did tell him  
12 when y'all came to pick him up that y'all picked him up  
13 because there was a bench warrant for his arrest?

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q And not only did you tell him that there was a bench  
18 warrant for his arrest when you arrested him at his home,  
19 but you also told him that when you took him down to the  
20 -- I think the Horry County police department headquarters  
21 and interviewed him, do you remember telling him at the  
22 beginning of that interview that he was brought in because  
23 there was some sort of bench warrant for his arrest?

24 A Yes.

25 Q Okay. Now, at that time you never told him -- you

1 never told him that there was a warrant for his arrest for  
2 murder, is that correct?

3 A Correct.

4 Q Okay. You watched that interview?

5 A Yes.

6 Q And, of course, you were agree with me during that  
7 entire interview, he was never told that he was being  
8 placed under arrest because of a murder warrant, is that  
9 correct.

10 A Correct.

11 Q Okay. Now, I'm going to ask you to take a look at  
12 something and see if you recognize this.?

13 MR. BROOKER: May I approach him, your Honor?

14 THE COURT: Sure.

15 BY MR. BROOKER:

16 Q Okay. The bench warrant -- I would just ask to be  
17 certain. The bench warrant that you have for child  
18 support that was from Marion County?

19 A Yes, I believe it was.

20 Q Had to be from Marion County because y'all were  
21 serving it, okay. And, of course, what I just showed you  
22 I think that's a motion order to dismiss. And, of course,  
23 this was the child support case involving, I think, Maisha  
24 Burch?

25 A Uh-huh, yes.

1 Q Okay. Was this the case where the bench warrant --  
2 the family court child support case for a bench warrant  
3 was issued?

4 A I have no clue. I have no idea. I never had it. I  
5 never took it with me.

6 Q You never took what with you the bench warrant?

7 A The bench warrant. The bench warrant was brought to  
8 me. I didn't serve it.

9 Q Okay. Was brought to you by who?

10 A I don't remember. I don't remember who came down  
11 there. It ended up being so many officers there from  
12 Horry County I cannot remember.

13 Q Did you have it with you at the time in which you  
14 approached him and placed him under arrest? Did you have  
15 it in your hands or in your possession?

16 A I don't recall whether I had it or not. I don't  
17 remember. I don't remember having it.

18 Q Okay. Because you said that someone else had to  
19 bring it to you?

20 A Somebody either brought it to me or I don't remember  
21 having it, but it is possibly.

22 Q Okay. And you say that you don't know where that  
23 bench warrant is right now?

24 A No, I do not.

25 Q Never seen it before?

1 A I'm not gone say I have never seen it, but I don't  
2 recall where it's at or where it ended up coming from.

3 Q Okay. Was he ever given a copy of it when y'all went  
4 and served it that night?

5 A I do not know.

6 Q Okay. Now, I think you already testified to the  
7 fact -- you already testified to the fact that y'all had  
8 arrest warrants. Y'all already obtained arrest warrants  
9 from the magistrate judge in Florence excuse me -- in  
10 Marion County for two counts of murder and possession of a  
11 weapon during the commission of a violent crime, is that  
12 correct?

13 A That's correct.

14 Q And I think your testimony was is is that when y'all  
15 arrested him, y'all did not tell him that y'all had those  
16 warrants?

17 A Not that I recall I don't think so.

18 Q Okay. You looked at the -- I think you testified  
19 that you looked at the interview?

20 A Which one first one, second one?

21 Q We're dealing entirely with the second interview.

22 A Okay.

23 Q Okay. So you looked at the second interview, right,  
24 the December interview?

25 A Yes.



1 Q Okay. There's nowhere in that interview where you  
2 told him that y'all had arrest warrants waiting on him?

3 A No, not they were served.

4 Q Not until he was brought back to Marion County  
5 detention center, of course, they were served on him at  
6 the Marion County detention center, is that correct?

7 A No, they were served in Horry County's precinct.

8 Q They were served before or after the interview?

9 A At the end when he requested an attorney.

10 Q They were served to him after the interview was over?

11 A Yes.

12 Q Okay. Because they were not served -- on that  
13 interview when I think you said you've looked at the -- I  
14 don't remember seeing any place on there where someone  
15 walked into the interview room while the county was  
16 running and hand him the warrants for attempted --  
17 warrants for murder and possession of a weapon during the  
18 commission of a crime, is that correct?

19 A No, Detective Pike served them at the end.

20 Q Okay. All right. Now, let me ask you a little bit  
21 about these warrants. You obtained these warrants and I  
22 can let you take a look at them if you want to take a look  
23 at them?

24 A Yeah.

25 Q You want to take a look at them?

1 A Sure.

2 Q Are those the warrants that you obtained?

3 A It is.

4 Q Okay. Those three warrants?

5 A Yes.

6 Q And I won't go in detail, but if you take a look at  
7 those warrants, I'll just go over the one of the murder --  
8 one through murder warrants the affidavit portion. It  
9 says that on or about January 12th of 2020 at  
10 approximately two a.m. at 5305 Taft Wilson Boulevard  
11 Centenary, South Carolina in the County of Marion, one,  
12 Issac Kareem Hemingway, did with malice aforethought cause  
13 the death of the victim and in parenthesis it has Maisha  
14 Burch by shooting her multiple times in the head.  
15 Therefore, Issac Hemingway is charged with murder. This  
16 being in violation of South Carolina code of laws  
17 16-03-00110 excuse me -- 0010, is that correct?

18 A Yes.

19 Q And, of course, the other arrest warrants -- the  
20 other warrant for murder pretty much has the same verbiage  
21 except the victim name is changed and, of course, I think  
22 on the other one it's Andrew Legette.

23 A Correct.

24 Q Okay. Now, when you went to obtain these warrants, I  
25 think it was Judge Fling. Did you go before Judge fling

1 raise your hand and was placed under oath by Judge Fling?

2 A I did.

3 Q Okay. And, of course, did you provide Judge Fling  
4 with any information in addition to what's contained  
5 within these affidavits?

6 A It was three years ago. Whatever information he  
7 needed to hear from me or read is what I provided to him.

8 Q And I'll ask you, again, because it's very important.  
9 Do you recall whether or not you provided Judge Fling with  
10 any information beyond what's contained within the  
11 affidavits of these arrest warrants?

12 A I mean, I would have to give him more information  
13 then that. Usually, we would go over from start to finish  
14 of the case to get an arrest warrant.

15 Q So if we were to bring Judge Fling in here and put  
16 him under oath, Judge Fling would testify that you went  
17 through the entire case from beginning to end?

18 A Sure.

19 Q Okay. And what you tell him? What specifically did  
20 you tell him, that's what I need to know?

21 A What evidence led us to this point. And what  
22 evidence led us there was the DNA.

23 Q Okay. DNA is not mentioned in the affidavit is it  
24 not?

25 A No, it's not.

1 Q Okay. What else did you tell the judge that's not  
2 mentioned in the affidavit?

3 MR. WHITE: Judge, at this point I'm just a  
4 little bit confused on where we're going. I mean, we've  
5 kind of gotten off rails as far as Jackson v. Denno  
6 attacking the sufficiency of the warrant. I'd like to  
7 steer us back on track if possible.

8 MR. BROOKER: Well, and we can do that your  
9 Honor. The only thing that I was doing is is that we  
10 can -- I could either address at least the issues that I  
11 have or either we can just have a separate motion in  
12 addressing them separately. I don't mind doing it  
13 whichever way the Court would like.

14 THE COURT: I guess, why don't we go ahead and  
15 finish with the Denno hearing and then we'll come back and  
16 do whatever.

17 MR. BROOKER: Okay. Okay. I don't have any  
18 further questions with respect to the Jackson v. Denno  
19 hearing.

20 THE COURT: Thank you. Anything else from this  
21 witness?

22 MR. WHITE: No, sir, Judge.

23 THE COURT: Any other witnesses regarding ---

24 MR. WHITE: No, sir, Judge.

25 THE COURT: Mr. Brooker.

1 MR. BROOKER: No witnesses for purposes of  
2 Jackson v. Denno.

3 THE COURT: For the record, I find that the  
4 defendant was properly Mirandized and that the statements  
5 were given freely and voluntarily. Any other motions?

6 MR. WHITE: Judge, I do have a motion to kind of  
7 piggy back on one of Mr. Brooker's motions. I can go  
8 ahead and get into now. It's just very brief. Three  
9 suspects popped up in this investigation. One was  
10 Mr. Hemingway, two others were cleared because they wore  
11 ankle monitors. Obviously, we will want to elicit that  
12 testimony that law enforcement checked the ankle monitors  
13 and were able to clear them based on that. We want to  
14 limit it to just that. I believe both were on ankle  
15 monitors for sex offender purposes. And I'd make a motion  
16 to exclude any mention of that. I don't think it's  
17 necessary or relevant.

18 THE COURT: All right. So you just want to  
19 exclude any testimony regarding ankle monitors, is that  
20 what you're saying?

21 MR. WHITE: Well, I got to bring out that  
22 they're wearing ankle monitors. I don't plan on asking  
23 them why they were on ankle monitor or anything like that,  
24 and I just ask defense counsel do the same.

25 THE COURT: All right. Mr. Brooker, any

1 response?

2 MR. BROOKER: Your Honor, we have no intentions  
3 of doing that. Of course, one of the motions that we're  
4 going to make and I think I expressed with an e-mail is  
5 that I'm going to make a motion to -- motion in limine to  
6 exclude the mention of these electronic monitoring  
7 altogether on the grounds of relevancy. So I have no  
8 objection to specifically that limited, I guess, motion of  
9 not discussing, you know, the fact that these guys may or  
10 may not have been on electronic monitoring because they  
11 were sex offenders that was on the register. So unless  
12 during the course of the trial something happens that  
13 opens the door that makes it necessary for us to do that.

14 THE COURT: All right. Any other motions from  
15 the State?

16 MR. WHITE: That's fair, Judge.

17 THE COURT: All right.

18 MR. WHITE: The only other thing the State has,  
19 Judge, I do have a stack of photographs. Mr. Brooker said  
20 that he has no objections to them. After he finishes his  
21 motions, I'll be happy to pass these up so you can take a  
22 look at them.

23 THE COURT: You want to go ahead and do the  
24 photographs now and just finish everything the State has?

25 MR. BROOKER: That's perfectly fine.

1           MR. WHITE: And, Judge, you know, when SLED  
2 comes to town and they take paragraphs, obviously, it's a  
3 bit of a plethora of photographs. So I've already gone  
4 through and eliminated a great deal. Judge, I think it's  
5 incumbent upon the State to show the scene. You know, it  
6 does depict that there's a struggle in the hallway as  
7 oppose to in the living room where Mr. Legette is found  
8 there's no struggle. And the argument would be that he  
9 was approached in his sleep and shot there on the couch.  
10 And then the struggle in the hallway I want to be able to  
11 depict that struggle because that's crucial to, you know,  
12 the State's theory as well as the reasoning for so much  
13 involvement from SLED as far as swabbing the hallway and  
14 that sort of thing. I don't think I've gone so far as to  
15 be, you know, overly prejudicial with those photographs  
16 but, again, I have to prove my case. And I have to prove  
17 malice.

18           THE COURT: Okay. So you've gone through all  
19 these photographs, and you agree from your perspective  
20 that these come in?

21           MR. WHITE: I do. I believe that all of those  
22 should come in. But Mr. Brooker said he did have some  
23 objections to some.

24           THE COURT: All right. Do you want to identify  
25 the ones that you have objections to so we can discuss

1 too? We can mark them for the record.

2 MR. BROOKER: Certainly.

3 (WHEREUPON, a pause in the proceedings.)

4 THE COURT: I've looked through them. I want  
5 you to identify the ones that you object to and have the  
6 court reporter mark them and we'll take another look at  
7 them.

8 MR. BROOKER: Thank you, your Honor.

9 THE COURT: Thank you. Here's one, I'm sorry.

10 MR. BROOKER: Your Honor, this is a list of the  
11 ones that we don't object to.

12 THE COURT: Okay.

13 MR. BROOKER: These are the ones that we do.

14 THE COURT: Let me see what you got. All right,  
15 I'm gone give these to the court reporter. There's no  
16 objections on these photographs, but, of course, these do  
17 not show any of the bodies. Why don't we have the court  
18 reporter mark each one of these and we'll just analyze  
19 them and go through each one individually.

20 MR. WHITE: Yes, sir, Judge.

21 (WHEREUPON, a pause in the proceedings.)

22 MR. WHITE: Hey, Judge, do you intend to hold  
23 them up, if so, I was gong to give the victim's family an  
24 opportunity to leave if they need to.

25 THE COURT: Yes, I'm going to hold them up let



1 each of you respond to each one.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. WHITE: I think everybody is going to stay,  
4 Judge.

5 THE COURT: Okay. I'm just waiting for her to  
6 finish marking.

7 (WHEREUPON, a pause in the proceedings.)

8 THE COURT: So is the State moving three through  
9 35 into evidence without any objection? That's the group  
10 that you had no objection to, Mr. Brooker.

11 MR. BROOKER: Yes, those are the photographs ---

12 THE COURT: You okay with that?

13 MR. BROOKER: Yes.

14 THE COURT: So three through 35 are in evidence  
15 without objection. They're not an issue. Let's take a  
16 look at the ones the defense objected to. Looks like I  
17 have no photographs of the female victim. And would you  
18 all just like to come up here and just take a look at them  
19 and tell me how it would assist the State. This is number  
20 36.

21 MR. WHITE: And, Judge, you like an explanation  
22 why ---

23 THE COURT: If you would, I'll just be glad to  
24 hear from you.

25 MR. WHITE: Judge, this shows that body as it

1 fell -- it's the State's theory is that she was forced  
2 against the wall. The first shot was to the left cheek,  
3 and then she slump down the wall. And then she was shot  
4 three times in the top of the head. The fourth missed.  
5 It was intended for the top of the head, but it hit her  
6 top of her shoulder as she slumped. And, of course, that  
7 shows the position that her body would have fell.  
8 Additionally, Judge, it shows that her clothes were  
9 distorted in such a way as to evidence that there were  
10 signs of a struggle. You can see her shirt is pulled to  
11 the side and away from her body. And we believe that that  
12 with the totality of the evidence from the hallway showed  
13 that there were signs of a significant struggle.

14 THE COURT: All right. Does that picture show  
15 anything different from number 47?

16 MR. WHITE: That shows -- Judge, the only -- the  
17 thing that this shows is there was a bullet hole found  
18 later from law enforcement. This shows the potential  
19 angle that that bullet would have had to travel. It also  
20 shows the relation in connection from this body to the  
21 living room where the other victim is found deceased.

22 THE COURT: Okay. The first paragraph was what  
23 number?

24 MR. WHITE: First number, Judge, is State's  
25 Exhibit 36.

1 THE COURT: And that is 47?

2 MR. WHITE: Yes, sir.

3 THE COURT: All right. Mr. Brooker, what's your  
4 response.

5 MR. BROOKER: Thank you, your Honor. Your  
6 Honor, on these two photographs your Honor is our  
7 objection is actually a 403 objection. And, of course,  
8 under Rule 403 of Rules of Evidence, it says that although  
9 evidence may be relevant -- although evidence might be  
10 relevant, it may be excluded if the probative value is  
11 substantially outweighed by the danger of unfair  
12 prejudice. And, of course, so the question is and I think  
13 this is a question that's answered. I think it's State  
14 vs. Phillips that case that I referenced before. So the  
15 question is what is is the probative value of these  
16 photographs. And, of course, in State vs. Phillips and  
17 let me pull up -- let me pull up State vs. Phillips. The  
18 Court in State vs. Phillips South Carolina Supreme Court  
19 says we begin our analysis of a Rule 403 objection with  
20 probative value. And it says to understand the probative  
21 value of any evidence, we must consider what was  
22 practicably in dispute at the trial. And, of course, in  
23 this particular situation is what's in dispute at trial is  
24 not -- and, of course, is is that -- of course, in State  
25 vs. Phillips the Court even says that. And, of course,

1 the victim in that case was Woods, and the Court says  
2 Woods was clearly murdered. And he says the only  
3 significant issue as a practicable matter was who murdered  
4 him. We must then consider how important the challenge  
5 evidence is to resolving the practicable disputed  
6 question. So the practicable disputed question in this  
7 case is who killed Maisha Burch. And, of course, who  
8 killed Andrew Legette. There is no issue with respect to  
9 whether or not they were murdered because in order for the  
10 State to prove it's case, the elements of murder -- the  
11 elements of murder. And I'll read the statute is the  
12 killing of a person with malice aforethought expressed or  
13 implied. So what does that evidence contribute to the  
14 State proving that. With respect to malice, it provides  
15 very little with respect to proving malice. And the  
16 reason why is that malice can be assumed from the use of a  
17 deadly weapon. There plenty of courts of cases -- there's  
18 plenty of cases out there that says malice can be inferred  
19 from the use of a deadly weapon. And, of course, is that  
20 there was a case that creates an exception.

21 MR. WHITE: I think the law's changed on that.

22 MR. BROOKER: The law hadn't changed completely.  
23 And, of course, what he's talking about is the exception  
24 that I'm about to mention is is that there use to be a  
25 blanketed rule that the use of a deadly weapon malice can

1 be inferred from that. The only change there has been and  
2 the exception has there been is that whenever there is the  
3 defense of self-defense, whenever an individual is arguing  
4 self-defense, then, of course, the use of malice -- the  
5 use of a deadly weapon can't be argued as evidence of  
6 malice because the person is alleging that they took the  
7 deadly force for the purpose of protecting himself. This  
8 is not a self-defense case. Mr. Hemingway is not arguing  
9 self-defense. Mr. Hemingway is not challenging the fact  
10 that they were murdered ---

11 THE COURT: All I'm talking about is those two  
12 pictures right there. Are they overly graphic? Are they  
13 needed by the State to prove their case that there was a  
14 body just analyzing each photograph.

15 MR. BROOKER: They're not, your Honor. They  
16 absolutely not.

17 THE COURT: You have to have a body.

18 MR. BROOKER: Say that again?

19 THE COURT: The State has to prove that somebody  
20 was murdered. I don't want them to be too graphic.

21 MR. BROOKER: And I know your Honor they're  
22 going to call the pathologist and the pathologist is going  
23 to get up, and the pathologist is going to say they were  
24 shot multiple times and that they were murdered. So just  
25 like -- just like the Supreme Court said in State vs. Hill

1 that's not the issue in dispute. The issue in dispute in  
2 this case is who did it. Not the fact that they're  
3 murdered.

4 Most of the times in murder cases when someone's  
5 dead, you know, it's very few times in which someone is  
6 challenging whether or not someone died. We're not  
7 challenging the fact that these people died. They were  
8 shot multiple times. This is who did it case and not a  
9 what happened case or whether or not they dead -- whether  
10 or not they're dead. So the question we're asking the  
11 question that, you know, that The State vs. Phillip says  
12 is is that is this evidence -- is this evidence necessary  
13 for them to prove who did it. It says absolutely nothing  
14 with respect to whether or not the person who did this was  
15 Hemingway. The only purpose of this evidence these  
16 photographs are, you know, is to insight passion in the  
17 jury. They don't do anything else.

18 MR. WHITE: Judge, my response is that first of  
19 all, the pathologist, is, you know, not at the scene.  
20 They're, you know, analyzing a cadaver that comes into  
21 their lab. Judge, this does go to who killed these  
22 individuals because what this shows both that scene in its  
23 entirety in the living room and in the hall what it shows  
24 is how they were murdered. And how they were murdered is  
25 drastically different. One was murdered in their sleep,

1 and the other one with passion shot, you know, multiple  
2 times after a struggle and that points to the fact that  
3 the person in the hallway was the intended target. And I  
4 think I should be able to elicit that evidence to prove  
5 just that. And I think I've establish that I'm not using  
6 it to inflame the passion of the jury. I am using it for  
7 that limited purpose.

8 THE COURT: All right. I understand.

9 MR. BROOKER: And if I could say something your  
10 Honor, he's absolutely right. If he wants to prove that  
11 there was passion, that's perfectly fine. The person in  
12 the hallway the female was shot multiple times. There's  
13 ways of doing that without using these gory graphic  
14 pictures.

15 THE COURT: What I'm going to do is is I'm going  
16 to take out number 36 as being gory and graphic as the  
17 defense said but leave in 47. I think it shows the same  
18 position use that tones it down just a little bit.

19 (WHEREUPON, State's Exhibit No. 36 was marked  
20 for identification only.)

21 MR. WHITE: Sounds good. Thank you, Judge.

22 THE COURT: I think you could use that. And  
23 then we have pictures 40, 42, 41, and 46, which all pretty  
24 much show the same thing, so I don't know why we got so  
25 many duplicative pictures maybe one or two would actually

1 assist the State but not have needless presentation of  
2 cumulative evidence pursuant to 403.

3 MR. WHITE: Judge, we be satisfied with State's  
4 Exhibit 42 and State's Exhibit 41 and excluding 40 and 46.

5 THE COURT: Okay. Have a look at it and you can  
6 respond to that.

7 MR. BROOKER: Your Honor, we would object. I  
8 think your Honor just says that he's incline to admit  
9 State's Exhibit 47. And, of course, the exhibits 40, 42,  
10 41 and 46 pretty much shows the same thing that 47 does.  
11 If they're trying to show the position of the body, 47  
12 does that.

13 THE COURT: How they differ from 47?

14 MR. WHITE: It shows that angle towards that  
15 potential bullet hole that was not discovered by SLED, but  
16 later discovered by law enforcement after they visited the  
17 scene a second time. And it also shows the marks on the  
18 wall relative to her body. You can see their hand marks  
19 smear marks down the wall, so it shows that. Judge, and,  
20 you know, I've got to paint the whole scene. And, again,  
21 you don't know what's going to come out at trial, you  
22 know.

23 THE COURT: All right. I'm going to exclude 40  
24 and 46. I find that 42 and 41 are relevant. They're not  
25 substantially outweighed by gory, graphic detail or



1 cumulative presentation of evidence. The State has to  
2 prove their case.

3 MR. WHITE: Judge, that was 41 and 42 are in?

4 THE COURT: That's what I'm doing and excluding  
5 40 and 46.

6 (WHEREUPON, State's Exhibit Nos. 41 and 42 were  
7 admitted into evidence.)

8 (WHEREUPON, State's Exhibit Nos. 40 and 46 were  
9 marked for identification only.)

10 THE COURT: We have 48, 45, 44, 43 out of those  
11 photographs how are they needed in addition to the ones  
12 you already have?

13 MR. WHITE: This particular photograph shows the  
14 ---

15 THE COURT: What number?

16 MR. WHITE: I'm sorry, Judge. This is State's  
17 Exhibit 48. It shows the clump of hair in her hand which  
18 I think is the State's theory -- that turns out to be her  
19 hair. It's the State's theory that he was dragging her  
20 down the hallway by her hair, and she was trying to pull  
21 the hand off and that's how the hair ended up in the hand  
22 so that, again, goes to the struggle and the violent  
23 nature of this. Judge, then if you look at State's  
24 Exhibit 45, it appears as though and if you look at it in  
25 comparison to her other hand, it looks at least one of her

1     nails is broken there. And, of course, the DNA of  
2     Mr. Hemingway is found under her fingernails. We can  
3     exclude and we agree that 44 is cumulative. Forty-three,  
4     again, shows the hair in the hand. It shows for the first  
5     time the relation of the fingerprints and the smears on  
6     this wall. And so that's the front side of the house  
7     wall. Back side of the house is depicted in another  
8     photograph. This is the first time that those are  
9     depicted there.

10           THE COURT: All right. Let the defendant's  
11     respond.

12           MR. BROOKER: Your Honor, 48 is a close-up  
13     graphic depiction of the body laying on the floor.  
14     Forty-eight, I think Mr. White says that the purpose of 48  
15     is is that you can see a clump of hair that is in her  
16     hand. Your Honor, I don't know which one of the  
17     photographs that I had no objection to, but there is a  
18     photograph that I have no objection to. And I can take a  
19     look at it that shows the clump of hair in her hand  
20     without showing -- without being so graphic. I  
21     specifically did not object to that photograph, you know,  
22     because I thought there is relevancy in showing that there  
23     was hair -- that she had a clump of hair in her hand even  
24     though it turns out to be her own hair. I will find that  
25     photograph your Honor. If you can indulge me for a

1 second. I think the marks on the wall that is previously  
2 been discussed all these photographs that I have not  
3 objected to specifically on number 27 shows the marks on  
4 the wall. Number 28 shows marks and fingerprints on the  
5 wall.

6 THE COURT: Right, they don't show a body, so  
7 there's no relation for any of that. All I'm talking  
8 about is the ones that are in ---

9 MR. BROOKER: And I think your Honor number 32  
10 this is the photograph that I did not object to because I  
11 thought that may be there was a legitimate reason for them  
12 showing the hair in the hand.

13 THE COURT: Any response to that? It shows the  
14 same thing.

15 MR. WHITE: I don't even know that you can tell  
16 which hand that's in, but you can't tell where it's  
17 positioned. I mean, it closes off -- you can't -- the  
18 jury looking at those photographs alone cannot orient  
19 themselves.

20 THE COURT: I got you.

21 MR. BROOKER: But the thing about that your  
22 Honor -- and see that's that thing. And this stuff always  
23 drives me crazy is is that which hair is in the hand is  
24 the hand. What is that relevant to proving murder? What  
25 is the relevance of that and that's what 403 says. And

1 403 says what is the relevance to it of proving an issue  
2 that you have to prove in order to prove your case. You  
3 can't say ---

4 THE COURT: How is it relevant?

5 MR. WHITE: Say that again, Judge?

6 THE COURT: How is that relevant?

7 MR. WHITE: It's relevant -- I have to show  
8 exactly what happened, you know, in its entirety. I can't  
9 just get up there and say somebody died he did it. I  
10 mean, I have to prove a theory of how this transpired.  
11 And, again, if you close off your view of that hallway,  
12 you can't see -- when you can piece all these photographs  
13 together, you can really tell that there's a significant  
14 struggle in that hallway. If you aren't able to orient it  
15 to the body, you can't tell. It just looks like, you  
16 know, when you take in totality of the photographs, it  
17 clearly depicts that that's what transpired in that  
18 hallway as oppose to what happened on that couch which  
19 again points to someone meaning this person as the  
20 intended target and I have to prove that.

21 MR. BROOKER: And I think your Honor number 48  
22 shows exactly what -- some of the other photographs that  
23 you were incline to let in that show's a body against the  
24 wall, which is shown in the paragraphs that you said you  
25 going to let in. And then, of course, is is that it shows

1 hair being in the hand, which is also in some of the  
2 photographs that you said that you were already -- that  
3 you've agreed already go in is that -- you know, like I  
4 said, in every time that the Court's have looked at these  
5 photographs, the Court has asked themselves is is that  
6 what is it these photographs that you need in order to  
7 prove your case. Prove the elements that have to be  
8 proven for murder. And I think you says that -- Mr. White  
9 says that it's necessary to show -- to show the position  
10 of the body. And like the Supreme Court says in State vs.  
11 Phillips this is -- there is no question that these people  
12 were killed. That's not the issue here. The issue is is  
13 that who did it. And how are these photographs are going  
14 to identify who did it. Now, if a hair in his hand would  
15 belong to my client and that was going to assist them in  
16 helping identify my client, fine. If the scratches on the  
17 wall was relevant in them proving that it was  
18 Mr. Hemingway, then fine. But your Honor this evidence is  
19 not going to be used. There was no DNA evidence taken  
20 from these walls that matches my client. I think there  
21 was -- and, of course, we'll get into the DNA stuff  
22 tomorrow, but the purpose of this stuff is is to incite  
23 passion of the jury. It does nothing more. No one is  
24 challenging that these people died. No one is challenging  
25 how they died. It's in challengeable. You can't

1 challenge it. They were shot in the head and the  
2 pathologist is going to testify to that.

3 MR. WHITE: And the DNA was recovered from the  
4 wall.

5 THE COURT: All right. And the State's theory  
6 is that there was a struggle. There was a fight and there  
7 was a killing. Photograph number 48 does show the hair.  
8 And it does give some position as to where she was laying  
9 where her hand is and which hand it is. It's not a lot of  
10 blood not a lot of gore in that photograph, so I think  
11 it's very relevant and not just cumulative or gore.  
12 Number 45 is a broken fingernail I think is relevant  
13 to the State's case and is perhaps needed to further prove  
14 that there was a struggle at the scene. Forty-five is  
15 cumulative. I'm going to pull that one and sit it to the  
16 side and not allow it -- 44 I'm sorry. And 43 has the  
17 hair in relation to the blood on the wall, which is a  
18 little different than just being cumulative. So I think  
19 those are needed to assist the State in proving their  
20 case.

21 (WHEREUPON, State's Exhibit Nos. 43 and 45 were  
22 admitted into evidence.)

23 (WHEREUPON, State's Exhibit No. 44 was marked  
24 for identification only.)

25 MR. WHITE: Thank you, Judge.

1 THE COURT: Now, we have the following which is  
2 37, 38 and 39. You all want to just briefly talk about  
3 that and then I'll hand it back.

4 MR. WHITE: Judge, I can exclude State's Exhibit  
5 19.

6 THE COURT: Which one is that?

7 MR. WHITE: That one here.

8 THE COURT: I agree cumulative.

9 (WHEREUPON, State's Exhibit No. 19 was marked  
10 for identification only.)

11 MR. WHITE: But 38 shows the trajectory and  
12 where he would have been standing when he shot on the  
13 couch. And, again, proves our theory that he was sleeping  
14 when he was ultimately shot. And then State's Exhibit 37  
15 shows how all the parties who entered that house would  
16 have viewed -- viewed the living room as they entered and  
17 as some members of law enforcement will testify that  
18 there's no signs other than him being shot. There's no  
19 signs of a struggle at all in the living room, so that's  
20 what that particular picture depicts.

21 THE COURT: All right. Mr. Brooker.

22 MR. BROOKER: I will start with 38, your Honor.  
23 I think Mr. White says that 38 demonstrate the trajectory  
24 of the bullet. And I'll say two things with respect to  
25 that, your Honor, is one is the trajectory of the bullet

1 cannot be accessed from looking at these photographs. The  
2 pathologist actually testifies to the projection -- to the  
3 travel of the bullet. And we'll testify to entrance  
4 wounds and, of course, travel of the bullets, but you  
5 can't make a determination of exactly where someone is  
6 standing by looking at this photograph. In addition to  
7 that, your Honor, relevancy -- how is this evidence not  
8 relevancy, but how is this evidence probative to proving  
9 murder and identity. It's not relevant to proving murder  
10 and identity. It does not matter whether or not someone  
11 shoots you if they're standing in position A or either two  
12 steps from position A or either two steps from position B,  
13 unless that is somehow relevant to proving identity. Then  
14 I would see how it's admissible, but it's not relevant to  
15 proving anything that this State has to prove in order to  
16 get a conviction for Mr. Hemingway. It's just -- it just  
17 shows someone being shot in the head and blood all over  
18 the place, that's all it shows.

19 THE COURT: All right. Well, I'm going to  
20 exclude 39. 38 and 37 I think would assist the trier of  
21 fact. The expert may need them to explain how a  
22 trajectory was found. Go ahead. And I'm sure the State  
23 is trying lay scene for the whole event not just each one  
24 isolated, and as to who was there, who had opportunity,  
25 who had motive, how they were killed et cetra, et cetra.



1 So I think we've gone through them in great detail.

2 (WHEREUPON, State's Exhibit No. 39 was marked  
3 for identification only.)

4 MR. WHITE: Yes, sir.

5 THE COURT: And cored them way down to what is  
6 only needed by the State to show their case.

7 MR. WHITE: Yes, sir.

8 THE COURT: Those are just my thoughts any way.

9 MR. WHITE: I agree. And, Judge, at the  
10 conclusion if you could if you could give me just a run  
11 down of all the ones that we are cutting. So I can double  
12 check it and make sure that I don't present those to the  
13 jury.

14 THE COURT: All right, you ready?

15 MR. WHITE: We ready, Mr. Tucker?

16 THE COURT: 36, 39, 40, 44 and 46.

17 MR. WHITE: Very good. Thank you so much,  
18 Judge.

19 THE COURT: All right. Thank you. Now, we turn  
20 to the defense's motions.

21 MR. BROOKER: Your Honor, the first motion I  
22 guess we'll start off with -- your Honor, our first motion  
23 that we'll start with your Honor is the motion to suppress  
24 the information obtained discovered as a result of, I  
25 think, January 24, 2020, search warrants for the Verizon

1 wireless account telephone number. I think it's  
2 843-625-0880 believe to be that of Issac Hemingway. If  
3 don't mind your Honor is I have -- I have a written motion  
4 with the law, and we can make that as an exhibit your  
5 Honor for the purpose of this case. And your Honor might  
6 want me to go first and make the argument.

7 THE COURT: Is this for me or the court  
8 reporter?

9 MR. BROOKER: I think your Honor we can make it  
10 as an exhibit of course. I can have that one once she  
11 marks that one.

12 THE COURT: Go ahead and mark it.

13 (WHEREUPON, Defendant's Exhibit No. 1 was marked  
14 for identification only.)

15 MR. BROOKER: Defense 1 I can give this one to  
16 you, and I'll just take that one. Your Honor, I think it  
17 was on January 24th of 2020, I think shortly after the  
18 discovery of the bodies of these two individuals. I think  
19 they were discovered on January 13 of 2020. And I think  
20 roughly about 11 days later on January 24 law  
21 enforcement -- and, of course, the search warrants  
22 attached as exhibit eight law enforcement went to a local  
23 magistrate specifically Judge Fling and requested a search  
24 warrant to obtain telephone records and telephone  
25 information from Verizon Wireless for account number

1 843-625-0805 which was the telephone account for Issac  
2 Hemingway. And your Honor I won't go through this  
3 stuff in great detail at least the law because the law is  
4 cited in the brief that's marked as Defendant's 1. But  
5 just briefly, I think 17-13-140 which is the statute that  
6 deals with search warrants identifies the type of property  
7 that law enforcement can legitimately seek to seize for  
8 explain to a search warrant. And, of course, the two  
9 types of property that are relevant at least in this  
10 particular case and for this particular argument -- and  
11 I'm on page one subsection A and, of course, number one.  
12 And that is property which is being used or has been used  
13 in the commission of a criminal offense or is in  
14 possession with intent to be used as a means for  
15 committing a criminal offense or is concealed to prevent a  
16 criminal offense from being discovered, that property is  
17 legitimate. So law enforcement has probable cause to  
18 believe that someone has evidence of a crime within their  
19 possession they can seek a warrant.

20 Number four, property constituting evidence of a  
21 crime or tending to show that a particular person  
22 committed a crime. If you have -- if there's probable  
23 cause to believe that a person is involved in a crime or  
24 has committed a crime, then, of course, it's legitimate  
25 for them to seek a search warrant. But as subsection two

1 or either number two states that in order for them to get  
2 that search warrant, the first thing that they have to  
3 satisfy, they have to satisfy probable cause. Search  
4 warrant can only be issued if there is evidence of  
5 probable cause. And, of course, the affidavit that is  
6 contained within that search warrant for probable cause,  
7 that affidavit must set forth particular facts and  
8 circumstances underlying the existence of probable cause  
9 sufficient to allow a magistrate's judge to make an  
10 independent evaluation of the matter to determine whether  
11 or not probable cause exist. Conclusory statements are  
12 insufficient. If a search warrant contains conclusory  
13 statements, then, of course, there is no basis upon which  
14 a magistrate's court can make an independent judgment as  
15 to whether or not probable cause exist. And the  
16 magistrate's judge is not allowed to simply ratify the  
17 conclusions that are reached by law enforcement. So it  
18 has to be sufficient evidence that's presented to the  
19 magistrate's judge for the magistrate's judge can draw his  
20 or her own conclusions with respect to whether or not  
21 probable cause exist.

22 And in this particular circumstances, in this  
23 particular case I cited -- I think on paragraph number  
24 four State vs. Smith. And, of course, in State vs. Smith  
25 the South Carolina Supreme Court determined that search

1 warrant was effective on its face in specifically it  
2 determines it was defective because in State vs. Smith I  
3 think that law enforcement believe that Smith had just  
4 committed a robbery or burglary. They went to a  
5 magistrate's judge to get a warrant to search this  
6 person's hotel room. And in that warrant the officer  
7 stated that on May 12th of approximately 11:45 p.m.  
8 Reginald Smith went into the Master Inn located at 1468  
9 Savannah Highway Charleston, South Carolina in that he did  
10 rob that the manager at knife point.

11 Smith has been staying at the Post of America  
12 room 206 since January 1, 1988. And there is very reason  
13 to believe that the weapon and the clothes used in the  
14 robbery are located in the room. And they ask the judge  
15 to issue a bench warrant excuse me -- issue an arrest  
16 warrant. And, of course, the Court basically says that  
17 that affidavit does nothing more than provide conclusory  
18 statements and did nothing to provide independent evidence  
19 or independent facts which a judge can make a  
20 determination as to whether or not Smith had committed a  
21 crime. And I think the Smith court specifically stated --  
22 specifically stated that they have to -- they have to  
23 provide the judge -- they have to provide the judge in the  
24 search warrant process evidence as to why they believe  
25 that Smith had committed the crime because that's what

1 they were doing. They were searching for evidence of this  
2 crime. So in order to invade his privacy in order to go  
3 in this room, the Smith court says that you have to  
4 explain why you believe he committed this crime. None of  
5 that was done in that affidavit.

6 And, of course, the State vs. Baccus, which is a  
7 similar situation. And, of course, in State vs. Baccus, I  
8 think this was actually here in Florence County. This  
9 case happen in Florence County. It was an individual who  
10 was I think believed to have I think shot his estranged  
11 wife or girlfriend in Marion County. Then, of course,  
12 fled to Florence County. And, of course, that search  
13 warrant says at the time of the suspect's arrest at 2616  
14 Alligator Road in Florence County, Investigator Prosser  
15 and Investigator Von Dean Turbeville with the Florence and  
16 Marion County sheriff's office, a pile of what appeared to  
17 be clothing that was lying on the ground beside the  
18 residence smoldering in plain view in a vehicle the  
19 suspect was apparently driving was located approximately a  
20 half mile from the residence. And there was blood stains  
21 on the inside and outside of the vehicle.

22 And what the South Carolina Supreme Court says  
23 that that affidavit failed to set forth any facts as to  
24 why police believe that appellate committed the crime says  
25 that the language in the affidavit lacks specificity and

1 contains conclusory statements. And the Supreme Court  
2 overturned his conviction on the grounds that a search  
3 warrant was deficient.

4 Of course, on paragraph seven, paragraph seven  
5 contains the affidavit that was filed by law enforcement  
6 in this particular case in which to justify searching his  
7 cell phone records in obtaining his cell phone records and  
8 cell phone data. And your Honor I know you could read  
9 your Honor but for purposes of the record, it basically  
10 says on page seven. I think paragraph one of the  
11 affidavit I think any law enforcement argued and I think  
12 it advised the judge that on January 15th of 2021 that  
13 detectives interviewed Issac Hemingway. That Issac  
14 Hemingway and the victim Ms. Burch had five children  
15 together. That Issac Hemingway picked up the children on  
16 Saturday. That Issac Hemingway took the children to  
17 Conway to his residence and that for the weekend, and that  
18 Maisha Burch, the victim, had called him I think several  
19 times on Saturday night to ask about the kids. And the  
20 affidavit says that before returning the kids on Sunday  
21 the next day, that Mr. Hemingway made a number of calls to  
22 Ms. Burch in which went unanswered. And it says that  
23 Mr. Hemingway returned the kids around 7:30 to eight  
24 o'clock. I think they dropped them off to the victim's  
25 daughter's home after he couldn't get in contact with the

1 victim.

2           The next day on the 13th the bodies of the  
3 victims were discovered. And it says that -- and it tells  
4 how Andrew Legette was found dead on the floor. Ms. Burch  
5 was found dead on the floor. They both had been shot.  
6 And it goes on to say on the 14th that detectives met with  
7 Mr. Hemingway's father and talk with him, and they  
8 confirmed what Mr. Hemingway's telephone number was. And  
9 it says they also called Mr. Hemingway on that number and  
10 that he did answer to confirm that that was his number.

11           And it says on the 24th they contact Verizon  
12 Wireless to confirm that that was a Verizon Wireless  
13 number, that's the basis of the information. And just  
14 like the same fatal flaws that the Court mentioned in  
15 State vs. Smith and also State vs. Baccus the same fatal  
16 flaws appear here. They provided the judge no information  
17 with respect to why they believe that Mr. Hemingway was  
18 involved in this murder and that his cell phone records  
19 contained evidence of this particular crime. And I think,  
20 in addition to that, I attached I think a document. I  
21 think it's exhibit B. I think it's attached to the same  
22 -- exhibit B is an evidentiary in-take form I think from  
23 South Carolina Law Enforcement Division. And the reason  
24 why I attached this to the bottom dated January 27 of  
25 2020. And at the very bottom where it says urgent request



1 for examination this is a request to have them examine the  
2 phones they recover at the scene. And the reason it says  
3 is this is a double murder with zero leads. The phones  
4 possibly have information that could lead to a suspect.  
5 So they're admitting that there is absolutely no evidence  
6 whatsoever that would suggest at that time in which they  
7 request these records that Mr. Hemingway was involved in  
8 this murder.

9 Now, then what would be the basis of them  
10 requesting it. It has to be probable cause and that  
11 probable cause has to be based upon that there was a  
12 crime. We had that that Mr. Hemingway has evidence that  
13 is relevant to that crime and that there's probable cause  
14 to believe that he has evidence that's relevant to that  
15 crime or that he is involved in that crime. None of that  
16 is presented whatsoever. I think if you look at the  
17 affidavit, the affidavit makes the same flaws that were  
18 made in Baccus and Smith where the officer says I think on  
19 paragraph 6A of the affidavit it says that affiant has  
20 reason to believe and that language always creates a  
21 mistake. And it says does believe that there was evidence  
22 in the record to search that could be pertinent to the  
23 ongoing investigation. So what he's telling the judge is  
24 is that this is our conclusions. We think that there's  
25 evidence here that's relevant to the investigation, but he

1 has not provided the judge with any information within  
2 that affidavit and would suggest and draw his own  
3 conclusions. And just like in Baccus and Smith, it says  
4 you can't give conclusory statements, and judges have an  
5 obligation to do an independent evaluation. They can't  
6 merely accept the conclusions that are reached by law  
7 enforcement. And it goes on to say that based on training  
8 and experience individuals utilize cell phones. There is  
9 absolutely nothing in this affidavit in which a jury  
10 could -- in which a judge could make a determination as in  
11 state -- as in Baccus that defendant was involved in the  
12 crime and that he was harboring evidence of that  
13 involvement.

14 Now, some might say, well, these are cell phone  
15 records, but we all know since 2018 the carpenter case  
16 basically says that cell phones enjoy the same expectation  
17 of privacy as our residence does. Even though cell phone  
18 information is obtained by a third party which was -- a  
19 kind of a monumental case because before Carpenter in 2018  
20 law enforcement could simply call Verizon Wireless or  
21 either the wireless company. And they can obtain this  
22 information without getting a search warrant, but  
23 Carpenter says that sell phone evidence obtained by  
24 wireless carriers has the same Fourth Amendment  
25 protection, you know, as items that we might obtain in our

1 home. And it says that it has to be -- law enforcement  
2 has to go through the same process of getting a warrant to  
3 search someone's cell phone in the same way they would do  
4 if they were to search someone's house. They have to  
5 prove probable cause. It is absolutely absent in this  
6 search warrant. Thank you, your Honor.

7 THE COURT: All right. The State like to reply?

8 MR. WHITE: Yes, sir, Judge. We're familiar  
9 with Baccus and Baccus is not on point here. Baccus  
10 involved a officer who is instructed by another officer to  
11 go seek an affidavit on their behalf. So when he went to  
12 the judge or she went to the judge, she did not have  
13 firsthand knowledge of what she, you know, spoke about in  
14 the affidavit. Here Agent Barkdoll with SLED does have  
15 first-- hand knowledge and that first-hand knowledge was  
16 obtained during an interview with Brooker's client in  
17 which he said he gave them motive. He said that there was  
18 an ongoing child custody dispute. He admitted to picking  
19 up the kids and seeing her, and would have been one of the  
20 last persons to see her alive on Saturday. And then  
21 admitted to a late night phone call between he and the  
22 victim and that have led law enforcement to believe he  
23 would quite likely the last person to talk to her before  
24 she was murdered. Judge, there is nothing in the -- and  
25 the affidavit speaks for itself. I'm happy to pass it up

1 to you, Judge.

2 MR. BROOKER: It's attached to the exhibit.

3 MR. WHITE: There's nothing in it that's  
4 conclusory. Everything is base solely on what  
5 Mr. Hemingway tells law enforcement in that interview.  
6 And they had every reason to want to verify what he said  
7 in his comings and goings and the calls that he claimed to  
8 have made. I guarantee you if the evidence were favorable  
9 for the defense they be arguing to keep it in. We  
10 wouldn't be hearing this motion at all or if law  
11 enforcement had not done it, we be hearing all about it on  
12 the stand of why they neglected to do it, couldn't you  
13 have gotten the search warrant for his phone, why didn't  
14 you do it. But here Agent Barkdoll did everything by the  
15 book. And it's one of the more thorough affidavits and  
16 search warrants that I've seen. And he does a great job,  
17 those guys at SLED always do. And he references his  
18 training and experience in evidence of crime is often  
19 obtained from these search warrant of cell phone records.

20 As it pertains to that last document the  
21 computer crimes center, we're dealing with I just want to  
22 be clear, Judge, when you look at that. We're dealing  
23 with different things here. There are phones that are  
24 recovered from the scene that's what Reggie or  
25 Investigator Hotaling is referring to. What we're talking

1 about here is cell cite or cell data information recovered  
2 from Verizon. So they obtained his number. And so while  
3 Investigator Hotaling is working on the phones, Agent  
4 Barkdoll is working on the search warrants. So one has  
5 nothing to do with the other. But, again, he is extremely  
6 specific. There's nothing conclusory that I see. It  
7 appears that he did everything by the book and low and  
8 behold it turned out that there was something pinging on  
9 his sell phone records. So, Judge, I respectfully  
10 Mr. Brooker who makes a good argument, I think that the  
11 State should be allowed to, you know, given that we laid a  
12 proper foundation to move those records into evidence.

13 THE COURT: All right. Let me look at it real  
14 quick.

15 (WHEREUPON, a pause in the proceedings.)

16 THE COURT: Let me ask the State, what  
17 specifically in this search warrant leads law enforcement  
18 to need to go search the cell phone records of this  
19 defendant other than we got bodies? And they know each  
20 other and they called each other. But looking at the  
21 search warrant reading me some passages that would ---

22 MR. WHITE: Right. According to Issac  
23 Hemingway, Maisha Burch called him on the telephone on  
24 Sunday January 12th about 12:40 am or 12:50 am asking him  
25 about their children. So, obviously, they're going to

1 want to verify that. They're trying to verify -- just  
2 like they verified the other individuals through GPS.  
3 They're excluding everybody. They're trying to exclude or  
4 include these folks in their investigation. And that's  
5 what they're doing here. They trying to verify whether or  
6 not what he's saying is true, and that information will  
7 also help them establish time of death. So I think that,  
8 you know, Mr. Hemingway tells them -- if you think about  
9 it, Judge, he is one of the last people to see her  
10 physically. He's one of the last people to talk to her on  
11 the telephone. And then he returns to the scene of the  
12 crime the next day where he tells his children don't get  
13 out the car and then they leave. So he's kind of book  
14 ended on this thing. And, of course, they would want to  
15 verify. There's other things that they try to verify as  
16 well. He says that he goes to a I believe Family Dollar  
17 the next morning. And they to go see if they can track  
18 down their video surveillance, but they're trying to  
19 verify every aspect of his statement. And this is a  
20 critical part, but, I mean, he says they spoke. And if  
21 that's true, he would have been one of the last persons to  
22 talk to her before she met her demise.

23 THE COURT: You get the last word.

24 MR. BROOKER: Your Honor, and see that's the  
25 issue is is that the issue -- like Smith and Baccus says

1 Mr. Baccus says probable cause -- probable cause has to be  
2 that there is evidence that he is somehow involved in the  
3 crime.

4 THE COURT: Probably involved in the crime.

5 MR. BROOKER: Yeah, probably. It has to be  
6 probable cause to believe that he might be involved in  
7 this crime that they're investigating. And that's what  
8 they have to provide to law enforcement. You can't say,  
9 well, I need this just for the purposes of checking on  
10 what someone told me. Right now if one of these officers  
11 in this courtroom were to say, well, Thurmond, you know,  
12 do you have drugs in your car and I said no. They  
13 couldn't come to you and says your Honor Thurmond -- we  
14 ask Thurmond did he have drugs in his car he said no.  
15 Your Honor, give us a search warrant to search his car to  
16 verify that. The first thing that you're going to have --  
17 the first thing that your Honor is going to say is is that  
18 what evidence that you have that he may be involved in a  
19 drug crime. You have to present that evidence and that's  
20 what Smith and Baccus is saying. And there's a ton of  
21 cases out there that says that. I think sometimes law  
22 enforcement gets confused in thinking that they can get  
23 information in order to verify what people say to you, but  
24 you can't invade someone's privacy for verification  
25 purposes.

1           You have to demonstrate that there's probable  
2       cause to believe that they're involved in this crime and  
3       that's what Baccus and that's what Smith says. And that's  
4       why the Court overturn those convictions and found that  
5       the trial court was wrong for allowing that evidence to  
6       come in because they failed to do that. And this is a  
7       long affidavit and I been doing this for 23 years. And  
8       I've read many many long affidavits. I've read many many  
9       long affidavits, but this is a long affidavit that  
10      basically says that Mr. Hemingway pick up the kids --  
11      picked up the kids on Saturday from the victim. That the  
12      victim called him to find out how the kids were doing on  
13      Saturday night. And then on Sunday he brings the kids  
14      back and drop the kids back off. And when he brought the  
15      kids to drop them back off no one answered -- answered at  
16      the victim's home. So he took them to the victim's sister  
17      excuse me -- adult daughter and left them there. It says  
18      absolutely nothing as to why that we have invade this  
19      person's privacy because we believe that he's involved in  
20      this crime. And even that statement exhibit number two  
21      the warrant it says exactly what I'm telling the Court  
22      they admit it in exhibit number two when they said to SLED  
23      excuse me -- exhibit B to the -- to my motion to State's  
24      Exhibit 1. I mean, the officer -- the officer involved in  
25      this says this is a double murder case with zero leads.



1 These phones possibly have information that could led us  
2 to a suspect. So they're saying that we have absolutely  
3 no evidence of a crime by anybody whatsoever. And this  
4 was done on January 27 that they wrote this statement.  
5 This was three days after they got a warrant to search  
6 Mr. Hemingway's phone.

7 THE COURT: All right, last word.

8 MR. WHITE: And, Judge, Agent Barkdoll and  
9 Reggie Hotaling are two -- I mean, SLED is working one  
10 avenue and Hotaling is working. One has nothing to do  
11 with the other. But, Judge, just, again, I mean, they  
12 have evidence that he is one of the last people to talk to  
13 her alive. And they are seeking the cell phone records.  
14 And these aren't -- you know, it's not his personal. You  
15 know, I love to see the case law that says cell phone data  
16 you have the same high level of right to privacy as you do  
17 in your own home. He can produce that for me I'd be  
18 amazed.

19 THE COURT: But you have to have the search  
20 warrant.

21 MR. WHITE: Sir?

22 THE COURT: You have to have the search warrant  
23 just like he would for the home.

24 MR. WHITE: You have to have a search warrant,  
25 but I don't think it's as high a scrutiny as it is for

1 your home, Judge.

2 THE COURT: I think it is. But the issue here  
3 is how high is the scrutiny for a search warrant.

4 MR. WHITE: Correct. But, Judge, again, he one  
5 of the last people to speak to her in the early morning  
6 hours when she is killed. And then, Judge, he admits that  
7 he makes several phone calls to her the next day. So I  
8 think Agent Barkdoll had all the reason in the world to  
9 seek what he saw.

10 THE COURT: Yeah, I think it has risen to the  
11 level probably to issue a search warrant by a magistrate.  
12 You have the father of the children for one of the  
13 victims. He's in and around at that the same time with  
14 the children. I think, there's enough there to search his  
15 phone to see if what he's saying is it true or not. I  
16 understand where you coming from too.

17 MR. BROOKER: Yes, sir. Of course, your Honor,  
18 if you take a look at that brief ---

19 THE COURT: It's obviously isn't beyond a  
20 reasonable doubt. This is a search warrant for probable  
21 cause.

22 MR. BROOKER: Absolutely, your Honor. I'm not  
23 going to argue that any more, your Honor. You made your  
24 ruling. Of course, my objections is preserved for the  
25 record. And, of course, in that same motion we made four

1 reasons for excuse me -- two other reasons to deny the  
2 warrant. And, of course, if you look on page six of the  
3 motion. And, of course, on section B it says search  
4 warrant not executed within ten days. Of course, South  
5 Carolina's search warrant statute 17-13-140 says any  
6 warrant issued hereunder shall be executed and made return  
7 only within ten days after it's dated. And that means  
8 your Honor is is that South Carolina -- the South Carolina  
9 General Assembly has made the conclusion that search  
10 warrants -- search warrants are only alive for ten days.  
11 And whatever you do you have to do within ten days. And  
12 this language is mandatory, so that search warrant expires  
13 after ten days. This search warrant was issued -- and if  
14 you look at the search warrant that's attached to this  
15 motion your Honor, the search warrant was issued on the  
16 24th January 24th.

17 THE COURT: 25th.

18 MR. BROOKER: Of 2020 January 24th of 2020.

19 THE COURT: Your memo says the 25th. I don't  
20 know if that matters or not.

21 MR. BROOKER: I don't think it really does  
22 matter. I'm looking at Judge Fling's signature. It says  
23 January 24th, but I don't really think it makes a  
24 difference, but I was looking at the date in which -- also  
25 the date on the first page of the search warrant as well

1 too. And, of course, if you take a look at the return,  
2 the items were returned on, I think, February 11th. And  
3 after the return, there is a receipt of property and that  
4 receipt of property is also dated. And it says that disk  
5 containing Verizon phone records for telephone number  
6 843-625-0880. And then, of course, it's dated  
7 February 11th of 2022. That is what 1718 days after the  
8 expiration of the search warrants. And if your Honor  
9 wants me to go ahead and argue number C subsection C  
10 instead of waiting and going it one by one. Subsection C  
11 which is the third ground that we filed termination for  
12 suppressing the search warrant fruits of the search  
13 warrants. And it says in that very same statute for  
14 search warrants 17-13-140 it says that any magistrate or  
15 recorder or city judge having the power of magistrates or  
16 any judge or any court of records of the state having  
17 jurisdiction over the areas or the property sought as  
18 located. I misspelled sought as south. May issue a  
19 search warrant to search or seized. And I will say this,  
20 your Honor, is that in -- and I'll say this out of ethics  
21 and full disclose.

22 In 2021, I think it was actually in January of  
23 2021 the South Carolina Supreme Court dealt with this  
24 issue. We had filed -- I think we done this in other  
25 cases where magistrates are signing warrants. The statute

1 says that magistrate courts don't have -- magistrate  
2 judges don't have jurisdiction beyond their county lines.  
3 And, of course, this, I think, finally was heard by the  
4 Supreme Court in January of 2020. And that Supreme Court  
5 basically says -- I think it was Judge Few who wrote this  
6 would surprise us, but he says that magistrate judges can  
7 issue search warrants beyond their jurisdictions because  
8 although the records may be obtained out of state, that  
9 those sell phone companies are doing business in the State  
10 of South Carolina. So therefore -- I guess, therefore,  
11 you know -- I don't fully understand logically. So  
12 therefore the magistrate judges wants is -- magistrate  
13 judges have issued these search warrants beyond the  
14 borders of South Carolina that is somehow okay. And the  
15 reason why I say that your Honor is is that this argument.  
16 I know what the Supreme Court says, but I want to preserve  
17 this because if there is a conviction, I want to have the  
18 right to be able to challenge this because in my humble  
19 opinion, you know, I think there is an argument that the  
20 Supreme Court didn't consider. And I think they are  
21 110 percent wrong because there is a federal court case  
22 that decide this very issue. And that federal court case  
23 basically says what when a magistrate issues a warrant  
24 beyond its boarders, then it's a constitutional issue that  
25 that magistrates -- a warrant is null and void on its

1 face. And, of course, is is that it's not just based upon  
2 South Carolina statute, but, of course, is is that it's a  
3 constitutional issue and the statute -- and the search  
4 warrant is constitutionally defective. But I understand  
5 that you may deny me on that. And I understand that  
6 because of the Supreme Court's ruling, but I just want to  
7 preserve that if there is a conviction, so that that might  
8 be addressed on appeal.

9 THE COURT: All right, any response?

10 MR. WHITE: As it pertains to subsection B,  
11 Judge, obviously, that bit about the ten day return is  
12 just ministerial. I mean, this is administrative process.  
13 It's not a drug case where the time is of the essence.  
14 And also they're at the kind of whim of Verizon here.  
15 They can't rush Verizon. Verizon sends it when they send  
16 it. I think about the impracticality of it expiring every  
17 ten days. Then they have to reapply for the same record  
18 only for it to expire again. And we're not talking about  
19 years later. I mean, this is 17 days later. They're just  
20 waiting for the records to come back from Verizon. And  
21 then I don't have an argument for subsection C. I don't  
22 even ---

23 THE COURT: Well, I think Justice Few spoke for  
24 that, so I'm going to rely on them.

25 MR. BROOKER: I'll say one thing in follow up

1 your Honor, and I understand what Mr. White saying. I  
2 think he's making an argument that it's not practicable,  
3 but the law is what it is, that's what the statute says.  
4 The statute says it expires after ten days. Whatever you  
5 have to do within ten days. This is a situation where the  
6 legislature if they want to give more time someone is  
7 going to have to petition the legislature to change the  
8 statute, but the law is what it is. And there is no  
9 argument about that, they, it's just not practicable under  
10 these circumstances therefore we can ignore the law. You  
11 can't. There is ways around this. One way around this  
12 would be is to get court order because a court order does  
13 not have an expiration to go to a circuit court judge and  
14 ask a circuit court judge to issue a court order for the  
15 production of those records through a subpoena that does  
16 not have the same sort of complications. But law  
17 enforcement is still using a search warrant where South  
18 Carolina now allows in criminal cases you can now use a  
19 subpoena in order to subpoena records. So it's not a  
20 situation where they would not have any other avenue  
21 that's available.

22 And then also your Honor I say this one more  
23 thing is going to take five seconds is is that they can  
24 also -- and I think this is another case and I think the  
25 Supreme Court's going to have to deal with is is that

1 warrants -- search warrants are issued local judges from  
2 one state. There are statutes that allow them to be able  
3 to go to the other state in North Carolina or Georgia.  
4 And, of course, is that have those -- have those search  
5 warrants adopted by the Court there and enforce by the  
6 court there. Their statutes allow for them to be able to  
7 do that just because it's inconvenient doesn't mean that  
8 you can just ignore the law because it's inconvenient.  
9 The law is what it is.

10 THE COURT: I think Justice Few or whoever is  
11 spoken about beyond jurisdiction for the magistrate, so  
12 I'm not even going there. But the ten-day window, I  
13 think, I'm not positive, but that's giving the magistrate  
14 or whoever signs that search warrant to go ahead and serve  
15 it and execute it and get it done and not to sit there and  
16 hold it for a year and a half year, two years and run out  
17 and serve a search warrant. But as far as the ability for  
18 Verizon to get information back, this was quick by their  
19 standards real quick. And I don't think we can much  
20 control that. So I'm going to respectfully deny your  
21 motion in that regard.

22 MR. BROOKER: Your Honor, the next motion that  
23 we have to file -- and I think this is the one in which we  
24 were addressing I think during the -- indulge me for just  
25 a second, your Honor. Your Honor, this is motion to



1 suppress the December 1-22 statement from law enforcement.  
2 And it's a motion in limine to suppress that statement.  
3 And, of course, it's my original. I'll hand the original  
4 up your Honor.

5 THE COURT: Haven't we already done that at the  
6 Denno hearing?

7 MR. WHITE: Yes, sir, Judge.

8 MR. BROOKER: You told us not to do it during  
9 the Denno hearing. You told us let's just stick with the  
10 Denno hearing because ---

11 THE COURT: I thought you moving toward  
12 suppressing the warrants. We stuck with the Denno  
13 hearing, which if I'm not mistaken deals with the  
14 statements.

15 MR. BROOKER: Well, I'll hand up the motion up  
16 your Honor. You can see what the motion is about because  
17 I have it written.

18 THE COURT: Yeah, because you're talking about  
19 suppressing the information obtained in that. You were  
20 challenging the warrants I believe.

21 MR. BROOKER: I was using that as a basis to  
22 challenge -- I was using that as a basis to challenge the  
23 statement itself.

24 THE COURT: Whether or not it was voluntary.

25 MR. BROOKER: As to whether or not probable

1 cause exist in the statements. If probable cause didn't  
2 exist within the search warrant because again in the  
3 arrest -- again before you can arrest somebody, you got to  
4 get an arrest warrant supported by probable cause. If the  
5 arrest warrant is not support by probably cause, then what  
6 that mean is is that the arrest was unlawful. And if the  
7 arrest is unlawful the fruits of everything that was  
8 obtained as a result of that unlawful arrest is  
9 suppressible and that includes his statement. I think  
10 Hotaling had testified that the December 2020 statement  
11 that that was unlike the January statement, which was  
12 freely and voluntarily done. He came in, but the December  
13 one was pursuant to or after he was arrested for child  
14 support -- child support bench warrant. Let me hand this  
15 back up before I lose it. You can indulge me for just a  
16 second your Honor. I'll hand up the motion so you can  
17 take a look at it so that you can differentiate the  
18 difference between the two. You mind, your Honor. And  
19 your Honor if I can have that marked as that marked as  
20 Defendant's Exhibit 2.

21 (WHEREUPON, Defendant's Exhibit No. 2 was marked  
22 for identification only.)

23 MR. BROOKER: I can hand this up your Honor if  
24 you want to look at it. Like I said, this is a motion to  
25 suppress the December 1 2020 statements. And, of course,

1 this is on a different ground, your Honor. I think  
2 Detective Hotaling -- former Detective Hotaling testified  
3 I think previously I think during the Jackson v. Denno  
4 hearing. I think he testified that when Mr. Hemingway was  
5 taken into custody that -- that custody -- that was  
6 involuntary, so he was actually arrested. And I think his  
7 testimony was is that there was a bench warrant from  
8 Marion County South Carolina and that they went to pick  
9 him up on that bench warrant from Marion County South  
10 Carolina. And I think he also told them that -- I think  
11 he also testified that he never told him that he was being  
12 arrested for the murder warrant. They'd obtained I think  
13 sometime earlier that day obtained those warrants for  
14 murder and possession of a weapon during the commission of  
15 a crime. The reason why we're bringing this motion your  
16 Honor -- and I think asked Detective Hotaling during the  
17 Jackson vs. Hearing as to whether or not he had a copy of  
18 that bench warrant that was perfectly outstanding that  
19 they used to arrest him on. And I think he said he did  
20 not and was not able to produce it. And the reason why  
21 that is relevant your Honor is because of 17-13-50.  
22 17-13-50 which is in the motion says that law enforcement  
23 officers -- it says specific subsection A a person  
24 arrested by virtue of process or taking into custody by an  
25 officer in the state has a right to know from the officer

1 who arrests or claims to detain him the true grounds on  
2 which the arrest is made. It is unlawful for an officer  
3 to either refuse to answer a question relating to a reason  
4 for an arrest to answer the question untruthfully to  
5 assign to the person arrested an untrue reason for the  
6 arrest or to neglect on request to exhibit to the person  
7 arrested or any other person acting in his behalf the  
8 precept by virtue of which the arrest is made. And, of  
9 course, it's our position and we take this position  
10 because I contacted the clerk of court to try and identify  
11 whether or not there was outstanding bench warrant for  
12 Mr. Hemingway in December 1 of 2020. And I could not find  
13 an outstanding bench warrant.

14           The last bench warrant and I think it's attached  
15 to the last case that there was a bench warrant that was  
16 issued -- was issued in the case that attaches exhibit A,  
17 attached as exhibit A. And, of course, that case was  
18 dismissed I think right after exhibit A to the motion to,  
19 the written motion. So it's incumbent upon the State even  
20 though I am making this motion it is is that the rule  
21 requires -- the law requires that they have to demonstrate  
22 that the statement was given lawfully. So in order to do  
23 that and not be in violation of 17-13-50, they have to  
24 prove that there was outstanding bench warrants and that  
25 he was arrested based upon that bench warrants. And he

1 was not arrested based upon false pretenses because law  
2 enforcement -- I think Detective Hotaling has already  
3 testified that he told them, hey, we're arresting you for  
4 a bench warrant. We also intend to call him. And, of  
5 course, his girlfriend who was also I think present when  
6 he was arrested.

7 And they specifically told him that there is no  
8 outstanding bench warrant against him. That all the child  
9 support cases that exist -- and I think the clerk's office  
10 told me that there was four of them, so we checked all  
11 four files that there was no outstanding bench warrants  
12 for his arrest in December of 2020. So I think it's  
13 incumbent upon them to provide or to prove that he was  
14 arrested for that reason. If that is not the truth, then  
15 they would be in violation of the statute. And, of  
16 course, is is that the South Carolina General Assembly  
17 take this so seriously, that South Carolina General  
18 Assembly says that if an officer misinforms a person about  
19 the reasons for his arrest, it is a felony that is  
20 punishable by imprisonment up to ten years. Now, I'm not  
21 looking to get anybody in criminal trouble, that's not the  
22 basis of a warrant -- basis of the motion. The basis of  
23 the motion is is that if it is a violation of -- if they  
24 violated 17-13-50, then, of course, that interrogation  
25 would have been unlawful and that interrogation is subject

1 to being suppressed. So your Honor I can allow you to  
2 hear from Mr. Hemingway on that issue. I think he doesn't  
3 waive his right to remain silent by testifying at pretrial  
4 motions. So he can certainly testify about that and also  
5 Ms. Payne's can do so as well too. But I think even if we  
6 provide them, the burden of proof is on them. They have  
7 to come up with this bench warrant because we have not  
8 been able to find it. And if that bench warrant never  
9 existed and they arrested him on false pretenses your  
10 Honor, it's a clear violation of the statute.

11 The second reason your Honor and I'll do that  
12 very briefly, you know, so we don't do them one and two.  
13 We kill two bugs with one stone. I think on subsection B  
14 of the motion, it says the affidavit of the arrest  
15 warrant -- the affidavit of the arrest warrant not  
16 supported by probable cause and that's the reason --  
17 that's the argument that I was making during the Jackson  
18 v. Denno hearing when I was questioning him about the  
19 arrest warrants and specifically the affidavit in those  
20 arrest warrants. Your Honor, you can clearly take a look  
21 at that. Those affidavits contains conclusory statements.  
22 I think every statement in the conclusory statements -- I  
23 been doing this for 23 years and law enforcement has  
24 always wrote those arrest warrants that on this date and  
25 this time this person committed this crime, therefore he

1 is charged with this. And there is abundance of case law  
2 out there dealing with probable cause says that you have  
3 to satisfy probable cause. You have to satisfy probable  
4 cause. This is not just something that you have to do in  
5 search warrants probable cause is also the standard for  
6 arrest warrants. And you have to provide the judge with  
7 probable cause, that's the reason why when Detective  
8 Hotaling was up there, I ask Detective Hotaling because I  
9 think it's in -- I forget what case it is.

10 I think it's Baccus that deals with probable  
11 cause that says that you have to state the grounds of the  
12 facts that supports probable cause with specificity. So  
13 you have to specifically identify what those facts are. I  
14 think when he testified before he says, well, I think I  
15 told the judge everything that happened in the case. And  
16 I said, well, you can't give a vague statement. You have  
17 to be specific with respect to if you supplemented the  
18 statements -- and you can do that, it's legal. You know,  
19 if you got a screwed up affidavit, you can correct it  
20 through oral statement as long as its done under oath, but  
21 Baccus says that you have to specifically identify exactly  
22 what that information that you gave to the magistrate so  
23 that your Honor can make an informed and intelligent  
24 decision with respect to whether or not the supplement  
25 information was good enough or sufficient enough to

1 correct it in the written affidavits. So I think that  
2 burden on them your Honor, so we'll ask the Court to  
3 require them to prove it.

4 MR. WHITE: And the burden has been met  
5 Investigator Hotaling testified that they had a bench  
6 warrant for child support when they pick him up. He  
7 testified that that was the reason why they picked him up.  
8 As to the documents that they had in their pocket  
9 pertaining to the murder, that's just a charging document,  
10 and it's separate and a part from the search warrant. It  
11 doesn't go through the level of specificity as required in  
12 the search warrant. And, you know, I don't know what else  
13 really needs to be said about that. I mean, they bring  
14 him in on the -- you know, it will be one thing if -- I  
15 mean, they tell him when he ask why am I here. You got  
16 this bench warrant pending tells him over and over. He  
17 keeps talking about it. He loves talking about it. I  
18 mean, he can't stop talking about it. He tells him you  
19 got this bench warrant pending for child support, but, oh,  
20 I want to talk to you about some other things, so first  
21 let me Mirandize you. I mean, he followed proper  
22 procedure. Judge, and I ask that the statement be  
23 admitted.

24 THE COURT: All right. I already found that he  
25 was properly Mirandized and that it was given freely and



1 voluntarily.

2 MR. BROOKER: Your Honor, I think the family  
3 court clerk is listed as a witness to testify I think.  
4 And, of course, she may be able to clarify whether or not  
5 it was a bench warrant existing or not. So with respect  
6 to that motion your Honor, we'd ask the Court to hold that  
7 in abeyance until after the clerk testifies with respect  
8 to whether or not there was an existing bench warrant.

9 MR. WHITE: And I think the Court has ruled.  
10 And at that point once we're half way down the trial, we  
11 won't be calling the clerk to discuss, you know, the  
12 validity of an outstanding bench warrants.

13 THE COURT: And he was being detained and he  
14 could not go anywhere. They did detain him.

15 MR. WHITE: Correct.

16 THE COURT: They let him know that. And then  
17 they Mirandized him and he spoke voluntarily, so I think  
18 it's proper.

19 MR. WHITE: Thank you, Judge.

20 THE COURT: All right. Any other motions?

21 MR. BROOKER: Your Honor, the other motions, of  
22 course, is is that unfortunately I don't have a written  
23 document for your Honor, but you're probably saying thank  
24 God. Let me hand that back. The other motions your Honor  
25 are going to be -- it's my understanding your Honor

1 that -- and one of this is I think your Honor we briefly  
2 addressed this. I think on one of Ryan's motions I think  
3 we briefly went over this. I think Ryan's motion in  
4 limine -- Mr. White I apologize. Made a motion in limine  
5 to I think exclude any evidence of two suspects that law  
6 enforcement I think investigated as apart of this murder  
7 trial. And those two suspects, I think were on the sex  
8 offender registry. And I think one of them was a  
9 boyfriend of Ms. Burch. And I think the other one was I  
10 think an acquaintance somebody that she -- and, of course,  
11 I think I said at that particular period of time your  
12 Honor -- and I think Mr. White says that it was their  
13 intentions to introduce -- to introduce GPS evidence with  
14 respect to those two individuals.

15 Law enforcement will testify that they had  
16 monitors on, and that they got that information GPS  
17 monitoring or whatever type of monitoring it was to  
18 confirm that they were some place else. And, of course,  
19 we're challenging that on the grounds of relevancy. And,  
20 of course, we've already talked about relevancy, Your  
21 Honor. So I won't go back over the law.

22 I think State vs. Phillips there is a section in  
23 State vs. Phillips that talks about relevancy. And, of  
24 course -- but, of course, I think it's 402 that deals with  
25 relevancy says that -- it says that all -- I apologize

1 your Honor let me pull up 402. 402 that deals with  
2 relevancy. 401 and 402 deals with relevancy -- indulge me  
3 for just a second, your Honor. 401, 401 says that  
4 relevant evidence means evidence having any tendency to  
5 make the existence of any fact that is consequential to  
6 the determination of the action more probable or less  
7 probable than it would be without the evidence. So  
8 evidence is relevant if it helps the State prove that Mr.  
9 Hemingway is guilty of murder.

10 And, of course, the evidence with respect to  
11 these individuals -- and I kind of understand what they're  
12 trying to do. And I think some times defense attorneys do  
13 this. And a lot of times you'll hear motions coming from  
14 the State wanting to -- a motion in limine to exclude, I  
15 guess, what's called third party guilt. You know, that  
16 the defense is going to try to put this on some other  
17 fictitious person. Your Honor exclude them from providing  
18 that information or making argument, you know, that, hey,  
19 it's this third party that committed the crime. But this  
20 is kind of like the reverse thing for the State is  
21 basically saying is that we're -- it's our intention to  
22 prove that these people are eliminated. Therefore, that  
23 is further evidence pointing towards Mr. Hemingway and  
24 that is actually not the case whatsoever. You cannot  
25 prove that someone else committed a crime by eliminating

1 other people. In order to prove that Mr.  
2 Hemingway committed this crime, they have to provide  
3 evidence, you know, that he did it with malice  
4 aforethought kill those two people. And whether or not a  
5 GPS shows that Ms. Hemingway's boyfriend was some place  
6 else at the time or somebody else was some place at the  
7 time, that is not relevant evidence with respect to  
8 whether or not Mr. Hemingway is guilty, that's kind of a  
9 process of elimination thing. And the process elimination  
10 argument that we're going to point to him by process of  
11 elimination.

12 All the people that we looked at, you know, we  
13 couldn't find anything on them, therefore it must point or  
14 directs toward Mr. Hemingway. It's not relevant. And, of  
15 course, is is that I think to this action -- and I don't  
16 know whether or not it's prejudicial to 403, whether or  
17 not the probative value of that evidence is outweighed by  
18 the substantial prejudice. And so it also could be looked  
19 at under 403, you know, because that evidence has no  
20 probative value in determining whether or not  
21 Mr. Hemingway committed these murders. And I can't think  
22 of an argument where, hey, this person didn't do it,  
23 therefore this person must have. I can't think of a  
24 scenario or arguments in which that would be probative  
25 evidence of a defendant's guilt by proving that someone

1 else didn't do it. And I think that's what's going on  
2 here. And I think that's the first time -- this is the  
3 first time I've ever had it in a trial where, you know,  
4 the arguments going to be that these people didn't do it,  
5 therefore it must have been him that is inappropriate.  
6 It's not relevant under 401 and 402. And, of course, is  
7 is that the probative value is outweighed by the prejudice  
8 because that evidence has no probative value with respect  
9 to whether or not he is guilty.

10 MR. WHITE: And it is probative and it is  
11 relevant because, you know, it focuses on the fact that  
12 law enforcement didn't just focus on Mr. Hemingway. They  
13 focused on other people. They looked at other people, and  
14 this is how they eliminated these two people. They were  
15 both being supervised by probation pardon and parole.  
16 They called their agents. And they sure enough they were  
17 not in the area at any time during the murders. I can't  
18 -- I mean, it's also res gestae argument. I can't imagine  
19 having to put my officers on the stand and say did you  
20 have other suspects in this case. Yes. And then I'm not  
21 allowed to ask any other follow-up questions. I have to  
22 just leave that out there that there are other suspects.  
23 And I'm not allowed to elicit testimony as to how and why  
24 they were excluded as suspects. I don't think that that  
25 in and of itself points to the guilt that Mr. Hemingway

1 had just point the guilt away from those other suspects.  
2 And if they hadn't have done that, if they hadn't have,  
3 you know, looked into these other individuals and ruled  
4 them out, the defense would be attacking them for not  
5 looking at other individuals. So, I mean, it's damn if  
6 you do damn if you don't situation for the State. I mean,  
7 they did everything right. They excluded these folks.  
8 And I think that I should be able to elicit that  
9 testimony.

10 THE COURT: Yeah, I think it is relevant. It  
11 doesn't necessarily in and of itself prove your case  
12 beyond a reasonable doubt. And when you take that and  
13 added everything else that you going to have prove and  
14 show, it's just one chip in the whole case. I think it is  
15 relevant. I think it's very relevant. And I think its  
16 very relevance outweighs any -- substantially outweighs  
17 any prejudicial effect, the confusion, the waste of time  
18 and needless presentation of evidence. The fact it  
19 probably helps on a lot. That's just my thoughts.

20 MR. BROOKER: No, no, I'm moving on your Honor,  
21 that's your ruling. And as long as we are protected for  
22 the record our objection. The other is your Honor with  
23 respect to -- with respect to, I think, evidence of I  
24 think child support. I think the State's theory as I  
25 think it's going to be -- I think the State's theory is

1 Mr. Hemingway who was on child support for one of the  
2 children. And there was a hearing or there was a hearing  
3 or hearing, you know, that was scheduled and that hearing  
4 may have been related to putting him on child support for  
5 some of the other children. Their theory is is that he  
6 killed the mother of his children so that he would not  
7 have to -- so that he would not have to be put on child  
8 support for these other kids. And I think that's their  
9 theory. And, of course, is is that the same argument is  
10 going to be relevance. It's a 401 and 402 argument is  
11 relevancy. And I'm not going to read what the definition  
12 of relevancy means again, you know, but, of course, is is  
13 that relevant, you know, basically is is, you know,  
14 evidence or information that tends to prove an issue of  
15 consequence in the case.

16 The State has to prove I think in this case is  
17 is that, you know, that this was a killing. This was a  
18 killing with malice aforethought. That's their burden.  
19 And, of course, the question would be is is that whether  
20 or not evidence that he was on child support in evidence  
21 of that, he might be put on more child support is that  
22 whether or not that is relevant evidence under 401 and 402  
23 for purposes -- for purposes of proving, you know, the  
24 elements that they have to prove for murder. It is not  
25 whatsoever. And, again, is is that it also could be

1 examined, I guess, underneath 403 as well too. In  
2 addition to relevancy -- and the reason I'm raising 403 is  
3 because 401 and 402 deals with relevancy, but they don't  
4 deal with probative value of the evidence that's trying to  
5 be brought in balancing test. What's the probative value  
6 of the evidence, how is the evidence going to prove that  
7 he killed not one but two of these people with malice  
8 aforethought. It doesn't prove that whatsoever does not  
9 prove whatsoever, so we're asking the Court to exclude the  
10 evidence based upon this.

11 MR. WHITE: Judge, back in February of 2019, of  
12 course, Mr. Hemingway at that time has eight children five  
13 of which are with the victim, Maisha Burch, three of which  
14 are with I think two or maybe three other women. He has  
15 child support obligations for some of those other kids,  
16 but what we're concerned about is the child support  
17 obligations that begin to commence in February of 2019.

18 On February 12th 2019, Maisha Burch takes him to  
19 court and gets a court order duty of support on four of  
20 her five children, Izyana, Kareema, Tristan and Mariah.  
21 The very next day, Judge, February 13th of 2019, she gets  
22 court ordered support on Ivy. At that time they are  
23 scheduled to go back for a negotiation conference on  
24 April 17th of 2019. At that conference he is ordered that  
25 he is the natural parent of the child Ivy and he's ordered



1 to pay \$322.35 per month, but he at that same negotiation  
2 hearing contest genetic paternity as to the other  
3 children. He said he those aren't mine, I don't want to  
4 pay. September 10th 2019 the testing comes back. And, of  
5 course, it says that they are his children and notice of  
6 financial responsibility as court ordered as to all the  
7 children. And it increases payments to \$671.96 per month.  
8 At the final negotiation conference -- and the times are  
9 important here, Judge, is December 11th of 2019. So this  
10 is roughly one month before the murder. They go in and  
11 they schedule -- they say that's it. The negotiation  
12 conferences are over. You owe \$671.96 per month. And  
13 they schedule a hearing, a finality a final hearing for  
14 January 16th of 2020. That's three days after she's  
15 murdered, Judge.

16 And then, of course, what he wanted out of all  
17 this comes to fruition on that day January 16th when no  
18 parties appeared. He doesn't come. Of course, she's been  
19 murdered, so nobody comes. And then on February 25th  
20 2020, a final declaration is made by the family court that  
21 Maisha Burch has passed away and no arrears owed to her as  
22 the date of death January 12th 2020. So she tries to take  
23 him back to court. He never has to pay. I mean, he  
24 fights it tooth and nail until he finally cannot fight it  
25 any more. And the finality of it is setting in and that

1 is the motive and that's everything. And we believe that  
2 financial motive is strong that we should be able to  
3 present it.

4 MR. BROOKER: Can I give you 15 seconds of  
5 additional facts, your Honor. I think what Mr. White is  
6 not telling you -- and, of course, I don't know if he  
7 knows this or not, but I think it's probably going to come  
8 out through the witnesses is is that six months prior --  
9 six months prior to her murder, I think, it was longer  
10 than that. Six or seven months prior to her murder is is  
11 that the department of social services had taken the  
12 children through a placement plan -- through a placement  
13 plan, so the children was not in her custody. And  
14 actually the children was placed in the custody of her  
15 oldest daughter because they were investigating abuse and  
16 neglect for use of marijuana and other things in the home.  
17 She was not in the custody of the children at that time,  
18 so any child support that would have been paid is is that  
19 child support would have been paid probably to whoever the  
20 custodial parent was at that particular period of time.  
21 And she probably also would have been ordered to pay child  
22 support because she no longer was in possession of the  
23 child because they had been removed by department of  
24 social services at that time due to the investigation of  
25 drugs in the home.

1 MR. WHITE: And I just don't know what one has  
2 to do with the other. In fact, I'll make a motion to  
3 exclude any, you know, child DSS getting involved in a  
4 child support plan as it pertains to her use of marijuana.  
5 I don't know how that has any relevancy to what we have  
6 here.

7 THE COURT: Either way, I think it is relevant.  
8 I think it goes directly to motive. I think it's  
9 probative value substantially outweighs any unfair  
10 prejudice confusing of the issues or misleading of the  
11 jury. If there any holes in it, then he can chip away  
12 with cross-examination just like he was doing right there.

13 MR. BROOKER: And your Honor just to say I don't  
14 know whether or not that was a motion in limine to exclude  
15 us from talking about the -- because this is also relevant  
16 ---

17 THE COURT: I think you can talk about it. I  
18 think it's relevant.

19 MR. BROOKER: I want to make sure we're not  
20 excluding anything. Thank you, your Honor.

21 THE COURT: Anything else? How we going to deal  
22 with the DNA? Are we just going to take her testimony  
23 when she gets here?

24 MR. WHITE: I got her coming at 1:30. And I  
25 know that you said that we have a juror that's going to

1 have to be out from two to three. I don't know how you  
2 want to structure the rest of the day. I'll be amenable  
3 to whatever schedule you set forth. I don't know if you  
4 want to break for lunch essentially two-hour long breaks,  
5 but regardless I'll have -- she'll be here at 1:30.

6 THE COURT: Or maybe we can break for lunch at  
7 1:30 and see if maybe they just come back the next day or  
8 something. It depends on how long it's going to be.

9 MR. WHITE: Yeah.

10 THE COURT: Mr. Brooker is not short of wind by  
11 any means.

12 MR. WHITE: That would be fine.

13 THE COURT: We'll just see. You all think about  
14 it and whatever suites you all is fine with me.

15 MR. WHITE: Okay, that sounds good, Judge.

16 THE COURT: See you at 9:30 in the morning.

17 (WHEREUPON, the proceedings were concluded for  
18 the day to be reconvened on February 22, 2023.)

19 THE COURT: Apparently one of the alternates  
20 wants to speak with me. I figured I'd bring him out and  
21 hear from him. If you'll bring out the math teacher, the  
22 alternate that wants to speak to me.

23 (WHEREUPON, alternate juror number 56 Michael  
24 Cusac came out into the courtroom.)

25 THE COURT: Good morning.

1 COURT REPORTER: Can you all come this way so I  
2 can hear?

3 JUROR: Yesterday, you asked if we had any  
4 problem with the notion of judging our fellow man and I  
5 didn't speak up. I probably should have. I do not in  
6 general have a problem with society having a justice  
7 system to judge and sentence. When it comes to the death  
8 penalty, I do have a problem.

9 THE COURT: This isn't death penalty.

10 JUROR: Okay. This is not an issue then. Thank  
11 you.

12 THE COURT: You satisfied the State?

13 MR. WHITE: Yes, sir.

14 MR. BROOKER: Yes, sir.

15 THE COURT: You can go back in the jury room.

16 (WHEREUPON, alternate juror number 56 Michael  
17 Cusac returned to the jury room.)

18 THE COURT: The State ready?

19 MR. WHITE: Two matters before we bring the jury  
20 out. The first is I got a call late last evening from the  
21 DNA analyst Maryann Boehm. She's having some child care  
22 issues. Her child is ill. And she didn't have anybody  
23 else to take care of him. She thinks she can be here  
24 tomorrow, so unfortunately the Court's okay with that I'd  
25 like to push her testimony to tomorrow. Then that would

1     elevate having to call her two days, that might work out  
2     well any way.

3             The second issue that I have, Judge, or that I  
4     want to bring to your attention and request is I know in a  
5     lot of cases that we have it's almost become routine that  
6     you in any video statement from the defendant, you have to  
7     shop out so much that you can see that it looks choppy and  
8     the jury will see that's jumping ahead. I think we have  
9     done this in front of your Honor before, but I'd ask for a  
10    jury charge simply stating that you -- when I ask to  
11    publish the video, if you could then charge the jury, hey,  
12    you're going to see these breaks in the video you're not  
13    to consider those. They have been previously stipulated  
14    by both parties.

15            THE COURT: You okay with that?

16            MR. BROOKER: I don't have any problem with that  
17    your Honor. I have an issue of my own and that is is that  
18    normally the -- during these pretrial motions specifically  
19    with respect to the DNA evidence normally that's done  
20    pretrial, so that we start the trial. And, of course, we  
21    understand whether or not the evidence is admissible. And  
22    then, of course, we can also to some extent communicate to  
23    the jury what we think that evidence might mean.

24            In this particular case, in light of the State  
25    vs. Phillips where State vs. Phillips basically calls into

1 question what this type of evidence means. And I think is  
2 is that the random match evidence specifically that we're  
3 talking about. And, of course, State vs. Phillips  
4 basically says is is that that what that actually means  
5 doesn't necessarily mean that there is a -- that there is  
6 a match. And, of course, one of the things that we don't  
7 want to happen is is that during the course of this trial  
8 is is that prior to the DNA expert's -- the jury's being  
9 told there is a match. There is a match. There is a  
10 match. We have to have a pretrial hearing which I  
11 anticipate what will happen is is that DNA expert is going  
12 to testify that random match testimony -- random  
13 probability testimony does not mean that there is a match.  
14 So I'm going to make a motion to exclude any mentioning to  
15 the jury or allegation to the jury that there is DNA a  
16 match. And, of course, to kind of avoid this DNA evidence  
17 at all and so we know whether or not it's going to be  
18 admitted, okay.

19 THE COURT: Of course, I read the case you're  
20 talking about and there were a lot of issues in that case  
21 that dealt with DNA and other things, so just keep that in  
22 mind.

23 MR. WHITE: I don't plan to speak or elicit  
24 testimony regarding results. I don't really plan to speak  
25 as to DNA all during my opening. I am going to have to

1     elicit testimony about taking DNA and so forth.

2             THE COURT: He's just saying as long as you  
3     don't have a match.

4             MR. BROOKER: Absolutely, that's perfectly fine.  
5     It's the results that I'm concerned. I think it is  
6     perfectly okay to say, you know -- he's going to have to  
7     say that, you know, that they took swabs from her. They  
8     took -- and, of course, DNA was recovered, but what that  
9     means is that we have to wait until we get the expert and  
10    the expert tells us what that means.

11            THE COURT: I think he's fine.

12            MR. WHITE: Yes, sir.

13            THE COURT: Okay. Let's go ahead and bring in  
14    the jury.

15            (WHEREUPON, the jury came into open court .)

16            THE COURT: All right. Mr. Brown, I'm going to  
17    make you the foreman of the jury, if you would take this  
18    very first seat on the front if you would switch with her  
19    please, sir. Swear the jury.

20            THE CLERK: Ladies and gentlemen, please stand  
21    and raise your right hand to be sworn.

22            (WHEREUPON, the jury panel was sworn.)

23            THE COURT: All right. Members of the jury,  
24    we're getting ready to start this case, but before we do,  
25    I just want to go over a few things with you to give you a



1 little bit of working knowledge to have in your back  
2 pocket as we proceed forward. The first thing I want to  
3 tell you is that the burden of proof is on the State of  
4 South Carolina to prove the defendant guilty beyond a  
5 reasonable doubt. I will explain what reasonable doubt is  
6 in great detail at the end of this trial.

7 Furthermore, I want to explain to you what your  
8 job is and what my job is and how they differ. You all  
9 are the judge of the facts. You determine what the facts  
10 of this case are. In turn, I am the judge of the law.  
11 I'm here to give these parties a fair trial. And I'm here  
12 to instruct you on the law applicable to this case. And  
13 then when I tell you to begin your deliberations and only  
14 when I tell you to begin your deliberations will you take  
15 the facts as you find them. The law as I give it to you,  
16 put the two together and make a decision therefrom. A lot  
17 of common sense in that process. But I do want to tell  
18 you one more thing about being the judge of the facts. I  
19 don't want you to start talking about this case. I don't  
20 want you to research this case, don't Google anybody in  
21 this case. Don't even talk to each other about the case  
22 until I tell you to and that will be at the very very end  
23 of this trial.

24 The reason I tell you that is because it would  
25 be premature. You need to hear everything the State has

1 to tell you. You need to hear everything the defense has  
2 to tell if they want to put up any evidence. Then you  
3 need to hear the law from me only then will you have  
4 everything you need to start making the decision. So you  
5 ask yourselves, well, what do we do when we take breaks or  
6 we go home at lunch or we go home in the evening, talk  
7 about sports, talk about the Super Bowl, the weather,  
8 yourselves anything you want to, but not this case until I  
9 tell you to which will be at the very very end.

10 Furthermore, any point in time if we're moving  
11 along and you need a break, you need to use the restroom,  
12 you need something to drink or whatever and we're not  
13 stopping, if you'll just kind of waive your finger toward  
14 me and catch my attention, I'll make sure you're taken  
15 care of. And I'll make sure you get the appropriate  
16 break. Right now I want you to relax. I want you to sit  
17 back. And I want you to listen as I recognize the State  
18 for their opening statement.

19 MR. WHITE: It is therefore ordered that this  
20 case be dismissed. It's therefore ordered that this case  
21 be dismissed January 16, 2020. A hearing was scheduled  
22 right here in Marion County. On that day, a family court  
23 judge came out and he called a case and that case was  
24 Maisha Burch vs. Issac Hemingway. Hemingway is seated  
25 right over there with his defense attorney. Judge came

1 out called the case and strange thing happen nobody showed  
2 up. And it was strange because that case was hotly  
3 contested.

4 It was initiated by Maisha Burch in  
5 February 2019. She was seeking child support for her  
6 five children that she shared with Issac Hemingway. And  
7 it was hotly contested because he fought it the entire  
8 way. He challenged the amount owed. And he challenge  
9 that the kids were even his at all. But the kids came  
10 back and they were his. And the amount owed is what the  
11 amount was going to be owed, it's set by the family court.  
12 There's nothing you can do about it. And each time they  
13 went to a hearing or they went to what's called a  
14 negotiation conference, he was told that same thing. And  
15 that due date was coming.

16 And in December they had their final negotiation  
17 conference and the amount was set around \$671 a month for  
18 five children. And the final hearing date was also  
19 scheduled. It was scheduled for January 16th 2020. But  
20 Issac Hemingway he never walked through those doors. And  
21 neither did Maisha Burch because three days prior to that  
22 hearing, she was brutally murdered in her home. Found in  
23 that home was her friend Andrew Legette who was also  
24 killed. He was found on the living room couch shot twice  
25 to the left eye seemingly while he slept. Ms. Burch was

1 found in the hallway with the evidence of an extreme  
2 struggle. Fingernails appeared to be broken off her hand.  
3 Her clothes distorted and stretched. There were hand  
4 prints and smears along the walls. There were bits of her  
5 own hair in her hand and on the floor. And although she  
6 struggled ultimately, ladies and gentlemen, she was shot  
7 once in the left cheek, three times in the top of her  
8 head, and once in her right shoulder, brutal.

9 And law enforcement arrived and they began to  
10 process the scene and take statements. They called South  
11 Carolina Law Enforcement Division. Crime scene techs,  
12 agents come down and they process the scene. And they  
13 collect evidence and they send it off for processing.  
14 You're going to hear from those agents. You're going to  
15 hear what they did. You're going to hear the results of  
16 their analysis. And they began to question suspects. And  
17 they began to exclude suspects, but all along the  
18 evidence, the motive it pointed to one man and money was  
19 the motive for sure. \$671 a month that's a lot money, but  
20 if you calculate that out for five kids, we're talking  
21 about thousands and thousands and thousands of dollars,  
22 sure, that was motive, but it was more than that. He  
23 couldn't manipulate her into not filing those child  
24 support documents. He couldn't control the situation. He  
25 couldn't control the situation. He couldn't control the

1 Court. So on January 12th 2019, he went and picked up his  
2 kids which he rarely did, got them all out of the house.  
3 Later that evening, he crept in that house and he murdered  
4 a woman and her friend because she wanted money for the  
5 children. Yeah, it's a case about money. It's also  
6 about manipulation. It's about power. He gave a couple  
7 statements you're going to hear from him. You're going to  
8 hear it. This guy's got answers for everything. Maisha  
9 Burch died defending herself. And she died because she  
10 wanted to go to court to defend her children make sure  
11 they were taken care of some of them in the courtroom  
12 today.

13 At the end of this trial and after you hear all  
14 the evidence, you're going to agree with investigators.  
15 This only lays one way. It only points to one person and  
16 that person being Issac Hemingway who is guilty of a  
17 brutal murder of two individuals for no reason at all.  
18 Thank you.

19 THE COURT: Defense is recognized.

20 MR. BROOKER: Thank you, Your Honor. Good  
21 morning. Kind of give you a little idea at least a  
22 synopsis of what this case is about. This is not a --  
23 basically, it's not a what happened case. It's not that  
24 at all. We pretty much know what happened. We don't know  
25 every intricate detail of what happened, but we got a good

1 idea of what happened and that is one or more persons  
2 entered the home of Maisha Burch killed her and killed a  
3 friend of hers that was at that house, shot them both and  
4 killed them. We pretty much know that, that's not what  
5 this case is about. What this case is about is who did  
6 it. It's a who did it case. Not what a happened case.  
7 That's going to be the most important thing that you  
8 jurors are going to have to focus on who did it. What is  
9 the evidence with respect to who did it or lack of  
10 evidence of that particular question.

11 Now, the State of South Carolina has accuse  
12 Issac Hemingway. They said this is the person who we  
13 think that did that. And, of course, you heard the  
14 government in its opening arguments give you a theory.  
15 Now, let me explain a little bit about the law to you.  
16 Now, whenever they have to prove who did it, and they have  
17 to prove that. They have to prove that by proof beyond a  
18 reasonable doubt. As the judge instructed you and he'll  
19 instruct you throughout the course of this trial, Issac  
20 Hemingway as he sits in that chair right there is  
21 completely innocent. He is innocent as I am. He is as  
22 innocent as any of you in this courtroom flat out  
23 completely innocent.

24 When the government accuses someone of  
25 committing a crime which the government has in this case,

1 they have to prove to you through evidence that that  
2 person is no longer innocent but through superior evidence  
3 that person is proven to be guilty, that burden is proof  
4 beyond a reasonable doubt. It is the highest burden that  
5 we have in our judicial system. And it should be a high  
6 burden because in criminal trials, in criminal trials  
7 human life and freedom is at stake. It's not like a civil  
8 case where we're talking about or we're arguing over money  
9 and there is a less burden of proof. In criminal trials,  
10 the burden is proof beyond a reasonable doubt. And the  
11 reason why that burden existed is because -- and the  
12 wisdom of the father's of our judicial system they thought  
13 that before we take freedom of the citizen which is most  
14 important thing that we have, our life and our freedom  
15 before we can take that from a citizen. We have to be  
16 very very certain. It's the most important thing that we  
17 have. And so during the course of this trial that's what  
18 you're going to be examining. You are going to be  
19 examining how certain is the evidence that Issac Hemingway  
20 is guilty of this. How certain is the evidence that he's  
21 guilty of this.

22 Now, the State is laid out their theory to you  
23 and a theory to me is it's like drama. He's telling you  
24 what he thinks, that's what the government is doing. This  
25 is what we think, but this is not a court of this is what

1 we think. This is a court of proof beyond a reasonable  
2 doubt. It's hard evidence coming from this witness stand,  
3 that's what this case is about. Don't be misled by the  
4 flowery hypothesis or theory that the State just laid out  
5 to you.

6 Now, let's talk about a little bit about the  
7 facts of this case. We know that Maisha Burch and I think  
8 the evidence will show that I think this case occurred --  
9 this murder occurred back in 2020. It's actually on the  
10 weekend we think. Like I said, we don't know everything.  
11 It started on a Saturday. And it starts with Issac  
12 Hemingway. Issac Hemingway and Maisha Burch had a long  
13 relationship. I think they were involved in a long  
14 relationship something like 13, 15, 16 years. And in 2020  
15 they had been broken up for a long time years they had  
16 been broken up. Issac Hemingway was in a long-term  
17 relationship with someone else whom we was happy with,  
18 whom they were building a life together. And he had no  
19 involvement with Maisha Burch, who is the mother of five  
20 of his kids, other than through the kids.

21 And on Saturday, January 13th, I think,  
22 Saturday, January the 11th sorry of 2020, he had made  
23 arrangements to pick his kids up for a visitation. Around  
24 about 12 o'clock noon somewhere around these times are not  
25 exact, but we know around 12 noon he along with his



1 girlfriend, his long-term girlfriend, and, I think, her  
2 son drove to Centenary, South Carolina from Horry County  
3 and they picked up the kids. They picked up three of the  
4 kids. One of the children could not be picked up at that  
5 time because she had an obligation. She had something she  
6 had to do that afternoon. And it was arrange that he  
7 would come back and pick her up later that Saturday. So  
8 he, his girlfriend, the kids drove back to his house or  
9 their apartment in Horry County. Later on, he came back  
10 and pick up the fourth child, picked up three of his kids  
11 the first time. He came back and picked up the fourth  
12 child the second. And that was somewhere around about six  
13 or seven o'clock.

14           And you're going to hear evidence and law  
15 enforcement know this that he had picked up the second  
16 child around about six or seven and that he then drove  
17 back -- well, he didn't go directly back to Conway. He  
18 stopped in Gresham, South Carolina to see his father and  
19 have his father talk with his oldest girl because she had  
20 gotten into some trouble. And then he went back to Horry  
21 County with his family, with these house full of children.  
22 And I think you will hear testimony later that night  
23 somewhere around about nine or ten o'clock he and his  
24 girlfriend and then also her son. She has a son from a  
25 previous relationship an adult son, that they went out to

1 a friend's house in Horry County to play cards, to drink.  
2 It was a get together I think at their house. And that  
3 they were there and the times are rough somewhere between  
4 12 midnight to two o'clock somewhere in that area they  
5 were there before they returned home. And you're going to  
6 hear testimony that when he returned home that night from  
7 drinking and playing cards and having fun with all of  
8 these people, that he was in there for the rest of the  
9 afternoon. They know this. The government knows this.  
10 He has given statements to them. The government alluded  
11 to that. The government said you're going to hear from  
12 them. You're going to hear from Issac Hemingway Issac  
13 Hemingway I think he said through statements that he gave.  
14 Yet, when the government says that later that Saturday  
15 afternoon that he killed Maisha Burch is false.

16 The evidence will also show that after he went  
17 home early that Sunday morning -- late that Saturday night  
18 or early Sunday morning with his girlfriend from playing  
19 cards at a friend's house and drinking and having fun,  
20 that the next time he left the house was Sunday morning.  
21 Sometime Sunday I think. Sometime Sunday morning. And,  
22 of course, he went and, of course, visit a friend. He  
23 came back after visiting that friend. And then he was  
24 with his family and with his kids for the rest of the day  
25 that Sunday until around seven or 7:30 Sunday afternoon

1 he, his girlfriend and all the kids piled into the car  
2 drove back to Centenary, South Carolina to drop the kids  
3 off.

4 And while he driving, he was calling. He was  
5 calling to say I'm coming to bring the kids. And he was  
6 calling Ms. Maisha Burch with no answer. Gets to the  
7 house, the house is dark no answer. Went to a friend's  
8 house to try to see if Ms. Maisha Burch was there, she  
9 went there with friend's -- at a friend's house. Then he  
10 called Maisha Burch's oldest daughter say I have these  
11 kids. Ms. Maisha Burch is not home would you take them  
12 because I have to get back to Horry County and he dropped  
13 them off in Marion County. I think with Ms. Edmunds,  
14 Maisha Burch's older daughter or either, I think, maybe a  
15 neighbor of her daughter. And she was discovered dead I  
16 think the next day that Monday morning her daughter went  
17 to her house for a welfare check when they could not get  
18 in touch with her. No one could get in touch with her to  
19 my understanding Sunday at all. And that Monday morning  
20 daughter goes for a welfare check finds Ms. Maisha Burch  
21 and the male companion dead.

22 The government says he killed her later on  
23 that Saturday, that's impossible because he have witnesses  
24 to account from where he was that Saturday night going  
25 into that Sunday morning. Proof beyond a reasonable

1     doubt, ladies and gentlemen, no snake oil, no smoke  
2     screens. It's proof beyond a reasonable doubt. Their  
3     theory is that he killed her over child support. What the  
4     government didn't tell you at the same time Ms. Maisha  
5     Burch would not have been entitled to receive that child  
6     support because six months prior to her death the  
7     department of social services had removed her children  
8     from her home. That there was a safety plan in place.  
9     And she was removed because of drugs being in the home and  
10    the use of drugs. And she was move because the children  
11    were not being taken care of. There was an active abuse  
12    and neglect investigation that was going on. There was a  
13    safety plan in place removing the children from her  
14    custody, that theory doesn't hold water.

15             I'll say this one last thing and I'll let go. I  
16    think I told you the burden of proof beyond a reasonable  
17    doubt, that burden is on the government. That high burden  
18    that I talk with you about is on the government. That  
19    burden is not on Issac Hemingway. It's never on a citizen  
20    to prove their innocence. It's on the government to prove  
21    you're guilty, that's our system. And it's a good one.  
22    And what that means is is during the course of this trial  
23    every last question that needs to be answered to convince  
24    you of proof beyond a reasonable doubt that Issac  
25    Hemingway killed Maisha Burch and Ms. Legette (sic) it's

1 on the government. Don't ever, don't ever during the  
2 course of this trial ever look at Issac for the production  
3 of any evidence. He has absolutely no obligation.

4 I always tell juries theoretically if we choose  
5 to me and Issac can go to sleep over there at our table.  
6 We could merely put our heads on the table and go to sleep  
7 because we don't have to prove anything. Throughout this  
8 entire trial, if there's something to be answered, you  
9 have to look to this table. You have to look to the  
10 government. They have to answer everything to satisfy  
11 that high burden. And, ladies and gentlemen, I tell you  
12 right now they don't even have to come close. Thank you.

13 THE COURT: If you'll call your first witness.

14 MR. WHITE: Judge, we have a brief matter of  
15 law.

16 THE COURT: Members of the jury, if you would  
17 step into the jury room for just a moment.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: All right, Mr. White.

20 MR. WHITE: Judge, I believe Mr. Brooker laid  
21 out an alibi defense in his opening statement. I have not  
22 been provided notice of an alibi at all. And I certainly  
23 think if I knew that that was going to be the case, I  
24 would have vetted such. But I just want to bring that to  
25 the Court's attention. I think, he should be barred from

1 presenting an alibi defense that he has not served notice  
2 on the State.

3 THE COURT: All right.

4 MR. BROOKER: Your Honor, the only thing that we  
5 testified to is to the statement that they're going to put  
6 into evidence. And Issac Hemingway's two statements they  
7 took from everything that I just said is contained within  
8 those statements where he explained every place where he  
9 was at that time. So if they're claiming surprise, that  
10 doesn't make any sense. He gave them this statement on  
11 January 15 of 2022, and that was what two days after the  
12 discovery of this homicide. And he gave them another  
13 statement on December 1st of 2020. So I think if he is  
14 claiming that an alibi defense or that this is an alibi  
15 defense and that this information should not be presented,  
16 then I'm assuming that he's going to agree that his  
17 statements, that both statements should be suppressed  
18 because everything I just mentioned is in both of his  
19 statements that we decided was admissible during the  
20 Jackson v. Denno hearing.

21 THE COURT: All right. Any response to that?

22 MR. WHITE: Judge, what Mr. Brooker stated in  
23 his opening was that he comes and gets the kids on  
24 Saturday and that sometime that afternoon he goes and  
25 plays cards with his friend, and then comes back and is

1 accounted for for the rest of the evening, that's not  
2 what's in the statement. What's in the statement is that  
3 he goes late Saturday night and returns home around  
4 midnight. At which time he and the victim in this case  
5 have a telephone conversation sometime after midnight,  
6 that is not what he said in his opening statement at all.  
7 And that really doesn't go to the fact that if I was  
8 notice of an alibi defense as is proper, I would be  
9 notice, you know, date of birth, social security, and name  
10 of the witnesses that are going to provide such alibi.  
11 But when he states a completely different scenario that is  
12 stated in the statement by the defendant, then I don't  
13 know how to verify that because that's not what's being  
14 said in the statement. What's being said in the statement  
15 is he goes and gets the kids comes back home sometime in  
16 the evening. They go and play cards. They arrive home at  
17 midnight. He saying it happens lunchtime about the day  
18 before.

19 THE COURT: Well, basically the same thing just  
20 different times possibly.

21 MR. WHITE: Different times. So I don't know  
22 who we're talking about here. And, again, I just haven't  
23 been noticed any intention to seek an alibi.

24 THE COURT: You intend to call those witnesses  
25 to testify?

1 MR. BROOKER: Your Honor, those witnesses -- any  
2 witnesses who be called to testify those witnesses that we  
3 named, those witnesses will be testifying to the  
4 statements that he already given nothing outside those  
5 corroboration of the statements he already gave. If he's  
6 talking about time and variations in time, you know, then,  
7 of course, is is that if I'm wrong about what's contained  
8 in that statement, and once the jury hears that statement  
9 at closing arguments, he could say to the jury that the  
10 attorney misrepresented what was contain with the  
11 statement. This -- what I said what's contained in that  
12 statement, if he thinks that's a misrepresentation, he can  
13 hold it to me, but that is not a misrepresentation as what  
14 was contained in those statements, period.

15 THE COURT: Technically, I'm not sure if he  
16 meant to bring up an alibi defense. I think he was like  
17 he does gives long drawn out synopsis for the jury sort of  
18 like you did. I think we do have cell phone information  
19 that's possibly coming in or is coming in. You got tower  
20 pings where he is and where he is and what he's doing,  
21 it's probably the whole issue of the trial.

22 MR. WHITE: Yes, sir.

23 THE COURT: If it does come up in a strong way  
24 that you feel like you need to talk to him, we can always  
25 take a break and talk to him, but I ain't going to throw



1 out the whole trial on that purpose.

2 MR. WHITE: Yes, sir.

3 THE COURT: That makes sense?

4 MR. WHITE: Yes, sir. Thank you, Judge.

5 MR. BROOKER: Yes, sir, your Honor.

6 THE COURT: Go ahead and bring in the jury.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: Go ahead and call your first  
9 witness.

10 MR. WHITE: Thank you, Judge. At this time the  
11 State would call Wanda Harrelson.

12 THE CLERK: Please your left hand on the Bible  
13 and raise your right hand. Do you swear to tell the  
14 truth, the whole truth, and nothing but the truth so help  
15 you God?

16 THE WITNESS: I do.

17 WHEREUPON,

18 Wanda Harrelson,  
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. WHITE:

22 Q Good morning, Ms. Wanda.

23 A Good morning.

24 Q I'm just going to ask you a few questions okay. It  
25 won't take long. Where are you employed?

- 1 A Marion County Communications.
- 2 Q And what is that Marion County Communications?
- 3 A It's a 9-1-1 dispatch center.
- 4 Q And were you similar employed back in January of
- 5 2020?
- 6 A Yes, I was.
- 7 Q And specifically January 13th of 2020?
- 8 A Yes, I was.
- 9 Q At that time did you receive a 9-1-1 call related to
- 10 this case?
- 11 A Yes, I did.
- 12 Q How do 9-1-1 calls come into that call center?
- 13 A Usually, they call 9-1-1 line rings and we get
- 14 information and dispatch the appropriate agencies.
- 15 Q And is that information stored in your computer
- 16 system there?
- 17 A Yes, it is.
- 18 Q Is the call itself stored in the data base there?
- 19 A Yes, it is.
- 20 Q Are you able to pull that call out and provide it to
- 21 folks who are asking for it?
- 22 A Yes, we can.
- 23 Q And is one of the people who ask for agencies
- 24 involved in the investigation?
- 25 A Yes, sir.

1 Q Will that be sheriff's office, SLED, Solicitor's  
2 office?

3 A Yes, sir.

4 Q Was that done in this particular case?

5 A Yes, it was.

6 Q I'm going to show you State's Exhibit 49. Could you  
7 tell me if you recognize that item?

8 A Yes, I do.

9 Q How do you recognize it?

10 A That is the call.

11 Q Is that the call that came in January 13th of 2020?

12 A Yes, it is.

13 Q And were you actually the dispatcher on that call?

14 A Yes, I was. Thank you very much.

15 MR. WHITE: Judge, I move State's Exhibit 49  
16 into evidence.

17 THE COURT: Any objections?

18 MR. BROOKER: You can indulge me just a second,  
19 your Honor. And I don't mind explaining what I'm doing is  
20 is that we didn't discuss that previously. I just want to  
21 make sure that there's no Crawford information that's  
22 contained cause us to make a Crawford vs. Washington  
23 objection.

24 (WHEREUPON, a pause in the proceedings.)

25 MR. BROOKER: Without objection.

1 THE COURT: All right. State's Number 49 is in  
2 evidence without objection.

3 (WHEREUPON, State's Exhibit No. 49 was admitted  
4 into evidence.)

5 MR. WHITE: Thank you, Judge, that's all I have  
6 for Ms. Wanda.

7 THE COURT: All right, cross-examination.

8 CROSS-EXAMINATION

9 BY MR. WHITE:

10 Q Ms. Harrelson, just very briefly, you're not a fact  
11 witness to what happened in this case, is that correct?

12 A I took the call if that's what you're asking.

13 Q No. Are you fact witness to the murder of Andrew  
14 Legette and Maisha Burch? Were you there when they were  
15 murdered?

16 A No.

17 Q So you're not trying to tell the jury that you know  
18 anything about who murdered them?

19 A No.

20 Q You just took a 9-1-1 call, is that correct?

21 A Yes, sir.

22 Q And when the bodies was found.?

23 MR. BROOKER: Thank you. No further questions.

24 MR. WHITE: Nothing further.

25 THE COURT: Have a good day.

1 (WHEREUPON, the witness leaves the witness  
2 stand.)

3 THE COURT: Call your next witness.

4 MR. WHITE: Thank you, Judge. At this time I  
5 call Shkyria Edmunds to the stand.

6 THE CLERK: Do you swear to tell the truth, the  
7 whole truth, and nothing but the truth so help you God?

8 THE WITNESS: I do.

9 WHEREUPON,  
10 Shkyria Edmunds,  
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. WHITE:

14 Q Hi, Shkyria.

15 A Hi.

16 Q Shkyria, what I need you to do is the acoustics in  
17 here are kind of bad. If you could just do me a favor and  
18 speak as close to that microphone as you can, so everybody  
19 can hear you, okay.

20 A Yes.

21 Q Where are you from?

22 A Philadelphia.

23 Q Is that where you're living now?

24 A Yes.

25 Q And how long you been living there?

1 A Since I move back from here or what after this  
2 situation?

3 Q Yeah, how long you been living there currently?

4 A Since 2021.

5 Q And do you have any kids?

6 A Yes, I have a daughter.

7 Q Who is your mom?

8 A Maisha Burch.

9 Q Now, I know that we're talking a lot about Maisha  
10 Burch's kids with Issac, Issac Hemingway but you are not  
11 the daughter of Issac Hemingway, Issac Hemingway is that  
12 right?

13 A No.

14 Q Now, you mentioned just previously that you had moved  
15 back and forth -- hold on one second I am going get you  
16 some tissues. Take your time, okay. Shkyria, you  
17 mentioned you had moved back and forth from Marion to  
18 Philly, is that right?

19 A Yes.

20 Q And when you -- about around this time that this took  
21 place -- and we're talking January of 2020, were you  
22 living in Marion at that time?

23 A Yes.

24 Q When did you move back to Marion from Philly?

25 A February.

1 Q Is that 2019?

2 A Yes.

3 Q And where did you move to? Where did you go to live?

4 A At my mom house.

5 Q And who all was living there at that time?

6 A It was her -- it was me, Izy, Kareema, Tristan,  
7 Mariah, Ivy and her boyfriend Fred.

8 Q And is that -- so that's Maisha Burch, her boyfriend,  
9 Fred, at the time and then five kids, is that correct?

10 A Yes.

11 Q And those are the five children you named that you  
12 just named that she shared in common with Mr. Hemingway,  
13 is that right?

14 A Yes.

15 Q How old were those kids at that time? I might need  
16 you to do some math or you can just tell me how old are  
17 they now?

18 A Izy 18, Kareema 15, Tristan 11, Ivy seven, Mariah's  
19 six.

20 Q Okay. And when you moved back home, everybody was  
21 under one roof, is that right?

22 A Yes.

23 Q What kind of mom was Maisha?

24 A She was a good mom.

25 Q Was she loving?

- 1 A Yes.
- 2 Q Was she strict?
- 3 A Yes.
- 4 Q Was she a disciplinarian?
- 5 A Yes.
- 6 Q During that time, Shkyria, did you see I mean -- let  
7 me ask you this, how long were you living with your mom  
8 before you ultimately moved out?
- 9 A Like a couple months because I moved out in like  
10 July. I had moved into my own spot in July.
- 11 Q Okay. So February to July you living with your mom?
- 12 A Uh-huh.
- 13 Q During that time how many times did you see Issac  
14 Hemingway come and take up time with those kids?
- 15 A None.
- 16 Q Never?
- 17 A Not that I can remember no. None.
- 18 Q He never came by and said hello?
- 19 A No.
- 20 Q He ever come by and pick them up and take them  
21 somewhere?
- 22 A No.
- 23 Q At some point during that time is that when she filed  
24 for child support?
- 25 A Yes.



1 Q And did she talk to you about her child support case?

2 A Yes.

3 Q Did you know the details of that child support case?

4 A Just a little bit.

5 Q Were you aware that Issac Hemingway was fighting that  
6 child support?

7 A Yes.

8 Q Now, when you ---

9 MR. BROOKER: Your Honor, may we approach?

10 (WHEREUPON, a bench conference was held in the  
11 presence of the jury, but out of the hearing of the  
12 jury on the record.)

13 MR. BROOKER: Your Honor, he ask her has she  
14 talk with Maisha about the child support case and does she  
15 know about the child support case. If she's getting this  
16 information from Maisha about what the child support is,  
17 that would be hearsay. I can't cross-examine Maisha about  
18 anything she may have told her about the child support  
19 case. He can't get that in through asking her that way.  
20 He's already asked her to testify to hearsay.

21 THE COURT: He hadn't elicited hearsay.

22 MR. WHITE: She was aware of the child support  
23 case.

24 MR. BROOKER: You have to lay a foundation of  
25 where she got her knowledge from.

1 THE COURT: The child support is not hearsay  
2 yet. I will watch it carefully.

3 MR. BROOKER: Because if she's getting her  
4 information from Maisha, it's hearsay.

5 (WHEREUPON, a bench conference was held in the  
6 presence of the jury, but out of the hearing of the  
7 jury has ended on the record.)

8 BY MR. WHITE:

9 Q Shkyria, so you get back from Philly to Marion move  
10 with your mom in February. You move out in June. Where  
11 did you move to?

12 A North side in Marion.

13 Q Did you get your own place?

14 A Yes.

15 Q And did you have any help in finding that place?

16 A Yes.

17 Q Who helped you?

18 A My mom.

19 Q And how did she help?

20 A She just made sure like when I first moved in, she  
21 was like take the pictures of this, take a picture of  
22 that, so like if I move out they won't say I did it. Like  
23 if they going to clean up more, like just making sure it  
24 was right.

25 Q She was being a mom?

1 A Yeah.

2 Q And after you moved out throughout the remainder of  
3 that year, do you and your mom are y'all still close?

4 A Uh-huh.

5 Q Were you still close with the kids?

6 A Uh-huh.

7 THE COURT: She needs to answer yes or no.

8 A Yes.

9 Q I'm sorry, Shkyria, you got to answer yes or no.

10 A Yes.

11 Q During that time now I know you're out of the house,  
12 but were you aware of Mr. Hemingway spending any more time  
13 with the children during that time?

14 A No.

15 Q And is it fair to say he was largely an absent  
16 father?

17 A Yes.

18 Q And is that the reason why the child support was  
19 becoming an issue?

20 A Yes.

21 Q Now, fast forward to the weekend of this incident.  
22 So that would have been January 11th is a Friday. Twelfth  
23 is a Saturday or excuse me 12th is a Sunday. Thirteenth  
24 is a Monday, right?

25 A Uh-huh.

1 Q Where were you during that time?

2 A On Saturday, I was in Columbia. I was at the mall.  
3 My daughter had just came home and we had rode to  
4 Columbia. And then that's when he called and asked have I  
5 talk to my mom.

6 Q Now, would it refresh your recollection if that  
7 actually occurred on a Sunday?

8 A That was Saturday. No, I'm sorry. I went to the  
9 mall on Saturday. I'm sorry.

10 Q That's okay.

11 A I went to the mall on Sunday. It was Sunday because  
12 they call and I wasn't back yet. And they call and they  
13 ask have I talk to my mom and I told them no. They called  
14 back whatever.

15 Q And what were you doing in Columbia said you were  
16 shopping?

17 A I went to the mall, yes.

18 Q Who were you with?

19 A I was with Fred Reef daughter and my daughter.

20 Q Okay. And you said you got a call. What did that  
21 call pertain to?

22 A I got a call from Kareema. She ask me have I talk to  
23 my mom today.

24 THE COURT: Sustained to what somebody else  
25 said.

1 A Oh, I'm sorry.

2 Q But when you heard that call what did you do?

3 A Called my neighbor because I wasn't back yet and ask  
4 could they come over there until I get back.

5 Q Okay. And when you got back, what did you find at  
6 your house, your apartment or your neighbor's house?

7 A I just told her I was outside and they just walk to  
8 my house.

9 Q And who is they? Who all was coming out your  
10 neighbor's house?

11 A It was the four little ones, so Kareema, Ivy, Mariah,  
12 and Tristen.

13 Q Okay. And what did you do with the kids at that  
14 point?

15 A We just ate and then I called my mom again. She  
16 didn't answer, called her again, she didn't answer. And  
17 then they just went to sleep.

18 Q Okay. And the next morning when you all wake up what  
19 if anything did you do?

20 A I called her again. She didn't answer. And then I  
21 call my other sister from Philly to tell her to call her.  
22 She didn't answer.

23 Q How did that make you feel?

24 A Nervous because if she didn't answer that night she  
25 would have called back. So I was like kind of like I

1 wasn't thinking nothing bad, but she always lose her  
2 phone. So I was just thinking she lost her phone until we  
3 kept calling her that morning. She didn't answer.

4 Q Once you didn't get an answer, what, if anything, did  
5 you do next?

6 A My friend brother had came by and I had ask him can  
7 he take me to my mom house. And he said yeah and then he  
8 took me.

9 Q Okay. Who all went with you to your mom's house?

10 A Me, him, and Tristen.

11 Q And Tristen is how old at that time?

12 A Like nine.

13 Q And he is the son of Maisha Burch?

14 A Yes.

15 Q And Mr. Hemingway?

16 A Yes.

17 Q Okay. When y'all get in the car, what do y'all do?

18 A I called her again she didn't answer. And then we  
19 just rode down there.

20 Q Walk us through I know it's tough. Walk us through  
21 what happened?

22 A We just rode down there and I don't remember if the  
23 door was locked or unlocked because I have a key, so I  
24 just put the key in the door and unlock the door. Then  
25 when I went in there it's like the chair like right by the

1 door and I seen Andrew. And then I was like scared to go  
2 like all the way in the house. And then like Tristen was  
3 behind me. He seen Andrew, so I like push him back. And  
4 then the guy who took me there he had -- he was like where  
5 your mom room at, I was like it's in the back on the  
6 right.

7 MR. BROOKER: Just objection to hearsay.

8 THE COURT: Don't say what anybody else said.

9 BY MR. WHITE:

10 Q And you hear what the judge saying. You doing fine  
11 just don't say anything that anybody told you, that be  
12 hearsay, okay, just leave that alone.

13 A Okay. So he went in the house. He looked in the  
14 hallway. He didn't go all the way, he just stopped. And  
15 I just knew. I just seen her.

16 Q And she was in the hallway?

17 A (No response.)

18 Q And you said Andrew was on the couch in the living  
19 room?

20 A (Nod head in the positive.)

21 Q What did y'all do next?

22 A I had went out of the house and Andy, the next door  
23 neighbor, I guess, she heard me or whatever, so she came  
24 over there.

25 Q Now, you said you call her Andy. Is her name

1 Stephanie?

2 A Yes.

3 Q Okay, is the last name Reed?

4 A Uh-huh.

5 Q Where do she live in relation to where your mom's  
6 house?

7 A Next door.

8 Q Okay. Is it the next -- very next door neighbor?

9 A Yes.

10 Q Now, when y'all exited the house, what, if anything,  
11 did you do then?

12 A I called Kajwana and I told her. And then I called  
13 Issac and I told him.

14 Q Let me stop you right there and I want to talk about  
15 that. But if you could tell me, I don't know if I asked  
16 you, but the guy that took you there what was his name?

17 A Craig Hopkins, Jr.

18 Q Okay. And did you call law enforcement or 9-1-1?

19 A I don't know.

20 Q Okay. I'm going to ---

21 MR. WHITE: Judge, permission to publish the  
22 9-1-1 call. I'm going to play you the 9-1-1 call that  
23 went in. And then I'll ask you if you recognize his voice  
24 on the 9-1-1 call. Judge, just to double check, I believe  
25 the 9-1-1 is in evidence.



1 THE COURT: It is.

2 (WHEREUPON, 9-1-1 call played for the jury.)

3 BY MR. WHITE:

4 Q Was that him on the 9-1-1 call?

5 A Yes.

6 Q I'm going to ask you a difficult question. When you  
7 went in that house, could you tell that your mom and  
8 Andrew were deceased?

9 A Yes.

10 Q And what was -- is it fair to say y'all were upset?

11 A Yes.

12 Q When he made that call, was he upset as well?

13 A Yes.

14 Q Now, you mentioned that you made a call to Issac  
15 Hemingway. Could you tell us about that call and this  
16 instance you can tell us what he said?

17 A I called him and I said that I just found my mom and  
18 he said for real. And then I was like yeah. He was like  
19 oh my God like that. Then he was like I'm at work or  
20 whatever. And I was like -- I just hung up the phone  
21 because like what you mean you at work.

22 Q Why did you hang up?

23 A Because he said he was at work. I just found my mom  
24 you talking about you at work.

25 Q And did that seem strange to you?

1 A Yes, like I got your kids.

2 Q Now, over the course of the next several days, where  
3 did the kids stay? Where did they come to live?

4 A At my house in north side.

5 Q And we're talking about all four -- all five  
6 children?

7 A No four.

8 Q Okay. We talked about four of them. Where was the  
9 fifth at that time?

10 A She was in DJJ.

11 Q Okay. And is that Izyana?

12 A Yes.

13 Q But at some point she came home right after that, is  
14 that right.

15 A Yes.

16 Q And where did she come when she came home?

17 A My house too.

18 Q Okay. So at that time did you have all five kids  
19 staying with you?

20 A Yes.

21 Q And what are y'all doing in terms of preparing for  
22 funeral that sort of thing.

23 A I really wasn't talking about it to like the little  
24 ones or whatever. They were asking me like where mommy or  
25 whatever. I wouldn't really say much, but Izy and Kareema

1 knew because I had told them whatever. Izy got out  
2 actually the day that it happened. She was suppose to get  
3 out the next day, but they brought her to my house that  
4 day.

5 Q And was it just you alone in that apartment with  
6 those kids?

7 A Yes.

8 Q Was that difficult to navigate?

9 A Not really.

10 Q You're tough. During that time, how often did you  
11 hear from Issac Hemingway?

12 A None. None. None.

13 Q Did he come by and check on the kids?

14 A He only came because it was Tristen birthday on  
15 February -- on January 15th and I call him. He didn't  
16 call. He didn't call or nothing. We told them him and  
17 his girlfriend that we was like having a little something  
18 because like this happen to my mom. We don't want this to  
19 affect his day, so we still did something for him. I  
20 called him. He didn't call us. He didn't call them.

21 Q And later on did y'all have a funeral for your mom?

22 A Yes.

23 Q Did Issac show up to the funeral?

24 A No. He said he don't do funerals.

25 MR. WHITE: Beg the Court's indulgence for one

1 moment. Thank you, Shkyria. I appreciate it. You got to  
2 stay seated just a little bit longer and answer any  
3 questions Mr. Brooker may have okay.

4 CROSS-EXAMINATION

5 BY MR. BROOKER:

6 Q Ms. Edmunds, I want to make sure that I get your  
7 first name right. Is it Shkyria?

8 A Can I say something real quick? I don't want to look  
9 your way. I want to look like over here.

10 Q That's perfectly fine. I'll move over here. Ms.  
11 Edmunds, I think you told me I got your name right it's  
12 Shkyria, right?

13 A Yes.

14 Q Okay. And, of course, I want to go over some of the  
15 things that you just testified to on direct examination  
16 with Mr. White. I think you said that that you were  
17 living in Philadelphia and that you move back from  
18 Philadelphia in February of 2019?

19 A Yes.

20 Q And, of course, you moved in with your mom, is that  
21 correct?

22 A Yes.

23 Q And living in that house was your mom, her boyfriend  
24 I think Frederick or Fred?

25 A Yes.

1 Q And then, of course, you, and then, of course, the  
2 five kids?

3 A Yes.

4 Q Is that -- did I get that right?

5 A Yes, and my daughter.

6 Q And your daughter living in the house. And, of  
7 course, is I know that you testified that your mom was a  
8 good mom, is that correct?

9 A Yes.

10 Q Okay. I hope you understand and I'm going to have to  
11 ask you some hard questions in reference to that?

12 A Yes.

13 Q Of course, is that I think on direct examination you  
14 told Mr. White that you were going to be honest. So can I  
15 rely on you to be honest about everything?

16 A Yes.

17 Q Regarding your mom?

18 A Uh-huh.

19 Q Okay. Now, did your mom use illegal drugs?

20 A I don't know.

21 Q The reason why I'm asking you that question is is  
22 that I think in sometime in 2019 I believe it was in  
23 February you correct me if I'm am wrong wasn't it -- isn't  
24 it true the department of social services initiated an  
25 abuse and neglect investigation with the allegation that

1     there was drugs in the home?

2     A     No.

3     Q     Okay. So there was no pending -- there was no  
4     pending DSS action? There was no pending investigation  
5     with the department of social services involving your  
6     mother when she died?

7     A     About drugs, no.

8     Q     Okay. That investigation was not just about drugs,  
9     but it was also about the miss care of the children, was  
10    it not?

11    A     Yes.

12    Q     And it was about the condition of the house, was it  
13    not.

14    A     I don't know. I don't know about that. I just know  
15    she was in a DSS case because people call DSS on people.  
16    They can be right, wrong. And DSS still had to make they  
17    thing or whatever. I don't know nothing about drugs. The  
18    house was fit. She got her house done over.

19    Q     Was a treatment plan created?

20    A     A treatment plan?

21    Q     Well, was -- and you may not know this. You tell me  
22    if you don't know this. If you don't know, say you don't  
23    know this. Wasn't there a treatment plan created that  
24    department of social services place the kids not  
25    necessarily physical custody, but legal custody with

1 someone else while they were doing the investigation?

2 A No. Can I ask you something I don't think I  
3 understand the question?

4 Q Sure, sure. You don't understand you can ask and  
5 I'll rephrase it.

6 A So you saying from like that time they was out of the  
7 house at somebody else house living with -- like they took  
8 them and place them somewhere else?

9 Q No, no. What I'm saying is is that did DSS come out  
10 and institute a placement plan, a placement plan?

11 A No, I don't know.

12 Q Okay. But you're saying that the children was not  
13 placed into your custody by a placement plan?

14 A No.

15 Q Okay. Did DSS contact you in reference to this  
16 investigation?

17 A After that is all happen?

18 Q No, no, no. I'm talking about when they were  
19 investigating abuse and neglect?

20 A No.

21 Q Okay. And you said you don't know whether or not  
22 your mom use drugs?

23 A No.

24 Q Okay. Now, I think you said when you moved back from  
25 Philadelphia you correct me I'm wrong. After you moved

1 back from Philadelphia and I think you move in with your  
2 mom, you said you stayed with your mom and the kids and  
3 Fred for a short period of time before you find your own  
4 place?

5 A Yes.

6 Q And you correct me if I heard you wrong, but you said  
7 you stayed with them something like two weeks before you  
8 were able to find your own place?

9 A No.

10 Q How long was it?

11 A I moved out in July, July 2019.

12 Q Okay. So you moved in February and then moved out in  
13 July?

14 A Yes.

15 Q Okay. Now, I want to talk with you about the day --  
16 I talk with you about the day in which I think it was that  
17 Sunday. I think your testimony was -- your testimony was  
18 that that Sunday that you were in Columbia at the mall, is  
19 that correct?

20 A Yes.

21 Q And that you received calls from either from Issac or  
22 Kareema, Issac Hemingway is that correct?

23 A Yes.

24 Q And, of course, it's my understanding was is is that  
25 Issac was bringing the kids back from the weekend



1 vacation. And, of course, he could not -- is it your  
2 understanding that he went to your mom's house and could  
3 not get anybody at your mom's house, is that correct?

4 A Yes.

5 Q So he called you to let you know that he needed to  
6 place the kids with someone because he couldn't get in  
7 contact with your mom?

8 A Yes.

9 Q Okay. I think it's your testimony that you told him  
10 that you were in Columbia and that they could take the  
11 kids to the neighbor's house?

12 A Yes.

13 Q Your neighbor's house?

14 A Yes.

15 Q And you would pick them up from there?

16 A Yes.

17 Q And you did come and pick them up from your  
18 neighbor's house, is that correct?

19 A Yes.

20 Q Okay. That would have been Sunday afternoon  
21 sometime?

22 A Sunday night.

23 Q Sunday night sometime?

24 A Yes.

25 Q Okay. And I think your testimony was is is that did

- 1     you call or attempt to call your mom Sunday?
- 2     A     Yes.
- 3     Q     How many times you attempt to call your mom Sunday?
- 4     A     A lot.
- 5     Q     When was the first time you attempted to call your
- 6     mom?
- 7     A     When they first call me and told me that they
- 8     couldn't -- when Kareema called me and said she couldn't
- 9     get in touch with her.
- 10    Q     So it would have been that Sunday night?
- 11    A     That was like seven or eight.
- 12    Q     Somewhere around seven or eight?
- 13    A     Uh-huh.
- 14    Q     That's when you tried to call her as well too and
- 15    couldn't get in touch with her?
- 16    A     Yes.
- 17    Q     Okay. Had you called your mom any that day?
- 18    A     Earlier that day.
- 19    Q     What time do you remember?
- 20    A     No. It was early.
- 21    Q     In the mornings?
- 22    A     Yeah.
- 23    Q     Okay. Did you talk with her?
- 24    A     Uh-huh, yes.
- 25    Q     About what time did you talk with her on Sunday

1 morning just roughly? I know you said it was Sunday  
2 morning?

3 A It was nine ten like early.

4 Q Okay. That would have been the last time you talked  
5 with her something like nine or ten Sunday morning?

6 A I keep thinking you saying Saturday. I keep getting  
7 Sunday and Saturday.

8 Q I'm sorry. Well, let me not mix you up. I'll ask  
9 you the question again. I'm talking about Sunday.

10 A Okay. Sunday I didn't talk to my mom at all Sunday.

11 Q I got you.

12 A That's when I went to the mall. I didn't talk to her  
13 at all on Sunday.

14 Q Okay, that's the Sunday you didn't talk to her at all  
15 on Sunday?

16 A Yes.

17 Q So the last time you talk with her would have been  
18 Saturday?

19 A Yes, Saturday morning.

20 Q Okay. And I want to make sure we got the dates  
21 correct ask you about calling. Did you call her or  
22 attempted to call her any on Sunday other than the time --  
23 other than calling her Sunday afternoon when you were  
24 notified that Issac was there to return the kids and they  
25 could not get in contact with you?

- 1 A No, I only call her when they call me.
- 2 Q Okay. That's the only call you made to her that
- 3 Sunday?
- 4 A Uh-huh.
- 5 Q The first time you called her that Sunday?
- 6 A Yes.
- 7 Q So the last conversation would have been that
- 8 Saturday?
- 9 A Yes.
- 10 Q And I think I understand your testimony was is is
- 11 that you continued to call her Sunday, Sunday night and
- 12 couldn't get in contact with her?
- 13 A Yes.
- 14 Q And then you continued to call her on Monday and
- 15 couldn't get in contact with her?
- 16 A Yes.
- 17 Q And that's when you made the determination to go over
- 18 to her house to check on her, is that correct?
- 19 A Yes.
- 20 Q Okay. Now, my understanding is is that your mom
- 21 lived in Centenary, is that correct?
- 22 A Yes.
- 23 Q And you live Marion?
- 24 A Yes.
- 25 Q How long is it a drive in from your house to your

1 mom's house?

2 A About 20 minutes.

3 Q About 20 minutes to get from your house to your mom's  
4 house. Okay. And when you came to your mom's house that  
5 Sunday, I think that's when you discovered Andrew and your  
6 mom was deceased in the home?

7 A Yes.

8 Q Had you been to your mom's house any that weekend  
9 that Saturday or that Sunday that whole weekend that you  
10 been to your mom's house?

11 A No.

12 Q Okay. And I think you said that the last time you  
13 talked with her would have been that Saturday morning?

14 A Yes.

15 Q Okay. And this is stating the obvious, but I do it  
16 for the purposes of the jury for full clarification. You  
17 were not present in Centenary when your mom and Andrew was  
18 killed, is that correct?

19 A No.

20 Q I think your testimony was that when you called Issac  
21 on Sunday excuse me -- on Monday after you learned of your  
22 mother's death, I think you said that he said, oh, my God  
23 and he told you he was at work, is that correct?

24 A Yes.

25 Q And then you hung up the phone?

1 A Yes.

2 Q Okay. And I think your testimony was that he did not  
3 attend the funeral?

4 A No.

5 Q And you told me you may know this or not, but your  
6 mom and Issac were together for a long time, is that  
7 correct?

8 A Yes.

9 Q And they had five kids together, that correct?

10 A Yes.

11 Q When she was killed in January 2020, they had not  
12 been together for years, is that correct?

13 A Yes.

14 Q They had their own relationships. They had gone and  
15 had separate relationships since then, is that correct?

16 A Yes.

17 Q Since, they had separated, is that correct?

18 A Yes.

19 Q Okay. And you may not know do you know who Issac was  
20 with at that time who his girlfriend was at that time?

21 A Her.

22 Q Had you ever met her?

23 A No.

24 MR. BROOKER: If you could indulge me for just a  
25 second, your Honor. I may not have any further questions.

1 I want to make sure.

2 (WHEREUPON, a pause in the proceedings.)

3 BY MR. BROOKER:

4 Q I think you said that he didn't go to the funeral,  
5 but he did go to her wake, didn't he?

6 A I didn't see him.

7 MR. BROOKER: No further questions, your Honor.

8 THE COURT: Any redirect?

9 MR. WHITE: Just briefly, Judge.

10 REDIRECT EXAMINATION

11 BY MR. WHITE:

12 Q First thing I want to ask you, Shkyria, I think you  
13 kept getting mixed up on the dates. It's easy to do. You  
14 told me and Mr. Brooker that the last time you spoke to  
15 your mom was on Saturday morning, is that right?

16 A Yes.

17 Q And then you found her and Andrew on Monday morning,  
18 is that right?

19 A Yes.

20 Q All right. Now, you mentioned before that Fred was  
21 in the house, but at some point -- and that's back when  
22 you first moved to Marion?

23 A Yes.

24 Q At some point they broke up, is that right?

25 A Yes.

1 Q And then during the time of this incident he wasn't  
2 living at the house, was he?

3 A No.

4 Q Okay. Now, there was some talk about a DSS case, but  
5 where were the kids all living during that time?

6 A At her house.

7 Q And where were they living when she was murdered?

8 A At her house.

9 Q Now, you mentioned it before that anybody can call  
10 DSS and report something, right?

11 A Yes.

12 Q And during this time, isn't it true that there was a  
13 hotly contested child support issue going on with Issac  
14 Hemingway?

15 A Yes.

16 Q So it could have been that he's the one that called,  
17 isn't that right?

18 A Yes.

19 MR. BROOKER: Objection, your Honor calls for  
20 speculation. Can I get ruling on the objection? He could  
21 have been that he ---

22 THE COURT: It could have been was the question.

23 MR. BROOKER: I know your Honor but that calls  
24 for speculation and I know I laughed, but that's very  
25 serious. It is inappropriate. Does he have evidence that



1 he called 9-1-1.

2 THE COURT: Why don't you rephrase the question.

3 MR. WHITE: I'll withdraw. Thank you, Judge.

4 BY MR. WHITE:

5 Q Despite when you moved out in June I think it was?

6 A Yes, July.

7 Q I'm sorry and you maintain close contact with your  
8 mom?

9 A Yes.

10 Q And up until the time that she was murdered?

11 A Yes.

12 MR. WHITE: Beg the Court's indulgence. Thank  
13 you, Shkyria.

14 THE COURT: Anything else?

15 MR. BROOKER: No further questions, your Honor.

16 (WHEREUPON, the witness leaves the witness  
17 stand.)

18 THE COURT: Call your next witness.

19 MR. WHITE: Thank you, Judge. At this time the  
20 State would call Investigator Wayne Rogers.

21 THE CLERK: Do you swear to tell the truth, the  
22 whole truth, and nothing but the truth so help you God?

23 THE WITNESS: I do.

24 WHEREUPON,

25 Dewayne Rogers,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. WHITE:

4 Q Good morning, Investigator. How you doing?

5 A I'm all right. How you doing?

6 Q I know that the acoustics in here are so wacky if you  
7 could just make sure you're talking in that microphone, so  
8 everybody can hear you. Investigator Rogers, where you  
9 employed?

10 A Marion County sheriff's office.

11 Q How long you been employed there?

12 A Since 2011.

13 Q In what capacity are you currently employed?

14 A I'm assign to the investigator division.

15 Q And back in January of 2020, were you similarly  
16 employed?

17 A Yes.

18 Q You were an investigator at that time?

19 A Yes, I was.

20 Q And did you have occasion to get called out to the  
21 scene of this particular crime?

22 A Yes, I did.

23 Q Now, were you in the courtroom when that 9-1-1 call  
24 came out?

25 A Yes.

1 Q The address that he gave I don't believe that was the  
2 accurate address where this occurred. Do you have the  
3 address where this occurred? If not, I can get it from  
4 another investigator it's no problem.

5 A No, I don't have it.

6 Q That's all right. I'll get it from the next  
7 investigator, but you did arrive at the incident location,  
8 is that correct?

9 A I did.

10 Q And where is the general area where this occurred?

11 A It's in the Centenary -- right down from Old Terrells  
12 Bay high school.

13 Q And when you arrived it was January 13th of 2020?

14 A Yes.

15 Q And how long does it take you to get from the  
16 sheriff's office to the scene?

17 A I actually came from Nichols.

18 Q How long it take you to get there?

19 A About 25 minutes.

20 Q And did you as soon as you get the call head straight  
21 there?

22 A Yes.

23 Q And were there a lot of law enforcement there when  
24 you arrived?

25 A When I arrived, patrol deputies were already on

1 scene. EMS on scene and some of the investigative unit  
2 was already on scene.

3 Q What are some of the responsibilities -- what  
4 procedure -- what's the policy that's in place when law  
5 enforcement arrives on a murder scene like that what are  
6 your steps?

7 A First, we tape off the crime scene. Sometimes we  
8 have to expand the crime scene in which we did because of  
9 the crowd that was gathering. We secured the crime scene  
10 to make sure nobody entered the crime scene log in  
11 everybody that goes in and out of the crime scene.

12 Q And you waiting on crime scene agents from South  
13 Carolina Law Enforcement Division at that time?

14 A Yes, I was advise that SLED crime scene unit was en  
15 route along with investigators.

16 Q Now, you mentioned that a crowd was gathering. Was  
17 this crowd concerned friends and family, neighbors that  
18 sort of thing?

19 A Yes, all of Centenary was out there.

20 Q I can imagine. Now, did you secure a search warrant  
21 to enter that home?

22 A A search warrant was secured and brought to the  
23 location.

24 Q And did y'all then wait for SLED to get there before  
25 you entered the home?

1 A We did, but I didn't.

2 Q And did you go into the home once there?

3 A Once the crime scene unit was finish with their  
4 processing of the inside the residence, I did enter in the  
5 house.

6 Q And tell us a little bit about what you found. When  
7 you first walk into that front door, are you entering the  
8 living room?

9 A Yes, once you walk through the front door, the front  
10 door is a right-hand swing door inside. So the door was  
11 swing on the inside to the left was a couch with the male  
12 victim laying on the couch.

13 Q And I want to ask you a few questions about that  
14 general area. Other than -- well, let me ask you, what  
15 did it appear had occurred to him on the couch?

16 A It appears like he was just laying there asleep and  
17 never woke up.

18 Q And it appear to you that he had been shot.

19 A Yes.

20 Q And other than other that -- other than brutal scene,  
21 in the living room was there any evidence of a struggle?

22 A I don't recall anything that was out of place. I do  
23 remember that there was a liquor bottle that was standing  
24 straight up beside the couch and a beer can. It was a set  
25 of glasses, shades that was on the arm of the couch near

1 his head.

2 Q And those were in close proximity to his person?

3 A Yes.

4 Q And they weren't disturbed?

5 A No.

6 Q Were there any tables knocked over?

7 A Not in the living room, no.

8 Q Nothing disturbing the living room as far as you can  
9 tell?

10 A There was a kerosene heater with a pot on top of it  
11 still in place standing up wasn't tilt over or anything.

12 Q Now, turn your attention to the hallway which is just  
13 off that area of the living room, what did you find when  
14 you entered that hallway?

15 A Once you step out of the living room towards the  
16 hallway, I found the female victim. I seen her laying on  
17 the floor in a pool of blood.

18 Q Did it appear to you she had been shot?

19 A Yes.

20 Q And did it appear to you that there had been a  
21 struggle?

22 A It appears to be a struggle. I notice that there was  
23 hair in the palm of her hand and some hair that was on the  
24 floor. Her tank top was pulled to the side off on the  
25 left-hand as she layed there. And her pants were twisted

1 as though a struggle had ensued.

2 Q Now, did you observe the handprints and the smears  
3 along the wall going down the hallway?

4 A Yes.

5 Q And based on your many years of investigation your  
6 training and experience, it look to you like there was a  
7 significant struggle?

8 A In the hallway, yes.

9 Q Did it look to you as if Ms. Burch had been dragged  
10 from some portion down that hallway?

11 A Either she was dragged or there were -- it appeared  
12 that she was dragged or it was a fight sometime  
13 altercation that took place.

14 MR. WHITE: Beg the Court's indulgence. Mr.  
15 Rogers, thank you so much. Please answer any questions  
16 Mr. Brooker may have.

17 THE COURT: Cross.

18 MR. BROOKER: Thank you.

19 CROSS-EXAMINATION

20 BY MR. BROOKER:

21 Q Investigator Rogers, a couple questions right off the  
22 bat. I'll ask you this question right off the bat is is  
23 that you were not a fact witness -- you were not a fact  
24 fact witness -- what I mean by fact witness is that you  
25 were there witnessing the murder of these two people, is

1     that correct?

2     A     No, I wasn't.

3     Q     So you're not testifying as a fact witness, is that  
4     correct?

5     A     Not to the actual murder, no.

6     Q     Not to the actually murder that's what I'm talking  
7     about. Okay. Now, I think you said you testified that  
8     when you arrived on the scene that there were a lot of  
9     officers on the scene?

10    A     Yes.

11    Q     Roughly how many officers that was on the scene when  
12    you arrived?

13    A     I can recall two patrol units. Maybe, three  
14    investigative units that were there prior to my arrival.

15    Q     Okay. Had crime scene investigations arrived at that  
16    time?

17    A     No.

18    Q     They were not on the scene. Did anyone go in that  
19    house? Could you see any officers go in that house?

20    A     I didn't see any officers that went into that  
21    residence.

22    Q     Was EMS there?

23    A     Yes, they were.

24    Q     Did EMS go in the house?

25    A     I was advised that EMS went in the house to access



1 the two victims in which they were called out for.

2 Q Okay. Now, I know that you said is is that you were  
3 not -- were you the investigator in charge ---

4 A No, I wasn't.

5 Q --- of that crime scene?

6 A I was just assisting.

7 Q I'm sorry go ahead. I didn't mean to interrupt.

8 A I was just assisting.

9 Q You were there providing support?

10 A Yes.

11 Q Okay. And I think you said is is that it's common  
12 that you would normally rope off the crime scene, is that  
13 correct?

14 A Yes, tape it off.

15 Q Did y'all tape off the crime scene?

16 A Yes, we did.

17 Q You were apart of doing that?

18 A The expansion of the crime scene.

19 Q Okay. Okay. Expansion of the crime scene?

20 A Uh-huh.

21 Q And, of course, also you generated crime scene log,  
22 is that correct?

23 A Yes.

24 Q Did you generate a crime scene log or started a crime  
25 scene log or who did that?

1 A I didn't do it, but most the time it's one of the  
2 patrol units. One of the first officers that arrive on  
3 scene.

4 Q Okay. And what a crime scene log is for the jury is  
5 a crime scene log is actually a list of everybody who has  
6 entered the crime scene, is that correct?

7 A That's right.

8 Q Okay. Have you ever seen the crime scene log?

9 A No, I haven't.

10 Q Okay. Let me ask you at least some names of some of  
11 the officers that were there. Were you there when  
12 Lieutenant McCaskill arrived?

13 A I want to say he was there before I got there.

14 Q Okay. So he was before you?

15 A Yes.

16 Q What about Joey Price from -- I think you said EMS  
17 was already there?

18 A EMS was already there.

19 Q Okay. And, of course, do you know Leah Ramson EMS?  
20 Ransom? Leah?

21 A I don't know him.

22 Q How many people from EMS was there do you know?

23 A No, I don't.

24 Q John Smith do you know John Smith from EMS?

25 A No, I don't. I don't know him. They come and go so

1 much.

2 Q And, of course, Ms. Edmunds, Shkyria Edmunds who just  
3 testified before you she was there at the scene, was she  
4 not?

5 A Yes, she was.

6 Q Okay. Bobby Davis was he there?

7 A Yes.

8 Q Okay. Was Chris Woodberry there?

9 A I can't recall.

10 Q Judith Barker?

11 A Yes.

12 Q She was there. And Judith Barker she was the captain  
13 of the investigative team with the sheriff department?

14 A Yeah, she was.

15 Q Detective Lee was she there?

16 A Yes.

17 Q Or he there I apologize?

18 A Yes.

19 Q Samantha Jackson was she there?

20 A Yes.

21 Q And, of course, Jarad Barkdoll?

22 A Yes.

23 Q Todd Schenk if I'm pronouncing his name correctly  
24 from SLED was he there?

25 A I'm not sure about the name, but they were SLED crime

1 scene units that were there.

2 Q You know how many members of SLED were there?

3 A I can't recall how many.

4 Q Did Jerry Richardson, the coroner, showed up was you  
5 there when he came?

6 A He arrived at some point. One of the coroners  
7 arrived at some point.

8 Q What about Chad is it Pace or Page with the sheriff's  
9 department?

10 A I can't recall.

11 Q Justin Broach?

12 A That don't ring a bell.

13 Q Okay. Sergeant Barfield was he there at the crime  
14 scene?

15 A Yes.

16 Q Okay. At some point in time did Stephanie Reed was  
17 she there?

18 A Outside crime scene if I recall correctly.

19 Q Okay. What about Mr. Cribb, Orielo Cribb with the  
20 sheriff department was he there?

21 A More than likely, yes.

22 Q Detective Hotaling was there, is that correct?

23 A Yes.

24 Q About Detective Pike?

25 A I want to say, yes.

1 Q Okay. Is there anybody else that was there that I  
2 didn't recall? That I didn't mention?

3 A That's about it.

4 Q Was the Deputy Coroner Jimmy Gray there?

5 A I can't recall whether the deputy coroner or the  
6 coroner came out.

7 Q Okay. All right. So all of these people I think  
8 some of you identified, all the ones that you identified  
9 were there at the crime scene. And, of course, most of  
10 the officers where allowed to come inside the crime scene,  
11 is that correct?

12 A Yes.

13 Q Now, I think you testified that after crime scene  
14 investigations came, and, of course, crime scene  
15 investigations with SLED came and collect whatever it is  
16 they collect is is that you then entered the house at that  
17 time?

18 A Yes, after they completed everything, they was  
19 collecting photographs whatever they collected.

20 Q And I think -- and just -- I want to ask you about a  
21 little bit about your training because you testified to  
22 some things. I think you said you're a detective. You  
23 were a detective at that time?

24 A Yes, I was.

25 Q Okay. What does -- what training did you receive to

1     become a detective?

2     A     Well, first of all, you start off with the academy.  
3     There's other classes that you take up with the academy  
4     along your career. I have had classes investigative  
5     classes at the academy, been to homicide conferences with  
6     ROCIC and just everything from day-to-day operations.

7     Q     Okay. Okay. Have you ever done any -- and  
8     specifically train to reconstruct crime scenes?

9     A     No.

10    Q     And that's why I'm asking you is is that you were  
11    analyzing the crime scene or reconstructing the crime  
12    scene. And, of course, it's what you testified to, but  
13    you have not been trained as -- you have not been trained  
14    to reconstruct crime scenes, is that correct?

15    A     That's correct.

16    Q     Okay. So everything that you -- all of the opinions  
17    that you were given is is you wasn't giving that as an  
18    expert who was trained as a crime scene -- someone who is  
19    an expert in reconstructing crime scenes, is that correct?

20    A     That's correct.

21    Q     You were just given a layperson's opinion, is that  
22    correct?

23    A     I was just giving what I saw.

24    Q     Okay.

25                 MR. BROOKER: If you could indulge me for just a

1 second, your Honor. I may be finish with Detective  
2 Rogers. I want to be absolutely certain.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. BROOKER: No further questions, your Honor.

5 THE COURT: Redirect.

6 MR. WHITE: Just briefly, Judge.

7 REDIRECT EXAMINATION

8 BY MR. WHITE:

9 Q Investigator Rogers, you been doing this a long time,  
10 is that right?

11 A Yes.

12 Q Have you investigated your fair share of murders?

13 A Yes.

14 Q And you been trained in homicide investigation?

15 A Yes.

16 Q And when you arrived on scene, what you stated had it  
17 appeared to be no struggle in the living room and an  
18 extreme struggle in the hallway, that was pretty obvious  
19 to you?

20 A Yes.

21 Q And this happened a long time and you weren't in  
22 charge of that crime log, is that right?

23 A That's right.

24 MR. WHITE: Beg the Court's indulgence. That's  
25 all I got for you. Thank you, sir.

RECROSS-EXAMINATION

BY MR. BROOKER:

Q Just one more follow up on what the Solicitor said about how long you were involved. He asked you whether or not you were involved in the crime scene for long or this investigation for long. So after that day of January 13th 2022, were you involved in the investigation after that?

A It was mostly done with the lead detective and SLED investigators.

MR. BROOKER: Okay. Okay. No further questions, your Honor.

THE COURT: All right. You may step down.

(WHEREUPON, the witness leaves the witness stand.)

THE COURT: You all need a short break?

MR. WHITE: Judge, I was -- we have a brief break and the next person who's going to testify. So I was going to ask for a 15 minute or 20 minute recess.

THE COURT: Let's take a 15 minute break any way. Go the jury room do not discuss the case.

(WHEREUPON, a break was taken.)

THE COURT: Well, he canceled his doctor's appointment, so we can do whatever until you can't do anymore, whatever suits you.

MR. WHITE: Well, in that case, Judge, I would



1 suggest we put up Officer McCaskill now, break for lunch.  
2 And if that would give Mr. Brooker enough time to review  
3 that video, we just keep on rolling.

4 THE COURT: Whatever suits you?

5 MR. WHITE: But however you want to proceed.

6 THE COURT: What suits you, Mr. Brooker?

7 MR. BROOKER: We can try it your Honor. The  
8 only thing is is that the video is about an hour long.  
9 And then, of course, if I have any problems with the  
10 video, I guess we would have to address that after lunch.

11 THE COURT: What would you need like a two-hour  
12 lunch you think?

13 MR. BROOKER: Yeah, I would because after I  
14 review the video if I have any issues with it, then, of  
15 course, I would have to get with Ryan, but if I don't,  
16 I'll certainly let him know.

17 THE COURT: Okay. So we'll do this next witness  
18 and take a two-hour lunch and then come back and go.

19 MR. WHITE: That sounds great, Judge.

20 THE COURT: All right. Go ahead and bring them  
21 out.

22 (WHEREUPON, the jury came into open court.)

23 THE COURT: All right. If you'll call your next  
24 witness.

25 MR. WHITE: Thank you, Judge. At this time the

1 State would call Mitchie McCaskill.

2 THE CLERK: Do you swear to tell the truth, the  
3 whole truth, and nothing but the truth so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you.

6 WHEREUPON,

7 Mitchie McCaskill,  
8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WHITE:

11 Q Officer McCaskill, where are you employed?

12 A Marion County sheriff's office.

13 Q And how long you been employed there?

14 A A little over 20 years.

15 Q And what in capacity are you currently employed?

16 A I'm the lieutenant over the patrol division.

17 Q And back in January specifically January 13th of 2020  
18 were you similarly employed at that time?

19 A Yes, sir.

20 Q And did you have occasion to respond to the scene of  
21 the incident that brings us here today?

22 A I did, sir.

23 Q And I'm going to ask you, Officer McCaskill, if you  
24 could and it's with the Court's permission if you could  
25 step down. I want you to identify an aerial photograph.

1 And I'm referring to State's Exhibit 50. Officer  
2 McCaskill, if you could tell us do you recognize this  
3 photograph?

4 A I do, sir.

5 Q And are you familiar with this area?

6 A I am, sir.

7 Q And is this in fact the area to which you responded?

8 A I did, sir.

9 MR. WHITE: Judge, I move State's Exhibit 50  
10 into evidence.

11 THE COURT: Any objections?

12 MR. BROOKER: I don't think so your Honor. I  
13 think this is the aerial photograph.

14 MR. WHITE: Yes, sir.

15 MR. BROOKER: No objection.

16 THE COURT: State's Exhibit 50 is in evidence  
17 without.

18 (WHEREUPON, State's Exhibit No. 50 was admitted  
19 into evidence without objection.)

20 BY MR. WHITE:

21 Q And could you tell us -- direct us to the incident  
22 location?

23 A Okay. So here is the old school Terrell's Bay right  
24 off of it. And it's going to be Taft Watson Boulevard, so  
25 the incident location is going to be this place right

1 here.

2 Q And what was the address there?

3 A It was 5305 Taft Watson Boulevard.

4 Q And is that Marion County?

5 A Yes, sir.

6 Q All right. Thank you. You can have a seat. And how  
7 did you respond -- how did you get the call? What was the  
8 call that came out and what did you do when you got it?

9 A Excuse me it's been a while since we had the call.

10 Q Yes, sir.

11 A If I'm not mistaken, it come out for two gunshot  
12 victims inside a residence.

13 Q And did you arrive or respond immediately?

14 A We did, sir.

15 Q When you got there, what did you find?

16 A When I arrived on scene, I met with Captain Cribb.  
17 They advised there was two victims inside the residence.  
18 We then proceeded to do a sweep of the residence to make  
19 sure it was clear no threats or anything inside the  
20 residence.

21 Q And did you and Captain Cribb do that simultaneously?

22 A We did, sir.

23 Q Were y'all the first law enforcement officers that  
24 went into the scene?

25 A We were, sir.

1 Q And when you say sweep the scene, what are your  
2 responsibilities when you're conducting such a sweep?

3 A To make sure that anyone inside does not need and  
4 make sure there's no threats still inside the residence.  
5 We don't know if it just occurred.

6 Q And did you find any threats?

7 A We did not, sir.

8 Q And what did you find when you went in?

9 A First upon entering the residence to the left on the  
10 couch was a male lying on the couch. I'm not sure if  
11 Captain Cribb checked it or what. It's been a few years  
12 ago. I proceeded to clear the living room which I'm not  
13 mistaken was a hallway to the right. I posted up at the  
14 apex to the hallway right there at the frame. I looked  
15 down I could see a female I holler out female in the  
16 hallway. Upon him getting to me, we clearing the hallway,  
17 checked her. She wasn't breathing, continued to clear the  
18 residence. Once everything was clear inside the  
19 residence, we backed out of the house.

20 Q And once you back out of the house what, if anything,  
21 did you do then?

22 A We help secure the scene as far as roping the  
23 perimeter and stuff off. I wasn't there but a short  
24 period after that and I cleared up and continued to answer  
25 calls.

1 MR. WHITE: Beg the Court's indulgence.

2 BY MR. WHITE:

3 Q Did you during the course of your sweep did you touch  
4 anything inside the residence?

5 A Did not, sir.

6 Q Did you process anything inside the residence?

7 A I did not, sir.

8 Q So you just swept the scene and made sure everything  
9 was safe inside the scene and you back out?

10 A Correct, sir.

11 MR. WHITE: That's all I have for you. Please  
12 answer any questions the defense may have.

13 CROSS-EXAMINATION

14 BY MR. BROOKER:

15 Q Is it still Lieutenant McCaskill?

16 A Yes, sir.

17 Q Okay, just a couple questions. I think were you the  
18 first one to arrive on the scene?

19 A I don't know if I was the first or Captain Cribb was  
20 the first, sir, but we were the first two officers on  
21 scene.

22 Q Okay. And I think could you kind of explain to me or  
23 give me a run through everything you did when you first  
24 pulled up on the scene starting with getting out of your  
25 patrol car?

1 A Yes, sir, as soon as we get there, obviously, I don't  
2 know if I was the first one on scene or what. We were  
3 advised there was two individuals that had been shot  
4 inside of the residence. Upon us getting there, we have  
5 to make sure the scene safe for personnel to go inside and  
6 assess the victims inside the house or what's going on.  
7 So we get together he and I first two inside the  
8 residence. And then we do a sweep of the inside of the  
9 reside make sure there's no threats inside the residence  
10 make sure it's safe a person have to go inside and process  
11 and take care of anything that needs to be taken care of.

12 Q Okay. Okay. Now, when you get out of your vehicle,  
13 did you put on gloves?

14 A I do not recall, sir.

15 Q Okay. I think you said it was the other person was  
16 Agent Cribb was he -- did he put on gloves?

17 A I do not recall, sir.

18 Q Okay. And, of course, when you walked up to the  
19 house, and, of course, did you make entrance to the front  
20 end -- through the front entrance?

21 A Yes, sir, we did.

22 Q Okay. Was there anyone outside? Was Ms.  
23 Edmunds outside or anyone else outside at the time in  
24 which you arrived?

25 A I do not recall, sir, who was outside the residence

1 when we got there.

2 Q Okay. Okay. And was the door closed or open when  
3 you arrived?

4 A I do not recall if the door was closed or opened.

5 Q Okay. So you don't know whether or not you had to  
6 open the door in order to make entry?

7 A I do not, sir. Like I say, it's been a few years ago  
8 this took place.

9 Q Okay. And you don't know whether or not you were  
10 wearing gloves?

11 A No, sir, I do not recall.

12 Q What about Agent Cribb you don't know whether or not  
13 -- do you know whether he was wearing gloves?

14 A I don't recall, sir.

15 Q Okay. Y'all went in together, is that correct?

16 A Correct, sir.

17 Q Now, when y'all went in together to do protective  
18 sweep, once you enter the house, did Detective Cribb go to  
19 one area and you go to the other or did y'all stay close  
20 together?

21 A No, sir, we stayed close together when we clear a  
22 house, that way we got back up.

23 Q Okay. And I think you said that when you entered,  
24 then, of course, you can see a male on the couch, is that  
25 correct?



1 A Correct, sir.

2 Q Okay. And at some point in time I think you said  
3 that you went down the hallway you yelled because you saw  
4 a female on the floor?

5 A That is correct, sir.

6 Q Okay. And, of course, you said that you went up and  
7 checked her. What do you mean by checking her?

8 A Make sure see if she's breathing anything of that  
9 nature. If she needs medical attention, then or there.  
10 She was not breathing at the time, so we continued to  
11 clear the residence.

12 Q How do you determine if she was not breathing?

13 A We check for a pulse, check make sure see if she's  
14 breathing from her chest. If she's -- you can see if  
15 somebody's pretty much chest going in and out.

16 Q Okay. And how did you check for a pulse? Did you  
17 check -- some people check at the neck. Some people check  
18 at the arms?

19 A I do not recall, sir. I do not recall.

20 Q Okay. Now, did you enter every residence of the home  
21 excuse me -- did you enter every room in the home?

22 A Correct, sir.

23 Q Okay. Was every door open or closed?

24 A Do not recall, sir.

25 Q Okay. So you don't know whether or not you had to

1 open doors in order to enter the various rooms?

2 A Like I say, this is over two years ago, sir. I do  
3 not recall.

4 Q Okay. Now, I think after you cleared the home did  
5 you exit the home?

6 A Correct, sir.

7 Q How long did it take you to sweep the home?

8 A I couldn't give you a time, sir. I do not know.

9 Q Did it take more than ten minutes?

10 A I couldn't tell you a time, sir. I do not know.

11 Q But anyone entered the home prior to y'all getting  
12 there? And the reason why I'm ask you that I'm not trying  
13 to play got you. It's my understanding is EMS was the  
14 first on scene and that EMS had entered the home prior to  
15 y'all arriving?

16 A I could not answer that question. I do not know. I  
17 know that when we got there, there were people on scene.  
18 I do not know if anybody went inside the residence before  
19 us.

20 Q Was EMS on the scene?

21 A Again, I do not recall, sir. I can't answer  
22 something I don't remember.

23 Q Okay. So it's not your testimony that you were the  
24 first to enter the house. It's just that as far as you  
25 know of you don't know whether or not EMS entered before

1 you?

2 A That is correct, sir.

3 Q Okay. After you exited the home, what did you do?

4 A I proceeded to assist with securing the scene and  
5 roping it off. And then it wasn't a few minutes after  
6 that, sir, I cleared up and kept responding to calls.

7 Q So after you secured the scene, helped roped it off  
8 you left?

9 A Correct, sir.

10 Q Okay.

11 A And the only reason I know that is because I ran out  
12 of gas.

13 Q I'm sorry.

14 A I said the only reason I know that is because I ran  
15 out of gas leaving there.

16 Q Okay. Imagine that's memorable?

17 A Yes, sir.

18 Q Okay. Did you sweep the outside of the house?  
19 Around the outside of the house?

20 A We did not, sir. As soon as we come out like I said,  
21 we roped off the scene and stood back waited for  
22 investigators.

23 Q Okay. And who was the first investigator to arrive  
24 on the scene if you could remember?

25 A I do not remember, sir. I couldn't recall.

1 Q Okay. Now, one question I already know the answer to  
2 it, but I ask the same question of everyone. You are not  
3 a fact witness to the shooting of Andrew Legette and  
4 Maisha Burch, is that correct?

5 A That is correct, sir.

6 MR. BROOKER: No further questions, your Honor.

7 THE COURT: Any redirect?

8 MR. WHITE: No, sir, Judge.

9 THE COURT: Other witnesses before lunch?

10 MR. WHITE: I don't believe so, Judge.

11 THE COURT: You may step down.

12 (WHEREUPON, the witness leaves the witness  
13 stand.)

14 THE COURT: Members of the jury, I'm going to  
15 give you a lunch break until 2:30. We have to stay here  
16 and do some work to get it ready for you this afternoon.  
17 Enjoy your lunch, relax a little bit. Do not talk about  
18 the case. Do not research the case. Be back at 2:30 and  
19 hopefully we'll be ready to roll at that time. All right.  
20 Everybody else remain seated while the jury is excused.

21 (WHEREUPON, the jury is excused for a lunch  
22 break.)

23 THE COURT: I gave you an extra 30 minutes in  
24 case you all need it be 2:30.

25 MR. WHITE: Sounds good. Thank you, Judge.

1 THE COURT: Have a good lunch.  
2 (WHEREUPON, a lunch break was taken.)  
3 THE COURT: Is the State ready?  
4 MR. WHITE: Yes, sir, Judge.  
5 THE COURT: Defense ready?  
6 MR. BROOKER: Yes, sir, your Honor.  
7 THE COURT: Let's go ahead and bring in the  
8 jury.  
9 (WHEREUPON, the jury came into open court.)  
10 THE COURT: The State call your next witness.  
11 MR. WHITE: Thank you, Judge. At this time the  
12 State would call Todd Schenk. We don't have the clerk's  
13 office back.  
14 THE COURT: Place your left hand on the Bible  
15 and raise your right hand. You swear to tell the whole  
16 truth and nothing but the truth so help you God?  
17 THE WITNESS: I do.  
18 THE COURT: Thank you. Come over here and have  
19 a seat and speak into the microphone.  
20 WHEREUPON,  
21 Todd Schenk,  
22 after first having been duly sworn, testified as follows:  
23 DIRECT EXAMINATION  
24 BY MR. WHITE:  
25 Q Mr. Schenk, tell us where are you employed?

1 A Sure. I am a lieutenant with the South Carolina Law  
2 Enforcement Division.

3 Q And in what capacity are you employed?

4 A I'm a crime scene investigator.

5 Q And how long have you been employed in that capacity?

6 A A little over nine years.

7 Q And what is a crime scene investigator do?

8 A So our main job at SLED is we're an assisting agency.  
9 So if someone needs help with the forensics or man power,  
10 our job our whole existence is to come assist local  
11 agencies. With crime scene, we get called for all kinds  
12 violent crime. Our job is to show up, help assist with  
13 the forensics in aspects of photography, documenting the  
14 scene, doing diagrams sketches and just helping them with  
15 the forensic needs of a crime scene investigation.

16 Q And what kind of education and experience you  
17 receive in becoming a crime scene analyst?

18 A Sure. I graduated the Citadel in 2013. And then we  
19 start a in-house training program at SLED. First, we go  
20 through the police academy, which is a three-month long  
21 program where you learn to become a basic police officer.  
22 Then we in in-house training it's broken into what we call  
23 blocks, so you got a section. So you got photography,  
24 DNA, evidence collection, tire footwear, how you do a  
25 diagram, how to properly maintain a case. And each of

1 these blocks you have to do written evaluations on. You  
2 have to show that you can do it by practical examinations,  
3 documenting a certain amount of scenes with photographs,  
4 doing a certain amount of diagrams. Then you take a  
5 written test on each of the sections. At the end of all  
6 the sections you do a mock crime scene where it's a  
7 pretend crime scene that's set up for you to investigate.  
8 And we have to successfully do that follow policy  
9 procedures, write a final report, that's then graded. And  
10 we take final all encompassing test that is a graded test.  
11 Once you completed all of that, you go -- then you are  
12 deemed competent in the field. I've also been through a  
13 40-hour BPA class or blood stain pattern analysis class.  
14 A 40-hour shooting incident reconstruction class. And a  
15 48-hour excuse me -- a two day, so 16-hour photography  
16 class and then fair operations.

17 Q Now, in regards to this particular case, did you get  
18 called out to a scene in Marion County on or about  
19 January 13th of 2020?

20 A Yes.

21 Q And how did you get that call?

22 A So our calls come in when a local agency needs our  
23 assistance. They call our dispatch or operations desk.  
24 OD is what we call them. OD called me and said, hey,  
25 we've got murder investigation we need your assistance

1 with in Marion County, so then I respond.

2 Q So you knew you were responding to a murder?

3 A Well, I don't remember exactly what I was told if I  
4 may refer to my notes.

5 Q Sure, that will be great.

6 A The original information that was given to me was  
7 there were two victims deceased in a residence and the  
8 victims appear to have gunshot wounds. So someone at some  
9 point victims don't have bullet holes typically, so we  
10 assume that some form of a homicide either -- some form of  
11 a homicide.

12 Q So in that particular case, when you arrive on scene  
13 what are you thinking, what are your thought process, what  
14 do you want to go do first?

15 A So the first thing to do is so we all respond out of  
16 Columbia. So there's about a two-hour drive here even  
17 with blue lights and siren. So in that two-hour time  
18 period information can change, local investigators may get  
19 more information pertaining to the case. So the first  
20 thing we do is we want to talk with the local  
21 investigators or if any of our regional folks responded to  
22 see if any information has changed, if there's anything  
23 else to help lead us into where we need to go with the  
24 forensics. So number one thing is meeting with the  
25 investigators.



1 Q Did you do that?

2 A We did.

3 Q And after making contact with law enforcement or the  
4 investigators on scene, what, if anything, did you do  
5 next?

6 A So after we've met with the investigators, our next  
7 big thing is taking photographs. We want to document  
8 anything and everything we can starting with outside the  
9 residence, roadway, what's near it, photographing the  
10 entire house. Then we'll move to the inside of the house  
11 and photo everything as it is before we do any kind  
12 processing.

13 Q Very good. I'm going to show you State's Exhibit 3  
14 through 48. If you could tell me, Mr. Schenk, if you  
15 recognize these particular photographs?

16 A Yes, sir, I do.

17 Q Now, are these -- well, I'll ask you this. How do  
18 you recognize these photographs?

19 A Those are the photographs myself and my partner took  
20 during the crime scene investigation that day.

21 Q Are they a fair and depiction of the scene as you  
22 process it on January 13th 2020?

23 A They are.

24 Q Does it appear to be substantially altered in any  
25 way?

1 A No, sir, the exhibit numbers are on them, but that's  
2 it.

3 MR. WHITE: Judge, I would move State's Exhibit  
4 3 through 48 into evidence.

5 THE COURT: I think they're in and it's without  
6 objection is my understanding at the beginning of the  
7 trial where some of them were moved, so you check behind  
8 it and make sure of that.

9 MR. WHITE: And, Judge, for the record, in  
10 pretrial exhibits 36, 39, 40, 44 and 46 had been excluded.

11 THE COURT: That's right.

12 MR. BROOKER: If I recall correctly, your Honor,  
13 I think we had no objection to exhibits I think three  
14 through 35. And I think it's the other exhibits in which  
15 we had pretrial objections to. I think those exhibits are  
16 37, 38, 41, 42, 43, 45, and I believe 48.

17 THE COURT: I think that's right.

18 MR. BROOKER: So our objections pretrial  
19 objections your Honor with respect to those exhibits.

20 THE COURT: They are reserved for the record.

21 MR. WHITE: Thank you, Judge.

22 (WHEREUPON, State's Exhibits Nos. 3-18, 19-35,  
23 37-38, 41-43, 45, 47-48 were admitted into evidence.)

24 BY MR. WHITE:

25 Q Mr. Schenk, I'm going to kind of flip through these.

1- I'm going to put them right here and I'm going to go  
2 through them. And I'm going to show you each one by one  
3 show them to you. And I'll show it to the jury. And  
4 while I do so, if you could just tell us a little bit  
5 about each photograph.

6 A Sure.

7 Q Let's start with State's Exhibit 3 what are we  
8 looking at here?

9 A So this would be an overrule photograph of the house  
10 from the roadway.

11 Q And this is the house, the residence of Maisha Burch,  
12 is that right?

13 A Yes, 5305 Taft Watson.

14 Q And let me show you State's Exhibit 4?

15 A This is another overall of the outside of the  
16 residence.

17 Q Now, is this the front door or the back door?

18 A That from what I remember is the front door.

19 Q State's Exhibit 5?

20 A This would be I believe a white building on the right  
21 is the victim's residence.

22 Q Now, I'm going to orient you a little bit. I think  
23 might be a bit off. If you'll look at State's Exhibit 4  
24 and look at the police car and the corner there. And then  
25 you can see it there as well?

1 A So I apologize how these photographs are done is we  
2 were doing overalls of the front of the residence.  
3 Normally, I start from the far left to far right. What I  
4 mean by that is if the residence is right in front of me,  
5 I'm not just going to take a photo of the front of the  
6 residence. I'm going to take a photo of the corner of the  
7 residence looking back down this side of the roadway. I'm  
8 going to take a photo of the house. And then a photo of  
9 this way. That way you can see all around the residence  
10 not just the residence. So the second photograph or the  
11 third photograph was the second pan of the front of the  
12 residence.

13 Q And correct me if I'm wrong, you take a lot of  
14 photographs, is that right?

15 A Yes.

16 Q This is a paired down version of the photographs that  
17 you take?

18 A Significantly.

19 Q Show you State's Exhibit 6. What are we looking at  
20 here?

21 A From what I remember, this would the back door of the  
22 residence. And then the road that you see in the  
23 background is -- I don't remember if that was Taft.

24 Q And State's Exhibit 7?

25 A I believe is the back door.

1 Q And is this door significant in processing and we'll  
2 talk about that a little bit later. Do you process this  
3 door and submit items from this door to SLED for analysis?

4 A I did.

5 Q I think I had it sideways here we go. State's  
6 Exhibit 8 I think we're back around to the front of the  
7 house?

8 A Yes, sir, this is the front door looking in. And we  
9 are standing on the screen-in porch section of the front  
10 of the residence.

11 Q State's Exhibit 9?

12 A This was spotted on the vinyl siding to the right of  
13 the front door.

14 Q Now, when you're going through, you're just looking  
15 for any items of evidence, is that right?

16 A At this point when we're taking normal or our general  
17 overall photographs, we looking for anything everything  
18 out of place or that could have significant value.

19 Q State's Exhibit 10 is this close up of the same?

20 A It is. With the photographs, we do an overall mid  
21 range and close up overall is what we been seeing of just  
22 general area of the residence. Mid range is what we call  
23 evidence establishing, which was the first photo of the --  
24 where that stain was and that is to relate it to a fix  
25 object. Then a close up is nothing but what we think is

1 significant.

2 Q Now, State's Exhibit 11 I think we're walking inside  
3 the threshold, is that right?

4 A Yes. So this is the red door is the front door, and  
5 then this is the ground just inside the living room.

6 Q And there is an item there on the floor did that  
7 catch your eye?

8 A Yes, sir, it did.

9 Q And what was that item?

10 A We believe to be hair, so suspected hair right  
11 between the front door and the side of the couch.

12 Q State's Exhibit 12?

13 A This is a close up of what we believe to be hair.

14 Q And, again, this is right in the front doorway, is  
15 that right?

16 A It is.

17 Q Okay. And then State's Exhibit 13?

18 A This is showing behind the couch the front wall, and  
19 again, what we believe to be hair.

20 Q Was that item collected?

21 A I believe it was.

22 Q Okay.

23 A Beg the Court's indulgence. It was item ten or SLED  
24 item ten.

25 Q State's Exhibit 14?

1 A This is looking into the living room. Hallway is in  
2 the back corner on the right.

3 Q State's Exhibit 15?

4 A This is the corner of the TV as you walk into the  
5 front door to the right on the right wall was the TV and  
6 this is the entertainment center.

7 Q And was there an item -- I show you the next  
8 photograph on the entertainment center that caught your  
9 eye State's Exhibit 16?

10 A There was. There was a tissue or a paper product of  
11 some type that had a red substance, so we collected it in  
12 case it was suspected blood or blood.

13 Q Now, backing back out State's Exhibit 17?

14 A This is another photo of the living room shooting  
15 into the kitchen or photographing in the kitchen.

16 Q State's Exhibit 18?

17 A This is in the kitchen looking at the refrigerator  
18 going towards the back door.

19 Q And this is all just to orient anyone who's taking a  
20 look at these photographs including the jury, is that  
21 right?

22 A That is correct.

23 Q State's Exhibit 19?

24 A This is the back door of the residence.

25 Q Now, we mentioned the back door earlier. And we saw

1 it from the outside, but, again, that back door had an  
2 item of evidence that was collected and sent off to SLED  
3 for testing, is that right?

4 A It did.

5 Q State's Exhibit 20?

6 A So this is the back door is to your left and we're  
7 looking to what I believe was a bathroom with some bikes  
8 in the hallway.

9 Q And State's Exhibit 21?

10 A I'm trying to remember which room that was. So if  
11 you see the heater in the background, you can tell we're  
12 looking into the living room. This might be the laundry  
13 room off that back hallway.

14 Q So this is the view from the back door as you walk  
15 in, is that right?

16 A I believe that's correct.

17 Q State's Exhibit 22?

18 A This is again looking into the kitchen from the back  
19 hallway kitchen living room area.

20 Q State's Exhibit 23?

21 A This is now leaving the kitchen looking back towards  
22 the living room.

23 Q Now, State's Exhibit 24 where we headed in this  
24 photograph?

25 A So this photograph is standing in the living room



1 looking back toward the back hallway, to the right will be  
2 the TV, to your far right would be the front door.

3 Q So we covered the living room as you come in, into  
4 kitchen, into the back laundry room area and that back  
5 door. And now you've turned back around and you're going  
6 to head that down hallway, is that right?

7 A That is correct.

8 Q State's Exhibit 25?

9 A This is a photograph showing as you start making a  
10 turn down the hallway.

11 Q And there is an individual photographing this  
12 picture, is that right?

13 A Yes, sir, there is.

14 Q And your understanding that was the homeowner  
15 Ms. Maisha Burch?

16 A It was.

17 Q State's Exhibit 26?

18 A These are or this is looking from one of the bedrooms  
19 into the hallway. You can see the victim's foot toward  
20 the bottom of the photograph, but there were also marks on  
21 the wall that we took interest in.

22 Q Now, I'm going to show you State's Exhibit 29 and  
23 I'll show you State's Exhibit 30. Are these the marks  
24 that drew your attention?

25 A They are.

1 Q Now, when you see these marks and when you saw these  
2 specific marks what, if anything, did you do?

3 A So for those we ended up collecting swabs from them  
4 after we photograph them.

5 Q And what is that mean collecting swabs?

6 A So we take swabs to look for touch DNA or potential  
7 blood or it's -- they're long Q-Tips. One of them is wet  
8 with sterile water and the other one is dry. And what  
9 we're trying to do is we're trying to scrub the surface  
10 that was in contact with someone or something. And we're  
11 looking for skin cells and or blood that would tie back to  
12 an individual.

13 Q And what draws your attention to any particular item  
14 to conduct that process to swab for DNA?

15 A So in a case like this we're looking for areas that  
16 are high traffic where if someone had come in that wasn't  
17 to be there, they may have contact with or for instance  
18 with the wall there were marks on the wall. Normally,  
19 people don't keep a house with handprint or swipes of dirt  
20 going down the hallway. So things like that kind of draw  
21 our attention to it immediately that's out of place.  
22 We're going to look at that.

23 Q And do points of entry do those usually draw your  
24 attention potential places to swab?

25 A Absolutely.

1 Q And we reference this earlier but that back door and  
2 that back -- did you swab that back door in particular?

3 A We did.

4 Q And what area of that back door did you swab?

5 A So we do two sets of swabs for doors. We'll do one  
6 set of swabs on the exterior door handle and the outside  
7 door handle. And then we'll do another set of swabs on  
8 the interior door handle.

9 Q And all those are obviously are sent off to SLED for  
10 testing, is that right?

11 A They are.

12 Q State's Exhibit 30?

13 A This is another photograph of the hallway with more  
14 marks going down the hallway.

15 Q And you do a swab of these marks, is that right?

16 A Yes.

17 Q State's Exhibit 31?

18 A These again more photos of or this is another photo  
19 of a mark or something on the wall.

20 Q And I know these exhibit numbers are jumping a little  
21 bit but bear with me. State's Exhibit 28?

22 A This is again another impression or another -- there  
23 was a touch or something was on the wall that stood out to  
24 us.

25 Q State's Exhibit 27?

1 A Again, this is another touch or something that had  
2 come in contact with the wall swipe of some kind.

3 Q State's Exhibit 32?

4 A This is a close up of the left hand of the female  
5 victim Maisha Burch.

6 Q And what is in her hand?

7 A We believe it was hair in her left hand.

8 Q And what, if anything, did that indicate to you in  
9 your capacity as a crime scene agent?

10 A So normally with -- we always looking for any sign of  
11 a struggle. It is not normal in my experience to have a  
12 ---

13 MR. BROOKER: Can we approach, your Honor?

14 (WHEREUPON, a bench conference was held in the  
15 presence of the jury, but out of the hearing of the  
16 jury on the record.)

17 MR. BROOKER: Unless, he is going to qualify him  
18 as a crime scene reconstructionist because we're getting  
19 in the same, I think, testimony we're getting into with  
20 respect to I think Rogers, that Rogers is a crime scene  
21 investigator and he is giving opinions. And so if he is a  
22 crime scene or certified as a crime scene  
23 reconstructionist and he's certified to reconstruct the  
24 crime scene, of course, any testimony with respect to what  
25 he believes happen that's perfectly fine. If he's not

1 going to be qualified, he can't give opinion testimony  
2 with respect to what he believes took place.

3 MR. WHITE: I understand that completely. And  
4 I'm not trying to get him to reconstruct the entire crime  
5 scene. Inquiry that I'm trying to achieve is that that  
6 was the reason why he ultimately decided to scrape the  
7 fingernails. That's not something that they do in every  
8 case.

9 THE COURT: You did ask opinion, in your opinion  
10 there was a struggle. I agree with you.

11 MR. BROOKER: My understanding is his job is  
12 to collect the evidence. He's not the investigator.

13 THE COURT: Sure.

14 (WHEREUPON, a bench conference was held in the  
15 presence of the jury, but out of the hearing of the  
16 jury has ended on the record.)

17 BY MR. WHITE:

18 Q All right. I'm going to show you State's Exhibit 33?

19 A This is in the living room looking at the kerosene  
20 heater in a small little bench or cabinet.

21 Q And State's Exhibit 34?

22 A This was a Bible that was opened in the crime scene.

23 Q And State's Exhibit 35?

24 A This is a close up of the Bible and where it was open  
25 to in the crime scene.

1 Q I show some of these because I wanted to ask you in  
2 the living room did you see anything turned over or  
3 knocked out of place?

4 A No.

5 Q Show you State's Exhibit 37 now we're staying in the  
6 living room what do we see here?

7 A This is the male victim as we found him on the couch.

8 Q State's Exhibit 38?

9 A This is another photograph from his head looking  
10 towards the front door from the front door of the  
11 residence.

12 Q Did it appear to you he had been shot?

13 A Yes, sir.

14 Q And let's go back down the hall State's Exhibit 41?

15 A This is a photograph looking directly down the  
16 hallway at the female victim in the hallway.

17 Q State's Exhibit 42?

18 A This is the female victim on the floor and what we  
19 believe to be suspected blood on the floor near her in the  
20 hallway.

21 Q State's Exhibit 43 does this show her body and the  
22 relation of her body to the marks on the wall?

23 A It does.

24 Q And, again, those marks on the wall peaked your  
25 interest, did they not?

1 A They did.

2 Q I'm going to show you State's Exhibit 45 and you  
3 testified about the hand or the hand that was holding the  
4 hair. Is this her other hand the opposite hand?

5 A I believe it is.

6 Q Do you notice anything in particular about that  
7 picture?

8 A Her fingers didn't appear to be the same length and  
9 there's also suspected blood on her hands.

10 Q State's Exhibit 47?

11 A This is a photograph from the other side of the  
12 hallway looking down toward the front of the residence  
13 with the victim on the hallway floor.

14 Q And that's going backwards living room where the male  
15 victim was located, is that right?

16 A That is correct.

17 Q Last one State's Exhibit 48?

18 A This is another photograph showing -- I believe I  
19 misspoke earlier. The suspected hair was in her right  
20 hand. I don't remember I apologize, but this is showing  
21 right hand in her position on the floor.

22 Q Okay. Now, obviously you took photographs as apart  
23 of your processing the crime scene. And then you  
24 mentioned that you begin to retrieve items of evidence to  
25 be analyzed in SLED headquarters, is that right?

1 A In the laboratory, yes, sir.

2 Q Now, as part of your process, do you also complete a  
3 crime scene sketch?

4 A I do.

5 Q I'm going to show you if I could State's Exhibit 51.  
6 Do you recognize this particular item?

7 A I do.

8 Q And what is this item?

9 A This is a blown up version of the diagram I created  
10 for my report.

11 Q And you created this based on your processing the  
12 crime scene?

13 A That's correct.

14 MR. WHITE: Judge, I move State's Exhibit 51  
15 into evidence.

16 THE COURT: Any objections?

17 MR. BROOKER: Let me look at it, your Honor. I  
18 don't believe we do have any objections. No objection,  
19 your Honor.

20 THE COURT: State's Exhibit 51 is in evidence  
21 without objection.

22 (WHEREUPON, State's Exhibit No. 51 was admitted  
23 into evidence.)

24 BY MR. WHITE:

25 Q Now, Mr. Schenk, I wonder if I might get you to step



1 down and just show us briefly where all the items of  
2 evidence were that you collected throughout the home?

3 A Yes, sir.

4 Q And just kind of orient us to where everything is if  
5 you could?

6 A Yes, sir. So the front door of the residence is down  
7 here on the front door. So this is the front door of the  
8 residence. This is the living room where the male victim  
9 is located. This coming back this way this is the  
10 kitchen, the back door and the laundry room area. Down  
11 this way is the hallway where the female victim was. I  
12 labeled each room based on the color of the wall just to  
13 make it a little easier to understand which room I was  
14 talking about. The paper product that we thought had  
15 suspected blood on it was located here. We collected  
16 swabs from the door handles of the interior and exterior  
17 of the front door, swabbed interior and exterior of the  
18 back door and swabs from the hallway. And then we also  
19 collected evidence from the victim themselves.

20 Q Very good. And I just want to make sure I heard you  
21 did collect an item from the back door, is that right?

22 A Yes, we did.

23 Q You can have a seat, Mr. Schenk. Thank you. Now,  
24 I'm going to show you State's Exhibit 53, 54, 55, 56, 57,  
25 58 and 59 and ask you if you recognize these particular

1 items?

2 A Yes, sir, I do.

3 Q And are those the items that you just mention that  
4 you just walk through on your crime scene sketch items  
5 that were collected from the scene?

6 A They are.

7 Q And could you -- I know this is laborious, but if you  
8 could, could you go one by one and call out the exhibit  
9 number and tell us what each item is and where it was  
10 collected from?

11 A Yes, sir. State's Exhibit 53 this is a buccal swab  
12 from Maisha Burch. A buccal swab is a DNA standard that  
13 we collect where we take the same swabs that we would use  
14 on a broom or door knob or whatnot and we swab the inside  
15 of the cheeks, so that we have their DNA profile to  
16 compare. So this is the buccal swab from Maisha Burch.  
17 State's Exhibit 54 this is the suspected hair that was in  
18 the living room near the front door of the residence.  
19 State's Exhibit 55 this is the buccal swab of Andrew  
20 Legette. State's Exhibit 56 this is the tissue with the  
21 blood that was collected from your TV. State's Exhibit 57  
22 are the fingernail scrapings I collected from Andrew  
23 Legette and fingernail scrapings are if we believe that  
24 something has happened or there is a chance for an  
25 altercation or altercation happened. What we do is this

1 container as two pieces of paper within it and two plastic  
2 nail scrapers. And we scrap the fingernails of the  
3 victims into the paper and seal them up and submit for DNA  
4 testing. So these are the fingernail scrapings from  
5 Andrew Legette. State's Exhibit 58 these are the swabs  
6 from the doorknobs. These are the swabs from the exterior  
7 of the front door. Swabs from exterior of the back door.  
8 Swabs from the screen door into your door handle. Swabs  
9 from the wall of the hallway front side of the house. And  
10 swabs from the hallway backside of the house. Then  
11 State's Exhibit 59 these are the fingernail clippings or  
12 fingernail scrapings we collected from Maisha Burch.

13 Q And you did the same thing with Ms. Burch as you did  
14 with Mr. Legette the scrapings?

15 A That is correct.

16 Q Now, these items were all sent off to where?

17 A So once we collect them, we then take them back to  
18 the SLED forensics laboratory and they get sent off to the  
19 different departments through the different disciplines  
20 within the lab.

21 Q And you mentioned the buccal swab and the known  
22 standard. Could you explain to us a little bit more about  
23 how that process works and what you're looking for and  
24 what those analyst are looking for?

25 A Sure. So what the analyst are -- they're comparing

1 different profiles of the DNA or of DNA specific to  
2 people. And so pretty much the nonstandard is if I touch  
3 this bench and ten years from now something happens and  
4 someone collects a swab from where I touched. If my  
5 profile isn't known, I will be an unknown profile, but by  
6 having my standard, they can test against -- they can test  
7 my standard against the unknown, which is what is  
8 collected from the scene. And they can say that okay  
9 Lieutenant Schenk had touched this at some point or so and  
10 so may have touched this. So we're looking for -- we  
11 collect the victim standards so we have them, so we cancel  
12 them out of the unknown profiles.

13 Q And when you take all those items to SLED, what this  
14 process for securing those items at SLED?

15 A Sure. So once we've collected them, we'll seal them  
16 up and bring them back to the laboratory. They're sealed,  
17 stored. And then I submit them in through electronic  
18 program we call it the Beast. But it's a limb system that  
19 pretty much it maintains electronic custody of who has  
20 touched the items. So I'll submit it. I'll take it to  
21 our evidence control who then disseminates the evidence  
22 through the lab where it needs to go.

23 Q Now, I want to back up just a little bit and ask a  
24 question I forgot to earlier. When you arrive -- when you  
25 processing the scene, was it clear to you that these

1 individuals, these victims had been shot multiple times?

2 A From what I remember on him, I only remember the one  
3 wound to the face. I don't remember any other ones. On  
4 her, I don't remember how many times we've saw on scene.

5 Q But it was more then one projectile was expended in  
6 that house?

7 A From what I remember, yes.

8 Q Did you recover any shell casings from the scene?

9 A We did not.

10 Q Based on your training and your experience, you been  
11 to a lot of crime scenes, is that right?

12 A Yes, sir.

13 Q What are different reasons why a shell casing would  
14 not be found at the scene?

15 MR. BROOKER: Objection, your Honor.

16 THE COURT: What grounds?

17 MR. BROOKER: Your Honor, I think on multiple  
18 grounds, of course, we can approach if you like.

19 (WHEREUPON, a bench conference was held in the  
20 presence of the jury, but out of the hearing of the  
21 jury on the record.)

22 MR. BROOKER: Your Honor, again, I think he's  
23 asking him to give an opinion testimony. Unless, he's an  
24 expert my understanding is is this guy's job is to collect  
25 evidence. He is not to evaluate evidence. He is not to

1 evaluate the circumstances. Unless, he's going to be  
2 qualified as an expert to give an opinion as an  
3 investigator with respect to what all this means. He's  
4 asking him to give an opinion. He hasn't been qualified  
5 as an expert. Experts can give these types of opinions.

6 THE COURT: I think it's pretty obvious that  
7 it's a semiautomatic. He picked them up. It's a revolver  
8 didn't expend them.

9 MR. BROOKER: He's asking him to interpret what  
10 all of this means.

11 THE COURT: These Marion County jurors they know  
12 without you even having to ask. I know. All right. I  
13 sustain it.

14 (WHEREUPON, a bench conference was held in the  
15 presence of the jury, but out of the hearing of the  
16 jury on the record has ended.)

17 BY MR. WHITE:

18 Q Let me ask you this question without asking your  
19 opinion broadly. Does a revolver expend shell casings?

20 A No.

21 MR. WHITE: All right, thank you, Mr. Schenk,  
22 that's all I have. Please answer any questions of Mr.  
23 Brooker.

24 THE COURT: Cross-examination.

25 MR. BROOKER: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. BROOKER:

Q Todd, if you could pronounce your last name for me so I don't mess it up?

A Schenk.

Q Is it Schenk?

A Schenk.

Q Okay, okay. I want to be sure. Just a little bit of information, I know that you indicated that you are a crime scene investigator?

A Yes, sir.

Q And, of course, you have been in that position for roughly nine years if I'm adding correctly?

A A little over nine years, yes, sir.

Q A little over nine years. Of course, I think you said that you're called out and you were called out so that you could process the crime scene that we're here about today?

A That's correct.

Q And I want to talk with you a little bit about when you arrive on scene. I think you were asked what was the first thing that you do and I think it was your testimony that normally the first thing is to talk with the investigators to make sure that there has not been a change from information that you previously received about

1 the scene, is that correct?

2 A It is.

3 Q Okay. And then, of course, after that you then start  
4 photographing?

5 A Yes. And normally with the information when we are  
6 meeting with the investigators we'll do what's called an  
7 initial walk through where we'll also just walk through  
8 the scene with investigators see what we have kind of come  
9 up with a game plan. And then we'll start with photos,  
10 but that's part of that.

11 Q And I also want to ask about your time. And when you  
12 arrived on the scene, do you use special equipment to put  
13 on special equipment or put on special equipment before  
14 you go into the actual crime scene?

15 A We wear boots BBU's and a T-shirt, but we're wearing  
16 clothes at all times in the crime scene.

17 Q So you're wearing gloves at all times. Are you  
18 wearing something over your face or a face mask?

19 A I am not.

20 Q Okay. Are you wearing anything on your shoes some  
21 sort of, I guess, rubber items on your shoes or clothe on  
22 your shoes or anything like that. Do you put anything  
23 special on your shoes?

24 A On this scene, no, we did not.

25 Q Okay. Now, you said on this scene no you do not, but



1 do you sometimes do that on some scenes?

2 A It depends on how -- I don't want to speak rudely,  
3 but if the scene is -- like if we have someone who's  
4 decomposing or we have pretty nasty scenes, then we would  
5 put those types PPE on to protect ourselves from it. But  
6 in a normal crime scene or I don't want to call it a  
7 normal crime scene, but in a -- most of the scenes that  
8 we're responding to, we're not having to put special  
9 protective equipment on ourselves when we to process the  
10 scene.

11 Q And the reason why I'm asking you that question is is  
12 that when you walk into a crime scene, it is possible from  
13 your shoes that you can transfer -- transfer things from a  
14 crime scene from one place to the other. So is that  
15 possible if you have on your shoes, of course, if there is  
16 something on the floor. And, of course, it might be  
17 microscopic or small is that is it possible to step on  
18 something on the floor and transfer it from one area of  
19 the crime scene to another?

20 A Yes.

21 Q Okay. And it's my understanding you correct me if  
22 I'm wrong is is that that's one of the reasons why -- that  
23 usually crime scene investigators want to make sure that  
24 they don't transfer evidence, that they actually document  
25 evidence exactly where it is and not disturb the scene at

1 all?

2 A Right. That's why we do our initial photographs it  
3 shows anything and everything as we find them.

4 Q Okay. Then also is is that another reason is is that  
5 crime scene investigators don't want to contribute to  
6 adding substances to the crime scene, is that correct?

7 A It is correct.

8 Q Okay. So you don't want your hair falling on the  
9 floor. You don't want yourself to deposit anything at the  
10 crime scene?

11 A That is correct.

12 Q And my understanding is is that's the justification  
13 sometimes from wearing this protective gear also, is that  
14 correct?

15 A We wear that protective gear if we're worried about  
16 ourselves getting contaminated or affected by something  
17 within the scene. So normally with what we're wearing --  
18 it's obviously we wash our clothes, but we're just wearing  
19 BDU pants, T-shirt or long sleeve shirt and our gloves and  
20 boots.

21 Q Now, when you wear the gloves, how many pair of  
22 gloves do you normally bring with you when you go to a  
23 crime scene?

24 A Boxes.

25 Q Boxes. Okay. Now, I want to ask you about that. I

1 know that you said the first thing you do is normally  
2 after you talk with the investigators you prep and ready  
3 to go and you start photographing the outside. You  
4 started in this particular situation to photograph the  
5 outside of the house, is that correct?

6 A It is.

7 Q Okay. And then, of course, you work your way on the  
8 inside?

9 A That is correct.

10 Q Okay. I think some of these photographs I think some  
11 of the exhibits that's already in reflects I think  
12 photographs -- some of the state's exhibits reflect  
13 photographs that you took on that particular day, is that  
14 correct?

15 A That is correct.

16 Q Okay. When you walk on the inside -- when you start  
17 making your way on the inside I think -- first of all, let  
18 me ask you this. I think you said at some point in time  
19 after you finish photographing the outside and collecting  
20 whatever you collect from the outside, you eventually work  
21 your way on the inside. And it's my understanding is is  
22 that from your testimony is is that when you work your way  
23 on the inside you worked your way through I think the  
24 front entrance of the front door?

25 A That is correct.

1 Q That's where you entered the house?

2 A Yes.

3 Q Okay. And then, of course, when you enter the house  
4 was the door opened or closed when you got there?

5 A I don't remember. If I could refer to the  
6 photographs?

7 Q Certainly, certainly State's Exhibit this one.

8 A The crime scene photo, sir.

9 Q Fifty-one.

10 A The photographs.

11 Q Oh, the photographs?

12 A Yes, sir, sorry, I apologize.

13 Q All right. I'll grab the photographs and give them  
14 to you so you can take a look at them and see what you  
15 need.

16 A Thank you, sir.

17 Q Sure.

18 A State's Exhibit 4 so there is screened porch on the  
19 front of the residence. I'm having a hard time telling if  
20 the actual front door was open or close in this  
21 photograph. I can tell you the screen door was closed,  
22 but, and, again, I'm not the first one there. So I can't  
23 testify. I can just tell you how it was when we arrived  
24 on scene.

25 Q Okay. Okay. But back to the picture of how it was

1 when you arrived on the scene?

2 A The screen door close, yes.

3 Q Okay. Okay. Now, do you talk with the officers to  
4 find out whether or not any of them has went inside the  
5 crime scene or who's been inside the crime scene before  
6 you started, I guess, memorializing the crime scene?

7 A We talk with the investigators. We don't ask each  
8 individual officer who may or may not be on the scene if  
9 they been in. But normally the lead investigator gives us  
10 an idea if emergent medical services has been in, if the  
11 coroner has been in, and who from investigators have been  
12 there.

13 Q Do you know who had been into this crime scene prior  
14 to you coming in and started to memorializing?

15 A I want to say the coroner had been inside. I don't  
16 remember about anybody else. I'm sorry. I don't  
17 remember.

18 Q And that's perfectly fine I'm asking you what you  
19 remember. So you don't remember, you know, whether or not  
20 other people have been inside of the home before you came  
21 and start documenting?

22 A From my report, I do remember the coroner had at  
23 least been inside, but I don't remember who of anyone else  
24 had been in.

25 Q I got you. When you ask that information of the

1 investigators, do you try to figure out whether or not  
2 those individuals are wearing gloves or anything so that  
3 they don't contaminate the scene?

4 A Typically, yes, because if an officer at the scene  
5 touches something without gloves, I will usually collect  
6 buccal swabs from said officer.

7 Q Okay. Did you collect any buccal swabs from any of  
8 the officers in this case?

9 A No.

10 Q Okay. I know you said that you knew that the coroner  
11 had been inside, did you collect the buccal swab from the  
12 coroner?

13 A No, because the coroners are usually really good  
14 about wearing gloves and not touching anything.

15 Q I understand, but I know everybody -- no one's  
16 perfect, do you know whether or not the coroner was  
17 wearing gloves on that day?

18 A I don't remember, no.

19 Q Do you know whether or not the corner was wearing  
20 something covering his face when he dealt with the bodies?

21 A No, all of that would have taken place prior to my  
22 arrival.

23 Q Okay. And, of course, my understanding is that the  
24 importance of that is is you don't want anybody  
25 contaminate the scene?

1 A That is correct.

2 Q Okay. So I think you said that also take a look at  
3 this if you can indulge me for just a second, your Honor.  
4 I want to ask you about -- I think you said that you  
5 approached the entrance, of course, the screen door. And,  
6 of course, the screen door was shut. I think that's  
7 displayed in State's Exhibit Number 3. I think you  
8 testified to -- once you get passed the screen door, that  
9 there is a -- you're on the porch and was it an enclosed  
10 porch?

11 A Yes, it was.

12 Q Okay. So once you pass the screen door you get in  
13 the enclosed porch, then you have to then approach the  
14 door -- the front door to the house, is that correct?

15 A Yes.

16 Q Was that door open or close?

17 A From what remember -- I don't remember.

18 Q Okay. Now, when the screen door is open, I know that  
19 you said you opened the door go back to the screen, you  
20 said that you open the screen door, and, of course, you  
21 have on gloves, is that correct?

22 A Yes.

23 Q Okay. So you're touching the screen door. So when  
24 you open the screen door, touch the screen door, and you  
25 get inside, do you change or did you change your gloves at

1 that particular period of time before you open the door to  
2 the actual house.

3 A I don't remember if I change gloves between doors.

4 Q Okay. And the reason I'm asking that is is that if  
5 there was trace DNA on the screen door and you touched the  
6 screen door and transfer that touch DNA onto your gloves,  
7 and then, of course, you go to the inside and then touch  
8 the knob to the door to the actual house, you can transfer  
9 DNA that way can't you?

10 A I believe that's possible.

11 Q Okay. And so that's why I'm asking the question is  
12 is that -- but you don't know whether or not when you open  
13 the screen door and let yourself on the inside whether or  
14 not you change gloves before you open the actual front  
15 door to enter the home?

16 A I don't remember if that door was open or closed  
17 either.

18 Q I got you. I understand that. I understand that.  
19 So when you go inside, again, I think, you said that you  
20 start photographing the inside. Of course, there's a  
21 number of things that you saw on the inside. Why we still  
22 on the outside, you also photographed the back door, is  
23 that correct?

24 A It is.

25 Q Okay. When you get on the inside and you've done all



1 this stuff on the outside, at what point in time do you  
2 then change your gloves?

3 A So I change gloves before handling or after -- if I  
4 pick up a piece of evidence, I'm changing gloves. If I'm  
5 going to swab something, I'm changing gloves. So it's  
6 when I'm going to actually change or do something with the  
7 evidence, I'm making sure I'm changing gloves.

8 Q Okay. And so when you're coming into contact with  
9 evidence, picking up evidence -- physical evidence it  
10 whether be a swab or whether it be an actual object,  
11 you're changing gloves at that time?

12 A Yes.

13 Q You know how many times you change gloves at this  
14 crime scene?

15 A No, sir, I have no idea how I change. We go through  
16 tons of gloves on a crime scene.

17 Q Okay. I understand that, but I want to specifically  
18 stick to this crime scene. Do you know how many gloves  
19 you change at this crime scene?

20 A I do not.

21 Q Okay. And I think when you said that that normally  
22 it's your practice to change gloves as you handle items.  
23 And I don't know whether or not you were testifying to the  
24 fact that that's your practice or whether or not you were  
25 testifying to a specific recollection of what you did that

1 day? Was that a testimony to a specific recollection of  
2 what you did that day or what your practice is?

3 A That's what our practice is.

4 Q Okay. Okay. Do you know whether or not -- do you  
5 have a specific recollection as to whether or not you  
6 change your gloves as you handle each and every ---

7 MR. WHITE: Judge, I would object to asked and  
8 answered at this point.

9 THE COURT: Ask him one more time, but I think  
10 it has been answered.

11 BY MR. BROOKER:

12 Q Do you know specifically -- do you know specifically  
13 and I'm not talking about in general what your practice  
14 is. This crime scene only. Did you know -- do you  
15 remember whether or not you change your gloves after you  
16 handled each and specific item of evidence that you  
17 collected that day?

18 A I can't say I remember doing it every time, but it's  
19 so engrained in us that it's a standard practice, so I  
20 would -- but if I did it every single time, I can't say.  
21 It's just that engrained in us that that's what we do, but  
22 as to remembering if -- no, I don't remember.

23 Q Okay. Okay. Do you take notes as you're going  
24 through, and, of course, documenting exactly what you're  
25 doing with every piece of evidence as you're doing it?

1 A We take notes about what's going on in the scene or  
2 information or things that we see, information we're  
3 provided. But when I'm collecting an item of evidence, I  
4 usually not writing where it's going to be submitted or --  
5 could you reask the questions I apologize.

6 Q I'm sorry and I'll ask it -- maybe, I didn't ask it  
7 -- it's probably my fault. I probably didn't ask it  
8 clearly, but I think the question that I asked is as you  
9 are -- as you are dealing with items of evidence in  
10 collecting items of evidence, are you making  
11 contemporaneous notes with respect to what you're doing  
12 with that evidence, exactly where you're collecting it  
13 from, exactly whether or not you're changing your gloves?  
14 Do you keep contemporaneous notes as to what you're doing  
15 when you're dealing with that specific piece of evidence?

16 A So before we take -- pick up any piece of evidence we  
17 make sure it's document with photographs. Once it's  
18 documented with photographs, we will then write out a bag  
19 or a coin envelope or whatever type of package we're going  
20 to package it in. That package container has what the  
21 item of evidence is, when it was collected, who collected  
22 it, what date it was collected on, where it's from. You  
23 then place the item in the container and then it's  
24 packaged and sealed and put in the truck and we move on  
25 from there. So I don't have written notes per se in my

1 notebook of each item of evidence and where exactly it  
2 came. I also have my documentation on the item container  
3 and the photographs. So when I go back to my notes, I can  
4 talk exactly where it was.

5 Q Thank you. I want to ask you a question about some  
6 of these photographs and specific. I'm not going to go  
7 through all of them just the ones that I have questions  
8 about. I think this is State's Exhibit 8. And I think  
9 you may have a picture of that. Is that the front door on  
10 State's Exhibit 8?

11 A Yes, sir, that is.

12 Q So the front door would have been opened when you got  
13 there because I'm assuming you document it as you see it?

14 A Correct, yes, that is correct.

15 Q So that would have been opened, okay. And I think  
16 State's Exhibit 9 is a another picture of the front door,  
17 is that correct?

18 A It is. And there's a little red stain to the right  
19 of it that drew our attention.

20 Q Okay. And, of course, did you buccal swab that  
21 little red stain to the right?

22 A From what I remember, once we got closer to it and  
23 really looked at it, it didn't appear to be suspected  
24 blood.

25 Q Okay. Now, the reason why I'm asking you that is and

1 I think you said it doesn't appear to be blood on do you  
2 know for a fact whether or not it was blood? Or was not  
3 blood?

4 A No, but in my experience when I see blood that's been  
5 dried or has dried over time or has the same velocity or  
6 the same kind of make up, you can kind of tell what is  
7 blood or what isn't. And in this case, this appeared to  
8 be something else not blood, so we didn't ---

9 Q Go ahead.

10 A Just in my experience, it did not appear to be blood,  
11 so from what I remember we do not do anything with it  
12 other than photograph it.

13 Q So my understanding also and you correct me if I'm  
14 wrong, is that crime scene investigators have access to  
15 kind of a field kit that they can use to quickly test to  
16 determine whether or not something is blood?

17 A We do.

18 Q Okay. So did you use that field kit to test this to  
19 determine whether or not it is blood?

20 A So we did use a chemical on this scene. And our  
21 chemical -- if I may refer to my notes is -- well, the  
22 chemical is called leuco crystal violet or LCV, which when  
23 it reacts with blood, it turns purple. And it's a very  
24 bright purple that you can easily see and it's a  
25 presumptive test, so it doesn't mean that this 100 percent

1 is human blood. It's just -- this is reacting like blood,  
2 so we can swab it. We did do presumptive testing at the  
3 scene. And we did the curtain in the light blue room, the  
4 floor of the light blue room, the entertainment center in  
5 the living room and the mop. But we did not do that.

6 Q You didn't do this one?

7 A Based on my notes, no.

8 Q Okay. Okay. Okay. Of course, this is the, I guess,  
9 I'll just call it substance. I'm not going to say it's  
10 blood or not, but this is the substance that's right next  
11 to the front entrance of the door -- on the wall next to  
12 the front entrance of the door, is that correct?

13 A It is.

14 Q Okay. I think with respect to exhibit number 11 you  
15 indicated that there was a piece of hair that's on the  
16 floor?

17 A Suspected hair.

18 Q Suspected hair, okay. And that's what I want to ask  
19 you about. Obviously it is that looks like hair. It has  
20 the texture of hair. Did you collect that from the floor?

21 A That, yes.

22 Q Okay. So you collect this hair from the floor. And  
23 I think number 12 is a close up of that, is that correct?

24 A That is correct.

25 Q Okay. And I think number 13 is the picture of the

1 same hair, is that correct right next to the couch?

2 A It is.

3 Q Okay. And I think you said that that was collected?

4 A It was.

5 Q All right. The next thing I think on number 16 is is  
6 that -- it's like a bloody -- a bloody napkin or tissue  
7 paper, is that correct?

8 A Yes, sir.

9 Q Okay. And I'm assuming did you test that?

10 A I don't know if it was tested, but I did collect  
11 that.

12 Q You did collect that, but you didn't do a field test  
13 at the scene to try to determine whether or not there was  
14 -- was this was actually blood that was on it?

15 A Correct.

16 Q Okay. Now, State's Exhibit 23 let you take a look at  
17 that. You can hold it if you like?

18 A Thank you.

19 Q Is there a reason why you took that picture?

20 A So this is to show -- normally, when we take photos,  
21 we're taking so many photos we want you to be able to  
22 almost use the photographs like a flip book. So if you  
23 were to look at all of our -- I don't know how many photos  
24 we took of the scene, but if you were to look at every  
25 single photo as you walk through the house, you would know

1 exactly where you are, exactly what you're looking at. So  
2 this is the photograph coming from the kitchen as we're  
3 fixing to come into the living room to then go into the  
4 hallway. So, again, this is just the placement to kind of  
5 explain to investigators jury, anybody who may view this  
6 case as to where they are within the scene.

7 Q I got you. So this kind of like a reference point?

8 A Yes, sir.

9 Q You want to keep track. And the only reason why I  
10 ask you that is is that if you take a look at the scene,  
11 take a look at this photograph. And I'll let you take  
12 look at it. Do you see that there are marks on the wall  
13 where to -- I guess a little reddish or pinkish looking  
14 marks on the wall as well too?

15 A Yes, sir, I do.

16 Q Okay. And the reason why I'm going to -- I'm asking  
17 you that is is that when you're in the house, you're  
18 trying to determine, you know, what is actually evidence  
19 of a crime, and then, of course, what might be preexisting  
20 and have absolutely no evidentiary value trying to make  
21 that assessment. Why did you make the assessment of  
22 that -- oh, first did you collect any of this or take a  
23 look at that and did you make an assessment as to whether  
24 or not this have no evidentiary value of those little  
25 marks that's on the wall?



1 A Those I don't remember, no, sir.

2 Q Okay. So you didn't make a determination as to  
3 whether or not these little red marks -- and if the jury  
4 could see whether or not these little red marks had any  
5 sort of evidentiary value or whether or not they were --  
6 had no evidentiary value to the case whatsoever, you  
7 didn't make that assessment?

8 A I don't have it in my notes, but I don't remember if  
9 we saw them on scene and said they don't appear to be  
10 anything or if I just miss them. I don't remember.

11 Q So I'm assuming wouldn't swab them because you didn't  
12 swab that?

13 A I do not -- I did not take any swabs from that area.

14 Q Okay. And this is another picture of it I think on  
15 State's Exhibit Number 27. I think we can see the same  
16 wall and there's a little mark at the bottom or this is a  
17 different photograph?

18 A That's a different photograph, but you can still see  
19 the -- what you're referring to in the last State's  
20 Exhibit.

21 Q Okay. Okay. The little kind of discoloration  
22 reddish looking substances on the wall?

23 A Yes, sir.

24 Q Okay. All right. And, of course, 26 on number 26,  
25 you took that photograph. And I think you took this

1 photograph because of the mark that's on the wall that's  
2 just above the body?

3 A Yes, sir.

4 Q Okay. All right. Now, I know that you testified  
5 that, you know, that you're a crime scene investigator.  
6 And then, of course, is my understanding is what that  
7 means is is that your job is to collect and preserve  
8 evidence?

9 A That's correct.

10 Q Are you trained to reconstruct crime scenes?

11 A I have been through a 40-hour blood stain pattern  
12 analysis class, but that is not my expertise.

13 Q Okay. You're not an expert on reconstructing crime  
14 scenes?

15 A No. We have a basic understanding of how to do it  
16 and trained to do it, but it's not my expertise, no.

17 Q Okay. Okay. And the reason why I'm asking you this  
18 question is is that I think when the -- when Mr. White ask  
19 you about it, I think your testimony was is is that when  
20 you see these things and you have to make a determination  
21 as to whether or not they have any evidentiary value as it  
22 relates to the crime whether they have no evidentiary  
23 value whatsoever for purposes of the crime. How do you  
24 determine whether or not this is -- whether or not this  
25 mark preexisting or either whether or not this a mark that

1 was created as a result of the crime?

2 A So because of the position of where she was in the  
3 hallway and where the marks were around her and because we  
4 saw the hair in her hand. All in conjunction, it appeared  
5 that something or some kind of struggle had taken place.  
6 So that's why that kind of made sense is there's stuff on  
7 the wall. There's hair in her hands and that's why.

8 Q I got you. I got you. You're saying that you wasn't  
9 analyzing or reconstructing the scene, but, of course, is  
10 made common sense that it could potentially have some  
11 value to the crime scene.

12 A Yes.

13 Q So you preserve anything that could potentially have  
14 value or -- have value as evidence of the crime?

15 A Yes.

16 Q Okay. Okay. Do you know whether or not there was  
17 anyone that was on the team that was there that day that's  
18 trained, certified and trained as a crime scene  
19 reconstructionist or trained to reconstruct crime scenes?  
20 You know whether or not anyone was there that day with  
21 that particular expertise?

22 A Myself and my partner Delilah have both been through  
23 the 40-hour BPA, but neither of us are the -- we are not  
24 crime scene reconstructionist. We just do the normal crime  
25 scene analysis and documentation.

1 Q But you -- and you don't know whether or not any of  
2 the other people there were?

3 A I don't know, no.

4 Q Okay. Okay. Okay. And 29 is that the same mark is  
5 that a different mark?

6 A This would be the mark above her feet.

7 Q Okay. This would be -- so is this a different mark  
8 from what's in the previous photograph I think ---

9 A No, sir, it's ---

10 Q It's the same?

11 A Yes, that's the same one.

12 Q It's the same. Okay. Okay. And number 30, number  
13 30 is that the same wall or was it a different wall?

14 A That would be the front wall because this is the end  
15 of the hallway.

16 Q Okay. Okay.

17 A So this is just further down the front wall.

18 Q Is it the same wall that the victim is lying on or  
19 leaning against?

20 A This is the opposite wall.

21 Q This is the opposite wall. And on that wall there  
22 are, I guess, marks and that sort of stuff on that wall,  
23 okay. Now, 31, I guess, is another mark on the wall?

24 A Yes, sir.

25 Q Okay. Now, I know on one of these walls I think you

1 testified that you took a buccal swab off of one of the  
2 walls?

3 A We swabbed both walls.

4 Q You swabbed both walls. Okay. Okay. Okay. I think  
5 it is 28?

6 A Yes, sir.

7 Q Okay. Those impressions that's on the wall did you  
8 swab those impressions?

9 A When we swab the walls, we try to get anything and  
10 everything we could from the marks, but to tell you  
11 exactly which part, we did not take a sponge to the entire  
12 wall. We tried to sponge where the marks were.

13 Q Okay. But I know you said you swabbed both walls is  
14 this exactly what you swabbed or did you swab something  
15 different off the wall because there's a lot of stuff on  
16 those walls?

17 A So when we swab something like this for touch DNA,  
18 what we're trying to do is we're trying to get parts of  
19 all of the different areas on that wall.

20 Q Okay. Now, and I'll let the jury make their  
21 determination. I have no idea what this is. Could these  
22 possibly be, you know, fingerprint impressions?

23 A They could possibly be a patent print, yes.

24 Q Okay. Did you try to do a -- lift a latent print off  
25 that wall to see whether or not you could?

1 A From what I remember from those just looking at  
2 them -- so a patent print is a fingerprint or what we  
3 believe to be a fingerprint that is readily available or  
4 rather visible. So in this case you see what are possibly  
5 fingerprints. A latent print is one that is not visible,  
6 so you have to do black powder for. What we're looking  
7 for when we're looking for fingerprints are ridge flow and  
8 minutiae which are the identifying characteristics of a  
9 fingerprint. And these appear to be just smudges, so, no,  
10 we did not.

11 Q So you did not try to lift it?

12 A No.

13 Q Okay. And I'll ask you that question is is that you  
14 said it appeared to be smudges?

15 A Yes, sir.

16 Q Okay. But you didn't make an attempt to try to lift  
17 it to see whether or not you could get either a print or  
18 partial print?

19 A Because it was a smudge adding black powder to it is  
20 not going to improve the print. It's already a smudge, so  
21 there's nothing really to do with it.

22 Q And I understand that. I understand that. But I'll  
23 go on. And, of course, 32 is the hair in the hand?

24 A Yes, sir.

25 Q And I think you also -- did you collect the hair out

1 of the hand in this one?

2 A I don't remember if -- I believe we did, beg the  
3 Court's indulgence. I don't believe we did.

4 Q Okay. Okay. Is there a logical reason why you would  
5 not collect the hair out of the hand? Hair that's contain  
6 in her hand?

7 A So when we were looking at her hair to see if she was  
8 chunks. From what I remember she was missing hair and  
9 that appeared to be her hair, so that's why we didn't.

10 Q It appeared to be her hair?

11 A Uh-huh.

12 Q Okay. Okay. Okay. Okay. You can't compare,  
13 compare or visually match hair by the human eye, can't  
14 you?

15 A No.

16 Q You cannot do that?

17 A No.

18 Q It has to be, I guess, is is that scientifically  
19 done, is that correct?

20 A If they're follicles, then they can compare hair, but  
21 if there's no follicles and it's just the end of hair,  
22 then DNA -- they don't do DNA hair to hair unless part  
23 actually came out of your head.

24 Q Okay. But you didn't collect this?

25 A From what I remember, I don't remember there being

1 any follicles on it either. This appeared to be the end  
2 of the hair as it was pulled out.

3 Q So you did an follicle examination on the scene to  
4 try to determine whether or not there was no follicles or  
5 anything of value that could be -- you know, that could be  
6 tested with this hair that's in her hands?

7 A When we look at the hair, the follicles are little  
8 bulbs on the bottom of the hair. You could see them. So  
9 with this it just appear to be the end. We did not see  
10 anything that look like follicles so no.

11 Q So you didn't collect them?

12 A We did not.

13 MR. WHITE: Asked and answered, Judge, over and  
14 over again.

15 THE COURT: Sustained.

16 BY MR. BROOKER:

17 Q And I think 34 and 35 I think this is a -- I think  
18 these are pictures of the Bible, is that correct?

19 A It is.

20 Q Okay. What is the evidentiary value of this?

21 A Sometimes people write things in books and leave it  
22 open to the last page they were reading. Sometimes there  
23 are things in the books, so just documenting anything and  
24 everything that is within the scene that we see.

25 Q I got you. And, of course, I'm looking at State's



1 Exhibit Number 42 take a look at that. And you took that  
2 photograph, is that correct?

3 A Either me or my partner.

4 Q Okay. Okay. Either you or your partner. Can see  
5 that there's blood droplets. There's blood droplets I  
6 think in this photograph that is -- I don't want to  
7 speculate how far away it is from the body. I think it's  
8 right there at the entrance of that room. Did you collect  
9 samples of what appeared to be blood droplets. Did you  
10 collect those samples?

11 A We did not.

12 Q Okay. So you didn't collect samples of these  
13 droplets that are on the floor?

14 A No.

15 Q Okay. Do you know whether or not this was her blood?

16 A No, but because of where she was, the bleeding would  
17 appear to be a fight. It made sense that since she is our  
18 bleeder this is where -- this is her blood. And it would  
19 have been the general area of her real close. And they  
20 appeared to be straight down drops, so we believe this is  
21 her blood.

22 Q So you made an assumption?

23 A Based on what we saw and seen, yes.

24 Q Okay. But you don't know whether or not this is her  
25 blood?

1 A No.

2 MR. BROOKER: If you could indulge me for just a  
3 second, your Honor.

4 BY MR. BROOKER:

5 Q I know you said that when you collect these items,  
6 you send them over -- I think on specifically I think you  
7 were shown items 53, 54 -- 53 through 59 I believe, which  
8 is these items here. I think you said that these were the  
9 items that you collected or your partner. And I think you  
10 collected in these bags. And you took them from the crime  
11 scene, is that correct?

12 A Yes.

13 Q Okay. So you took them directly to SLED?

14 A Yes.

15 Q Yes, you said you deposited them into what's called a  
16 Beast over there?

17 A Yes, it's our electronic chain of custody program.

18 Q Okay. Okay. You also ask some questions in  
19 reference to whether or not -- whether or not -- I think  
20 you testified that there was no shell casings -- that you  
21 saw no shell casings on the scene?

22 A We did not, no, sir.

23 Q Either inside or outside?

24 A Not that we found, no, sir.

25 MR. BROOKER: If you could indulge me for just a

1 second, your Honor. Let me make sure I don't have any  
2 further questions.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. BROOKER: No further questions, your honor.

5 THE COURT: Redirect.

6 MR. WHITE: Thank you, Judge.

7 REDIRECT EXAMINATION

8 BY MR. WHITE:

9 Q Mr. Schenk, is SLED is it an accredited agency?

10 A It is.

11 Q And in what capacity is accredited?

12 A So the agency's accredited through CALEA. And the  
13 lab is accredited through ANAB, which is an international  
14 accreditation for forensic laboratories.

15 Q And do you have a certain set of policies and  
16 procedures that you have to follow because of that  
17 accreditation?

18 A We do.

19 Q And do you follow those policies and procedures every  
20 time you arrive on a crime scene?

21 A We do.

22 Q Did you follow those policies and procedures when you  
23 arrived on this crime scene?

24 A We did.

25 Q Now, when you're going through and you're swabbing

1 for DNA or collecting any evidence for instance that back  
2 doorknob, you don't touch the knob before you swab it, do  
3 you?

4 A No, sir.

5 Q And you didn't touch the wall before you swabbed it,  
6 did you?

7 A No, sir.

8 Q And you didn't touch her fingernails before you  
9 scraped them, did you?

10 A No, sir.

11 Q And in fact the changing of the glove theory, the  
12 defense counsel puts forth. If you were going to change  
13 gloves every time you touched something like you do,  
14 taking notes contemporaneous notes would be impracticable,  
15 right, because you have to continuously change gloves?

16 A Correct.

17 Q Now, you mentioned earlier -- let me ask you this  
18 first. You been working for SLED for nine years, is that  
19 right?

20 A Yes, sir.

21 Q How many crime scenes do you think you've worked?

22 A At this point I'm around 500.

23 Q And how many of those you think have been murder  
24 scenes?

25 A The majority.

1 Q And how many of those were particularly bloody?

2 A Most.

3 Q Do you spend a lot of your time looking at blood?

4 A We do.

5 Q And so when you arrive on a crime scene is it fair to  
6 say you know what's blood and what's not?

7 A I like to think so, yes.

8 Q Now, I want to ask specifically I want to ask your  
9 opinion. When you went down that hallway, you testified  
10 earlier that based on the totality of the circumstances,  
11 you thought that there was an extreme struggle in that  
12 hallway, why?

13 MR. BROOKER: Your Honor, I think we made an  
14 objection to that, that was sustained earlier.

15 MR. WHITE: That's correct. And then on cross  
16 he opened the door.

17 THE COURT: When did he open the door?

18 MR. WHITE: We can run it back, Judge. But he  
19 asked his opinion as to that very -- that very topic.

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

23 MR. WHITE: I mean, he asked his opinion as to  
24 what he thought why there was a struggle, that's exactly  
25 what he asked.

1 MR. BROOKER: I didn't ask his opinion as to --  
2 I didn't ask his opinion about a struggle. I ask him ---

3 THE COURT: How did he answer that by the way.

4 MR. WHITE: He didn't go into detail. I think  
5 he was kind of nervous because, I mean, we were all kind  
6 of surprised that the question was asked. But then  
7 furthermore, Judge, I mean, not only did he ask his  
8 opinion about that specific topic, but the last half of  
9 his testimony if you were listening it was all opinion  
10 questions. He was asking, oh, is this an assumption,  
11 isn't this your opinion. I mean, all we been dealing with  
12 in the last 15 minutes is opinion testimony.

13 MR. BROOKER: You answer that question. I never  
14 ask him his opinion as an expert reconstructionist. The  
15 only thing I ask his opinion about is how he makes a  
16 decision as to what collect and what not to collect  
17 because what he is saying when he was going through the  
18 crime scene, then, of course, he's looking for things that  
19 has evidentiary value. So he's making a determination,  
20 well, okay, this has evidentiary value I'm going to  
21 collect this. I ask him how do he make that assessment of  
22 what to collect and what not to collect. I didn't ask him  
23 anything about accident reconstructionist. I even asked  
24 him whether or not he was and ask him whether or not  
25 anybody on the force who was there was an accident

1 reconstructionist. I didn't open the door to anything,  
2 that's a fallacy.

3 MR. WHITE: He absolutely did.

4 MR. BROOKER: You can run it back if you want  
5 to. I'm happy to sit here ---

6 THE COURT: You ask why did he collect  
7 something, that's because he had an opinion as to what it  
8 was and had value and he collect it.

9 MR. BROOKER: Yeah, but that's not accident  
10 reconstruction your Honor.

11 THE COURT: Your question that is specifically  
12 ---

13 MR. WHITE: I asked him why did he reach the  
14 determination based on -- under cross he said under the  
15 totality of the circumstances these are the things that  
16 why I thought that there was a -- and now I want to know  
17 tell me all those things that you testified to on cross.

18 MR. BROOKER: You want to run this back your  
19 Honor? Everything I ask him about ---

20 THE COURT: Do you know specifically when it was  
21 so we can run back or do you want to take the time to run  
22 it back?

23 MR. WHITE: No.

24 MR. BROOKER: I ask him his determination about  
25 when he decides to collect, but nothing about what he

1 thought happened at the scene with respect to a struggle  
2 or anything like that.

3 MR. WHITE: As soon as the question came out,  
4 Todd leaned over ---

5 THE COURT: You want to play it back and let's  
6 find it or ---

7 MR. WHITE: No, let's just move on.

8 THE COURT: Okay.

9 (WHEREUPON, a bench conference was held in the  
10 presence of the jury, but out of the hearing of the  
11 jury has ended on the record.)

12 BY MR. WHITE:

13 Q Now, there was talk about you not wearing booties  
14 when you entered the crime scene, right?

15 A Yes.

16 Q But you didn't -- I mean, all the items of evidence  
17 that you collected that you sent off to SLED that were  
18 pertinent were, you know, waste high except for maybe her  
19 fingernails, correct?

20 A Or the clump of hair by the front door.

21 Q Exactly right. And that -- for instance that  
22 backdoor knob, I mean, you didn't go back there and lie  
23 down on your back and touch it with your feet, did you?

24 A No.

25 Q I mean, I know that sounds smart, but, I mean, that's



1 the implication that he's making, so I got to address it.  
2 I mean, you didn't do that in the hallway, you didn't get  
3 down and rub your feet all over it, did you?

4 A No, sir.

5 MR. WHITE: Beg the Court's indulgence. Thank  
6 you so much, Mr. Schenk. I appreciate it. Please answer  
7 any redirect or recross.

8 THE COURT: Anything further?

9 MR. BROOKER: Just one question in reference to  
10 what Mr. White says.

11 RECROSS-EXAMINATION

12 BY MR. BROOKER:

13 Q There was some blood on the floor near the bodies,  
14 correct?

15 A There were.

16 Q Okay. Okay. So there were substances or what we  
17 believe to be blood I think because it was collected, but  
18 there was potentially evidence on the floor, is that  
19 correct?

20 A There was potentially blood, but based on my  
21 observations, we didn't believe it was pertinent evidence  
22 for -- we thought it was the victim who was bleeding.

23 Q Okay.

24 MR. BROOKER: No further questions.

25 MR. WHITE: Can I have one more question, Judge?

1 THE COURT: Sure.

2 FURTHER REDIRECT EXAMINATION

3 BY MR. WHITE:

4 Q And that was based on the fact that she was shot dead  
5 in the hallway. And she's bleeding profusely and the  
6 blood that you mentioned is right beside her body?

7 A Correct.

8 MR. WHITE: Nothing further.

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

10 (WHEREUPON, the witness leaves the witness  
11 stand.)

12 THE COURT: Call your next witness.

13 MR. WHITE: Judge, if I could, I would ask that  
14 Mr. Schenk be released from his subpoena.

15 THE COURT: Any objections?

16 MR. BROOKER: Without objection, your Honor.

17 THE COURT: Have a good day. Call your next  
18 witness.

19 MR. WHITE: Thank you, Judge. I would ask that  
20 you can call Mr. Courtney Daniels.

21 THE CLERK: Do you swear to tell the truth, the  
22 whole truth and nothing but the truth so help you God?

23 THE WITNESS: Yes.

24 THE CLERK: Thank you.

25 WHEREUPON,

1 Courtney Daniels,  
2 after first having been duly sworn, testified as follows:  
3 DIRECT EXAMINATION  
4 BY MR. WHITE:  
5 Q Good afternoon, Ms. Daniels. And the acoustics in  
6 here are kind of weird, but if you could just project into  
7 that microphone, we should be okay. Ms. Daniels, where  
8 are you employed?  
9 A I work for Verizon Wireless.  
10 Q And how long have you been employed there?  
11 A I been with Verizon since 2014, so almost nine years.  
12 Q And in what capacity are you employed?  
13 A I am a senior analyst.  
14 Q And what does that mean?  
15 A So as a senior analyst, I'm the custodian of records  
16 for civil as well as criminal trials. We also handle  
17 small claims and mediations and arbitrations as well as  
18 other executive complaints.  
19 Q So you are familiar with how cell phone information  
20 data is stored at the headquarters?  
21 A Yes.  
22 Q So when I make a phone call what happens to that  
23 phone call.  
24 A So once you make the phone call and you press the  
25 call button, once the other party picks up the phone, that

1 is when the network starts to record that phone  
2 conversation -- not the phone conversation, but the  
3 network event which is that phone conversation.

4 Q And is all that information contained on one server?

5 A That is electronically stored, so on the network. So  
6 I would say one server because every tower has its own  
7 network, but, yes, essentially.

8 Q And if an agency request that information, could you  
9 provide that information to them?

10 A So Verizon security assistance team is the team that  
11 will provide any records that are requested, so, yes, they  
12 would provide those if it's requested.

13 Q And in this particular case, was a request made from  
14 the South Carolina Law Enforcement Division?

15 A Yes.

16 Q And what telephone number was associated with that  
17 request?

18 A The telephone number was 843-625-80 or excuse me  
19 0880.

20 MR. BROOKER: Just for purposes of the record,  
21 your Honor, and I'm dealing with this right now in another  
22 case. So we want to make sure that we -- that we reassert  
23 our objections so that we're protected on the record for  
24 that with regards to the testimony relating to the cell  
25 phone.

1 THE COURT: I understand.

2 MR. BROOKER: Thank you, your Honor.

3 THE COURT: Your objections are protected.

4 Thank you.

5 BY MR. WHITE:

6 Q And those records pertaining to that number, did you  
7 then forward those records to South Carolina Law  
8 Enforcement Division?

9 A Yes, Verizon security assistance team we forward  
10 those to the requestor.

11 Q And is it your understanding they then forwarded that  
12 information to our office as well as the Twelfth Circuit  
13 Solicitor's office?

14 A Yes, that was done.

15 Q And have you reviewed that information on the disk  
16 that I'm about to show you now?

17 A Yes, I reviewed these records.

18 Q And is that the disk that contains all the records  
19 that you pulled from the server pertaining to that  
20 telephone number that you just mentioned and sent to South  
21 Carolina Law Enforcement Division?

22 A That is correct.

23 Q And you were able to authenticate those documents?

24 A Yes, thank you so much.

25 MR. WHITE: Judge, I would move State's Exhibit

1 52 the Verizon records into evidence.

2 THE COURT: All right, any objections other than  
3 what's ---

4 MR. BROOKER: Just subject to previous  
5 objections, your Honor.

6 THE COURT: Overruled. 52 is in evidence.

7 (WHEREUPON, State's Exhibit No. 52 was admitted  
8 into evidence.)

9 MR. WHITE: And, Ms. Daniels, thank you so much  
10 for your testimony, that's all I have for you. Please  
11 answer any questions the defense may have.

12 THE COURT: Cross.

13 CROSS-EXAMINATION

14 BY MR. BROOKER:

15 Q Just real quickly. Ms. Daniels, you're not a fact  
16 witness -- so the question seems that you're not a fact  
17 witness to the murder in this case, are you not?

18 A I'm sorry can you repeat the question I couldn't hear  
19 you.

20 Q I apologize. I'm sorry. You're not a fact witness  
21 to the murder that occurred in this case, are you not?

22 A I'm a fact witness to the records that were  
23 requested.

24 Q So you're only testifying to the records that was --  
25 the cell phone records that was collected by law

1 enforcement?

2 A That's correct.

3 Q Okay. And just a couple other questions and I  
4 promise I'll let you go. I think you said that when law  
5 enforcement request records that get sent to -- and you  
6 correct me if I got the name wrong. You got a security  
7 assistance, I think, team that provides the records?

8 A Yes, that's Verizon security assistance team.

9 Q Okay. And where is that team located at?

10 A Well, we're actually no longer in my physical  
11 building, so there's not a physical building.

12 Q Okay. So that team is it working at home or  
13 something make sure I understand?

14 A Our entire company is working home based since Covid.

15 Q I got you. I got you. And what I'm trying to  
16 establish is is that whoever that collect these records  
17 where are they when they're them?

18 A Well, they would be working from their workstations  
19 and they would get those records from our network.

20 Q Is that in South Carolina these employees who are  
21 working from the work stations in South Carolina?

22 A I don't have the exact locations where the employees  
23 are.

24 Q Okay. And the servers that contains these records  
25 where are those servers located at?

1 A Those will be located in South Carolina as the phone  
2 calls were made in South Carolina.

3 Q I'm sorry I didn't hear you.

4 A Those would be networks and towers that were located  
5 in South Carolina as the records are regarding phone calls  
6 made to and from numbers in South Carolina.

7 Q So you have servers that collect those records and  
8 those servers that collect, I guess, the communication  
9 records for South Carolina? You have service in South  
10 Carolina that collect them. They stay there permanently  
11 until you get ready for them?

12 A So as far as how the network works, we have a -- what  
13 we call the switch. It's the brain of the network and  
14 they communicate with each tower. So the towers will be  
15 located within different distances from that switch. That  
16 switch is where all the information is collected. And it  
17 is electronically stored so that our Verizon security  
18 assistance team can retrieve it if necessary.

19 MR. BROOKER: Indulge me for just a second, let  
20 me make sure that I don't have further questions for you.

21 (WHEREUPON, a pause in the proceedings.)

22 MR. BROOKER: No further questions for this  
23 witness, your Honor.

24 THE COURT: Any redirect?

25 MR. WHITE: No, sir, Judge.



1 THE COURT: Thank you. Have a good day.

2 MR. WHITE: And we thank Ms. Daniels for being  
3 here. She drove from Atlanta. We ask that she be  
4 released from her subpoena.

5 THE COURT: Any objections?

6 MR. BROOKER: Without objection, your Honor.

7 THE COURT: She's released.

8 (WHEREUPON, the witness leaves the witness  
9 stand.)

10 THE COURT: You have another witness?

11 MR. WHITE: Judge, I think the next one may be  
12 lengthy. This might be a good time to stop for the day.

13 THE COURT: Members of the jury, we'll see you  
14 at 9:30 in the morning and we'll resume the case.  
15 Everybody else remain seated. The jury is excused.

16 (WHEREUPON, the jury is excused for the day.)

17 THE COURT: I'll see you 9:30 in the morning.

18 MR. WHITE: Thank you, Judge.

19 (WHEREUPON, the proceedings were concluded for  
20 the day to be reconvened on February 23, 2023.)

21 THE COURT: I just want to let you know that the  
22 jury room is hot. She wants to move them to the public  
23 defender's office, and I want to make sure that's okay  
24 with you.

25 MR. WHITE: Absolutely.

1 THE COURT: It's okay with you?

2 MR. BROOKER: It's fine with me, your Honor.

3 THE COURT: Okay. Sounds good. Is the jury  
4 here?

5 BAILIFF: Yes, sir.

6 THE COURT: All of them?

7 BAILIFF: No, sir.

8 THE COURT: All right, just hold them one  
9 second. All right. It's my understanding you have an  
10 objection to one part of the first statement, is that  
11 right?

12 MR. WHITE: Yeah, your Honor, it's just only one  
13 part of the first statement. I think in that first  
14 statement I say about 20 seconds. And out of an abundance  
15 precaution, I make the objection. Your Honor, should we  
16 wait for them to get in the room.

17 THE COURT: Yeah, we should.

18 MR. BROOKER: I don't want to get a PCR'd.

19 (WHEREUPON, a pause in the proceedings.)

20 THE COURT: I'm ready.

21 MR. BROOKER: I think your Honor on that  
22 January 15 interview, I think there's about I think  
23 actually roughly 22 seconds of that in which he is  
24 describing an altercation that he had while he was in  
25 college at Allen University. I think he indicated that

1     there was an altercation between him and a friend of his  
2     and his friend's roommate and that the altercation turned  
3     violent. And that the roommate tried to kill him. And  
4     the reason why I make that objection is is, you know, bad  
5     character evidence is not admissible. And out of an  
6     abundance of precaution as to this 22 seconds, we want to  
7     make the objection to have that removed because that  
8     involves appears to be he says that physical altercation  
9     between him and the other guy in a dormitory room that end  
10    up turning violent and I think he says the other guy tried  
11    to kill him. And that's what caused him to then leave the  
12    university.

13               THE COURT: It had nothing to do with his case,  
14    is that right?

15               MR. BROOKER: It has absolutely noting to do --  
16    we're doing it under bad character evidence. And  
17    obviously underneath the rules of evidence character  
18    evidence is inadmissible. Of course, this is a prior  
19    physical altercation that we have.

20               MR. WHITE: Judge, you know, I can play it back.  
21    The way it was just characterized is not really how it  
22    comes off to me. I mean, it's just kind of an off the  
23    cuff statement that he makes. I think they ask him if I'm  
24    not mistaken if he had any college education, and he just  
25    volunteers, well, I left because I got into it with

1 somebody and or somebody wanted to kill me, so I left. I  
2 don't know that that's evidence of his bad character.

3 THE COURT: Does it have anything to do with  
4 this case?

5 MR. WHITE: Not at all.

6 THE COURT: Why don't we go ahead out of an  
7 abundance of precaution just go ahead and redact that out.

8 MR. WHITE: And that's fine. So the two options  
9 I would need to clip it out right and put it on a disk and  
10 move it into evidence, which is going to take a while to  
11 get that disk back over from Florence or if Thurmond can  
12 provide me the exact time, I can do it manually, move the  
13 disk that we already have into evidence and then later put  
14 on the record that I'm substituting it for the newly  
15 redacted version.

16 MR. BROOKER: And that's perfectly fine. I  
17 think on the disk -- on the redacted disk that y'all gave  
18 me yesterday, it's five minutes and 28 seconds into the  
19 disk. That's where it starts. And then, of course, it  
20 ends at five minutes and 50 seconds. So it's 22 seconds  
21 right there where they have the conversation about the  
22 altercation between him and a guy, so it's 22 seconds.

23 MR. WHITE: That's no problem, Judge.

24 THE COURT: Okay, let's do that.

25 MR. WHITE: The last thing before we bring the

1 jury out. This is a matter of scheduling. I do have a  
2 DNA analyst coming. She's suppose to be here at 11:30.  
3 It would be my -- I think that this testimony is going to  
4 be rather lengthy. It's a two-hour video that I think is  
5 going to eat up a majority of the morning. It would be my  
6 proposal that we break for that long lunch as we did  
7 yesterday. And at least for an hour during that lunch  
8 either when she first gets here right or probably before  
9 the jury comes back we have that in-camera hearing that  
10 we discussed previously regarding State v. Phillips.

11 THE COURT: Okay. So one witness take a lunch  
12 break, go over the DNA stuff.

13 MR. WHITE: Yes, sir.

14 THE COURT: Eat lunch, come back and start.

15 MR. WHITE: And then this afternoon we have  
16 three witnesses that I think obviously the DNA analyst if  
17 -- you know, depending on what the outcome of that  
18 determination, then with SLED firearms and the SLED  
19 cellular analysis. And I think I believe that that would  
20 take up the majority of the afternoon.

21 (WHEREUPON, a pause in the proceedings.)

22 THE COURT: All right, you ready?

23 MR. WHITE: Yes, sir, Judge.

24 THE COURT: Go ahead and bring out the jury.  
25

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: All right, if you will call your  
3 next witness.

4 MR. WHITE: Thank you, Judge. At this time the  
5 State would call Reggie Hotaling.

6 THE CLERK: Do you swear to tell the truth, the  
7 whole truth, and nothing but the truth so help you God?

8 MR. MARTIN: I do.

9 THE CLERK: Thank you.

10 WHEREUPON,

11 Reggie Hotaling,

12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WHITE:

15 Q Good morning, Mr. Hotaling.

16 A Good morning.

17 Q If you could, tell us where are you employed?

18 A I'm self-employed.

19 Q And what do you do?

20 A Site brick working, land clearing, small heavy  
21 equipment work.

22 Q But back when this incident occurred and the ongoing  
23 investigation, where were you employed at that time?

24 A Marion County sheriff's office.

25 Q And what capacity were you employed then?

1 A I was a detective.

2 Q What was your role in this particular investigation?

3 A I was the lead investigator on it. I was on call  
4 that week. So when the call came out, I was the  
5 investigator to take it.

6 Q And on January 13th 2020 is that when that call came  
7 out?

8 A It was.

9 Q Did you respond to the scene?

10 A I did.

11 Q What, if anything, did you find when you got there?

12 A So when I pulled up, I think Officer McCaskill and  
13 Officer Cribb had already checked everything out of the  
14 house. So when I pulled up, they were outside to meet  
15 with me and let me know what they had going on at the  
16 house. Seems like there was other people there, but I  
17 think they got there pretty quick.

18 Q And did you make entry into the home?

19 A I did.

20 Q And were you aware that SLED was involved at that  
21 time?

22 A Well, so we knew the situations with the bodies. So  
23 we knew that SLED was going to be called. SLED usually  
24 helps us on any of those death investigations homicides.  
25 They come and help us with the investigation of it or

1 everyone they come in and do the crime scene.

2 Q And did you do a walk through with the crime scene  
3 Agent Todd Schenk?

4 A I did. Before they got there, I walk through just to  
5 take a quick look to see what we had going on, so that I  
6 could explain to them what we had going on.

7 Q Did you touch anything when you went in?

8 A No.

9 Q Did you disturb any of the evidence?

10 A No.

11 Q As the scene is photographed, have you had an  
12 opportunity to review those photographs?

13 A I have.

14 Q And as it is photographed, there is that how you  
15 found the scene?

16 A It was.

17 Q Now, what is your duties, what are your roles when  
18 you arrive on scene of a double murder and where you go  
19 from there and what did you do specifically in this case?

20 A So what I like to do or use to like to do was if I  
21 knew it was a murder, I didn't really want to touch  
22 anything. I didn't to want get into that. I usually  
23 didn't even take pictures. I let SLED do all that, but  
24 what I like to do is keep as many people out of the crime  
25 scene as I can and take a look at what's there. So that



1 when SLED does get there, I can explain to them what we  
2 found. The way we found it. Everything was -- everything  
3 is the way it was when we got here. Nobody's tampered  
4 with anything or if EMS is there in time, EMS will try to  
5 make sure that if there's anything they can do for the  
6 patients if they touch them or whatever at least let him  
7 know this, you know, transpired.

8 Q And was there anything that could have been done for  
9 these particular patients on scene?

10 A No. No.

11 Q Now, once you leave the scene and evidence is  
12 collected and you were aware once you left the scene that  
13 Todd Schenk with crime scene had collected a plethora of  
14 evidence?

15 A Sure.

16 Q And once you leave the scene, did you then begin  
17 meeting with family members of these two individuals?

18 A I did. A lot transpired from when -- while SLED was  
19 there -- before SLED got there, after SLED left. So many  
20 people talk with a bunch of people.

21 Q All right. Are you trying to identify possible  
22 suspects?

23 A We were.

24 Q Now, I want to talk to you about two of those  
25 possible suspects. The first being Jerome McCullough.

1 Why did he pop up on your radar?

2 A I can't exactly remember exactly how he came up other  
3 than through other neighbors, friends. His name came up.  
4 I think there was some kind of altercation or something  
5 I'm not sure with him.

6 Q It is my understanding correct me if I'm wrong, that  
7 that altercation happened, you know, months and months  
8 prior to this incident?

9 MR. BROOKER: Objection to leading the witness.

10 THE COURT: Sustained.

11 A It was -- that wasn't really an issue in this.

12 Q Were you able to speak to Mr. McCullough?

13 A I was.

14 Q And were you able to exclude Mr. McCullough as a  
15 suspect?

16 A I was.

17 Q And why were you able to exclude Mr. McCullough?

18 A He had a GPS ankle monitor.

19 MR. BROOKER: Objection, your Honor.

20 THE COURT: Same grounds we've already talk  
21 about?

22 MR. BROOKER: Yes, I think he's going to testify  
23 to hearsay as well too. And he's going to testify --  
24 unless, I'm wrong he's going to testify to evidence that's  
25 not in the record.

1 THE COURT: Of course, don't say what anybody  
2 else said just say what you know.

3 BY MR. WHITE:

4 Q As part of your investigation and the course of your  
5 investigation, did you uncover that he was excluded as a  
6 result of GPS monitoring not being around the crime scene  
7 at all?

8 MR. BROOKER: Objection, your Honor. Can we  
9 approach?

10 (WHEREUPON, a bench conference was held in the  
11 presence of the jury, but out of the hearing of the  
12 jury on the record.)

13 MR. BROOKER: I think during pretrial I think  
14 you indicated that this sort of evidence could come in,  
15 but he can't get it in. He can't testify to the results  
16 of a GPS monitor. The GPS monitoring company is going to  
17 have to be called to testify and to testify to the results  
18 of their analysis because I assume that's where they got  
19 them from. He doesn't own the equipment. He doesn't  
20 monitor the equipment. He doesn't generate the report.  
21 So he's testifying to basically is is that he's testifying  
22 to a report that wasn't generated by him. It violates the  
23 State vs. Crawford. And, of course, there's another  
24 Supreme Court case that I can cite to you.

25 THE COURT: So you're saying it's hearsay?

1 MR. BROOKER: Yeah, it's not into evidence.

2 MR. WHITE: He didn't say why he ruled them out.

3 THE COURT: Without saying what they said.

4 MR. WHITE: He ruled them out because ---

5 THE COURT: Because the GPS monitoring.

6 MR. WHITE: That's it.

7 THE COURT: I don't see how that violate any  
8 rule. He can't say what they said. He can't put the  
9 report in.

10 MR. BROOKER: He can't say what the GPS  
11 monitoring data indicated because he would be testifying  
12 to a report.

13 THE COURT: Of course, you can cross on  
14 cross-examination.

15 (WHEREUPON, a bench conference was held in the  
16 presence of the jury, but out of the hearing of the  
17 jury on the record has ended.)

18 BY MR. WHITE:

19 Q But, again, Mr. Hotaling, he was excluded because of  
20 his GPS monitor, is that right?

21 A That is correct.

22 Q And he also disclosed that he owned the handgun, is  
23 that right?

24 A He did.

25 Q Did you seize that handgun?

1 A We did.

2 MR. BROOKER: Objection, your Honor. He can't  
3 testify to what this guy told him. I think he said that  
4 he told him that he also had a gun, that's hearsay.

5 MR. WHITE: I can rephrase, Judge.

6 THE COURT: Sustained.

7 BY MR. WHITE:

8 Q Were you aware after meeting with him that he had a  
9 handgun?

10 A I was.

11 Q Did you seize that handgun?

12 A I did.

13 Q Did you send it off to SLED for analysis?

14 A I believe we did later.

15 Q Are you aware that that handgun was also excluded?

16 A Yes.

17 Q And I want to talk to you about the next suspect.

18 And let me ask, I mean, do names pop up in homicide  
19 investigations regularly?

20 A A lot.

21 Q And it's incumbent upon you to either find evidence  
22 against that person or exclude them, is that right?

23 A That is correct.

24 Q I want to talk to you about the next suspect that  
25 would be the boyfriend or the on-again off-again boyfriend

1 of Maisha Burch that would Fred Reeves. Did you have an  
2 opportunity to speak with him?

3 A I did.

4 Q And were you able to exclude him as a possible  
5 suspect?

6 A I was.

7 Q And why were you able to exclude him as a suspect?

8 A He also had a GPS monitor.

9 Q Okay.

10 A And he was never nowhere near.

11 Q Okay.

12 MR. BROOKER: Objection, your Honor. I think  
13 when he said -- can we approach, your Honor?

14 (WHEREUPON, a bench conference was held in the  
15 presence of the jury, but out of the hearing of the  
16 jury on the record.)

17 THE COURT: I think if you just end it that he  
18 was excluded we be all right.

19 MR. BROOKER: Yeah, he said the GPS monitor  
20 showed that he was nowhere near the scene, so now he's  
21 interpreting the report, the GPS report. So I'd ask that  
22 that last statement be excluded for the record.

23 MR. WHITE: Want me to just ask it again?

24 THE COURT: Do what?

25 MR. WHITE: Want me to just ask it again?

1 THE COURT: I don't think you need to. You  
2 already asked.

3 MR. BROOKER: Just ask to exclude the last  
4 statement.

5 (WHEREUPON, a bench conference was held in the  
6 presence of the jury, but out of the hearing of the  
7 jury on the record has ended.)

8 THE COURT: All right. Members of the jury,  
9 that last statement that he said that someone say was  
10 nowhere near at the time exclude that. Do not consider  
11 it. Do not let it enter into your deliberations in any  
12 form or fashion, just take it out of your mind.

13 BY MR. WHITE:

14 Q Both of those suspects were excluded because of GPS  
15 monitor?

16 A They were.

17 Q Next, did you move on to suspect Issac Hemingway?

18 A Yes, a little later.

19 Q Now, what day was the -- or what date was the bodies  
20 of Andrew Legette and Maisha Burch found?

21 A January the 13th 2020.

22 Q On what day did you bring Issac Hemingway in for an  
23 interview?

24 A January 15th.

25 Q Now, at that time, Mr. Hotaling, was he in custody?

1 A No, he was not.

2 Q And when he came into -- where did you conduct the  
3 interview?

4 A We conducted it at the sheriff's office.

5 Q And when came in was he free to leave at any time?

6 A Yes.

7 Q And did you Mirandize him once he arrived there?

8 A I did.

9 Q Can you explain to us a little bit about Miranda  
10 warnings what are those?

11 A It's just your rights. You have the right to remain  
12 silent. All of that we read it out to you and you  
13 acknowledge it by signing your paperwork, that you  
14 understand you have those rights to -- you don't have to  
15 talk to us if you don't want to.

16 Q When you're explaining those rights, did you go over  
17 a checklist with him?

18 A Each sentence, each sentence that has a blank line  
19 and we have that person put their initials after every  
20 sentence, read each sentence separate. And they initial  
21 each sentence and that just states that they understand  
22 what we read.

23 Q Now, I'm going to show you State's Exhibit 1 if you  
24 could tell me if you recognize that particular item?

25 A I do.



1 Q And is that the Miranda form you completed with  
2 Mr. Hemingway?

3 A It is.

4 MR. WHITE: Judge, I move State's Exhibit 1 into  
5 evidence.

6 THE COURT: Any objections? It's my  
7 understanding it was already in evidence.

8 MR. BROOKER: No objection, your Honor.

9 THE COURT: All right, thank you.

10 (WHEREUPON, State's Exhibit No. 1 was admitted  
11 into evidence.)

12 BY MR. WHITE:

13 Q And you went over each and every one of his rights,  
14 his right to remain silent that sort of thing?

15 A I did.

16 Q And he waived all those rights?

17 A He did.

18 Q Did he agree to speak to you?

19 A He did.

20 Q And did you conduct an interview with Mr. Hemingway?

21 A I did.

22 Q And that was conducted in the interview room at the  
23 sheriff's office?

24 A It was.

25 Q Was it audio and video recorded?

1 A It was.

2 Q Who other than Mr. Hemingway was present there with

3 you in the interview?

4 A SLED Agent Barkdoll.

5 Q And was a copy of that video turned over to the

6 Solicitor's office?

7 A It was.

8 Q I'm going to show you State's Exhibit 60 if you could

9 tell me if you recognize that item?

10 A Yes.

11 Q And is that the interview that you conducted on

12 February or excuse me -- January 15th of 2020?

13 A I believe it is.

14 MR. WHITE: Judge, I move State's Exhibit 60

15 into evidence.

16 THE COURT: Any objections?

17 MR. BROOKER: No objection, your Honor.

18 THE COURT: Thank you. State's Exhibit 60 is in

19 evidence without objection.

20 (WHEREUPON, State's Exhibit No. 60 was admitted

21 into evidence.)

22 MR. WHITE: Thank you, Judge. At this time I

23 ask for permission to publish and also ask for a jury

24 charge as to redactions.

25 THE COURT: All right. Members of the jury,

1 there's certain parts of the video that I have ruled are  
2 not applicable to this case and should not come in. So  
3 those points are going to be skipped from time to time,  
4 that is based on my ruling. You can ignore it. Don't let  
5 it enter into your deliberations. Don't even think about  
6 it. It's just something I did. You understand. Any  
7 objections to that from the defense?

8 MR. BROOKER: No objection, your Honor.

9 THE COURT: Go ahead and play it.

10 MR. WHITE: Thank you, Judge.

11 (WHEREUPON, State's Exhibit Number 60 is played  
12 for the jury.)

13 MR. WHITE: Judge, pursuant to a previous court  
14 ruling, I'm going skip ahead move to the 550 mark.

15 THE COURT: Thank you.

16 (WHEREUPON, State's Exhibit Number 60 is  
17 continuing to be played for the jury.)

18 MR. WHITE: Judge, this might be a good time for  
19 a ten minute recess.

20 THE COURT: All right. Members of the jury,  
21 let's take a 15 minute break. Do not discuss the case.

22 (WHEREUPON, the jury retire to the jury room.)

23 THE COURT: Let's take a 15 minute break.

24 You're still on the stand, Reggie. You can't talk to  
25 anybody. Go ahead and use the restroom, get something to

1 eat. Don't talk to anybody.

2 (WHEREUPON, a break was taken.)

3 THE COURT: You ready?

4 MR. WHITE: Yes, sir.

5 THE COURT: Go ahead and bring out the jury.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: All right, if you'll continue.

8 MR. WHITE: Thank you, Judge.

9 (WHEREUPON, State's Exhibit Number 60 is

10 continued being played for the jury.)

11 BY MR. WHITE:

12 Q Mr. Hotaling, I just got a few more questions for

13 you, okay. Before the start of that interview, did you

14 have any idea about the child support issues that he

15 alluded to in the interview?

16 A No, I didn't have any idea.

17 Q After the interview, did you become aware and during

18 the interview that there was a child support issue going

19 on?

20 A Yes.

21 Q And did you become aware that it was hotly contested?

22 A Yeah.

23 Q And were you aware that he was denying paternity of

24 the children?

25 A Seem like I remember a little bit about it, but I

1 didn't go into it a whole lot.

2 Q Now, did you feel at that time that that provided a  
3 financial motive for the murder of Maisha Burch?

4 A I did.

5 Q Now, we saw -- you swabbed the inside of Hemingway's  
6 mouth. Why did you do that?

7 A To send to SLED for any DNA comparison anything that  
8 SLED had taken from the crime scene.

9 Q When you do that what is that called?

10 A Buccal swab.

11 Q And you said you send that off to SLED for comparison  
12 against any DNA evidence?

13 A That's correct.

14 Q Would that be DNA evidence that Todd Schenk recovered  
15 from the scene?

16 A Yes.

17 Q How is items -- how are items of evidence such as  
18 that one taken by you, stored and then sent to SLED?

19 A So when I collected the buccal swab, it goes in a  
20 sealed envelope. You seal it. I seal it. I give it to  
21 our evidence custodian. And our evidence custodian takes  
22 it straight from there to SLED.

23 Q Now, is that the only buccal swab you took in this  
24 case?

25 A No, we took several.

1 Q Are you taking them of anybody you interviewed or you  
2 anybody you can think of?

3 A Everybody that we interviewed and anybody that was  
4 felt like they may have been possibly involved.

5 Q Okay. Now, did you hear on the video that Hemingway  
6 said he at first he said he never gone in the house, is  
7 that right?

8 A That's correct.

9 Q And then later he said as far as he went was just  
10 right inside the front door, is that right?

11 A That's right.

12 Q Did he say that he went anywhere around that house?

13 A No.

14 Q Around the back of the house?

15 A No.

16 Q Around the back door?

17 A No.

18 Q Okay. Now, at this point in your investigation are  
19 you waiting on that those DNA results to come back?

20 A I am.

21 Q Are you aware that during this time how simultaneous  
22 you're doing things and also Agent Barkdoll doing things.  
23 Are you aware that he requested and got search warrants  
24 for cell phone data?

25 A Yes.

1 Q And was one of those cell phone numbers belonging to  
2 Issac Hemingway?

3 A It was.

4 Q Are you waiting for that information to come back as  
5 well?

6 A Yes.

7 Q Now, later on -- well, let me ask you. At some point  
8 do you schedule a second interview -- a second meeting  
9 with Issac Hemingway?

10 A I do.

11 Q Did he show up?

12 A He did not.

13 Q And then you do eventually conduct a second  
14 interview, is that right?

15 A I do.

16 Q I'm going to ask you is this the Miranda form that  
17 you read to him during that second interview?

18 A It was.

19 Q And what was the date of that second interview?

20 A December the 1st of 2020.

21 Q And you did conduct a second interview?

22 A Yes.

23 Q And it was audio and video recorded?

24 A It was.

25 Q At the time that you conducted that second interview

1 Q Are you taking them of anybody you interviewed or you  
2 anybody you can think of?

3 A Everybody that we interviewed and anybody that was  
4 felt like they may have been possibly involved.

5 Q Okay. Now, did you hear on the video that Hemingway  
6 said he at first he said he never gone in the house, is  
7 that right?

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17 you read to him during that second interview?

18 A It was.

19 Q And what was the date of that second interview?

20 A December the 1st of 2020.

21 Q And you did conduct a second interview?

22 A Yes.

23 Q And it was audio and video recorded?

24 A It was.

25 Q At the time that you conducted that second interview

1 with Mr. Hemingway was he in custody at that time?

2 A He was.

3 Q And at that time did you have the DNA evidence back?

4 A We did.

5 Q Did you have the cell phone evidence back?

6 A We did.

7 MR. WHITE: Thank you, Mr. Hotaling. Please  
8 answer any questions defense may have.

9 THE COURT: All right, cross-examination.

10 CROSS-EXAMINATION

11 BY MR. WHITE:

12 Q Mr. Hotaling, I think you testified I think starting  
13 off on direct examination that you're self-employed?

14 A Yes, sir.

15 Q Okay. And what your self-employed at right now?

16 A Hotaling Land Services.

17 Q I'm sorry.

18 A Hotaling Land Services.

19 Q Lands services?

20 A Uh-huh, yes, sir.

21 Q And what is Hotaling Land Services?

22 A Do site preps for home construction, land clearing.

23 Q When was it that you left the Marion County sheriff  
24 department?

25 A March of 2021.

1 Q Okay. And what was your reason for leaving the  
2 sheriff department?

3 A Starting my -- running my business.

4 Q Okay. So you voluntarily left?

5 A Oh yeah.

6 Q Are you still commissioned as law enforcement?

7 A No, I'm not.

8 Q Okay. Now, let me ask you a couple of questions I  
9 think in reference to -- take you back to January 13th of  
10 2022 that is the day in which you came to the scene of  
11 where the -- this homicide took place, is that correct?

12 A 2020 correct.

13 Q Yeah, 2020 I apologize. 2020. And I think if my  
14 understanding correctly, you said that you were not the  
15 first person to arrive on scene?

16 A No, sir.

17 Q Already other officers there?

18 A Yes.

19 Q And I think if my understanding was is is that the  
20 paramedics -- there was three paramedics who had already  
21 been there and who had already went into the scene, is  
22 that correct?

23 A I know they were there. I'm not sure if I beat them  
24 there or if they beat me there. I'm not real sure.

25 Q Do you remember preparing an investigative report?

1 A I do.

2 Q Okay. Would your investigative report refresh your  
3 memory about that?

4 A It may.

5 Q I think it's on that first page?

6 A Okay, yes. Yes, EMS already there.

7 Q There was three EMS. My understanding there was  
8 three EMS personnel already there and had went into the  
9 home, is that correct?

10 A Yes.

11 Q And check the victims in the home to see whether or  
12 not they were alive?

13 A That's right.

14 Q Okay. Don't tell me what anybody said, but I wanted  
15 to know whether or not did you talk with -- did you have  
16 an opportunity talk with the EMS personnel when you  
17 arrived?

18 A I'm not sure. I know I may have, but I'm not sure.

19 Q Did you see them -- were they still when you arrived?

20 A Yes, yes, sir, they were.

21 Q Okay. Okay. And I'm assuming they were wearing  
22 gloves. EMS usually wear gloves?

23 A Yes.

24 Q Did they have any facial protection on or any facial  
25 coverings on?

1 A I don't know. I don't remember.

2 Q Do you know whether or not they anything to protect  
3 their shoes when they went inside of the crime scene?

4 A Well, I don't remember that either.

5 Q Okay. I think also you testified I think McCaskill  
6 and I think you were in the courtroom when I think  
7 Lieutenant McCaskill testified?

8 A Yes.

9 Q And, of course, is is I think he testified that he  
10 and I think Agent Cribb's went into the house and did a  
11 protective sweep?

12 A Yes.

13 Q Okay. And I think your testimony was that when you  
14 arrived at some point in time prior to the crime scene  
15 investigation units arriving, that you and someone else  
16 entered the house just take a look.

17 A Yes.

18 Q Who was the other officer that entered the home with  
19 you to look around?

20 A I'm not sure. We try to limit who all went in. It  
21 may have been Detective Pike or Detective Rogers.

22 Q Okay. Were you wearing gloves when you entered?

23 A I was.

24 Q Was the other detective the one you said you can't  
25 remember who it was, do you know whether or not that

1 detective was wearing gloves?

2 A I'm not sure.

3 Q Okay. Were you wearing a facial covering?

4 A No.

5 Q Do you know whether or not the other detective was  
6 wearing facial covering?

7 A I'm not sure.

8 Q Were you wearing anything on your shoes?

9 A I don't think so most likely not.

10 Q Booties or anything like that covering your shoes?

11 A No, I don't think so.

12 Q Okay. How long did you stay inside of the residence  
13 when you went inside the residence?

14 A It was a very short period of time just long enough  
15 for me to just kind of look. I didn't even walk into any  
16 of the bedrooms or anything like that. I just walked in,  
17 take a look at what was there and walk right back out.

18 Q Now, I think that you also -- my understanding  
19 correctly -- let me make sure that I understand it. If  
20 I'm wrong -- did you also talk with your officers -- you  
21 don't have to tell me what they say. Did you also talk  
22 with your officers to try and figure out what they knew  
23 once you arrived on the scene?

24 A I did.

25 Q Okay. Was it your understanding -- was your

1 understanding that that Mr. Andrew Legette and Ms. Maisha  
2 Burch was discovered by her daughter and her daughter's  
3 friend?

4 A Yes, that was what we were under the understanding.

5 Q And that's Shkyria Edmunds?

6 A It is.

7 Q And her friend that went into the house with her that  
8 was Craig Hopkins, Jr., I believe, is that correct?

9 A That is correct.

10 Q Okay. And I think you -- did you talk with them  
11 personally?

12 A I don't think I did.

13 Q Okay. When they went into the crime scene -- and it  
14 may have sound like a stupid question, but I got to ask  
15 it. Do you know whether or not they were wearing gloves?

16 A I don't know. I don't know.

17 Q Okay. Pretty sure they wasn't, but I got to ask it.  
18 Do you know whether or not there were wearing any  
19 protective gear on their face or either on their shoes?

20 A I don't know.

21 Q Okay. Now, I think you said you were the lead  
22 detective, is that correct?

23 A Yes, sir.

24 MR. BROOKER: Indulge me for just a second, your  
25 Honor.

1 BY MR. BROOKER:

2 Q Normally, as a lead detective that you are in charge  
3 of the investigation, am I right?

4 A Correct.

5 Q I know that the prosecutor didn't ask you anything  
6 about your prior training and experience in that area, so  
7 I'll ask you a little bit or if he did I don't remember.  
8 At that time how long had you been a detective?

9 A 2020, so 12 years -- 12 and a half years.

10 Q Was all of that with the Marion County sheriff's  
11 department?

12 A It was.

13 Q Okay. And what was your position prior to becoming a  
14 detective?

15 A I was a road deputy.

16 Q Now, when you went from a road deputy to a detective,  
17 what training did you undertook to become a detective?

18 A So I had to go back to the academy -- to the academy  
19 for the basic detective course. And then other various  
20 courses fingerprint analysis. There was a few other  
21 classes. And then later on I took instructor class became  
22 a basic instructor, several conferences, but was all I  
23 got.

24 Q I got you. And were you certified as an -- I guess,  
25 certified as an expert in crime scene reconstruction?



1 A No.

2 Q Okay. Now, was anyone there -- I know that you said  
3 that there was a number of officers there. And I have in  
4 my hand I think what is listed as a crime scene log. I  
5 want you to take a look at the crime scene log and tell me  
6 whether or not you've ever seen that?

7 A I have.

8 Q Okay. So that's the crime scene log that was  
9 generated -- generated for the purposes of this  
10 investigation?

11 A Yes, sir.

12 Q And it's my understanding is is that the purpose of  
13 crime scene log is is so that you can keep track of  
14 everybody who is entering and exiting the crime scene?

15 A That's right.

16 Q Okay. So you want to know who's going in there and  
17 what they're doing? And I'll give you a chance to count  
18 this. And, of course, I guess, in a minute.

19 MR. BROOKER: Your Honor, if I could enter this  
20 into evidence as Defense Exhibit 1.

21 THE COURT: Any objections?

22 MR. WHITE: No, objection, Judge.

23 THE COURT: All right, Defense Number 1 is in  
24 without objection.

25 MR. BROOKER: Defense 3 I apologize.

1 THE COURT: Three is in evidence without  
2 objection.

3 MR. BROOKER: Thank you.

4 (WHEREUPON, Defendant's Exhibit No. 3 was  
5 admitted into evidence.)

6 BY MR. WHITE:

7 Q Now, let met take a look at this for a second. And  
8 this crime scene log says Lieutenant McCaskill was one of  
9 the officers on the scene. And Joey Price was also  
10 entering the crime scene. I think Leah Ransom that is a  
11 EMS person, one of the EMS -- three EMS personnel to enter  
12 the scene. John Smith he was another EMS personnel that  
13 entered the scene, is that correct?

14 A Yes.

15 Q If you need to look at this, if I have an extra copy  
16 if you want to look at this while we go over it?

17 A I may have a copy of it. I do. I'm as far as down  
18 as John Smith.

19 Q Yeah, John Smith I think I just said. And then, of  
20 course, the next is Detective Rogers. Of course, we know  
21 that Ms. Edmunds entered the scene Shkyria Edmunds because  
22 she and her friend discovered her mother?

23 A Craig.

24 Q Bobby Davis from -- I think that's ---

25 A That's for the Marion County Combine Drug Unit.

1 Q Okay. Do you know why he was -- why someone from the  
2 combine drug unit was on scene?

3 A No, usually when we have case like that pretty much  
4 everybody kind of responds. They may be able to assist us  
5 in -- they may know somebody that we don't know.

6 Q I got you. Chris Woodberry was on the scene been the  
7 seventh person, is that correct?

8 A Correct.

9 Q Is that Tammy Ervin?

10 A Erwin.

11 Q Erwin?

12 A Yes.

13 Q And they would have been the eighth person on the  
14 scene. And, of course, the victim's advocate division, is  
15 that correct?

16 A That's correct.

17 Q There was Judith Barker she would have been the ninth  
18 person. And I think Judith Barker was the captain for  
19 Marion County investigations, is that correct?

20 A That's correct.

21 Q She would have been your boss at that time?

22 A Yes.

23 Q James Lee was the tenth person on the scene, is that  
24 correct?

25 A That's correct.

- 1 Q He was with Marion County sheriff's department?
- 2 A Yes.
- 3 Q Samantha Jackson would have been the 11th person on
- 4 the scene?
- 5 A Yes.
- 6 Q She was with Marion County sheriff department. Agent
- 7 Barkdoll with SLED would have been the 12th person?
- 8 A Correct.
- 9 Q And then, of course, Todd Schenk who testified
- 10 earlier or Schenk if I pronounce his name correctly he
- 11 would have been the 13th person?
- 12 A Yes.
- 13 Q Okay. And then, of course, there was Agent Delilah
- 14 Jazik would have been the 14th?
- 15 A Yes.
- 16 Q And I think she was with SLED crime scene just like
- 17 Agent Schenk was?
- 18 A That's correct.
- 19 Q Okay. Jerry Richardson was the 15th person he was
- 20 the coroner, is that correct?
- 21 A Yes.
- 22 Q Chad Page -- is Page or Pace?
- 23 A Page.
- 24 Q Page?
- 25 A Yes, sir.

1 Q He would have been the 16th person and he was with  
2 Marion County sheriff department?

3 A Correct.

4 Q Justin Broach looks like it says Marion County EMS?

5 A Yes.

6 Q Would have been the 17th person. And then, of  
7 course, Sergeant Barfield is the 18th person, is that  
8 correct?

9 A Yes.

10 Q And he was with Marion County sheriff department?

11 A Yes.

12 Q It says here Stephanie Reed 19th says a family  
13 friend?

14 A Yes.

15 Q Okay. Agent Cribb Marion County sheriff department.  
16 He would have been the 20th person in the crime scene, is  
17 that correct?

18 A Yes.

19 Q Detective Hotaling would have been the 21st person on  
20 the scene or in the crime scene, is that correct?

21 A Correct.

22 Q Detective Pike would have been the 22nd person with  
23 Marion County sheriff's office?

24 A That's correct.

25 Q Okay, 23rd would have been Jim Gray deputy coroner?

1 A That's correct.

2 Q Twenty-fourth would have been Robert Page with Marion  
3 County sheriff's office Robert Page. And then, of course,  
4 there's your name which is you would have been the 21st  
5 person?

6 A Yes.

7 Q Reggie Hotaling?

8 A That is me.

9 Q Okay, yes. The 26th person entering the crime scene  
10 would have been Dewayne Rogers with the Marion County  
11 sheriff's department?

12 A Yes, I think he was already listed.

13 Q Was he already listed?

14 A Yes, I think so.

15 Q There was Detective Rogers ---

16 A No, I don't see it. Yeah, you're right.

17 Q Okay. So he would have been the 26th person. And  
18 then Greg Pike if I'm counting correctly would have been  
19 the 27th person entering the crime scene?

20 A So myself and Detective Pike were listed twice.

21 Q Okay. You were listed twice?

22 A Yes.

23 Q So if I move yourself and Detective Pike, then that  
24 would have been 25 persons in the crime scene?

25 A Twenty-four.

1 Q Twenty-four or 25 I'm not going to argue over that?

2 A Yeah.

3 Q I'm not going to argue over the math. The reason why  
4 I'm asking that question is is that it's my understanding  
5 is is that persons entering the crime scene should come in  
6 on a, I guess, need basis because you want to preserve the  
7 crime scene, is that correct?

8 A That's correct.

9 Q You don't want a bunch of people trampling all over  
10 the crime scene and possibly, you know, transferring  
11 unknowingly I'm not talking about intentionally, but  
12 unknowingly transferring and moving evidence around, is  
13 that correct?

14 A That's correct.

15 Q Okay. And the reason why I'm asking you this is is  
16 that I know that some of the people who came into the  
17 crime scene was necessary, so your EMS personnel was  
18 necessary. I think there was at least about four EMS  
19 personnel that came on the scene. I think that we talked  
20 about that was with Joey Price, Leah Ransom, John Smith.  
21 And I think there was another EMS personnel later on in  
22 here. Justin Broach is from EMS. It's four people from  
23 medical services came on the scene?

24 A Correct.

25 Q Okay. But I want to try to understand why were all

1 of these people were in the scene?

2 A Okay.

3 Q Lieutenant McCaskill I think he testified first. I  
4 think my understanding was is is that you were in the  
5 courtroom when Lieutenant McCaskill testified?

6 A Yes.

7 Q And I think what -- and you correct me if I'm wrong  
8 is that his testimony was is is that he and I think Agent  
9 Cribb were the first -- I think one of the first officers  
10 -- two officers on the scene. And that when they got  
11 there, they went into the house and they swept the house  
12 to make sure that they were -- there was no danger, you  
13 know, for other officers or anybody else coming on the  
14 scene?

15 A Correct.

16 Q And, of course, it's my understanding is is that  
17 Lieutenant McCaskill then helped rope off the crime scene  
18 and then he left after that?

19 A That's correct.

20 Q So -- but he was not an investigator, was he not?

21 A No.

22 Q Okay. So he was just to provide some logistical work  
23 and the same with Agent Cribb. Was Agent Cribb an  
24 investigator?

25 A No, he was -- I think he was working the road.



1 Q Logistical support he was a road officer?

2 A Yes.

3 Q Road officer at the time. Do you know how long  
4 Detective Cribb or excuse me -- I think you said it was a  
5 road officer at the time stayed on the scene?

6 A I'm not sure.

7 Q You know how long he stayed in the crime scene?

8 A It wasn't very long because he was out of it by the  
9 time we got there.

10 Q Okay. I'm talking about -- I think McCaskill said  
11 that they went in and did a protective sweep and came out.  
12 McCaskill left the crime scene completely went back to  
13 doing his job. Did Agent Crib stay there?

14 A I don't remember. I don't know.

15 Q Okay. I think also there was a Detective Rogers?

16 A Yes.

17 Q Detective Rogers was a detective. And, of course, is  
18 is that was he homicide detective at that time?

19 A Sure. We all work homicides together. We work from  
20 anywhere from a stolen bicycle to a homicide.

21 Q I got you. I got you, but you were the lead  
22 detective I think you said?

23 A Yes, correct.

24 Q And I'm assuming was he there to assist you in the  
25 investigation of the case?

1 A He was.

2 Q Okay. If you know specifically what his role was  
3 that day on the crime scene and what exactly he did that  
4 day in the crime scene?

5 A So in the crime scene, he may have gone in as well to  
6 take a look at what we first hand -- to see things  
7 firsthand, so everybody's on the same page. But after  
8 that, he was just there to help try to gather whatever  
9 information we could get.

10 Q So when he went into the crime scene was he wearing  
11 gloves, do you know whether or not he was wearing gloves?

12 A I am pretty sure he was.

13 Q And I want to know what you know. Do you know  
14 whether or not he was wearing gloves?

15 A I don't know for sure.

16 Q Okay. Okay. Do you know whether or not he was  
17 wearing any sort of facial covering when he went into the  
18 crime scene?

19 A I don't know.

20 Q Okay. And, of course, shoes you don't know whether  
21 or not he was wearing anything protecting his shoes?

22 MR. WHITE: Judge, I hate to interrupt the flow  
23 here might we approach for just a minute?

24 (WHEREUPON, a bench conference was held in the  
25 presence of the jury, but out of the hearing of the

1 jury on the record.)

2 MR. WHITE: My goodness I think they get the  
3 point. I mean, we're going to do this for another 25  
4 witnesses.

5 MR. BROOKER: This is our case. I mean, your  
6 direct the video was ---

7 MR. WHITE: It seem cumulative at this point.

8 MR. BROOKER: No, it's not because we're going  
9 over each particular person who entered the crime scene,  
10 so we're not talking about the same person twice.

11 THE COURT: You all want to take a lunch break  
12 and come back?

13 MR. BROOKER: Sure.

14 THE COURT: Do you want to ---

15 MR. BROOKER: That's perfectly fine.

16 THE COURT: You good with that?

17 MR. BROOKER: That's perfectly fine.

18 MR. WHITE: Well, the DNA analyst is here, so  
19 whenever you want to conduct that hearing.

20 THE COURT: We're probably going to have to hear  
21 her testimony.

22 MR. WHITE: Yes, sir.

23 THE COURT: How long do you think all that will  
24 take?

25 MR. WHITE: This is the first time I've ever had

1 difficulty answering that question. It depends on Mr.  
2 Brooker. Two, two and a half hours. I don't know.

3 MR. BROOKER: Yeah, I was thinking maybe two  
4 hours at least.

5 THE COURT: So we might not even get to her  
6 today, but we can do the pretrial.

7 MR. WHITE: Yes, sir, I really hope we can get  
8 to her today. I've got firearms coming too.

9 THE COURT: How much longer you think you got  
10 with him?

11 MR. BROOKER: I think probably at least ---

12 MR. WHITE: A couple more weeks at least ---

13 MR. BROOKER: Huh.

14 MR. WHITE: Couple more weeks at least.

15 THE COURT: Seriously, how long do you think you  
16 have?

17 MR. BROOKER: I think I'm going to probably be  
18 with him probably about another 45 minutes, 50 minutes,  
19 maybe less, but I want to try to be as accurate as  
20 possible.

21 THE COURT: Why don't we take an hour lunch  
22 break. Apparently, I got one thing I got to do. We come  
23 back finish with him and then do DNA. We might have to  
24 dismiss them to do all that DNA stuff and come back with  
25 her in the morning.

1 MR. BROOKER: However, y'all want to do it I'm  
2 fine.

3 THE COURT: Is that okay?

4 MR. WHITE: That's fine.

5 (WHEREUPON, a bench conference was held in the  
6 presence of the jury, but out of the hearing of the  
7 jury has ended on the record.)

8 THE COURT: All right. Members of the jury,  
9 we're going to take an hour lunch break. If you would, be  
10 back at two o'clock. Do not discuss the case. And we'll  
11 resume at that time. Everybody remain seated while the  
12 jury is excused.

13 (WHEREUPON, the jury is excused for a lunch  
14 break.)

15 THE COURT: And, Reggie, again, you're still on  
16 the stand. You can't talk with anybody. You just go have  
17 lunch and do what you got to do and come back and have a  
18 seat.

19 (WHEREUPON, a lunch break was taken.)

20 THE COURT: Go ahead and bring out the jury.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right. You may continue with  
23 cross.

24 MR. BROOKER: Thank you, your Honor.

25 CROSS-EXAMINATION CONTINUED

1 BY MR. BROOKER:

2 Q Mr. Hotaling, I think when we left off we were going  
3 through the Defense Exhibit Number 3. I think that was  
4 the crime scene log?

5 A Yes, sir.

6 Q And I think we're on the second page. I think we  
7 were going through these witnesses to try and find out  
8 what was their role at the scene, is that correct?

9 A That's correct.

10 Q And I think we discussed Detective Rogers on the  
11 first page. And I think we're on the second page. And,  
12 of course, we talked about Shameka or excuse me Shkyria  
13 Edmunds. We understand how she came to be on the scene,  
14 is that correct?

15 A That's correct.

16 Q She and Mr. Hopkins are the ones who discovered the  
17 victims. And, of course, Bobby Davis -- and what was  
18 Bobby Davis again? I think you told me what was his role  
19 or his title?

20 A Marion County Combine Drug Unit.

21 Q He was the drug unit. And, of course, is is that I  
22 think you said that basically he was not apart of the  
23 homicide division, but sometimes when a call comes in like  
24 this that all personnel will come in. Maybe they can be  
25 of some assistance maybe because it's a small town maybe

1 they would know names or something like that?

2 A That's correct.

3 Q Okay. All right. But he had no other role as far as  
4 with respect to the investigation that day?

5 A No, that's it.

6 Q Okay. Chris Woodberry?

7 A Yes.

8 Q Was he a detective?

9 A He was not.

10 Q Okay. Why was he inside the crime scene?

11 A So the crime scene is considered everything inside of  
12 the tape not just the house, not just the inside of the  
13 house. So if I understand correctly, he works at the  
14 jail. He may have been down there because it was in the  
15 area that he lives. He may have been down there, I guess,  
16 you can say being a little nosey.

17 Q Okay. So when he -- I'm sorry I didn't mean to  
18 interrupt.

19 A But in a sense kind of helps when he lives down  
20 there, he lives in that area. He may know people that we  
21 don't know. And at least he is employed by the county.  
22 So -- but other than that, I don't know why he was inside  
23 of the tape unless it was before they expanded the tape  
24 that he was in there. And then they expanded it and they  
25 put him on there any way.

1 Q Okay. Okay. And I'm assuming is is that all of  
2 these people running around inside this crime scene, are  
3 you watching everybody? You can tell us every place that  
4 Chris Woodberry went inside he crime scene?

5 A No, no, I can't.

6 Q I'm sorry go ahead.

7 A I can clarify some of it as far as some of the people  
8 that are in there because at the end of the ---

9 Q Yeah, I'm going to take you through them all?

10 A Okay, okay.

11 Q I'm going to give you an opportunity to, I promise.  
12 So that's why I'm going through them one by one.

13 A I got you.

14 Q Okay. So you're not monitoring Chris Woodberry's  
15 every action to see where he's at inside of the crime  
16 scene?

17 A No.

18 Q Okay. Is that the same for Bobby Davis? I know that  
19 you said he came down there. Were you monitoring his  
20 action to see every location and everywhere he was on the  
21 inside of the crime scene?

22 A No.

23 Q Do you know how long Bobby Davis was in the crime  
24 scene?

25 A I do not.



1 Q You know how long Chris Woodberry would have been in  
2 the crime scene?

3 A I do not.

4 Q Okay. And, of course, I think Tammy Ervin -- Ervin  
5 I'm sorry that would have been he sheriff's -- Marion  
6 County sheriff's victim's advocate?

7 A That's correct.

8 Q She would come inside the crime scene to speak with  
9 the victim's?

10 A Yes.

11 Q Judith Barker she was in the crime scene, is that  
12 correct?

13 A That is correct.

14 Q And I think Judith Barker was the captain of the  
15 investigation team?

16 A She was.

17 Q Okay. So she would have been your boss?

18 A That's correct.

19 Q Okay. Do you know how long she would have been in  
20 the crime scene?

21 A Probably as long as I was there. I think we all kind  
22 of cleared up around the same time.

23 Q How long were you there?

24 A All day. It wasn't dark yet before we left, but I  
25 was late in the afternoon.

1 Q It would have been hours?

2 A Several hours.

3 Q Been several hours. I think y'all came there around  
4 11 something that morning late morning?

5 A Late morning. I want to say it was ten something.  
6 It was somewhere around -- a little bit before 11, so I  
7 probably got there somewhere after 11, right around 11.

8 Q Okay, okay. And you were there until dark?

9 A Just about not quite.

10 Q Just about dark I got you. So roughly five, six  
11 hours?

12 A A little bit more.

13 Q Okay. And, of course, you said that Captain Barker  
14 or then Captain Barker was on the scene just as long  
15 roughly?

16 A Yes.

17 Q Do you know what she was doing on the inside of the  
18 crime scene?

19 A Just standing by for the most part with everybody  
20 else just kind of keeping an eye who was coming in or  
21 keeping anybody out.

22 Q Okay. Were you following her tracking her location  
23 that entire -- with those entire five, six, seven hours  
24 whatever it was inside of that crime scene to see exactly  
25 what she was doing?

- 1 A No, not really.
- 2 Q Detective James Lee?
- 3 A Yes.
- 4 Q Okay. Was apart of, I guess, the detective team that
- 5 was investigating the crime?
- 6 A He was.
- 7 Q Okay. Was he in there just as long as you was?
- 8 A Probably not quite.
- 9 Q Okay, not quite. Okay. And do you know what he did
- 10 as part of that investigation that day.
- 11 A The same as some of the other ones just trying to
- 12 talk with some of the citizens that were there just trying
- 13 to gather whatever information he could.
- 14 Q Do you know every place he went to inside of that
- 15 crime scene?
- 16 A No, I don't.
- 17 Q Was he wearing gloves at the entire time that he was
- 18 in the crime scene?
- 19 A No, I wouldn't think so, I don't know.
- 20 Q Okay. And I'll ask the same question with respect to
- 21 Judith Barker was she wearing gloves the entire time while
- 22 she was in the crime scene?
- 23 A I don't know, I don't think so.
- 24 Q What about Chris Woodberry?
- 25 A I don't know.

1 Q You don't know if he's wearing gloves?

2 A I don't know.

3 Q Okay. Bobby Davis do you know whether he was wearing

4 gloves?

5 A I don't know.

6 Q I think Detective Samantha Jackson she was a

7 detective. She was inside the crime scene as well too?

8 A Yes.

9 Q You know roughly how long she was in there?

10 A She wasn't there as long as I was either.

11 Q Okay. Some was there some hours but definitely not

12 long as you?

13 A Correct.

14 Q Okay. Was she wearing gloves?

15 A I don't know.

16 Q Agent Barkdoll from SLED?

17 A Yes.

18 Q Was he wearing gloves?

19 A If we went inside the residence, he was.

20 Q Okay. And, of course, we know the other two I think

21 that is Special Agent Schenk, and, of course, I think

22 Special Agent Jazik. Those were the two individuals with

23 crime scene, so it's the two individuals that collected

24 the evidence?

25 A Yes.

1 Q So they had a specific purpose for being there?

2 A That's correct.

3 Q All right. And, of course, the next page I think  
4 Jerry Richardson was the coroner?

5 A Yes.

6 Q Of course, it's routine for the coroner to be on the  
7 murder scene?

8 A Yes, sir.

9 Q Is that correct?

10 A Yes, sir.

11 Q He pronounces time of death anything like that?

12 A That's correct.

13 Q Did y'all get a coroner's report from him?

14 A I didn't.

15 Q Do you know whether or not you have a coroner's  
16 report in evidence? I'm talking about in evidence. I'm  
17 talking about coroner's report, that's in your  
18 investigative file?

19 A I don't know it maybe, not in my file.

20 Q Okay. All right. I'm assuming he would have been  
21 wearing gloves or do you know whether or not he was  
22 wearing gloves?

23 A I have no idea.

24 Q Was he there when you were there?

25 A He came, yeah, briefly. He does his thing and he's

1 out. He's in and out, so he was relatively quick.

2 Q Okay. And, of course, Chad Page was he a detective?

3 A No, he wasn't. He was a road deputy.

4 Q He's a road deputy?

5 A Yes, sir.

6 Q Okay. Why would he be in the crime scene?

7 A He was one of the officers that responded. And he

8 may have been the officer that actually wrote the report.

9 I'm not sure, but he was there when they -- I'm assuming

10 when they expanded that crime scene.

11 Q Do you know how long he was in the crime scene?

12 A I don't.

13 Q Do you know whether or not he was wearing gloves the

14 entire time he was in the crime scene?

15 A I don't.

16 Q Okay. And, of course, we already talked about Justin

17 Broach. He was EMS, so I imagine is is that his

18 purpose -- he had a purpose for being there and that was

19 for medical reasons?

20 A That's correct.

21 Q Okay. Sergeant Barfield?

22 A Yes, he was one of the responding officers.

23 Q Okay. He was there prior to you?

24 A That I'm not sure.

25 Q Was he wearing gloves the entire time?

1 A I'm not sure.

2 Q Do you know whether or not how long he was in the  
3 crime scene?

4 A I don't. I know he left earlier than the majority of  
5 us.

6 Q Do you know what he did in the crime scene?

7 A I don't.

8 Q Okay. And, of course, it says Stephanie Reed. And I  
9 think that was the family friend or neighbor next door?

10 A Yes, next door.

11 Q You know why she would have been in the crime scene?

12 A Other than she walked over I don't know.

13 Q Okay. Do you know whether or not she was wearing  
14 gloves at all times?

15 A I don't.

16 Q What about -- and, of course, I think we previously  
17 talked about Officer Cribb?

18 A Yes.

19 Q I think officer Cribb from my understanding he was  
20 one of the first officers that responded on the scene?

21 A That's correct.

22 Q Okay. Did you see him or was he there when you  
23 arrived?

24 A Yeah, I believe he was there when I got there, but I  
25 don't know how long he was there before I left.

1 Q Do you know whether or not he was wearing gloves?

2 A I don't.

3 Q Do you know how long he was at the crime scene?

4 A I don't.

5 Q Okay. And, of course, Detective Hotaling I know

6 that's you?

7 A That's me.

8 Q I know why you were there?

9 A Yes, sir.

10 Q You were the lead investigator. I think Detective

11 Pike was an investigator. I'm assuming was he assisting

12 y'all in the investigation?

13 A Yes, he was.

14 Q Okay. Do you recall whether or not he was wearing

15 gloves?

16 A If he was inside the residence, he did.

17 Q Okay. I'm asking do you know -- know whether or not

18 he should have been wearing gloves. Do you specifically

19 remember whether or not he had gloves on?

20 A Yes, when we were inside the house.

21 Q Okay. All right. And I think Jimmy Gray was the

22 deputy coroner?

23 A Yes.

24 Q And I'm assuming he would have been there to assist

25 the coroner?



1 A Yes, sir, I believe he was. You don't usually get  
2 two with a double homicide. He came to assist.

3 Q Certainly, certainly. Do you know whether or not he  
4 was wearing gloves?

5 A I don't.

6 Q Okay. Do you know how long he was there in the crime  
7 scene?

8 A I don't know.

9 Q Do you know where every place he was in the crime  
10 scene?

11 A I don't.

12 Q And, of course, Robert Page?

13 A Yes.

14 Q Was he a detective?

15 A No, sir, I believe he was with the drug unit at that  
16 time.

17 Q Okay. And why would he have been in the crime scene?

18 A Same as with Bobby Page -- I mean, Bobby Davis. He  
19 came down there to assist in any way.

20 Q Was he wearing gloves?

21 A I don't know.

22 Q Do you know how long he was in the crime scene?

23 A I don't.

24 Q Do you know every place that he went in the crime  
25 scene?

1 A I don't.

2 Q Dewayne Rogers?

3 A We went over that one.

4 Q Okay. We went over Dewayne Rogers?

5 A Yeah, we went over these three.

6 Q Okay, the last three yourself, Dewayne Rogers, and I

7 think Greg Pike.

8 A So on that -- on this page that we're on together

9 down at the bottom that was on another date, that was on

10 the 16th that we had gone back down there.

11 Q So you're saying all of these people would have been

12 on the 16th?

13 A No, no, no just this page.

14 Q Oh, just this page I'm sorry.

15 A The other ones were from the original call.

16 Q And the last page would have those persons coming on

17 the 16th? I got you.

18 A Yes.

19 Q Okay, I got you. Now, let me ask you another

20 question in reference to this. And, of course, is that

21 I'm almost finish. Now, I know with crime scenes, of

22 course, does the Marion County -- at the time in which you

23 were the detective there did Marion County sheriff

24 department had some sort of protocol, specific protocol

25 that they had that addresses, you know, who comes into the

1 crime scene and addresses how you handle a crime scene  
2 like in this particular case where you have a homicide?

3 A I don't know that it was really a protocol, but it  
4 was tried to be made clear, you know, if you don't have a  
5 reason to be in it, if you are not investigations and  
6 you're not the initial responding officer, then you don't  
7 have a reason to be inside.

8 Q But that happen in this particular case. It was a  
9 lot of people who did not fit into that description that  
10 you just gave people who were not the original responding  
11 officers, people who were no investigation ---

12 MR. WHITE: Judge, is that a question or we just  
13 testifying.

14 MR. BROOKER: If I could finish, it's going to  
15 turn into a question.

16 MR. WHITE: We're all waiting.

17 BY MR. BROOKER:

18 Q I will repeat myself. Does that include -- you just  
19 explain to me is is that normally the protocol is -- there  
20 wasn't a written protocol, is that correct, that you're  
21 aware of?

22 A Not to my knowledge.

23 Q Okay. But I think it's your testimony was is is that  
24 it was kind of known that you were there on need to be  
25 basis?

1 A That's correct.

2 Q Okay. And so some of the personnel was there on a  
3 need to be basis, is that correct?

4 A That's correct.

5 Q Medical personnel, detectives?

6 A That's correct.

7 Q And, of course, the first responders to the incident?

8 A That's correct.

9 Q Okay. But there was other officers that was inside  
10 of that scene that did not fit into that category, is that  
11 correct?

12 A They fit in later in the day.

13 Q Okay, okay. So having 20 something people trouncing  
14 around in the crime scene, you're saying is is that that's  
15 -- that's typical Marion County ---

16 MR. WHITE: Your Honor, I object to  
17 characterization of trouncing around. I don't think  
18 anybody's testified to that.

19 THE COURT: You can ask it.

20 BY MR. BROOKER:

21 Q I'll ask you it again. Let me try to use a polite  
22 word. To have 20 something people walking around, running  
23 around in the crime scene, is that typical?

24 A Not everybody was in the crime scene all at one time.  
25 There wasn't 24 or five in the crime scene at one

1 particular time.

2 Q I know. And, I guess, that's not relevant. I'm  
3 saying is it normal to have 20 people entering  
4 in a crime scene? Twenty something people entering a  
5 crime scene?

6 A You try not to, but it does happen.

7 Q And why do you try not to do that?

8 A Just to keep whatever contamination down as far as  
9 footwear impressions like in the yard in this case. Then  
10 you have 40 something pair of footprints.

11 Q Okay. And I know that you said you were trained --  
12 you received some training as a detective. Do they  
13 train -- when you were receiving your training as a  
14 detective, were you trained that that evidence can be  
15 transferable -- transferred from one place to the other?

16 MR. WHITE: Objection. He's not an expert in  
17 that field, Judge.

18 MR. BROOKER: I'm not asking him as an expert.  
19 I'm asking as his training as -- I clearly stated his  
20 training as a detective.

21 THE COURT: Overruled.

22 BY MR. BROOKER:

23 Q Was that apart of your training as a detective?

24 A Sure.

25 Q Okay. Like you said try to eliminate and reduce

1       contamination?

2       A       That's correct.

3       Q       Okay. Now, I think when you testified that you

4       testified that there were two suspects that you all had

5       that were eliminated that was Jerome McCullough, is that

6       correct?

7       A       Correct.

8       Q       And, of course, I think you said that he was

9       eliminated because he was wearing GPS?

10      A       That's correct.

11      Q       Okay. And, of course, I think you also said that

12      there was a gun that was excluded or eliminated?

13      A       That's correct.

14      Q       Was that a gun that was obtained from Mr. McCullough?

15      A       Yes.

16      Q       Okay. And it's your testimony that that gun was

17      excluded?

18      A       Yes.

19      Q       Okay. And, of course, the boyfriend Fred Reed I

20      think was it Fred Reed? I think it's -- was it Fred

21      Reeves?

22      A       Reeves, yes.

23      Q       And, of course, you said that he was excluded?

24      A       Yes.

25      Q       Okay. And because he was wearing a GPS monitoring?

1 A That's correct.

2 Q Okay. Now, let me talk with you a little bit about  
3 the interview that was played with Issac Hemingway.

4 A Okay.

5 Q I think these individuals their bodies were  
6 discovered on January 13th is that correct?

7 A Correct.

8 Q And I think Issac Hemingway was interviewed on  
9 January 15th roughly two days later?

10 A Correct.

11 Q Okay. It's my understanding is is that he came in  
12 voluntarily?

13 A Yes.

14 Q He had no obligation to come speak with you?

15 A That's correct.

16 Q So he did this of his own free will?

17 A That's correct.

18 Q Okay. And I think the jury heard that interview.

19 And I think to some of this I'm going to rephrase some of  
20 what he told you and I'm going to ask you some questions  
21 about it. I want to make sure that I get this right. I  
22 think he told you that himself, his girlfriend, Latasha  
23 Baines. And, of course, his girlfriend's son I think  
24 Michael Boone all traveled down this was on a Saturday,  
25 right?

1 A Correct.

2 Q Saturday somewhere around about noon to pick up his  
3 kids from Centenary?

4 A No, not on Saturday. They all didn't go to pick them  
5 up. I think just his -- just her son came with him.

6 Q I don't want you to get the first and second trip  
7 confused. And, of course, is is that a jury will have a  
8 chance to look at it. There were two trips right. I'm  
9 talking about the first trip?

10 A Right.

11 Q Okay. Did he not testify to that Latasha -- and if  
12 you don't remember, say you don't remember or if you  
13 remember differently tell me something. I'm going to go  
14 ahead and move on.

15 A Okay.

16 Q Because the jury will be able to see the interview if  
17 they wanted to later. I think that he said Latasha,  
18 himself, and, of course, Latasha's son came down and  
19 picked up the three kids. Is that what your recollection  
20 was?

21 A No, not on the first trip.

22 Q Not on the first trip.

23 A It was in the diesel truck.

24 Q That's correct. It was in the F-250 diesel truck, is  
25 that correct?



1 A Yes.

2 Q Okay. And, of course, I think you said that when he  
3 got there, it's your understanding that that he was only  
4 able to get three of the kids?

5 A Correct.

6 Q Three small ones?

7 A Correct.

8 Q Okay. Because Kareema had community service at two  
9 o'clock?

10 A That's right.

11 Q So he left and returned back to Conway with the three  
12 kids?

13 A The first trip, yes.

14 Q Yes, the first trip. And then, of course, he told  
15 you later on that he came back and picked up Kareema later  
16 that afternoon threeish, fourish, is that correct?

17 A That's right.

18 Q And, of course, Lakeshia's son Michael Baines was  
19 with him in that second trip?

20 A I don't believe so because he went to his -- he took  
21 Kareema to his father's.

22 Q And, of course, said that after they pick up Kareema,  
23 they went to his father's house or his father can talk  
24 with Kareema?

25 A That's right.

1 Q Okay. And that was about 30 minutes that they stayed  
2 there?

3 A Yes, sir, thereabouts.

4 Q And before returning to Conway?

5 A Right.

6 Q Okay. Now, did you talk with or did you interview  
7 Latosha Baines?

8 A I did not.

9 Q Did you attempt to contact her or interview her?

10 A No, I didn't.

11 Q Okay. Did you attempted contact with Michael Boone  
12 Latisha's son?

13 A I attempted to locate him, yes.

14 Q Okay. Now, it's my understanding is if you correct  
15 me if I'm wrong is is that in the interview, in the  
16 interview with Issac on the 15th, didn't Issac tell you  
17 that Michael Boone was living with them in Conway?

18 A I don't recall that.

19 Q Did you ever ask Issac can you help get me in contact  
20 with Michael Boone?

21 A No.

22 Q So when you say you tried what efforts did you employ  
23 to try to get in touch with Michael Boone?

24 A I rode to the only location that he had that I had on  
25 file to his residence.

1 Q Okay. Now, I think his testimony also was that after  
2 he had picked up the second trip after he picked up  
3 Kareema and they came back to Conway to his house, you  
4 remember his testimony was is is that he -- I think he  
5 prepared chicken bog for dinner?

6 A Yes.

7 Q Remember that. And he said that they ate chicken  
8 bog. And then, of course, do you remember him testifying  
9 in the interview or saying in the interview that somewhere  
10 around about nine or ten o'clock that they left -- that  
11 he, his girlfriend, Ms. Baines, and, of course, her son,  
12 Michael Boone, left and went to Antwan Kelly's house?

13 A Yes.

14 Q Okay. And they went there to play cards?

15 A Yes.

16 Q Okay. Did you contact Antwan Kelly?

17 A I did not.

18 Q So did you interview him?

19 A I didn't.

20 Q You didn't. Did anyone else on your team interview  
21 him?

22 A I believe one of the other investigators did.

23 Q Do you know which investigation?

24 A I'm not certain.

25 Q Okay. Now, don't tell me what anybody said that's

1 hearsay, okay, but do you know what the results of that  
2 interview was? Do you know what Mr. Baines said? Don't  
3 tell me what he said. I'm asking you do you know what he  
4 said?

5 A No, I don't think Mr. Baines was ---

6 Q I'm sorry Mr. Kelly. Antwan Kelly.

7 A I know part of what was said.

8 Q And, of course, I believe his testimony was is is  
9 that after they left somewhere around midnight roughly  
10 they left all three of them went back home, is that  
11 correct?

12 A That's correct.

13 Q Issac, his girlfriend, and I think his girlfriend's  
14 son?

15 A Correct.

16 Q Okay. And I think his testimony was that that after  
17 he left he was in for -- they were in for the rest of the  
18 night?

19 A That's correct.

20 Q Okay. And his testimony was that he didn't leave his  
21 home until the next day that Sunday morning?

22 A That's right.

23 Q And I think you said that he left and he went to a  
24 friend's house. I think that friend was Blake Johnson?

25 A That's correct.

1 Q Okay. That was around about somewhere tenish or 11,  
2 ten or 11 o'clock that he went to Blake Johnson's house?

3 A That's right.

4 Q Okay. Did you ever contact Blake Johnson?

5 A I was unable to locate a Blake Johnson.

6 Q Okay. And when you said you were unable to locate  
7 him what do you mean you were unable to locate him?

8 A At that time I couldn't find a Blake Johnson somebody  
9 by that name in the area.

10 Q What efforts did you employ to locate him?

11 A DMV, Facebook.

12 Q Now, if you could remember on the interview, Issac  
13 gave you a step-by-step direction as to how to get to his  
14 house?

15 A Sure.

16 Q Remember when he says that you go down -- you go down  
17 501 get on 701?

18 A Yes.

19 Q Then, of course, once you get on 701, you pass the  
20 Family Dollar and then there is a church. And he said  
21 that that road right next to the church he said that's  
22 the road that you get on. He gave you a step-by-step  
23 direction?

24 A That's right.

25 Q Told you exactly how to get there, the color of the

1 house, trailer house. And, of course, told you exactly  
2 what he drove something like a -- some sort of Dodge  
3 minivan or something like that?

4 A That's correct.

5 Q Okay. Did you hop in your car and drove out there to  
6 try to follow those directions to find that house?

7 A I did not.

8 Q Did you ever contact Issac -- I think in that  
9 interview Issac said that if you need me to get these  
10 addresses, I can get the specific addresses for you. Did  
11 you take him up on that and said, hey, Issac, we can't  
12 locate this guy? Could you give us his address so that we  
13 can go out there and speak with him?

14 A I contacted Issac afterwards for the meeting and that  
15 was the last I had contact with him.

16 Q Did you ever ask him if he could get the -- get  
17 Blake's address for you?

18 A I was unable to get in contact with him his phone  
19 didn't never work.

20 Q I think you testified that you did two interviews  
21 with him. At least one other interview with him after  
22 that and that was December one?

23 A Yes, that was then, yes.

24 Q In December one, you said you had an interview with  
25 him, right?

1 A Yes.

2 MR. BROOKER: Beg the Court's indulgence for  
3 just a second, your Honor.

4 BY MR. BROOKER:

5 Q I think he testified to you that he and Maisha Burch  
6 had been in a relationship for roughly I think it was 13  
7 years he says?

8 A Thirteen years, yes, sir.

9 Q Had five children from that relationship?

10 A Yes.

11 Q Okay. And they broke up five years before Ms. Burch  
12 and Mr. Legette's murder?

13 A Somewhere thereabouts five to seven years.

14 Q Okay. And I think that afternoon and I'm jumping  
15 around a little bit. I'm going to take you back to that  
16 Sunday, okay. I apologize. I'm going to take you back to  
17 that Sunday when I was talking about a Blake Johnson. I  
18 think you said that he went to visit Blake Johnson on that  
19 Sunday and that he stayed there for an hour, an hour and a  
20 half or so?

21 A That's correct.

22 Q And that you left o go back home. And, of course, he  
23 stopped at a dollar store to pick up some stuff on his way  
24 back home?

25 A That's correct.

1 Q And my understanding is is that once he got back home  
2 he was there until it was time to take the kids home?

3 A That's correct.

4 Q Okay. And his testimony was that he -- that himself  
5 that Latosha Baines I think his girlfriend and all of the  
6 children, all four of the children that Sunday afternoon  
7 somewhere around about -- I think he said around about  
8 that six, seven started heading back toward Centenary to  
9 drop them off?

10 A That's correct.

11 Q Okay. And he said that he made multiple calls to  
12 Maisha Burch to try to tell her he was on the way bringing  
13 the kids back, is that correct?

14 A That's correct.

15 Q And I think once they got there no one was at home or  
16 no one they could see was at home. The place was dark.  
17 Ms. Burch house was completely dark?

18 A That's correct.

19 Q Now, he said that that they drove around to Shauntel  
20 Price's house to see whether or not Shauntel Price who  
21 lived in the neighborhood say whether or not she saw Ms.  
22 Burch?

23 A That's right.

24 Q Okay. Did y'all contact Ms. Price? Did you contact  
25 Ms. Price?



1 A I don't remember if I did or if one of the other  
2 investigators did. I really don't know.

3 Q Do you know whether or not -- first, I'll just start  
4 off with you. Did you contact her?

5 A I don't remember I'm not sure.

6 Q Okay. I got you. And you don't recall whether or  
7 not one of the other investigators contacted you as well  
8 either?

9 A I don't.

10 Q Okay. And I think it's his testimony that that --  
11 after -- or his statement was is is that Ms. Price hadn't  
12 seen Ms. Burch and so that's when they contacted Ms.  
13 Burch's daughter Shkyria Edmunds?

14 A That's right.

15 Q And they were able to reach her, is that correct?

16 A That's correct.

17 Q And that Issac then drove the kids to Marion County  
18 to drop the kids off to her -- to Ms. Edmunds neighbor's  
19 house because she was not home?

20 A That's right.

21 Q Okay. And then they returned back to Conway?

22 A That's right.

23 Q Herself and -- himself -- him and his girlfriend  
24 Latosha?

25 A That's right.

1 Q Just a couple of other questions. Now, I know that  
2 you testified that y'all -- that during your investigation  
3 that you recovered one gun and that was from -- I'm sorry.  
4 I didn't mean to interrupt you go ahead.

5 A No, no, you good.

6 Q Okay. You recovered one gun and that was from I  
7 think Mr. Jerome McCullough?

8 A That's correct.

9 Q Okay. Did you recover any other weapons during the  
10 course of this investigation?

11 A No.

12 Q Were you able to identify anybody during the course  
13 of your investigation that was an eyewitness to the  
14 murders?

15 A No.

16 MR. BROOKER: If you can indulge me for just a  
17 second, your Honor. Let me make sure that I don't have  
18 any follow-up questions.

19 (WHEREUPON, a pause in the proceedings.)

20 MR. BROOKER: No further questions, your Honor.

21 THE COURT: All right, redirect.

22 MR. WHITE: Yes, sir, Judge. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. WHITE:

25 Q Mr. Hotaling, just briefly, let's just go back over a

1 few things, okay.

2 A Okay.

3 Q I'm going to get you down. Mr. Hotaling, going back  
4 to the crime scene and this call when it comes out, this  
5 is a double murder, right?

6 A Right.

7 Q Is Centenary is that the community in which this took  
8 place?

9 A It is.

10 Q Would you describe that as a very small community?

11 A Very small.

12 Q And when a double murder goes out in Marion, but in  
13 Centenary is that normal or abnormal?

14 A Abnormal.

15 Q And when you have something like that and the  
16 sheriff's office is involved is it all hands on deck?

17 A Everybody.

18 Q And we mention there were a lot of people in the  
19 crime scene, but not a lot of people in the house, right?

20 A Right.

21 Q So that -- and I think you can see it here. I'm  
22 going to show you State's Exhibit 3 that yellow tape is  
23 that extend all the around the perimeter of the home?

24 A The whole basically a half a block I guess you could  
25 call it for that little small area.

1 Q So I'll show you you can further see it in State's  
2 Exhibit 5 is that the crime scene tape there?

3 A Yes.

4 Q So, I mean, the crime scene it's huge because you're  
5 trying to keep people out, right?

6 A It is, yes.

7 Q So all the people that are mentioned in the crime  
8 scene log are anybody that comes inside that tape?

9 A Yes.

10 Q But a very small few go inside the house?

11 A That's correct. In this case, at the very end of the  
12 investigation with SLED's crime scene was done. EMS  
13 requested some help from deputies and some of those went  
14 in with us to help them. SLED was done and so we went in  
15 to help, you know, load up the bodies.

16 Q I understand. So 25 or so folks, but several when it  
17 comes to two people brutally murdered in Centenary, Marion  
18 County. I mean, a lot of these people are just responding  
19 for safety purposes, right?

20 A There is yes, yes.

21 Q And then as say secure the scene and others arrive on  
22 scene, you mentioned some are arriving because they are in  
23 the area. They know folks, right?

24 A They do. There was a large crowd that had or the  
25 citizens of Centenary a lot of them had gathered down

1     there and we needed more help.

2     Q     So you needed more help.  You needed all those folks?

3     A     All of them.

4     Q     And everybody who went into the crime scene, you  
5     testified all gloved up?

6     A     Yes.

7     Q     In the crime scene inside the home?

8     A     Inside the residence, yes.

9     Q     And all the folks that are on there went who inside  
10    the house and were inside that block tape, did they all  
11    receive the same training that you did?

12    A     Yes.

13    Q     All went to the academy?

14    A     Yes.

15    Q     All were trained once they get back to the sheriff's  
16    office?

17    A     Yes.

18    Q     Now, you heard Mr. Brooker ask about the coroner and  
19    whether he submitted paperwork in this case.  Is your  
20    understanding the coroner refers the body for autopsy and  
21    the pathologist then generates a report?

22    A     That's correct.

23    Q     Okay.  Now, Mr. Brooker mentioned a lot of folks  
24    that you didn't interview, but that's why you had these  
25    people assisting you.  A lot of those people were

1 interviewed, correct?

2 A Yes.

3 Q And in fact almost the majority of them that he  
4 mentioned were interviewed, is that right?

5 A Yes.

6 Q Okay. But going back to Blake Johnson, you couldn't  
7 verify that a Blake Johnson even existed, is that right?

8 A I couldn't.

9 Q So would it be fair to say without an address and  
10 without verification that that was actually a real person  
11 in that area, you been in a wild goose chase?

12 A Correct or if that's not his actual legal first name.

13 Q Now, he also made a big deal about, well, you didn't  
14 follow up with Issac Hemingway, but that's not the case is  
15 it?

16 A Correct.

17 Q You did follow up with Issac Hemingway?

18 A Yes.

19 Q And in fact you scheduled a meeting with Issac  
20 Hemingway a second meeting, is that right?

21 A That's correct.

22 Q Did you show up?

23 A I did.

24 Q Did Issac Hemingway show up?

25 A He did not.

1 Q Did you try to call him?

2 A I did.

3 Q And did your phone did it go through?

4 A It just rang. It had no answer.

5 Q Eventually, when you take him into custody, you talk  
6 to him and he tells you about that phone. Did he tell you  
7 in fact that he got rid of that phone?

8 A Yes, yes.

9 Q And he never notified you that he had a new number?

10 A That's correct.

11 Q He never reached out to you to say, hey, I got rid of  
12 the phone?

13 MR. BROOKER: Your Honor, we may need to  
14 approach.

15 (WHEREUPON, a bench conference was held in the  
16 presence of the jury, but out of the hearing of the  
17 jury on the record.)

18 MR. BROOKER: These are facts about the second  
19 interview, second interview is not in evidence yet.

20 MR. WHITE: Well, I mean, it's about what he --  
21 I mean, it's a statement -- it's a party opponent.

22 MR. BROOKER: But he's giving -- you're asking  
23 him to give statements about Mr. Hemingway's second  
24 statement, and the second statement is not in evidence  
25 yet. He can't testify to something that's not in

1 evidence.

2 MR. WHITE: He certainly can. Judge Seals has  
3 already ruled that it's admissible. I haven't laid a  
4 foundation to publish the recorded interview, but I can  
5 certainly ask him any statement that was made. He can  
6 elicit it. He was inside the room. He can elicit it from  
7 testimony.

8 THE COURT: It's a whole lot of leading.

9 MR. BROOKER: It's not been entered into  
10 evidence yet, and, of course, it has to be entered into  
11 evidence before the jury.

12 MR. WHITE: That's not ---

13 MR. BROOKER: Well, do what you want and let me  
14 just put my objection for the record.

15 THE COURT: Why don't you just go ahead just lay  
16 the ---

17 MR. BROOKER: We have some redaction issues. We  
18 have some redaction issues.

19 MR. WHITE: He has redaction issues, that's why  
20 I can't move it in at this time. I'm going to wrap up.

21 THE COURT: Okay.

22 (WHEREUPON, a bench conference was held in the  
23 presence of the jury, but out of the hearing of the  
24 jury on the record has ended.)

25



1 BY MR. WHITE:

2 Q Last question tried to get in touch with him?

3 A Yes.

4 Q And could not?

5 A Could not.

6 MR. WHITE: I have nothing further.

7 THE COURT: All right. Any follow up to that,  
8 Mr. Brooker.

9 MR. BROOKER: Yes, just very quickly.

10 RECROSS-EXAMINATION

11 BY MR. BROOKER:

12 Q Just some follow-up questions for clarification about  
13 what you just asked about Mr. Ryan. And I think he asked  
14 you whether or not this was a -- whether or not double  
15 murders were abnormal, and you said, yes, for such a small  
16 community. So I'm assuming because it was abnormal had  
17 you ever worked a double murder case like this one before?

18 A Off the top of my head I don't think so, but I worked  
19 so many they're abnormal anywhere usually.

20 Q Okay, okay. So you don't remember working any double  
21 homicides before?

22 A Actually, yes, one in Nichols.

23 Q Okay. Now, he also ask you not -- you said that --  
24 he asked you was everybody gloved up and you said, yes.

25 And I'm a little bit confused by that because when I ask

1 you, and, of course, both of these statements can't be  
2 true. When I asked you and went through every single  
3 person who entered the crime scene and ask you whether or  
4 not you knew whether or not they were wearing gloves. And  
5 you said to me many of them if not most of them you did  
6 not know. So how could everybody be gloved up and you  
7 tell Mr. White that everybody's gloved up and you tell me  
8 during my examination that most of these people you're not  
9 aware whether or not they were wearing gloves how can both  
10 of those statements be true?

11 A In the crime scene outside, I don't know whether they  
12 were wearing gloves the whole time, but ones that were  
13 inside the residence they were wearing gloves.

14 Q I also ask you for most of those people were you able  
15 to follow -- and he ask you whether or not -- I think he  
16 suggested to you that not a lot of people went into the  
17 house because I think what he asked you was you said, yes,  
18 not a lot of people went in the house, but I think you  
19 told me at least seven people who went into the house  
20 maybe three EMS people?

21 A Correct.

22 Q There was three EMS people. There was McCaskill.  
23 There was Chris. There was you, and, of course, you said  
24 another investigator went in with you?

25 A Pike.

1 Q Okay. And then also when I ask you -- so at least  
2 seven we know that went in there?

3 A At least.

4 Q Okay. And so -- and I also ask you whether or not  
5 you were following everybody else in that crime scene to  
6 determine -- so you can monitor exactly where they went  
7 and what they did. And you said most of those people you  
8 said you were not monitoring everything that they were  
9 doing?

10 A Not outside in the crime scene being outside of  
11 the -- outside of the home, no, but inside, yes.

12 Q Okay. So you could tell us everybody that went  
13 inside the crime scene?

14 A Outside the crime scene, no.

15 Q Inside the house?

16 A Inside the house?

17 Q Uh-huh.

18 A It gets a little vague at the end when we help EMS  
19 load the patients.

20 Q Okay. And I'm almost finish I promise. I'm going to  
21 ask you again about that because you were asked I think on  
22 redirect about Blake Johnson. And you said that you  
23 couldn't verify that he was a real person. And I think  
24 when I ask you on cross-examination what efforts did you  
25 take to verify. I think you said that DMV and Facebook?

1 A Correct.

2 Q Okay. But you said that you didn't attempt to drive  
3 out there from the directions that was given to you by Mr.  
4 Hemingway?

5 A I didn't.

6 Q So you're not testifying that Blake Johnson don't  
7 exist. You testifying that you just couldn't find him?

8 A No, that's correct.

9 MR. BROOKER: If you could indulge me for just a  
10 second, your Honor. I think I might be finished.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. BROOKER: No further questions.

13 THE COURT: All right, let me speak to both of  
14 you over here real quick.

15 (WHEREUPON, a bench conference was held in the  
16 presence of the jury, but out of the hearing of the  
17 jury on the record.)

18 THE COURT: I want to remind both of you that  
19 we're getting ready to do the DNA expert. And we're going  
20 to have to analyze 702 and 403. 702 has three prongs to  
21 qualify an expert. And there's four specific questions  
22 that that will be answered in regard to reliability. You  
23 all make sure you cover it.

24 MR. WHITE: Yes, sir.

25 THE COURT: Those are basic stuff right there

1 that we know about an expert.

2 MR. BROOKER: I know, and he's going to have to  
3 cover it because ---

4 THE COURT: And those are questions regarding  
5 reliability issues she's got to answer in some form or  
6 fashion.

7 MR. WHITE: Okay.

8 MR. BROOKER: And that burden is on him because  
9 the State has the burden once the issue is raised. They  
10 have the burden.

11 THE COURT: That's right. But if you need a  
12 break so you all need to look at the rule, look at the  
13 rule, but I'm following it carefully.

14 MR. WHITE: Yes, sir.

15 THE COURT: Okay. You ready?

16 MR. WHITE: You doing it outside the presence of  
17 the jury, right.

18 THE COURT: Yeah, yeah, we're going to do the  
19 entire testimony outside their presence. You ready to  
20 call her now?

21 MR. WHITE: Yeah, yeah. We're going to have to  
22 cut the jury loose.

23 THE COURT: I think so too.

24 (WHEREUPON, a bench conference was held in the  
25 presence of the jury, but out of the hearing of the

1 jury on the record has ended.)

2 THE COURT: All right. Members of the jury, I'm  
3 going to excuse you for the day. We have a lot of work we  
4 have to do this afternoon to get it ready for you in the  
5 morning, so I hope you have a good afternoon. Do not  
6 discuss or research the case. Everybody else remain  
7 seated as the jury is excused. 9:30.

8 (WHEREUPON, the jury is excused for the day.)

9 THE COURT: You have any problem with him going?

10 MR. WHITE: No, sir.

11 THE COURT: Mr. Brooker, you okay with him  
12 going?

13 MR. BROOKER: I'm sorry.

14 THE COURT: Is it okay if he leaves? Is he  
15 excused?

16 MR. BROOKER: Yes, yes, sir, your Honor.

17 THE COURT: Have a good day.

18 (WHEREUPON, the witness leaves the witness  
19 stand.)

20 THE COURT: All right, let's take a ten minute  
21 break and we'll come back and do the DNA witness.

22 (WHEREUPON, a break was taken.)

23 THE COURT: I'm ready to proceed when you are.

24 MR. WHITE: Thank you, Judge. The State would  
25 call Maryann Boehm.

1 THE CLERK: Do you swear to tell the truth, the  
2 whole truth, and nothing but the truth so help you God?

3 THE WITNESS: I do.

4 WHEREUPON,

5 Maryann Boehm,  
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION IN-CAMERA

8 BY MR. WHITE:

9 Q Good afternoon, Ms. Boehm.

10 A Good afternoon.

11 Q If you could tell us where are you employed?

12 A I am employed at the South Carolina Law Enforcement  
13 Division commonly known as SLED.

14 Q And in what capacity are you currently employed?

15 A I am a DNA analyst in the DNA case work department.

16 Q And how long have you been employed in the role?

17 A A little over 17 years.

18 Q Now, can you talk to us a little bit about your  
19 training, your expertise that led you to become an expert  
20 in that field?

21 A Yes, so as a DNA analyst, you're required to have a  
22 particular degree a bachelor of science and a science  
23 degree. So my degree from James Madison University, which  
24 is in Harrisburg, Virginia is an integrated science in  
25 biotechnology or integrated science and technology with a

1 concentration in biotechnology.

2 THE COURT: Talk just a little bit slower, so I  
3 can catch up with you.

4 A Sorry, yes, sir. So upon graduation, I actually  
5 worked for a private forensic DNA lab first called Orchid  
6 Cellmark. I was trained there as a DNA analyst. I work  
7 there for about two and a half years prior to my  
8 employment at SLED where I went through the proper  
9 training and procedures used at SLED before I was deemed  
10 competent to be doing independent case work.

11 Q And year to year do you receive ongoing training and  
12 education?

13 A Yes, sir, we are required to have at least eight  
14 hours of continuing education each year.

15 Q And if you had to guess how many times do you think  
16 -- and you might not need to guess, that you've testified  
17 as an expert in the field of DNA analysis?

18 A Eighty-three times.

19 Q Now, the SLED laboratory is it accredited?

20 A It is, sir.

21 Q And what is that mean?

22 A Accreditation is a set of standards. We are actually  
23 accredited by three different accrediting bodies in the  
24 DNA case work department. It is a set of standards  
25 provided by the accrediting body to make sure we're doing



1 the right procedure following or doing work up to the  
2 standards. We have external audits by its accrediting  
3 agencies. They comment and check all our procedures, our  
4 work. They interview staff to make sure that we are  
5 saying what we do and what we're doing is following the  
6 standards set forth by the accrediting agencies.

7 Q Is that ensure quality control?

8 A That is part of it, yes, sir.

9 Q What's the other part of it? What's the in-house  
10 method of qualify control?

11 A So our quality control oversees a lot of the every  
12 day-to-day procedures used in our labs. So every method  
13 that we use for DNA analysis has the Gofer (sic) sticker  
14 of validation. So a validation is a study to make sure  
15 that whatever test method that we are using is reliable,  
16 reproducible (sic), sensitive. It's not going to create  
17 any contamination. Also, that it is working as the  
18 manufacturer or how we expect it to work. So it goes  
19 through a very very long procedure for validation before  
20 we can even be tested to use this. So after validation,  
21 we are training in that procedure or method. After we are  
22 trained, we have to take a competency test, which is  
23 generally at least allowed practical or whatever method  
24 our standard we're doing the new method. And sometimes we  
25 have to take a written test, an oral test or a mock trial

1 depending on the new or addition instrumentation or method  
2 used in our lab.

3 Q Okay, very good. And that's the quality control of  
4 your method of your DNA analysis. What are the different  
5 types of those methods of DNA analysis?

6 A So the method I think you're referring use STR PCR  
7 DNA testing, another part of the quality control is that  
8 we are required to take proficiency test each year on  
9 those methods to make sure we are, you know, getting the  
10 answers right essentially on those proficiency tests.

11 Q And are those methods used nationwide?

12 A Yes, sir.

13 Q Are they used worldwide?

14 A They are.

15 Q Have they been published and peer reviewed?

16 A Yes, sir.

17 Q And are you aware of publications and peer reviewed  
18 for the peer reviews the method that you used in this  
19 particular case?

20 A That is, yes, sir.

21 Q Now, what is the method that you used in this  
22 particular case?

23 A So I use STR PCR DNA analysis.

24 Q And are you familiar with State v. Phillips?

25 A I am.

1 Q And in that particular case, what was the method that  
2 the DNA analysis used there?

3 A STR PCR DNA analysis.

4 Q And what's the difference between what they call in  
5 that case random match probability and STRmix as we see it  
6 in your report?

7 A So that is a different type of interpretation that we  
8 are doing. So we are required by one of our auditing --  
9 accrediting agencies to quote a statistic to show how much  
10 meaning the DNA inclusion is for each item we test or  
11 comparison we do. So random match probability was what we  
12 were using at the prior to late 2018 all the time. We  
13 still use it for some of our amplification kits. However,  
14 in 2018, we transition to STRmix, which is a probabilistic  
15 genotyping software that uses likelihood ratios instead of  
16 random match probability for our representation in weight  
17 of the evidence in that comparison.

18 Q So the same method used in both cases but a different  
19 interpretation?

20 A That is correct.

21 Q Here we use STRmix. There they're using random  
22 match probability, is that right?

23 A That's correct.

24 Q And here in this specific case -- well, let me start  
25 by saying how does DNA come into your laboratory?

1 A So it is submitted by either our crime scene  
2 department or local law enforcement agencies.

3 Q And do you receive it -- go through that same quality  
4 control process that you mentioned earlier?

5 A So once it is brought to my lab, it will be given a  
6 unique SLED lab number and each item gets an item number.  
7 We make sure that every item of evidence or known standard  
8 is packaged correctly. There's no signs of tampering and  
9 then it is stored in a secure location until somebody's  
10 ready for it. All these are tracks using a chain of  
11 custody. So it tracks every person to person transfer,  
12 every person to storage location. It tracks the date and  
13 the time in the person who's doing that. So then when I'm  
14 ready for it I would request that evidence from evidence  
15 control and take it into my custody. And when I take it  
16 into my custody, I'm going to make sure again that it does  
17 not look like it's been tampered with, that everything's  
18 sealed. And that is part of our quality control process.

19 Q And then those procedures occur in this particular  
20 case?

21 A Yes, sir.

22 Q Do you have your report in front of you, Ms. Boehm?

23 A I do.

24 Q I'm going to walk through it with you if you don't  
25 mind. I want you to explain just everything that's listed

1 here. And I want to start with the comparison standards  
2 and there quite a few over the first couple pages. What  
3 are comparison standards?

4 A Comparison standards are DNA profiles from a known  
5 source is taken directly off of that person, so we know  
6 that the DNA profile developed is from that person.

7 Q And what's the difference between, you know, having a  
8 full panel and a partial panel? What is does that mean?

9 A A full DNA profile?

10 Q Yes, I'm sorry.

11 A Yes, so a full DNA profile we would be -- we test 24  
12 different locations and if we get results at all 24  
13 locations. Then that would be called or considered a full  
14 DNA profile if we only get results at some of those  
15 locations, it would be called a partial DNA profile. Now,  
16 partial profile could be missing one location or it could  
17 be missing many locations. They're all just partial.

18 Q And dealing specifically with the buccal swabs from  
19 Issac Hemingway were they full or partial?

20 A It was a full profile.

21 Q Okay. Now, turning to the items of evidence listed  
22 here, I'm going to direct your attention to item three  
23 swabs from the back door exterior door handle of the  
24 residence. If you could walk us through that process and  
25 your results? And want to ask first before you start the

1 profile that was pulled from the back door was that a full  
2 or was it a partial?

3 A It was a partial DNA profile that was a mixture.

4 Q And what were the results from -- and, again, you're  
5 analyzing and comparing that particular piece of item to  
6 the buccal swab pulled from Mr. Issac Hemingway, is that  
7 right?

8 A Yes, so I compare all unknown profiles from evidence  
9 that are considered suitable for interpretation to all of  
10 the known standards submitted in that case.

11 Q Okay, very good. If you could walk us through your  
12 results on item of evidence number three please?

13 A All right. So the first step would be once I  
14 developed a DNA profile, I determine whether if it's  
15 suitable for use for comparison. I did in this sample and  
16 then I make my comparisons. So I have many proposition  
17 sets listed for this item comparing each known standard to  
18 this item.

19 Q And I want to stop you right there. What is a  
20 proposition set?

21 A So for using STRmix, we use likelihood ratios. And a  
22 likelihood ratio is the mathematical comparison of two  
23 events to determine what better explains the scenario or  
24 event. So the scenario would be the DNA profile  
25 developed, so the possible scenarios to explain why I got

1 that DNA profile would be the proposition set. So we do  
2 two different propositions with one -- the first one would  
3 be the person of interest so that known standard  
4 contributed to the profile and then the complete opposite  
5 for the other event. Somebody other than that person  
6 contributed to that profile.

7 Q Okay, very good. What were your results of each  
8 proposition set under item of evidence number three?

9 A All right. So the DNA profile was interpreted as a  
10 mixture originating from three individuals. So my first  
11 proposition set was comparing Andrew Legette. So Andrew  
12 Legette and two unidentified unrelated individuals  
13 contributed to the mixture. Then the other scenario would  
14 be that three unidentified unrelated individuals  
15 contributed to the mixture. Then the results were the DNA  
16 profile is approximately 50,000 times more likely if  
17 Andrew Legette and two unidentified unrelated individuals  
18 contributed to the mixture than if three unidentified  
19 unrelated individuals contributed to the mixture.

20 Q And I want to stop you right there. And I should  
21 have asked you before, but there is a chart at the end of  
22 each report, correct, that deals with likelihood ratio  
23 table, is that right?

24 A Yes, so in the note section of our report, we have  
25 these two tables that assist with how much support to

1 place on a likelihood ratio. It is a table that we  
2 developed through our validation of STRmix. It's also the  
3 table that is recommended by an outside agency that  
4 oversees DNA analysis called SWGDAM.

5 Q It reads the likelihood ratio that's one it's  
6 uninformative from two to 99, that's weak support. From  
7 100 to 9,999 moderate support. And then so on to strong  
8 support and very strong support, is that right?

9 A That's correct.

10 Q If you could as you walk through each proposition set  
11 at the end of it, if you could tell us what degree of  
12 support that is on your likelihood table?

13 A Yes, sir. So for that first one comparing Andrew  
14 Legette to item three the likelihood ratio was  
15 approximately \$50,000, so that would equate to strong  
16 support. So that strong support that that scenario that  
17 Andrew Legette and two unidentified unrelated individuals  
18 contributed to the mixture best explains why I have that  
19 DNA profile.

20 Q Okay. Very good. If you could move to proposition  
21 set two?

22 A So for this proposition set, I compared Issac  
23 Hemingway and two unidentified unrelated individuals  
24 contributed to the mixture versus three unidentified  
25 unrelated individuals contributed the mixture. And the



1 results were that the DNA profile is approximately one  
2 billion times more likely if Issac Hemingway and two  
3 unidentified unrelated individuals contributed to the  
4 mixture than if three unidentified unrelated individuals  
5 contributed to the mixture. And one billion would be very  
6 strong support.

7 Q Very good. And proposition set three under item  
8 three?

9 A So any time we have inclusionary likelihood ratios  
10 support, so that would be a likelihood ratio supporting  
11 the first scenario we combine the known standards. So  
12 that's what I did for proposition set three. So I  
13 compared Andrew Legette and Issac Hemingway together. So  
14 Andrew Legette, Issac Hemingway and an unidentified  
15 unrelated individual contributed to the mixture versus  
16 three unidentified unrelated individuals contributed to  
17 the mixture. And the results were that the DNA profile is  
18 approximately 2.3 quintillion times more likely if Andrew  
19 Legette, Issac Hemingway and an unidentified unrelated  
20 individual contributed to the mixture than if three  
21 unidentified unrelated individuals contributed to the  
22 mixture.

23 Q Okay, very good. And proposition set four?

24 A Real quick that would be very strong support.

25 Q Thank you.

1 A For Andrew Legette, Issac Hemingway and an  
2 unidentified unrelated individual contributed to the  
3 mixture.

4 Q Thank you, Ms. Boehm. And is that the highest value  
5 on the likelihood table?

6 A Yes, so anything greater or equal to a million is  
7 very strong support. We don't have anything above that.

8 Q And this a couple quintillion, correct?

9 A Yes.

10 Q Okay. Thank you.

11 A So for proposition set four, I compared Maisha Burch  
12 and two unidentified unrelated individuals contributed to  
13 the mixture versus three unidentified unrelated  
14 individuals contributed to the mixture. And the results  
15 of that comparison were that the DNA profile is  
16 approximately 50 times more likely if three unidentified  
17 unrelated individuals contributed to the mixture than if  
18 Maisha Burch and two unidentified unrelated individuals  
19 contributed to the mixture. So in this scenario, the  
20 likelihood ratio gives me weight to the second explanation  
21 which was three unidentified unrelated individuals  
22 contributed to the mixture. When looking at the tables in  
23 my note section, that would be moderate support for that  
24 scenario.

25 Q And that's regarding Maisha Burch, correct?

1 A That's correct.

2 Q And, again, we're still dealing with item three in  
3 this?

4 A Yes, sir.

5 Q And that is the swab from the back door of the  
6 residence, is that correct?

7 A Yes, the swab from the back door exterior door handle  
8 of residence.

9 Q Okay, thank you. If you could move to proposition  
10 set five, Ms. Boehm?

11 A All right, so I then compared the four remaining  
12 standards, known standards submitted in this case  
13 individually. However, they had -- all had the same  
14 results, so I bunch them together. So instead of stating  
15 a name, I state the person of interest. So my scenarios  
16 are the person of interest and two unidentified unrelated  
17 individuals contributed to the mixture versus three  
18 unidentified unrelated individuals contributed to the  
19 mixture. And the results for all of these four people are  
20 the same, but I did compare them separately. Stephanie  
21 Reed, Jessica Dixon, Lakela Graves, and Jerome McCullough  
22 are excluded as contributors to the mixture under the  
23 listed propositions.

24 Q Okay, very good. Ms. Boehm, if we could move on to  
25 item five?

1 A So item five was the swabs from the back screen door  
2 interior door handle of residence. I did perform DNA  
3 analysis on this item. And my results were that the  
4 partial DNA profile developed is insufficient for  
5 interpretation.

6 Q And what does it -- how does it qualify for  
7 insufficient interpretation? How does a panel qualify for  
8 that?

9 A So we follow our protocols which were set forth by  
10 our validation studies. For a single source, we need to  
11 have a single source profile. We need two locations that  
12 is a sufficient amount of DNA. For mixtures, it needs to  
13 be eight. And this profile whether it was single source  
14 or mixture did not exhibit enough characteristics for us  
15 to determine that it was suitable for interpretation.

16 Q And you mean two out of 24 of the full panel, is that  
17 right, when you say location?

18 A Yes, so location is the -- yeah, are the test, but  
19 it's actually so -- three of those locations that we test  
20 are gender specific. So it helps us determine whether  
21 males or females are contributing to the profile. So the  
22 remaining 21 are the actual locations that differ between  
23 individuals that we use in statistics.

24 Q Okay, very good. If we could move on to item seven,  
25 this is swabs from the wall hallway on the front of the

1 house side?

2 A So I perform DNA analysis on this item and determine  
3 that a DNA profile was suitable for comparison, was  
4 developed. So then I compared all of the known standards  
5 submit in this case to that item, so I have several  
6 proposition sets again. The first proposition set I have  
7 listed on my report I compared Maisha Burch, so I  
8 determined that the DNA profile was interpreted as a  
9 mixture originating from two individuals. So my scenario  
10 is to explain the DNA profile where that Maisha Burch and  
11 an unidentified unrelated individual contributed to the  
12 mixture versus two unidentified unrelated individuals  
13 contributed to the mixture. The results were that the DNA  
14 profile is approximately six times more likely if Maisha  
15 Burch and an unidentified unrelated individual contributed  
16 to the mixture than if two unidentified unrelated  
17 individuals contributed to the mixture. And that would be  
18 weak support for the scenario that Maisha Burch and an  
19 unidentified unrelated individual contributed to the  
20 mixture.

21 Q Okay. How about proposition set two under item  
22 seven?

23 A So next I compared Issac Hemingway. So Issac  
24 Hemingway and an unidentified unrelated individual  
25 contributed to the mixture versus two unidentified

1 unrelated individuals contributed to the mixture. And the  
2 results of that comparison are that the DNA profile is  
3 approximately 100 times more likely if Issac Hemingway and  
4 an unidentified unrelated individual contributed to the  
5 mixture than if two unidentified unrelated individuals  
6 contributed to the mixture. And that would indicate  
7 moderate support that Issac Hemingway and an unidentified  
8 unrelated individual contributed to the mixture.

9 Q Okay, very good. How about proposition set three?

10 A So since both of those comparisons were inclusionary  
11 likelihood ratios, I compared them together. So Maisha  
12 Burch and Issac Hemingway contributed to the mixture  
13 versus two unidentified unrelated individuals contributed  
14 to the mixture. And the DNA profile is approximately  
15 three times more likely if two unidentified unrelated  
16 individuals contributed to the mixture than if Maisha  
17 Burch and Issac Hemingway contributed to the mixture. And  
18 that is moderate support for the scenario that two  
19 unidentified and unrelated individuals contributed to the  
20 mixture.

21 Q Okay.

22 A Next, I compared Andrew Legette to this profile  
23 developed. Andrew Legette and an unidentified unrelated  
24 individual contributed to the mixture versus two  
25 unidentified unrelated individuals contributed to the

1 mixture. And the result of that comparison was that the  
2 DNA profile is approximately 12 times more likely if two  
3 unidentified unrelated individuals contributed to the  
4 mixture than if Andrew Legette and an unidentified  
5 unrelated individual contributed to the mixture. And that  
6 also is moderate support that two unidentified unrelated  
7 individuals contributed to the mixture.

8 Q Okay.

9 A So I then compared Stephanie Reed and an unidentified  
10 unrelated individual contributed to the mixture versus  
11 two unidentified unrelated individuals contributed to the  
12 mixture. And the results of that comparison was the DNA  
13 profile is approximately 11 times more likely if two  
14 unidentified unrelated individuals contributed to the  
15 mixture than if Stephanie Reed and an unidentified  
16 unrelated individual contributed to the mixture. Again,  
17 that is moderate support that the DNA profile is better  
18 explained if two unidentified unrelated individuals  
19 contributed to the mixture.

20 Q Now, you said moderate support is that -- that's 11  
21 sometimes more likely is that moderate or is that weak I'm  
22 looking at the likelihood ratio table?

23 A So you're looking at the top table. The bottom is  
24 supporting each. So this likelihood is supporting the --  
25 somebody else or two other people, so that would be

1 moderate support.

2 Q Okay, very good. Thank you.

3 A So then I compared Jessica Dixon in an unidentified  
4 unrelated individual contributed to the mixture versus  
5 two unidentified unrelated individuals contributed to the  
6 mixture. And the results of that comparison was that the  
7 DNA profile is approximately 26 times more likely if two  
8 unidentified unrelated individuals contributed to the  
9 mixture than if Jessica Dixon and an unidentified  
10 unrelated individual contributed to the mixture. And that  
11 is also moderate support that the DNA profile developed is  
12 better explained by two unidentified unrelated individuals  
13 contributing to the mixture.

14 Q Okay, thank you so much, Ms. Boehm. We're just going  
15 to keep trucking along here proposition set seven?

16 A So I compare Lakela Graves in an unidentified  
17 unrelated individual contributed to the mixture. And two  
18 unidentified unrelated individuals contributed to the  
19 mixture. The results of that comparison are that the DNA  
20 profile is approximately 27 times more likely if two  
21 unidentified unrelated individuals contributed to the  
22 mixture than if Lakela Graves and an unidentified  
23 related -- unidentified unrelated individual contributed  
24 to the mixture. Again, this is moderate support for two  
25 unidentified unrelated individuals contributing to the



1 mixture.

2 Q Okay, the last one on this piece of evidence  
3 proposition set eight?

4 A Yes, Jerome McCullough an unidentified unrelated  
5 individual contributed to the mixture versus two  
6 unidentified unrelated individuals contributed to the  
7 mixture. And the results of that comparison are that the  
8 DNA profile is approximately 11 times more likely if two  
9 unidentified unrelated individuals contributed to the  
10 mixture than if Jerome McCullough and an unidentified  
11 unrelated individual contributed to the mixture that is  
12 also moderate support that two unidentified unrelated  
13 individuals contributed to the mixture.

14 Q Okay. And a lot of proposition sets on items seven?

15 A That is correct.

16 Q Much less on item eight and that's the swabs from the  
17 wall of the hallway on the back of the house side, is that  
18 right, so the hallway seven we just did with the front of  
19 the house now we're dealing with the back of the house  
20 side that same hallway?

21 A Yes.

22 Q Okay. And if you could go through the results on  
23 that particular piece of evidence?

24 A So I developed a DNA profile suitable that was  
25 suitable for comparison. I determined or I interpreted as

1 a mixture originating from two individuals. So then I  
2 made my comparisons to the known standards submitted in  
3 the case. So first compared Maisha Burch in an  
4 unidentified unrelated individual contributed to the  
5 mixture versus two unidentified unrelated individuals  
6 contributed to the mixture. And the results of that  
7 comparison is that the DNA profile is approximately 100  
8 septillion times more likely if Maisha Burch and an  
9 unidentified unrelated individual contributed to the  
10 mixture than if two unidentified unrelated individuals  
11 contributed to the mixture. And this is very strong  
12 support that the DNA profile that I developed is explain  
13 by Maisha Burch in an unidentified unrelated individual  
14 contributing to that mixture.

15 Q I think the only other one on item eight is  
16 proposition set two?

17 A Yes, so, again, I compared all of the other known  
18 standards submitted in this case individually, but they  
19 all had the same results. So I was able to lump them all  
20 into one proposition set. So the person of interest which  
21 would be whatever known standard in an unidentified  
22 unrelated individual contributed to the mixture versus two  
23 unidentified unrelated individuals contributed to the  
24 mixture. So Andrew Legette, Stephanie Reed, Issac  
25 Hemingway, Jessica Dixon, Lakela Graves and Jerome

1 McCullough are excluded as contributors to the mixture  
2 under the listed propositions.

3 Q Okay, very good. And moving on to item nine that's  
4 the white tissue. That we've actually been dealing with  
5 in trial already that was photographed near the  
6 television. What were your results on that particular  
7 piece of evidence?

8 A So for this piece of evidence, there is a blood  
9 request on it. So I did a presumptive serology test for  
10 blood. And there was -- the result of that were negative,  
11 so I did not move forward with DNA analysis since it was  
12 negative for blood.

13 Q Okay, very good. And moving on to item ten, that's  
14 the hair from the floor near the front of the door. And I  
15 notice you kind of break this one down in 10.1 and 10.2.  
16 Why is that?

17 A So I did. So what I did was I attempted to swab the  
18 hair to see if I could get any DNA from someone who  
19 touched the hair versus testing the hair alone because if  
20 I just test the hair alone, it would be the person whose  
21 hair it is versus the person who touched it.

22 Q Okay, very good. And what were your results on that  
23 particular item?

24 A So for 10.1, which is the swab of hair from the floor  
25 near the front door. I developed a DNA profile that was

1 suitable for comparison. I was able to visually exclude  
2 Andrew Legette, Stephanie Reed, Issac Hemingway, Jessica  
3 Dixon, Lakela Graves and Jerome McCullough as possible  
4 contributors. I then interpreted the DNA profile as a  
5 single source that is from one person. So my comparison  
6 was for just Maisha Burch because I was not able to  
7 visually exclude her. So Maisha Burch contributed to the  
8 profile versus an unidentified unrelated individual  
9 contributed the profile. And the results of that  
10 comparison was that that the profile is approximately 350  
11 octillion times more likely if Maisha Burch contributed  
12 the profile than if an unidentified unrelated individual  
13 contributed to the profile. And that is very strong  
14 support that the DNA profile I developed was because  
15 Maisha Burch contributed to the DNA profile.

16 Q Okay, very good. If you will continue?

17 A With 10.1 or move on to ---

18 Q Well, it does say -- and I don't know if this is the  
19 first time you run into on this particular analysis, but  
20 the partial Y-STR profile developed is a possible mixture.  
21 What does that mean?

22 A So besides our general DNA testing, it's autosomal  
23 testing. We also have Y-STR testing. So Y-STR testing is  
24 very similar to our typical every day DNA testing, but it  
25 only focuses on the Y chromosome and only male individuals

1 have a Y chromosome. So part of our DNA lab process is to  
2 quantify how much DNA we have before moving forward  
3 through the process. And at that step we can determine if  
4 there is male DNA present on an item. So for this  
5 particular item, there was male DNA on that item.  
6 However, when I amplified it, it was all female DNA. So I  
7 attempted Y-STR testing on this item as well. So I was  
8 able to develop a partial Y-STR profile, but I determined  
9 that it was a possible mixture. And we do not make any  
10 interpretations on possible Y-STR mixtures.

11 Q So, again, we're dealing with the hair found from the  
12 floor near the front door, but are you saying that you  
13 were able to identify male DNA in the hair?

14 A Yes, there is an indication of male DNA at that  
15 quantitation step. However, I was unable to develop a  
16 Y-STR profile that I could use for interpretation.

17 Q Okay, very good. Moving on to 10.2?

18 A 10.2 is cutting from suspected hair. I performed DNA  
19 analysis on this cutting and a DNA profile was suitable  
20 for comparison. I was able to visually exclude Andrew  
21 Legette, Stephanie Reed, Issac Hemingway, Jessica Dixon,  
22 Lakela Graves and Jerome McCullough as possible  
23 contributors. I interpreted the DNA profile as a single  
24 source. And then I compared Maisha Burch to this profile.  
25 So Maisha Burch contributed the DNA profile or is it an

1 unidentified unrelated individual that contributed the DNA  
2 profile. And the results of that comparison were that the  
3 DNA profile is approximately 350 octillion times more  
4 likely if a Maisha Burch contributed the profile than if  
5 an unidentified unrelated individual contributed the  
6 profile. And I also attempted Y-STR testing on this item  
7 and that result was that the partial Y-STR profile  
8 developed is insufficient for interpretation.

9 Q Okay, very good. Moving on to the fingernail  
10 scrapings from Andrew Legette item 14?

11 A So fingernail scrapings are packaged in left and  
12 right hands. So I further subbed item 14 into 14.1, which  
13 was left fingernail scrapings from Andrew Legette. And  
14 14.2 which were the right fingernail scrapings from Andrew  
15 Legette. I performed DNA analysis on both of these items  
16 and developed a DNA profile suitable for comparison for  
17 both of these items and both the profiles developed were  
18 attributable to Andrew Legette.

19 Q Okay, very good. Moving on to item 18?

20 A Item 18 was the fingernail scrapings from Maisha  
21 Burch just like the fingernail scrapings from Andrew  
22 Legette. And I sub item them into left fingernail  
23 scrapings from Maisha Burch. And right fingernail  
24 scrapings from Maisha Burch. So for the left fingernail  
25 scrapings, I developed a DNA profile suitable for

1 comparison. So then I compared all of the known standards  
2 submitted in the case to this profile. So I have several  
3 proposition sets. Well, to explain my proposition sets  
4 this time if we have a DNA sample that comes off of a  
5 person, we expect that person's DNA profile to be on the  
6 item such as fingernail scrapings, swabs off of the body.  
7 So in this case, they were fingernail scrapings from  
8 Maisha Burch. So I'm just going to go ahead and assume  
9 that based on the profile looking at it that she's there.  
10 So my comparison for this scenario is that Maisha Burch  
11 and someone else contributed to the profile or Maisha  
12 Burch and a person of interest contributed to the profile,  
13 just to explain that a little bit before I move on. So  
14 for my first proposition set, I compared Issac Hemingway.  
15 So my scenarios were that Maisha Burch and Issac Hemingway  
16 contributed to the mixture. And Maisha Burch and an  
17 unidentified unrelated individual contributed to the  
18 mixture. And the results of that comparison were that the  
19 DNA profile is approximately 270 times more likely if  
20 Maisha Burch and Issac Hemingway contributed Issac  
21 Hemingway to the mixture than if Maisha Burch and an  
22 unidentified unrelated individual contributed to the  
23 mixture. And this is moderate support for that scenario  
24 that Maisha Burch and Issac Hemingway contributed to the  
25 mixture.

1 Q Okay, very good.

2 A So then my next proposition set I compared all  
3 remaining individuals separately. However, I could lump  
4 them all into one result group. So I compared Maisha  
5 Burch and the person of interest contributed to the  
6 mixture or Maisha Burch and the unidentified unrelated  
7 individual contributed to the mixture. And Andrew  
8 Legette, Stephanie Reed, Jessica Dixon, Lakela Graves, and  
9 Jerome McCullough are excluded as contributors to the  
10 mixture under the listed propositions. I also attempted  
11 Y-STR testing on this item and the results of the Y-STR  
12 testing was that the partial Y-STR profile developed is a  
13 mixture due to the inability to calculate statistic no  
14 further interpretations will be offered. And I think I  
15 said it was a mixture. It was a possible mixture.

16 Q And so when we're dealing with left fingernail  
17 scrapings from Maisha Burch and I just want to make sure  
18 I'm understanding it. You did find male DNA underneath  
19 the fingernails and that's why you had the Y-STR profile  
20 listed?

21 A Yes, sir.

22 Q And the -- going back to the results there two that  
23 are moderate support that it's Issac Hemingway and Maisha  
24 Burch, is that correct?

25 A That is correct.