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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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MELINDA WORLEY - DIRECT BY MS. WEISS

1 Q: Go ahead. Sorry.

2 A: The other unknown impression from the carport is State's
3 Exhibit 119.

4 Q: And then what do you do with the shoes themselves?

5 A: The shoes themselves, I create the test impressions,
6 inked test impressions.

7 Q: Okay. And do you have those?

8 A: Yes. State's Exhibits 115 and 154. It's the Item 52
9 test impressions of the left and right shoes and the Item 100
10 test impressions of the left and right shoes.

11 Q: Okay. And do you have anything done in the photo lab
12 with the shoes?

13 A: The shoes are also photographed, and the photographs are
14 printed to scale for me.

15 Q: Okay. And do you have those?

16 A: Yes. State's Exhibit 153 is the Item 100 shoes, and
17 State's Exhibit 109 is the Item 52 shoes.

18 Q: Okay. And as we were just discussing, there's multiple
19 pictures, photos, with each of those. How is that done? Who
20 does that?

21 A: Ben Vanadore is the studio photographer. He photographs
22 all the evidence and prints the photographs to scale.

23 Q: And is that typical to have multiple pictures?

24 A: Yes. He prints color, black and white. If I need the
25 shoe reversed, basically this is the right shoe, and I can

1 tell that because of the words and the scale where I wrote the
2 lab number and everything are backwards. This just shows me
3 that's what a right impression would look like.

4 Q: And once you get those photos or those inked impressions,
5 what do you do next? What do you do first for your analysis
6 part of the ACE-V analysis?

7 A: Well, I look at the unknown impressions and determine the
8 quality of them, the clarity in them. I kind of determine if
9 they are consistent with the outsole design I already have. I
10 have an Air Force 1. If it is consistent with that design,
11 then I'll do a comparison. If it's not, then I'll stop my
12 procedure altogether.

13 Q: Okay. And would you mind stepping down so to show the
14 Court so we can all see kind of what you're looking for on
15 those impressions, those photos?

16 (WHEREUPON, the witness complied.)

17 BY MS. WEISS:

18 Q: Okay. And I know that's got the light on it, but if you
19 could for the Court, what are you evaluating as you look at
20 these photographs?

21 A: I can see that it's the left impression, the left shoe.
22 So I'm looking to see as far as the characteristics of the
23 design. I overlay my -- my test impressions of each shoe on
24 top of this photograph and see how they line up with the
25 unknown impression.

MELINDA WORLEY - DIRECT BY MS. WEISS

1 Q: Okay. But before we do that, you said -- I'm just going
2 to go back. You said as part of your analysis, you first
3 review each of the test impressions -- each of the unknown
4 impressions?

5 A: Right.

6 Q: So what are you looking for in the unknown impression to
7 see if it's suitable for comparison?

8 A: Basically, the quality and clarity of the unknown
9 impression. If it's just a big old smudge, I'm probably not
10 going to be able to do much with it, but this one is mostly --
11 mostly a full impression almost.

12 Q: Okay. And that's State's Exhibit 117. State's Exhibit
13 72?

14 A: This one was a Air Supply shoe. I believe a family
15 member maybe walked in the house and found the victim, and
16 that was -- I received a photo of that shoe to be able to say
17 that, yes, that was -- corresponded with that person's shoe.

18 Q: I am going to show you State's Exhibit 249. Do you
19 recognize these --

20 A: I do.

21 Q: -- prints?

22 A: Yes.

23 Q: And what are they?

24 A: Those are the Air Supply shoes that correspond with the
25 outsole design of this impression.

1 Q: Is there another impression that you were able to
2 identify?

3 A: There's a partial impression here that's consistent with
4 an Air Force 1.

5 Q: So once you determined the unknown impressions that
6 you're going to try to compare, what do you do next?

7 A: As far as the overlay?

8 Q: Well, I don't know. What do you do next?

9 A: I overlay the test impressions of each of the known shoes
10 that I have to see whether there's agreement or disagreement
11 with the size of the -- of the unknown impression with the
12 known shoe, and then -- then I start -- if the size and shape
13 are consistent, I can tell it's a left Air Force 1, I can see
14 whether it was the 12 or the 13. Then I'll start looking more
15 at wear and if there are any random characteristics in the
16 impression.

17 Q: Okay. And you talk about sizing. How do you compare and
18 figure out what characteristics go with which size shoe?

19 A: I mean it's basically comparing the unknown impression to
20 the known shoe. If -- if they correspond, they do, and if
21 they don't, it's usually fairly obvious when it's not the
22 right size. With these, the 12 and the 13 are very close
23 together in size. So it takes a lot more just looking at it
24 and trying to decide which is more consistent with the 12 or
25 the 13. It's just a visual comparison.

MELINDA WORLEY - DIRECT BY MS. WEISS

1 Q: Okay. And you can sit back down. Thank you.

2 (WHEREUPON, the witness complied.)

3 BY MS. WEISS:

4 Q: You were also given two smaller shoes to compare, and
5 what did you determine about those?

6 A: They had extreme wear in the heel of both pairs of shoes.
7 They were very obviously not -- they were obviously too small,
8 but actually, the wear wasn't in any of those impressions.

9 Q: Okay. And so did those factor in very much to your -- to
10 your analysis?

11 A: No.

12 Q: Do you have a copy of your exam worksheet?

13 A: I do.

14 Q: Okay. In your report, you refer to the similarities and
15 differences between the size 12 and the size 13?

16 A: Right.

17 Q: How do you determine those?

18 A: That was mainly just having the actual shoe and being
19 able to see that the heel of the shoes with the 12 and the 13
20 were basically the same, not really much difference at all in
21 size in the heel. Not a lot of difference in the toe end, but
22 it seemed to be more of the difference in size in the middle
23 part between the toe and the heel.

24 Q: Okay. And what do you use to compare those to figure
25 that out?

1 A: I guess the test impression?

2 Q: I don't know. I'm asking.

3 A: Yeah. The test impression.

4 Q: Okay. And if you would, describe for the Court what that
5 difference is? I know you sort of said the differences are
6 mainly -- but describe the differences between a 12 and a 13?

7 A: I don't know the actual number measurement difference,
8 but the length of the parallel lines in the middle are
9 slightly longer in the 13 than it is the 12.

10 Q: So State's Exhibits 109-1 and 153-1, what are those?

11 A: Those are the printed photographs of the known shoes,
12 Item 52 and Item 100.

13 Q: Okay. And if you could show the Court where are you
14 referring to when you say the differences?

15 A: In here where the straight parallel lines are in the
16 middle.

17 Q: Okay. And where else did you find differences?

18 A: There's slight differences within the arcs in the toe
19 end. You can -- you can tell they start to arc slightly
20 differently.

21 Q: And -- and as far as the heel?

22 A: Yeah. I couldn't really tell much of a difference at all
23 in the heel of those shoes.

24 MS. WEISS: At this time, I'd like to mark State's
25 Exhibit 649 for identification.

MELINDA WORLEY - DIRECT BY MS. WEISS

1 BY MS. WEISS:

2 Q: Do you recognize this?

3 A: Yes. It's my -- my report.

4 MS. WEISS: Your Honor, at this time, I'd like to move
5 State's Exhibit 649 into evidence.

6 MS. FREEDMAN: No objection.

7 THE COURT: It's into evidence.

8 (WHEREUPON, State's Exhibit Number 649, footwear analysis
9 report, was admitted into evidence.)

10 BY MS. WEISS:

11 Q: Do you have a copy of this report?

12 A: I do.

13 Q: And if you would, just starting at the beginning, explain
14 each item of evidence and your -- your expert opinion as to
15 what you found on those?

16 A: Okay. The Item 22.1 was an unknown footwear impression
17 on the Item 22 cutting from the floor in the kitchen. My
18 result for that one --

19 Q: I'm sorry. I'm just going to -- would that be this one?

20 A: Yes.

21 Q: Okay.

22 A: For this one my result was Item 22.1 impression
23 corresponds in combined class characteristics with the Item
24 52, Item 100, Item 116 --

25 MS. FREEDMAN: Objection, Your Honor.

1 THE WITNESS: Sorry.

2 MS. WEISS: Sorry. Maybe we should trade.

3 Your Honor, it's been agreed that some of these are not
4 going to be mentioned. That's why some of them are taken out.

5 BY MS. WEISS:

6 A: The Item 22.1 impression corresponds in combined class
7 characteristics with the Item 52, Item 100 shoes. Therefore,
8 the Item 21 -- 22.1 impression could have been made by the
9 Item 52 or Item 100 shoes or another shoe that displays the
10 same combined class characteristics. The Item 22.1 impression
11 was not linked --

12 Q: The 50 and 51 are the ones that we were talking about
13 that are the smaller ones?

14 A: Okay. Not made by those.

15 Q: Okay. You used the term class characteristics. Can you
16 explain to the Court what you mean when you say class
17 characteristics?

18 A: Class characteristics are size, shape, outsole design.
19 Basically, when a shoe comes from manufacturer, all size 12s
20 of that shoe are going to be the same, have the same class
21 characteristics. Then you start getting into wear within the
22 shoe.

23 Q: And I know you identified in the beginning that Item 52
24 was attributed to which person?

25 A: I said it was -- which item?

1 Q: 52.

2 A: That was the --

3 A: The red shoes in this bag.

4 A: Bright.

5 Q: Okay. And then Item 100?

6 A: The defendant.

7 Q: Okay. And you got that just from reading the submission?

8 A: Right.

9 Q: Okay. So moving on to the next one.

10 A: The Item 23.1 impression is a footwear impression on a

11 cutting from floor in the kitchen at Marker 3.

12 Q: Is that the same cutting?

13 A: Yes. And the Item 23.1 impression corresponds in

14 combined class characteristics with the Item 100 shoe, right

15 shoe, and, therefore, the Item 23.1 impression could have been

16 made by the Item 100 right shoe or another shoe that displays

17 the same combined class characteristics. The Item 23.1

18 impression was not made by the Item 50, Item 51, or Item 52

19 shoes.

20 Q: Okay. And how did you make that determination,

21 especially as to the Item 52?

22 A: Just in overlaying my test impression on the impression

23 in the photograph. It was more consistent with the size 13

24 than it was the size 12.

25 Q: Okay. And so you said that this one is consistent with

1 the 13?

2 A: Yes.

3 Q: Okay. What's next?

4 A: 24.1.

5 Q: Would that be this impression?

6 A: Yes. Item 24.1 is unknown footwear impression from the
7 cutting from the kitchen floor from Marker 4. Item 24.1
8 impression corresponds in combined class characteristics with
9 the Item 52 and Item 100 right shoes. Therefore, the Item
10 24.1 impression could have been made by the Item 52 or Item
11 100 right shoe or another shoe that displays the same combined
12 class characteristics.

13 Q: So that would be the 12 or the 13?

14 A: Yes.

15 Q: Okay. The next one?

16 A: 25.1. It's also an unknown footwear impression on the
17 cutting from the kitchen floor at Marker 5.

18 Q: Okay.

19 A: Yes. My results for this one are the Item 25.1
20 impression corresponds in combined class characteristics with
21 the Item 100 left shoe. Therefore, the Item 25.1 impression
22 could've been made by the Item 100 left shoe or another shoe
23 that displays the same combined class characteristics. Item
24 25.1 impression was not made by Item 50, 51, or 52 shoes.

25 Q: Okay. Why is that?

MELINDA WORLEY - DIRECT BY MS. WEISS

1 A: The size. The size 13 was in more agreement than the
2 size 12.

3 Q: Okay. And when you say you do overlays, just to be
4 clear, we're talking about what is in State's Exhibits 154 and
5 115?

6 A: Yes. And I use a light table where I overlay the -- I
7 lay the photograph over the impression. It's basically built
8 into the counter and has a light switch. I turn the light on
9 and lay the photo of the unknown impression on it first and
10 then I put the -- my test impression over it, and that way I
11 can see better detail with the light.

12 Q: And how many times do you do this?

13 A: Multiple. Very, very many.

14 Q: And why is that?

15 A: With this one, it was -- it was difficult to determine if
16 it was a 12 or 13, and so I spent a long time going back and
17 forth before I felt comfortable with my decision of what it
18 was.

19 Q: Let's go to your next one.

20 A: Item 25.2 is on the far right of that picture.

21 Q: Right there?

22 A: Yes. It's another partial impression. It was not made
23 by the Item 50, 52 -- 51, 52, 100 -- or 100 shoes. It's not
24 an Air Force 1.

25 Q: Okay. And what is your -- what's the next one?

MELINDA WORLEY - DIRECT BY MS. WEISS

1 A: 26.1. It's another unknown footwear impression from a
2 cutting from the kitchen floor from Marker 6. Yes. My
3 results for this one, Item 26.1 corresponds in combined class
4 characteristics with the Item 52 and 100 left shoes.
5 Therefore, the Item 26.1 impression could've been made by the
6 Item 52 or Item 100 left shoe or another shoe that displays
7 the same combined class characteristics. The Item 26.1
8 impression was not made by Item 50 or 51.

9 Q: Okay. So what is the next one?

10 A: Item 26.2.

11 Q: Okay.

12 A: And the Item 26.2 was not made by Item -- Item 50, Item
13 51, 52, or 100 shoes. That was the Air Supply from the family
14 member's shoes.

15 Q: That are the same characteristics as the one that we
16 showed you from State's Exhibit 249?

17 A: Yes.

18 Q: Okay. And what's the next one?

19 A: The last one is the unknown footwear impression
20 represented in photo number 474 on the Item 56 DVD, which was
21 the crime scene photos. This was the impression from the
22 carport.

23 The Item 56.1 impression corresponds in combined class
24 characteristics with the Item 100 left shoe. Therefore, the
25 Item 56.1 impression could've been made by the Item 100 left

MELINDA WORLEY - DIRECT BY MS. WEISS

1 shoe or another shoe that displays the same combined class
2 characteristics. The Item 56.1 impression was not made by the
3 Item 50, 51, or 52 shoes.

4 Q: Okay. And how did you determine that it was not made by
5 the 52 shoes?

6 A: Size. I thought the unknown impression was more
7 consistent with the size 12 shoe than the size -- sorry. More
8 consistent with a size 13 shoe than a size 12 shoe.

9 Q: And to be clear, when you do an overlay over an
10 impression like this, is it a static one-to-one overlay?

11 A: Not -- not necessarily. It's -- I mean, there's factors
12 as far as the surface that the impression is on, the carport
13 being painted and the paint peeling and chipping. The LCV --
14 the impression being in blood to begin with and then the LCV
15 being used to process the blood, there's a little bit of
16 movement in it.

17 Q: Okay. When you say movement, describe what you mean by
18 that?

19 A: There's -- I don't remember exactly where it was, areas
20 where the -- it's not smudged, but you can tell there was some
21 movement. There's some movement when the step is being made,
22 whether the person is walking or running or whatever, but you
23 can kind of -- I can kind of see that in the impression.

24 Q: How do you account for that when you're comparing it to
25 your transparencies?

MELINDA WORLEY - DIRECT BY MS. WEISS

1 A: I keep that in mind when I'm doing my overlay with both
2 my known standards, and I am aware of those things as I -- as
3 I look at it and make my decision based on those -- those
4 factors also.

5 Q: Okay. And when you do an overlay, if the overlay -- if
6 you do it on the heel and overlay the heel and line it up, do
7 you just compare heel to heel or do you compare the whole
8 print?

9 A: No, I compare the whole print. I line it up at the heel
10 end and then I look to see if there's agreement with how it
11 lines up with the rest on the impression, the middle and the
12 toe end.

13 Q: And you talked about the midsection having the most
14 difference between the 12 and 13. How does that vary with the
15 movement that you're describing in the shoe?

16 A: I don't -- I don't think it was in that area that I saw a
17 lot of movement.

18 Q: Okay.

19 A: It was more in the toe end, I think.

20 Q: Does it -- does it change the width of the lines?

21 A: The -- well, the LCV can affect the width of the lines,
22 yes.

23 Q: But does it move them?

24 A: Not really move them.

25 Q: Okay. And so if you have it lined up at the heel all the

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1 way to the toe, would it be appropriate to then pick it up and
2 realign it with the toe to match that?

3 MS. FREEDMAN: Objection. She's leading the witness.

4 MS. WEISS: She's an expert. I'm asking hypothetically
5 if that would be appropriate.

6 THE COURT: You have to ask it in a direct way. The
7 question does not suggest an answer.

8 BY MS. WEISS:

9 Q: Hypothetically, if you had aligned -- if it lined up at
10 the heel but not with the toe, would it be -- would there be
11 something that you would do to try to make it line up a
12 different way?

13 A: If it doesn't line up for the full length of the
14 impression, then I'm not -- I'm not satisfied with it being in
15 agreement with the known standard.

16 Q: And after you created your examination worksheet, is that
17 when someone reviews?

18 MS. FREEDMAN: She's leading, Your Honor.

19 BY MS. WEISS:

20 Q: At what point in the process are your results reviewed?

21 A: My results are reviewed once I've completed everything,
22 done all my comparisons, I've completed my examination
23 worksheet, which has all of my notes for each of the
24 impressions, and I've generated my report in our system. Then
25 I send it to the person who is going to do the review.

1 Q: And what does that person have access to?

2 A: They have access to the documents I upload, which are my
3 table of contents and exam worksheet. They also have access
4 to the report itself. I will transfer the envelope of all the
5 photographs and test impressions to them. I have the shoes
6 available, if he needs them. He can take custody of the
7 shoes. Usually, that's only if I'm making an identification.
8 So he has access to everything that I have access to.

9 Q: Will you please explain for the Court what an
10 identification is?

11 A: Identification is basically if that shoe made that
12 impression and they are -- they correspond with the size,
13 shape, outsole design, possibly wear, but there are also
14 randomly acquired characteristics that are seen in the unknown
15 impression that correspond with characteristics in the actual
16 shoe.

17 Q: Okay. And from your training and expertise, what are the
18 different levels, starting with the, obviously, identification
19 that you can report out?

20 A: It would be the impression was made by a shoe. There's
21 one result that we have that corresponds in combined class
22 characteristics, combined class characteristics and wear. We
23 have a result -- I'm not a fan of it, but it corresponds in
24 combined class characteristics, wear, and some random
25 characteristics, if there's maybe one or two very small

MELINDA WORLEY - DIRECT BY MS. WEISS

1 characteristics, we can use that result if we're not willing
2 to fully identify it. And then there's not made by, and we
3 also have partial -- to partial or the quality of the unknown
4 impression is not -- not good enough to be able to do a
5 comparison.

6 Q: And what were -- what was your expert opinion? What
7 level was your expert opinion as to these -- as to the report
8 that you produced?

9 A: I'm about in the middle. I didn't -- I didn't think
10 there was wear that was visible in any of the impressions. So
11 my result for all of these is corresponds in combined class
12 characteristics only.

13 Q: And in your expert opinion, what size shoe in combined
14 class characteristics would you say made the unknown
15 impressions?

16 A: Some of them I couldn't tell a difference between the 12
17 and the 13. I couldn't rule one out; so I included both of
18 them. And others I determined that they were corresponding in
19 combined class characteristics of the size 13 shoe more so
20 than the size 12.

21 Q: Okay. Just to be clear, of the two shoes, what were the
22 sizes of the two shoes -- sets of shoes that you have up
23 there?

24 A: Item 52 is size 12, and Item 100 is size 13.

25 Q: And Item 52 is which one?

1 A: These.

2 Q: Okay. And Item 100?

3 A: Are those.

4 MS. WEISS: Thank you. I have no further questions, Your
5 Honor.

6 Please answer any questions the defense may have.

7 DIRECT BY THE COURT

8 THE COURT: Let me ask a few questions. Does footprint
9 analysis -- has it achieved widespread acceptance in the
10 scientific and law enforcement community?

11 THE WITNESS: Yes.

12 THE COURT: Are there standards controlling the manner in
13 which you conduct these tests?

14 THE WITNESS: There are. There are guidelines that we
15 follow, yes.

16 THE COURT: And you follow those?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Is there such a thing -- there
19 might not be, but is there potential error rates assigned to
20 footprint analysis at large?

21 THE WITNESS: I'm not really sure if there's an error
22 rate, if it's been calculated at all.

23 THE COURT: And in order -- when you go through your
24 training, do you have to conduct tests and they determine how
25 often you get it right and how often you get it wrong?

MELINDA WORLEY - DIRECT BY THE COURT

1 THE WITNESS: I guess, in a way, yeah. They have, like,
2 old proficiency tests that we've done over the years, and
3 while I was in training, I basically took all of those --
4 those tests to see if I was ready to do actual casework.

5 THE COURT: Have there been law enforcement and
6 scientific publications with regard to the art of footwear
7 analysis?

8 THE WITNESS: Yes.

9 THE COURT: All right. And -- and I would assume that in
10 these -- in your training and in these articles the technique
11 has been tested?

12 THE WITNESS: Yes.

13 THE COURT: Yes, ma'am?

14 MS. FREEDMAN: Thank you.

15 CROSS-EXAMINATION

16 BY MS. FREEDMAN:

17 Q: Hi, Agent Worley. How are you?

18 A: Good. How are you?

19 Q: When you were at the 2019 IAI conference, did you see Dr.
20 Wilcox present?

21 A: 2018 IAI conference? I -- I don't remember.

22 Q: Okay. So before I start to ask you sort of more specific
23 questions, I just want to make sure that we're sort of talking
24 about the same thing. So the Item 52 shoe is the red shoe
25 there; is that right?

- 1 A: Yes, that's right.
- 2 Q: And Item 52 is Dwayne Bright's shoe?
- 3 A: That's right.
- 4 Q: And then Item 100 shoe is the back shoe there; right?
- 5 A: That's right.
- 6 Q: Size 13?
- 7 A: Uh-huh. Yes.
- 8 Q: And that's JeJauncey's shoe?
- 9 A: That's right.
- 10 Q: Okay. Great. So the last time we talked, do you
- 11 remember talking a little bit about this book?
- 12 A: Yes.
- 13 Q: Yeah. We talked about how it's a learned treatise in the
- 14 field of forensic footwear analysis?
- 15 A: Sure.
- 16 Q: And the book is called *Forensic Footwear Evidence*; right?
- 17 A: Right.
- 18 Q: By Will Bodziak? So do you agree that the techniques he
- 19 described in this book are considered best practices?
- 20 A: We don't actually have that book at the moment, but we do
- 21 follow accepted protocols, yes.
- 22 Q: But you agree this is sort of a learned treatise that
- 23 describes what, you know, gold standard practices are for
- 24 forensic footwear analysis?
- 25 A: Like I said, I haven't -- we don't have the book yet.

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 Q: You might not have it, but do you agree that it describes
2 best practice?

3 A: It does. I've heard of it.

4 Q: Yeah. Okay. Great.

5 A: Will Bodziak.

6 Q: Yeah. He's kind of like the guy for this; right?

7 A: Yes.

8 Q: Yeah. And so maybe probably because you didn't have this
9 book, you weren't really able to follow all the things he
10 described in here; right?

11 A: I follow the protocol of our lab.

12 Q: So let's sort of start with the report that you produced.
13 Do you agree that best practice is to document all of the
14 steps you took in your report?

15 A: This is the report that is generated when I put in my
16 results. I have no control what the report says other than
17 what my results are.

18 Q: So you don't have the option to enter into the report
19 details about what you did?

20 A: No. That's -- that's the point of the examination
21 worksheet.

22 Q: Okay. And so -- so you documented your work only in your
23 examination worksheet then?

24 A: Yes.

25 Q: Okay. And part of the reason why it's really important

1 to document what you did is to that maintain objectivity;
2 right?

3 A: I maintain objectivity regardless.

4 Q: But part -- that's part of why you do it; right? So that
5 -- so that somebody else coming down the road can look and
6 make sure that you did things, not just you but any examiner
7 did things in an objectively correct way; right?

8 A: Sure.

9 Q: Yeah. And so the steps that you documented are partially
10 in your case report, but they're not fully described in there,
11 are they?

12 A: They're described in my examination worksheet.

13 Q: And so the examination worksheet you're saying is that
14 describes everything that you did --

15 A: Yes.

16 Q: -- in conducting this analysis? Okay. So when you were
17 preparing this report, you started in early May of 2017;
18 right?

19 A: Right.

20 Q: And you didn't finish your report until --

21 A: March of 2019.

22 Q: -- March of 2019. Right. And so during that two-year
23 window, you were exposed to a lot of information; right?

24 A: I was busy working crime scenes is the reason it took
25 that long.

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 Q: Yeah.

2 A: I didn't really pay attention to anything about this
3 case. I don't know things about the case.

4 Q: Well, you did know. You just testified that you knew
5 about the Air Supply shoe; right?

6 A: Well, I was provided a photo of a family member just for
7 that purpose. So I was looking at that one impression.

8 Q: Well, you testified that you knew that the family member
9 had walked into that house and found the victim?

10 A: But I don't know who the family member was. I don't
11 anything about that. I just know that was the shoe that I was
12 provided a photo of.

13 Q: Yeah. And you knew that the person who was wearing that
14 shoe had walked into the house and found the victim on the
15 floor and stepped in blood; right?

16 A: That was the information I was provided, yes.

17 Q: Right. So you were provided outside information during
18 the course of the time when you were preparing your report?

19 A: As it related to the impressions I was looking at.

20 Q: Right. And you were also working with Lt. Schenk; right?

21 A: He wasn't a lieutenant then, but yes.

22 Q: Okay. He is now though; right?

23 A: Yes.

24 Q: Yeah. And so you guys got assigned to sort of the same
25 rotation on the crime scene unit; is that right?

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 A: From time to time, I mean, because people change and
2 sometimes we're on the same rotation and sometimes we're not.

3 Q: But it's fair to say you guys were working together
4 occasionally and you talked?

5 A: I suppose, but --

6 Q: And so you knew before you completed your report in 2019
7 that Dwayne Bright had been arrested and then released; right?

8 A: No, I didn't.

9 Q: And you knew that JeJauncey Harrington had been arrested?

10 A: I don't know details. I'm working another crime scene if
11 I'm working with Lt. Schenk. I don't -- I'm not talking about
12 something else. I'm working a different crime scene.

13 Q: But this was all kind of in the news and, you know,
14 people knew about this case generally?

15 A: I don't know what to tell you. I didn't pay any
16 attention to anything about the case.

17 Q: Okay. So where did you receive the information about the
18 victim family member walking in the house and finding the
19 victim on the floor?

20 A: One of the field agents told me, I think, but I don't
21 know who.

22 Q: Sure. So you were talking to field agents about the
23 case?

24 A: About that one impression, as it related to that one
25 impression.

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 Q: Okay. So let's turn to the methods used in this case.

2 You testified that you used ACE-V; right?

3 A: Yes.

4 Q: And so we've been talking about this for a while now. I
5 know we're probably all sick of hearing about it, but the A is
6 for analysis; right?

7 A: Right.

8 Q: And at that step fair to say that the analysis portion is
9 supposed to be objective; is that right?

10 A: Yes.

11 Q: And so objective in this context means that you aren't
12 looking at the shoes or the impressions that the known
13 standards make; right?

14 A: Right.

15 Q: And so you analyze the unknown print first before you
16 look at anything about the known print?

17 A: Yes.

18 Q: And did you do that?

19 A: Yes. I always -- always compare the unknown impression
20 to the known standard. It's not the other way around.

21 Q: Okay. But that's not really documented in your
22 examination worksheet?

23 A: That's the procedure I follow for every case, and I'm not
24 going to -- I can't write down every single time I lifted the
25 transparency off of the photo and every time I did this or did

1 that. I don't put every single thing in there.

2 Q: And your sort of process in this case was really focused
3 on size; right?

4 A: That was the main difference that I had, yes.

5 Q: Sure. So it's true -- right? -- that no two footwear
6 impressions that you take even from the same shoe are going to
7 be identical?

8 A: Typically, that's right.

9 Q: Yeah. And that's because when someone takes a step, you
10 know, they're not walking like this. They're not walking like
11 a show horse; right? Their feet aren't necessarily hitting
12 the ground perfectly flat every time?

13 A: No. There's all kinds of factors that come into that,
14 yes.

15 Q: Sure. And so sometimes someone might hit the ground with
16 their toes first?

17 A: Yes.

18 Q: And someone might hit the ground with their heel first
19 sometimes?

20 A: Right.

21 Q: And those will all create different kinds of impressions,
22 even with the same shoe and the same person?

23 A: Yes.

24 Q: Right. And so it's really important because of that --
25 right? -- to take lots of different impressions?

- 1 A: Right.
- 2 Q: From the shoe?
- 3 A: Yes.
- 4 Q: That you have; right?
- 5 A: The test impressions.
- 6 Q: Yeah. But you -- how many did you take in this case?
- 7 A: At least two.
- 8 Q: You took two for each shoe; right?
- 9 A: Yes.
- 10 Q: And they weren't sort of the best impressions? Do you
- 11 agree with that?
- 12 A: I'm not sure why those weren't the best, but the point is
- 13 to get all of the bottom of the shoe onto the transparency.
- 14 Q: Yeah. So you could have retaken the impression; right?
- 15 A: This is what I ended up with.
- 16 Q: Yeah. So -- but you didn't retake impressions?
- 17 A: This is what I have. So I guess not.
- 18 Q: Okay. So I'm going to talk a little bit more about the
- 19 size for Air Force 1s in particular. Are you aware that
- 20 Bodziak reports the standard deviations in sizes for Air Force
- 21 1s range from approximately 2.6 millimeters for a size 10 shoe
- 22 and 1.6 millimeters for a size 12 shoe?
- 23 A: That sounds about right. I'm not sure if I know that
- 24 specifically though.
- 25 Q: But basically what that means -- right? -- is that a shoe

1 that is a size 12 in an Air Force 1 labeled as a size 12 could
2 vary between another size 12 by as much as 1.6 millimeters;
3 right?

4 A: Right.

5 Q: And so it's pretty hard to determine size differences in
6 Air Force 1s; right?

7 A: Yes.

8 Q: It's kind of notoriously hard for Air Force 1s; right?

9 A: Right.

10 Q: And that's in part because detecting several differences
11 between sizes on an Air Force 1 sole is difficult, if not
12 impossible?

13 A: Not impossible, but I mean, it is difficult. I spent a
14 lot of time with all of these impressions going back and forth
15 between the 12 and the 13, and my unknown impression -- or my
16 test impression on the unknown impression until I was
17 comfortable with my result.

18 Q: And t's particularly true -- right? -- that the piece of
19 the Air Force 1 that makes it especially difficult to sort of
20 identify or exclude based on size is those little blocks along
21 the edge of the rubber part; right?

22 A: Those -- those do come into play, yes.

23 Q: But those are kind of notoriously the piece that you
24 really can't rely on for size determination; right?

25 A: Yes.

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 Q: Yeah. And that's because those are going to pretty much
2 line up for adjacent shoe sizes if it's Air Force 1s; right?

3 A: They -- they change, but with layering and that kind of
4 things too.

5 Q: But you're saying you didn't really take account of where
6 in your analysis?

7 A: Well, in general, I didn't. I mean, I didn't account of
8 everything in that impression, but as far as specific wear
9 pattern, I didn't have that.

10 Q: And one of the things you did to determine the size of
11 the shoe -- right? -- is you -- you measured heel to toe on
12 the known standards; right?

13 A: I believe I used the test impressions.

14 Q: But you used -- you took a ruler and you measured; right?

15 A: That's not something I normally do.

16 Q: But you did it in this case; right?

17 A: It's so close I can't -- I have to do something to try to
18 determine what the difference is between them.

19 Q: So you used a ruler?

20 A: Right.

21 Q: Yeah. And that's not best practice; right?

22 A: I mean, that's why I said I don't want to do that.

23 Q: But you did it in this case?

24 A: I didn't -- I can't even tell you what those measurements
25 were. I don't -- it's not really -- it doesn't really matter

1 so much that I did that because it doesn't really -- it didn't
2 contribute to my -- my results.

3 Q: But, you know, you were trying to figure out the size and
4 that was the thing that you said was the deciding factor for
5 you; right?

6 A: And that was the visual comparison of the unknown
7 impression to my known standards.

8 Q: I understand. And you also noted in your bench notes
9 that the -- I think we were just looking at the impression in
10 the carport, the one that's painted over. You noted in your
11 impression that the LCV actually caused some distortion --

12 A: Right.

13 Q: -- in that image; right?

14 A: Yes.

15 Q: But you didn't really take account of that in your size
16 analysis, did you?

17 A: Yes, I did.

18 Q: How did you take account of it?

19 A: I'm aware of that as being a thing, that that happened
20 with the LCV. So when I'm overlaying my test impression, I'm
21 looking for that.

22 Q: But you didn't -- so when the LCV gets applied, it makes
23 the unknown oppression, that bloody footprint, a little bit
24 bigger; right?

25 A: In some places maybe, yes.

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 Q: And so it might make the shoe print appear to be a larger
2 size than what it really is; right?

3 A: I mean it depends on where it is.

4 Q: But that's true -- right? It might make it look a little
5 larger, like a size up?

6 A: Not -- it didn't do that to the entire impression.

7 Q: Okay. So you didn't really take account of the fact that
8 the LCV changed the dimensions of the shoe?

9 MS. WEISS: Objection, Your Honor. This has been asked
10 and answered, and she's --

11 THE COURT: I'll -- I'll allow her to ask it.

12 BY MS. FREEDMAN:

13 Q: You didn't really take account of how the LCV might have
14 altered the impression of the size?

15 A: I did take that into account, yes.

16 Q: How?

17 A: I just said it. I just answered that.

18 Q: Okay. So all you did here really was you took the
19 photograph and you put the projector film over it and you just
20 looked to see which one was closer by your eyes in size?

21 A: That's basically what this is. It's overlaying an
22 unknown -- or a test impression on top of the unknown
23 impression and seeing if it agrees or does not agree and where
24 it agrees or doesn't agree.

25 Q: I mean, that's not what Bodziak describes though; right?

- 1 A: I can't tell you from that book since I don't have that
2 book yet.
- 3 Q: Okay. Do you have the -- another edition of the book
4 though; right?
- 5 A: A previous book that he wrote, not a previous version of
6 that book.
- 7 Q: Yeah. And it describes basically the same stuff; right?
- 8 A: Probably.
- 9 Q: Yeah. Yeah. So Bodziak doesn't really endorse using
10 just, like, overlay and size only and then -- and then you can
11 make a comparison?
- 12 A: That's how we've always done it.
- 13 Q: Okay. So I want to go now to the -- that sort of final
14 step that you do, the verification step. It's true -- right?
15 -- that you're sort of required to have someone come in and
16 verify what you did?
- 17 A: Right.
- 18 Q: And that you're supposed to document that?
- 19 A: It is documented.
- 20 Q: It's not in your report though?
- 21 A: It's not in my report. It's in our system.
- 22 Q: Okay.
- 23 A: It tracks.
- 24 Q: Sure.
- 25 A: When I routed it to him, when -- if he routed back to me,

MELINDA WORLEY - CROSS BY MS. FREEDMAN

1 the date and time of when these things happened.

2 Q: But you didn't produce -- you didn't turn that over to
3 the prosecution for this case, did you?

4 A: I don't -- I'm not the one who turns stuff over.

5 Q: Okay.

6 A: It's not me that does that.

7 Q: Okay. And so just to be clear, you realize -- right? --
8 that Dr. Wilcox disagrees with your report?

9 MS. WEISS: Objection, Your Honor.

10 THE COURT: I'll sustain the objection. That's not
11 exactly what transpired.

12 BY MS. FREEDMAN:

13 Q: You -- do you -- are you aware that Dr. Wilcox reached a
14 different conclusion than you did about which shoe is more
15 consistent with the unknown impressions?

16 A: Where she testified that it could have been the 12 or the
17 13, just as I'm doing.

18 Q: But that's not what she testified to, is it?

19 A: That's what I saw, yes.

20 Q: Who peer reviewed your report in this case?

21 A: I believe it was Tom Martinelle [ph]. He's a latent
22 print examiner. He used to do footwear entire cases and is
23 still competent to do my reviews.

24 Q: Okay.

25 MS. FREEDMAN: Thank you. I have no further questions.

MELINDA WORLEY - REDIRECT BY MS. WEISS

1 THE COURT: Any redirect?

2 MS. WEISS: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. WEISS:

5 Q: Agent Worley, you said -- the defense was characterizing
6 Bodziak. To be clear, what is the first thing in the ACE-V
7 comparison that you're supposed to be comparing?

8 A: The outsole design.

9 Q: And?

10 A: And the quality and the clarity of the unknown
11 impression.

12 Q: Okay. And when you compare the unknown impression to the
13 known impression, what is the first determination that you
14 make?

15 A: Probably the design, but also the size.

16 Q: And then if those match, then you move on to the next
17 step?

18 A: Yes.

19 MS. WEISS: Thank you.

20 No further questions, Your Honor.

21 THE COURT: You may step down.

22 Any objection to this witness being excused?

23 MS. WEISS: No, Your Honor.

24 THE COURT: Thank you, ma'am.

25 All right. We're going to take about a five-minute

1 recess to clear all of this evidence.

2 MR. REDMOND: Yes, sir. Thank you, Your Honor.

3 MS. WEISS: Thank you, Your Honor.

4 MR. YOUNG: Your next witness is LaBean?

5 MR. REDMOND: No, it's Johnson.

6 MR. YOUNG: And, Your Honor, I just wanted to let the
7 Court know that I did have a motion regarding identification
8 hearing and limitation of testimony before Mr. LaBean takes
9 the stand.

10 THE COURT: All right. We'll do that. We'll take about
11 a five-minute recess and let everybody -- we'll do that as
12 soon as we call them back to order.

13 (WHEREUPON, there was a break in the proceedings from
14 2:25 p.m. until 2:33 p.m., after which the proceedings
15 resumed as follows.)

16 THE COURT: Before we get started, I'm going to make a
17 ruling with regard to the footprint analysis. I do indeed
18 find that the footprint analysis and the discipline is
19 something that's not within the ordinary -- the knowledge of
20 an ordinary layperson. I think that this type of testimony
21 and the testimony of the defense's witness and the
22 prosecution's witness aid the factfinder in understanding the
23 evidence.

24 I reaffirm my prior ruling that Ms. Worley is indeed
25 qualified, and I find that her testimony is admissible, just

1 as the defendant's expert was qualified and admissible, and I
2 find that her testimony meets the qualifications.

3 And I understand we have some motions.

4 MR. YOUNG: Your Honor, I think there's a witness coming
5 later this afternoon, Mr. LaBean, who the Court has heard
6 testimony about him and his video surveillance system. The
7 Court has also heard some testimony from a couple of different
8 witnesses about whether or not there were unique taillights
9 that are on this video that, obviously, everybody has
10 knowledge that has not been disclosed to the defense.

11 At this time, I would move to strike all testimony
12 concerning car taillights or an alleged video of the car
13 pulling into New Bridge Road property.

14 And prior to -- I don't know if Mr. LaBean's is going to
15 try and say I saw the car or I recognized the car, but prior
16 to any identification of a vehicle, I feel that the defense
17 would be entitled to what amounts to a *Biggers* hearing of an
18 automobile prior to anybody testifying about an opinion on
19 whether or not it was or was not a particular car.

20 Obviously, that information could have been tainted by
21 subsequent information being provided. And just like in
22 eyewitness identification, anything that was suggestive about
23 any procedures concerning the car would make that
24 identification constitutionally inadmissible.

25 THE COURT: All right. Do you have any cases that

1 provides for a *Biggers* hearing on a taillight?

2 MR. YOUNG: No, sir.

3 THE COURT: I didn't think so. It's right interesting
4 material. I mean, I understand what you're saying, but I
5 think those -- that's fertile ground for cross-examination,
6 and you can ask them about what information they received and
7 point out the fact that the -- the portion of the video where
8 he turned in to the right is -- was not made available to you.

9 And if there are any motions with regard to whether or
10 not that was something intentional by the State or whether or
11 not it's exculpatory or inculpatory, that would certainly be
12 appropriate, but I'm going to allow the testimony. But your
13 motion is -- is noted but denied on the interesting theory of
14 a *Biggers* motion on a taillight.

15 MR. YOUNG: And the motion to strike all previous
16 testimony too?

17 THE COURT: I'll allow that.

18 MR. YOUNG: Thank you. But my objection is --

19 THE COURT: It's noted.

20 MR. YOUNG: Thank you. And one more, that's a final
21 ruling by the Court? I don't need to renew it with Mr.
22 LaBean?

23 THE COURT: Well, you know, that's -- that is -- I'm not
24 the one who makes the decision as to whether or not it's
25 contemporaneous or not.

1 MR. YOUNG: Yes, sir. Okay.

2 THE COURT: And I'm not real sure I can do that. I've
3 done that previously. I've said that you're protected on the
4 record as a contemporaneous objection. That's not really my
5 call really.

6 MR. YOUNG: We'll make it again. Thank you.

7 THE COURT: All right. Make it again.

8 MR. REDMOND: May it please the Court, Your Honor. The
9 State would call Chris Johnson.

10 THE COURT: Yes, sir. Mr. Johnson, if you could come
11 forward, I'm going ask you, if you could, to stand right in
12 front of the clerk here, place your left hand on the Bible and
13 raise your right hand as she administers the oath.

14 THE CLERK: Do you solemnly swear or affirm that the
15 testimony you shall offer the Court in this case shall be the
16 truth, the whole truth, and nothing but the truth, so help you
17 God?

18 THE WITNESS: I do.

19 THE CLERK: You can be seated.

20 THE COURT: I'm going to ask you, if you could, to come
21 over here and have a seat in the witness chair. Watch your
22 step. Pull up real close to that microphone and speak loudly,
23 clearly, and slowly in order that we can hear everything that
24 you have to say, and let's start with your full name, please,
25 sir.

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1 THE WITNESS: Yes, sir. My full name is Christopher
2 Lawrence Johnson.

3 THE COURT: Thank you.

4 CHRIS JOHNSON, being first duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. REDMOND:

8 Q: And, Lt. Johnson, by whom are you employed?

9 A: The South Carolina Law Enforcement Division, also known
10 as SLED.

11 Q: And how long have you been so employed?

12 A: Nineteen years.

13 Q: Okay. And does that -- does that pretty much encapsulate
14 your whole law enforcement career?

15 A: Yes, sir. I was hired there out of college.

16 Q: Okay. And where did you go to college?

17 A: At the University of South Carolina.

18 Q: Good answer. So moving on. So let's talk about your
19 experience and all. You've been at SLED 19 years. In what
20 capacities have you worked at SLED?

21 A: My first four years, I was a special agent assigned to
22 computer crimes. From there, I -- while serving in computer
23 crimes, I was fortunate enough to be assigned to a task force
24 that worked closely with the Secret Service and the Martial
25 Service and the FBI doing fugitive work. And so around my

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1 fifth year, I was transferred over full-time to our fugitive
2 unit, which is now housed under our Information and
3 Intelligence Center. So that's where I've been for the last
4 15 or so.

5 Q: Okay. So -- and I think -- is that referred to as the
6 Fusion Center?

7 A: Yes, sir.

8 Q: Okay. And as you indicated, do you work with multiple
9 agencies, both state and federal, as it relates to your
10 duties?

11 A: Yes, sir. We work with local, state, and federal, other
12 states. Yes, sir.

13 Q: And let's talk about cell phone data location, cell phone
14 location data, cell tower location data. I will get it right
15 eventually. Have you had any training as it relates to cell
16 tower data analysis?

17 A: Yes, sir. So I have completed training with the FBI's
18 CAST team, their basic course. I've also completed a training
19 with the Gladiator Forensics through their ESPA software,
20 which is the one of the tools that we utilize in analyzing
21 call detail records. I've also completed basic, advanced, and
22 administrator training with PenLink, which is another software
23 program that we utilize. And then just 19 years of experience
24 working with this type of information in conjunction with
25 these cases.

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1 Q: Okay. And how many times have you been qualified -- how
2 many times have you testified in court as an expert in the
3 field of cell tower location analysis?

4 A: Right about seven now.

5 Q: Okay. And -- and of course, even in this circuit, I
6 think, have you been qualified in the Fourth Circuit I think
7 over in Chesterfield County?

8 A: Several times. Yes, sir.

9 Q: And Darlington County, if I recall?

10 A: And Florence, Horry County, Newberry, and I believe in
11 Spartanburg.

12 Q: Okay.

13 MR. REDMOND: At this time, I would move to have Lt.
14 Johnson qualified as an expert in the field of cell tower
15 location analysis.

16 THE COURT: Any query with regard to his qualifications?

17 MS. CRAYTON: No, Your Honor.

18 THE COURT: All right. He's so qualified.

19 BY MR. REDMOND:

20 Q: Now, let's talk about -- you were talking about software,
21 and I've actually got segues into some of the -- what I was
22 going to ask you about as far as the equipment that you use.
23 Could you tell His Honor what type of equipment that you use
24 specifically in cell tower location analysis when you're doing
25 your mapping?

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1 A: Yes, sir. So I supervise my unit now. So all of my guys
2 that work under me, they have to be able to do it by hand
3 first. So that involves Google Earth and a compass and being
4 able to look at the records and know what they're looking at.

5 To expediate our process, our job a little bit more
6 because of the fallacies of records or files, we utilize both
7 a program called PLX, which is PenLink, and a program called
8 ESPA through Gladiator Forensics. ESPA is -- and we've also
9 used CAST-VIZ, which is a program that was written by the FBI.
10 But we have since moved over to ESPA, which is the current
11 software that the FBI's CAST team utilizes as well, which is
12 their Cellular Analysis Survey Team.

13 So what that allows us to do is to take electronic files
14 that are sometimes 15 to 20,000 or more data files and load
15 that in through an electronic file and then run reports or run
16 a query based off of a timeline that we're looking for. It
17 sorts that down from 15,000 files to whatever that time frame
18 is that we're looking for, and then it will map those towers
19 for us based off of these spreadsheets and tower locations
20 that are provided by the cell phone companies to us.

21 Q: And that actually segues to what I was going to ask you
22 next. So if you are sent a request -- and in this case we've
23 sent you a few requests. If you are sent a request for -- to
24 do mapping, what do you require to do your mapping accurately?

25 A: And so we prefer obviously to have the electronic files

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1 sent to us just because it's a lot easier than manually
2 entering and doing it by hand, especially if it's a large time
3 frame. But we would need, you know, those files of the
4 telephone number that you're looking at analyzed. We would
5 require the location of any crime scene or alibi locations
6 that we can display on the map as well, and then we need the
7 time frame that you want analyzed. You know, a lot of times,
8 through a search warrant agencies get 10 -- 20 -- 30 days'
9 worth of records, which constitutes a large amount of data or
10 records.

11 And so, obviously, it would be time prohibitive to try
12 and map every single tower. And so we ask that that be
13 narrowed down to as tight a time frame as we can just so that
14 it makes our work more efficient and, you know, the large
15 amount of cases that we're getting, we don't get completely
16 bogged down.

17 Q: Okay. And in fact, do you handle cases from all over the
18 state?

19 A: Yes, sir.

20 Q: Okay. And requests from all over the state?

21 A: Yes, sir.

22 Q: Now, in this particular case, do you recall that -- I
23 guess, was the Fusion team contacted in reference to trying to
24 locate the missing little girl?

25 A: Yes, sir. We were initially involved in the initial

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1 investigation as far as trying to identify who it was by
2 looking at the victim's records, who her last contacts were,
3 that type thing, and then once, you know, a suspect is
4 identified, then we may move into the actual fugitive aspect
5 of it, locating whoever they have warrants on for whatever
6 said crime, and then after that, you know, we transition again
7 into, you know, the investigator role as far as getting ready
8 for court and creating exhibits.

9 Q: Mapping?

10 A: Doing analysis. Yes, sir. Helping further the
11 investigation.

12 Q: And to that point, were you asked to do analyses on --
13 and I'm going to give you three numbers.

14 MR. REDMOND: Well, actually, let me just do this. If I
15 can, Your Honor, with the Court's blessing, approach the
16 witness with Exhibits 650, 651, and 652?

17 THE COURT: Yes.

18 MR. REDMOND: And I believe counsel has seen these
19 exhibits.

20 BY MR. REDMOND:

21 Q: I'm going ask you to take a look at each of those, and
22 then I'll ask you questions about each one individually.
23 Well, actually, I'll just ask you about each one individually
24 now. 650. Do you recognize Exhibit 650?

25 A: Yes, sir. This is one of the mapping analysis reports

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1 that I created in this case.

2 Q: Okay. And for the record, what number is that reflective
3 of?

4 A: That is for area code 843-287-4282.

5 Q: Okay. And what's the -- and give me State's 651, please.
6 Could you take a look at that? Oh, forgot to ask you about
7 650. Is that an accurate copy of the report that you
8 generated in this case?

9 A: Yes, sir.

10 Q: Okay. 652. If you could look at 652? Do you recognize
11 what 651 -- excuse me. Do you recognize what State's 651 is?
12 I apologize.

13 A: Yes, sir. This is another mapping product that I created
14 in conjunction with this case for telephone number 843-535-
15 3480.

16 Q: Okay. And is that an accurate true copy of your report
17 for that number?

18 A: Yes, sir.

19 Q: Okay. And finally State's 652?

20 A: Yes, sir. Again, this is one of the most recent reports
21 that I've completed, and it is for telephone number 843-535-
22 2091.

23 Q: And is that an accurate true copy of the report that you
24 generated in this case?

25 A: Yes, sir.

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1 MR. REDMOND: And for the record, Your Honor, it's
2 already in evidence, but just for clarification purposes,
3 State's 650 is reported to be JeJauncey Harrington's Verizon
4 cell phone number. State's 651 is purported to be his AT&T
5 cell phone number, that being the defendant, and finally, 652
6 actually is Dwayne Bright's cell phone number. So just for
7 clarity.

8 BY MR. REDMOND:

9 Q: Now, when you generated those reports, I guess at the
10 request, are you given a certain period of time to do mapping
11 for it?

12 A: Yes, sir.

13 Q: Okay. And again, did we ask you to do that in this
14 particular case?

15 A: Yes, sir.

16 Q: All right.

17 MR. REDMOND: Now, let me, with the Court's indulgence,
18 ask you if you wouldn't mind stepping down?

19 Oh, I forgot to move them into evidence before I
20 published them. Your Honor, I would move State's 650, 651,
21 and 652 into evidence at this time.

22 THE COURT: Any objection?

23 MS. CRAYTON: No, Your Honor.

24 THE COURT: They're into evidence.

25 (WHEREUPON, State's Exhibits Number 650, 651, and 652,

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1 cell phone analyses, were admitted into evidence.)

2 BY MR. REDMOND:

3 Q: And this is State's 650. And you feel free to step down
4 if you need to. And I apologize. I don't know how to make
5 this thing more clear on the screen, and I'm afraid that if I
6 do -- oh, now I see it. Right here. I'm sorry. I think it's
7 lit. No, that minimizes it.

8 A: If you hit that right arrow.

9 Q: Hit the right arrow? Oh, that right there, the little
10 arrow.

11 A: Midways down.

12 Q: Yeah. I got it. All right. There we go. All right.
13 Now, that -- is that a representation of State's 650?

14 A: Can we go to page 2?

15 Q: Two? I absolutely can.

16 A: Yes, sir. That is 650.

17 Q: And then what is on page 3 of 650? What does that
18 represent?

19 MR. REDMOND: And for the record, Your Honor --

20 BY MR. REDMOND:

21 Q: Well, let me ask you this. Are these first few pages
22 representative of what's going to be in each report?

23 A: Yes, sir. Pretty much the first probably six or seven
24 slides are usually pretty much the same, other than maybe the
25 telephone number changing.

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1 Q: All right. That -- and the reason I ask that is because
2 we may skip around in some of the other ones.

3 A: Okay.

4 Q: Just for the sake of time. So tell us about 6 -- about
5 page 3?

6 A: So page 3 is just a depiction of what a cell tower looks
7 like. This is one of many examples. Sometimes they're made
8 to look like trees, like a pine tree but obviously a little
9 bit taller and you can usually tell that it's not a real tree.
10 Also in some of your more populated areas, you may see the
11 antennas actually affixed to the side of buildings just
12 because there's not enough room to put up a tower, but you
13 would still see these type of antennas affixed on the top of
14 these buildings.

15 Q: Gotcha. Now, I'm going to go to page 4. And what is
16 page 4?

17 A: So page 4 represents what a typical cell phone network
18 looks like. When cell phones were first established and came
19 about, you didn't have these overlapping areas. And so when
20 it first came out, you would ride down the road and would be
21 on a call, and then all of a sudden you would lose that call
22 or it would drop and you would have to call them back, and it
23 got extremely aggravating for users.

24 So the phone companies got smart, and they created their
25 network so that they have these overlapping areas, what we

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1 call hand-off zones, and so that enables the device -- as it
2 travels from one tower to the next, it gets into this area
3 where it's in that hand-off zone. And so that phone is
4 typically always transmitting a signal, and it's looking,
5 seeing where its strongest signal is from. And so once it
6 gets out here, it's going to start seeing these other towers,
7 and as this tower gets weaker and this tower gets stronger,
8 that phone will go through a hand-off and it will -- should
9 hand off to the next tower, and it minimizes the amount of
10 times that you're dropping phone calls.

11 Q: And that's page 5?

12 A: Yes, sir. So again, page 5 indicates the target number
13 that we're doing the analysis on, the service provider that
14 we're utilizing. That becomes important when we start looking
15 at where the towers are so that we'll connect the right
16 towers. The date and time frame that we're looking at, and
17 then any pertinent locations that are going to be displayed on
18 the map, those are listed here.

19 Q: And to that point --

20 MR. REDMOND: And I apologize, Your Honor. I just need
21 to find -- here it is. I'm actually going to hand the Court
22 what's in evidence as State's 648, that being the map of
23 Bennettsville. I think that might be helpful because somebody
24 failed to add certain addresses to incident -- to the incident
25 locations. And so just for context, we would ask that you can

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1 also refer to the map of Bennettsville related to some of the
2 areas he's going to be testifying about.

3 THE COURT: Very good.

4 BY MR. REDMOND:

5 Q: Now, page 6?

6 A: Yes, sir. Again, this is just call detail records that
7 were provided by Verizon.

8 Q: Now, page 7?

9 A: So this gets into being able to look at the phone records
10 that you receive and kind of figure out what you're looking
11 at. One of the biggest things that I get from local law
12 enforcement that hasn't had training in phone records is they
13 get back a spreadsheet and then they call and they're, like,
14 we don't know what to do with this, we don't understand what
15 it is, and so we've done this for the juries or for Your Honor
16 that when they start looking at phone records, this kind of
17 gives you an idea of explaining what's in those columns and
18 those spreadsheets in a little bit more of layman's terms.

19 Q: And how about page 8?

20 A: This is the same thing. So we don't see the 3G stuff as
21 much as it's starting to fade away, but we still include it
22 just for some of your older cases. And then for our newer
23 cases, we still have the VoLTE records, which is the voice
24 over LTE that is becoming obviously more prevalent as the
25 technology emerges.

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1 Q: Okay. And we'll move to page 9?

2 A: This is not relevant in this case, but this goes into
3 defining what range to tower or time delay reports are. And
4 so in some cases we're able to get reports on range to tower
5 or time delay, and what that is is the phone companies can
6 take the signal and they send it out to the phone trying to
7 determine service providers -- or not providers, but service
8 ability of the device and where it's at.

9 And so they can send out a signal and it goes through a
10 mathematic equation, which is not something that I know. This
11 is maintained by the engineers at the phone companies, but it
12 sends that signal out to the phone and then the time it takes
13 for that phone -- for that signal to reach the device and
14 return back to the tower completes a calculation that provides
15 an estimate on the distance off of that tower that a device is
16 at. Again, because this is an older case, it was not utilized
17 at that time, but it is something that we utilize a lot in our
18 more recent cases.

19 Q: Tell us about page 10?

20 A: Okay. So this is one of Verizon's cell tower record
21 reports. This is for the 3G market. As you can tell by the
22 way the serving sites and cell faces are listed, they are not
23 listed. Under LTE, it would be known as an e-note ID. And so
24 just by looking at the numbers, we can tell this is a 3G
25 report.

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1 The first column gets into the market that we're in. So
2 you can consider the market as a lot like your ZIP Code. So
3 there's 123 Main streets all over the state, and so you have
4 to know what your ZIP Code is to know what town to go to.
5 This is the same thing. There's, you know, probably thousands
6 of Tower 1810s across the Verizon network, and so if we don't
7 know what market to look at, we don't know where that tower is
8 located.

9 Q: Understood.

10 A: Our next column is the mobile directory number, and so
11 this is typically going to be your target number or your
12 number that you're looking to do analysis on. Your dialed
13 digit number is typically going to be the number that you
14 either called or called in to your phone.

15 Q: Gotcha.

16 Q: Okay. Your call direction is going to help indicate
17 whether it was an outgoing call, an incoming call, or anything
18 of that nature. Your seizure date and time is when that call
19 initiated and started. Your duration is the time that that
20 call elapsed in seconds.

21 And then your first serving cell site is the tower that
22 it utilized, and then your first serving cell face is the
23 sector on that tower. And so most towers are split up into
24 three sectors, side one, side two, and side three, and those
25 sides are based off of what we call an azimuth or a compass

1 heading.

2 Very few -- and there were a couple in this case. We end
3 up with towers that are still out there called
4 omnidirectional, and so an omnidirectional tower is just a
5 tower that emits a signal 360 degrees. There's no face to it,
6 and so we can only tell that that device was on that tower and
7 not necessarily what side of the tower.

8 Q: Gotcha.

9 A: You also get last serving cell site and last serving cell
10 face. We typically do not map based off the last serving
11 tower mainly because once a phone makes its connection, it
12 typically will connect to the service that it sees with the
13 strongest signal. After that point, there are a lot of
14 variables that come in from channel loading and how -- how
15 busy that tower is. You know, do they move? Are they driving
16 down the road?

17 And so sometimes that last serving tower will change, and
18 so because we can't tell necessarily what caused it to change,
19 whether it was channel loading or movement, we don't map the
20 last one. We find that the first serving cell site and the
21 first serving cell face is typically the most accurate for
22 their location, and so that's what we map off of.

23 And then your last column is calling party number. That
24 would typically be your incoming calls, and so you can usually
25 correlate that back to your call direction, but that number

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1 will change depending on the call.

2 Q: Now, let's go to the last page on this one. This is
3 actually the map. Explain to the Court, to His Honor, I guess
4 page 11 of State's 650?

5 A: Yes, sir. So these are all the times that this device
6 utilized Tower 1816 on cell face or on sector three. Sector
7 three has an azimuth of 240 degrees, and so when you look at a
8 compass heading with zero being north, that is 240, and so we
9 base our sector or our beam width of that sector on 240 being
10 the center and we add 60 degrees to the right and 60 degrees
11 to the left to cover what that tower should cover because,
12 again, this was an older case and we didn't have the RF drive
13 study information to tell what the actual RF footprint is.
14 This is the method that we utilized to best show what the
15 coverage of that tower was.

16 Q: Okay. So does that -- what does that mean as it relates
17 to the cell phone that is being -- that is being mapped as far
18 as telling you what location that cell phone may be?

19 A: So, again, that phone most likely was on an area
20 somewhere in this 240-degree sector.

21 Q: Okay.

22 A: I couldn't tell you whether it's up close or whether it's
23 far out.

24 Q: Understood.

25 A: And honestly, with RF factors, it can bleed a little bit

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1 to the right and left, but because we don't have that -- that
2 information available, I could not get any more accurate than
3 that.

4 Q: And I didn't ask you this, but I'll go ahead and ask you
5 this while we're standing here. What is it that -- does it
6 pick up automatically? If I'm riding around and there's no
7 activity on my phone but it's on, is that going to be picked
8 up or is it usage? Could you explain to the Court what is it
9 that will cause --

10 A: Yes, sir.

11 Q: -- it to be --

12 A: So everything in this case is based off of usage. It was
13 based off of either a voice -- well, Verizon is only based off
14 of voice calls. Verizon does not capture SMS tower locations,
15 and we do not map that off transactions. That is an industry
16 standard that we follow. And because of the inaccuracy of
17 some of the data records and how it identifies towers, we do
18 not map that. So for Verizon we only map voice actual calls.

19 Q: Gotcha. And so -- and does this list include the calls
20 that -- the call transactions for that particular phone
21 number?

22 A: It does, yes, sir, for the time frame that was requested.

23 Q: Okay. And so, again, this would be the 5th into the 6th
24 and, of course, let me ask you about -- is there a call -- and
25 if you could talk about the first, say, three calls on there,

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1 what are the times that are noted on that, the date and the
2 times on those calls?

3 A: Yes, sir. Those occurred on May the 5th of 2017, at
4 12:34 a.m., 12:44 a.m., and 8:20 a.m., Eastern time.

5 Q: Okay. So it went from 12:44 to about 8:20? Did it go
6 between 8:44 --

7 A: Yes, sir.

8 Q: -- and 12:20 [sic]? Now, I didn't ask you this, but this
9 -- this red -- this red, I guess, icon at the top, could you
10 explain that to His Honor?

11 A: That is the location based off the address that we were
12 provided of where the crime scene was at.

13 Q: Okay. Thank you. Now, let me move on to State's 151,
14 and I'm actually going to skip through -- I said 6. I said
15 151? I'm sorry, 651, State's 651. And just on page 2 again,
16 is this the same -- basically the same general thing?

17 A: Yes, sir. And this is 651.

18 Q: And I'm going to skip to page 5. Could you tell the
19 Court the target number for this particular exhibit, 651?

20 A: Yes, sir. So this target number that we analyzed was
21 843-535-3480, and the service provider for that telephone
22 number was AT&T.

23 Q: Okay. Well -- and since we're talking about AT&T now,
24 tell me about page 7. Explain what page 7 is for His Honor?

25 A: So, again, this gets into -- because the phone companies'

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1 reports are -- each one is different, their format is
2 different. So there's some information that they maintain
3 that others don't, one being with AT&T they maintain text
4 message locations. And so for this case, you will see some
5 text message and voice transactions.

6 Q: And is this also the data explanation?

7 A: It is. So instead of numbers like Verizon shows their
8 call direction, AT&T shows it by MO, which is mobile
9 originating as an outgoing, and MT, which is mobile
10 terminating, which is an incoming call.

11 Q: Let's see. And what does page 9 mean?

12 A: So, again, this gets into identifying the cell tower, and
13 so you'll see either LAC and CID, which would be your network
14 and your cell ID, or an ECGI or e-note ID, which is your 4G
15 and 5G towers. And then you get the -- they actually provide
16 the latitude and longitude of the tower inside of their report
17 so you don't have to go to a separate report. And then you
18 get the sector and beam width, which is whether it's -- and
19 they provide their sector in the azimuth, that compass
20 heading.

21 Q: Gotcha.

22 A: And then your beam width would be what they say is the
23 size of that sector.

24 Q: And call detail explanation form. I'll skip that. It's
25 in codes. Call report. Could you just briefly explain what

1 that is? Give the descriptions?

2 A: Yes, sir. So, again, it gets into SMS, which is the text
3 messages. It mentions some Wi-Fi. Again, we do not utilize
4 any of the Wi-Fi stuff for this particular report. This is
5 strictly based off of cell tower analysis.

6 Q: And again, for the record, through page 15 was a
7 continuation of the --

8 A: Explanation. Yes, sir.

9 Q: So now on page 16, could you explain page 16?

10 A: Yes, sir. So, again, we get into, again, pretty much the
11 same information. It's just in a little bit different order.
12 You have your seizure date and time. You have your elapsed
13 time, which again is in seconds, and then you get your
14 originating and terminating number. Those numbers change
15 depending, again, whether it's an incoming or outgoing call.

16 AT&T on their report also provides the IMSI and the IMEI,
17 IMSI being your international mobile subscriber identifier,
18 which the number that's on your SIM card.

19 Q: Okay.

20 A: And then your IMEI is your international mobile equipment
21 identifier, which is the actual serial number of your
22 telephone. And so that becomes not so much important for
23 analysis as it is for fugitive stuff where we can see if a
24 suspect is changing phones or swapping SIM cards or that type
25 of thing. And then you get your direction again, MOMT.

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1 One of the last slides provides coding. It tells you
2 kind of what type of call it was, if voicemail was used, if
3 whatever occurred, and so that coding you can look up in that
4 explanation form.

5 Q: Okay.

6 A: And then the last is your cell tower -- your cell tower,
7 its location, and then the azimuth and beam width for those
8 towers.

9 Q: Now, we go to page 17 of 651. Could you explain this
10 page, page 17 of 651?

11 A: Yes, sir. So, again, you've got the cell site number
12 that it was on, 5029, and then the date and the times that
13 those calls occurred during that time frame.

14 Q: Okay. Now --

15 A: We've got a little bit of a scrabbles there at the top.

16 Q: Okay. That's okay. Here's what -- well -- and as it
17 relates to the direction, if you could explain the -- I guess
18 the number one and then also as it relates to the icon, the
19 red icon at the top?

20 A: Yes, sir. So, again, we're on Tower 5029 on what would
21 be sector three, and we've got calls at 12:05:19, 12:05:40,
22 and all the way down to 12:30:14, and those are in the a.m.
23 That is also in Eastern time.

24 One of the other things that is nice with the software
25 that I failed to mention, AT&T and T-Mobile report most all of

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1 their -- and Verizon does too on their LTE stuff now. They
2 report their times in UTC time, and so trying to relate that
3 back to the time frame that's accurate to the case can get a
4 little tedious, and so the software automatically will take
5 and adjust that time to the correct time zone. And so what's
6 in the report is Eastern time, but if you look at the raw
7 report from AT&T, those times will be in UTC time, which
8 depending on the time of year, it may be four hours or it may
9 be five hours ahead.

10 Q: And now, quickly, I'm going to go back to State's 650.
11 I'm not trying to drag anything. This is 650?

12 A: Yes, sir.

13 Q: What time -- and what times again? The first two times,
14 what -- excuse me. The first time, what time is the first
15 time listed on page -- on 650?

16 A: 12:34 a.m., Eastern time.

17 Q: All right. And let me go back to 651, and what's the
18 last time listed on --

19 A: 12:30:14 --

20 Q: Okay.

21 A: -- a.m., Eastern time.

22 Q: And my question was what's the first -- the last one
23 listed on State's Exhibit 651?

24 A: Yes, sir. Well, there should be one more slide on this
25 one.

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1 Q: Oh, yes, there is. I just wanted to highlight that part.

2 A: But yes, sir.

3 Q: And that's when?

4 A: That was for that time frame, yes, sir.

5 Q: Exactly. So -- and then right here?

6 A: And then we change towers to Tower 2639, and you have two
7 calls at 1:08:31 and 1:08:53 a.m., Eastern time.

8 Q: Okay. Let me go back real quick because I think I
9 actually misspoke. What was the -- the first call -- so let
10 me ask you this. Did it appear from your examination that
11 both phone calls -- both phone numbers were in use during a
12 very close proximity in time?

13 A: Yes, sir.

14 Q: Okay. Now, that's what I was trying to get out.

15 A: That's okay.

16 Q: Thank you. Now, explain the last page, page 18 of 651?

17 A: It just -- again, when we do our reports, every time the
18 phone changes towers, we'll create a separate slide for it,
19 and then we try to keep them in chronological order. And so
20 this device changed towers to Tower 2639, and then it had two
21 usages at 1:08:31 a.m. and 1:08:53 a.m., Eastern time.

22 Q: Now, let me just ask you this. With everything -- those
23 two maps -- those two phone numbers that you've seen, is --
24 are the towers within the vicinity and even inside of the city
25 of Bennettsville?

1 A: Yes, sir.

2 Q: Okay. Now, let me show you State's 652, the Dwayne
3 Bright, and let's see. All right. And again what's the phone
4 number that you analyzed?

5 A: It is 843-535-2091.

6 Q: Okay. And at first it says the time frame analyzed May
7 5th through May 6th, but is that -- is that what was
8 originally --

9 A: That --

10 Q: Well, could you explain that?

11 A: We originally were asked to do May 5th through May 6th. I
12 think there was some information through the investigation
13 that led to us being requested to go back to the 3rd. And so
14 -- so U analyzed back to the 3rd. I think there was just a
15 failure to update that date after we went back and made that
16 change, but the slides will show from the 3rd forward.

17 Q: I'm going to skip. Is the -- is everything that you've
18 testified for AT&T before -- would that apply on State's --

19 A: Yes, sir.

20 Q: -- 652?

21 A: Yes, sir. No different as far as how they're laid out.
22 It's just the telephone number and the locations.

23 Q: Let's skip to State's -- and again, this is Dwayne
24 Bright's phone. Could you tell us -- give us the significance
25 of State's 652.

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1 A: So this is going to show the device on cell Tower 5028,
2 and it was a call at 11:42:30, I believe.

3 Q: All right. So this is 11:32, and what's the date again?

4 A: That is on 5/3 of 2017.

5 Q: And where does that have that tower? Where is -- what
6 tower is he bouncing off of?

7 A: That is in downtown Bennettsville.

8 Q: All right.

9 A: On --

10 Q: And on page 20, could you explain that?

11 A: Yes, sir. So, again, it is handed off to a different
12 tower, Tower Number 2637, and those calls were again on 5/3 of
13 2017, and they lasted -- there were five different calls
14 ranging between 11:44:22 p.m. until 11:55:21 p.m., in Eastern
15 time.

16 Q: Let's go to slide 21, I mean page 21?

17 A: Yes, sir. So, again, it moves back to Tower 5028, and
18 that has a call at 5:03 -- I'm sorry. On May 5th -- on May
19 3rd, 2017, at 11:57:04 p.m., Eastern time, and then another
20 call at 5 -- at May 4th, 2017, the next morning at 12:07:14
21 a.m.

22 Q: A.M.? And again, of course, the map -- does the map
23 reflect which tower that he is bouncing off of?

24 A: Yes, sir. Again, still in Bennettsville. This
25 particular phone, you'll see a pattern. It pretty much for

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1 all but just a couple slides, it hands off between that 5028
2 tower and the 2637. It constantly is back and forth.

3 MS. CRAYTON: Your Honor, we just --

4 MR. YOUNG: Can we clarify something with the State real
5 quick?

6 THE COURT: Yes.

7 MS. CRAYTON: Thank you.

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

9 (WHEREUPON, there was a pause in the proceedings for
10 counsel to confer, after which the proceedings resumed as
11 follows.)

12 THE COURT: As far as our Cornell law students, I want
13 y'all to pay very close attention. Tomorrow we're going to
14 have a pop quiz. You're going to have to map out cell towers.
15 Pay very close attention.

16 (WHEREUPON, there was a pause in the proceedings for
17 counsel to confer, after which the proceedings resumed as
18 follows.)

19 MS. CRAYTON: Your Honor, we just -- we were not -- I
20 guess this was provided after we began the trial, Judge, and I
21 don't have a copy of it. I've never even seen it. So --

22 MR. REDMOND: Actually, I just need to clarify it was
23 actually sent before the trial commenced. We got the report
24 in last week and then we forwarded it. And so, I guess,
25 because of that, she may not have gotten it in time, but to be

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1 clear, the State did provide it.

2 What I had mentioned to Ms. -- to Ms. Clayton is --
3 Clayton is that -- Clayton? I'm sorry -- Ms. Crayton is that
4 if the Court would allow, once I finish -- I'm almost done.
5 This is actually the last portion of the questioning. If
6 she's to take a few minutes to look over it, we have no
7 objection to that.

8 THE COURT: I'll tell you what we'll do is we will do
9 that and see how she feels about it, and it might be that
10 y'all want more time to study it. We might could bring him
11 back for future cross-examination.

12 MS. CRAYTON: Thank you, Your Honor.

13 MR. REDMOND: All right.

14 BY MR. REDMOND:

15 Q: So continue. We are on page 22.

16 A: Okay. So, again, we bounced to Tower 2637 on May the
17 4th, 2017, and that is at, I believe, 12:08 a.m. and 24
18 seconds to 12:21:22 a.m., Eastern time.

19 Q: Okay. And now let's go to page 23.

20 Q: So, again, this is the depiction of one of the
21 omnidirectional towers that I talked about. It does not have
22 a sector that was provided. So it's shown in a 360-degree
23 coverage, and that was on 5/4/2017 from 12:22:46 a.m., Eastern
24 time, until 12:52:40 a.m., Eastern time.

25 Q: Okay. Let's go to page 24?

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1 A: Okay. This particular time, this is Tower 2647, and that
2 is on May the 4th, 2017, at 1:04:57 a.m., Eastern time.

3 Q: Okay. And just to be clear, is now -- what is different
4 as far as the location? Which tower is that? Is that a tower
5 within the city limits of Bennettsville?

6 A: No, sir. That tower has moved out to an area just off of
7 Highway -- it looks like Highway 1.

8 Q: Okay. And so -- and again, could you reflect on the map
9 where the crime scene was located?

10 A: The crime scene is south/southeast of the tower.

11 Q: Okay.

12 A: Just outside -- this would be the city of Bennettsville
13 --

14 Q: Okay.

15 A: -- further down.

16 Q: All right. So -- so that -- again, that's, I guess, on
17 page 24 is a different -- is page 24 reflective of a different
18 tower than any of the other towers beforehand?

19 A: Yes, sir.

20 Q: And again, is that on the 4th at 1:04 a.m.?

21 A: Yes, sir. 1:04:57 a.m., Eastern time.

22 Q: And then let's go to the next slide, which is page 25.

23 A: The next slide is at May 4th, 2017, at 1:49:22 a.m.,
24 Eastern time, and this is a tower located near or along
25 Highway 15 and 401.

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1 Q: Okay. Now, to be clear, that's the -- just because
2 that's the tower it's bouncing -- he's bouncing off of, does
3 that mean that's exactly where he is?

4 A: No, sir. He is just most likely in an area in the
5 direction of that cone.

6 Q: That is good. Okay. And again, going back to 21, again
7 would that be the -- would that -- would the answer be the
8 same is he in a direction where that cone would be facing?

9 A: Yes, sir, most likely.

10 Q: Now, I'm going to skip to page 26. Could you tell us --
11 again, page 26?

12 A: So, again, he has moved back to the omnidirectional side
13 of this tower on May the 4th, 2017, at 1:49:47 a.m. until
14 2:17:21 a.m., Eastern time. You'll notice the tower is the
15 same as the one that we have sectors on, but what a lot of the
16 phone companies do -- because there's so many users and they
17 don't have as many towers, they do what we call stacking
18 antennas.

19 Q: Okay.

20 A: And so a tower may have two or three antennas on it, and
21 depending on what antenna he connects to, this one is an
22 omnidirectional antenna instead of the sector. So it's on the
23 same tower, same location. He just connected to a different
24 tower or a different antenna.

25 Q: Understood. And let's go to page 27?

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1 A: So, again, just like I was saying, he's now connected
2 back to a different antenna.

3 Q: And what is the time reflected on here, the date and
4 time?

5 A: That is May the 4th, 2017, at 2:37:03 p.m., Eastern time.

6 Q: And so is that tower actually now bounced back in the
7 town of Bennettsville?

8 A: Yes, sir.

9 Q: 28, and what's the time and -- date and time and tower
10 information on that?

11 A: So, again, we are back on Tower 2637. That is on May the
12 4th, 2017, at 3:33:24 p.m., Eastern time.

13 Q: Okay. P.M. So he -- so, again, this is on the 4th. He
14 went from two-something in the morning -- did he go from two-
15 something in the morning until three and change in the
16 afternoon before any activity on that phone?

17 A: No, sir. That was 2:37:03 p.m.

18 Q: P.M.? I'm sorry. I misspoke. I'm sorry.

19 A: The time before that was 2:17 in the morning.

20 Q: Gotcha.

21 A: But yes, sir.

22 Q: Now -- so this is on the 4th. So let me show you -- I
23 think this will be the last slide I'll show. Page 29.
24 Give us the date and time on number 29?

25 A: So, again, we're back on Tower 5028. That is May the

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1 5th, 2017, and that is at 9:35:16 a.m., Eastern time, until
2 9:57:46 a.m., Eastern time.

3 Q: So let's be clear. I'm going to go back to page 28.
4 Does that -- based on your analysis, what does that tell you
5 about the time interval between usage of that particular
6 phone?

7 A: So that phone stopped being used, according to the
8 records that we were able to analyze, on the afternoon of May
9 4th, 2017, at 3:33:24 p.m., Eastern time, and then not get
10 used again, according to the records from Verizon, until May
11 5th, 2017, at 9:35 a.m. -- 9:35:16 a.m., Eastern time.

12 Q: Okay. And of course, we can say that that would be --
13 that that is -- is that in the morning after daybreak of the
14 5th of May 2017?

15 A: Yes, sir.

16 Q: Okay. Please you can have a seat.

17 (WHEREUPON, the witness complied.)

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

19 That would be all the questions I have. Please answer
20 any questions that the defense may have.

21 THE COURT: Given --

22 MR. REDMOND: Oh, with, of course, the stipulation we've
23 made earlier.

24 THE COURT: -- the late notice, would y'all like to start
25 cross-examination now or take a break? Would you like to take

KRISTINA GAINNEY - DIRECT BY MR. REDMOND

1 God?

2 THE WITNESS: I do.

3 THE CLERK: Okay. If you would, be seated.

4 THE COURT: Ma'am, please come around and have a seat in
5 the witness chair. I'm going to ask that you pull up real
6 close to that microphone.

7 THE WITNESS: Well, I'm rather loud. So --

8 THE COURT: All right. Speak loudly, clearly, and slowly
9 in order that we can hear everything that you have to say.
10 And your full name?

11 THE WITNESS: Kristina Brown-Gainney.

12 THE COURT: Good job.

13 THE WITNESS: Yeah, I'm loud. So --

14 MR. REDMOND: Thank you, Your Honor. May it please the
15 Court.

16 KRISTINA GAINNEY, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. REDMOND:

20 Q: It feels funny saying Ms. Gainney, but, Ms. Gainney, former
21 -- well, were you formerly employed with SLED, State Law
22 Enforcement Division?

23 A: Yes, I was.

24 Q: And how long were you employed with SLED?

25 A: I was with SLED from March of 2008 through June 29th of

KRISTINA GAINY - DIRECT BY MR. REDMOND

1 2021.

2 Q: And before that, tell us about your career in law
3 enforcement?

4 A: I was with the South Carolina Highway Patrol from July of
5 1996 until February of 2008, and I left to go to SLED.

6 Q: Okay. And in May of 2017, in what capacity were you
7 working with SLED?

8 A: I was in the Pee Dee region. I was a criminal
9 investigator.

10 Q: Okay. And -- and of course, since then you have retired?

11 A: I retired in June of 2021.

12 Q: And I didn't ask you this, but are you employed anywhere
13 at this time?

14 A: Yeah. I'm actually -- I just took a position last month.
15 I'm doing contract work for Duke Energy.

16 Q: Okay. Great. Great. Now, let's just go to the
17 investigation. In May of 2017, were you one of the agents
18 dispatched to Marlboro County, specifically to [REDACTED] Craig
19 Circle?

20 A: I was.

21 Q: Okay. And of course, did you -- were you involved in
22 canvassing, conducting some interviews, and I think you were
23 actually the author of the report, the investigative report?

24 A: That's correct.

25 Q: Okay. And so in moving forward to May 31st of 2017, were

KRISTINA GAINY - DIRECT BY MR. REDMOND

1 -- did you come back to Marlboro County as it relates to a
2 buccal swab?

3 A: I did.

4 Q: Okay. Now, did you end up having to come to Marlboro
5 County twice?

6 A: I did.

7 Q: All right. So the first time, could you tell the Court
8 briefly what you did the first time and then we'll get into
9 why you had to come back?

10 A: I came over to do the swab.

11 Q: Okay. And do you --

12 A: For Mr. Harrington.

13 Q: Okay. And do you see Mr. Harrington in court today?

14 A: Yes, sir.

15 Q: And could you point him out, please?

16 A: He's the gentleman in the blue Oxford shirt.

17 Q: Okay.

18 MR. REDMOND: And let the record reflect that she has
19 pointed to the defendant.

20 BY MR. REDMOND:

21 Q: And so you did a buccal swab on the 31st. However, why
22 did you end up having to come back I believe on January 9th --
23 I mean -- excuse me -- July 9th of 2017?

24 A: The SLED lab, like, informed us that those kits had
25 expiration dates on them, and it was expired.

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1 Q: Okay. So -- so in essence, did the lab tell you that
2 they were not going to conduct any tests on the May 31st
3 sample?

4 A: Correct.

5 Q: And so did you had to -- have to come back to the
6 Marlboro County Detention Center?

7 A: Yes, sir, I did.

8 Q: I believe on May 9th, 2017 [sic]?

9 A: Yes, sir.

10 MR. REDMOND: Let me approach, with the Court's
11 permission, what's been marked as State's Exhibit 198, and I
12 think counsel has had a chance to see it.

13 BY MR. REDMOND:

14 Q: Do you recognize that exhibit?

15 A: I do.

16 Q: And could you tell the Court what that exhibit is?

17 A: It's the sample from Mr. Harrington that was taken on
18 June 9th at approximately 1343 hours.

19 Q: Okay. And what did you do? Once you got that sample,
20 what did you then do with it?

21 A: I transported it directly to SLED headquarters --

22 Q: Okay.

23 A: -- in Columbia.

24 Q: All right. Thank you.

25 MR. REDMOND: At this time, the State would move State's

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1 198 into evidence.

2 MR. BANK: Without objection.

3 THE COURT: It's into evidence.

4 (WHEREUPON, State's Exhibit Number 198 was admitted into
5 evidence again.)

6 MR. REDMOND: That would be all the questions I have.
7 Please answer any questions that Mr. Bank may have.

8 THE COURT: Cross-examination.

9 MR. BANK: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. BANK:

12 Q: Hey, Ms. Gainey, and I'm sorry. When we spoke on the
13 phone -- and I just heard you say it two seconds ago, but what
14 is your full last name now?

15 A: I'm sorry. Can you repeat yourself?

16 Q: Sure. What do you go by now, your name?

17 A: Kristina Brown-Gainey.

18 Q: Brown-Gainey?

19 A: That's what my passport says, yes.

20 Q: Okay. Great. And it's Brown-Gainey, not just Gainey?

21 A: Brown is my maiden name.

22 Q: Okay.

23 A: Gainey is my married name.

24 Q: Okay. Great. So as we just heard on direct, you were
25 tasked with writing an investigative report in this case?

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1 A: That's correct.

2 MR. BANK: I beg the Court's indulgence.

3 BY MR. BANK:

4 Q: And what was your title at that time with SLED?

5 A: Special Agent.

6 Q: Okay. And you were tasked with writing the investigative
7 report?

8 A: Yes, sir.

9 Q: And why did that task fall on you? It just -- you
10 happened to be the person that was picked?

11 A: Yeah. My lieutenant called me that morning and advised
12 me that there was a situation in Marlboro and could I respond.

13 Q: Great. And when we spoke on the phone a week ago, I know
14 we didn't follow back up or get a chance to, but I emailed you
15 a copy of that report?

16 A: You did.

17 Q: Because it had been five years since you looked at it;
18 yeah?

19 A: May will be six years, yeah.

20 Q: Okay. Did you get a chance to review that before coming
21 to court today?

22 A: I did.

23 Q: Okay. Great. And we'll be able to refer back to it if
24 there are certain details. Okay? So in this case, you had
25 this document that has listed suspects and leads that you guys

KRISTINA GAINEY - CROSS BY MR. BANK

1 were going through in the investigation; right?

2 A: I believe.

3 Q: And the first kind of suspect or interview that you had
4 was with a Clifton Benjamin? Do you have a copy of your
5 report?

6 A: I have it on my phone that I was looking at.

7 Q: Okay. Would it refresh your recollection --

8 A: Sure.

9 Q: -- if you had a copy of it?

10 MR. REDMOND: Let me just see it.

11 MR. BANK: Sure.

12 MR. REDMOND: That's fine.

13 MR. BANK: May I approach, Your Honor?

14 THE COURT: Sure.

15 BY MR. BANK:

16 Q: Here you go.

17 A: Thank you.

18 Q: So if you can turn to page 2 and at that bottom
19 paragraph, it talks about an interview with Clifton Benjamin?

20 A: Yes, sir.

21 Q: Right? And the reason that he was kind of the first
22 person that y'all interviewed was because, according to
23 Dolores, he was the boyfriend of Ella Lowery?

24 A: Yes.

25 Q: And he essentially said he couldn't have been the person

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1 that killed Ella because he had an alibi. Do you recall that?

2 MR. REDMOND: Your Honor, I'm going to object to hearsay.

3 I think I have to object to hearsay at this point.

4 MR. BANK: Your Honor, I think at the end of the day they

5 have a suspect who claims to have an alibi. She is aware of

6 that alibi and can talk about it.

7 THE COURT: I think you might need to -- is this witness

8 dead?

9 MR. REDMOND: I'm sorry?

10 THE COURT: Is this witness dead?

11 MR. REDMOND: No. Mr. Bright is deceased, but Mr.

12 Benjamin as far as I know is not, but I would refer strictly

13 to the rules. I understand what they want to do. I'm talking

14 about what the rules, specifically the rules on hearsay allow

15 and don't allow, and that's what we're -- that's what I'm

16 relying on.

17 MR. BANK: I think just the fact that one of the lead

18 investigators ruled someone out because they had an alibi is

19 not hearsay at all. It's just what her investigation entailed

20 and figured out. Police talk about what they do in their

21 investigations and reasons they do them all the time. She

22 interviewed this person for a certain reason and then ruled

23 him out.

24 MR. REDMOND: Your Honor, with all due respect -- and I

25 get that, but it's about sort of the like the objections with

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1 leading questions. There's a protocol that the rules of
2 evidence require. That is not being met in this situation.

3 If he raises this question in the appropriate way, then
4 either I won't object. Of course, the Court would overrule
5 me, but for the way he phrased that question, it is calling
6 for hearsay. That would be the State's position.

7 MR. BANK: I believe that Mr. Benjamin wouldn't be able
8 to testify as to why he was ruled out. The only person that
9 is going to be able to do that is this investigator.

10 THE COURT: And -- but she can't testify as to what he
11 said.

12 MR. BANK: Sure. And I can rephrase the question then.

13 BY MR. BANK:

14 Q: What was the reason that Mr. Benjamin was ruled out?

15 A: It doesn't say on here. It just says that he
16 corresponded with her on Facebook and that they had sex and
17 that he went to her home a few occasions. That's all it says.

18 Q: Okay. Would it help if you had a transcript of your
19 interview with him?

20 A: Sure.

21 Q: Great.

22 MR. BANK: Can I approach again, Your Honor?

23 BY MR. BANK:

24 Q: So I know that you haven't seen that before, but does
25 that appear to be a transcript of the interview that you had

KRISTINA GAINEY - CROSS BY MR. BANK

1 with Clifton Benjamin?

2 A: It is.

3 Q: Okay. And as anything relates to alibi, I'll turn you to
4 page 8. And if you have a chance to review that, maybe that
5 can refresh your recollection on why, at least one of the
6 reasons, Mr. Benjamin was ruled out.

7 A: Okay.

8 Q: And what was one of those reasons?

9 A: He said he was home all night.

10 Q: Okay. And also, you were able to find out that he had --
11 that it's been a while since he had had sex with Ella? Do you
12 remember that on page 11?

13 A: Yes. It says it's been a while ago.

14 Q: Right. And that's inconsistent with Dolores saying that
15 that's his boy -- that he was the boyfriend, the current
16 boyfriend; right?

17 A: I don't know how people classify themselves. I'm not --
18 I couldn't answer that because I may not consider him a
19 boyfriend, but I don't know how someone else would consider
20 him. So --

21 Q: All right.

22 A: -- I couldn't say.

23 Q: I'm sorry. Go ahead. You --

24 A: That was all. I just said I couldn't say because people
25 perceive people differently.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: That's fair. You also talked to him about whether his
2 DNA is in the Lowery house on page 14.

3 A: Okay.

4 Q: And that's because he's hesitant to admit that he's ever
5 been to the house; right?

6 A: I don't know what he was -- I'm not him. I can't --

7 Q: Well, that's a -- it's a common investigative technique
8 -- right? -- in interrogations or interviews when people are
9 hesitant to say they went to a house, people say that; right?
10 Even though they've been to houses, they might lie and say
11 they haven't; right?

12 MR. REDMOND: Your Honor, I would have to object. He's
13 testifying. There's not a question.

14 MR. BANK: I asked a question. She answered it.

15 THE COURT: Rephrase your question.

16 BY MR. BANK:

17 Q: When people -- if somebody -- if you believe somebody's
18 lying to you about whether they've been to a physical location
19 -- right? Are you with me? One of the investigative tactics
20 is to explain DNA to them; right?

21 A: It can be. Yes, sir.

22 Q: Right. Because you want to say, hey, look, there would
23 be an innocent reason you were at the house; right? And
24 that's a -- right?

25 A: Yes.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: And that can be a technique to get somebody who might
2 otherwise not admit to being to a house admit to being to the
3 house; right?

4 A: Yeah. We use all kind of techniques.

5 Q: Sure. And that's what happened in this case. Once you
6 started doing that, he said, yeah, I've been to the house; is
7 that fair?

8 A: Or he -- I might have put him at ease.

9 Q: Okay.

10 A: I don't know.

11 Q: Okay. I understand. I understand it's been a while
12 since you've had a chance to look at any of this. You
13 understood Ella to be involved in something called BBW. Do
14 you recall that?

15 A: I don't.

16 Q: Okay. I'd like to turn you to page 19, and if you could
17 read through that and see if that refreshes your recollection?
18 And to page 20, if you don't mind.

19 A: Okay.

20 Q: All right. So tell me what your understanding of BBW was
21 and Ella's association with that?

22 A: Well, he was hesitant in speaking with me about anything
23 because I guess he felt a little shy since I was a female. So
24 he pretty much is all over the place and then says --

25 MR. REDMOND: Your Honor, I would object to -- again, I

1 would object to what he says, especially with the way the
2 question was.

3 MR. BANK: That's fine.

4 THE COURT: I'll sustain -- I'll sustain the objection.

5 MR. BANK: And that's fine.

6 BY MR. BANK:

7 Q: I don't need you to say what he said, but just after
8 refreshing your recollection, what is your understanding of
9 what BBW is in the course of your investigation?

10 A: I don't recall until I read this.

11 Q: That's fine.

12 A: Big bad girls.

13 Q: Okay. And what -- what type of party -- did they have
14 parties? Right?

15 A: Like I said, I would have to read the entire because I
16 don't recall.

17 Q: Well, all this is contained in page 19 and 20. If you
18 need to take a chance to read over it again, that's fine.
19 Take your time.

20 A: Okay.

21 Q: Okay. So again, what was your understanding? They had
22 parties in the woods; is that right?

23 A: It looks like dance parties and strip parties.

24 Q: Yeah. And that they were in the woods?

25 MR. REDMOND: Your Honor, again --

KRISTINA GAINEY - CROSS BY MR. BANK

1 THE COURT: I'll allow him to ask it.

2 BY MR. BANK:

3 A: I don't see where it says that they were in the woods.

4 Q: Okay. But there are events with multiple people --
5 right? -- that are dancing and stripping?

6 A: It just says girls would come out.

7 Q: Okay. All right. I'll move on to the next person.

8 Before I do, did you know or are you aware that you are
9 possibly the only SLED investigator or Marlboro County
10 Sheriff's officer that wrote a report in this case?

11 A: Well, I was the lead investigator in an assisting mode.
12 So my agency requires that I write an assisting investigative
13 report, which is what I did.

14 Q: Right. You're assisting. You're not telling Marlboro
15 County what to do, they're the lead; right?

16 A: Correct.

17 Q: But as far as you know, you're the only person with SLED
18 that wrote a report?

19 A: I would have been.

20 Q: Okay.

21 A: Unless you were talking about maybe someone in the lab or
22 --

23 Q: Right, right. No, I'm talking about investigators.

24 A: Yes. Since I was the assisting lead investigator, that
25 -- that burden fell on me.

1 Q: That would be your role? And the report you wrote is how
2 many pages? It looks like it's 14?

3 A: It's 14.

4 Q: Fourteen, and then there were a bunch of attachments that
5 made it much larger; right?

6 A: Correct.

7 Q: And that was tasked with you to complete that to document
8 this investigation; right?

9 A: Correct.

10 Q: For when it eventually -- if it eventually goes to trial;
11 right?

12 A: Well, I documented what I did, and then my other agents
13 that assisted me would give me what they did.

14 Q: Right. And then you --

15 A: It comprised the report.

16 Q: And this report, again, is meant and written in real-time
17 or as best as it can be in real-time; right?

18 A: Right.

19 Q: And it's done to be accurate; right?

20 A: Correct.

21 Q: And it's done so that it can be used potentially in a
22 trial years and years later; right?

23 A: Right.

24 Q: And are you aware that there was only one responding
25 officer report from the Marlboro County Sheriff's Office for

KRISTINA GAINEY - CROSS BY MR. BANK

1 their part of the investigation?

2 A: I wouldn't be aware of that.

3 Q: That's fine. With all of that said, you being the only
4 person who wrote a report, did the solicitors ever talk to you
5 about testifying in this case and being prepared with going
6 through all your old notes and your reports? Did they ever do
7 that with you in preparation of trial?

8 A: I was told I would be -- I did -- I did trial prep, sure.

9 Q: Okay. You just seem to be very unfamiliar with the
10 investigation; is that fair?

11 A: Okay. This is --

12 Q: I mean, I'm not trying to -- I'm not --

13 MR. REDMOND: Your Honor, I'm going to object. I think
14 that's actually some --

15 THE COURT: I'll allow him to ask it.

16 MR. REDMOND: Well, as far as the tone, somewhat
17 argumentative. That's what I was going for. Somewhat
18 accusatory.

19 MR. BANK: I don't think it's her fault at all if they
20 didn't prepare her. That's not -- she doesn't work with them.

21 MR. REDMOND: Your Honor, I would object to that
22 characterization.

23 THE COURT: Let's move on.

24 MR. BANK: Yes, sir.

25 BY MR. BANK:

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: All right. Well, so let's just see if we can agree on
2 through your report all the different suspects that came up in
3 the case. Okay? So we have Darrell Hawkins on page 3 of your
4 investigative report. Do you see him? And he's down at the
5 bottom.

6 A: I've got it.

7 Q: Right. And he had contact with Ella that day, which is
8 one of the reasons you talked to him; right?

9 A: It's on her call log.

10 Q: Right. And that he was trying to have sex with her that
11 night? Do you remember that?

12 A: Correct.

13 Q: Right. That he was parked at a Walmart waiting for her
14 to text, which is why y'all got Walmart surveillance; right?

15 MR. REDMOND: Your Honor, again, I hate to keep
16 objecting, but of course, just like they say as it relates to
17 leading, again I would have to object to the phrasing of the
18 question. It is calling for hearsay. Again, I know what he's
19 trying to get and there's a way to do that, but again, I think
20 this is improper, and we would respectfully ask that he adhere
21 to the rules.

22 THE COURT: I'll allow him to ask it. Go ahead.

23 BY MR. BANK:

24 Q: You were aware that he was at Walmart waiting to hear
25 from her; right? Which is why you --

KRISTINA GAINEY - CROSS BY MR. BANK

1 A: I don't recall that, but if it's -- if it's somewhere
2 written down, sure.

3 Q: Okay. Do you recall getting Walmart surveillance tape?

4 A: Yes.

5 Q: Okay. And then there was Tyrone Thomas on page 4; right?
6 And he was a suspect because he was the dad of the children,
7 and any -- is that right?

8 A: He's the biological father of Iyana.

9 Q: Right. And it's not uncommon for there to be suspects
10 that are the father of the children in investigations like
11 these; right?

12 A: Sure.

13 Q: You would want to talk to them and you did; right?

14 A: Sure.

15 Q: All right. And then eventually again down on page 4, we
16 have Dwayne Bright comes into the picture; right?

17 A: Yes.

18 Q: And he ultimately gave a statement admitting to having a
19 physical confrontation with Ella?

20 A: I did not take that statement; so I would not know.

21 Q: Well, you're aware that he was arrested for murder?

22 A: Correct.

23 Q: And you're aware that the reason that he was arrested is
24 because he admitted to doing something illegal; right?

25 A: Yes.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: Okay. And you also had information that there was an
2 accusation that Ella was having sex with two of Dwayne
3 Bright's family members? Do you remember that?

4 A: I don't.

5 Q: Okay. And then moving on to page 5, we have Darrell
6 Simmons. Let's see. And I think that's on the bottom also.

7 A: Yes.

8 Q: Right? And he was a DJ that had been in contact Ella --
9 with Ella I think that night?

10 A: They were Facebook friends.

11 Q: Okay. So we also have a Terry Williams. Do you remember
12 that name? His nickname was T-Bone?

13 A: I don't.

14 Q: Okay. Were you in the task force meetings with all the
15 paper all over the wall?

16 A: Yes.

17 Q: Okay. Would you recognize one of the posters if I put it
18 up?

19 MR. BANK: This is in evidence.

20 MR. REDMOND: Sure.

21 BY MR. BANK:

22 Q: And that's just showing that T-bone Williams was some
23 form of a suspect during the task force meetings; right?

24 A: It has his information.

25 Q: Okay. Do you know any other reason that his name would

KRISTINA GAINES - CROSS BY MR. BANK

1 be on the wall?

2 A: Well, we have a lot of, you know, kind of bouncing off
3 ideas, different agencies, different experiences.

4 Q: Fair enough. And then finally, a Terrence McLean. Do
5 you remember that name? And I think he doesn't come up in
6 your report. He similarly is -- if I can bring this up to you
7 and see if you recognize it? That's, again, one of those task
8 force big posters -- right? -- with his name right on the top?

9 A: Yes.

10 Q: All right. And I can take those back from you before I
11 forget them. All right. So I want to move to Mr. Harrington
12 just briefly. You're aware that he was arrested in Charlotte;
13 right? Do you remember that?

14 A: Yes.

15 Q: All right. He never resisted arrest, as far as you know?

16 A: I wasn't there, but as far as I am aware.

17 Q: As far as you know, he didn't try to run?

18 A: As far as I recollect.

19 Q: He was actually in Bennettsville for days following
20 Ella's death? Do you remember that?

21 A: Yes.

22 Q: He was just driving around town for days while y'all were
23 investigating; right?

24 A: Well, I don't know what he was doing, but he was in the
25 area, I believe.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: Okay. And you're aware that he waived extradition and
2 came back to South Carolina very quickly after he was
3 arrested?

4 A: I recollect that he waived.

5 Q: And he politely invoked his right not to talk to any of
6 the investigators?

7 A: I never interviewed him.

8 Q: Okay. But to your knowledge, he didn't give a statement?

9 A: Correct.

10 Q: All right. This is a question I think I'm going to know
11 the answer to, but to your knowledge through -- was
12 Harrington's Facebook records ever received by your agency or
13 any other law enforcement agency?

14 A: Not to my knowledge.

15 Q: Okay. And just for the record, are you aware that Dwayne
16 Bright wasn't released from the jail until May 12th, the same
17 day that Mr. Harrington was arrested?

18 A: I was not aware of when he was released.

19 Q: Okay. You know they -- well, you remember the Sheriff's
20 Department doing a lot of press releases in this case?

21 A: I don't remember.

22 Q: Okay. All right. Well, so I guess -- I don't know how
23 much further we can really get. You were an assisting agency,
24 as we talked about; right?

25 A: Yes, sir.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: And then like you already said, you're not aware of any
2 written reports by the Marlboro County Sheriff's Office;
3 right?

4 A: No. I just know I wrote one.

5 Q: Yes, ma'am. But this was an urgent situation, an urgent
6 investigation; is that fair?

7 A: Of course.

8 Q: There's a missing child; right? Right?

9 A: Well, someone is dead and there's --

10 Q: Right.

11 Q: -- a missing child.

12 Q: Yes.

13 A: So yes.

14 Q: Absolutely. And you were following as many leads as you
15 could find; is that right?

16 A: Correct.

17 Q: And there were a lot of them because of Ella's lifestyle
18 and communications with other people; right?

19 A: I don't know if it was because of her lifestyle. I mean,
20 you know, people -- people have lives, and so we went through
21 every avenue, you know, to find out who she hung out with and
22 talked to, and just like if something was to happen to you, we
23 would go through --

24 Q: Well, I understand.

25 A: -- your life.

KRISTINA GAINEY - CROSS BY MR. BANK

1 Q: And I didn't mean to cut off. I'm sorry. But you were
2 aware that she was engaged in online sex work? That must be a
3 vivid memory that sticks in your head?

4 A: Okay.

5 Q: I mean, are you -- do you remember that at all?

6 A: That's what people said.

7 Q: Okay. But that's what -- isn't that what the Facebook
8 records showed?

9 A: I don't recollect. I'd have to see those.

10 Q: Isn't that what the interviews that you yourself
11 conducted showed?

12 A: That's -- again, that's what people said.

13 Q: Okay. That's -- that's what her own very communications
14 and texts that she sends out says?

15 A: Okay.

16 Q: Right? Is that right?

17 A: Yes.

18 Q: You just have no memory of it? You were aware that there
19 were two arrests in the case; right? Mr. Bright and Mr.
20 Harrington? And just at the end of the day, it was a tragic
21 event for a lot of people involved; right?

22 A: Yes.

23 MR. BANK: I have no further questions. Thank you.

24 THE COURT: Any redirect?

25 MR. REDMOND: Just briefly, Your Honor.

2 BY MR. REDMOND:

3 Q: In the course of the -- well, you were asked about, I
4 guess, reports and whatnot. Well, you're retired now, but at
5 the time was it standard operating procedure for SLED to
6 assign, I guess, the agent assigned to the case, the lead
7 agent would be the one -- I say lead agent. Scratch that.
8 Let me rephrase. Would someone be assigned to write a report
9 -- one report based on everything that's compiled?

10	A: Yes.

11 Q: Okay. And is that what you did in this case?

12	A: Yes.

13 Q: Okay. So were there literally dozens of law enforcement
14 personnel from different agencies working on this case?

15	A: Yes.

16 Q: Can you account for what each of them did?

17	A: No.

18 Q: Okay. And again, you were asked questions about -- about
19 what other people did and what you should or shouldn't
20 remember. Again, did you go out and talk with everybody
21 involved in the case, everybody that was interviewed? Did you
22 talk with even the different people that he outlined? Did you
23 talk with all of those people?

24	A: No.

25 Q: So, again, have you testified to the best of your

KRISTINA GAINEY - REDIRECT BY MR. REDMOND

1 recollection based on what you did?

2 A: Yes.

3 MR. REDMOND: That would be all the questions I have.

4 THE COURT: You may step down.

5 Any objection to this witness being excused?

6 MR. BANK: No, sir.

7 THE COURT: You're free to leave. Thank you.

8 You may call your next witness.

9 MS. WEISS: The State calls Richard LaBean. Mr. LaBean.

10 (WHEREUPON, there was a pause in the proceedings until
11 the witness entered the courtroom.)

12 THE COURT: Mr. LaBean, if you could come forward and
13 place your left hand on the Bible and raise your right hand as
14 the clerk administers the oath.

15 THE CLERK: Do you solemnly swear or affirm that the
16 testimony you shall offer the Court in this case shall be the
17 truth, the whole truth, and nothing but the truth, so help you
18 God?

19 THE WITNESS: Yes.

20 THE CLERK: You can have a seat.

21 THE COURT: Go ahead and have a seat in the witness
22 chair. Just pull up real close to the microphone and speak
23 loudly, clearly, and slowly in order that we can hear
24 everything that you have to say, and let's start with your
25 full name, please, sir.

RICHARD LABEAN - DIRECT BY MS. WEISS

1 THE WITNESS: Richard David LaBean.

2 RICHARD LABEAN, being first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WEISS:

6 Q: Good afternoon, Mr. LaBean. How are you?

7 A: Doing good.

8 Q: Mr. LaBean, where did you grow up?

9 A: I was actually raised in Michigan.

10 Q: When did you move to South Carolina?

11 A: In '75.

12 Q: How long have you been in Marlboro County?

13 A: At the address I'm at now, I've been there 40 years.

14 Q: Forty years?

15 A: Yes.

16 Q: What is that address?

17 A: [REDACTED] New Bridge Road, McColl.

18 Q: And who are your neighbors at [REDACTED] New Bridge Road?

19 A: When I first moved there, it was Duke Jones and his
20 family. He's passed away; so there's other people that have
21 moved in, but a lot of his family members still stay there.

22 Q: And how long does it take to get from the courthouse to
23 your house in McColl?

24 A: About 15 minutes.

25 Q: So if you've been there 40 years, you were living there

1 in 2017?

2 A: Yes.

3 Q: Were you living with anybody else in May of 2017?

4 A: Anita Beach.

5 Q: And she was your girlfriend at the time?

6 A: Yes.

7 Q: Do you recall getting some information or hearing about
8 an incident that occurred in Bennettsville in around May 4th,
9 May 5th of 2017?

10 A: Yes.

11 Q: And what was happening? What had -- was going on?

12 A: I was headed to --

13 Q: Well, no, I'm just saying just in general what was going
14 on in Bennettsville? What had you heard was happening -- had
15 happened in Bennettsville?

16 A: That a girl was missing, and the mother was found dead.

17 Q: Okay. And as far as you knew, at the point that you
18 initially heard that, were you aware of any of the people that
19 were involved?

20 A: No, no.

21 Q: Did that change?

22 A: Yes, it did.

23 Q: And when is it that that changed?

24 A: I think it was about ten days after the incident. Me and
25 my girlfriend was going -- going out to eat, and she had told

RICHARD LABEAN - DIRECT BY MS. WEISS

1 me they originally arrested another guy, but they turned him
2 loose and then they had arrested Mr. Harrington and --

3 Q: And did -- what was Mr. Harrington's first name?

4 A: JeJauncey.

5 Q: Okay. And did you recognize that name?

6 A: Yes.

7 Q: Why did you recognize that name?

8 A: He used to live next door.

9 Q: Do you see that person in the courtroom today?

10 A: I think that's him right there. It's been a long time
11 since I've seen him. That's why.

12 Q: Thank you, Mr. LaBean. So you said it's been a long time
13 since he was your neighbor?

14 A: Yeah.

15 Q: How long has it been since he was your neighbor?

16 A: I think he moved away a few years before the incident in
17 Bennettsville. I'm not sure where he was living.

18 Q: Okay. And how young was he when you first met JeJauncey
19 -- when you first knew JeJauncey Harrington?

20 A: He was a young teenager. I think he actually went to
21 school with -- with two of my kids.

22 Q: Okay. So as a young teenager, did you ever talk to
23 JeJauncey Harrington?

24 A: Just a couple of times. My second wife had him come cut
25 the grass a couple times.

1 Q: Do you know if he was related to anybody who still lives
2 around in that area?

3 A: Yes. I'm not sure how he's related to them. I don't
4 know if it's his uncle or --

5 Q: And who's that?

6 A: I don't know their name, but --

7 Q: The last -- do you know their last name?

8 A: No.

9 Q: Okay.

10 A: I really don't.

11 Q: But when he was a teenager, he lived around there?

12 A: Yes.

13 Q: And so you said you and Anita were leaving to go to
14 dinner. So when you heard that name, what was your reaction?

15 A: That I had recently purchased home surveillance cameras
16 and -- and there was an incident once before and I said, well,
17 if they got him for it, then I'm pretty sure there's going to
18 be something on my camera.

19 Q: Okay. And you said that he had moved away a few years
20 earlier. How often since he moved away did you see Mr.
21 Harrington?

22 A: Maybe once or twice.

23 Q: And where would you see him?

24 A: Usually across the road.

25 Q: Across the road?

RICHARD LABEAN - DIRECT BY MS. WEISS

- 1 A: Yeah, across the road in the house across from me.
- 2 Q: Okay. And if you would, describe for me what across the
- 3 road looks like? What the --
- 4 A: It's --
- 5 Q: Okay. Go ahead.
- 6 A: You can see the front -- the front of the house across
- 7 from there. It's kind of all grewed up now, but there was
- 8 some shrubs around the house and everything.
- 9 Q: And was anybody living in that house?
- 10 A: No, not at that time.
- 11 Q: How long had that house been vacant?
- 12 A: I'm not exactly for sure. It was a few years before the
- 13 incident. There was a lady staying there and she had found a
- 14 snake in the house, and she packed her stuff and left and left
- 15 it just like it was.
- 16 Q: And you said you'd seen Mr. Harrington a couple times
- 17 across the street. What would you see? When would you see
- 18 him?
- 19 A: Usually at night.
- 20 Q: And how would you know it was him?
- 21 A: Normally, he would just park in the front and -- and he'd
- 22 usually get out of the car.
- 23 Q: And would you recognize him?
- 24 A: Yes.
- 25 Q: What would he do when he got out of the car?

RICHARD LABEAN - DIRECT BY MS. WEISS

1 A: Usually relieving hisself beside the car.

2 Q: Okay. And is that in front of your house or across the

3 street?

4 A: Across the street.

5 Q: What else would he do when he was parked across the

6 street?

7 A: You could tell they was smoking something. You could see

8 a lot of lights all the time, you know, getting in and out of

9 the car.

10 Q: Okay. Do you know what kind of car he would drive?

11 A: No. I just remember it was a late model --

12 Q: Okay.

13 A: -- kind of car.

14 Q: Did you see a lot of people go in and out of that area

15 across the street?

16 A: No.

17 Q: Did anybody --

18 A: Not after it was vacant.

19 Q: Did Mr. Harrington -- was he by himself when he would go

20 to the house across the street?

21 A: Sometimes there'd be somebody with him, but I never

22 really knew who the person was that was with him.

23 Q: And did you have the opportunity to -- you said to look

24 at your video?

25 A: Yes, I looked at it.

RICHARD LABEAN - DIRECT BY MS. WEISS

1 Q: So who looked at the video first?

2 A: I looked at it first. After we got back home, I turned
3 it on. It was a little bit after 12 or somewhere in that
4 neighborhood, and then I seen a car going in and going around
5 to the back, and then an hour or two later I seen a car coming
6 back out. Then I called my girlfriend in there and she -- I
7 showed her the same thing and -- and then she got on 9-1-1 and
8 told them and told them that we had some video surveillance of
9 the house next door, a car going in and out.

10 Q: And is there any question that you saw the car both come
11 in and out?

12 A: Yes, I saw it. I saw it going in, pulling around to the
13 back, and then I saw it coming out. It didn't have the lights
14 on when it come out. When it went in, it had the lights on
15 and everything.

16 Q: What did the police -- when you called the police, what
17 did they tell you to do?

18 A: First, they said they were coming out to take a look at
19 it. And then I don't remember if it was 9-1-1 or one of the
20 police officers that called me and asked us to come up to the
21 police station and talk to them.

22 Q: And did you do that?

23 A: Yes. Me and Anita went up there and talked to them. We
24 explained to them, you know, what we had, and we thought there
25 was, you know, something there, something going on.

1 Q: Okay.

2 A: And -- and then they said they would call some more
3 people and they would come out to look at the tape.

4 Q: Okay. And so did they follow you back to your house?

5 A: They -- well, they come. We went back to the house and
6 then they all showed up.

7 Q: Do you remember how many people showed up?

8 A: Not exactly. I think when we looked at the tape, there
9 was -- there was about five of them that looked at the tape.
10 I don't remember any of the names. I just remember a couple.

11 Q: Okay. And where did you keep your surveillance video
12 system?

13 A: It's in my room in a big cabinet.

14 Q: In your bedroom?

15 A: Yes.

16 Q: Okay. How many times would you say that they watched the
17 videos?

18 A: They initially looked at it and, you know, looked at the
19 whole thing, and then they went and got a device to record,
20 download what was on it and then they downloaded it. They
21 looked at it again, you know, to get the times because they
22 had to figure -- the timestamp is not correct on it, and so
23 they had to figure, you know, exactly what the time was, and
24 then they downloaded everything.

25 Q: You said you remember the timestamp is not correct. Did

RICHARD LABEAN - DIRECT BY MS. WEISS

1 you ever do anything to compare the times?

2 A: No, I didn't.

3 Q: Okay. Do you still have the video, a copy of the video
4 today?

5 A: No, I don't have a copy of the video.

6 Q: I'm going to show you what's been marked as State's
7 Exhibit 254.

8 A: Yes.

9 Q: Have you had the opportunity to watch the video that's on
10 that disk?

11 A: Yes.

12 Q: Okay. Does that accurately depict the video cameras, the
13 angles of the video cameras, the video cameras that were
14 outside your house?

15 A: Yes.

16 MS. WEISS: Your Honor, at this time, I'd like to admit
17 State's Exhibit 254 into evidence.

18 THE COURT: Any objection?

19 MR. BANK: No objection.

20 THE COURT: It's into evidence.

21 (WHEREUPON, State's Exhibit Number 254, LaBean
22 surveillance videos on disk, was admitted into evidence.)

23 BY MS. WEISS:

24 Q: Okay. Mr. LaBean, I'm going to show you the first of the
25 videos. Mr. LaBean, are your video cameras -- do they run

RICHARD LABEAN - DIRECT BY MS. WEISS

1 consistently or are they motion activated?

2 A: They're motion activated. They only record if something
3 is moving.

4 Q: Okay. And does it matter what's moving? What -- what
5 will set them off?

6 A: Any kind of movement, a light, even a cat walking by will
7 set them off.

8 Q: And is this one of the cameras that you had, the angle of
9 one?

10 A: Yeah. That's the angle one of them, yes.

11 Q: And where was this camera located?

12 A: At the backside of the -- I've got a 90-foot trailer, and
13 it's at the back of the trailer, probably 30 foot from the end
14 of the trailer.

15 Q: Okay. And in the daytime what can -- what can you see if
16 you're looking this direction from your residence?

17 A: Straight out there's another road that T's right there.
18 You can't see it because of it being dark.

19 Q: Okay. If you would, would you mind stepping down for
20 just a second?

21 (WHEREUPON, the witness complied.)

22 BY MS. WEISS:

23 Q: Okay. What is right there where the darkness is? What
24 is right there in front of your house?

25 A: Right here is the driveway. This is actually a driveway,

RICHARD LABEAN - DIRECT BY MS. WEISS

1 and then there's a road that comes out here that T's out here
2 and goes down this way, and that's the light pole to my
3 lights, but there's a road. The main road is right here.
4 Q: And what road is that?
5 A: That's New Bridge Road.
6 Q: Okay. And you said there's an abandoned house. Do you
7 know -- and I know it's dark. Do you know approximately where
8 that would be?
9 A: It's -- it's out of the picture. It's over here.
10 Q: Okay. I'm going to show you this, I guess continue
11 playing this clip or the next clip. Okay. Being motion
12 activated, would you say that usually whatever activates it is
13 what's on the beginning of the clips?
14 A: Yes.
15 Q: Okay.
16 A: Sometimes where you can see this tree moving?
17 Q: Yes, sir.
18 A: Sometimes that'll set it off. If the wind is blowing
19 enough, it'll set it off.
20 Q: Okay.
21 MS. WEISS: We'll go to the next one.
22 THE COURT: Mr. LaBean, I'm going to ask if you would
23 step forward further? There you go.
24 BY MS. WEISS:
25 Q: Is it unusual to have -- or how much traffic is on your

RICHARD LABEAN - DIRECT BY MS. WEISS

1 house late at night -- I mean, on your street late at night?

2 A: Sometimes a lot, sometimes after 1 o'clock you may not

3 see anything.

4 Q: Is that --

5 A: That's -- that would be where the road is coming out, T's

6 out to.

7 Q: And what road is that?

8 A: That road is -- I think that's Bluff Road. I think

9 that's called Bluff Road.

10 Q: And if you drive -- if you turn off and go that way or

11 drive that way, where are you headed?

12 A: You're headed towards McColl.

13 Q: Okay. And if you go this way, where are you headed?

14 A: If you go all the way out, you're headed to -- I think

15 it's called Hayes [ph] Street, which will take you either to

16 Clio or Maxton.

17 Q: Okay. So if you were headed back into town to the

18 courthouse, you'd come out of here and you'd go right or left?

19 A: If you come out from here, take a right.

20 MS. WEISS: You want to go on to the next one?

21 BY MS. WEISS:

22 Q: How often do cars stop in -- in front of your house?

23 A: Not very often, unless they're turning around. Sometimes

24 they miss this road, and they'll stop and turn around.

25 MS. WEISS: You can go on to the next one. You can go on

1 to the next one.

2 BY MS. WEISS:

3 Q: Would rain possibly set off your camera too?

4 A: Yes, it will. If it's raining hard enough, yeah, it'll
5 set it off.

6 Q: Okay.

7 MS. WEISS: The next one.

8 BY MS. WEISS:

9 Q: Can you tell if it's raining in that video or that
10 evening?

11 A: It don't look like it. I see a little something every
12 now and again. That's usually a bug or something or another
13 flying by. Even --

14 THE COURT: Might counsel approach the bench for a
15 moment?

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

18 BY MS. WEISS:

19 Q: So we've watched the beginning of these videos. Have you
20 seen -- was the video that you talked about of the car turning
21 in -- was that in any of the videos we've watched so far?

22 A: No.

23 Q: And you've watched through all of these videos. Is that
24 video on this disk of the car turning in?

25 A: This -- I think it was in the first part of it, but you

RICHARD LABEAN - DIRECT BY MS. WEISS

1 saw the car slow down. But you have to see the next -- the
2 other tape -- the other camera to see whether it went in or
3 not.

4 Q: Okay.

5 MS. WEISS: And then if we go to channel 4, let's go to
6 the first video of channel 4 just --

7 BY MS. WEISS:

8 Q: And what is this angle? Where is this camera located?

9 A: It's probably 20 more feet from the -- from the other --
10 from the other angle. It's probably middle ways of the
11 trailer facing towards the abandoned house.

12 Q: Okay.

13 MS. WEISS: Okay. Sorry. Can you go back to the list?
14 Go back to the list. Thank you. Okay. So if we go down to
15 channel 4, if you can play the seventh one in? It says
16 channel 4, 4:09:12 on the second row down, the next row down,
17 over one, two, three, four, five. If you can play that clip
18 real quick?

19 UNIDENTIFIED FEMALE: This one?

20 MS. WEISS: Nope. The next one.

21 BY MS. WEISS:

22 Q: So that's at 4:09 on this according to the time on here?

23 A: Yeah.

24 MS. WEISS: And then if you can move to the next one?

25 BY MS. WEISS:

RICHARD LABEAN - DIRECT BY MS. WEISS

1 Q: Do you recognize that video?

2 A: Yes.

3 Q: What is significant about that video?

4 A: Coming by the house with his lights turned off. You can
5 see when he first pulled out, he had his lights on, and then
6 he turned them off and then come by.

7 Q: And if you were to drive back in there, what's located
8 where that car is coming from?

9 A: That's where the abandoned house is. The direction the
10 car came from was from the back of the house.

11 Q: And the direction the car is driving?

12 A: He's headed towards McColl.

13 Q: Okay. And you would pass that road that you were talking
14 about?

15 A: Uh-huh.

16 Q: What do you pass right after that road?

17 A: Probably a hundred yards is where the bridge is.

18 Q: What bridge is that?

19 A: I don't know if it's got a name or not, but it's the --
20 we always called it New Bridge.

21 Q: Okay.

22 A: And I think that's why the road has got the name because
23 it was a new bridge.

24 Q: Is there water actually under that bridge?

25 A: Yes. Yes, there's a -- I forget the name of the creek

RICHARD LABEAN - DIRECT BY MS. WEISS

1 that runs through there, but yeah, there's running water
2 coming through there.

3 Q: Thank you.

4 MS. WEISS: I beg the Court's indulgence one minute.

5 Mr. LaBean, you can have a seat.

6 THE WITNESS: Okay.

7 MS. WEISS: You can sit back down. Thanks.

8 BY MS. WEISS:

9 Q: After they took the video, did law enforcement stay at
10 your house that night?

11 A: They stayed across the road. They went across the road
12 and sat.

13 Q: And how long did they stay?

14 A: Until the next morning when they brought a team out to do
15 a search.

16 Q: And did you come in to the Marlboro County Sheriff's
17 Office? Did you give a statement on this case on this -- what
18 you had?

19 A: No, I don't think anybody really took a statement. I
20 talked to the FBI. They only asked me a couple of questions.

21 Q: Okay.

22 A: And I think it was, like, how long I lived there and that
23 kind of thing. Other than that, that was about it.

24 Q: Okay. And at some point, did you find out there was a
25 reward being offered for any information on this case?

RICHARD LABEAN - DIRECT BY MS. WEISS

1 A: Yeah. After I had talked to them about the tape and
2 before they came out, that's when they told me that there was
3 -- there was a reward for finding the girl.

4 Q: Were you aware of that when you first looked at your
5 surveillance video?

6 A: No, I didn't know it then.

7 Q: And did they eventually -- did you eventually get paid a
8 reward?

9 A: Yes.

10 Q: And how much was that?

11 A: 10,000.

12 Q: When did you get that? Do you remember?

13 A: A couple months afterwards, something like that.

14 Q: And when was the last time that you had actually
15 interacted with JeJauncey Harrington, talking to him one-on-
16 one?

17 A: Oh, it's been years of actually talking to him.

18 MS. WEISS: Thank you, Mr. LaBean. I have no further
19 questions. Please answer any questions the defense may have.

20 THE WITNESS: Okay.

21 THE COURT: Cross-examination.

22 MR. BANK: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. BANK:

25 Q: Mr. LaBean, how are you doing today?

1 A: All right.

2 Q: I'm sorry that you've been sitting around for a couple
3 hours. I'm sorry about that. Thanks for staying with us.
4 We've never actually met before, I don't think?

5 A: No.

6 Q: No? But you've met with at least one or two people
7 behind me though?

8 A: Yes.

9 Q: To just talk about court and testifying; right? Is that
10 right?

11 A: Right.

12 Q: And going through the videos; right?

13 A: Right.

14 Q: Because this is five years ago, kind of got to look back
15 at it; right?

16 A: Yeah. It's been -- been a while.

17 Q: And you talked to them about how you had seen JeJauncey
18 across the street a few times?

19 A: Yes.

20 Q: And that you knew that he was, like, smoking or doing
21 drugs out there or whatever?

22 A: Well, I assume that's what it was.

23 Q: Right. And that's what you told them?

24 A: Right.

25 Q: Right? And you said that you told them that you had seen

RICHARD LABEAN - CROSS BY MR. BANK

1 him, like, park and get out of the car across that street;
2 right?

3 A: Right.

4 Q: And you told them that not a lot of people go there, and
5 it seems like it's just JeJauncey that you've seen across the
6 street; right?

7 A: Yeah. He's the one, the only one I've ever seen over
8 there.

9 Q: And then you talked to them about the timestamp, that
10 there may be some issue with the timestamp?

11 A: Yeah. It's -- it wasn't correct.

12 Q: Correct.

13 MR. BANK: We have a matter of law, and I'm happy to take
14 up with him in --

15 THE COURT: Say that again?

16 MR. BANK: We have a matter of law.

17 THE COURT: Okay. All right. I'm going ask if you could
18 have a seat back in the witness room.

19 (WHEREUPON, the witness exited the courtroom.)

20 THE COURT: Yes, sir.

21 MR. BANK: As I bet you can imagine, all of those things
22 that were just elicited that he acknowledged that he told them
23 is the first time we've ever been told that. That's the first
24 time we've ever heard it. It's not in a report. It's not --

25 THE COURT: Ever heard what?

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1 THE CLERK: You want Mr. LaBean?

2 MR. REDMOND: LaBean. I think we want LaBean.

3 MR. YOUNG: Yes.

4 MR. REDMOND: Mr. LaBean.

5 THE CLERK: Okay. Yeah, get Mr. LaBean.

6 (WHEREUPON, there was a pause in the proceedings until
7 the witness entered the courtroom.)

8 THE COURT: Yes, sir. I'm going to ask if you could come
9 back around and have a seat. We're going to re-swear you in.
10 How about that?

11 THE WITNESS: Okay.

12 THE COURT: Place your left hand on the Bible and raise
13 your right.

14 THE CLERK: Do you solemnly swear that the testimony you
15 shall offer the Court in this case shall be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 THE WITNESS: Yes.

18 THE CLERK: Be seated, please.

19 THE COURT: Have a seat in the witness chair.

20 And, defense, you're recognized.

21 MR. BANK: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BANK:

24 Q: Mr. LaBean, how are you doing today?

25 A: Doing good.

RICHARD LABEAN - CROSS BY MR. BANK

1 Q: Thanks for coming back with us. I know you were here
2 yesterday for a few hours and then coming back up here and I
3 know you're going through kind of a tough time. So I just
4 want to let you know we all really, really appreciate it.

5 A: Yes, sir. Thank you.

6 Q: All right. So I wanted to talk to you about kind of the
7 conversation that we had yesterday.

8 A: Okay.

9 Q: Do you remember we were in court for a little bit and we
10 asked some questions out here? Yeah?

11 A: Yes.

12 Q: And then after that, we kind of took a break and then we
13 all went back in the back room and talked for a little bit.
14 Do you remember that?

15 A: Yes.

16 Q: And Mr. Young talked to you a little bit and I talked to
17 you a little bit and Ms. Weiss was there and Mr. Redmond was
18 there; right?

19 A: Yes.

20 Q: And we were talking about the video that you saw a few
21 years ago; right?

22 A: Yes.

23 Q: And how you saw on the video a long time ago a car that
24 went into the property across the street?

25 A: Right.

RICHARD LABEAN - CROSS BY MR. BANK

1 Q: And then you saw on the video the car eventually come out
2 of that property; right?

3 A: Right.

4 Q: And we're talking about that abandoned property across
5 the street from your house?

6 A: Right.

7 Q: And you told us yesterday that the car that you saw pull
8 in was not the car that you've seen Mr. Harrington drive
9 before. Do you remember that?

10 A: Yeah. He had an older car, I think.

11 Q: So the car you saw drove in was a different car than Mr.
12 Harrington's?

13 A: Correct.

14 Q: All right. And you knew that it was a different car
15 because you've seen Mr. Harrington in that -- in a different
16 car on the property; right?

17 A: Yeah. Years ago, yes.

18 Q: Right. And it was actually the police that told you that
19 the car that was going in was Mr. Harrington's car?

20 A: Right.

21 Q: Right? And you had seen Mr. Harrington in that car, did
22 you say? I know it's been a long time, but would you say it's
23 been -- it would have been maybe within the year that you had
24 seen Mr. Harrington in that different car on your property?

25 A: It's probably been a few years, three, maybe four,

RICHARD LABEAN - CROSS BY MR. BANK

1 something like that.

2 Q: So three or four years?

3 A: It was before the incident.

4 Q: Before the incident? Okay. So it had been three or four
5 years since you had ever seen Mr. Harrington at all?

6 A: Right.

7 Q: Okay. Now, we also talked about how much time you
8 remember being between the car pulling in and the car pulling
9 out. Do you remember that?

10 A: Yes.

11 Q: And you -- we talked about how you told the police it was
12 two hours?

13 A: Yeah. Some -- somewhere in that neighborhood.

14 Q: Yep. And then when we were in the back room, we talked a
15 little longer and you said, if anything, it might've been two
16 to three hours?

17 A: Right.

18 Q: Is that right? Do you remember telling us that, all of
19 us sitting in the room together?

20 A: Right.

21 Q: Yeah. And then we talked a little bit about the
22 timestamp and whether the video was off at all?

23 A: Yes.

24 Q: Do you remember that?

25 A: Yes.

RICHARD LABEAN - CROSS BY MR. BANK

1 Q: And we talked about how usually it's off about an hour?

2 A: Yes.

3 Q: Is that right?

4 A: Correct.

5 Q: And that's how you remember it being back five years ago?

6 A: Right.

7 Q: And that's something that you told the police at that
8 time?

9 A: Yeah. They -- they had made a comment about the time not
10 -- it being different from what the actual time was.

11 Q: I gotcha.

12 A: And the exact time I'm not sure how much it was off, but
13 at least an hour.

14 Q: Okay. Okay. At least an hour?

15 A: Yes.

16 Q: And then since our meeting yesterday, you left the
17 courthouse; right?

18 A: Correct.

19 Q: Has -- have you talked to anybody since then that's in
20 this courtroom or that was in that meeting?

21 A: No.

22 Q: No? Okay.

23 MR. BANK: I beg the Court's indulgence.

24 That's all I have. Thank you so much again for being
25 here.

1 THE WITNESS: Thank you.

2 MR. BANK: And again, sorry for --

3 THE COURT: Redirect?

4 MS. WEISS: Nothing from the State, Your Honor. Thank
5 you. We'd ask that he be excused.

6 THE COURT: Yes. You're free to leave. Thank you very
7 much.

8 THE WITNESS: Okay. Thank you.

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

10 THE COURT: Yes.

11 MR. REDMOND: The State would next call Dr. Kievers
12 Cunningham.

13 (WHEREUPON, there was a pause in the proceedings until
14 the witness entered the courtroom.)

15 THE COURT: Yes, sir. I'm going to ask if you could to
16 come around in front of the clerk there and place your left
17 hand on the Bible and raise your right hand as the clerk
18 administers the oath.

19 THE CLERK: Do you solemnly swear or affirm that the
20 testimony you shall offer the Court in this case shall be the
21 truth, the whole truth, and nothing but the truth, so help you
22 God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you. Please be seated.

25 THE COURT: I'm going to ask if you could come around and

DR. KIEVERS CUNNINGHAM - DIRECT BY MR. REDMOND

1 have a seat in this witness chair. Pull up -- you can set
2 your paperwork down if need be and pull up real close to that
3 microphone. I'm going to ask that you speak loudly, clearly,
4 and slowly --

5 THE WITNESS: Okay.

6 THE COURT: -- in order that we can hear everything that
7 you have to say, and let's start with your full name, please.

8 THE WITNESS: Kievers Lamont Cunningham.

9 THE COURT: Say that again?

10 THE WITNESS: Kievers Lamont Cunningham.

11 THE COURT: Very good. How do you spell that first name?

12 THE WITNESS: K-i-e-v-e-r-s.

13 THE COURT: Very good. Thank you.

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

15 DR. KIEVERS CUNNINGHAM, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. REDMOND:

19 Q: Dr. Cunningham, first off, where are you employed at this
20 time?

21 A: McLeod Clarendon in Manning.

22 Q: Okay. And let's go through your educational background
23 real quick. Where did you do your undergraduate and medical
24 school?

25 A: Undergraduate at South Carolina State University in

DR. KIEVERS CUNNINGHAM - DIRECT BY MR. REDMOND

1 Orangeburg, and I went to medical school at MUSC in
2 Charleston.

3 Q: Okay. And how long have you been practicing medicine?

4 A: Twenty years.

5 Q: Okay. And in -- I guess back in May of 2017, were you
6 working at McLeod Medical Center in Dillon?

7 A: That is correct.

8 Q: And at that time, were you asked to examine the hand of a
9 gentleman by the name of JeJauncey Harrington?

10 A: Yes, sir.

11 Q: And have you had a chance to review your medical records
12 from that examination?

13 A: I have.

14 Q: Okay. Was that a court-ordered examination?

15 A: I believe so.

16 Q: Okay. And I believe -- did you have an order -- did you
17 submit a request for his right hand to be x-rayed?

18 A: Yes, sir. That's correct.

19 Q: Okay. And I think as a result of that x-ray, did it show
20 that subacute fracture of the right -- distal right fifth
21 metacarpal?

22 A: Yes, sir.

23 Q: Okay. And now, as a part of your interaction with Mr.
24 Harrington, did you ask him how he hurt his hand?

25 A: Yes, sir, I did.

DR. KIEVERS CUNNINGHAM - DIRECT BY MR. REDMOND

1 Q: And could you tell His Honor how he told you that he hurt
2 his hand, based on your review of your records?

3 A: Based on a review of the records -- and I always ask how
4 the injury occurs. He said that he was working at Perdue, the
5 local poultry plant in Dillon. He was washing the floor with
6 a high-pressure hose, and he slipped and fell on a closed fist
7 on a grate in the floor.

8 Q: Okay. And did he say about how long before this that the
9 injury occurred?

10 A: He said about two-and-a-half months.

11 Q: Okay. And then did he indicate whether or not he told
12 the people -- he said he fell and hurt his hand at Perdue.
13 Did he indicate whether he told his employers about his
14 injury?

15 A: I asked that question, and he said no.

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

17 BY MR. REDMOND:

18 Q: Just to be clear, did he indicate to you that he did not
19 inform the people at his place of employment at Perdue, he did
20 not inform them that he had hurt his hand?

21 A: He said that he did not inform the proper authorities at
22 Perdue that he had hurt his hand on the job.

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

24 I beg the Court's indulgence.

25 BY MR. REDMOND:

DR. KIEVERS CUNNINGHAM - DIRECT BY MR. REDMOND

1 Q: Let me ask you this, Dr. Cunningham. When it comes to
2 the onset as a subacute -- because you did -- did you examine
3 --

4 A: I did.

5 Q: -- Mr. Harrington?

6 A: Yes, sir.

7 Q: When it comes to the timeframe of that -- of a subacute
8 injury --

9 MR. BANK: I beg the Court's indulgence.

10 May I confer with you?

11 MR. REDMOND: Yes.

12 (WHEREUPON, there was a pause in the proceedings for the
13 attorneys to confer, after the proceedings resumed as
14 follows.)

15 BY MR. REDMOND:

16 Q: Let me just ask you this. When -- when he said it
17 happened two-and-a-half months ago -- I'm just going to ask
18 you a general question. Without being too specific, an injury
19 such as that, when you say subacute, what does that mean?
20 I'll just ask you like that. What is a subacute injury?

21 A: Typically, when it comes to a fracture, that's on the low
22 end at least two weeks as high as a couple to three months.

23 Q: Okay.

24 A: From a subacute perspective, and that's -- that came
25 about from several things. One, because of the -- let me

DR. KIEVERS CUNNINGHAM - DIRECT BY MR. REDMOND

1 elaborate a little bit, but how it got to that point is
2 because of how the x-ray looked at the time that it came back.

3 Q: All right. Now, let me ask you this just to -- just to
4 not belabor the point again because the main purpose is what
5 the defendant told you, but again, everybody -- is everybody
6 different? In other words, you can't pinpoint a time for
7 this, just to be clear?

8 A: No. That's why it's such a variable answer I can give
9 you.

10 Q: That would be fair.

11 MR. REDMOND: That would be all the questions I have.
12 Please answer any questions that the defense may have.

13 MS. FREEDMAN: Nothing from us, Your Honor.

14 THE COURT: You're free to leave, and thank you very
15 much.

16 THE WITNESS: Okay. Thank you.

17 MR. REDMOND: Your Honor, as it --

18 THE COURT: Yes, sir.

19 MR. REDMOND: As it relates to our case, we obviously are
20 not resting because we do have to get into DNA evidence, and I
21 believe there's still the matter of Chris Johnson that we
22 might need to recall, but other than that as far as our
23 presentation for today, that would -- that would conclude our
24 witnesses for today. So at this point, we would yield to the
25 defense. And we understand that we're going a little bit out

1 with that?

2 MS. CRAYTON: Yes, Your Honor. On Tuesday.

3 THE COURT: And essentially, you're saying that you --
4 aside from the larger policy of punishing the State for not
5 putting us in this spot, laying the -- or at least affecting
6 the efficiency of the trial, you're saying that otherwise it's
7 not prejudicial to the defendant?

8 MS. CRAYTON: Well, I think -- I think it is prejudicial.
9 I don't think it's relevant.

10 THE COURT: Well, do you need more time?

11 MS. CRAYTON: I do not -- but I do not need more time,
12 Your Honor. Yes. I'm sorry.

13 THE COURT: All right. Well, we're ready to proceed. Do
14 we have anything that we can do at this point?

15 MR. YOUNG: Yes, sir. Your Honor, I think by stipulation
16 the defense is going to put in Defense Exhibits 38, 39, and
17 40. 38 and 39 are two stills from a surveillance video in
18 McColl. Defense Exhibit Number 40 is a thumb drive that has
19 the entire video clip on it.

20 I'm going to play a small portion of the clip. This is
21 from May 5th, 2017, around 2:57 in the morning. This is a
22 clip from a barbershop surveillance system in McColl. It's
23 being offered for the purpose of showing what the weather in
24 McColl was like at that time.

25 THE COURT: All right.

1 (WHEREUPON, Defendant's Exhibit Number 38 and 39,
2 photographs, and Defendant's Exhibit Number 40,
3 surveillance video on thumb drive, were admitted into
4 evidence.)

5 MR. YOUNG: I'm going to play a brief portion.

6 (WHEREUPON, Defendant's Exhibit Number 40, was played and
7 then stopped. Not transcribed herein.)

8 THE COURT: It looks like it's raining.

9 MR. YOUNG: It's raining, it's windy, there's some debris
10 floating down the road, there's a cat running through. I'll
11 just put these in here.

12 THE COURT: Okay. I can see that.

13 MR. YOUNG: I think you've seen --

14 THE COURT: Yes, I could see it live.

15 MR. YOUNG: All right. Your Honor, I think as far as
16 what we can do today, we certainly have the car. It's in a
17 covered garage warehouse type thing over at the Marlboro
18 County Sheriff's Office.

19 We would suggest that we go and get that done and Your
20 Honor can take a chance to view the car. I think we want to
21 make sure that what we would -- mostly in jury views or in
22 this case a factfinder view, generally the court reporter
23 doesn't come so nobody talks. It's sort of my understanding
24 it's sort of the general rule. I need to address one thing
25 with Mr. Harrington real quick for a minute about being there

1 or not being there, and I think -- let me take care of that
2 and report back to the Court.

3 THE COURT: All right. Do we -- the jury viewing, I'll
4 just tell you that is the general rule that nobody talks,
5 nobody asks questions, nobody comments, but what is your
6 position on whether each side has an opportunity to point out
7 what you think is important?

8 MR. YOUNG: Judge, given that it's us and it's a bench
9 trial, I'm happy for us to talk with a notetaker and come back
10 and make a record. Like, this is what we said, this is what
11 you said, this is what you did. We certainly would try to
12 keep it to a minimum.

13 THE COURT: I was inquiring about what you think is
14 important for me to see when I look at the car, and I mean to
15 do the same and allow him to do the same thing.

16 MR. YOUNG: That's what I was anticipating doing. I
17 wanted to confirm with Mr. Harrington a couple of things real
18 quick.

19 THE COURT: All right.

20 MR. REDMOND: But yes, the State's position would be in
21 the jury views that I've participated in, I guess in this case
22 it would be a judge view, but would be that nothing is said,
23 especially given that, you know, the court reporter isn't
24 there. And just given the nature of everything, I think we
25 can lay out ahead of time what we would want the Court to see,

1 and then once we get to those locations, just let the Court do
2 its own view without us saying anything.

3 MS. WEISS: Your Honor, if I may just before Monday, I
4 know that the expert is supposed to be speaking -- is supposed
5 to be testifying on Monday and that's --

6 MR. YOUNG: Tuesday.

7 MS. WEISS: I mean Tuesday, not Monday, and that's my
8 witness. And I've spoken to the defense about any reports
9 that their expert has made up until this point, and I've been
10 told they expect him to. They expect him to and they'll get
11 it to me, but I still don't have anything to prepare for
12 cross-examination. I just want to be certain that there are
13 no reports from the expert.

14 MS. CRAYTON: I certainly can meet with Ms. Weiss about
15 that if you want, but at this point we don't have a report for
16 her. He is working on some issues with the -- the report was
17 going to be from New Bridge Road, but now we found out that
18 the time frame is different. So he's sort of trying to figure
19 out how we deal with that issue, and that was the only report
20 that I was going to be presenting to you. I did give some
21 maps to Mr. Redmond.

22 MR. REDMOND: Yes, she did.

23 MS. CRAYTON: The cell phone maps that he did, I gave
24 yesterday.

25 MR. REDMOND: That is correct, Your Honor.

1 MS. WEISS: There's no reports as to any other phones or
2 Facebook or anything else?

3 MS. CRAYTON: No. I don't have anything like that.

4 MS. WEISS: Okay. But is that what -- is he testifying
5 to all of that?

6 MS. CRAYTON: Yes.

7 MS. WEISS: Okay.

8 MS. CRAYTON: And I'm happy to tell you --

9 MS. WEISS: Okay.

10 MS. CRAYTON: -- or I'm happy to meet with you to kind of
11 walk you through it.

12 MS. WEISS: I just wanted to make sure of what all --

13 MS. CRAYTON: What all he's going to do.

14 MS. WEISS: Okay.

15 THE COURT: And if he does show up with a report, show it
16 to them and we'll give you time to review it.

17 MS. CRAYTON: Thank you, Your Honor.

18 MR. REDMOND: And I just want to put on the record the
19 same as it relates to -- I guess it's Charlotte Word, the DNA
20 expert. My understanding is she does not have a report, but
21 if that changes and if there is a report, we would just ask
22 for that.

23 MS. CRAYTON: Yes.

24 Your Honor, may I approach about another issue?

25 THE COURT: Yes.

1 (WHEREUPON, a bench conference was held off the record on
2 an unrelated issue, after which the proceedings resumed
3 as follows.)

4 THE COURT: All right.

5 MR. YOUNG: Your Honor, Mr. Harrington will waive his
6 right to be present for the car viewing. He and I are going
7 to stay here and just work while Mr. Bank and Ms. Freedman are
8 going to go with the Court and whoever the State wants to
9 send.

10 Our request is that the Court closely examine the trunk,
11 opening the trunk, how to open the trunk, whether or not you
12 can open the trunk from the rear of the vehicle or have to get
13 into the car in order to open the trunk, and the windows that
14 were testified about in the driver and passenger side doors.

15 THE COURT: Whether the window is in the door?

16 MR. YOUNG: Yes, sir.

17 THE COURT: And just wouldn't roll up?

18 MR. YOUNG: Or weren't rolled up.

19 THE COURT: Weren't rolled up. All right.

20 MR. YOUNG: Obviously, the car is -- the tires are flat,
21 and the battery is dead. So we won't -- we can't turn it on
22 or anything, but the keys are in the ignition.

23 THE COURT: Who's going to do the mechanics of opening
24 the trunk?

25 MR. YOUNG: Sure. There's one of two ways to open the

1 trunk. One is the key, which is very difficult to get the key
2 to open the trunk from the rear. The way the car was
3 positioned, it had its rear up against the back wall of the
4 storage container. So we couldn't really do it when we were
5 there previously, and there is another -- there's a trunk
6 release latch that's by the driver's side door on the floor.
7 It's the secondary way to open the trunk. The trunk struts
8 don't stay up.

9 THE COURT: Say that again?

10 MR. YOUNG: So you have to hold it.

11 THE COURT: Oh, I gotcha.

12 MR. YOUNG: The hatchback, you know, it's all glass. You
13 can see inside of it, and you have to hold it up --

14 THE COURT: All right.

15 MR. YOUNG: -- in order for it to work properly.

16 THE COURT: Who is -- who -- who from law enforcement --

17 MR. YOUNG: Lt. Todd Schenk.

18 THE COURT: He's going to be there. We're going to
19 instruct him to --

20 MR. YOUNG: Well, he's the one who testified about all
21 the issues with the car.

22 MR. REDMOND: And nobody from SLED to my understanding is
23 actually going to be there. It's been pulled out because it
24 was up against a wall.

25 THE COURT: I was just asking if somebody from law --

1 y'all want me to stick the key in and try to open it?

2 MR. YOUNG: Sure. Yes, sir.

3 THE COURT: All right. I'll do that.

4 MR. REDMOND: It has been pulled out enough so you can
5 actually go around the whole car. They did pull it forward.
6 I had it pulled forward enough so that you can actually walk
7 around it.

8 THE COURT: So what I'll do is I'll look at the windows,
9 I'll look at the trunk, I'll look inside the trunk, and I'll
10 observe the trunk release inside the car. Is that what you
11 want me to do?

12 MR. YOUNG: Yes, sir.

13 THE COURT: All right. What would you like for me to
14 look at?

15 MS. WEISS: Your Honor, as far as the State looking at
16 the car, just basically the view from the driver to the back
17 of the car, what the driver is able to see, how easily the
18 driver is able to see kind of what's in the back of a car,
19 really sort of the levels, and the levels of the car.
20 Obviously, the tires aren't inflated, but generally in the
21 lights that you can see.

22 MR. YOUNG: And they put the seats back in.

23 MR. REDMOND: The seats were removed.

24 MR. YOUNG: I know the seats were removed at one point in
25 time. I think they're back in the car, but you might want to

1 be careful in sitting down. I don't how secure they are.

2 MR. REDMOND: I would suggest being very careful.

3 THE COURT: Based on what you want me to observe, I don't
4 think it requires I sit in it, does it?

5 MR. YOUNG: And that I think if Your Honor isn't able to
6 get the trunk open, I know that Mr. Bank is familiar with it
7 and can do that.

8 THE COURT: All right. We're going to -- unless there's
9 an objection, we're going to let Mr. Bank handle all the
10 mechanics with regard to the trunk, and y'all can observe it.
11 All right?

12 How are we going to logistically get out there? Who's --
13 I don't know how to get there. I'll -- I'll ride. Either
14 that or I'll follow.

15 MR. YOUNG: Yes, sir.

16 THE COURT: I'll follow you and you can follow me.

17 MR. REDMOND: Yes, sir.

18 THE COURT: I've got a white vehicle outside.

19 MR. YOUNG: And then when y'all are finished with that,
20 you're going to come back here and we can talk about what else
21 we're going to have time for to get started on Tuesday before
22 we adjourn for today.

23 THE COURT: All right. Anything further from the -- the
24 State?

25 MS. WEISS: Kernard, do you want me to ask -- ask them

1 not to --

2 MR. REDMOND: Oh, yeah, yeah. I beg the Court's
3 indulgence just a moment.

4 (WHEREUPON, there was a pause in the proceedings for
5 counsel to confer, after which the proceedings resumed as
6 follows.)

7 MS. WEISS: Okay. You're good.

8 MR. YOUNG: I mean, I think that we would talk about that
9 on Tuesday.

10 Judge, we were just started talking about going out to
11 New Bridge Road as well. I know that we do want to do that as
12 well. That, of course, is a wooded scene, and it's currently
13 raining and threatening.

14 THE COURT: I reckon we'll put that off until Tuesday or
15 Wednesday or Thursday.

16 MR. YOUNG: I think next week is going to be fine.

17 THE COURT: Let's do that. And -- and I'm going to ride
18 with the deputy out there.

19 MR. REDMOND: Yes, sir. And my understanding is we'll
20 ride out there and then come back here to look at --

21 THE COURT: Y'all don't know how -- does everybody else
22 know how to get there?

23 MR. REDMOND: Yes, sir.

24 MS. WEISS: Yes, Your Honor.

25 THE COURT: Y'all can proceed. You don't have to follow

1 us. Y'all can proceed out there.

2 MR. REDMOND: Yes, sir.

3 THE COURT: And we'll meet you there.

4 MR. REDMOND: Thank you, Your Honor.

5 MS. WEISS: Thank you Your Honor.

6 (WHEREUPON, there was a break in the proceedings from
7 10:13 a.m. until 10:51 a.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: Mr. Young, you're recognized.

10 MR. YOUNG: Thank you, Your Honor. I'm going to turn it
11 over to Mr. Bank real quick. We have one thing to do and then
12 we're done for today.

13 THE COURT: Very good.

14 MR. BANK: Yes, sir. We've got a public record from
15 North Carolina. It's a record of a traffic ticket from Dwayne
16 Bright. It's already referenced in a DMV report that's
17 already in evidence, but it's self-authenticating, sealed, and
18 it just lists him as the driver of a car where he got a
19 seatbelt ticket back in 2004, and so we would move to have
20 that admitted as Defense's 41.

21 THE COURT: Any objection?

22 MR. REDMOND: Without objection.

23 THE COURT: It's into evidence.

24 (WHEREUPON, Defendant's Exhibit Number 41, Dwayne Bright
25 traffic ticket, was admitted into evidence.)

1 things like the weather or something like that, I would --

2 MR. YOUNG: Sure.

3 THE COURT: -- think it would be admissible. I don't
4 think under any circumstances that's admissible, and you're
5 protected on the record and we'll have it marked, but I will
6 not allow that.

7 MS. WEISS: Okay.

8 (WHEREUPON, State's Exhibit Number 655, newspaper
9 article, was marked for identification only.)

10 MR. BANK: And, Judge, just another housekeeping matter.
11 We've marked and I've showed Mr. Redmond Court's Exhibit 4.
12 When our first witness had testified via WebEx, it was a
13 Thursday. It was Dr. Layton. He was the radiologist that
14 talked about the x-ray of the fracture of Mr. Harrington's
15 hand.

16 Going back through our own transcripts, we realized that
17 he wasn't actually sworn in, and so we had him complete an
18 affidavit saying that he testified, he was not sworn in, and
19 what he said was true and -- and he -- that he considered it
20 to be under oath.

21 I would enter that as -- or not enter, but introduce that
22 as Court Exhibit 4. I don't believe they have any objection
23 to that affidavit being admitted as a Court's exhibit.

24 MR. REDMOND: That's correct, Your Honor. Out of an
25 abundance of caution, I'll allow it.

1 THE COURT: All right. Very good. It's into evidence.

2 (WHEREUPON, the affidavit was marked and entered as
3 Court's Exhibit Number 4.)

4 MR. BANK: Thank you.

5 THE COURT: We're taking some witnesses out of order, and
6 I -- and is the State ready to proceed with a witness?

7 MR. REDMOND: Yes. The State is ready to proceed with
8 Adrienne Hefney.

9 MS. FREEDMAN: And, Your Honor, just as a matter of law
10 before the witness comes in, we object to her testimony, again
11 under *Phillips*. The objection there is based on Rule 702 and
12 Rule 403, and the sort of core of the objection is simply that
13 the testimony of any DNA expert or any expert proffering
14 scientific testimony must assist the trier of fact.

15 And in this case, that's particularly relevant given the
16 nature of the DNA case file we're talking about. It's
17 voluminous. They tested lots and lots of items. Most of --
18 pretty much all of the evidence that she's going to be
19 testifying about involved mixed samples. So samples from
20 multiple sources of DNA.

21 Almost all of it is YSTR evidence as opposed to autosomal
22 DNA evidence, and that distinction matters because it matters
23 how they calculate the statistics. The number that she
24 actually reports changes based on which kind of DNA testing
25 she did.

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1 H-e-f-n-e-y.

2 THE COURT: Thank you, ma'am.

3 Yes, sir.

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

5 ADRIENNE HEFNEY, being first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. REDMOND:

9 Q: Ms. Hefney, by whom are you employed?

10 A: With the South Carolina Law Enforcement Division, more
11 commonly known as SLED.

12 Q: And how long have you been so employed?

13 A: Since November of 1997. So almost 25 years.

14 Q: And in that time, could you give the Court your
15 educational background, please?

16 A: Yes, sir. I have a bachelor of science degree in biology
17 from the University of South Carolina. I also have a master's
18 of business administration from Olympic University. I was
19 trained on the job by a court-qualified analyst, but since
20 joining SLED, I have also taken postgraduate courses in the
21 field of compilation, statistics, molecular biology, as well
22 as compilation genetics.

23 Q: And when it comes to your experience, has your experience
24 been entirely at SLED working with DNA?

25 A: Yes, sir.

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1 Q: Okay. And any training and certifications what you think
2 would be important for the judge to know, could you tell us
3 that at this time?

4 A: Yes, sir. Again, I was trained on the job by court-
5 qualified analysts. I am also FBI DAB, which stands for DNA
6 Advisory Board quality assurance auditor. So with that, I go
7 to different labs throughout the nation and audit them. We do
8 that about once every four years. We travel to the other labs
9 and audit them, but we're audited every year by those
10 standards.

11 Q: Okay. And how many times would you say you've qualified
12 as an expert in the field of DNA analysis?

13 A: This is about the 94th or 95th time.

14 MR. REDMOND: Your Honor, at this time, I would move Ms.
15 Hefney be qualified as an expert in the field of DNA analysis.

16 THE COURT: Any query with regard to her qualifications?

17 MS. FREEDMAN: No, Your Honor. No objection.

18 THE COURT: She is indeed so qualified.

19 BY MR. REDMOND:

20 Q: Now, let's talk about the process briefly. I think we
21 usually do this. We're not going to get too extensive into
22 it, at least we're not at this point, but could you give the
23 Court some idea as to the process that you use in doing your
24 analysis, specifically in a case such as this back in 2017?

25 A: Yes, sir. So as a DNA analyst, I analyze unknown items,

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1 which are evidence items left at a crime scene, and I can make
2 comparisons to known items. The known items can be blood from
3 your veins or swabs from the inside of your cheek, known as
4 buccal swabs.

5 And in doing so, I first look at the evidence. We will
6 determine what type of body fluid we're working with. That's
7 known as serology testing. And after that, once we determine
8 what body fluid we're working with, we'll extract DNA from
9 that body fluid. We add different reagents on there that will
10 release the DNA into a solution. and from there we'll do a
11 quantitation step to see -- well, first a purification step to
12 see and then a quantitation step to see how much DNA that
13 we're working with.

14 From there, we'll attempt to develop a DNA profile, and
15 it's going to be based on that quantitation step so we'll know
16 how much DNA we're working with, whether we may need to
17 concentrate in order to get it to an interpretable DNA profile
18 or we may need to dilute if we have an overabundance of DNA.
19 When we do that, what's the next step is amplification.
20 That's the step to develop the DNA profile.

21 That's where -- because, theoretically, you can have,
22 like, a tiny pinhead-sized piece of DNA, amplify it, which is
23 just like essentially a Xerox copier where just like if you
24 put a piece of paper on a copier, you copy it a million times,
25 it doesn't change what's on the paper. It just makes it so

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1 you can read it as a book then.

2 Same as with DNA. We'll put that in a glorified heat
3 globe. It will heat up and cool down and expand the DNA, and
4 from there we'll place it on an instrument of the CE or
5 capillary electrophoresis that it will separate it out and
6 make it into a DNA profile for us to interpret.

7 Q: And is that -- did you utilize that process in this case,
8 this present case involving Iyana Lowery, Ella Lowery, and
9 JeJauncey Harrington?

10 A: Yes, sir, I did. Also with this, once we have developed
11 a DNA profile, we're going to do an interpretation of it, if
12 we develop an interpretable DNA profile, and always we'll
13 apply a statistic to it, if we can. The difference between
14 what we do now in 2023 versus what we did in 2017 is the
15 interpretation. It's not really interpretation of it, but how
16 we apply the statistics to it.

17 Now, we're able to interpret much more complex and low-
18 level mixtures than we were back then. So a lot of time
19 you'll see on my DNA report that it will say due to the
20 inability to calculate a statistic, no further analysis will
21 be offered, whereas now we're able to interpret those
22 profiles.

23 Q: And if I could ask you to step -- I mean, not to step,
24 but lean forward, the defense has indicated that they've have
25 some trouble hearing.

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1 A: I don't know if it's on.

2 Q: It's not on? Okay.

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

4 (WHEREUPON, there was a pause in the proceedings to
5 adjust the microphone, after which the proceedings
6 resumed as follows.)

7 BY MR. REDMOND:

8 Q: Now, let me ask you about in general I guess SLED's
9 certification as a lab. Could you explain that process to
10 establish? We know your credentials, but obviously, also talk
11 about the SLED lab, I guess the certification processes for
12 the SLED lab?

13 A: Yes, sir. So SLED is certified by ANAB interpretation as
14 to ISO 17025 certification. That is at SLED forensics as a
15 whole. The SLED agency as a whole is certified by CALEA,
16 which is the -- what's law enforcement agencies.

17 So you have the big umbrella, which is CALEA for the law
18 enforcement agency, and then you have the lab that's certified
19 under ANAB guidelines, and then the DNA lab is also certified
20 under the FBI DNA Advisory Board QAS guidelines, which is
21 quality assurance standards. I'm sorry.

22 Q: Gotcha. And now let's talk about quality control/peer
23 review, and if I'm misstating that, I apologize.

24 A: Uh-huh.

25 Q: But when it comes to any samples that you test, are you

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1 the only eyes that review your report? Explain that process
2 of peer review before the issuance of the final report.

3 A: Reports that we issue are pretty much reviewed about
4 three times before it goes out the door. So I'll do the
5 initial review when I'm interpreting my data and writing up
6 the report. Then it goes to a peer reviewer. The peer
7 reviewer will review all the data, review my conclusions to
8 see if they agree with them. If they don't, we'll go through
9 and we'll talk about it and come up with the way that we both
10 feel like it should be reported. And then after that, it's
11 also reviewed by a supervisory review, known as the
12 administrative review. So those three reviews are done before
13 a case ever gets out of the door or a report is released.

14 Q: Okay. Now, when it comes to, I guess, reviewing work --
15 and you had mentioned something about going to the different
16 labs and stuff. How easy is it for you to review someone
17 else's lab report? Like, let's say if I gave you a lab report
18 from a different lab?

19 A: Uh-huh.

20 Q: You had talked about going to different labs. How easy
21 or difficult is it for you to actually do an analysis of that?

22 A: Well, you have to look at their protocols because every
23 lab will have their own set of operating procedures or
24 standard operating procedures or protocols, and that is based
25 on the validation that occurs in that lab. So each lab has

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1 their own internal validation. When they're putting new kits
2 online and new instruments online, they have to do a
3 validation for that, and it's based on the environmental
4 conditions in that lab.

5 So I couldn't take SLED's protocols, SLED DNA protocol,
6 and apply it to the lab I audit if it was a Virginia lab and
7 make that work. You have to look at Virginia's protocol and
8 make sure that they're following their protocol in order to --
9 when I audit them.

10 Q: Now, let's move on to -- and thank you for that -- that
11 clarification.

12 A: Uh-huh.

13 Q: Let's move on to a sample you received, I guess, from
14 Roshani Parikh, and I apologize if I'm mispronouncing that.
15 And I believe you would have received it back in 2017, in May
16 of 2017. Did you -- well, let me just ask you in general as
17 it relates to this case, were you the case analyst assigned to
18 this case?

19 A: Yes, sir, I was.

20 Q: And as such, when the call came in regarding samples,
21 were you the person that those samples would be delivered to
22 ultimately?

23 A: That is correct.

24 Q: All right. Now, let's talk -- and I'm going to show you
25 what's already in evidence as State's 577.

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1 MR. REDMOND: If I may approach the witness?

2 BY MR. REDMOND:

3 Q: And do you recall receiving, I think on the 10th of May,
4 a sample of -- a 2005 blood sample of JeJauncey Harrington
5 from Agent Parikh?

6 A: I do remember that.

7 Q: Okay. And once you received that -- and again, I guess
8 I'm skipping ahead, but once you received that, State's
9 Exhibit 24, which is already in evidence, that being a
10 cigarette butt, did you I guess -- let me back up. Were you
11 able to get a profile of State's Exhibit 24, that being the
12 cigarette butt that was submitted to you?

13 A: Yes.

14 MS. FREEDMAN: Your Honor, we object, both for the
15 reasons that have already been preserved I think on this
16 record as it relates to that 2005 standard, but I think we
17 also have a matter of law.

18 THE COURT: All right. I'm going ask if you could return
19 back to the witness room, and we will be with you shortly.

20 THE WITNESS: Okay.

21 (WHEREUPON, the witness exited the courtroom.)

22 THE COURT: Yes, ma'am.

23 MS. FREEDMAN: So our objection comes both for the reason
24 we've already established under the Fourth Amendment and the
25 -- the unlawful retention of that 2005 blood standard, but our

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1 objection is also as a matter of confrontation clause pursuant
2 to *Melendez-Diaz*.

3 *Melendez-Diaz* establishes that a witness who, quote,
4 bears testimony against a defendant and who offers a
5 testimonial statement, that that witness must be called in
6 person to testify. And in this case, that would be I think
7 the analyst who actually conducted the studies on the 2005
8 blood standard.

9 The only reason that they knew that the 2005 blood
10 standard had any relevance in this case was because they got
11 someone, I presume Agent Hefney, to compare it in the CODIS
12 system. So our position is that any testimony that's based on
13 that comparison between the 2005 standard and evidence found
14 in this case would require testimony from the analyst who
15 actually performed the initial analysis on the 2005 blood
16 standard.

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

18 MR. REDMOND: Actually, Ms. Freedman, with all due
19 respect, is misspeaking what actually transpired. This was
20 not a CODIS hit situation. As Your Honor knows and I'm sure
21 has experienced, if it was a CODIS hit, then the next step
22 would have been to get a sample to -- a new sample through the
23 *Schmerber* order, search warrant, however, and then submit that
24 standard.

25 So this was not a CODIS hit. This was a -- this was law

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1 enforcement, as they've already testified to, as the
2 investigation proceeded, there was a profile. So they then,
3 based on information they had obtained -- keep in mind what
4 had transpired and how the defendant's name came up. Then the
5 blood sample was then submitted back to SLED. That's what I'm
6 getting into now.

7 So this was not a CODIS hit situation, and I think that
8 is a distinction that -- with a difference in this situation
9 as it relates to the defense's objection. So I don't think
10 there's anything objectionable. There's no confrontation
11 clause issue.

12 THE COURT: Am I correct in saying that there was
13 previous DNA that was obtained and, because of that, you think
14 that that person that analyzed that DNA should be here to
15 testify?

16 MS. FREEDMAN: That's correct, Your Honor.

17 THE COURT: But he's saying that that sample was never
18 tested; is that correct?

19 MR. REDMOND: No.

20 THE COURT: There was the sample that y'all got through
21 the *Schmerber* order?

22 MR. REDMOND: I'm saying that it doesn't matter as it
23 relates to the 2005, whether it was tested or not, because we
24 were not going on what was done in 2005. The only thing from
25 2005 that was involved is resubmitting the sample because if

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1 -- again, if this was a CODIS situation, we wouldn't have
2 needed to resubmit the 2005 sample. The protocol would've
3 been to get a new sample, which we, of course, ended up doing
4 anyway.

5 So this was not a CODIS situation. So this is not a
6 confrontation clause issue. Again, we're not relying on any
7 testing that was done back in 2005. We're just talking about
8 the sample that was obtained in 2005 that was submitted and
9 was tested in 2017 by Ms. Hefney, as she will testify to.

10 MS. FREEDMAN: Well, Your Honor, I think that just --
11 with all due respect, that's just not accurate. I think what
12 we've heard is that Mr. Harrington's name kind of came up
13 early in the investigation, and the first thing they did was
14 call the SLED lab and they got someone -- I'm not sure who,
15 but someone said you're on the right track.

16 And that's when they went and, you know, wanted to see if
17 Mr. Harrington's DNA was consistent with anything found at the
18 crime scene, and that actually formed the basis for a bunch of
19 warrants that came before Mr. Harrington's arrest. So our
20 position is that the stuff that happened in 2005 leading up to
21 the 2017 --

22 THE COURT: Not that it -- not that it was specifically
23 tested, but it sort of gave probable -- they maintain it gives
24 probable cause to obtain a new sample from Mr. Harrington?

25 MS. FREEDMAN: Precisely, Your Honor, yes, and that --

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1 all of that contains a confrontation issue because of all of
2 the reports that were prepared in 2005, that became the basis
3 for the probable cause for the warrants that followed after
4 they compared Mr. Harrington's DNA to the cigarette butt that
5 was found at the crime scene, and that that itself contains a
6 confrontation issue.

7 MR. REDMOND: Well, using that logic, let's make it
8 analogous to his CODIS hit. In that situation, there's no
9 requirement that the person that did it back when it -- if it
10 was a CODIS hit, the analyst that did the testing where it was
11 submitted in CODIS is not required. That's why we have
12 another test done. So it's -- either way, Your Honor, I
13 submit there's no confrontation clause issue because, using
14 the defense logic, then it's analogous to CODIS.

15 THE COURT: So what you're saying is that it's improper
16 for you to consider the 2005 sample in determining probable
17 cause?

18 MR. REDMOND: Well, again, that goes to CODIS. That's
19 directly analogous to CODIS in that, using that logic. So if
20 it -- and we obviously are entitled to use CODIS in
21 consideration, again, supplementing that per court orders,
22 which we did in this case.

23 MS. FREEDMAN: And, Your Honor, if I may, so the sample
24 in this case wasn't -- we're not actually talking about CODIS.
25 Right? So it wasn't -- the sample itself, our position is it

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1 should've been destroyed, but I think beyond that, I'm not
2 exactly --

3 THE COURT: Why should it have been destroyed?

4 MR. FREEDMAN: Well, I think because Mr. Harrington was
5 acquitted, and they had no sort of basis to retain the
6 evidence.

7 THE COURT: What is the law with regard to that? If it's
8 ever in the system absent some order to the contrary, doesn't
9 it remain in the system?

10 MS. FREEDMAN: And I think that -- Mr. Young I think has
11 been sort of the person to maintain the objection on that
12 basis, and so I would defer to his argument on this point.

13 But with respect to the confrontation clause issue, I
14 think the case law from the United States Supreme Court has
15 been incredibly clear that any kind of forensic report at all
16 that's prepared in anticipation of a criminal proceeding --
17 which is exactly what they did in 2005. Why else analyze the
18 DNA if not to try and use it in a court of law to convict Mr.
19 Harrington?

20 Any kind of report like that does create a confrontation
21 issue, and so our view is that that initial production of the
22 report formed kind of the basis for their investigation into
23 Mr. Harrington's involvement in this case allegedly, and so
24 that initial analyst who did that 2005 DNA testing ought to be
25 produced to testify to what she did.

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1 And then on the -- on the question of the destruction, I
2 would defer to Mr. Young.

3 MR. YOUNG: Your Honor, I think we've -- we've made a
4 pretty complete record on the statute and the required
5 destruction of evidence, identifying evidence, fingerprint
6 cards, booking photos, blood standards or known DNA standards
7 that were taken for the purposes of identification of applying
8 in a court of law by statute is supposed to be destroyed.
9 They weren't.

10 In this case, that 2005 sample was the probable cause
11 that was used by the State in order to get the *Schmerber* order
12 for a new standard, and we've objected and maintained our
13 objection on those grounds.

14 MR. REDMOND: And Your Honor has actually already ruled
15 on that issue.

16 MR. YOUNG: Your Honor?

17 MR. REDMOND: As a matter of fact, we've -- I think we've
18 discussed that ad nauseum. And so I would rely on what -- and
19 to be quite frank, that was something that Ms. Weiss actually
20 argued. And so if there needs to be a relitigation of that, I
21 would yield to Ms. Weiss, but I would submit that the Court
22 has already ruled on that issue, again, previously and, as Mr.
23 Young has said, I think their objections have been maintained
24 throughout and protected.

25 And as it relates to Ms. Freedman's point -- and I would

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1 just go back to what I had said previously, Your Honor, is
2 that, again talking about CODIS, we don't have to supply the
3 person that did the testing. Here, what we did is after
4 getting the initial 2017 --

5 THE COURT: What do you have to say about the -- I don't
6 really know the logistics of destroying fingerprints and DNA.
7 What is the practice of law enforcement in that regard? How
8 does it get done?

9 MR. REDMOND: When you say destroying --

10 THE COURT: Well, if they are acquitted, is there an
11 automatic destroying of the fingerprints and DNA?

12 MR. REDMOND: My understanding is there is not and,
13 again, I'd have to yield to Ms. Weiss. She actually --
14 they've researched this, and that was part of what she
15 handled. So I would yield to Ms. Weiss on that issue.

16 THE COURT: All right.

17 MS. WEISS: Your Honor, I'd feel better if I had my
18 memorandum with me that's sitting in the back that I prepared
19 for the Court because it does have the specific laws, but
20 basically information can be kept for investigation purposes
21 as long as law enforcement wants to. It's a matter of what
22 can be provided out. It does not have to be automatically
23 destroyed.

24 There was a change in the law that said that if an
25 expungement was filed, it would have to be destroyed. An

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1 expungement was not filed in this case, and then the law
2 changed after that to say that law enforcement could hold on
3 to it indefinitely.

4 It is SLED's practice to hold onto all of their DNA
5 analyses going all the way back in time. They go back to when
6 the DNA lab first started analyzing DNA. It is kept in there
7 as a matter of practice.

8 And in this case in particular, when the name was given
9 to the analyst, she was able to look back in the file that had
10 the name. She was not able to say this is a match, not a
11 match, whatever. She just said you're on the right track, but
12 I'm going to need an actual sample, a known sample, to be able
13 to tell you anything more, and it stopped there and they were
14 able to get the known sample.

15 So the sheriff in Marlboro County at the time did not
16 believe in destroying any evidence, and that was -- we had
17 that information. All the evidence was maintained, and the
18 2005 case had been maintained in the storage room. Sandy
19 Wilkes was able to recover that, and they were able to get the
20 sample out and give it to SLED.

21 Beyond that, that was used -- that was then used to
22 compare to the cigarette butt, but simultaneously in Charlotte
23 the arrest was happening and the buccal swab. So it wasn't
24 the probable cause for the arrest. It actually was two
25 different things happening simultaneously.

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1 MR. REDMOND: And just to be clear --

2 THE COURT: Is there a case in South Carolina that deals
3 with the issue of destroying fingerprints and -- and DNA?

4 MS. WEISS: Yes, Your Honor. So -- and I'm just going to
5 -- I'm going to read from my memo before, but 17-1-40 has a
6 narrow scope. It does not require the destruction of all
7 information and evidence pertaining to the circumstances of an
8 arrest, but only requires a destruction of the arrest and
9 booking records, files, mug shots, and fingerprints, and
10 that's *Vaughn Sr. v. the State*.

11 Then the scope of this section only applies to evidence
12 of the charge itself. *Compton v. Department of Corrections*.
13 It's permissible to use the evidence from the underlying
14 arrest as the basis for indictment on a different charge.
15 That's also from *Vaughn Sr. v. State -- v. The State*. So --

16 THE COURT: Well, I know that I've already ruled on it,
17 but I kind of want to revisit it. How many motions have we
18 had in this case?

19 MR. YOUNG: I don't know.

20 MR. REDMOND: Dozens.

21 MR. YOUNG: I think 84.

22 MR. REDMOND: Like I say, dozens.

23 THE COURT: This was one of the 84, and I -- and that
24 refreshes my recollection and I'll stand by my ruling in that
25 regard, but y'all are protected very well on the record.

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1 MR. YOUNG: Thank you, Your Honor.

2 MR. REDMOND: Thank you, Your Honor.

3 MS. FREEDMAN: And, Judge, just for the sake of making
4 sure that the record is abundantly clear, we also just need a
5 ruling on the confrontation question, and as a part of that, I
6 think my understanding when we last looked at the 2005 blood
7 standard that has been introduced into evidence, there
8 actually wasn't anything in the envelope, and so, you know, I
9 think that kind of goes to what we're saying.

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

11 MS. FREEDMAN: I'd just like to --

12 MR. REDMOND: Let's see. I beg the Court's indulgence.
13 Let's see what it is. 199.

14 THE COURT: And specifically, why is that not a violation
15 of the confrontation clause?

16 MS. FREEDMAN: And, Your Honor, I think based on the fact
17 that the standard doesn't appear to be in here, I know we had
18 agreed not to kind of have a dispute about chain issues, but I
19 think this kind of creates a custody issue for us, a chain of
20 custody issue.

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

22 THE COURT: But that isn't what was actually tested, was
23 it?

24 MR. FREEDMAN: Yes, sir.

25 MR. REDMOND: This was tested initially, but the test

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1 that we actually are relying on was the court-ordered buccal
2 swab. That's why we went back and got Judge Henderson to do
3 the court-ordered swab. So, quite frankly, I was going to
4 address it sort of as an aside, but I'm not -- when it gets
5 into brass tacks for the report's purposes, we're relying on
6 --

7 THE COURT: The problem is what's being presented here,
8 do they have the ability to test that?

9 MR. REDMOND: Yes.

10 THE COURT: I mean produce that.

11 MR. REDMOND: What's being presented here --

12 THE COURT: But his 2005 swab you say is no longer there?

13 MR. REDMOND: That's the one that the envelope is here,
14 but there's nothing in here.

15 MS. FREEDMAN: And, Your Honor, I think that's not just
16 the swab. I think it's also -- if I'm not mistaken, is that
17 also the blood standard?

18 MR. REDMOND: Let's see.

19 THE COURT: Whatever it is, the --

20 MS. FREEDMAN: It's missing.

21 THE COURT: -- information from 2005 has not been
22 provided?

23 MR. REDMOND: That would be -- as an officer of the
24 Court, I cannot -- without having opened it, I'll just say I
25 do not feel anything that feels like a blood standard in here.

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1 THE COURT: All right.

2 MR. REDMOND: And again, I can't say that without --
3 without actually opening it up. And when we say blood
4 standard, for all I know that could be a swab. I don't know
5 what it would constitute.

6 MS. WEISS: Your Honor?

7 THE COURT: Mr. Redmond, why is that not a violation of
8 the confrontation clause?

9 MR. REDMOND: As it relates to --

10 THE COURT: Yes. That issue.

11 MR. REDMOND: -- this particular issue?

12 THE COURT: And the missing swabs from 2005.

13 MR. REDMOND: Well, again, we are just using that for --
14 to move -- in other words, we are moving -- as it relates to
15 the results we got, those are based on the court order that
16 was done by Judge -- by Judge Henderson. So, again, I go back
17 to this is akin to a CODIS situation.

18 To be perfectly honest with you, I was not going to get
19 into any details in the report. It's not -- you know, I'm not
20 going to get into any details of the 2005 findings, other than
21 to say that once she got that, she -- she was able to do
22 testing on it and then from that, she was subsequently
23 submitted other items. So I'm not going to get into any
24 specifics on the 2005 anyway because, quite frankly, I've got
25 enough to try to navigate through on that. So --

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1 THE COURT: All right. You're protected on the record,
2 and I'm ruling that under these very unusual set of
3 circumstances it's not a violation of the confrontation clause
4 violation.

5 MR. REDMOND: Thank you, Your Honor.

6 THE COURT: You're protected on the record.

7 MS. FREEDMAN: Thank you, Judge.

8 MR. REDMOND: Your Honor, can the witness return?

9 THE COURT: Yes.

10 (WHEREUPON, the witness entered the courtroom and
11 returned to the witness stand.)

12 THE COURT: Yes, ma'am. You can have a seat. Thank you.

13 THE WITNESS: Okay.

14 THE COURT: We were taking up matters of law that didn't
15 really affect you.

16 THE WITNESS: Okay.

17 THE COURT: Very good.

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

19 THE COURT: Yes.

20 BY MR. REDMOND:

21 Q: Now, just as a -- to pick up where we left off, you
22 received a 2005 sample from Roshani Parikh back in May of
23 2017?

24 A: That's correct.

25 MS. FREEDMAN: Objection, Your Honor. Leading.

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1 MR. REDMOND: It is leading. I'll rephrase.

2 BY MR. REDMOND:

3 Q: Did you receive a package in May of 2017, and could you
4 tell us who you received it from?

5 A: Okay. Let me go to that page in my case file. So I
6 received what's known as SLED Item 50 from L05-3818 from
7 Roshani Parikh on May 10th, 2017.

8 Q: Now --

9 A: And I'm sorry. That was a blood standard from JeJauncey
10 Harrington.

11 Q: Okay. Now, with -- and since it's in evidence and
12 possibly to my own detriment, can I approach with what's been
13 marked as State's Exhibit 199? And again -- and I'm not going
14 to ask for any results on that, but is that what you received?
15 Is that the packet that you received?

16 A: Yes, sir. And it has my initials and the date on there.

17 Q: Okay. Now, the blood standard itself, what would have
18 occurred as it relates to the blood standard? Is -- I guess
19 what form would that have been, if you can recall on that
20 exhibit?

21 A: What form?

22 Q: Yeah. In other words, is there -- is there -- are there
23 any items that are missing in there? Because, quite frankly,
24 I didn't know whether it was a card, what the blood standard
25 would have actually been.

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1 A: Okay. Usually, it's just a -- this is where they take
2 the label off of a tube of blood. Usually back then, we dried
3 it onto a piece of cloth or a piece of what's known as
4 Blockman paper. It's just a paper that preserves the
5 standard, and we can use it for years to come. It's just
6 preservation of it.

7 Q: Okay. So in other words, just to be clear, is there a
8 preservation in that envelope? Would that have been the
9 process?

10 A: Yes, sir. I can feel something in this envelope. So
11 this would be the blood standard that's inside of the coin
12 envelope.

13 Q: Thank you. I just wanted to clear that up. So -- and
14 again, did you conduct an analysis on State's Exhibit 199?

15 A: Yes, sir. I was able to develop a DNA profile from that.

16 Q: Okay. And so with that -- and I'll move on. With that,
17 were you submitted several other items to be able to do DNA
18 testing with?

19 A: Yes, sir. I had several evidence items --

20 Q: Okay.

21 A: -- that I was also submitted.

22 Q: And let's go through that because this might be a little
23 bit laborious and I apologize, but let me start by just asking
24 you what's already in evidence as -- let's see.

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

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1 BY MR. REDMOND:

2 Q: All right. I'll show you what's been marked as for the
3 record State's Exhibit 80, State's Exhibit 89, State's Exhibit
4 169, and State's Exhibit 198.

5 MR. REDMOND: If I may approach the witness, Your Honor?

6 THE COURT: You may.

7 BY MR. REDMOND:

8 Q: Now, just so you know, State's Exhibit 80 is actually
9 within this. So I'll just get you to pull that out.

10 A: Okay.

11 Q: And again, I apologize in advance. This is -- to go
12 through this is going to be somewhat laborious, but it is
13 necessary.

14 A: Okay.

15 Q: And so if you could open what's in the envelope, I think
16 34.1 is going to be State's Exhibit 80, and could you tell the
17 Court what that is?

18 A: Okay. State's Exhibit 80 is labeled blood spot card
19 34.1.

20 Q: Okay. And is that what you used in doing your analysis
21 on several items that were submitted?

22 A: Yes, sir. Item 34.1 is a blood spot card from Ella
23 Lowery.

24 Q: Ella Lowery? Okay. Thank you.

25 A: So this is what I would have used as her known standard

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1 for comparisons to any evidence that was collected at the
2 crime scene.

3 Q: And you can put that -- everything back else -- else back
4 in that folder.

5 A: Okay.

6 Q: And then the next exhibit, I think that might be Exhibit
7 89. I'm sorry. Once you get that put back in -- and I can
8 take that from you. State's Exhibit 89. Could you tell His
9 Honor what that is?

10 A: Yes. This is one buccal swab from Dwayne Bright, again
11 another known standard.

12 Q: And the next exhibit I think should be a picture of
13 State's 110 -- not 110, State's 169. I'm sorry.

14 A: Okay. So this is State's Exhibit 169, and it's a picture
15 of our Item 110, which is labeled as a DNA alternate known
16 standard, and I do see my initials and date over here. And
17 that would be from -- these were buccal swabs from body found
18 in Gum Swamp Creek.

19 Q: And finally, State's 90 -- excuse me, State's 198?

20 A: State's 198 is our lab number Item Number 149, and this
21 would be a buccal swab from JeJauncey Harrington.

22 Q: And those are already --

23 A: And his name is right there.

24 Q: All right. Thank you. Now -- and again, there were
25 other standards, but those are the ones, of course, that we

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1 are going to be highlighting. And let's move on to several
2 other items that you had the opportunity to look -- to look
3 at.

4 MR. REDMOND: First -- and again, indulge me. I'm going
5 to start at State's 40 and corresponding exhibits, if I may
6 approach the witness.

7 BY MR. REDMOND:

8 Q: If you could tell us what State's 40 is? I don't need
9 you to take out what's in State's 40, but if you could look at
10 State's 40? Again, State's 40 is already in evidence.

11 A: State's 40 is labeled one Arizona Jean Company blue T-
12 shirt from a kitchen floor, and it's suspected to be a child's
13 shirt.

14 Q: Okay. Now, could you -- and these are individually
15 labeled, and so I'll take them out. I think they have already
16 been labeled. They have. So if you could just -- State's 41
17 through 43?

18 A: Okay. These are individual cuttings that were taken from
19 that blue shirt. And if you'll notice here, like on this one,
20 it'll say the type of request was blood request from the back
21 of a blue T-shirt. So there was a cutting from there. That's
22 14.1.

23 14.2 also labeled for blood as the request. A cutting
24 from the front stomach area of the blue T-shirt.

25 And then 14.3, blood cutting from the collar of the blue

1 T-shirt.

2 Q: Okay. Thank you. I'll take those. And let me hand you
3 these particular exhibits, I guess starting with --

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

5 BY MR. REDMOND:

6 Q: Starting with 110.

7 A: Okay.

8 Q: If you could just tell His Honor what those are?

9 A: Yes. This is -- this is State's Exhibit 110. It's Item
10 52.1 in this case, and we're looking for any DNA on there, and
11 it's shoes that were swabbed.

12 Q: And who do those shoes -- who does it indicate the shoes
13 belong to?

14 A: These were -- this particular item was from the bottom
15 right portion of exterior of shoes belonging to Dwayne Bright.

16 Q: Okay. And Exhibit 111?

17 A: Okay. This is 111. It's 52.2. So it will be another
18 swab from the shoes belonging to Dwayne Bright. And this was
19 particularly from the interior of shoes.

20 State's Exhibit 112, 52.3. Now, there was blood on this
21 one, another swab from the shoes of Dwayne Bright. This one
22 was coming from the inner side of the left shoe.

23 This is 52.4, State's Exhibit 113, another swab from
24 Dwayne Bright's shoes, and this was coming from the outer side
25 of left shoe, and it was also positive for blood, a

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1 presumptive test positive for blood.

2 And Item 52.5 also presumptive tested positive for blood,
3 as you see blood checked there. The swab on this one is shoe,
4 the outer right. The outer side of right shoe belonging to
5 Dwayne Bright.

6 Q: Now, let me -- I'm going to give you what has been marked
7 as State's 124, and if you could tell His Honor what is
8 State's 124?

9 A: This is Item 64.1. It's a cutting from a T-shirt with
10 blood. All right. 64.1 is a cutting from T-shirt belonging
11 to Dwayne Bright, and it also checked for blood.

12 Q: I actually forgot to hand you this one. This is State's
13 75. That's another standard or a sample that was used to get
14 a standard. Could you look at that and tell His Honor?
15 State's 75 is in evidence, but if you can look and tell His
16 Honor what that is?

17 A: Yes. Your Honor, this is an alternate known standard
18 from Iyana Lowery. It's a toothbrush, and so when I got the
19 toothbrush, I swabbed the head of the toothbrush to get her
20 DNA from it to use as a known comparison because this came in
21 before her body was found.

22 Q: And let me hand you State's 159 and 161, if you can tell
23 His Honor what those are?

24 A: Okay. This is State's Exhibit 159. It's Item 104.1.1.
25 It's turned backwards, so I can't tell what's in the envelope.

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1 Okay. These are -- this is a swab in here from the entire
2 exterior of a glove. That's 159. This is --

3 Q: 161?

4 A: -- 161, and it's labeled. Let me just open that up. All
5 right. These are swabs from Item 107, which were swabs from
6 serrated grip. Let me read it. I can't read this writing.
7 These were from one of our crime scene agents. It says swabs
8 from folding knife on it.

9 And then this one is swabs from Item 106. 106 was swabs
10 from a pocketknife. Both of these came from or were collected
11 by crime scene.

12 MR. REDMOND: And may I approach with State's 31?

13 BY MR. REDMOND:

14 Q: Could you tell us what State's 31 is?

15 A: This is two swabs from the exterior side carport side
16 door living room knob. So I have this listed as -- let's see
17 -- Item 8, and I have it as swabs from exterior side carport
18 doorknob area.

19 MR. REDMOND: And State's 31 is already in evidence, Your
20 Honor.

21 BY MR. REDMOND:

22 Q: State's 33. Let me hand you State's 33, and explain
23 State's 33 and how you utilized State's 33?

24 A: Okay. This is Item 10, and they're described on the
25 pouch as DNA fingernail clippings. And so Item 10, so these

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1 were the left and right fingernail clippings of Ella Lowery.

2 Q: And -- and thank you.

3 A: Uh-huh.

4 Q: I'll show you State's --

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

6 BY MR. REDMOND:

7 Q: Could you give us the item number and I'll actually give
8 -- I didn't -- these are labeled on the envelope. They're not
9 labeled individually, but as you go along, I can give the
10 Court the actual exhibit number.

11 A: Okay.

12 Q: Just let us know which one you're reading, and then I'll
13 give the exhibit number.

14 A: Let me put them in order.

15 MR. REDMOND: Your Honor, these actually are already in
16 evidence, but just to be able to refer to them.

17 BY MR. REDMOND:

18 A: Okay. This is labeled Item 79, and I'll read it from my
19 report.

20 MR. REDMOND: 131, Your Honor, Exhibit 131.

21 BY MR. REDMOND:

22 Q: As a matter of fact, just to make it easier, here you can
23 put the stickers on the right here as we get them.

24 A: Do you want me to put it back here?

25 Q: And you can just put them back in the bag.

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1 A: For State's Exhibit 131, Item 79 is swabs from the
2 exterior top trunk spoiler of an Eclipse.

3 Q: Okay. And that was -- that's Exhibit -- that's --

4 A: Item 79, Exhibit 131.

5 Q: Okay.

6 A: And so this one is Item 81, which were swabs from
7 interior glass of trunk hatch of Eclipse.

8 Q: That would be 132.

9 A: Okay. Item 82, this is the swab from interior trunk
10 panel on hatch of Eclipse.

11 Q: And that --

12 A: And that will be labeled 133.

13 Q: That's correct.

14 A: Item 83, this is swabs from the interior side panel in
15 trunk on driver's side of Eclipse, and this is, again, Item 83
16 and it will be State's Exhibit 134.

17 Q: That's correct.

18 A: And the last one, this is labeled Item 84, and this is
19 swabs from the interior side panel in trunk on passenger side
20 of Eclipse, and it will be State's Exhibit 135.

21 Q: And I'm going to approach with State's 136, 137, and 138,
22 and the same thing I'm going to need you to do. Just state
23 which exhibit you're referring to and then we'll attach the --
24 which item you're referring to and we'll attach the exhibit
25 number.

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1 MS. FREEDMAN: And, Your Honor, I think just for -- this
2 isn't so much an objection. It's just a point of
3 clarification. I'm not actually -- I think we might be a
4 little confused about what is and isn't already in evidence.

5 MR. REDMOND: Well, I'm going to actually cover that
6 because I know some things aren't in evidence. So I'm going
7 to have to go through and put them in evidence.

8 MS. FREEDMAN: Okay. But just to be clear, the stuff
9 that he's saying is in evidence right now is not all in.

10 MR. REDMOND: Okay.

11 MS. FREEDMAN: We don't have an objection on it, but
12 custody issues. So --

13 MR. REDMOND: Okay. I'm going to -- and I'll cover each
14 individual just to be on the safe side though.

15 MS. FREEDMAN: Okay. Thank you.

16 MR. REDMOND: I appreciate it.

17 THE COURT: And you'll do that with regard to this
18 witness and at the conclusion of the case, we need to go
19 through. There's so many items of evidence. We need to go
20 through and there needs to be an immediate advise of what's
21 into evidence and what isn't. We'll do it that way.

22 MS. FREEDMAN: Thank you.

23 MR. REDMOND: Yes, sir.

24 BY MR. REDMOND:

25 Q: Please continue, Ms. Hefney.

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1 A: These are SLED Item Numbers 85, 86, and 87. 85 is a swab
2 from interior metal floor of passenger compartment of the
3 Eclipse. And so it will be marked with State's Exhibit 136.
4 Maybe. Okay.

5 All right. The next item is SLED Item Number 86, and
6 this is swabs from lock mechanism on the interior of the trunk
7 latch of Eclipse, and it will be marked as State's Exhibit
8 137.

9 And the last one in this set is Item 87. It's swabs from
10 the metal bottom of trunk of the Eclipse.

11 Now, these were all the swabs collected by our crime
12 scene, and they are also marked I noted on here Blue Star
13 positive results. We did a presumptive testing using Blue
14 Star.

15 Q: Okay. And lastly, mercifully, is State's 654, I believe.

16 A: Okay. These are my DNA extracts. So these are all items
17 that I did in the case all in this little pouch here, and it's
18 marked State's Exhibit -- I think 654?

19 Q: 654.

20 A: Okay.

21 Q: That's not a typo.

22 A: Okay.

23 MR. REDMOND: All right. At this time, Your Honor, I
24 would move -- and indulge me, and if I miss something, please
25 correct me. Indulge me. I would move State's -- and some of

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1 these may already -- I might be duplicative, but just to be on
2 the safe side.

3 THE COURT: Let's do a comprehensive list, if you would.

4 MR. REDMOND: Yes, sir. And State's 80, State's 89,
5 State's 164 [sic], State's 198, and State's 199 we would move
6 into evidence. Then moving over to State's 109, State's 110,
7 State's 111, State's 112, State's 113, State's 114, State's
8 124, State's 159, State's 161, and then moving on to State's
9 40, State's 41, State's 42, State's 43, State's 24, State's
10 31, State's 33, State's 133, 134, 135, 136, 137, 138, and
11 finally 654 we would move into evidence at this time.

12 THE COURT: Any objection?

13 MS. FREEDMAN: Subject to our previous objections, I
14 don't -- I think I just want to be clear on the record. I
15 think that I have in my notes at least that State's 164 is an
16 item that the Court has already excluded. I'm not --

17 MR. REDMOND: I'm sorry. Not 164. 169.

18 MS. FREEDMAN: Okay.

19 MR. REDMOND: I wrote it down wrong. I'm sorry.

20 MS. FREEDMAN: I just wanted to make triple sure.

21 MR. REDMOND: You're right.

22 MS. FREEDMAN: Yes. Thank you.

23 MR. REDMOND: And Madam Court Reporter was actually
24 trying to correct me simultaneously. So thanks to the both of
25 you. That's 169. I stand corrected.

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1 THE COURT: All right. Do you want to check your list?
2 It's kind of treacherous territory when you start relying on
3 the defense to --

4 MR. REDMOND: Oh, no, no. Judge, that's the only one. I
5 did. I wrote it down wrong when I was writing. I wrote 164
6 instead of 9. So no, there -- that is -- that is a complete
7 list, Your Honor.

8 THE COURT: All right.

9 (WHEREUPON, the State's Exhibits numbered and described
10 during the testimony of Adrienne Hefney hereinabove, were
11 admitted into evidence.)

12 BY MR. REDMOND:

13 Q: Let me ask you this, Ms. Hefney, and thank you for
14 indulging that process.

15 MR. REDMOND: And thank Your Honor for indulging us
16 during that process.

17 BY MR. REDMOND:

18 Q: Now, if I could approach with State's Exhibit 653?

19 A: Uh-huh.

20 Q: Do you recognize that particular exhibit?

21 A: I do. This is my DNA report, 21 pages of it. My
22 signature is on page 21 of it, and I also have a copy of it
23 here in my binder that I've been referring to.

24 Q: Okay. And does that report reflect -- accurately reflect
25 the testing that you did and the conclusions -- well, and the

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1 results that you reached in your analysis?

2 A: Yes, sir.

3 Q: Okay.

4 MR. REDMOND: And, Your Honor, we would move State's 163
5 -- 653 into evidence at this time.

6 THE COURT: Any objection?

7 MS. FREEDMAN: Yes, Your Honor. I think it's hearsay.
8 It's an out-of-court statement offered for the truth of the
9 matter asserted. Typically, expert reports are not admissible
10 except by consent. I think it's totally permissible for the
11 expert to testify to the information contained in the report.
12 She can testify to the bases for her opinion, but the report
13 itself is not admissible. It's hearsay.

14 THE COURT: And you're right. Typically, people don't
15 object to that.

16 What do you have to say about that?

17 MR. REDMOND: Your Honor, it's not hearsay. It was
18 prepared by Ms. Hefney. So it definitely is not hearsay
19 because she is here talking about it and will be talking about
20 ad nauseum what she did. So that would -- I would lead with
21 that, that it is obviously not hearsay.

22 And it is absolutely admissible because it does have
23 probative value. It helps the finder of fact to be able to
24 navigate what the results are that she's going to explain. As
25 the defense I think even said, this is complex. So she's the

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1 one that prepared the report. She's the one that's going to
2 testified to the report, and the fact finder is entitled to
3 having that to look at through the deliberation process.

4 THE COURT: And I assume she's the one who maintains the
5 record and does it regularly and it's a business records
6 exception as well.

7 MR. REDMOND: Yes, sir.

8 THE COURT: Your objection is noted but overruled, and
9 I'm going to allow you plenty of opportunity and wide latitude
10 to cross-examine the author of it.

11 MS. FREEDMAN: Thanks, Your Honor. If we could just--
12 just to make the record clear, under *Allegro*, a case from the
13 -- I think the state Supreme Court, it says expert reports are
14 not admissible as substantive evidence.

15 THE COURT: May I see that?

16 MS. FREEDMAN: I'm not sure that I have a copy, but I can
17 definitely try and get one. I beg the Court's indulgence just
18 one moment.

19 MR. REDMOND: Yes. If possible, I would love a copy of
20 that too.

21 MS. CRAYTON: Judge, we're going to have to print you a
22 copy.

23 THE COURT: Okay.

24 MS. CRAYTON: It'll take just a few minutes.

25 THE COURT: Well, we've got the luxury of time.

2 THE COURT: And while they're doing that, let me ask you
3 -- the techniques with regard to DNA analysis, has it been
4 tested nationally?

6 THE COURT: And I assume that the techniques that are
7 employed by just general rule are subject to peer review and
8 publication and your specific results are subject to peer
9 review?

11 THE COURT: All right. What is -- what is the potential
12 error rate of DNA analysis?

14 THE COURT: Right.

15 THE WITNESS: But we have controls in place on every test
16 that we run to make sure that error doesn't happen, and we
17 also see it with when we do our reviews and then it's followed
18 by a peer review and followed by supervisory review to kind of
19 curtail that.

20 THE COURT: And SLED in general in your department have
21 employed standards to control the testing of evidence?

22 THE WITNESS: Yes, sir. It's national standard pretty
23 much that control DNA labs and what we do.

24 THE COURT: It's pretty uniform?

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1 THE COURT: The standards?

2 THE WITNESS: Yes, sir. The things that may vary from
3 lab to lab are, you know, other than environmental conditions
4 and their validation, but once the machines are validated and
5 it's online for that laboratory, usually, you know, the
6 instruments may differ. Some -- you know, we do have -- I
7 will say we have, say, our instruments now that we use to
8 develop DNA profiles, and we also have the latest kits now.
9 Kits may vary. There's one vendor that one lab may use and we
10 may use another than that lab, but the result will be the same
11 as far as the DNA.

12 THE COURT: And would you say that the -- that DNA
13 analysis has achieved widespread acceptance within the
14 scientific and law enforcement community?

15 THE WITNESS: Oh, yes, sir. And this -- this one has
16 been on it, what's known as PCR, and I will explain it takes
17 theoretically a pinhead size. This has probably been in place
18 since about 1999 or so, maybe even before then. When I came
19 on at SLED, we were doing the old method RLP. We had to have
20 a big quarter-sized stain to be able to get a DNA profile from
21 it, and then you were looking at them on x-ray film instead of
22 on this electropherogram, which has peaks on it. So yes, sir.
23 I've been there for --

24 THE COURT: And it's -- and it's achieved scientific
25 acceptance?

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1 THE WITNESS: Yes, sir.

2 THE COURT: That one?

3 THE WITNESS: Yes, sir.

4 THE COURT: All right.

5 THE WITNESS: Absolutely.

6 THE COURT: I'm going to ask you, if you could, to
7 explain to me the difference of touch DNA and regular DNA.

8 THE WITNESS: Uh-huh.

9 THE COURT: And how the probative effect -- the probative
10 value of each of those might differ?

11 THE WITNESS: Uh-huh.

12 THE COURT: That's a good question.

13 THE WITNESS: That is a good question.

14 THE COURT: All right. I want you to answer it for me.

15 THE WITNESS: All right. Touch DNA, that is essentially
16 -- and it's become very popular lately. It's essentially when
17 you can leave skin cells behind on an item that you touch or
18 handle. Now, if you simply touch an item, like I'm touching
19 this banister here, and if you come behind me and swab, you
20 may not get my DNA right there because my -- I put lotion on
21 my hands and my hands are pretty moisturized. I didn't rub
22 this banister. I just simply touched it. So if you get any
23 DNA, it would probably be very little.

24 Now, if I was to come behind and do this number for a
25 number of minutes and my hands were dry and I'm sloughing off

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1 skin cells and then you come back and swab, then you're liable
2 to get more DNA. And it's still touch DNA, but you'll get
3 more of it.

4 Now, most DNA, what we work with, comes from blood,
5 semen, saliva, and you get an abundance of DNA from that
6 typically, more so than touch DNA. Touch DNA is kind of hit
7 and miss are you going to get it because it's going to depend
8 on how long people touch it and how they handle it versus, of
9 course, if they leave blood behind. You'll get it from there
10 nine times out of ten.

11 Did that clear it up for you?

12 THE COURT: And touch DNA varies from regular DNA
13 analysis because it has to do with leaving cells versus blood
14 or semen or bodily fluid?

15 THE WITNESS: Actually, no. We analyze it the same way.
16 We use the same reagents to get it from touch DNA as we do
17 from other items of biological fluid.

18 THE COURT: Well, I think my point was that it's
19 transmitted differently?

20 THE WITNESS: It is transmitted differently, yes.

21 THE COURT: All right.

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay.

24 MS. FREEDMAN: And, Judge, just to the extent -- I'm not
25 sure if your microphone is on. I know we've had some

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1 microphone difficulties throughout the course of the trial,
2 but if it's possible to turn your microphone on? We're just
3 having a little bit of difficulty hearing you.

4 THE COURT: Okay. I'm probably turned away from you, and
5 if I don't speak loudly enough, let me know.

6 MS. FREEDMAN: Thank you, Judge.

7 THE COURT: And I don't know -- I don't know how you cut
8 on the microphone. Does somebody know how to cut on this
9 microphone? Nobody knows?

10 THE CLERK: It's on. It should be on.

11 MR. REDMOND: Okay.

12 (WHEREUPON, there was a pause in the proceedings for
13 sound issues, after which the proceedings resumed as
14 follows.)

15 THE COURT: Yes, ma'am, you're recognized.

16 MS. FREEDMAN: Thank you, Judge.

17 THE COURT: Point me to the language that supports your
18 position.

19 MS. FREEDMAN: I would direct the Court's attention to
20 page 122, which reads Rule 703, South Carolina Rules of
21 Evidence, allows an expert to give an opinion to a line of
22 facts or data that are not admitted into evidence or even
23 admissible into evidence. However --

24 THE COURT: Where is that in the opinion, so I can follow
25 along?

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1 MS. FREEDMAN: I'm sorry?

2 THE COURT: Where in the opinion?

3 MS. FREEDMAN: It's -- it's page 6 of the printed
4 version, the bottom of page 6 under Subsection B where it says
5 McHenry's expert report.

6 THE COURT: Okay.

7 MS. FREEDMAN: So Rule 703 does not allow the admission
8 of hearsay evidence simply because an expert used it in
9 forming his opinion. The rule only provides an expert can
10 give an opinion based on facts or data that were not admitted
11 into evidence.

12 My understanding is that this is kind of a developing
13 question of law around the country, but South Carolina has
14 basically landed in the same place that lots of other states
15 have, which is that the substantive expert's report is not
16 necessarily admissible unless it falls into another hearsay
17 exception, and we maintain our objection on that basis.

18 THE COURT: Is there anything in the report that contains
19 impermissible hearsay?

20 MS. FREEDMAN: Yes, Your Honor. I think the report
21 itself is a series of out-of-court statements that the
22 prosecution is seeking to admit for the truth of the matter
23 asserted.

24 MR. REDMOND: Your Honor, with all due respect -- and I
25 know I haven't been recognized yet and I apologize, Your

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1 Honor, but I think that that is -- I think I used the term
2 overreaching as it relates to things that the prosecution --
3 that prosecutors do sometimes that I try to avoid. I think,
4 again, we're overreaching.

5 I think that part of the vernacular "this case ain't
6 that" is what's in the case that's cited by the defense. I
7 think it's clearly distinguishable, and I think they are
8 trying to stretch hearsay into the samples being tested, which
9 is clearly I would submit not hearsay, not even in the realm
10 of hearsay and, therefore, Your Honor, I think that we're
11 dealing with a clearly distinguishable situation and that we
12 should be able to proceed.

13 MS. FREEDMAN: And I guess I would just like --

14 THE COURT: Can you point out in the report the things
15 that you think are impermissible hearsay?

16 MS. FREEDMAN: Yes, Your Honor. I think all of her DNA
17 profile is suitable for use as an alternate and known
18 standard. On page --

19 THE COURT: Say that again?

20 MS. FREEDMAN: The DNA profile is suitable for use as an
21 alternate and known standard. That's an out-of-court
22 statement. Just using the definition in Rule 801(c), that is
23 a statement other than the one made by the declarant while
24 testifying at trial or hearing offered in evidence to prove
25 the truth of the matter asserted.

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1 So each of the -- it's opinion testimony, but it is still
2 an out-of-state -- an out-of-court statement that is being
3 admitted for the truth of the matter asserted. So our -- my
4 position is that she is fully capable of testifying to the
5 contents of the report, and that her --

6 THE COURT: Your first -- your first objection from the
7 start of this was that you didn't want her to vary from the
8 report.

9 MS. FREEDMAN: Right.

10 THE COURT: So you --

11 MS. FREEDMAN: If she wants to read the report into the
12 record, we -- I wouldn't have an objection to that. I think
13 that that's live testimony, and that's kind of the --

14 THE COURT: Well, that's exactly what we're going to do.

15 MR. REDMOND: Your Honor, may I be heard?

16 THE COURT: Yes.

17 MR. REDMOND: With all due respect, Your Honor, that's
18 not the rule. I mean, this is stretching by the defense, and
19 I'm afraid it's going to set a dangerous precedent because
20 this report was generated by Ms. Hefney. There is no hearsay.
21 To call the contents as the defense described it hearsay, the
22 State would submit would set a very dangerous precedent.

23 THE COURT: Well, the report itself is not, but I haven't
24 read the entire report. It might be that she has in there
25 stuff that is indeed hearsay. I don't know. I haven't read

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1 it, but she says that she does not have an objection to the
2 whole report being read into the record, which I think would
3 be -- would be kind of onerous, but we could indeed do that.

4 MR. REDMOND: Well, I would say --

5 THE COURT: But they are indicating that that's -- that
6 they have no objection to that, and it accomplishes the same
7 thing.

8 MR. REDMOND: But the -- but then if you --

9 THE COURT: As far judicial economy and finality, it
10 might be the best thing to do.

11 MR. REDMOND: But, Your Honor, with all due respect,
12 what's the difference between reading it and submitting it if
13 the issue is hearsay? That's my point. If it's being read
14 into the record, that's a distinction we think without a
15 difference, in my opinion.

16 THE COURT: The point is that she doesn't object to that,
17 and we won't find out. So that's indeed what we're going to
18 do. She indicates that she has no objection to that. That's
19 my order.

20 MR. REDMOND: Yes, sir. Yes, sir.

21 THE COURT: Take your time. Do you need some water?

22 THE WITNESS: Probably.

23 MS. FREEDMAN: And to be clear, Judge, I mean, if -- I'm
24 not saying I think that the solicitor is -- has broad leeway
25 to sort of, you know, elicit from her the portions of the

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1 report that he wants her to put in.

2 THE COURT: Well, I think he can do it however he wants
3 to, but you indicate you have no objection to reading the
4 entire report.

5 MS. FREEDMAN: That's correct.

6 THE COURT: And you can do it however you want to.

7 THE WITNESS: Thank you.

8 THE COURT: But one of the things that we don't want to
9 do is to stray from what's in the report.

10 MR. REDMOND: Yes, sir. And to be clear and I did not
11 mention that, but one of the parts that we took out was, of
12 course, there was an item, I think the State's 164, which was
13 the ammonia bottle which had already been redacted.

14 So just to be clear, the State has done everything
15 possible to maintain the integrity of the evidence and the
16 report based on the Court's rulings, and so, you know,
17 obviously, we will honor the -- the Court's -- the Court's
18 order, even though the State -- of course, we may respectfully
19 disagree, but we will honor it and adhere and govern ourselves
20 accordingly.

21 THE COURT: Very good.

22 MR. REDMOND: And so with that said --

23 THE COURT: Let's -- she's got some water there. Let's
24 start.

25 MR. REDMOND: Okay.

2 | BY MR. REDMOND:

1 into the record?

2 A: Yes, sir. Item 29.1, swabs from head of toothbrush. The
3 results were the DNA profile is suitable for use as an
4 alternate known standard for Iyana Lowery.

5 Q: Okay.

6 A: The next comparison item is 30, buccal swab from Tyrone
7 Thomas; 31, buccal swab from Dolores Lowery; 32, buccal swab
8 from Clifton Benjamin; 33, buccal swab from Tyreon Lowery;
9 34.1, blood spot card from Ella Lowery; 35, buccal swab from
10 Dwayne Bright; and 68, buccal swab from Terry Williams.

11 Q: Okay.

12 A: And the result for those items that I just read was this
13 item is being returned to the submitting agency without
14 analysis and has not been inventoried.

15 Q: Okay. That being 68, I believe. Item 68 is what you're
16 referring to?

17 A: Yes.

18 Q: Okay. Now, let's go to -- on page 2, start at 110, Item
19 110. Could you go ahead and state what was pertinent on that,
20 and we'll just do this page by page, if that will suffice. So
21 on page 2 starting at 110?

22 A: Okay. Item 110, buccal swabs from body found in Gum
23 Swamp Greek, and the result for that, if the DNA profile
24 developed from Item 29.1, which was swabs from the head of the
25 toothbrush is from Iyana Lowery, then the DNA profile

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1 developed from this item matches the DNA profile of Iyana
2 Lowery, and this DNA profile was used for comparison purposes.
3 Q: And 140?
4 A: 140 is also a blood spot from Iyana Lowery that was
5 collected at autopsy, and this item is being returned to the
6 submitting agency without analysis and has not been
7 inventoried.
8 Q: And just to go back to 110, did you compare 110 and 29.1
9 in order to make that analysis in your results?
10 A: I did.
11 Q: Okay. I forgot to mention that. I'm sorry.
12 A: It was the same DNA profile from both.
13 Q: So now -- and I think I interrupted you at 148, please?
14 A: Okay. 128? This is a court-ordered swab of JeJauncey
15 Harrington's mouth, and this item is being returned to the
16 submitting agency without analysis and has not been
17 inventoried.
18 MR. REDMOND: And I believe Your Honor has heard
19 testimony about why it had to be resubmitted.
20 BY MR. REDMOND:
21 Q: So let's go to 149.
22 A: 149, buccal swabs from JeJauncey Harrington.
23 Q: Okay. And so let's then go to --
24 A: And that's also the Ella Lowery 150. It was a blood
25 standard and I, again like I did with the toothbrush, compared

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1 those two. They were the same profile.

2 Q: Now, let's go to page 3, and we'll get to a point where I
3 might be skipping around some for the sake of time because --
4 and obviously, on cross-examination if they want to fill in
5 some things, they can, but for the sake of time, I'll skip.
6 But let's start at Number 1, Item 1 in your items of evidence
7 on page 3.

8 A: Okay. Item 1 is a cigarette butt from front doorstep of
9 side carport door near the living room, and the results, the
10 DNA profile matches the DNA profile of JeJauncey Harrington.
11 The probability of randomly selecting an unrelated individual
12 having a DNA profile matching this item is one in one
13 nonillion. This profile has been entered into the combined
14 DNA Index System or CODIS, and I put the item number as 17-
15 6957-1.

16 Q: And so now I'm going to -- this is where I'm going to
17 start skipping around a little bit because we're going to talk
18 about Dwayne Bright. So let me direct your attention.

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

20 BY MR. REDMOND:

21 Q: Let me direct your attention to Item 52, which is on page
22 14, starting on page 14, and if you could start at swabs 52.1,
23 if you could tell us what that exhibit is and then explain
24 your findings as it relates to these items?

25 A: Okay. These were swabs from the bottom right portion of

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1 exterior of shoes belonging to Dwayne Bright, and the DNA
2 profile is a mixture of at least three individuals. The
3 partial DNA profile of the major contributor matches the DNA
4 profile of Dwayne Bright, and the probability of randomly
5 selecting an unrelated individual having a DNA profile
6 matching the major contributor to this item -- this mixture is
7 approximately one in 5.6 trillion.

8 Q: So to be clear, who -- whose DNA is the major contributor
9 on Item 52.1, that being the white portion of the exterior of
10 his shoes?

11 A: Dwayne Bright.

12 Q: So that's Dwayne Bright's?

13 A: And his shoes.

14 Q: Let's move on to 52.2. Is that also -- are those also
15 swabs taken from Dwayne Bright?

16 A: Yes, sir.

17 Q: Okay. And could you explain your findings, please.

18 A: So these were swabs from the interior of the shoes
19 belonging to Dwayne Bright, and there was also a mixture of at
20 least three individuals. And the partial DNA profile of the
21 major component is consistent with being a mixture of two
22 individuals. Dwayne Bright and Ella Lowery are included as
23 possible contributors to the major component of this mixture.

24 Q: Okay. Now, let me ask you an important question. Let's
25 go back. Who are the -- who are included as possible

1 contributors?

2 A: Dwayne Bright and Ella Lowery.

3 Q: Okay. And to be clear, is this blood? Is 52.2, those
4 swabs, did they indicate for blood?

5 A: No, sir. These were, like, swabs taken from the interior
6 of the shoes. So that would be kind of what we say ownership
7 swabs from the inside of the shoe. So the two people that
8 were included in that major component was Dwayne and Ella.

9 Q: Okay.

10 MS. FREEDMAN: And, Your Honor, just to maintain this
11 objection, that's not in her report, and that testimony that
12 she just gave is inconsistent with what is in this report.

13 MR. REDMOND: But, Your Honor, they've got almost 500
14 pages of her report of her work. I would argue she can cross-
15 examine on that, but we have some --

16 THE COURT: The objection is overruled, but you're
17 protected on the record.

18 MR. REDMOND: Thank you, Your Honor.

19 BY MR. REDMOND:

20 Q: Please continue. And so you were on -- continue where
21 you left off as it relates to 52.2.

22 A: Okay. I was explaining that the shoe -- it's from the
23 interior of his shoes. We typically do that for ownership of
24 the shoes. And the partial DNA profile of the major component
25 is consistent with being a mixture of two individuals. Dwayne

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1 Bright and Ella Lowery are included as possible contributors
2 to the main component of this mixture, and the probability of
3 randomly selecting an unrelated individual who could have
4 contributed to the major component of this mixture is
5 approximately one in 510 billion. As far as the other
6 component, due to the inability to calculate a statistic, no
7 further interpretation will be offered regarding the minor
8 component.

9 Q: And did you say that the probability of selecting -- what
10 did you say the probability of selecting an unrelated
11 individual would be on this particular exhibit?

12 A: 510 billion.

13 Q: Okay. Now -- and just to, I guess, cover myself in the
14 future, did -- did you have the opportunity to meet with the
15 defense and did they, I guess, ask you questions and did you
16 provide your work product, I guess your work notes and
17 everything?

18 A: I did. I met with a joint meeting with the prosecution
19 and the defense one time and then a phone meeting with the
20 defense.

21 Q: Okay. Please, now let's move on to 52.3.

22 A: All right.

23 Q: And could you tell us what that is and what your results
24 were?

25 A: Yes. 52.3 are swabs from the inner side of the left shoe

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1 belonging to Dwayne Bright. Now, on the serology report, it
2 was positive presumptive testing probable for blood on this
3 item.

4 Q: Okay.

5 A: The DNA profile is a mixture of at least two individuals.
6 The DNA profile of the major contributor matches the DNA
7 profile of Dwayne Bright. The probability of randomly
8 selecting an unrelated individual having a DNA profile
9 matching the major contributor to this mixture is
10 approximately one in 47 nonillion. And due to the inability
11 to calculate a statistic, no further interpretation will be
12 offered regarding the minor contributors.

13 Q: And to be clear, was this blood that you -- that it was
14 deemed positive for?

15 A: Yes. It was presumptive testing positive for blood.

16 Q: And again, whose blood based on your analysis is this?

17 A: Dwayne Bright --

18 MS. FREEDMAN: Objection, Your Honor.

19 A: -- is the main contributor.

20 MS. FREEDMAN: We just sustain our -- maintain our
21 continuous objection.

22 THE COURT: You're going to --

23 MS. FREEDMAN: This is elicited testimony that's not in
24 her report.

25 THE COURT: You're protected on the record in that

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1 regard, and you're going to be given wide latitude with regard
2 to cross-examination.

3 BY MR. REDMOND:

4 Q: And 52.4, if you could tell us about 52.4, please?

5 A: Again, I represent the serology report, the presumptive
6 testing for this item was positive for blood. Swabs from the
7 outer side of left shoe belonging to Dwayne Bright. It's a --
8 the DNA profile is a mixture of at least three individuals.

9 The partial DNA profile of the major contributor matches
10 the DNA profile of Dwayne Bright. The probability of randomly
11 selecting an unrelated individual having a DNA profile
12 matching the major contributor to this mixture is
13 approximately one in 3.2 quintillion. And due to the
14 inability to calculate a statistic, no further interpretation
15 will be offered regarding the minor contributors.

16 Q: And again, what was this? Through the serology testing,
17 what was -- what was the substance determined to be?

18 A: And the presumptive test was positive for blood.

19 Q: And whose DNA did you show that blood was?

20 A: And the partial DNA profile of the major contributor
21 matches the DNA profile of Dwayne Bright.

22 Q: Okay. Thank you. Let's go to 52.4.

23 Q: 52.5?

24 Q: I'm sorry, point 5.

25 A: Okay. These are swabs from the outer side of the right

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1 shoe belonging to Dwayne Bright, representing the serology
2 report presumptive testing for this was positive for blood.
3 The DNA profile is a mixture of at least three individuals.

4 The partial DNA profile of the major contributor matches
5 the DNA profile of Dwayne Bright. The probability of randomly
6 selecting an unrelated individual having a DNA profile
7 matching the major contributor to this mixture is
8 approximately one in 4.2 octillion. And due to the inability
9 to calculate a statistic, no further interpretation will be
10 offered regarding the minor contributors.

11 Q: Now -- and again, whose DNA profile did this -- did this
12 show to be?

13 A: The partial DNA profile of the major contributor matches
14 the DNA profile of Dwayne Bright.

15 Q: Now, let's skip to page 16, and I'm going to direct your
16 attention to 64.1.1 and 64.1.2. Could you tell us what each
17 of those -- what each of those items are and what your
18 findings were?

19 A: Yes. The DNA profile matches the DNA profile of Dwayne
20 Bright. The probability of randomly selecting an unrelated
21 individual having a DNA profile matching this item is
22 approximately one in 47 nonillion. And I'm sorry. This is --
23 64.1.1 is a cutting from a T-shirt belonging to Dwayne Bright.
24 And I'll look at the serology report to say whether it was
25 presumptive testing positive for blood. And that cutting --

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1 cutting from the interior back of left shoulder of T-shirt was
2 presumptive testing for blood was positive.

3 Q: Now, let's go to page -- I'm sorry -- 64.1.2. I
4 apologize.

5 A: It was the exact same result for that item.

6 Q: Okay.

7 A: And this was another cutting from a T-shirt belonging to
8 Dwayne Bright.

9 Q: Now, let me turn your attention to page 19 in your
10 report, and let's start talking about 104.1.1, and could you
11 tell us what that was?

12 A: Okay. 104.1.1 is swabs from entire exterior of glove.
13 The DNA profile is a mixture of at least three individuals.
14 And due to the inability to calculate a statistic, no further
15 interpretation will be offered.

16 Q: And then 106.1?

17 A: This was swabs from a pocketknife. A partial DNA profile
18 was a mixture of at least two individuals. And due to the
19 inability to calculate a statistic, no further interpretation
20 will be offered.

21 Q: Now, let's go back to page 6, and let's start with Item
22 14.

23 A: Okay.

24 Q: Could you tell us what Item 14 is, and then I believe
25 we're going to be talking about the cuttings from Item 14. So

1 if you could go ahead and proceed?

2 A: Item 14 is an Arizona Jean Company blue T-shirt from the
3 kitchen floor, suspected child's shirt.

4 Q: Okay.

5 A: And Item 14.1 is a cutting from the black -- back of the
6 blue T-shirt. Presumptive testing for blood was positive.
7 The DNA profile is a mixture of at least two individuals. Due
8 to the inability to calculate a statistic, no further
9 interpretation will be offered. And there was no YSTR profile
10 developed.

11 Q: Now, what does that mean, no YSTR profile?

12 A: YSTR profile is a kit that we use that can just target
13 male DNA. So it's your paternally inherited DNA. Like, you
14 get half of your DNA from your mom and half of your DNA from
15 your father.

16 In our -- in the other kit we use that I've been reading
17 about, that's the kit we use to develop for both. In this
18 particular kit, we just target the male section of the DNA.
19 So your DNA would be -- if you have a son, your son's DNA
20 would be the same, your father's DNA would be the same.
21 Everyone on the male side of your family would have the same
22 YSTR.

23 Q: Thank you. I'm sorry. I was making a little bit of a
24 mess, but at least it's water. Let's go into the cuttings.
25 Were there cuttings done from Exhibit -- I mean, Item 14, the

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1 blue T-shirt? Were there cuttings?

2 A: Yes, sir.

3 Q: All right. Let's talk about three of them. Let's start
4 with 14.1, please?

5 A: Okay. 14.1, again, is the cutting from the back of the
6 blue T-shirt. Presumptive testing for blood was positive.
7 The DNA profile is a mixture of at least two individuals. Due
8 to the inability to calculate a statistic, no further
9 interpretation will be offered, and no YSTR profile was
10 developed.

11 Q: And I apologize. I actually meant to ask you about 14.2.
12 If we can move on to 14.2?

13 A: 14.2, cutting from the front stomach area of the blue T-
14 shirt. Presumptive testing for blood was positive. The DNA
15 profile is a mixture of at least two individuals.

16 The DNA profile of the major contributor matches the DNA
17 profile of Ella Lowery. The probability of randomly selecting
18 an unrelated individual having a DNA profile matching the
19 major contributor to this mixture is approximately one in 13
20 octillion.

21 Due to the inability to calculate a statistic, no further
22 interpretation will be offered regarding the minor
23 contributors. The YSTR profile is a mixture of at least four
24 male individuals, and due to the complexity of this mixture,
25 no further interpretation will be offered.

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1 Q: Okay. Let's go on to 14.3.

2 A: 14.3 is a cutting from the collar of the blue T-shirt.
3 Presumptive testing for blood was positive. The DNA profile
4 is a mixture of at least two individuals.

5 The DNA profile of the major contributor matches the DNA
6 profile of Iyana Lowery. The probability of randomly
7 selecting an unrelated individual having a DNA profile
8 matching the major contributor to this mixture is
9 approximately one in 520 septillion. Due to the inability to
10 calculate a statistic, no further interpretation will be
11 offered regarding the minor contributors. And due -- the YSTR
12 profile is a mixture of at least four male individuals, and
13 due to the complexity of this mixture, no further
14 interpretation will be offered.

15 Q: Okay. Now, let's talk about 14 and 14.2 and 14.3. Were
16 both of those positive for blood?

17 A: Yes, sir. The presumptive testing was positive for
18 blood, yes.

19 Q: And again, tell us who the -- who -- and this was the T-
20 shirt. Is this the same T-shirt we're talking about?

21 A: Yes, sir. It's a blue Arizona Jean -- Arizona Jean
22 Company T-shirt that was from the kitchen floor.

23 Q: Okay. And 14.1, whose blood was the primary contributor,
24 the major contributor? I mean, 14.2. Excuse me.

25 A: Okay. 14.2, the major contributor matches the DNA

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1 profile of Ella Lowery.

2 Q: Okay. And 14.3, was that blood?

3 A: Yes, sir. It was presumptive testing positive for blood
4 as well.

5 Q: And whose DNA profile -- who was the major contributor in
6 that one?

7 A: The DNA profile of the major contributor matches the DNA
8 profile of Iyana Lowery.

9 Q: Iyana Lowery.

10 THE COURT: Mr. Redmond, we're going to take a midmorning
11 break.

12 MR. REDMOND: Yes, sir.

13 THE COURT: I'm going to ask y'all to mark where we left
14 off.

15 MR. REDMOND: Yes, sir. Absolutely.

16 THE COURT: Under these circumstances, you can't discuss
17 the matter with either lawyer.

18 THE WITNESS: Okay.

19 THE COURT: And if you -- we'll just allow you to sit
20 right there. If you need to use the restroom, the bailiff
21 will assist you.

22 THE WITNESS: Okay. Thank you.

23 THE COURT: We'll stand at ease for five minutes.

24 MR. REDMOND: Thank you, Your Honor.

25 (WHEREUPON, there was a break in the proceedings from

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1 11:10 a.m. until 11:21 a.m., after which the proceedings
2 resumed as follows.)

3 MS. FREEDMAN: And, Judge, before we get started again, I
4 apologize for the continuous objections, but I think I just
5 have to make a new *Phillips* objection. The solicitor has now
6 asked a series of questions that do exactly what *Phillips* says
7 cannot be done, which is to elicit information that is
8 basically scientifically inaccurate. So the items --

9 THE COURT: Let me see the *Phillips* case and the language
10 that you're talking about.

11 MS. FREEDMAN: I apologize for not also having that.
12 I'll pull that up right now, but the basic idea is that the
13 testimony that he's elicited is that the -- he's asking her to
14 draw a logical inference that can't be made. I understand I'm
15 going to have wide latitude on cross, but this is -- this is
16 kind of the core of what *Phillips* deals with.

17 So he's elicited testimony that field testing was
18 presumptive positive for blood on several items. He's
19 elicited testimony that there are DNA profiles developed from
20 those items and what the inference -- he's drawing his
21 questions is that the DNA profile is developed from the blood,
22 but that's not what her report says and that's not what the
23 science dictates.

24 So all she can really say is what the report says, which
25 is that it tested presumptive positive for blood, there's a

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1 mixture of DNA from multiple sources, and the DNA profile for
2 the major contributor was developed and that profile is
3 consistent or inconsistent with known standards, but she can't
4 -- the thing that's problematic under *Phillips* is drawing the
5 inference that because it was presumptive positive for blood
6 in the field and because there's a DNA profile developed as a
7 major contributor that the profile was developed from the
8 blood of the major contributor, and that's an inference.

9 MR. REDMOND: And, Your Honor, to use that logic, then
10 why have DNA? Why have it? It wouldn't even be admissible if
11 you use that logic. With all due respect, that's asinine
12 because she's extrapolating something that doesn't make sense
13 just from a commonsense standpoint.

14 So with all due respect, Your Honor, I would strongly
15 disagree with what I guess they wish the law was, but using
16 her logic, then why have DNA? DNA would be not useful. All
17 you could do is say, to use her term, is that DNA matched the
18 standard.

19 THE COURT: Well, one of the things that I think probably
20 *Phillips* does indeed do is you can't talk about -- just
21 categorize it as a match. You can say it is -- you can state
22 the statistics perhaps.

23 MR. REDMOND: And to be fair, that's exactly what she's
24 been doing.

25 THE COURT: That's right.

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1 MR. REDMOND: She's referring to it. And to go a step
2 further -- and I will confess I have done this before where
3 you would -- with it being an expert, you'd go further and
4 offer hypotheticals. I have not done that on purpose in this
5 trial.

6 And so, Your Honor, I think clearly we are within the
7 realms of where we're allowed to go with this, and we would
8 respectfully ask that we be allowed to continue.

9 THE COURT: All right.

10 MR. BANK: And, Judge, I'm printing out a copy.

11 THE COURT: Yes.

12 MS. FREEDMAN: My co-counsel is getting a copy of
13 *Phillips* for the Court and for opposing counsel as well if
14 they'd like a copy, but I think *Phillips* stands for I think
15 something slightly broader than just what the parties can or
16 can't elicit about the match language and the statistic
17 itself. So I think *Phillips* sort of stands for the broader
18 proposition that DNA testimony in particular is really risky,
19 only from the perspective of being confusing, and I think one
20 thing that has, you know, perhaps just by virtue of what kind
21 of evidence we're dealing with, that has happened.

22 And I'm not sort of trying to ascribe blame, but what has
23 happened by virtue of the solicitor's questions is that this
24 inference has been suggested, that because there's presumptive
25 positive for blood means that the profile developed was from

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1 blood, and that's just -- *Phillips* is very clear that that is
2 the sort of thing that makes the evidence itself inadmissible
3 because it bears that very strong risk of being confusing, and
4 at the same time it falsely represents the probative value of
5 the evidence itself.

6 MR. REDMOND: And, Your Honor, I would submit she's more
7 than able to cross-examine as to how and what was used. Your
8 Honor even asked about the differences as it relates to
9 certain things. And just to kind of lay ahead, I know that
10 the defense expert has referred to those types of things in
11 the past as it relates to what type of blood -- what type of
12 DNA as far as blood versus touch, things of that nature that
13 are useful as it relates to determine the major contributors.
14 That's all we've left it at.

15 And so, again, I have not tried to overreach, and I would
16 submit that we are well within the parameters. As a matter of
17 fact, I think I've even been cautious, some might say to a
18 fault, as it relates to streamlining what we're getting into
19 with this witness.

20 THE COURT: All right. Let me look at this case. Quite
21 often what happens in these cases is that the solicitor goes
22 beyond what the testimony is, and quite often defense lawyers
23 don't object to it and don't explain. That's part of the
24 problem, and it usually comes up in closing argument.

25 But specifically, as far as any inferences or any

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1 conclusions, I'm not giving that any consideration. I'm going
2 by what's been testified to with regard to the science of it.

3 MR. REDMOND: Yes, sir.

4 MS. FREEDMAN: Yeah. I think the -- I appreciate that.
5 I think part of the problem is that the way he's framed his
6 question is sort of aimed at eliciting that inference, which
7 isn't clear from --

8 THE COURT: It might be confusing to a jury, but I
9 understand it, and you can explain it to me again. How about
10 that?

11 MS. FREEDMAN: Well, so I think that the issue is that
12 the testimony is that there was a presumptive positive test
13 that wasn't actually confirmed through serological testing.
14 So it's not actually even a reliable basis to say that that is
15 a hundred percent proven blood.

16 THE COURT: You're protected on the record in that
17 regard.

18 MS. FREEDMAN: Thank you. And then so the inference
19 that's being drawn is that because there were mixed profiles
20 and one DNA profile developed from the swab taken from the
21 item that was presumptive positive for blood, that because
22 there's -- it's possible to develop a DNA profile from that
23 swab that, therefore, the profile was developed from the
24 blood, and that's not correct. That is confusing.

25 MR. BANK: There you go, Judge.

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1 (WHEREUPON, there was a pause in the proceedings for the
2 Court's reading of the offered case, after which the
3 proceedings resumed as follows.)

4 MR. REDMOND: Your Honor, may have a seat for just a
5 moment?

6 THE COURT: Yes.

7 MR. REDMOND: My back is starting to flare up a little
8 bit on me.

9 (WHEREUPON, there was a pause the proceedings, after
10 which the proceedings resumed as follows.)

11 DIRECT BY THE COURT

12 THE COURT: Yes, ma'am. Once again, you've explained in
13 some detail touch DNA. Would you explain the concept of
14 nonexclusive DNA?

15 THE WITNESS: Nonconclusive DNA?

16 THE COURT: Non-inclusion DNA. Non-excluded -- non-
17 exclusion DNA.

18 THE WITNESS: Non-exclusion DNA? So I'm assuming that
19 that would be non-exclusion DNA. Can I see the context of how
20 it's asked?

21 THE COURT: We've already talked about --

22 THE WITNESS: DNA that doesn't exclude? I'm sorry.

23 THE COURT: Yes. It does not exclude. Non-exclusion
24 DNA.

25 THE WITNESS: Okay. Every time we include someone in a

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1 DNA profile, that's -- we've got add a stat to it to add
2 weight to that inclusion.

3 THE COURT: Right.

4 THE WITNESS: If we cannot include them, then, as I've
5 said, a lot of time there's no interpretation can be offered.

6 THE COURT: Right.

7 THE WITNESS: And if they are excluded, then we do say
8 excluded as well.

9 THE COURT: The concept of random match probability.

10 THE WITNESS: Uh-huh.

11 THE COURT: What is that?

12 THE WITNESS: That is what I've been reading. We
13 actually don't do that anymore, but when this case was in, we
14 processed this case, that's what we were doing, and there's
15 nothing wrong with it. What it is is you can describe it as
16 if you were to line up however many people -- like I've said
17 an octillion in this case already. If you were to line up an
18 octillion people, you should only expect to see that DNA
19 profile once. That's a random match.

20 Now we use likelihood ratios to describe it, and it also
21 allows us to interpret those mixtures that I'm saying due to
22 inability to calculate a statistic. The technique that we use
23 now allows us to do that. Back then, you had to meet a
24 certain criteria. It had to be above a certain amount for us
25 to be able to interpret it, and if you couldn't apply a stat

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1 to it, then you could not say it was included.

2 THE COURT: Right.

3 THE WITNESS: So that's what I've been stating in this
4 case.

5 THE COURT: All right. Mr. Redmond, with regard to the
6 evidence that you've gone over so far and the evidence in
7 general with regard to her testimony, what -- how is it
8 probative?

9 MR. REDMOND: It's probative because it --

10 THE COURT: Specifically, how is it probative?

11 MR. REDMOND: When you factor in everything, I guess as
12 the finder of fact, looking at a totality of the
13 circumstances, it gives you a probability, and that
14 probability is -- depending on how high that probability is --

15 THE COURT: And we've heard big numbers so far.

16 MR. REDMOND: Exactly. The finder of fact can -- can
17 utilize that. I think just from reading the case, the
18 *Phillips* case, I think one of the issues that came into play
19 were that they were pretty low probabilities that were in play
20 without proper explanation as to those particular numbers.

21 And so from that standpoint, Your Honor, I don't think
22 that we have gone into that territory up to this point through
23 my questioning and -- and, of course, using *Phillips* as a
24 guide, I would continue to do that. I would submit everything
25 and even when we've talked about the probabilities -- and it's

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1 just natural common-sense the higher the probabilities, the
2 more it narrows down into a particular -- into a particular
3 finding, for lack of a better term.

4 However, in the *Phillips* case, there were pretty low
5 probabilities. I want to say it was one in two, if I remember
6 right, and that causes some big problems, and to a trier of
7 fact I think is what the case says, it can skew things. And
8 so we have not reached that at this point yet, nor do I intend
9 to guide us in a direction that would lead us into *Phillips*
10 territory.

11 THE COURT: And I'll be glad to hear from the defense.

12 MS. FREEDMAN: Thank you, Your Honor. So I think just
13 sort of taking a little bit of a step back, there were some
14 issues and factual issues in *Phillips* that are distinct from
15 the factual issues here. And so to the extent that *Phillips*
16 says something very specific about non-exclusionary DNA, I
17 think, you know, that's -- *Phillips* is talking I think more
18 generally about the ability of the government to elicit from
19 its witnesses testimony that actually assists the factfinder
20 but also that is helpful for the record.

21 So I think *Phillips* kind of stands for this broader
22 proposition that the proponent of DNA testimony and DNA
23 evidence bears the burden of establishing that the evidence in
24 question and the testimony in question is helpful for the
25 factfinder, that it's not going to mislead or confuse the

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1 factfinder, and that it's not going to invite the factfinder
2 to make inferential leaps.

3 So in *Phillips*, inferential leaps that the factfinder was
4 being made -- was being asked to make involved the -- it's on
5 pages 559 and 560 of the opinion. There's a discussion about
6 touch DNA and then a full profile to a partial profile to a
7 full profile, and the way the testimony was elicited invited
8 the factfinder to draw the conclusion that a full profile had
9 been developed, when actually it was a partial profile.

10 THE COURT: And the solicitor misstated the findings?

11 MS. FREEDMAN: Right. And I think that's -- our position
12 is that that's exactly what's happening here is that the
13 witness is simply responding, but the questions that are being
14 posed are inviting the factfinder and inviting the record to
15 draw an inferential leap that is not supported.

16 And so I think that's kind of the second piece of what
17 our objection goes to, which is that it's -- it's error for
18 the solicitor to, accidentally or not, elicit inaccurate
19 testimony, and it's not that the -- it's not that this is
20 something cross-examination can cure because it's not that the
21 witness is testifying incorrectly or to a lie. It's that the
22 witness is responding to a question that has invited an
23 inferential leap, and that's really I think what *Phillips*
24 stands for.

25 THE COURT: To the extent they've done that, I grant your

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1 motion and it's stricken from the record, and I will instruct
2 you to stick with the statistics that have been provided from
3 her report.

4 MS. FREEDMAN: And just so that the record is clear, Your
5 Honor, the pieces of the testimony that we're moving to I
6 suppose at this point have stricken would be the portions of
7 the testimony involving the testimony about basically the
8 major contributor being from blood with respect to items --

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

10 MR. REDMOND: Honestly, Your Honor, I don't think that
11 that is inappropriate because she's explained. One of the
12 things that *Phillips* I think was a problem was there was also
13 a lack of explanation. *Phillips* talks a lot about the failure
14 to follow up and ask questions, the way I take it to put
15 things in its proper context.

16 I don't think that's happened here, but to the extent
17 that the Court -- you know, based on the Court's ruling. And
18 to be clear -- and I think Ms. Hefney has testified to and
19 referred to the serology report as it relates to certain items
20 and, as a matter of fact, we've already got in evidence and we
21 haven't gotten to it yet, but certain items that have tested
22 positive for blood that had presumptive tests for blood.

23 She's allowed to at least put those in its proper context
24 and, again, without overreaching. There has been no
25 overreaching at this point, Your Honor, and I would submit

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1 that, again, with the Court's admonition, that we be allowed
2 to plow forward.

3 MS. FREEDMAN: And, Your Honor, just -- I mean, I don't
4 want to belabor the point, but just in that explanation he
5 just offered that we have items that tested positive for
6 blood, and they didn't. And that's kind of the problem, but
7 the serology report indicates that they were presumptive
8 positive for blood. But unless they actually sent the items
9 to serology and examined them using a very specific chemical
10 to test for blood, there is no way to say anything other than
11 it was presumptive field positive for blood, and there's no
12 additional information.

13 He's -- and I don't mean to point a finger. It's just
14 that the way he's discussing this evidence, he's talking about
15 it as if --

16 MR. REDMOND: Easy fix, Your Honor. Presumptive positive
17 for blood. Everything we were talking -- and I think she's
18 actually said presumptive positive. So for the record's sake,
19 everything I say presumptive positive for blood, if it applies
20 in that situation. Based on what defense has just said, that
21 should solve that issue.

22 THE COURT: All right.

23 MS. FREEDMAN: And so, again, Your Honor, the one way we
24 could deal with this is if you could offer the solicitor an
25 instruction not to ask her about what DNA profile she

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1 developed from what because she didn't -- she can't say
2 anything about that.

3 MR. REDMOND: That's what they're saying. We're not.
4 Can I -- by way of proffer, can I just --

5 THE COURT: Yes.

6 MR. REDMOND: -- ask the witness? I think this would be
7 the appropriate thing through way of proffer.

8 PROFFERED DIRECT EXAMINATION

9 Q: Ms. Hefney, you've heard everything that's stated as it
10 relates to being able to use blood and state blood and that
11 you got the DNA from blood. Please explain for Your Honor
12 what -- if it's possible, how it's possible, and what the
13 mechanism is for that?

14 A: All right. When he asked me about the blood, I would say
15 presumptive testing positive for blood, and then he turned
16 around and he asked me about the major contributor. I just
17 reread my statement saying that the major contributor is such
18 and such. I did not say and I don't want to infer that it
19 came from blood because we can't technically say where it came
20 from, whether it was blood or skin cells up under the blood or
21 what.

22 THE COURT: There's no way to tell that?

23 THE WITNESS: Right. And so that's why I say presumptive
24 testing positive for blood and then the major contributor to
25 this item. So I know what the defense is saying and what the

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1 prosecutor is saying. So when he asked me about the major
2 contributor, I just restated what I had already said, not
3 implying that it came from blood.

4 THE COURT: Right. Okay. All right.

5 All right. I'm going to ask that you proceed forward
6 with that admonition.

7 MR. REDMOND: Absolutely. Yes, sir.

8 THE COURT: And -- and you understand it's proper that
9 you are going to refrain from doing that?

10 THE WITNESS: I will refrain from saying the presumptive
11 testing positive?

12 THE COURT: No. That the test came from blood, whether
13 it was touch DNA or blood or anything. Make that -- make that
14 explanation going forward.

15 THE WITNESS: Okay.

16 THE COURT: And I do indeed, based on what's been
17 presented here today, do find that the evidence offered is
18 probative. It does assist me in the findings of fact, and the
19 testimony that has been offered here up to this point is --
20 the probative value outweighs the prejudicial value.

21 And you're protected on the record in all respects.

22 MS. FREEDMAN: Thank you, Your Honor.

23 THE COURT: And any evidence that would suggest that it
24 came from blood is stricken from the record.

25 THE WITNESS: Okay.

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 MS. FREEDMAN: Thank you, Your Honor.

2 MR. REDMOND: And if I may, looking at *Phillips* as a
3 guide, I'm actually going to skip because based on -- after
4 reading *Phillips* more fully, out of an abundance of caution,
5 quite frankly, I think that it would be appropriate for me to
6 skip to -- as I indicated to the Court as it relates to the
7 probative value, I think because of that I need to skip some
8 of the items in the report and move on to these swabs that are
9 in evidence that were taken in Charlotte.

10 RESUMED DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q: So if I move you on to -- let me direct you to page 17.

13 A: Okay.

14 Q: And we'll start there. And let me ask you starting with
15 Item -- well, I guess we did put Item -- I think we might have
16 put Item 79 into evidence. I can't remember, but I'm going to
17 start you with Item 82. Could you explain what Item 82 is and
18 your results?

19 A: Yes.

20 Q: Of course, with, again, the Court's admonitions.

21 A: Okay. Item 82 were swabs from interior trunk panel on
22 the hatch of the Eclipse, and there was a DNA profile. It was
23 a mixture of at least two individuals.

24 The partial DNA profile of the major contributor matches
25 the DNA profile of JeJauncey Harrington. The probability of

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 randomly selecting an unrelated individual having a DNA
2 profile matching the major contributor to this mixture is
3 approximately one in 7.6 sextillion. And due to the ability
4 to calculate a statistic, no further interpretation will be
5 offered regarding the minor contributors.

6 Q: Okay. Now, let's move on to Item 83. Could you tell --
7 the same thing. Could you tell His Honor what that is and
8 could you also explain your results?

9 A: Yes, sir. So Item 83 are swabs from the interior side
10 panel in trunk on the driver's side of the Eclipse, and the
11 DNA profile is a mixture of at least two individuals.

12 The partial DNA profile of the major contributor matches
13 the DNA profile of JeJauncey Harrington. The probability of
14 randomly selecting an unrelated individual having a DNA
15 profile matching the major contributor to this mixture is
16 approximately one in 6.7 quadrillion. Due to the inability to
17 calculate a statistic, no further interpretation will be
18 offered regarding the minor contributors.

19 THE COURT: All right. Let me -- for the record, I'm
20 going to make the report itself a Court's exhibit.

21 MR. REDMOND: Yes, sir.

22 THE COURT: I'm not going to read it.

23 MR. REDMOND: Yes, sir.

24 THE COURT: But for appellate review or whatever reason,
25 it will be marked as a Court's exhibit, but I'm not going to

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 give the report itself any consideration. I'm hearing live
2 testimony of it.

3 MR. REDMOND: Yes, sir. And I'm using that right now.
4 I have not marked on it. I almost did, but I remembered and I
5 didn't. But if I could have that marked once we complete this
6 line of questioning?

7 THE COURT: As a Court's exhibit.

8 MR. REDMOND: Yes. As a Court's exhibit.

9 THE COURT: And I'm not going to read it. I'm paying
10 attention to what's she's got to say.

11 MR. REDMOND: Yes, sir.

12 THE COURT: But for appellate purposes, it'll be made a
13 part of the record.

14 MR. REDMOND: Thank you, Your Honor.

15 (WHEREUPON, the DNA report was marked as Court's Exhibit
16 Number 5.)

17 BY MR. REDMOND:

18 Q: Now, let's move to page 18 with Item 84.

19 A: Item 84 are swabs from interior side panel in trunk on
20 passenger side of the Eclipse, and the DNA profile matches the
21 DNA profile of JeJauncey Harrington. The probability of
22 randomly selecting an unrelated individual having a DNA
23 profile matching this item is approximately one in 1.4
24 septillion.

25 Q: Now, let's move on to 85.

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 A: 85? Those are swabs from interior metal floor of
2 passenger compartment of the Eclipse, and the partial DNA
3 profile is a possible mixture and is not suitable for
4 comparison.

5 Q: Okay. Let's move to 80 -- actually, I'm going to skip to
6 87. Could you tell us what Item 87 is and your findings?

7 A: Uh-huh. Item -- Item 87 -- excuse me -- were swabs from
8 metal bottom of trunk of Eclipse, and this DNA profile is a
9 mixture of at least three individuals.

10 The partial DNA profile of the major component is
11 consistent with being a mixture of two individuals. JeJauncey
12 Harrington is included as a possible contributor to the major
13 component of this mixture, and the probability of randomly
14 selecting an unrelated individual who could have contributed
15 to the major component of this mixture is one in 8,900.

16 Q: And --

17 A: And due --

18 Q: Go ahead. I'm sorry.

19 A: Due to the inability to calculate a statistic, no further
20 interpretation will be offered regarding the minor component.

21 Q: Now -- and to be fair, we've been talking in terms of
22 quadrillions and septillions and might have even said
23 octillion before, but now we're at one in 8,900. Just to
24 explain -- and the reason I got into that one is to explain --
25 ask you to explain how that works. What's the differences and

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 how did you come to one in 8,900 versus the other results that
2 you've testified to?

3 A: Remember, so when we say it's included, we have to add a
4 weigh to it. So based on this, this is a partial profile, and
5 the location that I can use as part of my statistics were
6 reduced because it was a -- it's a partial -- a little partial
7 profile. So that went into part and reduced the number that's
8 going to be presented.

9 So whereas before when I'm getting the octillion, I'm
10 able to use more locations, more information is present. When
11 it gets down to, like, 8,900 or even less than that, that is a
12 reduced amount of information that I have because it's
13 partial. That means it's probably a very partial profile, and
14 I'm only able to use certain locations of that profile in my
15 statistic. So that's why the statistic is lower.

16 THE COURT: So that -- that finding is less conclusive
17 than the others?

18 THE WITNESS: Yeah, as far as the weight.

19 THE COURT: Because it's partial?

20 THE WITNESS: That's correct, sir.

21 THE COURT: Okay. All right.

22 BY MR. REDMOND:

23 Q: Now, let's go ahead, and the reason I asked that was just
24 to show the differences between the probabilities.

25 A: Uh-huh.

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

1 Q: Put it in context. Now, lastly -- and I had skipped 86.
2 Now, I'm going to ask you to go back to Item 86. Could you
3 tell the Court first what is Item 86 that's already in
4 evidence?

5 A: Yes, sir. Item 86 were swabs from the lock mechanism on
6 the interior of trunk latch of the Eclipse.

7 Q: Okay. So -- and now without belaboring it, tell us your
8 results for Item 86, which for the record is Exhibit 137.

9 A: The DNA profile is a mixture of at least two individuals.
10 The DNA profile of the major contributor matches the DNA
11 profile of Iyana Lowery. The probability of randomly
12 selecting an unrelated individual having a DNA profile
13 matching the major contributor to this mixture is
14 approximately one in 520 septillion, and the partial DNA
15 profile of the minor contributor is insufficient for
16 interpretation.

17 Q: Okay. And just to be clear, whose DNA profile was the
18 major contributor?

19 A: The major contributor matches the DNA profile of Iyana
20 Lowery.

21 Q: And again, what was the probability, I guess the
22 probability in this -- with that particular exhibit?

23 A: The probability of randomly selecting an unrelated
24 individual having a DNA profile matching the major contributor
25 to this item is approximately one in 520 septillion.

ADRIENNE HEFNEY - DIRECT BY MR. REDMOND

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

2 That would be all the questions I have. I would say
3 please answer any questions the defense may have, but I've got
4 a feeling that will happen after lunch.

5 THE COURT: Okay. We'll -- anything before we break for
6 lunch from the defense?

7 MS. FREEDMAN: Nothing, Your Honor.

8 THE COURT: All right.

9 MS. FREEDMAN: Thank you.

10 THE COURT: We'll -- and under these circumstances, once
11 again, you can't discuss it with the solicitors or the public
12 defenders. We just ask that you be back at 1:30 and enjoy
13 your lunch. We'll see you then.

14 THE WITNESS: Thank you.

15 THE COURT: All right. We'll stand at ease until 1:30.

16 MR. REDMOND: Thank you, Your Honor.

17 (WHEREUPON, there was a break in the proceedings from
18 12:08 p.m. until 1:31 p.m., after which the proceedings
19 resumed as follows.)

20 THE COURT: Good afternoon, everybody.

21 MR. REDMOND: Good afternoon, Your Honor.

22 THE COURT: Cross-examination.

23 And I'll remind you you're still under oath.

24 THE WITNESS: Okay.

25 CROSS-EXAMINATION

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 BY MS. FREEDMAN:

2 Q: Okay. Hi, Agent Hefney.

3 A: Hi.

4 Q: It's nice to see you.

5 A: You too.

6 Q: So you tested a whole bunch of stuff in this case; right?

7 A: I did.

8 Q: And this was a big case?

9 A: Yes, it was.

10 Q: But there was also a whole bunch of stuff that you didn't

11 test; right? Because you weren't asked to?

12 A: Yes.

13 Q: And so you didn't test, for example, a beer can from New

14 Bridge Road, Item 111?

15 A: I don't believe so.

16 Q: And you didn't test a shoestring found at New Bridge Road

17 because you weren't asked to?

18 A: Correct.

19 Q: And you didn't -- I mean, do you recognize -- I don't

20 know if you can read -- I'm sorry. My handwriting is very

21 small. I don't know if you can read what's on here, but could

22 you -- do you recognize any of these things as things you've

23 tested?

24 A: Not off -- off the top of my head.

25 Q: Okay. Yeah. And that's just because you only test what

1 you're asked to?

2 A: Right. And we ask agencies to pick the most probative
3 items because we simply can't test everything that is
4 collected at a crime scene.

5 Q: Sure.

6 A: So as general policy, we usually start -- I don't know if
7 that was the case back then -- with about five probative items
8 and go from there.

9 Q: Great. So I want to talk to you about just a couple of
10 items that you did test.

11 A: Okay.

12 Q: So Item 14, you testified about that on direct, and that
13 was a T-shirt? Does that ring a bell?

14 A: I'm there.

15 Q: Okay. Great. And so you found no male DNA when you did
16 the autosomal testing; is that right?

17 A: On 14.1, there was no YSTR profile. Item 14.2, there was
18 a YSTR profile of a mixture of at least four male individuals.
19 Item 14.3, which was the collar of the blue T-shirt, the YSTR
20 profile is a mixture of at least four male individuals. And
21 Item 14.4, which was a swab from the underarm area of the blue
22 T-shirt, there was a partial YSTR profile, and it's a possible
23 mixture not suitable for comparison.

24 Q: Right. So there were DNA profiles from four unknown men
25 present on the T-shirt; right?

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 A: That is correct.

2 Q: And you can't say who those people are?

3 A: I cannot.

4 Q: And let's talk very briefly about the YSTR testing you
5 did on Item 135, and I'm going to go turn to the Y father
6 charts that you did. So I'm looking at pages 543 and 547 of
7 your case file.

8 A: Okay.

9 Q: Just let me know, please, when you're there.

10 A: Okay. This?

11 Q: Okay. So if Item 135, the YSTR profile, if that's from a
12 single contributor, Mr. Harrington would be excluded; right?

13 A: What? Item 135? Okay. This is the right-hand
14 fingernail clippings of Iyana Lowery, and reading directly
15 from my report, the DNA profile is a mixture of at least two
16 individuals. The partial DNA profile of the major component
17 -- I'm sorry. You asked for Y. The partial YSTR profile is a
18 possible mixture and is not suitable for comparison.

19 Q: And looking at these -- the actual charts that you
20 prepared --

21 A: Uh-huh.

22 Q: It -- this -- at least the 18, for example, at DYS 458,
23 that's inconsistent with Mr. Harrington's YSTR profile; right?

24 A: We don't look at the individuals. We look at the profile
25 as a whole, and in this one I think even that partial YSTR

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 profile is a possible mixture and, therefore, it's not
2 suitable for comparison. So I didn't compare it to Mr.
3 Harrington or to anyone else, any other male.

4 Q: But I thought --

5 A: It's not suitable for comparison.

6 Q: But at that location, Mr. Harrington has a 17; right?

7 A: I suppose so, but I still can't make a comparison now.

8 Q: Right.

9 A: Because I didn't make a comparison then.

10 Q: And the -- but the person who left that DNA has an 18 at
11 that location; right?

12 A: And it could very well -- if you'll notice on that chart
13 that you're referring to, these locations are all in
14 parentheses for the most part. For one, it's only one, two,
15 three, four, five, six locations that were even present, and
16 then half of those are in parentheses.

17 Now, what that means, that's called the tacit level.
18 That is a level that is way too low for us to make an
19 interpretable profile from when we have that few alleles. And
20 plus, this is just what showed up on the chart. If you looked
21 at the actual electropherogram, which is a diagram of what's
22 on the chart, you will see several different peaks there, some
23 tall, some not tall. And so when they're not tall, it doesn't
24 mean they're not present. They're below our eligible
25 threshold because they aren't tall.

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 What you see on the chart that she's referring to are
2 those that are tall. Even though they're tall, when it's a
3 possible mixture and we can't pull out a major contributor in
4 the mixture for a YSTR profile, we don't make a comparison at
5 all.

6 Q: But just to be clear, at five of the six locations where
7 you did call an allele, those were inconsistent with Mr.
8 Harrington's YSTR profile?

9 A: I didn't compare them to Mr. Harrington because it's a
10 possible mixture.

11 Q: So at DYS 576, the DNA from under Iyana's fingernails was
12 a 17 at that location?

13 A: Now, if I go back and find it our electropherogram, there
14 could be a 17 there, but it could be another peak that's on
15 the threshold. So you can't just pick and choose what you're
16 going to call --

17 Q: But you did call it.

18 A: -- because there are other things that are not present
19 there, and so I didn't make a comparison with this finding.

20 Q: But you did call it?

21 A: I did not call it. I didn't make a comparison.

22 Q: But you did call it?

23 A: The instrument called it because it rose above our
24 analytical threshold.

25 Q: Right. And so that's just part --

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 A: But if it's -- even though it rises above our analytical
2 threshold, if it's a possible mixture and we can't pull out a
3 major contributor, we do not interpret that because you don't
4 know what's represented and what's not.

5 Q: And I'm not asking you to make a comparison right now.

6 A: Uh-huh.

7 Q: I'm just asking just based on these charts.

8 A: That's a comparison, what you're asking for. I'm sorry,
9 but it is. If you want a -- because I would have to look at
10 the whole profile for that, and so if you -- and we can't look
11 it what's not called.

12 But if you want to go for, like, the 17 that's in
13 parentheses and not knowing what else could possibly be there
14 at that location, then -- what did I say? JeJauncey is an 18
15 at that location.

16 Q: Right.

17 A: So it could be another peak right beside it that is an
18 18. That's why we don't go out on a limb like that and make a
19 call and compare when all of the information is not
20 represented.

21 Q: And at five of the six locations that the machine called
22 for Item 135, the DNA under her fingernails, five of those six
23 locations did not -- were not consistent with Mr. Harrington's
24 DNA YSTR profile?

25 A: I did not make a comparison.

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 Q: Okay. So let's turn to the Eclipse now. So you tested a
2 bunch of swabs from the Eclipse; right?

3 A: I did.

4 Q: But you don't know how the DNA that you tested got there;
5 right?

6 A: I do not.

7 Q: And you don't know if it's blood or saliva or semen or
8 any other kind of body fluid, do you?

9 A: I know on some of the items from the Eclipse crime scene
10 had said it was Blue Star positive or LCV positive on the
11 Eclipse. We don't retest after them for that. So it would be
12 indicative that there may have been blood present there, but
13 as far as which one provided the DNA, no, I can't say that.

14 Q: But you're not really qualified to testify about the
15 false-positive rate for Blue Star, are you?

16 A: I am not. We use Blue Star, and we also use
17 phenolphthalein.

18 Q: And so you can't take that into consideration when you're
19 rendering your opinion about what the DNA profile says; right?

20 A: I can give you what the DNA profile says, yes.

21 Q: Right. And so that's really all you can do. You can't
22 say where it came from?

23 A: I can say where, as far as, like, what body fluid or
24 where? It's said to contain, if that's what the system Your
25 Honor was on. The envelope says it came from the trunk of the

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 Eclipse or floorboard of the Eclipse or wherever, that's where
2 I say it came from because that's all I know. I was not at
3 the scene.

4 Q: Right. So you didn't do any serological testing on the
5 samples from the Eclipse?

6 A: Let's see. Which sample are you referring to?

7 Q: The samples from the Eclipse.

8 MR. REDMOND: I think that was -- we stipulated, I think,
9 82 to 87.

10 THE WITNESS: Thank you.

11 MR. REDMOND: Or something like that.

12 BY MS. FREEDMAN:

13 Q: Right, right, 82 to 87.

14 A: Because I've got almost two pages of samples --

15 Q: Right.

16 A: -- from the Eclipse. Okay. The interior trunk panel, I
17 did not do any presumptive testing myself.

18 Q: And so you don't know then if it's blood; right?

19 A: I don't know. The only thing I can say is I remember,
20 and I can look back at my notes. Typically, if it's LCV
21 positive, we don't go back and retest. That's done
22 constantly.

23 Q: But you don't know if it's skin cells?

24 A: I don't.

25 Q: You don't know if it's --

ADRIENNE HEFNEY - CROSS BY MS. FREEDMAN

1 A: I just know --

2 Q: You don't know how it got there; right?

3 A: Oh, no.

4 Q: You don't know what it is other than that it generated a
5 DNA profile; right?

6 A: Correct.

7 Q: And so you don't know how long that's been there?

8 A: I do not.

9 MS. FREEDMAN: Just one second. I beg the Court's
10 indulgence.

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

12 Oh, I'm sorry, Ms. Freedman.

13 MS. FREEDMAN: Thank you very much, Agent Hefney.

14 THE COURT: Any redirect?

15 MR. REDMOND: No redirect, Your Honor.

16 THE COURT: All right. You're free to leave.

17 Any objection to her being excused?

18 MR. REDMOND: I think she's going to -- I guess it
19 depends at this point. We don't have any objection to her
20 being excused, but I believe she might decide to hang around a
21 little bit just depending on how -- because we are actually
22 concluding the State's portion, and so we would be moving into
23 the defense portion. So it really just depends on how that
24 proceeds, but I've answered the Court's question. We don't
25 oppose her being excused, but just so the Court will know, she

1 might stay around for a little while.

2 THE COURT: You're welcome to go or leave as if -- or if
3 you want -- if you want to compel her to stay, tell me.

4 MR. REDMOND: I don't need to compel her. I don't need
5 to compel her to stay, Your Honor.

6 THE COURT: All right.

7 MR. REDMOND: And just as a housekeeping matter, at this
8 point with the -- normally where we would rest I guess in a
9 jury trial, I'd usually ask for a break to make sure we go
10 through everything and then officially rest, but since this is
11 a bench trial and if there's no objection from the defense, at
12 this point I would rest from the standpoint that we're now
13 turning it over to the defense, but I still want to make sure
14 we've got all of our exhibits in evidence that we want to get
15 in evidence. So at the close at some time convenient to the
16 Court, we may want to just huddle up and make sure everything
17 is in that's supposed to be.

18 THE COURT: Would everybody agree that it would be the
19 most appropriate time to do that after the last witness?
20 Would everybody be in a position to do that?

21 MR. YOUNG: Sure.

22 THE COURT: All right. We'll do that, and we'll just go
23 through -- go through each item of evidence and make sure that
24 we have an agreement as to what's in evidence and what isn't.

25 MR. REDMOND: Thank you, Your Honor.

1 MR. YOUNG: Sort of as a housekeeping matter, I think we
2 need to ask the Court for a ruling concerning the Lemon Laws
3 evidence. I know that was a proffer, and the Court was going
4 to decide whether or not that was in or not in as evidence.
5 That was brought up by the defense during a State's witness
6 and introduced by us.

7 THE COURT: Would you like to be heard on that anymore --
8 any further?

9 MR. REDMOND: I don't think we need to be heard any
10 further other than the fact that we did, depending on --
11 obviously, we oppose that, but we did introduce the State's --
12 just to put things in its context based upon the context and
13 the defense order that we did submit the interview from
14 Charlotte of the defendant with Sheriff Lemon being the
15 primary interviewer, and so we would just -- basically, we
16 would yield to what is on that Court exhibit. I forget the
17 exhibit number, but the Court exhibit with that interview.

18 In our opposition to their motion to get into that, we
19 think it mischaracterizes and takes out of context what's
20 taken place in this case.

21 THE COURT: All right. I'm going to allow it into
22 evidence and give it the weight I think it deserves.

23 MR. REDMOND: Yes, sir.

24 MR. YOUNG: Thank you, Your Honor.

25 THE COURT: And that would be Exhibit what?

CHRISTOPHER WATKINS - DIRECT BY MS. CRAYTON

1 or affirm that the testimony you shall offer the Court in this
2 case shall be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE COURT: Come around and have a seat in the witness
6 chair. I'm going to ask that you pull up close to that
7 microphone and speak loudly, clearly, and slowly in order that
8 we can hear everything that you have to say, and let's start
9 with your full name, please, sir.

10 THE WITNESS: Yes, Your Honor. Christopher James
11 Watkins, W-a-t-k-i-n-s.

12 THE COURT: Thank you, Mr. Watkins.

13 CHRISTOPHER WATKINS, being first
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. CRAYTON:

17 Q: Mr. Watkins, can you tell me just a little bit about your
18 education and training?

19 A: Certainly. So I am a SLED-licensed private investigator.
20 I own and operate my own company, Certified Computer Forensics
21 in Columbia, South Carolina. I've been a private investigator
22 since February of 2010. I began working as a digital forensic
23 examiner around the same time, same year.

24 My background is in information technology, computer
25 science. I attended Midlands Tech -- Midlands Technical

CHRISTOPHER WATKINS - DIRECT BY MS. CRAYTON

1 College pursuant to an associate's degree in science. I
2 continued education through Midlands Technical College for
3 computer programming, specifically C++ programming language.
4 I acquired a CompTIA A+ certification, which is essentially a
5 general technician knowledge of computer hardware and
6 software.

7 I also attended training through IACIS, the International
8 Association of Computer Investigative Specialists, for my
9 certified forensic computer examiner certification, which I
10 did acquire in 2018 and have renewed in 2021. I will not need
11 to renew again until 2024.

12 I also acquired a mobile device forensic examiner
13 certification through IACIS as well. That was in 2021. I
14 also have trained through Hawk Analytics and Zedex. Both of
15 these companies specialize in cellular network data analyses.
16 I think that about covers the list of training.

17 Q: Mr. Watkins, I'm going to hand you what's been marked as
18 Defense Exhibit 43. Can you explain what that is?

19 A: Yes. This is a copy of my curriculum vitae.

20 MS. CRAYTON: Your Honor, at this time, I would ask that
21 State's -- or Defense Exhibit 43 be entered into evidence.

22 THE COURT: Any objection?

23 MS. WEISS: No objection, Your Honor.

24 THE COURT: It's into evidence.

25 (WHEREUPON, Defense Exhibit Number 43, CV of Christopher

CHRISTOPHER WATKINS - VOIR DIRE BY MS. WEISS

1 Watkins, was admitted into evidence.)

2 MS. CRAYTON: Your Honor, I apologize. At this time, we
3 would ask that the -- Mr. Watkins be qualified as an expert in
4 digital forensic science.

5 THE COURT: Any inquiry with regard to his qualifications
6 or any objection to his testimony in general?

7 MS. WEISS: If I could just ask?

8 VOIR DIRE

9 BY MS. WEISS:

10 Q: Have you been qualified as an expert in digital forensic
11 science?

12 A: Yes. I've been qualified as an expert in digital
13 forensic science 27 times in United States District Court in
14 Columbia, South Carolina General Sessions Court, Common Pleas
15 Court, and Family Court, and I've also been qualified as an
16 expert in cellular network data analyses in General Sessions
17 Court three times.

18 Q: Okay. And what is the scope of digital forensics
19 science?

20 A: So digital forensic science is the area of forensic
21 science that encompasses the securing, collection, and
22 analyses of data, electronically stored information as
23 contained on digital devices, such as computers, cell phones,
24 mobile devices, servers, and in this case you have that and
25 the cellular data as well. So that would also include that.

CHRISTOPHER WATKINS - VOIR DIRE BY MS. WEISS

1 MS. WEISS: Your Honor, I have no objection.

2 THE COURT: He is indeed so qualified and allowed to
3 render his opinion.

4 MS. CRAYTON: Thank you, Your Honor.

5 And, Your Honor, what we have done is we've included all
6 the exhibits on a hard drive. It was just sort of the easiest
7 way to do it instead of trying to deal with multiple CDs or
8 things like that. The State has -- I have given all of this
9 information to Ms. Weiss, and I don't think she has an
10 objection to us putting in the hard drive as a whole.

11 MS. WEISS: That's right. My understanding is that I
12 have looked at everything, I believe. Are the reports on
13 there as well? The tower reports?

14 MS. CRAYTON: Yes.

15 MS. WEISS: Okay. And, Your Honor, I do not have an
16 objection to the expert reports coming in as hearsay with the
17 agreement that Ms. Crayton is not going to go through every
18 single page of them. So I would prefer they be put in as a
19 summary.

20 MS. CRAYTON: I won't be wasting your time with that,
21 Judge.

22 THE COURT: We've had an epiphany that a report is not
23 hearsay?

24 MS. CRAYTON: Well, Judge, this isn't -- this is tower --
25 this is not --

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1 THE COURT: Different.

2 MS. CRAYTON: This is --

3 THE COURT: Objective information.

4 MS. CRAYTON: Yeah. This is not hearsay information,
5 Your Honor.

6 THE COURT: All right. Very good.

7 MS. CRAYTON: And so, Your Honor, at this time, I would
8 ask that Defense Exhibit 42 be entered into evidence as well.

9 THE COURT: All right.

10 MS. WEISS: Without objection.

11 THE COURT: It's into evidence.

12 (WHEREUPON, Defendant's Exhibit Number 42, information on
13 USB drive, was admitted into evidence.)

14 MS. CRAYTON: Thank you, Your Honor.

15 RESUMED DIRECT EXAMINATION

16 BY MS. CRAYTON:

17 Q: So, Mr. Watkins, were you given the opportunity to review
18 and analyze Ella Lowery's phone records?

19 A: Yes.

20 Q: Okay. And is that for phone number -- I'm just trying to
21 keep this all straight. Is it 843-862-0497?

22 A: Yes.

23 Q: Okay. And did you -- did you determine how many texts
24 and calls --

25 MS. WEISS: Objection, Your Honor. Leading.

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1 THE COURT: I'll allow her some leeway.

2 MS. CRAYTON: Thank you, Your Honor.

3 THE COURT: It's really not suggesting an answer.

4 BY MS. CRAYTON:

5 Q: Did you determine how many texts and calls Ella and
6 Dwayne Bright had between the two of them?

7 A: Yes, I did. There were 235 texts and calls, 197 texts
8 and 38 calls, between Dwayne Bright and Ella Lowery.

9 Q: Okay. And did Bright send more texts and calls to her
10 than she sent to him?

11 A: That's correct. Out of the lot, Bright communicated 61.7
12 percent of the time, whereas Lowery communicated 38.3 percent
13 of the time.

14 Q: And looking at the rest of Ella's phone records, can you
15 tell us her last incoming text? Do you remember what time or
16 can you tell us what time that was?

17 A: Yes. That was at 1:13:10 a.m., and that text message was
18 from telephone number 252-548-7715, which is associated with a
19 Javon Hargett.

20 Q: And do you know if she read that text?

21 A: I have no way of knowing that.

22 Q: Okay. And what is the second to last incoming text?
23 What time was that?

24 A: That text came in at 1:13:09 a.m., and that was from
25 telephone number 843-253-1579 and that number is associated

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1 with a Darrell Hawkins.

2 Q: And are you aware if she read that text or not?

3 A: I have no way of knowing that.

4 Q: Okay. And then let's talk about the third to last
5 incoming text. What -- what time was that?

6 A: The third to last incoming text came in at 1:08:55 a.m.
7 That text message originated from telephone number 843-535-
8 3480, and that number is associated with Mr. Harrington.

9 Q: And again, can you tell us if she read that text?

10 A: I have no way of knowing that.

11 Q: And when was the last outgoing? When was her last
12 outgoing cell phone text?

13 THE COURT: The third to last was what time?

14 THE WITNESS: The third to last was at 1:08:55 a.m.

15 BY MS. CRAYTON:

16 A: And you asked me when was Ella's last outgoing text?

17 Q: Outgoing text, yes.

18 A: Outgoing text was at 1:08:30 a.m. That text message was
19 to telephone number 843-535-3480, and that number is
20 associated with Mr. Harrington.

21 Q: Thank you. And were you also given the opportunity to
22 review Mr. Harrington's phone records?

23 A: Yes.

24 Q: And were you given months of phone records or were you
25 given just a few days around the incident?

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1 A: His records span from March 6th to May 6th, 2017.

2 Q: And was this one phone or multiple phones and numbers?

3 A: I received records for two telephone numbers associated
4 with Mr. Harrington, an AT&T number, which is the one I
5 previously read, 843-535-3480, and a Verizon telephone number,
6 843-287-4282.

7 Q: And after reviewing these phone numbers, can you tell us
8 was it unusual for Mr. Harrington to use multiple phones or
9 multiple numbers?

10 A: Upon my observations of what I received, no, it's not.
11 It would not be uncommon.

12 Q: And in looking at Mr. Harrington's phone records, does it
13 appear that Mr. Harrington had several phone calls with Ms.
14 Jamie Campbell?

15 A: Yes. With telephone number 706-386-6788, there were 63
16 records in Harrington -- Mr. Harrington's AT&T records and 41
17 call records in Mr. Harrington's Verizon records.

18 Q: Okay. And tell us in regards to Ms. Ella and Mr.
19 Harrington, how many calls between the two of them from March
20 6th until May 6th?

21 A: There were a total of 235. That was 226 texts and nine
22 calls.

23 Q: Is that mostly phone calls or is that mostly texts?

24 A: Those were mostly texts.

25 Q: Now, the State has claimed that there were almost 800

1 contacts. Can you tell us why your number is different from
2 their number?

3 A: Certainly. So when you're looking at the AT&T records
4 set, you will see that there are indeed about 796 records
5 between these two numbers. What is -- in order to understand
6 what exactly is going on, you've got to look at how these
7 calls are being traversed.

8 So there are multiple legs to each call as it's being
9 routed through the network from the originating number to the
10 terminating number. So there would be multiple hops or legs
11 to a call. So some of these might have two, three, four hops.

12 So only the records that indicate a connecting cell tower
13 are those that are responsive to an actual ringing call. So
14 when we filter that down and we filter out the -- some records
15 will also indicate a first serving tower and a last serving
16 tower, and those towers could be different, and if they are
17 different, it'll report two distinct records that should be
18 interpreted as one. So when we filter all of that out, we
19 come down to 235 unique texts and calls.

20 Q: That 235 number, is that telephone contacts alone and
21 does not include Facebook?

22 A: Yes. This is just dealing with AT&T records.

23 Q: But you also had the opportunity to review Ms. Ella
24 Lowery's Facebook; is that correct?

25 A: Yes.

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1 Q: Okay. And does she have multiple Facebook pages?

2 A: Yes. From what I received, there were three independent
3 profiles associated with Ms. Lowery.

4 Q: And on those profiles, was there a lot of graphic
5 content?

6 MS. WEISS: Objection, Your Honor. Relevance.

7 THE COURT: I'll overrule your objection.

8 MS. CRAYTON: Thank you, Your Honor.

9 BY MS. CRAYTON:

10 Q: Was there a lot of graphic content?

11 A: Yes, I would say that there was.

12 Q: And there were naked pictures?

13 A: Indeed, yes.

14 Q: And graphic videos?

15 A: Yes.

16 Q: And I am going to hand you what's been marked as Defense
17 Exhibit 65. Can you tell me do you recognize that item?

18 A: Yes, I do.

19 Q: And what is this item?

20 A: That is -- this is a spreadsheet version of a timeline of
21 activity on Ms. Lowery's Facebook profile associated with --
22 the Facebook name is Intoxication St. Brown. What I did is I
23 went through that document that was provided from Facebook,
24 and I put together a timeline responsive to the May 5th events
25 date from midnight until -- until the last activity associated

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1 with Ms. Lowery on Facebook.

2 MS. CRAYTON: Your Honor, at this time, I would ask to
3 admit Defense Exhibit 65 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 65, Facebook
8 timeline, was admitted into evidence.)

9 MS. CRAYTON: And, Your Honor, I'm just going to provide
10 you that so that you can follow along.

11 BY MS. CRAYTON:

12 Q: Can you tell us did Ms. Ella send a Facebook post at
13 12:02?

14 A: Yes.

15 Q: And can you tell us what that post -- what was the
16 content of that post?

17 A: Yes. That status update read, "tornado warning Horry
18 County be safe."

19 Q: And would you start around 1:01 and just walk us through
20 her Facebook activity through that time period?

21 A: Certainly. At 1:01:29 a.m., there's a status comment
22 from Facebook profile name Robert White that indicates or his
23 comment reads, "I'm on your page like I'm on a stakeout."

24 At 1:08:04 a.m., the user profile Intoxication St. Brown
25 associated with Ms. Lowery posted a comment that says, "It's

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1 over now, sexies." And this is in reference to the same
2 status that was posted at 12:41:52 a.m., and in that status,
3 which this is a comment to, reads, "Should I go live while I
4 shower?"

5 Q: So what is she referring to there? What does she mean
6 when she says -- do you know what she's speaking about?

7 A: My understanding is that there was a live recording and
8 that it had concluded, and this is an indication that it has
9 concluded.

10 Q: And do you -- do you know the content of that video?

11 A: A recording of Ms. Lowery in the shower.

12 Q: Okay. All right. Continue on, Mr. Watkins.

13 A: At 1:09:40 a.m., Facebook profile Hamp Johnson replied to
14 that same status saying, "We can take it to the bedroom."

15 At 1:14:22 a.m., Intoxication St. Brown replies or
16 comments, "No. LOL."

17 At 1:15:25, Facebook profile Andre Henry comments, "So
18 what color panties did you put on after your shower?"

19 At 1:18:47, Intoxication St. Brown profile comment reads,
20 "For those that missed my shower scene."

21 There's an incoming message at 1:21:05 a.m. from Facebook
22 profile Demario Robinson. This is a Facebook link. I can't
23 interpret it past it just being a link to something on his
24 profile.

25 There's another incoming message at 1:21:25 a.m. from

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1 Facebook profile Intoxication St. Brown. This is also a
2 Facebook link. Again, I cannot interpret what that actually
3 links to. It's a Facebook link.

4 There is a status comment at 1:22:42 a.m. from Facebook
5 profile Intoxication St. Brown. This is a response to a
6 Facebook user, Alex Graham Jones, as that Facebook profile is
7 tagged, and it reads, "Where were you? LOL."

8 At 1:22:47 a.m., there's a message incoming from Facebook
9 profile Carl Robinson that reads, "Give that private shower
10 show."

11 There's an incoming message at 1:23:49 a.m. from Demario
12 Robinson that reads, "Hey, beautiful."

13 There's a missed call at 1:23:59 a.m. from a Jay
14 Sheppard. This call was not answered. It was missed.

15 There's an incoming -- or an outgoing message at 1:24:53
16 a.m. from Facebook profile Intoxication St. Brown. This is a
17 picture. The attachment is indicated on the exhibit. There
18 is a -- and there's no other message context. It's just the
19 picture.

20 There's an incoming message at 1:25:12 a.m. from a
21 Demario Robinson. The message reads, "How are you tonight?"

22 There's a status comment at 1:25:44 a.m. from an Outgoing
23 [ph] Jones or that might be a misspelling. Outgoing Jones.
24 "Out for a bit with a debilitating -- debilitatingly, severely
25 bad sickening and extremely disorienting headache, double

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1 vision, and tremendous head pressure."

2 There's a status comment at 1:26:38 a.m. from
3 Intoxication St. Brown that reads, "All you missed my video."

4 Another status comment at 1:27:53 a.m. from Intoxication
5 St. Brown that indicates "none." This response is actually to
6 the earlier comment that I read from Andre Henry at 12:15:25.
7 It's on that same status where he asks so what color panties
8 did you put on after the shower.

9 At 1:31:20 a.m., there's an incoming message from
10 Facebook profile Thomas Edison. That message reads, "Yes."

11 At 1:33:33 a.m., there's an incoming message from
12 Facebook profile David Reddick that reads, "Hi."

13 At 1:33:41 a.m., Intoxication St. Brown sends a picture.
14 That picture is indicated in the exhibit. There's no other
15 message content.

16 At 1:34:06 a.m., David Reddick sends a message that
17 reads, "How was your day? Nice pics."

18 At 1:37:20 a.m., another message from David Reddick
19 reads, "Hi."

20 And there is a Facebook call at 1:38:38 a.m. from David
21 Reddick that has a duration of 42 seconds with Intoxication
22 St. Brown, indicating that that call was answered.

23 Q: Thank you, Mr. Watkins. And, Mr. Watkins, just for the
24 record, can you tell us is -- the timing on this, is this UTC
25 time? Is this local time? What is this?

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1 A: What I did is I took the data and I converted it to local
2 time. So the times indicated here are not in UTC. They are
3 in local time. Another thing that I ought to add is that
4 there were a lot of other comments on some of these posts.
5 Not all of the comments were included in this timeline.

6 Q: And there were -- those would have been sort of just
7 status updates on somebody's page, not interactions? Is that
8 kind of the --

9 A: Right. The -- the focus was interactions with and
10 between this profile Intoxication St. Brown, incoming and
11 outgoing.

12 Q: So let's talk about that last Facebook call. Who was
13 that last -- the one at 1:38:38, can you tell me who that's
14 from?

15 A: The Facebook profile reads David Reddick.

16 Q: And did she answer that call? Did Ms. Ella answer that
17 call?

18 A: Yes. It indicates a duration of 42 seconds.

19 Q: So it lasted 42 seconds is what we know; correct?

20 A: Yes.

21 Q: Okay. And was this the last outgoing Facebook activity
22 for Ella Lowery?

23 A: Yes.

24 Q: And can you tell us how many Facebook posts and contacts
25 did Ella have after her phone call or text with Mr.

1 Harrington?

2 A: Counting from this timeline and including interactions
3 incoming and outgoing, I counted 21. With just counting
4 outgoing from Ms. Lowery's Facebook profile, I counted eight.

5 Q: Thank you. Have you also reviewed the SLED mapping that
6 was done on two of Mr. Harrington's phones, as well as Dwayne
7 Bright's phone?

8 A: Yes.

9 Q: Okay. Did you have the opportunity to do your own
10 mapping?

11 A: Yes.

12 Q: Can you tell us the difference between your mapping and
13 what SLED did?

14 A: Certainly. So in my map presentation, it is a record by
15 record mapping of all of the records, whether the call
16 indicates a cell tower activity or not. So this would include
17 those that were being routed through the network, as well as
18 those that did have cell tower activity. So in comparison,
19 Mr. Johnson's -- his reports would indicate by tower. So
20 rather than record by record, we're looking at a tower and
21 seeing the timeline of activity per tower as the timeline
22 goes.

23 Q: Okay. And I believe the Verizon number -- is that the
24 843-287-4282? Is that correct?

25 A: Yes.

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1 Q: Okay. Let's start with that mapping. Do you know -- in
2 looking at that telephone number, does that phone move away
3 from Tower 1?

4 A: No.

5 Q: Okay. And then the second set of mapping I think was the
6 AT&T Harrington number. Am I correct that it's 843-535-3480?

7 A: Yes.

8 Q: Okay. And can you tell us from 12:05 to 12:30 which
9 tower is the phone using?

10 A: The actual tower would be LIC 8208 cell ID 5029, and in
11 Chris Johnson's report it is Tower -- or labeled as Tower 1.

12 Q: Tower 1?

13 A: Yes.

14 Q: Okay. And at some point, does it move from Tower 1 to
15 Tower 2 on Mr. Johnson's report?

16 A: Yes. Yes, it does.

17 Q: And is that tower closer to the crime scene than Tower 1
18 or further from the crime scene?

19 A: So Tower 1 is approximately 3/10 of a mile from Mr.
20 Harrington's residence and about 1.7 miles away from Ms.
21 Lowery's residence. Tower 2 is a bit further away. It's
22 approximately 2.8 miles away from Ms. Lowery's residence and
23 about 1.6 miles away from Mr. Harrington's residence.

24 Q: And what could be the reason for the move from Tower 1 to
25 Tower 2?

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1 A: There could be many reasons. The -- it could have a
2 better signal. The phone could be in motion moving into
3 coverage area, but those would be the most likely.

4 Q: So it would be consistent with Mr. Harrington driving in
5 that direction?

6 A: It could be, yes.

7 Q: Okay. Did you also review Mr. Bright's cell phone
8 records?

9 A: I did, yes.

10 Q: And is that telephone number 843-535-2091?

11 A: Yes.

12 Q: Okay. And this is an AT&T -- is this an AT&T --

13 A: It is.

14 Q: -- record?

15 A: Yes.

16 Q: So would this be the same towers that Mr. Harrington is
17 using?

18 A: Yes.

19 Q: Okay. And was there any activity during the time of the
20 murder on that phone?

21 A: There was an observable gap on this particular phone
22 record set between 3:33:24 p.m. on May 4th, 2017, to 9:35:15
23 a.m. on May 5th, 2017.

24 Q: And what could explain that gap in coverage?

25 A: This could be -- this could be explained by the phone

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1 just not being in use. I did look at the records to determine
2 whether there's any indication that the phone could be off.
3 Typically with AT&T records, if the phone is off and calls are
4 still coming in, it's going to indicate still records coming
5 in for that, but there's going to be a feature annotated in
6 the records that's going to say that the call is not
7 reachable. We don't see any of that within this time period.

8 So that doesn't mean the phone is not on, but that
9 doesn't mean that it is. So the phone could just simply not
10 be in use during this time. It could be off. It could be in
11 airplane mode. It could be -- the best I can discern is that
12 there's no activity during this time period.

13 Q: So is there any way to determine where that phone was
14 located at the time of the murder?

15 A: No.

16 Q: Did you also have a chance to do your own mapping on Mr.
17 Harrington's phones?

18 A: Yes.

19 Q: I'm going to hand you what's been marked as Defense
20 Exhibit 44. Can you tell me what that is?

21 A: This is the mapping that I put together for the Verizon
22 records received for Mr. Harrington's telephone number 843-
23 287-4282.

24 MS. CRAYTON: Your Honor, at this time, I would ask to
25 admit Defense Exhibit 44.

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1 MS. WEISS: Can I see it?

2 MS. CRAYTON: Yeah, sure.

3 MS. WEISS: No objection, Your Honor.

4 THE COURT: It's into evidence without objection.

5 (WHEREUPON, Defendant's Exhibit Number 44, Verizon
6 records mapping, was admitted into evidence.)

7 MS. CRAYTON: Thank you, Your Honor.

8 BY MS. CRAYTON:

9 Q: Did you also have a chance to do the AT&T records as
10 well?

11 A: Yes. For the number ending in 3480, yes.

12 Q: I'm going to hand you what's been marked as Defense
13 Exhibit 45. Can you tell me if you recognize that?

14 A: Yes. This is the printout of the map data from AT&T
15 associated with Mr. Harrington's telephone number 843-535-
16 3480.

17 Q: Thank you.

18 MS. CRAYTON: And, Your Honor, at this time, I would ask
19 to admit Defense Exhibit 45 into evidence.

20 MS. WEISS: No objection, Your Honor.

21 THE COURT: It's into evidence.

22 (WHEREUPON, Defendant's Exhibit Number 45, AT&T records
23 mapping, was admitted into evidence.)

24 MS. CRAYTON: Thank you, Your Honor.

25 BY MS. CRAYTON:

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1 Q: Looking at Mr. Harrington's records as well as Mr.
2 Bright's records, can you tell us definitively if either of
3 them was at the crime scene at [REDACTED] Craig Circle?

4 A: No.

5 Q: And did you also do mapping regarding the towers in
6 relation to some of the interested residences?

7 A: Yes.

8 Q: Okay.

9 Q: I'm going to hand you what's been marked as Defense
10 Exhibit 46. Can you tell me do you recognize that item?

11 A: Yes, I do.

12 Q: And what is that?

13 A: What you see here in this exhibit, there are the two cell
14 towers annotated Tower 1 and Tower 2 in earlier testimony.
15 These are mapped, and then what you have there is a protractor
16 on screen showing the angle that that tower is from that
17 sector to a given location.

18 Q: So did you map the AT&T towers in relation to 656 Craig
19 Circle?

20 A: Yes.

21 Q: Okay. And you mapped both of the AT&T towers that were
22 used; correct?

23 A: That's correct.

24 Q: Okay.

25 MS. CRAYTON: Your Honor, at this time, I would ask to

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1 admit Defense Exhibit 46 into evidence.

2 MS. WEISS: May I just see it?

3 MS. CRAYTON: Yeah. Do you have an objection, Heather?

4 MS. WEISS: No objection.

5 THE COURT: It's into evidence.

6 (WHEREUPON, Defendant's Exhibit Number 46, cell tower
7 mapping, was admitted into evidence.)

8 BY MS. CRAYTON:

9 Q: Okay. Were you able to map the Verizon towers in the
10 area as well?

11 A: Yes.

12 Q: I'm going to hand you what's been marked as Defense
13 Exhibit 47. Can you tell me if you recognize that?

14 A: Yes.

15 Q: And can you tell me what that is?

16 A: Yes. So when the data was received in response to a
17 search warrant to Verizon, Verizon provides a cell site list
18 for the region, in this case for a large portion of the
19 southeast. What I did is I took that database and I mapped
20 it. This is a mapping of all cell towers within the area
21 extending from Bennettsville, so with focus on Bennettsville
22 but around the area.

23 MS. CRAYTON: And, Your Honor, at this time, I would ask
24 that Defense Exhibit -- I think that's 47 -- be admitted into
25 evidence as well.

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1 THE COURT: Any objection?

2 MS. WEISS: If we could just clarify what year the
3 database came from?

4 THE WITNESS: It's in response to the search warrant. So
5 I was provided with the records that came with the Verizon
6 CDR.

7 MS. WEISS: No objection.

8 THE COURT: It's into evidence.

9 MS. WEISS: Wait. That's fine.

10 (WHEREUPON, Defendant's Exhibit Number 47, Verizon cell
11 tower chart, was admitted into evidence.)

12 BY MS. CRAYTON:

13 Q: Were you able to map the towers, the AT&T towers, as you
14 did the Verizon?

15 A: No.

16 Q: Can you tell the judge why?

17 A: Yes. AT&T does not provide a cell site list in the way
18 that Verizon does. The CDR, call detail record that's
19 provided by AT&T responsive to the target number, will
20 indicate the connecting towers within that data set responsive
21 to those records in particular. So there's not a list like we
22 get with Verizon that AT&T provides.

23 Q: So in looking at the Verizon cell phone records, it does
24 appear that there is a tower close to Mr. LaBean's house in
25 McColl; is that correct?

1 A: Yes.

2 Q: Does Mr. Harrington's phone ever utilize that tower?

3 A: No.

4 Q: All right. I'm going to move on to the Grace Street
5 video. Did you have an opportunity to review the surveillance
6 camera at [REDACTED] Grace Street?

7 A: Yes.

8 Q: Is that right? Am I saying that right, [REDACTED]?

9 A: It is [REDACTED], yes.

10 Q: Is there something unusual about Mr. Harrington's Eclipse
11 vehicle which makes it easy to sort of distinguish on video?

12 A: It has a white in color or light -- I would say light-in-
13 color roof.

14 Q: And did you have a chance to look at the [REDACTED] Grace Street
15 and analyze that video?

16 A: I did.

17 Q: Okay. And can you sort of walk us through the comings
18 and goings of the -- of that vehicle on that footage?

19 A: Certainly. So --

20 Q: Starting at -- I mean, I don't want to start from the
21 beginning of time. So if you want to start right around maybe
22 11:35, I think is --

23 A: Okay. Okay. In analyzing the video at [REDACTED] Grace Street,
24 I observed that Mr. Harrington's vehicle travels in view of
25 the camera -- cameras, there's multiple cameras at this

1 location -- at 11:35 p.m. and pulls into the driveway of [REDACTED]
2 Grace Street. The vehicle departs from [REDACTED] Grace Street
3 traveling in view of the cameras at 12:25 a.m. At 1:42 a.m.,
4 the vehicle is observed arriving back at the [REDACTED] residence.
5 Q: Now, I'm going to stop you there. So at 1:42, you said
6 the vehicle is returning home? Is that what you just said?
7 A: Yes.
8 Q: Now, going back to Ella's Facebook activity, would that
9 be about three minutes and 30 seconds after her last Facebook
10 activity?
11 A: It's roughly 3 minutes and 30 seconds. The last Facebook
12 activity was at 1:38:38.
13 Q: And when does he leave that residence again?
14 A: The next departure is at 1:47 a.m.
15 Q: Okay. And I'm going to stop you there for a second. Do
16 -- do these cameras have -- do any of them have audio?
17 A: Channel 1. There's, I believe, eight channels. Channel
18 1 has an audio stream.
19 Q: And is there anything unusual that you hear on the
20 videos?
21 A: Nothing unusual, no.
22 Q: Okay. Do you hear something at some point during that
23 video?
24 A: There's portions where you can hear vehicles passing by.
25 You can hear birds chirping, that sort of thing. Nothing

1 unusual.

2 Q: And does Mr. Harrington eventually return home at 5:15
3 a.m.?

4 A: At 5:15 a.m., yes.

5 Q: Okay. Did you compare the vehicles leaving at 12:25 and
6 then 1:47 a.m.?

7 A: I did, yes.

8 Q: And were you -- what were you able to sort of determine
9 from this comparison?

10 A: The objective of doing this was to show this is two
11 distinct times that the vehicle is departing [REDACTED] Grace Street.
12 The objective was to see whether the video can be enhanced in
13 any way to discern the number of occupants in the vehicle.
14 The video is of poor quality, not really a great sample. The
15 best I can discern is that there's at least one occupant in
16 the vehicle. The two -- two videos where we see the vehicle
17 pass by, I did do a comparison showing them kind of side-by-
18 side where you can see that the visual content is consistent
19 between the two.

20 Q: Okay. I'm going to hand you what's been marked as
21 Defense Exhibit 48. Can you tell me if you recognize this?

22 A: Yes.

23 Q: And can you tell me what is that that I handed to you?

24 A: So these are still shots taken from the video. What you
25 will notice is that, once again, it's of poor quality, but

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1 what I've done with the video is I have zoomed in, attempted
2 to make some enhancements to the levels, brightness, contrast,
3 and there's also a comparison between the two times that I had
4 mentioned earlier, 12:25 and 1:47 a.m.

5 Q: So these are stills from the video that you just
6 explained to us; is that right?

7 A: Yes.

8 Q: Okay.

9 MS. CRAYTON: Your Honor, at this time, I would ask that
10 Defense Exhibit 48 be entered into evidence.

11 THE COURT: Any objection?

12 MS. WEISS: No objection, Your Honor.

13 THE COURT: It's into evidence.

14 (WHEREUPON, Defendant's Exhibit Number 48, still
15 photographs from video, was admitted into evidence.)

16 MS. CRAYTON: Thank you, Your Honor.

17 BY MS. CRAYTON:

18 Q: So did you also enhance that Grace Street video?

19 A: I made attempts to enhance it, yes.

20 Q: Okay. And did you do that at 1:42 a.m.?

21 A: Yes.

22 Q: And I believe that that is already in evidence. Do you
23 think that you could play those videos for the judge for us?

24 A: Yes.

25 Q: And if you could sort of explain the enhancement?

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1 (WHEREUPON, the videos were played on screen.)

2 BY MS. CRAYTON:

3 A: Okay. So in this video that you're observing here, this
4 is the vehicle passing in front of camera 1, and I'm going to
5 -- I'm going to replay this because it is kind of a quick
6 video here. And this portion here, I'm going to just kind of
7 pause it now. This is using the quality of the video without
8 any enhancements with the exception of being zoomed in and
9 cropping the time so it is displayed at the top of the video.

10 And this next segment, there is some enhancements done to
11 the gamma brightness contrast to attempt to brighten up the
12 interior of that vehicle. Again, it's of low quality, about
13 the best I could come up with with this sample here. This is
14 the vehicle passing by, same sequence.

15 Now, this last sequence here, what I've done is I've
16 inverted the colors. One important thing to note is that you
17 will see that the roof is now black. It's inverting the
18 colors; so now white becomes black. This was done also to see
19 whether we could see any potential occupants in the vehicle.

20 Okay. That's -- I'll play the next video.

21 Now, this is a video from channel 2 at 1:42 a.m. This is
22 the vehicle passing by the camera. It is slowed down. In
23 that first segment that I just played, it's the original
24 quality, and the second portion that we're seeing played on
25 the screen is the levels have been changed to attempt to make

1 the interior a little bit brighter. And again, it's very
2 grainy.

3 Q: So in enhancing these videos, were you able to determine
4 if there was a second individual in the vehicle?

5 A: No.

6 Q: Are you also aware of surveillance footage that was
7 collected at 1604 New Bridge Road?

8 A: Yes.

9 Q: And did you have a chance to review and analyze that
10 surveillance footage as well?

11 A: Yes, I did.

12 Q: And did you make a spreadsheet of that -- the activity on
13 that camera?

14 A: Yes.

15 Q: All right. I'm going to hand you what's been marked as
16 Defense Exhibit 49. Can you tell me if you recognize that
17 item?

18 A: Yes, I do.

19 Q: Okay. And what is that item?

20 A: What I did with the video taken from 1604 New Bridge Road
21 is I created a spreadsheet in chronological order indicating
22 the file name, the timestamp start, the timestamp end, the
23 duration of that video file, the indicated channel that it is
24 running on, and then I provided also a comment or opinion of
25 what is causing that camera to record, that video to record.

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1 MS. CRAYTON: And, Your Honor, at this time, I would ask
2 to admit Defense Exhibit 49 into evidence.

3 MS. WEISS: No objection.

4 THE COURT: It's into evidence.

5 (WHEREUPON, Defendant's Exhibit Number 49, spreadsheet of
6 New Bridge Road surveillance video information, was
7 admitted into evidence.)

8 MS. CRAYTON: Thank you, Your Honor.

9 BY MS. CRAYTON:

10 Q: And are you aware of a claim of a missing video on that
11 surveillance camera?

12 A: That was brought to my attention, yes.

13 Q: And did you ever see a vehicle turn into the abandoned
14 lot across the street on camera?

15 A: No.

16 Q: If there had been a vehicle pulling into that lot, could
17 you have compared that car's taillights with the cars that
18 were seen on the Grace Street video?

19 A: Yes.

20 Q: And would you have been able to compare the vehicles to
21 possibly exclude Mr. Harrington's vehicle?

22 A: Yes.

23 Q: But you weren't provided that video; correct?

24 A: I was provided 59 video files, not one that you're
25 describing.

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1 Q: And we do see a vehicle pulling into Mr. LaBean's
2 driveway at 2:38 a.m.; is that right?

3 A: Yes.

4 Q: Is that Mr. Harrington's vehicle?

5 A: It is not. This is a sedan. It's observable in the
6 video. So, no.

7 Q: And on channel 4 at 4:11, were you able to observe a
8 vehicle turning its headlights off?

9 A: Yes.

10 Q: And were you also given search warrants in this case?

11 A: Yes.

12 Q: And did you review those search warrants as well?

13 A: I did.

14 Q: And can you tell us -- Investigator Seales I think did a
15 search warrant, and it reflects the timing of this vehicle
16 leaving the residence; is that correct?

17 A: Yes.

18 Q: And can you tell us about that?

19 A: Yes. The way the language is written is it indicates an
20 offset on the video. It describes a vehicle arriving at the
21 residence around 2:40 a.m. and departing the abandoned lot
22 around -- I believe it was 5:10 a.m.

23 Q: And that offset that he suggested, which I think is an
24 hour; is that correct?

25 A: That would be my guess based on observing this video,

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1 seeing a vehicle with the headlights extinguished at 4:11
2 a.m., departing, and then the indication in the search warrant
3 being about saying 5:11, being an hour off, indicating the
4 same activity. So it's logical to conclude that he's
5 referencing an offset of an hour.

6 Q: And is Investigator Seales the only person that states
7 that offset in writing that you have seen?

8 A: That I am aware of? That -- that's my knowledge is that
9 this is the only indication.

10 Q: So can you tell us is it possible that Mr. Harrington was
11 leaving that scene at 5:11 a.m.?

12 A: The -- the vehicle -- I attempted to make enhancements to
13 this to see if we could determine what type of vehicle this
14 is. I can't determine what type of vehicle it is. The best I
15 can say is it's either a sedan or a coupe.

16 Q: And Mr. Harrington's vehicle is seen on Grace Street at
17 5:16; is that right?

18 A: Yes, that's correct.

19 Q: And do you know the -- how long it about takes to get
20 from Grace Street to New Bridge Road?

21 A: It's about a 22-minute drive.

22 Q: So that would be impossible to be on those two videos,
23 one at 5:11 and one at 5:16?

24 A: That's correct.

25 Q: And looking at that New Bridge Road video, did you review

1 and enhance it as well?

2 A: Yes.

3 Q: And did you enhance it trying to look for a vehicle with
4 a white roof?

5 A: Yes.

6 Q: And did you play the vehicle in slow -- or the time --
7 time clip of this vehicle in slow motion?

8 A: I did render it in a slow-motion fashion, yes.

9 Q: And were you able to see any vehicles with a white roof
10 at 4:11 using that method?

11 A: At 4:11, no.

12 Q: And did you change the levels, meaning the brightness,
13 the contrast, did you enhance it that way?

14 A: I did. The objective is to try to adjust the luminosity
15 to see if we can pick up the white-colored roof.

16 Q: And at 4:11, were you able to see a vehicle with a white
17 roof using that method?

18 A: Not on the 4:11 vehicle, no.

19 Q: And did you produce stills from this enhancement?

20 A: Yes.

21 Q: Okay. I'm going to hand you what's been marked as
22 Defense Exhibit 50. Can you tell me if you recognize that as
23 well?

24 A: I do.

25 Q: And tell me what that is?

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1 A: So this is a still shot from the video that I analyzed
2 and attempted to make enhancements to. This is the clip that
3 we're referring to that begins at 4:11 a.m. This depicts the
4 vehicle that pulled out of the lot with the headlights turned
5 off. You can see in this photo the headlights are turned off.

6 What I have attempted to do here is I can see that it is
7 zoomed in. The time is cropped and centered at the top of the
8 photo. I attempted to adjust the levels to increase the
9 luminosity to such degree that a white-colored roof might be
10 visible. In this particular exhibit, you can see that there
11 is no indication of a white-colored roof.

12 MS. CRAYTON: Your Honor, at this time, I would ask for
13 Defense Exhibit 50 to be put into evidence.

14 THE COURT: Any objection?

15 MS. WEISS: No objection, Your Honor.

16 THE COURT: It's into evidence.

17 (WHEREUPON, Defendant's Exhibit Number 50, still
18 photograph from video, was admitted into evidence.)

19 MS. CRAYTON: Thank you, Your Honor.

20 BY MS. CRAYTON:

21 Q: And you did a second enhancement on that same portion of
22 the video; is that correct?

23 A: I did multiple things.

24 Q: Let me ask you this more specifically. Did you do an
25 inverted color filter as well?

1 A: Yes.

2 Q: Okay. And I'm going to hand you what's been marked as
3 Defense Exhibit 51, and can you tell me if you recognize that
4 item?

5 A: Yes, I do.

6 Q: And can you tell me what that is?

7 A: So similar to the last exhibit that was described, the
8 difference here is that I put on an inverted color filter to
9 attempt to make any -- any objects with a light-in-color
10 luminosity visible in a black tone essentially. So this is an
11 inverted picture of the last exhibit.

12 MS. CRAYTON: Your Honor, at this time, I would move to
13 admit Defense Exhibit 51 into evidence.

14 THE COURT: Any objection?

15 MS. WEISS: Is that the one we just --

16 MS. CRAYTON: Any objection?

17 MS. WEISS: No objection.

18 MS. CRAYTON: Okay.

19 THE COURT: It's into evidence.

20 (WHEREUPON, Defendant's Exhibit Number 51, still
21 photograph from video with color inversion, was admitted
22 into evidence.)

23 MS. CRAYTON: Thank you, Your Honor.

24 BY MS. CRAYTON:

25 Q: And these methods, did any of them return positive

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1 results confirming that the roof of the vehicle is white-
2 colored, the 4:11 vehicle?

3 A: In my attempts to do that, no. There's no -- no positive
4 results for determining a white-in-color roof for this
5 vehicle.

6 Q: And did you provide us clips of that enhancement as well?

7 A: I may have. They may be on here. I did also a
8 comparison, but those may be stills also.

9 Q: Will you check to see --

10 A: I will check.

11 Q: -- if you have them?

12 A: Yes, there is a video file of this. Would you like me to
13 go ahead and play it?

14 MS. CRAYTON: That's already in evidence, Your Honor. At
15 this time, we'd ask to play that.

16 (WHEREUPON, the video was played.)

17 BY MS. CRAYTON:

18 A: Okay. So what you're going to see here is the video is
19 playing as normal. You'll see the vehicle at the top right of
20 the picture. I've got this slowed down. The vehicle is
21 passing the upper right. In the next shot, the levels of
22 brightness and contrast have been changed to attempt to make
23 that a little more apparent that that vehicle passes by. Once
24 again, you'll see it in the upper right. In the next
25 sequence, there's an inverted color filter, and then you'll

1 see this same sequence of these three clips played again but
2 zoomed in.

3 Q: Is this the inverted?

4 A: Yes. This is the last section of the clip, inverted,
5 same day.

6 Q: Now, in the full surveillance video, were you able to
7 view some light-colored vehicles in that?

8 A: Yes.

9 Q: And did you provide us stills from two light-colored
10 vehicles?

11 A: I did.

12 Q: Okay. All right. I'm going to hand you what's been
13 marked as Defense Exhibit 52. Can you tell me if you
14 recognize that item?

15 A: I do.

16 Q: Okay. And what is that?

17 A: This is a zoomed-in clip or snapshot from the video taken
18 at 4:23:51 a.m. So I've zoomed in. I've changed -- I've
19 adjusted the levels for this particular vehicle, and I've
20 inverted the -- well, with this particular vehicle -- I mean
21 video, and then inverted the colors.

22 So what you'll see here is this vehicle is light in
23 color. It's important to point out that this video is being
24 recorded in black and white. So the best I can say is that it
25 is light in color. It appears to be white, but I can't tell

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1 you that it's white because it could be a light-in-color
2 vehicle. Right? What you will see is the roof portion of
3 this vehicle is also light in color, and you could see that it
4 is depicted as being a dark line of what that vehicle, which
5 is distinguishing marks of that roof.

6 Q: And I'm going to hand you what's been marked as Defense
7 Exhibit 53 as well. Can you tell me what that one is?

8 A: Yes. So this is -- this is about the same photo, the
9 difference here being that the colors are not inverted. The
10 levels, brightness, and contrast have been adjusted to show
11 the light-in-color vehicle.

12 MS. CRAYTON: Your Honor, at this time, we would ask for
13 Defense Exhibit 52 and 53 to be admitted.

14 THE COURT: Any objection?

15 MS. WEISS: Without objection, Your Honor.

16 THE COURT: Into evidence.

17 (WHEREUPON, Defendant's Exhibits Number 52 and 53,
18 enhancement photos, were admitted into evidence.)

19 MS. CRAYTON: Thank you, Your Honor.

20 BY MS. CRAYTON:

21 Q: And did you also do this for another car that appeared at
22 4:29 a.m.?

23 A: Yes.

24 Q: Okay. I'm going to hand you two photos, Defense Exhibit
25 54 and Defense Exhibit 55. Can you tell me do you recognize

1 those items?

2 A: Yes.

3 Q: And what are those items?

4 A: So these are snapshots taken from the video recorded at
5 4:29:25 a.m. at 1604 [REDACTED] Bridge Road showing a light-in-color
6 vehicle passing by. What I've done in Exhibit 55 is I've
7 adjusted the levels of brightness and contrast, and Exhibit 54
8 I've inverted the -- added an inverted color filter to show
9 the -- the rooftop color.

10 MS. CRAYTON: And, Your Honor, at this time, I would ask
11 that Defense Exhibit 54 and 55 be admitted into evidence as
12 well.

13 MS. WEISS: Without objection.

14 THE COURT: It's into evidence.

15 (WHEREUPON, Defendant's Exhibits Number 54 and 55,
16 enhancement photos, were admitted into evidence.)

17 MS. CRAYTON: Thank you, Your Honor.

18 BY MS. CRAYTON:

19 Q: Did you make a comparison of these two light-in-colored
20 vehicles with the vehicle at 4:11 or 4:12 or whenever it was?

21 A: Yes.

22 Q: Okay. And did you -- did you provide stills from that as
23 well?

24 A: Yes.

25 Q: Okay. So I'm going to hand you what's been marked as

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1 Defense Exhibit 56 and 57. Do you recognize those items as
2 well?

3 A: Yes.

4 Q: And what are those?

5 A: Exhibit 56, you will see the video taken at 4:12:06 a.m.
6 of the dark-in-color vehicle with the headlights turned off
7 passing by the residence at [REDACTED] New Bridge Road, and that's
8 above a -- the video has basically been spliced so you can see
9 both vehicles at the same time or in comparison with the other
10 vehicle being at 4:23:51 a.m.

11 Exhibit 57 indicates a comparison between the dark
12 vehicle with the headlights turned off at 4:12 a.m. with the
13 video of the light-in-color vehicle at 4:29:25 again.

14 Q: Okay.

15 MS. CRAYTON: And, Your Honor, at this time, I would ask
16 that Defense Exhibit 56 and 57 be admitted into evidence as
17 well.

18 MS. WEISS: Without objection.

19 THE COURT: It's into evidence.

20 (WHEREUPON, Defendant's Exhibits Number 56 and 57,
21 comparison still photos, were admitted into evidence.)

22 MS. CRAYTON: Thank you, Your Honor.

23 BY MS. CRAYTON:

24 Q: And what were you able to determine looking at those
25 comparisons?

1 A: So what -- in the comparison, you're seeing clearly what
2 the two vehicles that are light-in-color -- you can see the
3 light-in-color roof. You cannot see that -- it's not
4 distinguished in the other vehicle or exhibit, I mean.

5 Q: Did you receive any surveillance video from New Bridge
6 Road for May 6th?

7 A: No.

8 Q: What about May 7th?

9 A: No.

10 Q: May 8th?

11 A: No.

12 Q: May 9th?

13 A: No.

14 Q: What about the 10th through the 13th?

15 A: No. Just the 5th.

16 Q: And presumably, it was working on the 5th since we
17 received video from that -- possibly that date?

18 A: Presumably, it would have continued to function, yes.

19 Q: And so as far as we're aware, those videos from the 6th
20 through the 13th were just not collected?

21 A: That would be my understanding.

22 Q: If those videos were collected, it would show us all the
23 activity possibly from those dates; is that correct?

24 A: All the video that was recorded between those dates, yes.

25 Q: And would that have been helpful in your analysis?

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1 A: It would. It would have given me a larger sample size to
2 work with. With what I received, I received 59 videos on May
3 5th and within dark hours or nighttime hours.

4 It would've been helpful to have a larger sample size so
5 that I could compare it with other vehicles passing by trying
6 to make further comparisons and, in addition to that, trying
7 to distinguish the time that these videos were actually
8 recorded. My understanding that law enforcement did at one
9 point arrive at this residence. We could have compared that
10 video time, the timestamp on the video, with, you know, the
11 law enforcement's arrival logs.

12 Q: So we could have determined the accuracy of the timestamp
13 if they had collected all these videos possibly?

14 A: Possibly, yes.

15 Q: Okay. And you believe it would've been helpful to have
16 those dates?

17 A: Yes.

18 Q: Did you provide what I'm calling a slideshow? But I'm
19 going to hand you what's been marked as Defense Exhibit 58.
20 Can you tell me if you recognize that?

21 A: Yes, I do.

22 Q: Can you tell me what that is?

23 A: Yes. So when I received this video at 1604 New Bridge
24 Road, I performed an analysis. And in order to better gauge
25 my understanding of how the cameras are facing, I did do some

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1 -- I created this document of slides showing multiple aerial
2 views of how those cameras are pointing and then giving a
3 direction of the property across the street, how they faced,
4 and then I also examined the lighting and just for my own
5 purposes got an idea of how this main light source was
6 distributed around this particular property, and then paired
7 that together with the angle of the camera.

8 MS. CRAYTON: Your Honor, at this time, the defense would
9 move Defense Exhibit 58 into evidence.

10 THE COURT: Any objection?

11 MS. WEISS: Your Honor, I just would like some
12 clarification. I believe the -- the pictures that you're
13 trying to put in of the cameras are not taken in 2017?

14 THE WITNESS: Say that again?

15 MS. CRAYTON: Your Honor, I think that would be an
16 appropriate question for cross. I don't know that it's a
17 proper objection at this point.

18 THE COURT: I'll allow her to ask it.

19 THE WITNESS: So can you repeat the question?

20 MS. WEISS: The pictures that you're getting ready to
21 demonstrate were not taken in 2017?

22 THE WITNESS: That's correct. So these -- when you look
23 at the street view maps and the area maps, we're relying upon
24 Google data. What I have done is what you'll see is you'll
25 see a location of the residence that is circled in red. That

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1 is the area of that residence where the camera would have been
2 positioned at the time it was recorded. So this is being used
3 for reference. This is not being construed as being a photo
4 in 2017.

5 MS. WEISS: So -- so you're entering them as reference,
6 not actually of what was accurate in 2017, Ms. Crayton? Are
7 you asking to introduce them just for reference for him to
8 refer to but not actually what was accurate in 2017?

9 MS. CRAYTON: Not for what was accurate in 2017.

10 MS. WEISS: Okay. Just for reference?

11 MS. CRAYTON: Yes.

12 MS. WEISS: Okay. No objection.

13 THE COURT: It's into evidence.

14 (WHEREUPON, Defendant's Exhibit Number 58, slide show,
15 was admitted into evidence.)

16 BY MS. CRAYTON:

17 Q: Did you also prepare maps regarding the routes and
18 differences between locations in this case?

19 A: Yes.

20 Q: All right. I'm going to hand you what's been marked as
21 Defense Exhibit 59.

22 A: Yes.

23 Q: And do you recognize that item?

24 A: Yes, I do.

25 Q: And what is that?

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1 A: This is relying upon Google maps to calculate the fastest
2 travel route between multiple locations that are of relevance
3 in this case. For example, the first page would indicate the
4 entire travel route from [REDACTED] Grace Street to [REDACTED] Craig Circle,
5 back to [REDACTED] Grace Street, to [REDACTED] New Bridge Road, back to [REDACTED]
6 Grace Street.

7 Page 2 would indicate the travel route from 603 Grace
8 Street to [REDACTED] Craig Circle. The third page would indicate
9 just the reverse from [REDACTED] Craig Circle to [REDACTED] Grace Street.
10 Travel route from [REDACTED] Grace Street to [REDACTED] New Bridge Road
11 indicated on page 4, page 5 being the reverse of that [REDACTED] New
12 Bridge Road to [REDACTED] Grace Street.

13 Q: Okay. And the distance and route between [REDACTED] Grace
14 Street and [REDACTED] Craig Circle, can you look at that one and tell
15 me what is the distance between those locations?

16 A: The approximate distance as calculated using Google maps
17 is 2.2 miles.

18 Q: And what is the estimated driving time of that?

19 A: The estimated travel time being five minutes.

20 Q: And then can you tell us the distance and routes from [REDACTED]
21 Grace Street to [REDACTED] New Bridge Road? Can you tell me the
22 distance on that as well?

23 A: Yes. According to Google maps, the calculated travel
24 distance is 14 miles.

25 Q: And what's the estimated driving time?

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1 A: Estimated driving time 22 minutes.

2 Q: And I think you said you did the entire route from Grace
3 Street to Craig Circle to Grace Street to New Bridge Road; is
4 that correct?

5 A: Yes.

6 Q: And what's the total driving mileage on that route?

7 A: Driving mileage is 32.5 miles.

8 Q: And what's the estimated driving time for that?

9 A: Estimated travel time is 56 minutes.

10 MS. CRAYTON: Your Honor, at this time, we would ask for
11 Defense Exhibit 59 to be admitted into evidence.

12 MS. WEISS: No objection, Your Honor.

13 THE COURT: It's into evidence.

14 (WHEREUPON, Defendant's Exhibit Number 59, Google maps
15 travel routes and times, was admitted into evidence.)

16 BY MS. CRAYTON:

17 Q: Were you also able to map the surveillance videos that
18 were collected in this case?

19 A: Yes.

20 Q: And did you also map the possible surveillance videos
21 that could have been collected in this case?

22 A: I did.

23 Q: Okay. I'm going to hand you Defense Exhibit 60. Let's
24 see. I'll try to do these all at once. So I'm going to hand
25 you Defense Exhibit 60, 61, 62, and 63, and would you tell me

1 do you recognize those items as well?

2 A: Yes.

3 Q: And what are those, starting with 60?

4 A: Exhibit 60 is a map that was created using Google My Maps
5 showing the route between Mr. Harrington's residence at [REDACTED]
6 Grace Street to Ms. Lowery's residence at [REDACTED] Craig Circle.
7 That route is drawn in blue in a linear fashion.

8 The potential camera locations are also mapped. Those
9 are indicated in a purple or violet-colored icon with a camera
10 indicating the center. What you will also see in this are
11 blue and red similar camera-looking icons, which I'll cover in
12 Exhibit 61, which indicates the locations of surveillance
13 video locations that were acquired by law enforcement.

14 The ones that are in red, I distinguished them in red for
15 the purpose of indicating the most likely location of where
16 these camera or surveillance footage was acquired from, and I
17 state that because in what I received, it did not overtly
18 state an address. So I'm basing that on the way the video
19 product was described and the actual visual content of how I
20 mapped it.

21 Also in Exhibit 61, you'll also see the route between Mr.
22 Harrington's residence and Ms. Lowery's residence. It also
23 has mapped as being places of interest the Lowery residence,
24 Mr. Harrington's residence, and Mr. Bright's residence.

25 And Exhibit 62, the map is a little more zoomed out

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1 because we are now showing a route between [REDACTED] Grace Street
2 and [REDACTED] New Bridge Road. This one indicates a mapping
3 showing the potential camera locations.

4 Those camera locations -- what I did to further explain
5 how these addresses got there, what I did is I utilized Google
6 Street view and went along this route, the fastest route being
7 from these two points and the previous two points that were
8 mentioned between Mr. Harrington and Ms. Lowery's residence,
9 and I looked at the faces of buildings for potential cameras.
10 That is why you see these addresses here and being
11 characterized as potential camera locations. You also see
12 that there are blue and red-colored icons on that map as well
13 from known locations where surveillance footage was acquired
14 by law enforcement.

15 And in Exhibit 63, we see that same route. Excuse me.
16 That route is between [REDACTED] Grace Street to Ms. Lowery's
17 residence back to [REDACTED] Grace Street to the [REDACTED] New Bridge Road
18 back to [REDACTED] Grace Street, and you'll see that route drawn in
19 blue. Also indicated are the surveillance video locations,
20 both the ones that we know to have been collected, as well as
21 the potential.

22 Q: Thank you.

23 MS. CRAYTON: Your Honor, Court's indulgence.

24 Sorry, Judge. Just want to make sure we have the correct
25 numbers on these.

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1 BY MS. CRAYTON:

2 Q: I'm going to hand you what's been marked as Defense
3 Exhibit 64. Can you tell me if you recognize that item?

4 A: Yes.

5 Q: And can you tell the judge what that is?

6 A: This is a PowerPoint presentation that was created for
7 the purpose of showing a timeline. We've covered a lot of
8 facts today. This puts everything succinctly, the important
9 events, into a timeline fashion.

10 MS. CRAYTON: And, Your Honor, I apologize. I did not
11 move 60, 61, 62, and 63 into evidence. So we would ask that
12 we move Defense Exhibit 60, 61, 62, and 63 into evidence,
13 which are the four surveillance or the possible and --
14 possible surveillance videos, as well as the ones captured
15 that Mr. Watson spoke about a minute ago. I apologize.

16 MS. WEISS: Your Honor, I don't know which one is which.
17 I would object as to the potential camera locations, as Mr.
18 Watkins just testified that he drove around and looked at
19 cameras on buildings. I don't know how those could be
20 verified as anything in 2017. I don't believe that he -- if
21 he did this in 2017, I'll take it back, but I don't see how
22 the potential locations are relevant to this case.

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

24 MS. CRAYTON: Your Honor, I think they're relevant. It
25 shows the investigation and what was collected and what wasn't

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1 collected and what possibly could have been collected. We're
2 not claiming that every single one of these was available, but
3 I think that Mr. Watkins' testimony was very clear about that.
4 These were possible cameras that could have been collected in
5 this investigation.

6 THE COURT: And your information was collected when?

7 THE WITNESS: The potential camera locations that I
8 mapped -- and just to clarify, I did not personally drive
9 around. I utilized Google Street View to actually map this
10 out. The -- and that was a point that I -- that I had brought
11 up that there's no way for me to know when these cameras were
12 positioned, whether they were positioned there in 2017. That
13 would require additional investigative efforts to actually go
14 to these locations in an attempt to ascertain that
15 information.

16 THE COURT: When -- when was it collected?

17 THE WITNESS: When were the -- when were these put
18 together? That was within the last month.

19 THE COURT: All right. I'm going to allow it into
20 evidence as far as a representation of what the cameras would
21 be like.

22 (WHEREUPON, Defendant's Exhibits Number 61, 61, 62, and
23 63, maps of surveillance locations, were admitted into
24 evidence.)

25 MS. WEISS: Thank you.

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1 THE COURT: What day again? You said within the last
2 couple months?

3 THE WITNESS: Yes, Your Honor. I should also point out
4 that the Google maps do have a date. So as I'm looking
5 through these, they are pictures available online. They are
6 dated 2022. So I am aware that the pictures that are taken
7 that I am looking through are five years -- at least five
8 years past 2017.

9 THE COURT: With that clarification, I'm going to allow
10 it in with that clarification.

11 BY MS. CRAYTON:

12 Q: Sorry, Mr. Watkins. You can respond. You were
13 explaining 64 to us, and you had explained it as sort of a
14 summary?

15 A: I did. I said it was a summary, a timeline. We covered
16 a lot of facts today, and this is just kind of bringing
17 everything succinctly together in a timeline.

18 Q: Okay.

19 MS. CRAYTON: Your Honor, we would ask to admit that.
20 That's Defense Exhibit 66 -- or 64. I apologize.

21 THE COURT: Have you shown it to the State?

22 MS. CRAYTON: Yes, Your Honor. I provided them a copy as
23 well.

24 MS. WEISS: No objection, Your Honor.

25 THE COURT: It's into evidence.

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1 (WHEREUPON, Defendant's Exhibit Number 64, timeline, was
2 admitted into evidence.)

3 BY MS. CRAYTON:

4 Q: And I would just ask if you would play that for the judge
5 on --

6 A: I beg your pardon, but there may have been some
7 misunderstanding. I don't have that downloaded here.

8 Q: Oh, okay.

9 A: So I would have to do that. Is that --

10 MS. CRAYTON: Can we just take a brief recess, maybe a
11 couple minutes? And we'll just switch it over.

12 THE COURT: Is there anything different from what's on
13 this paper?

14 MS. CRAYTON: No.

15 THE COURT: Okay. We can do that.

16 MS. CRAYTON: It'll just be --

17 THE COURT: If not, I'll look at hers.

18 MS. CRAYTON: It'll just take one moment, Judge, if we
19 can just switch out a laptop.

20 THE COURT: We'll stand at ease for five minutes.

21 MS. CRAYTON: Thank you, Your Honor.

22 (WHEREUPON, there was a break in the proceedings from
23 3:20 p.m. until 3:27 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: Ms. Crayton, you're recognized.

CHRISTOPHER WATKINS - DIRECT BY MS. CRAYTON

1 MS. CRAYTON: Thank you, Your Honor.

2 And, Mr. Watkins, I failed to mention or ask you one
3 question before we began the slideshow.

4 THE COURT: Let's have quiet.

5 BY MS. CRAYTON:

6 Q: You reviewed all of the collected surveillance videos;
7 correct?

8 A: Yes.

9 Q: And was the Mitsubishi Eclipse with the white top ever
10 seen in any of those videos that were collected between Grace
11 Street and New Bridge Road?

12 A: Not any that I saw, no.

13 Q: Okay. And now I just ask that you walk the judge through
14 the timeline, if you could?

15 A: Okay. All right. So what we've covered is I received --
16 excuse me.

17 I've received records pertaining to the cell phones with
18 cell site location data, physical and logical forensic
19 extractions from various devices that were collected from the
20 residences at [REDACTED] Craig Street, [REDACTED] Grace Street, and the
21 North Everett Road address. These also included texts or SMS.
22 SMS stands for short message service. So text messaging and
23 call logs. I also received surveillance video in this case,
24 mapping data using public databases to map, create maps, and
25 then also reviewed Facebook records.

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1 Pertaining to the cell phone records that I received, I
2 received them for four target numbers, two associated with Mr.
3 Harrington, the Verizon and AT&T number that we talked about
4 earlier. I also received T-Mobile records responsive to Ms.
5 Lowery's T-Mobile number, and I received records responsive to
6 Mr. Bright's AT&T records. These included cell site data,
7 text message, and call logs.

8 We also talked about -- we talked about Mr. Bright's cell
9 phone usage being a gap between 3:33:24 p.m. on May 4th to
10 9:35:15 a.m. on May 5th. That's displayed here with a gap in
11 those records.

12 And then we went through the timeline. 12:02:40 a.m.,
13 Ella posts on Facebook "tornado warning Horry County be safe."

14 At 12:25 a.m., we see Mr. Harrington leave the residence
15 at Grace Street in his vehicle.

16 At 12:31:03 a.m., Ella posts on Facebook, "My cousin is
17 always cheating on somebody. I'm about to snitch on his ass.
18 If I can't get none, he can't either. LOL. I hate him."
19 Incoming at 12:32:41 a.m.

20 At 12:41 a.m., Ms. Lowery posts on Facebook, "Should I go
21 live while I shower?"

22 At 1:08:04 a.m., Ms. Lowery posts on Facebook, "It's over
23 now, sexies."

24 At 1:08:31 a.m., Ms. Lowery sends a text message to Mr.
25 Harrington, and he does respond to that message at 1:08:53,

1 and that's displayed here.

2 At 1:13:09 a.m., Ms. Lowery receives a text message from
3 a number associated with a Darryl Hawkins.

4 At 1:13:10 a.m., Ms. Lowery receives a text message from
5 the telephone number associated with a Mr. Javon Hargett.

6 At 1:18, Ms. Lowery posts on Facebook, "For those that
7 missed my shower scene."

8 At 1:29:58 a.m., the timestamp on the LaBean residence
9 video at New Bridge Road is the first time within the sequence
10 of videos that we have from that location. All right. We
11 have video of numerous vehicles driving up and down New Bridge
12 Road within this time frame between 1:30 and 5 a.m. at the New
13 Bridge residence video.

14 At 1:38:38 a.m., the Facebook account associated with a
15 David Reddick calls Ms. Lowery through Facebook, and that
16 lasted for 42 seconds.

17 At 1:42:09 a.m., Mr. Harrington returns to the Grace
18 Street address in his vehicle. At 1:47:11 a.m., Mr.
19 Harrington leaves Grace Street in his vehicle.

20 All right. That concludes the presentation.

21 MS. CRAYTON: Court's indulgence, Your Honor.

22 No further questions, Your Honor.

23 THE COURT: Cross-examination.

24 MS. WEISS: Thank you, Your Honor. May it please the
25 Court.

CHRISTOPHER WATKINS - CROSS BY MS. WEISS

1 CROSS-EXAMINATION

2 BY MS. WEISS:

3 Q: Good afternoon, Mr. Watkins. How are you?

4 A: Good. How are you?

5 Q: Good. I'm going to try to go a little bit in reverse
6 order. I know you kind of bounced around with the different
7 presentations. So I'll go through just to clarify. Let's
8 see. So looking at your maps of the surveillance cameras, law
9 enforcement did attempt to get a lot of surveillance cameras,
10 wouldn't you say?

11 A: I would say there was an effort made to do so, yes.

12 Q: Okay. And you actually have no evidence that they didn't
13 try to get everything that was on that route?

14 A: I don't.

15 Q: And as far as potential cameras on the way out to New
16 Bridge, are you aware that nobody was aware of the New Bridge
17 address until at least 2/13 or 2/14 of 2017 -- I mean, 5/13 or
18 5/14 of 2017?

19 A: That -- that does -- that does make sense. However, I
20 would still expect there to be video on some systems around
21 that time potentially.

22 Q: Okay. And -- but they did get camera from some systems?

23 A: They did.

24 Q: You talked about the distance from Grace Street to New
25 Bridge being 14 miles approximately?

1 A: Yes.

2 Q: Are you familiar with the McColl area?

3 A: Not very, no.

4 Q: Are you familiar with the Bennettsville area?

5 A: I wouldn't say I'm familiar with it, no.

6 Q: Okay. So how many different routes did you drive or map
7 from Bennettsville to McColl?

8 A: The fastest.

9 Q: The fastest?

10 A: According -- according to Google.

11 Q: Okay. And did you compare it to anything else?

12 A: There is a route that goes through McColl. However, I
13 didn't see anything of interest other than what was already
14 obtained.

15 Q: Are you aware of which routes would be less likely to
16 come in contact with law enforcement?

17 A: I wouldn't know that.

18 Q: And are you aware of which routes would be faster in the
19 middle of the night versus in the daytime?

20 A: I certainly wouldn't know that.

21 Q: And the time that you gave, 22 minutes?

22 A: Yes.

23 Q: How was that approximated?

24 A: So Google maps, whenever you run a query through their
25 mapping service, it is basing that on the distance of travel,

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1 the speed limits along that route, and often it will also
2 integrate whatever the traffic you might encounter.

3 Q: Okay. And what time of day did you run these for?

4 A: I did multiple times. So this would have been -- these
5 are pretty consistent with 22 minutes.

6 Q: And you said that's with the posted speed limits?

7 A: That's my understanding of how Google calculates these
8 routes.

9 Q: So you actually don't know?

10 A: Don't know what? The fastest speed?

11 Q: How they calculate the routes?

12 A: That's my understanding of how they calculate routes.

13 Q: Okay.

14 A: Unless something has changed, that's proprietary to
15 Google. I don't have any -- anything that tells me otherwise.

16 Q: Okay. And if -- did you measure it if somebody is not
17 going the speed limit?

18 A: No. Again, this is an approximated distance and travel
19 time.

20 Q: Okay. So if somebody's going over the speed limit,
21 excessively over the speed limit, this time could cut down
22 significantly?

23 A: Of course.

24 Q: Okay. So the times between each of these residences are
25 just posted speed limit signs based on what Google says the

1 fastest route is?

2 A: Yes. But we're talking, you know, four minutes. I don't
3 think you can travel that distance in four minutes.

4 Q: I'm not talking -- I wasn't asking you about four
5 minutes. I was just asking about time.

6 A: If you're going -- traveling at a faster rate, you're
7 going to get to where you're going faster, yes.

8 Q: You were talking about the New Bridge video, and you said
9 that there was a search warrant time where it said the car was
10 leaving the residence was -- I'm sorry -- was arriving at
11 2:40, departing at 5:10?

12 A: Yes.

13 Q: Okay. And you said that was the only indication of time
14 difference that -- anywhere?

15 A: That I was aware of, yes.

16 Q: Okay. Are you aware of news reports that reflect the
17 time difference?

18 A: News reports are not based on -- I mean that's not in
19 evidence. That's not something law enforcement can use in a
20 case. I'm going by what I've seen in discovery.

21 Q: You said you weren't aware of anything. The only
22 indication of time difference was that?

23 A: Right. In whatever seen in discovery, that is the
24 indication that I have of these time differences. So I
25 wouldn't go by news reports. That's not in discovery, and

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1 journalists can be wrong. So I can't go by that. And -- but
2 to answer your question, no, I'm not aware of that.

3 Q: Okay. Thank you. And let's see. You talked about the
4 search warrant on Grace Street. What was the search warrant
5 time reflected on the Grace Street search warrant for the cars
6 leaving -- leaving and coming? Do you know?

7 A: I don't recall that, no.

8 Q: Do you recall if that number was off?

9 A: Well, the search warrants that I'm -- the search warrants
10 that I'm referencing are the ones for the property on New
11 Bridge Road. There's two properties that were searched, and
12 both of those indicate the time difference from the New Bridge
13 Road camera. So that's what I'm referencing.

14 Q: Right. Did you -- you said you reviewed all the
15 discovery in this case?

16 A: Pertaining to -- to what I've testified to, all the
17 digital information, yes, data related.

18 Q: So are you aware that there's a search warrant that says
19 that the car returns to Grace Street at 2 a.m. and then leaves
20 again at 2:05?

21 A: Which search warrant was that?

22 Q: One of the ones that Jamie Seales did.

23 A: I don't -- don't recall that.

24 Q: Okay. Or there was another time that said that the car
25 left at 2:05 and came back at -- or returned at 2:05 and left

1 at 2:10?

2 A: From Grace Street?

3 Q: Uh-huh.

4 A: Do you have a copy of that?

5 Q: I do. What's consistent between those is five minutes;
6 correct?

7 A: From what you just said, yes.

8 Q: And your times as well, the 1:42 to 1:47?

9 A: Yes.

10 Q: And those were taken directly off the video itself, like
11 right there?

12 A: That's correct. That's what the timestamps read.

13 Q: Okay. And you said it would have been helpful to you if
14 you had more video from New Bridge?

15 A: Yes.

16 Q: To be able to tell times?

17 A: That's correct.

18 Q: Did you have enough video from Grace Street to be able to
19 check the time?

20 A: There were a lot more video in the Grace Street return
21 than in New Bridge, yes.

22 Q: Okay. And were you able to verify whether the time was
23 correct or not?

24 A: I don't have access to the DVR. So I don't recall seeing
25 any video of law enforcement being present to be able to match

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1 up any logs. So the next best thing would be to have the DVR
2 itself documented, and I didn't have any of that in discovery.

3 Q: Okay. Are you aware of records that are kept of sunrise
4 and sunset?

5 A: Yes.

6 Q: Are you aware of those records that are kept specifically
7 for locations throughout the world?

8 A: Certainly.

9 Q: Okay. Did you by any chance notice when the sun was
10 bright in these videos?

11 A: I do recall seeing that, yeah.

12 Q: What time was that?

13 A: In the video?

14 Q: Uh-huh.

15 A: I don't recall exactly when in the video, but in daylight
16 hours, sure.

17 Q: What time would you say daylight hours would start in the
18 beginning of May?

19 A: I'd have to look. I'd have to look at the catalog.

20 That's not something I would retain. It changes every day.

21 Q: Do you know about what time?

22 A: No.

23 Q: Would you agree with me that 5:30 in the morning would be
24 a little bit early?

25 A: I don't know.

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1 Q: So you didn't -- you didn't watch the videos for whether
2 or not they were accurate on the time?

3 A: Specific to the time, no.

4 Q: Okay. But you had enough videos to do that?

5 A: I would say so, yeah.

6 Q: Okay. And on your New Bridge Road timeline -- I'm sorry.
7 I didn't keep up with the defense exhibits to know which
8 exhibit number it is. This is Defense Exhibit 49. Are you
9 familiar with this?

10 A: Yes.

11 Q: Okay. You've got a copy of it that you're referring to?

12 A: I do, yes.

13 Q: Okay. In your PowerPoint that you have up there, there's
14 a point where you provide several different clips from New
15 Bridge Road; correct?

16 A: Yes.

17 Q: I believe the screen says numerous cars drive up and down
18 New Bridge Road between 1:30 and 5 a.m.?

19 A: Yes.

20 Q: Do any of these pictures show cars between 1:30 and 2
21 a.m.?

22 A: May I see that?

23 Q: Sure.

24 A: No.

25 Q: And your summary sheet here says that on 5/5 at 1:38

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1 a.m., there was a trigger fire due to the vehicle headlights
2 of the vehicle traveling west on channel 4; right?

3 A: Tell me that time one more time, please?

4 Q: 1:38:10, 1:38:10.

5 A: Yes. I see that.

6 Q: Okay. And then right after that on channel 3 at 1:38:13,
7 trigger fire due to vehicle headlights, vehicle traveling
8 west?

9 A: Yes.

10 Q: And you marked that's the same vehicle?

11 A: Yes.

12 Q: Okay. And if you look down the right-hand side, you
13 marked same vehicle, one, two, three, four, five, six, seven,
14 eight, nine, ten, eleven, twelve, thirteen, fourteen times?

15 A: Yes.

16 Q: Okay. And I guess going down starting on this bottom
17 chunk, looking at the ones that are going east at 2:46 on
18 channel 3, 2:46:38, you have trigger fire due to vehicle
19 headlights traveling east?

20 A: Yes.

21 Q: And then again at 2:47:11 -- 2:46:19 I guess, depending
22 on which numbers you're looking at, the vehicle traveling
23 east, it says same vehicle?

24 A: Did you read 2:46:39? Is that what you just said?

25 Q: Yes.

1 A: Yes.

2 Q: Okay. And that says same vehicle?

3 A: Yes.

4 Q: And in fact, every time the car was -- I mean the camera
5 was triggered by cars traveling east or west, except two, it
6 triggered on both cameras; correct?

7 A: Yes.

8 Q: Okay. So at the top, if you'll go with me to channel 3,
9 1:39:56 -- 50 -- I can't read that. 56 a.m., I think?

10 A: Yes.

11 Q: Okay. And it says trigger fire due to vehicle
12 headlights, vehicle traveling east?

13 A: Yes.

14 Q: Okay. And there's no accompanying channel 4 with that
15 channel 3 time, is there?

16 A: That's correct.

17 Q: And that's the only one other than the one -- the other
18 one that you showed that doesn't have an accompanying channel
19 4 with channel 3 and channel 4; correct?

20 A: Yes.

21 Q: Did you look at that car?

22 A: I did, yes.

23 Q: Okay. Did you compare that car?

24 A: I'm sure I did. I've done a lot of work in this case.

25 Q: Okay. But you didn't prepare any visual aids?

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1 A: No, because the vehicle -- the vehicle is traveling down
2 New Bridge Road in an easterly direction. And you're correct,
3 I don't see any accompanying video.

4 Q: So the car traveling east, just to be clear, is traveling
5 from the bridge at Gum Swamp Creek towards the abandoned
6 house?

7 A: Traveling in that direction, yes.

8 Q: And then it -- the lights light up when the brakes get
9 put on?

10 A: Now, that's something that I looked at. As far as the
11 brake lights being turned on, what you do see is you see the
12 vehicle as it reaches the left of the screen, the taillights
13 give the appearance of increasing luminosity. What I stated
14 is that there's -- just based on the picture, there's no way
15 for me to say that the brake lights are being activated.

16 Q: You're saying that right now, but that's not anywhere in
17 any of these reports that you just put in?

18 A: Right. And I've done a lot of examination on other
19 videos being talked about too.

20 Q: Okay. But the one that doesn't have an accompanying
21 channel 4 where people have talked about a car turning in,
22 could that possibly be that car?

23 A: There's a -- turning into?

24 Q: Turning into the abandoned house?

25 A: I can't say that. There's -- there's no video here for

1 me to say that.

2 Q: Right. But wouldn't that be appropriately on the channel
3 4?

4 A: If that were a fact, then that would make sense, but
5 that's -- that's not a fact that I have seen. That's --
6 that's been something that -- as you just mentioned, that's
7 something that's been said.

8 Q: So going down to the 4:11:53 a.m. trigger fire to vehicle
9 headlights turning on access -- I'm sorry. Let me put my
10 glasses on. It's very small. Okay. Sorry. Thank you.
11 Trigger fire due to vehicle headlights turning on across the
12 street at abandoned lot. Vehicle extinguishes headlights and
13 turns left onto New Bridge Road traveling west. That is
14 channel 4; right?

15 A: Yes.

16 Q: So you would assume -- I mean, pretty scientifically you
17 could assume that a car coming out on channel 4, then a car
18 would go in on channel 4 if they went in at the same spot?

19 A: We're -- we're kind of making some assumptions here about
20 the DVR and the capabilities of not only the DVR but the
21 cameras with this DVR. I received 59 videos -- video files
22 from this DVR. This is why we talked about getting a larger
23 sample size.

24 If we had a larger sample size from this DVR, we might be
25 able to answer some questions like that, but we're kind of

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1 making assumptions about whether or not or what the reasons
2 are that video is missing. We're making assumptions that the
3 camera is not firing due to X or Y reason.

4 Now, in the video that you just mentioned, the headlights
5 are on. Not the one you just mentioned. The first one you
6 mentioned, 1:39, the headlights are on. I don't see an
7 accompanying video.

8 So, again, I can't speak to the capabilities of this DVR
9 system. I haven't had access to it. I don't know what the
10 specifications are for this system. I don't know what kind of
11 anomalies it can portray in its recording operation. I'm
12 going by what I received.

13 Q: Okay. And your Defense Exhibit 58, can you find this
14 page? It's one of the last pages.

15 A: Which page is that? Is that --

16 Q: The one that says channel 4.

17 A: This one?

18 Q: Yeah. So based on your approximation, based on the
19 cameras on the house and what you were reviewing on the video,
20 channel 4, if we use your drawings of the lines that go here
21 and assume that the camera is showing that, I would say that
22 that driveway right here would be on channel 4; correct?

23 A: Yes.

24 Q: And that's approximately where the car comes out of?

25 A: I agree.

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1 Q: And just a couple more questions on New Bridge Road. You
2 did a lot of comparison of cars traveling west?

3 A: Yes.

4 Q: And you chose two white cars to compare it to?

5 A: Yes. The rooftops are colored light in color. I don't
6 know that I can testify to white. They do appear white.

7 Again, black and white. They could be light yellow for all I
8 know.

9 Q: So the two light-in-color cars that are traveling west?

10 A: Yes.

11 Q: And you put them right underneath the dark car that's
12 also traveling west?

13 A: That's correct.

14 Q: And both of the light-colored cars have on their
15 headlights; correct?

16 A: They do.

17 Q: Okay. And would you agree that that provides more light
18 for the camera to be able to pick up?

19 A: It could, possibly. Again, I don't know the
20 specifications of the cameras or the system.

21 Q: I'm just asking you a simple question. Would you say
22 that light provides light?

23 A: We also have to look at the source of light and what's
24 being illuminated. So I wouldn't agree that the headlights
25 are going to illuminate the vehicle roof.

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1 Q: Okay. Would you agree that when the headlights are off,
2 it's dark?

3 A: Yes. Again, the main light source for this particular
4 camera is that streetlight.

5 Q: Right. So with the streetlight being the only thing
6 that's illuminating, all you can see are the tire rims and a
7 little bit of the headlight?

8 A: Correct. Illuminating from the main light source.

9 Q: Right. If those headlights had been turned on, would
10 there have been more light?

11 A: If you're asking me to draw a conclusion as to whether
12 I'd be able to see the roof if the headlights were on, I can't
13 do that.

14 Q: I'm not asking. I just asked if there would be more
15 light to help with the detail?

16 A: There would be more light ahead of the vehicle. I would
17 agree with that.

18 Q: But in fact, the driver of this car chose to turn off
19 their lights?

20 A: Yes.

21 Q: So when you zoom in, would you say that these are very
22 pixelated?

23 A: Yes.

24 Q: And were you not able to unpixelate them?

25 A: I did try to run some functions to that effect, but to no

1 avail.

2 Q: And why is that?

3 A: Poor quality video and low lighting.

4 Q: Low lighting? Would that be partially because the lights
5 are off?

6 A: Yes.

7 Q: And in contrast, the ones where the lights are on, these
8 are still pixelated; correct?

9 A: Yes.

10 Q: But you're able to see a lot more of the car?

11 A: They're also light in color, yes. In comparison to a car
12 that's dark in color, you have the same issue. You would not
13 be able to see the dark-in-color roof.

14 Q: Did you do comparisons to any darker cars?

15 A: I did.

16 Q: Where are they?

17 A: They weren't provided today, but they were done.

18 Q: But they had headlights on as well?

19 A: Yes.

20 Q: Let's see. As far as the AT&T records, you said that
21 there are gaps between JeJauncey Harrington's phone numbers --
22 I mean, phone calls?

23 A: Could you please refresh my memory in what it is you're
24 asking?

25 Q: The AT&T records for 3480.

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1 A: Okay.

2 Q: The last phone call in the early morning hours of May 5th
3 is at what time?

4 THE WITNESS: I beg the Court's indulgence while I pull
5 that.

6 BY MS. WEISS:

7 A: You said on the 4th, yes?

8 Q: I said the early morning hours of the 5th.

9 A: On the 5th? I'm sorry. It looks like 7:57 a.m. You're
10 talking about before this?

11 Q: Yes.

12 A: Okay. That would be about 11:32 a.m. I'm sorry, p.m.

13 Q: On May 5th?

14 A: That's not it. That's not it either. There was a text
15 message at 1:08. Is that what you're referring to?

16 Q: Yes. And that was the last outgoing in the early morning
17 hours, and who was that text to?

18 A: That was to Ms. Lowery.

19 Q: Okay. And how many times did Mr. Harrington and Ms.
20 Lowery text prior to that phone call?

21 A: On that particular day?

22 Q: Yes. That particular back and forth from late in 5/4 to
23 early 5/5.

24 THE WITNESS: I beg the Court's indulgence while I pull
25 that.

1 BY MS. WEISS:

2 A: You said on the 4th or the 5th?

3 Q: I said late on the 4th to early on the 5th. Of course,
4 UTC time, so it's all early on the 5th.

5 A: I recall there being about 18. I'm trying to verify it.

6 Q: Okay.

7 THE COURT: This is cross-examination. You can confront
8 him with what you think it is.

9 BY MS. WEISS:

10 Q: So --

11 A: Yeah, 18 is what I'm seeing.

12 Q: Okay. Going all the way back to about 10:56 on the 4th
13 is when that conversation kind of started?

14 A: That -- that sounds correct.

15 Q: Okay. And there's not anybody during that time period
16 that she's texting with consistently other than JeJauncey
17 Harrington; right?

18 A: On AT&T?

19 Q: On Ella's phone.

20 A: Yes. I recall that being consistent with the records.

21 Q: Between JeJauncey Harrington and Ella Lowery?

22 A: We're talking about her records? T-Mobile?

23 Q: Okay. T-Mobile or the AT&T with Mr. Harrington. There
24 are no other ones that are as consistent with Mr. Harrington
25 during that time period -- correct? -- on the 3480 phone? And

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1 after that 1:08 text --

2 A: I don't recall that, but I'm inclined to agree if you --

3 Q: Okay.

4 A: If you have that in front of you.

5 Q: And then after that 1:08 text, when does that phone start
6 sending outgoing anything again?

7 A: That was at 7:57:15 a.m.

8 Q: Okay. And what happens after that?

9 A: There are a series of incoming calls.

10 Q: And can you tell if Mr. Harrington received those calls?

11 A: No. They are forwarded to voicemail.

12 Q: Okay. And then the phone that's -- and then the phone
13 just stops working?

14 A: What do you mean?

15 Q: The early morning hours of 5/6, it doesn't receive any
16 more incoming or outgoing?

17 A: I see that, but you characterized that as not working.
18 There's nothing in the records that indicate that the phone is
19 not working.

20 Q: It stopped receiving any calls, incoming or outgoing, or
21 texts --

22 A: Right. There's a --

23 Q: -- after that time; correct?

24 A: There's an observable gap, yes.

25 Q: Okay. And would you say that there's a similar gap on

- 1 Ella's phone, the T-Mobile phone?
- 2 A: In the morning hours?
- 3 Q: Yes. At 5 -- at 1:08 in the morning is her last
- 4 communication?
- 5 A: Last outgoing communication.
- 6 Q: Right. With JeJauncey Harrington?
- 7 A: Yes. The last activity is at 1:13 a.m.
- 8 Q: That's an incoming message?
- 9 A: Incoming message.
- 10 Q: There's no IMEI on that one?
- 11 A: On the message?
- 12 Q: Uh-huh.
- 13 A: The -- for Ms. Lowery's records?
- 14 Q: Uh-huh.
- 15 A: Do you have that in front of you?
- 16 Q: For sake of argument, that's the last transaction on her
- 17 phone?
- 18 A: According to her T-Mobile records. I can't say it was
- 19 the last activity on the actual device.
- 20 Q: And do you have any idea what the context was for those
- 21 text messages going back and forth throughout the night
- 22 between JeJauncey Harrington and Ella Lowery?
- 23 A: No.
- 24 Q: And why not?
- 25 A: Those phones that were communicating on these two numbers

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1 were not identified or were not processed or that data was not
2 ascertained.

3 Q: Okay. So those phones were not in discovery?

4 A: Correct.

5 Q: And those phones are not in discovery because somebody
6 made them disappear?

7 A: I can't testify to that.

8 MS. CRAYTON: Objection, Your Honor. I think that's
9 speculation.

10 THE COURT: I'll sustain the objection.

11 BY MS. WEISS:

12 Q: And finally, you talked about Facebook and Ella's
13 Facebook. You said she was communicating via Messenger?

14 A: Facebook Messenger, yes.

15 Q: Okay. And the incoming and outgoing messages, on 5/5 at
16 1:23, Demario Robinson says, "Hey, beautiful." And he gets a
17 "Hi" with a birdie on it?

18 A: Yes.

19 Q: And David Reddick 5/5 at 1:33 says "Hi." And he gets a
20 response "Hi" with a birdie on it?

21 A: Yes.

22 Q: Do you have any way of knowing if Ella Lowery sent those?

23 A: No. I can't testify to who was in control of the account
24 at the time, no.

25 Q: Okay. Are you familiar with auto reply?

1 A: Yes.

2 Q: Do you know whether or not these were set up to be an
3 auto reply?

4 A: I don't know that.

5 Q: Okay. And did you actually view the shower scene --

6 A: No.

7 Q: -- video? So you don't know if that's Ella Lowery in
8 that video or not?

9 A: No.

10 Q: Okay. And finally, are you familiar with voicemail on
11 the Messenger calls?

12 A: Yes.

13 Q: Okay. And do you know whether David Reddick received a
14 voicemail and left a message or if he actually spoke with
15 anybody?

16 A: The records just indicate that the call was placed and
17 that there was a duration of 42 seconds.

18 Q: So do you know if it was voicemail or if he actually
19 talked to somebody?

20 A: There -- this is 2017, but typically there's an indicator
21 of whether or not the record is a voicemail. There would be
22 an indicator.

23 Q: So you don't know?

24 A: For 2017, Facebook updates. It's proprietary; so they
25 update their records. I'm inclined to say that there would be

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1 an indicator in 2017, but I can't state that with any degree
2 of confidence because I don't know if that had been changed.

3 Q: And if somebody did answer that call, do you have any
4 idea who answered that call?

5 A: Again, I wouldn't know who is in control of the device.

6 Q: And anybody who was standing next to the device could
7 press the button and answer the call?

8 A: Sure.

9 MS. WEISS: I beg the Court's indulgence.

10 Thank you. I have no further questions, Your Honor.

11 THE COURT: Any redirect?

12 MS. CRAYTON: Very short, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. CRAYTON:

15 Q: Mr. Watkins, Ms. Weiss I think asked you a bunch of
16 questions about the Facebook; so I'm just going to refer you
17 to that. In terms of Ms. Ella -- Ella Lowery's Facebook
18 activity after 1:08, after her phone call with Mr. -- her text
19 with Mr. Harrington, how many different posts, private
20 message, and Facebook calls happened after that text message
21 with Mr. Harrington?

22 A: There are 21.

23 Q: Twenty-one?

24 A: Now, do you mean specifically from Ms. Lowery's account?

25 Q: No.

1 A: Okay.

2 Q: I meant incoming and outgoing. There are 21 separate
3 contacts?

4 A: Yes.

5 Q: Okay.

6 MS. CRAYTON: No further questions, Your Honor.

7 THE COURT: Any objection to this witness being excused?

8 MR. YOUNG: No, Your Honor.

9 MS. WEISS: Oh, no objection, Your Honor. Sorry.

10 THE COURT: All right. You're free to leave. Thank you,
11 sir.

12 THE WITNESS: Thank you, Your Honor.

13 MS. WEISS: Sorry.

14 THE COURT: You may call your next witness.

15 MR. YOUNG: Your Honor, now would be an appropriate time
16 for the Court to inquire of Mr. Harrington. I had -- we had
17 discussed whether or not he wants to testify. I know the
18 Court usually makes a record of that. He indicates to me that
19 he does not wish to testify.

20 THE COURT: Okay.

21 MR. YOUNG: If the Court needs to inquire further on that
22 --

23 THE COURT: Mr. Harrington, I'm going to ask you, if you
24 could, to stand and raise your right hand as the clerk
25 administers the oath.

1 THE CLERK: Do you solemnly swear or affirm that the
2 testimony you shall offer the Court shall be the truth, the
3 whole truth, and nothing but the truth, so help you God?

4 THE DEFENDANT: Yes, ma'am.

5 THE CLERK: Thank you.

6 THE COURT: Mr. Harrington, you have talked with your
7 very able lawyers about whether or not you decide to testify
8 in this case? Have you done that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have you understood all of those
11 conversations?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have they explained to you that the Fifth
14 Amendment provides in relevant part that no one can compel you
15 to testify?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: However, if you want to, you can testify
18 subject to the rules of cross-examination, like you've
19 observed with regard to these other witnesses here today, and
20 -- but you're the only one that can make that decision. Ms.
21 Crayton can't do it. Ms. Freedman can't do it. Mr. Young
22 can't do it.

23 You can talk to anybody you want to about it. You can
24 talk to family members, friends, your lawyers, but that is a
25 constitutional right that belongs to you. No one can make

1 that decision for you. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you have any questions about your Fifth
4 Amendment right, your right to take the stand, your right not
5 to take the stand?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you need additional time to discuss these
8 matters with your lawyers?

9 THE DEFENDANT: No, sir.

10 THE COURT: Any questions of me?

11 THE DEFENDANT: No, sir.

12 THE COURT: And what is your decision?

13 THE DEFENDANT: I won't be testifying.

14 THE COURT: And that's your decision?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: No one has put any pressure on you in any
17 way, shape, or form in an effort to get you to make that
18 decision, have they?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. Thank you very much, Mr.
21 Harrington. You may be seated.

22 MR. YOUNG: Your Honor, with that, the defense rests.

23 THE COURT: All right.

24 MR. YOUNG: I would like to renew our motion for a
25 directed verdict, renew all our previous objections and

1 motions for the record, and stand on our previous arguments on
2 all of those issues.

3 THE COURT: Okay. And you are indeed protected on the
4 record, and my ruling with regard to directed verdict is the
5 same.

6 MR. YOUNG: I would add one thing with regard to the
7 additional evidence with regard to directed verdict. I think
8 I didn't say this. That what the State has offered -- the
9 circumstantial evidence that the State has offered creates a
10 mere suspicion that Mr. Harrington committed these crimes and
11 should not satisfy the substantial circumstantial evidence.

12 THE COURT: All right. My finding is specifically that
13 there is substantial circumstantial evidence, but you're
14 protected on the record in that regard.

15 MR. YOUNG: Thank you, Your Honor.

16 THE COURT: All right. We have --

17 MR. YOUNG: I have two -- I've got one other note that I
18 didn't --

19 THE COURT: Yes.

20 MR. YOUNG: I believe similar to the video that the State
21 offered into evidence, we offered -- we also offered under a
22 proffer a video of Sheriff Lemon engaged in an interrogation
23 with Mr. Bright. It was a very short video. I think that was
24 offered under a proffer, and I believe due to arguing back and
25 forth regarding the DNA evidence that that was initially

1 offered as a proffer, but I would think that we probably agree
2 that both of those are in as substantive evidence at this
3 time.

4 MR. REDMOND: I think I had -- I see where Mr. Young is
5 going just to make sure the record is clean because I think
6 they were characterized as proffers to begin with.

7 THE COURT: And they are indeed in evidence.

8 MR. REDMOND: Thank you, Your Honor.

9 MR. YOUNG: Thank you.

10 THE COURT: All right. Let's -- we had talked about
11 taking some time to go over all of the evidence and making
12 sure that we all have a meeting of the minds as to what's in
13 evidence and what isn't, and I'm going to give y'all the
14 opportunity to do that.

15 And we had talked about having closing arguments. I'm
16 going to suggest that y'all go through the evidence today, and
17 when would be best for closing arguments?

18 MR. REDMOND: Your Honor, I know we had talked about as
19 far as how -- depending on how Your Honor wants to do it as it
20 relates to still wanting to do the viewing out at New Bridge
21 Road over in McColl, and I guess just trying to figure out how
22 that would all factor in, whether we would want to do that, do
23 closing, however. We'll govern ourselves accordingly, but
24 that was something Mr. Young and I had bounced around.

25 MR. YOUNG: I think that's up to Your Honor, if you

1 (WHEREUPON, the proceedings adjourned for the day at 4:26
2 p.m.)

3 FEBRUARY 22, 2023

4 (WHEREUPON, the proceedings resumed at 10:39 a.m.)

5 THE COURT: Is there any matters that we need to take up
6 before closing arguments from the State?

7 MS. WEISS: Not from the State, Your Honor.

8 THE COURT: Under these circumstances, the State will
9 open in full, the defense will give their closing argument,
10 and then there will be a reply.

11 Anything from the defense?

12 MR. YOUNG: No, Your Honor.

13 MR. BANK: I guess one thing I just want to put on the
14 record. I know that it was on the record yesterday that we
15 were going to --

16 THE COURT: Speak up just a little bit.

17 MR. BANK: Yes, sir. I just want to have on the record
18 that we all actually did go out and have an opportunity to see
19 New Bridge Road this morning. That's all.

20 THE COURT: Yeah. Let the record reflect that we did go
21 to the New Bridge Road site.

22 MR. YOUNG: And we visited the bridge, Mr. LaBean's house
23 was right there, and the abandoned house.

24 THE COURT: Yes.

25 (WHEREUPON, there was a pause in the proceedings for

1 technology set-up, after which the proceedings resumed as
2 follows.)

3 THE COURT: During the closing arguments, I'm going to
4 ask the bailiff not to allow anybody in. Stay still so it
5 won't be distracting.

6 MR. REDMOND: Your Honor, if we could -- oh, there she
7 is. I had been told that Ms. Lowery was in the building.
8 There she is right there. So we're good, Your Honor.

9 THE COURT: Ms. Weiss, are you ready to proceed?

10 MS. WEISS: Your Honor, we're just waiting on the HDMI
11 cord, and we'll be ready. I apologize. I didn't realize it
12 was missing.

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

15 MS. WEISS: I apologize for the delay, Your Honor.

16 THE COURT: Everybody keep your seat while Ms. Weiss gets
17 ready. Very good.

18 Ms. Weiss, you're recognized.

19 MR. BANK: Your Honor, is it all right if I try to find a
20 place where I can view that from? I just don't want to be
21 moving around.

22 THE COURT: Mr. Bank, you find a very good place.

23 MR. BANK: Okay. Thank you. I think this is good,
24 Judge. Thanks.

25 THE COURT: Ms. Weiss, you're recognized.

1 MS. WEISS: Thank you, Your Honor. May it please the
2 Court.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE

4 MS. WEISS: It's not about what we don't have, it's about
5 what we do. JeJauncey Harrington murdered Ella Lowery and
6 Iyana Lowery, and I submit to you the evidence that
7 investigators collected and that we provided in this case
8 should convince you beyond a reasonable doubt that JeJauncey
9 Harrington is guilty.

10 The first thing I want to deal with is the timeline. The
11 timeline has been mentioned multiple times in this case. It's
12 the State's position that the timeline is a tool. It's a tool
13 law enforcement was using to try to figure out when Ella
14 Lowery was killed, when Iyana was taken, and hopefully lead
15 them to finding Iyana's body or Iyana's -- Iyana alive, which
16 unfortunately they didn't.

17 There were timelines that were up on the wall in the
18 command center, timelines on computers, timelines in videos.
19 There were lots of timelines in this case, and they were just
20 that, a tool to aid in the investigation.

21 However, just to put it to rest, Investigator Jamie
22 Seales, who was a sergeant over investigations at the time at
23 Marlboro County Sheriff's Office, he had been the lieutenant
24 for about a decade, he'd been an investigator at SLED in the
25 crime scene unit, he'd been an investigator at Marlboro before

1 that. He was on his way out of Marlboro County and headed to
2 the Attorney General's Office as an investigator, but he
3 stayed on because he couldn't let a case of this magnitude go
4 unsolved as he left.

5 He did just what any experienced investigator would do.
6 When he got to the scene to join with Lt. Albarri and the
7 other investigators, he got to the scene and started doing
8 what he knew. He called the people that could help. He
9 called SLED crime scene and he called the FBI and he called
10 the SLED regional office. He got all hands on deck to try to
11 help find Iyana and figure out who had killed Ella Lowery.

12 He also towards the end of this investigation on May
13 14th, 2017, drafted a search warrant. Now, would we have
14 preferred that this be a supplemental report that explained
15 each of these things? Absolutely, Your Honor, but that's not
16 what we had. But what he did do is type up his affidavit that
17 went with the search warrant on 5/14.

18 That affidavit shows the times that he testified to that
19 he was given, his people were calling and telling him
20 different times. This is what he had in his notes and his
21 file, and this is what he put on the search warrant.

22 At approximately 2:30 a.m. [sic], a car consistent with
23 the size and color of a black Eclipse left the residence
24 established as Harrington's residence at [REDACTED] Grace Street in
25 Bennettsville. The video then shows the car arrive back at

1 2:05, leave again at 2:10, return about 5 a.m.

2 He then talks about the video on New Bridge. He says the
3 car arrives at approximately 2:40 a.m. and leaves
4 approximately 5:10. Those first times involving Grace Street,
5 the defense wants to use the actual times that are on the
6 video, and that would be great if that worked, but these are
7 personal cameras for an in-home daycare and a person's house
8 out on New Bridge. Those times just aren't accurate.

9 MR. BANK: That's not in evidence, Your Honor.
10 Objection.

11 THE COURT: Overruled. It's closing argument. You'll
12 have an opportunity to address those issues.

13 MS. WEISS: The times that were presented in Jamie
14 Seales' affidavit, the times from Grace Street, if you watch
15 that Grace Street video, which is in evidence, you'll see it,
16 but if you move the clock just ahead just to the point where
17 Jamie Seales' has it in his affidavit, the daylight appears
18 just as it should closer to 6 o'clock in the morning on a May
19 morning, supporting that Jamie Seales got these times from
20 somewhere.

21 The second times show the New Bridge video is about an
22 hour off. Mr. LaBean testified he believed it was off to some
23 amount, but these are the times that Jamie Seales, who drove
24 out to New Bridge Road, met with Mr. LaBean and Anita Beach,
25 looked at the video, and then drove immediately to his office

1 to draft this search warrant, those are the times that he had,
2 2:40 and about 5:10.

3 Your Honor, I submit if you put those together with the
4 phone conversations and the mapping, they flow just fine.
5 From 12:26 to 1:08 a.m. on May 5th, 2017, the text
6 conversation between JeJauncey Harrington and Ella Lowery went
7 back and forth. I believe the defense expert testified about
8 18 times.

9 About 12:20 -- about 12:48, JeJauncey Harrington leaves
10 his home on Grace Street per the Jamie Seales search warrant
11 at 12:48. At 1:08, the tower mapping the end of the
12 conversation with Ella Lowery, the tower mapping puts
13 JeJauncey Harrington in Bennettsville, not Virginia, not
14 Florida. He was in Bennettsville. We know that.

15 Then it's not been disputed by the defense the car leaves
16 and goes at Grace Street. JeJauncey Harrington's car with the
17 gray primer roof, the Mitsubishi Eclipse, leaves and returns
18 to Grace Street. He was active in the middle of the night.

19 When that video was collected, it showed and it was
20 documented that JeJauncey Harrington was active in the middle
21 of the night. He left at 2 -- or came back at 2 o'clock, left
22 at 2:05, presumably after the murder, but the only person who
23 knows that is the person who committed the murder.

24 2:40, car arrives on New Bridge Road, driving down New
25 Bridge Road west and slows down on channel 3 right before

1 where the turn would be to turn into the house, and at 5:34 --
2 or 5:12 -- I'm sorry -- the car pulls out of where the house
3 is, turns off its lights, and travels east. Finally,
4 approximately 5:34, JeJauncey Harrington and his car return to
5 Grace Street.

6 As you know from the directions and having seen New
7 Bridge Road, when you're driving in from the east, driving
8 straight and driving in from the east headed west driving
9 straight, you go over the little overpass over Gum Swamp
10 Creek. That overpass is just steps away from the abandoned
11 house and that driveway.

12 That car coming in is coming straight in. It doesn't
13 come up Red Bluff Road, but it's coming straight in from the
14 east traveling west until it slows down where it can turn. We
15 don't know when the body was placed into that swamp, but we
16 know that after the search Iyana Lowery's body was found
17 floating where it had been dead for over a week in Gum Swamp
18 Creek within sight of the overpass just feet away from that
19 house.

20 But, Your Honor, the timeline is a tool. What the State
21 believes is most important is the evidence that we do have
22 that we've been able to present to you in this trial.

23 The person that investigators were able to attach to each
24 of these separate points is the only person that could have
25 killed Ella Lowery, kidnapped Iyana Lowery, and then killed

1 Iyana Lowery. There are people that could be attached to one
2 or two of these, but only one person is all five.

3 First is the cigarette butt. Second is Ella Lowery and
4 the phone number 3480. The third are the bloody footprints
5 that are left on the scene. The fourth are the more
6 difficult. It's a connection to Iyana Lowery, any connection.
7 And fifth, a connection to where Iyana's body was found in Gum
8 Swamp Creek, far out from Bennettsville, South Carolina, in
9 McColl right by the Harrington family land, the Jones
10 property. I'm going to take each of these one by one.

11 First, we have the cigarette butt. Deloris Lowery came
12 home on the morning of May 5th from work wearing her Air
13 Supply shoes where she had been working third shift overnight.
14 At approximately 8 o'clock in the morning, she gets home.

15 She walks up to her back step and sees a stray cigarette
16 butt laying on the step. She stops and says why is there a
17 cigarette butt on my back step. No one in this house smokes,
18 and I don't let people smoke out here and my family knows
19 that. So why is there a cigarette butt that was not here when
20 I left last night? Why is that cigarette butt on my step?

21 She told law enforcement that. That was evidence piece
22 number one that was analyzed at SLED was the cigarette butt
23 from the back steps because that was the one thing that was
24 clear was not there when Deloris Lowery left for work, and
25 Ella Lowery didn't smoke.

1 One step away from Ella Lowery's body if you stepped into
2 the house where her head was lying in a pool of blood and one
3 step away from the bloody footprint shown there in Marker 1 in
4 the garage was that cigarette butt. As you can see and read,
5 Adrienne Hefney testified that cigarette butt matched the DNA
6 of JeJauncey Harrington.

7 The second prong is a connection to Ella Lowery and
8 specifically the phone number 3480. Ella Lowery's phone
9 number was 843-862-0497. When phone records were retrieved
10 belonging to Ella Lowery to see who was the last person that
11 talked to her alive, it turned out that the number 3480 was
12 the last number. That number that communicated once the phone
13 records were received clearly was in Bennettsville, South
14 Carolina, by the towers, and you can see the text messages.

15 They're UTC time. So if you subtract four hours, they go
16 from about 12:29 to 1:08, and you can see back and forth where
17 Ella Lowery's phone 0497 is communicating with 3480 on
18 5/5/2017. Finally, Jamie Campbell identifies 843-535-3480 as
19 belonging to a phone she gave her on and off boyfriend,
20 JeJauncey Harrington.

21 Now, why should we believe Jamie Campbell? Well, if you
22 remember, Jamie Campbell was friends with Ella Lowery. She
23 was such good friends with Ella Lowery that she was worried
24 when she found out that her friend had been murdered. She was
25 worried that somebody that Ella had been having a dispute with

1 a few months earlier could have had something to do with it
2 because Ella had sent her a screenshot.

3 And it's Jamie Campbell who first called in Dwayne Bright
4 as a potential suspect in this case, and law enforcement took
5 that lead and ran with that. Jamie Campbell wasn't focusing
6 on anybody in particular. She was trying to help her friend,
7 Ella Lowery, but when law enforcement came back to her because
8 she was the friend who had initially called, she had called
9 Ella's phone, and asked her if she knew that number, 535-3480,
10 she said yes, but not from Ella. I know that number because
11 that's the phone I gave to JeJauncey Harrington.

12 She called JeJauncey Harrington and said law enforcement
13 just came to my house and they asked me about 3480. I told
14 them you have that number. I told them about 4282, and when
15 you're done talking with them because they're coming to talk
16 with you, I want you to call me and tell me why you were one
17 of the last people talking to Ella Lowery. JeJauncey quickly
18 hung up the phone and took off. Within hours, he'd begun his
19 flight to North Carolina.

20 And he knew when Jamie Campbell told him law enforcement
21 is coming to talk to you, I told them about that number. What
22 else is important about that number is that we don't know what
23 those text messages were about. Clearly, there's a lot of
24 them. We don't know what they were about, and why don't we
25 know what they were about? Because that information is

1 contained within the cell phones.

2 Was Ella Lowery taking a shower because someone was
3 coming over, because she knew JeJauncey was coming over? Was
4 Ella Lowery texting in an argument with JeJauncey Harrington,
5 and he came over to settle the argument? Was JeJauncey
6 Harrington texting her about who knows what and then he came
7 over, found her on the phone talking to someone else, and got
8 upset? Or did Ella Lowery say I'm done with this, I'm going
9 to tell Jamie Campbell that you've been cheating on her, and
10 did that set off JeJauncey Harrington? Did that send
11 JeJauncey Harrington into such a rage because he was going to
12 risk losing his home, his phones, his car, his entire way of
13 life just by Ella Lowery telling Jamie Campbell?

14 And who benefited from the phones disappearing? There
15 were search warrants done on JeJauncey Harrington's car and
16 search warrants done on the house or search warrants done on
17 Grace Street. Lots of phones were collected. However, the
18 phones with 3480 and 0497 were never found. Who benefits from
19 that? JeJauncey Harrington. He benefits from both of those
20 phones being gone because we will never know what those last
21 texts were. And if Jamie Campbell doesn't rat him out, no one
22 knows that JeJauncey Harrington has that phone number.

23 The bloody footprints. You heard a lot of testimony
24 about the bloody footprints. JeJauncey Harrington was
25 arrested wearing a mismatched pair of Nike Air Force 1, size

1 13 shoes, two different Nike Air Force 1 shoes. When he was
2 arrested, those shoes were collected. Dwayne Bright's house
3 also had a pair of size 12 Nike Air Force 1 shoes.

4 Those shoes were compared to these bloody footprints.
5 Both experts say that based in size and class that for part of
6 these impressions you can't tell if it's a 12 or a 13.
7 Melinda Worley goes a step further and says actually there are
8 a couple because the size increases in the midsole and then
9 the toe. There are a couple of the prints that are just
10 defined enough to say the 12s, the style of the 12s that
11 Dwayne Bright had, they don't match. They are excluded from
12 making a couple of these footprints, just a couple. You can
13 even see that in some of the defense expert's lines. They
14 just don't line up.

15 The State is not implying that those size 13 shoes made
16 these prints. The State's contention is that these prints
17 were made by a size 13 Air Force 1 shoe, and JeJauncey
18 Harrington was arrested wearing two different Nike Air Force
19 1, size 13 shoes. You can see there the results match 100,
20 match 100. Those are his shoes.

21 The defense expert talked about wear. That goes into
22 comparing whether that shoe actually made the print, and
23 that's -- that's not what we're talking about. We're talking
24 about the combined class characteristics match the size 13 Air
25 Force 1s, just like the ones JeJauncey Harrington was wearing

1 when he was arrested in Charlotte, North Carolina.

2 Those were the things we could see up front. We had Ella
3 Lowery, the footprints, and the cigarette. What becomes a
4 little more -- a little more tricky is why Iyana Lowery. Why
5 kidnap Iyana Lowery? Ultimately, why kill eight-year-old
6 Iyana Lowery? I don't think we'll ever know the answer to
7 that question.

8 But who has a connection to Iyana Lowery? Certainly, she
9 wasn't at school. The school bus driver didn't see her. So
10 based on the evidence, the same person that killed Ella Lowery
11 is the person that took Iyana Lowery. And why would that
12 person, the person that matched the footprints and the person
13 that matched the cigarette butt, why would JeJauncey
14 Harrington have anything to do with Iyana Lowery? Why would
15 he even know who she was?

16 Deloris Lowery didn't know anything about JeJauncey
17 Harrington. He wasn't someone that came over to the house for
18 dinner like Dwayne Bright. Dwayne Bright, just to get that
19 out of the way, he came over to the house, he spent time at
20 the house, he took off his shoes when he walked into the
21 house. He helped decorate the Christmas tree. They had a
22 falling out towards the end, and there's no question about
23 that, but he was a part and he was there on Wednesday night.

24 He came in. He talked to law enforcement over and over
25 and told them I was there. I was there on Wednesday night. I

1 was there. I walked this way. He drew the path. He was
2 there. That's why there's DNA inside his shoe. Touch DNA
3 from walking around Ella's house of Ella Lowery and Dwayne
4 Bright inside of his shoe.

5 The drops that are outside of his shoe presumptively
6 tested positive for blood on the outside of his shoe are his
7 blood or his DNA. That, I would submit, is probably or at
8 least supports his argument that he and Ella kind of got into
9 a little altercation, but she was alive. They got into an
10 argument, but she was alive when he left.

11 When he left on Wednesday night -- and we know that
12 because she was seen on Wednesday during the day -- on
13 Thursday during the day by her mother. We know she was alive
14 when Dwayne Bright left, and we know from the videos at the
15 Bojangles that he walked by exactly the path that he gave. He
16 walked by at the right time that he said, if you consider that
17 those videos were an hour off based on the trucking company,
18 but he walked by at the same time.

19 If you match it up to his phone records, his phone
20 records that we have because -- that show where the towers
21 are, that he was right within the right area, and the
22 messages, the records that we have, that phone was collected.
23 The search warrant at Dwayne Bright's house, that phone was
24 collected and that phone was able to be dumped. We have that
25 phone, and he was cleared.

1 He was -- for a moment, he was -- he was arrested in this
2 case. That is for sure, but then once they were able to
3 actually look closely at the evidence because he gave them a
4 lot of things to corroborate, they were able to realize, nope,
5 he was Wednesday night. He had nothing to do with Ella Lowery
6 from the time he got home Wednesday until the time she was
7 found deceased.

8 But who did? We know that Jamie Campbell talked to law
9 enforcement and told law enforcement that she had bought the
10 car, put the car in her name that JeJauncey Harrington was
11 buying. Put the car in her name because he didn't have any
12 credit. Put the car in her name, had gotten the insurance in
13 her name, and that he had gotten his license suspended, and
14 she told him until you figure that out, you need to park that
15 car.

16 Park the car. She told him not to drive it until she got
17 it figured out. She said he was paying for the car, he had
18 paid for the car originally, but it was her insurance, it was
19 under her name, and she said park it until you get this
20 license thing figured out and get your own insurance. So he
21 was driving it without her consent as he took off to
22 Rockingham and ultimately to Charlotte, North Carolina.

23 Let's talk for a minute about Rockingham. When he
24 stopped in Rockingham to talk to his friends, his cousin and
25 his friend, PY and Coon, PY says he noticed there was

1 something wrong with his pinky finger. He asked him about it,
2 and he said he had closed it in his car, car door, car. He
3 had closed it in the car.

4 He said, you know, the police are looking for you. The
5 police in Bennettsville are looking for you. If you didn't
6 have anything to do with this case, you need to go back to
7 Bennettsville and clear your name. He said I will. He said
8 I'm serious. They're calling. They're looking for you.

9 And when he left PY and Coon after he pulled all of his
10 money out his bank account, he headed not back to
11 Bennettsville, but northwest to Charlotte, North Carolina,
12 where his car had been placed into NCIC along with his name
13 for a warrant for use of motor vehicle without owner's
14 consent. That vehicle was on the tag readers in Charlotte,
15 North Carolina, were picked up and his car was found and he
16 was taken into custody and the car was processed.

17 A search warrant was obtained, and crime scene
18 investigators from Columbia from SLED went up to Charlotte,
19 North Carolina, and processed the car. You've heard testimony
20 about that. You've seen lots of pictures.

21 There are two things that are key to Iyana Lowery. It's
22 the State's belief that Iyana Lowery was taken, along with the
23 comforter, her grandmother's comforter, and put in the back of
24 JeJauncey Harrington's Mitsubishi Eclipse. It's believed that
25 at some point she probably -- we don't know if she was knocked

1 out, if she was stunned, or if she was just scared, but at
2 some point, based on the testimony of Jamie Campbell, she
3 probably started screaming, as she did when she was upset,
4 frustrated, scared, she would scream.

5 She probably started screaming and reaching up for the
6 glass, and you know from sitting in that -- or from seeing
7 that car that if you're sitting in the front seat, you can see
8 straight back to that glass and you can see all the way to the
9 bottom of the glass where you'd see that hand come up.
10 There's an inconclusive latent print on the inside trunk
11 window right at the bottom of that window, inconclusive as to
12 Iyana Lowery. The rest of the players in this case have been
13 ruled out, but it was inconclusive as to Iyana Lowery.

14 And then right below that on the trunk latch of the
15 Eclipse, Blue Star lit up. There was nothing visible to the
16 naked eye, but the Blue Star lit up, and crime scene
17 investigators did what they do and they took a swab. They
18 sent that to the lab, and you heard from Adrienne Lowery --I
19 mean, Adrienne Hefney that there were two -- two contributors
20 to that mix, but there was a definite major contributor to the
21 DNA that lit up right there on the trunk latch. That DNA
22 profile matches Iyana Lowery. The only person who has a
23 connection outside of that home and Ella Lowery to Iyana
24 Lowery is JeJauncey Harrington on the inside trunk latch of
25 his car where her DNA is found.

1 When he was arrested, you see his right pinky was
2 injured, fractured. They took pictures of it. Law
3 enforcement had an order for him to go have x-rays, and you've
4 heard from the radiologist that that was a fractured pinky
5 that was known as a boxer's injury, boxer's fracture that
6 boxers get when they hit and they hit something slightly off.
7 You get a fracture right there on the pinky finger.

8 When Iyana was found after floating for days in that
9 swamp, she had a traumatic injury as described by Dr. Riemer.
10 She had a traumatic injury. Her tooth had recently been
11 knocked out prior to her death because there was no regrowth,
12 no healing. Her tooth had been knocked out, and the two teeth
13 on either side were fractured consistent with that punch or
14 boxer's fracture.

15 Now, why? Why punch an eight-year-old girl? The answer
16 lies back at the scene. At the scene, you have Ella Lowery in
17 the early morning hours fighting for her life against
18 JeJauncey Harrington, fighting and making noise, waking up her
19 children, definitely waking up Iyana Lowery.

20 And Iyana Lowery was not the type of child who would just
21 sit by feeling like her mother -- hearing her mother in
22 trouble. Iyana came out into the den where this fight was
23 ongoing in the kitchen area where the couch was where the
24 fight was ongoing. I would submit to you grabbed onto her
25 mother, and why do I say that? Because the blue T-shirt that

1 was left on the floor kind of pooled up right next to the feet
2 of Ella Lowery, that T-shirt, as you've seen, was the same T-
3 shirt in the picture that was given to law enforcement of
4 Iyana Lowery when they were looking for her. The same T-
5 shirt, but now that T-shirt had blood on the front of it that
6 Adrienne Hefney testified matched Ella Lowery's blood, and it
7 had blood on the collar, just a little bit of blood on the
8 collar, and that blood matched Iyana Lowery's blood. That
9 blood was consistent with the type of bleeding described by
10 Dr. Riemer that would have come from the tooth being knocked
11 out and the teeth being fractured. A little bit of blood on
12 her collar.

13 That's why maybe she was knocked out for a moment, maybe
14 she was stunned. We don't know, but she was definitely picked
15 up in that comforter and carried, placed in the car, and the
16 shirt was taken off. Why take off the shirt? The shirt was
17 the only visible blood on Iyana Lowery. If you take off the
18 shirt and leave that at the house and place her in the car in
19 the comforter, it doesn't appear to be any blood that could
20 get out. But if her mouth was bleeding and she came to and
21 was reaching up, the DNA on the trunk latch presumptively
22 tested positive for blood, and Iyana presumably was bleeding
23 just a little bit from her mouth where that tooth had been
24 knocked out and those teeth had been fractured.

25 Your Honor, you went to New Bridge Road. You've heard

1 testimony this is the area where JeJauncey Harrington grew up.
2 This is the Jones family land around here, as well as the
3 waters publicly held, and just down here in the bottom left
4 corner is the LaBean residence. Just up here in the top left
5 corner is the abandoned house, and you see where the overpass
6 is. And Gum Swamp Greek, there's an overpass on both sides.
7 Gum Swamp Greek points to the area where Iyana's body was
8 found.

9 McColl, South Carolina, specifically that overpass on New
10 Bridge Road, is not somewhere that people just drive by or
11 people necessarily know about. People who live in
12 Bennettsville, people who even possibly live in McColl, that
13 is an area that's very specific to the Jones property.

14 Iyana's body, off the overpass 185 feet. I submit to you
15 she was drowned, suffocated, possibly even right there under
16 the bridge and then floated. She was in that water for over a
17 week. That's why she was very decomposed. It was very hard
18 to get good fingerprints. It was very hard to determine a
19 cause of death. It wasn't a gunshot. It wasn't a knife.
20 Most likely drowning or suffocating, and then left in that
21 water with her grandmother's comforter.

22 She floated about 80 -- about 185 feet into the swamp.
23 She could have been put in at anywhere obviously along the
24 side. Floated into the swamp where she got stuck on something
25 you can see in the pictures, and that's where her body was

1 found.

2 This is the -- JeJauncey Harrington is very familiar with
3 that land. He was familiar with that land as a child, but Mr.
4 LaBean says even though we hadn't talked to him in years,
5 JeJauncey Harrington was the only person that he saw, and he
6 lives in that house right there. He was the only person that
7 he saw go to that abandoned house after the woman who lived
8 there saw a snake and moved out abruptly. The only person he
9 saw go there. Now, he said JeJauncey would bring people with
10 him sometimes, but the only person he saw drive in there was
11 JeJauncey Harrington driving down New Bridge Road and then
12 turning into the abandoned house right past the overpass.

13 That abandoned house on the path as you pull in and get
14 out, Mr. LaBean described the cars driving around the back of
15 the house, but right along that path if you get out of the car
16 and you're walking towards the back of the house, there are a
17 couple interesting pieces of evidence that were found by the
18 crime scene unit on Mother's Day, May 14th, 2017, when they
19 went through there. There were a couple of receipts and a
20 credit card. What's important about that credit card is that
21 that is where the government puts money each month for Ella
22 Lowery to pay for her needs of her son, Tyreon Lowery.

23 JeJauncey Harrington would know, based on the testimony
24 of Coon, would know about the cards that are refilled from the
25 state or from the government. He would know about the cards

1 having money on them. That card is important.

2 And that receipt -- and it's in evidence, not very easy
3 to see. It says Ella Lowery. It's dated March 3rd, 2017.
4 Ella Lowery, two months before her murder. A random Dollar
5 General receipt was found on the ground outside the abandoned
6 house on New Bridge. The card had been printed with Ella
7 Lowery, and you can see those items haven't been there for two
8 months. Those items are still on top of the ground when
9 they're identified and marked by the crime scene.

10 Now, JeJauncey Harrington's car. It's a very important
11 piece of this case. There are videos at Grace Street and
12 there are videos on New Bridge. We talked about those. There
13 are -- the video on New Bridge shows on the camera at 1:39 a
14 car driving westbound that puts on its lights to slow down
15 just as it hits the end of the frame.

16 To the left, you have Grace Street. That's a still shot
17 from 1:47 a.m. The videos are in evidence. You can see
18 JeJauncey Harrington's car. You can see how the taillights
19 are higher than the headlights, how they have that bar-looking
20 light.

21 It's a video. Those are the first videos. If you watch
22 -- watch all the other videos, all the cars that are going by,
23 they keep going or they turn at -- the one turns in right
24 there, but this car, you can see it slows to a crawl just as
25 it hits the edge of that screen. I submit to you that car is

1 very similar to the car right there taken on Grace Street.
2 And although it's a grainy dark video, added to the fact that
3 that is JeJauncey Harrington's family land and that's where
4 he's familiar, I submit to you that could very well be
5 JeJauncey Harrington's car, and the State believes that it is.

6 The Mitsubishi Eclipse. In the bottom right-hand corner
7 is a picture from the Charlotte processing, crime scene
8 investigation car processing. So you can see the actual
9 Mitsubishi Eclipse. Definitely, the primer on the hood is
10 interesting, but look at those -- look at the wheel covers,
11 the hubcaps. They are somewhat distinct, very bright silver,
12 and with a fan pattern.

13 The defense expert yesterday spent a lot of time with the
14 picture on New Bridge Road of the car that chose not to turn
15 on its lights when it came out of the abandoned house on New
16 Bridge Road. That car that didn't have enough lights, didn't
17 have lights shining down from on top of it, what it did have
18 were the bright white separated-out starlike hubcaps, just
19 like those on JeJauncey Harrington's car.

20 Over here on the left are a couple different clips from
21 Grace Street, and what's key on these, these are different
22 than what the defense presented, different angles. You see
23 the white -- the silver hubcaps showing up white here and even
24 more on this video. You see how the white hubcaps -- when
25 it's dark, the white hubcaps are what you can see. And that's

1 the car that left New Bridge Road. The time said 4:12, the
2 search warrant said approximately 5:12, an hour later.

3 And Iyana's body location. That car that we were just
4 talking about creeps by with no lights on trying not to be
5 discovered. That video is in evidence. I submit to you only
6 somebody with a guilty conscience trying not to be discovered
7 would turn off their lights on a country road with one lamp
8 across the street in somebody else's yard lighting the way to
9 creep away unless they didn't want anyone to know that they
10 were there.

11 And finally, on the right, Gum Swamp Creek. There was a
12 nice amount of water in Gum Swamp Creek that week, and you see
13 a white -- a white figure in the water. The investigator said
14 they could see it, especially with binoculars, but they could
15 see it in the water. They could see it clearly with
16 binoculars, and the DNR agent that came out to dive to try to
17 help find her the morning after the New Bridge video was
18 discovered, the DNR officer said he could smell that there was
19 a decomposing body and when he followed the smell, he came to
20 that body.

21 And when that body was retrieved from the pond -- from
22 the creek swamp, DNA was taken. That DNA matched the DNA on
23 the toothbrush from Iyana Lowery. The body had no shirt on,
24 just as she was taken without her blue shirt on that had the
25 blood on it. She still had pants on. It was very decomposed

1 and had a broken tooth. It was identified as the body of
2 Iyana Lowery. She wasn't a slight child. She could put up a
3 fight. Possibly somewhere between 115 and 120 pounds, nice
4 height for an eight-year-old. She fought for her mom, and
5 this is what happened.

6 This creek is familiar to Richard LaBean, to the Joneses,
7 and specifically JeJauncey Harrington, and Mr. LaBean told you
8 he hadn't even seen him in that car before. He'd seen him in
9 other cars pulling in there, but JeJauncey Harrington is the
10 only one that pulled into that house feet away from Iyana
11 Lowery's body.

12 Your Honor, it's not what we don't have, it's what we do.
13 The cigarette butt, a connection to Ella Lowery, specifically
14 the phone number 3480, the bloody footprints, Iyana Lowery,
15 and then her body location.

16 The only person who is connected to all five of those
17 things is the defendant, JeJauncey Harrington, and I ask you
18 to find JeJauncey Harrington guilty for the murder of Ella
19 Lowery, the armed robbery, and the use of a deadly weapon for
20 stabbing her to death, the taking of her credit card, the
21 comforter, her daughter, the kidnapping of Iyana Lowery, the
22 use of a motor vehicle without Jamie Campbell's consent, and
23 ultimately the murder of Iyana Lowery. Thank you.

24 THE COURT: Thank you, Ms. Weiss.

25 Defense, you're recognized.

1 MR. BANK: Thank you, Your Honor. Could we just have
2 maybe one or two minutes to set up a couple of things?

3 THE COURT: Yes. All right. We'll stand at ease for two
4 minutes.

5 MR. BANK: Thank you.

6 (WHEREUPON, there was a break in the proceedings from
7 11:26 a.m. until 11:35 a.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: I wanted to mention something to the people
10 who are here observing this trial. One of my obligations
11 obviously is to preside over the trial, but I also have an
12 obligation to maintain order in the courtroom.

13 We've had one outburst. I understand that these are very
14 difficult things to hear, but we have to maintain order. And
15 if you feel as though you can't control your emotions, you
16 need to get up and leave the courtroom now. And if there are
17 outbursts, then we're going to ask these very fine deputies to
18 take you into custody and we'll deal with you accordingly. So
19 everybody maintain composure and maintain order.

20 MR. REDMOND: Your Honor, if I may, I'm going to be doing
21 a response, but can I just sit here so I can better see the
22 exhibits?

23 THE COURT: You certainly may.

24 MR. REDMOND: Thank you, Your Honor.

25 THE COURT: Mr. Bank, you're recognized.

1 MR. BANK: Thank you, Judge. May it please the Court.

2 THE COURT: Yes.

3 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

4 MR. BANK: Desperation leads to assumptions, mistakes,
5 and falsehoods. Mr. Young told you that on the first day of
6 this trial, and I'm telling you that again here today.

7 For every day of this trial, every lawyer that has sat at
8 this table not one time has ever blamed law enforcement for
9 being desperate in trying to find Iyana, but with that said,
10 when that desperation leads to a complete lack of
11 documentation, when that desperation leads to evidence being
12 mishandled, lost, or even destroyed, when that desperation
13 leads to judges and courts getting wrong sworn information
14 given to them, that cannot then be held against them. There's
15 no pass that they get when it comes time to try to convict
16 somebody of a crime and subject them to up to a life in
17 prison. Those mistakes, those assumptions, those falsehoods,
18 if you set them aside, a man will pay for it with his life.

19 Our position in this case has been and has always been
20 that Mr. Harrington did not commit these crimes. Not only did
21 he not commit them, he could not have committed them. The
22 most important thing that I think I can talk to you about in
23 my short time here is something that I'm going to talk about
24 again later, but I want to address right in the beginning, and
25 that is that we're in a critical point in this trial.

1 I think it's a point that I don't believe that you've
2 been in, at least from what you said previously. I know it's
3 not a point I've been in, but a point where you are fully
4 switching from the judge to the jury. In all of the thousands
5 of juries that you've talked to in trials, you've said a lot
6 of things to.

7 We talked about the presumption of innocence, that cloak
8 of innocence, that righteousness, that burden that falls on
9 them. You know, us as lawyers and as judges say those things
10 so many times that I think we sometimes forget their meanings,
11 but I need you as a juror to remember those things and
12 remember that they are important and they are the law.

13 Now, we've talked about Mr. Bright a lot, but just as
14 much as Mr. Harrington, if not more, and there's a reason for
15 that. And the reason is because he's the only person with the
16 opportunity, the access, and the motive for this crime. What
17 do we know about Mr. Bright? What's not in dispute?

18 Well, we know the night before Ella was killed that Ella
19 reached out to Mr. Bright. That they used to date. She had
20 broken up with him and he was brokenhearted about it, and he
21 gets a text to come over. This is also a Mr. Bright who Ella
22 Lowery had talked about getting a restraining order against
23 and someone who she said she was scared of hiding outside her
24 house hiding in the woods.

25 But nevertheless, Mr. Bright, happy that his ex-

1 girlfriend has texted him, goes to the house. He either has
2 sex with her or doesn't have sex with her, but either way, we
3 know he's ejected out of the house pretty quickly. She turns
4 him away. She sends him back home in a very short time, and
5 he goes back home and then we know that his phone goes dark.
6 It goes dark the complete next day, and it goes dark into the
7 night that Ella is killed. There's no activity.

8 Now, does that mean that the next day he sat around and
9 ruminated about being turned away by Ella, getting upset about
10 it? Does that mean that he decided that he wanted to take a
11 second pass at Ella and go back to her house that night? Does
12 that mean he saw Mr. Harrington's car there and sat and waited
13 for Mr. Harrington to leave and then got into a confrontation
14 with Ella that led to the death of Iyana and Ella?

15 We just heard the State for the first time I believe say
16 that they know there was a confrontation, that Bright did have
17 a confrontation with her at some point. Does that mean he
18 then left the bloody footprint and then confessed to it days
19 later?

20 To be honest with you, I don't know, but what I do know
21 is that version of events is as likely as the version of
22 events the State has presented for Mr. Harrington and, quite
23 frankly, it's as likely a version of events as any of the
24 laundry list of suspects that is listed as a frank matter of
25 Ella Lowery's lifestyle.

1 So they've talked about the timeline, we've talked about
2 the timeline. You've heard that over and over again, and
3 you've been given an extraordinarily large amount of evidence
4 and, quite frankly, I think an unnecessarily large amount of
5 evidence. Judge, there's nine points that matter in this
6 case, just nine.

7 Down here we have -- and let me hand this up to you,
8 Judge, just in case that print isn't quite big enough for you.
9 I'll give a copy to Mr. Redmond as well.

10 We know that it takes about five minutes to drive between
11 Ella's house and Mr. Harrington's. Some people have said
12 maybe it's six, maybe there's traffic, maybe you're driving
13 120 miles an hour, but generally all the witnesses for both
14 sides have said it's about a five-minute drive.

15 And we know that from either house, either Ella or
16 Harrington's, Mr. Harrington's, that it's about 21 to 23
17 minutes to get to New Bridge Road. Again, we've heard this
18 idea that you would be driving 100 miles an hour with a dead
19 body in the back of your trunk hoping not to get pulled over.
20 That doesn't really make sense. I think we can all agree
21 we're at about a little over 20 minutes to get there.

22 So what do we see? We see at 12:25 Mr. Harrington left
23 Grace Street. Let me be super clear to you right now, we do
24 not dispute that that is Mr. Harrington's car on the Grace
25 Street video, the Grace Street being his house. You see that

1 distinct white top that me and you saw when we went to the
2 police department. Right?

3 We know that at 1:08 we have the last text between Mr.
4 Harrington and Ella. We don't know what that text says. We
5 just know that it occurred.

6 Within -- and this is the most important part or at least
7 one of the most important parts. At 1:38, we have a call
8 between Ella and Mr. Reddick that lasts 42 seconds. Now, they
9 have suggested some type of hypothetical or a bogeyman could
10 have picked up the call or maybe it was Mr. Harrington that
11 picked up the call, but why that doesn't work, Judge, is
12 because Harrington is back at his house four minutes later.
13 He couldn't have made the drive. He certainly couldn't have
14 answered the phone, killed Ella, killed her daughter, and been
15 back home at 1:42. It just doesn't work.

16 At 1:47, he leaves his house, and these are all
17 undisputed times. Then at 2 o'clock, and I have an asterisk
18 next to 2 o'clock, and I have an asterisk next to 2 o'clock
19 because of the actions of the government, which is that they
20 lost what they claim to be the most important piece of
21 evidence, which is who they say killed Iyana in a car pulling
22 into an abandoned place where they eventually get rid of
23 Iyana's body. I've not seen a murder case in this state where
24 they have that big of a piece of evidence and lose it, but we
25 can deal with it, and we can deal with it because of Mr.

1 LaBean.

2 We know that the car pulling out pulls out at 4:11.
3 That's what it says on the time stamp. Mr. LaBean gave
4 testimony that he saw that car go in and he saw that car go
5 out on video and that the car was there for about two hours,
6 maybe three. So all we do is backtrack.

7 So we backtrack about two hours to have a nice number,
8 and again we see here Mr. Harrington leaving Grace Street.
9 You would have to -- to have to have enough time for him to
10 drive five minutes to Ella's house and kill the child, kill
11 the mother, and then somehow still make it out to New Bridge
12 Road. That's what the testimony is. They didn't offer
13 anything else. That's a State's witness saying that he was
14 there at least two hours or whoever was there was there at
15 least two hours. We then have Mr. Harrington coming home at
16 5:16 and then leaving about 7:11.

17 And then, finally, the most important thing that nobody's
18 really talked about is the complete again unrebutted evidence
19 of time of death at 6:30 to 7:30 for Ella. That was a State's
20 witness. That was an autopsy that the State offered into
21 evidence to say that the death was 6:30 to 7:30. There's not
22 been a single witness who has said anything else in this
23 record.

24 Now, we also heard Mr. LaBean say that sometimes the
25 video was off by an hour, and then we're a lot of talk about

1 daylight savings time. So if you look at the second piece of
2 paper I gave you, I want to go through this chart and account
3 for that.

4 So if you see here, we leave all the same times that are
5 undisputed the same, but what we do is we change -- because
6 any time you change one video's time, you have to change -- if
7 you're looking at another video at a later time, you have to
8 change and account for it there. So we added an hour, added
9 two hours, subtracted an hour, and subtracted two hours.

10 And what these red boxes indicate is that the timeline is
11 still impossible. If you move it forward an hour, there's no
12 way that he can get between New Bridge Road and his home at
13 6:15. If you move it up two hours, he would've still been at
14 New Bridge Road when we know his car is already back home.

15 If you move it back one hour, then he would have still
16 been at his house at Grace Street, and if you subtract two
17 hours, the same thing. He would have still been at his house.
18 You can move in any which way you want, and I challenge them
19 in rebuttal to explain to you how that works, but, Judge, at
20 the end of the time -- at the end of the day, this is time and
21 numbers. Now, they talked about common sense. Days and times
22 are what they are.

23 Now, there's been some suggestion for the first time in
24 opening -- or excuse me -- closing that, well, maybe the Grace
25 Street videos are wrong. We don't have any witnesses that

1 have ever said that, and I rarely object in closing and I did
2 there because I anticipated that. I mean, my God, we're at a
3 point now where we have a video that's lost, we have a
4 mistrial motion in the middle of this case because we're
5 getting new evidence that the time has changed, which at the
6 end of the day didn't really matter, and now in closing you're
7 hearing for the first time, they are bringing to you for the
8 first time a fact that's not even in the record. That's a
9 desperate prosecution, Judge, about as desperate as this
10 investigation was.

11 Now, these time frames, it really doesn't matter how long
12 it took to commit the crime. Whether it's one minute or
13 whether it's 30 minutes, these time still don't fit, but I
14 think it is important for us to understand that this also
15 wasn't an instantaneous death. Whoever killed Ella and Iyana
16 had to have gone into that house, had to have sat down with
17 Ella, it seems like possibly been engaged in some type of
18 sexual activity because of the state of her undress.

19 They would've had to have gotten a knife, particularly
20 maybe one of these knives that were not ever sent to SLED and
21 that are about five inches long out of her kitchen or maybe
22 they brought a knife, but either way, they would've had to
23 kill her and not only kill her, they would've had to wait for
24 her to bleed out enough that you would have gotten that much
25 blood on your shoes to leave that many footprints through the

1 house and into the carport.

2 They then would have had to go into Ella's room and
3 rummage through her purse. They then would have had to in
4 some way incapacitate that child and then in some way get the
5 child to the car, get themselves in the car, crank it, and
6 drive away. That's not something that takes one or two or
7 three minutes. It's not something that I need to rely on to
8 show you that Mr. Harrington didn't do this, but I think it is
9 important for you to know.

10 Now, I've said time and time again this timeline shows
11 Mr. Harrington didn't do it, but I want to point to another
12 few areas of reasonable doubt, particularly for a
13 circumstantial evidence case.

14 Now, we've talked about Mr. Bright, and I've talked about
15 him in closing, but there are a couple of things I wanted to
16 make sure didn't get past anybody, and one is that they say
17 that -- and they put up a witness that says that Mr. Bright
18 couldn't have done this because he can't drive because he has
19 seizures. Well, we put in not only just his driving record
20 but a ticket from North Carolina showing that he was the
21 driver of the car. There's not a situation where he has never
22 driven before. He does know how to drive.

23 We have the vulgar texts that he sent three months
24 beforehand where we don't need to go into the details. It's
25 in evidence, but it's a vulgar, mean text that Ms. Campbell

1 talked about and that you have before you.

2 We have Ella's DNA on his bloody shoe, and we also have a
3 transcript of his interview with Mr. Seales that you have,
4 both the video of and the transcript that we put together.
5 And when you have a chance to go through that, you'll see that
6 he does lie. He doesn't admit seeing her Wednesday or
7 Thursday night. He says I haven't seen or talked to her in
8 months.

9 And then if you really listen to him, he wasn't
10 interviewed weeks later. He wasn't interviewed days later.
11 He was interviewed a day after Ella was found, and he was
12 asked what night were you there, and he says, well, the night
13 before I was there and I woke up in the morning and they told
14 me Ella was dead. He says that over and over and over again.
15 That is Thursday to Friday. I also know he was Wednesday to
16 Thursday there, but he continuously also says it was the night
17 before she died before I woke up in the morning and they told
18 she was dead. And that is Thursday to Friday, and he says it
19 time and time and time again.

20 We also have Ella's lifestyle and work and, just quite
21 frankly, it's a dangerous and risky line of work. And I don't
22 bring it up in any way, shape, or form to shame her, to say
23 that she was doing anything bad, but at the end of the day it
24 is dangerous and it is risky, and it created a laundry list of
25 suspects that she was engaged in a lot of untoward behavior

1 with.

2 There were parties. There were strippers. There was
3 online sex activity. If you go through the Facebook records
4 that are in evidence, you'll see thousands of messages,
5 pictures, videos, and men that she's talking to. They have
6 parties in the woods and, as I said, strippers and sex and a
7 lot of people who we wouldn't want around us. We know that
8 that night she was filming a shower so that the public could
9 see her shower, and we know that the night she died she also
10 sent out a text threatening to snitch on a cousin, and then
11 she's found dead within an hour or two.

12 We talked a lot about the car. Like I said, we both went
13 to go see it together, and there's a few things about it.
14 One, that white top that whenever you see it in surveillance,
15 you see that white top light up. You also saw that it did
16 have the two front windows in the car. Right? They were just
17 rolled down. They weren't broken out, as somebody suggested
18 in the beginning.

19 You also saw the trunk, and there were a few things about
20 that trunk. A) the trunk is heavy. B) it doesn't stand up by
21 itself. The hydraulics are broken. You have to hold it up.
22 Right? And you saw that it takes apparently from what we saw
23 two people to open it. You can't use the key, and if you just
24 use the latch by yourself and then go back around to try to
25 open it, you can't. You have to have the latch and somebody

1 open it at the same time. And we know that it's a hatchback;
2 so we know that it's glass that looks into it. So anybody
3 walking by that car or any surveillance that was good enough
4 -- and not all surveillance is, but some is. Any surveillance
5 that is good enough would be able to see into that trunk, and
6 there's no evidence that anybody saw anything there.

7 We know that it was dirty. You've seen pictures of it in
8 Charlotte. We know that it did not appear in any way to be
9 cleaned, and we know that there was no blood that was
10 confirmed to be in the car. And we've heard about Blue Star,
11 but we've also heard the testimony from that person that
12 applied Blue Star that said you can't confirm anything until
13 SLED does. This is a field test. That's it. And you heard
14 SLED have to admit yesterday that they could not tell you that
15 there was blood in his car. There's not blood on the pedal or
16 the floorboard where you would expect a bloody footprint to
17 put blood, and there was no blood to be confirmed in the
18 trunk.

19 Then most importantly, what you see and what you heard
20 from that live testimony and not these 700 pieces of paper,
21 but live testimony of a sworn witness who has no dog in this
22 fight, Mr. LaBean tells you the car that he saw him pull into
23 New Bridge Road on that video that does not exist anymore is
24 not the car he's used to JeJauncey driving, and I have heard
25 of no other car that Mr. Harrington has driven. Again, for

1 this record.

2 You heard a lot about the DNA. You know, Ms. Freedman
3 told me while we were in court yesterday we think the DNA is
4 actually more helpful for us than them, and there's a number
5 of reasons for that. One is that there is some unidentified
6 male's DNA underneath the fingernails of Iyana. There's also
7 four unidentified male pieces of DNA on her shirt.

8 MR. REDMOND: Your Honor, I would actually object. That
9 was something that we didn't actually put in evidence because,
10 again, y'all didn't want the report in.

11 MR. BANK: Sure. Ms. Freedman cross-examined her, and
12 she was not --

13 MR. REDMOND: But she didn't get into all of what you're
14 talking about.

15 THE COURT: I'll allow him some leeway in that regard.
16 I'll allow you wide latitude with the rest of this.

17 MR. REDMOND: Thank you, Your Honor.

18 MR. BANK: Yes, sir. We know again --

19 THE COURT: You can proceed.

20 MR. BANK: Yes, sir. Thank you.

21 We know that there is, again, no confirmed blood in the
22 car. We know that they had 41 items that they collected --
23 and Ms. Freedman showed it to them -- that were never tested
24 for no reason, at least no reason provided to us.

25 We know that Mr. Harrington's DNA wasn't found anywhere

1 we wouldn't expect it to be found. It was found in his car,
2 fine, but it was also found on the doorknob at Ella's house,
3 and it was found on the cigarette butt. But by the State's
4 own admission in opening, there was some 800 contacts between
5 Mr. Harrington and Ella. She is a sex worker. He is engaged
6 in sexual activity. They had a relationship. It is not weird
7 to find any DNA, touch DNA or saliva DNA, at Ella's house, as
8 it wouldn't be weird to find any of Ella's at his house.

9 And finally, we know that SLED was very involved in this
10 case, and it took a little bit sometimes to get them to admit
11 that, but this was a different case. That was the testimony
12 of Ms. Hefney yesterday, and it was for good reason. Right?
13 We aren't blaming anybody for being desperate, but you had who
14 are supposed to be scientists in and out of task force
15 meetings, in and out of investigatory processes, and they knew
16 what was going on. Daily contact is what they said.

17 And then, finally, we've got to talk about just the
18 objective lack of quality in the investigation. I told my new
19 friend, Tony, here today that if I'm talking about the
20 Marlboro County Sheriff's Department, I'm not talking about it
21 in its state today. I'm talking about it in its state in 2017
22 and its state under Sheriff Leon Lemon [sic].

23 We know and you've heard me say ad nauseum there are no
24 reports, but I say that because it matters. Judge, in this
25 report between the Marlboro County Sheriff's Office and SLED,

1 there is one investigative report, and then there's one report
2 by a patrol officer that was the responding incident report.
3 That's it.

4 The amount of homicide cases that you have tried, either
5 as a lawyer or a judge, that these folks have tried, that
6 myself or these folks have tried, I have never seen anything
7 like it post 2000, and it's a problem; right? Because we have
8 witnesses. We have the person that wrote the investigative
9 report that can't tell us anything about the case. She
10 couldn't remember a thing investigating, and I guess just
11 juxtapose that for a moment. I'm not going to spend too much
12 time on it, but look at the Charlotte Police Department's role
13 in this case. They were involved for about two seconds.

14 They were involved just to arrest Mr. Harrington in
15 Charlotte and send him back to South Carolina. That's it.
16 Nondescript. They've got multiple reports. They've got
17 required supplemental reports. They've got body-worn cameras.
18 They've got investigative interviews. They've got videos.
19 They've got a police officer who came down from North
20 Carolina, who, again, was involved for about two seconds, who
21 could tell us in more detail what happened there than the lead
22 investigators in this case.

23 They say, oh, I don't remember. Well, we didn't make
24 reports. Well, do you usually make reports? Yeah, we do.
25 Well, why didn't you in this case? And the answer is always I

1 don't know. That goes to the quality of the investigation.
2 It goes to the quality of the prosecution, and the quality of
3 the prosecution that's going to eventually need to be
4 necessary for you to prove to you that they've done their
5 burden, that they've proven their case, and they're just
6 lacking at every turn.

7 We also have evidence that has been mishandled, lost,
8 destroyed. I won't go on and on about the video, but that is
9 just remarkable to have lost that. We have false statements
10 to judges. And look, have I ever said anything in court that
11 was wrong? Absolutely. And have I ever seen a police officer
12 make a mistake and submit something to a judge, either wrong
13 information they were provided or maybe they just wrote it
14 wrong? We are all human and we all have our days, but, Judge,
15 go back and look at those search warrants that are in
16 evidence. It is happening judge after judge after judge after
17 judge and by investigator after investigator after
18 investigator. False -- objectively false statements under
19 oath to judges in this case.

20 And then let's not kid ourselves. A lot of the people
21 that are involved in 2017 were involved in 2005. We heard
22 Investigator Seales talk about comments that he gave to a
23 newspaper. You've seen in an exhibit Mr. Felder writing an
24 op-ed back in 2005. Like, those cops knew about this case and
25 they knew about 2005 and they were not happy about 2005, and

1 at the end of the day that's just what simply is called
2 blinders. That's bias. That's vision. Whether you recognize
3 it or not, it's tunnel vision, and it's what happened here and
4 it's what leads to some of the biggest questions.

5 How did Mr. Harrington's name first get involved and why
6 were they out looking at Gum Creek Swamp before he had become
7 a suspect? You heard Investigator Seales say they sent people
8 out to that area, and they were already doing it before
9 anything with Mr. Harrington.

10 And then, Judge, these receipts, and I'll hand them up to
11 you. They're the ones that are all in evidence, and I
12 apologize. I should have shown them before. I'll hand these
13 up to you, Judge.

14 THE COURT: Very good. Thank you.

15 MR. BANK: Those are in evidence and you can go back and
16 look at them, but what we know by looking at those receipts is
17 that there's no universe where those receipts were put out at
18 that abandoned property you were at today the night she had
19 died. Everybody agrees it was storming that night. Everybody
20 agrees there was a tornado warning. Those receipts couldn't
21 have gone through that, through that storm, lasted out there
22 ten more days, and still be readable, still be in the state
23 that they're in. I'm not saying those are perfect receipts,
24 but I'm telling you I don't believe anybody can stand up with
25 a straight face and tell you that those receipts were placed

1 there that night.

2 And, Judge, the final big question that I think we have
3 is what is the motive? We've been doing this case, at least
4 some mixture of people have been involved in this case. I
5 keep saying five years, but it is six. And for the first
6 time, not in an investigative report because there are none,
7 not in a conversation between lawyers, not in a court
8 proceeding, not in an opening statement of a trial, not
9 through any testimony of any of the witnesses, we hear for the
10 first time and you hear for the first time in six years Ms.
11 Weiss say, well, the motive is that he was going to get told
12 on that he was cheating. Judge, nobody has said that.

13 And going a step further, Jamie Campbell actually said
14 the opposite, not specifically Ella, but she said she knew for
15 years that Harrington was having sex with other people and she
16 never kicked him out of that house, never took away any car.
17 That's just a desperate attempt to answer one of those hard
18 questions that just hasn't ever been answered and I don't
19 think ever will be.

20 And then we have Sheriff Lemon, and I don't want to spend
21 time on it, too much time, but I think it is important that we
22 know in 2017 that you had a sheriff who was running a corrupt
23 police department that engaged in this conduct to the point
24 that it led to his indictment and removal from office by Gov.
25 McMaster. There is and you have heard and seen in the

1 exhibits and through testimony false documents, misuses of
2 evidence, false sworn testimony, false arrest, thing after
3 thing, and not only that, direction by him for his
4 subordinates to engage in it as well.

5 And you heard from the whistleblower himself, which I
6 thought was some compelling testimony. Have you ever seen or
7 know Mr. Lemon to be vindictive, and he said yes. And have
8 you ever seen him pull out and be vindictive for personal
9 reasons and by using police resources? He said yes, and that
10 leads to the final point. Sheriff Lemon knew about 2005 and
11 was involved with it, and his police department was
12 embarrassed by it. And then we have 2017, led by a corrupt
13 sheriff.

14 Judge, normally -- and we talked about this for the last
15 couple weeks. This is where I would talk about the law to the
16 jury, but you're the judge who is aware of the law. But
17 still, as the factfinder, as the juror, there are a couple of
18 things that I want you to kind of be pointed towards.

19 One of those is the spoliation charge that you and Mr.
20 Young talked about today, and I think that's important. I
21 mean, we've got testimony and we've got common sense that
22 losing that video was potentially evidence that would have
23 been completely exculpatory for Mr. Harrington. He didn't do
24 anything or cause that video to go away. They did.

25 I think another important thing to talk about -- and

1 again, it's kind of one of those concepts that we as lawyers
2 and judges say so often that it kind of rolls out of our minds
3 a little bit, but Mr. Harrington did not testify, and I'm
4 aware of that. He took our advice not to do that, but you
5 cannot in any way think about that. That is not something to
6 be considered in your mind, and I'm sure that you will not.

7 One of the most important things that I want you to
8 remember is the burden of proof. I think -- and, look, I'm
9 not saying it's intentional or not, but I think that the
10 government has kind of shifted the burden a little on us at
11 times. One of those times is in opening, and then it was
12 brought back up in closing talking about five boxes, five
13 pieces of evidence and finding someone else who can fit in
14 that.

15 Well, (A), we have answers for each one of those boxes.
16 (B) I can play that same game too and switch out any of the
17 boxes, add in confession, and tell you it's Bright, but (3) it
18 doesn't matter because that's not how it works. It's not our
19 obligation. It's not your obligation as the fact finder to
20 find somebody. It's their obligation to find and show you
21 that Mr. Harrington is guilty and guilty beyond a reasonable
22 doubt.

23 And finally, this is a circumstantial evidence case.
24 Mere suspicion is not enough. You've got to give the benefit
25 of the doubt to Mr. Harrington if you have any questions.

1 And finally, getting towards the end, I want to talk
2 about the State's evidence directly and make sure that you do
3 have all of those answers, and one thing that they bring up is
4 the cigarette butt. We've talked about that a little bit
5 already. It is clear that there was a relationship between
6 Harrington and Ella, over 800 contacts, sexual conversations.
7 Right? It would be weird for his DNA not to be there. It's
8 on a cigarette butt. That doesn't mean anything other than
9 they know each other.

10 Iyana's DNA. We know, again, from DNA that they could
11 not offer you any confirmation that that DNA was blood. They
12 couldn't tell you whether it was touch DNA, whether it was
13 saliva DNA, but again, the same logic works. Mr. Harrington
14 is very familiar with Ella. For her to have touch DNA
15 somewhere on his car that is at the house, that does not show
16 that Mr. Harrington did anything.

17 We have the New Bridge Road, and this is a really good
18 example of a moment where you've got to take kind of the five
19 years of testimony out of your mind. For the purposes of the
20 record, for the purposes of what you heard as a juror, the
21 only thing they did connected to New Bridge Road is
22 essentially put up a cop that said I did some paperwork
23 research and it looks like his family has a connection there.

24 Their real connection to New Bridge Road was that they
25 were going to show you, the juror, a video of what they say is

1 Mr. Harrington's car, but you can't see what the car is. I
2 think they even have begun to admit that, but that that was
3 their connection and they lost it and you don't get to see it.

4 They say he fled. He did not. He was in Bennettsville
5 for days driving around. Right? He was talking to people,
6 meeting with his friends. His phone wasn't blacked out. He
7 was using his other phone, and if you look at the phone
8 records that are in evidence --

9 MR. REDMOND: Your Honor, I need to object. I don't know
10 if those facts are in evidence.

11 THE COURT: I'll -- this is closing argument. You'll
12 have an opportunity to address it.

13 MR. REDMOND: Yes, sir.

14 THE COURT: Proceed.

15 MR. BANK: Thank you, Judge.

16 And we heard testimony, to Mr. Redmond's point, of their
17 State witnesses of PY, of George Robinson, that he's -- he's
18 there. He's around. He's talking to people. He's not
19 hiding. And if you look at the phone records that are in
20 evidence, you'll see he is still using his phones. He
21 switches those phones and what number he's using over and over
22 and over again, and that'll be supplemented in the brief, in
23 the memorandum that Ms. -- Ms. Freedman presents.

24 All of his friends also say that he was acting normal,
25 and then again we see in Charlotte he doesn't run, he doesn't

1 fight, he doesn't do anything. He's there days and days after
2 Ella's death. That's not flight. That's not fleeing,
3 particularly when you do it in a car that everybody knows that
4 you drive.

5 They say there's a footprint that matches, and you heard
6 from two experts, and my position is one is objectively more
7 qualified, and there's a reason. It's not just because it's
8 mine, but Dr. Wilcox has more education, more training. She's
9 been doing this longer, and by Agent Worley's own admission,
10 Dr. Wilcox actually has access to methods and tools and
11 apparently books that Dr. Worley or Agent Worley does not.
12 She was also blind. Ms. Worley was not. She was involved in
13 that SLED investigation that was treating this case a little
14 differently. And Dr. Wilcox said not only are the footprints
15 not consistent with Mr. Harrington's, that, if anything,
16 they're more consistent with Mr. Bright's.

17 And then we have the hand fracture, and that's nothing.
18 I'm surprised it's come up in this trial so much because it's
19 nothing that's ever concerned me. They say that he fractured
20 his hand, and they're trying to say that that fracture from
21 that very large hand would have only knocked out one tooth,
22 but that he fractured it that way.

23 You heard from the radiologist the first day of trial.
24 It was the first witness I had called. I've never done that
25 before, calling a witness first. And he said that that injury

1 is anywhere from four to ten weeks old, and it's probably on
2 the later end because older people heal slower, and he's not a
3 child or a teenager.

4 Then you heard the medical doctor that ordered the x-ray
5 testify for the State, and he upped that number up to three
6 months. And they both say that it was not treated, which
7 means it's continually getting reinjured just by simple use of
8 the hand, and that is consistent with what he told the doctors
9 when he said how did this happen. I hurt it at work two-and-
10 a-half months ago. There's no other evidence to suggest
11 anything else. The amount of unrebutted evidence that is
12 favorable to the defense is overwhelming.

13 Now, Judge, I told you I wanted to circle back around,
14 and I'll do it here to talk about what I think the most
15 important part of this discussion is, and that is that I'm not
16 naïve. I know that I am asking you to do an incredibly hard
17 thing.

18 I'm asking you to find Mr. Harrington not guilty. I'm
19 asking you to do it in a case where there are cameras. I'm
20 asking you to do it in a case where it's a well-known crime
21 that happened and a very sad crime in a case where a mother
22 and a daughter were killed, but I need you to have the
23 fortitude that I know that you have, the lack of bias that I
24 know that you have, the strength that I know that you have to
25 be able to make that hard decision, and if they haven't proven

1 their case to you, make him not guilty.

2 The legislature believes that you have that background.
3 The legislature believes you have that strength. Members of
4 the legal community that I trust say that you have that. And
5 the reason that it's so important is because nobody is going
6 to fault you for their failures.

7 Nobody is going to fault you for the investigation taking
8 a bad turn and being rushed and chaotic and desperate. Nobody
9 is going to blame you because they didn't do their job because
10 their job is to prove whoever they are trying guilty beyond a
11 reasonable doubt, and that's, as you are aware, the highest
12 standard that we have in this country. That is a standard
13 that is higher -- it takes -- it takes less evidence and less
14 of a standard to take away your money or take away your house
15 or get a divorce, take your child, put you involuntarily into
16 the hospital. This is higher than all of those burdens.

17 And, Judge, I know this is a bench trial and I know we
18 all agreed to it and I in no way regret it, but I want you to
19 remember those things that you tell those jurors about the
20 presumption of innocence, about their obligation to prove
21 they're guilty, and I want you to think not just as a singular
22 person, but as twelve jurors, twelve Marlboro County jurors,
23 and ask yourself whether those jurors with this police
24 department that existed in 2017, with the investigation that
25 happened in this case, and the chaotic trial that you just

1 watched for the last two weeks, and ask yourself would those
2 twelve jurors of Marlboro County hesitate to act in a case
3 like this? The answer is yes, and the answer is that that
4 results in finding Mr. Harrington not guilty.

5 And, Judge, we will be supplementing I hope by the end of
6 the day tomorrow with a written motion, if that's still
7 acceptable to you.

8 THE COURT: Yes.

9 MR. BANK: Thank you, Judge.

10 THE COURT: Thank you, Mr. Bank.

11 MR. REDMOND: May it please the Court.

12 THE COURT: Mr. Redmond, reply.

13 REPLY CLOSING ON BEHALF OF THE STATE

14 MR. REDMOND: And, Your Honor, I do understand this is a
15 reply in the parameters of *Beatty*. So I won't be too, too
16 long. So I'm going to directly address some of the points
17 raised by Mr. Bank.

18 First of all, one of the things that -- one of the last
19 things he talked about is the -- I guess he was alluding to
20 the burden of proof, and I would simply say this. And
21 obviously, Your Honor, you know this, but I'll just say it for
22 the record. If what you've heard as it relates to the case
23 against the defendant leaves you firmly convinced -- because
24 we don't have to prove beyond every doubt. The law wouldn't
25 require that. That would be nonsensical. Beyond all

1 reasonable doubt or, in other words, to use language in *Victor*
2 *v. Nebraska*, doubt which would leave you -- I mean -- excuse
3 me. The case leaves you firmly convinced of the defendant's
4 guilt, and I submit to you that we have done that.

5 And obviously, I'm going to refer by reference to Ms.
6 Weiss's excellent presentation that I cannot hold a candle to
7 in either presentation nor eloquence, nor would I try to. So
8 I'm going to strictly, of course, respond to Mr. Bank.

9 The first thing that I'm going to respond to, I'm going
10 to kind of go backwards to a degree if the Court would indulge
11 me. And the Court probably knows I despise having to use
12 notes, but when you have to reply, you can't help but to have
13 to refer to that, and I apologize because usually I'm loath to
14 use notes, but I think it's necessary in a case of this
15 importance.

16 But one of the things Mr. Bank said -- I'm used to him
17 sitting right here. So I'm going to have to get used to
18 seeing him where he is now, but one of the things that he
19 mentioned was that he didn't think it was a big deal, and I'm
20 paraphrasing about the hand. Well, if it's no big deal, then
21 why have to give two versions? Why lie? Why tell PY one
22 thing and tell the doctor something else, if it's not that big
23 of a deal?

24 As we tell jurors all the time, you don't leave your
25 common sense on the bench right there in the chair. You're

1 going to take that with you in your deliberations, and that is
2 a very fair question in the context of Mr. Bank's comments
3 about the hand. Why lie?

4 Then he talked about friends. I guess he was referring
5 to, I think, PY and his cousin, Coon, who testified about him
6 being around Bennettsville. Well, if the Court would recall,
7 they actually were in North Carolina, I believe Hamlet and
8 Rockingham. So they were -- he was not around Bennettsville
9 during that time and, of course, this was after -- to use Mr.
10 Bank's term, that's after the defendant went dark after his
11 conversation -- his last conversation with Jamie Campbell.

12 And interestingly, in those witnesses that Mr. Bank
13 alludes to, what did they tell him? Go to Marlboro County.
14 If you didn't do it, go to Marlboro County and straighten it
15 out. But did he go to Marlboro County? Of course, we know
16 the answer is no. He didn't go south.

17 He went west to Charlotte, one of the biggest cities in
18 the southeast, I would assume to hopefully get lost and not be
19 found. Maybe going somewhere beyond Charlotte. We don't
20 know. Thankfully, because of the efforts of -- and this is
21 going to segue into the collaborative efforts of law
22 enforcement, and one of the things in my career I'm used to
23 and I'm sure Your Honor has seen it too, is that they put law
24 enforcement on trial.

25 And we've got representatives of several agencies here.

1 CMPD couldn't be here, but we've got representatives with
2 Marlboro County Sheriff's Office who were involved in that
3 investigation. We've got members of State Law Enforcement
4 Division, who were involved in this investigation, and you've
5 heard from them. And we've also got representatives from the
6 Federal Bureau of Investigation out here, and actually I also
7 see DNR represented as well. You've heard about DNR's role in
8 this case.

9 So it was a collaborative effort, and to try to focus on
10 one aspect of it as it relates to the -- some -- I guess some
11 issues with the Marlboro County Sheriff's Office at that time.
12 First of all, I'd say it's mischaracterized, and to try to
13 bring Sheriffs Lemon -- Sheriff Lemon into this trial in the
14 way that they have -- and I think the term that was used was
15 desperation. Really? Who's desperate? Who's desperate? To
16 try to drag that in to try to impune the investigation, but
17 they can't do that, Your Honor, because you heard from
18 representatives of each of the agencies that I described and
19 the collaborative effort that was involved in bringing this
20 defendant to trial and, ultimately, to justice.

21 Also, when you talk about the, I guess, law enforcement
22 and them putting law enforcement on trial, you heard from
23 these witnesses how hard these officers, these deputies, these
24 investigators, these agents worked to try to not just find the
25 killer of Ella Lowery, but keeping things in its proper

1 context, they were looking for an eight-year-old child who had
2 gone missing in the hopes of being able to find her and,
3 unfortunately, as time went on, realizing that the chances
4 were diminishing and, unfortunately, their worst fears were
5 realized.

6 So was it perfect? No. Nobody is sitting here saying it
7 was, but it was a collaborative. It was a good faith effort,
8 and it ultimately, regardless of what things weren't done, to
9 Ms. Weiss' point, the things that were done led us to where we
10 are today.

11 Now, he also talked about -- I think he talked about
12 spoliation that Your Honor is going to consider, and I would
13 just say this. You heard from Mr. LaBean about the car going
14 in. True, I cannot sit here and say that we've got it. We do
15 not have it. Do I wish we had it? Absolutely, the first clip
16 of the car going in, but keep in mind, Your Honor, this
17 started to unravel because Mr. LaBean saw the car going in.

18 So as a result of seeing it going in, then he waited and
19 then saw when it was coming out with the lights off and
20 alerted law enforcement. The reason that's important is
21 because even though we don't have it, we've got testimony,
22 credible testimony as it relates to that particular clip
23 because that's what got Mr. LaBean to contact law enforcement.
24 And in fact, you heard from Marlboro County deputies who also
25 saw that video and saw the lights go in and even testified

1 about the lights going in, I think at least two deputies.

2 But you also had Mike Connelly, supervisory special agent
3 of the FBI, that testified that he also saw the car going in.
4 That caught his attention. And then, of course, when it was
5 coming out, the lights being off. So do we have it? No. Did
6 it exist? Yes. Did people see it? Yes. Is there credible
7 evidence about what was in it? Absolutely.

8 Now, motive was something else that was mentioned, and I
9 think Ms. Weiss -- and I could not present it or say it as
10 eloquently as she, but just to simply say -- and I think she
11 put it in the perfect context. If -- think about Jamie
12 Campbell's reaction that she testified to when she found out
13 not just that this was the last call that -- or last contact,
14 the text message I think at 1:08 where they asked her about
15 it, she realized, wait a minute, why is he having contact with
16 her? And what did she tell you in her very last call before
17 he went dark, to use your term, he confronted her about -- she
18 confronted him about the fact that he had been contacting Ella
19 and what's going on, and she even said, look, you're going to
20 need to tell me what was going on.

21 He had a lot to lose because keep in mind, as Ms. Weiss
22 said, he was basically living off her. I mean, let's just
23 call it what it was. He was basically living off of her. So
24 he had a lot to lose. You want to talk about motive? Really?
25 I think we've more than established that.

1 Then we go to -- I think there was the -- there was, I
2 think, a chart that was put up about the number of items that
3 weren't tested, and Ms. Riley [*sic*], who obviously I would
4 submit is a very esteemed scientist, explained the fact that
5 you don't test everything. You only test the things that you
6 feel will yield valuable evidence. And in fact, we've got
7 Iyana's DNA, lock mechanism in the -- in the hatch. I think
8 that's a very valuable piece of evidence, and I'll get into
9 that a little bit later.

10 So now let me move on and, as I said, I do hate notes and
11 I apologize, but I think to keep things in the proper
12 perspective in reply, I must do so.

13 The trunk being heavy. All right. Let's think about
14 something for a second. He is six two, I think, and according
15 to what's in evidence, six two, 230 -- 240 pounds, and you saw
16 the car yourself, Your Honor, and I would disagree. I would
17 just simply disagree with Mr. Bank's characterization of
18 needing two people to lift that hatch, but Your Honor saw it
19 and I'll just leave it at that.

20 Even if it took -- now, I'll give you this, Mr. Bank. It
21 may have taken two of Dwayne Bright because Dwayne Bright was
22 only what? Five five, five six, 150 pounds. Ella Lowery
23 could lift him, had to lift him when he was having a seizure
24 one time, knew what to do. So, yeah, it might take two of
25 Dwayne Bright, I'll give you that, but not of the defendant.

1 Then let me move on to the timeline. Let me just talk
2 about this timeline real quick and, again, I just scribbled
3 some notes. I won't take too long, but one of the things that
4 Mr. Bank -- oh, and by the way, I do accept the challenge as
5 it relates to the timeline. I will accept the challenge and
6 address it.

7 He never mentions the fact that Jamie Seales -- and to be
8 clear, Jamie Seales testified about where he got the 2
9 o'clock, the 2:05 information for the search warrant. So we
10 know that's never accounted for, that 18 minutes is never
11 accounted for. I would submit to you, Your Honor, that that
12 time frame, given the distances between the houses, is easily
13 enough time to inflict the horrific damage and death and
14 carnage that the defendant did at that time.

15 And then he talked about desperation. Then he's going to
16 lie on what's in the autopsy report, what I would submit is a
17 scrivener's error or an error based on the information not
18 obtained from any investigator, but as Dr. Riemer said, she
19 got that 6:30 time from the coroner, and the coroner was not
20 an investigator. He was not a part of this investigation.

21 She did not get it -- and I asked her. She did not get
22 it from anybody that was involved in the actual investigation,
23 but to try to use that to narrow down time of death, that is
24 the very epitome of desperation, and I understand the
25 desperation because there's an awful lot of evidence that

1 leaves anyone, I would submit, firmly convinced of this
2 defendant's guilt.

3 And I'm almost done. Just a couple more points, Your
4 Honor.

5 One of the things that I was thinking as Mr. Bank was
6 talking, he was talking about the car and about how Mr. LaBean
7 had not seen that car and, you know, they say reading is
8 fundamental. Well, listening is fundamental as well, just
9 like I talked about not listening to what Jamie Seales has
10 said. When you put witnesses -- you can't pit them against
11 each other in trial, but you can obviously use what the
12 information they have given you to create a consistent fact.

13 Richard LaBean told you that he had not seen that car for
14 a few years, but when he saw -- he had not seen the defendant
15 in a few years, but when he -- he had never seen the defendant
16 in that car before, in that particular car. When was the car
17 bought? Jamie Campbell in evidence and it's already in the
18 record, it was bought in September 2016. It was bought after
19 the last time Richard LaBean saw the defendant. Easily
20 explained, but that's why -- and I understand. Again, it goes
21 to desperation, to use your term. So that is easily
22 explained, dealt with. I will move on.

23 Bright is being mentioned ad nauseum because he was the
24 first person arrested. I get that. The only thing I'll say
25 about Bright -- and you've already heard it now. I don't want

1 to retread too much of what Ms. Weiss has said, but I think I
2 need to reiterate the fact that you've got the Bojangles video
3 that exonerates him. You've got that, and you put that with
4 the cell phone mapping and the cell phone records. That
5 exonerates him.

6 Here's the other thing. We talked about the fact that he
7 didn't drive, even though they've introduced this 2004 ticket
8 that he got as the driver, a seatbelt violation I believe it
9 was. That's 13 years before this. So I would submit to you
10 again that's desperation.

11 But you look at how big he is. I talked about the fact,
12 five five, 150 pounds, but the key thing to me is in all of
13 this when you look at where Iyana was ultimately found --
14 well, when I looked it up, it's about 16 miles from the crime
15 scene. We know Bright didn't drive and, Your Honor, we went
16 out there together. We know who did between the two of them
17 have a car, and we also know whose DNA was found in that
18 particular car.

19 So, again, it's a diversion to try to yield -- to try to
20 go toward Bright. It's very -- it's the epitome of
21 desperation, I would say.

22 MR. BANK: Judge, I would just ask him to address the
23 Court, Your Honor, rather than myself.

24 THE COURT: Okay.

25 MR. REDMOND: Well, I'm almost done. So I'll be -- I

1 don't have much more left to do.

2 The last part I'll talk about is when he talks about
3 falsehoods because when counsel opened, he wanted to talk
4 about falsehoods. It's not a falsehood that the defendant's
5 DNA was on that cigarette. It's not a falsehood.

6 That's not a falsehood about his contact, constant
7 contact with Ella Lowery, the connection that Ms. Weiss so
8 eloquently talked about. That's not a falsehood.

9 It is not a falsehood that, as I just stated, where Iyana
10 was found is 16 miles from where the crime scene was. Oh, and
11 by the way, did I fail to mention adjacent to his property,
12 his family's property, the property he grew up on?

13 And finally -- and I'll sit down. Is it a falsehood that
14 Iyana Lowery's DNA was found in the back of his car? A
15 presumptive test for blood, that's what caused it to be
16 swabbed. Presumptive test for blood is swabbed and confirmed
17 to be Iyana Lowery's DNA, not by one in a million, not by one
18 in a billion. One in -- I think I wrote it down. One in 520
19 septillion.

20 And I did -- just out of curiosity, I did some research
21 last night and just curious how many people have ever walked
22 the face of the earth estimated, and I think the estimations
23 were about 120 -- 120 billion people over the course of time.
24 There are about 7.8 billion now. Over the course of history,
25 a little over a hundred billion people.

1 One in 520 septillion. That's seven times more than the
2 number of people that have walked the face of the -- no, not
3 even seven times more. My math is bad. It is several times
4 more -- I'll just say it like that -- than the number of
5 people that have ever inhabited the face of the earth. It was
6 Iyana's DNA. That is not a falsehood.

7 And with all that said, Your Honor, this defendant is, in
8 fact, guilty of the murders, as Ms. Weiss said, of Ella and
9 Iyana Lowery and all other charges to wit. Thank you, Your
10 Honor.

11 THE COURT: Thank you, Mr. Redmond.

12 Anything further from the State?

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

14 THE COURT: Anything from the defense?

15 MR. BANK: No, sir, other than us submitting the
16 supplemental written memorandum.

17 THE COURT: Okay. And that will be submitted when?

18 MR. BANK: I believe by the end of the day tomorrow, if
19 that -- if that suits the Court.

20 THE COURT: Yes.

21 MR. REDMOND: Your Honor, if we could ask that it be a
22 little sooner than that, if possible, because, obviously, the
23 Court hasn't even set -- I mean, obviously, we'll do whatever
24 Your Honor wants, but I was thinking maybe the end of business
25 today since we'll be finishing early.

1 THE COURT: Your objection is that the defense -- the
2 State's memorandum has -- has things that are not supported by
3 the evidence? Is that what your -- nature of your --

4 MS. FREEDMAN: Yes, Your Honor.

5 THE COURT: You're protected in all respects, but your
6 motion is denied.

7 RULING/FINDINGS

8 THE COURT: Over yesterday and last evening, I've had an
9 opportunity to do an exhaustive review of the notes of the
10 testimony presented in this case. I reviewed the documentary
11 evidence and the applicable law.

12 I find that the State has proven each and every element
13 of the offenses beyond a reasonable doubt. I further find
14 that the circumstantial evidence in this case is overwhelming.

15 I'm going to ask the defendant, JeJauncey Harrington, to
16 stand.

17 (WHEREUPON, the defendant complied.)

18 VERDICT

19 THE COURT: Mr. Harrington, on the charge for the murder
20 of Iyana Lowery, I find you guilty.

21 On the charge for the murder of Ella Lowery, I find you
22 guilty.

23 On the charge of kidnapping Iyana Lowery, I find you
24 guilty.

25 On the charge of armed robbery, I find you guilty.

1 On the charge of use of a motor vehicle without owner's
2 consent, I find you guilty.

3 On the charge of possession of a weapon during the
4 commission of a violent crime, I find you guilty.

5 I'll be glad to hear from the State with regard to
6 sentencing.

7 MR. REDMOND: May it please the Court, Your Honor. And I
8 think if the Court would allow, I think each of the counsel
9 may want to briefly speak, and I know Ms. Lowery, I think,
10 would like to address the Court, but just to simply say -- and
11 I'm not going to take long, but I do want to touch on one
12 thing and then I'll yield.

13 One, I think the State -- I think we all are asking that
14 the defendant be sentenced to the maximum extent of the law,
15 that being life on the two murders, and -- and maximum
16 sentences, of course, as it relates to other charges, but the
17 one thing I do want to add as the Court considers sentencing
18 that is not in the record, and that's about Jamie Campbell and
19 the reason that she actually left South Carolina.

20 Personally, I'm concerned with the defendant's history
21 towards women, and that would also include Ms. Campbell
22 because she left South Carolina based on domestic abuse
23 allegations and, as you recall in her testimony, she talked
24 about how she did not want to get caught again lying for the
25 police. Well, we couldn't get into it during the case in

1 fact that you had a very difficult upbringing, you lived a
2 very tumultuous life in Brooklyn, New York, you lived a life
3 of poverty for a number of years, and fetal alcohol syndrome,
4 which affects your intellectual capacity.

5 Mr. Harrington, you are a very, very fortunate person in
6 that you've had these very fine lawyers working tirelessly on
7 your behalf. If it were not for their tireless efforts, you
8 face the very real possibility of a death sentence. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 SENTENCE

12 THE COURT: All right. I've considered all of the
13 circumstances of this crime and the sentencing memorandum and,
14 based on all of these factors, on Indictment 2017-GS-34-0289,
15 murder, the sentence of the Court is that you be committed to
16 the State Department of Corrections for your natural life.
17 That sentence is to run concurrent with credit for 2,116 days.

18 With regard to Indictment 2017-GS-34-0286, kidnapping,
19 the sentence of the Court is you be committed to the State
20 Department of Corrections for a period of 30 years. The
21 sentence is to run concurrent. Credit for 2,116 days.

22 With regard to Indictment 2017-GS-34-0285, murder, the
23 sentence of the Court is you be committed to the State
24 Department of Corrections for the remainder of your natural
25 life. This sentence is to run concurrent, and you're given

1 credit for 2,116 days.

2 With regard to Indictment 2017-GS-34-0290, armed robbery,
3 the sentence of the Court is you be committed to the State
4 Department of Corrections for a period of 30 years. This
5 sentence is to run concurrent. Credit for 2,116 days.

6 With regard to Indictment 2017-GS-34-0287, possession of
7 a weapon during the commission of a violent crime, the
8 sentence of the Court is you be committed to the State
9 Department of Corrections for a period of five years. This
10 sentence is to run concurrent with credit for 2,116 days.

11 With regard to Indictment 2017-GS-34-0338, use of a motor
12 vehicle without owner's consent, the sentence of the Court is
13 you be committed to the State Department of Corrections for a
14 period of three years. Sentence to run concurrent with credit
15 for 2,116 days.

16 I wish you the best of luck.

17 MR. YOUNG: Your Honor, with regard to the -- and I've
18 seen this done a couple of different ways. I didn't know if
19 you gave -- I know you don't give a consecutive sentence when
20 you give a life sentence on the use of a weapon during the
21 commission of a violent crime. I thought that the way that it
22 was interpreted was that you didn't get sentenced on it if you
23 were also sentenced to life. I don't know the correct answer
24 on that.

25 THE COURT: Well --

1 MR. YOUNG: But it's not consecutive and --

2 THE COURT: It isn't.

3 MR. YOUNG: -- it amounts to a time-served sentence
4 though.

5 THE COURT: A lot of people think that it's mandatory
6 consecutive, but it's not. You can sentence concurrent, and
7 that's what I did.

8 MR. YOUNG: Thank you, Your Honor.

9 THE COURT: There's -- certainly, they are avenues. If
10 I've sentenced him incorrectly, I'm certain y'all will know
11 how to address that, but all of the sentences are to run
12 concurrent.

13 MR. YOUNG: Thank you, Your Honor.

14 MS. CRAYTON: Thank you, Your Honor.

15 MR. REDMOND: Thank you, Your Honor.

16 MS. MUNNERLYN: Thank you, Your Honor.

17 THE COURT: We'll stand adjourned *sine die*.

18 (WHEREUPON, the proceedings ended at 12:06 p.m.)

19

20 --- END REQUESTED TRANSCRIPT ---

21

22

23

24

25

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT

HENRY D. MCMASTER
Governor



MARK A. KEEL
Chief

Sara Albarri
Marlboro County Sheriff's Department
P.O. Box 577
Bennettsville, SC 29512

CRIME SCENE
3/20/2019
SLED LAB: L17-06957
Your Case No: 2017002284
Incident Date: 5/5/2017
[V-Deceased] Ella Lowery
[S] Jejauncey Harrington

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Item 22:** One (1) cutting from floor in kitchen of partial footwear impression from Marker 2
- Item: 22.1** Unknown footwear impression represented on Item 22

RESULTS:

The Item 22.1 impression corresponds in combined class characteristics with the Item 52, Item 100, [REDACTED] shoes. Therefore, the Item 22.1 impression could have been made by the Item 52, Item 100, [REDACTED] shoes or another shoe that displays the same combined class characteristics.

The Item 22.1 impression was not made by the Item 50 or Item 51 shoes.



AN ASCLD/LAB-International ACCREDITED TESTING LABORATORY SINCE 09/19/2014
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Item: 23 One (1) cutting from floor in kitchen of partial footwear impression from Marker 3

Item: 23.1 Unknown footwear impression represented on Item 23

RESULTS:

The Item 23.1 impression corresponds in combined class characteristics with the Item 100 and [REDACTED]. Therefore, the Item 23.1 impression could have been made by the Item 100 right shoe or the [REDACTED] or another shoe that displays the same combined class characteristics.

The Item 23.1 impression was not made by the Item 50, Item 51, Item 52, or [REDACTED].

Item: 24 One (1) cutting from floor in kitchen of partial footwear impression from Marker 4

Item: 24.1 Unknown footwear impression represented on Item 24

RESULTS:

The Item 24.1 impression corresponds in combined class characteristics with the Item 52, Item 100, [REDACTED]. Therefore, the Item 24.1 impression could have been made by the Item 52, Item 100, or [REDACTED] shoes or another shoe that displays the same combined class characteristics.

The Item 24.1 impression was not made by the Item 50, Item 51, or [REDACTED] shoes.

Item: 25 One (1) cutting from floor in kitchen of partial footwear impression from Marker 5

Item: 25.1 Unknown footwear impression represented on Item 25

RESULTS:

The Item 25.1 impression corresponds in combined class characteristics with the Item 100 [REDACTED] shoes. Therefore, the Item 25.1 impression could have been made by the Item 100 [REDACTED] shoe or another shoe that displays the same combined class characteristics.

The Item 25.1 impression was not made by the Item 50, Item 51, Item 52, [REDACTED].



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Item: 25.2 Unknown impression represented on Item 25

RESULTS:

The Item 25.2 impression was not made by the Item 50, Item 51, Item 52, Item 100, Item [REDACTED] shoes.

Item: 26 One (1) cutting from floor in kitchen of partial footwear impression from Marker 6

Item: 26.1 Unknown footwear impression represented on Item 26

RESULTS:

The Item 26.1 impression corresponds in combined class characteristics with the Item 52, Item 100, [REDACTED] left shoes. Therefore, the Item 26.1 impression could have been made by the Item 52, Item 100, [REDACTED] left shoe or another shoe that displays the same combined class characteristics.

The Item 26.1 impression was not made by the Item 50, Item 51, or [REDACTED]

Item: 26.2 Unknown footwear impression represented on Item 26

RESULTS:

The Item 26.2 impression was not made by the Item 50, Item 51, Item 52, Item 100, Item [REDACTED] shoes.

Item: 50 One (1) pair of black Nike Air Force One shoes (size 8.5) from bedroom 3 (DeWayne Bright's residence - N. Everett St.)

Item: 50.1 Inked test impressions of the Item 50 shoes

Item: 51 One (1) pair of black Nike Air Force One shoes (size 11) from bedroom 1 (DeWayne Bright's residence - N. Everett St.)

Item: 51.1 Inked test impressions of the Item 51 shoes

Item: 52 One (1) pair of red and white Nike Air Force One shoes (size 12) from bedroom 1 (DeWayne Bright's residence - N. Everett St.)

Item: 52.6 Inked test impressions of the Item 52 shoes



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- Item: 56 One (1) DVD containing crime scene images Disc 2, SN UA0607175808F18
- Item: 56.1 Unknown footwear impression represented in Photo # 0474 on the Item 56 DVD

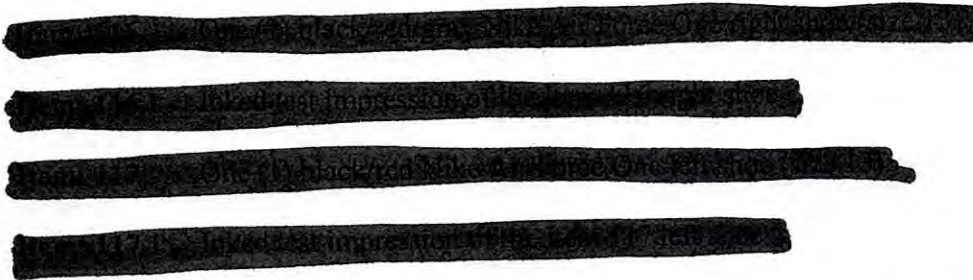
RESULTS:

The Item 56.1 impression corresponds in combined class characteristics with the Item 100 and [REDACTED] shoes. Therefore, the Item 56.1 impression could have been made by the Item 100 or [REDACTED] shoe or another shoe that displays the same combined class characteristics.

The Item 56.1 impression was not made by the Item 50, Item 51, Item 52, or [REDACTED]

- Item: 100 One (1) pair of Nike Air Force One shoes (size 13) - Jejauncey Harrington

- Item: 100.1 Inked test impressions of the Item 100 shoes



Impression evidence in this case was examined utilizing the ACE-V methodology.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Melinda A. Worley
Forensic Scientist

cc: South Carolina Law Enforcement Division



STATE OF SOUTH CAROLINA)
COUNTY OF MARLBORO)
IN THE COURT OF GENERAL SESSIONS
FOR THE FOURTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
WARRANT NOS: 2017A3410100229 (Murder)
2017A3410100234 (Murder)
2017A3410100230 (Kidnapping)
2017A3410100235 (Armed Robbery)
2017A3410100231 (Poss. Weapon/Crime)
2017A3410100232 (Poss. Weapon/Crime)

vs.)
ORDER FOR
COLLECTION OF SUSPECT
STANDARDS

JEJAUNCEY HARRINGTON,
Defendant.

HEARING DATE: 31 May 2017
COUNSEL FOR STATE: Deputy Solicitor Kernard Redmond,
Deputy Sherrie C. Baugh
COUNSEL FOR DEFENDANT: Michael Stephens, Asst. Public Defender
COURT REPORTER: Lisa S. Carter

This matter comes before this Court on May 31, 2017 on Motion of the State. The State is represented in this matter by Deputy Solicitors Kernard Redmond and Sherrie C. Baugh and the Defendant is represented by Michael Stephens, Esquire of the Fourth Circuit Public Defender's Office.

The State requires certain saliva samples from the Defendant in order to further proceed with the investigation of this case. The State also requests a non-invasive X-Ray examination of the Defendant's right hand. A court order may be issued pursuant to S.C. Code Section 17-13-140 upon a finding of probable cause or by consent of the parties. *Schmerber v. California*, 384 U.S. 757, 16 S.Ct. 1394, 18 L.Ed.2d 572 (1966); *In re Snyder*, 308 S.C. 192, 417 S.E.2d 572 (1992); *State v. Register*, 308 S.C. 534, 419 S.E.2d 771 (1992). The State has sufficient evidence to establish probable cause for the collection of and certain saliva samples from the Defendant and a non-invasive X-Ray of the Defendant's right hand in order to further proceed with the investigation of this case, including but not limited to the following facts or assertions:

1) The Defendant, JeJauncey Harrington, has been identified the sole suspect in this case, which occurred on or about May 5, 2017, in Marlboro County, South Carolina, and resulted in the robbery and

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CLERK OF COURT
ANITA L. BROWN

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CLERK OF COURT
ANITA L. BROWN

CLERK OF COURT
MARLBORO COUNTY

murder of victim Ella Lowery in her residence. Forensic evidence was collected from residence, which included bodily fluids from the suspect on a cigarette butt on the carport of the victim's residence. These samples were sent to the SLED Forensics Lab, which resulted in a match to the Defendant based on a prior DNA sample. The State further alleges that the Defendant kidnapped Iyana Lowery in his 1998 Mitsubishi Eclipse and subsequently murdered her as well. Iyana Lowery's DNA was found in the rear of the Defendant's vehicle.

2) Additionally, the Defendant has sustained a visible injury to his right hand, for which the State seeks a non-invasive X-Ray examination. This is relevant because the autopsy indicates Iyana Lowery sustained injuries to her facial area consistent with being punched. The Defendant has refused medical treatment for this injury to his hand. The State is not seeking to force the Defendant to submit for treatment, only for non-invasive X-Ray examination.

As a result of the criminal investigation of this matter, the Defendant has been charged with two (2) counts of Murder, Kidnapping, Armed Robbery, and two (2) counts of Possession of a Weapon during the Commission of a Violent Crime. An affidavit from one of the investigating officers will be presented at the hearing.

The Court finds probable cause to believe that a crime has been committed by the Defendant and further finds probable cause to require that the Defendant provide the aforementioned samples and a non-invasive X-Ray examination in connection with the investigation of the alleged crime. The State has shown a clear indication that material evidence relevant to the question of the Defendant's guilt or innocence will be determined by scientific or forensic testing related to said samples and a non-invasive X-Ray of the Defendant's right hand. Furthermore, the methods used to secure such evidence from the Defendant are medically safe and reliable and the taking of said samples are reasonable and justifiable intrusions which do not violate the Defendant's Fourth Amendment Rights and Fifth Amendment Rights.

Accordingly, it is hereby ordered that the Defendant, JeJauncy Herdington, give a saliva sample to the State for scientific analysis. Said saliva samples shall be taken by medical personnel in the presence of a designated representative of the State. Further, the State requests that the Defendant submit to a non-invasive X-Ray examination of his right hand. Said non-invasive X-Ray examination is to take place at a facility certified to conduct such tests, at the discretion of the Sheriff of Harborside County.



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CLERK OF COURT
HARBORSIDE COUNTY
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Judge M. Williams
CLERK OF COURT
HARBORSIDE COUNTY

However, if anything other than a standard, non-invasive X-ray becomes necessary, the parties shall come back before the Court. There is to be no treatment of the Defendant's hand, unless he so desires.

AND IT IS SO ORDERED!


Roger E. Henderson

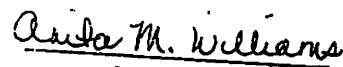
Chief Administrative & Presiding Judge for the Fourth
Judicial Circuit

Bennettsville, South Carolina

31 May 2017

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2017 MAY 31 AM 11 49
ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

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CLERK OF COURT
MARLBORO COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE FOURTH JUDICIAL CIRCUIT
COUNTY OF MARLBORO	)	
	)	
	)	Indictment No's. 2017GS3400338,
	)	2017GS3400285, 2017GS3400286,
	)	2017GS3400287, 2017GS3400288,
	)	2017GS3400289, 2017GS3400290
	)	
STATE OF SOUTH CAROLINA	)	
	)	PROPOSED ORDERING DENYING DEFENSE
	)	MOTION TO SUPPRESS DEFENDANT'S DNA
V.	)	
	)	
JEJAUNCEY HARRINGTON,	)	
	)	
DEFENDANT	)	

This matter comes before the court upon a motion on December 20, 2021, before the Honorable Michael Nettles held in Florence County under special order of court administration to hold a special session of Marlboro County General Sessions Court for the case involving this defendant. The State was represented by Kernard Redmond, Deputy Solicitor for the Fourth Circuit, Heather S. Weiss, Senior Assistant Deputy Attorney General, and Senior Prosecutor for the Fourth Circuit, Elizabeth Munnerlyn. The defendant was represented by Attorneys Boyd Young and Robert Newton, Jr. This motion was argued by Ms. Weiss and Mr. Young. After hearing from both the State and the defense, the court denied the motion to suppress any and all DNA results from the Defendant, Mr. Harrington.

The Court found that any and all evidence of DNA collected from the defendant are not unlawful and should not be suppressed for the following reasons:

1. South Carolina Code of Laws § 17-1-40 as it existed at the time of the arrest of the Defendant in 2007 is only triggered upon filing of a motion and the entering of an

ANITA H. WILLIAMS
 CLERK OF COURT
 MARLBORO COUNTY, S.C.
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- order for such destruction of evidence.¹
2. The defendant was arrested for the charges in the instant case in 2017. There was no motion filed requesting to destroy evidence pursuant to § 17-1-40 prior to the arrest in 2017. In December 2020, a letter and proposed order for expungement of the prior acquittal was sent by defense counsel on behalf of the defendant.
 3. At the time of filing in 2020, S.C. Code of Laws Annotated § 17-1-40 (B)(1) was in effect and clarified what existed in the law related to the 2006 version. It states that: "If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then the arrest and booking record, associated with bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency."
 4. Additionally, the S.C. Code of Laws Annotated § 17-1-40(B)(1)(a) states that law enforcement and prosecution agencies "...may retain the information indefinitely for the purposes of ongoing or future investigations and prosecution of the offense..."
 5. Further, the S.C. Code of Laws Annotated § 17-1-40(C)(5) states that "Nothing in this subsection prohibits evidence gathered or information contained in incident reports or investigation and prosecution files from being used for the investigation and

¹ See § 17-1-40 that was current until June 2007 "Any person who after being charged with a criminal offense and such charge is discharged or proceedings against such person dismissed or is found to be innocent of such charge the arrest and booking record, files, mug shots, and fingerprints of such person shall be destroyed and no evidence of such record pertaining to such charge shall be retained by any municipal, county or State law enforcement agency."

prosecution of a criminal case..." This specifically applies to the investigative file and evidence related to the 2005 arrest and 2007 acquittal of the defendant for murder.

6. Although S.C. Code of Laws Annotated § 17-1-40 was never triggered, even if evidence of the charge was required to be destroyed, retaining the vial of blood from the prior acquittal is allowed under § 17-1-40. The narrow scope of § 17-1-40 did not require the destruction of the vial of blood.
7. Mr. Harrington was made a person of interest in this homicide case after seeing that he was connected to a phone number that was one of the last calls on the victim's phone. A vial of Mr. Harrington's blood was located in the 2005 evidence stored at the Marlboro County Administration building in the renovated old hospital on May 9, 2017 after SLED identified that there might be a sample to compare with unknown DNA in the instant case located in the prior murder case. The DNA in evidence is not a part of a record of the charge, it is evidence, and as such is not subject to destruction. It is permissible to be retained in order to use in future investigation and prosecution.
8. Additionally, any fruits of the vial of blood are a separate line of investigation. While the blood vial was visually compared and tested against the evidence from the scene of this homicide and a match was found, that is not the only basis of probable cause.
9. A warrant for use of a vehicle without owner's consent was issued for Mr. Harrington on May 10, 2017, and Mr. Harrington was then located in Charlotte, NC by a tag reader. The owner of the vehicle told law enforcement that Mr. Harrington, while staying at her residence, was not allowed to be driving her vehicle. At the time of his

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 MARLBORO COUNTY, SC

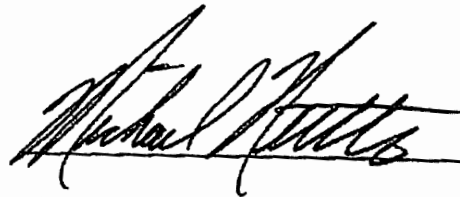
- arrest in Charlotte, NC, Mr. Harrington consented to give a buccal swab on May 11, 2017, on a signed consent form.

10. After arrest, Mr. Harrington invoked his right to counsel. Out of an abundance of caution, a Schmerber hearing was held and Mr. Harrington gave another buccal swab upon the court's order on May 31, 2017. This order, as supported by the transcript of the Schmerber hearing, specifically related to the consent acquired upon the defendant's arrest in Charlotte, NC. The buccal swab from the Schmerber hearing was tested against the evidence in this case and a match was made.

THEREFORE, IT IS ORDERED THAT:

The motion to suppress any and all DNA results from the Defendant, Mr. Harrington is DENIED.

IT IS SO ORDERED.



The Honorable Michael Nettles
Presiding Judge, Harrington Trial

3-22-22

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
	)	Indictment No's. 2017GS3400338,
STATE OF SOUTH CAROLINA	)	2017GS3400285, 2017GS3400286,
	)	2017GS3400287, 2017GS3400288,
VS.	)	2017GS3400289, 2017GS3400290
	)	
JEJAUNCEY HARRINGTON	)	PROPOSED ORDER DENYING
	)	DEFENSE MOTION TO LIMIT OR
	)	EXCLUDE EXPERT TESTIMONY
	)	
DEFENDANT.	)	

This matter came before the Court upon a defense motion on January 13, 2023, before the Honorable Michael Nettles held in Florence County under special order of court administration to hold a special session of Marlboro County General Sessions Court for the case involving this defendant. The State was represented by Kernard Redmond, Deputy Solicitor for the Fourth Circuit; Heather S. Weiss, Senior Assistant Deputy Attorney General; and Senior Prosecutor for the Fourth Circuit, Elizabeth Munnerlyn. The Defendant was represented by Attorneys Boyd Young, Emily Crayton, Robert Bank and Hannah Freedman. This motion was argued by Ms. Weiss and Ms. Freedman.

After hearing argument from both sides regarding a defense motion for an order limiting or excluding expert testimony during the first phase of a hearing on defense "Motion 44" requesting to exclude footwear impression evidence under Rule 702 of the South Carolina Rules of Evidence, this Court finds:

1. Senior Criminalist Melinda Worley is currently employed at the State Law Enforcement

Division in the latent prints unit and has been certified in footwear impression analysis since

she was in the crime scene division when she passed the Impression Evidence Examination Certification in March 2014. She has been employed with SLED since 2011.

2. Sr. Criminalist Worley has a bachelor's degree in anthropology from the University of Tennessee at Chattanooga (2003); a bachelor's degree in forensic science from Mercyhurst College (2007); and a master's degree in pharmaceutical sciences from the University of Florida (2010). Sr. Criminalist Worley also received a graduate certificate from the University of Florida in forensic death investigation in 2010.
3. Sr. Criminalist Worley completed a forty-hour course entitled Examination & Comparison of Footwear Evidence in September 2013; a forty-hour course entitled Courtroom Testimony, Daubert Hearings, and Mock Trials related to Footwear & Tire Track Examination & Comparison in January 2014; three lectures at the International Association for Identification (IAI) Educational Conference related to footwear analysis in 2018; and a six-hour course at the 2018 IAI Conference entitled Footwear Examination Concepts Workshop, among other evidence analysis training. She is a member of the International Association for Identification.
4. Sr. Criminalist Worley, the SLED analyst for footwear impression, was certified using a protocol established by SLED, overseen by a qualified footwear impression analysis examiner, engaged in both study and practice throughout the certification process and was certified as a footwear impression analyst in March 2014. This training provided her with such knowledge and skill in 2014 to be "better qualified than the jury to form an opinion on" footwear impression analysis. Nelson v. Taylor, 347 S.C. 210, 553 S.E.2d 488 (Ct. App.

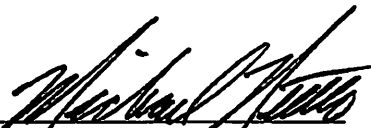
2001) and at that time could have been qualified to testify as an expert in footwear impression analysis.

5. Since 2014, Sr. Criminalist Worley has conducted 50 different footwear impression analyses using her training and all her opinions were peer reviewed by a certified analyst to verify the procedure used and the conclusions reached for reliability purposes. Sr. Criminalist Worley completed 24 of these examinations prior to finishing her examination in this case which was completed on March 20, 2019.
6. Prior to conducting her analysis on the evidence in the case, Sr. Criminalist Worley testified in Chester, South Carolina on footwear impression analysis and was qualified as an expert in that field in a South Carolina General Sessions Court case.
7. Since the completion of her analysis on this case, she has completed 25 additional footwear impression analysis cases and testified nine more times. Of the eight cases in General Sessions Court, she was qualified every time as an expert in footwear analysis, at least two of the examinations were completed around the same time she completed the examination in this case. The one case where she was not declared an expert by the court was in a Family Court hearing and the issue was never brought up.
8. Sr. Criminalist Worley testified that she reviewed her methods and results and opinions for this case before testifying in this hearing and still agrees with her methods and findings after years of additional experience and expert testimony.

9. Based on the above information, Melinda Worley possesses the “necessary learning, skill, or practical experience to enable the witness to give opinion testimony.” State v. Von Dohlen, 322 S.C. 234, 471 S.E. 2d 689 (1996, *overturned on other grounds*); State v. Andrews, 424 S.C. 304, 818 S.E.2d 227 (2018). She is therefore qualified as an expert in footwear impressions and the defense motion is DENIED.

AND IT IS SO ORDERED

This 23 day of January, 2023.


The Honorable Michael Nettles
Presiding Judge, Harrington Trial

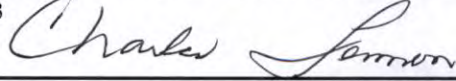
WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-002284

583



WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

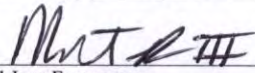
Defendant

ARREST WARRANT NUMBER
2017A3410100229

ARRESTED ON: 2017-05-17

ACTION OF GRAND JURY

True Bill



Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2017-GS-34-0285

The State of South Carolina**County of Marlboro****COURT OF GENERAL SESSIONS**

Term:
SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington**INDICTMENT FOR****Murder / Murder**

§16-03-0010; 16-03-0020

CDR Code: 0116**William B. Rogers, Jr., Solicitor**

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

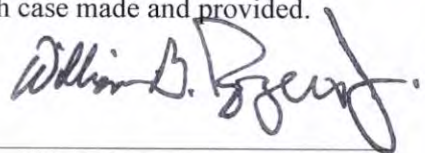
At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Jejauncey Fernando Harrington did in Marlboro County, on or about May 5, 2017, willfully, feloniously, and intentionally kill the victim, ELLA LOWERY, with malice aforethought, either express or implied, by means of STABBING, and the victim did die as a proximate result thereof on or about MAY 5, 2017 in Marlboro County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS, JR.
SOLICITOR

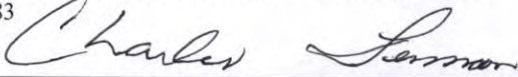
WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-002284

583



WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

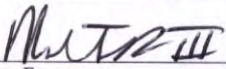
Defendant

ARREST WARRANT NUMBER
2017A3410100230

ARRESTED ON: 2017-05-17

ACTION OF GRAND JURY

True Bill



Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2017-GS-34-0286

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:

SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington

INDICTMENT FOR

Kidnapping / Kidnapping

§16-03-0910

CDR Code: 0095

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

INDICTMENT FOR

Kidnapping / Kidnapping

§16-03-0910

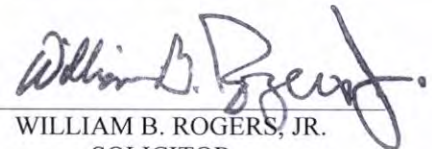
At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Jejauncey Fernando Harrington did in Marlboro County on or about May 5, 2017, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one IYANA LOWERY, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-002284

583

Charles Lennor

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2017A3410100231

ARRESTED ON: 2017-05-17

ACTION OF GRAND JURY

*True Bill**M. J. III*

Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2017-GS-34-0287

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington

INDICTMENT FOR

**Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death**

§16-23-0490

CDR Code: 0549

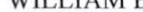
William B. Rogers, Jr., Solicitor

At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

CDR: 0549 16-23-0490

That Jejauncey Fernando Harrington did in Marlboro County, on or about May 5, 2017, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-002284

583

Charles Lerman

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2017A3410100234

ARRESTED ON: 2017-05-17

ACTION OF GRAND JURY

*True Bill**M. J. L. III*

Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2017-GS-34-0289

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Jejauncey Fernando Harrington did in Marlboro County, on or about May 5, 2017, willfully, feloniously, and intentionally kill the victim, IYANA LOWERY, with malice aforethought, either express or implied, as a result of forcibly being taken from her home, beaten and dumped into a pond, and the victim did die as a proximate result thereof on or about 5/5/2017 in Marlboro County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS JR.
SOLICITOR

WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-002284

583

Charles Lamm

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2017A3410100235

ARRESTED ON: 2017-05-17

ACTION OF GRAND JURY

*True Bill**Michael J. H.*

Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2017-GS-34-0290

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington

INDICTMENT FOR

**Robbery / Armed Robbery, robbery while
armed or allegedly armed with a deadly
weapon**

§16-11-0330(A)

CDR Code: 0139

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF MARLBORO

Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

§16-11-0330(A)

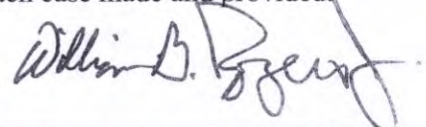
At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Jejauncey Fernando Harrington did in Marlboro County on or about May 5, 2017, while armed with a deadly weapon, to wit: PERSONAL BELONGINGS, take and carry away personal property of ELLA LOWERY from or in the immediate presence of ELLA LOWERY with intent to deprive ELLA LOWERY of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Trevor W Murphy

Marlboro County Sheriff

Law Enforcement Case #: 2017-2357

583

Charles Lemon

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2017A3410100224

ARRESTED ON: 2017-05-18

ACTION OF GRAND JURY

*True Bill**W. A. T. III*

Grand Jury Foreperson

9-12-17

Date

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2017-GS-34-0338

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
SEPTEMBER 2017

THE STATE

vs.

Jejauncey Fernando Harrington

INDICTMENT FOR

**Vehicle / Use of vehicle without permission
with intent to deprive**

§16-21-0060(A)

CDR Code: 0756

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARLBORO)

Vehicle / Use of vehicle without permission with
intent to deprive

§16-21-0060(A)

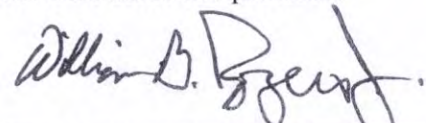
At a Court of General Sessions, convened on SEPTEMBER 12, 2017, the Grand Jurors of Marlboro County present upon their oath:

USE OF VEHICLE WITHOUT OWNER'S CONSENT

CDR: 0756 16-21-0060(A)

That Jejauncey Fernando Harrington did in Marlboro County on or about May 10, 2017, not being entitled to possession of the below-mentioned vehicle, take, use or drive a 1998 MITSUBISHI ECLIPSE RS without the consent of the owner, JAMIE CAMPBELL, and with intent to deprive the owner temporarily or otherwise of the vehicle or its possession, in violation of Section 16-21-0060(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS, JR.
SOLICITOR

1410

STATE OF SOUTH CAROLINA

COUNTY OF Marlboro

STATE

VS.

Jejauncey Fernando Harrington

AKA: _____
 Race: _____ Sex: M Age: 38
 DOB: 1984 SS#: ██████████
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-34-0285A/W#: 2017A3410100229Date of Offense: 5/5/2017S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010; 16-03-00 of the S.C. Code of Laws, bearing CDR Code #0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

Redmond, Kernard E SC Bar # _____ Defendant 66583 Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ ; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 2116 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS.

Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0285

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5 %)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	TBD

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Clerk of Court/ Deputy Clerk:
Court Reporter:

April Driggers
Crystal Smith

Presiding Judge:
Judge Code:
Sentence Date:

TOTAL

\$ 128.75

1412

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marlboro

STATE

VS.

INDICTMENT/CASE#: 2017-GS-34-0286Jejauncey Fernando HarringtonA/W#: 2017A3410100230

AKA: _____

Date of Offense: 5/5/2017Race: Black Sex: M Age: 38S.C. Code § : 16-03-0910DOB: 1984 SS#: _____CDR Code #: 0095

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Kidnapping / Kidnappingin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Heather Wien
Redmond, Kernal ESC Bar # 14700
66583

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ ; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
2116 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0286**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	25.00
§14-1-212 (Law Enforce. Funding)	\$25	\$	
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	

TOTAL \$128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:

Tracy Polsen
Crystal Smith

Presiding Judge:
Judge Code:
Sentence Date:

2140
2-24-23

1414

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marlboro

STATE

VS.

Jejauncey Fernando Harrington

AKA:

Race: Black Sex: M Age: 38DOB: 1984 SS#:

Address:

City, State, Zip:

DL#: SID#: INDICTMENT/CASE#: 2017-GS-34-0287A/W#: 2017A3410100231Date of Offense: 5/5/2017S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code #0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. SC (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:Heather S. Win
Redmond, Kernard ESC Bar # 16700
66583

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
2160 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS.

Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0287

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	
TOTAL		\$	128.75

Clerk of Court/Deputy Clerk:
Court Reporter:

April D. Grippen
Crystal Smith

Presiding Judge:
Judge Code:
Sentence Date:

Michael Little
2143
2-24-22

1416

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marlboro

STATE

VS.

Jejauncey Fernando Harrington

AKA: _____
 Race: _____ Sex: M Age: 38
 DOB: 1984 SS#: ██████████
 Address: _____
 City, State, Zip: _____
 DL#: ██████████ SID#: _____

INDICTMENT/CASE#: 2017-GS-34-0289A/W#: 2017A3410100234Date of Offense: 5/5/2017S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010; 16-03-00 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Redmond, Kernard E SC Bar # 66284 Defendant Attorney for Defendant SC Bar# 66583
WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ ; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.2160 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS.

Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0289

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk:

Court Reporter:

Nancy Poelsm
Crystal Smith

Presiding Judge:

Judge Code:

Sentence Date:

Michael H. H.
 2140
 2-24-23

1418

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marlboro

STATE

VS.

INDICTMENT/CASE#: 2017-GS-34-0290Jejauncey Fernando HarringtonA/W#: 2017A3410100235

AKA:

Date of Offense: 5/5/2017Race: Black Sex: M Age: 38S.C. Code § : 16-11-0330(A)DOB: 1984 SS#: CDR Code #: 0139

Address:

City, State, Zip:

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:Edmond Remy
Redmond, Kernard ESC Bar # 66583

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.246 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.
2023 FEB 24 A 11: 54
FILED

STATE VS.

Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0290

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: _____☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

~~Clerk of Court~~ Deputy Clerk: _____

Court Reporter: _____

Tracy Palsom

Crystal Smith

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

TOTAL \$ 128.75

Michael H. Hitt

2140

2-24-23

1420

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marlboro

STATE

VS.

INDICTMENT/CASE#: 2017-GS-34-0338Jejauncey Fernando HarringtonA/W#: 2017A3410100224

AKA:

Date of Offense: 5/10/2017Race: Black Sex: M Age: 38S.C. Code § : 16-21-0060(A)DOB: 1984 SS#: CDR Code #: 0756

Address:

City, State, Zip:

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Vehicle / Use of vehicle without permission with intent to deprivein violation of § 16-21-0060(A) of the S.C. Code of Laws, bearing CDR Code #0756☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:Redmond, Kernard E

SC Bar #

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 3 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2-24-23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.2116 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS.

Jejauncey Fernando Harrington

INDICTMENT/CASE#:

2017-GS-34-0338

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Clerk of Court/ Deputy Clerk:
Court Reporter:

Tracy Polson
Crystal Smith

Presiding Judge:
Judge Code:
Sentence Date:

2023 FEB 24 A 11:54
ANITA M. WILLIAMS
CLERK OF COURT
MARLBORO COUNTY, S.C.

FILED

TOTAL

\$ 128.75

Michael Williams
2020
2-29-23

Nov 26 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy

Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of November, 2024.

RECEIVED

Nov 26 2024

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.

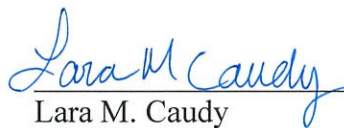
JEJAUNCEY FERNANDO HARRINGTON,

APPELLANT

APPELLATE CASE NO. 2023-000305

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon J. Anthony Mabry, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 26th day of November, 2024.



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT