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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marlboro County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEJAUNCEY FERNANDO HARRINGTON,

APPELLANT

APPELLATE CASE NO. 2023-000305

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State of South Carolina	)	Court of General Sessions
	)	Fourth Judicial Circuit
County of Marlboro	)	Case No. 2017-GS-34-00338
	)	Case No. 2017-GS-34-00285-290
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Jejauncey Harrington,	)	
	)	
Defendant.	)	
	)	

December 20-21, 2021
Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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Krystal J. Smith
Official Circuit Court Reporter

1 MR. REDMOND: Yes, sir.

2 THE COURT: And we need to have as much information as
3 we can in that regard.

4 MR. REDMOND: Yes, sir.

5 THE COURT: All right. And then we'll address the
6 merits of the motion itself.

7 All right. What's your next motion, Mr. Young?

8 MR. YOUNG: Your Honor, the next motion would be motion
9 to suppress the fruits of the unlawful stop, Plea [sic] No.
10 25, which to my understanding is we're going to argue that
11 one tomorrow when the witnesses are here.

12 Motion No. 26 is a motion to suppress the defendant's
13 DNA. The basis of our motion is that in 2005 Mr. Harrington
14 was charged in another homicide case that went to trial in
15 which he was acquitted. In --

16 THE COURT: And what county was that in?

17 MR. REDMOND: Marlboro. That was in Marlboro County as
18 well.

19 THE COURT: All right.

20 MR. YOUNG: And then in 2017 when he became a person of
21 interest in this case, they went and located a known standard
22 of blood that had been taken from him at the time of his 2005
23 arrest. It is the defense's position that pursuant to
24 17-1-40(B)(1) -- which I know the State lays out in their
25 reply they had this morning, but I haven't had a chance to

1 review it. I think a known blood standard is the same as a
2 mugshot or a fingerprint card.

3 Obviously, they didn't include specifically known blood
4 standard as part of the evidence that needed to be destroyed
5 after an acquittal, but I think the spirit of the law in
6 destroying fingerprint cards and mugshots, a known blood
7 standard is the same. This is not crime scene evidence and,
8 of course, the State is entitled to retain the crime scene
9 evidence and continue to investigate the case and, hopefully,
10 make another arrest or find the person that did the crime,
11 and I have no complaint about anything of that.

12 Although I don't think that they did that in this
13 particular case as far as I'm aware. I did get some pictures
14 this morning of crime scene evidence from the 2005 case, but
15 my understanding is that those are old pictures that somebody
16 had. They weren't -- they don't still physically have those
17 items. I don't know. But our position is that that known
18 blood standard, just like a fingerprint card, should have
19 been destroyed upon his acquittal.

20 Now, the value of that is that known blood standard
21 which should not have been in the State's possession is what
22 the State used to compare to a cigarette butt at the Lowery
23 residence to say that it was their opinion that Mr.
24 Harrington's DNA was on a cigarette butt, and that led to the
25 probable cause for further investigation and actions.

1 THE COURT: All right.

2 MR. YOUNG: And we think that that -- since they had
3 blood that they shouldn't have had, that would negate
4 probable cause and taint future events. We'd have to decide
5 to what extent.

6 THE COURT: All right. Mr. Redmond or Ms. Weiss?

7 MS. WEISS: Thank you, Your Honor. May it please the
8 Court.

9 The response was sent to you as well in email, and I do
10 have a copy of that. I have a copy of it here.

11 THE COURT: All right.

12 MS. WEISS: And, Mr. Young, do you have a copy?

13 MR. YOUNG: I got it.

14 MS. WEISS: I have a hard copy if anybody else wants a
15 hard copy.

16 THE COURT: Yes.

17 MS. WEISS: So basically, let me start with the premise
18 that Mr. Young put in his motion initially and that he also
19 put on the record. First of all, he said that he was
20 previously charged and acquitted of murder and pursuant to
21 the South Carolina Code all evidence of his alleged
22 involvement in that murder charge was to be destroyed after
23 his acquittal.

24 He says that the State alleges that all evidence was
25 destroyed except for a vial of Mr. Harrington's blood that

1 was maintained in an abandoned hospital facility and that
2 that vial was located, tested against some evidence at the
3 crime scene, and matched Mr. Harrington and that this was
4 then used for probable cause. So that is what he put in the
5 motion and that's what he just spoke to.

6 If Your Honor would so indulge me, I would like to
7 respond to that and then I do have witnesses that are
8 prepared to testify to each thing that I am going to -- going
9 to say, but I think if we -- if the Court could let me know,
10 we could let Mr. Young know at the appropriate time which of
11 those witnesses we need to hear from and which ones the
12 defense agrees with as to whether or not this is a legal
13 argument or a factual argument.

14 THE COURT: Right.

15 MS. WEISS: If that's okay with the Court.

16 THE COURT: Yes.

17 MS. WEISS: Okay. So first of all, Mr. Harrington was
18 previously charged and acquitted of murder. That is true.
19 Ms. Munnerlyn actually was the prosecutor on that case.

20 And South Carolina Code 17-1-40 has been changed. It
21 existed in one form prior to 2016 and is in in a separate
22 form after 2016. Prior to 2016, it specifically said any
23 person who after being charged with a criminal offense and
24 such charge is discharged, proceedings against such person
25 dismissed or is found innocent of such charge, the arrest and

1 booking record, files, mugshots, and fingerprints of such
2 person shall be destroyed and no evidence of such record
3 pertaining to such charge shall be retained by any municipal,
4 county, or state law enforcement agency.

5 Your Honor, that has been interpreted by the courts to
6 apply to the arrest records, the fingerprints, the booking
7 information, the information that is taken when somebody is
8 arrested on a charge. However, the courts have also said
9 that that is triggered by an expungement request and an
10 expungement order by the Court. So prior to the change in
11 the law, it was triggered by an expungement order.

12 Your Honor, we were able to obtain -- I was able to
13 obtain -- just as of this morning, Ms. Munnerlyn was able to
14 obtain this letter and request for expungement that was sent
15 and filed on December 8th, 2020. Your Honor, if I may
16 approach?

17 THE COURT: Yes.

18 MS. WEISS: Let me mark this as Exhibit 1, State's
19 Exhibit 1 for purposes of the hearing.

20 (WHEREUPON, the letter was marked as State's Exhibit No.
21 1.)

22 MS. WEISS: Your Honor, this has now been marked as
23 State's Exhibit 1 for purposes of this hearing. State's
24 Exhibit 1 shows that this request for expungement was filed
25 in 2020 and, while I don't disagree that an acquittal would

1 then lead to an appropriate order being signed by a circuit
2 court judge, it was not even requested until 2020, which was
3 three years after the -- this case -- the defendant was
4 charged with the current murder for which we are trying him
5 on in -- on July 5th.

6 So first of all, any trigger prior to 2017 of the
7 original statute had to be an expungement, which we have no
8 record of expungement prior to 2020. So in effect, that
9 statute doesn't apply to this case. Even if -- and I'll go
10 even further. Even if we found that it did apply, it still
11 wouldn't apply to that vial of blood in the State's opinion,
12 Your Honor.

13 So then we look at the law that was changed in 2016. It
14 goes even further to explain basically what the case law had
15 been saying all along, but the legislature went ahead and
16 explained it further in the 2016 amendment. And it said that
17 if a person's record is expunged because a person is charged
18 with a criminal offense and is issued a courtesy summons,
19 then the arrest and booking record associated with bench
20 warrants, mugshots, and fingerprints of the person must be
21 destroyed and no evidence of the record pertaining to the
22 charge or associated bench warrants may be retained by any
23 municipal court or state agency.

24 However, under (B)(1)(a), law enforcement and
25 prosecution agencies may retain the information indefinitely

1 for purposes of ongoing or future investigations and
2 prosecution of the offense, and nothing in this subsection of
3 evidence gathered or information contained in incident
4 reports or investigation and prosecution files from being
5 used for the investigation and prosecution of a criminal
6 case.

7 So by 2020 when that expungement order was filed, had
8 that expungement order actually been carried through and an
9 order signed, which like I said we would say should -- yeah,
10 is appropriate, but that's 2020 and this law was in effect at
11 that point. It says clearly while we maintain that the --
12 that the case law maintained that that's what they were
13 talking about even back in 2005-2006, in 2016 when the law
14 was changed and clearly in 2020 when that expungement was
15 filed, this was the law of the state and it clearly says that
16 the State can keep this information.

17 So moving forward from that, the defense makes the
18 argument that all of the evidence was destroyed. Your Honor,
19 in fact -- and I will say I practice with the Attorney
20 General's Office and my practice in Marlboro County is
21 somewhat limited to certain cases that I've had the
22 opportunity to be involved with, this being one of those
23 cases and, Your Honor, in talking to the evidence custodian
24 from the Marlboro County Sheriff's Office, it is the practice
25 of the Marlboro County Sheriff's Office not to destroy

1 evidence, period. They have evidence dating back to the
2 1980s from cases going all the way back to the 1980s.

3 When the Sheriff's Department was originally located in
4 the courthouse, they had a room in the courthouse where they
5 kept evidence, and that room got very crowded because they
6 didn't destroy evidence. When Fred Knight was Sheriff, he
7 made it very clear to the evidence custodian we don't destroy
8 evidence.

9 The Sheriff's Department then moved to where they are
10 currently located at the Marlboro County -- the new Marlboro
11 County Sheriff's Office. They had an evidence room there
12 that was larger than the one that they had before, but they
13 also had a new evidence system.

14 And the evidence custodian would tell this Court that
15 she took all of the evidence that was included at the
16 Sheriff's Office from the courthouse and they put it into a
17 room, locked into a room, into a cell at the old jail. That
18 was -- I have a picture of that, Your Honor -- at the old
19 jail which has since -- Your Honor, I'm going to ask to have
20 these marked as State's Exhibits 2, 3, and 4 just for
21 purposes of this hearing.

22 THE COURT: Have you shown those to Mr. Boyd?

23 MS. WEISS: I'll show those to him now.

24 THE COURT: Any objection to the photographs, Mr. Boyd?

25 MR. YOUNG: No, Your Honor.

1 THE COURT: They're in. They're into evidence.

2 (WHEREUPON, the photographs were marked as State's
3 Exhibits No. 2, 3, and 4.)

4 MS. WEISS: Thank you, Your Honor.

5 At this time I'll hand you what's been marked as State's
6 Exhibit -- State's Exhibit 4, and this would be testified
7 this is an old jail. And Ms. Munnerlyn was -- actually, as
8 she was showing me where these are located, this was a jail
9 that was in use when she first started practicing in Marlboro
10 County, but it has been an old jail for a long time. So for
11 a period in there, they had a cell in there that was sealed
12 off where they moved all of the evidence from the courthouse
13 to a cell in that jail.

14 There was a time after that where the jail was being
15 sold or reused or going to be torn down and so they had to
16 get the evidence out of there. When they did that, it
17 actually was used for the Humane Society and it's been used
18 for a lot of things since then, but that was it. So it was
19 moved out of there, and Mr. Young refers in his motion to --
20 let me make sure -- an abandoned hospital facility.

21 Your Honor, I'm going to show you State's Exhibits 2 and
22 3. So when he says abandoned hospital facility, actually
23 there was an abandoned hospital facility. Marlboro County
24 repurposed that into the Marlboro County Administration
25 Building, and I'm going to hand you up State's Exhibits 2 and

1 3.

2 At the time that they found out that they could no
3 longer keep the old evidence at the jail, they moved it to a
4 locked room at the Marlboro County Administration Building,
5 affectionately referred to by people who have been in
6 Marlboro for a long time as the old hospital because it was
7 an old hospital. It's been refurbished and is now the county
8 administration building.

9 So to be clear, the evidence that existed prior to the
10 new Marlboro County Sheriff's Office being built is -- was
11 and is still being housed at the Marlboro County
12 Administration Building in a locked room with one person that
13 has a key, and that's Sandy Wilkes, who is the evidence
14 custodian at the Marlboro County Sheriff's Office. The
15 purpose of that is everything that came in after that new
16 Sheriff's Office with the new evidence organization system
17 would be put into the Marlboro County Sheriff's Office.

18 So the evidence was not destroyed. It was kept, along
19 with everything else, and that's what Mr. Young is referring
20 to.

21 Going by, like I said, the timeline of events, as you
22 might imagine, as this murder case was unfolding in Marlboro
23 County, this was -- they had several agencies, FBI, SLED,
24 Marlboro County. Everybody was there because they realized
25 they had not only a deceased victim, but they had a missing

1 child. So you had a lot of people that were working on this
2 case 24/7 trying to figure out if there was a chance this
3 child could be found alive. So things were moving very, very
4 quickly.

5 This group was all meeting headquartered at what is the
6 current Marlboro County Sheriff's Office. They were meeting
7 and going through information, and at one point totally
8 separate from anything having to do with this evidence or the
9 DNA, they were able to identify the last phone number that
10 was tied to Ms. Lowery and the -- before -- or the last phone
11 call, the last phone contact that she was involved with and
12 were able to tie that to Jejauncey Harrington.

13 So that information became known to SLED agents, to
14 include Roxanne Bethea, now Roxanne Love, but became known to
15 Roxanne Love, who was actively running the case for SLED.
16 She was on the phone because every bit of evidence, the
17 cigarette butt included that Mr. Young referred to, was being
18 taken to SLED as soon as they were getting it, anything that
19 could be processed. What can we figure out? Who can we
20 figure out? That cigarette butt was identified by the adult
21 victim's mother, so the grandmother of the child victim, as
22 people in our house don't smoke, that wasn't there when I
23 left for work, take that. So that cigarette butt was among
24 the things that was being tested.

25 They had a profile for that cigarette butt, but it

1 didn't match anything that they had at that point and it
2 wasn't in CODIS. It wasn't in CODIS because CODIS, Your
3 Honor, I would submit is similar to fingerprints that are
4 taken when somebody is booked. When you take DNA, you take
5 fingerprints, you put it in CODIS, that would be similar. It
6 wasn't in CODIS.

7 Roxanne Love was on the phone with Adrienne Hefney, who
8 is the DNA analyst who was working 24/7 running everything
9 she could as quickly as she could, and in a conversation she
10 said, oh, we have just come upon a name. We've put together
11 a name, Jejauncey Harrington. He -- we had him in an old
12 case about 10 years ago, and Adrienne at SLED under the same
13 guidelines of they keep everything -- they would testify to
14 you that they keep all of their reports going back. They go
15 back to about 2005-2006, and then they have another system
16 that goes back before that as long as they've been processing
17 DNA and keeping DNA reports.

18 And she said, oh, and she typed in his name and said,
19 oh, yeah, that's in our system in the reports, not his
20 booking record, not his mug shot, not his fingerprints, none
21 of that, but it's in our reports, and she was able to pull
22 that up and say, huh, well, it looks like you're on the right
23 path, but I would need an actual standard to be able to say
24 something as far as this cigarette butt is concerned, she
25 said, but it looks like that was Item 50 out of the old

1 murder case file. So if you can find Item 50, it should be a
2 vial of blood that was taken that was kept. With that, I
3 might be able to test that.

4 So that is happening totally separate. They've
5 developed his name. They've got the car leaving his home,
6 his location, at the same time right after that
7 correspondence with the victim in the case, coming back to
8 that location, and then leaving. So they are developing a
9 whole 'nother line of investigation while this conversation
10 is happening between Roxanne Love and this SLED analyst.

11 So the -- so Roxanne at that point says, hey, do y'all
12 still have that old -- that old murder file, the evidence
13 from that old murder file? And the sheriff then asks the --
14 then asks the evidence custodian, hey, do we still have that,
15 and she goes to her list of all of the cases prior to coming
16 to the Marlboro County Sheriff's Office.

17 Those cases are listed by -- in alphabetical order by
18 the last name of the victim, and she has them in a database
19 at the Marlboro County Sheriff's Office and she printed out
20 for me the Hs, just to show an example of what she has. And
21 she was able -- she said, oh, actually, we do. It's at the
22 -- at the Marlboro County Administration Building.

23 THE COURT: Did you say alphabetical order of the victim
24 or the defendant?

25 MS. WEISS: Of the victim.

1 THE COURT: Okay. Very good.

2 MS. WEISS: It just happens to be that's how it's
3 ordered.

4 THE COURT: Okay.

5 MS. WEISS: In this case -- in that case, the victim's
6 last name actually happened to be H. The victim's last name
7 began with an H, as well as the defendant's last name. So
8 actually it ended up being H-1 was how it was identified, and
9 she has how the information is identified so if she has to go
10 back into that old evidence, she knows what she's looking
11 for. She found that and she went back to the County
12 Administration Building, also known as the old hospital, with
13 her key, went into the room, and pulled the evidence from the
14 old case.

15 Your Honor, these are the pictures that Mr. Young is
16 referring to when he was explaining to the Court his motion,
17 and I think we can just mark these as one number for
18 identification.

19 THE COURT: Have you shown those to him?

20 MS. WEISS: Those are the --

21 MR. YOUNG: Yes.

22 MS. WEISS: Those are the ones he had mentioned.

23 THE COURT: Okay. Good.

24 MR. YOUNG: I think I got a copy of those. It was
25 either this morning or Friday.

1 MS. WEISS: Friday.

2 THE COURT: Okay.

3 (WHEREUPON, the 14 photographs were marked as State's
4 Exhibit No. 5.)

5 MS. WEISS: So, Your Honor, when I read that, obviously
6 I was preparing for this motion and I was talking to Sandy
7 Wilkes from Marlboro County and said, you know, his motion --
8 I said this is what his motion says. I was, like, a lot of
9 it doesn't make sense to me, partially because I don't know
10 Marlboro. I didn't know that the County Administration
11 Building was an old hospital, the whole thing.

12 So she said, oh, no, we didn't destroy it. We don't
13 destroy anything. And she said, in fact, I went and got all
14 the evidence from the old case because I didn't know where
15 Item 50 would be, but I went and got all of the evidence from
16 the old case and brought it over here, and I sat and looked
17 at it while agent at the time Roxanne Love went through it
18 looking for Item 50, a vial of blood that should have been in
19 here, which was, in fact, in this evidence.

20 And she said -- and we then put it into our current
21 evidence system because now it was related to the current
22 investigation. She said it's all right there. I can go pull
23 it out right now, which is exactly what she did.

24 And so, Your Honor, I'm handing up State's Exhibit 5,
25 which are pictures that were taken last Wednesday at the

1 Marlboro County Sheriff's Office by Investigator Trey Rogers,
2 who is now an investigator, former SLED agent who is now an
3 investigator with the Fourth Circuit Solicitor's Office, just
4 to show that the evidence is all there because they keep all
5 of their evidence.

6 Item 50 was found in that box that's opened. If you're
7 looking at the pictures, there's an open box with a lot of
8 things showing. It was found in that box, and it was pulled
9 out and it was taken to SLED by Agent Roshani Parikh, who was
10 a new agent at the time. She had come because she was in
11 training and they -- they sent her directly to go take that.
12 It was actually the next day to go take that to Columbia to
13 be compared.

14 And, Your Honor, that did go to Columbia and the -- and
15 SLED was able to use that vial of blood and they were able to
16 match it, and that's -- that is an interesting fact, but that
17 fact in no way played into what was going on in this other
18 line of investigation. So the other line of investigation,
19 which I understand is going to somewhat be related to the car
20 stop itself, but for purposes of this motion I think the car
21 stop is not -- I think we take that on its face for what it
22 was.

23 So separately, there was -- they had identified the car
24 that was leaving the house, the phone calls. They identified
25 that that car was associated with Jejauncey Harrington. They

1 identified -- they started to look for that car and got an
2 arrest warrant for Jejauncey Harrington for unlawful use of a
3 motor -- or --

4 MR. REDMOND: Use without permission.

5 MS. WEISS: Use without -- use without owner's consent
6 of a motor vehicle based on driving that car.

7 Your Honor, let me get this chair out of the way.

8 So -- so, Your Honor, they went ahead and they were
9 following that line of investigation. They were able to get
10 that warrant. They were able to look for him and then they
11 were able to stop the car and arrested Jejauncey Harrington
12 at that time.

13 So if I may -- so, Your Honor, on May 11th, 2017, at
14 2224 hours after they had taken Jejauncey Harrington into
15 custody, both the FBI and witnessed by SLED Agent Todd Schenk
16 asked Jejauncey Harrington if they could take a buccal swab,
17 to which he consented. He signed a consent to search on May
18 11th, 2017. So this is a separate line of investigation
19 that's going on.

20 That buccal swab was taken. Its custody was taken by
21 Todd Schenk. It was brought to SLED, and it was put into
22 evidence at SLED. Subsequent to that, when law enforcement
23 went in to speak to Jejauncey Harrington, he invoked his
24 right to counsel. As a result of that and out of an
25 abundance of caution, Kernard Redmond and -- Kernard Redmond,

1 representing the State, decided to do a *Schmerber* hearing on
2 May 31st, 2017, in Marlboro, South Carolina, and I have a
3 copy of that transcript, Your Honor, then I can also hand up.

4 THE COURT: Yes. I think that does need to be made a
5 part of the record.

6 MS. WEISS: Yes, sir, Your Honor.

7 THE COURT: You have seen this voluntary consent to
8 search?

9 MR. YOUNG: I have, Your Honor. Yes, sir.

10 THE COURT: Okay. Very good. That's going to be marked
11 as Court's Exhibit 6.

12 (WHEREUPON, the consent to search was marked as State's
13 Exhibit No. 6.)

14 THE COURT: And have you seen the transcript?

15 MR. YOUNG: Yes, sir. Provided it's what Ms. Weiss got
16 from me.

17 THE COURT: All right. Very good.

18 MS. WEISS: We also got a -- we also got a copy for
19 which we have paid the court reporter. Although he did send
20 it to us, we have paid the court reporter for a copy of it as
21 well so we could use it in court.

22 THE COURT: Good.

23 MS. WEISS: So, Your Honor, out of an abundance of
24 caution, Mr. Redmond did -- held a *Schmerber* hearing because
25 he was concerned there might be some sort of objection at a

1 later time that that consent to search wasn't really
2 voluntary because his client then -- because the defendant
3 then invoked his right to counsel.

4 So they held a *Schmerber* hearing. In that *Schmerber*
5 hearing, Roxanne Bethea, now Love, testified to a lot of
6 these facts that we're talking about here today, along with a
7 couple of other people about what had happened.

8 And, Your Honor, as -- and I will hand this up in just a
9 minute, but you will be able to see from the final ruling of
10 the Court that while the DNA was matched to the vial of
11 blood, there was also a simultaneous consent to search. And
12 so the Court's ruling basically says that -- and this is
13 quoting from the transcript.

14 The Court says even though he has previously consented
15 to the taking of a swab and that has been accomplished, I
16 understand the State is concerned that some issues may be
17 raised in the future about defective consent and things of
18 that nature; so I'm going to grant permission with regards to
19 the swab, Mr. Redmond. I see no harm being done since he
20 previously has consented to that. That way we will make sure
21 we have a swab that's taken with no controversy attached
22 thereto. So I'll grant that motion.

23 Your Honor, in that paragraph of his ruling, he doesn't
24 even mention the fact that the DNA from the vial of blood at
25 SLED also happened to match. Now it did, it did match and,

1 certainly, I believe that it was completely appropriate, but
2 it doesn't go to the fact that the Court, even though they
3 heard about the vial of blood, relied primarily on the fact
4 that he had consented and found that they were given the
5 information that his client was identified as a potential
6 suspect, as a person of interest. If he was arrested that
7 they had evidence that showed that Jejauncey Harrington was
8 related to the victim in the case, the crime scene, the
9 leaving his house on the surveillance video, the dumping of
10 the body with the evidence --

11 THE COURT: What you're saying is that aside from the
12 blood, there was independent probable cause?

13 MS. WEISS: Absolutely, to make the *Schmerber* -- to make
14 the *Schmerber* finding, as well as the fact there was a
15 consent to search or a consent for a buccal swab that was --
16 that was signed by the defendant himself and witnessed by
17 Todd Schenk.

18 THE COURT: All right. We'll mark the transcript of the
19 record of the *Schmerber* hearing as State's Exhibit 7, and
20 that's in the record.

21 (WHEREUPON, the transcript of the *Schmerber* hearing was
22 marked as State's Exhibit No. 7.)

23 MS. WEISS: And as a result of that *Schmerber* hearing, a
24 buccal swab was taken of Mr. Harrington. Upon closer looking
25 at that buccal swab, the buccal swab itself had an expiration

1 date, which I was not familiar with, but so out of an
2 abundance of caution, another buccal swab was taken that was
3 all pursuant to the *Schmerber* to make sure that it was a non-
4 expired swab.

5 And that swab was tested and matched *Jejauncey*
6 *Harrington*. The swab that was taken pursuant to the consent
7 has never been tested. It is sitting at SLED. It can be
8 tested, and the State would submit that it's an inevitable
9 discovery trade that we've got the consent buccal swab, the
10 *Schmerber* buccal swab, and the vial of blood. So even if
11 there were any argument, which the State says there's not,
12 that that vial of blood should've been destroyed, you've got
13 a whole 'nother line where the DNA was properly obtained and
14 tested and matched *Jejauncey Harrington*.

15 Now, back to the vial of blood. What the statute says
16 -- oh, and to say -- then the defense also used -- also
17 stated that the test was used as probable cause to order more
18 samples. I would submit to Your Honor based on the
19 transcript you can see that the basis for the judge's ruling
20 was the fact that there was a consent and that there was
21 independent information that led to that arrest and led to
22 the consent and not the vial of blood and that's erroneous
23 and, therefore, this motion should be denied and the DNA
24 should come into evidence.

25 Your Honor, specifically, what the case law supports is

1 that when somebody either files an expungement order prior to
2 2016 or is acquitted based on the current law, that things
3 that have to do with the actual arrest and specifically the
4 booking report, the fingerprints, the mugshots, all of those
5 have to be destroyed, and we don't disagree with that, but,
6 Your Honor, what we do disagree with is that the vial of
7 blood falls into that. The vial of blood was Item 50 from
8 the evidence kept as a part of the evidence in the Marlboro
9 County Sheriff's Office evidence room. It was specifically
10 evidence of the crime.

11 And what the case law also states is that evidence of a
12 prior crime can be used for a future indictment. It could be
13 used for a future indictment on the -- on the same case,
14 obviously barring a double jeopardy issue, but for other
15 crimes based on the evidence in that same case and it can be
16 used in later cases. So -- and I've cited that law and I
17 have copies of it.

18 But, Your Honor, the bottom line is that this was Item
19 50 of evidence that was kept in evidence pursuant to how they
20 keep evidence at the Marlboro County Sheriff's Office, all of
21 their evidence, and that Item 50 was a piece of that evidence
22 that was tested and did match Jejauncey Harrington and did
23 match that cigarette butt.

24 However, I do not believe that the defense lays out
25 sufficient information that would justify suppressing the

1 defendant's DNA based on the multiple ways in which that DNA
2 would have been found and also the fact that that DNA that
3 was found in the vial of blood was properly kept, properly
4 submitted to SLED, and the fact that that matched is just one
5 more way that Jejauncey Harrington is matched to this crime.

6 THE COURT: All right. Mr. Young?

7 MR. YOUNG: Your Honor, I think for the purposes of the
8 record today, I'm not going to take up the Court's time
9 trying to deal with chain and who had custody of it and was
10 it secure and the transportation and that kind of stuff. I
11 think that would be more appropriate for a later date, if
12 that's all right with the State.

13 MS. WEISS: Yes, Your Honor. The State was not
14 intending to discuss chain of custody. It was my -- it is my
15 belief that we are based just whether or not the --

16 THE COURT: Based on the merits --

17 MS. WEISS: The merits of it.

18 THE COURT: -- or their allegation of their motion.

19 MS. WEISS: Yes, sir, Your Honor.

20 MR. YOUNG: My understanding is that the blood sample
21 taken in 2005 was pursuant to a court order. If the State
22 has actually found that file, I would like to get a copy of
23 that prior order because I don't know whether or not the
24 Court at that point in time put any limitations on its use or
25 not.

1 THE COURT: I'm not real sure -- I'll hear what Ms.
2 Weiss has to say about that, but I would think that a court
3 order wouldn't be in the investigative file. It would be in
4 the clerk's office.

5 MR. YOUNG: I don't know what's in it. Like I said,
6 I've always been told that we don't have anything from that
7 case. This is -- I hadn't found out until this week that
8 those items were available. I'm assuming the State doesn't
9 have an objection to me going to Marlboro at the earliest
10 possible convenience and looking through it.

11 MS. WEISS: No, sir.

12 No, sir, Your Honor. We can go with him and set that
13 up.

14 THE COURT: All right.

15 MR. YOUNG: So coming back to my motion --

16 THE COURT: Let me ask Ms. Weiss. I've never -- I don't
17 know exactly how Marlboro County does that, but they wouldn't
18 file an order authorizing the taking of a blood sample. That
19 order wouldn't be in the investigative file. That would be
20 in the clerk's office. So it's filed in the clerk's office.

21 MS. WEISS: Your Honor, honestly, I don't know the
22 answer to that question. I do know that that file is there.
23 I do know that I had looked just to see what was in that file
24 and you could see I took a picture from the top, but I did
25 not go through it in detail.

1 THE COURT: All right.

2 MS. WEISS: So I will be happy -- I mean Sandy Wilkes
3 can go and check it or Sara Albarri. I mean they're the
4 people that are the custodians of those documents that have
5 that at the Marlboro County Sheriff's Office that can get us
6 an answer as soon as -- probably within a couple of hours of
7 us releasing them from here.

8 THE COURT: Mr. Young, do you want to look at the entire
9 file or do you just want that order?

10 MR. YOUNG: I would like to see the entire file, and I
11 know that it's not in the clerk's file because I have a
12 complete copy of the clerk's file here with me.

13 THE COURT: Okay. All right. Do y'all have an
14 objection to him inspecting the file?

15 MS. WEISS: No, sir, Your Honor.

16 THE COURT: All right. And when do you want to do that?

17 MR. YOUNG: January 3rd, I think?

18 MS. WEISS: January --

19 MR. YOUNG: Is that on a Monday?

20 MS. WEISS: I think we're --

21 MR. YOUNG: That's the holiday.

22 MS. WEISS: -- closed. That's the holiday.

23 MR. YOUNG: The 4th, January 4th.

24 THE COURT: All right.

25 MS. WEISS: I'm scheduled to be in trial. I don't know

1 if Ms. Munnerlyn or Mr. Redmond --

2 MS. MUNNERLYN: I can be there.

3 MS. WEISS: Ms. Munnerlyn is available on the 4th.

4 MR. REDMOND: I would be available on the 4th as well.

5 MS. WEISS: So is Mr. Redmond. So . . .

6 THE COURT: All right. Well, Mr. Young, I'll ask that
7 you draft an order authorizing your inspection of that --
8 that file on the 4th at a mutually convenient time for you
9 and the State.

10 MR. YOUNG: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. YOUNG: And coming back to my motion to suppress
13 evidence in this case, it's all about the timing. Right?
14 The timing. They had tested that vial of blood on the 8th.
15 There wasn't a warrant issued for Mr. Harrington until the
16 10th. That blood is what led to them getting that warrant
17 and they say if it wasn't probable cause, we could've gotten
18 it somewhere else, but that's not what happened. Here's what
19 happened.

20 And let me go back to our argument that that blood
21 standard is no different than a 10-print fingerprint card,
22 which by statute should have been destroyed. I did file or
23 Ms. Russell at my direction did file for an expungement order
24 related to the murder case when we got -- when I first got
25 involved in the case, I think December. I think there was

1 one that's dated before 2020, but I'll have to go back and
2 check on that, but it's never been acted on. It has been
3 requested. It's never been acted on by the State.

4 THE COURT: Didn't she -- I think the State, if I
5 understand it correctly, seems to indicate that there was
6 much more than the cigarette butt and the DNA analysis. It
7 had to do with the fact that he didn't have permission to use
8 the car and that there was telephone connection between them
9 and that they were -- they had some contact before the event
10 and the fact that the -- he didn't have permission to use the
11 car.

12 MR. YOUNG: That's their contention, yes, sir.

13 THE COURT: Yes. I'll be glad to hear from you further.
14 I didn't mean to interrupt you.

15 MR. YOUNG: That's okay. I think I understand the case
16 law's position on you have to request an expungement. I
17 think that that is a due process violation of somebody who
18 has been acquitted and that this Court should find that that
19 blood should not have been kept as a known standard after his
20 acquittal and any derivative use of it should be suppressed.

21 THE COURT: What do you think about -- you know, they
22 mentioned this sort of in passing like it inevitably would
23 have been discovered, particularly with regard to the consent
24 to give the buccal swab and the *Schmerber* hearing. It
25 inevitably would have been discovered. What do you think

1 about that?

2 MR. YOUNG: Well, I understand that argument, but it's
3 just not how it played out because it played out with them
4 getting a match from the vial of blood and then requesting
5 the buccal swab. If they hadn't gotten the match on the tube
6 of blood, I doubt that they would have requested a buccal
7 swab at arrest in Charlotte prior to Mr. Harrington asserting
8 his right to counsel.

9 THE COURT: Okay. All right. Very good. Well, I'm
10 going to -- it's a very interesting question, particularly
11 with regard to what the intent of the legislation is, and I'm
12 going to ask that you prepare a proposed order.

13 Ms. Weiss, if you'll prepare a proposed order setting
14 forth what you've laid out for the Court here today.

15 And, Mr. Young, she is prepared to present witnesses to
16 substantiate her position with factually what transpired. Do
17 you consent to what she's asserted here today, or do you want
18 her to put up those -- those witnesses?

19 MR. YOUNG: Your Honor, I don't have any problems with
20 the facts as she's laid them out.

21 THE COURT: Okay.

22 MR. YOUNG: If she wants to call witnesses -- if you
23 want to call witnesses, that's fine, but I don't have any
24 dispute over any of the facts and where that was.

25 THE COURT: As has been -- yes. Okay.

1 MR. YOUNG: As has been laid out.

2 THE COURT: Very good.

3 MR. YOUNG: I mean I do -- I mean I do want to prepare a
4 --

5 THE COURT: As far as you don't have an objection as to
6 the administration building, where it was found, whether it
7 was locked. You've got -- maybe have some issues with regard
8 to chain of custody, but -- but her assertions here today for
9 the purposes of this hearing you don't have an objection to?

10 MR. YOUNG: I don't have an objection. I have -- I just
11 want to be clear that I have been to Marlboro many times,
12 especially early on in the case, trying to get records about
13 the prior trial.

14 THE COURT: Right.

15 MR. YOUNG: Understanding its role and its importance in
16 a potential death penalty case.

17 THE COURT: Right.

18 MR. YOUNG: The attorney who handled the defense at that
19 time has deceased. His files were sent to -- not the Office
20 of Indigent Defense or SCCID, but they got sent to somebody
21 to hang on to for a couple of years and then after the three-
22 year protection order or whatever expired on those, that
23 attorney destroyed all those files.

24 THE COURT: But we have found the investigative file as
25 well.

1 MR. YOUNG: Well, we seem to have found something.

2 THE COURT: Yes.

3 MR. YOUNG: Which I'm anxious to see.

4 THE COURT: All right. Well, good.

5 MR. YOUNG: But it's always been maintained to me that
6 that didn't exist. I'm glad to know that it does. I can't
7 wait for it.

8 THE COURT: All right. And you object to what they
9 relied upon as far as probable cause, but the factual
10 allegations you're in agreement with, and what I'm going to
11 ask you to do is to prepare a proposed order setting forth
12 your position. I'm going to ask Ms. Weiss to do the same.

13 MR. YOUNG: Thank you, Your Honor.

14 MS. WEISS: And, Your Honor, if I may just for the
15 record identify who is here prepared to testify?

16 THE COURT: Yes.

17 MS. WEISS: Thank you, Your Honor.

18 So Capt. Sara Albarri is here. She is currently the
19 keeper of the records of all of the files involving this
20 case. So she is the point of contact at the Marlboro County
21 Sheriff's Office for -- and she -- the -- while the
22 investigative file is in the evidence room, but she is the
23 point of contact and she is the one that has been able to
24 work with us as far as finding -- making sure we have every
25 detail. There's a lot to this case, as Mr. Young knows and

1 Mr. Redmond, and I am becoming more and more familiar with it
2 as I've come on to it later in the case. So she is here and
3 prepared to testify to that information.

4 Sandy Wilkes, who is the evidence custodian, is present.
5 She is the one who would be prepared to testify that she was
6 ordered when she -- or given a direct order when she started
7 working in 2018 at the Marlboro County Sheriff's Office that
8 we do not destroy evidence, and she has kept with the key --
9 she has held the key to the evidence room at the Marlboro
10 County Administration Building and she is the one who went
11 and got the evidence, brought it back, and she has maintained
12 it at the Marlboro County Sheriff's Office.

13 THE COURT: All right. Mr. Young, do you have any
14 questions of her?

15 MR. YOUNG: No, Your Honor.

16 THE COURT: Okay. Very good.

17 MS. WEISS: We have Special Agent -- or -- sorry.
18 Investigator Roxanne Love, who is currently an investigator
19 with the Florence County Sheriff's Office -- I mean
20 Solicitor's Office. Sorry, speaking too fast. Solicitor's
21 office, who was a lieutenant at the time with SLED, and she
22 is here and present to testify to the fact that she is the
23 one that spoke to the DNA analyst. She was the one that was
24 communicating directly with the analyst and said, hey, they
25 just developed Jejauncey Harrington as a potential person of

1 interest, and had that conversation that led to her saying,
2 oh, we have an old file because we don't -- I don't know if
3 Adrienne is here yet. No.

4 I'm sorry. Adrienne is on her way, the SLED analyst,
5 the DNA analyst. I've been going back and forth about
6 whether I would need her or not and finally said just come,
7 please. So she's driving here. We can turn her around.

8 But -- but the two of them spoke back and forth and
9 Adrienne would be able to say we believe we have all DNA
10 records going all the way back within our two systems, and
11 she and Roxanne spoke and she said -- she was able to say
12 you're on the right path and then Roxanne is the one who then
13 asked to get the evidence from the old case, went through it,
14 found Item 50, which was specifically the vial of blood, and
15 sent it through Roshani Parikh, who was a SLED agent, a young
16 SLED agent, to Columbia. So Roxanne would be the one to say
17 that.

18 Roxanne would also be able to say, along with Jamie
19 Seals, who is an investigator at the Attorney General's
20 Office for the Medicaid Fraud Control Unit -- he was over
21 investigations at the Marlboro County Sheriff's Office and he
22 worked this case before he left. He would be able to say
23 that they were the ones that were developing this other side,
24 as well as Sara Albarri actually. That they were the ones
25 that were focused on this other side.

1 They were not focused on the DNA. They were not focused
2 on what Roxanne Love was actually speaking to SLED about.
3 They were focused on these surveillance videos that were
4 coming in, identifying that, and talking to Jamie Campbell.
5 The FBI was doing -- the FBI CART team, the child abduction
6 response team was actually there as well.

7 So they were all working in tandem, and they were
8 working trying -- focused, A, of trying to find this child,
9 and that was leading them to the car. And they were able to
10 find out the car was being used without consent, get the
11 warrant. So Jamie would be able to -- Seals would be able to
12 testify to that, as well as Sara Albarri, as well as Roxanne
13 Love, that that was the whole 'nother line of investigation.

14 Todd Schenk is here. He is still an agent with SLED,
15 and he would be able to testify that he was with the FBI in
16 -- in Charlotte -- in Charlotte, North Carolina when Mr.
17 Harrington was stopped, and he said as a routine procedure
18 they asked for a buccal swab. That was not something that
19 they did as a result of being asked to because of something
20 else. That that is routine procedure.

21 They asked for a consent. He gave consent. They took a
22 buccal swab. The buccal swab was signed over to him from
23 Charlotte, and he took it to SLED to be analyzed. And so
24 Agent Schenk is here, and he would be able to testify that it
25 was his name on there. He was there when Mr. Harrington

1 consented. He heard the consent and saw the consent and saw
2 the signing of the consent. He took the buccal swab and took
3 it to SLED, and he is present and he would be able to testify
4 to that, Your Honor.

5 And that is -- those would have been the witnesses that
6 the State was prepared to present to this Court if needed for
7 the purposes of this hearing.

8 THE COURT: Mr. Young, do you have any questions of any
9 of these witnesses?

10 MR. YOUNG: No, Your Honor.

11 THE COURT: All right. Very good. Thank you.

12 MS. WEISS: Your Honor, at this time I would ask --
13 well, I don't know if Mr. Redmond needs any of them to stay,
14 but that any of them that are here only for my motion be
15 excused as a result. They all can be excused from their
16 subpoenas, Your Honor.

17 MR. REDMOND: And, Your Honor, actually, I was going to
18 ask because there is some overlap, as I'm sure Your Honor has
19 already deduced, from the motion they've made regarding the
20 stop itself being what Ms. Weiss has already gotten into
21 pretty much lays that part of it out. I mean I know there's
22 the actual stop itself and so -- so that's not the complete
23 issue. But as it relates to the groundwork being laid about
24 how this defendant was developed as a suspect, I would submit
25 that that part would actually overlap into the issue that Mr.

1 Young has raised in the -- in his motion to -- to suppress
2 the stop itself.

3 So I don't have any objection to those individuals being
4 released because I would submit that that's already in the
5 record, and I would just ask that the Court note it as such.

6 THE COURT: All right. Mr. Young?

7 MR. YOUNG: No. There's nothing in the record about the
8 -- when phone records were gotten, when numbers were matched
9 up, when Facebook was searched, when a warrant was drafted on
10 the 10th. I understand that. I don't have any questions
11 about this vial of blood that was found --

12 THE COURT: Okay.

13 MR. YOUNG: -- and transported to SLED.

14 THE COURT: All right. Well, we don't need to release
15 them. We will -- we will -- we probably will need them to
16 testify with regard to those issues.

17 MR. YOUNG: Yes, sir.

18 THE COURT: All right.

19 MR. YOUNG: May we have a moment?

20 THE COURT: Yes.

21 MR. REDMOND: I beg the Court's indulgence.

22 (WHEREUPON, there was a pause in the proceedings, after
23 which the proceedings resumed as follows.)

24 MR. REDMOND: Your Honor, in talking with Mr. Young --
25 and I was just trying to get the understanding of the scope

1 of his motion. In talking with him -- and if I misstate
2 something, Mr. Young can correct me, but the scope of his
3 motion, as I understood it, was the stop itself because I
4 think it alleges fraud in the issuance of the warrant for the
5 unlawful use of the vehicle.

6 And, Your Honor, that's what I was referring to
7 tomorrow. I have those witnesses tomorrow. I have Jamie
8 Campbell here tomorrow. She was the one that gave the
9 information to law enforcement about the situation and the
10 status of the car, and we'll actually have the CMPD officers
11 as it relates to the stop itself, the execution of the
12 warrant and the stop itself.

13 So in talking with Mr. Young, I don't think we will need
14 anybody, even though there's some overlap, but as it relates
15 to his specific motion, I think that what I would be planning
16 to proffer tomorrow would be sufficient. Again, the person
17 whose car it was actually in her name, she'll be here to
18 testify, as well as the CMPD officers involved in the actual
19 stop and the search warrant that was executed as well.

20 MR. YOUNG: And the officer who testified to the
21 magistrate?

22 MR. REDMOND: Yeah. Sgt. Dollar will be here. Yeah, I
23 talked to him Friday. He'll be here. He's the one that
24 swore to the magistrate in North Carolina.

25 MR. YOUNG: I think that's okay.

1 THE COURT: Okay.

2 MR. YOUNG: I think that's correct, Your Honor. I don't
3 think that any of the people that are here today are
4 necessary for --

5 THE COURT: Very good. Well, if Ms. Weiss sees fit to
6 release them, then you can do so.

7 MS. WEISS: Thank you, Your Honor.

8 Everybody that's here under my subpoena for this is
9 welcome to leave, which I know is Sandy and Todd. Would you
10 call Adrienne to let her know?

11 MR. REDMOND: Oh, I've got her. I was texting Adrienne.
12 I'll just hit send. I was texting her.

13 MS. WEISS: Thank y'all.

14 THE COURT: All right. I'll be happy to entertain the
15 next motion.

16 MR. YOUNG: Your Honor, the next motion would be Defense
17 Motion No. 27, motion to suppress Facebook records. There
18 are a number of warrants, search warrants, issued in this
19 case, and a number of them in the affidavit for probable
20 cause indicate that there were Facebook records retrieved
21 between Mr. Harrington and Ms. Lowery around about the time
22 of her death.

23 And the defense had never been -- we had a copy of her
24 Facebook wall, but we never had a copy of the Facebook
25 messages that were referenced in a number of warrants and

Law Office of Brie Rust Russell, L.L.C.
 900 Elmwood Avenue Suite 200, Columbia, S.C. 29201

Brie.Russell@RussellLaw.US

803-727-5314

December 8, 2020

4th Circuit Solicitor's Office
 Expungement Division
 P.O. Box 616
 Bennettsville, SC 29512

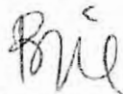
RE: Jejauncey Harrington

Dear Sir or Mam:

Please find enclosed expungement orders and copies of certified disposition for Mr. Harrington. Please obtain the other signatures and file all orders with the appropriate agencies and return two filed and clocked copies to our office, one for our file and one for mail to our client.

Thank you very much for your assistance with this matter and should you have any questions, please do not hesitate to email or call me all time.

Sincerely,



Brie Rust Russell

BRR/

Enclosures

ANITA M. WILLIAMS
 CLERK OF COURT
 CHARLEBORO COUNTY, S.C.
 2020 JAN 17 A 8:50
FILED



STATE OF SOUTH CAROLINA)
COUNTY OF MARLBORO)

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA)

v.)

JEJAUNCEY HARRINGTON)

Defendant)

AKA)

Race B Sex M Age 35
DOB 84 SSN

SID #

Charges were disposed of in the court indicated below:

☐ Magistrate ☐ Municipal ☒ General Sessions

IT APPEARS that the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. H-467956 Date of Arrest 4-9-05 Place of Arrest MARLBORO County, S.C.

Arrest Charge LARCENY

☒	§ 17-1-40. The charge was dismissed, <i>nolle prossed</i> , or the defendant was found not guilty on <u>2-19-07</u> .
☐	§ 22-5-910. The defendant was convicted of an offense in magistrate, municipal or general sessions court for a crime carrying a penalty of not more than 30 days imprisonment or a fine of \$1,000, or both, on <u></u> , that offense did not involve an offense involving the operation of a motor vehicle, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for first offense criminal domestic violence (conduct occurring prior to June 4, 2015) or third degree domestic violence under § 16-25-20. (<i>Summary court judge must attest to eligibility if disposed of in that court.</i>)
☐	§ 22-5-920. The defendant was convicted of a first offense as a youthful offender on <u></u> , that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender. The sentence was completed on <u></u> .
☐	§ 22-5-930(A). The defendant was convicted of a first offense simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86 (EE) on <u></u> and no additional convictions, to include out-of-state convictions, have taken place during a three-year period following completion of his sentence, including probation and parole. The sentence was completed on <u></u> .
☐	§ 22-5-930(B). The defendant was convicted of a first offense possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44 on <u></u> and no additional convictions, to include out-of-state convictions, have taken place during a twenty-year period following completion of his sentence, including probation and parole. The sentence was completed on <u></u> .
☐	§ 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the fraudulent check law on <u></u> and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.
☐	§ 44-53-450(B). The defendant, who has not previously been convicted of any offense under Article 3, Chapter 53, Title 44 or any offense under any state or federal statute relating to marijuana, stimulant, depressant, or hallucinogenic drugs, successfully completed all terms of and received a conditional discharge of possession of a controlled substance under Section 44-53-370(c) and (d) or Section 44-53-375(A).
☐	§ 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on <u></u> and no additional criminal conviction has taken place for three years after completion of the sentence. The sentence was completed on <u></u> .

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED Date

IT IS ORDERED that all records relating to such arrest and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except as follows:

- (1) arrest and booking record, associated bench warrants, mug shots and fingerprints of the defendant shall be retained under seal pursuant to § 17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in § 17-1-40 (B)(1)(a) and (b); under § 17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in § 17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to § 17-1-40 is not a public information and is exempt from disclosure, except by court order;
- (2) probation records retained by S.C. Department of Probation, Pardon, and Parole Services pursuant to § 17-1-40 (B)(3) whose charges were dismissed by conditional discharge pursuant to § 44-53-450;
- (3) nonpublic information retained by S.C. Law Enforcement Division (SLED) pursuant to § 22-5-910, § 22-5-920, § 34-11-90(e), and § 44-53-450; and
- (4) nonpublic information retained by SLED and S.C. Department of Public Safety/Department of Motor Vehicles pursuant to § 56-5-750(F), as well as any nonpublic records retained by S.C. Commission on Prosecution Coordination as required by law.

BRIE RUSSELL

S.C. Bar No.: 100985

Name of Defense Counsel (if represented)

To be completed by Summary Court Judge if charge disposed of in that court:

I ATTEST that the defendant is eligible for expungement pursuant to § 22-5-910, § 34-11-90(e), or § 44-53-450(B).

I CERTIFY (check one):

☐ The defendant was fingerprinted and the summary court has coordinated with SLED and confirmed the criminal charge is statutorily appropriate for expungement.

☐ The defendant was not fingerprinted and the summary court has coordinated with the arresting law enforcement agency and confirmed that no fingerprints were taken from the defendant for this charge.

Summary Court Judge

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

*To be completed by Solicitor:*Solicitor: ☐ Consents ☐ Declines to Consent ☐ Determined ineligible for expungementThe charge covered by this order was not dismissed or *nolle prossed* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, or any other statutorily authorized diversion program operated by a solicitor's office. The charge covered by this order can legally be expunged._____
Circuit Solicitor

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

IT IS SO ORDERED.

_____, Circuit Court Judge _____ Judge Code Signed this _____ day of _____, 20____

For SLED internal use only: Expunged by SLED by: _____

Date: _____

ANTHONY WILLIAMS
CLERK OF COURT
MAYNARD COUNTY, S.C.

2022 JAN -7 A 8:50

FILED

WESSES

Locklear

- MCSD

FILED

2007 FEB 19 PM 4 41

WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

ARREST WARRANT #:

H467956

Arrested on April 09, 2005

ACTION OF GRAND JURY

J Rve B: 11

Foreman:

Grand Jury

VERDICT

Foreman:

Petit Jury

Date:

DOCKET #: 05GS34-0645

THE STATE OF SOUTH CAROLINA

County of Marlboro

COURT OF GENERAL SESSIONS

Term: July, 2005

THE STATE

vs.

Jejauncey Harrington

COPY

INDICTMENT FOR

LARCENY \$1,000.00 \$4,999.99

(16-13-30) (B)

MARLBORO COUNTY, S.C.

ANITA M. WILLIAMS
CLERK OF COURT

2007 JAN -7

8:50

FILED

2/19/07 Nel. Pres

A found Not Guilty on
accompanying Murder charge

Elizabeth R. Munroe

A CERTIFIED TRUE COPY

Anita M. Williams

CLERK OF COURT

MARLBORO COUNTY

CHESTERFIELD COUNTY, DARLINGTON COUNTY, DILLON COUNTY, AND MARLBORO COUNTY



APPLICATION FOR EXPUNGEMENT

PLEASE **PRINT** ALL INFORMATION ON THIS FORM **LEGIBLY** AND SIGN YOUR NAME AT THE BOTTOM.

FULL LEGALNAME: Jejauncey F Harrington

MAILING ADDRESS: 900 Elmwood Ave., Suite 200, Columbia, S.C. 29201

CITY: Columbia STATE: S.C. ZIP: 29201 PHONE #: 803-727-5314

ALTERNATE PHONE #: _____ EMAIL ADDRESS: Brie.Russell@RussellLaw.us

RACE: M SEX: B AGE: 35 DOB: [REDACTED] 1984 SSN: [REDACTED]

ARRESTING AGENCY: Marlboro County Sheriff ARREST DATE: 4-9-05

ARREST CHARGE: Larceny H-467956

HAVE YOU APPLIED FOR AN EXPUNGEMENT PREVIOUSLY numerous times, never received a response.

AT ANY TIME, HAVE YOU PARTICIPATED IN THE PRE-TRIAL INTERVENTION (PTI) PROGRAM No

FILED
 2022 JUN -7 A 8:50
 ANITA M. WILLIAMS
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

DEFENDANT SIGNATURE

DATE

Please complete this form and mail to: 4th Circuit Solicitor's Office
 Attn: Christy Overstreet
 Post Office Box 616
 Bennettsville, SC 29512

Once the completed application is received, you will then be contacted within two weeks either by phone or by mail, as to whether the charges can or cannot be removed from your record

EXPUNGEMENT FEES ARE NON-REFUNDABLE
THE EXPUNGEMENT PROCESS TAKES A MINIMUM OF 4-6 WEEKS TO BE COMPLETED

STATE OF SOUTH CAROLINA)
 COUNTY OF MARLBORO)

IN THE COURT OF GENERAL SESSIONS
 ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA)
 v.)

Race B Sex M Age 35
 DOB 84 SSN

SID #

JEJAUNCEY HARRINGTON
 Defendant

Charges were disposed of in the court indicated below:

☐ Magistrate ☐ Municipal ☒ General Sessions

AKA

IT APPEARS that the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. H-467957 Date of Arrest 4-9-05 Place of Arrest MARLBORO County, S.C.

Arrest Charge MURDER

☒	§ 17-1-40. The charge was dismissed, <i>nolle prossed</i> , or the defendant was found not guilty on <u>2-9-07</u> .
☐	§ 22-5-910. The defendant was convicted of an offense in magistrate, municipal or general sessions court for a crime carrying a penalty of not more than 30 days imprisonment or a fine of \$1,000, or both, on _____, that offense did not involve an offense involving the operation of a motor vehicle, and no additional criminal conviction as defined by §22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for first offense criminal domestic violence (conduct occurring prior to June 4, 2015) or third degree domestic violence under §16-25-20. (Summary court judge must attest to eligibility if disposed of in that court.)
☐	§ 22-5-920. The defendant was convicted of a first offense as a youthful offender on _____, that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by §22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender. The sentence was completed on _____.
☐	§ 22-5-930(A). The defendant was convicted of a first offense simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86 (EE) on _____ and no additional convictions, to include out-of-state convictions, have taken place during a three-year period following completion of his sentence, including probation and parole. The sentence was completed on _____.
☐	§ 22-5-930(B). The defendant was convicted of a first offense possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44 on _____ and no additional convictions, to include out-of-state convictions, have taken place during a twenty-year period following completion of his sentence, including probation and parole. The sentence was completed on _____.
☐	§ 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the fraudulent check law on _____ and no additional criminal conviction as defined by §34-11-90(e) has taken place in one year from date of conviction.
☐	§ 44-53-450(B). The defendant, who has not previously been convicted of any offense under Article 3, Chapter 53, Title 44 or any offense under any state or federal statute relating to marijuana, stimulant, depressant, or hallucinogenic drugs, successfully completed all terms of and received a conditional discharge of possession of a controlled substance under Section 44-53-370(c) and (d), or Section 44-53-375(A).
☐	§ 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on _____ and no additional criminal conviction has taken place for three years after completion of the sentence. The sentence was completed on _____.

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED _____ Date _____

IT IS ORDERED that all records relating to such arrest and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except as follows:

- (1) arrest and booking record, associated bench warrants, mug shots and fingerprints of the defendant shall be retained under seal pursuant to § 17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in § 17-1-40 (B)(1)(a) and (b); under § 17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in § 17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to § 17-1-40 is not a public information and is exempt from disclosure, except by court order;
- (2) probation records retained by S.C. Department of Probation, Pardon, and Parole Services pursuant to § 17-1-40 (B)(3) whose charges were dismissed by conditional discharge pursuant to § 44-53-450;
- (3) nonpublic information retained by S.C. Law Enforcement Division (SLED) pursuant to § 22-5-910, § 22-5-920, § 34-11-90(e), and §44-53-450; and
- (4) nonpublic information retained by SLED and S.C. Department of Public Safety/Department of Motor Vehicles pursuant to § 56-5-750(F), as well as any nonpublic records retained by S.C. Commission on Prosecution Coordination as required by law.

BRIE RUSSELL
Name of Defense Counsel (if represented)

S.C. Bar No.: 100985

To be completed by Summary Court Judge if charge disposed of in that court:

I ATTEST that the defendant is eligible for expungement pursuant to § 22-5-910, § 34-11-90(e), or § 44-53-450(B).

I CERTIFY (check one):

☐ The defendant was fingerprinted and the summary court has coordinated with SLED and confirmed the criminal charge is statutorily appropriate for expungement.

☐ The defendant was not fingerprinted and the summary court has coordinated with the arresting law enforcement agency and confirmed that no fingerprints were taken from the defendant for this charge.

Summary Court Judge

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

To be completed by Solicitor:

Solicitor: ☐ Consents ☐ Declines to Consent ☐ Determined ineligible for expungement

The charge covered by this order was not dismissed or *nolle prossed* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, or any other statutorily authorized diversion program operated by a solicitor's office. The charge covered by this order can legally be expunged.

Circuit Solicitor

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

IT IS SO ORDERED.

_____, Circuit Court Judge _____ Judge Code Signed this _____ day of _____, 20____

For SLED internal use only: Expunged by SLED by: _____

Date: _____

2022 JAN 7 A 8:51
 ANITA M. WILLIAMS
 CLERK OF COURT
 MARLBOROUGH COUNTY, S.C.
FILED

GENERAL SESSIONS DOCKET REPORT FOR MARLBORO COUNTY

REPORT RUN DATE - 02/14/2007

INDICTMENT NUMBER: 2005GS3400646

DEFENDANT NAME: HARRINGTON, JEJAUNCEY F AKA:

ADDRESS: [REDACTED] CITY: MCCOLL STATE: SC ZIP 29570

SOCIAL SECURITY NUMBER: [REDACTED] SEX: 1 MALE RACE: 2 BLACK

DATE OF BIRTH: [REDACTED]/1984 DRIVERS LICENSE STATE / NO.: SC / 999999999999

MARITAL STATUS:

WARRANT OR TICKET NUMBER: H467957 COUNTS: 01 OFFENSE CODE: 0116

NO WARRANT? 0 NAME OF OFFENSE: MURDER / MURDER

DATE OF ARREST: 04/09/2005 DATE RECD BY CLERK: 05/27/2005 SUMMARY JUDGE: 597

DISP DATE: 02/09/2007 DISP TYPE: 3 TRIAL/NOT GUILTY

DISP TYPE EXPLANATION:

JUDGE CODE/NAME: 048 BURCH, PAUL MICHAEL COURT REPORTER: GORDON

CONVICTION: CTS: 00 OFFENSE: 0000

SENTENCE:

DEFENSE ATTORNEY:

PROSECUTING ATTORNEY: MUNNERYN

ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, SC

2022 JAN -7 A 8:51

FILED

A CERTIFIED TRUE COPY

Anita M. WilliamsCLERK OF COURT
MARLBORO COUNTY

CHESTERFIELD COUNTY, DARLINGTON COUNTY, DILLON COUNTY, AND MARLBORO COUNTY



APPLICATION FOR EXPUNGEMENT

PLEASE **PRINT** ALL INFORMATION ON THIS FORM **LEGIBLY** AND SIGN YOUR NAME AT THE BOTTOM.

FULL LEGALNAME: Jejauncey F Harrington

MAILING ADDRESS: 900 Elmwood Ave., Suite 200, Columbia, S.C. 29201

CITY: Columbia STATE: S.C. ZIP: 29201 PHONE #: 803-727-5314

ALTERNATE PHONE #: _____ EMAIL ADDRESS: Brie.Russell@RussellLaw.us

RACE: M SEX: B AGE: 35 DOB: 1984 SSN: [REDACTED]

ARRESTING AGENCY: Marlboro County Sheriff ARREST DATE: 4-09-05

ARREST CHARGE: Murder H-467957

HAVE YOU APPLIED FOR AN EXPUNGEMENT PREVIOUSLY numerous times, never received a response

AT ANY TIME, HAVE YOU PARTICIPATED IN THE PRE-TRIAL INTERVENTION (PTI) PROGRAM NO

DEFENDANT SIGNATURE

DATE

Please complete this form and mail to: 4th Circuit Solicitor's Office
Attn: Christy Overstreet
Post Office Box 616
Bennettsville, SC 29512

Once the completed application is received, you will then be contacted within two weeks either by phone or by mail, as to whether the charges can or cannot be removed from your record

EXPUNGEMENT FEES ARE NON-REFUNDABLE
THE EXPUNGEMENT PROCESS TAKES A MINIMUM OF 4-6 WEEKS TO BE COMPLETED

FILED
 2022 JAN -9 A 8:51
 ASHLEY WILLIAMS
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

STATE OF SOUTH CAROLINA)
 COUNTY OF MARLBORO)

IN THE COURT OF GENERAL SESSIONS
 ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA)

v.)

Race B Sex M Age 35
 DOB -84 SSN [REDACTED]

SID # _____

JEJAUNCEY HARRINGTON

Defendant

Charges were disposed of in the court indicated below:

☐ Magistrate ☐ Municipal ☒ General Sessions

AKA _____

IT APPEARS that the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. I-075516 Date of Arrest 5-23-02 Place of Arrest MARLBORO County, S.C.

Arrest Charge Disturbing schools

☒	§ 17-1-40. The charge was dismissed, <i>nolle prossed</i> , or the defendant was found not guilty on <u>2-19-07</u> .
☐	§ 22-5-910. The defendant was convicted of an offense in magistrate, municipal or general sessions court for a crime carrying a penalty of not more than 30 days imprisonment or a fine of \$1,000, or both, on _____, that offense did not involve an offense involving the operation of a motor vehicle, and no additional criminal conviction as defined by §22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for first offense criminal domestic violence (conduct occurring prior to June 4, 2015) or third degree domestic violence under §16-25-20. (Summary court judge must attest to eligibility if disposed of in that court.)
☐	§ 22-5-920. The defendant was convicted of a first offense as a youthful offender on _____, that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by §22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender. The sentence was completed on _____.
☐	§ 22-5-930(A). The defendant was convicted of a first offense simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86 (EE) on _____ and no additional convictions, to include out-of-state convictions, have taken place during a three-year period following completion of his sentence, including probation and parole. The sentence was completed on _____.
☐	§ 22-5-930(B). The defendant was convicted of a first offense possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44 on _____ and no additional convictions, to include out-of-state convictions, have taken place during a twenty-year period following completion of his sentence, including probation and parole. The sentence was completed on _____.
☐	§ 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the fraudulent check law on _____ and no additional criminal conviction as defined by §34-11-90(e) has taken place in one year from date of conviction.
☐	§ 44-53-450(B). The defendant, who has not previously been convicted of any offense under Article 3, Chapter 53, Title 44, or any offense under any state or federal statute relating to marijuana, stimulant, depressant, or hallucinogenic drugs, successfully completed all terms of and received a conditional discharge of possession of a controlled substance under Section 44-53-370(c) and (d), of Section 44-53-375(A).
☐	§ 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on _____ and no additional criminal conviction has taken place for three years after completion of the sentence. The sentence was completed on _____.

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED _____ Date _____

IT IS ORDERED that all records relating to such arrest and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except as follows:

- (1) arrest and booking record, associated bench warrants, mug shots and fingerprints of the defendant shall be retained under seal pursuant to § 17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in § 17-1-40 (B)(1)(a) and (b); under § 17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in § 17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to § 17-1-40 is not a public information and is exempt from disclosure, except by court order;
- (2) probation records retained by S.C. Department of Probation, Pardon, and Parole Services pursuant to § 17-1-40 (B)(3) whose charges were dismissed by conditional discharge pursuant to § 44-53-450;
- (3) nonpublic information retained by S.C. Law Enforcement Division (SLED) pursuant to § 22-5-910, § 22-5-920, § 34-11-90(e), and §44-53-450; and
- (4) nonpublic information retained by SLED and S.C. Department of Public Safety/Department of Motor Vehicles pursuant to § 56-5-750(F), as well as any nonpublic records retained by S.C. Commission on Prosecution Coordination as required by law.

BRIE RUSSELLS.C. Bar No.: 100985

Name of Defense Counsel (if represented)

To be completed by Summary Court Judge if charge disposed of in that court:

I ATTEST that the defendant is eligible for expungement pursuant to § 22-5-910, § 34-11-90(e), or § 44-53-450(B).

I CERTIFY (check one):

☐ The defendant was fingerprinted and the summary court has coordinated with SLED and confirmed the criminal charge is statutorily appropriate for expungement.☐ The defendant was not fingerprinted and the summary court has coordinated with the arresting law enforcement agency and confirmed that no fingerprints were taken from the defendant for this charge._____
Summary Court Judge

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

*To be completed by Solicitor:*Solicitor: ☐ Consents ☐ Declines to Consent ☐ Determined ineligible for expungementThe charge covered by this order was not dismissed or *nolle prossed* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, or any other statutorily authorized diversion program operated by a solicitor's office. The charge covered by this order can legally be expunged._____
Circuit Solicitor

Printed/Typed Name: _____ Signed this _____ day of _____, 20____

IT IS SO ORDERED.

_____, Circuit Court Judge _____ Judge Code _____ Signed this _____ day of _____, 20____

For SLED internal use only: Expunged by SLED by: _____

Date

ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

2021 JUN -7 A 8:51

FILED

WITNESSES

Officer: *[Signature]*
Samuels, Sro
Agency: Bennettville Police Department

DOCKET NO. 2002-GS-34-1701

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

AUGUST TERM 2002

WARRANT NUMBERS

1075516 (DOA 05/23/2002)

THE STATE

vs.

Jejauncey Harrington

ACTION OF GRAND JURY

COPY

8/1/02 Sue Bell

Shelley J. Harrington
Foreperson of Grand Jury

VERDICT

U.S. MARSHAL SERVICE
CLERK OF COURT
MARLBORO COUNTY, S.C.

CDR CODE 331

Indictment for
§16-17-0420

DISTURBING SCHOOLS

2002 JAN -7 A-8-51

Foreperson of Petit Jury

FILED
Date

7/11/03
Not pros - insufficient evidence
Don Blake
Asst SoC

A CERTIFIED TRUE COPY

Cliff M. Williams
CLERK OF COURT
MARLBORO COUNTY

CHESTERFIELD COUNTY, DARLINGTON COUNTY, DILLON COUNTY, AND MARLBORO COUNTY



APPLICATION FOR EXPUNGEMENT

PLEASE **PRINT** ALL INFORMATION ON THIS FORM **LEGIBLY** AND SIGN YOUR NAME AT THE BOTTOM.

FULL LEGALNAME: Jejauncey F Harrington

MAILING ADDRESS: 900 Elmwood Ave., Suite 200, Columbia, S.C. 29201

CITY: Columbia STATE: S.C. ZIP: 29201 PHONE #: 803-727-5314

ALTERNATE PHONE #: _____ EMAIL ADDRESS: Brie.Russell@RussellLaw.us

RACE: M SEX: B AGE: 35 DOB: 1984 SSN: _____

ARRESTING AGENCY: Marlboro County Sheriff ARREST DATE: 5-23-02

ARREST CHARGE: Disturbing Schools I-075516

HAVE YOU APPLIED FOR AN EXPUNGEMENT PREVIOUSLY numerous times, never received a response.

AT ANY TIME, HAVE YOU PARTICIPATED IN THE PRE-TRIAL INTERVENTION (PTI) PROGRAM _____

DEFENDANT SIGNATURE

DATE

Please complete this form and mail to: 4th Circuit Solicitor's Office
Attn: Christy Overstreet
Post Office Box 616
Bennettsville, SC 29512

Once the completed application is received, you will then be contacted within two weeks either by phone or by mail, as to whether the charges can or cannot be removed from your record

EXPUNGEMENT FEES ARE NON-REFUNDABLE
THE EXPUNGEMENT PROCESS TAKES A MINIMUM OF 4-6 WEEKS TO BE COMPLETED

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 2022 JAN -3 A 8:51
 ANITA M. WILLIAMS
 CLERK OF COURT
 MARLBORO COUNTY, S.C.



L17-06957
Page 1 of 2
JIM

VOLUNTARY CONSENT TO SEARCH

I, Jejauncey Fernando Harrington, do hereby freely, voluntarily, without threats, pressure, or coercion of any kind consent to a search of my Person - Buccal Swab by agents of the South Carolina Law Enforcement Division (SLED) and individuals in their company.

Location and description of premises to be searched:

Mouth - buccal swab

Witness

Witness

Signature of person consenting to the search

Relationship to premises

Date of Birth

Social Security Number

Date

Time

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ANTHONY WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.



State of South Carolina)
)
 County of Marlboro)

In Circuit Court of the
 Fourth Judicial Circuit
 2017A3410100224; 224;
 230; 231; 232; 234; 235

THE STATE,

Plaintiff,

vs.

JEJAUNCEY HARRINGTON,

Defendant.

Transcript of Record

Marlboro, South Carolina
 May 31, 2017

B E F O R E:

The Honorable Roger E. Henderson

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

Mr. Kinard Redmond, Esquire
 Attorney for Plaintiff

Mr. Michael Stephens, Esquire
 Attorney for Defendant

Lisa Carter
 Circuit Court Reporter

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 CLERK OF COURT
 MARLBORO COUNTY, S.C.



I N D E X

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I N D E X

DESCRIPTIONNO.EV.

(No Exhibits Were Introduced At This Hearing)

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MARLBORO COUNTY, S.C.

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1 THE COURT: All right. Solicitor?

2 MR. REDMOND: May it please, the Court, Your Honor?

3 Before you seated at the defense table is, and I think it's
4 pronounced, JeJauncey Harrington. He's before you all
5 warrant numbers 20017A3410100229 for murder; 234 is also
6 for murder; 230 is kidnapping; 231 is possession of a
7 weapon during the commission of a violent crime; as is 232;
8 and, finally 235 is armed robbery.

9 We're here -- there are a couple of issues that we
10 need to address at this time, Your Honor, one of which
11 being the, and I guess I'll address first, the defendant's
12 waiver of his bond hearing. I've been talking with Mr.
13 Stephens and I'll yield to him at this time. We just felt
14 that we need to go ahead and put that on the record at this
15 time regarding the issue of bond, especially, since we've
16 been getting a bunch of media inquiries about a bond
17 hearing. So I'll yield to Mr. Stephens at this time.

18 THE COURT: Yes, sir.

19 MR. STEPHENS: May it please, the Court, Your Honor?
20 Two issues, one, I was notified of this hearing last week
21 and we received a copy of the motion and affidavit last
22 Wednesday. I've talked with my client about it. We
23 haven't quite gotten to the ten (10) days but we've talked
24 about it and we are ready to go forward today and waive the
25 other three days or two days, whatever, but we're prepared

1 to go forward today. And if you would, at some point,
2 inquire of him if he agrees with that. The other point is
3 that as Mr. Redmond says, we have a -- I've gotten him to
4 sign a waiver of bond. We didn't see any reason to have a
5 bond hearing at this point, but he signed it and I'd like
6 to just have that filed.

7 THE COURT: Sure.

8 MR. STEPHENS: And -- do you need to see it?

9 MR. REDMOND: Oh, no, I've got a copy. You emailed
10 it to me. I've got it.

11 MR. STEPHENS: But, you need to just ask him if he
12 agrees with what I've told you.

13 THE COURT: Mr. Harrington?

14 MR. HARRINGTON: Yes, sir.

15 THE COURT: Would you stand for me please
16 (Whereupon, the defendant complies)

17 THE COURT: Okay. Do you swear or affirm the
18 testimony you're about to give will be the truth so help
19 you God?

20 MR. HARRINGTON: Yes, sir.

21 THE COURT: All right. Mr. Harrington, it's
22 pointed out by your attorney, Mr. Stephens, I want to
23 address a couple of issues. First, let's go ahead and
24 address this waiver of bond that you have signed. You
25 clearly understand, do you not, that you are entitled to a

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CLERK OF COURT
MARLBORO COUNTY, SSC.

1 bond hearing?

2 MR. HARRINGTON: Yes, sir.

3 THE COURT: And that I can provide that for you
4 this morning, you understand that?

5 MR. HARRINGTON: Yes, sir.

6 THE COURT: You have talked to Mr. Stephen at
7 length about waiving your right to a bond at this time, is
8 that correct?

9 MR. HARRINGTON: Yes, sir.

10 THE COURT: Okay. Has he answered all of your
11 questions to your satisfaction?

12 MR. HARRINGTON: Yes, sir.

13 THE COURT: Okay. You do indicate to me that
14 you've had adequate opportunity to fully discuss this with
15 him?

16 MR. HARRINGTON: Yes, sir.

17 THE COURT: You satisfied with the services of Mr.
18 Stephens up to this point?

19 MR. HARRINGTON: Yes, sir.

20 THE COURT: You agree he's done everything he can
21 for you as your attorney up to this point?

22 MR. HARRINGTON: Yes, sir.

23 THE COURT: Okay. Now, are you making this
24 decision to waive bond freely and voluntarily?

25 MR. HARRINGTON: Yes, sir.

1 THE COURT: No one has threatened you in any way to
2 get you to do this, have they?

3 MR. HARRINGTON: No, sir.

4 THE COURT: Has anybody promised you anything to
5 get you to do this?

6 MR. HARRINGTON: No, sir.

7 THE COURT: Are you under the influence of any
8 alcohol or drugs today?

9 MR. HARRINGTON: No, sir.

10 THE COURT: You suffer from any kind of physical,
11 mental, or emotional problems that keep you from being able
12 to understand things clearly?

13 MR. HARRINGTON: No, sir.

14 THE COURT: Do you need to ask the Court any
15 questions about your waiver of bond?

16 MR. HARRINGTON: No, sir.

17 THE COURT: All right. You do understand, and it's
18 pointed out in the waiver of bond that's been signed, that
19 you have the right to apply for a bond sometime in the
20 future, if you so desire?

21 MR. HARRINGTON: Yes, sir.

22 THE COURT: And that all you have to do is discuss
23 this with your attorney and he'll make the arrangements to
24 have a bond hearing, do you understand that?

25 MR. HARRINGTON: Yes, sir.

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CLERK OF COURT
MARLBORO COUNTY, S.C.

1 THE COURT: Okay. Now, moving on to the other
2 issue, I understand there is another hearing this morning
3 that has been scheduled dealing with, that's dealing with
4 DNA, is that correct?

5 MR. REDMOND: Yes, sir.

6 THE COURT: And you understand -- I understand from
7 Mr. Stephens that you may not have had the requisite number
8 days notice in order to go forward with that hearing, are
9 you aware that?

10 MR. HARRINGTON: Yes, sir.

11 THE COURT: If you decide that you want the
12 requisite number of days notice, I will allow you to have
13 it, do you understand that?

14 MR. HARRINGTON: Yes, sir.

15 THE COURT: This hearing can be held at another
16 date once you receive the ten (10) days notice, you are
17 aware that?

18 MR. HARRINGTON: Yes, sir.

19 THE COURT: But I understand according to Mr.
20 Stephens that you are willing to waive that ten (10) days
21 notice and let's go for with that hearing this morning as
22 well, is that correct?

23 MR. HARRINGTON: Yes, sir.

24 THE COURT: And you're making this decision freely
25 and voluntarily, as well?

1 MR. HARRINGTON: Yes, sir.

2 THE COURT: After full consultation with your
3 attorney?

4 MR. HARRINGTON: Yes, sir.

5 THE COURT: Okay. All right. Thank you, sir. Any
6 questions, Mr. Stephens?

7 MR. STEPHENS: No, sir.

8 THE COURT: Anything from the State of Mr.
9 Harrington regarding that?

10 MR. REDMOND: Only on, not of Mr. Harrington, just to
11 add, I've talked to Mr. Stephens and the Court is aware
12 that there is a gag order in place. We have been getting
13 inundated with inquiries regarding a bond hearing. Given
14 that the defendant has waived bond and I've talked with Mr.
15 Stephens about this, with the Court's permission, the state
16 would ask if we could, I guess, do a benign press release
17 that I would show to Mr. Stephens before it was sent, just
18 indicating something along the lines that they will be no
19 bond hearing without getting into too much detail. And
20 again that's something that I can actually get with Mr.
21 Stephens on because I don't want to ---

22 THE COURT: I don't know if I would word it, "there
23 will be no bond hearing", it may sound like we denied a
24 bond.

25 MR. REDMOND: And -- and again just trying to figure

1 out the wording on it but the reason being is that,
2 obviously, they're entitled to be at certain things and
3 even with gag orders they're entitled to be notified of
4 hearings and since we been getting these inquiries, quite
5 frankly, I'd like to put that issue to bed in a way that we
6 can not impugn, impugn his rights to a fair trial. But at
7 the same time, you know, obviously, dealing with the issue
8 that the press may have regarding at least a bond hearing.
9 And so I would ask that if the Court would, with the
10 Court's permission, if I could get with Mr. Stephens and we
11 can come up with some kind of benign wording for a short
12 press release that will hopefully end that particular issue
13 for now?

14 THE COURT: Mr. Stephens?

15 MR. STEPHENS: Whatever, y'all want to do is fine.

16 THE COURT: I mean, you know, I can't -- call it
17 what it is. I mean, we say say he waived his right to a
18 bond hearing, but he's entitled to one in the future if he
19 so desires. I mean, let it -- that way they won't think
20 we're denying him something.

21 MR. REDMOND: Thank you.

22 THE COURT: He's waived it voluntarily himself. I
23 don't see where it jeopardizes, hurts anybody with regard
24 to, you know ---

25 MR. REDMOND: Yes, sir.

1 THE COURT: --- a fair trial down the road so....

2 MR. REDMOND: And again I'll draft something ---

3 THE COURT: Sure.

4 MR. REDMOND: --- and I'll still show it to Mr.
5 Stephens before it's released.

6 THE COURT: Yeah. And let me see it too.

7 MR. REDMOND: I will too. I'll email it to the Court
8 as well.

9 THE COURT: All right, sir.

10 MR. REDMOND: And with that, Your Honor, then the
11 next issue is, of course, the issue as it relates to the
12 Schmerber. That is a two-pronged issue, one, dealing with
13 buccal swabs for DNA testing. The other is actually
14 dealing with an issue of an injury to the defendant's right
15 hand. And I've got Lieutenant Roxanne Bethea with SLEA I
16 actually do have her affidavit. I think Mr. Stephens has
17 had a copy of it and I'll submit it hasn't been filed. I'm
18 going to present this to the Court for filing and for the
19 Court to review during the course of this hearing and at
20 the appropriate time the State is ready to make its
21 proffer.

22 (Whereupon, the judge takes a moment to read document)

23 THE COURT: Anything, Mr. Stephens, before we
24 proceed?

25 MR. STEPHENS: No, sir. We're ready.

Roxanne Bethea- Direct Examination by Mr. Redmond: 12

1 THE COURT: All right. Mr. Redmond?

2 MR. REDMOND: The State would call Lieutenant Roxanne
3 Bethea with the State Law Enforcement Division.

4 THE CLERK: Raise your right hand. Do you solemnly
5 swear or affirm to tell the truth, the whole truth, and
6 nothing but the truth so help you God?

7 MS. BETHEA: I do.

8 THE CLERK: Please be seated.

9 ROXANNE BETHEA, first being
10 duly sworn, testified as follows:

11 Direct Examination by Mr. Redmond:

12 Q. Lieutenant Bethea, could you state your name for the
13 record?

14 A. Roxanne Bethea.

15 Q. Okay. And we've already established you're a
16 lieutenant with SLED, how long have you been employed with
17 SLED?

18 A. Approximately twenty-four years.

19 Q. And what is your specific title ---

20 MR. STEPHENS: Your Honor, we stipulate that she's
21 over the whole area over here and has been for some time
22 she's with SLED. We don't have to go into all of that.

23 THE COURT: All right.

24 MR. REDMOND: Thank you. I appreciate that.

25 THE COURT: Thank you, Mr. Stephens.

Roxanne Bethea- Direct Examination by Mr. Redmond:

13

1 Q. Cutting to the chase with this particular matter,
2 could you tell the Court how you became involved in this
3 case involving the defendant?

4 A. Yes, sir. On May 5th of this year, we were contacted
5 by the Marlboro County Sheriff's Department to assist them
6 with the murder of Ella Lowery in the abduction and
7 kidnapping of Iyana Lowery.

8 Q. And as a part of the, and without getting into all of
9 the details but getting into some of the pertinent issues,
10 at some point was the defendant identified as a possible
11 suspect?

12 A. Yes, he was.

13 Q. Okay. And let me back up for just a second, was there
14 evidence collected at the scene that was utilized for
15 forensic testing at the SLED lab?

16 A. There was. There was a cigarette butt on the step of
17 the carport leading to that side door and it was analyzed
18 and the DNA came back to JeJauncey, if I am pronouncing it
19 right, Harrington.

20 Q. Now, was that DNA sample based on a current sample or
21 one that was a past sample from a past case?

22 A. Past sample from a past case.

23 Q. Which, and is it your understanding that, that's part
24 of the reason that we're asking for another sample to
25 confirm the test that was done initially?

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MARLBORO COUNTY, S.C.

1 A. Yes, sir.

2 Q. And when -- and so when talking about the cigarette
3 butt, just so the Court would know the importance of that,
4 did you have information through witnesses indicating that
5 the cigarette butt was not present at the time the victim's
6 mother had left? When I say, victim's mother, I'm talking
7 about the victim's mother and the other victim's
8 grandmother, had left?

9 A. Right. Dolores Lowery.

10 Q. Yes.

11 A. Yes. She recognized that upon arriving back to the
12 residence. She had been the night before and was returning
13 home from her place of employment.

14 Q. And, of course, with that information did that add
15 additional import to the significance of that cigarette?

16 A. It did.

17 Q. Okay. And again, was it tested?

18 A. It was tested, yes.

19 Q. And did that give you information related to the
20 defendant?

21 A. Yes. The DNA that was on that cigarette matched the
22 DNA to JeJauncey, JeJauncey, Harrington.

23 Q. Okay. Now, moving further in the investigation as it
24 relates to the defendant, was there additional information
25 gathered as a result of his being apprehended in Charlotte,

Roxanne Bethea- Direct Examination by Mr. Redmond:

15

1 North Carolina?

2 A. Yes, there was. Once he was apprehended in Charlotte,
3 North Carolina, myself, Marlboro County, and the FBI went
4 up there, our SLED crime scene went up there to process the
5 vehicle, the 1998 Mitsubishi Eclipse that he drove. They
6 processed that vehicle. All that evidence was submitted to
7 the SLED lab where Iyana Lowery's DNA was discovered in
8 that vehicle.

9 Q. And I'm purposely not getting into too much detail at
10 this point because isn't this an ongoing investigation?

11 A. Yes.

12 Q. At this point, is it still an ongoing investigation?

13 A. Yes, sir. It's still an ongoing investigation.

14 Q. So I'm skipping a lot of things but trying to get some
15 of the pertinent points. And let me back up for a minute,
16 the victims in this case -- and what residence -- that was
17 the -- do you recall the address of the, of the incident
18 where Iyana and Ella were killed?

19 A. It was on Craig's Circle in Bennettsville, Marlboro
20 County, South Carolina.

21 Q. Okay. And was Ella's body found at that time, at the
22 time that Ella (sic) Lowery bodies was found?

23 A. No.

24 Q. Okay.

25 A. Ella Lowery's body was in the location at the

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MARLBORO COUNTY, S.C.

Roxanne Bethea- Direct Examination by Mr. Redmond: 16

1 residence on Craig's Circle on May 5th. Iyana's body was
2 located in McColl in Gum Creek on Sunday, I believe the
3 date would be, May 14th.

4 Q. And, of course, was her body found after you had
5 actually apprehended the defendant?

6 A. Yes, sir, it was.

7 Q. And at that point, once her body was found and
8 confirmed, was the additional murder charge brought against
9 him for Iyana?

10 A. Yes, it was.

11 Q. All right. Now, the reason -- one of the other
12 reasons I've mentioned Charlotte is, did you and, I
13 believe, Agent Mike Connolly with the FBI, Sheriff Lemon
14 and Jamie Seals with the sheriff's office, did y'all have
15 the opportunity to go to Charlotte?

16 A. Yes, sir, we did.

17 Q. Once the car was apprehended by CMPD?

18 A. Yes, sir. Once it was apprehended and we got the
19 notification, we drove to Charlotte-Mecklenburg Police
20 Department and met with some of their homicide detectives
21 there and attempted to interview, FBI agent Mike Connolly
22 and Sheriff Lemon, attempted to interview Harrington.

23 Q. And not getting into any of that, those issues can lie
24 for another day, but as it relates to your observations was
25 there anything about the defendant's person that caught

Roxanne Bethea- Direct Examination by Mr. Redmond:

17

1 y'all's attention?

2 A. Yes. Agent Connolly and the sheriff as well, it was
3 obvious that he had sustained an injury to his right hand
4 and it was bruised and red, from my understanding, and
5 swollen and you could tell just by viewing it in the
6 interview itself that he was trying to, to, I can't think
7 of the correct word right now, but trying to disguise and
8 not let anyone see his hand at that moment. And so later
9 before we left we also were able to gather his, crime scene
10 was able to gather his clothing and photograph his hand and
11 he still was trying to evade officers as they ask to look
12 at his hands so that they could photograph it and....

13 Q. Now, at this point when he's trying to conceal the
14 injury to his hand, the favoring of his hand, his right
15 hand, had, at that point, you didn't have Iyana's body at
16 that point -- we had not found ---

17 A. We did not. We did not know where she was located.

18 Q. Once she was found and taken for an autopsy, were
19 there injuries described that Iyana suffered that made the
20 issue of his hand even more important?

21 A. Yes, sir. She had injuries to her teeth, she had
22 fractured teeth, and she had, based on the autopsy, receive
23 some injury there, to her facial area.

24 Q. And based on your experience as an investigator and
25 based on the injuries that Iyana had suffered, at least

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CLERK OF COURT
MARICOPA COUNTY, AZ

Roxanne Bethea- Direct Examination by Mr. Redmond:

18

1 some of the injuries that she had suffered, did that again
2 raise more interest in the issue with this hand, his right
3 hand?

4 A. It did. It did.

5 Q. And is that why you are requesting that his hand be X-
6 ray to determine any fractures, the nature or any natures
7 of any fractures?

8 A. We do. We believe that the injury to his hand and to
9 her facial area could be related.

10 Q. And, excuse me -- and so just to be clear on what
11 you're requesting at this point in your investigation,
12 buccal swab sample, is just a buccal swab to take to SLED
13 for confirmation testing, for lack of a better term?

14 A. Yes, sir.

15 Q. Okay. And the x-ray of his hand as it relates to
16 following up on the investigation to determine the nature
17 of the injury to his hand as it relates to the injuries
18 suffered by Iyana Lowery?

19 A. Yes, sir.

20 Q. Okay.

21 MR. REDMOND: I beg the Court's indulgence?

22 THE COURT: Yes, sir.

23 Q. Oh, I didn't -- just to make sure I put on the record,
24 is it your understanding, had you been informed that the
25 defendant has actually denied medical treatment on his hand

Roxanne Bethea- Cross Examination by Mr. Stephens:

19

1 while at ---

2 A. Yes. He was offered medical treatment at the
3 detention center here and he refused it.

4 Q. Okay. And just to be clear on what our requests are,
5 are you trying to force him to get medical treatment or
6 simply just to have an x-ray done?

7 A. Simply have an x-ray.

8 Q. Okay.

9 MR. REDMOND: That'd be all the questions I have at
10 this time, Your Honor. Please answer any questions that
11 Mr. Stephens may have.

12 THE COURT: All right, sir. Mr. Stephens?

13 MR. STEPHENS: May it please, the Court?

14 Cross Examination by Mr. Stephens:

15 Q. Lieutenant Bethea, you said you had matched the DNA with
16 Mr. Harrington from another case?

17 A. Yes, sir.

18 Q. Can you tell us what case it is?

19 A. It's a 2005 case.

20 Q. Okay.

21 A. A homicide case here in Marlboro County involving
22 JeJauncey Harrington and I believe the victim's last name
23 is Hulon?

24 Q. Okay. And was that -- was that on file at SLED or was
25 that ---

2022 JAN -7 A 8:54
ANGELA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

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1 A. I'm sorry, I couldn't hear you.

2 Q. That DNA sample was on file with SLED?

3 A. No, sir. The sample was still here -- well, I think
4 the clerk had it.

5 Q. Okay. It was in evidence ---

6 A. Yes, sir.

7 Q. --- from the last trial?

8 A. Yes, sir.

9 Q. And that was -- so you evidently developed him as a
10 suspect before you tested that DNA?

11 A. Yes, sir.

12 Q. I mean, you had to ---

13 A. Yes, sir.

14 Q. --- to go get that. And can you tell us how you did
15 that?

16 A. Through the phone records they had numerous contacts
17 within the last sixty (60) days and then researching the
18 cell phone we found out that, that cell phone belong to
19 JeJauncey Harrington or was used by JeJauncey Harrington.

20 Q. So the victim and my client knew each other?

21 A. Yes.

22 Q. And -- at least for the last sixty (60) days?

23 A. At least.

24 Q. And you found a cigarette butt laying to the side?

25 A. Yes, sir. On the steps on the carport, there are

Roxanne Bethea- Cross Examination by Mr. Stephens:

21

1 steps that lead to the side door, on those steps.

2 Q. Okay. And the mother of the victim, she said it
3 wasn't there when she left go to work?

4 A. That's correct.

5 Q. Okay. Now, when you -- did you test that DNA against
6 anybody else ---

7 A. Excuse me?

8 A. --- on the cigarette butt?

9 A. You would have to ask Adrian Riley. They tested it
10 and I just know it came back to Harrington.

11 Q. Agent O'Reilly?

12 A. Adrian Riley.

13 Q. I'm sorry.

14 A. She's a DNA analyst.

15 Q. At SLED?

16 A. Yes, sir.

17 Q. Now, when you -- when you got to Charlotte, did y'all,
18 you took a swab from him up there?

19 A. Yes, sir. He consented to it.

20 Q. Okay. And -- but you still need another swab?

21 A. Yes, sir.

22 Q. You didn't use the swab you took in Charlotte?

23 A. It's been submitted, yes, sir.

24 Q. Was there something wrong with it that you know of?

25 A. Not that I'm aware of, no, sir.

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ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

1 Q. And, y'all photographed him?

2 A. Yes, sir.

3 Q. Did you photograph his hand?

4 A. Yes, sir.

5 Q. Okay. Do you have the picture with you?

6 A. I do not have the pictures with me.

7 Q. Okay. And you photographed him -- y'all -- somebody
8 photographed him all over?

9 A. Yes, sir. Our crime scene agent, Todd Schenk.

10 Q. What's the last name?

11 A. S-c-h-e-n-k, I believe that's correct spelling.

12 Q. Okay. And you say he's refused medical treatment, do
13 you know who offered him the medical treatment?

14 A. I don't know specifically. I know that they offered
15 him medical treatment at the detention center.

16 Q. And you said, Agent Connelly, with the FBI?

17 A. Mike Connelly, yes, sir.

18 Q. C-o-n-l-e-y?

19 A. C-o-n-n....

20 Q. and Sheriff Lemon were with y'all when y'all talk to
21 him?

22 A. Yes, sir.

23 Q. Mr. Harrington in Charlotte?

24 A. Yes, sir.

25 Q. Okay. And they would have observed his hand?

Roxanne Bethea- Cross Examination by Mr. Stephens:

23

1 A. Yes, sir, they did.

2 MR. STEPHENS: That's all I have -- hold on.

3 Q. Now, when he was in Charlotte, did, like a medical
4 person, check him out, like a nurse, do you know?

5 A. Not -- I can't speak for when he was in the jail so I
6 don't know whether or not if anybody looked at him at the
7 jail or anything like that.

8 Q. So you don't know if a nurse checked him when he went
9 in and then when he came out?

10 A. I don't recall that. I don't recall.

11 Q. Okay.

12 MR. STEPHENS: That's all I have of this witness, Your
13 Honor. Thank you.

14 THE COURT: Thank you, Mr. Stephens. Redmond?

15 MR. REDMOND: That'd be all that have at this time,
16 Your Honor, showing of a brief argument.

17 THE COURT: I'm some what like Mr. Stephens, I'm
18 still not clear why you need another swab if you've already
19 taken one.

20 MR. REDMOND: Well, in one of the things I've learned

21 - - -

22 THE COURT: I want her to answer the question.

23 MR. REDMOND: Oh, I'm sorry. I'm sorry.

24 A. Well, I guess my best answer for that would be that he
25 gave consent but in case the consent, maybe wasn't good

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CLERK OF COURT
MARLBORO COUNTY, S.S.C.

1 enough, that to go ahead and get it through a Schmerber
2 order and ---

3 THE COURT: But you've already got the sample,
4 right?

5 A. Yes, sir.

6 THE COURT: Okay. You can step down.

7 MR. REDMOND: And, Your Honor, I can probably answer
8 that question better.

9 THE COURT: Okay. You can step down.

10 MR. REDMOND: As it relates, if I can briefly address
11 the issue of why. That was my call out of abundance of
12 caution given the direction, quite frankly, this case may
13 be headed procedurally. One of the things that I've
14 learned over the years is that in cases like this not to
15 cut any corners and have all faith in the fact that the
16 consent was done properly but, of course, that's going to
17 be an issue at some point in a suppression motion, I'm
18 sure. This, in the State's opinion, nips that in the bud
19 and so it's really more out of abundance of caution rather
20 than any concern that anything was done incorrectly, quite
21 frankly, that would be the State's reason for that.

22 THE COURT: Mr. Stephens?

23 MR. STEPHENS: If we could just ask Lieutenant Bethea
24 one more question?

25 THE COURT: Yes, sir, certainly. She can answer it

Roxanne Bethea- Cross Examination by Mr. Stephens:

25

1 right there. She's still under oath.

2 A. Great.

3 Q. When he -- when he took a swab in Charlotte he signed
4 the consent?

5 A. Yes, sir.

6 Q. And you got that with you?

7 A. Yes, sir.

8 Q. He signed the consent and it was witnessed and
9 everything?

10 A. Yes, sir. I have it with me what we have, yes, sir.

11 Q. I understand.

12 THE COURT: Do you need to see it, Mr. Stephens?

13 MR. STEPHENS: They said he signed the consent and it
14 was witness properly.

15 THE COURT: All right.

16 MR. REDMOND: And the only other thing that I would
17 address too -- so that would address the reason why we want
18 to do a Schmerber order really more out of abundance of
19 caution. One of the things that I have found especially,
20 again, depending on procedural how it goes, these things
21 are going to get nit picked and put under a microscope
22 potentially for years to come depending on the outcome of
23 the case and that's why the State, I feel, it was out of
24 abundance of caution. It can't hurt anything, quite
25 frankly. But on the second issue as it relates to the

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MARLBORO COUNTY, S.C.

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Kevin Thomas- Direct Examination by Mr. Stephens:

26

1 hand---

2 MR. STEPHENS: Do I ---

3 MR. REDMOND: Oh, I'm sorry.

4 MR. STEPHENS: Are we closing up now or do I get to
5 call the witness?

6 MR. REDMOND: Oh, no, I mean, if you want to call --
7 I'm sorry.

8 THE COURT: I wondered if you have any other
9 witnesses. Do you have any other witnesses?

10 MR. REDMOND: I don't have any other witnesses,
11 judge.

12 THE COURT: Do you want to call somebody?

13 MR. STEPHENS: I'd like to call either ---

14 THE COURT: Sure.

15 MR. STEPHENS: --- Sheriff Lemon or Warden Thomas.

16 MR. REDMOND: Oh ---

17 THE COURT: Certainly. Certainly.

18 MR. STEPHENS: Warden Thomas?

19 THE CLERK: Do you solemnly swear or affirm to tell
20 the truth, the whole truth, and nothing but the truth so
21 help you God?

22 MR. THOMAS: I do.

23 THE CLERK: Be seated please.

24 MR. THOMAS: My name is Warden, Kevin G. Thomas.

25 KEVIN THOMAS, first being

Kevin Thomas- Direct Examination by Mr. Stephens:

27

1 duly sworn, testified as follows:

2 Direct Examination by Mr. Stephens:

3 Q. Warden Thomas, for the record, what is your job?

4 A. Warden at the detention center.

5 Q. Marlboro County?

6 A. Yes, sir.

7 Q. Okay. And you've been -- and you have been at the
8 detention center for a number of years?

9 A. Yes, sir, going on thirty-four (34).

10 Q. And you've been warden since the first of this year?

11 A. Yes, sir.

12 Q. Okay. You heard the testimony that my client Mr.
13 Harrington there's been some question about whether he was
14 been offered any medical treatment, can you tell us
15 anything about that?

16 A. Well, it hasn't been brought to my attention in
17 reference to him refusing medical attention with his arm
18 but I can follow-up with the records and get it back to
19 you.

20 Q. Okay. If somebody -- do you have a nurse that goes on
21 a regular basis or ---

22 A. Yes, sir.

23 Q. --- a medical personnel?

24 A. Yes, sir. We have one that comes in, works part-time
25 every day and what they normally do when an inmate comes in

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2019 JAN -7 A 8:51
ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

Kevin Thomas- Direct Examination by Mr. Stephens: 28

1 and they ask questions, medical questions, they sign it and
2 we refer it to the nurse and they checks them out after a
3 certain amount of days.

4 Q. I gotcha. So you don't know if he had been offered
5 any -- if there is anything wrong with him, you don't know
6 if he's been offered any medical treatment?

7 A. Well, it hasn't been brought to my attention on this
8 particular inmate.

9 MR. STEPHENS: Thank you.

10 A. I'd have to get it back to you.

11 MR. STEPHENS: Thank you, Mr. Thomas, Warden Thomas,
12 excuse me. That's all I'd have.

13 THE COURT: Mr. Redmond?

14 MR. REDMOND: I'd have no questions but enlight of
15 the questioning, if I would be allowed to call Sheriff
16 Lemon briefly on the issue of his hand. I have been
17 informed he might be able to enlighten us on that issue.

18 THE COURT: Okay. You can step down, Mr. Thomas.

19 MR. REDMOND: Unless the defense has anything ---

20 THE COURT: Mr. Stephens, do you have any other
21 witnesses you want to call first, though?

22 MR. STEPHENS: Well, I was going to -- I was going to
23 get Sheriff Lemon.

24 MR. REDMOND: Oh, go ahead.

25 MR. STEPHENS: I was going to call Sheriff Lemon.

Charles Lemon- Direct Examination by Mr. Stephens:

29

1 THE COURT: Sheriff?

2 THE CLERK: Do you solemnly swear or affirm to tell
3 the truth, the whole truth, and nothing but the truth so
4 help you God?

5 MR. Lemon: I do.

6 THE CLERK: State your full name please.

7 CHARLES Lemon, first being
8 duly sworn, testified as follows:

9 Direct Examination by Mr. Stephens:

10 Q. State your full name for the record?

11 A. Charles Bernard Lemon.

12 Q. Are you Sheriff of Marlboro County?

13 A. Yes, sir.

14 Q. Duly elected by the good people of Marlboro County?

15 A. Yes, sir.

16 Q. You are familiar with this case, sheriff?

17 A. Yes.

18 Q. And you were in Charlotte ---

19 A. Yes.

20 Q. --- when he was arrested?

21 A. We went to Charlotte after he was arrested.

22 Q. I gotcha. You were in Charlotte sometime while he was
23 under arrest?

24 A. Yes, sir.

25 Q. Okay. You saw his hand?

ANTHONY WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, N.C.

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Charles Lemon- Cross Examination by Mr. Redmond:

30

1 A. Yes, sir.

2 Q. Did y'all take pictures of his hand?

3 A. Someone did.

4 Q. Did you witness him taking a buccal swab?

5 A. I did not.

6 Q. Did you witness his consent?

7 A. I did not.

8 Q. Do you know anything about him refusing -- you are in
9 charge of the jail too, right?

10 A. Yes, sir.

11 Q. Do you know anything about Mr. Harrington refusing
12 treatment at the jail?

13 A. I know that the question was asked to him by myself,
14 did he need medical treatment about his hand there and he
15 said something to the effect that, I'm okay.

16 Q. Okay. All right. So you just ask him if he was all
17 right and he said, he was?

18 A. Yes, sir.

19 MR. STEPHENS: That would be all I have, Your Honor,
20 of this witness.

21 THE COURT: Okay. Mr. Redmond?

22 Cross Examination by Mr. Redmond:

23 Q. Since you're up here, as it relates to the injury to
24 his hand, did you also note that there seem to be something
25 wrong with his right hand, some injury?

Michael Connelly- Direct Examination by Mr. Stephens: 31

1 A. Absolutely.

2 MR. REDMOND: Be all the questions I have.

3 THE COURT: Mr. Stephens?

4 MR. STEPHENS: I don't have any further questions of
5 Sheriff Lemon.

6 THE COURT: You can step down.

7 MR. STEPHENS: Can I call Agent Connelly?

8 THE COURT: Certainly.

9 MR. STEPHENS: Agent Connelly?

10 THE COURT: Yes, sir.

11 THE CLERK: Do you solemnly swear or affirm to tell
12 the truth, the whole truth, and nothing but the truth, so
13 help you God?

14 MR. CONNELLY: I do.

15 THE CLERK: State your full name for the record
16 please.

17 MR. CONNELLY: Michael F. Connelly.

18 MICHAEL F. CONNELLY, first being
19 duly sworn, testified as follows:

20 Direct Examination by Mr. Stephens:

21 Q. Agent Connelly, there's been some reference that you
22 work with Federal Bureau of Investigations?

23 A. Yes, sir.

24 Q. How long have you been working with them?

25 A. Almost eighteen (18) years in July.

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JITTA H. WILLIAMS
CLERK OF COURT
MAHARAO COUNTY, IN.

Michael Connelly- Direct Examination by Mr. Stephens: 32

1 Q. You are assigned to Florence?

2 A. Myrtle Beach and Florence. I cover both areas.

3 Q. I gotcha. You were in Charlotte at some point when
4 Mr. Harrington was under arrest?

5 A. Correct.

6 Q. You questioned him?

7 A. We talked with him. We didn't ask him any questions.

8 Q. Okay. Did you inform him of his Miranda?

9 A. We did.

10 Q. Okay. And he signed that he had received it?

11 A. He waived it and he signed the form, the rights waiver
12 form.

13 Q. Okay. Did you ask him to sign the consent for a
14 buccal swab?

15 A. I can't remember if it was -- I think it was me, but
16 me in the evidence custodian was there at the same time.

17 Q. Okay.

18 A. I don't remember who exactly ask him but it could've
19 been me.

20 Q. But he signed it?

21 A. He did. To my recollection he signed the consent
22 form.

23 Q. Did you witness it?

24 A. I was in the room, yes.

25 Q. Okay. Were you there when they took the swab?

Michael Connelly- Direct Examination by Mr. Stephens: 33

1 A. I was.

2 Q. Okay. And the evidence custodian is?

3 A. From SLED. I don't know his name.

4 Q. Is that Todd ---

5 MR. REDMOND: Schenk.

6 Q. --- Schenk? Okay. Did you take -- you didn't take
7 pictures, did SLED ---

8 A. SLED did, I was present.

9 Q. Okay. You took pictures of his arms, his back,
10 everything?

11 A. Entire body.

12 Q. Gotcha.

13 A. Yes, sir.

14 Q. And you took a picture of his hand?

15 A. They did.

16 Q. Okay.

17 A. He did, the evidence custodian too the pictures.

18 Q. Okay. Did you examine his hand?

19 A. Examine -- I didn't examine it closely. I could
20 observe it because I was standing right next to him.

21 Q. Right.

22 A. So I was within five (5) feet of him when looking at
23 his hand.

24 Q. Okay. And how long had you been working on this case?

25 A. Like Lieutenant Bethea I was called on the 5th.

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CLERK OF COURT
MARLBORO COUNTY, S.C.

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Michael Connelly- Direct Examination by Mr. Stephens: 34

1 Q. Okay.

2 A. So I -- we responded as soon as I was called.

3 Q. Okay. So you had the cigarette butt for a few days
4 before it was tested?

5 A. I wasn't at the scene when the cigarette butt was
6 collected so I'm not sure. I can't testify when exactly it
7 was picked up and when it was tested.

8 Q. Do you know when he was identified as a suspect, do
9 you remember what date that was?

10 A. I don't recall the exact date. It would've been two
11 or three days after we started the investigation
12 approximately, two days, maybe. It's initially through
13 phone records.

14 Q. But it was like on a, it was like on a Friday when
15 y'all went to Charlotte?

16 A. No.

17 Q. Thursday night?

18 A. So I traveled up to Charlotte -- oh Charlotte, I don't
19 recall what date it was in Charlotte, we were in Charlotte.

20 Q. Okay.

21 A. We traveled up immediately when he was arrested by
22 Charlotte-Mecklenburg. They contacted us so whatever date
23 he was arrested, we were contacted, we drove immediately
24 there.

25 Q. Do you know how long they had been looking for him

Michael Connelly- Cross Examination by Mr. Redmond:

35

1 when he was arrested?

2 A. At least a couple of days.

3 Q. Okay.

4 MR. STEPHENS: That'd be all I have of this witness,
5 Your Honor.

6 MR. REDMOND: Briefly.

7 THE COURT: Mr. Redmond?

8 Cross Examination by Mr. Redmond:

9 Q. Since you were there next to him, let's talk about his
10 hand ---

11 A. Yes.

12 Q. --- a little bit more detail. Did you observe any
13 injuries to his hand?

14 A. Yeah. It clearly look like the way he shook hands
15 the way he signed documents and when he had his hand on his
16 lap you could see that there was, that there appeared to be
17 injuries to his right hand, to the lower part of his right
18 hand.

19 Q. Okay. And again you were sitting right next to him
20 during the ---

21 A. Correct. Approximately five (5) feet away from him.
22 I was on the same side of the table that his right hand
23 would have been on.

24 Q. And I guess I'll ask you the same thing that I ask
25 Lieutenant Bethea, after you got the information regarding

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MARLBORO COUNTY, S.C.

Michael Connelly- Cross Examination by Mr. Redmond: 36

1 the autopsy, did that increase interest in the injuries to
2 his hand based on the injuries, some of the injuries we
3 know Iyana suffered?

4 A. It definitely bears additional investigation.

5 MR. REDMOND: That would be all the questions I'd
6 have.

7 THE COURT: Anything else, Mr. Stephens?

8 MR. STEPHENS: Nothing further.

9 THE COURT: You can step down, Mr. Connelly.

10 MR. CONNELLY: Yes, sir.

11 THE COURT: Thank you. Any other witnesses, Mr.
12 Stephens?

13 MR. STEPHENS: No, sir, Your Honor.

14 THE COURT: Mr. Redmond?

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

16 THE COURT: I'll be glad to hear you gentlemen
17 argue, if you so desire.

18 MR. REDMOND: I'd, just briefly, incorporate by
19 reference to what I had stated earlier, and just quickly
20 add, that even with the additional witnesses I think that
21 adds to the importance of the investigative standpoint of
22 us having this x-ray done because again there have been
23 injuries noted that we got back from the autopsy that are,
24 quite frankly, consistent with the hit, being punched. And
25 so those are things that we want to follow up on especially

1 in light of the fact that here we do have a defendant with
2 a hand injury and, obviously, that is an important issue to
3 him as it relates to concealing it and not having any
4 medical treatment when offered medical treatment for an
5 obvious, what everybody has testified to, was an obvious
6 injury. I would add that an x-ray itself is not invasive
7 in the sense of overly invasive, I mean, obviously there's,
8 you know, you have to go through the cloak and process to
9 protect from radiation but I think the Court can take
10 judicial notice almost that, that is one of the most common
11 medical procedures done, is an x-ray. So I think it would
12 be hard to justify or argue that it is overly invasive
13 given that and so -- and with that, I mean, there would be
14 nothing punctured into his body or anything like that and,
15 quite frankly, it's not even as invasive as a buccal swab.
16 So from that standpoint, we would respectfully request that
17 would be entitled to both the buccal swab, again, that
18 reason being out of abundance of caution, but also the x-
19 ray of his hand. And, in the draft order I've done, one of
20 the things I specifically indicated is that we aren't
21 trying to force him to get treatment. If you don't want to
22 get treatment, that's his right. We don't have the right
23 to force him into treatment. We're simply asking for the
24 x-ray. And if he chooses to get treatment and wants to get
25 treatment, the warden also indicates that if he decides he

1 wants treatment that he'd be allowed to get treatment but
2 the treatment issue is his decision.

3 THE COURT: Sure. Okay. Mr. Stephens?

4 MR. STEPHENS: Yes, sir. Your Honor, May it please,
5 the Court?

6 I guess first, Your Honor, I'll address the x-ray.
7 The State hasn't shown by any evidence, of course, Mr.
8 Redmond is a fine lawyer but he's not medical personnel.
9 But I think the State has to show that the x-ray, they got
10 to show that it's medically sound and that there is nothing
11 that would poses no danger or threatened the safety or the
12 health of my client. They've not said if there has to be
13 any type of contrast median, any kind of injection. But
14 they haven't shown by anything here at this hearing that
15 this x-ray would pose no danger. You know, it is radiation
16 involved and I think they have to show that it pose no
17 danger to this individual twice and that would be one
18 reason we object to the x-ray.

19 As for the buccal swab there has been testimony that
20 they've already gotten a buccal swab and he was consented
21 to, it was witnessed, just like my client has consented to
22 waiving his bond hearing and waiving to have this hearing
23 to go forward. We could ask him on the record if that
24 consent for that buccal swab is still good but I don't see
25 the necessity of having another buccal swab done and

1 they've already had one.

2 MR. REDMOND: And I hate to interrupt Mr. Stephens,
3 but if you do that, the State has no objection at all.

4 MR. STEPHENS: And that we would just add that we
5 think as far as the x-ray that it violates the Fourth and
6 Fifth Amendments as to unwarranted search and also self-
7 incrimination. And we would again say that they have not
8 shown that this x-ray is medically safe and poses no danger
9 to my client and that would be it.

10 THE COURT: Okay. Thank you. Any response?

11 MR. REDMOND: Just briefly, Your Honor. Again just
12 as it relates to the x-ray and the invasive, I think one of
13 the things that when we researched this, is really a lack
14 of authority on an x-ray and I think that because an x-
15 ray is such a commonly performed procedure. It is not at
16 the heart of the controversies under the Fourth Amendment
17 in a Schmerger situations when you talk about injecting
18 someone. If we were talking about an MRI that'd be
19 different because, obviously, there's an injection process
20 involved in that. There's a dye involved. I get that.
21 And I'm not a medical personnel but I actually was, way
22 back when in the Navy, I was a corporal, I use had to sit
23 in on these things, when I was in the Navy. So again I'm
24 not offering that as an expert in any stretch of the
25 imagination but I'm just telling the Court from a practical

1 standpoint and, that's why I say just from a practical
2 everyday knowledge standpoint, the State would contend that
3 the Court could really take judicial notice that there has
4 been nothing stated in this hearing that indicates that it
5 is invasive because just by general knowledge, an x-ray, I
6 would hazard an argument, is probably if not the most one
7 of the top five most performed procedures in the medical
8 field, is an x-ray. And so if it was that invasive it
9 would not take but ten (10) minutes that it takes to put
10 the lead vest on, to carry you through there, shoot the
11 film, and then get out and here, we're only talk about his
12 hand so that even limits it even more. We're not trying to
13 do a full scan of the body or anything. So from that
14 standpoint as I indicated, a buccal swab is actually more
15 invasive because that would involve insertion into his
16 mouth cavity. You don't even have that much with an x-ray.
17 So we would contend that we have one, met our burden as it
18 relates to the investigative necessity of getting the x-ray
19 and the fact that it does not pose any appreciable danger
20 to the defendant.

21 MR. STEPHENS: Your Honor, could I just comment very
22 briefly?

23 THE COURT: Yes, sir. Yes, sir.

24 MR. STEPHENS: I don't think I was talking about if it
25 was invasive. I was talking about was it medically safe

1 for this individual. Did it threaten -- pose any danger or
2 threat, you know, every time I've seen, been having an x-
3 ray, they put you out there and then they run around behind
4 the lead wall. So it's not invasive but it could pose a
5 danger to this client, to this individual, not just to the
6 population as a whole. That's all.

7 THE COURT: Yes, sir.

8 (Whereupon, the judge takes a moment)

9 THE COURT: All right. First of all, let me
10 address the request of the swab to the DNA testing. Even
11 though he has previously consented to the taking of a swab
12 and that has been accomplished, I understand the state's
13 concern that some issues may be raised in the future about
14 the defective consent, things of that nature, so I'm going
15 to grant your motion with regards to the swab, Mr. Redmond.
16 I see no harm being done since he previously has consented
17 to that. That way we will make sure we have a swab that's
18 taken with no controversy attached thereto. So I'll grant
19 that motion.

20 With regard to the x-ray, I mean, and you've already
21 pointed out Mr. Stephens, obviously, it's not invasive and
22 I certainly don't find an x-rays to be invasive. Now, if
23 they were to find it necessary to insert some sort of
24 contrast solution or whatever, it could become invasive.
25 But the request that has been made at this point in time by

1 the State, I don't believe it's violative of his Fourth or
2 Fifth Amendment Rights at this point in time. I'm going to
3 grant your request to have an x-ray. Now, however, that's
4 qualified if they get there and they find out they need to
5 do something more than just a standard x-ray, where you
6 stick your hand under the machine and they want to use some
7 contrast, I'm going to require you to come back to the
8 Court with an explanation that, that would not be of any
9 danger to him or whatever risk are involved before I would
10 require him to submit to that type of x-ray. But just a
11 standard x-ray, I don't have a problem with that. I don't
12 find it to be invasive. I don't find it to be such great
13 risk that it would cause him any type of danger. However,
14 again if we get there and for some reason the technician,
15 the radiologist or whatever, starts rattling off all kinds
16 of risk or something involved, we just stop ---

17 MR. REDMOND: Yes, sir.

18 THE COURT: --- and we come back and have that
19 explained to the Court and go forward with another hearing.
20 I don't think you're going to find that as a problem. Like
21 I say, I don't even know if they'll need to put anything on
22 him to cover him as long as he does his hand. I've had a
23 number of x-rays in the last few months, I mean, you know,
24 it's whatever. So I grant your request with regards to
25 both issues.

1 MR. REDMOND: Thank you, Your Honor. And we'll
2 prepare an order. We're actually preparing an order and we
3 can have that done.

4 THE COURT: If you'll just modify and put ---

5 MR. REDMOND: Yes, sir.

6 THE COURT: --- if they do become invasive, we
7 stop. We back off and we come back to court.

8 MR. REDMOND: Thank you.

9 MR. STEPHENS: Thank you, Your Honor.

10 MR. REDMOND: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (CONCLUSION OF THE HEARING ON MAY 31, 2017)

FILED

2022 JAN -7 A 8:55

ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Marlboro County, South Carolina, on the 31st day of May, 2017.

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

Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

August 3, 2017

STATE OF SOUTH CAROLINA	)	
	)	GENERAL SESSIONS COURT
COUNTY OF MARLBORO	)	2017-GS-34-0285
	)	
	)	
	)	
	)	
THE STATE,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
JEJAUNCEY HARRINGTON,	)	
DEFENDANT.	)	
_____	)	

January 13, 2023
 Florence, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE.

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

KERNARD REDMOND, ESQ.
 MS. WISE, ESQ.
 MS. MUNNERLYN, ESQ.
 Attorney for the Plaintiff

MS. HANNAH FREEDMAN, ESQ.
 MR. BANK, ESQ.
 MR. YOUNG, ESQ.
 Attorney for the Defendant

Proceedings Recorded by DCRP
 Transcribed by Penny M. Johnson

I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

Page No.

(PW) MELINDA WORLEY:

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Court's Exhibits)		
1	Statement of Qualifications	15	
2	Statement of Qualifications	17	

All Exhibits were retained by the Clerk of Court for Marlboro County.

P R O C E E D I N G S

1
2 THE COURT: Welcome to Florence. Yes, ma'am, could you
3 state your name for the record, please?

4 MS. FREEDMAN: Yes, sir. My name is Hannah Freedman,
5 F-R-E-E-D-M-A-N.

6 THE COURT: Ms. Freedman, you're recognized.

7 MS. FREEDMAN: Thank you. I think our motion is sort
8 of -- I'd like to, if it's possible, reserve a legal
9 argument until after the witness has had an opportunity to
10 testify.

11 THE COURT: Certainly.

12 MS. FREEDMAN: So the basis of our argument, as Mr.
13 Young said, is under 702 and as well as under 403, our
14 position is sort of three steps. One, she's not qualified
15 as a footwear expert in particular. Her testimony should be
16 limited to her knowledge of forensic investigations. She
17 should not be qualified as an expert in footwear science in
18 particular. Second, that the underlying basis of her
19 opinion doesn't satisfy counsel's reliability requirement.
20 And then, finally, to have her testify would violate 403.

21 THE COURT: Would violate?

22 MS. FREEDMAN: 403, Rule 403.

23 THE COURT: Very good. You may call your first
24 witness.

25 MS. WISE: The State calls Melinda Worley.

1 THE COURT: Ms. Worley, if you could please come
2 forward and place your left hand on the Bible and raise your
3 right hand as the clerk administers the oath.

4 MELINDA WORLEY,

5 after being duly sworn, testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Please be seated and state your full name
8 for the record.

9 THE COURT: Come around, watch your step. And I'm
10 going to ask you have a seat in the witness chair. Get real
11 close to that microphone and I'm going to ask that you speak
12 loudly, clearly and slowly in order that we can hear
13 everything you have to say.

14 Let's start with your full name, please, ma'am.

15 THE WITNESS: Melinda Worley, W-O-R-L-E-Y.

16 THE COURT: Thank you.

17 Yes, ma'am.

18 MS. WISE: Thank you, Your Honor. May it please the
19 Court.

20 DIRECT EXAMINATION

21 BY MS. WISE:

22 Q Good morning, Ms. Worley.

23 A Good morning.

24 Q Will you please tell the Court where you're currently
25 employed?

1 A I'm currently employed with the State Law Enforcement
2 Division, commonly referred to as SLED.

3 Q And what division are you employed?

4 A I'm currently in the latent print department.

5 Q And in the latent print department, what are your
6 duties there?

7 A I am a footwear and tire examiner and I just got out of
8 training for the photography studio.

9 Q When did you first come to the State Law Enforcement
10 Division?

11 A I started at SLED in August of 2011 as a special agent
12 in the crime scene unit.

13 Q And sometime within the next year, did you begin
14 training in footwear analysis?

15 A That's correct. Upon completion of my crime scene
16 training, I began training in footwear and tire examination.

17 Q And do you remember what the date of that was
18 approximately?

19 A I believe about July or August of 2012.

20 Q Okay. And what type of training did you undergo for
21 the footwear -- did you say footwear and tire analysis?

22 A Yes, ma'am.

23 Q Was at the same time? Okay.

24 A We have an internal program at SLED that follows a
25 standardized training program. I completed that in-house

1 training program and I also attended a couple of external
2 informal classes specifically related to footwear.

3 Q When did you attend those classes?

4 A I believe in 2013 was footwear and January of 2014 was
5 another classroom on footwear and tire.

6 Q Who is charge of that internal standardized training
7 provided by SLED?

8 A I'm sorry?

9 Q Who's in charge of training?

10 A I had a qualified examiner. He was latent prints and
11 footwear, Tom Darnell.

12 Q Okay. And you said he was a qualified examiner?

13 A Correct.

14 Q And what did your training consist of?

15 A There are training sections that cover different topics
16 related to the footwear discipline, manufacturing and
17 terminology. There's a written test for each section, a lot
18 of reading and a lot of hands-on. Tom would do case work
19 and then I would assist him. Until I got closer to the end
20 of my training, I would do cases in his name until I was
21 ready to do (inaudible).

22 Q And how long did it take you to complete that program?

23 A Just shy of two years.

24 Q Can you remember approximately when it was that you
25 became certified in footwear and tire analysis?

1 A Within SLED, it was March of 2014.

2 Q And within SLED and within the training that you
3 received, is there a specific process you go through each
4 time you have footwear to analyze as far as from beginning
5 to end, a protocol you're supposed to go through?

6 A There is a procedure that I follow when I receive
7 evidence and determine what exactly I have for the case. If
8 I have photographs on a disc or gel or cast of footwear
9 impressions, I just gather all the evidence related to the
10 assignment and now I'll send it to the art studio to be
11 photographed. And the photographs that are returned are
12 printed to scale so that I have life-size of the shoes and
13 impressions. Once I receive the shoes back, I'll create
14 test impressions, heat the bottom of the shoe and
15 (inaudible) impressions on the (inaudible) so I can overlay
16 those on top of the printed photographs of the overlay
17 impressions.

18 Q Is this the same process you were taught by Tom Darnell
19 in your training beginning in 2012?

20 A That's right.

21 Q That's the same process used today?

22 A Yes.

23 Q And during that time, including the time that you
24 assisted Tom Darnell during your training up to this time,
25 approximately how many times have you had the opportunity to

1 analyze footwear?

2 A I believe I've worked somewhere around 40 to 50 cases.

3 Q And you said that you have to verify that the pictures
4 are to scale and then you compare the overlay to the
5 photograph that you have. Does somebody review that work
6 for quality and standardization to make sure that you're
7 doing it the same way and that you're doing it the way
8 you've been taught?

9 A Yes, all of our cases are peer reviewed.

10 Q And is there one or more people that can peer review
11 your cases?

12 A Tom Darnell does most of reviews and my lieutenant,
13 Jack Crooks (ph), also does reviews.

14 Q Have you continued getting identification training that
15 includes footwear training since you became certified in
16 2014?

17 A Some, yes.

18 Q But your methods and each of your tests are peer
19 reviewed every time?

20 A That's right.

21 Q And just for the record, you have an undergraduate
22 degree from the University of Tennessee in anthropology?

23 A From UT a Bachelor of Science in anthropology.

24 Q And you have a degree from Mercyhurst College?

25 A Yes.

1 Q Another Bachelor's in?

2 A Forensic science.

3 Q And from the University of Florida, you received two
4 more, I guess, a certificate and a Master's. What were
5 those in?

6 A Master's is in forensic science and then a graduate
7 certificate in forensic death investigation.

8 Q How many times since you became a certified footwear
9 examiner have you testified in South Carolina?

10 A Footwear, ten times.

11 Q And of those ten times, have you been qualified as an
12 expert in footwear analysis?

13 A I've been qualified nine times.

14 Q Was there a time there was a reason you weren't
15 qualified?

16 A The only one I wasn't, they just didn't try to qualify
17 me.

18 MS. WISE: Your Honor, at this time, I would move to
19 have Melinda Worley qualified as an expert in footwear
20 impressions.

21 THE COURT: I'm going to hold that in abeyance, but I'm
22 going to recognize the Defense for cross-examination.

23 Ms. Freedman, you're recognized.

24 CROSS-EXAMINATION

25 BY MS. FREEDMAN:

1 Q Good morning, Agent Worley.

2 A Good morning.

3 Q How are you?

4 A I'm good. How are you?

5 Q I'm well. Thank you. So you are primarily a crime
6 scene analyst; is that right?

7 A Not anymore, no. I transferred out of the crime scene
8 unit this past August. I switched from being a senior
9 special agent class one officer to class three senior
10 criminalist within the latent print department.

11 Q But at the time you produced your report in this case,
12 you were a crime scene analyst, right?

13 A That's right.

14 Q And do you recall how many times you had testified as
15 an expert on footwear specifically when you produced this
16 report?

17 A At that time, probably not many times. Maybe once or
18 twice.

19 Q Okay. And so you have sort of general qualifications
20 as a crime scene analyst, right?

21 A I was in the crime scene unit for 11 years. I worked a
22 lot of crime scenes.

23 Q Yeah, how many crime scenes have you worked?

24 A I don't know that I've got a ballpark, but it's in the
25 hundreds.

1 Q But you don't have any kind of certification from any
2 of the governing bodies for footwear, do you?

3 A No.

4 Q So that means nothing from the American Society of
5 Crime Laboratory Directors, the accreditation board?

6 A No.

7 Q You don't have a Ph.D.?

8 A No.

9 Q And you don't have the certification from the national
10 -- the International Association for Identification?

11 A No.

12 Q And are you aware that they offer a certification
13 program?

14 A I am.

15 Q And that certification program involves a series of
16 tests, right?

17 A Yes.

18 Q And a series of competency checks; is that right?

19 A Yes.

20 Q A written test, minimum requirements for training and
21 experience?

22 A Yes.

23 Q A practical test?

24 A Yes.

25 Q And periodic recertification exams?

1 A Right.

2 Q And you don't have that kind of certification?

3 A I don't.

4 Q So you're a member of the ICI, right?

5 A The AIA.

6 Q I'm sorry, the AIA. You're a member, but you're not
7 certified by them?

8 A That's right.

9 Q And are you familiar with this book, Forensic Footwear
10 Evidence?

11 A Yes.

12 Q Would you consider this sort of a learned treatise in
13 footwear analysis?

14 A Yes.

15 Q And so when you do your footwear analysis, or, at
16 least, when you did the analysis in this case, did you
17 follow the steps that this book details?

18 A I believe so, yes.

19 Q And, let's see, you said on direct that all of your
20 cases are peer reviewed, but that just means that someone
21 looks -- someone in your office looks at what you've done,
22 right?

23 A Another qualified examiner reviews my case, goes
24 through the evidence, does the same comparisons that I did.
25 And if he agrees with it, he approves it.

1 Q Right, but it's not the same -- when we say peer review
2 when we're talking about a journal publication, for example,
3 it's not that same process, right? It's just someone from
4 your office is reviewing your work?

5 A Someone who is qualified to examine, yes.

6 Q Right. Right. Okay. And, let's see, at the time you
7 prepared your report in this case, approximately how many
8 hours of specialized training did you have in footwear
9 analysis?

10 A I'm not really sure. That was a while ago and my main
11 responsibility was crime scene.

12 Q Right. So is it fair to say that footwear formed sort
13 of a small portion of the work you did at the time you
14 prepared this report?

15 A It was considered (inaudible) discipline, so I mostly
16 did crime scene, but (inaudible) footwear and tire.

17 MS. FREEDMAN: Court's indulgence.

18 (Pause.)

19 MS. FREEDMAN: For qualification, that's all I have for
20 this witness, Your Honor.

21 THE COURT: Any redirect with regard to qualifications?

22 REDIRECT EXAMINATION

23 BY MS. WISE:

24 Q Is this your statement of qualifications you prepared?

25 A Yes, it is.

1 Q It has the training and degrees you've received?

2 A Yes.

3 Q And the times that you've been qualified as an expert?

4 A Yes.

5 MS. WISE: Your Honor, I would like to enter this as a
6 Court's Exhibit.

7 THE COURT: Yes.

8 MS. FREEDMAN: Could I see a copy of that?

9 THE COURT: Yes.

10 MS. WISE: Your Honor, the Defense is objecting that
11 this is an updated statement of qualifications. Ms. Worley
12 gave this to me this morning. I can give the Defense a copy
13 of this. This has been updated. It was updated in
14 September of 2022.

15 THE COURT: Is that an accurate depiction of your
16 education and experience and qualifications?

17 THE WITNESS: It is.

18 THE COURT: I'll allow it into evidence.

19 MS. FREEDMAN: Your Honor, just for the sake of
20 completeness, would it possible to just add --

21 THE COURT: Yes.

22 MS. FREEDMAN: This is the version of the
23 qualifications that we had, the most updated version. It
24 just appears that she has substantial new experience since
25 we received that.

1 THE COURT: Would you like to question her with regard
2 to the discrepancy between this resume and the one that's
3 being presented here today?

4 MS. FREEDMAN: I think that might be -- very briefly.
5 I can do it as soon as she's done with her redirect.

6 MS. WISE: No further questions.

7 (Court's Exhibit No. 1 marked for identification.)

8 RE CROSS-EXAMINATION

9 BY MS. FREEDMAN:

10 Q And I apologize, I only have one copy of this, but
11 maybe I'll just hand this to you if that's okay. Maybe you
12 can take a look and see if that's accurate as of February
13 2021.

14 A This is accurate, but seems like I had testified more
15 than twice in footwear at that time, in February of 2021.

16 Q Do you recognize that document?

17 A As of February of '21, yeah.

18 Q And does that seem like what you gave to the State as
19 your statement of qualifications in February 2021?

20 A I gave them the most recent one I had in September of
21 '21. It doesn't seem right in February that I had only
22 testified twice for footwear.

23 Q Are you required -- as part of your testimony as a
24 witness in this case, are you required to turn over a
25 statement of qualifications to the Government?

1 A I don't know if I'm required, I did.

2 Q So did you turn over that document to the State as part
3 of this case?

4 A I didn't personally do that, no. Somebody else is
5 responsible for that.

6 Q And do you review the statement of qualifications
7 before you produce them to the State?

8 A I do.

9 Q So is it fair to say that you would have reviewed that
10 in February of 2021 before you produced it?

11 A I should have, yes. I don't know why it says twice
12 because I have a list, not with me, but of everywhere I've
13 been in the state and testified where I was qualified as an
14 expert in footwear.

15 MS. FREEDMAN: Your Honor, we would just move to have
16 that also admitted as a Court's Exhibit.

17 THE COURT: Any objection from the State?

18 MS. WISE: Your Honor, the objection would be that
19 Court's 1 is actually what she has testified to as being the
20 accurate reflection as of today of her experience and
21 expertise.

22 THE COURT: Of course, I'm not admitting them in to
23 evidence with regards to the trial. For purposes of this
24 hearing, both of them are in evidence -- not in evidence,
25 but they are marked as Court's Exhibits for my

1 consideration.

2 MS. WISE: Thank you, Your Honor.

3 MS. FREEDMAN: Thank you, Your Honor.

4 (Court's Exhibit No. 2 marked for identification.)

5 BY MS. FREEDMAN:

6 Q So, Ms. Worley, based on those two statements of
7 qualifications, can you just describe for the Court some of
8 the experiences that you've had with respect to footwear
9 analysis since February of 2021?

10 A As far as case work or testifying?

11 Q Case work, testimony, the things that you've done that
12 are new that are not reflected in that statement of
13 qualifications.

14 A I've testified ten times for footwear --

15 Q Since 2021?

16 A I have it all written down, but not with me. I don't
17 have the list with me of the dates. I have the dates and
18 where they were.

19 Q If we just zoom in, kind of since 2021, or even, let's
20 say, since you prepared your report in this case, can you
21 tell the Court how many times you've testified as an expert
22 in footwear analysis?

23 A Ten times, (inaudible) would have been '21 and '22.

24 Q Okay. And that was after you became certified?

25 A Yes.

1 Q But at the time you prepared your report, you were not
2 certified?

3 A No, I was.

4 Q Oh, you were?

5 A I wouldn't have been allowed to do the report if I
6 wasn't.

7 Q So you were certified, but you were more of like a
8 crime scene generalist, not a footwear specialist?

9 A I had not testified as a witness yet, as an expert
10 witness in footwear.

11 Q Right. And then have you gotten any additional
12 training since you prepared this report and since 2021 in
13 footwear?

14 A Not necessarily training as far as going to any
15 external classes. I've been to the AIA conference and
16 several workshops and lectures related to footwear, but I
17 have also trained with other crime scene agents in footwear
18 discipline, the internal crime scene training in footwear.

19 Q And all of that is new since you prepared your report
20 in this case, right?

21 A Not really, no.

22 Q Just to be clear, I'm asking you about specifically
23 what you've done with respect to footwear since 2021, let's
24 start there.

25 A I've testified several times and I've worked cases and

1 I'm actually did some -- you know, more than just the
2 (inaudible).

3 Q And then what about since you've prepared your report,
4 is it fair to say that almost all of your specialty training
5 and experience in footwear analysis specifically has
6 happened since you prepared your report?

7 A No. I completed all that training in 2014, so I've
8 worked cases and testified ten times.

9 Q All of that is since you've prepared your report,
10 right? I'm saying start at the date --

11 A I think the first time I was qualified was -- June of
12 2017 was the first time I was qualified as an expert.

13 Q Okay. And that's after you started your report in this
14 case, right?

15 A That's right.

16 THE COURT: I think it's apparent that she doesn't have
17 each date when she's testified. Would there be any
18 objection for her to prepare a document for my consideration
19 -- I think I'm going to hold my decision in abeyance and I
20 want y'all to have an opportunity to look at the things that
21 she's done and the specific dates of her testimony, specific
22 dates that she was qualified. And if we have to reconvene
23 for cross-examination with regard to that, we can do that.

24 But if y'all are in agreement to that, I'll ask that
25 both of y'all in your proposed orders set forth that we're

1 going to be looking specifically at the dates. If y'all
2 will take that at face value, we can do that, but if you
3 need to have cross-examination, we will reconvene for that.
4 These are important matters. I think we need to get all the
5 information together.

6 I'll be glad to hear from the State and the Defense
7 with regard to argument if y'all feel as though that's
8 necessary.

9 MS. WISE: Your Honor, I'm fine with having Ms. Worley
10 complete a list of the times that she's testified and the
11 dates.

12 THE COURT: And the times that she was qualified and
13 all of her work experience and the date, the dates of it.

14 MS. WISE: Okay. Let me be clear -- be sure she's
15 clear.

16 Are you clear on what the Judge is asking?

17 THE WITNESS: Yes.

18 MS. WISE: As long as she's clear on what you're asking
19 for.

20 MS. FREEDMAN: No objection from us, Your Honor, but
21 just for the sake of clarity, we had sort of like a
22 qualification objection and then a substance objection. I'm
23 not sure if the Court wants to wait until we've resolved the
24 qualification objection to sort of move on to the
25 substantive portion. Because some of our issue is about

1 that initial step of the reliability of the testimony.

2 THE COURT: I want to give a great deal of thought to
3 the qualification aspect of it, so we're going to deal with
4 it in a bifurcated manner.

5 MS. FREEDMAN: Thank you, Your Honor.

6 THE COURT: I'm going to ask that y'all submit proposed
7 orders. I normally would give you -- we've been on this
8 case for a long time and we have extended periods of time to
9 prepare orders, but we're getting in the short rows now. So
10 I'm going to ask if y'all can prepare a proposed order with
11 regard to qualifications within seven days from today's
12 date.

13 Can y'all do that?

14 MS. WISE: Yes, sir, Your Honor.

15 MS. FREEDMAN: I think as long as we receive the list
16 of --

17 THE COURT: How long do you anticipate it will take for
18 you to do that?

19 THE WITNESS: I just need to get back to my office.

20 THE COURT: Okay. Well, good, if you can prepare that.
21 I think it's important for you to put in there -- if you
22 have it, the date of every time that you have testified with
23 regard to foot impressions. Once again, if there's any
24 clarification with regard to education and training, you can
25 put that in there as well. And, perhaps, the number of

1 cases you've worked, whether you've testified or not. I
2 think all of that will be relevant.

3 MS. WISE: Your Honor, may I ask one followup question?

4 THE COURT: Yes, you may.

5 FURTHER REDIRECT EXAMINATION

6 BY MS. WISE:

7 Q Ms. Worley, have you had the opportunity to review your
8 testing and your examination from this case?

9 A I have, yes.

10 Q And have you done that recently?

11 A Yes.

12 Q And when was that?

13 A The last few days when I knew I was coming to this
14 hearing.

15 Q Did you find any issues with your work looking at it
16 now that you would have done anything differently than what
17 you did then?

18 A No.

19 MS. WISE: Thank you.

20 Nothing further.

21 THE COURT: Might counsel approach the bench for just
22 one moment?

23 (Bench conference.)

24 MS. WISE: Your Honor, may Ms. Worley be excused?

25 THE COURT: Yes, you're free to leave. Thank you.

1 MS. FREEDMAN: Just one thing, we would just ask that
2 the Court redact any written reports that she is going to
3 rely on, to remove information about excluded items.

4 THE COURT: Say that again now.

5 MS. FREEDMAN: My understanding is that some of the
6 pieces of footwear that are the subject of this analysis
7 have been suppressed, so we would move to redact from these
8 reports -- to the extent these reports come in as Court's
9 Exhibits or otherwise, to redact the references to those
10 suppressed items.

11 THE COURT: What do you have to say about that?

12 MS. WISE: Your Honor, as far as -- and we've already
13 talked about that. We'll be talking about item 100, which
14 is the shoes that the Defendant was wearing when he was
15 arrested, which has been admitted into evidence. And items
16 116 and 117, she's not planning to discuss, so -- I mean,
17 we're not planning to discuss that. If anything is admitted
18 into evidence, obviously, we would redact that, but I think
19 everything else has been admitted that she would be
20 discussing.

21 THE COURT: I don't have an objection to those being
22 redacted, but I was wondering what kind of prejudice that
23 would really pose because it's not coming into evidence.
24 What the report says about those is kind of irrelevant.

25 MS. FREEDMAN: I agree it's not relevant, so I think

1 for the sake of, sort of, A, clarity, to be clear that we're
2 all talking about -- which pieces of evidence we're talking
3 about --

4 THE COURT: Okay. We'll go ahead and redact it.

5 MS. FREEDMAN: Thank you, Your Honor.

6 MS. WISE: Thank you, Your Honor.

7 THE COURT: When you get back to your office, do you
8 think you might could compile that information and e-mail it
9 to counsel today?

10 AGENT WORLEY: Yes, sir.

11 THE COURT: Thank you so much. Good luck.

12 Mr. Young, you and your team are recognized.

13 MR. YOUNG: Thank you, Your Honor. I'll turn it over
14 to Mr. Bank.

15 THE COURT: How are you doing? Yes, sir.

16 MR. BANK: I'm doing great. How are you?

17 THE COURT: Doing well.

18 MR. BANK: So we have a number of housekeeping and
19 discovery issues that we obviously are trying to get cleared
20 up as quickly as we can while we're about a month out from
21 trial.

22 The first thing we have on the list to the State last
23 week, some of which we've been able to find since ourselves.
24 One of the most outstanding things is their jailhouse
25 informant, Mr. Allen, you had granted us access to the

1 phone. They will not let us see the phone. They say they
2 can't get into the passcode and that their informant is not
3 cooperating with them.

4 I'm sorry, I guess my first position would be if their
5 own informant isn't cooperating with them for the purposes
6 of getting into the phone where we think very relevant
7 evidence will be, then they should not be able to call Mr.
8 Allen as a witness. So that's our first position.

9 If he is still allowed as a witness, we need to have
10 access to the phone so we can try to get it. We have our
11 own expert willing to go whenever he can go and he has a
12 chance to get into the phone even if their experts can't.
13 So that's our first issue as it relates to Mr. Allen's
14 phone.

15 THE COURT: Yes, ma'am.

16 MS. WISE: Thank you, Your Honor. So I don't think the
17 way that was explained is exactly accurate, so let me
18 clarify. The phone was taken just as Your Honor ordered to
19 SLED to be analyzed. When the expert at SLED tried to
20 analyze the phone, he could not break the passcode on the
21 phone and their software could not break it. The Defense
22 said that they had their expert that was available and
23 willing to go.

24 At the same time, their expert was given access to our
25 expert who said sure, if he had some way of coming in and

1 doing it, but, I believe, based on the e-mails that I saw
2 and the information I've gotten that he's in the same boat.
3 If you can't get around it, you can't get around it. It's
4 not that he can get around and we haven't let him do it,
5 he's been in contact with the expert at SLED with the same
6 opportunity if he was able to get around it. But that's not
7 something that he's been able to do either.

8 THE COURT: Are you saying his expert can't get into
9 either?

10 MS. WISE: That's my understanding. His expert said he
11 had the same issues that our expert has.

12 MR. BANK: Our expert sent an e-mail saying he may have
13 the same issues, but that he wouldn't know unless he
14 actually looks at the phone. And they said they don't want
15 us to look at it until they look at it first.

16 MS. WISE: And I put the two experts in touch and said
17 --

18 THE COURT: I tell you what we're going to do is you
19 get your expert together and you get whoever it is at SLED
20 and y'all get together up there in Columbia. You need to be
21 present and you need to be present and that way, we can
22 handle it if there are any problems. You know how to get
23 me. We'll do it by WebEx hearing if there's a problem.

24 MS. WISE: And Your Honor, I just wanted to be clear.
25 We immediately put the two of them in touch. The two of

1 them set up a meeting to talk about it. So my understanding
2 is the two of them have been trying to do this.

3 On the other side of it, Jay. Irvin represents the
4 informant --

5 THE COURT: Okay. Before we go forward, I'm ordering
6 that if their expert can get into the phone, they're going
7 to be allowed to do that --

8 MS. WISE: Absolutely.

9 THE COURT: You're going to be there and your expert is
10 going to be there to make sure there's no problems with
11 regard to tampering with the phone or altering it in any way
12 or adding information or taking information away.

13 So that's what we need to do. Let's get your expert
14 and get your person at SLED there and I want y'all to be
15 there in case there are issues that come up, y'all can call
16 it to my attention and we'll have a WebEx hearing post
17 haste, as they say.

18 MS. WISE: Yes, Your Honor. I think a meeting like
19 that happened between the experts, so I will followup and
20 get the details. If it has not, then we will definitely all
21 get there.

22 THE COURT: What do you think about disqualifying the
23 -- your informant because he's not cooperating?

24 MS. WISE: Your Honor, I'd like to clarify that. That
25 is not exactly the situation.

1 Jay Irvin represents Dandrigues (ph) Allen, who is the
2 informant in the case. And I reached out to Jay Irvin
3 because he's represented. Jay Irvin sent an investigator
4 out to ask him. He was unclear -- the investigator was
5 unclear probably because by the time I explained it to Jay
6 and Jay explained it to the investigator and the
7 investigator explained, he was unclear what was needed, what
8 was going on. So I spoke to Jay, Jay said he needs to go
9 out there and talk to him directly to explain exactly what
10 he's talking about.

11 It's not that he's been uncooperative at all, it's just
12 we're going through another defense attorney because he's
13 represented and having to go through his schedule and his
14 things. So we have not said he's been uncooperative. We've
15 not told the defense he's been uncooperative. We
16 specifically said we're talking to a defense attorney and
17 we're working on getting the password. So we are actually
18 the opposite of that, working on it.

19 THE COURT: So if you're able to obtain the password,
20 how is that going to affect the meeting that I've already
21 ordered?

22 MS. WISE: I mean, if we're able to obtain the
23 password, then they can get into the phone and analyze it.

24 THE COURT: And they can do that together?

25 MS. WISE: They can.

1 THE COURT: Well, that's exactly what we're going to
2 do. When can you and Jay Irvin go out to see the informant?

3 MS. WISE: Jay said he's going to go out there next
4 week.

5 THE COURT: Okay.

6 MS. WISE: He's already sent his investigator out
7 there, so we've been actively working on this. And if we
8 can't get the password -- Your Honor, the phone is something
9 that was found in his jail cell and was taken as contraband.
10 I don't see how that has anything to do -- honestly, I'm not
11 sure how this is relevant to the case at all. His statement
12 is his statement. The credibility of his statement will be
13 determined by the jurors of the case and they can give it
14 whatever weight they want, but this phone is something the
15 defense has made an issue and it's fine and we're happy to
16 do what the Court ordered as far as the phone, but the phone
17 is not related to the statement that the Defendant has --

18 THE COURT: We'll hold that issue in abeyance, but the
19 order is -- I'm not real sure whether I can order Jay Irvin
20 to go out there.

21 MS. WISE: Jay Irvin is going to, Your Honor.

22 THE COURT: All right. He needs to do that and he
23 needs to do it quickly.

24 MS. WISE: Yes, sir.

25 THE COURT: And if you are able to get the passcode,

1 then their expert and your expert need to be there when it's
2 opened.

3 MS. WISE: Yes, sir. And let me just -- just so we're
4 all clear. So there's two possible ways. There's the
5 passcode and then there is an e-mail recovery address. So
6 we're trying to see figuring out from the phone -- and, of
7 course, this was found a while ago -- if we can get it from
8 either of those ways.

9 My understanding, the concern that the analyst had is
10 that the phone said that if you do the wrong password one
11 more time that it's going to lock. And their understanding
12 is it's going to clear the phone. So we're trying to --

13 THE COURT: Well, that's why both experts need to be
14 there.

15 MS. WISE: Exactly. I just wanted to be clear that we
16 are working to try to get that information without messing
17 anything up so there's not information to get.

18 THE COURT: All right. Well, your expert needs to be
19 there.

20 MR. BANK: Yes, sir.

21 THE COURT: If the information on there is destroyed by
22 one or both of them, the other person needs to be there in
23 order to establish whether it was bad faith or not.

24 MR. BANK: Yes, sir.

25 THE COURT: All right.

1 MR. BANK: The second issue we have is the adult victim
2 in this case, Ella Lowery, there's several records in the
3 search warrants to information on her cell phone. We still
4 don't have any extraction on that phone.

5 MR. REDMOND: Your Honor, may it please the Court. We
6 are -- in looking through everything, we have actually got
7 meetings. At this point, I can't say for sure that there
8 was actually an extraction done on the phone, but we will be
9 having a meeting, as a matter of fact, today to determine
10 and navigate through all of those issues, those extraction
11 issues and everything. So we should be able to let them
12 know something in short order on that issue. So we do see
13 what the issue is and that is something that we're --

14 THE COURT: What if you have not done an extraction,
15 what is your position?

16 MR. BANK: That we have access to the phone and do our
17 own extraction?

18 MR. REDMOND: Your Honor, if it's in evidence and
19 they've got experts that's available, just like we've done
20 with every other piece of evidence, I wouldn't have any
21 objection, it would just need to be done in a way where all
22 the pertinent parties and necessary parties are present when
23 these things take place.

24 THE COURT: Okay. First thing we need to do is
25 determine whether or not an extraction has been done and if

1 it has, you need to share it with them. If one needs to be
2 done, then given the exigent circumstance, I would ask that
3 the extraction be done in the presence of their expert.

4 MR. REDMOND: Absolutely.

5 THE COURT: If they want, if they want one there.

6 MR. BANK: And then it's the same for two more
7 witnesses, a Clifton Benjamin and a Dwayne Bright, the same
8 issue.

9 THE COURT: The phones?

10 MR. BANK: The phones.

11 THE COURT: Mr. Redmond, you need to make a
12 determination with regard to whether or not extractions have
13 been done. If they have not, then SLED's phone person and
14 their phone person need to get together to do that.

15 MR. REDMOND: Yes, sir. Now, I can as it relates to
16 Mr. Bright, there is an extraction that is -- and if I
17 mistake, Ms. Munnerlyn can address it. She's been looking
18 into that. There is an extraction that's been done, we just
19 need to make sure it's complete.

20 So there is an extraction with Mr. Bright's phone that
21 is actually in what has been provided. It's just that,
22 again, out of an abundance of caution, when we meet, we're
23 going to make sure there's a complete extraction --

24 THE COURT: But you've already sent what you have?

25 MR. REDMOND: Yes, sir.

1 MS. MUNNERLYN: Yes, it is in there, but it's a very
2 short report, extraction report, and it is in one of the
3 files.

4 MR. BANK: Okay. I'll get with you about that.

5 Judge, the next issue we have is that there was a
6 search warrant by the State to obtain Mr. Harrington's
7 Facebook records and we don't have those. It's kind of
8 dueling issues because there's a number of search warrants
9 that say that there is contact between Ella Lowery and Mr.
10 Harrington, but we have Ms. Lowery's Facebook records and we
11 don't see any communication between the two of them.

12 So A, we just need Mr. Harrington's Facebook records
13 because we just simply don't have that. And then B, we need
14 to be told where is the communication that sworn officers
15 took out statements for search warrants to obtain.

16 MR. REDMOND: And that's actually another issue that
17 piggy backs off of what I had said earlier and that is the
18 source of our meeting this afternoon to determine that.
19 Because in that situation, we're in the same quandary as
20 well, so we want to get clarity to whether or not those
21 records were ever obtained. Because as Mr. Bank said, there
22 is a search warrant there, but we do not have anything
23 either as it relates to any --

24 THE COURT: If there has not been a search warrant for
25 Mr. Harrington's Facebook, are we in agreement that you

1 consent to my issuing a subpoena, an order for that?

2 MR. REDMOND: There actually is a search warrant. I
3 was just double checking, there is a search warrant for
4 those records, Mr. Bank is right, but we don't have any
5 return of those -- of that search warrant, so that's what we
6 are trying to determine -- that's what we'll be finding out
7 today, Judge. Of course, if there is an issue that comes up
8 --

9 THE COURT: If there has not been a search warrant,
10 I'll be happy to sign one.

11 MR. REDMOND: Yes, sir.

12 MR. BANK: Our next issue is just confirming or
13 verifying whether any of the Marlboro County officers had
14 body worn cameras?

15 MR. REDMOND: They did not. I did talk with the --
16 with one of the former lieutenants at Marlboro County
17 Sheriff's Office. They actually did not have it at the
18 time. They got it, she couldn't remember whether it was in
19 2018, but she remembered it was after this incident where
20 they ended up getting body worn cameras.

21 MR. BANK: And then that would also include if they had
22 any dash cameras, also.

23 MR. REDMOND: They didn't have any of that technology.

24 MR. BANK: Okay.

25 The next issue we have is any e-mails or evidence

1 relating to a license plate reader. A license plate reader
2 was used in this case to locate Mr. Harrington before his
3 arrest and I don't believe we have any information on that.

4 MS. MUNNERLYN: Your Honor, we are not in possession of
5 the e-mails. It's my understanding of the reading from the
6 CMPD that the vehicle was entered in NCIC as stolen and
7 that's how the hit was made, through the information that
8 was put into NCIC. After that plate reader, of course,
9 picked up the stolen vehicle, contact was made directly with
10 the Marlboro County Sheriff's Department and then further
11 information was provided, I believe, directly by phone to
12 the Charlotte-Mecklenburg Police Department.

13 But we are not in possession of any e-mails. We will
14 go back to SLED to make sure there were none. There are
15 some e-mails in the discovery from CMPD with regard to their
16 preparing their case to provide to us and those e-mails are
17 provided. But we are not in possession of any e-mails from
18 SLED.

19 THE COURT: Are you asking for e-mails or some data
20 from --

21 MR. BANK: Anything related to the license plate reader
22 and how it was used in this case.

23 THE COURT: Well, apparently, they don't have it and
24 don't intend on introducing it.

25 Is that correct, any data from the license reader?

1 MR. REDMOND: Well, as Your Honor may recall and Mr.
2 Bank -- I think this actually predates Ms. Crayton and Mr.
3 Bank. We had a hearing back in December where, if Your
4 Honor will recall, we had two officers from CMPD, Joe
5 Dollar, Sergeant Dollar and Detective Michael Ramsey that
6 testified, I think it was here in Florence, and they
7 addressed these issues as it relates to the data plate
8 reader and how it works, because we got into how it works
9 and how they actually were able to --

10 Like Ms. Munnerlyn said, the NCIC hit. They have plate
11 readers in certain areas of Charlotte. It goes to a center
12 -- if I'm recalling his testimony correct, it goes to a
13 central location where they then are contacted. And at this
14 point, I think it was in the Plaza Midwood section of
15 Charlotte, if I recall correctly, and the officers did
16 respond.

17 So this information has actually been provided because
18 we got the CMPD file where it talks about -- and, of course,
19 like I said, we also have testimony to that effect --

20 THE COURT: If you've got it, you need to produce it to
21 him.

22 And my question to you, Mr. Bank, if they don't have it
23 and don't see a need to get it, do they have an obligation
24 to go and get it and give it to you or do you need to pursue
25 it through subpoena?

1 MR. BANK: Well, I think that's kind of two issues.
2 And I understand that there was testimony on this already.
3 What we're mostly trying to confirm is, is there any written
4 documents, any written e-mails, any written communications,
5 anything that they have related to the license plate reader,
6 any pictures from the license plate reader, anything they
7 can lay their hands on, we want that prior to trial.

8 THE COURT: Now, if they go through their file and they
9 look and they get all pictures, all data, all e-mail, does
10 that satisfy you or do you want something else?

11 MR. BANK: That satisfies me.

12 THE COURT: Well, that's all you've got to do, is you
13 need to go to your file, Mr. Redmond -- I know you've got a
14 lot of things going on, but you've got to go through it and
15 you look and make this search and give it to Mr. Bank. We
16 certainly don't want to be trying the case and then all of a
17 sudden, there's something that comes up.

18 MR. REDMOND: Yes, sir, we'll double check. But I can
19 tell the Court that if he goes into -- and I'm looking at
20 what CMPD sent and there is information from that data
21 reader in it and it's under the folder that's been sent and
22 it's labeled Charlotte-Mecklenburg. And that's where --

23 THE COURT: You're pretty confident whatever you've
24 got, he's got?

25 MR. REDMOND: I'm absolutely confident.

1 THE COURT: That's his position, so you go back and
2 study what you have and if you need anything else, you can
3 pursue it by subpoena as well. Apparently, all he's got,
4 he's given to you.

5 MR. BANK: Yes, sir.

6 MR. REDMOND: And, Your Honor, we'll be glad to get
7 with him -- and like I said, most of this predates Mr. Bank
8 being here and Ms. Crayton. We actually had a hearing about
9 this and all that evidence has been there since before that
10 hearing in December of '21. But, again, we'll be glad to
11 work with them. If they're having a problem finding
12 something, got no problem sitting down with them and getting
13 that straight, Your Honor.

14 THE COURT: Very good.

15 Yes, sir.

16 MR. BANK: We just want to make sure that they've given
17 us everything. We'll go back in the file and double check.

18 THE COURT: Good.

19 MR. BANK: The next issue is there's an evidence log
20 that references kind of ambiguously a red cooler, a jacket,
21 pullover and/or watch. And we just wanted to confirm
22 whether a forensic analysis was done on any of those items?

23 MR. REDMOND: I can confirm there was no analysis done.
24 As a matter of fact, one of the investigating officers gave
25 me some context as to that. At that point early on in the

1 investigation, they were literally -- if anybody came out
2 with a lead or any information or a tip, they would follow
3 up on it. The cooler, for instance, she mentioned that the
4 cooler they didn't have tested because they could look and
5 tell that the water that was inside that cooler had been in
6 there for way longer than a few days. It probably was
7 several weeks, so it wasn't tested.

8 So the short answer is, no, these items were not
9 tested.

10 MR. BANK: The next issue is --

11 THE COURT: And Mr. Redmond, you're going to be stuck
12 with that answer --

13 MR. REDMOND: Oh, yeah. Your Honor, I'm used to
14 sticking my neck out, but I did go to Dillon to sit down and
15 confirm these things, Your Honor.

16 THE COURT: Very good. Thank you.

17 MR. BANK: The next item that we requested is all
18 documents and evidence related to the seizure and extraction
19 of an RCA tablet. And I know that we have some tablets, but
20 I'm not sure whether the RCA tablet that's referenced in the
21 report is one of the tablets that they've already given us.

22 MR. REDMOND: I've got some information, it's just got
23 to be confirmed when we meet today with the FBI, but I can
24 tell the Court that in talking with Marlboro County
25 authorities, the recollection is that they were not able to

1 get into that tablet, so there's nothing there that was ever
2 obtained from it. We'll be able to confirm that because
3 that was information that was relayed from the FBI to
4 Marlboro County. Again, we'll be able to confirm that. We
5 don't have anything in our file to that effect either, so I
6 suspect that that is what happened, we've just got to
7 confirm that.

8 THE COURT: Mr. Bank, I'm going to ask that you keep
9 copious notes on these rulings and you're going to be called
10 upon to draft the order.

11 MR. BANK: Yes, sir. I've got a team around me typing
12 away.

13 THE COURT: Okay, good.

14 MR. BANK: There's only a couple more items here. We
15 were trying to figure out the author of a Marlboro County
16 Sheriff's Office note that talks about an interview with
17 Carlton Cook.

18 MR. REDMOND: Yes, that one -- and we're trying to get
19 in touch with former Deputy White to confirm this, but I did
20 -- and just for the record, since I have stuck my neck out
21 on some of these, just to let the Court know that once we
22 got this, I reached out to Mr. Young, went to Dillon to meet
23 with one of the lead investigators who was formerly with
24 Marlboro County, actually sent her a list of what was asked
25 for.

1 So if something comes up, I want the Court to know I
2 did exercise due diligence in trying to find out these
3 things. Hopefully, nobody has led me astray.

4 But with that said, Your Honor, on Carlton Cook, my
5 understanding is that it's Robert -- we call him Josh White,
6 a former deputy with Marlboro County, who actually -- either
7 him or William Horn were the ones that actually authored
8 that particular item. Have not been able to get ahold of
9 either one of them for confirmation of that, but once we do,
10 we'll be able to let you know for sure.

11 MR. BANK: The only thing, Judge, is they need to have
12 him on the witness list for the document. So if he's
13 (inaudible) to get that for us, we'll take him at his word.

14 The next is whether there's an interview memo for a
15 Curtis McAlister. There's an FBI note that says he was
16 interviewed and the FBI typically takes memos of those
17 interviews.

18 MR. REDMOND: That's actually one that we've got to
19 confirm, but now -- I'm sorry, it's in there. It's A-21.
20 It's under 1A-21 and 22 of the FBI notes.

21 MR. BANK: No, we saw those notes. That's what made us
22 think that there's probably a corresponding memo.

23 MR. REDMOND: Okay, you're asking if there's anything
24 more than that. We can confirm that today because, again,
25 we've got a meeting this afternoon to determine those

1 issues.

2 MS. MUNNERLYN: That one actually is in a separate
3 place under other FBI interviews. It's under there.

4 MR. BANK: I'll double check, but --

5 MS. MUNNERLYN: We'll double check today, too, but I'm
6 pretty sure we found it under there.

7 MR. BANK: Next one, similarly, notes from law
8 enforcement conversations with Christopher McKinnon. He's
9 the gentleman with the surveillance video.

10 MR. REDMOND: Yes, let's see.

11 MS. MUNNERLYN: Your Honor, I think that one is
12 actually not accurately labeled. That should be found in
13 1A-24.

14 Did y'all see that?

15 THE COURT: Mark that down, 1A-24, and if you can't
16 find it, let us know.

17 MS. MUNNERLYN: I think it may be listed under consent
18 to search neighborhood or something like that. That's
19 actually Christopher McKinnis. It's just not listed under
20 his name.

21 MR. BANK: We have some information. We just wanted to
22 confirm whether there was a memo or a report from anybody
23 talking about their interview with him.

24 MS. MUNNERLYN: Okay. We'll confirm. I think those
25 were the notes and we'll make sure there's no memo that

1 corresponds to that.

2 MR. BANK: That will be fine.

3 There's a number of timelines that we don't know who
4 the authors of the timelines are.

5 THE COURT: I'll just ask that y'all look at the
6 timelines and give him that information.

7 MR. REDMOND: I can tell you because I was actually
8 present when some of these things -- it's not going to be
9 just one person. But as far as who typed it up, we can try
10 to find that out, but this was sort of a group effort that
11 was --

12 THE COURT: Who are the people in the group?

13 MR. REDMOND: I'd have to go back and remember. It
14 depends on which timeline because there was more than one
15 timeline. I mean, there was some where we had sheriff's
16 department and SLED that were actually present for some of
17 those. I can try to find out and narrow it down as much as
18 I can as far as who particularly authored it.

19 Now, with that said, there are several people that are
20 on the witness list that can testify to it because they were
21 there at the time it was being discussed. So, I guess, if
22 it's a question of who actually typed it up, that's one
23 thing. But as it relates to who can testify to it, there's
24 a host of folks that would be able to testify to it.

25 MR. BANK: If you could just confirm that. I don't

1 want to be in the position where we're calling multiple
2 witnesses because we say they're all involved and then they
3 don't want to take credit for it because a mistake is
4 pointed out and they say well, I wasn't really the author,
5 that was somebody else working on it. So we just need to
6 know who is going to be comfortable saying they are one of
7 the authors.

8 THE COURT: All right. Can you provide that
9 information?

10 MR. REDMOND: Yes, sir.

11 THE COURT: Somebody take ownership of it and we'll go
12 from there.

13 MR. BANK: And then, similarly, there's an excel phone
14 record, there's an excel spreadsheet with phone records. We
15 need to know the author of that and the source of where they
16 got all the data that they put into the excel spreadsheet.

17 MR. REDMOND: And I apologize, Your Honor, I was
18 actually running my mouth with cocounsel here. Could you
19 repeat that one more time?

20 What was it that you asked again?

21 MR. BANK: Sure. There's an excel phone records
22 spreadsheet, and we just need to know who the author of that
23 is and, again, the source of information for all the
24 entries.

25 MR. REDMOND: We can find that out, Your Honor.

1 THE COURT: All right. And provide that to them.

2 MS. MUNNERLYN: Actually, the excel spreadsheets, is
3 that the one with the SMS text messages?

4 MR. BANK: Yes.

5 MS. MUNNERLYN: Okay. I just wanted to make sure we
6 knew which one he was talking about.

7 MR. BANK: And then, finally, there is a video from a
8 house, Mr. (Inaudible) and we have parts of the video, but
9 we don't have the entire video. We would like the entire
10 video if it's in y'all's possession.

11 MR. REDMOND: That was not on the list, so if I could
12 get some more information to lead us there, there may be
13 something --

14 THE COURT: Note that in the order, that they will
15 investigate that and provide it to you in a timely fashion.

16 MR. BANK: That's all the discovery issues we currently
17 have. Judge, we've got, like I said, a few other kind of
18 housekeeping things that I think we can get through real
19 quick if we still have some time.

20 THE COURT: Yes.

21 MS. WISE: Your Honor, if I can ask a clarification
22 question on the Facebook records involving Ella Lowery. One
23 of the things that needs to be clarified on Ella Lowery, I
24 know there are comments and that's something that we're
25 meeting with the FBI to try to figure out, but there are

1 comments about communications that occurred possibly back as
2 far as 2012. The records that were obtained by search
3 warrant were like six months, not all of Ella Lowery
4 Facebook records.

5 The request the Defense has made is all Facebook
6 records of Ella Lowery that show communication between
7 Jejuancey Harrington and Ella Lowery. We do not have all of
8 Ella Lowery's Facebook records. We have no intention of
9 getting all of Ella Lowery's Facebook records. I don't
10 think -- I mean, maybe the Defense has an argument that they
11 never even knew each other, but the fact is, if that's --

12 THE COURT: They don't have it and don't intend on
13 getting it and don't intend on offering it. However, if you
14 want to pursue it, I'll be happy to assist you in that
15 regard.

16 MS. WISE: Your Honor, my concern is that the
17 turn-around time for Facebook is not very quick usually, so
18 I just didn't --

19 THE COURT: We'll deal with that.

20 If you decide you want to pursue, I'll issue whatever
21 order or search warrant is necessary.

22 MR. BANK: And we don't need six years. I mean, the
23 six months is fine. It's just the concern that we're having
24 is we're seeing in search warrants that they're saying
25 there's Facebook communication, but in the Facebook

1 information that has been disclosed to us, there isn't any
2 communication. If that's just a fact and the officer lied
3 in the search warrant, then we'll deal with that at trial.
4 We're just trying to confirm that.

5 THE COURT: Well, it sounds as though they're not going
6 to get anything else, so you're pretty much stuck with that.

7 MR. BANK: Yes, sir.

8 THE COURT: Well, I don't believe if I -- I'm not in a
9 position to say, but if it's not in there, it works to your
10 advantage, so we'll go from there.

11 MR. BANK: Yes, sir. We're really just trying to get
12 the State on the record.

13 The next issue that we have deals with -- oh, and we
14 need the make and model of Allen's phone.

15 THE COURT: They'll provide that if they have it.

16 MS. WISE: And I believe their expert is meeting with
17 our expert, so --

18 MR. YOUNG: We did that on Tuesday and got everything,
19 but we still don't know what make and model Allen's phone is
20 so that will determine who I should send -- like, I could
21 ask can you get into this type of phone, he says, no, I
22 can't do that one --

23 MS. WISE: Your expert did meet and saw the phone.

24 MR. YOUNG: He didn't see it. He was not allowed to
25 view it. He was allowed to get Mr. Harrington's

1 extractions, but he wasn't allowed to view Mr. Allen's
2 phone.

3 THE COURT: All right. Very good.

4 Does that conclude the matters for the day?

5 MR. YOUNG: Your Honor, we have one other matter -- and
6 I know if we're coming back next week, it makes more sense
7 for me to file a motion on this, but I noticed when we
8 started getting some juror returns, there were some
9 correctional officers that were included in there.
10 Correctional officers, obviously, have a statutory right to
11 request to be excused. It's not mandatory, they don't have
12 to exercise that, however, in South Carolina, the
13 information that jurors are given about prison conditions is
14 limited by case law. It's improper for the State or the
15 defense to try to introduce what prison conditions are going
16 to be like.

17 We think that following that case law would mean that
18 any juror who is working at corrections institution or has
19 worked at a corrections institution would have inadmissible
20 information that would be shared with other jurors for their
21 consideration. And in order to avoid that, they should be
22 excused from jury duty.

23 THE COURT: Ahead of time by consent. I'm going to ask
24 that y'all get together and go through the ones that y'all
25 can agree. In final analysis, as long as you agree to it,

1 it's going to be all right.

2 MR. YOUNG: My records indicate that we've got about 72
3 returns so far with 49 of those people either having a
4 statutory excusal [sic] that would qualify, they're older
5 than 65 or another request that I think is reasonable,
6 leaving us with out 23 people who have responded so far that
7 haven't requested to be excused for a variety of reasons.

8 THE COURT: You know, I'll be interested -- and I
9 certainly would be inclined to excuse the correctional
10 officers and any deputies -- any law enforcement offers, for
11 that matter, ahead of time if we're in agreement to do that.
12 What you're worried about is them showing up and sharing
13 their opinions, their information with the jury pool?

14 MR. YOUNG: Yes, sir.

15 THE COURT: I think that sounds fair and I'll be happy
16 to do that. I thought that the -- that's one of the
17 disqualifications is being a law enforcement officer or a
18 correctional officer.

19 MR. REDMOND: Yes, sir, that's what I was going to say,
20 we wouldn't have any problem because I think that's
21 required.

22 THE COURT: I think the first death penalty case I had
23 was reversed for that very issue, qualifying a highway
24 patrolman. I don't think that would ever be the case. So
25 if y'all can get together -- and we do need to put it on the

1 record that we agree to it.

2 What do y'all think about after reviewing the
3 questionnaires and if the questionnaires reflect unequivocal
4 province, would y'all be in a position to excuse them ahead
5 of time.

6 MR. YOUNG: Yes, sir.

7 MR. REDMOND: Yes, sir, Your Honor. Matter of fact, I
8 was going to say, I talked with Ms. Williams, the clerk of
9 court in Marlboro, and she asked that we address this issue
10 because she had been getting calls from folks as it relates
11 -- like, she mentioned, for an example, a 91-year-old that's
12 bedridden. Her son called asking because they had been told
13 they had to be there.

14 THE COURT: I'm going to ask that y'all get in touch
15 with my law clerk Monday, she's not here today, and we'll
16 set up a time to do that. It will probably be best if we
17 wait until all the returns come in. Sometime between then
18 and the trial would probably be best to do that.

19 MR. YOUNG: The way the returns are going to come back
20 and the way that jurors are going to come in having not done
21 it, we should just do them on a rolling basis.

22 THE COURT: We can do that. That won't be a problem,
23 we can do that.

24 MR. YOUNG: Just take care of the ones we've got now.
25 We'll get some more next week and we'll take care of those.

1 THE COURT: Let's do that.

2 MR. REDMOND: Now, this Monday, of course, is a
3 holiday, but -- and I was going to ask if we can go ahead --
4 if there are going to be subsequent hearings --

5 THE COURT: Tuesday, get in touch with my law clerk
6 Tuesday.

7 MR. REDMOND: That way we'll know because we've got
8 witness meetings. I'm sure we've all got meetings we've got
9 to do, so if we can know ahead of time what hearing dates
10 we're looking at, I think that will help us as far as
11 scheduling meetings with witnesses.

12 THE COURT: And if we need to have another hearing next
13 week and it works out with your schedule, we'll be happy to
14 reconvene.

15 We're going to adjourn this matter and allow the 12th
16 circuit to keep on going.

17 MR. YOUNG: Can we say Friday is the day to have a
18 hearing next week?

19 THE COURT: Well, I think I'll know better come Tuesday
20 morning as to whether or not I'm going to be trying a case
21 and how much needs to be done.

22 MR. REDMOND: We have a mandatory CLE Friday.

23 THE COURT: We sure do. We have mandatory CLE on
24 Friday. I have to be there in a judicial club and it's at
25 3:00, so I'd have to -- it's mandatory attendance, so I'd

1 have to leave at 12:00 on Thursday. So y'all work around
2 that. And y'all can talk to my law clerk and we'll figure
3 it out.

CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

January 19, 2023

Penny M. Johnson
Penny M. Johnson
Court Reporter III

State of South Carolina	)	Court of General Sessions
	)	Fourth Judicial Circuit
County of Marlboro	)	Case No. 2017-GS-17-00285,
	)	00286, 00287, 00289, 00290,
	)	and 00338
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
JeJauncey Harrington,	)	
	)	
Defendant.	)	
	)	

February 9, 2023
February 13-17, 2023
February 21-22, 2023
February 24, 2023

B E F O R E:

The Honorable Michael G. Nettles, Judge

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Official Circuit Court Reporter III

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21	44	Verizon Records Mapping	1180
22	45	AT&T Records Mapping	1180
23	46	Phone Record Mapping	1182
24	47	Verizon Cell Tower Chart	1183
25	48	Comparison Stills - Grace Street	1187

1	49	Spreadsheet - New Bridge Road Video	1190
2	50	Enhancement Photograph	1194
3	51	Enhancement Photograph	1195
4	52	Enhancement Photograph	1198
5	53	Enhancement Photograph	1199
6	54	Enhancement Photograph	1199
7	55	Enhancement Photograph	1199
8	56	Comparison Still Photograph	1200
9	57	Comparison Still Photograph	1200
10	58	New Bridge Road Photographs	1204
11	59	Google Map	1206
12	60	Google Map	1210
13	61	Google Map	1210
14	62	Google Map	1210
15	63	Google Map	1210
16	64	Forensic Powerpoint Slideshow Printout	1211
17	65	Facebook Timeline	1171
18	66	Lemon Laws (was Court's 1)	1156
19	67	Interview on USB (was Court's 2)	1156
20			
21			
22			
23			
24			
25			

1	<u>COURT'S EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	1	Lemon Laws (now Defendant's 66)		471
4	2	Interview on USB (now Defendant's 67)		822
5	3	Polygrapher Report		825
6	4	Joshua Leighton Affidavit		1057
7	5	DNA Report		1140
8	6	Defense Proposed Charges		1250
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19	<u>COURT REPORTER LEGEND</u>			
20	dashes --	intentional or purposeful interruption		
21		or change in thought		
22	ellipses . . .	trailing off		
23	[ph]	phonetically written		
24	[sic]	written as said		
25				

1 FEBRUARY 9, 2023

2 (WHEREUPON, the bench trial proceedings began at 9:40
3 a.m.)

4 THE COURT: Mr. Redmond, you may call the first case.

5 (WHEREUPON, there was a pause in the proceedings to
6 prepare and test the video presentation, after which the
7 proceedings resumed as follows.)

8 THE COURT: Mr. Redmond, you're recognized.

9 MR. REDMOND: Your Honor, may it please the Court. We're
10 before this Court on Indictment Numbers 2017-GS-34-338, also
11 2017-GS-34-285, 286, 287, 289, and 290.

12 We are prepared to go forward with the -- I guess with
13 the testimony of, I think, three witnesses today we are taking
14 out of order due to scheduling issues. Of course, the -- the
15 remainder of the trial is scheduled to start on this Monday
16 the 13th, but the State is prepared to go forward.

17 If I may, before we start just to save time, the State
18 and the defense have agreed on some exhibits at this point,
19 and I can -- first, I'll give -- since the first witness is
20 actually a defense witness, I'll yield to Mr. Bank, and then I
21 do also have some exhibits that we've agreed on.

22 THE COURT: All right. Mr. Bank?

23 MR. BANK: Thank you, Your Honor.

24 THE COURT: The agreement was reached by the Solicitor's
25 Office and the defense team that we handle these matters

1 remotely. Is your client -- does he understand that he has a
2 right to do this in person and does he waive that right?

3 MR. BANK: Yes, sir. He waives that right.

4 THE COURT: Okay. You're recognized.

5 MR. BANK: Thank you, Judge. The defense calls as its
6 first witness Dr. Joshua Leighton.

7 MR. REDMOND: Oh, wait a minute.

8 MR. BANK: Oh, go ahead.

9 MR. REDMOND: No, I was just saying just for housekeeping
10 matters, I was going to go ahead since we've agreed if we can
11 go ahead and introduce these exhibits and mark them.

12 THE COURT: Show them to Mr. Bank, and let's see if he
13 has an objection.

14 MR. REDMOND: They've already seen them.

15 THE COURT: Okay.

16 MR. BANK: No objection.

17 MR. REDMOND: You can go ahead and read yours in.

18 MR. BANK: We've got Defense Exhibit 1 and 2, and then --
19 which are two scans of an x-ray that Mr. -- or Dr. Leighton is
20 going to testify to that he's reviewed, and then Defense
21 Exhibit 3, which is a CD that was provided to us from the
22 prosecutors, which is the actual scan of the x-ray that Dr.
23 Leighton will be testifying to.

24 MR. REDMOND: And, Your Honor, for the record, State's --
25 State's Exhibits 1 and 2 are the autopsy reports; 1 is Ella

1 Lowery's autopsy report, and 2 is Iyana Lowery's autopsy
2 report.

3 State's 3 through -- I beg the Court's indulgence.

4 State's 3 through -- 3 through 9 are pictures from Ella
5 Lowery's autopsy. 11 -- 10 and 11 -- excuse me. State's 10
6 and 11 are two photographs from the crime scene that will be
7 used in Dr. Riemer's testimony. And finally, State's 12
8 through 23 are pictures from Iyana Lowery's autopsy. We've
9 agreed to allow these -- all of these items into evidence at
10 this time.

11 THE COURT: Mr. Bank?

12 MR. BANK: That's correct.

13 (WHEREUPON, State's Exhibit No. 1, autopsy report of Ella
14 Lowery, State's Exhibit No. 2, autopsy report of Iyana
15 Lowery, and State's Exhibit 3 through 23, photographs,
16 were admitted into evidence.

17 (WHEREUPON, Defendant's Exhibits 1 and 2, x-ray scans,
18 and Defendant's Exhibit 3, x-ray scans on CD, were
19 admitted into evidence.)

20 MR. REDMOND: Thank you. And the State will now yield to
21 the defense.

22 THE COURT: Mr. Bank, you're recognized.

23 MR. BANK: Thank you, Judge. The defense calls as its
24 first witness Joshua -- Dr. Joshua Leighton. I believe we can
25 see him here.

DR. JOSHUA LEIGHTON - DIRECT BY MR. BANK

1 Dr. Leighton, can you hear us okay?

2 THE WITNESS: We cannot hear you.

3 MR. REDMOND: And, Your Honor, with the Court's
4 permission --

5 THE WITNESS: It's very, very faint.

6 THE COURT: Go towards the microphone, wherever that
7 might be.

8 (WHEREUPON, there was a pause in the proceedings to
9 resolve sound issues, after which the proceedings resumed
10 as follows.)

11 DR. JOSHUA LEIGHTON testified
12 via virtual courtroom as follows:

13 DIRECT EXAMINATION

14 BY MR. BANK:

15 Q: Dr. Leighton, could you tell the Court what your
16 profession is?

17 A: So I'm a radiologist by training, various modalities,
18 imaging for, you know, medical services.

19 Q: Right. And could you just briefly go over your
20 education?

21 A: Okay. So, yeah, you know, four years of undergrad at
22 David Lipscomb University in Nashville. I went to Meharry
23 Medical School for four years, also in Nashville. I did a
24 year of training in New Haven, Connecticut, a transitional
25 year there, basically an internship. A four-year training in

DR. JOSHUA LEIGHTON - DIRECT BY MR. BANK

1 Philadelphia at Pennsylvania Hospital for radiology, and then
2 a year, you know, post-residency fellowship in -- in St. Louis
3 at the Mallinckrodt for nuclear medicine specifically.

4 Q: Great.

5 MR. BANK: And I can keep going. I suspect the State is
6 not going to object to him being qualified as an expert in
7 radiology imaging.

8 MR. REDMOND: No objection from the State, Judge.

9 THE COURT: No query with regard to his qualifications?

10 MR. REDMOND: No. No, sir.

11 MR. BANK: Thank you.

12 THE COURT: He's so qualified. He's allowed to render
13 his opinion with regard to the field of radiology.

14 MR. BANK: All right.

15 BY MR. BANK:

16 Q: Dr. Leighton, did you review an x-ray May 31st, 2017,
17 belonging to JeJauncey Harrington?

18 A: Yes.

19 Q: And I believe that you have reviewed Court's Exhibit 1
20 and 2 [sic], which were scans that you took and have reviewed
21 that I emailed you last night?

22 A: Yes.

23 Q: And these are accurate depictions of what you saw? And
24 they are already in evidence at this point. You also received
25 a report of how and when these injuries were at least self-

DR. JOSHUA LEIGHTON - DIRECT BY MR. BANK

1 reported to happen; is that correct?

2 A: No. Well, as far as the history I received, I think it
3 was like pain or something or trauma. I forget the exact
4 history that was provided on the x-ray.

5 Q: Do you remember two and a half months self-report that it
6 happened with a fall at work?

7 A: I'm sorry? No.

8 Q: That -- that the original report to the original doctor
9 that ordered the scan was 2.5 months old?

10 A: We -- we only receive very little information typically
11 with the indication of the study. A lot of times it will come
12 over as pain and then the x-ray or, you know, it is something
13 that someone has to type in the computer to give us an
14 indication of why the study was performed. I don't think I
15 had access to that history at the time.

16 Q: That's fine. What is the injury that you see consistent
17 with in terms of any type of time frame that you would be able
18 to place on the injury?

19 A: Sure. So, basically, it's a fracture of the fifth
20 metacarpal around this area. You know, there's a lot of bone
21 callous formation on -- at the fracture site, meaning that
22 it's not a clean break. It's not something that just
23 happened. That takes, you know, typically weeks to form.

24 Essentially, like, your bone has to start healing and
25 especially if you're -- you haven't splinted or casted, that

1 takes a little bit longer. In a younger patient, it's a
2 little faster, and an older patient it's a little bit longer
3 to heal. So, you know, it's a range, but I would say four to
4 ten weeks in estimate and based on his age and, you know,
5 maybe a little bit further down that range because of his --
6 it doesn't seem to be casted or splinted, you know, at the
7 time.

8 Q: And --

9 A: And if you continue to use it --

10 Q: Go ahead.

11 A: And if you continue to use it, you know, it takes longer
12 as well to heal.

13 Q: And since it wasn't splinted or casted, his regular use
14 of that hand would also be consistent with him regularly
15 reinjuring it?

16 A: Correct. I mean, if you're -- yeah, if you -- you know,
17 if you fracture anything and you keep using it, you know, it
18 -- that's the whole idea of splinting or casting is to
19 immobilize it where it heals more quickly and allows the ends
20 of the fracture to oppose and heal properly without you
21 constantly moving it or hitting it on things, you know, just
22 any kind of minor injury or anything can -- can keep it from
23 -- take it a little bit longer to heal essentially.

24 Q: And you mentioned that it was swelling. I know you can't
25 tell me why it was swelling, but it would --

1 A: Yeah.

2 Q: -- at least be consistent with it being reinjured if it
3 -- if you see signs of swelling?

4 A: Sure. Yeah. I mean it suggests that it's inflamed, you
5 know, at the time of imaging, but could be again anything
6 that, you know, hit it. It could be even an infection or
7 something like that, but there's no bony destruction to
8 suggest that, and I didn't get that history at least.

9 Q: All right. And at least at the time of you reviewing
10 this scan, you had no idea what this case was about; is that
11 true?

12 A: That's true.

13 Q: You're not being paid by either side to be an expert; is
14 that fair?

15 A: That's correct.

16 Q: And I know you can't speak for the rest of the world, but
17 at least as far as you know, you're the only person that
18 reviewed this scan at that time?

19 A: At that time, yes.

20 Q: Okay.

21 MR. BANK: That's all of the questions that I have.

22 Thank you so much.

23 THE COURT: Mr. Redmond?

24 MR. REDMOND: Thank you, Your Honor. May it please the
25 Court.

DR. JOSHUA LEIGHTON - CROSS BY MR. REDMOND

CROSS-EXAMINATION

1
2 BY. MR. REDMOND:

3 Q: Dr. Leighton, my name is Kernard Redmond. I am a deputy
4 solicitor prosecuting this case, and I just have a few brief
5 questions.

6 A: Sure.

7 Q: First of all, to be clear, when you gave a range, what
8 was that range that you had said again as far as that injury?
9 And I know it's an estimation.

10 A: Yeah. You know, four to ten weeks and, again, you know,
11 toward the lower end of that would be, you know, a younger,
12 like, teenage patient or something that has, you know, very
13 good, you know, circulation. Older -- you know, toward the
14 upper end of that range is an older patient with, you know,
15 diabetes or something.

16 Q: Yes, sir.

17 A: And again, immobilization -- you know, immobilization
18 would make it heal faster. You know, having it, you know,
19 without any casting or splinting takes it longer to heal. So
20 . . .

21 Q: Okay. And now, of course -- and I think you indicated
22 earlier this is an estimation. Everybody's body makeup is
23 different, everybody's healing mechanism is different?

24 A: Sure.

25 Q: And so would it be fair to say you cannot precisely put a

DR. JOSHUA LEIGHTON - CROSS BY MR. REDMOND

1 date on when he injured his hand?

2 A: That is true.

3 Q: And the last thing I'll ask you is what is the -- because
4 in the medical field, what is that type of fracture that you
5 see, the meta -- the fifth metacarpal? What is that commonly
6 referred to as?

7 A: Boxer's fracture typically.

8 Q: And again, could you repeat that? What is that commonly
9 referred to as?

10 A: A boxer's fracture.

11 MR. REDMOND: That would be all of the questions I have.

12 THE COURT: Any redirect?

13 MR. BANK: No, sir.

14 THE COURT: Thank you for being here.

15 MR. BANK: Thank you, Doctor. You can go ahead and exit
16 off.

17 THE WITNESS: Thank you, sir.

18 MR. BANK: Yeah.

19 THE COURT: If that concludes this witness, you may call
20 your next witness.

21 MS. FREEDMAN: The defense -- the defense calls Dr.
22 Alicia Wilcox. I believe she should show up on the WebEx
23 right at 10 o'clock, Your Honor.

24 THE COURT: Okay.

25 MS. FREEDMAN: So we may need just a couple of minutes to

1 make sure she is -- she's ready to go.

2 THE COURT: We'll stand at ease for 10 minutes. Let me
3 know when she's available.

4 MS. FREEDMAN: Thank you, Your Honor.

5 MR. REDMOND: Thank you, Your Honor.

6 MR. BANK: Just to be clear, Defense Exhibits 1, 2, and 3
7 are in evidence?

8 THE COURT: Yes, they are.

9 MR. BANK: Thank you.

10 (WHEREUPON, there was a break in the proceedings from
11 9:53 a.m. until 10:09 a.m., after which the proceedings
12 resumed as follows.)

13 MS. WEISS: Your Honor, at this time, we're going to
14 proceed with the defense's next witness. We have agreed --
15 they have a couple of things they want to put into evidence,
16 and we have agreed between the two that all the underlying
17 pieces of evidence that led to this evidence, that there will
18 be no objection in the trial of all of the evidence coming in,
19 which would be the prints, the shoes, the prints that were
20 made from the shoes, everything that -- the evidence that was
21 collected at the scene and was collected from the defendant.
22 All of that is -- there will be no objection to that coming in
23 during the trial so that they can put in the pictures now that
24 are sort of the results of that thing.

25 THE COURT: I'll hear from the defense. Any objection to

DR. ALICIA WILCOX - DIRECT BY MS. FREEDMAN

1 that?

2 MS. FREEDMAN: No, Your Honor.

3 THE COURT: All right. Before we get started, if we
4 could place the witness under oath, if we could.

5 THE CLERK: Can you raise your right hand?

6 THE COURT: You might need to stand up there, if you
7 could.

8 THE CLERK: Okay. Can you raise your right hand to be
9 sworn, please? Do you solemnly swear or affirm that the
10 testimony you shall offer the Court in this case shall be the
11 truth, the whole truth, and nothing but the truth, so help you
12 God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you.

15 DR. ALICIA WILCOX, being first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. FREEDMAN:

19 Q: Good morning, Dr. Wilcox.

20 A: Good morning.

21 Q: Can you hear me okay?

22 A: Yes. There's a bit of an echo, but I can hear you.

23 Q: Okay.

24 MS. FREEDMAN: And, Your Honor, I think she is going to
25 use a demonstrative, and so I don't know if it's possible for

DR. ALICIA WILCOX - DIRECT BY MS. FREEDMAN

1 us to just make sure before we get going that that's going to
2 -- she's going to be able to pull that up.

3 THE COURT: You can ask her.

4 BY MS. FREEDMAN:

5 Q: Dr. Wilcox, are you able to share your screen?

6 A: Yes.

7 Q: You are? Okay. Great. In that case, I think we are
8 ready to get started. So, Dr. Wilcox, could you please tell
9 the Court --

10 A: Did it show up?

11 Q: Could you please tell the Court what your profession is?

12 A: I'm a forensic consultant, and I'm also a full-time
13 professor of forensic science.

14 Q: And what educational background do you have?

15 A: I have an undergraduate degree in chemistry and
16 statistics. I've got a master's degree in forensic science,
17 I've got an MBA, and I have a Ph.D. in forensic science.

18 Q: And could you please describe any other relevant work
19 experience you have?

20 A: I've been examining forensic footwear cases since 2002-
21 2003 when I started at the Maine State Police crime lab as a
22 pattern examiner. I attended the Royal Canadian Mounted
23 Police for what we call kind of their forensic boot camp. It
24 was a seven-week, live-in training course where they taught us
25 about footwear and tire impressions, how to document the crime

DR. ALICIA WILCOX - DIRECT BY MS. FREEDMAN

1 scenes, how to do comparisons, how to make charts and
2 demonstrative aids for court.

3 That was my initial training. I did in-house training as
4 well, and over the course of the last 20 years, I have taken
5 all of -- all of the footwear classes that are available. And
6 at this point in my career, I teach regularly footwear and
7 tire impression workshops to newer examiners.

8 I'm also certified by the International Association for
9 Identification in footwear comparisons. And the International
10 Association for Identification, sometimes called the IAI for
11 short, is the parenting body that covers a lot of the forensic
12 disciplines.

13 Q: And are you -- what other professional organizations, if
14 any, are you a member of?

15 A: I'm a member of the American Academy of Forensic Science.
16 I'm actually a board member of the IAI. I'm a board member of
17 the New England division of the IAI. I'm a member of the
18 Organization for Scientific Area Committees. We call that
19 OSAC for short, and that's a standards body that develops
20 standards and best practice documents published on our website
21 for all different forensic disciplines.

22 And I'm also on the American Standards Board for the
23 American Academy of Forensic Science, and that ASB or the
24 American Standards Board is a board that in some ways
25 accredits those OSAC standards. So standards for forensic

1 science, I sit on the footwear/tire subcommittee, and those
2 standards come across to the American Academies -- Academy
3 Standards Board and become accredited and on their website
4 then for practitioners to use.

5 Q: Thank you. Approximately how many times have you
6 testified as an expert witness?

7 A: Approximately 40 times, I think. It's on my CV.

8 Q: And in those times when you testified, were you qualified
9 as an expert?

10 A: Yes.

11 Q: And in what field were you qualified?

12 A: I've qualified as a latent print or fingerprint examiner.
13 I've qualified for my work as a crime scene personnel. I've
14 qualified as a tire examiner, I've qualified as a footwear
15 examiner, and once or twice I've qualified for fracture or
16 physical fit when two broken or torn objects are matched back
17 together.

18 Q: And I'm -- this is a little hard to do over video, but
19 I'm going to try and show you a document. Does this document
20 look familiar?

21 A: Yes.

22 Q: What is that?

23 A: That's my curriculum vitae.

24 MS. FREEDMAN: And at this point, I believe -- you all
25 have a copy of this?

DR. ALICIA WILCOX - DIRECT BY MS. FREEDMAN

1 We would move to admit a copy of the witness's resume
2 into evidence.

3 THE COURT: Any objection?

4 MS. WEISS: No objection, Your Honor.

5 THE COURT: It's into evidence.

6 (WHEREUPON, Defendant's Exhibit No. 4, curriculum vitae
7 of Dr. Alicia Wilcox, was admitted into evidence.)

8 MS. FREEDMAN: And at this time, I would move to have Dr.
9 Wilcox admitted as -- qualified as an expert in forensic
10 footwear analysis and crime scene analysis.

11 THE COURT: Any query with regard to her qualification?

12 MS. WEISS: No, Your Honor.

13 THE COURT: She is so --

14 MS. WEISS: No objection.

15 THE COURT: She is so qualified, and she'll be allowed to
16 render opinions in this matter.

17 BY MS. FREEDMAN:

18 Q: So, Dr. Wilcox, before we talk about sort of what you did
19 in this case and what forensic footwear analysis is, could you
20 please just describe what, if anything, you know about the
21 facts of the case?

22 A: I know the defendant's name. I believe it's a homicide
23 case. I know there were bloody footwear impressions at the
24 scene on linoleum and on a cement floor, and that is all I
25 know.

1 Q: Thank you. So what is forensic footwear analysis?

2 A: Forensic footwear analysis is -- has got to do with
3 developing questioned impressions at crime scenes. If
4 footwear impressions are found at scenes, they can be recorded
5 and documented, and then they can be compared later on to what
6 we might call elimination shoes, maybe shoes of the homeowner
7 or suspect's shoes. We call those elimination and suspect
8 shoes known impressions. So questioned impressions are
9 compared to known impressions, and then there's a range of
10 conclusions with those comparisons.

11 Q: And you mentioned earlier something called OSAC. Can you
12 please describe for the Court what exactly OSAC is and what it
13 does?

14 A: OSAC is a U.S. governmental sponsored under NIST, the
15 National Institute of Standards and Technology. So it's a
16 group that -- that was developed -- I'm trying to think -- in
17 2016 to address some of the issues in forensic science with
18 regards to lots of people doing things in different ways, and
19 it's a group that comes together. There's 22 different
20 subcommittees. Some of them deal with dogs and sensors. Some
21 of them deal with footwear and tires. Some subcommittees deal
22 with fingerprints. Some subcommittees deal with facial
23 recognition.

24 So each of these subcommittees develop standards and best
25 practice recommendations that are posted on OSAC's website.

DR. ALICIA WILCOX - DIRECT BY MS. FREEDMAN

1 These documents -- I'm on the footwear/tire subcommittee, and
2 the documents that we work on relate to footwear and tire
3 practitioners. So we -- as a group, there's about 25 of us,
4 and we rotate every three years with new people, and we
5 develop documents and standards and other resource committees,
6 such as we've got legal experts. We've got statisticians.
7 We've got experts in human factors. Human factors --

8 Q: Really quickly, Doctor --

9 A: Yes.

10 Q: I was just about to ask you what is human factors and why
11 does that matter?

12 A: Human factors -- I also sit on the OSAC human factors
13 subcommittee as well. I sit on both the footwear/tire and the
14 human factors, and the human factors is really important.

15 We're aware that we as we move through the world that
16 we've got these different biases. There can be cognitive
17 biases, motivational biases, confirmation biases, and they're
18 just part of the human condition. So human factors is a group
19 that looks at -- one of the things they look at are steps in
20 our standards that might minimize biases and make the
21 conclusions of forensic scientists more robust.

22 Q: And are -- these documents that OSAC produces, what --
23 what, if any, public comment or peer review are these
24 documents subjected to?

25 A: Yes. It does take a long time. From the initiation of a

1 document to when it gets out can sometimes be five years to
2 develop. It's kind of slow, but one -- one part of the
3 feature is that they do go out for public comment.

4 So after the remaining OSAC going back and forth through
5 different groups and when we get all the feedback from
6 everybody and adjudicate all of their comments, it will then
7 go out for public comment and that anybody all over the world
8 can make comments. Some documents have very, very few, some
9 documents might have 300 comments, and then we need to
10 adjudicate them.

11 If the document changes significantly, it goes back into
12 the OSAC process again, and maybe human factors or the legal
13 resource experts might have another look at it. It might go
14 back out for public comments. It depends on how much the
15 document might move in and out of public comment. So there's
16 really supposed to be consensus. It's not supposed to be the
17 25 footwear and tire examiners coming up with these standards.
18 They're consensus standards.

19 Q: And are these the kind of standards that experts in your
20 field are expected to rely on?

21 A: There's -- it's difficult in the United States, given the
22 way our forensic science services are set up to mandate these.
23 It is possible in the future that federal employees might be
24 mandated to use these standards and that anyone applying for
25 federal grants, which is a lot of the big labs, may be

1 mandated.

2 Lots of agencies have taken up the standards by
3 themselves, but they're the best practices, and people are
4 logging onto the website and looking for -- looking for those,
5 agencies are, one by one as the standards come out, and
6 sometimes they wait for a group of standards and then they'll
7 adopt all of them, maybe four or five together.

8 Q: And what, if anything, can you say about error rates as
9 it relates to the OSAC standards for footwear analysis?

10 A: There's been no research on error rates with regards to
11 the standards. The standards set forth best practices. If
12 you do photography at the crime scene, you'll get the best
13 footwear photographs if you follow these guidelines, for
14 example. Error rate -- error rates are kind of done outside
15 of the OSAC standards, and they -- they are sometimes called
16 black box studies.

17 Black box studies are -- have been done in some of the
18 different forensic disciplines over the past ten years, and
19 they just -- they look at the error rates amongst footwear
20 examiners, and how they do that -- I've participated in two of
21 them. How they do that is they send out casework type
22 comparisons that are as difficult as you might get in
23 casework, and they record the correct answers. So they'll
24 come back and let -- let the forensic community know what the
25 error rate is.

1 Q: Thank you. So what is the gold standard method for
2 forensic footwear analysis?

3 A: That's a bit of a loaded question because there is no one
4 standard. If you look on OSAC's website, the footwear/tire
5 has multiple standards. There's a standard for photography.
6 There's a standard for using chemicals. There's a standard
7 for using physical methods. There's a standard for digital
8 imaging. There's a standard for taking notes.

9 So there's lots of differences. We wouldn't -- we
10 wouldn't have one gold standard, but if following the -- those
11 processes, you're -- you should be settled for success in
12 being able to capture the high-quality images and make
13 reliable conclusions.

14 Q: And what methodology do you use for your forensic
15 footwear analysis?

16 A: The forensic footwear community uses an acronym called
17 ACE-V as our methodology, and A stands for analysis, C stands
18 for comparison, E stands for evaluation, and V for Victor
19 stands for verification. So the -- do you want me to explain
20 the different steps?

21 Q: Please do.

22 A: The analysis is the first step, and that involves
23 documentation of the questioned impression or the crime scene
24 impression. So the types of documentation that somebody might
25 make is, is the floor textured and, if the floor is textured,

1 that's going to interrupt some of the features of that
2 footwear impression. Is the floor dirty? Is the surface
3 curved? Is it on a plastic bag? Is it three-dimensional? Is
4 the impression -- what is it made of? What is its matrix? Is
5 it in blood? Is it in dust? Is it in something else?
6 Grease?

7 Other documentation, if there's any visible movement in
8 the impression. Can you see slippage, movement, twisting? We
9 document that. Is there a development medium? Has a chemical
10 been used to enhance the impression or change it in some way?
11 Is there a proper scale?

12 Q: I'm sorry to interrupt, but you said -- you said
13 something about a development medium. Could you just explain
14 a little bit more about what that means for the Court?

15 A: Sometimes impressions are very hard to see, and it's not
16 uncommon to develop footwear impressions where you see none.
17 So in a case where -- if there was blood visible at a crime
18 scene, it's customary to process the floors of the crime
19 scene, even where you don't see impressions, for invisible or
20 sometimes a term we use is latent footwear impressions.

21 So that can be done using physical means, sometimes with
22 a fingerprint powder and brush or chemicals. And a very
23 common chemical that's used for blood processing for footwear
24 at crime scenes is called Leucocrystal violet, LCV for short.

25 Q: How does LCV work?

1 A: LCV is a colorless reagent, and you spray it in a spray
2 bottle on suspected areas that might have footwear
3 impressions. And if there is hemoglobin in the blood, it'll
4 develop. It'll enhance or process that footwear impression on
5 the -- on the surface.

6 Q: What color does it turn?

7 A: Kind of a purply magenta color.

8 Q: Okay. Thank you very much for that, and so is that sort
9 of everything that you would consider part of the A part of
10 ACE-V?

11 A: No. It's not enough just to document that. You also
12 need to document the features in the impression. When I say
13 the features, I do this in Photoshop. Photoshop is a software
14 that you can bring up your footwear impression that you
15 photographed at your scene. And I use a little pen that goes
16 with my laptop, and I annotate the details.

17 So you trace the impression that you see. Do you see
18 herringbone-type patterns? Do you see circles? Do you see
19 bars? So to trace the data in the footwear impression, and
20 that's really important to do that before you move on to the
21 comparison phase to memorialize what you could see before you
22 looked at the suspect shoes. So that's a part.

23 Another part of the analysis phase is do I have enough to
24 continue on to the next step. Do I have enough? It's a
25 quality kind of decision. Is this enough for a comparison?

1 That's another part of the analysis phase.

2 Q: And why is it important to complete the analysis stage
3 before you move on to the comparison stage?

4 A: It's to minimize what we call confirmation bias. So in
5 the process of -- sometimes footwear impressions are really
6 clear and they're easy to see and there's not a lot of
7 interpretation, and sometimes impressions are really partial
8 and small and smudged and there is a lot of interpretation.

9 So it gives the examiner an opportunity to document what
10 they -- what they're certain they can see. They move on to
11 the comparison phase. If they haven't -- if they haven't
12 documented in the analysis phase what they can see, they may
13 use subconsciously the information from the shoe to interpret
14 the unknown. So -- and that's -- that's to minimize
15 confirmation bias of confirming what you see in the crime
16 scene impression now that you're looking at the shoe, the
17 suspect's shoe.

18 Q: Thank you. And now could you please describe what the C
19 stands for? Comparison?

20 A: Yes. So then you've analyzed your questioned impression.
21 You're going to compare your questioned impression to the
22 suspect's shoes.

23 The first part here is to take test impressions from the
24 questioned shoe or from the known shoe. Excuse me. And
25 that's done in a few different ways by taking a record of the

1 outsole. So the outsole of a shoe is the sole that touches
2 the floor when you walk. So a common way of taking a test
3 impression of a shoe is to apply black fingerprint powder to
4 the sole and then use some sort of an adhesive lift to lift
5 off a test impression of that shoe. So we always compare test
6 impressions to crime scene impressions. So the impression
7 from a shoe compared to an impression at a crime scene.

8 And the comparisons can be done two ways. Sometimes
9 they're done on the lab bench. That's how I would've started
10 off in my career early on. The test impressions are normally
11 on clear acetate, like a see-through sheet, and that way you
12 can overlay the known test impression over the questioned
13 crime scene impression.

14 In more -- I suppose in the last 15 years, we've moved as
15 a footwear community on to using Photoshop or other similar
16 software. It's much easier on the eyes. You can zoom in and
17 see things, and it really facilitates documentation, as well
18 as annotate similarities or differences during that comparison
19 process.

20 Q: Great. Thank you. And as part of the comparison
21 process, could you please describe what class characteristics
22 mean?

23 A: Class characteristics are characteristics associated with
24 lots of different shoes. So one type of class characteristic
25 is the overall pattern of a shoe, the design, the design

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1 features. So if you had an Adidas sneaker and a Nike sneaker,
2 you would say they had different class characteristics. The
3 pattern on the sole was different.

4 The next class characteristic examiners look for when
5 they're doing the comparison is size, and we know millions of
6 shoes could be made in a man's size 10, for example. So the
7 size, the overall outsole size would be another class
8 characteristic.

9 And then a third one is general wear, the general wear of
10 a shoe. As a shoe is new, it has very little wear. As it's
11 worn, it'll get more wear. That would be -- that wear could
12 be associated with lots of different shoes as well.

13 Q: And how do you go about determining the size of a shoe?

14 A: One of the documentations of and one of the ways we
15 document shoes is to take a photograph of the tongue or
16 somewhere on the inside there's often documentation, and
17 that's the documentation from the manufacturer and it's not
18 always right. You sometimes have a size 9 mounted on an
19 outsole that was for a 10. So we focus on the outsole size.

20 When we're doing our comparisons, I mentioned earlier
21 that we overlay them, and we call that a superimposition
22 comparison. So we don't do the comparison by rulers, by
23 measuring that way, but by laying the test impression on top
24 of the questioned impression and looking to see is the size --
25 is the size of the test impression and the crime scene

1 impression similar or different.

2 Q: And after you have determined the class characteristics
3 of a given outsole or shoe, what do you do next?

4 A: If they are all lining up, if the overall pattern is the
5 same or similar or the size is the same or close and the wear,
6 if visible, is consistent, the next thing the footwear
7 examiner will look for are randomly acquired characteristics,
8 and they are things that happen to the outsole by just regular
9 use, such as little scratches, little stones getting trapped
10 between elements, gouges. It could be a pushpin. I've had
11 duct tape on the sole of a shoe before.

12 So different randomly acquired characteristics, and if
13 they're present in the crime scene impression and in the
14 suspect shoe or the known shoe, a conclusion such as
15 identification or high degree of association can be rendered
16 if there's sufficient number of randomly acquired
17 characteristics.

18 Q: And at the end of your comparison stage, how do you
19 express the range of conclusions that you reach?

20 A: Each comparison will have its own. That's part of the
21 evaluation part. So I said ACE. The E part is the evaluation
22 stage, what results am I going to bring out from my -- from my
23 conclusions.

24 So you could have -- on one end, you could have an
25 identification. Some labs have begun to move away from using

1 that word, and the statisticians at OSAC don't really like the
2 term identification. So when -- when -- it won't -- it
3 probably won't be long until we're going to use a very high
4 degree of association. That might be the new language that'll
5 come forth in the -- in the near future.

6 So it could be a very high degree of association. There
7 could be some association of class characteristics. There --
8 there could be inconclusive. There could be indications of
9 non-association. That means the examiner is indicating that
10 it's likely the shoe didn't make the impression, or on the
11 opposite end there could be a full exclusion, this shoe did
12 not make this impression. So it's a kind of a continuum with
13 identification on one end and exclusion on the other.

14 Q: But do you agree that it's basically, you know, a range
15 of objective conclusions?

16 A: It's a combination of objectivity and definitely
17 subjectivity because it's humans making this decision. The
18 objective part is the data, the actual test impressions and
19 the crime scene impressions, but it's not a computer that's
20 making these conclusions, it's a human endeavor. So there's a
21 combination of objective and subjective decisions with many
22 forensic science decision making.

23 Q: Okay. And so the -- we talked about ACE, and what does
24 the V stand for?

25 A: V is verification. It's a quality step, and it involves

1 -- it can be done in many different ways. It can be done
2 fully blind. So the second person is going to take the case
3 and they have no idea what the first person's conclusions are.
4 That's not as common. That's very time-consuming but is the
5 gold standard.

6 And the next other ways of doing a verification would be
7 to have -- some agencies just have identifications verified or
8 high degree of association verified. Some -- some agencies
9 know the conclusions of the original examiner. So the
10 verification step is consistent across all the forensic
11 sciences that at least one more person will look at the
12 conclusions before that report goes out.

13 Q: Thank you. And I think now it probably makes sense for
14 us to go ahead and walk through what you did in this case
15 specifically.

16 A: Okay.

17 Q: So what methodology did you apply?

18 A: I followed that ACE methodology when I was supplied the
19 reports and notes of Ms. Worley. So I proceeded with this
20 case in a sort of a verification mode, so coming in just to
21 look and see what another -- what -- me as another examiner,
22 would I come to the same conclusions.

23 So another way of thinking of the V verification part
24 could be almost like another ACE. So some agencies describe
25 it and I would describe it as this ACE-ACE. So another re --

1 re-go through. So I didn't see Mr. -- Ms. Worley's ACE. So I
2 have not -- I have not seen her -- her understanding of the
3 images.

4 So I -- there were six impressions photographed at the
5 crime scene. Impression at Placard 1 -- and placard just
6 means the little tent markers. There were 1 through 6. The
7 impression at Placard 1 was on a cement floor that had been
8 painted with gray paint and was flaking off a little bit, and
9 the other five impressions were on kind of terra colored --
10 terra cotta colored linoleum. So --

11 Q: Do you have those images with you?

12 A: I do. I'm going to share my screen.

13 Q: Okay. Thank you.

14 A: Okay. Can you see it?

15 Q: Yes, ma'am.

16 A: Okay. So here's the impression at Placard 1. We see
17 here that it has a scale. We call this an examination-quality
18 photograph. So it has good lighting. It has a scale, and
19 that means we can bring it into Photoshop and make it life-
20 size. That's really important so we can determine the size
21 when we look at a known shoe.

22 So while I didn't do a lot of annotation on this one,
23 this impression has almost a full heel to toe. It's a very
24 familiar impression to me, an Air Force 1 type impression,
25 which is a Nike sneaker that I think they've made since the

1 1980s, and it has concentric circles in the heel and in the
2 toe. At this point I'm not sure if it's an Air Force 1
3 because there are copies and there are counterfeits, but
4 that's the first thing that came to my mind when I looked at
5 this one. So I've marked a little bull's-eye in the heel area
6 and circled some of the details in the heel.

7 Q: And just so I -- we can't see your mouse, your pointer.
8 So just could you describe for the Court what color your
9 annotations are in?

10 A: My annotations are red dots and red lines.

11 Q: Thank you. And what other images did you look at, if
12 any?

13 A: Here's my analysis and my tracings of the impressions at
14 Placard -- the impression at Placard 2. You'll see the
15 quality of this one isn't as good at all compared to the
16 quality of number 1. So I've done a lot more record-keeping
17 here.

18 I can see, again, a bull's-eye in the center of what I'm
19 thinking might be the heel. I can see some concentric circles
20 on the left-hand side. I can see some little square-shaped
21 elements that I've marked with -- with my pen, and then I can
22 see on the very left a probable outer edge of a -- of a shoe
23 of the -- of the outsole -- outsole there. So that's the red
24 line on the left. And then at the very bottom some little
25 dots.

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1 Q: What is the purple that we're seeing?

2 A: The purple is the process that the people at the crime
3 scene used to help visualize these impressions. So this might
4 have been a very faint footwear impression in blood, and then
5 it was processed with Leucocrystal violet, and it reacted with
6 the hemoglobin. And in the top 1 o'clock/2 o'clock area,
7 you'll see a larger kind of pool, and that's more of a heavily
8 soaked area that would have been a red-brown stain probably at
9 the crime scene.

10 Q: Thank you. And what other images did you look at?

11 A: Here's the tracings I have, again at Placard 3. What I
12 can see on the -- my lines at the top right-hand side are what
13 I'm thinking is an exterior part of a shoe, and then I can see
14 some concentric circles working my way into the center of the
15 impression. So I highlight what I'm able to -- what I'm able
16 to discern.

17 Placard 4 is not too dissimilar from the one at Placard
18 3. Again, some concentric circles. On the right-hand side
19 here, I am seeing some typical rectangular-shaped elements
20 that you see at the -- at the sides of Air Force 1 sneakers.
21 So I'm seeing rectangular elements, and I've highlighted two
22 of them there on the right-hand side.

23 Placard 5 has a bit more information than 2 and 3. I can
24 see, again, the exterior at the top of this photograph, the
25 series of rectangular elements highlighted with my red lines

1 either side, and then at the bottom I can see a heel. I can
2 see some rectangular elements on the right-hand side of the
3 heel and, again, the series of concentric circles that I've
4 marked what I'm able to visualize.

5 And then Placard 6 has not very much information. I can
6 see a little bit of a bull's-eye in the center of that
7 photograph. I have done a half circle to document that. The
8 red lines at the very bottom of the photograph document what
9 I'm thinking is the exterior outside of the outsole, and then
10 I can see some on the right-hand side, again some of these
11 rectangular elements, and I've -- I've documented every second
12 one along there on the right-hand side.

13 Q: And so at this point, what step of the ACE-V analysis is
14 this?

15 A: This is A. So this is before I've opened or looked at
16 any images of the shoes, I've done this. It was a few weeks
17 before I looked at the knowns. I did this one day and came
18 back a few weeks later and then opened the known impressions.

19 Q: And so let's go to that. Let's go to that next step, the
20 C.

21 Q: So there were two that I was asked to look at in this
22 case. They were Item Number 52, which was reported to me to
23 be a size 12 Air Force 1. I couldn't confirm that because I
24 didn't have the photographs of the tongue. And Item 100,
25 which was the left and right Air Force 1 reported to me to be

1 a size 13. So these were supplied to me, these images.

2 On the right-hand side we have the left Item 52, and when
3 I say there in brackets that it's been reversed, it's been
4 flipped to resemble it's test impression that you see there on
5 the left. So this is a test impression. It may have been
6 taken in ink. I'm not sure how it was recorded. The test
7 impression here on the left came from the shoe here on the
8 right. So these would -- we would call both these known,
9 known sources.

10 For each of the shoes involved in this case, two test
11 impressions were taken. So there were two of the left and two
12 of the right. I wasn't very happy with the test impression of
13 52 left. So I looked at the other one, but both test
14 impressions were missing that area. What would normally be
15 done -- and that sometimes happens. Areas don't get recorded,
16 depending on how much pressure. What would normally be done,
17 a footwear examiner would go back and take additional test
18 impressions to be able to record that area that's indicated in
19 the red arrows.

20 And next, we have Item 100, which is reported to be the
21 size 13 shoe. You can see the outsole design is the same as
22 the one previous. The colors are a little bit different, the
23 black and white elements, and on the left you'll see the test
24 impression of Item 100, and we are capturing the concentric
25 circles that were missing in the other -- other test

1 impression. This test impression was a better -- better one.

2 And then I have the two next to each other just to show
3 you. We've got the concentric circles in this -- in the ball
4 area of the foot. We've got the circles in the heel area.
5 We've got the rectangular bars that run along the medial,
6 which is the inner, and the lateral, which is the outside of
7 the shoe.

8 And then when these sneakers are new, they have little
9 stars in the toe and the heel area. So the crescent-shaped
10 area at the top of the shoe has little stars, and also the
11 crescent-shaped area at the bottom when they're brand new have
12 little stars, but they wear off and you can see in the heels
13 of both of these that the little crescent-shaped area -- the
14 crescent-shaped area that most of the stars are gone. You can
15 see some of them, but they're mostly worn away.

16 Just to kind of give you a visual of the two, and then
17 look at the test impressions of the two. You can see here the
18 left 52 is more worn than the Item 100 and this is
19 particularly clear in the heel area. So if you look at the --
20 come down to the heel bull's-eye and look in the kind of 7 to
21 8 o'clock position, you'll see significant wear or moderate
22 amount of wear on the Item 52, and much less wear on Item 100.
23 What's happened in Number 52 is the crescent-shaped area that
24 had the little stars has now worn into the -- those little
25 rectangular elements there at the kind of 9 o'clock position

1 on Number 52.

2 I'm not going too fast?

3 Q: No. Thank you. This is great.

4 A: Okay. Then I'm going to go ahead and compare the left
5 test impression of 52 to the Placard 1 impression, and I can
6 see that they're the same class characteristics with regard to
7 their pattern, and now I want to check for size. And I did
8 that in Photoshop by overlaying them, and that's an overlay
9 there of one on the other.

10 So I'm looking for to see if they're within a range that
11 I am happy to say that they're consistent in size. If the
12 shoe was very small and the impression was large, I might
13 exclude it based on size, but on this one -- well, should I
14 just go through the PowerPoint and come back to my
15 conclusions?

16 Q: Please do, yes.

17 Q: Okay. And then just for -- I did this myself on
18 Photoshop, and I zoomed in and made this chart to demonstrate,
19 to look at the heel area, again side-by-side, and then I'm
20 going to overlay them, looking -- looking for consistency in
21 size.

22 Q: And what did you do next?

23 A: And then I did the toe area, overlaid that, looking for
24 every second -- in the Air Force 1s, every second concentric
25 circle, one of them is skinny and one of them is wider, trying

1 to get those to line up. You can see it more clearly on the
2 test impression, skinny, wide, skinny, wide is kind of how the
3 -- how the design goes.

4 I did the same thing for the comparison of the left 100,
5 and that's it overlaid. Then to zoom in on the heel, and
6 that's it overlaid there, and then the same on the toe area to
7 overlay them, and a series of comparisons like that, you know,
8 taking -- taking my time to make sure that things are lining
9 up and looking for dissimilarities as well.

10 So for this demonstrative aid, I made examples for the
11 impression at Placard 1, 2, and 5. So number 2 is this one
12 here. On the left, you'll see the untraced impression that I
13 received. On the right, you'll see with the red markings my
14 analysis that I did prior to the comparison phase, and then
15 the little green lines are documentation that I did during the
16 comparison phase.

17 So I've tried to be transparent here that these are
18 features I didn't see in the analysis phase, but when I
19 started to compare, I saw them. So I used some information
20 from the known shoe, and this helped me narrow in that this
21 was a left and not a right impression.

22 So this is -- this is them overlaid on Item Number 52.
23 It's the left test impression of Item 52. Here are my
24 annotations, and you'll see -- you can't see my cursor.
25 That's hard. In, again, the 8 o'clock position, you'll see my

1 red. There are rectangles missing the -- missing the line on
2 the little squares or almost squares, little rectangles that
3 I've marked there. They are -- you can see them there at the
4 8 o'clock position in the questioned impression.

5 When I move over to look at the test impression of Item
6 52, they're lining up with the -- with how that has worn. So
7 that's worn from the area that would have been the stars into
8 the area that would have been rectangles. So you've got only
9 a portion of the rectangles still visible, if that makes
10 sense. So this one is consistent in wear.

11 And then with left 100, I do the same thing, overlay.
12 I'm -- I'm getting the concentric circles to line up in that
13 area with the green lines at the 11 o'clock position, but the
14 wear of this shoe is inconsistent with the impression that was
15 photographed at Placard Number 2, and you can see these are
16 full rectangles, whereas the one that -- the one at Placard
17 number 2 are there were -- half of the rectangle is worn away.

18 And then just to look at the two side-by-side just to see
19 how the analysis phase at the 8 o'clock position there on Item
20 Number 52 fits in with the wear that's happened there on the
21 shoe 52, but doesn't fit with the -- with the wear on Item
22 100.

23 So the last one to demonstrate is the one at Placard 5.
24 We've got a heel, and we've got an exterior part of the shoe,
25 my analysis there on the right-hand side, and then to look at

1 test impression number 52 compared to this one, again, an
2 overlay. We see that the concentric circles in the heel, the
3 exterior of the heel that I've traced in the analysis phase
4 there at the 8, 9, 10 o'clock position fits the -- and the
5 heel area with the little bars on the right-hand side. I've
6 documented three of them in the analysis phase. They line up
7 with the test impression and then the overall flow or shape at
8 the upper portion of this photograph.

9 And then the same thing with 100, and it fits as well
10 within the same concentric circles in the heel, the same
11 elements on the right-hand side there at the kind of 2 to 3
12 o'clock position, and then the medial part there near the ball
13 of the foot, there's a series of little rectangles there as
14 well.

15 Q: And what, if any, conclusions did you draw from that
16 comparison?

17 THE WITNESS: Your Honor, may I refer to my notes?

18 THE COURT: Yes, you may.

19 BY MS. FREEDMAN:

20 A: Yes. My conclusions for the photograph of the impression
21 photographed on the cement floor with gray paint --

22 Q: I'm sorry. Before you do that, Dr. Wilcox, would you
23 mind just pulling that up again so that we can see what you're
24 talking about as you describe it? Thank you.

25 A: So comparison -- is that helpful the way I have it there?

1 Q: Yes. Very much. Thank you.

2 A: Okay. For 52 left compared to that impression at Placard
3 1, my conclusion was there is an association of class
4 characteristics, and what that means is the outsole pattern
5 and approximate size and wear were consistent.

6 Q: And what other conclusions were you able to draw?

7 A: With overlay of left Item 100, it was consistent in
8 design and approximate size with the impression. The wear in
9 the heel of 100 was inconsistent with the wear of the shoe
10 that made the questioned impression. The shoe that made the
11 questioned impression was more worn than the left 100 sneaker.
12 There are indications of non-association.

13 So that's my opinion is that there are indications that
14 this shoe did not make this impression. That's what non-
15 association means. There's enough information in here for me
16 to be able to see that the wear is not the same.

17 Q: Thank you. And what other conclusions were you able to
18 draw, if any?

19 A: For -- I -- this is number 2, and the left sneaker in
20 Item 52 is consistent in design, approximate size, and wear
21 with the impression photographed at Placard 2. The wear of
22 the medial, which is the inner part of your shoe, and the
23 lateral side, the outer part of your shoe, was consistent with
24 the wear of the shoe that made the questioned impression.
25 There is an association of class characteristics.

1 That doesn't mean that it's definite that this shoe made
2 it, but what's visible and what's the data that we have and
3 the class characteristics are the same. The left sneaker in
4 Item 100 was consistent in design, approximate size with the
5 impression. The shoe that made the questioned impression was
6 more worn than the left 100 sneaker. So there are indications
7 of non-association, and that's really easy to see there at the
8 8 o'clock -- at the 8 o'clock position on this comparison
9 here.

10 I didn't do a demonstrative aid for number 3; so I'll
11 just read it to you. For Item 52, the design, approximate
12 size, and wear were -- were consistent. So there was an
13 association of class characteristics.

14 For Item 100, right sneaker, the design and approximate
15 size was consistent. The wear visible in the questioned
16 impression was inconsistent with the wear of the right
17 sneaker. There were indications of non-association.

18 Placard Number 4, the right sneaker in Item 51 [sic] was
19 consistent with design and approximate size. There was an
20 association of class characteristics.

21 The right 100 was compared to Placard 4 impression. The
22 design and approximate size was consistent, and there was an
23 association of class characteristics for that.

24 And Placard Number 5, which I do have a -- compared to
25 52, the design, approximate size, and wear of 52 compared to

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1 Placard 5 was consistent. The wear on the medial and lateral
2 sides was consistent with the questioned impression, and there
3 was an association of class characteristics.

4 The left 100 was also compared. The approximate size,
5 design, and wear in the impression --I'm sorry -- approximate
6 design and size with the impression was consistent with the
7 wear visible in the heel of the questioned impression.

8 The impression at Placard 5 was inconsistent with the
9 wear on the outsole of the left 100 sneaker. There was
10 indications of non-association.

11 And then with Placard 6, which I don't have a
12 demonstrative aid for, the size, design, and wear of the left
13 52 sneaker was consistent. There was an association of class
14 characteristics. And the left 100 in design and approximate
15 size was consistent, and there was an association of class
16 characteristics.

17 Q: Thank you very much, Dr. Wilcox. What I'm going to try
18 and do with this, again I'm going to show you something. Does
19 this -- do you recognize this document?

20 A: Yes.

21 Q: And what is it?

22 A: It appears to be my report.

23 MS. FREEDMAN: And I believe the State has a copy, and at
24 this time we would offer Dr. Wilcox's report into evidence.

25 THE COURT: Any objection?

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1 MS. WEISS: No objection, Your Honor.

2 THE COURT: It's into evidence.

3 (WHEREUPON, Defendant's Exhibit Number 5, report of Dr.
4 Wilcox, was admitted into evidence.)

5 BY MS. FREEDMAN:

6 Q: And, Dr. Wilcox, I think I have probably just one more
7 question for you. How long did it take you to complete your
8 analysis in this case?

9 A: The --

10 Q: The whole ACE -- the second ACE, how long did that take?

11 A: I checked my app this morning. I've worked over 40 hours
12 on this case. I don't know exactly how much of that was the
13 ACE part, but that's been the majority.

14 Q: And so how long was your case file open?

15 A: I'm not sure what you mean.

16 Q: How long did it take you just when you sort of -- before
17 you started writing your report, how long did it take you to
18 complete the -- the imagery that you just showed us?

19 A: I don't know.

20 Q: Less than a year?

21 A: Oh, I thought you meant per hour, how many hours was I on
22 Photoshop. Yes, I -- I started this case. I was given this
23 case or signed on to this case in September. I'd need to
24 check my notes to see when -- when I started. Let me just
25 check. I began the review on the 30th of September of 2022.

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1 Q: Thank you. And is that kind of typical for you?

2 A: Yeah. There were, you know, six impressions in this case
3 and multiple sneakers. Some cases are longer. I have ome
4 cases that are a few years go on depending on post-conviction
5 review, but once I have all the evidence and I have time in my
6 schedule, I -- it's hard to put a time limit or frame on it,
7 but very often my cases remain open because we're waiting for
8 somebody in the clerk's office to take a photo or there's a
9 piece of missing evidence.

10 So my cases sometimes do remain open if I'm -- if I'm
11 pending some sort of something I need to proceed, but once I
12 have everything -- in this case, I had everything supplied to
13 me from the first day, so I was able to work on it, you know,
14 when I'm -- you can't work on these cases when you're tired.
15 So if you've had a very long day or, you know, working it in
16 with my -- with my other duties.

17 Q: Great.

18 MS. FREEDMAN: And I think at this point we would just
19 move to admit the PowerPoint as a sort of piece of paper, the
20 hard copy, move that into evidence, and I believe the State
21 also has it.

22 THE COURT: Any objection?

23 MS. WEISS: Without objection, Your Honor.

24 (WHEREUPON, Defendant's Exhibit Number 6, Powerpoint
25 printout, was admitted into evidence.)

DR. ALICIA WILCOX - DIRECT BY THE COURT

1 MS. FREEDMAN: One second, Dr. Wilcox.

2 DIRECT BY THE COURT

3 THE COURT: Dr. Wilcox, I have not had the opportunity to
4 review your report, and I'm sure it's going to be addressed in
5 there, but let me just ask you while you're here that you've
6 mentioned that there are --

7 THE WITNESS: Your Honor, I can't hear you.

8 THE COURT: Can you hear me?

9 THE WITNESS: A little bit, yeah. It's coming in and
10 out.

11 THE COURT: All right. Can you hear me now?

12 THE WITNESS: Yes.

13 THE COURT: Dr. Wilcox, I have not had the opportunity to
14 review this report, and I'm sure it's going to be addressed in
15 there, but you mentioned that there were a lot of
16 consistencies with regard to size and pattern, and you talked
17 about --

18 THE WITNESS: I can't hear you.

19 THE COURT: Can you hear me now?

20 THE WITNESS: Yes.

21 THE COURT: All right. I have not had the opportunity to
22 review your report, and I'm sure it's going to be in there,
23 but I just wanted to ask you one question while you're here.

24 THE WITNESS: Yes.

25 THE COURT: You mentioned that there are -- were a number

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1 of consistencies, particularly with regard to size and
2 pattern, and you go on to say that there are indications of
3 non-association. Can you based on your analysis of these
4 impressions exclude the tennis shoe from making the
5 impressions or were there merely just indications of non-
6 association?

7 THE WITNESS: Yes. That's a good question. To be
8 conservative with -- with conclusions, given -- given these
9 impressions were in blood and they're not full impressions,
10 Your Honor, the indications of non-association are a step
11 below exclusion. So exclusion is really a black and white
12 decision that you're a hundred percent sure this is not the
13 shoe.

14 Indications of non-association where I demonstrated is a
15 -- is the next step down, and I felt that was the appropriate
16 conclusion given the Leucocrystal violet and it has bubbled up
17 a little bit and the partial nature of these -- of these
18 impressions. So it's my opinion that the shoe did not make
19 it, but the appropriate scientific conclusion wouldn't be a
20 hundred percent exclusion in my opinion.

21 THE COURT: All right. Very good. Thank you.

22 Cross-examination?

23 MS. FREEDMAN: Thank you, Doctor.

24 MS. WEISS: Thank you, Your Honor. May it please the
25 Court.

1 THE COURT: Yes.

2 CROSS-EXAMINATION

3 BY MS. WEISS:

4 Q: Okay. I'm going to try to figure out how to use this.

5 All right. Can you see and hear me?

6 A: Yes, I can.

7 Q: Okay. Good morning, Dr. Wilcox. How are you?

8 A: Good. Good morning.

9 Q: Good morning. I think we have emailed back and forth a
10 little bit during this, but it's nice to meet you. So first
11 of all, going back just to your -- your CV, you worked with
12 law enforcement up until approximately July 2011?

13 A: That's correct.

14 Q: And so when you worked there, just like this -- the state
15 lab that we have here, you worked cases that came in to the
16 lab?

17 A: Yes.

18 Q: And your testimony during that time reflected cases that
19 you worked in the lab?

20 A: Yes.

21 Q: Okay. And then after 2011, you opened your own practice,
22 your own business, which is the Individualized Forensic
23 Solutions LLC?

24 A: Yes.

25 Q: Okay. And since that time, you've been testifying what

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1 appears to be mostly to contradict testimony -- testimony from
2 experts in the state -- in the state agency labs across the
3 country -- around the country in post-conviction cases and
4 evidence review hearings, things like that?

5 A: I -- I am hired by both sides, by people prosecuting
6 cases and defense attorneys, but mostly defense attorneys
7 because they don't have the people in the state lab to go to,
8 and I only testify, which probably makes sense, is when I have
9 a differing opinion. So many of my -- the majority of the
10 work that I do I agree with the original examiner, and they
11 don't want me to write a report that does not, you know,
12 facilitate or help the defense, the defendant. So I do --
13 when I get called to court, it's normally I had an opinion
14 that was significant enough different from the original
15 examiner. So that's correct.

16 Q: And you had access to talk to Melinda Worley, who is the
17 original examiner. I know y'all exchanged information back
18 and forth prior to you getting all of the -- all the examples
19 that you needed. So --

20 A: Correct.

21 Q: -- you knew how to contact her if you had any questions;
22 correct?

23 A: I -- I -- yeah, I have contacted her, but I -- I'm not
24 sure when I contacted her. I don't really remember those
25 emails.

1 Q: Okay. I'm just -- I'm just saying you had the ability to
2 contact her if you had any questions, if you were missing any
3 information?

4 A: Well, that wouldn't -- I wouldn't reach out to Ms. Worley
5 by myself. I would go through the attorney that hired me.
6 That's normal practice. Sometimes the attorney will say, hey,
7 you guys can communicate back and forth to each other, but I
8 would not as a normal process to go and reach out to the
9 original lab.

10 Q: But you had the ability to do that? If there were any
11 questions or anything was missing, you could -- you could get
12 in touch with her and ask questions?

13 A: Yes. I believe through the attorneys, I could've asked
14 the attorneys that hired me and then gone ahead. They would
15 have reached out to her. That's -- I believe, if my memory
16 serves me correctly, that's how that email chain might have
17 occurred.

18 Q: Okay. And so when you say, well, you didn't have the
19 shoes to see what the sizes were, you didn't reach out and
20 ask?

21 A: I did not.

22 Q: Okay. And I note you talk about the ACE-V system for
23 reviewing impression -- impressions. I know it goes to a lot
24 of different impressions, but specifically today for footwear
25 impressions. Who reviews your cases at this point?

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1 A: I have my cases reviewed if I'm the first examiner on
2 there. So I approached this as a -- as a V portion. So I
3 have not had anyone review my conclusions for the -- for what
4 I've testified today. I've come in as a verifier of Ms.
5 Worley's case in a sense. If -- if I'm doing a brand-new
6 examination, which sometimes happens, I do have a colleague
7 that reviews my cases for me.

8 Q: Okay. But you said you only testify if you feel like you
9 have something that is going to contradict the original
10 examiner; is that correct?

11 A: I don't only testify if I'm -- I'll -- I'll come to court
12 if anyone subpoenas me. The ones I tend to get called to are
13 something that could be brand new or that could be, you know,
14 that was never done before, that was overlooked, or if I have
15 a differing opinion. Correct.

16 Q: Okay. But no one reviews that to see if they agree with
17 your differing opinion?

18 A: Nobody agrees if I'm coming in as a verification, no.

19 Q: Okay. And so when you went through with the defense and
20 you went through the ACE-V steps that you took, you're saying
21 now you came in as a V just to verify on what Melinda Worley
22 did? So -- okay.

23 A: Yes.

24 Q: So you went through those -- but you went through those
25 steps based on your testimony anyway?

1 A: I -- the V portion, how I've always approached
2 verification over the past 22 years is to start again, to do
3 ACE. It's just an independent review. It takes a little bit
4 longer, but rather than just look -- look at what she sees and
5 see if I agree with her, I went through independently on my
6 own.

7 Q: Now, I think the first most important question I have for
8 you is in reading your report and both of your reports that
9 you sent, there's nothing in these reports that seem to say
10 that Item 52 and Item 100 as representing a size 12 and 13.
11 If you just take that as it's been reported because that's
12 what you said, there's nothing to say that a size 12 or a size
13 13 would be -- would be thrown out as a possibility of a shoe
14 that could make these impressions of Air Force -- Nike Air
15 Force 1s of this brand with these general characteristics?

16 A: Yeah. Given that these are a 12 and a 13 that was
17 reported to me, 12 and 13 shoes could have made these
18 impressions.

19 Q: So anytime that you talk about the non-association where
20 you talk about 100, you're speaking specifically about the
21 wear on the 100 shoe -- the shoes that were provided to you
22 for analysis?

23 A: The -- those non-associations were due to the 100 being
24 far less worn than the impression that made the crime scene
25 impressions. In --

1 Q: Not --

2 A: I'm sorry.

3 Q: Go ahead.

4 A: There was impression number 1, which was that one that
5 was the mostly the full heel to toe on the cement floor. When
6 I compared 52 and 100 to that, 52 lined up from a size
7 perspective more closely than 100. When I got the heel to
8 line up in that comparison, the concentric circles lined up
9 more closely with 52, but again, 100 couldn't be excluded
10 because I'm allowing for a little bit of movement. But the 52
11 left impression on Placard 1, which was the only one really
12 that I had mostly full heel to toe, it lined up more closely.

13 Q: Okay. And lined up more closely, that's not actually a
14 conclusion statement that you use. That's not part of the
15 types of conclusions. That's just -- that's just your
16 vernacular or something you threw in there?

17 A: It's -- it's part of the evaluation phase. So, you know,
18 before you get to the conclusion, you've got the comparison,
19 and then your evaluation of the information you've learned
20 during the comparison. It's not a conclusion. It's part of
21 the data that gets you to a conclusion.

22 Q: Okay. But it's under the section that says conclusions;
23 correct?

24 A: Yes.

25 Q: Okay.

1 A: Yes, those are my -- those are my conclusions, but if you
2 were to pull out the -- if you were to get real technical on
3 what's my range of conclusions, it would be that last
4 sentence. There is a number 1 here. There is an association
5 of class characteristics. That's the conclusion. The other
6 paragraph or sentences are the basis to it.

7 Q: Okay. So everything under that first line is just extra
8 information?

9 A: Yeah. It's supposed to read -- you know, this report is
10 going to go out to a lot of different stakeholders, and it's
11 best practices to explain -- to explain how you got to that
12 conclusion. That's involved in the -- in the examination
13 part. I'm just saying the item was photographed and the item
14 was compared and then the conclusions are -- there's the
15 conclusion statement and then there's some background
16 information so people are aware of the size and design, wear,
17 or if I had racks, that would be in there as well. So it's
18 not extraneous information. It's supposed to be helpful.

19 Q: Okay. So -- but you're saying line 1, but actually the
20 first sentence of the next paragraph is the left sneaker in
21 Item 100 was consistent in design and approximate size as the
22 impression photographed at Placard 1. That would also be a
23 conclusion; correct?

24 A: No.

25 Q: That's not a conclusion?

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1 A: I suppose I'm being black and white. We have a
2 conclusion scale, and the parts that come out of the
3 conclusion scale would be high degree of association, moderate
4 degree of association, degree of non-association, high degree
5 of non-association, exclusion, inconclusive in the middle.
6 That's the conclusion scale.

7 The rest -- I suppose in the vernacular English term and
8 not the forensic term, saying something was consistent in size
9 and design I see from a -- you know, a vernacular term could
10 be also called a conclusion, but when we -- in forensic
11 science when we talk about conclusions, we're talking about
12 the conclusion scale.

13 Q: Okay. So consistent in design and approximate size, if
14 we take out the wear, we're not saying it's necessarily one of
15 these shoes but that someone in one of these shoes -- same
16 shoes in that size, but the -- you added -- your group adds
17 wear into class into association and that is the only reason
18 you say indications of non-association? Because actually
19 taking out the wear is exactly the same as what -- I mean it's
20 actually the exact same thing you say in sentence one. It's
21 just then you talk about the wear. You don't say anything
22 about why there's an -- why there's an association. Do you
23 see what I'm saying?

24 A: No.

25 Q: Okay.

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1 A: It's a very long question. If you could, break it down
2 for me.

3 Q: Sure. Questioned impression at Placard 1, the first
4 sentence says the left sneaker in Item 52 is consistent in
5 design and approximate size with the impression photographed
6 at Placard 1. There is an association of class
7 characteristics. The -- is that correct?

8 A: Yes.

9 Q: And the next sentence says the left sneaker in Item 100
10 was consistent in design and approximate size with the
11 impression photographed at Placard 1. That would be the exact
12 same sentence as the one above but replacing 52 with 100?

13 A: That's -- that's correct.

14 Q: Okay. And then the next sentence talks about the wear on
15 100?

16 A: Yes. Because that's the process we go through with
17 comparison. You start off with --

18 Q: I understand. I understand what you're saying. I'm
19 sorry to interrupt.

20 MS. FREEDMAN: Objection, Your Honor. Please let her
21 finish the question -- her response.

22 THE COURT: Go ahead. You may finish your response.

23 BY MS. WEISS:

24 Q: You can finish the response.

25 A: That's how -- that's the system starting from pattern.

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1 Is the pattern the same? Yes. I'll continue on to the next
2 one. Is the size similar or consistent? Yes. What about the
3 wear, if it's visible? Yes or no. Do I have any randomly
4 acquired characteristics? That's the kind of the system.
5 That's why I could've put a comma there, but I thought it
6 sounded better to have a period and then the wear of the heel.
7 That's the next part of -- if wear -- if wear is visible in
8 the impression, you're not supposed to ignore it.

9 Q: No. I wouldn't. Absolutely not. I'm not saying ignore
10 it. I'm just talking about wouldn't there be some -- aren't
11 there some practices, not obviously the one that you used,
12 that put wear into sort of the second layer of analysis?
13 First, you check size and class characteristics of the shoe,
14 can this shoe and this shoe be made by the same shoe, same
15 type of shoe, and then move on to wear. And in your
16 evaluation, you use -- you do wear in the first part, and
17 that's how your non-association comes about is because of the
18 wear, not because of anything else about the shoe?

19 A: It's actually the third for me. So the first thing I'll
20 do is look at the pattern. If they're different, I put the
21 shoes back in the paper bag, and I don't do anything more. If
22 they're the same, I'll take test impressions. And if there's
23 a significant size difference and this couldn't have made it,
24 then I've finished and I put it in the bag and I don't look at
25 the wear. If they're still lining up with approximate size,

1 then I go on to wear.

2 So there -- for me, it's the third part and it's a class
3 characteristic. So it's the -- it's important to look for
4 that. You're correct in the second part of your question that
5 aside from the wear of 100, the approximate size and the
6 pattern were consistent with the crime scene impressions.

7 Q: Okay. Can you put up your slide number 53, please? 23?
8 23. Sorry.

9 A: You want me to share?

10 Q: Yes, please.

11 A: I should've numbered the slides. Let me see. Which one
12 is 50 -- 23?

13 Q: 23 is the comparison of Item 52 and Placard 1. It's the
14 top portion.

15 A: That one?

16 Q: That one, and it was -- it was your opinion that this
17 impression lined up more closely than the left 100 sneaker?

18 A: Yes. And that's from the heel to toe comparison, not
19 just looking here, but on the overlay of getting the heel to
20 line up -- line up closely and then examining the line-up of
21 the area that's up at the toe.

22 Q: Okay. And so looking at that comparison, is it still
23 your opinion that looking at this comparison that these
24 closely line up?

25 A: My opinion hasn't changed by making a demonstrative aid,

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1 but I'd have to kind of go to the full one to show. It would
2 have to be a demonstration I think on Photoshop to be able to
3 show what -- how I reached that opinion that the size 12 lined
4 up a little bit more closely than the size 13.

5 Q: Okay.

6 A: I'm not saying a size 13 couldn't have made it, but the
7 size 12 lined up a little bit more closely.

8 Q: Okay. But if I can point you to a couple -- a couple
9 areas? So right -- and I don't know how I can point on yours.
10 So I can just go, but right in -- right outside of the circle
11 -- you've got the big circle in the middle?

12 A: Uh-huh.

13 Q: And then you've got kind of a thicker line and then
14 you've got the purple lines kind of crossing over there. Do
15 you see what I'm talking about?

16 A: Yeah. Well, what -- what is your question?

17 Q: Do you see what I'm talking about?

18 A: Well, I can't see what you're pointing to. I can only
19 see my own screen.

20 Q: Okay. Can you see where the purple lines are in a
21 slightly different arc and then crossing over the known shoe
22 impression?

23 A: Yes.

24 Q: Okay. And if you go a couple more rows out, again you
25 see where the purple is in a slightly different arc from the

1 known shoe impression?

2 A: I think what you're saying is the test impression and the
3 Leucocrystal violet purple --

4 Q: Yeah.

5 A: -- the concentric circles in places are not exactly on
6 top of each other?

7 Q: Yes.

8 A: Yes.

9 Q: Okay. And then in the bottom left at approximately 7
10 o'clock where you have sort of the last of the thicker lines
11 in the test impression and then you have a thin line closer to
12 the center, and in between that is the LCV purple dye or
13 purple developer, I guess, from the shoe print. Do you see
14 that?

15 A: I can. I can see the areas at the 7 o'clock position,
16 yes.

17 Q: Okay. And you didn't discuss those. Are those
18 significant to you?

19 A: So this is a cropped version of this one up here. So
20 this is -- nothing has been changed from this one to the crop.
21 So the way this goes is I've lined up -- because the heel is
22 really, really clear, I've lined up the heel here on the test
23 impression. And when we do that as footwear examiners,
24 sometimes the toe area might not fully lean up -- lean or line
25 up. So what I would've done in Photoshop was moved the toe

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1 area to line up and then the heel area would be a little bit
2 out of sync.

3 And that's common in footwear impressions. That's why we
4 take multiple test impressions. Each time a shoe makes an
5 impression, it's not exactly identical. I mean this is rubber
6 and there's movement. So there's -- there's an allowance for
7 some of that. Yes, the heel is lined up here. If I make the
8 heel on a line, I'm able to get the top to align.

9 Q: Okay. So if the shoe was facing one way, the top aligns,
10 and if the shoe is facing another way, the bottom aligns?

11 A: Not really facing. But remember, this is an acetate
12 sheet or an overlay that you can move up and down a little bit
13 to allow for the movement. You know, if somebody's running,
14 there might -- there might be even more movement and mis --
15 misalignment or if there's -- if there's movement.

16 So the -- I think looking back now on my demonstrative
17 aid, I cropped the heel and that looks fine. I should have
18 moved my overlay on the toe area and cropped it rather than
19 just crop as is. So I see what you're saying there.

20 Q: And then can you go to the one of comparison of
21 impression 1 with left 100? So on that one, you're saying
22 that looking at that shoe that the other shoe that we were
23 just talking about lines up more closely than this one?

24 A: Yes. See, you're looking at -- we're looking here at a
25 static -- a static overlay. When I'm overlaying them in

1 Photoshop, I'm moving it up and down with my cursor. So I'm
2 probably looking at it in ten different positions with a
3 millimeter here or there moving it up and down and left to
4 right.

5 So it's hard from the demonstrative aid to see what I'm
6 trying to -- what I'm -- what my report is here, but the
7 concentric circles in the toe, not demonstrated really very
8 well here in the demonstrative aid, lined up more closely on
9 the 52 sneaker than the 100 when I was able to move the
10 acetate a few millimeters up and down, left and right.

11 Q: These are the examples that you chose as your examples
12 for this testimony; correct?

13 A: That's correct.

14 Q: Okay. And you're telling me that this picture, using
15 your term, lined up less closely than the other one?

16 A: Not this picture, this comparison.

17 Q: But this is the picture you chose to use for this
18 comparison?

19 A: Again, it's a demonstrative aid. It's not the comparison
20 I did in Photoshop.

21 Q: Okay. But in the -- in the one on Photoshop, you had to
22 move it around to the left and right to get the heel and then
23 the toe to line up? You had to move them because they didn't
24 line up just like this?

25 A: That's a common practice. It's every footwear

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1 examination I do, I have to move them up and down.

2 Q: Okay.

3 DIRECT BY THE COURT

4 THE COURT: While she's doing that, can you hear me? Can
5 you hear me?

6 THE WITNESS: Not really.

7 THE COURT: How about now? Can you hear me now?

8 THE WITNESS: Yes, I can hear you clearly.

9 THE COURT: Dr. Wilcox, if you were in a lab and you knew
10 that the tennis shoe that you had in the lab made this certain
11 impression --

12 THE WITNESS: I can't hear you.

13 THE COURT: If you were in a lab and you had a tennis
14 shoe that you knew made an impression, what are the things
15 that could cause variations in wear?

16 THE WITNESS: I think you're asking me the variations
17 that can happen when we make an impression?

18 THE COURT: Yes.

19 THE WITNESS: Okay. That's a very good question, and Ms.
20 Worley, I believe, took these test impressions of the shoes.
21 So there's a few different ways to take a test impression.

22 I described applying black powder and an adhesive to take
23 a known. There's also techniques of applying ink, and then a
24 common way that people do it is they put their own foot into
25 the suspect shoe and they might walk on some clear acetate or

1 they may walk on white paper.

2 And so the variation -- there has been studies done on
3 this. The variation between test impressions can be due to
4 the weight and the -- kind of the ergonomics of the person's
5 foot taking the test impressions. So the test impression
6 process does bring in some variability, and Ms. Worley will be
7 able to describe how she took the test.

8 When I showed with the red arrows earlier that there was
9 an area missing on Item 52 left, that could have been due to
10 not enough pressure when 52 left was being taken on that
11 lateral side, the outside of the -- of the left foot. So, you
12 know --

13 THE COURT: So pressure could --

14 THE WITNESS: From crime scene differences, it could be
15 running, walking, jumping, pressure. Those -- all those --
16 twisting, all of those things can -- can make impressions look
17 slightly different. That's part of what we take into
18 consideration when we're doing our comparison.

19 THE COURT: So the movement of the shoe, the weight in
20 the shoe, all of those things can make it appear as if the
21 wear is different?

22 THE WITNESS: Are you saying the wear?

23 THE COURT: Yes.

24 THE WITNESS: No, not normally. No. The -- well,
25 movement and weight could blur an area and I suppose could be

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1 misinterpreted as wear, but if you've got movement in a print,
2 you need to be very cautious on finding, oh, this blurry area
3 is wear. That would not be the right decision.

4 THE COURT: All right. Go on, Ms. Weiss.

5 MS. WEISS: Thank you, Your Honor.

6 CONTINUED CROSS-EXAMINATION

7 BY MS. WEISS:

8 Q: And, Dr. Wilcox, looking at your report, and this is your
9 final report that you sent to us; correct?

10 A: I believe so. I made an amendment to the report. I had
11 forgotten to put in my conclusions on -- on Item -- Placard 6.
12 So I hope you have the updated report.

13 Q: Okay. When you're describing Item 56.1, you said that
14 it's the impression photograph beside Placard 1. So it would
15 be the same one that we're looking at. When you described it,
16 you described it as a partial left heel to toe impression
17 developed on tan-colored linoleum, but in fact --

18 A: Yes.

19 Q: -- you've testified that it was the cement with paint
20 peeling off?

21 A: Yes. That's an error.

22 Q: Okay.

23 A: I apologize for that.

24 Q: And then if we can just move to one more and then I'll be
25 done. To 35, to slide 35.

1 A: Could you describe that one for me so I can -- I didn't
2 number them.

3 Q: It's the heel impression off the linoleum where you drew
4 some circles?

5 A: Which placard was it?

6 Q: Placard 2.

7 A: This one?

8 Q: Yes, that one. If we can go back one screen? Okay. So
9 that's the -- so this is showing the impression and those are
10 your drawings; right?

11 A: Yes.

12 Q: Of the things that you were looking for?

13 A: Not that I was looking for, trying to interpret what I
14 see.

15 Q: Okay. And so when you're interpreting, you're
16 interpreting there's a circle in the middle?

17 A: Yes.

18 Q: And you kind of draw a sloppy version of a circle.
19 You're just marking it. I get it. On the computer. And then
20 you marked --

21 A: It's hard with the pen. Sometimes it wiggles.

22 Q: I can't even imagine trying to detail all of it, but you
23 have that, and then you have a couple of other things that you
24 highlight on the -- I guess, what would be about the 1
25 o'clock, you mark a couple points where there's some dark

1 marks up there; right?

2 A: I have two little areas or elements that I'm seeing at
3 the 1 o'clock position.

4 Q: And you mark these to try to help yourself when you do
5 put the comparison with it to help you see if it lines up, to
6 use your term to see if it lines up with it?

7 A: No. It's to memorialize what I see. So I -- so I'm not
8 using the known to interpret. So over there on that side, if
9 you look in the left-hand side, you can see something is going
10 on. There's a series of elements there. So I've marked --
11 I've marked a few of these over at the 1 o'clock position just
12 to say I'm seeing something here that has a kind of a square-
13 shaped pattern.

14 Q: Okay. And if you can go to the next slide? This is the
15 overlay comparison of left 52?

16 A: Yes.

17 Q: That's the overlay. Okay. So you're showing each piece,
18 so the overlay comparison of left 52. So -- and then the next
19 one? Actually, go back. Go back one to that one. So when
20 you lined that up, that's the impression and that is the shoe
21 -- the imprint of the shoe being lined up; correct?

22 A: That's -- that's me demonstrating to the Court so they
23 understand what I do in Photoshop.

24 Q: Okay. But that's the overlay? That is an overlay
25 comparison picture; correct?

1 A: Yes.

2 Q: Okay. And on this one, the circle that you drew in the
3 middle is fairly off from the circle in the middle of this
4 impression; correct?

5 A: It's a little bit off to the left, yes.

6 Q: Okay. And your lines and where you were marking the --
7 your lines are a little that off from where you marked those
8 lines when you were using the actual impression; correct?

9 A: Again, this is one, you know, screenshot in time of me
10 doing my comparison. So what I wanted to demonstrate from
11 this slide was the area here off the 8 o'clock position, that
12 this wear that's happened and how the rectangles have worn
13 into the, you know, deeper version of the outsole.

14 If I wanted to demonstrate the bull's-eye lining up, I
15 would move it down a few millimeters to get that to -- to line
16 up. I would need a series of photographs to show one by one
17 how things line up. And again, I'm talking about moving it
18 left and right slightly.

19 So the -- the conclusion of the wear I knew would be
20 important for the Court, and I wanted them to see that part
21 there on the 8 o'clock position. But if it was important to
22 talk about the bull's-eye lining up, I would move it down a
23 little bit, and that's to allow for movement in the shoe and
24 the matrix here with the Leucocrystal violet development
25 medium.

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1 Q: Okay. So if you moved it down a little bit, then your
2 outside marks would not line up; correct?

3 A: That's -- they wouldn't line up and it would be harder to
4 see, yes.

5 Q: And if you can go forward in your slides? Okay. Okay.
6 There, that is the overlay comparison of left 100?

7 A: Yes.

8 Q: And the circle actually lines up pretty clearly on that
9 one; correct?

10 A: It does. If I was to move the -- again, this was to show
11 that the wear is inconsistent. If I was to move the little
12 red squares in the 8 o'clock position to be on top of the
13 elements, the rectangular elements, the center area would be
14 off again.

15 Q: And your lines that are around the circle, those also
16 line up with where you had them on the questioned imprint;
17 correct?

18 A: Yes. That's because I want -- that's how I set it up to
19 take this photo.

20 Q: Okay. And so from what you're -- what you're showing is
21 that a size 13 could have made these impressions?

22 A: Yes.

23 Q: And a size 12 could have made these impressions --

24 A: Yes.

25 Q: -- based on if you moved -- if you move the shoe around,

DR. ALICIA WILCOX - CROSS BY MS. WEISS

1 the size 12 would have also matched up and made these
2 impressions?

3 A: Either a size 12 or 13 could have made these impressions.

4 Q: All right.

5 MS. WEISS: Thank you. No further questions, Your Honor.

6 THE COURT: Any redirect?

7 MS. FREEDMAN: Yes, Your Honor, very briefly.

8 REDIRECT EXAMINATION

9 BY MS. FREEDMAN:

10 Q: Dr. Wilcox, why is it best practice to take multiple test
11 impressions in the lab?

12 A: Because each test impression will be slightly different,
13 and the features in the outsole can represent themselves
14 differently depending on how they're taken and, as Your Honor
15 asked, pressure and things like that can -- can change. In
16 homicide cases, I generally take 5 to 6 of each shoe.

17 In a burglary, I might only take two of each shoe, but
18 it's -- one part of that, once you take your test impressions,
19 you're going to compare them to each other and look and see if
20 the features are represent -- representing themselves the same
21 in all of the test impressions or do they -- do they change,
22 and that can sometimes happen if you press heavily down on a
23 -- on a shoe that has a -- a scratch. The scratch might not
24 show up. If you press lightly down, the scratch might show
25 up. So it's important to take that into account as well, the

1 different pressures and mediums. Whether they use black
2 powder or ink or another way can also change how the test
3 impression might look.

4 Q: And when you take the test impressions in the lab, how
5 are you doing that? Are you pressing down completely flat so
6 that the shoe is -- the outsole is perfectly parallel with the
7 ground?

8 A: Sometimes they're done like that. I'm much lighter than
9 a lot of the suspects that I've worked in cases when I worked
10 at the lab. I used -- I would put my foot into the shoe, but
11 I used to use a small little piece of carpet and place my test
12 impression material on top of the carpet and then I would
13 walk. That gave me more contact so I would get a
14 representation of the -- of the outsole design. I've heard
15 some people walk across a towel.

16 There's different -- different techniques. You could --
17 if you -- if you knew the -- the owner of the shoe was 300
18 pounds, you might be able to get somebody, a colleague, to
19 take the test impressions for you. Sometimes people don't put
20 on the shoe at all, and they'll use an adhesive. So there's
21 different collection mechanisms and multiple, multiple
22 collections to try to get a range of test impressions for
23 comparison.

24 Q: And one other question for you. What happens when you
25 apply that LCV spray to a bloody footprint?

1 A: It reacts with the hemoglobin and sort of fizzes a little
2 bit, depending on how strong the -- how much of the
3 concentration of the blood. If it's very light, like in
4 Placard 6 or Placard 5, 6 there wasn't a whole lot of blood
5 there, but in this one here, especially in the 1 -- 1 and 2
6 o'clock position that's on the screen, it was a more heavily
7 soaked matrix. So it kind of bubbles up a little bit, and it
8 can sometimes make the impression more clear in some areas and
9 can make it more unclear in other areas.

10 Q: And why is that?

11 A: Heavily blood-soaked impressions aren't great for
12 Leucocrystal violet. The less blood, you're going to get more
13 definition because the LCV can kind of fill in a little bit of
14 some of the details.

15 Q: Okay. And you had all the information you needed in this
16 case to draw the conclusions you did; right?

17 A: Yes. I wouldn't make a conclusion unless I had the data
18 to back it up.

19 Q: And the conclusion that you drew was that Item 100 is
20 more consistent -- or sorry -- is less consistent with the
21 unknown impression than Item 52?

22 A: Well, I can't group them all into one group. Each of
23 these different impressions each have their own conclusion.
24 There were some of the impressions for 100 that were
25 inconsistent with wear, and my conclusion was indications of

1 non-association.

2 Q: With Item 100?

3 A: With Item 100.

4 Q: Okay. And not with Item 52?

5 A: No.

6 Q: And are you familiar with this book?

7 A: Yes.

8 Q: Would you consider it sort of a learned treatise in your
9 field?

10 A: Yes.

11 Q: And are you familiar with the idea that part of what you
12 do in forensic footwear analysis -- do you endorse the idea
13 that part of what you do is try to sort of use stepwise
14 exclusion?

15 A: I'm not sure what you mean.

16 Q: So you -- you try and reduce the pool of shoes that could
17 have possibly made the unknown impression?

18 A: That's one way to look at it. I think what -- what
19 guides me is to look for similarities and look for
20 differences, and in that process you are going from, you know,
21 all the shoes in the world down to a smaller pool. It's just
22 kind of the nature of -- of the comparison phase. That just
23 happens. It's not really, oh, I'm going to try to narrow this
24 down, but look to really open your eyes to similarities if
25 they're there and also look for differences.

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1 Q: And did you follow the best practices that are in this
2 learned treatise when you drew the conclusions you did in this
3 case?

4 A: I couldn't answer that, that did I follow all the 300 or
5 400 pages in that book, but I did follow the best practices
6 that are -- that have been published.

7 Q: Thank you.

8 MS. FREEDMAN: Court's indulgence.

9 BY MS. FREEDMAN:

10 Q: Just -- what is the name of this book?

11 A: *Forensic Footwear Evidence*.

12 Q: And the author?

13 A: William Bodziak.

14 MS. FREEDMAN: Thank you. Thank you very much, Dr.
15 Wilcox.

16 THE COURT: Thank you very much. That concludes your
17 testimony. Thank you, ma'am.

18 THE WITNESS: Am I free to leave?

19 THE COURT: Yes. Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Anything further?

22 MS. WEISS: We have one more witness, Your Honor.

23 MR. REDMOND: We do have one more witness. Dr. Ellen
24 Riemer from MUSC is in the back. If we could have just a few
25 minutes so we can switch computers. I don't need to use Ms.

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1 Thurmond's computer for the next witness.

2 THE COURT: For planning purposes, do we need to take a
3 break for lunch or how long do you anticipate this being?

4 MR. REDMOND: I'm not going to be -- it's pretty
5 straightforward, quite frankly, Judge. I told Mr. Young I
6 don't see at least my presentation being more than half an
7 hour. I can't speak obviously for cross.

8 MR. YOUNG: I can't imagine more than about ten, maybe 15
9 minutes.

10 THE COURT: We'll try to plow ahead and if we need to
11 take a break, we will and come back. Very good. Let's just
12 plow forward.

13 MR. REDMOND: If we could take maybe five minutes just to
14 switch up computers, and then we'll be ready.

15 THE COURT: All right. We'll stand at ease for five
16 minutes.

17 MR. REDMOND: Thank you, Your Honor.

18 MR. BANK: Thank you, Judge.

19 (WHEREUPON, there was a break in the proceedings from
20 11:46 a.m. until 11:59 a.m., after which the proceedings
21 resumed as follows.)

22 THE COURT: Mr. Redmond, you're recognized.

23 MR. REDMOND: May it please the Court, Your Honor. The
24 State would next call Dr. Ellen Reimer.

25 THE CLERK: Raise your right hand. Do you swear to tell

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1 the truth, the whole truth, and nothing but the truth, so help
2 you God?

3 THE WITNESS: Yes.

4 THE COURT: Dr. Riemer, if you could come forward and
5 have a seat here in the witness chair. You can take a moment
6 to put your paperwork down, and I'm going to ask you to have a
7 seat, pull up real close to that microphone.

8 THE WITNESS: Okay.

9 THE COURT: And speak loudly, clearly, and slowly so that
10 we can hear everything that you have to say, and let's start
11 with your full name, please, ma'am.

12 THE WITNESS: My name is Dr. Ellen Riemer, R-i-e-m-e-r.

13 MR. REDMOND: And before we start, Your Honor, may I have
14 just a moment to show Mr. Young our exhibit?

15 Your Honor, if it would be okay, we've got State's 1 and
16 2. We made a copy so Your Honor can follow along, and I'll
17 pass up the actual exhibits to Dr. Riemer.

18 THE COURT: Are these going to be offered into evidence?

19 MR. REDMOND: These -- they're already in evidence.
20 They're just a copy of what's been marked just to help you
21 follow along, Your Honor. May it please the Court?

22 THE COURT: Yes.

23 DR. ELLEN RIEMER, being first
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

DR. ELLEN RIEMER - DIRECT BY MR. REDMOND

1 BY MR. REDMOND:

2 Q: Dr. Riemer, how are you doing today?

3 A: Hello. Fine.

4 Q: Well, we'll hopefully get you out of here soon, but let's
5 deal with both autopsies that you did. But before we do that,
6 let's qualify you. Let's talk about your educational
7 background. Could you tell the Court your educational
8 background, please?

9 A: Yes. I graduated from medical school in 1997, and did my
10 pathology residency at New York Presbyterian Hospital,
11 Columbia University Medical Center. Following that, I did a
12 forensic pathology fellowship at the office of the Chief
13 Medical Examiner of the State of Maryland and an additional
14 fellowship training year at Johns Hopkins Hospital in
15 cardiovascular and pulmonary pathology.

16 Additional education I had was earlier before medical
17 school I went to law school straight from college and
18 practiced law for five years before going to medical school at
19 age 30.

20 Q: And I failed to ask you this to start with. By whom are
21 you employed at this time?

22 A: Yeah. I'm employed by the Medical University of South
23 Carolina, where I'm a forensic pathologist, and I've been
24 there for 14 years.

25 Q: Okay. And how long have you -- how long have you been a

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1 forensic pathologist in general?

2 A: Yes. Since 2002.

3 Q: Okay.

4 A: So more than 20 years.

5 Q: And in that range and in that time, could you tell the
6 Court estimated about how many autopsies would you estimate
7 that you've performed?

8 A: A general estimation would probably be about 5,500.

9 Q: And how many times have you been qualified to testify as
10 an expert in the field of forensic pathology?

11 A: Also, I'm not keeping exactly -- I don't keep exact
12 numbers.

13 Q: Estimation?

14 A: Probably about 250 times. That would be, like, once a
15 month for 20 years.

16 MR. REDMOND: Your Honor, at this point I would offer Dr.
17 Riemer as an expert in the field of forensic pathology.

18 THE COURT: Any query with regard to her qualification?

19 MR. YOUNG: Just a couple, Your Honor.

20 THE COURT: Yes.

21 VOIR DIRE

22 BY MR. YOUNG:

23 Q: Dr. Riemer, just looking at your CV, I understand that
24 you -- I'm going to start with sort of your teaching credits a
25 little bit. Is that all right?

1 A: Sure.

2 Q: You taught at Wake Forest School of Medicine?

3 A: Yes. So after I completed my fellowship training at
4 Johns Hopkins, my first attending physician job was at Wake
5 Forest, where I was for approximately six years before being
6 recruited by MUSC as a forensic pathologist.

7 Q: We like to poach from other states. And then you -- you
8 teach at MUSC?

9 A: Yes. As part of my responsibilities, it's an academic
10 institution. There are medical students, residents. So I'm
11 not in private practice. So part of my responsibilities are
12 teaching trainees and students.

13 Q: And you've been promoted to a full professorship?

14 A: Yes.

15 Q: Since the time that you got involved in this case?

16 A: Yes. So I started out as assistant professor and over
17 the years have graduated fully to now full professor because
18 of my -- the recognition I received as a clinician, as well as
19 an academic.

20 Q: And I think you've been licensed in four different states
21 to do pathology; is that right?

22 A: Well, my initial license was in the state of New York to
23 practice medicine, and I don't keep these active anymore.

24 Q: Sure.

25 A: I only need my active license where I'm practicing. Then

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1 when I moved to Maryland, I had a Maryland -- I had a training
2 license. Then I was licensed to practice medicine in North
3 Carolina and also now in South Carolina.

4 Q: And I think I counted about 26 peer-reviewed publications
5 that you've done over the course of your career?

6 A: Yeah. That -- that CV is probably a little bit old. I
7 do think I have close to 30 now.

8 Q: Okay. All right. Thank you very much, Dr. Riemer.

9 MR. YOUNG: I have no further questions. We'd join in
10 the motion to qualify her as an expert in pathology.

11 THE COURT: She is so qualified and allowed to render her
12 opinions in this area.

13 MR. REDMOND: Thank you, Your Honor. If I may approach
14 with what has already been introduced into evidence as State's
15 1 and 2?

16 CONTINUED DIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q: Dr. Riemer, if I could have you take a look at those?

19 A: Yes.

20 Q: Okay.

21 A: So these are -- these two documents are the autopsy
22 reports from the autopsies I did on Ella Lowery and Iyana
23 Lowery.

24 Q: Okay. And let's start with Ella Lowery, that being
25 State's Exhibit Number 1. Let's talk about that for a little

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1 while. When did you conduct that autopsy?

2 A: I did it on May 6th, 2017.

3 Q: Okay. May 6th? Excuse me. The day after she was --
4 well, we'll get into the cause of death, but the day after she
5 died. I'll put it that way for the time being.

6 A: Well, actually, I don't know. I guess it happened on the
7 5th.

8 Q: On the 5th, exactly. Now, with that said, could you tell
9 the Court what your findings were as it relates to Ella's
10 autopsy? Before let me break it down a little bit. Let's
11 talk about the -- and this is my phrase, quote/unquote,
12 superficial wounds, the non-fatal wounds. Could you tell the
13 Court about any non-fatal wounds?

14 A: Yes. So she actually had several stab wounds to the
15 body. Two were to the neck and four additional stab wounds
16 were to elsewhere on the body, one on the abdomen, two on the
17 back, and one on the left hand. And the stab wounds to the
18 abdomen, the back, and the left hand would not have led to her
19 death because they only went through her skin and the
20 subcutaneous tissue or fat to some extent. She would have
21 needed stitches and, you know, some, you know, medical
22 intervention to get patched up, but they -- those stab wounds
23 did not injure any vital structures.

24 In contrast, she had two stab wounds to the neck, one of
25 which was to the right side of the neck, and that injured the

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1 carotid artery, which is a major blood vessel of the neck. It
2 connects basically the blood -- it connects blood flowing from
3 the heart and supplies the brain. So there's a lot of blood
4 and it's a very large vessel and there's a lot of velocity of
5 blood through that vessel. It's not far off from the heart.
6 It's in the neck, and that was a very serious wound with
7 injury to the right carotid artery. So she bled extensively
8 from that injury.

9 And then she also had another stab wound that was kind of
10 in the upper chest over here that went into the neck and
11 injured a different vessel on the left side of the neck, which
12 is the jugular vein, which is also a major vessel. The
13 bleeding -- there's -- either one of them alone could have
14 been responsible for her death from basically exsanguinating
15 or bleeding out. So I stated the cause of death as stab
16 wounds of the neck.

17 Q: Okay. And let's talk about first the neck. About how
18 long and how deep was that particular one?

19 A: Yes. So over the course of the autopsy, I was able to --
20 you know, I'm not just looking at the outside of the body.
21 I'm doing a complete internal examination so I'm able to track
22 the path through the neck and everywhere. You know, like, the
23 other ones I said did not enter the internal cavities, but in
24 the neck, the right side of the neck, that wound extended
25 approximately four-and-a-half inches from the surface of the

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1 skin. So I said it was to an approximate depth of four-and-a-
2 half inches from the skin surface. And along that path was
3 the carotid artery, unfortunately, and that's why -- you know,
4 that's why the carotid artery was injured.

5 Q: And what was the path that you indicated?

6 A: Yeah. So the trajectory -- and for every -- every kind
7 of a stab wound or any -- any kind of injury really that's
8 penetrating, it's my job to assess the trajectory. So these
9 are going front to back or upward or downward. And the injury
10 to the right side of the neck I said -- I determined it was
11 going -- so we look at all three dimensions. So it's going
12 from right to left, front to back. So it's kind of going
13 toward the back and from toward the left and then down. So it
14 has a downward trajectory. So if I would -- you know, it
15 would kind of be, you know, in like this kind of a trajectory.
16 So it's right to left, front to back, and downward. So it's
17 kind of going in a downward direction, and along that -- along
18 the way it went through the right carotid artery.

19 Q: Thank you. Now, let's move on to the chest, the wound to
20 the upper chest.

21 A: Okay.

22 Q: Excuse me. About how deep was that particular wound?

23 A: Yeah. That actually did not go very deep at all. That
24 -- unfortunately, it only went to a depth of about one-half
25 inch from the skin surface, like on here, but the jugular vein

1 is very superficial and it -- that wound to the neck or to the
2 upper chest was just enough to get into the jugular -- left
3 jugular vein.

4 Q: And what was the path that you indicated?

5 A: Yes. So that one was -- yeah. Actually, I take that
6 back. It was actually -- it was three-eighths inches from the
7 surface of the skin. So it's a little bit less than half an
8 inch, but it was enough to actually hit the jugular vein and
9 cause bleeding.

10 Q: Excuse me.

11 Q: And that was directed from front to back and with a
12 minimal -- so basically, it was straight front to back.

13 Q: Okay. Now -- and as you indicated earlier would both the
14 neck and the chest wound independently have resulted in Ella
15 Lowery's death?

16 A: Yes. Certainly, the carotid artery injury and then also
17 the jugular vein, that also would have -- she would've bled
18 out from that alone, although a little bit slower.

19 Q: And let me qualify that by saying unattended without any
20 immediate aid, medical aid --

21 A: That's correct.

22 Q: -- would that have been fatal?

23 A: Either one of those --

24 Q: Yeah.

25 A: -- would have been sufficient to have resulted in her

1 death.

2 Q: Now, let's talk about the left -- the left hand. I
3 believe it was the left hand, the incised wound. What is an
4 incised wound?

5 A: Yeah. So it's also a sharp force injury from a knife,
6 but it's longer -- you know, longer on the surface of the skin
7 than it is deep. So a stab you can imagine sort of the point
8 of a knife going in, and an incised wound is more like a
9 cutting wound. So it's a cutting wound. It's not -- it's not
10 a stab.

11 So you can kind of logically -- you don't have to be a
12 doctor to know what -- you know, a forensic pathologist to
13 understand the difference. So this was an incised wound. It
14 was a fancy word for just a cutting wound to her left hand.

15 Q: Now, was this a significant excised wound -- excised
16 wound? Incised wound. Excuse me.

17 A: It actually was -- it went between her -- it wasn't --
18 yeah, so it's on the hand, and the part of the hand involved
19 was the webbing between her left thumb and left index finger.

20 Q: Okay.

21 A: And it really went quite extensively through the skin and
22 tissue and muscle that's in there. So, you know, it was -- it
23 was actually pretty deep. You know, one inch is -- one inch
24 on the hand in that location is pretty deep. So it was a
25 cutting wound that's not a stab, not a point first, but it was

1 cut through this area of the -- between the left thumb and
2 left index finger to a depth of one inch approximately.

3 Q: And is this the type of wound that's classified possibly
4 as a defensive wound?

5 A: Yeah. So, you know, the way I think about it is somebody
6 who, you know, has some kind of knife coming at them. It's
7 kind of a natural response to try to defend yourself, and so
8 this is a wound that may have occurred while she was trying to
9 defend herself.

10 Q: Now -- and I didn't ask you this, but you demonstrated
11 wonderfully. But did you take pictures to reflect the -- what
12 you observed in the autopsies of both Ella Lowery and Iyana
13 Lowery?

14 A: Yes. So, you know, I do the best to describe everything,
15 but, you know, pictures are worth a thousand words, and so
16 part of -- we have photography nowadays. I don't have to --
17 you know, hundreds of years ago, pathologists had to just use
18 diagrams, but now I can take a photo and say, here, this is
19 what it was. And so I take photographs of, you know, not
20 every small thing I see, but if I see injuries, I'm going to
21 document those with photographs.

22 Q: And we'll get into those because the photos have been
23 introduced into evidence already and we'll get into those in
24 just a minute. Now, unfortunately -- and I think when we met,
25 I think you told me that it just was happenstance that you

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1 also ended up doing the autopsy on Iyana Lowery. And when you
2 said -- when it was happenstance, would you have automatically
3 gotten that or it just happened that you were --

4 A: No.

5 Q: -- assigned to that autopsy?

6 A: Well, the way it works in my -- in my division at the
7 Medical University of South Carolina, we have several forensic
8 pathologists. Now I think we have six or seven. I don't
9 remember how many we had then, maybe one or two less, and we
10 -- we're each in the autopsy. So it was my day in the
11 autopsy.

12 So it was my day in the autopsy room when Ella was
13 scheduled, and it was also my day in the autopsy room eleven
14 days later when Iyana was scheduled. So it's really just a
15 coincidence that I did both of them as supposed to me doing
16 one and then a colleague doing another. It would not have
17 been directed to me because it was related to the first one.

18 Q: And I did not ask you this as it relates to Ella, but let
19 me ask you about manner of death, cause of death. What were
20 your findings as it relates to Ella Lowery?

21 A: Oh, so with the -- the manner of death of Ella Lowery is
22 homicide, which means death at the hands of another.

23 Q: Okay. And of course, the cause of death you've explained
24 based on the wounds that she -- that were inflicted on the
25 neck and chest?

1 A: I determined the cause of death to be stab wounds, in
2 parentheses two of neck.

3 Q: Now, let's move on to Iyana, and I think that autopsy was
4 done on the 16th of May 2017?

5 A: Correct.

6 Q: Okay. Now -- and I'll just ask you up front were you
7 able to determine a cause of death for Iyana?

8 A: No. I couldn't determine a cause of death because of the
9 state of decomposition. It prevents evaluation of -- you
10 know, it makes it more difficult to determine the cause of
11 death.

12 It's possible if there was -- if there was a gunshot
13 wound or a stab wound that resulted in this girl's death, I
14 would've been able to find that because I'm doing an internal
15 examination, but I -- and if there was a penetration into the
16 chest cavity or if there were skull fractures, if -- anything,
17 if there was a wound path from a bullet through the body, I
18 would've found it, but in this case she did not have any
19 traumatic physical injuries that were on their own fatal.

20 She had -- the only injuries that she had were to her
21 teeth. She had fractures of her -- of a few of the upper
22 teeth in the front area, and then one of the teeth was
23 recently absent. So that looks like it was a traumatic
24 absence because it was a fresh cavity.

25 So shortly after we lose a tooth, let's say she's 8,

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1 maybe the tooth went to the tooth fairy; right? Shortly after
2 her tooth is lost, we start to get some gum tissue and tissue
3 starts filling into that cavity, and there was no tissue. It
4 was a fresh cavity. So the -- and then she had the other
5 broken teeth. So my conclusion -- this is -- you know, a lot
6 of this is just like logic and based on my experience and
7 education is that that tooth was lost, that one tooth was lost
8 at the same time the other ones were broken.

9 Q: Now, with -- and we'll get into that because, obviously,
10 you've reflected that in photographs, but let me ask you --
11 let me go back a little bit because you talked about ruling
12 out, like, projectiles and all. Did you also take x-rays as
13 well just to document and what was the purpose of that?

14 A: Yeah. Well, x-rays are taken whenever there's a
15 significant amount of decomposition so that I -- I want to
16 make sure -- I mean she had some defects on her skin, which I
17 determined were not inflicted prior to life. It was because
18 of her decomposition, her being left outdoors, there was some
19 animal activity on her body, and -- but, you know, just
20 looking at that I'm like, well, you know, if there's -- if
21 there's any possibility that there's a projectile in her body,
22 I'm going to do an x-ray just to make sure even before I get
23 started because I want to make sure that I'm not -- that she's
24 not buried with that valuable evidence in her.

25 Q: And just to be clear, the x-ray is an aid that you do.

1 Is that an aid that you use before actually going into the
2 autopsy?

3 A: That's right. It's kind of before I start doing any
4 cutting, the first thing I do is the external examination. I
5 look from head to toe, everywhere, assess what I see, look for
6 anything that's unusual or abnormal.

7 And in this case because of the decomposition and the
8 sort of difficulty in evaluating the body externally, like,
9 you know, and there was some disruption of the skin, like I
10 said, because of animal activity, I'm, like, let me just make
11 sure that I do an x-ray, see if there's -- I'm not doing it to
12 see, you know, if she's got a natural disease or anything like
13 that. That's going to be from the internal examination. This
14 is strictly to look for any kind of, like, metallic
15 projectiles.

16 Q: Okay. Now, let's move on to the actual autopsy as it
17 relates to -- and we were talking about projectiles, and I'll
18 just ask you. In the autopsy, were you able to rule out that
19 Iyana was either shot or stabbed?

20 A: She was neither shot or stabbed.

21 Q: Okay. And so -- and again, we acknowledge the fact that
22 you weren't able to determine a cause of death, but were you
23 at least able to rule out those two things?

24 A: Yes.

25 Q: Okay. All right. Now, let's move on to the -- to the --

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1 I guess, the other things that you may not be able to rule out
2 -- rule out at the autopsy. Were you able to make any
3 findings as it relates to possible strangulation or -- or
4 drowning?

5 A: No.

6 Q: Okay.

7 A: It was not possible for me to say whether she did or she
8 did not drown, nor could I say whether she was strangled or
9 not.

10 Q: So could -- well, let me ask you this way. Could you
11 rule out drowning or strangulation or suffocation?

12 A: I could not rule out either of those as a potential cause
13 of death because drowning is really, you know, a diagnosis of
14 exclusion. You know, I -- it's possible she drowned. I can't
15 say she didn't, but I don't have any specific evidence of it.

16 If she came in, like, completely fresh and I was able to
17 rule out manual strangulation or ligature strangulation, which
18 I could be able to do by looking at the skin and the muscles
19 and the eyes, which have specific findings in a strangulation
20 death. If I was able to rule that out and then I was told she
21 was found in the water and I had lungs that were filled with
22 fluid, I would say she drowned. That that's the most likely
23 cause of death to a reasonable degree of medical certainty in
24 the absence of anything else. Okay?

25 In this case, I don't -- can't assess the degree of fluid

1 in her lungs because decomposition fluid basically leaves the
2 lungs. It doesn't stay in there. So her lungs looked the
3 same at this time of the autopsy whether she did or she did
4 not drown because it's, you know, many days later.

5 Q: So would it be fair to say because of the level of
6 decomposition, the water in the lungs that we often use as a
7 barometer is not useful because of the decomposition?

8 A: Yes, that's correct. There was no way for me to say with
9 any -- you know, I can't say if she drowned or she died by
10 another means.

11 Q: Okay. Now, let's talk about the -- I guess the -- excuse
12 me -- the skin, the degloving. I think I had asked you about
13 that before. Could you explain to the Court what degloving is
14 and how it's relevant in this particular case?

15 A: Well --

16 Q: In your findings in the autopsy?

17 A: Okay. So degloving is just a -- it's not an injury.
18 It's just a result of natural decomposition. You know,
19 there's a lot of breakdown in the body. It's just the way
20 nature works, and what frequently happens is portions -- like,
21 you have so many different layers of the skin, and portions of
22 the skin, like, can kind of actually come off in one piece.
23 So it looks like the person has a glove on, like, composed of
24 their own skin. So we don't always see it, but it actually
25 can happen frequently when somebody is in the water because

1 that can even accelerate the process.

2 Q: Now, in talking about the degloving process, does that
3 explain why or could you explain why when she was brought to
4 you she was not -- she was basically bald, there was no hair?
5 Could you explain that?

6 A: Oh, yeah. So she didn't have any -- I think she didn't
7 have any hair left, like, because the superficial portions of
8 the skin basically fall off. You know, it's decomposition.
9 The initial thing that happens is that they -- there starts to
10 get blistering of the skin because there's a lot of buildup of
11 bacteria underneath the skin that started out in our body,
12 like, in our G.I. tract, we have a bunch of bacteria. That's
13 where they belong, but once we -- once a person dies, the
14 bacteria in the G.I. tract can get out into the bloodstream
15 and just find their way. They find their way to the surface
16 and then, you know, blistering starts underneath the skin.

17 It's -- it's just -- it's nature. Right? And the hair
18 of the head, the skin of the head was already off. So I
19 didn't see any hair because the root -- the hair follicles are
20 in the skin, and those layers of the skin were gone.

21 Q: Now, a couple of other topics before we get to the
22 pictures. Let's talk about the hands. Were you asked by law
23 enforcement, by SLED I believe it was -- or were you asked by
24 someone to -- I guess, to amputate her hands?

25 A: Yeah. Well, actually, I specifically remember this

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1 because it was such an unusual request. They said -- you
2 know, they -- law enforcement, I guess SLED, said they wanted
3 to take her hands, and I'm, like, really? So I actually
4 called the coroner, who has basically requested the autopsy,
5 and I said their SLED investigator is requesting the hands to,
6 I guess, do fingerprints on.

7 Sometimes fingerprints are actually done after the
8 autopsy is done and then, like, law enforcement will have
9 their ink pads and do fingerprints, but, you know, apparently
10 they didn't want to do it there, and because of the
11 decomposition, there may have been -- I'm not a fingerprint
12 expert or anything like that, but they may have needed a
13 special environment to actually obtain the fingerprints
14 because of her decomposition.

15 And so Timothy Brown, the coroner of Marlboro County,
16 said, yes, please go ahead and do that. So normally I would
17 not just take the body parts within the body unless
18 specifically, you know, there's some specific requirement to
19 do it.

20 Q: Okay. And did you, in fact, do that, amputate the hands,
21 and pass those along according to your autopsy report to
22 Gabriel Denizard from SLED?

23 A: Yes.

24 Q: And did he take possession of them? And of course, you
25 don't know what happened after that?

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1 A: No, I do not.

2 Q: Now, the last thing I'll ask you before we have you step
3 down is the phrase in your autopsy report "traumatically
4 absent" as it relates to the upper canine, and if you would
5 address this. I apologize, but could you explain that phrase
6 in the context of your findings?

7 A: Yes. So I was able to say with certainty that she had
8 fractures of several upper teeth. One of the other teeth that
9 was right near it was absent and, like I said, it was a -- it
10 was a fresh cavity. So it wasn't like it happened, you know,
11 prior to her sustaining -- my determination was that that was
12 lost at the same time she sustained trauma to the other teeth.
13 I do not know how that trauma occurred, but there was trauma
14 to the teeth. Some of the teeth were fractured, and one of
15 the teeth was broken out.

16 MR. REDMOND: Now, with the Court's indulgence and, Dr.
17 Riemer, if I may have -- if I may have the witness step down?

18 THE COURT: Yes.

19 BY MR. REDMOND:

20 Q: And I want to go ahead and show you -- and I'm going to
21 start and go in sequential order with State's Exhibit Number
22 3.

23 A: All right. I'm just going to get my glasses here. Let's
24 see.

25 Q: Okay. Now, if you could -- this is State's Exhibit 3 on

1 Ella Lowery. Could you explain just briefly what we're
2 looking at?

3 A: Yeah. So this is -- this is basically the as-is
4 photograph. So before everybody -- you know, I don't --
5 before -- when she first comes in, a photograph is taken with
6 the clothes she's wearing and, like, obviously, I had not
7 cleaned her up yet. So eventually I'll get to that, but this
8 still has the clothing and jewelry, and at this point I can't
9 actually see what happened to her because she's too bloody,
10 but this is how she came in.

11 Q: Okay. And, next please, this is State's Number 4. And
12 specifically, the wound there in the lower right abdomen?

13 A: Yes. Okay. So just to orient you, this is her
14 bellybutton over here and this is the right side of the
15 abdomen sort of around the waist area, and that was a stab
16 wound that did not enter the abdominal cavity. She -- she has
17 a lot of soft tissue and so it remained in the subcutaneous
18 tissue and without injury to vital structures.

19 Q: And that is State's Number 5.

20 A: Okay. So this is the stab wound to the right side of the
21 neck, and this is the wound. I actually had to have it
22 grabbed there because every time I tried to take a photo of
23 it, it just -- blood kept coming out because there's, like, a
24 very big vessel in there, and that's a stab wound that entered
25 the right side of the neck and went through the right carotid

1 artery.

2 Q: And that was the one that was about approximately four-
3 and-a-half inches deep?

4 A: That's correct.

5 Q: Okay. State's 6?

6 A: Okay. So this is the incised wound that I described
7 between her left thumb and index finger and, you know, that
8 most likely happened when her hand was up and the knife was
9 coming, but, you know, I mean it's consistent with that. Of
10 course, that could have just been randomly cut as well.

11 Q: Okay.

12 A: So --

13 Q: State's 7, I believe?

14 A: All right. So she had two stab wounds to the -- to the
15 back, and this is one of them, and this one looks like the
16 other one over there. So two, and those also just went
17 through fairly superficial subcutaneous tissue, just her
18 superficial fat, without injury to vital structures.

19 Q: Okay. State's 8?

20 A: All right. So, yeah, this is the entrance wound that's
21 on the upper chest, kind of above, like, you know, that little
22 notch you have over here? That's called the manubrium. Okay?
23 You know, you have that bone right here. It's a little curvy,
24 and this was on the left side just above that. So our jugular
25 vein -- it goes all the way through the neck and actually goes

1 to the -- to the brain, but the lower part of that starts
2 basically right here. So that did not go very deep, but
3 unfortunately, as soon as it went in, that part of the jugular
4 vein is very superficial. Sometimes you can see people's
5 veins sticking out of their neck, and those -- like, the big
6 veins that you see that are a lot are the jugular veins.

7 Q: Okay. State's 9?

8 A: Okay. So this is a reflection of -- of the skin of the
9 neck that shows that, you know, we don't have blood all over
10 the place, but it's basically just in this region to the left
11 of the trachea where the jugular vein basically starts going
12 into the neck. And so now, you know, this is already -- you
13 know, I've wiped off everything and taken a picture. That
14 still shows remaining hemorrhage, and you can kind of see
15 there's disruption. It's -- it's sort of hard to see because
16 there's a lot of blood reflections, but there's actually a
17 defect in that -- in that muscle, and the vein is right there.

18 Q: Okay. Now, I'm going to show you the crime scene next.
19 State's 10 is from the crime scene that's in evidence, State's
20 10.

21 A: Okay.

22 Q: I'm sorry. That's actually State's 11, but we'll go
23 back. So that's State's 11 that we're seeing now. What does
24 that -- as far as the pool of blood, what does that tell you,
25 if anything?

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1 A: Well, yeah. I mean, I make my determination from doing
2 the autopsy, but we can see that there's -- here she's lying
3 face down, and there's a big pile of blood on the floor next
4 to the right side of her neck. And as a result of my doing
5 the autopsy, I know -- well, I can say that that blood came
6 from the right carotid artery. That's where she's bleeding
7 out of.

8 Q: State's 10. We'll go back to State's 10. I apologize
9 for the mishap. State's 10. Again, that's a picture from the
10 crime scene. Again, from a blood standpoint, is that
11 something that would be consistent with what you've described
12 were the injuries suffered by Ella Lowery?

13 A: Yeah. I mean there's certainly blood there, and it may
14 have indicated that -- it looks like there's a little bit of
15 sparing. I didn't actually see this carefully before, but you
16 see over here there's a little bit of sparing on the couch, so
17 it indicates she may have actually had her -- been seated in
18 that position and then sustained the wounds and, you know,
19 she's got some behind her as well. So it's possible that she
20 may have been leaning over when she got the ones on her back
21 and there was -- that caused bleeding. I don't know, you
22 know, but all I can say, there's blood on the couch. But I
23 don't really know how that occurred.

24 Q: Understood. But thank you. That was very enlightening.
25 Let's move to State's 12. State's 12. Could you tell us

1 about State's 12?

2 A: Okay. So this was her -- this is Iyana's photograph, her
3 as-is picture, and we can see there's all sorts of color
4 changes. There's a lot of bloating. This is very unpleasant,
5 unfortunately, but this is decomposition around the number of,
6 you know, days to weeks that she was exposed to the elements.

7 It doesn't even have to be outside. It can happen in
8 your house, but it's just the body's processes in breaking
9 down. And because of all the gas buildup inside of the body,
10 she appears much larger in this photograph than -- than she
11 actually was in life, and she is wearing a pair of pants that
12 are all the way up, you know, so her pants are on.

13 And some of the areas of the pallor, like the lighter
14 skin areas, that's really where her skin is lost. She's dark
15 skinned, and these darker areas of skin are lost and then the
16 lower layers of the skin look the -- look the same in
17 everybody. So, I mean, then she still has some of her -- her
18 superficial layers of skin, the dark skin, that are still
19 there on the body. So we've got a partial loss of her skin
20 and partial remaining.

21 Q: Okay. State's 13, and I'll just ask you with State's 13
22 is that a picture of her left hand?

23 A: Yes. That's a photograph of her -- her left palm.

24 Q: Okay. And then State's 14?

25 A: The right palm.

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1 Q: Okay. And this was before they were amputated, I would
2 imagine?

3 A: Yes. And, you know, I -- it also shows that she doesn't
4 have any stab wounds or cutting wounds, as like defending
5 herself.

6 Q: Let's go to State's 15.

7 A: All right. So this is just -- you know, I'm just taking
8 lots of photographs because it's kind of hard to describe all
9 of this stuff. So she has -- these little, you know, slivers
10 of white are --

11 Q: Yeah.

12 A: Yeah. They're actually maggots. So maggots start to
13 come to scene, and they assist in breaking down the tissue
14 after we die. It happens to everybody, I guess, unless you're
15 cremated.

16 But this, when I first saw this, I -- like, remember, I
17 did the autopsy of Ella, her mother, a little earlier, and I
18 was, like, you know, and so I'm really looking for things that
19 could potentially be stab wounds. I know her mother died of
20 stab wounds. Maybe she also did, and this looks a little bit
21 suspicious for a stab wound, but based on -- first of all, it
22 didn't really go anywhere. It just remained superficial, but
23 also there's a lot of other very similar looking areas of that
24 same region, like the right arm and the right side of the
25 torso, that look -- that have the classic features of

1 postmortem animal activity. And so my conclusion was that
2 that was not a stab wound, but that was just postmortem animal
3 activity.

4 Q: Okay. State's 16, please?

5 A: Okay. So this -- you can see this is the inside of her
6 right arm. This is the shoulder area. Like, this is her
7 right ear. Okay? Her head, her right ear, and I've got her
8 arm up here showing, like this you can almost imagine, like,
9 teeth kind of tearing at this tissue. There's some --
10 there's, like, a bunch of little tears, and this is exactly --
11 sometimes this is exactly what post -- what animal activity
12 looks like, and so that's very -- if we put her arm down,
13 that's in very close proximity to the right side of the chest,
14 and so I felt comfortable saying that that -- what first
15 looked like a possible stab wound was actually just postmortem
16 animal activity.

17 Q: State's 17. Go back one.

18 A: All right. Okay. So this is a picture of her -- of the
19 back of her, and so there's a couple of -- here's her skin
20 intact, and there's a couple of areas also of potential
21 concern. They look like, well, maybe is that possibly from a
22 knife, but they are actually consistent also with animal
23 activity, the same teeth, and another reason that I was able
24 to conclude that comfortably is because frequently when there
25 is a disruption of the skin, that's the area where the --

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1 like, the maggots and flies are attracted to initially because
2 there's blood exposure. They don't -- they go to where
3 there's, like, soft tissues and moist exposure. And if those
4 were actually stab wounds, then that skin right around it
5 would have been gone and it would have been a lot more open.

6 So I know this is -- this is -- was a challenging
7 autopsy. You know, if I did it 20 years earlier, you know, it
8 takes some -- it takes thought and time, but I felt
9 comfortable that this is -- these are not stab wounds, even
10 though somebody might say, well, they look like stab wounds,
11 but they're not stab wounds. So she does not have any stab
12 wounds. This is all from postmortem animal activity.

13 Q: Okay. Now, let's move to State's 18.

14 A: All right. This is kind of close up. I'm not sure
15 exactly what part of the body I'm looking at here, but this is
16 an area of skin where some of the skin has actually been, you
17 know, like, eaten off, chewed off. It looks like you can even
18 see, like, some scalloped areas here. Right? So probably
19 there was some, you know, animal chewing on the skin, and then
20 this is her remain -- her remaining dark skin that's still on
21 her body.

22 Q: State's 19?

23 A: Okay. Okay. So this -- these are -- this is actually
24 her -- her buttocks. So we can see, like, this is the midline
25 of the buttocks, and so she's got little areas here where the

1 skin -- you know, there was some postmortem animal activity,
2 and this is the small of her back where we see some patches of
3 her dark skin remaining.

4 Q: State's 20?

5 A: Okay. So this is actually -- it looks like -- yeah, it's
6 funny. It kind of looks like it's the -- yeah, I'm not sure.
7 You know, it's funny. I can't a hundred percent tell. I
8 think this is the right side of her -- her body. So this --
9 this area, this is the right arm. That's the same area where
10 we had the -- we saw when her arm was up. So this is the
11 backside of that.

12 So -- and I think this looks like the back of her head,
13 and then there's other little -- they -- you could say, well,
14 that looks like stab wounds. Yeah, they do, but there --
15 there's very -- these are very superficial marks. And given
16 the animal activity all right in the vicinity, it's most
17 consistent with animal activity.

18 Q: State's 21?

19 A: Okay. So this is -- we have some -- I'm trying to take a
20 picture of the teeth here, and this tooth is broken. You can
21 see it's actually broken kind of where the area where it meets
22 the gums. There's a break in that tooth. Okay? That's just
23 not -- you know, that's a broken tooth, and then right next to
24 it we have a tooth that is absent, with a fresh open cavity.
25 So the natural processes of filling in the cavity after a loss

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1 of a tooth with fibrin and other, you know, little blood is
2 not in there. So it's an open cavity, and then, yeah, I think
3 there's -- this one also was broken. So --

4 Q: State's 22?

5 A: Okay. So just another photograph of, you know, the
6 teeth. It's -- now, if she was fresher, like if she was found
7 shortly after this happened and if she died at that time, then
8 I would still see there's blood there. So, like, for
9 instance, with her mother, with Ella, you know, Ella, I was
10 able to see there's lots of bleeding and, you know, people do
11 bleed out from their -- there's a lot of bleeding with front
12 broken teeth, you know, not necessarily, you know, as much as
13 her mom had, but I would have seen some blood in the gums and
14 right around the teeth.

15 Q: So to be clear -- and I didn't ask you that and I'm glad
16 you said that. To be clear, the injury that's inflicted,
17 would there be an expectation of some blood that would've
18 resulted from the injuries to her mouth?

19 A: Yes, I think she would have had -- she would have been
20 bleeding at the time, not enough -- I don't think she would
21 have bled enough to die.

22 Q: To die?

23 A: Right. Yeah, which is why, you know, I don't think she
24 died from bleeding out, but she certainly would've had some
25 bleeding, like, around her mouth and face, but at this point

1 in time it's all gone. I can't see that good.

2 Q: And finally, State's 23?

3 A: That's another photograph, but it's not really as good.

4 But --

5 Q: Okay. Now, if I could ask you to actually take a seat
6 and, if I could -- I'm almost done. I want to direct your
7 attention first to State's Exhibit Number 1, and I'm going to
8 direct your attention to page 2 that's already in evidence, of
9 course, and I did not ask you this, but as it relates to your
10 external examinations -- and I've got to ask you this. I'm
11 not trying to obviously embarrass anybody, but I think it's
12 part of the case that's important that the Court knows these
13 core facts.

14 So first as it relates to Ella Lowery, could you tell us
15 how old -- how old you indicated she was, how tall she was,
16 and how much she weighed?

17 A: All right. So before I answer that, the age --

18 Q: Is what you've been given, yes.

19 A: I don't have a magic wand that I can tell --

20 Q: Yes.

21 A: -- how old a person is. I'm told that information by the
22 coroner.

23 Q: Exactly.

24 A: So when I -- I said she was 36 years old based on her
25 date of birth, that's because the date of birth was provided

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1 to me, just like, you know, her name, the spelling of her
2 name, and date of birth.

3 Q: Absolutely.

4 A: So she was 36, and she appeared to be consistent with
5 that age. And then it's my job to -- we have -- I have some
6 assistants to help me with some of these tasks, but we have,
7 like, a large scales. We don't -- we can't ask a patient to
8 step on the scale like you would in a regular doctor's office,
9 but they are horizontal scales, and she actually weighed 369
10 pounds. And I measure with a tape measure while she's on the
11 table her height, and it's approximately 65 inches, so she'd
12 be five five and weigh 369.

13 Q: And again, to be clear, this is not to embarrass. It's
14 because it is relevant to later testimony, and that's why I
15 asked you that.

16 Let's move on to Iyana Lowery. What was her index --
17 I'll call it index and information, the same information you
18 provided as it relates to Ella?

19 A: So, yeah. She was eight, based on her date of birth, age
20 eight, and now I do -- before I give you -- her height is not
21 going to change, but her weight will.

22 Q: That's what I was going to get to, yes.

23 A: Okay. So first of all, she looked really big. Okay?
24 But that was a lot of air because it was kind of like the body
25 was filled up with air and, you know, everything gets bigger,

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1 but the weight actually decreases because the air is formed
2 from the breakdown of tissue. So there's a loss of tissue.
3 Everything is lighter. And so the weight of her on the scale
4 was 114 pounds. I can't tell how much she weighed while she
5 was alive, but more than that, and she was 52 inches in
6 length. So that would be 4 feet, 4 inches.

7 Q: So she was only 4 feet 4 inches tall?

8 A: Yes.

9 MR. REDMOND: I beg the Court's indulgence.

10 Thank you, Dr. Riemer. That would be all the questions
11 that I have. Please answer any questions that Mr. Young may
12 have.

13 THE COURT: Cross-examination, Mr. Young?

14 MR. YOUNG: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. YOUNG:

17 Q: Good afternoon, Dr. Riemer.

18 A: Oh, hi.

19 Q: And for the record, we've met before. I came to your
20 office, and we've talked about these autopsies?

21 A: Yes. You came to my office and wanted to review the
22 autopsies, and I, of course, welcome the attorneys from the
23 prosecution and defense.

24 Q: Sure. As an attorney yourself, you sort of understand
25 how that goes; right?

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1 A: Well, it's -- I'm not on anybody's side.

2 Q: Right. And you've met with the State a number of times
3 to go through your findings with them as well?

4 A: Yeah. I think -- I think twice.

5 Q: Okay. Can I ask you what information are you giving --
6 given initially? Like, what all comes with -- when you go to
7 do an autopsy, what do you know about the case?

8 A: Sometimes, it depends. It depends on how much the
9 coroner provides, and sometimes they don't even really, like,
10 know all the information, but the information that I received
11 about Ella is that she was found on the kitchen floor on a
12 certain date by her mother, and that one of the two -- one of
13 the decedent's two children was missing from the home at the
14 time Ella was found. So that was the information that I had,
15 and so I did the autopsy on Ella and the information was that
16 one of her children is missing, and I -- there wasn't any
17 other information.

18 Q: Okay.

19 A: I didn't see scene photos, but she was found deceased on
20 the floor. You know, he might have said, oh, she's got blood
21 everywhere. You know, they may or may not have known the way
22 she died, and sometimes they tell me they -- I've been told,
23 oh, it looks like she was shot. People tell -- a coroner will
24 tell me, oh, it looks like there's a gunshot wound to the head
25 or something like that, and then I might -- I'm like, okay,

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1 I'll do the autopsy and figure it out. And then in this case
2 I don't -- you know, I don't document what they think the
3 cause of death is. I make that determination myself after
4 doing the autopsy.

5 Q: So what you document in the autopsy is what you believe
6 to be correct?

7 A: Yes. The only thing -- the information at the top, like
8 that date and the time of death, yeah. So this -- there's
9 actually a little discrepancy here. So it's probably because
10 initially he told me the date and time was -- it's probably --
11 yeah, 5/5. I made a typographical error here. I wrote date
12 and time of death at the top is May 4th, and then the actual
13 -- it was actually May 5th. So that was a typographical
14 error, and that's usually because somebody else put that
15 information in, but the part down here, injury, how occurred,
16 those are -- that's information I added.

17 Q: Okay.

18 A: So just to point that out that, you know, things like
19 that can happen.

20 Q: So somebody else messed up the top part, but you --

21 A: Yes. That's right. They put that in as part of our --
22 like, when we register the patient. So --

23 Q: Sure.

24 A: And that was -- you know, was probably a typo or just,
25 you know, a mistype.

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1 Q: Okay. I think I understand. And this case was a while
2 ago. I mean these autopsies were conducted almost 5 years
3 ago; is that right?

4 A: Yes. Almost -- almost 6 years ago actually. May 2017 is
5 almost 6 years ago.

6 Q: Okay.

7 A: We're in 2023 now.

8 Q: Okay. So over five years ago, almost 6 years?

9 A: Right.

10 Q: And it's difficult for you to remember the exact autopsy
11 after having done so many?

12 A: Well, actually, this is what the autopsy report is for.
13 Okay? For me to document well enough my findings so that
14 years later -- and sometimes it is years later, sometimes many
15 years later. This is not -- I can look at this and it
16 refreshes my recollection so that I remember the autopsy
17 because I wrote these reports, and I do remember. This was
18 not your everyday autopsy.

19 I actually remember my patients very well. You know,
20 every case is unique and every person's death is unique, and I
21 wrote an autopsy report so that it tells me exactly what
22 happened, I have photographs, and all of this refreshes my
23 recollection so it's not like, oh, I don't remember. I mean I
24 remember and with the assistance of the photographs and my
25 autopsy reports.

1 Q: Okay. And writing reports -- writing autopsy reports is
2 an important function of your job?

3 A: Yes.

4 Q: And I mean, that was something that you were given lots
5 of training on?

6 A: Well, you know, you have to write a report. Every time
7 somebody dies, I have to write my findings, and I -- this is
8 -- you know, the style of writing reports is something --
9 everybody in my office does it differently, but this is a
10 result of, you know, my experience and how I think autopsy
11 reports should be written. We have certain sections. We have
12 the diagnosis. We have the cause of death and manner of
13 death.

14 Everybody has that, but, you know, I -- and the evidence
15 of injury. I list everything individually, the stab wounds on
16 Ella. Certain other people may have not even done that. They
17 may have just had several stab wounds, you know, but we have
18 our own styles. There's actually, you know, not that much
19 training on how to write these things.

20 I use my own -- you know, my own determination the best
21 appropriate way to write an autopsy report, and it's based on
22 -- you know, I've kind of modified it over the years, but it's
23 based on autopsy reports, you know, when I was learning, when
24 I was in training and seeing how different people wrote
25 autopsy reports, and I think I took the best features of all

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1 of those people I learned from and made them my own and then
2 even developed them further along with experience.

3 Q: And one of the factors of those reports is to make sure
4 that they're complete?

5 A: Yes.

6 Q: And that they're truthful?

7 A: Yes.

8 Q: And that they're accurate?

9 A: Yes.

10 Q: Right? Because you may be in a situation where you have
11 to rely on it years later?

12 A: Yes.

13 Q: Other people might have to rely on it?

14 A: That's correct. So it documents my findings and my own
15 opinions.

16 Q: And I think you used the phrase earlier that autopsies
17 that you had done 20 years ago through your thought and time
18 and experience you have gotten more proficient?

19 A: Well, yes. I -- I think this is part of, you know, being
20 a professional is we are always learning. I'm learning every
21 day new things, and -- and I think I do a better job now than
22 I did many years ago. It doesn't mean that my conclusions --
23 that I disagree with my conclusions that I've made in cases.
24 It doesn't mean I wasn't prepared to do those, but, you know,
25 I've grown and matured through the work I've done.

1 Q: As I hope we all do.

2 A: We all do.

3 Q: I wanted to ask you a quick question about -- well, a
4 couple more questions. These reports are your final report?

5 A: Yes.

6 Q: If you come into new information and need to change your
7 report, you have that ability?

8 A: Yes. If I'm given new information that would be -- would
9 make it -- my reports are always subject to an amendment if I
10 learn something new later on that changes my opinion as to the
11 cause and manner of death. If there's a piece of information
12 about the history or the scene and it doesn't change my
13 autopsy findings or my opinion on the cause and manner of
14 death, it's -- I'm not -- I'm not here to document, like, the
15 history of the scene. So that could actually -- if she wasn't
16 on the kitchen floor and they say, oh, she was actually on the
17 living room floor, well, I'm not going to go make an
18 amendment, like, after the fact.

19 Q: Sure.

20 A: So the information I was given initially, you know,
21 that's why I don't say -- I said according to the Marlboro
22 County coroner, and then I put that -- those facts in.

23 Q: And you referenced please see the coroner's report at the
24 end of that sentence --

25 A: Yes.

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1 Q: -- on each one of those, on the case history?

2 A: So part of their job is to -- basically, they have other
3 things that they put in that's not related to an autopsy. You
4 know, they might assess the temperature of the person. I
5 don't -- sometimes people want to say what was the time of
6 death, like I want to know did it happen this hour or three
7 hours later, and I'm doing this autopsy the following day.
8 She's already probably been transported in a refrigerator.

9 There's a lot of alterations and I can't -- if somebody
10 tells me, oh, she died, like, you know, an hour ago, I might
11 say wait a second, she doesn't -- she's not warm anymore.
12 But, you know, the -- you know, whatever is in the coroner's
13 report, they may have other information about who found her,
14 like if there was a witness, what a witness reported, all
15 sorts of information that doesn't necessarily appear in my
16 autopsy reports and I'm not privy to.

17 Q: Okay. What -- I mean, essentially you bring it up
18 because in your autopsy final report concerning Ms. Ella
19 Lowery, you noted that the time of death was between 6:30 and
20 7:30 a.m.?

21 A: Right.

22 Q: So --

23 A: And that was actually based on the information provided
24 by the coroner.

25 Q: Okay. And if -- do you have a copy of the coroner's

1 report?

2 A: No.

3 Q: Or the information that was provided to you?

4 A: It's actually -- they call us usually. No, we don't get
5 a copy of the coroner's report.

6 Q: Okay.

7 A: At the time the autopsy is requested, it was probably a
8 phone call from him, and the phone call was, you know, taken
9 by either the pathologist or very often our support staff.
10 And they -- and Timothy Brown would have said I need an
11 autopsy on, you know, Ella Lowery, and then we try to get the
12 basic information, like, including the time and date of death,
13 as well as, like, the date of birth and the spelling of the
14 name. So that's information that is actually provided, and he
15 didn't give an exact time. He just gave a range, but that's
16 not something I was involved in trying to make that
17 determination.

18 Q: The range that he gave you was between 6:30 and 7:30
19 a.m.?

20 A: Correct.

21 Q: Okay. I want to talk to you a little bit about -- well,
22 I guess, while we're on the -- Ms. Lowery's -- Ella Lowery's
23 autopsy report, you had talked some about this wound, and I
24 think you have it labeled as wound E, which was the wound to
25 the other side of the neck that went in the jugular vein?

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1 A: Yeah. It's -- I actually labeled it stab wound to upper
2 chest.

3 Q: Okay.

4 A: Because it was just, you know, above the -- it was kind
5 of on the upper chest, not officially on the neck but just,
6 like, right near it.

7 Q: Okay. And if I'm reading this correctly, you -- I know
8 your testimony today was that it was a superficial wound, and
9 the last sentence of that wound description says --

10 A: No. Oh, my God.

11 Q: -- depth penetration roughly five --

12 A: It wasn't superficial. I must've been looking when I
13 answered that question about -- yeah, I must've been looking
14 at a different thing because that actually went five-and-a-
15 quarter inches deep.

16 Q: All the way to the vertebra?

17 A: It went -- well, the thing is it was going from front to
18 back and right to left. So it may not have actually reached
19 the vertebra because it was also some leftward deviation, but
20 it went a significant -- please, I apologize that it wasn't
21 superficial. I was looking at the wrong one.

22 Q: No problem.

23 A: Yeah. And I actually did say here -- thank you. This is
24 true. It was a long time ago.

25 So I saw -- I documented that the path of the wound --

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- 1 yeah. So I correct my mistake, what I spoke earlier. Okay?
- 2 This wound actually -- this is why I write a report because
- 3 the pictures don't tell the whole story and years later I may
- 4 not remember all the details, but now I see this and I'm,
- 5 like, okay, I can see that the actual -- it went into the --
- 6 into the left side of the neck and went through the left
- 7 inferior -- inferior thyroid vein and the left vertebral
- 8 artery and between the C-3 and C-4 vertebrae. So yeah, it
- 9 went toward -- toward the back, and it was five-and-a-quarter
- 10 inches from the surface of the skin.
- 11 Q: Okay.
- 12 A: So -- and actually, it wasn't the jugular vein. So I
- 13 correct my previous misstatement. The autopsy report is
- 14 correct.
- 15 Q: Okay.
- 16 A: It's actually the left vertebral artery and so that's --
- 17 the jugular vein is not -- is superficial. It did not -- it
- 18 did not hit the jugular vein. It hit the left vertebral
- 19 artery, but it was also a significant -- significant bleeding.
- 20 Q: It would still cause exsanguination?
- 21 A: It would still cause exsanguination. So, you know, I
- 22 didn't look carefully enough at that wound when I was speaking
- 23 earlier. It actually went through the left vertebral artery,
- 24 which are deeper into the neck.
- 25 Q: Okay. And so --

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1 A: They're kind of, you know, in front of the vertebral
2 column. So I apologize that I misspoke.

3 Q: Okay. That's why we engage in back-and-forth and try to
4 make sure we get it right. The instrument that caused this
5 wound that went five and a quarter deep, I'm assuming it was a
6 knife. This is not a regular pocketknife or a penknife?

7 A: Well, it was long. So usually, the -- the length of a
8 blade doesn't have to be longer than the actual wound path.
9 Sometimes it can be shorter. That's because, like, soft
10 tissue compresses. It's not going through a brick. Right?

11 Q: Right.

12 A: So if you can push hard enough that, like, there's
13 compression of the neck and get a wound that's deeper than
14 actually the length of the blade.

15 Q: Okay.

16 A: So the length of the wound does not tell me that that's
17 definitely the length of the blade or anything.

18 Q: Okay. So you would say it was possibly a short knife?

19 A: Well, it's not going to be two inches.

20 Q: Okay.

21 A: But there can be -- there's a little flexibility also --

22 Q: Sure.

23 A: -- of the neck. So -- but yeah, I have two wounds to the
24 neck, one of which was four-and-a-half inches. That was the
25 one to the right side, and then the one to the left side is

1 five-and-a-quarter inches. So, you know, it wouldn't surprise
2 me if the knife was, you know, five inches. It could've been
3 longer, but probably not too much less.

4 Q: Okay.

5 A: There's some -- some compression of the soft tissue was
6 possible, but, you know, especially if a person has a lot of
7 adipose tissue, but it's not going to, like, triple in size.

8 Q: Okay. I think I'm with you on that. Turning to the
9 report concerning the injuries to Iyana Lowery, and I think
10 one of the things that we talked about in your office was
11 about the teeth and whether the teeth were postmortem or
12 premortem injuries. What can you tell us about that?

13 A: Yeah. Well, I can't tell whether they were premortem or
14 postmortem. It could have been that, you know, something
15 that, you know, she was -- I don't know how they occurred, but
16 they are traumatic injuries. And because of the lack of
17 blood, like, I can't assess for any bleeding at the autopsy,
18 but there was -- so I don't know whether they happened
19 postmortem or premortem.

20 However, these are not the type of wounds that would
21 occur from, like, animal activity. They don't go breaking
22 teeth inward. Okay? You know, if they -- usually, they may
23 actually chew lips away, but they don't bother the teeth
24 because they're not -- they're bones. So sometimes all we
25 have left are a skeleton and the teeth are still there, but

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1 these teeth were fractured, and I don't know exactly how that
2 happened.

3 Q: Okay. There were no associated bones broken or damaged
4 in the face?

5 A: No.

6 Q: The maxillary or the mandible or --

7 A: Those were intact.

8 Q: And there -- the lips area wasn't damaged or interrupted?

9 A: That's correct.

10 Q: Or there weren't any lacerations?

11 A: That's correct.

12 Q: The nose was intact? It wasn't broken or --

13 A: Yeah. I mean, all -- let me tell you that, you know, if
14 there was bruising there, I couldn't assess it because of the
15 degree of decomposition. So I'm not going to say something is
16 there if I don't see it. There can be potentially injuries
17 that there's not tears in the lips, like, there could have
18 been potentially bruising in the lips that I can no longer
19 see.

20 Q: Okay.

21 A: So -- and that's because of the difficulty in doing an
22 autopsy on a person who has been dead about 10 days.

23 Q: Okay. I think you noted in your autopsy report that --
24 we talked about strangulation and the hyoid bone was intact?

25 A: Yeah. The hyoid bone, you know, that's one of these

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1 things that everybody knows about. They hyoid bone is -- you
2 know, you see that if there's strangulation, but in my
3 experience and in the experience of all forensic pathologists,
4 the amount of times the hyoid bone was actually broken from
5 strangulation is very rare, you know, because, you don't need
6 to break -- somebody's hyoid bone does not need to be broken
7 in order for them to be strangled to death. Okay?

8 Strangulation happens not because the airway is
9 compressed. Most of the time it happens because the pressure
10 around the neck compresses the vessels that supply the brain.
11 Okay? So if there's -- there's pressure on the neck and some
12 -- some blood can go up to the brain, like, for instance, in
13 the vertebral artery, that's kind of a central vein, and the
14 jugular vein is also responsible for that, but, like, a
15 jugular vein is very superficial.

16 So if you -- if somebody compresses the jugular vein, it
17 doesn't take even -- you don't have to be near the hyoid bone,
18 then blood will still be able to go up into the brain through
19 the carotid arteries but will not be able to get out because
20 the veins which are more superficial are compressed. So we've
21 got blood in, no blood out, and as a result of that, we have a
22 lot of -- the skin typically shows some, like, pinpoint
23 hemorrhages because there's so much congestion and the face
24 looks really congested, but we don't have the opportunity to
25 evaluate any of that.

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1 I don't -- I didn't think -- you know, I don't have any
2 reason to think she was strangled, but that's one of those
3 things that the level of decomposition precludes my ability to
4 make that determination. If she did have, like, a broken
5 hyoid bone, well, then I might say, well, she died of some
6 kind of compression to the neck, possibly strangulation, but
7 because that's intact, you know, I can't rule it out.

8 Q: Okay.

9 A: But I don't have any specific evidence of it.

10 Q: I think I understand.

11 MR. REDMOND: Your Honor, just to be clear, I guess
12 that's a picture. We don't know where that picture is from,
13 and so, I guess, it would have to be -- I would ask that there
14 be some foundation laid as it -- I guess I need to kind of --

15 THE COURT: Well, he hasn't offered it into evidence yet.

16 MR. REDMOND: Well, I just saw him marking it.

17 THE COURT: If he does, you can have an opportunity to
18 look at it and then I'll hear from you.

19 MR. REDMOND: Yes, sir. I'll look at it.

20 (WHEREUPON, there was a pause in the proceedings for the
21 attorneys to confer.)

22 BY MR. YOUNG:

23 Q: Dr. Riemer, is it possible that Iyana Lowery was struck
24 in the mouth with an object?

25 A: With an object?

1 Q: Sure.

2 A: Yes.

3 Q: Like a pipe?

4 A: Yes.

5 A: Brass knuckles?

6 A: Yes.

7 Q: Okay. I'm going to show you a picture that's been marked
8 as Defense Exhibit Number 7 and just ask you to look at that
9 picture and see if you see anything in that picture that could
10 have caused that damage to Iyana Lowery's teeth?

11 A: Honestly, they're so nonspecific I can't say that there's
12 anything about this that I can connect to her. I really -- I
13 never saw this picture before, and I don't know whether that
14 is responsible or any innumerable things that could have
15 potentially caused the same injury. So, you know, any -- any
16 -- any kind of a blunt object is possible.

17 Q: Okay. Is there a blunt object pictured in that picture?

18 A: Yes. I'm not really so familiar with these knuckles, but
19 it looks like that -- certainly, it looks like there's a pen
20 in there as well, but sure, you know, that is a possibility.

21 Q: Is that a picture of brass knuckles in that drawer?

22 A: It looks like brass knuckles.

23 Q: Okay. And you don't know where they came from or --

24 A: No.

25 Q: -- whose house they were in?

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1 A: I never saw that before, and I don't know.

2 Q: Okay.

3 A: But, yeah, I don't -- I didn't conclude that she died of
4 impact with brass knuckles. It could have been any kind of
5 blunt object.

6 Q: Sure. But it could have been brass knuckles?

7 A: Yeah, potentially.

8 Q: Sure.

9 MR. YOUNG: I beg the Court's indulgence for one second.
10 Dr. Riemer, that's all the questions I have right now.

11 THE COURT: Any redirect?

12 MR. YOUNG: I apologize, Your Honor.

13 BY MR. YOUNG:

14 Q: I noticed that you collected some nail clippings at the
15 autopsies; is that right?

16 A: Yes. That's done kind of as a routine matter.

17 Q: Okay.

18 A: So when I don't know the cause of death, I frequently
19 take nail clippings. If there's a deceased female, I
20 frequently take -- or anybody really where there's a
21 possibility of an altercation, nail clippings -- you know, I
22 don't make the determination of whether they should be tested
23 or not, but I take them because investigators may determine
24 that that's something that would be useful for them to test.

25 And so I take nail clippings of all my homicide victims,

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1 even if there's -- or even anybody that dies, like, you know,
2 even any -- from any -- a lot of times whenever I don't know
3 -- I don't have an idea, if it looks like somebody died in bed
4 from, like, you know, a fentanyl overdose, I don't necessarily
5 take clippings, but if I'm told that, you know, she was with
6 somebody and he disappeared before anybody arrived, I might
7 say, well, let me take fingernail clippings because this could
8 have -- could turn out -- I never know it's a drug overdose
9 until I get tox back, like, a month later.

10 So, you know, I want to make sure I cover every possible
11 base. And in this case, you know, I knew her mother -- her
12 mother had died from violent means, and I'm going to take
13 fingernail clippings because there's a possibility that she
14 died of violent means, even at the outset before I even do
15 anything else.

16 Q: Okay. And in the process of taking the fingernail
17 clippings, you make sure that you use different clippers for
18 each hand or each finger or how do you --

19 A: Yes.

20 Q: -- make sure that they're clean?

21 A: Yeah.

22 Q: And not --

23 A: It's usually different. They're always brand-new.

24 Q: Okay.

25 A: And sometimes it's with each hand and more frequently we

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1 use the same clipper for either hand because it's still from
2 the same decedent.

3 Q: Okay.

4 A: Yeah. I'm not -- it's not necessarily -- all the
5 fingernails -- the right -- the right-hand fingernail
6 clippings, left-hand fingernail clippings and, you know,
7 ideally, you use two clippers as a practical matter.
8 Sometimes the same clipper is used for the right and left
9 hands on the same person, but if there's somebody else on the
10 other table that needs fingernail clippings, they get a
11 different clipper.

12 Q: Okay. So it is a new clippers? They're --

13 A: Yes, brand-new.

14 Q: They haven't been --

15 A: Each one -- we get them dozens of them at a time and
16 they're one use only and that's it.

17 MR. YOUNG: Thank you very much. That's all. Thank you.

18 THE COURT: Any redirect?

19 MR. REDMOND: Actually, Your Honor, no, sir, and we'd ask
20 that Dr. Riemer be excused.

21 THE COURT: Dr. Riemer, thank you for being here.

22 THE WITNESS: Oh, sure.

23 THE COURT: Anything further from the the State?

24 MR. REDMOND: At this point, nothing further from the
25 State on -- at this time. The only thing I would like to say

1 record from the State?

2 MR. REDMOND: Nothing from the State, Your Honor.

3 THE COURT: Anything from the defense?

4 MR. BANK: One final matter. I don't -- the State has
5 not given us still the correct standard of procedures for SLED
6 DNA. They gave us a copy a couple days ago that was not the
7 correct standard of procedures, and Ms. Freedman can probably
8 explain it better than me.

9 MS. FREEDMAN: Just -- it's just that the date on the --
10 so they -- when SLED interprets DNA results, they use a set of
11 standardized procedures. That's written down. It's typically
12 included as part of the case file with the DNA. It wasn't in
13 this case, and so we requested it, and the manual that we
14 received has a date that is later than the date on the DNA
15 analysis. So it couldn't have been the protocol that was used
16 to interpret the DNA in this case.

17 THE COURT: Let's ask if they can provide --

18 MS. WEISS: Your Honor?

19 THE COURT: -- one that's dated properly, you know, and
20 if not, you can ask -- ask him when he takes the stand whether
21 or not -- whether or not the protocol has changed.

22 MS. FREEDMAN: Thank you.

23 MS. WEISS: Your Honor, I can clarify that. I spoke with
24 Laurie Stokes, and she said something. She told me that she
25 was taking care of it. So I didn't check. She probably only

1 MR. REDMOND: The State -- I'd yield to Ms. Munnerlyn at
2 this time, Your Honor.

3 THE COURT: You may call -- you may call the case first.

4 MS. MUNNERLYN: Thank you, Your Honor. The State versus
5 JeJauncey Harrington, Indictment Numbers 2017-GS-34-338,
6 2017-GS-34-285, 286, 287, 289, and 290. The State is ready
7 for trial, Your Honor.

8 THE COURT: Very good. Ms. Munnerlyn, at this time, I'll
9 recognize you for opening statements.

10 MS. MUNNERLYN: Thank you, Your Honor. May it please the
11 Court.

12 THE COURT: Yes.

13 OPENING STATEMENT ON BEHALF OF THE STATE

14 MS. MUNNERLYN: Your Honor, as I've stated, we are here
15 on a number of counts against JeJauncey Harrington, and they
16 all relate to the events as they occurred or began to occur on
17 May the 5th of 2017.

18 And I want to simplify this is much as I can, and we're
19 going to talk in terms of five boxes or puzzle pieces that we
20 need to find the answer to, and whoever checks these five
21 boxes or can provide the puzzle piece to fit in these five
22 boxes is the murderer. And we believe that the evidence that
23 we are about to present is going to show that, in fact,
24 JeJauncey Harrington is the one who -- the only one who checks
25 all five of these boxes, and these boxes are:

1 The first is the cigarette butt found at the scene.

2 The second is Ella Lowery and connections to her. She is
3 the first victim, Your Honor, the 36-year-old mother who was
4 killed.

5 The third box is Iyana or connections to her. This is
6 the eight-year-old child who was the daughter of Ella, who was
7 the second victim, Your Honor. Specifically in this box is
8 where is her DNA.

9 The fourth box are the bloody shoe prints.

10 And the fifth box is finally the location of Iyana's body
11 when she was discovered on Mother's Day.

12 So these are the five boxes we're going to focus on, and
13 we're going to go back and it all starts on May the 5th of
14 2017. Late that evening, which would have been May the 4th,
15 Delores Lowery, who is the mother of Ella Lowery and the
16 grandmother of Iyana Lowery, went to work. She works third
17 shift. She went to work late that evening.

18 When she left, everything was fine at her home at [REDACTED]
19 Craig Circle, and there at the home was her daughter, Ella,
20 who was 36 years old at the time, and Ella's two children,
21 Iyana and Tyreon, who were 8 and 10. The children were not
22 yet in bed yet. She left them and everything was fine at the
23 house.

24 She went to work, worked all night, came home early on
25 the morning of May the 5th of 2017 at about 8:30 in the

1 morning. She comes into her house and discovers her daughter,
2 Ella, immediately as soon as she walks in the door lying on
3 the floor in a pool of blood, and she was deceased. She was
4 hysterical. She called 9-1-1.

5 Law enforcement responded, and the investigation began
6 immediately, and it wasn't long before they determined that
7 Iyana, Ella's eight-year-old daughter, was missing from the
8 home. The schools were checked. She had not ridden the bus.
9 She had not gone to school. So suddenly they switch gears
10 from a murder investigation to a missing child and abduction.

11 And so in the hours as they went by that day, many law
12 enforcement agencies came to assist Marlboro County Sheriff's
13 Office. Other local law enforcement were involved in the
14 search, SLED brought a team of agents here to Marlboro County,
15 and the FBI also brought a team of agents here to Marlboro
16 County.

17 And as that investigation began, SLED sent a forensic
18 scientist here to begin processing the crime scene at [REDACTED]
19 Craig Circle. As the crime scene was processed, there were
20 two key pieces of evidence which were discovered.

21 The first of those is the first box, the cigarette butt.
22 This cigarette butt was located just outside of the door to
23 the kitchen that was under the carport where Ella was found in
24 the kitchen. So it was the door closest to Ella's body. It
25 was found there in the carport, and Delores had told law

1 enforcement that that butt was not there before she left for
2 work the night before and that no one in the house smoked
3 cigarettes. So this was a key piece of evidence for law
4 enforcement.

5 They also found bloody shoe prints under the carport and
6 in the kitchen. Those -- again, that's one of your five
7 boxes. So they began to analyze those too and go down the
8 path to see who the cigarette butt belonged to and who made
9 those bloody shoe prints.

10 The rest of the investigation proceeded on, Your Honor.
11 They began to gather thousands of tips that came in. They
12 developed multiple persons of interest as these tips came in,
13 and so they set up a command center and they began doling out
14 who would go question who and how they would begin the process
15 of elimination.

16 And as they did that, they began to narrow the list of
17 suspects, and during that day they received a call from Jamie
18 Campbell, who was actually a close friend of Ella Lowery. She
19 no longer lived here in Marlboro County. She had moved to
20 Atlanta, Georgia, but she called to provide a tip that they
21 needed to look at an individual by the name of Dwayne Bright,
22 who had had a relationship with Ella Lowery that had ended a
23 few months prior to this. And so they added him to the list,
24 and they began to look at him and others at the same time.

25 They began to look at all the connections to Ella. Who

1 did she have contact with leading up in the hours leading up
2 to her death, and they were able to obtain her phone records
3 and they initially focused on the last 48 hours prior to her
4 death. And when they did so, they determined that Dwayne
5 Bright had 23 or so contacts with her in the last 48 hours
6 prior to her death, and so he was brought in for questioning.
7 He was questioned for hours, and after many meetings among law
8 enforcement, it was determined that they should present an
9 arrest warrant and their probable cause to a magistrate for an
10 arrest warrant for Mr. Bright, and so they did so.

11 But at the same time, they continued on because they
12 wanted to make sure they had the right person. They continued
13 to try to see, well, where was he? Where was he in the last
14 24 to 48 hours prior to her death? Could he have done this
15 based on the information that he had given in his statement?
16 They continued to work on that at the same time as they did
17 other leads.

18 As they continued to work on this cigarette butt, they
19 got -- they got some information from SLED analysts with some
20 initial evaluations of that butt that may be leading them in a
21 different direction, and at the same time they were looking at
22 all those phone numbers that Ella had had contact with
23 immediately prior to her death, and they learned that one of
24 those numbers was 843-535-3480. That was the last number that
25 Ella had contact with before her phone went silent.

1 Unfortunately, when they went to determine who was the
2 owner of that phone and that number, it was a TracFone. They
3 could not get any information for that phone, but again, they
4 talked with Jamie Campbell, and she provided additional
5 information.

6 As they were talking with her, they asked her, you know,
7 Ella had contact with this number, 535-3480. Are you familiar
8 with that number? And she was very familiar with that number
9 because that number belonged to her boyfriend, JeJauncey
10 Harrington, and she did not understand why her boyfriend would
11 be having such contact with her good friend, Ella Lowery.

12 So the investigation began to shift and try to determine
13 why JeJauncey Harrington was the last person who had this last
14 several texts and calls with Ella prior to her death and was
15 the actual last phone call she made. As they were doing that,
16 they began to gather more information about where he was.
17 They wanted to talk to him, but they couldn't locate him.
18 They asked Jamie about where he was. She had not been able to
19 reach him. As the investigation had progressed, she had not
20 been able to get him to return her phone calls.

21 So they -- they were trying. Law enforcement was trying
22 to locate him, and she provided them with information about
23 the vehicle he was driving. That was the Mitsubishi Eclipse,
24 which was dark in color, black. It actually was titled in her
25 name, Jamie Campbell, and she had not given him permission to

1 drive that vehicle. There had been some issues. His license
2 was suspended. The car was in her name, the insurance was in
3 her name, and she had told him to park it and not to drive the
4 vehicle, but now he was not returning her phone calls and they
5 could not locate him.

6 So as a result of all of those conversations, law
7 enforcement, after making contact with Mr. Harrington's family
8 and being unable to get him to come in, they issued a warrant
9 for unlawful use of a vehicle without the owner's permission
10 based upon Jamie Campbell's statement. That warrant was
11 entered into NCIC, and they began trying to locate JeJauncey
12 Harrington that way.

13 As they were waiting to get a hit on that or locate him
14 in some way using that information in NCIC, they continued to
15 question witnesses who were connected to Harrington. So they
16 went to Rockingham, North Carolina, where they questioned
17 several people. Harrington had been working in the months
18 prior to the murder at Purdue in Rockingham and actually had
19 stayed some with an individual up there he was related to, and
20 so he had developed some close contacts there.

21 And when law enforcement interviewed those people, they
22 indicated, yes, they had seen Mr. Harrington. They had seen
23 him on around Tuesday, May the 9th, which would have been the
24 Tuesday following the murder, and that he had come to
25 Rockingham and that they had had -- he had been there much of

1 the day and had spent some time with him. And during that
2 time, they discussed with him the fact that they knew that law
3 enforcement was looking for him and wanted to talk with him
4 about the murder of Ella Lowery and the missing child, and he
5 was encouraged to come -- to come back to Bennettsville, talk
6 to law enforcement, and get things straight.

7 But he did not do that. He went from there to Charlotte
8 because it was a couple of days later that Charlotte-
9 Mecklenburg police picked up on their license plate reader the
10 black Mitsubishi Eclipse that was being driven by Harrington
11 there. He was immediately stopped and arrested. Law
12 enforcement from Marlboro County went to Charlotte, picked him
13 up, and returned him here, and the investigation continued.

14 When the word got out in Marlboro County that Harrington
15 had been arrested and was being questioned with regard to this
16 incident, over in the McColl area, New Bridge Road, there was
17 a witness who knew Harrington, and actually Harrington had
18 grown up around him on New Bridge Road on property around him.

19 Harrington's family owned the property, which was
20 adjacent to his property and, in fact, Harrington had cut the
21 grass at his house when he was younger. And when he learned
22 -- when he and his girlfriend learned that Harrington was a
23 suspect potentially, he determined that maybe there might be
24 something on my surveillance video because he often came out
25 to that New Bridge Road area. His family still owns some of

1 that property. So he said I'm going to go look at that, and
2 he did.

3 Lo and behold, when he looked at that video, what did he
4 see but a black Mitsubishi Eclipse, which matched the vehicle
5 that the defendant drove, coming out in the middle of the
6 night on May the 5th from the abandoned house on the property
7 across the street from Mr. LaBean. And when it was coming out
8 suspiciously, it cut the lights off and drove up the road with
9 the lights off in front of his house toward the bridge where
10 ultimately Iyana's body was found.

11 So he -- Mr. LaBean, the witness who had this
12 surveillance video, called the Sheriff's Office, reported this
13 and, as a result, law enforcement obviously came out. They
14 began a search of that area, the abandoned property across the
15 street from Mr. LaBean's home, and the following morning as
16 soon as day broke, they spread out and started going through
17 the wooded area. They very quickly found Ella's bank card and
18 some receipts on the ground there next to the abandoned house
19 on that property. So they knew they were in the right -- on
20 the right path.

21 So the search was getting hot and heavy at this point,
22 Your Honor. They knew that they had to be close to Iyana.
23 This was actually on the morning of May the 14th, 2017. It
24 was a Sunday morning, and it was Mother's Day. At about
25 midmorning, one of the officers who was there on the bridge

1 just a little ways up the road from the abandoned house where
2 Ella's cards and information were found looked out into Gum
3 Swamp Creek and saw what appeared to be a body floating in the
4 water. Officers came. They recovered the body.

5 THE COURT: Was this in a creek or a pond?

6 MS. MUNNERLYN: In a creek. Swamp -- or Gum Swamp Creek.

7 THE COURT: Okay.

8 MS. MUNNERLYN: They recovered the body, and she was
9 taken to SLED for the autopsy. And as you know, SLED made a
10 determination and will testify to you that that body was, in
11 fact, Iyana's body.

12 And so it's going to come down to the cigarette butt,
13 which you will hear from SLED analysts had the defendant's DNA
14 on it at the crime scene. Connections to Ella Lowery include
15 phone records, which show approximately 800 contacts between
16 the defendant and Ella Lowery in the two months leading up to
17 her death. Connections to Iyana.

18 Another thing that the SLED analyst processed was the
19 Mitsubishi Eclipse. When they went to Charlotte and picked
20 the defendant up upon his arrest and processed his vehicle,
21 they processed the interior in the hatchback area and, as a
22 result of all of those analyses, they determined that Iyana's
23 DNA was inside the hatchback of that vehicle driven by
24 Harrington at his arrest.

25 The fourth box, the shoe prints, the bloody shoe prints,

1 you will hear from the analyst who will testify that the shoes
2 -- that the size 13 Nike Air Force 1s of the defendant are
3 consistent with the bloody footprints that were left in the
4 kitchen and under the carport there at the crime scene.

5 And finally, the location of Iyana's body. Iyana was
6 found there in Gum -- Gum Swamp Creek in a location that
7 JeJauncey Harrington is familiar with, where he grew up, where
8 his family still owns property, and where he still even in the
9 months leading up to this incident was going.

10 And so who can check these five boxes? There is only one
11 person, only one of those persons of interest they looked at
12 that can check all five of these, and that is JeJauncey
13 Harrington, Your Honor. Thank you.

14 THE COURT: Thank you.

15 Defense, you're recognized. Mr. Young?

16 MR. YOUNG: Thank you, Your Honor. May it please the
17 Court.

18 THE COURT: Yes.

19 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

20 MR. YOUNG: He didn't do it, couldn't have done it. The
21 defense's theory of the case is pretty simple, Your Honor, and
22 you don't need to look at anything more than the State's
23 evidence to know that.

24 When the police and law enforcement and the FBI and SLED
25 all got to the Lowery residence, they were desperate to find

1 Iyana Lowery, and nobody faults them for that. It's exactly
2 what they should have done, but their desperation leads to
3 assumptions, mistakes, and sometimes even falsehoods. We're
4 going to have a trial now based on those decisions that they
5 made at that time, which in hindsight looking back on it we
6 know were wrong.

7 Some of the things that we know about the case, the
8 police did arrest Dwayne Bright after he told them that he had
9 hit -- struck Ella Lowery with a knife. He offered to take
10 them to the knife. He had shoes in his house that were
11 consistent with the prints that Your Honor has already heard
12 about. They had blood on them, and they had Ella Lowery's DNA
13 on them.

14 We also know that Mr. Harrington was arrested in 2005 and
15 charged with murder. The courts have said it better than I
16 can by saying the stigma from such a public accusation of
17 wrongdoing is seldom wiped out by a subsequent judgment of not
18 guilty. Frequently, the public remembers the accusation and
19 still suspects guilt even after an acquittal, and that goes
20 double for law enforcement who don't want to admit that they
21 got something wrong. Third, Ella Lowery lived a lifestyle
22 that was dangerous and led to a laundry list of suspects that
23 I can't even begin to count.

24 Let's talk about the State's case. The shoe prints.
25 Your Honor has heard testimony about the shoe prints some and

1 is going to hear some more, but Your Honor knows that based on
2 the wear patterns of the shoe prints at the crime scene, they
3 do not belong to Mr. Harrington's shoes.

4 The cigarette butt and the DNA from Ella Lowery's nails
5 and the house. No one denies that Ella Lowery and JeJauncey
6 Harrington had a relationship, an intimate relationship that
7 went back years.

8 Every time somebody is victimized, some innocent person
9 was the last person to see them and to talk to them. We will
10 show you that JeJauncey Harrington wasn't the last person to
11 talk to her, but he was one of the last people to talk to her.
12 But that doesn't make him guilty of those crimes.

13 Did Mr. Harrington come forward to the police? No, he
14 didn't. He knew what they were going to do. They were going
15 to do exactly what they did, and that was to blame him.

16 Iyana's body was discovered near some property that
17 Harrington's family owns and had ties to. Cards and receipts
18 from Ella Lowery were taken from that property, but the
19 evidence will also show that that property is frequented by
20 people who are up to no good. You're going to see a video of
21 a car leaving that property on the morning of the murders.
22 There's not a video of when it got there, and there's nothing
23 to suggest that when that car left is when that evidence or
24 Iyana's body got there.

25 Iyana's DNA from the trunk. First, we don't know when it

1 got there. We don't know if it's blood. What we do know is
2 that JeJauncey Harrington and Ella had been together and that
3 he had been to her house, and that with today's DNA technology
4 it's pretty easy to transfer DNA from one location to another.
5 I think if you critically examine that DNA, you'll see that it
6 doesn't really tell you anything.

7 You've also heard some testimony about Mr. Harrington's
8 hand and a healing fracture that he had on his hand. You know
9 that what he told the medical personnel is consistent with
10 that fracture being approximately 10 weeks old, and that was
11 based on the calcification. There are no other injuries on
12 Iyana, you've heard from the medical examiner, that would be
13 consistent with her being beaten, and there are no cuts on Mr.
14 Harrington that would be consistent with knocking out
15 somebody's teeth.

16 The prosecution's case is wholly based on circumstantial
17 evidence where each circumstance must -- must not have a
18 reasonable innocent explanation in order for you to find Mr.
19 Harrington guilty beyond a reasonable doubt. The biggest
20 reason to doubt the government's case is the timeline, and I'm
21 going to show you a little bit about some of the evidence
22 that's going to come in regarding the State's timeline.

23 On 12:25 a.m., Mr. Harrington leaves his residence or
24 where he's staying at [REDACTED] Grace Street. At 1:08, you're going
25 to hear that they had -- he had contact with Ella Lowery at

1 that time. You'll see the phone records. You'll also see at
2 1:38, Ella gets a Facebook messenger call from another
3 individual, and it lasts for about 42 seconds.

4 Less than four minutes later, Mr. Harrington is pulling
5 back in to where he was staying at [REDACTED] Grace Street, four
6 minutes. At 1:47, he leaves Grace Street again. Now, the
7 State wants to claim that Mr. LaBean says he saw a car
8 arriving at this New Bridge Road property at approximately 2
9 a.m. We don't know. We'll have testimony about that, but
10 what we do know is that no video showing that has ever been
11 shown to exist.

12 This is at 4:11 a.m., a car, that car, does turn off its
13 lights and turn down New Bridge Road heading back towards the
14 bridge, and this is the car that they want to say that they --
15 I guess they're going to say that they can positively identify
16 it as a Mitsubishi, but Mr. Harrington's car has a pretty
17 distinguishing feature that you'll see in the other videos
18 where it drives under that streetlight because his car has a
19 white roof, and you can see that roof every time his car
20 drives up and down the street. He comes back home at 5:16
21 a.m. and leaves again at 7:11.

22 The evidence will show that the government's timeline
23 makes it impossible for Mr. Harrington to have committed these
24 crimes. Yes, it is reasonable for the police to have been
25 desperate to find Iyana and maybe that's why they rush to

1 judgment on Mr. Harrington, but it doesn't add up to anything
2 close to proof beyond a reasonable doubt.

3 THE COURT: Let me ask you since we're in a non-jury
4 setting, you said that -- did I understand you correctly to
5 say that Dwayne Bright had tennis shoes that were similar to
6 the blood tracks that were left in the garage?

7 MR. YOUNG: Yes, sir.

8 THE COURT: What type shoe did he have?

9 MR. YOUNG: Nike Air Force 1, size 12, red and tan.

10 THE COURT: And the blood prints were indeterminate 12 or
11 13? Is that kind of --

12 MR. YOUNG: That was our position, yes, sir.

13 THE COURT: All right. Thank you very much.

14 MR. YOUNG: Thank you, Your Honor. Can we take a short
15 break to get --

16 THE COURT: Yes. We'll stand at ease for five minutes.

17 (WHEREUPON, there was a break in the proceedings from
18 10:16 a.m. until 10:37 a.m., after which the proceedings
19 resumed as follows.)

20 THE COURT: Yes, ma'am, you're recognized.

21 MS. WEISS: May it please the Court. The State calls
22 Delores Lowery.

23 THE COURT: Ms. Lowery, I'm going to ask, if you could,
24 please, ma'am, to come forward, and I'm going to ask for you
25 to approach. Come over this way and place your left hand on

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1 the Bible and raise your right hand as the clerk administers
2 the oath.

3 THE CLERK: Do you solemnly swear or affirm that the
4 testimony you shall offer the Court in this case shall be the
5 truth, the whole truth, and nothing but the truth, so help you
6 God?

7 THE WITNESS: I do.

8 THE CLERK: Please be seated and state your full name for
9 the record.

10 THE COURT: I'm going to ask you, if you could, to take a
11 moment to get settled. Pull real -- pull up real close to
12 that microphone. I'm going to ask that you speak loudly,
13 clearly, and slowly in order that we can hear everything that
14 you have to say, and let's start with your full name, please,
15 ma'am.

16 THE WITNESS: Yes. My name is Delores Lowery.

17 DELORES LOWERY, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. WEISS:

21 Q: Good morning, Mrs. Lowery. How are you this morning?

22 A: I'm fine. I'm doing the best I can.

23 Q: If you can pull that microphone a little bit closer?

24 A: Closer?

25 Q: To make sure we can hear you.

1 A: Okay.

2 Q: Speak -- just make sure you speak up into that because
3 they've got to get down everything you say.

4 A: Okay.

5 Q: Thank you. Mrs. Lowery, tell us a little bit about
6 yourself, where you worked, where you grew up, about your
7 family?

8 A: Okay. I grew up here in Bennettsville, South Carolina.
9 I worked at BGF in Cheraw, South Carolina. I attend Sawmill
10 Baptist Church, where the pastor is Reverend JJ Anderson,
11 first lady Gloria Anderson, and I enjoy my city. I enjoy
12 being a citizen of Marlboro County, and I try to do everything
13 I can to keep going as well as I can. I love my city. I love
14 my community. I love the people.

15 Q: And how many children do you have?

16 A: I don't have any children now.

17 Q: How many did you have?

18 A: I had one daughter.

19 Q: And who was that?

20 A: Ella.

21 Q: And did you have any grandchildren?

22 A: I have -- I had two grandchildren, Iyana and Tyreon.

23 Q: And how old is Tyreon?

24 A: Tyreon is 16.

25 Q: And do you take care of Tyreon?

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1 A: Yes, I do.

2 Q: Can you tell us a little bit about Ty? You call him Ty;
3 right?

4 A: I call him Ty. Tyreon is a very, very sweet, very sweet
5 young man. He's autistic, but that does not hold him back.
6 He takes care of me when I'm feeling depressed. He comforts
7 me. He goes to school right here in Marlboro County. He
8 loves school. He loves playing with Legos. He loves to draw,
9 and now he's into writing stories. I'm very proud of my
10 grandson.

11 Q: And at the time of this incident, he was 10 years old?

12 A: Ten years old.

13 Q: And what was he like as a 10-year-old as far as being
14 able to communicate?

15 A: He -- he communicated with his sister, anything his
16 sister would tell him to do. When she would get home, she
17 would tell him you're going to play tea party with me, and he
18 would say, okay, and he would play tea with her, but he's
19 quiet. He's quiet. He's mostly to himself.

20 Q: And you said he's autistic?

21 A: Yes.

22 Q: Mrs. Lowery, where do you live in Bennettsville?

23 A: I live at [REDACTED] Craig Circle, Bennettsville, South
24 Carolina.

25 Q: And is that in Marlboro County?

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1 A: Yes, it is.

2 Q: And is that where you lived in May of 2017?

3 A: That's the same address. That's where I live.

4 Q: How long have you lived there?

5 A: A little over 25 years.

6 MS. WEISS: I beg the Court's indulgence. I'm just
7 showing the defense.

8 (WHEREUPON, there was a pause in the proceedings, after
9 which the proceedings resumed as follows.)

10 THE COURT: Ms. Weiss, you may proceed.

11 MS. WEISS: Thank you, Your Honor.

12 BY MS. WEISS:

13 Q: Ms. Lowery, I'm going to show you a stack of pictures and
14 just see if you've had a chance to look through the pictures
15 that were taken at your home the day that crime scene came out
16 to take pictures of your home. You've had a chance to look at
17 these pictures before?

18 A: Yes.

19 Q: Okay. I'm going to show you these pictures and make sure
20 you still recognize them.

21 A: Okay.

22 MS. CRAYTON: Your Honor, the defense does not have an
23 objection to those photos being admitted.

24 BY MS. WEISS:

25 Q: Ms. Lowery, do you recognize these as all being photos

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1 from your home?

2 A: Yes.

3 MS. WEISS: Your Honor, the State would move to admit
4 State's Exhibits 205 through 242.

5 THE COURT: That are into evidence without objection from
6 the defense.

7 (WHEREUPON, State's Exhibits No. 205 through 242,
8 photographs, were admitted into evidence.)

9 BY MS. WEISS:

10 Q: Ms. Lowery, I'm going to show you what's been admitted as
11 State's Exhibit 206. Do you recognize that photo?

12 A: Yes, I do.

13 Q: And what is that a photo of?

14 A: That's my home. That's my daughter's car up under the
15 car porch [sic]. That's my van, and that's my daddy's car in
16 the back, the white Mercury.

17 Q: And this is the house that you just described?

18 A: Yes, ma'am.

19 Q: That you currently live in?

20 A: I currently live there.

21 Q: And this how it looked on May 5th, 2017?

22 A: That's exactly how it looked.

23 Q: I'm going to show you what's been admitted as State's
24 Exhibit 205. Pretty much the same picture, but do you recall
25 the -- when the caution tape was put around your house? Do

1 you remember seeing that that day?

2 A: I don't remember seeing that.

3 Q: Okay. But that was -- but that is the scene of where the
4 -- of where you called law enforcement from?

5 A: Yes, that's right.

6 Q: Now, as we get a little bit closer, this is your front
7 porch?

8 A: That's my front porch.

9 Q: Okay. And what is significant as far as you remember
10 about the front porch? Did you go in and out the front door?

11 A: Not very often.

12 Q: Okay. Where -- where did you go in typically?

13 A: On the side up under the car porch right there.

14 Q: Okay. And -- but it's very close -- very close to that
15 front porch?

16 A: That's right.

17 Q: But you would park -- you showed before you would part
18 over next to the car in the carport?

19 A: Right.

20 Q: And you would enter in these steps?

21 A: That's right.

22 Q: Okay. On the day -- the morning that you came home on
23 May 5th, 2017, did you come out this door at some point after
24 you went in the house?

25 A: After I went in the house, when I called 9-1-1, then I

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1 came out the front porch.

2 Q: You came out the front porch? So you didn't go back
3 through that way?

4 A: I didn't go back through that way that day.

5 Q: And State's Exhibit 208 is also -- that's part of your
6 front porch?

7 A: That's right.

8 Q: And that's the [REDACTED] Craig Circle?

9 A: That's right.

10 Q: State's Exhibit 209. That's just the floor mat that you
11 had at the door? It's a door mat?

12 A: That's right.

13 Q: And then another picture, but that was your door, the
14 front door?

15 A: That's right.

16 Q: State's Exhibit 216. If you go inside that front door,
17 what would you describe that room as when you walk in the
18 front door?

19 A: That's my front room, my living room.

20 Q: So your formal -- formal living room?

21 A: My formal living room. That's right.

22 Q: I'm going to show you State's Exhibit 212. Do you
23 recognize that phone?

24 A: Yes, I do. That's my telephone.

25 Q: And that's your telephone?

1 A: That's right.

2 Q: And is that a landline or a cell phone?

3 A: That's a landline.

4 Q: That was the landline to your house?

5 A: That's right.

6 Q: And is that -- and that's your phone?

7 A: Yes.

8 Q: That's your phone?

9 A: That's right.

10 Q: And that's the bench on your front porch where you called

11 9-1-1?

12 A: I called 9-1-1 from inside the house.

13 Q: Right. But that was the phone -- I'm sorry -- that you

14 called 9-1-1 from?

15 A: That's right.

16 Q: I'm going to show you State's 214. That's the phone

17 where you called 9-1-1?

18 A: That's the phone.

19 Q: State's Exhibit 243. Have you had the opportunity to

20 listen to the 9-1-1 call?

21 A: Yes, ma'am.

22 Q: And do you recognize your voice on that call?

23 A: Yes, I do.

24 Q: And does it accurately represent what your call and what

25 you were going through when you called and spoke to 9-1-1 that

DELORES LOWERY - DIRECT BY MS. WEISS

1 day?

2 A: Yes, I do.

3 MS. WEISS: Your Honor, at this time the State would like
4 to admit State's Exhibit 243, which is the 9-1-1 call.

5 MS. CRAYTON: Without objection.

6 THE COURT: It's into evidence.

7 (WHEREUPON, State's Exhibit Number 243, 9-1-1 call on
8 disk, was admitted into evidence.)

9 MS. WEISS: Your Honor, at this time, I'd like to publish
10 State's Exhibit 243.

11 (WHEREUPON, State's Exhibit Number 243, 9-1-1 call, was
12 played in open court. Not transcribed herein.)

13 BY MS. WEISS:

14 Q: Ms. Lowery, I'm sorry we're having to do this, but do you
15 remember what day you made that phone call?

16 A: May the 5th.

17 Q: What year?

18 A: '17.

19 Q: And you said that you had just walked in from work, and
20 you said you worked at BGF?

21 A: That's right, in Cheraw, South Carolina.

22 Q: In Cheraw? What did you do there?

23 A: A weaver.

24 Q: You were a weaver?

25 A: That's right.

1 Q: And you worked third shift?

2 A: Third shift.

3 Q: So what time did you get off?

4 A: I got off at 8 o'clock.

5 Q: And if you got off at 8 o'clock in Cheraw, about what
6 time would you be home?

7 A: About 8:30, 8:15, somewhere in between there.

8 Q: And when you got home at 8:30 or between 8:15 and 8:30 on
9 a typical day, not May the 5th, but before that, what would
10 typically be going on on a regular day in your home?

11 A: Basically, nothing. My daughter would be there and
12 sometimes she would have breakfast waiting on me or we would
13 go out to get something to eat, but I mean we would talk and
14 discuss things and she would clean the house and, eventually,
15 I would go to bed.

16 Q: Would the kids still be there when you got home?

17 A: No. She would be already taken them to school.

18 Q: Okay.

19 A: Most of the time she would take them to school.

20 Q: And when you got home that morning and you pulled up,
21 from pulling up outside your house, I'm showing State's
22 Exhibit 206. That morning when you pulled in, was there any
23 sign to you pulling in that anything was wrong that morning?

24 A: I pulled in like I normally would pull in every morning.
25 Nothing when I pulled in didn't seem out of place.

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1 Q: Okay. And when you got out of your car, you went inside
2 the carport?

3 A: Yes. I went up under my car porch.

4 Q: I'm showing you State's Exhibit 219. So you would come
5 around and come up these steps?

6 A: That's right.

7 Q: To that door? So you had a storm door that would open to
8 the outside?

9 A: That's right.

10 Q: Then you had another door that would open to the inside?

11 A: That's right.

12 Q: And when you got to the steps that morning, did you
13 notice anything at that point that was out of place?

14 A: Yes, I did.

15 Q: And what was that?

16 A: There was a cigarette butt on the step.

17 Q: I'm showing State's Exhibit 221. That's the step that
18 you're talking about?

19 A: That's the step.

20 Q: And is that what you're referring to as the cigarette
21 butt?

22 A: That's right.

23 Q: And what struck you about that being on your step?

24 A: No one in my house smoked.

25 Q: Did you allow people to go outside to the -- outside to

DELORES LOWERY - DIRECT BY MS. WEISS

1 the carport to smoke if they were going to smoke?

2 A: If they were going to smoke, they would have to go
3 outside way, way beyond the carport because I don't allow
4 smoking.

5 Q: So what were you thinking when you saw that cigarette
6 butt?

7 A: I was just -- I was stunned. I was stunned when I saw
8 the cigarette butt and then I felt kind of funny, you know,
9 because when I saw that butt, that has never happened before.

10 Q: Did you touch it at all?

11 A: I didn't touch it.

12 Q: What did you do next after you saw that?

13 A: I put the key in the door. I put my key in the door, and
14 I opened the door.

15 Q: I'm showing you State's Exhibit 220. I'm sorry. I'm
16 trying to see. Okay. I think we can see that. You said you
17 put your keys in the door?

18 A: That's right.

19 Q: I know it's a little bit hard to see, but are those your
20 keys still in the door?

21 A: They're still in the door.

22 Q: So you opened the storm door out this way?

23 A: Yes.

24 Q: And pushed the door in that way, and what happened when
25 you stepped in the door?

DELORES LOWERY - DIRECT BY MS. WEISS

1 A: My daughter was laying face down on the floor.

2 Q: What was the first thought that went through your mind?

3 A: First thing when I walked in and I saw her, I said,

4 Treece, get up off that floor. She never done nothing like

5 that before. I said get up off the floor, and I walked. As I

6 walked in a little further, I noticed that a lot of things was

7 out of place, and that's when I saw the puddle of blood and

8 that's when I started hollering and screaming.

9 Q: I'm going to show you this up close because it's not

10 showing well on the screen. On 220, can you see right inside

11 your door?

12 A: Yes.

13 Q: And is there something sitting on the edge of the couch

14 right inside the door?

15 A: Yes. That's my pocketbook and my work bag.

16 Q: And so that's what you were carrying when you stepped in

17 the door?

18 A: When I stepped in the door, that's what I was carrying.

19 Q: I am going to show you State's Exhibit 242. Do you

20 recognize those items?

21 A: Yes, I do.

22 Q: Okay. And what are they?

23 A: That's my pocketbook and my work bag and my lunch bag.

24 Q: Okay. And you take that to work with you when you work

25 third shift?

1 A: That's right.

2 Q: And that's the edge of the couch right inside the door?

3 A: That's right.

4 Q: So you walked in and set those down?

5 A: I put them down.

6 Q: And then directly to the right of the door -- so that's

7 directly in front of the door. Directly to the right, I'm

8 going to show you State's Exhibit 222. Do you recognize that

9 item?

10 A: Yes, I do.

11 Q: And what is that?

12 A: That's my cell phone.

13 Q: And did you have that with you when you were at work?

14 A: At work?

15 Q: Would you take it with you to work?

16 A: Yes, I did.

17 Q: Okay. And so you would have had it when you walked back

18 in the door?

19 A: Yes.

20 Q: And that table, you can kind of see the brown table that

21 it's sitting on, that's right inside your door to the right?

22 A: That's right.

23 Q: Okay. I'm going to show you State's Exhibit 223. Is

24 that the same phone?

25 A: That's the same phone.

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1 Q: And how do you know that's your phone?

2 A: Because I was paying Juanita Byers, and that's her
3 wedding picture and her husband's wedding picture and I had it
4 on my phone.

5 Q: When you were working as a weaver, were there a certain
6 pair of shoes that you used to wear to work?

7 A: Yes.

8 Q: And what were those?

9 A: They were comfortable. They were not clogs, but they
10 were close to clogs, closed shoes.

11 MS. WEISS: Your Honor, I'm going to show the witness
12 State's Exhibit 247 [sic] for identification.

13 BY MS. WEISS:

14 Q: Do you recognize these shoes?

15 A: Yes. Those are my shoes.

16 Q: Those are your shoes?

17 A: That's right.

18 MS. WEISS: And, Your Honor, at this time I would like to
19 admit State's Exhibit 247 into evidence.

20 THE COURT: Any objection from the defense?

21 MS. CRAYTON: No, Your Honor.

22 THE COURT: They're into evidence.

23 (WHEREUPON, State's Exhibit Number 249, pair of shoes
24 belonging to Delores Lowery, was admitted into evidence.)

25 BY MS. WEISS:

DELORES LOWERY - DIRECT BY MS. WEISS

1 Q: And those would have been the shoes you were wearing when
2 you walked in that night?

3 A: That's right.

4 Q: Now, I want to go through and talk --

5 MR. YOUNG: Your Honor?

6 Q: -- a little bit about the layout of your house.

7 MR. YOUNG: I'm sorry to interrupt. Can you give me that
8 number one more time? I think I wrote it wrong.

9 MS. WEISS: 247.

10 MS. CRAYTON: 247 or 249?

11 MS. WEISS: 249. I can't read my own writing. I'm
12 sorry. Yeah, 249. Thank you.

13 BY MS. WEISS:

14 Q: I just want to walk you through and help the Court to
15 understand sort of the layout of your house. We talked about
16 coming in the front door. So I'm going to start orienting
17 from the front door where your formal living room is. State's
18 Exhibit 224. So you walk in -- these are not -- I can't get
19 it aligned. Sorry. But when you walk in, that's your formal
20 living room?

21 A: That's right.

22 Q: That's the room right here. Are there any exits off that
23 side of the room, off the right side of the room?

24 A: No. No exits.

25 Q: So the only way once you walk in the front door to get

DELORES LOWERY - DIRECT BY MS. WEISS

1 into the rest of the house is this door right here?

2 A: Yeah. You walk -- to get in the front, you have to -- to
3 get in the front, you would come through the front door. If
4 you went to the side --

5 Q: Right. But if you walk in the front door through this
6 living room, you go through this door right here to get into
7 the rest of the house?

8 A: That's right.

9 Q: Okay. And what's immediately through that door?

10 A: Just the kitchen.

11 Q: That's your kitchen area?

12 A: That's right.

13 Q: That's State's Exhibit 225. Okay. I'm going to show you
14 State's Exhibit 226. This is facing back towards that door we
15 just came from in your kitchen?

16 A: That's the kitchen.

17 Q: So you have your refrigerator here?

18 A: That's right.

19 Q: That's the -- that's the front door right there?

20 A: That's right.

21 Q: Okay. State's Exhibit 226. So if you're standing right
22 here in your kitchen, just like this picture shows, facing
23 your front door, what is to the left?

24 A: That's my -- my den and kitchen area.

25 Q: Okay. And so you call that a kitchen area as well?

DELORES LOWERY - DIRECT BY MS. WEISS

- 1 A: Right. That's right. Den and kitchen area.
- 2 Q: And what all is in that area?
- 3 A: I have a sofa and my dining table and my computer, the
- 4 computer and some other odds and ends.
- 5 Q: Okay. And if you walk straight that way, do you -- is
- 6 that where the carport door is?
- 7 A: That's right.
- 8 Q: Okay. Now, if we're standing here and we turn to the
- 9 right, what do you see when you go down to the right?
- 10 A: Bathroom and bedroom.
- 11 Q: But it's a hallway that way?
- 12 A: It's a hallway.
- 13 Q: All right. I've got 227. I'm going to show you State's
- 14 Exhibit 229. Okay. That's the hallway --
- 15 A: That's right.
- 16 Q: -- that we're talking about? If you would for the Court,
- 17 if you would talk about when you're looking down that hallway,
- 18 what is the first room here on the left?
- 19 A: That's Tyreon's bedroom.
- 20 Q: Okay. And then this doorknob here?
- 21 A: That's a closet.
- 22 Q: And then the next?
- 23 A: My daughter's bedroom.
- 24 Q: Okay. And if go across the hall?
- 25 A: That's the linen closet.

DELORES LOWERY - DIRECT BY MS. WEISS

- 1 Q: That's a linen closet? And then --
- 2 A: A bathroom.
- 3 Q: A bathroom and --
- 4 A: My bedroom.
- 5 Q: Okay. And they're all right next to each other down this
- 6 hallway?
- 7 A: That's right.
- 8 Q: There's no other door to exit the house this way?
- 9 A: No.
- 10 Q: And you said that your grandson Tyreon's room was to the
- 11 left and that your daughter Ella's room was to the left, but
- 12 where did Iyana sleep?
- 13 A: She slept with her mother.
- 14 Q: Okay. And that would be Ella, that she slept in Ella's
- 15 room?
- 16 A: That's right.
- 17 Q: I'll show you State's Exhibit 231. Okay. This is just
- 18 another picture of that same hallway --
- 19 A: That's right.
- 20 Q: -- that you were talking about?
- 21 A: That's right.
- 22 Q: And this room here with the pockets on the outside and
- 23 the blue wall, the first one on the left, you said that was
- 24 Tyreon's?
- 25 A: Tyreon's.

DELORES LOWERY - DIRECT BY MS. WEISS

- 1 Q: Did Tyreon and Ella -- I mean did Tyreon and Iyana spend
2 time in that room?
- 3 A: They spent time in that room.
- 4 Q: So let me show you State's Exhibit 234. Do you recognize
5 that photo?
- 6 A: Yes.
- 7 Q: And what is that a picture of?
- 8 A: That's in Tyreon's room.
- 9 Q: Okay. And how do you know that's Tyreon's room?
- 10 A: Well, one thing, the wall is blue, and the lamp and his
11 things are in there.
- 12 Q: Okay. And in this area right up here, what did -- what
13 else is kept in that room?
- 14 A: That's Iyana's chair and toys, toys and stuff, just odds
15 and ends stuff that they normally play with.
- 16 Q: And she would play with them in --
- 17 A: Oh, yes.
- 18 Q: -- in Ty's room?
- 19 A: Ty's room.
- 20 Q: Would you say they were close?
- 21 A: They were very close.
- 22 Q: I'm going to show you State's Exhibit 236. Do you
23 recognize this room?
- 24 A: That's my room.
- 25 Q: Okay. And so that would have been across diagonally

DELORES LOWERY - DIRECT BY MS. WEISS

- 1 across from Tyreon's room?
- 2 A: More like across from Treece's room.
- 3 Q: So sort of diagonally across?
- 4 A: From Tyreon.
- 5 Q: And State's Exhibit 237?
- 6 A: That's my room.
- 7 Q: Okay. Just another angle? I'm going to show you State's
- 8 Exhibit 240. What is that a photo of?
- 9 A: That looks like the linen closet.
- 10 Q: In the hallway?
- 11 A: In the hallway.
- 12 Q: And finally -- finally, the last room we're going to talk
- 13 about, 238. Do you recognize this room?
- 14 A: That's Tree's room.
- 15 Q: And when you say Tree, just --
- 16 A: Ella.
- 17 Q: -- to be clear, so you call -- what was the name that you
- 18 affectionately called her?
- 19 A: I always called her Treece.
- 20 Q: Tree?
- 21 A: Treece.
- 22 Q: Treece? Okay. So when you say Treece, that's Ella?
- 23 A: That's Ella.
- 24 Q: Okay. So that was Ella's room?
- 25 A: That's right.

1 Q: And she slept in there with Iyana?

2 A: That's right.

3 Q: Now, you said that you walked in the door, you kind of
4 noticed at that point once everything sunk in that there was
5 blood and Ella was on the floor face down and so you ran to
6 the back screaming, looking for who?

7 A: I was looking for Tyreon and Iyana. I was looking for
8 them.

9 Q: And where did you go to look for them?

10 A: I ran -- Tyreon ran out the room. He ran out his
11 bedroom, and I said where's Iyana. He said gone to school,
12 but he was -- he was kind of -- I could tell he was still half
13 asleep. So I ran in my daughter's room. I ran in Ella's
14 room, and I noticed how tore up it was and I couldn't find
15 Iyana. I didn't find Iyana.

16 Q: Were you looking for her?

17 A: I was looking for her.

18 Q: Were you calling for her?

19 A: I was hollering for her.

20 Q: I'm going to show you State's 239. Do you recognize --
21 do you recognize this photograph?

22 A: Yes, I do.

23 Q: And what stands out to you in this photograph?

24 A: The stuff that's on the bed.

25 Q: And is that the way you found it?

DELORES LOWERY - DIRECT BY MS. WEISS

1 A: That's the way I found it.

2 Q: And is that the way she would typically leave things?

3 A: No.

4 Q: So the top of the picture over here, do you know what
5 that is?

6 A: I can't --

7 Q: I'll show you the picture.

8 A: That's her pocketbook. I believe that's her pocketbook.

9 Q: So her pocketbook is sitting on the bed, her tablet is
10 sitting on the bed, and then this is completely tossed out and
11 around?

12 A: That's right.

13 Q: And did you touch that at all or move any of that once
14 you got home?

15 A: No, I did not touch it.

16 Q: What did you think once you saw that though?

17 A: Something had happened. Somebody had been in the house
18 and disturbed everything.

19 Q: Okay. This is a little bit of a look into your -- your
20 kitchen area where your dining room table is. Do you
21 recognize the couch being in that area and the door here with
22 your stuff on the couch?

23 A: Yes.

24 Q: Okay. And do you see a piece of clothing that's crumpled
25 up here?

1 A: Yes.

2 Q: Do you know what that is?

3 A: I'm not sure if that's a shirt, Iyana's shirt, a top.

4 Q: And just to be clear for the Court and we're not showing
5 it to you, but this is also where you found Ella?

6 A: That's right.

7 Q: So she is approximately right here in front of the couch?

8 A: That's right.

9 Q: And that shirt was laying right there? You didn't
10 disturb that?

11 A: No, I didn't.

12 Q: Do you recognize State's 241?

13 A: Yes.

14 Q: What is that?

15 A: That's Iyana's shirt.

16 Q: And why do you know that's Iyana shirt?

17 A: We -- we bought it. I can't remember if we bought it at
18 the beach from the beach, but that's a shirt. She loved that
19 shirt.

20 Q: And did you help identify photos for law enforcement to
21 use when they were searching for Iyana?

22 A: I really -- I probably did, but in my mind I just don't
23 remember. But I probably did.

24 Q: Do you recognize State's 248?

25 A: Oh, yes. Yes. That's my baby, my granddaughter.

DELORES LOWERY - DIRECT BY MS. WEISS

1 Q: And is that an accurate depiction of how she looked?

2 A: Yes.

3 Q: In May of 2017?

4 A: Uh-huh.

5 Q: And what is significant to you about this picture?

6 A: She's so pretty, and she's wearing the same shirt.

7 MS. WEISS: I'd like to move State's Exhibit 248 into
8 evidence.

9 MS. CRAYTON: No objection.

10 THE COURT: It's into evidence.

11 (WHEREUPON, State's Exhibit Number 248, photograph, was
12 admitted into evidence.)

13 BY MS. WEISS:

14 Q: You said that you ran to the back, Ty came out of the
15 room, you searched for Iyana, couldn't find Iyana?

16 A: That's right.

17 Q: And you saw Ella's room like that. What happened next?

18 A: I called 9-1-1. I had to call 9-1-1.

19 Q: And that was the call we just listened to?

20 A: That's correct.

21 Q: What's the next thing that you remember?

22 A: I remember law -- I remember law enforcement coming, and
23 they gave Tyreon a shirt and they -- they told us to go on the
24 porch, to get on the porch, and the rescue squad -- they came,
25 and she came out. They came out. When they came out, she

DELORES LOWERY - DIRECT BY MS. WEISS

1 shook her head. She looked at me and shook her head.

2 Q: And what happened next?

3 A: I just -- they got me and Ty. I can't remember. One of
4 the deputies, and they put us -- they walked us to the -- I
5 think it was a truck, and he took us to the Sheriff's
6 Department and took us there, and from there somebody came and
7 picked me up from the Sheriff's Department. I'm kind of
8 blank, but when I got home, they called the rescue squad and
9 they took me to the hospital.

10 Q: They took you to the hospital?

11 A: They took me to the hospital.

12 Q: And why is that?

13 A: I guess I was going into a state of shock.

14 Q: And you said when you got home. Did you return to Craig
15 Circle that night?

16 A: No.

17 Q: How long was it before you returned to Craig Circle?

18 A: Over a year.

19 Q: Did you give a statement when you went to the police
20 station?

21 A: I don't think so.

22 Q: Do you remember talking to them and them asking you any
23 questions?

24 A: I remember they got my shoes.

25 Q: Okay.

DELORES LOWERY - DIRECT BY MS. WEISS

1 A: Everything else is a total -- total blank. I don't
2 remember talking. They probably did, but I don't remember it.

3 Q: Did you know Dwayne Bright?

4 A: Yes, I do.

5 Q: How did you know Dwayne?

6 A: He dated my daughter, Ella.

7 Q: How would you describe Dwayne Bright?

8 A: Dwayne was nice. He was very respectful. He was very
9 nice. He would help her come and do the Christmas tree.
10 Little odd things that she would ask him to do, he would do,
11 and they would do it together.

12 Q: Okay. And how would you describe him as far as size?

13 A: He was -- he was small. He was small. He was small, not
14 too tall, about my height.

15 Q: And as far as his weight?

16 A: Maybe about 145 -- 50 pounds.

17 Q: And were you aware of any issues or conditions that he
18 had?

19 A: Yes. He had seizures. He had seizures.

20 Q: And how do you know that?

21 A: He had one at my house, and my daughter -- she knew
22 exactly what to do and she took care of him when he had the
23 seizure. She picked him up, I think, but she would take --
24 she took care of him. It scared me, but she knew what to do.

25 Q: Do you know if she was dating anybody else at that time?

1 A: Not that I know of.

2 Q: Do you know if you gave law enforcement any other names
3 of people that she knew?

4 A: I don't remember.

5 Q: Okay. I have a couple more questions for you. I'm going
6 to show you State's Exhibits 244 through 247. Do you
7 recognize these cards?

8 A: Yes. Those are Ella's cards.

9 MS. WEISS: Your Honor, at this time, I'd like to admit
10 State's Exhibits 244 through 247.

11 THE COURT: Any objection?

12 MS. CRAYTON: No, Your Honor.

13 THE COURT: They're into evidence.

14 (WHEREUPON, State's Exhibits Number 244 through 247,
15 photographs of cards, were admitted into evidence.)

16 BY MS. WEISS:

17 Q: I'm going to show you State's Exhibit 244. You said you
18 recognize that as being --

19 A: Yes.

20 Q: -- one of Ella's cards. What -- what about that?

21 A: She worked at Walgreens for a while.

22 Q: Okay.

23 A: She worked there for a while.

24 Q: And State's Exhibit 247?

25 A: That was her debit card where she received her benefits

DELORES LOWERY - DIRECT BY MS. WEISS

1 for her children.

2 Q: Okay. So she received benefits for her children on that
3 card?

4 A: That's right.

5 Q: And did she ever lend that card out?

6 A: Oh, no.

7 Q: What was it supposed to be used for?

8 A: For the children. Clothing, whatever, whatever they
9 needed.

10 Q: And did you see her actually get that card?

11 A: Oh, yeah.

12 Q: Get those cards? That's what the money was put on from
13 the government?

14 A: That's right.

15 Q: Okay. And how do you -- how do you specifically remember
16 that that's what they looked like?

17 A: Because I have one too with hers, whenever she would get
18 mine.

19 MS. WEISS: I beg the Court's indulgence one moment.

20 Ms. Lowery, again, thank you for being here. I apologize
21 for having to bring this all back up. Please answer any
22 questions the defense may have.

23 THE COURT: The defense is recognized.

24 MS. CRAYTON: Thank you, Your Honor.

25 CROSS-EXAMINATION

DELORES LOWERY - CROSS BY MS. CRAYTON

1 BY MS. CRAYTON:

2 Q: Good morning, Ms. Lowery.

3 A: Good morning.

4 Q: Ms. Lowery, I want to talk about your work schedule a

5 little bit, if that's okay?

6 A: Okay.

7 Q: You said you were working for BFG Industries? Is that in

8 --

9 A: In Cheraw, South Carolina.

10 Q: Yes, ma'am. So about how far is Cheraw from your house?

11 A: It's about 14 miles.

12 Q: So that takes you a little bit of time then?

13 A: Yeah, about 14 to 15 minutes.

14 Q: Okay. So --

15 A: Twenty minutes.

16 Q: Yes, ma'am. And so you had to start at what time each

17 night?

18 A: Twelve o'clock.

19 Q: Okay. So about what time would you leave your house?

20 A: About 11:30.

21 Q: Yes, ma'am. And on that night, you left about that time?

22 A: That's right.

23 Q: Now, would the children be up usually or would they be in

24 bed?

25 A: It depends. Sometimes they would be up, you know, and

DELORES LOWERY - CROSS BY MS. CRAYTON

1 greet me at the door as I would get ready to leave. You know,
2 mostly Iyana would be up. They would stand to the door, just
3 "have a good night", you know.

4 Q: And did Ella work at that time?

5 A: No. No, she wasn't working.

6 Q: Okay. When you left your residence that night, do you
7 remember what Ella was wearing?

8 A: I really don't remember.

9 Q: Do you remember possibly telling law enforcement she was
10 wearing a black shirt and black pants?

11 A: I don't -- like I said, I don't remember telling them
12 that. I probably did, but I don't remember.

13 Q: Yes, ma'am. And I think that Ms. Weiss talked to you
14 about Dwayne Bright, and you remember him as being an ex-
15 boyfriend?

16 A: I remember him being a boy -- a boyfriend.

17 Q: Current boyfriend?

18 A: That's right.

19 Q: Okay. And you don't remember them breaking up?

20 A: I don't remember that.

21 Q: Okay. Do you remember telling law enforcement that that
22 was a bad relationship?

23 A: No, I don't remember telling law enforcement that.

24 Q: Okay. Do you remember telling law enforcement that he
25 called her all kind of names?

DELORES LOWERY - CROSS BY MS. CRAYTON

1 A: No, I don't remember that.

2 Q: You don't remember writing that in your written
3 statement?

4 A: No.

5 Q: Okay. Do you -- do you know someone named Clifton
6 Benjamin?

7 A: No, I don't.

8 Q: And you don't remember telling law enforcement about
9 Clifton Benjamin?

10 A: No.

11 Q: Okay. And you don't remember them asking you if he
12 smoked cigarettes?

13 A: No.

14 Q: Do you remember talking to law enforcement about Ella and
15 Clifton breaking up?

16 A: No, I don't.

17 Q: Do you remember talking to them about how she had just
18 told you on Monday night that she and Clifton had broken up?

19 A: No, I don't. I had no conversation that I remember about
20 nothing with a Clifton.

21 Q: Clifton Benjamin?

22 A: No.

23 A: I think Ella called him Cliff.

24 A: I don't remember. She never talked about a Cliff, no.

25 Q: Okay. I think that you possibly told law enforcement

DELORES LOWERY - CROSS BY MS. CRAYTON

1 that you spoke to her. I think that you talked to law
2 enforcement and gave a statement, an audio -- a video and
3 audio statement. Do you remember having a conversation with
4 one of the deputies in a room?

5 A: No, I don't.

6 Q: Okay. And then they had you write a statement as well.
7 You don't remember that?

8 A: No, I don't.

9 Q: Okay. Would you like to look this over?

10 A: Yes.

11 Q: Let me know when you're finished, Ms. Lowery.

12 A: All right. This is -- I'm finished.

13 Q: Okay. You can keep it. Ms. Lowery, on this, does this
14 look like your handwriting?

15 A: It look like my handwriting, but I don't remember it.

16 Q: And on the first page, is that your signature at the
17 bottom?

18 A: That's my signature.

19 Q: Okay. And on page 2, do you see where you talk about
20 Clifton Benjamin?

21 A: Yes, I do. I see that.

22 Q: And that they had stopped talking?

23 A: Let me see it again. Yes.

24 Q: And he kept calling, and she wouldn't answer. Is that
25 what you told law enforcement in that written statement?

DELORES LOWERY - CROSS BY MS. CRAYTON

1 A: I don't remember, but it's written right here and it
2 looks -- it looks like my handwriting, but I don't remember
3 having that conversation.

4 Q: And in that you see that you wrote that he kept calling,
5 she wouldn't answer his calls, and she told me this on Monday
6 about the phone calls from Cliff Benjamin?

7 A: I see that.

8 Q: And you also see at the bottom where you talk about
9 Dwayne Bright and you say at the very bottom this was a bad
10 relationship, he calls her all kinds of bad names, but she
11 wouldn't go into any details other than that? Do you remember
12 writing that?

13 A: I don't remember.

14 Q: But that's what that says in your writing, isn't it?

15 A: That's what it says in my handwriting, but I don't
16 remember writing this.

17 MS. CRAYTON: Court's indulgence, Your Honor.

18 Thank you, Ms. Lowery. I don't have any further
19 questions.

20 THE COURT: Any redirect?

21 MS. WEISS: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. WEISS:

24 Q: Ms. Lowery, you said that you don't -- you don't remember
25 the statement, you don't remember some of the things you said

DELORES LOWERY - REDIRECT BY MS. WEISS

1 in the statement about Mr. Bright?

2 A: That's right.

3 Q: And your memory of Mr. Bright when you knew him is what
4 you described?

5 A: The way I described him.

6 Q: And I believe in your statement the information that's
7 there is information that your daughter told you. That's not
8 anything -- based on what it says, that last line on the
9 statement, that was information that Ella had given you, based
10 on what you wrote?

11 A: Yes.

12 Q: But that's not anything you remember?

13 A: It would have to be what she said because I don't
14 remember it, but if that's what she gave me. But I didn't see
15 him that way like that.

16 MS. WEISS: Thank you.

17 MS. CRAYTON: Your Honor, we would like to move Defense
18 Exhibit 8 into evidence.

19 THE COURT: Any objection from the State?

20 MS. WEISS: No objection, Your Honor.

21 THE COURT: It's into evidence without objection from the
22 State.

23 (WHEREUPON, Defendant's Exhibit Number 8, written
24 statement of Delores Lowery, was admitted into evidence.)

25 MR. REDMOND: I beg the Court's indulgence.

DELORES LOWERY - REDIRECT BY MS. WEISS

1 MS. WEISS: Your Honor, may I beg the Court's indulgence
2 for one second?

3 THE COURT: Yes.

4 MS. WEISS: I have one thing.

5 BY MS. WEISS:

6 Q: Just one more question. Do you recognize what's in this
7 photo?

8 MS. CRAYTON: Your Honor, objection. I think that's
9 outside the scope of cross?

10 THE COURT: Let's see what it is. What -- what -- what
11 is it?

12 MS. WEISS: It's a picture of a blanket that -- just to
13 go back to what she does remember from that time, the things
14 that she doesn't remember and the things that she does.

15 THE COURT: To that extent, I'll allow it in for that
16 purpose.

17 BY MS. WEISS:

18 A: Yes. That's my blanket. That's a blanket.

19 Q: Okay. Do you -- do you remember this blanket?

20 A: I think I do. I'm not 100 percent sure, but I think
21 that's my blanket. I'm not sure.

22 Q: Okay.

23 A: Can I look at it a little closer? Yeah, that's a spread.
24 That's a comforter.

25 Q: Okay. And you remember that?

DELORES LOWERY - REDIRECT BY MS. WEISS

1 A: I remember it.

2 THE COURT: You need to keep your voice up so the court
3 reporter can hear you.

4 THE WITNESS: I'm sorry.

5 BY MS. WEISS:

6 A: I think I remember it, yes.

7 Q: And where was that kept?

8 A: I have a bin I keep my comforters in in my room. So it
9 would've had to be in that bin in that room.

10 Q: Thank you.

11 MS. WEISS: Your Honor, at this time, the State would
12 like to admit State's Exhibit 250.

13 THE COURT: Any objection?

14 MS. CRAYTON: No objection.

15 THE COURT: It's into evidence.

16 (WHEREUPON, State's Exhibit Number 250, photograph, was
17 admitted into evidence.)

18 MS. WEISS: Thank you, Your Honor. That's all from the
19 State, Your Honor.

20 THE COURT: We're approaching the lunch hour. Your next
21 witness, do you anticipate that to be a lengthy witness?

22 MR. REDMOND: I beg the Court's indulgence, Your Honor.

23 Depending on cross from what I understand -- and actually
24 Ms. Weiss -- it's her witness. I apologize for that, but
25 probably 15 minutes on direct. Can't speak for cross. Now,

1 the third witness --

2 THE COURT: I'll tell you what. We're going to -- we're
3 going to recess until 1:30.

4 MR. REDMOND: Yes, sir.

5 THE COURT: We'll see you then.

6 MR. REDMOND: Thank you, Your Honor.

7 THE COURT: And you may step down.

8 MS. WEISS: Your Honor, may Ms. Lowery be released from
9 her subpoena?

10 THE COURT: Yes. You're free to leave. Thank you.

11 (WHEREUPON, there was a break in the proceedings from
12 11:53 a.m. until 2:00 p.m., after which the proceedings
13 resumed as follows.)

14 THE COURT: You may call your next witness.

15 MS. MUNNERLYN: Thank you, Your Honor. The State calls
16 Billy Dail.

17 THE COURT: While -- while he's doing that, we need to
18 try to -- this is going to be a lengthy trial. We need to
19 start at 9:30, and we'll take a break typically from 12
20 o'clock to 1:30.

21 And I know there are times where you have delays because
22 of the number of documents or whatever. Let's try to plan to
23 where we can have something to do to start and start moving
24 forward at the assigned times, and at 9:30 we all ought to be
25 at the table.

1 MS. MUNNERLYN: Yes, sir.

2 THE COURT: At 1:30, we all need to be at the table. We
3 don't need to be looking for people. All right.

4 THE CLERK: Okay. All right. Do you solemnly swear or
5 affirm that the testimony you shall offer the Court in this
6 case shall be the truth, the whole truth, and nothing but the
7 truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Okay. If you'll just have a seat.

10 THE COURT: Come around, please, sir. I'm going to ask
11 you, if you could, to place your -- I'll ask you have a seat
12 in the witness chair and pull up real close to that microphone
13 and speak loudly, clearly, and slowly in order that we can
14 hear everything that you have to say. Let's start with your
15 full name, please, sir.

16 THE WITNESS: William Jimmy Dail.

17 THE COURT: You need to speak up so we can hear you.

18 THE WITNESS: William Jimmy Dail.

19 THE COURT: You're kind of soft-spoken. I noticed that
20 -- I noticed that the court reporter can hardly hear you. So
21 let's speak up. Let's try it one more time.

22 THE WITNESS: William Jimmy Dail.

23 THE COURT: All right. Very good.

24 MS. MUNNERLYN: Thank you, Your Honor.

25 WILLIAM DAIL, being first duly

BILLY DAIL - DIRECT BY MS. MUNNERLYN

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MUNNERLYN:

4 Q: State your full name for the record?

5 A: William Jimmy Dail.

6 Q: And where are you employed, Mr. Dail?

7 A: McLane Food Service, Concord, North Carolina.

8 Q: Okay. And in what capacity are you employed with McLane
9 Food Service?

10 A: General manager.

11 Q: Okay. And within your responsibilities, are you over
12 deliveries made to the Bojangles here in Bennettsville?

13 A: Yes, I am.

14 Q: Okay. And I'm going to show you what's been marked as
15 State's Exhibit 256. Do you recognize that document?

16 A: Yes, ma'am.

17 Q: Okay. Is that a document that is normally created by
18 your business in the normal course of business and it is a
19 business record that y'all keep during the normal course of
20 the business that you conduct?

21 MR. YOUNG: Your Honor, we have no objection to the entry
22 of that document.

23 MS. MUNNERLYN: Okay.

24 THE COURT: Very good. It's into evidence.

25 MS. MUNNERLYN: Thank you, Your Honor. So that's State's

BILLY DAIL - DIRECT BY MS. MUNNERLYN

1 Exhibit 256.

2 THE COURT: And if you need to publish that for the
3 record, now would probably be a good time to do it.

4 MS. MUNNERLYN: Okay. All right, Your Honor, and I do --
5 and I'm just going to ask him a couple of questions about it.

6 THE COURT: Sure.

7 MS. MUNNERLYN: And then I'll hand it up, Your Honor.

8 (WHEREUPON, State's Exhibit Number 256, business record,
9 was admitted into evidence.)

10 BY MS. MUNNERLYN:

11 Q: Your Honor -- or Mr. Dail, so tell us that particular
12 document is for which delivery?

13 A: It says Bojangles right here on 5/4/2017, Bojangles down
14 the street here. It shows the arrival times and exit times of
15 our truck at that location.

16 Q: Okay. And so on May the 4th of 2017, you had a delivery
17 truck make a delivery to Bojangles at what time?

18 A: The truck arrived at about 3 a.m. -- excuse me -- 1:20
19 a.m.

20 Q: It arrived at 1:20 a.m.?

21 A: Yes, ma'am.

22 Q: Here at the Bojangles located on Cottingham Boulevard
23 here in Bennettsville?

24 A: Yes, ma'am.

25 Q: Okay.

BILLY DAIL - DIRECT BY MS. MUNNERLYN

1 MS MUNNERLYN: Thank you, Your Honor.

2 BY MS. MUNNERLYN:

3 Q: Now, just a couple of questions about that. With -- how
4 are those arrival times -- how do they get into your records?

5 A: We have an auto arrive on our trucks. We have a GPS
6 locator on our truck, and when we crack a geo-fence around a
7 building, it automatically records the time of arrival and
8 dispatch.

9 Q: Okay. So automatically when a truck pulls up for a
10 delivery, when it stops, the GPS records that into the system?

11 A: Yes, ma'am.

12 Q: And so if there are any changes in those numbers, is it
13 reflected in your records?

14 A: It does. It shows edited.

15 Q: Okay. And does the sheet that you provided that's in
16 evidence now as State's Exhibit 256 show any edits having been
17 made?

18 A: No, ma'am.

19 Q: Okay. So those are the accurate times for the delivery
20 made to the Bojangles here on May the 4th, 2017?

21 A: Yes, ma'am.

22 Q: Okay.

23 MS. MUNNERLYN: Court's indulgence.

24 That's all we have, Your Honor.

25 THE COURT: Cross-examination?

BILLY DAIL - CROSS BY MR. YOUNG

1 MR. YOUNG: Thank you, Your Honor. I didn't -- Your
2 Honor, I don't know if the witness's mic is on.

3 THE COURT: I don't believe it is.

4 THE CLERK: I don't think it works.

5 THE COURT: It doesn't work. Just talk up loud.

6 MR. YOUNG: All right.

7 CROSS-EXAMINATION

8 BY MR. YOUNG:

9 Q: Mr. Dail, would you recognize the McLane truck if I
10 showed you a picture of it?

11 A: Yes, sir.

12 Q: All right. I'm going to show you what's been marked for
13 identification as Defense Exhibit Number 9 and ask you if you
14 recognize anything in that?

15 A: Yes, sir.

16 Q: And I'm going to show you what's been marked for
17 identification as Defense Exhibit Number 10 and ask you if you
18 recognize anything in that?

19 A: Yes, sir.

20 Q: All right. What do you recognize in those pictures?

21 A: This is our vehicle.

22 Q: That's your truck?

23 A: Yes, sir.

24 Q: And I -- have you looked at the Bojangles security film?

25 A: No, sir.

BILLY DAIL - CROSS BY MR. YOUNG

1 Q: Okay. But if I tell you that that's channel 7 from the
2 Bojangles, you wouldn't dispute that? I mean it could be?

3 A: It could be.

4 Q: Okay. And can you read what the time -- date and time
5 stamp is in the top left corner on Defense Exhibit Number 9?

6 A: It shows 20 minutes after midnight.

7 Q: Okay. And what day?

8 A: It's 5/4/2017.

9 Q: Okay. And that's the same day that you have on your
10 records as a truck going to the Bojangles; right?

11 A: Yes, sir.

12 Q: And the date and time on Defense Exhibit Number 10?

13 A: It's showing 1:18 on the same day.

14 Q: Okay. And does Defense Exhibit Number 9 appear to be the
15 truck pulling into the Bojangles?

16 A: It's hard to tell, but it could be, yes, sir.

17 Q: Okay. And the Defense Exhibit Number 10, is that the
18 truck leaving the Bojangles?

19 A: Yes, sir.

20 Q: All right.

21 MR. YOUNG: Your Honor, at this time I would offer
22 Defense's Number 9 and 10 into evidence.

23 THE COURT: Any objection?

24 MS. MUNNERLYN: Your Honor, my only objection I would
25 have is he can identify the truck in it, but he is referring

BILLY DAIL - CROSS BY MR. YOUNG

1 to where it is. I don't know that he has responded with
2 particularity. He's -- he's only testifying as to the
3 identity of the truck in the photos. So for those purposes, I
4 don't object, but for any other purpose, I would object
5 because he doesn't -- he didn't take these photos. He doesn't
6 work at Bojangles. He doesn't know.

7 MR. YOUNG: I do anticipate getting in the footage
8 through another witness, Your Honor.

9 THE COURT: Well, I'm going to allow that, but you're
10 going to be given wide latitude with regard to cross-
11 examination to what he does and doesn't know.

12 MS. MUNNERLYN: Okay.

13 MR. YOUNG: Thank you, Your Honor.

14 THE COURT: But they're into evidence.

15 (WHEREUPON, Defendant's Exhibits Number 9 and 10,
16 photographs, were admitted into evidence.)

17 MR. YOUNG: Your Honor, that's all the questions I have.

18 THE COURT: Redirect?

19 MS. MUNNERLYN: Yes, sir.

20 REDIRECT EXAMINATION

21 BY MS. MUNNERLYN:

22 Q: Mr. Dail, so you're not employed by Bojangles, are you?

23 A: No, ma'am.

24 Q: Okay. And so do you have access to their surveillance
25 equipment?

1 A: I do not.

2 Q: Okay. And do you know how that works?

3 A: I don't know anything about Bojangles.

4 Q: Okay. And you don't -- you don't know if their times are
5 right or wrong or their dates are right or wrong or anything
6 about their surveillance system, do you?

7 A: I sure don't.

8 Q: Okay. So with regard to Defendant's Exhibits 9 and 10,
9 do you know anything with regard to the -- the dates on those,
10 whether they're true and accurate?

11 A: No, ma'am, I do not.

12 Q: Okay. But that is you say -- you believe that's your
13 truck in the photos?

14 A: Yes, ma'am.

15 Q: Okay.

16 MS. MUNNERLYN: All right. I don't have any further
17 questions, Your Honor.

18 THE COURT: You may step down, and you're free to leave.
19 Thank you, sir.

20 THE WITNESS: Thank you, sir.

21 THE COURT: You may call your next witness.

22 MS. WEISS: Thank you, Your Honor. The State calls
23 Robert Hale.

24 (WHEREUPON, there was a pause in the proceedings until
25 the witness entered the courtroom, after which the

ROBERT HALE - DIRECT BY MS. WEISS

1 proceedings resumed as follows.)

2 THE COURT: Yes, sir. I'm going to ask, if you could,
3 come around and place your left hand on the Bible and raise
4 your right hand as the clerk administers the oath.

5 THE CLERK: Do you solemnly swear or affirm that the
6 testimony you shall give the Court in this case shall be the
7 truth, the whole truth, and nothing but the truth, so help you
8 God?

9 THE WITNESS: Yes, ma'am, I do.

10 THE CLERK: Be seated, please.

11 THE COURT: I'm going to ask, if you could, to come
12 around and have a seat in the witness chair. I'm going to ask
13 that you pull up real close to that microphone and speak
14 loudly, clearly, and slowly in order that we can hear
15 everything that you have to say. And this is a large,
16 cavernous room, and the microphone doesn't work about half the
17 time. So I'm going to ask that you keep your voice up so that
18 the court reporter can get everything that you're saying.
19 Does that sound fair?

20 THE WITNESS: Yes, sir.

21 THE COURT: Very good. Ms. Weiss?

22 MS. WEISS: Thank you, Your Honor.

23 ROBERT DALE, being first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. WEISS:

2 Q: Good afternoon, Mr. Hale.

3 A: Good afternoon.

4 Q: Can you please tell the Court where you're currently
5 employed?

6 A: The Bennettsville Police Department.

7 Q: And how long have you been at Bennettsville?

8 A: Ten years altogether.

9 Q: Okay. How long have you been there this time?

10 A: Around going on three.

11 Q: When did you go to Bennettsville?

12 A: July --

13 Q: Back to -- back to Bennettsville?

14 A: July of 2019, I believe.

15 Q: Okay. And how long have you been in law enforcement?

16 A: Fifteen years.

17 Q: In between, I guess, your times at -- your time at
18 Bennettsville, did you work at the Marlboro County Sheriff's
19 Office?

20 A: Yes, ma'am, I did.

21 Q: Okay. And were you working on May 5th, 2017, at
22 approximately 8:29 in the morning?

23 A: Yes, ma'am, I was.

24 Q: Okay. And do you recall receiving a call to Craig Circle
25 that morning?

ROBERT HALE - DIRECT BY MS. WEISS

1 A: Yes, ma'am.

2 Q: And what was that call?

3 A: It was a call of reference to assistance. Our dispatcher
4 couldn't get a lot of information at the time. We were
5 advised that a woman was distraught and stated that she needed
6 help for her daughter. So we didn't know exactly what we were
7 going to. It was a general call for assistance.

8 Q: And you say we. Where -- were you together with other
9 officers that morning?

10 A: I had just walked into Magnolia on Main with Deputy
11 Williams.

12 Q: Okay. Were there any other officers there with you?

13 A: I think Deputy Ross Childers was also there and some City
14 of Bennettsville Police Department units as well.

15 Q: Okay. And so when you got that call, how many of you
16 left to go there?

17 A: Three altogether, including myself, Deputy Williams, and
18 Deputy Childers.

19 Q: Okay. Now, did -- did you take part in a report of your
20 response to this incident?

21 A: Yes, ma'am. I was the approving officer for Deputy
22 Williams.

23 Q: Okay. Would it help you to -- would it help you to
24 clarify your memory -- do you remember this clearly or would
25 it help you to be able to refer to that report?

ROBERT HALE - DIRECT BY MS. WEISS

1 A: If I could get a physical copy, that would definitely be
2 something that would help me. Thank you.

3 Q: Is that -- is that the report you just referenced?

4 A: Yes, ma'am.

5 Q: So you received a callout from 9-1-1 and went to Craig
6 Circle. Is that in Marlboro County?

7 A: Yes, ma'am.

8 Q: What did you do first?

9 A: We arrived on scene. I exited my patrol car. That's
10 where we located Ms. Delores standing in the front porch area
11 motioning for help, extremely distraught. That's when we
12 approached as quickly as we could and entered the residence
13 and moved toward the room that she led us to, which was at the
14 back of the residence.

15 Q: Okay.

16 MS. WEISS: I'm sorry. Are you having trouble?

17 THE COURT REPORTER: Yes.

18 MS. WEISS: I can barely hear.

19 THE COURT: Speak up.

20 MS. WEISS: Is the microphone on?

21 MS. CRAYTON: Judge, can we move this mic? This one
22 actually works.

23 MS. WEISS: It definitely works.

24 THE CLERK: Wait a minute. Wait a minute.

25 (WHEREUPON, there was a pause in the proceedings, after

ROBERT HALE - DIRECT BY MS. WEISS

1 which the proceedings resumed as follows.)

2 THE WITNESS: Is that better?

3 MS. WEISS: Yes. Okay.

4 BY MS. WEISS:

5 Q: So you said you arrived at Craig Circle. What did you
6 see when you first arrived on Craig Circle?

7 A: We observed Ms. Delores on the front porch area of the
8 residence. She motioned for us to rapidly enter the house.

9 Q: Okay. And did you know Ms. Delores?

10 A: I did not. I did not know her at this time.

11 Q: And what time did you get there?

12 A: It was only several minutes after being dispatched. We
13 went with lights and sirens from Main Street to Craig Circle.
14 So within three to four minutes.

15 Q: Okay. And according to your report, that was about 8:30
16 in the morning?

17 A: Yes, ma'am.

18 Q: And you said when you got there, you saw Ms. Delores,
19 very upset. She was motioning to you?

20 A: Yes, ma'am.

21 Q: Okay. And where was she when she -- when she was
22 motioning to you?

23 A: She was in the front door area, which I think it was a
24 glass door or screen door open.

25 Q: Okay. I'm going to show you what's already been entered

1 as State's Exhibit 205. Do you recognize that residence?

2 A: Yes, ma'am, I do.

3 Q: Is that the residence you're referring to?

4 A: It is.

5 Q: Okay. And so where was she standing when you got there?

6 A: In the doorway.

7 Q: The one facing the street?

8 A: Yes, ma'am.

9 Q: Okay. And so what did you do once you arrived?

10 A: We then entered the residence behind Ms. Delores. She
11 was leading us to where we figured she needed assistance.

12 Q: Okay.

13 A: And we ended up walking through a living room area
14 through another doorway. That's where we found Ms. Ella to
15 the right.

16 Q: I'm sorry? Where?

17 A: To the right.

18 Q: So I'm showing you State's Exhibit 217. So you entered
19 in that door and then straight on through to the right?

20 A: Yes, ma'am. Yes, ma'am.

21 Q: And when you went straight on through, what was straight
22 ahead of you?

23 A: You had a kitchen area immediately to the left. To the
24 right is what I would consider a den or another living area
25 that had a couch and some other furniture and stuff in there.

ROBERT HALE - DIRECT BY MS. WEISS

1 Q: Okay. And at this point, what did you observe?

2 A: I observed Ms. -- I observed the victim lying face down
3 in close proximity of the couch was the first thing that
4 jumped out at me.

5 Q: I'm going to show you what's been pre-marked as State's
6 Exhibit 271. Do you recognize this photo?

7 A: Yes, ma'am, I do.

8 Q: Okay. Is this what you were just describing?

9 A: Yes, ma'am.

10 MS. WEISS: Your Honor, at this time, I would like to
11 enter State's Exhibit 271 into evidence.

12 THE COURT: Any objection?

13 MS. CRAYTON: No, Your Honor.

14 THE COURT: It's into evidence without objection.

15 (WHEREUPON, State's Exhibit Number 271, photograph, was
16 admitted into evidence.)

17 MS. WEISS: I'll figure out this technology up here
18 eventually.

19 BY MS. WEISS:

20 Q: All right. So you said you walked in. Where you walked
21 in was at the head or the feet of Ms. Lowery?

22 A: Whenever -- from our angle of approach, it was the feet.

23 Q: Okay. And is this what you saw when you approached?

24 A: Yes, ma'am.

25 Q: And is this the same state that she was in when you got

1 there?

2 A: Yes, ma'am.

3 Q: Did you move her at all?

4 A: Not at all.

5 Q: Okay. And did you do anything at that point to try to
6 investigate what was going on with the person that was laying
7 on the ground?

8 A: Yes, ma'am.

9 Q: What did you do?

10 A: I got into as close proximity as I could without touching
11 the body to see if we could locate any physical evidence.
12 That's when I observed the coagulated blood up under her, and
13 I made the determination that it had been quite some time that
14 she had been laying there. I didn't locate any other weapons
15 or any threats at that time, and that's when I notified the
16 investigator.

17 MS. CRAYTON: Objection, Your Honor. I don't think he's
18 been qualified to make that medical opinion.

19 THE COURT: Your objection is noted, and I'll actually
20 strike that from the record.

21 MS. WEISS: Okay.

22 BY MS. WEISS:

23 Q: And what did you do next?

24 A: I notified EMS through central dispatch.

25 Q: Okay. And did EMS arrive on the scene?

ROBERT HALE - DIRECT BY MS. WEISS

1 A: Yes, ma'am, within several minutes.

2 Q: And about how long were they there? Do you recall?

3 A: From start to finish, I don't know. I do know they did
4 arrive anywhere between seven and ten minutes of being
5 dispatched.

6 Q: Okay. And what did you do next?

7 A: At that point in time, we started preserving the crime
8 scene.

9 Q: Okay. Did you have a -- were you wearing a body-worn
10 camera at the time?

11 A: At that time, the body cameras at the Sheriff's Office
12 were not functional due to a hard drive issue with the docking
13 station, I believe.

14 Q: Okay. So did you have a working body-worn camera at the
15 time?

16 A: Not operational. No, ma'am.

17 Q: What kind of shoes were you wearing at the time?

18 A: 511 tactical work boots.

19 Q: So were you the supervisor on scene at that point -- at
20 that point when you got there?

21 A: Yes, ma'am, I was.

22 Q: Okay. And once you determined this was a crime scene,
23 what did you do next?

24 A: I started preserving the evidence and giving the
25 subordinates some work to assist in preserving the crime

1 scene.

2 Q: Okay. And was one of those involving a crime scene log?

3 A: Yes, ma'am. Deputy Childers was sent out to the edge of
4 the driveway and given authority over the crime scene log.

5 Q: Okay. And what's the purpose of that?

6 A: To document all persons that come in and out of the crime
7 scene, name and exact time of arrival and time of departure.

8 Q: Okay. What was the next thing? Once you realized that
9 Ella Lowery was laying -- laying in the kitchen or right off
10 the kitchen area, what became the next issue that you were
11 dealing with?

12 A: We were advised by Ms. Delores that Ms. Ella's son was
13 still present, but her daughter was nowhere to be found. She
14 couldn't locate her.

15 Q: Okay. And so how -- and did she tell you how old the
16 victim's daughter was?

17 A: At the time, I think eight.

18 Q: Okay. And did you and Deputy Williams then look into
19 whether -- where she might be?

20 A: We did. We called out throughout the house, didn't get
21 an answer. Ms. Delores advised that she had already looked
22 for her and couldn't find her anywhere inside the residence,
23 at which time Deputy Williams began to call around to her
24 school and try to make contact with I think the director of
25 the buses, and he was advised several minutes later that the

ROBERT HALE - DIRECT BY MS. WEISS

1 bus driver did not pick her up and she wasn't at school on
2 that day.

3 Q: Gotcha. So what did you do next?

4 A: In the midst of all of this, we did notify our chain of
5 command, at which time investigators were in route dispatched
6 to us, as well as the Sheriff and assisting personnel.

7 Q: And once the investigators arrive on scene, who then
8 takes over the scene?

9 A: They do.

10 Q: Okay. And so once they arrived on scene, what did you do
11 next?

12 A: We assisted with roping off the crime scene, and I -- we
13 stood by Deputy Childers at the time to assist him with the
14 crime scene log. But once handing everything over to the
15 investigators, we had calls and I had to resume normal patrol
16 duties.

17 Q: Okay. Did you attempt to locate Iyana around the
18 neighborhood?

19 A: Yes, ma'am. We did canvass the area of neighboring
20 residences, spoke to several neighbors and asked if they had
21 seen anything, walked through some wooded areas, and nothing
22 -- nothing turned up.

23 Q: Okay. And did you secure the trash at the residence?

24 A: Yes, ma'am. I was advised by another neighbor that it
25 was trash day, and I advised Deputy Childers while he was

ROBERT HALE - DIRECT BY MS. WEISS

1 there maintaining the crime scene log to ensure that the trash
2 truck did not get the contents of that due to it may contain
3 some evidence.

4 Q: And after that, you said you got other calls?

5 A: Yes, ma'am.

6 Q: Okay. Did you participate in any other part of this
7 case?

8 A: Aside from the search efforts throughout the week, no,
9 ma'am.

10 MS. WEISS: I beg the Court's indulgence.

11 Thank you. I have no further questions. Please answer
12 any questions the defense may have.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY EMILY CRAYTON:

17 Q: Good afternoon.

18 A: Good afternoon.

19 Q: I know you told me over the phone. Is it Sergeant?

20 A: Yes, ma'am.

21 Q: Okay. Sgt. Hale, so it appears from your testimony that
22 you, as well as Deputy Williams and -- did you testify Deputy
23 Moore?

24 A: Childers.

25 Q: Childers?

ROBERT HALE - CROSS BY MS. CRAYTON

1 A: Yes, ma'am.

2 Q: Were the first to arrive on scene; is that right?

3 A: Yes, ma'am.

4 Q: And at that time you were sergeant over patrol; right?

5 A: Yes, ma'am.

6 Q: Okay. And so you were the senior-most person on scene at
7 that point?

8 A: Yes, ma'am.

9 Q: Okay. And you were talking about how you secured the
10 crime scene?

11 A: Yes, ma'am.

12 Q: And can you tell me what -- what does that entail?

13 A: Limiting access to the immediate area of where the
14 respective body -- where the body was. We don't want anyone
15 traipsing in or out or comes in and touches the victim or
16 removes anything in proximity or even from the residence.

17 Q: Okay.

18 A: We just try to just keep everything as is until
19 investigators and further assistance can get there. Just
20 trying your best to maintain a sense of protection of the
21 scene.

22 Q: Yes, sir. And did you tape off the house with crime
23 scene tape?

24 A: Yes, ma'am. That and one of the neighbor residences. It
25 was a pretty wide scope with the crime scene.

ROBERT HALE - CROSS BY MS. CRAYTON

1 Q: Okay. And did you -- you said you, I think, called the
2 EMS at that point?

3 A: Yes, ma'am.

4 Q: And tell me -- you called EMS. Do you call the coroner
5 or how does that work?

6 A: Once a person is declared deceased, it's outside the
7 scope of our responsibilities. EMS is responsible for making
8 contact with the coroner.

9 Q: Okay. And do you remember how many EMS personnel
10 actually entered the residence?

11 A: No, ma'am, I do not.

12 Q: Okay. And at that point, I think you said you called
13 your -- I think you called it the chain of command?

14 A: Yes, ma'am.

15 Q: Was that Lt. Seales?

16 A: It was Lt. Seales initially, and then it was just a chain
17 of random calls. Some were sent from me and some started
18 coming in based on the severity of the issues, but the chain
19 of command was notified through numerous calls and contacts.

20 Q: And at that time did the Marlboro County Sheriff's Office
21 have a crime scene unit that would come out and photograph,
22 collect evidence?

23 A: No, ma'am. It was not established at the time.

24 Q: Okay. So what would happen? If they needed a crime
25 scene to be photographed, who would they call?

ROBERT HALE - CROSS BY MS. CRAYTON

1 A: Your smaller issues, something not of as severe nature,
2 your regular investigator would handle it himself, but if it's
3 considered of severe nature, SLED is almost all the time
4 notified to come assist with the investigation.

5 Q: And they came out in this case, did they not?

6 A: Yes, ma'am.

7 Q: Okay. So sort of the procedure on a case like this, a
8 more serious crime scene, secure the scene and you're going to
9 wait for SLED. You're going to secure and stand by, wait for
10 them to process the scene; correct?

11 A: Yes, ma'am.

12 Q: Okay. And that's sort of your job is to preserve and
13 protect the crime scene until SLED gets there?

14 A: Exactly.

15 Q: Okay. And you said that a crime scene log was completed
16 as well?

17 A: Yes, ma'am.

18 Q: All right. Great. And can you just tell us what's the
19 purpose of a crime scene log in this? And you might've said
20 that already a little bit, but can you just tell us a little
21 bit about that?

22 A: It's just to give a more exact time of arrival and
23 departure, exact number of entity, who they work for, and the
24 reason for being inside the crime scene.

25 Q: Okay. So you're trying to not just keep track of who is

1 there?

2 A: Yes, ma'am.

3 Q: But when they're there and when they leave?

4 A: Yes, ma'am.

5 Q: Okay. And I think you said Deputy Chill -- Childers?

6 A: Childers. Yes, ma'am.

7 Q: And can you tell me why was Deputy -- why did you have
8 Deputy Childers do that or assigned to that task?

9 A: He had already been hired by the Sheriff's Office, but he
10 had not been certified through the Criminal Justice Academy.
11 I didn't want any confusion or him going anywhere that he
12 shouldn't and possibly contaminate the crime scene. So I gave
13 him essentially the work with the most minimal chance of
14 messing up. So I put him by the road with a piece of paper.

15 MS. CRAYTON: Krystal, would you mind marking that for
16 me?

17 BY MS. CRAYTON:

18 Q: Okay. I'm going to hand you what's been marked as --

19 A: Yes, ma'am.

20 Q: -- Defense Exhibit 11. Can you tell me does -- do you
21 recognize that? That's Defense Exhibit 11.

22 A: Yes, ma'am, I do.

23 Q: Okay. And can you tell me what that is?

24 A: It's Deputy Childers' best effort at an organized crime
25 scene entry log.

ROBERT HALE - CROSS BY MS. CRAYTON

1 Q: Okay.

2 MS. CRAYTON: At this time, Your Honor, the defense would
3 ask to admit Defense Exhibit 11 into evidence.

4 THE COURT: Any objection?

5 MS. WEISS: No objection, Your Honor.

6 THE COURT: It's into evidence.

7 (WHEREUPON, Defendant's Exhibit Number 11, crime scene
8 log, was admitted into evidence.)

9 BY MS. CRAYTON:

10 Q: So let's just look over this, if you don't mind, this
11 crime scene log.

12 A: Yes, ma'am.

13 Q: So after you secured the crime scene, I think that you --
14 it appears that you and Childers -- let's see. You have an
15 arrival time of 8:35. Does that sound about right?

16 A: Yes, ma'am.

17 Q: Okay. And after you arrived, it appears when EMS
18 arrived, am I correct that three EMS rescue squad members
19 entered the crime scene?

20 A: Yes, ma'am.

21 Q: Okay. You see those sort of in the middle of the page
22 there. After that, it looks like Trevor Murphy went into the
23 scene. Do you see him? He's at the very top?

24 A: Yes, ma'am.

25 Q: Okay. Of course, Ross Childers was in and out at the

1 very beginning there. Is that Capt. Mead?

2 A: McCall.

3 Q: McCall. I'm sorry. It's very hard to read this.

4 A: Yeah. It's the handwriting.

5 Q: Capt. McCall entered the scene as well?

6 A: Yes, ma'am.

7 Q: Sarah? Is it --

8 A: It's supposed to be Albarri. That's an extra A somewhere

9 in there.

10 Q: Albarri. It's looks like Sara was in and out a number of

11 times, was she not?

12 A: Yes, ma'am.

13 Q: Okay. And then Tim Brown, who was listed as the coroner

14 --

15 A: Correct.

16 Q: -- came in?

17 A: Yes, ma'am.

18 Q: Walter Baker?

19 A: Yes, ma'am.

20 Q: Will Horne?

21 A: Yes, ma'am.

22 Q: Josh White?

23 A: Yes, ma'am.

24 Q: And then Jamie Seales?

25 A: Yes, ma'am.

ROBERT HALE - CROSS BY MS. CRAYTON

1 Q: So -- and then it looks like that SLED CSU arrives around
2 11:04?

3 A: Yes, ma'am.

4 Q: Does that seem about right?

5 A: It does.

6 Q: So after you secured the crime scene, we're talking
7 about, including you, 15 people entering and exiting that
8 scene before it's photographed; is that correct?

9 A: Correct.

10 Q: Okay. And you weren't with all of those 15 people when
11 they entered the crime scene, were you?

12 A: No, ma'am, I was not.

13 Q: Okay.

14 MS. CRAYTON: Would you mark this, Krystal?

15 BY MS. CRAYTON:

16 Q: I think you may already have a copy of this, but this is
17 Defense Exhibit 12. Can you tell me what that is?

18 A: That is --

19 Q: Or do you recognize it?

20 A: Yes, ma'am. It's the incident report completed by Deputy
21 Williams and signed off by myself.

22 Q: Okay.

23 MS. CRAYTON: And, Your Honor, at this time, I would ask
24 to admit State's Exhibit 12 [sic], which is the incident
25 report.

ROBERT HALE - CROSS BY MS. CRAYTON

1 THE COURT: Any objection? Any objection?

2 MS. WEISS: Your Honor, the State objects to the incident
3 report being entered into evidence, as he's testified to the
4 report and that's the best evidence.

5 MS. CRAYTON: And, Your Honor, I think there's also some
6 phone numbers at the top of that that are relevant as well,
7 which is why we're asking for it to be admitted.

8 THE COURT: Well, technically, that -- technically, that
9 is indeed hearsay. You can elicit from him any information
10 that's on there.

11 MS. CRAYTON: Okay.

12 (WHEREUPON, Defendant's Exhibit Number 12, incident
13 report, was marked for identification only.)

14 BY MS. CRAYTON:

15 Q: Can you tell me at the top there, Ms. Lowery, can you
16 list the telephone numbers that are listed under her name?

17 A: Yes, ma'am. There's two, the first being 843-479-0968,
18 and the second one is 843-454-9126.

19 Q: And then what about for Ms. Ella Lowery?

20 A: 843-479-9526 and 843-479-0968.

21 Q: Sgt. Hale, did y'all have dashcam at that time?

22 A: Yeah. The vehicles were equipped with dashcam footage,
23 normally utilized for traffic functions. I'm not sure of the
24 availability.

25 Q: Can you tell me how did those dash cameras work? Do they

ROBERT HALE - CROSS BY MS. CRAYTON

1 come on automatically when your headlights come on?

2 A: No, ma'am.

3 Q: I mean when your blue lights come on?

4 A: Some are wired to the blue lights. Some of them have to
5 be manually activated.

6 Q: And how did yours work at the time?

7 A: It had to be fully engaged. There's a three-pronged
8 switch to activate the lights. If you have them off, you have
9 a green, which is considered an auxiliary. It would not
10 trigger the dashcam. And you have a red, which was a full
11 recording which will trigger the dashcam.

12 Q: Okay. So if you were going you said lights and sirens --

13 A: Yes, ma'am.

14 Q: -- to the scene, would it have been recorded?

15 A: Yes, ma'am. Yes, ma'am.

16 Q: So it would have recorded your arriving at the scene?

17 A: Yes, ma'am.

18 Q: Would it -- was it a dash camera that would record voices
19 outside of your vehicle as well?

20 A: Only if the paired microphone was taken with me.

21 Q: Okay.

22 A: And there's a docking station at the top of the patrol
23 car where it normally stayed.

24 Q: Did you have that with you?

25 A: No, ma'am.

ROBERT HALE - CROSS BY MS. CRAYTON

1 Q: Okay. But your vehicle did have dashcam recording?

2 A: Yes, ma'am.

3 Q: And you see on that crime scene log at the end of that
4 several of the SLED people do not have times out or times in?

5 A: Yes, ma'am.

6 Q: Their names are just listed. Do you see that?

7 A: Yes, ma'am.

8 Q: And there are numerous SLED people that enter that crime
9 scene as well?

10 A: Uh-huh.

11 MS. CRAYTON: Court's indulgence, Your Honor.

12 No further questions. Thank you.

13 THE COURT: Yes, ma'am.

14 MS. WEISS: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. WEISS:

17 Q: Sgt. Hale, just to be clear to what you testified
18 earlier, you said that you got there with Childers and -- and
19 who was the other officer that you got there with?

20 A: It was Deputy Williams.

21 Q: Okay. Is there a Deputy Moore?

22 A: He was uncertified as well.

23 Q: Okay.

24 A: Yes, ma'am.

25 Q: So you were in charge? As the sergeant over patrol, you

ROBERT HALE - REDIRECT BY MS. WEISS

1 were in charge of the scene?

2 A: Yes, ma'am.

3 Q: And you went into the residence with Ms. Lowery that you
4 met on the front porch?

5 A: Yes, ma'am.

6 Q: And did -- was it your responsibility at that point to
7 make sure that nobody was touching things, taking things,
8 moving things around the -- around the home?

9 A: Yes, ma'am.

10 Q: And you made sure not to do that yourself?

11 A: Yes, ma'am.

12 Q: Okay. And then just to be clear, once you called for
13 investigations, investigators took over the scene?

14 A: Upon their arrival, yes, ma'am.

15 Q: Okay. And so at that point, whose responsibility is it
16 to make sure that the scene is being protected and nobody's
17 taking anything, nobody's touching anything they shouldn't be?

18 A: The investigators are in control of the scene.

19 Q: Okay. And so at that point, once they started arriving,
20 basically, from what you said earlier, you helped with a
21 couple things and then you left?

22 A: Yes, ma'am.

23 Q: So as far as the crime scene, did you leave Deputy
24 Childers there with the crime scene log?

25 A: Yes, ma'am. He was uncertified and could not answer

1 those calls for service alone. So I had to take on the brunt
2 of the callout. So he was left with investigators and others
3 assisting them.

4 Q: But when you left, you didn't leave until investigators
5 had taken over the scene?

6 A: Correct.

7 Q: And prior to you -- once you got there, prior to you
8 leaving, did anybody walk around, touch, or move anything at
9 the scene?

10 A: No, ma'am.

11 Q: Okay. There's some -- the defense asked you about some
12 phone numbers on the incident report?

13 A: Yes, ma'am.

14 Q: And about -- there's also some other information that can
15 be checked off. When you're on the scene as the sergeant over
16 patrol and your deputy that's under you, Williams that worked
17 on the report, are you -- is it your job to investigate what's
18 going on when you first arrive?

19 A: Yes, ma'am. Yes, ma'am.

20 Q: Okay. So what is the purpose of the incident report?

21 A: Documentation. It's a best layout of what happened step-
22 by-step and, essentially, like I said, it's from a
23 documentation standpoint you can show everything that you did
24 to maintain.

25 Q: Everything you did?

1 A: Yes, ma'am.

2 Q: So --

3 A: Personally.

4 Q: -- when you left, this report ended?

5 A: I could not -- I could not attest to what happened after
6 I left.

7 Q: So as far as getting phone numbers, do you know where
8 those phone numbers came from?

9 A: The way our report system works is Law Track. Those
10 numbers could have been entered previously, and it would
11 automatically be attached to an ID. And unless they're
12 manually edited or added in, it could possibly already have
13 been in the database or if Deputy Williams did enter them, he
14 would have to do it manually.

15 Q: Okay. And in the middle part where it talks about a
16 subject, it talks about the date and time of offense. What
17 does that mean?

18 A: Date and time of offense is essentially just the
19 reporting time.

20 Q: Okay.

21 A: Whenever it was reported to us.

22 Q: So -- so to y'all, is that supposed to be the time that
23 this scene was created when this person --

24 A: No, ma'am. We have no way of knowing exactly what time
25 the offense took place.

1 MS. WEISS: Thank you. I beg the Court's indulgence.

2 Nothing further. Thank you.

3 THE COURT: Any objection to this witness being excused?

4 MS. WEISS: Not from the State, Your Honor.

5 MS. CRAYTON: No, Your Honor. No objection.

6 THE COURT: You're free to leave. Thank you, sir.

7 THE WITNESS: Thank you.

8 MS. CRAYTON: Judge, I would like to renew my request to
9 put Defense Exhibit 12 into evidence. I believe that Ms.
10 Weiss asked him more questions, and we believe at this time it
11 would be appropriate for that incident report to be entered
12 into evidence.

13 THE COURT: It is, indeed, hearsay, and you can elicit
14 whatever information you need from the incident report. And
15 if he says something different than what's in the incident
16 report, you can cross-examine him about that, but all of it
17 has been covered, you've asked him about the phone numbers,
18 and I sustain the objection.

19 MR. BANK: And, Your Honor, if I could possibly bring up
20 maybe some clarification? On January 13th at the hearing that
21 we had on this case, the solicitors unequivocally said the
22 Marlboro County Sheriff's Department did not have body-worn
23 camera and they did not have dash camera. No ifs, ands, or
24 buts about it. That's what their position was. They said
25 they followed up on it and they don't have that. We now learn

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 around in front of the clerk, place your left hand on the
2 Bible, and raise your right hand as the clerk administers the
3 oath.

4 THE CLERK: Do you solemnly swear or affirm that the
5 testimony you shall give the Court in this case shall be the
6 truth, the whole truth, and nothing but the truth, so help you
7 God?

8 THE WITNESS: I do.

9 THE CLERK: Please be seated.

10 THE COURT: Ms. Hunton, come around and I'm going to ask
11 you to have a seat in that witness chair, and speak loudly,
12 clearly, and slowly in order that we can hear everything that
13 you have to say. I'm going to ask that you start with your
14 full name. You can move that down a little bit.

15 THE WITNESS: Jennifer Hunton, H-u-n-t-o-n.

16 JENNIFER HUNTON, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. WEISS:

20 Q: Good afternoon. What is your title at SLED?

21 A: I'm a special agent assigned to the crime scene
22 investigations unit.

23 Q: Okay. And, Special Agent Hunton, during the beginning
24 part of this case, you were also Special Agent Jennifer
25 Miller?

1 A: Yes.

2 Q: And you got married?

3 A: Yes.

4 Q: Okay. Just to be clear. Agent Miller, what is your role
5 at SLED?

6 A: I'm a special agent assigned to the crime scene unit.
7 I've been there for the past eight years.

8 Q: Were you working on May 5th, 2017?

9 A: Yes, I was.

10 Q: And did you get called to Marlboro County to
11 Bennettsville that morning?

12 A: Yes, I was.

13 Q: Okay. And what time approximately were you called out?

14 THE WITNESS: Your Honor, may I refer to my notes?

15 THE COURT: Yes.

16 BY MS. WEISS:

17 A: I believe it was 8:52 a.m. Yes, 8:52 a.m.

18 Q: And how does that work? How does a group of crime scene
19 agents get called out to a scene?

20 A: Whatever agency is requesting us will put in a call to
21 our dispatch, and they notify the on-call teams that there's a
22 crime scene request, and we will respond.

23 Q: Are you located out of the regions or are y'all located
24 in Columbia?

25 A: We are all based out of Columbia, South Carolina.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 Q: Okay. So do you have any idea who called for the SLED
2 crime scene to come out to the scene?

3 A: Lt. Sara Albarri with the Marlboro County Sheriff's
4 Office made the request.

5 Q: And did you make a report of everything you did on this
6 case?

7 A: Yes.

8 Q: Okay. And you had asked about referring to your report.
9 So do you have the address that you were called out to?

10 A: Yes. It was [REDACTED] Craig Circle in Bennettsville, South
11 Carolina.

12 Q: After that, do you -- do you put a list of who's on scene
13 when you get there?

14 A: Yes, ma'am.

15 Q: Okay. At that point, you have in the subject line
16 JeJauncey Harrington. One the 5th -- on May 5th, 2017, is
17 that something that gets added later or is that something that
18 you put in on May 5th, 2017?

19 A: When the final report gets generated, that's when that
20 gets entered in there.

21 Q: Okay. So what time did you arrive at Craig Circle in
22 Bennettsville?

23 A: 10:39 a.m.

24 Q: And like you said, y'all were coming from Columbia?

25 A: Yes.

1 Q: Who was with you?

2 A: Special Agent Todd Schenk and Special Agent Dalila Jazic.

3 Q: Okay. And what did you find when you got there?

4 A: We met with the Marlboro County Sheriff's Office. Upon
5 doing our initial walk-through of the scene, the -- there was
6 a carport with a door open and inside we could see a deceased
7 victim.

8 Q: And if you would, just walk us through what the procedure
9 is for the crime scene unit as far as processing a scene when
10 you arrive?

11 A: So typically, we will meet with the requesting agency.
12 So the Marlboro County Sheriff's Office. They give us a brief
13 synopsis of what they responded to. We do an initial walk-
14 through with them of the crime scene to see what we're looking
15 at. We're identifying potential pieces of evidence. After
16 that's done, we may or may not mark those said items that we
17 identified during the walk-through, followed by our processing
18 and documentation of the scene with additional photographs.

19 Q: And once you're done with all the photographs, what do
20 you do? Do you -- do you then collect -- do you collect the
21 evidence as you go?

22 A: Yes.

23 Q: Okay. And once you collect evidence from the scene, what
24 do you do with it?

25 A: Once the crime scene is complete, we transport the

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 evidence back to the SLED forensic services laboratory for
2 submission.

3 Q: Okay. And you did that on this case?

4 A: Yes.

5 Q: If you would --

6 MS. WEISS: Your Honor, just so you know, we met with the
7 defense during the break, and I don't believe there's any
8 objection. So I'm going to try to group as many of these
9 numbers together as we can, but just keep it all here so it's
10 preserved for documentation purposes as far as what was done
11 on the scene.

12 THE COURT: Very good.

13 BY MS. WEISS:

14 Q: So what was the first thing that y'all did?

15 A: We took photographs.

16 Q: What did you take photographs of?

17 A: The street, the residence, the surrounding areas of the
18 residence, inside the residence.

19 Q: And so, according to your report, what was the next thing
20 that you did? What was the first thing that you did as far as
21 documenting and putting out markers and collecting evidence?
22 Which -- what was the first thing that you -- that's in your
23 -- in your notes that you processed? I know you went through
24 the whole scene and did everything. I'm just trying to go
25 through the evidence that was collected.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 A: There was a Marker 1 placed before our arrival on scene
2 by the Marlboro County Sheriff's Office, and it was at a
3 suspected bloody footwear impression.

4 Q: Okay. And then what was the next thing? What was the
5 first thing that you collected, according to your report?

6 THE WITNESS: May I refer to my report, Your Honor?

7 THE COURT: Yes.

8 THE WITNESS: Thank you.

9 BY MS. WEISS:

10 A: Markers 7 through 11 were placed at the outside of the
11 residence in the yard at what appeared to be pieces up blue-
12 colored latex gloves.

13 Q: Okay. And what did you do next?

14 A: There was -- under the carport on the top step leading
15 into the residence was a cigarette butt, and that was
16 collected.

17 Q: All right. I'm going to take you back one step. Do you
18 recognize this photograph?

19 A: Yes.

20 Q: Okay.

21 MS. WEISS: Your Honor, these are State's Exhibits 281
22 through 291.

23 BY MS. WEISS:

24 Q: What is this a photograph of?

25 A: That is a photograph of an AT&T landline phone that was

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 on the front porch of the residence on a bench.

2 A: Okay. And there's multiple photographs of this phone.

3 What was the purpose of that?

4 A: We were requested to document the call log history on the
5 phone.

6 Q: I'm going to show you State's Exhibit 38. Do you
7 recognize that?

8 A: Yes.

9 Q: What is that?

10 A: This is the AT&T landline phone from the bench on the
11 front porch.

12 Q: Okay. The next thing you did, you were talking about a
13 cigarette butt?

14 A: Yes.

15 Q: That was collected? I'm going to show you State's 268
16 and 269. Do you recognize these photographs?

17 A: Yes.

18 Q: Okay. And what are they photographs of?

19 A: They are photographs of the cigarette butt that was on
20 the step leading into the residence from the carport.

21 Q: Okay. I'm going to show you State's Exhibit 24. Can you
22 identify that?

23 A: Yes. This is the cigarette butt from the front door --
24 front porch step on the side of the carport near the living
25 room.

1 Q: So the steps on the side by the carport, not front porch
2 but the side -- the carport steps?

3 A: Correct.

4 Q: Okay. Next, we have State's Exhibits 270 through 280,
5 and I'll show you State's Exhibit 272 and 273. Do you
6 recognize that?

7 A: Yes.

8 Q: And what was the purpose of collecting that?

9 A: This was a cell phone that was on a little wooden table
10 inside that carport door inside the living room next to the
11 victim.

12 Q: Okay. And again, there's multiple pictures of the phone.
13 What was the purpose of taking multiple pictures of both the
14 outside and the inside of the phone?

15 A: We were requested to document the call log history on the
16 phone.

17 Q: And State's Exhibit 276 is an example of that?

18 A: Yes.

19 Q: The next photos are State's Exhibits 332 through 359.
20 I'm just going to ask you to flip through these so you can
21 tell us what these photos are about. I know per what you had
22 just said you go through the home, around the home and through
23 the home a couple different times doing an overview and then
24 going back and marking things and going back and collecting.
25 So I'm just going to highlight a few of these pictures, but in

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1 general can you describe what these are photos of?

2 A: Those are pictures of the interior of the residence, to
3 include the living room, the bedrooms of the residence, the
4 kitchen area, and objects within those bedrooms.

5 Q: I'll show you State's Exhibit 334 and 335. What is
6 significant about these two photos?

7 A: This is the door leading into the living room from the
8 carport, and there's a set of keys in the door.

9 Q: Okay. And can you tell if this door has been processed?

10 A: There's black powder on it.

11 Q: What does that indicate?

12 A: That we were dusting for latent prints.

13 Q: Okay. And did you do anything else on that door,
14 according to your report?

15 A: We took swabs from the doorknobs and door handles.

16 Q: Okay. When you take swabs from the doorknobs and door
17 handles, how do you go about doing that?

18 A: We have sterile swabs, which basically look like just
19 longer Q-tips. They're sterile. We unwrap them. We put a
20 drop of deionized water on one swab and then leave the other
21 swab dry, and then swab the area in question.

22 Q: Okay. And what do you do after you swab the areas?

23 A: We package it in, like, a coin envelope and then seal it
24 and transport it to the lab.

25 Q: I'm going to show you what's been marked State's Exhibits

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1 25 through 32. I know they are contained in a larger pouch.
2 So if you'd like to take them out to look at them or if you
3 can tell what they are inside?

4 A: These are the swabs from the doorknobs and door handles.
5 They're my Item 2 through 9 on my submission.

6 Q: Okay. And how do you know that?

7 A: They have me and my partner who worked the scene -- our
8 initials on them.

9 MS. WEISS: Your Honor, at this time, we'd move State's
10 Exhibits 25 to 32 into evidence.

11 THE COURT: Any objection?

12 MR. YOUNG: No objection.

13 THE COURT: It's into evidence.

14 (WHEREUPON, State's Exhibits 25 through 32, swabs, were
15 admitted into evidence.)

16 BY MS. WEISS:

17 Q: What was significant about State's Exhibit 347?

18 A: Based on information that we were provided, this was Ms.
19 Ella Lowery's bedroom. Upon entering the bedroom, there was a
20 purse on the bed and its contents appeared to be dumped on the
21 bed.

22 Q: Did you -- would that also include her wallet?

23 A: Yes.

24 Q: And State's Exhibit 351 and 352, what was that, if you
25 remember?

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1 A: That is the purse that was on the bed and a tablet.

2 Q: State's Exhibit 35. Can you identify what this exhibit
3 is?

4 A: This is the purse from what we labeled bedroom one on the
5 bed.

6 Q: And how do you know that?

7 A: It has my initials on it, and it is my corresponding lab
8 number from my submission.

9 Q: For Item 12?

10 A: Yes.

11 MS. WEISS: I'd like to move 35 into evidence.

12 THE COURT: Any objection?

13 MR. YOUNG: No objection.

14 THE COURT: 35 is into evidence.

15 (WHEREUPON, State's Exhibit Number 35, purse, was
16 admitted into evidence.)

17 BY MS. WEISS:

18 Q: When you were on scene, were you made aware of what the
19 cause of death or potential cause of death of Ms. Lowery?

20 A: We were not notified of what the cause was, but when we
21 -- when the coroner's office got there, we get their
22 permission to collect fingernail scrapings and fingerprints
23 from the victim. That's when we get to observe the body, and
24 we saw then. I think initially it wasn't obvious what her
25 injuries were --

1 Q: Okay. And when you saw --

2 A: -- until we moved her.

3 Q: When you saw looking into it, you could see with the
4 naked eye what the injuries were, did that lead you in a
5 direction of trying to look for a certain type of -- certain
6 type of weapon?

7 A: Yes.

8 Q: And what was that?

9 A: We were looking for a sharp -- sharp-edged weapon or a
10 knife.

11 Q: Okay. And State's Exhibits 360 through 370, these were
12 different knives from within the house?

13 A: Yes, in the kitchen.

14 Q: And you photographed them?

15 A: Yes.

16 Q: And collected them?

17 A: Yes.

18 Q: I'll show you State's Exhibit 44. Do you recognize that
19 piece of evidence?

20 A: Yes. This is a knife from the sink set next to the sink.

21 Q: Okay. And did you collect that?

22 A: Yes.

23 Q: And how can you tell?

24 A: It has my initials on it and our item -- my Item Number
25 15.

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1 Q: Okay.

2 MS. WEISS: Your Honor, we'd like to move 44 into
3 evidence.

4 THE COURT: Any objection?

5 MR. YOUNG: No objection.

6 THE COURT: 44 is into evidence.

7 (WHEREUPON, State's Exhibit Number 44, knife, was
8 admitted into evidence.)

9 MS. WEISS: And State's Exhibit 47 --

10 MR. YOUNG: Is that 44 or 34?

11 THE COURT: 34. 44. I'm sorry.

12 MS. WEISS: That's 44.

13 THE COURT: 44.

14 BY MS. WEISS:

15 Q: Do you recognize State's Exhibit 47?

16 A: Yes. This is the knife and butcher block set that
17 contains four knives and one pair of scissors from the counter
18 next to the microwave in the kitchen. It has my lab number
19 and number and initials on it.

20 Q: And on the top it has JM. Is that your handwriting?

21 A: Yes.

22 Q: And there's a -- it says LP DNA touch. Does that have a
23 significance when you're putting this into SLED?

24 A: When we're packaging up evidence, we write which
25 department it's getting sent to at that time.

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1 MS. WEISS: Your Honor, I'd move State's Exhibit 47 into
2 evidence.

3 THE COURT: Any objection?

4 MR. YOUNG: No objection, Your Honor.

5 THE COURT: 47 is into evidence.

6 (WHEREUPON, State's Exhibit Number 47, butcher block with
7 four knives and scissors, was admitted into evidence.)

8 BY MS. WEISS:

9 Q: The next set of pictures I want to move through a little
10 more slowly. This is State's Exhibits 292 through 331. You
11 indicated before that there was a marker already placed in the
12 carport?

13 A: Yes.

14 Q: Before you got there? I'll show you State's Exhibit 292.
15 Is that the marker you're referring to?

16 A: Yes.

17 Q: What was the significance of that marker?

18 A: That marker from the Sheriff's Office placed that at a
19 suspected bloody footwear impression.

20 Q: Okay. And so these photos that were taken are the
21 initial impression that Marlboro County marked?

22 A: Yes.

23 Q: And what -- this was located in the carport?

24 A: Yes.

25 Q: What was the type of floor in the carport?

1 A: Cement.

2 Q: Even though Marlboro County marked this, did you continue
3 to collect -- did you find that this had evidentiary value as
4 well?

5 A: Yes.

6 Q: And so -- and as you can see, these aren't even all of
7 them. There are multiple photographs that are taken of this
8 particular shoe print?

9 A: Yes.

10 Q: And this one and then the significance of this one in
11 comparison, can you explain what the difference is between
12 those two?

13 A: Can you show the other one?

14 Q: I'm sorry.

15 A: We're putting a scale down to photograph that impression.

16 Q: Okay. And what's the importance of that?

17 A: So we photograph everything as is first, and then when we
18 move into our closer shots of whatever piece of evidence, in
19 this case the suspected footwear impression, we place a scale
20 down and place the camera on a tripod so that it's 90 degrees
21 one-to-one ratio so it can generate an examination quality
22 finish for an examiner to look at.

23 Q: Is that also the reason that you take multiple different
24 photographs of it?

25 A: Yes.

1 Q: Are you trained to do that in your training for crime
2 scene analysis?

3 A: Documenting the --

4 Q: The one-to-one footprint so it could be analyzed for --

5 A: Yes.

6 Q: Okay. And so even to the point of the camera when you're
7 taking the picture, you make sure that everything is one-to-
8 one and that it's at a 90-degrees angle?

9 A: Yes.

10 Q: I'm going to show you State's Exhibit 319. Can you
11 explain this photograph, please?

12 A: This is a photograph of Marker 1, the same suspected
13 bloody footwear impression, only this time the blue-purple
14 color that you're seeing is after a chemical called
15 Leucocrystal violet we refer to as LCV was applied to this
16 impression.

17 Q: And who makes the decision to apply LCV to an impression?

18 A: We do as crime scene agent.

19 Q: Okay. And why is this particular agent -- why was this
20 particular agent chosen for this footprint?

21 A: Like, why did we use LCV?

22 Q: Uh-huh.

23 A: LCV is used to detect latent blood. It's also useful in
24 enhancing impression evidence that is in blood. It turns that
25 purple-violet color when it reacts with the hemoglobin in

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1 blood. So the impression beforehand when it was treated, some
2 of those details may or may not have been seen. So since LCV
3 is used to detect latent blood, it has the potential to bring
4 out some of those details that we might not be able to see to
5 the human eye.

6 Q: And what form does LCV come in? How do you apply it?

7 A: It's sprayed.

8 Q: Is it like a thick spray?

9 A: It's misted.

10 Q: Okay. And when you're misting it, do you have to take
11 any precautions when you're dealing with a -- with a latent
12 blood print?

13 A: Yes.

14 Q: And what is that?

15 A: We don't want to be spraying directly on it close. We
16 kind of just let it fall, spray it a good distance so that
17 we're not trying to disturb anything.

18 Q: Okay. And then do you use the same process that you did
19 for photographing the print before you sprayed it to
20 photograph it after you spray it?

21 A: Yes.

22 Q: So it's the same one-to-one 90-degree angle?

23 A: Yes.

24 Q: How long does it take the LCV to develop?

25 A: It will happen instantly.

1 Q: And --

2 A: Or within a few seconds.

3 Q: And can you preserve -- is this the only way to preserve
4 it on a cement floor? Does it -- will it preserve for a long
5 period of time like this?

6 A: Eventually, it won't. It'll deteriorate.

7 Q: And that's why you take multiple pictures?

8 A: Yes.

9 Q: To get the best shots possible for the comparison?

10 A: Yes. Also, eventually, if you spray it on different
11 surfaces, after an amount of time, everything will start to
12 turn purple. So we're looking for the immediate or within a
13 few seconds reaction.

14 Q: So it's actually very important that you get these one-
15 to-one 90-degree photos when you spray the footprint?

16 A: Yes.

17 Q: The next set are State's Exhibits 371 through 401. When
18 you got there -- this is State's Exhibit 371, and the initial
19 photograph -- as far as you know, had this T-shirt been moved
20 or manipulated at all?

21 A: Not that I'm aware of.

22 Q: Okay. And what did y'all do with the T-shirt once you
23 identified it before you collected it and put it into
24 evidence?

25 A: We photographed it.

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1 Q: If you could tell us about State's Exhibit 376?

2 A: That is a picture of that shirt that was on the floor
3 inside out.

4 Q: Okay. And what do you do after you photograph this
5 shirt?

6 A: We collect it.

7 Q: How do you preserve it so that it is of use to be tested
8 when you turn it in to SLED?

9 A: We place it inside a paper bag. Anything with blood or
10 biological evidence, the paper bag allows that to breathe so
11 it's not molding or anything, and we fold it on itself to
12 where you're not disturbing any of the bloodstains that could
13 be present on the shirt.

14 Q: So do you do any presumptive testing on the shirt when
15 you collect it to see what the substance is that's on the
16 shirt?

17 A: We did not in this case.

18 Q: Okay. State's Exhibit 380. When you walked in the door,
19 did you initially walk in the side door where the body was or
20 did you walk in the front door to start out with?

21 A: Through the door that was open, which was that side
22 carport door.

23 Q: Okay. And as far as you know, had anybody moved or
24 manipulated the body in any way?

25 A: Not that I'm aware of.

1 Q: Okay. And at this point, what is -- you're taking
2 photographs of this. You take multiple photographs of the
3 scene itself. What is the purpose of taking these
4 photographs?

5 A: To show the condition, location of the victim.

6 Q: You said after the victim is deceased and the coroner
7 leaves, then you're able to move the body?

8 A: The body is the coroner's jurisdiction, if you will.

9 Q: Okay.

10 A: So we don't do anything with the body until the coroner
11 is present. So we do everything with them --

12 Q: Okay.

13 A: -- as relates to the body.

14 Q: So you also get photographs where you turn the body over
15 and get the photos of what the body looks like on both sides?

16 A: Yes.

17 Q: And then when you're done taking all those photographs,
18 what do you do with the body?

19 A: We collect fingernail scrapings and postmortem major case
20 prints, which are collected from the victim's fingerprints.

21 Q: I'm going to show you State's Exhibit 34. Can you
22 identify that piece of evidence?

23 A: These are the postmortem major case prints collected from
24 Ella Lowery.

25 Q: And you collected them?

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1 A: Yes. It has my lab number and number and initials.

2 Q: What's the significance of the postmortem major case
3 prints?

4 A: Any items that we collect throughout the investigation
5 that need to be tested for fingerprints, that gets submitted
6 to our latent print department and they are able to use those
7 as known -- like, a known standard for the victim.

8 MS. WEISS: At this time, we'd move State's 34 into
9 evidence.

10 MR. YOUNG: No objection.

11 THE COURT: It's into evidence.

12 (WHEREUPON, State's Exhibit Number 34, major case prints
13 of Ella Lowery, was admitted into evidence.)

14 BY MS. WEISS:

15 Q: There are also some photos of the victim's hands that
16 were taken. What is the significance of these pictures for
17 you -- for y'all to take them?

18 A: That's just part of our photograph-taking process that we
19 photograph the hands. I believe she had a laceration on one
20 of them.

21 Q: State's Exhibit 401?

22 A: Yes.

23 Q: Okay. As far as the couch is concerned, I'll show you
24 State's Exhibit 382 -- 383. So do you see that covering
25 that's on the couch, the brown covering --

1 A: Yes.

2 Q: -- on top? Were you able to collect -- did you collect
3 that?

4 A: No.

5 Q: What about the couch itself?

6 A: No.

7 Q: And what do you do with that as far as processing?

8 A: We just documented it with photographs.

9 Q: And why is that?

10 A: It shows that there was some significant bloodletting
11 event that occurred there. So we documented it with
12 photographs.

13 Q: But you don't take cuttings or preserve that?

14 A: We didn't in this case.

15 Q: And that's based on your training and experience?

16 A: Every crime scene is different. Every case is different.
17 So what we do for one might not be the same for another.

18 Q: Okay. And I know you said in some of these you were
19 asked to take photographs of, like, the last phone calls on
20 the phones. Do you work in tandem with anybody when you're
21 deciding what to take and what not take from a crime scene?

22 A: Yes. The lead investigators.

23 Q: Okay. And so what was your reason not to take -- what
24 would be a reason not to take -- not to take any cuttings or
25 anything from these portions?

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1 A: We know that the victim is bleeding. So it's presumed to
2 be her blood.

3 Q: Okay. Based on your list of items that you collected,
4 did you collect any items of digital evidence?

5 A: Yes.

6 Q: And what was that?

7 A: If I can refer, we collected tablets, a hard drive,
8 computer, a flash drive, charging cables, a power cord, the LG
9 cell phone that was pictured earlier. I believe that's it.

10 Q: What do you do with those items when you collect them?

11 A: We package them up and, typically, our electronic
12 evidence goes to someone in computer crimes, if that's what
13 the lead agency is requesting.

14 Q: Okay. And so they're not logged into SLED through the
15 regular channels of the intake? They go directly to computer
16 crimes?

17 A: Not always, but if it's requested that it goes directly
18 to them, it will be on a chain of custody to transfer over to
19 that department. So it's not always logged in through the
20 submissions.

21 Q: Okay. State's Exhibit 402 through 449. I'm just going
22 to ask you to talk about it. I think some of this is going to
23 be similar, but under the presumptive testing -- I'm trying to
24 see what page it is -- on page 4 of the report?

25 A: Yes.

1 Q: So what did you observe as far -- as far as footprints
2 inside the home?

3 A: There were partial suspected bloody footwear impressions
4 on the vinyl kitchen floor. And after the chemical LCV was
5 applied, there were that violet-color reacting through the
6 carpeted hallway of the residence.

7 Q: Okay. Were the footprints evident before the LCV was
8 applied in the carpet?

9 A: No.

10 Q: And what was the reason for -- for testing the carpet to
11 see if there were footprints?

12 A: That's just something we do when we're spraying LCV. We
13 just decide what parts of the residence that we want to
14 process. So we sprayed. We were spraying the floor. And
15 initially, since we had the purse in the back bedroom, we
16 decided to spray the carpeted floor.

17 Q: Okay. I'm going to show you State's 409. Is this the
18 hallway that you're talking about?

19 A: Yes.

20 Q: So on these, this goes from the vinyl flooring into the
21 carpet?

22 A: Yes. That's coming from the kitchen into the hallway.

23 Q: And are you able to get detail from the carpet?

24 A: No.

25 Q: Okay. But did you -- you said you did find bloody -- or

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1 footprints that reacted with the LCV?

2 A: What appeared to be, yes.

3 Q: And where did those footprints appear to be -- what
4 directions did they appear to go in?

5 A: Down the hallway from the kitchen to that -- Ms. Lowery's
6 bedroom, bedroom one, and outside of bedroom three, which was
7 the child's bedroom.

8 Q: Okay. So basically all the way down the hallway?

9 A: Yes.

10 Q: Okay. Thank you. When you're taking the photographs on
11 the linoleum floor, do you do those with the same type of
12 photograph -- photographic elements that you did of the ones
13 on the cement floor?

14 A: Yes. And we photograph it before and after the chemical
15 LCV is applied.

16 Q: Okay. In addition to the photographing and the LCV and
17 the sizing of the one-to-one photographs of the footprints,
18 did you do anything additional to the footprints with the
19 footprints on the linoleum floor?

20 A: We took cuttings from the flooring.

21 Q: When you take the pictures and do the cuttings, who are
22 they submitted to for what type of analysis?

23 A: They are submitted to our footwear department.

24 Q: I'm showing you what's been marked as State's Exhibits
25 70, 67, 65, 63, and 61. Do you identify -- can you identify

1 these pieces of evidence?

2 A: Yes. These are the cuttings taken from the kitchen
3 floor.

4 Q: And how do you know that?

5 A: They have the lab number, item number of my submission,
6 and initials.

7 MS. WEISS: Your Honor, at this time, I'd like to admit
8 63, 61, 65, 67, and 70 into evidence.

9 THE COURT: Any objection?

10 MR. YOUNG: No, sir.

11 THE COURT: They're into evidence.

12 (WHEREUPON, State's Exhibit Numbers 61, 63, 65, 67, and

13 70, linoleum cuttings, were admitted into evidence.)

14 BY MS. WEISS:

15 Q: State's Exhibits 450 and 451, you said that when y'all
16 went around the exterior of the evidence, you placed markers
17 around the exterior if you saw anything that might be of
18 interest?

19 A: Yes.

20 Q: And is this a photograph of those markers, some of those
21 markers?

22 A: Yes.

23 Q: I'm going to show you State's Exhibit 451, Marker 10.

24 What was the significance of that marker?

25 A: It appeared to be a piece of a blue-in-color latex glove.

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1 Q: And so you collected anything in the yard that looked
2 like it could potentially be of interest for this case?

3 A: Yes.

4 Q: And you also went to the autopsy to take photos?

5 A: I did not go to the autopsy.

6 Q: Were you given State's -- what is this? State's Exhibits
7 453 and 452? Who would have collected the personal effects
8 from Ella Lowery?

9 A: Jacqueline McKay is who attended her autopsy.

10 Q: Okay. And then does she turn these over to you?

11 A: Yes. On a chain of custody form.

12 Q: And then the personal effects of Ella Lowery were -- and
13 you put them into evidence?

14 A: We document them with photographs and then submit them.

15 Q: Now, on page 6 of your report right in the middle it says
16 on May 6th approximately 12:21?

17 A: Yes.

18 Q: Did you receive some items of evidence from Lashawn
19 Wheeler from the Marlboro County Sheriff's Office?

20 A: Yes, I did.

21 Q: Okay. And what were those?

22 A: A toothbrush and buccal swabs. It says the toothbrush
23 reportedly belonging to Iyana Lowery, a buccal swab from Tyron
24 Thomas, a buccal swab from Delores Lowery, a buccal swab from
25 Clifton Benjamin, and a buccal swab from Tyreon Lowery. I'm

1 sorry if I pronounced it wrong.

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

3 A: We -- I submitted it to our DNA department.

4 Q: After that, what did you do next?

5 A: On May 6th at 3:05, we were requested to process a
6 residence of a person of interest.

7 Q: Okay. And were you given a name for that person?

8 A: Yes. Dwayne Bright.

9 Q: Okay. And you were given an address to process?

10 A: Yes.

11 Q: And did you, in fact, go and process that residence?

12 A: Yes.

13 Q: And how did you get into the residence?

14 A: Mr. Bright's family provided keys for the residence, and
15 I believe the Marlboro County Sheriff's Office obtained a
16 search warrant.

17 Q: And as you went through the evidence -- when you went
18 through the residence, what were the primary things that you
19 were looking for?

20 A: Oh, electronic evidence, any blood, and any footwear
21 impressions or footwear.

22 Q: I am going to show you State's Exhibit 464. Do you
23 recognize that photograph?

24 A: Yes.

25 Q: And what was the purpose of that photograph?

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1 A: That is a cell phone on the couch just as you go through
2 the front door, reportedly belonging to Dwayne Bright.

3 Q: And you collected that?

4 A: Yes.

5 Q: And that was turned over to computer crimes?

6 A: That was transferred to Tara Cataldo. I believe she was
7 with the FBI.

8 Q: Okay. And State's Exhibit 466. What's the significance
9 of that?

10 A: It's a knife.

11 Q: Okay. You said you were also looking for anything that
12 could make certain footwear impressions. State's Exhibit 467.
13 What is this a photograph of?

14 A: It's a photograph of a Nike shoe.

15 Q: And State's Exhibit 468 and 469, which are multiple
16 photographs of the Nike Air Force 1 shoes?

17 A: Yes.

18 Q: And collected those?

19 A: Yes.

20 Q: As when you went through each of the bedrooms, multiple
21 people lived in Mr. Bright's house?

22 A: I'm not sure.

23 Q: Or there were multiple bedrooms anyway that were set up
24 in the house?

25 A: Yes.

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1 Q: Okay. State's Exhibit 472. In this photograph, do you
2 collect the Nike Air Force 1s from this photograph as well?

3 A: Yes.

4 Q: Okay. And also a pair -- a pack of Newport cigarettes
5 there?

6 A: Yes.

7 Q: You photographed those as well?

8 A: Yes.

9 Q: And then you found a third pair of Nike Air Force 1s in
10 the home; is that correct?

11 A: Yes.

12 Q: And you photographed and collected those as well?

13 A: Yes.

14 Q: So based on your knowledge of the crime at this point,
15 you were aware that Ella Lowery had been stabbed?

16 A: Yes.

17 Q: Or had been cut in some way based on your review of the
18 scene. So you were at Mr. Bright's house. Do you recognize
19 State's Exhibit 486?

20 A: A folding knife.

21 Q: And you collected that out of this drawer in State's
22 Exhibit 485?

23 A: I'm sorry?

24 Q: Here's State's Exhibit 487. This may help with what
25 you're looking for.

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1 A: I believe we collected that.

2 Q: You photographed the knife --

3 A: Yes.

4 Q: -- in the drawer? And State's Exhibit 495 is photographs
5 of the red Air Force 1s that we looked at earlier?

6 A: Yes.

7 Q: And you processed Mr. Bright's house the same way that
8 you would anywhere else? You started with the outside, took
9 photographs, and then went in the inside and took pictures of
10 anything of interest and collected what you were asked to as
11 far as all the digital items that you could locate and the
12 shoes?

13 A: Yes. When we're requested, the investigative agency has
14 information based on interviews they've done that they're
15 wanting us -- that they're specifically looking for. So we're
16 assisting them in doing that. So anything that they requested
17 to be photographed or collected is what we did.

18 Q: Okay. And then talk to me about on page 8 you said you
19 did some presumptive testing on the three pairs of shoes, on
20 the three pairs of Nike Air Force 1s. What was that?

21 A: We used a chemical called phenolphthalein, phenol for
22 short. It's a presumptive test for blood. It -- when it
23 reacts, it turns a pink color.

24 Q: And what did you do? What did you use that on?

25 A: We swabbed the two pairs of black-in-color Nike Air Force

1 1s. We swabbed those and tested it with phenolphthalein.

2 Q: What was the result of that test?

3 A: It was a negative reaction.

4 Q: Okay. And then what about the red Air Force 1s?

5 A: Since they were a lighter color and not dark, LCV was
6 used on those. We wouldn't have been able to see the LCV due
7 to its dark violet color. We used those on the black shoes.
8 So we used it on the red and white.

9 Q: Okay. And what was the result of that?

10 A: Those were also negative.

11 Q: Did you use a different reagent for the hallway of the
12 residence?

13 A: Yes. We used Blue Star.

14 Q: Okay. And what was the purpose of that?

15 A: Blue Star is a chemical that can be used to search for
16 latent blood.

17 Q: Okay. And what was the result of that test?

18 A: A negative reaction.

19 Q: What does that mean?

20 A: When you use Blue Star, when it reacts with the
21 hemoglobin in blood, you have to use it when it's dark. It
22 will glow in the dark, if you will, like a blue color. We
23 call it chemiluminescence, and we did not get any reaction.

24 Q: Okay. And then you said on the sheets and mattress in
25 bedroom one you used the alternate light source?

1 A: Yes.

2 Q: And how does that work?

3 A: So we -- it's a handheld alternate light source. Just
4 for an example, most people reference, like, a black light was
5 used on the sheet.

6 Q: What were the results of that?

7 A: Negative results.

8 Q: And at the end of Bright's residence, you then turned
9 over the collected evidence to -- you said to Tara Cataldo
10 with the FBI and then you went back over to Craig Street?

11 A: Craig Circle, yes.

12 Q: Craig Circle. Sorry. And what did you collect from
13 there?

14 A: We were requested to take additional cell phones from the
15 residence and a pair of underwear or panties from the dryer.

16 Q: And those cell phones were transferred over to the FBI as
17 well?

18 A: Yes.

19 Q: When you were initially on the scene, at some point were
20 you called -- were you asked to go and process another scene
21 different from Craig Circle in the middle of while you were
22 working on Craig Circle?

23 A: After we were finished, we were requested to process Ella
24 Lowery's Ford Fusion.

25 Q: But going -- I'm sorry. I'm going back. On the bottom

1 of page 3?

2 A: That was during the initial crime scene.

3 Q: Right. And State's Exhibit 454 and 455, was that -- are
4 those photographs from the vehicle you were asked to go
5 process?

6 A: Todd Schenk and Dalila Jazic were the ones who responded
7 to do that.

8 Q: And these are their photos?

9 A: Yes.

10 Q: Okay. That was done while y'all were still processing
11 Craig Circle?

12 A: Yes.

13 Q: And you -- and so you stayed at Craig Circle?

14 A: Yes.

15 MS. WEISS: And, Your Honor, I am just trying to figure
16 out the best way to do this. These -- we have talked about
17 them, and I know I've given the defense a copy of the list
18 that we have. These are -- there are boxes and bags up here
19 of all of this stuff that Ms. Hunton has -- Agent Hunton has
20 described that they collected, that Agent Hunton specifically
21 collected and put into evidence, and they match the numbers
22 that are on here.

23 THE COURT: Why don't we take a break for just one moment
24 and see if y'all can go through those and see which ones you
25 agree to put into evidence?

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 MR. YOUNG: I'm pretty sure I only object to one, but --

2 MS. WEISS: Okay.

3 THE COURT: Okay. And your objection?

4 MR. YOUNG: To the --

5 (WHEREUPON, there was a pause in the proceedings for the
6 attorneys to confer off the record, after which the
7 proceedings resumed as follows.)

8 THE COURT: Mr. Young, do you agree that -- do you agree
9 to the admission of all of this evidence that's in front of
10 the bench with the exception of 164; is that correct?

11 MR. YOUNG: That's correct, Your Honor.

12 THE COURT: And what is 164?

13 MR. YOUNG: A bottle of ammonia.

14 THE COURT: It's what?

15 MR. YOUNG: It's a bottle of ammonia collected from the
16 car in Charlotte.

17 MR. REDMOND: In Charlotte. The CMPD, Your Honor.

18 THE COURT: All right. What's the State's position on
19 that?

20 MR. REDMOND: We'll have witnesses that will come forward
21 on that. We would like to get it in obviously because there's
22 going to be some value later on in the trial, but we do have a
23 witness that --

24 THE COURT: Let's just set that aside and see if you can
25 lay the proper foundation for it.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 MR. REDMOND: Yes, sir.

2 THE COURT: Is that all right with you, Mr. Young?

3 MR. YOUNG: Yes, sir.

4 MS. WEISS: And -- but you don't object as far as
5 Jennifer Miller testified that she collected that and turned
6 it into evidence, but as far as it coming in beyond that,
7 we'll save that for later?

8 MR. YOUNG: Special Agent Hunton collected all of this
9 stuff?

10 MS. WEISS: Okay.

11 MR. YOUNG: And --

12 THE COURT: All right. Let's -- Ms. Weiss?

13 MS. WEISS: Yes, Your Honor?

14 THE COURT: Can you give us a comprehensive list of all
15 of the --

16 MS. WEISS: All of this?

17 THE COURT: Yes.

18 MS. WEISS: Absolutely. I'll get you --

19 THE COURT: Even better if you've got it in writing.

20 MS. WEISS: I'll give you a typed list. I'll give you a
21 -- I can give the court reporter and the Court a typed list in
22 the morning.

23 MR. YOUNG: Which reminds me that I do need to preserve
24 our previous objection on the stop, which Your Honor has ruled
25 against us on it, I think.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 THE COURT: On what?

2 MR. YOUNG: On the stop and any evidence coming in from
3 the car.

4 THE COURT: Yes.

5 MR. YOUNG: And we would maintain that objection.

6 THE COURT: All right.

7 MR. YOUNG: I don't have any additional ground.

8 THE COURT: That will be deemed a contemporaneous
9 objection with regard to this issue.

10 MR. YOUNG: Thank you.

11 BY MS. WEISS:

12 Q: So each of these bags -- bags and boxes, as we've gone
13 through, you've looked at each of these? I mean you've looked
14 at the individual ones that have your name by it, and these
15 are the items that are described in your report that you've
16 talked about collecting throughout the crime scene
17 investigation?

18 A: Yes.

19 Q: And they each have your name on them?

20 A: Correct.

21 Q: And just for the record, everything that SLED provided to
22 us as chain of custody that had you turning it in to SLED as
23 the collector or submitting agent, your name would be on all
24 of those things?

25 A: I believe so.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 Q: That's how -- I mean because that's how we've identified,
2 you know, exactly which ones you turned it that you did. You
3 were the main agent that turned in the evidence on this case?

4 A: Yes.

5 Q: And that would also include evidence from Charlotte when
6 the Mitsubishi Eclipse was processed in Charlotte?

7 A: Yes.

8 Q: And so some of these items were taken from that vehicle
9 as well?

10 A: Yes.

11 Q: And you brought those back to Columbia and logged them
12 in?

13 A: Yes.

14 Q: Sorry. I'm going to jump ahead to page 15 of your report
15 and then over to page 16. Please tell us what you did on May
16 14th -- May 13th and 14th involving this case?

17 A: On May 13th, we were requested to assist with a search
18 warrant on a property and abandoned house in McColl, South
19 Carolina.

20 Q: Okay. And what did you do?

21 A: We responded and met everyone that would be involved with
22 that and then responded to the location.

23 Q: Okay. And in reference to State's Exhibit 505 through
24 563, these are all the photos -- these are all photos -- not
25 all photos, but also those that were taken when you responded

1 out to that scene?

2 A: Yes.

3 Q: Okay. And when you were given the location to respond,
4 you were given GIS map coordinates as far as the property to
5 respond to more so than an address; right?

6 A: Yes.

7 Q: And so when you are starting something like this, it's
8 just sort of an unknown search when you get there. You start
9 by documenting the entire -- the area that you're going to
10 start searching from the outside in?

11 A: Yes.

12 Q: So the first thing you did was after you started the
13 photographs, the first items of evidence that you found were
14 outside the abandoned house?

15 A: Yes.

16 Q: I'm going to show you State's Exhibit 515. Would that be
17 one of the first photos you took? Can you identify those?

18 A: Yes.

19 Q: These are just different angles of the same -- same items
20 that were on the ground?

21 A: Yes.

22 Q: Once you -- once you took the distance pictures, then you
23 moved in and took the close-up pictures?

24 A: Yes.

25 Q: That would be State's Exhibit 523, 524, 525. These are

1 all items that you found on the ground? 526?

2 A: Yes.

3 Q: 527, 528? You documented all of those --

4 A: Correct.

5 Q: -- with photographs? And then after you documented them,
6 just as you did with everything else, in State's 531 you mark
7 them with markers?

8 A: Yes.

9 Q: And then re-photograph them with the markers?

10 A: Yes.

11 Q: That's from further distances in State's 534 and then
12 closer up in State's 535? And so you're able to then collect,
13 pick up, and actually photograph once you've -- once you've
14 established where they all are, 536, actually photograph the
15 piece of -- the piece of paper up close?

16 A: Yes.

17 Q: And you did that with each of the items that were -- that
18 you identified as laying out there that were identified with
19 markers? 538?

20 A: Yes.

21 Q: What was the significance of the items that you found
22 outside that abandoned house in McColl?

23 A: Some of those items had Ella Lowery's name on them.

24 Q: I forgot there was also an abandoned house there, and
25 y'all took photographs of that as well?

1 A: Yes.

2 Q: Inside and out?

3 A: Correct.

4 Q: Did you find anything inside the abandoned house to
5 collect, anything that seemed to be tied to this case?

6 A: No, ma'am.

7 Q: But you did search inside?

8 A: Yes.

9 Q: Once you documented and searched that, what did you do
10 next?

11 A: We were searching the surrounding area of the property.

12 Q: And that abandoned house is approximately how far from
13 Gum Swamp Creek?

14 A: I'm not sure.

15 Q: Is it -- can you see the creek from the property?

16 A: Yes. You can see it.

17 Q: Okay. When you moved down to the creek, what did you do?

18 A: We were notified that someone had located a body.

19 Q: And just as you do with the house and the crime -- the
20 initial crime scene and Bright's house, you start by
21 photographing around the outside, photographing from a
22 distance?

23 A: Yes.

24 Q: What all can be there, and then you move in closer?

25 A: Yes.

1 Q: And once you got down to the creek, were you able to see
2 what had been identified as a potential -- as a body in the
3 water?

4 A: Yes.

5 Q: I'm going to show you State's Exhibit 541. Does that
6 accurately depict what you were able to see in the water?

7 A: Yes.

8 Q: Could you see that from the bridge in State's Exhibit
9 548?

10 A: Yes.

11 Q: And that bridge leads to -- where does that bridge -- if
12 you drive straight cross that bridge and down the road, that
13 leads to what?

14 A: That's down New Bridge Road. Eventually, it will
15 intersect with Red Bluff Road.

16 Q: And that -- the abandoned house was just down off of that
17 bridge?

18 A: Yes, if you continue down that road.

19 Q: And you were able to get closer to the body in the
20 photographs, Exhibit 544. How did y'all get these
21 photographs?

22 A: My partner got into either a boat that DNR or the fire
23 department provided, and they were able to get closer.

24 Q: And State's Exhibit 550, does this actually -- accurately
25 depict what you found when you got to the scene?

1 A: Yes.

2 Q: Where the body was found, was there anything else that
3 was recovered from the water?

4 A: A blanket.

5 Q: Okay. And you photographed that as well?

6 A: Yes.

7 Q: State's Exhibit 250, is that what you were describing as
8 the blanket that you found?

9 A: Yes. I think it's a comforter more so than a blanket.

10 Q: Once the body was recovered, State's Exhibit 552, what
11 did you do at that point?

12 A: We took photographs of the body and took a buccal swab.

13 Q: And what was the purpose of taking the buccal swab?

14 A: In attempts to get an identification by submitting it to
15 our DNA department.

16 Q: And when you were able to get to the body, were there any
17 clothes on the child or on the person that you found?

18 A: No shirt, black-in-color pants.

19 Q: Okay. And then what were you able to do at that point as
20 far as preserving what you needed to before the body was taken
21 away? Is there anything else?

22 A: Not to my knowledge.

23 Q: And again, with that body, was the coroner there at the
24 same time as well?

25 A: Yes. I believe Danny Gainey was the transport that was

1 used by the Coroner's Office.

2 Q: Okay. Is it the same thing when a body is found like
3 this that it's the property of the coroner?

4 A: Yes.

5 Q: Okay.

6 A: Sometimes they send out their representatives or a
7 transport also. So -- and Coroner Brown was on scene.

8 Q: Okay. So you said that you took a buccal swab from the
9 body that you found at the creek?

10 A: Yes.

11 Q: And what item was that of yours?

12 A: Item 110.

13 Q: Okay. And you submitted that to -- to whom at SLED?

14 A: The DNA department.

15 MS. WEISS: Thank you. I have no further questions at
16 this time. Please answer any questions the defense may have.

17 THE COURT: Cross-examination.

18 MR. YOUNG: Your Honor, can we take a short recess? I
19 know I'm going to get us done by five.

20 THE COURT: Okay. We'll stand at ease for five minutes.

21 MR. YOUNG: Thank you.

22 (WHEREUPON, there was a break in the proceedings from
23 4:36 p.m. until 4:45 p.m., after which the proceedings
24 resumed as follows.)

25 MS. WEISS: May it please the Court, Your Honor.

JENNIFER HUNTON - DIRECT BY MS. WEISS

1 THE COURT: Yes.

2 MS. WEISS: Just for clarification, the court reporter
3 asked --

4 THE COURT: Let's have quiet.

5 MS. WEISS: Photos 456 to 504 were the range of photos
6 that were Dwayne Bright's house. I just forgot to say the
7 full range that had already been agreed to. So I wanted to
8 make sure I put that in there of the photos that were in
9 evidence.

10 MR. YOUNG: Without objection.

11 THE COURT: No objection?

12 MR. YOUNG: Yes, sir.

13 THE COURT: They're into evidence without objection from
14 the defense.

15 MS. CRAYTON: What was the numbers again?

16 MS. WEISS: 456 to 504.

17 (WHEREUPON, State's Exhibits Number 456 through 504,
18 photographs, were admitted into evidence.)

19 THE COURT: Mr. Young, you're recognized.

20 MR. YOUNG: One other housekeeping matter real quick,
21 Your Honor. The defense had previously marked Defense Exhibit
22 Number 7, a picture taken from Dwayne Bright's house. That
23 picture is in evidence as State's 485, for clarification.

24 THE COURT: Okay. Very good.

25 MR. YOUNG: It's this same photograph.

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 CROSS-EXAMINATION

2 BY MR. YOUNG:

3 Q: Agent Hunton, I'm going to apologize in advance. I'm
4 going to skip around a little bit. Okay?

5 A: Okay.

6 Q: I'm going to start with your initial crime scene notes,
7 the typed notes that you have --

8 A: Okay.

9 Q: -- in front of you. Now, this wasn't a typical everyday
10 average murder crime scene; is that correct?

11 A: Every crime scene is different.

12 Q: Every one is different, and in this one there was a big
13 difference because there was a missing eight-year-old child?

14 A: Correct.

15 Q: And there was FBI there?

16 A: Yes.

17 Q: And there were -- I mean, you're not normally handing
18 over pieces of evidence to the FBI to go process?

19 A: Not unless they're involved in the case.

20 Q: Okay. And they were involved because there was a missing
21 child?

22 A: Yes.

23 Q: And you said -- earlier, I think you said that you
24 weren't always logging in evidence the way that you typically
25 do because it was going straight to the crime lab?

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 A: Yes.

2 Q: Straight to the computer lab?

3 A: Certain items that get requested to be sent to certain
4 departments, we can chain of custody those, transfer those
5 over and they get submitted.

6 Q: And Agent Dove was at some of the scenes and taking
7 direct possession? He's the computer or forensic computer --

8 A: Computer crimes, yes.

9 Q: Yeah. And he was at some of the scenes and you were --
10 he was taking stuff straight from there?

11 A: Correct.

12 Q: I mean, that was because everybody was trying to find the
13 missing child?

14 A: Yes.

15 Q: Right? You stated earlier that when you were doing
16 anything with one of the bodies of the victims on the scene,
17 you did that with the -- in the presence of the coroner?

18 A: Or their representative, whoever they send.

19 Q: Whoever they sent? Okay. And the -- so the pictures
20 that you took of Ella Lowery's body at the crime scene, those
21 were in the presence of the coroner?

22 A: Or his representative, yes. I don't remember offhand.

23 Q: Okay. And the body was removed around 6:13 p.m., and
24 that's your page 3 of 17, second to the bottom?

25 A: Correct.

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 Q: Okay. And so is that about the time that those pictures
2 were taken was around 6 p.m.?

3 A: Somewhere in that time frame. If we're collecting, like,
4 fingernail scrapings and the prints from the body, that kind
5 of adds some time, especially taking fingerprints. It takes a
6 minute, so -- but that general timeframe.

7 Q: Okay. But that's when those pictures of Ella Lowery's
8 body were taken, sort of around 6 p.m.?

9 A: Yes.

10 Q: Okay. So after you processed Craig Circle -- and I'm
11 going to skip forward to your page 6 of 17 on May the 6th.
12 This is the next day; right?

13 A: Correct.

14 Q: And you got called out and that's when you got called out
15 to go to another scene, Mr. Bright's house?

16 A: Yes, sir.

17 Q: And the information that you were provided was that
18 Bright's cell phone may have been in the location of the
19 victim's residence at the time of the homicide?

20 A: That was information that we were provided, yes.

21 Q: Okay. And who provided you that information?

22 A: Lt. Jamie Seales with the Marlboro County Sheriff's
23 Office.

24 Q: Okay. And you processed his house, and we've talked
25 about State's Exhibit Number 485. This is a picture from Mr.

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 Bright's bedroom. Can you tell me what all is in the drawer
2 in that picture?

3 A: Batteries. I can't tell if it's mail or paperwork. A
4 sock.

5 Q: I'm sorry. There's a --

6 A: A coin.

7 Q: There's a pair of brass knuckles in --

8 A: I was going to say I think those are brass knuckles. I'm
9 not super familiar with those.

10 Q: Okay. But there's what appears to be a pair of brass
11 knuckles in the drawer in that picture?

12 A: Yes.

13 Q: Okay. And after you processed his house, then you went
14 back to Craig Circle to get those three phones and the
15 underwear out of the dryer that we talked about earlier?

16 A: Yes.

17 Q: And then on -- later that night or I guess early morning
18 on the 7th -- and this is your page 10 of 17. At 1:05 a.m. on
19 the 7th, you went back to Craig Circle again?

20 A: Yes, sir.

21 Q: And that was because you had been provided information
22 that the possible murder weapon was on the scene?

23 A: Yes, sir.

24 Q: And you looked and you used a metal detector?

25 A: Correct.

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 Q: To search for that murder weapon?

2 A: Yes.

3 Q: And was Mr. Bright brought to the scene to assist in that
4 search?

5 A: I'm not sure.

6 Q: You don't recall if he was brought out there or not?

7 A: I don't.

8 Q: Okay. No weapon was found?

9 A: No.

10 Q: Okay.

11 A: Not to my knowledge.

12 Q: And you cleared that scene at 2:38 in the morning?

13 A: Correct.

14 Q: And as far as you're aware, that was new information that
15 was provided that made you go back out there at 1 o'clock in
16 the morning?

17 A: Yes. They requested us based on information that they
18 had.

19 Q: That they're getting information all the time, so they
20 sent you back out there at 1 o'clock --

21 THE COURT: To Craig Circle? To Craig Circle?

22 MR. YOUNG: To Craig Circle, yes, sir.

23 BY MR. YOUNG:

24 A: Correct.

25 Q: Okay. On the 9th, your page 11 of 17, you went to the

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 Marlboro County Sheriff's Office; is that right?

2 A: Yes.

3 Q: And you went there for a briefing; right?

4 A: Correct.

5 Q: Prior to going to execute a search warrant?

6 A: Yes.

7 Q: And was that pretty typical that y'all did briefings
8 about where you were going and why you were going there
9 beforehand?

10 A: A lot of it is safety concerns too for executing a search
11 warrant. We always have a briefing beforehand.

12 Q: Okay. And that was normal process for y'all to meet with
13 everybody and talk about what's what and who's who and where
14 you're going and what you're doing?

15 A: To an extent, yes.

16 Q: Okay. Bear with me just a couple more minutes. I'm
17 going to flip to your handwritten notes real quick.

18 A: Okay.

19 Q: And I think it's page -- well, on page 5, and I think
20 this is reflected in your written report as well was that
21 Danny Gainey was the coroner that removed Ella Lowery's body;
22 right?

23 A: He works for their transport, I believe.

24 Q: Okay. Was he the Darlington County Coroner and not Tim
25 Brown, the Marlboro County Coroner?

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 A: I think he's out of the Darlington County Coroner's
2 Office, who Marlboro County uses as a transport service.

3 Q: Okay. So that would be the coroner's representative?

4 A: Yes.

5 Q: Okay. Now, on I guess two pages further in, you got some
6 information from the autopsy that was conducted of Ella
7 Lowery?

8 A: Yes.

9 Q: And what you were told was that it was -- that a single
10 edged knife; is that right?

11 A: Are you in the knives?

12 Q: Yes, ma'am.

13 A: Yes.

14 Q: Blunt edge and sharp edge?

15 A: That is what Agent McKay wrote, yes.

16 Q: This is Agent McKay's writing, not yours?

17 A: Correct.

18 Q: Okay. Possible long blade around five inches?

19 A: Yes. We have the same initials too. So that might be
20 confusing, but I think she has it written at the bottom.

21 A: She does and -- okay. The abandoned house that you went
22 to, I know that there are a bunch of pictures of the sort of
23 outside of it, and you did a walkthrough of the inside of it
24 as well; right?

25 A: Yes, sir.

JENNIFER HUNTON - CROSS BY MR. YOUNG

1 Q: And inside that house were empty beer bottles?

2 A: I don't remember offhand.

3 Q: Sure. I'm going to show you what I've marked as Defense
4 Exhibit Number 13.

5 MS. WEISS: No objection from the State.

6 MR. YOUNG: And, Your Honor, I'd move to admit, I believe
7 without objection, Defense Exhibit Number 13.

8 THE COURT: 13 is into evidence.

9 (WHEREUPON, Defendant's Exhibit Number 13, photograph,
10 was admitted into evidence.)

11 BY MR. YOUNG:

12 A: Yes.

13 Q: So there were beer bottles and other stuff scattered
14 throughout that scene?

15 A: Yes.

16 Q: And you didn't collect all those?

17 A: No.

18 Q: But it looks like people had been hanging out in there?

19 A: It's possible.

20 Q: Drinking and doing whatever?

21 A: I'm not sure.

22 Q: Okay.

23 MR. YOUNG: I beg the Court's indulgence for one second.

24 Your Honor, that's all the questions I have. Thank you.

25 THE COURT: Any redirect?

JENNIFER HUNTON - REDIRECT BY MS. WEISS

1 MS. WEISS: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. WEISS:

4 Q: Defense asked you about Ella Lowery's body and the photos
5 that were taken of Ella Lowery's body at the home on Craig
6 Circle, the first crime scene when you arrived. When you took
7 -- when you arrived at that crime scene, do you recall what
8 time it was?

9 A: The initial crime scene?

10 Q: Uh-huh.

11 A: We arrived at 10:39 a.m.

12 Q: Okay. And the body was removed at approximately 6 p.m.
13 or a little after 6 p.m.?

14 A: Yes, somewhere around there.

15 Q: And all of those pictures we went through, do you take
16 pictures of the scene to include the body starting when you
17 first get there and keep going back through multiple times or
18 are the pictures only taken at 6 p.m. at the end of your
19 investigation?

20 A: We take photographs throughout.

21 Q: Okay. And while you're doing it, you make diagrams to
22 help explain all of the evidence?

23 A: Yeah. They -- they supplement our pictures.

24 Q: I just want to clarify on one question then, if you don't
25 mind. This is -- this is a chart that you created of Gum

JENNIFER HUNTON - REDIRECT BY MS. WEISS

1 Swamp Creek?

2 A: Yes.

3 Q: Okay. We're talking about how far the body was from the
4 bridge. Do you know what that distance was?

5 A: 185.2 feet.

6 MS. WEISS: Your Honor, at this time, I would like to put
7 these into --

8 THE COURT: Show them to the defense.

9 MS. WEISS: He just said without --

10 MR. YOUNG: No objection.

11 MS. WEISS: He's the one who said put them in.

12 THE COURT: Oh, okay. They're into evidence and
13 denominated as State's Exhibit --

14 MS. WEISS: 564, 565, 566, 567, and 568.

15 (WHEREUPON, State's Exhibits Number 564 through 568,
16 diagrams, were admitted into evidence.)

17 MS. WEISS: No further questions, Your Honor.

18 THE COURT: You may step down.

19 Any objection to this witness being excused?

20 MS. WEISS: Not from the State.

21 MR. YOUNG: Not from the defense.

22 THE COURT: You're free to leave. Thank you very much.
23 Anything from the State before we recess until 9:30 in
24 the morning?

25 MS. WEISS: No, sir. Your Honor, we'll have all of this

1 cataloged.

2 THE COURT: All right. Anything from the defense?

3 MR. YOUNG: Your Honor, I just need to verify that -- and
4 I've reviewed this with the State about 199.

5 MS. WEISS: It's not in yet.

6 THE COURT: We'll see y'all at 9:30, 9:30 sharp, and
7 we'll be ready to go.

8 MS. WEISS: Ready to go. Yes, sir, Your Honor.

9 (WHEREUPON, the proceedings adjourned for the day at 5:02
10 p.m.)

11 (WHEREUPON, the exhibits admitted through the testimony
12 of Jennifer Hunton are confirmed and admitted as follows:

13 State's Exhibit Number 24, cigarette butt.

14 State's Exhibits Number 25 through 32, swabs.

15 State's Exhibit Number 33, fingernail scrapings.

16 State's Exhibit Number 34, major case prints of Ella
17 Lowery.

18 State's Exhibit Number 35, purse.

19 State's Exhibits Number 36 through 37, swabs.

20 State's Exhibit Number 38, phone.

21 State's Exhibit Number 39, swabs.

22 State's Exhibit Number 40, blue child's t-shirt.

23 State's Exhibit Number 41 through 43, cuttings from blue
24 child's t-shirt.

25 State's Exhibit Number 44, knife.

1 State's Exhibits Number 45 through 46, swabs.
2 State's Exhibit Number 47, butcher block with knives and
3 scissors.
4 State's Exhibits Number 48 through 50, swabs.
5 State's Exhibit Number 51, piece of blue latex glove.
6 State's Exhibit Number 52, swabs.
7 State's Exhibit Number 53, piece of blue latex glove.
8 State's Exhibit Number 54, swabs.
9 State's Exhibit Number 55, pieces of blue latex glove.
10 State's Exhibit Number 56, swabs.
11 State's Exhibit Number 57, piece of blue latex glove.
12 State's Exhibit Number 58, swabs.
13 State's Exhibit Number 59, piece of blue latex glove.
14 State's Exhibit number 60, swabs.
15 State's Exhibit Number 61, linoleum cutting.
16 State's Exhibit Number 62, unknown footwear impression.
17 State's Exhibit Number 63, linoleum cutting.
18 State's Exhibit Number 64, unknown footwear impression.
19 State's Exhibit Number 65, linoleum cutting.
20 State's Exhibit Number 66, unknown footwear impression.
21 State's Exhibit Number 67, linoleum cutting.
22 State's Exhibit Number 68, unknown footwear impression.
23 State's Exhibit Number 69, unknown footwear impression.
24 State's Exhibits Number 70 through 72, linoleum cuttings
25 and footwear impressions.

1 State's Exhibit Number 73, grey floormat from Chevrolet
2 Suburban.
3 State's Exhibit Number 74, hairbrushes and combs
4 State's Exhibit Number 75, Swabs from toothbrush
5 State's Exhibit Number 76, Tyrone Thomas buccal swab
6 State's Exhibit Number 77, Delores Lowery buccal swab
7 State's Exhibit Number 78, Clifton Benjamin buccal swab
8 State's Exhibit Number 79, Tyreon Lowery buccal swab
9 State's Exhibit Number 80, Ella Lowery blood spot
10 State's Exhibit Number 81, Ella Lowery vaginal swabs
11 State's Exhibit Number 82, Ella Lowery oral swabs
12 State's Exhibit Number 83, Ella Lowery rectal swabs
13 State's Exhibit Number 84, Ella Lowery left fingernail
14 clippings
15 State's Exhibit Number 85, Ella Lowery right fingernail
16 clippings
17 State's Exhibit Number 86, Ella Lowery pulled scalp hair
18 State's Exhibit Number 87, Ella Lowery pulled pubic hair
19 State's Exhibit Number 88, Ella Lowery combed pubic hair
20 State's Exhibit Number 89, Dwayne Bright buccal swab
21 State's Exhibits Number 90 through 100, swabs from Ford
22 Fusion
23 State's Exhibit Number 101, blue latex gloves in Fusion
24 State's Exhibit Number 102, swabs
25 State's Exhibit Number 103, shirt from Fusion

1 State's Exhibit Number 104, panties from dryer
2 State's Exhibit Number 105, black Nike Air Force 1s
3 State's Exhibit Number 106, inked impression of State's
4 105
5 State's Exhibit Number 107, black Nike Air Force 1s
6 State's Exhibit Number 108, inked impression of State's
7 107
8 State's Exhibit Number 109, red and white Nike Air Force
9 1s
10 State's Exhibits Number 110 through 114, swabs
11 State's Exhibit Number 115, inked impression of State's
12 109
13 State's Exhibit Number 116, green tank top
14 State's Exhibit Number 117, DVD of crime scene photos
15 State's Exhibit Number 118, DVD of crime scene photos
16 State's Exhibit Number 119, unknown footwear impression
17 State's Exhibit Number 120, jogging pants
18 State's Exhibit Number 121, socks
19 State's Exhibit Number 122, plaid boxer shorts
20 State's Exhibit Number 123, t-shirt
21 State's Exhibit Number 124, cutting from t-shirt
22 State's Exhibit Number 125, cutting from Bright t-shirt
23 State's Exhibit Number 126, cutting from Bright t-shirt
24 State's Exhibit Number 127, long-sleeved shirt
25 State's Exhibit Number 128, swabs from unknown stain

1 State's Exhibit Number 129, Terry Williams buccal swab
2 State's Exhibits Number 130 through 138, swabs from
3 Eclipse
4 State's Exhibit Number 139, JeJauncey Harrington buccal
5 swab
6 State's Exhibits Number 140 through 148, latent lifts
7 State's Exhibit Number 149, carpet from Eclipse trunk
8 State's Exhibits Number 150 through 151, carpet from
9 Eclipse
10 State's Exhibit Number 152, Harrington t-shirt
11 State's Exhibit Number 153, Harrington Nike Air Force 1s
12 State's Exhibit Number 154, inked impression of State's
13 153
14 State's Exhibit Number 155, Harrington socks
15 State's Exhibit Number 156, Harrington underwear
16 State's Exhibit Number 157, Harrington jeans
17 State's Exhibit Number 158, metal gloves
18 State's Exhibit Number 159, swabs from metal gloves
19 State's Exhibit Number 160, pocketknife
20 State's Exhibit Number 161, swabs from pocketknife
21 State's Exhibit Number 162, folding knife
22 State's Exhibit Number 163, swabs from folding knife
23 State's Exhibit Number 168, dollar bill
24 State's Exhibit Number 169, buccal swabs from body found
25 State's Exhibit Number 170, Ella Lowery cards

1 State's Exhibit Number 171, comforter
2 State's Exhibit Number 176, yellow t-shirt
3 State's Exhibit Number 177, yellow t-shirt
4 State's Exhibit Number 178, cutting from t-shirt
5 State's Exhibit Number 179, major case prints Harrington
6 State's Exhibit Number 180, major case prints Iyana
7 State's Exhibit Number 181, major case prints Campbell
8 State's Exhibit Number 182, Iyana Lowery left fingernail
9 clippings
10 State's Exhibit Number 183, Iyana Lowery right fingernail
11 clippings
12 State's Exhibit Number 184, Iyana Lowery pulled scalp
13 hair
14 State's Exhibit Number 185, Iyana Lowery rectal swabs
15 State's Exhibit Number 186, Iyana Lowery vaginal swabs
16 State's Exhibit Number 187, Iyana Lowery oral swabs
17 State's Exhibit Number 188, Iyana Lowery blood spot
18 State's Exhibits Number 189 through 195, DVD of crime
19 scene photos with photos of latent prints
20 State's Exhibits Number 196 through 197, DVD of crime
21 scene photos with photos of latent prints
22 State's Exhibit Number 198, JeJauncey Harrington buccal
23 swabs
24 State's Exhibit Number 200, DVD of crime scene images
25 State's Exhibits Number 201 through 204, latent

1 impressions

2 State's Exhibits 268 through 563, photographs (all
3 contained on DVDs of crime scene images).

4 FEBRUARY 14, 2023

5 (WHEREUPON, the proceedings resumed at 9:31 a.m.)

6 THE COURT: The State, you're recognized. You may call
7 your first witness.

8 MS. WEISS: Thank you, Your Honor. The State calls
9 Jackie Hamelryck. Jackie Hamelryck, please.

10 (WHEREUPON, there was a pause in the proceedings until
11 the witness entered the courtroom, after which the
12 proceedings resumed as follows.)

13 THE COURT: Yes, ma'am. If you'll please come around in
14 front of the clerk and place your left hand on the Bible and
15 raise your right hand as the clerk administers the oath.

16 THE CLERK: Do you solemnly swear that the testimony you
17 shall offer the Court in this case shall be the truth, the
18 whole truth, and nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Please be seated.

21 THE COURT: Yes, ma'am. If you could, come around, and
22 I'm going to ask you, if you could, to have a seat in the
23 witness chair here.

24 THE WITNESS: Yes, sir.

25 THE COURT: Pull up real close to that microphone, and

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1 I'm going to ask that you speak loudly, clearly, and slowly in
2 order that we can hear everything that you have to say, and
3 let's start with your full name, please.

4 THE WITNESS: My name is Jacqueline Hamelryck.

5 THE COURT: Could you spell that last name for us,
6 please?

7 THE WITNESS: Yes, sir. It's H-a-m-e-l-r-y-c-k.

8 JACKIE HAMELRYCK, being first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. WEISS:

12 Q: Good morning, Agent Hamelryck. How are you this morning?

13 A: Good morning.

14 Q: Will you please tell the Court where you're employed and
15 what your current position is there?

16 A: I work for the FBI, and my current position is I am the
17 violent crimes against children coordinator for our office.

18 Q: And you're based out of Columbia?

19 A: Yes, ma'am.

20 Q: Were you working for the FBI back in 2017?

21 A: Yes, ma'am, out of Columbia.

22 Q: Out of Columbia? What was your position then? Was it
23 the same?

24 A: It was the same. I work violent crimes against children
25 matters.

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1 Q: Did you receive notice about an incident that was
2 occurring in Bennettsville in Marlboro, South Carolina, around
3 -- on or around May 5th of 2017?

4 A: Yes, ma'am. It would've been that evening.

5 Q: And how did you get notified?

6 A: There was an intelligence bulletin that went out to law
7 enforcement advising that there was an eight-year-old missing
8 in Marlboro County, and that's -- my office notified me of the
9 missing child.

10 Q: And is that common?

11 A: It is.

12 Q: Okay. And do you get notifications of missing children
13 around our state, around our region, nationally?

14 A: Around our state, and specifically in South Carolina
15 we're responsible for FBI investigations of missing children,
16 yes.

17 Q: And when a child is indicated as missing, from your
18 experience what is the most important time period as far as
19 the chances of locating that child?

20 A: Just statistically from these types of investigations
21 across the country, if a child is taken and ultimately
22 murdered, there is about a 76 percent chance that that murder
23 occurred within about three hours of when the child was taken
24 statistically. So time is of the essence, and trying to
25 locate that child as quickly as possible is the most important

1 thing for law enforcement.

2 Q: At some point, was the FBI asked to or did the FBI offer
3 to get involved in assisting to find the missing child in
4 Marlboro County?

5 A: Yes, ma'am. Once we were notified that there was a
6 missing child, we contacted the Marlboro County Sheriff's
7 Office and offered our assistance.

8 Q: And I know there's a special unit within the FBI called
9 the CARD team?

10 A: Yes, ma'am.

11 Q: Are you a member of that team?

12 A: I'm not a member of that team, but I've been on several
13 investigations with our CARD team.

14 Q: Okay. And so when the FBI offered to get involved, was
15 it an offer of their agents in South Carolina or the CARD team
16 or a combination?

17 A: It was a combination.

18 Q: So who was the first one? Who was lead from the FBI to
19 get involved?

20 A: Mike Connelly was probably the first one, one of the
21 first ones that arrived from the FBI on that Saturday, along
22 with others that are assigned here in South Carolina and also
23 members of the Child Abduction Rapid Deployment team, which is
24 what CARD stands for. They also started arriving on Saturday.

25 Q: Okay. And if you would, briefly explain for the Court

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1 what is the Child Abduction Rapid Deploy -- Rapid Deployment
2 team?

3 A: Yes, ma'am.

4 Q: If you would explain that for the Court?

5 A: So the CARD team is a combination of agents and analysts
6 that have crimes against children, specifically the mysterious
7 disappearance of children experience, and so they are
8 regionalized across the country and they deploy to assist
9 state and local law enforcement in trying to locate missing
10 children.

11 Q: Okay. And do -- if they respond or if the FBI responds,
12 does that make this a federal case?

13 A: No, ma'am. We assist local and state law enforcement on
14 investigations like this routinely.

15 Q: Okay. And there does not need to be a federal nexus,
16 known or unknown, at the time that y'all come in to assist?

17 A: No, ma'am. We're just providing resources and assisting
18 them in any way we can.

19 Q: So when the CARD team arrives with their deployment, how
20 does -- what does that look like? Will you explain to the
21 Court when they come into the Sheriff's Office, what does it
22 look like when the CARD team deploys?

23 A: When they arrive, one of the things that they offer is
24 assistance in providing structure to the process. So, for
25 example, oftentimes there's a lot of information coming in at

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1 the same time. There's many leads and a large law enforcement
2 response because of a missing child. So they provide
3 structure to that process.

4 For example, if they -- if there's not a formal command
5 post stood up, they will try to formalize a command post and
6 help in that way. They will provide structure in terms of if
7 there is not, like, a lead tracking system, for example, to
8 kind of keep up with in an organized way what people are doing
9 to try to prevent a duplication of effort or understand who is
10 doing what at different times. They can provide suggestions
11 on maps for searches and keeping up with those types of things
12 in an organized way.

13 Q: When you say they, approximately how many people are we
14 talking about?

15 A: The CARD team is usually about four or five FBI agents
16 and usually one or two analysts, and then oftentimes our
17 behavioral analyst unit also deploys with one or two
18 individuals from the BAU. And oftentimes there's also a
19 member of the CAST team, which is a -- the Cellular Analysis
20 Response Team, and they focus on phone analysis.

21 Q: And is that about the size of the deployment here?

22 A: Yes, ma'am.

23 Q: When -- when did the CARD team arrive and start to set up
24 this structure?

25 A: On Saturday. I believe it was the 6th of May.

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1 Q: So as you were explaining earlier, is that a little bit
2 late into the investigation, later than you'd like to be?

3 A: Sure. Just based on the statistics I provided earlier,
4 obviously we like -- we would like to be there from the very
5 beginning just because of time is of the essence. However, as
6 soon as we were notified and we offered our assistance, we
7 arrived as quickly as we could.

8 Q: Okay. And when you say all these different agents
9 arrived from the analysts, BAU, the CART team, are they from
10 the region or is this a national team?

11 A: It's a national team, but they're regionalized within the
12 country. So the Southeast team is the one that would respond
13 to South Carolina.

14 Q: Okay. And were you there when they started to set up?

15 A: I was.

16 Q: And was there a command center set up when y'all arrived?

17 A: There was a -- the room was there and people were in
18 there meeting, but there was not, like, a formal command post
19 set up with the structure that I kind of described with maps
20 and just trying to divide everybody up into delegating
21 responsibilities.

22 Q: Okay. So the first thing that was done was y'all set up
23 a command post?

24 A: Yes, ma'am.

25 Q: And who runs the command post?

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1 A: It's a Marlboro County Sheriff's Office case, so we're
2 assisting them. So they're obviously in charge and they're in
3 -- we're in their space.

4 Q: Right.

5 A: So, obviously, they're going to have somebody delegated
6 to that command post from Marlboro County Sheriff's Office.

7 Q: Okay. And as far as you said you begin a lead tracker,
8 was there already a lead tracker in place?

9 A: I don't believe so. So that was something that was
10 offered. It's basically like an Excel spreadsheet, and it
11 keeps up with leads if they're entered in and that kind of
12 thing, depending on what people are doing.

13 Q: I'm going to show you State's -- what's been marked as
14 State's Exhibit 569 for identification. Do you recognize this
15 form?

16 A: Yes. This looks like the lead Excel spreadsheet from --
17 from the Marlboro County case.

18 Q: And is this a flowing document?

19 A: It's definitely fluid. It depends on the input. So if
20 individuals are calling back and advising of maybe additional
21 leads that need to occur, they can be added at that time, and
22 it's always changing and evolving as the investigation
23 continues.

24 Q: Okay.

25 MS. WEISS: Your Honor, at this time, I'd like to admit

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1 State's Exhibit 569 into evidence.

2 MR. YOUNG: Can I take a look at it just to make sure?

3 MS. WEISS: Sure.

4 THE COURT: Any objection from the defense?

5 MR. YOUNG: No, Your Honor.

6 THE COURT: It's into evidence without objection from the
7 defense.

8 (WHEREUPON, State's Exhibit Number 569, FBI Lead
9 Spreadsheet, was admitted into evidence.)

10 BY MS. WEISS:

11 Q: Agent Hamelryck, will you describe, based on the way that
12 lead tracker was put together, the types of information that
13 were being gathered and how they were being -- how they got to
14 that list?

15 A: So someone is going to be assigned to adding information
16 into the lead tracking system. So if something is developed
17 or someone needs to be interviewed or a task needs to happen,
18 the date of that will be entered in there, the intake
19 information of what it's about, what it's related to, what
20 action is needed by the individual that it's assigned to, and
21 then the status of whether it's still pending or whether it's
22 been covered and that disposition.

23 Q: Okay. And at the top of the list, intake information,
24 disposition, it says free form. Do you know that means?

25 A: It's just I think meant for notes of some kind.

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1 Q: And who's -- you said one person assigned to the lead
2 tracker?

3 A: Yes, ma'am. Usually the first shift, and that varies
4 depending on who is available.

5 Q: And that person just sits and enters things in as they're
6 given the information?

7 A: That is correct.

8 Q: And you were explaining this is a fluid tracker?

9 A: Right. It's a living document that continues to change
10 as, like I said, the investigation continues.

11 Q: And as -- as the FBI stayed, you said the deployment was
12 on the 5th -- was on the 6th, which was Saturday?

13 A: Yes, ma'am.

14 Q: So what would a typical day look like when starting from
15 the morning? What happens in the morning with the
16 organization set up, the structure set up by the CARD team?

17 A: The other process that gets put in place if it's not
18 already happening is we try to do briefings, one in the
19 morning and one in the afternoon consistently every day, and
20 that's when the most updated information is shared with the
21 different individuals involved in the investigation.

22 So when you come in in the morning, there will be
23 potentially, like, a to-do list or a tasking of things and
24 leads that need to be accomplished, and they're usually
25 prioritized for the day or what needs to happen first. And

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1 those notes are available and get assigned certain tasking or
2 leads, and then you go conduct that action or whatever that
3 lead is and then when you come back or you call in and provide
4 that information or what the results are, and then you may get
5 another lead or another tasking after you've finished with
6 that one.

7 Q: And who all is present in these meetings?

8 A: Obviously, Marlboro County Sheriff's Office is the lead
9 investigative agency, and then the other agencies, like ours,
10 that are assisting are going to be there. You may or may not
11 be able to make a briefing, depending on what you're doing.
12 Obviously, if I'm conducting an interview, for example, I may
13 not -- during that time, I may not be able to make that
14 briefing, but as many people that can and are available know
15 that at a specific time there's going to be a briefing in that
16 morning or that afternoon.

17 Q: And active in this investigation, you had the Marlboro
18 County Sheriff's Office, the FBI, and the State Law
19 Enforcement Division?

20 A: Yes, ma'am.

21 Q: And any of those -- anybody from any of those agencies
22 could get assigned to tasks?

23 A: That is correct.

24 Q: I'm going to show you what's been marked as State's
25 Exhibit 570 for identification. Is this an example of one of

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1 those to-do lists?

2 A: Yes, ma'am.

3 Q: Okay.

4 MS. WEISS: Your Honor, I would like to admit 570 into
5 evidence.

6 THE COURT: Any objection?

7 MR. YOUNG: Can I see that?

8 MS. WEISS: Yeah. Any objection?

9 MR. YOUNG: No objection.

10 THE COURT: It's into evidence without objection.

11 (WHEREUPON, State's Exhibit Number 570, FBI to-do list,
12 was admitted into evidence.)

13 BY MS. WEISS:

14 Q: And you had different to-do lists. This -- what would
15 this look like actually in the room? I know right now it's on
16 a small piece of paper, but what would it look like in the
17 room?

18 A: It's usually on a large, like, poster paper or post-it
19 would be on the wall in the command post.

20 Q: And you would have one of these up each time you did a
21 briefing?

22 A: Yes, ma'am. A version of it or an updated version of it.

23 Q: Okay. And so looking at this one, how are these lists
24 put together?

25 A: Usually, it's by date or by that day of the briefing,

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1 going over either what was already accomplished or what was
2 done, the results of that, and then what needs to still be
3 done or may have been added to the list, if something that was
4 conducted previously, you know, requires more follow-up, for
5 example.

6 Q: Okay. And this one, at least in the middle, has the date
7 of 5/6?

8 A: Yes, ma'am.

9 Q: And I guess that's 5/6 and 5/7 is what it looks like
10 right next to each other?

11 A: Yes. The date in the center.

12 Q: And just from the look of that, is there -- are there --
13 is there one specific focus of the investigation or when y'all
14 come in are you looking wide?

15 A: There's a lot going on in these investigations.

16 Obviously, one of our biggest concerns is Iyana is missing,
17 and so trying to locate the child is very, very much a
18 priority in this investigation.

19 There's also collecting information from other people in
20 the neighborhood and other individuals that come up in the
21 investigation, identifying areas that need to be searched for
22 Iyana that maybe haven't been searched before. So that's on
23 that list, for example, and trying to gain understanding of
24 what areas have been searched or what still need to be
25 searched. And so some of those are listed on that particular

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1 list that need to be done. So, like I said, it continues to
2 evolve as we go through the investigation.

3 Q: And when you come in on May 6th, when y'all first arrive,
4 where do you get the information of what's been done so far?

5 A: From Marlboro County Sheriff's Office.

6 Q: And as you were just saying, so you have some people that
7 are assigned to figure out where to search and are searching,
8 some people pursuant to that that are focusing on making sure
9 DNA that can be analyzed is being analyzed, talking to people
10 in the neighborhood, and going through and collecting videos,
11 and you have people going in a lot of different directions?

12 A: Yes, ma'am. That's why, you know, having some kind of a
13 tracking system or having those verbal briefings is so
14 important where people come together to understand exactly
15 what is happening because if I'm doing -- for example, if I'm
16 going through trash all day, that's what I'm focused on, and I
17 may not know what -- I'm not going to know what everybody else
18 is doing at the time. So it's important to have that -- that
19 management of what's happening through the lead system and
20 through the -- coming out of that command post.

21 Q: And do you have a primary contact for both the local
22 agency as well as the FBI with phone numbers that people are
23 asked to call in?

24 A: Yes. There's so many different agencies and individuals
25 that come in and out of the command post that are assisting in

1 this investigation. That also can change day to day. There's
2 a point of contact list usually somewhere in the command post
3 that gives the direct point of contact for the main
4 investigator that is the case investigator and then also for
5 our agency.

6 Q: I'm going to show you what's been marked as State's
7 Exhibit 571. Do you recognize this poster?

8 A: I do.

9 Q: And what is that?

10 A: So this is the list for anyone coming in to understand
11 who the points of contact are for each of those two agencies,
12 Marlboro County Sheriff's Office, Sara Albarri, and then for
13 FBI, it's Special Agent Steven Stokes, and their -- and their
14 contact information is listed there.

15 Q: So is this poster up on the wall?

16 A: Yes, ma'am.

17 Q: And so anybody in there is given those two points of
18 contact as far as if they need to call in and follow -- is
19 this where you called to follow up if you had reports on
20 leads, as well as to get assignments?

21 A: Or if you need -- if they need additional resources or
22 they need to ask for a specific type of resource, that would
23 be your main point of contact for each of those agencies, yes,
24 ma'am.

25 Q: And typically, would each of those people remain at the

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1 command center to try to take -- take in these calls or
2 requests or needs?

3 A: Yes, ma'am. Ideally, you'd want those main points of
4 contact to remain in the command post as much as possible.

5 Q: Just to follow-up, this was a page 2 of -- page 2 of
6 State's Exhibit 570. Basically, this just continues with more
7 -- more of the different types of assignments that were given
8 out over those couple of days?

9 A: Yes, ma'am.

10 Q: And so just -- just another example of how far -- I mean,
11 you're interviewing people -- from interviewing people, that
12 could be multiple different leads for different reasons?

13 A: Yes, ma'am. There's a list of different things there as
14 well, including again searching the trash, for example,
15 neighborhood investigation, video reviews, searching school
16 areas, anything where, again, that continues to need to be
17 addressed by different individuals helping in the
18 investigation.

19 Q: When you got there on that Saturday, do you recall what
20 some of your assignments were?

21 A: So one of my assignments was to organize and coordinate a
22 group of us that would be going through the -- collecting
23 trash of that area within the city or within that residential
24 area. So one of my responsibilities was to go to the transfer
25 station where they had multiple trucks of all the trash that

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1 had been collected laid out where a large group of us ended up
2 going through the trash to see if there was any evidence or
3 anything that we could find related to this investigation. I
4 also interviewed individuals at different times, just whatever
5 I was asked to do that day, for example.

6 Q: And would you usually go by yourself or in teams?

7 A: We usually went in teams, and then in interviews
8 typically there's two of us as well.

9 Q: Does the FBI have body-worn cameras?

10 A: We do not.

11 Q: So do you typically record those interviews?

12 A: We typically do not unless they're custodial interviews.

13 MS. WEISS: Your Honor, at this time, I'd like to move
14 571 into evidence.

15 MR. YOUNG: That's the page 2 --

16 MS. WEISS: Yeah.

17 MR. YOUNG: -- of that?

18 MS. WEISS: No, that's the --

19 MR. YOUNG: Contact?

20 MS. WEISS: Yeah.

21 MR. YOUNG: No objection.

22 THE COURT: It's into evidence.

23 (WHEREUPON, State's Exhibit Number 571, FBI points of
24 contact list, was admitted into evidence.)

25 BY MS. WEISS:

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 Q: So, I guess, the next thing is as you start developing
2 people that you need to talk to individually, do y'all
3 identify them with their own paper and information? How does
4 that work?

5 A: Typically, we do. It just depends. Sometimes there --
6 if there's persons of interest or individuals that we're
7 interested in trying to find out more about or to talk to
8 people about, there may be some information that we put up on
9 -- in the command post again or make it available to people
10 coming into the command post, especially if you're conducting
11 interviews, just for background information.

12 Q: Okay. I'm going to show you State's Exhibit 572. Is
13 this an example of a couple of -- a couple of the forms you
14 may have up on the wall for information?

15 A: Yes, ma'am.

16 Q: Okay. And there are lots and lots of sheets there are up
17 on the wall; right?

18 A: Correct. And again, that changes depending on the day or
19 what's going on in the investigation, but yes. Yes, ma'am.
20 There's multiple sheets of paper on the walls of the command
21 post with information on them.

22 MS. WEISS: Your Honor, at this time, I'd like to move
23 State's Exhibit 572 into evidence.

24 MR. YOUNG: No objection.

25 THE COURT: It's into evidence.

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 (WHEREUPON, State's Exhibit Number 572, FBI information
2 sheet, was admitted into evidence.)

3 BY MS. WEISS:

4 Q: And for example, the one -- the examples that I just
5 showed you, you have information on a person of -- potential
6 person of interest, and then you provide it. Does somebody
7 just provide the information that y'all know going into it and
8 then what gets done after that? Excuse me.

9 A: Yes. In that particular instance, it appears an
10 individual that was listed is related to the victim, and that
11 individual was contacted and -- and cleared.

12 Q: This was another individual that was a person of
13 interest?

14 A: Yes, ma'am.

15 Q: Okay. And again, constantly putting up information as
16 you're getting it?

17 A: Yes, ma'am. It changes. Again, as evidence comes in all
18 the time, things get updated or get briefed.

19 Q: And specifically as to Dwayne Bright, the one that's up
20 there now, while you -- you were basically in Bennettsville
21 and Marlboro for the pendency of this investigation?

22 A: I -- I was there for most of it. I came on Saturday and
23 I believe I went back on Friday, but I would come back and
24 forth every day during that -- during that -- most of that
25 week.

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 Q: And one morning did you come in and find out about Dwayne
2 Bright?

3 A: I did.

4 Q: And what did you find out?

5 A: In the briefing that morning, they advised that Marlboro
6 County had arrested Mr. Bright. I believe that was Sunday
7 morning.

8 Q: Were you aware that that was happening?

9 A: No, ma'am.

10 Q: Was that part of what you were working on in this
11 investigation?

12 A: No, ma'am.

13 Q: So, literally, there are people working on completely
14 separate investigations all at the same time?

15 A: Yes, ma'am. Sunday, I believe, was also the day I'd been
16 tasked for the following day. We were coordinating the trash.
17 So my responsibility for that day and for that Monday was
18 specifically searching through the trash.

19 Q: But just -- just to be clear, somebody could be working
20 on each of these, as well as the other ones, simultaneously as
21 these investigations are going on?

22 A: Yes, ma'am.

23 Q: And you said that you have the -- I think it's the CART
24 team? The cellular analysis?

25 A: So the CART team is a computer analysis response team.

1 Q: Right.

2 A: But we have what's called a CAST team, which is the
3 cellular analysis team that focuses just on that.

4 Q: Okay. So you have a cellular analysis team and then you
5 have a computer analysis team?

6 A: Yes, ma'am.

7 Q: And do you have representatives of those that sometimes
8 get deployed with these groups?

9 A: Sometimes, they do. Yes, ma'am.

10 Q: And what is the purpose of those -- those individuals?

11 A: Members of the CAST team, if someone is deployed from
12 them, they specialize just in the phone activity that's
13 needed, if that's a resource that's needed by the locals.

14 Q: Okay. And what about the computer analysis team?

15 A: They're not always deployed depending on the situation
16 and what's needed, but their role and responsibility would be
17 once digital evidence is collected to process that digital
18 evidence.

19 Q: If items are brought in by FBI agents who are collecting
20 them, was some of your duties to collect surveillance video?

21 A: It wasn't my specific duty, no, ma'am.

22 Q: But some of the assigned duties?

23 A: Yes, ma'am.

24 Q: So if an FBI agent collects surveillance video and brings
25 it in and gives it to the FBI response team, what happens with

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 that information?

2 A: Once they bring it in, it's going to be either processed
3 by whichever agency is appropriate as the agency that's going
4 to handle that evidence, but in a case like this where
5 Marlboro County Sheriff's Office is the lead agency, anything
6 that we do or collect or are responsible for is going to be
7 maintained ultimately with Marlboro County Sheriff's Office.

8 Q: Okay. So videos and other things, a copy is going to be
9 made and given to Marlboro County Sheriff's Office?

10 A: Yeah, or the original would stay with Marlboro County
11 Sheriff's Office and then any reports that we generate -- for
12 example, if I did an interview or -- or even going through the
13 trash, I generate a report. That would be handed over also to
14 Marlboro County Sheriff's Office, a copy of that.

15 Q: And do y'all generate reports?

16 A: Yes, ma'am.

17 Q: When you're doing each of these leads, when you're
18 following up on a lead or an assignment?

19 A: I did reports on everything that I did, yes, ma'am.

20 Q: And what happens to the reports? I know you said that a
21 copy is given to Marlboro County Sheriff's Office, but does
22 the FBI keep its own organization of things that are done by
23 the FBI?

24 A: We do.

25 Q: And how is that kept?

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 A: It's just maintained in our case management system.

2 Q: And that would -- what would that case management system
3 include?

4 A: A report -- any reports that we generate.

5 Q: What about copies of evidence or pieces of evidence?

6 A: It may, depending on what type of evidence it is, if it's
7 something that we are responsible for.

8 Q: Okay. And do you keep copies of things that you return
9 -- that you give over to Marlboro County knowing that they're
10 going to be the lead agency?

11 A: We don't necessarily maintain copies of our own if we
12 know that they're the ones that are going to own the -- own
13 the information and, again, it's their investigation that
14 we're assisting on.

15 Q: Okay. And if you do have them though, that would be
16 reflected on your tracking system?

17 A: It should be if all of the leads come back in and are
18 generated from the lead system, yes, ma'am.

19 Q: Okay. And specifically, the FBI's internal tracking
20 system of cases, you have, I believe, there's things called
21 1-A's and 1-B's that are put in with the report sometimes?

22 A: Yes, ma'am.

23 Q: And how are those -- what are -- what do those consist
24 of? What can they consist of?

25 A: So a 1-A is just an envelope. For example, if I asked for

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 someone to fill out a form for me, like to sign a consent to
2 search form or maybe it's going to be notes from an interview
3 I did, I will maintain those originals in what we call a 1-A
4 envelope, and it's just maintained in our case management
5 file.

6 Q: And a copy of all of those -- the reports, the 1-A's, and
7 the 1-B's were all turned over to the Sheriff's Office at the
8 conclusion of the CARD team deployment?

9 A: Yes, ma'am. We make sure that we leave a copy or that
10 they have everything that we generated for them.

11 Q: Okay. I know most of the team deployed out on Saturday,
12 that first Saturday. When did the team -- the majority of the
13 team leave? Do you remember?

14 A: The CARD team left by Monday, by the end of the day on
15 Monday.

16 Q: And is that typical?

17 A: Each case is different on how long you're going to stay.
18 They don't always stay for the duration of the investigation.
19 Again, their main purpose is to assist at the very beginning
20 of an investigation to try to help as much as they possibly
21 can.

22 In this particular case, they already had an assignment
23 they had to leave on Monday to report to on Tuesday. So they
24 had to leave after being there for two days. Had that not
25 occurred, they may have stayed longer. I'm not sure how long

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 they would've been able to stay, but again, this particular
2 team on this -- in this instance left on that Monday.

3 Q: Okay. But -- so the team left and then that left the
4 South Carolina agents? Y'all continued to participate in the
5 investigation through the next weekend?

6 A: Yes, ma'am.

7 Q: And which agents remained working with Marlboro County?

8 A: Every day, like I said, different ones of us could be
9 there, but the main ones that stayed were Steven Stokes, Mike
10 Connelly and, again, myself until, I think, Friday.

11 Q: And you're still staying in a support capacity just to do
12 whatever is needed to work with Marlboro County?

13 A: Yes, ma'am.

14 Q: I'm going to show you what's been marked as State's 573
15 for identification. Do you recognize this?

16 A: This is one of the timelines that was in the command post
17 during the investigation.

18 MS. WEISS: Your Honor, at this time, I'd like to admit
19 State's Exhibit 573 into evidence.

20 MR. YOUNG: Without objection.

21 THE COURT: It's into evidence.

22 (WHEREUPON, State's Exhibit Number 573, FBI timeline, was
23 admitted into evidence.)

24 BY MS. WEISS:

25 Q: Tell us a little bit about timelines. Is that something

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 that's important in the organization of how the response team
2 works?

3 A: Yes, ma'am. Timelines are another evolving document or
4 evolving investigative step that we take that adds structure
5 to it, and the importance of it is such that when you have a
6 timeline or establish a window of opportunity, it helps
7 investigators as they go to interview individuals about the
8 case to understand where somebody was at a certain time
9 period, for example, or what happened at different time
10 periods. And again, the timeline, like other documents in the
11 command post, are changing and getting updated as information
12 comes in.

13 Q: So, for example, the timeline here has the name Ella at
14 the top?

15 A: Yes, ma'am.

16 Q: And you said you have the CAST team that is going through
17 and reviewing the cellular calls?

18 A: Yes, ma'am.

19 Q: And so would that include the text messages, SMS
20 messages, outgoing and incoming calls, that would have been
21 something that would've been reviewed and by that team or
22 members of that team?

23 A: Yes, ma'am.

24 Q: And timelines are put together from that?

25 A: That is correct.

1 Q: And then those are transferred to something that
2 everybody in the meetings can see, anybody that comes into the
3 command post can see kind of what's going on and what's
4 evolving from that?

5 A: Yes.

6 Q: And the goal is to put up knowns on the timeline?

7 A: If we can establish knowns and then, again, as new
8 evidence comes in or additional evidence comes in, if
9 something else needs to be added to it or changed or modified,
10 again, the document hopefully stays updated, but again, we
11 rely on -- also on the briefings to make sure that we're all
12 up to date as much as possible.

13 Q: Okay. So some of these things continuously get updated
14 and then some you move on to something else?

15 A: Yes, ma'am.

16 Q: Okay.

17 Q: And then I'm going to show you what's been marked as --
18 I'm going to show you what's been marked as State's Exhibit
19 574 for identification. Do you recognize that?

20 A: Yes, ma'am. This is something else that was in the
21 command post.

22 Q: Okay. And what's the significance of something like
23 this?

24 A: So if there's a specific vehicle, which is what this is,
25 that we're looking for, that's going to be something that is

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 -- if it's important will be put up there for everybody to see
2 that comes into the command post. Everybody understands or
3 can look at it and get the tag number or the description of it
4 if it's something that's of interest to us.

5 Q: Okay. Is that also important in case it comes up in
6 interviews?

7 A: Yes, ma'am.

8 Q: And that's left up on the wall as well, along with all of
9 these other pieces of paper?

10 A: Yes.

11 Q: And the briefings each evening, what time were the
12 briefings in the evening?

13 A: They're usually at the end of the business day. So I'm
14 not positive. It may have been, like, at 4 o'clock or 5
15 o'clock, and there's usually one in the morning.

16 Q: Okay. And obviously, the morning briefings are -- you're
17 giving out assignments, like you explained earlier. The
18 evening briefings -- how are those usually run?

19 A: They're usually going down the list of taskings, whether
20 it's on that written to-do list on the wall or whether it's
21 getting wrote off the lead tracking system, but it's basically
22 like what has happened since we met this morning, what's the
23 information that's come in, what's new, what's been addressed,
24 and just kind of what's the next set of priorities for the
25 investigation based on what the evidence is at the time.

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 Q: Okay. And then once the CARD team left on Monday, who
2 was responsible for those briefings? Did you continue to do
3 those briefings throughout that week?

4 A: We continued to maintain that structure throughout that
5 week.

6 Q: And who generally would coordinate those briefings?

7 A: Usually, it was kind of the leads for each agency. So,
8 for example, for us it may have been either Mike Connelly or
9 Steven Stokes. Each agency kind of had, like I said, point of
10 contact that contributed to the briefings depending on what
11 their agency was responsible for.

12 Q: Okay. And y'all kept with this system of putting
13 information up and narrowing down, ruling out throughout the
14 week?

15 A: Yes, ma'am.

16 Q: And you said that you left on Friday? Friday was your
17 last day actively involved in the investigation?

18 A: It was either Friday or Saturday.

19 Q: Okay.

20 A: I know I wasn't there on Sunday.

21 Q: Right. So what was one of the last things that you were
22 involved in in the investigation?

23 A: It would have been interviews, I believe.

24 Q: And do you sometimes travel up to North Carolina to do
25 interviews or outside of the state?

JACKIE HAMELRYCK - DIRECT BY MS. WEISS

1 A: I do.

2 Q: And you have jurisdiction throughout the country?

3 A: That is correct.

4 Q: And who were a couple of -- who were the last couple of
5 people that you interviewed?

6 A: That would have been Steve Jones and George -- and Mr.
7 Robinson.

8 Q: And at that point, had the investigation started to focus
9 on one particular person?

10 A: Yes, ma'am.

11 Q: And who was that person?

12 A: JeJauncey Harrington.

13 MS. WEISS: Thank you. I have no further questions.
14 Please --

15 THE COURT: Cross-examination?

16 MS. WEISS: I'd move State's Exhibit 574 into evidence.

17 THE COURT: Any objection?

18 MR. YOUNG: No, Your Honor.

19 THE COURT: It's into evidence.

20 (WHEREUPON, State's Exhibit Number 574, FBI vehicle
21 information sheet, was admitted into evidence.)

22 MR. YOUNG: While the State is up here, I think we're
23 trying to print out the rest of these pictures so that we can
24 put them all in on the posters, but we don't have hard copies.
25 Is that acceptable to the State?

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 MS. WEISS: Yeah. I think these are -- I think these are
2 all of them. Oh, sorry.

3 THE WITNESS: There's one up here, if you're looking for
4 that one.

5 MR. YOUNG: That's the one I'm looking for.

6 CROSS-EXAMINATION

7 BY MR. YOUNG:

8 Q: Agent Hamelryck, when you come as part of the CARD team,
9 I know you talked about the cellular analysis that sometimes
10 comes and the computer analysis that sometimes comes. Is
11 there a polygrapher who also comes?

12 A: If they're requested, not every time, but sometimes, and
13 sometimes it just depends on what agency, what the agency
14 needs are.

15 Q: Was there a polygrapher who came to Marlboro County?

16 A: From the FBI, yes, sir.

17 Q: Okay. And that person was used to assist in the
18 investigation?

19 A: That is correct.

20 Q: Okay. And are there attorneys that come and people from
21 the Attorney General's Office or an AUSA?

22 A: In this particular case, there was not a AUSA that was
23 there during the investigation. The Solicitor's Office,
24 prosecutors, I believe, were present at the different stages
25 of it.

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 Q: Okay. Was anybody from the Attorney General's Office
2 there? Was Ms. Weiss there?

3 A: She was not.

4 Q: Okay. I want to talk to you about something on this lead
5 tracker.

6 MR. YOUNG: If Your Honor will give me a few seconds?

7 BY MR. YOUNG:

8 Q: As part of -- did part of the investigation involve
9 canvassing the neighborhood?

10 A: Yes, sir.

11 Q: And were instructions given out to different people that
12 might go do that?

13 A: The canvass of the neighborhood was done on Friday before
14 we got involved, and then when we came on Saturday, we talked
15 about the canvass and just made some suggestions. That's one
16 of the things the CARD team does is they'll have forms or
17 suggestions on some different questions to ask during these
18 investigations.

19 Q: So were follow-ups done with the --

20 A: I think there were some follow-ups done on that Saturday
21 in the neighborhood.

22 Q: So when I'm looking at State's Number 569, which is the
23 lead tracker sheet -- and I apologize. This date over here
24 and time, what is that? Is that when it comes in or when it's
25 updated?

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 A: That should be when the -- when the information is
2 entered.

3 Q: Okay. And on May the 6th at 1400, what came in up there
4 at the top?

5 A: There was a -- it looks like a neighbor was interviewed
6 or made contact with one of the neighbors in the victim
7 neighborhood.

8 Q: Okay. Do you know if it was the next-door neighbor or --

9 A: It looks like it's [REDACTED] Craig Circle --

10 Q: Okay.

11 A: -- is the address of that neighbor.

12 Q: And what information did they relate?

13 A: That they heard a loud car Friday around 3 a.m. but did
14 not see the car.

15 Q: Okay. And was that followed up on?

16 A: That would have been the result of that contact. So I'm
17 not sure if there was additional information that was gleaned
18 from that afterward or if that's the result of the contact.

19 Q: Okay. What does it say there at the end?

20 A: Are you referring to this column, sir?

21 Q: Yes, ma'am.

22 A: It would be -- it says heard a loud vehicle, no muffler,
23 between 0300 and 0330 a.m. on Friday, May 5th. Blue Neon,
24 older model, black tinted window.

25 Q: Okay. Do you know where that information came from or

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 who entered that?

2 A: I don't know who entered it because it doesn't have a
3 name associated with it.

4 Q: Okay. Was there any blue vehicles involved in the
5 investigation that the FBI put up a poster board about a blue
6 vehicle?

7 A: I don't recall if there was a poster board. If you show
8 me one, it may -- it may remind me or help me familiarize
9 myself with it, but off the top of my head, I would say no.

10 Q: Okay. Well, the initial report was that the neighbor
11 didn't see the car, just heard it at 3 -- between 3 and 3:30
12 in the morning; right?

13 A: Right. The initial information was that, yes, sir.

14 Q: And do you have any idea how that became a blue Neon,
15 older model, black tinted window?

16 A: I do not. I can't testify to that.

17 Q: Okay.

18 A: That was not information I gleaned.

19 Q: All right. But this is what the FBI maintained as the
20 lead tracker. So this information was entered by somebody
21 involved in the investigation?

22 A: That is correct. Someone was entering in all the
23 information.

24 Q: In reference to State's Number 573, which is in evidence,
25 I see a piece of paper taped to the timeline?

1 A: Yes, sir.

2 Q: And do you know who generated that?

3 A: I do not. I can't -- it's not real legible, so I'm not
4 even sure what the title of it says.

5 Q: Let me see if you can recognize this as being that piece
6 of paper?

7 A: It looks like the same. I can't say for sure it is
8 because it's only partially shown, but it looks like it's the
9 same.

10 Q: Okay. And what's the title of the typed page?

11 A: It says Ella Lowery timeline.

12 Q: Okay. And do the times on here tend to match up with the
13 date and times of the activity on the written-out timeline?

14 A: So you're asking me to compare these with this written
15 timeline?

16 Q: Yes, ma'am.

17 A: So it looks accurate compared -- comparing the two. It
18 looks like it just stops at the -- the last one is -- it looks
19 like it's recorded on here as the 1:34:06, and then it was
20 added as to when Ms. Dolores called 9-1-1 --

21 Q: Okay.

22 A: -- is how it ended.

23 Q: And looking between these two . . .

24 MR. YOUNG: Your Honor, at this time, the defense would
25 offer Defense Exhibit Number 25, which is the typed Ella

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 Lowery timeline.

2 MS. WEISS: No objection.

3 THE COURT: It's into evidence.

4 (WHEREUPON, Defendant's Exhibit Number 25, FBI Ella
5 Lowery timeline, was admitted into evidence.)

6 MR. YOUNG: Thank you, Your Honor.

7 BY MR. YOUNG:

8 Q: What does the Ella Lowery timeline between either this
9 one or the one that y'all had on the wall indicate was her
10 last outgoing Facebook activity?

11 A: Do you -- do you want the time? Is that what you're
12 asking, sir?

13 A: Yes, ma'am. The date and time.

14 A: It looks like the notation is the last outgoing Facebook
15 activity for Ella was on 5/5/17 at 1:33:41 a.m.

16 Q: And there -- after that, there's a note about a message
17 from a guy named David Reddick?

18 A: Yes, sir.

19 Q: And then do you know anything about whether or not there
20 was a FaceTime or Facebook call between 1:34:06 and 1:38?

21 A: I can't testify to that, sir. I wasn't involved in this
22 process.

23 Q: Okay. So that would've been either the FBI or some other
24 computer crimes people that figured that out?

25 A: I'm not sure who reviewed it.

JACKIE HAMELRYCK - CROSS BY MR. YOUNG

1 Q: Okay.

2 MR. YOUNG: Your Honor, at this time, the defense would
3 offer Defense Exhibits Number 14 through 24 into evidence.

4 BY MR. YOUNG:

5 Q: And, Agent Hamelryck, I just ask you to verify that those
6 are sheets that were in the command center?

7 A: Yes, sir.

8 MR. YOUNG: Your Honor, we'd offer Defense Exhibits
9 Number 14 through 24 into evidence.

10 THE COURT: Any objection?

11 MS. WEISS: No objection, Your Honor.

12 THE COURT: They're into evidence.

13 (WHEREUPON, Defendant's Exhibits Number 14 through 24,
14 FBI command center sheets, were admitted into evidence.)

15 MR. YOUNG: Thank you.

16 Thank you, Agent Hamelryck. That's all the questions I
17 have.

18 THE COURT: Any redirect?

19 MS. WELL: No, sir, Your Honor.

20 THE COURT: Thank you very much. You're free to leave.

21 MS. WEISS: May this witness be excused, Your Honor?

22 THE COURT: Yes. You may call --

23 MR. REDMOND: The State --

24 THE COURT: You may call your next witness.

25 MR. REDMOND: Sorry, Your Honor. The State would next

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 call Jamie Campbell.

2 (WHEREUPON, there was a pause in the proceedings until
3 the witness entered the courtroom, after which the
4 proceedings resumed as follows.)

5 THE COURT: Ms. Campbell, please come forward. I'm going
6 to ask you, if you could, to step over here in front of the
7 clerk and place your left hand on the Bible and raise your
8 right hand as she administers the oath. There you go.

9 THE CLERK: Do you solemnly swear or affirm that the
10 testimony you shall offer the Court in this case shall be the
11 truth, the whole truth, and nothing but the truth, so help you
12 God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Okay. You can have a seat.

15 THE COURT: Ms. Campbell, please come around. I'm going
16 to ask you, if you could, to have a seat here in the witness
17 chair. Watch your step. Have a seat in that witness chair.
18 I'm going to ask that you pull up real close to that
19 microphone and speak loudly, clearly, and slowly in order that
20 we can hear everything that you have to say, and let's start
21 with your full name, please, ma'am.

22 THE WITNESS: Jamie Campbell.

23 THE COURT: All right. Spell that last one?

24 THE WITNESS: C-a-m-p-b-e-l-l.

25 THE COURT: Very good.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 MR. REDMOND: May it please the Court, Your Honor.

2 JAMIE CAMPBELL, being first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. REDMOND:

6 Q: Ms. Campbell, at this particular time, where do you
7 reside as far as what town do you reside in?

8 A: Scotland County.

9 Q: Okay. Scotland County, North Carolina?

10 A: Yes, sir.

11 Q: And previously, back in -- well, in 2016, did you live at
12 [REDACTED] Grace Street in Bennettsville?

13 A: [REDACTED].

14 Q: I'm sorry. [REDACTED] Grace Street in Bennettsville?

15 A: Yes, sir.

16 Q: All right. And we'll get into more detail on that. Are
17 you employed at this time, Ms. Campbell?

18 A: Yes, sir.

19 Q: And where are you employed?

20 A: Results CX. I work from home.

21 Q: Okay. And I'm going to get you to speak up a little bit
22 more.

23 A: Results CX.

24 Q: Okay.

25 A: I work from home.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Okay. And how long have you had that job?

2 A: For a year now.

3 Q: Okay. And do you have any children? Tell us about your
4 family? Do you have any children?

5 A: Yes, sir. I have a daughter, and I have a son.

6 Q: Okay. And where are they at now?

7 A: At home.

8 Q: Okay. Now, at some time was your daughter in Georgia I
9 think it was back in 2016?

10 A: Yes, sir.

11 Q: Okay. And again, we'll get into that in a little while.
12 Excuse me. Now, let me ask you about the parties involved in
13 the case. Let's start with Ella. Did you know Ella Lowery?

14 A: Yes, sir.

15 Q: And how long did you know Ella Lowery? When did you
16 first meet, best as you can remember?

17 A: High school, tenth grade.

18 Q: Tenth grade? And so you've known her for quite some
19 time?

20 A: Yes, sir.

21 Q: All right. And how about her family? Did you know her
22 son and daughter?

23 A: Yes, sir.

24 Q: Okay. Do you remember their names?

25 A: Tyreon and Iyana.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Okay. And -- well, and I'll ask you about Iyana. Did
2 you communicate with Ella and Iyana both, I guess, on social
3 media and Ella by telephone too?

4 A: Yes, sir.

5 Q: Okay. Now, let's move on to the defendant. Did you know
6 the defendant?

7 A: Yes, sir.

8 Q: Okay. And what's his name?

9 A: JeJauncey Harrington.

10 Q: And do you see him present in the courtroom today?

11 A: Yes, sir.

12 Q: Could you point him out?

13 A: (Indicating.)

14 MR. REDMOND: Let the record reflect that she has pointed
15 to the defendant, JeJauncey Harrington.

16 BY MR. REDMOND:

17 Q: Now, when you -- you said you had known him for quite
18 some time. When -- best that you can recall, when did you
19 first meet him?

20 A: In 2010.

21 Q: All right. Did you y'all begin dating shortly
22 thereafter?

23 A: Yes, sir.

24 Q: Excuse me. Did y'all move in together?

25 A: He moved in with me, yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Okay. And excuse me. Exactly. And so because -- was
2 the residence actually in your name?

3 A: Yes, sir.

4 Q: And was it a Section 8 residence?

5 A: Correct. Yes, sir.

6 Q: Okay. And so he moves in with you at [REDACTED] Grace Street.
7 About how long did you stay there on Grace Street?

8 A: In 2016.

9 Q: Okay. So did the defendant stay with you during that
10 whole time?

11 A: Off and on.

12 Q: Off and on? Okay. When you left in 2016, did you allow
13 him to still remain in the residence at [REDACTED] Grace Street?

14 A: Yes, sir.

15 Q: Okay. Now, let's move toward May of 2017 and
16 specifically -- oh, before -- I almost forgot ask you this.
17 Before you left or once you left actually, did the defendant
18 purchase a 1998 -- I believe it was -- Mitsubishi Eclipse?

19 A: After -- he did that after I left.

20 Q: After you left? But was it put in your name?

21 A: Yes, sir.

22 Q: Okay. And was the insurance also in your name?

23 A: Yes, sir.

24 Q: Okay. Now -- and again, we'll get into a little bit
25 more, but moving on to late April and May 2017, do you recall

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1 -- do you recall when about the last time you spoke with Ella
2 Lowery? Not what you said, but do you remember when you last
3 talked to her?

4 A: Repeat that?

5 Q: Do you remember about when it was that you last talked to
6 Ella Lowery?

7 A: Maybe in April.

8 Q: Okay.

9 A: Yes, sir.

10 Q: April before she passed away?

11 A: Yes, sir.

12 Q: How about Iyana?

13 A: I remember speaking with her on a video call.

14 Q: Okay. Do you remember --

15 A: Like, April.

16 Q: In April? So --

17 A: Yes, sir.

18 Q: So would it be fair to say within a month of their deaths
19 you interacted with both of them?

20 A: Yes, sir.

21 Q: And just to be clear, you interacted -- did you say that
22 you interacted with Iyana by video chat?

23 A: Video chat.

24 Q: All right. And was that the last time you saw her?

25 A: Yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: And was that the last time that you talked to Ella?

2 A: Yes, sir.

3 Q: Now, let's move on to the 5th of May 2017. Where were
4 you at on that particular day?

5 A: I was in Georgia.

6 Q: Okay. What part of Georgia? I didn't --

7 A: I'm sorry. Grayson, Georgia.

8 Q: Grayson, Georgia? Is that in the Atlanta metropolitan
9 area?

10 A: Yes, sir.

11 Q: Okay. And tell us about that day, what you found out.

12 Well, let me ask you this. Did you find out something that
13 was very jarring and emotional for you?

14 A: Yes, sir. I found out Ella had died. She was murdered.

15 Q: Okay.

16 A: That she had passed away.

17 Q: Okay. And when you found that out, how did you find that
18 out, first of all?

19 A: I got a phone call from someone.

20 Q: Okay. And -- and did you also see it on -- now, we're in
21 the age of --

22 A: On Facebook.

23 Q: On Facebook? We're in the age of social media. So did
24 you also find out by Facebook?

25 A: Yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

- 1 Q: And at some point that day, did you also find out that
2 Iyana was missing?
- 3 A: Yes, sir.
- 4 Q: All right. Now, what did you do -- when you found out
5 that Ella was dead, did you accept that or what did you do?
- 6 A: I called Ella.
- 7 Q: Okay.
- 8 A: I didn't believe it. I thought it was just something, a
9 prank or something. I don't know. I just didn't believe it.
- 10 Q: So you called her phone number?
- 11 A: Yes, sir.
- 12 Q: Okay. And did you call at least twice that day, I
13 believe?
- 14 A: I think I did.
- 15 Q: And of course, did you ultimately find out that it was
16 not a prank, that she was, in fact, dead?
- 17 A: Yeah. I saw it on Facebook or on the news.
- 18 Q: Okay.
- 19 A: Something like that.
- 20 Q: Now, did you then -- did you then contact the defendant?
21 Were y'all still in contact during this time?
- 22 A: Yes, sir.
- 23 Q: Okay. And did you contact the defendant that day?
- 24 A: Yes, sir.
- 25 Q: Tell the judge about that. When you called the

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1 defendant, tell us what happened, to the best that you can
2 recall?

3 A: I called, and we was just talking about that thing. You
4 know, I told him about what happened about Ella, and he said
5 he had heard and that I told him the baby was missing and he
6 said he didn't even know Ella had a daughter. He just knew
7 about the son.

8 THE COURT: I'm going to ask you if you could speak up.

9 THE WITNESS: I'm sorry.

10 THE COURT: To make sure she can hear you.

11 THE WITNESS: Okay.

12 THE COURT: And record it.

13 BY MR. REDMOND:

14 A: I asked -- I told him that Ella's daughter was missing,
15 and he said he didn't know Ms. Ella had a daughter. He just
16 knew about her son because he had cut his hair for her one
17 time in the house, and he had started talking, like, about I
18 need to get a gun, I need to get a gun, a lot of weirdos
19 around here, and I was, like, how are you going to make this
20 about you. You know, he was, like, they're around taking
21 babies. So he was just -- I was -- like, I was just kind of
22 irritated at that part, and he was, like, you need to -- I
23 wish I could hold you. So, you know, I wish I was there to
24 hug you. I know she was your friend, but that was pretty much
25 the conversation.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: At that time?

2 A: Yes, sir.

3 Q: Now, did you also -- once you found out about Ella's
4 death and that it -- that she was murdered, did you provide
5 some information based on something you had received back in
6 March from Ella? Did you call the --

7 A: What do you mean?

8 Q: Did you call the Sheriff's Office in Marlboro County?

9 A: Yes, sir.

10 Q: Okay.

11 A: Yes, sir.

12 Q: And do you recall who you talked to?

13 A: Not necessarily, no.

14 Q: Okay. But did you talk with someone?

15 A: I talked to -- I think I talked to Lemon and somebody
16 else.

17 Q: Okay.

18 A: I might have talked to a couple people.

19 Q: Okay. And when you say Lemon, former sheriff Charles
20 Lemon?

21 A: Correct.

22 Q: Okay. Let me show you what's been marked as State's 575.
23 I had already previously shown it to the defense.

24 MR. REDMOND: If I may approach the witness, Your Honor?

25 BY MR. REDMOND:

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: And I need you to flip and just briefly look through all
2 three pages and see if you recognize that?

3 A: Yeah. These are the text messages Ella sent me about an
4 incident that she had got into with her boyfriend.

5 Q: Okay. And was that boyfriend Dwayne Bright?

6 A: Correct.

7 Q: And so just to be clear -- thank you.

8 MR. REDMOND: And, Your Honor, we'd move this in as
9 State's 575.

10 THE COURT: Any objection?

11 MS. CRAYTON: No, Your Honor. What was that number
12 again?

13 MR. REDMOND: 575.

14 MS. CRAYTON: 575.

15 MR. REDMOND: I know I had given you a different number
16 earlier. I apologize for that.

17 THE COURT: 575 is into evidence.

18 (WHEREUPON, State's Exhibit Number 575, text messages,
19 was admitted into evidence.)

20 MR. REDMOND: Thank you, Your Honor.

21 BY MR. REDMOND:

22 Q: And in State's 575, did you -- the screenshots that she
23 sent, is there also attached to that the Facebook exchange
24 that you and Ella had about her getting a restraining order, I
25 think she mentioned?

1 A: Yes, sir.

2 Q: Okay. And so at that time, of course, you send that
3 information to Marlboro County. Now, did you continue to
4 contact or have contact with the defendant on the 5th and even
5 on the 6th?

6 A: Yes, sir.

7 Q: All right. Now, let's move to May 7th. Oh, I forgot to
8 ask you something very important. What did he tell you that
9 he was doing that night? Did you ask him what he was doing
10 the night before? In other words, the night before you found
11 out that Ella had died, did you ask him what he was doing that
12 night?

13 A: Yes, sir.

14 Q: And could you tell the judge what he -- you recall him
15 telling you?

16 A: He said he was sleeping. He was sleeping all night. He
17 was sleeping.

18 Q: Okay. So I almost forgot to ask you that. Now -- now,
19 let's move on to the 7th. So now we're on May 7th. Do you
20 get a visit from the FBI?

21 A: Yes, sir.

22 Q: Okay. And did they -- when they were there, did they ask
23 you about information that you had provided about Dwayne
24 Bright, the information?

25 A: Yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: And at some point, did -- were you asked about a
2 particular number, 843-535-3480? Were you asked about that
3 number?

4 A: Yes, sir.

5 Q: Okay. Who did you tell them that number belonged to?

6 A: Squeaky.

7 Q: And I forgot to ask you who is Squeaky?

8 A: JeJauncey Harrington.

9 Q: The defendant? Okay. And this is while you were meeting
10 with the FBI in the Atlanta area?

11 A: Correct.

12 Q: In Grayson? So you -- did you tell them that the 843-
13 535-3480 number actually belonged to the defendant?

14 A: Yes, sir.

15 Q: Okay. Now, at that same time, did you give them
16 information about another phone number that he used?

17 A: Yes, sir.

18 Q: Okay. And I believe that phone number, if I'm correct,
19 843-287-3554. Is that the number that you gave them?

20 A: Yes, sir.

21 Q: Was that an accurate number?

22 A: No, sir.

23 Q: Okay.

24 Q: Why did you not give them the correct phone number -- the
25 correct other phone number for the defendant?

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

- 1 A: I made a mistake.
- 2 Q: Okay. But did you quickly realize you made a mistake?
- 3 A: I did.
- 4 Q: And within 20 minutes, what did you do?
- 5 A: I called them back and let them know I made a mistake.
- 6 Q: Okay. You realized that you made a mistake. let's be
- 7 honest, lying to the FBI to start with, and so within 20
- 8 minutes did you call to rectify that mistake?
- 9 A: Yes.
- 10 Q: And at --
- 11 A: Because I had got in trouble before, and I told them that
- 12 and I didn't want to -- I didn't want to lie to the police.
- 13 Q: Gotcha.
- 14 Q: I wanted to be honest.
- 15 Q: Understood. So with that, did you give them the correct
- 16 number of 843-287-4282 --
- 17 A: Yes.
- 18 Q: -- as being the defendant's phone number?
- 19 A: Yes, sir.
- 20 Q: So at that time, were you also made aware that that 353-
- 21 3480 was among the last to have contact with Ella Lowery?
- 22 A: Yes, sir.
- 23 Q: Were you aware that Ella Lowery and the defendant were
- 24 communicating?
- 25 A: No, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Okay. And so was that a surprise to you?

2 A: Yes, sir.

3 Q: All right. So once the FBI leaves, what did you do?

4 A: I called JeJauncey.

5 Q: You called the defendant?

6 A: Yes, sir.

7 Q: And tell us -- tell the judge about that?

8 A: I called him. I'm not sure whether I got in touch with
9 him first or not, but somehow --

10 Q: And if I could get you to get closer to the microphone.

11 A: I'm not sure I got in touch with him the first time I
12 called him, but somehow we got in communication. I talked to
13 him, and I told him that I had just got questioned by the FBI
14 and they said that they would need his phone number. And I
15 told him that I gave -- told them your number belonging to you
16 and they're coming to talk to you and you're going to have to
17 tell them why you're talking to Ella and you're going to have
18 to call me and tell me why you're talking to Ella. And he --
19 he was, like, he ain't had nothing to hide. He was right
20 there at the house. That they had just locked his mama up,
21 and then he hung up the phone, and I haven't talked to
22 JeJauncey since.

23 Q: So when he hung up the phone -- he hung up the phone on
24 you, let's be clear?

25 A: Yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Did he hang up the phone on you?

2 A: He hung up the phone on me.

3 Q: And, to me clear, did you have any other communication

4 with him after that by phone?

5 A: No, sir.

6 Q: Did you try to call him?

7 A: Yes, sir.

8 Q: Several times?

9 A: Uh-huh.

10 Q: And would the phone even go to voicemail?

11 A: No. Well, it's like it was cut off.

12 Q: It was -- it's like it was cut off?

13 A: Yeah.

14 Q: So basically, you called and nothing?

15 A: Yes.

16 Q: Okay. And again, is that the last time that you talked

17 to him?

18 A: Yes, sir.

19 Q: So let's move to May 9th. May 9th, does the FBI come

20 back to your house?

21 A: Yes, sir.

22 Q: And at that time, did you confirm for them that you drove

23 -- that they -- excuse me -- that he had a -- I guess, he had

24 a Mitsubishi Eclipse that was in your name?

25 A: Yes, sir.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Let me show you what's been marked as State's 265 and
2 266.

3 MR. REDMOND: The defense has already seen this. With
4 permission to approach the witness, Your Honor?

5 THE COURT: Yes.

6 MR. REDMOND: Okay.

7 BY MR. REDMOND:

8 Q: Do you recognize that?

9 A: Yes, sir. That's the Mitsubishi Eclipse.

10 Q: Okay.

11 Q: And I'm going to attempt this. State's 265, again is
12 that the Mitsubishi Eclipse?

13 A: Yes, sir.

14 Q: And also 266, is that the Mitsubishi Eclipse again,
15 another picture?

16 A: Yes, sir.

17 Q: All right. And so is that the car that was in your -- in
18 your name?

19 A: Yes, sir.

20 Q: That the insurance was also in your name?

21 A: Yes, sir.

22 Q: Now, let's go back to December. Did defendant at some
23 point have permission to drive that vehicle? I mean, you were
24 in Georgia, of course. Did he make payments on the vehicle?

25 A: He bought the vehicle.

JAMIE CAMPBELL - DIRECT BY MR. REDMOND

1 Q: Okay. He -- he's the one that bought it?

2 A: Yes, sir.

3 Q: But he put it in your name?

4 A: Yes, sir.

5 Q: And the insurance was in your name?

6 A: Yes, sir.

7 Q: And of course, that and the fact that he was living at
8 your residence?

9 A: Yes, sir.

10 Q: Okay. Now, in December of 2016, was there something that
11 happened that made you say, oh, wait a minute now, we need to
12 reassess this whole situation?

13 A: Yeah. He got in an accident.

14 Q: Okay. And then as a result of that, what -- what was --
15 what happened?

16 A: The insurance people and police were calling me and, you
17 know, trying to get everything straight with the car, and I
18 pretty much told Squeaky he was to drive that car away and
19 park that car in Rockingham because he had been in -- most of
20 the time that's where he was staying in Rockingham because
21 that's where he was working. So I was, like, just drive the
22 car to work and park it or get somebody with a license to
23 drive you in the car at the point because I'm the one who is
24 getting in trouble with you, you know.

25 Q: Yeah. And so did -- so, of course, did you convey that